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Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, FIRST SESSION

PROCEEDINGS AND DEBATES OF THE CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Saturday, December 18, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let the prophet who has a dream tell the dream, but let him who has my word speak my word faithfully.—Jeremiah 23: 28.

Teach us, O God, in all we do to be faithful stewards of Your gifts to us. We hope for achievement and success, but above all else may we be faithful to Your word of truth and Your message of love. May Your spirit of grace be with all who labor in this place that righteousness will be exaulted and respect and responsibility our common spirit. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 38, answered "present" 8, not voting 131, as follows:

[Roll No. 481]

YEAS—256

Addabbo	Albosta	Andrews
Akaka	Anderson	Annunzio
Anthony	Flippo	Matsui
Applegate	Florio	Mattox
Archer	Foglietta	Mavroules
Ashbrook	Foley	Mazzoli
Bailey (MO)	Fowler	McClory
Bailey (PA)	Frank	McCollum
Barnard	Gaydos	McCurdy
Barnes	Gephardt	McDade
Bedell	Gibbons	McDonald
Beilenson	Gilman	McEwen
Bennett	Gingrich	McGrath
Bereuter	Glickman	McKinney
Bethune	Gonzalez	Michel
Bevill	Gore	Mikulski
Bliley	Gradison	Mineta
Boland	Gray	Minish
Boner	Green	Moakley
Bonker	Gregg	Molinari
Bouquard	Guarini	Montgomery
Bowen	Gunderson	Moore
Breaux	Hall (IN)	Moorhead
Brinkley	Hall (OH)	Morrison
Brooks	Hall, Ralph	Murtha
Broomfield	Hall, Sam	Myers
Brown (CA)	Hamilton	Natcher
Brown (CO)	Hammerschmidt	Nelligan
Burgener	Hance	Nichols
Burton, Phillip	Hatcher	Oakar
Carman	Hightower	Obey
Chappie	Hiler	Panetta
Cheney	Howard	Parris
Clinger	Huckaby	Pashayan
Coleman	Hughes	Patman
Conable	Hunter	Patterson
Conte	Ireland	Paul
Corcoran	Jeffords	Perkins
Courter	Jenkins	Peyser
Coyne, William	Jones (NC)	Pickle
Crane, Daniel	Jones (OK)	Porter
D'Amours	Jones (TN)	Price
Daniel, Dan	Kastenmeier	Pritchard
Daniel, R. W.	Kazen	Quillen
Dannemeyer	Kemp	Rahall
Daschle	Kennelly	Railsback
Daub	Kildee	Rangel
de la Garza	Kindness	Regula
Derrick	Kogovsek	Reuss
Dicks	Kramer	Ritter
Dorgan	Lagomarsino	Robinson
Dowdy	Lantos	Rodino
Downey	Leach	Rogers
Duncan	Leath	Rostenkowski
Dwyer	Leland	Roth
Early	Levitas	Roukema
Eckart	Loeffler	Roybal
Edwards (AL)	Long (LA)	Russo
Edwards (CA)	Long (MD)	Sawyer
Edwards (OK)	Lott	Scheuer
English	Lowery (CA)	Schneider
Erdahl	Lowry (WA)	Schumer
Erlenborn	Lujan	Sensenbrenner
Evans (IN)	Lungren	Shannon
Fary	Madigan	Sharp
Fazio	Markey	Shaw
Ferraro	Marlenee	Shelby
Fiedler	Marriott	Shumway
Fish	Martin (IL)	Simon
Fithian	Martinez	Skelton
Smith (IA)	Thomas	Williams (OH)
Smith (NE)	Trible	Wilson
Smith (NJ)	Udall	Wirth
Snowe	Vento	Wolf
Snyder	Volkmer	Wolpe
Solarz	Wampler	Wortley
Spence	Watkins	Wright
Stangeland	Weaver	Wyden
Stokes	Weber (MN)	Wylie
Stratton	Weber (OH)	Yates
Studds	Weiss	Yatron
Swift	Whitehurst	Young (FL)
Synar	Whitley	Young (MO)
Tauke	Whittaker	Zablocki
Tauzin	Whitten	
Taylor	Williams (MT)	

NAYS—38

Aspin	Frenzel	Miller (OH)
Badham	Gejdenson	Murphy
Brown (OH)	Gramm	Petri
Carney	Hansen (ID)	Roemer
Coats	Hansen (UT)	Sabo
Coughlin	Harkin	Schroeder
Dickinson	Hartnett	Smith (OR)
Dreier	Hopkins	Solomon
Dunn	Jacobs	St Germain
Edgar	Johnston	Stenholm
Emerson	Latta	Stump
Fields	Lewis	Walker
Forsythe	Livingston	

ANSWERED "PRESENT"—8

Broyhill	Hawkins	Oberstar
Davis	Hutto	Ottinger
Evans (IA)	Hyde	

NOT VOTING—131

Alexander	Dellums	Heftel
Atkinson	DeNardis	Hendon
AuCoin	Derwinski	Hertel
Bafalis	Dingell	Hillis
Beard	Dixon	Holland
Benedict	Donnelly	Hollenbeck
Biaggi	Dornan	Holt
Bingham	Dougherty	Horton
Blanchard	Dymally	Hoyer
Boggs	Dyson	Hubbard
Bolling	Emery	Jeffries
Bonior	Ertel	LaFalce
Brodhead	Evans (DE)	LeBoutillier
Burton, John	Evans (GA)	Lee
Butler	Fascell	Lehman
Byron	Fenwick	Lent
Campbell	Findley	Luken
Chappell	Ford (MI)	Lundine
Chisholm	Ford (TN)	Marks
Clausen	Fountain	Martin (NC)
Clay	Frost	Martin (NY)
Coelho	Fuqua	McCloskey
Collins (IL)	Garcia	McHugh
Collins (TX)	Ginn	Mica
Conyers	Goldwater	Miller (CA)
Coyne, James	Goodling	Mitchell (MD)
Craig	Grisham	Mitchell (NY)
Crane, Philip	Hagedorn	Moffett
Crockett	Heckler	Mollohan
Deckard	Hefner	Mottl

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Napier	Roe	Smith (PA)
Neal	Rose	Stanton
Nelson	Rosenthal	Stark
Nowak	Rousselot	Staton
O'Brien	Rudd	Traxler
Oxley	Santini	Vander Jagt
Pease	Savage	Walgren
Pepper	Schulze	Washington
Pursell	Seiberling	Waxman
Ratchford	Shamansky	White
Rhodes	Shuster	Winn
Rinaldo	Siljander	Young (AK)
Roberts (KS)	Skeen	Zeferetti
Roberts (SD)	Smith (AL)	

□ 1015

Mr. ST GERMAIN changed his vote from "present" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 187. An act to authorize the Secretary of the Interior to convey certain lands near Miles City, Mont., and to remove certain reservations from prior conveyances; and

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2330) entitled, "An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House with an amendment to the bill (S. 2355) entitled "An act to amend the Communications Act of 1934 to provide that persons with impaired hearing are ensured reasonable access to telephone service."

The message also announced that the Senate insists upon its amendments numbered 9, 15, 18, 24, and 27 to the bill (H.R. 6056) entitled "An act to make" technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980", disagreed to by the House; and the Senate disagrees to the amendments of the House to the amendments of the Senate numbered 1, 10, 14, 16, 17, 26, 30, 31, 33, 34, 36, and 37 agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. LONG, and Mr. HARRY F. BYRD, Jr., to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments numbered 2, 3, 4, to the bill (H.R. 7093) entitled "An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income," disagreed to by the House; and the Senate disagrees to the amendment of the House to the amendment of the Senate numbered 1 requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. PACKWOOD, Mr. ARMSTRONG, Mr. LONG, and Mr. HARRY F. BYRD, JR., to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 5470) entitled "An act to amend the Internal Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness", requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. PACKWOOD, Mr. WALLOP, Mr. LONG, AND MR. HARRY F. BYRD, JR., to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2623) entitled "An act to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. COHEN, Mr. GOLDWATER, Mr. ANDREWS, Mr. GORTON, Mr. MELCHER, Mr. DECONCINI, and Mr. INOUYE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4001. An act to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes;

H.R. 5002. An act to improve fishery conservation and management;

H.R. 6324. An act to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes;

H.R. 6612. An act to provide for the settlement of land claims of the Mashantucket Pequot Indian Tribe of Connecticut, and for other purposes; and

H.R. 7173. An act to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2941. An act to authorize funds for the National Oceanic and Atmospheric Administration for fiscal year 1983 to carry out the provisions of the National Ocean Pollution Planning Act of 1978;

S. 3048. An act to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm;

S. 3113. An act to make minor and technical amendments to the Job Training Partnership Act;

S. 3114. An act to amend the act of March 3, 1869, incorporating the Masonic Mutual Relief Association Co., and acts amendatory thereto;

S. Con. Res. 122. Concurrent resolution relating to the processed product share of United States agricultural exports;

S. Con. Res. 135. Concurrent resolution instructing the Clerk to make corrections in the enrollment of H.R. 2330; and

S. Con. Res. 136. Concurrent resolution providing for printing a report by the Joint Committee on Taxation.

THE FIRST MONTH OF ANDROPOV

(Mr. McDONALD asked and was given permission to address the House for 1 minute.)

Mr. McDONALD. Mr. Speaker, only 4 weeks after Yuri Andropov took power in the Soviet Union, certain things are already evident. One, Andropov has already gathered more direct power unto himself than Stalin ever enjoyed, in some respects. Andropov now possesses three portfolios. He is General Secretary of the Party, replacing Brezhnev. He has replaced Suslov as chief ideologist and overseer of foreign affairs. He also presides over the Defense Committee and supervises defense industry as General Secretary. Last, but certainly not least, he still controls the KGB via his appointee and comrade Vitaliy Fedorchuk.

It is further evident that the KGB will have an expanded mandate under Andropov. Most of the additional troops added recently recently to the Soviet forces in Afghanistan are reported to be internal security forces who already have distinguished themselves by unusual cruelty in engagements with the Afghans. And, using the pretext of "strengthening the border defenses of the Soviet Union," a new Soviet law has been enacted that will open the way for expanded KGB operations everywhere in the world. Expanded KGB operations, of course, mean bad news for the West as the Italians are finding out in their investigation of the assassination attempt against the Pope. The trail has led back to the Bulgarian Secret Service, which, in turn, is controlled by the Soviet KGB. Just recently, the former head of the Bulgarian Secret Service,

has confirmed that such an attempt in a foreign country would not be made without orders from Moscow.

Therefore, the new year may be a difficult one for the West. For those who desire additional details on Andropov and the matters I have discussed, I am placing a more comprehensive statement in the Extension of Remarks today. Also, see page E5105 of the CONGRESSIONAL RECORD of December 14, 1982.

THE JUSTICE DEPARTMENT AND THE CONGRESSIONAL CONTEMPT CITATION

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, during the debate on the contempt citation of Ann Gorsuch, I raised the issue with the gentleman from Georgia (Mr. LEVITAS), the chairman of the subcommittee, about the position of the Justice Department. The Justice Department, through an assistant attorney general, was advising Mrs. Gorsuch during the proceedings. Also, the statute says that upon a contempt citation from the House of Representatives, it is the duty of a body, that is, the U.S. district attorney from the District of Columbia, which is part of the Justice Department, to prosecute and to proceed with the contempt citation before a grand jury.

I raised this issue with the gentleman from Georgia, and he quoted to me testimony under oath, because he had put a similar question to the Assistant attorney general who was with Mrs. Gorsuch. The answer at that time was that they would proceed to do their duty on the contempt citation.

In reading this morning's paper, it is apparent that that is not so. It raises a serious question, an issue that goes to the very integrity and independence of this House. I think we should view it with great concern.

MEXICAN SENATE ASKS FOR DELAY IN SIMPSON-MAZZOLI LEGISLATION

(Mrs. SCHROEDER asked and was given permisson to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I have before me the message sent to the Speaker of the House from the Mexican Senate. It was passed in the Mexican Senate on December 8, and it was issued on December 13. It is a plea from the Mexican Senate that we please defer the Simpson-Mazzoli bill so that there will be more consultation with their new government.

I think this is a very, very, very important plea, and we should listen to them. Our interparliamentary friends in both Canada and Mexico are always chiding us for passing things that affect them without consulting them. This is just one more example of that. It will be impossible to enforce any immigration laws if Mexico is not sympathetic, unless we hire thousands more to put on the border. It seems to me that we are trivializing the whole area of immigration and relations with our neighbors by debating this bill after 10 o'clock nights using it as a filler when no one is here that is not involved in the bill and doing this on Saturday when people are focusing on other things.

I really hope that we will listen to the wishes of our brothers and sisters in the Mexican Senate and delay this bill until we consult with them.

A CONSTITUENT'S THOUGHTS ON THE MX MISSILE

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ECKART. Mr. Speaker, in view of this Chamber's recent passage of a $231 billion arms package, perhaps we should sit back and take stock of our constituents' thoughts and concerns relative to defense spending. With budget deficits projected to be more than $150 billion next year, and 12 million Americans out of work, it may be wise to rethink our budget priorities.

Despite our overwhelming defeat of the MX, the grandiose missile system refuses to die. I would like to insert in the RECORD at this time a piognant letter from a concerned constituent in my district. In his mind, our priorities are clear.

DEAR CONGRESSMAN ECKART: First let me congratulate you on being our new congressman. You can be assured that all of the Fularz families voted for you here in Orwell. I hope you can find time to visit Orwell sometime in the future.

I am indeed very concerned about the president's proposed MX program. It'll take one billion dollars just to start this program. With 12 million people out of work I'd like to see this money spent where it is really needed: to create new jobs.

This is the first time in my life that I see soup kitchens for the hungry. Dennis, these people want to work! Let's help them. I'm fortunate, I have a good job at Kennametal here in Orwell. We're not doing the best but we're working. I'm writing for the many who want jobs.

The MX program I'm afraid will not funnel the jobs or money to the people who need them the most. Thank you.

Yours truly,

RICHARD N. FULARZ, Sr.,
ORWELL, OHIO.

BANKRUPTCY COURT LEGISLATION: IMPENDING DISRUPTION OF BANKRUPTCY COURT SYSTEM

(Mr. RODINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODINO. Mr. Speaker, there is emergency legislation currently pending before this body that must be acted upon before we adjourn—an article III bankruptcy court bill. No other bill pending in Congress has been placed under a similar constitutional deadline, but the Supreme Court has mandated that the constitutional informity in the bankruptcy court system be corrected by Congress by December 24.

Why should the citizens of this Nation have respect for judicial decrees or the principles embodied in the Constitution, if the lawmakers themselves pay no heed to a ruling of the Supreme Court? Failure to discharge our constitutional responsibility would certainly signal that, in the view of the Congress, judicial decrees are not to be taken seriously.

The Supreme Court has now twice afforded the Congress an opportunity to enact corrective legislation. Both stay rulings were highly unusual. The extension of the stay until December 24 was granted, in part, upon the Solicitor General's representation that the Congress would certainly act to solve the problem in the lameduck session. There has been no indication that the Solicitor General will again request such an unprecedented extension and, if requested, that it will be granted by the Supreme Court.

In the absence of legislative action prior to December 24, the bankruptcy courts will lose all judicial power. The cases pending in the bankruptcy courts involve more people, more money, more jobs, and more tax revenues than the combined total of all civil cases pending before the remainder of the Federal judiciary. The impending constitutional crisis in the judicial system is therefore an economic problem as well. A major disruption of this system in the present difficult economic period would be disastrous.

I cannot overemphasize the importance of congressional action on this matter prior to December 24 to the continued efficient functioning of the Nation's bankruptcy system. And I believe we have a serious institutional responsibility to act.

REGULATORY REFORM ACT SHOULD BE CONSIDERED NOW

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, on August 19 of this year you responded to a request by President Reagan asking for consideration of the regulatory reform legislation. In your letter, you stated that you had directed your staff to scrutinize the legislation and work with others interested in it to come up with amendments necessary to achieve the objectives of regulatory reform. You said that your staff has reported that the discussions had progressed well, and that it is close to completion, and that you are optimistic that work can be completed quickly.

You further said, "I intend to schedule this matter for House consideration as soon as this work is completed."

That work was completed in September and the agreed upon work product was printed in the RECORD on September 29.

Mr. Speaker, in addition to that the distinguished chairman of the Rules Committee stated to me in front of members of the leadership that he would not be the obstacle to this bill coming to the floor.

Notwithstanding both of these commitments, the fact of the matter is, the bill has not yet been considered or scheduled for House action. This house operates on the basis of making and then keeping commitments. The time is still available for these commitments to be kept, either by a rule being granted or by the bill being placed on suspension on Monday.

I urge, Mr. Speaker, that action be completed on this legislation, which has already passed the Senate by a vote of 94 to 0, so that these commitments can be kept and the legislation enacted into law.

IMMIGRATION LEGISLATION SHOULD BE PUT OFF TO 98TH CONGRESS

(Mr. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATTERSON. Mr. Speaker, every Member knows that we need to have immigration reform. In fact, we had 5 hours of general debate on the so-called Mazzoli-Simpson immigration reform bill. Unfortunately, we had it very late at night, with only 17 to 20 Members who may have heard that general debate. Over 400 Members were not present to see, hear, and participate in this very late hour session.

This is not the way to enact major, landmark legislation overhauling the immigration system. From the U.S. Chamber and the business community on the one side to every minority group and organized labor on the other side, all share strong opposition to parts of this legislation without significant amendments. There are 297 amendments printed in the RECORD to be considered.

I urge the leadership to take this bill, shelve it, and let us consider major immigration legislation in the 98th Congress, not in this lameduck, late hour, weekend session when the attention of Members is elsewhere on major legislation to continue Government funding, and certainly not on this immigration bill.

□ 1030

A TRIBUTE TO THE HONORABLE RICHARD C. WHITE UPON HIS RETIREMENT FROM CONGRESS

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, I count the leaving of our colleague from Texas, the Honorable RICHARD C. WHITE, as more than the loss of a valued Member of this body.

It is a personal loss to me. DICK WHITE has been one of the finest sources of good counsel it has been my pleasure to have in the 14 years I have served here. He has been consistent in his service, placing foremost the interests of the Nation in his committee work.

After awhile, we all come to realize that service in a body where there is a potential gain and loss of Members carries the cost of watching those who depart do so with varying degrees of regret, or sometimes sadness. This is indeed one of those times for me.

Mr. WHITE is possessed of the keenness of mind which permits the orderly marshaling of ideas, a quality which is in short supply in this body. No doubt as a result of this same quality, he was one of the most effective questioner of witnesses I have ever known. The result has been that the product of the Investigations Subcommittee was an effective element of the House Committee on Armed Services.

DICK WHITE will leave a void in this body we will be long in filling.

INTRODUCTION OF LEGISLATION TO GRANT FEDERAL CHARTER TO VETERANS OF THE VIETNAM WAR, INC.

(Mr. NELLIGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. NELLIGAN. Mr. Speaker, yesterday, in one of my last acts as a Member of the 97th Congress, I introduced H.R. 7443, legislation to grant a Federal charter to the Veterans of the Vietnam War, Inc.

I can think of few better actions with which to close out my service to the present Congress.

The veterans of the Vietnam war exist to promote the Constitution of the United States, to better the conditions and benefits of all veterans, to advance the social, charitable, and educational opportunities of its members, and to insure justice for all.

Therefore, I strongly believe that this organization should be recognized and honored through the grant of a Federal charter, and that this action should be taken with all possible legislative speed.

For too many years, we have refused to recognize the service of our Vietnam veterans. In my mind, the recent tributes and memorials to the Vietnam veteran are long overdue, tragically overdue.

Enactment of my legislation is one small step that this Congress can take to demonstrate its concern for the Vietnam veteran, and I urge the Judiciary Committee to quickly consider and report this bill to the floor for consideration by the full House of Representatives.

PASSAGE OF LEGISLATION TO ESTABLISH A BANKRUPTCY COURT DEEMED CRITICAL

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, I want to give support to the statement made earlier by the chairman of the Committee on the Judiciary on the urgent necessity to enact legislation in this Congress placing the bankruptcy court on a firm constitutional basis so it can continue to handle bankruptcy cases.

We are under compulsion from the Supreme Court of the United States to take action before we depart. The Committee on the Judiciary of the House has acted, and, if the House should pass an article III bill it is my hope that the other body will not hold this matter hostage and undertake to attach nongermane amendments that can frustrate this legislation.

Mr. Speaker, it is extremely important that both the House and the other body take action before we depart and this Congress adjourns.

CONFERENCE REPORT ON H.R. 7356, INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. YATES. Mr. Speaker, I call up the conference report on the bill (H.R. 7356), making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 17, 1982.)

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. YATES) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. MCDADE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the committee brings to the House a good conference report. It provides a total of $7.5 billion, which is $923 million above the budget estimate but is under the continuing resolution level in both budget authority and in outlays.

I believe the Congress can justifiably be proud of the conference report we have brought to the Members. We have struck a balance between protecting this country's natural resources and exercising appropriate fiscal restraint. The choices were difficult. There are a number of worthy activities that we were compelled to leave out of the bill. We had to slow the pace of Federal land acquisitions, and we closed a few fish hatcheries.

The conference report contains $3,183,000,000 for the natural resources agencies, of which $1,532,883,000 was for the Forest Service and $1,651,000,000 was for management of the public lands, wildlife refuges, and our great national parks. The Forest Service appropriation was $47 million over the House level. The conference report also provides for abandoned mine reclamation $34,600,000 over the level agreed to by the House.

We paid very strict attention to our energy needs. We would have preferred to put more money in for energy conservation, but we feel the amount we placed in the bill will still permit those programs to proceed. The sum of $145 million was approved for low-income weatherization, and $48 million is provided for schools and hospitals to undertake measures to make their facilities more energy efficient.

Mr. Speaker, there is a provision in the conference report to restrict mineral activities in wilderness study areas. There is a provision to allow offsite disposal of oil shale. There is a provision to protect environmentally sensitive areas off the northern coast of California.

Mr. Speaker, I include at this point in the RECORD a table comparing new obligational authority recommended in the bill for 1983 and the respective recommendations contained in the House and Senate bills and comparison thereto as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
TITLE I—DEPARTMENT OF THE INTERIOR									
LAND AND WATER RESOURCES									
Bureau of Land Management									
Management of land and resources	423,638,000	373,527,000	322,963,000	331,716,000	330,226,000	−93,412,000	−43,301,000	+7,263,000	−1,490,000
Construction and access	2,627,000	2,711,000	2,243,000	2,243,000	2,243,000	−384,000	−468,000		
Payments in lieu of taxes	95,520,000	45,000,000	95,520,000	96,320,000	96,320,000	+800,000	+51,320,000	+800,000	
Land acquisition	3,712,000		468,000	311,000	311,000	−3,401,000	+311,000	−157,000	
Oregon and California grant lands (indefinite, appropriation of receipts)	52,788,000	52,883,000	46,883,000	61,553,000	56,963,000	+4,175,000	+4,080,000	+10,080,000	−4,570,000
Range improvements (indefinite, appropriation of receipts)	13,226,000	11,048,000	11,048,000	11,048,000	11,048,000	−2,178,000			
Service charges, deposits, and forfeitures (indefinite, special fund)	9,600,000	10,000,000	10,000,000	10,000,000	10,000,000	+400,000			
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000	100,000				
Total, Bureau of Land Management	601,211,000	495,269,000	489,225,000	513,271,000	507,211,000	−94,000,000	+11,942,000	+17,986,000	−6,060,000
Office of Water Research and Technology									
Salaries and expenses	10,636					−10,636,000			
Total, Land and Water Resources	611,847,000	495,269,000	489,225,000	513,271,000	507,211,000	−104,636,000	+11,942,000	+17,986,000	−6,060,000
FISH AND WILDLIFE AND PARKS									
United States Fish and Wildlife Service									
Resource management	226,722,000	221,876,000	242,778,000	227,279,000	238,593,000	+11,871,000	+16,717,000	−4,185,000	+11,314,000
Construction and anadromous fish	10,683,000	9,751,000	23,149,000	11,126,000	16,665,000	+5,982,000	+6,914,000	−6,484,000	+5,539,000
Migratory bird conservation account (definite, repayable advance)	1,200,000		2,000,000	2,000,000	2,000,000	+800,000	+2,000,000		
Land acquisition	16,491,000	1,567,000	33,647,000	19,048,000	27,200,000	+10,709,000	+25,633,000	−6,447,000	+8,152,000
National Wildlife Refuge Fund	5,760,000		5,760,000	5,760,000	5,760,000		+5,760,000		
Total, United States Fish and Wildlife Service	260,856,000	233,194,000	307,334,000	265,213,000	290,218,000	+29,362,000	+57,024,000	−17,116,000	+25,005,000
National Park Service									
Operation of the national park system	521,528,000	539,703,000	567,730,000	537,170,000	564,460,000	+42,932,000	+24,757,000	−3,270,000	+27,290,000
National recreation and preservation	12,607,000	6,987,000	10,087,000	9,487,000	9,887,000	−2,720,000	+2,900,000	−200,000	+400,000
Urban park and recreation fund	7,680,000					−7,680,000			
Land and Water Conservation Fund (indefinite)	−30,000,000					+30,000,000			
Historic preservation fund	25,440,000		26,000,000	26,000,000	26,000,000	+560,000	+26,000,000		
Construction	95,852,000	132,721,000	161,846,000	147,017,000	156,096,000	+60,244,000	+23,375,000	−5,750,000	+9,079,000
Land acquisition and State assistance	133,462,000	59,776,000	172,643,000	129,400,000	142,505,000	+9,043,000	+82,729,000	−30,138,000	+13,105,000
John F. Kennedy Center for the Performing Arts	4,212,000	4,247,000	4,247,000	4,247,000	4,247,000	+35,000			
Total, National Park Service	770,781,000	743,434,000	942,553,000	853,321,000	903,195,000	+132,414,000	+159,761,000	−39,358,000	+49,874,000
Total, Fish and Wildlife and Parks	1,031,637,000	976,628,000	1,249,887,000	1,118,534,000	1,193,413,000	+161,776,000	+216,785,000	−56,474,000	+74,879,000
ENERGY AND MINERALS									
Geological Survey									
Surveys, investigations, and research	507,787,000	516,377,000	365,525,000	352,365,000	363,389,000	−144,398,000	−152,988,000	−2,136,000	+11,024,000
(By transfer)			(14,200,000)	(16,200,000)	(16,200,000)	(+16,200,000)	(+16,200,000)		
Exploration of national petroleum reserve in Alaska	2,196,000					−2,196,000			
Barrow area gas operation, exploration and development		6,400,000	6,400,000	6,400,000	6,400,000	+6,400,000			
Digital Cartography		3,873,000					−3,873,000		
Total, Geologic Survey	509,983,000	526,650,000	371,925,000	358,765,000	369,789,000	−140,194,000	−156,861,000	−2,136,000	+11,024,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
MINERALS MANAGEMENT SERVICE									
Leasing and royalty management			192,568,000	196,506,000	196,506,000	+196,506,000	+196,506,000	+3,938,000	
Mineral receipts transfer			−171,790,000					+171,790,000	
Total, Minerals Management Service			20,778,000	196,506,000	196,506,000	+196,506,000	+196,506,000	+175,728,000	
Bureau of Mines									
Mines and minerals	150,602,000	124,676,000	128,629,000	142,162,000	143,158,000	−7,444,000	+18,482,000	+14,529,000	+996,000
(By transfer)	(991,000)					(−991,000)			
Office of Surface Mining Reclamation and Enforcement									
Regulation and technology	58,515,000	62,173,000	61,313,000	63,819,000	60,356,000	+1,841,000	−1,817,000	−957,000	−3,463,000
Abandoned mine reclamation fund (definite, trust fund)	115,333,000	97,649,000	126,609,000	152,649,000	161,209,000	+45,876,000	+63,560,000	+34,600,000	+8,560,000
Total, Office of Surface Mining Reclamation and Enforcement	173,848,000	159,822,000	187,922,000	216,468,000	221,565,000	+47,717,000	+61,743,000	+33,643,000	+5,097,000
Total, Energy and Minerals	843,433,000	811,148,000	709,254,000	913,901,000	931,018,000	+96,585,000	+119,870,000	+221,764,000	+17,117,000
INDIAN AFFAIRS									
Bureau of Indian Affairs									
Operation of Indian Programs	828,572,000	849,250,000	850,477,000	839,339,000	843,508,000	+14,936,000	−5,742,000	−6,969,000	+4,169,000
Construction	94,628,000	106,000,000	73,890,000	69,500,000	67,250,000	−27,378,000	−38,750,000	−6,640,000	−2,250,000
Road construction	47,160,000	43,585,000	43,705,000	43,585,000	43,585,000	−3,575,000		−120,000	
Trust funds (definite)	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
Trust funds (indefinite)	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000				
Revolving fund for loans (limitation on direct loans)	(14,770,000)	(19,970,000)	(19,970,000)	(19,970,000)	(19,970,000)				
Indian loan guaranty and insurance fund (limitation on guaranteed loans)	(27,630,000)	(15,800,000)	(15,800,000)	(15,800,000)	(15,800,000)	(−11,830,000)			
Total, Bureau of Indian Affairs	1,023,360,000	1,051,835,000	1,021,072,000	1,005,424,000	1,007,343,000	−16,017,000	−44,492,000	−13,729,000	+1,919,000
TERRITORIAL AND INTERNATIONAL AFFAIRS									
Administration of territories	92,892,000	58,076,000	70,743,000	77,342,000	73,892,000	−19,000,000	+15,816,000	+3,149,000	−3,450,000
Limitation on guaranteed loans	(30,000,000)	(8,000,000)				(−30,000,000)	(−8,000,000)		
Trust Territory of the Pacific Islands	101,114,000	75,500,000	81,100,000	102,927,000	95,810,000	−5,304,000	+20,310,000	+14,710,000	−7,117,000
Total, Territorial Affairs	194,006,000	133,576,000	151,843,000	180,269,000	169,702,000	−24,304,000	+36,126,000	+17,859,000	−10,567,000
DEPARTMENTAL OFFICES									
Office of the Secretary									
Office of the Secretary	40,988,000	44,157,000	40,521,000	42,812,000	41,589,000	+601,000	−2,568,000	+1,068,000	−1,223,000
Office of Construction Management	3,840,000		1,000,000		896,000	−2,944,000	+896,000	−104,000	+896,000
Office of the Solicitor	17,750,000	19,071,000	17,904,000	19,071,000	18,404,000	+654,000	−667,000	+500,000	−667,000
Office of the Inspector General	13,369,000	18,900,000	21,500,000	21,500,000	21,500,000	+8,131,000	+2,600,000		
Office of Water Policy			7,768,000	7,978,000	14,118,000	+14,118,000	+14,118,000	+6,350,000	+6,140,000
Youth Conservation Corps	4,200,000					−4,200,000			
Total, Office of the Secretary	80,147,000	82,128,000	88,693,000	91,361,000	96,507,000	+16,360,000	+14,379,000	+7,814,000	+5,146,000
Total, Departmental Officers	80,147,000	82,128,000	88,693,000	91,361,000	96,507,000	+16,360,000	+14,379,000	+7,814,000	+5,146,000
Total, title I, new budget (obligational) authority, Department of the Interior	3,775,430,000	3,550,584,000	3,709,974,000	3,822,760,000	3,905,194,000	+129,764,000	+354,610,000	+195,220,000	+82,434,000
TITLE II—RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
Forest Service									
Forest research	112,145,000	97,990,000	106,352,000	104,604,000	105,021,000	−7,124,000	+7,031,000	−1,331,000	+417,000
State and private forestry	64,148,000	47,520,000	58,770,000	61,078,000	62,328,000	−1,820,000	+14,808,000	+3,558,000	+1,250,000
(By transfer)			(100,000)					(−100,000)	
National forest system	1,050,504,000	1,036,569,000	1,009,093,000	1,007,697,000	1,010,436,000	−40,068,000	−26,133,000	+1,343,000	+2,739,000
Construction	261,095,000	297,505,000	229,756,000	286,805,000	281,431,000	+20,336,000	−16,074,000	+51,675,000	−5,374,000
Timber receipts transfer to General Fund, 1982	−78,700,000					+78,700,000			
Timber receipts transfer to General Fund, 1983		(−64,514,000)	(−64,514,000)	(−64,514,000)	(−64,514,000)	(−64,514,000)			
Timber purchaser credits	(242,542,000)	(268,834,000)	(218,000,000)	(236,200,000)	(240,000,000)	(−2,542,000)	(−28,834,000)	(+22,000,000)	(+3,800,000)
Youth Conservation Corps			20,000,000		10,000,000	+10,000,000	+10,000,000	−10,000,000	+10,000,000
Land acquisition	26,262,000	7,563,000	54,556,000	55,117,000	56,877,000	+30,615,000	+49,314,000	+2,321,000	+1,760,000
Acquisition of lands for national forests: Special acts (special fund, indefinite)	724,000	753,000	753,000	753,000	753,000	+29,000			
Acquisition of lands to complete land exchanges (special fund, indefinite)	314,000	147,000	147,000	147,000	147,000	−167,000			
Range betterment fund (special fund, indefinite)	6,580,000	5,800,000	5,800,000	5,800,000	5,800,000	−780,000			
Miscellaneous trust funds	84,000	90,000	90,000	90,000	90,000	+6,000			
Total, Forest Service	1,443,156,000	1,493,937,000	1,485,317,000	1,522,091,000	1,532,883,000	+89,727,000	+38,946,000	+47,566,000	+10,792,000
DEPARTMENT OF ENERGY									
Fossil energy research and development	414,112,000	106,900,000	297,064,000	247,514,000	215,514,000	−198,598,000	+108,614,000	−81,550,000	−32,000,000
(By transfer)				(2,000,000)	(73,700,000)	(+73,700,000)	(+73,000,000)	(+73,700,000)	(+73,000,000)
Fossil energy construction	3,840,000					−3,840,000			
Naval petroleum and oil shale reserves	213,142,000	232,500,000	222,000,000	226,500,000	222,000,000	+8,858,000	−10,500,000		−4,500,000
Energy conservation	145,400,000	21,802,000	317,790,000	264,530,000	279,290,000	+133,890,000	+257,488,000	−38,500,000	+14,760,000
(By transfer)	(173,008,000)		(64,000,000)	(29,000,000)	(64,000,000)	(−109,008,000)	(+64,000,000)		(+35,000,000)
Economic regulation	21,416,000	27,356,000	31,106,000	33,106,000	35,106,000	+13,690,000	+7,750,000	+4,000,000	+2,000,000
SPR, petroleum account	(3,684,000,000)	(2,074,060,000)	(2,074,060,000)	(2,074,060,000)	(2,074,060,000)	(−1,609,940,000)			
Energy Information Administration	78,919,000	54,500,000	58,800,000	54,500,000	56,400,000	−22,519,000	+1,900,000	−2,400,000	+1,900,000
Total, Department of Energy [1]	876,829,000	443,058,000	926,760,000	826,150,000	808,310,000	−68,519,000	+365,252,000	−118,450,000	−17,840,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Services Administration									
Indian health services	617,805,000	613,280,000	645,305,000	623,724,000	645,583,000	+27,778,000	+32,303,000	+278,000	+21,859,000
Indian health facilities	58,352,000		37,235,000	30,750,000	34,700,000	−23,652,000	+34,700,000	−2,535,000	+3,950,000
Total: Indian health	676,157,000	613,280,000	682,540,000	654,474,000	680,283,000	+4,126,000	+67,003,000	−2,257,000	+25,809,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
DEPARTMENT OF EDUCATION									
Office of Elementary and Secondary Education									
Indian education	77,852,000	51,119,000	65,519,000	66,216,000	67,247,000	−10,605,000	+16,128,000	+1,728,000	+1,031,000
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION									
Salaries and expenses	10,062,000	13,403,000	9,359,000	7,665,000	7,665,000	−2,397,000	−5,738,000	−1,694,000	.....
SMITHSONIAN INSTITUTION									
Salaries and expenses	131,170,000	144,110,000	147,276,000	140,249,000	144,366,000	+13,196,000	+256,000	−2,910,000	+4,117,000
Museum programs and related research (special foreign currency program)	4,320,000	2,000,000	2,000,000	2,000,000	2,000,000	−2,320,000	.....	.....	.....
Construction and improvements, National Zoological Park	1,104,000	1,550,000	1,550,000	1,550,000	1,550,000	+446,000	.....	.....	.....
Restoration and renovation of buildings	7,680,000	8,450,000	8,450,000	7,450,000	8,450,000	+770,000	.....	.....	+1,000,000
Subtotal: [1]	144,274,000	156,110,000	159,276,000	151,249,000	156,366,000	+12,092,000	+256,000	−2,910,000	+5,117,000
Salaries and expenses: National Gallery of Art	29,815,000	32,673,000	34,839,000	32,228,000	32,878,000	+3,063,000	+205,000	−1,961,000	+650,000
Salaries and expenses: Woodrow Wilson International Center for Scholars	1,897,000	2,255,000	2,255,000	2,321,000	2,321,000	+424,000	+66,000	+66,000	.....
Total: Smithsonian Institution	175,986,000	191,038,000	196,370,000	185,798,000	191,565,000	+15,579,000	+527,000	−4,805,000	+5,767,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES									
National Endowment for the Arts									
Salaries and expenses	103,330,000	69,756,000	101,675,000	101,675,000	101,675,000	−1,655,000	+31,919,000	.....	.....
Administrative expenses	11,326,000	12,600,000	12,600,000	12,600,000	12,600,000	+1,274,000	.....	.....	.....
Subtotal	114,656,000	82,356,000	114,275,000	114,275,000	114,275,000	−381,000	+31,919,000	.....	.....
Matching grants (indefinite)	28,800,000	18,519,000	29,600,000	29,600,000	29,600,000	+800,000	+11,081,000	.....	.....
Total, National Endowment for the Arts	143,456,000	100,875,000	143,875,000	143,875,000	143,875,000	+419,000	+43,000,000	.....	.....
National Endowment for the Humanities									
Salaries and expenses	90,432,000	59,000,000	90,432,000	90,432,000	90,432,000	.....	+31,432,000	.....	.....
Administrative expenses	11,328,000	12,200,000	12,200,000	11,700,000	11,700,000	+372,000	−500,000	−500,000	.....
Subtotal	101,760,000	71,200,000	102,632,000	102,132,000	102,132,000	+372,000	+30,932,000	−500,000	.....
Matching grants (indefinite)	28,800,000	24,800,000	27,928,000	27,928,000	27,928,000	−872,000	+3,128,000	.....	.....
Total, National Endowment for the Humanities	130,560,000	96,000,000	130,560,000	130,060,000	130,060,000	−500,000	+34,060,000	−500,000	.....
Institute of Museum Services	11,520,000	.....	10,800,000	10,800,000	10,800,000	−720,000	+10,800,000	.....	.....
Total, National Foundation on the Arts and the Humanities	285,536,000	196,875,000	285,235,000	284,735,000	284,735,000	−801,000	+87,860,000	−500,000	.....
COMMISSION OF FINE ARTS									
Salaries and expenses	303,000	319,000	319,000	319,000	319,000	+16,000	.....	.....	.....
ADVISORY COUNCIL ON HISTORIC PRESERVATION									
Salaries and expenses	1,567,000	1,000,000	1,600,000	1,000,000	1,500,000	−67,000	+500,000	−100,000	+500,000
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and expenses	2,373,000	2,202,000	2,279,000	2,279,000	2,279,000	−94,000	+77,000	.....	.....
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and expenses	29,000	.....	.....	.....	.....	−29,000	.....	.....	.....
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and expenses	2,294,000	2,250,000	2,350,000	2,425,000	2,350,000	+56,000	+100,000	.....	−75,000
Land acquisition and development fund (borrowing authority)	2,400,000	1,200,000	1,200,000	.....	.....	−2,400,000	−1,200,000	−1,200,000	.....
Public development	13,632,000	8,750,000	8,750,000	8,750,000	8,750,000	−4,882,000	.....	.....	.....
Total, Pennsylvania Avenue Development Corporation	18,326,000	12,200,000	12,300,000	11,175,000	11,100,000	−7,226,000	−1,100,000	−1,200,000	−75,000
FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE									
Permitting and enforcement	19,425,000	7,125,000	6,125,000	6,125,000	6,125,000	−13,300,000	−1,000,000	.....	.....
HOLOCAUST MEMORIAL COUNCIL									
Holocaust Memorial Council	785,000	820,000	820,000	820,000	820,000	+35,000	.....	.....	.....
EXECUTIVE OFFICE OF THE PRESIDENT									
Maintenance of White House grounds	.....	.....	2,005,000	.....	.....	.....	.....	−2,005,000	.....
Total, title II, new budget (obligational) authority, related agencies [1]	3,588,386,000	3,026,376,000	3,676,548,000	3,568,847,000	3,594,831,000	+6,445,000	+568,455,000	−81,717,000	+25,984,000
Consisting of:									
Appropriations	3,585,986,000	3,025,176,000	3,675,348,000	3,568,847,000	3,594,831,000	+8,845,000	+569,655,000	−80,517,000	+25,984,000
Borrowing authority	2,400,000	1,200,000	1,200,000	.....	.....	−2,400,000	−1,200,000	−1,200,000	.....
RECAPITULATION									
Total, new budget (obligational) authority, all titles	7,363,816,000	6,576,960,000	7,386,522,000	7,391,607,000	7,500,025,000	+136,209,000	+923,065,000	+113,503,000	+108,418,000
Consisting of:									
Appropriations	7,361,416,000	6,575,760,000	7,385,322,000	7,391,607,000	7,500,025,000	+138,609,000	+924,265,000	+114,703,000	+108,418,000
Borrowing authority	2,400,000	1,200,000	1,200,000	.....	.....	−2,400,000	−1,200,000	−1,200,000	.....
(Limitation on direct loans)	(14,770,000)	(19,970,000)	(19,970,000)	(19,970,000)	(19,970,000)	(+5,200,000)	.....	.....	.....
(Limitation on guaranteed loans)	(57,630,000)	(23,800,000)	(15,800,000)	(15,800,000)	(15,800,000)	(−41,830,000)	(−8,000,000)	.....	.....
by transfer	(173,999,000)	(−64,514,000)	(15,786,000)	(−17,314,000)	(89,386,000)	(−84,613,000)	(+153,900,000)	(+73,600,000)	(+106,700,000)
TITLE I—DEPARTMENT OF THE INTERIOR									
Bureau of Land Management	601,211,000	495,269,000	489,225,000	513,271,000	507,211,000	−94,000,000	+11,942,000	+17,986,000	−6,060,000
Office of Water Research and Technology	10,636,000	.....	.....	.....	.....	−10,636,000	.....	.....	.....

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
United States Fish and Wildlife Service	260,856,000	233,194,000	307,334,000	265,213,000	290,218,000	+29,362,000	+57,024,000	−17,116,000	+25,005,000
National Park Service	770,781,000	743,434,000	942,533,000	853,321,000	903,195,000	+132,414,000	+159,761,000	−39,358,000	+49,874,000
Geological Survey	509,983,000	526,650,000	371,925,000	358,765,000	369,789,000	−140,194,000	−156,861,000	−2,136,000	+11,024,000
Minerals Management Service			20,778,000	196,506,000	196,506,000	+196,506,000	+196,506,000	+175,728,000	
Bureau of Mines	150,602,000	124,676,000	128,629,000	142,162,000	143,158,000	−7,444,000	+18,482,000	+14,529,000	+996,000
Office of Surface Mining Reclamation and Enforcement	173,848,000	159,822,000	187,922,000	216,468,000	221,565,000	+47,717,000	+61,743,000	+33,643,000	+5,097,000
Bureau of Indian Affairs	1,023,360,000	1,051,835,000	1,021,072,000	1,005,424,000	1,007,343,000	−16,017,000	−44,492,000	−13,729,000	+1,919,000
Territorial and International Affairs	194,006,000	133,576,000	151,843,000	180,269,000	169,702,000	−24,304,000	+36,126,000	+17,859,000	−10,567,000
Office of the Secretary	80,147,000	82,128,000	88,693,000	91,361,000	96,507,000	+16,360,000	+14,379,000	−17,814,000	−5,146,000
Total, Title I—Department of the Interior	3,775,430,000	3,550,584,000	3,709,974,000	3,822,760,000	3,905,194,000	+129,764,000	+354,610,000	+195,220,000	+82,434,000
TITLE II—RELATED AGENCIES									
Forest Service	1,443,156,000	1,493,937,000	1,485,317,000	1,522,091,000	1,532,883,000	+89,727,000	+38,946,000	+47,566,000	+10,792,000
Department of Energy	876,829,000	443,058,000	926,760,000	826,150,000	808,310,000	−68,519,000	+365,252,000	−118,450,000	−17,840,000
Indian Health	676,157,000	613,280,000	682,540,000	654,474,000	680,283,000	+4,126,000	+67,003,000	−2,257,000	+25,809,000
Indian Education	77,852,000	51,119,000	65,519,000	66,216,000	67,247,000	−10,605,000	+16,128,000	+1,728,000	+1,031,000
Navajo and Hopi Indian Relocation Commission	10,062,000	13,403,000	9,359,000	7,665,000	7,665,000	−2,397,000	−5,738,000	−1,694,000	
Smithsonian	144,274,000	156,110,000	159,276,000	151,249,000	156,366,000	+12,092,000	+256,000	−2,910,000	+5,117,000
National Gallery of Art	29,815,000	32,673,000	34,839,000	32,228,000	32,878,000	+3,063,000	+205,000	−1,961,000	+650,000
Woodrow Wilson International Center for Scholars	1,897,000	2,255,000	2,255,000	2,321,000	2,321,000	+424,000	+66,000	+66,000	
National Endowment for the Arts	143,456,000	100,875,000	143,875,000	143,875,000	143,875,000	+419,000	+43,000,000		
National Endowment for the Humanities	130,560,000	96,000,000	130,560,000	130,060,000	130,060,000	−500,000	+34,060,000	−500,000	
Institute of Museum Services	11,520,000		10,800,000	10,800,000	10,800,000	−720,000	+10,800,000		
Commission of Fine Arts	303,000	319,000	319,000	319,000	319,000	+16,000			
Advisory Council on Historic Preservation	1,567,000	1,000,000	1,600,000	1,000,000	1,500,000	−67,000	+500,000	−100,000	+500,000
National Capital Planning Commission	2,373,000	2,202,000	2,279,000	2,279,000	2,279,000	−94,000	+77,000		
Franklin Delano Roosevelt Memorial Commission	29,000					−29,000			
Pennsylvania Avenue Development Corporation	18,326,000	12,200,000	12,300,000	11,175,000	11,100,000	−7,226,000	−1,100,000	−1,200,000	−75,000
Federal Inspector for the Alaska Gas Pipeline	19,425,000	7,125,000	6,125,000	6,125,000	6,125,000	−13,300,000	−1,000,000		
Holocaust Memorial Council	785,000	820,000	820,000	820,000	820,000	+35,000			
Executive Office of the President			2,005,000					2,005,000	
Total, Title II—Related Agencies	3,588,386,000	3,026,376,000	3,676,548,000	3,568,847,000	3,594,831,000	+6,445,000	+568,455,000	−81,717,000	+25,984,000
Grand total	7,363,816,000	6,576,960,000	7,386,552,000	7,391,607,000	7,500,025,000	+136,209,000	+923,065,000	+113,503,000	+108,418,000
CONGRESSIONAL BUDGET RECAP									
Total	7,556,208,000	6,855,778,000	7,665,330,000	7,670,425,000	7,778,843,000	+222,635,000	+923,065,000	+113,513,000	+108,418,000
Amounts in this bill	(7,363,816,000)	(6,576,960,000)	(7,386,522,000)	(7,391,607,000)	(7,500,025,000)	(+136,209,000)	(+923,065,000)	(+113,503,000)	+108,418,000
Amounts in Con. Res. (PL 97-276)	(192,392,000)	(278,818,000)	(278,808,000)	(278,818,000)	(278,818,000)	(+86,426,000)		(+10,000)	
Total Congressional mandatory and discretionary	7,556,208,000	6,855,778,000	7,665,330,000	7,670,425,000	7,778,843,000	+222,635,000	+923,065,000	+113,513,000	+108,418,000
Mandatory	(66,326,000)	(64,148,000)	(64,148,000)	(64,148,000)	(64,148,000)	(−2,178,000)			
Discretionary	(7,489,882,000)	(6,791,630,000)	(7,601,182,000)	(7,606,277,000)	(7,714,695,000)	(+224,813,000)	(+923,065,000)	(+113,513,000)	(+108,418,000)

[1] Excludes accounts which were funded in Public Law 97-276, continuing appropriations, fiscal year 1983, as follows: (1) strategic petroleum reserve, −$242,118,000; (2) Smithsonian Institution, construction, −$36,500,000; and (3) Native Hawaiians Study Commission, −$190,000.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report accompanying the bill H.R. 7356 making appropriations for the Department of the Interior and related agencies and to urge its adoption by the full House.

Mr. Speaker, the White House has indicated that the President will sign this bill. It provides $7.79 billion in new budget authority for programs contained herein. This amount is $65 million above our subcommittee's section 302 allocation and $21 million below the Senate 302. We are advised that this is acceptable to the White House.

Mr. Speaker, the conference report contains a number of gives and takes. I would be remiss if I did not say that I believe we had a better bill when the House worked on it than we have today. In the main it is acceptable to the majority of the Members of the House. It contains substantial investments in our Nation's recreational, energy, cultural, and natural resources. We deferred action on a number of construction and acquisition projects that under normal economic times we would have funded, especially in the National Park Service. Where possible we have indicated support for these actions next year.

I am pleased that we were able to rid the bill of a number of administrative provisions and legislative limits which may have hampered effective environmental management of many activities covering the various departments and agencies in this bill. I believe the Members will be pleased with these actions.

Mr. Speaker, this bill does meet the consensus of the Members of both Houses of Congress that undertake an aggressive abandoned mine reclamation program at the State and Federal level. We added funds for such activities up to the existing capability of the Office of Surface Mining. We have provided a strong workable energy conservation program. We have insured a balanced energy program through substantial investments in fossil energy R&D. We have provided the funds necessary to further research in the Bureau of Mines that will give us more energy and safer conditions under which we obtain that energy.

In short I would hope the Members can support this bill and send it up to the President where he will sign it. It is a bill we can all support and be proud of the actions contained herein. I urge its adoption.

Ms. FIEDLER. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I yield to the gentlewoman from California.

Ms. FIEDLER. Mr. Speaker, I would like to make an inquiry regarding the status of Santa Monica Mountains' funds. I noted with great disappointment that the conferees did not approve the $15 million-plus funding for the Santa Monica Mountains in this report.

I am grateful to the House, however, and would like to acknowledge to my colleagues on the Interior Committee that they did fund it on the House side.

Mr. Speaker, I wonder if the gentleman can give me some further information on that issue?

Mr. McDADE. Mr. Speaker, let me say to my distinguished colleague that because of her fastidiousness and persuasiveness, we did pass this bill with $15 million in it for the Santa Monica Mountains, which I think was emanately justified. As I said, I do feel that we had a better bill when we left here than the work product we bring back, and one of the reasons is that our colleagues on the other side were adamant about striking the $15 million from the Santa Monica Mountains.

I do want to say the gentlewoman from California that on our side in the

House we were very sympathetic to the case that was presented to us by the gentlewoman, and I want to assure her that the members of the committee will look with great favor on this project, which is unfortunately stricken by the other body, in the next Congress.

Ms. FIEDLER. Mr. Speaker, I would certainly hope they would, because we have a very serious situation with the Santa Monica Mountains project in that there are three parcels of land which are about to be developed that would not be developed if this funding were in here. We have some 29 million annual visitors to the park who are part of an urban community and are very dependent upon this kind of free recreation.

So, Mr. Speaker, I am very much appreciative of the fact that the committee members are willing to look at it further in fiscal 1983.

Mr. McDADE. Mr. Speaker, I want to commend the gentlewoman from California for bringing this to our attention.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to ask the gentleman if the situation with regard to the Channel Islands National Park is the same as it was when the bill passed the House; namely, that money is in the bill that could be used for acquisition of land there, although it is not designated for that purpose.

Mr. McDADE. Mr. Speaker, the gentleman is correct. I think what the Secretary and the Park Service did is send up a request for reprograming. We did look with favor on it, and there is flexibility.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman from Pennsylvania.

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, on behalf of the gentleman from Michigan (Mr. DINGELL), chairman of the Committee on Energy and Commerce, I would like to engage in a brief colloquy with the gentleman from Illinois, (Mr. YATES) concerning a legislative provision in H.R. 7356 authorizing the Secretary of Energy to contract with a nonprofit institution for the conduct of petroleum-related research and development at the Bartlesville Energy Technology Center in Oklahoma. Is my understanding correct that the purpose of this provision is to insure the continued operation of this DOE facility for research and development purposes, that nothing in the provision authorizes the disposal or transfer of the facility to any nonprofit institution, that if the DOE is unable to enter into such a contract, nothing in this bill authorizes DOE to close this facility, that the contract should be for a limited term, such as 3 years, and not for an indefinite or extensive period, and that all R&D results will be available to the public to the same extent and in the same manner as if this were done entirely by DOE?

Mr. YATES. The gentleman is correct. This is an important facility and should be continued permanently as a DOE facility. I stress that the bill does not authorize the transfer of the title to this facility. The employees would continue to be Federal employees. The term of the contract should be reasonably short, although some renewal might be reasonable. Most importantly, all R&D information must be public.

Mr. SHARP. Is my understanding correct that this provision is not intended to authorize a sole source procurement? The DOE should solicit all possible contractors in order to obtain the best arrangement possible.

Mr. YATES. That is correct.

Mr. SHARP. There have been suggestions that the intent of this provision is for the DOE to enter a sole source contract with the Interstate Oil Compact Commission which is an organization growing out of the 1935 interstate oil compact. That organization has not in the past engaged in R&D. I understand that it is not the conferees' intent of this provision to authorize a sole source contract with the IOCC, although the competitive procurement might result in a contract with the IOCC. Am I correct?

Mr. YATES. Yes.

Mr. SHARP. Is it also the conferees' intent that the DOE consult with the appropriate legislative and appropriations committees in such contracting, including the Energy and Commerce Committee, and submit the final version to all such committees for the 30-day review? And that this consultation and review would extend to any renewal of this contract?

Mr. YATES. That is correct. The House Science and Technology Committee should also be consulted.

Mr. DINGELL. I thank the gentleman for his responses to subcommittee Chairman SHARP. They are helpful and consistent with my understandings.

Mr. Speaker, Chairman YATES also consulted our committee concerning the Fuel Use Act amendment added by the Senate which is now section 317 of the conference report. Indeed, the version adopted the conferees is identical to a provision developed by our committee and provided to Chairman YATES in my letter of December 16, 1982, which appears at the end of my remarks. In reluctantly agreeing to this narrow provision, I want to stress that we do so only because of a unique situation in Alaska and we will not be receptive to suggestions in the future for the same or a similar approach in the lower 48 States where the situation is clearly not even close to being unique. This agreement was negotiated between Senator STEVENS and Congressmen OTTINGER, SHARP, and myself. I know I speak for Congressmen OTTINGER and SHARP that we will not be so agreeable in the future to similar Senate amendments to the Fuel Use Act through this appropriation process. Also, it is not our understanding that we would be receptive to a broader exemption for Alaska in the future.

Mr. Speaker, it is with great reluctance that I support this bill. My reluctance relates solely to my concerns about several legislative provisions included in the bill, particularly those added by the other body. That is in no way a criticism of the gentleman from Illinois or his subcommittee. His subcommittee included the so-called Bartlesville provision to the House bill, noted it in the committee report on this bill, and did not seek a waiver of the rules. Unfortunately, when the bill was being considered on the House floor, I was chairing a hearing concerning my subcommittee's subpena of EPA documents and could not raise a point of order.

Nevertheless, Mr. Speaker, as my correspondence at the end of my remarks indicates, this effort to end-run my committee and other legislative committees is a growing and festering sore that must be dealt with in the House rules when the House reconvenes next year.

In regard to the Bartlesville provision, I want to make it very clear that my subcommittee is greatly concerned about this matter and will be very vigilant over DOE's contract efforts.

My correspondence follows:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., December 13, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: The Senate Committee on Appropriations recently completed consideration of H.R. 7356, which appropriates funds for FY 1983 for the Interior Department and related agencies, and which passed the House earlier this month.

A summary of the Senate Committee's action (in lieu of a Committee report) is printed in the Congressional Record of December 9, 1982 (page S 14277-S 14303). The summary indicates that the Committee added several legislative provisions to this appropriations bill that relate to matters within the jurisdiction of this Committee.

First, the Senate Committee added a provision to exempt new power and industrial facilities in Alaska from the natural gas use restraints of the Powerplant and Industrial Fuel Use Act of 1978, as amended, which originated in this Committee. In comment-

ing on this legislative proposal, the Senate Committee said (p. S 14303):

"When FUA was enacted in 1978 as part of the National Energy Act, Congress recognized the small and unique nature of Alaska's electric utilities and exempted their existing facilities from FUA's gas prohibitions. This provision recognizes the increasing abundance of isolated natural gas in Alaska, and removes an unnecessary and largely unforeseen regulatory barrier to continued local use of a clean and relatively inexpensive fuel in the State. The alternatives to natural gas in Alaska are costly coal and hydroelectric development, with attendant environmental impacts. The Committee finds this provision will reduce future State and Federal expenditures for Alaska power development."

Second, the Senate Committee adds a legislative provision transferring several facilities of the Energy Department to various universities. It also includes a provision allowing that Department to enter into an agreement which might result in the transfer of a DOE facility in Oklahoma to an unidentified entity which could be the Interstate Oil Compact Commission. The Commission is solely within our jurisdiction.

In addition, the language provides exemptions from 18 U.S.C. 208(a) for certain Federal agencies. The Committee summary states (p. S 14296):

"The Committee likewise expects the Secretary to insure, to the greatest extent possible, that the present staff at each of the centers will be retained to meet the primary staffing requirements of the centers after they are transferred. The proposed language provides that anticipated employment by either university or other organization at the transferred facilities shall not subject present staff at the centers to the restrictions of section 208(a), title 18, United States Code, with respect to their participation, as Government employees, in any contract or other arrangement for work to be performed by the centers and the Department before the transfers are completed. Section 208(a) prohibits a Government employee from participating personally and substantially as a Government employee in any particular matter in which any person or organization with whom the employee is negotiating or has any arrangement concerning prospective employment has a financial interest. To the extent that this provision would prohibit Government employees at the centers from continuing to carry out their functions with respect to contracts or other arrangements, an exemption is necessary to prevent the work from coming to an abrupt stop."

I feel certain Chairmen Ford and Rodino would be concerned about such exemptions from 18 U.S.C. 208(a).

These amendments involve matters within the jurisdiction of this Committee, as well as other Committees. They do not belong in any appropriations bill, and are another example of the other body adding legislation on appropriation bills, including continuing resolutions, to circumvent the normal legislative process and the legislative committees of jurisdiction.

I respectfully request that if H.R. 7356 includes this legislation, when it is returned to the House, and a conference is requested, the House Conferees include Members of the Energy and Commerce Committee to confer solely on this legislation. While it is not my intention to delay this needed appropriations bill, it is my view that this legislation should be stripped from this appropriation bill. I plan to work with Committee Chairman Whitten and Subcommittee Chairman Yates to achieve this objective in both this bill and the continuing appropriations bill.

With best wishes,
Sincerely,

JOHN D. DINGELL,
Chairman.

COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., December 16, 1982.

Hon. SIDNEY R. YATES,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I want to express my appreciation to you and your staff for the cooperation provided in connection with legislative provisions added by the Senate to H.R. 7356, which appropriates funds for FY 1983 to the Energy Department. As I understand it a conference on this bill will occur today. Thus, I want to indicate more precisely my concern about several provisions in H.R. 7356.

First, I continue to strongly oppose legislative amendments in appropriation bills in violation of the Rules of the House. My opposition extends to such provisions whether originating in the House or Senate. If I had been on the Floor when H.R. 7356 was considered in the House, I would undoubtedly have raised a point of order.

Second, section 316 of the bill, as passed by the Senate, indirectly amends the Powerplant and Industrial Fuel Use Act of 1978. The amendment makes titles II and III of that Act apply solely to the contiguous States, the District of Columbia, Puerto Rico, and the U.S. territories and possessions. Pursuant to section 104, the 1978 Act applies to all the States, etc., except that titles II and III (other than section 301) "only apply to powerplants and installations situated within the contiguous 48 States, Alaska, and the District of Columbia" and section 301 applies only to powerplants situated within the 48 States and the District of Columbia.

This blanket exclusion by the Senate of Alaska from these provisions of the Act is unacceptable to me. At the request of Senator Stevens, his staff and mine will today discuss his concerns and the merits of his amendment to see if any limited accommodation acceptable to you and me can be reached.

Third, included in the bill is a provision, which the Senate amended, authorizing the Energy Department to enter into a contract or other agreement with a "nonprofit institution" to conduct petroleum-related research and development. Since Chairman Fuqua and I wrote to you about this provision of this bill, I learned more about the DOE's intent concerning this provision. It is my understanding that the DOE would like to use this provision to enable it to enter into a sole source contract with the Interstate Oil Compact Commission.

As you know, this Committee has jurisdiction over the energy compact applicable to this Commission. A few years ago we raised questions about the further need for the Commission and my Subcommittee on Oversight and Investigations is currently re-examining the matter. I am concerned that such a contract could provide some permanency for this Commission. It could also broaden its powers beyond that contemplated by the Compact.

I do not want to see the Bartlesville Center closed. I was unaware, however, of the urgency of passing such legislation in this session, particularly as part of an appropriations bill. Not until two weeks did any DOE official contact our Committee concerning this matter. In fact, a few days ago when Assistant Secretary Mares visited Congressman Sharp's Subcommittee staff about similar language, he did not indicate support for the language. The Administration, in fact, has not requested it. Moreover, I believe that the DOE already has adequate authority to enter into such contracts without this provision.

On the provision itself, I believe it is vague and ambiguous. For example, it is unclear what is encompassed by the words "establish a joint and/or co-operative relationship". It also would appear to circumvent various laws applicable to DOE, including those relating to sole source procurement. It would allow the DOE to execute the contract before submitting it to Congress which makes it very difficult or impossible for the applicable committees to require a charge or even to halt it. There is no limit on the term of the contract. It could be for 50 years. Lastly, the provision does not provide that the contract be submitted to this and other House and Senate legislative committees with jurisdiction over this matter.

Although my preference is that no provision be included in this bill, I realize it was in the House bill and I did not object to it under the Rules because I was chairing a hearing when the matter was considered on the House Floor. Thus, if you believe that some provision is required on this bill in order to reach agreement, I would not object if it is revised. Enclosed is a revision that I believe would overcome many of my objections.

Fourth, the Senate has added legislation relating to the transfer of certain DOE facilities to universities. Such legislation does not belong in the bill under the House Rules. I strongly its deletion from the final version of H.R. 7356.

With best wishes,
Sincerely,

JOHN D. DINGELL,
Chairman.

PROPOSED REVISION OF BARTLESVILLE PROVISION

The Secretary of Energy may enter into a contract, agreement, or arrangement with a qualified nonprofit institution on a cost-shared basis for the purpose of carrying out petroleum related research and development at the facilities of the Department of Energy at the Bartlesville energy Technology Center in Bartlesville, Oklahoma. Any such contract, agreement, or arrangement shall reflect the interests of the Federal Government and the States in conducting such research and development, ensure that the results shall be available to the public in the same manner and to the same extent as if such research and development would be carried out by the Department of Energy, and be for a period of not to exceed three years. Any such proposed contract, agreement, or arrangement developed by the Secretary with such institution pursuant to this paragraph shall be submitted to the appropriate legislative and appropriations committees of the Senate and House of Representatives and a period of thirty days shall elapse while Congress is in session before the contract, agreement, or arrangement thereof shall be executed. In computing the thirty days, there shall be excluded the days on which either the Senate or the House is

not in session because of adjournment for more than three days to a day certain or because of an adjournment of Congress sine die. Any such contract, agreement, or arrangement shall be entered into, and all such research and development shall be carried out, only in accordance with the provisions of law applicable to the Department of Energy.

COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C, December 16, 1982.
Hon. SIDNEY R. YATES,
Chairman, Subcommittee on Interior, and Related Agencies, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of a revised version of the Fuel Use Act amendment which my Committee staff, including the staff of Subcommittee Chairman Ottinger and Sharp, worked out in discussions with Senator Stevens' staff.

Our first preference is to resist the Senate amendment entirely because such legislation does not belong in H.R. 7356 and because we want to avoid further efforts by the Senate to legislate in this manner. However, we will not object to your offering this language in lieu of the Senate language. Senator Stevens' staff understands that you have our support in this regard.

The amendment is far more limited than the Senate language it applies to new electric powerplants only. It has a sunset date. It does not apply to Prudhoe Bay natural gas. It provides that the petitioner need not make the demonstrations required by section 212(f) of the Fuel Use Act, as those demonstrations shall be deemed by this provision to have been made. We intend that the petitioner file an acceptable petition in the same manner and to the same extent as now required by the 1978 Act and the applicable regulations, except that the petitioner would not need to make the above demonstrations as part of the petition.

We appreciate your courtesy in this matter.

Sincerely,

JOHN D. DINGELL,
Chairman

SUBSTITUTE FOR SECTION 315 OF H.R. 7356

"SEC. 316. In the case of any new electric powerplant located in Alaska for which a petition is accepted after the date of enactment of this Act, but before December 31, 1985, pursuant to section 212(f) of the Powerplant and Industrial Fuel Use Act of 1978 to use natural gas, (as that term is defined in such Act), as a primary energy source in such powerplant, the petitioner shall be deemed to have made the demonstrations required by clauses (1) and (2) of such section and such exemption, subject to the other applicable provisions of such Act, shall be granted by the Secretary of Energy. Nothing in this section shall apply to any new electric powerplant using natural gas produced from the Prudhoe Bay Unit of Alaska."

Mr. McDADE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, when the bill went through the House, I pointed out that there is about $280 million in budget authority here which is not included in this bill because it was funded for the full year in the continuing resolution passed earlier.

I also indicated there was another $211 million which came from the redirection of receipts. When those two amounts are added to this bill, it was about $167 million over the 302(b) allocations within the committee. I do not know what has been added in this conference report. I understand it has $25 million more in total budget authority than the House bill. If that is the case, I assume this bill is about $200 million over the 302(b) allocations.

The bill actually is a pretty good one. The subcommittee has done a good job. It was given an impossibly low 3202(b) allocation so that the committee could spend more for social programs.

I do not recommend the Members vote against it, but, Mr. Speaker, I am going to vote against it, because I think we have to exercise some budget discipline at some time.

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to commend both sides and the conferees for arriving at a just compromise, in particular with regard to the protection of the coastline in California.

Both sides, both in the House and the Senate and both Republicans and Democrats, have acknowledged the importance of protecting that coastline. I think, as the subcommittee chairman stated, the importance of this bill is in trying to provide a balance between the development of our resources and the protection of our natural resources.

□ 1045

The compromise in this area strikes that balance. I commend both the chairman and the ranking minority member for their help and their cooperation in that effort.

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, I would point out this is a management bill, therefore if you are going to get revenue from our public lands it is essential that we manage carefully.

This is one of the few bills that we will pass that will produce more in revenues than we provide for in expenditures. Historically, in 1981, in 1982, the revenues from the 750 million acres of public lands owned by the people of this Nation and managed by the agencies provided for in this bill produced a total in revenues of approximately $26 billion.

In that same period the total expenditures were approximately $14 billion.

So I would point out that the management provisions of this bill do give the U.S. Government revenues, but perhaps more importantly what we do in the functions provided for in this bill is build for the future.

There are many elements of the forestry provisions in this bill that will make sure that we have adequate timber in the years ahead, that will provide for an effective silviculture in our national forests.

I would urge my colleagues to support this conference report because it is a bill that provides for good management, as evidenced by the record in the past.

● Mr. OBERSTAR. Mr. Speaker, I rise in support of the conference report on H.R. 7356, Interior appropriations for fiscal year 1983.

The gentleman from Illinois, chairman of the subcommittee (Mr. YATES), once again has done an excellent job in leading this legislation to its final form.

This conference report contains appropriations of critical importance to my district. I very much wish, however, that the conference report contain the original House recommendations with respect to both Voyageurs National Park and Boundary Waters Canoe Area Wilderness programs.

The Senate, regrettably, failed to include construction funds for Voyageurs National Park. The House Interior Appropriations Subcommittee recommended that $2.7 million be appropriated for construction of a major visitor facility in the park. The full House subsequently confirmed that recommendation, which is the same amount requested in the President's budget.

The conference report, however, contains the Senate provision, and appropriates no funds for construction of this important facility for the park. The House position was responsible; unfortunately, the Senate provision, now included in the conference report, is not.

It is sadly ironic that this conference report comes to the House floor only hours after the Senate gave final approval to legislation revising the boundaries of Voyageurs National Park. This legislation, approved by the House on Tuesday, will add approximately 180 acres at Black Bay Narrows for purposes of construction of the visitor facility. Regrettably, this appropriations conference report contains no funds for this facility.

Consequently, construction of the visitor facility will be delayed, the people of the International Falls area, adjacent to the park, will be disappointed, and much-needed, long hoped-for economic benefits to the area will be lost, indefinitely.

The conference report does include $3.8 million for land acquisition within the park, the amount contained within both the House and Senate versions of

the legislation, as well as the administration budget.

The House and Senate bills were virtually identical in their recommendations for those programs authorized by the Boundary Waters Canoe Area Wilderness Act of 1978. The conference report includes the Senate recommendation of $3 million for purchases of resorts under section 5 of the 1978 act, an amount $200,000 below the House recommendation. While I would have preferred the conference report contain the $3.2 million, which I requested and which the House passed, the conference report amount is still $3 million more than the administration request of no funding.

I know that the House conferees faced very insistent Senate Conferees. The gentleman from Illinois has my appreciation and that of my constituents for his persistent efforts on our behalf.●

● Mr. PARRIS. Mr. Speaker, I wish to express my disappointment at the action of the conferees to delete funding from the Interior Appropriation for fiscal year 1983 for the acquistion of 355 acres to complete Mason's Neck National Wildlife Refuge. I realize the difficulty presented by the need to prioritize a large number of candidates for acquisition, and I respect the managers for making the difficult choices. However, I submit that there has been substantial private involvement in the protection of this unique area for 10 years. Further, it has been authorized for acquisition. Finally, if the acquisition is not made, as I have stressed many times to members of both Houses, the areas will not be able to support the present Bald Eagle habitat there because of the development which is sure to occur. I feel that the protection of our national symbol should be given the highest priority as a consideration justifying a proposed acquisition for our National Wildlife Refuge System.

I appreciate the action the House Subcommittee on Interior Appropriations took in recommending funding for the acquisition, and I am grateful to the members of the full committee in approving it. I look forward to working with these distinguished gentleman on the same project next year. With some assistance from the other body we can achieve a different end.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, at this point I would like to commend my colleagues on the Interior Appropriations Subcommittee who have worked so tirelessly to insure consideration of the conference report to accompany the Interior Appropriations bill for fiscal year 1983 during the waning hours of the lameduck session of the 97th Congress. I am particularly pleased because of its national importance. Also, the report contains several items of major importance for my home State of Arkansas.

Earlier this session, I became embroiled in the unexpected battle to save the Norfork Fish Hatchery from closure, and am delighted that the conference report before us provides for its continued operation. This hatchery was jeopardized when House subcommittee actions addded the Arkansas facility to a list of fish hatcheries to be closed nationwide. This unusual development occurred even though the Norfork Hatchery was not on the list of potential closing compiled by the U.S. Fish and Wildlife Service or the administration. Therefore, I want to extend my personal thanks to Chairman YATES, and Mr. MCDADE for their cooperation and reversal of that recommendation in the early stage of the final legislative process. Fortunately, the Senate accepted from the beginning the U.S. Fish and Wildlife agency recommendation to fund the Norfork Hatchery. Among the persuasive arguments made to the subcommittee were the multistate impact of the hatchery; the remarkable return of about $66 for every Federal tax dollar spent there; and the historic mitigation commitment to the hatchery in connection with the construction of the Norfork Dam 40 years ago. The Norfork Fish Hatchery is one of the most efficiently managed and economically productive hatcheries of its kind in the country and Congress has rightfully assured its continuance.

In addition, I would like to express my appreciation to the senior Senator from Arkansas, Mr. BUMPERS, for including an additional $2 million in this report for continuing land acquisition for the Buffalo National River and I am pleased that we in the House have agreed to that provision. As the original sponsor in the House of Representatives back in the 90th Congress of legislation to preserve this free-flowing river for the enjoyment of future generations, and as the sponsor of measures increasing the original authorization for land acquisition for this project in the past, I have a long-standing commitment to the development, protection, and maintenance of this area. This additional allocation will provide for further positive actions needed to acquire remaining property. My colleagues have heard me speak in the committee and on the floor of the beauty of the Buffalo National River being unsurpassed, and it is indeed fitting we should finish our land acquisition as well as begin development on a timely basis.

Last, of the $281 million allocated for construction costs under the Forest Service, I am pleased that $50,000 has been allotted, at Senator BUMPERS' request, for road work in the Mount Magazine area of the Ozark National Forest in Arkansas. The conferees in the House also recognized the need for increased construction funding for the Forest Service due to reductions in the timber sales program levels. I appreciate that support.

I am relieved that at least the Interior appropriations bill for fiscal year 1983 will be enacted during this lameduck session, but remain disappointed that the Congress will not be able to consider the other appropriation bills and will once again be forced to resort to the procedure of operating under an umbrella bill or continuing resolution as a stop-gap funding measure. Nevertheless, I am hopeful that the President will sign this all important measure that speaks to so many of the natural resource needs for our country's citizens.●

Mr. MCDADE. Mr. Speaker, I thank by able colleague from Ohio. I have no further requests for time.

Mr. YATES. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 282, nays 63, not voting 88, as follows:

[Roll No. 482]

YEAS—282

Addabbo	Carney	Edwards (CA)
Akaka	Chappell	Edwards (OK)
Albosta	Chappie	Emerson
Alexander	Cheney	Emery
Anderson	Clausen	Erdahl
Andrews	Clinger	Erlenborn
Annunzio	Coleman	Evans (IN)
Anthony	Conte	Fary
Applegate	Corcoran	Fazio
Atkinson	Coughlin	Fenwick
Bailey (PA)	Courter	Ferraro
Barnard	Coyne, William	Fiedler
Barnes	Craig	Fish
Bedell	Crockett	Fithian
Benedict	D'Amours	Flippo
Bennett	Daniel, Dan	Florio
Bereuter	Daniel, R. W.	Foglietta
Bethune	Daschle	Foley
Bevill	Daub	Forsythe
Bingham	Davis	Fowler
Bliley	de la Garza	Frank
Boland	Dellums	Garcia
Boner	Derrick	Gaydos
Bonior	Derwinski	Gejdenson
Bonker	Dickinson	Gephardt
Bouquard	Dicks	Gilman
Bowen	Dingell	Gingrich
Breaux	Dorgan	Glickman
Brinkley	Dowdy	Gonzalez
Brodhead	Downey	Gore
Brooks	Duncan	Gray
Brown (CA)	Dunn	Green
Brown (OH)	Dwyer	Guarini
Burton, John	Early	Gunderson
Burton, Phillip	Eckart	Hall (IN)
Butler	Edgar	Hall (OH)
Campbell	Edwards (AL)	Hall, Ralph

Hamilton	McDade	Sabo
Hammerschmidt	McGrath	Savage
Hansen (ID)	McKinney	Sawyer
Harkin	Michel	Scheuer
Hatcher	Mikulski	Schneider
Hawkins	Miller (CA)	Schroeder
Hertel	Mineta	Schumer
Hightower	Minish	Seiberling
Howard	Mitchell (MD)	Shamansky
Hoyer	Moakley	Shannon
Hubbard	Molinari	Sharp
Huckaby	Mollohan	Siljander
Hughes	Montgomery	Simon
Hunter	Morrison	Skeen
Hutto	Murphy	Skelton
Hyde	Murtha	Smith (IA)
Ireland	Myers	Smith (NE)
Jeffords	Natcher	Smith (NJ)
Jenkins	Nelson	Snowe
Jones (NC)	Nichols	Snyder
Jones (TN)	Oakar	Solarz
Kastenmeier	Oberstar	Spence
Kazen	Obey	St Germain
Kemp	Ottinger	Stark
Kennelly	Oxley	Stokes
Kildee	Panetta	Stratton
Kogovsek	Parris	Studds
Lagomarsino	Pashayan	Swift
Lantos	Patman	Synar
Latta	Patterson	Tauzin
Leach	Pease	Taylor
Leland	Pepper	Thomas
Lent	Perkins	Trible
Levitas	Peyser	Udall
Lewis	Pickle	Vento
Livingston	Porter	Volkmer
Loeffler	Price	Wampler
Long (LA)	Pritchard	Watkins
Long (MD)	Quillen	Weaver
Lott	Rahall	Weber (OH)
Lowery (CA)	Railsback	Weiss
Lowry (WA)	Rangel	Whitehurst
Lujan	Ratchford	Whitley
Lundine	Regula	Whitten
Madigan	Reuss	Williams (OH)
Markey	Rinaldo	Wilson
Marlenee	Roberts (KS)	Wirth
Marriott	Robinson	Wolf
Martin (NY)	Rodino	Wolpe
Martinez	Roe	Wright
Matsui	Roemer	Wyden
Mattox	Rogers	Wylie
Mavroules	Rose	Yates
Mazzoli	Rostenkowski	Yatron
McClory	Roth	Young (FL)
McCloskey	Roukema	Young (MO)
McCollum	Roybal	Zablocki

NAYS—63

Archer	Gradison	Moore
Aspin	Gramm	Moorhead
Badham	Gregg	Paul
Bailey (MO)	Hall, Sam	Petri
Beilenson	Hance	Ritter
Broomfield	Hansen (UT)	Russo
Brown (CO)	Hartnett	Sensenbrenner
Broyhill	Hiler	Shaw
Burgener	Hopkins	Shelby
Carman	Jacobs	Shumway
Coats	Johnston	Smith (OR)
Coelho	Jones (OK)	Solomon
Conable	Kindness	Stangeland
Crane, Daniel	Kramer	Stenholm
Dannemeyer	Leath	Stump
Dreier	Lungren	Tauke
English	Martin (IL)	Walker
Evans (IA)	McCurdy	Weber (MN)
Fields	McDonald	Whittaker
Frenzel	McEwen	Williams (MT)
Goodling	Miller (OH)	Wortley

NOT VOTING—88

Ashbrook	Conyers	Evans (GA)
AuCoin	Coyne, James	Fascell
Bafalis	Crane, Philip	Findley
Beard	Deckard	Ford (MI)
Biaggi	DeNardis	Ford (TN)
Blanchard	Dixon	Fountain
Boggs	Donnelly	Frost
Bolling	Dornan	Fuqua
Byron	Dougherty	Gibbons
Chisholm	Dymally	Ginn
Clay	Dyson	Goldwater
Collins (IL)	Ertel	Grisham
Collins (TX)	Evans (DE)	Hagedorn
Heckler	McHugh	Schulze
Hefner	Mica	Shuster
Heftel	Mitchell (NY)	Smith (AL)
Hendon	Moffett	Smith (PA)
Hillis	Mottl	Stanton
Holland	Napier	Staton
Hollenbeck	Neal	Traxler
Holt	Nelligan	Vander Jagt
Horton	Nowak	Walgren
Jeffries	O'Brien	Washington
LaFalce	Pursell	Waxman
LeBoutillier	Rhodes	White
Lee	Roberts (SD)	Winn
Lehman	Rosenthal	Young (AK)
Luken	Rousselot	Zeferetti
Marks	Rudd	
Martin (NC)	Santini	

□ 1100

Messrs. ENGLISH, RITTER, CAMPBELL and SAM B. HALL, JR. changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

Mr. YATES. Mr. Speaker, I ask unanimous consent that amendments numbered 3, 7, 9, 15, 18, 20, 25, 30, 95, 105, and 110, to which the managers have receded and concurred, be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk designated Senate amendments 3, 7, 9, 15, 18, 20, 25, 30, 95, 105, and 110, as follows:

Senate amendment No. 3: Page 2, line 21, after "penses" insert ": *Provided*, That this appropriation may be used to correct underpayments in the previous fiscal year to achieve equity among all qualified recipients".

Senate amendment No. 3: Page 6, line 20, after "permittee" insert ": *Provided further*, That the Secretary of the Interior shall develop criteria for extending, on a case-by-case basis, the period allowed for phased livestock reductions on public rangelands administered through the Bureau of Land Management up to five years. Such criteria shall take into account available agricultural assistance programs, the magnitude of projected livestock reductions, alternative pasturage available, and ability of such public rangelands to sustain such phasing in of livestock reductions without damage do rangeland productivity: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision or ninety days after the effective date of this Act in the case of reductions ordered during 1979, whichever occurs later. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed".

Senate amendment No. 9: Page 7, line 8, after "expended" insert ": *Provided*, That the only critical habitat to be designated under section 4(b)(2) of the Endangered Species Act of 1973 (Public Law 93-205), as amended, for the Northern Rocky Mountain Wolf in Idaho shall be coterminous with the boundaries of the Central Idaho Wilderness Areas, as established by Public Law 96-312".

Senate amendment No. 15: Page 9, line 17, after "Hatchery" insert ": *Provided further*, That the administrative/visitor facility at the Merritt Island NWR, Florida, for which funds were appropriated under the head "Construction and anadromous fish" in chapter VIII of Public Law 97-257 is hereby designated the Scott J. Manness-Beau W. Sauselein administrative/visitor facility and that the maintenance center not be named as provided in that account".

Senate amendment No. 18: Page 10, line 16, after "States" insert ": *Provided further*, That $85,000 shall be available for the National Park Service to assist the town of Harpers Ferry, West Virginia, for police force use".

Senate amendment No. 20: Page 10, line 16, after "States" insert ": *Provided further*, That $160,000 shall be available for operation, including maintenance and protection, of the former home of Harry S Truman at 219 North Delaware Street, Independence, Missouri, upon assumption of administrative jurisdiction thereof by the National Park Service pursuant to specific legislation similar to S. 3077, Ninety-seventh Congress, or pursuant to the general authority of the Act of August 21, 1935 (49 Stat. 666), or otherwise".

Senate amendment No. 25: Page 11, line 15, after "Memorial" insert ", $1,400,000 for the Federal share of the construction and development costs for the Alaska Interagency Visitor Centers in Anchorage, Fairbanks, and Tok, Alaska, pursuant to section 1305 of the Alaska National Interest Lands Conservation Act (Public Law 96-487)".

Senate amendment No. 30: Page 13, line 6, after "situations" insert "and conduct emergency search and rescue operations".

Senate amendment No. 95: Page 37, line 4, after "205" insert "; and $9,000,000, to remain available until expended, for final payment, subject to the execution of a final agreement between the Secretary of the Interior, the Secretary of Agriculture, and the Chugach Natives, Incorporated, for the final settlement of land claims of the Chugach Natives, Incorporated, as authorized by section 1302(h) and section 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) and section 22(f) of the Alaska Native Claims Settlement Act, as amended (Public Law 94-204)".

Senate amendment No. 105: Page 42, line 6, after "University" insert ": *Provided further*, That $2,000,000 appropriated under the account entitled "Alternative Fuels Production" in Public Law 96-126 (93 Stat. 970 (1979)), for project development feasibility studies, is hereby transferred to this account to be used until expended for a jointly funded feasibility study of a Western Hemisphere alternative fuels facility which would utilize coal exported from the United States".

Senate amendment No. 110: Page 43, lines 8 and 9, strike out "to continue" and insert "for program management of".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement of the amendments of the Senate numbered 3, 7, 9, 15, 18, 20, 25, 30, 95, 105, and 110, and concur therein.

Mr. McDADE. Mr. Speaker, I would like to be recognized on the motion.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. McDADE) is recognized for 30 minutes and the gentleman from Illinois (Mr. YATES) is recognized for 30 minutes.

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. CORCORAN.)

Mr. CORCORAN. Mr. Speaker, the reason that I sought this time is because of my concern about magnetohydrodynamics (MHD) coal research funding for the process whereby we would attempt to convert coal directly to electricity. I have a couple of questions for my friend from Pennsylvania (Mr. McDADE) if I could engage him in a colloquy.

As I understand it, I would say to my friend from Pennsylvania, in the legislation that the House passed we provided $31 million for this MHD research program. The other body had recommended some $27 million. The conference committee recommends to the House and the Senate a compromise of $29 million. Is that correct?

Mr. McDADE. The gentleman is correct. Those are the figures that are in the conference report.

Mr. CORCORAN. Mr. Speaker, let me make one other point about that.

While I would have liked to have seen more money available to support this important project, the concern I have is that over the last 10 years we have spent from Government resources about one-half billion dollars on this very important and very valuable MHD process. Now I think we should move on to installing and operating the coal-fired combustor test in Montana with the superconducting magnet from the Argonne National Laboratory in Illinois.

As I understand it, all of the subsystems, including one in Everett, Mass., in the district of my good friend from Massachusetts (Mr. MARKEY), have proved to be very encouraging. The next step would appear to be to move forward with the coal-fired combustor test that is scheduled for operation sometime within the next 12 months, if funding is available, at the Montana facility. This also tests the use of the superconducting magnet which has been developed by Argonne National Laboratory in Illinois.

My question is whether or not within the funds available, given the fact that all of the research has really been done, are we going to be moving forward on this next level where we would get a coal burn test.

I wonder if the gentleman from Pennsylvania would respond to that inquiry?

Mr. McDADE. Let me say to my colleague that when we reported our bill on page 96 of our report dealing with this subject we stated, and I quote:

The committee is concerned about the future of the MHD program and its ultimate conclusion. Accordingly the committee has recommended that within available funds the Department should ask an institution such as the Electric Power Institute—

It is not mandatory—

to do a thorough evaluation of the program, what its prospects for the future are and what the next steps in the development of MHD should be. It is the committee's intent that the program concentrate on development at existing research industrial and DOE facilities.

The language speaks for itself.

May I say to my colleague, we would like to see a development. But we do not want to superimpose our own opinions on a very complex situation. But we have said to the Department get a good evaluation, such as the Electric Power Institute, bring it to a conclusion, go to development at existing centers that exist around the country and get on with the project.

So we are trying to speed it up as much as we can within the expertise that we know that exists in the private sector together with the DOE.

Mr. CORCORAN. Mr. Speaker, let me say to my friend from Pennsylvania I am encouraged by what he has to say. I am advised that the MHD Industrial Forum will soon be proposing to the Department of Energy that the industry join with the Government in financing the commercial scale next level of test. I would hope that the Department, which has unfortunately wanted to defund this program altogether, would recognize the opportunities inherent in this process, support the priorities to move forward with the combustor test out in Montana and to use the other remaining funds to support the only remaining equipment test that needs to be examined, and that is the super-conducting magnet developed at the Argonne National Laboratory in Illinois.

I understand our friend from Massachusetts (Mr. MARKEY) would like to engage in this colloquy.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman for yielding.

I am very disappointed that more money could not be appropriated for the MHD program, that there was not more support for it forthcoming from the administration.

It is important for us to realize that this is the one opportunity that we have to demonstrate the clean use of coal.

We are the Saudi Arabia of coal in this world. Magnetohydrodynamics is a technology which the Soviet Union has invested huge sums of money in, a technology which promises to be able to produce for us an energy source that we will be able to use our greatest natural resource—coal—as a means of helping to create the energy independence which we want for the 21st century.

I congratulate the gentleman. I agree with him that we must expedite a process of putting on line a final facility which will give us the payoff for our many years of investment.

Mr. CORCORAN. Mr. Speaker, I thank the gentleman from Massachusetts for his contribution. I agree with him wholeheartedly.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 10: Page 7, line 8, after "expended" insert ": *Provided further,* That sufficient funds are included for the operation of the Pisgah Forest National Fish Hatchery through September 30, 1983".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ": *Provided further,* That notwithstanding any other provision of this paragraph, $2,000,000 is available to carry out the purposes of 16 U.S.C. 1535, to remain available until expended".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 36: Page 14, line 6, after "commission" insert ": *Provided further,* That notwithstanding any other provision of law, the Secretary of the Interior is authorized to make available to the Smith River Fire Protection District, California, lands within the boundary of Redwood National Park for construction of a fire station".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further,* That notwithstanding any other provision of law, the Secretary of the Interior is authorized to enter into a cooperative agreement with the Smith River Fire Protection District, California, for a special use permit on lands within the boundary of Redwood National Park to permit construction of a fire station".

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent

that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 40: Page 17, line 5, strike out "$128,629,000" and insert "$142,162,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$143,158,000".

The motion was agreed to.

□ 1115

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 42: Page 17, line 23, strike out "$61,313,000" and insert "$63,819,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$60,356,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 43: Page 18, line 6, strike out "$126,609,000" and insert "$152,649,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$161,209,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 46: Page 19, line 13, after "$850,477,000" insert "of which $18,715,000 shall be available until expended for transfer to the State of Alaska to assist in the basic operation and maintenance of Bureau-owned schools which are transferred to the State, such sum to be in addition to assistance otherwise available under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) or any other Act to such schools on the same basis as other public schools, and".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,350,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 48: Page 21, line 3, strike out "$73,890,000" and insert "$69,500,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$67,250,000."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 58: Page 24, line 22, strike out all after "Committees" down to and including "1983' in line 25.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: ": *Provided further,* That notwithstanding any other provision of law: The following may be cited as the "'Indian Claims Limitation Act of 1982'."

SEC. 2. (a) Subsection (a) of section 2415 of title 28 United States Code, is amended by striking "after December 31, 1982" in the third proviso and inserting in lieu the following: "sixty days after the date of publication of the list required by section 4(c) of the Indian Claims Act of 1982: *Provided,* That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interior has published in the Federal Register a notice rejecting such claim or (2) three years after the date the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim".

(b) Subsection (b) of section 2415 of title 28, United States Code, is amended by striking "December 31, 1982" in the proviso and inserting in lieu the following: "sixty days after the date of the publication of the list required by section 4(c) of the Indian Claims Act of 1982: *Provided,* That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interior has published in the Federal Register a notice rejecting such claim or (2) three years after the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim".

SEC. 3. (a) Within ninety days after the enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register a list of all claims accruing to any tribe, band or group of Indians or individual Indian on or before July 18, 1966, which have at any time been identified by or submitted to the Secretary under the "Statute of Limitation Project" undertaken by the Department of the Interior and which, but for the provisions of this Act, would be barred by the provisions of section 2415 of title 28, United States Code: Provided, That the Secretary shall have the discretion to exclude from such list any matter which was erroneously identified as a claim and which has no legal merit whatsoever.

(b) Such list shall group the claims on a reservation-by-reservation, tribe-by-tribe, or State-by-State basis, as appropriate, and shall state the nature and geographic location of each claim and only such other additional information as may be needed to identify specifically such claims.

(c) Within thirty days after the publication of this list, the Secretary shall provide a copy of the Indian Claims Limitation Act of 1982 and a copy of the Federal Register containing this list, or such parts as may be pertinent, to each Indian tribe, band or group whose rights or the rights of whose members could be affected by the provisions of section 2415 of title 28, United States Code.

SEC. 4. (a) Any tribe, band or group of Indians or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in section 3 of this Act to submit to the Secretary any additional specific claim or claims which such tribe, band or group of Indians or individual Indian believes may be affected by section 2415 of title 28, United States Code, and desires to have considered for litigation or legislation by the United States.

(b) Any such claim submitted to the Secretary shall be accompanied by a statement identifying the nature of the claim, the date when the right of action allegedly accrued, the names of the potential plaintiffs and defendants, if known, and such other information needed to identify and evaluate such claim.

(c) Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (a) of this section, the Secretary shall publish in the Federal Register a list containing the additional claims submitted during such period: *Provided,* That the Secretary shall have the discretion to exclude from such list any matter which has not been sufficiently identified as a claim.

SEC. 5. (a) Any right of action shall be barred sixty days after the date of the publication of the list required by section 4(c) of this Act for those pre-1966 claims which, but for the provisions of this Act, would have been barred by section 2415 of title 28, United States Code, unless such claims are included on either of the lists required by section 3 or 4(c) of this Act.

(b) If the Secretary decides to reject for litigation any of the claims or groups or cat-

egories of claims contained on either of the lists required by section 3 or 4(c) of this Act, he shall send a report to the appropriate tribe, band, or group of Indians, whose rights or the rights of whose members could be affected by such rejection, advising them of his decision. The report shall identify the nature and geographic location of each rejected claim and the name of the potential plaintiffs and defendants if they are known or can be reasonably ascertained and shall, briefy, state the reasons why such claim or claims were rejected for litigation. Where the Secretary knows or can reasonably ascertain the identify of any of the potential individual Indian plaintiffs and their present addresses, he shall provide them with written notice of such rejection. Upon the request of any Indian claimant, the Secretary shall, without undue delay, provide to such claimant any nonprivileged research materials or evidence gathered by the United States in the documentation of such claim.

(c) The Secretary, as soon as possible after providing the report required by subsection (b) of this section, shall publish a notice in the Federal Register identifying the claims covered in such report. With respect to any claim covered by such report, any right of action shall be barred unless the complaint is filed within one year after the date of publication in the Federal Register.

SEC. 6. (a) If the Secretary determines that any claim or claims contained in either of the lists as provided in sections 3 or 4(c) of this Act is not appropriate for litigation, but determines that such claims may be appropriately resolved by legislation, he shall submit to the Congress legislation to resolve such claims or shall submit to Congress a report setting out options for legislative resolution of such claims.

(b) Any right of action on claims covered by such legislation or report shall be barred unless the complaint is filed within 3 years after the date of submission of such legislation or legislative report to Congress.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 62; Page 25, line 20, strike out [$1,882,000] and insert: *$2,081,000*

MOTION OFFERED MY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,881,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 74: Page 30, line 2, after "Technology" insert "$6,210,000 for expenses necessary in carrying out the provisions of the Water Research and Development Act of 1978 (Public Law 95-467)".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,350,000"

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 76: Page 33, strike out lines 6 to 13, inclusive.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of lands within the Department of the Interior Central and Northern California Planning Area which lie north of the line between the row of blocks numbered N816 and the row of blocks numbered N817 of the Universal Transverse Mercator Grid System.

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 84: Page 35, after line 8, insert:

SEC. 109. Notwithstanding any other provision of law, section 1002 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) (16 U.S.C. 3142(e)(2)(C)) is amended as follows: Insert before the period: "and: *Provided*, That the Secretary shall prohibit by regulation any person who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information unless such person compensates the permittee at fair market value for such information in accordance with such regulations as the Secretary may prescribe".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 110. Notwithstanding any other provision of law, section 1002 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) (16 U.S.C. 3142(e)(2)(C)) is amended as follows: Insert before the period: "and: *Provided*, That the Secretary shall prohibit by regulation any person who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information. The Secretary shall require that any permittee shall make available such data to any person at fair cost.

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 87: Page 35, line 20, strike out "$58,770,000" and insert "$61,078,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 87 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$62,328,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 88: Page 35, line 20, strike out "$55,420,000" and insert "$58,078,000".

MOTION OFFEED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 88 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$58,828,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 90: Page 36, line 17, strike out "$1,009,093,000" and insert "$1,007,697,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,010,436,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 96: Page 37, line 8, strike out "$218,000,000" and insert "$236,200,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 96 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$240,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 97: Page 37, strike out lines 11 to 18, inclusive.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 97 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

YOUTH CONSERVATION CORPS

There is appropriated $10,000,000, of which $3,400,000 is hereby transferred to "National Forest System", $3,300,000 is hereby transferred to "Operation of the National Park System", National Park Service, and $3,300,000 is hereby transferred to "Resource Management", United States Fish and Wildlife Service, for high priority projects which shall be carried out as if authorized by Public Law 93-408.

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 98: Page 37, line 25, strike out "$53,476,000" and insert "$55,117,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 98 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$56,877,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 100: Page 40, after line 14, insert:

None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall either reimburse to the permittee that excess amount, times the number of years that that fee has been in effect, or credit to the permittee that same to offset future fees oweed to the Forest Service, at the discretion of the permitte.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 100 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: In lieu of the matter proposed by amendment, insert the following:

None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall credit to the permittee that excess amount, times the number of years that that fee has been in effect, to offset future fees owed to the Forest Service.

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 102: Page 41, strike out lines 12 to 14, inclusive.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 102 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

Provisions of Section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 97-942.

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 104: Page 41, line 24, strike out "$297,064,000" and insert "$247,514,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 104 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "$215,514,000" and $31,700,000 to be derived by transfer from the account in Public Law 96-126 (93 Stat. 970 (1979)) entitled "Alternative Fuels Production", and $40,000,000 to be derived by transfer from the account in Public Law 96-304 entitled "Energy Security Reserve" established to carry out the provisions set forth in section 204(a)(2) of the "Energy Security Act" (Public Law 96-294)".

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 111: Page 43, line 16, strike out "$31,106,000" and insert "$33,106,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 111 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$35,106,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 112: Page 43, line 16, after "$31,106,000" insert ", of which $2,000,000 shall be available only for expenses in issuing prohibition orders under the Powerplant and Industrial Fuel Use Act and other related laws".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 112 and concur therein with an amendment, as follows: In lieu of

the matter proposed by said amendment, insert the following: ": *Provided*, That $2,000,000 of the funds herein appropriated shall be available for the fuels conversion program, of which not less than $1,500,000 shall be available only for expenses in issuing prohibition orders under the Powerplant and Industrial Fuel Use Act and other related laws".

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 114: Page 46, after line 23, insert:

Funds appropriated by this and subsequent Acts for fossil energy research and development activities may be used by the Secretary of Energy to enter into arrangements with the University of Wyoming, or any nonprofit corporation controlled by the university, for the purpose of encouraging research and development activities in the oil shale, underground coal conversion, and tar sands programs. In addition, the Secretary shall, subject to any terms and conditions which the Secretary may impose, transfer to the university or to such nonprofit corporation, all or any part of the Government's right, title, and interest in and to the land, buildings, improvements, fixtures, equipment and furnishings in the Secretary's custody of the Laramie Energy Technology Center at Laramie, Wyoming (including leasehold interests, buildings, improvements, fixtures, equipment and furnishings in the Secretary's custody on land not owned by the Government but which is a part of the center, where the Secretary determines that such transfer is integral to the future activities of the university): *Provided further*, That anticipated employment by the university, or such nonprofit corporation, at the transferred facilities shall not subject center employees to the restrictions of section 208(a), title 18, United States Code, with respect to participation, as Government employees, in any contract or other arrangement for work to be performed by the university entered into by the university and the Department before such transfer is completed: *Provided further*, That funds appropriated by this and subsequent Acts for fossil energy research and development activities may be used by the Secretary of Energy to enter into arrangements with the University of North Dakota, or any nonprofit corporation controlled by the university, for the purpose of encouraging research and development activities in the low rank coal program. In addition, the Secretary shall, subject to any terms and conditions which the Secretary may impose, transfer to the university or to such nonprofit corporation, all or any part of the Government's right, title, and interest in and to the land, buildings, improvements, fixtures, equipment and furnishings in the Secretary's custody of the lignite coal research laboratory established pursuant to the Act of March 25, 1948 (30 U.S.C. 401 et seq.), at Grand Forks, North Dakota. The transfer shall be deemed in furtherance of that Act: *Provided further*, That anticipated employment by the university, or such nonprofit corporation, at the transferred facilities shall not subject center employees to the restrictions of section 208(a), title 18, United States Code, with respect to participation, as Government employees, in any contract or other arrangement for work to be performed by the university entered into by the university and the Department before such transfer is completed.

MOTION OFFERED BY MR. YATES

Mr. YATES. My Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 114, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 115: Page 47, line 4, after "institution" insert "on a cost-shared basis".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from is disagreement to the amendment of the Senate numbered 115, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 116: Page 48, line 13, strike out "$645,305,000" and insert "$623,724,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 116 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$645,583,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 120: Page 51, line 5, after "tation" insert ": *Provided further*, That notwithstanding current regulations, eligibility for Indian Health Services shall be extended to non-Indians in only two situations: (1) a non-Indians woman pregnant with an eligible Indian's child for the duration of her pregnancy through postpartum, and (2) non-Indians members of an eligible Indian's household if the medical officer in charge determines that this is necessary to control acute infectious disease or a public health hazard".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 120, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 122: Page 51, line 10, strike out "($15,965,000)" and insert "($13,913,000)".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 122 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($16,193,000)".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 123: Page 51, line 12, strike out "$65,519,000" and insert "$66,216,00".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 123 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$67,247,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 125: Page 51, line 18, after "Commission" insert ": *Provided*, That no bonus payments of relocation assistance shall be provided to any person who was not physically residing within the Joint Use Area as of the date of enactment of this Act".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 125, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 136: Page 57, line 20, strike out all after "Humanities" over to and including "waivers" in line 2 on page 58.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 136 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment,

amended to read as follows: ": *Provided further,* That regulations of the Institute shall require (1) an appeal process for applications rejected because of technical deficiency, (2) reconsideration of applications upon receipt of materials in a timely manner if the application was rejected because material did not accompany the application, and (3) waivers of certain records under circumstances which would require such waivers.

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment read as follows:

Senate Amendment No. 137: Page 58, line 7, strike out all after "1913" down to and including "office" in line 10.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 137 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided,* That hereafter persons serving on the National Council on the Arts, the National Council on the Humanities, and the Museum Services Board shall continue serving until their successors are qualified for office".

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 141: Page 60, strike out lines 11 to 18, inclusive.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 141 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

Notwithstanding any other law, funds made available from the Energy Security Reserve to the Secretary of Energy for alcohol fuel loan guarantees authorized by title II of the Energy Security Act, Public Law 96-294, may be used to guarantee loans up to three and one-half times the amount held in reserve.

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 143: Page 62, strike out all after line 21 over to and including line 2 on page 64 and insert:

SEC. 308. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312 and section 603 of Public Law 94-579, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas: *Provided,* That nothing in this section shall prohibit the expenditures of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning or within any lands designated by Congress as wilderness study areas, under valid existing right or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further,* That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of national forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further,* That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting, in conjunction with the Secretary of Energy, the national laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and X-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further,* That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall cansult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of national forest or public land wilderness areas that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness or other nonsurface disturbing methods.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 143, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 153: Page 66, after line 14, insert:

SEC. 313. The titles conveyed by and the easements and restrictions heretofore reserved and imposed by the Secretary of the Interior pursuant to section 506(c) of Public Law 96-487 are hereby confirmed in all respects.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 153 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 315. The titles conveyed by and the easements and restrictions heretofore reserved and imposed by the Secretary of the

Interior pursuant to section 506(c) of Public Law 96-487 are hereby confirmed in all respects: *Provided*, That nothing herein shall be deemed to amend the Alaska National Interest Lands Conservation Act or the Alaska Native Claims Settlement Act.

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 154: Page 66, after line 14, insert:

SEC. 314. Except as expressly provided for by law, none of the funds appropriated by this Act shall be obligated to dispose, except by exchange, of any Federal land tract until such time as the agency responsible for administering the disposal of the tract has specifically identified the tract as no longer being needed by the Federal Government; inventoried the tract as to its public benefit values; provided opportunity for public review and discussion of the tract proposed for disposal; and provided 30 days advance notice of the tract proposed for disposal and of the plans for carrying out such disposal to the congressional delegation of the State or States in which the tract proposed for sale is located and to the appropriate congressional committees for immediate printing in the Congressional Record: *Provided*, That neither the Act of July 31, 1958, as amended (72 Stat. 438, as amended; 7 U.S.C. 1012a; 16 U.S.C. 478a) nor the Act of June 14, 1926, as amended (49 U.S.C. 869 et seq.) shall be subject to the provisions of this section.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 154 and concur therein with an amendment, as follows: In lieu of the section number in said amendment insert "316".

The motion was agreed to.

□ 1130

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement:

The amendment reads as follows:

Senate amendment No. 155: Page 66, after line 14, insert:

SEC. 315. Notwithstanding any other provision of law, title II and title III of the Powerplant and Industrial Fuel Use Act, Public Law 95-620, shall apply only to powerplants and installations situated in the contiguous 48 States, the District of Columbia, and, where applicable, Puerto Rico and the territories and possessions of the United States.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 155 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 317. In the case of any new electric power plant located in Alaska for which a petition is accepted after the date of enactment of this Act, but before December 31, 1985, pursuant to section 212(f) of the Powerplant and Industrial Fuel Use Act of 1978, to use natural gas (as that term is defined in such Act), as a primary energy source in such power plant, the petitioner shall be deemed to have made the demonstrations required by clauses (1) and (2) of such section and such exemption, subject to the other applicable provisions of such Act, shall be granted by the Secretary of Energy. Nothing in this section shall apply to any new electric power plant using natural gas produced from the Prudhoe Bay Unit of Alaska.

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 156: Page 66, after line 14, insert:

SEC. 316. Section 21 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (41 Stat. 437, as amended; 30 U.S.C. 241), is further amended by adding the following new subsections:

"(c)(1) The Secretary may within the State of Colorado lease to the holder of the Federal oil shale lease known as Federal Prototype Tract C-a additional lands necessary for the disposal of oil shale wastes and the materials removed from mined lands, and for the building of plants, reduction works, and other facilities connected with oil shale operations (which lease shall be referred to hereinafter as an 'offsite lease'). The Secretary may only issue one offsite lease not to exceed six thousand four hundred acres. An offsite lease may not serve more than one Federal oil shale lease and may not be transferred except in conjunction with the transfer of the Federal oil shale lease that it serves.

"(2) The Secretary may issue one offsite lease of not more than three hundred and twenty acres to any person, association or corporation which has the right to develop oil shale on non-Federal lands. An offsite lease serving non-Federal oil shale land may not serve more than one oil shale operation and may not be transferred except in conjunction with the transfer of the non-Federal oil shale land that it serves. Not more than two offsite leases may be issued under this paragraph.

"(3) An offsite lease shall include no rights to any mineral deposits.

"(4) The Secretary may issue offsite leases after consideration of the need for such lands, impacts on the environment and other resource values, and upon a determination that the public interest will be served thereby.

"(5) An offsite lease for lands the surface of which is under the jurisdiction of a Federal agency other than the Department of the Interior shall be issued only with the consent of that other Federal agency and shall be subject to such terms and conditions as it may prescribe.

"(6) An offsite lease shall be for such periods of time and shall include such lands, subject to the acreage limitations contained in this subsection, as the Secretary determines to be necessa as the Secretary determines to be necessary to achieve the purposes for which the lease is issued, and shall contain such provisions as he determines are needed for protection of environmental and other resource values.

"(7) An offsite lease shall provide for the payment of an annual rental which shall reflect the fair market value of the rights granted and which shall be subject to such revisions as the Secretary, in his discretion, determines may be needed from time to time to continue to reflect the fair market value.

"(8) An offsite lease may, at the option of the lessee, include provisions for payments in any year which payments shall be credited against any portion of the annual rental for a subsequent year to the extent that such payment is payable by the Secretary of the Treasury under section 35 of this Act to the State within the boundaries of which the leased lands are located. Such funds shall be paid by the Secretary of the Treasury to the appropriate State in accordance with section 35, and such funds shall be distributed by the State only to those counties, municipalities, or jurisdictional subdivisions impacted by oil shale development and/or where the lease is sited."; and

"(9) An offsite lease shall remain subject to leasing under the other provisions of this Act where such leasing would not be incompatible with the offsite lease.

"(d) In recognition of the unique character of oil shale development:

"(1) In determining whether to offer or issue an offsite lease under subsection (c), the Secretary shall consult with the Governor and appropriate State, local, and tribal officials of the State where the lands to be leased are located, and of any additional State likely to be affected significantly by the social, economic, or environmental effects of development under such lease, in order to coordinate Federal and State planning processes, minimize duplication of permits, avoid delays, and anticipate and mitigate likely impacts of development.

"(2) The Secretary may issue an offsite lease under subsection (d) after consideration of (A) the need for leasing, (B) impacts on the environment and other resource values, (C) socioeconomic factors, and (D) information from consultations with the Governors of the affected States.

"(3) Before determining whether to offer an offsite lease under subsection (c), the Secretary shall seek the recommendation of the Governor of the State in which the lands to be leased are located as to whether or not to lease such lands, what alternative actions are available, and what special conditions could be added to the proposed lease to mitigate impacts. The Secretary shall accept the recommendations of the Governor if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor, in writing, and publish in the Federal Register the reasons for his determination to accept or reject such Governor's recommendations.".

MOTION OFFERED BY MR YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 156 and concur therein with an amendment, as follows: In lieu of the section number in said amendment insert "318".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks, that all Members may have 5 legislative days in which to revise and extend their remarks, and that I may be permitted to include, and they may be permitted to include extraneous material and tabular information on the conference report on H.R. 7356.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5121) to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes, do pass with a Senate amendment to the House amendment to the Senate amendment thereto, and concur in the Senate amendment with a further amendment which is at the desk.

The Clerk read the title of the bill.

The Clerk read the House amendment, as follows:

In lieu of the Senate amendment to the House amendment to the Senate amendment to H.R. 5121, insert:

NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

SEC. 114. (a) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended by inserting the words "not less than" after the words "payment by the lessee of a royalty of" and by inserting the words "nor more than 16⅔ per centum" after the word "per centum".

(b) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended by changing the period to a colon and adding the following: *Provided*, That the royalty rate shall be not more than 12½ per centum unless the Secretary finds that an increase in the royalty rate will not adversely affect the exploration, development or production of oil or gas or the overall revenue to the Federal Government generated by such activity.".

(c) The amendments made by subsections (a) and (b) shall take effect one year after completion and submission to Congress by the Secretary of a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 (1) on the exploration, development, or production of oil or gas and (2) on the overall revenues generated by such change. Such study shall be completed and submitted to Congress on the date one year after the date of enactment of this Act.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. MILLER of California. Mr. Speaker, reserving the right to object, I do so because I would like to ask the chairman of the committee a couple of questions.

It is my understanding that when this legislation came back from the Senate that they had stripped out the provision that allowed for the discretion of the Secretary of the Interior to raise the royalty rates from 12½ percent to 16⅔, and that you are now putting that amendment back in?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, that is correct. The Miller-Marriott amendment, which is a good amendment, is now back in the bill and will be in the bill if the request is granted here.

Mr. MILLER of California. It is also my understanding that as the amendment is written, it is the intent of the committee that that amendment will take effect 2 years from the date of enactment of this legislation? I yield to the gentleman.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, that is exactly right; without any intervening delay or trouble, it is scheduled to take effect.

Mr. MILLER of California. Further reserving the right to object, while the amendment mandates the Secretary to do a report on the impact, whether or not that report is done, this amendment will still take effect 2 years from date of enactment?

I yield to the gentleman.

Mr. UDALL. The gentleman is exactly correct. The report will not prevent the provisions of law from taking effect.

Mr. MILLER of California. Mr. Speaker, I appreciate the cooperation of the chairman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. BEREUTER. Mr. Speaker, reserving the right to object, and having heard the colloquy between the gentleman from California (Mr. MILLER) and the chairman, I would simply say that the minority is in agreement with that change, and has no objections.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

TO IMPROVE PROGRAMS FOR THE STABILIZATION OF AGRICULTURAL PRICES AND PRODUCTION

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7439) to improve programs for the stabilization of agricultural prices and production and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WAMPLER. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the distinguished gentleman from Texas for an explanation of the bill.

Mr. DE LA GARZA. I thank my colleague for yielding.

Mr. Speaker and Members, this an attempt to enact legislation which would remove two potential obstacles for the Secretary of Agriculture to implement a new program in agriculture called payment in kind. It will have no cost at all.

More so, it has the potential of a possible savings of $4 to $6 billion.

All this does is to allow the Secretary, in the promulgation or in the proposal which he has, to take from surplus commodities that we now have, utilize those surplus commodities to give to the farmers, who would take land out of circulation rather than pay money for that.

The Secretary of Agriculture feels he has authority now, but this would be to clearly give him the authority on those two obstacles. It does not give him any authority he now does not have. It does not freeze prices, it does not tamper with the program that is

in place at this time, nor is it intended to do that. It just gives him clearance in those two areas: One, the release price on the surplus commodities; and second, an area where there is a payment limitation. This does not disrupt that but allows him to use that surplus grain that we now have in storage and are paying storage fees for.

Later in the year, next year, we will come back, take a look at the finished product. The committee would keep jurisdiction and will keep oversight. This is exactly what we need to do at this point in order to facilitate the finalization of that prospective program.

Mr. WAMPLER. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, I want to say that I support Chairman DE LA GARZA's request. I think this is a wise action to take at this time to deal with the pressing and very serious problems that are coming forward in agriculture. This program may be able to be of assistance, and I urge the adoption of the bill.

Mr. WAMPLER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, do I understand there is no budget impact from this bill and that, in fact, the only impact might be positive in that the Federal Government would achieve a savings of several million dollars?

Mr. WAMPLER. Further reserving the right to object, I think the gentleman is correct. As a matter of fact, it is the feeling of the Committee on Agriculture that this could result in a substantial savings to the taxpayer and also help stimulate the agricultural economy of this country.

It is our belief if we can get the recovery to begin there, then the whole economy is going to recover. This is a positive step.

Further reserving the right to object, Mr. Speaker, the Secretary of Agriculture appeared before the House Committee on Agriculture on Thursday of this week and basically asked for the authority that we are granting him so that the so-called PIK program, or payment in kind, can proceed in an expeditious manner and in an orderly way so that we can get benefit during this crop year.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Speaker, I would like to ask the gentleman from Virginia and the gentleman from Texas: This is not to be interpreted as an endorsement of the bill approved by the subcommittee in the Senate, is it?

Mr. WAMPLER. No, it is not, as far as the gentleman from Virginia is concerned.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield to me?

Mr. WAMPLER. Further reserving the right to object, I yield to the chairman of the committee.

Mr. DE LA GARZA. I thank the gentleman for yielding.

I might add further, it is not even intended to be an endorsement of the program we are speaking about. It is only to facilitate its movement so we can take a look at it in its finished or final form.

Mr. WAMPLER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. I thank the gentleman for yielding.

In no way in this bill are we in any way modifying the support levels, target prices, or loan rates that are in existing law; is that correct?

Mr. WAMPLER. Further reserving the right to object, Mr. Speaker, the gentleman is correct.

Mr. Speaker, I yield to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Speaker, I rise in support of the gentleman's motion, and commend him for his insight on this matter.

Action must be taken to assist our ailing agricultural sector, and Secretary Block's payment in kind, otherwise referred to as the PIK proposal, certainly merits consideration. This motion will allow the Secretary clear discretion to further develop and possibly implement a program, subject, of course, to the Congress ultimate approval, which would assist greatly in reducing surpluses of grain.

With over 2 billion metric tons of wheat and over 1 billion metric tons of corn caried over in the reserves from 1981, we must take action soon. By giving the Secretary authority to transfer ownership of reserve grain to farmers in return for additional acreage reduction, I believe the possibility exists for greatly relieving the financial straits of farmers and raising market prices down the road.

I, therefore, am cautiously supportive of the Secretary's effort on this behalf, and look forward to hearing of more detailed development of the PIK proposal. I thank the gentleman for his efforts.

Mr. WAMPLER. Further reserving the right to object, I yield to the distinguished gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I am in support of this proposal made by Chairman DE LA GARZA. I think it is a necessary and useful thing to do and I would just like to comment somewhat in response to the inquiry of the gentleman from Pennsylvania that the primary effect of this is to facilitate a process which will be beneficial to the budget.

I am not as equally convinced it is going to benefit the farmers, but I know it is going to be of benefit to the budget and I am willing to take the gamble that it will be beneficial to the farmers and allow the administration to go ahead with this, and I would urge other Members to do the same.

Mr. WAMPLER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. I thank the gentleman for yielding.

Mr. Speaker, I would like to ask the chairman of the full committee: Did I understand that the legislation before us does not really establish in any kind of detail a PIK program: it just basically gives the Secretary clearer authority, on his own, to enact a program providing for Payment in Kind?

Mr. DE LA GARZA. If the gentleman would yield to me further, it does not even do that, let me say to the gentleman. It just clears two areas, clears up two areas of possible problems for them. The final enactment of the program, the final package, we insist and reserve the right to take a look at it at the end. This only facilitates the implementation to the stage where we can take a look at it.

Mr. BREAUX. Mr. Speaker, I support the efforts of the Committee on Agriculture.

I would urge that in the next session, we look at the possibility of a PIK export program for those crops for which it would be beneficial.

Mr. WAMPLER. Further reserving the right to object. Mr. Speaker, I strongly support this legislation. This is what the administration requests.

I urge my colleagues to act favorably upon it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective for the 1983, 1984, and 1985 crops, the Agricultural Act of 1949 is amended by adding at the end thereof a new section as follows:

"EXEMPTION OF PAYMENTS IN KIND FROM PAYMENT LIMITATION AND SALES PRICE RESTRICTIONS

"SEC. 423. Any land diversion payments made by the Secretary of Agriculture to assist in adjusting the planted acreage of the 1983, 1984, and 1985 crops of wheat, feed grains, upland cotton, and rice pursuant to this Act, other than the diversion

payments mandated by sections 107B(e), 105B(e), and 101(i)(5) of this Act as amended by the Omnibus Budget Reconciliation Act of 1982, may be in kind, shall not be sales for purposes of section 110 and 407 of this Act, and shall not be payments for purposes of section 1101 of the Agriculture and Food Act of 1981."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, we are anticipating that we will shortly undertake to return to the immigration bill, but for the advice of Members, it is not our intention to go late tonight with respect to that legislation.

Mr. Speaker, there have been a number of Members who have expressed concern about going late this evening, considering family responsibilities and pressures of this season. I would like to give those Members assurance on behalf of the leadership that we do not intend to press the House into a late session tonight.

It is also our hope that we can proceed to some of the significant amendments with respect to the immigration bill.

□ 1145

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 631, FURTHER CONTINUING APPROPRIATIONS, 1983

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that if and when the clerk receives a message from the Senate indicating that that body has passed the joint resolution (H.J. Res. 631) with amendments, insisted upon its amendments and requested a conference with the House, that the House be deemed to have disagreed to the amendments of the Senate and agreed to the conference asked by the Senate, and that the Speaker be deemed to have appointed conferees.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABBO, LONG of Maryland, YATES, ROYBAL, BEVILL, DICKS, GINN, SABO, DIXON, FAZIO, CONTE, MCDADE, EDWARDS of Alabama, MYERS, ROBINSON, COUGHLIN, KEMP, and LEWIS.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

(Mr. WRIGHT. Mr. Speaker, I take this time to make the following observations about our plans for the program today and tomorrow. It is anticipated that we will go into the Committee of the Whole House on the State of the Union for further consideration of the Immigration Reform Act, but that we will rise at 4 o'clock this afternoon, and that we will reconvene at 4 o'clock tomorrow, Sunday. This presumably will give the other body time to complete its action on the joint resolution, and the conferees to meet and have something ready for our consideration.

If they do not have anything ready for our consideration at that time, we at least will have a reading as to what time they may, and we can either adjourn over until Monday, if that is the sad necessity, or recess until it should be appropriate for us to reconvene, and then consider the conference committee report. We would like very much to have it concluded tomorrow night in order that the Government would not be faced with the necessity of being unable to open its doors. In any event, we would not want that necessity, if it came, to be the fault of this body of the House. For that reason, we are suggesting that we should be prepared to act tomorrow afternoon, and we hope that it will be time for us to act on the conference committee report at 4 o'clock.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield.

Mr. FITHIAN. Mr. Speaker, once we resolve into the Committee of the Whole and start the amendment process on the Immigration Act, are we then assured that there will not be other forms of proceedings which will——

The SPEAKER. If the Chair may intercede at this particular time, the chairman of the Ways and Means Committee has said that there are two or three conference reports still pending, and it would be possible for the Committee to rise at 3:30 in order that he could take up those conference reports. I think we could be out of here by 4 o'clock.

Mr. WRIGHT. In that case, I would like to amend my suggestion to the motion that the Committee would rise at 3:30, and that we might take up conference reports.

The SPEAKER. It would be to go to conference and to consider conference reports on the part of the chairman of the Ways and Means Committee.

Mr. FITHIAN. Let me proceed with further inquiry. Would there be times, then, this afternoon that we would be in a status in the House where unanimous-consent requests for other legislation than presently under consideration can be offered, or not?

Mr. WRIGHT. Not once we go into the Committee of the Whole House on the State of the Union for the consideration of the immigration bill. During that period it is not in order to make those unanimous-consent requests. Once the Committee rose and we were back in the House, of course, unanimous-consent requests can be obtained.

Mr. FITHIAN. I thank the leader.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield for a question?

Mr. WRIGHT. I yield to my friend from Texas.

Mr. SAM B. HALL, JR. When we return Sunday at 4 o'clock, will we at that time take up the continuing resolution or the immigration bill?

Mr. WRIGHT. No; it is planned that we would not work on any legislation on Sunday, none whatever, save and except for the conference committee report on the continuing resolution.

Quite conceivably, not probably, there might be a conference committee report on the transportation bill. That is the only exception I can think of.

Mr. SAM B. HALL, JR. If the gentleman will yield for one further question, if we do not take it up on Sunday afternoon, then if we come back on Monday and take it up on Monday or whatever time we do return, on the immigration bill?

Mr. WRIGHT. Well, I do not think I am in a position to answer that intelligently, because it is our plan that once the President signs the conference report for the appropriations, to adjourn sine die. There is not any plan of which I am aware, unless it conceivably might be involving the highway bill conference committee report, or a conference committee report conceivably upon the Caribbean Basin Initiative. Other than that, I do not believe the Members of the House will be asked to stay in session once that major matter is attended to.

Mr. SAM B. HALL, JR. I thank the gentleman.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, I think we ought to tell the membership that we are really proceeding here one step at a time. There is another half of the legislation process across the Capitol. They are not altogether sure, obviously, what their scenario might be. We do know that we want to get a continuing resolution adopted before the critical hour of people coming back to work or not coming back to work on Monday. That has got to be our first priority.

The SPEAKER. The Chair would say that if it would be possible that the President on Sunday would sign the continuing resolution, we of course would have to await a resolution for sine die—derrogation, as they use in State legislatures. As soon as that would be over the House could ad-

journ. If the bill could be enrolled and the President signed it there would be a possibility of getting out on Sunday night.

If we do not get out on Sunday night, I think in fairness to the Members that we ought to meet at 12 o'clock noon on Monday. If they are within 100 miles or so it will give them time to get back.

Mr. MICHEL. I thank the Chair, and I think we owe it to the Members to let them know that is not the only consideration we have to deal with, among our own Members, but there is another situation across the Capitol, and we do not control that.

Mr. WRIGHT. Absolutely. We are at the mercy of what is done there, and the timetable by which they proceed.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I understand we are at their mercy and there are a great many variables. Will we meet at 4 o'clock Sunday regardless of what happens?

Mr. WRIGHT. I think it is necessary for us to plan that we shall meet at 4 o'clock Sunday. There is not any way to advise all the Members, scattered as they are, so let us plan that we will reconvene Sunday, tomorrow, at 4 o'clock, and we shall hope that we are able to take up the conference committee report. If we are unable to do so, we will make an announcement that we will adjourn over to 12 o'clock noon on Monday, or recess until later on Sunday evening.

Mr. BEDELL. That was really my question. Is there someplace Members could call prior to 4 o'clock?

Mr. WRIGHT. Call the cloakrooms. I think it would be useful for Members to stay in touch with their respective cloakrooms. I am sure the minority cloakroom and the majority cloakroom as well would have as much information as is available and would be able to give it to the Members.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I would like to point out that if you do not live within 100 miles of here, you cannot scatter very far from here between now and 4 o'clock Sunday and get back.

Mr. WRIGHT. I well know.

Mr. SMITH of Iowa. Is the gentleman saying that even if we conclude this conference tonight, which I think is entirely possible, we are not going to come back until 4 o'clock tomorrow and finish the business?

Mr. WRIGHT. There has to be something definite. That is what has been cleared with the leadership on the other side. We cannot pick a time that is pleasing to everybody. A lot of people will want to go to church on Sunday morning, the Sunday before Christmas. A great many people want to be in church, and we do not want to come in Sunday morning. So, we plan to come in at 4 o'clock Sunday afternoon.

The SPEAKER. The gentleman's time has expired.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

Mr. MAZZOLI. Mr. Speaker, I move that the House resolve inself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7357) to revise and reform the Immigration and Nationality Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky (Mr. MAZZOLI).

The question was taken; and the Speaker announced that the ayes appeared to have it.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following statement: In fairness to the President of the United States, the Democratic Party, the leadership on this side, the majority on this side are bringing this up as a courtesy. If there are going to be votes on consideration, then there is no reason why we should go forward with the bill.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. In the opinion of the Chair, a quorum is present.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER. The gentleman asks for the yeas and nays. Those in favor of taking this vote by the yeas and nays will rise and remain standing until counted.

The gentleman is required to have one-fifth of those present standing. Eight Members having arisen, the yeas and nays are not ordered.

Mr. WALKER. Mr. Speaker, I demand a division.

On a division (demanded by Mr. WALKER) there were—yeas, 244; nays, 7.

So the motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7357, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, December 17, 1982, all time for general debate on the bill had expired.

Pursuant to the rule, the bill will be considered under the 5-minute rule by titles, and each title shall be considered as having been read.

No amendments are in order except: First, the amendments printed in the CONGRESSIONAL RECORD of December 6, 1982, by Representative PERKINS of Kentucky, which shall be considered as if they were amendments recommended by the Committee on Education and Labor, and said amendments shall not be subject to amendment except amendments printed in the CONGRESSIONAL RECORD on or before December 9, 1982, and pro forma amendments. Second, amendments printed in the CONGRESSIONAL RECORD on or before December 9, 1982; and third, pro forma amendments for the purposes of debate.

□ 1200

The Clerk will now designate section 1.

SHORT TITLE; REFERENCES IN ACT

SECTION 1. (a) This Act may be cited as the "Immigration Reform and Control Act of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

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The CHAIRMAN. Are there amendments to section 1?

If not, the Clerk will designate title I.

Title I of the bill reads as follows:

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 101. (a)(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section to hire, or to recruit or refer for a fee, for employment in the United States—

"(A) an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment, or

"(B) an individual without complying with the requirements of subsection (b).

Subparagraph (B) shall not apply to a person or entity which employs three or fewer employees.

"(2) It is unlawful for a person or other entity, after hiring an alien for employment subsequent to the date of the enactment of this section and in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(b) Except as provided in subsection (c), the requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, that—

"(1) the person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is eligible to be employed (or recruited or referred for employment) in the United States by examining the individual's—

"(A) United States passport, or

"(B)(i) social security account number card or certificate of birth in the United States or establishing United States nationality at birth, and

"(ii)(I) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens and designated for use for this purpose,

"(II) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section, or

"(III) in the case of individuals under 16 years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in subclause (II), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification;

"(2) the individual must attest, under penalty of perjury and on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(3) after completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(A) in the case of the recruiting or referral (without hiring) of an individual, three years after the date of such recruiting or referral, and

"(B) in the case of the hiring of an individual—

"(i) three years after the date of such hiring, or

"(ii) one year after the date the individual's employment is terminated,

whichever is later.

A person or entity has complied with paragraph (1) with respect to examination of a document if the document reasonably appears on its face to be genuine. Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

"(c)(1)(A) Within three years after the date of the enactment of this section, the President shall implement such changes in or additions to the requirements of subsection (b) as conform to the requirements of paragraph (2) of this subsection and as may be necessary to establish a secure system to determine employment eligibility in the United States. In considering possible changes or additions, the President shall consider use of a telephone verification system.

"(B) Nothing in this subsection shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards.

"(2) Such changes or additions shall be designed in a manner so that—

"(A) personal information utilized by the system is available only to employers, recruiters, and referrers for employment and to Government agencies and only to the extent necessary for the purpose of verifying that an individual is not an unauthorized alien,

"(B) if the changes or additions provide a verification method to determine an individual's eligibility to be employed in the United States—

"(i) the verification may not be withheld for any reason other than that the individual is an unauthorized alien, and

"(ii) the verification method may not be used for law enforcement purposes (other than for enforcement of this section or section 1546 of title 18, United States Code), and

"(C) if the system requires individuals to present a card or other document designed specifically for use for this purpose at the time of hiring, recruitment, or referral, then such document may not be required (i) to be presented for any purpose other than under this section (or enforcement of section 1546 of title 18, United States Code) or (ii) to be carried on one's person.

"(d)(1)(A) In the case of a person or entity which has not previously been cited under this subparagraph, if the Attorney General, based on evidence or information he deems persuasive, reasonably concludes that the person or entity has violated paragraph (1)(A) or (2) of subsection (a) with respect to the hiring, or recruiting or referring for a fee, for employment of an alien, the Attorney General may serve a citation on the person or entity containing a notification that the alien's employment is not authorized and a warning of the penalties and injunctive remedy set forth in this subsection.

"(B) In the case of a person or entity which has previously been cited under subparagraph (A), which is determined to have violated paragraph (1)(A) or (2) of subsection (a), and which—

"(i) has not previously been subject to a civil penalty under this subparagraph, the person or entity shall be subject to a civil penalty of $1,000 for each unauthorized alien with respect to which the violation occurred;

"(ii) has previously been subject to a civil penalty under this subparagraph, the person or entity shall be subject to a civil penalty of $2,000 for each unauthorized alien with respect to which the violation occurred; and

"(iii) has previously been subject to a civil penalty under this subparagraph in more than one instance, the person or entity shall be fined not more than $3,000, imprisoned not more than one year, or both, for each unauthorized alien with respect to which the violation occurred.

"(2) Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the United States district court for the district in which the person or entity resides or in which the violation occurred requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(3)(A) In the case of a person or entity which has not previously been cited under this subparagraph, if the Attorney General, based on evidence or information he deems persuasive, reasonably concludes that the person or entity has violated subsection (a)(1)(B) with respect to the hiring, or recruiting or referring for a fee, for employment of an individual, the Attorney General may serve a citation on the person or entity containing a notification of the requirements of subsection (a)(1)(B) and a warning of the penalty set forth in subparagraph (B).

"(B) A person or entity which has previously been cited under subparagraph (A) and which is determined to have violated subsection (a)(1)(B) shall be subject to a civil penalty of $500 for each individual with respect to which such violation occurred.

"(4)(A)(i) Before issuing a citation on, or imposing a civil penalty against, a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

"(ii) Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code and rules of the United States Immigration Board established under section 107. The hearing shall be held within 200 miles of the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the assessment shall constitute a final and unappealable order.

"(iii) A person or entity (including the Attorney General) adversely affected by a final order respecting an assessment may, within 60 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(B)(i) If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in the United States district court for the district in which the person or entity resides or in which the violation (with respect to which the penalty was assessed) occurred.

"(ii) In any suit described in clause (i) based on an assessment—

"(I) made after a hearing before an administrative law judge, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the administrative law judge's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, or

"(II) for which a timely request for a hearing was not made, the validity and appropriateness of the final order imposing the assessment shall not be subject to review.

"(5)(A) In determining the level of sanction that is applicable under paragraph (1) for violations of paragraph (1)(A) or (2) of subsection (a) and that is applicable under paragraph (3) for violations of subsection (a)(1)(B), determinations of more than one violation in the course of a single proceeding or adjudication shall be counted as a single determination.

"(B) In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referral for employment without reference to the practices of, or under the control of, or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(e) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

"(g)(1) The President shall monitor, and shall consult with the Congress every six months concerning, the implementation of this section (including the effectiveness of the verification and record-keeping system described in subsection (b) and the status of the changes and additions described in subsection (c)) and the impact of this section on the economy of the United States and on employment (including discrimination in employment) of citizens and aliens in the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status. For the purpose of conducting such monitoring and beginning development of the changes and additions described in subsection (c), there are authorized to be appropriated $10,000,000 for fiscal year 1983.

"(2)(A) The Civil Rights Commission shall monitor the implementation and enforcement of the provisions of this section and shall investigate allegations that the enforcement or implementation of this section has been conducted in a manner that results in unlawful discrimination by race or nationality against citizens of the United States or aliens who are not unauthorized aliens (as defined in subsection (a)(4)).

"(B) The Civil Rights Commission, not later than 18 months after the month in which this section is enacted, shall prepare and transmit to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing the implementation and enforcement of the provisions of this section during the preceding period, for the purpose of determining if a pattern of such unlawful discrimination has resulted. Two more such reports shall be prepared and transmitted 36 and 54 months after the month in which this section is enacted.

"(3) The Attorney General, jointly with the Secretary of Labor and the Chairman of the Equal Employment Opportunity Commission, shall establish a task force to monitor the implementation of this section and to review and investigate complaints registered of employment discrimination which may be attributable to the operation of this section.".

(2)(A) No citation, civil or criminal penalty, or injunction may be issued under section 274A of the Immigration and Nationality Act for the hiring, or recruiting or referring for a fee, for employment of individuals occurring before the first day of the seventh month beginning after the date of the enactment of this Act.

(B) During the one-year period beginning on the date of the enactment of this Act, the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act. For the purpose of carrying out this subparagraph, there are authorized to be appropriated $10,000,000 for fiscal year 1983.

(C) The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement section 274A of the Immigration and Nationality Act.

(3) The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens.".

(b)(1) The Farm Labor Contractor Registration Act of 1963 is amended—

(A) by amending paragraph (6) of section 5(b) (7 U.S.C. 2044(b)) to read as follows:

"(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act;";

(B) by striking out paragraph (f) of section 6 (7 U.S.C. 2045); and

(C) by striking out subsection (c) of section 9 (7 U.S.C. 2048).

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act.

FRAUD AND MISUSE OF CERTAIN DOCUMENTS

SEC. 102. (a) Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(4) by striking out "$2,000" and inserting in lieu thereof "$5,000",

(5) by inserting "(a)" before "Whoever" the first place it appears, and

(6) by adding at the end the following new subsections:

"(b) Whoever knowingly uses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document for the purpose of satisfying a requirement of subsection (b) or (c) of section 274A of the Immigration and Nationality Act, shall be fined not more than $5,000 or imprisoned not more than two years, or both.

"(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".

(b) The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

PART B—ENFORCEMENT AND FEES

IMMIGRATION ENFORCEMENT ACTIVITIES

SEC. 111. (a) It is the sense of Congress that an essential element of the program of immigration control and reform established by this Act is an increase in border patrol and other enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States.

(b) In order to do this in the most effective and efficient manner, it is the intent of Congress to provide, through the annual authorization of appropriations process for the Department of Justice and for other appropriate Federal agencies, for a controlled and closely monitored increase in the level of the border patrol and of other appropriate enforcement activities of the Immigration and Naturalization Service and of such other Federal agencies to achieve an effective level of control of illegal immigration.

UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES

SEC. 112. Section 274 (8 U.S.C. 1324) is amended—

(1) by striking out ": *Provided, however*" and all that follows up to the period at the end of subsection (a),

(2) by redesignating subsection (c) as subsection (d), and

(3) by inserting after subsection (b) the following new subsection:

"(c) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptitious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved)—

"(1) be fined not more than $5,000 or imprisoned not more than one year, or both, or

"(2) in the case of—

"(A) a second or subsequent offense under this subsection,

"(B) an offense done for the purpose of commercial advantage or private gain, or

"(C) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined not more than $10,000 or imprisoned not more than five years, or both.".

FEES

SEC. 113. (a) Section 281 (8 U.S.C. 1351) is amended—

(1) by amending the heading to read as follows:

"NONIMMIGRANT VISA FEES AND ALIEN USER FEES";

(2) by inserting "(a)" after "SEC. 281."; and

(3) by adding at the end the following new subsection:

"(b) The Attorney General, in consultation with the Secretary of State, may impose fees on aliens with respect to their use of border facilities or services of the Service in such amounts as may reasonably reflect the portion of costs of maintenance and operation of such facilities and provision of such services attributable to aliens' use of such facilities and services.".

(b) The item in the table of contents relating to section 281 is amended to read as follows:

"Sec. 281. Nonimmigrant visa fees and alien user fees.".

PART C—ADJUDICATION PROCEDURES AND ASYLUM

INSPECTION AND EXCLUSION

SEC. 121. Subsection (b) of section 235 (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) An immigration officer shall inspect each alien who is seeking entry to the United States.

"(B)(i) If the examining immigration officer determines that the alien seeking entry—

"(I) does not present the documentation required (if any) to obtain entry to the United States,

"(II) does not have any reasonable basis for legal entry into the United States, and

"(III) does not indicate an intention to apply for asylum under section 208,

subject to clause (ii), the alien shall be excluded from entry into the United States without a hearing.

"(ii) Before excluding an alien without a hearing under clause (i), the examining immigration officer shall inform the alien of his right to have an administrative law judge redetermine the conditions described in clause (i). If the alien requests such a redetermination by an administrative law judge, the alien shall not be so excluded without a hearing until and unless the administrative law judge (after a nonadversarial, summary proceeding in which the alien may appear personally) redetermines that the alien meets the conditions of subclauses (I) through (III) of clause (i).

"(C) If the examining immigration officer determines that an alien seeking entry, other than an alien crewman and except as otherwise provided in subparagraph (B), subsection (c), or section 273(d), is otherwise not clearly and beyond a doubt entitled to land, the alien shall be detained for a hearing before an administrative law judge on exclusion of the alien.

"(2) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before an administrative law judge for a hearing on exclusion of the alien.

"(3) The Attorney General shall establish, after consultation with the Judiciary Committees of the Congress, procedures which assure that aliens are not excluded under paragraph (1)(B) without an inquiry into their reasons for seeking entry into the United States.

"(4) In the case of an alien who would be excluded from entry under paragraph (1)(B) but indicating an intention to apply for asylum, the exclusion hearing with respect to such entry shall be limited to the issues raised in connection with the alien's application for asylum.".

UNITED STATES IMMIGRATION BOARD AND ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE SYSTEM

SEC. 122. (a) Title I is amended by adding at the end the following new section:

"UNITED STATES IMMIGRATION BOARD; USE OF ADMINISTRATIVE LAW JUDGES

"SEC. 107. (a)(1) There is established, as an independent agency in the Department of Justice, a United States Immigration Board (hereinafter in this section referred to as the 'Board') composed of a Chairman and five other members appointed by the President by and with the advice and consent of the Senate.

"(2) The term of office of the Chairman and all other members of the Board shall be six years except that—

"(A) of the members first appointed under this subsection, two shall be appointed for a term of two years, two shall be appointed for a term of four years, and two shall be appointed for a term of six years,

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and

"(C) a member may serve after the expiration of his term until reappointed or his successor has taken office.

"(3) A member of the Board may be removed by the President only for neglect of duty or malfeasance in office.

"(4) Members of the Board (other than the Chairman) are entitled, subject to the amounts provided in advance in appropriation Acts, to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code. The Chairman is entitled, subject to the amounts provided in advance in appropriation Acts to receive compensation at the rate now or hereafter provided for grade GS-18 of such General Schedule.

"(5) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board. The Board shall establish rules of practice and procedure for itself and for the administrative law judges.

"(b)(1) The Board shall hear and determine appeals from—

"(A) final decisions of administrative law judges under this Act, other than a redetermination excluding an alien under section 235(b)(1)(B) or a determination granting voluntary departure under section 244(e) within a period of at least 30 days if the sole ground of appeal is that a greater period of departure time should have been fixed;

"(B) decisions on applications for the exercise of the discretionary authority contained in section 212(c) or section 212(d)(3)(B);

"(C) decisions involving the imposition of administrative fines and penalties under title II of this Act, including mitigation thereof;

"(D)(i) decisions on petitions filed in accordance with section 204, other than petitions to accord preference status under paragraph (3) or (6) of section 203(a) or petitions on behalf of a child described in section 101(b)(1)(F), and

"(ii) decisions on requests for revalidation and decisions revoking approval of such petitions under section 205; and

"(E) determinations relating to bond, parole, or detention of an alien under sections 242(a) and 242(c).

"(2) Three members of the Board constitute a quorum of the Board, except that the Chairman (or any member of the Board designated by the Chairman) is empowered to decide nondispositive motions.

"(3) The Board shall act in panels of three or more members or en banc (as designated by the Chairman in accordance with the rules of the Board). A final decision of such a panel shall be considered to be a final decision of the Board.

"(4)(A) Appeals to the Board from final orders of deportation or exclusion (including an order respecting asylum contained in

such an order) shall be filed not later than 20 days after the date of the final order.

"(B) The Board shall review the decision of an administrative law judge based solely upon the administrative record upon which the decision is made and the findings of fact in the judge's order, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive.

"(5) A final decision of the Board shall be binding on all administrative law judges, immigration officers, and consular officers under this Act unless and until otherwise modified or reversed by a court of the United States.

"(6) In a case in which the Board is considering an appeal of a decision of an administrative law judge respecting an application for asylum, the Board shall render its decision on the appeal not later than 60 days after the date the appeal is filed.

"(c)(1) The Chairman, in accordance with sections 3105 and 5108 and other provisions of title 5, United States Code, relating to administrative law judges in the competitive service, shall—

"(A) appoint administrative law judges, except that no more than 70 such judges may be appointed and hold office under this section at any time, and

"(B) designate one such judge to serve as chief administrative law judge.

"(2) In accordance with rules established by the Board, the chief administrative law judge—

"(A) shall have responsibility for the administrative activities affecting administrative law judges, and

"(B) may designate any administrative law judge in active service to hear and decide any cases described in paragraph (3).

"(3) Administrative law judges shall hear and decide—

"(A) exclusion cases under sections 236 and 360(c),

"(B) deportation and suspension of deportation cases under sections 242, 243, and 244,

"(C) rescission of adjustment of status cases under sections 245A(b)(4) and 246,

"(D) with respect to judges designated to hear such cases, applications for asylum under section 208,

"(E) the assessment of civil penalties under section 274A, and

"(F) such other cases arising under this Act as the Attorney General may provide by regulation.

Administrative law judges may also, without a formal hearing, make redeterminations pursuant to section 235(b)(1)(B)(ii).

"(4) In considering and deciding cases coming before them, administrative law judges may administer oaths, shall record and receive evidence and render findings of fact and conclusions of law, shall determine all applications for discretionary relief which may properly be raised in the proceedings, and shall exercise such discretion conferred upon the Attorney General by law as the Attorney General may specify for the just and equitable disposition of cases coming before such judges.".

(b) The table of contents is amended by inserting immediately after the item relating to section 106 the following new item:

"Sec. 107. United States Immigration Board; use of administrative law judges.".

JUDICIAL REVIEW

SEC. 123. (a) Subsection (a) of section 106 (8 U.S.C. 1105a) is amended—

(1) by striking out "AND EXCLUSION" in the heading and inserting in lieu thereof ", EXCLUSION, AND ASYLUM";

(2) in the matter before paragraph (1), by striking out "The procedure" and all that follows through "any prior Act" and inserting in lieu thereof the following: "Notwithstanding section 279 of this Act, section 1331 of title 28, United States Code, or any other provision of law, the procedures prescribed by and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of exclusion or deportation (including determinations respecting asylum encompassed within such orders and regardless of whether or not the alien is in custody and not including exclusions effected without a hearing pursuant to section 235(b)(1)(B)) made against aliens within (or seeking entry into) the United States";

(3) in paragraph (1), by striking out "not later than six months" and all that follows through "whichever is the later" and inserting in lieu thereof "by the alien involved or the Service not later than 30 days from the date of the final order";

(4) by inserting ", in the case of review sought by an individual petitioner," in paragraph (2) after "in whole or in part, or";

(5) by inserting "in the case of review sought by an individual petitioner," in paragraph (3) after "(3)";

(6) by inserting "exclusion or" before "deportation" in paragraphs (3) and (4);

(7) by striking out "Attorney General's findings of fact" in paragraphs (4) and (6) and inserting in lieu thereof "findings of fact in the order";

(8) by striking out "(4) except as provided in" in paragraph (4) and inserting in lieu thereof "(4)(A) except as provided in subparagraph (B) and in";

(9) by adding at the end of paragraph (4) the following new subparagraph:

"(B) to the extent that an order relates to a determination on an application for asylum, the court shall only have jurisdiction to review (i) whether the jurisdiction of the administrative law judge or the United States Immigration Board was properly exercised, (ii) whether the asylum determination was made in accordance with applicable laws and regulations, (iii) the constitutionality of the laws and regulations pursuant to which the determination was made, and (iv) whether the decision was arbitrary or capricious;";

(10) in paragraph (7)—

(A) by inserting "or exclusion" after "deportation" each place it appears,

(B) by striking out "subsection (c) of section 242 of this Act" and inserting in lieu thereof "section 235(b) or 242(c)",

(C) by striking out "a deportation order;" and inserting in lieu thereof "an exclusion or deportation order;", and

(D) by inserting "and" at the end thereof;

(11) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period; and

(12) by striking out paragraph (9).

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1) Nothing in the provisions of this section shall be construed as limiting the right of habeas corpus under chapter 153 of title 28, United States Code. Petitions for habeas corpus based upon custody effected pursuant to this Act may be brought individually or on a multiple party basis as the interests of judicial efficiency and justice may require.

"(2) No court shall have jurisdiction to entertain a petition relating to a determination concerning asylum under section 208 except in a petition for review under subsection (a).

"(3) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction to review determinations of administrative law judges or of the United States Immigration Board respecting the reopening or reconsideration of exclusion or deportation proceedings or asylum determinations outside of such proceedings, the reopening of an application for asylum because of changed circumstances, the Attorney General's denial of a stay of execution of an exclusion or deportation order, or a redetermination to exclude an alien from entering the United States under section 235(b)(1)(B).".

(c) Subsection (c) of such section is amended by striking out "deportation or of exclusion" and inserting in lieu thereof "an administrative law judge".

(d) Section 279 (8 U.S.C. 1329) is amended by striking out "The district courts" in the first sentence and inserting in lieu thereof "Except as otherwise provided under section 106, the district courts".

(e) The item in the table of contents relating to section 106 is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation, exclusion, and asylum.".

(f) In the case of a final order of deportation or exclusion entered before the date of the enactment of this Act, a petition for review with respect to that order may in no case be filed under section 106(a)(1) of the Immigration and Nationality Act later than the earlier of (1) 30 days after the date of the enactment of this Act, or (2) the date (if any) such petition was required to be filed under the law in existence before the date of the enactment of this Act.

ASYLUM

SEC. 124. (a)(1) Subsection (a) of section 208 (8 U.S.C. 1158) is amended to read as follows:

"(a)(1)(A) Except as provided in subparagraph (B), any alien physically present in the United States or at a land border or port of entry may apply for asylum in accordance with this section.

"(B)(i) In the case of an alien against whom exclusion or deportation proceedings have been instituted, the alien's application for asylum may not be considered unless—

"(I) not later than 14 days after the date of the service of the notice instituting such proceedings, the alien has filed notice of intention to file an application for asylum and, not later than 30 days after the date of filing such notice of intention, the alien has actually filed the application for asylum,

"(II) the alien can make a clear showing, to the satisfaction of the administrative law judge conducting the proceeding, that changed circumstances after the date of the notice instituting the proceeding have resulted in a change in the basis for the alien's claim for asylum, or

"(III) the administrative law judge determines, solely in his discretion, that the interests of justice require the consideration of the application.

"(ii) An alien who has previously applied for asylum and had such application denied may not again apply for asylum unless the alien can make a clear showing that changed circumstances after the date of the denial of the previous application have resulted in a change in the basis for the alien's claim for asylum.

"(2) Applications for asylum shall be considered before administrative law judges

who are specially designated by the United States Immigration Board as having special training in international relations and international law. An individual who has served as a special inquiry officer under this title before the date of the enactment of the Immigration Reform and Control Act of 1982 may not be designated to hear applications under this section, unless the individual has received such special training after the date of the enactment of this Act.

"(3)(A)(i) Upon the filing of an application for asylum, an administrative law judge, at the earliest practicable time and after consultation with the attorney for the Government and the applicant, shall set the application for hearing on a day certain or list it for trial on a weekly or other short-term hearing calendar, so as to assure a speedy hearing.

"(ii) Unless the applicant consents in writing to the contrary, the hearing on the asylum application shall commence not later than 45 days after the date the application has been filed. The holding of an asylum hearing shall not delay the holding of any exclusion or deportation proceeding.

"(iii) In the case of an alien who has filed an application for asylum and who has been continuously detained pursuant to section 235 or 242 since the date the application was filed, if a hearing on the application is not held on a timely basis under clause (ii) or a decision on the application rendered on a timely basis under subparagraph (D), and if actions or inaction by the applicant have not resulted in unreasonable delay in the proceedings, the Attorney General shall provide for the release of the alien on parole subject to such reasonable conditions as the Attorney General may establish to assure the presence of the alien at any appropriate proceedings.

"(B)(i) A hearing on the asylum application shall be open to the public, unless the applicant requests that it be closed to the public.

"(ii) At the time of filing of notice of intention to apply for asylum, the alien shall be advised of the privilege of being represented by counsel (in accordance with section 292) and of the availability of legal services.

"(iii) The applicant is entitled to have the asylum hearing closed to the public, to present evidence and witnesses in his own behalf, to examine and object to evidence against him, and to cross-examine witnesses presented by the Government.

"(C) A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The hearing shall be recorded verbatim. The Attorney General, and the United States Immigration Board, shall provide that a transcript of a hearing held under this section is made available not later than 10 days after the date of completion of the hearing.

"(D) The administrative law judge shall render a determination on the application not later than 30 days after the date of completion of the hearing. The determination of the administrative law judge shall be based only on the evidence produced at the hearing.

"(E) The Attorney General shall allocate sufficient resources so as to assure that applications for asylum are heard and determined on a timely basis under this paragraph.

"(4) An alien may be granted asylum only if the administrative law judge determines that the alien (A) is a refugee within the meaning of section 101(a)(42)(A), and (B) does not meet a condition described in one of the subparagraphs of section 243(h)(2).

"(5) The burden of proof shall be upon the alien applying for asylum to establish the alien's eligibility for asylum.

"(6) After making a determination on an application for asylum under this section, an administrative law judge may not reopen the proceeding at the request of the applicant except upon a clear showing that, since the date of such determination, changed circumstances have resulted in a change in the basis for the alien's claim for asylum.".

(2) Subsection (b) of such section is amended by inserting "(1)" after "determines that the alien" and by inserting before the period at the end the following: ", or (2) meets a condition described in one of the subparagraphs of section 243(h)(2)".

(3) Such section is further amended by adding at the end the following new subsection:

"(d) The procedures set forth in this section shall be the sole and exclusive procedure for determining asylum.".

(b) Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) An application for relief under this subsection shall be considered to be an application for asylum under section 208 and shall be considered in accordance with the procedures set forth in that section.".

(c) Section 222(f) (8 U.S.C. 1202(f)) is amended by inserting "(1)" after "(f)" and by adding at the end the following new paragraph:

"(2) The records or any document of the Department of Justice, the Department of State, or any other Government agency, or foreign government, pertaining to the issuance or denial of any application for asylum, refugee status, withholding of deportation under sections 207, 208, and 243(h) of this Act, or any other application arising under a claim of persecution on account of race, religion, political opinion, nationality, or membership in a particular social group, shall be confidential and exempt from disclosure and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States. In the discretion of the Attorney General or the Secretary of State, as the case may be, certified copies of such records or document may be made available to a court which certifies that the information contained in such records or document is needed by the court in the interests of the ends of justice in a case pending before the court.".

EFFECTIVE DATES AND TRANSITION

SEC. 125. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by this part (other than those made by sections 121, 123(a)(2), 123(a)(3), 123(a)(6), 123(a)(10), 123(a)(12), 123(b), 123(d), and 124(b)) shall not apply to—

(i) any exclusion or deportation proceeding (or administrative or judicial review thereof) which was initiated before the hearing transition date (designated under subsection (c)(1)(A)), or

(ii) to any application for asylum filed before the asylum transition date (designated under subsection (c)(1)(B)).

In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that administrative law judges may assume and perform such functions of special inquiry officers as may be appropriate and consistent with their duties as administrative law judges.

(B) Paragraphs (1)(B), (3)(B)(ii), (3)(B)(iii), (4), and (6) of section 208(a) and section 208(b) of the Immigration and Nationality Act (as amended by section 124(a) of this part) shall apply to applications for asylum made after the date of the enactment of this Act, except that—

(i) in the case of an alien against whom exclusion or deportation proceedings have been instituted as of the date of the enactment of this Act, the restriction of paragraph (1)(B)(i) of section 208(a) of the Immigration and Nationality Act (as so amended) shall apply to asylum applications made more than 14 days after the date of the enactment of this Act (rather than the date of the service of the notice of such exclusion or deportation proceeding), and

(ii) references in any such paragraph to an administrative law judge shall be deemed (before the asylum transition date) to be a reference to the immigration officer conducting the asylum hearing.

(b)(1) The President shall nominate the Chairman and other members of the United States Immigration Board (hereinafter in this section referred to as the "Board") not later than 45 days after the date of the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than 45 days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3)(A) The Board shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and administrative law judges under the Immigration and Nationality Act, after the hearing transition date or asylum transition date, designated under subsection (c)(1), as the case may be.

(B) Not later than 60 days after the date such interim final rules are established, the Chairman shall appoint at least 10 administrative law judges who are qualified to be designated to hear asylum cases under section 208 of the Immigration and Nationality Act. The Board shall provide for such special training of these administrative law judges as it deems appropriate.

(c)(1) In order to provide for the orderly transfer of proceedings from the existing special inquiry system to the administrative law judge system, the Board, in consultation with the Attorney General, shall designate—

(A) a "hearing transition date", to be not later than 45 days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A), and

(B) an "asylum transition date", after the establishment of interim final rules of practice and procedure respecting applications for asylum and after the appointment and designation of administrative law judges, in accordance with section 3105 of title 5, United States Code, under subsection (b)(3)(B).

(2) During the period before the hearing transition date or the asylum transition date (in the case of asylum hearings), any proceeding or hearing under the Immigra-

tion and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an administrative law judge in accordance with all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) continue to conduct proceedings or hearings under the Immigration and Nationality Act after such transition date during the period ending two years after the date of the enactment of this Act.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before this Act takes effect.

(2) Under rules established by the United States Immigration Board, with respect to exclusion and deportation cases pending as of the hearing transition date and applications for asylum pending as of the asylum transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and administrative law judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction.

(f) In order to implement this section and the amendments made by this part, there are authorized to be appropriated $20,000,000 for fiscal year 1983.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 126. (a)(1) Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(43) The term 'administrative law judge' means such a judge appointed under section 107.".

(2) Section 101(b) (8 U.S.C. 1101(b)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) The first sentence of section 234 (8 U.S.C. 1124) is amended by striking out "special inquiry officers" and inserting in lieu thereof "administrative law judges".

(c)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is amended—

(A) by striking out "special inquiry officers" in the first sentence and inserting in lieu thereof "administrative law judges",

(B) by striking out ", including special inquiry officers," in the fourth sentence and inserting in lieu thereof "and any administrative law judge",

(C) by striking out ", including special inquiry officers," in the sixth sentence,

(D) by striking out "and special inquiry officers" in the sixth sentence and inserting in lieu thereof "and administrative law judges", and

(E) by striking out "special inquiry officer" each place it appears in the seventh sentence and inserting in lieu thereof "administrative law judge".

(2) Subsection (c) of such section is amended—

(A) by striking out "the special inquiry officer during the examination before either of such officers" in the first sentence and inserting in lieu thereof "during the examination or an administrative law judge during an exclusion hearing",

(B) by striking out "no further inquiry by a special inquiry officer" in the first sentence and inserting in lieu thereof "no further examination or exclusion hearing",

(C) by striking out "inquiry or further inquiry" in the first sentence and inserting in lieu thereof "examination or hearing",

(D) by striking out "any inquiry or further inquiry by a special inquiry officer" in the second sentence and inserting in lieu thereof "any examination or hearing", and

(E) by striking out "an inquiry before a special inquiry officer" in the third sentence and inserting in lieu thereof "an exclusion hearing before an administrative law judge".

(d) Sections 106(a)(2), 236, and 242(b) (8 U.S.C. 1105a(a)(2), 1126, 1252(b)) are each amended by striking out "A" and "a" each place either appears before "special inquiry officer" and inserting in lieu thereof "An" and "an", respectively.

(e)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended by striking out "special inquiry officer" and inserting in lieu thereof "administrative law judge" each place it appears.

(2) Subsection (a) of section 236 (8 U.S.C. 1226) is amended—

(A) by amending the first sentence to read as follows: "An administrative law judge shall conduct proceedings under this section.",

(B) by striking out "for further inquiry" in the second sentence and inserting in lieu thereof "for an exclusion hearing",

(C) by striking out "at the inquiry" in the third sentence and inserting in lieu thereof "at the hearing",

(D) by striking out the fourth sentence,

(E) by striking out "regulations as the Attorney General shall prescribe" in the fifth sentence and inserting in lieu thereof "rules as the United States Immigration Board shall establish", and

(F) by striking out "inquiry" in the seventh sentence and inserting in lieu thereof "hearing".

(3) Subsection (b) of such section is amended—

(A) by striking out "From a decision" and all that follows through "Attorney General" in the first sentence and inserting in lieu thereof the following: "From a decision of an administrative law judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file a timely appeal of the decision with the United States Immigration Board in accordance with rules established by the Board",

(B) by striking out "Attorney General" in the fourth sentence and inserting in lieu thereof "United States Immigration Board", and

(C) by striking out the third sentence.

(4) Subsection (c) of such section is amended by striking out "to the Attorney General".

(f) Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) by striking out "special inquiry officer" each place it appears in the first, second, third, and seventh sentences and inserting in lieu thereof "administrative law judge",

(2) by striking out "shall administer oaths" and all that follows through "Attorney General," in the first sentence,

(3) by striking out "Attorney General shall prescribe" in the second sentence and inserting in lieu thereof "United States Immigration Board shall establish",

(4) by striking out "In any case" and all that follows through "an additional immigration officer" in the fourth sentence and inserting in lieu thereof "An immigration officer" and by striking out "in such case such additional immigration officer" in that sentence,

(5) by striking out the fifth and sixth sentences,

(6) by striking out "such regulations" and all that follows through "shall prescribe" in the seventh sentence and inserting in lieu thereof "rules as are established by the United States Immigration Board",

(7) by striking out "Such regulations" in the eighth sentence and inserting in lieu thereof "Such rules", and

(8) by striking out "Attorney General shall be final" in the tenth sentence and inserting in lieu thereof "administrative law judge shall be final unless reversed on appeal".

(g) The last sentence of section 273(d) (8 U.S.C. 1323(d)) is amended by striking out "special inquiry officers" and inserting in lieu thereof "administrative law judges".

(h) Section 292 (8 U.S.C. 1362) is amended—

(1) by striking out "In" and all that follows through "proceedings," and inserting in lieu thereof "In any proceeding or hearing before an administrative law judge and in any appeal before the United States Immigration Board from any such proceeding", and

(2) by inserting "and at no unreasonable delay" after "Government".

(i) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting "(and appeals thereof)" in the first sentence after "proceedings", and

(2) by striking out the second sentence.

(j) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an administrative law judge under section 101(a)(43) of such Act.

PART D—ADJUSTMENT OF STATUS

LIMITATIONS ON ADJUSTMENT OF NONIMMIGRANTS TO IMMIGRANT STATUS BY OUT-OF-STATUS ALIENS

SEC. 131. (a) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by inserting after "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" the following: "or who is not in legal immigration status on the date of filing the application for adjustment of status".

(b) The amendment made by subsection (a) shall apply to applications for adjustment of status pending on the date of the enactment of this Act.

(c) For amendment prohibiting certain nonimmigrant students and visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

EDUCATION AND LABOR COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first Education and Labor Committee amendment.

The Clerk read as follows:

Education and Labor Committee amendment: Page 6, strike out line 4 and insert in lieu thereof the following new paragraph:

"(3) the person or entity, in the case of the hiring of an individual, must attest, under penalty of perjury and on or appended to such form, to the name and address of each other individual who (A) applied in writing (within 90 days before the hiring of the individual) for the position in which the

individual was hired, and (B) was not hired for the position; and".

Page 6, line 5, strike out "(3)" and insert in lieu thereof "(4)".

Page 6, line 6, strike out "(1) and (2)" and insert in lieu thereof "(1), (2), and (3)".

Mr. HAWKINS. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The gentleman from California (Mr. HAWKINS) is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. HAWKINS. I yield to the gentleman from Kentucky.

PARLIAMENTARY INQUIRIES

Mr. MAZZOLI. Mr. Chairman, without taking too much of the gentleman's time, I would inquire of the Chair if the gentleman's amendments are being offered en bloc to this section, or are they offered individually?

The CHAIRMAN. The Chair would like to advise the gentleman from Kentucky that the rule does not provide for consideration en bloc. It does not make that provision.

Mr. MAZZOLI. I thank the Chair.

The CHAIRMAN. The amendment is an Education and Labor Committee amendment.

Mr. KAZEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from California (Mr. HAWKINS) yield for a parliamentary inquiry?

Mr. HAWKINS. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, did I understand the Chair to say that no amendments could be offered en bloc.

The CHAIRMAN. The rule does not so provide. The gentleman would be advised to this effect: That by a unanimous-consent request that could take place.

Mr. KAZEN. I thank the Chair.

The CHAIRMAN. The gentleman from California (Mr. HAWKINS) is recognized for 5 minutes.

Mr. HAWKINS. Mr. Chairman, during the consideration of this bill in the Committee on Education and Labor I offered several amendments. This is the first in a series which I am prohibited from offering en bloc, but they are interwoven. This first amendment is, I think, a very simple one.

Under the bill as proposed, the individual seeking employment may offer documentation concerning that individual's legal status as a citizen. The current practice would be that that individual would offer to the employer social security documentation, a driver's license, et cetera. In other words, a form would be prepared, which must be done anyway for anyone who seeks employment, and the employing entity would then decide whether or not that documentation is valid or is sufficient.

This amendment simply says that not only in the case of the individual who is hired but in the case of every applicant, the employing entity would simply state the name and address of each applicant. That is the only requirement that is made mandatory under this amendment.

In other words, not only is the individual who is actually employed on the form, but every individual seeking that employment, who may be rejected obviously in these instances, should also have his or her name and address on that form. That is all that is added. It is not a costly process. The process must be carried forward anyway. The form must be used anyway, the amendment being offered simply requires that the name and address of every applicant would be added to that document so that later, if there is some dispute arising, we would have known that there were other applicants and we would know who those applicants were.

The amendment was unanimously approved in the Committee on Education and Labor, and I think it is a very simple addition to the act.

Mr. KAZEN. Mr. Chairman, will the distinguished gentleman yield?

Mr. HAWKINS. Yes; I am pleased to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, these forms are to be kept regardless of whether or not the applicant for a job is given the job or not?

Mr. HAWKINS. That is true. In regard to the form which is now required in the act before this amendment, that form would be required to be kept anyway for 3 years.

Mr. KAZEN. Whether or not the applicant was employed?

Mr. HAWKINS. Whether he was employed or not. That would be the requirement in any event.

Mr. KAZEN. If that is true, then, and if that is in the bill regardless of the gentleman's amendment, that is a tremendous burden on any employer; is it not?

Mr. HAWKINS. I am not imposing that burden on the employer. The burden already is being imposed on the employer to keep that document. I am simply saying that the employer should, in addition to keeping the name and address and the information on the person who is hired, also list the names and addresses of those who applied as well.

Mr. KAZEN. What is the object of that?

Mr. HAWKINS. The object of this is to know who was not employed so if an individual later alleges that his documentation was not accepted, that he had documentation and it was not accepted and he wishes to establish some kind of action, at least he would have the basis on which to proceed. It really is a due-process protection to an indvidual who applies but who may not actually be hired for that particular job.

The CHAIRMAN. The time of the gentleman from California (Mr. HAWKINS) has expired.

(On request of Mr. KAZEN, and by unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, is it then contemplated that these forms of applicants who are not hired be kept for the statutory time and are to be used or perused by a review board agency?

Mr. HAWKINS. A second amendment of mine will require that there would be three agencies, that the form could be made available to three separate agencies. That is not contained in this amendment.

At the present time that information is virtually kept without being revealed by anyone, except I believe—and the gentleman (Mr. MAZZOLI) can correct me if I am wrong—by the Attorney General in the usual process. This amendment does not affect that process whatsoever. It simply requires the adding of perhaps only one or two lines containing the names and addresses of all applicants. That is all the amendment does.

Mr. KAZEN. Mr. Chairman, I thank the gentleman.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. Mr. Chairman, I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I want to clarify this. I am very concerned that we may be starting something here that could turn out to be a monster.

Is it the intent of the gentleman's amendment that a list be kept of every person who applies for work, even if he just comes in and says, "do you have a job for me?" Does this mean that the employer should have the name and address of that individual?

Mr. HAWKINS. Mr. Chairman, may I say that I cannot see that there is tremendous burden being imposed on an employing entity. I would assume that this is a managerial problem anyway, and this merely requires them to list the names of the persons who applied for the position.

We can assume that that individual has advertised for so many employees.

The CHAIRMAN. The time of the gentleman from California (Mr. HAWKINS) has again expired.

(On request of Mr. DE LA GARZA, and by unanimous consent, Mr. HAWKINS was allowed to continue for 2 additional minutes.)

Mr. DE LA GARZA. Would the gentleman be kind enough to yield to me again?

Mr. HAWKINS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, my concern is this: That we have to legislate for the Nation, but regretfully as individual Members we have to revert to how it applies in my district or my entity or my neighborhood.

This is what concerns me: That we have a gentleman who owns a packing shed and he hires people for his packing shed through a foreman or he talks to somebody or somebody runs into him downtown and says, "Hey, have you got a job for me?"

Are we imposing on him the burden of saying, "What is your name? What is your address? I don't know if I have a job for you, but I have to fill out a blank form when I get back to my shed."

And then who gets that information? My inner self tells me that this is asking for trouble, that we are going to make a list that will have a potential impact on individuals who later may be checked.

And that was my concern in the beginning. They may be asked, "Are you legal, or are you not legal? Do you have identification?"

I do not know the background of the gentleman's thinking as far as this amendment is concerned. With the respect and admiration I have for the gentleman, I am not going to per se oppose the gentleman, but I am going to wave that red flag and say that this has great potential for mischief.

Mr. HAWKINS. Mr. Chairman, may I answer the gentleman in this way: I am not imposing this responsibility on the employer. The bill itself proposes to do that. It requires that an individual seeking employment will go through this certification process in which the employer, in order to protect himself or herself, will use certain forms as a means of doing it.

The CHAIRMAN. The time of the gentleman from California (Mr. HAWKINS) has expired.

(By unanimous consent, Mr. HAWKINS was allowed to proceed for 1 additional minute.)

Mr. HAWKINS. So, Mr. Chairman, I am not the one who is trying to impose this burden on anyone.

o 1215

There is a complex situation set up by the proposal. I am trying to protect the proposal to the extent I say that the proposal should not end up with abusing the due process of an individual who makes an application, who goes through the process of seeking that employment but who is rejected. So the employer, on the form that is required by the act itself, which I am not requiring, but that is required by the proposal, on that form which is already being required we are simply saying not only are you going to have the documentation or list the reason why a certain individual was employed, but you only list the names and addresses of those who were rejected for the position.

This is the only way that we would have any knowledge of those who have been rejected.

That is all this amendment seeks to do.

The CHAIRMAN. The time of the gentleman from California (Mr. HAWKINS) has expired.

(At the request of Mr. GARCIA and by unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from New York.

Mr. GARCIA. I believe what we are talking about now with the gentleman's amendment is actually to the heart of the entire immigration bill as it pertains to the potential for discrimination in terms of hiring of persons. I would say to my colleague from Texas that this amendment, if it is not passed, will just leave the doors wide open for persons to keep no records as it pertains to those persons who have applied for a position in a factory or whatever the case may be.

It seems to me, my colleague from Texas and my colleague from California, that if in fact this does not become a reality that people will then be able to come in and say the following: that we never had anybody here and we never tried, in fact, to make an effort to hire those persons.

It seems to me that what our colleague is saying here is that this would insure the Justice Department and all of those persons who are responsible for law enforcement as it relates to discrimination would be very much involved and that is what we have to protect.

It seems to me that that is what we are trying to accomplish and the gentleman from California can correct me if I am wrong.

Mr. HAWKINS. I think the gentleman from Texas (Mr. DE LA GARZA) is trying to impose on me the burden of trying to defend this complex situation that is being proposed. I did not propose that.

I am trying to clarify it to the extent, as the gentleman from New York says, that in the recordkeeping this be added to that recordkeeping which the proposal requires and that an individual at least have the protection of knowing that there is a record kept and that that individual did in fact apply for that job.

The CHAIRMAN. The time of the gentleman from California (Mr. HAWKINS) has again expired.

(At the request of Mr. DE LA GARZA and by unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I would say to the gentleman that is my main concern because the gentleman in the well certainly has been the champion, and we admire and respect him for his activities in civil rights and in keeping Government out of people's business, except when the Government is required to intercede to protect those rights.

I say what the gentleman is doing is adding to an already burdensome procedure a list which is not the Government's business as to whether I apply for a job some place or not. You are making another list that the Government will have. That is none of their business whether I applied or I do not apply. But yet my name and address is going to be in every shed, every packing shed and every factory, and every housewife has to keep a list under the already burdensome procedure of the bill, not what the gentleman is doing, but he is adding further burden which I am concerned about, and you are going to have another list.

I know the intention that someone have the right to say, "I was discriminated against." But I think that can be protected without a list.

Lists in the hands of government belong in other systems of government, not in ours, and that is my main concern.

Mr. HAWKINS. This is not a case of discrimination as such. It is only a case of whether or not you file valid documentation proving yourself to be of a certain status. That is all this does.

It does not really get into the discrimination charge.

This is merely whether or not you went there, you applied for the job, you offered some documentation and you wish to prove it. That is all this does.

Mr. MAZZOLI. Mr. Chairman, I rise in reluctant opposition to the gentleman's amendment. I will be brief.

I think the gentleman from Texas (Mr. KAZEN) and the distinguished gentleman from Texas (Mr. DE LA GARZA) have put their finger on the problem. The problem is basically too much paperwork.

In the committee version which is before the House, in the section on employer sanctions, the committee has reported a bill to this House which I think successfully walks that middle line between too little paperwork, which then makes employer sanctions without teeth, and too much paperwork, which, as the two gentlemen have said, makes it burdensome and potentially has impact on the civil rights of individuals.

What your committee has reported is a methodology, an appropriate amount of paperwork which every employer, small and large, could easily handle. It applies to those who are hired. What we did was limit it to the contract of hire completions.

As to other people who apply, other people who are involved in this winnowing process which yields the successful applicant, those people are not

required to either present their identification nor are they required to list some piece of paper. Only for the successful completion of hire.

I might say further, in today's law we still have title VII of the Civil Rights Act which protects against any discrimination in the workplace on the basis of race, or religion, or nationality. We still have EEOC.

We have in our bill, because of the package of amendments offered in the full committee, further protections in the form of an appointment of a task force which will constantly monitor any civil rights implications of employer sanctions, a task force composed of the Attorney General, the Secretary of Labor, the Director of EEOC.

We further have the Civil Rights Commission itself monitoring any activity with respect to civil rights or discrimination.

We further have the President having to make periodic reports to the Congress on any discriminatory effect, if any, resulting from this bill.

We think, and again with respect to the gentleman from California, one of the leaders of this House, our bill gives the employer in every case needed protection, and at the same time with the least reasonable paperwork burden.

So I would suggest that the Committee reject the gentleman's amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Hawkins amendment.

There is a great concern about whether or not if the bill is successful and you have employer sanctions, whether or not employers will choose to discriminate against individuals by not hiring them, but not making employment available rather than going through the process of this legisation.

I think the amendment by my colleague, Mr. HAWKINS, simply requires that those documents that are already required be kept for I believe 90 days. This does not require that if somebody walks up to you on the street and says, "Hey, do you have a job for me," because it says that the information be retained only for an individual who applied in writing. So it simply requires that you hold onto those application forms for 90 days.

The vast majority of these jobs under this legislation are likely to be seasonal employment. They will be kept during the employment season and thereafter, and then they can be disposed of.

But the most important part is that this leaves a trail because you can have the Attorney General's task force, but if you do not have a record of who applied and who was turned down, and what their surnames were. I do not see how you are going to be able to determine whether or not employer sanctions have or have not led to discrimination. A good many people in this country are terribly concerned about and many people already believe discrimination exists because of accent, because of color, because of nationality.

I think that this amendment errs on the conservative side.

If it proves to become a burden, if it proves to become a burden after the act is in there for a year or two, it can be changed.

But what we ought to do with this sweeping change as this law makes, and makes in good faith, I think in some instances we ought to err on the conservative side so that we have a way to monitor. But if you do not have this kind of presentation of evidence available for really what is a relatively short period of time when talking about the task force that is going to monitor or not monitor, if you do not at least have this information available it is going to be very difficult to determine.

What you then will have are simply allegations that may or may not be supported by evidence as to what the effect of the employer sanctions has been.

I think it is a very reasonable amendment, especially when coupled with the second one, because the second amendment gives the Justice Department the ability to use this information to make an intelligent decision, to determine whether or not the discrimination has taken place. Perhaps, most of all, to dispel the fear, if in fact the fear is not warranted.

But absent this, you will continue to have allegations about this legislation promoting the discrimination through the use of employer sanctions.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

I would ask the gentleman, as I read the proposed amendment of the gentleman from California (Mr. HAWKINS) I see nothing that limits the retention of the paper to 90 days. It says that the application upon which the material would be kept would be made within 90 days.

Mr. MILLER of California. The gentleman is correct.

Mr. MAZZOLI. So we do have the potential for keeping paperwork for a lengthy period of time.

I would say one last thing to be sure the record is straight. In the bill before the House today in the Committee of the Whole is the section which deals with employer sanctions which says only for successful hires is the paperwork retained. Therefore this material which the gentleman from California asks in his amendment is new material. It is not that you simply put a name and an address on existing material already required under the bill because the bill only requires material on successful hires.

Mr. MILLER of California. If I can recover my time, it is for exactly that point raised by the gentleman from New York (Mr. GARCIA).

If you only have the successes you do not know from what pool of individuals those successes were drawn.

This allows you to have the universe of people who apply so you can determine whether or not actual discrimination, intentionally or unintentionally, took place within the pool of people that applied.

Also the question I think that is very important is whether or not American citizens applied and were turned down for the job so that, in fact, a foreign individual could come and have those jobs.

We know there is a problem with people being trained for jobs and whether or not they are acceptable to employers and so you really do not know the universe from which successful applicants for these jobs were in fact taken.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. HAWKINS. The sponsor of the bill has just said that this requires a new form or new documentation or new material. Clearly he has not read the amendment. It simply says the required information should be on or appended to such form as is already required.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. HAWKINS. If the gentleman will continue to yield, we certainly do not intend to require any information on any new form. It says the required data should be on or appended to such form. That is all it does.

To suggest that this will be additional paperwork I think is very misleading. I know it was not intended to be misleading but I think that is the result proposed by the author of the amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman.

Mr. MAZZOLI. I would say to my friend from California what the gentleman from Kentucky said earlier was under the committee bill the only persons for whom an affidavit is retained are those persons who have been hired, not the ones who are not hired.

The gentleman's amendment would require the name and address of all applicants, successful or not, to be kept, which means that the gentleman's amendment does require the

employer more paper in the form of the name and address.

Mr. HAWKINS. Not more paper. He uses the same sheet.

Mr. MAZZOLI. But an affidavit is not kept for every applicant under this bill.

□ 1230

Mr. HAWKINS. It is only the name and address on the form that is used. That is all the amendment does. It is not the keeping of affidavits or documentation. It is on the document that you would require as a sponsor of the bill. On that document the name and address of the other applicants who applied within 90 days of the hiring of an individual would be kept. That is not an additional form. It is only an additional entry.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Jersey.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, I must respectfully disagree with my subcommittee chairman. I think we are really making much of a situation that requires that we exercise whatever diligence that there not be discrimination, but since there is, I believe there is great concern that the keeping of these documents could certainly then insure that there would not be this kind of discrimination, and I would suggest that we accept the amendment.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened carefully to this debate, and I think that the proponents of this amendment have brought out something quite clearly. That is, this bill does not require that an employer keep records on all applicants in a situation where only 2 people are hired out of 100 people who respond to a newspaper ad.

Now, how do you go about meeting the very desirable end that has been advocated? I think that many of the speakers have brought to our attention the almost impossible paperwork burden that this amendment would impose on small employers for very little return. What is going to happen to these hundreds of thousands of documents? Conceivably the same individual's name and address could appear on several lists on a single day

I think that the applicant flow data that we are discussing here imposes an excessive burden on employers. They would have to compile and retain information on a very large number of individuals.

Now, how do we get to the real heart of the issue of protecting the person who indeed feels he was discriminated against? Well, I suggest that in the Education and Labor Committee package of amendments, amendment No. 4 is far more appropriate to reach the goal that we are all interested in. Amendment No. 3, as you recall, increases the penalties. Instead of being a static $500, it goes up. I like that. Amendment No. 4 provides an administrative and possible judicial remedy for an individual job applicant who claims that an employer, recruiter, or referrer has not acted in good faith. I think that would be a far better approach to address potential discrimination than the sweeping approach that has been presented to us in amendment No. 1.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first, last night or early this morning I already voiced my complaints and concern about what is in the bill, if you just read what the bill does, it has verified that an individual is eligible to be employed in the United States by certain procedures, which will be national policy and under penalty of perjury a prospective employer has to attest that the prospective employee is eligible to be employed. And, as the bill says, examine on individual's U.S. passport, social security account number, alien documentation, identification, and telecommunication, whatever that is—I guess a credit card from the telephone company—driver's license or similar documents.

Now, the gentleman from California has expressed concern that there could be potential discrimination. My concern—and I speak only for myself—is not the potential discrimination. My concern is that throughout the Southwest anyone who looks like me has to have identification, driver's license, social security card, that I would have to verify who I am and where I came from, more so than the individual that does not look like me, that looks more the norm in the area.

Now, that is concern enough. I am concerned with potential discrimination, but I am more concerned with what it imposes on someone who looks like me in the Southwest, what you have to do to ask for a job.

Then the gentleman from California, my distinguished colleague and dear friend (Mr. HAWKINS), wants to add further insult to this, that there be a list, if you had just applied for a job, whether you were accepted or not, so that then you can come back for complaints on discrimination. But here in the bill it says that the list shall be the document of the Attorney General, it shall be made available to the Service—that means the Immigration Service—or the Department of Labor.

So here comes the border control: "Hey, Mr. Employer, I want to see your list." Sixty people applied for ten positions, forty were not hired. What business is it of the Government or the Immigration Service or the Labor Department of the 40 that were not hired? Why should they have their name and address? And that is my concern. I think that it is an infringement on the human and civil liberties of an individual in this country that so professes to protect the rights of individuals.

It is ironic that in an attempt in legislation to protect the rights of individuals that we have the potential for more harm than the protection that we are affording them.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my colleague, the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I am intrigued that the gentleman says: someone who looks like him.

Is the distinguished chairman of the committee here suggesting that if this provision were not corrected, he could be stopped and asked to produce a green card, or whatever identification is required?

Mr. DE LA GARZA. Anywhere in the Southwest if a potential employer is looking for a protection from perjury, boy, if you look like me in the Southwest, you have got to have papers of every kind and color.

Mr. CONYERS. Well, what about somebody who looks like me?

Mr. DE LA GARZA. In the Southwest it would not affect somebody who looks like you that much, but through the South and other areas of the Northeast, where we have migration from some of the Caribbean countries and some of our friends who are darker than me, they would have the same problem. You would have the identical problem.

Mr. CONYERS. I am grateful that the gentleman brought this to my attention.

Mr. DE LA GARZA. The gentleman and I are in for potential trouble if we should ever go out looking for a job in the fields or in the shops or in the factories of the Northeast, the Midwest, through the South and the Southwest.

Mr. CONYERS. Which, at the rate this Congress is going, might not be an inevitable prospect.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my distinguished colleague, the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman and I, who come from the Southwest and the border with Mexico, have had a lifetime of experience with this particular problem.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(On request of Mr. KAZEN and by unanimous consent, Mr. DE LA GARZA

was allowed to proceed for 4 additional minutes.)

Mr. KAZEN. If the gentleman will yield further, what our colleague, the gentleman from California, is trying to do, I can see where he says it will not be any more burden than the form itself, because he is only adding two lines to that same form. I can understand this.

But what the gentleman in the well has just stated is true. Now, there is another potential field for mischief and for harassment. Unless you get an amendment in this bill that these forms are not going to be used by any Federal agency for any purpose unless the applicant himself has requested the papers for a court case in order to show that he was discriminated against or not, but if that kind of an amendment is not in this bill, then the potential for mischief is there, because the Department of Labor, the INS, the Treasury Department, anybody, can come in to an employer who keeps a stack of these applicants who were not hired, they will come in and say periodically, "I want a list of the people who have applied." And off they go, following each and every one of them, going into their homes. "I understand that you applied at La Casita Farms, and you say that you have this and this document. I want to see it." And they will be harassed from now until tomorrow, around the clock. This is the only way that they are going to have of checking to find out if there are any illegal aliens with counterfeit documents. And you are making it possible, under some of the provisions of this bill and later on in another amendment that says that the potential employer has to keep them. Then that is just a bird's nest on the ground. Knowing how the Government works—and this is going to be part of their enforcement—they are depending on the sanctions provisions of this bill to enforce immigration laws, something that the Government ought to be doing instead of putting it on the backs of American citizens to enforce the law.

Certainly I think the American citizens should respect the law, but they should not be made a law enforcement officer, as this bill would have them do under the sanctions. And this is just one more plank, along with the good intentions of the distinguished Congressman from California; the other side of the coin is that the potential for harassment is there at the Government's bidding all up and down the line. The things that we are trying to avoid is to protect the minorities, to protect the brown skin, the person who has a speech impediment or an accent. And this will just be one more way that the Federal Government can go in and harass that poor fellow who does not even know how to speak English, and we have got a lot of them in my part of the country, and to go into his home and say, "Hey, saca la tarjeta, show me your card. I want to see if it is the right kind of card or not." The guy says, "Hey, all I did was apply for a job. I didn't even get any. Why are you after me?

I think it is a bad deal.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, I think we have to work under the assumption that the Mazzoli-Simpson bill today may become a law and that we want to protect the rights of minorities seeking employment.

Mr. DE LA GARZA. Let me reclaim my time here for just a second.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has again expired

(ON request of Mr. GARCIA and by unanimous consent, Mr. DE LA GARZA WAS ALLOWED TO PROCEED FOR 2 ADDITIONAL MINUTES.)

MR. DE LA GARZA. Mr. Chairman, my concern is for citizens already here, whose families have been here for hundreds of years. And if there is potential for prejudice or potential for harassment to citizens, pray, I tell the gentleman, what can they do to the aliens, even if he has been granted amnesty?

You see, amnesty is not going to clear the potential for harassment, so far as employment, of having to identify himself. Amnesty is not going to do anything but to say, "Hey, for a little while you are going to be legal here," but it will not in any way deter potential discrimination or harassment or need of identification, which is what I am concerned about and what I am complaining about. And amnesty or not, he still will be on another list available to the Immigration Service or the Department of Labor solely because he applied for a job. Again I repeat very sincerely, this is for other types of governments to have lists about what individuals do in their daily lives, not for our system of government. We already have too many lists for potential for harassment.

□ 1245

Mr. GARCIA. Mr. Chairman, I want to get back to the point that I was trying to make before.

It seems to me that, and I find it interesting that both the gentleman and I are opposed to the bill for almost the same reasons, one of the positive aspects of the bill is the question of amnesty.

The point I am trying to make to both my colleagues from Texas is that I want to insure that under the Hawkins amendment that records be kept for a period of 90 days. We are not asking for something that is going to be there forever. We are asking for a 90-day period so if any of those persons who have been granted amnesty can then say, "we tried to get this job and we were not hired for the following reasons."

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the length of this debate on the first of almost 300 amendments I think suggests 2 things. One is that this is an issue that is extremely important, that it does have many facets to it, that it does need the direct and full attention of the House of Representatives.

And for that reason I am sorry we are here at this late date, because I do not think we should short circuit anybody from speaking on this important subject.

Second, at the same time, I recognize that the length of the debate suggests that perhaps the bill will not be passed.

But let me at least talk about this concept of employer sanctions because it is not a concept that this subcommittee came to easily.

When I first came to Congress 4 years ago and when I started looking at this particular bill in this Congress, I was against employer sanctions for virtually all of the reasons suggested by those who have risen to speak either against this section of the bill or in support of the additional amendment.

But it became clear to me that if we do want to get a handle on illegal immigration to this country caused on the one hand by the push factor from foreign countries whose economic circumstances are very stark in comparison to ours, and yet whose geography is so close to ours that their people can get here rather easily, we would have to do something about the pull factor, which is the possibility of employment.

And we felt that there is no way to get that handle on the problem, no matter how many Border Patrol officers you have in the interior of the United States unless we directly attack the question with respect to employers who will be hiring people illegally. In some cases, unfortunately, employers will be hiring them illegally so they can take advantage of these individuals.

So we came to the realization we had to have some sort of employer sanction. But the question then arises: How do you effectuate an employer sanction in a way that is nondiscriminatory?

The first decision we had to make was whether we should apply it to some people or all people. To get over the very serious and real hurdle of dis-

crimination, we felt that you had to have this across-the-board. That is, applying to all employees. This would be so that you do not look at someone to see what color they are, to see what the language is that they have, or the accent they have. It applies to everyone, whether they have brown eyes or blue eyes, whether they are light skinned or dark skinned. That does cause a problem on the other side. Then employers say, this is an undue burden on us. And so you reach the question, are you going to have any employer sanctions at all. We do believe you need them if you ever are going to get a handle on this situation. So then we must ask, How do you reach an accommodation between being overly burdensome on the employer and yet making sure that there are not additional opportunities for discrimination? On the subcommittee we tried to reach a compromise, where we would require it of all people who apply for a job.

But then we get to the paperwork requirements. We thought that on small employers such as mom and pop stores it might be unduly burdensome, because by and large they would not have a regular personnel filing system.

So we said for those who have three or less employees, they do not have the paperwork burden. We then tried to make the paperwork burden an attraction, by saying that by merely producing these documents, an affirmative defense is established against any action taken against an individual or entity for violating the law with respect to employer sanctions.

So it is in the interests of the employer to carry out these paperwork burdens, because they will give him an affirmative defense if an action is ever brought against him.

But then the question comes as to we should accept the amendment of the gentleman from California to create an additional burden as a means of ferreting discrimination.

But the question remains, Is the burden disproportionate to the benefit that will be gained? And I would suggest it is.

For one reason, you are changing the whole circumstance of the burden. You do not only require the burden to be maintained with respect to people who are successfully employed, but for all people who sought that job in the 90 days before. There is no threshold here other than it was 90 days before a successful hiring of another individual.

So does that mean if, for instance, an employer who goes to a college or university seeking one or two positions, merely gives that information to the office of employment at that university, he falls within the provisions of this amendment?

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 3 additional minutes.)

Mr. LUNGREN. Does that company then have the burden of maintaining the name and address of every single student who responded in writing by sending his or her résumé in?

What about those people who send out a request for employees through the newspaper, have 90 people respond, and then discover that the third person they interview is the person they want. Do they then have to verify the name and address of all 87 people thereafter that they had no interest in, not from a discriminatory standpoint, but merely because they found the person they wanted?

Last, I would say the real problem with this amendment is a problem that was specifically alluded to by the gentleman from New York (Mr. GARCIA).

Under this amendment, you will then have a list of all those people who were not hired for whatever reason. The INS could get that list, thinking in some circumstances that there may be a good chance a number of those people were not legal residents and did not meet the verification. They could then go down the list and go after those people. It would lead potentially to a harassment of individuals that I do not think we want.

I understand the intent behind it. I think it is similar to the intent of those of us on the subcommittee to reduce the possibilities of discrimination. That is why we have at least four parts of the bill dedicated to the elimination of discrimination. We require the President to monitor and consult semiannually with the Congress concerning the implementation of employer sanctions and their impact on employment. Some have suggested they want to have a sunset clause connected with this. I think that would be a good addition to this provision. We have a provision that requires the U.S. Civil Rights Commission to look into this on a regular basis and give us reports. We have a requirement for the Attorney General to work jointly with the Secretary of Labor and the chairman of the EEOC to establish a task force to monitor our nondiscriminatory efforts. We have three major efforts going on in three different parts of the Government to root out discrimination that may be engendered by this or may merely be revealed by this act. And I think that is the way to attack it.

It is not that we are not worried about discrimination. It is the question of whether the burden is so onerous in contrast to the benefit that would be gained by this additional burden.

Mr. HANSEN of Idaho. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Idaho.

Mr. HANSEN of Idaho. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman, and I respect the study he has put in, and his position on the committee, and I know that he has considered this long and well.

It seems sanctions are nothing but a way to force the employer into even more of an adversary position with the rights of individuals. I am wondering what happened to the incentive system in this country, and why we have to employ punitives, particularly in this area.

I do not see where, for instance, you are going to give jail sentences or fines to Immigration Service employees.

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has again expired.

(At the request of Mr. HANSEN of Idaho and by unanimous consent, Mr. LUNGREN was allowed to proceed for 2 additional minutes.)

Mr. HANSEN of Idaho. If the gentleman will yield further, it seems that the gentleman is putting a much larger burden on the employer than you do on even the enforcement officer who carries the badge of the U.S. Government.

Is there any real reason why there is no fine, no jail sentences for enforcement officers when you are going to put them on employers?

Mr. LUNGREN. If the gentleman would like a response.

In the first place, there are sanctions against INS officers who act inappropriately under a number of different legal sections.

Second, on this subcommittee just 2 years ago, we worked very hard with the INS to set up a watchguard organization on their own officers. They brought people in with law enforcement experience from the city of New York in the investigation of dereliction of duty by police officers. That has gone forward in the last 2 years.

But the gentleman raises a question about what happened to the incentive system. It is because of the incentive of the economic system in the United States that we are attracting so many people from foreign lands illegally. I happen to think that is a great success story, that people want to come to this country for economic well being and opportunity.

But the question still comes in this Congress as to whether we are going to have an immigration policy or no immigration policy. Are we going to allow anyone who wants to come here and successfully gets across the border to stay here? And are we going to continue to allow that to happen in the future?

If we are not, we are going to have to take rational, reasonable steps to prevent this. In our view, an employer sanction which only requires the employer to merely elicit from the employee at the time he applies for the job whether the person is here legally, is appropriate. He does not have to go back with all employees he already has. That ought to be made very clear. It is not retrospective. All employees that now exist do not have to be rechecked.

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has again expired.

(At the request of Mr. HANSEN of Idaho and by unanimous consent, Mr. LUNGREN was allowed to proceed for 1 additional minute.)

Mr. HANSEN of Idaho. Mr. Chairman, if the gentleman will yield further, I think he misses my point about incentives. I am talking about the fact that there is no employer that really needs to be threatened with jail sentences or fines if you just keep in mind the fact that if you have people, particularly in the perishable crops area or whatever that cannot afford to have their workers taken away from them at the inappropriate time. What I am talking about is the fact that you provide a proper H-2 program, one easily managed, one that does not kill somebody with paperwork, so they can get the assistance, you bring them in on a dignified basis, give them the proper dignity of a human being and they will not be taking illegals because they cannot afford to have them taken away at the wrong times.

The incentive system will work better than the punitive system.

Mr. LUNGREN. I appreciate it. I welcome the gentleman's support for my H-2 provisions.

Mr. HANSEN of Idaho. I do not support it.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find the debate on this amendment something that really is perplexing to a lot of us, because I, too, like many others, worry about the whole employer sanctions area, and what it is going to do.

We all know there are a few bad employers, so in the great American tradition, we run out and slap all employers with a lot of paperwork and reporting burdens rather than just target after the bad employers. Everybody is talking about their districts and how this bill will affect certain people that look different ways. Who will get picked up? Who has to carry identification and who does not? I have a district that really makes this whole employer sanction thing very frightening from a civil rights perspective.

I have a district that not only has a very significant Hispanic population, it has a very significant Canadian population. Canadians look more like me. Hispanics do not. We had a very, very active Operation Jobs carried out in my district by INS, and I thought it was shameful. Operation Jobs was the opening shot to show the need for this bill. It was to show everybody how wonderful the bill was, and they were going to get jobs back for Americans, if it passed.

I hate to be so realistic about this, but realistically everybody in this room would much prefer the jobs that the Canadians have in my district than the Hispanics, because the pay is better and so forth and so on.

During Operation Jobs in my district, one person was killed. It was a horrendous example of a violation of all sorts of rights. It was a very ugly scene, and guess what? They did not find any Canadians at all. They found all sorts of Hispanics at very low paying jobs. They went after many Hispanic-Americans and in Colorado some of the Hispanics have a longer American heritage than many of the Anglos.

So what we are talking about in employer sanctions is employers being told there are now sanctions and they must keep records to prove they are not in violation. We are already seeing in Colorado employers telling certain employees, "We are going to have to let you go now. We are not allowed to hire Hispanics anymore."

I understand people who stand up and say that is not the law, that is not true. Fine. Try and tell some small employer that. He just does not want to cause himself trouble. Can you blame him? All he has is the Government coming after him every day and every day, and now they have this whole new recordkeeping burden. We are terribly naive if we do not recognize the impact of what we are doing today here with employer sanctions is going to affect Hispanics and blacks and people who look different.

□ 1300

If you look at Operation Jobs, 99.3 percent of the people they picked up were from Latin America or the Caribbean; that is black or Hispanic. They stood out. They went after them, and not a lot of Canadians or Europeans. In the energy field in Colorado, let me tell you, the best jobs are not held by Hispanics.

We must deal with that. The Civil Rights Commission in the "Tarnished Door" said that passage of the employer sanctions laws could lead to discriminatory practices involving especially members of the Asian and Spanish heritage communities. That is true.

This is our U.S. Commission. This is not the Mexican. It is our Civil Rights Commission and it is telling us we are doing something very serious by enacting employer sanction. The people discriminated against are people who have lived here for years and years and are American citizens. They will have to carry many more pieces of identification, as the gentleman from Texas pointed out. The Southwest sees this bill very differently.

I also want to point out that I have a wonderful study here from Notre Dame Law School. I underline that, Notre Dame Law School. It is on employer sanctions and its conclusion is that this is a very drastic, drastic thing to do and that it will do all sorts of negative things and we should be enforcing the labor laws first, and so forth and so on.

Now, let me get back to this amendment, because this is the quandary I have. Later on I will be offering a substitute to title I, which is what Notre Dame Law School thinks is the alternative, which is what the Civil Rights Commission would prefer, which the ACLU and the chamber of commerce would prefer.

Now, I think when you have got that kind of consensus, my substitute makes a lot of sense.

What my substitute will do is say, you do not do the employer sanctions, you target the bad guys. We know who the bad guys are. When we asked Immigration, "How did you pick the employers to go surveil during Operation Jobs?"

They say, "We know who is breaking the law." My substitute says if you know, do something. Go after the bad guys. Do not burden everyone.

The CHAIRMAN. The time of the gentlewoman from Colorado has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 5 additional minutes.)

Mrs. SCHROEDER. So obviously, Mr. Chairman, I much prefer my alternative, and yet I really want to compliment the gentleman from California because what I think he is saying is that in case my substitute does not pass at least we will have some method of finding out whether the employer sanctions are discriminating, as the U.S. Civil Rights Commission said they probably would and Notre Dame Law School and others agreed.

We keep hearing employer sanctions are not discriminatory, but every civil rights group that I am aware of is not for this bill.

So I think the gentleman is making an attempt and it may be more burdensome but nevertheless, the additional protection of the amendment is there and needed because everyone is telling us that what we are doing in the bill as it is now written is discriminatory.

So I think we have no alternative if we care about discrimination, other than to support this and then hope we can change title I later on so that we

do not have to worry about it at all, because that is the better choice.

But now, Let me tell you one other problem that we have with keeping the names. I have the name Schroeder. I suppose if you have problems with German immigrants, I probably would be one that would have to carry around all the identification because of the name Schroeder. The only problem is that I am Irish. Schroeder happens to be my husband's name. That is one of the problems that we have when you are trying to monitor discrimination against Spanish heritage citizens by looking at names. You may have the name Smith and still be Hispanic; so it is still hard to tell from lists who is being affected and who is not, and I think we know that, too. So women get put in an even more difficult position when it comes to monitoring discrimination against them. You can be discriminated against and appear on the list and nobody would ever know you were discriminated against because your name was Smith; however, that happens to be your married name rather than your maiden name and employers are looking at faces and not at names.

This is a good perfecting amendment at this point to a title that I would like to perfect by substituting it entirely and doing away with employer sanctions.

On the other hand, I also think that with all the data that we have, with the experience I have seen in my district with two groups of immigrants working in my district and only seeing one group being asked for the green card. That was the group that did not look like me. This type of thing is absolutely essential in case the employer sanctions as are now written in title I should pass.

I compliment the chairman of the Judiciary Committee for saying that he supported this amendment and I hope everybody backs it. I think this is a very important addition in case we are not able to perfect the bill to a higher level.

Ms. OAKAR. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I am delighted to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to associate myself with the remarks of the gentlewoman from Colorado.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, separate and apart from this particular amendment, I wish to remind the House of the special interests of a group which has never supported any of us in an election; never given any of us money; and which will certainly never cast a single vote for me, nor most of the Members of this House.

I refer, Mr. Chairman, to that group of people we term "illegal aliens." In Texas these people are commonly called wetbacks, since to come to work in this country, many of them first had to swim the Rio Grande River, then walk mile after mile through our rugged brush country in search of field or factory, and a paycheck.

Today, they are bent over harvests, elbow deep in sinks, cooped up in vans, hiding under bridges, and sleeping a dozen to a shack all across the country—people who came in hope—and live in fear.

Some now have lived in the United States—and in my district in Texas—for a generation, long enough to see children and grandchildren born into citizenship. Many thousands have worked, paid taxes, and contributed to their new home for 5, 10, or 15 years. More often than not, they pay in and never draw out—since to claim benefits, to reveal themselves to the authorities, would destroy all they have sacrificed for.

I will not argue that they did the legal thing, or even the right thing, when they sought out our country years ago. What they did was the human thing; a migration we cannot undo any more than we can turn back the clock or stave off the tides.

They are here now, and so the question is not whether we approve of their coming, but what we will make of their presence.

We have heard many arguments and many voices against this bill. But few have spoken for the families who live in fear of discovery and deportation. For the men stooped in middle age by short hoes. For the women who work for $1.50 an hour at backbreaking labor no American would take, and thank God for the opportunity.

Few have spoken, Mr. Chairman, for the wetback, few have spoken for the illegal alien in permanent residence in this country, because they have no voice, they have no leverage, they have no money. And they have no vote.

With this bill we can at least give them one thing: We can lift them out of a disgraceful subclass. We can give them dignity, and the precious rights of a great Constitution.

The alternative is to do nothing, and the price of that is simply too high. Too high in human terms, too high in economic terms, too high in damage done to the integrity of our national borders.

Because the allure is strong. The opportunity for better jobs and a better life is almost irresistible. While we delay, the wetback will keep coming, keep crossing, as he has for years.

If sovereignty is to mean anything, then we must have an immigration policy. It is fantasy to think we can turn back the clock on those already here, and hardhearted fantasy at that. What we can do is cap the flow—which means cutting off the source which is jobs.

And we can establish a realistic policy to live by in the future. That is what this bill hopes to do—with compassion and commonsense, and with firmness.

Otherwise, nothing will keep them out—not barbed wire fences, nor marine divisions, nor landmines—not as long as opportunity, jobs, and money are on this side of the Rio Grande.

Twenty years of debate is too long. This year it is time to act.

I commend the distinguished chairman, Mr. RODINO, Mr. MAZZOLI, and their associates, for having the courage to bring this issue forward. It is not a perfect bill. But we can make it a good starting place. I know there are many amendments pending and I can certainly support some of them. But I hope we can resolve our differences and conclude with a bill which is fair and equitable. I feel the intent of this bill is good—and could be made workable.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that one can say at this point that we can agree with all the previous speakers because each one of them have made excellent points; but I would like to get back to the amendment now before the House.

I would like to try to get some understanding of the opposition that has arisen on the part of the gentleman from Texas (Mr. DE LA GARZA) and the gentleman from Texas (Mr. KAZEN).

Before I do that, I would like to set the stage for the questions that will follow. On page 4, line 19 of the bill, it states as follows:

The person or entity—

This means the employer—

must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is eligible to be employed (or recruited or referred for employment) in the United States by examining the individual's—

United States passport, or Social Security account number card or certificate of birth in the United States or establishing United States nationality at birth—

And then it goes on to say—

alien documentation, identification, and telecommunication card, or similar fraud resistant card issued by the Attorney General to aliens and designated for use for this purpose.

Then there is another section which appears on page 5, line 22, and it says:

The individual must attest, under penalty of perjury and on the form designated or established for purposes of paragraph (1), that the individual is a citizen of the United States.

Taking those sections together, I think that it actually means that even

U.S. citizens will somewhere down the line have to go to some designated place and prove that they were born, and if they were born in the United States they would be deemed to be American citizens.

Now, the argument that we have had so far seems to indicate that only aliens will be affected by these sanctions. That is not true. American citizens are also included and it is quite possible that the telecommunication card or any other fraud-resistant card issued by the Attorney General could be made an article that must be carried by every American citizen or every person, every resident in the United States.

Now, let us go back to the point where an individual is seeking employment. What does the amendment actually do? What are the objections?

Instead of answering those questions myself, I would like to ask the author of the amendment and then ask anyone in opposition to it to try to explain to this House just exactly what the situation is.

Mr. FISH. Mr. Chairman, may I speak for the opposition, may I ask the gentleman from California, and I would be glad to ask for my own own time.

Mr. ROYBAL. I would like to yield first to the gentleman from Texas (Mr. DE LA GARZA) and then I will yield to the gentleman from California (Mr. HAWKINS) if the time permits.

□ 1315

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield to me?

Mr. ROYBAL. I yield at this time to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

The gentleman's interest is in my concern and why I oppose the amendment?

Mr. ROYBAL. That is correct.

Mr. DE LA GARZA. For a multiplicity of reasons.

One, it provides another list in the hands of the Federal Government, the Immigration Service, and the Labor Department. My concern for the potential for mischief with lists that are not required. As I stated again, in order to apply for a job, I would have to give my name, address, serial number, et cetera.

The CHAIRMAN. The time of the gentleman from California (Mr. ROYBAL) has expired.

(On request of Mr. MAZZOLI and by unanimous consent, Mr. ROYBAL was allowed to proceed for 5 additional minutes.)

Mr. ROYBAL. Mr. Speaker, I yield further to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Speaker, my concern is that I already object to the procedure in the bill, that is onerous enough, and I repeat again, and I hate to keep using it but I know of no better way to illustrate it, that anyone who looks like me has to have an identification, telecommunication card, driver's license, social security, passport, birth certificate, whatever.

The enforcement officer is going to be an employer who, under the penalty of perjury, has to certify that I am legally in this country and eligible to work. That is an imposition on the employer above and beyond what I think it should be. So for that reason I object also.

But my main reason is, and I feel this very deeply, that the potential for mischief or another list in the hands of a Federal agency, I think, is not necessary. I know there is concern, and I agree with the concern of the distinguished gentleman from California (Mr. HAWKINS) my dear friend from New York (Mr. GARCIA) that this list would be used to verify possible discrimination.

I am not as concerned with the discrimination as I am with the burden that it places on individuals to have to identify as the criteria in a criminal case, that you have to identify beyond a reasonable doubt or else the fellow goes for perjury. So if you have to identify yourself beyond a reasonable doubt that you are eligible to seek employment in this country, you are imposing a burden above and beyond the laws and the Constitution, and possibly of nature itself, that an individual, solely to apply for a job, has to kneel in front of a potential employer and show beyond a reasonable doubt that you are here legally and are entitled to ask for a job.

That is not the American way, and it will never be the American way, and this bill may become law but I will never agree to it.

Mr. ROYBAL. Mr. Chairman, I agree with the statement of the gentleman from Texas, but the amendment in question does not address itself to the fact that in the bill there is the establishment of a telecommunication card or a fraud-resistant card which is beyond the limits described by the gentleman from Texas. It is beyond the realm of reason.

So regardless of what happens with this amendment, we will still have to carry identification cards.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield to me?

Mr. ROYBAL. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, that is why I object to the bill. He is just making it worse.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I really would like to have some clarification with regard to the problem at this particular moment. I will yield first to the gentleman from California (Mr. HAWKINS) and I will then be happy to yield to this side.

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Chairman, let me say I agree with the remarks of the gentleman from Texas about the possibility of an individual having to kneel and to demean oneself. However, that should not be placed on the author of this amendment for having caused that situation.

All that I am trying to do is to protect the rights of those individuals who are so unfortunate that they do not get one of these jobs.

Now, let us consider the case of an individual who is lawfully here but who has an accent, who may be brown in color or black, who presents himself or herself for one of these jobs and is simply turned down, whether they have the documentation or not, but they are turned down and they go away and afterwards they discover that someone else has been given the job.

That individual says, by jiminy, that they think or they may be able to get together some facts of their own that they think they have a case with.

The CHAIRMAN. The time of the gentleman from California (Mr. ROYBAL) has expired.

(On request of Mr. HAWKINS and by unanimous consent, Mr. ROYBAL was allowed to proceed for 3 additional minutes.)

Mr. ROYBAL. Mr. Chairman, I yield to the gentleman from California.

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Chairman, if there is no record that that individual even applied for that job, how do you think that individual is going to prove he was discriminated against if he did not have the documentation that he even applied for the job, there is no record?

It seems to me that is what we are overlooking. This simply says it is not burdensome, not a lot of recordkeeping; all of that is required under the act anyway.

Maybe there is too much recordkeeping. Maybe the Government should not be getting into this, but the author of this amendment did not advocate that. I did not set up the procedure whereby a certification is going to take place and you are going to have this form on which the employer is going to have to enter this recordkeeping.

I am simply saying, the amendment is simply saying, that in this recordkeeping you can at least have an address and the name of those who did apply so that you have a record of it, those who were rejected, and afterward if there is some dispute if the individual wishes to assert a right, a

statutory or constitutional right, that individual at least will have a point to start from without which, if this amendment is not adopted, there is no record.

It just raises in my mind the purpose and intent of the act. If something as simple as this to protect the individual's right is not to be kept a part of the act, then it seems to me we are introducing some rather dangerous practices in American life.

Mr. ROYBAL. May I ask the gentleman a question at that point?

How long will those records be kept under the provisions of the bill?

Mr. HAWKINS. The amendment does not address that, but under the bill those records are to be kept for a period of 3 years after the date of such recruiting or referral.

Mr. ROYBAL. It was my understanding that it was 90 days.

Mr. HAWKINS. That is required by the proposed bill and, of course, this information which is appended to that form would automatically be kept the same period of time, 3 years. We do not touch that in the amendment.

Mr. ROYBAL. My understanding is that there is some disagreement with regard to the time that these records must be kept. I was under the impression that it was a 90-day period as cited in the bill but maybe that is not the case.

I would like to know how long an employer must keep these records after the individual has been turned down for employment.

Mr. HAWKINS. Three years, the same as all other records are kept under the proposal.

The 90-day confusion arises out of the fact that this requirement of just adding the name and address will be restricted to only those who apply in writing within 90 days before the hiring of the individual. That is where the 90 days comes in.

The CHAIRMAN. The time of the gentleman from California (Mr. ROYBAL) has again expired.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. ROYBAL) be allowed to proceed for an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mrs. FENWICK. Yes, I object. We have to get on with this bill.

The CHAIRMAN. Objection is heard.

Mrs. FENWICK. I withdraw my objection.

The CHAIRMAN. Without objection, the gentleman is recognized for 2 additional minutes.

There was no objection.

Mr. MAZZOLI. Mr. Chairman, I think the gentlewoman who made the objection originally was not with us in the evening hours of the last two nights to hear what the gentleman from California (Mr. ROYBAL) has gone through trying to make some points to the public and to this body about what is in this bill. I think he is entitled to ample pportunity for that.

Mr. Chairman, will the gentleman yield to me?

Mr. ROYBAL. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Let me suggest to the gentleman that not only is there some confusion about the 90 days, which has now been solved, but there is a little further confusion, at least in my mind, as to the gentleman's amendment because he keeps saying you are simply adding a name and address to the form that is already going to be kept, so there is no paperwork.

The way the bill is drafted, that form which would be designated by the Attorney General is only kept for a successful contract of hire. So to keep the paperwork which would include a name and address is new work to the extent that it applies to one who did not successfully get the job. So that material would then be kept, as the gentleman from California has said, for 3 years.

Mr. ROYBAL. I thank the gentleman for that explanation.

Mr. Chairman, I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, that is what I was trying to say, because there is so much misinformation in the record. I was trying to explain exactly what the chairman of the subcommittee has explained. The gentleman asked a question about the relevance of the record-keeping that would be required by this amendment to the verification provision. Compliance with that provision, which begins in the middle of page 4, triggers the affirmative defense.

The verification provision, as the chairman of the subcommittee has pointed out, only requires an employer to verify the eligibility of the person hired. If you have one job and you put a notice in the paper and 100 people respond, the section that the gentleman from California read, at the bottom of page 4, is only applicable to the person that you hire.

The difference between that and this amendment is that this amendment requires that you keep a record on the 99 that you did not hire, for reasons totally unrelated to the purposes of this bill, which has made it risk free for an employer to hire without discrimination.

The CHAIRMAN. The time of the gentleman from California (Mr. ROYBAL) has again expired.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to tell the gentleman from California (Mr. ROYBAL) that I am only going to use about 1 minute and that I would yield to him to continue his interrogation on the amendment if he wishes. If he does not, OK, then I will use the 5 minutes.

Mr. Chairman, I know from great and personal friendship through the years with the distinguished author of this amendment that he has nothing but the best of intentions. I first knew "GUS" HAWKINS when he was an assemblyman over in California fighting a great battle, and it was he who inherited the Watts rioting and all, and has been at the forefront on this level in fighting for human rights, for civil rights, for economic and basic rights. So I do not think we ought to question any improper motivation here.

However, this amendment, even with the best of intentions, reminds me of what is happening back home in Texas with the new mode of administering the death to those who have been senenced to death. The debate now has been the question of relative humaneness of injecting a poison rather than hanging a guy, or shooting him or frying him or gassing him, whatever you want to call it.

To me it is so ridiculous becasue the big point is the brutality of the death penalty system and how unworkable it has been through the years. The death penalty has turned out to be mostly for insane, incapacitated minorities. Look at the record of the history in our own State of Texas and you will see if the condemned happened to be Mexicans or black or what have you he was hanged or burned by electrocution.

The issue should be the matter of capital punishment. Likewise here, I think, this amendment merely offers an alternative of death in the process of vitiating the basic rights of a free-born American who happens to have a color texture or accent or in a particular regional area gives rise to a presumptive illegality and, therefore, introducing a form of death to that basic right that every American enjoys, at least up to now, with a few exceptions.

You know, we have had some abridgements of rights also in the name of protecting the country from radicals and revolutionaries, or nasty Communists.

□ 1330

We have had the "Red Scare" of the 1920's—the care of Sacco-Vanzetti was a side product of the antialien sentiment existing then. We have had the "Red Scare" of McCarty, and we had wholesale violations in which even Presidents advocated the registration of Americans if they wanted the great privilege of working for the Federal

Government. All we have to do is look at the track record of that, and it is a sorry, sorry page in American history. So, that the amendment, even with the best of intentions intended to soften the adverse impact of the employer sanctions provision in the bill, I think it would be a lot more wholesome if we had an amendment striking this whole section in the bill, as I think somebody has pending, and I am going to wait for that.

But, I think this is also symptomatic of the whole thing that is affecting us in the lawmaking process and as in everything, whether it is the budgetary process, whether it is the defense appropriation issue, where we are totally losing sight of the reality and the imminence of the tremendous burgeoning problems that are hitting us now from south of the border. What we face now in this regard is not reflected in this bill. The burgeoning, snowballing problems now surging on our borders, tragically, are not being addressed in this proposed legislation.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just returned from the other body down the hall, and I could see the tremendous amount of frustration that was going through that particular body, but I can tell you, it is not anywhere near the frustration that many of us who want an immigration bill now are feeling listening to this charade that this committee is going through in this great House of Representatives. We have now been 1½ hours into the debate, and we only have 2 hours left by the limitations that have been placed upon us. I doubt if there is anyone in this body that is foolish enough to think that this House of Representatives is going to turn out a bill in the meager amount of time that has been left to us.

We first of all saw that the debate on this bill was going on into the wee hours of the morning. That assures minimum participation. We now find that the amendment process, with almost 300 amendments, is confined to just a few hours, and there is nobody who thinks that this body is going to stay in session through the Christmas holidays and into the last days of this year in order to finish up a bill such as this.

The Members have certainly proven one thing, that if they can take up 1½ hours on one amendment without getting a vote they will have little trouble—little trouble in filling 2 short hours with nothing but delaying tactics that will make it impossible for us to get a bill out this year.

I have really nothing to add to the debate on this particular amendment except that I wanted to express my frustration and the frustration of my part of the country that has been victimized for so many years with do-nothing Congresses while the immigration laws of this great country were eroding.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I will be glad to yield to the chairman, who has done a great job, and I believe I did support him, in bringing this important piece of legislation to the floor.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for those kind remarks. I mention to the gentleman, of course, having sat here myself last night and the night before and today, I do not think what has been suggested so far is dilatory. I think these are very genuine concerns raised about a very difficult and comprehensive bill. So, it demonstrates one thing about which the gentleman speaks. It suggests the perplexing questions presented to all those who serve on the Committee on the Judiciary, and suggests the fact that we had presented an array of opinion, an array of recommendations, and that all of us reached consensus on what is in the bill today. I think it suggests the great difficulty in making any changes essentially from what is in the bill today.

It is imperfect, as I have said many times, but it is the least imperfect work product that I believe any committee could actually report to the House. So, what the gentleman says is right. I share his frustration and I have spoken on this myself. Members of the committee have worked; people before us have worked long and hard. I wish we could expedite the debate, but I think to do so would be to curtail a free and fair discussion of some very difficult concepts.

I think that the Nation is entitled and the gentlemen who propose these amendments are entitled to have a full expression of their positions being known, but I think in that full expression it is evident to all who have listened that there is a great difficulty in this subject, and I think this committee has done a good job in reporting the bill to the House.

Mr. SHAW. I thank my chairman for those statements.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I will be glad to yield.

Mr. KAZEN. Mr. Chairman, I can appreciate the gentleman's attitude, but I would hope that he would also take into account the way some of us feel and our frustration at this bill having come up at this 11th hour in this lameduck session, and at the same time coming out with a 5-hour rule, which demonstrates the importance of this bill, because there are few bills that come to this floor with 5 hours of debate.

However, this gentleman stayed up until 1 o'clock this morning trying to debate this bill and found myself with only 2 minutes—2 minutes at 12:30 this morning in debate. So, the gentleman can see my frustration when, because the gentleman happens to sit on the committee that brought this bill to the floor, and I am one of those that praised the chairman and the members of the committee for having put so much work into this, but it gives those of us who were not privileged to sit in on the workings of this committee and the formulating of this bill, gives the opportunity to express ourselves. Our only opportunity is on the floor.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. SHAW was allowed to proceed for 2 additional minutes.)

Mr. SHAW. Mr. Chairman, I would like to respond to the remarks that were just made, because I think they are very well taken, and I think it shows and exemplifies the shabby way in which the leadership has treated this particular bill. We have a most important bill that should have been debated for hours on end. The committee has been through with its work for a long time. I quite agree that 1:30 in the morning is not time to talk about something like this. The Members should be here and should be listening to the arguments and thoroughly debating it and considering the many important facets of this bill. The Members have not been given an opportunity to do so.

I am not of the correct party nor the correct seniority to make schedules around here. However, I would suggest to those that are, that they see that this does not happen again with such an important piece of legislation. This affects not only Americans who are already citizens of this country, but those that want to immigrate into our country.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Ladies and gentlemen of the House, I would like to identify myself, given the last remarks of the last speaker, as one of the Members that would like to see immigration reform. I happen to support reform of a racist program of immigration that has been in law and fact operational for a century or more in this country. So, let us not sound so righteous about wanting some immigration reform, sir. We need it more than you do.

Now, the question does not happen to be whether you want immigration reform. It is not whether you want immigration reform or not. It is, what kind of reform do you choose? I would like to suggest to you that the Notre Dame organization which has been pushing employer sanctions for three decades are now at it again.

The gentlewoman from Colorado found something good that Notre Dame had done. The question here, sir, is whether you are now going to run through employer sanctions after they have been turned down in the House of Representatives. That is the heart of this bill, and so I would like to make a plea to the Congressional Black Caucus and the Hispanic Caucus, let us stick together, fellows.

The senior member of the Congressional Black Caucus has introduced a perfecting amendment to employer sanctions, presenting a little bit of a quandary for us. Why do we not keep the thing as bad and brutal and vicious and big-brotherish as it is and vote it down, or should we improve it to make it a little bit more acceptable? Well, this Member had to pause for a moment or two on this, but then remembering that the senior member of the Congressional Black Caucus offered this amendment, my loyalties restored my good judgment, and I am happy to announce that I will support the amendment.

It would not hurt if he would criticize the basic proposal to which he is attaching those perfections. It would make me feel a little bit better if he acted like he was not bringing in a police state on the Hispanics and the blacks in this country. He could act like he is going to vote against the bill if his amendment is not adopted.

The subcommittee chairman could act like he is willing to accept this amendment, but no, we do not get anything. But, let us just argue the fine point of whether you want to sign up everybody, to go into a 3-year protection. Now, everybody keeps a straight face on this, and the Government will destroy the records after 3 years. OK? Do not worry about a thing. You are safe, fellows.

And so it is with great pride and privilege that I join my colleague from California in supporting his amendment.

Mr. SHAW. Mr Chairman, will the gentleman yield?

Mr. CONYERS. Absolutely.

Mr. SHAW. Mr. Chairman, I would like to remind the gentleman in the well who just said that employer sanctions had been turned down by this body, that in the time that he has served in this body it passed this body twice. It was the other body that turned it down. This House of Representatives has passed this particular provision now on two occasions while the gentleman has been here.

Mr. CONYERS. Well, I guess that just goes to show you that I do not have as much influence as some people think.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that this is an extremely serious policy question, and the debate that we have had over the course of the last couple of evenings and today has been serious. It is regrettable that the time is short, and tempers are getting frayed, and people suggest that those who are directing this matter in a serious manner on both sides are in some way taking up someone else's time unfairly.

This is the only occasion we have to discuss it, and we are doing it. I must say that I do not quite understand the objection that has been raised by the gentleman from Texas on this issue. What the gentleman from California has done has been to take a look at a provision in the bill which I personally find impossible to accept, that is, the employer sanction portion, and he looks at it and in essence through his amendment echoes the concern that minority groups, civil rights groups, people generally throughout this country have expressed concerns about; that is, that employers faced with that sanction provision may, in fact, decide on a wholesale, without exception basis, not to take any chances. The way that they will not take any chances is that they will not hire the minorities in the particular community, which may, in fact, subject them to further governmental action. And so, the gentleman from California has said, "Listen, if that happens, if both aliens who are here legally and American citizens may in fact be denied job opportunities and jobs by the way they look, by the way they sound, then we ought to be doing something to correct that legislation on the premise that if the basic sanctions pass, we ought to be providing some base protection."

His protection, a very modest one, is to require the employer to keep records as to who applied for those jobs so that if it turns out that over a period of time there may have been 1,000 Hispanics who applied for 100 jobs, but that only 100 non-Hispanics were hired, that there is some way of establishing that. Otherwise, there would be no record whatsoever.

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Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am delighted to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I have the utmost respect and admiration for the distinguished gentleman from California and for my dear friend, the gentleman from New York (Mr. WEISS). But my concern is this: I wonder what the gentleman would have thought about it if 40 years ago in a country in Europe the Government said it was going to have another list that had names, addresses, religion, and color on it? What would the gentleman have said 40 years ago in the country of Germany when the Government was asking for another list with names, religion, and color? Would he have agreed to it at that time?

Mr. WEISS. Mr. Chairman, it is a serious question and I want to give the gentleman a serious answer. To some extent I have an advantage over many of the Members in this body. I can prove my citizenship because I am a naturalized citizen. I have the proof, like the person perhaps who can demonstrate that he is sane because he has got a certificate of release.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WEISS. Mr. Chairman, I want to complete my answer first.

What I am opposed to is the basic employer sanction. What I am opposed to, to use the gentleman's analogy, is whether, in this country or in Germany of 40 years ago, there might be a policy which would encourage employers to say, "we are not going to hire Jews because if we hire Jews, we are going to get into trouble."

What we are doing here in this legislation is encouraging people not to hire Hispanics or blacks, because if they do so, they may possibly get into trouble.

I am for striking that whole provision, but in the event that provision remains in the legislation, we ought to be able to prove that in fact deliberate discrimination has taken place. I do not see why there is anything wrong in an effort to prevent discrimination or to punish discrimination.

The CHAIRMAN. The time of the gentleman from New York (Mr. WEISS) has expired.

(On request of Mr. DE LA GARZA, and by unanimous consent, Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, I do not see anything wrong with an effort which says that in the event that basic sanction provision remains in the legislation, then we want to be sure that we can establish that discrimination has or has not taken place. That is what the amendment is about, and I would think that the gentleman would want to support that rather than oppose that.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I agree with the gentleman on the intent, but that is not the fact. I would like to tell the gentleman that once he received the blessing of becoming a naturalized citizen, I think it is not then incumbent upon the gentleman to have to prove that he is legally here. The burden should be otherwise. That is what the sanction does.

Mr. WEISS. Mr. Chairman, if I could recapture my time; that is right, that is what the sanction does, and the

gentleman can defeat the amendment that is on the floor before us and that is still what the sanction will do. What the gentleman from California offers is an opportunity to prove that discrimination has taken place.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the gentleman from California.

Mr. DE LA GARZA. There were other avenues and other areas. I agree with the gentleman that the sanctions are bad enough, but the gentleman from California is adding to those problems. My main concern again is that we are going to put a list in the hands of a Federal agency, a list that is needlessly used.

Mr. WEISS. Mr. Chairman, I have heard the gentleman say that. If I may recapture my time just briefly, I want to tell the gentleman that the experience that was recounted by the gentlewoman from Colorado (Mrs. SCHROEDER) is a very real one. It has happened not just in Colorado; it has happened in my district in New York, where people who were obviously Hispanic by appearance and by accent were stopped in subway cars, in restaurants, and driving taxicabs. These are only Hispanic-appearing people, and they were questioned by the Immigration and Naturalization people.

The CHAIRMAN. The time of the gentleman from New York (Mr. WEISS) has again expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield at that point?

Mr. WEISS. First let me complete my thought.

There is a very serious danger inherent in the sanctions provision. The hope and expectation is that that provision can be stricken from the bill. But in the event we are not successful—and it is important to point out to the body that it has carried twice already—it seems to me that the amendment offered by the gentleman from California (Mr. HAWKINS) is absolutely essential to demonstrate to those who would discriminate that in fact they are going to get caught or at least there is a likelihood that they are going to get caught.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am delighted to yield to the gentleman from California.

Mr. DE LA GARZA. Mr. Chairman, I would say to my dear colleague that I have no disagreement in that aspect, but I am again saying that the gentleman's concern about the possibility of discrimination is minimal compared to the potential for mischief when we make another list available of all those people whom the gentleman and I wish to protect. Then they get stopped on the subway, they get stopped on the metro, because they are Hispanics. We are putting them on another list just because they go out and apply for a job.

The CHAIRMAN. The time of the gentleman from New York (Mr. WEISS) has again expired.

(By unanimous consent, Mr. WEISS was allowed to proceed an additional 30 seconds.)

Mr. WEISS. Mr. Chairman, the gentleman and I, I guess, can continue to chase one another's tails around on this particular issue for some time. The gentleman believes that more mischief will be created by requiring employers to keep a record which can demonstrate whether in fact they have discriminated or not, and I think that more mischief is created if that is not done and the sanctions provision is kept in this legislation.

Mr. HANSEN of Idaho. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate what the gentleman from Florida (Mr. SHAW) stated about a charade, and I appreciate a lot of the other comments that have been made about the time. I was here also last night into the wee hours. I appreciate what was said about the time constraints and all these things. But I think we see something else here, some concerns that have never really struck the committee, like what is being imposed here now upon those who would have to live with the impact of such a law.

There are those who go to the border and they see things, and they become instant experts, but they do not have to live with the impact of such legislation as this. I have heard the chairman of the full committee state that they can go to the courts and they can get redress.

Mr. Chairman, I have seen evidence that when there has been abuse of people's rights, they go to the courts and it costs them money. I have seen cases where people can be deprived of justice because the Immigration Service could hustle off the witnesses where there has been abuse of an illegal alien, and they can send him back to Mexico, and they could not do anything about it. I have seen cases of even murder. I have seen cases where young farmers on this sanction type thing have been put to the test because of the entrapment operations of the INS and the Federal court threw out what the INS was doing. And I have seen where it would cost as much as $40,000 to prove they were not doing wrong.

Mr. Chairman, I have seen certain circumstances where these things happened. For instance, I would like to recite from the grand jury testimony by a man by the name of Willie Garcia, who was a witness just a year ago and who stated: "my position now is as a criminal investigator assigned as an antismuggling agent." Six pages later this antismuggling agent is talking about being in Mexico smuggling Mexicans into the United States.

I have not seen the committee address this. I have made this available to the committee, to the Department of Justice, and so forth. I have not seen anyone who wants to address the fact that the Department of Justice and the Immigration Service are not acting according to the laws passed by this body.

If we give more sanctions and more authority, what is going to happen?

My colleague, the gentleman from California (Mr. LUNGREN), has said, "well, what the border patrol needs is more men." Well, do they need more men being in Mexico to send more people up here to trade like cattle? Is the Government doing it? That is what we are talking about.

I checked with the Mexican authorities and the Ambassador, and I checked at the Capitol in Mexico City. There was no authority for American immigration agents to be operating inside Mexico. How would the U.S. Government like it if Mexican agents were operating inside the United States smuggling Americans like cattle 1,000 miles into Mexico to trade them? There would have been a terrible uproar in this country.

And all of this is at a time when our own President Reagan was trying to establish decent relationships with President Portillo Lopez. It could have been highly explosive and highly embarrassing. It just seems to me it is time for us to stop and think what we are doing. We hear the fact that we are opening the gates for selective justice, selective justice by an Immigration Service that wants to single out someone and say, "we are going to make an example of you." There is nothing to get people's attention more than to be standing in line and having someone come along and hitting one of them over the head with a baseball bat. They make their point that way. Everybody else understands that if they got his attention, they can get yours. That is what happens.

This list business that the gentleman from Texas (Mr. DE LA GARZA) has been talking about is, I think, absolutely important to address. I have had the Internal Revenue Service in my own district take lists of people with driver's licenses, check them against their own, and go door to door, plan door-to-door operations at gun point to check it out to see if people filed their income taxes. And that is documentable.

My point is that the existence of lists in the hands of Government is a very dangerous thing sometimes, and I think the gentleman from New York (Mr. WEISS), who was in the well a moment ago, certainly understands

that. The point was brought out very well about what Government can do and what governments have done. That can lead to a great degree of mischief.

I think that is very important, and I have an amendment to address that. I say that we should strike this business of sanctions or lists, or otherwise we are going to dedicate this country to something that I do not think any of us can stand or any of us want, and that is an absolute set of second-class citizens and second-class human beings if the Government would enforce this kind of condition.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I am pleased to yield to my friend, the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I rise in support of H.R. 7357, the Immigration Reform and Control Act of 1982. I would like to commend the Subcommittee on Immigration, Refugees, and International Law and its chairman, ROMANO MAZZOLI, for their tireless efforts to bring this bill to the floor. I would also like to praise the chairman of the House Judiciary Committee, PETER RODINO, for his work on this issue. He has been spearheading proposals for effective immigration reform for many years.

Immigration has become a vexing national problem, reaching crisis proportions. The Census Bureau estimates that between 3.5 and 6 million illegal aliens currently live in the United States, and other estimates place the illegal alien population at up to 10 million. Many of these people have made tangible contributions to our society, yet, as the New York Times recently noted, they are forced to live under a "cloud of exploitation and fear." The Times also noted that some of these people take jobs that might otherwise go to poor Americans "and extract a price in public tolerance."

H.R. 7357 addresses the serious problems inherent in illegal immigration and at the same time acknowledges the importance of legal immigration and family reunification. It is a carefully constructed compromise that will stem the tide of future illegal immigration while recognizing the humane and practical need to grant amnesty to those aliens who have been here for years.

As one who strongly believes in the concept of family reunification as part of our immigration policy, I was involved in the early stages of this legislation. As introduced, the Simpson-Mazzoli bill eliminated the fifth preference of immigration categories for brothers and sisters of U.S. citizens. Fifteen of my colleagues joined me in a letter to the bill's sponsors, urging them to reinstate the fifth preference. In this letter we reiterated the testimony of the American Committee on Italian Migration:

> For Italians and for many other ethnic groups, brothers and sisters are an integral part of the family reunification concept. Elimination of that preference category would violate a sacrosanct right of an American citizen to live with his family according to his own tradition and lifestyle.

We also noted the inequity in forcing those who wish to legally emigrate to the United States to bear the brunt of our sanctions against illegal immigration.

I am delighted that the full Judiciary Committee reinstated the fifth preference. The crucial concept of family reunification will continue to be a cornerstone of U.S. immigration policy.

I am also pleased that H.R. 7357 contains a provision to permit aliens who entered the United States illegally prior to 1977 to become permanent resident aliens, and allows those who entered the U.S. illegally prior to 1980 to become temporary resident aliens.

This legalization program is supported by former Presidents Ford and Carter, and by President Reagan as well, as the only practical and humanitarian way of dealing with the millions of undocumented aliens now in the United States. In this regard I would commend to the attention of my colleagues an excellent "Dear Colleague" letter circulated by my good friend and distinguished colleague from New York, Representative SHIRLEY CHISHOLM. In her letter she notes:

> To seek to deport (illegal aliens) would uproot large numbers of people who have built up equities in this country, sever close family ties, and present the danger of serious civil rights violations. Surely, the last thing our country needs, at the present time, is a cruel campaign against a significant minority population.

Just as I could not support this bill if the family reunification concept was eliminated, I could also not support it if the amnesty provision was deleted leading to such a cruel campaign against minorities.

H.R. 7357 also makes it illegal to hire, recruit, or refer for a fee, illegal aliens for employment in the United States. I support employer sanctions as a practical way of stemming the flow of undocumented immigrants who compete with U.S. citizens for jobs. This provision is a vital complement to the legalization proposal, especially at a time of grave economic distress throughout our country.

I understand the concern that employer sanctions may result in discrimination because employers may refuse to hire foreign-looking workers for fear of incurring penalties. In order to prevent such abuses, I will support amendments by the Education and Labor Committee which provide redress for job applicants who can prove discrimination. I also believe that merely asking job applicants for proof of citizenship is not an onerous task, and records employers will have to keep to show they have not discriminated can be easily maintained.

This bill is an equitable, carefully constructed, necessary package of immigration reforms. It is vital if we are to maintain control over our borders while recognizing the profound and lasting contributions the immigrant community has made to our society. I urge my colleagues to support this reform with both the legalization program and employer sanctions.

I am including in today's RECORD a copy of the letter which I sent to Chairman RODINO concerning family reunification as well as a letter which my colleague from California Representative DAN LUNGREN, and I circulated to all of our colleagues:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 15, 1982.

Hon. PETER RODINO,
Chairman, House Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to express our deep concern for a provision in the Immigration Reform and Control Act of 1982 that would severely weaken the fifth preference of immigration categories. We urge you to fully reinstate the fifth preference when your full Committee conducts a markup on the bill.

As you know, the fifth preference is directed at brothers and sisters of U.S. citizens who wish to emigrate to the United States. As introduced, the immigration Reform and Control Act of 1982 would have completely eliminated that preference, thus curbing and restricting the rights of Americans to become reunited with their families in the United States.

Sixteen House Members wrote to the Chairmen of the House and Senate judiciary Subcommittees with jurisdiction for the bill urging that the legislation be amended to restore the fifth preference. We were pleased to learn that, indeed, the House Subcommittee on Immigration, Refugees and International Law did provide for a partial reinstatement of the fifth preference. As reported by the subcommittee, the preference will be maintained only for unmarried brothers and sisters of U.S. citizens who wish to come to the United States and married siblings who have already applied. The amended bill would continue to eliminate the fifth preference for married brothers and sisters of U.S. citizens who have not already applied.

We commend the subcommittee for this partial reinstatement and greatly appreciate the responsiveness of its Chairman. We continue to believe, however, that a full restoration—for married as well as unmarried individuals—is necessary.

As was pointed out in a previous letter to Senator Simpson and Congressman Mazzoli:

> There is little economic justification to abandon the fifth preference. Brothers and sisters of U.S. citizens have the support of their families here, and generally do not require public assistance.

The fifth preference is a reflection of the family reunification concept—an important component of our immigration policies. As the American Committee on Italian Migration recently testified:

"For Italians, and for many other ethnic groups, brothers and sisters are an integral part of the family reunification concept. Elimination of that preference category would violate a sacrosanct right of an American citizen to live with his family according to his own tradition and lifestyle."

Proponents of eliminating the fifth preference have argued that retention of that preference will cause serious backlogs. For the vast majority of those who rely on the fifth preference, however, living with a backlog is certainly preferable to living with no prospect of immigration whatsoever.

We recognized the need for reform in our immigration policies, and understand that the Immigration Reform and Control Act goes a long way toward that end. We also believe, however, that family reunification should have a priority in our immigration policies. We therefore urge you to complete the restoration of the fifth preference in the full judiciary Commission markup of the Immigration Reform and Control Act.

We appreciate your attention to this urgent matter.

Mike Lowry, Jonathan Bingham, Bob Edgar, Richard L. Ottinger, Silvio Conte, Thomas Foglietta, Harold Ford, Ted Weiss, Leo Zeferetti, Norman Mineta, Phillip Burton, Guy Molinari, Matthew McHugh, Frank Annunzio, Sam Gejdenson,
Members of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 17, 1982.

DEAR COLLEAGUE: Today the House will consider H.R. 7357, the Immigration Reform and Control Act of 1982. In this regard, we commend to your attention the lead editorial in the New York Times of December 16.

H.R. 7357 as reported is an equitable and necessary package of immigration reforms. The bill recognizes the importance of legal immigration and family reunification; contains methods to decrease future illegal immigration; creates potential employment opportunities for American workers. It also recognizes that aliens who have been here illegally for years have already made contributions and have been productive members of our society. As the editorial notes, they should now be freed from a "cloud of exploitation and fear."

We urge you to support this carefully constructed measure.

Sincerely,

DAN LUNGREN,
RICHARD OTTINGER,
Members of Congress.

IMMIGRATION AND PURITY

What do good conservatives think about immigration? The same thing, chances are, that good liberals do. Probably no issue lends itself less to partisan ideology—or attracts more centrist agreement. Yet paradoxically, that very quality explains the peril hovering over the immigration bill to come up in the House today.

The Senate overwhelmingly approved the bill last fall, and by every sign the House would do the same if only there is a vote today. But that may not happen; this painfully achieved proposal is not pure enough for extremists on both ends. If they succeed in drowning the bill with dozens of perfectionist amendments, the opportunity of a generation will sink with it.

Unlimited immigration was a need, and a glory, of the undeveloped American past. Yet no one believes America can still support it. We must choose how many people to admit, and which ones. That can be done only if we can control the borders. Otherwise, a population troubled by hard times will slam the Golden Door. As the Senate debate demonstrated, there's a rising, ugly nativist sentiment to keep out not only the illegal gate-crashers but also legitimate entrants like the sister from Italy, the refugee from the Soviet Union, the physician from Nigeria, the grocer from South Korea.

To do that would defile America's historic image; worse, it would do practical harm. All Americans prize the vitamin shots of energy, ambition and skills that legal immigrants keep injecting into our society. But illegal aliens take jobs and social welfare funds that might otherwise go to poor Americans—and extract a price in public tolerance.

The surest way to avert the rising exclusionist sentiment is to pass the carefully balanced Simpson-Mazzoli bill. On the one side, it meets a humane need; amnesty for illegal aliens who have been here for years. That is essential, if only to free them from a cloud of exploitation and fear. But without tougher enforcement amnesty would only encourage more illegal immigration.

That's why the bill would also create a practical form of enforcement: through employment. At present, if an employer hires illegals only they are subject to prosecution. The Simpson-Mazzoli bill would make the employer culpable too. In time, that would turn off a powerful magnet.

Could the bill be improved, by liberal or conservative lights? Obviously, and that's exactly the point. To have gotten this far, any immigration bill would have to be a compromise—and this is an honorable one. Yet at five minutes till midnight, purists still insist on making the best the enemy of the good. Simpson-Mazzoli deserves to be called a reform bill. The next immigration bill, if there is one at all, could warrant a much uglier adjective.●

Mr. PEYSER. Mr. Chairman, in one sense I am sorry that I am taking the floor at this time because we have reached the point obviously where there are very few Members to speak on this particular amendment.

I want to speak briefly on this amendment because I believe it deals with protection of the people who are most affected by this legislation. I have listened with interest, of course, to my friends from Texas who have discussed this from another point of view, and their problem is obviously a serious one.

However, on balance I would have to come down on the side that says the best effort to protect the people is to support the amendment offered by the gentleman from California (Mr. HAWKINS).

Now, due to the procedure that we are in today and due to the time constraints of this committee rising at about 3:30—which is what my understanding is at this time—one of the things that I wanted to be sure was acted on in this bill, that dealing with the protection of an individual in a certain group is not going to be coming up. In a very practical sense, we are not going to have time to reach this amendment, and yet it is an amendment that, just by its passage, regardless of what happens to the bill, would have a profound impact on someone in this country whom many of us have followed for the last year and a half and who is facing a very distinct problem. The person I am talking about is a young Ukrainian boy whom many of us met just a few months ago here named Walter Polovchak.

Walter Polovchak's case is now in the Supreme Court of Illinois. The amendment that was to be offered is an amendment that would simply say that where the Federal Government of the United States of America granted asylum, he could not or she could not be forced involuntarily to leave this country. And yet that is surely conceivable in the case of Walter Polovchak at this time.

I believe it is a very essential interest of this Congress and an interest of the Federal Government to say that when, in the wisdom of the Federal Government, asylum is granted for political or religious reasons, a locality should not be able to override that decision of the U.S. Government.

□ 1400

It had been my hope to be able to offer this amendment, and just the passage of it—and I am convinced it would be passed—would be a clear signal to the courts in this case in Illinois as to what the Congress felt on this issue.

I have asked my good friend from Illinois (Mr. ANNUNZIO) to carry the ball on this case next year because it is obvious that we are not going to reach a conclusion here, as he is very interested in this case and he is going to do that.

However, the best I can do at this point is to say for the Record that it is very clear in my mind that if the Congress today could act on this amendment that they would pass it.

I do want to take just a minute and a half, which is about what it is going to take me, to read part of a letter from the wife of Alexandr Solzhenitsyn, Natalia, on the subject of Walter Polovchak on what this whole thing means.

In speaking of Walter she says:

If I had not already known many situations before this when the deepest naivete of some responsible Americans—together with the kindest and even highest intentions on their part—lead to brutal consequences, I never would have believed that adults living on our planet in the 20th century might seriously consider the possibility of returning the boy to the U.S.S.R. against his will. After all, this is not a puppy, not a kitten, this is a being possessing a soul—and it is precisely on his soul, on his free will, and not on his hands and feet that the enslaving Government of the U.S.S.R. is laying claim.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

(By unanimous consent, Mr. PEYSER was allowed to proceed for 3 additional minutes.)

Mr. PEYSER. Mr. Chairman—

Of course in this instance it is easy to object that, in principle, a rational society should not support the rebellion of children against their parents. I myself consider that the family might well be the most important structure of society, and by weakening it and destroying it as an institution humanity is threatened with immense calamities. In our own family my husband and I try to bring up our children with complete respect toward their elders and with a consciousness of the extreme importance of continuity and tradition in the life of human kind.

But all these considerations make sense only for those societies where the family is at least partially independent from the state. In the U.S.S.R. for many decades already the family is deprived of its rights just as much (if not more) as any individual citizen. Consider the countless instances when the state has taken children away from their parents (formally!, "legally"!), for example, because of religious education. In case of divorce, that spouse who wanted to and was able to prove that the other spouse is not 100 percent loyal to Soviet ideology would immediately receive rights to the child without any consideration.

The letter goes on, Mr. Chairman, to state that it would be their hope that this Congress in its action would never take a step that would end up in the returning of this young man against his will to the Soviet Union.

I have interviewed, and many of my colleagues have heard the testimony of a high KGB official who has defected to the United States, who met with me and indicated that what would happen to this young man if he was returned is that he would go under the control of the KGB and, in effect, his life would end.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I am happy to yield.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding and I appreciate his remarks.

I rise in support of the amendment. I want the record to show that I oppose employer sanctions and oppose the bill.

Mr. Chairman. When I arrived in the House, nearly 8 years ago, this body was engaged in one of its most honorable eras—an era devoted to human and civil rights that produced some of the greatest humanitarian legislation in history.

It has been among my greatest pleasures, and rewards, to have helped shape and preserve some of those bills. And having come through that experience, I am extremely distressed that the House is now considering a bill, H.R. 7357, that beyond any doubt will result in renewed discrimination against minorities, on the basis of skin color and accent—despite the sincerest good wishes of the prime sponsors.

Look at the question of employer sanctions. under this bill, any employer who hires an illegal alien faces a heavy fine. Well, how is one to know that a potential employee is, or is not, illegal? How is the employer to determine the validity of a green card? And where is the burden of proof? H.R. 7357 leaves it very unclear.

Employer sanctions are a serious affront and threat to the civil rights of minorities. Employers are going to be extremely hesitant about hiring anyone who might look like an illegal alien. And who is it that might look like an illegal alien? These are not the white faces in this country. It is the Hispanics, the Chinese, and the Southeast Asians who will face very serious job discrimination under these sanctions.

Further, I am also disturbed by the contentions that this bill is somehow a jobs bill. I would like to call your attention to the INS project known as Operation Jobs, because I believe the failures of this operation show us what we can expect if this bill passes.

During Operation Jobs, INS ousted undocumented workers from their jobs and offered the jobs to out-of-work Americans. But when the jobs came open, American workers refused to take them. They regarded the work as dirty and the pay as meager.

As a provider of jobs, Operation Jobs was a disaster. And that is exactly what we can expect from this bill. Sanctions will not create jobs; but they will cause discrimination.

There is another point that makes this bill repugnant—the proposal for development of a national employment verification system. I regard this as nothing less than the first step in the creation of an internal passport.

All of my concerns have been highlighted in the Wall Street Journal and the New York Times and I would like these articles included in the CONGRESSIONAL RECORD.

[From the Wall Street Journal, Dec. 5, 1982]

"DIRTY WORK": AMERICANS TURN DOWN MANY JOBS VACATED BY OUSTER OF ALIENS

(By Merle Linda Wolin)

When the U.S. Immigration and Naturalization Service launched "Project Jobs" last spring, its aim was to oust undocumented foreign workers from "better" jobs and thereby open employment opportunities for out-of-work Americans.

In the well-publicized crackdown during the last week in April, agents in nine major cities arrested 5,440 aliens at 560 different work sites. Operating on the assumption that unemployed U.S. workers wouldn't take jobs at the lowest level, agents largely ignored aliens working as busboys and field hands. The aliens seized in the raids had been earning an average wage of $4.81 an hour.

Joseph Salgado, associate commissioner for enforcement at the immigration service and mastermind of the project, hailed the raids as an "unqualified success." But then, over the summer, the aura of success faded as academic and newspaper surveys in cities such as Los Angeles, New York, Houston and Detroit indicated that most of the vacated positions were once again filled by the arrested aliens or their counterparts.

What went wrong with Project Jobs?

The answer to that question is particularly relevant as suporters of the controversial Simpson/Mazzoli bill push for its final passage during the current lame-duck session of Congress. The proposed law, which cleared the Senate in August and possibly will go before the House this month, makes it unlawful for employers to knowingly hire illegal foreign workers and grants amnesty only to those undocumented aliens who were in the U.S. before 1980.

SHAKY HYPOTHESIS?

According to its supporters, the proposed law could create an estimated one million to two million job opportunities for unemployed Americans. But for the legislation to work, Americans must be willing to take the jobs now held by illegals and stick with them—a hypothesis that is contrary to much available evidence. Most local and regional studies, for example, show that the estimated 3.5 million to six million undocumented workers in the U.S., constitute a largely unskilled work force holding jobs that most Americans don't want. And in 1980, the Select Commission on Immigration and Refugee Policy, a blue-ribbon task force appointed by President Carter, concluded there is no strong evidence to support either the idea that illegals take away jobs or, more importantly, that Americans want the work.

And then there are the results of Project Jobs.

Interviews with 26 randomly chosen employers hit by the immigration-service raids in five major cities indicate that nearly all the U.S. workers who took the vacated jobs in their operations left within days. But numbers don't tell the entire story. More revealing are conversations with some of the Americans who actually tried the work and left—conversations that suggest why at least some U.S. workers don't want the so-called better jobs held by illegals, even in times of double-digit unemployment.

DEAD-END JOBS

The 19 workers who were interviewed were culled from employer lists of former workers. Most of those interviewed say they spurned the jobs mainly because they considered them dead-end, demeaning and underpaying. But they also left because they had a backup source of support such as welfare or family. All say they believe Americans simply don't want such jobs (although some say they would reconsider if the pay were better).

Some of those who have studied the U.S work place suggest that unemployed Americans don't want certain jobs because of certain broad, sociological factors. "We simply don't bring up our children to be manual-service workers." says Wayne Cornelius, head of the center for U.S.-Mexican studies at the University of California at San Diego. He speculates that Americans who took positions opened by Project Jobs and then abandoned them might have been influenced in part by the weakening of the belief that hard work is the vehicle for upward mobility, by rising levels of education in the U.S. and by rising occupational expectations.

The kinds of positions opened up by Project Jobs were viewed as "Mexican jobs or Haitian jobs," Mr. Cornelius says, adding

that he thinks a certain stigma is attached to work held by foreign laborers. He says further: "The attitude is this is the dirty work of society and that people born, brought up and educated in the U.S. shouldn't have to do them."

TALES OF FIVE WORKERS

The stories of five U.S. workers who gained employment as a result of Project Jobs and then left their positions are illustrative. One of those workers is Fred Luttjohann, a 35-year-old Californian who took a job created by the raids on a furniture-assembly line only to quit after two and a half weeks. "I wouldn't have stayed even if the money was better," he says, noting that he earned $3.50 an hour. "I knew what I was getting from the beginning. It was the work."

Mr. Luttjohann, a former carpenter, agreed to work at B.P. John Furniture Co. in Santa Ana because he had been unemployed since December 1981 after a five-and-a-half year job. "I got tired of doing nothing all day, just watching TV," he explains, sitting on the patio of his parents' small, comfortable Orange County home.

A soft-spoken, divorced father of one daughter, Mr. Luttjohann says he has been living with his parents since he was laid off last year. At the time he took the assembly-line job, he says, he was drawing $520 in monthly unemployment-insurance benefits—$80 more than his B.P. John take-home pay.

At B.P. John, a budget- to medium-priced furniture maker, Mr. Luttjohann and about 400 other workers—most of whom, he says, couldn't speak English—worked 10-hour days, four days a week. His task was to stand alongside a conveyor belt and put drawers in cabinets. By the third week, he was spent. He says the cabinets rolled too quickly down the line to put in the drawers and there was no help. After lunch on the 13th day, he quit.

"I told the foreman, 'I can't do this anymore,'" he says. "My arms are tired, my back is tired. For what you're paying me, and for what I'm doing, I just can't do it."

Four months after he left B.P. John, Mr. Luttjohann landed a $7.18 an hour, part-time job as a bus driver for an elementary school in Huntington Beach. He holds that job today; he likes the work, he says, because he gets along with children and because he likes to drive. "It all turned out for the best," he says.

The Cooper brothers of Houston say the main problem with the jobs they took in the wake of the raids was more with the pay than with the work itself. "It was too much hard work for cheap pay," says Billy Wayne Cooper, 23, of his $4 an hour job repairing railroad tracks for Earl Campbell construction Co. "I could've slung hamburgers and made more money than that, out there in the hot sun driving picks."

Terry Cooper, Billy's 20-year-old brother, took the same job A former truck driver who had earned $5.50 an hour, he says: "I was desperate for a job. But the day they work you eight hours a day, that work is worth $12 an hour. . . . We were like dogs out there. I ain't never been in prison, but it felt that way."

After two days working at what they both described as "hard labor," the Cooper brothers quit. "I would've stayed if they paid more," Terry Cooper says. Billy Cooper, also a former $5.50-an-hour truck driver, says: "You can't live on $3.50 an hour. Maybe Mexicans can, liying four to five families in one house. But on that, no way we could live by ourselves."

Both men say they took the work only because they had been unemployed for several weeks before the raids and couldn't find jobs. After they quit, they say, they each depended on savings and part time jobs. Then in June, Terry landed a $6.50-an-hour job on a Harris County park-maintenance crew. "You couldn't chase me off the work," he says. A month later, Billy found another truck driving job, also for $6.50 an hour."I earn more money now, and it's not near as hard work," he says.

Another Houston worker, Timothy E. Cochran, spurned work created by the raids more because he didn't like working with Mexicans than because of the job or the pay. The 19-year-old accepted a $4.20-an-hour an hour tree-trimming job at Trees Inc., a large concern that keeps branches away from electrical lines for the utility and telephone companies. After two weeks of climbing trees and hauling brush, he had had enough.

"Just too dangerous." Mr. Cochran says of the work, noting that he simply walked off the job. But in further conversation, he repeatedly makes remarks indicating he quit mainly because he was disturbed about working with Mexicans.

Sitting shirtless in a rickety wooden chair in the small, cluttered living room of his mother's house on Houston's North Side, Mr. Cochran frequently disdains his former co-workers as "wetbacks" and claims they weren't as scared of climbing trees as he was "because they were too stupid." He also seems to have been offended by the fact that co-workers spoke Spanish. (Although he makes contemptuous remarks about blacks, he says he would rather work with them than Mexicans because "at least they speak English.") And he says the only way he would ever go back to Trees Inc. is if the Immigration Service "hauled off all the wetbacks" and the company "started having some white foremen."

"A few Spanish ain't bad," he says. "But overdoing it is overdoing it." (Mr. Cochran says his foreman was white.)

Since his work at Trees Inc., Mr. Cochran says he has held a few odd jobs and earned other money repairing a few cars. "Finding jobs is no problem for me," he says. "The problem is finding one that suits me." He currently lives with his parents who support him. In the future, he says, he plans to get married and look for another job. But he asserts he won't accept minimum wage. "That's woman's pay," he explains.

A MATTER OF PRIDE

The current whereabouts of Jerry Goodman is unknown. When interviewed earlier this fall, he was in Chicago. At that time, he admitted that pride got between him and his $4.35-an-hour shipping-clerk's job at Newly Weds Foods Inc., a private food processing plant on the city's North Side. On his third day of work, when there was nothing else to do, he said, the foreman asked him to sweep the parking lot.

"That's when I quit," he said. "I just couldn't live with the thought of others seeing me (sweep the parking lot). It belittled my pride. I considered it slave labor."

Mr. Goodman, a 25-year-old bachelor, said he only reluctantly took the Newly Weds job the day after the immigration raids because he previously had earned $8.20 an hour driving a truck and considered $4.35 an hour too low. But his unemployment insurance of $592 a month had run out, and he had no other income. "I had to settle for it," he said.

The first two days were spent loading and unloading trucks with sacks of flour and other baking materials, he said, and were "tolerable." His co-workers, he said, were mostly Mexicans and were friendly and helpful. He called everyone "amigo."

On the third day, he said, before he quit, he thought about the rigors of unemployment because he knew it would be difficult to find another job; still, he couldn't bear to sweep the parking lot. "That the others could see me—that's what I didn't like," he said.

HARD TIMES

After Newly Weds, however, Mr. Goodman fell on hard times. Without an income, he was forced to give up his apartment, sell his car and furniture and move back home with his parents and five younger siblings. For money, he relied on $144 a month in welfare payments. That amount, he said, supplemented the $197 a month that his parents receive from Social Security and food stamps. "It's been very hard for the whole family," he said.

In early September, Mr. Goodman accepted a 30-day trial for a $3.95-an-hour security guard position with a local company. "Worse than Newly Weds," he said at the time but added that he would try to stay on the job. Since that time, however, he has been unreachable. His parents' phone has been disconnected, and the personnel director of the security company said "Jerry who?"

At the time of his interview with this newspaper, Mr. Goodman said that employers know that if Americans don't take low-status, low paying jobs, "the Mexicans and Puerto Ricans will," And he said he believes the government ought to oust undocumented aliens; the resulting labor shortage, he said, would force employers "to pay more to citizens—to people born here who are entitled to these jobs."

Billy Cooper, the Houstonian, agrees. Creating a labor shortage, he says, is the only way to force employers to pay "a white man's wage." And if employers can't—or won't pay higher wages? Terry Cooper answers that question: "They need to go out of business."

But Fred Luttjohann, the Californian, says that most Americans simply don't want the kinds of jobs that were opened up by the raids. "I wouldn't think Americans would want to do the work," he says about his furniture assembly job at B.P. John. "I wouldn't recommend it for anybody, that's for sure. It's too much work for one person."

[From the New York Times, Sept. 9, 1982]

EDITORIAL

(By William Safire)

WASHINGTON, September 8.—In a well-meaning effort to curb the employment of illegal aliens, and with the hearty good wishes of editorialists who ordinarily pride themselves on guarding against the intrusion of government into the private lives of individual Americans, Congress is about to take this generation's longest step toward totalitarianism.

"There is no 'slippery slope' toward loss of liberties," insists Senator Alan Simpson of Wyoming, author of the latest immigration bill, "only a long staircase where each step downward must be first tolerated by the American people and their leaders."

The first step downward on the Simpson staircase to Big-Brotherdom is the requirement that within three years the Federal Government come up with a "secure system to determine employment eligibility in the United States."

Despite denials, that means a national identity card. Nobody who is pushing this bill admits that—on the contrary, all sorts of "safeguards" and rhetorical warnings about not having to carry an identity card on one's person at all times are festooned on the bill. Much is made of the use of passports. Social Security cards and driver's licenses as "preferred" forms of identification, but anyone who takes the trouble to read this legislation can see that the disclaimers are intended to help the medicine go down.

Most American citizens are being led to believe that only aliens will be required to show "papers." But how can a prospective employer tell who is an alien? If the applicant could say "I'm an American, I don't have any card," the new control system would immediately break down. The very basis of the proposed law is the notion that individuals must carry verifiable papers—more likely, a card keyed to "a new Government data bank"—to prove eligibility for work.

No big deal, say those who consider illegal immigration more fearsome than the coming of an internal passport; if you're legitimate, you shouldn't object. And shucks, law enforcement officials won't use it for anything else, nosirree—at least not until the nation is ready for another legislated step down the staircase.

Most Americans see no danger at all in a national identity card. Most people even like the idea of a piece of plastic that tells the world, and themselves, who they are. "I'm me," says the little card. "I'am entitled to all the benefits that go with being provably and demonstrably me." Good citizens—the ones who vote regularly, and who don't get into auto accidents—might get a gold card.

Once the down staircase is set in place, the temptation to take each next step will be irresistible. Certainly every business would want to ask customers to insert their identity cards into the whizbang credit checker. Banks, phone companies, schools, hotels would all take advantage of the obvious utility of the document that could not be counterfeited. Law enforcement and tax collection would surely be easier, because the Federal Government would know at all times exactly where everybody was and what they were spending.

And then you might as well live in the Soviet Union. One of the great differences between free and enslaved societies is the right of the individual to live and work without the government knowing his every move. There can sometimes be privacy without freedom, as those in solitary confinement know, but there can be no freedom without privacy.

When Patty Hearst managed to remain a fugitive for 591 days, that did not mean the F.B.I. was bad at catching fugitives. It meant that America was a free society. In China or the Soviet Union she would have been captured in days, because it is impossible for ordinary citizens to move about without permission. If our values mean anything at all, they mean that it is better to tolerate the illegal movement of aliens and even criminals than to tolerate the constant surveillance of the free.

The Attorney General, who evidently has no grasp of libertarian conservative principles, will not fight this legislation. When an outside adviser, Martin Anderson—who with his wife, Annelise, at O.M.B. represent what is left of the conservative conscience of the Reagan Administration—objected in a Cabinet meeting to this danger of federal intrusion. William French Smith was forced to tell Congress of "a small but serious objection" to the identity card clause. He later made his objection meaningless by pretending it was "Inappropriate to presume" he would have to do what the bill mandates him to do—come up with a foolproof identity system."

We are entering the computer age. Combined with a national identity card—an abuse of power that Peter Rodino professes to oppose in the House, as he makes it inevitable—government computer and data banks pose a threat to personal liberty. Though aimed against "undocumented workers," the computer tattoo will be pressed on you and me.

[From the Wall Street Journal, Aug. 12, 1982]

EMPLOYERS AS COPS

Small-business men, watch out. A bill coming before the Senate floor would provide you with another regulatory nuisance, without solving the problem it is intended to solve.

The bill is Sen. Alan K. Simpson's Immigration Reform and Control Act of 1982 (a companion bill has been introduced by Rep. Romano L. Mazzoli). It is a complicated bill, with hundreds of provisions including amnesty for illegal aliens who arrived in the U.S. before 1982, as well as a long-overdue streamlining of asylum procedures. But the most important provision, in the view of the sponsors, would impose civil and criminal penalties on employers who knowingly hire illegal immigrants.

The idea is to shift onto businesses the burden of enforcing our immigration laws. The Immigration and Naturalization Service hasn't been very effective in policing U.S. borders or in making sure foreigners don't stay here after their visas expire. So, it is argued, the only way to stop illegal immigrants is to make employers responsible for denying them jobs. But, at best, employer sanctions won't work. At worst, they could be a regulatory nightmare like OSHA.

At first, under the Simpson bill, the obligations on business would only be a slight bother. Every time someone is hired, the employer would have to fill out a form saying he'd seen at least two pieces of identification—Social Security card, driver's license, etc.—indicating legal residence. However, ID cards are easily forged: You can even buy U.S. identification in Tijuana or Santo Domingo. So this rule, while boosting paper and filing cabinet sales, would be completely useless in stopping the hiring of illegal aliens.

The real trouble would begin after three years, when the president would be authorized to introduce some kind of national identification system. The most common proposal is for something like the telephone checking system retailers use for credit cards: Before anyone could be hired, the employer would have to call up a government data bank to make sure the applicant's ID is genuine. A University of Michigan study in the mid-1970s estimated that there are about 70 million new hires a year—which translates into 7,500 calls every hour. If you've had any experience with the filing systems of the Social Security Administration or other government agencies, you can imagine how much fun it will be waiting for an answer.

Big companies would be able to adapt to sanctions. They already have personnel departments that make detailed investigations into job applicants' backgrounds. They have copying machines and hordes of bookkeepers. They have expensive lawyers to make sure the company keeps out of trouble. Perhaps for these reasons, the Labor Management Committee of the Business Roundtable has endorsed the principle of employer sanctions.

But for small companies, without personnel or legal departments, and where the boss is scurrying around so much that he has to make snap hiring and firing decisions, the measure would be a real headache. Unless there is an OSHA-style inspection force ready to barge in on everybody's files, the incentive for most small businessmen will be to ignore the rules.

Even with the penalties, moreover, many businesses—particularly in construction, retailing, hotels and restaurants and light manufacturing—will still have an economic incentive to hire illegal aliens. Often this will be because the work is menial and American won't take it. Sometimes it is because the illegal alien will work for lower wages. Perhaps the major reason is that these are businesses with high worker turnover where bosses must hire people instantly: A building subcontractor doesn't care where you're from when he needs concrete-pourers right away. It is no accident that the greatest number of illegal immigrants have been in the boom economies of Texas and California. Indeed, it is widely believed that both states' economies would have suffered if they hadn't been able to draw on illegal labor.

None of this is to suggest that illegal immigration isn't worrisome. A nation that prides itself on the rule of law can hardly be comfortable when millions of people are breaking the rules. But employer sanctions will not remove the incentives for illegal immigration. Even if they reduce the flow somewhat, the disruption they will cause in small businesses may make the cure worse than the disease.

Mr. PEYSER. I thank the gentleman and I thank all of you for bearing with me on this issue and yield back the balance of my time.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been one who has always had the highest respect for the author of this amendment, the gentleman from California (Mr. HAWKINS), whom I have known for many, many years, whose motives have certainly never been impugned, who has, I believe personally, as I believe all of us do, the highest motives in the presentation of this amendment.

Today I have been waiting and waiting, and waiting to hear somebody on the floor of the House of Representatives say just a word for the employer, the small businessman in this country.

I have been waiting for somebody to say just a word about what we are asking employers to do by this legislation.

I think it is ironic that a lot of the nonsense, and I really hate to use that

word in this august Chamber, that has been going on around here has been devoted to jobs and the providing of jobs for people who are out of work, for making things so we can provide a better economy.

Yet here we are meeting today ironically on another bill and we are putting the screws again to the employer.

Our distinguished colleague and my friend from California in offering this amendment I think unfortunately points out what it is that we are doing to the very person in this country who we are asking to provide jobs so people can work, jobs so people can have money to buy Christmas presents, feed their children, send their children to school, and we are putting the screws to them.

First of all, on employer sanctions, we are telling the small business man in this country that, "Oh, yes, you can have an affirmative defense if you can have two or three documents that anybody can get at any dime store or any border town to show that a prospective employee is here and it is really not your fault that you hired an illegal alien, a guest worker, an undocumented worker, or whatever we call them from time to time."

So we put a burden on the employer by saying, "OK, Mr. Employer, you pay taxes, you provide jobs, and now we want you to be a free cop for the INS because we cannot afford a good, solid, complete border patrol to close our borders," which is another situation entirely.

So we take the employer and say, "OK, you can do business, but you are going to be a cop and you are going to keep a bunch of records."

Fortunately, and in one sense I thank the gentleman for his amendment because he has now pointed out what the other side of the coin is and that is we are going to put another burden on the employer.

"OK, you have to be responsible, Mr. Employer, to make sure and to verify that your prospective employee is here legally in the United States of America. If you are in question, you do not hire him."

Now, if this amendment goes through we can have the civil rights folks come in and say, "Well, he might not have been legal," or "He might not have been illegal, but you had no reason not to hire him and, therefore, we are going to slap a discrimination suit on you."

I think it is about time somebody spoke up for the employer in this country and said that enough is enough.

I come from a business background. My family is still in business. They are willing, probably because I am a Member of Congress, to accept these employer sanctions and to do everything they can to insure that right and proper things are done in this area. But please, my colleagues, do you not think enough is enough?

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I am happy to yield.

Mr. EDWARDS of California. I thank the gentleman from California for yielding. I think his words should be listened to very carefully because there have been several points of view made clear today about the problems, both from the employer and from the employee, the applicant and the alien, or someone who looks a little bit different from the rest of us.

□ 1410

The heart of this bill or, to quote the words of the gentleman from Florida (Mr. MCCOLLUM), the guts and heart of this bill is employer sanctions. And the whole bill rests on employer sanctions, and it is a flawed concept. It has never worked under any circumstances. The committee has no indication that it will work, and yet year after year—and I have been here a long time—it comes up as a solution to our immigration problems.

The CHAIRMAN. The time of the gentleman from California (Mr. BADHAM) has expired.

(By unanimous consent, Mr. BADHAM was allowed to proceed for 3 additional minutes.)

Mr. EDWARDS of California. Would the gentleman not agree that an immigration bill that does not have employer sanctions as the heart of it, that that will be the happy day that we can take progressive steps to resolving this very difficult and important problem of guarding our borders?

Mr. BADHAM. I thank the gentleman for his contribution, and I believe that my statements and the gentleman's statements point out the confusion in this bill and what the proper course is. The unfortunate aspect of this extremely well meant amendment is to make the problems worse and make them bigger.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I would just like to say that Hoffman hardware Co. in Orange County for years has been one of the most distinguished small businesses in that area, and I would like to commend the gentleman for his association with it and commend him for his remarks.

Mr. BADHAM. I thank the gentleman for his contribution. It was neither small nor in Orange County, nor is it in business anymore, but I thank the gentleman for his remarks.

Mr. JOHN L. BURTON. Is the gentleman still associated with it?

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from California.

Mr. LUNGREN. I appreciate the gentleman's remarks about the potential problems with this. I would just ask one question. The gentleman from California mentioned that every bill that has come forward has had employer sanctions, it is therefore flawed, and until we come up with another idea, we are not going to have anything fly. That is one of the major problems that we have with that. Everyone is looking for the better, perfect idea. No one has come up with anything other than this, and that is a severe problem. If we want to say that there is no solution that is practical, we ought to say that. We ought to say the borders cannot be patrolled, we cannot do anything about the magnet of attracting people here to the United States for purposes of work, and stop all of the debate and stop us from telling the American public we are gong to do something about it. Unfortunately, they are asking us to do something about it. The problem requires that we do something about it. I appreciate the gentleman's remarks. I wish if there were a better idea that we would have it presented on the floor during this debate.

Mr. BADHAM. I thank the gentleman for his contribution. I think what the gentleman says is entirely correct. I think most people in business who are faced with this, who want an immigration bill that will help to clean up the immigration mess that we have now, would accept, grudgingly, swallow hard, and accept some sort of employer sanctions. It is unfortunate but I think almost necessary.

Mr. PATTERSON. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from California.

Mr. PATTERSON. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman, in that the employer sanctions segments of this bill hurt not only the employee but the employer. As a matter of fact, by trying to make the employer the enforcing agency, we are in effect going to see that the local government will have a greater burden as well.

As to controlling the immigration problem, it has not been controlled. I suspect all of us, including myself, have been emigrees to this country, and only by bringing about economic development both at home and abroad can we really solve the border problem.

Mr. BADHAM. I thank the gentleman for his contribution.

Mr. FRANK. I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from California. I think he makes a useful effort to improve on the sanc-

tions, and in so doing I think he helps bring into focus the central issue, and I think it is the one the gentleman from California (Mr. LUNGREN) just mentioned.

This bill looks terrible when you compare it with perfection. If you think about an ideal situation, this bill is about as bad an idea as our being here this afternoon debating it. If you compare it with present reality, it looks a lot better. But most of all, this bill looks good if you compare it with the alternative, because then it wins the heavyweight championship by an absolute knockout in the first second of the first round, because there are no alternatives.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, this is the most incredible debate I have ever witnessed on this subject. "There are no solutions to immigration." May I suggest one to the gentleman from California and to the gentleman in the well: How about putting some more guards at the United States-Mexican border?

Mr. FRANK. I will be glad to respond to the gentleman. I am a little bit surprised, but always prepared to be enlightened, to have my friend from Michigan tell me that many, many more police officers are the answer. But I do not think they are. I do not think it worked when Robert McNamara tried it in Vietnam and I do not think it is going to work now. I think that the United States-Mexican border is sufficiently large so that if every potential law enforcement official we could find were put there, it still would not stop it. And in the second place, it is not simply Mexico where this problem arises. We have immigrants from elsewhere as well, who come by boat along a lot of coastline.

We ought to be clear what we are talking about. We are talking about a problem that is a mark of success. We happen to have, with all of our current problems, a very successful economy. There are in this world people of unusual initiative and determination. They are the immigrants. And we ought to be clear that when we talk about employer sanctions, we are, in fact, paying tribute to the immigrants involved. What we are saying—and it ought to be said explicitly—is that these are not people who come here for welfare, these are not people who come here for any kind of a free ride. They are people who came here, many of them knowing very few people in the country, not knowing the language, having no particular prospects, but out of a sense that they want to make themselves better off. It is a very attractive human drive. It is one that we ought to encourage. I am prepared to vote for probably more legal immigration in this Chamber than is feasible politically. I will continue to support immigration.

On the other hand, I think it is clear that it is in no one's interest to have an unlimited stream of people coming here when they come illegally, because they are themselves exploited. The U.S Chamber of Commerce's opposition to this bill is, I think, the most sensible opposition. They, of all people, know what they are about.

They are about trying, I think, to insure a continued source of pretty cheap labor. As long as we have that cheap labor, it will be very difficult for unions to organize as they should, for OSHA to be enforced, for minimum wages to be enforced.

Now, we say: What are the alternatives?

Let us take it first as to the people who are already here. Sealing the borders will not be retroactive. We have a lot of complaints about amnesty, but we have millions of people here who are at issue. Has anyone told us what the alternative for an amnesty or sanctions is? If the proposal is that the alternative is to somehow get them out of here, then I think we have left the realm of reality.

Let us talk first about that part of it. We have got here x million people who are going to be here, they are working, they are here. No one doubts for a minute they will remain. Are we better off as a nation if they remain here in a legal status or in an illegal status?

The chamber of commerce may think it makes more sense to have them here illegally, and probably on the balance sheets it does. But only in that very limited perspective. It is not good for anyone else. Then the question is: What do we do about keeping more people from coming? We could, I suppose, send thousands of law enforcement people back down to line the American-Mexican border. What that would do in terms of civil liberties and in terms of other people who have a legitimate reason to cross, what that would do in terms of expenses to have the Armed Forces substantially down there, I do not know. On the other hand, that only takes care of Mexico. There are plenty of other places in the world where people want to come and share in the prosperity we have had and hope we will have again. It is not simply a problem with regard of Mexico, of people wanting to come here and work. We have people in many countries who are attracted here by the idea that they can do better economically than elsewhere. I want to accommodate as many of them as possible in a legal way. But I do not think we can simply throw open the gates and let everyone come who wants to.

Other than sanctions, which say to people, "You should not hire them if they are here illegally," I do not know what you do.

Now, we are told, "Well, gee, that is terrible to the employer." It is no more terrible than the burden on anyone in this country who sells alcohol. We are doing to the employers here exactly what we do to everybody in this country who has got a saloon or a package store. You have to prove to him or her who owns the store that you are legally eligible to buy. I do not think that produces a lot of discrimination against 18- or 19- or 21-year-olds, depending on the State's drinking age. They have to have the ID.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(On request of Mr. FISH, and by unanimous consent, Mr. FRANK was allowed to proceed for 3 additional minutes.)

Mr. FRANK. I think it is important to have a good faith requirement in there so that an employer does not have to become an investigator or a detective. We are not asking the employer to hold the ID up to the light and see if it is counterfeit. We are not asking him or her to doublecheck and say, "Well, are you really here, and did you pay off?" We are asking that the piece of paper be shown, not I think a great burden.

In the average employment application you probably would not be able, without knowing where it was, to find that piece of paper through all of the other pieces of paper that are there. Now, again, it is an unpleasant situation. I wish we did not have all of these people here in an illegal status. That is not good for anyone, most of all them. I wish we did not have the economic imbalances in the world that lead people to keep coming. But what we have got is, I think, a fairly closely reasoned bill, capable of improvement, as in the amendment of the gentleman from California, which I support, and other amendments. But without legalizing the people who are here and trying to remove or at least severely diminish the economic incentive for others to come, I do not think we will do much about the problem. So this will be our last effort, of else it is a valedictory and we can simply learn to live with the status quo

□ 1420

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman for a very cogent argument in behalf of his beliefs about the in-

comprehensible complexity of immigration.

Now, let me just say one thing.

We have got 12 million people here. I support an amnesty provision, like the gentleman from Massachusetts.

Now, the first point of logic on this subject would be trying to stop so many millions from coming in. That is not the end of the solution. It is the beginning of wisdom.

So we have the fact that we ought to have some sort of protective device, so that Members of Congress cannot go down to the Rio Grande and watch people coming over is the beginning of wisdom. But what did we do? We reduced the INS budget and barely got it up to snuff.

In this bill is not one provision for one guard, one piece of material or procedure to improve that.

The second problem, which the gentleman quite eloquently comments, is what do we do with those who are here? I submit to the gentleman that that is a difficult problem. But to mask this on the basis of jobs being lost, has the gentleman got some constituents who want to pick or do that kind of crop stoop labor? I have not got any.

So, let us stop knocking the fact that so many jobs are going to be lost. Because I think, I really——

Mr. FRANK. I never mentioned job loss. If the gentleman wants to debate someone who debated that, I will be glad to help him find that individual. I would appreciate on my time that I be asked to defend what I said. I did not talk about job loss. I did say that when you have people who are here illegally, it is harder to get enforcement of the laws. I did not refer to the job loss, because I think the answer is not to have people fighting over available jobs but to increase them.

Second, I agree with the gentleman. I would like to have amnesty. In the Judiciary Committee I moved with the support of the gentleman for a broader amnesty. I do not like the restriction on one in here. But we would have a hard enough time if we were voting to keep the amnesty we have.

The notion that we could get amnesty without employer sanctions or that we could have employer sanctions without amnesty just is not true. It may no longer be the case that love and marriage go together, but amnesty and sanctions sure do.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(By unanimous consent. Mr. FRANK was allowed to proceed for 30 additional seconds.)

Mr. FRANK. Mr. Chairman, just to summarize, love and marriage may have been made separable—to some people's dissatisfaction and unhappiness—but employer sanctions and amnesty are indisolubly linked, if not logically then politically. If we do not have the enactment of both in this bill, we have neither.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

First of all, I want to compliment the gentleman. I realize in large part this consideration of the first amendment has served as the forum for the debate that we have missed in the past few months. But I want to associate myself with the remarks of the gentleman. You start off asking what is the alternative to employer sanctions. It was suggested in the debate last night and the night before that enforcement of our labor standards was such an alternative.

I want to ask the gentleman whether he agrees with me that enforcement of our labor standards laws does not rely on massive Federal presence but rather the willingness of workers to file grievances—and in the case of illegal aliens this is totally inadequate because we are generally talking about a group that is unwilling to come forward and file the complaints necessary to trigger the enforcement.

Mr. FRANK. The gentleman is absolutely correct.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has again expired.

(At the request of Mr. FISH and by unanimous consent, Mr. FRANK was allowed to proceed for 3 additional minutes.)

Mr. FRANK. The gentleman is absolutely correct. One of the problems we have got with so-called victimless crimes is that there is no one to report them. You put an impossible burden on any police force, any enforcement agency, if you take away from them reports of crimes.

So that if you have got a subject population in the literal sense afraid to speak up for their rights, then the task of enforcing the laws for them is absolutely impossible. No police department in the world could make a dent in any crime if the subjects who were the victims of mugging, if the subjects who were the victims of robbery or auto theft, if the victims could not report crime you could not do anything about it.

And you have got that particular problem very much here. Without a population that is legally able to fight back, then there is no chance of enforcing any of our labor laws.

Mr. FISH. I realize I have a Member in the well with absolutely impeccable credentials as a civil libertarian. I would like to return to the amendment under discussion, which requires that an employer make a notation of the name and address of anybody and everybody who applies for a job within a 90-day period.

It concerns me that we require this despite the fact that no allegation of discrimination has been made by the prospective employee and no allegation of illegality has been made by the prospective employer. And I wonder just what the relevancy to this bill is of adding this requirement.

Second, would the gentleman consider the question of the possible invasion of privacy when Government entities know how many jobs—and exactly what jobs—you applied for unsuccessfully. What earthly purpose does that serve?

Mr. FRANK. I think the amendment needs some refinement. I say that not critically of the gentleman from California, because I have a version of the same thing later on.

The purpose it serves is the fear on the part of many Hispanics in particular that if you only have to document once you are hired, that that will be a reason not to hire them. Whereas if you in fact require the documentation at the application stage, then you are canceling out a potential differentiating factor and are less likely to have that kind of problem.

Second, it provides a data base to see if there has been discrimination.

If I understand, eliminating the differential paperwork requirement at the outset they think would diminish the likelihood of discrimination.

Mr. FISH. The gentleman realizes discrimination is not an issue in this amendment. This is not a verification amendment. It requires names and addresses. None of the questions are asked under this amendment that go to the issue of your eligibility for employment.

Mr. FRANK. I would apologize. I misunderstood as I read the amendment. My understanding was this was also to require that there be a showing of legal residence—if that is the case, I would have to withdraw what I said.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, I ask for a moment to commend the gentleman on a really brilliant statement. I thank the gentleman as usual—though some of us have little difficult fathoming that staccato rapid fire Jersey Bay State accent—for those of us with trained ears who have been able to understand what the gentleman said, and most of us can, it was a brilliant statement putting it all into perspective.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(At the request of Mr. MAZZOLI and by unanimous consent, Mr. FRANK was

allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, what I think the gentleman has said, is, there is a great difficulty in dealing with the subject. He has said in any case the centerpiece of any action has got to be a broad and a generous legalization coupled with indissolubly a very good and tight and fully teethed form of employer sanctions.

The gentleman has stated it. I think really the House has heard in this debate today so far the reason why this bill that has been reported is a good bill.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, I would like to say to my colleague from Massachusetts, with whom I probably have as much in common as anyone here, that the heart of what we are doing here is discussing the possible discriminatory aspects of this bill. It is interesting that even amongst those who are of Hispanic background, and who are part of the Black Congressional Caucus, that we are united in our opposition to this bill.

I think the reason for this is the question of discrimination. But I do not have to tell the gentleman in the well.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(At the request of Mr. GARCIA and by unanimous consent, Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. Mr. Chairman, I think the crux of what we are talking about is discrimination. And for those of us who have understood it and have lived with it, we do not see a particular aspect of this bill where we are certain that it will not take place. What we are trying to do is to perfect it, to make certain that those of us who represent the new migration—I am certain coming to New York at the turn of the century there were Italians who had their share of problems, Jews who had their share of problems, and it was the La Guardias, in those days, who took the floor of this Chamber, and spoke on behalf of the Italians, and other minorities. Do the same as the La Guardias.

We are charged with the responsibility of being just to the new migrants, whether they be black from Haiti or Hispanic from the Caribbean or from Central America, or Mexico. Yet, I keep hearing from many here, that this is the best we can get.

Well, if the best we can get is going to discriminate against Hispanics and against blacks, then I think that it is not good enough.

□ 1430

Yes; there are parts of this legislation, especially the amnesty program, which are good, but there are persons on that side of the aisle who are going to move to strike the amnesty; it seems to me that unless we can get a solid coalition of individuals who will protect the rights of minorities, then we will not be able to live comfortably with this legislation. If this were to pass, I would not want to come back 1 year or 2 years from now, and neither does anybody in this Chamber, and say, "We made a mistake," because hardship has been caused to people who are black or brown.

So I say to my colleague, the gentleman from Massachusetts, for whom I have tremendous respect, and I am as happy as anybody in the world that the gentleman won this year, because I know he is going to continue to make a good contribution to this body. I disagree with him, but every now and then even the best of us can disagree. I remain firm, however, in my belief that this bill is not good enough.

Mr. FRANK. Mr. Chairman, I thank the gentleman for putting it that way.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. MAZZOLI, and by unanimous consent, Mr. FRANK was allowed to proceed for 3 additional minutes.)

Mr. FRANK. Mr. Chairman, I appreciate very much both the substance and the spirit in which the gentleman from New York made his remarks. I think he has very helpfully defined the issue.

I guess my difference with the gentleman is just on a couple of points. One is predictive ability. Maybe the gentleman thinks that from our perspective, we can do better in the future. I do not.

As far as amendments and further refining this, I would hope we could do that. I supported some which lost in the committee.

I think we ought to be clear that we have a better bill here in the House than they had in the Senate. And I agree that it can be done better by amendments now before us. But I see no chance in the future for a bill with amnesty alone.

When the gentleman said at one point that it has the possibility of discrimination, I guess I am saying that the positive antidiscriminatory effects of amnesty, and I really mean that very sincerely, I think the greatest blow we can strike against actual ongoing degrading and dehumanizing discrimination that is currently in this country today would be in amnesty.

I just do not think we will ever get anything remotely approaching amnesty unless we also have the best possible set of sanctions.

I may be wrong, and as I said, I appreciate the way in which the gentleman phrased it; but that seems to me the choice we have to make here today and I fear that if we do not get one, we will not get both.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, if amnesty is struck out, which is the clear intention of many on the other side of the aisle, where will the gentleman be then?

Mr. FRANK. Against the bill, as I have said on many other occasions.

Mr. CONYERS. I thank the gentleman.

Mr. FRANK. I think we have a very honorable deal here and I think that people would understand that. People on the one side do not like sanctions and on the other side some do not like amnesty; without one we will not have another. What we will have is 8, 10 or 12 million illegal people here and hundreds of thousands, perhaps millions more coming, and I think that is an unfortunate situation.

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the gentleman from Massachusetts, with the exception which I beg to differ on the amnesty question, has made a very important contribution to this debate by framing the significant policy questions that we face. I think the really big policy question that we have to face is how important is it that we close off the illegal immigration flow across our borders.

How important is it that we gain control of our borders? That is the public policy question.

The additional subquestion is, What price are we willing to pay to do that? Because there is always a price to do something like that.

When we look at the overall picture, I think it is extremely important that we gain control of our borders. I think that with the total numbers that are in here, that is one thing, of illegal aliens I am talking about; but when you consider the fact that we are gaining at least half a million new people across our borders illegally every year and adding to the numbers that are coming by a multiplier effect of births and so on and so forth, the very quality of life of the American people is threatened over the long haul for the reasons that the gentleman from Massachusetts outlined, and many more.

The question then becomes one of how do we go about controlling that? The way we could go about controlling it a lot of people think is by adding numbers of border patrolmen along the borders or doing traditional things such as adding Coast Guard vessels

around my good State of Florida; but I know and I think most of the Members of this body know that it is impossible to add enough border patrolmen or enough Coast Guard vessels to do the job.

As has been said just a few minutes ago on several occasions, there is really no other reasonable or responsible solution than some form of employer sanctions to deter those people from coming over here who want a better economic life and want the jobs that only America can provide.

Then the question is what price are we willing to pay? What form can that take? That is the whole debate here today.

It happens to be my opinion that what the Committee on the Judiciary, the Subcommittee on Immigration, of which I have been so proud to be a member, has drafted and has perfected in the amending process by and large with a little exception here and there is the only way to go. It is a fair and balanced approach.

Yes, it provides a burden on employers. There is no question that it does. It does add to the difficulties of being an employer in this day and age. It does provide some threat to the opportunity upon occasion to be able to have maybe the precise employees available when you want to have them; but it does provide a reasonable method of proceeding for an employer. It does not place too many restrictions on the employer. It places a minimum burden of paperwork on the employer to achieve the desired results and it places a minimum penalty to achieve the desired results.

The question is: What price is being paid by those who fear because of color, black, brown, yellow, that they are going to be discriminated against? I think that is a bogus fear, but I understand the fear. We debated that last night.

I think that the risks are as minimal as could possibly be under the present form of the employers sanction provision of this bill. That is the question here today. What risks, what price, what cost, what burdens are we as American citizens willing to pay in order to gain control over our borders? If we are not willing to gain control over our borders, and there are those who do not think we should. I know there are Members of this body who have not today come forth to say so who believe that we ought to have a totally open border and let millions come in with no restrictions whatsoever. If we are willing to agree to that, which I am not, then we should certainly end the debate and end the question of employer sanctions; but if we want to achieve the control over our borders that I think is absolutely essential to the future quality of American life, we must have the employer sanctions provisions essentially as they exist in this bill.

Now, the question of legalization I am not going to get into great debate about, but I dispute the assertions of the gentleman from Massachusetts and some others of my colleagues that in some way it is an essential ingredient of this whole process to have amnesty in the bill. It is not. If you have employer sanctions administered as they should be under the laws set forth under this bill, you will have an orderly attrition of those who do not find jobs in this country, without the INS going out and rounding up anybody.

You will have a slow attrition back to the countries from which they came because they do not have jobs. To get jobs is why they came here in the first place and once the opportunity for jobs is gone most illegals will voluntarily go home. It makes no sense to me to have the legalization.

But regardless, win, lose, or draw eventually on that question in the great debate over this issue, I am for the basic premises of this bill that are embodied in all the provisions that are in it at the present time, and most essentially in the employers sanctions provisions because I am ultimately and absolutely convinced, having studied this issue so long and so hard, that we cannot regain the control of our borders without the employer sanctions provisions and without paying a price for those provisions.

The CHAIRMAN. The question is on the Education and Labor Committee amendment offered by the gentleman from California (Mr. HAWKINS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 16, noes 24.

Mr. HAWKINS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Forty-six Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

Mr. MAZZOLI. Mr. Chairman, is it too late to withdraw the point of order that a quorum is not present and if the gentleman wishes a vote that we give a vote?

The CHAIRMAN. The Chair will state that the gentleman's request is too late.

The call was taken by electronic device.

□ 1450

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. HAWKINS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 213, answered "present" 1, not voting 109, as follows:

[Roll No. 483]

AYES—110

Addabbo	Frank	Oberstar
Akaka	Garcia	Obey
Albosta	Gejdenson	Ottinger
Alexander	Gray	Panetta
Anderson	Guarini	Patterson
Annunzio	Hall (IN)	Pepper
AuCoin	Hall (OH)	Perkins
Bailey (PA)	Harkin	Peyser
Barnes	Hawkins	Rahall
Beilenson	Howard	Rangel
Brodhead	Hoyer	Ratchford
Brooks	Jacobs	Reuss
Brown (CA)	Jeffords	Rodino
Burton, John	Jones (NC)	Roe
Burton, Phillip	Jones (TN)	Rostenkowski
Chisholm	Kastenmeier	Roybal
Clay	Kennelly	Sabo
Coelho	Kildee	Scheuer
Conyers	Kogovsek	Schroeder
Crockett	Lantos	Schumer
Davis	Leland	Seiberling
Dellums	Long (LA)	Shannon
Dixon	Long (MD)	Simon
Dowdy	Lowry (WA)	Solarz
Dunn	Markey	St Germain
Dwyer	Martinez	Stark
Dyson	Matsui	Stokes
Early	Mavroules	Studds
Eckart	McKinney	Udall
Edgar	Mikulski	Vento
Edwards (CA)	Miller (CA)	Weiss
Fary	Mineta	Williams (MT)
Fazio	Mitchell (MD)	Wirth
Fithian	Moakley	Wolpe
Foglietta	Mollohan	Young (MO)
Ford (MI)	Murphy	Zablocki
Ford (TN)	Oakar	

NOES—213

Anthony	Conte	Foley
Applegate	Corcoran	Fountain
Archer	Coughlin	Fowler
Aspin	Courter	Frenzel
Atkinson	Coyne, William	Gibbons
Badham	Craig	Gilman
Barnard	Crane, Philip	Glickman
Bedell	D'Amours	Goodling
Bennett	Daniel, Dan	Gore
Bereuter	Daniel, R. W.	Gradison
Bethune	Dannemeyer	Gramm
Bingham	Daub	Green
Bliley	de la Garza	Gunderson
Boggs	Derrick	Hall, Ralph
Boner	Derwinski	Hall, Sam
Bonker	Dickinson	Hamilton
Bouquard	Donnelly	Hammerschmidt
Bowen	Dorgan	Hance
Breaux	Dornan	Hansen (ID)
Brinkley	Dreier	Hansen (UT)
Broomfield	Duncan	Hartnett
Brown (CO)	Edwards (AL)	Hatcher
Brown (OH)	Edwards (OK)	Hertel
Broyhill	Emerson	Hightower
Burgener	Emery	Hiler
Byron	English	Hopkins
Campbell	Erdahl	Hubbard
Carman	Erlenborn	Huckaby
Carney	Evans (IA)	Hughes
Chappie	Evans (IN)	Hunter
Cheney	Fenwick	Hutto
Clausen	Fiedler	Hyde
Clinger	Fields	Jenkins
Coats	Fish	Jones (OK)
Conable	Florio	Kazen

Kemp	Murtha	Skelton
Kindness	Myers	Smith (AL)
Kramer	Natcher	Smith (IA)
Lagomarsino	Nelligan	Smith (NE)
Leach	Nichols	Smith (NJ)
Leath	Nowak	Smith (OR)
LeBoutillier	O'Brien	Snowe
Lent	Oxley	Snyder
Levitas	Parris	Solomon
Lewis	Pashayan	Spence
Livingston	Patman	Stangeland
Loeffler	Paul	Staton
Lott	Pease	Stenholm
Lowery (CA)	Petri	Stump
Lujan	Pickle	Synar
Lungren	Porter	Tauke
Marlenee	Pritchard	Tauzin
Marriott	Rinaldo	Taylor
Martin (IL)	Ritter	Traxler
Martin (NY)	Roberts (KS)	Volkmer
Mazzoli	Robinson	Walker
McClory	Roemer	Wampler
McCloskey	Rogers	Watkins
McCollum	Roth	Weaver
McCurdy	Roukema	Weber (MN)
McEwen	Russo	Weber (OH)
McGrath	Sawyer	White
McHugh	Schneider	Whitley
Mica	Sensenbrenner	Whittaker
Michel	Shamansky	Wilson
Miller (OH)	Sharp	Wolf
Molinari	Shaw	Wortley
Montgomery	Shelby	Wyden
Moore	Shumway	Wylie
Moorhead	Siljander	Yatron
Morrison	Skeen	Young (FL)

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—109

Andrews	Gaydos	Neal
Ashbrook	Gephardt	Nelson
Bafalis	Gingrich	Price
Bailey (MO)	Ginn	Pursell
Beard	Goldwater	Quillen
Benedict	Gregg	Railsback
Bevill	Grisham	Regula
Biaggi	Hagedorn	Rhodes
Blanchard	Heckler	Roberts (SD)
Boland	Hefner	Rose
Bolling	Heftel	Rosenthal
Bonior	Hendon	Rousselot
Butler	Hillis	Rudd
Chappell	Holland	Santini
Coleman	Hollenbeck	Savage
Collins (IL)	Holt	Schulze
Collins (TX)	Horton	Shuster
Coyne, James	Ireland	Smith (PA)
Crane, Daniel	Jeffries	Stanton
Daschle	Johnston	Stratton
Deckard	LaFalce	Swift
DeNardis	Latta	Thomas
Dicks	Lee	Trible
Dingell	Lehman	Vander Jagt
Dougherty	Luken	Walgren
Downey	Lundine	Washington
Dymally	Madigan	Waxman
Ertel	Marks	Whitehurst
Evans (DE)	Martin (NC)	Whitten
Evans (GA)	Mattox	Williams (OH)
Fascell	McDade	Winn
Ferraro	McDonald	Wright
Findley	Minish	Yates
Flippo	Mitchell (NY)	Young (AK)
Forsythe	Moffett	Zeferetti
Frost	Mottl	
Fuqua	Napier	

□ 1510

So the Education and Labor Committee amendment was rejected.

The result of the vote was announced as above recorded.

EDUCATION AND LABOR COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the second amendment offered by the Committee on Education and Labor.

The Clerk read as folows:

Education and Labor Committee amendment: Page 7, at the end of line 3, add the following new sentence: "The person or entity shall also make the completed forms described in this subsection available to officials of the Department of Justice, the Civil Rights Commission, and the Equal Employment Opportunity Commission.".

Page 7, line 21, before the comma insert the following: "and determining whether discrimination because of race or national origin has occurred.".

Mr. HAWKINS. Mr. Chairman, the amendment which has just been read by the Clerk is interwoven with the first amendment that I offered. Inasmuch as the first amendment was rejected, I ask unanimous consent that this amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

EDUCATION AND LABOR COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the third amendment offered by the Committee on Education and Labor.

The Clerk read as follows:

Education and Labor Committee Amendment: Page 9 line 21, insert "either" after "Attorney General."

Page 9, line 24, insert before the comma the following: "or has reason to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of subsection (a)(1)(B).".

Page 10, strike out line 16 and all that follows through line 20, and insert in lieu thereof the following:

(B) In the case of a person or entity which has previously been cited under subparagraph (A), which is determined to have violated subsection (a)(1)(B), and which—

(i) has not previously been subject to a civil penalty under this subparagraph, the person or entity shall be subject to a civil penalty of $500 for each individual with respect to whom such violation occurred;

(ii) has previously been subject to a civil penalty under this subparagraph, the person or entity shall be subject to a civil penalty of $1,000 for each individual with respect to whom such violation occurred; and

(iii) has previously been subject to a civil penalty under this subparagraph in more than one instance, the person or entity shall be subject to a civil penalty of $1,500 for each individual with respect to whom such violation occurred.

Mr. CORRADA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Puerto Rico?

Mr. KAZEN. Mr. Chairman, I object. I want to hear the amendment.

The CHAIRMAN. Objection is heard.

The Clerk will continue reading the amendment.

The Clerk completed reading the amendment.

Mr. CORRADA. Mr. Chairman, I rise in support of the amendment.

Mr. CHAIRMAN, this amendment which I offered when the bill was considered by the Education and Labor Committee and was adopted by the Education and Labor Committee would amend H.R. 7357 as reported by the Judiciary Committee.

The bill, as reported by the Judiciary Committee, establishes civil and criminal penalties for any employer or entity who knowingly hires, recruits, or refers for employment an alien not otherwise authorized to work in the United States.

It requires employers of four or more employees to have all perspective employees show them, as a condition of hiring, any of the following documents:

A U.S. passport or a social security card, U.S. birth certificate, or some other proof of U.S. nationality at birth, and a federally issued alien identification card, a State-issued driver's license, a similar State-issued identification or any other identification that the Attorney General deems reliable.

However, Mr. Chairman, failure to comply with the identification, verification requirements would subject an employer to a citation for a first offense and a maximum penalty of only $500 for each violation thereafter.

These penalities for nonverification of an employee's work eligibility documentation are not only weak but also inconsistent with the penalties established for hiring undocumented aliens which are under the bill for a first offense a citation and warning of possible penalties; second offense, $1,000 civil fine for each unauthorized alien; third offense, $2,000 civil fine for each unauthorized alien; and, fourth and subsequent offenses, $3,000 fine and/or imprisonment for not more than 1 year for each unauthorized alien.

□ 1520

The Attorney General may bring civil action, including seeking an injunction against pattern and practice violators.

My amendment, which, as I said, was accepted by the Education and Labor Committee, would increase penalties for employers who failed to verify that prospective employees are eligible to be employed to, first, a citation for a first offense, $500 fine for a second offense, $1,000 for a third offense, and a $1,500 for for subsequent offenses. And also it would provide authority for the Justice Department to take court action to deal with pattern and practice violations.

I would like to point out that my amendment is consistent with the enforcement aspects of this section as reported by the Judiciary Committee. In counting the violations, the first offense as well as subsequent offenses could still include various violations of verification practices, as long as they

arise under a single proceeding or adjudication.

In addition, the employer could only be penalized for violations committed after the enactment of this act.

Mr. Chairman, the amendment simply provides comparable sanctions for hiring illegal aliens so that sanctions for not verifying identification before hiring would be more or less comparable with the other sanctions. Our major concern, Mr. Chairman, is that unless this amendment is adopted, the verification proceedings would be applied to those who look like aliens, who would be subject to the inconveniences of the verification proceedings, but that the verification proceedings might be overlooked in the case of people who may be aliens but who do not look like aliens. And I believe that, rather than allow an employer to go on to the second stage and find himself in the position of being in violation of hiring an illegal alien, he should be strongly required to make sure that he requires an identification from any who apply for a job.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, I would just like to share with the gentleman who offered the amendment—and I will be brief—I am going to support the gentleman's amendment, I think it is a step in the right direction. But a year ago I had come into my office in Montgomery, Ala., a Mexican family, with their employer who grew tomatoes, and he was asking me to get an extension because this family had been caught as illegal and they were about to be deported. The father, who spoke no English, was very grateful for having had his children educated in this country, and he was not bitter at all. He was asking about an extension. But he had a social security card, he had a driver's license, and he had even bought a pickup truck on credit and had a mortgage on it from the State of Florida.

So I do not think that the requirements that the gentleman is setting out in his amendment are really going to meet the problem. I think it is a step in the right direction. But you can get a social security card, you can get a driver's license, you can get mortgage financing, even if you are an illegal alien, and certainly this is something that should be addressed.

Mr. MAZZOLI. I appreciate the gentleman's statement. I need to reclaim my time to address the gentleman's amendment. But I would like to say to the gentleman from Alabama that he would be happy to know that in the bill there are increased sanctions against fraudulent documentation.

Yesterday, by unanimous consent, this House passed a bill dealing with fraudulent identification, sponsored by the gentleman from Texas (Mr. SAM B. HALL, JR.) and the gentleman from Illinois (Mr. HYDE), which would also stiffen and make very much more painful the penalties on people who would use false and fraudulent identification to derive benefits under Federal act or under this law. So we are moving to the point of trying to curtail that. And I would certainly say to the gentleman that there is a cottage industry that has grown up in basements all over the country in printing presses, and we know it, but we are moving in a proper way to deal with those in criminal sanctions. But in our bill, we now address it in a different fashion.

Mr. DICKINSON. If the gentleman will yield for a short reply, only one of these instruments, either the social security card or the driver's license, need be invalid, and the rest of them just follow on. I do not know which one was invalid, if any.

Mr. MAZZOLI. Mr. Chairman, the delegate from Puerto Rico has introduced a very interesting amendment and one which, in the end analysis, I would not be strongly moved to oppose. I would like to speak in behalf of the bill which is before this House and to reflect with the Members of the House what the bill does do and what it has in it. The gentleman has introduced an amendment which would slightly change the penalty structure, but it is well to reflect that in our bill we have a two-level set of penalties.

There is a penalty in our bill, a very severe civil as well as eventually criminal penalty, for knowingly hiring people without documentation. And then there is a second level, and that is for people who will not and do not maintain records of having examined the documents of all people, whether alien or not alien, who have successfully been hired. So there are two levels of penalty. And I might say to the Members in this Chamber that over two or three times this body has adopted employer sanctions and successfully passed it, only to see it die in the other body. But in all of those instances, this body adopted legislation which did not have the second level of penalty. It only had penalties for knowingly hiring undocumented workers. We added this method, which the gentleman seeks to stiffen and strengthen, because of the concerns largely announced by the Hispanic community of the country, to say that without this level, without this new kind of penalty, the employer had the great opportunity of discriminating, because the employer could decide which person would be taken in and which persons would not be, accept or reject, perhaps based on the way the individual looked or sounded. Our bill says that if you are going to hire someone, you have to examine of that individual the same documentation, regardless of what the person looks like, what the person sounds like. If they are to be hired, their documentation, proof of identification, and of qualification to work have to be examined, and a simple piece of paper, a testimony to that examination, signed by both the employer and the employee is retained.

Mr. Chairman, the delegate from Puerto Rico seeks to make the penalty structure of this second level, that is, the failure to maintain proof of having examined documentation, to stiffen the penalties assignable to that transgression. And I feel that our bill is a good and well drafted bill and has stern penalties for these various activities, but the gentleman's amendment appears to be reasonably constructive, and I would not strongly oppose it.

□ 1530

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. I thank the gentleman for yielding.

I would like to state that although I have certain misgivings about the sanctions system established in the bill, I believe that the bill would be more consistent and also the understanding of possible sanctions under the bill would be more clear as far as people are concerned if my amendment is passed.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we are going to rise in about a minute I guess. I would like to say that nobody in America could have done as good a job as the gentleman from Kentucky (Mr. MAZZOLI), nor the gentleman from New York (Mr. FISH), on the most single difficult problem, including social security, facing America.

The sensitivities involved, the emotions involved, the legal questions involved are prodigious. And the time has not been wasted, even though this bill is not going to pass, because the issues have been ventilated, they are out on the table now, they will be thought about over the next few weeks, and we start the next session well ahead of the game.

I think this whole country owes a tremendous vote of gratitude and thanks to the gentleman from Kentucky (Mr. MAZZOLI) and the gentleman from New York (Mr. FISH).

Mr. MAZZOLI. Let me sincerely thank my friend from Illinois for that wonderful statement. The hard work the gentleman from Kentucky has done has been fully acquitted in the elegant and high level nature of the debate we have had the last 3 days. It has been more than fully acquitted.

The chance to make friendships with many people in the House that I have only peripherally worked with over the years, a chance to take a role with my friend from New York (Mr. FISH), who has been a wonderful ranking Member; my friend from California (Mr. LUNGREN); the gentleman from Florida (Mr. MCCOLLUM); our friends from this side and the other side of the aisle, the gentleman from Texas (Mr. SAM B. HALL, JR.); the gentleman from Massachusetts (Mr. FRANK); the gentleman from Michigan (Mr. CROCKETT). It has been a remarkable opportunity for me to work with these gentlemen and gentlewomen. I value this opportunity. It is one of the high points of my life.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I would like to state to the gentleman, the chairman of the committee and the chairman of the subcommittee, that the debate on this bill has been one of the most enlightening debates. I think it did this House proud, the way that it has been handled, both by the majority and the minority.

There are disagreements of course. That is the nature of our business. But I want to state to the gentleman that the high level of discussion and the high level of debate do the gentleman and his committee proud.

On the product which they brought to us, there is disagreement. But the manner in which it was handled by the gentleman from Kentucky and the gentleman from New York and the gentleman from New Jersey, has been exemplary. And I think we have done our country good, that we have done good to the institution, and that we should dedicate ourselves to a final good product somewhere along the line, wherever it be, this year or the next year.

But my sincere commendations to the gentleman for what he has done, for the institution, and respecting the rights of individuals that disagree, which after all is the system that all of us are dedicated to protect.

Mr. MAZZOLI. I thank the gentleman.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

Mr. Chairman, I have had the privilege of working with the gentleman. I appreciate all the gentleman has done.

I would say to my colleagues in the House that if this RECORD, from the work that has been done, both in committee and on the floor, gets studied by the Members, I think we will move a lot quicker to compromises that will move this bill in the next session of the Congress. And I look forward to working with the gentleman.

Mr. Chairman, had the amendment removing amnesty from this bill been offered by my colleague, Mr. MCCOLLUM, which was printed in the RECORD, these remarks would be in support thereof.

Many arguments have been made in favor of providing a liberal amnesty—or legalization—program for undocumented aliens. I will not attempt to reiterate these arguments and refute them.

The plain fact is that the U.S. Government—and the American people—simply cannot afford such an amnesty—especially at this time.

We have always been known as a humanitarian nation. We have had, and continue to have, one of the most liberal immigration policies known in the world.

But the costs of amnesty are so tremendous that it is difficult to estimate. The Department of Health and Human Services recently provided, in my view, some conservative estimates—based on an estimated 3 to 6 million undocumented aliens residing in this country (many believe this figure to be as high as 12 million). Taking a middle figure of 4½ million, HHS figured that 45 percent of these would be eligible for amnesty under this legislation; this is approximately 2¼ million people. Of this figure, 15 percent would be eligible for temporary resident status, and eligible for permanent status in 3 years.

Additionally HHS estimated that only 60 percent of the 2 million plus eligible undocumented aliens would participate in the program. Assuming that the public assistance rate for these individuals would initially be lower than that of the American population as a whole, but that this rate will eventually rise to meet that rate of the present American population—that rate is around 9 percent—HHS further estimated that the Federal public assistance costs alone could be as high as $6.67 billion over the next 5 years.

But we have an alternative, as described by the gentleman's amendment.

Approximately 10 percent of the undocumented aliens believed to be in the country have been here for 10 years or longer. These individuals are—for the most part—well integrated into their communities, have children who are U.S. citizens, and are entitled to be recognized as productive and desirable additions to our population.

These individuals can be provided for under the gentleman's amendment. There is already in law a provision—a registry date procedure—which allows a limited form of amnesty for all aliens who can show good moral character and continuous residence in the United States since 1948. During full committee consideration, this provision was updated to January 1, 1973.

By striking section 301, the legalization provision of H.R. 7357, the registry date will remain intact—updated to 1973—and we can avoid the unmanageable burden that would otherwise be created by this bill.

Rather than eliminating laws we cannot enforce, we should seek to better enforce them.

I urge your support of this amendment.

Mr. Chairman, I rise today in support of my amendment offered to restore the ceiling on legal immigration. Since debate did not proceed to the appropriate title. I offer this explanation for the record and thereby, for future consideration.

The 1970's became a turning point for U.S. immigration. It became clear that changes must be made in our policies for dealing with the influx of immigrants seeking a better life.

Many months have gone into the preparation of the legislation before us today, and I commend my colleagues for their diligent and well-intended efforts. However, this bill contains a lethal combination. In addition to providing no cap on legal immigration, we will be opening the doors to millions of illegal aliens under the amnesty provisions in this bill.

This amendment will allow us to achieve—at the very least—some control over legal immigration by setting an annual ceiling of 425,000—approximately our present level of legal immigration.

The American people do not support massive immigration. In repeated public opinion polls, 80 percent of those polled wanted legal admissions reduced below 400,000 per year. No reasonable person involved in immigration reform wants to stop immigration entirely, but we are concerned about the growing resentment of immigrants and immigration. With over 10 million Americans out of work—and I know this concerns my colleagues because just the other day the House passed legislation to restrict foreign competition in an attempt to preserve American jobs—and with growing Government deficits, we cannot afford to simply open our doors to all who wish to come here.

The demographics and costs of immigration are staggering. According to the 1979 Justice Statistical Yearbook,

270,000 immigrants were admitted that year under our system of preferences for relatives of American citizens, alone. Fully one-third of this number came under the fifth preference—brothers and sisters of U.S. citizens and their spouses and children. This is, in my view, "chain migration" at its best. Above and beyond the 270,000 legal "relative" immigrants, we admitted 218,000 refugees.

Once these immigrants achieve permanent residence, he, she, and their dependents become eligible for all the benefits of U.S. citizens—public assistance such as food stamps, AFDC, and SSI.

Additionally, in 1979 nearly 1.1 million undocumented aliens were apprehended in this country. Conservative estimates show that over 80,000 undocumented—or illegal—aliens have entered this country each year since 1976.

For the sake of argument, I offer findings of several studies: One study found that 29 percent of illegal Dominicans in New York City received welfare. Another study found 18.5 percent of a group of undocumented women in Los Angeles to be receiving welfare. A study of unemployment insurance applications from aliens in Illinois found 46 to 51 percent of them to be illegal.

I point to these studies only to emphasize that the costs of immigration have not been sufficiently documented for us to make the sweeping reforms that this legislation proposes.

We cannot possibly control the costs of illegal immigration if we cannot put a hold on the costs of legal immigration.

At a time when Government programs are being pared, this legislation is a further threat to our social service system.

We have three options: First, to increase spending for our social services; second, to reduce services to our most needy citizens; or third, to control immigration.

I suggest to my colleagues that this final option is not only the most practical, but in light of growing deficits and unemployment, it is our only option.

We must restore the cap—or ceiling—on legal immigration, and I therefore urge your support for this amendment.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks made by my colleague from the State of Texas (Mr. DE LA GARZA). I think his remarks were right on target. I think for many of us who have debated this bill over the last several days, our feelings are very strong.

The subcommittee chairman, the gentleman from Kentucky (Mr. MAZZOLI); the chairman of the full committee and my colleague, the gentleman from New Jersey (Mr. RODINO); the ranking minority Member, that all of my colleagues have conducted themselves in a manner that I think truly reflects what this body is all about.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, I of course am one who found it impossible to support this bill for various reasons. But I do appreciate the enormous work that the chairman has put in and the ranking member on this side, my colleague, the gentleman from California (Mr. LUNGREN).

It is a subject of enormous difficulty. I hope in some future time we can sit down and work out a measure that will touch on all the elements and be as comprehensive as possible.

Mr. Chairman, I appreciate this opportunity to express some of my views on H.R. 7357, the Immigration Reform and Control Act of 1982.

My interests and concerns are specific to agriculture and the availability to that sector of the American economy to obtain a work force that is sufficient to harvest and tend the multitude of crops that do not lend themselves to mechanization.

Make no mistake, domestic workers in sufficient quantity, will not do the work. Farmers in Fresno County, Calif., worked for years on a pilot program with the State to develop a domestic work force. It failed miserably.

Less than 9 months ago the strawberry growers in southern California actively recruited unemployed domestic workers to harvest a rapidly ripening strawberry crop. The turnout was marginal and the results worse. Some of the unemployed lasted 2 days on the job, others not even a day.

Growers of fruits and vegetables throughout this country have tried to meet their needs with domestic workers. They have been unsuccessful, even when wages reach $20,000 annually. As the domestic shortfall increased, the dependency on undocumented workers increased to a point where between 65 and 85 percent of the harvesting is done by undocumented workers. I daresay that in some instances that number could be as high as 100 percent.

Farmers both small and large have insisted that if Congress is to reform the Immigration and Nationality Act, that we not lose sight of agriculture's unique needs. In their view, and mine, the work of the Subcommittee on Immigration came close, but the final product is inadequate in both structure and content.

The full Judiciary Committee markup of the bill, however, produced a number of substantial changes to section 211, the so-called H-2 provisions. These political compromises, secured in order to expedite the bill's progress, have destroyed the legislation's balance and have insured that the proposed modifications to the H-2 program will make it unworkable for nearly all of American agriculture. That includes regions of this country where H-2 workers have been utilized for many years, as well as regions in the West where use has been most limited.

Therefore, agricultural groups supported referral of H.R. 6514 to the House Agriculture Committee because it is felt that a number of these issues need to be revisited in some depth. Time did not permit that visit, so we are left with many questions and legislation that is insensitive to agriculture.

Specifically, agricultural groups would support the following changes to section 211 of H.R. 7357 which would restore the legislation's balance:

First. Substantial U.S. Department of Agriculture involvement in regulations, with the Attorney General having final authority after consultation with both the Department of Labor and USDA.

Second. Retain the existing standard, an 11 month maximum length of stay, in statute.

Third. The Judiciary Committee report language appears to "freeze" present regulations regarding "concerted activity involving two or more employees."

These permit the frivolous disruption of the H-2 certification process, the timeliness of which is critical to the success of the program.

Additionally, it is my understanding that there is support for the Education and Labor Committee's recommendation for codification of existing DOL regulations governing the H-2 program. With the potentially substantial, yet unknown effects which this legislation will have upon agriculture, codification of these regulations would render the H-2 program inflexible, unresponsive, and useless to the agricultural community.

In my view H.R. 7357 will cause chaos in American agriculture without resolving the difficult problems associated with its substantial illegal work force.

I was pleased that S. 2222 and H.R. 7357 included the concept of establishing a separate H-2 program for agriculture, thus giving congressional recognition of the particular needs of agriculture. However, further consideration must be given to:

First. Avoiding the necessity for employers to conduct a nationwide re-

cruitment of domestic workers to show that needed workers were not available.

Second. A realistic advance filing time for certification.

Third. Language regarding availability of qualified and willing domestic workers worded so that employers would not be denied certification through referrals of unqualified and unwilling workers from some distant part of the United States who have no intention of showing up when needed and of doing the work.

Fourth. Expedited review of certification denials with a de novo administrative hearing on request of an employer.

Fifth. Statutory definition of "agriculture," "agricultural employment," and "wages."

Agricultural groups and I favor an amendment to be offered by Representative DON EDWARDS to require search warranta when INS agents enter agricultural lands; and a provision making it clear that the Federal law preempts any State law regarding immigration policy.

Absent the time thoroughly to review the question of immigration policies on agriculture, I should ask that this body carefully review the issues I have outlined on an adequate work force for agriculture.

Those who will charge that a workable H-2 or guest worker program for agriculture costs American citizens and permanent resident aliens job opportunities are not being honest with the facts. A domestic labor pool will not follow the harvest in sufficient numbers to get food from the fields to the marketplace.

Without a foreign work force to harvest the raw products, consumers pay more for what produce can be delivered, and the very infrastructure of the agriculture community would be placed in a state of chaos. By denying agriculture access to foreign workers to harvest and tend the fields, this body could be adding to the high-unemployment problem by denying job opportunities to workers who handle and process the raw bounty of the land.

Mr. FISH. Mr. Chairman, I just want to let the chairman know, I am the optimist. I will be here Sunday, Monday, Tuesday, Wednesday, to pick up again.

The CHAIRMAN. The question is on the Education and Labor Committee amendment.

The Education and Labor Committee amendment was agreed to.

● Mr. MINETA. Mr. Chairman, this week we are considering the Immigration Reform and Control Act of 1982. This is an important, complex, and far-reaching piece of legislation, and I think it important that Members consider this bill with great care and caution.

Before discussing the detailed provisions of the bill, I would like to state my philosophy on the underlying issues before us. To me, immigration to this country is not a problem, indeed, it is a source of our strength, our vitality, and our tradition of freedom and diversity.

The question then, is not how to cut off or limit immigration. Our task is to resolve problems in the administration of our existing laws, and eliminate any inequalities or unfairness in the current system.

In attempting a comprehensive reform of the immigration laws, the sponsors of this legislation have taken on a large and difficult task. While I admire their energy and determination, the product now before us has several important—and I believe fatal—flaws. In addition, the version of this legislation already passed by the other body has additional problems, which we can not be certain would be resolved as we would wish in a conference committee working against the strict time limits of the approaching end of this Congress.

I would like to set out some of these important problems facing us in the proposed legislation.

Employer sanctions are proposed in the bill. I share the concern of many that such a provision will lead to discriminatory hiring practices by employers unwilling or unable to assume what they might see as the legal risks in hiring minority individuals.

Our legislation contains a requirement for a 3-year study of national identity cards. There is even stronger language in the other body's bill. I strongly oppose such an unnecessary and unwarranted step. The potential for discriminatory ruse of such a system of identity cards is far greater than any possible benefit to be gained.

In the interest of simplifying and reforming the administrative processes, I am deeply concerned that this legislation would in effect reduce the civil liberties and rights of individuals who are charged with immigration related offenses.

The Judiciary Committee has eliminated the changes in the system of preferences originally proposed in this bill. However, significant changes do exist in the other body's version, and I see no reason to open ourselves to the risk of facing such changes as the result of a conference agreement.

The so-called colonial quotas are an out of late vestige of the racism once inherent in our immigration laws. Let us at least reduce the impact of this unnecessary provision by raising the quota on such immigration from 600 to 3,000 visas a year.

We are also presented with a proposal for a limited two-tier amnesty for undocumented aliens present in this country for several years. I support such an amnesty, and hope we shall not be shortsighted enough to reject this provision. If anything, we need to expand the amnesty provision. In doing so, we must be careful to insure that local governments are provided with the resources to serve those affected by the amnesty. It makes no sense to grant a group of individuals the rights and privileges of residency without insuring that those rights can be protected by local government.

Foreign students faced a requirement to return to their home countries for 2 years prior to obtaining work status under the legislation as originally introduced in this House. We need to insure that the Judiciary Committee's action in providing relief from this overly stringent provision is protected throughout the process.

Significant changes in the H-2 agricultural worker program are in the bill before us, and I share the reservations of the Committee on Education and Labor about the impact of such changes upon agricultural labor markets, as well as the rights and work conditions of farm workers. Among other things, we need to insure that agricultural employers and their fields meet the same standards of due process—and have the same search warrant protection—as all other segments of our economy.

These are my major concerns with this legislation. We may well need administrative reform, but this is not the time and this is not the legislation to completely rewrite our complex immigration laws. A rush to judgment at this time would be a mistake, and I urge my colleagues to resist the pressure to act hastily.●

● Mr. SHUMWAY. Mr. Chairman, for the past several years our immigration law has been examined by the Select Commission on Immigration and Refugee Policy, both Houses of Congress, and the Ford, Carter, and Reagan administrations. The bill before us is the first major overhaul of immigration law since 1952, and I commend my colleagues RON MAZZOLI and ALAN SIMPSON as well as the members of the Judiciary Committee for their efforts. Despite my respect for their difficult task of reconciling the needs of labor, agriculture, business, and ethnic groups, however, I believe H.R. 7357 requires improvement.

My major objection is to the mass legalization program. Under the House Judiciary Committee bill, all those who can prove continuous residence in the United States prior to 1977 will be eligible for permanent resident status and Federal benefits after 3 years. Individuals who can prove continuous residence between 1977 and January 1, 1980, can be granted temporary resident alien status which may be upgraded to permanent resident status after 3 years. After an additional 3

years, they too will be eligible for Federal benefits.

I can appreciate the fears of exploitation and discovery that the estimated 3 to 6 million undocumented aliens may live under, but at the same time, feel that there are too many unknown variables surrounding this proposal. We do not know how many of the aliens will choose to take advantage of our offer, whether the Immigration and Naturalization Service (INS) has the staff and resources to evaluate the claims for legalization, how many eventually will be eligible for Federal assistance, and how this legalization program will affect our already staggering unemployment rate. The 3-year waiting period for eligibility for Federal benefits will stall the costs to the Federal Government, but we have no idea how much it eventually will cost.

Our experience with the refugee program points up the interminable costs associated with 100 percent Federal reimbursement to States. I have supported this policy because the Refugee Act of 1980 was a Federal initiative, and for consistency's sake I would have to support having the Federal Government pay all costs associated with the legalization program. However we all know that authorizations and appropriations are two different things, and congressional intent is not always translated into action, particularly at a time when Federal spending is being reduced. In California, and perhaps in other States, there is a discrepency between State refugee expenses and Federal reimbursement. Federal auditors are in the process of reconciling this difference, and the Secretary of Health and Human Services has indicated that the Federal Government will reimburse California 100 percent for the shortfall. In the meantime, however, this shortfall has put a severe strain on State and county budgets, and the resentment that this benefit program has engendered among American citizens is growing. Unfortunately, it is difficult to be charitable during these times of economic distress, and I can see the same sorts of problems occurring with the impact of legalization on States and counties.

I, therefore, favor the more moderate and gradual approach of moving the registry date from 1948 to 1973. This will allow the Attorney General to lawfully admit, at his discretion, undocumented aliens in the United States who entered prior to 1973, who have resided in the United States continuously since then, are of good moral character and eligible for citizenship, and who are not inadmissible because of certain past actions. This would allow the program to be tested on a more modest scale, and would allow time to refine any problems connected with employer sanctions, an identification system, and costs of the program. It would also lessen the unfairness to those who have waited for years to enter this country legally.

I also have reservations about the lack of responsiveness of H.R. 7357 to the needs of agriculture, particularly as it relates to the harvest of highly perishable crops such as citrus, grapes, strawberries, lettuce, and other vegetables. Growers in my district have repeatedly told me that the H-2 program does not work for them, and I am concerned that the numbers of workers, speed, and availability measures are insufficienlty addressed by the Judiciary Committee's bill. I am pleased that the committee has amended present law regarding worker availability in a manner similar to legislation that I introduced in the 96th and 97th Congresses. Worker availability would be based on "sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services required." I believe that limiting the geographical search to the area in which the work is to be done is reasonable and realistic. Despite this modification and some other minor changes, I am not satisfied with the H-2 program as amended in H.R. 7357. The Education and Labor Committee substitute is even more restrictive. Among other things, it removes the Agriculture Secretary from any role in the H-2 determination, restricts the stay of H-2 workers to 8 months, and does not allow more than the number of H-2 workers admitted in fiscal year 1982 to enter until the Labor Secretary can certify that he can adequately enforce the program.

Another provision of the bill as it relates to agriculture deserves mention. Employer sanctions remove the magnet for illegal immigration—jobs—by penalizing employers who hire illegal aliens. A secure form of verification is intended to protect both the employer and the workers by proving that they are able to work here legally. However, given that the H-2 program is already inadequate for agriculture, employer sanctions and verification will further hamper growers' ability to hire workers to harvest crops. Growers in my district hire illegal aliens because they are available and because, for the most part, Americans will not do the back-breaking and tedious work required. Further, agriculture is not conducive to the kinds of bookkeeping required by the bill, and I have difficulty visualizing the process of predawn ID checks and paperwork as a busload of H-2 workers or farmworkers in general shows up for work. The solution is an expanded H-2 program or guestworker program for agriculture.

In conclusion, Mr. Chairman, I hope the Members of this body recognize the shortcomings contained in this extraordinary piece of legislation, particularly the provisions relating to amnesty and the H-2 program. In its present form I cannot support this bill. It is neither workable, nor will it achieve the benefits expressed by its authors. I hope that through the amendment process we will develop a coherent and fair immigration policy that upholds American traditions, and recognizes economic and social realities.●

● Mr. RAILSBACK. Mr. Chairman, I rise in support of H.R. 7357, the Immigration Reform Act of 1982. I would like to commend the chairman of our committee (Mr. RODINO) the gentleman from Kentucky (Mr. MAZZOLI), and the gentleman from New York (Mr. FISH), for the extraordinary amount of effort which has gone into the crafting of this bill. The chairman of our committee has been working for many years on immigration reform and is an acknowledged expert in the area. Mr. MAZZOLI has recently taken on the responsibility for the Subcommittee on Immigration, Refugees, and International Law and has distinguished himself by his dedication and the bipartisan support he has been able to garner for this legislation. Mr. FISH has served on the Select Commission on Immigration and Refugee Policy and his expertise and guidance are recognized by all who have contributed to this legislative effort. In addition, a great deal of credit must be given to the administration, the Attorney General, and those in the Justice Department who have made immigration reform their top legislative priority and have worked diligently with the committee members and staff through every step of consideration.

Mr. Chairman, while there are some aspects of H.R. 7357 which I would like to see improved, I feel that we must regain control of our immigration policy, and I believe this compromise legislation is essential to the achievement of that goal. I urge my colleagues to join with me in support of H.R. 7357.●

● Mrs. SCHROEDER. Mr. Chairman, last night we began general debate on H.R. 7357, the Immigration Reform and Control Act of 1982. I would like to pick up on some things said last night.

First, it was repeated over and over how we are entering uncharted waters with employers sanctions. In the same breath, Members said that we have enough provisions in the bill to guard against discrimination in the bill; six instances of provisions to guard against discrimination. I would like to point out that these are in the form of after-the-fact reporting requirements. The bill, as long as it gives the employers the power and, indeed, the burden of deciding whether employee X is an American citizen or an illegal alien, or whether documentation presented is

genuine or bogus, is very much open to discrimination.

As some of my colleagues pointed out last night, if this bill is not discriminatory why does it not have support from Hispanic, black, civil libertarian, and church groups? Editorial boards across the Nation have inferred that H.R. 7357 is a legislative compromise that enjoys universal support. That is not true. The bill barely survived the House Judiciary Committee. Groups across the Nation have called for revisions to the bill, such as Denver Catholic Community Services, the National Council of the Churches of Christ, LULAC, MALDEF, ACLU, and many others.

Coming from an area that was a target area for Operation Jobs; in 1954 a similar effort was made by the Justice Department which was disgracefully called Operation Wetback, because it targeted Hispanics. As disgraceful and derogatory as the operation was called, at least it was honest. Operation Jobs on the other hand, said it was targeted at those illegal individuals who were taking American jobs. Around 90 percent of those rounded up, however, were Hispanic. In my district, I did not hear of one Canadian or fair complexion illegal who was picked up. In fact, in Denver, there were Hispanic Americans who were seized. I think the Operation Jobs experience in Denver exemplifies how vulnerable the practice of good theories like employer sanctions are to discrimination and discriminatory practices that this Congress has passed many laws to avoid.

The tragedy of it all was that Operation Jobs was not even successful in its goal: Saving jobs for Americans. Followup surveys from newspapers and academic reports found that most of the 5,440 jobs secured by Operation Jobs were once again filled by aliens. The Americans who took over these vacated jobs had quit within weeks, and in many instances, days. Some companies raided said that few, if any, unemployed American citizens even had applied for the jobs that were freed. In Texas, for example, a week after the raids occurred, the Texas Employment Commission said they had made only 42 job referrals for 1,105 positions vacated by alien workers.

American workers did not want the jobs because the wages were low, the work was difficult, and the working conditions were poor.

Undocumented workers come to this country to work, at any wages, and in any conditions. In light of the drastic devaluation of the peso, the U.S. dollar is even more of a magnet to Mexican workers who are 40-percent underemployed or unemployed. With the devaluation of the peso, the minimum wage in Mexico of 2,400 pesos a week, translates into $34 American, an average daily wage in the United States for a construction worker or a field hand. The worst economic crisis in Mexico with more than 1 million layoffs expected, fuels the fire.

Who benefits from all this? The bad guys, unscrupulous employers who take advantage of the swelling reservoir of willing workers and flout U.S. labor laws. A 1980 Labor Department survey found that 5 percent of U.S. businesses paid less than the minimum wage and 21 percent failed to give time and a half for overtime hours. The exploitation of employers has led to the mistreatment of American workers. A Labor Department official who oversees investigations of wage law violations says:

We cannot identify any particular job where there is only abuse of illegal aliens. We see them working side by side, illegal immigrants and U.S. citizens.●

● Mr. WAMPLER. Mr. Chairman, we have under discussion the immigration Reform and Control Act of 1982 (H.R. 7357).

This bill has many individuals on both sides of the issue and the final outcome of this legislation in the lameduck session is very much up in the air. No matter what happens here today I want to present a few thoughts as expressed by my friends in agriculture.

Today there are special problems facing agriculture because of the economic recession, and it seems to me that we shouldn't heap any more problems on the agriculture industry if we can help it. I have been advised that the present "H-2" program as admistered by the Secretary of Labor leaves a lot to be desired.

Acting on this premise the agricultural industry convinced the Senate and the Judiciary Subcomittee on Immigration. Refugees, and International Law to sympathetically establish a more workable temporary foreign worker program for agricultural interests. However, when the parent Judiciary Committee took up the legislation they made major changes. The House Education and Labor Committee then considered the legislation under sequential referral additional damage was done. The agricultural industry opposes the amendment of the House Education and Labor Committee and if these amendments are adopted they recommend a vote against this legislation.

Let us look at what these amendments would provide. Grower interests have attempted throughout the legislative process to play down the role of the Department of Labor and call upon more input from the Department of Agriculture understands better the problems facing agriculture. Labor interests understandably want to protect the American laboring man, but I do not believe that the American laboring class wishes to perform the hand labor required to harvest the fruits and vegetables. It is no pleasure to follow the harvest from south to north and as I indicated, few Americans participate, so we have grown accustomed to relying on the foreign labor to get the job done.

Maybe as some have indicated we should put this legislation over until the next session of Congress and try to perfect it in a more leisurely fashion, particularly since we have so many amendments being offered.

The amemdments being offered by the House Education and Labor Committee should be rejected and the various amendments being offered by Members representing agricultural interests should be adopted. If we in agriculture cannot prevail then it would be may recommendation that this legislation be defeated.

I particularly want to see the Department of Agriculture regularly consulted as the H-2 program is implemented. Further, I see no reason to lock into the statute the current regulations that the Department of Labor operates under when implementing the current H-2 program. It is very difficult to get consideration for amending current law and I can foresee problems developing if we are so rigid as to enact current regulations into the statute. One last problem I would call to your attention is the matter of time that a foreign worker would be allowed to remain in this country. For most purposes the agricultural industry feels that 11 months is a more realistic figure. However, the Education and Labor Committee selected 8 months to be more appropriate. To operate an H-2 program under this limitation will only cause the farmer to incur more costs and more costs we do not need in the current claimate.

Mr. Chairman, I felt I had a responsibility to call Members' attention to these items. Again I call upon my colleagues to reject the amendments to be offered by members of the House Education and Labor Committee. If we are no successful, then I intend to reconsider my support for this legislation.●

Mr. MAZZOLI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7357), to revise and reform the Immigration and Nationality Act, and for other purposes, had come to no resolution thereon.

MODIFYING WEST VIRGINIA FEDERAL JUDICIAL DISTRICTS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3081) to modify the judicial districts of West Virginia, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. WALKER. Mr. Speaker, reserving the right to object, could we get some idea as to what is going on here.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding this is the so-called West Virginia amendment. Perhaps the chairman would like to explain. I think it is one that came up last night.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, this is the same bill that was up on unanimous consent yesterday and ultimately was objected to on grounds other than the merits by the gentleman from Michigan, the gentleman from Pennsylvania will recall.

This is a bill which costs nothing, which has agreement of all Members of the West Virginia delegation. There is no objection we have been able to ascertain in any quarter.

The purpose of the bill is to adjust county lines in the two judicial districts of West Virginia, assigning three new counties to the south and two new counties to the north, and also to assign the so-called swing judge in West Virginia.

□ 1540

Mr. WALKER. Mr. Speaker, reserving the right to object, this is the same bill that was brought up last night that changes north to south and south to north?

Mr. KASTENMEIER. Mr. Speaker, if the gentleman will yield, it is precisely the same bill.

Mr. WALKER. Mr. Speaker, it seems like an entirely appropriate bill for the end of Congress.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. KASTENMEIER)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 129 of title 28, United States Code, is amended—

(1) in subsection (a) by—

(A) striking out ", Wirt, and Wood";

(B) inserting "Braxton," after "Berkeley,";

(C) inserting "Pocahontas" after "Pleasants,"; and

(D) inserting "Webster, and" after "Upshur"; and

(2) in subsection (b) by—

(A) striking out "Braxton,", "Pocahontas," and "Webster,"; and

(B) inserting "Wirt, Wood," after "Wayne,".

SEC. 2. (a) The existing district judgeship for the Southern District of West Virginia, authorized by section 2 of the Act entitled "An Act to provide for the appointment of additional district and circuit judges and for other purposes", approved October 20, 1978 (92 Stat. 1632; 28 U.S.C. 133 note) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28 of the United States Code as a district judgeship for the Northern District of West Virginia, and the incumbent of that office shall henceforth hold office under section 133, as amended by this Act.

(b) The existing district judgeship for the Northern and Southern Districts of West Virginia shall be authorized as the district judgeship for the Southern District.

SEC. 3. The table in section 133 of title 28, United States Code, is amended by striking out the following:

"West Virginia:

"Northern	1
"Southern	3
"Northern and Southern	1",

and inserting in lieu thereof the following:

"West Virginia:

"Northern	2
"Southern	4".

Passed the Senate December 10 (legislative day, November 30), 1982.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5470, PERIODIC PAYMENT SETTLEMENT TAXES ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 5470, to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, with Senate amendments thereto, insist on the House amendments and agree to the conference requested by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois? The Chair hears none and, without objection, appoints the following conferees: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, DUNCAN, and FRENZEL.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 7093, REDUCING RATE OF CERTAIN TAXES PAID TO VIRGIN ISLANDS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 7093, to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, with Senate amendments thereto, insist on the House amendments and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois? The Chair hears none and, without objection, appoints the following conferees: Messrs. ROSTENKOWSKI, PICKLE, JACOBS, GEPHARDT, SHANNON, ARCHER, GRADISON, and MARTIN of North Carolina.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6056, TECHNICAL CORRECTIONS ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file a conference report on the bill, H.R. 6056, to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING TELEPHONE SERVICE TO PERSONS WITH IMPAIRED HEARING

Mr. WIRTH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2355) to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service, with the Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows: Page 4, after line 17, of the House engrossed amendment, insert:

SEC. 3. Subparagraph (B) of paragraph (2) of section 1225(a) of the Public Broadcasting Amendments Act of 1981 is amended to read as follows:

"(B) Notwithstanding the provisions of subsection (c) of section 396 of the communications Act of 1934, in the case of the offices of director the terms of which expired March 1982, persons appointed to fill two of such vacancies existing as of December 13, 1982, shall be appointed for terms which

shall expire on March 1, 1984 and shall not be representative of the political party having a majority of the directors of the Board on December 13, 1982. Persons appointed for a term beginning March 1, 1984, to fill the vacancies occurring in such offices the terms of which, by reason of the preceding sentence, expire on March 1, 1984, shall not be filled by persons representing the political party having a majority of the directors of the Board on March 1, 1984. Persons appointed on or after March 1, 1984, to fill vacancies in the two such offices shall be appointed for terms of five years. On March 1, 1984, there are abolished those five offices of director the terms of which, without application of the preceding provisions of this paragraph, expire on such date. In administering the provisions of this paragraph a director is a minority member of the Board if he is not a member of the political party to which the majority of the directors of the Board are members.".

SEC. 4. The Communications Satellite Act of 1962, as amended (47 U.S.C. 701 et seq.), is amended by deleting the second sentence of section 304(b)(2) of such Act.

Mr. WIRTH [during the reading]. Mr. Speaker I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. WALKER. Mr. Speaker, reserving the right to object, is there any cost at all in this bill? Is there any money involved in the bill?

I yield to the gentleman.

Mr. WIRTH. The answer to that is "No." As part of the Public Broadcasting Amendments Act of 1981 Congress reduced, by attrition as of October 1, 1983, the size of the Board of the Corporation for Public Broadcasting, from 15 to 11, while providing that the new Board have no more than six members from the same political party. Because of a number of appointments now pending to the 15-person Board, in 1984 an impermissible imbalance could occur in terms of the political party representation on the Board. By having two of the terms that are slated to be filled in the near future—which expired in March of this year—end on March 1, 1984, this problem of political imbalance can be avoided, thus allowing attrition of the Board to proceed smoothly. This is a noncontroversial amendment which has complete bipartisan support in both Houses.

One Senate amendment repeals an outdated provision of the Communications Satellite Act of 1962. This provision required Comsat to offer 50 percent of any stock offering it was going to bring to the market for sale to the various communications carriers. However, since the enactment of this provision, all of the authorized carriers have divested themselves of their holdings in Comsat.

Comsat is currently planning to bring a new equity offering to the market. This provision of the act imposes a burden on the issuance of new securities, yet does not give the authorized carriers any corresponding benefit. In 1972, as part of the Comsat proceeding, the FCC required AT&T to divest itself of its holdings in Comsat as a precondition of operating its own domestic satellite system. And the International Record Carriers, which purchased the permitted number of shares in Comsat when the company was formed, have long since disposed of their holdings, since Comsat has not, until recently, been a good investment.

When Comsat brings its new equity offering to the market, any member of the public—including the International Record Carriers—will have the opportunity to purchase stock. The removal of this particular section will not have any effect over the carriers' ability to own shares in Comsat. The change merely removes Comsat's obligation to set aside 50 percent of its new offering for a group of carriers who have shown no inclination in—or have been constrained from—owning shares of Comsat.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado (Mr. WIRTH)?

Mr. BLILEY. Mr. Speaker, reserving the right to object, I would like to engage the chairman of the Telecommunications Subcommittee in a brief colloquy.

I apologize to my colleagues for having been necessarily absent when this legislation was considered under suspension earlier this week. I did have several concerns about the legislation, and the chairman of the subcommittee has been most helpful in addressing several of them.

Could the gentleman from Colorado clarify for me: Would it be possible for an industry to avoid regulation by the Federal Communications Commission by engaging in a program of voluntary compliance with the goals of this act?

Mr. WIRTH. I thank the gentleman for his inquiry. The language of the statute specifically directs the Commission to consider the costs and benefits of any proposed regulation. As I suggested in my earlier remarks, the Commission should encourage programs of voluntary compliance, which avoid many of the costs associated with direct enforcement by the Commission. Accordingly, the Commission should rely upon voluntary programs developed by an industry segment to achieve compliance with the provisions of the statute provided that those programs are effective on a continuing basis.

Mr. BLILEY. The report of the committee provides examples relating to the possible requirements that could be imposed on the hotel industry. Were those examples intended to specify that the Commission should adopt any particular requirements with regard to this industry?

Mr. WIRTH. No. The hearing impaired have expressed particular concern about their ability to reach their family and to conduct business while traveling. In previous legislation, they have urged that all hotel phones be made compatible. I believe that the committee was concerned that the Commission not impose undue costs on the hotel industry. It also observed the broad authority of the Commission with respect to hotels and motels. The committee, therefore, provided several examples of the maximum extent of regulation that the Commission should promulgate. These examples do not require or suggest that the Commission adopt any of these requirements.

Mr. BLILEY. I thank the chairman for his cooperation in clarifying this point. I share his concern for the safety and convenience of the hearing impaired when they are traveling. It is my hope that a strong voluntary effort by the hotel industry will provide the hearing impaired with the information and equipment they need so that we can avoid unnecessary new regulations in this area.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado (Mr. WIRTH)?

Mr. BROYHILL. Further reserving the right to object, Mr. Speaker, and I shall not object, I just wanted to thank the gentleman from Colorado for accommodating the concerns just expressed by the gentleman for Virginia (Mr. BLILEY).

I think this has added a great deal to the passage of this legislation which surely is needed. I know the hearing impaired in my area have been expressing their interest in this legislation for some time. I think it is in the public interest and would urge that it pass unanimously here today.

Mr. WIRTH. Mr. Speaker, would the gentleman yield?

Mr. BROYHILL. I am glad to yield.

Mr. WIRTH. Mr. Speaker, I want to thank the gentleman and thank the gentleman from Virginia for their help in sorting through a question which has plagued this legislation for the last 5 or 6 years and also to take the opportunity on behalf of our colleagues to wish a speedy recovery to the gentleman from Virginia (Mr. BLILEY).

Mr. BROYHILL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado (Mr. WIRTH)

that the amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Colorado (Mr. WIRTH)?

There was no objection.

A motion to reconsider was laid on the table.

JOB TRAINING PARTNERSHIP ACT AMENDMENTS

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, S. 3113, making certain minor and technical amendments to the Job Training Partnership Act and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. HAWKINS)?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, I do so for the purpose of allowing the chairman to explain the nature of this bill.

I would like to say first that I have examined the bill. It is made up with one exception, which not of great major note, of merely technical amendments, misspellings or punctuation problems which are technical in nature.

The one area, I believe, which is more of a substantive matter involves advertising in a newspaper by a State. It is not of any great moment and I assure the gentleman from Pennsylvania that this does not in any way affect any expenditure of sums, other than the possibility of saving money through confusion.

I would ask the chairman of the committee if he concurs with that and wishes to make any other additional comments with respect to this bill?

Mr. HAWKINS. Mr. Speaker, I thank the gentleman for his remarks. It is true that this bill merely makes certain corrections in references, in material that was inadvertently deleted and minor corrections. As was indicated, the only substantive part of the bill which could be construed as different from what the conferees agreed to in conference was a deleted section which refers to the States advertising in newspapers for high-paying jobs.

□ 1550

This was not the intent, certainly, of the conferees, but inadvertently this was stricken and this will reinsert it. With that one exception, all of the other changes are corrections in sections and in deleted materials.

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(c)(3) of the Job Training Partnership Act (hereafter in this Act referred to as the "Act") is amended by striking out "104" and inserting in lieu thereof "101".

(b) Section 106(d)(3) of the Act is amended by striking out "ex-offenders" and inserting in lieu thereof "offenders".

(c) Section 108(b)(2)(A)(iv) of the Act is amended by striking out "projects" and inserting in lieu thereof "payments".

(d) Section 122(a)(3)(C) of the Act is amended by striking out "executive officers" and inserting in lieu thereof "elected officials".

(e) Section 125(c) of the Act is amended by striking out "subsection" and inserting in lieu thereof "section".

(f)(1) Section 141(c) of the Act is amended by inserting after "unless" the following: "the Secretary determines that".

(2) Section 141(G) of the Act is amended—

(A) by striking out the word "which"; and

(B) by striking out the word "title"; and inserting in lieu thereof the word "Act".

(g) Section 142(b) of the Act is amended by inserting after "aid" the following: "furnished under any Federal or federally assisted program based on need".

(h) Section 143(d) of the Act is amended by striking out "1921" and inserting in lieu thereof "1931".

(i) Section 181(f)(5) of the Act is amended by striking out "this section" and inserting in lieu thereof "this subsection".

SEC. 2. (a) Section 203(a)(1) of the Act is amended by striking out "participate" and inserting in lieu thereof "participate".

(b) Section 203(b)(2) of the Act is amended by striking out "expend" and inserting in lieu thereof "be expended".

SEC. 3. Section 308 of the Act is amended by—

(1) striking out ", as described in section 121," and inserting in lieu thereof "with"; and

(2) inserting before the period at the end thereof the following: ", in accordance with the provisions of section 121".

SEC. 4. (a) Section 401(h)(2) of the Act is amended by striking out "103" and inserting in lieu thereof "106".

(b) (1) Section 402(a)(2) of the Act is amended by inserting "the special nature of" after "because of".

(2) Section 402(c)(4) of the Act is amended by striking out "103" and inserting in lieu thereof "106".

(c) Section 454(b) of the Act is amended by striking out "title II" and inserting in lieu thereof "title IV".

(d)(1) Section 463(a)(1) of the Act is amended by inserting after "processing systems" the following: "related to labor market information".

(2) Section 463(a)(2) of the Act is amended by inserting after "coding measures" the following: "related to labor market information".

(e)(1) Section 464(a)(1) of the Act is amended by inserting "for each fiscal year" after "part".

(2) Section 464(b)(7) of the Act is amended by striking out "providing" and inserting in lieu thereof "provide".

SEC. 5. Section 13 of the Wagner-Peyser Act, as added by section 501 (h) of the Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2) No funds paid under this Act may be used by any State for advertising in newspapers for high paying jobs unless such State submits an annual report to the Secretary beginning in December 1984 concerning such advertising and the justifications therefor, and the justification may include that such jobs are part of a State industrial development effort.".

SEC. 6. The amendments made by this Act shall not be construed as affecting the term "originally enacted" as applied to the Job Training Partnership Act in section 402(a)(8)(A)(v) of the Social Security Act as amended by section 503 (a) of the Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CENTRAL PLATTE VALLEY WATER STUDY

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5536) to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebraska, with a Senate amendment thereto, and concur in the Senate amendment with an amendment:

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the Senate amendment insert:

Strike out all after the enacting clause and insert:

That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following proposals:

(1) Colville Indian Reservation, Chief Joseph Dam project, located in northeastern Washington.

(2) Gibson Dam powerplant, located on the Sun River in Lewis and Clark Counties, Montana.

(3) Imperial Irrigation District canal lining, located in Imperial Irrigation District, Imperial County in southern California.

(4) New Melones conveyance system study, Central Valley project, Stanislaus River division, located in Tuolume, Calaveras, Stanislaus, San Joaquin, and Merced Counties, California.

(5) Pilot Butte powerplant, Riverton unit, located in Fremont County Wyoming.

(6) Prairie Bend unit, located in the Platte River basin, located in Buffalo and Hall Counties, Nebraska. Such feasibility study shall include a detailed report on any effects the proposed project may have on wildlife habitat, including habitat of the sandhill crane and the endangered whooping crane.

(7) Siletz River Basin project, located in Lincoln and Polk Counties, Oregon.

(8) Spring Canyon pumped-storage project, located in Mohave County, Arizona.

(9) Tongue River Dam, located in Big Horn and Rosebud Counties, Montana.

(10) Water conservation and efficient use program, All-American canal relocation

project, located in Imperial County, California.

(11) Upper Klamath offstream storage study, Klamath project, located in Klamath County, Oregon.

(12) South Dakota water deliveries study, Pick-Sloan Missouri Basin program, located in Brown and Spink Counties, South Dakota.

(13) Central South Dakota water studies, Pick-Sloan Missouri Basin program, located in Sully, Hughes, Hyde, Hand, Beadle, and Faulk Counties, South Dakota.

(14) Blue Holes Reservoir, located in Fremont County and the Wind River Indian Reservation, Wyoming.

(15) Muddy Creek Basin hydrologic, surge relief, and erosion control study, near Great Falls, Montana.

SEC. 2. Before funds are expended for any of the feasibility studies authorized herein, the State in which the proposed project which is the subject of such feasibility study, or some other non-Federal entity, shall agree to participate in the study and to share in the cost of the study. The non-Federal share of the cost shall be a reasonable share, but not less than twenty-five percent, as determined by the Secretary of the Interior and may be partly or wholly in the form of services directly related to the conduct of the study.

SEC. 3. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to complete protection of the Fisherman's Wharf area of San Francisco, California, substantially in accordance with the report of the Chief of Engineers dated February 3, 1978, as supplemented on June 7, 1979. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment may be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. FITHIAN. Mr. Speaker, reserving the right to object, I reserve the right to object to inquire of the distinguished chairman as to what disposition, if any, has been made of the fundamental question I have raised, which is that of cost sharing by local authorities?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. FITHIAN. I would be happy to yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, last night we had some difficulty with this bill because of a misunderstanding about what was in and what was not in. Let me assure the gentleman that I have personally gone over the amendment which was submitted and it will require a minimum of 25-percent local cost sharing.

Mr. FITHIAN. Further reserving the right to object, Mr. Speaker, let me say to Members of the House that the chairman and the distinguished members on the Committee on Interior and Insular Affairs have carried this to what I think is the ultimate conclusion: We must have cost sharing in these projects. I congratulate the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. BEREUTER. Mr. Speaker, reserving the right to object, I will not object, but I do congratulate the chairman on reaching agreement on this one sticking point.

Mr. Speaker, I rise in support of H.R. 5536, a bill of which I am an original cosponsor, providing for feasibility studies by the Bureau of Reclamation on the proposed Prairie Bend project in Nebraska as well as studies for 14 other proposals. The Water and Power Subcommittee held a hearing on the Prairie Bend study during which it heard from a host of witnesses including Bureau of Reclamation Commissioner Broadbent. The administration urged the inclusion of 13 other project feasibility studies in addition to the Prairie Bend study. After H.R. 5536 was reported favorably out of the subcommittee and the full Interior Committee, it passed the floor of the House and went to the other body. The other body passed an amended version which included the 13 other projects requested by the administration. That version also included studies for the Muddy Creek special irrigation project which is supported by a bipartisan delegation from Montana. The Muddy Creek studies were thoroughly discussed by the other body which also had the opportunity to debate the studies.

Mr. Speaker, the way to determine whether or not a proposed project is appropriate is to accomplish the feasibility study.

Mr. Speaker, the administration supports H.R. 5536. I urge my colleagues to support this measure.

Mr. BEREUTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. COELHO. Mr. Speaker, reserving the right to object, I just want to make sure that all of the projects that were in the proposal last night are still in it.

Mr. UDALL. If the gentleman will yield under his reservation, yes, Mr. Speaker, the one that the gentleman is concerned about is in there.

Mr. Speaker, the Senate amendments adds authority for some 14 feasibility studies. The Commissioner of Reclamation furnished the Subcommittee on Water and Power Resources information on these studies at the time of our hearing on H.R. 5536. The amendment also adds back in to the bill language concerning the feasibility study for the Prairie Bend Unit in Nebraska. This added language, approved by our committee, would require that report include a detailed statement upon the effect which the proposed project might have on wildlife and, in particular, the sandhill crane and endangered whooping crane.

Finally, the amendment would require that the States, or other local entities share in the cost of the studies. This would be to an extent to be determined by the Secretary of the Interior, but not less than 25 percent. I might mention that this is a new policy. Under existing law, the costs of such studies are nonreimbursable.

● Mr. PHILLIP BURTON. Mr. Speaker, I urge my colleagues to support this legislation, which includes authorization for construction of a breakwater at Fisherman's Wharf in San Francisco. This project has been sought for many years by the Fisherman's Wharf Merchants Association, led by its most able and effective president, Patrick Flannagan—and his predecessors. This breakwater is needed to protect not only San Francisco's fishing fleet, but also the historic ships in the National Maritime Museum's portion of the Golden Gate National Recreation Area. This has been desperately needed for years but the urgency of this project was forcefully brought to our attention during a recent storm which damaged both fishing vessels and historic ships. I again urge passage of this bill.●

Mr. COELHO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5002, FISHERY CONSERVATION AND MANAGEMENT IMPROVEMENT

Mr. JONES or North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5002) to improve fishery conservation and management, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. WALKER. Mr. Speaker, reserving the right to object, do I under-

stand this bill has no budgetary impact?

I yield to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I can assure the gentleman that it has no budgetary impact.

In a few words, if the gentleman cares to hear it, I will explain the difference between the Senate and the House versions.

Mr. WALKER. Further reserving the right to object, I would be very happy if the gentleman would do that just briefly.

Mr. JONES of North Carolina. I thank the gentleman for yielding.

Briefly, the State of California's representation in this noble body insisted on having two additional members on these various fishing councils, particularly the one involving California. The Senate saw fit not to allow the two extra members, so therefore, on behalf of the California Members of this body, I am requesting a conference in order that we can work it out and see whether California gets two, one, or no additional members.

This has no budgetary impact whatsoever, and that is the only difference between what we passed a few weeks ago and what the Senate passed.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. DINGELL. Mr. Speaker, reserving the right to object, and with all due respect for my dear friend, the distinguished chairman of the Committee on Merchant Marine and Fisheries, is there anything added to this with respect to the Alaska Railroad, or anything of that sort?

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I, of course, yield to the chairman.

Mr. JONES of North Carolina. No, Mr. Speaker, this is H.R. 5002. What we discussed a few minutes ago has been completely discounted and disregarded.

Mr. SNYDER. Mr. Speaker, will the gentleman yield under his reservation of objection?

Mr. DINGELL. I, of course, yield to the gentleman from Kentucky.

Mr. SNYDER. I can assure the gentleman that if they try to add the Alaska Railroad I will call him.

Mr. DINGELL. I thank the gentleman. I do not know whether I am for or against the addition of the Alaska Railroad provisions, but the Senate does things sometimes in great haste this time of year without consultation with the proper committees over here, and a little watchfulness is sometimes in order.

Mr. SNYDER. If the gentleman will yield further, the Committee on Merchant Marine and Fisheries has no reason and no jurisdiction to be messing with the Alaska Railroad. It ought not to be bothering with it. That is the gentleman's jurisdiction, and I am not going to agree, as the ranking minority member on the committee, because it is something we ought not to be dealing with. That is the gentleman's.

Mr. DINGELL. I thank the gentleman. But that is not in this bill, however?

Mr. JONES of Carolina. If the gentleman will yield, no, no connection whatsoever; no language.

Mr. DINGELL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina? The Chair hears none and, without objection, appoints the following conferees: Messrs. ANDERSON, BREAUX, STUDDS, SYNDER, and FORSYTHE.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5002, FISHERY CONSERVATION AND MANAGEMENT IMPROVEMENT

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, December 18, 1982, to file a conference report on the bill (H.R. 5002) to improve fishery conservation and management.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5002.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

HOUR OF MEETING TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 4 p.m. tomorrow.

The SPEAKER pro tempore (Mr. BREAUX). Is there objection to the request of the gentleman from Washington?

There was no objection.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7439, passed earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate has passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 5204. An act to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians;

H.R. 6588. An act to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes;

H.R. 6904. An act to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes;

H.R. 7155. An act to settle certain Indian land claims within the State of Florida, and for other purposes; and

H. Con. Res. 435. Concurrent resolution correcting the enrollment of H.R. 5447.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7144) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 3, 7, 17, 23, 33, 34, 35, 39, 40, and 41 to the above-entitled bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 1 to the amendment of the House to the bill (S. 625) entitled "An act to revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 2 to the amendments of the House to the bill (S. 2273) entitled "An act to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) to extend authorizations for appropriations, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 5238) entitled

"An act to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes."

□ 1600

A WORKABLE SOLUTION TO OUR TRADE PROBLEMS WITH JAPAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. BEREUTER) is recognized for 60 minutes.

Mr. BEREUTER. Mr. Speaker, several weeks ago, the long-awaited GATT (General Agreement on Tariffs and Trade) Ministerial Conference concluded. Eighty-eight countries met in Geneva, Switzerland, to discuss critical issues relating to the conduct of international trade.

Given the troubled economies of virtually all nations, even our own, proponents of free trade faced a difficult task at this trade conference. With economic difficulties come almost insurmountable calls for protection of domestic producers and manufacturers and an increasing cold shoulder to foreign goods.

As a member of the congressional delegation to this conference, I considered these negotiations to be of utmost importance. Of particular interest to me, because I represent one of the Nation's premier agricultural districts, were the bilateral United States-Japan negotiations. Promised to the anxious farm community in early spring, these discussions were designed to identify and to implement ways to bring down formidable Japanese barriers to the importation of American agricultural products.

In the last few days, we have heard much said in this Chamber about the status of United States-Japan trade relations, and particularly, the imbalances in that relationship. The agricultural trade barriers set up by the Japanese came in for special scorn. Yet, no one in this body offered any workable solution to these problems. The much debated domestic content bill, the proponents admit, is a flawed vehicle, one with a potential for creating chaos in the international trading system. It does not offer a reasonable or acceptable answer to the problems we encounter in trade with the Japanese.

Today, I would like to reemphasize to my colleagues the important role agricultural trade plays in the American economy and to describe some of the problems American traders face abroad. Moreover, I hope to encourage a search for meaningful solutions to the intolerable United States-Japan trade imbalance by suggesting what I believe to be a promising answer to the agriculture trade barrier conflict.

AMERICA'S EXPORT SUCCESS STORY

Let me begin by first giving a brief description of America's greatest trade success story: The agricultural export market.

America began exporting agricultural products more than 350 years ago with the sale of tobacco to the English. According to statistics gathered by the U.S. Department of Agriculture's Foreign Agricultural Service, our Nation now exports more agricultural products than any other country in the world. More than 150 nations receive U.S. agricultural products. We account for four-fifths of the soybeans moving in world markets, two-thirds of the feed grains traded, two-fifths of the wheat and cotton shipped abroad and one-fifth of the tobacco and rice sold between nations. Earnings from foreign sales of agricultural products have added more than $10 billion to our trade surplus account each year since 1974. In contrast, our nonagricultural trade balance reversed from a $958 million surplus in 1970 to a $50 billion deficit just 10 years later. Over the same period, the farmers and ranchers of this Nation have preformed in exemplary fashion, boosting the agricultural trade surplus from $1.3 billion in 1970 to an amazing $23.2 billion at decade's end.

The value of these foreign markets to the individual farmer—as well as to the Nation as a whole—cannot be underestimated. Presently two-fifths of our cropland—or approximately 138 million acres—produces commodities for foreign sales. Moreover, one-fourth of the cash receipts earned by our farmers and ranchers comes from that vital trade. Expanded markets encourage production efficiencies which engender benefits to the farmer, as well as to the American consumer.

It seems almost unbelievable that in the 1930's, average yearly exports were only $765 million. That figure rose steadily to $2,416 billion in the 1940's, $3,603 billion in the 1950's, and $5,735 billion in the 1960's. Average yearly sales then skyrocketed to $18,370 billion in the decade of the 1970's.

Everyone—consumers, farmers, workers ranchers,—benefits from a health agricultural export program. Multiple values of the export effort can be readily cited.

Although we exported more than $40 billion of agricultural commodities during fiscal year 1980, the U.S. Department of Agriculture estimated that such trade generated twice that amount of activity in the domestic economy and accounted for roughly 1 million jobs. In 1979, almost half a million people were employed on the farm and approximately 680,000 in jobs related to the assembling, processing and distribution of agricultural goods destined for foreign markets. USDA statistics for 1979 tied to our agricultural export effort 60,000 food processing, 300,000 trade and transportation, 120,000 manufacturing and 50,000 other jobs in the economy.

Such statistics take on even more significance when one learns that the value of overall U.S. agricultural exports for fiscal year 1982 dropped $4.7 billion, an 11 percent slide from the previous year, to $39.1 billion. Furthermore, the volume of agricultural exports for the period lagged 2 percent behind the previous year's figures, slipping to 158 million tons. Despite an 11 percent decline in imports, our agricultural trade surplus fell from a record $26.6 billion in fiscal year 1981 to $23.7 billion.

During October of this year, we suffered another distressing decline, as volume dropped 23 percent—to 12.1 million tons—and value fell 26 percent—to $2.9 billion—from the same month a year ago. For fiscal year 1983, the USDA predicts a continued slide, down to $37.5 billion, in the value of agricultural trade.

In certain areas, we did have some good news. For the first 6 months of the year, trade with South Asia, India, and Pakistan was up over 100 percent. Exchanges with Latin American and the Caribbean, however, showed a 33 percent drop over the same period.

Some of the drop in export performance occurs due to circumstances beyond our control. Economic conditions, for example, the Polish debt crisis, explain the 56-percent slump in imports by East European countries. In other cases, the dollar's appreciation has hampered U.S. export performance.

In some cases, however, the USDA reports that movements in the value of the U.S. dollar did not appreciably affect foreign prices. For example: between March 1981 and March, 1982, when the yen depreciated 16 percent, Japanese import prices for U.S. wheat, corn, and soybeans fell 3 percent, 17 percent, and 16 percent compared to drops in U.S. export prices of 4 percent, 20 percent, and 16 percent.

Regardless of the cause, the deterioration in export performance is unnecessary. American farmers, poultry men, stockgrowers, and fruit and vegetable growers produce high quality goods in heavy demand worldwide. If economic conditions downgrade market opportunities in one sector, we must pursue any other options all the more aggressively. We must constantly work to penetrate any possible market abroad. Certainly the demand for our goods exists.

Despite the desirability of our agricultural products, we are enduring trade declines because trade barriers in some countries hamper our sales efforts and undermine our ability to overcome temporary economic disincentives to trade.

UNITED STATES TRADE WITH JAPAN

Japan offers the classic example of the deleterious impact of trade barriers, one that is constantly and appropriately cited in this body. It must be recognized that Japan has been our No. 1 market since 1964. Japan purchased $6.7 billion of agricultural goods from us in 1981, up 17 percent from 1980. The second ranking customer, West Germany, received less than half that amount. One out of every 20 U.S. farm acres goes to produce commodities which feed Japan, a figure which represents more cropland than Japan itself devotes to feeding its citizens. Some 90 percent of Japan's high quality beef imports, for example, come from the United States. With food imports by Japan expected to double by the end of the century, our Asian ally offers a fertile market for additional American sales.

Despite the already extensive purchases by the Japanese from the United States, their significant trade barriers still greatly hamper our increased sales to this important market. According to Alan Middaugh, president of the Meat Export Federation, "While the average ad valorem duty on Japanese manufactured goods entering the United States is 2.5 percent of the import duty on U.S. beef is 25 percent."

Japan maintains import quotas on 22 agricultural products and ad valorem tariffs on a number of commodities. Tariff quotas apply to 11 items including corn used for industrial purposes and barley used for feed.

Beef quotas are particularly notorious. For April 1981, to March 1982, beef import quotas were as follows:

	Metric tons
General quota	111,000
International hotel and restaurant quota	3,000
School lunch	2,250
Boiled beef	4,700
Okinawa	5,850
Total	126,800

Quotas change roughly every 6 months, the above quota being 8,000 metric tons less than the previous level. This restricted level allows the annual entry of only 2.5 pounds of foreign beef per Japanese citizen.

Equally stringent quotas apply to fresh oranges and fruit juices. Quota limits cover two periods: June to August and the remainder of the year. A 20-percent tariff applies during the latter period even though virtually no domestic oranges are available during that time. A 1978 requirement that imported juices must use at least 40 percent of their juice from Japanese oranges caused a dramatic drop in the U.S. share of the Japanese market, from 77 percent to 20 percent.

Formal quotas are not the only mechanism used to depress imports, governmental advocacy of voluntary imports, quarantine regulations, health regulations, standards and credit arrangements can all be used to hamper U.S. sales efforts. Purchases of commodities for resale by the MAFF's (Ministry of Agriculture, Forestry and Fisheries) food agency, at a noncompetitive price support of the domestic produce, further discourages purchases from abroad.

If these trade barriers could be eliminated, U.S. sales to Japan potentially could increase in a major degree.

One important unexploited sales opportunity is for pineapple juice, which is not produced in Japan. Another opportunity lies in beef sales.

The following figures demonstrate the potential for enhanced beef sales. Total meat consumption in Japan grew from 3.5 kilograms per person in 1960 to 22 kilograms in 1980, with high quality beef and veal consumption increasing from 1.1 kilogram to 3.5 kilograms per person. Despite this rise, however, that level equals only one-tenth of U.S. beef consumption and one-fourth of that of Western Europe. In 1981, per capita carcass weight beef consumption averaged 11 pounds in Japan, a stark contrast with the United States 106-pound average. With the Japanese diet in transition since World War II and fish stocks off Japan's coast decreasing, its citizenry is becoming increasingly reliant on beef imports for protein.

INTERNAL JAPANESE RESISTANCE TO IMPORT INCREASES

The need for increased imports and the desirability of freer trade policies, however, seem to be ignored by the Japanese, especially the farming sector. Japanese farmers are dead set against any change in the current import policies. On April 23, an estimated 8,000 farmers took to the streets in Tokyo chanting "No more beef, no more oranges," a direct protest against the U.S. request that import quotas on 22 agricultural and fishery products, including beef and oranges, be dropped. According to a report in the May 1982, issue of the London Economist:

Japanese have been fed with horror stories in the newspapers and on the air waves about what could happen to local agriculture if the Americans were allowed to export more of their cheap beef and delicious oranges. Nightmares of a farming system reduced to the near starvation level of 1945 are conjured up. The Japanese are told that they are already dependent on foreign supplies for nearly half of their daily diet of 2,500 calories. What if the Americans should once again slap embargoes on certain food exports?

Why the campaign to create mass hysteria? Moreover, why do the Japanese perpetuate an agricultural commodity where the average farm size is less than 3 acres, compared to 450 acres in the United States? Why the campaign in an economy which suffered in 1980 its worst rice crop in 26 years? Why the hysteria when 1981 wheat production was virtually equal to that of 1980, despite a 17-percent increase in harvested area? Why the hysteria when only 13 percent of Japanese farmers are full-time operators and only 14 percent of the land is suitable for agricultural use?

Part of the answer lies in basic Japanese law. The 1961 Agricultural Basic Act, for example, perpetuates small-scale operations. It allows imports to be controlled if they threaten domestic farm prices, thereby keeping domestic prices and income high. The Japanese Ministry of Agriculture, Forestry and Fisheries estimates that such a program cost the Japanese $14.7 billion in 1979, an amount equivalent to 28 percent of gross agricultural income.

Similar subsidy programs benefit Japanese beef producers, enabling the nation to provide 75 percent of its own beef requirements. Although the average Japanese herd size is 5–6 head, a complicated system of prices, supports, import quotas, feeder-calf stabilization schemes, direct grants, and low-interest loans for capital and operating expenses, and direct breeding assistance sustain the Japanese beef producers. Costs are high. By comparison, the average cost of production per hundredweight of slaughtered cattle in the United States in 1979 was $65.74; it was $140.91 for a Japanese dairy steer and $218.27 for a Japanese breed Wagyu steer. As a result, the average retail price of beef in Japan was $6.77 per pound in 1981 compared to $2.40 in the United States. Retail prices for boneless sirloin averaged $14.40 during 1979–81 compared to $3.50 in the United States High demands and artificial limitations on supply, coupled with small scale production, inefficient feeding practices and high livestock mortality keep Japanese beef expensive.

JAPANESE FARMERS HOLD POLITICAL CONTROL

A recent article by Aurelia George in the journal Pacific Affairs provides an explanation for Japanese obstinacy on these points.

It is widely recognized that, in matters of agricultural trade and farm policy, the Japanese government is influenced more strongly by political factors than by considerations of economic efficiency or comparative advantage. The ruling Liberal Democratic Party (LDP) is commonly portrayed as captive of domestic farming interests and bound to the dictates of an electoral strategy aimed at preserving a voting base in rural areas.

Labeled by George as a "well-mobilized and vocal political force," Japanese farmers must be reckoned with in any debate on Japanese trade policy. With membership concentrated in a single association of agricultural cooperatives, Nokyo, 5 million voices and a half million personnel speak together on any political debate, making it the

largest single organization in the country.

Indicative of Nokyo's control over the agricultural sector is the fact that virtually all of the rice, over 90 percent of the milk, almost 90 percent of the vegetables and fruits, over 80 percent of the eggs and pork and 80 percent of the beef sold in Japan is marketed through Nokyo's 10,000 member cooperatives

Unchallenged economic power, matched by its political control—especially of agricultural policy—makes Noyko a potent force indeed. It has automatic consultation rights and even acts as administrative agent for numerous programs, including payments to producers. Despite a 43.6 percent decline in the agricultural workforce during 1965-78—from 10.09 million to 4.69 million workers—Noyko remains a potent voting block because total agricultural population declined only 7.8 million during that same period, from 30.0 million to 22.2 million. That figure represents 20.45 percent of the national electorate of 16.2 million eligible voters. Failure to reapportion the Diet since its creation further enhances the electoral power of the rural vote, providing these rural and semirural constituencies 30 percent of the total delegates in the Japanese diet. Given the slow declines in farm acreage and household population expected, Nokyo's ability to expand its services into nonfarm areas and its activism on the part of favored candidates, the agricultural imbalance in the Japanese political system promises to remain in the foreseeable future.

As a result of this political potency, George says:

. . . the LDP allows no major items affecting is rural clients to go unquestioned. In pursuing its stated political objectives of providing market and price stability for farm products, income equity across various sectors of the economy, maintenance of agriculture as a viable industry and security of food supply, the Government has created a comprehensive system of state control and support for agriculture. This system has led to considerable intervention in price determination and in matters relating to agricultural production, development and trade.

Such is the control of the agricultural sectors that:

Although bureaucracy in Japan has traditionally played an active and decisive role in the policy process, Government decisions affecting agriculture carry such political import that they are not left to the bureaucracy to make.

George said.

DESPITE HIGH PRICES, CONSUMERS SUPPORT THESE POLICIES

Despite the fact that Japanese consumers endure some of the world's highest food prices, they seem allied with the farmers on this protectionist policy. A recent survey in Japan reportedly revealed that 70 percent of Japanese consumers were willing to forgo less expensive imported food stuffs in favor of increased domestic prices. They endure higher domestic prices as well, allocating 32 percent of their consumer expenditures to food compared to 17 percent in the United States. Staples such as rice, bread, and beef sell at two to three times the average world prices.

No constituency for lower prices exists, especially one that disregards the interests of farmers. Noyko's efforts to forge a "community of interest" between urban residents and rural producers further undermines any chance for change in the absence of political support within the Diet for consumer interests. Rather, competing political parties attempt to outgun each other on the issue of support for farmers.

As a result of this intense concentration of decisionmaking authority, a general agreement on agricultural policy has emerged, George states. The most important facet of that agreement is a "national recognition of the need for a stable and guaranteed food supply, even at the risk of alienating consumers by high food prices, taxpayers by large budget deficits and overseas trading partners by import controls and tariff barriers." This policy process culminated in an April 1980 diet resolution which called upon the Government to "take every possible measure to enhance the country's food self-sufficiency and develop the agriculture and fishing industry with a view to ensuring the security of the people."

This food security commitment places tough obstacles in the way of foreign traders, and rightly or wrongly, justifies protectionism. As Mr. George suggests, it provides a "convenient guise of 'national interest' for special concessions to sectoral interests."

QUOTA INCREASES INSUFFICIENT

No wonder American negotiators face such obstacles in negotiating with the Japanese on the elimination of these trade barriers. At best we seem capable of eliciting from the Japanese only meager increases in quotas. That approach, however, accomplishes little.

Dr. Fred Sanderson, noted expert on Japanese food security issues and a Brookings guest scholar, challenges the Japanese approach to the goal of food security. He states:

Obviously there are better solutions than to try to grow enough food in Japan to guard against any disruptions of world trade. In any case, it's not a practical proposition. It cannot be done. The next best solution is to provide more security of supply through international agreements.

If such agreements would be consummated, what would this do to the Japanese farmer? Dr. Sanderson suggests a solution to the food security which would benefit all parties involved, the farmer as well as the American exporter and the Japanese consumer.

According to Dr. Sanderson, the distributors' profits and the Livestock Industry Promotion Corp. (LIPC) take a large share of the price markup on imported beef—causing the difference between the average $2 per pound U.S. price and the $15 per pound Japanese retail price. The LIPC is designed to channel resources to the Japanese farmer to improve meat production efficiency, but "apparently very little is actually used for this purpose." Moreover, "the system provides little incentive or pressure to improve efficiency. Rather, it creates a vested interest in inefficiency," Sanderson said.

A resolution of the import restriction-farm protection conflict, Dr. Sanderson says, would be for elimination of all quantitative restrictions on beef imports, leaving intact only the 25 percent duty. Under such a system, he projects that domestic market price would fall 50 percent, consumption increase 70 percent, and imports rise 250 percent, of which half could be expected to be supplied by U.S. farmers and ranchers who now have roughly 27 percent of the import market.

Of course, such a drastic price drop would have a devastating impact on Japanese beef producers. Deficiency payments, however, could easily remedy that problem. Sanderson notes that proceeds from the remaining 25 percent duty would cover 30 percent of the cost of the deficiency program. The remainder of the program expenditures could be financed directly by the Government or through a temporary 50 percent surcharge. Under the latter approach, Sanderson still expects prices would drop 30 percent, consumption rise 42 percent and imports climb 150 percent. Increased foreign competition would also push Japanese producers to improve the efficiency of their own operations, where much improvement is possible. Under such a system all parties, the Japanese consumer, the Japanese farmer and the American farmer, would benefit and United States-Japanese trade relations would improve markedly.

Sanderson predicts that a similar drop in orange quotas would enable both foreign and domestic producers to tap an as yet underdeveloped market for orange juice, allowing the United States to reap about half of the expected $300-$400 million sales increase. Although Japanese consumption of fresh oranges is twice that per capita as the United States, total fresh orange and orange juice consumption per capita in the United States doubles that of Japan. Japanese oranges do not produce high quality juice, thus accounting for the current limited market. Increased customs receipts

could then be channeled into diversification of the industry.

A RESPONSIBLE SEARCH FOR SOLUTIONS NEEDED

The debate on the terrible domestic content bill should demonstrate to Japan the frustations faced by the American public and its elected representatives regarding our bilateral trade regulations. Unless some progress occurs soon, the Japanese will be faced with stern, protectionist measures such as H.R. 5133. The international damage which that measure would cause must be avoided at all costs. But, the Japanese must step forward and make an effort to develop meaningful solutions to these conflicts.

We need to break through the wall of protectionism, not just reduce it brick by brick. Regardless of political conditions, the Japanese must assume the responsibilities of a leading world trader. They cannot continue piecemeal, grudging changes. No longer can they be allowed to drag their feet and to reject each American proposal with a "But that's not possible" response. As Dr. Fred Sanderson suggests:

. . . I believe it is not sufficient for Japan to simply continue with the process of small increases in the import quotas. What is called for in this situation for in this situation is a change in the system.

The alternative that I just suggested is but one of the many possible options which our two nations can and must explore. In the strongest possible terms I urge the development of a continuing dialogue on the matter between the Congress, the administration and the Japanese Government—one that continues unabated until these perceived inequities are removed.

The United States and Japan form one of the world's most important bilateral alliances. Intransigence on trade issues must not be allowed to destroy this key relationship. Both countries, however, must act responsibly to explore all avenues of compromise to resolve these conflicts.

It would be well to note the comments of the highly respected U.S. Ambassador to Japan, Mike Mansfield. Earlier this year he addressed the Foreign Correspondents' Club of Japan. In that speech, Mansfield warned our nations:

. . . Both of us bear a responsibility for ensuring that the current trade problem does not reach proportions whereby it causes even more severe strains in our overall relationship. If this were to happen, it would be much more difficult for the industrial democracies to deal together with the important problems we face—problems that are crucial to world peace—problems such as Russian troops in Afghanistan, the Polish situation, the concerns for the developing countries, the global negotiations. . . .

TRIBUTE TO THE HONORABLE TOM HAGEDORN AND THE HONORABLE ARLEN ERDAHL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 60 minutes.

● Mr. FRENZEL. Mr. Speaker, today I want to thank two retiring colleagues, TOM HAGEDORN and ARLEN ERDAHL, for a job well done, and wish them well in their future activities.

Both ARLEN and TOM have served their districts well in the best traditions of Minnesota public service. Both received excellent training for the Congress in the Minnesota Legislature, where they served with current congressional colleagues, ARLAN STANGELAND, BRUCE VENTO, MARTIN SABO, and myself. There, as they have here in the Congress, distinguished themselves with able service.

TOM serves on the Public Works Committees and is the ranking minority member on the Investigations and Oversight Subcommittee. He also serves on the Agriculture Committee and is ranking minority member on its Livestock, Dairy, and Poultry Subcommittee. He has been a strong voice for conservative economic policy, and has earned a reputation as a staunch defender of farm producers and small business people.

ARLEN serves the Foreign Affairs Committee and the Education and Labor Committee and was the ranking minority member on the Subcommittee of Select Education. He made his reputation here as a thoughtful, sensitive, foreign policy analyst, and as an independent voice on matters of education and economics.

Both were farmers who still own farms in southern Minnesota. While neither has immediate plans to return to active agricultural production, those farms will be more than anchors to windward. ARLEN and TOM are going to carry the vocational description of "farmers" for the rest of their lives, and they will carry it proudly.

It is not terribly difficult to say goodbye to able colleagues. Members of Congress come and go with too great a frequency. The really hard part is to say goodbye to good friends like TOM and ARLEN. Their service here has been effective, successful, and selfless. I will miss them both.

I thank them for that service and wish TOM HAGEDORN and ARLEN and Ellen ERDAHL great success in whatever new careers on which they may embark.●

● Mr. MONTGOMERY. Mr. Speaker, I want to add my name to the list of colleagues paying tribute to two Congressman from the State of Minnesota who will not be back when the 98th Congress convenes, Representatives TOM HAGEDORN and ARLEN ERDAHL.

TOM HAGEDORN has served with distinction in this Chamber since being elected from the First District in 1974. I know he has been particularly interested in matters affecting agriculture and he has made a great contribution as a member of the Agriculture Committee. He has also been active on the Public Works and Transportation Committee.

TOM is an outstanding and well-respected Member and he can truly be proud of the service he has given to the First District and to the State of Minnesota in the House of Representatives. I am sure he will put his experience and leadership abilities to good use in the future, both in community activities and on the political scene.

I have come to know ARLEN ERDAHL well through our association with the Congressional Prayer Breakfasts. He has been a hard worker in this Chamber and we will miss him.

He has served diligently on the Education and Labor Committee and I know he has made a valuable contribution to the Foreign Affairs Committee.

ARLEN has served in a wide range of public service positions including Missesota secretary of state, State representative and public service commissioner. He can indeed be proud of these accomplishments.

ARLEN ERDAHL is a man of high integrity and character. It is unfortunate that we in this Chamber are losing a man of this caliber. He will be missed.

I want to wish the best for both of these fine gentlemen.●

● Mr. YATRON. Mr. Speaker, I would like to take this opportunity to say a few words about a friend and fine colleague, ARLEN ERDAHL.

As a member of the House since the 96th Congress, ARLEN ERDAHL quickly distinguished himself as an extremely capable, and devoted legislator. I have had the privilege of serving with ARLEN ERDAHL on the House Foreign Affairs Committee and I have seen first hand his many unique skills and abilities. ARLEN ERDAHL has been deeply involved in the development of foreign policy initiatives which promote and protect American interests and which maintain world peace. He has done an outstanding job on the committee.

ARLEN ERDAHL was also an active and effective member of the House Committee on Education and Labor. His strong belief in the importance of education to our society was manifest during his tenure on the committee. His efforts to guarantee quality education for our citizens was widely known and highly respected by his colleagues.

Indeed, ARLEN ERDAHL was a hard-working and diligent public servant. His work of his constituents, the State of Minnesota, and this Nation will long be remembered after he leaves the Congress. ARLEN ERDAHL will be truly missed by all of us who served

with him. I know that he will be successful in all his future endeavors and I wish him the very best.●

THE REPUBLICAN ALTERNATIVE HOUSE RULES PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. LOTT) is recognized for 30 minutes.

● Mr. LOTT. Mr. Speaker, when the 98th Congress convenes on Monday, January 3, 1983, it will make one of the most important decisions of that Congress in adopting a body of rules to guide it for the ensuing 2 years. This will come in the form of a resolution reported from the Democratic Caucus adopting the House rules of the 97th Congress together with several far-reaching changes.

Mr. Speaker, on Thursday, December 16, 1982, I took a special order in which I offered a critique of those Democratic Caucus proposals for changing our House rules. That critique can be found on page H10102 of the December 16 RECORD, part II. In essence I criticized five of those proposals for undermining the concepts of both majority rule and minority rights in the House. The caucus proposals would make it more difficult to consider limitation amendments to appropriations bills and to discharge constitutional amendments. They would further erode the constitutional requirement for a majority quorum to do business by permitting a postponement of the vote on the Journal, a means of establishing a quorum, and by eliminating a vote on going into the Committee of the Whole to consider legislation. And finally, they would strip the House of the right to remove Members from committees and replace it with removal by communication between the caucus chairman and the Speaker.

Today, Mr. Speaker, I would like to focus my remarks on the alternative rules package being recommended by the Republican leadership which will be considered by our Republican Conference on the opening day of the new Congress. Unlike the Democratic Caucus rules package, our proposed rules changes are aimed at making the House and its committees more open, accountable, and conscientious. Many of these proposals are based on my own "Committee Improvement Amendments," House Resolution 100, introduced in this Congress with over 100 cosponsors. Not all of these are original with me. The Republican Party in the House has been pressing for many of these changes for years.

Mr. Speaker, I think it is especially regrettable that this most important decision on opening day is confined to just 1 hour of debate with no opportunity for amendment or separate votes. Not only is the minority precluded from offering its alternative proposals unless it defeats the previous question, but members of the majority caucus are denied separate votes in the House on their own caucus package, even though two of those proposals, relating to appropriations riders and constitutional amendments, were the subject of considerable dissent and opposition within the caucus. Members of the Democratic Caucus are under informal, binding instructions to support their entire package and resist any minority attempt to even offer its alternative package.

What would our alternative rules package do? First, we would eliminate the joint referral of bills to two or more committees and replace it with a designated principal committee of jurisdiction for referral purposes. Sequential and split referral would still be allowed subject to appropriate time limits. The present practice of joint referrals has greatly diminished legislative accountability in this House while greatly increasing confusion and delays. Our House Select Committee on Committees in the 96th Congress found that joint referrals lead to a substantial duplication of effort, a slowdown in the legislative process, an increase in staff power, jurisdictional bickering, and a lack of accountability. The Select Committee went on to find that such multiply referred bills consume four times as much meeting and hearing time, and have less chance of passage then singly referred bills. Finally, joint referrals lead to more amendments and confusion when and if such bills ever reach the House floor. This practice must be eliminated if we are to return this House to some semblance of order and efficiency.

In connection with this jurisdictional confusion at the committee level, our proposals would improve the committee system in several other important respects. First, they would require that the party ratios on all committees, except the Rules Committee, must reflect the party ratio of the House. Even though Democrats will comprise 61.8 percent of the House in the 98th Congress, the Democratic Caucus has mandated that Democrates comprise 63 percent of the Appropriations Committee, 64.5 percent of the Budget Committee, and 65.7 percent of the Ways and Means Committee. This not only does violence to the one-man, one-vote concept, but insures that the decisions made by these committees will not truly represent the interests or will of the House or the American people.

Second, our proposals would limit all commmittees, except Appropriations, to no more than six subcommittees, and all Members to no more than four subcommittee assignments. One of the greatest sources of legislative chaos in this body has been the proliferation of subcommittees with all the attendant duplication and jurisdictional bickering. Moreover, this proliferation has made it virtually impossible for any Member to be a conscientious legislator with so many conflicting demands on his time. In this Congress the Democratic Caucus limited subcommittees to no more that eight subcommittees. But this is still far too many. There are now 148 subcommittees and task forces in the House. Four committees now have eight subcommittees and five have seven. Our proposed rules change would reduce this number by 16, bringing the total down to 132.

Because our committee system is now spread all over the lot, the Democrats have had to resort to rules under which less than a majority of a committee can conduct business. This is done on two ways: First one-third of a committee can constitute a quorum for conducting all business except reporting a measure. Second, committees may authorize proxy voting. Taken together, these present rules only further insure that the legislative products of committees are neither representative of the committee nor the House. We have sacrificed majority rule and deliberation for expediency. Ironically, the Democratic Caucus has adopted a Caucus rule for the next Congress prohibiting proxy voting in the full caucus as well as in committee caucuses. Our proposed rules changes would restore the majority quorum requirement in committees for the transaction of any business, and would abolish all proxy voting.

Another source of problems in the House, in connection with the proliferation of subcommittees, has been the growth of staff. There can be no question that committees and subcommittees must have adequate staff backup and expertise. But, in recent years this has reached a point of diminishing returns. We have more staff doing more work than our own limited legislative time and responsibilities can possibly absorb. Just as our daily schedules tend to govern us rather than vice versa, excessive staff tend to dictate our workload, rather than the other way around. The more we become overreliant on staff to do the work we should be paying more attention to, the further removed we become from being the Representatives the people elected to make the decisions of government. Under one of our proposals, the House would vote each year on an overall committee staff ceiling, and this ceiling would then be used to allocate staff to each committee based on past and anticipated legislative and oversight activity.

With respect to committee oversight, we are proposing that each committee vote on its oversight agenda at the beginning of each Congress. At present,

these are put together by staff without consultation or approval by the membership of committees and subcommittees. As such, the present oversight plans submitted to the Government Operations Committee have little relation to reality. Our proposal would also make it possible for the bipartisan leadership to excercise more of an oversight coordination role in developing these plans in order to avoid duplication and insure that important oversight issues are given proper attention. Finally, the final oversight reports of committees would be required to relate actual oversight accomplishments to these original plans.

We are also proposing a House rule aimed at insuring that a new Congress get organized early so that the important work of committees can go forward immediately. At present we spend the first two months of a Congress just getting organized, even though the early organization rule voted by the 94th Congress was intended to permit the making of committee assignments in December before a new Congress convenes. Under our rule, the House would be required to elect its committees not later than 5 days after it convenes, and committees would be required to hold their organizational meetings not later than 8-legislative days after the new Congress convenes. Given the press of our budget deadlines for authorizations, early organization is esstential if we are to do a conscientious job of legislating in this body.

Finally, Mr. Speaker, we are proposing a rule to require that broadcast coverage of House proceedings include a view of the House while it is voting. At present this is blocked out despite the House broadcast rule requiring "complete and unedited" broadcast coverage of our proceedings. Our proposed rule would permit a visual display of the ongoing vote to be superimposed on the view of the Chamber while we are voting. The American people have a right to view this most important aspect of our proceedings as was originally intended by the House broadcast rule.

At this point in the RECORD, Mr. Speaker, I include a summary of our proposals and commend them to the reading and support of my colleagues. The summary follows:

BRIEF SUMMARY OF SUGGESTED REPUBLICAN AMENDMENTS TO HOUSE RULES, 98TH CONGRESS

(1) *Multiple Referral of Legislation.*—The joint referral of bills would be abolished in favor of designating a principal committee of jurisdiction for each bill introduced, but the Speaker would retain discretionary authority for sequential and split referral of bills.

(2) *Subcommittee Limits.*—Rule X, clause 6(c) would be amended to limit each committee (except Appropriations) to no more than six subcommittees, and to limit Members to no more than four subcommittee assignments in the House.

(3) *Staff Ceiling.*—Rule X, clause 5 would be amended by inserting a new paragraph (a) to prohibit the consideration of any primary expense resolution for a committee until the House had adopted a resolution to be reported from the House Administration Committee establishing an overall committee staff ceiling for that year. Primary expense resolutions would include an allocation for staff consistent with the overall ceiling established, and the total number of statutory and investigative staff shall not exceed the overall ceiling. The House Administration Committee would take into account a committee's past and anticipated legislative and oversight activities in allocating investigative staff positions to each committee. Any supplemental expense resolutions must indicate whether additional staff positions are being authorized, and, if such positions exceed the overall ceiling established, a two-thirds vote of the House would be required to consider any such resolution.

(4) *House Broadcasting.*—Rule I, clause 9(b)(1) would be amended to clarify the intent of the present broadcast rule that the "complete and unedited" broadcast coverage of House proceedings be provided to the media by requiring that the audio and visual coverage of the House Chamber be presented while Members are voting, including a visual presentation of the running vote tally.

(5) *Party Ratios on Committees.*—Rule X, clause 6(a) would be amended to require that the party ratios on committees reflect that of the House except for the Committee on Standards of Official Conduct (bipartisan) and Rules (two-thirds majority).

(6) *Committee Elections and Organizations.*—Rule X, clause 6(a)(1) would be amended to require that the House elect its committees not later than five legislative days after the convening of a Congress. And Rule XI, clause 1(a) would be amended to require committees to hold their organizational meetings not later than eight legislative days after the convening of the Congress.

(7) *Proxy Voting Ban.*—Rule XI, clause 2(f) would be amended to abolish all proxy voting on committees and subcommittees.

(8) *Majority Quorum.*—Rule XI, clause 2(h)(2) would be amended to require a majority quorum on committees and subcommittees for the transaction of any business (presently a one-third quorum may transact any business except for the reporting of a measure which requires a majority present).

(9) *Oversight.*—Rule X, clause 2(c) would be amended to require committees to formally adopt and submit to the Government Operations Committee by March 1 of the first session their oversight plans for that session, giving priority consideration to reviewing those laws, programs or agencies operating under permanent budget or statutory authority, and with a view to reviewing all significant laws, programs or agencies within their jurisdiction at least once every ten years. The Government Operations Committee, after consultation with the Speaker and majority and minority leaders, would report these plans to the House not later than March 15 together with any recommendations for coordination. The Speaker would be authorized to appoint ad hoc oversight committees to review matters within the jurisdiction of two or more committees. And, Rule XI, clause 1(d) would be amended to insure that each committee's final activity report at the end of a Congress include a separate section on its oversight accomplishments with reference to its original oversight plans.●

FOREIGN POLICY CONTRIBUTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PHILIP M. CRANE) is recognized for 15 minutes.

● Mr. PHILIP M. CRANE. Mr. Speaker, our Illinois colleague, the Honorable EDWARD J. DERWINSKI, in 24 years of outstanding congressional service, has proven himself a stalwart proponent of the United States of America. Unlike most of us, he has accomplished that feat principally in the realm of foreign policy. It is an understatement that his service on the House Committee on Foreign Affairs has been with extraordinary distinction. That accolade has come from Members of both House and Senate and from both sides of the political aisle. It has come from administration after administration, from the White House, the Department of State, and the Department of Defense. And it has come from foreign governments and diplomats. I have here but a sample of the numerous letters our colleagues have received. Letters from people who daily decide on questions of import for their countries. That recognition does not accrue from frivolous activities. That recognition evolves from a developed expertise based on firsthand experience. ED DERWINSKI built that expertise on a solid understanding of global and regional history. He built it on a sound appreciation of the essence of U.S. foreign policy. Foreign policy based on the principles set forth by our Founding Fathers.

ED DERWINSKI's specific contributions are too numerous to list but a brief sample here. These are some of his more recent and continuing efforts while serving his constituents, State of Illinois, and the United States. With the name DERWINSKI, it is fair to assume that he has an interest in Eastern European affairs. He appreciates the ideological struggle which exists between the United States and the Soviet Union. Since I have known him, he has championed the cause of people in captive nations of the Soviet Empire. Latvians, Lithuanians, Estonians, Poles, Germans, Hungarians, Czechoslovakians, Romanians, and Bulgarians—the peoples of once free states who periodically rise up against their Communist masters in their efforts to be free—have gained the consistent support of Congressman DERWINSKI. He has steadfastly pointed to the deliberate and continued Soviet violations of both the spirit and the letter of the Helsinki accords, which they signed.

When the Soviet Union snuffed out the free country of Afghanistan, ED DERWINSKI spoke out. He was in the vanguard of those working assiduously to remind free peoples everywhere

that, once again, the Soviets were up to their old tricks. When Greece and Turkey went to war over Cyprus, ED DERWINSKI provided well-reasoned, statesman-like advice and counsel on a truly emotional and explosive issue. When the SALT II strategic arms treaty negotiations stirred widespread national concern ED DERWINSKI responded. Congress expressed concerns about the verifiability of various proposals in the negotiations. He crafted a section to the Arms Control and Disarmament Agency bill. That addition requires the executive branch to provide regular reports on the verifiability of strategic arms provisions.

Few of us have been as close to the crucial substance of U.S. relationships with our friends and allies as has our colleague. He has resolutely rallied behind such redoubtable friends of America as the Republic of Korea, the Republic of Taiwan, Israel, and Lebanon. South Korea plays a vital role in U.S. strategy in Asia. Taiwan is one of America's oldest and most faithful anti-Communist allies. Israel is a rock of democratic tradition in a region of turmoil. Lebanon is a refugee seeking a viable central Government capable of restoring and maintaining the peace and stability that once made it the banking center of the Middle East. ED DERWINSKI has visited and talked with the people and the governments of these nations and more.

ED DERWINSKI has spent incalculable hours working to gain the bipartisan support of broadbased foreign policy measures. Measures designed to realize the national security objectives of the United States. He has developed foreign policy position papers for Presidential aspirants. He has campaigned diligently for the expanded use of this country's considerable influence. And he has done all this in a milieu that requires political prowess, diplomacy and inherent wit. ED DERWINSKI has what it takes.

From his vantage point on the Foreign Affairs Committee, he has consistently worked to forge a sound foreign policy. Foreign policy designed not only to respond to crises, but to avert dangerous occurrences before they can threaten peace. That can only be accomplished by maintaining real military strength, firm resolve, and a well defined national strategy.

It is indeed fitting that a man who has dedicated his elected service to the betterment of U.S. foreign policy, should now serve the Reagan administration. His appointment as Counselor of the Department of State will provide Secretary Schultz with a special adviser and troubleshooter of proven quality and character. At this point I include the following letters:

THE DANISH GROUP OF THE INTER-PARLIAMENTARY UNION,
Copenhagen, October 19, 1982.

Hon. EDWARD J. DERWINSKI,
Member of Congress, House of Representatives, Washington, D.C.

DEAR ED.: Rachel and I were very pleased to learn through an article in "Newsweek" that you now are taking over an important function in the State Department. I am sure that your considerable international experience and extensive personal contacts in countries all over the world will be of invaluable importance to you and your country in your new job.

Please receive our warm congratulations on this occasion.

I definitely hope that we shall be able to continue our good contact in future and send you and your wife our best greetings.

Yours sincerely,

ROBERT PEDERSEN,
President of the Danish IPU-Group.

REPUBLIC OF ALGERIA,
Alger, Algiers, October 25, 1982.

Monsieur EDWARD DERWINSKI,
Conseiller au Département d'Etat, Washington, D.C.

HONORABLE COLLEAGUE: I was agreeably surprised to learn from the press of your nomination to be Counselor at the Department of State, and I congratulate you sincerely.

During the many sessions of the Interparliamentary Union, I had the occasion to appreciate your competence and judicial choices. The members of the Algerian delegation who have known you have excellent memories of you.

I wish you much success in your new mission and hope through your post you will contribute to the development of relations between our two countries in the mutual interest of our two peoples.

I assure you of my highest regard.

MOHAMED LEMKAMI,
Vice President.

LUXEMBOURG, *November 26, 1982.*

Monsieur EDWARD J. DERWINSKI,
Member of Congress, 1401 Longworth Building, Washington, D.C.

Cher Monsieur DERWINSKI: I have received your letter of Nov. 16. It is with regret that I learn of your leaving Congress at the end of the year.

However, I send you my sincere congratulations on your nomination to the post of Counselor of the State Department and I wish you much success in your new and important functions.

Like you, I hope we will stay in touch, and I assure you that it is with much pleasure that I would welcome you to Luxembourg, should your mission bring you there.

Best regards,

LÉON BOLLENDORFF,
Président de la Chambre des Députés.

OFFICE OF THE SPEAKER, NATIONAL ASSEMBLY, REPUBLIC OF KOREA,
SEOUL, KOREA, *September 15, 1982.*

Hon. EDWARD DERWINSKI,
U.S. House of Representatives, Washington, D.C.

DEAR HON. DERWINSKI: It is a real pleasure to send you this short note on the occasion of your birthday. I hope this very special day brings you all the joy and happiness the world has to offer.

Moreover, the boundless contributions which you are making for the promotion of world peace through your Congressional works is deeply appreciated by many of your friends.

Happy birthday to you!

Sincerely yours,

JUNG NAE-HIUK.

October 20, 1981.

Hon. EDWARD J. DERWINSKI,
House of Representatives, Washington, D.C.

DEAR MR. DERWINSKI: I would like to take this opportunity to thank you for your letter of 2 October and to express my deep appreciation for your kind words of advice.

As a result of the recent events, following the tragic assassination of President Sadat, there is an even greater urgency to find a just, comprehensive and durable solution to the Palestinian problem. Stability and progress can only be built on the basis of understanding the needs and aspirations of the people, and any neglect of these aspects will certainly jeopardize the chance of a lasting peace.

I look forward to fruitful meetings with the President in our search for this common objective.

Your sincere friend,

HUSSEIN.

BONN, GERMAN, *December 7, 1982.*

Mr. EDWARD J. DERWINSKI,
Member of Congress, State Department, 1401 Longworth Building, Washington, D.C.

DEAR COLLEAGUE: Thank you very much for your letter of November 16, 1982. I was extremely pleased to hear from you and have fond memories of our successful cooperation in the past. During numerous conferences of the Inter-Parliamentary Union you have successfully and skillfully represented the cause of the western countries. Therefore I am happy to hear that you will be fulfilling a similar role in the future as advisor to the State Department. As special assistant to Mr. Shultz, Minister for External Affairs, your influence upon international relations could well be considerable. It is with great pleasure that I look forward to meeting you again soon—either in Bonn or in Washington. Anyway, I will let you know in advance should I happen to travel to Washington.

Kind regards and best wishes.

Yours sincerely,

DR. OTTFRIED HENNIG,
Member of Congress.

NEW DELHI, *November 30, 1982.*

Mr. EDWARD J. DERWINSKI,
Member of Congress, Congress of the United States, House of Representatives, Washington, D.C.

DEAR MR. DERWINSKI: I am glad to know from your letter of 16th November, 1982 that you have taken over as Special Assistant to the Secretary of State, George Shultz. I pray for your success in the new assignment. Whenever you feel like coming, you are most welcome to visit this country and I am sure friends like you holding key positions will further the mutual interests of our two great countries.

With best wishes,

Yours sincerely,

BAL RAM JAKHAR.

NATIONAL ASSEMBLY, INTER-PARLIAMENTARY UNION, JORDANIAN GROUP, THE HASHEMITE KINGDOM OF JORDAN

AMMAN, *December 1, 1982.*

Hon. EDWARD DERWINSKI,
House of Representatives,
Washington, D.C.

DEAR MR. DERWINSKI: Thank you for your letter dated November 16, 1982. I would like to take this opportunity to congratulate Your Excellency on your nomination to the position of Counselor of the Department of State. There is no doubt that such important position carries in itself a broad range of responsibility that can only be undertaken through your past experience and present expertise in political life.

I recall our first meeting which took place at the Inter-Parliamentary Council held in Sri Lanka in 1975 together with our meeting at IPU Conference held in London in 1975 both of which helped us to proceed forward in our mutual cooperation and coordination in matters of world interest.

I sincerely hope that such long-time friendship vis-a-vis past Inter-Parliamentary meetings will further be strengthened and cooperation amongst us further be developed by means of future contacts and work opportunities beneficial for the mutual interests of our two countries.

With my regards and best wishes for success in your assignment, I remain.

Sincerely yours,

BAHJAT TALHOUNI,
President of the Senate.

MONACO, *November 30, 1982.*

Monsieur EDWARD J. DERWINSKI,
Member de la Chambre des Représentants,
Washington, D.C.

CHER COLLÈGUE: I have received with much pleasure and interest your letter announcing your upcoming position at the State Dept.

I thank you for having thought on this occasion of our good relations. I want to congratulate you, on behalf of myself, the President and the members of our Assembly, our good wishes for your success in your new mission.

I will be happy if the occasion arises to meet again.

Best wishes.

MAX PRINCIPALE,
Président du Groupe monégasque
de l'Union Interparlementaire.●

TRIBUTE TO HON. ALBERT LEE SMITH, HON. J. WILLIAM STANTON, HON. CLARENCE J. BROWN, HON. ED WEBER, AND HON. JEAN ASHBROOK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. LATTA) is recognized for 60 minutes.

Mr. LATTA. Mr. Speaker, I have taken this time to pay tribute to four Ohio Members who will not be returning the next session, but before I do that I want to pay tribute to a member of our Budget Committee who will not be returning.

Representative ALBERT LEE SMITH, my very able colleague from Birmingham, has been a very vital member of the House Budget Committee during the 97th Congress. The Budget Committee, as everyone in this body knows, is a very important committee that has the responsibility for setting overall spending targets for the entire Federal budget. ALBERT LEE SMITH is one of only four freshman Members to be appointed to a major committee of this 97th Congress on the Republican side, and his initiation to the Budget Committee came at a very crucial time as we worked to regain control of deficit spending.

ALBERT LEE tackled his responsibilities with energy, and proved more than equal to the assignment, which was not easy given the volume and importance of the task. As minority leader of the Budget Committee, I want to commend ALBERT LEE SMITH for the significant and important contribution he made to the Federal budget process, and thank his constituents for sending him to this body.

ALBERT LEE was an asset to the Budget Committee and to his constituents of the Sixth District of Alabama, and to the citizenry of this great land, as he served with distinction. ALBERT LEE's dedication to the free market and his desire to provide for the truly needy while protecting the taxpayers is apparent in his record.

Mr. Speaker, the four Members from Ohio who will not be returning are JEAN ASHBROOK, BILL STANTON, ED WEBER, and BUD BROWN.

Let me say that the Ohio delegation and the Congress will sorely miss our good friend from the 11th District of Ohio, BILL STANTON.

BILL has served in this Congress with distinction since 1964 and has left his mark in the field of banking for generations to come. In addition to serving on the Banking, Finance and Urban Affairs Committee, he has served equally as well on Small Business Committee.

Born in Painesville, part of the district he served in the Congress, he attended the School of Foreign Service at Georgetown University and, in 1949, graduated from Georgetown University, after having his studies interrupted by the war. BILL served his country in the Army from 1942 to 1946 in the Pacific Theater.

We will all miss BILL, but I know that his future outside the Congress will be bright and filled with many distinguished and outstanding accomplishments.

We wish both he and his wife, Peggy, a full and complete life filled with God's blessings.

Mr. Speaker, it will not be until January, when we arrive for the 98th Congress that many of us will begin to recognize the true magnitude of losing a good friend and colleague, BUD BROWN. BUD BROWN has been an exceptional Representative, a man truly dedicated to the pursuit of liberty and justice for all.

Like most good legislators, BUD has not limited his activities to any one area. He has shepherded through Congress a wide range of legislation, all designed to promote the best interests of the Nation.

BUD has represented Ohio's Seventh Congressional District since 1965, and in the last several Congresses BUD has been the chief Republican spokesman for energy matters in the House. His work in the field of energy has earned him national recognition and he could easily be referred to as "Mr. Energy." However, BUD was also an early advocate of "supply-side" economics and served on the Joint Economic Committee. For his valuable service in this area, he could well be referred to as "Mr. Economics."

BUD's loyalty to his job and his constituents, his respect for government, and his never ending will to satisfy the needs of his country are but a few of the many qualities for which he will long be remembered.

I would like to take this opportunity to express my very best wishes to BUD and his wife, Joyce, and for many years of good health and happiness.

Mr. Speaker, on November 4, 1980, the citizens of this Nation issued a mandate for fiscal responsibility on the part of their elected legislators in Congress. Like so many of their fellow countrymen, the good people of the Ninth Congressional District of Ohio sent as their Representative to Washington a man who would, indeed, measure up to this mandate. As a Member of the Banking, Finance and Urban Affairs committee and the Committee on Small Business, EDWARD FORD WEBER set about to make his voice heard on matters necessary to the revitalization of our Nation. He did so with the vigor and experience of a veteran legislator. He did not flinch on the so-called tough votes as he knew our Nation's economic future well-being depended on them.

ED represented the Ninth District during this Congress with unparalleled enthusiasm and dedication. His short service will be sorely missed by his constituents.

To ED and his wife Alice, I offer my best wishes for the future.

Our colleague, JEAN ASHBROOK, came to this Congress in a special election held on June 29, 1982, following the passing of her husband and our longtime friend and colleague, the late John M. Ashbrook. She was sworn in on July 12, 1982, and has served with distinction in this House since that time.

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She has carried on the conservative voting record established by her late husband, John Ashbrook, and I am certain that he would be proud of her record. As JEAN's service in this body comes to a close, let me say that it is regrettable, that redistricting in Ohio

prevented her from continuing to serve her district and the Nation.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am pleased to yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding.

Saying farewell to retiring Ohio Republican colleagues is not something to which I have looked forward, but I share the sense of pride at this moment as we pay tribute to our four distinguished Ohioans.

BILL STANTON, as has been noted, came to the House of Representatives in 1964 and CLARENCE BROWN, a year later, in 1965; ED WEBER in 1980, and JEAN ASHBROOK just this year. They each have made an important mark in the legislative work of this body, and they each have been forceful and effective spokespeople for their constituents.

BILL STANTON'S quiet, thoughtful, and consistent leadership has done much to move legislation which otherwise might have become stalemated due to partisan or philosophical differences. His has been the type of leadership and congressional service which does not often make the headlines but which is so badly needed and so essential to the Democratic legislative processes.

BUD BROWN has represented another type of leadership that is also needed. He has been a forceful and articulate spokesman on critical national energy and economic issues. His intelligence, wit, and hard work have aided immeasurably to the quality of our work here in the House of Representatives.

ED WEBER has not been here as long as these others we have mentioned, but ED, too, has been hard working and forceful in representing his district. His legislative work has been characterized by a familiarity with the issues and an uncommon creativity in addressing problems. I am sure we have not seen the last of ED WEBER, and I welcome the time when he would return to public office.

Mr. Speaker, I express to these fine men my appreciation for their cooperation, and efforts that we have undertaken together. I have great pride in calling them my friends.

Now, Mr. Speaker, I would express my particular pleasure in being a colleague and friend of JEAN ASHBROOK'S, whose tribute is the last to be expressed, because the greatness of her company in this House has shone for the shortest period, but most brilliantly, Mr. Speaker, and most pleasantly. JEAN ASHBROOK has graced this House of Representatives all too short a time, and we shall miss her, but will continue in firm friendship in the years ahead.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am pleased to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman for taking this time to pay tribute to these members of the Ohio delegation who are leaving the House at the end of this Congress.

I had the pleasure of serving with BUD BROWN since he has been in the House. I served with his father before him. Our families were friends before I ever met BUD. My father and Clarence Brown, Sr., were both on the Republican National Committee together for a number of years, so I had known him when I came to the House of Representatives in the 88th Congress. Then, of course, I got to know BUD when he came after his father's untimely passing. BUD has served with me on the House Commerce committee, formerly called the Interstate and Foreign Commerce Committee and now the Energy and Commerce Committee.

BUD, of course, has been a real leader, and he was a right arm to me and a real help to me as ranking minority member. He has made his mark in the field of energy, and, of course, he has made a real mark and a real contribution in the economic debates that we have had going on here in Washington during the last Congress or so. We will miss him.

BILL STANTON, another good friend, has been a real leader and made his mark here in Congress. He has made his mark on legislation. He has been involved in the formulation of much needed legislation in this House. The type of legislation he has been involved with in his committee has, of course, been controversial. It is in that type of legislation that a Member can show really what he is made of and what kind of leadership qualities he has. BILL STANTON has shown those leadership abilities as he has helped to forge compromises. He is the type of person who knows the art of compromise and how to put together a bill in such a way that it will gain support in a majority of the House. We will miss that kind of leadership here.

ED WEBER is a first termer. He has not served as long as these other two, but he has become a real friend of mine. He has made an excellent record here. I regret that he is not going to be with us for more terms. I think there is a place in the legislative or the executive branch somewhere in public service for ED WEBER. I want to wish him well and pledge him my support and my help in whatever endeavor he may want to enter.

Of course, JEAN ASHBROOK came after a special election, to replace her late husband. JEAN has been an attentive Member. She has made a contribution here that the people she has represented can be proud of. She, of course, was not able to run for reelection because of the redistricting problems, but she, too, I am sure can make a real contribution in public service somewhere in the future as well.

Mr. Speaker, again I thank the gentleman for permitting me to say a word or two about these four friends who are leaving us. We want to wish them well.

Mr. LATTA. Mr. Speaker, I thank the gentleman from North Carolina (Mr. BROYHILL) for his comments.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, one of the sadder aspects of congressional service is to have to bid farewell to colleagues soon to be departed from these Halls.

Today, I rise to pay tribute and to say thank you for a job well done to four of my colleagues from Ohio who will not be returning to this Chamber for the 98th Congress.

JEAN ASHBROOK, BUD BROWN, BILL STANTON, and ED WEBER are as fine a collection of individuals to serve in this body as you will ever find. Collectively, there contributions to good government will serve the people they have so ably represented long after they are gone.

For BUD and BILL, these Halls have been home for most of the last two decades. Their long service in the Congress has been marked by one achievement after another. Knowledgeable, hard working, they have won the respect and admiration of all who have worked with them.

For JEAN and ED, though their service has been brief it too was marked by hard work and a deep sense of purpose and dedication. I am confident had they the opportunity to continue their service in the Congress they, too, would have become formidable figures on the national scene.

For all four of my departing colleagues their future is still before them. They still have much to give to their communities, to their country, and to their fellow men and I wish them every success in whatever pursuits they elect to undertake. Knowing all of them well as I do, I am confident that we have not heard the last of these very able public servants.

On behalf of the people of Ohio and on behalf of all of the people of this Nation they so ably served I say thank you and Godspeed.

Mr. WEBER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Ohio.

Mr. WEBER of Ohio. Mr. Speaker, I thank the gentleman for yielding, and I thank him for taking this special order today to pay tribute not only to

me but also to the other departing members of the Ohio delegation.

I appreciate very much the thoughtfulness that the gentleman has shown in taking this special order. I appreciate so much the thoughtfulness in the words that have been expressed to me, both spoken and unspoken, and in letters to me from people here as Members of Congress and members of staffs of different committees on the Hill.

I am disappointed that I will not be back here to help with the legislative workload in the 1st session of the 98th Congress. Nevertheless, I feel I have had a real privilege to have been here during the past 2 years, working with so many people for whom I have come to have the highest respect and admiration for their character, for their hard work, for their knowledge, and for their thoughtfulness in the legislative matters that come before us.

I appreciate so much the help that people have given to me personally, especially from the Ohio delegation. DEL, you have been a great help to me, and it has been an extra privilege to be able to fly so many times back and forth on the same airplane together so that I could have the benefit of that extra time with you.

And CLARENCE MILLER, JIM BROYHILL, and BUD BROWN, along with other Members of the Ohio delegation—I could go on and on. And from people outside the delegation, the members of the leadership and members on the other side of the aisle as well as on this side of the aisle.

I wish all of you well as you approach your duties in the 98th Congress. Again, let me say that I wish I could be back here to help you carry that workload, I think you are carrying a burden that has to be carried, and you are bringing very important messages that have to be carried over on that side of the aisle.

Mr. Speaker, I will be returning to my private practice of law, but the Members can expect me to come here frequently for visits in the future.

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Mr. LATTA. I thank the gentleman very much.

Let me say in conclusion, we are all going to miss you. As I said earlier, I want to again compliment you for the positions you have taken. You took them unflinchingly. You did what you thought was right for your country and for your district, and we all commend you for it.

We wish you well in all of your endeavors in the future, and certainly as you return to your law practice in Toledo we wish you well.

● Ms. OAKAR. Mr. Speaker, the Congress is losing one of its most ablest and outstanding members—BILL STANTON. I believe everyone knows of his abilities in this body. He is truly a fine leader and respected legislator. As ranking member of the House Committee on Banking, Finance and Urban Affairs, BILL STANTON has been, first and foremost, effective. He has shown willingness to compromise, negotiate, and persuade, when necessary. As a member, myself, on the committee, I have admired JIM's wit, commitment and "stick-to-it" ability.

There is no doubt BILL STANTON did not shy away from tough issues. His leadership helped shape a critical new role for the Federal Reserve in establishing universal reserve requirements. He chartered new ground in the deregulation of financial institutions. He saw to it that adequate housing was provided to those in our society who most needed shelter. He was extremely effective in tackling the biggest and hardest issue of the decade—the economy. Charting an effective monetary policy was a major challenge to our ranking minority leader. There is no doubt that at every step, BILL STANTON's leadership on the Banking Committee made a difference. I will greatly miss my Ohio colleague but have no doubt that BILL STANTON will continue to tackle the difficult issues that our country faces. We will not hesitate to call on BILL STANTON for advice and counsel in the future.

I wish BILL and his intelligent, lovely wife Peggy and his family the every best of luck and Godspeed.●

● Mr. WYLIE. Mr. Speaker, when ED WEBER was elected to Congress he was assigned to the Banking Committee because he wanted the assignment but also because he was recognized as a very bright young man who could make a real contribution in a very important area.

When BILL STANTON had to miss some of the Banking Committee work because he needed a heart bypass, ED WEBER came forward to me as an industrious, studious, and willing committee member. He was most helpful in a solid and reliable way. I was looking forward to his assistance in the 98th Congress. But ED did not win reelection. For whatever reason he did not win, I was surprised.

ED is able. He is honest. He is decent. He has all the attributes of an excellent Congressman. His presence on the Banking Committee will be sorely missed by me. Things happen in life which are hard to explain. But I have developed a philosophy that changes of this significance happen for the best. So I join with our colleagues in wishing for ED WEBER the very best, knowing that he and his wife will be active and worthy citizens of their community who will make a significant contribution in another way.

ED is young and bright, and I hope he continues his active interest in politics. We need his intellect and ability in solving political problems.

My wife Marjorie joins me in wishing for ED, his wife Alice, and his family a bright future and an enjoyable life ahead.●

● Mr. CARMAN. Mr. Speaker, I am most pleased today to pay tribute to a fellow Member of my freshman class, ED WEBER, who has served during his 2 years in Congress with dedication and distinction. I worked with ED as a fellow member of the Banking Committee and was impressed not only with his work there, but with his dedication to his constituents. He has tried to help secure the soundness of the social security system and he has introduced legislation designed to help inland ports on which his area is dependent. I enjoyed serving in the Congress with ED and I wish him all the best in what I am sure will be a bright future.●

● Mr. ZABLOCKI. Mr. Speaker, I certainly want to join my colleagues in honoring the long and honorable career of the gentleman from Ohio (Mr. STANTON) on the eve of his retirement from this body.

BILL STANTON has not only been an effective legislator over the past 17 years, but as ranking minority member of the Banking Committee, he has developed an expertise in monetary affairs which few other Members have attained. His contribution, therefore, to foreign policy debates has been a strong, positive, and constructive one—based invariably on solid information and "sophistication"—in the best sense of that term.

During the past decade, the gentleman has participated actively and effectively in biannual interparliamentary meetings with European Parliament, both in Washington and abroad, where his input into the discussions on trade and monetary affairs has been an important factor in their success. As one who has regularly encouraged the participation in these meetings of members of other committees, that is in addition to Foreign Affairs, BILL STANTON is precisely the type of person I have had in mind.

Although the gentleman's decision to retire was, I understand, based largely on reasons of health, I would just like to note that he has obviously been taking good care of himself, as I have never seen him look better or more fit.

And so—even though we cannot afford to lose a BILL STANTON from our midst, I want to take this opportunity to commend him for his past accomplishments and to express the hope that he will continue to have an important impact on public policy in the years ahead. To BILL, his wife Peggy, and their daughter Kelly, I extend my warmest appreciation and best wishes.

● Mr. REGULA. Mr. Speaker, I appreciate this opportunity to pay tribute to our friend and colleague, CLARENCE

BROWN. I thank the gentleman from Ohio Mr. LATTA) for taking this special order.

BUD BROWN was a distinguished Members of the Congress when I came to the House of Representatives in 1973. Through the years, I have drawn considerable insight from his experience. He has always been available for counsel and his advice was always reasoned and competent. His knowledge of energy policy is unsurpassed in this body, and his legislative skills are second to none. As a result, the policies of this great country—not just energy policies—bear his imprint.

CLARENCE BROWN brought to this body hard work, a keen intellect, and a sharp wit. He contributed stature and dignity. As a result, he leaves this institution a better place for his having been here.●

● Mr. OXLEY. Mr. Speaker, When the 97th Congress adjourns sine die, it will mark the departure of three esteemed members of the Ohio Republican congressional delegation: CLARENCE (BUD) BROWN of Urbana, BILL STANTON of Painesville, and ED WEBER of Toledo. I rise to express my gratitude, on behalf of all the members of the Ohio congressional delegation and the entire Congress, for their dedicated service to their districts, our home State of Ohio, and the United States.

As a newcomer to the Ohio GOP congressional delegation 17 months ago, I naturally turned for advice and assistance to fellow Ohio Members. BUD, BILL, and ED were all more than willing to lend a helping hand, despite the many demands on their time. For their friendship, I am especially grateful.

Each of these Members can be very proud of their accomplishments while serving in Congress. During his 17 years representing the Seventh District, BUD become recognized as a leading national spokesman on energy and economic issues. One of the most personable and well-liked Members of the house, BILL distinguished himself as a financial whiz while serving on the Banking Committee. ED, too, as a junior member of the Banking Committee, contributed significantly to public policy regarding financial institutions. And all three knew the people of their districts inside and out, and relished their roles as spokesmen for the people back home.

I wish to thank DEL LATTA for setting aside this time to pay tribute to three outstanding members of our delegation. Combined, they represent 37 years of selfless public service. They will be missed by us all.

And to BUD, BILL, and ED, I extend my very best wishes for continued success and good health in every future endeavor.●

● Mr. ECKART. Mr. Speaker, I rise to pay tribute to BILL STANTON, a man who is entitled to wear the title "honorable" even had he never served in the House.

BILL STANTON was elected from the 11th District of Ohio in 1964. He was able to overcome the landslide of Lyndon Johnson. And he was invincible every election after that in a district with more registered Democrats than Republicans. That record of winning elections speaks for itself.

BILL served the Nation admirably and courageously in World War II. He is a holder of the Bronze Star and the Purple Heart for his service in the U.S. Army.

Unfortunately, BILL decided to retire in 1982 following the discovery of a health problem. Fortunately, BILL has undergone surgery and today is fit and healthy.

As you probably are aware I will be representering most of BILL STANTON's 11th District effective January 3. I consider it a privilege and an honor to follow in BILL STANTON's footsteps in representing the 11th District.

BILL STANTON represented his constituents well. He is a good and decent man, a good husband, a good father. We will miss him.

Mr. Speaker, ED WEBER had the opportunity to serve his district of Ohio for only one term. But during that term he championed the right causes—protecting the solvency of the social security system, helping the Nation's small businesses, and introducing legislation to help ailing Lake Erie ports.

I believe he established a good record of service in a short time. From my own experience I know ED WEBER is a fine man. We are going to miss him.

Mr. Speaker, BUD BROWN served his constituents with distinction. I believe he will be remembered for his role in enacting the inspector general legislation—a bill that established inspectors general at Federal agencies to ferret out waste, fraud, and abuse. I have no doubt that legislation is paying for itself by discouraging and preventing a lot of waste and fraud.

BUD also was instrumental in getting Congress Joint Economic Committee to function in a bipartisan manner and agree in their annual reports on what has been ailing the economy.

BUD has served with dedication. I wish him the best as he leaves the House.●

● Mr. SHUMWAY. Mr. Speaker, I am grateful to DEL LATTA for requesting this special order to enable us to pay tribute to three departing colleagues from Ohio, CLARENCE "BUD" BROWN, BILL STANTON, and ED WEBER.

BUD BROWN has served the residents of Ohio not only as a Member of the House of Representatives since the 90th Congress, but also at the local level as mayor of Lancaster and as a member of that city's city council. He fully understands the need for a local voice from his own experience, and he has brought valuable experience to Congress.

BILL STANTON is a particular friend of mine, as well as an admired colleague. As ranking minority member of the House Banking Committee, on which I serve, he has provided me with invaluable guidance and leadership. I shall certainly miss his presence on that panel during the upcoming Congress.

ED WEBER has always struck me as the type of qualified and dedicated individual who realy has what it takes to be an effective Member of Congress. I am indeed sorry that he will be leaving us after so short a tenure, and I sincerely hope he will return.

To BUD, BILL, and ED, I extend my appreciation for the opportunity to work with them, and my very best wish for continued success in whatever endeavors they may choose to undertake.●

● Mr. WYLIE. Mr. Speaker, almost the day after I was elected to Congress, CLARENCE sent me a letter of congratulations and Joyce sent Marjorie a note offering to get Marjorie acquainted with our new surroundings.

This is the kind of partnership that comes to mind when you think of CLARENCE and Joyce BROWN.

We encouraged them to run for Governor, and they ran as a team because we knew they would serve admirably as our State's chief executive and first lady. But that was not to be, and they have approached the end of their service in Congress with the same togetherness and appealing philosophy that characterized BUD's service in Congress.

I spoke for CLARENCE several times on the campaign trail. It apparently did not do any good. But I said then and I say now that CLARENCE is the kind of completely decent person we need in public service. He is articulate when he espouses a cause. he is knowledgeable when he presents his arguments during debate, and he has always worked hard to represent his district in a manner befiting what he perceived to be the best interest of the Nation.

CLARENCE followed an illustrious father with service in this body. He has been in or around Congress most of his life. I know he will miss being here on certain days as much as we will miss him.

But he leaves knowing he has been responsible for helping mold much positive legislation and with a sense that he has served honorably and well.

Marjorie joins me in wishing our dear friends Joyce and BUD Godspeed and much happiness in days ahead for their family.●

● Mr. LOEFFLER. Mr. Speaker, through every step of my career in Washington, BUD BROWN has been at

my side—counselling, guiding, helping. Words can never adequately express my thanks, BUD, so forgive me if I do not try to do so in this forum.

Since our friendship will long endure and our paths will cross often, suffice it to say for the moment, BUD, that Kathy and I wish you and Joyce and your family the very best of everything always—you deserve all of that—and more. Godspeed.

Mr. Speaker, when the 98th Congress convenes, one of our most able and talented Members will no longer be at our side to guide us.

Since so much of the good legislation which has passed over the years to help our Nation's housing industry and to reform and revitalize our Nation's financial institutions bears the imprint of BILL STANTON, he leaves a major void which will not be easily filled for quite some time.

The same can be said for the Republican whip organization, where BILL was one of our steadiest voices, our most responsible soldiers, and our wisest counsels.

We shall miss you, BILL, we truly shall. May your new endeavors be rich and rewarding for you and your family. Keep in touch.●

● Ms. OAKAR. Mr. Speaker, I wish ED WEBER, my colleague from Ohio and the Banking, Housing and Urban Affairs Committee, all the best as he departs the House of Representatives. ED WEBER has been an active member on the Banking Committee and its subcommittees on Domestic Monetary Policy, Financial Institutions Supervision, Regulation and Insurance and General Oversight and Renegotiation. He has also served on the Small Business Committee. I know ED WEBER to be a sincere person and to have a personal commitment to wanting our country to maintain its leadership in the world. I know ED WEBER will continue to show perserverance and commitment in his future endeavors.●

● Mr. STOKES. Mr. Speaker, I would like to thank the distinguished gentleman from Ohio (Mr. LATTA) for reserving this special order so that Members can honor Ohio Congressmen CLARENCE BROWN and BILL STANTON who will be retiring at the end of the 97th Congress.

Mr. Speaker, as my colleagues know, CLARENCE BROWN was elected to the House of Representatives in 1965 from the Seventh Congressional District of Ohio. In his 17 years in the House, CLARENCE has not only risen in seniority in the House but also has gained the respect of Members on both sides of the aisles.

Mr. Speaker, when you review the notable career of CLARENCE BROWN, it is obvious that he will be most remembered for his viligance in being the energy industry's primary defender on the House Commerce Committee. He has been, for many years, the key strategist for the position that oil and gas companies should be free from Government regulations.

In addition to this assignment, Mr. Speaker, CLARENCE has been a very vocal and important member of the House Government Operations Committee and the Joint Economic Committee. Finally, CLARENCE has been an active Member of the Ohio congressional delegation.

At this time, Mr. Speaker, I would like to direct my remarks to another one of my colleagues from Ohio, Congressman J. WILLIAM STANTON. BILL STANTON has represented the people of Ohio's 11th Congressional District for 18 years. During his tenure in the Congress, Mr. Speaker, BILL STANTON has gained a reputation as a mediator. He has managed on many occasions to bring the Members on opposite sides of the aisle to the table of compromise.

In addition to his outstanding service as the ranking minority member of the House Banking, Finance and Urban Affairs Committee, BILL STANTON will be remembered always for his affable style and commitment to meeting the needs of the American people.

On a personal note, Mr. Speaker, I shall miss BILL STANTON greatly. Although we have not always agreed on the issues before this body, I have found in BILL STANTON a good friend and a man dedicated to this Nation. He is a deeply committed and hard working legislator. His work in Congress will stand as a lasting tribute to him.

Again, I thank my colleague from Ohio, the dean of the Republican delegation, Mr. LATTA, for reserving this time to honor CLARENCE BROWN and BILL STANTON.●

● Mr. ROE. Mr. Speaker, I would like to take this opportunity to pay tribute to two outstanding Members of the Ohio congressional delegation, BILL STANTON and ED WEBER, who will not be with us in the new 98th Congress.

BILL and ED have provided fine services to the people of their congressional districts and their contributions to them and the Nation will be sorely missed.

As a member of the Banking, Finance and Urban Affairs Committee for the past decade, BILL STANTON has been responsible for securing passage of legislation that has helped millions of low-income families secure home mortgages.

BILL's devotion to bipartisan politics has made him one of the most effective Members of this body and he will be deeply missed.

While ED WEBER has only served in Congress for one term, he has established himself firmly as a hard-working Member deeply devoted to the needs of his constituents.

As a member of the Banking Committee, he has been one of the leaders in the fight to reduce taxes for all Americans.

I would like to wish BILL and ED the best of luck in their future endeavors.●

● Ms. OAKAR. Mr. Speaker, BUD BROWN will be missed in this body. He has served this body with dignity and distinction just as his father had served the House of Representatives. BUD is leaving the House after having served almost 20 years. He has been a fine leader and has worked in a bipartisan manner to help the State of Ohio and his country. He was an active member of the Energy and Commerce, Government Operations and Joint Economic Committees. I wish BUD BROWN well—I feel confident that he will continue to serve the public interest in the most able manner. My best wishes to BUD and his lovely family.●

● Mr. CARMAN. Mr. Speaker, it is an honor for me to rise today on the occasion of the retirement of BILL STANTON from Congress. BILL began his public service in the U.S. Army during World War II where he served with distinction. He was elected to the 89th Congress in 1964 and has been a Member ever since. He is presently the ranking Republican member of the Committee on Banking and Urban Affairs. Since I was a freshman member of that committee during the 97th Congress I had a chance to observe BILL's ability, leadership, and dedication firsthand. BILL has not only served his constituents and country with great dedication, but he also displayed his leadership through the teaching of others. The 11th District of Ohio has been fortunate indeed to have such representation over the last 18 years. It was a privilege for me to serve in the Congress with BILL and I know he will be sorely missed. I wish him all the best in the days ahead.●

● Mr. ANNUNZIO. Mr. Speaker, it is a genuine pleasure for me to join with my colleagues in paying tribute to the Honorable J. WILLIAM STANTON, who came to the Congress with me in 1965. He and I were Members of the same class—the 89th Congress, and we have both served for 18 years as members of the House Banking, Finance and Urban Affairs Committee, where I have come to know and respect BILL for his knowledge, for his fairness, and for his leadership abilities as the ranking minority member of the committee.

Before coming to the House of Representatives, BILL honorably served our country in the U.S. Army. He also served as a county commissioner from 1956 to 1964.

Congressman BILL STANTON has ably represented the people of the 11th District of Ohio in the Congress for the last 18 years, where he has served with diligence and distinction as the

ranking minority member of the Subcommittee on Housing and Community Development, as a member of the Subcommittee on International Development Institutions and Finance, and as a member of the Subcommittee on International Trade, Investment and Monetary Policy of the House Banking, Finance and Urban Affairs Committee. He has also compiled an exemplary record of achievement as the ranking minority member of the Subcommittee on General Oversight of the House Small Business Committee.

BILL is a fine legislator, and a dedicated and devoted American, who will be missed here in the House of Representatives, especially by those of us, like myself, who have had the pleasure of working with him.

I extend to BILL STANTON my best wishes for continued success in all of his future endeavors.●

● Mr. WYLIE. Mr. Speaker, I first met BILL STANTON in 1966 at a State Republican committee luncheon in Columbus. It was my privilege to be seated next to BILL. Earlier that week the announcement of his impending marriage to Peggy Smeeton had been announced. Naturally, BILL wanted to brag about his bride-to-be.

A few months later, Marjorie and I met BILL and now Peggy Stanton just after our swearing-in ceremony. We have traveled with BILL and Peggy, visited with them during vacation and have been with them socially. We do not know two finer people and are pleased to number them among our valued friends.

BILL STANTON has truly been a remarkable ranking minority member on the Banking Committee. He has been able to make friends easily because of his warmth, knowledge, intelligence, and the artful way he persuades. He has been honest and straightforward in his approach to problems coming before the Banking Committee and, in the process, has earned the admiration and respect of Members of both parties.

It was his ability to keep his Republican colleagues together that enabled us to have a say in legislation coming from the Banking Committee.

BILL STANTON will be missed. His is a tough act to follow, and I approach my new assignment with some trepidation, knowing it would be easier with BILL's wise counsel.

Yes, BILL will be missed. But he leaves Congress with a sense of distinguished service from which his district and our Nation have benefited.

Marjorie and I wish for BILL and his charming wife Peggy much happiness in the years ahead, knowing they will enhance their role of service to our Nation.●

● Mr. ZABLOCKI. Mr. Speaker, I certainly welcome this opportunity to pay tribute to the public career of the gentleman from Ohio (Mr. BROWN). "BUD" BROWN has had a major influence on legislation considered by this body over the past 17 years and his input, as well as his personality—and especially his sense of humor—will be sorely missed in the years ahead.

The gentleman, as most colleagues are aware, is a highly versatile individual. He has been at one time or another a Navy veteran, a journalist and radio station manager, a publisher, a farmowner, a trustee of numerous universities and foundations, an economist, and a legislator. And in this body he has served on two major standing committees in addition to the Joint Economic Committee and the Advisory Commission on Intergovernmental Relations.

In fact, it might be noted that running for Governor was only his most recent activity in a truly remarkable record of public service, which clearly deserves our special attention and commendation on the eve of his retirement from the House.

Much more could be said about the gentleman from Ohio and his outstanding career, but at this time I merely wish to extend to him my personal appreciation for his contribution to the legislative process and to wish him and his family the very best in the future.●

● Mr. MONTGOMERY. Mr. Speaker, I want to participate in this special order today on three of my colleagues from the State of Ohio who will not return to the 98th Congress, Representatives CLARENCE "BUD" BROWN, BILL STANTON, and ED WEBER.

BUD BROWN's strong leadership was a great asset to the Republican party and his hard work for the constituents of his Seventh District deserves recognition. His election in 1965 and reelection to each succeeding Congress is testimony to the great confidence and respect BUD's constituents had in his abilities.

In addition to working for his constituents, he was a hard worker on the committees to which he was assigned. BUD made a great contribution to the Energy and Commerce Committee, as well as the Government Operations Committee. He was also a member of the Joint Economic Committee.

I know BUD will continue to be a strong and forceful leader in private life. He is leaving a great many friends here on Capitol Hill.

BILL STANTON began serving the people of the 11th District in Ohio in 1965 and he has been a truly effective Congressman in taking care of the interests of his district.

I want to point out his contributions to the Committees on Small Business as well as Banking, Finance and Urban Affairs. He has come to be counted on by younger Members of this Chamber for direction on matters concerning these committees, and on other matters.

It has been a pleasure to serve with BILL and I want to wish him the best in the future. He has gained a great number of admirers during the 18 years he served in this Chamber. He will be missed.

Though ED WEBER's stay in the House has been a short one, he has made a fine contribution. He has made a number of friends and I know he has earned the respect of colleagues on both sides of the aisle.

He served diligently on the Banking, Finance and Urban Affairs Committee and on the Small Business Committees. I know he has been a valuable member on both these committees.

I want to wish the best for ED. He can be proud of his service to the State of Ohio and to this Nation during the 97th Congress.●

● Mr. DINGELL. Mr. Speaker, a close friend and valued colleague in the U.S. House of Representatives is the Honorable CLARENCE (BUD) BROWN.

I am going to miss BUD and our many occasions when we could agree and disagree on legislation.

BUD has been most helpful on a host of issues and it has been far preferable to have him as an ally on any number of issues. But when we were in opposition, it was a tenacious fuss with neither giving an inch until the final vote was cast. At the conclusion of any such discussion in disagreement, there were always handshakes and back slapping, all around, no matter the winner.

He and I share another common bond beyond a strong friendship. Both of our fathers served in Congress before us and instilled in us the highest principles of service in the public interest.

To BUD, his family and the future go my best of wishes.●

● Mr. CARMAN. Mr. Speaker, I rise today to pay tribute to CLARENCE (BUD) BROWN who will be leaving Congress after having been a member since first being elected in 1965. BUD will be remembered for his dedication and hard work especially in the field of energy. As a member of the Energy and Commerce Committee and as the ranking minority member of the Energy and Power Subcommittee, he has been a distinguished leader on energy issues. He will also be remembered for his work on the Joint Economic Committee where he was extremely influential. I enjoyed having the honor of working with him in the 97th Congress and I know that his departure from the Congress will leave a void. I wish him all the best in his future efforts.●

● Mr. ZABLOCKI. Mr. Speaker, I thank my colleagues and friend from Ohio (Mr. LATTA) the dean of the Ohio Republican delegation, for taking this special order to honor BILL STANTON.

BILL STANTON is truly one of the most distinguished Members of the Congress. He has represented the 11th Congressional District of Ohio with great distinction since 1964. His quiet but effective leadership has proved extremely valuable to this legislative body.

His bipartisan work in housing policy and his unparalleled knowledge in the areas of banking and foreign trade made him one of the most respected individuals in the Congress.

Those of us who have had the privilege of knowing BILL STANTON and working closely with him will miss him very much. I know he will continue to make important and significant contributions to the people of this great country.

On a personal note, I cherish his friendship. BILL will be sorely missed by all of us as we return to the 98th Congress.●

● Mr. REGULA. Mr. Speaker, I rise to honor my colleague from Ohio, the Honorable ED WEBER.

ED WEBER served the Toledo area with distinction, keeping the interests of northern Ohioans and all Americans carefully in mind as he was called upon to dispatch the duties of his office. He was able and decisive. He took his responsibilities very seriously.

ED WEBER will be missed. It is with disappointment that I participate in bidding him farewell from this body. I hope that he will continue his service to the people of Ohio and to our Nation.●

GENERAL LEAVE

Mr. LATTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL SUMMARY OF PREVIOUS SPECIAL ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, at this near terminal point of this session or this Congress I rise in order to sum up on the occasion of some of the special orders that I have indulged in during the course of this Congress.

First with respect to the critical matter as I considered it, and as it I think turns out to be considered, the great crime of the assassination of the U.S. district judge for the western district in Texas, John W. Wood, and the report this week of a jury finally turning in three convictions. I do so because I importuned to the House considerably. I spoke out on more than 40 occasions and I wanted to merely register my congratulations not only to the Justice Department whose director, Mr. Webster, called me earlier, several hours before the release of the announcement of the indictments to tell me in Texas that he was calling me because he considered me more than, as in his words, more than anybody else responsible for having reached the point where the case was kept alive and indictments could have been returned.

In my remarks I repeatedly stated that I was fearful that that case would recede into the dust of history, very much like the Jimmy Hoffa case still is.

But one thing that remains yet is something that I also spoke considerably about before the assassination of Judge Wood. As a matter of fact, in the course of those speeches I predicted, and such a possibility turned out sadly and tragically to be the case, after the assassination of Judge Wood what happened, and that was the attempted assassination of the assistant district attorney for the western district, James Kerr. That crime is still unresolved, and I consider it an equally important responsibility on the part of the law enforcement agents, particularly the United States, our national law enforcement agents to pursue and to pursue with a sense of urgency that they did the resolution of the Judge Wood case.

So much for that. I will have to defer to the next Congress, God willing, my continued discussion on the continuing threat of air safety to those particularly who will have occasion to be using in the meanwhile the National Airport here. But that is just one example of the dangerous situation still existing in our air travel in the United States. I have spoken on that on these special orders at least nine times, and I will have to continue that into the next year.

I have also developed a matter that if we are in session Monday I intend to pursue, and that is the unconscionable and criminal mulcting of the taxpayer through what I call war profiteering, what in polite language is known as excess profits, and which has been going on unrestrained in any manner whatsoever since the death or the demise of the board known as the Renegotiation Board which was the only agency that people have had since World War II to guard against profits. It was eliminated by the Congress in effect about 3 years ago, and since then it is my estimate that not less than $10 billion in excess profits have been mulcted from the taxpayers' pockets, this at a time when we asked to vote the highest appropriation for defense.

I am a strong defense proponent, but I have always been very careful to select the area of support. It has been with a great sense of frustration that I have seen the country and its Government and the Congress proceeding and taxing as never before, unprecedentedly for defense, while this get-away theory is running rampant, amok, and without any restraint.

I have introduced a bill that I tried to offer as an amendment to the defense appropriation bill that we had under consideration and I was not afforded an opportunity because of the rules. But I hope to pursue that fight.

Today, I want to sum up on the subject matter of the last discussion, and it is on a subject matter that I have spoken out on since 1964 and 1965 particularly, but more repeatedly in the last 3 years. It is with a great sense of dismay or sustained dismay that I rise again this time to refer to the bill of impeachment that I have introduced directly to the Chairman of the Federal Reserve Board and the two reform bills that I feel are so long overdue that in effect now it is too late to avert the castastrophe that is about us.

In fact, as in the case of the Renegotiation Board, I watch with utter dismay the Congress, this one, compound the problem of these extortionate interest rates that have literally, literally collapsed the economy, that have driven out businesses in America, the lifeblood of our economy just out in record numbers just in the last 12-month period, as reported just last week.

□ 1630

The number of bankruptcies, of individual business firms, exceeded that even of the record number during the depression period. Who says we are not in a depression? And there is no question about it. It was totally unnecessary. This depression has been induced. It was not necessary that the American people be sacrificed this way, that they be threatened and confronted with the diminution of the standard of living that we have long boasted.

Just yesterday we approved a so-called Caribbean Basin Initiative. This was created on such a tenous and illusory basis that I had to vote against it. But it demonstrates the naivety or maybe purposeful and heedless disregard of the economic facts facing the country by our leaders, from the President to the Congress.

But with respect to the Federal Reserve Board, let me say that some future historian, and I think it will be in the not too distant future, you will have a historian recording this great discrepancy or anomaly of us sitting here in the waning hours of a Congress, reflecting not one glimmer of reaction to the burgeoning, pressing intimate problems confronted by individ-

ual American families and businessmen. Absolutely none whatsoever.

What is the order of precedence here in these waning hours? A continuing resolution which has been the basis that this entire Congress has proceeded on by way of financing the Federal Government. Incredible.

When I came to the Congress 21 years ago, if I had dared tell any of the congressional leaders then that this would ever happen to the American Congress, they would have said, "You are absolutely irrational."

Here is a Congress that has proceeded these entire 2 years on the basis of a continuing appropriation bill that was approved by the dying Congress 2 years ago. And we will now pass a continuing resolution, which is what we are waiting on, and must do so certainly before January 3, in order to have the dead hand of this dead Congress by then weighing down the future Congress, the next one, the 98th.

But it is symptomatic, because do we have any passionate debate to keep this Congress open to address itself to the question of this debt ceiling, extortionate rate of interest? Not a word.

Oh, yes, after some of us have been talking for 15 years finally here within the last 3 months even those who have been advocating the very position that is killing us really economically, are now saying, "Well, it wasn't our remedy that gave this kind of an effect to the patient. It was that dastardly Federal Reserve Board and the hard-headed dogmatic Chairman who insists on this tight money policy, high interest rates," overlooking the fact that they went along with that all along, until now, when their policies have completely revealed themselves to be the bankrupt policies of sleezy economics, which some of us, few of us, very few, dared say, not 3 months ago, not a year ago, but at the very outset when they were proposed, which was February 1981, immediately upon the advent of this administration and President Reagan.

At this point, not only is the domestic economy collapsing all around our ears, but the international as well, in a day and time in which it is so interlocking that one cannot be separated from the other.

What does this Congress do? It further compounds the problem by the good old technique that we were debating at 10:30 at night on the conference report on October 2, just as we were anxiously trying to get away, to go face the elections of November 2.

And what did that do? It gave the most radical changes to our banking and financial institutional structures since the 1935 Banking Act. All in the name of saying that they were trying to save the floundering S&L's, the savings and loans.

But in effect, they have opened the sluice gates further. In other words, throwing gasoline on the fire in the name of trying to put it out. To no avail did the feeble voices of some of us raised in honest interrogation have a chance to even be heard, much less have an imput.

And so today we have newspapaer reports, such as this. And this is one on page D-1 of the Monday, December 13, New York Times. The headline is "Push By Banks To Sell Account—Introduction Tomorrow."

That is December 14 when this great legislation we passed delegating, mind you—delegating the power of structuralization in determining which banking institutions would have the leverage to compete with the others in a dog-eat-dog market.

It is absolutely unthinkable to me. Yet it is reality.

What do these papers say? They say now that these banks that have the power will be able to issue the a kind of paper. Well, this is kind of certificate that will impose a permanence to the high interest rates. In other words, they will be valuable only as long as those high-interest rates in excess of 10½, 11, and 11½ percent prevail.

It will be interesting to see which mastodon finally conquers the other, just as we have had these massive mergers, tying up billions and billions and billions of bank reserve and credit which under our law and the reason for having charters for banks is supposed to be destined as credit allocations for the engines of industry and commerce and factories and the production of goods and jobs.

But instead tied up by these mastodons in crucial takeover struggles—Exxon versus Mobile, First City National Bank of New York testing the waters in its control over some of these international flows of credit and money, where they have sold out the American interests time after time after time. They have speculated against our currency. They are speculating against it now. They have tied up billions of dollars, the Federal Reserve has allowed these banks to. The Federal Reserve has the power, both explicit and implied, to control.

But do you think that a lackey who happens to be Chairman of the Federal Reserve Board, but a lackey of those few gigantic financial institutions, is going to be able to tell them to stop? On the contrary. As I have alleged in my bill of particulars, in my bill of impeachment, you have the Chairman of the Federal Reserve going in secret to have a secret meeting with the head of the First City National Bank, Walter Wriston, and whom else—the billionaire, Bunker Nelson Hunt who was risking that capital allocation from the First City and Chase Manhattan and a couple of other New York banks in his ill-thought of and ill-faring venture into trying to control the silver market of the world.

□ 1640

Mr. Speaker, I yield to the distinguished gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman from Texas for yielding.

I would like to commend him for his remarks today. One of the things I have enjoyed throughout my stay in Congress and learned a great deal from was the gentleman's addresses that were usually on the state of the Nation or the state of the world as he saw it.

His target of the Federal Reserve Board is right on mark.

The work the gentleman did in getting finally the prosecution of the murders of the judge down in Texas will go down in history as one man's fight.

In leaving this institution, one of the sad parts will be that I will no longer be able to watch the "GONZALEZ Hour." I was sitting over in my office trying to decide whether I would watch this special order or watch the football game and I decided after watching this special order for 30 seconds to just come over here and tell the gentleman how much I am going to miss him and miss his reports to the people.

I think the gentleman does a great service to this institution and to this Nation and to the city of San Antonio.

Mr. GONZALEZ. Well, coming from this very distinguished Member of this House who also on the question of air safety has done such tremendous yeoman work, I deeply appreciate those words, more than I can tell the gentleman.

In fact, let me say that when the gentleman gives up a football game to hear this, "Greater love hath no man."

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman.

Mr. GONZALEZ. Mr. Speaker, to me, here is another sad article. This one was in the business section of the Dallas Morning News, Monday, December 13, and it has two headlines, one headline up above and then a subheadline of two different articles. In fact, they are so contradictory that if it were not so sad it would be laughable.

The top one says, "Exec Plays Down Effects of Changes. Money Funds Won't Hurt Brokerage Firms, Shearson-American Chief Says."

Then the immediate headline right to the side of his picture and under the big headline is, "Banking Officials Hope To Draw Millions of Dollars. Bank and Saving and Loan Officials Are Making Last Minute Preparations Offer New High Interest Money

Market Accounts Tuesday They Hope Will Bring Millions of Dollars of Deposits Into Their Institutions."

Well, I guess you do not have to be an economic or fiscal or monetary expert to know that that is contradictory and one of them is wrong; but in the meanwhile, what is happening is that anybody knows that if you get a flyweight to go into the ring with a heavyweight what the results are apt to be if the flyweight does not run out of the ring, and this is what is happening; but what is so tragic and so unpardonable in my book is to see this terrible statistic of where just plain average small businesses are continuing to go out in greater record numbers, even though the President and the Chairman of the Federal Reserve Board and the leaders in and out of the Congress, incidentally, on both sides of the parties, still indulge in fanciful myths that they think the people accept, that inflation has been reduced, that if there are 15 or 18 million Americans unemployed that that is just part of the price for having brought inflation down and then they say under control.

But now, you go out, if you do, and do your shopping in the grocery store. If you are paying rent, I will ask the question, has the deflationary impact of these policies affected your rent? Are you paying less rent today or more? Are you paying less for your groceries or are you paying even more now?

So on closer examination, what I read is what they are saying is like President Nixon was saying back in the early seventies, boasting about how his administration had controlled crime or reduced it. When we examine what he was saying, he was saying that the rate of growth in crime had been reduced.

What they are telling us is that the rate of inflation, the rate at which inflation had been registered for say a given 12-month period in the past had been reduced, but it does not mean that inflation has been controlled. It does not mean that the American people at this time have any defense against this massive pressure of a fixed salary—no inflation there—and the continued high cost of living just on the basics, and that includes interest rates. If the family needs an automobile, I want to know what average American family at this tim e can go in and afford to buy an average priced popular American make. I doubt that anybody can get a safe, decent, and comfortable car for much less than $10,000 and finance it. Even if it were at 9, 10, or 11 percent, it still is an unconscionable and an extortionate rate and impossible and beyond the means of the average American without facing some kind of credit crisis for his own family's economy.

What businessman anywhere in the country, whether it is my hometown of San Antonio or Washington, D.C., or Oshkosh, Wis., or Los Angeles, Calif., can go in and get a line of credit from his bank for a floor inventory in order to have an inventory to sell at less than 16 percent, if at all; that is, when you include points and everything.

You know, you get into this malarkey about how interest rates have gone down, meaning prime interest rates, in some cases to below 12 percent. Well, that is prime interest rate. That is not for you and for me. That is for the big ones. That is for the favored ones.

Remember this, that those big ones, even in their flailings around trying to gobble each other up, never had to pay the prime interest rate to get that money from the banks. They always had favored treatment.

When I raised my voice in allegations in furtherance of the impeachment of the Chairman, I have seen these reactions of people who look at it as if it is some bombastic flamboyant attempt to get publicity; but I say, like old Fidel Castro said, "I appeal to the future," tragically, because I think this whole process is irreversible and this whole house of cards must tumble, as it has begun already crumbling all around our ears and the historian will write further that here was a Congress that in the waning hours could not find time to schedule the Urban and Rural Housing and Development Act for 1982 and 1983, could not even get an authorization bill for the basic housing programs and policies that performed the miracle of America for 40 years.

America, the only country in the world that did what it did in the matter of providing housing, safe, decent, and affordable housing for 40 years, with a President and an administration and a country that seemed, as I said last year, not this year, I said it last year and I got terribly chastised by the local press and others because I compared it to a giant national Bouyana.

I said, here is a President going around saying, "Drink this potion known as ERP."

□ 1650

Some call it Reaganomics. He called it the economic recovery plan. I examined it. I asked questions, questions that would not or could not be answered.

I am the chairman of the Subcommittee on Housing and Urban Development of the Committee on Banking, Finance and Urban Affairs. I was able to persuade Mr. Stockman, and he reminded me what a big favor he was doing, when he said, "I appear here in an unprecedented manner and against all the advice of my assistants and counsel who say that a Director of the Office of Management and Budget never appears before a congressional nonbudgetary committee."

So I said, "Well, I appreciate th favor, but it seems to me that is the least you could do since you are asking that 75 percent or better of the thrust of your cutbacks are directed in the areas of activity that this subcommittee has jurisdiction of."

Historians will write incredulously that this great Nation of ours, under this cult, which is what I call it, which now, of course, in the light of brutal reality but too late to do anything about, has reversed. All last year, while you would have thought it was the Reverand Jones in Guyana saying, "Drink this potion of salvation," the thing I noticed, just like in the case of Guyana, is that when the people started dropping dead and some of those folks, true believers, said "Hey, wait a while; this is not saving, this is killing," they had enforcers on the side who said, "Drink or else." Those who did not drink got shot.

We are going into the same thing nationally. In fact, I faced it last year by being bitterly assailed as an obstructionist simply because I was asking questions. How in the world, in the absence of any administration criticism or attack on the policies that this runaway institution known as the Federal Reserve Board was imposing like a crown of thorns or worse on America's economic and financial way of living and its standard of living, how in the world could any such plan as one saying that the main thing was to balance the budget by reducing the Federal budget along certain lines in a certain amount, $42 billion, but increasing the defense budget over $58 billion?

When I said, "Wait, that is not going to balance because you have an $18 billion discrepancy," they said, "That is because you have to wait and see what our tax program is and it is in place. Our tax program is concomitant and indispensable in this ERP. Not only is it necessary to reduce the budget, but we have to have the tax bill because that is going to reduce taxes, and those taxes are going to be invested in order to produce goods and produce jobs."

When I said, "Where is your tax bill?" they said, "We, are not going to reveal it until you first vote for the budget."

When I would not do either, they called me an obstructionist. When the tax bill finally evolved, I asked the authors, "Since you are saying this is the same thing that Kennedy advanced in 1962," and I know a little bit about that because that was my first year here and I went into it thoroughly and was greatly troubled by the proposition then, but then we had finally a briefing by the great economist Walter Heller who explained it in ways some

of us had not quite perceived, the rationale.

But I remember distinctly the language of those bills and I remember the tie-in between the fast, accelerated writeoff and the inventory buildup or machinery and installation of modern techniques to produce more, better, more skillfully, more economically, in our American industrial effort. In other words, you did not get that tax cut if you did not do those things that were going to be invested in the expansion of industry, production of jobs, production of goods. But here comes this so-called recovery tax bill. If anybody can ever show me such an anachronism, I stand open to conviction. But that is what is was labeled.

Nowhere is there any language to tie in. In fact, there was contrary language. So what is happening now? Here is another story: "Factory Output Hits 5-Year Low." This is from the Dallas Morning News, December 16, just the day before yesterday:

> The recession lengthened into its 17th month during November, matching the longest downturn since the Great Depression, government figures indicated Wednesday. The latest sign, November factory output, dropped .4 percent to the lowest production level in 5 years.

Now, you remember a year ago the President was telling us that by now we would all be basking in prosperity, with factories producing. What happened? When it did not happen, he said the deadline, first, would be last spring, then he said it would be in the summer after the tax cut took effect, then October 1, when the rest of it takes effect, and when neither happened, and the election came on us this year, you will remember the President said, "Why, this is all because of President Carter. It is not our fault. President Carter."

Today I think now they accept the statute of limitations on blaming President Carter, but the reason is simple, as anyone could have foreseen 1½ years ago.

Do you think that the greedy, the insatiable interests which we have always had through history, this is why I keep repeating that we have always had controls on interest, since 7,000 years before Christ. All we have to remember is the scriptures. Who was Christ chasing out of the temple? The so-called money changers. But there were laws then limiting the rate of interest. They were semireligious laws. And all through history, because of predatory, insatiable interests, the more they have, the more they want, and they do not stop at wars, they do not stop at national destinies. These multinational, international institutions now have no nationality, and even our own so-called American companies are speculating against the dollar. They have not said one word. In fact, I am the only one in the Congress who has mentioned EMS, EMF, European Monetary Fund and European Monetary System. It was advanced in Bonn at the economic summit meeting that President Carter went to.

Where was the last summit economic meeting this last week? It was in Germany also, for the good reason that that is where this is emanating from.

So as I say, these historians will be incredulous. They will see we are acting the way I just mentioned. They will see that half our budget for defense, which is over $200 billion, over half of it is for what, the so-called defense of Europe, where those that we say we are defending are more scared of us than they are of the Russians.

The day before yesterday, one of the big stories, another American official bombed in Germany. A year ago I wrote a letter to the chairman of the Committee on Foreign Affairs. I tried to get attention on the fact that our policies would have to become realistic, long overdue in Germany and in Middle Europe and now way overdue with respect to what is happening south of the border.

□ 1700

I am saying now—I have written it, I have spoken it, I have addressed other letters, I have spoken here at this podium on this other subject matter that again I will have to defer to the future Congress, God willing, to pursue. In the meanwhile, it is the same thing. It is incredible to me, we will be lucky if Mexico turns out to be our Poland and not our Afghanistan—lucky. All of this involves these men that now have arrogated to themselves and this particular banking community in the United States, or let me say gained the absolute control of our fiscal and monetary destiny with no accountability to the Government, which means to the people. This is why I repeat what I have said all through these years. This is an issue as to whether or not the bankers are going to be the ones to determine the question of war and peace, depression or recession, maintenance of the American standard of living or its loss, or whether the people are going to regain their destiny.

We have lost it. The Congress has no control. I said this a while ago, and the leadership said, "Oh, yes, that Federal Reserve, we have got to do something about it."

Last week we had Senator SCOOP JACKSON saying, "Oh, yes."

But what are they saying? They are saying, "Let's pass a resolution, address it to Mr. Volcker saying, 'Please Mr. Volcker, please, please drop the interest rates a little bit. Please drop them a little bit.' "

It is as if to say, "Hit me again, Mr. President, Mr. Volcker. It feels so good when you stop."

That is all we have been getting. These resolutions are powderpuffs. We are going to hit Mr. Volcker with a little powderpuff when the issue is, is the Congress not abdicating its responsibility? After all, the Congress created the Federal Reserve Board. I have been aghast at how many of my colleagues seem to think that the Federal Reserve Board is an autonomous, free-wheeling, independent body, and how many Americans think it is a branch of the Federal Goverment, it is a Federal entity. It is not, and the way it is operating now, it is out of control. It does not account either to the President or to the Congress.

These are heart-rending times for that reason, and I have gone into the history of that issue enough, ad infinitum. Today I merely want to emphasize that it looks as if my primary, primordial intention, which was the same as the one I had when I first started talking on this attempted assassination of James Kerr, and later the murder of Judge Wood, and that was to keep at least the matter with a sense of urgency and priority before, first, the Chief Executive and then the law enforcement officials, but above all, the Congress.

I must say that fortunately we had men like Director Webster of the FBI, but other than that, they are limited. They are challenged even after this resolution of the Wood case, which has to go into the processes of appeal and all, is still to go behind all of that and resolve the Kerr case. Without the Kerr case there would not have been any bizarre murder of a Federal judge, and then go behind even the forces that created the environment that made that crime possible. Those forces are still loose in this country, but they are high and powerful. They are just as sophisticated and as powerful as any ability of the National Government to enforce the law against them. That is still a continuing challenge, and it is here now with the Federal Reserve Board.

The American people have been stripped naked of defense against the criminals, what I call King Crime, and their economic masters. What does it avail us to have political freedom, constitutional rights, if in this day and time in the kind of society we live in, we do not have economic freedom, but are either wage serfs or are dependent on the individual economic philisophical positions of chairmen who dare come—in fact, this is what triggered me off in my bill of impeachment—who finally dare come even to us in our committee and say, in answer to my question, "Yes, this will affect detrimentally the standard of living of certain Americans."

Now, since when—since when does any official, elected or not, have that power which only is placed by the

Constitution in the national policy-making body, which is the Congress of this country? Since when?

When I saw that nobody would challenge that, I decided that no matter what the odds, no matter how ridiculous it would seem that I was taking in my position, it was something that had to be done. I have had joinders of others, like the gentleman from California a while ago, but I am afraid at this end of the session I must confess that my primary objective has not been served. I could not even get a hearing with the Committee on the Judiciary, even with a subcommittee.

Now, I was acting and have acted in good faith. It is not a pleasant thing to draw bills of impeachment, utter specific charges against men whom personally one does not dislike. That is not easy, but it is a duty in my book.

What good does it do for me to serve on the Banking Committee of the House of Representatives if I choose to ignore that, but also, how depressing that serious consideration, at least in hearings, was not given, so I then said what I am going to say now and reaffirm, and that is, since it is a privileged motion, it is a privileged legislative act, and that if I do not get serious consideration by the proper committee at the proper time I will have developed a case as if I were developing it before the committee here on the House floor and call it up in such a way that the Members of the Congress will not be able to say that they have had no opportunity to pass or regain the control of the economic destinies and well-being of the American people we presume to represent, and had no chance to vote thereon.

Now, let us assume that we sought and obtained the impeachment, and even the trial and conviction in the Senate. That still does not remedy the question, and that is the need to reform this tremendous diversion of the intention of Congress through such things as a development of the Open Market Committee in 1923 and thereabouts. Some of their sleeper clause amendments that were slipped through, just like on October 2 in the so-called Equity Protection Act, or "Save the Savings and Loan Act," which was, as I said and repeat, much more than that, and belatedly finding that the control and responsibility and accountability has slipped.

What good does it do to be the playthings of a master who says, "Well, you know what, yes, conditions are so bad and businesses are going so broke and political pressures have arisen, especially before the election, that we are going to do something here to ease up a little."

□ 1710

So we had big headlines about short term. Incidentially, long-term interest rates are still unaffordable—in an economy such as ours, fatally so. And so when we put in such things as the Caribbean Initiative, in which we are trying to privatize or, as we say, Americanize the economy of the Caribbean Basin, we adopt tactics that Caribbeanize our economy.

We now have all the conditions and high interest rates that Third World countries have been afflicted with all through history. Anyone familiar with just our neighbor to the immediate south, Mexico, will tell us that at no time were interest rates affordable.

If you were fortunate enough to be in the position where you could ask for a loan, that meant you had to be in the upper middle class or lower rich class in Mexico. Never would you be able to get that loan at less than 16 percent. Today it is over 55, 60, and 65 percent if you can get it. But as to the economy, you cannot compare it.

When I did try to bring this to the attention to these big expert economists, they did not understand. And I have learned, after coming on this level, that nothing makes me more distrustful than when somebody comes in as an expert, and particularly from the Treasury Department; then I know that we are in for bad times.

But where, then, are the American people going to entrust their destiny, if not in their representatives or agents? That is the question. The overall fundamental issue is whether or not there is a fiscal agent. Like the American people did during the first 10 years' national existence, in the Continental Congresses you had the same issue. You had the same class trying to take control as the price for being the fiscal agent.

The thing that amazes me is that even the members of the committee do not realize or do not seem to understand. I am not trying to downgrade them. I have the highest respect and affection for them, but I must attest to what I have witnessed. But the legal definition of the Federal Reserve Board is that it is the fiscal agent of the U.S. Treasury. That is its legal function and title. Even Secretaries of the Treasury that I have talked to have seemingly not known that.

Mr. Speaker, the country, of course, had men like Jefferson, who was very outspoken. If what I have said about bankers seems harsh, others were harsh, too. And let me say that I believe in what William Lloyd Garrison, that great emancipator, said when he was chastised for making what appeared to be radical statements. He said, "Well, I intend to be as harsh as truth and as unrelinquishing and uncompromising as justice."

Jefferson was violently concerned, and fortunately they prevailed in both Congresses.

The first bank was created or chartered in Philadelphia, the National Bank of North America, mostly because every entitly or individual has to have some kind of a fiscal agent. But what happened? If they had gotten what they demanded, why they would have had unthinkable rates of interest, but they did not. Then, when the first Congress was formed in 1789, that of course, was the issue, and they had great men like Gallatin and Alexander Hamilton, who, incidentally, was a great and sympathetic friend, but he was also responsive and responsible and honest and would not succumb to these interests.

Then with the creation of the first Bank of the United States with a 20-year charter, what was the issue then? It was the same issue, the allocation of credit and its control.

Then came Andrew Jackson and his forcible canceling of that second U.S. Bank. Then came the Civil War, and we remember the last words of Abraham Lincoln before he was killed—I have quoted them in the RECORD before—concerning that issue: "He who controls the allocation of credit is going to control the freedom of the people of this country."

He was concerned. Why? Because the Congress here then—and they did not have a CONGRESSIONAL RECORD then, so if you want to dig all this out, you have to dig it out from other sources—was debating the so-called 1864 Currency Act and eventually the 1865 Currency Act. Historians say that is when our national banking system started, but it was nothing compared to how we interpret national banks today. And they had their scandals right after that. What were they?

Well, at that time they were scandals, but today people shrug their shoulders at something like that. It is like this headline in today's Post where the chairman of the Interstate Commerce Commission said, "What's wrong with a kickback? Why, there is nothing wrong with a kickback in this industry. Sure, it is a bribe in a way, but that is the way they do business and have done business in the trucking industry for years."

Now, this is the same atmosphere that has been pervading the banking interests here in our country.

I have alleged in my bill of particulars and my bill of impeachment the leaking of information, which they call erroneous information. That is the way the Federal Reserve said it. But the Open Market Committee member leaked informantion that meant millions and millions and millions to such entities as the Manufacturers Hanover Trust in New York, Chase Manhattan, and a few others. And we had more than one leak.

It is accountable to Congress? No; we cannot even get an audit of the Federal Reserve Board. Do they have an audit? Well, they have an audit like we used to have in my city on the city

water board when I was first a city councilman.

Incidentally, if Members think this is a fight, they should have seen that one. Again, it was a lonely fight, and I was charged and criticized the same way I am now. But I won it. That is one reason I am here as an elected Representative. We won it.

They had certain types of audits, but they had all kinds of shenanigans. The chairman of the water board was chairman of the bank that was a depository of the water board. Then they had "sweetheart" arrangements with some of the developers who would come in and say, "Look, we have a tremendous housing need, and we have got to develop this subdivision over here." It was right after the war. They said, "You can't pay for the extension of the water mains. We will pay. We will capitalize if you will reimburse us." So then they got a note from the board saying, "When and if we have the funds, we will reimburse you $250,000 for the cost of the extension of water mains over to Shearer Hills."

They did not have the money. The developers did not have the money. They got that note and went to the depository bank and got the loan on that note. Then they built the homes, they extended the mains, and they charged every home purchaser the per capita cost of that extension and got their money back then, plus the $250,000 from the bank. Now, all the kind of thing will happen any place if you have unrestrained power and unaccountability by anybody. It will happen here with a Congressman, as it has. It will happen with Cabinet members, it will happen with school board officials. If you have power and do not have to render accounting for that power, you are going to get corruption and thievery.

What I am saying now is that in the Federal Reserve Board is no different than it was in my local city water board 29 years ago. What I am saying is that nobody thought that fight was going to be won, but we did win it. I am saying further that this fight here will be won ultimately. In good time the issue will finally be addressed.

What I am saying is that it is a shame it will not be in a timely fashion to anticipate and prevent this great suffering, this great downgrading of the American standard, and this great exposure to our international competition in which we are foreordained to lose the standard of living that we proudly boast of. There is no anticipatory action here.

□ 1720

The housing bill I speak of, there was no time for us to bring it up in the lameduck session. We wanted to. I wanted to.

Oh, no, you could force a so-called immigration control act, but not that one.

TELEVISION COVERAGE OF CONGRESSIONAL PROCEEDINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, the hour is late.

I had intended to take out a special order about the death of nine young Air Force crewmen in a B-52 crash in my State of California 2 days ago. But I would like to ask unanimous consent that I be allowed to address the House in a special order tomorrow night instead and change the subject tonight of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DORNAN of California. Mr. Speaker, I came to this distinguished body from the electronic world of television. I was this new, vague, modern job description they call a communicator, and I thought it was an exciting day when this House began to go on television through the services of C-SPAN over in Virginia across the Nation. They say that the audience now may be somewhere around 300,000 coast to coast.

I circulated a letter that year of 1979.

We were supposed to be televised on George Washington's birthday, a fitting day, February 22. Due to the largest snow storm in this area in about 50 years, it was put off until April 3, which happens to be my birthday. So I took a little special interest because of that coincidence and circulated a letter signed by about 65 Congressmen to the majority leader in the other body who was then Mr. BYRD of West Virginia, and then minority leader, Mr. HOWARD BAKER, who is now the majority leader, saying we on the House side would appreciate if they would also televise the action in the other body so that we could watch.

The B-1 dabate was coming up. Also the Panama Canal debate.

I had described in that letter that the opening up of this body to electronic media was like blowing the walls of the gallery out all the way to Alaska, Hawaii, Puerto Rico, and the Virgin Islands and letting any American tune in the proceedings in this august body and watch it from the comfort of their own living room, in an old, torn robe, with our first cup of coffee, just as though they had dressed up and spent hundreds of dollars just to fly to Washington, D.C., go to their Member's office and secure guest passes to sit in this gallery and watch us in action here.

I still stand by that. But I believe now that there are things happening in this Chamber that are affected by television that are wrong.

The other body was supposed to during this 3-week lameduck session, according to its distinguished majority leader, debate whether or not they would go on television. They are all wired for it on the Senate side.

I think if they watch what happens here during these special orders, in which I am participating right now, they will decide to keep their Chamber darkened, and available firsthand, sight and sound and motion only to those people lucky enough to have the money to come to Washington, D.C., and get guest passes to the gallery of the other body from their Senators or their Representative in this body.

I think we should do everything here in the decorum of how we conduct ourselves on television to encourage that other distinguished body, the other half of the Congress of the United States, to also go on television. But I have noticed, and I have thought about it deeply since I took out five special orders during the last 3 weeks of this lameduck session, I have noticed that it will probably be very healthy for this Congress, and encouragement to the other body to go on the electronic medium of television and probably good for the American taxpayers, that is certainly an irrefutable fact, if we turn off the coverage of the House after the conclusion of official business.

There is nothing that says in concrete that we have to televise this Chamber from gavel to gavel. We could go from the opening prayer to the conclusion of official business, and then allow the Members to come down here with special issues that they feel they have to deliver to our hard-working staff and pages, and the police officers who are in private clothes to guard us inside the Chamber, and the extra police staff outside, and all of the hundreds of thousands of dollars that it takes to run this Chamber from the electricity down to the last young page waiting to end his day, and the hardest working people in this Chamber from a physical labor standpoint, and that is these great reporters who take down our pearls of wisdom, that that money saved for the taxpayers would be significant if the temptation was not there for Members to go on and on with their special orders instead of saying succinctly at the beginning, taking 5 or 6 minutes of a special order, and then submitting the rest for the RECORD. That RECORD goes out across our 50 States and even to some interested countries in Europe if they are involved in other parts of the world, and goes into every public library in the United States, the written CONGRESSIONAL RECORD. There is no

need to stand up here and go on and on.

I am here a little bit on shaky grounds, having taken five special orders, some of them on late nights. Each one I tried to end in 5 or 10 minutes, and they were all on subjects like Soviet war crimes, the current use of red rain, yellow rain, blue rain, the seven poison gas agents used by the Soviet Union in Afghanistan and Ethiopia, and given to the Communist puppet forces to control Indochina for use against the humble people in Cambodia and Laos.

I think that is pretty important. But I did not take the full special order, the 60 minutes to speak on the 60 violations of the SALT I and SALT II treaties, the arms limitation agreements by the Soviets, the other major superpower in the world. I put that almost in its entirety into the RECORD and tried to shorten that RECORD because we were not working on a weekend, but we were going late at night after a long day.

On child pornography, I cut that short, and I cut short another special order on the whole state of our defense structure and what is happening to it and the

I cut short a special order on our prisoners of war and our men who are missing in Indochina, some of whom I believe are still alive, a slightly nightmarish story.

Then one night when I was speaking on the floor an act of rudeness did occur from a fellow Member. He deliberately walked right in front of me, well aware that he was going to cut me off from the cameras or something childish. Other Members on the majority side started deliberately making noise in the background because I was keeping them after hours, they thought, because they were all going to pat one another on the back, which is a fine tradition, in saying goodbye to Members in these special orders, which again is for the RECORD and does not have to be televised.

I went up to one of the Members and asked what her problem was, and I said, "Now, wait a minute." Before I even could get out a defense of the importance of my issue of narcotics, cocaine use, which even struck this Chamber and has one of our Members sitting in a Federal penetentiary at this moment, the wealthiest Member of this House of Repesentatives, Mr. RICHMOND from New York, who brought disgrace and ignominy on this body, before I could even defend my special order on cocaine, the lady Member in question said, "I know, I know, I know about Henry."

If they are aware of that problem on one side, without impugning anybody's eloquence, impugning their motives or casting any aspersions about the brilliance of the remarks stated here in the well, I think that as important as my special orders were, and cutting them short as I did, that they would have best been served going out to those public libraries through the written record so that this body could at least quickly expedite itself through the personal interest period of Members' special orders and not keep going for about 10 people in the gallery. We appreciate their interest, and I am violating a tradition in this House to even refer to television, the other body at length or to the gallery.

The Press Gallery, of course, is always empty. That is a slight violation of tradition to refer to the most powerful part of our system, what Edmund Burke called the fourth estate, but we simply should have initiated on the majority side, because that is where the greatest, I do not want to call it abuse, but the greatest ut utilization, at tremendous cost to the taxpayers takes place in this well, and that there should be in the 98th Congress, and since people have seen fit to come down here on special orders and advise all of their Members, their fellow Members on things to do next year in the Congress they will not be a part of, I will just leave one word of advice to you, Mr. Speaker, in the interest of saving money.

□ 1730

Why do you not, Mr. Speaker, get the Republican leadership and people of reason on both sides to counsel together to cut off the electronic coverage of this august body at the end of official business. Because if someone ever decides to take a computer and run a cost accounting on a couple of Members covering the hugs and kisses here in the well and all that stuff about greater love hath no man, because while Members may stay down here and think there is this vast audience out there hanging on every pearl of their wisdom, I just checked and one Member who goes on at length here does not have a single staff member in his office now watching their boss on the closed circuit television system of this proceedings.

As a matter of fact, I can assure the gentleman they are home watching a football game.

If there is anything I repeat in summation going to destroy the best hopes for the American people of getting inside the Chamber of the other body to watch their deliberations and debate, and encourage more people to come over on that floor over there, and engage in the give and take of debate, it is we conduct ourselves here in a frugal and swift manner.

We are not allowed by the rules to read things, and Member after Member gets in this well and violates the rules and reads ad nausem, and loses that American audience out there trying to learn something about our Government.

I would say 95 percent of our Members sell themselves short here. If they would not read the staff-prepared material, or even if they wrote it themselves, and tried to speak from their hearts more from their minds it will increase the level of debate in this Chamber, most Members will amaze themselves how eloquent they can get in trying to express their ideas.

We all have the right to extend and revise our remarks. And that word "revise" means to clean up the syntactical error and to maybe add a few succinct or trenchant points we forgot in the course of debate.

I would hope in the 98th Congress since it is becoming more and more expensive to run this Congress, it has become a billion dollar industry every year, that people would come into the well or stand at the leadership desk, prepare themselves for debate, engage in terse colloquy back and forth, and even if they want to talk about missing Americans, Soviet use of poison gas, child pornography, or Judge Wood in Texas, or the Federal Reserve and the bad guy Paul Volcker, whatever the importance of their subject, save it for the written record and shorten down these special orders to give the hard-working people on this Hill that keep us going here as Congressmen and Senators a fair break, particularly on weekends, and when we have been in session all weekend long past the hour of midnight and have to come back before the Government shuts down and do more of the same next week.

I meant my advice sincerely. Some of the longer special orders I found interesting. But I am supposed to be a professional legislator aware of everything that is going on around here. And I think we should show some respect and a little kindness to not only the staff here but the American people who would like to follow that proceedings on that magic box that has been such a great tool and such an evil tool for communication in our country or never will we ever see the other distinguished body sometime referred to by columnists as the House of Lords ever ballooning out the walls of their Chamber from Hawaii to Puerto Rico and by satellite to Europe where people all over what is left of the free world can watch what goes on in this Chamber.

Mr. Speaker, I yield back the balance of my 60 minutes and promise to only speak for 5 minutes tomorrow night on our brave young men who died in California on December 16.

AGRICULTURAL ISSUES IN AN ACTIVE CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from California (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, the 97th Congress has adopted a number of major changes in policies designed to restore vitality to the economy. Like all sectors of the economy, the agricultural sector has benefited from the declining rates of inflation and interest. Yet, the administration's economic and monetary policies have also exacerbated other agricultural problems. It would be difficult for anyone to argue persuasively at this point that the U.S. farm economy is more prosperous today than 2 or 4 years ago.

There is a growing consensus that several basic agricultural institutions and policies are in need of substantial reform. The changing economic and monetary realities of international trade in agricultural commodities is one of the basic reasons we need to reevaluate basic farm programs. Likewise, the direct and indirect costs of production for most types of agricultural enterprises are escalating rapidly. I think that public research, conservation, foreign trade, and domestic and international assistance programs have played a fundamental role in shaping the U.S. agricultural system. These are the areas of public policies which must also play a major role in overcoming the agricultural sector's current economic problems.

The House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture (DORFA), which I chair, began investigating many of these issues during the 97th Congress. For the benefit of other Members interested in agricultural matters, I would like to summarize some of the subcommittee's activities, and highlight the policy issues I think require further work in the next Congress. I will arrange any remarks according to the subcommittee's areas of legislative jurisdiction and oversight activity.

HUMAN NUTRITION RESEARCH AND EDUCATION

Two subcommittee hearings were conducted jointly with the Subcommittee on Science, Research, and Technology of the Committee on Science and Technology which emphasized the need to stimulate human nutrition research, to develop methods and techniques to better understand the relationship between food, nutrition, and health, and to transfer the knowledge base and technology to the scientific community and the public. The hearings were designed to focus the attention of the new administration on the continuing need for Federal support of human nutrition research to insure and monitor the nutritional quality of the food supply and the nutritional and health status of the population.

In response to the June 1981 hearing, the Department of Agriculture and the Department of Health and Human Services submitted to Congress the long overdue joint implementation plan for a national nutrition monitoring system. This plan incorporates, for the first time, the National Health and Nutrition Examination Survey and the Nationwide Food Consumption Survey into an operational national nutrition monitoring system. The plan will broaden the ranges of comparable information which is necessary for identification of the nutritional habits, status, and needs of Americans.

The plan marked a major step forward and the departments indicated they were committed to implementing the plan in a timely fashion. However, after a series of letters requesting progress reports from the executive agencies, it was clear the departments had been unable to reach successfully a number of critical goals in accordance with the fiscal year 1982 timetable developed only last year. Therefore, a follow-up hearing was held in June 1982 to again obtain the Departments' commitment to the national nutrition monitoring system as well as the broad area of human nutrition research. The departments once again indicated closest attention would be given to the implementation of the plan at the Assistant Secretary level.

This series of hearings pointed out the need for a Federal human nutrition research plan and strategy. This need was documented in a May 1982 report which I requested from the General Accounting Office (GAO) in 1980. The GAO recommended that the Office of Science and Technology Policy (OSTP) direct the Joint Subcommittee on Human Nutrition Research to develop a Federal nutrition research plan. I am pleased to report that the Director of OSTP has accepted the responsibilities.

The need for a human nutrition research information and management system was documented in a DORFA hearing in March 1981. Budget decisions by the Congress and each agency conducting nutrition research were being made without up-to-date information of ongoing and planned projects in other agencies. I offered an amendment which became section 1427 of the 1981 farm bill calling for development of such an interactive research planning and management system.

In August 1981, the subcommittee and the Domestic Marketing, Consumer Relations, and Nutrition Subcommittees held a joint hearing on the reorganization of nutrition research responsibilities within USDA. This reorganization was viewed by some as a retreat from past commitments to human nutrition research and scientific excellence within the Department. I have noted a number of USDA efforts to accommodate requests from producer or food processing interests which have led to administrative or budgetary policy changes opposed by scientific organizations and consumer groups alike. Many of the controversial Department initiatives in this area, though, are not surprising in light of the administration's basic goals. I will continue monitoring the Department's actions in this area, and will encourage the Department to retain a strong and credible consumer orientation in its scientific, educational, food assistance, and regulatory functions.

INTERNATIONAL AGRICULTURE ISSUES

In preparing to draft its portion of the 1981 farm bill, the subcommittee held 2 days of hearings in March 1981, reviewing the Public Law 480 program. Testimony presented laid the foundation for title XII of the farm bill. The proper mix of expenditures between the different types of Public Law 480 programs was discussed at length, as were ways to verify the value of self-help measures instituted as a part of Public Law 480 contracts. We worked in concert with the House Foreign Affairs Committee to make needed changes to the food for peace program.

Agricultural trade issues were a frequent topic for discussion throughout the 97th Congress. During the debate on the basic provisions and price levels in the commodity price support programs adopted as part of the 1981 farm bill, the administration repeatedly argued against higher support prices and land retirement programs because of the administration's optimistic appraisal of export prospects. When restrictive monetary policy in the United States drove up the value of the dollar, hence dampening demand for U.S. farm products, and favorable weather patterns led to record crops in many countries, crop surpluses began to build in the United States during the second half of 1981. As grain prices fell, the administration's commitment to agricultural export trade promotion activities was carefully watched. Diverse agricultural groups tried to develop new ways to promote exports and open up new markets. Criticism toward restrictive trade practices in Europe, Japan, and other countries also grew in intensity.

The subcommittee held 3 days of hearings on export trade issues in June and July 1981. The hearings focused on opportunities to expand export trade, the domestic economic and environmental consequences of alternative levels of export trade, and strategies the Federal Government should consider in developing a balanced export policy.

Testimony representing a diversity of interests and conclusions was presented at these hearings. The witnesses generally agreed that the United States had sufficient untapped

agricultural productive capacity to substantially expand over many decades the volume of exports. Most witnesses also pointed out, however, that the desirability of doing so would require constant appraisal. Some analysts contended that U.S. agriculture's dependence on export markets had already forced down commodity prices and net farm income. Export dependence also has increased fluctuations from year to year in commodity prices, hence raising the need for and cost of income support programs. Other resource specialists voiced concern over the heightened erosivity of the land available for cultivation in order to satisfy expanding export demand. The rate of depletion of underground aquifers and soil salinity problems would also be exacerbated by further expansion in production levels, especially in the absence of greater commitment to resource conservation needs.

These hearings raised a number of important questions regarding the costs and benefits of export promotion programs. It became obvious that a wide range of opinions exist regarding whether and how export policy should be integrated with conservation programs and income stabilization policies. I believe that better understanding of these policy options and their impacts is essential in order to realistically address future farm program needs.

The subcommittee explored agricultural trade transport issues in a hearing and markup of the International Perishable Foodstuffs Act in May 1982. Passage of this act was needed in order to permit the United States to sign an international treaty facilitating the movement of perishable commodities in sealed containers when transported across the borders of nations signing the treaty.

FOREIGN AGRICULTURAL DEVELOPMENT

During a period of severe economic strain in the U.S. farm sector, the subcommittee's appraisal of agricultural development needs in developing nations required a substantial shift in perspective and focus. In part because of the President's Caribbean Basin Initiative, the subcommittee focused on the impact of U.S. programs on agricultural development in the Caribbean and Central America. Hearings held jointly with the Inter-American Affairs Subcommittee of the Foreign Affairs Committee documented the several ways in which agricultural development in that region has paradoxically led to expanded opportunities for agricultural trade.

Many witnesses described the considerable political importance of agricultural development based on stable land reform programs in this region of the world. If opportunities for constructive employment in agriculture are not lost or not available in rural areas, demographic shifts toward urban centers take place. When major population shifts occur in relatively short periods, a nation's political, cultural, and economic stability can be severely undermined. The results of such instability are now apparent throughout the region. Experts appearing at the hearing generally agreed that an expanded commitment to agricultural development would greatly enhance the chances for these countries to recover a measure of political stability and economic hope.

In the next Congress, I hope to further investigate how U.S. agricultural research, technology transfer, and food assistance programs can be more effectively administered and coordinated in politically unstable developing regions of the world. Important economic, strategic, and humanitarian benefits could be realized if social strife like that experienced in El Salvador can be prevented through timely commitments to agricultural development.

AGRICULTURAL RESEARCH AND DATA ISSUES

Undertaking a detailed review of agricultural research and extension programs was one of the most important activities of the subcommittee during the 97th Congress. Three days of hearings were held in March 1981, to investigate a wide range of research issues prior to final consideration of title XIV of the farm bill.

Discussion generated during consideration of the research title touched upon all the major themes encountered and explored in more detail in several other hearings on related topics. The contribution of past breakthroughs in the agricultural sciences to the productivity of U.S. agriculture was frequently pointed to in explaining the potential benefits that could accrue to future advances. However, nearly all witnesses also voiced concerns that historic rates of technological innovation in agriculture would be hard, if not impossible, to sustain in the future without a major increase in the level of public funding devoted to research and development expenditures. A special need for an expanded long-term commitment to basic research in the plant and animal sciences and cell biology was expressed by a number of witnesses.

The subcommittee appraised in a June 2, 1981, hearing the natural resource data bases available to research scientists and policy analysts inside and outside government. With the cooperation of the USDA, an up-to-date inventory of data sources was compiled by the subcommittee. During the hearing, three major observations were repeatedly expressed. Most analysts familiar with USDA data sources felt that a better job could be done within the Department in sharing among different agencies data collected by a single agency. To be useful, witnesses felt that the various natural resource data bases needed be well documented and accessible on-line to other users for analytic manipulations.

A second theme encountered a number of times is that USDA agencies need to spend more effort in strategic data base planning exercises across agencies. The goal of such planning would be to agree on common definitions, nomenclatures, and formats whenever possible. Furthermore, many witnesses felt that data collected by one agency for a relatively narrow purpose could be made much more useful to other agency analysts at little or no additional cost.

A last comment made a number of times is that the USDA should take steps to accommodate requests from outside researchers for access to raw data for analytic projects. The steps needed to accomplish this task include advising the public of the nature and availability of data series and preparing accurate and useful documentation of the data elements on the tapes.

In response to this hearing and subsequent questions from the subcommittee on the Department's progress in providing for public access to the 1977 and 1982 national resources inventory data tapes, the Soil Conservation Service has agreed to prepare needed documentation and, upon request, to provide the data tapes to independent researchers.

The unique research and data needs associated with developing effective Federal policies for salinity control in the Colorado River Basin was the subject of a June 10, 1981, hearing. The Department of Agriculture described ongoing program efforts to control further salinization of both cropland and the Colorado River. Substantial uncertainty was expressed about the cost-effectiveness of alternative control technologies. The Department described the research program it has underway to resolve outstanding issues, and expressed the view that the Department's technical and financial commitment to the program is essential because of the national and international goals served by reduced salinity loads in the Colorado River.

The status of the Department's efforts in developing a national plant germplasm system was explored in a hearing on June 24, 1981. Testimony presented by the General Accounting Office documented certain problematic features of the germplasm system. Department witnesses responded to the GAO findings and recommendations, and outlined the steps taken and planned to improve program coordination and planning. The hearing documented the considerable progress made by the Department in establishing the germplasm system and undertaking institutional adjustments in the administration of the program.

Another small but important research activity assessing the impacts of air pollution on agricultural productivity was the topic of a hearing held on July 7, 1981, jointly with the House Science and Technology Subcommittee on Natural Resources, Agriculture Research, and Environment. Witnesses described ongoing research sponsored by the USDA, the Environmental Protection Agency, and other Federal agencies. The importance of the research in developing better quantitative models demonstrating the nature and magnitude of air pollution impacts on agriculture was stressed throughout the hearing. In light of pending amendments to the Clean Air Act and the administration's inclination toward the use of cost-benefit analysis in appraising alternative regulatory actions, further research on the agricultural effects of air pollution seems clearly justified.

AGRICULTURAL EXTENSION AND TECHNOLOGY TRANSFER TECHNIQUES

Information tailored to specific local conditions on agricultural technologies and production practices must be accessible to farmers if the benefits of public and private agricultural research and investments are to be fully realized. The subcommittee began a detailed oversight investigation of the Cooperative Extension Service to appraise the operative linkage between public agricultural research scientists and farmers. Three days of hearings were conducted on February 17, and March 9, and 10, 1982.

The hearings focused on a number of basic issues about the Extension Service's mission, funding formula, and usefulness. The issues were articulated in a background discussion paper distributed to witnesses in order to help focus the hearings. The testimony presented by extension employees effectively characterized the range of views held within the service. Other witnesses representing State and local governments discussed their opinions regarding the Federal role in guiding the Extension Service's priorities in light of the relative magnitude of the percentage contribution of the financial support for extension from the Federal, State, and local levels of government.

Considerable attention was also given to what some witnesses perceived to be regional and/or commodity specific inequities in the funding formula used to distribute Federal extension funds to States. Suggestions were offered for modifying the formula to weigh more heavily agricultural variables such as farm income and/or population in the formula funding equation.

The process through which extension priorities are developed was also discussed extensively. The value of the Extension Service as a conduit for information back to the basic researchers in universities regarding the research needs of famers was also explained. A further refinement and focusing of this oversight effort needs to be accomplished in the next Congress.

A 2-day subcommittee workshop on computer-based informatin system for agriculture was held to explore in more detail the types of systems which have already been successfully established. The meetings were held in May 1982, and attracted over 100 participants including representatives from computer companies in the private sector, farm groups, agribusiness firms considering computers as a means of information transfer, extension officials, and interested members of the public. The workshops included several demonstrations of specific capabilities of individual systems, as well as smaller group discussions on individual topics.

THE SUSTAINABILITY OF U.S. AGRICULTURE

During the course of several previous hearings, witnesses raised serious concerns about the adequacy of the Nation's natural resource base to support on a longrun basis current and projected levels of crop production. Three factors were repeatedly cited in explaining this concern. During the 1970's, over 60 million acres of additional cropland was brought into intensive crop production uses in order to satisfy expert demand. Use patterns essentially exhausted the supply of readily available, idle cropland held in reserve for over a decade. Comparable statements were made in reference to irrigation water supplies.

Witnesses also stated that the average productivity of the Nation's land and water resources was declining as a result of inadequate attention to conservation needs. Last, several scientists challenged the notion that future average increases in crop yields will match the record established over the last three decades. Rising energy prices and fewer major breakthroughs in agricultural technologies were the most frequently mentioned reasons for a more conservative posture on future crop yield advances. These issues have been explored in some detail in a recently released report by the Congressional Office of Technology Assessment.

Several elements needed to improve the longrun sustainability of U.S. agriculture were suggested to the subcommittee. The local importance of slowing down the rate of conversion of prime farmland to nonfarm uses was explored on April 16, 1982, in a field hearing in Ontario, Calif. Witnesses described the gradual elimination of the citrus and dairy industries in the region. A number of witnesses expressed the view that the area would be better prepared to deal economically with severely depressed conditions periodically encountered in local heavy industries if agriculture production had stabilized at a higher level.

Additional hearings on the USDA's soil and water conservation programs, Federal agricultural land protection efforts, and conservation research programs were held on April 22 and April 27, 1982. The testimony demonstrated that resource constraints facing U.S. agriculture were, at this time, manageable. However, sizable current environmental and economic costs appear to be associated with inefficient farm management systems. Several ways were explored to enhance the degree of cooperation between the Soil Conservation Service, the Agricultural Stabilization and Conservation Service, and Cooperative Extension.

On July 23, 1981, a hearing on groundwater quality and quantity issues focused on several specific cases when existing agricultural operations were encountering serious water-related constraints. A team of scientists from Kansas State University described the major findings and conclusions stemming from a 2-year research project on the economic consequences to agriculture from overdraft of groundwater from the Ogallala aquifer. Other witnesses described cases where groundwater has become seriously contaminated with pesticides used to control the Colorado potato beetle and other potato pests on sandy soils. A major assessment of water issues is underway at the Congressional Office of Technology Assessment and we anxiously await its findings, due next year.

This is, of course, only a part of the Subcommittee on Department Operations, Research, and Foreign Agriculture's activities over the last 2 years. The subcommittee also held a hearing on June 23, 1982, to discuss the national Science Council Act, of 1981, a bill to establish a science court for resolving scientific controversies. Scientists representing several Federal agencies, research institutions, and private organizations discusssed the concept of a science court and alternative ways to handle scientific uncertainty in regulatory decisionmaking. With issues such as the food safety law rewrite effort sure to come up in the next Congress, a further examination of these risk-benefit issues needs to be undertaken.

The major legislative effort of the subcommittee during the 97th Congress was a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The subcommittee spent 10 days of meetings on this bill, including one field hearing, and devoted many days of drafting and negotiations to the process. The resulting bill has passed the House and is pending in the Senate, where I hope we can come to some resolution this year. The subcommittee has an ongoing investigation of the pesticide registration

system at the Environmental Protection Agency which should be completed soon.

I would like to thank my colleagues on the subcommittee especially Mr. DE LA GARZA, the full committee chairman, and Mr. WAMPLER, the ranking minority member, for their support over the last 2 years. American agriculture is faced with some difficult times and there will be no quick and easy solutions to our problems. Only by taking a long, hard look at all of the factors involved can we fashion workable programs. The subcommittee has done its part to begin such a lengthy examination and it will continue to play a central role in the next Congress in issues of importance to agriculture.

A TRIBUTE TO MILLICENT FENWICK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LAGOMARSINO) is recognized for 5 minutes.

● Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute to my dear friend and colleague on the Foreign Affairs Committee, MILLICENT FENWICK.

Anyone who knows MILLICENT knows she represents the fighting spirit of one who champions the cause of the underdog, the downtrodden and the disadvantaged. She is respected on the Foreign Affairs Committee and in this House because she is not afraid to speak her mind, to question or to challenge authorities or institutions.

MILLICENT's devotion to duty and to serving the people of her district are well recognized. She is conscientious in attending to all the varied functions of being a Member of Congress, and faithfully attends the meetings of her subcommittees and committees, asking probing questions and offering thoughtful comments and observations on the issues coming before us.

MILLICENT's personal style, her charm and grace have been a distinct asset for the Foreign Affairs Committee, particularly in our meetings with representatives of other countries, where she often carries on conversations fluently in the language of our foreign guests. Her presence will be sorely missed in the next Congress, and I can only hope this administration will have the presence of mind to use MILLICENT's talents in some appropriate way as a diplomatic representative of this country.

In whatever endeavor she undertakes, I know she will offer the same gracious style that marks her presence in the Congress. I am most pleased to join my colleagues in wishing MILLICENT a most successful and fulfilling future, a future I am sure that will be as rewarding as the past.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LUKEN of Ohio (at the request of Mr. WRIGHT), after 3:30 p.m. on December 17 through December 19, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 60 minutes, today.

Mr. LOTT, for 30 minutes, today.

Mr. PHILIP M. CRANE, for 15 minutes, today.

(The following Members (at the request of Mr. RALPH M. HALL) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 60 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BROWN of California, for 5 minutes, today.

Mr. DORNAN of California, for 60 minutes, on December 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. PETRI.

Mr. SHUMWAY.

Mr. GILMAN.

Mr. BROYHILL.

Mr. OXLEY.

Mr. PARRIS.

(The following Members (at the request of Mr. RALPH M. HALL) and to include extraneous matter:)

Mr. FORD of Tennessee.

Mr. AKAKA.

Mr. DINGELL.

Mr. MCDONALD.

Mr. ROE in two instances.

Mr. PHILLIP BURTON in 12 instances.

Mr. STARK in two instances.

Mr. LONG of Maryland.

Mr. PEPPER.

Mr. PICKLE in five instances.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2941. An act to authorize funds for the National Oceanic and Atmospheric Administration for fiscal year 1983 to carry out the provisions of the National Ocean Pollution Planning Act of 1978; to the Committee on Merchant Marine and Fisheries.

S. 3048. An act to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm; to the Committee on the Judiciary.

S. 3113. An act to make minor and technical amendments to the Job Training Partnership Act; to the Committee on Education and Labor.

S. 3114. An act to amend the act of March 3, 1869, incorporating the Masonic Mutual Relief Association of the District of Columbia, now known as Acacia Mutual Life Insurance Co., and acts amendatory thereto; to the Committee on the Judiciary.

S. Con. Res. 136. Concurrent resolution providing for printing a report by the Joint Committee on Taxation; to the Committee on House Administration.

ADJOURNMENT

Mr. BROWN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 35 minutes p.m.) under its previous order, the House adjourned until Sunday, December 19, 1982, at 4 p.m.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mr. PETRI introduced a bill (H.R. 7448) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans and encourage employer participation in these plans by modifying the rules respecting funding, premium rates, asset sales, dispute resolution, and employer withdrawal liability, and for other purposes; which was referred, jointly, to the Committees on Education and Labor and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7359: Mr. WASHINGTON.

H. Con. Res. 425: Mr. LEVITAS.

SENATE—*Saturday, December 18, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable DAVID DURENBERGER, a Senator from the State of Minnesota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Father in Heaven, as the confusion, tension, and frustration of the past 2 weeks come to a close, we pray that our families will have priority in our interests and schedules. Help the Senators and all who labor here, to unwind gracefully that these next 2 weeks will provide relaxation, rest, and renewal. As the responsibilities of legislation are put aside for a season, may families find new life together. May strained relationships be healed and strengthened and deepened. "May the hearts of fathers be turned to their children and the hearts of children to their fathers." (Malachi 4: 6).

Above all dear God, crown our family times with fresh assurance of God's love and the eternal significance for each of us of the birth of His Son whose name will be called, "Wonderful Counsellor, Mighty God, ehe Everlasting Father, the Prince of Peace." (Isaiah 9: 6). In the Saviour's name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 18, 1982.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID DURENBERGER, a Senator from the State of Minnesota, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. DURENBERGER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SENATE SCHEDULE

Mr. BAKER. Mr. President, when the distinguished chairman of the Appropriations Committee reaches the floor, I will confer with him and with the minority leader and try to make an announcement about the schedule of the Senate this weekend.

I talked to him on the phone this morning, as I did with the Speaker of the House. I had thought when we finished last night that it might be possible to finish the continuing resolution by midafternoon and get to conference today on the continuing resolution.

I think that is now doubtful. It would look as if we are going to be on the continuing resolution most of the day if Senators offer all of the amendments that are on the list. So I guess, Mr. President, that it looks as if we will be in session today all day. I will try to devise a sensible and sane schedule for the Senate over the weekend, but almost surely there will be a requirement for either a session of the Senate on Sunday or at least for conferees to be in session on Sunday to try to finish the continuing resolution, bearing in mind, of course, that the present continuing resolution expired last night at midnight.

Mr. President, that almost certainly means that we will have to be in session Monday in order to finish the continuing resolution conference report.

I hate to make announcements of that consequence without great particulatory, but Senators should be aware of that growing probability, and I will have a further announcement to make in the course of the day.

TO UNWIND GRACEFULLY

Mr. BAkER. Mr. President, I have to say, parenthetically, that as I listened to the very excellent prayer of the Chaplain this morning, that portion he included saying that he hoped we could unwind gracefully struck me particularly. I must confess that the night before last, and last night, not only was I not able to go to sleep very easily but when I got up this morning I wound up grumpily instead of very gracefully. But once again I commend him on a very excellent prayer.

Now, Mr. President, I have no need or wish to use the remainder of my time under the standing order, and I am prepared to yield it back or to yield it to the minority leader if he wishes.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I yield 3 minutes or as much time as he wishes to Mr. PROXMIRE.

Mr. PROXMIRE. I thank the distinguished leader.

A REMARKABLE MAN—THE SENATE CHAPLAIN

Mr. PROXMIRE. Mr. President, I would like to add to what the distinguished majority leader said about the Chaplain. He is a remarkable man. I noticed that in the New York Times this morning the quotation of the day was from the prayer yesterday which the Chaplain delivered to us. The majority leader is absolutely right. The Chaplain is so helpful in reminding us of where our real obligations should lie: to our families. He brings such a marvelous human touch into our deliberations. I join the majority leader in expressing our gratitude to him.

THE MANHATTAN PROJECT AND ITS LEGACY

Mr. PROXMIRE. Mr. President, on October 17, 1982, the Boston Globe published a special section entitled "War and Peace in the Nuclear Age." One article in this section, "Hiroshima Plus 37," by John Powers, concerns the Manhattan Project, which gave birth to the atomic bomb.

The scientists who gathered at Los Alamos from 1942 to 1945 were searching for a way to unleash the energy contained in mass in the form of an atomic bomb. Political considerations were uppermost in their efforts; they were commissioned to develop a weapon powerful enough to stop the Japanese and decisively end World War II.

When the A-bomb was finally ready for testing, the Manhattan Project scientists were still not sure how powerful the bomb would be. George Kistiakowsky, the head of the explosives division, predicted the blast would equal 1 kiloton of TNT. In fact, the bomb released energy equivalent to 20 kilotons of TNT. Clearly, then, the scientists had no inkling as to the dimensions of the technological Pygmalion they created.

When Robert Oppenheimer, head of the project, saw the test bomb rise in smoke, he murmured a quote from the Bhagavad Gita: "I am become death, destroyer of worlds," words that may be more prophetic than we would like to believe.

The bomb was dropped on Hiroshima shortly thereafter on a quiet summer morning on August 6, 1945. According to the authors of "Hiroshima and Nagasaki," "it is no exaggeration to say that the whole city was ruined instantaneously." Some 130,000 people died as a result of the explosion, and the center of the city was completly flattened. Black rain descended upon Hiroshima throughout that horrible day, and then a firestorm ravaged the remains for 6 hours.

The American public was largely unaware of the apocalyptic power of the A-bomb until the New York Times published an eyewitness account of the Hiroshima horror in 1946. I quote one excerpt, which gives some insight into the human pain suffered there:

(I saw) about twenty men . . . all in exactly the same nightmarish state: their faces were wholly burned, their eyesockets were hollow, the fluid from their melted cheeks had run down their cheeks.

Mr. President, that bomb was primitive by our present standards; today it would be classified as a tactical weapon. Moreover, the number of atomic weapons has grown so exponentially in the last 37 years that all the nuclear armaments in the world would create a bang over 1 million times bigger than the Hiroshima bomb.

Yet that first bomb, small though it was in relative terms, was perhaps more significant than any of those built thereafter. Why? Because it marked the dawning of an entirely new—and precarious—age in human history. With the birth of nuclear weapons, we are forced to reexamine and reshape our basic assumptions about two fundamental human activities: politics and war. A political advance must accompany the technological one, for violence may never be used again in major territorial conflicts without fear of a nuclear holocaust. As Jonathan Schell, author of "The Fate of the Earth" observed, we cannot afford to apply Newtonian politics in an Einsteinian world.

So the Manhattan project ushered in a new era of human history, and will unquestionably have a lasting impact on mankind. Its end product, the horror of Hiroshima, may serve as sufficient warning to mankind that the use of nuclear weapons can never be contemplated again. In that case, the world would undergo nothing less than a political transformation; conflicts between major powers would be resolved through nonviolence and diplomacy. We would follow in the footsteps of Gandhi, rather than Hitler.

The other path is blacker. The Hiroshima bomb may have unleashed a mad momentum of arms building that will not cease until they are used. Whether the legacy of the Manhattan project will be a political transformation or mankind's suicide is not yet clear. Let us do our utmost to insure the former.

THE HOLOCAUST: ART MUST NEVER UNDERMINE REALITY

Mr. PROXMIRE. Mr. President, last week I noted there has been a tremendous outpouring of artistic response to the Holocaust. Scores of books, films, and plays concern the human tragedies associated with the event. This is completely natural, for all great human dramas are eventually transformed into art. It is also valuable, because many gain greater understanding of important events through art.

But art regarding the Holocaust also has a dangerous tendency to trivialize or romanticize the past. Many critics question whether it is right to fictionalize such a ghastly chapter in human history. They point out that many Holocaust artists treat the Holocaust as a metaphor for evil, instead of a concrete historical fact. The late critic, T. W. Adorno, wrote that Holocaust art is "transfigured and stripped of some of its horror and with this, injustice is already done to the victims."

Mr. President, I recognize the role of art in society, but I also believe we can never forget the fact that 6 million people were victims of genocide only 40 years ago. For that reason, the Holocaust must not be allowed to become a blurry shadow in the background of love stories. It is so much more than that, Mr. President. It was the greatest evil committed in this century, and a lesson to us that the potential for genocide exists even in advanced societies. While the Holocaust is suitable for artistic purposes, it should also have a major impact on other areas of human endeavor: history, philosophy, and politics.

As any Auschwitz survivor can tell you, Mr. President, genocide is a gruesome, not a glamorous, experience. The people that live on to tell stories about it are the outstanding exceptions, not the rule. Most victims were brutally herded into trains, concentration camps, and finally, gas chambers. This is the reality that art must never undermine.

This reality must also inspire postwar generations to take a strong stand together against future genocides. We can do this by making genocide a crime under international law. I therefore urge the Senate to ratify the Genocide Convention without delay.

I thank the distinguished minority leader for so generously yielding the time.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS, 1983

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. HATFIELD. Mr. President, I believe there is a 5-minute time agreement, is that correct?

The ACTING PRESIDENT pro tempore. When the amendment is called up, there will be 5 minutes on the amendment.

Mr. METZENBAUM. With the usual resrtictions?

Mr. HATFIELD. All of these have had everything put in the agreement initially.

Mr. METZENBAUM. I thank the Senator.

UP AMENDMENT NO. 1538

(Purpose: Making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself, Mr. EAGLETON, Mr. DOLE, Mr. MELCHER, Mr. COHEN, Mr. MITCHELL, and Mr. KENNEDY, proposes an unprinted amendment numbered 1538.

At the end of the bill insert the following new section:

SEC. . Notwithstanding anything else on the bill, there is appropriated $200,000,000 for carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, relating to low-income home energy assistance, which is in addition to amounts otherwise available for such title XXVI under this joint resolution.

Mr. DANFORTH. Mr. President, this amendment is offered by myself and Senators EAGLETON, DOLE, MELCHER, COHEN, MITCHELL, and KENNEDY. It increases the appropriation for low-income energy assistance by $200 million.

Yesterday the Senate agreed to an amendment by Senator CHAFEE increasing the low-income energy assist-

ance program by $25 million, but that amendment did no more than bring the program to last year's level.

Also yesterday the Senate agreed to a Warner amendment, which would make $200 million available to users of fuel oil. However, more than half of the homes in the United States do not use fuel oil, they use natural gas.

Since 1980, natural gas prices increased 70 percent. The low-income energy assistance program has increased only 15.6 percent. Because of the recession and the rapid rise of natural gas prices, the current funding level is clearly inadequate.

Mr. DOLE. Mr. President, I am pleased to join my distinguished colleagues from Missouri, in support of this amendment to increase funding under the countinuing resolution for the low-income energy assistance program. The amendment would appropriate an additional $200 million above the level currently in the bill, the same level we funded last year.

Unfortunately, Mr. President, that level—substantial as it seems—is simply inadequate. Those of us who represent Midwestern States understand that rapidly rising natural gas prices have diminished the effectiveness of the low-income energy assistance program. Nationwide, $1.875 billion is worth 35 percent less this year than last; if you want to buy natural gas. These rapid and often unexpected price increases have become an intolerable burden on many households, particularly low-income families and the unemployed.

This is not a problem that is exclusive to the poorest parts of the poorest communities. It is a widespread, nationwide problem. To illustrate my point, Mr. President, I ask unanimous consent that a letter I received last October form Mr. Ed Eilert, mayor of Overland Park, Kans., be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OVERLAND PARK,
October 14, 1982.

Hon. BOB DOLE,
U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR BOB: I would like to thank you for taking the time yesterday to discuss the natural gas pricing situation. As you know, I feel this is becoming a very critical issue, and we on the Council have had a lot of constituent input on the problem.

Subsequent to becoming involved in natural gas pricing matters last spring, it seems to me that the issue/problem is an ideal area for federal-local cooperative efforts. (This is on my assumption that the price of natural gas and its effect on consumers is a very serious economic issue.)

During the winter of 1982, low- and moderate-income families in Overland Park received approximately $54,000 in utility assistance programs. Of these monies, $47,000 was from the Low-Income Energy Assistance Program, a federally-funded program administered by the state and county. My source on this information is the United Community Services, and the attachment details that data.

At the present time, approximately 175 households in Overland Park are without gas service because of turnoffs due to nonpayment, and approximately 45 households have been cut off from Kansas City Power & Light electric service. According to the best information available, it will take approximately $40,000 to bring those delinquent bills current and get service turned on for those households.

Again according to best estimates available, the price for natural gas for the coming winter is going to increase somewhere between 36 and 45 percent over the preceding year. Here in Overland Park, then, we have a substantial problem for those low- and moderate-income homes needing heat and light for the forthcoming winter.

The City Council's Community Development Committee is considering a number of options to increase utility assistance for eligible families. I have directed the Overland Park staff to prepare contingency plans that would incorporate a communitywide private contribution effort, with the dollars raised in that effort to be possibly matched by the City of Overland Park. We will continue to explore all the possibilities at the local level.

For the near-term situation, the LIEAP federally-funded program is critical for Overland Park. We have received mixed signals as to whether Congress will continue the LIEAP program during the forthcoming lame duck session. I would ask that you lend your support to renewed funding of LIEAP.

At the time the so-called "windfall profits" tax was adopted, it was my understanding that there was discussion of a partial allocation of these funds for utility assistance. To the best of my knowledge, Congress has never authorized these additional funds. Is there any realism to securing a Congressional appropriation for utility assistance from a portion of the proceeds of the windfall profits tax?

According to news releases from the FERC and market information locally, there seems to be a significant oversupply of natural gas in some areas, yet prices for the product are increasing. It seems unusual that with a surplus of gas, the market price continues to increase. These price increases are a probable reflection of industry practices which include indefinite price escalator contract clauses.

In summary, I have outlined some possibilities for local-federal cooperation to address the near-term problem. For the long term, the answers to the economic problems associated with natural gas price increases rest with the Congress. Congress needs to readdress the Natural Gas Policy Act of 1978 and the noncompetitive pricing system which has developed in this industry.

My feeling is that Congress should take interim steps to status quo the price of natural gas and prevent additional price increases until such time as the NGPA can receive the attention of Congress. The FERC should also status quo price increases and receive a clear signal as to the legislative intent of Congress.

Bob, thanks again for taking the time to discuss this topic with me, and I would like to ask your support of the above proposals.

Sincerely,

ED EILERT, *Mayor.*

Mr. DOLE. Mr. President, Overland Park is not a poor community. It is a suburb of Kansas City in one of the 15 richest counties in the country. Nevertheless, with winter fast approaching 220 families were without heat and the city estimates it will take $40,000 just to have the heat turned on—much less pay this year's 42 percent higher bills.

Mr. President, the boxes of mail on natural gas speak to the gravity of this problem and I know my situation is not unique. Across the country, people are frightened at the prospect of losing their heat this winter. Consequently, many of us have been looking for solutions for months, and several of my colleagues have introduced legislation to freeze wellhead natural gas prices or abrogate take or pay contracts between producers and gas pipelines.

I commend the efforts of my colleagues to address a serious problem before the winter begins. Unfortunately, it is my belief that those proposals, however well thought and well meaning, would not lower prices or provide significant relief to those most in need in the coming months. I could not support those proposals. I believe it is crucial that we not fool ourselves into thinking we are helping the consumer, when in truth we are not.

There is only one way to help those most severely harmed by cold weather and fuel prices beyond their budget. We can help the poor who are unable to afford high cost gas by increasing the funding for the low-income nergy assistance program, and we can help them this winter.

As my colleagues know, earlier today the Senate approved an amendment offered by the distinguished Senator from Virginia, Mr. WARNER, to provide $200 million to the States from the oil pricing overcharge account for use in the low-income energy assistance program. Some may think that is enough. Let me assure you—it is not. Estimates of the amount needed to adequately fund the low-income energy assistance program run as high as $5 billion. If we adopt the Danforth amendment in addition to the Warner amendment we will reach a funding level of only $2.275 billion, less than half the estimated need.

Mr. President, the Senator from Kansas realizes that there are many good and worthwhile programs funded at far below optimum levels. But we are talking about survival here. If we are really serious about easing human suffering in the face of significant and unjustifiable increases in costs, Congress should make every effort to increase funding for the only program which will help consumers this winter. I encourage my colleagues to support this amendment.

Mr. EAGLETON. Will the Senator yield me 30 seconds?

Mr. DANFORTH. Yes.

Mr. EAGLETON. Mr. President, I am pleased to join with Senator DANFORTH as a principal cosponsor of this amendment to increase funding for the low-income home energy assistance program.

Tuesday evening this body rejected two amendments which would have done something about the scandalously high prices of natural gas. A majority of Senators told the Nation's gas consumers that they are going to have to continue to pay outrageous prices to make up for foolhardy business decisions on the part of pipeline companies.

Now that it is assured that the Senate does not intend to take action to stall the spiraling prices, at the very least, let us do something to lessen the plight low-income energy consumers are facing this winter.

Mr. President, since 1978, the average electricity bill has increased by 65 percent; the average natural gas bill has increased by 104 percent; and the average heating oil bill has risen by a staggering 140 percent. This growing percentage of household income which must go for energy bills is placing a burden on many families, but has literally become a nightmare for the poor.

In 1978-79, the average direct residential energy expenditure by a poor household was 10.9 percent of disposable income. By 1980-81, this had risen to 13 percent. And, under current policies, estimates based on Energy Information Administration data indicate that this percentage will rise to 15 percent.

Yet, the amount of low-income energy assistance contained in the continuing resolution before us is $25 million less than the amount available last year, an amount which, in constant dollars, is a decrease of 10.9 percent from the amount available in fiscal year 1981.

By every analysis I have seen, the current appropriation is woefully inadequate.

For example, a staff study prepared for the Subcommittee on Investment, Jobs and Prices of the Joint Economic Committee in February 1982, entitled "Oil Price Decontrol and the Poor, A Social Policy Failure," estimated that the loss in purchasing power of low-income Americans due to domestic oil decontrol was $9.1 billion, and the loss due to higher oil import costs was $5.6 billion. Totaled, oil price increases took $14.7 billion in purchasing power from the poor during the 1979-81 period. By contrast, Federal aid to the poor families to offset soaring energy prices through the energy assistance program totaled $3.6 billion for the same period. In short, the report estimates that the loss in purchasing power to the poor not offset by energy assistance programs reached $11.1 billion. That is a whopping 76 percent loss in purchasing power by the poor.

Another analysis of the problem, by the Committee for Economic Development, an independent research and educational organization of 200 business executives and educators, puts it this way:

* * * Our study has convinced us that no matter what old or new programs are used to deliver the resources, additional compensation ought to be channeled to the poor annually in order to cushion them against the loss of some $3 to $7 billion of purchasing power because of the energy price increases over the past decade.

The report goes on to say:

* * * A clear message emerges from the available data: Because the poor must spend a greater portion of their income to purchase energy, an energy price increase will affect them more than it does a family with a more average income. Welfare benefits must be redesigned to take these relatively larger energy consumption costs into account (at present, they do not). Until this is accomplished, assistance programs that do no more than keep up with averages reflected in the Consumer Price Index (CPI) * * *

Which I would add, we are not doing when we cut $25 million, "* * * will mean that the poor get poorer."

A further recent study by the National Council of Senior Citizens concluded that 70 percent of the Nation's low-income elderly households paid more than 23.7 percent of their income to pay energy bills during winter months. That expenditure is nearly four times the average 6 percent of income spent for energy by all households in the country. The NCSC study also pointed out that in 12 States, energy bills during the coldest months of winter equal or exceed the maximum supplemental security income payment to low-income elderly in those 12 States.

Sure, under the appropriation of $1.875 billion, 7 million American households were helped with their fuel bills last year. But that number represents only 36 percent of the number of households eligible for assistance.

Sure, almost $2 billion is a lot of money, but the average payment of $213 to each household is less than 20 percent of the average energy costs per year for those low-income households.

In fact, under the current appropriation, if 75 percent of the 20 million households currently estimated by the Department of Health and Human Services to be eligible for the program were actually served, each household would receive an average of $86 and $86 does not go very far when you are staring $1,000 worth of utility bills in the face.

This amendment raises the appropriation for low-income home energy assistance from $1.875 billion to $2.075 billion, a figure far short of the estimates of real need. But it does take a step in the direction of basic human decency and fairness to the poor to cushion the impact of the burden they disproportionately bear. Further, Mr. President, I should add that yesterday the Senate adopted the Warner amendment which added $200 million to assist needy people in the payment of their energy bills under a somewhat different formula. Thus, if you add up the $1.875 billion already in this bill, plus the Warner $200 million, plus this Danforth-Eagleton $200 million, the total appropriated funds to assist needy people in the payment of their fuel bills would come to the total of $2.275 billion.

So, Mr. President, I join my colleague from Missouri, and others, in urging adoption of this amendment. The Federal Government has made conscious decisions to deregulate oil prices and to deregulate natural gas prices. Hand in glove with those decisions is a political, a social, and a moral obligation to do something to help those people who are literally endangered by those Federal decisions.

Finally, Mr. President, I should point out that the other night the Senate passed Senate Resolution 515, which appears at page 30799 of the CONGRESSIONAL RECORD. The Senate, the overwhelming, lopsided vote of 90 to 3, voted in favor of maximum and immediate assistance to needy individuals to assist in the payment of their rapidly escalating utility bills.

Mr. President, I ask unanimous consent that Senate Resolution 515 be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

S. RES. 515

Whereas, residential and commercial consumers of natural gas in some parts of the country are facing rapidly increasing gas prices;

Whereas, natural gas prices have increased to the extent that many consumers are unable to pay their monthly gas bills:

Whereas, natural gas prices are increasing at a time of reduced demand and ample short-term supplies of deliverable gas; and

Whereas, average natural gas prices are not adequately responding to these changed market conditions and are imposing financial hardships on this Nation's natural gas consumers: Now, therefore be it

Resolved, That it is the sense of the Senate that the Federal Energy Regulatory Commission should utilize its statutory authority to proceed immediately to review those administrative actions, in view of the current escalation of natural gas prices, that could result in the modification of certain standard provisions in pipeline-producer gas purchase contracts, such as take-or-pay, indefinite price escalator, and most-favored-nation clauses; and *be it further*

Resolved, That it is the sense of the Senate that natural gas pipeline companies and natural gas producing companies should jointly and immediately initiate efforts to renegotiate immediately the provisions of their gas purchase contracts relating to volumes and prices of gas, particularly, take-or-

pay, indefinite price escalator, and most-favored-nation clauses, in order to conform such provisions to changing conditions in the natural gas market and thereby reduce the rapid escalation of natural gas prices; and *be it further*

Resolved, That it is the sense of the Senate that available appropriations for direct financial assistance should immediately be provided on an expedited basis, to low income consumers of natural gas pursuant to the low-income energy assistance program established by title XXVI of the Low-Income Home Energy Assistance Act of 1981.

Mr. MELCHER. Will the Senator yield?

Mr. DANFORTH. Yes.

Mr. MELCHER. I thank the Senator.

The amendment I am cosponsoring today will increase the amount appropriated for low income energy assistance under the 1983 continuing resolution from $1,875,000,000 to $2,075,000,000.

Last year's continuing resolution provided $1,875,000,000 for low income energy assistance. This proved to be barely adequate. Less than 10 percent, $165 million, of these funds remained available at the end of the fiscal year.

The House of Representatives approved only $1,850,000,000 for the fiscal year 1983 low income energy assistance program—$25 million less than last year. The Senate Appropriations Committee has recommended retaining the same figure as in 1982.

Clearly, as things now stand, the amount to be appropriated in the continuing resolution is inadequate to meet the needs of the poor and the elderly this winter.

Here are some of the facts:

First. Nationally, the cost of natural gas to residential customers has increased from an average of $4.56 per mcf for 1981 to an average of $5.26 mcf for 1982. This is an increase in heating bills for those using natural gas of 15.4 percent.

Second. In many cities around the country the cost of natural gas for home heating is even higher: New York—$7.70/mcf; Philadelphia—$7.38/mcf; Baltimore—$6.70/mcf; Boston—$8.02/mcf; Denver—$6.35/mcf; Milwaukee—$5.95/mcf; and Seattle—$6.84/mcf.

The average for different areas of the country in October 1982 are: Northeast—$7.11/mcf; North Central—$5.28/mcf; South—$6.05/mcf; West—$5.98/mcf.

Third. The average cost of electricity to residential users has gone up 13 percent from 1981 to 1982.

But this is only part of the equation. Added to the increased cost of natural gas for home heating is the additional load on the low income energy assistance program caused by the increased unemployment and part-time unemployment as a result of the recession.

In October 1981 there were 8.7 million persons unemployed in the country. November of this year there were 12 million unemployed. That is an increase of 3.3 million unemployed persons. Business weeklies have estimated that there has been another 2 to 3 million workers who have been reduced to part time.

The 14- to 15-percent increase in natural gas heating costs means we will need to appropriate at least $200 million more in low income energy assistance for 1983 to meet the increases in heating costs. That leaves little or none to provide assistance to the 3.3 million people who have lost their jobs over the last year.

The situation in Montana is as follows according to our Human Services officials:

The average assistance in 1981 was $600 per household. It will take careful management to spread this assistance even with the adoption of this additional $200 million.

In spite of tightened eligibility, if the present crush of applications in Montana continues, the State will be out of money in midwinter. Energy assistance payments have been granted to about 17,000 households the past 2 years. Already this year, there are 17,000 participating and new applications continue to inundate the State office. Best case projections are that the total caseload will reach 23,000. Worst case projections is 30,000 by the end of April. Without additional help extreme hardship will result. Without additional help survival and health problems will result.

These projections are likely because the huge increase in applications is attributed almost entirely to the depressed economy with high unemployment. Unemployment is not dropping and as more and more people, particularly seasonal workers, run out of benefits, more will be applying for help with utility bills.

If Montana receives an allocation at last year's appropriation level, the amount will be $11.1 million. This was adequate for 17,000 households, with tightened eligibility. If the worst case projection of 30,000 households in need is reached, the cost will be $15.76 million or $4.7 million more than the State will receive at the 1982 level. What does this mean? Late applications being necessarily denied help even if desperately needed? Or the program running out of money in the middle of a severe winter that started early?

There is only one answer—more funds are absolutely essential. This amendment of a $200 million increase must be passed.

This amendment is an absolute must. The fuel assistance funds are very likely to run out before the winter is over. If there is not enough money available immediately in the pipeline to assure that the States can make the proper distribution, there are going to be a lot of people suffering during a very cold winter, and the needs are much greater due to high unemployment and due to the increase in natural gas prices and other fuel costs.

Mr. President, I hope the Senate can adopt this amendment and adopt it overwhelmingly very quickly.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Senator RANDOLPH be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Will the Senator add my name as a cosponsor?

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senator from Ohio (Mr. METZENBAUM) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. PROXMIRE. Mr. President, all of us who live in Northern States—certainly in my State—recognize the importance of this program. On the other hand, I think we should all be fully aware of the cost. As I understand it, it is a $200 million add-on. It is not peanuts. It is by far the biggest amendment—and the chairman can correct me if I am wrong—that I think has been added on the floor.

As I say, it is for a very important program, very important in my State. It does go to poor people that otherwise would suffer serious health damage, as well as great pain.

Mr. DANFORTH. I would only respond to the Senator that this program has been frozen in the amount now for 2 years. Over the last year, in Kansas City, Mo., for example, there has been a 35-percent increase in claims on this program.

Mr. PROXMIRE. Last year, at least in my State, the State found it had more money than they could effectively dispense with. Maybe that was because it was a relatively mild winter.

But it seems to me that we should be assured that this is absolutely essential and without it there would be very serious hardships for millions of people. Is that the view of the Senator from Missouri? Has that been well documented?

Mr. DANFORTH. Yes, that is the view of the Senator from Missouri. There has been a very dramatic increase in claims in this fund. It is true, and I think it is typical on this kind of program, that there is a holdover by the States in block grant money at the very end of the year. The reason for that is they do not want to be absolutely dry at any given time. But I also think that it is clear that, given the rapid increase in energy cost, there can only be an increase in demand, and particularly in view of the recession.

Mr. PROXMIRE. Has there been that much increase in the last year?

Mr. DANFORTH. Yes. In the last year, there has been a 25-percent increase in the natural gas prices.

Mr. PROXMIRE. How about the cost of other fuels?

Mr. DANFORTH. I have a figure since 1980. Since 1980, this program has increased 15.6 percent. On the other hand, heating oil prices have gone up 28 percent; electricity prices, 54 percent; and natural gas prices, 70 percent.

Mr. PROXMIRE. I understand the carryover last year was $165 million. This amendment would put the program $200 million over the current level; is that right?

Mr. DANFORTH. That is correct. As I say, I think the reason for the holdover is that it is typical of this kind of a program.

Mr. DOMENICI. Will the Senator yield?

Mr. DANFORTH. Mr. President, how much time does the Senator have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 30 seconds.

Mr. DOMENICI. Is there other time available on the amendment?

The ACTING PRESIDENT pro tempore. There were only 5 minutes equally divided.

Mr. DENTON. Mr. President, I appreciate the remarks——

Mr. HATFIELD. Mr. President, I ask unanimous consent that 3 additional minutes be allocated to this amendment to be controlled by the Senator from Alabama.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DENTON. I reserve the right to object, I am asking a question about the proposal. I understand there was a 5-minute unanimous-consent agreement, I have not had notice yet about the time——

Mr. HATFIELD. Originally there were 2½ minutes to a side. Now we have it so that the Senator will have 3.

Mr. DENTON. I thank the Senator.

Mr. President, I appreciate the sincerity and the compassion and perhaps reality involved in the proposal. If there is a need, I would not stand in the way, like Scrooge, in seeing it fulfilled.

Of course, those needy or elderly citizens who cannot afford enough heat to stay warm in the winter must be helped. However, as chairman of the Subcommittee on Aging, Family and Human Services, which has authorizing responsibility for the low-income home energy assistance program, I must ask Senators to consider a few pertinent facts before we consider raising the appropriation from its present level of $1.875 billion to $2.075 billion, which is $200 million above the authorization ceiling. Just yesterday we raised the appropriation $25 million.

The Department of Health and Human Services informs me that over $250,000,000 of the funds available in fiscal year 1982 for energy assistance to low-income persons was not used by the States for that purpose.

Many States, including some cold-weather States, transferred a total of almost $100,000,000 from the energy block grant to the community services block grant, the maternal and child health block grant, the social services block grant, or the alcohol and drug abuse block grant. It may interest the Senator from Missouri to know that last year his State transferred $4 million out of the low-income home energy assistance block grant to another block grant.

Not one State transferred any money from one of the other block grants into the low-income home energy assistance block grant to address a critical situation.

Other interesting data indicate that some States, again including some cold-weather States, carried over substantial portions of their fiscal year 1982 allotments into fiscal year 1983. The total carryover for the program was over $170 million. Although an argument can be made for carrying over a small portion of the allotment to insure that the program gets off to a flying start at the very beginning of the following fiscal year, carryovers of 15 to 25 percent seem excessive.

Mr. President, the $250,000,000 either transferred or deferred could have been used to provide needed assistance to a great many low-income recipients if that need had existed. The prerequisite to hastening to authorize a dramatic increase in program funds should be that funds provided were used and were in short supply. That does not appear to be the case here.

Furthermore, a most obvious and ominous fact that argues against raising the authorization by a full one-third over the current level is the $150 to $200 billion budget deficit now projected by economists both inside and outside the Government.

The subcommittee I chair will carefully monitor the use of the block grant funds during the coming months. Perhaps after careful analysis of the data, we will conclude that an increase is justified, but I strongly believe that it is ill-advised to rush this measure through during the lameduck session of the Congress.

Mr. President, the amendment offered by the distinguished Senator from Missouri increases appropriations for low-income energy assistance by $200 million above the amount authorized under section 2602(b) of Public Law 97-35 and a full $775 million above the President's request.

I urge my colleagues to reject the amendment.

I yield my remaining time to the Senator from New Mexico.

Mr. DOMENICI. I want to say to the Senator from Alabama that I do not think there is any chance that the Senate will deny the efforts of the Senator from Missouri, and I hope you will not think that my remarks indicate I am going to actively try to defeat it. But I hope the Appropriations Committee, if it has a little time, will take a look. I do not believe we need much more money. We have not spent the money which has been allotted to this program for the last 3 years. As a matter of fact, the States have rather regularly had money left over and, since it is flexible, they have put it into other programs.

I think the Senator's numbers are correct. As much as $250 million has not been used. That is not a question of the National Government not sending it out there. It is just that the need was not there and they put the money elsewhere, or it is being carried over.

Also, I hope the appropriators will take a look at the fact that if you see a long line in Virginia, and if the press is carrying the fact that there are long lines waiting for this money, you would inquire as to what they have done to maybe enhance the long lines. They have changed the criteria dramatically, such that many more people are entitled to it in that State. Whether that criteria is what you think is fair or whether they are just opening it up to many people we never intended to have, can be looked at.

I am not going to resist it. I really do not think this much money is needed.

Mr. MELCHER. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MELCHER. Mr. President, these comments must be responded to by somebody who lives in a cold part of the country. We had 17,000 households on the program in Montana last year, and there are more than 17,000 who have applied now. Montana officials believe there will be 30,000 valid applications this year.

Mind you, this is not because of looser restrictions. We have tighter restrictions because we know of the budget constraints.

If we want to set the circumstances here on this Senate floor where we have increased foreign aid by some $550 million just like a snap of our fingers, and turn down the people who are really cold and who have to make that desperate choice on whether they want to have either the capability for food in the house with no heat, or the capability of paying the heating bills whether wood, oil, electricity, natural gas, or coal—if we want them to have that tough choice all we have to do is turn down this amendment.

It will be a cold day here in this Chamber before this amendment does not pass on this continuing resolution. I hope we can do it without any more argument.

Mr. DOMENICI. Did the Senator hear me say I was not resisting it?

Mr. MELCHER. Yes; and I appreciate the Senator from New Mexico being in support, but I would like to make clear that we would like an overwhelming majority to be in support.

Mr. DANFORTH. Mr. President, I have a modification of the amendment, a technical modification, which I send to the desk.

The PRESIDING OFFICER. It requires unanimous consent.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the modification may be presented.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the end of the bill insert the following new section:

SEC. . Notwithstanding any other provison of this joint resolution, there is appropriated $200,000,000 for carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, relating to low-income home energy assistance, which is in addition to amounts otherwise available for such title XXVI under this joint resolution.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Senators PERCY, RIEGLE, and WARNER be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. DURENBERGER. Mr. President, I would like to be able to vote against the Danforth amendment to increase the authorization for the low-income energy assistance program. As a Senator from Minnesota, one of the coldest States in the Union, I know well the need for fuel assistance funds. In the past I have consistently voted to support additional funding for low-income energy assistance. It is an important program for thousands of Minnesotans. My State has a need for its full allotment under the current authorization and could well use the additional funds provided by the Danforth amendment.

But my State is not typical in that respect. Low-income energy assistance is a formula grant program. Under the formula designed here in the Congress every State and territory, including the Mariana Islands, receives some portion of the heating assistance funds whether they are needed for heating or not. And they would receive some portion of the additional funds authorized by the Danforth amendment.

Last spring my Subcommittee on Intergovernmental Relations held hearings on the block grants authorized by the 1981 Omnibus Reconciliation Act. The low-income energy assistance block grant was one program that we discussed at length. I believe that Senator DANFORTH who is a member of the subcommittee attended those hearings. The evidence we received causes me to question the need for additonal funds in the fuel assistance program. I would like to share that evidence with the Senate.

A provision included in the 1981 Omnibus Reconciliation Act allowed States to transfer funds from some programs to others to reflect a different mix of priorities as the States saw them. This transfer provision applied to the low-income energy assistance program. The Omnibus Reconciliation Act authorized States to transfer up to 10 percent of the funds they received for low-income energy assistance out of that program and into the other block grants, if they determined that needs served by the other block grants were of a higher priority.

This transfer provision applied to several of the block grants. In total 36 States took advantage of the transferability provision; 33 of those 36 States moved money out of the low-income energy assistance program and into other block grants. That is two-thirds of the States—33 States determined that they had social service priorities more pressing than fuel aid. A total of $99.5 million was transferred away from low-income energy assistance and into other programs. Most States moved the full 10 percent that was authorized by the Reconciliation Act.

To ignore this kind of evidence is foolish. It indicates that additional funds across the board for this program are not needed. Minnesota was not one of the 33 States that transferred money away from heating aid. As I said, additional funds for fuel assistance are needed in Minnesota. We used our full allotment last year and will certainly do so again this winter. But to get additional funds, about $8 million under the Danforth amendment will go to Minnesota, a Minnesota Senator has to vote for an amendment that would add some $625 million to the Federal deficit, knowing that in most of the States those dollars are not needed.

The people of Minnesota will have a hard time understanding why one of their Senators would oppose additional funds for fuel assistance. Just yesterday, I joined with other Members of this body in a letter to the administration indicating that I could not support a cut in the current appropriations level for this program. And I will not support a cut. Yesterday I joined with other colleagues to assure that heating aid, whether it comes from the Government or from private sources, will not reduce benefits under various public assistance programs including AFDC and food stamps. I also supported the Warner amendment to allocate $500 million in oil overcharge funds to the States for fuel assistance.

The people of Minnesota are taxpayers. In these times of economic distress, Minnesotans want their Senators to make sure that every public dollar taken from their pockets is put to the best possible use. Again I say, that the additional dollars that would be provided to Minnesotans by this amendment are needed. But for every $4 going to Minnesota under this amendment, $96 will be sent across the country, and across the Pacific islands, where many of those dollars are not needed. I trust we will reconsider the wisdom of this action.●

Mr. EAGLETON. I ask that Senator BRADLEY be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I am cosponsoring this amendment which would increase by $200 million the appropriations to the Department of Health and Human Services for the low-income home energy assistance program.

My own State of Virginia closed its doors to some 25,000 qualified applicants for fuel assistance on December 10, 1982, due to lack of sufficient funds. This is tragic evidence of the desperate need for immediate aid to Americans overburdened with skyrocketing heating bills.

Passage of the Senator from Missouri's amendment, coupled with the passage of my amendment yesterday, will clearly signal the President and the conferees that we will insist that additional funds be provided for home heating needs. We are only beginning this winter season, and we cannot allow people to freeze this winter due to congressional inaction.

While the Senator from Missouri's amendment is compatible with my amendment, it is also quite distinct. Under my amendment which was overwhelmingly passed by this body yesterday, the Secretary of Energy would allocate $200 million to the Governors, giving them discretion to direct the funds to the highest priority energy related projects in their particular States. Priority should be given to the elderly and those with low incomes. The funds would be provided from the Department of Energy's account built up from settlements made as partial payments for petroleum pricing violations. This would be a one-time payment to the States which would not increase Federal appropriations. Priority energy related projects such as weatherization, in addition to low-income energy assistance, would be eligible to receive the funds under my amendment.

The Senator from Missouri's amendment would target the dollars specifically to the existing low-income home energy assistance program in each State. The source of the funds would

be the general revenues, and the funds would be administered through the Department of Health and Human Services.

Through passage of my amendment, and that of the Senator from Missouri, the Senate will be sending a clear message that we are serious about solving this problem of inadequate funds for the upcoming energy emergency that low-income Americans will be experiencing this winter.

Mr. COHEN. I rise to express my support for the amendment offered by the distinguished Senator from Missouri. As a Senator from a cold-weather, oil-dependent State, I am particularly sensitive to the hardship that has resulted from the unrelenting increases in home energy prices. These rapid increases were largely attributable to the removal of price controls on middle distillate fuels in 1976. Home heating oil prices have tripled from the 1976 average price of 40.6 cents a gallon to the current average price of $1.15 per gallon.

Although the price of home heating oil has finally begun to stabilize, the price of natural gas has recently skyrocketed. In many areas of the country, natural gas prices are 20 to 40 percent higher than they were a year ago.

While rising energy costs force all Americans to make some difficult choices—for example, whether to postpone the purchase of a new car until the end of the heating season or whether to forgo the necessary home repairs until next year—they often cause real hardship and suffering to low-income Americans.

Low-income families are forced to come to terms with an entirely different set of questions that plague them throughout the winter months. Where will the money come from for the next purchase of heating oil? What can I do without today so I might increase my chances of having enough money on hand to purchase some heating oil tomorrow or next week? Can I do without the medicine the doctor prescribed. Can I skimp on the nutrition I require?

While the average U.S. household spends about 5 or 6 percent of income on home energy costs, according to new data compiled by Project Energy Care of the National Council of Senior Citizens, The energy costs of low-income households—after low-income energy assistance is included—average 19 percent of annual income. The study also concludes that during the winter months, over 70 percent of low-income elderly individuals spend over 20 percent or more of their incomes on energy bills, and one of every four elderly poor individuals spends more than 30 percent of his income on heating bills. Only about one-half of low-income Americans eligible for energy assistance payments actually received them.

The study further points out that about 17 percent of the low-income population heats with fuel oil, while nearly 60 percent use natural gas. With the price of natural gas approaching that of home heating oil, the prediction that the percentages of income spent on energy costs by elderly and poor families will rise considerably seems inevitable.

I ask unanimous consent that the executive summary of the National Council of Senior Citizens' study be inserted in the RECORD at the end of my statement.

In recognition of the desperate plight of many low-income Americans, Congress last year appropriated $1.875 billion to assist these individuals in meeting their energy bills. Public Law 97-92, the continuing resolution for fiscal year 1982, provided $1.752 billion, and the additional funds—$123 million—were provided by an urgent supplemental appropriations bill passed by the Congress in February. Congress provided these additional funds in response to the large increase in applications for assistance nationwide. The severe winter weather, coupled with a rising unemployment rate, had forced program operators to deny assistance to many eligible applicants because funds had been depeleted.

Last year, the State of Maine served 45,000 needy households. In the first 4 weeks of this year's program, Maine has already received 23,000 applications for fuel assistance, more than half the total served last year.

While our country has enjoyed unseasonably warm winter weather thus far, this weekend's snow storm may be a prelude to a long, cold winter. In fact, many meteorologists have predicted that this winter will be more severe than last. Without an increase in the funding level for energy assistance, States will be unable to assist more families this winter than last.

Although an increase in the authorization level for energy assistance will not, by itself, make additional moneys available for the program, it will allow the Congress to increase funds early next year if this becomes necessary to avert a major crisis.

The amendment I am offering today would allow States to use up to 25 percent of their energy assistance funds to supplement their weatherization activities. While the energy assistance program is necessary to reduce the burden of rising fuel costs on low-income families, the weatherization assistance program is more effective in reducing fuel costs over the long run. By reducing home energy consumption by 15 to 30 percent, the weatherization assistance program has proved invaluable to our national conservation effort.

The low-income energy assistance block grant program was reauthorized for fiscal years 1982, 1983, and 1984, in Public Law 97-35, the Omnibus Reconcilation Act of 1981, at $1.875 billion. This program is quite similar to earlier energy assistance programs, with greater flexibility afforded the States because of fewer Federal requirements. Perhaps the greatest improvement in this program is the provision allowing States to use up to 15 percent of their allotments for weatherization activities. Since the adoption of this provision, 47 States have used portions of their fuel assistance allotments to weatherize an estimated 330,000 homes. Seventeen States have used up to 14 percent of their allotment for weatherization activities, 10 States have used from 10 to 15 percent, 10 States have used from 5 to 10 percent, and 7 States have used 1 to 5 percent.

Maine, which established the first weatherization assistance program in 1973, used 15 percent of its $25.1 million allotment—$3.5 million—for weatherizing 3,000 homes. This money has added greatly to the weatherization activities in Maine which, all told, have provided 33,062 Maine homeowners with weatherization improvements.

Despite administration attempts to terminate the low-income weatherization assistance program, support for its continuation remains strong in both Houses of Congress. For fiscal year 1982, $144 million was appropriated—a reduction of $37 million from the previous year's level of $181 million. The fiscal year 1983 funding level for the weatherizaiton assistance program is expected to be somewhere between the House-passed level of $147.5 million and the Senate-passed level of $114 million. While this appropriation is certainly helpful, it is not enough.

While the Department of Energy's low-income weatherization assistance program has weatherized 1 million homes since the program began in 1977, the Department has estimated that 12 to 13 million low-income Americans live in homes still in need of weatherization improvements. In Maine alone, there are 20,000 people on the waiting list for weatherization assistance.

The real value of the weatherization assistance program rests on its ability to dramatically—and permanently—reduce energy consumption in the home. With the continual rise in fuel prices, the cost of providing energy assistance will ultimately rise as well. But, if a portion of energy assistance funds are used for weatherizing homes, reducing fuel bills by about 20 percent, the value of the energy assistance will be greatly enhanced. And, as fuel prices continue to rise, the dollar value of the energy saved through weatherization improvements will continue to go up.

The Congress is to be commended for giving States greater flexibility and discretion in establishing their

own energy assistance program through the passage of the Omnibus Reconciliation Act. Yet, I believe States should be given even greater discretion in using allotted energy assistance funds to meet the fuel-assistance needs of their residents. Therefore, the amendment I am offering today to the Omnibus Reconciliation Act will authorize States to use up to 25 percent of their energy assistance block grant funds for weatherization or home repairs related to energy conservation. My amendment will not require States to use any of their funds for weatherization activities. Rather, States will have the option of providing more households with weatherization improvements or assisting more families in paying their fuel bills. This is consistent with the administration's policy of returning control of assistance programs to State and local governments. Additionally, the amendment will greatly improve the energy assistance program by allowing States to increase the value of their allotment by permanently reducing fuel bills. I urge my colleagues to support it.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SEARED HOPES AND FROZEN PROMISES

EXECUTIVE SUMMARY

Seared Hopes and Frozen Promises is a report prepared by Project Energy Care of the National Council of Senior Citizens (NCSC). Funded by the Community Services Administration in 1980, Project Energy Care was a national information and outreach program focusing on the home energy needs of the elderly and disabled poor. It has recently completed a national survey of 24,000 elderly households in 38 states. The findings are:

(1) The average U.S. household spends about five to six percent of income on home energy costs, but the energy costs of low-income households—after low-income energy assistance—average 19 percent of annual income. Only about one-half of such households receive any help from federal energy assistance programs.

(2) The percentage of income that poor elderly households spend on energy is much higher during the winter months. In the winter, over 70 percent of the low-income elderly spend over 20 percent or more of their income on energy bills. One of every four elderly poor households spends more than 40 percent of its income on heating bills during the winter. (See Table 1)

(3) For the poorest group of elderly—those on SSI—the situation is starker. In 12 states, the average energy bills during the coldest month equals or exceeds the maximum SSI payment. In nine additional states, less than $25 a week remains of the SSI payment after energy bills are paid. (See Table 2)

(4) The percentages of income used for energy bills are considerably higher for those who heat with fuel oil than for those who use natural gas. About 17 percent of the low-income population heats with fuel oil, while nearly 60 percent use natural gas. Over coming years, natural gas prices are expected to rise to the level of fuel oil prices, as natural gas is deregulated. The percentages of income spent on energy costs by large numbers of elderly and poor families are expected to rise considerably over future years as natural gas prices increase. (See Table 3)

For example, in the Southeastern United States, 23 percent of the elderly poor heating with oil spend more than 60 percent of their incomes to stay warm in winter, versus three percent of those who now heat with gas. As natural gas prices increase (over 21 percent last year in this region), more and more elderly poor will see dramatic increases in their home heating budgets. Like those using oil, one out of every four may soon be spending three-fifths of their income to stay warm in the South during the winter.

A key purpose of this sample, from the more than 600,000 elderly and disabled poor reached by Project Energy Care, was to look at the impact of rising energy costs on older Americans with low, fixed incomes and thereby assess the value of existing energy services directed to them. Were, in fact, such services needed by only a few who face a grim energy picture today and tomorrow? Or is the problem of home energy shared by the many elderly poor?

Taken together with the three other studies sponsored by Project Energy Care, the sample quite clearly shows that the problem of home energy affects thousands and thousands of people—not just isolated individuals—who live in every community of the United States, from the colder Northeast to the warmer Southwest and Southeast. The difficulties the elderly are having in affording adequate heating or cooling is bound to become more severe in the future, as funding for critical federal energy programs is reduced or eliminated and as prices for other energy sources that the poor depend upon, such as gas and electricity, begin to reach the equivalent cost of home heating oil.

The other studies reviewed in this report and prepared for NCSC's Project Energy Care are:

(1) Poor plus Old equal Cold, by the Grier Partnership. This report explores the economic impact of rising energy costs on low-income households. It contains extensive data on average energy expenditures, and compares these costs to maximum allowable SSI payments broken down by state.

(2) The Cost of Survival, by the Grier Partnership. If low-income Americans were to pay what the average American pays for home energy—roughly five percent of their income—over $7 billion in subsidies would be needed. The Report's purpose is to calculate on a state-by-state basis the amount of subsidy necessary to keep low-income persons from paying more than a certain percentage of their income for home energy. Frozen Promises contains a comparison between the state-by-state needs revealed in this study with current distribution of federal energy assistance funds.

(3) A Comprehensive Analysis of the Costs and Benefits of Low-Income Weatherization and Its Potential Relationship to Low-Income Energy Assistance by the Consumer Energy Council of America.

This report provides an in-depth analysis of the social and economic impact of weatherization on low-income households. The study explores data from numerous field sights to determine rates of energy savings at various levels of investment under different programs. The results show that weatherization is a lower cost alternative to increasing our national energy supply than is investment in new production. The study also shows that the Department of Energy's Weatherization program has been effective in reducing low-income households energy consumption at a reasonable cost.

For additional information, contact Project Energy Care, National Council of Senior Citizens, 925 15th Street, N.W., Washington, D.C. 20005, (202) 347-'8800, ATT'N: Michael Sandifer or Eric Shulman.

Mr. KENNEDY. Mr. President, I am pleased to join as a cosponsor of this amendment.

This would bring funding up to just over $2 billion level, an increase of $200 million over last year.

There is strong justification for increasing funding for this important and effective activity.

My colleagues all know of the enormous increase in natural gas prices over the last 12 months—as much as 40 percent in some areas. We have debated that issue yesterday and last week. I was pleased with the Senate's action yesterday on the Warner-Kennedy amendment, but I realize that needy families in many States would not be helped. The amendment we are considering today will address that need.

In the Metropolitan Boston area, gas prices are expected to rise between 20 and 40 percent this winter. If prices rise 25 percent, a typical family will pay $1,460 for heat, cooking and hot water—$334 more than last year.

And even though heating oil prices have temporarily stabilized, there are many more people in need.

Thousands of families, in Massachusetts and across the country have lost their jobs—and now face the prospect of having to choose between putting food on their table and heating their house.

Thousands of eligible families may receive no assistance or reduced assistance as a result of the great unmet need.

Mr. President, $200 million will still go to meet only part of the need, but it will help as many thousands of deserving American families meet the costs of heating their homes this winter. There is simply no justification for not taking this step.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mrs. HAWKINS), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr.

CRANSTON), the Senator from Arizona (Mr. DECONCINI), the Senator from Connecticut (Mr. DODD), the Senator from Washington (Mr. JACKSON), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 80, nays 11—as follows:

[Rollcall Vote No. 444 Leg.]

YEAS—80

Abdnor	Glenn	Nunn
Andrews	Gorton	Packwood
Baker	Grassley	Pell
Baucus	Hart	Percy
Bentsen	Hatfield	Pressler
Biden	Heflin	Pryor
Boren	Hollings	Quayle
Boschwitz	Huddleston	Randolph
Bradley	Humphrey	Riegle
Brady	Inouye	Roth
Bumpers	Jepsen	Rudman
Burdick	Johnston	Sarbanes
Byrd, Robert C.	Kassebaum	Sasser
Cannon	Kasten	Schmitt
Chafee	Kennedy	Simpson
Cochran	Laxalt	Specter
Cohen	Leahy	Stafford
D'Amato	Levin	Stennis
Danforth	Long	Stevens
Dixon	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	Mattingly	Tsongas
Durenberger	Melcher	Wallop
Eagleton	Metzenbaum	Warner
Exon	Mitchell	Weicker
Ford	Moynihan	Zorinsky
Garn	Murkowski	

NAYS—11

Byrd, Harry F., Jr.	East	McClure
Chiles	Hatch	Nickles
Denton	Hayakawa	Proxmire
	Helms	Symms

NOT VOTING—9

Armstrong	Dodd	Heinz
Cranston	Goldwater	Jackson
DeConcini	Hawkins	Matsunaga

So the amendment (UP No. 1538), as modified, was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATUS REPORT

Mr. HATFIELD. Mr. President, we have unanimous-consent agreements on about 10 more amendments, and we are seeking to clear up for unanimous-consent requests about 8 more. Without rollcall votes, that would mean that we have about 4 hours of amendments, that if all the time——

The ACTING PRESIDENT pro tempore. The Senate will be in order. Conversations may be conducted in the cloakroom. The Senator from Oregon is attempting to outline the course of the day for the Senate and I am sure he will appreciate our colleagues' consideration.

Mr. HATFIELD. Mr. President, I think if we could expedite this as quickly as possible and not get into a lot of extended time requests on these amendments, we could conceivably complete the continuing resolution and with no other additional ones that we are aware of at this time by 5 or 6 p.m. tonight.

With that in mind, I am hopeful that we could then have the paperwork ready for a conference with the House of Representatives tomorrow and complete the conference in one day and have them ready for floor action on both the House and Senate a report on Monday.

I do not know who we can make it sooner than that.

Then the President will have time to get up his message or whatever it may be.

So it is conceivable that we might have to reconvene the committee and come up with a new conference report, if the President vetoes it on Tuesday, and then act upon that and perhaps send that down on Wednesday.

I only mention those timeframes or time schedules because I am very anxious to get this completed as soon as possible today.

We have to have about 4 hours of paperwork before we can get to conference. By the time we finish conference it will take 5 to 6 hours of paperwork before we can have the conference report ready for the House action and then for the Senate action.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HATFIELD, I yield.

Mr. ROBERT C. BYRD, Mr. President, if the Senate and House of Representatives pass the conference report on Monday there is no reason why it will take the President until Tuesday to determine whether he is going to veto it. There is no reason why it would take until Wednesday to pass a slimmed down conference report if that becomes a necessity.

I would hope if he is going to veto it he would do it, and do it fast, and the House of Representatives can quickly send over whatever has to be sent over and the Senate can finish its action on Monday, the same day, or no later than Tuesday.

Mr. HATFIELD. Mr. President, I would hope it can be done quickly, but all I am saying is those are reasonable timeframes that we might have to consider.

I would, therefore, only outline them to urge us to be as expeditious today as possible.

DISTRICT OF COLUMBIA APPROPRIATIONS—CONFERENCE REPORT

Mr. President, I wish to temporarily set aside the amendments with the approval of the leadership on both sides to take up the District of Columbia conference report on appropriations which will take only a very few minutes and get that out of the way.

I, therefore, yield to the chairman of the committee, Mr. D'AMATO, and the ranking minority member, Mr. LEAHY.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished chairman make the request for a time limit and also that there be no amendments to any amendments in disagreement that will not be germane.

Mr. HATFIELD. On the conference report?

Mr. ROBERT C. BYRD. The conference report. Are there amendments in disagreement?

Mr. HATFIELD. No.

Mr. ROBERT C. BYRD. There are not?

The PRESIDING OFFICER (Mr. GRASSLEY). The Chair notifies the Senate that there are amendments in disagreement.

Mr. HATFIELD. There are amendments in disagreement.

Five minutes?

Mr. STEVENS. It is my understanding that there are not going to be amendments now.

Mr. PROXMIRE. Mr. President, if the Senator will yield, will the Appropriations Committee give us assurance that Senator BUMPERS will be recognized after the conference report?

Mr. HATFIELD. That is correct.

Mr. BUMPERS. This is on the District of Columbia appropriations conference report.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I do not need to repeat my reservation, but I wish some action.

Mr. STEVENS. Mr. President, I join the minority leader in that reservation and, reserving the right to object, and I will not object, unless this time agreement is limited to 5 minutes and there be no amendments submitted to this conference report.

Mr. ROBERT C. BYRD. At least no nongermane amendments.

Mr. STEVENS. No amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS—CONFERENCE REPORT

Mr. D'AMATO. Mr. President, I submit a report of the committee of conference on H.R. 7144 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recom-

mend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 15, 1982.)

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, the conference report on the District of Columbia appropriations bill for fiscal year 1983, now before us, contains a total of $524.2 million in Federal funds. This is the same as the Senate bill and $21.3 million below the House version. This bill is also well within our allocation under the budget resolution and $55.7 million below the President's requested level.

This amount is made up of a Federal payment of $361 million as proposed by the Senate along with a payment for water and sewer services of $11.8 million; contributions to retirement funds of $52 million; loans to the District for capital projects of $145 million; $3.1 million for a special crime initiative; and a rescission of $48.8 million in unneeded capital authority.

In District of Columbia funds, the bill includes nearly $2 billion in operation authority. This includes the above Federal funds, as well as local tax collections.

The key provisions included are:

A $3.1 million special crime initiative to assist in efforts to reduce and control crime in the Nation's Capital. These funds will be made available to the Metropolitan Police Department to purchase needed equipment, and to the U.S. attorney's office for more prosecutorial help.

The conference agreement also includes $1.2 million for the District Fire Department to restore to full time status the four heavy duty rescue squads during the second half of the fiscal year.

A total of $306 million, the full budget request for the public schools; and $11 million for the Public Library.

The agreement also includes a total of $20 million for retirement of the accumulated deficit. This is $18 million more than requested and keeps the District on track in reducing this fiscal burden.

Mr. President, the conference report has been printed in the CONGRESSIONAL RECORD of December 15, 1982, on page H9935, so. I will not ask to have it restated here.

Mr. President, I also want to indicate on the record that, as always it was a pleasure working with the chairman on the other side, Congressman JULIAN DIXON and the ranking member Congressman LARRY COUGHLIN, they represented their side very well and this agreement certainly bears their stamp. They were supported by their most competent and able staff, Mr. Migo Miconi, Mrs. Mary Porter, and Mr. Kenny Kraft.

Before yielding the floor I want to once again express my thanks to all the members of the Subcommittee on the District of Columbia. And particularly to the Senator from Vermont for his continuing interest and help in formulating this bill. He has acted in a most bipartisan and responsible manner and the Senate owes him a debt of gratitude in this regard.

We are also indebted to the distinguished chairman of the Appropriations Committee, the Senator from Oregon. This bill would not be to this point today if not for his determined leadership against what must at times have seemed like insurmountable odds.

Also, I express appreciation to the Senate staff—Mrs. Lula Joyce, Jim Cubie, Tim Leeth, and Jane McMullan.

For the District of Columbia Retirement Board the conference agreement provides the budget request of $1,689,000 for the administrative expenses of the board. Of this amount $425,000 will be derived from the general fund of the District. The balance will come from the investment proceeds of the funds.

Also, additional amounts of $267,000 for the police and fire retirement fund and $4,483,000 for the teachers retirement fund in conformity with the agreement between the Mayor and retirement board of September 29, 1982. This agreement addresses fund shortfalls from previous fiscal years and how any future shortfalls will be handled.

For the Commission on the Healing Arts Licensure the conference provides 12 positions and $400,000 as recommended by the House. This will provide seven additional positions and $185,300 to improve oversight of the medical professionals in the District of Columbia.

For the superior court the conference report includes the $285,000 suggested by the Senate to hire three hearing commissioners and support staff. And in the District of Columbia court system one additional position was included to provide a training officer.

For the Public Library the House accepted the Senate allowance of $11,246,300, an increase of $70,000 to keep the Martin Luther King Library open on Sunday afternoon during the school year.

For the Department of Employment Services the conferees agreed to restore $664,000 to two jobs programs cut by the House. The conference agreement provides $3,337,300 for the out-of-school jobs for youth program and $4,714,900 for the job for adults with dependents.

For the Department of Human Services the conference agreement provides a total of $334,912,200. Included in this amount is $194,600 for the Office of Veterans' Affairs and $120,000 for the Special Olympics. Also provided is a total of $13,007,900 for child day care services, and $97,518,700 for medicaid/medical charities program.

For St. Elizabeths Hospital the conferees provide $24,748,700, this represents an even split between the levels provided in the two bills.

And finally, for the capital outlay appropriation title the conference agreement provides the full budget request of $83,885,600.

Mr. President, I would be happy to yield the floor to the Senator from Vermont, the ranking minority member, with regard to this bill.

Mr. LEAHY. I thank my friend from New York. I urge the adoption of the conference report. This conference report is within the 302(b) allocation and $55.7 million below the President's request.

I would also like to take a moment to express again my admiration for the Senator from New York. He is an excellent chairman with whom it has been a pleasure to work professionally and personally. I would also like to compliment the professional staff, Mr. Tim Leeth and Mr. Jim Cubic, for the excellent work they have done on this bill.

Mr. DOMENICI. Mr. President, I ask unanimous consent that two tables showing the relationship of the conference agreement to the congressional spending and credit budgets and the President's budget request be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

ATTACHMENT 1.—DISTRICT OF COLUMBIA SUBCOMMITTEE SPENDING TOTALS

[In billions of dollars]

	Fiscal year 1983	
	Budget authority	Outlay
Outlays from prior-year budget authority and other actions completed		0.04
H.R. 7144, conference agreement	0.5	.5
Total for District of Columbia Subcommittee	.5	.5
First Budget Resolution 302(b) allocation	.6	.6
Possible amount over (+)/under (−)	−.1	−.1
H.R. 7144:		
President's request	.6	.5
House-passed	.5	.5
Senate-passed	.5	.5
Conference agreement	.5	.5

ATTACHMENT 2.—DISTRICT OF COLUMBIA SUBCOMMITTEE CREDIT TOTALS

[In billions of dollars]

	Fiscal year 1983	
	New direct loan obligations	New primary loan guarantee commitments
H.R. 7144, conference agreement, with direct loan obligations resulting from prior-year commitments and other actions completed	0.1	
First Budget Resolution 9(b)(2) allocation	.1	
Possible amount over (+)/under (−)		
H.R. 7144:		
President's request	.1	
House-passed	.1	
Senate-passed	.1	
Conference agreement	.1	

Mr. D'AMATO. Mr. President, I move adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. D'AMATO. I move to reconsider the vote by which the conference report was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the amendments in disagreement be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I move that the Senate concur in the House amendments numbered 3, 7, 17, 33, 23, 34, 35, 39, 40, and 41.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York.

The amendments in disagreement agreed to are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SPECIAL CRIME INITIATIVE

For a Federal contribution to the District of Columbia to aid in the detection and prevention of crime, $2,342,600: *Provided,* That this amount shall be available to the Metropolitan Police Department.

For the Department of Justice for use in the Superior Court Division of the U.S. Attorney's Office for the District of Columbia, $800,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$69,545,500*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$466,890,500*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$17,364,100*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the number inserted by said amendment, insert: *33,268*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the number inserted by said amendment, insert: *32,211*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the number inserted by said amendment, insert: *28,616*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *126*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *127*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *128*

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FURTHER CONTINUING APPROPRIATIONS, 1983

The Senate continued with the consideration of House Joint Resolution 631.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized.

UP AMENDMENT NO. 1539

(Purpose: To modify the payment limitation in existing law for payments for wheat, feed grains, upland cotton, and rice)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1539.

Mr. BUMPERS. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 25, after the "." insert the following: "None of the funds appropriated under this joint resolution shall be used to make farm deficiency or diversion payments to any person for the 1982 crops of wheat, feed grains, upland cotton, and rice: *Provided, however,* That amounts made available to the Department of Agriculture by this Act for farm deficiency and diversion payments under section 1101(l) of Public Law 97-98 shall be available up to a limit of $100,000, per person, for the 1982 crops of wheat, feed grains, upland cotton, and rice."

The PRESIDING OFFICER. There will be 15 minutes equally divided.

Mr. BUMPERS. Mr. President, I want to remind my colleagues of some of the things we have considered since we have been on this continuing resolution. We have provided energy assistance to the poor, we have extended unemployment compensation benefits for the unemployed, we have talked endlessly about the state of the steel industry, about the state of the oil industry, about the number of unemployed people and how many poor people there are in the country who need assistance. But, to the best of my knowledge, not one time have we mentioned the most destitute industry in the United States, and that is agriculture.

In my State there are about 1,000 farms that are being foreclosed on right now. Thirty-seven percent of all of the Farmers Home loans in my State are delinquent, and the national average is between 25 and 30 percent.

We produce wheat, cotton, soybeans, and rice in Arkansas. We do not produce corn, but if we did, the same problems would exist. All five of those crops I just mentioned are selling at significantly lower prices than it costs to produce them.

When Franklin Roosevelt became President, he said the first order of business in eliminating the misery of this country was to provide people with relief. I am offering an amendment today, that will help our farmers, although I know it is going to be misunderstood in some quarters by those who do not understand farming. This amendment will not save all the farmers in this country, it will not save most of the farmers in the country, but it will save some pending the adoption of the President's payment-in-kind program or other agriculture policy changes. Although I have not had time to closely evaluate the payment-in-kind program, I expect to support it.

Our existing farm programs can be easily explained, and work as follows: The Government has a program for feed grain crops and cotton that says, "We will pay you a target price if you participate in the program and market prices do not rise to that level."

What do you have to do to participate in the program? You have to set aside a certain amount of land or comply with other requirements of the Agriculture Department. For the 1983 crop it is a 5-percent paid diversion and a 10-percent set-aside. If you do not set aside that 10 percent that the Government asked you to set aside, you are not eligible to participate in this program. But, if you do you are not only eligible to participate in it, you are eligible to get up to $50,000 in farm deficiency and diversion payments. But, these deficiency payments are not even triggered until the market prices fall below the target price, which is something that is supposed to be roughly equal to the cost of production.

Let my give you an example and you figure out where your farmers fit in. For wheat the loan rate is $3.55, and the target price is $4.05. So, a wheat farmer who participated in the program is entitled to a deficiency payment of $0.50 a bushel.

In the case of corn, the loan rate is $2.55. The target price is $2.70, so a corn farmer is entitled to 15 cents a bushel deficiency payment, if the market price drops below $2.55 per bushel.

If you raise rice, which my State happily does, the loan rate is $8.14 a hundredweight, and the target price is $10.85. These target prices are just about the cost of production. They are not designed to make anybody rich.

This is not a ripoff. So if you are raising rice, you are entitled to $1.22 a bushel or $2.71 per hundredweight. In cotton you are entitled a maximum deficiency payment of 14 cents per pound.

My point is this: Years ago when we discovered this program was open-ended and that certain big agribusiness corporations out West were ripping the Government off for millions of dollars a year, we put the $50,000 limitation in effect. I was in favor of it and, under normal conditions, that $50,000 is more than adequate.

However, these are not normal times, and these are not normal conditions. The Department of Agriculture says that to have a viable entity on feed grain crops you have to have about a 1,000-acre farm. If you have 1,000 acres, it means you have to have a combine and that is $100,000 to $120,000; you have to have a big tractor, and that is another $100,000.

I am not talking about big farmers; I am talking about little farmers who suddenly have had to pay big prices for everything they buy, and sell at prices that do not even get to the break-even point.

If you are a rice farmer in my State and have 400 acres, you are at the $50,000 level. Is that going to make somebody rich? I should say it is not. He is not even going to be able to pay his loan off.

My amendment will accommodate somewhere between 15 and 40 percent of the farmers of the country. They are not big farmers, do not misunderstand that.

Some of my colleagues, such as my distinguished friend, the Senator from Michigan might question the propriety of this amendment. I have voted for relief for the auto and steel industries because they need help. But, I can tell you something neither of those industries is in near the desperate plight the farmers of this country are in.

This is a 1-year program for the 1982 year crop, pending the President's program which, incidentally, it will cost two to three times as much as this will. I guarantee you, almost every Senator in this body will vote for the President's payment-in-kind program, and it is two to three times as expensive compared to what I am trying to do here right now.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I want to make certain I understand the import of the amendment. I understand it would make farmers eligible for payment of $100,000 this year rather than $50,000.

Mr. BUMPERS. The Senator is correct.

Mr. DOLE. Are there a number of farmers who get that much in Federal subsidy?

Mr. BUMPERS. Possibly as much as 40 percent of the farmers in this country.

Mr. DOLE. The only question raised by the Senator from Kansas is there has been a great deal of debate from urban and rural Members on how much the Federal Government should pay to the American farmers, so after a lot of struggle, to satisfy the urban interests and others we put a lid of $50,000 upon them. It was $30,000, then $40,000, and $50,000, and then unlimited, and we found many of the Nation's largest farmers were getting the largest Federal benefits, but it was not helping the small farmers.

I do not quarrel with the comments of the Senator about 40 percent, but I wonder if it might not be better if we add this language to the so-called PIK bill which has now, as I understand, passed the House.

In that bill there is no payment limitation on the payment-in-kind, as the Senator from Mississippi will tell you, to whom I will yield in a moment.

Mr. BUMPERS. If I can respond to the Senator, I would like to say that I would be more than happy to do that. The reason I am offering this amendment is because based on the comments and discussions I have had with the Senator from Montana there is not going to be a PIK bill that will take care of the 1982 crop, and my amendment only goes to the 1982 crop because the PIK bill does not take effect until the 1983 crop is harvested.

Mr. DOLE. If, in fact, we could bring up the PIK bill, and the chairman is making an effort to do that, I would be willing, on this side, to try to accommodate the Senator from Arkansas. I know it is of particular concern in rice-producing areas. I do not think many wheat farmers would benefit. I know that rice production is different. If we are not going to bring up the PIK bill, then there is another problem.

Mr. BUMPERS. Maybe the Senator from Montana could enlighten us on that.

Mr. HELMS. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I want to know how much this will cost.

The PRESIDING OFFICER. The Senator from Oregon controls time.

Mr. DOLE. I yield the remainder of my time to the Senator from Mississippi.

Mr. COCHRAN. Mr. President, how much time remains on the 5 minutes yielded to the Senator from Kansas?

The PRESIDING OFFICER. Does the Senator from Oregon desire to be recognized for the purpose of yielding time?

Mr. HATFIELD. Mr. President, I yielded 5 minutes to the Senator from Kansas. How much time does the Senator from Kansas have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. COCHRAN. Mr. President, I thank the Senator for yielding.

We do have underway right now an effort to get this payment-in-kind program implemented through legislation here in the Senate and in the House. It probably would be more appropriate to discuss this in connection with that legislation. Even though the amendment of the Senator from Arkansas applies to the 1982 crop year, the PIK program, as proposed by the administration, is going to apply to crop years 1983 and 1984. But the agriculture appropriation part of our effort to fund programs for this next year has already been agreed to in a conference report.

This relates to appropriations under the jurisdiction of the Agriculture Ap-

propriations Subcommittee. I do not know whether that makes the amendment germane or out of order or what from a parliamentary point of view.

I sympathize with the arguments being made by the Senator from Arkansas. He is absolutely right. We need something like this done. I am not sure this is the appropriate vehicle.

I yield to the Senator from North Carolina, the chairman of the Agriculture Committee.

Mr. HELMS. Mr. President, I have only one question which I will pose to the distinguished Senator from New Mexico, the chairman of the Budget Committee. Does he have any idea of the budgetary implications of this?

Mr. DOMENICI. We have tried to figure out how much it might cost and we cannot tell you.

Mr. HELMS. Does the Senator from Arkansas know how much it will cost? The chairman of the Budget Committee has no earthly idea how much this will cost. Does the Senator from Arkansas know how much it will cost?

Mr. BUMPERS. We have asked the Department of Agriculture for an estimate and they said they simply could not give us one, except to say this: In 1978, 15 percent of the farmers who were in the program would qualify. They estimate now that probably somewhere in the area between 15 and 40 percent. But please bear in mind everybody is not going to get $100,000. Most of these people will be only slightly higher than the $50,000 limitation, and between 15 and 40 percent of them will qualify.

I have just made a sort of BUMPERS' estimate of things. My guess is that this can cost anywhere from $100 million to $250 million.

Mr. HELMS. Mr. President, as Senator DOLE and Senator COCHRAN have said, we are all sympathetic with the idea. They are trying to work in connection with the PIK program. I will be glad to say to the Senator from Oregon that we will entertain this amendment on the PIK bill and we are trying to work out calling that up immediately after this legislation. But we are just shooting in the dark.

Does the Senator from Oregon have any idea about the cost of this amendment?

Mr. HATFIELD. No. I would only say to the chairman of the Agriculture Committee that we just received a copy of this amendment, I believe, last night and we do not have any estimate.

Mr. HELMS. I say to the able manager of the bill that I saw it about 3 minutes ago.

Mr. BUMPERS. May I make this proposition to the Senator from North Carolina: If I thought we were going to get the PIK program through and it could be added to that, I would be willing to do so. As I say, maybe the Senator from Montana can tell us whether or not he is going to get the PIK program up. I will be on the conference committee on the continuing resolution. I would make this commitment: If we get that bill up and get it put on, that is where it ought to be. I would be happy to move to recede to the House position on this if I had any kind of assurance at all that we could get that done.

Mr. BUMPERS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 42 seconds remaining.

Mr. BUMPERS. Mr. President, I yield the 42 seconds to the Senator from Montana.

Mr. MELCHER. Mr. President, I ask unanimous consent for 3 minutes in addition to the 42 seconds.

Mr. HATFIELD. Mr. President, reserving the right to object, we have sought diligently to push this bill and we have been on it for many, many hours and days. Already this morning, we have had an extension of time by about 6 minutes of unanimous-consent agreements. If we start adding 5 minutes and 3 minutes and 6 minutes, I am going to object—not on this one. But I just want to put the Senate on due notice that I am going to start objecting to extending the time agreements that have been worked out and on which we were trying to move in an orderly way. I will not object at this point to the request of the Senator from Montana but, respectfully, I will start objecting to extending time limits.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana for 3 additional minutes? Without objection, it is so ordered.

Mr. MELCHER. I thank the very patient and able chairman of the Appropriations Committee. I fully sympathize with his point of view and I hesitate to even ask for this time.

But, since a discussion of the PIK bill has come up, I should point out that we hopefully will have available for the first time today on the Senate floor the printed bill that would be considered. Now, I am on the Agriculture Committee and have had the typewritten amendment in the nature of a substitute that would be considered, but the printed PIK bill as approved by the committee has not yet been available until now. I understand it is not yet printed, but may be available today for every Member and for the public at large to study so as to understand what is being proposed in PIK, the payment-in-kind proposition.

If it is going to be considered, I have been working with the members of the Senate Agriculture Committee and other Senators and the Department of Agriculture to make sure that, in considering the bill for passage, that we do have real concern for the very crucial problems of the agricultural producers of this country.

In particular, help for wheat producers is not well laid out in the bill. The bill is very sketchy. It gives broad authority to the Secretary of Agriculture, as is necessary in some instances, but overal,l does not specify definite requirements to carry out congressional intent to improve agricultural producers income.

But, in the case of wheat, it simply has not met the test of meritorious proposal as of now. But I will continue to work with Senators and the Department of Agriculture and with the House Agriculture Committee in trying to get a proposal that is good. Because times are crucial for agriculture, as has been mentioned several times here this morning, I hope we can consider positive proposals to raise agriculture producers' income.

But to pass a bill without some understanding that it is going to help wheat and feedgrain producers throughout the country, then I think we would be making a mistake. There are some advantages I have found in the bill.

For chickens, there is a proposal to aid in the export of chickens by subsidizing the chicken sales.

There is some advantage in the bill for the egg producers. There is a subsidy set up for the exporting of eggs and also for long-term staple cotton. There is a particular provision in the foreign sales of long staple cotton with a subsidy proposal.

I think there are a number of advantages in the bill. However, I question many of its provisions, and, overall, it is a bill that is still not very well understood by agriculture producers throughout the country. I believe we can set the framework for a good understanding of that before we adjourn.

I would like to cooperate in doing so, but we are going to have to have some understanding with the Department of Agriculture on several points at this time. One of which, I might add, is its payment in kind for a new type of soil bank of massive land diversion. We want to be sure, in the conservative practices that will be followed on that land that is diverted, that there is some meaningful input by Congress and direction by Congress, through the Department of Agriculture and through the county ASCS committees, so that we do have sound conservation practices. Land just left idle and unattended, without conservation practices, would be a waste and risk deterioration of the Nation's greatest asset—our agricultural land base.

In addition, I think it is probably not clear now in the bill whether there would be Federal assistance in those conservation practices.

For these and other reasons expressed to me by agricultural leaders there is much more to consider in developing a sound PIK bill. For my part, I am open to constructive recommendations.

Mr. HATFIELD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Two and a half minutes.

Mr. HATFIELD. I yield 1½ minutes to the Senator from North Carolina and 1 minute to the Senator from Michigan.

Mr. HELMS. Mr. President, I want to ask the distinguished chairman if we should consider laying aside this amendment temporarily. Right now I am supposed to meet with the majority leader about the PIK bill. We could have passed the PIK bill 2 or 3 days ago, if we could have gotten all of the amendment problems straightened out. I think we have those problems straightened out, but I will have to consult with the majority leader.

Mr. BUMPERS. Mr. President, if I may say, I appreciate the action on this. I am perfectly willing to ask unanimous consent that the amendment be laid aside temporarily.

With regard to the PIK bill, I am going to vote for it. However, my amendment ought to be on it to take care of the 1982 problem.

Mr. President, I ask unanimous consent that the amendment be laid aside temporarily without prejudicing any Senator's rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, we are ready for the next amendment, which is to be offered by the Senator from South Carolina (Mr. THURMOND). On this amendment there is a 20-minute time limitation, equally divided.

Mr. President, I yield to the Senator from South Carolina.

UP AMENDMENT NO. 1540

(Purpose: To permit use of funds for the conversion of Army and Air National Guard civilian technician positions to full-time military positions)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself, Mr. TOWER, Mr. JEPSEN, Mr. GOLDWATER, Mr. NUNN, and Mr. EXON, proposes an unprinted amendment numbered 1540.

At the appropriate place in the bill insert the following new section:

SEC. . Within the total amounts appropriated in this Act for the Army National Guard and the Air National Guard, respectively, funds shall be available as necessary to provide for the conversion of Army National Guard and Air National Guard civilian technician positions to full-time military positions.

Mr. THURMOND. Mr. President, this amendment is offered by myself, Senator TOWER, Senator JEPSON, Senator GOLDWATER, Senator NUNN, and Senator EXON. It is offered at the request of the National Guard. The National Guard Association is supporting it, the Army is supporting it, and the Air Force is supporting it. I can go into more detail if Senators want me to. The managers have agreed to accept the amendment.

Mr. President, the Defense appropriations bill offered by the Senate Appropriations Committee deleted a total of $21.8 million for the conversion of military technicians to full-time military positions for the Air National Guard and Army National Guard. The technician positions being converted numbered 600 for the Air National Guard and 600 for the Army National Guard.

The amendment offered would allow the Army National Guard and Air National Guard to continue these conversions during fiscal year 1983. The amendment, however, does not seek restoration of the $21.8 million allocated for these conversions.

Initial Department of Defense studies and reports indicated that there might possibly be savings accrued from converting military technicians to full-time military positions. Subsequent studies, however, have indicated that cost savings are questionable. In fact, the most recent cost comparison done for the Department of Defense was completed in October of this year. The study found that comparative costs depend on comparative grade structure and that cost-effective full-time support can be developed if the force structure is designed for that purpose.

During testimony over the years, however, more compelling reasons than cost alone arose that showed a need for changing the technician program.

Labor union activity in technician programs adversely impacted on the military command authority, organizational effectiveness, discipline, and combat readiness of the units.

Furthermore, it was found that the technicians program encouraged an aging force and produced questionable mobilization assets.

Consequently, the House Appropriations Committee directed the Department of Defense to conduct a test to see which system was most efficient. The test results indicated that the full-time military program enhanced readiness, improved the deployability of the units, and was easier to manage. After 2 years of testing the conversion program and after numerous hearings the House Appropriations Defense Subcommitee terminated the test. In the House Appropriations Committee fiscal year 1982 Department of Defense appropriations bill reports the several Reserve components were directed to determine the apppropriate mix of full-time military and military technicians necessary to fulfill their missions.

Consistent with the directions of the Congress, the National Guard requested to convert 1,200 technicians to full-time military positions during fiscal year 1983. These positions are but a fraction of technician positions that are vacant. In fact, current vacant technician positions and projected losses total 4,500 during fiscal year 1983.

The National Guard intends to convert only those positions that are vacant, but will consider any technicians who voluntarily request to convert to full-time military. I would like to read to you a portion of a letter to me from Lt. Gen. Emmett H. Walker who is the Chief of the National Guard Bureau.

The SAC and the HAC have recommended the elimination of our FY 1983 budgeted conversions. I fully agree with their rationale that the conversion program should only continue where it is cost effective and where readiness is enhanced. It is true that in the beginning of the program there were a few instances where technician positions were converted to military that resulted in a higher rate of pay than that authorized by the technician grade. However, we corrected this situation by establishing military grades for our technician positions that could not be exceeded. At the same time we directed that those military personnel who held military grades higher than that authorized be reduced or reassigned. Additionally, in the distribution of our conversion spaces we have placed emphasis on converting technician positions that will enhance our readiness in the areas of training, administration, personnel and supply at unit level.

Mr. President, I will request unanimous consent that General Walker's letter be printed in the RECORD in its entirety at the conclusion of my remarks.

It seems to me that the National Guard is following the direction of the Congress in a prudent manner and cost effective manner.

Both the Senate Appropriations Committee and the House Appropriations Committee cited cost effectiveness as the reason for terminating the conversion of National Guard technicians in fiscal year 1983.

The 1,200 conversions that are programed are cost effective. A report prepared by Management Consulting Research, Inc., for the Deputy Secretary of Defense for Reserve Affairs concluded that the 600 Army Guard and 600 Air Guard military technician conversions scheduled for fiscal year 1983 are cost effective.

This study, dated October 29, 1982, shows that the Army National Guard conversions to full-time military positions will save more than $245,000 over the cost of the military technician program for the same positions. This results in a cost savings of 2 percent.

Additionally, the Air National Guard conversions will save more than $630,000 over the military technician program. This results in a cost savings of 3 percent.

Unfortunately, this report was not available to the Senate Appropriations Committee in September when the committee eliminated funding for the conversion of these technician positions for the National Guard.

Mr. President, I would like to read a portion of a letter from Hon. John O. Marsh, Jr., Secretary of the Army. In his letter, he outlines the adverse impact of the Senate Appropriations Committee's action.

Addition of a general provision to the fiscal year 1983 Appropriation Bill or a new "Continuing Resolution" to prohibit programmed conversions will impede the efforts of the Army to upgrade the readiness of its Reserve Component units and will deny to individual technicians the freedom to voluntarily assume military status.

The Secretary of the Army also points out that such a prohibition may be inconsistent with the labor management relations provisions of 5 U.S.C. 71 that grants authority to agencies to determine the number and kinds of positions to be used in accomplishing the duties of such agencies.

Additionally, Mr. President, I would like to read the views on this matter of Hon. Verne Orr, Secretary of the Air Force.

I strongly support the proposed conversions as both cost effective and mission enhancing. Our proposed mix of military technicans and full-time active duty guardsmen is based first and foremost on mission requirements; readiness is enhanced by the ability to provide a more dynamic full-time active duty guardsman resource in more military oriented areas and technicans where more stability is necessary. However, cost effectiveness has been and will remain a principal factor in the overall decision. Positions idenitifed for conversion require a wide range of experience in military duties and are better suited for full-time guardsmen.

I will request unanimous consent that both letters be printed in the RECORD in entirety at the conclusion of my remarks.

Mr. President, in my remarks here today I referred to labor union activity as a source of congressional concern in the military technician program and its adverse impact on command authority and discipline.

I would like to read to you a union flyer sent out by the American Federation of Government Employees. It is entitled "AFGE Victorious In Stopping Conversions."

AFGE has been successful in getting Congress to pass legislation which prohibits any further conversions of civilian technicians to military status for fiscal year 1983!

It goes on to say:

Our success on Capitol Hill would not have been possible without the extensive grassroots support which you provided and the thousands of letters which you sent to your Congressmen and members of the House and Senate Appropriations Committees.

Mr. President, we are all concerned about employment and the American Federation of Government Employees is rightly concerned about their members losing jobs.

No military technician will lose his job over conversion to full-time military status. The Chief of the National Guard Bureau and the Secretaries of the Army and Air Force have assured me that only vacant positions and those personnel requesting conversion will be converted.

Certainly in our democratic society the American Federation of Government Employees would not stand in the way of someone who voluntarily desires to wear the military uniform of his country on a full-time basis.

I would like to quote their assurances from the Chief of the National Guard Bureau.

If the conversion program is allowed to proceed as programmed, we will consider for conversion only vacant technician positions and assure that military technician positions will not be abolished while incumbered for the purpose of changing them to military status. Military technicians will be allowed to change to military status only voluntarily; no involuntary conversions will be directed.

The Secretary of the Army.

The Army, as a matter of policy, does wish to inform you that in 1983 it will consider for conversion only vacant positions or those technicians who volunteer for conversion, and will not eliminate any technician position as long as an incumbent chooses to remain in the technician program.

The Secretary of the Air Force.

. . . our proposal is not forcing any involuntary conversions to full-time active duty. Thus, we have minimized personnel turbulence that might otherwise result.

In summary, Mr. President, the 1,200 conversions scheduled for fiscal year 1983 could save the Army Guard and the Air Guard 2 percent and 3 percent respectively, and only vacant positions and voluntary conversions will be changed to full-time military status.

I ask unamious consent that the various documents to which reference has been made be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[The material referred to will appear in a subsequent issue of the RECORD.]

Mr. MELCHER. Mr. President, I want to express my concern over the proposal of Senator THURMOND'S amendment providing for the conversion of 600 Air National Guard and 600 Army National Guard technicians to full-time military positions. The proposal has been considered by the Appropriations Committee and found to be flawed and they rejected it.

The Defense Appropriations Subcommittee opposed the continued conversion of civilian technicians to full-time military positions. In its report on the defense appropriations bill, the committee said:

The cost effectiveness of any additional conversions * * * is questionable in light of the increased pay and allowances military members now receive. Accordingly, the Committee directs the Department to make no further conversions. * * *

The committee also directed the Department of Defense to increase civilian manpower ceilings in the Army and Air Force to fill these positions.

I have heard the arguments by the proponents of converting civilian technician positions to military slots. They say that it improves the Guard's capabilities and makes the Guard units more combat ready. That may be true, but is it worth the additional money it costs. The Defense Appropriations Subcommittee says no, and I agree with them.

I personally know many of the civilian technicians who work for the Air National Guard at Great Falls, Mont., during the week and serve in their allotted weekend duties in the Air National Guard. The same is true of civilian technicians for the Army. They are committed and capable people and they serve us well. There is no need that these positions be filled by full-time military personnel.

When I was first appraised of this situation, I was told that the civilian positions had been eliminated by the Appropriations Committee and therefore it would be necessary to create an equal number of full-time military slots to keep the Guard's manpower up to strength. However, that is not the case. The Appropriations Committee directed the Defense Department to raise the civilian manpower ceilings to make sure that we had sufficient numbers of civilian technicians available for the Guard's mission.

The amendment seeks to convert civilian technician positions to full-time military positions. I do not agree that this is a wise policy, and it is likely that the final decision of the conference committee considering the final report will also reject amendment.

CONVERSION OF NATIONAL GUARD TECHNICIANS TO FULL-TIME MILITARY POSITIONS

● Mr. EXON. Mr. President, I rise in support of the amendment offered by my colleague, the senior Senator from South Carolina.

As we come to rely more and more on our National Guard and Reserve Forces, it is imperative that we enhance the readiness and deployability of our Guard units. One way to accomplish this goal is to allow the limited conversion of certain civilian technicians to full-time military positions.

I believe that we must maintain the citizen-soldier concept of our National

Guard, Mr. President. If I thought that support of this amendment would, in any way, endanger that concept I would not be here today.

The plain and simple fact is that our Army National Guard provides approximately 30 percent of the combat divisions in our overall total Army Force; 70 percent of the separate brigades; 30 percent of our special forces groups; 40 percent of our armor battalions; and 60 percent of our field artillery battalions.

Our Air National Guard provides over 60 percent of our continental air defense; about 20 percent of our tactical fighters; roughly 20 percent of our aerial refueling; over 30 percent of U.S. tactical airlift; and over 40 percent of the tactical reconnaissance in our total Air Force.

Mr. President, we are today relying on our Army and Air National Guard as never before. These forces must be ready to go to war on a moment's notice. It is our job here in the Congress to insure that they have the resources—human as well as equipment—to get the job done. The full-time manning program is one of those resources which the Guard needs.

I urge the adoption of the amendment.●

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1540) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, the next order would be for the Senator from Connecticut (Mr. DODD).

Mr. PROXMIRE. Mr. President, he is on his way to the Chamber. He should be here any moment.

Mr. HATFIELD. Mr. President, I yield to the Senator from Connecticut for his amendment.

Mr. President, I only want to say, first, that all Senators who have amendments should be on the floor because otherwise we are going to just drop the Senator to the bottom of the list and he will have to wait. We cannot just wait around for Senators to drift in. If any Senator has an amendment which has a unanimous consent agreement, he should be on the floor ready to take it up any moment because some Senators are withdrawing their amendments or planning to withdraw their amendments, and that means we drop down to the next slot.

We are going to push this bill through, and I am going to ask for third reading if we have no amendments.

UP AMENDMENT NO. 1541

(Purpose: To declare congressional support for restrictions on certain types of operations in Central America)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD) proposes an unprinted amendment numbered 1541.

To the end of H.J. Res. 631, add a new section as follows:

"SEC. . Congress hereby declares that no funds should be obligated or expended, directly or indirectly, after January 20, 1983 in support of irregular military forces or paramilitary groups operating in Central America."

Mr. DODD. Mr. President, I think this amendment speaks for itself for those who heard it read. Basically, it amounts to a policy declaration by this body that no funds should be expended directly or indirectly in support of paramilitary activities operating in Central America.

I should say at the outset, Mr. President, that I offer this amendment with a degree of reluctance. I wish there was a more proper vehicle which would enable us to conduct a longer and more detailed debate about what I consider to be a very important matter.

Mr. President, I would prefer that we were offering this at another time when we had more than 30 minutes to debate. It is what I consider to be one of the most pressing and threatening foreign policy issues that this country faces.

Mr. President, I offer this amendment not because I am in any way interested in supporting, defending, or apologizing for Sandinistas in the Government of Nicaragua or the Government of Honduras, but because of my deep concern of what I believe our country is about to enmesh itself into unwittingly. It is sort of a deja vu of 20-odd years ago when we began a similar set of activities without the kind of public, open debate about a set of activities which eventually threw us into a larger conflict.

Had we then, at the outset, had a better opportunity to debate the rationale for our original decisions, we might have dealt with the larger issues we confronted later more intelligently.

I happen to believe, Mr. President, that we are presently involved, or could be involved, in a far more expanded conflict in Central America than already exists. We are all too well aware of the problems in El Salvador and Guatemala, and we certainly are aware of the potential threats that are posed by the Government of Nicaragua.

One of the reasons that we run the risk for an expanded conflict in Central America is because we may be supporting paramilitary groups in Central America which are determined in their way, whether or not we are, to overthrow the Government of Nicaragua.

I believe that that kind of activity is going to lead exactly to that result. There will be a substitute amendment offered to this amendment which I have offered this morning. The substitute amendment will say that none of the funds in this particular continuing resolution can be expended for the overthrow of the Nicaraguan Government. That amendment was offered in the other body as a substitute to an amendment not dissimilar from the one that I am offering. There are some major distinctions between those two propositions.

One is that the continuing resolution, while it contains funds or does potentially contain funds—we do not know the exact amount—to support paramilitary, covert activities, does not include all funds we have authorized for those activities. What I am suggesting is that, by putting a prohibition on these particular funds, we do not deal with all funds that could be used for those activities.

Second, the amendment that will be offered is limited to the overthrow of the Nicaraguan Government and to support a conflict between Hondorus and Nicaragua. That is the House language, and I assume that that will be the same language offered this morning. I suggest that there are any number of ways of circumventing that prohibition. In effect, it is going to provide a green light for the continued activity that we have seen reported, over and over again, in the last several weeks and months, suggesting that we are already deeply involved in a broader conflict in Central America.

Third, the extent of the substitute that will be offered as a substitute to my amendment is extemely restrictive. It says that none of the funds, notwithstanding any other provision of law, shall be expended for that particular purpose I have just identified.

My amendment is more open ended, more of a declaration of policy. It is a policy statement. It allows for greater flexibility in that sense than what will be offered by the substitute to this amendment.

For those three reasons, Mr. President, I believe that the approach I am suggesting this morning gives us greater flexibility, is not as binding as what will be offered, yet makes the clear policy declaration that we have to stop this activity before it expands even further and we find ourselves once again unwittingly drawn into a con-

flict far larger than what we already have in Central America.

I do not think there is anybody in this Chamber who has read a newspaper or magazine for the last month or so who does not believe that there are groups operating on the Honduran border that have as their purpose the overthrow of the Nicaraguan Government. I do not think anybody doubts that. There are the old Guardia troops, Somoza troops, operating on that border. What we are proposing to do is cut off our paramilitary support for them.

There will be arguments that we do not intend to overthrow the Nicaraguan Government. I do not think that avoids the responsibility that we are supporting those who are. That is what I believe we are doing and that is what my amendment is designed to curtail.

Mr. President, my amendment addresses the issue of covert support for military operations in Central America, and it addresses this issue with a clear-cut congressional policy declaration a declaration which puts Congress on record in opposition to support for irregular military forces or paramilitary groups operating in Central America.

Mr. President, going back to March of this year, there has been a growing number of authoritative press accounts which leave little doubt that the present administration is providing support, in one fashion or another, to paramilitary groups and irregular military forces operating in Central America.

On March 10, for example, the Washington Post reported that President Reagan had authorized the Central Intelligence Agency "to build and fund a paramilitary force of up to 500 Latin Americans, who are to operate out of commando camps along the Nicaraguan-Honduran border." Similarly, and more recently, Newsweek in its cover story of November 8, claimed that in December of last year, the Reagan administration approved a $20 million CIA plan to create a 500-man paramilitary force based in Honduras to cut off Nicaraguan supplies to Salvadoran leftists. In further describing this program Newsweek added, "The plan's unofficial goal: To undermine or overthrow the Sandinistas."

Shortly after the appearance of the Newsweek article, the New York Times said it had confirmation of the basic outline of the program from senior administration officials who, at the same time, disclaimed any administration intention of bringing down the Managua-based government. The Time article began this way: "The United States is supporting small-scale clandestine military operations against Nicaragua intended to harass but not to overthrow the Nicaraguan Government, senior administration officials said today." In providing additional details, the Times article went on to say:

A senior national security official insisted that the scope of clandestine operations was limited to hit-and-runs raids into Nicaragua by small paramilitary units based in Honduras, skirmishes with Nicaraguan troops along the Honduran border, and financial support for political opponents of the Sandinist government.

The official said that no Americans were directly involved in the paramilitary operations, but acknowledged that the CIA was providing money and military equipment to the units. He added that Americans were also helping to train anti-Sandinist forces, which are made up primarily of Nicaraguan refugees.

In keeping its readers informed and up to date, Time magazine reported earlier this month:

A U.S. intelligence source in Honduras estimates that there are not about 200 CIA personnel in Honduras, four times as many as previously reported. Biweekly flights from Panama bring in rifles, machine guns, mortars, and grenade launchers. The Contras themselves have grown in number from about 500 in 1980 to as many as 4,500 now.

Mr. President, I ask unanimous consent that various articles and editorials on this subject be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 10, 1982]

U.S. APPROVES COVERT PLAN IN NICARAGUA

(By Patrick E. Tyler and Bob Woodward)

President Reagan has authorized covert operations against the Central American nation of Nicaragua, which, administration officials have charged, is serving as the military command center and supply line to guerrillas in El Salvador.

According to informed administration officials, the president has ruled out the use of U.S. military forces in direct anti-Nicaraguan operations. But the authorized covert plan directs the CIA to begin to build and fund a paramilitary force of up to 500 Latin Americans, who are to operate out of commando camps spread along the Nicaraguan-Honduran border.

The officials stressed that it will take months for the paramilitary force to be recruited, trained and positioned to begin operations. They did not say precisely when the cross-border operations are scheduled to begin

As part of this plan, the commandos eventually would attempt to destroy vital Nicaraguan targets, such as power plants and bridges, in an effort to disrupt the economy and divert the attention and the resources of the government. CIA strategists believe these covert operations inside Nicaragua will slow the flow of arms to El Salvador and disrupt what they claim is a Soviet- and Cuban-controlled government in Nicaragua.

Operating under a $19 million CIA budget, the planned 500-man force could be increased in size if necessary, officials said. The CIA force would be supplemented by another Latin American commando force of up to 1,000 men—some of whom currently are undergoing training by Argentine military officials.

This is the plan for CIA covert operations first reported in The Washington Post on Feb. 14 as part of the Reagan administration's strategy in the region. At the time, it could not be determined whether the president had authorized the CIA's plan to build a paramilitary force against Nicaragua.

Several informed sources now say that the president did formally authorize the proposal, but the precise timing of his authorization could not be determined. It may have occurred late last year.

The covert action proposal was developed by the CIA and first presented in detail to President Reagan by CIA Director William J. Casey at the Nov. 16 meeting of the National Security Council. It was supported by Secretary of State Alexander M. Haig Jr. and Defense Secretary Casper W. Weinberger, according to knowledgeable officials.

Administration officials familiar with the CIA covert program stressed that the decision to focus on economic targets was based on a desire to disrupt the Nicaraguan arms supply line to El Salvador in a manner that is relatively inexpensive and least threatening to the civilian population.

"If you blow up a dam, you cause a lot of trouble, but you're not killing people," one high-level official said.

In his Feb. 18 press conference, Reagan was asked if the United States was planning covert operations in Nicaragua, but he declined to comment.

Nicaragua currently is ruled by the Sandinista National Liberation Front, whose guerrilla forces overthrew the government of dictator Anastasio Somoza in July 1979.

Honduras has a close military relationship with the United States, and Honduran officials fear that the political upheaval in El Salvador and Nicaragua will spill into their country. As a separate part of the U.S. stragedy in the region, the U.S. military currently is engaged in two operations in neighboring Honduras to indirectly support anti-Nicaraguan efforts, informed administration officials said.

According to highly classified NSC records, the initial CIA proposal in November called for "support and conduct of political and paramilitary operations against the Cuban presence and Cuban-Sandinista support structure in Nicaragua and elsewhere in Central America." The CIA, in seeking presidential authorization for the $19 million paramilitary force, emphasized that "the program should not be confined to that funding level or to the 500-man force described," the records show.

Covert operations under the CIA proposal, according to the NSC records, are intended to:

"Build popular support in Central America and Nicaragua for an opposition front that would be nationalistic, anti-Cuban and anti-Somoza.

"Support the opposition front through formation and training of action teams to collect intelligence and engage in paramilitary and political operations in Nicaragua and elsewhere.

"Work primarily through non-Americans" to achieve these covert objectives, but in some cases the CIA might "take unilateral paramilitary action—possibly using U.S. personnel—against special Cuban targets."

After the initial presentation, the CIA proposal was turned over to the national security planning group, a subcommittee of the NSC, as a draft "presidential finding," which states the need for specific covert operations. Under national security statutes, no funds can be expended for covert actions "until the president finds that each such op-

eration is important to the national security of the United States."

Senior U.S. defense and intelligence officials have said in recent weeks that without a slowdown in the arms supply to El Salvador by air, land and sea routes from Nicaragua, the position of government forces in the war-torn country could deteriorate rapidly, potentially prompting an escalation of Salvadoran requests for U.S. military assistance. Such requests are likely to run into strong congressional and public resistance.

According to administration officials, the covert plan is part of a broader program through which the administration hopes to achieve long-term stability in Central America by creating, nurturing and supporting new political coalitions of centrist forces in Nicaragua and other key countries.

Central America currently is experiencing a series of armed rebellions, and officials here say U.S. intelligence has obtained detailed outlines of Soviet and Cuban long-term financial, military and political plans to support armed insurgencies in the region. This outline of Soviet intentions—along with intelligence of current Soviet and Cuban activity in the area—has alarmed the president's national security advisers and, according to officials, is a central reason for the administration's covert program.

Several senior officials argue that intelligence gathering efforts in Central America lapsed significantly under presidents Nixon, Ford and Carter and that each of those administrations underestimated the problems of Central American governments and the strength of opposition movements.

The CIA station in El Salvador, for example, was closed for about five years—roughly from 1973 to 1978—to save money, and the United States had virtually no intelligence sources there during that period.

"It takes a long time to develop this intelligence, spread money around and put people in crucial places and make the kind of friends we need," one official said last week.

Only in the pastn crucial places and make the kind of friends we need," one official said last week.

Only in the past year, officials said, has the United States learned details of what the Soviets and Cubans hope to gain in the region. U.S. intelligence reports now show that in 1978 the Soviets and Cubans committed the money and resources for a major effort to support Cuban-style rebellions in Central America.

One senior official said, "If you look what the goals were in 1978 and realize how far they have come by 1982, then where they want to be in 1987 has to be taken seriously and that would concern anyone" in the United States.

Other officials said they are alarmed by convincing intelligence reports that one Soviet-Cuban goal in the region is the development of an active insurgency to destabilize Mexico during this decade.

Some intelligence reports reaching the president support the administration charge of an increased Soviet and Cuban threat in Central America. One recent report indicates that the Soviet Union is training Latin American pilots to fly the most advanced Soviet fighter, the Mig 25 Foxbat, which has a radar system capable of directing other planes in a large battle area.

The nationalities of the Latin American pilots being trained on the Foxbat are not clear. Cuba already has acquired a squadron of Mig 23 supersonic fighters, and previous intelligence reports have confirmed that Nicaraguans have trained on less sophisticated Mig fighters.

Further, Guatemala, potentially the most prosperous Central American country, is also being threatened by a leftist insurgency and the most current CIA estimate is that the government will undergo a major change of status within 18 months.

While some members of the administration remain skeptical about broad claims of spreading Soviet and Cuban influence in the region, knowledgeable officials say this is the interpretation that has been largely adopted by President Reagan.

[From Newsweek, Nov. 8, 1982]

A SECRET WAR FOR NICARAGUA

The smoky bar in Tegucigalpa was a cousin to Rick's Café in "Casablanca," a nightly gathering place for the dangerous and the desperate in Honduras. Squeezed into a corner one evening last week were four Argentine military advisers, speaking machine-gun Spanish and occasionally stealing furtive glances around the room. A half-dozen Americans stood in a loose line at the bar, drinking beer and talking too loudly about guns. In the center of the room, grouped around a table that listed far right, were seven men drinking rum. One of them wore a gold earring. He explained that the seven men were Nicaraguan exiles who belonged to various factions of la contra, a band of counterrevolutionaries trying to topple the leftist Sandinista regime. They were ready to move toward Managua, one of the men said. "We just need to hear from The Boss that it's time to go." Who was The Boss? The man with the earring was impatient with stupid questions. "He's the man you call 'Mr. Ambassador'."

The envoy in question was John D. Negroponte, the American ambassador in Honduras. Official sources told Newsweek last week that Negroponte is overseeing an ambitious covert campaign to arm, train and direct Nicaraguan exiles to intercept the flow of arms to leftist guerrillas in El Salvador. But the operation has another objective: to harass and undermine the Cuban-backed government of Nicaragua. The project traces back to Jimmy Carter's efforts to support Nicaraguan moderates. Ronald Reagan added the task of cutting the Cuban-Nicaraguan arms pipeline to El Salvador. The plot, launched mostly with popguns and machismo, now threatens instead to destabilize Honduras, to fortify the Marxists in Nicaragua and to waste U.S. prestige along the tangled banks of the Coco River. Worse, U.S. officials concede there is a danger that the operation could provoke a Nicaraguan counterattack on Honduras that could drag the United States directly into the conflict. "This is the big fiasco of this administration," says one U.S. official. "This is our Bay of Pigs."

Reports of secret operations along the Nicaraguan-Honduran border have circulated for months. But Newsweek has uncoverd extensive details of a campaign that has escalated far beyond Washington's original intentions. Administration sources told Newsweek that there are now almost 50 CIA personnel serving in Honduras—certainly the longest manifest in Central America. That team is supplemented by dozens of operatives including a number of retired military and intelligence officers. Argentine military advisers are supporting the operation in Honduras; separate anti-Sandinista activities are underway in Mexico and Venezuela.

Camps: The fighting forces are drawn from 2,000 Miskito Indians, an estimated 10,000 anti-Sandinistas in Nicaragua itself and an assorted group of former Nicaraguan National Guardsmen and supporters of deposed dictator Anastasio Somoza. They have set up 10 training camps divided between Honduran and Nicaraguan territory. Their hit-and-run forays against Nicaraguan bridges, construction sites and patrols are designed to harass the Sandinistas while CIA operatives cast around for a moderate new Nicaraguan leadership. Among others, the United States tried to cultivate Edén Pastora—the former Sandinista hero known as Commander Zero—after he resigned from the government in July 1981. That effort failed. "Pastora is a man who would not accept a penny from the CIA," swears one associate. "If he did, I would kill him."

The operation posed some very disturbing questions: did it violate the spirit if not the letter of congressional restrictions on dirty tricks—and would it only make a bad situation in Central America even worse? A congressional-committee spokeman said that CIA Director William Casey (who personally inspected the operation in Honduras) has adequately briefed congressional oversight committees. But some congressional sources complained that the CIA's briefings had been bland and disingenuous. And others wondered pointedly whether the administration had used approval for plans to cut off the flow of Cuban arms to rebels in El Salvador as a cover for a more reckless plot to topple the Sandinistas. "This operation's just about out of control and people are getting panicky," said one source. According to one U.S. official, Secretary of State George Shultz was "fuming" over the mess. Said another, "Only Shultz can change it—if there is still time."

Moderates: Washington's covert involvement in Nicaragua began even before Somoza fled the country. In 1978, with the dynasty nearing collapse, Jimmy Carter signed a "finding," as required by post-Watergate law, authorizing under-the-table CIA support for democratic elements in Nicaraguan society, such as the press and labor unions. The Carter administration correctly recognized that with the Somoza regime crumbling, Cuban-backed leftist forces would try to squeeze out more moderate elements. American financial support for Nicaragua's opposition forces has continued, and it remains one of the many items on the CIA's yearly "Classified Schedule of Authorizations."

After the Sandinistas seized power anyway, the Reagan administration took office worried that Nicaragua would become a platform for Cuban-sponsored subversion. Ronald Reagan's first national-security adviser, Richard Allen, set to work on plans to harass the Sandinistas. Former Secretary of State Alexander Haig and Thomas O. Enders, assistant secretary of state, became increasingly concerned that the Sandinistas were providing weapons to leftist rebels in El Salvador—much of the hardware shipped across Honduras. In several meetings, a well-placed administration source says, Enders spoke about the need to "get rid of the Sandinistas." "The driving forces behind this operation were Haig and Enders," said one insider. "Both the agency and the Pentagon had qualms."

Joint action: At first, the administration's planning focused entirely on how to cut the Salvadoran rebels' supply lines from Cuba and other communist nations through Nicaragua and Honduras into El Salvador. Haig directed then State Department counselor Robert McFarlane to prepare a series of

option papers. Senior Defense Department officials rejected a blockade of Cuba or Nicaragua, pointing out that much of the arms traffic moved by air. Administration officials say McFarlane then asked the CIA to explore possible covert action against the rebels' supply lines, an option that proved more promising and less politically risky than the direct use of U.S. forces. Early on, Haig's ambassador at large, Gen. Vernon Walters, and other officials discussed possible joint covert operations with conservative Latin American governments, including Argentina, Guatemala and Honduras.

Last December Reagan signed his own "finding," expanding on Carter's and authorizing the CIA to contact dissident Nicaraguans in exile and to conduct political and paramilitary operations to interdict weapons shipments from Nicaragua to Salvadoran guerrillas. A second document, known as a "scope paper," outlined permissible operations and their estimated cost. In its first stage, the plan was to create a 500-man, U.S.-trained paramilitary force at a cost of $19.9 million. Argentina would train an additional 1,000-man force. "The focus was on action which would interdict the flow of arms to guerrillas in the friendly countries, "said one source who has read both documents." "Nowhere does it talk about overthrow." But one senior official involved in the decisions conceded that "there are secondary and tertiary consequences which you can't control"—such as the fall of the Sandinista government.

As U.S. officials tell it, the size of the CIA station in Honduras doubled, bringing it to about 50, with orders to help interdict the arms supplies by training the Honduran intelligence and security forces in intelligence gathering and interrogation, providing logistical support for raids into Nicaragua, aiding the Honduran coast guard and helping the Argentines and other non-Nicaraguans train anti-Sandinista Nicaraguans in sabotage operations using small arms supplied by the Americans.

Washington had used Honduras once before as a base for a destabilization program: in 1954, when the United States toppled the reformist government of Jacobo Arbenz in Guatemala. In the view of the Reagan administration, Honduras itself had become dangerously vulnerable to the Cuban-backed spread of communism. Honduras had managed to remain relatively calm and largely unaffected after the 1979 Nicaraguan revolution by simply looking the other way as Cuban-Nicaraguan arms passed through to El Salvador. "There was kind of an understanding that if we looked the other way, the subversivos wouldn't look our way, "said one Honduran Army officer.

Spearhead: That changed when John Negroponte arrived. He was handpicked for the job and reported to Enders, with whom he had worked in Southeast Asia during the Vietnam War and later under then national security adviser Henry Kissinger. "Negroponte is the spearhead," said one Washington insider. "He was sent down there by Haig and Enders to carry out the operation without any qualms of conscience."

Negroponte forged close ties with powerful Hondurans, especially the commander of the armed forces, Gen. Gustavo Aldofo Alvarez, who is still the most powerful Honduran in the country despite the election in January of President Roberto Suazo Córdova, the first civilian president in nine years. "They discuss what should be done, and then Alvarez does what Negroponte tells him to," a member of the military high command said matter-of-factly. The two appear to dislike each other personally, said one aide to Alvarez, because "they both run the Army, although only one of them has the title for that job." Alvarez's G-2 military-intelligence agents act as liaisons to the contras and Alvarez himself reports to Negroponte. In addition, two officials in Washington said, Alvarez's military is the main conduit for small arms being delivered to the Nicaraguan exiles and is the main link to Argentine military advisers in Honduras. Alvarez has reason to cooperate: in the past two years, total U.S. assistance to honduras has totaled $187 million. A $78.3 million aid package has been proposed for 1983.

The interdiction project proved more difficult than expected. The rebel supply lines were elusive: as the Honduran Army cracked down on arms shipments across land, the leftists began receiving aid by sea and air. At the same time, the Sandinistas undertook a massive military buildup. Under the new pressures, the plan spread beyond its original bounds. "It became clear that cutting the roads from Nicaragua wasn't enough," said one source. "It was necessary to raise the cost to the Sandinistas and the Cubans of meddling in El Salvador."

Problems: That meant, at the least, cross-border harassment—and that, too, proved more difficult than Washington planned. First, according to sources in Honduras, the Argentines reduced their participation in the covert training program and in the overt training of the Honduran Army after the outbreak of the Falklands War. (Washington officials said, however, that there were about 20 Argentine trainers in the country last week and that the numbers had not changed appreciably during the Falklands War.) Then the Miskito Indians, who had been forcibly driven from their homes along the Honduran-Nicaraguan border, proved eager but unpromising modern soldiers. "The Indians aren't very quick learners," says one knowledgeable source.

Such problems soon led to strange bedfellows. When the covert policy was first developed, direct U.S. dealings with exiled Somocistas were officially ruled out. "Our guidelines are pretty damn firm," says one senior U.S. official. "At no time has there been any authorization to deal with the Somoza people." But Negroponte, under pressure from Haig and Enders to produce some successes against the Sandinistas, turned to the only promising group available—the Somocistas "It was Negroponte who began dealing with the guardsmen and the Somocistas," says one U.S. official, "That wasn't the original plan. He had to improvise." Sources in both Washington and Honduras say the ambassador has been careful to deal with the Somocistas through intermediaries to preserve his deniability. Asked about U.S. support for Somocistas or other contras last week, Negroponte said: "No comment, no comment and a big fat no comment." Of his own contacts, he said, "The only Nicaraguan I know personally is the Nicaraguan ambassador to Honduras. The only Nicaraguan I deal with in any official way is the ambassador."

At the same time, the Reagan administration looked for a leader around whom to build the opposition. No one connected with the hated Somocistas would do. The most attractive candidate was Pastora—Commander Zero. After leaving the government in 1981, he suddenly surfaced in Costa Rica last April, denounced his former comrades as "traitors and assassins" and announced: "I will drag them with bullets from their mansions and Mercedes-Benzes." The CIA first tried to cultivate Pastora after he left the Sandinista government, but he would not cooperate. After Negroponte began to deal with the Somocistas, any chance of recruiting Pastora probably was lost.

Alienated: Negroponte now has frozen him out of the action. Pastora and other disillusioned Sandinistas, such as former junta member Alfonso Robelo, have been told that "Honduras is closed to us, we cannot work here," says one of them. Newsweek has learned that Pastora has made two clandestine trips to Honduras since spring to try to win support and establish base camps. Both times he was kept under virtual house arrest by the military. "He couldn't make a phone call, let alone organize a contra group," says one Honduran military officer. "The orders came from Alvarez himself that our American friends did not want this guy to have any part of the game." As a result, despite Washington's intentions, Negroponte has alienated the only group likely to attract widespread support inside Nicaragua. "There's no question that Nicaragua is ripe for a change," said one European observer in the region. "But the U.S. is supporting the only wrong, the only truly evil alternative."

After Negroponte and the Somocistas became partners, the new American allies began to force Washington's hand. The Somocistas bivouacked in Honduras were already trained soldiers, backed by wealthy exiles in Miami. With the added boost of tacit U.S. support, they soon took a commanding position among competing contra groups. They also developed their own private plan numero uno: to move the contra camps that remain in Honduras across the border into Nicaragua, then move the camps already established in Nicaragua farther down toward Managua and, finally, past the capital into the south. When the time is right, the Somocistas say, they will draw their loose circle of camps together in toward Managua and force the Sandinistas out. And then? "Come the counterrevolution, there will be a massacre in Nicaragua," promises one contra officer. "We have a lot of scores to settle. There will be bodies from the border to Managua."

That obviously was not what Washington had in mind. Despite the dirty little war on the ground, there is little support in Washington either for a massive contra invasion or for a border war between Nicaragua and Honduras. Instead, the constant pressure on Nicaragua from the border areas is designed to keep the four-year-old Sandinista government in a jumpy state of alert. While U.S. officials maintain that the primary objective of the operation remains cutting off the supply routes, they also hope that a threatened Sandinista government will bring itself down by further repressing its internal opposition, thereby strenghening the determination of moderate forces to resist. If that happens, says one U.S. official in Central America, "then the Sandinistas will fall like a house of cards in a wind."

Thin line: Although the Reagan administration and the Somocistas disagree on strategy, U.S. involvement with the contras has escalated. When equipment—helicopters and radios for example—breaks down, Americans repair it. Americans established the guerrillas' training regime, and arming the contras was easy: the massive American buildup of the Honduran military freed older Honduran equipment, which was

shipped off to counterrevolutionary bases. The Americans were soon treading the thin line between instructing insurgents and plotting the missions they were being trained for. Though Americans are expressly forbidden to go out on operations, one veteran of other paramilitary operations said: "Inevitably that happens . . . You lose your credibility with the people you're training if you hole up entirely."

Negroponte insists that his strategy precisely follows Washington's orders. But other sources claim that Negroponte censors embassy cables so that Washington will only know what he wants it to know, and that he seems to operate with little interference or second-guessing from superiors. "Haig and Enders gave Negroponte full autonomy," said one high-level insider in Honduras. Added another: "A lot of us think the ambassador should have a little more E.T. in him—that he should phone home now and then. But I'm sure his contention would be that 'home' would say, 'Go ahead and do what you think is best.' He only has to answer to himself."

In either case, virtually every knowledgeable official says that the operation needs firmer restraints. "It is reminiscent of the cable that went out, 'Order turkeys for the division' but got garbled so we ordered a division to Turkey," said one official.

The Hondurans themselves fear that their country might slip into the Central American line of fire. In September Honduran leftist guerrillas took more than 100 businessmen and officials hostage for eight days in San Pedro Sula. Tegucigalpa was blacked out after a power plant was dynamited. The Hondurans say they have evidence that both operations were masterminded by Salvadoran and Nicaraguan leftists. The Hondurans also claim to have cracked six safe houses in the past two months and found huge stocks of weapons and literature that connects the caches with the Sandinistas.

Any more violence could touch off a confrontation over security measures between General Alvarez and the still unsteady civilian government. Guerrilla attacks already have led to growing repression. For the first time in Honduras's modern history, right-wing death squads now appear to be operating. "There is a low level of violence and subversion now, and it would be an easy step to more aggressive government actions than are needed," worried a U.S. official—"followed by more aggressive subversion." America's secret war might thus have the intended effect—in the wrong country.

The operation has stirred up its intended target as well. The Sandinistas have used the contra attacks as an excuse to spend an estimated $125 million on defense this year, beefing up the Army and civilian militia while attacking what remains of a free press and private business. But Sandinista repression has not led to a noticeable upsurge of anti-Sandinista activity inside the country—perhaps because Nicaraguans now only see a choice between the Sandinistas and the hated U.S.-backed Somocistas. "Our operations along the Honduran border have only played into the hands of the Sandinistas," says one dismayed U.S. official.

Terrified: But other American officials see light at the end of the tunnel. The Sandinista leaders are "terrified to their Marxist cores," says one. They have made their first attempts in months to try to re-establish communication with the private sector—and with the United States. U.S. Ambassador to Nicaragua Anthony Quainton, who had been refused any official meetings with the Sandinista leaders, was astonished to find junta member Bayardo Arce waiting for him, unannounced, in the Foreign Ministry recently. On the verge of panic, one source said, Arce asked, in effect, "What is the price we have to pay to stay in power?"

Tensions could peak within the next few weeks. On Dec. 5 the United States and Honduras will begin joint military maneuvers near one of the most sensitive stretches of the Nicaraguan-Honduran border. The five-day maneuvers will include the U.S. Army, Navy and Air Force; they will simulate the freeing of an army garrison from cross-border invaders. A growing number of people on both sides of the border fear the simulation might preview a real war. Ronald Reagan will be visiting nearby Costa Rica on Dec. 4. Two months after he authorized the operation against Nicaragua, Reagan was asked how he felt, generally, about covert action to destabilize regimes. His answer: "No comment."

[From Newsweek, Nov. 8, 1982]

OUR MAN IN TEGUCIGALPA

John Negroponte, the U.S. ambassador in Honduras, doesn't look like the Ugly American. At 43, he is tall and baldish; his manner is studiedly bland. His deliberate, pause-filled conversation, says one frequent dinner guest, "prompts a keen desire for coffee." But another who knows Negroponte better calls him "a Machiavelli—only shrewder." He is street smart. He speaks fluent Spanish, French, Greek and Vietnamese. He reads Shakespeare. Says one Honduran official who has followed his progress, "He must love 'Julius Caesar'."

Negroponte's 12-month tenure in Honduras has been a bit imperious. At the Inauguration of President Roberto Suazo Cordova last January—the first civilian president in nine years—a messenger handed the new leader a four-page letter from the U.S. Embassy drafted by the new American ambassador. Encouraging a prompt "revitalization" of the ailing economy, the letter—using the imperative form of Spanish—directed the government of Honduras to take 11 specific actions, such as reducing taxes on mining companies and lifting some price controls. The government dutifully complied with many of the demands. Negroponte's influence steadily grew, and, it appears, so did his involvement in covert action against Nicaragua. "I'm not saying that the guy who gives all the orders here, even for covert ops, is Negroponte," says a Western source who knows. "But that guy wears Negroponte's suits and eats his breakfast. Do you get the picture?"

Negroponte's arrival in Tegucigalpa was something of a surprise. Few expected an ambassador of quite his caliber. "Anyone who thinks that I'm extremely ambitious just doesn't know me very well," he says mildly. But no one has ever called him an underachiever. "Knowing this administration's preoccupation with Central America and its worries about Honduras in particular, he set out to make a mark in Honduras that would be noticed all the way to the top," says a colleague who has known him for years.

Career: Educated at Exeter and Yale, Negroponte joined the Foreign Service at the age of 21 and rose quickly. He was a favored political officer in Saigon at the height of the war in Vietnam. He was sent as an emissary to the Paris peace talks, where he insisted that the United States was giving up too much to the communists. The young Negroponte was rewarded with a post at the National Security Council. After a falling-out with his onetime mentor, Henry Kissinger, who was then national-security adviser, Negroponte was exiled to Ecuador as political counselor, but he bounced back to become U.S. consul general in Thessaloniki, Greece.

Since coming to Honduras, Negroponte has worked hard to establish himself as something more than our man in Tegucigalpa. Fellow envoys are particularly galled by his habit of sending upbraiding cables when he disapproves of their actions. His efforts have not been as successful as he might have hoped: Hondurans in frequent contact with the ambassador say he was "deeply disappointed" and "personally hurt" that President Reagan chose to make Costa Rica his only stop in Central America during a planned five-day tour of Latin America at the beginning of December. The ambassador may be in for more disappointment. "His obsession to get to the top fast will be the very thing that brings him crashing down," concludes a foreign diplomatic colleague in Honduras. "The question is whether he might not bring a policy and the fragile government of Honduras down with him."

[From Newsweek, Nov. 8, 1982]

GETTING IN DEEPER—A TIMELINE FOR TROUBLE

Although the United States as steadily increased its military and economic commitments in Central America, the troubled region has only grown more volatile.

1978. The Carter administration authorizes the CIA to support moderate opposition groups in Nicaragua opposed to the dictatorship of Gen. Anastasio Somoza.

July 1979. Leftist Sandinista guerrillas topple Somoza and seize power. Hoping to influence the Sandinistas, the Carter administration continues U.S. aid.

March 1980. The junta in El Salvador announces agrarian reforms, triggering an upsurge in left- and right-wing violence. Congress freezes U.S. aid to Nicaragua, which is backing Salvadoran leftists.

January-March 1981. The Reagan administration takes office as the Salvadoran leftists launch a major offensive. U.S. Secretary of State Haig declares Washington will not remain passive in the face of communist subversion and threatens to "go to the source"—Cuba. The United States sends more military advisers and increased military aid to El Salvador.

August 1981. U.S. Assistant Secretary of State Enders visits Managua and promises aid and U.S. noninterference in Nicaraguan affairs if the Sandinistas will end their support for the Salvadoran leftists. The Sandinistas ignore the offer.

December 1981. At an OAS meeting in St. Lucia, the Nicaraguan foreign minister outrages Haig by flatly denying Managua is helping the Salvadoran rebellion. The Reagan administration announces it will train 1,500 Salvadoran government troops; secretly, it authorizes a $20 million CIA plan to create a 500-man paramilitary force based in Honduras to cut off Nicaraguan supplies to the Salvadoran leftists. The plan's unofficial goal: to undermine or overthrow the Sandinistas.

February 1982. Reagan unveils the $350 million Caribbean Basin development plan.

March 1982. The Sandinistas declare a state of emergency after antigovernment guerrillas infiltrating from Honduras dynamite two key Nicaraguan bridges.

April 1982. Edé Pastora, the legendary "Commander Zero" who defected from the Sandinistas in 1981, surfaces in Costa Rica; the CIA tried unsuccessfully to enlist him to lead the Honduran-based opponents of the Sandinistas. At about the same time, U.S. Ambassador Negroponte makes contact with former members of Somoza's Nicaraguan National Guard living in exile in Honduras.

August 1982. U.S. Air Force C-130s ferry Honduran troops to the Nicaraguan border where they can protect the anti-Sandinista forces from Nicaraguan retaliation. Washington plans to increase military aid to Honduras to $40 million in fiscal 1983. The Nicaraguan ambassador in Washington tells reporters a virtual state of war exists between Nicaragua and Honduras.

October 1982. Reagan sends letters to Mexico and Venezuela expressing his "great interest" in their recent proposal for restoring peace along the Nicaraguan-Honduran border and his support for a "fully verifiable regional agreement" that will ban arms imports and the use of foreign advisers in Central America.

[From Newsweek, Nov. 8, 1982]

THE CUBAN CONNECTION

Nicaragua's Sandinistas have always had their reservations about Fidel Castro. But the revolutionary bond between them is tight. U.S. officials say some 4,000 Cuban doctors, teachers and other civilian specialists help make Nicaragua run, while 2,000 military advisers bolster the police and Army. Cuban backing has fueled Nicaragua's own, extensive military buildup. And Cuban support has bolstered Nicaraguan assistance to leftist guerrillas in El Salvador. As Assistant Secretary of State Thomas Enders sees it, revolutionary Nicaragua has become little more than "a forward base of operations" for Cuba.

The administration has argued its case in a Haig-era report ominously titled "Cuba's Renewed Support for Violence in Latin America." According to the report, Castro helped unite the three Sandinista rebel factions under an effective fighting command in 1978. Cuba then pumped arms and advisers to the rebels through bases in Costa Rica. After the Sandinista triumph in 1979, Julián López Díaz, the head of Cuba's support mission in Costa Rica, became the first Cuban ambassador to the new Sandinista regime. "Nicaragua really did something to the Cuban leadership," says one U.S. official. "It was a psychological shot in the arm for Castro and his guerrilla elite."

Unprecedented: The Sandinistas promptly netted $28 million in military equipment funneled through Cuba from the Soviet Union and Eastern Europe, according to U.S. sources. The military buildup included 25 Soviet-made T-55 and T-54 tanks, 12 Soviet BTR armored personnel carriers, light airplanes, helicopters and SAM-6 and SAM-7 antiaircraft missile batteries. Tons of arms also arrived to supply a beefed-up 25,000-member Sandinista Army, backed by an unprecedented 80,000-strong civilian militia. Photographs from U.S. spy planes showed the Sandinistas lengthening airfields at Puerto Cabezas, Montelimar and Bluefields to carry MiG-21 fighters. U.S. officials claim that 50 Nicaraguan pilots are being trained in Bulgaria to fly the jets in at a time of the Sandinistas' choosing—threatening to overtake Honduras' air superiority in Central America.

Despite Cuban and Nicaraguan denials, the administration remains convinced that Salvadoran insurgents are supplied through Nicaragua with air, land and sea shipments of arms. Evidence has been harder to deliver, but in one U.S. example, Honduran police reportedly intercepted a truck coming from Nicaragua in January 1981 that carried Salvadoran rebel supporters, 100 U.S.-made M-16 rifles, 50 81-mm motar rounds and 100,000 other rounds of rifle ammunition. U.S. intelligence also charges that Nicaragua helped establish one of Honduras's new rebel bands, the Morazanist Front for the Liberation of Honduras.

The United States draws a formidable picture of the Cuban-Nicaraguan threat. But some experts are not so impressed. During a recent visit to Nicaragua, Lt. Col. John Buchanan, a retired Marine Corps pilot and critic of U.S. policy, was flown on an inspection tour in a Nicaraguan Air Force Cessna that crashed after landing. Buchanan found the Sandinistas' T-55 tanks decidedly ill-suited to tropical warfare. "With friends who would supply you T-55s," he told one Sandinista commander, "who needs enemies?"

Rhetoric: The Cubans have repeatedly offered to help the United States ease tensions over Nicaragua and throughout Central America—but Castro has always insisted on ground rules, including an end to U.S. covert assistance to Nicaraguan counterrevolutionaries. Critics charge that Washington's alarmist rhetoric has distorted American perceptions. Wayne Smith, retired head of the U.S. interests section in Havana, observes: "We have tended to exaggerate the level of Cuban involvement and assistance in El Salvador—but there is no question there has been some." The Sandinistas argue that the U.S. hostility forces them to take any allies they can get. "Some people here say Cuban assistance is an excuse to maintain a Sandinista dictatorship," says Father Xavier Gorostiaga, director of the Institute of Social and Economic Research in Nicaragua. "But in Nicaragua we say this is the only way to survive."

[From Newsweek, Nov. 8, 1982]

IS COVERT ACTION NECESSARY?

Why not destabilize Nicaragua? The Sandinistas are no friends of ours. They have cozied up to Castro and Brezhnev. They have funneled arms to the leftist rebels in El Salvador. They are building an army larger than they need for their own defense. By example, if nothing else, they pose a threat to right-wing rulers in places like Honduras and Guatemala—bad guys, to be sure, but our bad guys, and arguably no worse than the other kind. Which is the lesser evil: to unleash a little thuggery on the Sandinistas, who play by those rules, or to wash our hands of dirty tricks, for fear of getting into deeper trouble?

Why not arm the rebels in Afghanistan? As a matter of fact, we're doing that. Why not make trouble for Muammar Kaddafi? We're doing that, too. Why not send secret financial aid to Solidarity? If we're doing that, most Americans would approve—and would rather not know. There are worse things than covert action. But if a democratic nation is to meddle in the affairs of another country, it must abide by certain rules: don't violate your own principles. Don't make things worse. Don't get caught.

Subversion: The Central Intelligence Agency defines covert action as "any clandestine operation or activity designed to influence foreign governments, organizations, persons or events in support of United States foreign policy." That covers everything from planting a pro-American editorial in a foreign newspaper to staging coups or raising secret armies. Democratic ideals often do not square with covert action. Some conspiracies launched in defense of American democracy end up subverting democracy elsewhere. In Chile, for example, the CIA destabilized the government of an elected president, Salvador Allende, a Marxist who eventually was deposed and assassinated. But no covert action is a complete success unless it remains a secret, and secrets are hard to keep in an open society. In the case of Chile, the CIA tried to cover up by lying to Congress, and eventually a loyal American, former CIA Director Richard Helms, had to plead no contest to a false testimony charge. Covert action can turn out for the best, but the only truly successful operations run by the CIA are the ones we still don't know about.

Before World War II, intelligence work consisted mostly of gathering information and thwarting enemy spies. The wartime Office of Strategic Services, the CIA's predecessor, broadened the franchise to include propaganda, political action and dirty tricks of almost every description. After the war, the CIA helped the democracies of Western Europe to stave off communist subversion by subsidizing socialists, Christian Democrats and labor unions. In its heyday, which lasted until the mid-1970s, the CIA launched literally thousands of secret programs, most of them low-budget political and propaganda operations. But it didn't hesitate to stage coups and raise private armies, especially in the Third World. There were fiascoes, notably at the Bay of Pigs. Yet the CIA also managed to overthrow leftist regimes in countries like Guatemala and Iran and to wage a long "secret war" in Laos by transforming primitive tribesmen into a surprisingly effective army.

Rebirth: In the wake of Vietnam and Watergate, there was a virtual moratorium on the messier kinds of covert action. CIA operatives were discharged by the hundreds. Congress required that it be informed of every covert action. It was Jimmy Carter, the champion of human rights and open government, who presided over the rebirth of covert action. With Soviet troops occupying Afghanistan and American diplomats held hostage in Iran, the CIA began to rebuild its secret sources of power and persuasion. In Ronald Reagan's first year, the intelligence budget was increased by 20 percent, but according to one knowledgeable source, the number of clandestine operations has not increased dramatically since Carter left office.

In addition to the Nicaraguan adventure, Newsweek has learned, the CIA is currently running paramilitary operations in about 10 countries, including Afghanistan. The Afghanistan mission involves only a handful of CIA agents, but it has spent hundreds of millions of dollars on weapons shipped to the rebels through third parties, such as Egypt. Two separate covert actions have been aimed at Libyan leader Kaddafi. One was designed to stir up trouble for him in Chad (Libya has since withdrawn its occupation forces from that country). The other authorized contacts with Libyan dissidents in exile, in hopes of putting together a legitimate opposition. Briefing one congressional committee, CIA Director William Casey said such activities might lead to the "ultimate" removal of Kaddafi.

As a last resort, the destabilization or overthrow of a foreign government may be necessary, whether it involves subtle subversion or something nastier. Perhaps the same

result could be achieved in broad daylight by military action or overt diplomacy. But if the public doesn't want to go to war, and if diplomacy offers insufficient leverage, covert action is the only alternative to backing down. Such plots may offend a democracy's sense of decency—and seem expedient all the same. If the aim of a covert action is in line with what Americans generally consider necessary, prudent and moral, most of them will tolerate the means.

Plot: Even so, a free society should not sacrifice its principles lightly. Plots against foreigners may not be as necessary as some practitioners of the covert arts would have us believe. In 1960 the CIA decided to kill Patrice Lumumba, the former prime minister of the Congo, who appeared to be on the verge of regaining power and handing his country over to the Soviet Union. The U.S. plan to poison Lumumba was never carried out—in part, perhaps, because key CIA operatives thought murder was going too far. "I didn't regard Lumumba as the kind of person who was going to bring on World War III," CIA station chief Lawrence Devlin told a congressional committee years later. "I saw him as a danger to the political position of the United States in Africa, but nothing more than that." Eventually, Lumumba was arrested by his political opponents, who announced in due course that he had been killed after escaping from jail. "Murder corrupts," said another reluctant CIA officer, but "I'm not opposed to capital punishment." The Congo, now known as Zaire, remains a loyal, if politically shaky, friend of the United States.

Another drawback to covert action is that it often makes things worse—or at least no better. The killing of South Vietnamese President Ngo Dinh Diem, after a U.S.-sponsored coup, did not leave us with more effective allies in Saigon. Flirting with supporters of the hated Somoza clan will probably weaken the U.S. position in Nicaragua, not strengthen it. Furthermore, in a democracy, it is almost impossible to guarantee that a covert action will remain covert.

Keeping secrets requires the acquiescence, if not the connivance, of the press. In 1953 a New York Times reporter named Kennett Love decided not to write about the CIA's role in deposing leftist Iranian Prime Minister Mohammed Mossadegh—out of "misguided patriotism," Love said later. The story came out anyway. In 1961 John F. Kennedy persuaded the Times that a lot of what it knew about the impending Bay of Pigs operations shouldn't be printed. The Times withheld a big part of the story, the invasion was a disaster, and Kennedy concluded that the newspaper would have done him a favor if it had blown the whistle.

Whistles are blowing more frequently these days. Covert actions almost always come to light—in news reports from distant countries now wired into the global village, or in leaks from critics in Congress, the administration or the intelligence agencies themselves. Reporters know that the story will come out, and that if they don't print it, a competitor will. Even today, the news media will generally suppress a story if publication would put lives at risk or expose a secret that is indisputably vital to the national interest. Beyond that, some reporters and editors say that they will withhold a story if the covert action in question strikes them as necessary, prudent and moral. The press has no business making such value judgments. Its role in an open society is to print the news, fully and fairly, not to calculate the incalculable consequences and shave the truth a bit here and there.

Policy: A nation with global responsibilities still needs covert action as a third tool of foreign policy—one more forceful than diplomacy and less hideous than war. It is possible to conduct secret operations in a society like ours, but only the great difficulty. That is the way it should be for missions that so commonly violate basic democratic principles. The CIA may be at a disadvantage in competing with the machinations of closed societies, but no instrument of democratic government can be allowed to operate totally at odds with the ideals it is supposed to espouse and protect.

[From the New York Times, Nov. 2, 1982]

U.S. BACKING RAIDS AGAINST NICARAGUA

(By Philip Taubman)

WASHINGTON, NOVEMBER, 1.—The United States is supporting small-scale clandestine military operations against Nicaragua intended to harass but not to overthrow the Nicaraguan Government, senior Reagan Administration officials said today.

The officials denied a report in Newsweek magazine that the central Intelligence Agency was trying by covert means to topple the leftist Government in Managua.

A senior national security official insisted that the scope of clandestine operations was limited to hit-and-run raids into Nicaragua by small paramilitary units based in Honduras, skirmishes with Nicaraguan troops along the Honduran border, and financial support for political opponents of the Sandinist Government.

The official said that no Americans were directly involved in the paramilitary operations, but acknowledged that the C.I.A. was providing money and military equipment to the units. He added that Americans were also helping to train the anti-Sandinist forces, which are made up primarily of Nicaraguan refugees.

WITHIN LIMITS OF PLAN

The official contended that the military and financial aid fell within the limits of an overall plan for convert operations in Central America approved by President Reagan almost a year ago.

The plan, parts of which were disclosed in press accounts earlier this year, called for formation of a small paramilitary unit in Honduras to interdict Cuban supply lines to guerrillas in neighboring El Salvador and financial support for moderate political and business institutions and leaders in Nicaragua, according to Administration officials.

"We are not waging a secret war, or anything approaching that," a senior intelligence official said. "What we are doing is trying to keep Managua off balance and apply pressure to stop providing military aid to the insurgents in El Salvador."

Administration officials reacted strongly to assertions in Newsweek that the covert operations were "out of control" and that an expansion of the activities had been "improvised" by the American Ambassador in Honduras, John D. Negroponte.

CLEARED WITH WASHINGTON

"Negroponte, as the chief of mission, oversees the operations, but nothing is done without clearing it in Washington first," a senior intelligence official said.

Some Administration officials have advocated a more ambitious effort against the Sandinist Government, which seized power in 1979 after overthrowing the Government of Gen. Anastasio Somoza Debayle.

But Mr. Reagan and other top officials reportedly rejected the use of greater force partly because they considered it potentially counterproductive to overall American policy, and partly because intelligence officials said that the CIA did not have adequate resources to undertake a major paramilitary operation.

The result, some Administration officials said, was a limited covert operation, designed to sting but not incapacitate the Sandinists.

According to national security officials, the clandestine military activities were to have been supervised primarily by Argentina, which had organized anti-Sandinist paramilitary forces in Honduras 18 months ago, before the American involvement.

Initially, Argentina did take the lead in supplying and directing the units, which number 2,000 to 4,000 men, dispersed in several camps along the Honduras-Nicaragua border, according to American officials. But Argentine assistance waned after disputes developed between American and Argentine advisers and after the United States supported Britain in its war with Argentina over the Falkland Islands, Administration officials said.

[From Time Magazine, Dec. 6, 1982]

FEARS OF WAR ALONG THE BORDER

(By James Kelly)

The rumors are everywhere: a whisper in a café here, a banner headline in a newspaper there. Throughout Nicaragua and Honduras, there is fearful talk of a war breaking out between the two neighbors. In Nicaragua, the Sandinista government has declared five provinces bordering Honduras "military emergency zones." The regime is advising citizens to stockpile rice and other foods, while the papers in the Nicaraguan capital of Managua are filled with stories about alleged CIA plots. In Honduras, airfields are being built close to the border and soldiers gather in bars in the capital city of Tegucigalpa to talk strategy. The mood was perhaps best captured by a priest during Mass at the Church of St. Nicholas of Tolentino in Managua. "Please, God," he intoned, "do not let an invasion happen."

Nicaragua's war jitters are being fueled by the country's increasingly edgy, leftist Sandinista regime. Managua, however, has received a boost from a U.S. covert operation that began modestly enough as an effort to cut off the arms flowing through Nicaragua to leftist guerrillas in El Salvador, but that now appears to have grown into an attempt to topple the Sandinista government. As a result, the border between Honduras and Nicaragua has suddenly become a tinderbox where a few skirmishes could easily erupt into a full-scale shooting war. Even if war does not break out, critics contend, not only have the U.S. activities strengthened the resolve of the Sandinistas in Managua but the operations now threaten to destabilize Honduras itself.

Though the Sandinistas overthrew Dictator Anastasio Somoza Debayle and seized control of Nicaragua in July 1979, it was not until Ronald Reagan took office in January 1981 that relations between the two countries seriously deteriorated. The Administration began charging that the Sandinistas, backed by Cuba and the Soviet Union were funneling arms to leftist guerrillas in El Salvador, often shipping the weapons across the southern heel of Honduras. In December 1981, Reagan gave the go-ahead for a series of covert operations to snip the supply line and intimidate the Sandinistas. Included were financial aid for opposition groups within Nicaragua and military assist-

ance to the various contras (counterrevolutionaries) who conduct raids into Nicaragua from bases in Honduras. For a "covert" operation, the U.S. effort was curiously, perhaps deliberately, open. News of Reagan's decision began to leak out in Washington last March. In Honduras, the American agents were easily spotted because of their jeans, plaid shirts and short haircuts.

Until the U.S. came along, the contras could hardly be considered a threat to Managua. In the years following Somoza's downfall, small bands of former National Guardsmen operated along the Honduran border, making hit-and-run attacks inside Nicaragua. The Somocistas, as they were known, were demoralized and poorly organized. The U.S. set about forcing the various factions to unite under a central command, while the CIA began recruiting students, farmers and other civilians to beef up the force. Then, early this year, the Fuerza Democrática Nicaragüense (F.D.N.) was established to serve as a respectable political front group for the contras. Though the Guardsmen supposedly do not hold leadership positions in the F.D.N., they do, in fact, run some military operations.

The exact extent of U.S. involvement with the contras remains unclear. One option paper presented by the CIA to the National Security Council in November 1981 projected expenditures of $19.95 million to support a 500-man force. It is unknown what was eventually approved, but the strength of the contras has grown impressively in recent months. A U.S. intelligence source in Honduras estimates that there are now about 200 CIA personnel in Honduras, four times as many as previously reported. Biweekly flights from Panama bring in rifles, machine guns, mortars and grenade launchers. The contras themselves have grown in number, from about 500 in 1980 to as many as 4,500 now. Until last month, they operated from ten camps set up on the Honduras side of the border. But after the Sandinistas pinpointed the bases, they were moved to other locations, usually just a few miles away.

The Sandinistas have helped the insurgency with their heavyhanded campaigns agains the Miskito Indians and campesinos (peasant farmers). Suspecting separatist sentiments among the country's 100,000 Miskitos, most of whom live in the northeast region, Managua ordered the Indian towns burned and the villagers interned, but the measures only drove more Miskitos over to the contras. The campesinos are disgruntled by the Sandinistas' attempts to force them into communal farming; as a result, many of the 1,500 F.D.N. troops operating in the north-central section of Nicaragua are peasant farmers. Once recruited, they undergo a five-week CIA training course in Honduras. The instruction emphasizes ambush maneuvers but also includes marksmanship, compass work and radio operations. The campesinos return to Nicaragua in groups of 40 (including both men and women) under the supervision of five former Guardsmen.

In addition, the Reagan Administration enlisted the aid of Argentina to act as a sort of bagman for the operation. U.S. funds first were sent to the Argentines, who in turn funneled them to the contras. Argentina also sent 200 military advisers to Honduras, but it reduced its contingent to a skeleton crew during the Falklands war last spring. Meanwhile, Washington established its own links with the Honduran military. Honduran soldiers were sent to training camps in Panama run by the U.S. Army's Southern Command Group (SOUTHCOM) and standard field equipment was provided.

But at some point, according to a U.S. intelligence source in Honduras, the U.S. started to lose its grip on the entire effort and its goals. The F.D.N., for one thing, is interested not just in intimidating the Sandinistas but in starting a real war against Nicaragua. "We will start to pick up the tempo before December," predicted an F.D.N. official. "We will be in Managua by spring."

War or no war, the operation has already had unfortunate side effects on Honduras' fragile democracy. After years of military rule, the Hondurans elected Roberto Suazo Córdova last January as their first civilian President since 1971. The troubles in neighboring countries have given Chief of the Armed Forces Gustavo Alvarez Martínez an excuse to extend his authority. He has won changes in the constitution that broaden his power, and is using the threat of a Sandinista invasion to bolster his military forces and consolidate his power within the country.

In spite of all its efforts, Washington, ironically enough, may be backing the wrong contras. "They are making the biggest possible mistake," observed a leading opposition figure of the Sandinistas in Managua. "The Nicaraguan people are first anti-Somocista, and only secondly anti-Communist." It is commonly believed that for the contras to succeed, a considerable number of Sandinista soldiers would have to enlist in the cause. One of the few men who could make that happen is Edén Pastora Gómez, 46, a popular hero of the Sandinista revolution who grew disenchanted with the revolution and fled Nicaragua in July 1981. Pastora has since surfaced in Costa Rica, and the CIA would apparently like to enlist his aid. But Pastora adamantly refuses to sign up. He shuns the F.D.N., which he sees simply as a front for the CIA and the Somocistas. Alvarez Martínez, for his part, wants nothing to do with the one-time Sandinista, whom he considers a Communist.

Meanwhile the fear of war remains. If there is a shooting war between the two countries, Honduras will be at a decided disadvantage against the larger and better equipped Nicaraguan army. In that case, the U.S. could be tempted to intervene more openly. For Washington, that prospect underscores the perils of becoming too deeply involved in the region's complex and volatile affairs.

[From the New York Times, Dec. 8, 1982]

THE WORST-KEPT SECRET WAR

When asked the other day if he could confirm a report in The Times that the C.I.A. is mobilizing a secret war against Nicaragua, President Reagan replied: "No, and I don't think The New York Times can." But the growing evidence of American involvement can't be shrugged off so blandly. There's nothing secret any more about the training of exile armies in Florida and the recurrent border raids into Nicaragua by insurgents claiming C.I.A. help; all this has been widely reported for months.

Whatever American agents may be doing to help Honduras prevent the use of its territory for arms smuggling to El Salvador, it seems beyond doubt that they are also engaged in some direct actions in Nicaragua. The manifest purpose is to threaten a frontal assault on the leftists Sandinist regime. Undeniably, some of the leaders of the insurgent force are Nicaraguans associated with the discredited Somoza dictatorship.

These are, to begin with, illegal activities. The Neutrality Act expressly forbids the raising of secret armies to unseat a regime that the United States recognizes as lawful. Flouting that law is no way to rally the hemisphere against meddling by Cuba and Nicaragua in other nations' conflicts.

Even if these secret armies were never meant to be used in a big way, they are a dangerous instrument of diplomacy. Give people with a political grudge a gun and they maneuver to fire it. If they do, they are impossible to disown. Even if they don't, they are extremely difficult to disband.

If the idea here was to use the threat of insurgency to win bargaining concessions from Nicaragua, the idea is bound to misfire. Such threats tend to confirm the darkest fears of suspicious adversaries and make them more truculent, not accommodating.

It is perfectly true that an acceptable doctrine of non-intervention has to be respected by all parties. If it were proven that Nicaragua is indeed violating the territory of Honduras to funnel weapons to El Salvador, some reprisal in kind might be justifiable. But the evidence suggest that it is Nicaraguan territory, not Honduran, that is being systematically violated.

A final justification for covert warfare might be a clear showing that truly vital American interests are at risk, and beyond the reach of diplomacy. No such showing has been made, either to the American people or to our Latin friends. To the contrary, President Betancur of Colombia, an independent-minded conservative, last week risked Mr. Reagan's displeasure by appealing for negotiations with both Nicaragua and Cuba.

That was a foretaste of how Latin America would react to unilateral United States interventions. Mr. Reagan, by way of polite reply, expressed his wish to see "the withdrawal of all—I repeat all—foreign military advisers in Central America."

Nicaragua contends that it is prepared to negotiate. A proper response would find Washington testing that claim, documenting its charges of Nicaragua's interference in other countries and persuading other Latin nations to join in condemning the import of Communist arms. The improper response is to deny the undeniable, in the false hope that the C.I.A. hand can somehow be hidden. That illusion should have died at the Bay of Pigs.

Mr. DODD. Mr. President, what does it all add up to? What do these and similar reports mean? Well, there does not seem to be much mystery about it—the administration, through the Defense Department and the intelligence community, is supporting if not sponsoring an "overt-covert" military operation in Central America. All in all, it adds up to "The Worst-Kept Secret War", as the New York Times labeled it in a very thoughtful editorial on December 8.

Mr. President, for a variety of reasons, U.S. involvement in "The Worst-Kept Secret War" provides additional evidence that, when it comes to Central America, this administration is hell-bent on pursuing the wrong policy at the wrong time in the wrong place:

It belies any fundamental understanding of the social, economic, and political forces at work in the region;

It signals our interest in promoting military solutions to political problems;

It identifies us with the status quo, if not reactionary, forces in the region;

It puts us at loggerheads with the major democracies in the region, namely Mexico, Venezuela, and Colombia;

It plays into the hands of Fidel Castro and his cohorts who, while they did not create the deplorable conditions in Central America, are fully prepared to take advantage of them; and

It evidences a complete disregard for binding treaty commitments which bar us from intervening in the internal affairs of the nations of this hemisphere.

Mr. President, let me put the administration's policy in political perspective.

To believe that U.S. support for paramilitary forces in Central America is sound policy is to believe that Tacho Somoza and his crowd were Jeffersonian Democrats who simply got a bum rap;

To believe that covert military operations in Central America make good sense is to believe that democracy is more a function of bullets than of ballots; and

To believe that military aid to right-wing insurgents provides a foundation for democratic rule in Central America is to believe that if you leave the airport lights on long enough, Amelia Earhart will return.

None of these is true. And no amount of wishful thinking, or of slick rhetoric, or of ideological commitment, or of under-the-table military assistance will make them true.

What is true is that when it comes to Central America, this administration has yet to untie its shoelaces;

What is true is that this administration is prepared to the last man to defend the military slum landlords of Central America, just as it is prepared to label those who stand up for human rights as dupes of an alien ideology; and

What is true is that when the cheering stops and the smoke clears, this administration's epitaph for Central America will read: "We had to destroy this region in order to save it."

Mr. President, the time has come to put a stop to this underhanded military adventurism—to call a halt to it—to say, "Enough is enough; no more." For this purpose I offer the amendment before us.

Simply put, this amendment lays out a straightforward policy position. I draw my colleagues' attention to the actual language of the amendment:

Congress hereby declares that no funds should be obligated or expended, directly or indirectly, after January 30, 1983 in support of irregular military forces or paramilitary groups operating in Central America.

Clearly, this provision is directed exclusively at the question of U.S. support for extra-legal military and security operations in the Central American nations. On the other hand, this provision would not—I repeat, would not—affect our normal, ongoing military assistance, training and sales programs, which are designed to aid and assist the regular, duly-authorized armed forces within the region. No, these programs are not at issue in the amendment I am offering.

Mr. President, the time has come for the Senate to face up to the issue of U.S. support for covert military operations in Central America. It is an issue of paramount importance and it deserves to be divorced from the ideological caste in which it has been placed.

If we cannot make this separation, if we cannot divorce the substance of the issue from its ideological bearings, then the issue itself will continue to be defined in terms of "One man's terrorist being another man's freedom fighter." And so today, the Reagan administration, because of its particular ideological moorings, has decided to aid and abet the remnants of the old Somoza national guard. But what about tomorrow? And what about the ideological underpinnings of future Presidents and future administrations? They may decide to provide covert military aid to a peasant militia in Brazil or to radicalized Christian Democrats in Chile.

In my view, Mr. President, it makes no sense to support either. Such support simply gets us embroiled in a local situation over which we have no control. Nor should we. Ultimately, the people of Nicaragua, or the people of Honduras—of El Salvador—Brazil or Chile must determine their own fate. The best we can do is set an example, a standard—and make sure that that example, that standard, faithfully embodies and reflects the traditions and values which our people and our country strive to uphold.

Support for extralegal military or security forces is not a part of our value system. And it should not be—it is a road to nowhere—it takes is into an ideological wasteland.

Mr. President, for these reasons I offer my amendment to put Congress on record as opposing U.S. support for paramilitary groups operating in Central America.

To sum up: Such support is contrary to our national interests; contrary to the values of our people and contrary to our normal governmental processes and procedures. It lays the groundwork for an unmitigated foreign policy disaster. Commonsense ought to tell us that gunboat diplomacy is no more popular in Central America today than it was at the turn of the century.

Mr. President, I hope my amendment will be adopted by a wide margin.

Mr. President, I would like to urge, if I may, that the proponents of the substitute come forward because I would like the opportunity to question them about a number of points that I think should be raised with regard to their substitute. I urge my colleagues to take a close look at both of these amendments, the one that I have offered and the one that will be offered as a substitute.

Mr. MOYNIHAN. Mr. President, it is my understanding that there is a time agreement in this matter which is not divided. My distinguished friend from Rhode Island (Mr. CHAFEE) is on the floor. He and I shall share the time in a collegial manner with the Senator from Connecticut (Mr. DODD).

Mr. President, may I ask, how much time has expired?

The PRESIDING OFFICER. Will the Senator be clear on whose time he is speaking?

Mr. MOYNIHAN. Mr. President, it is my understanding that there is no agreement on time sharing, but that we will simply share in a friendly manner.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. Mr. President, may I inquire how much time has expired of the 30 minutes?

The PRESIDING OFFICER. The Senator from Connecticut has 7 minutes and 50 seconds left.

Mr. MOYNIHAN. I thank the Chair.

UP AMENDMENT NO. 1542

Mr. MOYNIHAN. Mr. President, I send to the desk an amendment in the form of a substitute and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) for himself and Mr. CHAFEE, proposes an unprinted amendment numbered 1542 as a substitute to amendment numbered 1541.

The amendment of Mr. DODD is amended as follows:

Strike entire amendment and inset in lieu thereof the following:

"None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, for the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras."

Mr. MOYNIHAN. Mr. President, I shall speak briefly, then hope to hear from my colleague, the Senator from Rhode Island (Mr. CHAFEE).

The PRESIDING OFFICER. The Chair wants to correct a mistake he made on the time. The time is not

equally divided. There are 22 minutes now remaining as previously stated.

Mr. MOYNIHAN. I thank the Chair; that was my understanding.

Mr. President, may I ask my colleagues to hear me when I say that Senator CHAFEE and I are speaking for the Select Committee on Intelligence. I see another distinguished member of that body, the Senator from New Mexico (Mr. SCHMITT) is present, also. When Congress established the select committee in 1976, it was created to oversee and make studies of and to provide vigilant legislative oversight over the intelligence activities of the United States. This committee was properly designed to be bipartisan and to be select, in evidence of which you find me speaking on behalf of the committee as vice chairman. The rules, singular in this regard, provide that in the absence of the chairman, the vice chairman presides. I wish to report to this body two things.

First, in this Senator's judgment, our committee had provided vigilant oversight of U.S. activities in Central America as well as elsewhere and we have given, in confidential annexes and classified annexes to the appropriations bill under which the Central Intelligence Agency now operates, the most explicit instructions as to what it may and may not do in Central America.

Those instructions obtained, and, Mr. President, those instructions were repeated by the House at the behest of the chairman of the House select committee, our distinguished friend, Representative BOLAND, and language in the present resolution to that effect is before us.

It is the judgment of the select committee that that language is adequate and it is also our judgment, unhappily, that it is necessary to repeat it, but that it is sufficient to do that. The more generic proposals such as the one of the Senator from Connecticut, while one might not differ from their purpose, would not serve the objective of intelligence oversight and instruction in the present law.

I see the Senator from Rhode Island is on the floor. I welcome his further thoughts.

Mr. CHAFEE. I thank the Senator.

Mr. President, may we have order?

Mr. MOYNIHAN. May we have order, Mr. President? This is a matter of very gravest concern to this body.

The PRESIDING OFFICER. The Senate will suspend and give time for Senators to either be seated or to leave the Chamber.

The Senate will be cognizant of the request of the Senator from New York that the Senate is not in order and that this is a very important issue.

The Chair believes that the Senator from Rhode Island now wants to be recognized.

Mr. CHAFEE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The time situation is that the Senator from Connecticut has 18 minutes—

Mr. CHAFEE. It was a half-hour evenly divided, was it not?

The PRESIDING OFFICER. That is not the understanding of the Chair.

Mr. DODD. Will the Senator yield?

Mr. CHAFEE. I want to know what the time is. How much time do we have on this side?

The PRESIDING OFFICER. As the Chair was beginning to state, we have 18 minutes 49 seconds remaining.

Mr. CHAFEE. Are we not dividing this time evenly?

The PRESIDING OFFICER. It was not divided equally is the understanding of the Chair.

Mr. CHAFEE. This is a curious arrangement.

Mr. MOYNIHAN. We were just being accommodated.

Mr. CHAFEE. All right, Mr. President, if the Chair would be good enough to alert me at the end of 4 minutes, I would appreciate it.

The PRESIDING OFFICER. The Chair will do that.

Mr. CHAFEE. Mr. President, I think there are two factors to consider here: first, what is the proposal of the Dodd amendment?

The Dodd proposal says, "Congress hereby declares that no funds should be obligated or expended, directly or indirectly."

Mr. President, that is an extreme injunction to impose on the activities of the United States, directly or indirectly.

Now, I was not able to hear the presentation of the Senator from Connecticut, but in previous discussions he has indicated that this is only laudatory language, just language admonishing, that the language is just that the Congress declares and that no funds "should" rather than no funds "shall."

But, Mr. President, we do not pass language like this without having a severe impact on the activities of the United States. When we say no funds should be obligated or expended, directly or indirectly, in support of the irregular military forces operating in South America, that is in effect an injunction about any activities of the United States aiding or abetting or in support of irregular military forces or paramilitary forces.

Mr. President, I do not think we have ever had an injunction like this.

Mr. President, may we have some order in the Chamber?

Mr. MOYNIHAN. Mr. President, we must have order.

Mr. CHAFEE. I wish those Senators wanting to negotiate would negotiate elsewhere.

The PRESIDING OFFICER. The Chair will try to accomplish what the Senator from Rhode Island and New York request. The Chair tried once before. He evidently was not successful, so I think we should just stop until the necessary quiet is obtained, because it is a foreign policy issue and requires reliance upon the expertise of our colleagues who are on the Intelligence Committee.

Is the Senator from Rhode Island satisfied now?

Mr. CHAFEE. Yes. I appreciate the Chair's accommodation.

The PRESIDING OFFICER. The Senator from Rhode Island asked the Chair to remind him when he used up 4 minutes. The Senator still has about 2½ minutes remaining.

Mr. CHAFEE. Mr. President, a similar suggestion like this came up in the House of Representatives, and the chairman of the House Intelligence Committee, Congressman EDWARD BOLAND from Massachusetts came forward with a substitute, which is the substitute in effect which we have at the desk today.

What this says is that none of the funds provided in this act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities for the purpose of over throwing the Government of Nicaragua or for military exchange between Nicaragua and Honduras.

The Senator from Connecticut, I presume, is going to say, "Well, that is big enough to drive a truck through."

Mr. President, the question really before us is, is this body going to insert a complete prohibition of activities against this Nation? We are making no concession that activities are taking place anywhere, but are we going to tie the hands of the President? After all, it is the President who is at the top of the heap in this. And those of us on the Intelligence Committee do not believe that we should do so.

I do not believe we have ever imposed a draconian restriction such as proposed by the Senator from Connecticut in the past with "no activities, direct or indirect."

Mr. President, speaking also in behalf of the Intelligence Committee, which, as the distinguished Senator from New York indicated earlier, is a nonpartisan committee, we have a situation where, when the chairman, a Republican, of the committee cannot be present because of illness in Arizona, the vice chairman, a Democrat under the rules of the committee, which we all approve of, speaks for the committee. I am here speaking as the ranking Republican on that committee.

Mr. President, I rise in support of the substitute which the Senator from New York has, I presume, sent to the desk. This has the support of our com-

mittee and I believe takes care of the situation that concerns some Members of this body.

Mr. MOYNIHAN. Mr. President, may I be allowed 1 second to say the amendment at the desk is submitted by me on behalf of myself and the Senator from Rhode Island.

Mr. PELL addressed the Chair.

Mr. MOYNIHAN. Mr. President, I observe that the distinguished ranking member of the Committee on Foreign Relations desires 1 minute; our colleague from New Mexico desires 1 minute. I desire no more time until the Senator from Connecticut shall have had a chance for rebuttal.

Mr. DODD. Mr. President, is it my understanding that the substitute of the Senator from New York has at this juncture been reported at the desk?

Mr. MOYHIHAN. That is correct.

May I ask the Chair, is that not correct?

The PRESIDING OFFICER. The Senator from New York is correct.

Mr. MOYNIHAN. May I yield a minute to the Senator from Rhode Island and then a minute to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I thank my colleague from New York.

I strongly support the thrust of both amendments because I would certainly vote against the heinous activity of overthrowing governments. If I did not have to leave for family reasons, I would have voted for the Moynihan language because it is the strongest and more specific of the two proposals.

If it by any chance failed, I would most certainly have supported the amendment of the Senator from Connecticut of which I was a cosponsor.

Mr. MOYNIHAN. I thank the Senator from Rhode Island.

The PRESIDING OFFICER. Did not the Senator from New York yield to the Senator from New Mexico?

Mr. MOYNIHAN. One minute.

Mr. HELMS. Mr. President, will the Senator yield for that purpose?

Mr. SCHMITT. I am happy to yield.

Mr. President, we have a confusing set of circumstances here. We have two amendments double tracking, neither of which should be considered without adequate discussion, and the situation that has now developed is that any of us who want to point out that we are playing with fire with either one of them will not have a chance.

I hope we can divide this time so I can have at least 5 or 6 minutes to discuss the implications of both of these amendments.

The PRESIDING OFFICER. Is the Senator making a request that he gets 5 minutes of the time remaining?

Mr. HELMS. I am trying to get the Chair to tell me how both of us who question both amendments can have a say.

Now the ball is being bounced between the two amendments as it now stands, Mr. President, and we are playing with fire in foreign policy.

I happen to be chairman of the Western Hemisphere Affairs Subcommittee, and I know a little bit about the situation in Central and South America, and I think we should have a chance to express our opinion on both of these amendments and not play them off one against another.

The PRESIDING OFFICER. Is the Senator requesting time?

Mr. HELMS. I request that I have 7 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. RUDMAN. Mr. President, reserving the right to object, I cannot agree to that without talking to the distinguished chairman of the Appropriations Committee, which I will.

If the Senator sets his request aside, I will try to get information from him. My instructions from the chairman are that no time agreements entered into are to be modified without his consent.

Mr. HELMS. That is a fair proposition. I know the Senator to be fair. I thank him very much.

Mr. SCHMITT. Mr. President, before I speak on my time, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. Could we have the specific language of the time agreement read to the Senate that concerns this particular matter?

The PRESIDING OFFICER. If the Senator will withhold we can send for a transcript.

Mr. SCHMITT. Yes. I think there may be time on the substitute amendment. The waiting may allow for discussion on this. I have no idea.

Mr. PROXMIRE. Mr. President, I apologize to my good friend, if the Senator will yield for 1 minute for a procedural request.

Mr. SCHMITT. I am happy to yield.

Mr. PROXMIRE. Mr. President, Members told me they have to leave and they will object to any additional time on this amendment. It is an important amendment. They want to be here to vote. That is their privilege. They are going to object.

So there will be no further time allowed on this amendment.

Mr. SCHMITT. Mr. President, on my 1 minute, the Senate established the Intelligence Committee to act as its oversight arm relative to intelligence activities conducted by the United States and counterintelligence activities conducted by the United States.

It is extremely important that we recognize this committee for what it is, a bipartisan literally, as the Senator from Rhode Island has said, a nonpartisan shield.

Again, Mr. President, this bipartisan and indeed nonpartisan committee was established specifically to be a shield between the Intelligence Committee and abuses or misjudgments that might come from that community. It is really the only mechanism that I have been able to conceive of, and I am extremely proud of this body for having conceived of it long before I arrived here, the only mechanism by which a democracy, a representative democracy can have such a shield to protect itself and its people from abuses during activities that are counter to the basic principles of a democracy but activities that we must have in order to protect ourselves in this world.

So I hope this body not only on this matter but on other matters in the future will rely on the judgment of the Select Committee on Intelligence. We must do that. There really is no other way to handle this kind of a problem.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, may I inquire what time remains?

The PRESIDING OFFICER. Eleven minutes and nineteen seconds.

Mr. DODD. Eleven minutes?

The PRESIDING OFFICER. Eleven minutes and nineteen seconds.

Mr. DODD. I thank the Chair.

Mr. President, first of all, let me point out to my colleagues there is a substantial difference, as I noted, between what was offered in the other body by Mr. BOLAND of Massachusetts and what is being offered here.

I draw my colleagues' attention to an extremely important clause included in the House language that is not included in the Senate language.

The House language reads:

Or other support for military training.

The first part of its is exactly the same as the Senate substitute.

Or other support for military activities to any group or individual not part of a country's armed forces.

That clause is missing in the Senate language.

In effect, what we are doing with the Moynihan substitute is prohibiting any funds from going to the Honduran Army, for that matter, from the Department of Defense in this general area. That is far broader than anything I intended to do.

I am talking in my amendment specifically about paramilitary groups, insurgency groups, and this clause missing in this particular proposition I think makes it even more dangerous than what I had suggested at the outset.

I remind my colleagues it is a simple enough proposition. I am merely offer-

ing a sense-of-the-Senate resolution putting us on record in a very flexible way that says we do not belive that there should be funds expended in Central America to support counterinsurgency groups or paramilitary groups at this particular hour. It also allows, if the agencies or others come back or they want to make a case for it, for flexibility.

What is being proposed by the distinguished Senator from New York and the distinguished Senator from Rhode Island is more restrictive in one sense and yet it allows for that activity to go on virtually unchecked.

The Senator from New York has said in his amendment that we will not support or fund activities which would result in the overthrow of the Nicaraguan Government or promote a conflict between Nicaragua and Honduras.

I ask my distinguished colleague from New York or the distinguished Senator from Rhode Island, does support for groups who support and are actively involved in the overthrow of another government constitute a violation of the law should the Senator's amendment be adopted?

Mr. MOYHIHAN. I answer yes, and I take the further position and say that the reason the clause in the House amendment has been left out is that it could be read to interpret that we are free to provide funds to the government of the army of Honduras or name which country you will for the purpose of overthrowing the Government of Nicaragua, et cetera.

We deny any such rights.

Mr. DODD. I would not object to the unanimous-consent request to modify the Senate substitute to include that operative paragraph. That was included in the House language.

Mr. MOYNIHAN. I might say my friend misunderstood me. If he would read it carefully it suggests it is all right to give it to the army but not to irregular forces. We deny either.

Mr. RUDMAN. Mr. President, if the Senator from New York will withhold for 1 minute, I ask unanimous consent that the Chair not charge this time against this amendment or against the floor managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, the problem with time has now arisen. There is an objection being lodged against the granting of some additional time to accommodate the request of the Senator from North Carolina. Presently there is something in the vicinity of 8 minutes remaining under this time agreement. The Senator from North Carolina has requested he have at least a few moments to speak.

I wonder if we might accommodate him since there is some confusion as to how this time agreement is presently being allocated.

Mr. DODD. Mr. President, I certainly do not object to asking for it. I will yield to him or others for a period of time. We all wish to be able to explain our proposition here. I wish to have several days to discuss this, quite frankly, and I wish there were another vehicle to do it on; 30 minutes is hardly enough time to discuss all of this.

Mr. RUDMAN. Mr. President, I am going to ask unanimous consent that we extend 5 minutes to this time agreement.

Mr. PELL. Mr. President, I must object specifically to extension of time to this time agreement.

Mr. MOYNIHAN. Mr. President, I will tell the manager that we are happy to yield 2 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator will be in order.

Mr. MOYNIHAN. There is little time remaining.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Hampshire has the floor.

Mr. RUDMAN. Mr. President, I made my request, there has been objection. I understand the sponsors of the amendment are willing to yield 2 minutes to the Senator from North Carolina, and I will let him speak for himself, and again until we settle this, this should not be charged against this amendment.

The PRESIDING OFFICER (Mr. SYMMS). Without objection, it is so ordered.

Mr. HELMS. Mr. President, am I to understand I am to be granted 2 minutes out of 30 to oppose the amendment?

Mr. MOYNIHAN. Mr. President, we must have order. We have to hear the Senator from North Carolina, it is so important and so abbreviated.

Mr. HELMS. I do not know whether it is important, but it is important to me, and I thank the Senator from New York.

Let me tell Senators they had better not consider these amendments as just a roll-through because we are playing with fire. We are about to lose Latin America.

I know the Senate would like to detach itself from this question, have nothing to do with it, and make it long ago and far away in Nicaragua, in Honduras, Costa Rica, Guatemala, and all the rest. But we have been debating this matter in the Foreign Relations Committee for months, and for us to now undertake to adopt a foreign policy matter on this continuing resolution is playing with fire.

We are about to lose to the Marxists the entire length and breadth of South America. To tie the hands of the intelligence forces, and to tie the hands of the administration, when the administration is trying to work this thing out is utter folly.

Now, Senators may do what they wish, but I warn you, you will rue the day when you start enacting foreign policy decisions into a continuing resolution.

So, Mr. President, I reiterate my opposition to the proposed amendment. Of course, many of our colleagues sympathize with any Senator who wants to keep the United States as far away from the tumult in Central America as possible; but there is far more to this matter than the immediate conflict in that region, and we cannot consider this matter today without allowing the discussion of some pertinent points.

First of all, Mr. President, the Sandinista government of Nicaragua is patently, de facto, committed to anti democratic principles. In fact, on many occasions, their leaders brag about their affection for Marxism-Leninism, and they practice very well the systematic terror and control which characterize such totalitarian regimes; they practice it at home, with block committees, persecution of the church, forced separation of family members, and wholesale forced marches of whole populations from their traditional homelands; abroad they perpetrate all manner of encouragement and supply of guerrilla movements throughout Central America, all ordained to overthrow democratic regimes whose combined defenses do not amount to the number of men under arms in Nicaragua.

Second, Mr. President, the Sandinista government is collapsing of its own weight. Once the heir of a revolution which promised democracy in Nicaragua, the Sandinistas now will have nothing of elections, and are constantly fighting any group on record in favor of basic human rights—free speech, free exercise of religion, democratic processes, and so on. And the people of Nicaragua, far from happy with the situation, are, as one would expect, anxious to find another path to the freedom and democracy which their revolution sought 3 years ago. In fact, Mr. President, the Sandinista government is an illegitimate government; it came to power by force of arms, and maintains its power by brute force. It is the Nicaraguan people, Mr. President, who want to restore legitimacy to the Government of Nicaragua.

Now, Mr. President, I want to ask a question: If we—the United States—are supportive in any way to the forces of freedom in Nicaragua—if we provide information, moral support, encouragement and cooperation and the like, to the groups seeking legitimate institutions within Nicaragua—could this not be interpreted by eneimies of freedom in that country as aiding the

overthrow of the Sandinista government? I am specifically mindful of President Reagan's speech in London on June 8 of this year, where he called for the establishment of democratic and free regimes throughout the world, including those behind the iron curtain—where Nicaragua is quickly becoming an unwilling addition. Does President Reagan, in calling for democracy in Nicaragua, help to overthrow its antidemocratic, totalitarian regime? Personally, I hope that the United States will always stand for freedom, how attractive the cause that would thwart it.

Mr. President, I think it is clear that the President needs no admonition on how much to spend on what dimensions of the ongoing struggle for freedom and democratic institutions in Central America. He certainly needs no moralistic pronouncement like that before us today, which will do nothing but serve the friends of the Sandinistas as they continue to trumpet their disinformation and vituperative propaganda against the United States around the world.

The United States does not, and should not, try to overthrow the Sandinista government, in my judgment, unless the Sandinista government proves irreconcilably and belligerently devoted to the destruction of the peace, harmony, and freedom of all the countries in Central Ameria, a goal which is central to U.S. interests in the region. Perhaps the Sandinistas have already passed the point of no return—sometimes they seem determined to make us think so, in any case. But, in the last analysis, it is President Reagan who is responsible for the conduct of our foreign policy, and he should be free to exercise that direction by all the means normally open to the Chief Executive, especially in such a tense situation as that in Central America, where so many interests of the United States and all the countries who love freedom in this hemisphere are at stake.

I do not know whether I used up that grand 2 minutes or not, but that is my message.

Mr. DODD. Mr. President, let me say what I said at the outset. I wish you did not have to deal with it on this particular vehicle, but we do not have another vehicle before us.

I would say to my friend from North Carolina that in one sense I agree with him. I think failure to adopt language and make it clear to certain elements of this Government that we are not going to tolerate the kind of behavior of conducting a secret war in this hemisphere would be disastrous. I would join with the Senator in saying that we will lose this war to the Marxists if we proceed on the course we are pursuing, if we conduct and encourage a war in Central America. This body had better take a stand, if we find the stories that they are telling us, are true.

In that event we are the ones who are encouraging and goading the elements into it. We are going to be right back here in months deciding whether or not to back up our initial actions, and I will tell you we had better know what we are doing there in terms of supporting or encouraging guerrillas as counterinsurgency forces. We are supplying them, we are encouraging them to destabilize and to overthrow a government. After they do that, do you know what we will do? We will leave them there and we will find other countries coming into Nicaragua and attacking them. We will then sit back and say, "We do not know what you are talking about," and you will have Marxist governments in Central America, mark my word. This could be a second Gulf of Tonkin resolution if we do not put a stop to it now.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. HELMS. Yes; mark my words. Let me hark back to the delivery of $75 million of American money to the Sandinistas that propped them up. They were on their last legs, and I think the Senator knows that, and there was an effort made to gird them up and help them so that they could move over into Honduras and do their dirty work, along with Castro in Cuba.

I say we are playing with fire if we adopt either of these amendments.

Mr. DODD. Mr. President, does the Senator from North Carolina believe it is in our interest to support the Somoza counterinsurgency forces on the Honduran borders? Does the Senator think we ought to do that?

Mr. HELMS. Will the Senator repeat that, will you repeat that question?

Mr. DODD. Does the Senator from North Carolina believe we ought to financially back, train, and advise the Somozista forces on the Honduran border?

Mr. HELMS. The Senator from North Carolina is simply saying do not try to tie the hands of those who are trying to keep——

Mr. DODD. That was not my question. Does the Senator from North Carolina think we ought to be doing that?

Mr. HELMS. I think the Senator from Connecticut and the Senator from New York ought to let the Intelligence and Foreign Relations Committees try to deal with this sensitive subject, and not try to pass it on the floor at this crucial time when it cannot possibly be given adequate consideration.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, so that there will be no confusion, the substitute which has been sent to the desk by the Senator from New York on behalf of himself and the Senator from Rhode Island has the support of the administration. Second, this is the same resolution, with even a tighter provision in it, that was adopted by the House by 411 to 0, the so-called Boland language.

So I do hope when the vote comes and the procedure, if I understand it correctly, Mr. President, will be that the first vote will be upon the substitute, and I urge my colleagues to vote aye on the substitute and then, Mr. President, parliamentary inquiry, just to see if I have this correct, the first rollcall, vote will be on the Moynihan-Chafee substitute; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. The vote will be yea or nay. If the yeas prevail then the next thing that will come up will be a vote on the total amendment which, in effect, will be another vote on the Moynihan-Chafee substitute?

The PRESIDING OFFICER. The Senator is correct.

The PRESIDING OFFICER. It will be on the Dodd amendment, as amended.

Mr. DODD. Mr. President, what time remains?

The PRESIDING OFFICER. Three minutes.

Mr. DODD. Mr. President, let me just——

Mr. DENTON. A parliamentary inquiry, Mr. President. I would request a response as to what the time agreement was by which the Senator from Connecticut propounds an amendment for which the Senator from North Carolina spoke to for about 2 minutes in rebuttal and the rest of the time has been given to propounding of an amendment to that amendment by the Senators from New York and Rhode Island? I do not understand how there is any equality or proportionality with respect to the kind of issue being discussed here. It seems that although the administration may support one view there are points of view here positive and negative. There is no proportionality to the representation being given by the procedure.

The PRESIDING OFFICER. There originally was an order for 30 minutes equally divided. After the amendments were offered then there was an order that the time be abrogated and no provisions remained for divided time.

Mr. DENTON. May I suggest to the floor manager that perhaps some other more altruistic and useful unanimous-consent agreement can be obtained.

Mr. RUDMAN. Mr. President, will the Senate be in order? We cannot hear the Senator from Alabama.

The PRESIDING OFFICER. Will all Senators please suspend. Can we have order in the Chamber? Will all those Members of the staff in the back

please suspend conversations. All Senators will remain quiet so we may hear the floor managers and the Senator from Alabama. The Senator from Connecticut has the floor.

Mr. RUDMAN. I want to respond to the Senator from Alabama as the acting floor manager. Let me point out what occurred here was that amendments were proposed by the Senator from Connecticut which was opposed by the Senator from New York, the acting chairman of the Intelligence Committee, and joined in by the ranking Republican, the Senator from Rhode Island. They opposed that, and had a substitute, and thus when the time agreement was made it was divided essentially between those two parties, who then among themselves decided to aggregate their time. That may be unusual but it was probably reasonable under the circumstances.

Mr. PELL. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order is a half-minute remaining to the Senator from Connecticut.

Mr. DODD. Thank you. This happened last night when we were working out the unanimous-consent agreement time allocations. Objection was raised when an extension of the time allotted to my amendment was suggested. We then tried to work out some agreement between the respective sides here, and it was finally understood that there would be 30 minutes for both amendments and we tried to equally divide the time which we have done fairly well.

Let me finally say in support of my amendment, I am not here this morning or this afternoon to support the Sandinistas or other groups or the Hondurans, for that matter, or the groups residing in their country at this time.

What I am concerned about is our foreign policy, and all I am suggesting by this amendment is that we have a better understanding of what we are starting. If we do not have a sense of what we are doing when we start, we inevitably run into the problem of how we deal with events as they overtake us.

All I am concerned about here is I believe, based on information I have outside of the intelligence community, that we are encouraging certain paramilitary groups operating in Central America, particularly on the border of Honduras, to conduct certain forays into Nicaragua to overthrow that government. That is what they want to do.

Whether or not that is our intention is irrelevant at this point. We are supplying and supporting those elements and they are provoking a conflict.

All I am suggesting here is, if that happens, if, in fact, the conflict develops, are we then prepared to follow up with what we have started?

The PRESIDING OFFICER. All time has expired.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I move to table the underlying amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina (Mr. HELMS) to table the amendment of the Senator from Connecticut (Mr. DODD). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 56, nays 38—as follows:

[Rollcall Vote No. 445 Leg.]

YEAS—56

Abdnor	Ford	McClure
Andrews	Garn	Murkowski
Armstrong	Grassley	Nickles
Baker	Hatch	Nunn
Bentsen	Hatfield	Packwood
Boren	Hawkins	Percy
Byrd, Harry F., Jr.	Hayakawa	Pryor
Chiles	Heflin	Quayle
Cochran	Helms	Roth
Cohen	Hollings	Rudman
D'Amato	Huddleston	Schmitt
Danforth	Humphrey	Stennis
DeConcini	Jepsen	Stevens
Denton	Johnston	Symms
Dole	Kasten	Thurmond
Domenici	Laxalt	Tower
East	Long	Wallop
Exon	Lugar	Warner
	Mattingly	Zorinsky

NAYS—38

Baucus	Glenn	Pell
Biden	Gorton	Pressler
Boschwitz	Hart	Proxmire
Bradley	Inouye	Randolph
Bumpers	Kassebaum	Riegle
Burdick	Leahy	Sarbanes
Byrd, Robert C.	Levin	Sasser
Cannon	Mathias	Simpson
Chafee	Matsunaga	Specter
Dixon	Melcher	Stafford
Dodd	Metzenbaum	Tsongas
Durenberger	Mitchell	Weicker
Eagleton	Moynihan	

NOT VOTING—6

Brady	Goldwater	Jackson
Cranston	Heinz	Kennedy

So the motion to lay on the table (UP amendment No. 1541) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Will the Senate please be in order?

Mr. HATFIELD. Mr. President, when we began debate on this measure, I asked unanimous consent that an explanatory statement in lieu of a report be printed in the RECORD. For some reason, this was not done. This statement includes all our guidance and direction to agencies with the full force and effect of that usually included in the form of a formal written report.

It is most important, therefore, that this statement be printed in the RECORD.

I ask unanimous consent that the statement of the floor managers be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT OF THE RECOMMENDATIONS OF THE COMMITTEE ON APPROPRIATIONS ON H.J. RES. 631, MAKING FURTHER CONTINUING APPROPRIATIONS AND PROVIDING FOR PRODUCTIVE EMPLOYMENT FOR THE FISCAL YEAR 1983

The Committee on Appropriations, to which was referred the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes, reports the same to the Senate with various amendments and presents herewith a statement in explanation of the changes recommended, in lieu of a written report.

INTRODUCTION

The recommended joint resolution provides for further continuing appropriations for programs and activities which otherwise would be funded in 10 regular appropriations bills. Of these 10, 3 have already completed conference committee consideration and, when enacted into law, will drop from the coverage of this measure. It appears unlikely that the seven remaining bills will be passed in this session and will consequently die upon sine die adjournment of the Congress. Enacting any of these seven bills in the next Congress will require the complete reintroduction and reconsideration of each measure in the midst of consideration of the budget for fiscal year 1984. The Committee notes that in the past 15 years, only one appropriations bill has been passed by a succeeding Congress under similar circumstances and that the likelihood of further action on the regular appropriations bills for fiscal year 1983 is very remote. The Committee, therefore, recommends that the continuing resolution be extended from the termination date of March 15, as recom-

mended by the House, to the end of the fiscal year.

Inability to enact appropriations bills on a timely basis

The continuing resolution is a device employed to provide funding for agencies and programs for which regular appropriations bills have not been enacted on a timely basis. Before fiscal year 1979, continuing resolutions were used almost exclusively as a short-term, stop-gap funding measure. Only rarely were programs covered by this measure for a full fiscal year. However, in recent years, an increasing number of regular appropriations bills have failed to be enacted. Furthermore, since fiscal year 1977, when all 13 regular appropriations bills were last enacted prior to the start of the new fiscal year, Congress' track record in timely enactment of appropriations bills has steadily deteriorated. In fact, no regular appropriations bill for fiscal year 1982 was enacted by the start of that fiscal year.

The Committee deplores this trend and has implemented novel strategies and procedures to expedite consideration of appropriations bills, including concurrent House and Senate Committee consideration of bills despite the tradition of House initiation of appropriations bills. Despite these actions, only one of the fiscal year 1983 regular appropriations bills was signed into law prior to the start of the fiscal year.

There are numerous factors which contribute to the delays in considerations and enactment of regular appropriations bills. One of the most significant of these is the increasing budgetary constraints imposed on discretionary, domestic, and nondefense activities. As these constraints preclude even maintaining ongoing Federal commitments and responsibilities, decisions on adjusting priorities, as well as addressing new issues and problems, become all the more divisive and difficult. The resulting controversy necessarily prolongs the consideration of appropriations measures.

Contributing to the delays is the lengthening period in which it takes Congress to adopt the first concurrent budget resolution, an action which, under current House and Senate rules of procedure, is a prerequisite to consideration of any spending measures, including appropriations bills. For the first 4 years under the Congressional Budget Act, the budget resolution was adopted by the stipulated May 15 deadline. Since then, Congress has failed to do so, and in this session consumed more than 5 extra weeks to complete its consideration of the First Concurrent Budget Resolution for Fiscal Year 1983. This left Congress in the curious position of consuming 50 percent more legislative days in adopting a general budgetary plan than is left, prior to the start of the fiscal year, for implementing such a plan.

This disproportionate allocation of limited congressional time becomes even more inappropriate in light of how poorly the first budget resolutions have actually served as workable budget plans. Almost invariably, the economic assumptions underlying recent budget resolutions have proven to be overly optimistic. This and other unrealistic program assumptions quickly make necessary adjustments in the budget resolution. This is evident in the fact that it has become commonly accepted that not only a second budget resolution be adopted in the fall, but that a third, making still further revisions, must be adopted in the spring. When Congress fails to make such revisions, as has been the case this year, the estimating errors contained in the previous budget resolution becoming increasingly obvious. Congress is now in a position where any spending measure, including all the remaining appropriations bills, are subject to a point of order on both the House and Senate floors, even though they are within the spending allocations of the budget resolution. This is because the total outlay estimate under the budget resolution has already been breached.

Beyond the procedural impediments of the Congressional budget process is still another serious and growing obstruction to the timely enactment of appropriations bills—this is the wide acceptance of the use of appropriations bills as a vehicle for legislative "riders." The inability of the normal authorizing and legislative process to provide an adequate forum in which to address these issues has led to increasing pressure on appropriations measures which must be enacted on a regular basis.

The subjects of these legislative riders range from the divisive issue of abortion to the regulation of used car sales, and now include almost every major concern facing the Congress. This whole panoply of issues is also accompanied by less mundane but equally, and sometimes even more blatant, attempts by legislation on appropriations bills. The Committee has become such an accepted forum for nonappropriations business that it now must confront attempts to modify and revise legislative provisions which were previously enacted in appropriations bills.

The growing interest in using appropriations bills as vehicles for legislation only detracts from the primary responsibility of this Committee—to provide funds for the necessary operations of the Government. Not only must the Committee grapple with issues and provisions outside its area of expertise, it must frequently endure the prolonged debate and consideration surrounding controversial issues.

The Committee believes that it is imperative that these obstacles to the timely enactment of appropriations bills be addressed by the Congress. Unless effective measures are taken to correct these problems, only further delays in the consideration and adoption of appropriations bills can be expected in the future. Such delays are the reason that continuing resolutions are necessary, despite the inefficiencies they engender in the management and operation of Government programs.

Summary of the Joint Resolution

The recommended joint resolution contains two titles. Title I includes the provisions of the continuing resolution and levels of funding for the maintenance of programs for which regular appropriations bills have yet to be enacted as well as necessary adjustments in other programs. Title II comprises the additional funding needed to initiate a productive job stimulus program on a comprehensive basis through existing Federal programs.

(1) Programs and activities under the Treasury, Postal Service appropriations bills are continued at the lower of the House or Senate rate. (sec. 101(a)).

(2) Programs and activities, under the Foreign Assistance appropriations bills are continued at the level provided in the fiscal year 1982 Appropriations Act level with certain adjustments to conform it to that which was recommended in the Senate reported version of the bill for fiscal year 1983. (sec. 101(b)).

(3) Programs and activities under the Commerce, State, Justice, the Department of Defense, and the Labor-Health and Human Services-Education appropriations bills are continued at the level recommended in the Senate reported versions of these bills for fiscal year 1983 with certain adjustments. (sec. 101 (c), (d), and (e)).

(4) Activities under the Energy and Water Development Act are continued at the current rate. (sec. 101(f)).

(5) Adjustments are made for programs funded in the Housing and Urban Development Appropriations Act which has already been signed into law. (sec. 101(g)).

(6) Activities, programs, and projects under the Interior appropriations bills are continued at the level recommended in the Senate reported version of the fiscal year 1983 appropriations bill. (sec. 101(h)).

(7) Programs and activities under the Agriculture and Related Agencies, the District of Columbia, and the Transportation appropriations bills are continued at the rate established in the conference agreement on those measures, as if these measures had been enacted into law. (sec. 101 (i), (j), and (k)).

TITLE I—FOREIGN OPERATIONS

Section 101(b) of this joint resolution provides for the funding of programs and activities contained in the Foreign Assistance appropriations legislation. The Committee is recommending that these programs for foreign assistance be at the rate contained in the fiscal year 1982 Foreign Assistance Appropriations Act, except for changes which were recommended in S. 3075, as reported by the Committee on December 2, 1982.

The Committee has already made a report on these recommendations, which the Committee incorporates here by reference, as found in S. Rept. 97-672. The overall recommendations for funding of foreign assistance programs is below the budget authority which was enacted in fiscal year 1982 by nearly $500,000,000. Funding under this subsection is included for programs such as the World Bank; UNICEF; the Agency for International Development functional programs; military assistance programs for Egypt, Israel, Spain, Portugal, Turkey, Greece, and the Philippines; and the Peace Corps.

The Committee has on several occasions in the past expressed its concern over certain United Nations programs. It has been brought to the attention of the Committee that the United Nations Council for Namibia, in its budget for 1982-83, budgeted more than 64 percent on travel. These funds, needless to say, could be spend on much more productive activities. For example, at an average cost of $10,000 per year each, nearly 200 young people could be educated at the finest universities in the world.

It is this type of activity by United Nations funded organizations which the Committee believes has turned a substantial number of Americans away from the United Nations. More must be done by the United States, including especially the withholding of funds, to make sure this type of activity by the United Nations organizations does not continue.

The House of Representatives, in action taken on the floor, added a provision which appears to have significant policy implications for the operation of the Agency for International Development.

The provision entitled, "Targeting Assistance for Those Living in Absolute Poverty," evidently directs the Agency for Interna-

tional Development to use not less than 40 percent of the funds available in fiscal year 1983 and not less than 50 percent in fiscal year 1984 for aid which "directly benefit(s) those living in absolute poverty (as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association." This is the first instance the Committee has been made aware of this suggested policy, and is not in a position to recommend on the basis of merit that this new policy be either accepted or rejected. What little information the Committee has been able to gather at the last minute indicates that the matter is of substantial controversy, and, therefore, at this time, the Committee would recommend against including this House-added provision. The Committee makes this recommendation without prejudice, and also on the basis that as purely policy, it should be considered in connection with the authorization legislation and not appropriations.

DEPARTMENT OF DEFENSE

The Committee recommends a revision of the House provision on the Department of Defense appropriation bills to continue such activities at a level as recommended by the Committee in the Senate reported version of that bill.

The Committee has included a provision in section 101(c) of the resolution prohibiting the obligation or expenditure of funds available to the Department of Defense for the procurement of the MX missile until Congress adopts a concurrent resolution approving a permanent basing mode. The provision is not intended to impede or delay research and development efforts on the missile or any basing plan.

The Committee is concerned that in agreeing to close the U.S. Public Health Service hospitals and clinics and in removing the entitlement of free health care for our Nation's U.S. merchant seamen, Congress may have precipitously jeopardized the morale of the maritime service. American merchant seamen have been entitled to this important care since 1798, and it is the Committee's understanding that all other categories of former recipients, such as Coast Guard personnel, have now been provided comparable coverage under other Federal health programs. Accordingly, the Committee directs the Department of Defense to review this matter and provide a report on the feasibility of providing these individuals with health care within the Department's ongoing programs, such as CHAMPUS.

The Committee expects the Air Force to expeditiously execute a firm fixed-price contract for 50 C-5B aircraft, subject to the annual availability of funds. The recommended provision does not constitute approval to enter into a multiyear contract without the specific authority required by section 768 of the Senate-reported Defense appropriations bill.

COMMERCE, JUSTICE, STATE, THE JUDICIARY

For the Departments and agencies funded under the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriation Act, the continuing resolution provides funding at a rate for operations and to the extent and in the manner provided in S 2956, as reported to the Senate on September 24, 1982 (S. Rept. 97-584). Due to the passage of time since consideration of this legislation, the Committee has found it necessary to include in the continuing resolution some changes from the earlier Committee action. The most significant of these changes is the recommendation to provde $153,190,000 in additional funds for various units within the Department of Justice. Thus, the Committee recommends funds for activities for which amendments were submitted by the administration on November 30, 1982, including $127,500,000 for a new appropriation entitled Interagency Law Enforcement, Organized Crime Drug Enforcement." These funds will provide resources for 12 regional task forces, operating under the direction of the Attorney General, to combat organized criminal activity in drug trafficking. The Committee recommendation does not include $2,500,000 requested for the operations of a proposed commission to study organized crime. The Committee understands that the Department has made no final or irrevocable decision regarding the selection of the "core cities" for the regional task forces to be established under this account. The location of these regional headquarters will inevitably have an impact not only on the actual allocation of the additional resources made available, but more importantly, on the interstate and interagency cooperation upon which the success of the program will hinge. The Committee is especially concerned about the designation of the core city for the Southwest Regional Task Force. The Department's preliminary plans would put their regional headquarters in California, including San Diego, which would be the core city for the Southwestern Region. The Committee believes that the Phoenix region has a similarly strategic location insofar as drug trafficking is concerned. The Committee expects the Department to make a careful and continuing review of Phoenix and other possible sites as alternatives to San Diego and to consult with the Committee on an ongoing basis in this connection.

The Committee is concerned that insufficient funds are made available to the DEA offices in land-border States for the purchase of information and evidence. For instance, in fiscal year 1982 only $2,000 was available for such purposes in the State of Vermont in spite of the great amount of illegal drugs entering that State. The Committee directs that DEA allocate a minimum of $10,000 to each land-border State for the purchase of information and evidence and expects such funds to be made available unless DEA notifies the Committee of the reasons why efficient drug law enforcement would be impaired by such minimum allocation.

Other changes in the recommendation for the Department of Justice include an additional $18,351,000 for the Federal Bureau of Investigation, of which $12,115,000 is for voice privacy equipment and $4,161,000 is for technical field support associated with its increased responsibilities in narcotics investigations; and $2,075,000 in order that the Bureau may proceed with automation of the Fingerprint Identification Division.

The Committee also recommends an additional $3,550,000 for "Support of United States Prisoners"; an additional $975,000 for the "Drug Enforcement Administration"; and an additional $300,000 for "Fees and Expenses of Witnesses" to cover increased expenses associated with the South Florida Task Force. In the "General Administration" account, the Committee recommends an increase of $8,312,000. This amendment provides for the transfer of the judicial review function from the Immigration and Naturalization Service to the Board of Immigrations Appeals to form a new organization, the Executive Office for Immigration Review. Of the amount provided, $5,798,000 is transferred from INS. The continuing resolution contains an offsetting reduction reflecting this transfer. The remaining $2,514,000 in budget authority provides additional support positions requested by the administration.

For the Department of Commerce, Bureau of the Census, "Periodic Censuses and Programs," $93,744,000 is provided. The Committee allowance includes $150,000 which, together with $50,000 from non-Federal sources, will fund a new monthly apparel survey.

The Committee has also provided up to $20,000,000 in guaranteed loan authority for the Economic Development Administration to continue its steel loan program. In 1982 the Committee provided $30,000,000 in direct loan authority to the Economic Development Administration. Approximately half of these funds were obligated through fiscal year 1982, and the Committee directs that the balance be obligated in fiscal year 1983.

The continuing resolution includes $166,426,000 for the "Operations and Administration" account of the International Trade Administration. The $3,000,000 above the amount provided under S. 2956 is necessary to begin research and engineering in preparation for U.S. participation in a 1985 International Trade Fair in Beijing, China. The Committee directs the Secretary of Commerce to report by June 1, 1983, on the progress of preparations for this trade fair.

The Committee has included an additional $500,000 for "Salaries and Expenses," United States Travel and Tourism Administration, which shall be used solely to provide financial assistance to the State of Hawaii. The $500,000 will provide a substantial travel marketing and promotion effort to reverse the adverse effect of the recent hurricane on Hawaii's major industry—tourism.

Language in the continuing resolution clarifies that of the funds provided for science and technical research, $475,000 shall be for robotics research and $700,000 shall be for work in metals processing. The continuing resolution also provides that of the funds provided to the National Telecommunications and Information Administration for fiscal year 1983, $502,911 shall be derived by transfer from prior year unobligated balances in the appropriation entitled "Public telecommunications facilities planning and construction." Recent GAO communications to the Committee indicate that these unobligated balances are unlikely to be expended due to an ambiguity in the authorizing statute.

A proviso has been included in the continuing resolution which bars the use of appropriated funds to sell any loans in the Economic Development Administration portfolio to private interests except with the consent of the borrower. The recent EDA experience with the sale of assets should be closely studied by the Congress prior to any further sales.

Recent information from SBA indicates that the direct cost of disaster loan making activities is higher than anticipated and that an additional $5,000,000 would more accurately reflect this. Therefore, the transfer from the disaster loan fund is increased to

$31,600,000. This makes available $5,000,000 in funds under the "Salaries and Expenses" appropriation, which the Committee directs be used to implement the veterans programs authorized by Public Law 93-237, as interpreted by section 116.3, title 13, U.S. Code of Federal Regulations. The Committee also directs the Small Business Administration to report within 60 days on its implementation plans to the relevant committees in each House of Congress.

Language is also included in the continuing resolution clarifying that the Commission on Wartime Relocation and Internment of Civilians shall submit its findings to Congress by June 30, 1983.

The Committee believes that further clarification of its action on the Federal Trade Commission appropriation may be necessary. The amount recommended by the Committee in S. 2956, $63,638,000, is $2,800,000 more than the budget estimate. The Committee also denied $800,000 requested in increased GSA rental payments in fiscal year 1983; but left these funds available for the purpose of offsetting proposed personnel reductions, the majority of which are associated with the closure of four regional offices. It is the Committee's intent that the $3,600,000 available shall be applied to maintaining the regional offices in Boston, Seattle, and Los Angeles. To the extent that additional funds may be required, the Committee directs that funds be reprogramed from headquarters to the regional offices.

The Committee recommendation also includes a provision requiring the Legal Services Corporation to issue grants in fiscal year 1983 to grantees or contractors funded in 1982 on the same proportionate basis as the grantees received in 1982. This provision is to take effect notwithstanding any regulation currently in effect and grants issued shall be valid until reexamined under existing statute by a duly confirmed board of directors.

The Committee directs the Department of State to avoid any action which has the effect of eliminating or prohibiting nonstop commercial air service between New Orleans and London.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

For activities under the Labor, Health and Human Services, Education and Related Agencies bill, the House provided appropriations levels and authority assuming that H.R. 7205, as passed in the House, was enacted into law. The Senate Appropriations Committee recommends, instead, the levels provided in the Senate version of H.R. 7205 as if that measure, as reported to the Senate, were enacted into law. The recommended amendment will allow the Senate and the House to meet in conference in the context of the continuing resolution and agree on appropriate funding levels and program direction for the vital programs under the Committee's jurisdiction.

The Committee action also recommends deletion of the House bill language which directs that programs in the Labor-HHS-Education measure be administered "to the extent and in the manner provided for in House report 97-894".

Carl Albert Center

The Committee recommends that no funds be appropriated for the Carl Albert Center at the University of Oklahoma and recommends deletion of the provision for this in the resolution. The House had recommended a level of $3,000,000 for the center although there is no authorization or budget request. The Committee recommendation is consistent with its action on H.R. 7205. The Committee also has included technical bill language which deletes from H.R. 7205, the reference to H.R. 3598, which would have authorized the Carl Albert Center, if enacted.

Refugee assistance

The Committee recommends deletion of the House provision for Refugee Assistance and has substituted language which allows the program to continue at the current rate of $670,670,000.

The Committee recommends a rate of $120,000,000 for Social Services and Targeted Assistance to areas severely impacted by refugee populations, $85,000,000 of which is for Social Services. The amount for Social Services is $17,000,000 more than the House allowance and is designed to speed the assimilation of refugees with deficiencies in basic skills into the job market. The Committee views Social Services as a priority activity in reducing refugee dependence on already strained resources in cash and medical assistance. The Social Services programs provide English-as-a-second language education and some job training activities. The Committee notes that the largest barrier to refugee employment has been the lack of proficiency in the English language. Funds under this program provide for achieving that proficiency, thus removing an important impediment to employability.

The Committee recommends deletion of $16,600,000 for grants for school districts whose enrollments are swelled by the presence of refugee children. These funds cannot be expended until the 1983-84 school year. The Committee will address the amount for the next school year in the fiscal year 1984 bill. The Committee notes that funding for the school districts in the present school year continue on a grant basis.

Refugee admission

The Committee believes that a level of $77,000,000 for Cuban-Haitian entrants may be necessary, but wishes to make it clear that changing conditions of refugee admission elsewhere in the Nation may require that funds be shifted to meet such contingencies. In that circumstance, the Committee will consider reprogrammings as may be necessary.

Advances to Unemployment Trust Fund

The Committee recommends deletion of a House provision which would have appropriated $5,411,000,000 for Advances to Unemployment Trust Fund. This provision is redundant, since the Senate version of H.R. 7205 as referenced in the continuing resolution provides these resources under title I.

Health planning

The Committee recommends concurrence with the House provision regarding the health planning program with an amendment to assure full-year effect. As no legislation has yet been enacted by the Congress, the Committee believes provision must be made to maintain the continuation of the program and to prevent the triggering of penalties which could ensue in the absence of authorizing legislation.

Utilization and quality control peer review

The Committee recommends deletion of the portion of section 101(d)(2) regarding the amounts necessary for carrying out utilization and quality control peer review activities authorized by Public Law 97-248. The Senate reported version of H.R. 7205, referenced by this resolution, includes $25,000,000 for program management for the approximately 145 PSROs which must be maintained under the provisions of Public Law 97-248. The Committee expects that the transition from PSROs to the utilization and quality control peer review organizations mandated in Public Law 97-248 will not take place until fiscal year 1984. For this reason, the Committee believes it is not necessary to provide authority and funds for this activity in fiscal year 1983.

Occupational Safety and Health Administration

The Committee recommends deletion of a House provision that would have nullified a provision agreed to by Congress in Public Law 97-257, the Supplemental Appropriations bill enacted September 10, 1982, and reaffirmed in the first continuing resolution. This provision, agreed to by the House without objection, on the Supplemental Appropriations bill, permits the Secretary of Labor to grant final approval to those State plans under section 18 of the OSHA Act that have staffing levels that are at least equivalent to Federal staffing levels.

ENERGY AND WATER DEVELOPMENT

Pending enactment of the regular appropriations act for fiscal year 1983, energy and water development activities are continued at the current rate of operations. In order to provide greater program direction, agencies under the jurisdiction of the Energy and Water Development Subcommittee shall be fully cognizant of House Report 97-850 and Senate Report 97-673 which accompany the fiscal year 1983 appropriations bills and shall utilize both reports for guidance in implementing the provisions of this resolution.

Meramec River Basin

In light of recent severe flooding in the Meramec River basin in Missouri, the Committee directs that, within available funds provided by this joint resolution, $800,000 be made available to initiate action to provide flood control measures along the Meramec River basin authorized by section 2(h) of Public Law 97-128.

Severe flooding around Utah Lake

The Committee is aware of recent projections by the National Weather Service, the State of Utah water engineer, and other involved local entities, which strongly indicate the potential for severe flooding in and around Utah Lake, its tributaries and outlets during the winter and spring of 1983.

Above average snow accumulation, coupled with mountain reservoirs whose storage capacity is full, have led the State of Utah Emergency Management Agency to determine the level of Utah Lake to be likely to exceed the 100-year flood projections of the Federal Emergency Management Agency. Such a flood, if it occurs, would directly threaten at least three public waste water treatment systems, the Provo city airport and surrounding business and residential areas, and the State's major north-south Interstate Highway System.

The Committee is aware of preparations now underway by the State of Utah and numerous local communities to begin flood prevention measures. Accordingly, the Committee directs the U.S. Army Corps of Engineers to assist the State of Utah and other affected local communities by devoting sufficient funding and other forms of flooding on Utah Lake, its tributaries, and outlets.

Funding for such assistance is to be derived in accordance with Public Law 84-99. The Congress urges the Corps of Engineers to consult with State and local officials in an effort to develop the most effective measures of flood mitigation.

Tug Fork project

Within available funds provided by this joint resolution, $16,400,000 shall be available for projects authorized by section 202 of Public Law 96-367. Further, the provisions included in Senate Report 97-673 with respect to section 202 shall be in force during the term of this joint resolution.

Maximizing recreational benefits

The Committee is aware that limitations on available funds and manpower resources over the next several years could require reductions in the program for construction and operation and maintenance of recreation facilities at Corps of Engineers projects. However, the Committee feels that substantial benefits are derived from these public use facilities and that additional emphasis should be placed on those recreational areas where local economic and unemployment conditions could be benefited. Accordingly, the Committee has included in the amount recommended $4,000,000 and directs the Corps of Engineers to utilize those funds to maximize the recreational benefits at projects nationwide.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing programs

Annual Contributions

The Committee recommends $5,732,355,689 in new budget authority and $715,331,146 in additional contract authority for the Department's assisted housing program within this account. These authorities, when combined with estimated budget authority carryovers of $1,590,358,901, deobligations of $4,600,000,000 and permanent authority of $24,665,665 would result in a fiscal year 1983 program level of $12,697,421,887.

Given the program structure proposed by the Committee, the recommended funding would result in the reservation of 118,860 housing units in fiscal year 1983. Under the Committee's recommendations, 16,000 units would be reserved for housing for the elderly or handicapped (section 202), as opposed to the 10,000 requested by the administration and the House and the approximately 16,900 made available in fiscal year 1982; reservation of 3,000 units of Indian housing as opposed to the 1,000 provided by the House (the administration did not request any Indian housing in fiscal year 1983), compared to approximately 2,400 units in fiscal year 1982; 24,860 units of section 8 existing, as opposed to the 47,270 units proposed by the House (the administration did not request any in fiscal year 1983); and 75,000 unit reservations in 1983 associated with conversions and property disposition. As far as Indian housing is concerned, the Committee expects these funds to cover the full costs of construction, including the provision of water and sewer facilities.

The Committee also recommends $1,000,000,000 in new budget authority and $50,000,000 in new contract authority for public housing modernization. Although the Committee rejected the concept of funding the entire modernization program for fiscal year 1983 from recaptures, such recaptures would be used to augment the basic $1,000,000,000 in new authority. Based on the Department's December estimates, approximately 70,000 units of public housing within an associated $9,000,000,000 in budget authority are in the pipeline and currently not under construction. Many of these project are unlikely to go to construction and, therefore, the funds should be recaptured and applied to other housing needs. Consequently, the Committee included bill language requiring the Department to apply the first $1,000,000,000 in public housing recaptures to modernization and 30 percent of the recaptured thereafter for additional modernization. As a result of this policy, it is estimated that $2,600,000,000 will be available for public housing modernization.

In connection with the funds provided for public housing modernization, the Committee has been made aware of a serious problem confronting a number of public housing authorities. This problem has arisen because selected public housing authorities have found that although substantial development money for new public housing has been allocated in the past, too often the most urgent needs are in the modernization program. Complicating the problem is the fact that the Department has notified various public housing authorities that funds provided for a new project may not be transferred to another new project if the former is unable to go to construction and may not be converted to modernization work. This prohibition results in the recapture of public housing development funds. The St. Louis public housing authority, for example, will lose $8,500,000 of moneys made available for new public housing, which cannot be used for that purpose, but which could be used to restore one of its largest public housing projects. The Committee strongly urges the Department to make available from within the funds provided, sufficient moneys to those public housing authorities that can make use of such funds within 12 months.

In addition, the Committee also included a provision requiring the use of $89,321,727 of budget authority in fiscal year 1983 for the modernization of 5,073 vacant uninhabitable public housing units. A similar provision appeared in two previous appropriation acts (Public Laws 97-216 and 97-272).

The Senate language also requires that the Department apply 70 percent of the funds recaptured from public housing (after the first $1,000,000,000) be used for the reservation of section 8 existing units. The Department estimates that this proviso could result in the availability of $1,400,000,000 in budget authority and, consequently, the reservation of 24,860 section 8 existing units. The House action provides $2,662,495,910 in budget authority and an associated 47,270 units (the administration did not request any section 8 existing units for fiscal year 1983).

The following table compares the House and Senate recommendations on assisted housing.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING—COMPARISON OF PROPOSED PROGRAMS—HOUSE VERSUS SENATE

	House		Senate	
	Units	Budget authority	Units	Budget authority
Authority available:				
New authority	NA	$9,186,630,000	NA	$5,732,355,689
Carryover	NA	1,590,358,901	NA	1,590,358,901
Deferral	NA	750,041,632	NA	750,041,632
Recaptures	NA	4,000,000,000	NA	4,600,000,000
Permanent authority	NA	[1] 30,257,264	NA	[2] 24,665,665
Total, available	NA	15,557,287,797	NA	12,697,421,887
Use of authority:				
Public housing:				
New and subhousing rehabilitation	10,700	1,775,130,000	NA	NA
Indian	1,000	180,880,000	3,000	542,640,000
Amendments	NA	532,000,000	NA	532,000,000
Lease adjustments	NA	23,800,000	NA	23,800,000
Interest rate adjustments	NA	655,000,000	NA	655,000,000
Modernization:				
From new authority	NA	2,500,000,000	NA	1,000,000,000
From recaptures	NA	NA	NA	1,600,000,000
Subhousing rehabilitation set-aside	NA	89,321,727	NA	89,321,727
Subtotal, public housing	11,700	5,756,131,727	3,000	4,442,761,727
Sec. 8:				
New/subhousing rehabilitation:				
Sec. 202	10,000	1,300,000,000	16,000	2,096,000,000
Property disposition	10,000	684,000,000	10,000	684,000,000
Moderate rehabilitation	15,000	1,080,000,000	NA	NA
Conversions:				
Sec. 23	5,000	211,500,000	5,000	211,500,000
Rent supplement	60,000	2,457,000,000	60,000	2,457,000,000
Subtotal, conversions	65,000	2,668,500,000	65,000	2,668,500,000

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING—COMPARISON OF PROPOSED PROGRAMS—HOUSE VERSUS SENATE—Continued

	House		Senate	
	Units	Budget authority	Units	Budget authority
Existing	47,270	2,662,495,910	24,860	1,400,000,000
Amendments:				
New/rehabilitation	NA	1,048,000,000	NA	1,048,000,000
Existing	NA	208,160,160	NA	208,160,160
Loan management	NA	150,000,000	NA	150,000,000
Subtotal, amendments	NA	1,406,160,160	NA	1,406,160,160
Subtotal, sec. 8	147,270	9,801,156,070	115,860	8,254,660,160
Total, all programs [3]	158,970	15,557,287,797	118,860	12,697,421,887

[1] Estimated. [2] Actual. [3] Excludes GNMA targeted tandem budget authority of $500,000,000 to support an estimated 10,169 units.

Rent Supplement
(Rescission)

The Committee recommends a rescission of $2,830,360,000 in budget authority and $105,160,000 in contract authority as proposed by the administration.

The Committee agrees with the basic thrust of the administration's proposal to accelerate the conversion of units from the rent supplement program to section 8. In Public Law 97-216, the Congress authorized the conversion of 60,000 units in fiscal year 1982. The Committee recommends the same rate of conversion in fiscal year 1983.

The Federal Government has entered into long-term contractual commitments and obligations for assistance under the rent supplement program to owners and tenants of projects which are secured by mortgages insured by FHA or financed under a State or local program. Project owners, lenders and bond holders have acted directly in reliance on those commitments.

The Committee has reviewed the Department's actions this past fiscal year in regard to meeting rent supplement shortfalls and is concerned that HUD is not now able to assure the continued availability of adequate funding resources to these projects. Due to a severe shortage of available rent supplement resources this past fiscal year, the Department, with the Committee's concurrence, had to tap its funding authority under the U.S. Housing Act of 1937 to meet rent supplement contract shortfalls as they arose. This year, demands on those resources may be far greater and their availability for this purpose thus less assured.

Accordingly, the Committee directs the Department, before the expiration of this continuing resolution, to develop a comprehensive funding plan for meeting these obligations. The plan shall include data and projections which demonstrate the degree to which the additional funds to be recaptured are needed for these obligations and shall include the method of the plan's implementation. The Committee expects the Department to work closely in this interim period with those affected in order to assure an adequate, permanent resolution of this problem.

In the interim, the Committee directs that the Department reserve such additional amounts as necessary, from the $208,160,160 provided for section 8 existing amendments to augment the funds available for rent supplement amendments.

The Committee recognizes that a long-range solution may lie at least in part in conversion of State-aided, bond-financed projects from rent supplements to equivalent assistance under the permanent authority of the section 236 rental assistance program. Therefore, the Committee believes that the Department should look closely in conducting its analysis and developing its plan, at both the rent supplement and the rental assistance programs.

Housing for the Elderly or Handicapped Fund
(Limitation on loans)

The Committee recommends $724,800,000 as the loan limitation for the elderly and handicapped program. This would provide for a total of 16,000 units in fiscal year 1983, as opposed to the requested level of 10,000 units and $453,000,000 of loan limitation proposed by the administration and contained in Public Law 97-272.

The Committee has recently learned that the Department intends to begin reserving section 8 authority for section 202 units at an interest rate of 11.75 percent. The Committee further understands that this interest rate is the current Treasury borrowing rate charged to the section 202 fund and it does not reflect the rate at which the Department may have to borrow when construction, on projects reserved in 1983, is completed in late fiscal year 1985 or early fiscal year 1986. If interest rates continue to decline, it appears unreasonable to the Committee to reserve units in fiscal year 1983 at an inflated interest rate. Reservations thus made would be at a higher interest rate resulting in fewer units reserved than would have been under current procedures where the reservation interest rate is based upon a reasonable projection of interest rates to be in effect at the time of closing (about 2 years after reservation). The Committee feels that the proposed increase in the reservation interest rate is an attempt to reduce the number of units to receive assistance under the program. Therefore, the Department is directed to continue using the current procedure and interest rate for reserving section 202 units in fiscal year 1983 and subsequent years.

The Committee has included bill language to assure that the Department will provide loans at 9.25 percent for those section 202 pipeline units that go to closing during fiscal year 1983.

Federal Housing Administration Fund

The Committee has included bill language increasing the FHA limitation on guaranteed loans from $39,800,000,000 to $45,900,000,000. In its fiscal year 1983 budget request, the administration proposed a $35,000,000,000 limitation on FHA commitments for mortgage insurance. The HUD-Independent Agencies appropriation bill for fiscal year 1983 (Public Law 97-272) contained a limitation of $39,800,000,000. However, the Committee has recently been informed by HUD that on the basis of the Department's latest projections that the FHA commitment level will exceed the current limitations. The Committee believes that without this increase in the limitation, the FHA program could be shut down in mid-July during the peak of the housing season.

The Committee has also included bill language which will allow HUD to exceed the FHA mortgage limit for multifamily mortgages by 140 percent in areas across the country where housing costs are the highest. Current law establishes three categories for FHA mortgage limits. The first category is in areas where the basic FHA limits apply. The second is in those areas in which HUD may exceed the FHA limit by 75 percent. The third is in those high-cost areas where the mortgage limit may be exceeded by 90 percent. The Committee believes that increasing the FHA mortgage limits will help stimulate housing construction in these highest cost areas.

Government National Mortgage Association Special Assistance Function Fund

The Committee has not recommended providing any additional funds for the Government National Mortgage Association's (GNMA) special assistance function program. The House has provided $500,000,000 for the program.

The Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, set the GNMA limit at $1,973,000,000. The fiscal year 1982 HUD-Independent Agencies Appropriations Act, Public Law 97-101, provided the entire amount authorized.

Of the $500,000,000 added by the House, $350,000,000 is for targeted tandem projects and thus, will provide no assisted housing for low-income individuals, and $150,000,000 is for 20 percent section 8 projects—on these 20 percent projects, GNMA pays a subsidy on all of the units—this means that middle income tenants are being subsidized.

The Committee has not recommended the appropriation of this additional $500,000,000 for several reasons. First, the funds are not authorized. Second, to fund all of the lottery losers, other than 100 percent section 8 units, would require another $1,270,000,000 ($678,000,000 for targeted tandem and $592,000,000 for partially assisted, 20 percent projects). Each unit assisted through GNMA will cost $40,000. Finally, for each $100,000,000 appropriated in fiscal year 1983, the outlays in fiscal year 1985 will be $97,500,000.

DISTRICT OF COLUMBIA

The Committee anticipates that final action will be taken on the District of Columbia appropriations bill for fiscal year 1983, H.R. 7144, prior to completing the action on this joint resolution. For this reason the Committee recommends that the District proceed at a rate of operation pro-

vided under the conference report on H.R. 7144.

GENERAL PROVISIONS

Veterans Administration

The Committee recommends deletion of House bill language (sec. 109) which would direct the Veterans Administration to terminate the development of a centralized hospital-wide information system (Computerized Medical Information Support System—COMISS) and implement a decentralized minicomputer system (called MUMPS).

Each of these systems has a different focus. The centralized system (COMISS) is more suited for aggregating data and providing information for management decisions such as resource allocation among regions and hospitals. The decentralized system (MUMPS) is an essential tool needed for the day-to-day operations of individual Veterans Administration medical centers.

Payment to the Postal Service Fund

The Committee has recommended that postal rates for all preferred-rate mailers be maintained in fiscal year 1983 at Step 14. This will have the effect of requiring an annual appropriation of $789,000,000. At a time when the President is relying on nonprofit groups, charities, veterans groups, and volunteer organizations to fill the gap left by reductions in social program spending, the Committee believes that the phaseout of postal rate subsidies for these organizations should be stablized and put back on the track envisioned when the Congress mandated such a phaseout in 1970.

Child Support Enforcement

The Committee recommends acceptance of House bill language which allows no reduction in AFDC grants to States if States are not in compliance with Child Support Enforcement rules relating to operations and procedure. The Committee is informed that the rules in question may penalize effective State Child Support Enforcement offices which technically are out of compliance with the rules, but not penalize ineffective State Child Support Enforcement offices which are in compliance. The Committee urges that the relevant authorizing committees review these rules for possible changes to avoid the need for temporary corrective legislation.

International Financial Institutions

The Committee is recommending the deletion of section 115, a provision which is also in the existing continuing resolution. This provision allows the President to reallocate the total amount of funds provided for international financial institutions, so long as the total reallocated is equal to the total which is provided under the resolution. The Committee reallocates these funds by making specific appropriations for each of these international financial institutions, and thus section 115 is not necessary under the Committee's version of this joint resolution.

Power Marketing Administrations

Recent reports from the Department of Energy have indicated that a restriction placed in the first 1983 continuing appropriation with respect to studying the pricing of hydroelectric power by the six Federal public power authorities or other agencies or authorities of the Federal Government may lapse when the continuing resolution expires. While the Committee strongly believes that restriction was permanent and thus should not lapse, a similar legislative provision has been included in this resolution to clear up any ambiguity.

Bonneville Power Administration

The Committee has included the full amount of new borrowing authority for the Bonneville Power Administration, as proposed in the budget request for fiscal year 1983. The recommendation provides borrowing authority which is needed to finance both the multi-year conservation and renewable program and the transmission construction program.

Treasury, Postal Service, General Government—Department of the Treasury

Internal Revenue Service

It is the Committee's intention that there be available for Taxpayer Service and Returns Processing of the IRS $1,000,778,000, which is the same amount appropriated by the House in its regular fiscal year 1983 appropriations bill.

Further, the Committee has provided $170,510,000 for the Salaries and Expenses account of the IRS. This will alleviate a backlog in the Legal Services area. Finally, the Committee has allowed $1,009,409,000 for the Examinations and Appeals appropriations for the IRS. The Department of the Treasury indicated that these funds are needed to collect the revenues estimated in the President's budget for 1983. Without this increase, an estimated $100,000,000 in revenues might be lost.

The Committee has included language in the joint resolution regarding Internal Revenue Service treatment of proceeds received by charitable organizations in North Dakota resulting from a State gaming law. The intent of the amendment is to prohibit the IRS from taxing the proceeds received by charitable organizations in North Dakota from gaming activities, until such time as an appropriate legislative or administrative solution is reached.

U.S. Customs Service

The Committee concurs with the House in recommending an appropriation of $553,700,000 for the U.S. Customs Service. This level of funding will allow the Customs Service to carry out a number of important activities in fiscal year 1983 and will help restore the full-time permanent Customs work force to fiscal year 1982 levels in all principal categories of activity. The appropriation recommended by the Committee will also cover the administration's amended budget request of $30,000,000 for continuation of Operation Exodus. The Committee also believes that the funding recommended in this joint resolution should be sufficient to initiate the establishment of a second air interdiction module in Tucson, Ariz., and to create a special operations fund to be used for posse comitatus law enforcement operations with the Department of Defense and other Federal law enforcement agencies.

Finally, the Committee has included language in the bill that would prohibit the closing, relocation, or consolidation of critical Customs offices in Milwaukee, Wis.; Duluth, Minn./Superior, Wis.; Bridgeport and Hartford, Conn.; Anchorage, Alaska; Miami, Fla.; St. Albans, Vt.; and Portland, Oreg. These offices are vital to the successful activities of the exporting and importing communities in all of these parts of the country and shall remain opened and operating in their current status during fiscal 1983.

It is the Committee's intention that none of the funds provided in this joint resolution are to be used by the United States Customs Service to collect inspection and/or clearance fees on commercial aircraft as outlined in the proposed amendment to Part 6, Customs Regulations (19 CFR, Part 6), adding a new section 6.26 establishing a schedule for commercial aircraft fees. For policy reasons, the Committee is not in agreement with this proposal, and directs that it be vacated.

U.S. Secret Service

The Committee has concurred with the House in recommending an appropriation of $235,000,000 for the U.S. Secret Service. However, the Committee has also included language in the resolution directing the hire of 200 new special agents in fiscal year 1983 within the total appropriation provided.

The Service is a labor intensive organization whose success depends on having an adequate number of special agents to properly execute mission responsibilities. The critical resource of the Secret Service is the special agent criminal investigator who has the dual responsibility of guarding against those who would take the life of public officials holding the highest offices of this country, as well as those would undermine the integrity of the Nation's currency and securities.

The Committee recognizes that the Service is critically understaffed in special agents assigned to field offices. This deficiency, if ignored, will adversely impact on every phase of operations.

Unlike most Government agencies, the Secret Service must replenish the physically demanding permanent protective details on a systematic basis. While it is a temporary phenomenon for the agents, it is a regular, recurring problem for the organization.

Traditionally, the Service has sought to maintain a renewable base or pool of qualified field agents. In all but 2 of the last 6 years, the number of agent separations exceeded new hires. Of additional concern is the fact that due to limited hiring of new agents and a low attrition rate, the number of special agents between 21 and 34 years of age continues to decline. There has been a steady decline in the number of special agents between the ages of 25 and 34 and a corresponding increase in the number of agents 35 years of age and older. Agents 35 years of age and older account for 60 percent of the Secret Service agent force.

This trend must not be allowed to continue in view of the physical and psychological demands of the missions.

In order to remedy this critical problem, the Committee directs that the Service recruit an additional 200 special agent positions for the fiscal year 1983.

General Services Administration—Rental of Space

The Committee recommends that the Rental of Space activity in the Federal Buildings Fund be increased from $722,439,000 to $770,000,000, the amount of the original President's budget request. This request was based on the administration's goal of reducing Federal employment thus leading to an expected reduction in the inventory of leased space. This leased space reduction has not occurred as anticipated; GSA therefore must pay private sector lessors for leased space currently occupied. The level of $770,000,000 is required for this purpose. The Committee encourages GSA to continue efforts to improve space utilization and thereby reduce its leased space needs. This action increases the aggregate limitation level of the Federal Buildings Fund.

Contracting Out of Veterans Jobs

The Committee has included language in the bill that would prohibit the General

Services Administration from contracting out certain types of blue collar jobs where 50 percent or more of the GSA jobholders are preference-eligible veterans as identified in title 5, 2108 U.S.C. At a time of devastating unemployment, particularly in the blue collar trades covered by this provision, the Committee does not believe it is appropriate to support GSA's decision to lay off more than 10,400 veterans currently employed in various trades at the agency. The Committee also notes that GSA has failed to comply fully with the provisions of OMB Circular A-76 that governs such decisions on whether or not to contract out certain classifications of jobs. For all of these reasons, the Committee directs GSA not to contract out these jobs that are so heavily occupied by veterans.

The Committee is concerned that directions given to the General Services Administration in Senate Report 97-192 the report that accompanied H.R. 4121 the fiscal year 1982 appropriations have not been followed. These directions require GSA to take all steps to retrofit the Government motor pool fleet with energy-conserving devices and the Committee is concerned that little progress has been made since those directions were given in September 1981.

While many energy-conserving devices are ineffective, the EPA has certified the several such devices which are proven to work. The several devices which are certified to be effective are listed in appendix V of the GAO report entitled, "Consumer Products Advertised To Save Energy—Let the Buyer Beware."

The Committee expects the Administrator of GSA to take action on this matter and by the time of the hearings on 1984 budget proposals, the Committee expects progress to have been made. Had GSA followed the direction of the Committee in September 1981, several millions of dollars and thousands of gallons of fuel would have been saved.

Office of Personnel Management

The United States Foreign and Commercial Services in the Department of Commerce counsels U.S. businesses on exporting through 48 U.S. Commercial Service District offices in the United States and through Foreign Commercial Service offices in 67 countries overseas. The goals of the United States Foreign and Commercial Services are to increase the number of new-to-market firms as well as the number of firms that are successfully following up on previous activities with continued promotion overseas. Other goals include (1) providing business with information on U.S. and foreign government procurements through the Commerce Business Daily, and (2) encouraging and sponsoring additional involvement by the private sector and the States in export promotion activities. The recent merger of the district and overseas offices gave the United States, for the first time, a thoroughly integrated and professional commercial service dedicated to assisting American industry to expand its economic bases at home and to increase its share of the world marketplace. The Director General supervises approximately 1,100 employees worldwide.

The Office of Personnel Management recently completed a survey of Federal wage board supervisory pay and found the distinction between supervisory and nonsupervisory pay to be inadequate. OPM intended to raise the supervisory pay but felt the 4-percent pay adjustment enacted as part of the prior continuing resolution prohibited them from doing so. Therefore, the Committee recommends exempting this group of Federal blue collar supervisors from the 4-percent pay restriction. This does not, however, exempt them from the pay cap covering top executive personnel and Members of Congress

Property Review Board

The Property Review Board is made up of the President's most senior advisors. The Executive Director is responsible for the day-to-day operation of the Board and coordination of policy for the executive branch. It is appropriate and necessary that the individual who is discharging these responsibilities have the rank of Executive Level III. In order to execute the program effectively, the White House must have someone with extensive experience in managing large organizations involved in the management of real property. The Committee has recommended that the Executive Director have the rank of Executive Level III.

National Aeronautics and Space Administration—Research and Development

The Committee agrees with the House and has included language (sec. 126) establishing a cap on expenditures for the tracking and data relay satellite system (TDRSS). This provision to prohibit, without prior approval, NASA from entering into a contract of this type differing from the arrangement described to the Committee earlier this month. The language also prohibits the Administrator of NASA from exceeding both the total case of TDRSS and the cost of restructuring the existing contract to specific amounts without the approval of the Committees on Appropriations.

Outside Earned Income

The Committee has stricken section 127 of the House bill, which placed a limit on outside earned income of Members of Congress. The Committee notes that both the Senate and House have dealt with this issue through internal rules governing outside earned income, and believes reliance on rules is preferable to the creation of additional statutory restrictions.

Pay Cap

SEC. 128. The Committee has deleted the House provision which would raise senior executive, legislative, and judicial salaries by up to 15 percent. In its place, the Committee extended the existing pay cap until September 30, 1983, the expiration date of the continuing resolution.

Federal Labor Relations Authority

Finally, and again within the purview of the Treasury bill, the Committee has included the following: "provided further, $15,500,000 is appropriated for the Federal Labor Relations Authority."

When the Treasury-General Government bill was marked up, it was thought that $14,500,000 would be sufficient for the FLRA during 1983. However, on the basis of newly discovered evidence, the Committee believes that the FLRA should have $15,500,000 for fiscal year 1983.

Foreign Assistance Provisions

The Committee is recommending inclusion in the continuing resolution of five new sections which, taken together with the provisions of section 101(b) of the joint resolution and the deletion of section 115, conform the resolution to the Senate-reported version of the Foreign Assistance legislation, S. 3075.

Section 130 has the affect of delaying disbursements and obligations totaling $275,000,000 of direct loans for Israel under the Foreign Military Credit Sales program and $100,000,000 of direct Export-Import Bank loans until fiscal year 1984 in order to conform to 302(b) allocation numbers.

Section 131 conforms to section 522 of existing law as it relates to certain instructions the Secretary of the Treasury must give to U.S. directors of international financial institutions, except that it includes the International Monetary Fund in accordance with the new provisions of S. 3075.

Section 132 prohibits funding for operating expenses of the Agency for International Development, except for those funds which are appropriated under the specific operating expense account. Again, this is added in order to conform to the Senate version of S. 3075.

Section 133 is a provision which limits foreign assistance to any country which is not taking adequate steps to cooperate with the United States to prevent the introduction of illegal drugs. A similar provision is in the current continuing resolution, and this specific provision conforms with S. 3075.

Section 134 adjusts per capita gross national product figures to the current levels, which if not changed would have the affect of limiting loans to Thailand and the Philippines.

Senate Administrative Provision

Public Law 97-346, signed by President Reagan on October 15, 1982, changes the formula for computation of the Government's share of employee health benefits costs. The Office of Personnel Management has informed the Senate that it will be billed an additional $38.40 in 1983 for each employee enrolled in a Government-sponsored health benefits plan. Section 130 permits these added costs to be paid from the contingent fund of the Senate, out of the account for Miscellaneous Items.

Transportation

Amtrak will assume responsibility for operation of rail passenger service on the Northeast corridor on January 1, 1983. Pursuant to section 1165 of the Northeast Rail Services Act of 1981, Amtrak has indicated its intent to begin assuming responsibility for operation of rail passenger service off-corridor as well.

Under section 405 of the Rail Passenger Service Act of 1970 and contracts entered into pursuant to the Rail Passenger Service Act between Conrail and Amtrak, Conrail may be liable for employee protection as outlined in appendix C-1 to those contracts, for any Conrail employee adversely affected or deprived of employment by a discontinuance of rail passenger service or an assumption of rail passenger service by Amtrak, not withstanding the passage of the Northeast Rail Services Act of 1981, which generally relieved Conrail of employee protection. Without clarifying legislation, it might have been necessary for Conrail to pay employee protection benefits (1) to any employee not hired by Amtrak who was not able to hold a position with Conrail through the exercise of seniority or could hold a position but not with comparable pay; and (2) any employee who was hired by Amtrak but not with equivalent pay. Conrail may have been placed in the position of paying for any changes in the collective-bargaining agreements between Amtrak and its employees resulting in a reduced need for crews or low pay. In addition, it had the anomalous result of treating Conrail employees en-

gaged in intercity passenger service differently than Conrail employees engaged in commuter service. These results clearly were not intended when the Northeast Rail Services Act of 1981 was enacted.

The recommended new section numbered 137 is meant to put employees of Conrail who are adversely affected or deprived of employment as a result of Amtrak's direct operation and control of intercity rail passenger service on an equal footing with other Conrail employees adversely affected or deprived of employment as a result of changes made in Conrail's freight and passenger operations pursuant to the NERSA in 1981.

There have been indications from some quarters that SEPTA and perhaps the other commuter authorities and their commuter rail employees will not be subject to the Railway Labor Act, the Railroad Retirement Act and other similar laws after transfer of Conrail commuter service to the commuter authorities on January 1, 1983. This is contrary to the intent of the laws and would strip some 10,000 employees of their existing collective bargaining and railroad retirement rights as of midnight December 31, 1982, unless this amendment is enacted before that time.

An additional recommended provision (section 136) clarifies existing law and reaffirms that commuter agencies operating service after December 31, 1982 pursuant to part 2 of the Northeast Rail Services Act shall be subject to applicable laws, including the Railway Labor Act, the Railroad Retirement Tax Act and the Railroad Unemployment Insurance Act and employees who work for such agencies also shall be covered by those laws.

Federal Debt Collection

The Committee recommends a new general provision which permits certain Federal agencies to enter into contracts with private collection agencies for the repayment of debts owed the Government. This provision is necessary because the Debt Collection Act of 1982, which authorizes these contracts, requires that such contracts be limited to the extent authorized in advance in appropriation acts.

Since this requirement was enacted into law this fall the Committee has not had the opportunity to fully examine agency proposals to implement the act. The Committee, therefore, recommends an open ended authorization for contracts effective for this fiscal year only. The Committee directs the affected agencies to submit, as part of the fiscal year 1984 budget cycle, requests for individual dollar limitations.

The Committee also recommends a limit of 40 percent that a private contractor can receive of the collections made as well as require that contracts be open for competitive bid.

Air Traffic Controllers

Public Law 96-347 provides that civilian air traffic controllers of the Department of Defense, who are actively engaged in the separation and control of air traffic, and who are performing like duties to those air traffic controllers in the Department of Transportation, should be treated the same as their counterparts in the Department of Transportation.

However, under the provisions of Public Law 97-276, Congress gave a special pay differential to only air traffic controllers of the Department of Transportation for their service during the air traffic controllers strike of 1981, and for their continued assistance in rebuilding the National Airspace System.

The Committee believes that this oversight should be remedied and therefore recommends a new provision (sec. 139) which includes air traffic controllers of the Department of Defense in the special differential provided for all other civilian air traffic controllers of the Department of Transportation.

Capital Construction Funds for Fishery Facilities

The Committee also includes shoreside fisheries facilities in the Capital Construction Fund program of the National Oceanic and Atmospheric Administration. The fund currently consists of the deposits of before-tax profits which can be used to rebuild or rehabilitate the fishing vessels of participants. The new provision provides equitable treatment for those elements of the fisheries industry with onshore facilities.

Federal Trade Commission

The Committee recommendation includes a provision barring the Federal Trade Commission from using appropriated funds to invalidate certain State laws as they pertain to the regulation of licensed professionals.

Federal Employees Health Benefits

SEC. 142. The Committee recommends a new provision which prevents the incorporation, in the continuing resolution, of a provision in the House- and Senate-reported bills on Treasury, Postal Service, and General Government which prohibit funds to pay for an abortion under any health plan of the Federal employees health benefit (FEHB) program. The Committee rejected this provision in its consideration of the fiscal year 1982 bill. The Senate has never adopted this prohibition on the use of funds.

FEHB coverage is compensation earned by Federal employees and not Federal payment for abortions. The Committee believes that unless and until Congress or the courts determine that abortion is in fact illegal, Congress should not meddle in determining how any Federal employee—or any private citizen—spends his or her money.

It is the view of the Committee that the restriction constitutes an unwarranted attempt by the Congress to inject itself into the collective bargaining process by eliminating a medical benefit which Federal employees have negotiated as part of their total compensation package. In addition, the effect of such controversial legislative riders has been to impair, if not cripple, the appropriations process which funds the Federal Government.

Viper

SEC. 143. The Committee recommends a new section in the resolution prohibiting the obligation of any funds for the development or procurement of the Viper light antitank weapon. This limitation restates the Committee's funding recommendations in the Senate-reported Defense appropriations bill for fiscal year 1983.

Military Bonuses

SEC. 144. Absent the conventional method of implementing bonuses, the Committee has recommended a provision extending the authorization of certain military bonuses until expiration of the continuing resolution. Because the enlistment and reenlistment bonus programs have had major positive impact on recruitment and retention, the Committee favors the continuation of the requisite authorization.

Mineral Production Incentives

SEC. 145. The Committee recommends a provision to utilize current budget authority for the Department of Defense in the amount of $50,000,000 for purchases or purchase commitments of metals, minerals, or materials under title III of the Defense Production Act of 1950. This is not a new appropriation but will renew the authority of the Department of Defense to implement a program to stimulate needed domestic production of critical and strategic minerals.

Fort DeRussy

SEC. 146. The Committee recommends a provision which would deny use of any funds to sell, lease, or rent any portion of Fort DeRussy, Honolulu, Hawaii.

European Troop Strength Limitation

SEC. 147. The Committee has recommended a revised limitation on U.S. troop strength in Europe, partly as an outgrowth of discussions with those in Congress who view any kind of force reduction as a retreat from our NATO alliance commitment. Accordingly, the limitation included in the joint resolution would put an end-strength ceiling on active military personnel regularly stationed on shore in Europe at the actual level at the end of fiscal year 1982. This would not require any force reduction but would halt planned growth in 1983.

Further, the provision would permit the President to waive the end-strength limitation upon a declaration to Congress of overriding national security requirements.

The Committee recommendation will help the Congress control the steady growth of U.S. forces stationed overseas and permit annual review and specific approval of any substantial change in these force levels.

MLRS Multiyear Procurement

SEC. 148. To permit the expeditious execution of a multiyear procurement of the multiple-launch rocket system, the Committee recommends specific enabling language as adopted in the House-passed fiscal year 1983 Defense appropriations bill (H.R. 7355). Further, the Army is directed to look into the requirement for production of insensitive high explosive materials by conducting a feasibility study of the facilitization requirements for the production thereof, at a cost of approximately $1,000,000. The results of this study should be provided as expeditiously as possible to the Committee on Armed Services and Appropriations, but not later than June 1, 1983.

Bradley Lake Hydroelectric Project

SEC. 149. The purpose of this section is to deauthorize the Bradley Lake hydroelectric project. It was originally authorized as a hydroelectric project by the Flood Control Act of 1962.

As currently proposed, the project would provide 135 megawatts of power to the Kenia Peninsula, an area of south-central Alaska badly in need of electrical power. The project during its construction phase is expected to create about 550 jobs. The construction period will be 4 to 5 years.

The reason for deauthorizing the project at this time is the lack of Federal funds for its construction.

The State of Alaska, through the Alaska Power Authority, has expressed a strong interest in constructing the project. In order to make the best use of preliminary work which has already been completed, the Federal Energy Regulatory Commission should allow the Alaska Power Authority to incorporate in its application the environmental

impact statement and general design memorandum prepared by the Corps of Engineers.

Runaway and Homeless Youth

SEC. 150. The Committee recommends inclusion of a new section under title I of this joint resolution to increase the appropriation from $18,000,000 to $25,000,000 for activities authorized under the Runaway and Homeless Youth Act (RHYA). The additional funds will be used for 25 new programs in unserved communities and to strengthen many of the 166 existing grantees. No funds will be spent on national training and technical assistance, rather such services shall be provided on a State-by-State basis. Networking grants designed to better coordinate the array of local services assisting runaway and homeless youth shall be on a State-by-State basis. These services shall be equally available to all runaway serving agencies regardless of their status as RHYA grantees. No funds will be spent for interstate travel by RHYA grantee staff except to assist runaways and their families directly. Demonstrations for reuniting and strengthening families, including those headed by a single parent, promoting independent living for 17-year-olds who cannot return home, combating juvenile prostitution, and developing detached youth work to reach runaway youth initially unwilling to go to a runaway center shall be funded. The Department of Health and Human Services shall continue to support the national runaway switchboard including the agency information service.

Alaska Railroad

SEC. 151. Funds are necessary to insure the continued operation of the Alaska Railroad, which has been operated under substandard conditions due to inadequate Federal appropriations during the last 10 years. Because of the extreme financial difficulties faced by the Alaska Railroad during the last 10 years, the railroad has been forced to consume capital to supplement operating requirements and to marginally maintain outdated and inefficient equipment.

The cost of operating an outdated plant and equipment has severely hampered the ability of the Alaska Railroad to meet its congressional mandate of providing military, freight, and passenger service into the interior of Alaska. The Committee, because of the uncertain status of legislation to transfer the railroad to the State of Alaska, that the Federal Government must continue to meet its ongoing responsibility to operate a viable railroad in Alaska.

Cable Broadcasting

SEC. 152. The Committee has included language which will delay the effective date of the decision of the Copyright Royalty Tribunal of October 20, 1982, Docket No. 81-2, and thereby enable the U.S. Court of Appeals to issue its decision on the Copyright Royalty Tribunal's broadcast signal rate increase prior to the effective date of such an increase.

The Committee believes that cable broadcasting systems have introduced a healthy, competitive stimulus to the telecommunications marketplace and believes this judicial review to be in the best interest of the consumer.

The Committee believes that its actions are in accord with recent Federal deregulatory efforts and that adoption of this language will insure that the appropriate balance is maintained between the interest of copyright owners, copyright users, and the public benefits derived from alternative programing choices.

TITLE II

The Committee has recommended a separate title providing additional funds to stimulate employment in productive jobs. Confronting Federal budget deficits of unprecedented magnitude, the Committee remains determined to exercise fiscal restraint in all areas of Government expenditures, and firmly believes that the amounts provided in this continuing resolution and the regular appropriations bills reflect this determination. The Committee has reported no appropriation bill in excess of its allocation under section 302(b) of the Budget Act, and has gone to some lengths to insure that the bills conform to those allocations.

The Committee is deeply concerned, however, that millions of Americans are out of work, and believes that, within the constraints of fiscal prudence, additional funds can and should be provided to employ people in productive jobs. This effort becomes even more important in view of the alarming deterioration of our capital assets and the need to restore the physical wealth of our Nation.

The Committee's recommendations in title II strike a balance between these twin responsibilities of fiscal restraint and increased employment. While making reductions in the amounts approved by the House, the Committee has recommended nearly $1,200,000,000 for a variety of established programs that will create additional jobs in a relatively short period of time and yield tangible benefits of lasting value to the Nation.

Transportation

The Committee recommends $100,000,000 for Interstate Transfer Grants—Highways, and $25,000,000 for Interstate Transfer Grants—Transit. These funds will help to reduce the outstanding Federal commitment to fund the remaining balance owed to State and local governments on these accounts, and constitute a significant contribution toward rebuilding our transportation infrastructure as well as employment.

The Committee is aware that the Tucson interstate substitution projects can readily absorb an additional $16,200,000. The Committee expects the Federal Highway Administration to give priority to these projects when allocating funds under this account.

The Committee amendments also include $10,000,000 be appropriated for the construction of the Washington Metropolitan Area Transit Authority's subway system. The subway's construction has been slowed in past years to accommodate Federal budget reductions and, as a result, the construction is several years behind schedule and the cost of the project substantially increased. Funding of the system during times of lower construction costs will help recover the escalated cost of the subway due to delays caused by reduced Federal spending, while providing substantial employment benefits in the Washington metropolitan area.

VA—Hospital rehabilitation

The Committee does not agree with the House in providing an additional $50,000,000 for the VA's nonrecurring maintenance and repair program in fiscal year 1983.

In acting on the regular HUD-Independent Agencies appropriations bill for fiscal year 1983, Public Law 97-272, the House on September 15, approved reducing the VA-minor construction account by $50,000,000. The Senate agreed with this reduction, due to the fact that there was an unobligated balance at the end of fiscal year 1982 of over $156,000,000. The VA has indicated to the Committee that the agency does not currently have a system for prioritizing construction needs. Therefore, the Committee does not believe that the additional $50,000,000 added by the House will help stimulate jobs.

HUD—Public housing modernization

The Committee does not agree with the House in providing an additional $200,000,000 for public housing modernization. The Committee has provided $2,600,000,000 in title I of the resolution for public housing modernization. HUD has informed the Committee that they could effectively review and process 1,800,000,000 dollars' worth of modernization requests, and that amounts above that level could be reserved by the Department for use by PHA's during the maximum allowable 5-year period. Thus, the Committee does not believe that the additional $200,000,000 proposed by the House will help create additonal jobs.

HUD—Community development block grant

The Committee does not agree with the House in providing an additional $1,000,000,000 for the Community Development Block Grants.

On December 7, the President transmitted a deferral of $221,000,000 for the Community Development Block Grant program. The Department has calculated that $426,000,000 in unobligated balances will be carried over in fiscal year 1983.

The Committee does not believe that the House's proposal would create additional jobs immediately because there is no guarantee communities would use the funds for this activity since they are permitted to select activities based on their needs; employment may not be granted immediately since construction projects require a planning stage; and the proposal to emphasize small construction projects would generate temporary—not permanent—employment.

Economic Development Administration

The Committee recommends that an additional $100,000,000 above the level provided by S. 2956 be appropriated for the public works grants program of the Economic Development Administration.

Small Business Administration

The Committee recommends an additional $2,000,000 as provided in the House bill to finance debentures issued by small business development companies under section 503 of the Small Business Investment Company Act.

The Committee believes that the Small Business Administration's section 503 program has not reached its full potential because of the Administration's policy prohibiting the use of tax-exempt financing with 503 projects. In the conference report to Public Law 96-302, the Congress said that the SBA should not disapprove the guarantee of any debenture solely because the project's other sources of financing come from, or are collateralized by, tax-exempt industrial revenue or development bonds. Although SBA regulations also would permit tax-exempt projects, the Administration has refused to approve projects which use tax-exempt financing. Consequently, the Administration has expended only a fraction of the funds appropriated by Congress for this program. To insure that the 503 program reaches its optimum potential in creating and retaining jobs, the Commit-

tee is directing the administration to approve projects whose other source of financing includes tax-exempt financing, if the project otherwise complies with the rules, regulations, and procedures of the program.

Forest Service

National Forest System

The Committee recommends funding in the amount of $35,000,000 for site preparation, reforestation, and timber stand improvement activities on Forest Service lands. These funds would be expended on the very labor-intensive activities associated with preparing sites and planting additional trees on deforested Forest Service lands, as well as thinning brush and other stand improvement activities intended to improve the growth of timber on FS lands. This recommendation includes about $15,000,000 for site preparations work for reforestation and an additional $20,000,000 for timber stand improvement. These investments will return positive economic returns over the next 50 years, as growth rates improve on existing timber inventories and on deforested areas.

The Committee also recommends $27,500,000 for national forest system road and bridge construction, reconstruction, repair, and improvement and an additional $10,000,000 for facility construction, reconstruction, and administrative facilities and associated water, sanitation, and other supporting utility systems. The funds would be distributed as follows:

Roads and bridges	$227,500,000
Facilities	10,000,000
Total	37,500,000

The Forest Service road system includes 281,000 miles of roads, used for recreation, firefighting, administrative, wildlife, timber, minerals, and other purposes. Repair and maintenance has been budgeted annually at about $60 to $75 million in recent years and the Forest Service only does its highest priority work.

These funds can be expended in fiscal year 1983 via contract with local construction or timber operators for additional construction or maintenance work, thereby alleviating some of the unemployment in the timber industry associated with the low level of housing construction.

Road improvements put in place through this program add to the value of the Federal investment on these lands and will remain available for long-term use by the American public.

The Forest Service has identified $125,000,000 in facility construction, reconstruction, and repair needed to protect the health and safety of the recreation user of Forest Service lands and the Forest Service employees staffing those areas. The Committee recommendation would provide for the highest priority items and could be expended through small business contracts for obligation in fiscal year 1983.

The Committee would normally fund some of the road and facility maintenance projects included in this section in the "National forest system" account but has provided all funding in one account to allow the Forest Service maximum administrative flexibility in order to implement this section. Projects normally eligible for either maintenance of construction funding are eligible for funds provided herein.

Improving Indian health facilities

Of the amount provided for Indian health facilities, $39,000,000 is for the construction of sanitation facilities for existing homes and units built by the tribes and by the Bureau of Indian Affairs. Over 1,000 jobs will be provided in areas experiencing unemployment for in excess of the national average.

Construction of Bureau of Indian Affairs' schools

Construction on the Hopi High School will begin in early spring. In addition to providing employment, the $27,500,000 contained in the Committee recommendation will fulfill the Government's obligation to provide a secondary educational facility on the Hopi Reservation.

Improving Indian housing

There are an estimated 92,000 Indian families in need of housing assistance. In many instances, the other Federal housing programs are unable to meet the needs of isolated reservation locations which require a relatively small number of units. The Committee, therefore, recommends additional funds to provide for 800 repairs and the construction of 150 new units. Approximately 600 direct and several hundred indirect jobs will be created. The funds shall be distributed according to HIP regulations by the central office.

USDA rural development activities

The Committee agrees with the House that Farmers Home Administration programs for the construction of water and sewer systems are critical to the development of rural America. The numerous pending applications for construction assistance provide evidence of the great need for essential water and waste systems in rural areas throughout the country. Since many of these projects are ready for construction, and since the appropriate FmHA mechanisms are already in place to initiate assistance, the Committee recommends an appropriation of $100,000,000 for grants; $300,000,000 for loans; and $3,250,000 for 200 additional positions to support these program increases. The Committee believes that this additional funding, together with funds made available in the fiscal year 1983 appropriations bill (H.R. 7072) now pending in Congress, will provide much needed assistance in rural areas, while also producing additional job opportunities.

The Committee believes that funds provided in the fiscal year 1983 appropriations bill for resource conservation and development and for watershed and flood prevention activities are adequate at this time. New activities in these programs stimulated by additional funding may take longer to commence than desirable to achieve the effect of creating new jobs. Consequently, the Committee recommends no additional funding for these programs beyond the levels in the fiscal year 1983 appropriations bill.

Emergency productive jobs

The Committee recommends no funding for the $1,000,000,000 emergency productive jobs program included by the House. There is no authorizing legislation for this program and no budget request. The Senate voted in September against including a similar program in the current continuing resolution.

Funding this program would essentially re-create a Labor Department public service jobs program, much like the CETA title II-D and title VI programs which Congress abolished in 1981. The new Job Training Partnership Act, which replaces CETA, authorizes no such program.

Public service jobs programs have not been very successful in helping enrollees obtain full-time, nonsubsidized employment. There is considerable doubt about the net job-creating impact of such programs, due to the tendency for local governments to substitute Federal funds for local resources, rather than actually expanding employment. Since the jobs are only temporary and provide no real training to develop employment skills, enrollees often return to public assistance and the unemployment rolls. In place of this ineffective approach, Congress could provide funding over the level included in the House version of the bill for existing programs which emphasize vocational training, as authorized under the transition provisions of the Job Training Partnership Act.

Employment and training assistance

The Committee recommends deletion of House bill language providing an additional $32,400,000 for the Job Corps, as well as $200,000,000 for the newly authorized dislocated worker program under title III of the Job Training Partnership Act.

Under title I of this joint resolution, the current rate of $585,600,000 is already provided for the Job Corps. Although Job Corps has been an effective vocational training program for disadvantaged youth, the Committee has chosen to give priority to expanding other lower cost vocational training activities in order to insure that the maximum number of individuals will be served with limited Federal resources.

The Labor Department has not yet developed regulations for implementing the dislocated worker program, nor has there been a budget request or Committee hearings to examine this new program. It is, therefore, too early to determine how much, if any, funding can be effectively utilized during the balance of fiscal year 1983.

Job training programs

The Committee recommends an additional $250,000,000 for vocational training programs authorized under the transition provisions of the Job Training Partnership Act. The current rate for these activities, provided for under title I of this joint resolution, is $2,180,672,000.

These programs are already fully operational throughout the country, providing an array of employment and training services to disadvantaged, jobless workers. The additional funds provided can be quickly utilized by the existing project sponsors whereas the House approach would require time-consuming development of new regulations.

The additional amount recommended by the Committee would serve an estimated 109,000 individuals, approximately half of whom would be disadvantaged youth. This is about two-thirds of the number proposed to be served by the House "emergency productive jobs" program, but only at one-fourth of the cost of the House version. The Committee approach in funding job training for occupations where there is a strong demand for skilled workers has proven more effective in providing permanent employment than the public service jobs that have been proposed.

Older workers

The Committee recommends $19,400,000 for the Community Service Employment Program for Older Americans, in addition to the amounts already provided under the Senate version referenced in title I of this joint resolution.

This recommendation would bring fiscal 1983 funding to $296,500,000, providing an

estimated 58,000 jobs during the period from July 1, 1983 through June 30, 1984. The House has recommended $277,100,000 for this program, which the administration proposed for block grant consolidation. In order to make this increase effective immediately, the Committee provides this higher level of jobs effective January 1, 1983, 6 months earlier than usual. Under terms of the current continuing resolution, the existing level of 54,200 jobs would be maintained. In a time of high unemployment, the Committee recognizes the need for special employment assistance for those hard-to-place workers over the age of 55, who are served by this program. As with the existing program, bill language maintains the current 78 percent set-aside for national contractors, with 22 percent earmarked for the States.

Job Service/Unemployment Insurance Service

The Committee recommends deletion of $339,000,000 added by the House for State administrative costs of the Job Service and the Unemployment Insurance Service. Of this amount, $75,000,000 was earmarked for the Job Service, and $264,000,000 was for the Unemployment Insurance Service. The House recommendation would have raised the Job Service staffing total to 28,100, an increase of 3,300 positions over the current level. The Committee intends to stabilize Job Service staffing at the 24,800 position level agreed to earlier this year.

The $264,000,000 House allowance for additional unemployment insurance State claims staff does not appear to belong in a job-creating initiative. The Committee's recommendation for the regular bill, incorporated by reference into this joint resolution, already provides $75,400,000 more than the House regular bill for processing unemployment benefits. If additional funding is necessary, a supplemental would be required to insure proper handling of mandatory caseload.

Day Care Services

The Committee recommends deletion of the $50,000,000 House add-on for day care services under the Title XX Social Services Block Grant; such funding exceeds the authorization ceiling of $2,450,000,000 established for fiscal 1983.

In the regular bill, the House provided only $1,974,126,000 for this program, compared to the $2,450,000,000 Senate recommendation. With the Senate level of $2,450,000,000, the States would be free to shift emphasis toward increased child care activities, if they were deemed of sufficiently high priority. This course of action is highly preferable to altering the work of the authorizing committees through back door changes to the substantive legislation.

Health Services activities

The Committee recommends deletion of a House amendment providing $15,000,000 for home health care activities under both the Community Health Center and Migrant Health programs. These funds would add to amounts already in both the Committee and the House versions of H.R. 7205. In the Senate Committee's case it has provided $302,500,000 for the Community Health Center program, the authorized level and $21,283,000 more than the House. The Committee recommendation for migrant health is also above the House amount. The Committee allowances in the regular bill make sufficient funds available for authorized activities, of which home health services is one.

FEMA—Food distribution and emergency shelter

The Committee does not agree with the House in providing $50,000,000 to FEMA for emergency food and shelter programs. Under the House proposal, the $50,000,000 would then be given, in 45 days after enactment of the resolution, to the United Way of America which would constitute a special board to determine how the funds are to be distributed to local private voluntary organizations.

Based on the proposal by the House, it would be impossible for FEMA to comply with the terms of the resolution concerning a grant award within 45 days of enactment of the resolution.

Finally, Federal funding has never been given to private nonprofit organizations in the manner proposed by the House. The Committee does not believe a procedure of this nature should be established at this time and has not included funding for this program.

Military construction

The Committee recommends $250,000,000 for Military Construction, Family Housing. This amount is expected to provide some 10,000 jobs in the construction industry while at the same time cut into the enormous backlog of maintenance and repair projects on our military family housing inventory. The funds are distributed as follows:

Army	$125,000,000
Navy	25,000,000
Air Force	100,000,000
Total	250,000,000

All of the projects recommended can be started prior to the end of fiscal year 1983. Most are fully planned and many can be accomplished without regard to the weather conditions during the upcoming winter months. Further, all of the funds recommended are to be utilized only for projects in the United States.

The Committee recommendation is approximately $240,000,000 below the House proposal. The Committee believes that the projects proposed by the House in the areas of new construction and major improvements should be reviewed more carefully as part of the annual budget process. Also, it should be noted that the fiscal year 1983 Military Construction Appropriations Act (Public Law 97-323), signed October 15, 1982, provides some $1,340,000,000 (an increase of over $200,000,000 from fiscal year 1982) for projects in the same categories as proposed by the House.

The Committee believes that under normal circumstances military construction funds should not be categorized by the number of jobs created, but instead should be considered for the valid requirements which are accomplished particularly during these times of budgetary constraint. However, since the funds recommended in this bill can do both, the Committee believes the $250,000,000 proposal to be worthwhile.

Family Housing, Army

The Committee recommends $125,000,000 for maintenance and repair of family housing units in the Army inventory. Listed below are the locations of the proposed projects:

Alabama: Redstone Arsenal, Fort McClellan.

Alaska: Fort Richardson, Fort Wainwright, Fort Greely.

Arizona: Yuma Proving Ground, Fort Huachuca.

California: Ford Ord, Fort Irwin, Presidio of San Francisco.

Colorado: Fort Carson.

Georgia: Fort Benning, Fort McPherson.

Illinois: Joliet Army Ammunition Plant, Rock Island Arsenal, Fort Sheridan.

Indiana: Fort Benjamin Harrison, Jefferson Proving Ground.

Iowa: Iowa Army Ammunition Plant.

Kansas: Fort Leavenworth, Fort Leonard Wood, Fort Riley.

Kentucky: Fort Campbell, Fort Knox.

Louisiana: Louisiana Army Ammunition Plant, Fort Polk.

Maryland: Aberdeen Proving Ground, Fort Meade.

Massachusetts: Fort Devens, Army Materiels and Mechanics Research Lab.

Michigan: Selfridge Army National Guard.

New Jersey: Fort Dix.

New Mexico: White Sands Missile Range.

North Carolina: Fort Bragg.

Oklahoma: Fort Sill.

Pennsylvania: Carlisle Barracks.

South Carolina: Fort Jackson.

Texas: Fort Bliss, Fort Hood, Fort Sam Houston.

Utah: Dugway Proving Ground.

Virginia: Fort Lee.

Washington: Fort Lewis.

Family Housing, Navy

The Committee recommends $25,000,000 for maintenance and repair of family housing units in the Navy inventory. Listed below are the locations of the proposed projects:

California: Public Works Center, San Francisco, Public Works Center, San Diego.

Connecticut: Naval Submarine Base, New London.

Family Housing, Air Force

The Committee recommends $100,000,000 for maintenance and repair of family housing units in the Air Force inventory. Listed below are the locations of the proposed projects:

Alabama: Maxwell AFB.

Alaska: Eielson AFB, Elmendorf AFB.

Arkansas: Little Rock AFB, Blytheville AFB.

Arizona: Davis Monthan AFB, Williams AFB.

California: Beale AFB, Castle AFB, March AFB, Mather AFB, McClellan AFB, Travis AFB, Vandenberg AFB.

Colorado: Lowry AFB, Peterson AFB.

Delaware: Dover AFB.

Florida: Eglin AFB, Homestead AFB, MacDill AFB, Patrick AFB.

Georgia: Moody AFB, Robins AFB.

Guam: Andersen AFB.

Hawaii: Hickam AFB.

Idaho: Mountain Home AFB.

Illinois: Chanute AFB, Scott AFB.

Indiana: Grissom AFB.

Kansas: McConnell AFB.

Louisiana: Barksdale AFB, England AFB.

Massachusetts: Hanscom AFB.

Michigan: K. I. Sawyer AFB, Wurtsmith AFB.

Mississippi: Keesler AFB.

Maryland: Andrews/Bolling AFB.

Missouri: Whiteman AFB.

Montana: Malmstrom AFB.

North Carolina: Pope AFB, Seymour Johnson AFB.

North Dakota: Grand Forks AFB, Minot AFB.

New Hampshire: Pease AFB.

New Jersey: McGuire AFB.

New Mexico: Cannon AFB, Kirtland AFB.

New York: Griffiss AFB, Plattsburgh AFB.
Nebraska: Offutt AFB.
Ohio: Wright-Patterson AFB.
Oklahoma: Altus AFB, Tinker AFB.
South Carolina: Charleston AFB, Myrtle Beach AFB, Shaw AFB.
South Dakota: Ellsworth AFB.
Texas: Bergstrom AFB, Brooks AFB, Carswell AFB, Dyess AFB, Kelly AFB, Lackland AFB, Laughlin AFB, Randolph AFB, Reese AFB, Sheppard AFB.
Utah: Hill AFB.
Wyoming: F. E. Warren AFB.
Washington: McChord AFB.

Schools and Hospitals Weatherization Assistance

The Committee recommends an appropriation of $150,000,000 for the schools and hospitals weatherization assistance program. Since its inception in 1978, some 15,400 schools and 1,700 hospitals have received comprehensive energy conservation audits. With these additional funds, the Department of Energy has estimated some 7,185 schools and 315 hospitals can be weatherized, resulting in annual savings of 6,000,000 barrels of oil equivalent. Moreover, such weatherization activities can result in as many as 31,500 jobs when the full Federal grant of $150,000,000 is matched by the States in accordance with law.

Alaska Railroad

The Alaska Railroad, extending 370 miles from Anchorage to Fairbanks, is operated by the Federal Government under the Act of March 12, 1914. The major activity of the rail line operation program is transportation service; the principal supporting activities are maintenance of way, structures, and maintenance of equipment. To the extent possible, programs are financed by revenues earned from freight and passenger services and other incidental services. Appropriations to the Alaska Railroad are required to sustain the railroad's operating plant and facilities at a minimum level.

Funds are needed to restore and renovate the existing track and attendant structures of the Alaska Railroad. The Committee has reviewed capital needs of the Alaska Railroad in light of the railroad's needs, and as a means of generating employment. These funds are to be primarily utilized during the upcoming maintenance season on the Alaska Railroad. It is anticipated that these funds will generate between 600 and 700 new jobs on the Alaska Railroad. The Committee takes note of the recent layoffs of over 30 percent of the Alaska Railroad's work force which was effective on November 30, 1982. These funds will facilitate much needed capital improvements and restoration on the Alaska Railroad, as well as create substantial new employment on the Alaska Railroad.

UP AMENDMENT NO. 1543

(Purpose: To correct a technical error in section 128 relating to the extension of enlistment and reenlistment bonuses)

Mr. HATFIELD. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1543.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the technical amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Mr. HATFIELD. Mr. President, in the bill there was a reference made in one part to a continuing resolution, and it should have been made to the undersupporting law. This is a technical amendment for that purpose. It has been cleared on both sides of the aisle. I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The amendment (UP No. 1543) was agreed to.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. HATFIELD. I yield.

ORDER FOR RECESS UNTIL SUNDAY, DECEMBER 19, 1982 AT 6 P.M.

Mr. BAKER. Mr. President, if I could have order in the Senate, I have an announcement I would like to make.

Mr. President, it is clear there is a need for a Sunday session. I regret to say that.

The Speaker has indicated to me that he will ask the House to return on Sunday at 4 p.m.

I ask unanimous consent, Mr. President, that when the Senate completes its business today it stand in recess until the hour of 6 p.m. on Sunday, tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Mr. President, reserving the right, does that mean the majority leader is going to call us back in?

Mr. BAKER. Mr. President, the primary purpose for the extraordinary request for a Sunday session is to hope that we can deal with the conference report on the continuing resolution. It is my expectation that we will finish that resolution in the Senate today. It is unlikely that we will get to conference tonight just because of the physical necessity for putting this matter in shape to do so.

The House of Representatives has adopted a rule which permits the designation of conferees when they receive a request from the Senate for a conference. What that means is I think we will go to conference Sunday morning.

The House hopes to have a conference report to act upon at 4 p.m. Sunday. I have asked that the Senate return at 6 p.m. on Sunday.

It would be my intention to be here, as indeed I will be here, and I can assure Senators that there is no need for them to be here unless I call from my cloakroom the Members on this side and notify the minority member to proceed as he may wish on his side to notify them when we are in a position to deal with the conference report.

I am advised by the chairman that he has a conference committee tentatively set for 10 o'clock in the morning.

Once again, the effect of this is to provide for a Sunday session to begin at 6 p.m. I do not know much reason for Senators to be here at 6 o'clock, except to know that they are on call to return to deal with the conference report at that time, if it is available.

Mr. ROBERT C. BYRD. Mr. President, I hope there would be no objection to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I indicated that Senators would not be called back on Sunday except to take care of the conference report. Can I have just a moment to speak to the distinguished chairman of the conference committee? In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask that the Chair withhold putting my request to the Senate until I can have another conversation on this matter. In the meantime, I would suggest to the chairman of the committee that he may proceed with another amendment.

Mr. HATFIELD. Mr. President, I yield to the Senator from Maine for the purpose of his offering an amendment.

UP AMENDMENT NO. 1544

(Purpose: To increase the amount available for weatherization under the Low Income Emergency Assistance Program)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Maine (Mr. COHEN) proposes an unprinted amendment numbered 1544.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment insert the following:

Insert "(a)" before "section 2602(b) of the Omnibus Reconciliation Act of 1981".

(b) Section 2605(K) of the Act is amended by striking out "15 percent" and inserting in lieu thereof "15 percent for fiscal year 1982, and 25 percent for each of the fiscal years 1983 and 1984".

Mr. COHEN. Mr. President, this involves no money. We have been talking for several days about trying to help out families that have difficulties in paying their heating bills, their gas bills. This is designed to amend the existing limitation of 15 percent of whatever moneys are spent toward home heating assistance to allow States up to 25 percent instead of the 15 percent cap to deal with weatherizing their homes.

It is not mandatory. Any State would be free to use anywhere from zero up to 25 percent of the funds allocated under existing law. It is consistent with allowing States to control their own destiny in this regard.

While the energy assistance program is necessary to reduce the burden of rising fuel costs on low-income families, the weatherization assistance program is more effective in reducing fuel costs over the long run. By reducing home energy consumption by 15 to 30 percent, the weatherization assistance program has proved invaluable to our national conservation effort.

The low-income energy assistance block grant program was reauthorized for fiscal years 1982, 1983, and 1984 in Public Law 97-35, the Omnibus Reconciliation Act of 1981, at $1,875 billion. This program is quite similar to earlier energy assistance programs, with greater flexibility afforded the States because of fewer Federal requirements.

Perhaps the greatest improvement in this program is the provision allowing States to use up to 15 percent of their allotments for weatherization activities. Since the adoption of this provision, 47 States have used portions of their fuel assistance allotments to weatherize an estimated 330,000 homes. Seventeen States have used up to 14 percent of their allotment for weatherization activities, 10 States have used from 10 to 15 percent, 10 States have used from 5 to 10 percent, and 7 States have used 1 to 5 percent.

Maine, which established the first weatherization assistance program in 1973, used 15 percent of its $25.1 million allotment—$3.5 million—for weatherizing 3,000 homes. This money has added greatly to the weatherization activities in Maine which, all told, have provided 33,062 Maine homeowners with weatherization improvements.

Despite administration attempts to terminate the low-income weatherization assistance program, support for its continuation remains strong in both Houses of Congress. For fiscal year 1982, $144 million was appropriated, a reduction of only $37 million from the previous year's level of $181 million. The fiscal year 1983 funding level for the weatherization assistance program is expected to be somewhere between the House-passed level of $147.5 million and the Senate-passed level of $114 million. While this appropriation is certainly helpful, it is not enough.

While the Department of Energy's low-income weatherization assistance program has weatherized 1 million homes since the program began in 1977, the Department has estimated that 12 to 13 million low-income Americans live in homes still in need of weatherization improvements. In Maine alone, there are 20,000 people on the waiting list for weatherization assistance.

The real value of the weatherization assistance program rests on its ability to dramatically—and permanently—reduce energy consumption in the home. With the continual rise in fuel prices, the cost of providing energy assistance will ultimately rise as well. But if a portion of energy assistance funds are used for weatherizing homes, reducing fuel bills by about 20 percent, the value of the energy assistance will be greatly enhanced. And as fuel prices continue to rise, the dollar value of the energy saved through weatherization improvements will continue to go up.

The Congress is to be commended for giving States greater flexibility and discretion in establishing their own energy assistance programs through the passage of the Omnibus Reconciliation Act. Yet, I believe States should be given even greater discretion in using allotted energy assistance funds to meet the fuel-assistance needs of their residents. Therefore, the amendment I am offering today to the Omnibus Reconciliation Act will authorize States to use up to 25 percent of their energy assistance block grant funds for weatherization or home repairs related to energy conservation. My amendment will not require States to use any of their funds for weatherization activities. Rather, States will have the option of providing more households with weatherization improvements or assisting more families in paying their fuel bills. This is consistent with the administration's policy of returning control of assistance programs to State and local governments. Additionally, the amendment will greatly improve the energy assistance program by allowing States to increase the value of their allotment by permanently reducing fuel bills. I urge my coleagues to support it.

Mr. MITCHELL. Mr. President, I am pleased to be a cosponsor of the amendment offered by my good friend and colleague from Maine, Mr. COHEN, to give States greater flexibility in using funds provided them under the low-income energy assistance program. Under current law, States may use up to 15 percent in low-income energy assistance funds for weatherization purposes. This amendment would simply increase this percentage to 25 percent. As such, it would not cost the Federal Government a penny. It would, however, give the States greater flexibility in determining how best to meet the long-term energy needs of its citizens and, I believe, is consistent with this administration's efforts to give States more flexibility in spending Federal dollars.

My home State of Maine has made excellent use of current law allowing it to transfer up to 15 percent of low-income energy funds to the weatherization program. Last year, Maine originally received $23 million in low-income energy assistance funds. Of this, $3.5 million, or the full 15 percent, was used for weatherization efforts.

Since the oil embargo of 1973, Maine has been a leader in reducing its—and consequently the Nation's—dependence on foreign oil. Part of these efforts include an ambitious weatherization program utilizing both State and Federal funds. To date, more than 32,000 homes have been weatherized in Maine; however, 22,025 homes remain on the State's waiting list and will hopefully be weatherized over the next several years.

Mr. President, I have long been a supporter of the low-income weatherization program. Last year, during consideration of the Interior appropriations bill, I offered an amendment to add $37.5 million to the $112.5 million recommended for the program by the Senate Appropriations Committee. Although that amendment failed narrowly, by a vote of 46 to 49, I was pleased that more than $30 million was added back in conference.

Both the weatherization program and the low-income energy assistance program are designed to meet the same overall goal; that is, to help low-income families meet their energy needs. I recognize that in the short term, low-income energy assistance is indeed necessary to assist the poor and elderly in meeting their energy needs. In fact, I have constantly supported efforts to increase funding for this important program. At the same time, it is clear that the best long-term way to assist a household in meeting its energy needs is through investments in weatherization. One Department of Energy study has concluded that a $1,000 investment in weatherization can reduce a household's energy consumption by an average of 25 percent.

For too long, Mr. President, we have attempted to treat the symptoms of the disease—that is, rising energy costs—rather than the disease itself—our continued dependence on costly, unstable sources of foreign oil. Nowhere is this more clear than in the relative amounts we spend on low-income energy assistance and weatherization. Last year, for example, Congress appropriated $1.875 billion for energy assistance, but only $144 mil-

lion for weatherization, or more than 10 times as much.

The amendment before us would not address that disparity directly. I will leave that debate for another time. It would, however, address it indirectly by giving the States greater flexibility in determining how best to spend low-income energy assistance funds. At the same time the amendment would retain the Federal Government's commitment to provide low-income persons with energy assistance by requiring that at least 75 percent of low-income funds be used for that purpose. It is important to note that no State would be required to spend its low-income energy assistance funds on weatherization; it merely gives States greater flexibility to do so.

Mr. President, I commend the Senator from Maine for raising this issue, and I urge the amendment's adoption.

Mr. President, I ask unanimous consent that the Senator from Minnesota (Mr. DURENBERGER) and the Senator from Maine (Mr. MITCHELL) be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, this amendment has been gone over by staff of both sides of the aisle. It is a part of a program of which I have been personally involved for a long time. As the Senator from Maine says, it is discretionary.

It is being supported on both sides of the aisle and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine (Mr. COHEN).

The amendment (UP No. 1544) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I yield, on behalf of the floor managers, to the two Senators from Illinois, Mr. DIXON and Mr. PERCY.

The PRESIDING OFFICER. Will the Senate please come to order? The Senator from Illinois is prepared to offer his amendment.

Mr. HATFIELD. Mr. President, this has a 10-minute time agreement, equally divided.

Mr. WARNER. Mr. President, I cannot hear.

The PRESIDING OFFICER. The business of the Senate is the Senator from Illinois is recognized to offer his amendment under a 10-minute time agreement.

Mr. HATFIELD. Mr. President, would the Senator yield for just a minute?

Mr. DIXON. Yes.

Mr. HATFIELD. Mr. President, we are working under very difficult circumstances. I would ask the Chair to please remove those people from the floor who do not have seats to sit in and ask all other people, Senators included, to please retire to the cloakroom if they have business to conduct.

We are surrounded on the whole Senate floor today by people who are standing in conversation and doing business. We cannot do the business of the Senate down here efficiently without some kind of cooperation.

I urge the Chair to use the Sergeant at Arms, if necessary, to clear this Senate.

The PRESIDING OFFICER. The Senator from Oregon is correct.

Will all Senators and all members of the staff that are not seated by the Senators please take a seat? Those staff people who do not have seats, please remove yourselves from the Chamber. The Chair will request the Sergeant at Arms to make the assistance that is necessary.

The Senate Chamber is becoming unruly.

Mr. GLENN. Mr. President, will the manager yield for a question?

Mr. HATFIELD. Yes.

Mr. GLENN. Is there an order we can document here or is this informal or was it agreed to or is it catch-as-catch-can? We are all trying to get amendments up here. What is the order?

Mr. HATFIELD. I say to the Senator that we have here all of the unanimous-consent agreements that have been achieved. We try to keep three or four in sequence ahead, alternating between the two sides.

But let me say, as I said earlier, I hope all Senators who have time agreements on their amendments will remain on the floor because we have had cases of Senators not calling up their amendments, pulling them aside, and then we quickly drop down to the next one.

Now we are to proceed to the Dixon-Percy amendment, to be followed by the Boren amendment. The Boren amendment has a time agreement, if it is all used, and there will be a rollcall, I believe, on the Boren amendment. I do not believe there will be on the Dixon amendment.

Mr. DIXON. We will ask for a rollcall.

Mr. HATFIELD. There will be a rollcall on the Dixon amendment.

That is to be followed by the Quayle amendment, on which there is a 5-minute agreement, and that is to be followed by a Bradley amendment, on which there is a 10-minute agreement, to be followed by Mr. GLENN, who has two amendments at 20 minutes each.

Mr. GLENN. I thank the Senator.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. I would like now to complete what I began a moment ago.

The PRESIDING OFFICER. Will the majority leader please suspend? The Senate has made considerable improvement toward maintaining order, but we would appreciate it for the Chair to be able to hear the majority leader.

Will all those Senators who wish to have conversations please remove themselves to the cloakroooms so we can hear the majority leader?

Mr. BAKER. I thank the Chair.

SUNDAY SESSION—CLARIFICATION OF SCHEDULE

Mr. BAKER. Mr. President, earlier I put the request that the Senate convene at 6 p.m. tomorrow after the recess at the conclusion of business today. I am going to renew that request in a moment, but I want to modify the accompanying statement I made at that time.

I indicated that I would be here and would advise Senators when we got to a conference report if, indeed, we do receive it tomorrow. It has been pointed out to me by other Senators that there are other matters that very well should be taken up tomorrow and may be taken up in advance of the time we receive the CR. So I simply wish to retract that statement and to make a new one instead.

We will convene and, if matters are to be transacted that require the attention of the Senate, Senators will be notified. But they should not assume that only the conference report will be dealt with.

ORDER FOR RECESS UNTIL 6 P.M. TOMORROW

Mr. BAKER. With that accompanying statement, I renew my request that when the Senate completes its business today it stand in recess until the hour of 6 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair and I thank the chairman of the committee.

Mr. WARNER. Mr. President, I ask the manager of the bill, I understand the unanimous-consent request establishes a 10-minute time limit, equally divided on this particular amendment.

Mr. HATFIELD. That is correct.

Mr. WARNER. The Senator from Virginia might wish to inquire how much time of that 5 minutes might he expect to receive? I am in opposition to the amendment.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from Virginia (Mr. WARNER) be given the time to control for the opposition.

The PRESIDING OFFICER. Without objection, the Senator from Virginia controls 5 minutes and the Senator from Illinois controls 5 minutes.

Mr. WARNER. I thank the Chair.

UP AMENDMENT NO. 1545

(Purpose: To prohibit use of funds for the procurement of certain aerial reconnaissance cameras under a sole-source contract until a report by the General Accounting Office has been submitted to the Congress)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Illinois (Mr. DIXON), for himself and Mr. PERCY, proposes an unprinted amendment numbered 1545.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I add the following new section:

SEC. . (a) None of the funds appropriated by this or any other act may be obligated or expended for the procurement of low altitude aerial reconnaissance cameras for the RF-4B aircraft under a sole-source contract until the Comptroller General of the United States has conducted a study of the proposed action of the Navy to procure such cameras under a sole-source contract and a period of 30 days has elapsed after the date on which the Committees on Appropriations of the Senate and the House of Representatives have received a report from the Comptroller General containing the results of such study.

(b) The Comptroller General of the United States shall conduct a study of any proposal of the Navy to procure low altitude aerial reconnaissance cameras for the RF-4B aircraft under a sole-source contract and report the results of that study to the Committees on Appropriations of the Senate and the House of Representatives as soon as practicable after the date of the enactment of this Act. The Comptroller General shall include in such report his findings regarding the necessity and propriety of awarding a sole-source contract for the procurement of such cameras.

(c) As used in this section, the term "sole-source contract" means a negotiated contract for the purchase of goods or services which is entered into or proposed to be entered into after issuance of a Request for Proposal for the purchase of goods or services to only one contractor.

Mr. DIXON. Mr. President, I will make a short statement, then yield to my senior colleague, the distinguished chairman of the Foreign Relations Committee.

This amendment is offered by my senior colleague and myself, and is supported by every Member of the Illinois congressional delegation.

This question impacts on the district of my warm friend and distinguished colleague in the House, Representative PHIL CRANE, who is present. The amendment is simple. It directs the Comptroller General to study a contract that has been awarded by the U.S. Navy to a German camera manufacturer and to report back on the sole source nature of that contract very shortly—I am told the Comptroller General can do it in 90 days—and that nothing further shall be done on the contract until 30 days after the Senate Appropriations Committee and the House Appropriations Committee have examined the report.

This pertains to an aerial camera for the RF-4B aircraft which has been awarded to a German firm on a sole-source contract to the detriment of a firm in the State of Illinois that employs 780 Americans that are prepared to develop a better camera.

Now, I want the Senate to know this. A couple of months ago we held a meeting in the office of this Senator with the Secretary of the Navy, John Lehman. I want to tell you he is a fine gentleman. He came to that meeting. The distinguished chairman of the Foreign Relations Committee, who stands on the other side, was in that meeting. The distinguished Congressman from my State, PHIL CRANE, who is in this hall, was at that meeting; and I was at that meeting.

The Secretary of the Navy said, "This came to me up through the system and I don't know much about it. But I want to hear from you folks." And we talked to him and when we were finished we went out in the hall in front of TV cameras and the Secretary of the Navy said, "These gentlemen have made a good case and we will give it every consideration."

Here is what we told him: That an American firm in our State, CAI, spending $2 million of its own money, would develop this camera and have a fly-off against the German camera, and may the best camera manufacturer win.

After that, and without consultation with us, the Navy granted a contract in November to this German manufacturer, even though the procurement schedule would have allowed time for competitive bidding and a fly-off.

We are only asking you 90 days to let the Comptroller General study the contract and that work under the contract not begin until we have studied the GAO recommendations. I think that is simple justice and in the interest of the American taxpayers.

Now it will be said by the opponents that this is an off the shelf camera. That is totally untrue. This is not an off the shelf camera and you should all understand that. This is a camera that is being custom made and not in production. It was tested recently. And the Senate should know the German camera failed that test.

To repeat, Senator PERCY and I, along with Congressman PHILIP CRANE, have for some time attempted to obtain factual information from the Navy in response to specific questions we posed concerning the Navy's conduct in this procurement action. The replies from the Secretary of the Navy have not provided the facts requested.

One of the questions the Secretary has not answered is why he will not release the full report of the Navy/Air Force evaluation group regarding the camera proposed to be built by CAI, an Illinois company which has not been permitted to bid on this contract.

The Secretary in his letter to us of December 13 alleged past procurement difficulties with the Illinois company.

However, in my view, any such problems stem largely from the Navy's reliance on sole-source contracts, a mistake the Navy is now compounding with a questionable sole-source award in the current procurement.

The Navy's purchase request justifying procurement on a sole-source basis is replete with errors.

The justification for sole-source negotiations deals with the KA-107C camera, yet the authorization to award a sole-source contract is for the KS-153A camera. Two different cameras.

Further, the Navy asserts there is no alternative supplier to Zeiss Avionics, Inc. for the camera required.

In fact, CAI is developing and has offered to sell to the Navy a camera, designated the CA-810, meeting the Navy's 13 announced criteria. The Commerce Business Daily notice of September 1, 1981, called for an off-the-shelf camera meeting 13 criteria. Neither the KA-107C camera nor the KS-153A camera is an off-the-shelf camera. Both required further testing and modification and neither camera fully meets the stated criteria.

The Navy alleges that the cost of research development test and evaluation (RDT&E) plus procurement of a camera from an alternate supplier would be too great compared to the value of the procurement.

CAI has indicated to the Navy in its formal presentation that it would absorb all the RDT&E costs for the CA-810 camera, and has offered to sell the camera to the Navy at a price competitive with that charged by Zeiss Avionics.

The way to remedy the Navy's difficulties is not through a sole-source contract, but by holding an open and fair competition. The Navy's urgent need for this camera has me wondering why they are buying an off-the-shelf camera and not requiring delivery of the first camera for 2 years.

Mr. President, I think the many unanswered questions raised over the last few months by Senator PERCY, Congressman PHIL CRANE and I, acting on behalf of the Illinois congressional delegation, cry out for a complete General Accounting Office investigation. Until the appropriate congressional committees can review the findings of the GAO, the Navy should be prohibited from spending money on this project.

Mr. President, I ask unanimous consent to have printed in the RECORD Secretary Lehman's letter, my response to that letter and copies of Department of Defense form 448—the determination and findings used by the Navy to justify a sole-source contract award to Zeiss Avionics, Inc.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 16, 1982.

Hon. JOHN LEHMAN,
Secretary of the Navy,
Washington, D.C.

DEAR MR. SECRETARY: We are writing this letter in response to your letter of December 13, 1982.

Senator Percy and I, along with Congressman Philip Crane, have been attempting to obtain factual information in response to specific questions concerning the Navy's conduct in procuring a low-altitude aerial reconnaissance camera on a sole-source basis from Zeiss Avionics. Your reply does not provide facts as we requested, but merely a series of unsupported conclusions. In that connection we have attached a response from CAI RECON/OPTICAL, INC. to the points in your letter, and once again we are also attaching a copy of our unanswered questions from our letter of November 24, 1982.

The Illinois Delegation is not interested in conclusional assertions—we on the delegation's behalf simply asked for certain facts from the Navy. The answers to those questions would have allowed us to draw our own conclusions objectively.

We do not believe your allegation about past camera procurement problems is a factor in this specific case. In our view any such problems stem largely from the Navy's reliance on sole-source contracts—a mistake which the navy is now compounding with a very questionable sole-source award in the Zeiss procurement.

The way to remedy the Navy's difficulties, it seems to us, is not through another sole-source contract but by holding an open and fair competition from the very beginning—not in FY 85/86.

Since we have yet to receive the necessary information we requested in our letter of November 24, 1982, let us reiterate that Senator Percy and I will introduce an amendment requiring the Comptroller General to investigate all the facts surrounding the sole-source contract to Zeiss.

The amendment will halt all funding for the RE-4B cameras until the Appropriations Committees of both houses have received the Comptroller General's factual report and determined an appropriate course of action.

Given the history of this case, we feel this action is appropriate since it appears to be the only course left open to us.

Senator Percy and Congressman Philip Crane have reviewed this letter and concur with its content.

Sincerely,

ALAN J. DIXON.

FACT SHEET IN RESPONSE TO NAVY SECRETARY LEHMAN'S 13 DECEMBER 1982 LETTER REGARDING LOW ALTITUDE AERIAL RECONNAISSANCE CAMERA

Secretary Lehman, in his letters to Senators PERCY and DIXON dated 13 December, 1982, has made several conclusory assertions concerning the camera procurement at issue. No facts have been provided by Secretary Lehman to support his allegations. The following factual information is submitted for the record in response to Secretary Lehman's letter.

1. NAVY ASSERTION

The Navy has worked hard for four years in a competitive environment to procure a camera to satisfy the Marine Corps' requirement.

Facts:

The Navy awarded a sole source contract to Zeiss in March, 1979, for one KA-107 camera and one KA-108 camera.

The Navy awarded a second sole source contract to Zeiss in July, 1980, for an Automatic Test Set of a type which indicated Navy's intent to equip the center RF-4B fleet with Zeiss cameras.

The Navy completed and approved an Integrated Logistics support plan for the KA-107 camera in April, 1981, again an action that normally is taken only after a procurement decision has been made.

Despite inquiries, CAI was not advised at any time prior to September 1, 1981, of the Marine Corps' requirement for, or the Navy's interest in, a new generation low altitude camera. (No other U.S. sources are known to have been made aware of the need, either.)

The Commerce Business Daily (CBD) notice on September 1, 1981, was the first public announcement of the Navy/Marine Corps camera requirement.

The camera criteria listed in the CBD were tailored to the Zeiss camera, precluding CAI or any other U.S. company from responding to the notice.

Questions submitted by the Illinois Congressional Delegation to Secretary Lehman on November 24, 1982 requesting factual information as to the Navy's efforts to obtain competition (sources solicited, by whom, when, what were they told, etc.) remain unanswered.

2. NAVY ASSERTION

Even after it determined that a modified Zeiss KA-107 camera satisfied its needs, in September, 1981 the Navy placed a notice in the CBD seeking sources to procure a low altitude camera. Only Zeiss responded with a camera meeting the CBD criteria.

Facts:

Not only was the CBD notice drafted around the Zeiss camera specifications, but it called for an "off-the-shelf" camera (i.e., one already developed and proven), and required response within 14 days.

The Zeiss camera differs in material respects from the criteria listed in the CBD.

Far from being proven, the modified Zeiss KA-107 camera was only made available to the Navy for bench testing in late 1981, and it was not flight tested by the Navy until September 1982.

More than a year after Zeiss responded to the CBD notice, the Zeiss camera has experience hardware failures, has required substantial systems redesign, and is still encountering fundamental technical difficulties.

3. NAVY ASSERTION

CAI chose not to compete with the proven Zeiss camera in 1981. The CA-810 camera CAI subsequently proposed in 1982, has not been built or tested, and could not meet the Marine Crops' current urgent need.

Facts:

Upon publication of the CBD notice, CAI asked the Navy for detailed camera requirements and specifications; and it commenced development of the CA-108 camera as soon as it received a copy of the RFP given to Zeiss in 1982 (which copy had to be obtained from the Navy by Sen. Dixon).

The CA-810 camera meets all of the Navy's announced criteria, and is already well along in development (at CAI's own expense).

CAI is prepared to match its camera in a competitive test fly-off against the Zeiss camera, and has offered to sell the camera to the Navy at a competitive firm fixed price without any slippage in the delivery schedule imposed on Zeiss.

Contrary to its claim of urgency, the Navy has taken over four years to design and develop a new RF-4B camera with Zeiss, and it has now given Zeiss almost two more years to deliver the first production camera.

4. NAVY ASSERTION

The Navy's experience shows that CAI's past contract performance has been poor.

Facts:

The KS-87B camera, which the Navy alleges was a major maintenance problem as recently as 1981, is a sophisticated opto-mechanical device requiring high maintenance skills. Between 1968 and 1982, however, the Department of Defense did not have its personnel trained by CAI to maintain the camera. (CAI also submitted an unsolicited proposal to the Navy in 1980 for modification kits designed to enhance maintainability and reliability of the KS-87B; only now are those kits being installed in the cameras.

The price per unit for the KS-87B camera, which the Navy claims jumped 600 percent, increased from $17,000 (production run of 1000 cameras) in 1966 to $54,000 in 1982 (production run of only 100 cameras) in 1982 (production run of only 100 cameras) in 1982, or an average annual increase of only 13.6 percent over 16 years. (Moreover, even that increase is greatly attributable to CAI's fixed costs being spread over much smaller production quantity being purchased in recent years.)

Similarly, the unit price of the KS-116B camera, which the Navy says rose 91 percent, increased from $75,750 (production run of 34 cameras) in 1977 to $135,116 (production run of only 7 cameras) in 1980, or an average annual increase of 26 percent, again with a much smaller production base.

5. NAVY ASSERTION:

The Navy is proceeding with only initial procurement of the Zeiss KA-107C camera; and assuming CAI or another contractor develops a satisfactory camera, the Navy will welcome competition to satisfy future RF-4B requirements.

Facts:

In letters to Senators Percy and Dixon on November 15, 1982, Secretary Lehman implied that only 10 cameras in fiscal year 1982 were being purchased from Zeiss. The contract awarded is a mult-year procurement for 38 cameras covering fiscal year 1982 through fiscal year 1986.

In his November 15, 1982 letters, Secretary Lehman stated that the "Navy will definitely conduct a competition for the remaining twenty-eight camera procurement." The Secretary now says that the Navy will hold a competition, provided that CAI or another contractor develops a camera meeting its RF-4B requirements. (It must also be noted that the Navy still has not told U.S. industry sources what those requirements are.)

6. NAVY ASSERTION:

Throughout the review of this procurement, the Navy has endeavored to provide Senators Percy and Dixon with full information concerning the RF-4B requirement and the basis for the Navy's procurement decisions.

Facts:

On November 24, 1982, Senators Percy and Dixon, together with Congressman Crane, acting for the entire Illinois Congressional Delegation, addressed 18 specific questions to Secretary Lehman concerning this procurement, with a full response requested by December 6, 1982. Not one of those questions has been answered to date.

Despite requests by Senator Dixon's staff, the Navy has not provided a copy of the multi-year contract awarded to Zeiss in mid-November 1982.

Despite requests by both Senator Dixon's office and CAI, the Navy has refused to release the detailed evaluation reports on the CA-810 camera which are in the Navy's possession.

7. NAVY ASSERTION:

CAI was fully aware of Navy's interest and met with Navy on numerous occassions during 1978 and 1979 to discuss how their KS-87B might be modified for low altitude use.

Facts:

CAI met with Navy numerous times in the 1978 and 1979 period to discuss operations, and maintenance aspects of the KS-87B. One result of these discussions was an unsolicited proposal by CAI to provide modification kits to affect the maintainability and reliability of the KS-87B. This resulted in a contract in August, 1980 for these kits which have been delivered and are being installed. During this same period, CAI was aware that the Navy was buying one KA-107 and one KA-108 cameras from Zeiss. The Navy's stated purpose for this procurement during the 1978 to 1980 time frame was bench and flight tests to determine the capabilities of these cameras. The advertised capabilities of the KA-107 (proven true in the 1980 flight tests) did not afford any greater (in fact less) capability for low altitudes and high speeds than the KS-87B with a three inch lens.

The first indications CAI had that the Navy was seeking greater flight parameters than this was upon receipt of the September 1, 1981 Commerce Business Daily.

DEPARTMENT OF THE NAVY,
Washington, D.C., 13 December 1982.

Hon. ALAN J. DIXON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DIXON: I am writing in response to your November 24, 1982, letter regarding the Navy's decision to procure low altitude reconnaissance cameras from Zeiss Avionics. I take exception to the content of your letter as the Navy Department has worked hard for 4 years in a competitive environment to procure a camera that satisfies the Marine Corps low altitude camera requirement at lowest possible cost to the taxpayer.

The facts show that CAI Recon/Optical, Inc., was involved in the competitive process from the very beginning. In 1978, the Navy began to work with industry—including CAI—to improve the performance of low altitude cameras. CAI was fully aware of Navy's interest and met with Navy on numerous occasions during 1978 and 1979 to discuss how their KS-87B might be modified for low altitude use. The Navy even put funds in the budget to cover expected modification costs. However, CAI chose not to pursue the photo system development. Zeiss Avionics on the other hand invested their own funds to modify an existing off-the-shelf KA-107 camera to meet the USMC need. This development effort proved successful and later testing verified that the camera meets our requirements. Even after we determined that the modified Zeiss camera was satisfactory, in September 1981 the Navy announced by Commerce Business Daily (CBD) the intent to procure a low altitude camera. CAI did not respond to the CBD announcement or ask for additional time to respond. While CAI subsequent proposed a new development camera, the CAI-810, that camera has not been built or tested and could not meet our current, urgent need. In summary, we have accomplished the development with full knowledge by CAI of Navy's intent. They chose not to compete with a proven camera that meets the needs of the Marine Corps now.

We pursued the competitive process with CAI even though experience shows CAI's past contract performance has been poor. On their last aerial camera contract in 1977 for the KS-116B, CAI delivered the first four units in 780 days when schedule called for 240 days. Further, quality assurance, reliability and cost growth problems have continued to plague CAI cameras. As recently as early 1981, the KS-87B camera was one of the top 3 maintenance problems on the F-4 aircraft. Costs have risen on the KS-87B and KS-116B cameras by 600% and 91% respectively, far in excess of actual inflation rates over the years the Navy has been buying CAI cameras. I expect these facts have not come to your attention. They certainly make a strong case for vigorous camera competition.

As I explained in my November 15, 1982, letter, the Navy was faced with a time-sensitive requirement for ten cameras which only the Zeiss KA-107C camera could satisfy. For this reason I decided to proceed with initial procurement of the Zeiss KA-107C camera. The contract that was awarded is a multi-year contract which provides for a total of thirty-eight cameras (10 in FY-82, 8 in FY-83, 14 in FY-84 and 6 in FY-85). Assuming CAI or another contractor develops a camera that satisfies the USMC RF-4B requirements, the Navy will welcome competition to satisfy these future requirements.

Throughout the review of this procurement my staff and I have endeavored to provide you with full information concerning the Navy's requirement and the basis for its procurement decisions. I am satisfied that the Navy has made a sound business decision fully in accordance with applicable law and regulation.

Best regards,

JOHN LEHMAN,
Secretary of the Navy.

FACTUAL ERRORS IN THE DETERMINATIONS AND FINDINGS USED BY THE NAVY TO JUSTIFY A SOLE SOURCE CONTRACT AWARD TO ZEISS AVIONICS, INC., FOR 39 LOW ALTITUDE AERIAL RECONNAISSANCE CAMERAS

1. The justificaton for sole source negotiations is for the KA-107C camera. The authorization to award a sole source contract is for the KS-153A camera. The two cameras are different.

2. The Navy claims the KA-107C camera received full approval for Service Use in April, 1982, although flight testing of the modified KA-107C by USN/USMC did not commence until September, 1982. Granting full ASU without flight testing by USN/USMC would appear to violate the Navy's own ASU requirements.

3. The KS-153A camera, which is the camera actually being purchased by the Navy, has not received approval for service use. The KS-153A camera differs from the KA-107C camera (e.g., the KS-153A includes a different shutter and lens cone, which have not been tested by USN/USMC).

4. The Commerce Business Daily notice of September 1, 1981 called for an off-the-shelf camera meeting 13 criteria. Neither the KA-107C camera nor the KS-153A camera is an off-the-shelf camera (both required further testing and modification). Neither camera fully meets the 13 stated criteria, either. Finally the first production camera which the Navy is buying from Zeiss Avionics, Inc. will not be ready for delivery until almost two years from now.

5. The Navy asserts that there is no alternative supplier to Zeiss Avionics, Inc. for the type of camera required. In fact, CAI, a division of Recon Optical, Inc., is developing—and has offered to sell to the Navy—a camera, designated the CA-810, meeting the Navy's 13 announced criteria.

6. The Navy also alleges that the cost of RDT&E plus procurement of a camera from an alternate supplier would be too great compared to the value of the procurement. CAI Recon/Optical is absorbing all RDT&E costs for the CA-810 camera, and has offered to sell the camera to the Navy at a price at least competitive with that charged by Zeiss Avionics.

7. The Navy claims, in its findings, that adequate technical data is not available to assure manufacture of an item of equal capability with the Zeiss camera. In fact, CAI Recon/Optical's CA-810 camera is of equal capability with the Zeiss Avionics' KA-107C/KS-153A cameras.

DETERMINATION TO USE THE MULTI-YEAR CONTRACTING METHOD ON A NONCOMPETITIVE ACQUISITION

1. The Naval Air Systems Command, Washington, D.C. has submitted MIPR N00019-82-MP-27133 to initiate the acquisition of 38 each KA-107C, Camera, Still Picture including supporting equipment and associated data to satisfy a documented operational requirement from the United States Marine Corps for a low altitude photographic capability for the RF-4B aircraft. The most beneficial method to acquire the above requirements is to use multi-year contracting.

2. Pursuant to DAR 1-322.1(C)(2), and OO-ALC DAR Supplement 1-451.52, it is hereby determined that (i) changes to an extent that would have a major impact on the contract price, e.g., design and specification changes or changes in production methods, are not expected to occur, and (ii) the items are expected to be obtainable only from a sole source, Zeiss Avionics Systems Inc., during the entire multi-year period. (See attached sole source justification.)

PAUL H. REID,
Contracting Officer.

PURCHASE REQUEST—CONTINUATION SHEET

Sole source:

Zeiss Avionics Systems, Inc., 2223 Avenida De La Playa, La Jolla, CA 92037, representing the Carl Zeiss Foundation, Oberkochen, FRG.

Justification:

The Naval Air Systems Command is initiating the procurement of the KA-107C to satisfy a documented operational requirement from the USMC for a low altitude photographic capability for the PF-4B aircraft. Low altitude and standoff operations represent the most survivable modes for the tactical air reconnaissance mission.

In 1978, the USN/USMC investigated available aerial cameras to satisfy the need. The option of initiating a development was ruled out because of the relatively small force level of RF-4B aircraft, its expected remaining service life, and the probability that the development costs for such a camera would exceed the dollar value of the RF-4B procurement. No satisfactory product, however, was found to be available from domestic U.S. suppliers. The promulgation of a Dept. of Defense MOU with the Federal Republic of Germany (subsequently incorporated into the ADPR/DAR in Defense Acquisition Circular #76-25) permitted the scope of the investigation to be extended.

In 1980, a USN/USMC/USAF team evaluated a KA-107C in accordance with a prescribed, formal test and evaluation plan. The camera had been added to a production run at Carl Zeiss for a Canadian program. It excelled in all aspects of testing, but exhibited certain limitations due to its design complexity. As a result, the manufacturer modified the camera, replacing mechanical assemblies with electronic drive components developed under a separate NATO program. The modified KA-107C was tested in a W. German RF-4E, requalified, and submitted to the USN for further testing—all at no expense to the U.S. Government. Again, test results were excellent; and the camera was found to be better suited to the operational need. Accordingly, it has been processed for formal service approval and has received provisional service approval to permit the FY-82 procurement. Full service approval is withheld, pending approval of two support documents; it is expected by July 1982.

On 1 September 1981, the Naval Air Systems Command issued a notice in the Commerce Business Daily, as a final effort to solicit sources of the required camera. None were submitted other than that from Zeiss Avionics Systems, Inc., for the KA-107C.

Accordingly, the sole-source procurement of the KA-107C is justified based on (a) the absence of an alternate supplier of the type camera required, (b) the dollar value of the procurement versus the cost of RDTSE plus procurement, and (c) the small force level (i.e. 28 A/C) and programmed service life of the host aircraft, the FR-48. ((RDTSE would not result in the delivery of a production item until the RF-48 phase out). Carl Zeiss owns proprietary rights to the KA-107C aerial camera.

AUTHORITY TO NEGOTIATE AN INDIVIDUAL CONTRACT

Upon the basis of the following and determination, the proposed contract described below may be negotiated without formal advertising pursuant to the authority of 10 USC 2304(a)(10), as implemented by paragraph 3-210.2(xiii) of the Defense Acquistion Regulation.

Findings

1. The Department of the Air Force proposes to acquire by negotiation 38 each KA-107C Camera, Still Picture and 47 other line items of supporting equipment and data. The estimated cost of the proposed Acquisition is $10,835,000.00.

2. Acquisition by negotiation is necessary as the items are identified only by the manufacturer's model number as designed, developed and manufactured by Zeiss Avionics Systems Inc. Technical data is not adequately available to assure manufacture of an item of equal capability and there are no known Governmental or other specifications applicable to this requirement to provide data for design and manufacturing process.

3. Use of formal advertising for acquisition of the above described equipment is impracticable because it is impossible to draft, for a solicitation of bids, adequate specifications or any other adequately detailed description of the equipment.

Determination

The proposed contract is for property or services for which it is impracticable to obtain competition by formal advertising.

PAUL H. REID,
Contracting Officer.

Findings

1. The Department of the Air Force proposes to acquire by negotiation 38 each RS-153A Camera. Still Picture and 51 other line items of supporting equipment and data. The estimated cost of the proposed Acquisition is $10,835,000.00.

2. Acquisition by negotiation is necessary as the items are identified only by the manufacturer's model number as designed, developed and manufactured by Zeiss Avionics Systems Inc. Technical data is not adequately available to assure manufacture of an item of equal capability and there are no known Governmental or other specifications applicable to this requirement to provide data for design and manufacturing process.

3. Use of formal advertising for acquisition of the above described equipment is impracticable because it is impossible to draft, for a solicitation of bids, adequate specifications or any other adequately detailed description of the equipment.

Determination

The proposed contract is for property or services for which it is impracticable to obtain competition by formal advertising.

JAMES C. MCCOWAN,
Contracting Officer.

Mr. DIXON. Mr. President, I ask the support of my colleagues on this amendment, and I reiterate my strongly held feeling that sole source contract awards rarely serve the best interest of the American taxpayer.

I am honored to yield to my distinguished warm friend and senior colleague, the chairman of the Foreign Relations Committee, for his comments.

The PRESIDING OFFICER. The Senator from Illinois yields to the chairman of the Foreign Relations Committee 1 minute and 19 seconds remaining.

Mr. PERCY. Mr. President, I thank my distinguished colleague for his leadership in this, and I wish to pay deep respect also to the Congressman in the district of this company, PHIL CRANE.

I appreciate their handling it because it made it look like a conflict of interest for the senior Senator from Illinois to handle it, having spent 28 years of my life in the camera business and making reconnaissance cameras and spent 3 years of my life in the Navy, 1 year of it right here in Washington in World War II in procurement in photographic products.

So at least I do know something about it.

Let my make the record clear the company involved would be a competitor of Bell & Howell Co. I am fighting to protect the interest of a competitor, a former competitor but the principles at the Navy, my own branch of service should be ashamed of what they are doing in this case. They are giving a sole source contract. They misled us in a meeting that we had with the Secretary of the Navy. They told us they would fly off on this, and then they said they would give their first 10 camera contracts to the German company.

Now, what sense does that make? Who are we trying to fool.

Mr. President, the purpose of this amendment is very simple: It is to prohibit the Navy from proceeding with a sole-source contract for aerial reconnaisance cameras for the RF-4 fighter until the GAO has had an opportunity to conduct a review of the contract award. As my colleague from Illinois, Senator DIXON, has pointed out in previous speeches on the floor, there are a number of circumstances associated with this contract that raise serious questions about the propriety of the contract award, circumstances that warrant the scrutiny of the GAO. Under our amendment, the Appropriations Committee will have 30 days after the GAO report is submitted to determine the appropriate course of action. If no action is taken during this 30-day period, the Navy is free to proceed with the contract award.

Mr. President, I submit that this amendment provides a fair and impartial mechanism for resolving this dispute, and I would hope that my colleagues would support it.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Congressman CRANE, and a letter from Senator DIXON and myself that we sent to the Secretary of Navy Lehman.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., December 17, 1982.

Senator CARL LEVIN,
U.S. Senate
Washington, D.C.

DEAR CARL: I am writing to request your support for the Percy-Dixon amendment to the continuing resolution which would put on hold the Navy plans to begin acquisition of a third generation low altitude aerial reconnaissance camera until the GAO has had an opportunity to review the questionable circumstances regarding the way in which this sole source contract was awarded.

There is no stronger Congressional advocate of the Defense Department than I, but

in all honesty there are two very disturbing aspects to this procurement.

One is the fact that United States will be dependent on foreign sources of supply for a critical third-generation reconnaissance camera.

Second, and of equal importance is the apparent underhanded nature of many personnel in soliciting this contract.

According to the best information which I have been able to attain over the past six months, Naval personnel worked secretly and exclusively with a German firm and its West Coast subsidiary to exclude all U.S. competitoin for this camera.

When Senators Percy, Dixon and myself attempted to get information about this procurement, the Navy repeatedly refused to respond.

I know that the Navy has given some Senators a different version of this procurement, but I can only say that after countless hours of investigation by myself and my staff over the past six months that there are many serious questions which need to be resolved.

Page S 13550 of the Congressional Record of November 30, 1982 contains some of these questions which the Navy has refused to acknowledge.

Please support Senators Percy and Dixon in their efforts to take a second look at this procurement.

Sincerely,

PHILIP M. CRANE,
Member of Congress.

THE ILLINOIS DELEGATION,
Washington, D.C., November 24, 1982.

Hon. JOHN LEHMAN,
Secretary of the Navy,
Washington, D.C.

DEAR MR. SECRETARY: We are writing to express our dismay over your action with respect to the Navy's acquisition of a new low level reconnaissance camera for the RF4B. Particularly distressing is the fact that you did not consult with us—as you said you would—prior to taking this action. In our opinion, the decision which the Navy has reached does not provide for fair and open competition.

Equally disappointing has been the response of Navy personnel to the specific concerns which we raised on this issue. Not only were our questions to your staff repeatedly not answered, and not only was information deliberately withheld; but, based upon our own assessment of this mater, we can only conclude that the facts and observations about this case which we raised were, in our view, improperly conveyed to others for the purposes of thwarting our efforts to get to the bottom of this matter.

As we stated at the outset, our only objective has been to secure fair and honest competition in this procurement. As you pointed out in our meeting, this buy by the Navy has far reaching consequences. We well appreciate and applaud your efforts to encourage additional competitive sources of supply for the United States Navy but in all candor, Mr. Secretary, the actions which the Navy has taken with respect to this procurement and our legitimate efforts to gather information about it, far exceed the bounds of propriety, and perhaps the letter of the law.

Accordingly, we—as well as other members of the Congress—shall proceed with the necessary steps to ventilate this entire matter; and if the evidence thereby revealed so warrants, reverse the effect of this decision.

Enclosed you will find a list of specific questions which have been directed to the Navy in various forms on previous occasions. Would you be so kind as to have specific and complete answers provided to each of us no later than the close of business on December 6?

We do have one immediate question, however. Your letter of November 15 stated that the Navy has decided to buy ten of the 38 cameras from Zeiss on a sole source basis and that the "Navy will definitely conduct a competition for the remaining twenty eight camera procurement." But even this statement does not seem to square with the facts. We have learned that the Navy has instructed the contracting authority to sign a two year procurement contract (FY82 & FY83) which, according to the Navy's RFP, provides for *eighteen* cameras from Zeiss—not ten as staed in your letter to us. Mr. Secretary, what are we to believe?

In closing we wish to express our regret over the necessity for this letter and our attendant future actions; however, based on the long and disquieting experience of attempting to resolve this matter by reasonable and diligent effort, the Navy has left us with no other choice. Only more regretful is the failure of Navy personnel to live up to your personal commitment.

Please feel free to call on us. Our goal as I'm sure yours is, is to serve the people of Illinois and the nation.

Respectfully,

CHARLES H. PERCY.
ALAN J. DIXON.
PHILIP M. CRANE.

Mr. DIXON. Mr. President, I ask unanimous consent to have printed in the RECORD a letter that I sent to Secretary Lehman dated, December 16, 1982.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 16, 1982.

Hon. JOHN LEHMAN,
Secretary of the Navy, Pentagon Building,
Washington, D.C.

DEAR MR. SECRETARY: We are writing this letter in response to your letter of December 13, 1982.

Senator Percy and I, along with Congressman Philip Crane, have been attempting to obtain factual information in response to specific questions concerning the Navy's conduct in procuring a low-altitude aerial reconnaissance camera on a sole-source basis from Zeiss Avionics. Your reply does not provide facts as we requested, but merely a series of unsupported conclusions. In that connection we have attached a response from CAI RECON/OPTICAL, INC. to the points in your letter, and once again we are also attaching a copy of our unanswered questions from our letter of November 24, 1982.

The Illinois Delegation is not interested in conclusional assertions—we on the delegation's behalf simply asked for certain facts from the Navy. The answers to those questions would have allowed us to draw our own conclusions objectively.

We do not believe your allegation about past camera procurement problems is a factor in this specific case. In our view any such problems stem largely from the Navy's reliance on sole-source contracts—a mistake which the Navy is now compounding with a very questionable sole-source award in the Zeiss procurement.

The way to remedy the Navy's difficulties, it seems to us, is not through another sole-source contract but by holding an open and fair competition from the very beginning—not in fiscal year 1985–86.

Since we have yet to receive the necessary information we requested in our letter of November 24, 1982, let us reiterate that Senator Percy and I will introduce an amendment requiring the Comptroller General to investigate all the facts surrounding the sole-source contract to Zeiss.

The amendment will halt all funding for the RF-4B cameras until the Appropriations Committees of both houses have received the Comptroller General's factual report and determined an appropriate course of action.

Given the history of this case, we feel this action is appropriate since it appears to be the only course left open to us.

Senator Percy and Congressman Philip Crane have reviewed this letter and concur with its content.

Sincerely,

ALAN J. DIXON.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 minutes.

Mr. WARNER. I thank the President.

Mr. President, I find myself in somewhat of an unusual position.

Fifty-seven percent of this contract will be performed in the United States and of that percentage the majority in California by the winning contractor, Zeiss. So I suppose that I am speaking for my California colleagues more so than for myself.

But really I rise in defense of the Navy procurement system, having had some modest experience in that area for over 5 years. I have personally gone back and studied every aspect of this contract.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Secretary of the Navy.

There being no objection, the letter was ordered to be printed in the Record, as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., December 13, 1982.

Hon. ALAN J. DIXON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DIXON: I am writing in response to your November 24, 1982, letter regarding the Navy's decision to procure low altitude reconnaissance cameras from Zeiss Avionics. I take exception to the content of your letter as the Navy Department has worked hard for 4 years in a competitive environment to procure a camera that satisfies the Marine Corps low altitude camera requirement at lowest possible cost to the taxpayer.

The facts show that CAI Recon/Optical, Inc., was involved in the competitive process from the very beginning. In 1978, the Navy began to work with industry—including CAI—to improve the performance of low altitude cameras. CAI was fully aware of Navy's interest and met with Navy on numerous occasions during 1978 and 1979 to discuss how their KS-87B might be modified for low altitude use. The Navy even put funds in the budget to cover expected modi-

fication costs. However, CAI chose not to pursue the photo system development. Zeiss Avionics on the other hand invested their own funds to modify an existing off-the-shelf KA-107 camera to meet the USMC need. This development effort proved successful and later testing verified that the camera meets requirements. Even after we determined that the modified Zeiss camera was satisfactory, in September 1981 the Navy announced by Commerce Business Daily (CBD) the intent to produce a low altitude camera CAI did not respond to the CBD announcement or ask for additional time to respond. While CAI subsequently proposed a new development camera, the CAI-810, that camera has not been built or tested and could not meet our current, urgent need. In summary, we have accomplished the development with full knowledge by CAI of Navy's intent. They chose not to compete with a proven camera that meets the needs of the Marine Corps now.

We pursued the competitive process with CAI even though experience shows CAI's past contract performance has been poor. On their last aerial camera contract in 1977 for the KS-116B, CAI delivered the first four units in 780 days when schedule called for 240 days. Further, quality assurance, reliability and cost growth problems have continued to plague CAI cameras. As recently as early 1981, the KS-87B camera was one of the top 3 maintenance problems on the F-4 aircraft. Costs have risen on the KS-87B and KS-116B cameras by 600 percent and 91 percent respectively, far in excess of actual inflation rates over the years the Navy has been buying CAI cameras. I expect these facts have not come to your attention. They certainly make a strong case for vigorous camera competition.

As I explained in my November 15, 1982, letter, the Navy was faced with a time-sensitive requirement for ten cameras which only the Zeiss KA-107C camera could satisfy. For this reason I decided to proceed with initial procurement of the Zeiss KA-107C camera. The contract that was awarded is a multi-year contract which provides for a total of thirty-eight cameras (10 in fiscal year 1982, 8 in fiscal year 1983, 14 in fiscal year 1984 and 6 in fiscal year 1985). Assuming CAI or another contractor develops a camera that satisfies the USMC RF-4B requirements, the Navy will welcome competition to satisfy these future requirements.

Throughout the review of this procurement my staff and I have endeavored to provide you with full information concerning the Navy's requirement and the basis for its procurement decisions. I am satisfied that the Navy has made a sound business decision fully in accordance with applicable law and regulation.

Best regards

JOHN LEHMAN,
Secretary of the Navy.

Mr. WARNER. Mr. President, that letter clearly outlines the procedure followed and the fact that it was a competitive procedure and that the contractor today being spoken for by the distinguished colleague from Illinois had an even and fair chance to compete in this contract, although they lost. Nevertheless, the procedures were followed.

Mr. President, I also ask unanimous consent to have printed in the RECORD a document from the U.S. Navy which states in effect that if the relief sought by the delegation from Illinois is granted, in effect it will break the contract which has now been awarded to Zeiss.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NAVY ASSESSMENT OF IMPACT OF 120-DAY DELAY IN FUNDING THE KS-153A (KA-107C) CONTRACT

1. Delaying payment to Zeiss Avionics Systems for the 120 day investigation period would result in a termination of the contract at a cost, estimated by the Contracting Officer, to be in excess of $2.5M.

a. Zeiss Avionics Systems has a legitimate contract with the government. In addition to liabilities to Zeiss for work already accomplished and for obligations to subcontractors, the Government would owe Zeiss for cancellation charges under the contract. Further, if the GAO decision after 120 days is favorable to the Navy position, new contract negotiations would probably not commence until existing Government liabilities to Zeiss were resolved. Adding the administrative delays built into negotiating a new contract, it is estimated that a new contract could not be executed for at least a year.

b. Zeiss Avionics Systems (ZAS) is a small business currently indebted for approximately one million dollars. They are at the limits of their credit and are submitting to the Government a $217K progress payment request in December. Unless these funds are received, January salaries cannot be paid and ZAS would be required to close down and furlough/layoff all employees.

c. TRICOR is also a small business in Illinois whose major source of funds is from ZAS as a subcontractor for the KS-153A procurement. They would also be required to shut down and furlough/layoff all employees.

d. The delay—which is estimated to be 120 days—could in fact be much longer because shut down/start up time (and associated costs) would be required. Some materials were ordered in anticipation of the KS-153A contract. These would probably be diverted to other projects or the orders cancelled, resulting in significant delays beyond the 120 days.

2. There are numerous aspects of a delay which cannot be fully evaluated, such as: full limit of legal liability to ZAS and its subcontractors; and loss of any competition in U.S. for CAI (in recent years this company's prices have greatly increased while their product has not met all design specifications). The end result of the proposed delay would be cancellation of the KA-153A camera procurement, which is exactly what CAI is improperly trying to bring about. In effect, CAI wins even though they have no current camera which the Marines can now use.

Mr. WARNER. That will mean a $2.5 million loss to the U.S. Navy and perhaps as much as 6 to 8 months delay in the camera being received by the Navy and perhaps even a greater delay because I am informed by the Navy that the contractor represented by my colleague from Illinois has only a paper camera, that is, a concept of a camera and as such it is in competition with a camera which has been in use and redeveloped by the winning contractor for the Navy.

Mr. President, in quick summary, I know the distinguished chairman of the Appropriations Committee is aware of the fact that there are other Members of the Senate ready to come forth with contracts with the Department of Defense which likewise are disappointing to them. We can sit here in the context of the continuing resolution as a procurement office for the Department of Defense if you so desire, but I strongly urge that you do not do that and that we have to accept at face value the representations in writing of the Secretary of the Navy, that the Department of Navy that this competition was fair.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. WARNER. Mr. President, I yield to the chairman of the committee.

Mr. HATFIELD. Mr. President, I only wish to say, without addressing the merits of the case whatsoever, that the continuing resolution, is a very poor vehicle upon which to try to make this kind of determination. Early on in this process Senator BAUCUS had raised a similar question and he has in effect been diverted to another procedure which would probably be a better procedure for all these matters to be handled.

But I only want to say, without addressing the merits of the case, this is not the vehicle or forum to go into and scrutinize this type of thing as it should be. I am very hopeful that somehow we can find an appropriate committee in which these matters can be handled rather than here on this continuing resolution.

That is the only point I want to make.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. DIXON. Mr. President, will the chairman yield?

The PRESIDING OFFICER. The Senator from Virginia controls the time.

Mr. WARNER. Mr. President, how much time remains?

The PRESIDING OFFICER. There is 1 minute and 18 seconds.

Mr. PERCY. Mr. President, will the Senator yield to me for a question?

Mr. WARNER. I yield 18 seconds to my colleague from Illinois.

Mr. PERCY. I thank the Senator.

I say to the distinguished chairman of the Appropriations Committee a procedure was worked out in Senator DIXON's office and Congressman CRANE was there.

The problem is the Navy violated the agreement that was worked out.

May I ask a question of the distingusihed colleague, my friend and colleague from Virginia?

The PRESIDING OFFICER. The time is expired.

Mr. PERCY. Does Zeiss have any operations in Virginia?

Mr. WARNER. Yes; they do.

Mr. PERCY. Is there any possibility there could be from this California company that the Senator mentioned a subcontract that would be done in the State of Virginia?

Mr. WARNER. As I said at the opening, it is made in California, and Virginia does have a subcontractor.

The PRESIDING OFFICER. The Senator will suspend.

Thirty seconds remain. Does the Senator wish to yield?

Mr. WARNER. Mr. President, there were so many interruptions by the Chair while the distinguished Senator from Illinois and I were talking I missed the instructions from the Chair.

The PRESIDING OFFICER. The Senator from Virginia now has 30 seconds.

Mr. WARNER. Mr. President, I simply suggest we not perform the duties of the Navy or Department of Defense Procurement Office.

I yield back my time because I think the issue is relatively simple as framed by the distinguished chairman of the Appropriations Committee. I yield back my time.

Mr. President, I ask for a tabling motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia to lay on the table the amendment of the Senator from Illinois.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea".

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

The PRESIDING OFFICER (Mr. CHAFEE). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 46, as follows:

[Rollcall Vote No. 446 Leg.]

YEAS—48

Baker	Hart	Quayle
Baucus	Hatch	Randolph
Biden	Hatfield	Rudman
Boschwitz	Hayakawa	Sasser
Brady	Kassebaum	Schmitt
Bumpers	Kasten	Simpson
Byrd, Harry F., Jr.	Lugar	Specter
Cannon	Mathias	Stafford
Chafee	Mattingly	Stennis
Cohen	McClure	Stevens
Danforth	Melcher	Thurmond
Domenici	Mitchell	Tower
Durenberger	Murkowski	Wallop
Garn	Nickles	Warner
Glenn	Nunn	Weicker
Gorton	Pressler	
	Proxmire	

NAYS—46

Abdnor	Eagleton	Levin
Andrews	East	Long
Armstrong	Exon	Matsunaga
Bentsen	Ford	Metzenbaum
Boren	Grassley	Moynihan
Bradley	Hawkins	Packwood
Burdick	Heflin	Percy
Byrd, Robert C.	Helms	Pryor
Chiles	Hollings	Riegle
Cochran	Huddleston	Roth
D'Amato	Humphrey	Sarbanes
DeConcini	Inouye	Symms
Denton	Jepsen	Tsongas
Dixon	Johnston	Zorinsky
Dodd	Laxalt	
Dole	Leahy	

NOT VOTING—6

Cranston	Heinz	Kennedy
Goldwater	Jackson	Pell

So the motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER and Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WARNER. I wonder if the distinguished manager of the bill might defer just a moment to my colleague from Illinois (Mr. PERCY) and perhaps Mr. DIXON. This vote——

Mr. HATFIELD. Mr. President, I ask unanimous consent at this point that we divert from the normal schedule to provide 2 minutes for a colloquy for the Senator from Virginia.

The PRESIDING OFFICER. I am advised that there is no unanimous-consent order at this point.

Mr. HATFIELD. Mr. President, I yield 2 minutes to the Senator from Virginia then.

The PRESIDING OFFICER. The Senator from Virgina.

Mr. WARNER. Mr. President, I think, for the benefit of those who have participated in this vote and others, I should point out that it was very close for the reason that there is an enormous amount of dissatisfaction within this Chamber respecting the procurement policies of the Department of Defense, and I think this is an example. While I made my case very clearly and factually, I do defer to my colleague from Illinois, who feels that in this instance there was a wrong done and a strong signal was sent by virtue of this very close vote that I hope the Department of Defense will heed henceforth.

I yield to my distinguished colleague.

Mr. BAUCUS. Will the Senator yield?

Mr. PERCY. I thank my distinguished colleague.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. PERCY. It is very interesting that the Presiding Officer, the President of the Senate today, is a former Secretary of the Navy and Senator WARNER is a very distinguished former Secretary of the Navy.

I spent 3 great years in the U.S. Navy in World War II, one of them right here in Washington. I was proud, in the middle of a war, the way we had competition, the procedures that we followed. But when the GAO wants to have the time to take a look at the procedures used in this case, it is a test case and it is a classic case of what I consider arrogance and breach of faith with Members of the Senate and the Congress.

Senator DIXON, Congressman CRAIG, and I sat in that room and we walked out with an agreement.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HATFIELD. Mr. President, we are going to bring this to a halt. We have had the debate on this.

I want to say that the Senator from Minnesota is refraining from offering a similar amendment on 60 helicopters being transferred to Iraq. The Senator from Montana (Mr. BAUCUS) is restraining himself from offering a similiar amendment about scrapes being constracted for in Illinois.

Mr. President, I understand that my distinguished colleague from Tennessee (Mr. BAKER) had intended to offer an amendment dealing with cash management. I have been advised that he will not now offer the amendment but rather will engage in a colloquy with his distinguished colleague from Kansas (Mr. DOLE).

Mr. BAKER. Mr. President, I thank the Senator for yielding. As the distinguished chairman of the Appropriations Committee indicated, I had originally intended to offer an amendment to temporarily prohibit the further implementation of the so-called delay-of-drawdown cash management system. I have been informed by numerous States, including my own, that the imposition of this federally mandated system may prove to be onerous. I have also been contacted by several national organizations representing our States, including National Governors Association and the National Association of State Budget Officers. In

addition, the National Conference of State Legislators and the National Association of State Treasurers have passed resolutions opposing further implementation of delay-of-drawdown.

The delay-of-drawdown, Mr. President, essentially allows States to withdraw funds from the Federal Treasury as checks disbursed by States under Federal programs are cashed. Under the old system, States were allowed to draw Federal funds at the times the checks were issued. The objective of the change is simply to hold funds at the Federal level as long as possible to reduce interest costs.

I have no quarrel with that objective, Mr. President—indeed, prudent cash management, as practiced in much of the private sector, dictates such practices.

I am concerned, however, with several aspects of delay-of-drawdown. First, the grant allocation procedure, which sets overall limits on the amount a State can draw, needs to be streamlined. Presently, if allocation ceilings prove to be inadequate, States must make up for the difference until an application for a higher ceiling is approved. Thus, through no fault of their own, States must carry the funding of the Federal programs that they administer. While this is not a criticism of delay-of-drawdown, per se, it is obvious that these systems must operate in tandem to efficiently manage cash at both the Federal and State level.

A second concern of many States is that they may be constitutionally or statutorily prohibited from implementing delay-of-drawdown. Simply stated, many States cannot issue checks unless they have sufficient funds in the bank at the time. Thus they may be forced to use their own funds, or borrow, to cover the checks until Federal funds become available.

Finally, and perhaps most importantly, Mr. President, delay-of-drawndown is presently being selectively applied. The Department of Health and Human Services, which has traditionally supplied advance funding for programs under their jurisdiction, is the only Federal agency presently attempting to implement this system.

Many other agencies, however, do not provide advance funding. Rather, States must advance funds to meet obligations and apply for reimbursement. Other programs provide funding on an accrued cost basis. The net result of this potpourri of cash management systems is very often detrimental to the States.

Not only is there an administrative burden in meeting these various program requirements, but also the States may be advancing funds to the Federal Treasury. One study preformed in Tennessee, for example, revealed that Federal agencies owed the State several times the amount of funds advanced by HHS. While some of the inequity was due to delayed billing by the State, it is clear that the State, and not the Federal Government, was providing advance funding for Federal programs.

All of this argues, Mr. President, that we must take a cautious and studied approach to Federal cash management as it impacts subnational governments. We urgently need Government-wide cash management that strives to achieve equity within our federalist system. It is not equitable to focus on one or two programs in which we provide advance funding and ignore those with delayed reimbursement. And any system that is developed must have the active participation of all affected parties.

It was for these reasons, Mr. President, that I thought some delay might be desirable. However, after discussions with both HHS amd OMB, I will forego offering a legislated freeze at this time. I have urged both agenices to redouble their efforts at working with the States in reaching an equitable solution. We need not rush to impose a piecemeal approach to this problem. OMB, which presently has a cash management initiative underway, has given assurances that they will expedite their considerations and submit the necessary proposals as soon as possible next year. Early consideration ought to be given to programs within the Department of Transportation, with which the States report their largest backlog.

In short, we need a uniform, Government-wide cash managment system that treats all parties fairly and equitable. To achieve such a result, OMB and HHS, along with other Federal agencies, must work closely with the States in the design implementation of the system.

Mr. President, I see that my distinguished colleague from Kansas (Mr. DOLE) is on the floor. I understand that his State may be experiencing some of the same problems as Tennessee.

Mr. DOLE. Mr. President, the Senator from Tennessee might take some solace in the knowledge that he is not the only one to hear from the States. As chairman of the committee with jurisdiction over the major HHS programs involved with delay-of-drawdown, I have received every resolution passed by the many national organizations representing the States. My own Governor, Governor John Carlin and Ross O. Doyen, president of the Kansas Senate, have attempted to enlighten me on this subject on several occasions.

Like my colleague before me, I cannot fault any attempt to improve cash management techniques. But I believe that any such program should be implemented, to the extent possible, on a uniform and equitable basis. In the current iteration of New Federalism, where we expect the States to share in some of the responsibilities of providing public serivces, we should not simply impose management systems that look good from Washington. I am encouraged by the OMB initiative and I trust that in the meantime my friends at HHS will work closely with the officials of my State to reach a mutually agreeable solution.

Mrs. HAWKINS. Mr. President, I would like to underscore the sentiments expressed by my distinguished colleague from Tennessee.

Over 20 States, including my State of Florida, face statutory and/or constitutional constraints against implementing the Department of Health and Human Service's delay of drawdown procedure. The procedure, which would force States to draft fund warrants for AFDC and medicaid before receipt of Federal funds, is inconsistent with prudent cash management practices.

While I support the efforts of DHHS aimed at reducing the outlay of Federal funds, I feel that changes in Federal cash management should only be made after thorough consultation with State officials to determine the most pragmatic and equitable approach. These changes must recognize State statutory and constitutional concerns and be applied to all Federal programs funded through the States.

The current inequities that exist at both the State and Federal levels need to be addressed. However, if we are truly committed to revisions which are beneficial to the State and Federal administration of Federal funds, we must take the steps I have outlined above before such implementation.

Mr. BOREN. Mr. President, the delay of draw-down requirement now being imposed by the Federal Government is an especially difficult problem for the State of Oklahoma. Oklahoma, unlike the Federal Government, has a constitutional provision which requires a balanced budget. In addition, article X, section 23 of the Oklahoma Constituton states that agencies "shall not incur an obligation in excess of the unemcumbered balance of cash on hand." Under Oklahoma law, neither the director of State finance nor the State treasurer may authorize or draw a check on the State treasury unless there is cash in the appropriate fund sufficient to cover the total of that check. There is no procedure under the Oklahoma constitution whereby a Federal "promise to pay" can be used in lieu of cash.

I urge that this delay of draw-down requirment be immediately rescinded, and a waiver be granted to those states whose constitutions prohibit compliance.

Mr. LUGAR. Mr. President, I have been advised by the treasurer of the

State of Indiana of the State's position on the delay of drawdown issue. Delay of drawdown is a practice which raises financial and legal difficulties for State governments across the country.

It is of course admirable for Federal departments and agencies to attempt to save Federal taxpayer dollars. What is required at the present time, however, is an agreement between the Federal Government and State governments about how to proceed in this area. For this reason, I would like to indicate that the State of Indiana opposes implementation of delay of drawdown for all Federal agencies until an overall agreement between the Federal Government and State governments has been achieved.

I am hopeful that it will be possible to achieve such an agreement in the near future, and that a mutually satisfactory arrangement for State governments and the Federal Government can be realized.

Mr. QUAYLE. Mr. President, the Department of Health and Human Services is currently implementing delay of drawdown disbursement procedures for several programs funded through cooperative agreements between the States and Federal Government. These new procedures will have an inequitable and harmful effect on State programs and agencies in many States.

Under these new procedures, no money will leave the Federal Treasury until recipients under affected programs present State warrants and no Federal money will be deposited in the State treasuries. A number of States, including my own State of Indiana, because of State laws governing the issuance and payments of warrants on the State treasury, will have to draw on State funds in order to comply with these procedures. In the case of Indiana, State statutes forbid the Treasurer of the State to make payment on any warrant for which there is insufficient money on hand in the fund on which the warrant is drawn.

I urge the Federal Government to delay implementation of the delay of drawdown procedures until a reasonable overall policy can be developed which would treat the different States fairly and equitably. These procedures relate directly to cash management on the State level and should be worked out in consultation with the States, reflecting the requirements of different State laws and State constitutions.

Mr. THURMOND. Mr. President, I would like to voice my concern on the complicated delay-of-drawdown procedure by which the Department of Health and Human Services is now disbursing funds to the States for several programs.

The South Carolina State treasurer, Mr. Grady L. Patterson, one of the most distinguished and respected State financial officers in this country, has been in touch with me concerning this matter. Mr. Patterson informs me that this new cash management system would pose an especially difficult problem for the fiscal policies and statutes of the State of South Carolina.

In view of the uncertainty facing many of the States with constitutional or statutory problems if this implementation of delay-of-drawdown proceeds, I would like to join a number of my Senate colleagues in urging that the Office of Management and Budget and the Department of Health and Human Services, in consultation with the States, give very careful consideration to these concerns and strive to alleviate them.

Mr. DURENBERGER. Mr. President, I would like to join with my colleagues in expressing concern about the changes in drawn down letter-of-credit procedures being implemented by the Office of Management and Budget.

OMB has made great strides over the past year in improving the Federal Government's cash. At a time when the Federal deficit is a pressing problem retarding economic recovery, any contribution to reducing the deficit is appreciated and to be applauded.

But in the case of letter-of-credit procedures with State governments who implement Federal programs, one has to be careful that zeal to reduce the deficit does not simply increase costs at other levels of government. Cost shifting of ths type will not benefit the taxpayer and would simply further damage our relationship with our partners in the intergovernmental system—a relationship already strained by other budget actions taken at the Federal level. OMB assures me that the changes that it is implementing are not intended to shift costs, but simply to make sure that the Federal Government gets full advantage of the interest that might be made on the use of its funds. I hope that is the case.

But the issue deserves further inquiry. And in that regard, I would like to indicate to my colleagues my intentions to hold hearings on this subject early in the next Congress. My staff spoke with the Associate Director for Management at OMB earlier today, and it is my understanding that they would welcome this hearing. I will report back to the Senate on the results of that hearing in the first few days of the next Congress.

Thank you, Mr. President.

Mr. CRANSTON. Mr. President, I join my Senate colleagues in expressing concern about the efforts of the Department of Health and Human Services to implement a new cash-management procedure—the so-called delay-of-drawdown program—for the medicaid and AFDC programs. This new accounting procedure would require a State to advance funds for both the State and Federal share of these assistance programs without the Federal share of the funds having been first transferred to a State's treasury. Several States have indicated that the implementation of such a procedure would violate their State constitutions or statutes, or both.

As a former controller of the State of California. I am very aware of the cash-flow problems and disruption in services this type of procedure could create for programs in certain States. Partially as the result of the Reagan administration's budget cuts and the recession, California is facing a budget deficit that could run as high as $1.2 billion in fiscal year 1982 and $3 billion next year. Many other States are facing similar budgetary crises. Under these circumstances, it is not fair or reasonable for the administration to shift additional fiscal responsibilities to the States by requiring them to advance the Federal share of funds for federally mandated programs.

I congratulate the distinguished majority leader (Mr. BAKER) on his statesmanship and keen understanding of the problems created by the administration's implementation of the delay-of-drawdown program on a selective basis for only programs that would benefit the Federal budget while working a financial detriment on the States. I agree with him that we must develop efficient and effective cash-management procedures for all Federal-State programs and that the administration should intensify its efforts to work with all the States—in consultation with the Congress—to develop a uniform cash-management system.

Mr. President, I strongly support the majority leader's efforts and those of the other participants in this colloquy to find a fair and effective resolution of this matter.

Mr. HATFIELD. Mr. President, the Senator from Oklahoma is next to be recognized.

UP AMENDMENT NO. 1546

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oklahoma (Mr. BOREN), for himself, Mr. ROBERT C. BYRD, and Mr. BRADLEY, proposes an unprinted amendment numbered 1546.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following: The nation's economy is entering the seventeeth month of a severe recession, with few signs of recovery;

Nearly 20 million people are underemployed or unemployed due to this recession;

Our nation's steel, auto and housing industries and our agricultural sector remain mired in a depression;

Given the current underutilization of both labor and capital, lower interest rates will not rekindle inflation;

Lower interest rates are the key to higher employment, higher production and sustained economic growth;

Therefore, be it declared that it is the sense of the Congress that: In recent months, the Board of Governors of the Federal Reserve and the Federal Open Market Committee have made a significant contribution to lower interest rates without rekindling inflation, and that with due regard for controlling inflation so as not to have an opposite effect of driving interest rates upward, they should continue to take such actions as are necessary to achieve and maintain a level of interest rates low enough to generate significant economic growth and thereby reduce the current intolerable level of unemployment.

Mr. BOREN. Mr. President, I offer this amendment on behalf of myself, the distinguished minority leader, Mr. ROBERT C. BYRD, and Mr. BRADLEY.

This amendment commends the Federal Reserve Board for its recent efforts to reduce interest rates, and expressing the sense of Congress that the Fed should continue to keep interest rates low enough to stimulate significant economic growth and reduce the current level of unemployment.

We are now halfway through our 17th month of the current recession, with no clear path toward recovery yet in sight. The November figures for industrial production and capacity utilization were down once more, and the steel industry continues to operate at slightly more than 30 percent its capacity.

Our great agriculture producers are in their worst straits since the Great Depression. We have recently learned that farm income across the Nation is at lows not seen since the Great Depression, and that my home State of Oklahoma is suffering from average farm earnings of only $14,000 per farm. We cannot expect our farmers to remain in business if their hard work and honest sweat leave them without any return.

The resolution that I am offering as an amendment was included in the House-passed continuing resolution, but was unfortunately eliminated by the Senate Appropriations Committee. It was eliminated along with all other sections of title II, so I believe the full Senate should have a chance to choose low interest rates and stronger growth by supporting this resolution.

The resolution simply states the sense of Congress that interest rates should be maintained at levels sufficient to allow our economy to begin its long climb toward recovery. It also encourages a more stable and reasonable interest rate policy than has been followed since October 1979. Since the Federal Reserve Board altered its policies that fateful day, the prime rate has changed 84 times. That is more than two prime rate changes a month for the last 3 years. Drastic and rapid changes such as these cause uncertainty and timidity in investors and retard the possible recovery that we are looking for.

Interest rates have played a large part in bringing us to our current depressed economic condition. People cannot afford to buy houses, cars, or other consumer goods at high interest rates. Furthermore, our Nation's goods and services—including agricultural goods—are harder to sell abroad since high interest rates in this country make the dollar more expensive in other nations. Thus we are preventing our own citizens, and citizens throughout the world from buying our goods because of unreasonably high interest rates.

As an example of the terrible toll that high interest rates exact on our consumers, consider what high rates do to the cost of houses and automobiles.

On a standard 30-year, $60,000 mortgage, monthly payments would be $855 at 17 percent, but only $711 a month at 14-percent interest. This would mean a $51,000 difference in the total cost of a house over the term of these mortgages. For many working Americans this $51,000 difference spells the difference between a house they can afford and a house that is above their range. It is this difference that has led many of our finest builders into bankruptcy.

Turning to automobile sales, we find a similar difference between high interest rate payments, and those required at more moderate rates. For instance, payments on a $10,000 car would be $273 a month at 14 percent interest, but only $258 a month at 11-percent interest. This would amount to a $720 difference in payments over the standard 4-year term of auto loans.

It is obvious that lower interest rates would mean higher sales, and a chance to climb out of our current intolerable recession. We have long said that an economic recovery could be encouraged by lower interest rates, and—indeed—the first signs of recovery have been sighted in two of our Nation's most hard hit sectors. Domestic auto sales were running at a mere 5.14 million annual rate in July, before interest rates headed down, but auto sales have increased to a 6.82 million annual rate as of this November.

Turning to housing, we find that lower interest rates has also helped here. In July, the annual rate of new house sales was pegged at 352,000, but after dramatic rate improvements for home mortgages we find that new houses were selling at a rate of 487,000 in October.

Mr. President, this resolution, which deserves bipartisan support, does not tell the Federal Reserve Board to encourage a renewed bout of inflation. We are too deep in a recession for inflation to begin during the next few months. This resolution simply expresses the sense of Congress that the Federal Reserve Board started down the right track earlier this year, when it brought rates down and that a path of moderate rates should be maintained during the next coming months. This is not a call for renewed inflation, rather it is an affirmation of renewed growth and a ray of hope for the millions of unemployed citizens throughout our land.

I hope that all of my colleagues can support this measure—it has been carefully drawn; it is balanced in its presentation—and that we can join our Democratic and Republican colleagues in the House who have already acted on similar language in sending the correct message to the Federal Reserve Board: We need more jobs, more growth, and lower interest rates.

I yield to the distinguished minority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank my distinguished friend and colleague from Oklahoma (Mr. BOREN) for offering this resolution and for joining me as a principal coauthor.

This amendment expresses our belief that the Federal Reserve Board should achieve and maintain interest rates low enough to promote economic growth and reduce our current intolerable level of unemployment, without rekindling a new bout of inflation.

Language was included in the House-passed continuing resolution, but was stripped from the resolution by the Senate Appropriations Committee.

I would hope that the Senate now would put language in so that there is no question but that both bodies are interested in this approach. It will certainly relieve the tensions and the problems that might otherwise arise in conference.

I should mention, at the outset, that with our current level of unemployment and our low plant and equipment usage there is little danger of a new inflationary spiral.

Steel companies are at 40-percent capacity utilization. Capacity utilization in the automobile industry is at around 50 or 56 percent, though I may be wrong on that figure. Overall capacity utilization in this country is under 70 percent. With such a low level of employment and such a low level of plant and equipment usage there is little danger, in my judgment, for a new inflationary spiral.

The more acute danger is that our Nation, and other nations, will sink deeper into a recession that is now the longest in postwar history.

I believe this amendment is particularly appropriate at this time, because we lie somewhat suspended in an economic twilight between depression and recovery. The Federal Reserve Board seemed to abandon monetarism a few months ago, after the Senator and I and 40 others in this body, including Mr. BRADLEY, joined in offering legislation—not just a sense-of-the-Senate resolution but legislation—that would require the Federal Government to take such action as would promote economic growth and put people back to work, bring interest rates down, without rekindling the fires of inflation.

After I talked with the majority leader of the House, Mr. WRIGHT, that legislation was introduced in the House. He was able to get close to 70 cosponsors on it.

So there is very real support for this type of legislation. I am talking about legislation that goes beyond a sense-of-the-Senate resolution.

The Federal Reserve Board then began to move.

When they moved to drop monetarism, interest rates and the stock market recorded their strong approval. Interest rates dropped swiftly, and the stock market soared to record levels.

Then, just as the Christmas sales season was approaching, the Federal Reserve Board began to send mixed signals that left both the stock market and interest rate levels hovering nervously in anticipation, awaiting a clear signal.

Through this amendment, we want to express to the Federal Reserve Board our approval of the policy change made in October and the lower interest rates that resulted. But we also want to warn the Fed that a renewed bout of monetarism or a spike in interest rates will not be tolerated by this Congress. Legislation has been introduced in both the Senate and House, by Democrats and Republicans—and there has been public support by Democrats and Republicans—to force the Federal Reserve Board to target real interest rates. That legislation will become increasingly necessary if interest rates begin to move upward by late winter or early spring.

The amendment we are proposing tells the Federal Reserve Board that Congress will not tolerate a return to monetarist prescriptions in the coming months.

We hope that a resolution now will avoid the need for legislation early next Congress, but if legislation is needed no one should believe we will shrink from it.

I believe we can save much pain and unemployment in the next few months by telling the Federal Reserve Board that Congress is committed to a strong economic recovery, to put this Nation on the move again, to put people back to work, to encourage big industries such as steel, coal, and the automobile industry, to invest so as to modernize and increase productivity which, in turn, has a good effect both on inflation and employment.

There are signs that the Federal Reserve may doubt that it has a mandate to encourage recovery. First is the long delay between discount rate reductions that confused and concerned the financial markets throughout the fall. These delays were interpreted by market analysts as signals that the Fed intended to restrain money growth in the coming months to forestall a strong recovery.

The second reason for concern is found in Chairman Volcker's statement to the Senate Banking Committee on July 20 of this year. At that time, Chairman Volcker said that money growth above the 1982 target ranges could be tolerated because of the recession and because of the confusion that new money market developments created in interpreting the monetary aggregates. But, the Chairman warned, money growth would have to be slowed dramatically in 1983. In telling the Banking Committee that the Board had decided to use the 1982 targets as temporary 1983 targets, Chairman Volcker said:

Because monetary aggregates in 1982 more likely than not will be close to the upper ends of their ranges, or perhaps even somewhat above them, the preliminary 1983 targets would be fully consistent with a reduction in the actual growth of money in 1983.

This amendment says that while a reduction in the actual growth of money in 1983 may be consistent with Fed targets, if it were to result in higher rates, it would be inconsistent with Congress wishes, and inconsistent with the best interests of our Nation.

In essence, we do not believe that a monetary policy designed to stimulate capital investment and purchases of credit-related goods such as cars and homes, stands any danger of being inflationary in our current circumstances. I fully agree with last week's Business Week which says:

The combination of tight money and huge deficits has proved toxic to economic growth in the first two years of President Reagan's Administration. It would take a miracle to change that fact in the second two years . . . the time has come to go for growth.

The tragedy of unemployment, vastly underused plant and equipment capacity, and the danger of world economic collapse, has been much discussed, but cannot be overrated. The Federal Reserve Board made a terrible error in October 1979 when it converted to monetarist prescriptions for lowering inflation. It partially corrected that mistake in October of this year.

This amendment will encourage those members of the Federal Reserve Board of Governors who know that a more balanced monetary approach must be taken in the face of a still-declining economy. It will discourage those diehard monetarists on the Board who may not believe that the fate of 12 million unemployed and 6.6 million underemployed Americans is enough to cause a change in monetary policy.

Most importantly, this amendment will prevent a return to simplistic monetarist prescriptions and offer a ray of hope to our international allies who have suffered greatly under the monetarist regime and a ray of hope to our businesses who are waiting for a chance to invest in new production for America.

A vote for this amendment is a vote to climb out of the 17-month recession that is upon us.

I ask unanimous consent that the Business Week editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From Business Week, Dec. 13, 1982]

GO FOR GROWTH

With the world economy now mired in a near-depression and in desperate need of a U.S.-led recovery, Federal Reserve Board Chairman Paul A. Volcker's decision to abandon mechanical monetarism and ease interest rates down deserves broad support (page 90).

The advantage to hanging on with a monetarist policy of gradual reduction of monetary growth would be to obviate any chance that double-digit inflation will again rear its ugly head. The danger is that a recovery strategy based solely on lowering inflation will not bring interest rates down enough to turn the economy around, particularly when the markets must finance a structural deficit in the U.S. budget, which could amount to $200 billion in fiscal 1984 alone. The combination of tight money and huge deficits has proved toxic to economic growth in the first two years of President Reagan's Administration. It would take a miracle to change that fact in the second two years.

The advantage of direct moves to push interest rates down is economic revival. Housing and autos are already showing signs of life, and interest rates do not have to come down much further for them to soar. And when they do, the U.S. should get the consumer-led recovery that the Administration has been promising for more than a year. A further cut of 1% to 2% in long-term interest rates now could quite conceivably lead to the kind of strength in Christmas sales that would lay the ground-work for sustained progress in 1983.

The risk in pushing rates down is a revival of inflation. But even if money were to become much easier, there is enough unemployment and excess capacity around the world to limit price rises strictly in 1983. And if recovery should be strong enough to threaten inflation in 1984, there will be plenty of time to take corrective measures.

The world has paid a stiff price for ending the threat of hyperinflation. That price was probably worth paying. But the time has come to go for growth.

Mr. ROBERT C. BYRD. Mr. President, I compliment the Senator (Mr.

BOREN) again on his having offered this amendment. I urge the Senate to support it.

Mr. BOREN. Mr. President, I thank the distinguished minority leader. I am very proud to be associated with him. He is a leader in the effort to bring about a more reasonable monetary policy. I believe his efforts have had great impact in terms of opening a new dialogue between Mr. Volcker and those in the Congress who have similar concerns.

I would like at this time to reserve the remainder of my time on this side so that I might yield and allow the distinguished chairman of the Banking Committee, the Senator from Utah, to proceed.

He has participated in the consideration of this particular amendment.

Mr. GARN. Mr. President, I thank the distinguished Senator from Oklahoma.

I would say at the outset that I appreciate his cooperation on this amendment. Originally, when he first proposed the amendment, I did disagree and had intended to oppose. However, he was very cooperative and was willing to make some modifications in that amendment which make it acceptable to me.

I have no objections to the amendment as now written, or at least as a sense of the Senate.

Let me extend my remarks beyond this particular sense-of-the-Senate resolution because this subject comes up quite often.

In many cases we have those even within our Banking Committee, within the House and within the Senate, who desire to pass specific legislation mandating monetary targets, and infringing upon the independence of the Federal Reserve Board. This I will continue to oppose every time it comes up and every time anyone tries to use the Fed as a scapegoat for the problems of the fiscal policy of this country and the mistakes over many, many years of the Congress of the United States in creating the economic problems of this country.

I do not always agree with the Fed and their policies and I have never been unafraid, as chairman of the Banking Committee, to express publicly those concerns about Fed policy. But it is one thing for us to express our opinions and to advise the Fed and tell them what we may like them to do.

Again, I have no objection to this amendment today and I am extending my remarks to those who would try and control the Fed and take away their independence. We simply cannot separate the problem of interest rates in the matter of fiscal and monetary policy. They have to go hand in hand. They must work together. You cannot totally blame one side or another, and yet many of our colleagues over the last couple of years have tried to use the Fed as a scapegoat to cover up the problems of the Congress in fiscal policy and our ridiculous spending habits.

Because I do not care who the Chairman of the Federal Reserve is—we could make Senator PROXMIRE Chairman of the Federal Reserve tomorrow and, regardless of what his policies are, and as long as this Congress spends $150 to $200 billion a year more than we take in, the Fed has to monetize that debt—they have no debt whatsoever—and that certainly has an impact on interest rates.

I just want to make the point very strongly, although I support this sense-of-the-Congress resolution by Senator BOREN, and let it be known loud and clear once again that I will oppose all attempts to take away the independence of the Federal Reserve.

I like to use the example that Senator PROXMIRE has already heard too many times, but let us put it in the RECORD once again.

When I was mayor of Salt Lake City, I needed a new fire chief at one point. I did not go to the Utah State Prison to hire the No. 1 arsonist to be head of the Salt Lake City Fire Department.

So we may not like some of the actions of the Fed, but when we compare their actions over a period of decades to the actions of the Congress of the United States on fiscal policy, the last thing on Earth we want to do is to turn over the control of monetary policy to the burglars who have robbed the American people of their savings and their dollars through these exorbitant deficts year after year after year, through both Republican and Democratic administrations. We do not ever want to turn the Fed over to the burglars who have robbed us on fiscal policy.

Once again, I commend the Senator from Oklahoma for his sense-of-the-Congress resolution. I would be willing to accept it. It is not even necessary, as far as I am concerned, to have a rollcall vote.

But let us not ever go beyond advising the Fed, as we are doing today, to attempt to control them and dictate to them how they should function with the monetary policy of this country when we have had such an incredibly poor record on the fiscal side of the coin.

I yield now to the distinguished Senator from Wisconsin, who will come back to the Banking Committee in the 98th Congress, and I am happy that he is going to be the ranking minority member of the Banking Committee.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the chairman of the Banking Committee. I agree with much of what he had to say.

I think this is a useful resolution, but I think we should carefully recognize the great power the Congress has with respect to the Federal Reserve Board.

Just 2 days ago in West Virginia, Mr. Volcker was asked at a public meeting, "To whom are you accountable?"—the charge being he is not accountable to anybody. "Well," Mr. Volcker said, "the Congress created us and they can uncreate us." And of course Chairman Volcker was right.

The fact is that this body, the Congress of the United States, has absolute control over monetary policy, according to the Constitution. So I think we should be extremely careful in how we word resolutions on monetary policy, because the Fed is our creature. They have to follow what we say. We are their boss and they recognize that, as Mr. Volcker indicated 2 days ago.

The resolution before us is a sense-of-the-Congress resolution and does not have full force or effect of law, although it does express the sentiment of the Congress. I think it is a balanced resolution that indicates that we are in a very serious recession, with unemployment at a record high for the last 40 or 50 years, and with a farm depression and business failures that are heartbreaking. And it is also an interest rate-caused recession. There is no question about that.

The chairman of the Banking Committee was 100 percent correct in indicating that you cannot blame the Fed entirely for that. This is an interest-rate recession that has been caused by a fiscal policy featured by continuous and massively growing deficits that have made the Federal Government the dominant figure in the credit market. The Federal Government is borrowing more than 50 percent now of the entire economy's new credit. So what can the Fed do? Either they monetize the debt and pave the way for future inflation—and I am delighted to see this resolution recognizes the danger of that action—or they put the brakes on in such a way that interest rates go through the roof.

For years now, the Fed has been the only game in town in fighting inflation, and I think Mr. Volcker has done a good job under difficult circumstances. I would have done it a little differently than he did as would many of us. But all in all, I think he is on the right track in trying to hold down the rate of increase in the money supply.

I thank my good friend, the chairman of the Banking Committee, and congratulate him on the part he has played in modifying this resolution to make it crystal clear we are not suggesting that the Fed abandon its fight against inflation.

Mr. GARN. I would be happy to yield to the distinguished minority leader on their time.

Mr. BRADLEY. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Utah has 3 minutes and the Senator from Oklahoma has 31 seconds remaining.

Mr. GARN. I would be happy to yield, then, if the minority leader no longer seeks recognition, to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think it is good for the country and good for the Federal Reserve Board that this resolution be adopted, and in particular in the form that it is drawn. There is not any question that the Federal Reserve Board, at least since August, has conducted itself such that they are obviously aware that we are in a deep recession, that we have significant unemployment, and that, at least in the short term, what this country has to do is to start to grow. And I think the reductions in interest rates that have come from their policies and from their lowering of the discount rates is the only way to get out of the deep depression in some industries and the recession that we have generally.

However, I think I would be remiss if I did not mention that at least this Senator believes that over the long run—that is, over 3 or 4 years—that kind of policy is not going to work all by itself. Because the reality of future deficits, the result of our fiscal and tax policies will soon become more than a prediction. It will become a living reality that no one will be able to ignore.

I am not talking out of school as to the new numbers. I will just quote our President, who has now recently said that the future or outyear deficits are monstrous. A monetary policy of the type we are asking for right now, and that we expect to be the result of what we are asking for right now, may be considerably different in 12 or 18 months if we have not controlled the future deficits in a realistic manner. Because they will be so large that they will be acting consistent—that is, the Federal Reserve—consistent with this resolution and yet interest will go up rather than down, because they will be confronted with $185 billion to $250 billion to $275 billion annual deficits based upon current law, and I say to my good friend from Oregon, even with and assuming reasonable prolonged growth, which is going to be an inconsistency. Therefore the deficits would only be larger and thus the interest rates coming down in compliance with this policy will not be real. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma has 31 seconds remaining.

Mr. BOREN. Mr. President, I ask unanimous consent that the Senator from Alabama (Mr. HEFLIN), the Senator from Montana (Mr. MELCHER), and the Senator from Tennessee (Mr. SASSER) be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I rise in strong support of the amendment by Senator BOREN and by the Democratic leader to add the basic content of Senate Concurrent Resolution 128 to the pending legislation.

Mr. President, I support this amendment because I have, from the very adoption of the Fed's new monetary policy in October 1979, been a critic of the Federal Reserve Board's tight money policies.

Indeed, I was the first Senator to bring a monetary policy resolution to the floor of the Senate in May of 1931 that would have signaled the Fed to change its monetary policies.

My resolution called for the Fed to reverse its monetary policy, ease up on interest rates, and consider the adoption of a dual prime rate policy that would help reduce interest rates for small business, agriculture, and the homebuilding industry.

Now my resolution failed by a 57-to-37 vote.

But I think that the events of the last 3 years have proved that my concerns about interest rates are right on the mark.

Mr. President, because of high interest rates the level of our real gross national product is $30 billion lower than it was in the first quarter of 1981.

Because of high interest rates, we have 12 million unemployed and an unemployment rate of 10.8 percent.

Because of high interest rates we are using only 68.4 percent of our industrial capacity.

Because of high interest rates, we experienced over 17,000 small business failures in 1981 and we will probably see 25,000 business failures recorded this year.

Indeed, the weekly rate of business failures now stands at 526 per week, more than double that recorded when the Reagan administration came into office.

High interest rates have meant that businesses do not have the ability to invest nor are consumers willing to borrow in order to buy houses, automobiles, or other durable goods.

And lest anyone think that our interest-rate problems are behind us, I would remind my colleagues that "real" interest rates are still at extraordinarily high levels.

My colleagues, consider if you will the level of real interest rates since the Fed adopted its tight money policies at the end of 1979.

Between 1960 and 1978, real interest rates averaged 2.1 percent.

In 1979, the real interest rate stood at 4.1 percent.

In 1980, it stood at 6 percent.

In 1981, it stood at 9.5 percent.

And for each of the first three quarters of 1982, the "real" prime rate has been over 10 percent.

It is small wonder to me that business investment fell by 4.8 percent in 1982 and that many private forecasts expect that business investment may fall by another 5 percent in 1981.

Mr. President, I believe that the Federal Reserve Board itself is even beginning to realize that its tight money policies are an economic failure.

The discount rate has dropped by 4 points within the last 4 months. And just yesterday, the Fed dropped the discount rate to 8½ percent.

The Fed has indicated that it will exceed the overly stringent monetary targets that they adopted for 1982.

The Fed knows that, both domestically and internationally, their high interest-rate policy cannot be sustained.

They know that high interest rates are a prime cause of the projected $70 billion trade deficit.

They know that overly high interest rates are pricing our exports out of the world market and escalating the international debts of our trading partners.

They know that high interest rates at home have caused record numbers of small business failures.

They know that high interest rates are the main reason we are only going to build 1.1 million housing units this year and only 1.3 million units next year when we should have built 4 million units in order to house a growing and changing population.

And of course our automobile industry has been devastated by high interest rates.

Indeed, a recent National Journal article on the impact of high interest rates noted that since 1979, sales of cars and trucks have dropped by 900,000 units a year for every percentage point increase in interest rates. As a consequence, the average age of the car on the road today is about 7 years.

Mr. President, we have an economy that has been shackled by high interest rates.

We have businesses waiting to invest and consumers ready to borrow when interest rates come down and stay down.

And it is my hope that this amendment will send a strong message to the Fed that they should reverse their high interest-rate policies and adopt a monetary policy that does not run our economy onto the rocks.

The Byrd-Boren amendment does just that. I urge passage of the amendment.

Mr. BENTSEN. Mr. President, I strongly support the resolution offered by Senator BOREN on monetary policy. You and my other colleagues here may recall that I have been critical of Federal Reserve actions on monetary policy for over a year now. Indeed, I believe I was one of the first, if not the first, Senator to urge moderation in monetary policy by the Federal Reserve Board of Governors early in 1981.

My criticism of the Federal Reserve last year focused initially on their decision to freeze monetary policy during the second and third quarters of 1981. That extreme policy resulted in an actual decline in the money stock variable called M_1 during that 6-month period—and quite properly is pointed to as the fundamental cause of what has now become our longest postwar recession. I confess amazement, even today, with that period of monetary contraction. It resulted in the Federal Reserve coming in well beneath its stated M_1 growth target range for that year of 3.5 percent to 5.5 percent. And, it seemed to puzzle monetarists and nonmonetarists alike in its needless severity and duration as an anti-inflation action.

That episode sent interest rates soaring and began the downward spiral in our economy which continues today. The Federal Reserve dropped the ball another time in 1981, as well—blowing an opportunity to cut short the recession exactly 1 year ago.

Thanksgiving, 1 year ago, interest rates began sliding downward, promising a quick end to the recession. Yet, in a repetition of its earlier tight-money episode, the Federal Reserve halted that slide last Christmas. In fact, it sent interest rates soaring up a point and more just as we entered 1982—insuring continuation of the recession far longer than necessary.

I am aware that a tighter Federal Reserve policy compared to the late 1970's was needed and necessary to stem inflation. Yet, I cannot disagree more with both the magnitude and timing of Federal Reserve actions over the past 18 months.

It is no coincidence that our recession began just as the growth of M_1 ceased in the spring of 1981.

It is no coincidence that the prime rate fell to 15.75 percent from 20.5 percent a year ago once the freeze on M_1 was lifted.

It is no coincidence that the prime rate jumped right back up again last Christmas as M_1 growth was tightened again.

And, it is no coincidence that the thankful decline in interest rates this fall paralleled a more accommodative money posture by the Federal Reserve.

The Fed overreacted and paid a higher price than necessary for its welcomed progress against inflation. Let me hasten to add, however, that Chairman Volcker's task has not been an easy one.

The Federal Reserve has stood alone like Horatius at the bridge in the fight to slow inflation. It alone was willing to pursue contractionary policies while the White House and Congress piled deficit upon deficit—deficits which may now threaten any hopes for a robust recovery—or any recovery at all. In fact, we face a prolonged period of economic stagnation if we do not aggressively trim spending and raise taxes. The Federal Reserve Board of Governors knows that. And we know that, too.

Our economic outlook is grim. Morgan Guarantee's annual survey, for example, projects such sluggish growth next year that unemployment may not slip below 11 percent until July. We have enjoyed real economic growth in only one of our last four quarters. And, Commerce Secretary Baldrige yesterday predicted that the fourth quarter would see little or no growth either.

It is to Chairman Volcker's credit that he is now acting to accommodate somewhat more economic growth. The Federal Reserve's action on Monday to lower the discount rate to 8.5 percent was its most aggressive action yet to stimulate a recovery. It occurred even though the Federal funds rate on Interbank loans was above 8.5 percent—a sharp departure from previous patterns when the discount rate was reduced by the Fed. We have needed that sort of action for a long while. It is long overdue for our domestic economy and for the world economy, where debtor nation after debtor nation is frantically seeking credit; credit which can only come from the U.S.-led bloc of advanced industrial democracies.

The resolution before us is designed to encourage Chairman Volcker and his fellow Board members to permit the further easing of interest rates. Lower interest rates are critical to an economic recovery here and across the world. No Member of this body wants to see inflation generated anew. But our bulging food stocks and tank farms plus record-level excess plant capacity, promise many months of low inflation ahead. The Federal Reserve should seize this opportunity to move our Nation onto a path of robust growth now when it would not regenerate inflation. It is an opportunity not to be missed. And, the resolution before us is intended to insure that this opportunity is not missed.

Mr. MELCHER. For the past 34 months I have pointed out the dangerous results of the high interest- rate policy set in motion by the Federal Reserve Board. I voiced my objections personally to the Board's Chairman, Paul Volcker, during a White House dinner early in 1980.

Mr. Volcker stated then, as he so often has since, that high interest rates were the "medicine the economy must swallow to cure inflation." The man has a certain majesty in his massive bearing, but I have never wanted majestic decisions to veto commonsense. So, I argued with Mr. Volcker that a cure that halted housing and the forest products and construction supply industries, a cure that caused agriculture producers and small business to go broke was a cure that led to massive unemployment with a deep recession or even a depression.

Mr. Volcker dismissed those arguments with courteous disdain.

But even with inflation dropping for the past 2 years the Volcker high interest- rate policy continued until the middle of this past summer.

Using the historic spread of no more than a four-point spread between the rate of inflation and ordinary business and consumer interest costs, the rates are still too high. The inflation rate is approximately 5 percent and interest rates should be at 9 percent—instead of 11 to 14 percent.

Obviously, the Federal Reserve Board's policy must be to continue a policy of reducing rates more. The combination of high unemployment, business failures, and depressed agriculture prices has caused sharp drops in Federal revenues from income and business taxes with an overwhelming budget deficit.

That is not only a tough cure, it has caused tragic results to millions of America's families. We must keep interest rates declining. There are other policies that must be followed such as a reduction in foreign aid and defense spending, an increase in our export sales, a reduction in our foreign imports, and a reduction in costly Federal redtape. These along with a continued drop in interest rates are the cure for economic recovery. Diligent attention to these matters are required.

Mr. BOREN. I yield to the Senator from New Jersey the remainder of my time.

Mr. BRADLEY. Mr. President, this amendment underscores the strong feeling in the Senate that the Federal Reserve can play an important role in generating economic growth. It is a recognition that, indeed, money does matter. The rate of growth of the money supply—somehow defined—does exert a powerful influence on the performance of the economy. If it is too stimulative it can contribute to inflationary pressures. If it is too restrictive it produces high unemployment. Unlike several of the bills introduced earlier in the session by Representatives of both sides of the aisle, bills which I did not support—this amendment does not attempt to assert congressional control of the money supply. This amendment, unlike earli-

er versions, does not set numerical targets, nor does it recognize that the reduction even mandate real interest rates in historical ranges.

This resolution calls for such actions as are necessary to achieve and maintain a level of interest rates low enough to generate significant economic growth and thereby reduce the current intolerable level of unemployment. Many of us recognize that while there is continuing and obvious disagreement between the two polar positions on monetary policy, there is an emerging consensus that neither rigidly tight nor wildly expansive monetary policy is called for. Except for the most doctrinaire proponents of the two extreme positions, most people agree on the benefits of a moderate and flexible growth rate of the money supply. Sure there will continue to be arguments about how you measure the quantity of money, but we can agree on the basic policy thrust. The general policy thrust is toward interest rates that will achieve significant and sustained growth. This is the policy called for in this amendment.

Let us look at the recent performance of the Fed's monetary policy. For the past year, the Fed's target range for the rate of growth of M_1 has been 2½ to 5½ percent. The rate of growth has not fallen below the 2½-percent lower target; and, except for a brief period between June and August last summer, the rate of growth has been above the 5½ upper target. Further, since June, M_1 has grown at an annual rate of about 15 percent. Some argue that the recent growth rate may provide too much money to the system and refuel the fires of inflation, especially in concert with the large impending budget deficits forecast by the administration. Rising inflation would push interest rates back up. The amendment we are now discussing calls for lower interest rates, not higher.

On the other hand, the Fed has no direct control over M_1; it can, however, influence the monetary base, a narrower measure including currency and bank reserves. This measure of money supply tells a different story than the M_1 story. While M_1 has been expanding at a 15-percent annual rate, the monetary base has been kept within the 4- to 6-percent range since last August. Too tight a lid on money supply will force up the price of money, that is, interest rates. The amendment we are proposing calls for lower interest rates, not higher.

Again, Mr. President, there are few among us any more who call for either a rigidly tight or a rapidly expansive monetary policy. Most of us agree that monetary growth should be moderate and flexible, allowing for judgment and some degree of discretion on the part of the Federal Reserve. This a resolution in favor of lower interest rates without a specific, congressionally mandated course of action. As such it deserves support.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BRADLEY. Mr. President, I ask unanimous consent to be able to continue for another minute.

Mr. HATFIELD. I object.

The PRESIDING OFFICER. Objection is heard.

All time has expired.

Mr. HATFIELD. Mr. President, I am not yielding directly to the Senator's request, but I am yielding at the request of the minority leader, and I would do so only under that circumstance.

I ask unanimous consent that a minute be given to the Senator from New Jersey. I do that knowing full well that I put the Senate on notice that I would object to any extension of these time agreements, but I do so in deference to the minority leader's request.

Mr. ROBERT C. BYRD. I thank the distinguished chairman.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I thank the chairman of the committee and the minority leader.

Mr. President, I wanted to continue by simply saying that interest rates are coming down and must come down if we are going to grow. And if we do not grow, we will have major problems in the international financial system.

I would like to point out for the Senate that even if interest rates do come down and we manage some slow growth, we still could have problems in that system in the next year, that indeed questions about IMF quotas and emergency funds and the size of the emergency exchange stabilization funds will all come before Congress in the next year, and that we have to ask ourselves, beyond the questions of jobs and available credit for our constituents, what is in it for all of us to make sure that that system remains stable?

Now it is true, monetary policy is not followed in a vacuum. It is followed in the context of policies by the Congress and by the administration. It is my hope that we will——

The PRESIDING OFFICER. The Senator from New Jersey has used his minute.

Mr. BOREN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BOREN). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

The PRESIDING OFFICER (Mr. COHEN). Is there any Senator in the Chamber who has not yet voted and is inclined to do so?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 447 Leg.]

YEAS—93

Abdnor	Ford	Moynihan
Andrews	Garn	Murkowski
Baker	Glenn	Nickles
Baucus	Gorton	Nunn
Bentsen	Grassley	Packwood
Biden	Hart	Percy
Boren	Hatch	Pressler
Boschwitz	Hatfield	Proxmire
Bradley	Hawkins	Pryor
Brady	Hayakawa	Quayle
Bumpers	Heflin	Randolph
Burdick	Helms	Riegle
Byrd, Harry F., Jr.	Hollings	Roth
	Huddleston	Rudman
Byrd, Robert C.	Humphrey	Sarbanes
Cannon	Inouye	Sasser
Chafee	Jepsen	Schmitt
Chiles	Johnston	Simpson
Cochran	Kassebaum	Specter
Cohen	Kasten	Stafford
D'Amato	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Symms
Denton	Levin	Thurmond
Dixon	Long	Tower
Dodd	Lugar	Tsongas
Dole	Matsunaga	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	Weicker
Eagleton	Melcher	Zorinsky
East	Metzenbaum	
Exon	Mitchell	

NOT VOTING—7

Armstrong	Heinz	Pell
Cranston	Jackson	
Goldwater	Mathias	

So Mr. BOREN's amendment (UP No. 1546) was agreed to.

Mr. HATFIELD. Mr. President, I yield to the Senator from Missouri for a unanimous-consent request.

Mr. DANFORTH. Mr. President, I ask unanimous consent that unprinted amendment No. 1538 appear at the end of title I.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I want to again put the Senate on notice, but I am going to demand regular order. This is where the business of the Senate is today. There are no committee meetings going on anywhere to

compete with this focus of the business. We lose time, while we wait for the arrival of late Senators. I want to accommodate any Senator I can, but I just want to make it very clear that when the time has expired I am going to demand regular order except for the leadership that may be on their way. I recognize that exception.

The Senator from Indiana has an amendment, a 5-minute time agreement, I believe, with no rollcall expected.

Mr. QUAYLE. That is true.

Mr. EXON. Will the Senator yield for 10 seconds?

Mr. HATFIELD. Yes, I yield.

Mr. EXON. Inquiry of the manager of the bill. Maybe we can expedite things a little bit if the Senator would put out a call. It does not seem to this Senator it is necessary to have a rollcall vote if we are trying to save time when we pass something 39 to nothing.

Mr. HATFIELD. The Senator is correct. There was a plea made to the author to refrain from asking for a rollcall but that is the Senator's prerogative, and so therefore we could not control that situation.

Mr. EXON. The Senator will make the same plea again, I presume?

Mr. HATFIELD. I will. I will.

UP NO. 1547

(Purpose: To provide $50,000,000 for the Dislocated Workers Program under the Job Training Partnership Act)

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. QUAYLE), for himself, Mr. KENNEDY, Mr. HATCH, Mr. LUGAR, Mr. HEFLIN, Ms. HAWKINS, and Mr. BRADLEY proposes an unprinted amendment numbered 1547.

The amendment is as follows:

At the end of title I, add the following:

EMPLOYMENT AND TRAINING ASSISTANCE

For an additional amount for "Employment and training assistance", $50,000,000, which shall be for carrying out title III of the Job Training Partnership Act (Public Law 97-300).

Mr. QUAYLE. Mr. President, unemployment climbed to 10.8 percent in November, continuing a trend which must be brought to a halt. As Congress examines solutions to deal with this facet of our complex economic problems, I would like to urge my colleagues to support a $50 million appropriation level for the newly enacted dislocated worker program, title III of the Job Training Partnership Act. This level of funding would accelerate the implementation of the dislocated worker program. I am offering this as an amendment to the further continuing appropriations for fiscal year 1983, House Joint Resolution 631.

The Job Training Partnership Act was designed to meet the needs of our Nation's structural unemployment problems. Not only does it provide a training program for the economically disadvantaged—title II—but it also has a program to provide assistance to dislocated workers. The continuing resolution currently funds the basic training program for the economically disadvantaged, but it does not fund the dislocated worker program.

We must accelerate implementation of the dislocated worker program because there is evidence of a growing need to assist experienced workers who are unemployed. Throughout 1982, factories and businesses across the country have been closing and workers have been forced into idleness which will not end even with economic recovery. The Bureau of National Affairs estimates that over 150,000 workers have lost their jobs due to plant closings in the first 9 months of this year alone. Testimony from the Department of Commerce before the Subcommittee on Employment and Productivity estimated a permanent decline of 500,000 jobs in automobile and related employment.

According to Martin Feldstein of the Council of Economic Advisers, only 30 to 40 percent of the October unemployment was cyclical and the rest was structural. In other words, over 6 million unemployed workers cannot expect to find jobs even with maximum noninflationary growth in the economy.

Individuals affected by structural changes in our economy are forced to rely on unemployment insurance benefits or their own resources to help them through this difficult time. Dislocated workers have little chance of returning to their former occupations. Many of them have exhausted their unemployment insurance benefits and, eventually, they will exhaust their personal resources as well. Once-productive workers may become dependents of our social welfare programs at great social and economic costs. However, with a minimum amount of assistance, they may once again join the work force as productive citizens.

Under the dislocated worker program these individuals will receive assistance in job search, prelayoff assistance, relocation assistance, and training in jobs skills for which demand exceeds supply. The $50 million appropriation that I propose for this program will be an investment in the future when millions of more dollars will be saved through decreased public income transfer expenditures and increased national productivity.

RETRAINING DISCLOCATED WORKERS: $50 MILLION IS BETTER THAN $200 MILLION

The sum of $50 million will clearly not provide assistance to a large proportion of the dislocated workers but it would be, in my opinion, a serious mistake to increase the size of the appropriation because it is not sufficient to deal with the whole problem. Retraining of dislocated workers is a complex business in which we have little experience. We must mount well-considered programs that will retrain workers for actual job opportunities. We must not just throw money at the problem with the inevitable result that we will get programs that do not work.

It has been suggested that, for fiscal year 1983, $200 million be appropriated for the dislocated worker program. This is twice as much as was proposed in the original Quayle-Kennedy bill. This level of funding raises questions which go beyond the obvious considerations of fiscal constraint. In their enthusiasm for alleviating the problems and suffering of dislocated workers, the supporters of this higher level of funding are overlooking administrative realities regarding implementation of the new Job Training Partnership Act (JTPA). At present, JTPA simply does not have the administrative capacity to efficiently and effectively distribute such a high level of funds.

The JTPA establishes a new delivery system as well as new programs. Fiscal year 1983 will be a transition year during which the new system will be put in place. We have a very short period of time to accomplish this enormous task. The number of participants in the delivery system has increased and there will be shifts in responsibility and authority. New relationships must be established. Governors, in addition to administering the dislocated worker programs, now have many of the responsibilities that formerly belonged to the Secretary of Labor. The successful establishment of the new service delivery system is essential to the future success of job-training programs.

The $50 million appropriation level which I propose would be sufficient to implement the new dislocated worker program without overburdening the system. In the past, one of the factors which inhibited the successful operation of the CETA program was that it was constantly required to adjust to meet Congress changing demands. As the CETA program was adjusting to meet the most recent Federal mandate, Congress would require further changes in response to a new economic situation. It is imperative to the success of JTPA that we not repeat the mistakes that were made with CETA. During the remainder of this fiscal year, our chief goal should be the successful establishment of the new job-training system.

Even in the State of Michigan, where the need for this program is un-

deniably greatest, the Michigan Department of Labor warns against too rapid a buildup of funding. The following was taken from their position paper on the dislocated worker program:

The Michigan Department of Labor believes strongly that Title III of the Job Training Partnership Act should be funded for fiscal year 1982-83. . . . Although funds are required now, MDOL believes just as strongly that funds should be made available through a phase-in formula.

It has been the Department's observation that a number of past governmental programs have required initial expenditures of funds too rapidly when first authorized. This does not provide for the careful planning that is necessary to implementing an effective response. Rather than being able to devote adequate time to initial organization, these programs find themselves under undue pressure to spend.

MDOL would therefore prefer to see Title II funded in a rational manner.

This opinion is particularly striking in view of the fact that Michigan is ahead of most of the States in its ability to mount such a program.

States need time to plan for the distribution of funds for dislocated worker programs. Because of the advance budgeting required, many States may not have available the matching funds that are a necessary requirement for receipt of Federal funds under this program. Also the dislocated worker program is a new concept. The problems of dislocated workers are enormous and we are still trying to understand the nature of the problem and remedies to it. Recently, a few, small programs have been set up to explore ways of dealing with the problems of dislocated workers. But we have very little prior experience upon which to build. A look at the models that are available shows that careful planning cannot be overemphasized.

One of the best worker retraining programs is the downriver community conference economic readjustment project in southeastern Michigan. This pioneering program is generally regarded as having been highly successful. In testimony before my Subcommittee on Employment and Productivity, program operators from the Downriver project described the planning that is necessary to provide experienced workers with assistance to reenter the labor force. Witnesses described the network they developed of employers and employment and training agencies. Their program also includes Outreach, meetings with management and labor at factories that are closing, orientation, aptitude tests, job-seeking skills workshops, and finally determination about the most appropriate assistance to provide for each individual: Direct job placement, classroom training, or on-the-job training. As one witness said:

The manner in which we do this assures marketability of our workers, because we feel an obligation not to set them up again for failure and not to train them in an area where there is not a job.

A look at the beginning of this program shows the time lag between the initial implementation of the program and the expenditure for funds. In fiscal year 1981, the Labor Department obligated $3.825 million to the downriver project. During fiscal year 1981, less than $1,000 were outlayed. During the first full year of operation, fiscal year 1982, outlays were $2.6 million, less than 70 percent. This was partially explained by the fact that one factory did not close as soon as was expected. But this only highlights the necessity for careful planning.

At this time, the service is too delicate to meet the demands that would be imposed upon it by funding the dislocated worker program at a $200 million level. With that level of funding would come expectations that a specified number of individuals should receive training. I am afraid that the pressure of that demand would push the system beyond what it is reasonable to expect and the results would be disastrous. It would inevitably result in poor decisionmaking and misexpenditure of funds. In an effort to spend the money within the remaining months of fiscal year 1983, dislocated workers would be hurriedly assigned to training in whatever programs are available, without due consideration being given to the appropriateness or desirability of the training.

Mr. KENNEDY. I am pleased to join my good friend and colleague from Indiana in offering this amendment and I commend him for his leadership on this issue.

One of the most important provisions of the recently enacted Quayle-Kennedy bill is title III—a new program to train and retrain workers who have premanently lost their jobs. The Congressional Budget Office recently estimated that as many as 2.2 million Americans have been permanently displaced.

Many of them worked in industries where employment is declining. Autos and steel are the examples we are all familiar with. These men and women have worked in occupations and learned skills that are no longer in demand. Many live in regions of this country that have borne the brunt of the current recession.

Those hardest hit are the older workers—those individuals over 45 who have worked their entire life, often for one company. Suddenly, these men and women find they are no longer needed. Their jobs have been abolished. Their economic security is gone. Their plans for the future are destroyed.

Yet, they have responsibilities to meet and obligations to shoulder—children to educate, mortgages to pay, aging parents to care for. Their plan was to work for another 20 years and retire with the savings they had put away. But these workers have had their plans destroyed and their hopes demolished.

At the same time we are losing jobs in our industrial sector, new occupations and careers are opening up in the service and hightech fields. We have an opportunity, and indeed an obligation to train these workers for these new careers.

The $50 million Senator QUAYLE and I are proposing is a down payment on this important new training initiative. Under the Quayle-Kennedy bill, these programs would not get underway until next October. But Senator QUAYLE and I agree that we cannot wait. The problem is too serious. The need is too great. We must begin now to prepare these deserving men and women for the jobs that will be there when economic recovery occurs.

I urge my colleagues to support this amendment.

Mr. QUAYLE. Mr. President, I am going to follow the lead of the distinguished chairman of the Appropriations Committee. I hope that perhaps we might even be setting a precedent because I know this amendment is not that controversial. I am not going to ask for a rollcall vote. I hope that in the interest of time other Senators on matters that are going to be accepted by the committee might forbear from having a rollcall vote so that we can get out at a reasonable hour.

This amendment, Mr. President, simply adds $50 million to the dislocated worker provision of the Job Training Partnership Act. The dislocated worker provision is not expected to start until October 1 of this year. This amendment simply accelerates that starting time. We must get on with the Nation's job of trying to train and retrain those who have no real chance of going back to their place of employment. Unfortunately, there are far too many in that category.

Mr. BRADLEY. Mr. President, I urge adoption of the amendment offered by the Senator from Massachusetts. This amendment will provide an initial appropriation of $50 million for the newly enacted displaced worker program. This new program is aimed at providing retraining services to unemployed Americans who have permanently lost their jobs—people with skills no longer in demand.

These are the most trying times for this country since the Great Depression. Over 12 million Americans are out of work. But the recession is not the only cause for the high level of unemployment that we are experiencing; the high rate of joblessness is also due to the major structural changes taking place in this country.

Just 50 years ago our labor force shifted from an agricultural base to manufacturing. Now, we are moving

from a manufacturing base to a knowledge-based economy.

This transition will, over time, improve the lives of most Americans. The changes taking place will set the stage for a more competitive America in the 1980's and 1990's. But, Mr. President, there are always casualties associated with economic and technological change. The Congressional Budget Office estimates that several million unemployed people in this country may never be able to return to their old jobs. Sadly, technological change not only makes some of our plants and equipment obsolete—it also wipes out the jobs of many workers.

Mr. President, many of these people have been productive employees for 20 to 30 years. They want to work, but they need new job skills to effectively compete in the labor market. We need to find ways to retrain these displaced workers, for their sake and for the sake of the country.

The displaced worker program is the first step toward providing assistance to these people. This amendment would provide an initial appropriation of $50 million for this program. I urge my colleagues to support this amendment.

Mr. HATCH. Mr. President, of the millions of Americans who have lost their jobs, almost 4 million have been permanently displaced. In my own State of Utah, unemployment has jumped precipitously because major manufacuring plants, mines, smelters, steel mills, and other employers have made large-scale layoffs. Many of those employers, as with others across the country, are unlikely, in the foreseeable future, to reach the same numbers employed as recently as last year and as a result workers must make major adjustments in their lives and working careers.

This body had addressed unemployment problems in the past with such devices as the Trade Adjustment Act. Such programs were, however, palliatives. They provided financial assistance but did little to achieve readjustment and reemployment. The displaced worker provisions of the Job Training Partnership Act help. Title V of this act as passed by Congress in September authorized such sums as necessary to carry out dislocated worker training programs in the States. The amendment proposed by Senator QUAYLE and supported by Senators KENNEDY, HAWKINS, and myself authorizes a specific sum for dislocated worker programs.

It is time we acknowledge the displaced worker problem differs from the unemployment problem. Each requires a different solution. For the latter, I wholeheartedly support the President's program of tax, spending, and regulatory reductions. This act addresses the disease of economic "stagflation" and recession to create new growth-oriented industries and jobs. The economy is also aided through an increase in the supply of highly skilled workers prepared to fill these new positions. The Job Training Partnership Act provides training opportunities for the economically disadvantaged, those with barriers to employment and displaced workers.

Mr. QUAYLE. Mr. President, I ask unanimous consent to add Senator METZENBAUM as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. QUAYLE. Mr. President, I am prepared to yield back my time and to go to a vote. This will not be a recorded vote. I hope that this might be establishing a precedent of the kind that the chairman of the Appropriations Committee desired so that we might be able to expedite matters and adjourn sometime tonight at a reasonable hour.

Mr. HATFIELD. Mr. President, the Senator has stated the situation correctly. This could be a stimulus not only to get the program, but more especially, to get the Labor Department moving on the regulations for implementing this program. This has been cleared on both sides of the aisle, and it is an excellent amendment, and the committee is willing to accept it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. QUAYLE. Yes.

Mr. HATFIELD. Yes.

Mr. METZENBAUM. Mr. President, I would like to be made a cosponsor of that amendment.

Mr. QUAYLE. The Senator has been.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Indiana.

The amendment (UP No. 1547) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I wonder if the manager of the bill might yield for a question. I know that he has been here assiduously through all of this debate. He has stayed and worked and accommodated so many of the Senators. There are now a number of amendments that have been agreed to so far as a limitation of time. I have just heard him indicate that he might have to move toward the regular order. I wonder if it would not be a better procedure, or perhaps he would be willing to send word out to those Senators whose amendments are pending and, if they are not on the floor when the amendment comes up, the manager of the bill will move to lay the amendment on the table.

Mr. HATFIELD. Mr. President, I have not heard a more appropriate suggestion since we started this CR than the one now offered by the Senator from Ohio. It has a certain ring of being arbitrary but, on the other hand, I only remind the Senate that we have been on this CR for several days, running through the night as well as all through the day, and we have tried to accommodate every Senator as much as we can.

Now, we have Mr. QUAYLE who has just completed his amendment, we have Mr. BRADLEY, Mr. GLENN, who has two, Mr. HATCH, Mr. MCCLURE, and those have had unanimous-consent agreements as far as time. We have some we are still working on, but I think everybody knows the list, and I think it would be very appropriate. I shall confer with the leadership on this. I would not be presumptuous enough to unilaterally excercise that action, but I will consult with the leadership on the suggestion of the Senator from Ohio and see if the leadership would agree that if a Senator is not on the floor when his amendment is up, that I will move then to table the amendment. We have pled with the Senators who have amendments to be on the floor and we have to seek them out now. We have to plead with them almost to get to the floor and we lose time on that. So I appreciate the suggestion of the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator.

Mr. HATFIELD. Mr. President, the Senator from New Jersey is next on our docket and he is present on the floor. I am very happy to yield to him.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. HATFIELD. Will the Senator yield? Does the Senator expect a rollcall vote on this?

Mr. BRADLEY. I would expect that this would not result in a rollcall vote.

Mr. HATFIELD. I thank the Senator. If we can refrain from rollcalls, that also assists in our time schedule.

Mr. BRADLEY. Mr. President, the Senate Appropriations Committee struck $50 million of House passed funds designated for the maintenance and repair of veterans medical facilities. This cannot be allowed to stand. My proposed amendment restores the $50 million.

Mr. President, these maintenance and repair projects are generally low-cost and do not usually require lengthy or extensive architectural or engineering design. They can be started quickly and completed in fairly short periods of time.

The funds are urgently needed. Recently, funding for maintenance and

repair (M&R) has been reduced and has not kept pace with rising construction and maintenance costs. The backlog of M&R projects is expected to total over $175 million by the end of this fiscal year. The $50 million restored by this amendment could be integrated promptly into the VA's operations and would provide badly needed job opportunities for Americans. This is particularly true in the cases of the more labor intensive projects such as painting and roofing repair.

The funds would be spent for electrical fire and safety improvements, exterior and interim improvements, energy conservation projects, and air-conditioning projects. The funds would go to improve 172 hospitals 16 domiciliities, and 102 nursing homes.

Mr. President, the ranking minority member of the Veterans' Affairs Committee made these very arguments in a letter to the Appropriations Committee. I ask that Senator CRANSTON's letter be included at the conclusion of my statement.

Mr. President, there are two final reasons why this amendment should be adopted. The first is the commitment we as a nation have made to the soldiers and sailors and airmen who have fought for our country on our behalf. These military men and women put duty to country before thoughts of self. We owe them a deep debt of gratitude, and we should not go back on our commitment to their health and welfare.

The final reason we should adopt this amendment is our commitment to the soldiers, sailors, and airmen of the future. Many of us are eager to avoid the need to coerce young people into the Armed Forces. The way to encourage young people to volunteer to serve in their country's Armed Forces is to make military serivce worthwhile; make the experience challenging and exciting; pay soldiers, sailors, and airmen a decent wage; help those recruits who do not pick up marketable skills while in the military to go to college when they get out; and, finally, promise to care for them if they are disabled in the line of duty to their country. To the extent that we do not offer these encouragements, we make it more difficult to enlist volunteers, and we make the draft more likely.

Mr. President, we have a commitment to military men and women who have served their country well in the past. We have an obligation to those young people considering the benefits of service to their country. These funds are urgently needed by the veterans hospitals of our country and will help provide jobs during this time of high unemployment. I urge my colleagues to support this amendment.

Mr. GARN. I would say to the Senator from New Jersey that I am certainly not in a position at this point, not having started the conference, to guarantee any specific amount. There is money in the House version and not in the Senate. As the Senator knows, in a conference committee there are many other issues between the House and the Senate that require trade-offs.

I would fully expect that there will be some money accepted by the Senate for the maintenance and repairs of VA hospitals. However, I cannot give him assurances of a specific amount. I have talked to the chairman of the House Appropriations Subcommittee on HUD-Independent Agencies and would anticipate that there would be some money accepted for maintenance and repairs of VA hospitals.

Mr. BRADLEY. Would the Senator suggest that if it was an adverse vote, when we vote, that he would be less likely or able to accept a compromise?

Mr. GARN. As I said earlier to the Senator from New Jersey privately, we are bumping up against our budgetary ceiling. I will do absolutely everything I can to make certain we come out of that conference not above our 302(b) allocation. I would much prefer to have more flexibility in trying to work this out and would, frankly, if this amendment were defeated, try to work something out. I do not say that as a threat but as a reality in trying to work out a conference.

Mr. BRADLEY. The Senator's assurances are that there would be some portion of that $50 million in a conference report?

Mr. GARN. That would be my expectation. There was no vote on this item on the House floor, so there is no record on their side either. However, I do know that the chairman of the House HUD-Independent Agencies Subcommittee would like to maintain some of the amount they have included for this item.

Mr. BRADLEY. I appreciate the assurances of the Senator from Utah to obtain at least some funds for this. It is terrible to have some repair actions needed, particularly in veterans hospitals where air-conditioning is needed, where people are sick and it is hot in the summer. I think this is the kind of thing that veterans who served our country so well over the years do deserve. It is not a sizable budget item.

Mr. GARN. Mr. President, I do not have any objection to what the Senator from New Jersey is trying to accomplish. However, as chairman of the subcommittee, I have to make certain I stay within the 302(b) budget allocations and within that overall limit I will attempt to see that there are some funds for the maintenance and repair of VA hospitals.

Mr. BRADLEY. I thank the Senator very much. Therefore, I will not offer the amendment.

Mr. President, I ask unanimous consent that a letter from the ranking minority member on the committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., December 14, 1982.

Hon. MARK O. HATFIELD,
Chairman,
Hon. WILLIAM PROXMIRE,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MARK: I am writing to urge that your Committee retain in the continuing resolution, H.J. Res. 631 as passed by the House, the $50 million provided in that measure for "jobs to improve facilities and care being provided to veterans".

It is intended that these funds, which would be appropriated to the VA's "Medical care" account, would be used for maintenance and repair (M&R) projects in various VA medical facilities. M&R projects tend to be low-cost ones that do not generally require lengthy or extensive architectural and engineering design. They can, therefore, be initiated quickly and completed in relatively short periods of time.

In a December 7, 1982, Congressional Budget Office staff memorandum (a copy of the pertinent excerpt is enclosed), it is estimated that between $50 to $75 million in additional budget authority could be obligated in fiscal year 1983 for such projects if appropriated before the end of calendar year 1982. Because these projects could be rapidly brought on line and completed, CBO estimates that the percentage of funds that could be expended in fiscal year 1983—30 to 50 percent—would be larger than for other VA construction projects.

In recent years, funding for VA M&R has been reduced in response to stringent budgetary pressures and, thus, has not kept pace with rising construction and maintenance costs. In fiscal year 1980, $77.3 million was made available for M&R work. In fiscal year 1981, in connection with efforts to achieve a balanced Federal budget that year, the amount provided for M&R was reduced by more than 13 percent to $67.0 million. In fiscal years 1982 and 1983, the funds for M&R rose only slightly to $69.5 million and $72.0 million, respectively.

As noted in the CBO memorandum of December 7, since these projects must compete with other priorities in the medical care account, a large backlog of M&R work has been denied funding in the last few years. According to informal VA estimates, the backlog of M&R projects is expected to total $175 to $200 million by the end of fiscal year 1983.

It is my understanding that the $50 million funding level provided in H.J. Res. 631 as approved by the House could be integrated promptly into the VA's operations and would provide, particularly in the cases of the more labor intensive projects, such as painting and roofing repair, badly needed job opportunities for many unemployed Americans.

In light of both the importance to the VA health-care system of reducing the backlog of M&R projects and the jobs that doing so would create, I urge you to support retention of this appropriation item during the Committee's consideration of the continuing resolution.

Thank you for your attention to this request and your continuing cooperation.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

[Excerpt from Dec. 7, 1982 staff memorandum prepared by the Congressional Budget Office]

SUBJECT: POTENTIAL IMPACT OF INCREASES IN VA CONSTRUCTION SPENDING

MEDICAL CARE, MAINTENANCE AND REPAIR

The relatively low-cost maintenance and repair (M&R) work in VA hospitals is funded through the Medical Care account. Since these projects must compete with antibiotics and doctors' salaries for funding, it is expected that there is a large backlog of such projects that have been denied funds in the last few years. In addition, these projects generally do not require much in the way of architectural and engineering design and can go into production relatively quickly. Since the original 1983 request for M&R projects was $72 million, it is expected that somewhere in the range of $50-75 million in additional budget authority could be obligated in 1983, if appropriated before the end of the calendar year. Although, as in the case of Major and Minor Projects, only a portion of the funds would outlay in fiscal year 1983, the percentage should be larger—30-50 percent—because these projects are of much shorter durations.

The labor force impact of additional M&R money is virtually impossible to estimate without a specific list of projects, because some jobs, such as the installation of equipment, involve few workers while other projects, such as painting or roof repair, are relatively labor intensive.

Mr. BRADLEY. Mr. President, I have discussed this matter with the distinguished chairman of the Veterans' Affairs Committee. We agree on the urgency of the projects that are now pending agreement on funding. As I am sure the chairman has, I have visited several veterans medical facilities to determine the state of repair of these facilities. One facility in particular stands out as in need of air-conditioning and other maintenance and repair. This facility is located in East Orange, N.J. During the summer months, this facility becomes unbearably hot, causing grave discomfort for the patients and jeopardizing their health. Would the distinguished chairman of the Veterans' Affairs Committee agree that the East Orange facility is the very sort that would qualify for the maintenance and repair funds? And would the distinguished chairman agree that consideration of these projects should be a priority item during the early days of the 98th Congress?

Mr. SIMPSON. I agree with the Senator And I can assure all my colleagues that the Veteran's Affairs Committee intends to give the projects careful attention early next year.

Mr. BRADLEY. I thank the chairman.

Mr. BRADLEY. Mr. President, I thank the Senator for his assurances in this matter. I will not offer the amendment.

Mr. GARN. I thank the Senator from New Jersey.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

UP AMENDMENT NO. 1548

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1548.

The amendment is as follows:

At the appropriate place in the bill add the following: "None of the funds made available by this Act shall be used to furnish, or facilitate the sale or transfer of, sensitive United States defense equipment, materials or technology to any country for which the President does not certify to the Congress that he has reliable assurances that such country will not transfer sensitive United States equipment, materials or technology in violation of agreements entered into under the Arms Export Control Act to any communist country, or to any country which receives arms from a communist country.

Mr. GLENN. Mr. President, this amendment effectively prohibits the transfer of sensitive U.S. defense equipment, materials, or technology to any country for which the President does not certify to Congress that he has "reliable assurances" that the recipient will not transfer the items or technology in violation of its agreements with the United States.

I hope this amendment will not prove controversial, for we should all agree that sensitive U.S. military technology and equipment should not be transferred illegally to third countries, particularly to Communist countries or countries which have arms-supply relationships with Communist countries.

The "reliable assurances" required would include the establishment of a rigorous inspection system to guarantee that no transfer will take place. In addition, a country's record in safeguarding U.S. technology and in honoring its agreements under the Arms Export Control Act must be a key factor in determining whether to transfer sensitive technology to that country.

For instance, I believe that high-risk countries, if they want to acquire sensitive U.S. military items, must be prepared, at a minimum, to grant U.S. personnel random access to the sensitive systems we have transferred to them. Such procedures would provide the Congress greater assurance that the sensitive technology or equipment will not be compromised or transferred to a third party.

In those cases where adequate safeguards can not be negotiated prudence dictates that the United States should turn down transfer requests or substitute nonstandard systems that if compromised would have the least impact on our own security interests.

I believe this amendment will strengthen the administration's hand in negotiating with recipient countries ironclad agreements which fully protect U.S. equipment and technology.

If there are objections to my amendment, I am prepared to present a detailed explanation of some of my concerns. It would require us going into a secret session. I am sure none of us wants that at this particular point.

Mr. President, I hope we would adopt this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. It is my understanding that the chairman of the Foreign Relations Committee is to be here to discuss this matter with the Senator from Ohio. I will suggest the absence of a quorum and suggest that the time be charged to those in opposition to the amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask for the yeas and nays on this amendment at the appropriate time, after the comments have been made and the debate has been concluded. I ask for the yeas and nays now.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I believe Senator KASTEN has now come to the floor and is prepared for a dialog with the Senator from Ohio on this matter.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I suggest the absence of a quorum to give Senator TOWER and other people a chance to come to the floor. They intend to participate as well.

Mr. WEICKER. Mr. President, I am glad to accede to the request of the Senator. He understands that that time will be charged to the time of the opponents to the amendment of the Senator from Ohio?

Mr. KASTEN. I ask unanimous consent that the time be charged equally.

Mr. WEICKER. I would object to that.

Mr. KASTEN. Mr. President, what is the time agreement?

Mr. WEICKER. There is a time agreement of 20 minutes, equally divided, 10 minutes to a side.

Mr. ROBERT C. BYRD. There is no time on the bill.

The PRESIDING OFFICER. Who yields to the Senator from Wisconsin?

Mr. KASTEN. Mr. President, I shall just proceed and await Senator TOWER and others, who are on their way.

The PRESIDING OFFICER. The time is under the control of the Senator from Connecticut. Who yields time?

Mr. WEICKER. How much time does the Senator from Wisconsin desire?

Mr. KASTEN. Two minutes.

Mr. WEICKER. I yield 3 minutes to the Senator.

Mr. KASTEN. Mr. President, it is my understanding that there are a number of important concerns that have been brought up about this amendment.

It is my understanding, and the Senator from Ohio may correct me if I am wrong, that the amendment is redundant in that the Arms Export Control Act already contains these prohibitions against illegal transfers to third countries, and it provides appropiate sanctions. In other words, the procedures are already in place to deal with the concerns of the Senator, and we may be setting up a redundant and unnecessary additional level of certification, consulting, whatever.

It is also inappropriate in that it constitutes legislation on an appropriations bill. We have been doing a whole lot of legislating here. It is one more example of the kind of thing that a number of Senators have been concerned about.

What we are also worried about is that the amendment could affect a wide range of countries, not just Pakistan, because it covers not only countries receiving sensitive U.S. equipment, but also any country "which receives arms from a Communist country." This includes such diverse countries as Egypt, Kuwait, Finland, Peru, and Israel.

I understand there are some very special and extensive concerns with regard to Israel.

Pakistan is a country that recently signed a general security agreement in which they pledged to protect U.S. equipment and technology in a manner acceptable to the United States. Senior Pakistani officials have assured us that they take this security agreement most seriously.

Maybe the Senator from Ohio can reply to this: Was that arrangement unacceptable to the Senator? Once more, the question is, it seems to us, that we have a matter acceptable to the United States. Senior Pakistani officials have assured us that they take this security agreement most seriously.

It seems to us and seems to the administration that this question has been addressed and dealt with adequately and there is no need for yet one more piece of legislation.

In summary, Mr. President, I hope that the amendment will be rejected or if there is a motion to table, that the amendment will be tabled. It is redundant. We have agreements with countries that purchase U.S. equipment that that equipment will be protected, and could be interpreted as s slap in the face by some strategically important allies; the amendment will merely generate additional paperwork without adding anything substantive to current law and procedures.

I am not sure it really adds anything substantive to current law or to the procedures that are already in place.

Mr. GLENN. Mr. President, I yield to myself such time as I may need.

Under the Arms Export Control Act, no precertification is required by Congress. That is one of the reasons for proposing the amendment. We have some specific cases which we are not at liberty to discuss on the floor. We would have to have a secret session to go into those. It involves Pakistan.

I realize Pakistan has given their certification, but I say that is not good enough. That is not good enough from what we know. There has been a long history in Pakistan where we have seen their certifications to us or their statements to us not agreed to by other information that we have which is quite reliable. I would say also we provide in this for random access, for American representatives to go in and see what is being done. Had we had a situation like that in the past, where America's representatives could go in, had random access to checking whether all equipment was in a particular country or not, equipment we had sent, or whether it was being used exclusively for the purposes for which we had agreed to that sale, there would have been a very major doubt as to whether some of these private certifications or public certifications that we have received from certain nations were indeed enough. That is what we are trying to correct.

The Senator mentioned a slap in the face to certain countries. I see no reason why this should be a slap in the face to anybody who is really agreeing with the law, cooperating with us and not trying to circumvent agreements under the Arms Export Control Act. That is what we are trying to prevent by this amendment, making it a little more stringent, saying to the President—he is the one who has to make reliable assurances. I find that quite mild.

If the President of the United States is indeed approving arms exports sales and cannot give reliable assurances from his best intelligence sources and all the information he has that the Arms Export Control Act provisions will be met, then we are truly in sad shape and we had better have something like this, if he cannot give us those reliable assurances. That is as mild language as I can think of to ask the President to certify.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, will the Senator yield me 2 minutes?

Mr. GLENN. Is the chairman of the Committee on Foreign Relations in support of my position on this?

Mr. PERCY. Mr. President, I assure the Senator I would not ask for time from him unless I were.

Mr. GLENN. I yield whatever time the distinguished chairman wishes.

Mr. President, how much time do we have left?

The PRESIDING OFFICER. The Senator has 5½ minutes remaining on his side on the amendment.

Mr. PERCY. Two minutes will be fine.

Mr. President, this amendment simply places an additional enforcement provision on one particular aspect of the Arms Export Control Act relating to third country transfers of U.S. weapons.

If a country illegally transfers sensitive U.S. weapons technology to a Communist country or to a country that receives Communist weapons, then these sanctions should be brought to bear.

I think that the Senator from Ohio has introduced a useful amendment and I recommend to the Senate that it be adopted.

Mr. KASTEN. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. I yield 2 minutes to the distinguished Senator from Wisconsin.

Mr. KASTEN. I want to know, first of all, is the chairman of the Committee on Foreign Relations aware that this is legislation on an appropriations bill?

Mr. PERCY. Yes, Mr. President.

Mr. KASTEN. One of the questions that, from time to time, comes up between the authorizers and the appropriators is legislation on appropriations bill. When the Senator was not in the Chamber, I raised the point that this is legislation on an appropriations bill and is inappropriate. I just want to be sure the Senator understood what legislation on an appropriations bill is.

Mr. PERCY. I do.

Mr. KASTEN. I ask the Senator from Illinois and the Senator from Ohio how, in their opinion, this additional certification, what I believe to be redundant certification, is going to affect Israel.

Mr. PERCY. I yield to the Senator from Ohio.

Mr. GLENN. I think as long as Israel is abiding by U.S. law and the transfer arrangements under the Arms Export Control Act, this will not affect them at all.

Mr. KASTEN. Specifically with regard to the relationship in terms of weapons agreements that Israel and Yugoslavia have, in terms of Yugoslavia being a Communist country, how would the Senator look at this legislation affecting the State of Israel?

Mr. GLENN. As long as Israel does not transfer sensitive technology, I do not see that they would be affected. Illegally transferring—that is all we are talking about here. In the agreement that has been worked out with Israel, there has been an agreement for third-party transfer. That is an agreement they would abide by. This sensitive technology that is supposed to be just for their use only, to have it transferred would be illegal.

The PRESIDING OFFICER. The 2 minutes yielded to the Senator have expired.

Mr. WEICKER. Mr. President, I yield the remaining 1 minute and 15 seconds to the Senator from Wisconsin.

Mr. GLENN. First, I would give the same answer. I am not aware of anywhere that had been. I would think there would be no effect by this amendment on Israel.

Mr. KASTEN. The concern I have is, if you look at it very quickly, it seems to me Egypt will be affected, Kuwait will be affected, Finland will be affected, and Peru will be affected. And the effect is the sections on line 10 and 11 of the amendment that says, "to any Communist country, or any country which receives arms from a Communist country."

So what happens is all of a sudden we have brought in a number of groups asking for this certification procedure and I think that is a mistake.

The PRESIDING OFFICER. The time of the opposition has expired.

Mr. GLENN. Mr. President, I think the points have been made quite adequately. All we are trying to do is make certain that since this is equipment originating in this country it does not get to places where it should not be in the Communist world. That is all we are trying to do. It is very straightforward. All we ask is that the President certify that he has reliable assurances. That requires a Presidential certification back to us which is not included in the Arms Export Control Act. That is a key item.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes and twenty-six seconds.

Mr. BOSCHWITZ. Mr. President, there has been a long history of disputes over selling Iraq equipment of a potential military use. Because of Iraq's history of support for international terrorism, and its prolonged war with Iran, there has been a great deal of concern in Congress about sales of such items as military transport planes, engines for navy frigates, and executive jets equipped for photo reconaissance and towing military targets.

Thus it was with a great deal of surprise and concern that this week we learned that 60 American-made helicopters had been sold to Iraq. Indeed, about a dozen of them already have been shipped. The sale was made without the knowledge or approval of the policy officials in State Department who should have been informed. Indeed, Commerce Department officials who have been involved in past disputes, say they were unaware of the sale.

And certainly Congress was not informed, despite the assurances in a May 27, 1982 letter in which the State Department assured the Senate Foreign Relations Committee that Congress would have a chance to review significant cases of sales to Iraq. The promise was made after 35 members of the Senate last April joined in protesting what we felt was the unwarranted removal of Iraq from the terrorism list which is compiled each year to help implement the antiterrorism provision of the Export Administration Act.

News of the sale touched off a quick investigation. Commerce Department officials told Senate staff that they did not have to consult with the State Department or Congress because the helicopters, made by Hughes, are classified as civilian helicopters. They weigh less than 10,000 pounds each and thus could be sold without an export license, the officials say.

However 30 of the helicopters are four-seaters, a civilian model of a type used by the U.S. Army for scouting purposes. The 30 smaller two-seater versions are ideal for training military pilots. The helicopters could be very useful to the Iraqis in scouting, spotting for artillery, transporting officers, and training pilots.

However, Hughes Corp., officials in Washington admit that the firm did not obtain the written assurance from the Baghdad regime that the 60 helicopters would be used only for civilian purposes. In its correspondence with the State and Commerce Departments, however, Hughes said it understood it would obtain the certificate.

Thus there is reason to disagree over whether the helicopters were properly cleared for sale. Certainly there is reason to doubt that they will be used for civilian purposes only. Therefore, the delivery of the remaining helicopters—scheduled for shipment within a month—should be suspended until the matter is sorted out

Along with Senator DIXON, the distinguished member of the Senate Banking Committee who also has shown a strong concern about international terrorism, I have drafted an amendment to this effect. The amendment would suspend the delivery of helicopters to both Iraq and Iran until their war ends and the proposed recipient country does not support international terrorism. We also have been in touch with the State Department and we understand that officials have discussed the issue with the manufacturer. We hope something can be worked out and that Commerce, State, and the manufacturer see their way clear to work out a voluntary arrangement. It would be unfortunate if the desire to make short-term sales adds to the growing belief that the Export Administration Act laws and regulations must be tightened up next year to make sure these types of sales do not slip through again.

Because of these discussions and the late hour, we are holding off on our proposed amendment to the continuing resolution. But we want the State Department to make it clear in the strongest possible terms to the Baghdad Government that these helicopters are to be used for civilain purposes only. If they are not, the spare parts should be cut off immediately and future sales of equipment with potential military use will be jeopardized. It is important to maintain our neutrality in the war and make clear our continuing opposition to international terrorism. I ask consent to place into the RECORD an article on the sale.

Mr. DIXON. I am pleased to join the distinguished senior Senator from Minnesota, Senator BOSCHWITZ, in bringing to the attention of our colleagues our concern about Iraqi links to international terrorism, and the bureaucracy's repeated failures to carefully inspect the foreign policy consequences of major sales to Iraq.

Last April, Senators BOSCHWITZ, HEINZ, PRESSLER, and I drafted a letter to President Reagan, joined by 31 of our colleagues, to protest the removal of Iraq from the terrorism list and the issuance of export licenses for L-100's to Iraq. Even though those export licenses were eventually issued, we received a written assurance from the State Department that no further decisions would be made on militarily useful sales to Iraq until the appropriate congressional committees were notified.

Unfortunately, officials from the Commerce Department did not seem concerned about that assurance, as export licenses were later issued for executive jets to Iraq, again without adequate congressional notification.

Then, against the backdrop of executive branch assertions that Iraq was lessening its support for international terrorism, we learned that one of the Arab world's most notorious terrorists,

Abu Nidal, had relocated to Baghdad. Abu Nidal, many of us recall, was the terrorist who claimed responsibility for the atrocious attack on Joe Goldenberg's restaurant in Paris, an attack which took the lives of several Americans and left others with severe injuries. Abu Nidal is also reportedly responsible for several other attacks in the Mideast and Western Europe.

Upon learning this news, several of us in the Senate again wrote to President Reagan, urging that the Commerce Department be instructed not to approve export licenses to Iraq without the most careful and close consultation with the State Department and the interested congressional committees.

Although we have not yet received a response to our letter, the December 15 edition of the Wall Street Journal reported yet another major sale to Iraq, thereby suggesting that our attempts to cooperate with the administration have run into a brick wall. That sale of 60 helicopters to Iraq went through the bureaucracy like water through a sieve.

In discussions with officials from the State Department, we are convinced that these helicopters can serve military purposes either directly or indirectly. In fact, we know that if the State Department had had the opportunity to fully inspect the terms of this deal, then it would not have escaped the careful scrutiny which is necessary for sales of this kind.

It seems that closer consultations between branches of the administration, and between the administration and the Congress, is more necessary now than ever on this issue. This is especially true in light of the fact that the sale of 60 helicopters appears to directly contradict the official U.S. position of neutrality toward the Iran-Iraq war.

The Congress has made every effort to cooperate with the administration on controls. Now it is time for the bureaucracy to take positive steps to close the loopholes which it has opened.

I agree with my distinguished colleague, Senator BOSCHWITZ, that the administration should continue to press for a voluntary agreement to suspend delivery of the remaining helicopters. I also agree that the State Department should convey to Baghdad that the use of the helicopters already delivered will be closely scrutinized by our Government.

Meanwhile, the administration should be on notice that its failure to fully inspect such sales as this one will force appropriate remedial legislation to be offered.

I thank Senator BOSCHWITZ for his leadership on this issue.

Mr. GLENN. Mr. President, in the interest of time, I yield back the remainder of my time.

Mr. THURMOND. Will the Senator yield to me half a minute to take up a privileged matter?

Mr. GLENN. I yield 30 seconds to the Senator from South Carolina.

CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS ACT

Mr. THURMOND. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3963.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 3963) entitled "An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated," and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon.

Mr. THURMOND. Mr. President, this concerns the crime package. I move that the Senate further insist on its amendment to H.R. 3963.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina (Mr. THURMOND).

The motion was agreed to.

Mr. THURMOND. I move to reconsider the vote by which the motion was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I thank the Senator from Ohio for yielding.

FURTHER CONTINUING APPROPRIATIONS, 1983

The Senate resumed consideration of the bill.

UP AMENDMENT NO. 1548

Mr. GLENN. Mr. President, if all time has been yielded back, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Ohio (Mr. GLENN). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Washington (Mr. JACKSON) would vote "yea."

The PRESIDING OFFICER (Mr. DANFORTH). Does any other Senator wish to vote?

The result was announced—yeas 85, nays 10, as follows:

[Rollcall Vote No. 448 Leg.]

YEAS—85

Abdnor	Exon	Moynihan
Andrews	Ford	Murkowski
Armstrong	Garn	Nickles
Baucus	Glenn	Nunn
Bentsen	Gorton	Packwood
Biden	Grassley	Percy
Boren	Hart	Pressler
Boschwitz	Hatfield	Proxmire
Bradley	Hawkins	Pryor
Brady	Hayakawa	Quayle
Bumpers	Heflin	Randolph
Burdick	Hollings	Riegle
Byrd, Harry F., Jr.	Huddleston	Roth
	Humphrey	Rudman
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jepsen	Sasser
Chafee	Johnston	Schmitt
Chiles	Kennedy	Simpson
Cochran	Laxalt	Specter
Cohen	Leahy	Stafford
D'Amato	Levin	Stennis
Danforth	Long	Stevens
DeConcini	Mathias	Thurmond
Denton	Matsunaga	Tsongas
Dixon	Mattingly	Wallop
Dodd	McClure	Warner
Domenici	Melcher	Weicker
Eagleton	Metzenbaum	Zorinsky
East	Mitchell	

NAYS—10

Baker	Helms	Symms
Dole	Kassebaum	Tower
Durenberger	Kasten	
Hatch	Lugar	

NOT VOTING—5

Cranston	Heinz	Pell
Goldwater	Jackson	

So Mr. GLENN's amendment (UP No. 1548) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amandment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1549

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I send to the desk an unprinted amendment on behalf of myself and the distinguished Senator from West Virginia (Mr. RANDOLPH) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN), for himself and Mr. RANDOLPH, proposes an unprinted amendment numbered 1549.

The amendment is as follows:

At the appropriate place in the bill add the following: "None of the funds appropriated or otherwise made available by this Act shall be available to provide credits, grants or guarantees for, or to facilitate, the sale or transfer to any country of military equipment which incorporates more sophisticated

or sensitive technology than the technology described in the letter of notification and attachments submitted to Congress pursuant to section 36(b) of the Arms Export Control Act."

Mr. GLENN. Mr. President, I yield myself such time as I may need.

May we have order in the Senate, please.

Mr. President, the key part of this amendment is the part that says "the sale or transfer to any country of military equipment which incorporates more sophisticated or sensitive technology than the technology described in the letter of notification."

Mr. President, section 36(b) of the Arms Export Control Act provides for congressional review of proposed arms sales in excess of $14 million. And any such sale may be disapproved by concurrent resolution.

Now, that is fine, and we vote on those packages and send them out. However, what has come up is that sometimes additional sensitive technology beyond what we voted on here in the Senate and in the House is actually included in some of these weapons packages that are sent out.

I can go into a lot of detail on this, but all I ask is that any time that occurs, where more sophisticated or sensitive technology is going to be delivered than what we voted on in the Congress, then that be resubmitted to us for consideration. There are some arms sales considerations right now where, had I known what the equipment was going to be on the aircraft as delivered, I would not have voted in favor of that particular sale.

So all this says is where we are exceeding what we voted on, under 36(b) it will be resubmitted to us.

I believe this will be accepted by the floor managers on both sides of the aisle, although they are not in position at the moment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. I say to my distinguished friend from Ohio that I do not believe there is anyone on this side who does object to the amendment of the distinguished Senator from Ohio, and we are prepared to have a voice vote on this matter.

If my friend is ready to go, we can.

Mr. METZENBAUM addressed the Chair.

Mr. PROXMIRE. Will the Senator yield? Does this cost anything?

Mr. GLENN. No; it does not cost anything. In fact, it might even save us money.

Mr. PROXMIRE. Is there any opposition from the administration?

Mr. GLENN. I am not aware of their position.

Mr. PROXMIRE. You know of no opposition?

Mr. GLENN. No opposition.

Mr. WEICKER. Mr. President, I am sorry that I have received information to the contrary. Apparently Senator PERCY does have objection to this amendment. I wonder if we might have two quick amendments, that will take 1 minute each, while we get Senator PERCY, who is on the phone to the State Department.

I should like to resolve this, if I can. There are two amendments, one by Senator MELCHER, one by Senator KENNEDY.

Can we lay this aside and come back to it?

Mr. GLENN. Certainly.

Mr. WEICKER. I ask unanimous consent that the amendment of the distinguished Senator from Ohio be temporarily laid aside and that we move on to the amendment of the distinguished Senator from Montana (Mr. Melcher); upon the conclusion of that, if ready, to return to the amendment of the Senator from Ohio; if not, to move to the amendment of the Senator from Massachusetts.

Mr. METZENBAUM. Is it the understanding that the amendment of the Senator from Montana will be called up under a time limit and that it would not be subject to a second-degree amendment?

Mr. WEICKER. There is no time agreement. It is a technical amendment. I understand it will take 1 minute.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the amendment of the Senator from Montana, when it is called up, be called up with a limitation of 1 minute equally divided, which is the time he suggested, and that it not be subject to amendment.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Montana.

UP AMENDMENT NO. 1550

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1550.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, insert the following new section:

"Sec. . Nowithstanding any other provision of this Joint Resolution or any other Act including the Interim Appropriation Act of fiscal year 1983, there is appropriated the sum of $243,000 to be expended for the Fish Hatchery at Ennis, Montana."

Mr. MELCHER. Mr. President and colleagues, this amendment merely straightens out a mistake made in the Interior appropriations bill deleting the Ennis Fish Hatchery, and this amendment seeks to correct that and put it back in. It has been cleared with Senator MCCLURE and Congressman YATES over in the House.

The fish hatchery is vitally needed.

I yield to my colleague from Montana.

Mr. BAUCUS. I thank my colleague for yielding.

Mr. President, I rise in support of the amendment to provide $243,000 to continue operation of the Ennis, Mont., fish hatchery during fiscal year 1983.

Mr. President, we are all aware of the need to cut Federal funding in the Federal fish hatchery program. The House and Senate Appropriations Committee worked long and hard to examine each hatchery and provide funding only for those that were critically needed. In Montana, the committee deleted funding for the Miles City and Ennis hatcheries and this decision is contained in the conference

The Montana congressional delegation and the State of Montana agreed with the deceision to close the Miles City hatchery. A substantial increase in license fees to Montana sportsmen has been proposed to insure continued operation of the Miles City facility by the State of Montana.

The delegation does not agree, however, that the Ennis hatchery should be closed. The decision not to provide funds for Ennis at this late date would result in its immediate closure.

Mr. President, the Ennis hatchery is an essential facility. It is a brood station providing fish to several hatcheries around the West. Closure would affect fishery resources in a number of States. The broodstocks grown at this facility have taken years to develop and they would be lost if the facility is closed. In addition, should this hatchery be closed, it would leave only one fish hatchery continuing to operate in Montana.

Mr. President, closing the Ennis hatchery would have a detrimental impact on sportsmen throughout Montana and the West. I strongly urge adoption of this amendment.

Mr. HATFIELD. Mr. President, this matter has been cleared by the Senate committee. It was dropped out but is certainly within the authorization. It is within the level of our Senate committee program, and I am willing to accept it.

Mr. MELCHER. I certainly do thank the chairman of the committee, my good friend from Oregon.

The amendment (UP No. 1550) was agreed to.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I wonder if I might ask the Senater from Massachusetts (Mr. KENNEDY) to proceed, as matters are still being resolved by Senator PERCY.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 1551

(Purpose: To provide certain Federal public safety officers certain benefits now accorded State and local public safety officers)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1551.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I of the joint resolution, insert the following:

SEC. . Notwithstanding any other provision of this joint resolution—

(1) section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by striking out "or" at the end of clause (2);

(B) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end of thereof the following:

"(4) to any person employed in a capacity other than a *civilian* capacity."; and

(2) section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by striking out clause (3) and inserting in lieu thereof the following:

"(3) 'fireman'—

"(A) means a person whose duties include performing work directly connected with the control and extinguishment of fires and who, at the time the personal injury referred to in section 1201 of this section is sustained, is engaged in such work in the control or extinguishment of a fire or other emergency operation; and

"(B) includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;";

(B) by striking out clause (5) and inserting in lieu thereof the following:

"(5) 'law enforcement officer' means a person—

"(A) the duties of whose position include performing work directly connected with—

"(i) the control of crime or juvenile delinquency;

"(ii) the enforcement of the criminal laws; or

"(iii) the protection of Federal officials, public buildings or property, or foreign diplomatic missions; and

"(B) who, at the time the personal injury referred to in section 1201 of this section is sustained, is—

"(i) engaged in the detection of crime;

"(ii) engaged in the apprehension of an alleged criminal offender;

"(iii) engaged in the keeping in physical custody of an alleged or convicted criminal offender; or

"(iv) assaulted or subjected to the conduct of criminal activity in the line of duty, and includes police, correction, probation, parole, and judicial officers;"; and

(C) in clause (6) by inserting "the United States," after "means".

Mr. KENNEDY. Mr. President, this is a very simple and modest amendment.

It would provide a $50,000 lump sum death benifit for Federal law enforcement officers and fire fighters who are killed in the line of duty.

It corrects an inequity created in 1976 when similar legislation was enacted to provide this benefit for State and local law enforcement officers.

Similar legislation was enacted earlier this year by the House. It was passed by voice vote in the Senate in 1980.

I hope the committee can take this to conference.

Mr. WEICKER. The committee is prepared, Mr. President, to take this amendment to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1551) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Ohio.

GLENN UP AMENDMENT NO. 1549

Mr. GLENN. Mr. President, I am prepared to yield time to the Senator from Illinois.

Mr. WEICKER. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Eight minutes, twenty three seconds.

Mr. WEICKER. Mr. President, I yield 8 minutes to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I assure the distinguished Senator I will not take 8 minutes.

Mr. President, I ask unanimous consent that I be added as a cosponsor to the Kennedy amendment just accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I support the first amendment of the Senator from Ohio. The present amendment, however, tries to deal with an extremely complicated question of the upgrading by the administration of armed sales that had been previously approved by the Congress.

This amendment also addresses a problem that has recently arisen, but I hope that the Senator from Ohio would join me in an alternative way to address this issue.

Yesterday I was joined by Senator PELL, the ranking minority member of the Foreign Relations Committee, in sending a letter to the administration concerning the upgrading of previously approved arms sales to Pakistan. In that letter we suggested that the administration transmit an addendum to the F-16 sale covering plans to sell the more advanced ALR-69 radar detection devices. We have suggested a procedure for congressional review of that sale.

I would hope that the Senator from Ohio would agree to withdraw his amendment until we can see what the administration's response will be to our letter.

I have just talked with Judge Clark and indicated to him that the letter had been sent to the administration and asked for an expeditious answer to that letter.

He has assured me that it will receive expeditious handling.

Mr. GLENN. Mr. President, I yield myself such time as I may require.

Mr. President, the distinguished chairman of the Foreign Relations Committee will recall I was one of those urging him to send that letter, as a matter of fact, to the National Security Council, to Judge Clark.

It involves a review of some of our current arms systems that are being sold, particularly to Pakistan.

The letter of December 16 went to the Secretary of State, signed by our chairman, Senator PERCY, and by the ranking minority member, Senator PELL. It asks for a very early review on this.

I would hope that the administration would see fit to conduct that very early review because it just seems so basis to me, so fundamental and basic, that if one particular arms package that is sent to us here on the Hill is what we approve, and all the sensitive technology that goes into that package is what we approve, then it is commonsense that we are not approving sensitive technology beyond that package.

I am sure that the administration, if they review this, must come to that same conclusioj. This involves some of the sensitive equipment with regard to Pakistan.

Obviously, if we have to write into law every time that we approve something that the administration will not go beyond what is authorized in that particular legislation, we are going to have the Halls of Congress filled up with truckloads of new amendments and proposals to make certain that that happens.

Those are the limitations on which we vote here in the Congress, in the Senate, and it is just understood that

the administration of whichever party is in office does not go beyond whatever that package was with regard to giving away supersensitive American technology.

I am prepared at this particular time, in light of the fact that the distinguished chairman and ranking minority member sent this letter over and that we are looking for a favorable response from the administration on this, to withdraw the amendment. I hope they do read our debate here today or our discussion here today because I want it to be extremely clear that some of us feel very, very strongly about not upgrading beyond the sensitive technology on which we vote.

If the administration is going to insist in going beyond what we voted here, then we are going to take action against that. I will be fully prrepared in the new Congress to really make an issue out of this and to push for very substantive and binding legislation that ties their hands completely.

With that understanding, and waiting for an answer to the letter that has already been sent over to the Secretary of State on December 16, and with the hope that they will see the wisdom of that letter as it was signed by the distinguished chairman of the Foreign Relations Committee and the raking minority member, I hope we get back a satisfactory answer to that.

I do not want to get in the middle of their negotiating, trying to work out these military arrangements with every nation. But I also can tell them that had I known at the time that I voted in favor of that sale, which I did, that the particular kind of sensitive technology was going to be included later on which was not included in that original package, I would have indeed voted against that and worked myu colleaguse on the floor and in the well here to make certain that that was not approved.

I think they should be aware that they connot just exceed the limits we have put on here when that technology is approved as part of the sale.

I would hope that they would have a favorable response to this and limit that sale. If they choose not to, then I will certainly lead the fight in the new Congress to make certain that we put that kind of limitation in the language to make sure that they cannot help but understand.

If that is understood, I will withdraw the amendment from further consideration at this time, with the understanding that it will be submitted to the new Congress if required.

Mr. PERCY. Mr. President, I appreciate the Senator's willingness to withdraw the amendment. I think the point my distinguished colleague is trying to make, however, is a valid one. You can imagine the uproar that would occur if the equipment was sold to Jordan or Saudi Arabia, for example, and it was approved by Congress and then the technology was vastly upgraded without reference to Congress again.

You would not be able to sit in this Chamber very long without having an uproar over that.

The principle is a very well-founded principle. We are dealing with the principle in the letter to the President.

Mr. President, I ask unanimous consent that the letter from Senator PELL and myself be printed in the RECORD at this point, and I thank my colleague for withdrawing the amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., December 16, 1982.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: Last year Congress received notification of a proposed sale of forty F-16 aircraft to Pakistan. In that notification (#81-108), Congress was informed that the avionics package for the aircraft would include the ALR-46(V) radar warning receiver. This proposed sale proved very controversial. For some Senators on the Committee, a key consideration weighing in favor of the sale was that the avionics package had been downgraded from the more sophisticated ALR-69 to the ALR-46(V) discussed in the letter of notification.

We now understand, however, that the Administration has decided to reverse its original plan and include the more advanced ALR-69 technology. The principal reason cited by Administration officials for their change is the increased threat to Pakistan posed by the appearance in Afghanistan of Soviet MIG-23 aircraft and SA-6 anti-aircraft missiles, which can be detected by the ALR-69.

While the Administration may find this and other reasons persuasive in justifying the change, we believe that upgrading a significant part of an arms transfer after Congress has considered it constitutes a circumvention of the process established by Section 36(b) of the Arms Export Control Act. Administration officials have stated that such a technological adjustment is not unprecedented. We know of no instance, however, where such a change has been made when the sensitivity of the technology involved was a key factor in the very issue of whether Congress should allow the sale.

New procedures need to be established to provide for adequate Congressional review in cases where approved arms sales are upgraded to a significant degree. In the interim, we request that the Administration transmit under Section 36(b) an amendment to notification number 81-108 which reflects the Administration's decision to sell Pakistan the ALR-69. We believe that there is a Foreign Relations Committee consensus that the value of such an addendum to a controversial case need not exceed the $14 million threshold set by law. If the Administration disagrees with this procedure, we will consider requesting that notification number 81-108 be resubmitted in full.

Adherence to the intent of the Arms Export Control Act is an important reflection of good faith in executive-legislative relations. Failure to atempt to meet legitimate Congressional concerns on this issue could well result in more binding legislative constraints in the future. Therefore, we would appreciate your prompt and favorable response to this request.

Warm regards,

CHARLES H. PERCY,
Chairman.

CLAIBORNE PELL,
Ranking Minority Member.

Mr. GLENN. Mr. President, I yield back the remainder of my time and ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. WEICKER. Mr. President, I ask that the distinguished Senator from Utah (Mr. HATCH) be recognized at this time.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself, Mr. MCCLURE and Mr. KENNEDY, proposes an unprinted amendment numbered 1552.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE HUMANITIES

SALARIES AND EXPENSES

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, an additional amount of $2,000,000 shall be available solely for grants awarded at the discretion of the Chairman to support social science and historical studies of international labor issues.

Mr. HATCH. Senator KENNEDY, Senator MCCLURE, and I are proposing an increase totaling $2 million for the National Endowment on the Humanities. We make this request because of a recent new proposal from the regional institutes affiliated with the AFL-CIO that cannot be accommodated within the strict budget ceiling of the National Endowment on the Humanities. This application for research and publication in the area of free trade union activity overseas has great merit and a timeliness that requires our attention now rather than waiting for the normal authorization and appropriations cycle.

I want to personally thank Senator MCCLURE for assisting me with this as well as my great friend, Senator KENNEDY, the ranking minority member of our committee. There is simply no

room for such a new proposal in the National Endowment budget.

With respect to the Humanities Endowment, the AFL-CIO has already received a $100,000 grant for the purpose of enabling the George Meany Labor Center to compile and organize its archives. Such a grant is well within the definition of humanities contained in Public Law 89-209 that established the Humanities Endowment. The term "humanities" includes historical research and publication and social science all of which are included in the AFL-CIO regional institutes proposal.

I would point out that these funds will allow the regional institutes of the AFL-CIO to pursue a major research and publication program to determine the historical and contemporary lessons from the experience of organizing free trade unions. The aim of the research is to analyze the factors under which free trade unions can be organized successfully and can avoid falling under the domination of the Communist Party. This is an area in which the regional institutes affiliated with the AFL-CIO have had much experience, but it has not been properly recorded and analyzed and published. This $2 million could be used only for these purposes. This amendment can make such a program possible in the next few months, and these lessons can be used in 1983 to continue the battle of preserving free trade unions overseas as well as providing for research and publication about the true nature of trade unions in the Soviet Union.

I thank my colleague (Mr. KENNEDY) for assisting me with this and, of course, for supporting me on this matter and for playing a major role in helping me to resolve this problem.

Mr. KENNEDY. Mr. President, I commend the Senator from Utah on this proposal. It is an extremely modest proposal. I know the Senator from Utah plans to have extensive hearings on this concept in the next Congress. This will provide for at least some useful, and I think, important initiatives in support of free trade unionism around the world.

Mr. President, I support the amendment. I hope it will be taken to conference and that the conference will accept it.

Mr. HATCH. I thank my colleague.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (UP No. 1552) was agreed to.

Mr. HATCH. I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. FORD. Mr. President, will the distinguished floor manager yield for a question?

Mr. WEICKER. Of course, I shall be glad to yield.

Mr. FORD. There is an amendment that has been submitted now for several days, has been cleared by every committee chairman it can be cleared by, yet we have not arrived at a time agreement. Does the Senator have any assessment for us?

Mr. WEICKER. Mr. President, I understand the distinguished Senator from Oklahoma has some response. I yield to him.

Mr. FORD. I appreciate that. I thank the Senator from Oklahoma.

UP AMENDMENT NO. 1553

(Purpose: To impose a limitation on the use of funds of the Farmers Home Administration and to impose a limitation on the use of funds of the Small Business Administration.)

Mr. BOREN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN), for himself, Mr. HUDDLESTON, Mr. BAUCUS, Mr. EXON, Mr. DECONCINI, Mr. PRYOR, and Mr. KENNEDY, proposes an unprinted amendment numbered 1553.

On page 77, line 5, insert after the period a new sentence as follows: "None of the funds provided by this joint resolution or any other Act may be used to liquidate (against the wishes of the borrower) outstanding farm loans under the Consolidated Farm and Rural Development Act or the Emergency Agricultural Credit Adjustment Act of 1978 made to borrowers who are owners or operators of not larger than family-size farms but who fail to pay principal and interest when due, nor to institute foreclosure proceedings with respect to such loans, in any case in which the Secretary determines that the borrower (1) has followed good farm management practices, (2) due to circumstances beyond the borrower's control, is temporarily unable to continue making payment on principal and interest under the loan when due, and (3) has a reasonable chance of repayment of the loan in subsequent years: *Provided further*, That interest which accrues during the deferral period on any such loan shall bear no interest during or after such period." The provision shall expire not later than Dec. 31, 1983.

On page 13, line 15, insert after the period a new sentence as follows: "None of the funds provided by this paragraph or any other Act may be used to liquidate or accelerate (against the wishes of the borrower) any outstanding business or disaster loan under the Small Business Act made to borrowers who fail to pay principal and interest when due, or to institute foreclosure proceedings with respect to such loans, in any case in which the Administrator determines that the borrower (1) has followed good business management practices, (2) due to circumstances beyond the borrower's control, is temporarily unable to continue making payment on principal and interest under the loan when due, and (3) has reasonable chance of repayment of the loan after the deferral of principal and interest or the foregoing of foreclosure: *Provided further*, That interest which accrues during the deferral period on any such loan shall bear no interest during or after such period.". The provisions hereof shall expire not later than Dec. 31, 1983.

Mr. BOREN. Mr. President, I have sent this amendment to the desk on behalf of myself, Senator HUDDLESTON, Senator BAUCUS, Senator EXON, Senator DECONCINI, Senator PRYOR, and Senator KENNEDY.

This amendment would require the Secretary of Agriculture and the Administrator of the Small Business Administration to permit certain family farmers to defer repayment of Farmers Home Administration farm loans. In order to qualify for a deferral, the borrower must show that he: First, has exercised good management practice; second, due to circumstances beyond his control, is temporarily unable to continue making payments on principal and interest when due; and third, has a reasonable chance of repayment of the loan after the deferral period. It provides the same treatment for SBA small business loans.

This amendment does not offer blanket deferrals, nor does it provide for forgiveness of loans. It is to be done on a case-by-case basis, when the farmer can demonstrate that his conditions are not the result of bad management and when he has a reasonable chance of repayment of the loan after the deferral period expires.

This provision will provide relief to those borrowers who could not maintain their operations without the deferral or the foregoing of foreclosures and could be in a stronger financial position after the deferral. Under our amendment, we have also provided, after the deferral period, for the consolidation, rescheduling, or reamortization of the loan, taking into account the borrower's financial situation. Any new loan resulting from such an action would bear an interest rate no higher than the rate of interest on the original loan.

Over the past year, I have talked with many FmHA borrowers about the options that they have through the Farmers Home Administration. In many cases, the farmers were never informed of the choices that they, by law, have. Consequently, we have included a section in our amendment which requires the Secretary to establish clear procedures to implement the deferral provision and to notify all borrowers of these and all servicing alernatives. We also have specified that a borrower who is denied relief under these provisions has a right to an appeal within the Department of Agriculture.

The current farm credit situation vividly exemplifies the seriousness of the agricultural economy. The percent of FmHA farm borrowers delinquent as of June 30 of this year has increased dramactially, signifying the seriousness of the agricultural economic condition. Five years ago, in 1978, 13 percent of Farmers Home Administration farm borrowers were delinquent, as compared to 28 percent in 1982. The dollar amount delinquent has more than tripled in the past 3 years, rising to $2.9 billion this year.

Obviously, the farm economic situation for 1983 will show no improvement from 1982 without a major revision of agricultural policy. Every effort must be made to ease the credit situation for farmers, reduce interest rates, reduce commodity surpluses, improve farm income, and increase agricultural exports.

At a time when declining land values threaten the foundation of our economy, the administration has continued to allow FmHA to foreclose on good farm managers, farmers who, through no fault of their own, are caught in the middle of low prices and a credit squeeze.

The administration has not used existing authorities to ease the farm credit situation. Under existing law, the administration could forgo foreclosures, but it had refused to use its authority. In 1981, it was reported that the FmHA has set a goal of reducing farm loan delinquencies by 20 percent, even if that meant forcing some farmers out of business.

As we all know, we regard the situation in agriculture as disastrous. The administration has a strategy goad which has been stated of reducing Farmers Home Administration delinquencies by 70,000 borrowers in 1983. The administration's budget attributes $4 billion in savings to this and other similar efforts. It may be assumed that efforts will be made to speed up collections and liquidate borrowers' assets with little regard for the financial condition of individual borrowers.

The administration has said repeatedly that forced liquidations were not increasing. Yet, the facts show otherwise.

In 1980, there were a total of 260 foreclosures by FmHA. There were no more than 300 foreclosures in 1981. However, from October 1, 1981, to August 31, 1982, there were 776 foreclosures—more than twice the amount in 1982—5,501 voluntary liquidations and 1,156 bankruptices discharged.

Mr. President, the Members of the Senate, as well as the House, have already gone on record in support of this amendment this year. Still, the provision has not been signed into law.

Mr. President, I had been very hopeful that it could be before the end of the year.

I urge my colleagues to join us in this effort to ease the strenuous credit situation our farmers are facing by supporting this amendment.

We have a similar situation with regard to the plight of small businesses. The weekly average for small business failures in this country for 1982 was 474.

Mr. President, the second part of this amendment would treat small business owners the same by deferring repayment of existing business or disaster loans made under the Small Business Act.

I do not believe that there is any argument about the dire circumstances suffered by many of our Nation's small businesses. Although we are beginning to see some relief in interest rates, the severe damage caused by many months of extremely high rates is already evident.

The average week in 1981 saw 348 businesses fail. The weekly average in 1982 has been approximately 474. While I realize that not all of these failures fall under the heading "small business," the vast majority of them do. Small business firms comprise 38 percent of the GNP of the United States. As further evidence of the pervasiveness of small business, I would note that there are some 10,000 corporations in the United States with more than 500 employees, but there are 14 million business operations in this country with less than 500 employees.

Earlier this fall, the SBA reported that there were 8,000 loans in litigation and some approximately 24,000 loans under the first stages of liquidation proceedings. Furthermore, this figure was increasing by approximately 500 per month.

Mr. President, these figures are strong evidence that the tragic failure rates for small businesses cannot continue.

My amendment would provide some relief for family farmers and small business owners by deferring repayment of these loans on a case-by-case basis and only after a determination that the borrower has shown good management practices, is unable to make current payments because of circumstances beyond their control, and has a reasonable chance of repayment after the deferral.

It is important during these tragic economic times that we provide some relief for our family farmers and small business owners. My amendment will provide some of this needed relief.

I do not believe that any useful purpose is served by foreclosing on these loans when there is evidence that the farm or small business borrower has acted in good faith and will have a reasonable chance of not only repaying the loan in the future, but also continuing to have a chance to stay in business and remain a productive member of society. I urge my colleagues to support this amendment.

Mr. President, this is obviously a very dangerous situation in agriculture. Farmers had virtually no net income this year. In my own State, there was a $14 per farm average prevailing net farm income for 1981. In 1982, that figure will be in the red. At the same time, the debt hanging over the farm community, and it is similar for small business as well, is staggering. Fifteen years ago, total farm debt was $12 billion in this country. Annual net farm income was $12 billion. There was a 1 to 1, a parity relationship between annual farm income and total farm debt. This year, net farm income, adjusted for inflation, will be only $7 billion; total farm and ranch debt will be $225 billion.

For 3 years, now going into the fourth year of declining incomes, with virtually no cash flow, with a debt of this magnitude, we have set the stage for massive foreclosures if action is not taken in the near future, both for farmers across this country and small business people across this country.

The proposal I have made is not a bailout, not a universal deferral. It simply says if you are dealing with a good manager, a small business person or a small farmer can demonstrate that a good manager can normally make payments but is temporarily prevented from doing so because of market conditions, price conditions, and interest rates which are beyond his control. If those conditions were met, in keeping with sound business practice, the SBA and the Farmers Home Administration could therefore work with those individuals to reschedule those loans, keep those farmers and small business people in business rather than seeing them lose.

It has been said that they are new initially, for example, in the area of agricultural policy. It may be that within 12 months, and I hope we find this to be true, we will begin to turn the situation in agriculture around. But what a tragedy it would be, Mr. President, if, in the intervening period, while we are attempting to turn the situation around, we were to lose hundreds of thousands of farmers across the country and hundreds of thousands of small business people due to foreclosure.

Foreclosure is a great human tragedy. We think back to those gripping pictures we have seen of people being dispossessed of their farms and homes during the Great Depression. Mr. President, tragically, perhaps with less notice, that same kind of scene is being repeated in the United States even today, even as we debate this measure at the present time.

I have to face reality, however, Mr. President, as strongly as I believe this amendment should be adopted. I have

discussed it with the members of the administration, I have discussed it with the Secretary of Agriculture, the Under Secretary, and I have discussed it with those in the Farmers Home Administration. They express opposition to it. They indicated to me that it could endanger this legislation, that there is a strong risk that there would be a recommendation of veto of this legislation or farm legislation if this amendment were adopted.

I have attempted now for many hours to try to get a time agreement to have this amendment considered, to bring it to a vote. I have been unable to do so.

Mr. President, as strongly as I feel about it, I do not think there is any point, when the situation is beyond my control, to prolonging taking the time of the Senate to try to bring this matter to a vote after a prolonged debate, which would probably prevent, during this session at least, an opportunity to get an up or down vote on this amendment. I am sorry this attitude is being taken. I think it is tragic. I think it is insensitive to the needs of the small business people and farmers.

Actually, this provision, as it relates to agriculture, simply restates the regulations which the Farmers Home Administration itself says it is now following on a discretionary basis. I do not understand, if they really are following these same policies right now, how they can turn right around and contend that there is a price tag to this provision. If they are following these regulations to the letter right now, then it should not cost a dime to put this legislation in place. If they are not following these regulations at the present time, then, it demonstrates a need for it.

Mr. President, I do bow to reality. I can only say I shall be carefully monitoring both the Small Business Administration and the Farmers Home Administration to see to it that they do use their discretionary authority for the rescheduling of those debts where there is a sound business reason for doing so and hope that those units can be kept in existence. I do not intend in the next year to give up my efforts to put such a provision in place.

I shall in a moment ask to withdraw the amendment, but before I do, the Senator from Arkansas wished to speak.

Mr. WEICKER. Mr. President, does the Senator make a request to withdraw his amendment?

Mr. PRYOR. If I may have just 30 seconds.

Mr. BOREN. If I could yield to the Senator from Arkansas very briefly, then I shall withdraw it.

Mr. PRYOR. Mr. President, I commend the Senator from Oklahoma on his leadership in this effort. I am proud to be a cosponsor in this amendment. I join him in his effort to accomplish this very fine purpose he is seeking.

I thank the distinguished Senator, my friend from Oklahoma.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. BOREN. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be made a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Second, Mr. President, I want to remind my colleagues of something I said this morning, but I especially feel it is reinforced as far as this amendment is concerned. The farmers of America are in a plight almost as desperate as they were in 1933, and the first thing the President did was declare a moratorium on foreclosures of the farmers of this country.

So I know the administration opposes it, but I think it is meritorious. I think it is absolutely essential. I am happy the Senator offered it and I certainly intend to support it.

Mr. LEVIN. Mr. President, I ask unanimous consent to be added as a cosponsor of the amendment of the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, this morning, the Senator from Arkansas raised a very critical point about our farm communities, how they are in desperate condition and they need help.

We should be increasing the amount of deficiency payments that we make to these farms. The biggest business in my State is not automobiles. It is farms. It happens we have more than twice as many farms than there are in Arkansas.

I would like to work with the Senator from Arkansas this afternoon to see if we can find a way of increasing deficiency payments to these farms, because they are going under in record numbers.

While I do not agree with the distribution formula in the amendment the Senator from Arkansas offered this morning, the point that he makes is clearly true; that we must increase these deficiency payments one way or another or else we are going to see more farms go under.

I commend the Senator from Oklahoma on his amendment. I am just sorry it cannot be adopted by the Senate.

Mr. President, I am proud to have the Senator as a consponsor of the measure, and I am proud to have the Senator from Arkansas as a cosponsor.

Mr. President, I ask unanimous consent that the Senator from Tennessee (Mr. SASSER) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, at this time, with great disappointment, I bow to reality. I think it is a sad day that we are not able to enact this into law to provide a greater protection for the small farmers, family farmers, and small business people in this Nation.

At this time, I do withdraw my amendment from consideration.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WEICKER. Mr. President, at this time I yield to my good friend from Arkansas, Senator BUMPERS, who I know has special concerns about the disaster loan program, as he eloquently expressed within the committee desiring to bring the matter here to floor action. I think this might be a good moment for him to query this Senator, as chairman of the Small Business Committee, to see if we might set the record straight on the matters of concern to the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator.

Mr. President, when we were marking up the continuing resolution in the Appropriations Committee, I raised a question of a very serious problem for the people of my State. Three weeks ago we had a disaster of floods and tornadoes of unprecedented magnitude. The damage in my State alone was $358 million. That is three times, in economic devastation, three times bigger than any natural disaster our State has ever had. Missouri, Illinois, and, to a lesser extent, Louisiana suffered similar damage.

All of a sudden, one little town was completely under water, and only three businesses in the entire town had flood insurance, which means they were just wiped out. They tell me—I did not realize this—that the interest rate on disaster loans for businesses, if you are absolutely uncredit worthy, is 8 percent. If you are credit worthy, it is close to 14 percent. Obviously, if you are credit worthy, you can possibly beat that down at the bank.

I raised the question of possibly reducing the interest rate on disaster loans to 5 percent for those businesses that are not credit worthy and 8 percent for those businesses that are credit worthy. I recognize this is a very monumental and very dramatic departure from existing law.

The Senator from Connecticut, who also is chairman of the Small Business Committee, very graciously consented to discuss this further, to hold oversight hearings after the first of the year to see whether or not this law is working well and whether we need to change it. In my State, it is wreaking a terrible, terrible hardship on people who have been displaced in record numbers. The damages are one-third of our State budget for the year.

So I just wanted to ask the Senator if he would be willing to do that.

Mr. WEICKER. Mr. President, in response to the distinguished Senator from Arkansas, who raised this matter in the full Appropriations Committee, I indicated at that time, and I indicate here again, that the change of policy which he advocates or which he wants to see modified in some way was modified only a year ago. Up to that point, the rates were nowhere near what they are today.

As a matter of compromise between the House, the Senate, and the administration, with both Chairman SMITH and myself leading toward the lower rates for both credit worthy and noncredit worthy, the administration wanting to see the cost of money across the board, we arrived at the present compromise.

I know exactly whereof the Senator from Arkansas speaks, having had similar disasters in Connecticut this past year due to flood damage and where, indeed, the interest rates were even higher than those presently being paid in Arkansas.

I think this is a matter that, with experience in hand under the administration policy, now demands a review as to exactly what the impact has been.

I assure the Senator from Arkansas that such oversight hearings will be held before the Small Business Committee.

Mr. BUMPERS. I thank the Senator very much.

Mr. WEICKER. Mr. President, I yield to the distinguished chairman of the committee.

STATUS OF AMENDMENTS

Mr. HATFIELD. Mr. President, there seems to be a little confusion on whether or not we achieved a unanimous-consent agreement on some of the amendments that will be offered by the Senator from North Carolina.

Therefore, I now ask unanimous consent that on one amendment that is going to be offered by the Senator from North Carolina (Mr. HELMS) relating to pay cap, that that be limited to 20 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Reserving the right to object. With no amendment to the amendment?

Mr. HATFIELD. No amendment to the amendment, no modification, as in the normal procedure we have followed in these unanimous-consent agreements.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent for the same agreement on the second amendment that will be offered by the Senator from North Carolina on IDA and I would like to incorporate also in that a third one, the Law of the Sea Conference. That means that there will not be a request made on one that will be offered or expected to be offered relating to IRS regulations on private schools. I except that in the group of four. I only ask the same agreement for IDA and the Law of the Sea Conference.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I am in no position to respond to either of those requests. I expect other Senators on the floor, who may or may not be interested, to give some advice and guidance.

Mr. President, I understand there would be no objection to the time limitation on the two amendments that the chairman specified.

Mr. HATFIELD. With no amendments.

Mr. ROBERT C. BYRD. With no amendments in order thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, just to indicate where we are again. We have one pending amendment by the Senator from Arkansas, which has to be resolved with a rollcall, Mr. Bumpers amendment on agriculture.

Mr. President, I now propose another unanimous-consent request on the time relating to an agreement with the Senator from Kentucky (Mr. FORD). I ask unanimous consent that there be a 20-minute time limitation, equally divided, to be followed by, I believe, a tabling motion. Is that not correct?

Mr. FORD. I say to the distinguished manager that there may be a tabling motion by those who oppose it; not necessarily, but it is expected.

Mr. HATFIELD. Mr. President, I will leave that out of the unanimous-consent request. I ask unanimous consent that there be a 20-minute time limitation with the same format, no amending or substituting motions or amendments to the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, we have, then, the Bumpers amendment, the Ford amendment, four amendments by Senator HELMS, and one amendment by Senator DOLE. I believe that brings us up to the bottom line of the current list of amendments.

Mr. DOLE. Will the Senator yield?

Mr. HATFIELD. Yes.

Mr. DOLE. Mr. President, I might just say, when the time comes, there will be two amendments offered en bloc. I have discussed this with Senator KENNEDY. We can dispose of that order of business very quickly. There are no rollcalls required, I do not believe.

Mr. HATFIELD. That is the first Dole amendment.

Mr. DOLE. Yes; we have now agreed to the second one which was to be offered en bloc.

Mr. HATFIELD. I have just had two more amendments handed to me that Senator TSONGAS may raise.

Mr. PRYOR. Will the manager yield?

Mr. HATFIELD. Yes.

Mr. PRYOR. Is there a time limitation on the two Tsongas amendments?

Mr. HATFIELD. No.

Mr. PRYOR. Mr. President, will the manager anticipate, it being 10 minutes to 5, if we took the amendments he just read, considering the time agreements that have been reached, and allowing 15 minutes per vote, where does that take us at this time? Have we calculated that? Do you have an abacus around?

Mr. HATFIELD. It is very difficult because I find now three more amendments being added. I just will not make an assessment. I have been wrong on every assessment I made thus far. I do not want to make a perfect record at this point.

Mr. PRYOR. If I might just say to the distinguished floor leader, in all fairness I had thought about this for some hours now, but if we reach 8 or 9 p.m. or, say, 8 p.m., I think at that time that I may well move to proceed to third reading. I think I may move at 8 p.m. that we move to third reading of the bill if we have not reached some definition of where we are.

Mr. WEICKER. Mr. President, if I may respond to my good friend from Arkansas, he will do a lot better than that. I may move to third reading. So I think I understand and I understand exactly what my good friend is saying. We have made tremendous progress due to the leadership of the good chairman here and everyone willing to compromise.

Mr. PRYOR. The distinguished chairman has been working diligently in the last several hours in an attempt to bring this together. I commend him and I commend my friend from Connecticut. In fact, I sympathize. I will say at 8 o'clock if we have not resolved something or maybe even by 7:30 p.m. i will in all probability move to go to third reading.

Mr. WEICKER. I wonder if the good Senator from Arkansas would use his good offices since the more recent amendments that have flowed in here come from his side of the aisle to speak to his colleagues and get the spirit of good will and cheer going. This bill deserves that.

Mr. PRYOR. I will do all that I can.

Mr. WEICKER. I yield to the Senator from Kansas.

UP AMENDMENT NO. 1554

(Purpose: To amend the Gun Control Act of 1968 to exclude record keeping for .22 caliber rimfire ammunition)

UP AMENDMENT NO. 1555

(Purpose: To clarify the importation of curios and relics as classified by the Secretary of the Trreasury)

Mr. DOLE. Mr. President, I send two amendments to the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, Mr. SYMMS, Mr. HEFLIN, Mr. SASSER, Mr. ZORINSKY, Mr. ABDNOR, Mr. GRASSLEY, Mr. HATCH, and Mr. MCCLURE, proposes unprinted amendment numbered 1554 and unprinted amendment numbered 1555.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Insert at the appropriate place at the end of the bill:

(1) 18 U.S.C. 922(b)(5) is amended by adding the words "except .22 caliber rimfire ammunition" after the words "or ammunition".

(2) 18 U.S.C. 923(9) is amended by adding the words "except .22 caliber rimfire ammunition" after the words "and ammunition" the first time they appear.

Insert at the appropriate place at the end of the bill:

18 U.S.C. 925(d) is amended—

(1) by deleting the word "may" the first time it appears and inserting in lieu thereof "shall".

(2) by inserting, following subsection (2), a new subsection as follows:

"(3) is or has been classified by the Secretary as a curio, relic, or item of substantial value to collectors;"

(3) by renumbering subsections (3) and (4) as (4) and (5), respectively.

Mr. DOLE. Mr. President, I rise to offer two amendments to House Joint Resolution 631, the continuing resolution.

Mr. President, I have discussed these amendments in detail with the distinguished Senator from Massachusetts (Mr. KENNEDY) and both these amendments are cosponsored by the distinguished Senator from Idaho (Mr. SYMMS), the Senator from Alabama (Mr. HEFLIN), the Senator from Tennessee (Mr. SASSER), the Senator from Nebraska (Mr. ZORINSKY), the Senator from South Dakota (Mr. ABDNOR), the Senator from Iowa (Mr. GRASSLEY), the Senator from Utah (Mr. HATCH), and the Senator from Idaho (Mr. MCCLURE).

Mr. President, let me state very quickly what these amendments do. Then, Senator KENNEDY wanted me to respond to a question or two.

Mr. President, the provisions of these amendments have been cosponsored by over 60 Members of this body on both sides of the aisle over the past 2 years, as they are included in S. 1030, the Federal Firearms Owners' Protection Act. Thorough hearings have been conducted by the Senate Judiciary Committee on this legislation. The Committee on the Judiciary, by an overwhelming margin of 13 to 1, reported S. 1030 to the Senate nearly 8 months ago. It is currently pending in the Senate. Since we do not wish to take the valuable time of the Senate at this late date to debate and pass S. 1030, we have agreed not to press the leadership for floor time to discuss the greater and more important provisions included in S. 1030.

In addition, a Senate appropriations subcommittee has conducted several days of hearings on these amendments. At both the Senate Judiciary Committee and Appropriations Committee hearings the Department of the Treasury testified that they had no opposition to these amendments, which they state, under current law, have little or no law enforcement value. At the same time, however, Treasury has stated these provisions have cost the Department and, in turn, the taxpayers, untold hours of expense and redtape, with no effect on the criminal element but only on the law-abiding citizen. Yet to date, it is still the law-abiding citizen who pays the piper and not the criminal.

Mr. President, we must get our priorities straight and reverse these expensive, inefficient, and ineffective law enforcement tools.

I have been informed as recently as yesterday, that the Department of the Treasury is in complete agreement with the scope and breadth of these amendments.

Unprinted amendment No. 1554 permits the importation of curios, relics, and other items having substantial value to collectors if the Secretary of the Treasury has first classified them under the provisions of 18 U.S.C. 925(b).

The 1968 Gun Control Act broadly bans gun imports, with a few limited exceptions. The only two of relevance here are an exception for curios and relics and for arms suitable for sporting purposes. Since suitability for sport is defined by regulation in terms of modern standards—adjustable sights, special safeties, et cetera—few curios and relics can pass this latter test under the current law. The amendment would replace the current law test and substitute a more realistic and meaningful test: Does the item in question have substantial value to collectors? Therefore, the amendment would allow the importation of items such as the 1920 commercial Lugar in 7.65 caliber.

The arguments for this amendment may be summarized as follows:

First. This provision is aimed at allowing collectors to import fine works of art and other valuable weapons.

Second. This provision would allow the importation of certain military surplus firarms that are classified as curios and relics by regulations of the Secretary of the Treasury.

Third. In order for an individual or firm to import a curio or relic they must first be put on a list by petitioning the Secretary of the Treasury. The Secretary must find the firearm's primary value is that of being a collectors item.

Fourth. The only reason a person would purchase these firearms is because of is peculiar collectors status. And in fact, it must be a special firearm and classified as such in order to import.

Fifth. Treasury Department has stated that it has no objection to this amendment.

Mr. President, The second amendment would remove .22 calliber rimfire ammunition from coverage of the Gun Control Act of 1968. Currently, every box of this widely used target round must be recorded by the dealer in his books when a sale is made. Literally billions of rounds are sold annually. This amounts to a mountain of redtape which is virtually no use to enforcement authorities. Indeed, according to Treasury Department officials, not a single prosecution has been brought for violation of this requirement in the 14 years it has been on the Federal law books. No high powered ammunition such as the .223 caliber round for the M-16 military rifle or the .243 calliber round for hunting rifles is included within the scope of this amendment. Only those rounds are covered which are commonly used for plinking and similar recreational purposes. In prior years the Senate has taken similar action. I urge that it do so again.

Mr. President, I summarize the reasons for the amendment:

First. It places a tremendous burden on the dealers to keep and store these records.

Second. There has never been a case solved by use of ammunition record-keeping information in 14 years.

Third. Number of rounds of ammunition sold per year, 3 to 10 billion.

Fourth. Dealers have to keep records on each box sold. we are talking about millions of records per year.

Fifth. Overall, no good has ever come of this provisions.

Sixth. This provisions has been in the Volkmer/McClure firearms bills for years. Never once has anyone objected to it in committee hearings, committee reports, or other fact-sheets.

Seventh. If this provision were not in the law, more stores in rural areas would stock .22 calliber ammunition as a convenience for it customers.

Eighth. This ammunition is sold in boxes and the cartridges do not have

any serial numbers—so they are virtually useless as a law enforcement tracing device.

Ninth. Treasury has testified that this provision in the 1968 Gun Control Act has no law enforcement value.

I hope there is no objection to this amendment. I am prepared to yield to the Senator from Massachusetts for any questions he may have.

Mr. KENNEDY. Mr. President, I have no objection to these amendments, and I hope the Senate will adopt them.

However, I hope that next year we will be able to consider these types of amendments as part of a more comprehensive approach to gun control—to provide some reasonable deregulation of rifles, long guns, and shotguns and still maintain the protection for the American people against handguns, the so-called Saturday night specials and snubbies and also with regard to the KTW bullets.

Mr. President, in indicating my support for the amendments offered by the Senator from Kansas (Mr. DOLE), I want to note that they are along the lines of the compromise amendment I offered last May during the Judiciary Committee's consideration of S. 1030, the McClure/Volkmer bill.

My amendment, and the thrust of my efforts during the committee's consideration of that bill, was to join in the effort to ease unnecessary controls and regulations on the sale and transfer of sporting weapons—rifles and long guns—but to keep and strengthen controls on handguns, which are the preferred instruments of criminals.

I am still committed to trying to work with my colleagues to reach a reasonable compromise on this issue—and I am supporting these amendments in that spirit.

I hope we can carry this spirit of cooperation forward next year. I hope we can achieve some reasonable reforms of the 1968 Gun Control Act, which will serve the legitimate interests of the sportsmen and women of our country, yet not make it easier for the criminals and psychopaths to obtain handguns which have no purpose but to kill and maime human beings.

I voted against, and I will continue to oppose, the McClure/Volkmer bill, because it drastically weakens the already weak controls our Nation has on the sale and transfer of handguns, which are the weapons involved in the majority of the violence and crime in our society.

But I share the basic goal of the sponsor of these amendments to relieve unnecessary regulatory burdens on the legitimate purchase of firearms and ammunition by law-abiding citizens.

So, while I would have preferred that we would be dealing with something that would have provided a greater decontrol, if you want to use that word, or deregulation, if you want to use that word, on the sale of long guns, yet maintain some degree of protection for the American people with regards to proliferation of handguns.

Again, I hope in the next year I will be able to work with the Senator from Kansas and others who have been, I think, very constructive and positive on this issue, to achieve these reforms. That certainly would be my hope for next year.

As the Senator from Kansas has described this legislation, it deals with guns that are curios, relics, antiques, and it also eliminates some of the regulatory burdens on the sale of certain types of ammunition.

I wish to ask my colleagues so this record will be very clear: It is my understanding that the Senator's amendment does not relate at all to KTW bullets, so-called cop-killer bullets or with other destructive ammunition; is that correct?

Mr. DOLE. It does not.

Mr. KENNEDY. And I know that the Senator from Kansas has been very interested in trying to develop a responsible position on those particular items, and I gather that he is going to be willing to try and help those of us who are also concerned, as I know he is, to have a positive and responsible position. Hopefully, it will be recommended by the Judiciary Committee in the next Congress.

Mr. DOLE. Let me say to the distinguished Senator from Massachusetts, as he knows we have been trying to figure the best way to develop a sound amendment. I certainly have no intention of withdrawing from that effort. In fact I think it should be pursued. But these are two rather minor situations where we had agreement. Of course, the Senate Appropriations Committee also has oversight over BATF. That is how it came to be involved.

As the Senator said, one was in a bill he introduced and the other, as far as I know, is not objectionable.

I look forward to working with the Senator from Massachusetts later next year.

Mr. KENNEDY. I thank the Senator and I hope that we could move ahead and adopt the amendments.

Mr. PROXMIRE. Mr. President, will the Senator from Kansas yield for a question?

Mr. DOLE. I am happy to yield.

Mr. PROXMIRE. What committee has jurisdiction in the field that these amendments cover?

Mr. DOLE. The Judiciary Committee has jurisdiction over the Gun Control Act, although they were also before the Senate Appropriations Subcommittee because of oversight jurisdiction over the BATF. Hearings were also held on these amendments in the Appropriations Committee.

Mr. PROXMIRE. So there is no revenue effect.

Mr. DOLE. There is no revenue effect.

Mr. PROXMIRE. Is there an emergency?

Mr. DOLE. Mr. President, there may not be an emergency, but there could well be a revenue effect. We pick up revenues if we can pass these two amendments as far as recordkeeping is concerned and as far as work of the Treasury is concerned. At least we are advised by Treasury and they have no objection.

Mr. PROXMIRE. I wonder if there is an emergency reason, why these should go on this bill at this time during this session.

Mr. DOLE. There is no emergency, but I stood here and watched several other nonemergencies. I do not know there is any emergency to pass what the committee did.

The answer would be a truthful no. But I think we could indicate a willingness of the Senate to address these two very minor items where the impact would be a savings for the taxpayer, and a savings for the very small business person. I know of no objection to the amendments.

Mr. PROXMIRE. Is there any opposition from the administration at all?

Mr. DOLE. No. Senator, I can report that they support the amendments.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (UP Nos. 1554 and 1555) were agreed to en bloc.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, under the order of time agreements and the order of alternating, I yield to the Senator from North Carolina for the purpose of offering an amendment.

Mr. HELMS. I thank the able Senator.

UP AMENDMENT NO. 1556

Mr. HELMS. Mr. President, I send to the desk two unprinted amendments and I ask that they be stated and considered en bloc.

The PRESIDING OFFICER. The amendment will be stated.

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1556, amendments en bloc.

At the appropriate place in the pending business, insert the following new section:

SEC. . (a) No part of any funds appropriated for the fiscal year ending September 30, 1983, or for any fiscal year therefter may be used to pay the salary of any Member at a rate which exceeds the rate of pay actual-

ly payable to such Member on September 30, 1982, under all applicable provisions of law.

(b) For the purpose of this section, the term "Member" means an individual who is a Senator, Member of the House of Representatives, Delegate to the House of Representatives, Resident Commissioner from Puerto Rico, President pro tempore of the Senate, Majority Leader of the Senate, Minority Leader of the Senate, Majority Leader of the House of Representatives, Minority Leader of the House of Representatives, or Speaker of the House of Representatives.

At the end of the pending Helms amendment add the following:

"The provisions of this section shall be null and void after the beginning of the first fiscal year following the first fiscal year hereafter ensuing in which the Federal budget shall have been balanced and the national debt reduced below one trillion dollars.".

The PRESIDING OFFICER. Is there objection to the consideration of the amendments en bloc? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I wonder if the Senator would yield for just 30 seconds.

Mr. HELMS. Certainly.

Mr. HATFIELD. Mr. President, earlier I proposed a technical amendment, 1543, for Senator STEVENS relating to bonus reenlistment pay. The amendment was improperly drafted as to where it fell in the resolution. The amendment should have occurred on page 58, lines 14-16, rather than on page 44, lines 4-7. I ask unanimous consent that unprinted amendment No. 1543 occur on page 58, lines 14-16, and that section 128 on page 44, lines 4-7, be restored as reported from the committee.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Carolina.

Mr. HATFIELD. I thank the Senator.

Mr. HELMS. I thank the Chair. Mr. President, I guarantee that I am going to consume no time because this issue has been debated over and over with various results throughout the 10 years that I have been a Member of the Senate.

Now, the first amendment, Mr. President, would place a permanent cap on the salaries of Members of Congress. It would end once and for all what is perceived all across America, rightly or wrongly, this business of automatic backdoor pay increases. Simply said, it would require an affirmative vote by Congress if and when congressional salaries are increased. I think that is a fair proposition.

I know it is not pleasant to talk about raising salaries, our own salaries, but it certainly is not pleasant to the people back home to perceive that salaries are somehow pumped up through a backdoor, midnight process.

The Senate Appropriation Committee's version of the continuing resolution reenstates the pay cap for Members of Congress, but our colleagues over in the House of Representatives did vote a pay raise for themselves this year.

Mr. President, I do not want to be critical of anybody either in this body or in the House of Representatives, but it could not escape my attention that in 1 week's time the House of Representatives in one action voted to increase over a 5-year period of time taxes on the American people totaling about $27 billion, and I am talking about the gas tax. They did that in one action. Then they came right back and voted to raise their own salaries.

Now, maybe there is some consistency in that, but it escapes me an I think it escapes most of the American people.

I know that there has been a kind of subrosa agreement between some leaders in the Senate and some leaders in the House that the House can raise their pay but the Senate will not raise its pay.

I have a friend down in North Carolina, his name is Chub Seawell, and he very often says when he sees a proposition that does not have a great deal of merit, "That's a silly as a 10-cent watch."

I just do not understand that kind of agreement, and I do not think the American people will.

But the point is this Mr. President. The vast majority of the American taxpayers, the men and women who get up every morning and go to work to earn enough to try to maintain their families and pay their taxes, make nowhere near what Members of the Congress make. I know all about the arguments about how much it costs to live in Washinton, and I am probably the poorest man in this Senate in terms of money. But the point is, Mr. President, that we are asking these taxpayers to foot the bill for a congressional pay increase, and they are threatened with an increase in the gasoline tax. That is one of the reasons I have been interested in making certain that full consideration was given the so-called gas tax measure, because if ever there was a regressive tax, in my judgment, that is it.

But in any case, I think it is time to put an end to the perception across this land that we sit up here and engage in an automatic backdoor pay increase scheme for ourselves. I think the very least we can do is to say that forevermore we are going to vote on the proposition and we are going to vote so that the people can know how each Senator and how each Member of the House of Representatives voted. If it passes, fine. I will not be voting for a pay increase unless and until the Federal budget is balanced and we can at least get the Federal debt down below $1 trillion. That is the sum and substance, Mr. President, of the two amendments.

Mr. HATFIELD. Mr. President, because our people are in caucus, and there have been people who indicated an interest to speak on this, I ask unanimous consent that we temporarily lay this amendment aside so the Senator from North Carolina may take up his next amendment.

Mr. HELMS. Before the Senator does that, may I ask for the yeas and nays?

Mr. HATFIELD. Yes.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oregon? Without objection, it is so ordered.

UP AMENDMENT NO. 1557

Mr. HELMS. Now, Mr. President, I send another unprinted amendment to the desk which will save the American people $100 million.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HELMS. It is not much money, Mr. President.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1557:

At the end of the bill, insert the following:

SEC. . None of the funds made available by this Act shall be used to pay costs, fees, or other expenses incurred for implementation of the United Nations Convention on the Law of the Sea, which was signed on December 10, 1982, in Montego Bay, Jamaica.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, on July 9 of this year, President Reagan announced that the United States would not become a signatory to the long disputed United Nations Convention on the Law of the Sea.

Now, this Law of the Sea Treaty was drafted so that Third World countries would be empowered to force transfer of material resources from developed states, such as the United States, through multinational institutions and procedures beyond the control of any individual developed sovereign state. And it calls for a mandatory transfer of billions of dollars, Mr. President, in technology and financial resources from developed nations to undeveloped nations and for the most part, I might add, mostly unfree societies.

Now, the U.S. Government, and the President of the United States, wisely concluded that this treaty is unworkable and that it is not in the best interest of the United States and the American people. But what do you think happened, Mr. President? The

United States is now being told that the American taxpayers are going to have to pick up the tab for implementing a treaty that we have already rejected. Pure nonsense.

Mr. President, I hope it is obvious that there is no logic in forcing the American taxpayers to pay for diplomatic disaster that the United States has already rejected.

That is the purpose of this amendment. It would prohibit the United States from funding the implementation of the U.N. Convention on the Law of the Sea.

I ask for the support of the Senate in this effort.

Mr. HATFIELD. I understand that finishes the opening statement on that one.

Mr. HELMS. Yes, sir.

Mr. PERCY. Mr. President, I think the Senator from North Carolina is engaged in a bit of overkill with respect to the Law of the Sea Treaty. The United States has made its position clear on this treaty; we will not sign it in its present form. The President has gone even further than that in announcing that we will not participate any further in the activities of the so-called Preparatory Commission which is supposed to establish rules and regulations for seabed mining.

I do believe that the United States is fully justified in objecting to the expenditure of funds from the regular U.N. budget to pay for the expenses of the Preparatory Commission. This issue was debated in the U.N. General Assembly this fall. We succeeded in scaling back the proposed funding for the Preparatory Commission from $20 million to $4 million. I think the administration should pursue its objections that this is not a normal activity of the United Nations as contemplated in the U.N. Charter.

Furthermore, I want to emphasize to my colleagues that there is no money for assessed contributions to the United Nations in this bill. Our contributions to the United Nations for calendar year 1982 have already been given. Our contributions for 1983 will not be made until the fiscal 1984 budget. In other words, this amendment would not have any practical effect.

For this reason, and the fact that we are obligated to make our assessed contribution by treaty, I hope that the Senate would not include it in this bill.

Mr. HATFIELD. Mr. President, I ask unanimous consent that this Helms amendment be temporarily laid aside in order that the Senator from North Carolina may take up his next amendment.

Mr. HELMS. If the Senator will let me get the yeas and nays on this amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Oregon that the amendment be laid aside? Hearing none, it is so ordered.

The Senator from North Carolina.

UP AMENDMENT NO. 1558

Mr. HELMS. I send to the desk another unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1558:

Page 7, line 8 strike out "$800,000,000" and insert in lieu thereof, "$700,000,000".

Mr. HELMS. This amendment will save the taxpayers $100 million, Mr. President.

This amendment would reduce from $800 to $700 million the fiscal year 1983 appropriation to the International Development Association and make the Senate figure conform with the House figure and the figure approved for fiscal year 1982.

In other words, in the fiscal year ending September 30, 1982, The United State gave the IDA $700 million the figure which this amendment proposes.

Mr. President, the money in this bill is a part of the U.S. commitment to the IDA called the IDA-VI. Congress approved the authorization for IDA for 4 years. In addition to the $500 million approvied in fiscal year 1981, the totals were to have been $850 million in fiscal year 1982 and $945 million in fiscal year 1983. The Congress appropriated $700 million in fiscal 1982 and now the Congress will appropriate for this fiscal year either $700 million as provided in the House bill or $800 million as provided in the committee recommendation, or some sort of compromise.

In either case, Mr. President, if Congress were to try to catch up with previous appropriations and try to make up the difference between the initially authorized funds and the funds appropriated in the years prior to 1984, the 1984 appropriation would be at least—hold on to your hat, Mr. President—$1,240,000,000, a minimum of a 55-percent increase over this year.

I think this is substantially more than the American taxpayers ought to be asked to bear in this time of economic stress.

This is a sum that Congress must not, and will not, approve, in my judgment. Such an increase is intolerable, and we simply must, in my judgment, Mr. President, spread the IDA-VI Replenishment out at least over a period of 5 years and come up with the reminder which would amount to something like $540 million in fiscal year 1985.

So, Mr. President, regardless of the size of the present year IDA-VI appropriation we are not going to come up with the total remainder of the U.S. pledge in the next fiscal year so we might as well stick to a steady course and adopt the same figure we did last year and the same figure that is in the House version of the continuing resolution.

In sum, Mr. President, the pending amendment would cut $100 million from the bill. It will not seriously harm this program.

I might mention, Mr. President, that there are many Senators who think that the entire IDA submission ought to be rejected. I have problems with the International Development Association, and I am sympathetic to the suggestion by my colleagues. But in view of the times, I choose to offer this very modest amendment. The reduction in funds for this program will make the Senate bill identical with the House bill in this regard and I think it should be approved.

One of the reasons that the International Development Association is not one of the most popular programs these days is that its record, to put it charitably, is not good.

Let me quickly list the five criticisms that I most often hear. Keep in mind that each can serve as a topic for a long discussion, but we need to conserve time and I will not do that.

First, International Development Association loans are made only to governments. The argument for this is that in the poorest nations only the government is capable of economic activities. I think the defect of this reasoning is self-evident.

This contention is contrary to every free enterprise principle that I know about, and contrary to all evidence on the development of economic systems. The private sector is always the most efficient producer and it is absurd to encourage the poorest nations to squander resources on government-controlled enterprises. Where proverty is a problem, it is foolhardy and tragic to hobble the greatest reducer of poverty—private individuals acting and risking to make a profit to provide goods and services.

Second, International Development Association loans have not been used vigorously to leverage changes in economic policies in recipient nations in favor of a free market, private sector activity.

The World Bank is a Western institution, yet it and its ancillary agencies like the International Development Association are destructive of efforts to emulate our system of government and the way we organize our society. These organizations fail to promote

principles of free markets and to promote these proven values vigorously. To view the advancement of freedom and democracy as "political interference" in the business of recipient nations, is to use specious arguments.

Third, IDA has made the vast majority of its loans to countries which have consistently followed economic policies destructive to economic growth. Almost 60 percent of IDA loans have gone to India, Pakistan, Bangladesh, and Indonesia. India, which is hardly a model of economic success, has received 40 percent of all IDA loans. IDA and the World Bank have been incapable of leading these countries even to minimal economic growth, much less prosperity.

Let us ask why. India taxes income above—speaking in terms of U.S. dollars—$1,876 at a rate of 33 percent. Bangladesh taxes Income above $1,471 at 35 percent. Pakistan taxes income above $2,000 at 35 percent. Indonesia taxes income above $13,923 at 13 percent. Indonesia is a little better than the rest, but the tax rate there is almost double the U.S. rate for 1981 and far too high to encourage initiative and growth.

Fourth, IDA loans are made to these countries for 50 years. Do you know what the interest rate is, Mr. President? This is American taxpayers' money that we loan and the interest rate is zero.

How would you like to have a 50-year loan, Mr. President, at zero interest rate? I believe I could do business with any bank profitably to myself if I could get a loan like that.

Mirror this against what the young married couple in America is up against, for example. Look at what they have to pay for a mortgage on their home. So many young people cannot even afford to think about buying a home.

IDA loans should be changed to reflect the real world. Young American families who now face 15- to 16-percent interest rates on 30-year mortgages can hardly be asked to fund zero interest loans abroad. IDA loans should bear an interest rate that at least matches inflation to protect the assets of those providing capital. Further, the loan periods should be reduced to no more than 30 years so that financing will not continue when the assets—the projects built with the funds—are long worn out or obsolete.

Fifth, many loans are made to nations that restrict the flow of private capital. India has nationalized so many industries. The Peoples' Republic of China, which happens to be a new and potentially very large recipient of IDA funds, has rejected offers of private Western capital in amounts reported near $30 billion.

There cannot be an adequate case made, Mr. President, for channeling capital through international organizations when private capital is freely available.

As an example, India and the IMF are now working on an agreement for a loan of almost $6 billion for petroleum development. This at a time when there is a glut of oil and exploration capital.

Mr. HATFIELD. Mr. President, I yield a minute to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, I regret to say that I stand in opposition to the Senator from North Carolina, because the five points he just so eloquently went through are five of the reasons why I, as the subcommittee chairman, had reduced the request for IDA from $945 million to $700 million in subcommittee. Then in the full committee, working with the able and distinguished ranking minority member of our Foreign Relations Subcommittee and a number of other people, we worked out an overall package to arrive at certain security assistance and aid numbers for Central America and the Caribbean.

The Senate acted affirmatively on the Appropriations Committee levels on foreign aid last night. This included the sum of $800 million for IDA. It would be contradictory at this point to put in a new section for IDA at a different level than that which we voted on in that one motion last night.

I want to emphasize that the $800 million appropriated is already $145 million below the administration's request. The overall appropriations for multilateral assistance is $222,877,000 below the administration's request. So we have reduced that figure. I think the Appropriations Committee made a major effort to find cuts in this section, and that further cuts could harm our bargaining and negotiating position on a number of other items.

While I agree in substance with what Senator HELMS has said, I would hope very much that this amendment would not be agreed to.

I also would like to point out that it is not the assumption of the Appropriations Committee that funding for IDA next year will be at that very high level. It is unlikely that our economy is going to recover quickly enough, or that the sense of the Congress is going to be such that we will be able to fulfill our IDA-VI replenishment over that small period of time.

It now looks as though we will simply stretch our IDA-VI replenishment into the next year. So that huge amount of money the Senator is talking about, I hope very much will not be the level that we are called upon to appropriate. I know the Senator from North Carolina will be working with the people at the Treasury Department and at the State Department to reduce the amount of the IDA-VI replenishment to be funded next year.

I hope this amendment will not be agreed to, but I want the Senator to know that he and I are on the same wavelength. This is a concern of a substantial number, if not the majority, of the Congress today and it is important that the administration and the officials of the World Bank understand that.

Mr. HELMS. Mr. President, let me thank my friend from Wisconsin. I want him to know that I am not unmindful of the great effort he has devoted to this. I admire him for it, and I thank him for it. We are, indeed, on the same wavelength, though we may have some temporary minor difference about the arithmetic of this particular legislation. I do want the Senator to know that I admire and respect him.

I thank the Senator.

Mr. HATFIELD. Mr. President, I wonder if the Senator from North Carolina will indulge us again and permit us to lay aside this amendment temporarily in order to take up another amendment and keep this process going.

Mr. HELMS. Surely, Mr. President. First, let me ask for the yeas and nays on this amendment.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. PERCY. Mr. President, while we hear about middle income countries such as Mexico and Brazil facing economic difficulties and we are taking steps to help them, we must not forget that many of the poorest countries in the world also are facing extremely difficult times as prices for their commodity exports such as cotton, cocoa, coffee, and copper are at their lowest levels in three decades. We should note that to a large extent their economic difficulties result from fluctuating oil prices, high interest rates, and economic recession in the industrial countries over which the poor countries have no control.

We have already stretched our payments for IDA-VI from 3 to 4 years. In Toronto last September, all other industrial countries agreed to increase their contributions to IDA-VI by roughly one-third to keep up IDA's lending capacity. Many of these countires have bigger deficits, higher unemployment, and higher inflation than the United States. If we cut $100 million now, it is almost certain we will need 5 years to meet our IDA-VI commitments.

I think it is important to know that while the White House has scrutinized every budget item, it has consistently urged that we meet our IDA-VI commitment within 4 years. It has made this decision both because it believes the program is important and because

it is convinced the United States must honor its international commitments.

Last night, the Senate decided to increase security assistance by over one-half billion dollars. We would be sending the Third World a most peculiar message if we increase our security support while reducing our help in strengthening their economies. If we have learned nothing in the last three decades we should have learned that a country in which its citizens have little economic or political stake, is a country which can not be defended.

Finally, multilateral lending institutions are one of the most efficient ways to provide foreign assistance.

Other countries contribute $3 for every $1 we put in.

The World Bank works closely with the IMF to advocate that the developing countries to adopt market-oriented economic policies.

The World Bank and the IMF are often able to improve the economic policies of the developing countries through advice and pressure which the United States could not do acting unilaterally.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily set aside the Helms amendment that is now under discussion in order that we may proceed to another matter.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

UP AMENDMENT NO. 1559

(Purpose: To provide that Federal supplemental unemployment compensation shall be available to certain railroad workers, and to make the necessary appropriation to pay such compensation)

Mr. HATFIELD. Mr. President, I yield to the Senator from Kentucky for the purpose of his offering an amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, on behalf of myself, Mr. ROBERT C. BYRD, Mr. DIXON, Mr. HEINZ, Mr. ROTH, Mr. LEVIN, Mr. SARBANES, Mr. HUDDLESTON, and Mr. MELCHER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD), for himself, Mr. ROBERT C. BYRD, Mr. DIXON, Mr. HEINZ, Mr. ROTH, Mr. LEVIN, Mr. SARBANES, Mr. HUDDLESTON, and Mr. MELCHER, proposes an unprinted amendment numbered 1559.

At the end of the bill add the following new section:

SUPPLEMENTAL COMPENSATION FOR RAILROAD WORKERS

SEC. . (a) Any employee as defined in section 1(d) of the Railroad Unemployment Insurance Act (45 U.S.C. 351 (d)) shall be entitled to supplemental unemployment benefits, to be paid under such Act in accordance with the provisions of this section for any day of unemployment during such individual's period of eligibility (as defined in subsection (f)) if such employee—

(1) has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act (45 U.S.C. 231(f)), did not voluntarily retire, and did not voluntarily leave work without good cause;

(2) has exhausted all rights to unemployment benefits under the Railroad Unemployment Insurance Act other than supplemental benefits payable by reason of this section;

(3) has no rights to unemployment benefits with respect to a day under such Act (other than supplemental benefits payable by reason of this section) or to any unemployment compensation with respect to a week under any State unemployment compensation law or under any other Federal law (and is not paid or entitled to be paid any additional unemployment compensation under any such State or Federal law); and

(4) is not receiving unemployment compensation with respect to such day under the unemployment compensation law of Canada,

except that no payment of supplemental unemployment benefits shall be made to any individual by reason of this section for any day of unemployment occurring more than two years after the end of the benefit year as defined in section 1(m) of the Railroad Unemployment Insurance Act (45 U.S.C. 351(m)) for which he exhausted his rights to unemployment benefits under such Act.

(b) For purposes of this section, an individual shall be deemed to have exhausted his rights to unemployment benefits under the Railroad Unemployment Insurance Act when—

(1) no payments of unemployment benefits (other then supplemental benefits payable by reason of this section) can be made under such Act because such individual has received all such unemployment benefits available to him based on employment during his base year as defined in section 1(n) of the Railroad Unemployment Insurance Act (45 U.S.C. 351(n)); or

(2) his rights to such unemployment benefits have been terminated by reason of the expiration of the benefit year (as defined in such Act) with respect to which such rights existed.

(c) For purposes of this section—

(1) the amount of the supplemental unemployment benefits which shall be payable to any individual for any day of unemployment shall be equal to the amount payable to him for any day of unemployment during his benefit year under the Railroad Unemployment Insurance Act; and

(2) the terms and conditions of the Railroad Unemployment Insurance Act which apply to claims for unemployment benefits and payment thereof shall apply to claims for supplemental unemployment benefits and payment thereof, except where inconsistent with the provisions of this section.

(d)(1) The maximum number of days for which an individual shall be entitled to supplemental unemployment benefits by reason of this section shall be—

(A) 30 days, if the thirtieth day of such benefits falls in a week during which there is neither a '40-day benefit period' in effect nor a '50-day benefit period' in effect;

(B) 40 days, if such thirtieth day falls in a week during which a '40-day benefit period' or a '50-day benefit period' is in effect, but the fortieth day of such benefits falls in a week during which a '50-day benefit period' is not in effect; and

(C) 50 days, if such thirtieth day falls in a week during which a '40-day benefit period' or a '50-day benefit period' is in effect, and such fortieth day falls in a week during which a '50-day benefit period' is in effect.

(2)(A) FOR PURPOSES OF THIS SECTION, a '40-day benefit period' shall begin with the twentieth day after there is a 40-day benefit period 'on' indicator (as defined in subparagraph (B)) and shall end with the twentieth day after there is a 40-day benefit period 'off' indicator (as defined in subparagraph (C)).

(B) There is a 40-day benefit period 'on' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (as defined in section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970, and seasonally adjusted) for all States equaled or exceeded 3.5 percent (determined by reference to the average monthly covered employment (as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970) for the first four of the most recent six calendar quarters ending before the close of such period), but was less than 4.5 percent.

(C) There is a 40-day benefit period "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (as so defined and seasonally adjusted) for all States was less than 3.5 percent (as so determined).

(3)(A) For purposes of this section, a "50-day benefit period" shall begin with the twentieth day after there is a 50-day benefit period "on" indicator (as defined in subparagraph (B)) and shall end with the twentieth day after there is a 50-day benefit period "off" indicator (as defined in subparagraph (C)).

(B) There is a 50-day benefit period "on" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (as defined in section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970, and seasonally adjusted) for all States equaled or exceeded 4.5 percent (determined by reference to the average monthly covered employment (as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970) for the first four of the most recent six calendar quarters ending before the close of such period).

(C) There is a 50-day benefit period "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (as so defined and seasonally adjusted) for all States was less than 4.5 percent (as so determined).

(e) No supplemental unemployment benefits shall be payable by reason of this section for any day before December 1,1982, or after March 31, 1983.

(f) For purposes of this section the term 'period of eligibility' means, with respect to any individual, the period beginning on December 1, 1982, and ending on March 31, 1983; except that an individual shall not have a period of eligibility unless his benefit year ends on or after June 1, 1982.

(a)(1) There are authorized to be appropriated in advance from the general fund in the Treasury to the railroad unemployment insurance account in the Unemployment Trust Fund, without fiscal year limitation, such sums as may be necessary to pay sup-

plemental unemployment benefits payable by reason of this section. Such amounts shall not be required to be repaid.

(2) There are authorized to be appropriated in advance from the general fund in the Treasury to the railroad unemployment insurance administration fund in the Unemployment Trust Fund, without fiscal year limitation, such sums as may be necessary to meet the costs of administering the program of supplemental unemployment benefits established by this section. Such amounts shall not be required to be repaid."

APPROPRIATION OF FUNDS

(h) In addition to any amounts otherwise appropriated in this joint resolution or any Act, there are appropriated for the Railroad Retirement Board, $85,000,000 for transfer into the railroad unemployment insurance account in the Unemployment Trust Fund in accordance with subsection (g)(1), and $750,000 for transfer into the railroad unemployment insurance administration account in the Unemployment Trust Fund in accordance with subsection (g)(2).

Mr. FORD. Mr. President, I ask unanimous consent that the distinguished Senator from Ohio (Mr. METZENBAUM) and the distinguished Senator from Nebraska (Mr. ZORINSKY) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, it is a little bit disconcerting to make this eloquent speech when there are only a few here and they are mostly Democrats. I want that understood.

Mr. President, the amendment I am offering today seeks to correct an unintended consequence of the 1981 Budget Reconciliation Act that has resulted in the termination of extended unemployment benefits for railroad workers with less than 10 years' experience. This is a simple amendment which will make these unemployed rail workers eligible to participate in a Federal supplemental benefits program similar to the program that was authorized in the recently passed Tax Equity and Fiscal Responsibility Act of 1982 and extended, by the way, just yesterday.

A little background is in order to explain exactly the situation these unemployed railroad workers are facing. Railroad workers receive unemployment benefits in a program separate from the Federal-State unemployment insurance system. Under the Railroad Unemployment Insurance Act, railroad workers with less than 10 years experience are entitled to 26 weeks of basic unemployment benefits and an additional 13 weeks of extended benefits if conditions of high unemployment exist. High unemployment is defined by reference to the national trigger in the Federal-State unemployment insurance system. In the 1981 Reconciliation Act, Congress repealed the national trigger with the intent of changing unemployment law for workers in the general economy. Unfortunately, this had the unintended effect of repealing extended benefits for railroad workers.

As a result, railroad workers with less than 10 years' experience are not limited to 26 weeks of benefits in a benefit year. Congress unintentionally deprived rail workers of 13 weeks of extended benefits. These workers are not underprotected relative to workers in the general economy.

The amendment we are offering will remedy this by making unemployed rail workers with less than 10 years experience eligible to receive Federal supplemental compensation benefits. They would be entitled to benefits of either 10, 8, or 6 weeks depending on the insured unemployment rate in the national economy. Under current economic conditions, they would be entitled to an additional 10 weeks of benefits. Like the Federal supplemental compensation program, these benefits would not be payable after March 31, 1983.

Congress has recognized the hardship facing unemployed workers in the general economy who find it impossible to find work in an economy with 11 percent unemployment. First, in the recently passed tax equity bill, Congress authorized up to 10 weeks of additional benefits. Then in the gas tax bill, by a 93-to-4 vote, we authorized up to 6 more weeks. Clearly, these unemployed rail workers also deserve protection. Not only have they been excluded from the supplemental benefits program, but they have also been mistakenly deprived of extended benefits.

I have heard from many unemployed railroad workers who have already exhausted their unemployment benefits or will very soon. I am sure other Senators have also. These families cannot understand what Congress has done to them.

We have a chance to correct this inequity. I am informed it has the support of the chairman and ranking minority of the Senate Labor Committee. They recognize the problem. I urge my collleagues to accept this amendment.

Mr. President, I yield a couple of minutes to my distinguished friend from Illinois (Mr. DIXON).

Mr. DIXON. Mr. President, I thank my distinguished friend from Kentucky for yielding. He has covered the subject matter so exhaustively that I have little to add except that I support the Senator's statement. As the Senator has said, this amendment will rectify a great inequity which occurred unintentionally last year.

Under the 1982 omnibus budget reconciliation bill, Congress repealed the national trigger with the intention of limiting payments of extended unemployment benefits to the general work force, However, under the National Railway Unemployment Insurance Act, railroad workers who are unemployed qualified for extended benefits when the national economy reaches the percentage specified in the Federal-State unemployment insurance system. With the repeal of the national trigger, therefore, railworkers with less than 10 years' seniority have no way to qualify for any more than 26 weeks of unemployment benefits.

Our amendment addresses this inconsistency by providing eligibility for Federal supplemental compensation, on the basis of the national insured unemployment rate.

It would provide 10 weeks of FSC if the national IUR is at 4.5 percent or above; 8 weeks of FSC if the national IUR is 3.5 percent or above; and 6 weeks of FSC if the national IUR is below 3.5 percent.

The insured unemployment rate for the Nation as of November 1982 is 5.5 percent.

Approximately 60,000 railworkers are currently ineligible for any benefits beyond the 26 weeks of basic unemployment compensation.

I have personally received several letters from people in my State of Illinois who are unemployed railworkers and have exhausted the 26 weeks of benefits to which they are entitled, and have nowhere else to turn. They see others receiving 49 weeks of benefits, and cannot understand why they are not entitled to the same protection. Mr. President, neither can I.

I urge my colleagues to consider righting a wrong that was done inadvertently last year, and adopt this amendment.

I thank the Senator and my colleagues for their attention.

Mr. FORD. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, would the amendment of the Senator from Kentucky put the railroad workers who were laid off on the same basis as all other workers?

Mr. FORD. It would not be on the same basis, Mr. President. They would be entitled to only 36 weeks.

Mr. PROXMIRE. They would be entitled to more or less?

Mr. FORD. Less.

Mr. PROXMIRE. But there would be less discrimination against them than there is now?

Mr. FORD. That is correct.

Mr. PROXMIRE. Mr. President, why did not the Finance Committee act on it? Did the Finance Committee have jurisdiction?

Mr. FORD. The Labor Committee has jurisdiction, as I understand it.

Mr. PROXMIRE. The Senator pointed out that both the chairman and the ranking minority member favored this. Why did they not act on it?

Mr. FORD. The national trigger which was repealed in the 1981 reconciliation measure, unintentionally repeated these benefits. I am just trying to correct a mistake that was made when the national trigger was repealed.

Mr. PROXMIRE. So it is an emergency in the sense that if we fail to act now, they will have to wait a month or more before they can get action from Congress.

Mr. FORD. That is correct.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes and 30 seconds.

Mr. FORD. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, without counting it against the Senator's time, I wonder if I could inquire of the Senator from Arkansas if we could go to a vote on his amendment by temporarily laying aside that of the Senator from Kentucky?

I think Senator DOLE wishes to speak on the amendment of the Senator from Kentucky. We have sent for Senator DOLE. But one of the best ways to get Senators here would be to have a rollcall. I wonder if the Senator from Arkansas would agree to have a rollcall at this time.

Mr. BUMPERS. Mr. President, I would be happy to. I ask for the yeas and nays on my amendment.

Mr. PROXMIRE. Mr. President, it is my understanding that the Senator from Michigan (Senator LEVIN) has a minute he would like to take to discuss Senator BUMPER'S amendment. He told me that. He said that he reserved that.

Mr. HATFIELD. Where is the Senator?

Mr. PROXMIRE. I will get him right away if he wants to act on that.

Mr. HATFIELD. Mr. President, I ask unanimous consent that we may temporarily lay aside the amendment of the Senator from Kentucky in order that we may proceed with other amendments.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, reserving the right to object, and I will not object, the next item of business after the pending business will than come back to my amendment. The Senator set three amendments aside and I will be the fourth one.

Mr. HATFIELD. Mr. President, I amend my unanimous-consent request that we temporarily lay aside the amendment of the Senator from Kentucky so that the first amendment to be brought up for action will be the amendment of the Senator from Kentucky.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

UP AMENDMENT NO. 1560

Mr. HATFIELD. Mr. President, I send to the desk two technical amendments and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1560.

The amendment is as follows:

On page 25, line 10, strike subsection (h) and insert new subsection (h) in lieu thereof:

"(h) Notwithstanding any other provision of this joint resolution such sums as may be necessary for programs, projects, or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1983 (H.R. 7356), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 97-978), filed in the House of Representatives on December 17, 1982, as if such Act had been enacted into law."

Mr. HATFIELD. This amendment has been cleared on both sides of the aisle. It is strictly a technical one on the matter of new subsections to conform with the CR and the conference report that has been acted upon on the Interior appropriation bill. I ask for its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD).

The amendment (UP No. 1560) was agreed to.

UP AMENDMENT NO. 1561

Mr. HATFIELD. Mr. President, I have a second amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1561.

Beginning on page 30, line 24, strike section 118.

Mr. HATFIELD. Mr. President, this is another technical amendment to make the CR conform to the conference report of the Interior appropriations bill. I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD).

The amendment (UP No. 1561) was agreed to.

Mr. METZENBAUM. Mr. President, will the manager of the bill yield?

Mr. HATFIELD. Yes.

Mr. METZENBAUM. Mr. President, I would just make the observation to the manager of the bill that it is 20 minutes to 6. We have three or four measures that are being set aside for Members to be on the floor. It seems to me that the rest of us are entitled to consideration that they be here. If they are not here, we ought to proceed forward with the rollcall. I have not wanted to object, but I will say from this point forward if they are not here, I will.

Mr. HATFIELD. Mr. President, let me say to the Senator from Ohio that this has happened on occasions in the past and we have accommodated Members on that side of the aisle. We are trying to accommodate Members regardless of the side of the aisle from which they come.

Mr. METZENBAUM. Mr. President, I am not at all suggesting to be critical of the manager of the bill, who is trying to bring this matter to a conclusion. I am only suggesting that if there are Members who have speeches to make it seems to me we are all entitled to the courtesy of having them here so we might proceed and dispose of some of these.

Mr. HATFIELD. I thank the Senator from Ohio.

Mr. President, I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I have two amendments that I introduced today. It had not been my intent to introduce them, but it is obvious that what is happening in this body is that those of us who are trying to be reasonable are being crowded out. There is a premium being put on the extreme. The less you care about this institution, the better off you are. When someone engages in that kind of conduct, they are applauded.

It seems to me the time has come rapidly, or is coming rapidly, for a revolt by the middle of this body. I am not served by being moderate; neither is my constituency. We have worked on a lot of things all year long and they are not going to get passed.

But when I see some of the things being introduced here, the obvious question is: Why do I not do it, too?

I hope, at some point, that the leadership will recognize the need for a change of the rules. I want to put you on notice that, just as one Member, I have had enough and I am going to engage in the same tactics. I am going to bring in all of the amendments I have cared for lo these many years, and give you a chance to think about them. I may do it next year; I may do it tonight.

But, at some point, like any other society, if the extremes run wild, the moderates have no choice but to pick one side or the other. And this is one moderate who is becoming very immoderate.

I hope that, at some point, affection and respect for the institution will prevail.

I just wanted to say that I do not intend to bring up these two amendments, but push me, push me, push me long enough and you will have a chance to contemplate all the things I

have worked on for 4 years around here.

Mr. HATFIELD. Mr. President, I only regret one thing about this statement that the Senator from Massachusetts has made, and that is that every Member of the Senate was not present.

I think he has, in a very succinct, poignant manner, raised the real heart of the whole matter.

Let me say to the Senator that there is no one, believe me, who would welcome that kind of self-restraint or rule change. I support whatever is necessary to elevate the institution of the Senate to a higher level than it has been looked upon in this whole continuing resolution.

I applaud the Senator from Massachusetts and welcome his comments. I want to say to the Senator one further thing. I really appreciate his willingness not to raise those two amendments that he has every right to raise, particularly in this context. Because, at this particular moment, I am happy to report that we have every amendment now within some kind of a framework, except two. I think those two may fall into place and we are almost ready to take action on all of those amendments except those two; that is, Mr. BUMPERS' amendment, three of Mr. HELMS' amendments, Mr. FORD's amendment, and we have yet to act upon Mr. MCCLURE's amendment, which I think will be very quickly handled, and one last one of Mr. HELMS.

So I wish to tell him that the end is in sight.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. HATFIELD. Yes.

Mr. TSONGAS. Mr. President, if I may respond to the Senator, the end is in sight for this particular go-around. The rules have not been changed, which means we are going to go through this scenario again. The wife of one of the Senators referred to this as not a lameduck session, but a lamebrain session, and I subscribe to that view.

I wish to say, as far as I am concerned, that, absent some restructuring, that I intend, in the next 2 years that I will be here, to use the same tactics to further my own interests and hopefully force, if the moderates in this body go along, force change. Because it is obvious that the approach here is to accommodate, and to appease never works with fanatics. It is time to move in the other direction.

Mr EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr President, I, too, like the Senator from Oregon (Mr. HATFIELD), wish that all 100 Members of the Senate were on the floor when the Senator from Massachusetts (Mr. TSONGAS) made his remarks.

I daresay, if every Senator would rise to speak, at least 80, maybe 90, Members of the Senate would have agreed with the observations of the Senator from Massachusetts.

I think this "trial by ordeal" that we have gone through for the past 3 or 4 days ought to be proof enough that our Senate rules are inadequate for the 20th century. They may have been adequate for the 18th or 19th, but they are certainly inadequate for the 1980's and the future.

If this incredible experience that has been inflicted on ourselves as individuals, and on the country collectively, is to have any lasting benefical meaning, then these rules which permit a handful to literally tie this Senate up in knots have to be changed. I can think of no other procedural priority for the new Congress than to accomplish the much-needed modernization of our now grossly out-of-date rules.

BUMPERS UP AMENDMENT NO. 1539

Mr. HATFIELD. Mr. President, I yield in order that the Senator from Michigan may seek the floor for the 1 minute that I previously allowed.

Mr. LEVIN. Mr. President, as the Senator from Arkansas has pointed out, the farms in this country are in desperate trouble. They are going under in rapid rates. The question is how can we help them.

The method which the Senator from Arkansas would select, in one instance here, is to raise the cap from $50,000 to $100,000 on the deficiency payments that go to any one farm.

It would be far better to have 90 percent of the farms that now average $10,000 in deficiency payments to go to $11,000 than it would be to let the few farms that already get $50,000 in deficiency payments to go to $100,000. But this is for 1 year only. If it passes, I hope that the Senator from Arkansas would join a number of us in this body that have requested the Agriculture Committee to hold hearings on the question of these deficiency payments.

About a year ago, Senator SIMPSON and I introduced an amendment which would reduce the deficiency payments from $50,000 maximum to $25,000 maximum and then spread out the money we have available to the smaller farms. At that time, as chairman of the Agriculture Subcommittee, Senator COCHRAN agreed that hearings would be held on this issue. They were not held for one reason or another.

I am wondering if the Senator from Arkansas would agree to join that request to that subcommittee to look into the question of the targeting of these deficiency payments.

Mr. BUMPERS. The answer to the question is, without reservation or any equivocation, I would be happy to do that.

Mr. President, I ask unanimous consent that we return to the Bumpers amendment for the purpose of getting into a short colloquy with the Senator from Kansas.

Mr. HATFIELD. Mr. President, I ask unanimous consent that we now return to the Bumpers amendment in order to dispose of it. We will then return to the Ford amendment. Senator BUMPERS' amendment would be pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I am not interested in putting the Senate to a vote on this. The Senator from Kansas and the Senator from North Carolina this morning, and I think the Senator from Mississippi, share my view on this thing, and with those agriculture leaders in the Senate and their commitment that we will get this on the PIK bill if we can get it up this time, if we cannot whenever we can get it up, with that understanding, if I could get that confirmation, I would be happy to pull my amendment down.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. COCHRAN. Mr. President, as pointed out earlier today, there is a problem of trying to attach this amendment to this bill. The Agriculture Appropriations section is not in this continuing resolution. This amendment does apply to appropriations under the jurisdiction of that subcommittee.

The second problem is we are in the midst of a discussion right now about how to provide for inhand payment to farmers in excess of these dollar limitations. That exemption from the limitation is in both the House-passed bill now, and we are trying to make it a part of the Senate bill.

I would suggest that it would be more appropriate to discuss this amendment in connection with the PIK program legislation than on this bill. I cannot give the Senator, though, assurance that his amendment will be included in the PIK legislation because there are 99 other Senators here, and they will have something to say about that.

Mr. BUMPERS. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, let me say I agree with the distinguished Senator from Mississippi, but I say to the Senator from Arkansas we are going to try to get in the PIK bill when it leaves the Senate. Whether it ends up and becomes law will depend on the attitude of the House and other things. It may not end up with $100,000. It may be somewhat less.

The Senator from Kansas has been in this battle a long, long time. I understand the problem outlined this morning by the Senator from Arkansas, and I am certainly willing to help.

Mr. COCHRAN. Mr. President, if the Senator will yield once more, I wish to assure him again that I will support the amendment. I am for the content of that amendment and I congratulate him for bringing it to the attention of the Senate.

Mr. BUMPERS. Mr. President, the Agriculture Committee chairman is not here. He said as much this morning also.

With that kind of interest in this and support for it, then I ask unanimous consent—I do not think we have gotten the yeas and nays—but I ask unanimous consent that I be permitted to withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. HATFIELD. I thank the Senator from Arkansas for his cooperation on this. This has been one of the very tedious ones, but he certainly has assisted a great deal.

Mr. President, I believe we now return to the Ford amendment, do we not?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. I ask that we do that.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. HATFIELD. Excuse me.

The Senator is seeking recognition. I yield to the Senator.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HATFIELD. I am happy to.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I might speak for 2 minutes immediately preceding the final passage of the resolution.

Mr. HATFIELD. I am happy to. I do not think the Senator has to ask for unanimous consent. I am happy to make sure that the Senator does have the time necessary.

Mr. HARRY F. BYRD, JR. I thank the Senator.

UP AMENDMENT NO. 1559

Mr. HATFIELD. Mr. President, I yield 2 minutes to the Senator from Kansas to comment on the Ford amendment now that we are back on the Ford amendment.

Mr. DOLE. Mr. President, as I understand, the Senator from Kentucky has completed his debate; is that correct?

Mr. FORD. No; I still have 4½ minutes remaining.

Mr. DOLE. Mr. President, let me say, first of all, I am not unsympathetic to what the Senator from Kentucky wishes to do, but I think we have to be very realistic on what we are doing.

If we want to do all of everything suggested by Members of Congress, someone is going to have to pay. In this case, as in most cases, it is the Federal Government and the American taxpayers.

What we are doing, if we accept this amendment, is making unemployed railroad workers with less than 10 years seniority eligible for Federal supplemental unemployment compensation benefits.

This amendment would make unemployed railroad workers with less than 10 years of seniority eligible for the Federal supplemental unemployment compensation (FSC) program. The benefits and the administrative costs would be financed out of general revenues at a cost of $85 million, according to the railroad retirement board. There will be an additional cost for administrative expenses of at least $750,000.

In my opinion, there is no case for making railroad workers eligible for FSC benefits financed by the General Treasury. It has not happened in the past and I do not see any reason for it happening now. It might be a good thing to do if we had $85 million that we do not need in a million other places.

As my colleagues on the Labor Committee know, since that is the Senate committee with jurisdiction over railroad workers and their programs, railroad unemployment insurance (RRUI) has always been treated separately from the rest of the unemployment insurance program by the Congress and the executive branch.

The Federal railroad unemployment insurance system became effective January 1, 1939, under legislation worked out jointly between the railroads and the railroad unions, with the assistance of the chairman of the railroad retirement board. Since all States had covered railroad workers, the act provided for the transfer to an unemployment insurance account in the Federal unemployment trust fund of contributions made by the railroads.

This railroad workers unemployment system is administered by the railroad retirement board which is composed of representatives from railroad labor, railroad management, and the public.

It has always been entirely within the railroad industry and now to come to the Federal Government and say we have to have $85 million would be a sharp departure. As sympathetic as everyone may be, this should be addressed by the Senate in this context.

If the Senator wishes to restore longer benefits for workers a more appropriate way, I am sure the Senator himself will admit, is to amend the railroad unemployment insurance law and provide a trigger for extended benefits for that program.

The Senator's amendment is not only on massive legislation on an appropriations bill but unprecedented action by Congress. Again, we all understand the need but I am not certain we are in a position to rewrite the law that has been on the books since 1939.

Railroad employers pay contributions on a different wage base than that used by other employers and also contribute at different rates than the average of all nonrailroad employers. There is no experience rating in the railroad UI system.

Financing for the RRUI benefits is always provided entirely from within the railroad industry. Basically, railroad labor and management reach agreement on what the RRUI program should be, and subsequent Federal legislation reflects the agreement. The duration of the benefits depends on the individual's seniority.

It is important to emphasize that railroad unemployment insurance is completely separate from the Federal/State unemployment insurance program:

RRUI has separate legislation, financing, rules for qualification, benefit duration, benefit amount, administration, and operation.

Railroad unions have long supported this individual nature for the program. Railroad unions opposed the administration's proposal to put railroad workers under the Federal/State UI system and to abolish the separate RRUI system as part of the 1982 railroad retirement reforms.

Administering FSC for RRUI claimants would be difficult. The State employment security agencies that pay FSC to other claimants are not presently involved in any way in paying RRUI benefits. Because the systems are organized and operate entirely separately, evenhanded administration of the special requrements for FSC claimants would be very difficult and expensive to attain.

Even though the gentleman from Kentucky has proposed that the railroad retirement board in Chicago administer the benefits under the FSC program in the same manner as they pay present RRUI benefits, there is still a large administrative burden and cost to the Federal taxpayer.

As I understand the railroad unemployment insurance system, the only unemployed railroad workers who are not currently eligible for benefits beyond 26 weeks are those with less than 10 years seniority. Unemployed railroad workers may receive up to 1 full year of benefits if they have more than 15 years of seniority.

Workers with 10 years or less service lost eligibility to benefits beyond 26 weeks because of the repeal of the national trigger for the extended benefits (EB) program. The railroad retirement board in Chicago interpreted that repeal to apply also to the "on " indicator for RRUI benefits beyond 26 weeks.

If the Senator wishes to restore eligibility to railroad workers for a longer benefit duration, a more appropriate way, as the Senator himself would admit, would be to amend the railroad unemployment insurance law to provide a trigger for extended benefits for that program. Such legislation is, of course, in the jurisdiction of the Labor Committee. There may be some reluctance to go that route as the railroad unemployment trust fund is currently insolvent, already owing the Federal Treasury more than $300 millon. But the Federal Treasury is itself insolvent.

Finally, I would remind my colleagues that the new Federal supplemental unemployment compensation benefits are limited to those under the Federal/State UI system, just as all previous temporary Federal unemployment benefits have been, for example, the FSB programs of 1974–78. No Federal supplemental benefits have ever been paid to workers under the railroad unemployment insurance system. This is not the time to change that precedent.

I urge my collegues to defeat this amendment.

I yield briefly to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. Will the Senate please be in order? Those people who are not conducting business appropriate to what the Senate is discussing please conduct their business elsewhere.

The Senator from New Mexico is recognized and is entitled to be heard.

Mr. DOMENICI. Mr. President, I shall be brief. I concur with the distinguished Senator from Kansas.

Mr. HATFIELD. Mr. President, how much time does the Senator wish to have yielded to him?

Mr. DOMENICI. Two minutes.

Mr. HATFIELD. I yield 2 minutes to the Senator from New Mexico.

We are under a time agreement, are we not?

The PRESIDING OFFICER. Four and a half minutes remain to the Senator from Oregon.

Mr. HATFIELD. I yield 2 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico has 2 minutes.

Mr. DOMENICI. I apologize to my distinguished chairman of the Appropriations Committee. I was unaware of that. I just returned to the Chamber. I will take 2 minutes.

I concur with the statements that the distinguished Senator from Kansas has made, but I also think that the Senate should know that for the better part of the last 2 years the railroad unions of the United States have on each and every occasion fought to keep their respective approach to benefits separate and apart. Now what has happened instead of going and amending the trigger in the railroad unemployment compensation provisions of this country, which is the way to do it so we could be consistent and have railroad workers and the railroad industry share in the unemployment compensation and its extension and costs now having failing to do that arguing that they should remain separate and fund themselves today in an appropriations bill. We are going to change the law and make them subject to the supplemental unemployment compensation laws of the general nature of the United States.

I do not think we should do it. It is legislation on appropriations, $85 million is just the beginning of the cost. We will now have set the precedent. You leave them alone when it is good for them. You merge them with the rest of the people when they need you, and they do not have to come up with their share of the cost. The rest of the people do. I hope we do not do it.

Mr. FORD. Mr. President, I yield myself 1 minute.

You know, one day is one day and another day is the next. The other day the distinguished Senator from New Mexico said we have an emergency. He moved to give us a budget waiver. He gave hundreds of millions of dollars to unemployed workers in the generel economy. But now when we propose assistance for the unemployed railroad worker, to give him some help, they say, no, and they do not say they do not need help. They say it is a separate fund.

It should also be pointed out that the $85 million figure, is a gross figure for benefit costs. We must make adjustments for savings in food stamps being paid to unemployed workers, and for taxes that are imposed on unemployment benefits. Based on this will reduce the cost about 50 percent. So we are really talking about $42 million instead of $85 million.

All I ask is that we be fair to the unemployed railroad worker.

I reserve the remainder of my time.

Mr. President, I ask unanimous consent that the distinguished Senator from Delaware (Mr. BIDEN) be added as a cosponsor, the distinguished Senator from Maine (Mr. MITCHELL) be added as a cosponsor, the distinguished Senator from Minnesota (Mr. DURENBERGER) be added as a cosponsor, the distinguished Senator from Missouri (Mr. EAGLETON) be added as a cosponsor, the distinguished Senator from Nebraska (Mr. EXON) be added as a cosponsor, the distinguished Senator from Michigan (Mr. RIEGLE) be added as a cosponsor, and the distinguished Senator from Ohio (Mr. METZENBAUM) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is all time needed to be yielded back for a point of order to be made?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, I yield back whatever time I have. If the Senator from Kentucky needs any more time, I will yield to him.

Mr. FORD. I know what the Senator is getting ready to do. I think he is going to make a point of order. He has not done so on other amendments and I hope he does not here.

Mr. President, if that is what the Senator from Kansas wishes to do, I am glad to give him the opportunity to do it. Therefore, I yield back the remainder of my time.

Mr. DOLE. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator from Oregon yield back his time?

Mr. HATFIELD. I yield back my time.

The PRESIDING OFFICER. The Senator does yield back his time.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the amendment of the Senator from Kentucky. On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HEINZ), would vote "nay".

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Rhode Island (Mr. PELL), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay."

The PRESIDING OFFICER (Mr. SIMPSON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 46, as follows:

[Rollcall Vote No. 449 Leg.]

YEAS—47

Abdnor	Boschwitz	Chafee
Andrews	Brady	Cochran
Armstrong	Byrd,	Cohen
Baker	Harry F., Jr.	Danforth

Denton	Humphrey	Pressler
Dole	Jepsen	Quayle
Domenici	Kassebaum	Rudman
East	Kasten	Schmitt
Garn	Laxalt	Simpson
Gorton	Long	Stafford
Grassley	Lugar	Stevens
Hatch	Mattingly	Symms
Hatfield	McClure	Thurmond
Hawkins	Murkowski	Tower
Hayakawa	Nickles	Wallop
Helms	Packwood	Warner

NAYS—46

Baucus	Exon	Nunn
Bentsen	Ford	Percy
Biden	Glenn	Proxmire
Boren	Heflin	Pryor
Bradley	Hollings	Randolph
Bumpers	Huddleston	Riegle
Burdick	Inouye	Roth
Byrd, Robert C.	Johnston	Sarbanes
Cannon	Leahy	Sasser
Chiles	Levin	Specter
D'Amato	Mathias	Stennis
DeConcini	Matsunaga	Tsongas
Dixon	Melcher	Weicker
Dodd	Metzenbaum	Zorinsky
Durenberger	Mitchell	
Eagleton	Moynihan	

NOT VOTING—7

Cranston	Heinz	Pell
Goldwater	Jackson	
Hart	Kennedy	

So the motion to lay on the table Mr. FORD's amendment (UP No. 1559) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I move to lay that motion on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 450 Leg.]

YEAS—47

Abdnor	Garn	Murkowski
Andrews	Gorton	Nickles
Armstrong	Grassley	Packwood
Baker	Hatch	Pressler
Boschwitz	Hatfield	Quayle
Brady	Hawkins	Rudman
Byrd, Harry F., Jr.	Hayakawa	Schmitt
Chafee	Helms	Simpson
Cochran	Humphrey	Stafford
Cohen	Jepsen	Stevens
Danforth	Kassebaum	Symms
Denton	Kasten	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
East	Mattingly	Warner
	McClure	Weicker

NAYS—45

Baucus	Exon	Mitchell
Bentsen	Ford	Moynihan
Biden	Hart	Nunn
Boren	Heflin	Percy
Bradley	Hollings	Proxmire
Bumpers	Huddleston	Pryor
Burdick	Inouye	Randolph
Byrd, Robert C.	Johnston	Riegle
Cannon	Leahy	Roth
Chiles	Levin	Sarbanes
D'Amato	Long	Sasser
DeConcini	Mathias	Specter
Dixon	Matsunaga	Stennis
Durenberger	Melcher	Tsongas
Eagleton	Metzenbaum	Zorinsky

NOT VOTING—8

Cranston	Goldwater	Kennedy
Dodd	Heinz	Pell
Glenn	Jackson	

So the motion to lay on the table the motion to reconsider was agreed to.

SURFACE TRANSPORTATION ACT OF 1982

NOTICE OF INTENTION TO ENTER MOTION TO RECONSIDER VOTE BY WHICH CLOTURE MOTION WAS REJECTED

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, under the provisions of rule XIII, I enter a motion to reconsider the vote by which cloture was defeated on H.R. 6211, the Surface Transportation Act of 1982.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. What is the pending business?

The PRESIDING OFFICER. The pending business is the continuing resolution.

Mr. BAKER. Mr. President, might I explain, I am not now making the motion. Under the provisions of rule XIII, the motion that I intend to make is now entered and will be noted on the calendar of motions. But this does not displace the continuing resolution. It has no effect on the pending measure or on anything else that is now before the Senate. It is not a motion. It is a notice, really, of my intention, which I am now doing. I am entering a motion which will be disposed of at a later time.

FURTHER CONTINUING APPROPRIATIONS, 1983

Mr. HATFIELD. Mr. President, I yield to the Senator from Idaho for the purpose of an amendment. After this is completed, we are down to the last four amendments. We have the yeas and nays ordered on three of them and we have a good understanding on the fourth one.

UP AMENDMENT NO. 1562

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1562.

At the appropriate place in Title I insert the following new section:

"Sec. . Notwithstanding any other provision of this joint resolution, there is appropriated to the Department of the Interior $3,000,000 for National Park Service construction."

The PRESIDING OFFICER. May we please have order in the Chamber? Those who wish to converse, please go to the cloakroom.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. McCLURE. I am happy to yield to the majority leader.

Mr. BAKER. Is there a time limitation on the Senator's amendment?

The PRESIDING OFFICER. There is none.

Mr. BAKER. Mr. President, could I have the attention of the Senate for a moment?

The PRESIDING OFFICER. We will have order, please.

EXPRESSION OF HOPE FOR A CIVILIZED AND DECENT SCHEDULE

Mr. BAKER. Mr. President, the minority leader pointed out to me, and correctly, that with the happy news brought to us by the chairman of the Appropriations Committee there appear to be only four more amendments before we can reach final passage of the continuing resolution, some may have the impression that that is all there is for today. I am sorry to say that is not the case.

Mr. President, as Members know, the highway bill, the gasoline tax bill, automatically recurs as the pending business on the disposition of this measure. At that time, Mr. President, it is my hope that we can proceed promptly and rapidly with this matter and maintain a civilized and decent schedule for the rest of this day.

But, just so no one is under any misapprehension, they should know that, with the completion of the continuing resolution, there will be another action sought on the highway bill and Senators should be aware of that.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. BAKER. Yes, I yield for a question.

Mr. SARBANES. Given the days we have been through recently, I am not altogether sure that we any longer know what a "civilized and decent schedule" is. I wonder, since the majority leader used that reference, if he could perhaps elaborate for us a little bit on what now constitutes a "civilized and decent schedule."

Mr. BAKER. Yes, Mr. President, a "civilized" schedule means 8 o'clock, and "civilized and decent" means 10 o'clock. [Laughter.]

If we can do that, we will try very hard. But there are certain things that I must do in order to try to get this matter before the Senate. I am not now promising that we will do it. I am not promising a rose garden. I told the President the other day that I promised him a rose garden and nothing else. In this case, I am not promising anything. I am going to try hard to do that.

Mr. DECONCINI. Will the leader yield?

Mr. BAKER. Yes.

Mr. DECONCINI. It is my understanding that you are not making any promises. In not making any promises, does that mean we might stay here for an extended period of time?

Mr. BAKER. There is an old saying in Tennessee, "Let's not borrow trouble." I really do not anticipate that, I do not want that, and I do not plan on it.

Mr. DECONCINI. I think it could be arranged so we do not stay all night.

Mr. BAKER. Yes; it could be arranged so we so not stay all night. And it is my devout wish we do not stay all night and I do not expect to stay all night.

Mr. HART. Will the leader yield?

Mr. BAKER. I yield to the Senator from Colorado.

Mr. HART. Mr. President, as one who supported the majority leader in his efforts to move this bill along—that is to say the highway gas tax—and understanding the difficulties of his position and the pressures he is under, I wonder if he might explain to this Senator what is so almighty important for the future of this Republic about getting this bill passed?

Mr. BAKER. Mr. President, I am not sure that any Senator could speak for the entire Senate. I can only speak for myself in saying that this is an important piece of legislation. In my view and judgment, we should address it. In my opinion, we should conclude a disposition of this measure, one way or the other, before we complete this session. I think, as soon as we do the continuing resolution, we should proceed with that.

The reason we are doing some things tonight, I say to my friend from Colorado, is that the provisions of the rules simply require that I must do some things before this day is out.

Mr. President, I am not here to say that every Senator will vote for this measure. I am prepared to say that we should dispose of it and not see it go because it was interrupted in the process.

Mr. HART. Mr. President, if the majority leader will yield 1 minute further, there is a point, and the point is being reached very quickly by this Senator, that that bill is not that important to this Senator, and I just wish to say to the leader, as far as I am concerned, when we get to that point I do not think that bill should be passed.

Mr. BAKER. I thank the Senator for his opinion.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. BAKER. Mr. President, I yield now to the Senator from Maryland.

Mr. SARBANES. Mr. President, I wish to say that it is my recollection, and if I am mistaken I wish to be corrected, that the majority leader and the minority leader early in the fall were in agreement that there should not be a special session of Congreses, as I recall, a lameduck session, that we are here essentially because the President said that we should have a lameduck session.

I think it has become very clear and increasingly so all the time that the majority leader and the minority leader were indeed correct in their assessment at that time, and we could have, in effect, taken care of the essential matters then.

Is my recollection correct?

Mr. BAKER. Mr. President, there have been few times in my memory when I have agreed with the Senator from Maryland more enthusiastically.

Mr. BUMPERS. Mr. President, will the majority leader yield for an additional question?

Mr. BAKER. Mr. President, let me first yield to the junior Senator from Arkansas.

Mr. PRYOR. Mr. President, earlier in the afternoon, about 5 p.m., and I think the majority leader possibly was out of the Chamber, I did inform my colleagues that at 7:30 this evening if we had not resolved or disposed of the continuing resolution I would move for third reading of the continuing resolution.

I am wondering if I might propound this question to the manager of the bill: Is it his feeling now that we will be at final passage by 7:30 p.m. this evening?

Mr. HATFIELD. Mr. President, will the Senator repeat his question?

Mr. PRYOR. Will we be by 7:30 this evening at the position of moving to final passage?

Mr. HATFIELD. I would hope that if we can get back to the resolution.

Mr. PRYOR. If we would sit down, in other words.

Mr. HATFIELD. Yes. Then we would probably have four back-to-back rollcall votes within about 10 minutes.

Mr. PERCY. Could they be 10-minute votes?

Mr. HATFIELD. I hope the leadership can ask for 10-minute votes.

Mr. PRYOR. Could we set a time certain for a vote?

Mr. BAKER. Oh, we sure can.

Mr. President, I even heard that while I was engaged in conversation with another Senator.

Could I ask my friend, the minority leader, if the excellent suggestion of the Senator from Arkansas may be presented.

Mr. PRYOR. I should have made that 6 days ago.

Mr. BAKER. Mr. President, it was suggested that we try now to establish a time certain for final passage. We have only four more amendments that I know of. We have time limitation on three of the four. I see that the distinguished author of all four of those amendments is here as are other Senators.

Mr. McCLURE. I have one pending.

Mr. BAKER. In addition to the one pending.

Mr. McCLURE. I thank the majority leader.

Mr. BAKER. I am prepared to make a unanimous-consent request that no other amendments be in order except the four amendments and the amendment now pending and that final passage of the bill occur not later than 7:30 p.m.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I shall object. There is no such time limitation to dispose of the fourth amendment.

Mr. HATFIELD. We have arranged about 5 minutes on the fourth amendment.

Mr. METZENBAUM. I understand that. It does not necessarily mean it will be disposed of on the fourth one. If it is disposed of I have no problem with respect to the time limit, and there be no further amendment, should the Senator from North Carolina be more successful than I anticipate he will be, but then I would not want to foreclose a time-limit agreement.

Mr. BAKER. Mr. President, the Senator from Arkansas understands part of our dilemma now.

Let me say we will try to finish by 7:30 p.m. I think we will have a better chance if we do not spend a lot more time on this effort.

Mr. HATFIELD. Mr. President, I yield to the Senator from Idaho.

UP AMENDMENT NO. 1562

Mr. McCLURE. Mr. President, the amendment which I have sent to the desk provides an additional $3 billion

for the National Park Service for construction. This is a portion of the Blue Ridge Parkway which has been under construction for 20 or 22 years. Two bridges that remain for the completion of the project have been holding up completion because they were not designed. The design was not complete and had not been acceptably completed.

Those designs are now complete and we are ready to go forward with that construction.

This amount of money, however, will not provide for both of the bridges. It will provide money enough for one of the bridges and we would look forward to the next appropriation cycle for the opportunity to complete that construction which has been underway for so long.

This has been examined on both sides of the aisle. I believe it has been approved on both sides of the aisle.

Mr. JOHNSTON. Mr. President, acting for Senator BYRD, the ranking minority member of the Interior Appropriations Subcommittee, I wish to endorse the amendment, endorse the conference report, compliment the chairman for his skill, hard work, perseverance, and patience, and also compliment the staff and ask for quick action.

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senator from North Carolina (Mr. HELMS) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senator from Louisiana (Mr. JOHNSTON) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1562) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMAINING AMENDMENTS

Mr. HATFIELD. Now, Mr. President, I believe we have four amendments remaining which we have temporarily laid aside; three amendments which we have temporarily laid aside by the Senator from North Carolina, one relating to the pay cap, one relating to the Law of the Sea, and one relating to IDA.

On the fourth one, on which there has not been a time agreement, it is my understanding that the Senator will raise it and after a brief statement will make a motion to table.

So we should be able to then finish up at the end of these four.

UP AMENDMENT NO. 1556—PAY CAP

The Senator from North Carolina has already spoken to three on which we have had a time agreement. I yield to the Senator this time for the purpose of completing action on his pay cap amendment. If he wishes any additional time, I am ready to yield back my time.

Mr. HELMS. I yield back my time.

Mr. HATFIELD. I yield back my time.

POINT OF ORDER

Mr. BAKER. Mr. President, I make the point of order that the amendment should fail because it constitutes legislation on an appropriations bill.

The PRESIDING OFFICER. The point of order is sustained. The amendment is held to be legislation on an appropriations measure.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The question now recurs——

Mr. HELMS. Just a minute, Mr. President. Just a second.

Mr. HATFIELD. Mr. President, may I yield to the Senator from North Carolina?

Mr. HELMS. Mr. President. I apologize. I was conferring with another Senator.

Would the Chair tell me what transpired during the last minute?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. ROBERT C. BYRD. I sought recognition.

The PRESIDING OFFICER. The Senator has recognition.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, does the Senator from North Carolina seek recognition?

Mr. HELMS. I do, and I thank the majority leader.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not like the perception of holding anybody's feet to the fire on the pay cap, but I can think of nothing that has riled the tempers of the American people more than their perception about a whole lot of skulduggery going on around here with backdoor increases.

Now, what I have is an amendment at the desk, which has been ruled legislation on an appropriation bill, that simply says that Congress must vote on the question of raising its own pay. The House has done that. But I am saying that the Congress ought to exercise its constitutional responsibility in that regard. I appeal the ruling of the Chair.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Is the appeal debatable, Mr. President?

The PRESIDING OFFICER. Under these circumstances, the appeal is not debatable, absent unanimous consent.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BAKER. Mr. President, I respect the Senator from North Carolina and what he does, as I respect him in everything he does. And I know he understands why I felt that I must make a procedural motion that a point of order would lie against his amendment, because it is legislation on an appropriation bill. He has the perfect right to appeal that ruling of the Chair. I intend in just a moment to make a motion to table the appeal.

The Senate, Mr. President, will be voting on a procedural issue of whether or not to support the Chair in the appeal. The effect of a tabling motion, if it succeeds, would be to support the Chair. I believe the ruling of the Chair was correct.

Mr. HELMS. Will the Senator yield?

Mr. BAKER. Yes, I yield.

Mr. HELMS. There is confusion because of a mixup in our checking with the Parliamentarian. Incidentally, gentlemen and ladies, the Parliamentarian is a great human being and I do not see how he handles the workload he does, but the original signal I received was the amendment, as submitted, was in order, and that is the reason I feel obliged to appeal the ruling of the Chair. I thank the majority leader.

Mr. BAKER. I thank the Senator.

Mr. President, I move to table the appeal, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. MELCHER (after having voted in the negative). Mr. President, on this vote I have a live pair with the Senator from Connecticut (Mr. DODD). If he

were present and voting, he would vote "yea." I have voted "nay." Therefore, I withdraw my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator Rhode Island (Mr. PELL) are necessarily absent.

I further announce that if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "Nay".

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 29, as follows:

[Rollcall Vote No. 451 Leg.]

YEAS—62

Andrews	Hart	Packwood
Baker	Hatfield	Percy
Bentsen	Hayakawa	Proxmire
Boschwitz	Huddleston	Pryor
Brady	Inouye	Quayle
Bumpers	Jepsen	Riegle
Byrd, Robert C.	Johnston	Roth
Chafee	Kassebaum	Rudman
Chiles	Kasten	Sarbanes
Cochran	Laxalt	Sasser
D'Amato	Leahy	Schmitt
Danforth	Levin	Simpson
DeConcini	Long	Stafford
Denton	Lugar	Stennis
Dixon	Mathias	Stevens
Dole	Matsunaga	Tower
Domenici	Mattingly	Tsongas
Durenberger	Metzenbaum	Wallop
Eagleton	Moynihan	Warner
Ford	Murkowski	Weicker
Gorton	Nunn	

NAYS—29

Abdnor	Cohen	Humphrey
Armstrong	East	McClure
Baucus	Exon	Mitchell
Biden	Garn	Nickles
Boren	Grassley	Pressler
Bradley	Hatch	Randolph
Burdick	Hawkins	Specter
Byrd, Harry F., Jr.	Heflin	Symms
	Helms	Thurmond
Cannon	Hollings	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Melcher, against.

NOT VOTING—8

Cranston	Goldwater	Kennedy
Dodd	Heinz	Pell
Glenn	Jackson	

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, may I request Senators to please remain on the floor. We can move these votes along rather quickly if we do not have to wait for Senators to arrive for a rollcall vote. I urge Senators to remain close to the floor in order to finish up this joint resolution.

Mr. President, we temporarily laid aside a second amendment offered by the Senator from North Carolina relating to the law of the sea. It was the second amendment he presented, I believe.

No; it was the IDA amendment.

The PRESIDING OFFICER. The amendment before the Senate is unprinted amendment No. 1557.

VOTE ON UP AMENDMENT NO. 1557

Mr. HATFIELD. Mr. President, I am ready to yield back the time.

Mr. HELMS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HATFIELD. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. DECONCINI. Mr. President, on this vote I have a pair with the distinguished Senator from Connecticut (Mr. DODD). If he were present and voting, he would vote "aye." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HEINZ), are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Rhode Island (Mr. PELL) are necessary absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PELL) would each vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 46, nays 44, as follows:

[Rollcall Vote No. 452 Leg.]

YEAS—46

Andrews	Hart	Percy
Baker	Hatfield	Proxmire
Baucus	Hollings	Pryor
Biden	Huddleston	Riegle
Boschwitz	Inouye	Rudman
Bradley	Kassebaum	Sarbanes
Bumpers	Leahy	Sasser
Burdick	Levin	Simpson
Chafee	Long	Specter
Chiles	Mathias	Stafford
Danforth	Matsunaga	Stennis
Dixon	McClure	Tower
Durenberger	Metzenbaum	Tsongas
Eagleton	Mitchell	Weicker
Ford	Moynihan	
Gorton	Packwood	

NAYS—44

Abdnor	Exon	Melcher
Armstrong	Garn	Murkowski
Bentsen	Grassley	Nickles
Boren	Hatch	Nunn
Brady	Hawkins	Pressler
Byrd, Harry F., Jr.	Hayakawa	Quayle
	Heflin	Randolph
Byrd, Robert C.	Helms	Roth
Cochran	Humphrey	Schmitt
Cohen	Jepsen	Stevens
D'Amato	Johnston	Symms
Denton	Kasten	Thurmond
Dole	Laxalt	Wallop
Domenici	Lugar	Warner
East	Mattingly	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

DeConcini, against.

NOT VOTING—9

Cannon	Glenn	Jackson
Cranston	Goldwater	Kennedy
Dodd	Heinz	Pell

So the motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, the Senator from North Carolina now has the third amendment upon which there has been a time agreement relating to IDA.

Mr. HELMS. Mr. President, in order to save time, I will propound a unanimous-consent request. If there is a need for it, I could explain it and take a little more of the Senate's time.

Mr. HATFIELD. Mr. President, if the Senator would yield just for a moment, I urge the Senate to grant this unanimous-consent agreement because it expedites us to the resolution of the issue. I support the Senator's request at this point for this unanimous-consent agreement.

UP AMENDMENT NO. 1558

Mr. HELMS. Mr. President, I ask unanimous consent that I be permitted to modify the amendment, and I send the modification to the desk.

Mr. BRADLEY. Mr. President, reserving the right to object. Which amendment is this?

Mr. HATFIELD. It is the IDA amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (UP No. 1558, as modified) follows:

At the end of the pending business add the following:

"SEC. . Notwithstanding any other provision of this joint resolution, not more than $700,000,000 shall be appropriated for the International Development Association."

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

Mr. HELMS. I yield back the remainder of my time.

Mr. HATFIELD. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon (Mr. HATFIELD) to table the amendment of the Senator from North Carolina (Mr. HELMS). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BOREN (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Connecticut (Mr. DODD). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

The PRESIDING OFFICER (Mr. MATTINGLY). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 44, nays 46, as follows:

[Rollcall Vote No. 453 Leg.]

YEAS—44

Baker	Hart	Moynihan
Bentsen	Hatfield	Packwood
Biden	Hayakawa	Percy
Boschwitz	Hollings	Riegle
Bradley	Huddleston	Rudman
Brady	Inouye	Sarbanes
Bumpers	Kassebaum	Sasser
Chafee	Kasten	Schmitt
Chiles	Leahy	Simpson
Cohen	Levin	Specter
D'Amato	Lugar	Stafford
Danforth	Mathias	Tower
Durenberger	Matsunaga	Tsongas
Eagleton	Metzenbaum	Weicker
Gorton	Mitchell	

NAYS—46

Abdnor	Ford	Nickles
Andrews	Garn	Nunn
Armstrong	Grassley	Pressler
Baucus	Hatch	Proxmire
Burdick	Hawkins	Pryor
Byrd, Harry F., Jr.	Heflin	Quayle
	Helms	Randolph
Byrd, Robert C.	Humphrey	Roth
Cochran	Jepsen	Stennis
DeConcini	Johnston	Stevens
Denton	Laxalt	Symms
Dixon	Long	Thurmond
Dole	Mattingly	Wallop
Domenici	McClure	Warner
East	Melcher	Zorinsky
Exon	Murkowski	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Boren, against.

NOT VOTING—9

Cannon	Glenn	Jackson
Cranston	Goldwater	Kennedy
Dodd	Heinz	Pell

So the motion to lay on the table UP Amendment No. 1558, as modified, was rejected.

Mr. HATFIELD. Mr. President, we have one more amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HATFIELD. Mr. President, what is the question now before the Senate?

The PRESIDING OFFICER. The question is on the adoption of the amendment.

Mr. HELMS. I suggest we voice vote it.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HELMS. I ask unanimous consent that the yeas and nays be vitiated.

Mr. BRADLEY. Mr. President, will the Senator use his microphone so that we may hear what he is saying?

Mr. HELMS. If the Senate does not wish to have another recorded vote, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1558) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, we have one last amendment. That is the amendment that the Senator from North Carolina is prepared to offer. There is no time limitation on this amendment.

The Senator from North Carolina and I have discussed the possible handling of it. The Senator wishes to make a brief presentation to explain his amendment. Then I will proceed to offer a motion to table the amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1563

(Purpose: To protect private and religious schools from bureaucratic harassment)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1563.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 89, line 4, of the joint resolution strike the words "expressly so provided herein." and insert in lieu thereof the following: "expressly and explicitly so provided herein.".

"SEC. . None of the funds available under this Resolution may be used to carry out any revenue ruling of the Internal Revenue Service which rules that a taxpayer is not entitled to a charitable deduction for general purpose contributions which are used for educational purposes by a religious organization which is an exempt organization as described in section 170(c)(2) of the Internal Revenue Code of 1954.

"SEC. . None of the funds available under this Resolution may be used to carry out proposed revenue procedure 4830-01-M of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (44 F.R. 9451 through 9455, February 13, 1979, F.R. Document 79-4801), and proposed revenue procedure 4830-01 of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (43 F.R. 37296 through 37298, August 22, 1978, F.R. Document 78-23515), or parts thereof.

"SEC. . None of the funds made available pursuant to the provisions of this resolution shall be used to formulate or carry out any rule, policy, procedure, guideline, regulation, standard, court order, or measure causing the loss of tax-exempt status to private, religious, or church-operated schools under section 501(c)(3) of the Internal Revenue Code of 1954 unless in effect prior to August 22, 1978."

The PRESIDING OFFICER. The Senate will please be in order so the Senator from North Carolina may be heard.

Mr. HELMS. I thank the Chair.

Mr. SYMMS. Mr. President, will the Senator yield for a parliamentary inquiry to the Chair?

Mr. HELMS. Certainly.

Mr. SYMMS. Mr. President, have the yeas and nays been ordered on final passage of the continuing resolution?

The PRESIDING OFFICER. They have not.

Mr. SYMMS. I request the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. I thank the Chair.

I thank the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I think Senators may want to consider this amendment, because I doubt any State in the Union is not affected, and certainly a lot of schools across the country are affected.

Mr. President, unlike funding measures since 1979, the continuing resolution now under consideration for fiscal year 1983 does not contain the so-called Ashbrook and Dornan amendments. These amendments stopped funding of IRS activities, guidelines, and regulations which would have required quotas and affirmative action programs for many of the Nation's private and religious schools. I today offer these amendments so that Congress can keep in place the funding restrictions which have been in effect since 1979.

Mr. President, the question is relevant as to which came first, the wholesale breakdown of moral values in our society or the collapse of these values in our schools? Millions of Americans pray every day for a rebirth of the spiritual values that made us a Nation in the first place. If the Spirit of God were to rouse 200 million Americans to action, there is no describing the greatness in store for this country, or the blessings forthcoming to nations now held captive—if and when, once again, our Nation is rededicated to the cause of freedom under God's law.

Mr. President, religious schools and church-operated schools across this land seek to foster in their young students the spiritual and moral values which made the United States a leader of nations. Sadly, Mr. President, our Nation's private, religious, and church-operated schools have come under constant attack form the Federal bureaucracy.

The Internal Revenue Service first launched its fullscale attack on our Nation's private schools and religious schools in 1978. In its proposed revenue procedure of August 22, 1978, the IRS placed thousands of innocent private and religious schools across the Nation under a presumption of guilt of racial discrimination. These schools were required to prove their innocence by implementing social engineering techniques such as racial quotas and affirmative action programs.

After a nationwide protest erupted, the IRS responded in February 1979, with a proposal that was still more vague and arbitrary. It was hardly reassuring to the American public when the IRS announced that it alone would determine the guilt or innocence of schools based on all the facts and circumstances. The standards set forth were wholly subjective and capricious leaving private schools and religious schools to the whim of IRS bureaucrats.

Mr. President, the verdict was in before the investigations began. The IRS moved to establish Federal controls over private, religious schools, and churches. Who can say that the motives of those who conspired to implement this unconstitutional scheme were none other than to cynically violate the civil rights of religious minorities, parents, churches, and schools.

With justification, the IRS bears its full share of the blame for the present crisis which it helped to create. Yet, the full story of this sorded matter is a darker and more complicated chapter bureaucratic and judicial abuse of power than even the sharpest critics of the IRS have revealed. What unfolds is a story of collusive litigation, a sweetheart suit in which the IRS was the defendant. Instead of defending, the agency worked to support the interests of the plaintiffs who were suing the agency.

A review of the history of the well-known Green and Wright cases is instructive. The plaintiffs asked for court orders which would have required the IRS to implement quotas and affirmative action guidelines for tax-exempt schools that were established or expanded during periods of desegregation of nearby public schools. The IRS defended its position only during the early phases of this litigation, and by 1978, the agency was actively promoting the cause of its supposed adversaries, the Green and Wright plaintiffs.

This became sweetheart litigation at its worst. Those participating at one time included IRS officials, attorneys from the Tax Division of the Justice Department, the U.S. Commission on Civil Rights, the old Department of Health, Education, and Welfare, the Lawyers Committee for Civil Rights, and other attorneys who use the Federal judiciary as a tool for radical activism. To this must be added the names of judges from the U.S. district court and the U.S. Court of Appeals for the District of Columbia who have also participated in the sweetheart litigation.

Mr. President, I now want to go through briefly what is a long and complicated history of the Green and Wright litigation.

CHRONOLOGY OF GREEN AND WRIGHT CASES

What follows is the sequence of the most significant developments in the Green and Wright litigation:

In 1971—The U.S. Supreme Court upheld the U.S. district court ruling in Green against Connally that tax exemptions for private segregated schools in Mississippi violate Federal public policy. IRS had already made the provisions of this order apply to the entire Nation in Revenue Ruling 71-447.

July 23, 1976—The original Green plaintiffs reopened the case asking for a drastic new order prohibiting tax exemptions to schools that were established or expanded during periods of desegration in nearby public school districts.

July 30, 1976—The Wright plaintiffs from six States outside Mississippi filed an almost identical suit. The cases were later consolidated and caused the crisis which exists today.

May 10, 1977—The IRS strongly defended against the arguments of the Green and Wright plaintiffs. The IRS noted that there were many valid reasons that a school could be established or expanded other than an intent to discriminate.

June 28, 1978—The IRS reversed its position and began to advocate the same position as the Green and Wright plaintiffs, that is, that the IRS should adopt new regulations. The litigation became a sweetheart suit at this time. The IRS reached an agreement with the plaintiffs in unethical secret meetings in which the only third party intervenor in either case was neither notified of nor allowed to participate in the lengthy out-of-court settlement.

August 22, 1978—The IRS published proposed revenue procedure on tax-exempt schools in the Federal Register in an attempt to settle the sweetheart suit; 150,000 letters of protest were received by the IRS. The IRS held hastily called hearings, but totally disregarded arguments pointing out its total absence of statutory authority, constitutional problems, and unfair presumptions of guilt which require harsh quotas and affirmative action requirements in order for a school to prove its innocence.

February 13, 1979—The IRS published its revised proposed revenue procedure for tax-exempt schools in the Federal Register. It was generally considered to be worse than the original proposal because it was more subjective and vague, and it indicated a total disregard for the legal arguments that were presented against it.

September 29, 1979—The Treasury Appropriations Act containing the Ashbrook and Dornan amendments became law. The amendments prohibited funds for implementation of any

parts of the proposed revenue procedures.

October 25, 1979—The IRS filed a memorandum aimed at getting the Wright case dismissed so that it could lose in Green. The IRS suggested that the court might either declare the Ashbrook and Dornan amendments to be unconstitutional or interpret them narrowly, to permit the implementation of new, more stringent rules. The IRS argued that the difficult issues should be more properly addressed in the Green litigation where the question of standing had been decided. Note: This was the key to the IRS scheme to get the court to order the agency to violate the amendments. The IRS wanted to have the Wright case dismissed because it has a troublesome intervenor, and it would excite too much public opposition if an order were immediately handed down which applied to the entire Nation. The Wright case was consolidated with the Green case at this time, and the IRS was especially desirous of having the Wright case dismissed in order to lose the Green case. The IRS plan was apparently to get prededent established in Mississippi in the Green case which would provoke less national opposition. After precedent could be established in Mississippi, the standards set for that State would be applied to the entire Nation as the IRS did following the 1971 Green against Connally decision.

November 26, 1979—Judge George Hart followed the IRS suggestion and dismissed the Wright case. The Wright plaintiffs appealed, but the IRS was not free to proceed to the Green case.

November 27, 1979—The IRS filed its legal memorandum in the Green case that clearly showed its desire to lose. This is the smoking gun of the sweetheart suit. The IRS defense argued that defendants strongly believe that additional guidelines in this area was needed. Furthermore, the IRS claimed that compliance with the restrictions may raise serious constitutional questions. Again the IRS argued that the amendments may be overcome by a court either declaring the riders unconstitutional, or interpreting the riders narrowly, to permit the implementatin of new, more stringent rules. These incredible arguments were made so that the IRS would lose its case. The evidence is clear that the IRS actively promoted the interests of the Green plaintiffs at the expense of Government interests.

May 5, 1980—Judge George Hart ruled against IRS in the Green case. Yet, the IRS made no effort to appeal because it had wanted to lose.

June 12, 1980—Judge Hart clarified his order of May 5.

July 9, 1980—Judge Hart denied a motion to intervene by First Presbyterian Church of Jackson, Miss. This was extremely unfair because neither the IRS nor the Green plaintiffs had anything to lose in the lawsuit, and the church could lose its tax exemption because of their sweetheart suit.

July 10, 1980—Assistant IRS Commissioner S. Allen Winbourne filed an affidavit in U.S. district court describing IRS enforcement of the Green order. All the activities that he described were prohibited by the Ashbrook and Dornan amendments, and they involved substantial illegal expenditure of funds.

May 14, 1981—After lengthy and inexcusable refusals to allow church schools to intervene in the Green case, Judge Hart finally allowed Clarksdale Baptist Church to intervene—another church remains unfairly excluded. Judge Hart is only allowing "discovery," however.

June 18, 1981—The U.S. Court of Appeals for the District of Columbia ruled 2 to 1 that the Wright plaintiffs have standing to sue the IRS. This reversed Judge Hart's decision of November 1979, and it means that a court order for the entire Nation is now distinctly possible.

Mr. President, I would mention for the record that Judge George Hart's abuse of First Presbyterian Church Day School of Jackson, Miss., has continued. Over a year ago Judge Hart again denied the church school the right to intervene in the Green case. It is widely believed that Judge Hart has grown even more petulent toward the school because the U.S. court of appeals sanctioned his misconduct by upholding his previous denial of the school's motion to intervene.

Mr. President, the Presbyterian Church Day School has been told to comply with the May 5, 1980 order in Green against Miller because it was covered. Yet, the school was told that it could not intervene because it was not covered. Is the school covered, or is it not? The court cannot have it both ways.

The civil rights of parents, churches and schools were clearly violated in the sweetheart suit by the IRS, Justice Department, the Green attorneys and the Federal judges who sanctioned the staged litigation. It is beyond dispute that the Green case was collusive, not adversarial, litigation. Judge Hart himself acknowledged this in the almost identical case of Wright against Miller. Hart wrote on October 25, 1979 that the IRS and Wright plaintiffs seemed closely allied.

It is equally true that the IRS and the Green plaintiffs were closely allied. When the House Ways and Means Subcommittee on Oversight held hearings in February 1979, there was no difference on any major points in the testimony of the IRS Commissioner and the Lawyers Committee for Civil Rights who were suing the agency on behalf of the Green plaintiffs.

The ranking minority member of the House Ways and Means Subcommittee on Oversight with jurisdiction over the IRS gave five incontrovertible reasons why the Green case was a collusive sham. Congressman PHILIP CRANE noted:

It is beyond dispute that the litigation was collusive, not adversarial. The evidence is clear from court records and public statements by IRS officials.

First. The IRS publicly advocated the same position as the *Green* and *Wright* plaintiffs; namely, that the IRS should adopt the new regulations.

Second. The IRS agreed to implement the proposed revenue procedure in secret meetings with the *Green* and *Wright* plaintiffs. The only third party intervenor was unethically excluded, indeed, he was not even notified of these closed meetings to which the IRS admitted to having spent "many hundreds of hours." No disciplinary action has yet been taken against those attorneys who participated in this abuse of the intervenor's rights.

Third. The IRS lobbied against the Ashbrook and Dornan amendments.

Fourth. Instead of defending the amendments, the IRS suggested legal interpretations that would lead the Federal court to ignore the amendments, and cause the IRS to lose its case. The IRS lost.

Fifth. The IRS made no effort to appeal its loss in the *Green* case because it desired the results obtained by losing.

When like-minded plaintiffs and defendants use the Federal judiciary to obtain mutually desired results, it should attract the attention of Congress. Whenever such sham litigation is used to usurp the legislative authority of Congress, strong action is required.

After the IRS first published its proposed revenue procedure for tax-exempt schools on August 22, 1978, voices were raised appealing to Congress halt this grab for power. Congress responded in 1979 with the passage of the Ashbrook and Dornan amendments which prohibited funds for implementation of the proposed regulations. This should have ended the problem.

In utter contempt of Congress, the IRS made sweetheart arguments in the D.C. District Court so that it could lose in the Green case and be ordered to violate both the Ashbrook and Dornan amendments.

A Federal court of appeals said that the Ashbrook amendment was not intended to restrict IRS authority to carry out court orders. *Wright* v. *Regan*, 656 F. 2d 820 (1981). In this the appeals court was in error. Nonetheless, in order to make it clear that the Ashbrook amendment blocked IRS from carrying out such orders, an express prohibition to that effect was added in 1981 and again is included in my amendment today.

Article I, section 9, clause 7 of the Constitution vests the appropriation power of the Federal Government in the Congress, and in the Congress

alone. The Constitution thus clearly denies to the courts the power to order the expenditure of Federal funds where Congress has forbidden that expenditure. Congress, by these amendments, is serving notice on the courts that it is exercising its constitutionally conferred appropriation power in order to deny the Internal Revenue Service the authority to impose unnecessarily burdensome requirements upon tax-exempt schools.

These amendments provoke no constitutional crisis between the branches of Government. To the contrary, the Constitution has already settled the matter most explicitly: Congress is to have exclusive power over the purse. If the courts will but respect the Constitution, the crisis evaporates. As James Madison stated in the 58th Federalist:

> The power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

The people have won a redress for their grievances, but now attorneys in a sweetheart suit and Federal judges are showing contempt for Congress. Congress must not tolerate such defiance. These Federal courts have not acted as courts of law but as instruments for social engineering schemes. The misconduct surrounding the Green and Wright cases has now reached intolerable limits.

Mr. President, in passing these amendments, Congress will again be asserting its authority as the only branch of Government that has the power to legislate and appropriate funds. Passage of these amendments reaffirms the principle that Congress, not the Federal courts, has exclusive power of the purse.

Mr. President, let me briefly explain on a technical basis what the three parts of my amendment do.

The first section protects the existing deductibility of general purpose contributions by parents who send their children to religious schools. Revenue Ruling 79-99 sought to disallow the deductibility of contributions by parents to religious schools to the extent tuition allegedly did not cover fair market value of the schooling. Such fair market value of private schooling is extremely difficult to determine, and it is made even more difficult by the fact that many religious schools are run by administrators and teachers who do not expect fair market value salaries. This section will prevent the IRS from attempting to compute a fair market value of tuition and disallowing that amount of contributions by parents.

The second section prohibits funds for the proposed revenue procedures of August 22, 1978, the revised proposed revenue procedure of February 3, 1979, or parts thereof. The proposed procedures were affirmative action regulations and quotas that placed tax-exempt schools under a presumption of guilt and required them to prove their innocence. These regulations were so harsh and unfair that churches and schools could lose their tax exemption even if they had never turned away a single minority student. There has been no formal revocation of these procedures by the IRS to date.

The third section makes comprehensive the restriction in the second section. The third section prohibits the use of funds to implement any rule, policy, procedures, and so forth, that would cause a tax-exempt school to lose its exemption unless same were in effect prior to the date of the above procedures, August. 22, 1978.

Mr. President, this section is a straightforward limitation on the power of the Internal Revenue Service to adopt quotas and affirmative action guidelines for tax exempt schools that require the schools to prove their innocence. I think it is a fair amendment. I do not think it ought to be tabled. I agree with Senator HATFIELD that a move to table it is allowed under the rules. But I hope it will not be tabled so we can pass this by a voice vote.

Mr. GRASSLEY. Will the Senator yield?

Mr. HELMS. I yield.

Mr. GRASSLEY. I thank the Senator for yielding. I rise in support of this amendment. This language has been in every appropriation bill, it is my understanding, since 1979.

Mr. HELMS. That is correct.

Mr. GRASSLEY. It was not included in the House because of the procedural problems of getting a recorded vote. It is very important that this language be continued. I feel that on the Senate side, the Committee on Finance, as we considered pushing tax credit legislation in hearings, considered this antidiscrimination language in the context of current law which contains this language. I can see no reason not to include this sensible prohibition. I urge all my colleagues to continue in the appropriation bills the language that has been on the books, the language of fairness, since 1979.

Mr. HELMS. I thank the Senator.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. HELMS. Certainly.

Mr. DECONCINI. It is my understanding that under the amendment of the Senator from North Carolina that if a donor goes to a church and makes a contribution, normally that would be deductible from his income tax. And then if the church uses part, all, or some of that money collected at offering time in support of its schools, that then the donor might question or has been questioned whether or not he or she can deduct that from their income tax as a church gift. Is that correct?

Mr. HELMS. That is correct.

Mr. DECONCINI. I thank the Senator very much.

With the other two sections of the amendment, I did not realize how significant this really is because there are many, many religious schools which are fine institutions and that keep tutions very low in order that middle income and poor people can send their children to those schools. They must look someplace to subsidize the cost of teachers, and that is done from the main offering given in support of that faith. I thank the Senator, and I intend to support his amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Members should understand the full implication of this amendment. I do not think it is a question of whether you support religious schools, because I do not believe that is the issue which is before the Senate in this amendment.

We have to recognize that this whole issue arises by reason of the fact that the Civil Rights Act of 1964 provided, in title VI, a Federal policy against support for private schools that practice racial discrimination.

Title VI of the Civil Rights Act made it clear that our tax laws could not be wed to support discriminatory policies. The issue came up in a case in 1971 called Coit against Green. The issue arose when parents of some black schoolchildren in Mississippi brought a class action suit claiming that the granting of tax exemptions to Mississippi schools that excluded blacks on the basis of race violated the Internal Revenue Code or, alternatively, violated the U.S. Constitution. This case was decided in their favor.

In 1970, the IRS in adopting revenue policies announced that it could no longer legally justify giving tax-exempt status to private schools which practiced racial discrimination, nor could gifts to such schools be treated as charitable deductions for income tax purposes.

So much for the law, and the law is clear.

Let us talk not only about the law, but let us talk about what this amendment does, because this amendment goes far further than the issue I have just raised. And it touches some on serious constitutional concerns.

The real question on this amendment relates not to religious schools nor even any other issue with respect to schools, but, rather, relates only to the responsibilities of the U.S. Senate to Congress as far as denying the Internal Revenue Service the responsi-

bilities that we have placed upon them. It goes to the point of saying that the IRS may not make rulings in connection with certain schools.

It also relates directly to the question of tax deductibiltiy as pertains to taxpayers. The relevant language:

None of the funds may be used to carry out any revenue ruling which rules that a taxpayer is not entitled to a charitable deduction for general purpose contributions which are used for educational purposes by a religious organization which is exempt under section • • •

And then it describes the section of the Internal Revenue Code.

Think of that. That applies not only to the religious schools, but it is a broad based prohibition about using any Internal Revenue funds that have to do with the enforcement of laws pertaining to taxpayers taking charitable deductions through certain kinds of educational institutions.

If we say that, how broad can we go? Are there no limits? Should we also perhaps be suggesting that the IRS may not make decisions in cases involving the matter of organized crime, with respect to abusive tax shelters, with respect to the qualifications of other tax-exempt charities, with respect to pension funds, or any one of a host of other areas?

When all is said and done, we have a tripartite type of government. We have the legislative, the executive and the judicial.

The executive has acted. They have met their responsibilities through the IRS. The administrative decision has been made. What they do is subject to appeals at the IRS and then in the courts. The courts have acted as well in connection with this particular matter.

But now what we are saying is that we are going to undo all of that. How? By going to the Finance Committee and saying to the Finance Committee we ought to change the law?

Oh, no, we are not saying anything at all about going down the route that is normal legislative procedure. It is quite obvious that this is legislating on an appropriations bill. But the Senator from Ohio did not deem it advisable at this point to raise the question with respect to that matter because I think that the Senate ought to consider, in all reality, what we are doing.

The second part of the amendment provides that "None of the funds available may be used to carry out proposed revenue procedures"—and then it details what those procedures are.

Is that really the way we want to change the law of this country? Do we want to change it by just saying the funds may not be used by the IRS to carry out their responsibilities that we gave them?

They did not make up these responsibilities. Nobody claims they are doing anything illegal. Quite the contrary, the Supreme Court has already said that what they are doing is legal. But we are saying we are not going to use the funds for any such purposes, and they are prohibited from doing so.

Then when you get to the third paragraph of this proposal, it provides that "None of the funds made available pursuant to the provisions of this resolution shall be used to formulate or carry out any rule, any policy, any procedure, any guideline, any regulation, any standard, and"—listen to this—"court order." Even the court orders cannot be carried out under this prohibition, regardless of how legal they are. They are prohibited from using funds so that the courts may carry out their orders. "Or measure which would cause the loss of tax exempt status in private religious or church-operated schools unless in effect prior to August 22, 1978."

I am frank to say I do not understand the significance of that particular date, but I am clear in understanding that the IRS could make no ruling whatsoever. Any court decision unless made prior to August 22, 1978, would not be valid. We would be denying the IRS and the courts their jurisdictional rights.

Mr. President, I respect, on the floor of the Senate, the right of each of us to have his or her own views on any one of a number of subjects. But when all is said and done, we come here to abide by the Constitution. Included in abiding by the Constitution is the oath that we take to uphold the Constitution.

If we were to pass this particular proposal of the Senator from North Carolina—and there may be merit to it, though I disagree that there is merit. Nevertheless, it belongs before the Committee on Finance.

Certainly, you do not accomplish it by doing that which would appear to this Senator to be unconstitutional, by saying we are going to deny funds to the courts to enforce their orders, or deny funds to the IRS to enforce its orders or to make new regulations or promulgate new rules or policies or procedures or guidelines.

I say, Mr. President, it is not a question of your view on the issue about which my friend from North Carolina speaks. The issue before this body has to do with whether or not we are going to recognize this tripartite kind of government, whether we are going to recognize that we live under a constitutional form of government, which has executive, legislative, and judicial branches, or whether we are just going to abrogate that entirely.

I hope this body will see fit to support the motion of the Senator from Oregon to table this amendment.

Mr. DOLE. Mr. President, this amendment has a laudable goal, preventing the unwarranted harassment of private schools by overzealous IRS officials. Fortunately, I believe the amendment is unnecessary at the present time.

The present IRS Commissioner and the present administration have clearly indicated their opposition to the Carter administration's ill-considered procedures for enforcing the IRS policy against granting tax exemptions for discriminatory schools.

Of course, as we all know, the administration has questioned whether additional legislation is needed to authorize the IRS policy adopted in 1970 that denied tax exemption for racially discriminatory schools. That question is now pending before the Supreme Court.

The Court should decide that issue by July of 1983. In the meantime, IRS activity in the area is subject to the control of a court order entered by the D.C. Circuit Court of Appeals. Currently, no policy or procedural changes can be expected until the Supreme Court rules.

Unfortunately, while this amendment is unnecessary—because of the current freeze on changing IRS policy one way or another—the amendment could have unforeseen adverse consequences.

The amendment prohibits the IRS from following binding court orders. That could cause a constitutional confrontation between Congress and the courts that would put the IRS and Treasury in an impossible bind.

The amendment also could have the effect of mooting out the Bob Jones University case, pending before the Supreme Court. The only thing keeping that case live and justiciable is a court of appeals order entered early this year. If the IRS is barred from following that court order, the controversy in that case might be eliminated, and the Supreme Court might lose jurisdiction. That would send the issue back to Congress for resolution.

While Congress can certainly deal with that issue, the Senator from Kansas would prefer to hear the Supreme Court's definitive interpretation of current law before considering any new legislation.

Finally, as chairman of the Finance Committee, I must express my disapproval of the use of appropriations riders to modify IRS policies and procedures. Certainly in the present context, where this amendment is unnecessary, the Finance Committee should be given an opportunity to review this matter, after hearing from the Supreme Court, before the Senate takes further action.

SUMMARY OF POINTS ON THE HELMS AMENDMENT DEALING WITH PRIVATE SCHOOLS

Amendment is unnecessary, since the current administration is not pursuing the policies that led in the past to abuses of private schools' rights;

Amendment could have unforeseen, dangerous effects, since it may require

IRS officials to violate court orders issued after enactment of the resolution;

Amendment could have the effect of forcing IRS to violate the 1982 injunction that kept the Bob Jones case before the Supreme Court. This would force Congress to deal with this difficult area without the benefit of a definitive Supreme Court ruling on the tough constitutional and statutory issues involved;

Tax policy should not be determined through appropriations measures.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

Mr. MOYNIHAN. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. Will the Senator withhold? Is there a sufficient second for the yeas and nays?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON UP AMENDMENT NO. 1563

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from North Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PELL) would each vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 61, nays 29, as follows:

[Rollcall Vote No. 454 Leg.]

YEAS—61

Baker	Eagleton	Nunn
Baucus	Exon	Packwood
Bentsen	Ford	Percy
Biden	Gorton	Pressler
Boren	Hart	Proxmire
Boschwitz	Hatfield	Pryor
Bradley	Hawkins	Quayle
Brady	Hollings	Riegle
Bumpers	Inouye	Roth
Burdick	Kassebaum	Rudman
Byrd, Robert C.	Kasten	Sarbanes
Chafee	Leahy	Sasser
Chiles	Levin	Specter
Cochran	Lugar	Stafford
Cohen	Mathias	Stennis
D'Amato	Matsunaga	Stevens
Danforth	Mattingly	Tsongas
Dixon	Melcher	Weicker
Dole	Metzenbaum	Zorinsky
Domenici	Mitchell	
Durenberger	Moynihan	

NAYS—29

Abdnor	Hatch	Murkowski
Andrews	Hayakawa	Nickles
Armstrong	Heflin	Randolph
Byrd, Harry F., Jr.	Helms	Schmitt
	Humphrey	Simpson
DeConcini	Jepsen	Symms
Denton	Johnston	Thurmond
East	Laxalt	Tower
Garn	Long	Wallop
Grassley	McClure	Warner

NOT VOTING—10

Cannon	Goldwater	Kennedy
Cranston	Heinz	Pell
Dodd	Huddleston	
Glenn	Jackson	

So the motion to lay on the table UP Amendment No. 1563 was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1564

(Purpose: Making technical correction)

Mr. HATFIELD. Mr. President, just before we go to final passage or third reading, I have four technical amendments merely changing page numbers, inserting new figures that have been acted upon, and this has been cleared from both sides of the aisle, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes unprinted amendment numbered 1564.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, line 14, strike "$275,350,000" and insert "$375,350,000"

On page 23, line 17, strike "further"

On page 23, line 21, strike "and" and insert "or"

On page 26, line 6, before "97-972" insert "House Report Number"

Mr. HATFIELD. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment (UP No. 1564) was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATFIELD. Mr. President, I am going to propound a unanimous-consent request that will relate to the structure of this CR which has been cleared by both sides of the aisle.

Mr. President, I ask unanimous consent that the amendments of the Senate to title II of this joint resolution be deemed as one amendment in the nature of a substitute for the House-passed provisions of that title.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, this motion makes the Senate-passed version of the jobs stimulus portion of the joint resolution (title II) a single numbered amendment, rather than several individual changes. It permits consideration of this portion of the joint resolution as a package, even though alterations of individual portions of that package remain conferenceable. It makes no substantive change to the decisions of the Senate during consideration of the joint resolution.

Mr. President, it will place in conference items which are identical in both the House and Senate versions of the joint resolution, but let me assure the Members that I will do all I can to make sure that the conference committee makes no changes to these items except as absolutely necessary to assure enactment of a jobs stimulus program.

Mr. HATFIELD. Mr. President, I yield 1 minute to the Senator from Virginia who wishes to make a statement.

Mr. HARRY F. BYRD, JR. Mr. President, I shall vote against this continuing resolution; the spending it provides is too great.

But there are other reasons, too. Now for further detail.

Through the years that I have been privileged to serve in this great body, I have tried to choose my words carefully, to speak in a restrained way and not to overstate my arguments, however strongly I may have felt about the issue.

I shall not break that custom today.

But even with all due restraint, I must tell my colleagues that in my view, we stand today, in the Chamber of the Senate, amid the wreckage of congressional budgetary and appropriations policy.

Let us consider where we are.

We have before us a monumental appropriations bill covering all activities of the Federal Government except those included in the three appropriations bills on which final action has been taken. It encompasses 10 appro-

priation bills, and 10 subcommittees. The majority leader told the Senate earlier last evening that the Appropriations Committee considered this legislation for only 4 hours.

No Member of the Senate can fully grasp the contents of this legislation.

It was reported only a matter of hours ago. To a distressing degree, each Senator will be taking a leap in the dark when he casts his vote on this gigantic measure.

We call this legislation a continuing resolution. I think what it is continuing is total fiscal irresponsibility.

Let us be frank about it: There is absolutely no discipline in fiscal matters in the Congress.

In 1981 much was made of the achievement of some $35 billion in so-called budget cuts. Certainly that $35 billion was better than what had routinely taken place through the 1970's. But these alleged reductions were actually cuts in the rate of growth in spending.

As it turned out, when the figures finally came in for fiscal 1982, even the decline in the rate of growth was relatively slight. From a rate of 14 percent in 1981, the spending growth rate in 1982 was 11 percent.

What is really alarming is the road that lies ahead.

The Congressional Budget Office—and the Assistant Secretary of the Treasury—estimate the deficit for fiscal year 1983—the year we are now in, and the year covered by this huge continuing resolution, will be at least $150 billion.

Worse yet, the direction of the deficit in years beyond this one appears to be upward.

If these deficits are allowed to occur—and I see no credible effort afoot to reduce them substantially—any claim that this body, or the House of Representatives, might make to have achieved fiscal discipline or responsibility will rightly be ridiculed by the people.

Already we are in a situation where the reckless spending of the past has piled up a national debt of well over a trillion dollars, resulting in an interest cost of $130 billion. And there is no light at the end of this financial tunnel.

As discouraging as the budgetary numbers are, I find it almost equally distressing that the very process by which we are supposed to achieve fiscal discipline is itself a shambles.

We passed a budget resolution last spring projecting a deficit of $104 billion, a figure now 50 percent higher. The Budget Act requires that by October 1 all 13 appropriations bills be enacted.

What happened? The Congress by October 1 had passed exactly two of the 13 appropriations.

Today, after a recess, an election and 18 days of lameduck session, we stand essentially where we were in early October.

Two essential elements of the budget process, the appropriations timetable and the enactment of a binding second resolution, have been evaded.

The result is the monstrosity which we are now called upon to debate and vote up or down, despite the fact that no Senator can have a full grasp of its provisions and its ramifications.

Continuing resolutions are becoming the rule rather than the exception. Evasion of the terms of the Budget Act has proven habit forming. The use of the continuing resolution makes it easier for Congress to shirk its responsibility to control runaway spending. It camouflages the issues.

I am a realist. I understand that this continuing resolution, or perhaps another resolution if this one is vetoed, will become law. The bad habits of the past few years will be continued, and fiscal responsibility once again will be ignored.

But I say this to my colleagues: This cannot go on. At one point or the other, the issue must be faced.

The spending practices of recent years, and the continued evasion of the strictures of the Budget Act, will lead to calamity.

Back-to-back deficits in the range of $150 billion represent a threat to the very foundations of the American economy.

We must get spending under control. But we are not.

Under the budget resolution approved last May by both the Democratic-controlled House of Representatives and the Republican-controlled Senate, spending programs were put in motion which will increase the national debt by $468 billion between April 1982 and September 1985, a period of 3 years and 5 months.

Thus, the national debt will increase during that short period of time from $1 trillion 65 billion to $1 trillion 533 billion.

This is a 44-percent increase in 41 months.

Unbelievable, is it not? Obviously, I voted against that budget proposal.

I am an optimist by nature and I am encouraged that more and more citizens, and Members of Congress, recognize the need to restrain spending and balance the budget. But there are certain hard facts both the people and the Congress need to ponder carefully.

The basic problem is that Government spending is totally out of control. Let us look at some facts, figures, and troubling questions.

First. Despite assertions by national TV commentators and various special interest groups, Government spending has not been reduced. In fact, even the rate of increase in spending remains virtually undiminished. The cost of Government for fiscal year 1981 rose by 14 percent; the increase for 1982 was 11 percent, a reduction to be sure, but not a significant one.

Second. The interest on the debt is $130 billion, more than one-half the cost of our entire national defense program. With the 44 percent increase in the debt over the next 3 years and 5 months, obviously the interest burden on the taxpayers will be far heavier.

Third. Is there likely to be any substantial or lasting reduction in interest rates if the Government must borrow 50 percent of all available funds in order to finance its deficit spending, as it is now doing?

Fourth. The present high interest rates are devastating. Unless interest rates are reduced, how can we expect substantial recovery in housing or automobiles—two major elements in our economy?

Fifth. A vital element in economic recovery is confidence in the future, on the part of businessmen, wage earners, and consumers. Will expenditures raising the debt by $468 billion in 3 years and 5 months stimulate confidence? Or will confidence be undermined?

Basically I am an optimist, but I am deeply concerned about the problems created by uncontrolled Government spending.

The struggle to control spending could be made much easier if the Congress would put teeth into the Budget Act. Many Senators, myself included, have submitted amendments to the act designed to make its provisions stronger and more binding, but there has been no action.

I think action in this area is essential.

Only a few days remain in my Senate career. I will not be a part of the process of reforming our budget procedures, or of the struggle in years ahead to get control of runaway Federal spending.

If I had but one message to leave to those who will remain here after I have taken my leave, and to those who will shortly begin their careers in the Congress, it would be this:

Do not be lulled into a sense of complacency about the financial condition of the Government of the United States. It is dangerous, indeed, and the consequences of inaction, or wrong action, could be calamitous for the country we all love so dearly.

Mr. HATFIELD. Mr. President, I yield 2 minutes to the Senator from New Mexico.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1983

Mr. DOMENICI. House Joint Resolution 631, as passed by the Senate provides $415.4 billion in new budget authority and $283.1 billion in outlays for fiscal year 1983.

Mr. President, this bill together with outlays from prior-year authority, en-

acted bills, possible later requirements, and adjustments to hold the Appropriations Committee harmless against entitlement changes, puts spending to date below the Appropriations Committee's 302(b) allocation by $7.3 billion in budget authority, but exceeds the allocation by $5.8 billion in outlays.

If the unallocated reductions in the Appropriations Committee's crosswalk are not counted, budget authority is below the allocation by $9.5 billion, but outlays are still over the allocation by $3.3 billion.

There are three areas where the committee is significantly over the 302(b) allocations: The Labor/HHS/Education Subcommittee is over its allocation by $0.8 billion in budget authority and $1.9 billion in outlays, the Treasury/Postal Service Subcommittee is over its allocation by $0.5 billion in budget authority and $1.0 billion in outlays, and title II of the bill funds a new jobs initiative costing $1.3 billion in budget authority and $0.6 billion in outlays that were not included in the Appropriation Committee's 302(b) allocations.

The House also included a jobs initiative in its version of the continuing resolution, providing $5.4 billion in budget authority and $2.9 billion in outlays.

Mr. President, I ask unanimous consent that three tables showing the relationship of the Senate-passed bill to the Appropriations Committee's 302(b) allocation and other details be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPROPRIATIONS COMMITTEE STATUS: FISCAL YEAR 1983 [1]

TABLE 1.—PRELIMINARY ESTIMATE: SENATE-PASSED CONTINUING RESOLUTION, HOUSE JOINT RESOLUTION 631

[In billions of dollars]

Subcommittee	Action to date plus other requirements [2]		302(b) allocation to subcommittee		Action to date compared to 302(b)	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture	24.3	21.8	24.8	22.0	−0.5	−0.2
Commerce/Justice/State/Judiciary	9.3	10.0	9.1	9.9	+0.2	+0.1
Defense	234.2	201.4	238.5	201.3	−4.3	+0.1
District of Columbia	0.5	0.5	0.6	0.6	−0.1	−0.1
Energy and Water Development	13.8	13.2	14.0	13.5	−0.2	−0.3
Foreign Operations	11.5	9.6	11.5	9.6		
HUD/Independent Agencies	49.9	56.9	56.5	56.6	−6.6	+0.3
Interior	7.8	8.6	7.8	8.4		+0.2
Labor/HHS/Education	91.2	103.3	90.4	101.4	+0.8	+1.9
Legislative branch	1.4	1.4	1.4	1.4		
Military Construction	7.0	6.1	7.5	6.1	−0.5	
Transportation	11.7	19.8	11.8	20.1	−0.1	−0.3
Treasury/Postal Service	11.2	11.4	10.7	10.4	+0.5	+1.0
Jobs program	1.3	0.6			+1.3	+0.6
Subtotal	475.1	464.6	484.6	461.3	−9.5	+3.3
Unallocated to subcommittees	0.6	0.6	−1.6	−1.9	+2.2	+2.5
Total	475.7	465.2	483.0	459.4	−7.3	+5.8

[1] This table has been prepared by the staff of the Senate Budget Committee based on their interpretation of the continuing resolution.
[2] Includes (1) the reported continuing resolution (H.J. Res. 631); (2) outlays from prior-year budget authority and other actions already completed; (3) possible later requirements; and (4) adjustments to keep entitlements at the levels assumed in the first budget resolution.

Note: Detail may not add to totals due to rounding.

TABLE 2.—PRELIMINARY ESTIMATE: SENATE PASSED CONTINUING RESOLUTION, DETAIL OF ACTION TO DATE PLUS OTHER REQUIREMENTS

[In millions of dollars]

Subcommittee	Outlays prior and other actions		Senate passed continuing resolution		Possible later requirements		Entitlement adjustment		Adjusted total	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture [1]	431	1,441	23,679	19,930			+183	+461	24,293	21,832
Commerce	14	2,141	9,255	7,903			−2		9,267	10,044
Defense	−24	62,893	233,084	137,399	1,359	1,321	−200	−163	234,219	201,450
District of Columbia		40	524	510					524	550
Energy		5,822	13,832	7,350					13,832	13,172
Foreign Operations		5,414	11,453	4,170					11,453	9,584
HUD	46,895	56,867	3,174	3			−192	+1	49,877	56,871
Interior	282	3,296	7,395	5,182	144	134			7,821	8,612
Labor/HHS	2,029	22,035	90,047	82,041	189	713	−1,061	−1,493	91,204	103,296
Legislative	1,374	1,366							1,374	1,366
Military Construction	7,043	6,082			2	2			7,045	6,084
Transportation	883	12,447	10,654	7,290	154	42	−4	+1	11,687	19,780
Treasury		335	10,999	10,781	242	242			11,241	11,358
Jobs program			1,290	568					1,290	568
Unallocated	−19	−19			586	602			567	583
Total	58,908	180,160	415,386	283,127	2,676	3,056	−1,276	−1,193	475,694	465,150

[1] Adjusted to conform CCC budget authority with SBC scoring procedures.

TABLE 3.—PRELIMINARY ESTIMATE: COMPARISON OF HOUSE AND SENATE CONTINUING RESOLUTIONS FOR TITLE II JOBS PROGRAMS

[In thousands of dollars]

	House-passed		Senate-passed	
	Budget authority	Outlay	Budget authority	Outlay
Agriculture Subcommittee:				
Rural water and waste disposal grants:				
Appropriation	200,000	20,000	100,000	10,000
Salaries and expenses	6,500	6,500	3,250	3,250
Resource conservation and development	15,000	10,000		

TABLE 3.—PRELIMINARY ESTIMATE: COMPARISON OF HOUSE AND SENATE CONTINUING RESOLUTIONS FOR TITLE II JOBS PROGRAMS—Continued

[In thousands of dollars]

	House-passed		Senate-passed	
	Budget authority	Outlay	Budget authority	Outlay
Watershed and flood prevention operation	100,000	57,000		
Food distribution and emergency shelter: CCC (also see FEMA)	(1)	(1)	(1)	(1)
Commerce-Justice-State-Judiciary Subcommittee:				
Economic Development Administration	200,000	21,000	100,000	10,500
SBA national resources development grants	50,000	20,000		
SBA small business guarantee program:				
Appropriation	2,000	1,000	2,000	1,000
Business loan and investment fund	230,000	160,000		
Federal prison system	55,000	8,105		
Jail renovation and construction system	40,000	5,895		
Competition in world markets (study)	200	200		
Energy and Water Development Subcommittee:				
Corps of Engineers—construction	145,723	79,500		
Bureau of Reclamation—construction	31,600	19,100		
HUD-Independent Agencies Subcommittee:				
VA hospital repair and maintenance	50,000	30,000		
Public housing modernization	200,000	1,000		
Community development block grants	1,000,000	105,000		
Food distribution and emergency shelter: FEMA (also see CCC)	50,000	50,000	50,000	50,000
Interior Subcommittee:				
Bureau of Indian Affairs:				
Indian housing			15,000	11,250
Hopi schools			27,500	1,375
Urban parks and recreation	100,000	30,000		
National Park Service	50,000	15,000		
Forest Service	45,000	26,800	72,500	42,480
Indian Health Service	50,000	18,000	39,000	14,040
Fish and Wildlife Service	25,000	15,000		
Low income energy weatherization	250,000	65,000	150,000	39,000
Labor-HHS-Education Subcommittee: Emergency jobs creation	1,000,000	900,000		
Employment and training assistance:				
Dislocated workers	200,000	126,000	300,000	210,000
Jobs Corps	32,400			
CSEP			19,400	12,000
Employment services:				
Job search assistance (trust fund)	(75,000)	75,000	(.....)	
Unemployment claims staff (trust fund)	(264,000)	264,000	(.....)	
Day care services	50,000	50,000		
Home health services	15,000	5,000		
Military Construction Subcommittee: Family Housing	489,485	282,685	250,000	144,295
Transportation Subcommittee:				
Interstate transfer grants:				
Metro			10,000	1,500
Highways	200,000	25,000	100,000	12,500
Transit	50,000	4,000	25,000	2,000
Northeast corridor overhead highway bridges	100,000	20,000		
AMTRAK maintenance of way	90,000	80,000		
Alaska railroad			26,000	2,600
Treasury-Postal Service Subcommittee:				
Federal buildings fund	200,000	188,000		
GSA—Purchase of motor vehicles	100,000	94,000		
Appropriation	5,422,908	2,877,785	1,289,500	567,790

[1] Language.

Mr. DOMENICI. Mr. President, I have checked with the staff and I think the Senate might be interested in knowing this:

After all the hours of debate the net effect of our deliberations is that we have reduced the $415.5 billion budget added $22 million to budget authority total in the reported bill by $77 million, and in the outlays column, we have increased the $282.8 billion in the reported bill by $313 million.

I compliment the Senate and in particular the chairman and ranking minority member of the Appropriations Committee for their excellent work.

I close by saying I was told by someone that the engrossing clerk was so shocked back there when they got an amendment from the Senate during this debate that really had money in it that they did not even know how to handle it. They had to send someone out to get a member of the Appropriations staff to find out what to do with it.

Mr. President, I thank the chairman for yielding.

(Note: The following statements were made or submitted during the consideration of House Joint Resolution 631 and are printed at this point by request and for purposes of continuity:)

CONGRESSIONAL PAY RAISE

Mr. PRESSLER. Mr. President, during the past few weeks, the Senate has faced many tough issues. Americans have demonstrated their good sense by reacting angrily to a possible congressional pay raise at the same time the Senate is discussing the effects of high unemployment, high heating fuel prices, and increased taxes. People in South Dakota who have contacted my office say this is a poor time for a congressional pay raise and I agree with them.

I wish to commend the Appropriations Committee and its chairman for striking a possible pay raise out of the continuing appropriations resolution.

My stand on the pay issue is well known. I have fought every one since I came to Congress in 1975. I totally disagree with automatic raises under the Executive Salary Cost-of-Living Adjustment Act. As my colleagues know, I took a case to the Supreme Court in 1977 in which I argued that automatic congressional pay raises without a recorded vote are unconstitutional. Unfortunately, the Court did not support my position on this issue. Nevertheless, millions of Americans who oppose backdoor congressional pay raises cannot be wrong. Again, I support the wise action of the Senate Appropriations Committee in deleting the pay raise from this resolution.

FUNDING FOR PEER REVIEW ORGANIZATIONS

Mr. DURENBERGER. Mr. President, let me begin by thanking the distinguished chairman of the Labor/HHS Subcommittee, Senator SCHMITT, for his continued support of the peer review program formally known as the professional standards review organizations. Though there have been a number of attempts to repeal the program, the Appropriations Committee has continued to support the efforts of PSRO's, our new program of peer review will need this support even more.

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) contained a provision which effectively repealed the PSRO program and replaced it

with a new system which will capitalize on the positive results of effective PSRO's and eliminate many of the problems experienced in the past. Public Law 97-248 permits deregulation of the old PSRO program by establishing a contracting procedure which makes the Government a purchaser of review services. The review services purchased would focus on, first, the necessity and reasonableness of care, second, quality of care, and third, the appropriateness of the setting in which the case is provided.

The need for such review is particularly important in light of the cost contraints placed on hospitals by TEFRA. The report prepared by the Appropriations Committee notes that the continued growth in hospital costs and admissions requires a continued investment in monitoring the appropriateness of expensive hospital care. In order to perform this function the new peer review organizations must have adequate funding.

The legislation before us contains funds for the management of the program and directs the Secretary of HHS to maintain the current admissions review rates for both focused and retrospective reviews without imposing any substantial reduction in average expenditure per review. The Senator from Minnesota expects the Secretary to comply with this direction. I would also hope that the Secretary would inform us fully in May as to the real fiscal requirements of these new organizations. As I noted earlier, adequate funding is absolutely critical to their success.

● Mr. D'AMATO. Mr. President, there is a very serious problem that I would like to raise. After all the careful consideration this committee and the Congress give to the appropriation process, and even after the President signs the legislation into law, we have seen instances where HUD delays the distribution of appropriated moneys. These delays place great strains on the municipal recipients.

One example is in the area of modernization funds. The New York City Housing Authority experiences delays of more than a year before HUD distributes modernization moneys. I am told that most other housing authorities throughout the country have had similar experiences.

These delays fail to carry out the legislation, and delay essential modernization contracts to the point where costs far exceed those anticipated when the modernization was originally decided upon. My office and those of other Senators, including, no doubt, yours, have made efforts to speed up the distribution process. However, most of the modernization funds for fiscal year 1982 have still not been distributed, and the result is terribly damaging to the effort to restore and keep up existing housing stock. Tenants of public housing authorities continue to suffer as local authorities are unable to make necessary repairs.

I urge that in conjunction with this appropriation bill, an effort be made to formalize the concern of the committee, so as to assure that appropriated moneys are distributed promptly and in no event, more than 180 days after the President signs the bill into law.

Six months should give both HUD and the public housing authorities ample time to determine the appropriateness of modernization projects, and to distribute the moneys.

I stress that the money should be distributed and not merely allocated to the HUD regional or area offices. The modernization money should actually be distributed to the public housing authorities within the 180-day period.

Moreover, in most cases, particularly those with substantial modernization contracts, there is a need for the housing authorities to expend startup costs such as advance architectural and engineering moneys early in the process. Accordingly, I urge that HUD consider the economies to be realized by making such moneys available early in the process. Perhaps 5 percent of the requested modernization funds could be made available to the housing authorities within 60 days of their applications to HUD.

Mr. GARN. I appreciate and share your concern. It is evident that housing authorities throughout the country are experiencing significant delays in receiving their modernization funds for fiscal year 1982.

Because of the time constraints facing us, we will not be able to legislate a time limit on HUD, but as chairman of this committee, I will personally contact the Secretary and advise and express the will of the Congress that these funds be distributed in a timely manner within a 6-month period.

I also think your idea about startup money is sound, and I will also convey that position to the Secretary.●

LABOR-HHS-EDUCATION COMPONENTS OF THE CONTINUING RESOLUTION

● Mr. SCHMITT. Mr. President. we have made several fundamental changes in the House version of the continuing resolution, including the jobs proposals in title II.

For the continuing resolution, the House referenced only its House-passed Labor-HHS-Education bill and deemed that it be regarded as enacted. That action, if sustained, would put all of the House priorities into law, and few of the Senate's. The House also referenced its committee report in the statutory language, a step which could have the effect of giving that document and its numerous directives the color of law.

Our recommendation to the Senate is to delete the House language and reference the Senate reported version of H.R. 7205 as if enacted. This makes it clear that we prefer the Senate priorities which seem to have won a good measure of support in this body and with our constituency groups.

This step will put us in a position to "conference" H.R. 7205 with the House within the context of the continuing resolution. We do not anticipate an insurmountable conference and we then can put the agreed-upon provisions in the continuing resolution.

For title II, the House provided $1,634,400,000 for a number of Labor-HHS programs. The biggest was $1 billion for emergency productive jobs, which seems to be a new name for an effort to restart the CETA public service jobs program abolished by Congress last year. In place of these proposals, the committee recommends $279.4 million, consisting of $250 million for vocational training programs authorized under the transition provisions of the Job Training Partnership Act, and $19.4 million for community service employment for older Americans. This brings the total for activities under the Job Training Partnership Act to $4,014,312,000. Of course, all of the House jobs items will be in conference, and we will keep an open mind about whether to agree to any additional funds for such programs as employment services, displaced workers, and Job Corps.

Another fact to keep in mind is that the programs in the regular Labor-HHS-Education bill result in putting thousands of people to work in non-Federal employment, or into training. At the Senate reported level, Head Start alone accounts for some 73,000 jobs in the non-Federal sector. Other examples: Community health centers, 26,300; medicare contractors, 24,300; nutrition for the elderly, 38,000; and so on. Thus the Federal Government plays a major role in stimulating jobs that can lead people into long-term careers.

Mr. President, I believe we have developed a balanced Labor-HHS package that emphasizes important Senate priorities in the regular bill along with prudent increases for lower cost but more effective job and training programs. I am glad to recommend it to the Senate.●

● Mr. QUAYLE. Mr. President, the report on the continuing resolution states that the additional $250 million for employment training is on top of a base of $2.2 billion for vocational training programs under the transition provisions of the Job Training Partnership Act. Am I correct in my understanding that the $2.2 billion referred to includes only the current level for CETA titles II B C, IV A, and

VII, that is, the appropriation and carryforward for these programs?

Am I also correct that the total current level for job training programs is $3.7 billion, the CETA appropriation plus the carryforward?

Mr. SCHMITT. The Senator is correct.●

ADVANCED CAREERTRAINING PROGRAM OF THE JOB CORPS

● Mr. HATCH. As the distinguished subcommittee chairman knows, the Job Corps has been operating a program called advanced career training (ACT) for those graduates of Job Corps programs who have exhibited special talent and motivation. This program allows these young people to receive an additional 1 year of support to attend an advanced vocational school or junior college.

Mr. SCHMITT. The Senator is correct.

Mr. HATCH. I have numerous reports documenting the success of this unique Job Corps program, and I am concerned that it not be lost in the shuffle at the end of the 97th Congress. Would the Senator indicate the Appropriations Committee's intention with regard to this program?

Mr. SCHMITT. I appreciate the Senator from Utah's interest and I can understand his concern for the Job Corps. The Senate version of the continuing resolution provides for maintaining Job Corps funding at the current rate, which is $585.6 million. This amount leaves room to continue related Job Corps programs such as advanced career training.

Mr. HATCH. I thank the Senator for his assurance that there will be funds for ACT, and I will appreciate consideration of the Job Corps during conference.

PUBLIC HOUSING MODERNIZATION, JOBS, AND HUD'S RATE OF PROCESSING FUNDS FOR THE COMPREHENSIVE IMPROVEMENTS ASSISTANCE PROGRAM (CIAP)

● Mr. HEINZ. Mr. President, I rise today in support of the additional funding being provided for the modernization of public housing in America by the Senate Appropriations Committee and the distinguished chairman of the Subcommittee on HUD-Independent Agencies, Mr. GARN. I had planned to offer a floor amendment to accomplish this restoration of funds so I am extremely pleased that the committee has already taken this step.

I believe that this is an excellent use of our Nation's resources in these difficult economic times because the funds will serve several purposes: First, we must provide decent, safe, and warm shelter for our citizens who live in public housing; second, the type of modernization work envisioned by many of us who sought to add funds to the comprehensive improvements assistance program (CIAP) should give priority to weatherization of public housing units, which will keep utility bills down and save energy; and finally, the type of work we envisioned will be labor intensive. The additional funds should create jobs for thousands of unemployed, skilled, and semiskilled workers in our Nation's urban centers.

I am concerned, however, that these additional CIAP funds get out to the public housing authorities quickly, so that residents can stay warm, energy is saved, and unemployed workers can go to work immediately, this winter. I would like to ask my distinguished colleague, the chairman of the HUD Subcommittee, whether he feels that HUD can obligate these funds quickly and whether HUD's area offices can process the CIAP applications more expeditiously than they have done in the past. I ask the chairman what he thinks we can do to expedite the process without writing new legislation. My amendment would have instructed HUD to insure that these additional CIAP funds would be put to work immediately.

Mr. GARN. I share my colleague's concern that the public housing funds provided by the Congress in fiscal year 1981, fiscal year 1982, and fiscal year 1983 be expeditiously committed and work actually commence on these most needed improvements. The needs have been well documented, the funds have been appropriated, and the allocation criteria have been developed. There is really no reason that these funds should not result in immediate modernization of the housing stock and immediate jobs. I have discussed with my colleagues the problems that would be faced if we attempted to mandate standards or procedures, in addition to those currently in existence, for the allocation and obligation of funds.

I do, however, wholeheartedly believe that we should do all in our power to encourage HUD to target funds to those projects that are ready to go and that would immediately result productive employment for a large number of individuals. In this respect, I would also like to encourage public housing authorities to apply for funding for those types of activities that would generate local jobs, especially jobs that might be performed by tenants of the authority.

You can be sure that I will be closely questioning the Department about their efforts in this area of expediting public housing modernization when next they come before my Subcommittee.

Mr. HEINZ. I thank the distinguished senior Senator from Utah. Mr. President, I would, at this point, like to elaborate upon the multiple benefits that quick obligation of these additional funds could create.

By HUD's own estimates, there is a need for over $10 billion for the modernization of the Federal public housing stock. These funds are allocated to the great majority of the 2,800 public housing authorities located in cities and towns throughout the Nation, and help to insure that public housing is brought up to decent, safe, and sanitary living conditions. By spending the needed funds for the modernization of public housing, HUD also insures that the investment of the Federal Government in over 70 billion dollars' worth of public housing is maintained.

Modernization funds are administered under the comprehensive improvements assistance program (CIAP) which emphasizes the careful planning for the use of these funds to bring about comprehensive improvements at individual public housing developments, rather than piecemeal efforts.

Expansion of the public housing modernization program provides an exceptionally good way of creating additional jobs at a time when national unemployment rates are high, especially in the construction industry. Most public housing authorities (PHA's) have already made plans for modernization which have not yet been funded due to lack of funds. These plans are ready to go, and can be begun quickly if additional funds are made available by HUD expeditiously. In addition to being a quick way to create new jobs, the modernization efforts are not make-work projects. They represent improvements that would need to be accomplished at some time in the near future in any case, and the benefits of such improvements accrue not only to tenants and PHA's but to the Federal Government itself.

Modernization is highly labor intensive, as compared to major capital improvements projects such as building highways, bridges, tunnels, and water and sewer projects. As much as 70 percent of a typical modernization job can go for labor costs. The total number of jobs that would be provided by $1 billion in outlays would be 37,575, assuming that all of these are full-time jobs at union wages. In fact, many of these jobs would be part time, and would require semiskilled nonunion wages, so the number of jobs created would be considerably larger, and these do not count indirect employment created by the production and delivery of materials to the sites. Many PHA's are able to hire skilled tenants, or to persuade contractors to hire tenants with appropriate skills for the modernization work. This brings further benefits to the tenants and to the PHA's themselves, since the increased tenant income produces additional rents for the authorities.

The distribution of units in need of modernization corresponds roughly to those parts of the country where unemployment is highest, another ad-

vantage in using modernization as a jobs stimulus measure.

Funds administered under the CIAP program can be issued under one of four separate categories: First, comprehensive modernization; second, special purpose modernization; third, emergency modernization; and fourth, home ownership modernization. The special-purpose and emergency categories would represent the quickest ways of getting these funds into action. Projects with a specific energy conservation focus can be funded under the special-purpose category, provided that the PHA has completed an energy audit.

These types of projects can include weatherization, replacement of windows and doors, weatherstripping, insulating heating pipes and equipment, adding storm windows and storm doors, and other items with a quick payback in terms of reduced energy costs. Another major item for which funds could be targeted is moderate rehabilitation for units which are vacant but in reasonably sound condition, in order to return those units to occupancy. These types of projects require both skilled and semiskilled workers, and have a short startup time, thereby increasing their employment impact.

In my home State of Pennsylvania, the public housing authorities of Philadelphia, Pittsburgh, and Harrisburg have indicated that they have great and well-documented needs for modernization funding and that they could certainly put additional funds to productive use. Philadelphia has documented immediate modernization needs totaling more than $98 million. A separate study conducted for HUD in 1980 by Perkins & Will and the Ehrenkrantz Group found that the Nation's PHA's need more than $8 billion for modernization. HUD has since, as I indicated earlier, adjusted that figure upward to over $10 billion for necessary modernization work including substantial energy retrofitting. All three Pennsylvania PHA's also report that weatherization and hiring of skilled and semiskilled tenants are both high priorities.

In closing, Mr. President, I remind the Secretary of HUD that as a member of the Senate Housing Subcommittee, I will be especially interested in monitoring the rate at which CIAP funds are obligated and the speed with which HUD's area offices put these funds to work. I will keep available our amendment to expedite the process. We all want decent shelter for tenants of public housing, energy conservation, and jobs for unemployed workers.●

● Mr. ABDNOR. Mr. President, the chairman of the subcommittee is aware also of my concerns with respect to the serious problems faced by the Douglas School District in Box Elder, S. Dak. The superintendent of this district, which is impacted heavily with children whose parents live and/or work on the Ellsworth Air Force Base, has indicated that due to the Department's refusal to consider as "comparable districts" two South Dakota impact districts which resemble in many important respects the characteristics of the Douglas School District, the rate of payment Douglas receives under section 3(d)2(B) of Public Law 81-874 is not sufficient to sustain his district.

Much to my frustration, the Department of Education has failed even to confirm the possibility that this district, which is taxing at the maximum rate allowed and will reach shortly its legal debt limit, may be forced to close its doors during the current fiscal year.

Mr. SCHMITT. I am certainly aware of the Senator's concerns with respect to the financial difficulties facing the Douglas School District. The Department should certainly be making every effort to address this problem and take every action possible to mitigate the dilemma in which the Douglas School District finds itself.

Mr. ABDNOR. I wish to thank the subcommittee chairman for his persistent efforts to assist me in addressing this matter. I recognize that he, too, has encountered a number of obstacles with respect to the state of disarray this program is in.

I will continue to pursue further this matter with Department officials.●

THEATER NUCLEAR FORCE MODERNIZATION

● Mr. WARNER. I would like to engage the distinguished chairman of the Defense Subcommittee in a colloquy concerning the implications of this legislation for the NATO efforts to modernize its theater nuclear deterrent.

It is my understanding that the stated intent of both the Senate and House Appropriations Committees in making their respective reduction of the ground-launched cruise missile and Pershing II programs was that such reduction not impinge upon our ability to meet the agreed-upon initial operational capability (IOC) dates for these missiles. I would ask the Senator, am I correct in that understanding?

Mr. STEVENS. The Senator is correct.

Mr. WARNER. The reasons for these reductions then are programmatic and budgetary in nature rather than an indication of a lessening of American commitment to NATO and to the enhancement of our theater nuclear deterrent starting as planned in 1983?

Mr. STEVENS. That's right. Speaking only for the Senate Appropriations Committee, the cuts we made in the GLCM program were driven by both the overall budgetary constraints under which the committee was forced to operate and our belief that, in light of provisions in terms of the contract under which these missiles are being produced, economies could be effected in this program without having an adverse impact upon the planned deployments of GLCM's needed to meet the IOC.

As for the House Appropriations Committee, in light of the difficulties being experienced with the Pershing II missile test program, they recommended the deletion of the funds sought for procurement. The committee's stated position is that such reduction will not result in a slip in the IOC for this system in Germany. Similarly, I understand that the somewhat sharper cut made in the ground-launched cruise missile program by the House Appropriations Committee was not intended to prejudice fulfillment of the introduction of these weapons as agreed upon by NATO.

Mr. WARNER. I thank the Senator for those assurances. I think the overwhelming majority of the Congress would be extremely reluctant to see this highly important program undercut at this most sensitive juncture. The implications of such an action for theater and strategic nuclear arms negotiations U.S. leadership of the alliance, and most importantly of course, the maintenance of a credible deterrent to Soviet aggression, would be profound and adverse.

Mr. STEVENS. I fully concur with the Senator's assessment.

Mr. WARNER. While it would be my hope that the Senate position would prevail on both the ground-launched cruise missile and Pershing II issues in conference, recognizing that certain compromises may have to be made, I want to be sure that the distinguished chairman of the subcommittee is apprised of two aspects of the House action that could—notwithstanding the stated intent—adversely affect the initial operational capability of both the ground-launched cruise missile program and the Pershing II missile. The House made a reduction of $10.772 million in procurement associated with ground-launched cruise missile communications systems. I have been informed that unless money is available for that purpose in fiscal year 1983, the ground-launched cruise missile initial operational capability of December 1983 could not be met.

I am also informed that in the absence of $34 million in procurement associated with the Pershing II missile system in fiscal year 1983, a delay of 12 months will be experienced in the Pershing II's IOC. These funds are required for procurement of initial spares, refurbishing of training missiles used in development tests and engineering services in support of de-

ployment of the fiscal year 1982 hardware.

I wanted to call these potential problems to the attention of my friend from Alaska and I am confident that when he meets with his counterparts from the House Appropriations Committee in the upcoming conference that—at a minimum—the funds required to make good both committees' professed intent not to undermine the long-range theater nuclear force modernization programs, will be appropriated.

Mr. STEVENS. I am happy to assure the distinguished Senator from Virginia of the intent of this Senator to work for a position in conference that fully supports the desire of both members of the Senate Appropriations Committee and the House Appropriations Committee to prevent the result of our actions from being one that impinges upon the U.S. ability to deploy the first Pershing II's and GLCM's in accordance with the NATO agreement of December 1979.

Mr. WARNER. I thank the Senator.●

IMPACT AID

● Mr. ABDNOR. Mr. President, the distinquished chairman of the Subcommittee on Labor-HHS and Education, Mr. Schmitt, has worked diligently with me in an effort to insure a more equitable distribution of impact aid moneys. Although the language the full committee agreed to will go a long way toward insuring an adequate level of funding for the heavily impacted districts across the Nation, which have been especially hard hit by reductions in funds for this program, a number of inequities still persist.

As the Senator is aware, it has been necessary to again base fiscal year 1983 payments on a percentage of districts' fiscal year 1981 payments. In view of the fact that enrollments have fluctuated over the last 2 years, this situation has created numerous inequities. Districts which have experienced an increase in the enrollment of federally connected children are not being compensated on dime for those newly enrolled children.

Superintendents from impacted schools in my State were told recently by the Director of the Division of Impact Aid that the Department of Education is considering presently a proposal to change the current method for computing districts' local contribution rates. This proposed change, I am told, would affect districts in some 20 States which utilize "comparable" districts as a means for establishing their local contribution rates.

Further, I understand that since the Department has not been successful in its efforts to defend its current method for establishing rates in recent litigation, it plans to pursue a change in the rate formula during the current fiscal year.

Since such a change in policy would not be subject to the scrutiny either of the public or Congress, does the Senator agree that the Department would be acting contrary to the wishes of this committee should it take any action which, by altering the method for establishing payments for the current fiscal year, would reduce below the percentage of the fiscal year 1981 payments as specified by Congress through this resolution, districts'fiscal year 1983 payment?

Mr. SCHMITT. I certainly agree that the Department would indeed be acting contrary to the intent of the committee by implementing a change that would reduce fiscal year 1983 payments below that to which a district would be entitled under the rate formula utilized in fiscal year 1981 and given the specifications of this resolution.

Mr. ABDNOR. Mr. President, funds for impact aid (Public Law 81-874) have been reduced substantially since fiscal year 1980. Despite the fact that Congress, through the Omnibus Reconciliation Act of 1981, agreed also to phase out some elements of this program, many school districts whose funds have been targeted for elimination have fought fervently to retain a piece of the smaller pie.

While it may seem fair to reduce payments to all districts by a proportional amount, such a policy overlooks the fact that school districts which bear the greatest Federal burden are least able to replace lost funds since they have fewer sources of tax revenue within their districts.

It troubles me greatly to note that many have lost sight of the purpose of this program, which is to insure that school districts responsible for educating federally connected children are able to provide a level of education comparable to that provided by districts which do not share this Federal burden. In the opinion of this Senator, it is unfortunate that we must again base districts' payments on a percentage of their fiscal year 1981 payments. In so doing, districts responsible for educating more federally connected children than they were in fiscal year 1981, are not receiving any compensation for these additional children.

Our colleagues from the State of Montana have attempted to correct an additional inequity, an inequity I understand the Department of Education has refused to address. Since the State unknowingly submitted incorrect data to the Department in fiscal year 1981, payments to districts in Montana continue to be based on a percentage of fiscal year 1981 payments which were less than that to which the districts were legally entitled to.

The authorizing committees will have the opportunity to scrutinize this program next year. Can the distinguished chairman of the Education Subcommittee assure us that his subcommittee will examine these inequities through the reauthorization process?

Mr. STAFFORD. I can assure the Senator from South Dakota that my subcommittee will conduct a careful review of this program at the earliest possible opportunity.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION FUNDING

Mr. WALLOP. Mr. President, the House, in House Joint Resolution 631, has included language—section 101(e)(5)—that would prevent the Occupational Safety and Health Administration from granting final approval and accreditation to the 21 States that operate their own Occupational Safety and Health Administration (OSHA) programs. The Senate Appropriations Committee has recommended deletion of this laguage, and the Senate is in the process of accepting that recommendation. The House has made a serious mistake. I strongly support the language approved by the Senate Appropriations Committee, and urge that this position prevail in the conference committee.

Congress has already demonstrated its support for OSHA's efforts to encourage the States to play a larger role in occupational safety and health. The Supplemental Appropriations Act, Public Law 97-257, enacted last September, contained language allowing OSHA to grant final approval to State plans in accordance with section 18(e) of the Occupational Safety and Health Act of 1970. This provision was also contained in House Joint Resolution 599, which provided funding through December 17, 1982. H.R. 7205, the labor, health and human services, education and related agencies appropriations bill for fiscal year 1983, as passed by the House on December 1, contained the State plan language and the Senate Appropriations Committee reported out H.R. 7205 with identical language.

Without this provision, OSHA cannot grant final approval to State OSHA plans because of a 1978 decision from the U.S. Court of Appeals for the District of Columbia. That decision has resulted in a requirement that States meet unrealistically high compliance staffing levels, or benchmarks, for which neither funding nor trained personnel is available. The decision provided, however, that if Congress is unwilling to appropriate sufficient funds for States to reach their benchmarks, it reflects a congressional decision that the goal was excessive. This is precisely what has occurred in recent years, and the appropriations language which I support would allow OSHA to grant States final approval under current budgetary realities.

Since the Supplemental Appropriations Act was enacted last September, OSHA has developed revised benchmarks for State staffing levels which are equivalent to Federal staffing levels. These new benchmarks are a much more realistic requirement for the 21 State OSHA programs. Assistant Secretary for Occupational Safety and Health, Thorne G. Auchter, has pledged to the States that if their enforcement levels exceed the Federal requirements, OSHA will, to the extent of available resources, fund the extra positions at 50 percent, just as it funds the rest of the State program.

My State of Wyoming has an OSHA plan that received initial Federal approval in 1974. It has done a fine job of protecting workers from on-the-job hazards. But this plan cannot receive OSHA's approval to operate on its own with minimal Federal interference because of the 1978 court decision I have mentioned. Approval of the House-passed language in House Joint Resolution 631 would continue to impede the States in the efforts to remove Federal control of this program. I should add that Wyoming now exceeds the minimum staffing level benchmarks in current law, but could not meet the levels which would be required if the House language prevails.

OSHA has historically been a much-malinged Federal regulatory agency. Recently, much of the criticism of this agency has lessened thanks to policies which reduce confrontation and encourage cooperation among employees, employers, and Government to reduce or eliminate workplace hazards. I believe that one major reason for this improvement is that the administration is allowing State OSHA plans to play a larger role. We should encourage this process, not impede it.

Once again, I would hope that the Senate conferees are successful in prevailing on this issue.●

PUBLIC HOUSING MODERNIZATION

● Mr. CHAFEE. Mr. President, I rise to support the Appropriations Committee's action in approving an estimated $2.6 billion for public housing modernization.

I was prepared to offer an amendment to increase funding for public housing modernization. I am delighted that the Appropriations Committee has made this unnecessary by raising the level in committee.

I would rather this money come entirely from new budget authority, rather than relying in part on recaptures, and I hope this can still be accomplished in conference. Nonetheless, this level of assistance is still a most important restoration of funds for maintaining our housing assistance infrastructure. At a time when we are virtually terminating Federal assistance for low-income housing construction, it is especially important that we preserve the investment we have already made in low-income housing.

Attention has been paid of late to the need for restoring our infrastructure, as well it should. Most of this attention has been focused on roads, sewers, bridges, and the like. But I content that public housing should also be considered in this same context.

Mr. President, in Rhode Island we have some of the oldest public housing in the Nation, dating back to the early 1940's. Many of these units have never been updated. In Providence alone, we have over 1,000 public housing units that are vacant and uninhabitable. Now, there may be many reasons for this situation, but the lack of adequate funds for maintenance and repair has certainly contributed to this unfortunate waste.

Mr. President, these funds for modernization will help hold back the continued erosion of our assisted housing stock at a time when tenant waiting lists are expanding and new construction all but vanishing.

It should also be pointed out that this investment will also make a contribution to our job creation effort. It is estimated that the $800 million addition made in committee above the administration's program level will produce as many as 40,000 additional jobs.

Mr. President, it had been my intention to offer an amendment to direct these funds into the most labor-intensive modernization projects, with special emphasis on those that require less highly skilled labor than has been the focus of much of our job-creation efforts. This would not only create more jobs, but would also assist the hard-core unemployed. However, I do not, at this time, wish to additionally restrict the use of these funds by the already hard pressed public housing authorities; nor do I want to risk the delay that interpretation of new legislative requirements might impose on the release of these funds. Therefore, I will not now offer my amendment. It is my hope, however, that to the maximum extent feasible, these funds will be used in projects that are job intensive, require less highly skilled workers, and which can be commenced within a reasonably short period.

Mr. President, again I am delighted to see this funding restoration, as I believe it is both a productive use of our limited Federal housing assistance resources and a valuable investment in job creation.

Mr. GARN. I appreciate my colleague's sentiments on the issue of public housing modernization and its relationship to upgrading our housing stock and providing meaningful employment for thousands of individuals now unemployed. I am pleased that my friend from Rhode Island did not offer any legislative language at this time. We are all concerned about the need for HUD to obligate funds in an expeditious manner, and I do not believe that establishing a new set of legislative requirements would serve this purpose. Once again, I thank my colleague for his continued interest and support for the public housing modernization program.●

LEGAL SERVICES CORPORATION BOARD COMPOSITION

● Mr. WEICKER. Mr. President, the continuing resolution incorporates a number of limitations on the use of appropriated funds by the Corporation. One of these provisions has to do with the composition of the governing body of the grantee or contractor and requires that a majority be appointed by State, county, or municipal bar associations "the membership of which represents a majority of the attorneys practicing law in the locality in which the recipient is to provide legal assistance."

We are aware that the Legal Services Corporation currently provides funds for a number of recipients with multi-State responsibilities. As chairman of the Subcommittee on State, Justice, Commerce, the Judiciary, and Related Agencies, I feel it is necessary to clarify the effect of this limitation on these multi-State organizations. Requiring those programs to have the attorney members of their governing bodies appointed by bar associations of several States would be unduly cumbersome. Accordingly, such recipients may comply with this subsection by having the State, county, or local bar association in which a recipient maintains an office perform the attorney appointment function.

Mr. COHEN. As the Senator from Connecticut is aware, New England fishermen have had problems over the past year with a severe jellyfish bloom. Similar problems were encountered in late 1975 and early 1976.

The masses of jellyfish have fouled and destroyed gear, leading to expensive catch and equipment losses for many gillnetters. Clearly it is important to determine whether there is a pattern to these outbreaks, and my understanding is that the National Marine Fisheries Service has the ability to do this.

Is it the Senator from Connecticut's understanding that $50,000 of the funds targeted for fisheries development research and services are to be used at the Northeast Fisheries Center in Woods Hole, Mass., for such a study?

Mr. WEICKER. That is the intention of the committee.●

CLARIFICATION OF RUNAWAY YOUTH APPROPRIATIONS

● Mr. SPECTER. Mr. President, I rise at this time to clarify the intent of the Appropriations Committee's amendment to the continuing resolution,

House Joint Resolution 631, which provides $25 million for the Runaway and Homeless Youth Act, operated under the supervision of the Department of Health and Human Services.

The amendment is intended to increase the sums appropriated in the prior continuing resolution, Public Law 97-276, by $7 million, bringing the total amount for the Runaway and Homeless Youth Act to $25 million for fiscal year 1983, which ends September 30, 1983.

While the complexity of the continuing resolution presently being considered may lend itself to strained interpretations of the amendment I proposed yesterday, the intent of the committee cannot be confused. The members of the Committee on Appropriations were cognizant of what they voted for and that was an increase of $7 million above the current level of $18 million to a total of $25 million to be made available by the administration for the runaway and homeless youth program for fiscal year 1983, ending September 30, 1983.

Does the chairman of the subcommittee agree with this?

Mr. SCHMITT. I do.

Mr. SPECTER. I thank the chairman for permitting me this time to emphasize the meaning of the amendment passed December 15, 1982, on the Runaway and Homeless Youth Act.●

SUBSIDIZED HOUSING—CRUCIAL TO MILLIONS

Mr. CRANSTON. Mr. President, I have received an urgent plea from a former colleague, Ed Brook, who is honorary chairperson of the National Low Income Housing Coalition. Senator Brooke raises a very important issue in his letter to me—one that has received relatively little publicity but one that is crucial to the millions of low-income people who live in substandard or overly expensive housing. His letter requests that I urge my colleagues to support an appropriation of at least $9.7 billion in budget authority for low-income housing programs. This is the level set by Senate Concurrent Resolution 92, the First Concurrent Budget Resolution for Fiscal Year 1983.

Ed Brooke has an excellent point. Low-income housing programs have been cut drastically since 1980. I see no reason why low-income people should suffer needlessly, given the current budget assumptions.

In 1977, $28 billion was spent on HUD's housing assistance programs. That figure was increased to $31.5 billion in 1978 but fell to $24.4 billion in 1979. In 1980, during the last year of a Democratic administration—and a Democratic Senate—$26.7 billion was spent on HUD-assisted housing. The Reagan administration spent $25 billion on housing in 1981.

The figures for 1982 are not solid yet but $13.3 billion in new budget authority was appropriated for housing programs. HUD already had about $3 billion in carryover authority from 1981 that was combined with the 1982 appropriations and was able to obligate around $16.5 billion in 1982. Redtape, a slow market, and the administration's hostility to the assisted housing programs, among other reasons, will keep those obligated funds from actually being used. Due to these problems, HUD plans to recapture about $4.6 billion in housing funds and carry over an additional $2.3 billion so that in fiscal year 1983 about $6.9 billion will be made available from previously appropriated funds. This could mean that HUD may only spend about $10 to $12 billion on housing assistance during 1982—a figure which is woefully inadequate.

In the continuing resolution, the Senate is suggesting that less than $6 billion in new budget authority be appropriated for federally assisted housing in fiscal year 1983. This is less than half of the money we appropriated last year. If HUD does bring forward the $6.9 billion from previous appropriations to 1983 then, given the Senate appropriation level of around $6 billion, HUD would have about 25 percent less money to obligate in 1983 than it did in 1982. If the Senate has its way, those in need of housing assistance will get over $20 billion less this year than they got in 1980. This is a travesty.

It is a travesty especially because the Senate is choosing not to appropriate the full amount of money that is available to assisted housing programs under the budget resolution. I cannot remember when we have appropriated less funds for housing than the budget resolution dictates. Given the pressing unmet needs of low-income people we should allocate every dime that we can responsibly appropriate for housing assistance.

The Federal Government's 45-year commitment to assist low-income people so that they may live in decent, safe, and sanitary housing was initiated by President Roosevelt in 1937. In his inaugural address that year, Roosevelt declared that housing assistance was essential because one-third of the Nation was "ill-housed, ill-clad, and ill-nourished." At that time many Americans were either homeless or lived in substandard housing.

We have accomplished much through our Federal housing programs since 1937. It used to be that 45 percent of all occupied units in the United States were either dilapidated or lacked basic plumbing facilities. That figure has now fallen to well below 10 percent. However, those that now live in substandard housing earn very low incomes. Without significant Federal assistance it is difficult to house these people adequately.

Low-income housing advocates agree that substandard housing is no longer housing's single most pressing issue. Currently, housing affordability is one of the foremost problems. Affordable housing has become a scarce commodity. Not only have mortgage and rent payments increased tremendously over the years, but utilities, taxes, insurance, and maintenance costs have also skyrocketed.

The cost of housing has increased far more rapidly than household incomes. During the decade between 1970 and 1980 median income for owners rose 104 percent—from $9,700 to $19,800—while median home values tripled. More devastating for lower income people is the fact that median renter income rose only 66 percent for that period while median rent increased by 123 percent.

Low-income households have borne a major brunt of the increased cost of housing because their choice of housing opportunities has narrowed. For example, while the number of renter households with incomes below $3,000 per year dropped from 5.8 million to 2.9 million, the number of units available at rents they could afford dropped by 75 percent from about 5 million to less than 1.5 million.

Low-income households—especially large families—also face the problem of housing availability. Availability is a problem either because the supply is inadequate or because of discrimination based on race, income source, family composition, or other factors.

There are about 30 million households who are eligible for low-income housing assistance, but we only subsidize 3.4 million through HUD programs. On Tuesday, the House Housing Subcommittee heard testimony from various groups concerned with the 2 to 3 million homeless persons in America. Testimony shows that the homeless are not only vagrants and dropouts, but are also middle-class people who have suddenly lost everything they have worked for—their jobs, homes, and self-respect—due to Reaganomics.

Funding $9.7 billion in assisted housing could help some of these and tens of thousands of other Americans who need help.

We can help these people if we urge the conferees to the continuing resolution to accept the House assisted housing numbers. If we do any less we are locking thousands of low-income people out of housing during what could become a long, cold winter.

I ask unanimous consent that the letter sent to me by Ed Brooke be included in the RECORD after my remarks. My colleagues should note that the letter is cosigned by members of the Low-Income Housing Coalition. Senator GARN submitted a letter concerning the housing authorization bill

that took up about 17 pages in last Monday's CONGRESSIONAL RECORD because of the 2,700 signatures to that letter. The letter that I am inserting in the CONGRESSIONAL RECORD is also cosigned by those same 2,700 groups. Although I do not want to reproduce those signatures because of space limitations, I urge my colleagues who are interested in knowing the complete list of cosigners of Ed Brooke's letter to peruse pages S 14503 to S 14520 of the CONGRESSIONAL RECORD.

There being no objection, the letter and cosigners were ordered to be printed in the RECORD, as follows:

NATIONAL LOW INCOME HOUSING COALITION,
Washington, D.C., December 15, 1982.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR ALAN: This is an urgent plea to you to support an appropriation of at least $9.7 billion in budget authority for continued low income housing programs in the Continuing Resolution so that the present *de facto* moratorium on low income housing assistance can be ended promptly.

Low income housing was not included in the HUD-Independent Agencies Appropriation Act in order to provide additional time for Congressional action on a housing authorization bill. It is now essential to appropriate 1983 funds for already authorized programs.

This is a time of housing crisis, especially for low income people. New production is at its lowest level in two generations. Rents in the private market are beyond the reach of millions of low income households. An ever-growing number of people are homeless—unable to find any accommodations whatsoever. Almost 20% of all construction workers are unemployed.

Within the last year, the hundreds of public officials and national, state, and local organizations listed below have endorsed expanded federal housing assistance for low income people. We urge you to maintain this nation's commitment to meeting our low income housing needs.

Please give your full support to appropriating the full amount for low income housing programs available under the First Concurrent Budget Resolution.

Sincerely,

EDWARD W. BROOKE,
Honorary Chairperson.

ADDITIONAL SUPPORTERS OF FULL FUNDING FOR LOW INCOME HOUSING PROGRAMS

Consumer Federation of America.
Epilepsy Foundation of America.
National Alliance for the Mentally Ill.
National Association of Religious Women.
National Council of Churches.
National Easter Seal Society.
National Eligibility Workers Association.
National Multi Family Housing Finance Council.
National Multi Housing Council.
National Association of State Mental Health Program Directors.
National Association of State Mental Retardation Program Directors.
National Association/Private Resident Facilities for Mentally Retarded.
National Congress for Community Economic Development.
National Society for Children and Adults with Autism.
Sisters of the Order of the Sacred Heart, Prov. Government.
Women's International League for Peace and Freedom.
Covington County Client Council, Andalusia, AL.
Mustard Seed Housing, Little Rock, AR.
Witness Committee of Ark-Union Presbytery, Batesville, AR.
Gray Panthers of San Francisco, San Francisco, CA.
Long Beach Coalition for a Fair Budget, Long Beach, CA.
Long Beach Gray Panthers, Long Beach, CA.
Action for Bridgeport Community Development, Inc., Bridgeport, CT.
Hartford Neighborhood Housing Coalition, Hartford, CT.
A. Phillip Ranolph Institute, Orlando, FL.
American Legion, Miami, FL.
Callahan Neighborhood Association, Orlando, FL.
City of Melbourne Human Services Department, Melbourne, FL.
Community Coordinated Child Care, Orlando, FL.
Department of Community Affairs, Orlando, FL.
Easter Seal Society, Orlando, FL.
Ladies Auxiliary, V.F.W. 8197, Miami, FL.
Metro Orlando Urban League, Orlando, FL.
Metro Orlando Women's Political Caucus, Orlando, FL.
Mid-Florida Council of the Blind, Orlando, FL.
National Lawyers Guild, Central Florida Chapter, Orlando, FL.
National Organization for Women, Orange County, Orlando, FL.
Orange Fact Tree, Orlando, FL.
People's Rights Organization, Orlando, FL.
South Brevard Sharing Center, Melbourne, FL.
Veterans of Foreign Wars, Miami, FL.
War Resister's League, Central Florida Chapter, Orlando, FL.
Young Women's Community Club, Orlando, FL.
Richmond County Clients Council, Augusta, GA.
Vietnam Vets Against the War, Mid-Atlantic Chapter, GA.
10th-12th District Congress Watch Local, Round Lake, IL.
CRS Center for Community Research and Assistance, Chicago, IL.
The Neighborhood Works, Chicago, Il.
New World Center, Fort Wayne, IN.
Board of World Service, Foster Memorial Church, UCC, Springfield, MA.
Roxbury Action Program, Inc., Roxbury, MA.
Auburn Housing Authority, Auburn, ME.
Bar Harbor Housing Authority, Bar Harbor, ME.
Bath Housing Authority, Bath, ME.
Brewer Housing Authority, Brewer, ME.
City of Saco, Saco, ME.
Community Development Office, Fort Kent, ME.
Ellsworth Housing Authority, Ellsworth, ME.
Farmington Community Development, Farmington, ME.
Fort Fairfield Housing Authority, Fort Fairfield, ME.
Old Town Housing Authority, Old Town, ME.
P.O.W.E.R., Bangor, ME.
Presque Isle Housing Authority, Presque Isle, ME.
Sanford Housing Authority, Sanford, ME.
Southwest Harbor Housing Authority, Southwest Harbor, ME.
Van Buren Housing Authority, Van Buren, ME.
Waterville Housing Authority, Waterville, ME.
Westbrook Housing Authority, Westbrook, ME.
Michigan Community Action Association, MI.
Michigan United Labor, MI.
Grenada N.A.A.C.P. Chapter, Grenada, MS.
Cherry Community Organization, Inc., Charlotte, NC.
N.E. Participating Partnership, Inc., NH.
New England Nonprofit Housing Development Corp., NH.
Northeastern Community Housing, Inc., Concord, NH.
Gray Panthers of Santa Fe, Santa Fe, NM.
Pax Christi New York, New York, NY.
Tap, Inc., Troy, NY.
Allentown Salvation Army, Allentown, PA.
Amalgamated Clothing & Textile Workers, Eastern PA, Allentown, PA.
Bethlehem Salvation Army, Bethlehem, PA.
Coalition of Religious and Civic Organizations, Allentown, PA.
Community Action Committee of the Lehigh Valley, Allentown, PA.
Community Commitment, Inc., Allentown, PA.
Community of Neighborhood Organizations, Allentown, PA.
Confront, Inc., Allentown, PA.
Easton Area Neighborhood Centers, Inc., Easton, PA.
Eastern Housing Needs Committee, Easton, PA.
Easton Salvation Army, Easton, PA.
Episcopal Diocesan Urban Caucus, Allentown, PA.
Head Start of the Lehigh Valley, Inc., Allentown, PA.
International Ladies' Garment Workers, Local 111, Allentown, PA.
International Ladies' Garment Workers' Union, Easton, PA.
Keenan House, Allentown, PA.
Lehigh County Council of Churches, Allentown, PA.
Lehigh County Labor Council, AFL-CIO, Allentown, PA.
Lehigh Valley Sierra Club, Allentown, PA.
Lehigh Valley Human Needs Coalition, Allentown, PA.
Lehigh-Pocono Committee of Concern (LEPOCO), Allentown, PA.
Lehigh-Valley Committee Against Registration and Draft, Allentown, PA.
National Association of Social Workers, Lehigh Valley Chapter, Allentown, PA.
Pennsylvania Public Interest Coalition, NE Office, Allentown, PA.
Pennsylvania Social Services Union, Local 668, Allentown, PA.
Pinebrook Services for Children and Youth, Allentown, PA.
Planned Parenthood of Northampton County, Northampton Co., PA.
Project of Easton, Inc., Easton, PA.
Rape Crisis Council, Inc., Allentown, PA.
Religious Society of Friends, Lehigh Valley, Allentown, PA.
South Bethlehem Coalition, Bethlehem, PA.
South Mountain Area Residents and Taxpayers, SMART, Allentown, PA.

Turning Point of the Lehigh Valley, Inc., Allentown, PA.
Unitarian Church Social Action Committee, Allentown, PA.
United Auto Workers Local 677, Allentown, PA.
United Food and Commercial Workers, #1357, AFL-CIO, Allentown, PA.
United Steelworkers of America, #9 Legis/Educ Comm, Allentown, PA.
Operation Push, Chattanooga, Chattanooga, TN.
Houston Interfaith Hunger Coalition, Houston, TX.
Texas Alliance for Human Needs, TX.
Vermont Tenants, Inc., Burlington, VT.

IRS TAXPAYER ASSISTANCE PROGRAMS

Mr. LEAHY. Mr. President, I would like to discuss a provision that was included in the Treasury, Postal Service, and General Government portion of the continuing resolution during yesterday's full committee markup and ask the chairman of the Treasury Appropriations Subcommittee, Senator ABDNOR, to clarify the intent of the language.

Senator ABDNOR, it is my understanding that the committee restored $33.8 million to the taxpayer service and returns processing account, primarily to restore all taxpayer assistance programs, activities, and personnel levels to 1982 levels. Was that the principal intent of the committee recommendation?

Mr. ABDNOR. Yes.

Mr. LEAHY. I note that the language in section 120 of title I of the continuing resolution focuses primarily on retaining fiscal year 1982 staffing in the taxpayer services program during fiscal year 1983, especially in the toll free telephone tax assistance and taxpayer walkin assistance programs. I want to make sure that, although the focus of the language in the bill is on "positions", that the clear intent of the committee was to preserve the toll free telephone and walkin assistance programs at the same level of service that was available to taxpayers in the last tax filing season. Was that the intent of the committee in recommending the language in section 120?

Mr. ABDNOR. Yes, our intention was to preserve toll free telephone service to answer taxpayers' tax law questions and walkin assistance at IRS field offices, as well as the main offices, at the same level of service that was available in the last tax filing season.

Mr. LEAHY. So the intent of the language was not only to preserve staffing levels in the taxpayer assistance program, but to restore the funding required to do that as well as to maintain the level of taxpayer services, especially toll free telephone tax law assistance and walkin assistance at all the locations at which these services were available during the last tax filing season.

Mr. ABDNOR. Yes, that was the committee's intent.

Mr. LEAHY. Thank you for that clarification.

FEMA AMENDMENT

Mr. KENNEDY. Mr. President, let me commend Senator PRYOR for offering this amendment. As he indicated in his statement, this amendment would restore a provision included in the continuing resolution in the House, but dropped by the Senate appropriations committee.

This program would funnel $50 million to private charitable organizations in our Nation to support them in their efforts to feed and house the very needy, The homeless and the unemployed. These funds would be allocated through the United Way of America to local nonprofit charitable agencies to supplement their effort to meet the local needs for shelter and nutrition.

Let us not be mistaken about the need for this program. Only last month, the U.S. Conference of Mayors urged President Reagan to provide 10 times this amount to help feed and shelter the poor this winter. They have recognized, as we should today, that the yeoman efforts of the private charitable and religious organizations simply cannot meet the tremendous growing needs of the poor—that State and local resources are not sufficient to shoulder the remaining need—that, without Federal aid in support of their efforts, people in our largest cities nationwide will starve and freeze this winter.

Anywhere from 500,000 to 2 million individuals are homeless in America today. Some are the traditional "street people"—individuals with addictions of some sort, psychological difficulties or other personal problems. Many more are victims of the current depression—the "new poor" and the "new unemployed." These are individuals and families that had good jobs; some owned their own homes and businesses; many moved to the south and west in hopes of better jobs and business opportunities. In too many cases, the hopes proved to be misplaced and too many times families found themselves out on the streets.

The statistics and the stories reflect the desperate need of these unfortunate Americans and of the organizations trying to help them.

In San Francisco, 2,000 people eat daily at the St. Anthony dining room—1,000 more than 3 years ago. Local charities reported at 28 percent rise in demand for help in the past year.

Here in Washington, the number of people fed by the Luther Place Church has doubled in a month. In Atlanta, eight individuals showed up in October when two churches opened a soup line. A month later, attendance was 125 a day.

According to Brother Steve Gilko of a Milwaukee meals program: 5 years ago, 95 percent of the people the program served were "clinically addicted." Today 70 percent are homeless and jobless people—out on the streets because of economic and political forces.

The facilities to provide for the poor are simply overtaxed. In New York City, public and private shelters can house only 4,000 to 5,000 individuals—while 36,000 individuals are homeless. In my own State of Massachusetts, Boston emergency shelters possess 600 beds for 8,000 people. Cities all across the Nation show similar numbers: In Washington, D.C., there are 10,000 homeless; in Baltimore, there are 9,000; and in Seattle there are 5,000. Even cities in the Sun Belt, like Phoenix, Houston, and Atlanta, have seen the problem mushroom.

In our haste to create jobs and to turn our economy around, let us process the compassion and humanity to help these victimized by this cruel depression. Let us not ignore the plight of James Thom and his family, who lost their business and home in Minnesota and are now stranded homeless and destitute in Denver. Or of Dan Hancock who lost his job in Newark and drifted to Texas and then to California and then to North Dakota and then to Oregon. Looking for a job that never came. And let us remember the fate of 7-month-old Holly Reed, who froze to death on the streets of Denver sleeping with her parents.

Mr. President, a jobs program must not only address the need for new jobs; it must address the needs of those that have lost their jobs. This amendment does just that. I intend to vote for it and urge my colleagues to join me.

● Mr. MATTINGLY. Mr. President, I am submitting for the RECORD a letter from Senate Parliamentarian Robert B. Dove, dated December 17, 1982. I wanted this response to an inquiry which I made of the Parliamentarian to be of record, especially in the context of the Senate proceedings and the forthcoming House-Senate conference on House Journal Resolution 631, and in reference to an item earlier placed in the RECORD by Senator DECONCINI relating to Senate rule XV, paragraph 5, and rule XVI.

U.S. SENATE,
OFFICE OF THE SECRETARY,
Washington, D.C., December 17, 1982.

Hon. MACK MATTINGLY,
U.S. Senate, Washington, D.C.

DEAR SENATOR MATTINGLY: You have raised the question as to whether or not a point of order against the committee amendment dealing with the copyright royalty tribunal would still be valid in spite of the fact that the amendment itself has been agreed to. As Senate Procedure says on page 799:

"It is too late to make a point of order against an amendment to a general appropriation bill after it has been agreed to by the Senate."

Therefore no point of order will lie at this point on the amendment.

Sincerely,

ROBERT B. DOVE,
Parliamentarian.●

INTERNAL REVENUE SERVICE TAXPAYER ASSISTANCE PROGRAMS

● Mr. COHEN. Mr. President, I rise in support of the provisions of the continuing resolution, which prohibit the reduction of positions for the Internal Revenue Service taxpayer assistance programs below fiscal 1982 levels, and specifically require the IRS to provide toll-free telephone and walk-in assistance this fiscal year.

Most taxpayers need help to accurately complete their tax returns. For those who cannot afford commercial assistance, particularly elderly and low-income taxpayers, the IRS has been the traditional source of free advice. In the past, the IRS offered a generous taxpayer service program. A toll-free telephone network, which provided quick-question assistance and walk-in facilities, accessible to most taxpayers who wanted more personalized or detailed help, opened the IRS to the public. In fiscal 1981, 36 million taxpayers called the IRS, and 8.7 million visited offices to request help with their returns.

In fiscal years 1982 and 1983, however, actual and proposed reductions in the IRS taxpayer service program—which cut funding by 10.2 percent, staff years by 41 percent, and, most significantly, the number of taxpayers assisted by 60 percent—threaten to undermine the IRS commitment to taxpayer assistance and contradict its long-established policy. The IRS has projected a decrease in the number of taxpayers assisted from 44.8 million in fiscal 1981 to only 17.9 million in fiscal 1983, despite an increase in the number of tax returns filed.

While the actual reductions in taxpayer service last year resulted in the closing of 214 walk-in offices around the country, the impact of the administration's proposed reductions for this year's program, if implemented, promise to be even more severe. The taxpayer service program, according to the fiscal 1983 IRS budget submission, would be refocused to "concentrate on answering questions and resolving taxpayer problems once the return has been filed." Under this new policy, the toll-free telephone program, considered the most efficient and cost-effective source of assistance, would supply only after-the-fact answers to account and notice questions, even though more than half of the calls the IRS received last filing period were questions about tax laws and return preparation.

What I find most disturbing about this proposal to reduce taxpayer service is that the IRS has not fully evaluated the potential impact of such a shift in taxpayer assistance policy. Will a cutback in IRS assistance disproportionately affect certain taxpayer groups? Will reduced assistance hurt compliance with our tax laws? What impact will strengthening IRS enforcement capabilities at the same time that taxpayer assistance is being reduced have on the public's perception of the IRS? What are the alternatives?

Even more disturbing, however, are the answers. The Governmental Affairs Oversight of Government Management Subcommittee conducted a hearing this past March to examine the impact of the administration's proposed budget for taxpayer service and addressed these specific questions in its July report. The subcommittee found that reductions in taxpayer service below fiscal 1982 levels would: adversely affect elderly and low-income taxpayers.

Based on evidence and testimony presented, the subcommittee determined that the actual and proposed reductions in IRS taxpayer assistance programs would hurt those least able to fend for themselves: The low-income and elderly. IRS reports reviewed by the subcommittee indicated that 90 percent of the taxpayers who sought IRS direct-preparation and review assistance—the programs which were cut last year—were low-income and elderly.

New data compiled by the General Accounting Office confirm that low-income and elderly taxpayers also make up a high percentage of those taxpayers who call the IRS for tax law assistance—the program slated to be cut this year. Based on a nationwide survey of taxpayers who filed 1982 returns, the GAO found that individuals age 65 and older used telephone assistance in greater proportion than did most other groups and would therefore be disproportionately affected by the cut. While not all elderly and low-income taxpayers have complicated returns, they often are entitled to certain tax breaks, which, without IRS assistance, they might not utilize.

HURT VOLUNTARY COMPLIANCE

By abdicating its responsibility to help taxpayers prepare their returns, the IRS would increase the likelihood of noncompliance. The American tax system is founded on the principle of voluntary compliance. The effectiveness of our tax system depends on the taxpayer's ability to understand the law and willingness to pay what he or she owes. Without free tax assistance, the subcommittee found that more taxpayers will be less able to file accurate returns, which subsequently will result in a huge revenue loss.

The GAO also determined from its survey that reductions in taxpayers service would hurt compliance with our tax laws. When asked what action they would take if the IRS no longer answered tax questions, 14 percent of the taxpayers sampled said they would give some consideration to not filling out part of the tax form on which they had questions, but would fill out the rest of the form and send it in, 6 percent of the responses said that they would consider not sending the tax form.

The IRS itself anticipated these consequences: A November 1976 IRS study concluded that "many taxpayers would not or could not comply with the law without its assistance", a followup IRS study in December 1977 found that the examination rates for service-prepared returns were lower than third-party and taxpayer-prepared returns; and October 1981 memorandum from IRS Commissioner Roscoe Egger to Treasury stated that "potential revenue losses would be great, with widespread deterioration of voluntary compliance possible," if tax law assistance by telephone were eliminated. Commissioner Egger estimated in the memorandum that a 1 percent reduction in compliance costs the Government $4 billion annually.

PROMOTE AN ADVERSARIAL RELATIONSHIP

The subcommittee found that the administration's proposal to reduce taxpayer service at the same time that enforcement activities are to be strengthened would promote an adversarial relationship with the taxpaying public. The IRS is already burdened with a negative public image, perhaps the inevitable consequence of being the Nation's tax collector, but I believe that reducing taxpayer assistance will only make it worse.

Strengthening enforcement at the expense of assistance is a poor policy, as well as public relations, decision. Taxpayers will be punished for making inadvertent mistakes which probably would not have been made, given the assistance. I am concerned that the administration's proposal runs the risk of undermining the integrity of our tax system.

PROVIDE INADEQUATE ALTERNATIVES

If the administration's goal is ultimately to pass the responsibility of providing taxpayer assistance from the IRS to the private sector, then it is incumbent on the IRS to enforce its tax preparer penalties to ferret out "fly-by-night" operations. According to a GAO report soon to be released, however, the tax preparer penalties, which were strengthened in the 1976 Tax Reform Act, are not being enforced in a systematic and effective manner.

Aside from the fact that many taxpayers may not be able to afford commercial assistance, there is even some question whether commercial preparers could, or would want to, assume the IRS's taxpayer assistance responsibilities. Former IRS Commissioners Donald Alexander and Jerome Kurtz, now tax practitioners in the private sector, testified at the March hearing that commercial assistance will not be

able to compensate for the reductions in telephone assistance. In addition, a tax consultant, claiming to have made a "very good living off the complexities of the tax laws," wrote to me:

If the IRS feels that people like myself . . . can or want to substitute for the IRS programs, I can assure you that this is not the case. Although I and others like me would certainly answer an occasional question by telephone, there is not, nor can there be, a private sector equivalent to the IRS telephone program.

As a substitute for personal telephone assistance, the IRS plans to expand the use of the Tele-Tax Information Service, which provides prerecorded tax information to taxpayers who have Touch-Tone telephones. In Maine, however, less than 30 percent of the telephones are Touch-Tone. For those who can use the new automated system, the subcommittee found that the information provided is no more understandable than the IRS publications. If a taxpayer cannot understand written instructions, he or she is certainly not going to understand them over the telephone.

The subcommittee concluded from its review that the proposed reductions in the IRS taxpayer assistance programs would be costly to taxpayers who depend on the IRS for free assistance, and to the Government, which depends on these taxpayers to voluntarily pay their taxes. The subcommittee recommended in its report that the IRS taxpayer service program be maintained at fiscal 1982 levels. A balanced taxpayer assistance program would maximize the number of taxpayers to be assisted and address the special needs of low-income, elderly, and physically handicapped taxpayers.

The Appropriations Committees agreed with our recommendation and voted to restore $50 million and 1,675 positions for taxpayer service in fiscal 1983. The legislative reports issued by the Treasury Appropriations Subcommittees emphasized the need to maintain the toll-free telephone program and an adequate level of walk-in assistance. The Senate report, 97-547, stated that tax law assistance by telephone is "one of the most effective IRS services in helping taxpayers attempt to comply with our complex tax laws." Similarly, the House report, 97-854, recognized the adverse impact of reducing taxpayers assistance and stated that it is "a vital element in maintaining voluntary compliance."

To date, however, the IRS has taken no steps to implement its taxpayer service program, despite the funds provided by the House and Senate Appropriations Committees. Consequently, the IRS has not only lost the opportunity to improve upon last year's program, but, by its own admission, has lost the staff to provide as good a program. Any further delay will only reduce the start-up time required to implement an effective program.

To its credit, the IRS has developed a new, simple tax form, the 1040EZ, which can be used by single taxpayers with no dependents and incomes of less than $50,000 a year. Simplifying the tax form, however, does not simplify the tax law which is at the root of the problem. As it is unlikely that the U.S. Tax Code, which now exceeds 2,000 pages, will be drastically simplified in the near future, taxpayers are going to continue to need assistance in completing their tax forms. The $50 million investment in taxpayer service is small compared to the $330 billion that the phone lines and walk-in offices help to collect.

Mr. President, I want to praise the work of Senators ABDNOR and DECONCINI and Representatives ROYBAL and MILLER, the chairmen and ranking minority members of the Senate and House and Treasury Appropriations Subcommittees, for recognizing the need for IRS taxpayer assistance and providing the funds and staff to preserve this program.

● Mr. WEICKER. Mr. ANDREWS, it is my understanding the House of Representatives has provided $100 million for the rehabilitation and replacement of 210 bridges which overpass the northeast corridor improvement project, under title II, the job stimulus program.

Mr. ANDREWS. Yes, Mr. WEICKER, you are correct that the House has provided $100 million for bridges which overpass the Northeast corridor improvement project.

Mr. WEICKER. These 209 bridges, of which 64 are in my State of Connecticut, are distinguished by the fact that neither Amtrak nor the States accept the responsibility for their upkeep and maintenance, because the ownership of these bridges cannot be determined from the legislation or deeds which provided for Amtrak's acquiring the right-of-way of the Northeast corridor. The result has been, therefore, that rehabilitation needs are addressed as emergencies occur, with repair costs being subject to lengthy battles among the States, Amtrak, and local communities. Consequently, these bridges have fallen into a severe state of disrepair. Would you agree that these bridges constitute a potentially serious hazard to the affected communities and to rail passengers who utilize Northeast corridor passenger service?

Mr. ANDREWS. Yes, I would agree with the Senator from Connecticut, Mr. WEICKER, that the condition of these bridges in the context of the unresolved jurisdictional question do pose potentially serious hazards to affected local communities and to rail passengers who utilize Northeast rail service on the Northeast corridor.

Mr. WEICKER. Given the unique status of these so-called orphan bridges, the millions of dollars that have been spent on rehabilitating the Northeast corridor, the limited budgets of the States and Amtrak, and the need to address this critical safety problem, would you consider supporting funding under the jobs stimulus program in conference?

Mr. ANDREWS. While I cannot speak for the conferees on this matter, I assure the Senator from Connecticut that I am concerned about this critical issue and will consider support of it when brought to the attention of the conferees.

Mr. WEICKER. I thank the Senator from North Dakota for his assistance and consideration of this very critical bridge problem.

Mr. ANDREWS. I also thank the Senator from Connecticut for bringing this matter to my attention and appreciate his strong concern for these "Orphan Bridges".●

INCREASED FUNDING FOR DRUG ENFORCEMENT

Mr. THURMOND. Mr. President, I strongly support the Department of Justice's amendments to the fiscal year 1983 budget. In particular, I support the new program proposed by the President which will sharpen our attack on organized narcotics trafficking.

Mr. President, I have discussed this amendment with the distinguished ranking minority member of the Judiciary Committee, Senator BIDEN, who has championed the fight against drug trafficking for quite some time and is an expert in this area, and he has indicated to me that he will also support this new effort.

The organized crime drug enforcement program, as it is called in the amendment, includes the creation of a major new enforcement initiative. Furthermore, it includes a Presidential Commission and a project which enlists the 50 State Governors in a united campaign against drug trafficking and organized crime.

In essence, the organized crime drug enforcement program creates 12 new regional task forces, in addition to the one that already exists in south Florida.

The primary purpose of these task forces will be to disrupt the intricate distribution and sales networks set up by organized criminal enterprises engaged in drug trafficking throughout the Nation.

The Regional Task Forces will operate out of core cities and they will concentrate on the involvement of organized crime in the illicit drug market. They will not focus on street dealers nor addicts but on those who direct, supervise, and finance the illicit drug trade.

Everyone in this Chamber knows the seriousness of the drug trafficking problem. Drug trafficking has become the most serious crime problem facing this Nation. Drug abuse is the root

cause of an enormous amount of violent crime and other serious crime. In addition, the proceeds from drug sales enable organized crime to engage in a wide variety of other serious crimes, including the bribery of public officials, the infiltration of legitimate business and a number of other schemes which weaken key sectors of the economy.

Recent estimates indicate that the profits from the sale of drugs exceed the profits of all major U.S. companies. Illegal drugs have generated an estimated $79 billion in retail sales in 1980, up 50 percent from 1977.

In my home State of South Carolina, State and local arrests for drug abuse violations have increased by more than 30 percent.

Indicators for the Southeastern part of the United States show the problem has reached epidemic proportions. Heroin-related injuries have increased by 76 percent. Cocaine-related deaths have increased by 80 percent. Smuggling of multikilo loads of cocaine from South America via private aircraft now rivals marihuana smuggling as the Drug Enforcement Administration Atlanta division's single most significant trafficking problem. Almost daily, the Government is discovering numerous landing sites in South Carolina, North Carolina, Georgia, and Tennessee that are being used for major drug smuggling.

These facts are not unique to my part of the country. They are symptomatic of what is taking place in many other parts of this Nation.

Mr. President, it is time we stand up and be counted and declare a real war on organized drug trafficking. In this regard, on two previous occasions the Senate has approved the Violent Crime and Drug Enforcement Improvements Act of 1982, S. 2572, which the President has vigorously endorsed. This landmark measure would make important reforms in Federal bail, sentencing and forfeiture laws and I take this opportunity once again to urge House action on this urgently needed anticrime legislation before the 97th Congress adjourns.

Mr. President, the Senate must unite behind the President in this appropriations proposal and provide the President with all the resources and staff he has requested. In this way, I am convinced we will be taking a major step toward solving this intolerable situation.

The President requires $130 million in fiscal year 1983 for the operation and support of the 12 task forces, including funds for state-of-the-art technological support; $70.3 million is requested for salaries and related expenses, for 1,630 agents, prosecutors, and support personnel; $3.2 million is needed to support air surveillance and intelligence efforts related to the task forces; $18.8 million is required for automation to support the investigations by DEA and the Federal Bureau of Investigation (FBI); $12 million is required to secure communications between FBI agents. I need not indicate how important voice communication privacy is if we are going to make this effort work; $23 million is necessary for the construction and renovation of Federal, State, and local jails and prisons, to provide for up to 1,000 additional beds; and $2.7 million is essential to establish and support the President's Organized Crime Commission, the State Governors' project, and the issuance of the annual report by the Attorney General.

The resources have been requested in a single Justice Department program to allow the Attorney General maximum flexibility in responding to the changing patterns of organized criminal activity by enterprises which traffic in drugs. A single appropriation will be used to fund key elements of the Federal Government's criminal enforcement apparatus, including investigative agencies, Federal prosecutors, and detention and correctional facilities. This comprehensive approach allows the Federal team to respond quickly to all aspects of enforcement needs, whether it involves Customs Service interdiction activities, intensive FBI and DEA investigations, criminal prosecutions, or the holding of sentenced and unsentenced prisoners.

Mr. President, I urge prompt attention to this matter in recognition of the deteriorating effect of drug trafficking on this Nation through violent and property crimes. Furthermore, the real potential of shattering any attempt at relocation of the major smuggling and distribution activities as a result of the success of the south Florida task force makes rapid passage of this amendment even more imperative.

I conclude by calling to your attention that drug-related crimes take human lives and cause immeasurable human suffering. As we draw near to another holiday season and give thanks for the many blessings this Nation does enjoy, let us not forget that for the sake of our children and our people we must renew our fight against the drug menace. Let us join with the President in making our streets and houses safe again and return America to the days of respect for law and the rights of the innocent.●

SENATOR CRANSTON'S AMENDMENT FOR THE DISABLED

● Mr. HEINZ. Mr. President, I rise in support of the Cranston amendment, I urge support of this resolution, Congressional Support of Programs for Handicapped Persons, not only because of my personal commitment to these programs, but also because of my own knowledge of how children and adults with disabilities have benefited. Less than 10 years ago a severely disabled child was often denied the right to attend school. Today, excluding these children is against the law.

People with disabilities—and there are over 30 million such persons in our country—have made major gains in the last decade. These gains have ranged from securing the right to an education to better vocational rehabilitation services; from being able to live in a community setting rather than an institution; from being barred from public buildings, to being able to participate in public life. Most of these major gains have one fundamental common denominator—the central and crucial role of Federal programs and services.

Central to the gains persons with disabilities have made in the last decade is the notion that the person with a disability is always a potentially contributing member of our society; that too often our system has fostered dependency and with dependency came the status of second-class citizenship, and often the denial of basic human rights.

The movement to secure equal treatment for persons with a disability did not originate with the Congress; the movement to increase independence and to enable disabled persons to contribute to society did not originate in the Oval Office. This dual movement to secure equal citizenship and social productivity originated with persons with disabilities themselves and their families and friends.

The example of their struggle prompted Members on both sides of the aisle, Republican and Democrat, to promote key legislation during the 1970's, legislation that literally made a major difference to millions of persons with disabilities.

We have a long way to go to help fulfill the aspirations of one of America's largest minority groups, yet in the last 2 years we have witnessed an attempt to reduce these appropriations and indeed to undercut these programs in significant ways. Some of this has already been accomplished. Across the land people with disabilities are viewing these actions as an assault on important gains won over the years. The administration's attempts to deregulate and strip away important provisions of special education and the section 504 regulations can be seen as fundamentally inconsistent with the promotion of independence and self-help.

The time has come for the Congress to reaffirm once again its historical commitment in this area. Most of my colleagues have continually supported cost-effective and progressive legislation on behalf of disabled persons. To retreat now from our historic achievements would cost the taxpayers of this

country increased dollars for increased dependency. Worse still, a retreat from our commitment will mean a return to second-class citizenship which we cannot afford, neither fiscally nor morally.

● Mr. HOLLINGS. Mr. President, the distinguished ranking minority member of the Committee on the Judiciary, Mr. BIDEN, has written to me of his interest in securing accurate information on the success of the 12 task forces that we are funding in this bill to fight organized criminal drug trafficking. He has similarily written to the chairman of our State, Justice, Commerce Subcommittee, Mr. WEICKER, and we have conferred and find much merit in obtaining the information Senator BIDEN seeks. Because of the expedited schedule for processing this bill, we were not able to confer with Senator BIDEN before reporting the bill, or I would have asked that the report he seeks be part of the explanatory statment accompanying the bill. I will ask the managers from the House to make provision for this report in the Statement of the Manegers accompanying the conference report on House Joint Resolution 631. Does not our distinguished chairman agree that we ought to have this information?

Mr. WEICKER. I certainly do and I believe that our colleagues from the House will also appreciate the merit of Senator BIDEN's request.

Mr. HOLLINGS. I am glad to have those assurances from our chairman and Mr. President, I ask that Senator BIDEN's letter to Senator WEICKER be printed in the RECORD at this point.

The letter follows:

U.S. SENATE,
COMMITTEE ON THE JUDICARY,
Washington, D.C., December 15, 1982.

Hon. LOWELL P. WEICKER, Jr.,
Chairman, Subcommittee on State, Justice, Commerce, Judiciary and Related Agencies, Washington, D.C.

DEAR LOWELL: As the ranking member of the Senate Judiciary Committee I have been reviewing with great interest the newly announced Organized Crime and Drug Task Force Program. Like many of my colleagues I believe it is important that these additional funds be made available in hopes of improving the fight against drug trafficking and organized crime.

I also believe that accurate information on the level of success of this Task Force Program be made available on an annual basis. There is much that can be learned from the creation of this Task Force Program and it is imperative that specific data and information be collected, analyzed and included in an annual report to the President and Congress.

For these reasons I request that the language noted below be included in the conference report on the Continuing Resolution under the appropriate section concerning the Organized Crime and Drug Task Force Program.

"The Committee believes an annual report should be delivered to the President, the Appropriations Committee and Judiciary Committee of the Senate and the House of Representatives starting no later than March 31, 1984, which indicates by comparison to similar statistics, information or other appropriate measures from previous years, whether this program has made contributions toward:

"(1) reducing the supply of available hereoin, cocaine marihuana, hashish and dangerous drugs in each of the task force regions and the United States in total using such measures as estimated importation or production, estimated number of abusers, treatment admission statistics, overdose death figures, price and purity of drug sales at the consumer or 'street' level;

"(2) increased seizure and forfeiture of assets of drug traffickers, including a breakdown of the types of assets seized and/or forfeited;

"(3) arrests and convictions of drug traffickers by violator type;

"(4) volume of drugs seized or confiscated by type;

"(5) estimates on the number of organized drug trafficking organizations that are dismantled and/or the extent to which their organizational structure has been damaged by this program; and

"(6) other indicators deemed appropriate by the Attorney General to analyze the level of success of these task forces.

"This report should also include an explanation of the guidelines established and examples of task force jurisdictions that exemplified successful law enforcement and prosecution efforts based on information exchange, allocation of resources, coordination between agencies (federal, state and local) and other indicators that may serve as a model for improved task force programs."

I appreciate your support and assistance in this effort.

Sincerely,

JOSEPH R. BIDEN, Jr.,
Ranking Minority Member.●

EDGEMONT

● Mr. ABDNOR. Mr. President, the committee report on S. 3079, the Energy and Water Development Appropriation bill, 1983, directs the Secretary of Energy to provide up to $1,000,000 to complete the necessary remedial action work at offsite locations in the vicinity of the TVA mill site at Edgemont, S. Dak.

It is my understanding that the committee expects the Department of Energy to complete this project during the 1983 construction season.

Mr. HATFIELD. The Senator is correct. Provided the necessary authorizing language is enacted, it is the intent of this committee that the Edgemont remedial action project be completed during the next construction season with funds appropriated for the remedial action program in fiscal year 1983.

HYBRID GEOTHERMAL-WOOD ELECTRIC POWER PROJECT

Mr. CRANSTON. Mr. President, would the distinguished floor manager of the conference report yield for an inquiry?

Mr. HATFIELD. I would be happy to yield to the senior Senator from California.

Mr. CRANSTON. I thank the Senator. In reviewing the Senate report on the 1983 Energy and Water Development Appropriation bill, I noted that the Appropriations Committee agreed to provide additional funding for the geothermal-wood electric power project near Susanville, Calif.

Mr. HATFIELD. The Senator is correct. The committee's recommendation included $2,500,000 to complete final preconstruction work on the so-called "hybrid" project. The Department of Energy, the Forest Service, the State of California, and a private company have been jointly developing this project to produce electricity from moderate temperature geothermal fluids and waste wood. The committee felt that successful demonstration of this hybrid process will dramatically increase the temperature range over which geothermal energy can be used to produce electricity.

Mr. CRANSTON. As the Senator from Oregon knows, this project is at a critical stage of development. Three years of feasibility study have been completed and private financing has been arranged for construction of the facility. However, $2,500,000 in "interim" financing must still be located before construction can commence. The Appropriations Committee properly recognized that the Department of Energy's geothermal research budget is the only realistic source of such interim financing.

I understand that the 1983 Energy and Water Appropriation bill is not likely to be enacted for several months, if at all. In light of that fact, I wonder if the Senator can tell me what steps will be taken to insure that the $2,500,000 becomes promptly available for the hybrid project.

Mr. HATFIELD. Under the provisions of this resolution, DOE's geothermal research and development program will be funded during the lifetime of the resolution at the current level. This level of funding is sufficient to permit $2,500,000 to be made available for the hybrid project. Furthermore, I intend to work closely with Secretary Hodel, Representative BEVILL, and others to provide adequate direction to the Department so that important projects, such as the one we are discussing, are not unduly delayed due to the absence of the regular appropriation bill.

Mr. CRANSTON. I thank the floor manager for his assurances.

Mr. HATFIELD. I am happy to be of assistance. Like the Senator from California, I recognize the enormous potential of the geothermal-wood hybrid process. I look forward to seeing its rapid and successful demonstration.

Mr. ABDNOR. Mr. President, I would like to engage the distinguished chairman of the Appropriations Committee in a colloquy concerning funding for the WEB water system in my State.

As the chairman knows, I persuaded the committee to add to the fiscal year 1983 Appropriations for Energy and Water $3 million for this important project.

Our colleagues in the House provided no funding for WEB, but I have spoken personally with both the chairman and ranking minority member of the House Energy and Water Subcommittee and had been very hopeful that they would consent in conference to the provision of these funds.

Unfortunately, we will not get the opportunity to go to conference on the regular fiscal year 1983 bill, since the House has not taken it up and we will be passing the continuing resolution instead. The continuing resolution will fund all programs at the current level. The House resolution would extend current funding through March 15, and the Senate measure would extend funding through September of next year.

It is my understanding that the House committee may process a fiscal year 1983 energy and water appropriations bill next year, so that projects like WEB do not miss the construction season. Is that correct?

Mr. HATFIELD. My colleague from South Dakota is correct.

Mr. ABDNOR. I thank the chairman for his comments, and may I inquire further, does he believe the $3 million provided for WEB in our bill can be maintained?

Mr. HATFIELD. I cannot speak for the other body, but as for the Senate committee, my colleague from South Dakota has been very persuasive and I believe we have a good chance to retain funding for WEB.

I might also point out that the committee's explanatory statement accompanying the continuing resolution directs the Bureau of Reclamation to heed the instructions contained in the House and Senate reports on the fiscal year 1983 energy and water appropriations. The Senate report directs that $3 million be provided for WEB, and we expect that the Bureau will do so.

Mr. ABDNOR. I thank the chairman very much for his assurances. This project is very important to my State; our construction season is very short, and it would be a shame to see the project delayed due to the inaction of Congress. I am pleased to have the chairman's assurances that the project will not be delayed.●

RADIO MARTI

● Mr. SYMMS. Mr. President, I ask to have printed in the RECORD the following speech relating to United States-Cuban policy and Radio Marti.

The speech follows:

SOVIET INTERVENTION IN CENTRAL AMERICA AND THE CARIBBEAN—FOREIGN AFFAIRS RESEARCH INSTITUTE SECOND ANNUAL WORLD BALANCE OF POWER CONFERENCE

(By Ambassador J. William Middendorf II)

Two decades after the Cuban missile crisis, Soviet political and military intervention in the vital Caribbean/Central American area—which includes some two dozen developing nations in Central America, the Caribbean, and northern rim of South America—continues to seriously concern U.S. and other western policy makers. The recent resurgence of Soviet activity, directed mainly through Cuba, spells a threat to the security of the Western Hemisphere as great as any since the 1962 missile crisis. From my perspective on the Western Hemisphere as Ambassador of the United States to the Organization of American States, I would like to take this opportunity to briefly outline the dimensions of this threat, discuss the U.S. government response to it, and offer my thoughts about cooperative measures to combat this challenge.

THE CUBAN CONNECTION

Perhaps the most conclusive evidence of the Soviets' increased interest in the Caribbean Basin is their dramatic expansion of the military forces of Cuba, far beyond previous high levels. Although Castro's per capita military effort is already several times greater than any other Latin American state, last year the Soviet Union's shipments of military equipment to Cuba tripled—reaching the highest level since the 1962 missile crisis. Today, this small communist nation boasts 225,000 men under arms, 200 MIG fighters, 650 tanks, and 90 helicopters. Clearly, this mammoth scale of armament cannot be justified in terms of self-defense. The 63,000 tons of war supplies imported from the Soviet Union in 1981 and the arrival this year of a second squadron of MIG-23/FLOGGERS have added substantially to an air, land, and sea arsenal that was already the area's most powerful. To assure that Cuba's weak economy can support that vast arsenal, total Soviet aid has soared to $9 million a day or $3 billion annually, one fourth of the island's total GNP. In December, 1979, at a time when Soviet oil deliveries to Eastern Europe were being cut back and prices raised, Castro announced that the Soviet Union had guaranteed Cuba's oil needs through 1985 at a price roughly one-third that of the world market. The Soviet Union also pays up to four and five times the world price for Cuban sugar.

As we all know, the investment in Cuba is being exploited to great advantage by the Soviet Union. Cuba has long provided the cannon fodder for Soviet ambitions in Africa. Closer to the United States, we have other significant object lessons. It should be no secret that equipment is being transshipped to Nicaragua and the rebels in El Salvador through Cuban ports. Let us take a closer look at this Cuban-Soviet support of subversion.

NICARAGUA

Developments in Nicaragua since the Sandinista take-over are on the public record. Effectively banning political activity, Nicaraguan leaders now only promise some fashion of elections in 1985 despite statements to the OAS in 1979 that elections would be held promptly. In fact, we have watched with deepening concern as Nicaragua has moved away from pledges of political pluralism toward a repressive, one-party state. Business leaders have been jailed, press and church leaders have been restricted and the large Miskito Indian minority uprooted. An early supporter, The Socialist International, is having second thoughts. The aim of the Nicaraguan leaders seems to be control through political indoctrination and forceful intimidation by creating by far the largest military force ever seen in Central America, a 50,000 man regular army and a 200,000 person militia.

At the same time as Nicaragua greatly expands its army and builds up an inventory of heavy weapons, it also serves as a platform for Cuban/Soviet covert military action. By now there are between four and five thousand Cuban civilian advisors and close to 2,000 Cuban military and security advisors in Nicaragua. These advisors are believed to be serving in key posts throughout the government in which they exert considerable influence. There are also advisors in Nicaragua from East Germany, Bulgaria, North Korea and the Soviet Union to assist in building the Sandinista armed forces. Twenty to 30 Soviet tanks have arrived and more are on the way; approximately 70 Nicaraguans are being trained in Bulgaria as pilots and mechanics. Ground facilities, as we have laid out in great detail for the U.S. press, are being prepared for modern jet fighters. Nicaragua continues to be heavily involved in logistics and other forms of support for the insurgency in El Salvador. All these signs are clear. Encouraged by Cuba and the Soviet Union, Nicaragua is playing a major role as interventionist throughout Central America.

EL SALVADOR

Two years ago, in contrast, the government of El Salvador began an unprecedented land reform. It has repeatedly urged the guerillas to renounce violence, to join the democratic process. Moreover, on March 28 the people of El Salvador provided an incredible demonstration of democratic determination. At least 1.3 million voters, over 80 percent of those eligible, braved the death threats from leftist guerrillas and stood in lines for hours—sometimes with gunfire nearby—to express their will. Then Secretary of State Haig commented on March 29: "The Salvadoran people's stunning personal commitment to the power of democratic vision is an unanswerable repudiation of the advocates of force and violence." The elections in El Salvador represent only the first step in creating representative, constitutionally bound government in that nation. Now comes the work of drafting a constitution leading to presidential elections in 1983. We will look to the new government to move forward with respect to land reform, the creation of democratic institutions, the restoration of the rule of law, and the elimination of human rights abuses by the left and right. Despite the successful elections, El Salvador is not out of danger. The arms supply from Nicaragua still continues.

OTHER COUNTRIES

In addition to Nicaragua and El Salvador, Fidel Castro has also stepped up Cuba's support to guerrillas in Guatemala, Costa Rica, Honduras and Colombia. Recent Cuban subversive efforts in Jamaica and the Dominican Republic, however, have generally been counter-productive. In another prospective Soviet satellite, Grenada, the Cubans are constructing a naval facility and air base capable of handling advanced jet aircraft. Cuba also has installed in Grenada a powerful radio transmitter to increase its capability to beam propaganda throughout Latin America. The Cubans already broadcast 250 hours weekly and are supplemented by 200

hours of Soviet programming. The United States, by comparison, has less than 100 hours of broadcasting each week in the region.

DIRECT INVOLVEMENT

2Besides using Cuba as a surrogate, the Soviets have increasingly tried to become more directly involved in Caribbean and Central American affairs. Almost 10,000 Soviet advisors, military and civilian, are stationed in Cuba. Others, as I previously stated, are in Nicaragua training the local military to use the Soviet arms which have been so generously supplied. A Soviet combat brigade of about 3,000 men is garrisoned a few miles from Havana. The Soviet presence has spread to the surrounding waters of the Caribbean, where two Cuban submarines provided by the Soviets now operate.

STRATEGIC IMPORTANCE OF THE REGION

Why the dramatic upsurge of Soviet interest in the Caribbean region? Primarily because the Soviets recognize that Latin America—especially the Caribbean Basin—is the strategic underbelly of the United States and the Achilles Heel of NATO. In peacetime, 44 percent of all foreign tonnage and 45 percent of all crude oil shipped to the United States passes through the Caribbean. In war, half of NATO's supplies and most of the U.S. reinforcements and petroleum for our forces in Europe would embark from Gulf ports and sail through the Florida straits. The region also is the strategic linchpin between our vital interests in the Atlantic and the Pacific. In shifting forces and supplies between those two oceans, the Panama Canal saves a 7,400 nautical mile trip around Cape Horn. The Soviets recognize, then, that there are strong linkages between a secure Caribbean Basin and our success in implementing our global security policy. If the Soviet presence in the Caribbean Basin continues to expand, every traditional U.S. vital interest—national survival, territorial integrity, economic well-being, and world stability—will be jeopardized to an extent unprecedented in our nation's history.

Further, in a period when the Soviets are increasingly emboldened to show their muscle in Afghanistan and Poland and with their long-term desire of hegemony over Europe and the natural resources upon which it depends in the Middle East and Africa, it serves their interests to increasingly preoccupy us in our own hemisphere, using Cuban and Nicaraguan proxies at very little cost to themselves.

Adding to this Soviet security threat to the Caribbean Basin is the potential for major outflows of refugees if communist regimes succeed in subverting the free countries in the region. The example of Cuba comes immediately to mind. Almost one tenth of the population of Cuba, including 124,000 in the Mariel exodus, have sought refuge in the U.S. since Fidel Castro came to power in 1959. Mariel and its tragic consequences would be dwarfed by comparison if the Central American/Caribbean region succumbs to communism.

THE U.S. RESPONSE

Given such potentially serious consequences to the security of the United States and to the livelihood and freedom of all in the Western Hemisphere, the Reagan administration has given high priority to the region. Our goals are to encourage the social, democratic, and economic development necessary for lasting peace and progress. On February 24, at the Organization of American States, President Reagan announced a new plan—the Caribbean Basin Initiative—to further those goals. Let me summarize briefly the lines of action that President Reagan announced.

SECURITY ASSISTANCE

First, we must make sure that our friends have the means to defend themselves. El Salvador is the most threatened country. We have provided the Salvadoran armed forces with transport vehicles and helicopters to improve mobility, communications for command and control, and coastal patrol craft to halt resupply of the guerrillas. For technical advice on the use and maintenance of that equipment, small teams of U.S. trainers have been working in El Salvador. Their numbers have totalled no more than 55, compared to the approximately 5,000 Soviet military troops and advisors in Cuba. To help improve the combat effectiveness of the Salvadoran army, we have been training Salvadoran officers and soldiers in the United States. A quick reaction battalion organized and trained at Fort Bragg has already been involved in combat operations against the guerrillas in the mountains of northern El Salvador; another battalion is about to complete its training in El Salvador with the assistance of U.S. trainers. In addition, the number of officers in the Salvadoran army doubled with the recent graduation of 477 Salvadoran officer candidates from our infantry school at Fort Benning. It is important to note that the training of all those soldiers stressed the humane treatment of civilians and prisoners and emphasized that maintaining the support of the people is as important as success in battle in counter-insurgency.

However, because our aim is truly peace, we are currently engaged in a dialogue with the Nicaraguan government which began with Ambassador Quainton's delivery of our eight-point plan last April 7. Since then, our two governments have exchanged positions on our mutual concerns and proposals on ways to alleviate them. Our latest proposal was delivered on July 2. Comandante Daniel Ortega of the Nicaraguan junta, speaking on the July 19 third anniversary of the Sandinista takeover, showed the Nicaraguan attitude by once again strongly criticizing the U.S.—as well as the democratically elected governments of El Salvador, Honduras, and Costa Rica.

THE ECONOMIC CRISIS

Second, we are determined to join with others to help provide the Caribbean Basin countries the opportunity to achieve long-term prosperity. Despite occasional fits and starts, most of the Central American Countries and many of the Caribbean islands compiled an enviable record of economic and social change after World War II. Rising export earnings helped cushion even the 1973 oil shock. But in 1978 a serious and generalized deterioration began. Prices for principal export commodities—coffee, sugar, cocoa—started to decline sharply, dropping by two-thirds. Prices for imported oil have increased in the decade by eight times and interest rates on borrowing to meet balance of payments shortfalls have skyrocketed. With slowed economic growth in the industrial world, tourism stagnated. Flight of capital and credit crunches resulted. Some countries are bankrupt. Others are threatened with bankruptcy. The result is a grave, general economic crisis bringing with it misery and despair for many millions of people. As occurs in nature when a once proud animal falls, vultures begin to circle above the hapless victim. The Cuban drive to unify the left and commit it to violence intensifies this economic crisis and creates potential political vulnerability throughout the area. In El Salvador and Guatemala, Cuban-assisted insurgents are destroying power plants, trucks and school buses, bridges and crops and attempting to disrupt trade.

CARIBBEAN BASIN INITIATIVE

To combat this crisis, we are working with Congress on a program consisting of integrated, mutually reinforcing measures in the fields of trade, investment, and financial assistance. The centerpiece of the program is the offer of one-way free trade. Presently the countries in that region already are afforded liberal entry into the U.S. market. Eighty-seven percent of their goods now come into the U.S. duty free. Nevertheless, some of the duties which remain in place are in sectors of special interest to the Basin countries, These duties also limit export expansion of many nontraditional products. The President has requested from Congress the authority to eliminate duties on all imports from the Basin except textiles and apparel. Sugar imports will receive duty-free treatment but only up to a certain limit to protect the U.S. domestic sugar price support program mandated by Congress. A safeguard mechanism will be available to any U.S. industry seriously injured by increased Basin imports. The President has also sought Congressional authorization to grant U.S. investors in the Caribbean significant tax relief to encourage investment.

Additionally, the President has requested an FY 1982 supplemental economic assistance appropriation of $350 million to provide emergency assistance for several key countries whose situation is critical. That will bring proposed FY 1982 economic assistance to $823.9 million or $403 million above FY 1981. The administration's request is for $664.4 million in FY 1983 economic assistance.

PRIVATE SECTOR SUPPORT

The support of the private sector—in the U.S., in third countries, in the Caribbean Basin—will be critical to the success of this effort. Without active private sector backing it will not pass the Congress. Without active private sector participation it will not succeed, once passed. This will be a test case of how government and business can cooperate to spur growth in this vital region.

Private sector transfers in the Caribbean Basin are of major importance. Strikingly, the flow of private financial resources dwarfs official bilateral and multilateral assistance to the region. For example, between 1977 and 1980, for the Hemisphere as a whole, only ten percent of all financial resource transfer was in the form of official assistance. The other 90 percent came from private resources. The countries of the Caribbean Basin suffer desperately from a shortage of private capital needed to spur development. Interventionist government policies, such as uncompensated expropriation or nationalization, impediments to private foreign investment, wasteful import substitution strategies, and excessive government regulation have contributed to this situation.

On the other hand, several economies of the Pacific Basin—notably Taiwan, South Korea, and Singapore—have been financial success stories, even though they possess few natural resources, because of their strong support for the private sector. The have attracted substantial capital for high

technology industries, permitting them to compete in the international export market. The lack of private investment in the Caribbean Basin, by contrast, has left countries in the region dependent on traditional exports of raw materials. The whims of the commodities markets have been especially cruel to them recently, as I mentioned earlier, with drastically declining prices for coffee and sugar and a rising price for oil.

Consequently, many leaders in the Western Hemisphere have come to recognize that outmoded statist models of development are not responsive to the needs of dynamic, developing societies. I was particularly gratified that at last year's meeting of the OAS Inter-American Economic and Social Council a resolution was unanimously adopted formally recognizing the role of the private sector in development and recommending a greater OAS effort to support such a role. And to point to a concrete example, Jamaica under Prime Minister Seaga has begun to rebuild its economy after eight years of socialist mismanagement.

SUPPORT FOR DEMOCRACY

Third, we do not intend to falter in the pursuit of democratic values—for they assure the legitimacy of governments we hope to help. 17 of the 24 countries in the Caribbean Basin now have democratically elected governments. In May we saw Colombians go the the polls in a massive turnout and vote the opposition party into power. Earlier in that month, 74 percent of the voters in a country that was once a model of authoritarianism—the Dominican Republic—took part in an impressive demonstration of civic maturity. Prior to that, Saint Lucia, Costa Rica (in the midst of a brutal economic crisis), El Salvador, and Honduras all held elections with overwhelming 80% turnouts. Moreover, democracy in this troubled region has recently been given valuable impetus with the formation by Costa Rica, El Salvador and Honduras of the Central American Democratic Community—an effort by these democracies to work toward common goals in the region. This endeavor has the strong support of other democracies—Venezuela, Colombia, and, of course, the United States. I find it significant that the increasingly repressive government in Nicaragua has attempted to propagandize against the work of true democracies. Their criticisms of the Central American Democratic Community, however, are falling on deaf ears.

COLLECTIVE MEASURES

Fourth, we are consistently communicating to Cuba that the costs of escalating its intervention in the region will be very high. That is the task of public and private communication. Our underlying message is clear: we will not accept, we do not believe the countries of the region will accept, that the future of the Caribbean Basin is to be manipulated by Moscow through Havana. It must be determined by the countries themselves. Emphasis should be on collective action. In December the Organization of American States voted 22 to 3 with 4 abstentions to support free elections as a means to a political solution in El Salvador and to repudiate the sort of intervention being practiced there by Cuba and Nicaragua. The OAS also voted 19 to 0 to send observers to witness the elections. At the same time, we have suggested that the arms race that now threatens Central America as a result of Nicaraguan imports of heavy weapons and military advisors there should be addressed collectively, perhaps by limiting imports of heavy weapons and military advisors in *all* Central American countries. The government of Honduras has made similar proposals and advanced other useful ideas to its neighbors.

GLOBAL CAMPAIGN FOR DEMOCRACY

Cooperation on a *global* scale can help to ameliorate the long-term problems of the Caribbean Basin. An excellent starting point would be the active participation by all free nations in the growing global campaign for democracy. As President Reagan pointed out in his June 8 speech before the British Parliament, this campaign is intended to foster the vital infrastructure of democracy—the system of a free press, unions, political parties and universities. In the United States, the chairmen and other leaders of the National Republican and Democratic Party organizations are initiating a study with the bipartisan American Political Foundation to determine how the United States can best contribute to the campaign. Also, the Council of Europe is considering a proposal to invite parliamentarians from democratic countries to a meeting next year in Strasbourg to consider ways to help democratic political movements throughout the world, including, presumably, those in the Caribbean Basin.

This November in Washington an international meeting of political leaders will confer on the most effective ways to organize freely contested elections and the ways in which the international community can assist democratic development. Next spring, the Chief Justice of the United States will host a conference of world authorities on constitutionalism and self-government. Authorities from a number of developing and developed countries—judges, philosophers and politicians with practical experience—have agreed to explore how to turn principle into practice and further the rule of law.

These are first steps but important ones which merit the support of all of us in the free world. Clearly, democratic forces, including those of the Caribban Basin, need practical assistance as they compete with the extremes of the left and right and, in the Western Hemisphere, with the subversion of the Soviet Union and Cuba. Too often the door has been open to Soviet intervention. I would suggest that we must support the emergence of stable, democratic forces in the region and do so in an intelligent, but effective cooperative fashion.

ECONOMIC COOPERATION

It is likewise imperative that the economic well-being of the Caribbean Basin be assured through cooperative efforts if democracy is to have a firm foundation. The small, fragile countries of the Caribbean Basin are overwhelmingly dependent on the outside world. Without help they really have no chance of generating the domestic growth or making the internal corrections that will pull them out of the slump. President Reagan did not act alone in proposing the Caribbean Basin Initiative but joined with the leaders of Mexico, Venezuela, Canada and then Colombia. The contributions of those countries have been significant. In spite of serious economic difficulties at home, Mexico and Venezuela are maintaining their oil facility, which provided the region with petroleum at a discount worth $700 million last year. Canada is doubling its aid program. Colombia, itself a developing country, is making available trade credits and preferences and central bank deposits.

The announcement by the 10 EEC leaders at the conclusion of their March 29-30 meeting that they had agreed that aid to Central America by individual countries and by the EEC as a whole should be coordinated and increased, was indeed encouraging. An increase in the level of financial assistance by the EEC and other developed countries to the Caribbean Basin would represent an important shot in the arm and a signal to Moscow that the West is responding to the challenge of underdevelopment.

INVESTMENT IN YOUTH

A third challenge for cooperative action on behalf of the Caribbean basin I wish to propose is an investment by the nations represented at this conference in the youth of the region. Each year Cuba offers hundreds of scholarships to foreign students. From the Eastern Caribbean alone, close to 300 students are currently in Cuba studying technical and academic subjects. The study of Marxism-Leninism is compulsory in many courses, and military affairs is compulsory in some. The Soviet Union and its Bloc allies have also developed a growing scholarship program of political indoctrination involving several thousand young people from the Caribbean. Basin. Last year, it sponsored scholarships for at least twice as many Latin American students as the U.S. I, unfortunately, must admit the scattered U.S. scholarship programs available to the region have stood conceptually still for many years and have been harmed by increasing inflation. We are studying ways to reverse this situation, especially through increased involvement of the private sector, but we cannot go it alone. An effort by other free countries is needed to help bridge the gap. A cooperative effort to provide scholarships to young Caribbeans and Central Americans of the middle and lower classes who do not possess the necessary economic means would be living proof that in a free society there are opportunities for all.

An investment in a scholarship program would bring long-term dividends in a myriad of ways. Better mutual understanding of our respective national characters and more open intercultural communication would occur naturally while Caribbean Basin students were attending our schools. The skills and education that they receive would prepare them for the challenge of directing the social and economic progress of the region.

SUMMARY AND CONCLUSION

In conclusion, I would like to repeat these basic points:

1. The Soviet threat in the Caribbean is as great as any time since the 1962 Cuban missile crisis.

2. An increased Soviet investment in Cuba is being used to support subversion in Central America and the Caribbean.

3. Because the Caribbean Basin is strategically vital to the U.S., the entire Western Hemisphere, and the NATO Alliance, the Reagan administration has formulated a comprehensive response, including increased security assistance to the region, the Caribbean Basin Initiative economic plan, renewed support for democracy in the area, and a collective approach to the Soviet challenge.

4. Global participation in the campaign for democracy will help bolster the new democracies of the region.

5. Likewise, economic assistance to the Caribbean region by other nations of the Hemisphere and free world is necessary if the economic crisis there is to be alleviated.

6. An investment in the youth of the region through an enlarged and revitalized

scholarship program is needed to counter the Soviets' expanding scholarship efforts.

In cooperation with other nations of the free world, through measures such as those I have outlined above, we intend to defeat the Soviet/Cuban policy of support for terrorism and violence in the Caribbean Basin. Our objective is a region at peace with itself, able to devote its energy and attention to economic progress and development of democratic institutions. But these are not really our goals, they are the goals the nations of the Caribbean Basin have set for themselves. All of us at this gathering have a vital stake in helping them to achieve these aspirations.●

COMMUNITY BLOCK GRANT PROGRAM

● Mr. KEJNEDY. Mr. President, I am pleased to join in supporting the amendment offered by my good friend from Connecticut.

Unemployment stands at unprecedent levels; 12 million Americans are now without work. This Christmas will be a bleak one for these men and women and their families.

The amendment we are considering has been before the Senate on three separate occasions, and each time it has been rejected.

Each time we have offered this proposal we are told that the President's program is working, that economic recovery is just around the corner. And each time these promises have failed to be realized.

Senator DODD's proposal would add $1 billion to the continuing resolution for projects under the community development block grant program to create 100,000 jobs for those men and women who have been out of work the longest. Many of these workers have exhausted all of their unemployment assistance. Many have been forced to turn to welfare to survive. As Senator LEVIN pointed out earlier today, many have resorted to selling their blood.

These men and women have worked all their lives. They are not looking for handouts. They want an opportunity to contribute.

The program Senator DODD is proposing would put these able-bodied individuals to work on projects critical to their communities.

This is not leaf-raking. This is not make-work. This is not CETA. This is not public service employment.

These are jobs that need to be done. These are projects that will leave a permanent tangible product in communities across this country.

We are talking about weatherizing the homes of the elderly and the poor. We are talking about repairing and upgrading our mass transit system. We are talking about repairing our streets and sidewalks.

All of this work is waiting to be done. All of these projects have now been deferred because State and local governments have run out of money.

It is just commonsense to spend this money to put the unemployed to work doing this essential work.

We have failed to act before. We must not delay further. I ask my colleagues to support this responsible and necessary measure.

Thank you.

ETHICS COMMISSION

●Mr. KENNEDY. Mr. President, this is a simple amendment, costing no additional funds, to permit the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research to continue in existence for 3 more months, utilizing existing funds.

Mr. President, since 1974, this Commission, in its various forms, has studied some of the most important ethical issues in biomedical research and produced landmark reports. Its work has saved the Congress countless hours of debate and deliberation on complex scientific and ethical problems. Its published reports include psychosurgery, defining death, protecting human subjects, compensating for research injuries, and making health care decisions.

The Commission yet has several important reports nearing completion on the issues surrounding decisions to forego life sustaining treatment, problems involved in securing access to health care, and the complexities of implementing human research regulations. Considerable resources have been devoted to preparing these reports already. It would be a waste if we were to permit this investment not to be brought to completion—particularly since the Commission can finish its work within 3 months at no additional costs.

I urge adoption of the amendment.●

● Mr. ANDREWS. I want to call the Senate's attention to the medicare mental health demonstration project which the Department of Health and Human Services recently began and with which the distinguished chairman of the Labor/HHS Subcommittee is familiar. This study could be of great use to the Congress in its efforts to identify potential cost savings in the medicare program. It seems to me that the Department's evaluation design should include collection of the data necessary to reveal the impact of additional medicare outpatient mental health coverage on medicare costs for medical, surgical, and other mental health services.

Mr. SCHMITT. I am pleased that the Senator from North Dakota has brought this matter to the Senate's attention, and I am familiar with the report language of the House encouraging HHS to amend the evaluation design to include collection and analysis of this data and to make available a revised evaluation design within 3 months.

Mr. ANDREWS. I am pleased that the chairman supports this effort to identify potential cost savings in the medicare program.

Mr. SCHMITT. I am glad to join the Senator in this effort. We all share a strong interest in uncovering all potential cost savings in the medicare program, particularly those that can be effected without reductions in the delivery of needed care.

● Mr. EXON. Mr. President, I would like to engage the chairman of the Appropriations Committee in a colloquy.

The formulas for distribution of aid to federally impacted schools, as contained in both the House and Senate version of the continuing resolution, hold several unknowns. For example, the formulas superimpose a new distribution on top of a tier system which is already part of the law. Additionally, the bill contains a cap on funds for certain highly impacted districts, which may reduce funds for these districts in 1983. The point is that no computer runs based on these formulas have been conducted by the Department of Education to see how school districts might be affected.

The General Counsel's Office of the Department of Education brought this matter to my attention, and expressed serious concern.

Ordinarily, there would be an opportunity to take a second look at this when the continuing resolution is extended later this fiscal year. However, if the Senate version of the continuing resolution prevails, which provides for funding through September 30, we could find ourselves locked into a distribution formula which is not satisfactory nor what we intended.

Rather than trying to correct this situation by an amendment in this already overburdened continuing resolution, I would ask the distinguished chairman if he could agree to another opportunity, after the computer runs have been made, to review our current actions and formulas, perhaps either on a 1983 supplemental appropriation bill or on some other vehicle.

There is no particular rush to review these formulas since the Congress has wisely distributed much of the 1983 impact aid appropriation under authority of my amendment earlier this year. All that is needed now is the commitment to an opportunity to review our actions after the Department of Education has reported its figures and voiced its concerns.

Mr. HATFIELD. I am pleased to assure the Senator from Nebraska that the Appropriations Committee will provide such an opportunity. In extending the continuing resolution until September 30, we do not want to preclude consideration of those kinds of matters which the Senator has raised.●

● Mr. RIEGLE. Mr. President, I submit for the RECORD a letter addressed to the conferees relating to and urging acceptance of the House

appropriation levels for HUD-assisted housing programs.

The letter follows:

WASHINGTON, D.C.
December 17, 1982.

DEAR CONFEREE: As members of the Senate Banking, Housing, and Urban Affairs Committee we urge you, as a member of the Conference Committee considering the Continuing Resolution, H.J. Res. 631, to accept the House appropriation levels for the Department of Housing and Urban Development's assisted housing programs. These programs have been cut drastically over the past two years to the detriment of low and moderate income people who so desperately need decent, safe and sanitary housing.

We are urging you to accept the House numbers because they fulfill the commitment we made in the First Concurrent Budget Resolution of 1983, S. Con. Res. 92. That resolution would allow $9.7 billion in additional funds for HUD programs, which is the level sought by the House. Unfortunately, the Senate only included $5.7 billion in new budget authority for these programs. If the full $9.7 billion is appropriated we will be able to assist tens of thousands of low income people who need adequate shelter and still be within the limitations of the budget resolution.

Since low and moderate income people have already borne a disproportionate share of the reductions required by the budget, we see no reason why appropriations for these progams should fall below the levels considered in the Congressional budget. We therefore urge you to accept the House levels.

We wish you the very best in this holiday season.

Sincerely,

ALAN CRANSTON.
PAUL SARBANES.
DON RIEGLE.
CHRISTOPHER J. DODD.●

● Mr. LEVIN. Among the funds in the continuing resolution is Office of Real Property of $12,404,000, which shall be derived from the proceeds from the disposal of surplus real property. That is an increase from last year's $6,650,000 which GSA specifically requested to manage the President's accelerated program to sell surplus property. The widsom of that program, or lack thereof, is not my concern today. Rather its cost is what gives me pause.

I have recently learned that in addition to the $12.4 million which we will appropriate, GSA also plans to spend $47 million more out of a permanent, indefinite, special fund to contract the services of private real estate agents to sell surplus property, an increase of $46 million in 1 year. Like the $12.4 million, this money will also come from the proceeds of Federal property sales, but unlike the $12.4 million Congress will not have to approve its use.

Section 204(b) of the Federal Properties Act of 1949 give GSA the authority to contract private appraisers, auctioneers, and brokers to sell Federal property without first obtaining congressional consent. The law only limits the use of the fund, "Expenses, Disposal of Surplus and Related Personal Property," to 12 percent of the proceeds from Federal property sales. If the President's program to sell Federal property continues at an accelerated rate, during the next 3 years we could spend more than $100 million. Congress would have no control over these outlays.

The $47 million figure stands in sharp contrast to the $12.4 million which we will appropriate for GSA in-house sales. Officials at GSA have said that private real estate agents and GSA itself will each handle about half the sales. Why should it cost almost four times more for private brokers to sell the property than GSA? The plan to pay so much seems inconsistent with the need to yield the maximum amount of revenue to the Treasury. As a matter of fact, a high official at GSA told a member of my subcommittee staff that it would be cheaper to do the sales in-house but that GSA does not have sufficient manpower or expertise to realize the administration's revenue targets.

Knowing of OMB's insistence that Government services be cost-effective, I asked GSA if it had done a cost-benefit analysis before it decided to employ outside contractors on such a large scale. Ray Kline, the Deputy Administrator, explained to us that GSA did not do a cost-benefit analysis because GSA believed that the sales program is so large that private sector help is needed, presumably regardless of the cost.

I reject that logic, particularly today when we have all been asked to tighten our belts. I ask you to join me in requesting that GSA do a cost-benefit analysis to justify its new policy. If private sector help is cheaper, so be it. But let us find out.

The decision to use private brokers to sell surplus property has not been subject to review by either the Appropriations or Governmental Affairs Committees. Such a substantial increase in this fund, while strictly legal, is unusual and demands congressional scrutiny to make certain that the consequences of this ambitious program have been thoughtfully considered.

Mr. ABDNOR. Thank you, Senator LEVIN. I support your request that GSA prepare a cost-benefit analysis so that we will know that the Government is not wasting money as it seeks to sell Federal property. I agree with you that Congress should oversee this program. I understand that the criteria that will govern which properties will be turned over to the private sector to sell are not yet in place. Nor have the guidelines regulating their sale being issued, even though we are now already more than 2 months into the fiscal year. On the other hand I support this disposal effort to sell surplus properties, and would hope that the study would not delay the program.

Mr. DECONCINI. Thank you for bringing this to our attention. I would be happy to join you, Senator LEVIN, in a letter asking GSA to do a cost-benefit analysis. I think that report ought to be due before GSA makes its formal appearance before the Appropriations Committee next year.●

PERSHING II AND GROUND LAUNCHED CRUISE MISSILES

Mr. PERCY. Mr. President, I would like to bring to the attention of the managers of the continuing resolution the fact that the House bill has made significant reductions in both the Pershing II and ground launched cruise missile programs. Both of these programs are vital to the implementation of the 1979 decision by the NATO ministers to deploy cruise missiles in Europe and they are vital to our arms control negotiators in Geneva. I ask unanimous consent to insert in the RECORD a letter from Paul Nitze, our chief negotiator in the INF talks in Geneva, which emphasizes the importance of these two programs. I also ask unanimous consent that a resolution of the North Atlantic Assembly, which reaffirms the 1979 NATO decision, be placed in the RECORD. I urge the chairman of the Appropriations Committee and the chairman of the Defense Appropriations Subcommittee to hold firm to the Senate position on both the Pershing II and ground launched cruise missile program.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, D.C., December 7, 1982.

Hon. CHARLES H. PERCY,
Chairman, Senate Foreign Relations Committee, U.S. Senate.

DEAR MR. CHAIRMAN: I have just returned from our INF negotiations in Geneva and want to convey to you my concern over the House action deleting funds for Pershing II production.

In the absence of an acceptable arms control agreement, deployment of the Pershing II and the BGM-109G ground-launched cruise missiles is essential to balance the massive Soviet deployment of Soviet SS-20 missiles. In the INF negotiations the U.S. has put forward a proposal under which the U.S. would forgo its deployments provided the Soviets forgo theirs. There is no prospect that the Soviets will negotiate seriously on the basis of the U.S. proposal if they conclude that support of the Congress for our deployments may be withdrawn or weakened. Curtailment or delay in funding of the programs would thus have an adverse effect upon any prospects for a favorable outcome on the INF issue.

Accordingly, I hope you and the Senate can continue your support of necessary Pershing II and GLCM funding.

Best regards,

PAUL H. NITZE.

RESOLUTION 134

The Assembly, Recalling its 1981 Resolution on Nuclear Weapons in Europe, which stressed the far-reaching significance of NATO's 1979 decision to achieve a modernisation of its theatre nuclear forces while seeking negotiated East-West limits on such forces;

Re-emphasising the importance of sustaining a public consensus behind this dual-track decision;

Expressing concern about ongoing Soviet deployments of the SS-20 and other Soviet improvements in theatre nuclear forces;

Welcoming the Intermediate Nuclear Force (INF) negotiations and Strategic Arms Reductions Talks (START) in Geneva;

Convinced that NATO's firm determination to modernise is essential to progress in such negotiations;

Aware that public opposition to scheduled theatre nuclear force deployments may increase in the absence of progress in the INF negotiations;

Supporting strongly a "zero-zero" outcome of these negotiations, as proposed by President Reagan, as the best possible outcome; but

Concerned that this or another acceptable outcome of the INF talks may not be forthcoming prior to the first NATO deployments scheduled for late 1983;

Noting the need for NATO to promote public understanding of and support for its nuclear strategy of deterrence through flexible response and, in this respect;

Welcoming the review of short-range nuclear systems by NATO's High Level-Group aimed at rationalising and, if possible reducing, NATO's reliance on short-range nuclear weapons;

Urges member governments of the North Atlantic Alliance:

1. to maintain firm adherence to both elements of the 1979 decision with equal emphasis;

2. to continue efforts to explain clearly and persuasively the role of nuclear weapons in Alliance strategy, and, more specifically, to promote public understanding of current negotiations by calling attention to the "zero-zero" proposal adopted by the Alliance as sound and reasonable, while emphasising NATO's willingness to consider other mutually acceptable outcomes; explaining more clearly the complexities involved in such negotiations and the realistic prospects for early agreement; and

3. to encourage appropriate High Level Group Studies and implement the conclusions thereof, directed towards reducing the Alliance's reliance on short-range nuclear weapons in order both to strengthen the credibility of Alliance military policy, and to fortify public confidence in the rational basis of NATO's deterrent posture.

Mr. HARRY F. BYRD, JR. Mr. President, earlier today the Senate took a position of moderation and deliberate responsibility in exercising its constitutional role in matters of foreign policy. I refer to the tabling of two amendments, submitted in good faith by well-intentioned Senators, which nevertheless would have tied the hands of the Reagan administration in trying to prevent a complete takeover of Central America by Communist puppets of the Soviet Union.

There was one Senator, Mr. President, who stepped into the breach—the distinguished Senator from North Carolina (Mr. HELMS) who throughout his 10 years in the Senate has been willing to spend the time and effort necessary to raise questions about legislation flowing through the Senate.

I was struck by the fact, Mr. President, that here was JESSE HELMS today, doing what he has done constantly throughout his career as a Senator, guarding the bridge against proposals that in his judgment could adversely affect the strength and stability of the United States.

Senator HELMS warned us that approvel of the amendments would be "playing with fire." And although he was limited to 2 minutes to make his case, he made it effectively and successfully. The amendments were tabled.

The two amendments before the Senate today had already been considered by the House of Representatives. A number of Members of the House acknowledged later that one of them had been brought before the House in a rushed fashion, and approved without a full understanding of the implications of the amendment in terms of sending a signal that a fundamental and dangerous change in our foreign policy was in progress—a change that would adversely affect the President's ability to direct U.S. foreign policy.

In dealing with the volatile situation in Latin America, there is great hazard in taking away the President's flexibility. Senator HELMS chairman of the Foreign Relations Western Hemisphere Subcommittee, made clear that Central America is in great peril, that communism is on the move there. His warning that the Senate was "playing with fire" was no exaggeration.

Senator HELMS put out the fire with his effective effort against the undoubtedly well-intentioned proposals. As he has done on so many previous occasions during the past 10 years, he has served his country well. I commend the able Senator from North Carolina, and I congratulate the State of North Carolina for its wisdom in sending him to the Senate.

CONGRESSIONAL PAY RAISE

Mr. THURMOND. Mr. President, I rise in opposition to any increase in pay for Members of Congress. While I am well aware that there are some who feel that a pay increase is both needed and deserved, I think that it is inappropriate at this time. With the economy in a deep recession, with an unemployment rate in excess of 10 percent, and with a huge Federal budget deficit, a pay increase of any amount would be sending the wrong message to the people, who are enduring severe financial hardships.

It is up to the Congress to help lead our country out of these economic hard times. Our commitment to this task can best be shown by voting against a pay raise. Until Congress takes the steps necessary to balance the budget and put the economy back on track, consideration of a pay raise is premature and most unwise. Moreover, within the last several days, the Senate voted to repeal the rule which would have imposed a strict limitation on outside earned income, such as honoraria from speaking engagements. Although I have previously favored a limit on outside income, I voted for repeal of the Senate rule because I felt such a step was preferable to approval of a pay raise for Members of Congress. The right of Senators to earn outside income from private sources in addition to their Senate salary is an entirely different matter from asking the taxpayers to shoulder a congressional pay raise.

ARMY SCRAPER CONTRACTS

Mr. PERCY. Mr. President, I hope the gentleman from Montana (Mr. BAUCUS) will withdraw his amendment. Some of the statements he has made are not based entirely on the facts of the case.

The Army put out the bids for the commercial construction equipment program earlier this year and has made a number of postponements specifically for some of the companies that may be now calling for another delay in letting these scraper contracts.

The Army commercial construction equipment program is an ongoing effort by the Department of the Army to take advantage of experience gained in the commercial marketplace—to buy products that have proven their worth in the commercial world. This program has been in existence for more than 10 years with several successful buys to its credit. The scraper procurement has been well thought out by the Army during the last several years. The requirements and the specifications were carefully developed and improved upon. I have been assured that the final specifications were not written around a single manufacturer, nor are they restrictive to one manufacturer. But the specifications were developed in a manner that allows bids by three or more proven commercial scraper manufacturers.

The Army cannot afford to delay this program any further. Most of the present scraper fleet is either overaged, or fast approaching that point. Some of the older models cannot now be supported in the field due to a lack of replacement engines and other key parts.

These are the facts of the Army's interest in getting scrapers. There should not be additional delays beyond what we have experienced so far. The Army should be allowed to purchase the equipment it needs now.

I hope the Senator will withdraw this amendment.

WHAT THE SENATE CONTINUING RESOLUTION DOES ON FOREIGN AID

Mr. EAGLETON. Mr. President, during our marathon, 37-hour session, we voted, at the insistence of Senator HARRY BYRD, on the Appropriations Committee's amendment dealing with foreign aid. The entire debate on this important matter consumed about 2 minutes and is found at page 31321 of

the CONGRESSIONAL RECORD. Quite frankly, Mr. President, I very much doubt whether any Member of the Senate knew precisely what he or she was voting on.

Therefore, so that the Senate may, belatedly, understand both what was at issue in the vote and what we were voting on, I wil. make this summary.

The House continuing resolution appropriated $10.987 billion for foreign aid. This figure is basically the final fiscal year 1982 foreign aid appropriations, plus two add-ons: $250 million in economic and military assistance for Israel, and $225 million in military assistance for Egypt.

The Senate Appropriations Committee changed the House continuing resolution as per the following table:

SENATE ACTION ON FOREIGN ASSISTANCE AS COMPARED TO HOUSE ALLOWANCE IN CONTINUING RESOLUTION

Senate increases: With the exception of IDA, the major Senate increases are in security assistance programs which provide military aid and balance of payments assistance to countries of political or strategic importance to the United States.

[In millions of dollars]

Major increases:	*Above House*
International Development Association (IDA)	+100
Economic Support Fund	+310
Military Assistance Program	+190
Foreign Military Sales (increased credits to Israel)	+125

These major increases are offset in part by numerous proportional reductions in smaller programs. Examples of these are:

[In millions of dollars]

Major increases:	*Below House*
World Bank	−20
African Development Fund	−18
AID Development Assistance	−18
Refugee Assistance	−24
African Sahel Development Program	−17

In toto, the Senate is $555 million above the House, but $458 million below fiscal year 1982.

Thus, Mr. President, what we were voting on was whether to accept or reject the Senate Appropriations Committee's changes in the House continuing resolution. The Senate, by a vote of 57 to 41, accepted the Senate Appropriations Committee's changes.

Mr. GARN. Mr. President, on December 15, 1982, the full Appropriations Committee met to mark up House Joint Resolution 631, the continuing resolution for fiscal year 1983. During consideration of this joint resolution, the committee accepted my recommendations concerning the HUD-independent agencies sections of the joint resolution. I submit a statement which explains these recommendations.

The statement follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

Annual contributions

The Committee recommends $5,732,355,689 in new budget authority and $715,331,146 in additional contract authority for the Department's assisted housing program within this account. These authorities, when combined with estimated budget authority carryovers of $1,590,358,901, deobligations of $4,600,000,000 and permanent authority of $24,665,665 would result in a fiscal year 1983 program level of $12,697,421,887.

Given the program structure proposed by the Committee, the recommended funding would result in the reservation of 118,860 housing units in fiscal year 1983. Under the Committee's recommendations, 16,000 units would be reserved for housing for the elderly or handicapped (section 202), as opposed to the 10,000 requested by the administration and the House and the approximately 16,900 made available in fiscal year 1982; reservation of 3,000 units of Indian housing as opposed to the 1,000 provided by the House (the administration did not request any Indian housing in fiscal year 1983), compared to approximately 2,400 units in fiscal year 1982; 24,860 units of section 8 existing, as opposed to the 47,270 units proposed by the House (the administration did not request any in fiscal year 1983); and 75,000 unit reservations in 1983 associated with conversions and property disposition. As far as Indian housing is concerned, the Committee expects these funds to cover the full costs of construction, including the provision of water and sewer facilities.

The Committee also recommends $1,000,000,000 in new budget authority and $50,000,000 in new contract authority for public housing modernization. Although the Committee rejected the concept of funding the entire modernization program for fiscal year 1983 from recaptures, such recaptures would be used to augment the basic $1,000,000,000 in new authority. Based on the Department's December estimates, approximately 70,000 units of public housing within an associated $9,000,000,000 in budget authority are in the pipeline and currently not under construction. Many of these projects are unlikely to go to construction and, therefore, the funds should be recaptured and applied to other housing needs. Consequently, the Committee included bill language requiring the Department to apply the first $1,000,000,000 in public housing recaptures to modernization and 30 percent of the recaptured thereafter for additional modernization. As a result of this policy, it is estimated that $2,600,000,000 will be available for public housing modernization.

In connection with the funds provided for public housing modernization, the Committee has been made aware of a serious problem confronting a number of public housing authorities. This problem has arisen because selected public housing authorities have found that, although substantial development money for new public housing has been allocated in the past, too often the most urgent needs are in the modernization program. Complicating the problem is the fact that the Department has notified various public housing authorities that funds provided for a new project may not be transferred to another new project if the former is unable to go to construction and may not be converted to modernization work. This prohibition results in the recapture of public housing development funds. The St. Louis public housing authority, for example, will lose $8,500,000 of moneys made available for new public housing, which cannot be used for that purpose, but which could be used to restore one of its largest public housing projects. The Committee strongly urges the Department to make available from within the funds provided, sufficient moneys to those public housing authorities that can make use of such funds within 12 months.

In addition, the Committee also included a provision requiring the use of $89,321,727 of budget authority in fiscal year 1983 for the modernization of 5,073 vacant uninhabitable public housing units. A similar provision appeared in two previous appropriation acts (Public Laws 97-216 and 97-272).

The Senate language also requires that the Department apply 70 percent of the funds recaptured from public housing (after the first $1,000,000,000) be used for the reservation of section 8 existing units. The Department estimates that this proviso could result in the availability of $1,400,000,000 in budget authority and, consequently, the reservation of 24,860 section 8 existing units. The House action provides $2,662,495,910 in budget authority and an associated 47,270 units (the administration did not request any section 8 existing units for fiscal year 1983).

The following table compares the House and Senate recommendations on assisted housing.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING—COMPARISON OF PROPOSED PROGRAMS—HOUSE VERSUS SENATE

	House		Senate	
	Units	Budget Authority	Units	Budget Authority
Authority available:				
New authority	NA	$9,186,630,000	NA	$5,732,355,689
Carryover	NA	1,590,358,901	NA	1,590,358,901
Deferral	NA	750,041,632	NA	759,041,632
Recaptures	NA	4,000,000,000	NA	4,600,000,000
Permanent authority	NA	[1] 30,257,264	NA	[2] 24,665,665
Total, available	NA	15,557,287,797	NA	12,697,421,887
Use of authority:				
Public housing:				
New and sub. rehab	10,700	1,775,130,000	NA	NA
Indian	1,00	180,880,000	3,000	542,000,000
Amendments	NA	532,000,000	NA	532,000,000
Lease adjustments	NA	23,800,000	NA	23,800,000
Interest rate adjustments	NA	655,000,000	NA	655,000,000
Modernization:				
From new authority	NA	2,500,000,000	NA	1,000,000,000
From recaptures	NA	NA	NA	1,600,000,000
Sub. rehab. set-aside	NA	89,321,727	NA	89,321,727
Subtotal, public housing	11,700	5,756,131,727	3,000	4,442, 761,727
Section 8:				
New/sub. rehab:				
Section 202	10,000	$1,300,000,000	16,000	$2,096,000,000
Property disposition	10,000	684,000,000	10,000	684,000,000
Moderate rehab	15,000	1,080,000	NA	NA
Conversions:				
Section 23	5,000	211,500,000	5,000	211, 500,000
Rent supplement	60,000	2,457,000,000	60,000	2,457,000,000
Subtotal, conversions	65,000	2,668,500,000	65,000	2,668,500,000
Existing	47,270	2,662,495,910	24,860	1,400,000,000
Amendments:				
New/rehab	NA	1,048,000,000	NA	1,048,000,000
Existing	NA	208,160,160	NA	208,160,160
Loan management	NA	150,000,000	NA	150,000,000
Subtotal, amendments	NA	1,406,160,160	NA	1,406,160,160

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING—COMPARISON OF PROPOSED PROGRAMS—HOUSE VERSUS SENATE—Continued

	House		Senate	
	Units	Budget Authority	Units	Budget Authority
Subtotal, section 8	147,270	9,801,156,070	115,860	8,254,660,160
Total, all programs [3]	158,970	15,557,287,797	118,860	12,697,421,887

[1] Estimated.
[2] Actual.
[3] Excludes GNMA targeted tandem budget authority of $500,000,000 to support an estimated 10,169 units.

Rent supplement

(Rescission)

The Committee recommends a rescission of $2,830,360,000 in budget authority and $105,160,000 in contract authority as proposed by the administration.

The Committee agrees with the basic thrust of the administration's proposal to accelerate the conversion of units from the rent supplement program to section 8. In Public Law 97-216, the Congress authorized the conversion of 60,000 units in fiscal year 1982. The Committee recommends the same rate of conversion in fiscal year 1983.

The Federal Government has entered into long-term contractual commitments and obligations for assistance under the rent supplement program to owners and tenants of projects which are secured by mortgages insured by FHA or financed under a State or local program. Project owners, lenders and bond holders have acted directly in reliance on those commitments.

The Committee has reviewed the Department's actions this past fiscal year in regard to meeting rent supplement shortfalls and is concerned that HUD is not now able to assure the continued availability of adequate funding resources to these projects. Due to a severe shortage of available rent supplement resources this past fiscal year, the Department, with the Committee's concurrence, had to tap its funding authority under the U.S. Housing Act of 1937 to meet rent supplement contract shortfalls as they arose. This year, demands on those resources may be far greater and their availability for this purpose thus less assured.

Accordingly, the Committee directs the Department, before the expiration of this continuing resolution, to develop a comprehensive funding plan for meeting these obligations. The plan shall include data and projections which demonstrate the degree to which the additional funds to be recaptured are needed for these obligations and shall include the method of the plan's implementation. The Committee expects the Department to work closely in this interim period with those affected in order to assure an adequate, permanent resolution of this problem.

In the interim, the Committee directs that the Department reserve such additional amounts as necessary, from the $208,160,160 provided for section 8 existing amendments to augment the funds available for rent supplement amendments.

The Committee recognizes that a long-range solution may lie at least in part in conversion of State-aided, bond-financed projects from rent supplements to equivalent assistance under the permanent authority of the section 236 rental assistance program. Therefore, the Committee believes that the Department should look closely in conducting its analysis and developing its plan, at both the rent supplement and the rental assistance programs.

Housing for the Elderly or Handicapped Fund

(Limitation on Loan)

The Committee recommends $724,800,000 as the loan limitation for the elderly and handicapped program This would provide for a total of 16,000 units in fiscal year 1983, as opposed to the requested level of 10,000 units and $453,000,000 of loan limitation proposed by the administration and contained in Public Law 97-272.

The Committee has recently learned that the Department intends to begin reserving section 8 authority for section 202 units at an interest rate of 11.75 percent. The Committee further understands that this interest rate is the curent Treasury borrowing rate charged to the section 202 fund and it does not reflect the rate at which the Department may have to borrow when construction, on projects reserved in 1983, is completed in late fiscal year 1985 or early fiscal year 1986. If interest rates continue to decline, it appears unreasonable to the Committee to reserve units in fiscal year 1983 at an inflated interest rate. Reservations thus made would be at a higher interest rate resulting in fewer units reserved than would have been under current procedures where the reservation interest rate is based upon a reasonable projection of interest rates to be in effect at the time of closing (about 2 years after reservation). The Committe feels that the proposed increase in the reservation interest rate is an attempt to reduce the number of units to receive assistance under the program. Therefore, the Department is directed to continue using the current procedure and interest rate for reserving section 202 units in fiscal year 1983 and subsequent years.

The Committee has included bill language to assure that the Department will provide loans at 9.25 percent for those section 202 pipeline units that go to closing during fiscal year 1983.

Federal Housing Administration fund

The Committee has included bill language increasing the FHA limitation on guaranteed loans from $39,800,000,000 to $45,900,000,000. In its fiscal year 1983 budget request, the administration proposed a $35,000,000,000 limitation on FHA commitments for mortgage insurance. The HUD-Independent Agencies appropriation bill for fiscal year 1983 (Public Law 97-272) contained a limitation of $39,800,000,000. However, the Committee has recently been informed by HUD that on the basis of the Department's latest projections that the FHA commitment level will exceed the current limitations. The Committee believes that without this increase in the limitation, the FHA program could be shut down in mid-July during the peak of the housing season.

The Committee has also included bill language which will allow HUD to exceed the FHA mortgage limit of multifamily mortgages by 140 percent in areas across the country where housing costs are the highest. Current law establishes three categories for FHA mortgage limits. The first category is in areas where the basic FHA limits apply. The second is in those areas in which HUD may exceed the FHA limit by 75 percent. The third is in those high-cost areas where the mortgage limit may be exceeded by 90 percent. The Committee believes that increasing the FHA mortgage limits will help stimulate housing construction in these highest cost areas.

Government National Mortgage Association

Special Assistance Function Fund

The Committee has not recommended providing any additional funds for the Government National Mortgage Association's (GNMA) special assistance function program. The House has provided $500,000,000 for the program.

The Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, set the GNMA limit at $1,973,000,000. The fiscal year 1982 HUD-Independent Agencies Appropriations Act, Public Law 97-101, provided the entire amounts authorized.

Of the $500,000,000 added by the House, $350,000,000 is for targeted tandem projects and thus, will provide no assisted housing for low-income individuals, and $150,000,000 is for 20 percent section 8 projects (on these 20 percent projects, GNMA pays a subsidy on all of the units—this means that middle income tenants are being subsidized.

The Committee has not recommended the appropriation of this additional $500,000,000 for several reasons. First, the funds are not authorized. Second, to fund all of the lottery losers, other than 100 percent section 8 units, would require another $1,270,000,000 ($678,000,000 for targeted tandem and $592,000,000 for partially assisted, 20 percent projects). Each unit assisted through GNMA will cost $40,000. Finally, for each $100,000,000 appropriated in fiscal year 1983, the outlays in fiscal year 1985 will be $97,500,000.

GENERAL PROVISIONS

Veterans Administration

The Committee recommends deletion of House bill language (sec. 109) which would direct the Veterans Administration to terminate the development of a centralized hospital-wide information system (Computerized Medical Information Support System—COMISS) and implement a decentralized minicomputer system (called MUMPS).

Each of these systems has a different focus. The centralized system (COMISS) is more suited for aggregating data and providing information for management decisions such as resource allocation among regions and hospitals. The decentralized system (MUMPS) is an essential tool needed for the day-to-day operations individual Veterans Administration medical centers.

National Aeronautics and Space Administration

Research and Development

The Committee agrees with the House and has included language (sec. 126) establishing a cap on expenditures for the tracking and data relay satellite system (TDRSS). This provision to prohibit, without prior approval, NASA from entering into a contract of this type differing from the arrangement described to the Committee earlier this month. The language also prohibits the Administrator of NASA from exceeding both the total case of TDRSS and the cost of restructuring the existing contract to specific amounts without the approval of the Committees on Appropriations.

TITLE II

VA—Hospital Rehabilitation

The Committee does not agree with the House in providing an additional $50,000,000 for the VA's nonrecurring maintenance and repair program in fiscal year 1983.

In acting on the regular HUD-Independent Agencies appropriations bill for fiscal year 1983, Public Law 97-272, the House on September 15, approved reducing the VA-minor construction account by $50,000,000. The Senate agreed with this reduction, due to the fact that there was an unobligated balance at the end of fiscal year 1982 of over $156,000,000. The VA has indicated to the Committee that the agency does not currently have a system for prioritizing construction needs. Therefore, the Committee does not believe that the additional $50,000,000 added by the House will help stimulate jobs.

HUD—Public Housing Modernization

The Committee does not agree with the House in providing an additional $200,000,000 for public housing modernization. The Committee has provided $2,600,000,000 in title I of the resolution for public housing modernization. HUD has informed the Committee that they could effectively review and process 1,800,000,000 dollars' worth of modernization requests, and that amounts above that level could be reserved by the Department for use by PHA's during the maximum allowable 5-year period. Thus, the Committee does not believe that the additional $200,000,000 proposed by the House will help create additional jobs.

HUD—Community Development Block Grant

The Committee does not agree with the House in providing an additional $1,000,000,000 for the Community Development Block Grants.

On December 7, the President transmitted a deferral of $221,000,000 for the Community Development Block Grant program. The Department has calculated that $426,000,000 in unobligated balances will be carried over in fiscal year 1983.

The Committee does not believe that the House's proposal would create additional jobs immediately because there is no guarantee communities would use the funds for this activity since they are permitted to select activities based on their needs; employment may not be granted immediately since construction projects require a planning stage; and the proposal to emphasize small construction projects would generate temporary—not permanent—employment.

AGAINST ANY AMENDMENT TO FURTHER REDUCE BMD

Mr. HEFLIN. Mr. President, a majority of the Members of both Houses have sent the message to the White House on the MX basing mode. Now, it would be a grievous error to jeopardize the option of a ballistic missile defense (BMD) if the Soviet threat grows in the future.

It is incomprehensible to me that we would consider for one second any further reductions to this program. It is a valuable research and development program, not uniquely coupled to MX defense. With the MX program delay it is more essential than ever that we maintain future options to avoid leaving our land-based ICBM forces naked to a Soviet nuclear strike.

The President has made it clear he did not intend to add a deployed BMD programm to the cost of MX deployment. In his November 22 statement, President Reagan said:

As far as an active defense is concerned, we do not wish to embark on any course of action that could endanger the current ABM treaty so long as it is observed by the Soviet Union. Likewise, we do not wish to build even the minimal ABM system allowed us by the treaty, even though the Soviets have done so.

We plan to continue research on ballistic missile defense technology—the kind of smart, highly accurate, hopefully non-nuclear weapons that utilize the micro-electronic and other advanced technologies in which we excel. The objective of this program is stability for our ICBM forces in the 90's, a hedge against Soviet breakout of the ABM treaty, and the technical competence to evaluate Soviet ABM developments. We currently have no plan to deploy and Ballistic Missile Defense system. * * * The ongoing ballistic missile defense reasearch and development will cost about $2.5 billion.

Ironically, I am somewhat surprised that those proposing a nuclear freeze have not realized the non-nuclear potential of BMD. Through the investment of resources for R&D over the last decade, BMD has developed mature technologies which one day could permit our Nation to defend itself against a nuclear threat through such potential means as the use of amazingly accurate non-nuclear interceptors in the exo-atmosphere.

Without speculating on future ABM Treaty modifications, I would simply note that one day—perhaps sooner than we might anticipate—we may come to agree that defense of each nation could be more stabilizing, in the view of both sides, while offensive weapons are reduced. Even in 1972, when the ABM Treaty was negotiated, it was assumed major reductions in offensive ballistic missile forces would be shortly forthcoming. At that time, I questioned the strategy of beginning with defensive reductions.

I wondered then, and suggest now, what could be more stabilizing than the ability to defend one's homeland against nuclear attack—deliberate or, certainly, accidental? Thus, today we see the Soviets well ahead in ballistic missile capabilities and our land-based ICBM's growing increasingly vulnerable. I suspect that Dr. Henry Kissinger might have second thoughts today about the decision in the early 1970's considering developments since.

We have an ABM Treaty which no one proposes be discontinued. But suppose, with its own ABM advancements, the Soviets opted to withdraw from the treaty in future years.

We simply must keep BMD viable, within treaty constraints.

Particularly paradoxical at this point is the fact that if a survey were made of typical Americans, I suspect most assume we have a defensive capability now. Someone made the point the other day that if you asked your constituents how many Soviet warheads we would knock down in a first strike of 1,000 they would probably guess in the hundreds. The real answer, of course, would be none. We have no defense, even of our offensive missiles.

The ABM Treaty permits limited deployment by both sides, and the Soviets have a system deployed around Moscow. However, Congress decided in 1976 to phase out our deployed site at Grand Forks, S. Dak. Meanwhile, the Soviets have continued with a system-level program, at expenditures three times greater than ones, which we assume could be rapidly deployed in the future.

The United States has pursued only a modest R&D program since the early 1970's, progressively developing means to defend any ground-based ICBM. Now the BMD technology has progressed to the point that an effective system can be engineered.

Although it is frequently discussed in connection with possible future MX defense, BMD is not exclusively related to a specific MX basing mode, and by no means exclusively to MX. It is a flexible program, which can defend any hard targets, including Minuteman missiles and communication and control systems. The generic components can be packaged to defend either fixed or deceptively based ICBM's. As such, it is independent of the timing or outcome of MX decisions.

BMD adds stability to the strategic balance. By protecting our retaliatory forces, BMD minimizes the advantage to an adversary in attacking first; that is, it deters a first strike by imposing an unacceptably high price to destroy our ability to retaliate. The proper mix of strategic nuclear forces, which includes BMD, is the least sensitive to miscalculation and error by an adversary military planner because it precludes the need for a launch under attack assessment policy. BMD is required to begin the long-term process of achieving a damage-limiting balance of strategic forces.

With BMD of offensive forces, less offensive capability is required to provide the same level of deterrent. Defense of offensive forces is nonthreatening, whereas offensive deployments threaten, and BMD decreases the importance of numerical imbalance in offensive force levels.

A viable BMD program will prevent Soviet technological superiority, deter Soviet abrogation of the ABM Treaty, and allow the United States to rapidly respond to any Soviet unilateral BMD deployment.

A viable BMD R&D program is not treaty-restricted or provocative. Conversely, recognizing the leadtime advantages of the large-scale Soviet ABM defense program, to drastically alter the ability to make up lost time in our BMD program would send the wrong signal to the Soviets about our strategic intentions, thus further de-

grading our bargaining position in arms reduction negotiations.

Earlier this year, President Reagan requested BMD funding at above $1 billion to provide an aggressive R&D option to meet the threat envisioned in the late 1980's. This program has been cut back from the administration request of $870 million to a level of $520 million in the House bill. This was the amount authorized by the two Houses.

A further reduction could impact not only our arms negotiations, but could affect the current ABM Treaty review and, moreover, further impact the strategic equation.

The BMD program must be kept sound to permit injection of rapidly emerging technology into defense system concepts. This is necessary not only to allow the United States to evaluate Soviet ABM developments, but to provide the short development leadtime necessary should the Soviets abrogate the ABM Treaty sometime in the future.

Additional cuts to this program would be unacceptably unwise. Let us continue BMD as it is—stabilizing and unthreatening—and I am confident that after our military planners have gone back to the drawing boards on MX, BMD's future value will become undisputably clear.

EMPLOYMENT SERVICE AND UNEMPLOYMENT INSURANCE FUNDS

Mr. DIXON. I appreciate the opportunity to discuss an issue which I believe is important to the distinguished chairman of the Labor-HHS Subcommittee on Appropriations. The issue is current inadequate staff levels for the Employment Service and Unemployment Insurance offices. Is it the understanding of the Senator form New Mexico that current staff for the Employment Service is below 1981 levels?

Mr. SCHMITT. Yes, that is correct.

Mr. DIXON. I understand from a Department of Labor document, which I have here, that the viability level for the Employment Service is 2 staff per 10,000 in the civilian labor force, that maximum productivity for this agency is achieved with 5 to 6 staff per 10,000, and that the current level is 1.9 per 10,000, which is clearly inadequate.

The House recommended additional funds in the amount of 475 million to increase the Employment Service staff by 3,300 to a level of 28,100. Although the Senate Appropriations Committee did not include this in the committee bill, it is my understanding that the committee would keep an open mind in conference to this additional money. Would you agree to that?

Mr. SCHMITT. Yes, I would.

Mr. DIXON. The House included $264 million for temporary staff for the Unemployment Insurance offices. I, as well as the professional employment security administrators would accept half that amount if the funds were used for permanent staff for these offices. People who are well trained can process these claims more efficiently and get checks out in a timely fashion. Currently, however, less than half the claims filed, and there were 5.6 million claims filed the week of November 13, are handled by permanent staff.

Mr. SCHMITT. I would point out to the Senator from Illinois that the Senate Committee Labor-HHS bill includes an increase over the House regular bill of $75.4 million for unemployment insurance temporary staff. I would agree that some compromise could certainly be reached in conference between the House and Senate amounts. The problem with addressing the issue of permanent staff in conference is that neither House nor Senate bills provide for permanent staff.

Mr. DIXON. Would the Senator consider attempting to include language for permanent staff in the conference report?

Mr. SCHMITT. It would be my hope that the conferees would make a commitment to a supplemental if that becomes necessary to process mandatory workload in a timely manner. If such a supplemental is considered, and it appears likely, in order to meet the workload, additional permanent staff should be addressed. I would advocate a statement in the conference report to consider a supplemental and additional permanent staff so that claims can be processed in an efficient and professional manner.

Mr. DIXON. I thank the Senator from New Mexico. There is considerable support for this issue among our colleagues in the Senate. My office has had contact with about 40 Senators from both sides of the aisle, and all seemed sympathetic to the matter. Many have agreed to go on record in a letter to conferees to consider the additional funds for both programs.

Mr. THURMOND. Let me state that I share the views of the distinguished Senator from Illinois on this issue. With the current problems that we are facing in regard to unemployment, it is imperative that there are adequate staff levels to process the numerous claims that the State employment security agencies are asked to handle. It is my desire to see a compromise worked out between the House of Representatives and the Senate that will lead to a satisfactory solution to this problem.

JOBS PROVISIONS

Mr. PERCY. Mr. President, I intend to vote for the Domenici amedment to strike the approximately $1.2 billion co-called jobs stimulus package adopted by the Appropriations Committee in its markup. No one is more aware of this country's intolerably high unemployment rate than I, with my own State of Illinois suffering at 13.2 percent. However, Mr. President, I believe there is a right way and a right time to provide an employment stimulus and I do not believe that this Continuing Resolution offers an appropriate opportunity.

I support the gas-tax/highway/mass-transit bill as both a jobs bill and a means of providing for the maintanance and repair of our transporation infrastructure. I am prepared to vote for it now: I was prepared to vote for it several days ago. I am prepared to do everything I can to break the impasse at which we are hanging on this piece of legislation.

Our primay responsibility in this lameduck session is the passage of legislation that will keep the Government operating beyond tonight's deadline for the expiration of the last continuing appropriation. To load up the bill with items sure to provoke a veto serves no one, including the jobless in Illinois and in the rest of the country. I am heartened by the comments on the part of the majority leader that we may yet be able to work something out to pass that gas-tax/jobs bill and he may certainly count on my support of any effort to move the legislation. In the meantime, Mr. President, recognizing the obligation we have to pass a bill that will keep the Government operating, I am voting for the Domenici amendment to remove from the continuing resolution this funding item that seems certain to result in veto of the entire appropriations package.

● Mr. LEVIN. Mr. President, I oppose this continuing resolution as a matter of principle, and must vote against it. This continuing resolution is an abdication of Congress responsibility under the regular budget process.

We are approving in the space of a few hours more than $400 billion in spending for fiscal 1983—over half the budget for the entire year—in this one resolution which combines the spending normally included in 10 appropriations bills. There has been very little, if any real opportunity for prudent analysis and debate on most of the programs lumped together in this resolution.

The people of this Nation do not elect us to abdicate our responsibilities in this way. They elect us to fully consider and debate the annual appropriations bills for each of the Government's major departments and agencies, and to adequately address the major policy, program, and budget issues embodied in each of those bills.

This omnibus continuing resolution is a perfect example of how not to safeguard our tax dollars.

This measure is not a continuing resolution in any meaningful sense because it is not a temporary, "stop-gap" funding measure of limited duration. It is the whole ball game. It will

extend for the rest of fiscal 1983—a full 9 months.

When the Pryor amendment was defeated, a major act of abdication of congressional responsibility occurred. We and the country will be worse off because of it.●

(Conclusion of statements made or submitted during consideration of H.J. Res. 631.)

REQUEST FOR THIRD READING

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Third reading.

Mr. HUMPHREY. Mr. President, I am informed that the junior Senator from North Carolina wishes to speak.

Mr. HATFIELD. Mr. President, who has the floor? I believe the Presiding Officer recognized me.

The PRESIDING OFFICER. The Presiding Officer recognized the Senator from Oregon who asked the clerk to proceed to third reading.

Mr. HATFIELD. Mr. President, I ask for third reading.

Mr. HUMPHREY addressed the Chair.

Mr. HATFIELD. Does the Senator wish to have me yield for a moment? I am happy to yield.

The PRESIDING OFFICER. The Senator has the floor.

Third reading.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Am I not entitled to ask for the floor at this juncture?

The PRESIDING OFFICER. The Senator asked for third reading. The Senator is correct.

Mr. HATFIELD. I will withhold the request for a third reading and yield the floor to the Senator from New Hampshire without losing my right to the floor. I wish to yield for whatever purposes the Senator from New Hampshire wishes.

The PRESIDING OFFICER. Is the Senator yielding the floor?

Mr. HATFIELD. No.

Mr. President, I ask unanimous consent that I may yield to the Senator from New Hampshire without losing my right to the floor as the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Is it in order for a Senator to be recognized after third reading has been requested?

The PRESIDING OFFICER. Yes, it is in order.

Mr. HUMPHREY. I do not wish to impede the floor manager if he wishes to make that request, but if I might explain, I am informed that the junior Senator from North Carolina would be here momentarily and wishes an opportunity to speak on this bill.

Mr. HATFIELD. Mr. President, I am not trying to play a game at all. I am trying to move this bill to final passage.

Mr. HUMPHREY. I understand.

Mr. HATFIELD. I am very happy to accommodate the Senator in any way.

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

MOTION TO RECONSIDER CLOTURE VOTE ON SUBSTITUTE AMENDMENT TO H.R. 6211, SURFACE TRANSPORTATION ASSISTANCE ACT

Mr. BOSCHWITZ. Mr. President, I enter a motion to reconsider the vote by which cloture was defeated on the substitute amendment No. 4998, the House Resolution 6211, the Surface Transportation Assistance Act of 1982.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The continuing resolution is the pending business.

Mr. HUMPHREY. If I understood the request, is it in order to move to vote to reconsider without a prefacing motion? Must we not have a motion to return to the business to which the motion attaches?

My point for the information of the Chair is I believe it is out of order to make such a motion until the——

The PRESIDING OFFICER. Entering a motion to reconsider may be entered at any time.

That is all the Senator has done.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I renew my request for third reading of the bill.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, perhaps some problems can be avoided if the parties can talk about this. It is not my purpose to impeded the passage of the continuing resolution.

Several days ago when we were on the gasoline tax bill indeed I urged the leadership to proceed to the continuing resolution and said I would not impede it, and I have not done so and am not seeking to do so now.

I wonder if we might have a brief quorum call so we can converse on this matter.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAST. Mr. President, I with great reservation and reluctance would like to impose a bit upon the time of my fellow colleagues on where I think we are drifting, and I like to think that in the period of time that I have been in the Senate I have tried not to indulge beyond a reasonable point to preoccupy the time of this very distinguished body for which I have the greatest admiration and for which it is an honor to be a part of. I find that sometimes what happens here in the Senate—and I suppose it inures in the nature of the beast in terms of the things we are required to do here in Washington—is that all of a sudden you get so bogged down in the details of things you cannot figure out what road you were on or what journey it was you were taking. I frequently find on the Senate floor I cannot quite figure out how we got here.

Now, I feel that what is happening—and I want to be on public record against, and I may get beat, or we may get beat and we may get beat, badly, but I think what we are up against here, as I understand it, is a momentum, a movement to try to revise this gas tax and come hell, or high water, or both, either one or more, pass it. I think it is a mistake, and I would like to take a few minutes to tell my colleagues why I think it is so, and then I will rest my case, Mr. President.

We were told that the purpose of the lameduck session was to come here, deal with appropriations bills, pass a continuing resolution, and go home for Christmas. Somewhere along the line something happened, and we got on a gas tax.

I should like to make it clear that those who are charged with filibustering here have not been the ones delaying. The delay has come, as the distinguished junior Senator from Massachusetts noted earlier today, from people offering amendments to the continuing resolution.

Now, we had laid the gas tax to rest, I thought; it failed a cloture vote, and now we are going to resurrect that and go through that all over again. So the first question I raise in all seriousness and fairness, who has been dilatory?

It has not been those of us opposed to the gas tax, because we were under the impression we were coming to the lameduck to deal with appropriations bills and the continuing resolution and the next thing we know we are asked to look at the gas tax. We have looked and looked and looked at it, and cloture was not imposed. Then we went onto the continuing resolution, and we have been subject to a deluge of amendments, all across the political spectrum, both sides, political parties. It has gone on ad nauseam, and here it

is late on Saturday night and Christmas is a week from today.

Now, we have lost our way, Mr. President, from the purpose for which we came here, to get this continuing resolution out. I am very much opposed to an effort to try to resurrect the gas tax. First of all, again, trying to put things in perspective, I think in the election of 1980 and the election of 1982, what Congress was being asked to do was to gain control of Federal spending and to try not to impose new taxes but at least maintain what we have, maybe do some cutting, and here we are coming back to try to impose a new tax. I think the gas tax is a bad idea. I only spoke for 13 minutes on it before. But before we get involved in a motion to resurrect it, I would like to indicate as briefly as I can why I think it is a mistake other than the point I have just made, which I think is a very fair point, an eminently fair point.

We should not have ever been off on it to begin with. It was ill-conceived that we try to deal with something as important as this in the lameduck session.

I do not know of any economist worth his salt, Democrat, Republican, Liberal or Conservative, who thinks it is a good idea to increase taxes in time of recession. I do not think it is a particularly good idea to try to impose a tax that is regressive and hurts the working people of this country very hard.

What we did in this Chamber in terms of new tax policy is interesting, trying to put it in perspective to try to get away from too much detail. We cut marginal tax rates and now what we are in danger of doing is moving in with a whole range of regressive taxes, excise taxes, that hit the average working person.

I as one freshman Republican think that is a bad move to take. I think it is a bad move for my party. I think it is going to be perceived that we are the party and others who join in this great effort now, we are the party who wants to reduce the marginal tax rates on people and then try to find ways to get those taxes through regressive taxes that hit the working people—cigarette taxes, gasoline taxes, airline use taxes, excise taxes on purchases that hit the average citizen very hard.

But I do not make a partisan point. I ask across the table here, why in time of recession, why in time of recession would you want to increase the tax burden on the average working American? When you strip it down to the core, that is what you are going to do. This is called, in the euphemisms of Washington, a user fee or revenue enhancer. We are told it is not a tax. Well, a rose is a rose, and a tax is a tax. If this were strictly a user fee, you would not have 20 percent of it going for mass transit.

Now, I have great respect for mass transit, but by definition users of mass transit do not use the roads and highways and bridges; they use mass transit. You are violating a very fundamental premise there. It is like social security where you start to dip into the general revenue funds. You are taxing the users of the roads, and yet you are going to take 20 percent of that and turn it into mass transit.

I come from a donor State. We have historically paid in a dollar and received 74 cents back. I would like to propose something of this kind, that you tax the subway riders of New York and send it down to eastern North Carolina where I live so we can repair some of those rural roads. You would think it was absurd. Well, of course it is. And above all, you would not call it a user fee, because the subway riders in New York, or wherever it is you are going to have mass transit, do not use the roads in eastern North Carolina.

It is not a user fee. I have no objection to user fees. I think they are good things, but in fact you are not doing it here. You are taking 20 percent of it and funding it right into nonusers.

That is a fundamental premise of tax policy that troubles me and I do not think we ought to do it.

Also, I think there is a fatal flaw in bringing this up at this late hour; we are told this is a jobs bill by some. No, it is not. No, it is not, At best, it is a jobs transfer bill. That is what is it. It is a jobs transfer bill at best because for every job you create in construction of highways and bridges and roads, you may very well cost a job in tourism, in farming, in trucking, and all of those things that benefits from road travel.

You tax something beyond a point and you discourage its use. Is that not sound tax policy? You are going to discourages driving. How can you help it? You are increasing a gallon of gas going to 5 cents a gallon. That hurts. People do not drive as much. I tell you what it will do in North Carolina. I do not know how your State is. It is going to hurt with farming. It is going to hurt with the trucking business, which is big in my State, and it is going to hurt the daylights out of tourism because we like people to drive into the mountains of the West and on the beaches in the East. It is going to discourage it. And it is going to discourage those people who come by automobile, of course.

I noticed in the paper this morning airline stocks went up dramatically yesterday because they thought the gas tax was dead. Well, the airline stocks will probably plummet on Monday if we push this thing through. It is going to cost more to fly, so you cost jobs there.

It is going to take away jobs of people who work out in front, who pick up your baggage at the airline terminal.

It is going to cost the jobs of those who receive your luggage when you get inside, and stewardesses and pilots, and all the people who service aircraft. This is not a jobs bill. This is at best a jobs transfer bill. So let us get rid of that euphemism, too.

Mr. RIEGLE. Can we have order, Mr. President, so that the Senator can be heard?

The PRESIDING OFFICER. The Senate will be in order.

Mr. EAST. I appreciate the thought of the Senator from Michigan.

No, I think we are making a big mistake. There are many other things that trouble me in this bill, probably trouble all of you, but I hope to simply touch on some of the highlights here that indicate, one, we are on the wrong rung. We ought not even to be dealing with it in this lameduck session. Second, there are some very fundamental premises of tax policy that cut across party lines, that cut across liberal and conservative lines, that would want to make you look long and hard before you impose this tax upon the working people of this country.

Again, I fear if you take the 97th Congress and you look at what it has done taxwise—and we have all been involved in it, both parties, both sides, some more to blame than others, and that I understand—if you look at our overall tax policy, I think we run the risk of having evolved a tax policy that hurts the working people of this country, and I believe that is a bad step. I do not think we ought to resurrect this and try to impose it in the waning hours of the lameduck session, which I repeat again and again and again, perhaps ad nauseum, was not created for the purpose of dealing with this anyway.

I have gotten a little concerned about the pressure here that some way or other to be opposed to this, to be resistant to it, is obstructionist. Well, I regret it. I am sorry and I apologize. But I thought this was the appropriate time to get into this discussion, to indicate to you one freshman Senator's feeling that I think we have lost our way. We are about to take up something we ought not to be taking up. And then having taken it up, yes, we are probably going to pass it, and it is a mistake. It is a mistake.

You only have to go back to North Carolina and say "EAST got beat." Well, EAST got beat before. I ran for political office, ran four times and lost three times. It is more fun to lose and even the U.S. Senate cannot change that. I will probably lose on this one, but I will have the satisfaction and comfort of knowing that I can sit here this evening before this body and say, "It is a mistake." When I go home for my Christmas vacation, silence will

not be interpreted as consent, that wisdom prevailed, wiser heads prevailed, ignorant freshmen did not know what they were doing, so on and so forth.

Maybe I have not learned enough about the new tax policies of the U.S. Government, the U.S. Congress, and the U.S. Senate. I do not know. But from what I understand about taxes, what I udnerstand about recessions, what I understand about the working people of this country. We are told there is a great desire for this gas tax. I doubt it.

They had a fellow on TV the other night for a question.

Mr. RUDMAN. Will the Senator yield for a question?

Mr. EAST. No. I want to finish, and then I will yield for a question.

They had a fellow from North Carolina on television the other night and they asked him what he thought of the gasoline tax. He said, "Well, they tax our beer. They have increased the tax on our cigarettes. Now they are going to tax our gasoline. All that is left is our women."

The fellow makes a point in his own clever way. More and more excise taxes upon working folks.

This fellow is probably the kind of fellow who is going to take his small boat on a trailer down to Morehead City and put it into the water. Gas, gas, gas. Gas is important to him; 5 cents a gallon, That is big.

I cannot believe if you went out and polled the people in this country they would come in here and tell you a 5-cent a gallon gas tax is a wonderful idea and they would like it for a Christmas present.

CBS newsmakers pulled their little practical jokes on me about a toy tax. Listen, after you have been here for a while, I thought they were straight with it. The old story of taxing your memory. They can tax that one, too. They have not thought of it. No one quickly loses one's sense of humor here with the rush of these excise taxes. This is another one.

Well, they were going to tax unemployment, proposing that possibility, and now maybe toys. I do not know. After you have been in the atmosphere very long, nothing would surprise you.

I think the gasoline tax is one of the most indefensible ones. It is not a luxury in any way, shape, or form. You might say some of these other things are luxuries, but not gasoline, not in American society, not in the mobile society we have. The automobile of the average American is his great ticket to independence and he runs it on gasoline. He is hard hit today and you are going to impose a 5-cent gasoline tax as a Christmas present to the working Americans.

Do your people want that?

I have had no indication from the good people of North Carolina that they are enthused about it. They are not. They think it is a bad idea, and I do, too. I think many people up here do, too. There is a certain momentum about the U.S. Senate or Congress. We seem to get on something we should not have been on to begin with. Then as this momentum grows and feeds on itself everybody says, "Well, it is a good idea. We have to show leadership. We have to show discipline. We have to show we can govern."

Well, I do not mind governing, but let us govern wisely, and this is not wise. This is poor tax policy. Regressive tax, a time for recession.

I do not know what your good people sent you up here to do, but my good people did not send me up here to do this, and I want to protest it. I want to protest it as vigorously as I can, because I hope if this thing comes to a vote to resurrect it we will not.

I have seen a lot of issues we have taken up around here, so-called social issues and others, and when it has not been possible to invoke cloture we say, "Enough is enough, we have to move on to other important business of this country."

Why is that not true on the gasoline tax?

We discussed it, we debated it, we tried to impose cloture and it did not work. We have a whole agenda of things to do. We ought to move on with them. We have the continuing resolution and then this great spate of amendments, which has tied us up for 4 days on end.

Now, as we reach the end of this line—it would be a good time to get out gracefullly with the continuing resolution—we are told it is imperative that we resurrect what I think is a very bad measure.

Someone said, "What do you think Government, Congress, ought to be doing to try to help this economy? Don't you think we ought to tax a little bit more?" I would say, "No, no." I would say, "The principal thing we need to do to get this economy going and to broaden and deepen the tax base so that you will have more revenue in the highway fund and everything else to revitalize it. Do not tax it. Revitalize it."

What could we do to help revitalize it?

The main thing we could do is to try to gain control of Federal spending, the rate of growth.

I am not trying to repudiate the last 40 years. I am not trying to repudiate the last 10 years. I am just saying get control of the growth of spending. Everybody knows we need to do that. In the entitlement programs, for example. We do not address that. We might have done that more constructively in the last few days rather than trying to figure out new excise taxes to put on the working people of this country.

You are going to continue to have a weak economy, a deepening economy, unemployment, and this need for jobs until we are able to get Federal spending under control, the rate of growth of it. That is all I am talking about, the rate of growth.

That would contribute more of a contribution than we could make to get the deficits down, to get interest rates down, which everyone in this Chamber, I think, realizes is the principal obstacle to economic revitalization in this country.

Mr. TSONGAS. Will the Senator yield?

Mr. EAST. No.

Mr. TSONGAS. The Senator used my name previously, and I would like to respond.

Mr. EAST. I understand that.

A parliamentary inquiry. The fact that I used a name does not obligate me under the rules of the Senate to yield, does it?

Mr. TSONGAS. It was a courtesy I was invoking. I understand the reluctance of the Senator.

Mr. EAST. I have the deepest respect for the Senator. If I could just finish making this point; then I shall yield for a question, if I may just finish this line of reasoning, because I have great respect for the Senator and would like to hear what he has to say.

The greatest contribution that we could make would be to control the rate of growth of Federal spending. The other great contribution—and I think it is unfortunate that the Federal Reserve Board has been very slow in responding—is to bring interest rates down. Between the two of them that is what would get this economy back on a firm and sound basis. We would not have to be in here talking about a weak economy, and the need for jobs bills and new taxes—new taxes of all things, regressive taxes, at a time of recession, people hardest hit, and so it goes.

Control of the growth of Federal spending would be the greatest contribution the Congress could make, coupled with the Federal Reserve having reasonable interest rates and keeping that spiral going downward.

Those are the two single, major needs we have to restore the strength of this economy, where we would not have to be in here talking about "jobs bills" and new taxes to pay for them.

At this point, Mr. President, I shall be happy to yield for a question from the distinguished Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I thank the Senator for his courtesy. I was on the floor and the Senator made reference to the fact that I had spoken earlier about delays in the proceedings and that I had pinned the blame on

those who offered amendments. The Senator was not on the floor, I believe, when I made those remarks, so I would like to clarify what I said.

I said that what was happening—and I had two amendments pending which I did not call up—was that the Senate was taken over by extremists and that, in fact, what was happening is that an environment is being established where those of us who are moderates in our tactics find ourselves isolated; that the way things are going, one has no choice if one wants to serve his constituency but ultimately to engage in the same tactics; that the middle, in essence, is being abandoned and people would precipitate to both ends of the spectrum.

My criticism was partly to those who engage in amendments, some of which were inappropriate, but also those who engage in tactics.

I have no problem philosophically with a filibuster where someone feels deep moral outrage. That is the right of every Member. The question in my mind is what constitutes moral outrage? For someone to feel moral outrage at a highways bill suggests a very low threshold where this outrage plugs in.

My question would be if you voted for the tobacco tax and you are from North Carolina, why would the gasoline tax trigger that outrage?

Mr. EAST. As I understand the question of the Senator, though I would like him to clarify it for me, he is wondering why my sense of so-called outrage is greater on this issue than it has been on others?

Mr. TSONGAS. I was on the floor when the Senator voted for the tax increase package that included an increase in tobacco tax, knowing how that affected your State. Why would that trigger no more moral outrage than this one does?

Mr. EAST. As a matter of fact, I did not vote for it, Senator. I only voted for it that evening so it could go to the House where my colleagues, I might note, in the House also voted for it so it might go to conference, where we felt it would have a greater chance for the elimination of the tax. It was purely a tactical, strategical judgment.

In any case, I suppose I might answer it this way—in other words, I think the Senator's example is inappropriate for that side.

I suppose another way I might answer it is that we could continue to move in that direction of more and more excise taxes, increasing the tax burden upon the working people of this country.

Mr. TSONGAS. Could the Senator explain why he switched his vote if that was his strategy, and only did so after Senator HELMS switched his, who only did so after Senator DODD switched his, which caused the bill to be defeated? Was that part of the strategy as well?

Mr. EAST. No; Mr. President, because I had the feeling that we would do better on that particular measure, on that particular judgment to send it to the House; that it would make no further sense from the standpoint of protecting the tobacco interests of my State to allow it to linger further in the U.S. Senate. It may have even gone higher, and I thought it was prudent to move it on, to be cooperative and move it on. That is exactly what my distinguished North Carolina colleagues in the House did, Democratic and Republican.

You will recall they moved that whole thing out to conference, because they did not want that hot potato on the floor.

If the Senator would like me to give him an example, we always avail ourselves of the great reluctance we have from tobacco producers in this country to allow matters to linger on the floor of the U.S. Congress. Sometimes we feel it prudent to move things along to get it out. The judgment was that evening, Senator, to move that one out of here to get it over to the House. Our colleagues in the House concurred to get it to conference. We hoped the conference would get that tax reduced. We were unsuccessful.

I do remind the junior Senator from Massachusetts when the bill came back to the respective Chambers for passage, I was 1 of 11 Republicans, along with Senator HELMS, who voted against it. So untimately, on passage of the measure, I was negative.

Mr. TSONGAS. I shall not pursue this, except that, in deference to the Senator, I will not repeat the conversations I overheard that night because I was in the well when those switches took place. There is no point going into it.

I understand the arguments you make, but please do not make them to someone who heard the conversations take place.

Mr. RUDMAN. Will the Senator from North Carolina yield for a question?

Mr. EAST. I shall be happy to yield for that purpose to the distinguished Senator from New Hampshire.

Mr. RUDMAN. I think it would be a major understatement to say that the Senator from North Carolina thinks this gas tax is not a very good idea.

Mr. EAST. The Senator is correct.

Mr. RUDMAN. I have concluded that from his remarks. The Senator from North Carolina, if I am correct, was one of the most ardent supporters of our President when he was a candicate; is that correct?

Mr. EAST. Yes; I point out that my support of the President goes back to 1968, when I was a delegate to the national convention from North Carolina, and we were the only State outside of California that gave a majority of our delegate votes to Ronald Reagan for President in 1968.

I was a delegate to the national convention in 1976, and I supported him at that time in a losing effort. I yield to no one in my admiration, devotion, and loyalty to a very great President, Ronald Reagan.

Mr. RUDMAN. Am I further correct in stating that the Senator thought it would be a good idea if Ronald Reagan became the leader of this country? Is that a fair statement?

Mr. EAST. It reminds me and the Senator may recall that I disagreed with the President on the Voting Rights Act.

Mr. RUDMAN. I am not talking about disagreement. I say generally, do you think he ought to lead our country?

Mr. EAST. I am answering the Senator's question, if he will allow me to elaborate. I opposed President Reagan and the Justice Department on the Voting Rights Act. A reporter said, "How can you disagree with the President, a man you have been a great admirer and supporter of?" That is what you are asking me. My answer was that every now and then, even a great President makes mistakes. We all frequently disagree with a particular leader. From supporting him in this, I respectfully dissent.

I support Ronald Reagan on 95 percent of the things he stands for. I disagreed with him on that matter, and I happen to disagree with him on this one. Since when is that necessarily a bad thing? We all do that from time to time.

Mr. RUDMAN. Let me say to the Senator I think I speak pretty good English. I did not ask the question whether you had a right to disagree. Of course you do. I voted against the President a couple of times tonight. I simply asked the question: Do you think, did you believe that you wanted Ronald Reagan to lead this Nation? Not to agree or disagree. Do you think he should be our leader? That is a simple question.

Mr. EAST. For President. When you say leader, yes, I like him to lead, but I am not a blind follower. I suspect the Senator from New Hampshire is not, either.

Mr. RUDMAN. We both can agree we wanted Ronald Reagan to be our Nation's leader.

Mr. EAST. I would prefer the word "President." I do follow his leadership and I support him on a host of things, and I yield to nobody on that. If you are suggesting in some way or another because EAST is enagaging in harassing, he is not supporting the President or the adiministration—I opposed them on their change in Taiwan policy.

Mr. RUDMAN. You are suggesting some things that have not even crossed my mind.

Mr. EAST. I have frequently, on occasion, dissented from the administration on certain tactical directions they might take and on particular issues; this happens to be included on the list, Senator. What is wrong with that?

Mr. RUDMAN. Not a thing. I would like to ask, if I may—I say to the Senator from Idaho, I have not even gotten to my question.

Mr. EAST. I would be happy to hear it.

Mr. RUDMAN. We agree——

Mr. STEVENS. Mr. President, a point of order. Senators should address the Chair, not each other. It reduces the acrimony in this Chamber.

Mr. RUDMAN. I apologize, Mr. President.

I respectfully ask the Senator from North Carolina that he yield for one more question. I think we both agree we are both supporters of the President. I think he should be our Nation's leader: You say President. I am sure you say the President must propose to Congress and we must dispose or oppose, disagree. My question is simply this and it is my basic question: Do you believe the President of the United States is entitled to have his proposals voted for up or down in the U.S. Senate? That is my question.

Mr. EAST. Senator, I think that misconceives what the problem is. It misconceives what the problem is. We have separation of power. I am a member of the legislative branch. I have been here for 2 years, as you have, and issues are frequently brought up. We agree; we disagree.

But I find as a Senator that on occasion, because of separation of powers, I have to be at odds with a very great President on particular matters.

I have been here time after time in this Chamber when issues that are controversial and devisive are brought up. I have heard our very distinguished majority leader get up and say, "This is as much time as we can devote to that. This body must move on and do its work," and they pull it down and that ends it where they have not been able to impose cloture.

You know that, too, Senator, and that has happened. And often those were issues that the President of the United States would have supported.

But we are a separate branch, we must move on and conduct our business. And I am a part of this branch. So I think when you pose the question the way you do, with all due respect to you—and I have the greatest admiration for you—you misconceive the concept of the separation of powers.

We have an individual responsibility here to pursue some measures in this Chamber under the rules of this Chamber. That is all I am doing.

Mr. SYMMS. Would the Senator yield for a comment without losing his right to the floor?

Mr. EAST. I yield to the Senator from Idaho.

Mr. SYMMS. Mr. President, I would just like to say to my good and able friend from North Carolina that I, as one Senator, have the most respect for him for taking his position and I in no way would impugn his motives. I must say, I feel that some of my colleagues are coming too close to impugning the motives of another Senator on this floor. I do not like to see us do that.

I happen to be in favor of us committing more of our dollars as a country to fixing the roads and bridges of America. I have not been one who has called this a jobs bill. I have spent more hours chairing hearings, listening to testimony, to make it overwhelmingly evident to me that we are failing in fixing the roads and bridges in America all across the country—in West Virginia, in North Carolina, in Idaho, New Hampshire, Massachusetts, wherever.

I do think that our colleague has every right to oppose this tax on the basis of a philosophical principle that is very near and dear to his heart and does not have to answer any questions as to why he voted for one tax bill and why he will not vote for another tax bill. I think we should all give our due respects to our colleague.

But I would say to my good friend from North Carolina that those people in North Carolina are going to benefit from better roads. The same people that want the freedom that you talk about to drive around in their automobiles. The working people, the affluent, the Catholics, the Jews, Republicans, and Democrats all drive on the same road system—it is one system that is nonpartisan, nondiscriminatory, and that benefits everyone in the United States.

Now, I think if we want to debate the issue, this bill will spend 60 percent of the money for repairs and about 40 percent for new construction. We have instituted a new program to repair the Interstate System in this country. The committee, under the leadership of Senator STAFFORD, Senator RANDOLPH, Senator BENTSEN, myself, and many others on the committee have worked very diligently to bring this highway bill away from a new construction program and put it on course as a repair program.

Now, I thank the Senator for yielding to me, but I would just say to my colleagues, if it is the wisdom of the Senate to move forward with this legislation, the bill that we have presented has equitable formulas for all of the States. We think our bill tries to treat and address the problem of worn out bridges and a worn out Interstate System, where over 20 percent of it now has reached the design life and we have yet to complete the last 5 percent. We have reduced the number of miles of new Interstates to about $20 billion. It will cost us $20 billion less to complete the Interstate System now than it would a year ago. The reason for that is we demapped some of it, so that will allay some of the fears of your constitutents.

We have had many days of hearings in many parts of the country and I am convinced, as one who is a conservative, that there is a definited need for the improvement of the roads in this country and an increased commitment to it.

After all, a 4-cent-a-gallon gasoline tax in 1959 is, in constant dollar terms, worth less than a 1-cent-a-gallon gasoline tax in 1982. Those of us from this side of the aisle have for years talked about the fact that we should index the Tax Code in this country.

I have heard the chairman of the Finance Committee say repeatedly that without indexation of the income tax the working man and woman's pay increase is negated because of "bracket creep."

Since 1959, inflation has depleted the value of the gasoline tax package to the point where we do not have sufficient revenues to complete or maintain our national highway system. The cost of repairing a road today is, on average, 300 percent more than it was in 1959.

We have enjoyed the benefit of a national highway system. In order to continue to enjoy that benefit, we are going to have to "step up" and pay on that system.

Mr. President, it is widely recognized that much of our national prosperity and economic well-being is based on our interlocking pattern of lanes, roads, highways, and interstates. Yet, Mr. President, as important as this system is to our country's future, as well as this system has served our national and individual needs, we are allowing it to literally fall to pieces. We have failed as a society in maintaining our commitment to our national highway and bridge system. In doing so, we not only jeopardize the capital investment we have in the system itself, but also the economic framework of our country, which is based on viable and efficient surface transportation.

Our Nation's deteriorating highways is a problem which must be addressed, it cannot be avoided. The problem is not confined to one class or type of road or to roads in a particular section of the country. The problem is universal.

I will not here go into a detailed description of our total needs. At this point they have been well documented both through extensive subcommittee hearings and other sources. It is sufficient to say that the needs of our highway system are staggering.

As large as these needs are, the costs to preserve these vital links in our highway systems will only increase. A 2- or 3-year deferral of highway resurfacing or rehabilitation work often results in the necessity for total reconstruction at triple the original cost plus the effects of inflation. An editorial in the March 13, 1982, Sioux Falls, S. Dak., Argus Leader shows a clear understanding of this fact:

There's a lesson in the corollary between the Nation's predicament with deteriorating highways and what South Dakota is encountering in improving a scaled-down core railway system. Deferred maintenance on the bankrupt Milwaukee Roads' system resulted in its decline and necessitated costly repairs after South Dakota purchased the track.

Neither South Dakota nor the Nation should delay addressing the highway and bridge problem while there's still time to fix it.

National administrators, both Republican and Democratic, customarily cut highway funding budgets to make their deficits smaller. The challenge now is to apply increased fuel tax revenues effectively for capital improvements and maintenance that will save much greater expense later.

Not only are we faced with much higher future costs of postponed highway repair and reconstruction, we are also faced with the present costs of driving over these unrepaired roads. The Jacksonville Journal reported in a March 15, 1982, editorial that in Florida:

Dilapidated roads cost the average driver $200 more a year in wasted gas and extra repairs and are the second leading cause of accidents in Florida. In 1979, the 70,425 accidents they caused cost taxpayers $255 million.

The Federal Highway Administration has estimated that by 1995, unrepaired roads will cost the average family $510 in 1980 dollars and an added 78 hours of driving time each year.

In addition to the costs to the private motorist, we cannot ignore the billions of dollars that will be lost as a result of the effects of an unsafe, inefficient highway system on commerical traffic. The added costs of increased fuel consumption, unnecessary wear on and breakage of freight hauling equipment, and loss of time, while considered separately on an individual truck may be small, considered as they must be on thousands of trucks traveling millions of miles each year, the cost of poor roads is staggering.

Mr. President, the Nation can ill afford to allow its highway infrastructure to crumble. We have in place one of the most successful and equitable mechanisms ever devised for funding our highway programs, despite soaring inflation and highway construction costs, the motor fuel tax has not increased since 1959. Our highway revenues have been silently lowered by time and inflation. The 4-cent motor tax of 1959 is worth less than 1 cent today. We must act now to insure the integrity of our surface transportation system. This may be done by increasing the motor fuel tax to realistic levels.

Increases in highway user fees to aid our ailing highway and road network should not be confused with increases in general taxes associated with Federal spending or deficit-reducing measures. The two are not the same, and calling an increase in the national fuel tax a user fee increase rather than a tax hike is a matter not just of semantics but of accuracy.

Our Nation's Interstates, highways, and roads have been paid for by those who use them. This has been accomplished by a means of a system of levies and excises based primarily on the use of motor fuel, motor oil, and tire rubber, with the money raised placed in a dedicated trust fund. There is little disagreement that this method of funding our highway needs is successful, equitable, and is a user fee concept different from general taxation.

I would like to point out, and I have previously mentioned how the debate on legislation can become clouded, that this is not a jobs bill. The purpose of this legislation is to fix our crumbling highways. The purpose of this bill is to provide for the building and repair of the road network which allows for the expansion, growth, and development of our society.

It is true, however, that additional jobs will be created by this legislation and this is a welcome and beneficial secondary effect. These will be no make-work, unproductive, public sector jobs, but rather will be jobs originating in the private sector among the private contractors and construction companies already in place. These jobs will benefit those in an industry of extremely high unemployment while leaving in place an improved national infrastructure for the benefit of society as a whole.

Some decry this type of expenditure, saying it will result in a net loss of jobs. However, Mr. Feldstein, who they quote to support their argument, has also pointed out that the impact of rechanneling $5.5 billion in a diverse multitrillion-dollar economy will not have such an impact.

Nor should we expect a major change in the driving habits of the general public as a result of a 5-cent increase in the price of a gallon of gas. This is a change of less than 4 percent in the price of motor fuel, and past experience has shown the demand to be quite elastic in the face of such a minor increase.

Some have critized this legislation as not adequately addressing the need to repair what we have previously built while continuing to channel funds into new projects. Such criticism ignores what we have done in the past and what this bill would do.

We have taken major strides in bringing our highway programs under control while providing for maintenance of the existing systems. We were recently successful in redefining an unmanageable and impracticable Interstate requirements, decreased the cost to complete this system from $54 billion to $38 billion. We also were successful in adding a reconstruction program to the Interstate repair category. This bill will see a doubling of the money to this new expanded 4-R program, which is a substantial and needed increase toward maintaining the system we have in place.

In addition, we have provided for additional State flexibility by allowing a State to transfer Interstate moneys to Interstate 4-R to meet repair needs.

This bill, in keeping with the committee's commitment toward timely repair of our existing system, requires for the first time that a full 60 percent of all noninterstate moneys go for repair of existing roads and bridges. Such directing of funds will be coupled with an increased ability at the State level to channel funds where the highway needs are greatest. This flexibility and conbining of Federal programs is a further indication of the desire on our part to meet our highway maintenance needs.

We have in our bill recognized that with an increase in Federal moneys going to the States, the States may initially be unable to match the Federal funds. We have provided for this by allowing the States to receive the increased funds while they prepare to provide for their matching share. The manner in which we have done this is I believe fair and equitable and will maintain the integrity of the system.

An addition to the bill which makes a major change in the historical approach of national highway policy is that of the 85 percent monetary floor which a State receive back in light of its contributions of the highway trust fund.

While I am hesitant in making this change, I can understand the concerns of those States which traditionally have contributed more to the fund than they have received back in apportionments. I am willing to set the 85-percent level but will not agree to any increases in that floor. We are administering a national program that is based on the needs of the system as a whole which precludes every State receiving back the exact amount it contributes. The Nation as a whole benefits from this nationwide system that extends over heavily and sparsely populated areas alike.

I have commented on this before Mr. President, but I would like to reiterate the point that we need to separate the highway trust fund for the unified

budget process. The trust fund is a dedicated fund whose moneys are collected from those that use the system. This money should be spent for the purpose it was collected and should not be caught up in the often political, partisan maneuverings surrounding the national budget. I am pleased that my colleagues have agreed with me that the trust fund balance should be spent down.

Nor should these moneys, collected from highway users, be diverted to nonhighway purposes. I am very concerned over the mass transit diversion advanced by the administration and the House. This is an attack on the user fee concept. Certainly no one will deny that mass transit has substantial needs, but diversion of money from highway programs does little to solve localized mass transit problems. It is nothing more than an improper and ill-advised transfer of money. It will not solve mass transit problems but rather temporarily subsidize mass transit use until another increased infusion of funds is needed. I cannot support such poor public policy, a policy which refuses to address the core issue of mass transit problems in urban areas. I have been unsuccessful in deleting this diversion to date, but I will continue to seek its end. In the alternative, I wholeheartedly support what this body did in allowing one-half of 1 percent States complete flexibility in the use of their mass transit shares.

Mr. President, at this time I want to go on record as opposing any changes that would extend Davis-Bacon provisions to areas covered by this legislation to which the Davis-Bacon does not now apply. I think my feelings were summarized very well by a December 10, Washington Post editorial that stated:

> While creating new jobs is not the purpose or likely effect of this legislation, every effort should be made to get as many jobs out of the program as possible. The best way to do it would have been to amend the Davis-Bacon Act, which as currently applied, significantly increases wage costs on many construction projects. Instead, the bill would actually make the situation worse by extending Davis-Bacon requirements to repair work now primarily done by small contractors who pay lower wages. It means that perhaps 40,000 fewer jobs will be created each year. If the unions try to tell you that Davis-Bacon doesn't drive up wages, ask them why they are pressing so hard to extend it.

Mr. President, a major part of the overall legislation is that which deals with increases in highway user fees. This is a difficult issue. One which requires the weighing of choices and consideration of often conflicting needs and wishes. In this regard I must state that I have some concern over the taxing provisions advanced by the administration and the House.

I have pointed out both upon introduction of the authorizing legislation and during committee markup that one of the most important uses of our roads and highways is the movement of interstate commerce. National highway policy must provide for the efficient and economic carriage of goods.

Ninety percent our Nation's goods and services travel by road at one time or another. The vast bulk of this commerce if carried by trucks traveling inter-and intrastate. We must provide an efficient, fair, and economic framework for their carrying of goods. This requires establishing a fair system of taxation to be placed upon the trucking industry which requires their paying a fair share based upon highway usage yet allows the industry the capability to compete with other modes of freight transportation on an equal basis.

I am confident that the levels of taxation at which the Senate arrived are far more equitable and practical than those contained in either the House or administration bills. Again, our purpose must be to arrive at a fair level of taxation while providing for the continued viability of an industry so important to our national well-being.

Because of this I have felt it necessary to insist that whatever taxes are placed on the trucking industry, they be phased in over a period of time. This might not be necessary for the large national carriers, but there are many small regional carriers in my State and the West which would be unduly burdened by a single large increase. They could not absorb such an increase and remain in business. I for one do not feel that putting people out of business is in anyone's best interest. I think the phase-in provided for in the Senate language will greatly lessen the impact of any tax increase on small and independent truckers.

We have included exemptions for certain categories of farm vehicles and other vehicles which have minimum impact on our roads and highways.

In addition to a fair taxing system, it is my position that we must allow for the economic carriage of goods.

The Senate has acted toward this end. During markup of the authorizing legislation I am pleased that the committee voted in favor of my amendment to set a national uniform 80,000 pound weight standard. Additionally, the amendment provided for a clarification of the grandfather clause and allows the States to determine what their grandfather provisions provide for.

These weight changes will be joined with size increases which I have also worked for. Trucks will be allowed to run with 102 inch width trailers instead of less productive 96 inch width trailers. Trucks hauling cargo will also be allowed to take advantage of new length configurations that will greatly increase their productivity and ability to compete.

Mr. President, I feel that overall, this is a good and much needed bill. It is my hope that we might speedily pass this bill in order that we may be about the business of building and maintaining our Nation's highways and roads.

Mr. STEVENS. Will the Senator from North Carolina yield to me for a question?

Mr. EAST. I yield without relinquishing my right, of course, to reclaim the floor. I yield for the purpose of a question to the Senator from Alaska.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. STEVENS. I ask my good friend, for the purpose of dealing with the fact that we have staff here that has not had much sleep and we have to go into a conference, I hope, soon, on a continuing resolution, if he would tell us how long he thinks he would be speaking on the matters he is speaking on now which are delaying us from getting to third reading and getting the conference report printed so that we might go to conference on the continuing resolution.

The Senator is addressing the highway bill and we are quite anxious, Members of the House are coming back in the morning to meet with us at 10 o'clock, and we thought we would have these documents printed. We cannot do that unless we can get to third reading and pass this bill.

Could the Senator tell us how much longer he might be speaking on the continuing resolution?

Mr. EAST. Well, the Senator asks a fair question. I certainly do not want to speak any longer than I need to make what I think are very important and valid points. My concern is that, after we go to third reading on the continuing resolution, then here comes the gas tax and we are going to be in a whole new phase of the lame-duck.

If I do not raise it now and press my case and make my point, I will not get another chance. It will be over for me and I know it and you know it. What I am saying is, I will keep my comments pertinent and I will keep them pertaining to what I think are the weaknesses in the direction of which we are going.

Mr. STEVENS. If the Senator would yield just for one more question, again, I am just trying to make my point. Does the Senator realize that once we go to third reading the Senator could still make his speech but, meanwhile, we could be printing the bill? It would not be subject to any further amendments.

Mr. EAST. I am concerned if we do that, have I not then set the parliamentary stage for the resurrection of the gas tax?

Do I run the risk of doing that or do I have assurance that the gas tax would not be resurrected? Where would we stand on that?

Mr. STEVENS. Would the Senator permit me, without losing his right to the floor, to make a parliamentary inquiry of the Chair?

Mr. EAST. Yes. I want it fully understood that I am not relinquishing the floor. I am merely relinquishing for the purposes of questions or parliamentary inquiries.

Mr. STEVENS. I thank the Senator from North Carolina.

I ask the Chair. Does the fact that this bill, the continuing resolution, the fact that it remains in second reading, does that have anything to do with the continued right of the Senator to debate? My understanding is he could debate after third reading, could he not?

The PRESIDING OFFICER. Debate is in order after third reading.

Mr. STEVENS. Would the Senator lose any right, other than the right to offer amendments to the continuing resolution itself, by allowing us to go to third reading and, thereby cutting off the right of any further amendments to the continuing resolution and allowing us to print it and getting it ready for conference? Would he lose any right other than offering an amendment to the continuing resolution if we permit it to go to third reading?

The PRESIDING OFFICER. Third reading precludes amendments, but debate is in order, both before and after third reading.

Mr. STEVENS. I did not know if the Senator from North Carolina heard that response. Could the Senator from North Carolina hear the response to my inquiry? The Senator would lose no right as far as continuing to make any speech he wants or his right to continue to delay the final passage of the continuing resolution if it went into third reading, other than the right to offer amendments to the continuing resolution itself. If it went to third reading we could print the documents, we could get people ready for the conference which ultimately will come on the continuing resolution.

This Senator right now is concerned with the continuing resolution and the mechanics of getting it to conference as our chairman is, I am sure.

We would like to get to third reading so that we know what we are dealing with and can start talking to Members of the House about the continuing resolution.

The only right that the Senator would lose would be the right to offer amendments.

My next question would be, Does the Senator intend to offer any amendments to the continuing resolution that we have not been notified of?

Mr. EAST. That is a concern I have that I would lose the right for any amendments on the continuing resolution and obviously after third reading, and I do not know at this point if I am prepared to lose that right because I am afraid that then we would begin to move into a parliamentary posture where we are about to resurrect the gas tax.

Mr. STEVENS. If the Senator has this right without losing the right to the floor, again if I may address the Senator's question without his losing his right to the floor, we have surveyed the whole Senate and over a period of 2 days and did not understand there were any other amendments to the continuing resolution and, therefore, I have to say we are caught sort of unawares. If there are other amendments to the continuing resolution, we have no knowledge of those. And we have documents ready to go to the printers we hope by midnight so that we can be in conference tomorrow.

If the Senator does have amendments to the continuing resolution, would the Senator favor those of us who are going to be dealing with the question of going to conference to let us know as soon as he can what those amendments will be and whether or not we are going to see further amendments offered to this continuing resolution here this evening?

Mr. EAST. Well, as I understand it, there are other Senators who may still have amendments they will want to offer to the continuing resolution.

Mr. STEVENS. Will the Senator do this for me if I may ask the Senator to yield without losing his right to the floor with the understanding that he will be recognized immediately after a quorum? Would the Senator, without losing any rights he has now, agree to put in a quorum call so we might discuss this, the whole procedural question here of the continuing resolution and how we handle documents?

Mr. EAST. If I might offer this——

Mr. STEVENS. I assure the Senator he will be recognized when we come in from the quorum. As a matter of fact, it is just to run the clock a little further, I would say to the Senator, but we would like to be able to discuss with him the parliamentary problem, not the parliamentary problem, the procedural problem in handling this continuing resolution in terms of printing.

Would the Senator permit a quorum call? He will not lost any rights. I ask unanimous consent he does not lose any rights, be recognized and not a quorum charged against him.

Mr. EAST. If I understand the Senator correctly now, that in accepting what the Senator is proposing to enter into a quorum call whereby we might discuss this at greater length, that I am not——

Mr. STEVENS. I ask that the quorum call be called off by the Senator alone at his request; the quorum call can come off without any unanimous consent. He can call off the quorum call when he wants. We want to discuss with him the problems of getting this bill printed. Would he do that for us?

Mr. EAST. In other words, we are going to be in parliamentary neutral with no one being in a position to alter, change, or modify, or in any way jeopardize my rights to reclaim the floor and pick up precisely where I am right now. Is that the kind of agreement we are entering into?

Mr. STEVENS. I ask unanimous consent that that be the agreement we enter into.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. I would be willing to accept on those terms and I shall cease and desist until we may pursue that.

Mr. PRYOR. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Arkansas reserves the right to object.

Mr. PRYOR. Senator RANDOLPH, of course, is the senior Democrat on the floor.

Mr. STEVENS. May I assure the Senator his right will not be inconvenienced, either.

Mr. PRYOR. I am concerned also that other party members seem not to be on the floor. I think that before we enter into any agreement like that, I would certainly have to seek their counsel and advice.

Mr. RANDOLPH. I do not propose to speak for the Democratic Party.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. I am sorry.

The PRESIDING OFFICER. Does the Senator from West Virginia object?

Mr. STEVENS. I made a unanimous-consent request we be permitted to have a quorum call under those circumstances. It will come off immediately at anyone's request that is present on the floor if you wish to put it that way.

Mr. PRYOR. Is it the understanding of the Senator from Alaska with the Senator from North Carolina that he will have the opportunity to engage in this discussion after the quorum call was put back into effect?

Mr. STEVENS. He has the same rights he has now, Senator, and you will have the same rights you have now, exactly.

Mr. RANDOLPH. I have no objection.

Mr. PRYOR. I do not think I have any rights now. I do not think any of us have.

Mr. STEVENS. You are right. Only the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection to the request?

Mr. PRYOR. May I ask him one.

Mr. President, would the Senator from North Carolina yield? I just want to ask him this question. These are fine Senators and personal friends.

My son has a wrestling match in about 20 minutes in Bethesda and we have had 54 rollcall votes this week and I have made all of them and I want to be in perfect attendance the whole week.

Now, could I go to that wrestling match and be sure I am not going to miss any votes? What is the situation? Would someone advise me? That is my main interest.

Mr. EAST. How long a period of time would the Senator take?

Mr. DURENBERGER. It depends on how good the kid is.

Mr. PRYOR. I imagine about time to go over to Bethesda and get back. It will probably be around midnight, I imagine.

I do not want to take the time of the Senate but I am somewhat concerned about this arrangement being made and we might have a very short delay here.

The PRESIDING OFFICER. Is there objection to the unanimous consent?

Mr. PRYOR. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. EAST. Mr. President, as I understand the parliamentary inquiry, we do not have unanimous-consent order.

The PRESIDING OFFICER. The Senator is correct.

If I may interrupt——

Mr. EAST. I just would like to——

The PRESIDING OFFICER. If I may interrupt the Senator for just a moment, the Chair would like to ask the gallery not to enter into our debate. We appreciate that members of the gallery are deeply interested as we all are in the debate but clearly the rules of the Senate preclude that kind of participation and I would advise the gallery to watch respectfully and the Senator from North Carolina is now recognized.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. RANDOLPH. Mr. President, will the able Senator from North Carolina yield to me?

Mr. EAST. I will yield to the Senator from West Virginia for the purposes of making a question. Was that what the Senator was doing?

Mr. RANDOLPH. To discuss the matter of the validity of the highway bill.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. DOLE. Are we on the highway bill?

Mr. EAST. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAST. I may only yield for purposes of a question, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. EAST. I will happily yield then as I understand the Parliamentarian saying I can only yield for purposes of a question. I am not in a position to yield to the Senator except if we have a unanimous-consent request can we do that. I will not mind allowing the Senator from West Virginia to elaborate beyond the question provided that in so doing I do not jeopardize my right to the floor and come back to that immediately following his remarks and pick up where I currently am, namely, I have the floor.

The PRESIDING OFFICER. The Senator would need to ask for a unanimous-consent request.

Mr. EAST. I would be willing to allow the Senator from West Virginia to make such a unanimous-consent request, and I would not object to it, and we could proceed to let him state his point, and then I, in due course, of course, under that unanimous-consent agreement reclaim the floor.

The PRESIDING OFFICER. The Senator from North Carolina must institute the question. He has the floor.

Mr. EAST. Well, I would ask unanimous consent that the distinguished Senator from West Virginia be allowed to have the floor. How long does the Senator say he would like to have it?

Mr. RANDOLPH. Mr. President, in reply to my colleague I am going to take some of the statements that he made that I believe are at variance sometime 100 percent with the facts, and I cannot just ask the question. I will naturally have to develop the statement to indicate why I believe the Senator from New York is wrong in the value of the highway and the gas tax or user fee to carry forward the necessary repairing, not new construction, of the bridges, the roads, of the United States.

Mr. EAST. Mr. President, I would be happy to make a unanimous-consent request that the Senator from West Virginia be allowed to speak for a specified period of time and as a part of that unanimous-consent request then of course that I would be able to reclaim the floor at the end of his remarks. I think that the only way this request would be workable if he could specify some reasonable timeframe, 5 minutes or 10 minutes.

Mr. RANDOLPH. Mr. President, I do not want to be misunderstood, but my colleague from North Carolina in discussing highways moved into at least 10 other areas, and I have documented them here, that have no direct bearing on the matter of the highway and the gas tax to pay for such a program of repair and reconstruction.

So I only want to address my remarks to the statements that I believe are in error, completely in error, about the value of the highway system and the need for the reconstruction of it at the present time.

Mr. EAST. I fear, Mr. President, I run the risk of losing my right to the floor if I persist in letting the Senator pursue the line of inquiry that he is pursuing.

I repeat again then, after having done that, that it occurs to me but to move on and continue my comments on why I have reservations about this gas tax.

What I am asking the Senator to do is to specify a period of time which he would like.

Mr. STEVENS. Will the Senator yield for the purpose of renewing the unanimous-consent request without losing his right to the floor?

Mr. EAST. Pardon?

Mr. STEVENS. Will the Senator yield to me again for the purpose of making a unanimous-consent request for a quorum call without losing his right to the floor, any rights by virtue of yielding to me?

Mr. EAST. I yield.

Mr. STEVENS. I ask unanimous consent that the Senator yield under those terms.

Mr. EAST. I yield for submitting a unanimous-consent request with the understanding that in so doing I am not losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I object. I am ready for the quorum call but I am wondering whether it would not be best to provide me 5 minutes to answer those statements that were made which are not correct, in my opinion, in reference to the pending measure, the highway and gas tax bill.

Mr. EAST. I should like to then submit a unanimous-consent request to the Chair that the Senator from West Virginia be allowed to speak for a period not exceeding 5 minutes, and at the conclusion of that period of time I reclaim my right to the floor that I currently have. That is the unanimous-consent proposal that I would like to submit to my colleague at this time.

Mr. STEVENS. Reserving the right to object, would the Senator add to that that we can have the quorum call so that we can confer after the Senator speaks?

Mr. RANDOLPH. Mr. President, I want to know exactly now where we stand in reference to parliamentary procedure.

The PRESIDING OFFICER. The Chair will attempt to state the re-

quest: That the Senator from West Virginia be allowed to speak for 5 minutes, and that the Senator from North Carolina retain the floor but that immediately after the speech by the Senator from West Virginia a quorum call will ensue without the rights of the Senator from North Carolina being lost in that situation.

Mr. STEVENS. And the quorum call may be called off by the Senator without unanimous consent.

The PRESIDING OFFICER. And a quorum call may be used to regain the floor.

Mr. EAST. And also that the two-speech rule would be waived in this case. I would want that to be a part of the unanimous-consent request.

Mr. STEVENS. Mr. President, that is implicit in my request, that he not lose any rights that he has now.

The PRESIDING OFFICER. Even unanimous consent cannot affect the calling off of a quorum call. It is a constitutional right.

Mr. STEVENS. Very well. The rights would be affected. I withdraw the request.

The PRESIDING OFFICER. The request is withdrawn. The Senator from North Carolina has the floor.

Mr. SIMPSON. Mr. President, I just have a question I would like to direct to the Senator from North Carolina, if I may.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. Is the unanimous-consent request of the Senator from Alaska something we can stitch together now? Where standeth thou?

The PRESIDING OFFICER. It was withdrawn. The unanimous-consent request was withdrawn, and the Senator from Wyoming is now addressing a question to the Senator. The Senator has the floor.

Mr. EAST. Without relinquishing my right to the floor, I will yield to the Senator from Wyoming for a question, yes.

Mr. SIMPSON addressed the Chair.

Mr. EAST. Yes.

Mr. SIMPSON. Is the Senator aware that the issue is not the gas tax or the gas bill or highways; the issue now is that the Government will close its doors at 7 a.m. on Monday morning unless you, sir, cease and desist in the activities that you are engaged in?

We have the chairman of the Appropriations Committee (Mr. HATFIELD) who has now labored hard and long, finished his efforts, and listened to Senators rattle amendments off the wall that would stagger a hog. We have watched all that go on and now we are ready to go to the final proceedings so that this Govenrment can continue.

I would ask you how, sir, you will defend the issue when you alone will be responsible for shutting down the Government at 7 a.m. when they come to work or do not come to work Monday morning? That is the issue. It cannot be avoided; unless you release whatever you are doing, you and your colleagues will have occasioned that result.

Mr. EAST. Senator, in answer to your question, first of all, I was asked earlier by the Senator from New Hampshire if I was following the President. I told him of my great admiration of the President. I know Ronald Reagan said he will not hesitate to close down the Government if he has to veto this continuing resolution, and that would be praised by the Senator from New Hampshire, and I presume by you and others, as showing great leadership, the fact that he is willing to stand for what he thinks is right as regards Federal spending, even if it means closing down the Federal Government. And I know a lot of people in North Carolina that would think if you closed down the Federal Government, it would probably be an enormous contribution to the well being of the country.

I do not mean to make light of the question, but if you are saying to me, do I feel that there is something immoral and unethical, that I feel a heavy burden slowly resting upon my shoulders as regards that I may personally be responsible for closing down the Federal Government, my answer is in the negative. I do not. The President has already indicated his willingness to do it.

What I am suggesting is I feel it appropriate and proper that I be able to make what I think are very critical points about a wrong turn that we have taken in the road.

I sensed as we got further down the road there was less and less understanding, less and less perspective as to where we were.

No; I do not feel that way—I greatly respect the Senator, but I have been through enough since I have been here—that some way or another if I do not do thus or this, I am going to feel this enormous burden about having closed down the Government. I do not feel that way, no, to be candid with you.

Mr. SIMPSON. Let me ask another question, and this is sincerely offered. Is there a way——

Mr. EAST. Excuse me. I would like for the Chair to understand that I am yielding solely for the purposes of a question.

Mr. SIMPSON. Yes.

Is there a way that you and your counsel and advisers could sit down with the leadership and determine how we are to release this continuing resolution for the work that has to be done for this country? Whether you agree or think that the idea of shutting the Government down is a good idea or bad idea, will you present us with the alternative as to how we may proceed and the Appropriations Committee may proceed and we may finish our work so that we may go into the conference that is so necessary that may take days. Please share that with us. And that is not an attempt to embarrass or be smart aleck. I would sincerely like to know what you can do to assist us in seeing that the continuing resolution leaves this body. I will assist you in taking the floor, continuing whatever you wish to do with your delay tactics, cloture, whatever it may be, because right now we have a situation where we are protecting a minority within a minority within a minority of this body. The whole reason for the procedures we have in this place is simply to give that minority the opportunity to express their views, clearly and thoroughly. That has passed. And now, again, is there a way—and I would be glad to participate in those deliberations—where you can release the continuing resolution from this body so that we can get on with whatever you have in mind with your gas tax information?

Mr. EAST. I would like to make it clear, I yielded for purposes of a question. I am not yielding the floor to the Senator.

Let me respond with a question. Could the Senator guarantee me or would he be willing to make the effort to guarantee me that the gas tax measure will not be resurrected if I did agree to a third reading so that we can get the continuing resolution over to where it belongs? Could he give me that assurance?

Mr. SIMPSON. Mr. President——

Mr. EAST. This is the concern that I have. And again I would yield to the Senator for purposes of a question.

Mr. SIMPSON and Mr. RANDOLPH addressed the Chair.

Mr. SIMPSON. The assistant majority leader may have a unanimous request to propound that may solve that.

I can only, in response to your question, submit that for myself, I would assist you in seeing that what rights you think you have now and do have would be preserved as long as we can get about the business of the country.

Mr. RANDOLPH addressed the Chair.

Mr. STEVENS. Mr. President, will the Senator yield to me for the purpose of making another unanimous-consent request, with the understanding that he will not lose the floor or in any way be jeopardized as far as his current rights are concerned?

Mr. EAST. I would be happy to entertain the request. Before I do, I would like to make one point of response to the distinguished Senator from Wyoming.

I have been on the Senate floor where other able and distinguished colleagues, for causes they felt very

strongly about, did not hesitate to stand firm and plant the flag. I see the distinguished Senator over here from Connecticut (Mr. WEICKER) for whom I have the greatest admiration, one of the great mavericks in the U.S. Senate. I have seen him be willing to stand his ground, and I disagree with Senator WEICKER probably 99 percent of the time.

I have seen the distinguished Senator from Oregon, Senator PACKWOOD, also stand his ground. I have seen others. I disagreed with them on those issues but I respected their right under the rules of this body to stand firm. They were looked upon as great mavericks, great independent thinkers. That is good. I admire them.

I sense the heat. That is all right. I sense the heat. I think it is eminently fair because you cannot accuse me of having been an obstructionist in my brief tenure in the Senate. I finally came upon that issue that is we are at the wrong place at the wrong time and about to do the wrong thing, and I am standing firm on it. That is all I am doing.

If certain colleagues find that troublesome and disconcerting, and they are uncomfortable with it, I understand that. I respect it. But I have seen other leaders in the Senate—I am simply responding to the Senator from Wyoming who is some way or other suggesting that I am out of character in this body to be standing firm on something I feel strongly about.

Mr. SIMPSON. Mr. President, the Senator from Wyoming never expressed that. The Senator from Wyoming——

Mr. EAST. The Senator did say I might be a minority but then a minority within a minority within a minority, meaning that I was an obstructionist. I have seen other examples. I mentioned the distinguished Senator from Connecticut. They were willing to stand up and that is all I am doing.

The PRESIDING OFFICER. The Chair will advise Senators that they are not to engage in colloquy without addressing the Chair.

Mr. RANDOLPH. I have addressed the Chair on every occasion.

The PRESIDING OFFICER. The Senate will be in order. The Senator from North Carolina has the floor.

Mr. EAST. I have the floor and I would like to briefly plead my case to the Chair. I appreciate the frustration of the Chair.

I yielded to the distinguished Senator from Wyoming for a question and he was somewhat publicly implying here that what I was doing was a little bit out of character for this very August body. I am simply responding so that I might show on the public record I do not think that is true, I do not think it is accurate, I do not think it is quite fair.

I am simply standing on my right as a Senator on an issue and a matter I feel strongly about. I fear that if I do not at this point stand firmly and strongly on it, that in very short order after third reading of the current bill that is before us, we are going to be back on the gas tax. I finally decided in my own mind if I felt that was not a good idea, this might be a good time to raise it.

All I have been trying to do with my colleagues, and I appreciate their indulgence, is to get a little perspective here as to how in the world we ever got to this point in the lameduck.

I think there are an awful lot of Senators around here who feel the same way. We came back, again, to deal with appropriations bills. We came back to deal with the continuing resolution. We have dealt with just about everything else under the Sun except those things at the tail end, and we are now under all this pressure to get out. I wish to get out, too.

Mr. RANDOLPH. Mr. President——

Mr. EAST. I refuse, Mr. President, to let it be implied that some way or another I am the one who has been dilatory, that I am the one who is obstructing.

I have not said a thing for days around here except in the most limited and appropriate way.

Mr. RANDOLPH. Mr. President——

Mr. EAST. Finally I reached the point where I thought if I am going to defend the interests of the people of my State and what I think are be best interests of the people of the United States, this might be a good time to raise it, because once we get past third reading, it is over. You know and I know. I will admit, yes, that is what I am doing.

I would like to respond in that context and then I will yield for the unanimous-consent request. We can follow that, and I want to come back to the floor.

I want to respond to the points the Senator from Idaho raises, about would not the good citizens of North Carolina benefit from this bill, and my answer to that would be, no, they would not benefit from it. I do not think the good citizens of this country will benefit from it. Again, this is the only time I have to raise it.

I thought we had it set aside, that it did not work, we were not going to invoke cloture, and we were never going to take it up in the lameduck anyway.

This country would go right on if we took it up in January, would it not? We could make it S. 1. Do you think any roads or highways or bridges are going to be built between now and when we come back in January? No.

Anyway, we could go on ad nauseam about that end of it.

I do not think what I am doing is out of character. I did not get us out in this ditch. I did not get us into this late hour bog-down where we are. I simply have finally reached the point where I thought I ought to call attention to the fact that we have gone the wrong road, we were in a ditch. We are now about to finish up the continuing resolution, to get that done, to go home. We came here to do what we were sent here to do, to get the continuing resolution and some of these appropriations bills out that we did not do.

But now I know and you know that I am faced with the prospect, and you are, too, of getting back on the gas tax. Why not get back on S. 995? Look at all the other things we can get back on. Why are we going to get back on those? I cannot understand it.

All I am asking is, as one Senator, that we stick to the agenda for which we came, let us get that done and let us go home. What is obstructionist or dilatory or ill-advised about that? I do not think anything. That is all I am doing, Mr. President.

I will yield for a question from the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, is it in order for me now to give a question to my colleague?

The PRESIDING OFFICER. The Senator has yielded for a question.

Mr. RANDOLPH. I make no reference to the past 15 or 20 minutes. I only wanted approximately 3, 4, or 5 minutes to state correctly the situation as it is in reference to the deteriorating road and bridge system in this country.

Mr. EAST. Again, Mr. President, I do not wish to break in but I am yielding for a question. I want to make that crystal clear. I do not want to lose my right to the floor.

Mr. RANDOLPH. I do not want my colleague to lose his right to the floor.

The PRESIDING OFFICER. If the Senator yields for a question and allows a statement to be made, he jeopardizes his right to the floor.

Mr. EAST. Then I want to make as clear as I can under God's heaven that if you are tying to allow people to break in and break up my discussion here it is a very critical matter. I am all of a sudden confronted with a ruling by the Chair that I have lost my right to the floor. If I am going to in any way, shape, or form run that risk, I am not going to do it. I am willing to yield for a question. I have done that. I will do the best I can to answer.

Mr. DOLE. Will the Senator from North Carolina yield for a parliamentary inquiry without losing his right to the floor?

Mr. EAST. Yes; I will yield for a parliamentary inquiry with the understanding I will not lose my right to the floor.

Mr. DOLE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER (Mr. WARNER). The Senator will state it.

Mr. DOLE. Could the Senator from North Carolina yield to another Senator by unanimous consent for 5 or 10 minutes without losing his right to the floor?

The PRESIDING OFFICER. That is a Senator's privilege.

Mr. DOLE. If the Senator from West Virginia wants to speak for 15 minutes, it is within his right to yield to the Senator for 15 minutes, is that correct?

The PRESIDING OFFICER. If there is no objection.

Mr. EAST. That is what I attempted to get earlier, to get a specific time from him that he would utilize, 5 or 10 minutes. As I recall, perhaps the distinguished Senator from Arkansas objected to that, or someone did, so that went down the lonely road and we lost sight of it.

If that is being resurrected, the Senator from West Virginia has now left the floor, but if he would like to come back, I would put a unanimous-consent request for that, that I would be glad to relinquish the floor to him for a specified period so that he would respond, at which time it would be part of the unanimous-consent agreement that I would be able to reclaim the floor.

But I get back to my fundamental concern that I not lose my right to the floor under any unanimous-consent agreement. I hope the Senate will not entertain a request of that kind from the Senator from West Virginia.

Mr. DOLE. Will the Senator yield for one question?.

Mr. EAST. I will yield to the Senator from Kansas, yes.

Mr. DOLE. As I understand the Senator from North Carolina, and I will not quarrel with his point of view, if someone stands up and says they were not going to take up the gas tax, then we could all go home, is that correct?

Mr. EAST. I would be deeply relieved.

Mr. DOLE. So would we.

[Laughter in the galleries.]

Mr. STEVENS. Mr. President, this is no laughing matter. I ask that the Chair caution the galleries that we are not here for a response from the galleries.

The PRESIDING OFFICER. The Chair makes that observation.

Mr. EAST. If the question from the distinguished Senator from Kansas is, would I feel greatly relieved to have an understanding once we had finished the amending process and had gone to a third reading of the continuing resolution that I could have full assurance that we would not be back upon the gas tax by some sort of parliamentary maneuver or proposal, I would be very enthused about that possibility. I think it is a bad thing to be passing at this late hour in the lameduck session.

Mr. DOLE. I thank the Senator.

Mr. SIMPSON. Mr. President, this is the same question I posed. It is not submitted in the spirit of levity or attempts at good humor.

Mr. EAST. I would yield for a question to the Senator from Wyoming. I presume that is what he is asking me, for a question.

Mr. SIMPSON. Just a question, please.

Mr. EAST. I yield to the Senator for a question with the full understanding that I do not lose the floor after having heard his question.

Mr. SIMPSON. Are you of a bent to sit down with those of any particular faith in this body to discuss how you will preserve your rights to do what you think you need to do with regard to the tax bill, but allow the continuing resolution to leave this body so that the chairman of the Appropriations Committee and his vast staff can get to work to prepare for the conference committee and then a conference committee report which must come? Is there a propensity on your part to wish to see that result? Or do you wish and will you continue to hold the continuing resolution hostage for the purpose of feeling that you will get rolled when we finish dealing with it?

Mr. EAST. Well, as I understand the question of the Senator from Wyoming, I am apprehensive that if I did acquiesce and say—I cannot speak for all Senators. There may be some other Senators who have amendments to offer. But let us assume there are no other amendments to be offered. If the question is, to me, do I feel apprehensive that if we go to third reading and the matter is then concluded on this, I will be faced with a movement to resurrect the gas tax—yes, I am troubled with that.

Mr. SIMPSON. Then, Mr. President, may I ask another question?

Is it possible for you to accommodate a request that the compilation and the printing of the continuing resolution go forward on that basis—still, of course, protecting your position where you are right now?

Mr. EAST. Well, again, the difficulty is that if we acquiesce in that, then I will certainly forgo, as well as every other Senator would forgo their right to offer an amendment to the continuing resolution. I am not quite sure I am fully prepared to do that. I certainly, of course, could not speak for my other colleagues who would be forgoing their right.

Mr. SIMPSON. Mr. President, it might be an impossible parliamentary move, but I am saying if there were a way to accommodate the compilation of the continuing resolution so it could proceed, whether you wish to make further amendments or not would not be the issue. At least you know that we would not have gone to a third reading final rollcall vote. I would think any time before that step, you are fully protected.

Is that not something you could concur in?

Mr. EAST. Well, the Senator proposes an interesting proposition. I would want to take a few minutes to reflect on that more thoroughly because of the parliamentary implications in terms of the amending processes and whether that would jeopardize rights that I might wish to exercise in the amending process. I have known, of course, other Senators—Senators certainly would concede, I assume, it is a rather unusual request, that we proceed with printing prior to the third reading. It strikes me as a rather bad precedent. I am not quite sure at what point, Senator, I am prepared to enter into a unanimous-consent agreement to that effect. I would like to think about it.

Mr. SIMPSON. Mr. President, I appreciate that and I appreciate the Senator's problem.

I thank you for your response.

Mr. PRYOR addressed the Chair.

Mr. EAST. I will yield to the Senator from Arkansas for a question with the full understanding that I do not lose my right to the floor.

Mr. PRYOR. Mr. President, let me propose this suggestion to the distinguished Senator from North Carolina. We have a situation here that I hope we can work out. I believe some communication with the distinguished Senator might be helpful at this time, that we might discuss this matter. I can only assume that the Senator is fearful of losing the floor. Is that correct?

Mr. EAST. The Senator has enormous fear about that possibility. So I want to make sure, if I can, that what I am doing is yielding to the extent that the rules of this body will allow me to yield, namely, for purposes of a question; but that it be fully understood that I am not yielding the floor. I want to claim this floor and keep it. But I would yield for purposes of a question as the rules of the Senate will allow me to do.

Mr. PRYOR. I am about to ask you a question.

Mr. EAST. Yes.

Mr. PRYOR. Would you accept some sort of a compromise like this? I can say to you and I can speak for the entirety of our side of the aisle and I think every person in this body: No one is trying to extract from the Senator from North Carolina his rights under the rules of this body. I want you to know that.

Second, would it be a possible compromise to this dilemma for you to temporarily deputize someone to speak as an agent, or to hold the floor for you as an agent, for a matter of 10 minutes, possibly, giving you our honor that you will not be lessened in

your rights? We might engage in maybe a speech about some other subject—maybe Christmas or something pleasant—and hold the floor in behalf of the Senator from North Carolina or someone that you choose, in order that there might be some communication.

Mr. STEVENS. Mr. President, will the Senator permit me to ask a question right at this point?

Mr. PRYOR. I will be happy to.

Mr. STEVENS. Would the Senator have any problem if I just asked unanimous consent that we recess for 15 minutes, with your having the right to be recognized when you come back and you not lose any rights by the recess? You would have the right the minute we came back in to have recognition without losing any of your rights.

Mr. EAST. I would be willing to entertain the unanimous-consent request that we recess for a period of 15 minutes, with the understanding that at the conclusion of that period, I would reclaim my right to the floor.

Mr. STEVENS. Would you yield to me for that purpose without losing any rights?

Mr. EAST. I shall yield to the Senator for the purpose of submitting that unanimous-consent request with the full understanding that, in so yielding for the purpose of his submitting the request, I do not jeopardize my right to the floor and that, once that unanimous-consent request is put into operation, at the conclusion of the 15-minute period, I will reclaim my right to the floor, yes. Under those circumstances, I am willing to accede.

Mr. STEVENS. Mr. President, I make that unanimous-consent request precisely as the Senator from North Carolina entertains it and on that basis, I ask unanimous consent to stand in recess for 15 minutes and when we return, the Senator from North Carolina shall be recognized under the conditions and with the protections that he himself outlined.

The PRESIDING OFFICER. Is there objection? Without objection, the Senate stands in recess until the hour of 10 minutes to 11.

Whereupon, the Senate, at 10:35 p.m., recessed for 15 minutes.

Thereupon, at 11:50 p.m., the Senate reconvened when called to order by the Presiding Officer (Mr. WARNER).

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EAST. Mr. President, I shall at this point continue my discussion of this matter of the dilemma we face here this evening in terms of the continuing resolution and more particularly my concern about this resurrection of the gas tax bill.

I began to underscore this matter of perspective of it. I indicated where I was troubled with the merits of it and the tax policies it represented, and it seemed to me clearly not on the agenda for the lameduck session.

I wish to clarify. It has never been, was not my intention to obstruct a fair and orderly consideration of this matter. But I felt that obligation had been met.

Cloture vote failed. We were pressed for time. It had not been on the agenda to begin with. And like other measures that cloture votes fail to succeed upon we dropped them and we moved on.

At some point my desire not to obstruct consideration of this measure or any other measure, S. 995, or anything else, I did not want to do it. I did not intend to do it. But I think with this measure, and I have not obstructed it, we had the cloture votes and they failed. I am just troubled that having gone through all of that and having done that there seems to be no end to the resourcefulness to try to resurrect it. And therein lieth my concern.

Mr. President, in continuing my comments here upon the gas tax, my distinguished colleague from Idaho prior to our recess had raised some interesting points about would not this gas tax benefit the State of North Carolina and hence I should show greater enthusiasm for it than I am, and of course, I have the deepest affection for the junior Senator from Idaho.

But I point out to him on the question he raised and I wish to come back to that and answer it that he thinks this bill is a good idea and he talked about it is an equitable formula.

Of course, Idaho and a number of Western States are donee States. They do not contribute in as much as they get back. So naturally they think it is a pretty good idea. I suppose I would, too. Some States get back a tremendous amount of money for the dollar they put into it.

North Carolina historically under the Federal gas tax has gotten 74 cents back on the dollar. We have tied last with Oklahoma and Texas for the donor State that suffers the most.

Under this new formula that has been worked out under the new gas tax bill you take that 20 percent of the so-called users fee, which it is not, and you take it off and you use it for mass transit. We end up getting, according to our calculations, based upon gas consumption in North Carolina last year, back 68 cents on the dollar.

In my response to the distinguished Senator from Idaho I pointed out to a citizen of North Carolina today probably the more prudent thing for us to do is simply levy our own State tax if we want to. We can get back 100 cents on the dollar and then we will not have Davis-Bacon to contend with and we could do a whale of a lot of highway construction and bridge repair primarily and secondary in North Carolina, help the farmers, help trucking, and help tourism. We are a donor State.

And representing the State of North Carolina I could not in good conscience say to the citizens of my State: "This is a good bargain. You ought to be willing to put in a dollar and get 66 cents back to help improve the roads of our State."

I could say to them, "If you think you want to improve the roads of our State and the bridges and the highways if you are going to have to add 5 cents of tax on a gallon of gas, why don't you just keep it here in North Carolina and do it?"

I would much rather have to sell that proposition to them than this.

So that would be my response to the distinguished Senator from Idaho as to why a Senator from North Carolina has a lack of enthusiasm for this measure.

I have no objection to trying to improve and repair the roads, the highways, and the bridges in America. The best way to do that is to revitalize the economy of this country through soundly conceived programs, get the country moving again, get it traveling again, and that is what will expand the tax base and allow us to have infinitely more money available to do the very thing that the bill purports to do, namely, to help the highways, the bridges, and the roads.

You are going to run the risk here of killing the goose that laid the golden egg. You finally tax something so heavily people stop using it. So the revenue it produces gets smaller and smaller.

Certainly people understand that tax policy. And I notice some people have said they wish the tax were even higher as a conservation measure. Remember John Anderson ran on a program of 50 cents a gallon.

I do not recall anybody jumping on that political bandwagon. And the idea was it would reduce the consumption of gas and hence was a good thing.

Any increase in the tax on something you run the risk of less and less consumption of it. That is why I opposed the cigarette tax.

You make it so punitive, onerous, and burdensome people stop using the product. So you have less money available from it. That is elementary tax policy economics, is it not?

(Mr. ROTH assumed the chair.)

Mr. EAST. Mr. President, we have already through high gasoline prices and high taxes forced people into smaller cars, even smaller cars, less and less consumption. There is less revenue available. This is precisely why we are in the bind we are in now. We have reduced the tax base from whence cometh the revenue to repair the bridges, the roads, and the highways in America.

The best way to increase revenue for road repair and expansion would be to encourage the purchase of gasoline, of automobiles, of trucks, of getting moving carrying people, airplanes flying people, buses carrying people. They would have to hire a lot of people to help do that, and they would have to get more gas. You would build up the revenue funds. Then you could get back to having a first class highway system.

We built a first class highway system in this country when gas was cheap. Now, some way or other we have in our mind the more expensive we make gasoline, the more money we will have available to fix the roads and expand them.

I do not see where that is sound tax policy. So I do not disagree with the goal that the distinguished Senator from Idaho raised, namely, would not I like to do something for the roads and the bridges and the highways of North Carolina? Well, of course I would. I would like to do it for the whole country.

I am simply saying this is the wrong path to follow to accomplish that end. That is why I raised this point.

Mr. HAYAKAWA. Will the distinguished Senator from North Carolina yield for a question without surrendering his right to the floor?

Mr. EAST. I will yield for the purpose of a question from the distinguished Senator from California, understanding that I do not lose my right to the floor.

Mr. HAYAKAWA. That is the understanding.

Mr. EAST. I would like to make it clear, Mr. President, I am willing to yield to the Senator from California for a question with the understanding I am not losing my right to the floor.

Mr. HAYAKAWA. It is so understood.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HAYAKAWA. I thank the Chair.

Does the Senator from North Carolina not believe in the Democratic process? Does he not believe in the intelligence and integrity of his colleagues in this body? Does he so distrust us all that he is unwilling to permit us to continue about our business, complete it so that we my rejoin our families doing what other people who are not Senators look upon as a holiday season? Is he so distrustful of the wisdom of his colleagues that he is certain that if he yielded the floor the stupid or conniving or corrupt people will pass a gas tax bill that will restroy the economy of the Nation? Has he no trust, no confidence in the wisdom and integrity of his colleagues that he says he holds in high esteem? Is this why the Senator from North Carolina is willing to permit the Government of the United States to be shut down next Monday morning to the disruption and dismay of hundreds of milions of people who work and whose lives and livelihood are dependent upon the operation of that Government? Does the Senator from North Carolina believe that his own wisdom is so great that no opinions——

Mr. STEVENS. Mr. President, may we have order? I am not sure the Senator from North Carolina hears the question.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. HAYAKAWA. This is a question.

The PRESIDING OFFICER. The Senate will please be in order. Those Senators who want to engage in a conversation will withdraw from the Chamber.

Mr. HAYAKAWA. Does the Senator from North Carolina believe that his own wisdom is so great that no opinions on this matter, on this floor matter but his own? If such is the case, why does he remain a member of a legislative body so stupid or corrupt as to be willing to discuss a 5-cent-a-gallon gasoline tax? Why does he demean himself by asssociating himself with clods and peasants and idiots like us?

I will be grateful if the distinguished Senator from North Carolina would give us one reason.

I thank the Chair.

Mr. STEVENS. Point of order, Mr. President.

Mr. EAST addressed the Chair.

Mr. STEVENS. I ask that I be permitted to make this point of order without the Senator losing any right to the floor.

Mr. EAST. Under those conditions, I will relinquish the floor.

Mr. STEVENS. Is it not true that there is a rule in the Senate that one Senator may not impute the motives of another Senator? Is it not rule XIX, something along there?

The PRESIDING OFFICER. Under rule XIX, paragraph 2:

> No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina will be recognized.

Mr. EAST. Mr. President, I appreciate the assistance from the acting majority leader. I would like to say as regards the question raised and asked by the distinguished Senator from California that as he is aware I was a professor of political science before my election to the Senate, and I taught courses in American Government and other matters relating to the so-called science of politics, which, as we all know, is more art than science, but that is another problem.

Yes, I like to feel I understand the democratic process. We serve here in the Senate in what is alleged to be the greatest deliberative body in the world. We also know under our Constitution that the Senate can make its own rules, and it has made them. One of the rules of the Senate, which is a product itself of the democratic process, is that when one individual has gained the floor——

The PRESIDING OFFICER. Will the Senator please withhold so that we can get order in the Chamber?

All extraneous conversations will please cease. Anyone who wants to engage in such will please leave the Chamber. The Senator from North Carolina is entitled to be heard.

Mr. EAST. I thank the Chair. I was elaborating on the point that the democratic process is alive and well in the Senate. I respect it. Under our Constitution, a democratic Constitution, we have the right to set our own rules, and we have set them.

One of the rules of this body that existed long before I came was that when an individual Senator obtained the floor, he could speak on matters before him.

Now, one of the reasons, one of the rationale for this rule, which may appear odd to the press or the public or indeed our own Members, is it allows for perhaps too much individual autonomy. Perhaps it does and perhaps the Senate in its infinite wisdom in the future ought to change it. But the reason they have had the rule historically, I would remind the distinguished Senator from California, is the feeling that one risk you run in a democratic society where majority rules is they act in great haste at late hours and make mistakes.

That is why we allow the filibuster. That is why it takes 60 votes to overcome it, so that we will not do things that are hasty and ill-advised. That is exactly why that rule exists. It is a product of the democratic society.

There is an appreciation. I have seen so many other Senators in this body avail themselves of it where they feel strongly about something. They get up and they speak against it. They may be in a minority, but the feeling is, in a democratic society not to let the majority go too fast too far at late hours and make mistakes. In order to prevent that, we have the rule produced under democratic procedures whereby Senators can address matters, obtain the floor and address matters at some length.

That is all I am doing. With all due respect to the Senator from California and others, I have been here not long but I have been here long enough to know that other colleagues have availed themselves of this right. I have

personally respected it. I have never come out on the Senate floor and attacked it, nor have I personally in the cloakroom nor anywhere else implied that they were doing anything else other than what they were entitled to do under the rules and they were taking an eminently honorable and proper position.

With all due respect to my distinguished colleagues in this body—and I revere every one of them, all 99 of them—I will not be in any way intimidated with the idea that some way or other by utilizing the rules of this body, as everybody does from time to time, for an infinite variety of causes, that some way or other I am doing something out of character that has not been done before. No; I am not. It has been done before. It has been done and it will be done after I am gone and every Member of this Chamber is gone, because there is a feeling in this body—and getting back to the Senator from California, whether it is consistent with democratic political theory; yes, it is. The Senate so thinks it is under its current rules in order to make sure——

Mr. FORD. Will the Senator yield?

Mr. EAST [continuing]. What the majority does is not imprudent, is not ill-advised, is not done in a spirit of passion at a late hour.

Mr. FORD. Will the Senator yield without losing his right to the floor?

Mr. EAST. I will yield for the purpose of a question in one moment.

That is the spirit in which I am making my stand here as regards the tax bill. I would like for the record to show that; no, I do not share the sentiments of the Senator from California that some way or other what I am doing is contrary to the democratic process. It is wholly consistent with it. It is a product of it, and every freshman political science professor in America can tell you that. If you cannot, then he ought not to be teaching.

I will yield to the Senator from Kentucky for the purposes of a question, again with the full understanding that I will not be yielding the floor.

The PRESIDING OFFICER. Is the Senator making a unanimous-consent request?

Mr. EAST. I have said that I would yield for a question, that I am willing——

Mr. FORD. I ask unanimous consent that the Senator may yield for a question without losing his right to the floor.

Mr. EAST. Again, as a safeguard, I want to be certain that I am yielding for a question without losing my right to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky? If not, without objection it is so ordered.

Mr. FORD. I ask the distinguished Senator from North Carolina: I have heard you and I respect your position, that you in no way intend to defeat the continuing resolution. That is No. 1. What your problem is is the so-called gasoline tax bill.

Mr. EAST. I am concerned that after we complete our agenda on the continuing resolution, which was the primary purpose of the lameduck, that and the appropriation measures, a few of which we passed—that was the primary purpose in coming back—I am concerned that after those matters are completed that we will, at a late hour, impose upon the American people a gas tax that has already failed to get before this Chamber because they could not invoke cloture.

Mr. FORD. Senator, the point I am trying to make, and I am not as eloquent as you are nor am I a professor, is: The continuing resolution is vital to this country. As I see it, we are impeding the continuing resolution, upon which the Government runs. I wonder if you can reach within yourself to tell this body that you do not have any reason whatsoever to impede the conclusion of the continuing resolution; that if we could get to some point where the continuing resolution could be accomplished, that you could continue your opposition to the 5-cent tax on gasoline, would you be amenable to that?

Mr. EAST. Senator, candidly, in a practical matter if I relinquished on that request as you have put it, what leverage I have dissipates. Again, under the rules of this Chamber, individual Members or groups thereof, sometimes majorities or sometimes minorities, are able to obtain leverage to discuss the matter or give serious thought upon it, and if they do not have it, it is difficult to get someone's attention. The continuing resolution is, frankly, the only vehicle or instrument at this point which stands in the way of our returning to a matter that I think had a fair shot and it failed cloture. It could have been pulled down. Other measures that failed cloture were pulled down. I had seen that to be a very common practice in this body with the very distinguished majority leader for whom I have the greatest admiration, simply saying, "We have tried, we have failed, we must now move on." But for some reason or other the gas tax, which one thinks maybe had been laid to rest because of the failure to impose cloture, and it was never on the agenda of the lameduck anyway, keeps cropping up again and again and again. I had indicated to people originally, others, that I had no intention of throwing myself on the railroad track and obstructing the orderly consideration of this measure. That was never my intent or purpose. But I think it got a fair shot. It got a fair shot like all of these other measures did. I acquiesced in that, when they could not do it.

I have seen it happen with other issues time and time again. Finally the point will be made, "We have tried. We have failed, gentlemen, and we must move on to other things."

I cannot for the life of me find out what is sacrosanct about the gas tax.

Mr. FORD. I am not worried about the gas tax. I am worried about the continuing resolution. You just said you would not lay yourself down on the track in front of that train. But what you are doing is laying yourself down on the track for the good of this country. What I am asking you to do is to yield on the continuing resolution and go back to the gas tax. You can have that bill and do anything you want to with it. I want the country run. That is what I want. You get off the track and let us do our will here.

Mr. EAST. I can tell you another man who is going to face that same kind of decision if he threatens to veto. He has already said that if this continuing resolution is not sound economic policy, he will veto it, and he will be berated by Members of the Senate and the highest reaches of the national conscience for obstructing the very thing you are talking about. But Ronald Reagan will probably be admired, at least by many people, as standing his ground and that that is good leadership. So all I am doing here, in an infinitely more modest way, is trying to make the point that I think we will be going the wrong way with the gas tax. I cannot deal with a moral or ethical plain. I am even more out of character than he might be. Certainly, he has more right to do that than I do.

That is the spirit, Senator, though you raise a valid point. The continuing resolution is a part of the whole fabric of the process of the Senate and the executive branch. The President has said he would veto it. All we have here is one sole Senator saying he is uncomfortable with the fact that if this continuing resolution goes through third reading, is accepted, then immediately we will be confronted with the gas tax proposal. I think it is ill-advised.

I am willing to let the Government go on its way if we can drop the gas tax, just as the President said he would be willing to let the continuing resolution go on its way provided it does not break the budget.

Again, in terms of the moral or ethical difference between those two postures, I do not quite understand what the difference is. In other words, we are both exercising rights and prerogatives either under the Constitution or the rules of the U.S. Senate.

That, Senator, is the way in which I raise my concern. I would be happy to entertain from any source a unanimous-consent request that might

stitch together a proposal that would give some relief to my concerns as well as allow the continuing resolution to pass through. We can resolve all of these things in an orderly way. But to this point I have not heard that.

I would simply offer to this body a willingness to accept the continuing resolution, with the amendments that have been accepted, and we could go to third reading.

Mr. RANDOLPH. Mr. President, can we have order in the Chamber?

The PRESIDING OFFICER. The Senator from North Carolina is entitled to be heard. Those Senators or staff people engaged in conversations will please remove themselves from the Chamber.

Mr. RANDOLPH. Mr. President, may I ask a question of the able Senator from North Carolina?

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. EAST. I would be happy to answer a question. Before doing it, in response to the Senator from Kentucky, I would simply turn the table on him, on the people here, and simply argue the other way around, that by insisting upon the gasoline tax they are making it impossible to complete the continuing resolution because the junior Senator from North Carolina would like to have the gas tax brought down before we proceed with it.

One can always argue these things from one perspective or another. I am no more obstructing the continuing resolution going through to an orderly end by asking that we pull down the gas tax than the other side is in saying, "We have to have the gas tax or we just cannot go along with it." I do not know who in the world is holding up the continuing resolution. I guess you could argue that both ways in a metaphysical sense, but I will not accept the proposition that some way or other my posture is a bit less ethical, a bit less moral, and a bit less understanding of the democratic process than those of the other side.

This is true because the rules of this body, the greatest deliberative body in the world, were brought about through the democratic process and have allowed me the prerogative to do what I am doing. That is all I am doing, no more or no less. It is exactly what the President of the United State is saying he will do under the Constitution with the veto power. He will be berated, but I will admire the President if he vetoes this continuing resolution because it goes beyond what he thinks is the proper point.

I am simply saying I think before we get off the continuing resolution, I would like to know what road we are going down next. I gather the road we are going to go down is the gas tax road. We have already been down it. Cloture was not invoked. I do not think it is a good idea. I have finally reached the point where I thought we ought to stand some ground and say it publicly and say it in a strong, loud, clear voice. It had its shot; it has failed. It is not good tax policy. I do not think it is.

I have already said so amply this evening.

This was the time and the place to take the stand and say that the rules of the Senate allow me to take it. I see absolutely nothing out of character in terms of how this body normally functions and what the rules allow an individual Senator to do.

I shall be happy to listen to any of my colleagues say, "Senator EAST, you are some way or other violating the rules, the protocol, the decorum, the civility, the honor, the dignity of the U.S. Senate," and I do not think anyone down deep in their hearts can say that. I am simply doing what other Senators have done since I have been here, long before, and will be doing long after—avail themselves of the rules and, in this case, yes, standing firm and saying, "Gentlemen, I think what you want to do is ill advised."

I think the gas tax is ill advised and this is the best place to get the Senate's attention to drive that point home. Does that make it immoral, unethical, contrary to our rules? No; it does not. You know that and I know it. It has been done, it will be done in the future, and I am doing it tonight. And however this turns out, tonight or tomorrow, I will go home with a good conscience that I fought the good fight, I kept the faith, but I lost. But I will not be in a position where I do not sleep well with the feeling, "John, some way or other, you violated the ethical norms of the U.S. Senate."

No; I did not. I simply availed myself of the rules as people have been doing in this body since its founding.

Mr. DOMENICI. Will the distinguished Senator yield for a question without losing his right to the floor?

Mr. EAST. I shall yield to the Senator from New Mexico with the understanding that I will not lose my right to the floor; I yield for a question.

The PRESIDING OFFICER. Is that a request?

Mr. DOMENICI. I so request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask my good friend from North Carolina, you do not mean to imply that we could pass the gas tax jobs bill in violation of the rules of the Senate, do you?

Mr. EAST. No, I do not mean to do that. I am simply saying, Senator, that I am availing myself of the rules of the Senate to try to see——

Mr. DOMENICI. We could not pass that bill any way other than under the rules of the Senate, could we?

Mr. EAST. Pardon?

Mr. DOMENICI. We could not pass the gas tax jobs bill other than pursuant to the rules of the Senate, could we?

Mr. EAST. Of course not, Senator.

Mr. DOMENICI. I thank the Senator.

Mr. EAST. No, they could not, Senator, any more than they could, of course, pass the continuing resolution.

As I have indicated to my colleagues, and I would like to restate the proposition, I would be happy to entertain a unanimous-consent agreement or some sort of arrangement whereby my deep concerns and the concerns, I suspect, of a good strong minority of this body, might be integrated into the democratic process. And then we could proceed to an orderly conclusion of this matter.

Ideally, of course, I would like to see the gas tax brought down and we finish up with the continuing resolution and go on. As I say, I think that would be an eminently fair position in view of the fact that it was not on the agenda to begin with. It got a fair shot like all these other measures we were talking about earlier, and it failed. It failed to get cloture. But for some reason or other, it is to be resurrected for special treatment. I do not know why it deserves special treatment, any more than Radio Marti or S. 995—I have forgotten all the ones we failed to invoke cloture on. They were pulled down.

I saw it done in the last period, this last period this great group met prior to the last recess. As I recall, there were a number of issues there, so-called social issues and others. It does not make any difference. All of them are social issues relating to society and government and politics. I am simply saying they got their fair shot. We could not impose cloture, so we pulled them down, and we moved on.

I think those were in circumstances where they had maybe even more reason not to do that, because it was not lameduck, it was not decided we would come back for a very narrow range of operation; namely, in this case, appropriations and continuing resolution.

All of a sudden, the laundry list grew and a number of issues could not survive because we could not impose cloture, so they were pulled down, one after another. It is only the gas tax that keeps coming back again and again and again.

As I say, from the outset, my purpose has not been to obstruct the orderly consideration of any of these matters, but this one, all of a sudden, has been converted into some sort of preferred position. I finally concluded in my own mind that it has gone as far as it needed to go. Enough was enough. It was getting undue treat-

ment. It was not fair treatment in the lameduck, as opposed to the other issues. Too much attention, too much priority.

Again, the more fundamental question is, I think it is a bad proposal.

Mr. BAKER. Mr President, will the Senator consider yielding to me for the purpose of three unanimous-consent requests, which I do not think he would find objectionable, with the understanding that he does not lose his right to the floor?

Mr. EAST. I would be happy to yield for a unanimous-consent request from the majority leader.

Mr. BAKER. I thank the Senator.

UNANIMOUS-CONSENT REQUEST

Mr. BAKER. Mr. President, there are three things I would like to clear at this time, presuming to believe that at some point we are doing to finish the continuing resolution and get on with the highway bill. There are two or three matters that ought to be taken care of before we move from one to the other. I believe the requests I am about to make have been cleared on both sides.

First, Mr. President, I ask unanimous consent that on the completion of the consideration and disposition of the continuing resolution, the Senate turn briefly to the consideration of the conference report to accompany H.R. 7356, the Interior appropriations bill. I ask unanimous consent that there be a time limitation of 10 minutes, equally divided, with control in the usual form on the conference report and any amendments in disagreement or amendments thereto which may be presented.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, would the distinguished floor leader include in that request that no amendments be in order to any amendments in disagreement?

Mr. BAKER. The distinguished chairman of the Committee on the Interior is not here. I shall do that with the understanding that if he has any technical corrections to make in that, we would vitiate that order.

Mr. ROBERT C. BYRD. That only those would be in order?

Mr. BAKER. Yes, Mr. President, I include that in my request, that no amendments to the items in disagreement would be in order.

Before we conclude, I must say to the distinguished minority leader I have to include in that request that this order could be vitiated at the request of the distinguished chairman.

Mr. ROBERT C. BYRD. Would the Senator include that the time limitation he set out would be overall?

Mr. BAKER. Yes, it would be overall, equally divided, and would encompass debate on any items in disagreement. I understand that is agreeable to the distinguished chairman of the committee.

I put the request without the condition, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EAST. Mr. President, wait. When the Chair says without—I am reserving the right to object. I am trying to get the full swing of the unanimous-consent request. I am reserving the right to object. I am not fully clear what it is we are doing right now.

Mr. BAKER. Let me say to the distinguished Senator from North Carolina what I am doing is, first of all, being an optimist. That is hoping that at some point, we are going to finish consideration of the continuing resolution.

The request was that after we finish the continuing resolution, rather than automatically going to the highway bill, which is the present state of affairs and nothing has changed under the previous arrangement, that instead, we would go first to an Interior appropriations conference report and have a 10-minute time limitation and dispose of that matter.

Mr. President, I shall now propose an addendum to the request that, after we dispose of the Interior appropriations conference report, we go to another measure, also from the Interior Committee, Calendar 1007, H.R. 5161, the West Virginia National Forest bill; that on that bill, only one amendment would be in order, that amendment to be offered by the distinguished junior Senator from West Virginia; that there be 5 minutes of debate equally divided on that amendment; and that no amendment will be in order to the Byrd amendment; that after the disposition of the Byrd amendment, there be 3 minutes of debate on the bill equally divided and it shall not be subject to further amendment; that after the expiration of the time for the amendment, a vote will occur on the amendment without intervening motion, point of order, or further debate; that at the conclusion of time for debate on the bill, the Senate will proceed to vote on the bill without further amendment, motion, or point of order being in order.

Mr. ROBERT C. BYRD. And that if any motion to reconsider is made, and it will be made, there be no time for debate thereon.

Mr. BAKER. I include that in the request, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Mr. President, reserving the right to object, would it be a part of this unanimous-consent agreement that the conference reports that we would be taking up after—does the majority leader propose that it would be open to debate?

Mr. BAKER. No, Mr. President, the Interior appropriations conference report under this formulation would have 10 minutes for debate. H.R. 5161 would have a total of 8 minutes, 5 minutes on an amendment and 3 minutes on the bill.

Mr. EAST. Would the majority leader be willing to consider the proposition that as long as those conference reports are debatable, we could complete the CR right now and debate those debatable items?

Mr. BAKER. I am sorry, Mr. President, I was not following. Was the Senator asking am I ready to finish the CR?

Mr. EAST. What I was saying, Senator, is that I would be willing to allow proceeding with the CR and orderly conclusion of the CR provided that the unanimous-consent agreement does not preclude debate on the conference reports that we will subsequently be entertaining prior to consideration of the gas tax.

Mr. BAKER. Mr. President, let me say to my friend from North Carolina that I understand, I believe, what he is about. I do not presume to put an unfair interpretation on his request or rather extensive remarks that he has made at this late hour in the evening. I rather surmise that his objective is to keep from turning to the consideration of the highway bill. There is no secret about that. And I think the Senator from North Carolina would freely acknowledge that is the purpose involved.

If we do not put the time limit on these items that I have just requested, I am afraid it would have the effect of simply transferring his debate, extensive as it may be, from this measure over to those two measures.

Mr. President, let me say this, with no disrespect intended whatever, I believe I can get to the highway bill and I believe I can do it after the CR is completed or before the CR is completed. I think I could do it right now.

I think, Mr. President, that there is no doubt, from a procedural standpoint, that at some point I will be able to make a motion to reconsider on the cloture vote on the Baker substitute to the highway bill. I think that is so whether it occurs now or at 12:01 or at noon tomorrow, or Monday, Tuesday, Wednesday, or whatever it is. I think they are qualified.

I think, as well, Mr. President, that the way the matter is left right now, assuming I can gain recognition—and I would not try to do that at this moment, because the Senator has kindly yielded to me under a consent agreement that reserves his right to the floor—but, at some point, I believe I could get recognized in my own right. I believe when that happens that I could bring back the highway

bill with the simple call for the regular order. I believe I could do that.

So, Mr. President, I suggest that there is no practical way that we can use this debate or a filibuster on these two items to keep us finally from getting to the highway bill. I do not want to be harsh and I am certainly not threatening the Senator by saying there are ways to do it, but I do not intend to do that right now. I do not.

Let me tell you what I would like to do, instead. I would like to get these two unanimous-consent agreements. I would like to get another unanimous-consent agreement—and I will put it right now, and the Chair can reserve on that under the previous reservation of the Senator from North Carolina.

I ask unanimous consent that the time for the convening of the Senate be changed tomorrow from 6 p.m. to 2 p.m.

Mr. President, do not put the question now, but include all three of them in a single request which you can put in a moment.

What I would like to do is this: I would either like to go on with the CR tonight, which is preferable, and get it out of the way so that we can go ahead and get it engrossed officially and get our conferees in position tomorrow to go to conference with the hope that we can get it to the House tomorrow afternoon and at 4 p.m. they can take it up and send it to the Senate tomorrow afternoon somewhat later. That is the schedule. We are already late, but this is a good arrangement.

But if the Senator will not let me do that, if he feels that he must go forward at this time, rather than try to gain recognition and call for regular order, which would displace this bill and get me instantly on the highway bill, what I would propose to do, instead, is to request the Secretary of the Senate—I may say I have already done this—to go forward with the engrossment of this bill, notwithstanding that we have not reached third reading. Now, I suppose that means if there are any further amendments to this bill that the engrossment would have to be changed before it becomes official. But I have requested the Secretary of the Senate to go forward with that and he has agreed to do so under the authority which the Senate has given him under previous orders.

In addition to that, Mr. President, I have requested the distinguished chairman of the Appropriations Committee to assume that we are going to get a bill and, notwithstanding that, even in the morning at 10 o'clock when he wants to go to conference, that he may not officially be able to do so, but he will still have an engrossed document—it will not be officially engrossed, but he will have a paper—and he will be able to begin informally meeting with his counterparts in the House.

Having put that motion, Mr. President, I would be inclined to say that the Senator from North Carolina and I can stay here all night and at some point or other we will be able to resolve this issue.

I would encourage other Senators to stay if they wish, but I certainly will not insist that they do so.

So, Mr. President, what I hope the Senator will do is permit us to go on with the disposition of CR. We were close to third reading. I hope the Senator will let me have these three unanimous-consent agreements which are routine and in the nature of trying to take care of the orderly business of the Senate in a responsible way, and that we can go out after we get on the highway bill after third reading and final passage, after we get on the highway bill, after we have our two votes, the two votes would be on the motion to reconsider and on cloture, and then go out until 2 o'clock tomorrow afternoon. That is what I would like to do.

But, Mr. President, I cannot do that unless the Senator from North Carolina is either willing to agree to that or unless we sit here and look at each other until we have an opportunity to conclude this thing. I really urge the Senator from North Carolina to consider that we need to do that.

Mr. President, before the Senator responds, could I inquire of the Chair, in the unanimous-consent request that I propounded, I include a time limitation on the conference report and any amendments in disagreement to be included in the overall 10-minute time total, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, there are many other procedural ramifications that I could go through, but what it finally boils down to is at some point we have to get on with the business at hand.

I admire the Senator from North Carolina more than I can possibly describe. I urge that he consider that we have a major responsibility to try to pass this continuing resolution and to go on with the business at hand.

I understand painfully how much he is opposed to the highway bill. But I hope he understands how committed I am to pass it.

Now, I have described to him some of the ways that we can reach that bill. I hope he will agree that at least we ought to go on and finish the continuing resolution this evening.

Mr. EAST. Well, of course, I note my great affection for the majority leader and the difficulty he finds himself in in attempting to move matters on.

I have been told by a number of Senators this evening that I run the risk, as the President does if he vetoes the CR, of bringing the Government to a halt, whatever relative merits or demerits there may be in doing that. And there are, conceivably, I suppose, some merit. I do not mean to make light of the point.

However, I have been told repeatedly that what we have got to do is get the CR through. And I agree. That is why we came here, to get the CR through. And yet it is the gas tax that has haunted the session.

Now, if what we all agree upon is to get the CR through, and I agree with that, all I am asking is—and I will relinquish and let us get the CR through—that I can debate those conference reports. I do not see why we cannot separate the conference reports and the gas tax from the CR.

My concern, I say to the majority leader, is that the other side insists they have to be considered together. I am simply saying: Why can we not sever them? Particularly in views of the fact the most important thing is the CR, and that is why we came back here to begin with. Why do not I have just as much right to insist that they are together as the other side?

I think we have reached one point of agreement. The CR is the top priority item. Now, let us get that out of the way and everything else that we will be taking up is debatable, for example, the conference reports.

With my deep respect for the majority leader—and I greatly regret at this late hour I find myself in the awkard, unenviable, unhappy position here of arguing with a man for whom I have the deepest affection and admiration. I voted for him when I first came in here as majority leader, and I will vote for him in January. This is probably the most painful part of what I am doing is standing up publicly, or sitting here publicly, having to disagree with him—I will not accept that unanimous-consent request unless there is the provision in it that I can debate the conference report.

If so, we will have accomplished all we agreed on, the major thing we wanted; namely, to get the continuing resolution through. Then we have the conference reports we can debate, and at the proper point we could consider where that would leave us with the gas tax. But all of these are being considered a part of an overall agreement.

Mr. BAKER. Mr. President, if the Senator will yield to me again without losing his right to the floor and on the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. At some point, this will conclude. I do not see any point in anybody else staying around here unless they particularly want to. If we need to proceed to third reading or take some other measure, I will notify my Cloak Room, and I assume the mi-

nority leader will notify his. I would suggest everybody go home.

Mr. ROBERT C. BYRD. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Will the distinguished Senator from North Carolina object to the request pertaining to my bill?

Mr. BAKER. Mr. President, let me break them out one by one.

Would the Senator agree to the unanimous-consent request, first, that we change the time for convening from 6 o'clock to 2 o'clock tomorrow afternoon?

Mr. EAST. I am sorry. Would the majority leader repeat?

Mr. BAKER. Yes. I have three requests that I made en bloc. Let me work back through them one at a time and see what we can get.

Would the Senator have any objection to my request that we change the convening time from 6 p.m. tomorrow to 2 p.m. tomorrow?

Mr. EAST. I would rather stand firm on the 6 o'clock hour.

Mr. BAKER. Very well.

Mr. President, let me ask this question. Would the Senator be kind enough to agree to the time limitation on either one of these measures whenever it is taken up?

Mr. EAST. As long as one was debatable.

Mr. BAKER. Yes.

Mr. President, in all fairness to the Senator, he should understand the way I put it now. I might or might not call them up between the continuing resolution and the highway bill. What I wish to do is get the time limitations because we have to dispose of those items.

Mr. EAST. I wish the debatable one, of course, to be brought up prior to the gas tax.

I am trying to find some area here by which we can release the continuing resolution for final conclusion and disposition and not forgo my opportunities via the process of debate to get around the gas tax in due course.

Mr. BAKER. Mr. President, I do not really think I need to prolong it. The Senator understands me and I understand him and I respect his point of view and, as he said, I believe he respects mine. At some point I suspect we will be able to do some of these things, maybe all of these things.

And I intend to persist in an effort to try to regularize the proceedings of the Senate. But right now I will not try to do so by displacing this measure and going to the highway bill. Instead I will say again to my friend, the minority leader, that I intend to do these things.

Mr. ROBERT C. BYRD. With the Senator's rights to the floor being protected, may I ask the majority leader if he would propound the request on my bill, the amendment which has been agreed to on all sides, that we take up the bill, immediately offer the amendment, and we have a vote thereon—it can be by voice—that we have no more than 3 minutes on the bill and the amendment following the action on the finalizing on the continuing resolution.

Mr. BAKER. I am willing to do this now if the Senator wishes me to put the request at this moment.

Mr. ROBERT C. BYRD. I mean if he would put the request now, and immediately following we acted on this continuing resolution.

Mr. BAKER. If the Senator will permit we might have a better chance if we did it right this minute. But, Mr. President, I will do as the minority leader requests.

Mr. President, could I inquire of the Senator from North Carolina would he consider the unanimous-consent request in respect to H.R. 5161, the West Virginia National Forest bill under the arrangement that I outlined, that is to say with the time agreement to follow on after the continuing resolution and before the highway bill. I do not now include the Interior appropriations conference report, only the single measure that I spoke of.

That would still leave another measure that I might or might not call up in between, but I will say to the Senate that at some point we have to do that conference report, and I intend to do so.

Would the Senator permit me to have that time agreement on the West Virginia National Forest bill?

Mr. EAST. Mr. President, reserving the right to object, is there some other measure that we might consider taking up, a private relief bill or other matter other than the one currently being proposed, in all due respect to the minority leader?

Mr. ROBERT C. BYRD. Let me respond to that.

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, with the Senator's rights protected, may I say that we on this side of the aisle are ready to vote now on the third reading, we are ready to vote now on the passage of the continuing resolution. The majority leader knows that. We are ready to vote now on the highway gas tax bill. I am not saying we will all support it. I for one may not vote for it, but we are ready to vote on it up or down. This side is ready to vote on both those measures, and we are ready to proceed with the vote on cloture on the Baker substitute at the moment that the distinguished majority leader decides that he wants to make the motion and we will give him enough votes to make the cloture on that one.

My little pitiful 3 minutes are not going to prejudice the distinguished Senator from North Carolina one iota in what he seeks to do.

Mr. EAST. I propose then since, of course, I wish to accommodate the very distinguished minority leader as far as the unanimous-consent agreement. There would be two dimensions to it: One, that we would promptly and quickly dispose of his measure, which I would want to do out of great courtesy, respect, and admiration for him, and the second dimension of the unanimous-consent agreement would be that we would also then be entertaining a measure that was debatable.

It seems to me that way we protect the rights of the Senator and the understandable wishes of the distinguished minority leader that his measure out of courtesy and respect for him will be promptly disposed of, yet at the same time I am not asked to jeopardize my position in terms of no longer having a debatable matter before the Senate. Would the distinguished minority leader be willing to acquiesce in that? That way we can dispose of his measure and then we would have a debatable measure to which we could then at that time return and upon conclusion of that then we could come back to this question of the conference report.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from North Carolina has asked me a question. By disposing of my little bill, which would only take 3 minutes, the Senator is not being deprived of his opportunity to continue to debate the continuing resolution. That is what he has been debating. He would not be deprived of that. And at such time as the majority leader goes to the highway bill, the distinguished Senator from North Carolina would not be deprived of his right to debate on that measure. If cloture is invoked he would have 1 hour.

This little bill only takes 3 minutes unless there is a rollcall vote on it and it takes nothing away from the Senator from North Carolina. As a matter of fact, he will get a chance to rest a little bit following the action on my little bill and then he can continue his debate on the continuing resolution.

We are ready on our side to vote on the continuing resolution now and ready to vote on the gas tax bill right now.

I hope he will not object to my minuscule request, and I do not make many requests, and the Senator from North Carolina may someday have a little bill that he is very interested in that I might be able to help him with.

Mr. EAST. Mr. President, at least for the time being until I can reflect on the distinguished minority leader's request, I object.

It is certainly my intention to afford him every courtesy that he is entitled to, not only in his very prominent role as minority leader, but as the very distinguished Senator from West Virgin-

ia. But I wish to take the opportunity to reflect at a little greater length on what it is he is proposing to me in terms of the disposition of his measure, and I wish it to be understood in asking for a bit more additional time to consider his unanimous-consent request that I do it not in any way to be understood as a personal affront to him but simply so I might have ample time as an individual Senator to reflect and make sure that I fully understood where that leaves me procedurally.

So I wish for it to be understood that my hesitation in agreeing at this point must not be understood as some way or other a slight upon the distinguished minority leader. I am simply asking his indulgence as a fellow Senator to allow me to make sure in my own thinking and in my own analysis, if I were to agree to that, that I am not jeopardizing the position that I am currently in; namely, one, retaining the floor and, two, that I do not thereby lessen the posture I am in as regards the consideration of the gas tax.

So it is in that spirit solely that I wish an opportunity to reflect upon his request.

Mr. McCLURE.. Will the Senator from North Carolina yield without losing his right to the floor under the previous stated conditions?

Mr. EAST. For a question.

Mr. McCLURE.. Would the Senator be satisfied to grant the request of the distinguished majority leader on behalf of the minority leader if he is convinced that following that action he is in precisely the same condition he is in now, no better, no worse, precisely the same.

Mr. ROBERT C. BYRD. And it would not be counted as a second speech.

Mr. McCLURE.. And let me say to the Senator from North Carolina it is my belief and I think it would be correct—we can propound a parliamentary inquiry to that effect—that if the unanimous-consent agreement that has been sought here with respect to the West Virginia bill is granted, that bill is considered, passed, and finished, he goes back to where he is and he will be in precisely the same situation that he is in now.

Reserving the right to object, I will be willing to do that because of my great affection and admiration to the minority leader. I would simply like it to be understood I am giving up a right, namely, to debate that measure that he is offering, but I give up that right because of my deep affection and admiration for him, and then coupled with that the full understanding that I have not jeopardized the position in any way, shape or form that I am in currently. I am doing it solely and strictly in the spirit of allowing the distinguished minority leader to dispose of a measure that means a great deal to him personally.

Mr. BAKER, Mr. President, will the Senator yield to me for the purpose of making that request, then, without losing his right to the floor and under the conditions previously stated?

Mr. EAST. Yes, I would be happy to hear that request.

Mr. BAKER. Very well.

Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside and that the Senate proceed now to the consideration of Calendar Order 1007, H.R. 5161, the West Virginia National Forest bill, on which there will be a time agreement as follows:

Five minutes on an amendment to be offered by the distinguished Senator from West Virginia. I further ask unanimous consent that no amendments to that amendment will be in order.

I ask unanimous consent, Mr. President, that no point of order be in order against the amendment or against the measure.

I ask unanimous consent that there be 3 minutes of debate equally divided on the bill itself.

I ask unanimous consent that after the expiration of the time for the yielding of the time for debate on the amendment, the Senate proceed to vote on the amendment and that no motion, no point of order, no further debate will be in order; at the expiration of the time for debate on the bill or the yielding back of that time, Mr. President, I make the same condition on the bill itself, that is to say, no point of order, no further amendment and no further debate; the Senate will proceed then to debate on that measure.

At the conclusion of the considerationof this measure, I ask unanimous consent that the Senate then return, as it would anyway, to the consideration of the pending measure, the continuing resolution, and that the Senator from North Carolina be again recognized, the interruption not be considered as a second speech for the purpose of the rule and that nothing occurring in the interim shall be deemed to affect his right to the floor or his standing to continue with the debate on which he has engaged.

Mr. ROBERT C. BYRD. May I have one element?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. That there be no time for debate on the motion to reconsider.

Mr. BAKER. Yes, I include that.

Mr. EAST. Reserving the right to object, Mr. Leader, as I understand it, certainly it would be considered a part of this unanimous-consent agreement that any amendment that might be considered to the bill of the distinguished minority leader would not be the gas tax bill.

Mr. BAKER. Mr. President, it will not. I ask unanimous consent that no bill relating to highways, potholes, or—to the highway bill will be in order to the West Virginia wilderness bill.

Mr. LONG. Will the Senator yield? Reserving the right to object, can we agree that no amendment will be in order?

Mr. BAKER. I did that, except that one, and he wants to make sure the amendment of Senator BYRD is not the highway bill. It would tickle me to death if it were, but I know it is not.

The PRESIDING OFFICER (Mr. MURKOWSKI). Is there objection?

The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

[The following proceedings occurred after midnight:]

DESIGNATION OF CERTAIN MONONGAHELA NATIONAL FOREST LANDS

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5161) to designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill (H.R. 5161), which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

DESIGNATION OF WILDERNESS AREAS

SECTION 1. In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Monogahela National Forest, West Virginia, which comprise approximately thirty-five thousand six hundred acres, as generally depicted on a map entitled "Cranberry Wilderness—Proposed", dated May 1982, and which shall be known as the Cranberry Wilderness: *Provided*, That for purposes of the Act of July 14, 1955 (69 Stat. 322) as amended, the Cranberry Wilderness may be reclassified only by Act of Congress enacted after the date of enactment of this Act;

(2) certain lands in the Monongahela National Forest, West Virginia, which comprise approximately six thousand one hundred acres, as generally depicted on a map entitled "Laurel Fork North Wilderness—Proposed", dated November 1981, and which shall be known as the Laurel Fork North Wilderness; and

(3) certain lands in the Monongahela National Forest, West Virginia, which comprise approximately six thousand one hundred acres, as generally depicted on a map enti-

tled "Laurel Fork South Wilderness—Proposed", dated November 1981, and which shall be known as the Laurel Fork South Wilderness.

MAPS AND DESCRIPTIONS

SEC. 2. As soon as practicable after the provisions of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committees on Energy and Natural Resources and Agriculture, Nutrition, and Forestry of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provision of this Act.

DISPOSITION OF VALID EXISTING RIGHTS

SEC. 4. (a) The Secretary of the Interior (hereinafter in this Act referred to as "the Secretary"), in consultation with the Secretary of Agriculture, shall acquire:

(1) all nonfederally owned coal deposits and other mineral interests and rights within the boundaries of the Cranberry Wilderness; and

(2) coal deposits and mineral interests and rights outside the boundaries of the Cranberry Wilderness which are—

(A) contiguous to the deposits, mineral interests, and rights referred to in paragraph (1) and owned by the person or entity which owns the deposits, interests, and rights referred to in paragraph (1); or

(B) economically accessible only through the exercise of rights held within the wilderness.

(b) For purposes of carrying out the acquisition required under subsection (a), not later than three months after the date of enactment of this Act, the Secretary shall initiate negotiations with the owner of the coal deposits or other mineral interests and rights within the Cranberry Wilderness.

(c)(1) The Secretary shall conduct such coal or mineral evaluations with respect to the coal or other mineral interests or rights within the Cranberry Wilderness as may be necessary to determine fair market value. The fair market value of any rights as may exist shall be determined without reference to any restriction on access or use which may result from designation of the area as a wilderness. In determining fair market value the Secretary may contract with the owner to perform any necessary exploratory drilling or other evaluation work and may compensate the owner therefor through payment of money or as an addition to the monetary credit under this Act. Where the Secretary conducts such evaluations, he shall provide the owner with all data available to the Secretary as a result of the evaluations.

(2) Within one year of the date of enactment of this Act, the Secretary, in consultation with the owner shall determine the present fair market value of coal deposits and mineral interests and rights.

(A) The determinations of fair market value shall be based on the replacement cost of the unmined recoverable coal deposits and mineral interests and rights in the ground, taking into account comparable sales recoverable minerals of comparable nature in the ground in the eastern United States, costs of compliance with all applicable Federal, State, and local laws and regulations, including reclamation and restoration of the land (including wetlands) and other costs normally incurred in the mining of such minerals.

(B) Upon voluntary surrender and relinquishment by the owner of all nonfederally owned coal deposits and other mineral interests and rights in the Cranberry Wilderness, the Secretary shall extend to the owner, its successors and assigns, a monetary credit to be used against that portion of payment, bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal Government on any mineral, oil, or gas lease or other Federal property competitively won or otherwise held by the applicant, its successors, or assigns. The monetary credit may be transferred or sold at any time by the owner to any other party with all the rights of the owner to the credit, and after such transfer, the owner shall notify the Secretary. In lieu of the monetary credits described above, the Secretary may, at his sole option, purchase the mineral rights referred to above.

(C) Monetary credits authorized pursuant to this subsection shall be based on the fair market value of the owner's mineral interests as determined pursuant to subsection (c) of this section. Such credit shall be used over a period of years with not more than ten percent of the credit to be used in any one year.

(d) In the event the Secretary and the owner cannot agree on fair market value within one year of the date of enactment of this Act, either the Secretary or the owner shall have the right to petition the United States Claims Court for determination of fair market value in accordance with the standards set forth in this subsection, and said Court shall have jurisdiction to make said determination which shall be binding on all parties for purposes of this Act subject to the right of appeal.

(e) Effective October 1, 1983, there are hereby authorized to be appropriated such sums as may be necessary to establish the value of the nonfederally owned mineral interests or rights lying within the Cranberry Wilderness area. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as are necessary to carry out the other provisions of this Act: *Provided,* That no payment shall be effective except to the extent or in such amounts as are provided in advance in Appropriation Acts.

(f) Exploration activities, including core drilling and use of mechanized ground equipment, shall be allowed in the Cranberry Wilderness designated by this Act to determine the value of the nonfederally owned mineral resources therein, under such reasonable stipulations and conditions as may be imposed by the Secretary of Agriculture.

OTHER PROVISIONS

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of West Virginia and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than West Virginia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of West Virginia;

(2) with respect to the National Forest System lands in the State of West Virginia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of West Virginia reviewed in such final environmental statement and not designated as wilderness by this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of West Virginia for the purposes of determining their suitability for inclusion in the National Wilderness Preservation System.

UP AMENDMENT NO. 1565

Mr. ROBERT C. BYRD. Mr. President, on behalf of myself and my distinguished senior colleague (Mr. RANDOLPH), I send to the desk an amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an amendment numbered 1565:

Insert at the proper place in the bill the following:

Notwithstanding any other provision of law, there is hereby authorized to be appropriated from the Treasury to the Secretary of Agriculture after September 30, 1983, up to $2,200,000, to be paid to Pocahontas County and Webster County, West Virginia; such sum in compensation for property tax revenues and other taxes or payments foregone by the aforementioned counties as a consequence of the acquisition of the nonfederally owned coal deposits and other min-

eral interests and rights within the boundaries of the Cranberry Wilderness as authorized in section (4) and notwithstanding any other provision of law, there is hereby authorized to be appropriated from the Treasury such amounts as may be necessary for annual payments to be made to all units of local governments to compensate such units of local government for property tax revenues and other taxes or payments foregone as a result of the establishment of any Federal wilderness area.

Mr. ROBERT C. BYRD. Mr. President, I am pleased that the Senate is able to consider the West Virginia wilderness bill. This legislation designates three areas in West Virginia as Federal wilderness. The areas to be established as wilderness include the Cranberry region and the north and south forks of the Laurel River.

The Cranberry wilderness designated by this bill, comprising 35,600 acres, becomes the largest Federal wilderness east of the Mississippi River. Each of the Laurel fork wilderness areas contains 6,100 acres. The wilderness values of these lands are outstanding.

The Laurel forks are adjacent to well-known gasfields and have some potential for containing producible quantities of natural gas.

It is the Cranberry area, however, that has by far the greatest mineral resources underlying it. According to the Bureau of Mines and the U.S. Geological Survey, there are at least 18.5 million minable tons of premium-grade coking coal under the area—a low-volatility, low-ash, low-sulfur fuel that is one of the finest coals in the world.

The coal is found in seams averaging more than 70 centimeters in thickness. It is recoverable by underground mining methods. Even underground mining would involve disturbances in the fragile surface of the Cranberry area.

The two West Virginia counties in which the Cranberry area is located are in poor economic condition. The unemployment rate in Webster County, W. Va.—which contains the main access to the coal under the area—was an astronomical 24.2 percent in October of this year.

While the unemployment rate in Pocahontas County, W. Va., was 8.2 percent in October 1982, the county contains almost no significant industrial facilities and has a relatively small labor force. The increase in economic activity that would accompany development of the Cranberry's mineral resources is badly needed in both counties. Yet that development is not possible under the wilderness designation.

In addition to the creation of jobs, mineral development would increase the counties' tax base by a substantial amount. An active mining operation would pay taxes to the counties.

While the Federal Government owns the surface of the Cranberry area, the subsurface mineral rights are primarily held by private owners. These owners pay property taxes to the Pocahontas and Webster Counties governments on an annual basis. Designation of the Cranberry area as wilderness would have the effect of making the coal reserves extremely difficult, if not impossible, to mine The revenues currently going to the counties in the form of property taxes would soon cease.

For that reason, a consensus has formed in favor of just compensation for the people in the region immediately affected by the Cranberry Wilderness. I have stated that such compensation is one part of a fair solution to this complicated situation.

I will shortly introduce an amendment on behalf of myself and my able colleague, Mr. RANDOLPH to the bill that authorizes the Secretary of Agriculture to make a payment to Pocahontas and Webster Counties of up to $2.2 million. This payment would be in compensation for property tax revenues lost, and other taxes or payments forgone by the counties as a result of the wilderness designation and the acquisition of non-federally owned mineral deposits within the Cranberry area.

The compensation formula is based on an assessment of the economically minable coal reserves, at a rate of 10 cents per ton; a conservative estimate of one-half of the average lease rate for oil and gas properties in the area, at $3 per acre; and a calculation of property taxes forgone.

Property taxes in West Virginia are expected to increase in the next few years as a result of a new, statewide property assessment. The West Virginia Legislature may also be involved with property tax assessments, Under the terms of one question on the general election ballot last November, the taxes on the privately owned mineral reserves under part of the Cranberry could increase from $27,000 per year to more than $162,000 per year. Given this large potential increase in assessments, I believe that just compensation could best be accomplished this year by the Congress.

I want to recognize the efforts of two West Virginians in particular for their contributions to this legislation. Mr. Larry George, wilderness chairman of the West Virginia Highlands Conservancy, and Mr. Walter Helmick, president of the Pocahontas County Commission, have provided valuable counsel in connection with this matter.

I extend my thanks to Senator BAKER for his assistance and cooperation on this bill. I thank the distinguished chairman and ranking member of the Energy and Natural Resources Committee, Senators MCCLURE and JACKSON, for their help. I commend the chairman of the Subcommittee on Public Lands and Reserved Water, Senator WALLOP, for his efforts on this legislation. I especially thank Senator FORD for his assistance in the committee.

I urge the adoption of my amendment and passage of the bill.

Mr. President, may I say that this matter has been thoroughly discussed on both sides of the aisle. It is cleared and has been the subject of discussion for several days. The distinguished Senator from Idaho (Mr. MCCLURE) may proceed.

I yield back the remainder of my time.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, the Senator from West Virginia is correct. This matter has been heard by the Energy Committee. It has been fully discussed and reported by that committee.

The amendment which the minority leader has now offered has been discussed on this side of the aisle. We have no objection to the adoption of the amendment. We urge the adoption of the bill as amended.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield 1 minute of my time to Mr. RANDOLPH.

Mr. RANDOLPH. I thank my able minority leader. He has done a very splendid job in connection with this matter.

The PRESIDING OFFICER. Senators will please refrain from conversation.

The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, it is a privilege to join my able colleague from West Virginia (Mr. ROBERT C. BYRD) in support of H.R. 5161, a bill to designate certain lands in the Monongahela National Forest in West Virginia, as wilderness. This legislation provides for the inclusion of three U.S. Forest Service RARE II study areas in our State in the National Wilderness Preservation System. The bill would protect 35,600 acres of the Cranberry Backcountry located in Pocahontas and Webster Counties, W. Va., plus 12,200 acres along the Laurel Fork River in Randolph County, W. Va. These beautiful mountain areas have been recommended for wilderness designation by the U.S. Department of Agriculture and encompass the finest of West Virginia's natural lands. They include the most pristine and unique wild territory remaining in the Appalachian Mountains.

The Cranberry Backcountry has long been a valuable and highly utilized recreation area. It has been closed to motorized access since 1936, resulting in the preservation of its wil-

derness character. The Williams and Cranberry Rivers in the Cranberry area are nationally acclaimed as trout streams and over 170,000 man-days of trout fishing were spent there last year. Hunters, anglers, and hikers from throughout the eastern United States are attracted to the area. The Cranberry is synonymous with natural beauty.

Development of the area is incompatible with the recreational and esthetic values. This has been made obvious by public reaction to clear-cutting activities by the Forest Service, a legislative moratorium on the issuance of mining permits in the study area—which moratorium has expired—and the decision by the administration to prohibit all coal mining activity in the Cranberry Backcountry.

The greatest threat to the Cranberry wilderness lies in the 32,500 acres of privately owned coal underlying the area. The mining of this coal would prohibit wilderness designation. H.R. 5161 resolves the controversy surrounding the Cranberry Backcountry. It provides that upon voluntary surrender and relinquishment by the owner of all nonfederally owned coal deposits and other mineral interests and rights in the Cranberry Wilderness, the Secretary of the Interior shall extend to the owner, its successor and assigns, a monetary credit. This credit is to be used against that portion of payment, bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal Government on any mineral, oil, or gas lease or other Federal property competitively won or otherwise held by the applicant, its successors, or assigns.

In making decisions relating to the use of resources, there is almost always a price to pay for known benefits. In terms of coal reserves, approximately two-tenths of 1 percent of West Virginia's similar coal reserves would be forfeited. We would also forfeit the opportunity to harvest less than 1 percent of our annual timber production.

There is very strong and persuasive support in West Virginia for H.R. 5161. But, we are also concerned about mineral rights compensation issues and taxes foregone by the local governments if mineral development of the area is prohibited through wilderness designation.

Our major concern with H.R. 5161, as passed by the House on June 14, 1982, and ordered favorably reported, with amendments, by the Committee on Energy and Natural Resources on December 7, 1982, is that it does not authorize compensation to Pocahontas and Webster Counties for tax revenue which would be foregone as a result of Federal acquisition of the privately owned mineral rights in the area. The amendment which I am cosponsoring with Senator ROBERT C. BYRD authorizes the Secretary of Agriculture to make a payment of up to $2,200,000 to the counties for this purpose. This compensation figure is based on a proposal developed by county officials, utilizing a Federal analysis of the minable coal reserves and their value, and the value of oil and gas reserves.

In order to insure that Pocahontas and Webster Counties, W. Va., are not unfairly disadvantaged by wilderness designation of the Cranberry area, I hope this amendment will be adopted by the Senate.

We in West Virginia have been blessed by nature with vast mineral and forest resources. Almost all of these resources are available for development. We are asking here, today, that a very small portion of these assets be set aside and maintained in their natural state. The Cranberry is an important recreational asset and will provide other important values such as watershed protection, providing for genetic diversity and wildlife habitat if it remains a wilderness. The Cranberry provides habitat for species dependent on large undeveloped areas—black bear and wild turkey, for example—in addition to many other species. Its rivers provide large quantities of clear water. It would serve as an undisturbed area against which the results of management could be measured.

Mr. President, I urge the passage of H.R. 5161 with a compensation amendment and express my further appreciation to my able colleague (Mr. Robert C. BYRD) for his successful effort in bringing this measure to the Senate.

I commend the chairman and members of the Committee on Energy and Natural Resources for their cooperation and diligent attention to this vital bill.

I especially thank Senators MCCLURE and JACKSON, the chairman and ranking minority member of the committee, and Senator WALLOP, the chairman of the committee's Public Lands and Reserved Water Subcommittee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

Mr. ROBERT C. BYRD. I yield back my time on the amendment and on the bill.

The amendment (UP No. 1565) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MCCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be offered, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the committee amendment, as amended, was agreed to.

Mr. MCCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, has the bill passed?

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5161) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader. I thank the distinguished Senator from Idaho (Mr. MCCLURE), and I thank Mr. EAST, who comes from a State whose motto is: Esse quam videri.

I happen to know the motto because I was born there.

ORDER OF BUSINESS

(During the consideration of the foregoing bill, the following proceedings occurred:)

Mr. MCCLURE. Mr. President, will the Senator yield just one moment further?

Mr. ROBERT C. BYRD. I yield.

Mr. MCCLURE. addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

APPOINTMENT OF CONFEREES AND ANNOUNCEMENT OF CONFERENCE AT 10 A.M. TOMORROW ON CONTINUING APPROPRIATIONS

Mr. MCCLURE. Mr. President, the distinguished Senator from Oregon (Mr. HATFIELD), the chairman of the Appropriations Committee, has asked me to announce at this time and in this interval that the members of the Appropriations Committee who serve on the conference on the continuing resolution will meet at 10 o'clock tomorrow morning in S. 207.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. BAKER. Will the Senator yield to me for just a second?

Mr. ROBERT C. BYRD. Yes; I yield.

Mr. BAKER. Mr. President, for the benefit of all Senators, but in particular a request of our most distinguished colleague, the senior Senator from Mississippi, let me say again that I see no need for Senators to remain here, and I urge them to go home, if they care to do that, and I will be here, as will a few others, to attend to the business of the Senate as long as that is required.

Mr. DIXON. What time do we come back?

Mr. BAKER. Mr. President, the order now is for 6 o'clock tomorrow night. I will make an effort to change that, and I put Senators on notice that we may convene at 2 o'clock tomorrow; that I expect to do that. So they should be on notice that the convening hour will be 2 o'clock tomorrow even though I do not yet have that order.

Mr. STENNIS. Have the conferees been announced?

Mr. BAKER. Mr. President, I ask the distinguished Senator from Oregon if he will name now the people that he will nominate to be conferees.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. The following will be nominated at the appropriate time: Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. RUDMAN, Mr. SPECTER, Mr. PROXMIRE, Mr. STENNIS, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, and myself.

Mr. BAKER. And yourself. I thank the Senator for yielding.

FURTHER CONTINUING APPROPRIATIONS, 1983

The Senate resumed consideration of the joint resolution.

Mr. BAKER. Mr. President, I do not see the Senator from North Carolina has yet returned to the floor. Therefore, I am going to suggest the absence of a quorum, with the understanding that it will in no way interfere with the rerecognition of the Senator from North Carolina.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. As I understand, Mr. President, under the order previously entered, the Chair will recognize the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I thank the Chair.

Mr. President, I had hoped that at some point we could move matters in the direction we could all agree they ought to go and reach an agreement. But if I might, Mr. President, for purposes of the record, I would clarify that, lest there by any misunderstanding, I have no objection to an orderly disposal of the CR, the continuing resolution. Again, that was the purpose of the lameduck. It is not I, I would submit, but perhaps others who are holding the continuing resolution hostage to the gas tax. I resist the notion that it is I who is doing that.

One thing we have all agreed upon is how imperative it is to move the continuing resolution through this Chamber. Then we could return to the consideration of whatever other matters we wish to take up.

So no one is upset, including myself, with the fact that we ought to try to resolve the continuing resolution.

Again, I have reiterated repeatedly, Mr. President, that my concern is precisely that, that we have cluttered up the agenda to such an extent and such a point we could not in an orderly way dispose of the continuing resolution.

Again I repeat, that was the purpose of the lameduck. Even more importantly, we had hoped that the appropriations bills would have been disposed of. That is what we ultimately ought to be doing. They are even more important than the continuing resolution.

The continuing resolution is simply an acknowledgment, a confession, that we could not so order our affairs in a sufficient way as an institution, not reflecting upon any individual or any leadership, to dispose of the appropriations bills. This is a chronic problem the Senate faces.

So the continuing resolution is really a 4-second load. That is why it was proposed initially by the distinguished chairman of the Appropriations Committee that that ought to be our focus during the lameduck.

When I was down in North Carolina over the recess, I heard repeatedly on the news there would be a very limited agenda during lameduck. Most Senators did not want a lameduck. And, having decided there would be one, it was agreed that the agenda would be a very limited one; to wit, and again I repeat, appropriations bills and the continuing resolution.

We did get some of the appropriations bills through, and that was a plus. We can get the continuing resolution through and that is a plus. We can declare victory. That is what we came for. It was a short session, modest, prior to Christmas. We have a new Congress coming in 26 new Members of the House and several new Members here in the Senate. Let them grapple with the new agenda, whether it is S. 995 or Radio Marti, perhaps, or gas taxes, ad infinitum. We agreed that we had done about all we could do; hence the lameduck should not be looked upon as a great avenue and window of potential in terms of a large, extensive agenda. Again, I think that has been my purpose this evening in taking this time and indulging the patience of my colleagues, trying to put this all in perspective, first in terms of the question of schedule and why we are here and the purpose of the lameduck; then second, to question the wisdom of this gas tax.

I think every Senator will acknowledge that in the closing period of any session, there is this mad rush to get certain things through. That is probably where we do our poorest job in terms of reflection and deliberation and consideration. I fear that is happening with this every important piece of legislation. I would like to clarify that.

It is not in opposition to an ultimately orderly disposition of this issue or any other. I am just concerned about the time and the place and the hour, whether we do not do a discredit to ourselves and potentially to the American people by moving this through in a hurried, late-hour form. It may come to pass that we will. I appreciate that, ultimately, this body will work its will, and it should. It should ultimately work its will. All I am doing is availing myself of the currently existing rules to make sure that on this particular measure, which is going to have a great impact upon the American economy and upon the American taxpayer, what we are doing is wise and deliberated and well considered. I do not think it is. I do not think it is to the country as a whole.

I was sent here by the good people of North Carolina to do the best I could to represent their best interests. I do not think it is in their best interests to do this. All I have done is avail myself of the rules of the Senate established long before I came here and that will still be here long after I leave to make the point.

If ultimately, I have made that point and the U.S. Congress in its infinite wisdom determines that, no, we shall have a gas tax—it shall be imposed upon the American people, it does make sense; yes, even in a time of recession, yes, even though regressive, yes, even though violative of the normal use of user fees, yes, even though it is not a jobs creation bill but basically a jobs transfer bill, yes, we shall proceed in spite of that, we shall proceed in spite of the fact that certain of our States suffer poorly, such

as North Carolina; yes, even in spite of that, we shall continue—then so be it.

As I reflect back, Mr. President, upon the mandate of 1980, the year I was elected, I tell you, I campaigned on the notion that the best way to help the private and public sectors in this country would be to revitalize the private sector.

Mr. President, I would like to request order in the Chamber so that I may proceed with my analysis of this matter.

The PRESIDING OFFICER. The Senate will come to order.

Mr. EAST. As I was saying, Mr. President, I might note the distinguished Presiding Officer at this time, the distinguished junior Senator from Alaska (Mr. MURKOWSKI), was elected at the same time I was. I do not mean to tell him or any other of my distinguished freshman colleagues what the mandate was when we got here. As I understand it in North Carolina, it was not to increase taxes; it was to hold the line and ultimately try to reduce them. It was to gain control of Federal spending, which was spinning out of control; it was to restore the defense credibility of this country and try to restore a sense of resolve and purpose in American foreign policy, which many people felt was absent. That is the mandate I was elected to.

The citizens of North Carolina did not send me up here to sit idly by and watch the growth of Federal spending continue, the rate of growth, then to try to cope with the anemic economy that that growth represents by increasing taxes.

So I keep coming back to the point I was making earlier in the evening, and I suspect many Senators here share this: How did we get to the point where, here we are, a week before Christmas at 12:30 in the morning, after the elections of 1980, debating whether we ought not to increase taxes on the American people? If somebody had told me on the night of November 5, 1980, when I had won the election in North Carolina, that I would be up here acquiescing in greater taxes upon my citizenry, such as the gas tax and others, that that is what I would be doing in less than 2 years or in approximately 2 years, I would have said, "Oh, no, I won't, because that isn't the mandate. The mandate was clearly to go another way."

I fear we are not doing that. So I would add that perspective to what I think the American people are asking us to do.

As I have heard this debate on the gas tax over recent days and weeks, I have been told that there is a great deal of enthusiasm for it in this country. That certainly is contrary to the mail I have been getting on it. I would like to submit that if you went out and checked with people in the country as a whole, that make it work, that drive the cars, that have to commute, run the farms, drive the trucks, run the motels—all the myriad jobs that Americans have that are so dependent upon the automobile and gasoline—if you had told them, asked them what they thought about increasing the tax on gasoline by 5 cents a gallon, I do not think they would think it was a good idea. I think the idea sprang full blown within the confines of Washington, D.C., and perhaps, once again, we have fallen victim to the most fatal malady in this business of American politics.

Mr. STEVENS addressed the Chair.

Mr. EAST. I am speaking and have the floor, Mr. President. And I was continuing my line of reasoning here that I felt that the mandate upon which I was elected, and many others here, was not this one, and I was adding I do not think the American people have changed today. I may be out of touch. If so, I will find out in due course.

But the people of the State of North Carolina sent me here to do the very best job I could in representing them. And if I honestly felt that I could serve them by sitting here this evening and remaining silent on this issue, I would have done so. But I did not and I have taken my stand under the rules of this Senate and I deeply regret whatever inconvenience I have caused my colleagues.

But it occurs to me the problem was not candidly mine but the fact that the lameduck was some way or other converted into a forum for the consideration of a whole range of proposals, a whole laundry list of measures that we, alternately, bogged ourselves down in. Then, as time moved on, we finally decided we would get to the CR.

But the gas tax measure, as all of a number of measures we have taken up, was given a fair shake. They tried to invoke cloture on these other measures and when that failed they were pulled down. And I think I have been true to my word—some may think I have not—when I indicated that I did not intend to unduly obstruct the consideration of any measure and certainly above all of this. And I did not have a high profile on it. I was not active on it. I had indicated, in the most gentle and civil and reserved ways several days ago in a 13-minute brief presentation, my unhappiness of the gas tax. So I honored that request, that desire to see things move through as orderly as they could.

And there were other measures I was deeply interested in too—Radio Marti, other matters. A lot of people wanted to resolve S. 995, the contributions bill, very important to a lot of businesses. That could not survive the vote to invoke cloture, so it was pulled down.

So we had a very orderly procedure here to some point whereby those measures that were extraneous to appropriations and the continuing resolution were given their fair shot. Could they survivie a cloture vote? If they could not, they were pulled down and we moved on to the primary business why we came here. And the sole one that has been singled out for special treatment was this one. And it was at that point that I felt my obligation not to, if you will, delay or obstruct and end it. But now we were into an area of preferred treatment, special treatment—no matter what, it would go through. No, not 995; no, not Radio Marti; no, not this issue; no, not that issue; but this one. This one had to go through. I do not know why the preferred treatment there. Fair shake, fair shot, yes; but fair treatment? It is at that line I felt personally relieved from the obligation to allow it to be brought up again for consideration by this body.

So, procedurally, I do not think we had any real due process, we did not have any equal treatment under our rules. If it were a minor matter, I would have acquiesced. But I considered it a major matter—tax policies, very important, very fundamental, very profound impact.

When there had been the failure to impose cloture, there was an indication that a strong minority of Senators felt this was not a good idea. I think that should have been accepted. And it was to that point that I had not made an undue effort to challenge that. But it has been, subsequent to that, this effort to keep bringing it back as though it was imperative, absolutely imperative, that this measure be passed—even more imperative than the continuing resolution, again which was the purpose of the lameduck session to begin with.

So I may have my critics who feel that some way or other this is dilatory or obstructionist, but I do not think it is. It is consistent with the rules of this great body. It is consistent with the whole purpose of the lameduck. And, again, I come back to my fundamental concern that substantively it is not wise for the American economy and the American people at this time.

And I fear a point that has not been made, Mr. President, that if this measure goes through—and many people look upon it as a jobs bill. I submit it is not. Jobs transfer, maybe, at best—it is going to send a very bad signal to the private sector in this country that we are moving back into the old posture of bigger taxes, bigger spending, more will come later, meaning then in other areas the potential for greater deficits, greater interest rates, and we will have come full circle.

Is this a good signal to send, in other words, that the Congress now feels

that it cannot control Federal spending and cannot control the rate of growth, it cannot control the entitlement programs, it cannot in any way, shape, or form affect the decisions of the Federal Reserve System as regards interest rates? So we are simply back to the old scheme of taxing and, yes, spending, and, yes, deficits ultimately, and, yes, high interest rates, and we will have come full circle. That is, Mr. President, my point about the perspective and the mandate of 1980.

I remember, when President Reagan was sworn in, we had an inflation rate of 12.4 percent; crime rate, 21.5. All of that a product of what? Yes, uncontrolled growth and Federal spending, too much philosophy of the past, of tax and tax and spend and spend. And now we were moving into a new era of American politics and tax policy, not repudiating the past 40 years and the good things that were done then, not repudiating the New Deal period when the distinguished Senator from West Virginia first came here, not repudiating all of the contributions of the Great Society.

No one is asking that we return to the past. That is reckless. What we were trying to do is to correct, to retrench, gain control of the rate of growth, get these things under control, consolidate, prune. That is what we are trying to do. We are a responsible posture.

I think inherent in that meant again get control of the rate of growth of Federal spending, restore the integrity of the social security program, try to make sure that the food stamp program as vital as it was needed and was not abused, and we tried to work on that with limited success, and so it went.

That was the mandate, getting the rate of growth of Federal spending under control. I do not know of anyone who really has questioned that on either side of the aisle. That was our purpose in coming, to get control.

It was not to tax. In fact last year we reduced the tax rates. Everyone thought that was a good thing. It would put more money into the hands of the consumers, more money into the hands of the working people of this country. Those at the lower end of the economic scale would have more to spend as consumers. Those at the higher end of the economic scale would be able to save more and accumulate more to invest in capital formation and growth and development. That would be a healthy thing.

And we did that on both sides of the aisle with great glee last year.

But now I have the uneasy feeling that we are slipping back into the old ways of when in doubt tax, spend, a new program, not to get control of Federal spending.

I think we have allowed the Federal Reserve Board, with all due respect to Mr. Volcker and others, to drive interest rates to incredible heights, that plunged us into this recession and made it infinitely deeper than it needed to be. And this recession started in the areas of construction, automobiles, had a ripple effect through the whole economy into a very deep recession.

So we are trying to get out from this recession, and I submit that the prognosis and the prescription is the same: weak economy. How do you get out from it? You grow, control the growth of spending and get interest rates down, get interest rates down by controlling the growth of Federal spending, getting the Federal Reserve System to have a more realistic interest rate policy, which it has very belatedly.

That was the goal. That was the need. That was the responsibility. That was the mandate.

Those things seemed to have drifted away a bit. We have not as well as we should have controlled the growth of Federal spending.

The Federal Reserve has continued along the path of unrealistic high interest rates and so the economy is anemic. So we say, "Oh, we have to do something." It is the old story, do something, anything. So what do we do? What do you think about a gas tax on the American people? Oh, that is a good idea. We will take that money and build bridges, roads, and highways and repair them.

Well, I would simply say to my distinguished colleagues I did not feel in 1980 after the election that is what I was sent here for. I have tried to this point to be as fair, as responsible as I can to listen to the arguments, and I find I just came to the point after having let this thing try to survive, be beat down with a cloture vote, acquiesced in that, did not put up much fight then, but we had finally reached a point where it was getting this special treatment under our rules.

All of a sudden it seemed to be almost an article of faith here. We had to have a gas tax. It gets back to where I had started this whole debate. It is easy to happen to people. You lose perspective. And often in life we think to ourselves maybe individually or collectively as a part of an organization or entity how did we get here? What in the world are we doing here at this point in time and this place debating this particular measure?

I do not know. I am deeply troubled with it, deeply frustrated.

I finally thought to myself, well, the good citizens of my State would probably say, "Well, John, if that is the way you feel why don't you speak up and say something about it and not only do you represent the people of North Carolina, but you are a U.S. Senator. You might even be expressing to some degree aspirations of the country as a whole and concerns."

I finally decided in my own conscience I had been patient, I had acquiesced. I allowed the effort to be made to push this through. It had been given a fair chance as all the other things had but yet it kept springing up with new life. It would not die.

I do not think any particular proposal deserves to be pushed just ad nauseum and ad infinitum until finally you break the spirit of people and they simply accept it.

Now we may eventually as a body, as an entity be moving that way. But I suppose I shall have the consolation that one day as an epithet on my stone it will say, "East opposed the gas tax of 1982" and that there would not be any way that anyone could misunderstand that. And I do it just not to oppose this tax, per se, but for what I fear is a new trend, a new desire to move back into the old patterns of taxing and spending, rather than to the fundamentals, the basics, the first principles of getting control of the growth of Federal spending, trying to lessen taxes not increase them, thereby helping to contribute to an atmosphere that will see the downward spiral of interest rates which everyone agrees would be the single greatest recharger of the economy of the United States and of North Carolina.

That was the purpose for which I was sent here and I suspect I like to think or hope that certainly the good freshmen class of 1980.

So, Mr. President, we find ourselves here in the wee hours of the morning taking up a matter that might appear on first blush to be rather inconsequential, insignificant,

Yet I think it has far-reaching implications in terms of the well-being of this country and the economic well-being of this country.

I do hope, Mr. President, that as our colleagues go home this morning and reflect on this matter that they will return and decide whether or not they genuinely want to proceed to this matter and genuinely want to pass it into law as their final Christmas present I guess to the American people.

That, Mr. President, is about where we are, and I again feel that I should express my regret, indeed perhaps even apologize to my colleagues and to the staff and to others, for having injected this, I suppose, relatively unhappy note into the yuletide season. But we could all be home enjoying the yuletide season with our families and loved ones, where most Americans should be at this time of year, if we had not laden the lameduck with all this excess baggage, even having done that, giving them their due as far as they can survive cloture, and when we

could not we pulled them down, and we moved on except this one.

I was willing to accord it equal treatment under the law, and I did, and I honored that. But I will confess for those who may feel I have been duplicitous in some way or other that I felt when it was elevated to a preferred status that under all events, under all circumstances, that no stone would be unturned procedurally and otherwise to see that this measure passed and at that point I felt my obligation not to unduly object, I was relieved of that obligation. I no longer felt honorbound to it, and I felt then a very strong feeling of a deep personal and institutional responsbility, yes, I will confess, obviously to move into a rather high profile position, and to question whether the lameduck had not finally gone awry pretty badly and whether we were not about on the threshold of just out of sheer fatigue pressing upon the American people an incredibly important measure, namely increasing their gas tax.

As I have said repeatedly this evening in terms of this motivation, it is not necessarily just the tax itself—it is another tax, we are always putting taxes on things, and if we could we should not be doing it, but we always are, and it seemed to me to be symptomatic, symbolic, in fact, that we were now moving back into the old ways, the old ways that precisely brought us to a weakening economy with over 10-percent unemployment.

The way you are going to get that unemployment figure down is to get interest rates down, to get deficits down; to get more money back into the hands of the American consumer; to encourage and reward creativity, productivity, capital formation, investment, and growth; to get control of the rate of Federal spending, those are the the things that will revitalize the American economy. Those are the things that will put people back to work in construction, where we are already getting some positive signs there; put people back to buying automobiles, and we are getting some positive signs there. They led us into the recession, they can lead us out.

What we need to do is to focus our attention upon controlling the rate of Federal spending, helping in that way to get interest rates down and encouraging the Federal Reserve System to have a responsible interest rate policy.

I repeatedly talked to individual Senators and I have felt uniformly—I have not talked to everyone—they agreed with that, yes, that was the need; yes, that is right, control the growth of Federal spending, get interest rates down, get more money back into the hands of the individual consumer, to encourage and reward creativity, productivity, capital formation, investment, and growth. That is the way you solve unemployment in a real way.

You create jobs all across the spectrum. You just do not transfer them, you just do not have a shell game. It is not just cosmetic.

Sure, sometimes the argument goes here that it will look good, it will show we are trying to do something, make the American people think we are not just sitting here doing nothing. Well, I submit in terms of the things that needed to be done to genuinely restore the health of the economy, we can be doing better, let me put it that way, and I think it is putting it charitably, but I, for the life of me, do not see that we ought to give the highest priority to increasing taxes on necessities, taxes of regressive nature in time of recession.

Mr. President, I certainly was not sent here to do that. I repeat again and again that I finally decided in my own mind, in my own conscience, having honored the obligation not to obstruct unduly the imposition of cloture, and I did not, that when that failed I had a new phase, and I had a strong, deep feeling inside of me that the time had now come to avail myself of the opportunity under the rules of that great body to plant a flag and to say, "Let us stop and let us think about what we are doing." That is the spirit in which I have done it, and I hope it will be understood in that spirit.

Several Senators have questioned my motivation this evening, and I deeply appreciated the acting majority leader coming to my defense. I have seen other distinguished colleagues, as I noted earlier this evening, in this Chamber take the floor on issues I did not like. They felt strongly about those things, and they stood their ground. Sometimes they won, and sometimes they lost, but they stood their ground.

So, Mr. President, again I hope I am not misunderstood in my motivation, in my purpose, in my desire, and I do not expect to do this often in my Senate career, but I feel that—I felt that—I had reached the point that now it was appropriate to do it.

Mr. President, I would like to raise a point of order that a quorum is not present and ask for a ruling of the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAST. Mr. President, I asked for a ruling of the Chair. I did not ask for a quorum call. I asked for a ruling of the Chair on a point of order as to whether a quorum was present.

The PRESIDING OFFICER. Debate is not in order during a quorum call.

Mr. RUDMAN. Mr. President, as the acting majority leader, I seek recognition of the Chair.

Mr. EAST. Mr. President, there has been no answer on the quorum call, and I was raising a point of order, and I clearly stated a point of order.

The PRESIDING OFFICER. There does not have to be a response in a quorum call.

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. This is not a vote and debate is not in order.

Mr. EAST. I was raising a point of order——

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, as the acting majority leader——

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. EAST addressed the Chair.

Mr. RUDMAN. As the acting majority leader, I seek recognition and now ask for third reading.

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. The only purpose for which a Senator can be recognized——

Mr. RUDMAN and Mr. EAST addressed the Chair.

Mr. RUDMAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The quorum call is suspended——

Mr. RUDMAN. Mr. President, I ask for third reading.

Mr. EAST. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

Mr. EAST. Mr. President, no one has answered the quorum call.

The PRESIDING OFFICER. No one is required to answer for a quorum call.

Mr. EAST. Mr. President, I raise a point of order.

The PRESIDING OFFICER. A quorum call begins——

Mr. EAST. When I raised the point of order, the clerk had not begun the rollcall.

Mr. DOLE. Regular order.

Mr. EAST. I think the Parliamentarian, when I raised the point of order, was not here, and I directed it to the Chair. I expressly stated it was a point of order.

The PRESIDING OFFICER. The Parliamentarian responded to the point of order.

Mr. EAST. I did not ask for a quorum call. I did not say I suggest the absence of a quorum call. I said I had a point of order.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. EAST. I said I had a point of order, and I raised that point of order and I deserve a ruling from the Chair on that point.

The PRESIDING OFFICER. The Chair will refer to page 842 of the Senate procedure:

A quorum call begins when a Senator suggests the absence of a quorum and the Chair directs the clerk to call the roll.

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. EAST. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. A parliamentary inquiry is not in order during a quorum call.

Mr. EAST. I did not suggest the absence of a quorum. I said point of order.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. BAKER. Madam President, in the course of the last while—that is hardly adequate—we have conducted steps of consultations with the distinguished Senator from North Carolina, with a number of other Senators, searching for a way to serve his legitimate interest, the leadership interests and those who feel that we must move on with both the matters before us.

It would appear that we have a unanimous-consent agreement that accommodates that purpose and to which I believe there is no objection by those I have discussed it with.

I believe I am authorized to say that the substance of this has been conveyed to the distinguished minority leader whose representative is on the floor in the person of the acting minority leader.

I shall state the request now, Madam President, for consideration of the Senate.

UNANIMOUS-CONSENT AGREEMENT

ORDER OF PROCEDURE

Mr. BAKER. Madam President, I ask unanimous consent that the continuing resolution House Joint Resolution 631 be advanced to third reading at this time.

I also ask unanimous consent that a vote occur on final passage of the continuing resolution at 2:15 p.m. on Sunday, December 19, and that paragraph 4 of rule XII be waived, and that there be no time for debate on the motion to reconsider and that following the disposition of House Joint Resolution 631 no action occur on H.R. 6211 until the hour of 5:45 p.m.

I ask unanimous consent that when the Senate convenes later today that it convene at 2 p.m.

I ask unanimous consent that at 6 p.m. today the Senate proceed to vote on the motion to invoke cloture on amendment No. 4998, which is the Baker substitute.

I also ask unanimous consent that at any time during the consideration of H.R. 6211, even if the Senate is operating under the provision of rule XXII, it be in order for the majority leader, after consulation with the minority leader, to lay before the Senate the continuing resolution conference report under a 4-hour overall time agreement which will include any amendments in disagreement.

I also ask unanimous consent that no amendment be in order to any amendment in disagreement if either the majority leader or the minority leader shall object thereto.

Madam President, that is the request.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Madam President, reserving the right to object, for the point of clarification, if I could have just a moment, I want to clarify something in my thinking.

Mr. BAKER. Madam President, while the Senator is conferring let me make one correction to the request. I believe I said no action would be available on H.R. 6211 until 5:45 p.m. It should be 6 p.m.

Mr. HELMS. Madam President, while Senator EAST is pondering this proposal, may I ask——

Mr. EAST. Excuse me. I am sorry. The Senator may proceed.

Mr. HELMS. May I ask the majority leader what happened to PIK in this?

Mr. BAKER. Yes, Madam President. May I say that the time between the passage of the continuing resolution, the vote on which will occur at 2:15, and the time when we have the vote on the cloture motion on further debate on the substitute on the gas tax bill that time of approximately 4 hours or a little less is available for other matters.

The two matters that I have in mind to ask the Senate to consider are the PIK measure and the nuclear waste bill assuming that both are available and can be reached.

I have not asked unanimous consent that the Senate turn to those items but we provided that time spot so that we could do that and it is my intention to try to dispose of those items in that timeframe tomorrow.

Mr. HELMS. Very well. I thank the majority leader.

Mr. BAKER. If I may add another, the Interior conference report I also intend to do during that period and that is the reason for the window of time between the two actions.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Madam President, reserving the right to object, and I will wait until the Senator from North Carolina has spoken.

Mr. EAST. Am I correct that the amendments in disagreement that might be considered to pertain, of course, only to the continuing resolution conference report; is that the understanding?

Mr. BAKER. Yes.

Mr. WALLOP. Madam President, I ask the majority leader if there is anything specifically sacrosanct about the hour of 2:15 p.m. for the vote? For what reason, if we are going to do other things in that intervening 4-hour period—is there any reason that we could not have the vote at, say, 3:15 p.m.? I have a son coming in on an airplane and there are a lot of other people doing it. I just want to know if there is something very specifically about 2:15 p.m.

Mr. BAKER. Madam President, I see the color draining from the face of our friend from Idaho who wants to take up the nuclear waste bill and deepened breath taken by my friend from North Carolina, the esteemed Senator. They want as much time as we can get them.

Mr. WALLOP. Why can they not do that?

Mr. GARN. Madam President, if the Senator will yield, this is one of those things we can all get into if we shift it to 3:15 p.m. That is when my daughter arrives. So I only make a point that everyone has a problem and I understand and I do not expect to get there to pick up my daughter either.

Mr. BAKER. Let me say I think honestly with a 3:15 p.m. plane to meet that the Senator is likely——

Mr. WALLOP. He has a 3:15 p.m. plane to meet; I have a 2 p.m. plane.

Mr. GARN. The Senator has a 2 p.m. plane.

I will try to get back in a hurry.

Mr. WALLOP. My guess is that the Senator from Utah will meet his daughter and make the vote. I will probably meet my son and miss the vote.

Mr. BAKER. Let me see, there is another vote at 2:15 p.m.

Mr. WALLOP. There is scarcely any way one can get here from Dulles Airport in 15 minutes, even given the protection the majority leader is able to provide.

Mr. BAKER. Neither this majority leader nor his wife was aware of it. She has the tickets.

Mr. WALLOP. I do not register an objection, only a thought.

Mr. BAKER. I thank the Senator.

Mr. HELMS. If I can help, my daughter is not to fly into Washington.

Mr. JEPSEN. Mr. President, will the Senator yield for a question?

Mr. BAKER. Yes.

Mr. JEPSEN. The vote at 2:15 p.m., is that the yea and nay vote? Have they been ordered?

Mr. BAKER. Let me see, the yeas and nays on the continuing resolution have been ordered, is that correct?

The PRESIDING OFFICER. Yes.

Mr. JEPSEN. Is that the final vote?

Mr. BAKER. Yes; that is final passage.

Mr. JEPSEN. Is there third reading?

Mr. BAKER. If this is granted that third reading will have been accomplished.

Mr. JEPSEN. One further question, then at 6 o'clock tonight there is another vote?

Mr. BAKER. Yes. The vote at 6 p.m. will be on cloture against further debate on the Baker substitute to the highway bill.

Mr. JEPSEN. Have the yeas and nays been ordered on that?

Mr. BAKER. The yeas and nays are automatic under the rules.

Mr. JEPSEN. Automatic?

Mr. BAKER. Right.

Mr. JEPSEN. Then are there any other votes scheduled under this arrangement? Is there any time certain arrangement under this arrangement?

Mr. BAKER. No; there are no arrangements for votes at times certain. However, I would say to the Senator that there is a possibility of votes both on PIK and on nuclear waste, and the window of time between these two actions and the possibility of votes postcloture after 6 p.m.; and also there is a time agreement included here for the disposition of the conference report and any amendments in disagreement that accompany it.

Mr. JEPSEN. Could the Senator give his best estimate or guess as to whether that conference report on the continuing resolution would then be voted on sometime on Sunday?

Mr. BAKER. Yes.

Mr. JEPSEN. Or today?

Mr. BAKER. Yes, Madam president, I do think that. I think we will get the conference report Sunday. I talked to the distinguished chairman of the Appropriations Committee about 15 minutes ago to get his best estimate on when the conferees might be able to transmit the documents to the House, and the House acts first. My guess is that it will be late afternoon or early evening before the House receives the conference documents, and somewhat later than that before the Senate does. But I fully expect we will be able to finish action on the conference report sometime later Sunday.

Mr. JEPSEN. Madam President, is it the intent of the majority leader then to continue with debate, with the intention of bringing it to a close and voting on the gas tax bill tomorrow?

Mr. BAKER. Madam President, I say to my friend from Iowa that I would very much like to do that, but I believe that matter has been discussed with the Senator from North Carolina, and I believe he indicates he would not be agreeable to that, and I understand that.

Mr. JEPSEN. I would advise the majority leader that this Senator will—and I advise my friend from North Carolina, respectfully—this Senator will do everything within his knowledge of the rules and any other person's knowledge of the rules that I can find to bring that to a vote tomorrow.

Mr. BAKER. May I say to my friend from Iowa, it is also my intention to dispose of the highway bill tomorrow, and I believe we can.

Mr. JEPSEN. I hope so. The Christmas week is here and families are here or on their way, and it would be good for everybody to get that done, and I appreciate what the majority leader has said.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Hearing no objection to the unanimous-consent agreement of the majority leader, it is so ordered, and the clerk will now go to third reading of House Joint Resolution 631.

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

(The following statements were delivered during the day and are printed at this point for continuity:)

A TRIBUTE TO TWO GREAT FORMER SENATORS

Mr. HEFLIN. Madam President, as the senior Senator from Alabama, I rise today to pay tribute to two great Alabamians and Americans. On December 29, 1982, former U.S. Senator Lister Hill will celebrate his 88th birthday. A little more than a week earlier, on December 20, former U.S. Senator John Sparkman will clebrate his 83rd birthday.

These two distinguished gentlemen have served their State and country well for a great part of this century. I would like to take just a few moments here to pay tribute to the contributions that each of these men made to our Nation, for the people of my State of Alabama do feel a sense of genuine pride to have been represented by each of these statesmen, in both the U.S. Senate and the House of Representatives.

SENATOR LISTER HILL

Lister Hill first came to Congress in 1923; he would remain until 1969. During his 46 years of distinguished and dedicated public service, he served Alabama for 15 years in the House of Representatives, and for the final 31 here in the Senate.

Senator Hill's record of accomplishments is awesome. He was the master architect of numerous landmark pieces of legislation, in fact, over 60 pieces of legislation dealing with the areas of health and education alone became law under his direct authorship.

In a listing of Senator Hill's legislative accomplishments, the landmarks are numerous, and well known. At the top of the list must be his important work in the fields of health and medical research. It would be difficult to find anyone, at any point in our history, who has done as much for the health of his fellow men as has Lister Hill.

Senator Hill did not come by his interest in health legislation by accident. His father, the late Dr. L. L. Hill of Montgomery, gave his son the name of the famed British surgeon Joseph Lister. A brilliant surgeon, Dr. Hill performed the first successful suture of the human heart in America.

Of the many outstanding health programs which bear Senator Hill's name, perhaps the one to which the most importance is attached is the Hospital and Health Center Construction Act, popularly known as the Hill-Burton Act. More than 10,000 general hospitals, mental health hospitals, tuberculosis sanitoriums, crippled children's clinics, and other medical facilities have been built under this program.

The Hill-Burton Act is, of course, not the only health related program that Senator Hill has initiated. Another particularly crucial one was the act establishing the National Library of Medicine, which has since become the greatest and most valuable medical library in the world. For his contributions to the National Institutes of Health, with which we are all familiar, there now stands a fitting monument—the Lister Hill National Center for Biomedical Communications, located in Bethesda, Md.

SENATOR JOHN SPARKMAN

I am particularly honored to say a few words today about former Senator John Sparkman, for it is his seat here in the Senate that I now hold. My wife and I have been privileged to have a close personal relationship with the Sparkmans over the years. In fact, John Sparkman served as campaign manager for my wife's grandfather, the Honorable Archie H. Carmichael, when he was elected to Congress; Senator Sparkman later succeeded him as a Member of Congress.

My distinguished predecessor first came to Washington from Alabama in 1937. He served in the House of Representatives until 1946, and then moved over to this Chamber, where he remained until his retirement in 1979.

Senator Sparkman's leadership became apparent early in his life, as a student at the University of Alabama. There he served as both president of the student body, and as editor of the school's newspaper. This was, however, by no means the last evidence of his outstanding leadership capabilities.

Indeed, Senator Sparkman was so well respected, and had such confidence entrusted in him by the people of Alabama that, in 1946, he achieved

a feat perhaps unprecedented in American history. In that year, simultaneously, and I mean on the same day and on the very same ballot, he was elected to both the U.S. Senate and the House of Representatives.

It was also a testimonial to his widely respected abilities that he was chosen, in 1952, to serve the Democratic Party, and Presidential nominee Adlai Stevenson, as the party's nominee for the office of Vice President.

If Senator Lister Hill is most well-known for his statesmanship in the field of health, then Senator Sparkman's field of expertise was housing.

For several years, he served as chairman of the Senate Committee on Banking, Housing and Urban Affairs. During his terms as chairman, Senator Sparkman certainly distinguished himself as one of America's leading experts on housing and financial matters.

Just as the countless hospitals across our Nation are a tribute to Senator Hill, so are the thousands upon thousands of homes built under Federal rural housing programs, built largely because of John Sparkman's leadership, dedication, and commitment, a fitting and proper tribute to Senator Sparkman.

Madam President, I do not, for even one brief moment, want it to seem that these two renowned statesmen were each one-issue legislators, so to speak. Their leadership and legislative skills reached far beyond such parameters.

Working together, the two Senators garnered many diverse accomplishments. A good example is their outstanding work in water resource development. During their times in Washington, the Tennessee Valley Authority, of which we all know the massive benefits, was created and developed. Additionally, such projects as the Coosa-Alabama Waterway, the Tennessee-Tombigbee Waterway, the Chattahoochee River system, the Warrior-Tombigbee River system, and the Port of Mobile were brought to varying levels of fruition.

Alabama is indeed a very lucky State, and the people of Alabama truly fortunate, to have two such fine public servants as Senator Lister Hill and Senator John Sparkman. Their leadership and expertise led to a great many benefits for their constituents back in Alabama.

I feel privileged to have had the opportunity to know these two statesmen. I must admit, however, that their accomplishments have certainly made my task of living up to being a Senator from Alabama a very difficult one.

I congratulate both Senator Hill and Senator Sparkman on the occasion of their birthdays. Along with all other Alabamians, I hope they celebrate many, many more.

Thank you, Madam President.

U.S. TROOPS IN BEIRUT

Mr. PERCY. Madam President, a force of 1,200 U.S. marines has been stationed in Beirut, Lebanon for nearly 3 months as part of a multinational effort to restore stability in the wake of the tragic events of September. To be precise, November 28 marked the 60th day of this operation by U.S. Armed Forces equipped for combat. Under the war powers resolution of 1973, 60 days marks the limit of the President's authority to maintain U.S. Armed Forces in a foreign country if they have been introduced into actual hostilities or, as the resolution says, "where imminent involvement in hostilities is clearly indicated by the circumstances." Beyond this emergency period, the resolution provides that the President must have specific authorization from Congress to continue combat operations, except for a limited extension of time if needed to insure a safe disengagement.

The authority of Congress to insist on such a role is founded on several provisions of the Constitution, including its enumerated powers to declare war, to maintain and to make rules for the Armed Forces and to provide for "the common defense." The Founding Fathers clearly intended that decisions regarding the use of force should be made jointly by the President and Congress and gave the legislative branch the authority to establish such statutory mechanisms as might be "necessary and proper" to the execution of that joint responsibility. The war powers resolution was a conscientious and constructive effort to provide a procedural framework to accomplish this objective under the changed circumstances of modern diplomacy and warfare. But the resolution is not a magic solution to the practical difficulties of interbranch collaboration, nor is it a formula for resolving all questions of constitutional authority regarding the commitment of troops abroad. The circumstances of the current Beirut operation are only the latest case in point.

At the outset of the current operation in Beirut, the second of its kind in 2 months, I expressed my view that the risk of hostilities involving U.S. troops was serious enough to trigger the 60-day time limit of the war powers resolution. The ranking minority member of the Foreign Relations Committee, Senator CLAIBORNE PELL, joined me in advising the President to submit his report to Congress under section 4(a)(1) which includes the 60-day limitation. Our concern was, in part, to avoid a situation in which American marines were being killed in an operation which the Congress had no formal part in approving. Other Members of Congress expressed similar concerns about the serious risks of combat. I also expressed at the time my strong support for the operation itself, and emphasized the importance of our efforts to restore the authority and confidence of the central government in Lebanon.

In his report to Congress on September 29, President Reagan did not cite a particular section of the war powers resolution. He did make clear, however, that he did not consider the threshold of "imminent hostilities" as having been met. I think the President and his advisers made this determination carefully and in good faith, not simply to bypass the 60-day limit in the resolution. The situation required a difficult judgment call, a call with—as I openly acknowledged at the time—it was the President's initial responsibility to make.

Since that time, as the war powers resolution is structured, the ball has been in our court. Any Member of Congress who opposed the Beirut operation and believed that it was a situation of imminent hostilities, could take advantage of the resolution's procedure for ordering the withdrawal of U.S. forces—irrespective of the 60-day time frame—by concurrent resolution. No one has yet done so. Those Members, like myself, who support the present operation, waited to see whether our initial concerns about serious hostilities involving U.S. forces would be realized. If we had continued to believe that the operation could only be viewed as one of actual or imminent hostilities, our responsibility would have been to introduce a resolution extending the President's authority to keep the Marines in Beirut for an additional period of time. The war powers resolution provides an expedited procedure for the consideration of such a resolution and any Member of Congress can institute this process.

However, I concluded during the congressional recess, after following the situation in Lebanon carefully, that such an authorizing resolution was not called for. The President's original hope of avoiding involvement in hostilities has so far been realized. No doubt, the absence of serious hostilities involved a significant amount of good luck, but it is nevertheless a credit to the skill and restraint of all the parties involved.

Nevertheless, the absence of hostilities during the initial 60 days of the Beirut operation does not mean that Congress has no further responsibilities in the matter. If, at any time, our Marines do become engaged in hostilities, the war powers resolution provides a procedure for Congress to consider the situation and, if both the House and Senate conclude that there is inadequate justification for further U.S. involvement, to direct the withdrawal of U.S. forces by concurrent resolution. Therefore, Congress has a continuing responsibility to follow the developments in Lebanon very careful-

ly and to consult closely with the President and his advisers regarding our future policy toward that country. The Committee on Foreign Relations on December 1 held an informative and helpful hearing with Acting Secretary of State Kenneth Dam to maintain this process, and we were further briefed on the status of negotiations by Ambassador Habib last Friday.

The responsibilities of Congress are not limited, however, to situations of actual or clearly imminent hostilities. The long-term commitment of U.S. Armed Forces abroad is a matter for joint decision by the President and the Congress. In sending U.S. marines back into Lebanon along with contingents from France and Italy, the President was responding to an obvious emergency prompted by the murder of the Lebanese President and hundreds of Palestinian civilians. Since then, our troops have performed admirably in assisting the Lebanese Government and its Armed Forces to regain control in and around the capitol and reduce the dangers of further violence there. I can testify to this as I visited with many of them just a few months ago while in Beirut.

But this mission was clearly meant to be limited in both scope and time; in fact until recently, administration officials reportedly expressed the hope that U.S. forces would be withdrawn from Lebanon by the end of the year. That objective certainly can no longer be met, and without further progress on a broader agreement involving the withdrawal of foreign forces from Lebanon, the longer term need for the presence of U.S. Armed Forces is uncertain. It may be that as part of the withdrawal arrangement, U.S. troops will need to play a continuing role in a broader multinational peacekeeping arrangement. I think the Congresses will continue to support such a mission as part of an overall arrangement to restore prosperity and stability to that crucial part of the Middle East. It is difficult to see how a broader framework for peace in the Middle East can be accomplished without a more stable Lebanaon.

However, it is also my view that the President should not undertake such a longer term commitment of U.S. forces to Lebanon without clear congressional approval. The indefinite presence of U.S. combat forces in Lebanon would amount to a major security commitment to that country by the United States, whether or not there is a prospect of actual or imminent hostilities. The establishment of such commitments is not a matter addressed by the war powers resolution as such, but it has been a subject of continuing concerns by the Congress during the postwar era and was the subject of the national commitments resolution passed by the Senate a decade ago. That resolution stated the Senate's view that the establishment of a national commitment, including the use of U.S. Armed Forces in a foreign country, should only be made by means of a treaty involving Senate approval or joint action of the House and Senate. Thus far in the Lebanon operation, Congress has not participated in either manner. Therefore, once the administration knows what longer term arrangement is possible there, I would expect it to come to Congress to explain its plans and to seek appropriate congressional approval, perhaps in the form of a joint resolution such as that passed by Congress a year ago to provide the authority and the funds for the multinational force and observers (MFO) in the Sinai. I do not think it would be appropriate on constitutional grounds, or wise on political grounds, to continue an indefinite U.S. troop presence in Lebanon without congressional approval. Congress should and will share the responsibility with the executive branch.

Madam President, as a result of concerns expressed on this point by a number of committee members, the committee agreed yesterday to send a letter to the President explaining our view that the longterm or expanded commitment of U.S. Armed Forces to Lebanon should only be undertaken with the authorization of Congress. I ask unanimous consent that the text of that letter appear in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., December 15, 1982.

DEAR MR. PRESIDENT: As Members of the Senate Foreign Relations Committee, we have a particular concern for the situation in Lebanon and a particular responsibility under the War Powers Resolution with respect to the commitment of United States Armed Forces abroad. We are convinced that it is in the national interest of the United States to work toward a stable and independent Lebanon as part of a broader peace settlement in the Middle East. We also recognize that the current Multinational Force in Lebanon has played a constructive role in preventing further violence in and around Beirut and that the U.S. Marine component of that force has performed admirably under difficult circumstances.

In reintroducing United States Armed Forces into Lebanon on September 29, you reported under the War Powers Resolution that there was "no intention or expectation that U.S. Armed Forces will become involved in hostilities". Individual members of Congress, including members of our Committee, have disagreed with your assessment of the risks inherent in the Beirut operation and, therefore, with your interpretation of the War Powers Resolution in this case. No member has chosen to contest the issue through Congressional action at this time. Under the procedures set out in the War Powers Resolution, Congress reserves the ability to direct the removal of such forces at any time they are engaged in hostilities if it should determine that the circumstances no longer justify a U.S. military presence.

As the Beirut operation continues, and as discussions proceed regarding its possible extension or expansion, we want to ensure that the Congress has an adequate opportunity to consider the full implications of any extended commitment of U.S. forces and to fulfill its responsibilities in this area. We recognize the difficulties in developing longer-term proposals for such a multinational force until the negotiations for the departure of all foreign forces have progressed. However, we would expect Congress to be involved at the earliest possible stage in the development of such proposals and that formal Congressional authorization would be sought before undertaking long-term or expanded commitments or extending indefinitely the present level of operations.

In the longer term, it may be appropriate to consider more general legislation to clarify the respective roles of the President and the Congress in undertaking the commitment of U.S. armed forces to such operations. We look forward to further discussions with you and the members of your Administration in the exercise of our joint responsibilities in this area.

Sincerely,

Charles H. Percy, Richard G. Lugar, Nancy Landon Kassebaum, Paul E. Tsongas, S. I. Hayakawa, John Glenn, Charles McC. Mathias, Jr., Claiborne Pell, J. R. Biden, Jr., Larry Pressler, Edward Zorinsky, Chistopher J. Dodd, Paul Sarbanes, and Rudy Boschwitz.

DEPUTY SECRETARY KENNETH DAM

Mr. PERCY. Madam President, the new Deputy Secretary of State, Kenneth Dam, has received high praise for his work to date with Secretary George Shultz. That is not surprising to those who knew Ken Dam as the highly successful provost at the University of Chicago or in earlier administration assignments. As I have often said, a strong foreign policy requires a strong national defense and this, in turn, depends on a strong economy. To this cause, Kenneth Dam promises to contribute not only his expertise in National Security matter but also his extensive knowledge of the international monetary system, trade and energy policy, and foreign affairs.

I commend a recent Chicago Tribune article on Kenneth Dam to my colleagues, and ask that it appear at this point in the RECORD.

The article referred to follows:

[From the Chicago Tribune, Dec. 15, 1982]

CHICAGO'S MAN IN STATE DEPARTMENT

(By Thomas R. Mullaney)

Shortly after the announcement of George Shultz's appointment as secretary of state last summer, a professor at the University of Chicago Business School told his colleagues, "Well there goes Ken Dam."

When Shultz announced last July that Dam, the provost at the University of Chicago and an expert on international trade, international monetary economics and energy, was to replace veteran diplomat Walter Stoessel, Shultz provided a significant insight into his own character and the tenor of his term in office. The clear mes-

sage is that economic policy will be the cornerstone of American foreign policy in the foreseeable future.

For readers wondering what a university provost knows about managing foreign policy, the speculation is understandable but unnecessary. Kenneth Dam is no stranger to either Washington or foreign affairs.

Dam was Shultz's top assistant when Shultz headed the Office of Management and Budget in 1970 and also served as executive director of the Council on Economic Policy in the Nixon administration. The two men forged a close personal friendship that has continued beyond public service. In 1977, they coauthored a cogent analysis of policymaking, "Economic Policy Beyond the Headlines" (W. W. Norton).

Dam may not be a professional diplomat but he has the mien and polish of one: He was a top official in the Chicago Council on Foreign Relations, he is a respected legal scholar who enjoys the public arena, and he was known at Chicago for having good political instincts.

Early reports concluded that because Dam and Shultz had worked together at the university and OMB, Dam must be a clone of his mentor. While the job of deputy secretary is to be the secretary's "alter ego," and the two men mesh in philosophy and temperment, the judgment strikes me as unfair, for Dam brings unique abilities to the No. 2 post in the State Department.

He gives the department international legal expertise that is not duplicated by Shultz or anyone else within the policymaking circle.

Dam also brings with him a deep knowledge of the international monetary system. And his expertise is not solely economic or legal; while at OMB, he served as assistant director for national security and international affairs.

In their book both men spoke of statecraft in a passage with clear relevance to current reality. "Since World War II," they wrote, "we have witnessed an almost continuous concern with organizational aspects of foreign policy . . . More recently, organizational aspects of the triangular relation of the State Department the Defense Department and the National Security Council have generated oceans of ink. The coordination issue is perennial."

One reason for the smooth execution of statecraft in recent months, particularly during the tense Lebanese crisis, is that Weinberger and Shultz work together, and that Shultz is highly regarded by both the White House aides and National Security head, William Clark.

Since joining the State Department, the Shultz/Dam diplomacy has taken on the tangle in Beirut. As this flashpoint moves off the diplomatic front-burner, international economic concerns are occupying much attention. In the current, worldwide recessionary climate, talk of protective tariffs, bilateral trade monopolies and trade wars is reaching clamorous proportions. The free market forces at State (including W. Allen Wallis, the new under secretary for economic affairs and Shultz's predecessor as dean at the University of Chicago Business School) will not look favorably upon such pressures.

Shultz, Dam and Wallis will turn their sights toward improving the free market functioning of a creaky international monetary system, which is still suffering withdrawal pangs from the 1971 ending of a fixed gold standard. American promises made at the Versailles summit conference earlier this year to stay out of the market and prevent a "dirty float" will be tested.

Dam stands a good opportunity to be a strong shadow Secretary of State. He is no stranger to Washington, and he knows that the very best will be required of him in these difficult times for American statecraft. The times demand it, and George Shultz would settle for nothing less.

GEORGE H. MILLER OF ILLINOIS

Mr. PERCY. Madam President, earlier this month a distinguished resident of my State, Mr. George H. Miller, was elected President of the National Association of Towns and Townships. I have known George Miller for many years. His untiring service as executive director of the township officials of Illinois makes him well qualified for this position of national prominence.

As many of my colleagues know, the National Association of Towns and Townships is a nonprofit membership organization offering technical assistance, educational services, and public policy support to local government officials from more than 13,000 small communities across the country. As the voice of small town America in our Nation's Capital, NATaT is a highly respected organization.

Having lived under township government all my life, I can attest personally that this form of government is as vital today as it was in 1620 when it was first brought to these shores from England. To this day township government reflects the values of our Founding Fathers.

George Miller reflects these values. He will be a strong and effective leader and I look forward to continuing our strong working relationship.

COLLECTION OF DEBTS BY THE GOVERNMENT

Mr. PERCY. Madam President, this week the Office of Management and Budget announced that the Government collected over $2 billion more in defaulted debts in fiscal year 1982 than in the previous fiscal year. This outstanding achievement is one more milestone in what I consider to be the most successful Government management reform initiative I have witnessed in my 16 years in the U.S. Senate.

Now, following passage of the debt collection legislation in October, I am confident that collections will be even greater in fiscal years 1983 and beyond. Let delinquent debtors beware: Uncle Sam is no longer a soft touch. We now have the tools to collect these debts, and we will collect them. I should add that there are some individuals who are facing financial hardships in these difficult economic times, and the legislation I sponsored does take these problems into consideration. However, for those who can pay, but are not paying, it is time to get the word out that the Government is serious about collecting. These are loans, not gifts.

Madam President, this week I met with the President's own special task force of debt collection officials from over a dozen Federal agencies. Their tremendous work in the area of debt collection has contributed to the administration's outstanding record over the past 2 years. I would like to recognize them in the RECORD.

They are: Cora Beve, Treasury; Bob Ford, Justice; John Franke, Agriculture; David Nathan, Commerce; Emanuel Rosen, Treasury; Kurt Christiansen, AID; Marshall Ryan, Energy; William Kendig, Interior; Roger Feldman, State; Karen Lee, Transportation; Dick Hastings, Education; Dale Sopper, Health and Human Services; John Pressely, Veteran's Administration; Ted Britton, Housing and Urban Development; and Earl Chambers, Small Business Administration.

I would also like to congratulate OMB Director Dave Stockman for his help, and recognize Hal Steinberg, Jerry Bridges, Joe Wright, and Lynn Skolnick of his staff.

ROUTINE MORNING BUSINESS

(During the day routine morning business was transacted and additional statements were submitted for the RECORD, as follows:)

MESSAGES FROM THE HOUSE

At 1:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6946) to amend title 18 of the United States Code to provide penalties for certain false identification related crimes.

The message also announced that the House has passed the following joint resolution, with an amendment, in which it requests the concurrence of the Senate:

S.J. Res. 260. Joint resolution to designate the period commencing January 1, 1983, and ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America."

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 7336. An act to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981;

H.R. 7410. An act to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from

the Federal Trade Commission to the Secretary of Commerce, and for other purposes.

H.R. 7423. An act to recognize the organization known as Former Members of Congress;

H.J. Res. 459. Joint resolution authorizing the President to proclaim May 13, 1983, as "American Indian Day";

H.J. Res. 619. Joint resolution designating January 17, 1983, as "Public Employees Appreciation Day"; and

H.J. Res. 630. Joint resolution to commemorate the one hundred and fiftieth anniversary of the founding of Greene County, Mo.

At 4:39 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 5121) to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 3, 7, 9, 15, 18, 20, 25, 30, 95, 105, 110, 114, 115, 120, 125, 143, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 10, 36, 40, 42, 43, 46, 58, 62, 74, 76, 84, 87, 88, 90, 96, 97, 98, 100, 102, 104, 111, 112, 116, 122, 123, 136, 137, 141, 153, 154, 155, and 156 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7439. An act to improve programs for the stabilization of agricultural prices and production, and for other purposes.

At 5:45 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 5536) to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr., with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House insists upon its disagreement to the amendments of the Senate numbered 2, 3, and 4 to the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income; it insists upon its amendment to the amendment of the Senate numbered 1 to the bill, agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. JACOBS, Mr. GEPHARDT, Mr. SHANNON, Mr. ARCHER, Mr. GRADISON, and Mr. MARTIN of North Carolina as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5002) to improve fishery conservation and management; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ANDERSON, Mr. BREAUX, Mr. STUDDS, Mr. SNYDER, and Mr. FORSYTHE as managers of the conference on the part of the House.

The message also announced that the House insists upon its amendment to the amendment of the Senate to the text of the bill (H.R. 5470) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, disagreed to by the Senate; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. DUNCAN, and Mr. FRENZEL as managers of the conference on the part of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 2355) to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service.

The message also announced that the House has passed the following bill, without amendment:

S. 3113. An act to make minor and technical amendments to the Job Training Partnership Act.

HOUSE JOINT RESOLUTIONS REFERRED

The following joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 619. Joint resolution designating January 17, 1983, as "Public Employees Appreciation Day"; to the Committee on the Judiciary.

H.J. Res. 630. Joint resolution to commemorate the one hundred and fiftieth anniversary of the founding of Greene County, Mo.; to the Committee on the Judiciary.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 7439. An act to improve programs for the stabilization of agricultural prices and production, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 18, 1982, he had presented to the President of the United States the following enrolled bill:

S. 823. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COHEN, from the committee of conference:

Report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes (Rept. No. 97-688).

By Mr. COHEN, from the Select Committee on Indian Affairs, without amendment:

S. 2931. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218 and for other purposes (Rept. No. 97-689).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 3115. A bill to establish the annual rate of pay for Members of Congress at the rate of pay paid for Members on the date of enactment of this act; to provide that any adjustment of the annual rates of pay of Members of Congress based on pay comparability adjustments in the rates of pay under the general schedule shall take effect only if the Congress approves, within a certain period, by recorded vote such adjustment of Members' annual rates of pay; to defer such adjustment and any change in Members' annual rates of pay under section 225 of the Federal Salary Act of 1967 until March 1 after the date on which such adjustment of change is approved by Congress, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MATHIAS (for himself and Mr. HART):

S. 3116. A bill to allow businesses to jointly perform research and develoment; to the Committee on the Judiciary.

By. Mr. MATHIAS:

S. 3117. A bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized

duplication, and for other purposes; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 3118. A bill entitled the "Non-Immigrant Visa Waiver Act of 1982; to the Committee on the Judiciary.

By Mr. PRYOR:

S. 3119. A bill to extend until October 1, 1988, the authority for advances to the migratory bird conservation fund; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 3115. A bill to establish the annual rate of pay for Members of Congress at the rate of pay paid for Members on the date of enactment of this act; to provide that any adjustment of the annual rates of pay of Members of Congress based on pay comparability adjustments in the rates of pay under the General Schedule shall take effect only if the Congress approves, within a certain period, by recorded vote such adjustment of Members' annual rates of pay; to defer such adjustment and any change in Members' annual rates of pay under section 225 of the Federal Salary Act of 1967 until March 1 after the date on which such adjustment or change is approved by the Congress; to provide that any proposal to appropriate funds for Members' pay be considered separately from any proposal to appropriate funds for any other purpose, and for other purposes; to the Committee on Governmental Affairs.

CONGRESSIONAL PAY

Mr. GRASSLEY. Mr. President, since I began serving in the Congress in 1975, there are few issues which have raised the ire of the American public as passionately and as frequently as congressional pay raises. It is unfortunate that the pay raise issue has sparked such criticism, however. The inability of the Members of this body to deal with this issue in a responsible and direct way has justified the public indignation leveled at this institution.

Americans have become weary of moralizing by Congress about budget balancing and inflation fighting, while Members repeatedly attempt to escape any personal pain necessitated by fiscal restraint. Americans are disgusted by the amazing innovation displayed by Members of this body through their legislative maneuvering to pad their own pockets.

In 1967, Congress attempted to distance itself from the pay controversy by establishing the Commission for Executive, Legislative, and Judicial Salaries, which was to meet every 4 years to determine recommendations for congressional pay adjustments. The very first Commission recommended a salary increase of $20,000. The Congress, however, modestly allowed only a $12,500 raise, a 42-percent increase.

In further efforts to defuse the pay issue, congressional leaders in 1975 secretly consulted with the administration to draft legislation to provide an automatic annual salary increase without a rollcall vote. Under this legislation, the Executive Salary Cost-of-Living Adjustment Act, the President's recommendation for cost-of-living raises for Federal employees becomes effective for Members of Congress, unless either House adopts a resolution of disapproval within 30 calendar days.

As a Member of the House of Representatives at the time, I remember distinctly the enactment of this measure, as well as the public outcry which followed. The Senate attached this mechansim for automatic pay increases to a minor House-passed Postal Service bill. On July 30, 1975, when the bill returned to the House for final approval, the House leadership attempted to obtain its passage by unanimous consent and with no debate. I objected and forced a rollcall vote. The measure, however, was still carried by a 214–213 margin. Thus, I learned in my first year in Washington the penchant of Congress for taking its pay hikes through the back door.

As recently as last year, Congress adopted a so-called minor procedural change in how it provides these annual pay increases. Congress established a permanent appropriation for its automatic salary raises, eliminating the need to even appropriate the funds on an annual basis. Furthermore, the language in this measure, Public Law 97–51, is so ambiguous that it could be interpreted to mean that deferred pay adjustments can be accrued and accepted at a later date, perhaps when it is more politically expedient to take them.

This dilemma has surfaced recently in the controversy as to whether Congress would receive a 4- or 27-percent pay adjustment if the current pay cap were allowed to expire. In the last 8 years, Congress has voted to deny itself all but two of the annual cost-of-living adjustments recommended by the President under the 1975 act. These deferred adjustments, however, have accrued over the years and represent a 27-percent increase over the current congressional salary level. Despite the fact that actual pay has remained basically frozen, the statutory or legal rate of Member compensation has continued to rise by Presidential pay directives to a level of $77,500. Recent attention to this question has given further rise to public suspicion about Congress self-serving actions.

I feel that change is urgently needed in the process by which Members can increase their own compensation out of the Federal coffers. Therefore, I am introducing legislation which will effectively eliminate the mechanism for automatic increases by requiring specific rollcall votes for any increase in congressional salaries. Members' pay would have to be considered separately from other legislative issues and any approved increase would be deferred until the next legislative session. My intention is to block recurring efforts to sneak through pay increases as sleeper provisions in major bills or through voice—unrecorded—votes. Furthermore, my bill establishes as the legal rate of congressional pay the current salary level paid to Members on the date of enactment of the measure. This provision would eliminate the potential for Members to accept accumulated pay increases which have been deferred.

My legislation would assure that legislation providing an increase in pay for Members of Congress be a matter of public record. It would encourage honest and open debate and provide that any salary adjustment would be easily understood by Members and public alike. It would mandate a direct, straightforward approach to a problem which has long plagued the Congress. Additionally, it would demonstrate that this body has no double standard between actions it takes for others and action it takes for itself.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD as follows:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Pay Reform Act of 1982".

SEC. 2. (a) For the purpose of this section, the term "Member" means each individual referred to in section 601(a)(1)(A) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(1)(A)) other than individual described in section 601(a)(1) (B) or (C) of such Act.

(b) Notwithstanding any other provision of law (expect as provided in subsection (c)), the annual rate of pay payable for a Member, the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority or minority leader of the Senate, or the majority or minority leader of the House of Representatives shall be the annual rate of pay actually payable for such office, respectively, on the date of enactment of this Act under all applicable law.

(c) Each annual rate of pay established by subsection (a) shall remain in effect until superseded by a law enacted after the date of enactment of this Act, by action pursuant to section 225 of the Federal Salary Act of 1967 (81 Stat. 642; 2 U.S.C. 351 et seq.), or by action pursuant to section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)).

SEC. 3. (a)(1) Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended to read as follows:

"(2)(A) Whenever an adjustment in the rates of pay under the General Schedule

takes effect under section 5305 of title 5, United States Code, and the Congress agrees to a concurrent resolution under subparagraph (B) before March 1 next following the effective date of such adjustment, each annual rate referred to in paragraph (1) shall be adjusted, effective such March 1, by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of such adjustment in the rates of pay under the General Schedule.

"(B)(i) An adjustment made under subparagraph (A) of this paragraph shall take effect only if a concurrent resolution is agreed to by both Houses of the Congress approving such adjustment. The vote of each House on the concurrent resolution shall be recorded so as to reflect the vote of each Member thereon.

"(ii) The revisions of subsections (d), (e), (f), (g), (h), (i), (j), and (k) of section 5305 of title 5, United States Code, shall apply in the case of any concurrent resolution referred to in clause (i) of this subparagraph.

"(C) For purposes of this paragraph, the term 'concurrent resolution' means only a concurrent resolution the matter after the resolving clause of which is as follows: 'That, pursuant to subparagraph (B) of section 601(a)(2) of the Legislative Reorganization Act of 1946, the Congress approves the adjustment under subparagraph (A) of such section based of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule taking effect during the fiscal year .', the blank space therein being filled with the appropriate year.".

(2) Section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is further amended by adding at the end thereof the following new paragraph:

"(3) Any change in the rates of pay approved under Section 225(i)(1) of the Federal Salary Act of 1967 (2 U.S.C. 359(1)) for positions referred to in paragraph (1) of this subsection shall take effect on—

"(A) March 1 next following the date on which the President transmitted to the Congress under Section 225(h) of such Act (2 U.S.C. 358) the recommendations that are so approved; or

"(B) if later, the date prescribed by the President under section 225(i)(2) of such Act (2 U.S.C. 359(2).".

(b) The third sentence of section 225(i)(1) of the Federal Salary Act of 1967 (2 U.S.C. 359(1)) is amended to read as follows: "If both Houses approve by majority vote the recommendations pertaining to the offices and positions described in any such subparagraph, the recommendations shall take effect—

"(A) as provided in section 601(a)(3) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(3)) in the case of any office or position described in subparagraph (A) (other than the Vice President); and

"(B) at the beginning of the first pay period which begins after the thirtieth day following the approval of the recommendation by the second House to approve the recommendation in the case of the Vice President or any office or position described in subparagraph (B), (C), or (D).".

SEC. 4. (a) It shall not be in order in either the House of Representatives or the Senate to consider any bill or joint resolution carrying an appropriation, or a limitation on appropriations, for compensation of Members of the Congress for any fiscal year if such bill or joint resolution carries an appropriation, or a limitation on appropriations, for any other purpose.

(b) The provisions of subsection (a) of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and, as such, such provisions shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(c) For purposes of this section, the term "Member of the Congress" means any person who holds the office of Senator, Member of the House of Representatives, Delegate to the House of Representatives, Resident Commissioner from Puerto Rico, President pro tempore of the Senate, majority or minority leader of the Senate or the House of Representatives, or the Speaker of the House of Representatives.

By Mr. MATHIAS (for himself and Mr. HART):

S. 3116. A bill to allow businesses to jointly perform research and development; to the Committee on the Judiciary.

JOINT RESEARCH AND DEVELOPMENT ACT OF 1982

● Mr. MATHIAS. Mr. President, today I join with Senator HART to introduce a bill to encourage greater research and development by American business. Over those last 20 years, our country's R&D expenditures declined by one-fifth as a share of the GNP, while Japan increased its share by one-third. During the period from 1962 to 1980, the growth of Japan's trade balance in high technology products far outpaced that of the United States.

I am aware that in some cases it is fruitul for several different companies to engage in independent research in the same area. However, in the competitive marketplace for high technology industries worldwide, U.S. companies are losing ground to their overseas competitors, and the lack of opportunities for joint R&D activities have been a significant factor in this trend. For example, with the sanction of its Government, the Japanese semiconductor industry has formed a very large scale information technology project, known as VLSI, which pools the talents and capital of all the major Japanese high-tech firms. Other areas where Japanese industries practice joint research include: Biotechnologies, health care network systems, community energy systems, and investigation into new metallic alloys. In recent years, Japan has also launched joint research projects concentrating on software technologies, an area where the United States has traditionally held the lead.

Because of the capital-intensive nature of research and development, many U.S. firms have trouble funding R&D at the levels necessary to keep the United States competitive in world markets. U.S. companies also generally carry out their R&D in isolation, causing wasteful, duplicative use of scarce capital and other resources. By contrast, the Government of Japan through subsidies and other channels concentrates available resources in the most promising research efforts, and encourages cooperative R&D projects among companies, particularly in high-technology fields.

To encourage pooling of scarce resources, the Justice Department in 1972 developed the business review procedure. Under the BRP, companies submit a description of a proposed joint venture to the Department and get back a preliminary, tentative assessment of its legality under our antitrust laws. This imprimatur would alleviate the chilling effect that the threat of private treble damage suits otherwise has on businesses that want to engage in joint ventures. Despite its good intentions, the procedure has never given business executives enough certainty to justify the outlay of millions of dollars in joint research. Since its inception, it has gone virtually unused: Only 24 applications for clearance were received between 1972 and 1981.

Earlier in this Congress, I cosponsored S. 2717, a bill that would prevent the Justice Department from retroactively prosecuting a joint venture that it had previously approved. Since then, my talks with people involved in the high technology sector have led me to conclude that a more far-reaching solution would be appropriate. What I propose is to replace the business review procedure with a set of objective standards for organizing joint research and development ventures. If the business executives meet these standards, their joint venture would enjoy a presumption of lawfulness. The standards for this self-certification would require that:

The project be research-oriented and not involve manufacturing and marketing, and that the cost and risk be sufficient to justify a group approach;

It not involve acquisitions by one of the participants of the assets of another;

The venture be generally open to all firms on an equivalent basis, with no limitations on access; and

A U.S. firm may not participate in a venture if it accounts for 25 percent of the worldwide industry sales of a given product during the preceding 3 years and would cause the collective sales of all the participants in the group to exceed 50 percent of the worldwide

market, and if the proposed R&D program relates to that product, unless the Department of Commerce authorizes such participation as critical to the success of the program and in the national interest.

The notification provision requires that the Justice Department be informed of a venture under the provisions of this bill, and receive a detailed description of the research and development program contemplated and a statement explaining its compliance with the self-certification standards set out in the bill. The bill also provides that the Justice Department may at any time conduct an investigation to insure that a joint venture complies with the standards.

Senator HART and I are introducing the bill at this late date without any illusions about its chances of enactment in the 97th Congress. But we think it is important to draw attention to this serious problem. We hope to attract cosponsors and reintroduce it in the next Congress and then arrange for early hearings. I urge all my colleagues to join our effort to make U.S. industry more competitive in world technology markets.

I ask unanimous consent that the text of the bill appear in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Joint Research and Development Ventures Act of 1982".

FINDINGS AND PURPOSE

SECTION 1. The Congress finds that—

(a) research and development are major factors in the growth and productivity improvement of U.S. industry and of the national economy;

(b) many firms are unable to undertake the levels of research and development necessary for the United States to remain competitive in global markets because of the capital intensive nature of research and development programs and the chronic shortage of trained scientific and engineering personnel;

(c) the expense and personnel requirements of carrying on a sufficiently broad spectrum of research and development programs is prohibitive for many businesses;

(d) a firm's or an industry's ability to commit capital to research and development ventures of potential national importance is often dependent upon such firms or industries being able to share the risks which such projects often entail;

(e) such risks to U.S. firms have been greatly magnified by reason of activities by foreign governments in selectively subsidizing, sponsoring cooperation of industry members, or otherwise coordinating industrial research and development programs to enhance the positions of foreign firms in the United States and global markets;

(f) the role of research and development, as well as the prohibitive expenses, resource shortages, and increasing risks in its performance, prevail across the entire spectrum of United States industries;

(g) there are genuine pro-competitive benefits of cooperative research and development programs in that new knowledge, information, base technologies and products are brought forward; and

(h) the uncertainty of interpretation and enforcement of present antitrust law discourages cooperative research and development, often where cooperative activity would foster innovation and enhance competiton.

SEC. 2. The purposes of this act are to—

(a) encourage business concerns to undertake and obtain the benefits of research and development in order to strengthen the national economy and the international competitive position of the United States and to provide the technology to support superior weapons systems for the national defense;

(b) increase the productivity of United States industry by enhancing the availability and use of efficient advanced new technologies;

(c) encourage greater use of joint research and development ventures by the private sector as a means of augmenting the total amount of research and development performed as well as increasing the diversity of research;

(d) provide immunity under the antitrust laws of the United States or any State to any qualified joint research and development venture, and to any participant in such venture; and

(e) enhance competition by enabling participants, and non-participants on reasonable terms, to have access to and use base technologies that would not come into being expect by joint effort.

DEFINITIONS

SEC. 3. For purposes of the Act—

(a) the term "antitrust laws" shall have the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that the term shall include section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that section 5 applies to unfair methods of competition,

(b) the term "research and development program" means a program for—

(1) theoretical analysis, exploration, or experimentation, or

(2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and pilot demonstration purposes, up to the stage of industrial application, including the production, testing and licensing of models, devices, equipment, materials, and processes.

The conduct of such a program may include joint action such as: The establishment of facilities for the conduct of research, the application of noncoercive standards incident to research, the collecting and exchange of information pertinent to research, the conduct of research on a protected and proprietary basis, the prosecution of applications for patents, the granting of patent and know-how licenses, and the establishment of corporations or other entities to exploit patents and know-how.

(c) the term "qualified joint research and development venture" means an association, corporation or other multi-firm enterprise established to carry out cooperative research and development programs which meet the criteria established in sections 4 and 5 of this Act.

(d) The term "State" shall have the meaning given it in section 4G of the Clayton Act (915 U.S.C. 15g).

(e) A "United States firm" is a company or other entity controlled by United States firms or citizens, but shall also include entities controlled by a foreign firm or citizens if that nation provides access to participation in joint research and development efforts to United States firms and citizens operating in that nation equivalent to such access provided domestic firms in such nation.

(f) The term "product" includes any goods or services that are considered by purchasers to be similar by reason of their characteristics, price or use.

QUALIFIED VENTURES

SEC. 4. To be qualified, a joint research and development venture must include the following characteristics—

(a) Participation—

(1) Any United States firm desiring to participate in the venture, or any of its research and development programs, shall be permitted to participate upon the same terms applicable to other firms participating to the same degree.

(2) The research and development programs to be undertaken by a venture shall, to the extent practical, be individually identified and defined, and the contributions required for a firm's participation in but one program separately identified.

(3) A firm desiring to participate in fewer than all of the research and development programs undertaken by a venture shall be entitled to do so, but may be required to pay a proportional share of the venture's common expenses.

(4) a. If a United States firm participating in a venture accounts for twenty-five percent of total worldwide industry sales of a product during any of the preceding three years (as determined by the Department of Commerce of the United States—hereafter "the Department") and its participation in a research and development program to be undertaken by that venture would cause the combined share of all program participants' sales of the product to exceed fifty percent of total worldwide industry sales of such product during any of such years (as determined by the Department), the firm's participation in that program shall be conditioned upon an affirmative finding by the Department that:

The results of such a program are not likely to be directly applicable to the future production of such a product or

such participation is critical to the success of the program and is in the national interest.

b. In exercising this authority, the Department may issue guidelines describing:

procedures to employ in requesting such a finding;

information to be submitted in support of such a request; and

circumstances under which it may issue such findings.

c. Information submitted by any firm in connection with the submission of such a request or the issuance of such a finding shall be exempt from disclosure under section 552 of title 5, United States Code.

(b) Activities—

(1) The venture's sole activity shall be the operation of one or more research and development programs, including but not limited to research and development programs participated in by universities.

(2) A participant in a venture, or any program undertaken by it, shall not be subject to—

any restrictions on its own individual research and development activities;

any obligations to provide to the venture results from its previous or future research and development; or

any restrictions on its exploitation of the inventions resulting from the venture's research and development.

except that a participant may agree to—

provide, for a reasonable compensation, access to such previous or future individual research and development as is necessary for the venture to undertake its activities;

abstain for a reasonable period of time from the individual disclosure of the results of the venture's research and development;

assign employees to the venture to engage in research and development or technology transfer activities; or

undertake on behalf of the venture a particular aspect of the venture's research and development.

(3) No research and development program shall be undertaken which projects a completion date in excess of ten years from its inception.

(c) Organization—

(1) The venture may take any legal form, but the documentation establishing it shall include provisions meeting the requirements of this section of the Act.

(2) Ultimate authority for the management of the venture shall be vested in a management board, which shall consist of—

one representative of each participant in the venture;

at least three United States citizen representatives of nonparticipants, which representatives may be from the U.S. academic community, nonprofit organizations, public agencies or other firms.

(3) The management board shall include among its activities—

selection of the chief executive of the venture;

establishment of criteria for the selection of research and development programs, and the selection of such programs;

allocation of any common costs among research and development programs;

subject to the provisions of subparagraph (a) of this Section, establishment of criteria for the admission of additional venture participants as well as the withdrawal of existing participants; and

subject to the provisions of subparagraph (d) of this Section, establishment of criteria for the licensing of venture technology, and the approval of any such licenses.

(4) In choosing to initiate or terminate research and development programs, the management board may take into account—

the importance of the program to the U.S. economy or defense;

the long run needs of the U.S. industries represented by the venture's participants;

the specific needs of participant firms, including the risks and costs for individual firms to undertake the program; and

the educational and intellectual value of the program.

(5) In establishing criteria for the admission or withdrawal of participants, the management board may—

require firms to participate in at least one of the venture's research and development programs;

require commitments to participate in a program for a reasonable minimum period of time, not to exceed three years;

impose reasonable catch-up charges for firms desiring to participate in a preexisting program;

discipline firms that fail to perform their obligations to the venture, by providing for their expulsion from the venture, the forfeiture of any payments to the venture, and/or the denial of any right or interest in the assets, including technology, of the venture.

(6) In establishing criteria for the licensing of venture technology, the management board shall, in implementing section 4(d)(5) of this Act, seek to encourage the widest possible dissemination of the venture's technology, but shall give due regard to the risks assumed and resources expended by participants in the program that created the technology.

(d) Technology Transfer—

(1) All inventions and useful know-how developed in the course of a research and development program must be promptly reported to the participant firms.

(2) Applications for patents on patentable inventions shall be made by the venture on behalf of program participants and the venture shall retain title to all inventions, patents and know-how.

(3) Any firm that is a participant in a program at the time an invention or know-how is discovered or developed shall at such time be entitled to irrevocable, non-exclusive, and equivalent licenses to all patents and know-how.

(4) Participants in a program may be rewarded in a manner which bears an equitable relationship to the risks each assumed, including—

exclusive access to the technology for up to three years;

royalty-free licenses or licenses at royalty rates which reflect the risks assumed and resources expended; and

a share of any royalties collected from nonparticipants in the program.

(5) No later than three years after the participants in a program receive such licenses, licenses shall be made available by the venture to any other United States firm on such terms as the participants in the program may establish, provided that such terms shall be reviewed by the non-participant members of the management board of the venture, and a majority thereof shall affirm that the terms are reasonable, fair and non-discriminatory in light of the risks assumed and resources expended by the participants.

(6) In order to encourage the availability to and use by small businesses of developed technology, licenses to program participants or other United States firms, as provided for in subsections (3) and (5) of this section, shall be conclusively presumed to be equivalent or nondiscriminatory if their provisions with respect to royalties are, to the extent reasonably possible, volume or usage based.

(7) The venture shall collect any royalties on behalf of the participants in a program, and may retain such proportion of the revenues as may be agreed to by the participants.

NOTIFICATION

SEC. 5. (a) To be qualified, a joint research and development venture shall cause the Attorney General and the Department to be notified of the formation of such venture. The notification shall be in a form prescribed by the Department, shall be available to any United States citizen on request pursuant to section 552 of title 5, United States Code, and shall include the following:

(1) an identification of the parties to the venture;

(2) a description of each research and development program to be undertaken by the venture, including its projected duration;

(3) an identification of the participants in each such program;

(4) any agreements pertaining to or describing the venture of any of its programs; and

(5) a statement of compliance with the criteria set forth in section 4 of this Act, executed by an officer of the venture and each program participant.

(b) A qualified venture shall annually cause to be submitted to the Attorney General and the Department a report, in such form and at such time as they may require, that updates where necessary the information required by section 5(a).

IMMUNITY FOR QUALIFIED VENTURES

SEC. 6. With respect to any qualified joint research and development venture, and any research and development program which it undertakes—

(a) Neither the venture or its employees, nor any of its participants nor their employees, shall be subject to a civil or criminal action for a violation of the antitrust laws or a violation of any State law similar to the antitrust laws if the venture satisfies the characteristics set forth in section 4, and a notice is filed pursuant to section 5, of this Act.

(b) If, with respect to any claim brought by a person under the antitrust laws against the venture, its employees, the participants, or their employees, the court finds that the violation alleged arises from conduct undertaken in connection with the operation of a joint research and development venture, and—

(1) the venture was formed and operated in conformance with the characteristics set forth in section 4 of this Act, or

(2) the conduct alleged to violate the antitrust laws does not violate the antitrust laws,

the court shall award to the person or persons against whom the claim is brought the cost of suit attributable to defending against the claim, including a reasonable attorney's fee.

(c) None of the participants in a joint research and development venture, nor the venture, shall be liable under section 16 of the Clayton Act with respect to threatened loss or damage by a violation of the antitrust laws if the threatened loss or damage arises from conduct undertaken in connection with the operation of a qualified joint research and development venture.

INVESTIGATION/DISSOLUTION OF VENTURES

SEC. 7. (a) Notwithstanding section 6 of this Act, a venture may be investigated at any time by the Attorney General for the purpose of:

(1) determining that the parties to the venture submitted correct information in the notification filed under section 5 of this Act; or

(2) determining that such venture, as well as the research and development programs it has undertaken, satisfy and continue to satisfy the requirements of section 4 of this Act.

(b) In the event the Attorney General undertakes an investigation, all parties to the venture or research and development program that is the subject of the investigation shall be given notice thereof in writing. The Attorney General shall conduct his investigation in conformance with procedures to be established by him pursuant to section 553 of title 5, United States Code, and, for purposes of section 4(a)(4), the Attorney General shall adopt any determinations made by the Department of Commerce. If the Attorney General determines after the

conclusion of such investigation that a venture or program does not comply with the requirements of this Act, he shall give written notice of such determination, which notice shall:

(1) include a statement of the circumstances underlying, and the reasons in support of, the determination; and

(2) state with specificity any actions required in order for the venture and/or program to come into compliance.

(c) If the venture and/or program fails to take the actions specified by the Attorney General within sixty days, he shall commence an action in the United States District Court for the District of Columbia to dissolve the offending venture and/or programs.

(d) In the event the district court finds that the venture and/or program is in violation of the requirements of section 4 and/or 5 of this Act, such court shall order the dissolution of such venture and/or program.

(e) Any party aggrieved by the determination of the district court may, within 30 days of such determination, seek review by the court of appeals on the grounds that such determination is erroneous.

(f) Information generated in the course of any investigation or court action, or submitted by any person in connection therewith, shall be exempt from disclosure under section 552 of title 5, United States Code.

(g) Neither a determination by the Attorney General pursuant to subsection 7 (a) and (b), or by the district court or court of appeals pursuant to subsections 7(d) or 7(e), nor any statements, opinions or recommednations issued in connection therewith, shall be admissible in evidence in any administrative or judicial proceedings in support of any claim under the antitrust laws.

EFFECTIVE DATE

SEC. 8. This title shall take effect on the date of the enactment of this Act and shall apply to any joint research and development venture established prior to its enactment that satisfies its provisions.●

SEMICONDUCTOR CHIP PROTECTION ACT OF 1982

By Mr. MATHIAS:

S. 3117. A bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

● Mr. MATHIAS. Mr. President, today I introduce a bill to extend the copyright laws to protect semiconductor chip designs. A semiconductor chip is a system of transistors etched onto the face of a small silicon wafer, typically no larger than a quarter of an inch square. Chips touch our lives in many ways. They make possible all of our modern gadgets—microwave ovens TV sets, refrigerators, high-fi stereo equipment, computers, and automobile engine controls. High technology firms spend many years and large sums of money developing new layout designs for the chips, in order to concentrate the maximum electronic versatility into the smallest possible space.

The men and women who spend weeks and months designing these chips, and their companies, have suffered seriously from chip piracy, where a parasite firm buys a chip on the open market, takes it apart to learn its design, then duplicates it and undersells the originating company, which has to recoup all its research and development costs.

The technology of chip manufacturing prevents the design from being hidden from competitors as a trade secret. A patent can protect the electronic circuitry used in the chip, but not the design of the chip. My bill would protect the research and development investment of the engineers and the companies that produce the new chip designs. It does so by giving them copyright protection for a period of 10 years. In order to protect unwitting purchasers of pirated chips, the bill includes a compulsory license provision allowing them to continue using the infringing chip by paying a royalty to the copyright owner.

During the 97th Congress, I have often addressed this body on the need to modify our intellectual property laws to keep pace with the miracles of space age communications. Semiconductor chips are a prime example of a technological marvel, critical to our progress in many fields, that faces a serious threat from the inadequate protection of the current law against what amounts to theft. The ingenuity of an age that has produced such remarkable tools should be able to devise the laws to protect them.

I ask unanimous consent that the text of the bill appear in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Semiconductor Chip Protection Act of 1982."

DEFINITIONS

SEC. 2. Section 101 of Title 17 of the United States Code is amended by adding at the end thereof the following:

"A 'semiconductor chip product' is the final or intermediate form of a product—

"(1) having two or more layers of metallic, insulating, or semiconductor material, deposited on or etched away from a piece of semiconductor material in accordance with a predetermined pattern;

"(2) intended to perform electronic circuitry functions; and

"(3) that is a writing or a discovery, or the manufacture, use, or distribution of which is in or affects commerce.

"A 'mask work' is a series of related images—

"(1) having the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

"(2) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product.

"A 'mask' is a substantially two-dimensional partially transparent and partially opaque sheet. A mask embodies a mask work if the pattern of transparent and opaque portions of the mask is substantially similar to the pattern of one of the images of the mask work. Masks and mask works shall not be deemed pictorial, graphic, or sculptural works.

"As used in sections 109(a), 401, 405, 406, 501(a), 503, 506 509, and 602 of this title, 'copy' includes a semiconductor chip product that is subject to the exclusive rights described in section 106."

SUBJECT MATTER OF COPYRIGHT

SEC. 3. Section 102(a) of title 17 of the United States Code is amended—

(1) by adding after paragraph (5) the following:

"(6) mask works;"; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively.

EXCLUSIVE RIGHTS

SEC. 4. Section 106 of title 17 of the United States Code is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting "; and" in lieu thereof; and

(3) adding at the end thereof the following:

"(6) in the case of mask works—

"(A) to embody the mask work in a mask;

"(B) to distribute a mask embodying the mask work;

"(C) to use a mask embodying the mask work to make a semiconductor chip product;

"(D) in the manufacture of a semiconductor chip product, substantially to reproduce, by optical, electronic, or other means, images of the mask work on material intended to be part of the semiconductor chip product; and

"(E) to distribute or use a semiconductor chip product made as described in subclause (C) or (D) of clause (6) of this section.".

LIMITATION ON EXCLUSIVE RIGHTS AS TO MASKS

SEC. 5. (a) Chapter 1 of title 17 of the United States Code is amended by adding at the end the following:

"SEC. 119. SCOPE OF EXCLUSIVE RIGHTS: COMPULSORY LICENSING WITH RESPECT TO MASK WORKS.

"(a) In the case of mask works, the exclusive rights provided by section 106 are subject to compulsory licensing under the conditions specified by this section.

"(b) The owner of a copyright on a mask work shall be required to grant a compulsory license under the copyright, to any applicant therefor, on the following terms and conditions, and in the following circumstances:

"(1) The applicant has purchased semiconductor chip products made or distributed in violation of the owner's exclusive rights under section 106.

"(2) When the applicant first purchased such semiconductor chip product (hereinafter in this section referred to as the 'infringing product'), the applicant did not have actual knowledge that or reasonable grounds to believe that the infringing product was an infringing product (hereinafter in this section referred to as 'having notice of infringement').

"(3) The applicant, before having notice of infringement, committed substantial funds to the use of the infringing product; the applicant would suffer substantial out-of-pocket losses (other than the difference in price between the infringing product and a noninfringing product) if denied the use of the infringing product; and it would be

inequitable in the circumstances not to permit the applicant to continue the use or proposed use of the infringing product.

"(4) The applicant offers, subject to the applicant's rights, if any, under section 501(e) of this title, to pay the copyright owner a reasonable royalty for infringing products.

"(5) The royalty shall be for each unit of the infringing product distributed or used by the applicant after having notice of infringement.

"(6) The license shall be one to make, have made (but only if the copyright owner and the owner's licensees, if any, are unable to supply the applicant at a reasonable price), use, and distribute the infringing product, for substantially the same purposes that gave rise to the applicant's right to a compulsory license, throughout the United States, for the life of the copyright, revocable only for failure to make timely payment of royalties.".

(b) The sectional analysis at the beginning of chapter 1 of title 17 is amended by adding the following:

"119. Scope of exclusive rights: Compulsory licensing with respect to mask works.".

DURATION OF COPYRIGHT

SEC. 6. Section 302 of title 17 of the United States Code is hereby amended by adding at the end thereof the following:

"(f) MASKS.—Copyright in mask works endures for a term of ten years from the first authorized—

"(1) distribution;

"(2) use in a commercial product; or

"(3) manufacture in commercial quantities

of semiconductor chip products made as described in subclause (C) or (D) of clause 6 of section 106 of this title.".

INNOCENT INFRINGEMENT

SEC. 7. Section 501 of title 17 of the United States Code is amended by adding at the end thereof the following:

"(e) Notwithstanding the other provisions of this chapter, a purchaser of a semiconductor chip product who purchased it in good faith, without having notice of infringement (as that term is used in section 119 of this title), shall not be liable as an infringer or otherwise be liable or subject to remedies under this chapter with respect to the use or distribution of units of such semiconductor chip product that occurred before such purchaser had notice of infringement.".

IMPOUNDING AND SEIZURE

SEC. 8. Sections 503(a), 503(b), and 509(a) of title 17 of the United States Code are each amended by inserting "masks," after "film negatives," each place it appears.

EFFECTIVE DATE

SEC. 9. The amendments made by this Act shall take effect 90 days after the date of enactment of this Act, but shall not apply to—

(1) semiconductor chip products manufactured in the United States or imported into the United States before the effective date;

(2) masks made in the United States or imported into the United States before the effective date;

(3) semiconductor chip products manufactured in the United States by means of masks described in paragraph (2) of this section.●

By Mr. PRESSLER:

S. 3118. A bill entitled the "Nonimmigrant Visa Waiver Act of 1982; to the Committee on the Judiciary.

NONIMMIGRANT VISA WAIVER ACT OF 1982

● Mr. PRESSLER. Mr. President, I am today offering an original measure which I hope my colleagues will be able to approve. The bill deals with the nonimmigrant visa waiver system which has been promoted by the Department of State for a number of years.

I want to stress the fact that this bill is identical to a section of S. 2222, the immigration reform bill passed by the Senate this past summer. The visa waiver provision of S. 2222, which I amended on the Senate floor last August, is a modest proposal to reform and improve our current visa laws and regulations as they pertain to nonimmigrant visitors to the United States. The proposal would permit visitors from certain low-risk countries to travel to the United States solely on their passports, as is the case with virtually every other nation on Earth. Temporary visas would no longer be required by these people, such as visitors from Western Europe.

The administration, and specifically the State Department, strongly support this program. This was demonstrated during testimony on the visa waiver system which was given at a September 22, 1982, hearing before my Subcommittee on Business, Trade, and Tourism.

The only reason I am now offering this proposal as a separate piece of legislation is that the immigration reform bill, S. 2222, has apparently died in the House of Representatives. While I greatly regret this outcome, I am hopeful that we might salvage this one very progressive program from that piece of legislation.

Our current visa system requires all foreign travelers to obtain a visa from the U.S. Embassy in their country before coming to the United States. Due to the explosive growth of travel to this country over the past decade, this has resulted in our Embassies being flooded with visa applications. The backlog in some Embassies, most notably that in Great Britain, has resulted in delays of 4 to 6 weeks for visa applications to be processed. As you can imagine, this is very disruptive to the travel plans of British tourists and business people. There is also evidence that it is sometimes such a discouraging factor that it results in a loss of foreign tourists. During hearings which I conducted on this issue we received testimony that we could be losing several hundred million dollars in foreign trade income annually because of the negative influence of the visa requirement.

The bill which I am offering today would help reduce the visa backlog and would increase our foreign trade income from foreign tourism.

The Senate has already passed it once this Congress in the exact form I am offering it in now. Passage of this measure will not be a new step for the 97th Congress, simply a reaffirmation of a position already taken.

For all these reasons, I ask that my colleagues join me in support of this bill and that we work quickly for its enactment prior to the conclusion of our efforts during the 97th Congress.●

By Mr. PRYOR:

S. 3119. A bill to extend until October 1, 1988, the authority for advances to the migratory bird conservation fund; to the Committee on Environment and Public Works.

ADVANCES TO THE MIGRATORY BIRD CONSERVATION FUND

Mr. PRYOR. Mr. President, the legislation I am introducing today is a simple extension of existing law, the Wetlands Loan Act. The authority of the Federal Government to lend money to the Migratory Bird Conservation Fund for the purpose of acquisition of wetlands habitat will expire on September 30, 1983. This legislation simply extends that authority until September 30, 1988.

Mr. President, when I accepted nomination to the Migratory Bird Conservation Commission 2 years ago, I made a commitment to do whatever I could to help this country preserve one of its most valuable resources, its waterfowl habitat—the wetlands. Today the U.S. Fish and Wildlife Service estimates that these wetlands are disappearing at the rate of approximately 300,000 acres a year, due primarily to commercial development and farming. Secretary of Interior, James Watt, may not be nationally recognized as a conservationist, but he has become so alarmed at this tragic loss, and at the projections for future losses, that he has taken immediate action. He has formed a task force composed of largely nongovernmental people to seek answers and make recommendations for saving the wetlands that we have left. Governor Fob James of Alabama has agreed to head this task force, which has assumed the title of POWDR—Protect Out Wetland and Duck Resources.

Mr. President, the Fish and Wildlife Service has indentified 1.6 million acres of wetlands habitat that they say must be protected by 1986. Of that amount only 336,000 acres have been protected, and at current prices it will take an additional $700 to $800 million to acquire or protect the remainder through environmental easements. There can be no doubt that current methods of protection will not be enough to do the job, and this loan authority will not be enough by a long shot.

But we must take this first step. The Wetlands Loan Act has been with us since 1961. It is a revolving loan account whereby the Congress appropriates money to be lent for advanced

purchases of habitat. The loan is repaid by revenues generated through the sale of Federal duck stamps. In essence, the people with the first and primary interest in our migratory waterfowl, our hunters, are financing this preservation effort. I like the spirit of the idea that the user pays. But, Mr. President, we all have an interest in wetlands preservation. The habitat that we are preserving is habitat for a lot more than ducks and geese. In the ecological chain, wetlands—the plant life and aquatic life that it supports—is the first link.

Duck stamp revenues are projected at $16 million annually. If we allow this loan authority to lapse, 75 percent or $12 million of duck stamp money annually would have to go toward repaying the loan, leaving only $4 million annually to continue purchasing and preserving this habitat. We simply cannot, at this time, allow the effort to falter. I hope that we will eventually reach the point where our acquisition efforts have come to fruition, and the desperation of this situation will relax. For now, we cannot relax.

Mr. President, this bill does not change existing authorities, it is not controversial, and it has broad public support. Similar legislation has been introduced in the House. I believe our Chairman on the Migratory Bird Conservation Commission, Mr. Watt, will support it.

I realize that too little time remains for approval of this legislation in 1982, but I want to put my colleagues in the Senate on notice of my intention to reintroduce this measure when Congress reconvenes in 1983. I hope that this legislation will receive early consideration and approval by Congress next year.

I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act to promote the conservation of migratory waterfowl by the acquisition of wetlands and other essential waterfowl habitat, and for other purposes", approved October 4, 1961 (16 U.S.C. 715k-3), is amended by striking out "September 30, 1983," and inserting in lieu thereof "September 30, 1988,".

SEC. 2. Section 3 of such Act of October 4, 1961 (16 U.S.C. 715k-5), is amended by striking out "October 1, 1983," each place it appears therein and inserting in lieu thereof "October 1, 1988,".

ADDITIONAL COSPONSORS

S. 2909

At the request of Mr. DODD, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2009, a bill to authorize financial assistance for a continuing education program to secondary school science and mathematics teachers designed to increase their competency and to assist them to qualify for certification, and for other purposes.

S. 3047

At the request of Mr. KASTEN, the names of the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of S. 3047, a bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends.

SENATE RESOLUTION 516

At the request of Mr. GRASSLEY, the names of the Senator from Texas (Mr. BENTSEN), the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of Senate Resolution 516, a resolution expressing the sense of the Senate on urging Presidential action pursuant to section 103 of the Revenue Act of 1971, 26 U.S.C., section 48(a)(7)(D) to disqualify certain Japanese manufactured, numerically controlled machine tools from the U.S. investment tax credit.

AMENDMENTS SUBMITTED FOR PRINTING

SURFACE TRANSPORTATION ACT OF 1982

AMENDMENTS NOS. 5622 AND 5626

(Ordered to be printed and lie on the table.)

Mr. PACKWOOD submitted five amendments intended to be proposed by him the amendment No. 4998 proposed by Mr. BAKER to the bill (H.R. 6211) to authorize appropriations for the construction of certain highways in accordance with the title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

AMENDMENT NO. 5627

(Ordered to be printed and lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to the amendment No. 4977 proposed by Mr. PACKWOOD to the bill H.R. 6211 supra.

AMENDMENT NO. 5628

(Ordered to be printed and lie on the table.)

Mr. ROTH (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by them to the amendment No. 4998 proposed by Mr. BAKER to the bill H.R. 6211 supra.

ADDITIONAL STATEMENTS

SOUTH AFRICA'S ATTACK AGAINST LESOTHO

● Mr. KENNEDY. Mr. President, I wish to express my strong protest against South Africa's aggressive attack against the sovereign nation of Lesotho. On December 9 approximately 100 South African commandos crossed over the border into Lesotho and carried out sweeping raids on the homes of South African exiles who had sought refuge there. Forty-two people were brutally murdered and their residences destroyed by bazookas, grenades, and incendiary devices. Those killed, according to the Lesotho Government, were South African refugees—duly registered with the local authorities and the U.N. High Commission of Refugees—as well as innocent citizens of Lesotho caught in the crossfire of the attack or murdered in their own homes, which the South African Defense Force had apparently mistakenly identified as housing South African refugees.

I applaud the U.N. Security Council's unanimous condemnation of South Africa for this "premeditated, aggressive" raid. The resolution branded it a "flagrant violation of the sovereignty and territorial integrity" of Lesotho, reaffirmed Lesotho's right to give sanctuary to refugees from South Africa, and demanded that South Africa pay "full and adequate compensation for the damage to life and property." This strong statement by the Security Council represented the minimum tolerable response by the world community to South Africa's attack.

It was right for the administration to cast its vote in favor of this U.N. resolution. Our country could have done no less in the face of this gross affront to international decency, humanity, and the most fundamental human rights. But a single vote against an isolated incident in a continuing pattern of unacceptable South African behavior is not enough. Indeed, we should be concerned that the administration's policy of "constructive engagement" with South Africa has contributed to a false sense of confidence on the part of that country's racist government that it can give full rein to its most brutal impulses without risking serious censure by the United States. Our Nation must take an unswerving stand against oppression and aggression by South Africa, and make clear that outrages of this kind are intolerable in today's world.

The South African sense of insecurity which underlies raids such as that into Lesotho is directly related to mounting frustration against the apartheid system. Apartheid circumscribes every facet of existence for blacks in South Africa—denying them

all significant political rights, imposing near-total segregation in the routine of daily life, and perpetuating gross economic disparities between income levels and social services for the privileged white elite and the dispossessed black majority.

I would also like to draw the attention of my colleagues to the analysis of South Africa's social and political predicament in Robert S. MacNamara's extremely thoughtful October 21 address to the University of the Witwatersrand in Johannesburg. He argues that South Africa's racist policies warrant international concern because, "unless they are fundamentally redesigned they will eventually lead to a catastrophic racial conflict that will have serious ramifications throughout the Western World, and most especially in the United States."

Robert MacNamara urges the South African authorities to pursue a peacefully negotiated political alternative in South Africa while there is still time to avoid a violent conflagration. In his view, such a negotiated settlement would necessarily have to assure South African blacks full participation in genuine political power, while protecting the whites against a winner-take-all form of majority rule.

Mr. MacNamara urges that the United States should recognize that black nationalism in South Africa is "a struggle whose eventual success can at most only be delayed—and at immense cost—but clearly not permanently denied."

It is not enough for us to condemn individual South African abuses at home or attacks abroad. The United States must not fail to make clear our abhorrence of the entire system of racial apartheid which gives rise to these incidents. We here in Congress must insure that our country's full influence is brought squarely to bear in the cause of racial justice for South Africa and peace and progress for all the independent nations of southern Africa whose security and sovereignty is presently threatened so directly by the festering tension nourished by the system of apartheid.

I ask that the complete text of Mr. MacNamara's important address may be printed in the RECORD at the conclusion of my remarks.

The address follows:

THE ROAD AHEAD

(An address by Robert S. McNamara, to the University of The Witwatersrand, Johannesburg, South Africa, October 21, 1982)

I. INTRODUCTION [1]

I am deeply honored and grateful to have been invited to deliver the Chancellor's Lecture at this extraordinary and courageous university.

I am honored not only because it puts me in the distinguished company of the former lecturers in this triennial series, but also because the event itself commemorates so important a principle—academic freedom—and so steadfast a stand on the part of this university against the unwarranted limitation of its legitimate autonomy, including insistence on its right to select students and faculty without interference by government.

And I am grateful because it affords me the opportunity to discuss candidly and freely with you—from this unique podium—some of the mutual concerns that we in the United States share with many in South Africa over the current trend of events here.

A beloved American poet, Robert Frost, wrote:

Two roads diverged in a wood,
And I, I took the one less travelled by,
And that has made all the difference.

What I want to say to you—and through this occasion to my own countrymen in America—is that I believe that South Africa today does face two roads to the future, and that your choice of the road to follow will "make all the difference" both to your nation and to mine. I want to take a look down those two roads this evening and suggests that both you and we choose the one "less travelled by."

Now, you may well wonder why I single out South Africa's apartheid for special attention in a world in which arbitrary rule, political assassinations, kidnappings, jailings of dissidents, and torture are commonplace. And you may well ask why I feel it appropriate for a United States citizen to speak to you about what many South Africans consider purely an internal matter.

Henry Kissinger, as Secretary of State, answered that question in part in a speech he made in Zambia in 1976. He said: "The world community's concern with South Africa is not merely that racial discrimination exists there. What is unique is the extent to which racial discrimination has been institutionalized, enshrined in law, and made all pervasive."

But beyond that very valid point, there is—in my view—the sobering fact that South Africa's racial policies warrant international concern because I believe that unless they are fundamentally redesigned they will eventually lead to a catastrophic racial conflict that will have serious ramifications throughout the Western world, and most especially in the United States.

Frustration is clearly festering among young blacks [2] within South Africa. Many have already left the country to join liberation movements. Many more will do so in the future. And if a rising tide of violence engulfs both whites and blacks in South Africa—and, particularly if the Soviet Union chooses to help wage a war of liberation directly, or by proxy, against the white regime—then the United States will be confronted with a very dangerous set of dilemmas in trying to decide how to react.

Many Americans—both blacks and whites—will have intense personal feelings about the issues. Strong conflicting pressures to support one side or the other will emerge. The resulting debate could quickly mobilize African political and economic pressures against America. It could divide the United States from its European allies. And it surely would lead to bitter and divisive debate within the United States itself.

To put it bluntly, if South Africa fails to deal justly and effectively with its own internal racial problem, that failure will not only result in immense damage to your society, but it will impose heavy economic, military, and political penalties on other societies in the Western world as well, and particularly on the United States.

Bear in mind that I speak as a white American. Bear in mind that I speak to you as one who has witnessed the staggering costs my own country has had to pay because of its century of delay in moving to end our shameful discrimination toward black Americans. That tragic delay was without question the most serious mistake in our entire history, and the hard truth is that all Americans will continue to pay a heavy price for it for decades to come.

What, then, I would like to do this evening is:

Describe apartheid as an outsider sees it today;

Examine the Government's programs for dealing with it in the future;

Express a judgment on the internal and external reaction to that program; and

Consider the actions, internally and externally, which might be taken to lead to a different outcome.

II. THE SITUATION TODAY

First, then, let me describe how an outsider sees the situation today: what we in the United States believe to be the major elements of the apartheid policy, and what we understand are the Government's plans for the future.

The Race Classification Laws, the Influx Control Laws, the Land Laws, the Group Areas Acts, and the Homelands Policy are the building blocks from which the present apparatus of apartheid has been constructed.

Apartheid, then, rests on the following foundations:

The Population Registration Act of 1950 requires that every person be classified as White, Colored, Asian, or Black African. A person's political, civil, economic, and social rights hinge on this classification.

The "Homelands", including those designated as independent, comprise 13% of South Africa's geographical region. The land in these areas is poor, and the economies stagnant. And yet all black Africans—comprising 70% of the population of the country—are assigned to these areas as citizens, no matter where they may actually live. Thus, out of a total of 21 million black Africans, 11 million are resident in the Homelands; and 10 million, including perhaps two million males who are separated from their families, are "temporary residents" in the "white areas."

The Land Laws prohibit black Africans both from owning land outside the Homelands, and except in rare instances, from living outside the Homelands unless employed by whites.

The Influx Control Laws regulate the movement of blacks throughout South Africa by requiring that every black over the age of 16 be fingerprinted and carry a "Pass" Book containing the individual's identity card and employment record. A policeman may ask a black to produce his

[1] I am indebted to the former British Prime Minister, Mr. Edward Heath, who spoke on the subject of South Africa at the Opening Session of the International Political Prospects Conference, Johannesburg, August 31, 1981; to Mr. Alan Pifer, President of the Carnegie Corporation, who delivered the Commemoration Day Lecture at the University of Witwatersrand, Johannesburg, October 14, 1981; and to The Study Commission on U.S. Policy Towards Southern Africa, whose report, sponsored by the Rockefeller Foundation, was published in May 1981, for material which I have used in this statement.

[2] Unless otherwise indicated, the word blacks in this text refers to Asians, Colored, and black Africans living in South Africa.

"Pass" at any time, and failure to do so is a criminal offense.

The apartheid laws are enforced by powers granted under the Internal Security Act of 1982 which consolidates the provisions of earlier legislation. The Act—through restraints on the press, restrictions of civil liberties, and limitations on political activity—enables the Government, without recourse to the Courts, to silence anyone who poses a challenge to the regime.

The Security Laws were strengthened during the 1960's and 1970's by statutes enacting a series of tough pre-trial and preventive-detention measures. These laws place both whites and blacks in jeopardy of losing their personal freedom if they speak out against injustice.

In addition to detention, there is the penalty of "banning." A banned person loses the opportunity for normal employment, and for communication with friends and associates. Banning procedures are totally arbitrary.

This structure of restrictive laws, and arbitrary enforcement power, supports the following basic elements of the apartheid policy.

Denial of political rights:

Blacks are excluded from all significant forms of participation in South Africa's political system. They have no authorized voice, they are not even allowed to join political parties containing white members. Legislative power is vested in the 177 member parliament. The House of Assembly is chosen by whites (who total 4.8 million out of a population of 29 million) and restricted to whites. The executive power is held by the Prime Minister, the leader of the majority party of the parliament. Parliament is supreme and no court may invalidate its acts.

Segregation in the routine of daily life:

Segregation in lavatories, restaurants, railway cars, buses, swimming pools, and other public facilities is the rule. There is no legal obligation to provide comparable separate facilities for all racial groups. Although there has been some relaxation of segregation in recent years, "separate and unequal" treatment remains both legally accepted and widely practiced.

Gross economic disparities between whites and blacks:

The Homelands contain more than one-third of South Africa's population, but produce less than 5% of the country's goods and services. The apartheid laws limiting the residence and movement of Africans have led to the development of a migrant labor system in which some 60% of the men employed in the modern urban sector are migrants. They live in squalid, overcrowded barracks, without permanent resident rights for themselves or even temporary residence rights for their wives and children.

Race very largely determines the job a person holds. In 1977, fewer than 1 of every 100 unskilled workers was white, and fewer than 1 of every 200 company managers was black. There has been a conscious effort over the years to channel black labor to where it will benefit the whites, and to raise barriers against it where it seems to compete with whites. The gap between white and black incomes is enormous: income per capita for whites is 10 to 12 times that of blacks.

Discrimination in the distribution of social services:

The education available to blacks is vastly inferior to that for whites. In 1981 the pupil teacher ratio for black Africans was more than twice that for whites. The preparation of black teachers is generally poor. There is a shortage of 8,000 classrooms in black areas. In 1979 the Government spent $940 on the education of each white child, versus $90 on each black African child. Although black Africans outnumber whites 4½ to 1 in South Africa, white University graduates outnumbered black Africans 75 to 1.

Housing policy maintains the separation of the races, and preserves the existing structure of inequality. More than in any other country in the world, where one lives is determined by law. The Native Urban Areas Act of 1948 established compulsory residence for urban blacks in separate areas ("locations") on the outer edge of white areas, and regulated the entry of blacks into the cities. A housing shortage of crisis proportions exists—there is a shortage of 206,000 homes for blacks, almost none for whites. The average home in Soweto has 520 square feet, only 6% have baths, 13% indoor toilets. and 20% electricity. The housing shortage has led to squatter settlements of tim shanties without heat, sewerage, or electricity in which a population of over 1 million dwell.

The health status of black South Africans is generally low. Infant mortality is high (ten times that of white infants) and white life expectancy is 30% greater than that of blacks. There is one doctor to every 600 whites (about equal to the ratio in the U.S.) but only 1 doctor for every 40,000 blacks in the rural areas.

In summary, to us in the United States, apartheid is a system of racially biased laws which circumscribe nearly every facet of the daily lives of the South African blacks, limiting their economic liberties, and prohibiting any significant voice in the Government that controls their existence.

Is the Government acting to redress this situation?

It seems clear that the Government recognizes there is both internal and external criticism of its policy. It is seeking to give the impression that it is responding to such criticism by such actions as the following:

A President's Council consisting of Whites, Coloreds, and Asians (but no black Africans) has been established as a multiracial consultative body.

The budget for black education was increased 26% in 1979 and 37% in 1980 (per capita expenditures for whites remain nearly 10 times greater than those for blacks) and plans have been announced to phase in compulsory primary education for blacks in selected areas.

Budgeted expenditures for black housing have been increased.

"Petty apartheid"—the whole apparatus of segregation in the routine of daily life—has been partially relaxed.

Black labor unions have been recognized and most statutory job reservations have been abolished.

But despite such actions there has been little change in the basic structure of apartheid itself.

The weakness of the Government's program is twofold. The pace at which it addresses the presssing social and economic needs of the blacks is far too slow, and it fails to confront the issue of political participation. Nowhere does it begin to advance toward what former British Prime Minister Mr. Edward Heath has called the only ultimate solution: "The granting of full political rights to the non-white population of South Africa—a universal franchise at the national level."

III. ALTERNATIVE ROADS TO THE FUTURE

What will be the reaction to the Government's program?

Already one sees signs of a growing, though reluctant, acceptance among both South African blacks and outside observers that fundamental changes will come only through revolutionary violence:

The young blacks are increasingly chafing at inaction. An estimated 8,000 have left so far for military training abroad.

Many older blacks, sharing the impatience of the young, are resigning themselves to the inevitability of sabotage and guerrilla warfare as necessary stimulants to change.

The growing acceptance of violence as a tool of change has stimulated interest in radical ideologies, particularly Marxism.

The concentrated opposition of Africa states is increasing South Africa's diplomatic and ideological isolation.

The political and moral pressures on the West to further that isolation are increasing. President Shagari of Nigeria, for example, has said that Nigeria "would use any means" at its disposal, "including oil"—and Nigeria is the second largest supplier of crude oil to the United States—to persuade the U.S. to use its "powerful economic position to discourage and eventually destroy apartheid in South Africa."

The pressure on the West is beginning to lead to expressions of support. The EEC, for example, has issued a statement which says it "condemns apartheid without reservation" as "an evil system which misstates the fundamental rights of the majority of the citizens of South Africa." It concludes by stating that the EEC countries "are convinced that the apartheid system must end".

But the words of South Africans themselves describe the situation far more eloquently than any words of mine. The Study Commission took testimony from scores of them. Here is a sample of what they said:

From a black clerk who lives in Soweto:

"I live in a house with no electricity and with cold water from an outside tap. I see my wife in the Transkei but once or twice a year—she is refused permission to live in Johannesburg because she is a citizen of the Homelands. I was arrested for failing to carry my passbook. Although never charged with an offense, I was placed in solitary confinement. They wanted to know what I've been doing since the day I was born. They beat me. I don't forget that so easy."

From a white Afrikaner, a small builder, who lives in Johannesburg:

"Who can be certain of what's going to happen. We live with this feeling of uncertainty. I feel that in Africa today no matter where you live, you've got to have some sort of security against the blacks. I have guns and I know how to use them."

From a Malayan doctor practicing in a Colored township:

"The frustration is all over South Africa. And it's not just with the schooling and the educational standards. It's a frustration that goes right across the board. It's a question of knowing that when you've done your work; you've got to go back to those tenements. And even if you're in a job and have some ability, you know you are not going to rise above a certain level. Or if you do go beyond it you won't be paid what you should be paid. You know that your education is inferior. You know that when you go outside to get a bus, even in the pouring rain, you first have to check there is no sign that says the bus is for whites only. Basical-

ly it all boils down to that little piece of paper—your passbook—no matter what your standards or education. You are in a quagmire. You don't understand it and you just turn to violence—senseless violence. The black population is in a complete ferment. They are not going to take very much more of what has already been handed out to them."

From one of the few black managers:

"The generation that comes after us will not be concerned with any kind of negotiation. It will go for a takeover, the sort of thing that happened in Zimbabwe. The moderate guys are being lured into the militant camp and the militants will tell you 'Forget about negotiation.' I don't think the attitudes of the average white man are changing. If anything his attitudes are hardening because he feels threatened, in a class sense, by blacks. No black person will tell you that there's been any real change in this country. The educational system hasn't changed. The opportunities within companies haven't changed. And the changes that have been made are not initiated by the black people themselves. How could they be, when black people aren't represented in Parliament."

From a white lawyer of British descent.

"There's an element of overkill on both sides. But I am afraid things are never going to be such that you can get out of that overkill situation. I think time is against us. While I am totally against guerrilla activities and terrorism and sabotage, I don't know if these people have any alternatives."

Because the South African Government continues to refuse to make any fundamental change in its racial policies, a violent explosion appears inevitable.

As a foreigner I was hesitant to make such a statement until I found that my views are shared by many others both within and outside your own country. Recently, for example, Andre Brink, one of the most influential of Afrikaner writers, speaking of the hope of the blacks for political rights, said: [3]

"There was the sudden hope triggered by the liberation of Angola and Mozambique and Zimbabwe. Then the fall from grace of Vorster and the totally unexpected promises made by Prime Minister Botha, which of course haven't come to anything. We're at this stage of terrible frustration at the moment."

Brink was referring to speeches made by Botha in 1979 and 1980, which seemed to promise the dismantling of at least part of the structure of apartheid. But, because almost all the promised reforms have been abandoned. Brink sees a dark future. He writes:

"I tend by nature to go for a glimmering of optimism. For a decade I've taken the line that things are bad, but that there's a whole series of possible new developments just waiting to materialize. Now I'm slowly veering towards pessimism. Things have taken a turn for the worst, and last year was the worst I've ever known, even worst than 1976. There was a sort of turn in the historical current, a slow realization that nothing was going to happen. I've kept on believing that we could have a relatively peaceful change, but, the way things are now, change can only come through an explosion. And that's terribly, terribly sad. What depresses me most of all is that if the worst comes to the worst there'll be this totally unnecessary human waste."

[3] As quoted in The New York Times, June 13, 1982.

It is possible that the "explosion" when it occurs will be preceded or accompanied by Soviet penetration into the region—certainly both Mr. Edward Heath and the Study Commission on U.S. Policy Toward South Africa, consider that a probability rather than a possibility.

Mr. Heath, in a speech in this city in August of last year, pointed to the relentless geopolitical onslaught of the Soviet Union as one of the major forces shaping the international environment today. He drew attention to the recent tendency of Moscow to use proxy troops in areas far distant from the Soviet Union—for example, in Angola, Ethiopia, Mozambique, and South Yemen—which enabled it to gain direct military leverage over conflicts to which it would never dare to commit forces of its own. The use of such proxy forces is underpinned by the increasing strength and geographical reach of the Soviet Union's own military power.

The Prime Minister stated that in his opinion the frustration of the non-white population in South Africa, born of the system of apartheid and fanned by the emergence of black majority rule elsewhere in Africa, constitutes one of the greatest opportunities for Soviet advance in the world today. He foresaw Russia developing a stranglehold on the region as a whole and denying to the West both the strategically important sea route around South Africa's Cape of Good Hope [4] and her supplies of essential minerals.

The Study Commission in its Report wrote: "There are no easy solutions for South Africa. The choice is not between 'slow, peaceful change' and 'quick violent change' but between a slow, uneven, sporadically violent evolutionary process and a slow but much more violent, descent into civil war." Under today's conditions, it clearly viewed the latter as the more likely alternative.

And it believed, as did Mr. Heath, that the Soviet Union, directly or by proxy, would be fully engaged in such a civil war. The Commission recognized that today the blacks lack the means to mount any sustained military challenge to white authority:

In terms of organization, tactics, and resources, the internal revolution is still at an embryonic stage;

Physical repression by the government is severe, and can be increased further;

The African Frontline States (Angola, Botswana, Mozambique, Tanzania, Zambia and Zambabwe) are not only too weak to provide training and logistical support for guerrilla forces operating within South Africa, but are too weak as well to resist retaliatory strikes against them—South Africa has the military power today to strike hundreds of miles beyond its borders.

But it is only a question of time before this military balance will be reversed.

The counter-insurrency struggle in Namibia has demonstrated how a relatively small number of guerrillas can tie up substantial military forces. As the economic strength of the Frontline States increases—and it will—they will gain the resources to support such guerrilla forces. When that occurs we can expect Soviet-Cuban-East German support of the Frontline States to expand to whatever level is required to protect them against retaliation by South Africa. Whatever escalation South Africa undertakes will be matched in scale and technology by the external Communist powers.

The ultimate outcome of such a conflict, unless it were to be influenced by the introduction of Western military power, hardly seems in doubt.

What is in doubt is precisely when the mounting racial frustration in South Africa will finally explode.

Earlier, my own assessment was that it would occur within the next three to five years. Recent discussions, however, with African leaders outside of South Africa have convinced me that this time frame is unlikely.

These men all agree with Mr. Brink. They state emphatically that peaceful evolutionary change at an acceptable pace is simply no longer possible in South Africa. They believe that violence on an ascending scale is now inevitable. Most believe that the final confrontation will come within five to ten years—none foresee the present system of white political domination extending beyond our lifetime.

They base this prediction on their assessment that today government security measures in South Africa are so repressive and ruthless as to prevent any black leader from raising his head; and that the Frontline States are so weak as to be unable to serve as external bases for economic and military support.

They feel that during the next five to 10 years three critical developments will occur:

(1) The repression within South Africa will push the focus of the struggle outside its borders;

(2) The Soviet Union will move in to support the Frontline States as guerrilla havens; and

(3) The West will be unable to stand in strategic alliance with South Africa because to do so would be regarded as supporting a political system profoundly insulting to the basic human rights of the majority of its population, and hence, unacceptable to the peoples of the West.

In such a situation, the debate over the course to be followed by the West will increase the political tensions between Europe and the United States, and will lead to tensions and disunity between blacks and whites in the U.S.

If that is a description of where the "road" now being followed will lead, can one visualize a feasible alternative? I believe one can. Clearly a major element of such an alternative scenario is the program of economic reform supported by liberal South African business leaders.

These experienced executives have pointed out that it will be simply impossible for South Africa to achieve optimum rates of economic growth if the existing shortages of skilled personnel are allowed to persist into the future by the continuation of present policies—policies that deny most blacks access to the skills required, and deny those blacks possessing such skills the opportunity to apply them. They go on to say that as the necessary economic reforms are put in place they will ultimately lead to political reforms as well.

But I see little evidence to support the conclusion that one set of reforms will automatically follow the other. There has obviously been economic advance for the blacks in South Africa over the past 30 years. But very little political progress has resulted

[4] In 1981, some 2,300 ships travelled the Cape route each month. They delivered 57% of the oil imported by Western Europe and 20% of that imported by the US. Seventy percent of the strategic raw materials used by NATO was also transported via the Cape.

from it. And that was the experience in the United States as well. The economic advance of blacks there, in the two decades prior to 1960, was not accompanied by proportionate political gains.

So although a program of economic reform is highly desirable in itself, and certainly deserving of broader support from both South African and international business leaders, I do not think that it is likely to bring the necessary political reforms fast enough.

I believe that the political issue must be confronted squarely. The South African Government's view that separate, but unequal development, is not inherently discriminatory; and that political participation by all person, regardless of race or color, is totally unacceptable, must—I believe, change.

Now, of course, no outsider can dictate the form of an acceptable political alternative in South Africa. But it seems obvious that whatever the final formula may turn out to be, if it is to have any chance whatever of succeeding, it must be part of a negotiated settlement which will do two absolutely essential things:

It must assure the blacks full participation in genuine political power.

And it must protect the whites against a winner-take-all form of majority rule.

Some will object that rule by a black majority will lower the rate of economic and social advance in South Africa for blacks and whites alike. They point to the evidence that income per capita, literacy levels, and life expectancy are all higher, on average, for blacks in South Africa than in the nations of black Africa. They attribute the difference to the limited experience of blacks with self-rule and they predict the same impact of such rule on South Africa.

They are undoubtedly correct.

The colonial powers no more equipped the blacks in their colonies for self-government than South Africa has trained hers. When Zambia became independent there were 100 college graduates and 1,000 high-school graduates in the entire country. And here in South Africa white university graduates outnumber blacks 75 to 1—in proportion to population: 300 to 1.

But the fact remains: for the blacks, social and economic advance is not an adequate substitute for political power.

Now what should U.S. policy be in the present situation? It should be based on the recognition that black nationalism in South Africa is a struggle whose eventual success can at most only be delayed—and at immense cost—but clearly not permanently denied. Indefinite delay will only guarantee that at some point black resentment will erupt into widespread violence, supported by bases and arms outside the country.

The U.S. must make it clear to South African whites that in the face of such violence the U.S will not support them against the blacks.

But you may question, and some in my own country may question, that the U.S. attitude at the moment of crisis will be so firmly opposed to the policies of your government. Alan Pifer, in his Commemoration Day Lecture at this University, one year ago this month, touched on that issue. He pointed out:

"Whatever its seeming vicissitudes from one administration to another, official American policy toward South Africa is always subject ultimately to the prevailing convictions and attitudes toward racial equality and human rights that arise from our own national experience. This proposition leads to the view that American opposition to apartheid, however the later may be dressed up or rationalized, will be a permanent factor in setting bounds to the nature of the relationship between our two societies".

Pifer went on to say that neither strategic interests nor economic concerns will outweigh these considerations:

"It is the racial and human rights aspects of South Africa which will dominate American thinking and which in the final analysis, will always be decisive" in determining our national policy.

And the fact is that opposition in the United States to your government's racial policies has been increasing throughout the past decade:

Students and faculty on college and university campuses have protested against investment in American corporations doing business in South Africa.

Religious organizations have appeared at annual shareholders' meetings to challenge corporate policies respecting South Africa.

Legislation prohibiting new investment by American companies in South Africa, and requiring those that operate there to do so in accordance with American racial laws, has been introduced in the Congress.

So I entirely agree with Mr. Pifer. And I wish to repeat, as emphatically as I can, my belief that the United States will not support your government if it is confronted by military opposition from those who condemn apartheid—even if the withholding of U.S. support carries with it the risk that South Africa will fall within the Soviet sphere of influence.

I recognize that South Africa's official reaction to such a U.S. position might well be to terminate its exports of the four key minerals it now supplies the West; chromium, manganese, vanadium, and platinum. These materials are essential to Western industy and defense.

In anticipation of such retaliatory action by South Africa, the United States and the other Western nations should begin now to increase their stockpiles, to develop alternative sources of supply, and to prepare contingency plans to share such limited supplies as would be available. Such a program would minimize the impact on the West of South Africa's potential denial of these minerals.

IV. CONCLUSION

Let me, now, summarize and conclude the central points I have made this evening.

For more than two hundred years, from its beginning as an independent sovereign nation, the United States has been committed by its own moral and philosophical tradition to supporting the efforts of those individuals and societies around the world that struggle to achieve political freedom and civil liberty.

As a white American myself I recognize that my country's inconsistencies in applying this tradition to American Indians, and bo black Americans, have been shameful and inexcusable. But I am convinced that, if anything, these mistakes and failures have only strengthened the view of the overwhelming majority of Americans that racial injustice is socially destructive, morally unacceptable, and politically dangerous.

Now the truth is—as all of us in this audience are aware—that some of the most basic and fundamental forms of freedom and liberty continue to be denied to black Africans, and to other nonwhites, here in South Africa.

And it is becoming increasingly clear that the blacks will at some point in the future move forcefully to overturn the apartheid policies of the white minority.

When that confrontation comes and violence erupts, it is probable that the Soviet Union and its satellites will provide both economic and military support to the blacks.

The United States, on the other hand, will almost certainly not find it morally or politically possible to support the white South Africans in their efforts to prevent the blacks from achieving fundamental reforms.

The ensuing conflict will divide and fragment world opinion, and it is entirely possible—if not probable—that much of Southern Africa will fall within the Soviet sphere of influence.

What, then, is to be done?

At the very minimum, all of us—the whites of South Africa, certainly and all those peoples of the West who hope for a just and reasonable resolution of South Africa's problems—ought to draw a lesson from contemporary events in areas as diverse and distant as the Falkland Islands, and the Middle East.

And that lesson is this.

It is better to defuse mounting tension beforehand than to let it exploded into immeasurably more costly—and uncontainable—conflict afterwards.

The final battle lines have not yet been drawn here in South Africa. Fundamental political change, without prolonged large-scale violence, is still possible.

But time is running short, and the options are running out.

And if what is left of the 1980's does not witness real movement towards sharing of political power—and the new Constitutional proposals do not appear to provide for such power sharing—Then South Africa may, and I believe will, become as great a threat to the peace of the world in the 1990's as the Middle East is today.

The most underrated danger of human events is prolonged procrastination.

And the greatest tragedies of history have occurred not so much because of what was finally done, but because of what had earlier foolishly been left undone.

In the matter at hand, to fail to act wisely now is only to ensure having to act desperately later.

This potentially truly great African Republic does not need that, and surely does not want that.

Neither do its friends around the world.

In which number, both my country—and I personally—want to be counted.●

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

● Mr. DURENBERGER. Mr. President, we have all heard the gruesome stories of drinking and driving—the deaths, the injuries, the appalling statistics. But like all tragedies in life, most of us never really perceive ourselves as victims. Drunk driving statistics are startling: 25,000 people will die in alcohol or drug related traffic accidents this year. Countless others will be incapacitated. Think about your family and friends—one out of every two people will, in the course of their

lifetimes, be involved in an alcohol or drug related automobile accident.

Newspaper articles and mass media campaigns can only serve to increase public awareness of the shocking statistics. Unfortunately, these statistics are just that—numbers on a page. They do not convey the loss and suffering and the individual stories behind each number. We will all continue to believe that if we are careful drivers we can avoid these accidents. How idealistic we humans are—and how unrealistic and wrong.

President Reagan has signed a joint resolution of Congress proclaiming December 12-18 as "National Drunk and Drugged Driving Awareness Week." The parties and festivities of the holiday season make this resolution extremely timely. I hope we can all keep these statistics in mind before we get behind the driver's wheel or offer our friends that last drink.●

DANCERS AGAINST CANCER

● Mr. HOLLINGS. Mr. President, I rise today to recognize the outstanding work of the Phi Sigma Delta Fraternity of the University of Maryland. For the 13th consecutive year, Phi Sigma Delta Fraternity and the University of Maryland cosponsored its "Dancers Against Cancer" dance marathon. This year, the 72-hour danceathon was held November 11-14 at the University's Ritchie Coliseum. Originated and sponsored by Phi Sigma Delta, the marathon benefits the American Cancer Society and is held each year in memory of Andrew Estroff, a fraternity brother who died of leukemia in 1976. Paradoxically, Andrew was appointed chairman of the marathon shortly before his illness was discovered.

Keeping to the cause Andrew committed himself to, the fraternity had made exceptional strides conquering this Nation's most dreaded killer disease. Now acclaimed as the world's largest college fundraiser, "Dancers Against Cancer" has raised over $620,000 in the 12-year existence. In the last 2 years alone, the marathon has raised $150,000.

Along with the considerable monetary increases with each marathon, Phi Sigma Delta Fraternity has initiated commensurate increases in other aspects of the event, including promotion and participation. Besides heavy support and endorsement from not only the president of the university, but also the President of the United States, "Dancers Against Cancer" has become a legitimate media spectacle. The fraternity has received substantial coverage from numerous newspapers and magazines, radio and television stations. This year, they had expanded coverage from all the media.

In addition, the marathon has become not only a truly campus-wide event at the Nation's third largest State university, but also an object of support from area businesses, national corporations, and other schools as well.

The marathon, in addition to raising money for a most worthy charity, stimulated great exhibitions of self-sacrifice, unity, and enthusiasm from all who are involved. If only for a relatively short period of time, the entire university and community joined together in pursuit of a common goal, to fight and soon defeat cancer.

Over 150 dancers participated this year. Each couple was sponsored by an organization which independently raised money in hopes of winning for itself one of the many prize incentives, and of sharing in the reward sought by all of us, the cure for cancer.

Mr. President, Phi Sigma Delta Fraternity should be commended for their efforts to assist in our fight against cancer. I know that my colleagues will join me in saluting this fraternity's noteworthy contributions to the American Cancer Society.●

THE FAILURE OF NUCLEAR WEAPONS FREEZE

● Mr. SYMMS. Mr. President, all Americans are in favor of peace and preventing nuclear war. There should be no controversy over the necessity to prevent nuclear war. The nuclear weapons freeze issue has been portrayed as a debate over peace and the prevention of the holocaust of nuclear war. This is a misformulation of the issue, however. Opponents of the nuclear weapons freeze are every bit as interested in preserving peace and preventing nuclear war as are the profreeze advocates. Antifreeze experts fully agree that peace and the prevention of nuclear war are important, indeed vital, American national security objectives. The disagreement arises over how best to achieve these objectives of peace and the prevention of nuclear war. Antifreeze experts believe, in contrast, that peace can best be preserved and nuclear war can best be prevented by a strong American national defense as an effective deterrence of Soviet nuclear attack and blackmail.

UNITED STATES-SOVIET AGREEMENT ON SOVIET SUPERIORITY

Both Soviet and American leaders agree on an important aspect of the freeze debate. Both Soviet and American leaders agree that the Soviet Union has already achieved strategic nuclear superiority over the United States. The following evidence of the United States-Soviet agreement on Soviet superiority is really indisputable.

First, there is no question that the Soviets have long had strategic superiority over the United States as their primary military objective. For example,"Kommunist," the Soviet Communist Party ideological journal stated in May 1972, just before SALT I was signed:

> The military-technology policy of the CPSU is directed toward creating and maintaining *"military superiority."* (Emphasis added.)

Second, the Soviets believe that they have in fact achieved strategic superiority over the United States. In 1977 Soviet Gen. H. Trofimenko noted:

> The change in the correlation of forces (that is the strategic nuclear balance) in the world *in favor of socialism.* (Emphasis added.)

The Soviet Defense Minister, the late Marshall Grechko, stated openly in March 1975:

> The correlation of forces (that is the strategic nuclear balance) has changed in favor of socialism, and to the detriment of imperialism.

The CPSU program of 1977 stated:

> On the basis of fundamental changes in the balance of forces in the world, a *profound restructuring* of the entire system of international relations is taking place.

In 1978, the Chief of the Soviet General Staff, Marshall Ogarkov, stated bluntly and ominously:

> Today the Soviet Union has military superiority over the United States.

A Soviet military journal,"Red Star," stated frankly in January 1980:

> With respect to the military balance, the correlation of forces has shifted—*once and for all and irrevocably* (Emphasis added.)

Thus Soviet leaders themselves acknowledge that they have achieved strategic and overall military superiority over the United States.

Most American defense experts and military leaders also agree with the Soviet leaders that the Soviet Union has achieved strategic and overall military superiority over the United States.

Gen. David Jones, former Chairman of the Joint Chiefs of Staff, stated in 1979 that:

> In some areas—the Soviets have already surpassed us, and we are concerned because their momentum will allow them to gain advantage over the United States in most of the static indicators of strategic force by the early 1980's . . . because of the leadtimes in modern weapons, this progressive shift in the military balance will continue into the mid-1980's, with or without SALT II—regardless of U.S. actions. Soviet strategic capability will increase relative to that of the United States through the mid-1980's.

In such key dynamic measures as survivability, the Soviets also have superiority. Admiral Hayward testified in 1979 that:

> With respect to essential equivalence, it is my view that without any question the Soviets will have a first strike capability over the next few years. If that is not a loss of essential equivalence, I do not know what is.

In addition, both President Reagan and Defense Secretary Weinberger confirmed this dangerous fact in the

Spring of 1982. President Reagan stated in a press conference of March 31, 1982:

The Soviet Union does have a definite margin of superiority—enough so that there is risk, and there is what I have called a window of vulnerability.

The next day, Defense Secretary Weinberger stated:

Unfortunately, it is true.

Soviet strategic force numerical advantages are as follows: 1.6 to 1 in strategic delivery vehicles; 3.7 to 1 in missile throwweight; 1 to 0.9 in strategic warheads; 4 to 1 in equivalent megatons; over 2 to 1 in prompt hard target kill potential; 600 to 0 in long range theater nuclear force missiles.

Thus top American leaders agree with the Soviets that the U.S.S.R. has achieved strategic and overall military superiority.

A nuclear weapons freeze would, according to the statements of both Soviet and American leaders, freeze the United States into a position of dangerous inferiority to the U.S.S.R.

Americans are overwhelmingly in favor of prevention of nuclear war and the reduciton of the role of nuclear weapons in foreign policy. Americans are for peace and the reduction of nuclear weaponry on both the United States and Soviet sides. The nuclear freeze proposals, however, have several defects as a means for achieving the above goals which we all share. The following factors are the main reasons I am against the nuclear freeze:

First, it would freeze the United States into a dangerous permanent status of strategic inferiority and vulnerability to the Soviet Union.

Second, it would reduce Soviet incentives to negotiate for real reductions in nuclear forces, because the huge Soviet strategic advantage would be preserved.

Third, it would not be verifiable or enforceable, because the terms are too general and imprecise and our national technical means of verification have been degraded.

Fourth, it could actually increase the Soviet temptation to engage in nuclear blackmail, and therefore it could actually increase both the role of nuclear weapons in world politics and the possibility of nuclear war.

Fifth, it would completely prevent the U.S. strategic modernization programs—the MX ICBM, the B-1B bomber, the Trident submarine and SLBM, and the air-launched cruise missile—needed to regain parity with the Soviets by the late 1980's.

We should also bear in mind that the nuclear freeze concept had its origins in the Kremlin. Soviet President Brezhnev began promoting the idea in January 1981 before the U.S. freeze movement got off the ground. As the above five factors suggest, this is because a freeze is so one-sidedly advantageous to the Soviet Union.

Many people do not realize this, but there really has not been an arms race since the early 1960's. The United States has engaged in extensive unilateral restraint of its strategic programs, while the Soviets have continued to build and build. Since 1977, the United States has actually reduced or deactivated 710 strategic delivery vehicles and 6,000 nuclear warheads, while the Soviets have been adding 1,000 new nuclear warheads to their forces each year since 1974. The Soviets have not reciprocated at all. Their huge strategic buildup began in 1960, and has continued relentlessly ever since, despite détente, Strategic Arms Limitations Treaties (SALT) and negotiations.

There have already been several U.S. unilateral or bilateral nuclear freezes since the early 1960's, and they have all gone unreciprocated by the Soviets.

In 1958, the United States and the Soviets agreed upon an unwritten moratorium on nuclear weapons testing in the atmosphere. In the fall of 1961, the Soviets suddenly and treacherously broke out of this moratorium with a dangerous series of high yield atmospheric nuclear weapons tests. So a weapons testing freeze has already been tried, and the Soviets violated it.

In 1964, the United States unilaterally froze production of highly enriched uranium for nuclear warheads. No new highly enriched uranium for nuclear warheads has been produced by the United States since 1964. The Soviets have completely failed to reciprocate this U.S. unilateral restraint, and in fact the Soviets have constructed several completely new plants for the production of additional highly enriched uranium since the U.S. unilateral freeze of 1964.

In 1967, the United States unilaterally froze the number of intercontinental ballistic missiles (ICBM's and submarine launched ballistic missiles (SLBM's that the United States had. The United States has added no additional or new ICBM's and SLBM's since 1967, and in fact has recently unilaterally deactivated 54 ICBM's and 160 SLBM's. The Soviets surpassed the United States levels of ICBM's and SLBM's in 1969, and kept on building until they had a total of 648 more than the United States by 1972. Now they have at least 844 more ICBM's and SLBM's than the United States.

In 1972, the United States and the Soviets signed the SALT I agreements. SALT I was portrayed as a freeze on United States and Soviet strategic forces. Since 1972, the Soviets have added over 6,000 new nuclear warheads, at a rate of 300 ICBM's and SLBM's and 1,000 warheads a year. The Soviet counterforce threat to the United States has grown by a factor of 5 since 1972. Thus there was no SALT I freeze.

In 1977, President Carter unilaterally canceled the U.S. B-1 bomber. In 1978, the United States unilaterally canceled the neutron warhead. Thus the United States unilaterally froze two new weapons systems. The Soviets did not respond. Indeed, former Defense Secretary Brown has stated that when the United States builds strategic weapons, the Soviets build, but when the United States stops building, the Soviets build. As Soviet SALT negotiator Shchukin stated in 1978 when asked why the U.S.S.R. fails to respond to the U.S. unilateral restraint, "We Soviets are neither philanthropists nor pacifists."

In March 1982 Soviet President Brezhenev announced a unilateral freeze on their deployment of SS-20 IRBM's. Three months later, the State Department announced that instead of freezing their SS-20's the Soviets had continued to construct additional SS-20's. Over 54 additional SS-20's have been deployed since Brezhnev's unilateral freeze statement.

Thus the facts are clear. There have aready been several U.S. unilateral and United States-Soviet bilateral freezes on nuclear weapons, and all have failed, due to Soviet failure to reciprocate.

Former President John F. Kennedy stated on March 2, 1963:

We know enough now about broken negotiations, secret preparations and the advantages gained—never to offer again an uninspected moratorium.

On November 8, 1961, John F. Kennedy stated:

The Soviet Union tested while we were at the table negotiating with them. If they fooled us once, it's our own fault; if they fool us twice, it's our fault.●

JOURNALISTS ARRESTED IN THE PHILIPPINES

● Mr. KENNEDY. Mr President, when Philippine President Ferdinand Marcos paid his state visit to the United States September 15-21, Senators CRANSTON, MOYNIHAN, PELL, and TSONGAS joined me in expressing concern that his reception here must not be misinterpreted as a sign that the United States condones repression and human rights violations in the Philippines. We urged the administration not to convey an impression of indifference, but rather to take advantage of the Marcos visit to demonstrate support for the people of the Philippines in their struggle for true democracy and human rights.

In light of that background, I am even more distressed by the course of events since President Marcos returned to the Philippines. On December 7, Jose Burgos, Jr., the editor and publisher of the English-language newspaper We Forum was arrested and the publication closed. A number of staff writers, columnists, and con-

tributors were also seized under Presidential order on extremely dubious charges of subversion and involvement in a conspiracy to overthrow the Government.

We Forum had become an outlet for writers of newspapers closed under martial law in the Philippines. Its closure make clear that serious repression persists in the Philippines, under the national security regulations following the cosmetic decision to lift martial law.

The Philippine authorities claim to have discovered evidence that We Forum had links with "subversive" groups—such as the democratic Movement for a Free Philippines. Their ludicrous charges include disrupting and overthrowing the Philippine Government by force, deceit, violence, and illegal means through false and libelous articles. The Government is also cracking down on church leaders and missionaries, again seeking to label them "subversive" elements in an increasingly repressive society.

In addition to Mr. Burgos and his staff, the charges include Joaquin "Chino" Roces, the retired publisher of the Manila Times, the leading newspaper before martial law. Because of his advanced age, Mr. Roces has been kept under house arrest instead of being jailed. He told the court that he did not wish to dignify the charges against him be defending himself.

Emboldened by his meetings with the Reagan administration and by support received during earlier visits of the Vice President and Secretary of State, President Marcos has returned to the Philippines and made a mockery of freedom of expression, throwing into arbitrary detention leading journalists whose crime had been to criticize his dictatorship.

I therefore call on the Government of the Philippines to release these and other political prisoners and to move forthrightly to protect freedom of expression and political participation. I hope that the Reagan administration will also make clear, at long last, our strong disapproval of the continuing pattern of basic human rights violations taking place in the Philippines. I request that the letter which Senators CRANSTON, MOYNIHAN, PELL, TSONGAS, and I sent to President Reagan last September be inserted at this point in the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., September 13, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are concerned that your decision to welcome President Marcos of the Philippines for a state visit to the United States will be misinterpreted as a sign that your Administration condones the repression of the Marcos Government in the Philippines and its continuing violations of basic human rights.

We share the warm feelings of friendship by the overwhelming majority of Americans for the Filipino people. Americans and Filipinos fought side-by-side with great courage in World War II, and our shared dedication to freedom and human rights led to full independence and democracy for the Philippines after the war.

Unfortunately, there is convincing evidence, confirmed by the Department of State, that the government of President Marcos has been far from faithful to these ideals. Martial law, imposed ten years ago this month, endured for nearly a decade, only to be replaced in January 1981 with equally repressive national security measures. Throughout this period, the Marcos Government has engaged in persistent persecution of the press, labor, church, students and business leaders. There have been numerous reports of arbitrary detention, torture and disappearances; current instances of these cruel practices are described this week in the U.S. press.

The visit of President Marcos is an opportunity for you and your Administration to demonstrate America's support for the brave citizens of the Philippines in their struggle for true democracy and against the serious violations of human rights by the Marcos Government. We believe that this message is an essential reflection of the fundamental values of our nation—and is necessary to neutralize the unfortunate impression of indifference to repression created by the visits to Manila last year by Vice President Bush and Secretary of State Haig.

We strongly agree that an important element of our national security is the stability of nations that are our allies. But our allies are ultimately the peoples in those countries. It is their pleas we must hear and their rights we must heed when their government becomes their oppressor instead of their protector. The security of the United States does not require our support for the repression of the Filipino people.

We hope, therefore, that you will make the Marcos visit an occasion to enhance the cause of human rights in the Philippines. This visit can be an important signal to all peoples who look to the United States for leadership and hope, but who all often see only the news reports of American officials embracing and toasting their oppressors.

Sincerely,
Claiborne Pell.
Alan Cranston.
Edward M. Kennedy.
Paul E. Tsongas.
Daniel Patrick Moynihan.●

WOMEN, SMOKING AND CANCER

● Mr. PELL. Mr. President, I wish to call to the attention of the Senate an excellent article on the increase of cancer among women who smoke cigarettes. It was written by a respected voice in medical research, Dr. William G. Cahan, an attending surgeon in thoracic service at Memorial Sloan-Kettering Cancer Center and emeritus professor of surgery at Cornell University Medical College.

Dr. Cahan alerts us to some alarming facts: among women, lung cancer deaths increased by 353 percent from 1950 to 1977, and deaths from larynx cancer increased by 333 percent. These increases directly parallel a dramatic increase in smoking by women in the past 30 years, and Dr. Cahan's discussion of the problem and his warning to all smokers deserve sober study. I ask that his article be reprinted in its entirety in the RECORD.

The article follows:

"YOU'VE COME THE WRONG WAY, BABY!"

(By William G. Cahan, M.D.)

Horrifying, indisputable fact: Woman's mortality and incidence (morbidity) rates for tobacco-induced cancers are rising precipitously.

Item: (1950–77), lung cancer deaths are up 353 percent [1 2] (nearly 1000 percent since 1930!)[3] and will soon pass those of the breast as the #1 cancer killer.[4]

Item: larynx cancer up 333 percent[1 2];

Item: bladder cancer up 54 percent[1 2];

Item: mouth[5] and pancreatic[6] cancers up and approaching the rate in males.

The rapid climb in these grim statistics fulfills the prophecies made a generation ago when women began smoking in earnest. Such predictions were based upon observations in male smokers that tobacco-related diseases including cancer, emphysema and cardiovascular problems (120,000 excess deaths/year)[7] usually require 20–40 years to develop.

These dramatic increases show little sign of diminishing and as there is a huge unheard-from reservoir of over 25 million female smokers,[7] they will probably continue for some time.

No other biological influences can account for this phenomenon although hard-line apologists interested in maintaining the habit claim that these statistics actually reflect women's rising employment and increased exposure to industrial fumes, exhausts and dust-ridden atomospheres. They also blame urban air pollution. These arguments are easily refuted, for women rarely work in industries notorious for being carcinogenic. There are few, if any, in uranium mining or exposed in the workplace to asbestos, polyvinylchloride, arsenic, chromium, nicker, coal, natural gas and graphite. Besides, tobacco-related diseases are occurring predominantly in smoking non-industrial workers such as stenographers, saleslades, executives, housewives, and bear little correlation with whether they dwell in rural or urban areas.[9]

Both sexes usually begin smoking in their teens and for combinations of the same reasons: peer-pressure, imitation, acceptance, social insecurity, rebelliousness, advertisements, and the aping of role models such as rock, TV or movie stars, teachers and/or parents. Very young girls have an additional incentive for they are persuaded that smoking makes them look older and therefore more attractive to older boys.

Once begun, the habit has been likened to an addiction and is usually very difficult to stop. Although convinced that smoking is unhealthy, smokers often justify continuing for a variety of cliché-ridden reasons ("I've smoked too long, it's too late to stop," "My boyfriend smokes so I like to keep him company," "We're all going to die of something anyway", etc.). Women, in particular, resist quitting for fear of gaining weight.

Any desire to quit is made more difficult by the many daily influences to which smokers are subjected, the cumulative effect of which is to create a climate (or en-

Footnotes at end.

vironment) conducive to perpetuating the habit.

For example, larger numbers of women than ever before are now employed. In meeting the demands of the competitive atmosphere of the marketplace, they claim that they need a simple, readily available method of reassurance and relaxation. Besides, smoking (and drinking) imparts a sense of "gender equality" and comaraderie with male associates.

Even more persuasive are cigarette advertisements and promotional strategies. Experts in these fields, ever mindful of the vast, lucrative female market, are constantly alert to trends that could be exploited to benefit their brands. Thus, by neatly fusing the increasing emphasis and awareness women place on appearance with their fear of being overweight, they suggest in their ads (often subliminally) that smokers are slim, sleek, sexy, and successful.

One of the better known advertising campaigns capitalizes on women's newly emancipated "self" and urges them to kick over the traces, free themselves from old-fashioned restraints and taboos—and smoke, "baby".

Some companies even go so far as to sponsor women's athletic events such as tennis tournaments, using this device to associate their brand with a "healthy, outdoorsy" activity, while deliberately ignoring the inconsistency that any participating players interested in fitness and stamina would not dare smoke and that tobacco use is incompatible with professional athletics.

These seductive measures and influences are patently synthetic, transparent and cynical. As a consequence, it puzzles those who admire and are impressed by the idealism, and accomplishments of the women's contemporary movement to observe how they, who are often in the forefront of concerns about health and good causes and who militantly resist being exploited, should have so readily embraced and persisted in such manmade lethal habits as tobacco (and alcohol).

This lemming-like movement began years ago, around WWII. At that time women were less aware of the tobacco/health connection which was not as clearly evident as it is at present. However, by now, they must certainly realize its many dangers and that they, in particular, have a great deal to lose: those who smoke heavily during pregnancy produce newborns who are smaller [10] or who have an increased chance of miscarriage; [11] on average, their children grow less and have reduced learning capacities; [12] in combination with the Pill, smoking markedly augments the chances of phlebitis and cardiovascular disease; [13,14] there has been a severalfold increase in fatal and non-fatal heart attacks in younger women who smoke as well as an increase in subarachnoid hemorrhages.[15] Their appearance suffers: chronically bloodshot eyes, stained teeth, and skin that wrinkles and ages prematurely; besides having an annoying, hacking "cigarette cough" and post-nasal drip, smokers often reek of stale tobacco on their breath and clothes, and their homes are ash-ridden, spotted by cigarette burns on furniture and rugs and more liable to accidental fires.

Over and beyond these hazards and unbecoming traits, women's instintive nature to protect children must be troubled by the enormous number of young people, girls now more than boys, who smoke (some estimate that each day several thousand children light up for the first time). Not only are more starting earlier than did their elders, (many as pre-teenagers from 8-12), but they are also smoking more heavily.[16] If, in addition, one considers that young growing tissues are more susceptible to carcinogens[22] than mature ones, this generation's children are headed on a collision course with cancer and other tobacco-induced diseases. Consequently, unless their smoking is curbed or a safe cigarette found, in 20-30 years they will fulfill the same dire predictions once made for their parents, except that many times the present epidemic numbers will be victims; moreover, these diseases will occur at an earlier age.

Dismal facts, these, but some hope is in sight for although millions still smoke and many take up the habit daily, statistics show that with the exception of older teenage girls (17-18), adults and children are beginning to quit.[17] This means that by dint of great effort, patience and funding on the part of dedicated and aroused individuals, public service organizations and Surgeons General, the anti-smoking message is getting across and there are 33 million ex-smokers in the United States.[18] As a result, an increased awareness of hazard and a rising feeling of indignation is replacing the old, resigned, complacent attitude. What was once considered as the "in", the "everybody does it", thing to do, is no longer fashionable. More frequently, one hears boasts about personal trumphs over the habit. Non-smokers are increasingly outspoken at social and business gatherings and openly express resentment at being passively exposed to the smoke exhalation of others ("Stop smoking, you're raping my lung!"). Restricted areas for smoking are being set aside in public places. Legislators are trying to change the present innocuous and "invisible" warning label on cigarette packages and advertisements to ones with stronger messages. The young are being exhorted by role models, athletes, lecturers and films. Slogans abound: "Smoking stinks!", "With a cigarette for a friend, you don't need an enemy", "Smoking is punishable by death!". Even cigarette manufacturers, recognizing the public's concern, are 90% committed to filters and vie with each other for lower tar/nicotine levels (their tacit, albeit reluctant, admission that cigarettes are harmful).

However promising these facts and figures may be, the bad news still far outweighs them, for a major threat of holocaustic proportions persists: 37 million Americans will die prematurely from smoking related causes unless effective measures are instituted without delay.

This clear, present and future danger cannot be diminished without a continuous, major effort by all segments of society including government, physicians, teachers and anti-smoking societies. It is an area in which women in particular can play an enormously effective role and although perhaps this is less melodramatic, it is unquestionably equal in importance to their current committments against alcohol and drug abuse in the young.

To do so, women must first understand that there is no "safe" cigarette no matter what the filters and low tar-nicotine levels suggest. Second, they should feel a sense of outrage at the way they and their children have been manipulated by the tobacco interests. Third, the main thrusts of their effort must be directed not just at their own habit but at preventing children from starting and encouraging them to quit. As anyone who has dealt with young smokers knows, this is no easy assignment. Nevertheless, women's persuasion will gain stature and force if the vast legions of smokers themselves give up the habit. Although for may this is a difficult decision, they can have recourse to many varied aids designed for this purpose: stop-smoking groups, hypnosis, acupuncture, "gimmicks' of all sorts such as staples in ears, elastic bands on wrists to be snapped instead of lighting up, water filters, water filters, nicotine gum, etc.).

For those who worry about weight gain, recent studies [20] show that one-third actually lose weight. These are people who start a general fitness program coincident with quitting and eat more sensibly and burn more calories by exercise. One-third neither gain nor lose, for their life style and eating habits remain unaltered. One-third gain weight for combinations of reasons, the dominant one being the subsititution of compulsive eating for compulsive smoking ("oral craving" in another form). In addition, as taste and smell improve so does their metabolism. However, this form of weight gain is reversible and once the tobacco habit is overcome, the difficult but not insurmountable task of dieting can be pursued.

In spite of good intentions, knowledge of the hazards, anti-smoking aids, tirads from family and friends and warnings from physicians, all too many women remain fixed in the habit. One often hears: "I've tried, God knows how many times, but it is impossible to stop".

Perhaps those who react this way may be encouraged to know that professionals who deal with smoke-cessation programs have found that the majority (70 percent) [21] are capable of quitting and do so by individually selected methods and time schedules. Some stop easily and forever following their physicians advice to do so; others stop and start many times before finally quitting; some quit using group therapy or by being inspired by the thought-provoking pause of the annual Great American Smokeout Day. Quite a few are influenced by a cancer tragedy in someone near and dear. Still many remain intransigent and seemingly in thrall to the habit. However, 9 out of 10 of the most inveterate smokers find themselves suddenly capable of quitting under one set of circumstances: when they first view the tell-tale shadow in their *own* lung x-ray or are faced with the loss of their vocal cords or bladder.

If only it were possible to transmit to stubborn smokers, the anguish that attends this catastrophic moment and the remorse felt when it is realized that this tragedy-in-the-making was self-induced and preventible; if they could only imagine the devastating impact of this news upon their family, friends and economic status, it might jolt them out of their complacency and feeble excuses. But unfortunately, as with forewarning children, persistent smokers do not believe they will become victims or will ever die.

One final point about quitting: Liberation—a "buzz" word these days, particularly in women—can take many forms. It has been used by many ex-smokers to describe the feeling that follows cessation of the habit: as if they were "reborn", or have "come alive", or "rejoined the living". No longer are they enslaved by frantic searches for cigarettes in purses or in one's home on weekends. Gone are the expense and demeaning complusion to buy several cartons at once (lest one be "caught short"); or to light up in public places, social gatherings, when using the telephone, drinking coffee, doing office work, etc. In its place a long

lost sense of well-being and fitness returns which, in no small way, is augmented by the shedding of the nagging feeling of guilt smokers usually have.

Time is short; a great deal of damage is being done[23]. The stakes and rewards are high for no other health measure has such a vast potential for improving the well-being of a nation. This is one that will take a great collective and individual efforts to resolve.

Women rise to challenges and as members of groups, movements and societies can insist that anti-smoking measures be frequently discussed and made part of their platform or program. As individuals, they can teach by example and support those organizations (Heart, Lung, Cancer) that have long been dedicated to eliminating the habit.

Such a conjoined effort ("Never underestimate the power of a woman") cannot fail to have an important impact and help create an environment more inimical to the habit in which even intrepid smokers will find support and encouragement: for quitting, like starting, can be infectious and spread, what is more, children reared in this atmosphere cannot help but be influenced by it and will thereby be spared the painful discovery of what it means to come the wrong way!

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[21] Smokenders Inc., Norwalk, Connecticut, 1982.

[21] Alcohol, another major hazard in children, is a co-carcinogen and in combination with tobacco increases the probability of cancer formation.

[23] In the time taken to read this article (about 6 minutes), approximately 10 children have started smoking, and 3-4 Americans have died of a smoking-related disease.●

A TRIBUTE TO G. H. "MONK" WRIGHT

● Mr. HEFLIN. Mr. President, on Monday, November 8, 1982, Alabama lost one of its most outstanding public servants when G. H. "Monk" Wright passed away at the age of 84.

I am very sorry that Mr. Wright is no longer with us, for he was one of those rare individuals who put service to his community ahead of personal gain or advancement. It is because of people like him that towns and States become outstanding. Alabama, and his countless friends, will miss him.

Monk Wright was a lifelong resident of Auburn. He was born there in 1898, was educated there, and graduated in 1919 from Alabama Polytechnic Institute, which is now Auburn University.

Mr. Wright's public service began with his first term as mayor, starting in 1944. He would continue to serve as Auburn's mayor for the next 24 years, stepping down in 1968.

During his six terms as mayor, Mr. Wright made many city improvements, and became known for his good deeds on behalf of Auburn. He became known as "Mr. Auburn" for his long years of effective public service and community involvement.

Mr. Wright was an ardent supporter of his alma mater. He served as a member of the Auburn University Board of Trustees from 1951 until 1963. In addition, he attended almost every Auburn home football game from 1908 until his death.

Monk Wright was an example of a type of individual that the world needs more of—the type of individual who gives endlessly to his community, Alabama has lost a great man with his passing.

Mr. President, I ask that an article from the Auburn bulletin be printed in the RECORD.

The article follows:

[From the Auburn Bulletin, Nov. 10, 1982]

FORMER CITY MAYOR DIES; RITES TUESDAY

Funeral service for former Auburn Mayor G. H. (Monk) Wright was held Tuesday, Nov. 9 at 2 p.m. at the First Independent Methodist Church, Auburn. Burial was in the Auburn Memorial Park.

Wright, 84, of 320 East Thach, Auburn, died Monday, Nov. 8, 1982 at the East Alabama Medical Center.

For 18 years he served as Auburn Mayor and was a member of the Auburn University Board of Trustees from 1951-63. His term of mayor began in 1944 and he finished his service in that capacity in 1968. He owned his own insurance business, Monk Wright Insurance Agency.

Wright was born on June 14, 1898 in Auburn where he was reared and educated. A devout Auburn fan, he attended almost every home Auburn University football game since 1908.

Wright was graduated from Auburn High School in 1915 and he was graduated in 1919 from Alabama Polytechnic Institute (Auburn University).

Survivors include his wife, Louise M. Wright, Auburn; two sons, Lee County Circuit Court Judge G. H. Wright, Auburn; and John Wright, owner of Color Kwik Photo Studio in Auburn; one daughter, Mrs. Ann Joiner, Hilton Head, S.C. and seven grandchildren.

Frederick's Funeral Home was in charge of arrangements.●

AL FOX OF THE BIRMINGHAM NEWS RETIRES

● Mr. HEFLIN. Mr. President, one of the true blessings of our society lies in the existence of a free press. The news media, in many ways, contributes greatly to the very strength of our country.

Here in the Senate, as in all phases of public and private life, we are familiar with those members of the media who cover politics and politicians. We see them in the press galleries; watching the proceedings on the floor. We talk with them. We answer their questions. We read their stories. All the while, we realize that their job is a difficult one, and that, in their own way, they are also public servants, giving the public a view of their form of government.

Recently, the public of Alabama lost one of the truly fine members of the news media, when Al Fox, chief political reporter of the Birmingham News for 21 years, retired.

Al had become almost an institution in Alabama politics. He had covered the State legislature, the famous Selma to Montgomery march, the George Wallace campaigns—on both the State and national level, and every Presidential race for more than two decades.

He had been around the State capitol for so long, had paid such diligent attention to senate proceedings, and had become so respected by others on the political scene, that the real senators generally called him Senator Fox.

Al had joined the Birmingham News in 1961, after earlier stints with newspapers in Vicksburg, Miss., and Anniston and Gasden, Ala. He was an outstanding reporter not only because he took pride in his work, but also because he thought it important that the public be given a full and fair view of their Government.

For more than 20 years, Al Fox has been a leader among newspaper reporters in Alabama. He is to be congratulated upon his retirement, but, without a doubt, he will be sorely missed by all who knew him, as well as by all who read his stories.

I request that articles from the Birmingham News and the Montgomery Advertiser be printed in the RECORD.

The articles follow:

[From the Birmingham News, Nov. 21, 1982]

ASTUTE AL FOX WRITES FINIS TO LONG CAREER REPORTING ON POLITICS

(By Frank Sikora)

In an era when newsmen began sporting beards, mustaches and unshorn hair, he was the maverick, the rebel.

He looked like a Marine sergeant: burr haircut, stern visage, a growling voice. He usually had a cigarette burning; he never drank a cup of coffee—it was always two or three at a time.

But Al Fox, the veteran political reporter of *The Birmingham News*, was not nearly so bearlike as some thought him to be. When returning from an assignment, the first thing he would do was call his wife, Mary, to let her know he was back.

After 21 years *The News*, most of it covering politics in Alabama, Fox retired last week.

He had covered every political campaign since the early 1960s, much of it dogging the trail of George Wallace through the back country of this state to the far ends of the nation when Wallace sought the presidency.

"I was there when he made his famous 'segregation forever' speech," Fox recalls. "Sure, I covered that campaign. I covered those campaigns when they were still making six and seven stops a day, holding rallies at shopping centers and in front of courthouses.

"That's changed a great deal now. The pace has slowed down. In those days it was more exciting. Big crowds. The hillbilly bands. People waving the Confederate flag and the bands playing 'Dixie'."

In one of the few times Fox was not with Wallace on the campaign trail, Wallace was shot down by a would-be assassin while running for president in 1973. That tragedy in a Maryland parking lot crippled Wallace's legs—and his chances for national political office.

Fox became such an astute observer of politics he probably knew more than most legislators. Some of those lawmakers frequently sought his advice. Many others called him up to seek his counsel when running for office.

When Wallace was preparing to make his "stand in the schoolhouse door" at the University of Alabama in June 1963, Fox was on the scene.

The night before, he had heard the Ku Klux Klan was holding a rally in a rural site near Tuscaloosa.

He and a photographer slipped in on the outskirts of the crowd, which numbered several hundred.

"We were doing all right," he recalls, "until this great big burly Klansman caught a glimpse of the camera under the photographer's coat and says, 'Who the hell are you?' He began saying some ugly things and a bunch of them gathered around.

"Well, just about that time, Robert Shelton, the KKK imperial wizard, saw me and came up, says, 'Hey, Al, you come to see us burn a cross?' And I took a deep breath and nodded. So Shelton says, 'OK, you tell us when you're ready and we'll fire it up.' We were glad when that night was over."

He also covered the Selma-to-Montgomery march in 1965.

"It was hard to find a telephone in that rural area," he said, "so I found this store in Lowndes County that had a pay phone. So we went in there and told the man we wanted to rent it. Paid him $25 or so. I told him anyone could use it, but when I came in I wanted to have it cleared.

"So later that day I had to call The News and went in there. While I was on the phone I saw Rex Thomas of The Associated Press. So he was in a hurry and stood there waiting. Finally, I got done and he goes to use the phone.

"The store owner says to him, 'You can't use that unless you clear it with Mr. Fox.' So Thomas look at me and says, 'Can I use your phone, damn it?' So I laughed and told him to go ahead."

On election nights, Fox was an institution. He would come into the newsroom with three or four cups of coffee, sit down and start analyzing returns.

His telephone would ring endlessly. Candidates wanted to know how they stood in a certain race. One night he tired of it.

Turning to another reporter, he said, "If anyone else calls for me, tell 'em I ain't here. I can't get anything done."

With that, he went to another desk across the room. The phone rang again.

"Hey, Fox," called the reporter, "you got a call over here. What's your number over there?"

"Damn it," he snapped, "I told you I'm not here."

"What's your number?"

Fox was waving his arms furiously and shaking his head. By then the reporter got the number and transferred the call.

Fox picked it up.

"Yeah?" he growled.

Then he straightened up.

"Yes, sir," he said.

The caller was George Wallace.

Fox also covered others running for president besides Wallace; in fact, he has met every president since Truman.

There is a tape that was made as Fox interviewed Ronald Reagan during the 1980 campaign that shows Fox's single-mindedness when pursuing a story.

Reagan, running hard for the White House, had just delivered a speech to the Birmingham Jaycees.

Fox, riding in the back set of a limousine bearing Reagan to the Birmingham Airport, was reading from a set of written questions.

"One of the problems facing the steel industry today—" Fox began.

Suddenly, Reagan interrupted.

"Oh my God!" he exclaimed.

The president-to-be had glanced back at the trailing motorcade just as a Birmingham police officer lost control of his motorcycle and flipped over.

"Oh, he's all right, I guess," said Reagan, still peering out the back windshield. "He's on his feet . . ."

Silence from Fox.

"The motorcycle back there, one of our motorcycle policemen," continued Reagan.". . . I just turned in time to see the motorcycle rolling down the road, bouncing around. But he's on his feet . . . Oh, wow!"

Silence from Fox.

Reagan turned away from the window, shaken at what he had witnessed.

Fox, in the same monotone, continued his question: "—is the problem of foreign imports . . ."

A native of Tennessee, Fox served in the U.S. Navy in World War II and Korea, stayed in the Naval Reserve and retired as a commander.

He began his newspaper career in Vicksburg, Miss.—where he met Mary—and later was with *The Anniston Star* and *The Gasden Times*. He joined *The News* in 1961.

He is the father of two. Jennifer is a graduate of Troy State University and earned her master's degree from the University of Alabama in vocational rehabilitation. She works for the State of Alabama as a rehabilitation counselor.

Peck is a graduate of UA Law School. He passed the bar and now works in Washington with the staff of U.S. Sen. Howell Heflin.

This past election was Fox's last as chief political reporter for *The News*. He covered it in his usual style, showing up with so much coffee that one reporter marveled, "Fox must have a cast-iron stomach."

And it was refreshing to see that he also had been to the barber shop.

[From the Montgomery Advertiser, Nov. 17, 1982]

SENATOR FOX

Al Fox retired yesterday after 22 years as chief political reporter for *The Birmingham News*. It is probably his misfortune not to have died at the typewriter, because for the remainder of his life he will likely be plagued by well-meaning tormentors wanting to know why he doesn't write a book.

At the same time, come the next legislative session, there may be a handful of Capitol clerks who take his absence to mean that Mr. Fox was among those hapless souls who were defeated for re-election. Perhaps because of his seniority, or his diligent attention to Senate proceedings from the press table, or because legislators drew from his experienced observations, real senators generally called him Senator Fox.

In fact, Mr. Fox's by-line was so well-known that four years ago he received a telephone call from a young man who told the journalist he was thinking about running for the Senate. "How do I go about it?" he asked. Mr. Fox told him he needed to go down to party headquarters, pay his filing fee and start kissing every baby in sight. A few months later the fellow called again. It was the morning after the election. "Well," he told Senator Fox, "I won. Now what do I do?"

That particular senator was reelected earlier this month without opposition. As for this year's newcomers, they're on their own now.●

THE CHEMICAL FRONT

● Mr. GRASSLEY. Mr. President, although the Senate will be unable to finish its work this session on H.R. 5203, a bill to amend the Federal Insecticide, Fungicide and Rodenticide Act, I would like to take this opportunity to share with my colleagues an article that points to the need for pesticides to assure an abundant supply of health-giving food. This article, printed in the September issue of Custom Applicator, was written by Dr. E. E. Waller, executive director of the Midwest Agricultural Chemical Association representing chemical business throughout the Midwest. Dr. Waller makes a number of very important arguments that will be helpful to my colleagues during their future consideration of this legislation. The article follows:

THE CHEMICAL FRONT

THE BEST ARGUMENT FOR USING PESTICIDES IS BEATING HUNGER

"Why Pesticides? H-u-n-g-e-r."

This bumper sticker philosophy caught my eye on a recent trip, and in a virtual sea of bumper stickers, this particular one provided considerable food for thought.

The concise message on that automobile bumper was as clear as it was short, and it should remind us of the bottom line in our profession. In an increasingly volatile world where a growing population, traumatic events and rising expectations make pesticides and their proper application more and more important, we as the pesticide professionals play a vital role in alleviating hunger.

And yet, the swamp of information, misinformation and disinformation about our profession may not always provide a clear notion of the true importance of pesticides to the world's survival. What is obvious to us may not be so clear to the public unless each of us takes the responsibility of providing a practical education on our business to those with whom we share our business and personal lives.

If we are "too busy" or "too shy" to educate, if we decide to leave opinion making to the so-called experts, we should not be shocked when articulate proponents of negative or simplistic ideas suddenly cramp our business style or put a crimp on some aspect of crop protection operations.

We can take long strides toward helping people obtain the necessary input needed for wise decisions. All it takes is a little common sense, the use of facts instead of emotion, clarity, coordination with public relations activities of manufacturers and associations and a spirit of cooperation.

As we look over the national and international scenes, we note that the wise use of pesticides carries significant weight in the adequate production of food and fiber. Some current items of interest include:

INTERNATIONAL NUTRITION AND PESTICIDES

1We know the key role pesticides have performed in America's agricultural abundance. We have noted problems in Polish and Soviet agriculture when a creaky bureaucracy attempts to cope with an inadequate pesticide posture.

In the Middle East, following a speech in which the prime minister of Turkey stressed the importance of agriculture and its chemical inputs in a market enocomy, Turkish radio and television stations announced that 95 million lira worth of pesticides had been exported from Turkey to other Middle Eastern countries in the first five months of 1982.

A report from the United Arab Emirates quoted the minister of agriculture and fisheries as emphasizing the importance of national and international food security. He noted that a recent Islamic Conference on Food Security and Agricultural Development discussed plans to alleviate food shortages in poorer countries. One plan called for the control of pests and plant diseases.

DISTANT SHORES

The U.S. agriculture export market amounts to over $40 billion annually, so many of the crops you are spraying today could possibly be sold overseas tomorrow. This astonishing figure does not include other vital aspects of the American balance of payments, such as the export of agriculture chemicals, technology and that old American professional know-how and assistance.

OTHER KEY ISSUES

There are still many key issues that deserve our attention closer to home. They include inhibitions on spraying by local authority, adequate patent life (and protection of costly research) to encourage further technological advancement and "ag unity." While recognizing the importance of the world scene, we must not let it overshadow issues in the smallest village here.

We have a multitude of township, city, county, forestry, district, special zones, utility and railroad right-of-way and state levels of authority, and each is capable of affecting our jobs as pesticide professionals for the better—or the worse.

For example, on June 1 Minnesota changed its metropolitan Mosquito Control District from a voluntary district into a mandatory one (Chapter 579). According to an official state publication, the district can enter private property to control mosquitoes during an encephalitis outbreak.

Some 80,000 constituents recently returned questionnaires to a Midwestern senator, and some 61.4 percent indicated support for transfer of responsibility for a number of federal programs to state and local governments.

Some of the spirit of decentralization will affect the use of pesticides, so we must be alert to developments and be prepared to help with the decision-making process from the highest state office down to the smallest hamlet.

Patent protection and the ongoing perils of FIFRA consideration are complex, yet they are not only the concern of experts in the boardroom and in government halls. Each of us should look into this matter and think out what is needed to provide the incentive for the heavy research and development costs for future technological strides in pesticides.

We do not wish our dealers, applicators, farmers and consumers to find no light at the end of the tunnel some day if an avalanche of "disincentives" inhibits America's technological posture.

AG UNITY

In a recent hearing, an official commented that no representative of one of our commodity crops affected had bothered to show up. Fortunately, an articulate member of a pesticide group "pinch hit" for the absent individual and a possibly unfavorable action was avoided under traumatic and high pressure conditions.

A myriad of conflicts and problems resulting from lack of coordination can be alleviated by a simple innovation from South Dakota called "ag unity." This concept bands together groups ranging from soil conservation districts to fertilizer and agriculture chemicals associations to wheat producers to vocational agriculture teachers to sheep growers. The group's activities range from telephone information reports to television educational programs.

You can add many issues in great depth to those briefly outlined here as food for thought and additional study by all of us. In the words of a U.S. Department of Education official who recently announced a reduction of non-essential publications, "There's a need for information, but not for fancy layouts."

The need for plain, not fancy, information is there. Work together, and keep your eyes open for issues that need plain, understandable explanation.

Once you identify the issue and find a clear way to describe it, by all means tell it as it is. Who knows? Sharing your ideas may help the one previously undecided (or even negative) individual tip the decision balance in a vital issue affecting you and American agriculture.

The bottom line? As the freeway philosopher said: "Why pesticides? H-u-n-g-e-r."●

THE CENTENNIAL OF HAMILTON, ALA.

● Mr. HEFLIN. Mr. President, as the senior Senator from the State of Alabama, I am quite pleased and proud to congratulate the citizens of Hamilton, Ala., on their 100th anniversary on November 17, 1982, marking the date that the name of the Toll Gate Post Office was changed to Hamilton Post Office in honor of Captain Albert S. Hamilton.

Hamilton is situated on the Buttahatchee River, in central Marion County in northwest Alabama. The first pioneers came to this area via the Military Road to New Orleans. Andrew Jackson camped near Hamilton on his way to and from the Battle of New Orleans during the War of 1812. In fact, the Tomb of the Unknown Soldier of the War of 1812 is located just south of Hamilton. Early settlers included the Ragsdale, Terrell, Clark, Hall, MacFadden, and Crenshaw families.

In 1822, the Alabama Legislature made the site a tollgate for stagecoaches travelling the Military Road between Washington, D.C., and New Orleans. For this reason, the first name given to the settlement was "Toll Gate." In 1874, "The Toll Gate Farm" was sold to Capt. Albert J. Hamilton, a captain in the Civil War, who built a mill and a store. In 1882, Captain Hamilton donated 40 acres of land to the county on the condition that the county seat be moved from Pikeville. The county seat was so moved and on November 17, 1882, "Toll Gate" became "Hamilton."

The town flourished from the trade of cotton which grew in the fertile fields surrounding the town. Early builders of the town were Colonel Helvingston, General Gholson, Dr. M. H. Key, David Hubbard, and the Frazer, Fite, and Sargent families.

Today, the thriving community's economy no longer depends solely on agriculture, but has diversified to include industry and natural resources, such as timber, textiles, mobile homes, plastics, and ball bearings. This has enabled the town to become one of the major business centers in the area.

In celebration of this occasion, the J. C.'s sponsored a party and parade in downtown Hamilton on November 20, 1982. Other festivities included a beard contest, country music concert, a display of Captain Hamilton's belongings, photographs, and other relics of the town's history.

Mr. President, I commend the people of Hamilton on their 100th anniversa-

ry marking, not only an event in history, but also marking a spirit of pride and fortitude. It is truly a pleasure to represent the people of Hamilton in the U.S. Senate.●

CONCERNS REGARDING AMERICAN SCIENCE

● Mr. DODD. Mr. President, Dr. Edward Knapp was recently named by President Reagan to be Director of the National Science Foundation (NSF). He has been serving as Assistant Director for Mathematical and Physical Sciences of the NSF since September 1982.

Prior to his NSF post, Dr. Knapp was head of the Los Alamos National Laboratory's Accelerator Technology Division in Los Alamos, New Mex. During his tenure there he was involved in many pioneering scientific projects including controlled thermonuclear research and planning for the lab's proton accelerator. He specialized in accelerator physics and headed the research group that designed the accelerator structure for the facility. This work eventually led to the development of a compact electron accelerator used by many institutions for radiation therapy of cancer.

Dr. Knapp's scientific credentials are impressive and I have no doubt that he is familiar with the goals of the NSF.

Nonetheless, his nomination and some associated events coincide with evidence of a reduced Federal commitment to science. It may be useful at this point, therefore, to reflect upon the present administration's policies relating to science education and research.

The National Science Foundation was established as an independent agency of the executive branch of the Federal Government in 1950. Its charge is to promote advancements in science by providing support for scientific research and science education, and by cultivating the interchange of scientific information.

Unfortunately, in this administration, support for science education in the United States has declined drastically. For example, the previous administration's proposed budget for science education in 1982 was $111.9 million. The Reagan administration's 1982 revised budget request, however, was for only $9.9 million.

Until March 1982, the Science Education Directorate was one of seven directorates within the NSF. However, because of severe budget reductions, the directorate has been demoted to the Office of Scientific and Engineering Personnel and Education.

In addition, all funding for precollege and undergraduate science education support and research programs, which had traditionally been supported by this program, was eliminated. Science and engineering education is now limited to graduate fellowships only in the fiscal year 1983 Reagan budget request.

Mr. President, recent developments in science and technology throughout the world demand that emphasis on science education be increased, not decreased. It is axiomatic that only those nations having a scientifically literate society will be able to compete successfully in this new scientific technological era.

It is quite disconcerting to note that while other industrialized nations are increasing support and emphasis for science education at all levels in their schools, the U.S. support for science education is declining.

For example, approximately one-third of the Nation's 16,000 school districts require no more than 1 year of science for graduation. Even then, many courses are optional. By contrast, many industralized countries, such as the Soviet Union, West Germany, and Japan, provide a program of specialized courses, including biology, chemistry, and physics, which begin in the 6th grade and continue through the 12th and are required of all students.

Educational leaders must not allow the gap in knowledge of basic science between American students and other students to widen. The emphasis and support given to science education is not an academic question with no relevance outside the classroom. On the contrary, the successful interweaving of science education and scientific research has given the United States an advantage in many areas of practical scientific and technological achievement.

The decline in support for science edcuation is not the only science issue with which I am concerned. There is a second matter of equal importance, which, in my judgment, merits review.

I am somewhat apprehensive about the emerging emphasis on support of military science and research in the country. There is considerable evidence to suggest that the administration is indeed militarizing our science programs.

Several recent developments have led to this conclusion. For example, the fiscal year 1983 budget request for science R&D totals about $44 billion. However, the only real dollar increases are for military and space R&D.

In addition, the Department of Defense (DOD) is the only agency with a separate fund for the purchase of research equipment for university laboratories—the OMB canceled the NSF proposal for purchase of such equipment.

The military has an ample supply of funds designated for specific areas of science education and research in a time when student loans have been slashed, inflation has thwarted nonmilitary research, and science education programs within the NSF have been deleted. For example, the DOD awards are almost double that of the NSF for predoctoral chemistry students.

Dr. Margaret Burbidge, president of the American Association for the Advancement of Science, recently testified before the Senate Committee on Labor and Human Resources. She stated that the United States is currently investing about 50 percent—and this percentage is increasing—of its R&D funding in defense research. According to Dr. Burbidge, most of the increases in military research funding will go for weapons research.

I have thus far only briefly expressed my concerns in two areas—decline in support and militarization—that affect the quality of American science. There is yet a third area of concern, which, in my opinion, is of equal importance.

I am concerned about the politicalization of American science.

It is of paramount importance that the NSF, the Nation's largest source of nonmedical scientific research funds, continue to function as an independent agency promoting the advancement of science.

Mr. President, I believe there is reason to question the NSF's ability to function as an independent agency. I say this, Mr. President, particularly in regard to a perplexing event which occurred within the foundation during the early part of December.

That event, of which I am certain that you are aware, was Dr. Knapp's request for the resignation of three top NSF scientific administrators. These positions have traditionally been immune from the political process.

According to an article in the Washington Post on December 11, Dr. Knapp's request for these resignations was not based on any deficiency in performance on the part of these officials, but rather, was due to White House pressure. Dr. Knapp's defense for replacing these administrators was based on his desire to "make a team" while he was manager.

I think it appropriate at this time to reiterate the charge of the NSF; Support science education, science research, and insure a steady flow of scientists. These goals are of vital importance and should not be influenced by narrow political philosophies or partisan interests.

Such political philosophies and partisan interests are clearly reflected in the administration's strategy for arriving at levels of Federal support for R&D. According to the administration, the Federal role in support of R&D should be based on economic, rather than scientific needs.

In its 1982 Joint Economic Report, the Joint Economic Committee objected to the administration's R&D policy. According to the committee, the administration's R&D policy appears "to have been merely a byproduct of the decision to reduce overall Government spending" without consideration for the needs of the scientific community.

In my judgment, Mr. President, this is shortsighted and unlikely to give the American people the maximum benefit for their research dollars.

Dr. Vannevar Bush, FDR's Director of the Office of Scientific R&D during World War II, perhaps defined best the importance of science when he wrote ". . . without scientific progress no amount of achievement in other directions can insure our health, prosperity, and security as a nation in the modern world."

I urge Dr. Knapp to stay the course for scientific progress during his administration by taking a strong leadership role in reinforcing our national commitment to excellence in science. I extend to him my sincere congratulations on being named National Science Foundation Director and offer him my support.

Mr. President, I ask that the article "The Militarization of American Science", by Dan Greenberg, be printed in the RECORD.

THE MILITARIZATION OF AMERICAN SCIENCE

(By Daniel S. Greenberg)

WASHINGTON.—Now that so many politicians profess to see that research laboratories and high-tech industry are the wealth of the future, they ought to be aware of the bizarre distribution of the vast sums the federal government pours into research and development.

When they do, they will realize that the most prominent feature of federal R&D policy is multi-billions for defense and damn the fields of research essential for prosperity and health.

National security has always absorbed a big chunk of federal R&D spending, usually 40 to 50 percent, but, until recently, its share did not detract from research on cancer, energy and many other civilian programs.

The big change, starting late in the Carter administration and accelerating under President Reagan, gave defense the top priority for growth, while virtually all other fields have been standing still or losing ground to inflation.

In 1980, defense research spending totaled $13 billion, or some 40 percent of the federal total. This year, it is going up to an unprecedented $24 billion or 61 percent of Washington's R&D outlays. The percentages take on additional significance when it is realized that our major economic competitors spend very little of their government funds on military R&D.

Japan devotes less than 5 percent to weapons research while Germany puts in 12 percent. Of ominous note is that economically devastated Great Britain is the only industrialized nation that matches our share of government spending on military research.

While this has brought a bonanza for U.S. defense scientists in and out of government, times have been lean for many other fields of research that depend heavily on government support. Consider basic research in the health sciences. In 1980, government agencies provided $1.9 billion for this kind of research: two annual budgets later, the sum in almost unchanged—$2 billion, which works out to a decline when inflation is taken into account.

The slowdown in Washington's spending on health research translates directly into a slowdown in developing treatments for serious ills. The effects are as simple as that.

Among the projects stalled, for lack of $5 million a year, is a long-sought population study that might give clues to the origins of asthma. Another laggard in the austere budgetary climate is arthritis research. Meanwhile, cancer research, not long ago the most favored field of scientific study, has been declining in its over-all scale of activities.

The money problems extends to agriculture, too, which has pretty well exhausted its stock of scientific tricks, as can be seen in the leveling off in recent years of acreage yields for many crops. The contrast with defense spending is striking. While federal funds for basic agricultural science will rise this year by only $31 million to a total of $323 million, defense spending on basic science will go up by $145 million to a total of $828 million.

One effect of the boom in defense spending for science is that universities now recognize that the richest purse for scientific growth is at the Pentagon. Defense, for example, is planning to provide academe with $150 million for laboratory equipment over the next five years, plus money for scarce graduate fellowships.

The National Science Foundation, the civilian agency that normally tends to these tasks, has just about kept pace with inflation in recent years. Defense, on the other hand, is going up this year by 20 percent in its support of university scientists.

The budget numbers are huge and bewildering, but what they amount to is the steady militarization of American science as the U.S. government comes close to giving the defense establishment two-thirds of the public funds for the acquisition and development of new knowledge.

It is difficult to see how that can be wholesome—economically, politically or scientifically.●

A TRIBUTE TO SAM W. PIPES

● Mr. HEFLIN. Mr. President, today I rise to recognize the recent passing of a fine Alabamian, Sam W. Pipes of Mobile.

Sam Pipes was a fine attorney and even finer person. He was extremely dedicated to his profession, his family, and his community. All will miss his contributions.

It was my pleasure to have been a friend of Sam's for many years. It was a true joy for me to watch his legal work, both as a fellow practitioner and later as a judge.

Sam was a true legal scholar in the areas of real estate and oil and gas law, having authored several articles in each field. Despite this, perhaps his most lasting contribution to the law was in a leaderhip role.

Sam Pipes has been a leader in almost every legal organization in Alabama. In 1959, he served as president of the Mobile Bar Assocation. From 1966-68, he was president of the University of Alabama Law School Foundation. In 1968-69, he served his fellow attorneys as president of the Alabama State Bar Association. Two years after that, in 1971, he was president of the Farrah Order of Jurisprudence, Sam also served terms as chairman of the building fund drive of the University of Alabama Law School Foundation, and of the Alabama State Bar Committee on Congestion in Appellate Courts.

Even with all these other involvements, Sam still found time to be an active member of the Episcopal Church. He also was active in Boy Scouts for many years, and served as general councel of the Mobile Area Boy Scouts.

Sam Pipes was truly a fine Alabamian. He will be missed by all whose lives he touched.

Mr. President, I ask that an article from *the Mobile Register* be inserted in the RECORD.

The article follows:

[From the Mobile Register, Oct. 29, 1982]

MOBILE ATTORNEY SAM W. PIPES DIES

Sam W. Pipes, 66, a prominent Mobile attorney, died Thursday at a local hospital after a lengthy illness.

Pipes, who was a native Mobilian, practiced law here since 1938, after graduating from the University of Alabama Law School.

He was past president of the Alabama State Bar Association (1968-69); past president of the Mobile Bar Association (1959); past president of the University of Alabama Law School Foundation (1966-1968); and past president of the Farrah Order of Juris Prudence (1971). He served as a special justice on the Alabama Supreme Court in 1971.

Pipes was a fellow in the American College of Trial Lawyers and in the American Bar Foundation.

He was a past chairman of the Building Fund Drive, University of Alabama Law School Foundation, and past chairman of the Committee on Congestion in Appellate Courts—Alabama State Bar. He was on numerous committees for the Alabama Bar Association.

Pipes authored several articles, including, "A Survey of Alabama Oil and Gas Law," "Differing Legal Consequencies of the Oil and Gas Lease," "Sale of Real Estate," and "Representing the Land Owner in Natural Resources Development."

Pipes was a lecturer at the University of Alabama Continuing Legal Education Division and was a member of the Mobile Bar Association, Alabama State Bar Association, American Bar Association, National Association of Railway Trial Counsel, International Bar Association, Mid-Continent Oil and Gas Association, Maritime Law Association, Alabama Law Institute Council, and World Association of Lawyers. He was a former general counsel of the Mobile Area Boy Scouts and was active in scouting for many years.

Pipes was a director of the Commercial Guaranty Bank, Title Insurance Company, and the University of Alabama Law School Foundation.

He also was a member of the Athelstan Club, Lakewood Golf Club and numerous mystic societies.

He was a senior partner in the law firm of Lyons, Pipes and Cook, and a member of the All Saints Episcopal Church.

Survivors include his wife, Maude Pipes; a brother, Ford Pipes; a son, Wes Pipes; a daughter, Mrs. Prather Brooke; and his mother, Miriam Pipes, all of Mobile; and other relatives.

Funeral services will be at All Saints Episcopal Church at 3 p.m. Friday. Visitation will be from 2 p.m. to 3 p.m. Friday in the Walter K. Smith Room at the church. Burial will be in Pine Crest Cemetery. Radney Funeral Home is in charge of arrangements.

The family asks that memorials be sent to All Saints Episcopal Church in Mobile or St. James Episcopal Church in Fairhope.●

SOIL CONSERVATION

● Mr. JEPSEN. Mr. President, by request, I am today submitting for printing in the RECORD a set of amendments to Public Law 83-566, the Organic Act governing the small watershed program of the Soil Conservation Service.

These amendments have been prepared by the National Wildlife Federation and reflect the views of many environmental organizations around the Nation regarding the need for reforms in this program and the direction these reforms should take.

I would like to point out that I am not endorsing all or any of these specific proposals. In fact, I have some serious questions about some.

However, in the interest of stimulating a timely discussion of the various issues relating to soil Conservation, I am having this draft legislation printed in the RECORD.

The National Wildlife Federation is to be commended for its interest.

The following is a section-by-section analysis explaining the provisions of the amendments.

Mr. President, I ask that the analysis be printed in the RECORD.

The analysis follows:

SECTION-BY-SECTION ANALYSIS OF AMENDMENTS

Amendments to the Watershed Protection and Flood Prevention Act of 1954, P.L. 83-566 (16 U.S.C. § 1001 et seq.), as amended.

A. Findings and Purposes: to be added to the existing "Congressional Declaration of Policy," Sec. 1 (16 U.S.C. § 1001)

The purpose of the amendments is to redirect the priorities of the Soil conservation Service's Small Watershed Program towards soil erosion reduction and away from flood control, to establish an equitable cost-sharing formula, and to provide for greater attentiveness to fish and wildlife mitigation.

B. Amending Section 2 (16 U.S.C. § 1002) Definitions

This section adds soil erosion control and sedimentation reduction to the definition of "works of improvement." Projects that require Congressional committee approval—those with federal contributions greater than $5,000,000 or that provide more than twenty-five hundred acre-feet of capacity—will only go to the Agriculture committees. Jurisdiction of the Public Works Committees is eliminated, consistent with the reduced emphasis on flood control in the program. It provides that at least 50% of the benefits of each project must be obtained from soil erosion control and/or sedimentation reduction. It provides that any project anticipated to cost more than $25,000,000 total must be authorized by an Act of Congress.

The section also adds a definition of "soil erosion control and sedimentation reduction." It specifically excludes soil erosion control beyond the rate at which soil is naturally replenished. This is done to curtail federal assistance to projects that are controlling soil erosion at a rate greater than would be replenished naturally, a practice that should not be a priority of the SCS.

Finally, the Section adds a definition of "land treatment measures," to direct an emphasis toward management practices such as no-till farming.

C. Amending *Section 4* (16 U.S.C. § 1004) Conditions for Federal Assistance

1. Current Subsection (2) is replaced by a new cost-sharing formula that removes administrative discretion. It provides that the local organization must pay 20% of the costs applicable to soil erosion control, 50% of the costs applicable to recreation and fish and wildlife enhancement, at least 35% of the costs allocable to flood damage reduction, irrigation, water quality management (including sedimentation reduction), and ground water recharge, and all of the costs applicable to agricultural drainage and municipal and industrial water supply. These levels are generally consistent with cost-sharing proposals recommended by the administration for Corps of Engineers water resource development projects. However, soil erosion control is specifically added to the cost-sharing subsection and given the highest priority by requiring the greatest percentage of federal cost assistance. The necessary non-Federal contributions must be concurrent with installation of the works of improvement.

Additionally, this subsection establishes that any land owners receiving increased land values greater than 10% of the total flood control benefits will pay 50% of the flood control costs allocated to them.

Finally, the restriction in the present law on the types of water quality management that will receive federal assistance has been removed to allow, in part, the SCS to use the small watershed program to implement the non-point source plans and techniques developed under Section 208 of the Clean Water Act.

2. New Subsections (7) & (8) are added to provide that the public shall have access to and use of new recreational and fish and wildlife improvements paid for with P.L. 83-566 funds. The language would also require as a binding condition for federal assistance that land treatment measures identified in the watershed plan be implemented.

3. Finally, this section adds a sentence to the end of Section 4 that states that no construction can be initiated on a work of improvement until conditions are fulfilled.

D. Amending Section 12, as added by Sec. 3 of P.L. 85-624 (16 U.S.C. § 1008) Fish and Wildlife Consultation, Terms and Conditions

Current Section 12 is replaced by language requiring consultation with the U.S. Fish and Wildlife Service and state fish and wildlife agencies on every project authorized under P.L. 83-566. It requires mandatory incorporation of terms or conditions established by the U.S. Fish and Wildlife and State fish and wildlife agencies, working in cooperation with biologists from the Soil Conservation Service, in watershed plans to prevent loss of wildlife habitat. It further provides that the Secretary of Agriculture shall study whether certain categories of projects should be exempted from this requirement and shall report his recommendations back to Congress within 3 years.

E. Adding New Section 13 Enforcement

New Section 13 adds an enforcement provision that provides that any person can sue to enforce P.L. 83-566 contracts between the federal government and local organizations or sue the Secretary for failure to perform a non-discretionary duty. It requires a 60-day notice and waiting period before suit can be filed. It further establishes the forum for such suits and provides for the award of costs and attorney fees where appropriate. Finally, it adds a disclaimer that ensures that this provision will not restrict any legal rights to seek other relief.

F. Adding New Section 14 Public Access Study

New Section 14 provides that the Secretary shall study whether full public access should be provided to all water impoundments and adjacent lands with recreation-related potential that are part of works of improvement authorized by P.L. 83-566, and report his recommendations to Congress within one year. (This differs from the new Subsection 4(7) added in Section (c), which requires full public access to those new projects with an identifiable component of recreation and fish and wildlife development costs that are provided, in part, by the Federal government.) New Section 14 is a study of all projects built with federal assistance to see if public access to lands and waters with recreation-related potential should be required, in the public interest, even if there has been no specific, identified federal assistance to the development of recreation or fish and wildlife improvements.

G. Adding New Section 15 Allocation Formula and Priorities

In allocating funds to projects, this section requires that the Secretary develop an allocation formula to put those projects that yield the greatest total benefits in soil erosion control on a priority basis, making allowance for the preservation of prime and unique farmland. The Secretary is directed also to give allowance to the effort made by state and local governments to develop and assist their own programs for soil erosion control. This is to endure that states with an active and effective program are not penalized by loss of assistance, and the areas of worst negligence are not necessarily rewarded.

H. Adding New Section 16: Completion of Projects

This section expresses the intent of Congress that works of improvement should be substantially installed within six years of the approval of the watershed work plan. This is intended to provide guidance to the Secretary, Congressional appropriations committees, and local project sponsors to encourage the timely completion of approved projects. However, the failure of Congress to appropriate sufficient funds within six years would not preclude project completion.

I. Adding New Section 17: Post-Construction Evaluation

The Secretary is directed to select five completed projects in each of the next three years and report to Congress with an evaluation. Projects are to be evaluated for con-

sistency with their watershed work plan in installation and operation, and for effectiveness as measured in terms of national economic development, environmental quality, regional economic development, and other social effects.

J. Adding New Section 18: Deauthorization

Section 18 provides a statutory deauthorization process to strengthen and simplify the procedures currently found in SCS's own rules. State Conservationists are to prepare a list each year of projects which have not received federal funds for six years and send the list to the Chief and to interested agencies and persons. Projects that required Congressional action for approval shall become deauthorized 90 days after notice to the appropriate Congressional committees unless either committee adopts a resolution opposing deauthorization. Projects that only required administrative approval shall become deauthorized 90 days after the Chief was given publication in the Federal Register unless removed from the deauthorization list by the Secretary or the Governor of the State in which the project is located. State Conservationists may begin the deauthorization process for inactive projects at any time earlier than six years with agreement by the local sponsor.

K. Appropriations—Cost Ceilings for Three Years

This section authorizes $155,000,000 for the fiscal year 1984, $195,000,000 for the fiscal year 1985, and $235,000,000 for fiscal year 1986. The reduced priority assigned to costly flood control works should produce some initial reduction in Federal outlays. As the objectives of the small watershed program become more closely oriented toward critical erosion control and sedimentation reduction needs, the program will warrant a somewhat greater commitment of Federal funds.

AMENDMENTS TO PUBLIC LAW 83-566 SCS SMALL WATERSHED PROGRAM

A. Findings and Purposes

"(1) The Congress finds that soil erosion and sedimentation are a critical national problem and that the Federal government, along with the States and local communities, should direct greater attention to reducing soil erosion and sedimentation damages. Therefore, it is the policy of Congress that reducing soil erosion and sedimentation problems should be the foremost priority of the Small Watershed Program. Improvements for other purposes have, in the past, consumed an extensive portion of the funds authorized for the Small Watershed Program, flood prevention in particular. While flood damage reduction programs have provided valuable protection to lives and property, they should be primarily administered by agencies whose primary purpose is flood damage reduction. The Soil Conservation Service is directed, by these amendments, to emphasize soil erosion control and sedimentation reduction in administering the funds authorized by Congress for the Watershed Protection Program.

"(2) Congress further recognizes that identifiable beneficiaries of water resource development projects should pay their full share of costs, including, to the extent possible, environmental externalities, since efficient use of natural resources is furthered by realistic pricing and cost-sharing for water resource development projects. Mitigation for significant adverse effects of these projects on wildlife habitats must also be an integral part of every Soil Conservation Service watershed project implemented under the authority of P.L. 83-566."

B. Sec. 2 of Public Law 83-566 (16 U.S.C. § 1002), as amended, is amended to read:

"For the purposes of this chapter the following terms shall mean:

The "Secretary"—the Secretary of Agriculture of the United States.

"Works of Improvement"—any undertaking for soil erosion control and sedimentation reduction, alone or in conjunction with

(1) flood damage reduction (including structural and non-structural measures),

(2) the conservation, development, utilization, and disposal of surface water and groundwater, or

(3) the conservation and proper utilization of land, in watershed or subwatershed areas not exceeding two hundred and fifty thousand acres and not including any single structure which provides more than twelve thousand five hundred acre-feet of flood water detention capacity, and more than twenty-five thousand acre-feet of total capacity. No appropriation shall be made for any plan involving an estimated Federal contribution to construction costs in excess of $5,000.000, or which includes any structure which provides more than twenty-five hundred acre-feet of total capacity unless such plan has been approved by resolutions adopted by the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives: Provided, that any project with an anticipated total project cost of more than $25,000,000 must be authorized by an Act of Congress. Any work of improvement must contain benefits directly related to soil erosion control and sedimentation reduction that account for at least 50 percent of the total benefits of such project. A number of Subwatersheds when they are component parts of a local sponsoring organizations so desire.

"Soil erosion control and sedimentation reduction"—Soil erosion control means any undertaking to decrease the removal of soil by wind, gully, streambank, floodplain, scour, sheet, or rill erosion towards a rate, but no further, at scour, sheet, or rill erosion towards a rate, but no further, at which soil removed is naturally replenished. Sedimentation reduction means any undertaking to decrease deposition of soils in channel beds, lakes, reservoirs, wetlands, and over streambanks, when such deposition is the result of accelerated soil erosion.

"Local organization"—any State, political subdivision thereof, soil or water conservation district, flood prevention or control district, or combination thereof, or any other agency having authority under state law to carry out, maintain, and operate the works of improvement; or any irrigation or reservoir company, water users' association, or similar organization having such authority and not being operated for profit that may be approved by the Secretary; or any Indian tribe or tribal organization, as defined in Section 4506 of Title 25, having authority under Federal, State, or Indian tribal law to carry out, maintain, and operate the works of improvement.

"Land treatment measures"—include, but are not limited to

(1) management practices such as no-till or conservation farming, contour farming, terracing, crop rotation, and strip cropping and

(2) temporary and permanent vegetative plantings and establishments such as grass, trees, windbreaks, shrubs, and cover crops."

C. Section 4 of Public Law 83-566 (16 U.S.C. § 1004), as amended, is amended as follows:

1. Subsection (2) is deleted and replaced by the following:

"(2) assume, of the costs of installing any works of improvement, and which must be paid concurrent with the installation period,

(a) 20 percent of the costs applicable to soil erosion control;

(b) not less than 35 percent of the costs applicable to

(i) flood damage reduction and features relating thereto,

(ii) water quality management, including sedimentation reduction,

(iii) irrigation, and

(iv) ground water recharge;

(c) 50 percent of the costs applicable to fish and wildlife enhancement and recreational development; and

(d) all of the cost of installing any portion of such works applicable to other purposes, including agricultural drainage and water storage for municipal or industrial water supply;

the remainder of such costs shall be borne by the Federal government and paid for by the Secretary out of funds appropriated for the purposes of this chapter: Provided, That prior to initiating construction of any works of improvement authorized by this chapter and that can be anticipated to provide flood control benefits, more than 10 percent of which are produced by an increase in anticipated land values to a single landowner, the Secretary shall enter into an agreement with such owner or owners that provides that such owner or owners will contribute, either prior to construction or when such benefits are realized, 50 percent of that portion of the project's costs allocated to the owner's benefits;"

2. After subsection (6) add the following new subsections:

"(7) provide for public access to and use of recreational and fish and wildlife improvements when the costs of such improvements are borne, in part, by the Federal government under P.L. 83-566; and

(8) enter into a binding agreement with the Secretary, as part of the agreement for Federal assistance in the installation of works of improvement, that shall require the implementation of such land treatment measures as may be incorporated in the watershed plan."

3. The following sentence is added at the end of Section 4 (16 U.S.C. § 1004):

"No construction shall be initiated on a work of improvement until the conditions of this section are fulfilled."

D. Sec. 12 of Public Law 83-566, as added by Sec. 3 of Public Law 85-624 (16 U.S.C. § 1008), is deleted completely and replaced by the following:

"In making the determination to approve the furnishing of assistance to a local organization for works of improvement as provided in Section 3 (16 U.S.C. § 1003), the Secretary shall consult with the United States Fish and Wildlife Service and the state agency exercising authority over the fish and wildlife resources of the state in which the works of improvement will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. § 661, et seq.), and shall include in any such approval such reasonable terms or the State agency, after consulting with fish and wildlife biologists of the Soil Conservation Service, determine are appropriate to prevent loss of, or damage to, such resources: *Pro-*

vided, That the Secretary shall initiate a study to determine whether certain categories of projects should be exempted from this requirement, because they are found not to threaten fish and wildlife resources, and report back to Congress his recommendation within three years from the date of enactment."

E. Public Law 83-566, as amended, is amended by adding the following section, to be designated Sec. 13:

"Sec. 13 (a) Except as provided in subsection (b) of this section, any adversely affected or aggrieved person may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any term, condition, or provision of any contract entered into under Public Law 83-566 (16 U.S.C. § 1001, et seq.) and all Acts amendatory or supplementary thereto, or

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under Public Law 83-566 (16 U.S.C. § 1001, et seq.), and all Acts amendatory or supplementary thereto which are not discretionary with the Secretary.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such contract terms, conditions, or provisions, or to order the Secretary to perform such act or duty, as the case may be.

(b) No action shall be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Secretary, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the contract terms, conditions or provisions, or

(B) if the Secretary has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with the contract terms, conditions and provisions, but in any such action in a court of the United States any person may intervene as a matter of right.

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Secretary.

Notice under this subsection shall be given in such manner as the Secretary may prescribe by regulation.

(c)(1) Any action respecting an alleged violation of a contract term, condition, or provision relating to a particular work of improvement or respecting an alleged failure of the Secretary to perform a nondiscretionary act or duty relating to a particular work of improvement shall be brought only in a judicial district in which such work of improvement or portion thereof is located.

(2) In any action under this section, the Secretary, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this Act shall be construed to restrict any right which any person (or class of persons) may have under any statute or (Federal or State) common law to seek enforcement of any contract terms, conditions, or provisions, or to seek any other relief at law or equity (including relief against the Secretary or a State agency)."

F. Public Law 83-566, as amended, is amended by adding the following, to be designated Sec. 14:

"Sec. 14. The Secretary shall study and report, within one year from the date of enactment, to the appropriate committees of the Senate and House of Representatives on the feasibility, the desirability, and the public interest involved in requiring that full public access be provided to any or all water impoundments and adjacent lands with potential for public recreation in any work of improvement when the costs of such improvement are borne, in part, by the Federal government under P.L. 83-566."

G. Public Law 83-566, as amended, is amended by adding the following, to be designated Sec. 15:

"Sec. 15. In allocating funds to implement particular works of improvement, the Secretary shall develop an allocation formula whereby those works of improvement which will yield the greatest total benefits in soil erosion control and sedimentation reduction will be funded on a priority basis, with appropriate allowance as determined by the Secretary for the preservation of prime and unique farmland and the regulatory effort made by state and local governments to control soil erosion."

H. Public Law 83-566, as amended, is amended by adding the following, to be designated Sec. 16:

"Sec. 16. It is the intent of Congress that the installation of watershed project features shall be substantially complete within six years from the date of administrative or Congressional approval of the watershed work plan."

I. Public Law 83-566, as amended, is amended by adding the following, to be designated Sec. 17:

"Sec. 17. During fiscal years 1984, 1985, and 1986, the Secretary shall select at least five completed projects during each of those three years and report to the appropriate Congressional committees his evaluation of the installation and operation in terms of its consistency with the watershed work plan and its effectiveness as measured by national economic development, environmental quality, regional economic development, and other social effects."

J. Public Law 83-566, as amended, is amended by adding the following to be designated Sec. 18:

"Sec. 18. (a) By February 1, each calendar year, the State Conservationist shall prepare a list of those watershed projects for which he is responsible and which have been authorized for installation for at least six years, and to which no federal funds have been obligated for the six previous years. The State Conservationist will notify the Secretary, the Chief of the Soil Conservation Service, and concerned State and other agencies, which had been notified that any project was approved for installation of works of improvement, of the proposed deauthorization of the project.

"(b) If authorization of funding by the Secretary for the project was subject to approval by resolution of committees of Congress, the Chief shall give notice of the proposed deauthorization to the appropriate committees ninety days before final deauthorization. The deauthorization shall become final unless either of the appropriate committees of the House of Representatives or the Senate adopts a resolution stating that such project shall continue to be authorized.

"(c) If the authorization for funding of the project was approved administratively, the Chief shall publish notice of the deauthorization of such project in the Federal Register ninety days before final deauthorization, and shall receive and consider comments. The deauthorization shall become final unless either the Secretary or the Governor of the State for which the project is approved make written request to take the project off the deauthorization list.

"(d) State Conservationists may elect to initiate deauthorization review sooner where it is unlikely that planned works of improvement will be installed and sponsors concur in the deauthorization.

K. There are hereby authorized to be appropriated for Watershed and Flood Prevention Operations:

"(1) $155,000,000 for the fiscal year 1984,

"(2) $195,000,000 for the fiscal year 1985, and

"(3) $235,000,000 for the fiscal year 1986."●

ALABAMA'S BOB HOPE, DIRECTOR OF THE STATE DOCKS

● Mr. HEFLIN. Mr. President, I was very pleased to recently learn that Alabama's Governor-elect, George Wallace, in the first major cabinet appointment of his upcoming administration, has announced that Robert Hope will be retained as director of the Alabama State Docks.

At a time when Alabama is suffering from critically high unemployment, it was very important for a signal to be sent that the excellent management of the operations of the Port of Mobile will be continued. With the planned completion of the Tennessee-Tombigbee Waterway, and other dock development projects, keeping Bob Hope as docks director was a necessity if Alabama was to take full and complete advantage of the opportunities presented by these projects.

Bob Hope was first named director of the State docks in 1976. That appointment broke a long tradition of politicizing the position through the patronage appointment of political supporters.

The State docks are far too crucial a part of Alabama's economy, both present and future, for their direction to be entrusted to anyone not familiar with their operation. Having joined the staff of the State docks in 1952, Bob Hope is far too crucial a manager to lose. Through his experience, he has 30 years of familiarity with past operations, present trends, and future development.

In his 6 years as top man at the State docks, Bob has led the docks to many new records in the areas of earnings and tonnage. He has led the construction of a new multimillion-dollar, coal-handling facility, and has been active on the international level of

world trade and port operations, as he has worked to keep Mobile abreast of new trends.

I certainly feel that the appointment of Bob Hope as director of Alabama's State docks is a strong step toward an even stronger future for Alabama's ports and waterways. I commend Governor Wallace on this outstanding appointment, and Bob Hope on the honor paid him by his reappointment.

Mr. President, I ask that an article from the Mobile Register be printed in the RECORD.

The article follows:

HOPE TO KEEP DOCKS DIRECTOR POST

(By Bill Sellers and George Werneth)

Gov.-elect George C. Wallace, in the first major move of his upcoming fourth administration, told the Mobile Register Tuesday he will retain Robert Hope as director of the Alabama State Docks.

The announcement, unusual for Wallace who has a tradition of procrastination on such major appointments, was obviously aimed at ending speculation that a political patronage appointee might be named to replace Hope, who has been a career civil servant at the State Docks.

"We have the utmost confidence in Bob Hope and never seriously contemplated replacing him with anyone not familiar with the docks operation," Wallace was quoted as saying by his chief aide, Elvin Stanton.

Stanton added: "The governor recognizes that stability in management is necessary to retain confidence on the part of those who are making Alabama's port city a major part of both their present and future plans."

He noted that Hope is intimately familiar with all the planning details for completion of the Tennessee-Tombigbee Waterway and other development projects "and the new administration has the utmost confidence in his ability to take full advantage of these opportunities for the people of Mobile and the State of Alabama."

In Mobile, Hope said he was "very pleased by this expression of confidence" since it signalled a continuity of management which "is very important in the highly competitive field of docks operations."

There had been reports since Wallace's Nov. 2 election victory over Republican Emory Folmar that some strong Wallace supporter—most frequently mentioned was former County Commissioner Jeff Mims—might be named as docks director in a patronage move with Hope to continue as chief of operations.

Criticism from shippers and other Mobile business and civic leaders over any such return to politicizing the State Docks was apparently felt in the Montgomery transition headquarters of Wallace, leading to the unusually early announcement of the first major Wallace cabinet appointment.

However, it was Wallace who more than six years ago broke tradition by naming Hope with nearly three decades of experience as top man at the State Docks rather than appointing a staunch political supporter such as he and other governors had done since the facility was first opened.

Hope is active on the international level of world trade and port operations He is serving his second term as president of the Mobile Area Chamber of Commerce.

A native Mobilian, he graduated from Murphy High School and the University of Alabama and served in the Merchant Marines and U.S. Army before joining the State Docks staff in 1952.

He has the longest tenure of any director since the State Docks was opened nearly 50 years ago and is the first operations boss of the far-flung operation to come up from the ranks.

Although he has, been holding the political appointment of docks director since 1978, subject to the whim of the state chief executive, Hope has also retained the Civil Service position of general manager—and speculation over a political appointee to head the docks had emphasized that Hope would still be running the day-to-day operations under his protected status.

Wallace indicated he would allow Hope to keep his Civil Service status by not requiring him to choose between the two top jobs.

Under Hope, all State Docks records on earnings and tonnage have been broken many times over and business has been tapped from unprecedented sources as he and other state officials as well as trade delegations have travelled the world promoting the Port of Moblie.

One of his major accomplishments has been construction of a multi-million dollar coal handling facility which facilitates the flow of Alabama mine exports to foreign shores.

Even as new facilities have been opened, new expansion and modernization programs have been coming off the drawing boards to keep the Mobile port competitive and capable of handling Alabama's export-import requirements.

Hope's appointment will be subject to what is expected to be routine approval of the Alabama Senate when it convenes in January.●

BIRMINGHAM'S NATIONAL VETERANS DAY

● Mr. HEFLIN. Mr. President, some 35 years ago, in Birmingham, Ala., a day was established to honor the veterans of all wars in which the United States has been engaged. Until that time, Armistice Day recognized only the veterans of World War I.

From that day in 1947 until the present time, Birmingham's celebration of National Veterans Day has become a model ceremony, upon which other cities throughout America regularly rely for advice and guidance concerning their local programs. In fact, it is interesting to note that Birmingham began their observances of Veterans Day some 7 years before Congress voted to change Armistice Day to an official, nationally recognized Veterans Day.

Why was Birmingham the birthplace of National Veterans Day? Why have its observances become so well known and widely respected? The reason, largely, has been a citizen of Birmingham by the name of Raymond Weeks.

Raymond, who was recently awarded the Presidential Citizens Medal by President Reagan, is known and recognized as the "Father of National Veterans Day." He has now been the director of the Birmingham National Veterans Day programs for each of the 36 observances, and I am glad to report that neither he nor Birmingham's Veterans Day celebrations show signs of slowing down.

On Veterans Day in 1954, the first celebration after official recognition by Congress, the National Veterans Award was established for presentation annually to an American citizen who has distinguished himself as a veteran. The award is presented at a banquet held in Birmingham each year on the evening prior to Veterans Day.

Through the years, this award has been presented to many distinguished Americans. Among the past recipients are Gen. Omar N. Bradley, for his continuing contributions to the defense of his country and freedom throughout the world; Brig. Gen. Charles Lindbergh, for all of the contributions he made to the field of aviation, beginning with his famous flight from New York to Paris in 1927; Gen. William C. Westmoreland, for outstanding service to his country; Neil A. Armstrong, for his scientific feat of successfully landing on the moon; Adm. Thomas Moorer, former Chairman of the Joint Chiefs of Staff. As a Member of the U.S. Senate, I am very pleased to also note that, among other recipients of this distinguished award, in 1958 we see the name of the then-Governor of South Carolina, the Honorable ERNEST F. HOLLINGS.

This year, that award was presented to the famous and distinguished Adm. Hyman Rickover, in recognition of his role in the development of nuclear power, and its military and economic uses.

Other special guests at this year's celebration included the Secretary of the Navy, the Honorable John F. Lehman, the Commander in Chief of the U.S. Army Readiness Command, Gen. Donn A. Starry, and the National Commander in Chief of the Veterans of Foreign Wars of the United States, James R. Currieo.

Birmingham has certainly accomplished a great deal with its National Veterans Day observances. Through the hard work of Raymond Weeks and other dedicated citizens, a proper and fitting tribute has come to honor all American veterans of all American wars.

As a veteran, I am honored to be involved, even in a small way, with this celebration. I am also very pleased to be able to recognize it in this small way.

Mr. President, I ask that an article from the Birmingham News be included at this point in the RECORD.

The article follows:

[From the Birmingham News, Nov. 11, 1982]

"ALREADY MORE THAN FULLY PAID," RICKOVER SAYS

(By Don Driver)

When Adm. Hyman Rickover entered the National Veterans Award dinner Wednesday night, the band launched into "Anchors Aweigh" and the 82-year-old father of the U.S. nuclear Navy picked up the step and jaunted onto the dais.

They were playing his song.

The crusty Rickover, who retired from the Navy last January after 63 years of active

duty, joined an honor roll of past dignitaries by becoming the 29th recipient of the National Veterans Award in recognition of his "outstanding leadership and service to the nation in the development of nuclear power for defense and peaceful uses."

"This is an unexpected pleasure, I didn't expect to get any award. I've already been more than fully paid for anything I did while in the Navy," Rickover said after being presented the award by Sen. Howell Heflin in Boutwell Municipal Auditorium as part of the 36th annual National Veterans Day program in Birmingham.

"I'm grateful for having been able to serve my country and I remain her devoted servant," he added.

After his acceptance speech, Rickover fielded questions from the audience and related stories of his family's immigration to the U.S. from Poland near the turn of the century, his childhood in Chicago and his career in the Navy.

He appeared to enjoy recalling how he was assigned a former women's restroom for an office while working on nuclear ship propulsion for the Navy after World War II.

"That's where the Navy's nuclear submarine program started—in a women's restroom," he said.

Rickover pioneered the nation's progress toward military and economic uses of nuclear power, playing a major role in the development of the atomic bomb and nuclear powered submarines. He also led the scientific, technical and industrial team that developed and constructed the first nuclear powered electric utility station in the U.S.

Rickover's active military career began in 1922 upon graduation from the Naval Academy. He spent the next five years on sea duty, eventually returning for post-graduate school. He served on submarines from 1929 to 1933, and during World War II served as head of the electrical station at the Bureau of Ships, receiving the Legion of Merit for his accomplishments.

In 1946 he was assigned to the Manhattan Project at Oak Ridge, Tenn., where he received a letter of commendation and an Oak Leaf cluster for his "outstanding service in connection with the development of the atomic bomb."

He later worked on nuclear ship propulsion and from 1949 to 1952 was director of the Navy's Nuclear Power Division. In 1955 the Nautilus, the world's first nuclear powered submarine, put to sea and Rickover later received the Congressional Medal in 1959 for his role in the production of nuclear powered ships.

He also received the Distinguished Service Medal for his accomplishments while serving as head of the Naval Nuclear Propulsion Program from 1955 to 1961.

He attained the statutory retirement age in 1962 but continued his service due to President John Kennedy's determination that he should remain on active duty.

In 1980 he received the Presidential Medal of Freedom, the nation's highest civilian honor, for his contributions to world peace, security and national interest.

While answering questions during the award dinner Wednesday night, Rickover said he first became interested in submarines after realizing how close German underwater craft had been to crippling England during World War I. He taught himself German just so he could read a book written by the German submarine force commander.

Rickover said he later became interested in nuclear power shortly after World War II.

"I decided, after having just learned about the atomic bomb, that I wanted to be a part of that effort—the peaceful part," he said.

Asked about his life before entering the Navy, Rickover described how his family accompanied his mother to the U.S. to join his father, who had immigrated earlier.

His father was late in meeting them in New York and they ran afoul of a law stating that new immigrants had to be claimed within nine days of arrival. They were saved by a friend from Poland who recognized his mother.

"At the last day we were saved. Think of how much trouble the U.S. Navy would not have been caused if that man had not recognized my mother," Rickover quipped.

Former recipients of the National Veterans Award include Gen. Mathew B. Ridgeway, Gen. Omar N. Bradley, Charles A. Lindbergh, astronaut Neil A. Armstrong and Gen. William C. Westmoreland.●

GENERAL REVENUE SHARING

● Mr. SASSER. Mr. President, reauthorization of the general revenue sharing program should, in my view, be the first order of priority for the 98th Congress. Otherwise, this valuable fiscal assistance to local governments will expire next September.

Programs run by local governments have already taken a disproportionate share of the budget reductions made in the 97th Congress. That is why general revenue sharing, with its flexible character, is so important to retain as a supplement to Federal assistance programs which cities and counties must now run with reduced funding.

Since the inception of the general revenue sharing program in 1972, Tennessee local governments have received more than $700 million in local general revenue sharing funds. Local officials have used these funds to provide for a wide variety of essential public services including police and fire protection, highway maintenance and education.

Mayor William N. Morris, Jr. of Shelby County wrote me the following letter concerning the important role that revenue sharing funds play in the budget of the government he administers. I submit for the Record Mayor Morris' letter.

The letter follows:

SHELBY COUNTY GOVERNMENT,
Memphis, Tenn., October 27, 1982.

Senator JAMES SASSER,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR SASSER: Shelby County urges you to support reenactment of General Revenue Sharing at least at current funding levels in the fiscal year 1984 budget.

As you know, the General Revenue Sharing program has been the least costly to administer and the most effective in solving local problems than any other intergovernment partnership program of the national government.

Shelby County believes that track record of General Revenue Sharing deserves reenactment commitments from national officials prior to the elections on November 2, 1982. In addition, we believe this commitment should include a continuation of General Revenue Sharing as a part of a potential New Federalism program or as a free standing program should a New Federalism program not be enacted.

Your continuing support for the General Revenue Sharing program, as the best example of what a real intergovernmental arrangement should be, is deeply appreciated.

Best wishes for the future.

Sincerely,

WILLIAM N. MORRIS, Jr.,
Mayor of Shelby County.

Mr. SASSER. Mayor Richard Fulton of Nashville, Tenn. also wrote me regarding the renewal of general revenue sharing. Mayor Fulton speaks on behalf of city governments across the Nation since he is the president-elect of the U.S. Conference of Mayors. I submit for the RECORD excerpts from Richard Fulton's letter.

The letter follows:

METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,
Nashville, Tenn., August 24, 1982.

Hon. JAMES R. SASSER,
Russell Senate Office Building,
Washington, D.C.

DEAR JIM: One of the most important issues facing the Congress next year will be the renewal of the General Revenue Sharing Program. General Revenue Sharing (GRS) is the only federal program that helps all communities, large and small, under a distribution formula that is widely regarded as fair to all. It is the most important form of federal assistance to cities for it provides assured funding which enables local officials to plan ahead; there is a minimum of red tape and burdensome regulations; and, most important, it permits discretion to use the funds to meet high-priority local needs.

This year the Metropolitan Government will receive $9.4 million in GRS funds. While only comprising 2.5 percent of the total operating budget, the use of these funds has ranged from supporting countywide fire protection to supplementing police and emergancy ambulance personnel salaries to providing direct relief to the indigent and handicapped.

Although important to all cities, GRS is particularly important to small cities, generally those of less than 25,000 population. According to a National League of Cities' survey, GRS payments comprise about 14 percent of small cities' budgets. Moreover, for many of these cities, GRS is their only source of federal assistance.

I appreciate your time and attention to this matter, and look forward to working with you in the future.

Sincerely,

RICHARD H. FULTON,
Mayor of Nashville.

Mr. SASSER. Finally, the National League of Cities recently asked member cities to respond to a questionnaire on the importance of revenue sharing to them. I shall submit an article from the Nation's Cities Weekly of November 22, 1982, highlighting the responses NLC received from this survey for the RECORD following my remarks. The title of the article is "Cities Response to NLC Survey Shows Dramatic Need For Revenue Sharing."

In sum, general revenue sharing is vital to cities and towns across the Nation. Despite the reliance that so many local governments place on these funds to supplement their operating budgets, the program remains vulnerable due to lack of full-scale administration support. Senator DURENBERGER is to be commended for preparing this legislation, which I am pleased to cosponsor, to reauthorize funding of the revenue-sharing program for another 3 years at its present funding level of $4.6 billion annually.

This is a program with a 10-year track record which proves its usefulness. The price tag is not high considering that, due to GRS's low overhead costs, nearly every dollar actually goes into local services.

Senator DURENBERGER is today announcing that a large bipartisan group of Senators join him as original cosponsors of this bill to renew general revenue sharing. We will be introducing this bill on January 3, 1983, the first day of the 98th Congress. We know that this will send a strong message to President Reagan that we will oppose any effort to abolish or dismantle this most effective Federal aid program.

[From Nation's Cities Weekly, Nov. 22, 1982]

CITIES' RESPONSE TO NLC SURVEY SHOWS DRAMATIC NEED FOR REVENUE SHARING

(By Francis Viscount)

A vivid picture of the essential need for the continuation of general revenue sharing is emerging from NLC's survey of its direct member cities on the importance of general revenue sharing to their fiscal condition.

An analysis of data collected from 494 cities, provided the following picture of the impact on cities of the $4.6 billion-a-year federal aid program:

GRS receipts provide an average of 6.26 percent of the total of locally raised revenues, but as much as 10 percent or more in some small cities.

To replace a loss of GRS funds, property taxes would have to increase about 25 percent in most cities, but as much as 45 percent in cities under 10,000 population. In the largest cities, over 100,000 population, property taxes would have to go up about 15 percent.

If cities were faced with a loss of revenue sharing funds, few would try to make it up by increasing taxes. The most likely repercussions would be a combination of cuts in capital and operating budgets along with some effort to raise a portion of the lost revenue, but a substantial percentage of larger cities would respond strictly through budget cuts.

CITIES' USE OF GRS FUNDS

[In percent]

	Population in thousands—					
	Under 10	10 to 50	50 to 249	250 to 499	Over 500	All cities
Capital only	37	26	17	10	0	24
Operation only	20	29	45	50	82	34
Both	42	45	38	40	18	42

Source: NLC.

Layoffs, ranging from several to several hundred, appeared likely in city work forces if revenue sharing funds were lost.'

"This kind of information paints a vivid image of the crucial importance of general revenue sharing for cities," said Alan Beals, NLC executive director.

"While we feel there is a strong reservoir of support in Congress to continue this program, the dismal consequences of losing revenue sharing are useful in driving home the fact that its future cannot be dealt with lightly," Beals said.

Cities are already experiencing extraordinary fiscal stress due to the compounding factors of a prolonged recession, substantial reductions in federal aid to local governments and the variety of tax and expenditure limitations imposed by both the voters and state legislators.

This combination of factors has caused local government to begin making real reductions in spending, after taking into account inflation, and absolute reductions in the number of employees.

For the first time in over three decades local government, and state government, are behaving pro-cyclically and contributing to the length and severity of the recession. The spector of the loss of general revenue sharing magnify all these trends.

Local governments have had the variety of responses to fiscal distress greatly reduced in the recent past. Because of the recession local revenues are down. Because of the cutbacks in state and federal governments, grants from them have been reduced. Because of the continuing deterioration of infrastructure, capital budgets can no longer be reduced.

Therefore, the continued fiscal stress of cities, and the possible loss of revenue sharing, will force even more severe cuts in the public services which cities provide.

NLC has sent surveys to its more than 1,000 direct member cities and currently has received back approximately one-half. In the initial analysis of the returns, these cities reporting were broken down into population groups. These groups were under 10,000, 10,000 to 50,000, 50,000 to 250,000, 250,000 to 500,00 and over 500,000.

CITY ACTIONS TO COMPENSATE FOR LOSS OF GRS

[In percent]

	Population in thousands—					
	Under 10	10 to 50	50 to 249	250 to 499	Over 500	Total
Increase taxes	19	10	8			10
Increase fees			1	5	9	1
Reduce capital expenditures	26	33	23	20		28
Reduce operating expenditures	3	13	18	15	27	13
Increase revenue and cut spending	44	41	44	55	55	43
Use reserves	5	1	2			2
Increase debt	1		5			2
Other	3	1		5	9	1
Total	100	100	100	100	100	100

Source: NLC.

MAJOR OPERATIONS FUNDED WITH GRS—FISCAL YEAR 1982

[In percent]

Activity	Population in thousands—				
	Under 10	10 to 50	50 to 249	250 to 499	Over 500
Alternative transit	3	4	2		
Health	2	6	5	17	18
Recreation	10	8	5		6

MAJOR OPERATIONS FUNDED WITH GRS—FISCAL YEAR 1982—Continued

[In percent]

Activity	Population in thousands—				
	Under 10	10 to 50	50 to 249	250 to 499	Over 500
Senior citizens	11	9	8	11	
Social services	8	9	10	11	18
Public safety	40	39	55	50	18
Other services [1]	37	25	16	11	41

[1] Includes administration, planning, sanitation, transportation.

If historical studies are reviewed, an even wider range of GRS uses is discovered.

Source: NLC.

Three major questions were put to the cities. How important is general revenue sharing to you; what do you use general revenue sharing for; and what will you do if general revenue sharing were ended?

To determine how important general revenue sharing was to cities three different questions were asked, what share of locally raised revenues is general revenue sharing, how much would your property tax have to be increased to compensate for the loss of general revenue sharing; and is general revenue sharing you only federal grant.

General revenue sharing represents approximately 6.26 percent of locally raised revenues, exclusive of other federal grants and intergovernmental aid from the states. For the majority of cities, it represented between 1 and 10 percent of the locally raised revenue.

Significantly, however, for smaller cities, general revenue sharing for many of them represented over 10 percent of their locally raised revenue. For the smallest cities, one quarter of them had general revenue sharing equal to over 10 percent of their locally raised revenue.

Often it has been asserted that cities would be able to tap property tax to make up for the loss of general reveune sharing. However, the answers to our survey indicate clearly that property tax rates could not be raised at anywhere near the amounts necessary to compensate.

For the small cities the average rate increase would be 45 percent.

For the larger groups of cities the rates would have to be raised approximately a quarter and for the very largest cities the rates would have to be raised over 15 percent. It is unlikely that such rate increases would be feasible politically.

General revenue sharing is particularly important for smaller cities.

For cities under 10,000, 63 percent indicated it was the only grant they received. For cities under 50,000, 41 percent indicated it was the only grant received.

The significance of general revenue sharing dropped off rapidly as the populations increased to 250,000, and only 6 percent of the cities reporting indicated that it was their only federal grant. For cities over 250,000 none reported GRS as their only grant.

As city size increased, fewer cities used revenue sharing for capital projects only.

Also, as city size increased, more cities used general revenue sharing exclusively for operating programs.

Other than for the very largest cities, approximately 40 percent of cities reporting indicated that they split general revenue sharing between operating and capital activities. This is a clear indication of the value of the flexibility built into general revenue sharing.

The major capital uses for general revenue sharing show, although there were some unique applications, economic development, street repairs, mass transit, most of the spending was for basic public infrastructure. Under this category would come land acquisitions, public building construction and renovation and the purchase of major equipment.

Under the major operations funded with general revenue sharing, the flexibility of use is more evident. A number of cities funded dial-a-ride and alternative local transit programs.

Many cities supplemented their public health and emergency medical services with general revenue sharing. Recreation programs, surprisingly, were mentioned by a fair number of cities but were not the dominant factor that some critics of the program have suspected.

Senior citizen programs and various social services programs, including funding public service agencies, were an important use of revenue sharing funds.

However, the fiscal stress that dominate local public finance has forced the cities to allocate the funds to the core municipal functions of public safety, administration, planning, sanitation, and transportation.

The consequences of terminating GRS are unpleasant.

In many ways they should not shock the reader of the survey report, because these are consequences cities face because of the severity of fiscal stress they are experiencing.

Under the range of broad options which are available to cities, increasing revenues as a sole option was indicated by only 11 percent of the cities reporting.

Most of the smaller cities indicated increasing taxes, while in some of the large cities they would increase fees.

By far the most significant response would be to cut capital and operating expenditures.

Twenty-eight percent of the cities indicated they would reduce capital to compensate for the loss of GRS and 13 percent would compensate solely with reducing operating expenditures.

Forty-three percent of the cities reporting indicated they would do a combination of increasing revenue and cutting spending. However, a few cities indicated they would try to use reserves and increase debt, however, these cannot be permanent solutions to the reductions in GRS.

When pressed further, 28% of cities reporting indicated they would have to lay off employees, with almost half of the cities between 250,000 and 500,000 indicating that would have to be the course they would have to take.

The average number of layoffs indicated grows rapidly with city size, and reflects the fact that larger cities receive substantially larger dollar amounts of general revenue sharing.

The results of the survey indicates the importance of revenue sharing and very difficult actions cities would have to take to compensate for the loss of these funds.

Revenue sharing has become in many ways the glue that holds the precarious fiscal situation in many cities together.

Existing resistence to higher taxes would insure that important services would have to be reduced, capital spending for infrastructure postponed and municipal employees laid off.

These initial findings further dramatize how GRS is important to all cities and the need for NLC and its direct member cities to redouble their efforts to insure enactment of the program.

MAJOR CAPITAL USES OF GRS FUNDS—FISCAL YEAR 1982

[In percent]

Activity	Population in thousands—				
	Under 10	10 to 50	50 to 249	250 to 499	Over 500
Economic development	17	9	9		
Streets	28	41	30	50	
Transit	2	4	6	17	
Other public works [1]	53	46	55	33	100

[1] Includes parks, land, buildings, major equipment.

Source: NLC.

REVENUE SHARING

● Mr. PRYOR. Mr. President, I am very pleased to announce my support and cosponsorship of legislation that will be introduced early next year by Senators DURENBURGER, SASSER, and others to reauthorize the general revenue sharing program.

General revenue sharing was created by the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512) and was subsequently extended for 4 years in 1976 by the State and local fiscal assistance amendments (Public Law 94-488). Once again in 1980, with the enactment of the State and Local Fiscal Assistance Act Amendments of 1980 (Public Law 96-604), the general revenue sharing program was reauthorized for 3 more years. However, authorization of this program will expire on September 30, 1983, unless it is reauthorized. I believe the general revenue sharing program has been a tremendously important program providing State and local governments with valuable general-purpose fiscal assistance. In fact, passage of revenue sharing marked a fundamental change in intergovernmental relations.

Continuation of the general revenue sharing program is extremely important both in terms of fiscal impact and budgetary planning stability to State and local governments. As the program has withstood the test of time and been reauthorized many local governments have increased their use of the programs. In fact, according to a recent National League of Cities survey, over 40 percent of all small cities now receive no other Federal aid, and 80 percent of cities surveyed said they would be forced to cut services next year if the program were reduced or eliminated. In addition, 50 percent of such small cities said they felt they would be forced to raise taxes if revenue sharing is not continued.

The success of the revenue sharing program in the State of Arkansas is widely acclaimed. The total amount of general revenue sharing program funds received by all municipalities in the State of Arkansas was $43,441,575 in fiscal year 1981, $48,184,041 in fiscal year 1982, and will be approximately $46,413,653 in fiscal year 1983 if the program is reauthorized. I just recently received a very persuasive letter from Mr. John Frazer, the mayor of Warren, Ark., in support of reauthorization of revenue sharing. I ask that a copy of this letter be printed in the RECORD following my remarks.

Mr. President, I have been a consistent supporter of the revenue sharing program and I strongly support continuation of the program. The legislation, which I have agreed to cosponsor, will be introduced on the first day of the 98th Congress to reauthorize the general revenue sharing program. It will be a simple reauthorization for 3 years at the current level of funding of $4.6 billion and will employ the same allocation formulas as the present program. I urge my colleagues to join me in calling for early hearings in the 98th Congress on this issue and in supporting the continuation of this vital program.

The letter follows:

THE CITY OF WARREN,
Warren, Ark., December 10, 1982.

Hon. DAVID PRYOR,
U.S. Senate, Russell Building,
Washington, D.C.

DEAR SENATOR: As the end of 1982 draws near, the attention of local governments turn to 1983 and annual budgets. The City of Warren is no exception. Realizing the many difficult problems to be faced by The Congress in 1983, it is the desire of the City of Warren to go on record early in favor of the continuation of the General Revenue Sharing Program.

You need not be informed that Revenue Sharing, as currently authorized, will expire at the conclusion of this federal fiscal year and with the tough decisions required to solve our economic problems, many will spot an easy target in Revenue Sharing to eliminate.

To demonstrate the essence of the Revenue Sharing question as it affects the City of Warren and I know most other municipalities, Revenue Sharing covers a full 15% of Warren's operating budget. In past years, the City of Warren utilized RS to make capital expenditures. Now RS is essential to maintain basic City services like police and fire protection. Rising costs have created this situation.

I realize that all levels of government must be more efficient and stick to basics. Most communities are doing just that. We're not broke but remove RS and a drastic financial condition will exist. Frills to be maintained are not the question, protection of life and property is.

Please support the continuation of General Revenue Sharing to local governments for the benefit of all our citizens. If you have questions concerning RS and the City of Warren, feel free to contact me.

Sincerely,

JOHN B. FRAZER,
Mayor.●

RECESS UNTIL 2 P.M., DECEMBER 19, 1982

Mr. BAKER. Madam President, I see no Senator now seeking recognition. I move, in accordance with the order just entered, that the Senate stand in recess until the hour of 2 p.m. today.

The motion was agreed to; and at 2:55 a.m., the Senate recessed until Sunday, December 19, 1982, at 2 p.m.

EXTENSIONS OF REMARKS

ADMINISTRATION OFFICIALS SUGGEST ILLEGAL REBATES ACCEPTABLE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. FLORIO. Mr. Speaker, I must call the attention of the House to three articles which appeared on the front page of today's Washington Post. Officials of this administration, in the name of free enterprise and reform, are encouraging conduct which violates all traditional notions of integrity.

A Commissioner of the Interstate Commerce Commission suggests that illegal rebates are acceptable. Officials of the Legal Services Corporation, designed to serve the needs of the poor, drained the meager resources of the corporation for their personal gain. The Department of Justice refuses to pursue EPA Administrator Anne Gorsuch for contempt of Congress as required by law.

I urge my colleagues to review these articles.

[From the Washington Post, Dec. 18, 1982]

TRUCKING BRIBES JUST "DISCOUNTS," ICC OFFICIAL SAYS

(By Howard Kurtz and Douglas B. Feaver)

One of President Reagan's appointees to the Interstate Commerce Commission said in a private meeting that the agency should not worry about kickbacks in the trucking industry because such bribes "are probably one of the clearest instances of the free market at work."

Commissioner Frederic Andre told his ICC colleagues in the Oct. 20 closed-door meeting that he sees nothing wrong with trucking companies conspiring to set monopoly prices, according to a confidential transcript obtained by The Washington Post. He also said there was no reason for the ICC to stop a convicted felon from operating a trucking firm while in prison.

He said that bribes in the trucking business were just "discounts," or "rebates."

Andre, 49, a transportation consultant from Indiana, who joined the commission last March, made the comments during a strategy session called to map out the ICC's future enforcement policies. The ICC has been debating what role it should play in overseeing trucking practices as Congress proceeds to free the industry substantially from decades of regulation.

Andre, a onetime truck driver who later became chief deputy commissioner of the Indiana Bureau of Motor Vehicles, also served on Reagan's transition team for transportation issues. He did not respond to repeated requests for comment yesterday. ICC spokesman Robert Dahlgren would say only that "the transcript stands on its own."

According to the transcript, Andre said the trucking industry has developed into a cartel with a "subculture" of unique rules and traditions that defies federal regulation. The government should not interfere if a trucker pays a kickback to a shipping manager to hire his company to haul freight along a particular route, he said.

"Bribes among principals are probably one of the clearest instances of the free market at work," said Andre a strong advocate of deregulation.

"Well, I can't agree with you about that," said Chairman Rees H. Taylor Jr., also a Reagan appointee.

"Well, they are just discounts," Andre responded. ". . . A bribe is a rebate, is it not? . . . It is an attempt to get around the rigidities imposed on the market by a government cartel."

"That is just like saying that murder eliminates hunger, you know," Commissioner J. J. Simmons said.

Andre contended that existing laws against fraud are sufficient to allow local prosecutors, to pursue bribery cases "without having a special ICC cop coming along and having special jurisdiction."

Chairman Taylor responded that local officials "just absolutely ignore" such violations, but Andre said this is because "they have been preempted by federal police, which is the ICC police."

Andre said the ICC should follow the same approach with a form of extortion called "lumping," in which someone is not allowed to load his truck without paying off a carrier or shipper. Taylor said this practice, sometimes enforced by gunfire, is "rampant" in New York, New Jersey, Chicago, Los Angeles and San Francisco.

Maybe we should get entirely out of worrying about lumping . . . ," Andre said.

Commissioner Heather Gradison, also a Reagan appointee, said yesterday that Andre's comments came in "a discussion between commissioners about philosophy. Each member would throw out one extreme [ideal] or another . . . . That was just Fred talking. What you've gotten hold of is Fred Andre's philosophy, not the commission's philosophy."

Two other ICC sources said that Andre is viewed as an extremist and that he is not taken seriously by the other commissioners. "Some of his ideas are off the wall," one source said.

According to the transcript, Andre does see one clear-cut role for the ICC, in defending the special antitrust immunity that truckers have enjoyed since the 1940s. Congress is in the process of phasing out this immunity, which allows competing truckers to set common rates or carve up territory without being accused of price-fixing.

I think the greatest function that the ICC performs . . . is that it grants antitrust immunity to surface transportation," Andre said. He said this helped protect truckers "from the latter-day McCarthyites that populate the [Justice Department's] Antitrust Division."

Scoffing at "British neoclassical" theories about price-fixing, Andre said: "No one has yet proven that a monopoly price that came about as a result purely of market activity has ever been socially onerous."

Andre also brushed aside suggestions that a convicted felon should be denied a trucking license.

"This might be a perfectly legitimate thing," he said. "I think murderers in jail, there is no reason why—if the general cultural laws of this country permit them to run trucking companies—they are in jail because they are a physical danger to other people, but that does not mean their mind is utterly corrupt as far as running a surface transportation business is concerned."

"Think of all the businessmen . . . who still run their companies from jail," Andre said ". . . Why should we have a higher standard, of all things, in surface transportation?"

Taylor said he hoped everyone's comments would remain secret, but added, " I have no illusions, after having been here for a year and a half, about keeping anything confidential around here."

RECOVERY OF FEES PAID LEGAL OFFICIALS DEMANDED

(By Mary Thornton, Washington Post Staff Writer)

Republican Harold S. Sawyer (R-Mich.), furious about large consulting fees collected by President Reagan's appointees to the board of the Legal Services Corp., yesterday informed the president that he will ask federal prosecutors to recover the money on the grounds that it was paid illegally.

Referring to the $156,000 collected by the 11 appointees during the first 11 months of 1982, Sawyer said in a letter, "the conduct of your recess appointees . . . is an embarrassment to us and is becoming a political liability to you. We are alarmed by the growing public perception of the administration's and our party's lack of sensitivity for the poor and elderly. . . ."

Pointing to the $25,028 collected by board chairman William Harvey and the more than $19,000 paid to member William Olson, Sawyer said, "We cannot expect pro bono volunteerism from attorneys . . . when this administration allows the Legal Services board members to make a profit on the backs of a program designed to help out poor and elderly. It appears to be the application of a 'suck up' as opposed to a 'trickle down' theory."

Sawyer added that a congressional delegation would like to meet with Reagan "regarding the removal of the board, the repayment of the consulting fees, the removal of the corporate president, the nullification of his contract, and the selection and confirmation of qualified [board] members."

Reagan said Wednesday that he would ask the Office of Management and Budget to conduct an investigation after a House Judiciary oversight subcommittee on which Sawyer serves discovered that the board was collecting consulting fees at more than twice the rate of any previous board in history.

Meanwhile, the Senate also moved yesterday to control the board by adding a rider to the continuing resolution that would cut back not only on consulting fees but also on the fringe benefits approved by the board earlier this week for Indianapolis lawyer Donald Bogard, the new Legal Services president.

Board members say the contract was negotiated directly by Harvey, a former law

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

professor of Bogard, without the participation of the other board members, even though the board had appointed a committee to handle the negotiations.

The Senate rider would nullify a provision in the contract providing paid membership in the private club of Bogard's choice and would severely limit another provision of the contract—a special one-year severance agreement that would authorize Bogard to collect his full $75,500 salary along with benefits and expenses.

In addition, the rider would allow board members to collect their $29-an-hour consulting fee only for the time they are actually attending official board meetings.

Harvey, for example, does not like to fly, and has collected the consulting fee for his driving time to and from Indianapolis.

While the controversy over its expenses continued, the board met yesterday and approved funding for the Legal Services field offices for the coming year at the 1982 level.

In an often contentious meeting, Harvey attempted to move forward on votes while an angry legal services advocate—shouting to be heard— read Sawyer's letter into the record. Harvey offered no response.

Board members led by Howard Dana, a Portland, Maine, lawyer who ran Reagan's 1980 campaign in Maine, turned back attempts by Harvey and Olsen to virtually eliminate class-action lawsuits by Legal Services lawyers and defeated proposed rules to make it easier to cut off funding for programs that may be ideologically out of tune with the administration.

Maryland Attorney General Stephen Sachs was met by cheers from the legal services advocates in the audience when he said, "Poverty ought not weigh at all—and certainly not heavily—on the scales of justice. . . . Your proposals"—to require that every member of a class grant permission before a class-action suit can be filed, and that class actions cannot lead to the expenditure of government funds—"are . . . nothing other than an attempt to gut the class-action concept. Your requirements are impossible to meet."

Finally, Harold DeMoss, a Houston lawyer who is affiliated with the more moderate segment of the board, pushed through a resolution to ask Congress for a 6.7 percent increase in the budget for the 1984 fiscal year.

Legal Services has been operating since 1981 with a budget 25 percent below the 1980 level.

Nine of the 11 members of the board will cease to function as members as soon as Congress adjourns. Reagan withdrew his formal nominations of all nine last week when he received word that the Senate planned to reject Harvey and Olson. The board members are now serving in a recess capacity.

The other two were appointed in October and can serve until Congress adjourns next year.

Although conservatives have criticized previous boards as being overzealous, a number of Reagan board members have been criticized by both Republicans and Democrats.

"We've just exchanged our nuts for their nuts, and I think our nuts may be worse," said Rep. M. Caldwell Butler (R-Va.), a member of the House Judiciary oversight subcommittee that has been looking into the board's expense records.

Reagan has not indicated who any new board members might be.

PROSECUTION OF GORSUCH RULED OUT

ADMINISTRATION'S DECISION SETS UP SCRAP WITH HOUSE

(By Dale Russakoff, Washington Post Staff Writer)

In an escalating confrontation with Congress, the Reagan administration announced yesterday that it does not plan to prosecute Environmental Protection Agency Administrator Anne M. Gorsuch for contempt of Congress, as directed by the House of Representatives in a lopsided bipartisan vote Thursday.

Instead, Justice Department officials said yesterday, they have asked a U.S. District Court judge to declare the House action unconstitutional and an intrusion on executive privilege to withhold information from Congress.

The request came in a lawsuit filed by Justice Department attorneys and provoked an immediate and angry reaction from several House leaders, who accused the adminstration of "stonewalling" and flouting the law.

The House voted 259 to 105 to hold Gorsuch in contempt after she refused, under orders from President Reagan, to turn over to a House subcommittee certain legal documents on her agency's cleanup efforts at 160 of the nation's most dangerous hazardous-waste dumps.

Although the full House has never before held a Cabinet-level official in contempt, federal law says that the U.S. attorney for the District of Columbia has a "duty . . . to bring the matter before the grand jury." If tried and convicted, Gorsuch could be fined up to $1,000 and sentenced to up to a year in jail.

However, U.S. Attorney Stanley S. Harris joined Justice Department officals yesterday in filing suit against the House of Representatives in an effort to block prosecution of Gorsuch. Thus, the case against Gorsuch will not go to a grand jury until the civil dispute over the limits of executive privilege is resolved, Justice Department officials said.

"It is our position that prosecution is inappropriate and unlawful," said a high-ranking Justice Department official who briefed reporters on condition, that he not be identified. "It would be a terrible dereliction of office to prosecute under those circumstances."

The lawsuit uses several of the arguments Justice had invoked in advising Reagan and Gorsuch to defy the House subpoena for the EPA documents. It argues that the subpoena is too broad, that the subcommittee has not demonstrated a need for the documents and that the papers are too important to law enforcement efforts to be released.

The Justice Department official said the administration will turn over the documents if it loses the lawsuit, but he predicted that the case would be appealed, possibly to the Supreme Court, since this is the first time Congress has attempted to press criminal contempt charges on the issue of executive privilege.

Meanwhile, House leaders vowed to press forward with efforts to obtain the documents, reacting angrily to what they called an unprecedented legal situation—a lawsuit putting the United States of America against the House of Representatives of the United States of America.

House Speaker Thomas P (Tip) O'Neill Jr., yesterday forwarded the contempt citation to Harris for prosecution and, in a meeting with House Republican and Democratic leaders, called on House legal advisers to challenge the Justice Department lawsuit, according to two officials who were present.

"The Justice Department has placed itself in the unethical position of advising Mrs. Gorsuch to withhold the documents and, now, stonewalling their responsibilities under the law of the land," said Rep. Elliott H. Levitas, chairman of the House Public Works subcommittee that issued the subpoena to Gorsuch and brought the contempt citation against her.

Stanley Brand, general counsel of the clerk of the House, and Kirk O'Donnell, general counsel to the speaker, yesterday called the Justice Department arguments "defective" and "seriously flawed." They said the courts have often held that Congress cannot be sued for legislative acts.

The impasse grew from an investigation by Levitas' subcommittee into the EPA's enforcement of the 1980 federal law that mandated cleanup of the nation's most hazardous waste dumps. The law created a $1.6 billion fund—known as the Superfund—to finance cleanups and to finance prosecution of companies for illegal waste-dumping.

Levitas and other subcommittee members said they needed to review sensitive law enforcement records in order to know whether the agency was moving quickly enough to clean up the dumps. They also said they had information suggesting that EPA had not assessed high enough fines against several companies involved in illegal dumping.

However, EPA officials, under advice from the Justice Department, invoked executive privilege in refusing to turn over documents that they called "enforcement-sensitive." These papers, Gorsuch and others argued, came from open law enforcement files and could not be released without jeopardizing potential prosecutions.

That standoff led to the subpoena for all legal records on the 160 dumps designated by EPA as priorities for cleanup with the Superfund. Administration officials said the subpoena would require EPA to produce more than 780,000 pages of documents at a cost of about $223,000, a figure disputed by Levitas and other committee members.

Gorsuch said yesterday that the agency is withholding only a small fraction of its files, including legal memos outlining the strengths and weaknesses of the government's case against certain companies, lists of potential witnesses and enforcement strategy papers.

Nonetheless, both Republicans and Democrats view the administration's stance as interference with Congress' duty to see that its laws are carried out. Fifty-five Republicans joined 204 Democrats in voting for the contempt citation.●

SUPPORT OF PUBLIC EMPLOYEES' APPRECIATION DAY

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. PARRIS. Mr. Speaker, I rise in support of the resolution which would designate a day in January as Public Employees' Appreciation Day. As many of my colleagues know, January 16, 1983, will mark the 100th anniversary of the Pendleton Act which inaugurated a new career civil service.

To show my support and at the request of the Public Employees Roundtable, I introduced House Joint Resolution 592, designating January 16, 1983, as Public Employees' Appreciation Day. That measure attracted quite a number of cosponsors, both Republicans and Democrats, from many different parts of the country. For this reason, I am delighted that the House has this opportunity to consider the resolution before us now and I urge my colleagues to vote in support of it.

Public employee morale and productivity is at an alltime low. Our public employees have not received adequate recognition for the contributions they have made and the vital services they provide. The work of Federal employees affects many aspects of our lives. Secret Service agents, Federal Bureau of Investigations personnel, and drug enforcement agents strive daily to keep our Nation safe. Public employees at the National Institutes of Health work on cures for cancer and other diseases while NASA employees work on new technology for our space program.

Let us show our support for these dedicated workers by approving this resolution and presenting it to the President for his signature.●

KEN HOLLAND

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I would like to join my colleagues today in paying tribute to our friend KEN HOLLAND who is retiring at the end of this term.

We will all miss the energy and spirit that was KEN's hallmark in his 8 years here as I'm sure his constituents will miss his able and powerful voice in Congress. His hard work on the Ways and Means Committee on their behalf is well known.

I extend him my best wishes for continued success in all his future endeavors.●

DEATH OF MICHIGAN SUPREME COURT JUSTICE BLAIR MOODY, JR.

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. HERTEL. Mr. Speaker, the recent death, of my friend Michigan Supreme Court Justice Blair Moody, Jr. was a tremendous loss to the people of Michigan. Detroit News columnist Pete Waldmeir's article about Blair explains that his death is very much a personal loss to the people of our State.

The column follows:

HOW COULD THIS HEART FAIL?

(By Pete Waldmeir)

My son, Pete, was on the phone early Friday evening. His voice was weary and dejected and before I could ask, he told me why.

"Blair Moody died of a heart attack," he said. "I just heard and I thought you ought to know. I feel so bad," he said, "for his wife, Mary Lou, and for his family. He was such a good person . . ."

Damn, I thought. Damn, damn. Why is it always the good guys? The decent people? There are so many jerks in this world and they all seem to live to be 100.

Yet people like Blair Moody Jr. can't make it past 54.

I wasn't a close friend of Blair Moody. I liked him and respected him, both as a person and as a judge. But he was one of those rare folks who could add something to your life just by being himself.

He was kind and compassionate, the sort of person that, if you were a parent, you would want your kid to grow up to be. Not Boy Scout-simple. Just a truly intelligent, reasoned, loving man whose smile was a real bonus because it could make you feel good.

I'm only a couple of years younger than Blair Jr. was, but it seems like I was an awful adolescent when I first met him in the city room of The Detroit News.

His father, Blair Sr., had been a Washington correspondent for this paper—a really high-powered job in the days before the TV tube took over the world—and I had read his old man and admired him since I was old enough to understand that there was a whole world outside the window of the Gratiot streetcar.

I was a copy boy in the late '40s and early '50s, one of a small cadre of messengers who carried stories in various stages of disrepair from one desk to another and sharpened pencils and ran for coffee for editors and reporters. In that job there was always a certain disdain for the summer temporary reporters.

I've seen Blair Moody Jr. a hundred times since our meeting in the city room the first summer he came in from Ann Arbor to work and each time we've met I've recalled to myself how gentlemanly he treated me; like I really meant something to him.

Blair Jr. moved on, of course, through law school, into private practice, then the Wayne circuit bench and finally the Michigan Supreme Court.

It seems strange now, but when Blair Sr. died in 1954 I felt some of the same despair and sorrow for young Blair that Pete bears for Blair Jr.'s family. But Pete knew Blair Jr. far better than I ever knew Blair's dad.

When Pete graduated from George Washington University law school he applied for a clerkship at the Michigan Supreme Court and spent two years working for Justice G. Mennen Williams. Soapy's office adjoins young Blair's and Pete was quickly welcomed into the extended family of both of them.

I don't know how much law he learned from either man; he'd have to tell you that. But I am grateful that he had the chance to know them both and, particularly, to grow as a man in the warmth of Blair Moody's friendship

It seems cruel irony that Blair Moody's heart gave out on him. It never failed anyone else.●

INTRODUCTORY STATEMENT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. PETRI. Mr. Speaker, today I am pleased to introduce a bill which would correct many of the problems now facing multiemployer pension plans as a result of the Multiemployer Pension Plan Amendments Act of 1980. Without this relief the future for multiemployer plans and the essential pension benefits they provide to workers covered by such plans could be bleak.

Currently, more than 8 million American workers rely on multiemployer pension plans to provide their pension benefits. Typically, these employees work for small businessmen who could not provide pension coverage in a cost efficient manner were it not for the vehicle provided by multiemployer pension plans. Multiemployer plans provide many advantages to contributing employers and covered employees, not the least of which is increased security and financial stability resulting from the plan's broad contribution base of hundreds, or even thousands of employers. Multiemployer plans also are beneficial to unions because they provide a vehicle through which the unions can obtain the greatest benefits for their members. Multiemployer plans have provided an example of union-management cooperation which is of benefit to business, labor, workers, and to the economy of the United States.

In the 2 years since enactment of the 1980 Multiemployer Amendments Act multiemployer plans are subject to stresses which are the direct result of that act. The ability of the trustees of the plans to provide benefits are restricted because new employers avoid contributing to multiemployer plans resulting in gradual erosion of the plans' contribution base. The security of the current and future benefits for workers are thereby also eroded. Many plans find themselves embroiled in complex litigation further depriving participants of assets which could be used to improve benefits. Well managed plans are required to pay ever-increasing premiums to the Pension Benefit Guaranty Corporation because of the unwise and imprudent acts taken by trustees of poorly managed plans. The moneys spent for increased premiums cold better be used to increase the benefits paid to covered workers.

One of the key provisions of the 1980 Multiemployer Amendments Act was the establishment of "employer withdrawal liability." During the period after the enactment of the Employee Retirement Income Security

Act of 1974—ERISA—some employers were abandoning multiemployer plans both as a result of declining industries and to avoid any possible additional liability as a result of the plan termination provisions of ERISA. The broader application of employer withdrawal liability was intended to stem this growing tide and to assure that employers who left a multiemployer plan paid a share of accred unfunded vested benefits. Unfortunately, employers have found that this "share of withdrawal liability" can range as high as $20 million. These huge dollar amounts represent benefits which the plans have promised to workers, benefits they are obligated to pay at some future date, and benefits for which there are currently no funds available to pay.

Many employers contributing to multiemployer plans are being hit with enormous withdrawal liability solely as a result of normal, day-to-day business transactions, many of which are beyond their control.

Often, the withdrawal liability is sogreat that it threatens the continued economic viability of the business concern. Frequently, the liability far exceeds the total contributions made by the employer, and it is not unusual for the amount to exceed his entire net worth.

The 1980 Multiemployer Amendments Act also discourages participation by new employers in multiemployer plans. Small businesses, comprising the vast majority of multiemployer plan contributors, are justifiably reluctant to risk more than their entire net worth when they have little or no control over the amount of employer withdrawal liability they may be subjected to at some time in the future. They are instead searching for other retirement income alternatives for their workers or, worse yet from a public policy perspective, providing no pension protection. In any event, the vital lifeline for multiemployer plans—new contributing employers to replace those who go out of business or leave the plans—has been badly damaged, if not totally severed.

Mr. Speaker, the legislation I am introducting today is designed to reverse this situation and restore multiemployer pension plans to their status as one of the most efficient, secure retirement income systems available. In general, the bill, entitled the "Multiemployer Pension Plan Equity Act," is designed to correct those problems created by the 1980 amendments that threaten workers' pensions and disrupt the daily operation of America's small businesses. It is important to note at the outset that this bill not only maintains the Pension Benefit Guaranty Corporation insurance system, but strengthens it. In addition, adequate safeguards have been maintained to prevent a mass rush of employers leaving multiemployer plans. Withdrawal liability will still serve as a deterrent to employers wishing to leave poorly funded plans.

The cornerstone of this bill is a provision which would require that a multiemployer plan be well-funded before any past service benefit increase or past service credit is granted. A wellfunded or fullyfunded plan in and of itself provides the best protection for the pensions of covered employees. This bill requires that a certain level of plan assets in relation to vested benefits be maintained.

Our bill is also directed at encouraging better funding of multiemployer plans as well as strengthening the PBGC insurance system by implementing a risk-related premium system. Currently, all plans covered by the Pension benefit guaranty corporation's—PBGC's—multiemployer plan termination insurance pay the same annual premium, $1.40 per participant. This flat rate does not vary regardless of potential risk of loss to PBGC, so that well-funded plans pay the same premium as do poorly funded plans. ERISA authorizes PBGC to implement a risk-related premium, but the Corporation has yet to do so.

In this regard, this bill contains a provision to vary the rate of the premium paid to PBGC in accordance with the funding level of the plan. The better funded a plan is, the less risk to PBGC and the lower will be the annual premium. The more poorly funded, the higher the premium. The potential for the reduced PBGC premium should serve as a further inducement to improve plan funding and thereby reduce the level of unfunded vested benefits.

Another important goal of this bill is to reduce the impact of employer withdrawal liability under unusual situations or situations which are totally beyond the control of the employer. Eliminating liability in these instances will reduce much of the anxiety currently felt by employers who are considering joining multiemployer plans. Under our proposal, various events which would be considered employer withdrawals under the 1980 Multiemployer Amendments Act would be exempted. These include a cessation of contributions caused by a natural disaster, and the untimely death of a small businessman. Thus the most gregarious examples of withdrawal liability imposition would be eliminated.

A fourth provision of the bill would improve the current rules relating to sales of assets. The current unworkable requirements may prevent a sale or merger of a company thereby resulting in the closing of the company and the loss of jobs. These requirements are replaced by provisions which impose no withdrawal liability on the seller—primary or secondary—if certain safeguards are present.

The current statutory provisions regarding dispute resolution are also improved by streamlining the procedure and reducing the time requirements until the plan and the withdrawing employer will receive a decision of an impartial arbitrator. It will also specify that no withdrawal liability payments are due until after an impartial arbitrator's decision.

Finally, the bill would provide some technical improvements to prevent the assessment of withdrawal liability when a plan is fully funded.

Mr. Speaker, the principles reflected in this bill are supported by the trustees of the Graphic Arts International Union, Supplemental Retirement and Disability Fund. Thirty management and union trustees from throughout the United States and Canada. This is the only bill introduced by union and management which is directed toward solving the problem of all multiemployer pension plans in all of the industries in the United States. This bill, in some respects, is similar to H.R. 7233 introduced by Representative HOLLAND in the 2d session of the 97th Congress. We hope that many more unions and employers will soon be adding their support for this bill.

The bill represents an effort to ensure the renewed growth of multiemployer plans and to protect the safety of millions of workers' retirement income. I ask that my colleagues give this matter their serious consideration. Mr. Speaker, I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.●

HENRY REUSS

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, one of the finest gentlemen and most knowledgeable Members of the House is leaving us at the end of this session, HENRY REUSS of Wisconsin. He has been a friend and a colleague whose advice on financial and economic matters I often sought and always respected.

HENRY served as chairman of the House Banking Committee from 1975 to 1980, where his innovative and farsighted leadership was widely acknowledged. He has always stood fast against the giant financial interests in this Nation, championing the cause of the workng people, minorities, and poor. As chairman of the Joint Economic Committee, Henry has served the past 2 years as a major spokesman against the disastrous economic policies of the Reagan administration.

I will miss HENRY'S wisdom and knowledge. I will miss his friendship. Congress will miss him as it grapples with this Nation's difficult economic problems.●

STATES RAID NONGOVERNMENT OIL COMPANY OVERCHARGE PAYMENTS TO ESCROW ACCOUNT ESTABLISHED TO PAY OVERCHARGED CUSTOMERS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. DINGELL. Mr. Speaker, through the efforts of my Subcommittee on Oversight and Investigations and that of subcommittee chairman YATES, the Department of Energy is reluctantly pursuing old violations by oil companies of DOE regulations aimed at protecting consumers from oil price gouging. The violations occurred between 1973 and 1981 as a result, the DOE has collected through settlements many millions of dollars. To date, major refiner settlements alone have resulted in refunds of over $280.8 million to overcharged customers. Additionally, approximately $500 million, including interest, has been deposited in special escrow or suspense accounts administered by DOE and established in 1980.

That money is not Federal money. It belongs to the overcharged customers. But despite efforts and prodding by our subcommittees, the DOE has thus far failed to utilize its regulations and procedures to distribute these funds to such consumers as municipalities, small businesses, school districts, farmers, and other citizens. Now the States want to raid these funds for "energy purposes"—whatever that means.

Yesterday, the other body adopted, as part of the continuing resolution, the following amendment authorizing such a raid:

At the end of Title I, insert the following new section:

"Sec. . (a) From the amounts held in escrow on the date of the enactment of this Act as a result of alleged petroleum pricing and allocation violations, the Secretary of Energy is directed to exercise his remedial authority under the Emergency Petroleum Allocation Act of 1983 to disburse immediately $200,000,000 to the Governors or Chief Executive Officers of the States.

"(b) The Secretary of Energy shall make disbursements under this section based on the ratio, calculated by the Secretary, which—

"(1) the consumption within each State of price-controlled refined petroleum products (other than refinery feedstocks) during the period from September 1, 1973 until January 28, 1981 bears to

"(2) the consumption within all States of such products during that period.

"(c) The disbursements made under this section shall be available for energy programs of the States, including, but not limited to, low income energy assistance and related weatherization activities.

"(d) As used in this section, the term 'States' means the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

"(e) In addition, the Secretary of Energy shall distribute to the Governors or Chief Executive Officers of the States as promptly as is practicably feasible, all other amounts, collected or hereafter collected as a result of alleged petroleum pricing and allocation violations, which are attributable to direct or indirect injuries, to ultimate consumers or to otherwise unidentifiable parties, and which are not necessary to satisfy the claims of identifiable injured claimants who can demonstrate specific injury."

What is wrong with this amendment? Everything.

First, the funds to be distributed to the States are not Federal funds. They are held in trust for the benefit of overcharged customers. To the extent the funds are depleted through this amendment, the customers are shortchanged once again.

Second, the formula for distribution of the funds would result in an estimated average distribution of 1.96 percent of the funds, with California getting over $19 million. Many States, like Idaho, Montana, Wyoming, Vermont, North Dakota, Rhode Island, Delaware, New Hampshire, and Nevada, get less than $1 million. In short, it is gasoline-use tilted and benefits the heavy driving States. It excludes heating oil use from the formula, which will impact those States concerned with providing aid for low-income fuel assistance during a cold winter.

Third, the money will be distributed "to the Governors or Chief Executives of the States." There are no guidelines for this distribution. This would be done outside of established State grant programs. It is like a block grant for energy—no strings, no controls. Indeed, the State legislatures would be circumvented. The Governors would have a pot of money. They could dissipate much of it for administrative costs.

Fourth, the money is for "energy programs of the States, including, but not limited to, low-income energy assistance and related weatherization activities."

What does this mean? Well, it means that the Governor could use the money for energy supply, including non-oil-related energy supply activities, such as natural gas development and nuclear programs, payment of the State energy office costs, including salaries, State university energy R&D, and many other activities, which are totally unrelated to the source of the funds; namely, oil pricing overcharges of consumers. There is clearly no assurance that any funds would be used for low-income fuel assistance, weatherization, or conservation which I consider far more worthwhile purposes and more akin to the source of the funds.

Fifth, this is not a one-shot approach. The amendment, which I understand OMB opposes, but which DOE had a hand in drafting, would encourage DOE to make further oil pricing settlements for distribution to the Governors with no congressional review or supervision.

Mr. Speaker, these funds, according to the CBC, are nonbudget funds. They would not be a Government outlay. I can only assume that the purpose of the amendment is to funnel money, with no controls, to the States in a manner that would not show up in the budget. I cannot support such a gift to the States, and I have so indicated in a letter to Chairman Whitten as follows:

As you know, I supported efforts by your Committee in passing this resolution with funds appropriated from general revenues for weatherization, State EPCA and ECPA conservation grants, and low income energy assistance. Such funding through appropriations from the general fund is essential and should be a part of the budget. Supporting those needed programs through raids on DOE non-government escrow accounts is an attempt to circumvent the budget and should be avoided.

I propose that the House can resolve this matter simply by providing this funding through general revenues and only for specifically authorized programs. The result will be the same and will not require any legislation in an appropriation act. This is, in fact, the approach taken in the House-passed resolution, as I have noted above. The House position should be maintained.

Even though I am opposed to efforts like this to circumvent my legislative committee, I can conceive of the possibility of using some of the escrow funds for a one-shot distribution to the States, consistent with authorized DOE programs, for uses that would help people this winter, but not for a broad range of energy programs. Such a program would have to overcome all of the concerns I mentioned above and be acceptable to Chairman Yates. I will work with Chairman Yates to this end.

AL COOPER—A JOB WELL DONE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. STARK. Mr. Speaker, the end of the year will bring a loss to the city of San Leandro, Calif., when E. B. "Al" Cooper, the executive vice president of the community's chamber of commerce retires.

Al has earned his retirement—but he will be sorely missed by the business community and all the citizens of the city he has done so much to help.

Al Cooper has spent over 21 years in the retail business and has been active in chamber of commerce work for more than a quarter of a century. Since 1974, Al has been a driving force in the San Leandro Chamber of Commerce, helping the community in its efforts to develop a sound business and job base, create new jobs along the city's East Bay waterfront, and in general, make San Leandro one of the great, liveable communities of America.

Prior to coming to San Leandro, Al worked for 3 years for the California Chamber of Commerce as field secretary, and 14 years as executive vice president for the Merced Chamber of Commerce. In addition, Al has been a leader in the State and region in insuring the vitality and coordination of various chamber groups. He served as a State delegate and director of the American Chamber of Commerce Executives; he was president of the Valley Association of Chamber of Commerce Executives, and of the Central and Northern California Association of Chamber of Commerce Executives, as well as president of the California Association of Chamber Executives. Recently, Al received the prestigious Russell E. Pettit Award of the California Chamber of Commerce Executives' Association.

Al's contributions to San Leandro are innumerable. He has been a leading force in making the city a home and a community for all who live and work there.

We all wish him the best of retirements and congratulations on a job well-done.●

IN SUPPORT OF AN AMENDMENT INCREASING PENALTIES FOR NONVERIFICATION OF DOCUMENTS

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. CORRADA. Mr. Speaker, H.R. 7357 as reported by the Judiciary Committee establishes civil and criminal penalties for any employer or entity who knowingly hires, recruits, or refers for employment an alien not authorized to work in the United States. It also requires employers of four or more employees to have all prospective employees show them as a condition of hiring: first, a U.S. passport; or second, a social security card, U.S. birth certificate, or some other proof of U.S. nationality at birth; and a federally issued alien ID, a State-issued driver's license, a similar State-issued ID, or any other ID that the Attorney General deems reliable.

However, failure to comply with the ID verification requirements would subject an employer to a citation for a first offense and a maximum penalty of only $500 for each violation thereafter. These penalties for nonverification of an employee's work eligibility documentation are not only weak but also inconsistent with the penalties established for hiring undocumented aliens which are:

First, first offense—citation and warning of possible penalties;

Second, second offense—$1,000 civil fine for each unauthorized alien; and

Third, third offense—$2,000 civil fine for each unauthorized alien; and

Fourth, fourth and subsequent offenses—$3,000 fine and/or imprisonment for not more than 1 year for each unauthorized alien. The Attorney General may bring civil action—including seeking an injunction—against pattern and practice violators.

My amendment, which was accepted by the Education and Labor Committee, would increase penalties for employers who fail to verify that prospective imployees are eligible to be employed to: first, citation for a first offense; second, $500 fine for a second offense; third, $1,000 fine for a third offense; fourth, $1,500 fine for subsequent offenses; and fifth, authority for the Justice Department to take court action to deal with pattern and practice violations.

I would like to point out that my amendment is consistent with the enforcement aspects of this section as reported by the Judiciary Committee. In counting the violations, the first offense, as well as subsequent offenses, could still include various violations of verification practices as long as they arise under a single proceeding or adjudication. In addition, the employer could only be penalized for violations committed after the enactment of this act.●

CONGRESSMAN RICHARD WHITE RETIRES

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

● Mr. WON PAT. Mr. Speaker, it is with pride that I rise to join in this salute to a man who is widely recognized as a great Member of this body, Congressman RICHARD C. WHITE of Texas. While he would never personally ask for this praise, I doubt that there is one among us today who is more deserving of this honor than is Congressman DICK WHITE.

For many years, Congressman DICK WHITE has been my friend and adviser. More recently, he has been my colleague on the House Armed Services Committee. But equally important is the friendship Congressman WHITE has held for the people of Guam since 1944. in that year he came ashore on Guam since 1944. In that year he came ashore on Guam to help liberate the island from the hands of the Japanese Army. DICK WHITE fought long and hard in that battle and came away with more than memories of a bitter conflict. He remembered the loyalty of the Guamanian people to the United States and what he saw and experienced never left him or failed to impress on him the importance of Guam to this Nation.

Congressman WHITE renewed his interest in Guam in the 89th Congress when he introduced legislation to establish a National War in the Pacific Park on Guam. He did this again and again until it finally became public law in the 94th Congress. I remember well his desire to see that those who fought and died in the Pacific war for freedom should be remembered with this park and his dreams are now coming true thanks to his dedication, drive, and friendship.

Congressman Dick White stood by my side again when this body passed legislation to establish my own job—that of the Delegate from Guam. And in the 10 years since I first came to the House, I have always found Congressman WHITE to be ready and willing to do his best for my people. His has been a true friendship, devoid of any desire for favors. He has done what he could for Guam because he wanted to and I doubt any of us could ask more of a friend.

I think that it is important that the record also show that we are led in this salute to our dear friend by yet another Texan and veteran of that battle for Guam: Congressman JACK BROOKS. Both of these former marines typify the outstanding qualities which led the corps to victory after victory in the Pacific Theater and today they stand at the top of their profession in terms of success and in the respect they have earned from their colleagues for a job well done.

In the past few years I have been honored to serve with Congressman WHITE on the House Armed Services Committee. He has proven to be one of our most articulate spokesmen for a strong national defense and largely because of his efforts we today have a military defense force second to none.

Recently, DICK WHITE made the decision to retire from this hectic life. I can understand his reasons for wanting to spend more time with his family. But I will certainly regret his departure from this body. DICK WHITE has been far more than just a colleague. He has been a friend and supporter and this is a commodity which is always in short supply anywhere.

I wish DICK the happiest of times in the future. May he find fulfillment in his life whatever he may choose to do. I know that his countless friends here

on the Hill will certainly share my deep sense of loss when he has gone. I can only say that I hope he will keep in touch with all of us and I look forward to seeing him again in the future. Best wishes, DICK, and from the people of Guam and myself, good luck. Thank you.●

DON CLAUSEN

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I am pleased to have the opportunity to pay tribute to DON CLAUSEN.

Throughout his 19 years of service, DON has been a hard working and dedicated legislator—his record in support of the U.S. insular areas has been outstanding. I have had the pleasure of serving with him on the Interior Committee where he has been a valuable ally on many key environmental issues. His hard work has benefited his constituents, our State of California, and the Nation.

DON has been a good friend and a valued colleague. I extend to him my sincere best wishes for the future.●

SMITHSONIAN HONORS REV. WILLIAM HERBERT BREWSTER

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. FORD of Tennessee. Mr. Speaker, it is a pleasure for me to bring to the attention of my colleagues the outstanding accomplishments and achievements of my distinguished lifelong friend from Memphis, Tenn., Rev. William Herbert Brewster, as he is honored this weekend by the Smithsonian Institution as a part of its black American culture program.

Reverend Brewster is the much beloved pastor of the East Trigg Baptist Church in Memphis. He has pastored this church for over 50 years, and is truly a pioneer of black American Gospel music.

Reverend Brewster is one of the most prolific and influential composers of Gospel music of our time. He has written over 200 compositions and one song entitled: "Move on Up a Little Higher" was the first black American Gospel song to sell more than 1 million copies. I am indeed proud to be his friend and be associated with such a dedicated and talented man.

God has created only a few silver-tongued giants in our universe, and Reverend Brewster is certainly one of them. The following articles which appeared in this week's Washington Post, paid special tribute to Rev. William Herbert Brewster and his outstanding work with Gospel music. I am happy to share the following kind remarks with you today, and I ask my colleagues to join with me in honoring this great man from Tennessee's Ninth Congressional District which I represent.

SACRED MUSIC: SINGING THE GOSPEL

(By Richard Harrington)

The Rev. William Herbert Brewster is much beloved in the gospel world for his 200 compositions, which include such staples as "Move on Up a Little Higher," "Surely," "How Far Am I From Canaan," "How I Got Over" and "Lord I Tried." Brewster, 81 and pastor at East Trigg Baptist Church in Memphis for more than 50 years, is a true pioneer of black American Scared music; he will be honored with a three-day retrospective and colloquium at the Smithsonian starting tonight. Sunday afternoon's program will focus on one of his unique achievements, gospel drama, an updating and popularization of the classic passion play.

"The gospel drama is like a gospel sermon," Brewster says in his rich bass-baritone cadence. "It is an effort to spread the good news and glad tidings of salvation through Jesus Christ through people who act out certain stories written directly from the Bible. It's a theological movement in the same vein as preaching and the singing of the Gospel. I found in my early ministry that so much of knowledge comes through the eyes of people: You can show them what you can't tell them."

Brewster's dramas melded black culture and oral expressions over very modern original music: Historian Tony Heilbut noted that "his lyrics have always been the most ambitious in gospel, blending a conscious literary sensibility with the most vivid, immediate folk imagery." "In the preaching of the Gospel, faith comes by hearing," Brewster explains. "Hearing is the direct aid to the message of the Gospel. The dramatization of the Gospel is the same method that Christ used in relating a parable or telling a story of something that had passed. Our effort is to put the Gospel squarely before the people.

"It was particularly appealing to youngsters and to the older people—many of them in my early ministry could not read and write and they did not have ministers who were prepared to give the basics of the Gospel as the ministers are today. And so it caught fire and people wanted it and I continued to do it and it drew tremendous crowds and there were people converted to Christianity, sometimes during the performance.

"We also had phrases in it that appealed to the moral thinking of people. A lot of young people had gone astray, but as they looked upon the performance, they saw what they would not take time to read. You know, the Bible isn't exactly a funny storybook and a lot of people don't take the time to read or research. Through this method, we've been able to stir up a lot of interest in the Bible as the word of God, we have been able to give to the people what the Bible said directly. This is the purpose of a gospel drama."

Brewster, who taught Aretha Franklin's father, the Rev. C. L. Franklin, and whose Memphis services were regularly attended by a young Elvis Presley, was also something of a political activist, his motto being, "out of the Amen corner onto the Street corner." He proudly points out that his gospel dramas started in the early '40s, "before this integration period," as he calls it. "Way back in the old days, there were many, many laws and facets of government that were cruel and inhuman to black people. There were no freedom fighters and freedom rioters as were later developed, so we took the Bible stories and dramatized them from a truthful standpoint, took the history of the nations and the races, and out of that proved to the people that racial inferiority was a balloon that could be punctured by truth itself, and that all men *are* created equal.

"We sought to prove also that black people had made their contributions and that the old empires were hermetic in their origin, the building of great cities and establishment of great governments and the great religions were started by people of color. This was the process of our crusades in those days, when we didn't have the ear of the media. We demonstrated how important it is to know the background of people, not what they are always today, but what they have been, so that they can recapture those great powers of civilization with the aid of present-day improvement that they didn't have back in those days. That was the real purpose of my beginning the gospel dramas; the word Gospel, of course, means God's story and we wanted to get that story over, and to get it over, we had to go to the platform with it."

Brewster's first gospel drama, "From Auction Block to Glory," was performed in 1941 at the National Baptist Convention and has been described as a watershed in black American religious culture. Since then, the dramas have been performed in churches and auditoriums, at conventions; they also have inspired dramatic clubs in hundreds of churches.

"Sowing In Tears, Reaping In Joy," which will be performed Sunday afternoon at Baird Auditorium, is a double feature written for matinee and evening programs; each portion is a complete story, described sermon-style by Brewster: "They that sow to the wind, reap the whirlwind'—of course that is the nations, ancient and modern, that forget God, that defy righteousness in their national standards. They disappeared for the most part and reaped as they had sown—seeds of sorrow, deprivation, depression and oppression. Many of those thrones were toppled, their scepters were broken, their crowns were crushed and, now they are part of incinerated dust. That's the purpose of the first section—it's insane to reap that kind of a harvest!

" 'Reaping in Joy' is built upon the suffering and deprivation of black people and other people in the world, nations and individuals. They had days of sorrow, troubles and trials heaped upon them, many of them for no other reason than that they were black. But if anything is to be obtained worthwhile, it is our philosophy that your're going to have to suffer for it. You can't expect it on a silver platter, you can't expect to have a claim without being willing to pay the price, whatever it takes. Keep it in the lines of righteousness and we believe that in the end it will bring forth an abudant harvest in which all people can rejoice, especially people of good will."

The weekend is part of the Smithsonian's Program in Black American Culture.

"Move on up a Little Higher," performed by Mahalia Jackson and written by the Rev. William Herbert Brewster, was the first

black American gospel song to sell more than a million copies. Brewster, pastor of East Trigg Baptist Church in Memphis for more than half a century, is one of the most prolific and influential composers of gospel music, with songs such as "How I Got Over," "How Far Am I From Canaan" and "Surely God Is Able." He will be honored this weekend with a retrospective and colloquium at the Smithsonian (concerts on Friday and Saturday at 8 p.m. with Sweet Honey in the Rock and gospel drama "Sowing in Tears, Reaping in Joy" on Sunday at 3 p.m., all at Baird Auditorium).

MOVE ON UP A LITTLE HIGHER

One of these mornings (soon one morning)
I'm gonna lay down my cross and get my crown
One of these evenings (late one evening)
I'm going home to live on high (to live on high)
Just as soon as I get over Jordan, lay down my heavy burden
Put on my robe in glory, sing and tell the story

How I've come over hill and mountain
Up to the crystal fountain
There with all God's sons and daughters
I'm going to drink their healing waters
I'm going to live on forever
I'm going to live up in glory
After a while (yes after a while)

I'm going out sightseeing in Beulah
Walk around the altar, march and never tire
Sing and never falter
I'm gonna move on up a little higher

I'm gonna move on up a little higher
Meet Abraham and Isaac
Move on up a little higher
Meet the prophet Daniel
Move on up a little higher
Meet brother Paul and Silas
Move on up a little higher
Meet my friends and kindred
Move on up a little higher
Meet that lily of the valley
Meet that sweet rose of Sharon
'Twill always be (howdy howdy) [Repeat three times]
And never goodbye (and never goodbye)
Will you be there (Yes I will be there)
Will you be there when the angel calls the roll
(Yes, calls the roll)
Will you be there waiting (I'll be waiting)
I'll be waiting round the altar
I'll be waiting at the beautiful golden gate
(That beautiful golden gate)
I'll be waiting right there with you.●

LEO ZEFERETTI

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I rise today with a great sense of regret to bid farewell to my good friend from New York, LEO ZEFERETTI. Surely, this was one of the most unfortunate casualties of the 1982 elections. Regrettably, the Democratic members of the New York delegation did not fare as well in the reapportionment process as did ours in California.

It was my great privilege to serve with LEO on the Education and Labor Committee where he stood firmly in support of this country's working people and its disadvantaged citizens. On Merchant Marine and Fisheries his ceaseless efforts to uphold the strength and vitality of our maritime industry are well known.

His many other contributions to this body and to his constituents cannot be fully measured. I am sure he will continue his able service to this Nation as he had before he joined us 8 years ago. Nonetheless, I will miss his experience and wisdom in the next session.●

CONGRESSWOMAN MILLICENT FENWICK

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mrs. SNOWE. Mr. Speaker, Shakespeare wrote that we deliver in life "as many farewells as be stars in heaven." It would be fortunate indeed for all of us if the repetition of the act made saying goodbye easier; alas, this is not the case. For when it comes to saying farewell to those of special importance to us, no amount of previous experience can soothe the sorrow we feel.

I rise today, Mr. Speaker, to say farewell to such a person. During my two terms in Congress, MILLICENT FENWICK has been more than a colleague. She has been an adviser and a friend, a role model and an inspiration. She has been a bright star and a rare gem in this body, and we will miss her terribly, as will the people of her State of New Jersey.

Since her election to Congress in 1974, MILLICENT has proven herself an able legislator and a champion of truth, decency, and humanitarianism in government. Her agenda has been one of promoting social justice, of practicing fiscal austerity, of untying the regulatory knot and of speaking for the cause of freedom throughout the world. To so many of us, she has been the ideal Representative—uninterested in personal gain, devoted to the needs of her constituents and possessing of a vision which enables her to see far beyond the readily apparent to the heart of a matter.

MILLICENT FENWICK's world is ruled by a quality found sadly lacking in so much of the dizzying procession of life in modern times. Simply put, she is a person of conscience. Her ideals have served to humble so many of us, to force us to stop and consider the true mission of this Nation and its people. As a fellow Member of that rare breed known as Congresswoman, I am eternally grateful for her counsel and her example. I am convinced that my proximity to her over the past 4 years has made a better person of me, and I only hope that I, too, may someday inspire similar respect in others.

Of course, MILLICENT's departure from our ranks did not come unexpectedly. Earlier this year, she embarked upon a campaign for membership in the other body, feeling that a U.S. Senator speaks with a louder voice, a more appropriate forum for her special message and for her unfinished work in Washington. For reasons that remain a mystery to me, the voters of her State denied her this special opportunity. But I think that the tone and the focus of her campaign speaks volumes of the type of person she is. She refused contributions from political action committees because of a firm conviction that the people, not the PAC's, are the ultimate masters of any public servant. She met the issues of the campaign squarely and brought dignity and purpose to the electoral process of her State.

At a time when the word politician often invokes negative connotations in the minds of many of our citizens, MILLICENT showed in her work here and in her campaigns that the profession can and should be an honorable one—indeed, that it must be an honorable one if our institutions in Washington are to retain their credibility. That she was unsuccessful in her quest this year bears no reflection on this achievement. Many factors and circumstances determine the outcome of an election, but MILLICENT FENWICK stayed true to her course and provided yet another reason to stand in awe of her as a person and a leader.

I'll miss MILLICENT's wise counsel and warm friendship. But time nor distance can take away the qualities she has left with me and this body, and the impact she has made on the American political scene.●

TRIBUTE TO MILLICENT FENWICK

HON. JOHNATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. BINGHAM. Mr. Speaker, I consider it a rare privilege to have had the opportunity to get to know the gentlelady from New Jersey, Mrs. FENWICK, these last 8 years.

There are so many things that I admire about MILLICENT that it is impossible to list them all. Most immediately striking, perhaps, is her graciousness to every one she meets. She always showed respect for the witnesses that came before our Foreign Affairs Committee, a quality all too rare on the Hill. As one who speaks French, some Spanish, and a little Italian, I found it a pleasure to hear MILLICENT greet visiting dignitaries from those three countries in their native tongues, with virtually no accent. I envy MILLICENT her memory

for poetry; the ability to recite poetry at length is a very special talent.

Coming down to more mundane matters, it was a pleasure to have MILLICENT serve as a member of the Subcommittee on International Economic Policy and Trade, which I have had the honor to chair. She was extraordinarily conscientious in her attendance at subcommittee meetings, even during her recent campaign for the U.S. Senate, and she returned to the subcommittee after her defeat at the polls, showing no scars, evidencing no bitterness, displaying a kind of old-fashioned gallantry that is most admirable.

MILLICENT and I differed quite often on domestic issues, but rarely on foreign policy matters. We worked together on a number of issues, including the question of whether the United States should continue to export items of potential military use to a country such as Iraq, whose support for terrorism has not diminished.

Probably MILLICENT FENWICK'S outstanding legislative accomplishment was the creation of the so-called Helsinki Commission, to oversee the extent to which the various countries party to the Helsinki Final Act were living up to their commitments, a Commission that has done extraordinarily useful work, with Mrs. FENWICK as an invaluable member.

And just this past week it was the Fenwick amendment to the domestic content bill which mitigated the bad long-term effects of that bill by making clear that the United States should remain bound by its treaty obligations, an amendment which passed by one vote.

Of all MILLICENT FENWICK'S qualities, the one I admire most is the degree to which she cares about the issues, especially issues affecting people, issues such as injustice and hunger. One has only to listen to her talk, even for a few minutes, to know how deeply she cares.

My wife June and I wish for MILLICENT all the best in whatever she undertakes. Whatever that may be, we know she is not about to disappear from the national scene.●

CONGRESSMAN RICHARD C. WHITE

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

● Mr. HUTTO. Mr. Speaker, it is a privilege to join with my colleagues to commend Congressman DICK WHITE for his outstanding service to his Texas constituency and to the people of our great Nation. The conclusion of the 97th Congress will bring to an end the illustrious and exemplary congressional career of DICK WHITE.

I am thankful for the opportunity I have had to serve with DICK on the Armed Services Committee, and am very grateful for the assistance and wise counsel he has given in my 4 years in Congress.

DICK WHITE'S 18 years of service in the House of Representatives have been highlighted by the tremendous contributions he made to the military capability and defense of our country. His service as chairman of the Military Personnel and Compensation Subcommittee resulted in improved people-related programs and enhanced morale and effectiveness in our defense forces. As a result of his dedicated efforts, the military service provides a better quality of life, and a great deal of thanks is due DICK WHITE.

As chairman of the Subcommittee on Investigations, he has had a significant hand in improving our defense capability. He headed a delegation visit last spring to the Middle East where we inspected possible sites for use by our Rapid Deployment Force. In addition, we visited our troops serving with the Multinational Observer Force in the Sinai. Due to DICK'S direct involvement, mail service, billeting, and mess facilities were improved expeditiously.

I consider it a high privilege to have had the opportunity to serve with DICK WHITE. It is with a great deal of respect and appreciation for DICK, and in praise and thanksgiving for this outstanding American, that I pay tribute and ask God's blessing on him and his family.

SALUTE TO MARGARET HECKLER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. ROE. Mr. Speaker, I would like to take this opportunity to commend and congratulate Representative MARGARET HECKLER for her 16 years of outstanding service to the people of the 10th District of Massachusetts and the Nation.

PEG has rightfully earned the reputation of being a dedicated, hard-working Member of this body who has been vividly outspoken on major issues of deep concern to all Americans.

She has clearly been the recognized leader in Congress in the tough fight to secure passage of the equal rights amendment. PEG has championed that ERA cause from the time it first passed the House in 1972 and I am confident she will be at the forefront in any future effort to win approval for this most worthwhile measure.

PEG has also become a hero to thousands of our Nation's Vietnam veterans. As a member of the Veterans' Affairs Committee, she pressed for 7 years and finally won approval of legislation that provides psychiatric counseling for Vietnam veterans.

While PEG HECKLER will not be serving in this Congress next year, I am sure her voice will continue to be heard loud and clear on the key issues of the day from other podiums. In that effort, I wish her the best of luck and success.●

CONFERENCE REPORT ENDANGERS SHIPBUILDING INDUSTRY

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. LONG of Maryland. Mr. Speaker, the American private shipbuilding industry, a major component of our Nation's industrial base, is jeopardized by the conference report on the fiscal year 1983 maritime authorization bill.

This conference report contains a Senate amendment, strongly supported by the Reagan administration, permitting U.S.-ship operators to build vessels in foreign shipyards while continuing to be eligible to recieve operating differential subsidies. Ship operators, free of the law to build vessels in American yards as a requirement for an operating subsidy, will rush to foreign yards such as Korea and Japan, where low construction costs are made available by host nation subsidies.

America's shipbuilding industry is facing its most severe economic slump since the Great Depression. Merchant ship construction has declined over 80 percent since 1972. Over the last 10 years, employment in U.S. shipyards has already declined by 50,000. Dozens of associated industries, such as steel, will suffer as a result of the adoption of this conference report, which will exacerbate an already unacceptably high unemployment rate. In my own district, the Bethlehem Steel Sparrows Point Shipyard is surviving only due to my efforts to gain congressional approval of a $380 million contract for conversion of three cargo ships for our Rapid Deployment Force.

I call upon my colleagues to reject this conference report if the House leadership schedules it for consideration during the final days of the 97th Congress and return to a strong private shipbuilding industry creating jobs here at home rather than exporting them abroad.●

CLAIR BURGENER

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I join my colleagues in paying tribute to an old friend and fellow Member from California, CLAIR BURGENER, who will be leaving us at the end of the 97th Congress.

In addition to working together as Members of the California delegation, I have had the pleasure of serving with CLAIR on the House delegation to the North Atlantic Assembly.

CLAIR has served the 43d Congressional District with distinction for the past 10 years. He has been a dedicated and effective legislator and he will be missed by those of us who have had the privilege of working with him. I wish CLAIR a happy and healthy retirement.●

LABOR IN THE SOUTH, 1944

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. PEPPER. Mr. Speaker, Dr. Philip A. Grant, Jr. of Pace University, Paca Plaza, N.Y., has prepared a historical and scholarly paper he delivered in Atlanta, Ga., at the Conference on Southern Labor History at Georgia State University, which gives an interesting and factual account of the adoption of the "Right-to-Work" law in Florida during 1944 and the political trends prevailing at that time.

To all who read this paper I commend its well-written and scholarly contents concerning the history of labor in the South of 1944 and ask that it be incorporated in the appendix of this CONGRESSIONAL RECORD immediately following my remarks.

"THE ADOPTION OF THE 1944 'RIGHT-TO-WORK' LAW IN FLORIDA"

During the thirty-eight years between 1944 and 1982 twenty of the fifty states have enacted so-called "Right-to-Work" measures, prohibiting union membership as a condition for employment. Seven of these states have sanctioned "Right-to-Work" by adopting amendments to their constitutions. The other six states attaching "Right-to-Work" to their constitutions are Arkansas (1944), Arizona (1946), Nebraska (1946), South Dakota (1946), Kansas (1958), and Mississippi (1980). "Right-to-Work" constitutional amendments were rejected by the voters of California (1958), Colorado (1958), Idaho (1958), Ohio (1958), Washington (1958), Olkahoma (1964), and Missouri (1978). The purpose of this paper will be to analyze the circumstances under which Florida in 1944 became the first state to embrace "Right-to-Work".

The Florida "Right-to-Work" Amendment was submitted to the state's voters in the form of a referendum in the general election of November 7, 1944. When all the precincts were tabulated and the official result certified, "Right-to-Work" had carried fifty-seven of the state's sixty-seven counties. The precise vote was as follows: Affirmative—147,860 (54.4 percent); Negative—122,770 (45.6 percent).

To a remarkable extent the fate of the "Right-to-Work" Referendum was determined by th longstanding animosity between Florida's urban and rural areas. The maximum amount of opposition to the referendum was confined to four of Florida's major urban counties containing the cities of Miami, Jacksonville, Tampa, and Pensacola.

Although these counties furnished only 38.5 percent of Florida's population, they provided nearly fifty percent of the negative votes. Fifty-five of the remaining sixty-three counties were primarily rural in complexion and all but six of these political units voted in favor of "Right-to-Work". Unlike the industrial states of the Northeast and Midwest, the decisive votes in Florida election found in the rural counties.

One of the paramount factors affecting Florida politics in 1944 was conservative Democratic oposition to the policies of President Franklin D. Roosevelt. During Roosevelt's second and third administrations most Democratic congressmen from Florida had frequently opposed the President on domestic issues. Indeed the intensity of conservative disenchantment with Roosevelt was quite evident at the 1944 Democratic National Convention in Chicago. Florida was one of the few states refusing to participate in a unanimous vote for Roosevelt's renomination to a fourth term. Four Florida delegates to the convention asserted their independence by casting their votes for Senator Harry F. Byrd of Virginia, probably the most rigidly conservative member of Congress and a veteran political figure who has been unwavering in his distaste for legislation favorable to organized labor. It was reasonable to assume that at least some Florida Democratic leaders were embittered by the well-publicized influence of the Congress of Industrial Organizations (CIO) in facilitating the adoption of a distinctly pro-labor plank in the party's official platform and in denying the vie- vice-presidential nomination to an avowed conservative, former Senator James F. Byrnes of South Carolina. Even more alarming to some Florida Democrats was the extent to which the CIO Political Action Committee (PAC) mobilized its resources behind the candidacies of Roosevelt and other liberal Democrats in the summer and fall of 1944.

An excellent example of the profound ideological split between liberal and conservative Democrats in Florida was reflected in the unusually spirited content for the 1944 Democratic gubernatorial nomination. The rival candidates in that year were Congressman Robert L. ("Lex") Green of Starke and former Congressman Millard F. Caldwell of Milton. Green, who had served in the House since 1925, had firmly endorsed Roosevelt's programs on Capitol Hill and had compiled an unblemished record of support for measures advocated by organized labor. Caldwell in the late nineteen thirties had become closely identified with the congressional coalition uniting Southern Democrats and Republicans and had cast negative votes on several bills and resolutions affecting the welfare of the labor movement. When Caldwell outpolled Green by more than forty-one thousand votes in the May 24 run-off primary, it became obvious that Florida Democrats had by a convincing margin chosen to nominate an individual whose views were uniformly hostile to organized labor.

There was also a close correlation between the result of the "Right-to-Work" vote and the outcome of the Democratic senatorial primary between the liberal incumbent, Claude Pepper, and the conservative challenger, J. Ollie Edwards. Pepper proved to be a formidable candidate in the four major urban counties which had rejected the "Right-to-Work" Referendum. In these counties Pepper outpolled Edwards 61,148–47,029, a margin which certainly helped him win the Democratic senatorial nomination. The "Right-to-Work" Referendum in these counties was defeated 60,277–48,103. The respective proportions were 56.1 percent for Pepper and 55.6 percent against "Right-to-Work", thereby indicating that sentiment in these four key populous counties was virtually identical on the senatorial contest and the referendum. An analysis of the statewide totals, however, suggested that Pepper, noted for his espousal of labor and social welfare causes, was experiencing a substantial decline in popularity.

In addition to the political strength mustered by the conservative wing of Florida's Democratic Party in 1944 was a Republican Party which had experienced impressive numerical growth. Between 1932 and 1944 the Republican presidential vote in Florida had increased from 69,170 to 143,212 (107.3 percent). The 1944 Republican ballots tabulated in Florida considerably exceeded the aggregate Republican total from the nearby southern states of South Carolina, Georgia, Alabama, and Mississippi. Although Florida had the smallest population of any southern state and accounted for only 5.9 percent of the region's inhabitants, it produced 12 percent of all 1944 Republican votes in the South. Twelve counties, where the Republican presidential proportion averaged 43.9 percent, voted collectively 45,083–30,578 (59.9 percent) for the referendum. Thus, the most solidly Republican of Florida's sixty-seven political units contributed nearly sixty percent of the majority by which the "Right-to-Work" proposal prevailed.

Augmenting the bloc of votes accumulated in Florida's twelve most Republican counties were the election results from twenty-two rural counties in the northern part of the state. These counties, extending in an arc from Santa Rosa in the panhandle to Nassau at the Georgia boundary along the Atlantic Ocean, voted 18,891–8,171 (69.8 percent) in favor of the "Right-to-Work" Referendum. All of the twenty-two counties were sparsely populated and in nearly every respect were much more characteristic of the Deep South than most other sections of Florida. The 27,062 ballots from these counties were approximately sixteen thousand less than the number recorded in populous Dade County. Nevertheless, they provided a 10,720 majority for "Right-to-Work". These votes derived from conservative northern Florida, when combined with the official figures from the state's twelve most Republican counties, added up to a decisive margin of 25,225 for the "Right-to-Work" Referendum.

In 1944 the bulk of American union members were concentrated in a cluster of industrial states, extending from Massachusetts in the northeast to Missouri in the southwest, containing over half the American people and nearly all the country's metropolitan areas within their boundaries.

Florida, unlike the states where unionization flourished, was sparsely populated and geographically isolated from the nation's textile factories, steel mills, automobile plants, and coal mines.

An analysis of the composition of the Florida labor force suggested that relatively few workers would be motivated to affiliate with the major AFL or CIO unions. The conspicuous absence of the steel industry, the garment industry, the automobile industry, and coal mining certainly distinguished Florida from most of the states in the Northeast and Midwest. According to the Census of 1940, only 82,750 (10.5 percent) of Florida's workers were engaged in manufacturing or mining. A substantially higher proportion (14.8 percent) of Florida's workers were involved in agricultural employment, thereby indicating an almost complete reversal of the prevailing situation in northeastern and midwestern states. Had Florida been more industrial and less agricultural in its 1944 economic orientation, the outcome of the "Right-to-Work" Referendum might have been different. Instead Florida was a state where organized labor really lacked a constituency.

In approving the 1944 "Right to Work" Referendum Florida was endorsing a labor-management principle which eventually prevailed throughout the entire South. Indeed eleven of the twenty states which opted in favor of "Right-to-Work" measures were located in the South. The twenty states in which "Right-to-Work" has been mandated either by statute or constitutional amendment at the present time have an aggregate population of approximately seventy-five million, of which more than sixty-one million are concentrated in the South. Thus, nearly five of six million Americans governed by "Right-to-Work" are residents of southern states. Interestingly, congressmen from Florida and other southern states were virtually unanimous in supporting the Labor Management Relations (Taft-Hartley) Act of 1947, which provided federal sanctions to "Right-to-Work", and were in the forefront of the opposition to the 1965 attempt to repeal the "Right-to-Work" section of that law.

Although the people of Florida in November 1944 had the opportunity of voting both in the presidential election contest and for or against the "Right-to-Work" Referendum, there was an appallingly low degree of voter participation in the general election of that year. Only 482,592 of Florida's 1,897,414 citizens (25.4 percent) voted for a presidential candidate in 1944. An appreciably smaller number of 270,630 cast votes on whether to approve or reject the "Right-to-Work" Referendum. The fact that only 56.2 percent of those actually voting decided to render a judgment on "Right-to-Work" probably warranted the conclusion that tens of thousands of Floridians were either indifferent or confused on the issue. Less than fifteen percent of the state's residents were recorded on "Right-to-Work" and less than eight percent voted in the affirmative. The referendum's ultimate margin of victory was 25,090, accounting for only 1.4 percent of Florida's population. While it was true that "Right-to-Work" was approved by a slight majority of those voting in 1944, it would be an exaggeration to argue that there was enormous popular support manifested in behalf of the referendum.

Unfortunately, the Bureau of Labor Statistics did not begin compiling figures on union membership in each state until 1959. During the subsequent twenty years Florida remained one of the least unionized states in the nation. By the time of the census of 1960 the total number of Florida workers affiliated with the AFL/CIO was 150,000. This constituted only 1.1 percent of the nationwide AFL-CIO membership in a year when Florida had approximately 2.8 percent of the population of the United States. Three other States Massachusetts, Indiana, and Missouri, in 1960 had populations roughly comparable to that of Florida. In these states AFL-CIO membership averaged slightly less than 470,000. Although AFL-CIO strength in Florida increased form 150,000 to 333,000 between 1960 and 1978, in the latter year only 13.2 percent of Florida's employees were affiliated with labor unions and Florida's union proportion ranked forty-eighth among the fifty states of the nation.

The adoption of the 1944 "Right-to-Work" Amendment in Florida constituted the first genuine expression of opinion on a labor-management issue by the voters of an individual state. In later years several additional states both throughout the South and in other parts of the nation would follow Florida's example and approve "Right-to-Work" measures. The Congress would also legislate on a variety of labor-management questions, passing such restrictive proposals as the Case Mediation Bill of 1946, the Taft-Hartley Act of 1947, and the Landrum-Griffin Act of 1959. Indeed during the two decades after 1944 organized labor was frequnently on the defensive both on Capitol Hill and in the state capitols. The decision of the Florida electorate to embrace "Right-to-Work" was perhaps the first inkling that the future approach to labor-management relations in the so-called "Sunbelt" states would be fundamentally different from the prevailing attitudes of the older industrial states to the north. The Florida "Right-to-Work" Amendment of 1944 was one of the many fascinating developments in the labor history of the twentieth century South.●

SHIRLEY CHISHOLM

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I rise today to pay tribute to a good friend and colleague, SHIRLEY CHISHOLM. I feel considerable regret and sadness about her retirement from the House.

I feel this sadness not only because SHIRLEY and I agree on so many issues, but also because of the strength of her convictions and her willingness to act and speak in support of her convictions. Her presence in the Congress has benefited many. My colleagues and I have had the benefit of working with SHIRLEY, a dedicated and talented legislator, for 14 years. She has been a forceful advocate for the poor and other disadvantaged persons and she will be sorely missed.

Although SHIRLEY is leaving the House, she will continue to stand as an outstanding model and strong inspiration to women, especially minority women, who aspire to elected office.

I extend to her my best wishes for continued success in her future endeavors, which I know will include further public services to this Nation.●

TRIBUTE TO HON. SHIRLEY CHISHOLM

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. BINGHAM. Mr. Speaker, it has been a pleasure and a privilege to serve with my colleague from New York, SHIRLEY CHISHOLM, for the last 14 years.

I remember so well the dramatic episode when Mrs. CHISHOLM, as a freshman Member, demanded and obtained the kind of committee assignment she was entitled to. There, I thought to myself, is "a spunky lady." And I have never had occasion to change my view.

And then we had the excitement of watching SHIRLEY embark on a Presidential campaign, traveling all over the country to sound her clarion call for justice for our less-fortunate citizens. At first, she was not taken seriously, but before long everyone realized that here was a true national figure, and she succeeded in dramatizing the issues she was talking about.

Others have described Mrs. CHISHOLM's legislative achievements, and I will not try to repeat them. Suffice it to say, that SHIRLEY CHISHOLM has made an impact on this House which will long be remembered.

My wife June and I wish for SHIRLEY and her husband all the best for whatever she undertakes to do in the future. It will, we are sure, be significant.●

EDUCATION AND COMPUTERS—THE NEED FOR ACTION IN THE 98TH CONGRESS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. STARK. Mr. Speaker, I would like to include in the RECORD at this point an article from the National Journal of December 18, 1982, concerning my legislation to encourage corporate donation of computers to schools.

It is a very well-written, thoughtful piece which gives both the pros and cons of my proposal. I hope that my colleagues and others will be able to read this article before the start of the 98th Congress, so that next year we may make necessary changes to insure the enactment of incentives to help accelerate the education of our Nation's

children in the high-technology fields of the future.

The article follows:

A SETBACK FOR A COMPUTER COMPANY—CONGRESS SAYS NO APPLE FOR THE STUDENT

(By Richard Corrigan)

Legislation to provide a special tax break to Apple Computer Inc. and other computer firms that donate computers to schools has become derailed.

Johnny's school won't get a free computer next year because some Scrooges in the Senate iced a bill that would help computer manufacturers give their machines to every elementary and secondary school in the nation.

That's one way to assess the non-passage of the Computer Equipment Contribution Act (HR 5573).

Another way to describe the stalled bill is to call it just another special-interest scheme that deserves to be spurned. From this perspective, the legislation would simply give its major sponsor, Apple Computer Inc., a marketing edge over its competitors, with Uncle Sam picking up most of the cost by allowing a special tax break for donated computers.

Whichever way it's portrayed, the bill zipped through the House in September and then moved through the Senate Finance Committee, but it short-circuited before it could reach the Senate floor during the abbreviated lame-duck session.

The fizzling of the legislative campaign represents an unusual setback for Apple Computer, a six-year-old corporate upstart that launched an industry by inaugurating mass production and sales of personal computers.

Apple has been stunningly successful at selling computers in the marketplace, with sales soaring to $583 million and profits to $61 million in the year ending on Sept. 24, but not at giving them away through Congress. The company's attention-grabbing offer—to donate a computer to every school in the country if granted a change in the tax code—eventually encountered sharp resistance on several fronts.

And by the time the legislation came out of the Finance Committee, it had been amended so drastically that Apple Computer said it was unacceptable in that form.

APPLE V. TREASURY

"We feel strongly that Congress would be crazy not to take us up on this," Apple's chairman, Steven P. Jobs, told a House subcommittee in June.

Jobs was testifying in a friendly arena, the Ways and Means Subcommittee on Select Revenue Measures chaired by Rep. Fortney H. (Pete) Stark, D-Calif. Stark, after meeting Jobs on a West Coast plane trip, had agreed to sponsor legislation to carry out the offer of the California-based company.

By the time of the hearing, Stark claimed 75 bipartisan co-sponsors for his bill. A companion bill had been introduced in the Senate by John C. Danforth, R-Mo., a member of the Finance Committee.

Jobs, in his prepared statement, addressed some of the early objections that had been raised about the legislation.

Even with the liberalized tax treatment the company was seeking, he said, Apple would incur substantial extra costs in meeting its pledge "to contribute tens of thousands of computers" to the nation's schools.

Under the bill as then written, he said, donations would cost the company at least $100 per computer, or $1 million for every 10,000 units, in after-tax expenses. The direct and indirect cost could amount to $10 million, equal to about a fifth of the company's projected earnings, Jobs said.

Jobs did not say how much it costs his company to produce a computer—for example, the popular Apple II, the model likely to be donated to schools. He testified, however, that the retail value of the deal would be about $250 million, or $2,500 for each of 100,000 computers and standard accessories.

His statement also indicated that the actual production costs of the 100,000 computers, for the computer industry as a whole, would be roughly $30 million, or $300 per computer. The federal government, he said, would pick up about 92 per cent of the industry's direct production costs.

"Some have argued that HR 5573 is really a marketing scheme paid for by the government," his statement said. "If this were true, and the bill were in fact a bonanza for computer companies, why hasn't our competition jumped on the bandwagon?" He said that his company would welcome participation in the program by other firms but that most had shied away because of the expense.

Jobs conceded that Apple might gain a marketing edge when school children were ready to buy their own computers. (The company says its Apple II is the world's top selling computer and that the education market accounts for a fifth of its sales.) But the important point, he said, is that the bill would be good for the nation.

"We are now in the midst of a revolution that is of the same magnitude and power as the industrial revolution of the 19th century," he said, and the computer is in the middle of it. America's children will have to gain "computer literacy" in this changing technological society, he said, saying the United States has dropped behind the Soviet Union, Germany and Japan in scientific education.

Passage of the legislation would especially help poorer school districts that have been hurt most by budget cuts, Jobs said. "Students in such districts face a clear competitive disadvantage" in tomorrow's job market against computer-trained children from affluent schools, he said.

The Treasury Department expressed strong opposition to the bill at Stark's hearing. John E. Chapoton, assistant secretary for tax policy, said the bill would shift most of the cost from the corporate donor to the federal government.

"There would virtually be no charity in charitable giving" in that situation, Chapoton said, "and we think that runs counter to a very sound policy of making the donor bear a significant portion of the cost any time there is a charitable gift."

Under current law, Chapoton said, a company that donates an item of equipment may deduct its actual cost of producing the item. Stark's bill would allow a company donating a computer to a school to deduct the cost or production plus half the difference between that cost and the item's fair market value, up to a maximum of double the production cost.

For example. Chapoton said, if it cost a firm $1,000 to make an item that could be sold to a distributor for $3,000, the company could deduct its $1,000 cost plus half the added $2,000, for a total deduction of $2,000. For a company subject to the standard corporate tax rate of 46 per cent, the deduction would produce a tax saving of $920, making the donation nearly cost-free.

Treasury also objected to language in the bill that would have tripled a company's maximum charitable donations to 30 per cent of taxable income during the one-year life of the program.

CONGRESSIONAL ACTION

But undeterred by Treasury's objections, the subcommittee approved the bill in July and the full Ways and Means Committee later endorsed it, 20-3.

The Congressional Budget Office estimated the cost of the bill, in lost tax receipts, at $15 million in fiscal 1983 and $21 million in fiscal 1984.

The committee's Sept. 17 report on the bill noted that "the principal intended beneficiary of the bill is Apple Computer Inc.," but it said other donors could also qualify for the added deductions.

The bill went to the House floor under suspension of the rules on Sept. 22 and passed by a lopsided vote, 323-62. Next, the Finance Committee ordered the bill reported by voice vote on Oct. 1, but after making extensive changes in the House language.

At the committee drafting session, Treasury's Chapoton said the Administration had changed its mind and now favored the bill. There was no explanation, but the Administration's blessing was not enough to protect the bill from amendment.

The committee limited the maximum deduction to one-and-a-half rather than two times the donor firm's production cost. It also gave the company a choice of claiming a one-time deduction in 1983, 1984 or 1985 rather than limiting the program to 1983 alone, as the House had done.

The Senate panel extended the program to give other computer firms a better opportunity to participate in any one of three years, rather than giving Apple a clear shot at the program in 1983. This changed the projected revenue loss to $62 million over four years, rather than the House estimate of $35 million over two years.

The committee also empowered the Treasury Department to issue regulations to assure that computers would be distributed to schools equitably, by region and by income level.

The Senate committee also removed a legal waiver that was in the House version, saying it did not intend to excuse a company from complying with the U.S. Court of Claims ruling (*Singer Co.* v. *U.S.*) that a charitable deduction could not be claimed for a promotional tactic. The Ways and Means report, in a footnote, said it intended computer gifts to be treated as charitable donations regardless of the *Singer* decision.

The Finance Committee also tacked onto its version of the bill an unrelated item concerning bank debts. That was enough to arouse the opposition of Sen. Howard M. Metzenbaum, who put a hold on the bill to prevent Senate floor action in the last days of the regular session.

After the lame-duck session opened on Nov. 29, Finance Committee chairman Robert Dole, described by several sources as never very keen about the computer bill, also put a hold on it.

Doles move, according to Senate sources, came after education groups had begun expressing concerns about the legislation.

EDUCATORS' QUALMS

Representatives of the nation's schools have generally been reluctant to oppose the computer bill because that would mean turning down free computers they otherwise might not get. "It wouldn't look very good for the education lobby to say, 'We're against this bill,'" a lobbyist said.

Nevertheless, some education specialists say the bill has flaws that should be fixed. Some also say they wish it had been considered as part of a policy package by the usual education panels of Congress, rather than as a special tax bill under the jurisdiction of the tax committees.

"I initially felt very positive about it until I started reading the fine print," said Thomas Rosica, executive director for federal programs for Philadelphia's school system.

Having a computer in a school is of little use unless the school also has trained people to operate it and programming accessories, or software, to tap the machine's capabilities, he said.

"If you're in a fairly impoverished school district, it's not much help to you," Rosica said. "Unless you've got the funding, this 'windfall' is not a windfall."

Bruce Hunter, legislative specialist at the American Association of School Administrators, said, "We don't want to look a gift horse in the mouth," but "one computer as an instructional tool is nothing."

Hunter said computers could best be used if a school first decides what kind of training it wants to offer, picks and software for the task and then selects the hardware to operate the programs. "The Apple bill starts the process backward," he said, "with the machine coming first."

But not all education groups express criticism of the bill.

"I think Apple is getting a bad rap," said Scott Thompson, executive director of the National Association of Secondary School Principals. Thompson said he didn't think the bill would give Apple Computer an advantage because most high schools already have at least one computer and so have already made their selection.

The offer of new computers would allow schools to augment their current systems or get their first computer, he said. "It's not that big a deal," he said. "It's not like we were bringing in laser discs or some really advanced technology."

APPLE'S REACTION

David Beaver, an assistant to Apply chairman Jobs, said the company has steadily cut its estimate of how many computers it might give away as the legislation has been revised.

Apple at first spoke of giving a computer "to every school in the country," Beaver said, a total of some 103,000 public and private elementary and secondary schools.

The figure was trimmed to 75,000 to 80,000 under the Stark bill, to 40,000 to 50,000 under the House-passed version and 22,000 under the Finance Committee bill, Beaver said.

And even that last estimate assumes that some changes would be made in the Senate committee bill. Beaver said the company could not accept the Senate language on the Singer case because that would leave the company open to challenge on its charitable donations. "We would be taking an extreme risk with our stockholders' money," he said.

Beaver conceded that educators had a valid point in asking about training and service for donated computers. Apple, in its sales literature, stresses the importance of buying from a reputable local dealer, and the company has tried to restrict sales by mail-order houses.

Yet in the case of free computers for schools, Beaver said "it's the best we can do . . . We don't feel that we are in a position to give training." He said the company came up with its donation plan after receiving thousands of requests from schools for free computers.

In light of all the obstacles to passage of the bill in the lameduck session, Beaver said Apple might try again in the 98th Congress and would work with education organizations to try to ease their concerns.

Washington attorney Eric R. Fox, representing Apple, said time had run out in the lame-duck session.

NEXT YEAR?

Bruce S. Post, a staff member of the Senate Labor and Human Resources Subcommittee on Education, Arts and Humanities, said a revised version of the bill might be agreed upon next year.

"If this is an enduring commitment, three months isn't going to make much difference" to Apple, he said.

But an aide to Danforth, the Senate sponsor, said that passage of a tax break might be even more difficult in 1983 because of mounting worries over budget deficits.

Aside from the arguments over the tax deduction, the computer bill seemed to get caught in a large debate about the federal government's rightful role in education.

The Administration, after first opposing it, swung around to back the bill at a time when it was trying to reduce federal education grants and dismantle the Education Department. It evidently saw the bill as a vehicle for promoting private-sector aid to the schools.

Some elements of the education lobby, on the other hand, evidently sought to delay the bill so that it could be included in a big education-aid package to be considered by the 98th Congress.

Michael Edwards, a legislative specialist with the National Education Association—which took no formal position on the computer bill—said, "Whether this bill is passed or not, the federal government is still going to have to recognize its responsibilities to help the public schools meet the challenges of a rapidly advancing technology."

The education community now has very little understanding of computers, said Dan Watt, technical editor of Popular Computing, a McGraw-Hill Inc. monthly magazine. Many children know far more about computers than their teachers do, he said.

But this legislation at least offers a way to put more computers into schools and get teachers acquainted with their capabilities, he said.

"That's why we support this bill," Watt said, "not because we love the idea of giving computer companies a tax break. We see it as one of the few avenues for getting the federal government to make any kind of commitment. The question is whether we are educating kids for the society they're growing into. Our society has turned its back on this issue, and it's going to come back to haunt us in the next generation."●

JAMES BLANCHARD

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to pay tribute today to a departing colleague, JAMES BLANCHARD. JIM will be sorely missed by those who have worked with him during his 8 years in Congress.

JIM has been a hard-working and dedicated legislator, earning the position of chairman of the Banking Subcommittee on Economic Stabilization. His outstanding work for his constituents and for the State of Michigan has led to his being elected to the State's highest office.

I wish JIM the best of luck as he takes on his new responsibility as Governor. I am confident that he will carry on his good work for the people of the State of Michigan.●

FUNDING OF FUTURE POWER DEMAND IMPORTANT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. BROYHILL. Mr. Speaker, recently, Mr. Bill Lee, chairman of Duke Power Co., headquartered in Charlotte, N.C., made this shocking statement about his company's ability to meet power demands and needs in Duke's service area:

Unless adequate funding can be developed, there will not be enough electricity to meet the economic growth demands of Duke's service area during the 1990's.

I have examined the facts that have led to this sad state of affairs and have concluded that Bill Lee is absolutely correct. An even sadder and tragic part of this saga is that Duke is far better off financially than is most of the electric utility industry.

Simpy put, the whole problem is wrapped up in the inability of utilities to recover capital and operating costs.

The publisher of the Charlotte Observer, Mr. Rolfe Neill, has described the problem and the facts far better than I can.

I wish to call to the attention of my colleagues two fine articles recently published in the Charlotte (N.C.) Observer, authored by Mr. Neill.

[From the Charlotte Observer, Nov. 14 and 21, 1982]

DUKE TAKES A PUNCH

Can you solve this riddle:

Your company is rated the most efficient in its field. Your product—required in large quantities in every household, office and factory—is priced among the lowest in the nation. Your service is outstanding. Yet, customers and public officials are hostile. Why?

Maybe you don't have the answer but surely have guessed the name: Duke Power Co. The firm, even after repeated rate raises, is a bargain for its users and a state treasure which is in jeopardy.

Every Carolinian has two stakes in the issue over Duke's future.

1. Your personal power bill.

2. The economic expansion to provide the jobs on which future prosperity depends.

For years, Americans paid no attention to Social Security—didn't even understand how the system operates—while the dry rot ate the underpinnings. Politicians, a majori-

ty of whom lack guts, assured us nothing was wrong. Now, we are paying the unnecessary price as America divides itself, even father against son, as we edge toward generational war.

ANTI-UTILITY RACE

With a governor's race coming up, at least one candidate, known for demogoguery, is likely to run on an anti-utility platform.

No wisdom is required to know that people are angry over escalating electric bills. But some statesmanship is required to explain that the increases are justified and, when viewed in the context of other prices, are reasonable. Defending unpleasant truths is not an over-subscribed job.

Simply put, legislative and regulatory actions of the last five months have impaired Duke's ability to raise money to build the plants to supply the power we demand. There's plenty today but shortages are foreseen in the 1990s. Since new plant construction requires nine to 13 years, we are already in the 1990s as far as Duke's future is concerned.

Most folks don't realize that Duke executives have stopped talking glowingly about the Carolina's industrial years to come. Duke dismantled its dozen-man industry-hunting department in 1974. Chairman Bill Lee is no longer sought by civic boosters to brag about Duke's efficiency and low rates because when the critical question is asked—How about future power supply?—he says the unthinkable:

NOT ENOUGH

"Unless adequate funding can be developed, there will not be enough electricity to meet the economic growth demands of Duke's service area during the 1990s."

This month's big powwow in Charlotte for industry and office locators from around the nation ommitted Lee from the program because his was not a message sponsors wanted to broadcast to potential relocatees.

Earlier, we had in hand a prospect that caused developers to salivate. The plant would cost $250 million and provide 1,000 jobs. Think about those jobs in a state with 8.7% unemployment. Think about all the sales and propery taxes such a facility would generate, not to mention the millions upon millions in wages.

Sorry, fellows, Lee had to tell them, we can't guarantee adequate power. Our state lost out. That plant is going elsewhere. As Lee later said:

GOT ENOUGH?

"The one question most frequently asked of us by current industrial prospects is, 'What about the long-term adequacy and reliability of electric supply?' Note, they are asking about availability, not price."

The legislature made two utility changes in its short session in June. First, it reduced Duke's ability to recover increased fuel costs from three times yearly to twice. Secondly, it shifted from mandatory to optional the requirement that interest on money borrowed to finance utility work under construction be included in current customer bills, leaving the decision to state regulators.

During the June 14-21 week that happened, Duke Power's stock prices dropped 8.4% while the Dow utility average went down only 2.8%. Large holders of Duke stock—pension funds, bank trust departments and others—perceived a change in the regulatory atmosphere in our state. Many dumped their holdings because they thought Duke was entering more perilous financial waters. They were correct.

A SHOCKER

Subsequently, the N.C. Utilities Commission shocked Carolina Power & Light in Eastern North Carolina by permitting only 1% of a large rate hike it sought. Then Duke got less (but far more than CP&L) than Duke asked for and also cancelled two nuclear units. Stock prices dropped again.

What's going on? Investors have concluded our state is shifting from reasonable utility regulation to less reasonable. This has significant consequences, not only for Duke and other utilities, but for you, too.

In 1975, Duke Power's new downtown office building looked drably unfinished in its ashen concrete skin and I asked why they didn't paint the structure.

"Can't afford to," an executive replied. Surely, he was joking. Whoever heard of a billion-dollar corporation that couldn't afford a few hundred thousand dollars for cosmetics?

You are reading about one that can't: Duke, the company that brings you some of the cheapest electricity in America. We must come to understand what is going on inside that firm—and in governmental power centers in Raleigh—as utility rates become more of a public-policy issue.

Duke faced a financial emergency in 1974 when earnings were inadequate to attract buyers of the IOU's called bonds. Desperate for cash, Duke sold equipment and buildings and rented them back. The firm sold unsecured notes at the then unheard-of-rate of 13%.

Known nationwide for managerial efficiency and very low rates, Duke executives earned another No. 1 title in 1974 that they didn't seek: the utility paying the highest rate for borrowed money.

MONEY, MONEY, MONEY

Money is what an electric company is all about. The appetite for cash is nearly as great as for coal, the chief fuel to make electricity. Cash demands are caused by the high cost of plant building. New generating plants are required because an expanding population, even after conservation efforts, needs more electricity.

The cash crunch continues, aggravated by two legislative changes made this year, followed by a less friendly N.C. Public Utilities Commission ruling.

"Friendly" is a relative term. The commission's job is to protect the electric user from predatory pricing by the monopoly, Duke, and from poor management. Equally, the commission must allow Duke a rate of return sufficient to attract new capital on reasonable terms.

The commission seemingly is doing fine by the public but less well by Duke. As figures prove, however, the public ultimately loses when the financial balance tilts against the utility for very long.

There are alternatives, of course. You could be limited in how much hot water you can heat, or at what hours or for how long you can turn on the oven, TV or air conditioning. Or Duke rates could be subsidized from your state taxes. Or new industry could be told to stay away.

Many are surprised to learn that Duke is telling industrial prospects the company cannot guarantee future electric supply.

DUKE'S RESPONSIBILITIES

This is a stunner from a New South blue-ribbon state seeking more jobs for its young people. We cannot afford not to build needed power plants.

Has Duke met its responsibilities to the public? Consider the record:

Consistently voted the most efficient U.S. utility.

Has rates among the nation's lowest.

Judged to have the "most aggressive" load management effort (conservation) in America. Duke seeks to eliminate six future plants costing more than $10 billion through this program.

Despite these consistent achievements, Duke's stock does poorly. Why? The marketplace is unsentimental in assessing value and investors don't feel Duke earns enough money. The utilities commission sets the maximum rate allowed Duke on its investment. Since 1970, Duke has never earned the allowed rate.

YOU ULTIMATELY PAY

Why? Because insufficient rate hikes are granted. This deters investors and drives up the interest rate Duke pays on borrowed money. You, the electric user, pay those interest costs.

When the Great Market rally ignited Aug. 17. Duke Power Co. common stock was selling for $22.25 a share. Since that date, all stocks gained an average of 23.5%. Duke's advance was zero, closing last Friday at $21.37. By comparison, Knight Ridder, owner of this newspaper, saw its stock go from $29.50 to $46 in the same period, a 52% advance.

Since founding the company in 1904, investors have put $2.4 billion into Duke. Its "book value"—total shares outstanding divided into $2.4 billion—is $24.93 a share. Duke needs $800 million a year for each of the next three years to finance continuing construction. Traditionally, it would seek about $400 million of that annually through issuance of additional common stock, preferred stock and bonds.

Duke must sell common stock for greater than $24.93 a share or it will dilute the value of the holdings of existing shareholders. Yet, the marketplace is only willing to pay $21.37 a share as of last Friday for Duke stock.

THERE'S A LIMIT

Why not issue more bonds? Bond rating agencies, whose word is law with investors keep strict watch on company credit worthiness. "Earnings per share" is one of the key elements in credit risk measure. As Duke earnings falter, relatively, and more shares are issued, earnings per share are reduced. This lowers credit worthiness and raises interest rates on future bonds. Bond ratings can descend to a point where the securities are unmarketable which is what happened to Duke in 1974.

What's Duke doing about all this? The company has redoubled efforts on efficiency and conservation. Its executives continue in the Central Prison style 1920's offices they occupy of South Church Street, certainly the painest corporate work space in Charlotte.

And Chairman Bill Lee has taken to the road to tell the Duke facts of life to the 170 members of the General Assembly. Already, he's contacted about 70 in face-to-face meetings. Lee lays it all out. He plans to see them all.

GOOD-BAD POLITICS

These are the legislators, stung by voter complaints about greatly increased power bills, who voted in June to make regulatory life tougher for Duke before the PUC. Good short-term polilitics, perhaps, but bad for the long-term electric future of this state. A sell-off of Duke Power stock followed.

Duke is an under-appreciated bargain in North Carolina. No one proposes surrendering to them. But we do need to acknowledge their remarkable operating performance and insure that our politicians are not panicked by emotional voter wrath into making bad judgements.

Let the public debate begin. Facts are the weapons. Well-informed decision making is the desired result.●

JACK BRINKLEY

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I join my colleagues in paying tribute to JACK BRINKLEY, who will be leaving us at the end of the 97th Congress.

JACK, we all know, is a dedicated and highly competent Member of Congress. More importantly, I have found him to be a person of the utmost personal integrity.

JACK did a great service to the city of San Francisco earlier this year. In his capacity as chairman of the Military Installations and Facilities Subcommittee, JACK prevented the passage of an unwise amendment that would have allowed the sale of the Presidio, a military installation in San Francisco. JACK's good work will prevent this area of great natural beauty from becoming a maze of shopping centers, office buildings, and condominiums.

JACK will be deeply missed by those of us who have had the privilege of working with him and by the constituents who have had the benefit of his representation. I wish JACK a happy and healthy retirement.●

TRIBUTE TO THE HONORABLE TOBY MOFFETT

HON. FRANK GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. GUARINI. Mr. Speaker, I join my colleagues in paying a special and well-deserved tribute to my dear friend from Connecticut, TOBY MOFFETT. TOBY has my respect as one of the most thoughtful and articulate Members of this body. Over the 8 years he has been in the House, TOBY has established himself as an outstanding Congressman and as a wise and concerned representative of the people of his district.

Always a leader, TOBY had spent several years before coming to Congress in the vanguard of citizens action groups and proconsumer movements. After his election in 1974, TOBY quickly developed his reputation here for an extensive knowledge of consumer issues and energy policy. His rapid rise through the ranks brought him to the chairmanship of the Environment, Energy, and Natural Resources Subcommittee of the Government Operations Committee, where he has been an able and outspoken advocate of consumer protection laws, environmental protection, and a strong Government role in keeping energy costs down. Through his activist role in these important issues, TOBY has proven himself as an aggressive, energetic, people-oriented legislator. TOBY's penchant for creative methods of solving problems, coupled with a "Yankee" sensibility which makes these ideas workable, is his trademark.

TOBY MOFFETT is a bright star who will be sorely missed. He is a man who stands for fairness and justice; because of his commitment to these values, I am sure we shall be hearing more from TOBY MOFFETT. Best of luck to you TOBY, in your new ventures.●

MARGARET HECKLER

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. CLINGER. Mr. Speaker, Congresswoman HECKLER has been an intelligent and energetic Member in this body who will be missed in the future.

Since her election to the House of Representatives in 1966, Congresswoman HECKLER has played an active role in women's rights and consumer issues while also effectively representing a diverse district stretching from suburban Boston to the textile and industrial region of Fall River.

As the female Member of Congress with the most tenure, I believe PEG has served as a model for other women who will follow in her footsteps. I am sorry to see Congresswoman HECKLER leave, but I wish her the best of luck in her future endeavors.●

FIRST MONTH OF ANDROPOV

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. McDONALD. Mr. Speaker, exactly 4 weeks after former Chairman of the KGB, Yuriy Andropov, took over as new General Secretary of the Central Committee of CPSU to become the supreme power in the Soviet Union, the 16 former ministers of NATO issued a communique after a conference in Brussels. In this joint statement, they were seeking a better climate for international relations and expressed hope that the attitudes of the new Soviet leadership "will allow cooperation in rebuilding international trust."

Secretary of State George P. Schultz on his part added in a statement after the conference that "the United States is ready for a dialogue" with the new Soviet General Secretary.

Yuriy Andropov answered these invitations "to tango," both in words and in deeds during his first month in office.

Back in 1977, Andropov said in one of his speeches, as follows:

> Leaning on the stronger than ever foundation, the Communist Party embarked upon the implementation of plans which will lead to new successes in Communist expansion, to further strengthening of peace and of position of socialism in the world.

In the first plenary session of the Central Committee presided by newly selected General Secretary Andropov on November 12, 1982, this theme of "further Communist expansion" was elaborated further. The session was under the great impact of the KGB. The main speech at the session was made by Yuriy Andropov, and the former Chairman of the KGB for Azerbaydzhan Republic, Gaydar A. Aliyev, has been elevated to the top offices as full member of the Politburo and First Deputy Prime Minister of the Soviet Government.

In his speech, Andropov addressed himself directly to the people of the world bypassing all channels and governments. He said:

> Now, as never before people have come to the forefront of the stage. They obtained a voice that nobody will be able to squash. By active and purposeful measures, they can now eliminate the threat of nuclear war, safeguard peace and, thus, save life on our planet. The Soviet Communist Party and Government will do everything to make it so. Communist, Socialists and Social Democrats and all other forces aiming at the preservation of peace must cooperate in this effort.

Several days later, new Chairman of the KGB, General Vitaliy V. Fedorchuk, addressed the session of the Supreme Soviet speaking about the new law proposal on "strengthening the bordor defenses of the Soviet Union." This law will considerably enhance the budget of the KGB which includes border guard troops and other security forces. It is obvious that in recent years; the scope of operations of the security forces has expanded considerably in connection with new responsibilities and new areas of activities in Africa, Asia, Poland, Latin America, and in particular, in Afghanistan.

Soviet presence in Afghanistan has been recently boosted by an addition of about 20,000 troops, primarily internal security units. According to Michael Barry, author and correspondent who traveled into the Afghanistan interior with underground guerrilla groups in September, these new Soviet security troops were used in several operations against the Afghan fighters and the civilian population. In one in-

stance, 105 civilians were burned to ashes in a mountain cave about 40 miles south of Kabul.

This was a typical KGB operation just as were many other atrocities committed by the Soviet units in Afghanistan in recent months. There is an obvious need to increase the KGB budget in connection with this expanded use of security units inside and outside of the Soviet Union and in view of the continuous growth of Soviet intelligence operations in the free world.

Recent conviction for 10 years in prison of Prof. Hugh Hambleton in London is a good point in case. For about 30 years, the Canadian-born professor was acting in different offices of NATO in Paris, London, and Brussels passing "thousands and thousands of documents" to Soviet intelligence operatives.

Hambleton attended a special KGB school to learn his espionage skills and tricks. An unusual device for decoding tonal messages received on radio waves was produced at the trial. It was the first time such a device had ever been seen by the intelligence experts of the West. Hambleton expressed his "feelings of regret" at the trial, but even then he skillfully avoided giving any names of his coconspirators in France or London. In recognition of his services, he was given a rank of KGB colonel and dined with Andropov himself in 1977.

While Hambleton was on trial, a new large spy case was uncovered in London involving Soviet Navy Capt. Anatoliy P. Zotov who was in the process of setting up an entire spy network in Great Britain. Captain Zotov, a naval attaché in the Soviet Embassy in London at that time, has been asked to leave Britain in 3 days. There was no connection established between the cases of Zotov, Hambleton, and Geoffrey Prime who was sentenced to a 35-year prison term for a similar crime 3 weeks before. The saturation of Soviet spy activity in the West, however, has been, thus, dramatically illustrated.

The investigation of the assassination attempt against Pope John Paul II in Rome, in the meantime, has grown into an international, high-level confrontation. Italy recalled from Bulgaria its Ambassador Carlo Rossi Arnaud for urgent consultations in view of the direct implication of the Bulgarian authorities in the May 13, 1981, shooting. The Italian investigators arrested Sergey Ivanov Antonov, chief of the Bulgarian airline office in Rome, on November 25 and implicated two other Bulgarians, J. Kolev Vassilyev, former secretary of the Embassy, and Teodor Ayvazov, a cashier of the Embassy. Four Turks in addition to the terrorist, Mehmet Ali Agca, who carried out the shooting, are known now to have been involved in conspiracy in addition to the Bulgarians.

Bulgarian authorities detained Bekir Celenk, the Turkish national wanted by Italy, who according to the Turkish press was in the center of the plot; however, they refused to extradite him to Italy for further investigation.

The public prosecutor of Rome, Ilario Martella, who is in charge of this investigation, is working under the overall theroretical assumption that the assassination attempt was coordinated and masterminded by the Bulgarian Secret Service on behalf of the KGB. At first Ali Agca claimed that he acted alone, but when the promise of his Bulgarian "contractors" of arranging his escape from prison in 6 to 8 months did not materialize, Agca started "singing like a canary." He said two Bulgarians, Ivanov Antonov and Ayvazov, accompanied him to St. Peter Square 48 hours before the shooting to study the position.

He also said that he was promised and partially paid $1.2 million, that Bekir Celenk was his original contact with the Bulgarians, and that the Bulgarians escorted him on May 13 to the square. The case widened further when Luigi Scricciolo, who was arrested in February 1981 on charges of being involved in the kidnaping of Gen. James Dozier, admitted that he was spying for Bulgaria since 1976 and that some of the offices of the Bugarian airline Balkan-Air are used as a nerve center of the espionage ring for Italy.

According to Prosecutor Ilavio Martella, Luigi Scricciolo admitted that in addition to Pope John Paul II, the Bulgarians planned to kill Lech Walesa, the leader of the Polish Free-Trade Union Solidarity during his visit to Rome.

Former head of the Bulgarian Secret Service, Col. Stefan Sverdlev, who defected to the West in 1979 and now lives in Muchich, Germany, made a statement on December 10 that the Bulgarian secret services were obviously involved in the attempt on the Pope's life but that they "did it on the instructions of the KGB of the Soviet Union" as much as, he continued, "Bulgarian agents are responsible to the KGB for international operations."

All these complicated and expansive activities at home and abroad call for additional allocation of funds to the KGB which will be provided by the new law "on strengthening of border defenses" presented to the Supreme Soviet by KGB Chief Fedorchuk.

On the domestic arena, the new Andropov-Aliyev team called for tougher actions against corruption and crime and for imposition of stricter discipline over the party and on the Soviet people.

Aliyev's anticorruption campaign in 1969-70 and in 5 subsequent years has been singled out as an example to follow. In 3 weeks following the November 22 plenary session of the Central Committee regional party devoted to analysis of the decisions of the plenary session, meetings were held in all 15 republics of the Soviet Union.

In all those meetings, except in Azerbaydzhan, sharp ciriticism has been expressed about the managerial, administrative, and personal practices of the past. Statements were made about wide-spread corruption, pilfering of resources and funds, lax habits among both managers and workers, and growing crime in the streets.

The expectation of some Western observers, that the economic problems of the Soviet Union will force the new Andropov administration to relax the strict rules of centralized planning, have been fully answered by the new decisions and actions of the last month.

The large-scale changes in personnel assignments and the punishment of the people responsible for corruption and mismanagement will follow soon. Some of the steps were taken already in recent weeks. Other similar moves are anticipated in Moscow and other places throughout the country. Aliyev, in his 6-year cleanup action of Azerbaydzhan, demoted, purged, shifted, or arrested not less than 1,800 officials, all of them in responsible party or administration positions. He himself took over—after serving 25 years in the KGB—as First Secretary of the Central Committee of Azerbaydzhan. He relinquished this position now in favor of his friend K. M. Bagirov on November 30 since he, Aliyyev, moved permanently to Moscow as a full member of the Politburo and as First Deputy Prime Minister.

The Politburo membership has now been reduced to 12 from 14 in the beginning of 1982. Yuriy Andropov apparently now controls three portfolios—General Secretary, replacing Brezhnev who died on November 10; Secretary Suslov's slot, who died on January 25; and his own overall top responsibility for security services, KGB and other agencies. As General Secretary, he presides over the Defense Committee overseeing armed forces and defense industries. Gaydar Aliyev replaced A. P. Kirilenko. Similar shifts took place in the Secretariat with the number of Secretaries reduced from 10 to 9 replacing the departed "troika" of Brezhnev, Suslov, and Kirilenko by Andropov and Nikolay Ryzhkov. Some other changes in subordinate agencies have been already announced.

BOB MOLLOHAN

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I join my colleagues today in paying tribute to BOB MOLLOHAN. I regret that he has decided to retire—but I am pleased that the Mollohan tradition will continue with the election of his son Alan in West Virginia's First District.

Those of us who have worked with BOB appreciate his dedicated work in this body. BOB's work on the House Administration Committee has benefited all the Members of the House. In addition to his hard work here, BOB has worked tirelessly for his constituents, the residents of the First Congressional District of West Virginia.

I join my colleagues in congratulating BOB on a job well done. I wish him a long, healthy, and happy retirement.●

HOUSE OF REPRESENTATIVES—*Sunday, December 19, 1982*

The House met at 4 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

How beautiful upon the mountains are the feet of him who brings good tidings, who publishes peace, who brings good tidings of good, who publishes salvation, who says to Zion, "Your God reigns."—Isaiah 52: 7

In all the times of trial and tensions we recognize, O God, that there also exist Your good tidings of peace. May Your word of good will toward all people surround us and sustain us as we seek to serve people of this Nation. Bless those who give of their time and talents in such full measure, who help keep alive the bright light of this holy season. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7356) entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes."

The message also announced that the Seante agrees to the amendments of the House to the amendments of the Senate numbered 10, 36, 40, 42, 43, 46, 48, 58, 62, 74, 76, 84, 87, 88, 90, 96, 97, 98, 100, 102, 104, 111, 112, 116, 122, 123, 136, 137, 141, 153, 154, 155, and 156 to the above-entitled bill.

The message also announced that the Senate further insists upon its amendment to the bill (H.R. 3963) entitled "An Act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated.".

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5161. An act to designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER. The Chair lays before the House the following communication:

WASHINGTON, D.C.,
December 19, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, the Clerk received, at 3:22 p.m. on Sunday, December 19, 1982, the following message from the Secretary of the Senate: That the Senate passed with amendments H.J. Res. 631 and requested a conference thereon.

In accordance with action taken by the House on Saturday, December 18, 1982, the Clerk has notified the Senate that the House disagreed to the amendments of the Senate to H.J. Res. 631 and agreed to a conference thereon.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON HOUSE JOINT RESOLUTION 631, MAKING FURTHER CONTINUING APPROPRIATIONS, 1983

Mr. WRIGHT. Mr Speaker, I ask unanimous consent that it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report and amendments in disagreement on House Joint Resolution 631 subject to the availability of said conference report and amendments in disagreement for at least 1 hour, that all points of order be waived against the conference report and amendments in disagreement, and that said conference report and amendments in disagreement be considered as having been read when called up for consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ODE TO A VETO

(Mr. JACOBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACOBS. Mr. Speaker, the Christmas season has brought out the poet in me and I have penned a verse entitled "Ode to a Veto":

ODE TO A VETO

Words for Ebenezer Reag
From the ghost of Caribbean passed
Think of your own poor
Include them in the cast

CONFERENCE REPORT ON S. 2623, TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT AMENDMENTS

Mr. PERKINS submitted the following conference report and statement on the Senate bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-979)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. The matter preceding title I of the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325) (hereafter in this Act referred to as the "Act") is amended—

(1) by striking out "DEFINITIONS" and inserting in lieu thereof the following:

"DEFINITIONS

"SEC. 2. (a) for purposes of this Act, the term—";

(2) by striking out "and is eligible to receive services from the Secretary of the Interior" in paragraph (1);

(3) by inserting before the semicolon at the end of paragraph (5) thereof the following: "and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior"; and

(4) by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve.

"(b) For the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a), such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term. Credits earned in classes offered

during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term. Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours. For such purposes, credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program.".

SEC. 2. Section 101 of the Act is amended—

(1) by inserting "as a fulfillment of a continuing trust responsibility of the Federal Government as it relates to education for Indian students and" after "colleges"; and

(2) by inserting immediately before the period at the end thereof the following: ", and to allow for the improvement and expansion of the physiccl resources of such institutions".

SEC. 3. (a) Section 102 of the Act is amended—

(1) by striking out "is authorized to" in subsection (a) and inserting in lieu thereof "shall, subject to appropriations,"; and

(2) by striking out "to defray the expense of activities related to education programs for Indian students" in subsection (b) and inserting in lieu thereof "to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college".

(b) Section 106(a) of the Act is amended by inserting after the second sentence the following new sentence: "Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds.".

SEC. 4. (a) The Act is amended—

(1) by redesignating sections 104 through 114 as sections 105 through 115, respectively; and

(2) by inserting after section 103 the following new section:

"PLANNING GRANTS

"SEC. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities to conduct planning activities for the purposes of developing proposals for the establishment of tribally controlled community colleges, or to determine the need and potential for the establishment of such colleges.

"(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

"(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than $15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.".

(b) The Act is further amended—

(1) by striking out "section 106" in section 106 (as redesignated by subsection (a)(1)) and inserting in lieu thereof "section 107";

(2) by striking out "section 105" in section 107 (as so redesignated) and inserting in lieu thereof "section 106"; and

(3) by striking out "section 106(a)" in section 111 (as so redesignated) and inserting in lieu thereof "section 107(a)".

SEC. 5. Section 105 of the Act (as redesignated by section 4(a)(1)) is amended—

(1) by inserting "from a tribally controlled community college which is receiving funds under section 108" after "upon request" in the first sentence thereof; and

(2) by striking out "to tribally controlled community colleges" in such sentence.

SEC. 6. (a) Section 106 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by striking out "FEASIBILITY" in the heading of such section and inserting in lieu thereof "ELIGIBILITY";

(2) by striking out "feasibility" each place it appears in such section and inserting in lieu thereof "eligibility";

(3) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (a) and inserting in lieu thereof "Secretary of Education";

(4) by inserting at the end of subsection (b) the following new sentence: "Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made."; and

(5) by striking out "10 per centum" in subsection (c)(2) and inserting in lieu thereof "5 per centum".

(b) Section 107 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by striking out "feasibility" in subsection (a) and inserting in lieu thereof "eligibility", and

(2) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (b) and inserting in lieu thereof "Secretary of Education".

SEC. 7. Section 108(a) of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"SEC. 108. (a) Except as provided in section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of—

"(1) the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 2(a)(7) of this Act; and

"(2)(A) $4,000 for fiscal year 1983,

"(B) $4,000 for fiscal year 1984,

"(C) $5,025 for fiscal year 1985,

"(D) $5,415 for fiscal year 1986, and

"(E) $5,820 for fiscal year 1987,

except that no grant shall exceed the total cost of the education program provided by such college.".

SEC. 8. Section 109 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by inserting "(a)" immediately after the section designation; and

(2) by adding at the end thereof the following new subsections:

"(b)(1) The amount of any grant for which tribally controlled community colleges are eligible under section 108 shall not be altered because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

"(2) No tribally controlled community college shall be denied funds appropriated under such Act of November 2, 1921, because of the funds it receives under this Act.

"(c) For the purposes of section 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965, any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act.".

SEC. 9. (a) Section 110 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"APPROPRIATION AUTHORIZATION

"SEC. 110. (a)(1) There is authorized to be appropriated, for carrying out section 105, $3,200,000 for each of the fiscal years 1985, 1986, and 1987.

"(2) There is authorized to be appropriated for carrying out section 107, $30,000,000 for each of such fiscal years.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out sections 112(b) and 113 for each of such fiscal years.

"(b)(1) For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

"(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1).".

SEC. 10. Section 111 of the Act (as redesignated by section 4(a)(1) of this Act) is amended by redesignating subsection (b) as subsection (c) and by striking out subsection (a) and inserting in lieu thereof the following:

"SEC. 111. (a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to the product of (i) the per capita payment for the preceding fiscal year, and (ii) such applicant's Indian student count for the current fiscal year;

"(B) the Secretary shall next allocate an amount equal to the product described in subparagraph (A) to applicants who did not receive funds under such section for the preceding fiscal year, in the order in which such applicants have qualified for assistance in accordance with such section, and no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

"(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B) the Secretary shall allocate such funds by ratably increasing the amounts of the grant determined under such subparagraphs.

"(2) For purposes of paragraph (1) of this subsection, the term 'per capita payment' for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled community colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such

count was not used for the purpose of making allocations under this title.

"(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A) the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.

"(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total amounts.

"(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1982, be deemed to refer to section 106 as in effect at the beginning of such fiscal year.".

SEC. 11. Section 112 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"REPORT ON FACILITIES

"SEC. 112. (a) The Administrator of General Services shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than September 30, 1984. Such report shall also include an identification of property (1) on which structurally sound buildings suitable for use as educational facilities are located, and (2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

"(b) The Administrator of General Services, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

"(c) For the purposes of this section, the term 'reconstruction' has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B)).".

SEC. 12. Section 113 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"CONSTRUCTION OF NEW FACILITIES

"SEC. 113. (a) With respect to any tribally controlled community college for which the report of the Administrator of General Services under section 112(a) of this Act identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

"(b) In order to be eligible for a grant under this section, a tribally controlled community college (1) must be a current recipient of grants under section 105 or 107, and (2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

"(c)(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled community college shall be required to expend more than $400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled community college may use funds provided under the Act of November 2, 1921 (25 U.S.C. 13), popularly referred to as the Snyder Act.

"(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled community college which demonstrates that neither such college nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

"(d) If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

"(1) the applicant ceases or fails to be a public or nonprofit institution,

"(2) the facility ceases to be used by the applicant as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

"(3) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government, the United States shall be entitled to recover from such applicant (or its successor in title or possession) and amount which bears the same ratio to the value of the facility at the time as the amount of the grant under this section bore to the cost of the facility constructed with the aid of such grant. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

"(e) No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

"(f) For the purposes of this section, the Secretary shall have the authority granted to the Secretary of Education pursuant to section 732(b) of the Higher Education Act of 1965 (20 U.S.C. 1132d-1) with respect to construction under title VII of such Act.

"(g) For the purposes of this section—

"(1) the term 'construction' includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B))); and

"(2) the term 'academic facilities' has the meaning provided such term under section 742(1) of the Higher Education Act of 1965 (20 U.S.C. 1132-1(1)).".

SEC. 13. The Act is further amended by adding at the end thereof the following new title.

"TITLE III—TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

"PURPOSE

"SEC. 301. It is the purpose of this title to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled community colleges.

"ESTABLISHMENT OF PROGRAM; PROGRAM AGREEMENTS

"SEC. 302. (a) From the amount appropriated pursuant to section 306, the Secretary shall establish a program of making endowment grants to tribally controlled community colleges which are current recipients of assistance under section 107 of this Act or under section 3 of the Navajo Community College Act. No such college shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year.

"(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with the Secretary which—

"(1) provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;

"(2) provides for the deposit in such trust fund of—

"(A) any Federal capital contributions made from funds appropriated under section 306;

"(B) a capital contribution by such college in an amount equal to the amount of each Federal capital contribution; and

"(C) any earnings of the funds so deposited;

"(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time;

"(4) provides that, if at any time such college withdraws any capital contribution made by that college, an equal amount of Federal capital contribution shall be withdrawn and returned to the Secretary for reallocation to other colleges;

"(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

"(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this title and as are agreed to by the Secretary and the college, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and

monitor programs and activities conducted with such interest.

"USE OF FUNDS

"SEC. 303. Interest deposited, pursuant to section 302(b)(2)(C), in the trust fund of any tribally controlled community college may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operations of such college, including expense of operation and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

"COMPLIANCE WITH MATCHING REQUIREMENT

"SEC. 304. For the purpose of complying with the contribution requirement of section 302(b)(2)(B), a tribally controlled community college may use funds which are available from any private or tribal source.

"ALLOCATION OF FUNDS

"SEC. 305. (a) From the amount appropriated pursuant to section 306, the Secretary shall allocate to each tribally controlled community college which is eligible for an endowment grant under this title an amount for a Federal capital contribution equal to the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is available for deposit as a capital contribution of that college in accordance with section 302(b)(2)(B), except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed $350,000.

"(b) If for any fiscal year the amount appropriated pursuant to section 306 is not sufficient to allocate to each tribally controlled community college an amount equal to the amount demonstrated by such college pursuant to subsection (a), then the amount of the allocation to each such college shall be ratably reduced.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 306. (a) There is authorized to the appropriated $5,000,000 for each of the fiscal years 1985, 1986, and 1987 to carry out this title.

"(b) Any funds appropriated pursuant to subsection (a) are authorized to remain available until expended.".

SEC. 14. (a) In promulgating any regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community colleges.

(b) Any such regulations and any other regulations promulgated pursuant to the Act shall be subject to section 431 of the General Education Provisions Act, and the requirements of such section applicable to the Secretary of Education shall apply to the Secretary of the Interior with respect to such regulations.

(c) If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

And the House agree to the same.

CARL D. PERKINS,
PAUL SIMON,
WILLIAM D. FORD,
PETER A. PEYSER,
JOSEPH M. GAYDOS,
TED WEISS,
IKE ANDREWS,
DENNIS E. ECKART,
DALE E. KILDEE,
PAT WILLIAMS,
JOHN ERLENBORN,
E. THOMAS COLEMAN,
ARLEN ERDAHL,
WENDELL BAILEY,
LARRY E. CRAIG,
Managers on the Part of the House.

WILLIAM S. COHEN,
MARK ANDREWS,
SLADE GORTON,
JOHN MELCHER,
DANIEL K. INOUYE,
DENNIS DECONCINI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) The Senate bill and the House amendment contain provisions renumbering a previously unnumbered section. The House recedes.

(2) The House amendment strikes out language in section 2 of the Tribally Controlled Community College Assistance Act of 1978 "and is eligible to receive services from the Secretary of the Interior" in the definition of Indian. The Senate bill has no such provision. The Senate recedes. The conferees intend that the determination of tribal membership be left to the tribe, which is consistent with the policy of self-determination. As the House report makes clear, the conferees intend that the definition of Indian for the purposes of this program shall apply only to those qualified by the tribe to participate fully in tribal affairs. There should be no separate tribal definition of membership for the purposes of this program alone. The conferees intend to reach several problems of definition caused by the Bureau's restrictive interpretations; i.e. restrictions to one-quarter blood quantum. The conferees intend to retain the limitation of this Act to federally recognized tribal entities and members and also intend to have benefits extended to tribal members without restrictions as to blood quantum.

(3) The House amendment amends Section 101 of the Act to make clear that this program is carried out pursuant to the trust responsibility. The Senate bill has no similar provision. The Senate recedes. The conferees are aware that the Administration has expressed substantial concern over this provision in the bill, going so far as to threaten a potential veto if it is included. However, the conferees believe that in the area of the education of Indian people, Federal policy should be clear and unequivocal.

However, the conferees are not unmindful of the concerns of the Administration, at least as they have been publicly stated. Though the concerns of the Administration have been set out in several ways in several forums, they have always remained substantially the same. They are most clearly and completely stated in the letter dated August 18, 1982, addressed to the Senate Select Committee Chairman and included in the Senate Report at page 17. The conferees agree with the Administration that "tribal needs vary" and that "the Federal response to them should vary". That is the purpose of this legislation, and the thrust of these amendments. The conferees agree that requiring the Federal government to provide services regardless of need would not be "good government".

However, that is not what the inclusion of the clarification of the trust responsibility does. This responsibility, which arises from the government-to-government relationship (and is not, as the Administration letter implies, separate from it) already exists. Its specific citation in this legislation does not, in any way, shape or form, imply or specifically authorize or mandate "an absolute responsibility to provide" funding for a community college regardless of the other strictures in the bill. The inclusion of the "trust" language (which traditionally has carried with it the understanding of fiscal support to the dependent by the guardian) is not meant to extend Federal policy regarding Indian education, and it is not to be interpreted as any extension of policy. The phrase was included to clarify an existing policy. The inclusion of this very general "trust responsibility" language should in no way be construed to mean the United States is liable to fund Indian education, other than those programs authorized and funded by appropriate Acts of Congress.

Tribally Controlled Community Colleges are to be funded pursuant to the terms of this Act and the regulations promulgated pursuant to it. That means that these schools receive funding only after meeting all of the requirements established with respect to need (the conferees assume that the use of the term "real need" in the Administration's letter is not intended to indicate that the Secretary intends to use an extra-legal unstated test). The inclusion of language clarifying the policy basis for this program in no way alters its requirements. In truth, the conferees are in complete agreement on this point and no other interpretation is accurate or warranted.

To again restate their position, the inclusion of this language is for clarification only, to recognize a state of affairs which the conferees agree already exists. It pertains to the policy rationale for this program and its administration and does not create, alter, extend or amend the current rights and responsibilities of either the schools or the administering entity.

By making this lengthy and detailed explanation, the conferees hope that they have resolved the concerns of the Administration and that the inclusion of this provision will cause no further problem. Certainly, the conferees believe they have answered and met all of the stated concerns.

(4) The House amendment expands the authorized expenditures to include operation and maintenance, including administrative, academic, community and student service programs and technical assistance. The Senate bill expands the definition to all purposes mentioned in the House bill except community and student services and technical assistance. The House recedes. The conferees intend that the purposes stated in

this provision are not to be construed so narrowly as to exclude direction of limited amounts of funds to community and student services programs and technical assistance designed to maximize the effectiveness and reach of the postsecondary education program of the colleges. The conferees further intend that the terms of this provision be interpreted so as to increase, rather than decrease, the flexibility of these institutions in meeting the postsecondary educational needs of the communities that they serve.

(5) The Senate bill and the House amendment make technical amendments to Section 105 of the Act (as redesignated). The House recedes.

(6) The Senate bill redesignates, in Section 106 of the Act (as redesignated) "Assistant Secretary of Education of the Department of Health, Education and Welfare" as the "Secretary of Education". The House has no similar provision. The House recedes.

(7) The Senate bill redesignates, in Section 107 of the Act (as redesignated) "Assistant Secretary of Education of the Department of Health, Education and Welfare" as the "Secretary of Education". The House has no similar provision. The House recedes.

(8) The House amendment prevents the offset of funds received under this Act by the Secretary of the Interior in cases where the tribe has allocated "Snyder Act" funds to the college. The Senate language differs, but intends to achieve the same objective. The House recedes. The conferees intend that this provision assure that a tribe's allocation of "Snyder Act" funds to its community college will not result in an offset of funds for the college under this Act. The conferees note that such an offset was attempted by the Secretary on several occasions. The conferees want to make it clear that such action by the Secretary is not within the letter or the intent of this Act. A tribe's decision to allocate a portion of its "Snyder Act" funds is acknowledged to be a commitment of additional support and should not be obstructed.

The conferees also intend that Public Law 471 funds may not be used to offset "Snyder Act" funds.

(9) The House amendment amends Section 110(b) of the current Act to effect forward funding. The Senate bill contains similar language. The House recedes with an amendment. The amendment clarifies the forward funding provision in both bills. The amendment is to bring this program into conformity with other education programs.

(10) The House amendment amends Section 110(c) of the current Act to allow funds to remain available for use until expended, unless otherwise provided in appropriations legislation. The Senate bill amends Section 110(b) of the current Act so that funds would become available on July 1 of the year in which they are appropriated and remain available until September 30 of the succeeding year. The House recedes with an amendment. The amendment provides that funds appropriated to carry out the Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(11) The House amendment amends Section 111(a)(1)(A) of the current Act to allocate grant funds first to schools participating under the program in the preceding fiscal year. The Senate bill includes those schools which were eligible but unfunded in the preceding fiscal year in the initial allocation of funds. The Senate recedes.

(12) The House amendment amends Section 111(a)(1)(B) of the current Act to allocate funds next to qualified applicants who were not funded in the preceding fiscal year, in the order in which they qualified as eligible for this program under Section 106(b) [as redesignated by Section 4(a)(1)]. The Senate bill allocates funds next to applicants other than those funded under Section 111(a)(1)(B) of the Act (as amended). The Senate recedes.

(13) The Senate bill and the House amendment contain similar provisions regarding a report by the General Services Administration on facilities. The House recedes.

(14) The Senate bill contains an authorization for new construction. Funds would be made available for fiscal years 1985, 1986, and 1987 on a matching basis. The bill provides for the waiver of the tribal portion, and other provisions dealing with the use of facilities funded under this section. The House amendment has no similar provision. The House recedes. The conferees specifically intend that the use of endowment funds for construction and maintenance of facilities be permitted.

(15) The Senate bill establishes a new Title III—endowment program. Endowment funds are authorized at a level of $5 million per year for fiscal years 1985, 1986, and 1987. Colleges participating in programs authorized under either Title I or Title II of the Tribally Controlled Community Colleges Act of 1978 are eligible for up to $350,000 per year on a one-to-one Federal-tribal matching basis. Funds are to be invested in a federally insured account, with the interest earned available to the institution. This provision is designed to assist the colleges in utilizing private sources of funding and in establishing stable independent funding mechanisms. The House amendment contains no similar provisions. The House recedes. The conferees intend that the schools be able to use funds they receive under the "Snyder Act" to meet their matching percentage.

(16) The House amendment provides that any regulations promulgated pursuant to this program will be subject to the provisions of Section 431 of the General Education Provisions Act. The Senate bill contains no similar provision. The Senate recedes with an amendment. The conferees wish to make it very plain that while the provisions of Section 431 will apply, the Congressional Committees to which the references in that Section will apply are the Committee on Education and Labor of the House and the Select Committee on Indian Affairs of the Senate.

CARL D. PERKINS,
PAUL SIMON,
WILLIAM D. FORD,
PETER A. PEYSER,
JOSEPH M. GAYDOS,
TED WEISS,
IKE ANDREWS,
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Managers on the Part of the House.

WILLIAM S. COHEN,
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JOHN MELCHER,
DANIEL K. INOUYE,
DENNIS DECONCINI,
Managers on the Part of the Senate.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

(Mr. BENNETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BENNETT. Mr. Speaker, I have listened with close attention to this debate. I knew at the outset that there would not be enough time for this measure to be enacted in 1982, considering how late it came to the floor. Yet this debate has set the stage for prompt enactment in 1983. Legislation in this field is truly urgently needed.

Although there are great local needs caused by this national problem of unrestricted illegal immigration, unfairly hurting a State like Florida for failure of national assumption of national responsibilities by the Federal Government, and although there are ethnic sensibilities that make some solutions difficult, the paramount national responsibility clearly requires a national law to meet the unmet national challenge to face the high incidence of illegal immigration at a time when there is high unemployment in our country, difficult economic times and unmet social and welfare needs for our own citizens.

One thing that has impressed me in this debate is the sincerity of some in arguing that people who look like and speak like illegal aliens may find it awkward to be challenged when they are American citizens seeking employment. This together with the objection some have to identification cards has been presented as an obstacle to any realistic solution. Prior to the debate I had guessed that such arguments were largely the result of pressure from people sympathetic to illegal aliens and to unrestricted immigration; however the debate showed that one could feel, like most Americans, that we must reduce the inflow of illegal aliens who are taking needed jobs and pushing welfare costs upward to impractical levels, and one could still feel that a nonalien identification card could be a point of sensitivity for some legal Americans. Perhaps the answer may be in not allowing illegal aliens to be holders of ordinary social security cards and creating a rebutable presumption that one who does not have such a card should show by some other means, like a birth certificate or naturalization papers that he is not an illegal alien. In any event it would seem that something reasonable could be worked out.

Mr. Speaker, when President Carter asked me to come to the White House with others to discuss the immigration problem shortly after an idealistic speech he made on the subject, and which was misinterpreted, I urged him to seize the American ships and other illegal shipping that were illegally operating and making the violation of

our immigration laws possible. I pointed out that there are probably more than a billion of orientals and others who have purely economic reasons for desiring to come to our country and that we could not possibly absorb such numbers. His prompt decision to seize the illegal shipping was the most effective thing done to minimize the threat of even greater numbers of illegal aliens coming. Vigorous leadership like President Carter displayed in this instance is what is needed today both from the executive and legislative branches of our Government.

Mr. Speaker, I have just received a letter from Gov. Bob Graham of Florida who is chairman of the National Governors' Association Task Force on Immigration and Refugee Issues, which I incorporate at the end of my remarks. Clearly Congress must act promptly and fairly to meet the challenge of illegal aliens coming into our country. Governor Graham wrote me as of December 16:

STATE OF FLORIDA,
December 16, 1982.

Hon. CHARLES BENNETT,
U.S. Representative, Rayburn House Office Building, Washington, D.C.

DEAR CHARLIE: It is my understanding that the House is scheduled to begin consideration this week of H.R. 7357, the Immigration Reform and Control Act.

Florida's experience with the Mariel boat lift has clearly demonstrated the need for immigration reform. Most important in this regard are the provisions of the bill reforming asylum and exclusion processes. Because existing processes were designed to deal with small numbers of asylum applicants, the system was unable to deal with the large influx of Cubans and Haitians. It is vital that these processes be changed. I believe H.R. 7357 would improve the current asylum and exclusion processes. I understand, however, that Representative McCollum will offer an amendment to help relieve the backlog of appeals in federal District and Circuit Courts, and I support his amendment as an additional improvement over both current law and H.R. 7357 as reported by the Judiciary Committee.

I am concerned about the amnesty provisions in the bill. I believe that providing mass amnesty for 3 to 6 million illegal aliens without knowing whether the new enforcement provisions in the bill will work sends the wrong message to persons in other countries. Therefore, I support striking the amnesty provisions.

If amnesty is not struck, I believe that Representative Scheuer or Representative Coelho's amendment to delay amnesty until after a certification that the enforcement provisions of the bill are working is a reasonable alternative.

Finally, I would like to address the issue of state and local reimbursement of costs associated with the legalization program. As I am sure you are aware, under the House Judiciary Committee bill, legalized aliens are made ineligible for federal program benefits. The Committee, recognizing that this provision would shift all of the costs of legalization to state and local governments, adopted an amendment to reimburse these costs for a limited period of time. On the floor Representative Lungren will offer a block grant substitute to the Committee's provision. I urge you to vote against his amendment.

If the Federal Government decides to legalize 3 to 6 million persons, it should not shift the costs associated with that decision to states and localities. Representative Lungren's amendment would place states and localities in a much more vulnerable position fiscally than the current Committee language.

Representative Sensenbrenner will offer an amendment if the amnesty provisions are struck to safeguard the reimbursement provisions of the bill when it goes to conference. I support his amendment and have communicated my support both as Governor of Florida and as Chairman of the National Governors' Association's Task Force of Immigration and Refugee Issues.

If you have any questions, please contact Sandra Gammie in the Florida Washington Office at 624-7841.

With warm regards,
Sincerely,

BOB GRAHAM,
Governor.●

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BENNETT, on H.R. 7357, Immigration Reform and Control Act of 1982, in the Committee on the Whole on Saturday, December 18, just prior to Committee rising.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1340. An act to provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes;

S. 2611. An act to amend the Peace Corps Act; and

S. 3073. An act to provide for the distribution within the U.S. Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson."

RECESS

The SPEAKER. Pursuant to the order of the House of December 17, 1982, the Chair declares the House in recess.

The House will be in recess until 12 o'clock noon tomorrow, Monday, December 20, 1982.

Accordingly (at 4 o'clock and 5 minutes p.m.), the House stood in recess until 12 o'clock noon, Monday, December 20, 1982.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee of conference. Conference report on S. 2623 (Rept. No. 97-979). Ordered to be printed.

SENATE—*Sunday, December 19, 1982*

(Legislative day of Sunday, December 19, 1982)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Almighty God, "from Whom, through Whom and to Whom are all things, to Whom be glory forever * * *" as the work of legislation begins today, we acknowledge Thy worthiness and our need to worship Thee. Thou art the source of all and the Lord of all. We honor Thee, we magnify Thee, we glorify Thee.

Praise ye the Lord. Praise God in His sanctuary; praise Him in the firmament of His power. Praise Him for His mighty acts; praise Him according to His excellent greatness. Praise Him with the sound of the trumpet; praise Him with the psaltery and harp. Praise Him with the timbrel and dance; praise Him with stringed instruments and organs. Praise Him upon the loud cymbals; praise Him upon the high sounding cymbals. Let everything that has breath praise the Lord. Praise ye the Lord.—Psalm 150.

Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, there is a vote ordered on final passage of the continuing resolution at 2:15 p.m. today. I believe that would automatically foreshorten the time allocated to the two leaders under the standing order. But I would inquire of the minority leader if he would be in agreement to shorten that time to 5 minutes each and 5 minutes, or whatever time remains, for morning business.

Mr. ROBERT C. BYRD. That is agreeable.

Mr. BAKER. I make that request, Mr. President.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, generally speaking, the schedule of the Senate today will be as follows: Recognition of the two leaders, a very brief period for the transaction of routine morning business, and vote at 2:15 p.m., on final passage of the continuing resolution.

Thereafter, instead of resuming consideration of the highway bill, by unanimous consent the Senate has agreed that no action will be taken on the highway bill, H.R. 6211, between the ending of the continuing resolution vote, which will be about 2:30 p.m., and the cloture vote which is about 6 p.m.

Now, during that period, Mr. President, it is the hope of the leadership that we can do a few things. For instance, I know many Senators wish to try to take up and pass the nuclear waste bill, which appears to be well along the way to being worked out. It has reached us from the House and I think there is good reason to hope that we can pass it in the Senate. There is the PIK agriculture bill, which appears to be in a similar situation and can probably be disposed of in a reasonably brief period of time. I also hope that we can do a calendar call. There is an accumulation of much routine business that ought to be transacted by unanimous consent, without the requirement for a rollcall.

All of these things the leadership has in mind to try to do during that time interval between the end of the vote on the continuing resolution and before the vote on cloture on the highway bill.

Mr. President, when the vote on cloture occurs at 6 p.m. and if cloture is invoked, then we will proceed with the debate on the highway bill until we finish it. And it is the firm intention of the leadership on this side to try to finish that measure, and do so today.

Mr. President, unanimous consent has been granted to set aside the highway bill, however, even in a postcloture situation, in order to receive the conference report from the House of Representatives when and if it is received from the other body. The last information I have, however, is that we are not likely to have that conference report until well into the evening today.

Mr. President, it is my hope—and I say this with some fear and trepidation because I am notoriously poor at estimating these things—it is my hope that we can finish the highway bill, that we can finish the continuing resolution conference report, and dispose of the highway bill in both Houses of the Congress, and adjourn today. Now, Mr. President, we can do that. I am not predicting we will do that, but we can do that. And I urge Senators to consider that we ought to do that.

Mr. President, if I have any remaining time, I am prepared now to yield it to the minority leader or any other Senator who seeks recognition at this point.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

THE CONTINUING APPROPRIATIONS MUST BE PASSED

Mr. ROBERT C. BYRD. Mr. President, we Democrats have consistently felt that the Senate ought to get on with the business of passing the continuing resolution. We do not feel that the Government ought to be brought to a screeching halt tomorrow. We have cooperated in every way to facilitate the passage of the continuing resolution.

We were asked by the President to come back here after the election to pass appropriations bills, and we came back with the thought that that was what the business was going to be, namely, to pass appropriation bills and the continuing resolution and adjourn by December 17.

Now, of course, we have seen all kinds of other measures brought up, including the gas bill which will put another burden on the already overly burdened taxpayer. And so we on this side of the aisle, in the face of the fact that many of us do not support that tax measure, have sought to substitute a different method of paying for repairing the infrastructure. We have sought to substitute a method whereby the more wealthy citizens of this country would be deprived for 3 years of their 10 percent cut—the third year of the Kemp-Roth tax cut which will occur in July. And that delay would more than pay for the program of infrastructure that is laid out in connection with the gas tax. We Democrats offered the amendment and that was turned down on a party line vote.

Now, even though we lost that amendment, we have not sought to delay the passage of the gas tax bill. We have cooperated in every way. There has been no filibuster on this side. The filibuster has occurred on the other side of the aisle by a handful of Members. So I want to make it clear for the record, clear for the

press, and clear for the public, that the filibuster that has been engaged in and that will be engaged in is not a filibuster by Democrats, even though many of us do not agree with a gas tax, and do not think it ought to have been brought up during this post election session. We do not think it had to be brought up. Many of us think it could have been brought up early next year. It is not a jobs bill. But, nevertheless, we have not yet in any way interposed any obstruction to the passage of that legislation.

Just 3 days ago, I believe it was, we offered to pass it within 30 minutes without any further amendments on either side. We did that in order to expedite the passage of the continuing resolution, which is absolutely necessary if this Government is not going to be brought to a halt beginning tomorrow, with great cost to the taxpayers.

So I want to make it perfectly clear that there is no filibuster and there has not been any filibuster on this side of the aisle by Democrats with respect to the gas tax. That is on the other side of the aisle, and it is by a small minority on the other side of the aisle. I do not denigrate the reasons for the opposition to the bill by the minority that is doing the filibuster. But, I want to make it clear that this side of the aisle has not engaged in any filibuster, has sought to expedite passage of the gas bill—not because all of us necessarily support it, not because all of us necessarily believe that it ought to be passed, not because we necessarily believe that it should have been brought up in this postelection session, but, in order to expedite the action on the continuing resolution, we have tried to cooperate on the gas tax bill.

I am glad that we are going to be voting on the continuing resolution at 2:15. I support the majority leader in his unanimous-consent order that was agreed to last night, with my approval. I hope that we will get on with the business of passing the continuing resolution. I further hope the President will not veto this continuing resolution so that the Government will not come to a halt and people will not see their checks delayed. And it does cost taxpayers millions of dollars for the Government or any portion of the Government to shut down for a little while and then have to start up again.

As I understand it, unless this continuing resolution is passed, 85 percent of the functions of the Government will not be funded by tomorrow or Tuesday.

I simply want to urge the Senate to get on with the passage of the continuing resolution. I hope that we can have a conference report in the early evening. I hope the President will sign that conference report. In the meantime, I intend to support the invoking of cloture on the Baker substitute amendment on the infrastructure-gas bill. I do not want to see this thing dragged on and on and on and on forever. I hope we did not come here to stay until January 3 to act on legislation that is not imperative at this moment. The one important piece of legislation right now is the continuing resolution. I hope we will do everything we can to expedite action on that.

Mr. RANDOLPH addressed the Chair.

Mr. RANDOLPH. Mr. President, I request the opportunity to make comment. I would not want to delay.

Mr. BAKER. Mr. President, has morning business been ordered?

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. BRADY). There will now be a period for the transaction of routine morning business.

Mr. BAKER. I ask unanimous consent that it extend not later than 2:15 p.m. and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

SURFACE TRANSPORTATION ACT OF 1982

Mr. RANDOLPH. Mr. President, I have been working since May of this year to bring about the passage of a highway bill with the increased gas tax to pay for the highway redevelopment, and repair of the roads, and bridges of this country. It is said that there is not support for this highway and gas tax legislation. In my opinion, Mr. President, that is not true.

We have, across this country, more than 100 leading and important newspapers which have editorially endorsed the legislation. Notably, we could mention the New York Times and the Washington Post. They have endorsed the legislation—editorially, not by carrying stories about the progress or the delay on the legislation—but editorially because it is needed.

Also, it has been said by my colleague from North Carolina in the past few hours that there was no support, and he could not give it support, here in the Congress of the United States.

I remind my colleagues that on December 7 in the House of Representatives the highway gas tax legislation passed by a majority of 119 votes. That is indicative, Mr. President, of the strong support in the other body.

I recognize the differences of viewpoint. I understand those. And I do not find fault at any time with differences in votes that are cast by my colleagues.

I do not support this legislation because I want to support President Reagan. I do not support this legislation because I want to support the administration.

I support this legislation because it is important legislation, it is necessary legislation, with the deterioration of the roads and bridges of this country going on now. It is more than 25 years since we started construction of the Interstate System in 1956. Now certainly is the proper time for the passage of this legislation before this lameduck Congress goes home.

I hope that Members will realize that there are some of us who work on this subject matter, who worked to bring a bill to the Senate with a vote of approval of 16 to 0 in the Committee on Environment and Public Works. With the action of the House that I mentioned and across this country, there is strong support.

There has been no increase in the gas tax since 1959. There is the deterioration of our network of roads and bridges. Certainly, it is not a wrong time. If it can be enacted, it is the right time.

Mr. ROBERT C. BYRD. Will my colleague yield?

Mr. RANDOLPH. I yield.

Mr. ROBERT C. BYRD. I hope my colleague was not directing his remarks to me.

Mr. RANDOLPH. I was not.

Mr. ROBERT C. BYRD. At no time have I indicated that the infrastructure of this country should not be repaired. I simply said that we Democrats did offer an alternative for the payment of that, and that some of us over here are opposed to the gas tax. My colleague may support it, others may support it, and others may not. But I have said that this is not something that is so absolutely imperative that it could not wait until January 3 when the new Congress comes back to be acting upon it.

Mr. RANDOLPH. I thank my colleague.

Mr. BAKER. Mr. President, obviously there are differences of agreement on this subject, not only across the aisle but within the confines of our two parties. I do not doubt that. But, Mr. President, finally we have to get on. I hope the Senator will permit me to ask the Chair to execute the first provision of the unanimous-consent order which provides for a rollcall vote on final passage of the continuing resolution at this time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FURTHER CONTINUING APPROPRIATIONS, 1983

The PRESIDING OFFICER. The clerk will state the pending business.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

The Senate resumed the consideration of the joint resolution.

TUBERCULOSIS CONTROL

Mrs. HAWKINS. Mr. President, I had planned to offer an amendment cosponsored by Senators MOYNIHAN, CRANSTON, SARBANES, DIXON, and RIEGLE, to the continuing resolution to authorize $10 million in fiscal year 1984 for tuberculosis control. As you know, the House continuing resolution provides $5 million in tuberculosis funding while the Senate version only provides $2 million. Obviously I would prefer appropriating the full authorized amount $10 million for fiscal year 1984. However, I have discussed the need for additional tuberculosis funding with Senator SCHMITT, the distinguished Chairman of the Labor, HHS, and Education appropriations and he has assured me that the Senate conferees will give every consideration to a higher level of funding than the amount that is currently in the Senate continuing resolution. In the interest of expiditing the passage of this legislation, I will not offer my amendment. I have every confidence that the Senator from New Mexico will accommodate my request for additional funding for tuberculosis and I hope that the House and Senate conferees will agree to the higher level of funding for this tuberculosis control program.

Mr. President, tuberculosis is no longer the "glamorous affliction" of poets and beautiful women—as it was considered in the 19th century. It is an extremely painful, lingering disease that can be controlled and cured only by drastic measures. We are experiencing an alarming rise in reported cases of this highly infectious disease. The national case rate of TB is now 11.9 per 100,000. Miami's case rate is 87 per 100,000, the highest rate for any major city since 1977. Honolulu, Hawaii, is suffering a tremendous epidemic of tuberculosis as well.

Unfortunately, recent block grant programs to get TB under control in this country have been disastrous. Now the appropriate committees have authorized a categorical tuberculosis control grant program instead of merging it into the preventive health block grant. Despite the special attention of the authorizing committees, however, the appropriations committees chose to not fund the programs in fiscal year 1982. Not until the urgent supplemental passed over the President's veto this year were funds appropriated for tuberculosis control; $1 million were appropriated out of the $9 million authorized for fiscal year 1982.

The $1 million in funding in the urgent supplemental represented a growing awareness of the need for Federal financial assistance for TB—or so I thought. Appropriating $1 million out of $9 million was based on the fact that only 1 month remained in the fiscal year, and it was not an erroneous appraisal of the Federal funding needed for this program—or so I hoped. My wishes and hopes were disappointed, though, when the Senate Appropriations Committee recommended granting only $2 million out of the $10 million authorized for TB control in 1983. This level of funding is even less than the $5 million appropriated by the House of Representatives.

Mr. President, I believe that these kinds of reductions in funding for preventive health programs are false savings. They may purport to save money right now, but wait until the bills pour in after Christmas. By not treating these highly infectious, life-threatening diseases before they spread, the Federal and State governments will incur much higher health costs in the long run.

Extensive research shows that deemphasizing tuberculosis control will have the following disastrous effects:

First, preventive treatment of those with tuberculosis would virtually cease because essentially all preventive treatment is conducted by public tuberculosis programs. Presently, about 25,000 person per year complete a course of preventive treatment, thereby preventing an estimated 25,000 cases of tuberculosis over the next 20 to 40 years—at savings of $4.7 million per year.

Second, investigation of contacts of persons with tuberculosis would virtually cease because nearly all contact investigation is conducted by public tuberculosis control programs. Contact investigation uncovers nearly 2,000 early cases of tuberculosis. As failure to identify these cases may result in 2 additional weeks of hospitalization per case, cutting the program would cost an additional $2.8 million per year.

Third, continued progress in the control of tuberculosis, as in shorter and more effective treatment programs, promises even more savings. The number of cases will decline, the number of treatment failures and relapses will decline and the prevention of short-course chemotherapy regimes will result in savings of over $10 million per year.

Fourth, supervision of patients with tuberculosis would then have to be provided entirely by the private sector. Nevertheless, the real burden of treating these patients would continue to be borne in large part by public funds because the percent of tuberculosis patients 65 or older is 29 percent in 1980 and will rise to 36 percent by 2000.

Mr. President, in 1980, State health departments reported spending approximately $9 million in the 314(d) Federal funds for tuberculosis control. States are authorized to spend some of their preventive health block grants on tuberculosis control, but no funding was transferred to this block grant for TB. Therefore, the State health officials will have to curtail—if not eliminate—other worthy health programs to deal with tuberculosis emergencies in their States.

The American Lung Association and the American Thoracic Society, with the support of the American Public Health Association, the Coalition for Health Funding, the Association of State and Territorial Health Officials, and the American College of Preventive Medicine, have all recommended project grants for the prevention and control of tuberculosis. We cannot just ignore their advice.

Mr. President, as the distinguished Senator from New Mexico is well aware, I have been advocating appropriating funding for this important health program for some time.

FUNDING FOR TUBERCULOSIS CONTROL

Mr. MOYNIHAN. Mr. President, I rise today to urge the Congress to provide adequate funding for tuberculosis control by the Centers for Disease Control.

When Americans hear the disease tuberculosis mentioned these days, I imagine they have visions of people suffering in the ghettos of a Dickens novel or perhaps are reminded of a poem by Lord Byron. Possibly some people think of tuberculosis victims camped out on tenement rooftops in the dead of winter, following once accepted medical procedure, hoping that the cold would kill the disease in their lungs; or think of the more privileged victims, residing in elegant sanatoriums. But, tuberculosis is not a disease that ended with the 19th century. Nor is it confined to the pages of literature. Tuberculosis is a disease that continues to affect many thousands of citizens throughout our country. The Public Health Service has published a pamphlet on tuberculosis that provides an excellent description of the disease and the problems it presents. Mr. President, I ask unanimous consent that this pamphlet be placed in the RECORD, following my remarks.

Efforts by health officials around the United States contributed to a decline in the number of new cases of tuberculosis every year from the early 1950's to 1978. For the last 3 years, however, there has been no substantial decline in the number of new cases. In 1981, 27,373 new cases were reported and 1,780 persons died from tuberculosis. The case rate in large cities was 24.0 per 100,000 persons,

more than twice the national case rate of 11.9. New York annually reports the second largest number of cases of any State. In 2 of the last 3 years, New York City reported an increase in its case rate. The city reported 1,582 cases last year—the highest case total for any city in the country. Preliminary figures from the first 9 months of 1982, collected by the Centers for Disease Control, show another increase in New York City cases by about 8 percent.

Not only has the number of new cases failed to decline over the past few years, but a new and threatening problem has arisen: a strain of drug resistant tuberculosis. The first documented community outbreak of this strain of tuberculosis began several years ago in Mississippi. A second community outbreak has been discovered recently in Newburgh, N.Y. On the average, 9.4 percent of the tuberculosis cases reported in the United States are drug resistant. New York City reports 12.7 percent.

A particularly distressing fact about tuberculosis in the United States is the incidence among children. From 1976 through 1981 the incidence of tuberculosis among children did not decline. Los Angeles and New York City report the most cases of tuberculosis in children; New York City has reported increases in children for 3 of the last 4 years.

One factor that has helped to prevent a decline in the number of tuberculosis cases in the United States is the continuing entry of refugees, undocumented aliens, and other immigrants from high-incidence countries. Controlling tuberculosis has been made more difficult because of this, particularly in border and coastal cities. In 1981, 5.6 percent of new tuberculosis cases occurred in refugees; 13.5 percent of new cases occurred in Hispanic residents of the United States, many of whom are recently arrived.

The Centers for Disease Control are currently funding intense tuberculosis control and prevention activities in 12 high-incidence urban areas. These areas represent about 25 percent of the Nation's tuberculosis morbidity. This amendment will allow the continuation of these efforts and the expansion of the program to include an additional 20 to 25 State or local health departments.

Over 10 percent of the tuberculosis cases in the Nation are not being treated. Part of the reason for this lies with health departments in urban areas that lack adequate staff to provide directly observed therapy to infected individuals who are unwilling or unable to complete the course of medication that would make them noninfectious. This amendment will provide funds for the outreach staff that is needed.

The work that is being done—and will be done—by the Centers for Disease Control is relatively inexpensive and will have a significant impact on tuberculosis control in the United States. I urge the Senate conferees and my colleagues to accept the higher House level for this amendment.

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

TUBERCULOSIS

A century ago, tuberculosis was the leading cause of death in the United States. At that time, very little was known about how the disease was spread and how best to treat it. Tuberculosis patients were isolated from their families in sanatoriums, which represented the main thrust of the Nation's fight against this disease.

Through the efforts of researchers, physicians, and public health officials in the U.S., improvements in living conditions and the introduction of effective drug therapy have led to a dramatic and steady decline in tuberculosis deaths over the past 40 years. Today, most tuberculosis sanatoriums have closed their doors.

Because of this progress many people no longer recognize this disease as an urgent health problem. In 1979, however, 27,669 cases of tuberculosis were reported in the U.S., with 2,914 fatalities the previous year. Tuberculosis is the second leading cause of death from infectious disease in the United States and represents a massive economic burden to individuals and society.

Elsewhere in the world—especially in Asia and Africa—tuberculosis is an even more important cause of chronic disability and death. The World Health Organization estimates that there are between 10 and 12 million people in the world with active tuberculosis and another 50 to 100 million people this year who will be exposed to it. Worldwide, about 3 million die yearly from this disease.

TRANSMISSION

Tuberculosis is caused by rod-shaped organisms belonging to the mycobacteria family. In humans the major agent responsible for causing disease is Mycobacterium tuberculosis, the tubercle bacillus.

Tuberculosis is predominantly an airborne disease. The tubercle bacilli in contaminated droplets are coughed, sneezed, or otherwise put into the air by a person with active disease. These discharges in their original state are normally harmless to others because the large particles fall to the ground, are filtered out by the hairs in the nose, or are removed from the larger air passages by a protective device, the "bronchial cilia."

However, the dried residues of these contaminated droplets—known as "droplet nuclei"—may remain suspended in the air for a prolonged period of time, ready to be inhaled by a susceptible individual. This means that the area that an infectious person has occupied may remain potentially contagious even in his temporary absence. The nuclei are sufficiently small to bypass the natural defenses of an individual's upper respiratory passages and to reach the alveoli—the minute air sacs of the lungs located at the end of the "bronchial tree" (major air passages). This is where infection begins.

A single exposure to an infectious person usually does not result in infection in another individual. It normally takes prolonged exposure, such as occurs in classrooms among teachers and students or in the home environment among family members. Crowded living conditions are conducive to spread of infections. In fact, studies of epidemics in "closed environments"—such as urban ghettos, boarding schools, and penal institutions—show that one person with active disease can infect virtually all susceptible persons in his immediate surroundings.

Tuberculosis in humans can also be caused by Mycobacterium bovis, which normally infects cattle. As recently as 50 years ago, it was not unusual for children to become fatally ill or permanently deformed due to bovine tuberculosis contracted by drinking raw milk from infected cows. Pasteurization of milk and the testing of dairy herds for the disease has eliminated bovine tuberculosis as a serious public health problem in the United States. In other parts of the world, bovine tuberculosis in humans is still a serious problem.

PRIMARY INFECTION

After the tubercle bacilli are inhaled, they begin to multiply very slowly in the body. Some remain at the initial site of infection—the alveoli (or small air sacs of the lungs)—while others enter the nearby lymph nodes and bloodstream. Within a few days, the organisms are carried to most parts of the body.

During the first stage, white blood cells called phagocytes, attack and kill bacilli in the bloodstream. But bacilli outside the bloodstream, especially in the lungs, flourish and continue to grow. Two to ten weeks after initial infection, the individual develops "tuberculin hypersensitivity." This is simply an allergic reaction in which specific white blood cells, called lymphocytes, react to the tubercle bacillus or to its proteins, known as "tuberculins." These proteins are used in the so-called "tuberculin skin test" to detect infection in an individual. The response of the lymphocytes to tuberculin is involved in the development of a localized inflammation and the activation of a particular type of phagocyte, called a macrophage.

When the bacilli are engulfed by macrophages, they in turn, are surrounded by layers of other cells to form the characteristic mass of cells, or tubercle, which gives tuberculosis its name. This initial lesion is called a primary tubercle. Some of the bacilli in the macrophages die; others remain dormant for many years.

Once this allergic reaction is established in an individual, he will give a positive reaction to a tuberculin skin test. There are 15 million people in the United States who are "tuberculin positive reactors," according to the Center for Disease Control (CDC).

ACTIVE DISEASE

In more than 90 percent of the persons who are tuberculin positive reactors, the tubercle bacilli cause neither signs nor symptoms of illness. In those few positive reactors in whom the disease does become active, this event may occur immediately after the initial infection or, more commonly, many years later.

Primary tuberculosis can progress to active disease in several ways. In general, after the primary tubercle has healed, the lesion becomes calcified. If healing is imperfect or if the bacilli kill the cells containing them and multiply more rapidly than the host's defense can contain them, the bacilli spill out, become reengulfed by new macrophages, and start new tubercles as satellites

to the original ones. In the process, macrophages and other tissue and blood cells that are killed form a soft, caseous (cheese-like) mass that is discharged into an adjacent air passage, leaving a cavity in the lung. The formation of a cavity in the lung is the turning point for the individual as well as his close contacts. Astronomical numbers of disease-causing bacilli are released daily from a cavity into the air passages. Once there, they are expelled into the air in droplets, which can then infect a noninfected person. Thus, the chain of infection-disease-infection is perpetuated.

The most severe form of the disease occurs when the bacilli spread beyond the lungs to the other organs, such as the bones and kidneys. When this dissemination results in multiple tubercles in the lungs, liver, and other organs, a diagnosis of milary tuberculosis is made. Prompt treatment is necessary when infection of the lining membrane of the brain causes meningitis.

HIGH RISK GROUPS

In 1979, there were fewer than 28,000 persons with new, active cases of tuberculosis in the United States, according to the CDC. In most of these individuals, the disease is an activation of an earlier latent infection. However, a few thousand of the new active cases occur in persons who were previously negative tuberculin reactors but who contracted active disease as a result of a recent exposure to infectious patients. Several thousand persons who have previously been treated for tuberculosis also suffer relapses every year.

One of the most puzzling aspects of tuberculosis is why an infection occurs, subsides, and later flares up in some persons, but not in others. Efforts are being made to identify those groups of individuals who run a high risk of contracting tuberculosis. Most Americans already infected with M. tuberculosis are in the older age groups and most reported active disease occurs in persons over the age of 45, especially males. However, children and infants with their immature immune systems are especially vulnerable, and the disease often spreads more rapidly in them than in adults.

Socioeconomic factors, such as low income, substandard housing, crowded living conditions, and inadequate health services contribute to the spread of any infectious disease, including tuberculosis. In the United States, these conditions are particularly prevalent among the poor, regardless of race. A study of 55,000 American Indians in the Southwest showed that the incidence of tuberculosis in these tribes is eight times the natoinal rate. Migrant farm workers are also heavily affected.

Geographically, tuberculosis is more common in large cities, especially in the inner city ghetto areas. In the past 10 years, the case rate in cities with populations greater than 250,000 has been double that for the rest of the country.

Scientists speculate that tuberculosis can be reactivated when a person's immune system becomes impaired by disease or for other reasons. That may be why certain medical conditions are frequently associated with tuberculosis. These include diabetes, immune deficiency diseases, and chronic lung diseases, such as silicosis and asbestosis. Alcoholics also have an unusually high rate of tuberculosis.

SYMPTOMS AND DIAGNOSIS

The vast majority of persons with a primary tuberculous infection do not have any symptoms. Occasionally, there may be a slight fever, a skin reaction, or a general feeling of discomfort that marks the development of tuberculin hypersensitivity. These symptoms usually disappear, and the infection enters a dormant stage.

The active stage of tuberculosis is marked by an insidious onset—again with vague symptoms that may go unnoticed by the individual. These may include fatigue, nervous irritability, weight loss, fever, chilliness, night sweats, loss of appetite, or a "cold" that hangs on. Coughing is uncommon in early phases of the disease. Two severe symptoms—hemoptysis (spitting up of blood or blood-stained sputum) and chest pains—are surprisingly uncommon. Shortness of breath does not usually occur until the lungs are extensively damaged.

Physicians use several factors to diagnose tuberculosis, including a history of symptoms, physical signs, microscopic examinations of the patient's sputum, a chest X-ray, and a tuberculin test. The sputum of the patient is studied primarily to isolate the tubercle bacilli and also to distinguish Mycobacterium tuberculosis from other mycobacteria, some of which cause diseases that are difficult to differentiate from tuberculosis.

DETECTION OF INFECTION

Tuberculin test and chest X-rays

Close to 80 percent of the newly diagnosed tuberculosis patients in the United States first come to physicians or health workers because of symptoms. One of the major goals in controlling tuberculosis is to detect such people before they infect others. This is where the tuberculin skin test plays a valuable role.

Several tuberculin tests are available in the United States, but the Mantoux test is probably the most satisfactory and widely used. In this procedure, a physician injects between the layers of the skin the purified proteins (tuberculins) isolated from the tubercle bacilli. If the person has been infected with tubercle bacilli previously, an allergic reaction occurs within 48 to 72 hours, resulting in a hard, red, raised spot at the injection site. The size of the hardened area is significant. An area of 10 millimeters (about one-half inch) or greater in diameter indicates a positive reaction.

The tuberculin test can also be performed with multiple puncture techniques such as the tine test. The major use of this test is in large-scale screening programs.

Despite its usefulness, the tuberculin test has certain limitations. Most importantly, it makes no distinction between a person who is merely infected with tubercle bacilli and a person who has an active disease. If a physician finds a positive reaction, he may order a chest X-ray to find out if the person has an active disease.

False positive and false negative reactions sometimes occure in the tuberculin test. False postive reactions may occur in people infected with "atypical" mycobacteria, a group of closely related organisms that have certain properties in common with M. tuberculosis. False negative reactions occur under a variety of circumstances, including improper test methods or when the individual has an underlying disease, has been vaccinated recently with a live virus vaccine, or is on immunosuppressive drugs.

In the past, another major means of screening people for tuberculosis was the chest X-ray. Today, the incidence of tuberculosis has declined to the point where street corner X-raying is no longer widely used because too few cases are found to warrant the time, expense, and risk of multiple exposures to X-ray.

Some groups, however, should be X-rayed routinely to detect active disease. These include prison inmates, ghetto residents, contacts of infectious people, and immigrants from countries where the disease is prevalent. In addition, there are "danger" groups—people who are not ncessarily at a greater risk of having tuberculosis, but who are in a position to transmit it to others if they are infectious. These groups include adults working with children, such as school teachers and bus drivers, and health personnel (doctors, nurses, medical students, hospital employees).

Through a combination of selective tuberculin skin testing of children at the time of school entry and chest X-rays of high risk and danger groups, the vast majority of persons with active tuberculosis in America could be detected and treated. Then, the relentless cycle of infection-disease-infection could be broken.

TREATMENT OF ACTIVE DISEASE

The discovery of specific drugs to treat tuberculosis, beginning with the antibiotic streptomycin in 1944, marked a new era in controlling this disease. Prolonged bed rest in sanatoriums is no longer generally necessary. Although a patient may be treated in a hospital, he may be discharged safely—possibly within a few weeks—when organisms can no longer be easily detected in his sputum.

Even though a person's sputum may become free of organisms in a matter of weeks, drug treatment of tuberculosis should be continued for 18 months to 2 years. The drugs have little effect on dormant organisms, known as "microbial persisters." Therefore, an adequate drug level must be achieved to handle these persisters when they emerge from dormancy and start to multiply.

Another problem with drug therapy is the likelihood that some bacilli may be resistant to a particular drug. To reduce the possibility that these bacilli might survive a one-drug regimen, doctors usually prescribe combinations of two or more antituberculosis drugs.

Isoniazid, streptomycin, rifampin, ethambutol, and para-aminosalicylic acid are the primary medicines used in the treatment of tuberculosis. Of these, isoniazid is probably the best and most valuable of the currently available drugs. It is easy to administer (by mouth), it has few side effects, and it is inexpensive. The combination of isoniazid and one of the other drugs, such as ethambutol or rifampin, has had excellent results in the treatment of tuberculosis patients.

Today, the principal cause for failure of therapy is the failure of patients to take medications as prescribed or to take them for an adequate period of time. Scientists are now conducting trials that might lead to a shorter duration of treatment and still produce high rates of cure. Therapy using daily doses of isoniazid and rifampin for a minimum of 9 months have shown promise as an acceptable alternative for adults with uncomplicated tuberculosis. After an initial phase of chemotherapy, which ranges from 2 weeks to 2 months, therapy should be continued taking a daily or twice-weekly dose of isoniazid and rifampin. Patients should remain under surveillance for 12 months after completion of therapy.

The use of short course regimens is suitable for those patients with high-resistant organisms, for treatment of para-pulmonary tuberculosis or for pulmonary disease in patients with complicating medical problems.

The usefulness of these regimens in the retreatment of patients is also unproven thus far.

PREVENTION

Tuberculosis is largely a preventable disease. In the United States, prevention has focused on identifying infected individuals—especially those who run the highest risk of developing active disease—and treating them with drugs.

Chemoprophylaxis (the use of drugs to prevent disease) is primarily accomplished with isoniazid, which is taken daily for 1 year. A multiple drug regimen is not necessary in preventive treatment, since there are relatively few tubercle bacilli present in an infected person, in contrast to the hundreds of thousands of organisms in a person with active disease.

Every person who has a positive tuberculin skin test is at some risk of developing active disease. Public health officials highly recommend preventive therapy for six groups of individuals who run the highest risk of contracting active disease. They are household contacts—both tuberculin negative and positive—of persons with active disease; persons who have recently shown a conversion in their tuberculin skin test from negative to positive (indicating recent infection); persons with previously known tuberculosis, now inactive, who have not had adequate chemotherapy; positive tuberculin reactors with abnormal lung findings in their chest X-ray; positive tuberculin reactors less than 20 years old; and people with a positive tuberculin test who have certain underlying medical conditions (such as diabetes, leukemia, or Hodgkin's disease), who have had a gastrectomy, or who are receiving immunosuppressive drugs.

Persons undergoing chemoprophylaxis should be supervised by a physician because of the possibility of developing isoniazid-related liver disease. The risks are small, however, and seem to vary considerably, depending on a variety of factors, especially age. The risk is highest for those more than 35 years old.

Taken as directed by a physician, isoniazid is 90 percent effective in preventing development of active disease. One of the major problems, however, has been motivating people to continue taking the drug for the required length time.

BCG VACCINATION

Although isoniazid is preferred in the United States as a means of preventing tuberculosis, vaccination is widely used in many parts of the world.

In 1922, the first vaccine against tuberculosis, known as bacille Calmette-Guerin (BCG), was tested in man. This vaccine was prepared from a strain of Mycobacterium bovis by two French scientists, Albert Calmette and Camille Guerin, who were able to weaken the virulence of the original organisms over a period of many years. Today, all existing BCG vaccines are derived from this attenuated strain.

The rationale behind BCG vaccination is based on the finding that the response to a first infection with the tubercle bacillus differs from the response to a subsequent infection. The second infection is much more easily held in check by the body than the first infection—which often progresses directly to active tuberculosis—and so it appears that the host acquires some immunity from the primary infection.

The aim of BCG vaccination is to replace the potentially harmful natural primary infection with an innocuous, artificial primary infection. The hope is that this will enhance resistance to a subsequent virulent infection. The persons sought for BCG vaccination are those individuals who have never had a primary infection.

Chemoprophylaxis, on the other hand, is geared mainly to those individuals who have already been infected. Most individuals in the United States who develop tuberculosis have already had a primary infection. For this reason, a mass program of BCG vaccination has not been recommended by the Public Health Service in the United States.

BCG vaccination may be of major value in areas of the world, particularly developing countries, where the incidence of tuberculosis infection is still high. In one recent year, in 38 African and Asian countries, more than 31 million vaccinations were given, primarily to newborn infants and school children.

BCG vaccination has aroused a great deal of interest among researchers and physicians for its ability to stimulate protection against diseases other than tuberculosis. BCG vaccination is being used in therapy of certain kinds of cancer, such as acute myelogenous leukemia. however, much research remains to be done to learn how BCG induces such nonspecific protection.

THE NIAID RESEARCH PROGRAM

Tuberculosis research is carried out by scientists supported by NIAID grants and contracts, at universities, medical schools, and other institutions. NIAID grantees are intensively investigating the basic mechanisms involved in delayed hypersensitivity and the immune response to tubercle bacilli. For example, at the National Jewish Hospital and Research Center in Denver, Colorado, NIAID-supported researchers are studying the primary antigen-antibody reactions in tuberculosis. Knowledge gained in these studies may lead to an understanding of how the body tries to protect itself against an invasion of tubercle bacilli.

One of the major problems in tuberculosis research is the lack of precise knowledge concerning the identity and bilogical significance of tubercle bacilli antigens. It is known that mycobacterial lipids (fats) play an important role in stimulating cellular immunity in the body, the type of immunity responsible for combating tuberculosis bacteria. NIAID scientists and grantees have been trying to separate, isolate, and chemically define the structure of lipids in the mycobacterial cell wall. One outgrowth of their efforts has been the development of a new technique, microparticulate centrifugal chromatography, that offers a simple, rapid, and clean separation of closely similar compounds.

Delayed hypersensitivity in tuberculosis is a prototype for many kinds of cellular reactions, including transplant rejection. NIAID grantees are therefore trying to identify and understand each step in the series of complex events that result in this delayed-type reaction.

Because early efforts in tuberculosis research were hampered by a lack of standardized materials and methods, the U.S. Japan Tuberculosis Panel secured—through contracts—essential standardized materials to meet the needs of qualified investigators in the field. Under NIAID contract, the National Jewish Hospital and Research Center makes available cultures of more than 165 strains of biomedically important mycobacteria that are well characterized for biomedical characteristics and virulence. They also provide standard sets of antisera suitable for serotyping certain groups of mycobacteria.

The PRESIDING OFFICER. Under the previous order, the question is, Shall the joint resolution pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HEINZ) would vote "yea."

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 63, nays 31, as follows:

[Rollcall Vote No. 455 Leg.]

YEAS—63

Abdnor	Ford	Melcher
Andrews	Garn	Metzenbaum
Baker	Glenn	Moynihan
Bentsen	Gorton	Murkowski
Biden	Hart	Packwood
Boschwitz	Hatch	Percy
Bradley	Hatfield	Quayle
Brady	Hawkins	Randolph
Bumpers	Hollings	Riegle
Burdick	Huddleston	Rudman
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jepsen	Schmitt
Chafee	Johnston	Simpson
Chiles	Kassebaum	Specter
Cochran	Kennedy	Stafford
Cohen	Leahy	Stennis
D'Amato	Long	Stevens
Danforth	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	Mattingly	Tsongas
Durenberger	McClure	Weicker

NAYS—31

Armstrong	Exon	Nunn
Baucus	Grassley	Pressler
Boren	Hayakawa	Proxmire
Byrd, Harry F., Jr.	Heflin	Pryor
	Helms	Roth
DeConcini	Humphrey	Sasser
Denton	Kasten	Symms
Dixon	Laxalt	Wallop
Dodd	Levin	Warner
Eagleton	Mitchell	Zorinsky
East	Nickles	

NOT VOTING—6

Cranston	Heinz	Matsunaga
Goldwater	Jackson	Pell

So the joint resolution (H.J. Res. 631), as amended, was passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I move that the Senate insist on its amendments and request a conference with the House and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. RUDMAN, Mr. SPECTER, Mr. PROXMIRE, Mr. STENNIS, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, and Mr. BUMPERS, conferees on the part of the Senate.

Mr. BAKER. Mr. President, seldom have I been more enthusiastic in rising to complement the managers of the bill than I am on this occasion. I wish to extend my sincere congratulations to both the chairman of the Appropriations Committee and the ranking minority member, Senator PROXMIRE, for their good work and the diligence and patience in bringing this matter to a conclusion.

I add a special note of thanks for the sterling efforts by the distinguished junior Senator from North Carolina to make his views felt and to arrange the sequence of the proceedings of the Senate so that he had indeed, as he has had, an opportunity to make his valued views fully heard in the Senate and still permit us to proceed as we have just done.

Mr. President, this has been a monumental undertaking. The time spent in consideration of House Joint Resolution 631 as of 2:38 p.m. today is 41 hours and 40 minutes of the time of the Senate. There has been 33 rollcall votes, and we have not yet been able to count the number of amendments.

Mr. President, the conferees are making good progress. They were until this moment, of course, unofficial conferees, but they met in good faith this morning at 10, and they were received by their colleagues and counterparts in the House of Representatives and dealt with efficiently and I am told by the chairman of the committee that there is some hope that they will be able to finish their work tonight but that it is not possible in his view that the House of Representatives will receive the conference document for action until tomorrow.

That means that it will be some time tomorrow after the House acts befor the Senate can act on the conference report.

We will, of course, take up the conference report when we can get it.

Between now and 6 p.m., there are a number of matters that may come up. I will yield the floor in a moment. But at 6 p.m. there will be a cloture vote on the Baker substitute to the highway bill.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, there are a number of housekeeping items and other measures that could be taken care of by unanimous consent, I assume, during the day.

I would hope that we would utilize this time to do that. Otherwise, the majority leader and I will be around at 12:30 or 1:30 in the morning one day while everyone else has gone home.

Mr. BAKER. My lifetime quota of 12:30's and 1:30's is about to be exhausted.

Mr. ROBERT C. BYRD. Mine have long been exhausted.

Mr. BAKER. I agree absolutely.

I asked my cloakroom staff to have that file of routine matters, and I suggest to the minority leader if it is suitable to his schedule about half an hour from now or about 3:30 p.m. we try to get to them.

Mr. ROBERT C. BYRD. I would like to do that. I personally do not think there is anything of major importance that can be brought up this afternoon.

Mr. BAKER. Mr. President, let me hasten to readjust that. Let me say to my friend the minority leader that I am reminded by the Senator from Idaho that he wants as much time as he can on a couple of matters that he wishes to try to get up.

Mr. President, I suggest that we try to do this at 5 p.m. instead of 3:30 p.m.

Mr. ROBERT C. BYRD. When the majority leader yields the floor I wish to get the floor.

Mr. BAKER. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, as I was about to say, I do not think that we should use this Sabbath afternoon in attempting to pass major legislation. I do not think there is going to be any major legislation passed this afternoon.

We have the continuing resolution, and that is the one imperative measure that we should pass and get out of here because that will keep this Government from coming to a halt and it will certainly keep a lot of recipients of checks—social security, veterans, military, and otherwise—from being delayed in receiving of their checks. That measure has now been passed by the Senate and, of course, we are going to vote on the cloture motion on the gas bill later today.

But as far as I am concerned I say again, while many of us on this side do not think that it is absolutely necessary during this lameduck session, that we pass that gas tax bill, we have cooperated in every way with the majority. We offered it to the majority on a silver platter 3 days ago: No further amendments on this side and on the Republican side and a vote within 30 minutes.

The majority caucused and rejected that offer and now we are having to stay around on Sunday, as a result, and go through all these cloture votes because of a filibuster on the gas tax bill that has not been joined in by anyone on this side. Even though some of us may not vote for the bill and may not support the gas tax—and we did offer an amendment that was an alternative to the gas tax that was offered and defeated—we Democrats have not joined in the filibuster.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. That filibuster is being carried on by a small minority of the other side, and in the meantime I think we should limit our efforts to the continuing resolution, the cloture that is coming up, and minor bills on which unanimous consent can be given and we pass only noncontroversial bills.

Those bills of major controversy we know are not going to pass this afternoon. I do not know why we stay around here and work on those matters when they are obviously not going to pass.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. LONG. Mr. President, if the distinguished Senator will yield, may I say to the distinguished leader that I believe I agree with exactly what he is saying. I wish to make it clear.

I personally think those on this side of the aisle should vote for cloture if the majority leader moves for it, and especially those who favor the bill should vote for cloture. Those who reported it out of committee should vote for cloture, and we should get cloture on the bill, and some of us should stick around here to help make a quorum.

I think the primary burden falls on the majority leader's side of the aisle. But I would hope we do not think on our side of the aisle that we can vote against cloture and not lay ourselves open to the charge that we are cooperating by helping the filibuster to continue. In my judgment, if we do not vote for cloture we will be viewed, and I think rightly, as cooperating with that filibuster.

Now, I want to get out of here but, at the same time, I do think it is fair to ask that we pass these two bills, the highway bill that we had more or less agreed we were going to pass, as well as the continuing resolution. I hope we will make a real effort, at least to the extent of cooperating with the majority leadership to break this filibuster, if it can be broken.

Mr. ROBERT C. BYRD. There is nobody on this side of the aisle that I know of, who does not know we are going to cooperate with the majority leader in getting cloture today. Everybody knows we are going to vote for cloture today, and I promised him, and I am going to be good to my word, and he knows that, and we have talked that among ourselves, and he knows many of us Democrats are going to give him the votes needed on cloture today.

Mr. JOHNSTON. Mr. President, will the Sentor yield?

Mr. LONG. Mr. President, will the Senator yield? Having said that, I want to agree wholeheartedly with the leader that other than that we should not pass anything except by unanimous consent.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I really think we should put things in perspective just for the moment. There is no order that any meaure will be brought up in this time period. That is not part of the unanimous-consent request. The only provision is that time will be available to do whatever the Senate will agree to do.

Now, Mr. President, I have not tried to force the Senate to take up other matters. I have said time and again we are going to pass, if I can possibly do it, we are going to pass, the continuing resolution and we are going to pass the highway bill, and I hope we can do these two things. But I am not trying to insist we do something else. That is up to the Senate. I know the Senator from Idaho wants to take up this measure. I know perhaps others do not, I have been told by some Members of this side of the aisle, and that is just a ball I am going to throw up in the air and see what happens, because at 6 o'clock, under the order, we are going to vote on cloture.

But there is one matter I really hope the minority leader and the Senator from Ohio will consider. I have not checked this. There are hundreds of amendments at the desk that could be called up after cloture is invoked on the highway bill that were filed on the Democratic side, and I would hope those Members will consider withdrawing those measures. Of course, as the minority leader knows, under the precedents he set, which I helped him to set, any Member can call up those amendments. So I agree, Mr. President, the minority leader has been cooperative. I accept his assurance to me that there is strong support on his side for cloture. He understands that I am going to try to pass the tax bill. I surmise that he is not going to vote for it, and I regret that, but neither one of us is going to try to impede the will of the Senate.

I am telling you now I have no desire to add to the agenda. I am simply providing this 3-hour timeframe in which Members can try to do whatever the Senate is willing to do.

Mr. METZENBAUM. Mr. President, will the minority leader yield?

Mr. ROBERT C. BYRD. I yield, with the understanding that I do not lose my right to the floor.

Mr. METZENBAUM. I ask the minority leader as well as the majority leader, is it not a fact that the minority leader has made the point that we are prepared to vote on cloture, which is to be voted on at 6 o'clock? The minority leader is prepared to vote on all those unanimous-consent measures agreed to on both sides of the aisle, housekeeping details, but that absent that this floor should not be open for anybody to grab the floor and make some of us hold the floor indefinitely until 6 o'clock, and particularly on a Sunday afternoon, and that it seems to me that that is not the proper legislation procedure.

I agree totally with the minority leader. Anything that has to come up by unanimous consent, housekeeping, fine. Then this body, as I see it, ought to be in recess because we are not going to get anything accomplished unless there is some reason we cannot be in recess or a quorum call.

Mr. BAKER. Mr. President, will the minority leader yield to me?

Mr. ROBERT C. BYRD. I yield with the understanding that I not lose the floor.

Mr. BAKER. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have been here and have heard the minority leader, when he was majority leader, point out to me that only one person has the responsibility for setting the schedule of the Senate, and that is one of the responsibilities of the majority. We set a unanimous-consent agreement early this morning that provides for this window.

No business is provided during that period, but I respectfully suggest to the Senator from Ohio it would not be appropriate at this time, it would not be fair, frankly to Members who have things they would like to do during that window to recess and to deprive them of that opportunity.

Once more I say I am not trying to force any issue. I am not trying to do that. I have not done that in the unanimous-consent agreement. What I am trying to do is to say that between now and 6 o'clock we will do whatever the Senate will agree to do.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I have the floor, and I yield with the understanding that I not lose the floor.

Mr. LONG. I just want to remind——

Mr. ROBERT C. BYRD. I yield to the Senator for that purpose only and without losing my right to the floor, and I ask the Chair to protect that right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. It seems to the Senator from Louisiana that it would be very unfair at this point, when everybody knows that you cannot pass anything over the objection of a single determined opponent, other than these two bills—it seems to me that at this point, it would be unfair to put any other Senator who is trying to help cooperate and get these two bills passed and get us out of here in position where he has got to stand up here and talk for 2 or 3 hours against any one of these other bills. He will be opposing a bill which everybody knows is not going to pass, and the only way for it to pass is if he runs up the white flag and gives up. He knows very well that at this point he has everything on his side. All he has to do is to speak for 3 hours, and I do not know anybody here who cannot make a 3-hour speech in the Senate of the United States. It takes that long just to warm up. [Laugher.]

If the leader wants to have an order that any Member who wants to can get up and say what a sad travesty it is if a particular bill is not passed, here he has brought the bill up to this point and the Senate should not adjourn until his bill has been passed and sent down and signed by the President or if need be, the veto overridden—if the leader wants to permit that, I would not object to that. I do not believe that Mr. METZENBAUM would ovject to that.

But we should not bring up a measure that cannot possible pass. I do not mind if Mr. MCCLURE wants to make a speech for his bill; that is all right. I just do not think we ought to force other people to speak on his bill.

Mr. McCLURE. Mr. President, will the distinguished minority leader yield for a moment without losing his right to the floor?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLURE. I thank the Senator for yielding. I understand the concerns expressed by a number of people with respect to the procedure this afternoon. We have been struggling for weeks for an opportunity to consider a bill that has a great deal of interest to Members on both sides of the aisle. We have made a lot of accommodations with a lot of different Members on both sides of the aisle and in the other body to try to get that bill into a posture where it can be passed.

It is not on the Consent Calendar because there are a lot of people who have concerns about it, but we will never know whether or not we have resolved the problems that remain in

the minds of at least one or two unless we have the opportunity to bring it up under the format in which indeed it could be passed if they have no objection.

I have no illusions about the fact that we could force it to any kind of passage. If there is determined opposition it will fail. I know that. But it seems to me we ought not to at the outset be precluded from the opportunity of exploring whether there is consensus on the bill.

Mr. METZENBAUM. Mr. President, would the minority leader yield to me without losing his right to the floor?

Mr. ROBERT C. BYRD. Under the same conditions.

Mr. METZENBAUM. I am not addressing myself to the Senator from Idaho's particular measure, which is not of particular concern, but there are other Members to whom it has major concern.

My position is we ought not to be taking up any major legislation this afternoon unless there is unanimous consent. As a matter of fact, as the distinguished chairman of the Energy Committee knows, his measure does need unanimous consent to get to the floor because it has to lay over for 1 day, and it has not laid over for 1 day.

I just think when the majority leader is asking me to take down my amendments, which are postcloture amendments, and I have indicated even last night that I was very much prepared to consider doing just that but I wanted to be certain that a number of measures about which I have stong concerns have met their total death in this session, and we need not concern ourselves on a minute-by-minute basis.

Until I get that assurance, those amendments are going to remain in place. When I get that assurance, then the Senator from Ohio will be totally cooperative.

Mr. McCLURE. Will the Senator from West Virginia yield without losing his right to the floor?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Let me say to the Senator from Ohio that if it is a matter of fact we can get to the consideration of the nuclear radioactive waste storage bill, I suspect you do not have to worry about anything else.

Mr. METZENBAUM. It is my understanding the Senator needs unanimous consent. And I have no objection if it is by unamimous consent to take up anything this afternoon.

Mr. McCLURE. I understand that. I hope we can get unanimous consent. I do not know that we cannot get unanimous consent, except, as indicated to me that there is a concern about the bill in the way they do not want to consent. They would vote against it. They might even argue against it, but they do not want to obstruct its passage.

Mr. METZENBAUM. My point is that no Member of this body, on Sunday afternoon at 3 p.m., should be forced to debate any particular measure other than the two measures that are of a major concern to this body.

Mr. McCLURE. I understand. But I do not want to say either that on a matter of this kind, Members would be precluded of the opportunity to discuss a matter of this kind even though it might be involved in the kind of debate that resolves some issue by way of colloquy, by way of legislative history, by way of minor amendment, if that is what they should be, that do not make major changes.

The junior Senator from Louisiana has worked his heart out in aiding me to get to this point. The Senator from Washington (Mr. JACKSON), who is unavoidably not here today, is equally interested. The senior Senator from Mississippi (Mr. COCHRAN) is vitally interested in this bill.

We had a meeting with the Governors' representatives last night in which they said they badly need the legislation. We have that kind of a concern from a lot of different places. But I cannot tell you at this point that we have unanimous consent for the consideration or agreeing to the bill. But I still think it is of great enough importance to the Nation that we ought to be able to see whether we can develop that consent.

Mr. LONG. Will the Senator yield to me?

The PRESIDING OFFICER. The minority leader has the floor.

Mr. LONG. Will the Senator yield to me for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Mr. President, let me make myself clear. I have no objection to Mr. McCLURE's bill. It is perfectly all right with me to bring it up. This Senator is concerned about some other bills, some that I call real dogs. As to the real dogs, I would be serving this Nation well if I sought to keep them from ever being enacted. Some of those are around here, and some Senators are determined that they do not pass.

This Senator does not want to be caught in a situation where some provision like that slides through as an amendment to some other bill. There are all kinds of ways you can pass a bill. It does not need to be a bill that somebody is looking for. It could be something else that slides through by unanimous consent.

But I am willing to give consent as to those bills we are going to pass by unanimous consent. They can come up.

But I do feel that it is fair for us to ask that we be protected against action on the bills that we do not want to have brought up and which no one says are going to be brought up.

Mr. SARBANES. Will the minority leader yield?

Mr. ROBERT C. BYRD. Mr. President, I promised Mr. DOLE next. I will first yield to him and then I will yield—I do not intend to hold the floor—to the Senator from Maryland.

Mr. DOLE. Mr. President, if the Senator would yield without losing his right to the floor, first, I would like to make the point, as one of those interested in the gas tax bill, that I hope we can conclude action on this, final disposition not only here, but final disposition.

And I remind my colleagues it contains a very important provision initiated by the distinguished Senator from Michigan (Senator LEVIN) on unemployment compensation. And I can assure Members on both sides that if we go to conference we are going to insist that that remain in the bill, because it was done in good faith. And because it was done in good faith, there was an overwhelming vote for it. And that is just one of the features in that bill that I know the distinguished minority leader and everybody in this Chamber are concerned about.

Beyond that, it would seem to me that there is some reason for optimism that things might go rather quickly. I do not know what the reason is, but there has to be some reason for optimism.

In addition, it is snowing outside and I understand the zoo is closed. There is no other place to be. You might as well be in the U.S. Senate.

We can take up a number of bills, particularly the farm bill should be addressed today. Speaking in the absence of the distinguished chairman of that committee, that is an important piece of legislation to Members on both sides of the aisle. So I would hope that that might be something we could consider unless there is strong objection. I know of no strong objection to that.

Mr. SARBANES. Will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I understand the Senator's concern. We have been kept up night after night and into the wee hours in the morning and we have work in our offices that we could be doing if we did not have to all stay on the floor.

Mr. SIMPSON. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. DENTON). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I would hunch that probably in my time in the U.S. Senate, which is less than 4 years, that I have taken on some interesting tasks as chairman of the Veterans Affairs, Immigration, and Nuclear Regulation. But let me say, Mr. Presi-

dent, that in my time as chairman of the Subcommittee on Nuclear Regulation—and when I came here I served under Senator HART as chairman of that committee and now he is the ranking member—there is a bill to be presented before you today which is of extraordinary importance, and that is a nuclear waste bill.

I have watched Senator MCCLURE, Senator JOHNSTON, Senator JACKSON, and Senator DOMENICI, and I have watched Congressman DINGELL, I have watched Congressman OTTINGER and Congressman BROYHILL putting together this package. It is not in a formal conference. It has been through serious negotiations.

For the first time in 34 years, we have the opportunity to do something with one of the greatest national issues of our time. And I can tell you the continuing resolution and the gas bill will pale into insignificance unless we do something about nuclear waste.

It does not matter whether you are pronuclear or whether you are antinuclear. There will be no more nuclear industry until we deal with nuclear waste. And for the first time, after the most extraordinary negotiations that have been going on now for about 3 weeks with the House and Senate, we are very, very close. Here now is the opportunity to address it.

There are some here who are resisting it, certainly. But let us find out. It seems so curious to me that while we talk about this stable of sleek greyhounds like the gas bill and the continuing resolution, you are taking your eye off the rabbit. And the rabbit is a nuclear waste bill for the first time in the history since we had the Atomic Energy Commission created, this remarkable and awesome force.

So here is the most important issue that we will deal with. I hope that that might rest as a consideration for my colleagues.

Mr. BAKER. Mr. President, could I inquire of the minority leader if he might be in a position to clear for action at this time the Interior appropriations conference report, which is here?

Mr. ROBERT C. BYRD. Yes; I think that is an item that should be done. That was one of the purposes for our returning postelection. I fully agree and have no objection.

Mr. BAKER. I thank the minority leader.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983—CONFERENCE REPORT

Mr. BAKER. Mr. President, I ask the Senate now to proceed to the consideration of the Interior appropriations conference report, H.R. 7356.

Mr. PROXMIRE. Mr. President, I did not hear the majority leader.

Mr. BAKER. The Interior appropriations conference report.

Mr. PROXMIRE. I have no objection to that.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 17, 1982.)

Mr. MCCLURE. Mr. President, I am pleased to bring before the Senate the conference report on the fiscal year 1983 appropriations bill for the Department of the Interior and related agencies. The House overwhelmingly approved the conference agreement earlier today, I think now yesterday.

The new budget authority contained in this bill is $7,501,153,000. This agreement represents a decrease of $81,717,000 below the amount proposed by the House and an increase of $25,984,000 above the amount proposed by the Senate. Adding to the bill the effects of the first continuing resolution, the total budget authority recommended by the Interior Appropriations Subcommittee is $7,779,971,000, which is $21,000,000 under our allocation for this year.

The statements from the Office of Management and Budget which were made yesterday lead me to believe that this bill is acceptable to the President and that it will be signed into law.

Due to the amount of business remaining on the agenda, I will not detail the action of the conferees unless there are specific questions Senators would like to pose prior to a vote on the conference report. Mr. President, I ask unanimous consent that a comparative statement of budget authority be placed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
TITLE I—DEPARTMENT OF THE INTERIOR									
LAND AND WATER RESOURCES									
Bureau of Land Management									
Management of land and resources	423,638,000	373,527,000	322,963,000	331,716,000	330,226,000	−93,412,000	−43,301,000	+7,263,000	−1,490,000
Construction and access	2,627,000	2,711,000	2,243,000	2,243,000	2,243,000	−384,000	−468,000		
Payments in lieu of taxes	95,520,000	45,000,000	95,520,000	96,320,000	96,320,000	+800,000	+51,320,000	+800,000	
Land acquisition	3,712,000		468,000	311,000	311,000	−3,401,000	+311,000	−157,000	
Oregon and California grant lands (indefinite, appropriation of receipts)	52,788,000	52,883,000	46,883,000	61,553,000	56,963,000	+4,175,000	+4,080,000	+10,080,000	−4,570,000
Range improvements (indefinite, appropriation of receipts)	13,226,000	11,048,000	11,048,000	11,048,000	11,048,000	−2,178,000			
Service charges, deposits, and forfeitures (indefinite, special fund)	9,600,000	10,000,000	10,000,000	10,000,000	10,000,000	+400,000			
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000	100,000				
Total, Bureau of Land Management	601,211,000	495,269,000	489,225,000	513,271,000	507,211,000	−94,000,000	+11,942,000	+17,986,000	−6,060,000
Office of Water Research and Technology									
Salaries and expenses	10,636,000					−10,636,000			
Total, Land and Water Resources	611,847,000	495,269,000	489,225,000	513,271,000	507,211,000	−104,636,000	+11,942,000	+17,986,000	−6,060,000
FISH AND WILDLIFE AND PARKS									
United States Fish and Wildlife Service									
Resource management	226,722,000	221,876,000	242,778,000	227,279,000	238,593,000	+11,871,000	+16,717,000	−4,185,000	+11,314,000
Construction and anadromous fish	10,683,000	9,751,000	23,149,000	11,126,000	16,665,000	+5,982,000	+6,914,000	−6,484,000	+5,539,000
Migratory bird conservation account (definite, repayable advance)	1,200,000		2,000,000	2,000,000	2,000,000	+800,000	+2,000,000		
Land acquisition	16,491,000	1,567,000	33,647,000	19,048,000	27,200,000	+10,709,000	+25,633,000	−6,447,000	+8,152,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
National Wildlife Refuge Fund	5,760,000		5,760,000	5,760,000	5,760,000		+5,760,000		
Total, United States Fish and Wildlife Service	260,856,000	233,194,000	307,334,000	265,213,000	290,218,000	+29,362,000	+57,024,000	−17,116,000	+25,005,000
National Park Service									
Operation of the national park system	521,528,000	539,703,000	567,730,000	537,170,000	564,460,000	+42,932,000	+24,757,000	−3,270,000	+27,290,000
National recreation and preservation	12,607,000	6,987,000	10,087,000	9,487,000	9,887,000	−2,720,000	+2,900,000	−200,000	+400,000
Urban park and recreation fund	7,680,000					−7,680,000			
Land and Water Conservation Fund (indefinite)	−30,000,000					+30,000,000			
Historic preservation fund	25,440,000		26,000,000	26,000,000	26,000,000	+560,000	+26,000,000		
Construction	95,852,000	132,721,000	161,846,000	147,017,000	157,224,000	+61,372,000	+24,503,000	−4,622,000	+10,207,000
Land acquisition and State assistance	133,462,000	59,776,000	172,643,000	129,400,000	142,505,000	+9,043,000	+82,729,000	−30,138,000	+13,105,000
John F. Kennedy Center for the Performing Arts	4,212,000	4,247,000	4,247,000	4,247,000	4,247,000	+35,000			
Total, National Park Service	770,781,000	743,434,000	942,553,000	853,321,000	904,323,000	+133,542,000	+160,889,000	−38,230,000	+51,002,000
Total, Fish and Wildlife and Parks	1,031,637,000	976,628,000	1,249,887,000	1,118,534,000	1,194,541,000	+162,904,00	+217,913,000	−55,346,000	+76,007,000
ENERGY AND MINERALS									
Geological Survey									
Surveys, investigations, and research	507,787,000	516,377,000	365,525,000	352,365,000	363,389,000	−144,398,000	−152,988,000	−2,136,000	+11,024,000
(By transfer)			(14,200,000)	(16,200,000)	(16,200,000)	(+16,200,000)	(+16,200,000)		
Exploration of national petroleum reserve in Alaska	2,196,000					−2,196,000			
Barrow area gas operation, exploration and development		6,400,000	6,400,000	6,400,000	6,400,000	+6,400,000			
Digital Cartography		3,873,000					−3,873,000		
Total, Geologic Survey	509,983,000	526,650,000	371,925,000	358,765,000	369,789,000	−140,194,000	−156,861,000	−2,136,000	+11,024,000
MINERALS MANAGEMENT SERVICE									
Leasing and royalty management			192,568,000	196,506,000	196,506,000	+196,506,000	+196,506,000	+3,938,000	
Mineral receipts transfer			−171,790,000					+171,790,000	
Total, Minerals Management Service			20,778,000	196,506,000	196,506,000	+196,506,000	+196,506,000	+175,728,000	
Bureau of Mines									
Mines and minerals	150,602,000	124,676,000	128,629,000	142,162,000	143,158,000	−7,444,000	+18,482,000	+14,529,000	+996,000
(By transfer)	(991,000)					(−991,000)			
Office of Surface Mining Reclamation and Enforcement									
Reclamation and Enforcement									
Regulation and technology	58,515,000	62,173,000	61,313,000	63,819,000	60,356,000	+1,841,000	−1,817,000	−957,000	−3,463,000
Abandoned mine reclamation fund (definite, trust fund)	115,333,000	97,649,000	126,609,000	152,649,000	161,209,000	+45,876,000	+63,560,000	+34,600,000	+8,560,000
Total, Office of Surface Mining Reclamation and Enforcement	173,848,000	159,822,000	187,922,000	216,468,000	221,565,000	+47,717,000	+61,743,000	+33,643,000	+5,097,000
Total, Energy and Minerals	843,433,000	811,148,000	709,254,000	913,901,000	931,018,000	+96,585,000	+119,870,000	+221,764,000	+17,117,000
INDIAN AFFAIRS									
Bureau of Indian Affairs									
Operation of Indian Programs	828,572,000	849,250,000	850,477,000	839,339,000	843,508,000	+14,936,000	−5,742,000	−6,969,000	+4,169,000
Construction	94,628,000	106,000,000	73,890,000	69,500,000	67,250,000	−27,378,000	−38,750,000	−6,640,000	−2,250,000
Road construction	47,160,000	43,585,000	43,705,000	43,585,000	43,585,000	−3,575,000		−120,000	
Trust funds (definite)	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
Trust funds (indefinite)	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000				
Revolving fund for loans (limitation on direct loans)	(14,770,000)	(19,970,000)	(19,970,000)	(19,970,000)	(19,970,000)				
Indian loan guaranty and insurance fund (limitation on guaranteed loans)	(27,630,000)	(15,800,000)	(15,800,000)	(15,800,000)	(15,800,000)	(−11,830,000)			
Total, Bureau of Indian Affairs	1,023,360,000	1,051,835,000	1,021,072,000	1,005,424,000	1,007,343,000	−16,017,000	−44,492,000	−13,729,000	+1,919,000
TERRITORIAL AND INTERNATIONAL AFFAIRS									
Administration of territories	92,892,000	58,076,000	70,743,000	77,342,000	73,892,000	−19,000,000	+15,816,000	+3,149,000	−3,450,000
Limitation on guaranteed loans	(30,000,000)	(8,000,000)				(−30,000,000)	(−8,000,000)		
Trust Territory of the Pacific Islands	101,114,000	75,500,000	81,100,000	102,927,000	95,810,000	−5,304,000	+20,310,000	+14,710,000	−7,117,000
Total, Territorial Affairs	194,006,000	133,576,000	151,843,000	180,269,000	169,702,000	−24,304,000	+36,126,000	+17,859,000	−10,567,000
DEPARTMENTAL OFFICES									
Office of the Secretary									
Office of the Secretary	40,988,000	44,157,000	40,521,000	42,812,000	41,589,000	+601,000	−2,568,000	+1,068,000	−1,223,000
Office of Construction Management	3,840,000		1,000,000		896,000	−2,944,000	+896,000	−104,000	+896,000
Office of the Solicitor	17,750,000	19,071,000	17,904,000	19,071,000	18,404,000	+654,000	−667,000	+500,000	−667,000
Office of the Inspector General	13,369,000	18,900,000	21,500,000	21,500,000	21,500,000	+8,131,000	+2,600,000		
Office of Water Policy			7,768,000	7,978,000	14,118,000	+14,118,000	+14,118,000	+6,350,000	+6,140,000
Youth Conservation Corps	4,200,000					−4,200,000			
Total, Office of the Secretary	80,147,000	82,128,000	88,693,000	91,361,000	96,507,000	+16,360,000	+14,379,000	+7,814,000	+5,146,000
Total, Departmental Officers	80,147,000	82,128,000	88,693,000	91,361,000	96,507,000	+16,360,000	+14,379,000	+7,814,000	+5,146,000
Total, title I, new budget (obligational) authority, Department of the Interior	3,775,430,000	3,550,584,000	3,709,974,000	3,822,760,000	3,906,322,000	+130,892,000	+355,738,000	+196,348,000	+83,562,000
TITLE II—RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
Forest Service									
Forest research	112,145,000	97,990,000	106,352,000	104,604,000	105,021,000	−7,124,000	+7,031,000	−1,331,000	+417,000
State and private forestry	64,148,000	47,520,000	58,770,000	61,078,000	62,328,000	−1,820,000	+14,808,000	+3,558,000	+1,250,000
(By transfer)			(100,000)					(−100,000)	
National forest system	1,050,504,000	1,036,569,000	1,009,093,000	1,007,697,000	1,010,436,000	−40,068,000	−26,133,000	+1,343,000	+2,739,000
Construction	261,095,000	297,505,000	229,756,000	286,805,000	281,431,000	+20,336,000	−16,074,000	+51,675,000	−5,374,000
Timber receipts transfer to General Fund, 1982	−78,700,000					+78,700,000			
Timber receipts transfer to General Fund, 1983		(−64,514,000)	(−64,514,000)	(−64,514,000)	(−64,514,000)	(−64,514,000)			
Timber purchaser credits	(242,542,000)	(268,834,000)	(218,000,000)	(236,200,000)	(240,000,000)	(−2,542,000)	(−28,834,000)	(+22,000,000)	(+3,800,000)
Youth Conservation Corps			20,000,000		10,000,000	+10,000,000	+10,000,000	−10,000,000	+10,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
Land acquisition	26,262,000	7,563,000	54,556,000	55,117,000	56,877,000	+30,615,000	+49,314,000	+2,321,000	+1,760,000
Acquisition of lands for national forests: Special acts (special fund, indefinite)	724,000	753,000	753,000	753,000	753,000	+29,000			
Acquisition of lands to complete land exchanges (special fund, indefinite)	314,000	147,000	147,000	147,000	147,000	−167,000			
Range betterment fund (special fund, indefinite)	6,580,000	5,800,000	5,800,000	5,800,000	5,800,000	−780,000			
Miscellaneous trust funds	84,000	90,000	90,000	90,000	90,000	+6,000			
Total, Forest Service	1,443,156,000	1,493,937,000	1,485,317,000	1,522,091,000	1,532,883,000	+89,727,000	+38,946,000	+47,566,000	+10,792,000
DEPARTMENT OF ENERGY									
Fossil energy research and development	414,112,000	106,900,000	297,064,000	247,514,000	215,514,000	−198,598,000	+108,614,000	−81,550,000	−32,000,000
(By transfer)				(2,000,000)	(73,700,000)	(+73,700,000)	(+73,000,000)	(+73,700,000)	(+73,000,000)
Fossil energy construction	3,840,000					−3,840,000			
Naval petroleum and oil shale reserves	213,142,000	232,500,000	222,000,000	226,500,000	222,000,000	+8,858,000	−10,500,000		−4,500,000
Energy conservation	145,400,000	21,802,000	317,790,000	264,530,000	279,290,000	+133,890,000	+257,488,000	−38,500,000	+14,760,000
(By transfer)	(173,008,000)		(64,000,000)	(29,000,000)	(64,000,000)	(−109,008,000)	(+64,000,000)		(+35,000,000)
Economic regulation	21,416,000	27,356,000	31,106,000	33,106,000	35,106,000	+13,690,000	+7,750,000	+4,000,000	+2,000,000
SPR, petroleum account	(3,684,000,000)	(2,074,060,000)	(2,074,060,000)	(2,074,060,000)	(2,074,060,000)	(−1,609,940,000)			
Energy Information Administration	78,919,000	54,500,000	58,800,000	54,500,000	56,400,000	−22,519,000	+1,900,000	−2,400,000	+1,900,000
Total, Department of Energy [1]	876,829,000	443,058,000	926,760,000	826,150,000	808,310,000	−68,519,000	+365,252,000	−118,450,000	−17,840,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Services Administration									
Indian health services	617,805,000	613,280,000	645,305,000	623,724,000	645,583,000	+27,778,000	+32,303,000	+278,000	+21,859,000
Indian health facilities	58,352,000		37,235,000	30,750,000	34,700,000	−23,652,000	+34,700,000	−2,535,000	+3,950,000
Total: Indian health	676,157,000	613,280,000	682,540,000	654,474,000	680,283,000	+4,126,000	+67,003,000	−2,257,000	+25,809,000
DEPARTMENT OF EDUCATION									
Office of Elementary and Secondary Education									
Indian education	77,852,000	51,119,000	65,519,000	66,216,000	67,247,000	−10,605,000	+16,128,000	+1,728,000	+1,031,000
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION									
Salaries and expenses	10,062,000	13,403,000	9,359,000	7,665,000	7,665,000	−2,397,000	−5,738,000	−1,694,000	
SMITHSONIAN INSTITUTION									
Salaries and expenses	131,170,000	144,110,000	147,276,000	140,249,000	144,366,000	+13,196,000	+256,000	−2,910,000	+4,117,000
Museum programs and related research (special foreign currency program)	4,320,000	2,000,000	2,000,000	2,000,000	2,000,000	−2,320,000			
Construction and improvements, National Zoological Park	1,104,000	1,550,000	1,550,000	1,550,000	1,550,000	+446,000			
Restoration and renovation of buildings	7,680,000	8,450,000	8,450,000	7,450,000	8,450,000	+770,000			+1,000,000
Subtotal: [1]	144,274,000	156,110,000	159,276,000	151,249,000	156,366,000	+12,092,000	+256,000	−2,910,000	+5,117,000
Salaries and expenses: National Gallery of Art	29,815,000	32,673,000	34,839,000	32,228,000	32,878,000	+3,063,000	+205,000	−1,961,000	+650,000
Salaries and expenses: Woodrow Wilson International Center for Scholars	1,897,000	2,255,000	2,255,000	2,321,000	2,321,000	+424,000	+66,000	+66,000	
Total: Smithsonian Institution	175,986,000	191,038,000	196,370,000	185,798,000	191,565,000	+15,579,000	+527,000	−4,805,000	+5,767,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES									
National Endowment for the Arts									
Salaries and expenses	103,330,000	69,756,000	101,675,000	101,675,000	101,675,000	−1,655,000	+31,919,000		
Administrative expenses	11,326,000	12,600,000	12,600,000	12,600,000	12,600,000	+1,274,000			
Subtotal	114,656,000	82,356,000	114,275,000	114,275,000	114,275,000	−381,000	+31,919,000		
Matching grants (indefinite)	28,800,000	18,519,000	29,600,000	29,600,000	29,600,000	+800,000	+11,081,000		
Total, National Endowment for the Arts	143,456,000	100,875,000	143,875,000	143,875,000	143,875,000	+419,000	+43,000,000		
National Endowment for the Humanities									
Salaries and expenses	90,432,000	59,000,000	90,432,000	90,432,000	90,432,000		+31,432,000		
Administrative expenses	11,328,000	12,200,000	12,200,000	11,700,000	11,700,000	+372,000	−500,000	−500,000	
Subtotal	101,760,000	71,200,000	102,632,000	102,132,000	102,132,000	+372,000	+30,932,000	−500,000	
Matching grants (indefinite)	28,800,000	24,800,000	27,928,000	27,928,000	27,928,000	−872,000	+3,128,000		
Total, National Endowment for the Humanities	130,560,000	96,000,000	130,560,000	130,060,000	130,060,000	−500,000	+34,060,000	−500,000	
Institute of Museum Services	11,520,000		10,800,000	10,800,000	10,800,000	−720,000	+10,800,000		
Total, National Foundation on the Arts and the Humanities	285,536,000	196,875,000	285,235,000	284,735,000	284,735,000	−801,000	+87,860,000	−500,000	
COMMISSION OF FINE ARTS									
Salaries and expenses	303,000	319,000	319,000	319,000	319,000	+16,000			
ADVISORY COUNCIL ON HISTORIC PRESERVATION									
Salaries and expenses	1,567,000	1,000,000	1,600,000	1,000,000	1,500,000	−67,000	+500,000	−100,000	+500,000
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and expenses	2,373,000	2,202,000	2,279,000	2,279,000	2,279,000	−94,000	+77,000		
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and expenses	29,000					−29,000			
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and expenses	2,294,000	2,250,000	2,350,000	2,425,000	2,350,000	+56,000	+100,000		−75,000
Land acquisition and development fund (borrowing authority)	2,400,000	1,200,000	1,200,000			−2,400,000	−1,200,000	−1,200,000	
Public development	13,632,000	8,750,000	8,750,000	8,750,000	8,750,000	−4,882,000			
Total, Pennsylvania Avenue Development Corporation	18,326,000	12,200,000	12,300,000	11,175,000	11,100,000	−7,226,000	−1,100,000	−1,200,000	−75,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE									
Permitting and enforcement	19,425,000	7,125,000	6,125,000	6,125,000	6,125,000	−13,300,000	−1,000,000		
HOLOCAUST MEMORIAL COUNCIL									
Holocaust Memorial Council	785,000	820,000	820,000	820,000	820,000	+35,000			
EXECUTIVE OFFICE OF THE PRESIDENT									
Maintenance of White House grounds			2,005,000					−2,005,000	
Total, title II, new budget (obligational) authority, related agencies [1]	3,588,386,000	3,026,376,000	3,676,548,000	3,568,847,000	3,594,831,000	+6,445,000	+568,455,000	−81,717,000	+25,984,000
Consisting of:									
Appropriations	3,585,986,000	3,025,176,000	3,675,348,000	3,568,847,000	3,594,831,000	+8,845,000	+569,655,000	−80,517,000	+25,984,000
Borrowing authority	2,400,000	1,200,000	1,200,000			−2,400,000	−1,200,000	−1,200,000	
RECAPITULATION									
Total, new budget (obligational) authority, all titles	7,363,816,000	6,576,960,000	7,386,522,000	7,391,607,000	7,501,153,000	+137,337,000	+924,193,000	+114,631,000	+109,546,000
Consisting of:									
Appropriations	7,361,416,000	6,575,760,000	7,385,322,000	7,391,607,000	7,501,153,000	+139,737,000	+925,393,000	+115,831,000	+109,546,000
Borrowing authority	2,400,000	1,200,000	1,200,000			−2,400,000	−1,200,000	−1,200,000	
(Limitation on direct loans)	(14,770,000)	(19,970,000)	(19,970,000)	(19,970,000)	(19,970,000)	(+5,200,000)			
(Limitation on guaranteed loans)	(57,630,000)	(23,800,000)	(15,800,000)	(15,800,000)	(15,800,000)	(−41,830,000)	(−8,000,000)		
By transfer	(173,999,000)	(−64,514,000)	(15,786,000)	(−17,314,000)	(89,386,000)	(−84,613,000)	(+153,900,000)	(+73,600,000)	(+106,700,000)
TITLE I—DEPARTMENT OF THE INTERIOR									
Bureau of Land Management	601,211,000	495,269,000	489,225,000	513,271,000	507,211,000	−94,000,000	+11,942,000	+17,986,000	−6,060,000
Office of Water Research and Technology	10,636,000					−10,636,000			
United States Fish and Wildlife Service	260,856,000	233,194,000	307,334,000	265,213,000	290,218,000	+29,362,000	+57,024,000	−17,116,000	+25,005,000
National Park Service	770,781,000	743,434,000	942,533,000	853,321,000	904,323,000	+133,542,000	+160,889,000	−38,230,000	+51,002,000
Geological Survey	509,983,000	526,650,000	371,925,000	358,765,000	369,789,000	−140,194,000	−156,861,000	−2,136,000	+11,024,000
Minerals Management Service			20,778,000	196,506,000	196,506,000	+196,506,000	+196,506,000	+175,728,000	
Bureau of Mines	150,602,000	124,676,000	128,629,000	142,162,000	143,158,000	−7,444,000	+18,482,000	+14,529,000	+996,000
Office of Surface Mining Reclamation and Enforcement	173,848,000	159,822,000	187,922,000	216,468,000	221,565,000	+47,717,000	+61,743,000	+33,643,000	+5,097,000
Bureau of Indian Affairs	1,023,360,000	1,051,835,000	1,021,072,000	1,005,424,000	1,007,343,000	−16,017,000	−44,492,000	−13,729,000	+1,919,000
Territorial and International Affairs	194,006,000	133,576,000	151,843,000	180,269,000	169,702,000	−24,304,000	+36,126,000	+17,859,000	−10,567,000
Office of the Secretary	80,147,000	82,128,000	88,693,000	91,361,000	96,507,000	+16,360,000	+14,379,000	+7,814,000	−5,146,000
Total, Title I—Department of the Interior	3,775,430,000	3,550,584,000	3,709,974,000	3,822,760,000	3,906,322,000	+130,892,000	+355,738,000	+196,348,000	+83,562,000
TITLE II—RELATED AGENCIES									
Forest Service	1,443,156,000	1,493,937,000	1,485,317,000	1,522,091,000	1,532,883,000	+89,727,000	+38,946,000	+47,566,000	+10,792,000
Department of Energy	876,829,000	443,058,000	926,760,000	826,150,000	808,310,000	−68,519,000	+365,252,000	−118,450,000	−17,840,000
Indian Health	676,157,000	613,280,000	682,540,000	654,474,000	680,283,000	+4,126,000	+67,003,000	−2,257,000	+25,809,000
Indian Education	77,852,000	51,119,000	65,519,000	66,216,000	67,247,000	−10,605,000	+16,128,000	+1,728,000	+1,031,000
Navajo and Hopi Indian Relocation Commission	10,062,000	13,403,000	9,359,000	7,665,000	7,665,000	−2,397,000	−5,738,000	−1,694,000	
Smithsonian	144,274,000	156,110,000	159,276,000	151,249,000	156,366,000	+12,092,000	+256,000	−2,910,000	+5,117,000
National Gallery of Art	29,815,000	32,673,000	34,839,000	32,228,000	32,878,000	+3,063,000	+205,000	−1,961,000	+650,000
Woodrow Wilson International Center for Scholars	1,897,000	2,255,000	2,255,000	2,321,000	2,321,000	+424,000	+66,000	+66,000	
National Endowment for the Arts	143,456,000	100,875,000	143,875,000	143,875,000	143,875,000	+419,000	+43,000,000		
National Endowment for the Humanities	130,560,000	96,000,000	130,560,000	130,060,000	130,060,000	−500,000	+34,060,000	−500,000	
Institute of Museum Services	11,520,000		10,800,000	10,800,000	10,800,000	−720,000	+10,800,000		
Commission of Fine Arts	303,000	319,000	319,000	319,000	319,000	+16,000			
Advisory Council on Historic Preservation	1,567,000	1,000,000	1,600,000	1,000,000	1,500,000	−67,000	+500,000	−100,000	+500,000
National Capital Planning Commission	2,373,000	2,202,000	2,279,000	2,279,000	2,279,000	−94,000	+77,000		
Franklin Delano Roosevelt Memorial Commission	29,000					−29,000			
Pennsylvania Avenue Development Corporation	18,326,000	12,200,000	12,300,000	11,175,000	11,100,000	−7,226,000	−1,100,000	−1,200,000	−75,000
Federal Inspector for the Alaska Gas Pipeline	19,425,000	7,125,000	6,125,000	6,125,000	6,125,000	−13,300,000	−1,000,000		
Holocaust Memorial Council	785,000	820,000	820,000	820,000	820,000	+35,000			
Executive Office of the President			2,005,000					−2,005,000	
Total, Title II—Related Agencies	3,588,386,000	3,026,376,000	3,676,548,000	3,568,847,000	3,594,831,000	+6,445,000	+568,455,000	−81,717,000	+25,984,000
Grand total	7,363,816,000	6,576,960,000	7,386,522,000	7,391,607,000	7,501,153,000	+137,337,000	+924,193,000	+114,631,000	+109,546,000
CONGRESSIONAL BUDGET RECAP									
Total	7,556,208,000	6,855,778,000	7,665,330,000	7,670,425,000	7,779,971,000	+223,763,000	+924,193,000	+114,641,000	+109,546,000
Amounts in this bill	(7,363,816,000)	(6,576,960,000)	(7,386,522,000)	(7,391,607,000)	(7,501,153,000)	(+137,337,000)	(+924,193,000)	(+114,631,000)	+109,546,000
Amounts in Con. Res. (PL 97-276)	(192,392,000)	(278,818,000)	(278,808,000)	(278,818,000)	(278,818,000)	(+86,426,000)		(+10,000)	

[1] Excludes accounts which were funded in Public Law 97-276, continuing appropriations, fiscal year 1983, as follows: (1) strategic petroleum reserve, −$242,118,000; (2) Smithsonian Institution, construction, −$36,500,000; and (3) Native Hawaiians Study Commission, −$190,000.

ANILCA

Mr. LEVIN. Mr. President, I would like to address a question to the managers of the Interior appropriation bill. Do the gentlemen recall our discussion regarding suggested language for the statement of the managers related to exploration in the Arctic National Wildlife Refuge?

Mr. McCLURE. Yes, I recall the Senator's concerns about the environmental impact of exploration in the refuge. Indeed we had intended to include language in the statement of the managers in response to the Senator from Michigan's concern. That language was accepted by the conferees but inadvertently not include in the statement of the managers. I propose, therefore, to state the language on the floor now and include it in the statement of the managers by reference. The language which should be added to the statement is as follows:

The Managers direct the Secretary to review the regulations proposed pursuant to Section 1002(d) of Public Law 96-487 to ensure that the statutory prohibition against significant adverse impact on fish, wildlife, and the environment and the intent of the Congress relative to the meaning of such prohibition are fully complied with and enforced.

Mr. JOHNSTON. Mr. President, I concur with the Senator from Idaho's proposal and agree that this language stated here should be considered to be part of the official statement of the managers.

Mr. LEVIN. Mr. President, I thank the gentlemen for their consideration.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the table showing the relationship of the conference report agreement to the congressional spending budget and the President's request be printed in the RECORD.

There being no objection, the table was ordered to printed in the RECORD, as follows:

INTERIOR SUBCOMMITTEE SPENDING TOTALS

[Dollars in billions]

	Fiscal year 1983	
	Budget authority	Outlays
Outlays from prior year authority and other actions completed [1]	0.3	3.3
H.R. 7356, conference agreement	7.5	5.3
Possible later requirements, forest firefighting	0.1	0.1
Total for Interior Subcommittee	7.9	8.7
First budget resolution 302(b) allocation	7.8	8.4
Possible amount over (+)/under (−)	+0.1	+0.3
H.R. 7356:		
President's request	7.0	8.3
House-passed	7.9	8.6
Senate-passed	7.8	8.6
Conference agreement	7.9	8.7

[1] Adjusted to include $0.3 billion in budget authority to account for full year appropriation of costs associated with site preparation and construction activities of the strategic petroleum reserve, construction activities of the Smithsonian Institution and the Native Hawaiian Claims Commission that are funded through the continuing resolution Public Law 97-276.

Mr. McCLURE. Mr. President, I am pleased to yield to the distinguished junior Senator from Louisiana who has acted on behalf of the minority in this process and without whose help and assistance it would not have been possible to have produced this conference report.

Mr. JOHNSTON. Mr. President, I want to congratulate the distinguished Senator from Idaho, his staff, and the staff on the minority side for what I consider to be an excellent result in very difficult times.

In the old days, when things were not so stringent financially, it was much easier to put one of these bills together. Today it is extremely difficult because it means in order to take care of the absolutely necessary and essential functions of the Department of the Interior and related agencies, you must make a huge number of trade-offs and fail to do everything we would like to do. That takes patience, perserverance, skill, fairness, and a great deal of time and a great deal of effort.

I think, Mr. President, we have succeeded as well as could have been done in this instance.

On behalf of the minority, Mr. President, we endorse this conference report with thanks to all concerned, and especially the chairman.

Mr. BRADLEY. Mr. President, I am pleased that the conference report we are adopting today contains protections I added in the Senate on behalf of Senator BRADY and myself. These provisions prevent the leasing of 60 environmentally sensitive canyon head tracts on the Outer Continental Shelf off New Jersey.

During the Senate Energy Committee's hearings on this subject I questioned Secretary James Watt about why the Interior Department insisted on leasing vast areas of the Outer Continental Shelf. I was extremely concerned that adequate environmental impact statements could not possibly be conducted on all of these offerings. Leasing without the benefit of those studies would not only be unwise, it would be illegal.

I must say I was not satisfied with the Secretary's answers. In the history of the Interior Department the most the Department has ever offered in 1 year has been 7.7 million acres of OCS land. Yet the Secretary's 5-year plan—of which the leasing that concerns New Jersey is a part—calls for the Interior Department to offer 200 million acres a year for 5 years. With all of the budget cuts the Department of the Interior has sustained, it is inconceivable to me that this aggressive schedule can be sustained with existing personnel without ignoring the requirement for adequate environmental review.

Mr. President, my intention is not to grind all leasing to a halt. I am not "antidevelopment." At the same time, I think we should be making informed decisions on these matters and at the rate Secretary Watt intends to proceed I do not think the environmental information can possibly be available until it is perhaps too late.

The situation that prompted my amendment is a fine example of just what can go wrong.

The State of New Jersey's Department of Environmental Protection conducted an extensive study of the affect of the proposed OCS leases on our State. What they found was that 60 of the tracts at the heads of 10 canyons were vitally important to the recreational and commercial fishing industries in our State. These canyons are important habitats for lobster, tilefish, and coral. Twenty-three tracts directly affect the commercial fishing industry in New Jersey, including seven tracts at the heads of Spencer and Carteret Canyons which produce a significant portion of the New Jersey's and the Nation's tilefish catch. Our State's commercial fishing industry employs 6,700 people and has an economic value of $499.3 million per year.

The tilefish are also important to New Jersey's recreational fishing industry—one of the largest in the country. Over 1 million fishermen annually fish for sport in our State, generating a yearly economic benefit of $551.6 million.

In short, with over a billion dollars worth of economic activity in New Jersey riding on the health of the fishing industry, our State is entitled to be assured that any leasing program will be undertaken with prudent concern for that industry.

I am sorry that Secretary Watt could not assure me or members of the New Jersey delegation in the House that our State's concerns would be recognized. Therefore we had no alternative but to seek legislative protections. I am very pleased that my colleagues in the Senate recognized those concerns and assisted my State's efforts for relief.

The 60 tracts of OCS land that we have deleted will affect only 1.5 percent of the land that the Interior Department seeks to lease. But that land is not only environmentally critical, it is the basis of a billion-dollar industry in New Jersey.

I am grateful to be able to vote for an Interior appropriations bill that contains such an important protection for my State.

INTERIOR APPROPRIATIONS CONFERENCE REPORT

● Mr. BIDEN. Mr. President, regretfully I must express my dissatisfaction with the agreement reached by the conferees on this year's Interior appropriations bill. It contains many provisions which I strongly support including close to $75 million for the State share of the Land and Water Conservation Fund as well as restrictions on sales of surlus Federal properties similiar to the former Navy acreage within Cape Henlopen State Park which was finally transferred to the State of Delaware for inclusion in the park, earlier this year. It also contains prohibitions on leasing of wilderness and evironmentally fragile coastal areas. Unfortunately, it also provides for the clousure of several Federal fish hatcheries operated by the U.S. Fish and Wildlife Service including one located at Paint Bank, Va.

These closings result from a decision made by President Reagan to close 31 of the Nation's 89 fish hatcheries. The House-passed Interior appropriations bill provided funding for all but 19 hatcheries. Paint Bank was one of those identified to be closed.

My concern stems from the fact that Paint Bank supplies the trout used in my State's 30-year-old stocking program. While Delaware's streams are capable of supporting released trout, conditions are not suitable fro reproduction. The annual stocking program has strong support and is partially financed through the sale of trout stamps which presently cost $4.20 in addition to the regular fishing license fee. Last year, close to 6,000 fishing enthusiasts purchased trout stamps.

Upon hearing of the House action, I expressed my concern to the Senate Interior Appropriations Subcommittee. During their consideration of the Interior funding bill, the committee recommended closing 18 hatcheries. Paint Bank was not one of those selected to be closed.

Unfortunately, the House-Senate Conference Committee voted to close not only Paint Bank but another Virginia hatchery in addition to several others. The one remaining Federal hatchery in Virginia had strong support from that State's Congressional delegation. Closing Paint Bank was, in my opinion, a mistake. Based on objective criteria, it should have remained

open. I will do everything possible to work with the State division of fish and wildlife and their Federal counterparts to insure Paint Bank's closure will not end Delaware's trout stocking program.●

Mr. McCLURE. Mr. President, I will be happy to yield for any questions, if there are any. I see no Senator seeking recognition for that purpose.

Mr. President, I move adoption of the conference report.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I will ask a question now that might expedite the procedure on the remainder. That is whether there is any objection to considering the amendments in disagreement en bloc.

If there are no objections to that, I ask that the amendments in disagreement be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recedes and concurs with amendments to Senate amendments numbered 10, 36, 40, 42, 43, 46, 48, 58, 62, 74, 76, 84, 87, 88, 90, 96, 97, 98, 100, 102, 104, 111, 112, 116, 122, 123, 136, 137, 141, 153, 154, 155, and 156.

Mr. McCLURE. Mr. President, I move adoption of the amendments in disagreement en bloc.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The amendments in disagreement agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "*Provided further,* That notwithstanding any other provision of this paragraph $2,000,000 is available to carry out the purposes of 16 U.S.C. 1535, to remain available until expended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further,* That notwithstanding any other provision of law, the Secretary of the Interior is authorized to enter into a cooperative agreement with the Smith River Fire Protection District, California, for a special use permit on lands within the boundary of Redwood National Park to permit construction of a fire station".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$143,158,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$60,356,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$161,209,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$9,350,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$67,250,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the matter stricken by said amendment and insert:

": *Provided further,* That notwithstanding any other provision of law: The following may be cited as the "Indian Claims Limitation Act of 1982".

SEC. 2. (a) Subsection (a) of section 2415 of title 28 United States Code, is amended by striking "after December 31, 1982" in the third proviso and inserting in lieu the following: "sixty days after the date of publication of the list required by section 4(c) of the Indian Claims Act of 1982: *Provided,* That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interior has published in the Federal Register a notice rejecting such claim or (2) three years after the date the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim".

(b) Subsection (b) of section 2415 of title 28, United States Code, is amended by striking "December 31, 1982" in the proviso and inserting in lieu the following: "sixty days after the date of the publication of the list required by section 4(c) of the Indian Claims Act of 1982: *Provided,* That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interior has published in the Federal Register a notice rejecting such claim or (2) three years after the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim".

SEC. 3. (a) Within ninety days after the enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register a list of all claims accruing to any tribe, band or group of Indians or individual Indian on or before July 18, 1966, which have at any time been identified by or submitted to the Secretary under the "Statute of Limitation Project" undertaken by the Department of the Interior and which, but for the provisions of this Act, would be barred by the provisions of section 2415 of title 28, United States Code: *Provided,* That the Secretary shall have the discretion to exclude from such list any matter which was erroneously identified as a claim and which has no legal merit whatsoever.

(b) Such list shall group the claims on a reservation-by-reservation, tribe-by-tribe, or State-by-State basis, as appropriate, and shall state the nature and geographic location of each claim and only such other additional information as may be needed to identify specifically such claims.

(c) Within thirty days after the publication of this list, the Secretary shall provide a copy of the Indian Claims Limitation Act of 1982 and a copy of the Federal Register containing this list, or such parts as may be pertinent, to each Indian tribe, band or group whose rights or the rights of whose members could be affected by the provisions of section 2415 of title 28, United States Code.

SEC. 4. (a) Any tribe, band or group of Indians or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in section 3 of this Act to submit to the Secretary any additional specific claim or claims which such tribe, band or group of Indians or individual Indian believes may be affected by section 2415 of title 28, United States Code, and desires to have considered for litigation or legislation by the United States.

(b) Any such claim submitted to the Secretary shall be accompanied by a statement identifying the nature of the claim, the date when the right of action allegedly accrued, the names of the potential plaintiffs and defendants, if known, and such other information needed to identify and evaluate such claim.

(c) Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (a) of this section, the Secretary shall publish in the Federal Register a list containing the additional claims submitted during such period: *Provided,* That the Secretary shall have the discretion to exclude from such list any matter which has not been sufficiently identified as a claim.

SEC. 5. (a) Any right of action shall be barred sixty days after the date of the publication of the list required by section 4(c) of this Act for those pre-1966 claims which, but for the provisions of this Act, would have been barred by section 2415 of title 28, United States Code, unless such claims are included on either of the lists required by section 3 or 4(c) of this Act.

(b) If the Secretary decides to reject for litigation any of the claims or groups or categories of claims contained on either of the lists required by section 3 or 4(c) of this Act, he shall send a report to the appropriate tribe, band, or group of Indians, whose rights or the rights of whose members could be affected by such rejection, advising them of his decision. The report shall identify the nature and geographic location of each rejected claim and the name of the potential plaintiffs and defendants if they are known or can be reasonably ascertained and shall, briefly, state the reasons why such claim or claims were rejected for litigation. Where the Secretary knows or can reasonably ascertain the identity of any of the potential individual Indian plaintiffs and their present addresses, he shall provide them with written notice of such rejection. Upon the request of any Indian claimant, the Secretary shall, without undue delay, provide

to such claimant any nonprivileged research materials or evidence gathered by the United States in the documentation of such claim.

(c) The Secretary, as soon as possible after providing the report required by subsection (b) of this section, shall publish a notice in the Federal Register identifying the claims covered in such report. With respect to any claim covered by such report, any right of action shall be barred unless the complaint is filed within one year after the date of publication in the Federal Register.

SEC. 6. (a) If the Secretary determines that any claim or claims contained in either of the lists as provided in sections 3 or 4(c) of this Act is not appropriate for litigation, but determines that such claims may be appropriately resolved by legislation, he shall submit to the Congress legislation to resolve such claims or shall submit to Congress a report setting out options for legislative resolution of such claims.

(b) Any right of action on claims covered by such legislation or report shall be barred unless the complaint is filed within 3 years after the date of submission of such legislation or legislative report to Congress.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,881,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$6,350,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the matter stricken by said amendment, and insert:

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of lands within the Department of the Interior Central and Northern California Planning Area which lie north of the line between the row of blocks numbered N816 and the row of blocks numbered N817 of the Universal Transverse Mercator Grid System.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 110. Notwithstanding any other provision of law, section 1002 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) (16 U.S.C. 3142(e)(2)(C)) is amended as follows: Insert before the period: "and: *Provided*, That the Secretary shall prohibit by regulation any person who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information. The Secretary shall require that any permittee shall make available such data to any person at fair cost.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$62,328,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$58,828,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$1,010,436,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 96 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$240,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 97 to the aforesaid bill, and concur therein with an amendment as follows: Strike out matter stricken by said amendment, and insert:

YOUTH CONSERVATION CORPS

There is appropriated $10,000,000, of which $3,400,000 is hereby transferred to "National Forest System", $3,300,000 is hereby transferred to "Operation of the National Park System", National Park Service, and $3,300,000 is hereby transferred to "Resource Management", United States Fish and Wildlife Service, for high priority projects which shall be carried out as if authorized by Public Law 93-408.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$56,877,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall credit to the permittee that excess amount, times the number of years that that fee has been in effect, to offset future fees owed to the Forest Service.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 102 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the matter stricken by said amendment, and insert:

Provisions of Section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 97-942.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "$215,514,000 and $31,700,000 to be derived by transfer from the account in Public Law 96-126 (93 Stat. 970 (1979)) entitled "Alternative Fuels Production", and $40,000,000 to be derived by transfer from the account in Public Law 96-304 entitled "Energy Security Reserve" established to carry out the provisions set forth in section 204(a)(2) of the "Energy Security Act" (Public Law 96-294)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 111 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$35,106,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 112 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided*, That $2,000,000 of the funds herein appropriated shall be available for the fuels conversion program, of which not less than $1,500,000 shall be available only for expenses in issuing prohibition orders under the Powerplant and Industrial Fuel Use Act and other related laws".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$645,583,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "($16,193,000)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$67,247,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 136 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the matter stricken and insert ": *Provided further*, That regulations of the Institute shall require (1) an appeal process for applications rejected because of technical deficiency, (2) reconsideration of applications upon receipt of materials in a timely manner if the application was rejected because material did not accompany the application, and (3) waivers of certain records under circumstances which would require such waivers".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 137 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the matter stricken by said amendment, and insert ": *Provided*, That hereafter persons serving on the National Council on the Arts, the National Council on the Humanities, and the Museum Services Board shall continue serving until their successors are qualified for office".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows: Strike out the matter striken by said amendment, and insert:

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

Notwithstanding any other law, funds made available from the Energy Security Reserve to the Secretary of Energy for alcohol fuel loan guarantees authorized by title II of the Energy Security Act, Public Law

96-294, may be used to guarantee loans up to three and one-half times the amount held in reserve.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 315. The titles conveyed by and the easements and restrictions heretofore reserved and imposed by the Secretary of the Interior pursuant to section 506(c) of Public Law 96-487 are hereby confirmed in all respects: *Provided*, That nothing herein shall be deemed to amend the Alaska National Interest Lands Conservation Act or the Alaska Native Claims Settlement Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "316".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 155 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 317. In the case of any new electric powerplant located in Alaska for which a petition is accepted after the date of enactment of this Act, but before December 31, 1985, pursuant to section 212(f) of the Powerplant and Industrial Fuel Use Act of 1978, to use natural gas (as that term is defined in such Act), as a primary energy source in such powerplant, the petitioner shall be deemed to have made the demonstrations required by clauses (1) and (2) of such section and such exemption, subject to the other applicable provisions of such Act, shall be granted by the Secretary of Energy. Nothing in this section shall apply to any new electric powerplant using natural gas produced from the Prudhoe Bay Unit of Alaska.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 156 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named in said amendment, insert "318".

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. I thank all Members, particularly the junior Senator from Louisiana, for his assistance. I certainly could not pass this opportunity to give profound thanks to the staff on both sides of the aisle. It is a tremendous amount of work and a tremendous amount of detail they have had to handle, and they have done it in an exemplary manner. I thank the Chair.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. HELMS. Mr. President, I wonder if I might inquire of the majority leader where we stand with reference to the payment-in-kind farm bill.

Mr. BAKER. Mr. President, that is one of the two items that I identified last night that had been mentioned to me that Members would like to do. As I indicated earlier, there is no order to do anything in this period between now and 6 p.m. But a window is provided so matters could be taken up if they can be cleared or if they can be reached. This was one that was identified.

I hope that is clear. It is an important bill and I would like to see it disposed of.

Mr. HELMS. If the Senator will yield, it has been absolutely cleared on this side. This is a very important piece of legislation for farmers in every State of the Union. I wonder if we could not get some sort of agreement that we could take this bill up and do something for the farmers of this country. If we do not do something today, I fear, Mr. President, that we will not get a bill at all. That would be a tragedy.

I wonder if the majority leader would inquire if there is a possibility of getting this bill on the floor and getting consideration of it.

Mr. BAKER. Mr. President, I would be glad to do that. I see the distinguished ranking member of the Agriculture Committee on the floor. I shall yield to him if he wishes to comment on this.

Mr. HUDDLESTON. If the majority leader will yield, we do have Members on this side who are working on or perfecting amendments that might be offered. I reiterate what the distinguished chairman of the Agriculture Committee said about the importance of doing something to help alleviate the situation that we find on America's farms today.

During this special session, we have talked a lot about jobs creation and a lot about economic conditions of the country. We have offered a lot of solutions, partial solutions, or proposals to help the situation. As far as the farmer is concerned, there has been some little rhetoric and some little talk on the floor yesterday, but we have not given them any reason during this time to hope or expect that the Government is going to try to be helpful in the difficult situation he is in.

The bill we are talking about is one that has come through the Agriculture Committee and embraces not a totally new concept but a different approach to what is happening right now on the problems we are confronted with. It may not be the solution, of course, but it is something. It does provide a mechanism and the authority to try something different to deal with the great problem we have in agriculture, which is principally the surplus that we have.

I hope that during the next few minutes, we can come to some understanding that at least we ought to have an opportunity to consider this legislation, consider all amendments that may be offered to it, and let the Senate work its will and try to complete here this afternoon a piece of legislation that might offer some hope and some assistance to the agriculture producers throughout the land.

Mr. Leader, I shall be happy to work with you and the distinguished chairman of the committee in trying to reach whatever accommodation can be reached as far as time limits or amendments or whatever so we may proceed.

Mr. BAKER. Let me ask the Senator from Kentucky if it would be useful to propound a unanimous-consent request at this time that we go to that measure?

Mr. HUDDLESTON. I see no reason for not making that attempt. Maybe we can identify just where our problems might be.

Mr. MELCHER. Will the majority leader yield?

Mr. BAKER. Mr. President, if I may have the attention of the minority leader for just a moment, the question I put to the ranking member of the Agriculture Committee was whether it would be useful to propound a unanimous-consent request to go to the agriculture bill, the consideration of that bill. There may or may not be some usefulness in that suggestion. I thought I would bring it to his attention.

Mr. ROBERT C. BYRD. I thank the majority leader. He can make the request if he wishes.

Mr. BAKER. I asked the distinguished ranking member of the committee, and I believe he encouraged me to go ahead and make the request. I believe I will.

UNANIMOUS-CONSENT REQUEST—PIK BILL (S. 3074)

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the PIK bill with the understanding that nothing contained therein shall abrogate any of the provisions of the unanimous-consent agreement dealing with the cloture vote on the highway bill nor have any effect on the status of the highway bill thereafter.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Reserving the right to object, Mr. President, will the majority leader yield to me?

Mr. BAKER. Yes; I yield.

Mr. MELCHER. I wonder whether the request was for the Senate bill? Was the request posed for the Senate bill, referring to S. 3074?

Mr. BAKER. The answer is yes, it would be Calendar Order No. 1010, S. 3074. I am advised if that measure were disposed of, we would propose to substitute the House-passed language on the Senate number. Is that correct, I ask the distinguished chairman?

Mr. HELMS. Yes, Mr. President.

Mr. BAKER. The Senate language to the House number.

Mr. MELCHER. Will the majority leader further yield?

Mr. BAKER. Yes.

Mr. MELCHER. Is that substitute, an amendment in the nature of a substitute, that is on the calendar for S. 3074 available at the desk or anywhere in this building? It was not available yesterday.

The PRESIDING OFFICER. It is understood that a copy is available at the desk, but the copies have not been distributed at large.

Mr. MELCHER. It has not been printed, then, in other words, Mr. President?

The PRESIDING OFFICER. The printed copies have not arrived yet.

Mr. MELCHER. The measure was introduced and the committee met a couple of times, over here in a room not too far from the Chamber. On Monday afternoon, the committee met for about 22 minutes or 31 minutes and reported out a substitute. There is a lot of doubt about what is in this bill—not just here in the Senate Chamber. There is a lot of doubt throughout the country about what is in this bill. The word I am getting is "Don't buy a PIK in a poke."

There is no way that agricultural producers can advise us on what they think about this bill because they have not seen it. In terms of the bill as introduced in the Senate, it has been modified in the committee meetings, the amendment in the nature of a substitute that is on the Senate Calendar—supposedly, that is what the unanimous-consent request was made for, to go to the consideration of that——

Mr. HELMS. Will the Senator yield for just a moment?

Mr. MELCHER. I shall yield to the distinguished chairman in a moment. The leading, No. 1 industry of this country, agriculture, is supposed to make a determination on whether the proposal is good or bad on the basis of very scant information. Agriculture is in trouble right now and this plan, assurance that perhaps this would help, has not been very reassuring to the agricultural leaders that I have talked with in the past several days. The bill that the House passed over and that is now available at the desk is merely a scant few words that give more authority to the Secretary of Agriculture. What effect that would have I am not sure. I think it might be wise to continue to work on this a while longer to see whether we can reach some accommodation.

I am glad to yield to the distinguished chairman.

Mr. HELMS. Mr. President, let me say to the Senator, I wish he would state to me the accommodation he desires. We all agree that farmers are in difficulty, farmers in all 50 States.

Mr. MELCHER. I would be delighted to state to the distinguished chairman what I have in mind.

Mr. HELMS. Well, we have asked for that time and time again, Mr. President. If the Senator wants no bill, that is one thing. I wish he would tell me that, because he can block it if he wishes. I do not say that it is a perfect piece of legislation, but I would like to bring it before the Senate for debate so we can consider the Senator's amendments.

Mr. MELCHER. Mr. President, I have made very clear what I thought should be in the bill. I circulated to all the members of the Agriculture Committee in the Senate the proposal, what I thought was important.

The distinguished chairman will recall we had those, I believe, since Wednesday. That is not much time to consider it.

I must say there has not been much time to consider anything that would be particularly enacted on this matter—any one of these vehicles we have, the original bill introduced, I think it was December 3, an amendment in the nature of a substitute the committee passed out, the House-passed bill, the request of the Department of Agriculture, the recommendations of the Secretary of Agriculture.

We all understand that there has not been much time to consider any of these particular proposals. It would require some understanding of just what our goals were.

Now, I do not mind stating what my goals are. Agricultural prices are in a deep slump, and obviously the No. 1 goal for all of us is to make sure that the agriculture prices do not drop lower.

I have the November price for wheat based on Kansas City. No. 1 hard winter was 3.86 as of November 17, a month ago. I do not believe it has improved any. I think it has dropped off a little bit. Nevertheless, that is not a good price. A year earlier it was 4.47, same market, same quality of wheat.

There is a grave concern that the payment-in-kind proposition will result in lower prices immediately after harvest for winter wheat, and perhaps corn farmers and other feed grain farmers have the same fears. If there is going to be something passed, the advice I am getting from agricultural people around the country is "Make sure that you protect this market; it's low enough now and don't let it go any lower."

The payment-in-kind proposition, which is a new soil bank proposal, leads to great fear that if it is put into effect without some guarantee that the market cannot go lower, it will indeed force the market lower.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. MELCHER. Yes; I would be delighted to yield to the distinguished Senator.

Mr. COCHRAN. I have a question of the Senator. I wonder, if we do not do anything right now, whether there is any guarantee to the farmers of America that prices will not go lower?

Mr. MELCHER. There is absolutely no guarantee. What the farmers, particularly the wheat farmers, are asking us to do is to put something in the bill that will help cushion, or reassuring that it will cushion the impact of taking massive amounts of land out of production and paying off with the warehouse receipts at about the start of the marketing season; not that they would all be paid off at the same time, but they would be starting at the marketing season, beginning on June 1 and extending approximately for the next 5 months, which corresponds to the first 5 months of the marketing season but also hits during the time of the harvest.

If the harvest begins in Texas on the first day of June or thereabouts, the wheat harvest in my State of Montana is probably going to be in August and some in September. The fear is that the warehouse receipts, or the grain given in kind—if it were winter wheat, it would be principally warehouse receipts—that the farmers who receive those warehouse receipts naturally will have to cash them in, forcing that wheat on a market that is cashed out, and that the price will sag lower.

In turn, the Secretary of Agriculture is asking in the bill—and it would be available in the House bill, it would also be available in the Senate bill, that is the amendment in the nature of a substitute—that there would be permission granted to the Secretary of Agriculture to take grain out of the farmers' own reserves at less price than under the current law.

Mr. HELMS. I hate to do this, but regular order, please.

Mr. MELCHER. I am answering the question of the distinguished Senator from Mississippi. The combination of those two makes it very difficult for wheat farmers to determine whether this is a good or bad proposition for them.

The PRESIDING OFFICER. The Chair advises regular order is simply the unanimous-consent request and whether there is objection to it.

Mr. HELMS. It is not debatable. I do not want to cut the Senator off. We

will debate it if the Senator will permit the bill to come up. Will the Chair put the unanimous-consent request?

Mr. PROXMIRE. Will the Chair inform Senators what the unanimous-consent request is?

The PRESIDING OFFICER. Is there objection to the request?

Mr. MELCHER. I object.

Mr. ZORINSKY. Reserving the right to object——

The PRESIDING OFFICER. Objection is heard.

The Senator from Montana.

Mr. MELCHER. Mr. President, I make that objection at this time with the hope that Senators will be willing to further discuss this and further make an agreement on what would be acceptable in the bill and that we proceed from that point on.

Mr. DIXON addressed the Chair.

Mr. MELCHER. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Montana has the floor, having objected and having been recognized.

Mr. HELMS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. It is also necessary to make sure that the Secretary of Agriculture, and the administration is willing to discuss this in an open way and make some accommodations so that it may not be necessary to send a bill out of the Senate without adequate consideration and without adequate input from the farmers and other agriculture people around the country.

Mind you, Mr. President, we are also talking about the effect on agribusiness. We are also talking about not just the people that are involved in growing grain, cotton, rice, or feed grains. We are also talking about the impact it would have on dairy and the impact it would have on cattle. The cattle feeders, after all, have a stake in this. The hog farmers and hog feeders have a stake in this. There is a tremendous number of people involved throughout this country in agriculture, and this bill would touch every last one of them. It is only fair and prudent that we give deep consideration to the reports and the comments and the evaluation and the assessment we receive from all these people.

I will yield to the Senator from Illinois. I ask unanimous consent that I may yield to the Senator from Illinois without losing my right to the floor, because I do have comments to make.

The PRESIDING OFFICER. The unanimous-consent request by the Senator from Montana is to recognize another Senator. Is there objection?

The Chair hears none, and it is so ordered. The Senator from Illinois.

Mr. DIXON. Mr. President, I thank my friend from Montana for recognizing me momentarily to ask his consideration of this matter in this frame of thought. As my friend from Montana knows, I have some of the same concerns and reservations concerning this payment-in-kind program that he has expressed on the floor, and we have shared private moments together about those concerns. As my friend knows, I offered an amendment during markup in subcommittee which was adopted, and again adopted by the Senate Agriculture Committee, along with the support of my friend from Mississippi and others, that guarantees to every American farmer a floor price of 75 percent of the loan rate with reference to certificates that he or she will receive under this PIK program. I think that is a substantial advance. I believe my colleague agrees. I have suggested to my friend from Montana and the chairman of the committee and my distinguished friend from Mississippi, the chairman of the subcommittee, and my friend, the ranking member on this side, that we might try to raise that floor price, if it was considered further on the floor, to perhaps 80 or 85 percent.

What I am going to suggest to my friend from Montana is that I believe this program addressing the major agricultural surpluses in America is sufficiently important to the farmers of Illinois, Montana, and all the other States of this country that we ought to give an opportuntiy to have a decision here today and let the Senator from Montana, be heard regarding his concerns and possibly we could then pass a bill today, perhaps with some adjustments in it, or an amendment to the House version that would adequately address the problems for now. I perceive this is a problem that we ought to address before we leave.

Then when we come back here in the first part of the year in the new session we could revisit this area.

Why would the Senator from Montana have reservations about doing something like this now? Even if it is not all he wants, would he not agree that minimally at least it addresses the surplus problem and we should get on with it and then we can come back to it again in the new session? I think he knows that others are likeminded to myself and support some of his point of view on this.

Mr. MELCHER. I am delighted to answer my friend from Illinois.

That is exactly what I wish to do. I wish to proceed on the basis that we are going to work out an adequate bill, that we are going to work out something that could be reviewed, revised, and corrected early in the next Congress. So far that assurance has not been forthcoming at all. The reason it has not been forthcoming is, first of all, we have not any understanding with the Department of Agriculture that they indeed would like to do that. There is pretty good assurance that they would discuss with us what any shortcomings might pop up but no assurance that they would be willing to step out then and make corrections. Let me point——

Mr. DIXON. Could I ask my friend——

Mr. MELCHER. I would like to complete this thought.

Let me point out that we have not been very successful in Congress in passing something that has been objected to by the administration. The threat of veto hangs heavy over so many propositions around here that we are continually put in the position of either caving into them before we pass something or expecting a veto and then having to react to make up for whatever the objections of the President are.

Mr. DIXON. Will my friend yield?

Mr. MELCHER. We are right now completing a continuing resolution with about eight or nine different appropriations bills lumped into it and we are candidly told to expect a veto of it and to be ready to react to that and respond and make corrections in the bill so we can get the continuing resolution back down to the White House should that occur.

I hope the President does not veto the continuing resolution, but we are very frankly told that that is likely to occur, and we should be on notice that it will occur and we better be here and take up the matter because it is so crucial.

Mr. DIXON. Will my friend yield for a question?

Mr. MELCHER. We are in the same position on this.

Yes, I am delighted to yield.

Mr. DIXON. If I could briefly make this further comment and ask this question of my friend from Montana, if he will recall earlier this year I had a substantial difference with the USDA over their discontinuation of making public net farm income estimates. That came up in our committee at great lengths. Our distinguished chairman was kind enough to suggest he would give us hearings. He did give us hearings and we were able to remedy that problem. The Senator from Mississippi was supportive of the compromise and we ultimately addressed the problem.

The point I make is, I never found any problem with the chairman of our committee giving us a time for hearings. I wonder if the chairman, who is here on the floor, and the subcommittee chairman, who is standing on the other side, would give my friend from Montana an assurance that we would visit the whole question as soon as the next session begins, whether under those circumstances my colleague would not be kind enough to accommodate all of us so we can look at PIK

right now, possibly pass something right now that adequately addresses on a temporary basis the problem, with the assurance of the Chair that we would revisit the whole question next year.

I am sure that that would be a thing he would have no objection to and I would like to put that case to my friend from Montana.

Mr. MELCHER. I think perhaps my friend, the distinguished Senator from Illinois, has not gotten the point I tried to make. I am sure we can have hearings. I am sure that we can have adequate discussion of it in the Agriculture Committee here. I have no question. I did not have any doubts about that at all. The real question is, What will be passed and signed by the President?

We are told that in meetings with the Department of Agriculture, the Under Secretary, a very fine person, a man that I have known for a long time and whom I admire greatly and loved to work with, if there is anything put into this bill that would raise the loan rates any amount, 1 cent or more, it would probably result in a veto, if there is anything put in the bill that would protect sagging prices and payment in kind did indeed hurt the market, that if we put in something, some cushion there in the farmer-owned reserve that that too would result in a veto.

I am not averse to testing the waters and passing a bill with some accommodations in it and some accommodations on protective price, some language, some strengthening provisions in the bill as to conservation on the land that is taken out of production, and on some definite positive proposal that could be incorporated in the bill that would extend opportunity to expand export sales and know that we are doing the right thing at the right time in moving a bill out of here. If we can do that, I would be delighted to join in with all of us, but what I am finding from the distinguished chairman and the members of the Agriculture Committee on the majority side is that would probably result in a veto. We would not want to do that.

Mr. ANDREWS. Mr. President, will the Senator yield?

Mr. MELCHER. I am delighted to yield to my friend from North Dakota.

Mr. ANDREWS. Mr. President, I appreciate my friend yielding.

Let me point this out, and I think my colleague and good friend from Montana knows it, no one in this body has been for higher loan rates on wheat and feed grains more than my friend from Montana and myself, representing the farmers of North Dakota, because I think today's loan rates are abysmally below the cost of production. They are ruinous not only to farm families but to our entire Nation's economy because our balance of payments depend on the grain exports that we can achieve.

Now, I wish to inquire of my friend from Montana if he sees anything really new in this PIK program, this payment in kind. It has been around for a long time, and as my colleague must realize, Mr. President, what we need to do is to eliminate the damnably long list of excuses we keep getting from Agriculture Department after Agriculture Department, irrespective of which administration controls them, on how they can and how they cannot administer the farm acts.

As I interpret it, Mr. President, and I would hope that my colleague and good friend from Montana would interpret it the same way, if we can move toward payment in kind, we achieve two objectives: First, obviously, we have to take some land out of production. But by paying for it in commodities we take care of our surplus stockpile and we disrupt the community less than if we pay by cash for that land taken out of production because we are still marketing the grain, we are still using the infrastructure, the elevators, the transportation, the rest. We are still making available that grain for overseas sale, domestic use, charitable goods, Public Law 480, all of the rest.

The second point I would hope that my friend from Montana would share with me is that if we use payment in kind, we might finally have in the administration more willingness to reach a higher price support, a higher payment, because under the Budget Act—I happen to be a member of the Budget Committee—that we passed, the Budget Reconciliation Act scores commodities as far as the price levels are concerned totally different than they score raw cash.

An if we go toward payment in kind, Mr. President, it would then become possible for the Department of Agriculture to offer a more equitable payment for land taken out of production, a better farm price support loan rate, and a whole host of other things, and I hope that my friend will not shut the door in the face of this great need for a better farm program for America's farmers and for a better price structure.

Let me conclude, Mr. President, by saying that one of the big problems, that we, of course, face in America today is that these farmers out on the land are not getting anywhere near their cost of production. They also are involved in a business where they need to know more than any other industry and if we delay temporarily giving the tools to this Department of Agriculture to put these needed reforms in by the time we meet, organize the committee in the new Congress and get about our business, the farmers in Montana and North Dakota are going to be too close to the planting season for it to do them any good.

But certainly no one realizes better, Mr. President, than my colleague from Montana the importance of timeliness in farm decisions.

So I would hope, Mr. President, that my good friend would take another look at this and recognize that because of the need for a better price support for agriculture, realize that because of the unique characteristics of the Budget Reconciliation Act under which we operate and which has precluded us from doing more for American farmers, and under the unique need for timeliness that my colleague would reconsider and would allow this structure to go through so that the monkey would be then on the Secretary of Agriculture's back to put up or shut up and to produce and do the better job that he ought to do.

I would hope, Mr. President, that my friend could do this, and I would hope also that he would do this from the standpoint of the fact of the number of farm groups that do, in fact, support this whole concept of payment in kind, and my friend and I are both among the, shall we say, liberals in the agriculture field, since the more conservative organizations look down their noses at us, but the American Agriculture Movement, Mr. President, would point out to my friend from Montana, is wholeheartedly in support of this particular concept in our own State of North Dakota and I would suspect in Montana.

Our Farmer's Union is in support of this concept, and I would hope we could give it a chance, Mr. President.

I would urge my colleague from Montana to reconsider because of the great needs out there, which he realizes fully as well if not better than I do.

Mr. METZENBAUM. Mr. President.

Mr. MELCHER. I will respond to my friend from North Dakota.

The PRESIDING OFFICER. If the Senator will withhold, the Chair would like to clarify for the Senator from Ohio that the Senator from Montana still has the floor and that was to receive a question from the Senator from North Dakota.

Mr. JEPSEN. Mr. President, will the Senator from Montana yield?

Mr. MELCHER. I want to respond, first of all, to my good friend from North Dakota.

I would say what all of us should be doing is looking and listening to the more recent messages from people in our own States. We certainly are very similar in our wheat country of Montana to across the border, to the east of us, the wheat farmers in North Dakota. Here is the rundown: The American Agriculture Movement nationally has grave reservations about the bill and wants to understand it.

The Farmer's Union executive board met just a day or two ago and sent word to all of us, "Be very careful about this and don't rush it. Make sure there is something in there that closes the gap on some of our fears." That is them speaking.

The farm bureaus, at least in my State, are inquiring of me to explain how the bill would work and urging me to go very slow until there is some understanding of just exactly how it would work.

The great Senator from North Dakota has raised some valid points. He said what is new in the bill that is new legislation? There are probably three points that are new: Three are changes in current law, and a fourth is a big shift in policy that I do not know whether it is covered by law or not.

The first thing in law that would be changed by this is to consider payment in kind, warehouse receipts, whatever negotiable instruments are given, to not count against the $50,000 payment limitation.

Some of our people in Montana like that $50,000 payment limitation and a lot of them do not, and would like to see it raised, and this would be one mechanism of raising it.

Second, the change in the law is to permit the Secretary of Agriculture to release grain out of the farmer's own reserves at less price than is possible now, and that is extremely significant. When there is not any market, when there is not any cash market, farmers want to know is there a farmer's own reserve that is available.

Under the current law it is available for wheat up to 700 million bushels, and we understand here, those of us from the wheat country, that is going to be filled up, but the problem is in this bill it would release it and, by the way, it is in both the House and Senate bill, it would release it at less price than is possible now under current law, and that is a fear of wheat farmers of reducing the market.

The third change in the law, which I happen to believe is a good one, would allow surplus commodities to be broadened out in distribution to foreign governments.

Mr. ANDREWS. These points, Mr. President, are excellent points.

Mr. MELCHER. The fourth point that is not really covered in this bill to anybody's satisfaction so far that I have been able to talk to is what conservation practices are going to be presented, available, encouraged. Is there going to be any incentive on that land that is taken out of production for conservation? The answer is "It is up to the Secretary of Agriculture." Well, that is not very reassuring in the first go-around.

Yes, I will be delighted to yield again.

Mr. ANDREWS. I appreciate my colleague's yielding once again. Everything he says, as usual, makes good sense.

He referred to the American Agriculture Movement. Let me caveat a little bit of that American Agriculture Movement reference. David Senter, their National Director, who is a friend of my colleague's, my colleague from Montana, as well as mine, Mr. President, points out these cogent thoughts:

> With the economic condition of rural America continuing to weaken, we must do all within our power to save as many family farmers as possible through legislative solutions.
>
> The AAM, Inc. supports the "Payment in Kind" concept. * * *

They then, of course, add this caveat—

> only with the paid diversion, and deficiency payments of the current program unchanged.

A concern of my colleague as well as myself, Mr. President.

But then they go on to say:

> We are convinced, it will take drastic action to solve our problems, and the PIK, program is "drastic action".
>
> I hope, we all agree on one thing. We can't sit still and do nothing. We must try and find solutions.

Mr. President, might I point out to my colleague from Montana the last thing I want to do on the floor of the Senate right now in mid-December is to tell our farmers back home that here is an opportunity to make things a little bit better but we have decided to postpone. The farmers of North Dakota and, I would suspect, Montana and the rest of the upper Midwest, are getting damned sick and tired of those of us saying down here, "Wait a minute, Mr. Farmer, we want to postpone." These things have been studied to death. I say let us give them the tools to work with, and then let us jump on them in February if they do not do it in the right way. But to take the tools away from them, I submit, is doing the farm families a disservice at this critical time, probably the most critical time ever, in the history of farm families of this Nation.

I hope again, Mr. President, that my colleague and good friend and great champion of the farmers would reconsider on this basis.

Mr. MELCHER. Certainly I would be delighted to work out some understanding with my friend from North Dakota and maybe get a majority of the committee to agree, and then we can move forward with some definite, positive language in this bill and not just leave it up in the air.

I would be delighted to yield to the Senator from Iowa without losing my right to the floor.

Mr. JEPSEN. Mr. President, I thank my good friend from Montana. I have always found the distinguished Senator from Montana in the area of agricultural affairs and problems to be most wise and most practical and, most importantly, he has really the sense in the field of the grass roots people of the agricultural community.

The PRESIDING OFFICER. Will the Senator yield? The Senator from Montana has the floor and the Chair has to inquire if he yields to a request of the Senator from Iowa.

Mr. MELCHER. I ask unanimous consent to yield to the Senator from Iowa for a question without losing my right to the floor.

Mr. METZENBAUM. I object to that. I do not think any one Member should control the floor in a matter of this kind, and I object.

Mr. MELCHER. Mr. President, I have to agree——

Mr. ROBERT C. BYRD. The Senator does not need unanimous consent to yield for a question.

Mr. METZENBAUM. I understand, but he has yielded the floor, I say to the minority leader.

The PRESIDING OFFICER. The Chair inquires again of the Senator from Montana if he yields for a question?

Mr. MELCHER. I have no intention of holding the floor. It will be available for another hour.

The PRESIDING OFFICER. Is the Senator yielding for a question?

Mr. MELCHER. I yield for a question, then I will yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. I thank the Chair and I thank the distinguished Senator from Montana.

Mr. President, I ask the Senator from Montana, is there anything in this whole proposal that is mandatory?

Mr. MELCHER. Mr. President, I will answer the question of the Senator from Iowa, which is an extremely pertinent question, that there is nothing in it that makes it mandatory. It is up to each individual farmer and it is between that farmer and the Department of Agriculture. It is just a repetition of what we had in the soil bank. It was up to an individual farmer to make a choice, then it was up to the Secretary of Agriculture to agree with him.

The soil bank has its good and bad points; this, too, will have its good and bad points. I just want to make sure that the bad points are not too bad.

Mr. JEPSEN. Does the Senator from Montana agree that we have a need for working in the soil conservation area and we have problems in that are a and we have a need to control or in some way or another induce a lower production for the time being?

Mr. MELCHER. The Senator's question has really two parts. The Senator from Iowa is one of the leading advocates of sound soil conservation practices, not only in the Senate but

throughout the country. I commend him for it.

But, a huge problem that is raised in this bill is taking the land out of production. Then what happens to it? Very candidly and frankly, the Department of Agriculture says to me that they do not expect any conservation practices to apply to the land taken out of production. Under this bill, in their proposal, they are talking about 2 years. I think that is unwise.

I think that is one of the fallacies and weaknesses in the bill, that we do not zero in on what conservation practices should be used for the land taken out of production and that we offer an incentive in the bill to make sure that that land conservation does take place. Because, after all, it is an investment for all of us throughout the country to keep our land base in good condition.

To answer the second part of the question, yes, indeed, there are huge surpluses. The question of how we are going to handle those surpluses, that really is the thrust and the forefront of questions that are being posed by my constituents and by agriculture leaders throughout the country of how it will work in the marketplace.

Mr. JEPSEN. I know this is an obvious question, but I ask the Senator to please answer yes or no. Does the Senator from Montana believe that prices for feed grains are too low?

Mr. MELCHER. Absolutely.

Mr. JEPSEN. Does the Senator from Montana believe that the big obstacle to price increases, if we have to single out one single item, would be the huge reserves that we have hanging over the heads of all of the trading commissions and all of the markets, and so on?

Mr. MELCHER. I did not understand the first part of the Senator's question.

Mr. JEPSEN. The big obstacle of getting those prices back up on a stable, permanent basis, is it not the reserves we have stored now, not only in storage bins, but in high schools, in boxcars, in empty buildings, and so on, with a bumper crop now being put in these places all over the country?

Mr. MELCHER. That, indeed, is one of the obstacles. As the Senator well knows—it is almost a rhetorical question—another obstacle is how much are we going to be able to sell abroad. And on that, we are united 100 percent in the Senate Agriculture Committee. Let us remove those obstacles for sales abroad.

This bill does not address that and I would not expect it to, except it does perhaps move in the right direction in a very minimal way. There are subsidies for export of eggs contemplated in the bill by giving grain out of CCC stocks to poultry producers, both for the export of the meat itself and for the export of the eggs. The provisions in the bill would permit the Secretary of Agriculture to give grain to those chicken producers and those egg producers in the form of an export subsidy.

And, I might point out along that same line, that section of the bill refers to long staple cotton which, again, would subsidize the exporting of long staple cotton by giving some cotton to the exporter to encourage the sale and to make a profitable sale.

Now, there is nothing in the bill, per se, that says let us give anything on corn sales abroad or wheat sales abroad, let us give some grain out of CCC stock to make those sales attractive; in other words, an export subsidy.

Very candidly, when I inquired of Under Secretary Lang whether that was contemplated by the Department of Agriculture, he said he believed not. There would possibly be some grain out of CCC stocks given to flour millers on export sales, but that is as far as they are able to go.

Now, this is a departure from the Department of Agriculture policy. It is a departure from the policy on agricultural sales from the United States. It may be very good. I would certainly like to see how it would work. It is one of the features of the bill that has some attraction to me.

Mr. BOREN. Will the Senator yield?

Mr. MELCHER. Mr. President, if the Senator has one more question, I would be glad to answer, but I do not want to hold the floor and deny any other Senator his right to the floor.

Mr. JEPSEN. I thank the Senator.

I would just suggest that I, too, have some reservation in giving the PIK program any full endorsement without knowing all the details of how they will be implemented and what regulations there will be affecting governing its operation. As with any program, the success or failure will depend on the mechanisms of operations. How well this program is administered and develop will determine how much participation we will have.

But I would point out it is voluntary. It is optional. It is not mandatory. And the direction of the Secretary of Agriculture to his people at the Department I think is well worth repeating. He said: "Keep it simple and make it a real enticement for farmers to participate."

I would suggest and recommend and urge that we get this bill up, that we run it up the flagpole and we do so as should be done on a logical, solid, prudent man basis, and that is we have an opportunity at this point in time to present a bill, knowing what is mandated, to the people, especially to the agriculture community of this country. We should present it to them and in the next couple of months they will have a chance, with something concrete in their hands to look at, to review, to address themselves, and then, as we do in a democracy, we will listen for the whisper of the people to find out what they are really thinking about. But let us give them something to look at and work on.

Mr. MELCHER. Mr. President, let me just respond that I think the Senator from Iowa made a very good suggestion. I would like to work throughout the day and tomorrow on making some propositions to the Senate for stronger language, and, hopefully, we can pass the bill rather shortly. If we do not pass it this week, I would hope that we pass it very shortly in January because, indeed, we do need to move.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. WALLOP). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I would just say before the Senator from Montana leaves the floor, that we are running out of time. There is a great deal of non-partisan support for this legislation. The primary credit goes to the distinguished Senator from Kentucky, Senator HUDDLESTON, and the distinguished Senator from Mississippi, Senator COCHRAN. They spent a great deal of time with Senator DIXON and others on both sides of the aisle.

We have a product now that may not be perfect. But we only have about 1 hour and 50 minutes, as I see it, after which it is too late for the American farmer. Somebody asked me yesterday, "What is the name of the farm program?" I said, "It is the PIK bill." They said, "No, it is the nit-PIK bill." We are nitting and picking the thing to death.

Everybody knows it takes only one Senator—we learned that on our side with the gas tax —to kill a bill. While it is not going to happen with the gas tax,

It may just happen on the other side with the farm bill.

We are running out of time. We ought to bring the farm bill up or we ought to say we do not want to bring it up. Whoever does not want to bring it up ought to stand up and say,"I do not want the farm bill," and not pick it to pieces.

Members are saying we can pass this bill in January. We are going to do a lot of things in January, the way it looks. I hope after all the time, all the hearings, and all the time spent by the Senator from Mississippi and others, that we will be allowed to bring this bill to the floor where amendments could be offered.

Some are good amendments. We can vote on the amendment of the Senator from Montana. Senator BUMPERS has an amendment he would like to include in this bill. It has some merit. I think Senator Metzenbaum said he has an amendment.

There is a lot of bipartisan interests in this legislation. I do not know why

we cannot reach an agreement for an hour and a half, give an hour to the Senator from Montana and 30 minutes to the rest of us, pass the bill by 6 o'clock, and go to conference.

Mr. HUDDLESTON. Will the Senator yield?

Mr. DOLE. I yield.

Mr. HUDDLESTON. The Senator from Kansas believes this is an approach we ought to take, and I agree. If we wait to devise a bill that is absolutely perfect to every person who has an interest in the subject before it is even brought up for discussion and consideration on the floor, I am afraid we are going to have to be here a mighty long time. I have been in the Senate a long time and that does not happen very often.

I know there are some concerns and some questions about whether this particular bill, this particular plan, will provide the solution. There is nobody who can say. We cannot look into the future and say this absolutely going to work.

We can look at the present and we can look at the past, and we can say what we have now is not working. We have the largest surpluses in the history of the United States. Prices are depressed. The cost of the program in 1 year has gone from about $8 to $12 billion and will go to $16 billion if it stays on the same path. That is not the direction we want to go.

Farm income for 3 straight years has dropped in real terms and, if the present projections hold, next year farm income will be just about one-half in actual dollars what it was in 1979—100,000 farmers in the country are facing bankruptcy right now. Farm credit is at an all-time high. These are serious conditions.

The distinguished Senator from Montana has rightly expressed some concerns about this particular bill and whether it will do certain things. There are two things that we know it will do that ought to be positive.

One is it will decrease the amount of grain on hand in the United States. If it works at all, if anybody takes advantage of it, there will be less grain available. How much less, nobody knows. Will it be enough less to have an upward surge in the prices in the market? Nobody knows, because we have surplus on top of surplus. We have to eliminate a lot of surplus and we will still have surplus. So the question is, How far do you go until you get down to the point where the buyers again will be competing for the crop and the price will go up and the farmer will get a decent return? Nobody can say right now. But there is one thing we know will happen: There will be less grain in the United States if this program goes into effect than there will be if it does not go into effect.

The second positive thing that we know is that those farmers who participate will get their grain without having to incur the expense of production. That is incontrovertible. Those two things will happen with those who participate in this program.

So it seems to me there would be less pressure, there would be less need, for the farmer who participates in this program and takes his payment in kind to run to the market immediately and cash in his receipts in order to have a cash flow, because he has incurred less indebtedness, because he has not had to pay for the cost of producing that crop.

These things seem to be fairly acceptable, logical, and reasonable. That much we know.

The other provisions of the bill that will allow the use of this surplus for various ways may need to be altered. But, there again, we are trying to approach the major problem that confronts the American farmer. That is the tremendous amount of surplus that is overhanging the market at the present time and depressing his price.

We have provided, as has already been indicated, a guarantee in our bill that a person who participates in the program, who takes the grain instead of cash, will be guaranteed at least 75 percent of the loan rate for that crop he takes. So he has some protection.

It just seems to me that the time has come to say to the American farmer that the Senate of the United States is ready to enact some legislation that will be helpful to him.

There is talk about doing it tomorrow. We might as well tell him tonight we are not going to do anything; we are through. There will have been no action. The idea that we can pass a bill tomorrow, get it to the House, they pass a different one, go to conference, and get it back here for concurrence, I do not think is within reason.

So we are faced with the problem of trying to do something rather than doing nothing, trying to take something on which there are still questions and concerns but putting it in such shape that it can go into effect and can possibly help the struggling agricultural producers in this country. Sitting back and waiting for that perfect bill, that one that everybody can agree with, one that everybody thinks or knows will succeed, if we ever had one of those, I know we would all be for it. But who knows? We have tried program after program.

As I pointed out before, one thing that is absolutely known now is that none of these are working at the present time.

Mr. DOLE. Mr. President, there has always been bipartisan, nonpartisan cooperation in the Agriculture Committee. Under the leadership of Senator Talmadge of Georgia, those of us from the wheat States took care of the wheat program, and those in the Corn Belt worked on the corn program. That system has not changed under the leadership of the distinguished Senator from North Carolina, Senator HELMS, with the help of the distinguished Senator from Kentucky, Senator HUDDLESTON. We agree to work together for the most part.

If someone is concerned that we are trying to sneak something through rather than addressing it next year, I would be willing to make that pledge right now.

Look back on the farm bill last year. The administration did not want target prices. We still have target prices because some of us on this side of the aisle and some on the other side of the aisle thought they were necessary to protect farm income. They have protected farm income.

I would hope we could get to the bill and have this debate on amendments because once cloture is invoked on the gas tax bill, we cannot get off the gas tax bill without unanimous consent.

Although, the Senator from Montana thinks we have tomorrow, Tuesday, or Wednesday, it is the view of this Senator that time is running out.

Mr. JEPSEN. Will the Senator yield?

Mr. DOLE. I yield.

Mr. JEPSEN. Can the Senator from Kansas or someone else on the Agriculture Committee tell this Senator what action does the House take, and, second, what has the House indicated as to their willingness to take further action?

Mr. DOLE. For all practical purposes, the House bill would make certain that the administration can initiate the PIK program. If we do not start it soon, we cannot apply it to 1983 crops. We have about 1 week. Someone can ask for a unanimous-consent agreement on either side. We now have 1 hour 40 minutes left. We can bring up the amendment of the Senator from Montana and we can vote on all amendments. If they are carried, they go to conference. If they lose, we will still get a farm bill. I just know my friends on both sides have farmers in their States who are concerned about this bill. They do not think it is perfect and we all know it is not perfect. We have been using PIK programs since 1933. We have had a lot of problems in administrations of both parties, but it is all we have left to try. We ought to do it today.

I yield the floor.

Mr. BOREN, Mr. PRYOR, and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I shall take just 30 seconds. I would like to join the distinguished Senator from Kansas, the distinguished Senator from Kentucky, and the distinguished chairman of the subcommittee, Sena-

tor COCHRAN of Mississippi. We have to do something in the next hour or hour-and-a-half in order to provide our farmers some hope. I would like to say I do not understand everything that is in this bill; the farmers do not understand everything that is in this bill. But I think if we could pass this bill and come back in January or February and hold hearings and fine tune it, that is the least we can do.

I beg and I implore my colleague not to offer objections on this legislation. Let us pass this bill and let us fine tune it when we come back.

Mr. BOREN and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I want to associate myself with what the Senator from Arkansas just said. I shall not debate here. We have had a full-scale debate on the merits and demerits of the PIK proposition. I have a lot of doubts about it. There are things I would like to change. Anybody who followed the debates in the Agriculture Committee knows there have been some strenuous objections to it and there are some suggestions for changing it.

It has been almost an hour and a half now since we started this debate. We have a window of an hour and 15 minutes. We have a chance to do something that might—might; I use that word advisedly—help the farmers in this country. They are in such desperate shape that I do not think we can sit here responsibly and not use the next hour and 15 minutes to try to do something to help the farmers of the country.

I share the skepticism of the Senator from Montana about the House-passed bill. As far as I am concerned, the House-passed bill has no guarantees in it. It is absolutely worthless as far as anything to help the farmers.

I cannot in conscience vote to give the Congress a blank check to work the House-passed bill. If the Members on the other side of the aisle will give us this guarantee, this will be something that will help the Senator from Montana. I wonder if they will give us the guarantee that in no case will they allow the Senate-passed bill, if we pass the Senate bill this afternoon, in no case, on third reading or in conference, would the Senate managers of the bill allow the House-passed bill to be totally substituted for this bill. I do not want to vote to send the Senate bill forward, and I am sure the Senator from Montana does not—I know that is one of the objections he has raised—then have it be used as a subterfuge for substituting a blank check House-passed bill.

I think if we do have assurance that the Senate conferees, if we are able to pass this bill, will take the Senate bill to conference and make every effort to get the Senate bill, with the understanding that it would be useless to bring nothing but the House-passed bill back here before the Senate as a conference report and have us act on it. If we can make a unanimous-consent request with that as a proviso, an understanding, at least—perhaps it does not have to be part of the unanimous consent, but a stated agreement.

Second, the Senator from Montana would have an opportunity to offer his four amendments, I think he has, first, that he be given an up or down vote on those four amendments, as far as I know; the rest of us would be glad to take 10 or 15 minutes to offer, with very little or no debate, the amendments we have to offer.

I wonder if it would be possible to break this logjam so the Senator from Montana would clearly have his day and offer all the proposals he made so we are clearly protected against the House-passed bill being substituted in the committee in toto—that this will not be used as that kind of device.

I ask the Senator from Mississippi, would it be possible to get those assurances? If it would, I hope our colleague, the Senator from Montana (Mr. MELCHER), whose aim is solely to help the American farmers, as is the aim of the rest of us who talked here today, the greatest champions of the farmer in this body and in this century, as far as I am concerned. I wonder if he would seriously consider if that would be possible.

Mr. COCHRAN. Will the Senator yield to me?

Mr. BOREN. I am happy to yield to the Senator from Mississippi.

Mr. COCHRAN. Mr. President, I appreciate the Senator from Oklahoma trying to identify the real problem we have here. That is we have just about an hour-and-a-half to dispose of this bill. We are going to have to come to some agreement on a time certain for debate and disposition of whatever amendments are going to be offered. I for one would certainly be willing to join him in this and if the request were to be granted, I would be willing to proceed in that fashion. With respect to the conference, it is my hope the Senate conferees will urge the House conferees to accept that bill, whatever that bill would be, that is passed by the Senate today. I agree with the Senator that we do need safeguards in the legislation to protect the interests of the farmers and not just give the Secretary of Agriculture a blank check, total discretion, in how to formulate or administer a payment-in-kind program. I might say if we continue to proceed as we are, they are going to rename the PIK bill the "nit-PIK." bill.

We should not be trying to write the bill before we ever proceed to the consideration of it. I hope we can get agreement to proceed to consider this bill. The Senator has my assurance that we shall try to work in conference to make sure the Senate side prevails.

Mr. HUDDLESTON. Will the Senator yield?

Mr. COCHRAN. The Senator from Oklahoma has the floor.

Mr. HUDDLESTON. Will the Senator yield?

Mr. BOREN. Yes.

Mr. HUDDLESTON. I wonder if it would not be true that the Senator from Oklahoma, the Senator from Alabama, and other members of the Agriculture Committee would be on the conference and we would not have to accept a conference result that is not to our liking in the least. I agree; I do not believe we ought to just accept what has been sent over from the House, because it does not have those safeguards, does not have the amount of work in it that obviously went into the product of the Senate here in our committee hearings and committee actions. I think the Senator can be assured that the conferees would not be receptive to anything substantially less than what might be enacted here in the Senate.

Mr. METZENBAUM. Mr. President?

The PRESIDING OFFICER. The Senator from Oklahoma still has the floor. Does he yield?

Mr. BOREN. I yield to the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from Oklahoma. I speak as being one of those less knowledgeable than probably any other Member who has spoken on the subject today.

Certainly, you do not have to be an expert in the field of agricultural legislation to know the plight of the farmers in Ohio and every other State in the Union. Therefore, I think this legislation is a major move in the right direction as far as providing some relief, some assistance to the farmers of America.

As a matter of fact, it is rather interesting to me that this bill's title is probably a misnomer. I think the bill ought to be called the vindication of Henry Wallace bill, because it now appears in this legislation that Ronald Reagan, who is always so ready to quote Franklin Delano Roosevelt, has totally picked up the programs of Henry Wallace, emphasizing the vast expansion of the set-aside program. Henry Wallace was one who first came forward with those programs. I am not here to tout him. But I do point out that he was the Vice President under Franklin Delano Roosevelt and was probably even better known to one of the Members of this body who ran against him in 1948, the distinguished Senator from South Carolina.

I think that is significant. I hope the man in the White House will not only see fit in the future to praise and quote Franklin Delano Roosevelt, but

that he will look to other Democrats for leadership and for answers to other problems this Nation is facing, not only in the field of agriculture.

Further addressing myself to the legislation itself, I am pleased that an amendment I had discussed with those active on the Agriculture Committee and was prepared to offer on the floor of the Senate has been adopted. That amendment will assist those voluntary agencies which do humanitarian work in feeding the hungry people of the world.

Over the years, these programs could not have worked were it not for the efforts of organizations such as CARE, Catholic Relief Services, Church World Services, the Cooperative League of the USA, the Joint Distribution Committee, Lutheran World Relief, and many others who have demonstrated their ability to give food directly to the hungry people who need it. As a matter of fact, the amendment that has been included in the bill would make it possible for these agencies to barter and sell commodities and, I might say, under very tight standards of accountability, so tight in fact that those funds that they would receive could not be used by those organizations to meet their operating and overhead expenses. I believe that the legislation is a major step in the right direction. I believe the legislation is better legislation by reason of the amendment that they have seen fit to accept that I had intended to propose on the floor of the Senate. And I agree with those who have said the sooner we get on with legislation, the better chance the farmers will get some relief from this Congress.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. BOREN. Mr. President, I wonder if I might try to break the logjam by propounding a unanimous-consent request, if I could have the attention of those Members who are interested.

Mr. President, I ask unanimous consent that we proceed to the consideration of the PIK bill; that the time for debate on the PIK bill expire no later than the hour of 5:55; that the Senator from Montana be allowed 1 hour in which to present his four amendments; that the remaining time be left for other amendments, and that if any rollcalls are ordered on those amendments or on final passage of the measure, those rollcalls to be stacked and occur immediately after the vote on cloture, which is scheduled for 6 o'clock.

Mr. LONG. Mr. President, reserving the right to object, I would not object to that bill coming before the Senate. I believe I would want to object to amendments. I do not know what all the amendments are going to be, but I will not object to the bill coming before the Senate.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, it is within the Members' right to ask unanimous consent to proceed to the consideration of the bill. I think it ought to be cleared with the majority leader, which is usually a right reserved to him. It is not saying that the Senator from Oklahoma does not have that right under the rules; he does, but I would certainly like to continue the comity that has always existed between the Senator from Tennessee (Mr. BAKER) and myself. When I was majority leader, I rather zealously guarded the right of the majority leader to do the moving and to ask unanimous consent to proceed when at least it had been cleared by me and it still had to be cleared by the minority leader.

But I would hope that the distinguished Senator from Oklahoma would let us make sure that the majority leader has no objection.

Mr. BOREN. Mr. President, I certainly think the point of the distinguished minority leader is well taken, and the Senator from Oklahoma did not wish in any way to usurp that position. I merely offer the unanimous-consent request, and I hope that the majority leader perhaps has been notified by now about it. I see the distinguished chairman of the committee is on the floor. It was simply an attempt to get us off high center to see if in discussion on this matter there would be objection to it. Perhaps we might proceed to see if there would be objection to it if it is offered in the form which I propounded. I will at this time temporarily, without losing the floor, withdraw the unanimous-consent request until the majority leader arries and until we hear from the distin.guished chairman of the committee.

I will be happy to yield to other Members to see what reaction there might be to it, including the Senator from Montana, just to see if this might get us off high center.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HELMS. Will the Senator state the unanimous-consent agreement that he has in mind?

Mr. BOREN. I will tell the distinguished chairman what I suggested—since time is about to run out on us—is that we have an agreement that will allow us to take up the bill, which would terminate debate on this bill at 5:55, which would be immediately prior to the scheduled vote on cloture, which I believe is at 6 o'clock; that the Senator from Montana be allowed 1 hour in which to bring up the amendments that he has to offer—I believe there are four of those amendments—and perhaps we would need to specify the request as to the amount of time on each one to take up that hour; that others be allowed to offer amendments immediately after that, and if there were any votes offered on amendments or the reporting of the bill that rollcalls be stacked without further debate, to occur immediately following the vote on the cloture motion.

I say to the distinguished majority leader that I just offer this in an effort to try to get us off high center, to see if the Senator from Montana and others who have been looking at it might think this might be a worthwhile way to proceed. I have deferred offering this until the majority leader and the chairman of the committee returned to the floor to see what their reactions to it might be.

Mr. BAKER. Mr. President, does the Senator have the floor?

Mr. BOREN. I yield to the majority leader.

Mr. BAKER. I thank the Senator.

Mr. President, I would like to cooperate in any way I can, but I have to say I am a little disturbed by the idea of having those votes after cloture, because we are going to be hard put to spend the time we are going to need after cloture is invoked, if cloture is invoked anyway, before it gets very late this evening.

I wonder how the Senator would feel about having those votes just before 6 p.m. instead of just after the cloture vote?

Mr. BOREN. I think that would be good if we have the time. I think the Senator from Montana has four amendments, if I am correct. If you had four rollcalls, that would be an hour's time, and we now have less than an hour and a half to have discussion of the amendments and votes, plus I understand the Senator from Ohio, I think, had—

Mr. METZENBAUM. No.

Mr. BOREN. The Senator from Arkansas has an amendment.

Mr. METZENBAUM. Will the Senator yield?

Mr. BOREN. We have potentially two or three other amendments.

Mr. METZENBAUM. I have no amendment, but I am concerned about extraneous amendments. I want to be certain that the unanimous-consent request was made in such a manner that only the amendments from the Senator from Montana would be considered and that all of those would have to be germane.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I would like to be sure that we know what amendments we are talking about, because the request is made in such a way that the gas tax bill could be hooked on an amendment for that matter or any other amendment.

I have no objection to the Senators trying to work out some order by which the bill and the amendments that they are interested in are taken up and disposed of, but I want to see that request, or hear it very carefully propounded, to make sure that some other amendments not germane to this matter at all cannot be brought in as amendments with a time limitation and an order for the yeas and nays and the thing is a fait accompli.

Mr. BAKER. Mr. President, with the Senator reserving the right to object, there is another matter, too, and that is I am advised by our staff that if we are going to restrict amendments—and I favor that, by the way—but if we are going to do that, we have a number of Senators we have to check who have made notations on our calendar, so I am afraid we would not be in a position to get an agreement right now. But I would be glad to shop that agreement.

Once again, may I urge Senators to consider that we ought to consider doing this in the time that we have available, because if we start doing this after cloture is invoked and temporarily laying aside that measure, it will just be that much more time that is added to the time required to try to complete action, whatever that action is, on the highway bill.

So I am going to stop talking with the hope that the Senator would not put a request at this time and that we will get our staffs together and see if we can work something out that will fit the action sought within the time available.

Mr. BOREN. I wonder if the majority leader could get a list of those who wanted to offer amendments and then determine from each one of them—there are other concerns—that there are no nongermane amendments offered.

Mr. BAKER. Yes; I will be glad to ask my staff to cooperate with the staff of the Senator and the minority leader to see if we can get that done.

Mr. BOREN. I thank the majority leader.

I believe I have already withdrawn my unanimous-consent previously, and at this time I relinquish the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. Will staff, Senators, and visitors please take their conversations to the cloakroom? The Senator is entitled to be heard.

The Senator from Nebraska.

Mr. EXON. I thank the Chair.

Mr. President, I would hope that we could work out something along the lines of the unanimous-consent request just offered by my friend and colleague from Oklahoma.

I have looked at the PIK program and I have varying degrees of concern about it. But I generally——

The PRESIDING OFFICER. Would the Senator suspend?

The Senator is entitled to the courtesy of a Chamber reception for his words.

Would people please take their conversations out; the galleries please cease conversations?

The level of noise is not such that the Senator can be heard.

The Senator from Nebraska.

Mr. EXON. I thank the Chair again.

The RECORD will show that this Senator generally goes along with the recommendations of the committee. I have a great deal of respect for Members on both sides of the aisle who serve on the Agriculture Committee, including a high-ranking member of that committee, my colleague the senior Senator from Nebraska.

Therefore, it is upon their recommendation that I would hope that we get on with bringing up this bill as quickly as we can, giving everyone an opportunity to offer any amendments that they think are in order so long as we would have a clear understanding that nongermane amendments would not be placed thereon because if that happens this could become another lightening rod for all kinds of considerations.

Mr. President, I am having great difficulty hearing myself. I do not know whether the Chair can hear me or not.

The PRESIDING OFFICER. The Senate will be in order.

Mr. EXON. I thank the Chair once again.

I am pleased, of course, to hear the usual situation where we take a bipartisan approach to many things here and especially with regard to agriculture, and I compliment the Senate Agriculture Committee for that action.

Mr. President, the Agriculture Act of 1982 provides for a special payment-in-kind land conservation program and for the expansion of U.S. agricultural markets. It has been described as a shot in the dark by many and that is what it might well be. Certainly, many farmers in Nebraska are accepting this program on a conditional basis, probably because they have no other alternative, that they can see right now in facing the dire distress that we are experiencing in the Farm Belt of this Nation.

Mr. President, certainly there is little doubt that one of the fundamental problems facing our family farmers today is overproduction and the huge carryover from previous harvests. The very basic problem does, indeed, need to be addressed and, on first blush the PIK program seems to be a possible solution to this serious situation. To reduce our agricultural commodity production will, in the long run, reduce the carryovers of stock which have had such a dangerous and depressing effect on our grain markets. However, there remain strong concerns which need further study as to the impact the PIK program will have on the short-term economic conditions in the Farm Belt.

I have been in contact with many Nebraskans since the announcement of the PIK program. The wheat growers, wife, and the Farmers Union officials, to name just a few, have indicated their basic support for the concept, and I emphasize the concept of the program, but remain skeptical about the true intention of the basic reasons in proposing the payment-in-kind program. Many people have asked the question: Is this program really intended for the good of the ailing farm economy or once again an attempt to reduce Government expenditures and reduce high deficits by pushing CCC grain supplies onto the back of the American farmer?

Mr. President, I cannot answer that question, even though I do have my suspicions. I have talked about this with several members of the Agriculture Committee and others on the House side. I continually get the feedback that no one knows for sure, nor has the Secretary of Agriculture outlined what he proposes to do.

Mr. President, I am having a great deal of trouble hearing myself again. Could you ask for order one more time?

The PRESIDING OFFICER. The Senator is correct.

A great deal of the problem that is taking place is taking place in the galleries and in the staff areas of the Chamber, and if the staff cannot sit quietly, then it will be asked to remove itself and conduct whatever business it sees fit outside the Chamber.

The Senator will proceed.

Mr. EXON. Mr. President, I suggest if this bill is passed into law great care must be taken in the implementation of this program. Not enough information currently exists to give us a clear picture of just how this program will impact on the agribusiness community in rural America. Even though this program concept is not new and met with only limited success in the early 1960's when it was first employed to reduce surplus feed grain supplies, the times today are significantly different. In the early 1960's, the American economy as a whole was sound and our farmers were certainly much better off economically than they are today. Our farm economy, as well as the entire agribusiness community, is in the midst of a severe depression. Not only is the family farmer in serious financial difficulty, he is joined by the Main Streets' small businessman, the seed fertilizers, and implement dealers whose very existence relies on the farm economy.

Can these support agribusinesses survive this type of reduced production which is being proposed? Can the livestock industry withstand an almost certain dramatic increase in meat supplies, depressing livestock prices even further?

These concerns must be addressed and if we eventually pass this bill I hope that the Agriculture Committee during the early part of the 98th Congress will look further into the potential impact of PIK and be willing to propose changes should they be necessary in order to protect our farm economy from the unknown hazards which may be brought about by the enactment of this payment-in-kind program.

In closing, just let me say that I hope that somehow we can get the message clearly across. Some of the news reports today indicated that the House of Representatives yesterday gave the President another victory. Today we seem to measure the success or failure of a program in Congress on the President's score sheet. Someone told me a few moments ago that the Indians won today on a Mark Moseley fieldgoal in the last 10 seconds. That is not the way we should keep track in the opinion of this Senator of whatever we do right or wrong on this issue.

I would simply say that as I understand it, after talking to Members of the House of Representatives, the bill passed yesterday was not the PIK program in total and I am quoting from a remark made by the chairman of the Agriculture Committee whose bill passed yeasterday.

This bill which I have introduced does not as such provide a specific new farm program. What it does is simply clear up the Secretary's urgent request of some gray areas in the current law so the Secretary can have the right, as he wants to, to proceed to design and adopt a payment-in-kind program under the authority of existing law.

I would hope that we could proceed with this with the understanding that our Agriculture Committee will take an early indepth look at this when the new Congress convenes.

I yield the floor.

The PRESIDING OFFICER. The Chair will inform the Senator from Nebraska he was momentarily out of order in that they are not Indians but Redskins who won on the Mark Moseley fieldgoal.

Who seeks recognition?

Mr. FORD. Mr. President, since we are out trying to check on the ability or possibility of a unanimous-consent agreement, let me just give those who are listening and not talking, and I may get some quiet, what has been running through my mind during the last few days, and I think it falls on the PIK legislation.

Mr. President, I was raised on a farm. I understand the good and the bad about living on the farm. For now almost 60 years I have known or been a part of the change in the farm community. Things were different when I grew up than how it is today with the continuing intensity that is being placed or pressure that is being placed on the farming community.

We hear today about 100,000 farmers who are hanging on by their fingernails and we need to help.

It takes a special breed, I think, to stay on the farm today. To those who have a background of farming, I think it is 2½ percent of our population who are on the farm, the farm is a good life. Under the present circumstances, however, it is not so good.

Let me say what culminated my thinking. I have been in the Senate now almost 8 years. I found something that you do almost automatically, and that is gain confidence in individuals. The Committee on Agriculture is made up of decent men and women. They try very hard to find answers, and I have never known of a group that could find the perfect answer for the farmer. No matter how hard they try they never find the perfect answer for the farmer, and from what we have heard here today this is not perfect, but it is a start. We can put it into place and fine tune it in late January or early February. But start it now.

I found you have to have some semblance of confidence, and that confidence is built up over the years. I do not think you ought to look at a Senator, let him pull your chain and change your vote down there any way he wants you to vote, but I think you ought to have the confidence in their ability to put things together.

The ranking minority member of the Committee on Agriculture is not only my colleague but he is my friend. We have been through thick and thin in State politics. He was the majority leader of the State Senate in Kentucky. I watched him work there and I saw his integrity and I saw his ability, I watched his desire, and that desire of my distinguished colleague from Kentucky has grown to the point now where he is the ranking minority member of the Committee on Agriculture.

No one has more desire to see that the farmer's life is improved. Yet we find those who do not agree with what this committee put together. I think you have to trust some folks after they pound it out, bring it to the floor, and then you ought to give them an opportunity to vote on it. If you have got an amendment put it on, let it happen. You win some and you lose some, and some are rained out. One thing about those that are rained out, you can play it over. But that is the way the game is played here. That is the institution. That is what it is all about, and if we would just do that our constituents would understand what we are doing instead of all the parliamentary procedures of staying here all night, stopping Government. You would have an opportunity to explain it.

So, Mr. President, I am very pleased to be the junior Senator from Kentucky and have an opportunity to support my friend and my colleague in his effort to do an honest job to help the farmers.

I just say to you you have to have some confidence in your colleagues. I hope this body will give our colleagues on the Committee on Agriculture that signal of confidence. Let us have an opportunity to take the Senate bill, PIK, and let us have an opportunity to help the farmer. We have to try. I am a strong advocate of synthetic fuels. I am so strong I think we ought to build something even if it is a white elephant and try, and if that one fails try again, and if this agriculture bill does not work, try again, but let us put it down and get it out there and show confidence in our distinguished colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I want to express my personal appreciation to the distinguished Senator from Kentucky for his remarks and to thank him for the confidence he is placing in the members of the Committee on Agriculture who have worked very, very hard in a very short period of time to try to fashion a bill that would provide safeguards that were adequate to protect the interests of the farmers and, at the same time, give the administration an opportunity to implement an emergency farm program.

It is an emergency because there is not much time within which to act to provide relief for the 1983 crop year. That is why, Mr. President, it was necessary to act quickly when it became apparent that after this year's harvest the farmers of America had produced another bumper crop in almost all commodities, all the major commodities certainly. This was added to the previous years' good crop we have had. Couple that with the continuation of the world economic conditions that have led to reduced demand for U.S. agricultural commodities, and the continued strength of the U.S. dollar, which has made it more expensive for our foreign customers to pay for U.S. farm commodities, and we find ourselves in an emergency.

If nothing is done now to help farmers anticipate a better crop picture in the next crop year, many of them are not going to be able to get financing when they try buying fertilizer, chemicals, and seed and do the things they have to do within the next few weeks,

and many of them to prepare for this next planting season.

Some Senators may wonder why have we come here with this program all of a sudden? It is because all of these factors have converged in a very short period of time to make it apparent that unless Congress and the administration work in a cooperative way to try to provide a new opportunity for farmers to operate at a profit they are going to continue to go broke by the hundreds and the thousands and American agriculture is going to be down the drain. That is not overstating the problem, Mr. President.

We have about an hour within which to take this bill up and pass it and try to get together with the House, work out whatever differences may exist between the two bills, and get something to the President to authorize the implementation of this new program.

Every member of the Committee on Agriculture, according to my information, is supporting the proceeding to the consideration of the bill, save one. Three days ago we had a window of opportunity between the consideration of cloture motions and filibuster tactics, and whatever was going on with respect to the highway program and the continuing resolution, to bring this bill up.

We tried to get a unanimous-consent agreement worked out at that time, and it was not possible because of the objections of one Senator. I am hoping that during this period of time we can work out some way to agree to bring up the concerns of this Senator, and other Senators who may want to submit amendments, and let us vote on them, dispose of them, agree to them or reject them, and then go to conference and get this bill to the President for signing.

I do not know any other way we can provide any hope to American farmers to stay in business, Mr. President, unless we implement this program. We know it will not be an assured success, and we know it is fraught with difficulties of administration, but we will have opportunity as time goes on through the oversight activities here in Congress to help in consultation and discussions with the Department, fine tune the program, made modifications so that it will work. At least, Mr. President, it will give us some hope that there will be a possibility of profit on the farm if not in 1983 then certainly in 1984 because of the reduced surpluses that this program will achieve.

I am hoping that we can see others take another look at the situation we confront and try to come to some resolution of differences that may exist so that we can at least proceed to the consideration of the legislation.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator from South Carolina.

Mr. THURMOND. I rise in support of S. 3074, Agriculture Act of 1982, and sincerely hope it can be brought up today and passed today.

This bill authorizes a payment-in-kind, acreage diversion and conservation program for the 1983 and 1984 crops of wheat, feed grains, upland cotton, and rice. It is a much needed step toward restoring stability and profitability to America's farming sector.

And I might say, Mr. President, there is no segment of the population in America today that needs more help than our farmers.

In recent years, especially in the Southeast, farmers have suffered from high interest rates, severe weather conditions, and low farm commodity prices. These hardships have meant bankruptcy and foreclosures for many family farmers in my State. For this reason, I have been a strong supporter of acreage set-aside programs, in an effort to find a solution to the problems of oversupply and depressed commodity prices that exists in our agricultural sector today.

I recently wrote the Secretary of Agriculture, as well as the chairmen of both the Senate and House Agriculture Committees, expressing my support for a mandatory acreage set-aside program. Secretary of Agriculture John Block has opposed a mandatory set-aside because he felt such a program would unduly interfere with the freedom of farmers to operate their farm enterprises in the way they feel best. However, I am pleased to see that the Department of Agriculture, in conjunction with our Senate Agriculture Committee, has developed another alternative.

Mr. President, this bill will allow a farmer to receive Government-owned commodities in return for reducing production of surplus crops. This will provide direct assistance to the farmer by reducing his production cost, will reduce commodity surpluses in storage, trim the high cost of our Federal farm programs, and lead to more favorable commodity prices.

By helping to eliminate excessive stocks of commodities that depress our agricultural markets, farmers will soon be able to obtain decent prices for their products—and, hopefully, begin to earn a profit again after so many lean years. This much needed relief to the farming sector will trigger a resurgence in other related agricultural supply, marketing, processing, and transportation industries.

Mr. President, I am pleased to see that this proposal has bipartisan support, and that it is backed by the Secretary of Agriculture, as well as President Reagan. I am confident that this measure will be beneficial to all farmers, in all areas of the country. The problems in the agricultural economy have reached crisis proportions, making it essential that we act now to implement this new strategy in an effort to assure that widespread farm failures do not continue. By working to resolve these severe farm problems, we will not only help preserve a chosen lifestyle for thousands of family farmers, but we will provide a tremendous boost to our national economy.

Mr. President, I commend the initiative of the authors of this bill, the distinguished Senator from Mississippi (Mr. COCHRAN), and the distinguished Senator from Kentucky (Mr. HUDDLESTON). I would also like to commend my good friend from North Carolina (Mr. HELMS), the Honorable Chairman of the Senate Agriculture Committee, and others who played an important part in this. I am pleased to lend my support to this proposal, and I hope my colleagues will do likewise.

Mr. President, I cannot say too strongly how important I feel it is to act now. The farmers have suffered. Their farms are being foreclosed and now is the time to do something for them.

It has been suggested we wait and come back next year. Mr. President, I want to say that we ought to pass this bill now, pass it today. Then, if there are any kinks in it, we can iron them out when we come back here in the spring.

Mr. QUAYLE. Mr. President, I would like to register my strong support for the bill to authorize the PIK program. This bill should be passed without further delay. This program is necessary to address the crisis in farm income that has plagued the U.S. farm economy for the past 3 years. Moreover, this is a sound, innovative, and fiscally responsible approach to the problem of strengthening farm income. I want to commend Secretary Block, Assistant Secretary Bill Lesher, Senator HELMS, Senator, COCHRAN, Senator HUDDLESTON and all those who have worked so hard the past few weeks to make the PIK idea become a reality. This bill shows how responsible leadership can and should be marshaled to address a very real and very serious problem.

Mr. President, the farm sector is one of the principal pillars of the American economy. Although less than 5 percent of the population can still be counted as farmers, some 20 percent of our GNP is directly or indirectly related to the production and distribution of food. The American farm economy is the marvel of the world—it is efficient, cost-effective, tremendously innovative, and self-sufficient. Without a prosperous farm economy to build

on, we run the risk not only of a threat to our abundant and cheap supplies of food, but also a threat to the economic well-being of the entire Nation. We can already see some of the immediate ripple effects of the sluggish farm economy in the distressed state of implement makers, fertilizer makers, and dealers, and equipment suppliers. Additionally, we have seen a precipitous decline in the value of farmland, which is causing acute problems for both individuals and lending institutions whose loans are backed by farm real estate.

Not the least of the problems resulting from the decline in farm income is the tremendous rise in Federal CCC outlays to support farm product prices. When we passed the farm bill in 1981 we anticipated total CCC costs over a 4-year period at $10.4 billion. We saw this much and more spent in fiscal year 1982 as farm prices plummeted and the use of Federal storage and deficiency payments programs increased. We are now facing the prospect to another $12 to $14 billion in outlays in fiscal year 1983 because of the continued slump in prices. I need not remind my colleagues that we can ill afford expenditures of this magnitude in the current budgetary situation.

Mr. President, I am confident that the proposed PIK program which we have before us today is the correct approach to resolving the crisis in farm income. The PIK program will gradually whittle down the huge stocks of grain, cotton, and dairy products which are hanging over the markets and keeping prices at their present low levels. An added feature of the program which makes it even more attractive is that the new program will also cut Federal costs by reducing CCC stocks and by strengthening market prices.

I also want to commend the architects of the PIK program for addressing the demand as well as the supply side of the equation. We are all painfully aware that U.S. agricultural exports declined by 10 percent in value i the marketing year just completed. Much of this decline was undoubtedly caused by the effects of a sluggish world economy and the strength of the dollar. But we have also felt the effects of foreign competition which on many occasions is not conducted according to the rules of fair play and international accords. We all have seen instances of potential or actual U.S. markets being eroded or lost to subsidized foreign competition.

The bill we have before us today will provide our farmers and grain dealers the tools to meet such unfair competition head on. The authors of this legislation provide the Secretary with the authority not only to increase humanitarian donations to the needy throughout the world, but also to combat unfair competition by using our own surplus stocks to supplement and to sweeten export sales agreements.

Like the set-aside measures, the expanded export stimulation programs will serve the dual purpose of chipping away at surplus stocks and strengthening prices.

Mr. President, although I have great hope and great confidence in the PIK program, I do think we should recognize that there are certain potential problems associated with this innovative program. Our need to find a solution to current problems outweighs any potential difficulty with the PIK concept, but I do not think we should ignore some of the possible pitfalls.

First of all, we must remember that our current surplus in grain and other commodities is partly due to the favorable, almost miraculous, weather the past 2 years. We all know from painful experience that the situation could be reversed this coming year. The only lesson I want to draw from past experience is that we should not try to solve the surplus problem all at once—we should set our goals for reducing the surplus at very prudent levels. Based on his testimony to the Senate Agriculture Committee, I have great confidence that Secretary Block will design the program incentives in such a way as to achieve the modest reduction in stocks that is commensurate with both the gradual strengthening of prices and the need to retain reserves at a prudent level.

Second, because this is a new program that will be implemented on rather short notice, there are many questions related to administering the program equitably among all potential participants. I for one Senator would like to have had more details about how different farm operations could tailor their participation in the program, how it would affect suppliers and local economies, and what the payment-in-kind levels would be before being asked to approve the program. Again, however, I have the fullest confidence in Secretary Block and his staff that the program will be administered fairly and prudently.

Finally, Mr. President, I would like to note that the export stimulus programs authorized in this bill may, if used broadly, lead to violations of GATT trade rules. While I fully realize the need for the United States to become more aggressive in protecting its industry and its farmers against unfair competition, I think we should avoid the type of blunt and undiscriminating actions which might harm innocent third parties or lead us into a counterproductive trade war.

For instance, if we were to sell large quantities of our surplus dairy stocks on world markets and thereby depress world market prices, we would certainly be sending a strong signal to the EEC, but we would do more harm to New Zealand, which has always supported our free trade efforts, than we would to France. Likewise, I would not like to see generalized use of CCC stocks to supplement all foreign sales, because we would harm Australia and other U.S. supporters as much or more than the EEC.

Mr. President, I would strongly urge Secretary Block to use his strengthened export stimulus authority very selectively. I much prefer the concept of trade reciprocity advanced by Senators DOLE and DANFORTH and others to a blanket, acress-the-board trade war on agricultural subsidies. We should take care to target our export assistance to those cases in which we need it directly to combat subsidies by the EEC or others. We should use our own assisted sales in a selective way so that we achieve real reciprocity and avoid fighting a trade war which harms our friends as well as our foes indiscriminately. We should be tough and aggressive in combating foreign agricultural subsidies, but we should not use our own subsidies to harm our closest allies. Finally, I think we all realize that the first sector of the American economy to be hurt by a trade war would be the farm sector, since almost 40 percent of all U.S. grain production goes into export markets.

Mr. President, I believe all of these potential problems can and will be avoided by the skillful USDA team under Secretary Block. Again I commend the Secretary and all the others who have worked so diligently on this innovative program, and I urge immediate passage of the bill so that the American farm economy can get the boost that it needs and that is so overdue.

THE "PIC" BILL SHOULD HAVE BEEN ENACTED; THE FARMERS ARE THE LOSERS

Mr. HELMS. Mr. President, I commend Senator COCHRAN and Senator HUDDLESTON for their efforts to help American farmers through S. 3074.

The time has come for Congress to act. The farm economy is in distress, and farmers cannot afford to wait much longer for solutions. I regret that one Senator, the Senator from Montana (Mr. MELCHER) appears unwilling to permit the Senate to consider S. 3074. However, the Senator is exercising his rights.

The "payment in kind" idea is a fairly innovative approach to our farm problems. According to witnesses at our hearing, the program outlined by Secretary Block is projected to provide modest price strength in 1983, much stronger farm prices in 1984 and 1985, and savings in farm program costs of from $3 to $5 billion over the 3 fiscal years.

As the old saying goes: "If life gives you lemons, make lemonade." In this case, life has given us huge surpluses

of the major farm commodities. These surpluses depress market prices and are costly for the taxpayer to store.

Through the PIK program, we can convert these stocks from burdensome supplies into an incentive for farmers to reduce overproduction.

I believe this program deserves a chance to work. Congress should act without delay to clear the legal impediments so that the PIK program can operate with maximum effectiveness.

Recently I addressed the North Carolina Corn Growers in Raleigh. They had numerous questions and concerns about the PIK program, and I share those concerns. But I am even more concerned about what will happen if there is no PIK program.

According to the witnesses at our hearing, without a PIK program, prices will continue to be low, farm program costs will soar and surpluses will continue to pile up.

We could and should change all that. We could and should have acted today to clear the obstacles to a successful PIK program. I regret we were not afforded that opportunity.

PAYMENT-IN-KIND PROGRAM

Mr. DIXON. Mr. President, during consideration of the payment-in-kind program, a number of questions were raised by those of us on the Senate Agriculture Committee. Some of them were: What effect will this program have on prices? What effect will this program have on net farm income? What assurance does the farmer have that there will not be a depressing effect on prices when the grain is taken out of Government storage and placed on the market? Many of these questions are still unanswered by the U.S. Department of Agriculture.

During consideration of this program, I offered an amendment that was adopted by the Senate Agriculture Committee which gives the farmer some assurance regarding the value of the grain he receives under this program by providing a floor price. This amendment was directed at one of the major questions about the payment-in-kind program.

Under the amendment, in no case could the value of the commodities received by the producer fall below 75 percent of the basic county loan rate in effect during the marketing year in which the commodities are received by the producer. If the Secretary of Agriculture determines that the average market price for such commodity is less than 75 percent of the loan rate, the Secretary has a number of options, including authorizing the Commodity Credit Corporation to make cash payments, to assure that the producer receives this amount.

During consideration of S. 3074, the Agriculture Act of 1982, I had suggested a higher floor than that provided by the committee. Today, we would have reached a consensus for a higher floor price of 80 percent. This would have provided a floor of $2.12 per bushel for corn, $2.92 per bushel for wheat, 44 cents per pound for cotton, and $6.40 per cwt. for rice. Also, we could have provided funds for farmers who use conservation practices on the land taken out of production.

Mr. President, these are trying times on the American farm with commodity prices at the lowest level in years and net farm income at the lowest level since the days of the Great Depression. We must provide a program that is equitable and fair. We cannot transfer the total risk and responsibility from the Federal Government onto the backs of the American farmer. The floor provision helps provide a more fair and equitable assurance to the farmer if he or she participates in this proposed payment-in-kind program.

I, along with many of my colleagues on both sides of the aisle, have tried to reach a consensus regarding those areas that are still of concern to some of our colleagues, but to no avail. Many of us agree with my friend, the senior Senator from Oklahoma, that a time agreement should have been reached. This would have given Senators time to present their amendments and let the Senate determine the outcome of these matters.

In these closing days of the session, I met repeatedly with my colleagues on the Senate Agriculture Committee and worked assiduously to find a suitable plan we could offer to the full Senate. It is a tragedy that we did not produce what was needed. it is not tragic for the U.S. Senate alone. It is especially tragic that we did not provide the American and Illinois farmers and the Secretary of Agriculture with the tools to help reduce the surpluses that are depressing the markets and to reduce the cost of the commodity programs to the taxpayer. Though S. 3074 is not perfect, it is an improvement to the already announced farm program. I would have supported this measure had I had the opportunity to vote on the payment-in-kind program.

During the next session, I fully intend to pursue this concept and other measures designed to rescue the American and Illinois farmers from the economic straits now confronting us.

Mr. PERCY. Mr. President, I rise to urge my colleagues to pass this legislation, S. 3074.

Two weeks ago, I met in Springfield, Ill., with my Farm Advisory Committee, to discuss some of the critical issues facing our Nation's farmers. This legislative proposal was high on our agenda.

Mr. President, I value the advice and judgment of this group of Illinois farm leaders who have shared their collective wisdom with me for over 14 years. We spent 2 hours discussing the pressing problems facing the agricultural sector of our economy. The payment-in-kind (PIC) land diversion and conservation program proposal was endorsed by many of my farm advisers. The Secretary of Agriculture, John Block, has been working extremely hard to develop a proposal which will contribute to eliminating the huge surpluses and carryover stocks which hang over our great and productive agricultural machine. There is little doubt that something has to be done—and done now—about these problems.

In early December, the Illinois Farm Bureau, at their annual meeting in Chicago, voted to support this concept. It is not going to solve single-handedly the current situation. But it will contribute to establishing a course of action which will hopefully boost farm prices in the long run.

Mr. President, I am proud of the fact that I represent in the U.S. Senate the most efficent and productive agricultural State in the Union. Our farmers work hard and deserve a decent living. I am commited to staying here as long as necessary to see this legislation passed. How can we go home before we implement this alternative? Last summer, I spent 3 weeks traveling throughout the great Illinois farm counties—in fact, I have visited all 102 Illinois counties since my reelection—I have seen first hand the agony facing far too many Illinois farm families today. Every day my mail reflects these problems. Quite often a farm wife will sit down and write in her own words—I wish I had some of those moving letters in hand so that I could share them with my colleagues here today—about the struggles facing farmers.

Mr. President, the Senate Agriculture Committee has reported this legislation to the floor for consideration. They have worked hard on this bill—under trying conditions—it deserves our support. I have worked with the chairman of the committee, Senator HELMS, on this bill and other agriculture issues. For example, we are working together to urge the President to sign the legislation he has on his desk right now which would provide for contract sanctity for our worldwide agricultural trade. We have to restore confidence in our reliability as a supplier. This is just one of many farm-related matters which I am working on right now.

Mr. President, I ask unanimous consent that a background paper describing the new PIK program be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3074—BACKGROUND AND NEED

In recent years, large supplies and weak demand have resulted in low prices for farm

commodities. These same low prices have also resulted in large outlays for commodity price support progams. The result has been the buildup of excessive stocks both by the Commodity Credit Corporation and in the farmer-owned reserve.

There are a number of reasons why crop surpluses are so large, the principal of which is increased production. Over the past decade, many factors have propelled production upward. Among them, easy credit, heavy capital investment, rising prices and price supports, increased farm exports, acreage expansion, yield-boosting technology, and excellent weather in 1981 and 1982 in the United States and other key areas of the world.

On the other side of the supply-demand equation, weak demand is a global problem. It results from widespread recessions, the rising value of the dollar, and instability in Eastern Europe, Mexico and other traditional export markets. Furthermore, embargo related losses, East-West political tensions, and unfair trade practices have hurt export potential for farmers.

All of this has placed a tremendous stress on our farm economy. In addition to weak world demand, reduced exports, soaring stocks, and depressed farm prices, farmers have also had 3 years of poor farm income, a drop in farmland prices, costly credit, and solvency problems.

Government outlays for farm programs are skyrocketing. Outlays have tripled in 1 year from approximately $4 billion in 1981 to an estimated $12 billion in 1982. Without a change in farm program policy, outlays for Fiscal Year 1983 could climb higher, and reserve stocks and farm program costs could increase markedly.

On November 17, 1982, Secretary of Agriculture John Block met with members of the Senate Committee on Agriculture, Nutrition, and Forestry to discuss the outlook for the farm economy. At this meeting, the Secretary discussed the possibility of instituting a payment-in-kind (PIK) program for the 1983 crop year.

As proposed by the Secretary, a PIK program would operate as a paid diversion program, with farmers given grain from surplus stocks in return for their agreement to reduce production by specified amounts. The PIK program would be operated in addition to already announced price support programs for the 1983 crops of wheat, feed grains, upland cotton, and rice.

The immediate effect of such a program would be to reduce existing stocks of surplus commodities, and to reduce future outlays by the Commodity Credit Corporation. USDA estimates savings from a 2 year PIK program at $3 billion over 3 years.

After a period of discussion and opportunity for questions, Secretary Brock indicated that he believed that such a program could largely, if not totally, be carried out under existing authorities, but that legislative assistance would be helpful and clarify matters in several areas.

On December 3, 1982, Senators Cochran and Huddleston introduced S. 3074, "The Agricultural Act of 1982". This bill included expanded authority for the operation of a domestic PIK program, as well as authority for an export PIK program, and donation measures.

A hearing on S. 3074 was held by the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices on December 9, 1982. Testimony was received from farmers, farm organizations, and others. Secretary Block testified and answered questions on the Administration's approach to a PIK program.

Also on December 9, President Reagan announced his support for the operation of a PIK program for the 1983 crop year.

Subcommittee markup on S. 3074 was held on December 13, 1982. The subcommittee favorably reported S. 3074, with amendments, to the full committee.

On December 13, 1982, the full Committee on Agriculture, Nutrition, and Forestry met to consider S. 3074, as reported from subcommittee. Eight amendments were accepted, and the Committee in the presence of a quorum unanimously agreed to report S. 3074, as amended.

GENERAL EXPLANATION

Special payment-in-kind (PIK) land conservation program

The bill, as amended, would provide that the Secretary of Agriculture may carry out a special payment-in-kind (PIK) land conservation program for the 1983 and 1984 crops. Under the program, producers who divert acreage from production and carry out soil and water conservation practices on that acreage would receive payments in kind. Eligible producers would be those who produce wheat, feed grains, upland cotton, rice, or other nonconserving commodities designated by the Secretary (not to include peanuts, tobacco, sugar beets, or sugarcane).

Under the program, producers would receive an amount of commodities equal to the number of acres diverted from production multiplied by a percentage of the normal yield as established by the Secretary. For example, a corn farmer may have a typical crop yield of 100 bushels per acre. If the Secretary were to provide 75 percent of normal yield for PIK participants, the farmer would receive 75 bushels per acre for each acre diverted under this program.

In order to encourage participation, the Secretary would be authorized to adjust the percent of yield offered to producers to participate in the program in order to compensate for reduced yields resulting from double cropping.

The Secretary may also take bids from producers for land to be diverted, but for the 1983 crops, before using a bid procedure the Secretary must offer all producers a specified percentage of yield for participating in the program and allow producers to sign up for it.

Payments under this program shall be made by the delivery of actual commodities, the transfer of warehouse receipts, or by some other method determined by the Secretary, which could include cash payments. In no case could the value of commodities received by the producer fall below 75 percent of the basic county loan rate during the marketing year in which the commodities are received by a producer. The Commodity Credit Corporation would be authorized to make cash payments if necessary to assure that the producer receives this amount. Commodities must be made available in such a way as to minimize any adverse effect on normal marketings, and PIK commodities may not again be placed under Government loan.

In order to protect farm suppliers and other businesses in any local area, the total acreage diverted from production for a particular commodity in any county may not exceed 50 percent of the total acreage base for the commodity in that county in any year. The Secretary is required to provide adequate safeguards to protect the interests of tenant farmers and sharecroppers.

The Secretary is also authorized to allow producers to consolidate their acreage bases among farms under the PIK program.

Under the payment-in-kind concept, a farmer could receive government-owned commodities in return for reducing production of surplus crops. The intent is to provide farmers assistance, to utilize our market-depressing surpluses, and to reduce farm program costs.

American farmers have produced record crops of major grains for 2 years in a row. Record production in addition to high inventories is causing low farm prices.

The PIK program will help remedy both factors. Inventories will be reduced as CCC commodities are distributed in the form of in-kind payments to producers for participating in farm programs. New production will also be reduced because a farmer must remove a percentage of his acreage base from production in order to qualify for program benefits. An effective PIK program will reduce surplus stocks and strengthen farm prices.

In the interest of promoting orderly marketing, the Committee supports program provisions discussed during the markup session that (1) would extend to participating producers payment by the Commodity Credit Corporation for storage costs to commence with the issuance of PIK certificates to the point of sale or through the end of the marketing year whichever comes first and (2) would cause PIK certificates to be issued on a staggered schedule based on normal harvest times in individual States. Of course, payment for storage under PIK would apply only when the producer is incurring the cost of storing the grain.

Expansion of United States agricultural markets

The first section of title II of the bill authorizes the Secretary of Agriculture to tender, at zero cost, commodities acquired by the Commodity Credit Corporation through its price support operations to United States exporters and users, and foreign purchasers to encourage development, maintenance, and expansion of markets for U.S. agricultural commodities and their products.

The intent of this program is to increase the volume of agricultural commodities and products thereof and products produced using the commodities moving into foreign markets to reduce the amounts of these commodities in government stocks and to develop, maintain, and expand foreign markets. The Commodity Credit Corporation could provide commodities held by the CCC to U.S. exporters, users, or foreign purchasers as an incentive to foreign customers to purchase additional U.S. commodities above the level of normal marketings. For example, if a foreign purchaser that normally purchases a given quantity of a specific commodity agrees to purchase additional quantities, then an amount equal to some portion of the additional purchases could be provided at no cost to the foreign importer. In addition, it is contemplated that the Secretary could provide commodities or products even though purchases are less than normal marketings in case where such bonuses would contribute to maintaining or expanding U.S. markets.

Such bonus agricultural commodities could serve to reduce the overall cost of U.S. commodities to foreign purchasers and thereby increase the competitiveness of United States products. Commodities provided under the program could offset the

use of export subsidies by competing exporting nations.

The bill required that equal treatment be provided to domestic purchasers and users of U.S. agricultural commodities on the same basis as foreign purchasers and users that receive U.S. commodities and products where the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this provision would place domestic users of the commodity at a competitive disadvantage. In such a case in order to assure that domestic purchasers or users are not disadvantaged by the importation of a foreign manufactured product made, in whole or in part, from a commodity made available for export under the program, domestic purchasers or users would be eligible for receipt of a like amount of commodities or products.

In providing this authority the Committee does not want to worsen the problem now faced by the cotton industry resulting from foreign manufactured cotton products coming into the United States and competing unfairly with domestic products. Accordingly, the bill provides that the program shall be carried out in a manner that gives equal treatment to domestic users of U.S. agricultural commodities. In the case of cotton, this would be the processor, manufacturer, or other user who opens the bale of raw cotton. Any action taken by the Secretary under this provision, with respect to exports of cotton, is to be accompanied by comparable action for domestic users.

This bill, as amended, also provides that commodities or products shall be provided in such a manner so as to encourage increased utilization and avoid displacing normal sales. Commodities are not to take the place of domestic or foreign commercial sales or be reexported.

Expanded authority for use abroad of Commodity Credit Corporation stocks

Section 416 of the Agricultural Act of 1949 provides the Secretary of Agriculture the authority to donate surplus dairy products to needy persons in foreign countries. The bill, as amended, extends the authority for food donations under section 416 of the Agricultural Act of 1949 to other agricultural commodities and products acquired by the Commodity Credit Corporation. The commodities or products would be donated through foreign governments and public and private nonprofit humanitarian organizations for the assistance of needy persons outside the United States.

In order to facilitate movement of these donated commodities to needy individuals, the CCC may pay reprocessing, packaging, transporting, handling, and other charges, including ocean freight for overseas delivery, associated with the donated commodities or products.

Because the United States Government conducts food donation programs under other legislative authority, the provision requires the Secretary of Agriculture to ensure that donations under this authority complement, and are coordinated with, other United States foreign assistance programs, such as the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480).

This provision would also permit increased exports of CCC surplus commodities under titles I and III of the Agricultural Trade Development and Assistance Act of 1954, and such exports would be in addition to the level of assistance programmed under that Act.

Distribution of surplus commodities

The bill as amended provides additional authority to the Secretary of Agriculture for the disposition and use of CCC-owned agricultural commodities.

Current law provides that surplus commodities owned by CCC may be distributed through certain food and nutrition programs. The bill provides that the Secretary shall encourage use of the commodities by contracting with private companies to have commodities processed into finished food products. The end products would then be used by eligible recipients, who would pay the cost of processing.

The intent is to increase consumption of surplus commodities by providing schools and other eligible recipients the opportunity to have bulk commodities from the Department of Agriculture processed into desired end food products at their own expense. For example, donated cheese might be processed into tacos, pizza, or other items.

The provision places no obligation on individual schools or States. Such processing, however, would provide schools with additional options for using free, bonus USDA commodities.

CCC sales of extra long staple cotton

The bill, as amended, allows the Commodity Credit Corporation to sell its stocks of extra long staple (ELS) cotton at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton. Currently, the minimum price at which ELS cotton can be sold for unrestricted use is 115 percent of the loan rate as provided under the Agricultural Act of 1949. Removal of this restriction on the sale of extra long staple cotton will provide the Secretary with greater flexibility to effect the reduction of surplus stocks while at the same time allowing extra long staple cotton to be more competitive in both domestic and export markets.

Disposition of dairy products

The United States is currently storing large quantities of dairy products purchased under the dairy price support program. With the likelihood that sizeable quantities of the stored dairy products will not be resold in the domestic market because of restrictions in law prohibiting resale below certain price levels, it behooves the United States to export as much of its dairy surplus as possible in order to reduce Government outlays and recover expenditures made by the Commodity Credit Corporation in purchasing dairy products. Other nations export large quantities of dairy products into the world market either with the aid of subsidies or by donations.

Under the bill, the Secretary is encouraged to donate, or to export at the best price possible, at least 50,000 metric tons of dairy products during each of the fiscal years 1983 through 1985. In addition, the Secretary is required to report semiannually to Congress on the status of such donations and sales.

The Committee encourages the Secretary to take aggressive action in the area of U.S. dairy product exports.

Presidential report on the status of negotiating a new long-term grain sales agreement with the Soviet Union

The bill requires the President to report to Congress by December 31, 1982, on the reasons for maintaining the measures announced on December 29, 1981, postponing entering into negotiations on a new long-term grains agreement with the Soviet Union.

After the imposition of martial law by the military government in Poland on December 13, 1981, the United States took a number of trade-related actions to demonstrate its displeasure.

On December 29, 1981, the Reagan Administration announced specific measures to convey its disappointment with the involvement of the Soviet Union in the imposition of martial law in Poland. Included among the measures taken by President Reagan at that time was the announcement that the United States would postpone negotiations on a new long-term grain agreement with the Soviet Union. This position has remained in effect, and the Committee provision would elicit the reasons for the continuation of that position.

EXPLANATION OF THE COMMITTEE'S SUBSTITUTE TO S. 3074, AS REPORTED

1. Authorizes a payment-in-kind ("PIK") land diversion and conservation program for 1983 and 1984 crops of wheat, feed grains, upland cotton, rice, and other nonconserving crops (excluding sugar cane, sugar beets, tobacco, and peanuts). Under the "PIK" program—

Payments would not be subject to current law restrictions on the resale of CCC stocks or payment limitations;

Producers would be required to divert acreage from production to conservation uses and to comply with other terms specified by the Secretary;

Payments would be made by CCC by delivery to producers of commodities or warehouse receipts, in cash, or by other methods determined by the Secretary;

The value of commodities received by producers could not be less than 85 percent of the basic county loan rate for the commodity involved;

Commodities received by producers could not be put under the annual commodity programs;

Not more than 50 percent of the eligible acreage for a crop in a county can be diverted, in one year;

All producers of a crop for which a PIK is authorized for 1983 will have the opportunity to participate on an equal basis in the program;

Adjustments in program yields are authorized for producers who practice double-cropping;

Consolidation of farm acreage bases is allowed;

Normal marketings are protected; and

Protections are provided for tenants and sharecroppers.

Urge the Secretary to consider production expenses incurred for commodities already planted, in determining the payment rate for 1983 crops.

2. Provides that commodities may be tendered at no cost to exporters, users, and foreign nations to encourage foreign market development for U.S. commodities. Under the export "PIK" program—

Domestic users are provided equal treatment relative to foreign purchasers and users in cases where domestic users may be disadvantaged as a result of the program;

CCC will use qualified stocks to encourage increased use and avoid displacing usual marketings of the United States; and

CCC will take reasonable precautions to prevent resale or transshipment of commodities.

Allow the use of any CCC owned commodities, not just commodities acquired through

price support operations, under the export PIK program.

3. Expands current authority (to donate stocks of dairy products to needy persons in foreign countries) to include donations of other CCC agricultural commodities and products thereof, and authorizes the use of CCC commodities under titles I and III of Public Law 480, in addition to programmed levels.

Allow voluntary agencies to receive CCC donated commodities, under section 416, and to barter, sell, and distribute such commodities for the assistance of needy people.

4. The Secretary is encouraged to make available eligible products from CCC stocks directly to processors who contract with school lunch authorities.

Provide for making CCC stocks of surplus commodities available without charge or credit to special distribution programs developed by the States.

5. Allows the CCC to sell extra long staple cotton to maintain and expand export and domestic markets for such cotton.

6. Encourages the Secretary of Agriculture to donate or sell abroad at least 50,000 metric tons of CCC dairy products in each of fiscal years 1983-1985.

7. Authorize the use of CCC stocks to guarantee financial commitments and feedstock supplies in connection with alcohol fuels plants.

8. Authorize the Secretary of Agriculture to purchase commodities from farmers who have products stored in bankrupt grain warehouses.

9. Extend from March 1, 1983 to April 30, 1984, the deadline for filing with Congress the report of the Soybean Research Advisory Institute.

Mr. HEFLIN. Mr. President, I support the bill as considered and reported by our Senate Agriculture Committee. I have serious reservations about the bill as passed by the other Chamber. Our farmers are in dire economic circumstances. They are in a depression, not a recession, and we should make it our particular business to pass a bill to provide meaningful assistance to our farmers before this Congress adjourns. I think a PIK program, as outlined in the Cochran-Huddleston bill, could be an excellent approach. I think it provides safeguards for the farmers, safeguards for the agribusiness, and safeguards for communities that are needed in connection with the administration and carrying out of any payments-in-kind program.

The House-passed, bill, on the other hand, is a broad grant of power to the Secretary of Agriculture with no safeguards whatsoever. This bill leaves entirely to the discretion of the Secretary of Agriculture the details pertaining to the program. I think that there are no real mandatory features to go forward with certain things in administering the PIK program as we have inserted in the Senate bill.

As I review our farm situation and farm legislation, things come to my mind. When I first came to the Senate, everybody was saying that the Secretary of Agriculture has too much discretion. When we passed the farm bill last year, there was a general philosophy: "Do not give the Secretary of Agriculture a blank check. He will not exercise it"—not meaning the present one, but meaning those that occupy that position—"for the real benefit of the farmer."

Now, here we are today thinking about the possibility of passing the House PIK program, which is obviously the administration's bill, with no safeguards or restraints whatsoever on the Secretary of Agriculture. Back on November 24, during the recess, I believe, a number of Senators were in Washington and met with officials of the Department of Agriculture, including the Secretary of Agriculture, about this program and at that time asked for some specific details. The officials were asked to consider how this program would affect each of the commodities involved, to give the Congress some goals, to give the Congress some ideas on what they were seeking, to give us some formulas. And here nearly a month later we have not yet received anything whatsoever from either the Secretary or the Department. The recent hearings on the PIK proposal also failed to provide any details to the Senate Agricultural Committee and the Congress.

We have not yet been furnished with any of the details as to formulas by which PIK payments would be given and all of the various commodities that would be affected. All we know is that the program is to be left to the discretion of the Secretary of Agriculture.

I realize that some of this program has to be developed by regulation. But the Cochran-Huddleston bill approaches this from the viewpoint of providing some needed safeguards to our farmers. I think that our Senate Agriculture Committee has come up with a good bill that gives the right amount of discretion to the Department of Agriculture in the short time we have had to reconsider the PIK proposal.

Now, if this bill fails to pass, I think that the Department of Agriculture must share a large measure of the blame due to its failure to come forth with any of the details requested by many of us who serve on the Senate Agriculture Committee. In a month's time, they could tell, I think, tell us how they intend to operate this program. But spokesman and policymakers for the Department of Agriculture have remained silent on the details we have requested and sought. I repeat if this measure does not pass, then the Department of Agriculture has to bear the major share of the responsibility for its failure.

The Cochran bill gives a lot of discretion to the Secretary of Agriculture, more so than I would like, but I would support it under the circumstances and inasmuch as time is of the essence insofar as providing some relief to our hard-pressed farmers. But if we have to accept the House bill which does not contain any of the safeguards we have provided in Cochran-Huddleston bill then I could have some serious reservations about the feasibility of passing any kind of payments-in-kind legislation until early in the next Congress until we have had an opportunity to study the matter thoroughly. Let me mention some of the safeguards in the Senate bill. We have conservation practices allowing for the growing of certain crops. We also have safeguards where double cropping is concerned. None of that would be giving the discretion to the Secretary of Agriculture. There is a floor at 75 percent of the county's basic loan rate in regard to PIK payments. There are farm consolidation safeguards and admonitions. There are landlord-tenant share cropper safeguards and admonitions. These are all listed in the Senate PIK bill and it could be that the Secretary of Agriculture could ignore these safeguards and admonitions if he is given the blank check as invisioned in the House-passed PIK legislation.

I support the Cochran bill. I am willing to go ahead with the payments-in-hand program which was formulated by our Senate Agriculture Committee. But I think I can assure anyone who has any reservations about the payments-in-kind concept that, it is gonig to get very close scrutiny by this Senator unless the Cochran-Huddleston provisions dealing with the domestic PIK programs are contained therein, particularly the safeguards I have previously mentioned.

I think we ought to go ahead. We can have some time to work out any issue which may be in dispute. I think if there are dangers that come as a result of the conference activity we can have an opportunity to fully discuss the bill before we adjourn.

I would like to see us move forward with the Cochran-Huddleston bill. I think this is as good a bill as we can come up with at this time. It has many adequate safeguards in it and it also gives a lot of discretion to the Secretary of Agriculture, maybe too much, but I am willing to give that discretion to the Department of Agriculture and to the Secretary in order to get something moving in the quest to restore prosperity to American agriculture.

So I urge my colleagues to move forward and let us adopt the Cochran-Huddleston bill. It is by far and away the best approach to the payments-in-kind concept.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I want to respond to a few of the points

of my colleagues and respond to some of them.

First, it has been said that we have a bill today or it is too late. Well, in the first place, a bad bill is too early and you live with it too long, a PIK in a poke.

Let us talk about the changes that will not happen very readily. The Secretary of Agriculture has very positively said what he wants. What he wants is a bill that will give him broader authority to enter into this without some guidelines, without some restraints, and without some protection in the marketplace for those producers. Mind you, that protection is what I am talking about. PIK will not take care of all the farmers. PIK is not designed to take care of all the farmers. PIK is designed to take care of perhaps 20 percent of the agricultural producers of this country in the commodities that it covers. Those are wheat, feed grains, cotton, and rice.

Perhaps there are some of those commodities, my colleagues could advise me, where a signup, a participation in the program of more than 20 or 25 percent would be likely to occur. But I can speak for wheat producers, that the Secretary of Agriculture anticipates that perhaps 25 percent of the farmers who grow wheat would participate in the program.

What does that mean for the other 75 percent who are not participating?

What they are afraid of, and I will make this point again, is that their market prices will be lower due to two things: First of all, the warehouse receipts may be cashed in very promptly after they are given out by the Secretary of Agriculture. Second, the removal of the triggering mechanism on the farmer's own reserve. The House-passed bill and the Senate bill do remove that because the Secretary of Agriculture contemplates using grain out of the farmer's own reserve to give them either the payment in kind, which would be the wheat or the feed grains, or to use for the warehouse receipt.

These are very valid concerns.

Another point that has not been mentioned at all in this discussion this afternoon has been what is the effect of the bill on sharecroppers? What is the effect of the bill on tenants?

That language, as far as I could find in going over it very thoroughly, is not included in the bill.

It is said that we can make corrections. I hope if we do take up the bill we are able to make those corrections in the right way.

Forty-five minutes ago when other Senators were speaking, it was discussed that perhaps in an hour and a half we could complete action on this bill. This is the largest industry in the country, and we are going to complete a major overhaul in an hour and a half?

I yield to the majority leader.

Mr. BAKER. The last remark of the Senator caught my attention. Indeed, an hour and a half ago we said we were going to do this in an hour and a half. There is no chance, in my opinion, that you are going to do this. There are a lot of other things that we need to do that we can do by unanimous consent.

I thank the Senator for yielding the floor so that we can go forward with things that will accommodate a great number of Senators, disposing of a great number of calendar items and Executive Calendar work that ought to be done.

THE CALENDAR

Mr. BAKER. I inquire of the majority leader if he is prepared to go through this list of actions which have been cleared on my side by unanimous consent.

Mr. ROBERT C. BYRD. Yes, Mr. President.

REAUTHORIZE THE DEEP SEABED HARD MINERAL RESOURCES ACT FOR FISCAL YEARS 1983 AND 1984

Mr. BAKER. Mr. President, the first item on my list is to discharge the Energy Committee from consideration of H.R. 6120. I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 6120, the Deep Seabed Hard Minerals Act, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6120) to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6120) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCHANGE OF CERTAIN LANDS IN MONO COUNTY, CALIF.

Mr. BAKER. Mr. President, I ask if the minority leader is agreeable that the Senate turn to the consideration of Calendar Order 984, H.R. 2475, the Mono County, Calif., bill.

Mr. ROBERT C. BYRD. We have no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2475.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 1 to the bill (H.R. 2475) entitled "An Act to modify a withdrawal of certain lands in Mono County, California, to facilitate an exchange for certain other lands in Mono County, California, and for other purposes."

Resolved, That the House disagree to the amendments of the Senate numbered 267, inclusive, to the aforesaid bill.

Mr. BAKER. Mr. President, I move that the Senate recede en bloc from the amendments 2 through 7.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

INDIAN CLAIMS

Mr. BAKER. Mr. President, I ask if the minority leader is agreeable that the Senate turn to consideration of Calendar Order 948, H.R. 3731.

Mr. ROBERT C. BYRD. Mr. President, we have no objection.

The Senate proceeded to consider the bill (H.R. 3731) to amend the act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 3, after line 22, insert the following:

Such plan or plans shall be limited to urgent needs arising from extenuating circumstances and shall accord with general principles governing administration of trust funds of minors and legal incompetents, including a requirement for strict accounting for expenditures.

(b) Clause (5) of section 3(b) of said Act is hereby striking out "warrant otherwise" and inserting in lieu thereof the following: "warrant otherwise: Provided, That in the development of such plan the Secretary shall survey past and present plans of the tribe for economic development, shall consider long range benefits which might accrue to the tribe from such plans, and shall encourage programing of funds for economic development purposes where appropriate.".

On page 4, strike line 11, through and including line 5, page 5, and insert the following:

SEC. 3. (a) Subsection (a) of section 5 of said Act is amended by deleting "either House adopts a resolution" and inserting in lieu thereof "a joint resolution is enacted".

(b) Subsection (b) of section 5 of said Act is amended by deleting "adoption of a resolution" and inserting in lieu thereof "enactment of a joint resolution".

(c) Section 5 of said Act is amended by adding the following new subsections at the end thereof:

"(c) Within the sixty-day period and before the adoption of any resolution disapproving a plan, the Secretary may withdraw or amend such plan: Provided, That any amendments affecting the division of an award between two or more beneficiary entities shall be subject to the consent of these entities as provided in section 2(d) of this Act. Any such amended plan shall become valid at the end of a sixty-day period beginning on the day such amendment is submitted to the Congress, unless during such sixty-day period, a joint resolution is enacted disapproving such plan as amended.

"(d) Once a plan is withdrawn before the end of a sixty-day period, the Secretary has until the expiration of the original one-year deadline to resubmit a plan to Congress. Such a plan shall become valid at the end of a sixty-day period beginning on the day such new plan is submitted to the Congress, unless during such sixty-day period, a joint resolution is enacted disapproving such plan.

"(e) Upon the introduction of the first such resolution of disapproval in either the House of Representatives or the Senate, the sixty-day period shall be recomputed from the date of such introduction and shall not again be extended.".

On page 6, strike line 14, through and including line 22, and insert the following:

"SEC. 7. None of the funds which—

"(1) are distributed per capita or held in trust pursuant to a plan approved under the provisions of this Act, or

"(2) on the date of enactment of this Act, are to be distributed per capita or are held in trust pursuant to a plan approved by the Congress prior to the date of enactment of this Act,

including all interest and investment income accrued thereon while such funds are so held in trust, shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted program.

Mr. BAKER. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

● Mr. COHEN. Mr. President, H.R. 3731 is a bill to amend the act of October 19, 1973 (87 Stat. 466), which established a uniform policy and procedure for the distribution of judgment funds awarded Indian tribes or groups by the Indian Claims Commission or the U.S. Court of Claims. Prior to enactment of the 1973 act, it was encumbent upon the Congress to enact special legislation to provide for distribution of these awards in each and every case. The 1973 act was intended to alleviate this burden upon the Congress by establishing an administrative procedure which still remained subject to congressional review. Over the years a number of deficiencies have been discovered in this legislation. The purpose of H.R. 3731 is to rectify these shortcomings and again relieve the Congress of this legislative burden while still preserving the review function incorporated in the original act.

Mr. President, the first of the two amendments I have sent to the desk I am offering at the request of Senator MELCHER. The purpose of this amendment is to make the provisions of section 7 of this bill retroactive to judgment fund distribution plans approved by the Congress subsequent to December 31, 1981. Judgment funds awarded against the United States or taking of Indian lands or assets have customarily been treated as exempt from State or Federal taxation, and such funds also have generally been exempt from consideration as a resource for purposes of programs under the Social Security Act and the Food Stamp Act. Sometime late in 1981, however, it was determined that the exemption of these funds from consideration as a resource for purposes of the Food Stamp Act was not legally well founded. Section 7 of H.R. 3731 provides that in future distributions under this act, only those funds in excess of $2,000 per capita shall be considered as a resource for purposes of Federal or federally assisted programs. The amendment I offer on behalf of Senator MELCHER would make this provision retroactive to funds distributed since 1981, or purchases made with such funds.

Mr. President, the second amendment I offer provides that interests of individual Indians in trust or restricted lands, lands that cannot be alienated without the consent of the United States, shall not be considered a resource in determining eligibility for assistance under the Social Security Act or any other Federal or federally assisted program. The 1981 Omnibus Reconciliation Act (Public Law 97-35) adopted a new policy for determination of eligibility for these programs that excluded from eligibility for such programs as AFDC and medicaid under the Social Security Act, any person owning an interest in real property with a value greater than $1,000. It does not appear that in adopting this standard any consideration was given to problems or policies associated with Indian trust or restricted land which cannot be alienated without the consent of the United States.

Mr. President, certain States have determined that Indian trust and restricted lands must be considered a resource in determining eligibility for assistance under these programs and the status of Indian dependent on these programs is now in doubt. Funds have not been appropriated to the Bureau of Indian Affairs to cover the increase in General Assistance this policy will bring about. Funds have been appropriated to the Department of Health and Human Services to provide these services on the same basis as in previous years. Mr. President, I believe this policy is unfair to the Indian people who are caught in the switches, and it creates disruption between the agencies who are responsible for the programs.

Mr. President, underlying this problem is a long standing dispute among the States and the United States with respect to "primary" or "residual" responsibility of the two units of Government where Indians are concerned. I do not believe this issue should be fought out over the question of Indian eligibility to social programs. I do, however, believe there are meritorious arguments that can be present by both the States and Federal Government. For this reason I would recommend hearings in the 98th Congress to properly explore this issue in a considered fashion.

I ask unanimous consent that these amendments be agreed to, and that the bill as amended be adopted by the Senate.●

● Mr. ABDNOR. Mr. President, I appreciate the concerns expressed by the distinguished chairman of the Select Committee on Indian Affairs regarding the difficult issues surrounding the statutory basis for eligibility for aid to dependent children benefits under existing law.

The unique relationship between the native American population and the Federal Government often creates extreme difficulties for our States.

This is especially true for those States, including my own of South Dakota, which contain large Indian reservations within their borders. This is further aggravated by the complex and sensitive issues of jurisdiction.

There appears to be a lack of uniformity in how the individual States are treated under current Federal and Bureau of Indian Affairs (BIA) programs. Gov. William Janklow, of my State, has expressed his concerns about these inequities and I am sure that other Governors have as well.

This is neither the time nor the place to pursue these delicate issues. But, I am pleased that the distinguished chairman from Maine has indicated that his committee will attempt to address these issues at greater length in the next session of Congress.●

UP AMENDMENT NO. 1566

Mr. BAKER. Mr. President, I send to the desk two amendments by the distinguished Senator from Maine (Mr. COHEN), and I ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. COHEN, proposes an unprinted amendment numbered 1566.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After subsection (2) of section 7, add the following: "or,".

"(3) were distributed pursuant to a plan approved by Congress after December 31, 1981, but prior to the date of enactment of this Act, and any purchases made with such funds,".

At the end of the bill, add a new section 8 as follows:

"SEC. 8. Interests of individual Indians in trust or restricted lands shall not be considered a resource in determining eligibility for assistance under the Social Security Act or any other Federal or federally assisted program."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1566) was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3731), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLAIM SETTLEMENT

Mr. BAKER. Mr. President, I propose to go to Calendar Order No. 779.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection, Mr. President.

The PRESIDING OFFICER. The clerk will state the bill.

The legislative clerk read as follows:

A bill (H.R. 1029) to amend section 1 of the Act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1567

(Purpose: To increase the penalties for violations of the Taft-Hartley Act, to prohibit persons, upon their convictions of certain crimes, from holding offices in or certain positions related to labor organizations and employee benefit plans, and to clarify certain responsibilities of the Department of Labor)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk, on behalf of Mr. NUNN, an amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. NUNN, proposes an unprinted amendment numbered 1567.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page , line , insert the following:

SEC. . (a) Subsection (d) of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) is amended to read as follows:

"(d)(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.

"(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.".

(b) Subsection (e) of such section is amended to read as follows:

"(e) The district courts of the United States and the United States courts of the territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 of the Federal Rules of Civil Procedure (relating to notice to opposite party), over—

"(1) suits alleging a violation of this section brought by any person directly affected by the alleged violation, and

"(2) suits brought by the United States alleging that a transaction involving a payment, loan, or delivery of money or other thing of value to a labor orgainzation in payment of membership dues or a joint labor-management trust fund as provided for in clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee violates this section, to restrain such violations without regard to the provisions of section 6 of the Clayton Act (15 U.S.C. 17), section 20 of such Act (29 U.S.C. 52), and sections 1 through 15 of the Act entitled 'An Act to amend the Judicial Code to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932 (29 U.S.C. 101-115.)

"SEC. . (a) So much of subsection (a) of section 411 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111) as follows "the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401)," is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

"(1) as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative in any capacity of any employee benefit plan,

"(2) as a consultant or adviser to an employee benefit plan, including but not limited to any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan, or

"(3) in any capacity that involves decision-making authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, and unless prior to the end of such period, in the case of a person so convicted or imprisoned (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in paragraphs (1) through (3) would not be contrary to the purposes of this title. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice to such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly

hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan or as a consultant to any employee benefit plan without a notice, hearing, and determination by such Parole Commission that such service would be inconsistent with the intention of this section.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who intentionally violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) The term 'consultant' means any person who, for compensation, advises, or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

"(3) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section is amended by adding at the end thereof the following:

"(d) Whenever a person—

"(1) by operation of this section, has been barrred from office or other position in an employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of that person's conviction on appeal, the amounts in escrow shall be returned to the individual or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such perosn was previously barred.".

SEC. (a) So much of subsection (a) of section 504 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) as follows "or a violation of title II or III of this Act" is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes, shall serve or be permitted to serve—

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director trustee, member of any excecutive board of similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce.

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization,

"(5) in any capacity that involves decision-making authority concerning, or decision-making authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, and unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section 504 is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in a labor organization or employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any postion from which such person was previously barred.".

SEC. . (a) The first paragraph of section 506 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by striking out "In order" and inserting in lieu thereof the following:

"(a) COORDINATION WITH OTHER AGENCIES AND DEPARTMENTS.—In order".

(b) Such section is amended by adding at the end thereof the following new subsection:

"(b) RESPONSIBILITY FOR DETECTING AND INVESTIGATING CIVIL AND CRIMINAL VIOLATIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS.—The Secretary shall have the responsibility and authority to detect and investigate and refer, where appropriate, civil and criminal violations related to the provisions of this title and other related Federal laws, including the detection, investigation, and appropriate referrals of related violations of title 18 of the United States Code. Nothing in this subsection shall be construed to preclude other appropriate Federal agencies from detecting and investigating civil and criminal violations of this title and other related Federal laws.".

(c) The title of such section is amended to read as follows:

"Coordination and responsibility of agencies enforcing Employee Retirement Income Security Act and related Federal laws".

SEC. . (a) The amendment made by section 3 and section 4 of this Act shall take effect with respect to any judgment of conviction entered by the trial court after the date of enactment of this Act, except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this Act if a right of appeal or an appeal from such judgment is pending on the date of enactment of this Act.

(b) Subject to subsection (a) the amendments made by sections 3 and 4 shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 in effect on the date of enactment of this Act.

● Mr. NUNN. Mr. President, I wish to offer an amendment to H.R. 1029 which will revise current Federal labor laws to more effectively combat the problem of labor corruption. Senators HATCH, CHILES, RUDMAN, and NICKLES join me in introducing this legislation. The amendment will increase the criminal penalties for violations of the Taft-Hartley Act, prohibit immediately upon conviction of certain crimes persons from holding certain positions in unions or employee benefit plans, and clarify the Department of Labor's responsibilities to investigate and refer allegations of criminal activity. As worded, the amendment is identical to S. 1785, the Labor Management Racketeering Act of 1982 which I intro-

duced on October 28, 1981, reported favorably out of the Senate Labor and Human Resources Committee, and passed by unanimous consent in the Senate on July 28 of this year. I am introducing the bill this morning as an amendment to H.R. 1029 in an effort to insure prompt passage of the bill into law during this session.

I might point out that this legislation has received enthusiastic support from a wide range of interests. It has been endorsed by the Department of Labor, the Department of Justice, Lane Kirkland of the AFL-CIO, as well as George Lehr of the Teamsters Central States Pension Fund.

Of particular note was Lane Kirkland's endorsement of the bill in his testimony before the Permanent Subcommittee on Investigations in October 1981. We have worked very closely with Mr. Kirkland and the AFL-CIO in ironing out possible difficulties in the bill. Their cooperation and support has undoubtedly added significantly to the merits of this legislation.

The amendment attempts to remedy serious problems concerning the infiltration of some unions and some employee benefit plans by corrupt officials who have no real concern for the well-being of the honest rank-and-file union members they pretend to represent. Those problems were graphically illustrated in public hearings on waterfront corruption before the Permanent Subcommittee on Investigations in February 1981. The legislation, which is now before us, is a direct result of those hearings. As ranking minority member and former chairman of the subcommittee, I had the opportunity to direct an extensive staff investigation of criminal activity within both the International Longshoremen's Association—ILA—and the American shipping industry.

This set of hearings followed a very extensive investigation of the waterfront and the corruption on the waterfront by the U.S. Department of Justice and the FBI. They did a superb job.

In 1975 the Justice Department launched a nationwide investigation of racketeering on our waterfronts. This sweeping inquiry culminated in the criminal convictions of more than 100 high-level ILA officials and shipping company executives.

These persons were charged with a variety of offenses ranging from violating the Taft-Hartley Act to extortion, payoffs, kickbacks, threats, intimidation, obstruction of justice, and income tax evasion.

Spurred by the success of the Department of Justice's UNIRAC investigation, the subcommittee staff interviewed numerous witnesses and reviewed countless other items of evidence in order to convey to the American public an accurate portrait of the American waterfront in the 1980's. That portrait, as presented in 2 weeks of hearings in February of last year, is, unfortunately, a dismal one. Witness after witness described the struggle for economic survival in some ports which are riddled with a pervasive pattern of kickbacks and illegal payoffs to union officials.

My colleagues and I heard of payoffs to insure the award of work contracts, payoffs to maintain contracts already awarded, payoffs to insure labor peace, payoffs to allow management circumvention of labor strikes, payoffs to prevent the filing of fraudulent workmen's compensation claims, payoffs to expand business activity into new ports, and payoffs to accord certain company the freedom to circumvent ILA contract requirements with impunity.

Especially disturbing is the fact that the evidence clearly suggests that, through that system of payoffs, recognized leaders of the traditional organized crime families influence and effectively dominate the International Longshoremen's Association and large segments of the American shipping industry. Again this year our subcommittee, in public hearings on the Hotel Employees and Restaurant Employees International Union, received evidence of the corrupt influence of organized crime in labor-management relations in other industries. It is a sobering event, indeed, to learn that substantial portions of our national economy have fallen prey to the influence of organized crime.

I might add that their investigation and the revelations that came from that, with the cooperation we had from the Justice Department and the FBI, were absolutely essential in both the hearings and in the framing of this legislation.

In the case of the waterfront industries, we were told that a payoff is commonly treated as a mere cost of doing business which can be, and is, routinely passed on as an added cost to the consumer. Our traditional and cherished notions of free enterprise have become nearly nonexistent in some ports of this country.

These payoffs, though illegal under current law, are punishable only as a misdemeanor.

The amendment makes any such violation involving an amount of money greater than $1,000 a felony, punishable by up to 5 years imprisonment or a fine of up to $15,000, or both.

Our proposal also attempts to rid labor organizations and employee benefit plans of the influence of persons convicted of criminal offenses. Current disbarment provisions—29 U.S.C. 504 and 29 U.S.C. 1111—are expanded in several significant ways: Enlarging the categories of persons affected by the disbarment provisions; increasing the time barred from office or position from 5 to a possible maximum of 10 years; and providing for disbarment immediately upon conviction rather than after appeal.

The amendment does provide that any salary otherwise payable shall be placed in escrow pending final disposition of any appeal.

Finally, our hearings examined more than the ways and means of criminal corruption itself. We also explored the adequacy of law enforcement's response to this corruption. As for the waterfront, several things quickly became obvious: First, that the Department of Justice, through a massive assignment of resources and manpower in UNIRAC, had had great success in the short run; second, that, if we are to eliminate such corruption on a permanent basis, continuous monitoring and enforcement efforts are required; and third, that the Department of Labor had generally failed to participate in criminal law enforcement efforts in this area. To correct this problem and to maximize available law enforcement resources in this area, the amendment clearly delineates the responsibility and authority of the Department of Labor to actively and effectively investigate and refer for prosecution criminal activities on the waterfront.

In sum, I want to stress again that the provisions of this bill are designed to protect the best interests of labor and management, as well as the American consumers. Our hearings strongly indicated that corruption within the leadership of the ILA, as documented by the conviction of numerous ILA officers, is depriving the average longshoreman of the full benefits of his union membership. Not only did the ILA itself fail to act to remove those officials and prevent further corruption, but ILA President Teddy Gleason himself testified, with apparent lack of concern, that the ILA "will have to * * * run a rehabilitation center." By contrast, the provisions of this amendment will protect the union member where corrupt officials have failed to do so.

Mr. President, the record is clear that the vast majority of union officers, employee benefit plan officials, and rank-and-file union members are honest, hard-working, law-abiding citizens. Our Nation can and should be justifiably proud of the enormous contribution our unions have made to the economic and social strength of the United States. But our hearings have shown that a small group of parasites have fastened themselves onto the body of the labor movement. These parasites are perverting the true interests of the union members they claim to represent through a pattern of payoffs and extortion. The unions have labored to shed themselves of these people, but in many cases they have been unable to do so alone. I believe

that the unions need our help here in Congress. I believe that this amendment is a major step forward in providing the extra assistance needed for the unions to finally rid themselves of those corrupt officials who are motivated not by the welfare of the American worker but by their own greed.

I submit a section-by-section analysis of my amendment.

The analyses is as follows:

Section amends section 302(d) of the Taft-Hartley Act to provide that willful violations involving labor bribery or a payoff of an amount in excess of $1,000 shall be a felony punishable by a fine of not more than $15,000 or imprisonment for not more than five years or both. Crimes involving amounts of less than $1,000 would continue to be misdemeanors subject to the current penalties of $10,000 and/or 1 year imprisonment.

The amendment grants special treatment to subsection 302(c)(4) through (9). These subsections contain exceptions to the prohibitions contained in sections 302(a) and (b). These exceptions often are technical in nature so that a person can unknowingly fall within the prohibitions of sections 302(a) and (b) while maintaining a good-faith belief that his conduct falls within the excepted behavior of section 302(c)(4) through (9). Therefore, the amendment adds to the "willful" requirements for this behavior the additional element that such conduct be "with intent to benefit himself or to benefit other persons whom he knows are not permitted to receive such payment, loan, money or other thing of value under subsections (c)(4) through (c)(9)."

A violation of Taft-Hartley sections 302(c)(4) through (9) which is "willfull" and with the requisite "intent" and which involves an amount in excess of $1,000 is a felony punishable by a fine of not more than $15,000 or imprisonment for not more than five years or both. If the amount involved is $1,000 or less, then violations remain misdemeanors subject to a fine of not more than $10,000 and/or 1 year imprisonment.

Section also amends Taft-Hartley section 302(e). The amendments grant civil enforcement authority to the United States district courts over specific allegations of violations of Taft-Hartley and over suits brought by any person directly affected by the alleged violation. In addition, the amendment preserves the jurisdiction of such courts to restrain violations under the Act.

Section amends section 1111(a) of ERISA which prohibits persons convicted of certain crimes from serving in listed positions with an employee benefit plan. Added to this list of crimes are those offenses relating to abuse or misuse of such person's employee benefit plan position. The addition of these new felonies in no way affects current treatment by the courts of crimes already leading to debarment. The categories of positions affected by the disbarment provisions also are enlarged.

Current disbarment is for 5 years. Section makes this time period a maximum of 10 years but reducible down to 5 years by the trial court judge for good cause.

Section also amends section 1111(b) of ERISA. International violations of this section of ERISA currently carry a penalty of a $10,000 fine or 1 year imprisonment or both. The 1 year period is increased to 5 years.

Section amends section 1111(c) of ERISA to change the definition of the word "convicted." Current law defines this as the date of the trial court judgment or the final appeal thereof, whichever is later. The amendment changes the date to the date of the trial court judgment, regardless of appeals.

Finally section adds a new section 1111(d) to ERISA and provides that any salary otherwise payable to a person convicted by a trial court shall be placed in escrow pending final disposition of any appeal.

Section amends section 504(a) of Landrum-Griffin by adding to the list of crimes in the same manner that Section extended them under ERISA. The same disbarment provisions as contained in Section are added as well.

Section amends section 504(b) of Landrum-Griffin to increase the penalty for willful violations of that section from imprisonment for not more than 1 year to not more than 5 years.

Section amends section 504(c) of Landrum-Griffin to make the same changes in the definition of the term "convicted" as made in section 1111(c) of ERISA and discussed in Section 3 above.

Section adds new section 504(d) to Landrum-Griffin to provide the same escrow provisions added to ERISA and discussed in Section 3.

Section amends section 1136 of ERISA by changing the headings and adding a new subsection (b). This new subsection delineates the responsibility and authority of the Department of Labor actively and effectively to investigate and refer criminal activities for prosecution.

Section makes retroactive that portion of the amendment which insures that convicted union officials will be barred from office immediately upon conviction, as opposed to final disposition of their appeal. The section also makes expressly clear that the enactment of this legislation will not in any way secure to terminate restrictions placed on individuals now barred from office; those bars will remain as imposed under current law.●

● Mr. ROTH. Mr. President, I am pleased to add my support for S. 1785, the Labor-Management Racketeering Act of 1982.

Although this legislation was approved by the Senate earlier this year, the bill remains pending in committee in the House of Representatives. As a result, the sponsors of this legislation are again attempting to bring the issue to the attention of the House membership in an effort to pass this important legislative measure during this session of Congress.

In February 1981, the Permanent Subcommittee on Investigation, which I now chair, held extensive hearings on waterfront corruption. These hearings underscored the fact that congressional efforts to end the domination of certain unions by organized crime and other criminal elements have not been entirely successful and that current Federal prohibitions and penalties designed to protect the legitimacy of labor relations have, to a certain extent, proven to be inadequate. For instance, many individuals in the International Longshoremen's Association who have been convicted on enormous Federal charges still maintain their positions of power, despite their convictions.

The problem with allowing convicted union leaders to retain their positions of fiduciary responsibility is classically illustrated in the story of Bernard Rubin, an official in the Laborers Union in Florida. Convicted in the mid-1970's of embezzling union funds, Rubin retained his union position while appealing his conviction. It was later learned that, during the interim, Rubin had continued to pilfer union moneys.

The need for immediate action on S. 1785 was further emphasized only yesterday with the conviction of Teamsters Union President Roy Lee Williams. Williams together with his four codefendants, was convicted of conspiracy to commit bribery, traveling interstate in the furtherance of a bribe and various charges of scheming to defraud the Teamsters Central States Pension Fund. Despite these convictions, however, neither Williams nor the two officials of the pension fund convicted with him will be forced to resign their positions with the union until all avenues of appeal have been exhausted.

The time has come for Congress to take a decisive step in ridding the unions of the stranglehold imposed by criminal elements. Congress must take these steps in order to safeguard the workers of this Nation and to insure that money for benefits to which they are entitled is in fact used for its intended purpose.

In addition, this legislation will also clarify the responsibility of the Secretary of Labor to investigate civil and criminal violations of the Federal pension laws and related statutes.

I urge my colleagues to join with me in my support of S. 1785.●

Mr. HATCH. Mr. President, today, we are sending to the other body once again, S. 1785, the Labor Management Racketeering Act of 1982. As I mentioned when this bill was first presented to the Senate, it reflects a compromise worked out among Senators NICKLES, KENNEDY, NUNN, and myself. The AFL-CIO was involved in the drafting of many of its sections and I am confident that the cooperation of all who participated in the bill's evolution have helped to make sure that its provisions protect and enhance the rights of the thousands of honest union members and officials.

I would also like to give special recognition to Senators NUNN and RUDMAN. The comprehensive record on union corruption as it exists on our waterfronts is directly the result of their vigorous and tireless leadership of the Permanent Subcommittee on Investigations.

S. 1785 is one of the most critical pieces of labor legislation which Congress will vote on this year. Without question, corrupt union officials and management representatives pose one of the most sinister threats to the health and well-being of the trade union movement and to our industrial democracy. The existence of corruption undermines the integrity of the collective bargaining process; these activities taint the hard work of thousands of honest, committed union officers and members. They have literally robbed the American public of millions of dollars through bribes, kickbacks, and payoffs, sapping the economic resources we so desperately need to increase productivity and generate employment opportunities. Consequently, this disregard for Federal labor laws and the Government's correlative failure to enforce these statutes aggressively has undermined the statutory and regulatory prohibitions devised by Congress over the last 30 years to combat union corruption.

Some have contended that union corruption is more a cliche than fact, the unions are being unfairly categorized in the press and in Congress because of the criminal activities of only a handful of corrupt officials. It is true that the majority of union members and union officials are honest men and women, committed to the principles of collective bargaining and our economic system. Unfortunately, it is also true that many officials are not so committed; instead, they look upon labor management relations as a field ripe for manipulation and abuse for personal gain and profit. Moreover, they perceive Government enforcement as being lax at best, and the penalties if one is actually caught as being more of a minor, temporary nuisance than true punishment.

The endorsement of this legislation by Lane Kirkland, the distinguished president of the AFL-CIO, and Douglas Fraser, president of the United Auto Workers, underlines the reality and seriousness of the problem before us today.

We have laid out in hearings, on the floor, and elsewhere the seriousness of the problem of labor corruption and the correlative abuse of our Federal labor statutes. The point today is not to belabor those issues once again. Instead, it should be obvious to all that to combat the corruption that plagues labor relations today, we need both strong statutes and committed enforcement.

S. 1785 will provide the statutory basis for this effort by strengthening three key statutes: The Labor Management Relations Act of 1947, known as the Taft-Hartley Act; the Employee Retirement Income Security Act of 1974, known as ERISA; and, the Labor Management Reporting and Disclosure Act of 1959, known as the Landrum-Griffin Act.

First, the buying and selling of labor peace, which is prohibited in the Taft-Hartley Act, is raised from a misdemeanor to a felony, subject to imprisonment of up to 5 years and a fine of $15,000 or both. Testimony received by the committee has made it clear that existing penalties have not served as an effective deterent.

Second, S. 1785 expands the list of positions an individual convicted of committing a disqualifying crime, is barred from holding in a union or with an employee benefit plan. Convicted officials will no longer be able to circumvent the intent of these statutes by taking allegedly clerical positions or serving as consultants during the disqualification period, only to resume their previous positions of authority and influence once this period has ended. The bill also expands the list of disqualifying crimes contained in these two statutes.

Third, the bill extends the disqualification period from 5 to 10 years, in order that a union or benefit plan can thoroughly rid itself of the influence of convicted officials. This provision does provide for judicial discretion in application of the ban, however. As I understand, this discretion is included to accommodate the rare occasions where a 10-year ban might be considered too harsh. For example, at the time of his conviction of a disqualifying crime, an individual might not be a union member or might not have given any thought to the ramifications of his act with regard to holding office in a union or with a benefit plan. If he were to serve his sentence and subsequently obtain a job which would lead to election to union office, a 10-year ban might be unnecessarily rigid. In such rare circumstances, the judge is given the discretion to reduce the disqualification period to no less than 5 years.

Fourth, S. 1785 redefines "date of conviction" so that once an individual is found guilty of a disqualifying crime, he is immediately barred from holding a series of specific positions with a union or employer, regardless of whether he has appealed his conviction. This provision will end the blatant abuse of our appellate procedures by union officials who are continuing to engage in the very prohibited activities which led to their conviction simply because they have appealed the trial court judgment. Members of a union or participants in a benefit plan are entitled to have their interests and rights protected from those found guilty in a court of law. To protect the rights of an individual who has appealed his conviction, the bill provides that his salary will be paid into an escrow account which will be turned over to the official if the conviction is overturned. This represents an equitable treatment of two competing interests—the interests of the convicted official on appeal and the interests of union members or participants in a pension plan in having their organizations free of criminal influence.

Fifth, S. 1785 will increase the maximum term of imprisonment for intentional violations of ERISA and the Landrum-Griffin Act from 1 year to 5 years.

Sixth, S. 1785, makes it clear that the Department of Labor has not only the authority but also the responsibility for detection, investigation, and referral of civil and criminal violations of the appropriate Federal labor laws to the Department of Justice. This is perhaps the most important provision in S. 1785. Unless the Department of Labor is committed to the principles of this legislation and to ridding the labor movement of organized crime and other criminal elements, our efforts today to strengthen these three statutes may prove fruitless.

S. 1785 makes it clear that it is the intent of Congress that the Department of Labor enforce these statutes aggressively. The Department has repeatedly testified that it needs stronger statutes and penalties if it is to accomplish the task Congress has given it. S. 1785 provides the Department with many of the amendments it has requested and will give it the statutory basis and authority it needs to effectuate the purpose of this legislation—the elimination of corruption and criminal elements from the field of labor management relations.

I would like to note that in clarifying congressional intent, we believe that the Department can accomplish its mission with its current budget.

Mr. President, the bill being offered today contains an amendment that was added to S. 1785 when it first passed the Senate. The purpose of this amendment is to make retroactive only one portion of S. 1785—the commencement of the disqualification mechanisms of section 411 of the Employee Retirement Income Security Act and section 504 of the Labor-Management Reporting and Disclosure Act at the time of the trial court conviction.

Currently, an individual who is found guilty of an act prohibited under these two statutes is disqualified from holding certain specified positions in a union or employee benefit plan for a period of 5 years. The disqualification period begins on either the date of the trial court judgment or the date of the final sustaining of such judgment on appeal, whichever is later. S. 1785 amends these two statutes to read that the commencement of the disqualification period begins on the date of the trial court judgment, regardless of whether that decision is appealed. This amendment

would make this portion of S. 1785 retroactive.

The amendment also makes it clear that nothing in S. 1785 or this amendment can be construed as authority to overturn a conviction or to terminate prematurely a disqualification period in existence prior to the effective date of the legislation.

Testimony received by the Senate Labor and Human Resources Committee indicated that the present alternative standard has allowed union officials, who have been convicted of disqualifying crimes such as fraud and embezzlement, to retain their union offices or positions of control over pension plans while their convictions were being appealed, a period which can exceed 2 years. The testimony made it clear that in several instances, these officials continued to engage in the same prohibited activity during the appeals process that led to their trial court conviction. While the bill will end this abuse, it would only apply to those convicted subsequent to the effective date of the legislation. Those individuals convicted prior to the passage of the bill who have appealed their decision will be able to continue to take advantage of this procedural loophole.

The amendment is designed to prevent this abuse of appellate procedures from occurring, and thus it will promote the overall purpose of the bill—to provide union members and participants in a pension plan immediate and effective protection from convicted officials and other criminal elements.

Whenever a bill or an amendment makes reference to a retroactivity clause, it is important that the necessary steps are taken to insure that the clause is fashioned in a manner which insures that it is not unconstitutional.

When the Labor-Management Reporting and Disclosure Act was passed by Congress in 1959, it contained a section which stated that the disqualification mechanism established in the statute applied to convictions regardless of whether the conviction occurred before or after the effective date of the statute. Moreover, this retroactivity clause applied to all of the disqualification procedures contained in the statute.

The constitutionality of this retroactive clause was raised in *Postma* v. *International Brotherhood of Teamsters*, 337 F.2d 609 (2d Cir. 1964). The appellant alleged that the application of the 1959 statute to a previous conviction violated the constitutional prohibition against bills of attainder and ex post facto laws.

The court rejected this argument summarily, citing the Supreme Court's decision in *DeVeau* v. *Braisted*, 363 U.S. 144 (1960). At issue there was a similar disqualification mechanism established under State law; namely, section 8 of the New York Waterfront Commission Act of 1953. It too applied to convictions which preceded the enactment of the statute. Addressing the constitutionality of such a retroactive provision, the Court stated:

> The distinguishing feature of a bill of attainder is the substitution of a legislative for a Judicial determination of guilt. Clearly, section 8 embodies no further implications of appellant's guilt than are contained in his 1920 judicial conviction; and so it manifestly is not a bill of attainder. The mark of an ex post facto law is the imposition of what can fairly be designated punishment for past acts. The question in each case where unpleasant consequences are brought to bear upon an individual for prior conduct, is whether the legislative aim was to punish that individual for past activity, or whether the restriction of the individual comes about as a relevant incident to a regulation of a present situation, such as the proper qualifications for a profession. No doubt is justified regarding the legislative purpose of section 8. The proof is overwhelming that New York sought not to punish ex-felons, but to devise what was felt to be a much-needed scheme of regulation of the waterfront, and for the effectuation of that scheme it became important whether individuals had previously been convicted of a felony (363 U.S. at 160, citations omitted).

The amendment meets these standards.

As the Supreme Court noted, the distinguishing feature of a bill of attainder is that it substitutes a legislative determination of guilt for a judicial determination. The amendment to S. 1785 simply applies the disqualification period to those who have already been convicted. It contains no legislative determination of guilt, nor does it deprive any individual of a constitutionally guaranteed right to a judicial procedure. The amendment only affects those who already have been convicted of a disqualifying crime in a court of law. Thus, it is not a bill of attainder.

The Supreme Court also stated in the DeVeau decision that the mark of an ex post facto law is the imposition of what can be designateed as punishment for past acts. The Court then went on to clarify this statement by establishing the following standard: Was the legislative aim to punish an individual for past acts or does the restriction come about as an incident to the regulation of a present situation, such as the proper qualifications for a profession?

The purpose of this amendment is not to inflict new punishment. It is intended to bring immediate relief to the union rank and file from abuse by convicted officials. The legislative aim is to establish qualifications for certain key labor related positions, such as benefit plan trustee or union officer; it is regulatory in nature, not punitive. Consequently, any punishment inherent in the operation of this amendment is incidental to its purpose—the need to protect the rights of union members and pension plans from abuse by convicted officials, a need well established in the numerous congressional hearings which led to the drafting of S. 1785.

Mr. President, I believe that S. 1785 is an important first step in our effort to eliminate corruption from unions and employee benefit plans. It may not be as strong as some would have liked, and it may be stronger than others had hoped. That is the nature of a consensus bill. Nonetheless, it is an important, and I hope, encouraging signal to the working men and women of this country that the presence of organized crime and other criminal elements will not be tolerated at the waterfronts, in unions, or in pension plans. I look forward to the day when this bill is signed into law, because it will afford unions and employee benefit plans with the means to operate free of the influence or fear of corrupt union and management officials. I hope that by sending the bill to the other body once again that they now will see fit to act upon this important piece of legislation and pass it before Congress adjourns this year.

Mr. President, I ask to have printed in the RECORD an article by the nationally syndicated columnist Victor Riesel, distributed by Field Newspaper syndicate on December 2, 1982. It highlights the type of problem S. 1785 will address and correct.

The article referred to follows:

NEW FEDERAL LABOR RACKET LAW STONEWALLED IN HOUSE

(By Victor Riesel)

NEW YORK.—Any local union chief who can appoint hundreds of friends to construction-site supervisory jobs, such as shop stewards and project foremen, paying up to $75,000 yearly, is a power. Labor barons, we used to call them. Some have more influence in their national unions than do their national officials.

Such a man is the 62-year-old John Cody, one of the skein of barons who controls much of the Teamsters Brotherhood with a muscular assist from time to time.

Cody is paid well by his Building Material Local 282—a hundred thousand dollars a year in salary and expenses and a car to match the barony. He has two posh homes and an egocentric sense of power that has smashed the opposition inside his 4,000-member union, which can paralyze billions of dollars worth of construction in this megalopolis.

John Cody was mixed up in $150,000 worth of extortion and in kickbacks from brokers involving his union's $55-million pension fund—each dollar of which is intended to ease the vintage years of men who drive concrete-carting trucks through this city and Long Island.

Officially, Cody is president of Local 282 and will be for a while though on Oct. 7 he was convicted on seven counts, including "a pattern of racketeering," under "RICO"—the Racketeer Influenced Corrupt Organization Act.

He violated income tax laws and the Taft-Hartley Act, which prohibits a union officer

from taking things of value from an employer.

On Dec. 1, Cody, truly churlishly ruthless in handling rank-and-file opposition and menacing to the few employers who dared face him down, was sentenced in an Eastern District Federal Court to 17 years and fined $80,000. He will serve five, since the terms are concurrent. He has been found by a jury to be an extortioner and hardly prudent in the handling of some pension transactions.

Yet this tough man, hard-bitten as any well-written movie-script villian, legally remains president of Local 282 until he runs through his appeals.

Thus Cody, who has violated several codes of decency and his responsibility to all his members, and is a convicted criminal sentenced to prison, will have some two years in office to run the most powerful local union in the construction and building industry here.

As Local 282 president, with the power to interpret contracts and continue to appoint project supervisors, and of course run the "secretariat," which in effect every union is, Cody will be able to plant his people where he wishes.

He will draw about $2,000 weekly. He will have his "limo" and he will be cheered by his crews as he was by some of them in the courtroom here despite the sentencing.

Yet, there could easily have been a law on the federal books which could have prevented all this—the proposed Labor-Management Racketeering Act of 1982. Sponsored by Georgia Senator Sam Nunn, this bill was passed by the Senate in July. It calls for the removal of convicted union officials immediately after a jury finds them guilty. Those convicted wouldn't be permitted to serve while they push their appeals to the Supreme Court.

Further, it would give the sentencing judge the power to rule that a convicted labor official couldn't go near a union in any capacity—except as a member—for 10 years. This is double the current period during which a corrupt chief can't in any fashion service or influence any unit of the labor movement after the appeals fail.

The bill passed the Senate after sailing through a unanimous labor subcommittee. But it hasn't become law because its counterpart in the House-California Congressman Phil Burton's Labor-Management Relations subcommittee of the House Education and Labor Committee—wasn't summoned during all the time available.

Burton represents the San Francisco liberal constituency which is built around a strong labor bloc. However, when last contacted, Burton's spokesman said that he would call the committee during this lame-duck session and was "consulting the speaker (of the House, Thomas "Tip" O'Neill) on it."

This doesn't give Burton, O'Neill, the House or the special session much time on a matter which could involve more billions than the lame-duckers are discussing these days.

Senator Nunn's "Labor-Management Racketeering Act" would also discipline conspiratorial and imprudent pension-fund trustees. Labor-management trust boards handle more than several hundred billion dollars.

Of course, our nation's workers need a law. Why has Congressman Burton's subcommittee been on the slow bell?

An assist is also needed from the president of the U.S. In Florida last month Ronald Reagan said: "We will open a new legislative offensive to bring about approval for reform in criminal statutes dealing with bail, sentencing, criminal forfeiture, the exclusionary rule and labor racketeering. This will give us powerful new weapons in the battle against organized crime. . . ."

Well, there is a weapon in the House. A phone call to Tip O'Neill would get it swinging—instead of becoming a museum piece when the lameducks waddle into history.

Mr. CHILES. Mr. President, I urge my colleagues to join me in supporting the amendment curtailing labor management racketeering. This amendment embodies all of S. 1785, the Labor Management Racketeering Act of 1982, which passed the Senate July 28. Its purpose is to help the worker by protecting pension funds from criminal mismanagement. It is the most significant effort dealing with labor corruption since Landrum-Griffin in 1959 as it will bring tougher penalties for those convicted of racketeering in organized labor management fraud. We developed the legislation after extensive investigations by the Permanent Subcommittee on Investigations of Alleged Corruption on the Nation's Waterfronts.

Mr. President, I ask that the Senate vote once again on this far-reaching act to protect the trust funds of the working person.

● Mr. NICKLES. Mr. President, I am both pleased and frustrated in joining Senator NUNN and the other cosponsors in offering this amendment today.

The pleasure is that this amendment is identical to S. 1785, the Labor Management Racketeering Act, which passed the Senate unanimously on July 28, 1982. S. 1785 was the result of hearings by the Permanent Subcommittee on Investigations and by the Labor Subcommittee. It is the product of much careful debate and scrutiny. I continue in my praise of Senator NUNN and his leadership in this important piece of legislation.

My frustration is that the House of Representatives has taken no action on this amendment. I hope that they will give it the consideration it warrants to insure that this amendment becomes public law.

Mr. President, the record already contains the need for this legislation. I will not today go into the need for this legislation again. My views remain unchanged from July when this passed the Senate. I urge the House, this time, to give this amendment immediate consideration.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1567) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LIVINGSTON PARISH, LA.

Mr. BAKER. Mr. President, I propose, if there is no objection, to go to Calendar No. 817, S. 1978.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is none, Mr. President.

The PRESIDING OFFICER. The bill will be stated.

The legislative clerk read as follows:

A bill (S. 1978) to quiet title and possession with respect to a certain private land claim in Livingston Parish, La.

Without objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment.

To strike out all after the enacting clause, and insert the following:

That, for the purposes of this Act only, the limitation provision of section 1 of the Act of December 22, 1928, as amended (45 Stat. 1069; 43 U.S.C. 1068), popularly known as the Color-of-Title Act, that restricts conveyances under that Act to not more than 160 acres, shall not apply to any claim for a patent that may be filed under the Color-of-Title Act for a parcel of land described as section 39, township 5 south, range 4 east, Saint Helena Meridian, Louisiana.

SEC. 2. Except as otherwise provided in section 1 of this Act, all provisions of the Color-of-Title Act shall apply to any claim for a patent under the Color-of-Title Act for the parcel of land described in the first section of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ST. CROIX ISLAND INTERNATIONAL HISTORIC SITE

Mr. BAKER. Mr. President, I propose to ask the Chair to lay before the Senate Calendar No. 820, Senate Joint Resolution 155, if there is no objection.

Mr. ROBERT C. BYRD. There is no objection, Mr. President.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 155) redesignating the St. Croix Island National Monument in the State of Maine as the "St. Croix Island International Historic Site,"

There being no objection, the Senate proceeded to consider the joint resolution.

UP AMENDMENT NO. 1568

Mr. BAKER. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Idaho (Mr. McCLURE).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for Mr. McCLURE proposes an unprinted amendment numbered 1568.

Mr. BAKER. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 13 add the following new sections:

SEC. 2. Funds authorized to be appropriated for the construction of a hydroelectric facility in Ponape pursuant to section 101 of Public Law 96-205 (94 Stat. 84), as amended, may be appropriated directly to the Corps of Engineers.

SEC. 3. Section 303 of Public Law 96-597 (94 Stat. 3477, 3478) is amended by deleting "January 1, 1983" in subsections (a) and (b) and inserting in lieu thereof "January 1, 1984".

SEC. 4. Section 419(a)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1389(a)(2)) is amended by adding at the end thereof the following new subparagraph:

"(d) The Board may, after considering the views of any interested community, the territory of Guam, and appropriate federal agencies, determine what is the essential air transportation for the territory of Guam without regard to whether it is being served by more than one air carrier holding a certificate issued under section 401 of this title."

Mr. McCLURE. Mr. President, the amendment which I am offering would accomplish several important and necessary objectives in the territories of the United States. I emphasize that these provisions deal solely with questions of administration and do not contain any authorizations nor would they result in any cost to the United States.

The first provision provides that the funds authorized under Public Law 96-205 in 1980 to construct a hydroelectric facility on Ponape in the Trust Territory of the Pacific Islands may be appropriated directly to Corps of Engineers. The authorization in Public Law 96-205 is to the Secretary of the Interior who has administrative responsibility for the trust territory, but who has delegated the oversight over most major construction in the trust territory to either the Navy or the Corps of Engineers. The Corps of Engineers has completed feasibility work on the project and it makes sense to have the option of providing already authorized construction funds directly to the agency rather than appropriating to the Secretary of the Interior for transfer to that agency. I would note that the total cost of this project is only $5 million and when completed will provide Ponape with significant savings over imported fuel and reduce their present total dependence on imported fuels.

The second provision would defer for 1 year the requirement in section 601 of the Covenant To Establish a Commonwealth of the Northern Mariana Islands that the Mariana use the provisions of the Internal Revenue Code as their local territorial tax. The Congress has twice deferred this provision and a further deferral has been requested by the Governor of the Commonwealth together with president of the senate and speaker of the house of the Commonwealth of the Northern Mariana Islands.

There are several reasons for the deferral. The original intent of the Congress was that the Marianas should use the same local tax system as does Guam. We have found, however, that the Marianas, which has no experience with the Federal internal revenue laws, has had great difficulty in training people to administer these complex provisions compared to their present gross income tax requirements. Also due to increased administrative costs and the structure of the code, the Marianas has estimated that implementation would raise significantly fewer revenues than their present gross income tax. These are legitimate concerns and this deferral will allow the Committee on Energy and Natural Resources the opportunity to review the continued efficacy of the mirror system and whether comprehensive reform is needed.

The third provision would permit the CAB to make an essential air service determination for Guam notwithstanding the fact that Guam is presently served by more than one carrier. This provision is being offered at the request of Congressman WON PAT and is acceptable to the Senator from Kansas (Mrs. KASSEBAUM), who chairs the Subcommittee on Aviation of the Committee on Commerce, Science, and Transportation. I wish to express my appreciation to the Senator for her concern and support for this provision.

Mr. President, the amendment being offered would clarify the jurisdiction of the Civil Aeronautics Board to issue an essential air service determination for Guam. The amendment was requested by Congressman WON PAT, the nonvoting Delegate from Guam and it is my understanding that the CAB has no objection to the amendment and that the chairman of the Subcommittee on Aviation of the Commerce Committee has reviewed the amendment and has no objection.

Mrs. KASSEBAUM. The Senator is correct. The issues surrounding essential air service determination are very complex and become even more complicated when the territories of the United States are concerned. The territories have a unique problem in that, as noncontiguous areas, they are almost completely dependent upon air transportation for the movement of goods and persons.

Mr. McCLURE. I understand that this amendment would be consistent with and carries out the original intent of Congress in including the territories in the essential air service program in the first place.

Mrs. KASSEBAUM. The Senator is correct and essential air service determinations have already been issued for the similar cases of American Samoa and the Northern Marianas. The problem which has arisen is due to the February 1982 decision by the D.C. Circuit Court in Delta Air Lines against C.A.B. which involved Montgomery, Ala., and which held that the Board does not have jurisdiction, at least in some cases, to issue an essential air service determination for a point which is being served by more than one section 401 carrier. This amendment would eliminate any uncertainty and permit the Board to make such a determination for Guam.

Mr. McCLURE. I thank the Senator and I appreciate her assistance and concern for the territories. The Committee on Energy and Natural Resources, which has the general jurisdiction and responsibility for the territories and insular areas of the United States has had to face the transportation difficulties faced by the islands in their development almost on a continuing basis. I appreciate the efforts which the Senator, and her subcommittee, and the Commerce Committee have made to recognize the unique situation of the territories in considering legislation before that committee and the advice and expertise offered to us in the discharge of our responsibilities.

Mrs. KASSEBAUM. I appreciate the Senator's remarks and would note that while the Committee on Energy and Natural Resources does have the responsibility and jurisdiction for the territories, the Commerce Committee has the responsibility and jurisdiction over transportation and civil aviation. It is inevitable that our responsibilities will overlap. I welcome the opportunity to assist the Senator in discharging his responsibilities and similarly I appreciate his assistance and the expertise of his committee in enabling us to insure that in discharging our responsibilities we will be responsive to the situation of the territories and their unique needs and problems. By working together I am certain that the Congress will properly discharge its responsibilities both over transportation

and for the welfare of the territories and the residents of those areas.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1568) was agreed to.

● Mr. COHEN. Mr. President, I support Senate Joint Resolution 155, a bill redesignating the St. Croix Island National Monument in Maine as the St. Croix Island International Historic Site. I thank the chairman of the Energy and Natural Resources Committee (Senator McCLURE) for all of his efforts on behalf of this legislation, and for bringing it to the attention of the Senate today.

Senate Joint Resolution 155 would change the name of the St. Croix Island National Monument, located near the mouth of the St. Croix River, to the St. Croix Island International Site. The status of the area as a unit of the National Park Service will not be affected by the legislation, and the area will continue to be administered by Acadia National Park.

Since 1949, when the island was first dedicated as a national monument, thousands of visitors have flocked to the site of the first French settlement in North America. Nearly 20 years later, all lands were finally deeded to the National Park Service, and the island was formally dedicated. In September of this year, a formal memorandum of understanding, recognizing the historical significance of the island to both Canada and the United States, was signed by officials of both countries.

This legislation would recognize the international significance of the island which is often referred to as a Canadian Plymouth Rock or Jamestown. The bill is patterned after legislation passed in 1964, which created the Roosevelt-Campobello International Park on Campobello Island in New Brunswick, and would help both countries work together to promote the history of the island.

To fully appreciate the historic significance of the island, one must consult Canadian as well as U.S. history. Settled by French explorers Champlain and Sieur de Monts, St. Croix Island was one of the first European settlements north of Florida. During the summer of 1604, a diverse group of 150 settlers traveled over 3,000 miles from their native homeland to found a permanent French colony in North America. The company was an unusual mixture of men of both the noble and working classes.

In June of that year, the group came to Passamaquoddy Bay and sailed up the St. Croix River. They came upon a island which Champlain described as covered with firs, birches, maples, and oaks, and "by nature very well situated." De Monts named the island "St. Croix," because just above it two long coves met the river to form a cross. Other names were given to the island throughout the years, including the Indian name "Matnagwish."

Later, during the war of 1812, the Island served as a base where British and American merchants met, safely away from the U.S. Customs Office in Eastport, to exchange cargoes. Because of the nature of this activity, the island became known as Neutral Island.

In 1866, the name "De Monts" was formally given to the island by the officers of the U.S. Coast Survey. Other names recorded throughout history included "Bone," "Big," or "Great," "Dochet," and "Hunts."

After the Revolutionary War, an international commission was established, and it fixed the boundary line down the middle of the river, putting St. Croix within the territorial limits of the United States. Despite the depth of their personal feelings, Canadians were conciliatory about the boundary for the sake of the future.

St. Croix Island is, in the view of many, the missing link between earlier explorations and the settlement of Acadia. As one of the first settlers of the island noted after the first harsh winter on the island:

> De Monts, it is you whose high courage has traced the way for such a great undertaking, and for this reason, in spite of the effect of times, the leaf of your fame will grow green in an eternal spring.

I believe the time has come to fully acknowledge the "leaf of fame" for De Monts, and all Franco-Americans and Acadians, wherever they may reside.●

● Mr. MITCHELL. Mr. President, I want to express my support for Senate Joint Resolution 155, a resolution redesignating St. Croix Island National Monument in the State of Maine as an international historic site.

St. Croix Island National Monument is a small portion of the national park system that lies within the boundaries of the city of Calais, in Washington County, Maine, in the estuary of the St. Croix River approximately 4 miles from the river's entrance into Passamaquoddy Bay. The monument itself consists of three parcels of land, with over 7 acres above high tide.

Archeological excavations have revealed human habitation dating back 4,000 years, when Indians with a nomadic life style used St. Croix Island as a seasonal fishing camp. Of important historical significance was the landing of a French expedition in June 1604 led by Sieur de Monts. With a company of around 150, including the geographer Samuel de Champlain, Sieur de Monts established a colony which was expected to hold promise because of the monopoly he had on fur trade and the existence of timber, arable land, and precious metals. Half of the inhabitants left that autumn and, of the 79 persons who remained during the harsh winter, 35 perished. After a relief party arrived from France the following June 1605, the company moved to Port Royal, Nova Scotia, ending one of the first permanent European settlements in North America.

The island received attention once again during the late 1700's when negotiators of the 1796–99 International Boundary Commission sought to settle the boundary between the United States and Canada following the end of the Revolutionary War. Excavators verified the French settlement, and ultimately, the island was placed on the American side of the border.

History books record the founding of Jamestown in 1607 and the landing at Plymouth in 1620 as significant events in the early European colonization of this continent. St. Croix Island received relatively scant attention as part of this effort until it was designated by Congress in 1949 as a national monument. It was dedicated as such in 1968 after all the deeds to what had been private land on the island and on the mainland were transferred to the National Park Service.

As a Senator representing the State of Maine, I am proud of the role which St. Croix Island has played in the settlement of North America. It is of historical significance to Maine, which today continues to have a strong French heritage. And it is important to our Canadian neighbors, particularly those in the Provinces of Quebec and New Brunswick. For not only was the settlement led by Sieur de Monts and Champlain one of the first of European origin north of Florida, but Champlain went on to found Quebec and explored other parts of present-day Ontario. He is regarded as the father of Quebec and a founder of Canada.

The premier of New Brunswick, Richard Hatfield, has for many years been seeking the redesignation of St. Croix Island as testimony to its prominence in Canadian history.

Sixty miles southeast of St. Croix Island on the Canadian side of Passamaquoddy Bay lies Campobello Island. Located on it is the Roosevelt Campobello International Park, dedicated to the memory of Franklin Delano Roosevelt, one of our country's great Presidents. My predecessor in the Senate, former Senator Edmund S. Muskie, currently serves as its chairman. Since its founding in 1964, this park has served as a model of cooperation between the United States and Canada, both of which contribute funds equally on an annual basis for the operation and maintenance of park grounds and facilities.

Designating St. Croix Island as an international historic site would build on this cooperative effort on the borders of Maine and eastern Canada and

preserve that which is of historical, cultural, and recreational significance to both countries.

Enactment of Senate Joint Resolution 155 would neither affect the status of St. Croix Island as a unit of the national park system nor disrupt management by the National Park Service. Rather, it will serve to recognize its significance as a historic site valued by Americans and Canadians alike.

I hope the committee will act promptly to recommend its passage by the Senate. I thank the Chair for this opportunity to present testimony in behalf of the resolution.●

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and to be read the third time.

The joint resolution was read the third time and passed.

The preamble was agreed to.

The joint resolution, with the preamble, is as follows:

S.J. RES. 155

Whereas in the summer of 1604, a small French expedition led by Sieur de Monts established the first European settlement in the northern half of North America on what is now Saint Croix Island, on the Saint Croix River, in the State of Maine;

Whereas pursuant to the Act entitled "An Act to authorize the establishment of the Saint Croix Island National Monument in the State of Maine" (approved June 8, 1949), portions of Saint Croix Island of national historical importance were established as the Saint Croix Island National Monument, a unit of the National Park System;

Whereas the historic settlement on Saint Croix Island marked the beginning of European colonization of Canada, from which the French embarked to establish the settlement which became Quebec; and

Whereas Saint Croix Island is important to the history of the people of Canada as well as that of the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in recognition of its historic significance to the United States and Canada, the Saint Croix Island National Monument in the State of Maine is hereby redesignated as the "Saint Croix Island International Historic Site".

(b) Any reference in a law, map, regulation, document, record, or other paper of the United States to such monument shall be deemed to be a reference to the "Saint Croix International Historic Site".

(c) Nothing in this joint resolution shall affect the status of the "Saint Croix Island International Historic Site" as a national monument and a unit of the National Park Service.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMANUEL F. LENKERSDORF

Mr. BAKER. I propose to ask the Senate to proceed to the consideration of Senate Calendar No. 913, H.R. 2520.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

● Mr. GRASSLEY. Mr. President, earlier in this Congress I introduced S. 331, a bill for the relief of Emanuel F. Lenkersdorf. We have before us for consideration today, H.R. 2520, the companion bill introduced in the House by Congressman COOPER EVANS. Mr. Lenkersdorf was born in Mexico City on August 29, 1939. He is a citizen of Germany living here on a student visa and is presently attending Northern Virginia Community College in Annandale, Va.

Mr. Lenkersdorf's parents are native Germans who came to North America and resided in Mexico City at the time of his birth. Upon reaching the age of 9 years, he and his family moved to Ohio. Four years later Mr. Lenkersdorf's father moved the family back to Mexico in order to perform missionary work. Emanuel had a difficult time in Mexico due to the inadequate educational system and difference in language. After 2 years, friends of the family invited him to attend high school in Iowa.

At that time it was impossible to renew his immigrant visa as he had spent more than 1 year outside the United States. The only available option was to reenter the United States on a student visa. He has continually resided in the United States since entering the country under this visa.

Mr. Lenkersdorf has spent virtually all of his adult life in the United States. He does not identify with either his German or Mexican background. He has not visited Germany since 1972 and is not conversant in either German or Spanish. He has received all of his education in this country, and if he were required to return to either Mexico or Germany, he would face a long and difficult adjustment.

Because of these very unusual circumstances, and because there appears to be no other recourse open to him, it would be my hope that the Senate would consider this bill favorably, especially in light of favorable House action. This would allow Mr. Lenkersdorf to remain in this country and become a useful and productive U.S. citizen.●

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER—H.R. 5858

Mr. BAKER. I say to the minority leader, I propose to ask the Senate to take up a budget waiver to accompany H.R. 5858; then, if the budget waiver is adopted, to take up that measure, if it is agreeable.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to either.

Mr. BAKER. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1025, Senate Resolution 505; and then proceed to consider H.R. 5858.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 505) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5858.

There being no objection, the resolution was considered and agreed to, as follows:

S. RES. 505

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 5858. Such waiver is necessary because H.R. 5858, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

This budget waiver will allow Senate consideration of H.R. 5858 which is a private relief bill for the relief of Mocatta and Goldsmid, Limited, et al. H.R. 5858 was reported by the members of the Subcommittee on Agency Administration on December 2, 1982.

H.R. 5858 authorizes the appropriation of the following amounts to the silver dealers enumerated below:

Mocatta and Goldsmid, Limited...	$1,502,462
Sharps, Pixley and Company	1,001,641
Primary Metal and Mineral Corporation.....	851,395

These awards compensate dealers for losses they sustained when the United States Treasury failed to honor their telephone orders for silver on May 18, 1967.

H.R. 5858 was not reported on or before May 15, 1982, because the Senate did not receive the bill from the House of Representatives until after September 21, 1982.

RELIEF OF MOCATTA & GOLDSMID, LTD.; SHARPS, PIXLEY & Co., LTD.; PRIMARY METAL & MINERAL CORP.

Mr. BAKER. Mr. President, I ask unanimous consent now that the Senate proceed to the consideration of H.R. 5858, the underlying measure.

There being no objection, the bill for the relief of Mocatta & Goldsmid, Ltd., Sharps, Pixley & Co., Ltd., and Primary Metal & Mineral Corp., was

considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHEAHA WILDERNESS

Mr. BAKER. Mr. President, I propose to ask the Chair to call up S. 2955, Calendar Order No. 1000, if the minority leader is agreeable.

Mr. ROBERT C. BYRD. I have no objection.

There being no objection, the bill to establish the Cheaha Wilderness in Talladega National Forest, Alabama, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cheaha Wilderness Act".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), certain lands in the Talladega National Forest, Alabama, which comprise approximately six thousand seven hundred and eighty acres, as generally depicted on a map entitled "Cheaha Wilderness Proposed", dated May 1982, are hereby designated as wilderness and shall be known as the Cheaha Wilderness.

(b) Subject to valid existing rights, the existing rights, the wilderness area designated under subsection (a) shall be administered by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act of 1964 (16 U.S.C. 1131-1136) governing areas designated by that Act as wilderness except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(c) As soon as practicable after the date of the enactment of this Act, the Secretary shall submit a map and legal description of the wilderness area designated by subsection (a) to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical error in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service, Department of Agriculture.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEMPORARY USE OF BUREAU OF LAND MANAGEMENT LANDS

Mr. BAKER. Mr. President, I propose to ask the Senate to turn to consideration of S. 1705, Calendar No. 1001.

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. The clerk will state the bill.

The legislative clerk read as follows:

A bill (S. 1705) to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

That the Federal Land Policy and Management Act of 1976 is amended as follows:

(1) by inserting in section 302(b) the phrase "temporary use permits under section 319 of this Act," between the comma following the words "section 204 of this Act," and the word "and", in the first proviso;

(2) by adding the following new section 319:

"TEMPORARY USE PERMITS FOR FEDERAL AGENCIES

"SEC. 319. The Secretary is authorized to issue temporary use permits to Federal departments and agencies to use, occupy, and develop public lands. Such permits may be issued for a term not to exceed three years and may be renewed once for an additional term not to exceed three years."; and

(3) by adding the following new heading to the table of contents after section 318:

"SEC. 319. Temporary use permits for Federal agencies.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN PROPERTY

Mr. BAKER. The next item is Calendar 1002, if there is no objection.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. The clerk will state it.

The legislative clerk read as follows:

A bill (S. 2308) to direct the Secretary of Agriculture to convey certain property to the city of Show Low, Arizona.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

That the Secretary of Agriculture is authorized and directed to survey and convey, by quitclaim deed and without consideration, to the city of Show Low, Arizona, all right, title, and interest of the United States to the lands generally depicted on a map entitled "Land Conveyance, city of Show Low, Arizona," and dated July 1982, which shall be on file and available in the office of the Chief Forest Service, Department of Agriculture, and more particularly described as follows:

(a) a tract of land, together with improvements thereon known as the David C. Porter Park estimated to include approximately 52.46 acres; and

(b) a tract of land, together with improvements thereon known as the Show Low Municipal Airport estimated to include approximately 533 acres.

SEC. 2. Title to any real property acquired by the city of Show Low pursuant to this Act shall revert to and become the property by the United States if the city or any successor of the city uses such real property for other than public purposes.

The amendnent was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELEASE OF CERTAIN PATENT CONDITIONS

Mr. BAKER. Next, Mr. President, I propose to ask the Senate to turn to consideration of Calendar 1005, H.R. 6419, if there is no objection.

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. The clerk will state it.

The legislative clerk read as follows:

A bill (H.R. 6419) to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University.

● Mr. GORTON. Mr. President, I would like to say a few words in support of H.R. 6419. This bill directs the Secretary of the Interior to release certain conditions in a land patent conveyed to Eastern Washington University in order to allow the university to convey the property and purchase other real property.

Mr. President, I commend the Senate for acting on this legislation at this time. In 1961, pursuant to the Recreation and Public Purposes Act, as amended, the university acquired 21 acres of lakeside property from the United States subject to a reverter if the university attempts to transfer title or use the property for purposes other than education or recreation.

Because of the physical features of the land, however, it is not suitable for unsupervised recreation. The university believes that its needs would be better served by purchasing land located closer to the university campus. By relieving the university of the application of the reversionary clause, Congress will, in essence, allow the university to effect a transfer of property. The new land acquired will be subject to the same limitations as the original tract.

Mr. President, this bill will help to fulfill the intent of Congress in making the original transfer of property to the university. I thank my colleagues for their support.●

The bill was ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FLORIDA WILDERNESS ACT OF 1982

Mr. BAKER. Mr. President, H.R. 9, Calendar Order No. 1006, is next on my list, if the minority leader is prepared to consider it.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9) to designate components of the National Wilderness Preservation System, in the State of Florida.

There being no objection, the Senate proceeded to consider the bill (H.R. 9), which had been reported from the Comittee on Energy and Natural Resources, with an amendment in the nature of a substitute to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Florida Wilderness Act of 1982".

WILDERNESS DESIGNATION

SECTION 1. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Apalachicola National Forest, Florida, which comprise approximately one thousand one hundred and seventy acres, are generally depicted on a map entitled "Bradwell Bay Wilderness Addition—Proposed", dated February 1980, and which are hereby incorporated in and shall be deemed a part of, the Bradwell Bay Wilderness as designated by Public Law 93-622;

(2) certain lands in the Apalachicola National Forest, Florida, which comprise approximately seven thousand eight hundred acres, are generally depicted on a map entitled "Mud Swamp/New River Wilderness—Proposed", dated February 1980, and shall be known as the Mud Swamp/New River Wilderness;

(3) certain lands in the Osceola National Forest, Florida, which comprise approximately thirteen thousand six hundred acres, as generally depicted on a map entitled "Big Gum Swamp Wilderness—Proposed", dated March 1980, and shall be known as the Big Gum Swamp Wilderness;

(4) certain lands in the Ocala National Forest, Florida, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Alexander Spring & Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Alexander Springs Wilderness: *Provided, however,* That the Secretary of Agriculture shall not prohibit existing motorboat use on Alexander Springs Creek;

(5) certain lands in the Ocala National Forest, Florida, which comprise approximately thirteen thousand two hundred and sixty acres, as generally depicted on a map entitled "Juniper Prairie Wilderness—Proposed", dated November 1981, and shall be known as the Juniper Prairie Wilderness;

(6) certain lands in the Ocala National Forest, Florida, which comprise approximately two thousand five hundred acres, as generally depicted on a map entitled "Little Lake George Wilderness—Proposed", dated March 1980, and shall be known as the Little Lake George Wilderness; and

(7) certain lands in the Ocala National Forest, Florida, which comprise approximately three thousand one hundred and twenty acres, as generally depicted on a map entitled "Alexander Springs & Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Billies Bay Wilderness.8

MAPS AND DESCRIPTIONS

SEC. 2. As soon as practicable after the provisions of section 1 of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by such section with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provisions of this Act.

SEC. 4. (a)(1) The Department of the Interior shall not issue phosphate leases in the Osceola National Forest, Florida, unless and until the President transmits a recommendation to the Congress that phosphate leasing be permitted in a specified area in the Osceola National Forest. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

(2) FINDINGS.—A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on the information available to him—

(i) there is a clear and present national need for the phosphate resulting from a domestic shortage of phosphate reserves, and

(ii) such national need outweighs the overall public values of the public lands involved, including the wilderness area designated in section 1(3) of this Act, and any adverse environmental impacts which are likely to result from the activity.

(3) REPORT.—Together with his recommendation, the President shall submit to the Congress—

(i) a report setting forth in detail the relevant factual background and the resons for his findings and recommendation;

(ii) a statement of the conditions and stipulations which would govern the activity; and

(iii) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

(4) DISAPPROVAL.—Any recommendation under this section shall take effect only upon enactment of a joint resolution of Congress approving such a recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recomendation is submitted.

(5) NINETY-DAY COMPUTATION.—For purposes of this section—

(i) continuity of session of Congress is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day calendar period.

(b) Within sixty days of the date of enactment of this Act, the Secretary of the Interior shall, with respect to those individuals and companies (hereinafter referred to as "applicants") which have applied for phosphate preference right leases by applications numbered:

BLM-A-080538, 080539, 080540, 080544, 080545, 080546, 080547, 080548, 080549, 080093, 080297, 080298, 080299, 080801, 080975, 079903, 079904, 079905, 079906, 079907, 079956, 079957, 079958, 079959, 079992, 080004, 080027, 080028, 080048, 080067, 080069, 080070, 080632, 080634, 080638, ES-0980, 0981, 0982, 0983, 3181, and 3208,

determine if any of those indidviduals or companies have made a discovery or discoveries of valuable deposits in accordance with the regulations and policies in effect as of the date of the filing of the applications.

(c) Within one year of the date of enactment of this Act, the Secretary, in consulta-

tion with the applicants, shall determine the present fair market value of leases which would be issued, absent the leasing prohibition of subsection (a) of this section, for those applications for which the Secretary has determined that a valuable deposit discovery or discoveries exist.

(1) The determination of fair market value shall be based on the replacement cost of the unmined recoverable phosphate in the ground, taking into account comparable sales of unmined recoverable phosphate in the ground in the Eastern United States, costs of compliance with all applicable Federal, State, and local laws and regulations, including reclamation and restoration of the land (including wetlands) and other costs normally incurred in the mining of phosphate. In determining fair market value the Secretary may contract with an applicant to perform any necesary exploratory drilling or other evaluation work and may compensate the applicant therefor through payment of money or as an addition to the monetary credit under this Act. In lieu of the monetary credits described above, the Secretary may, at his option only, offer to purchase the preference right to the applicant's lease.

(2) In the event the Secretary and any or all of the applicants cannot agee on fair market value within one year of the date of enactment of this Act, either the Secretary, or any of the applicants shall have the right to petition the United States Claims Court for determination of fair market value in accordance with the standards set forth in this subsection, and said court shall have jurisdiction to make said determination which shall be binding on all parties for purposes of this Act subject to the right of appeal.

(d)(1) Within three months of the date of enactment of this Act the Secretary of the Interior shall enter into negotiations and shall, within one year of the date of enactment of this Act for those lease applications for which he determined a valuable deposit discovery or discoveries exist, extend to the applicant, its successors or assigns upon voluntary surrender and relinquishment by the lease applicant of the preference right lease applications and all right to lease the land covered by such applications, a monetary credit to be used against that portion of bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal Government on any mineral, oil, or gas lease competitively won or otherwise held by the applicant, its successors, or assigns. Such credit shall be used over a period of years with not more than 10 per centum of the credit to be used in one year.

(2) Monetary credits authorized pursuant to this subsection shall be based on the fair market value of the prospective leases as determined pursuant to subsection (c) of this section.

(e) The designation of the Big Gum Swamp wilderness shall in no way be construed to diminish, abate, impair, or modify any rights which may be vested in the applicants on the date of enactment of this Act for Federal phosphate preference right leases applicable to any lands within the Big Gum Swamp wilderness area designated by this Act. The fair market value of any such rights as may exist shall be determined without reference to any restrictions on access or use which may result from designation of this area as wilderness.

(f) Notwithstanding any provision of this section to the contrary, the Secretary and the applicant may mutually agree to extend any of the time limitations in this section.

(g) Effective October 1, 1983, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act: *Provided,* That any payments made pursuant to this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts: *Provided, however,* That until the necessary sums are appropriated the holder of a phosphate lease application specified in section 4(b), will retain such legal rights he may have under such application and such rights shall remain in full force and effect.

Mrs. HAWKINS. Mr. President, I rise in support of H.R. 9, as amended, the Florida Wilderness Act. This legislation implements the RARE II recommendations for Florida and bans phosphate mining in Florida's Osceola National Forest. It is very similar to S. 1138, introduced by Senator CHILES, and S. 1633, which I introduced earlier this Congress.

Mr. President, as part of the Forest Service's RARE II—Roadless Area Review and Evaluation—approximately 49,150 acres have been considered for inclusion in the National Wilderness Preservation System. This area encompasses Florida's three national forests—the Apalachicola, the Ocala, and the Osceola. This land provides a natural habitat for several endangered species, offers prime hiking, canoeing, and recreational opportunities, and harbors significant archeological sites. These regions also have unique vegetative, water, and wildlife resources. The public comment that was solicited during the RARE II process indicates that the wilderness designation of these areas received significant public support. Such action has also been endorsed by Florida's major environmental groups and a number of community and academic organizations.

Second, Mr. President, I feel that there is grave doubt as to the wisdom of permitting phosphate mining in the Osceola National Forest. Between 1969 and 1972, four companies—Kerr-McGee Corp., Global Exploration Co., Monsanto Chemical Products Co., and Pittsburgh and Midway Coal Mining Co.—filed applications for preference right leases to mine phosphate in the Osceola. Their basing rights covered an area of 52,253 acres, or approximately 34 percent of the Osceola National Forest. Processing these lease applications has encountered considerable obstacles in the past decade. Florida's citizens and environmental groups have consistently opposed mining in the Osceola Forest, and the State has intervened in several lawsuits against the U.S. Government to block efforts to issue the permits. Furthermore, the Environmental Protection Agency held that mining in the forest would be environmentally damaging, based on the original environmental impact statement filed by the Interior Department. And, in fact, on January 12, 1982, the EPA commented on Forest Service stipulations for mining and reclamation in the Osceola, again expressing concern about the protection of sensitive wetland areas in the forest.

The banning of phosphate mining in the Osceola National Forest is unequivocally supported by both Senator CHILES and myself, the entire Florida congressional delegation, the Governor and cabinet of Florida, and both chambers of the Florida State Legislature. As you know, RARE is the issue that is so uniformly supported by so many different political entities and factions. In fact, I am unaware of any Florida official who thinks mining is a good idea. Given this remarkable unanimity of opinion, those who support States rights should insist that the Federal Government leave our forest alone. Should we decide otherwise, a dangerous precedent will be set. What can happen to Florida will happen in other States, too.

I believe Florida's argument can be summed up in a question. Is it reasonable to overrule a congressional delegation and State cabinet that judge, based on unequaled experience elsewhere, that unacceptable environmental damage will follow from phosphate mining in its smallest national forest, which is not needed for national purposes, and is willing to sacrifice needed royalties to prevent it? The answer should be "No." Let me document these points in turn.

I have stated that Florida has had more experience than any other with phosphate mining, and indeed, it is quite true. Presently, Florida produces over 80 percent of the Nation's phosphate rock. And we have done so for years. It can be said that Florida is phosphate mining. So, Florida citizens and officials have more experience than anyone else in evaluating the environmental risks from phosphate mining. Anyone who chooses to challenge our expertise would carry a heavy burden of proof to show our judgment is unreasonable.

More important, there is no compelling reason for this country to mine the Osceola forest at this time, and there probably never will be. Mining the forest would recover approximately 100 million tons of phosphate. The U.S. Bureau of Mines has estimated that 4.1 billion metric tons of phosphate are recoverable in Florida alone, representing 95 years of domestic consumption, for less than twice the current price. Therefore, the Osceola deposit represents only 2.4 percent of Florida's phosphate reserves. Also major new discoveries have been made in other States, which means we have a supply to last longer than 100 years. I do not consider adding another 2 years a reasonable return for the destruction of a forest.

In fact, the State of Florida alone already produces more than the United States consumes, and it has for years. Only foreign countries would therefore benefit from phosphate mining in the Osceola.

And just who are the foreign customers for U.S. phosphates? Poland has become an increasing demanding patron. In 1979, Poland purchased 742,000 metric tons of U.S. phosphate rock. In 1980, that figure rose to 900,000 metric tons. In 1980, we also sold 382,000 metric tons to Romania and 67,000 tons to the Soviet Union. Patrons of U.S. phosphate products in 1980 also include Libya which purchased 256,000 metric tons of phosphates. Given these amounts, which represent more than 50 percent of expected annual production from mining the Osceola, in effect we will tear up a beautiful forest to help the governments most hostile to us.

Should one day relations between our countries change for the better, then sacrificing for friends could make sense. But even under these circumstances, it will not prove necessary to mine the Osceola to meet our domestic needs and to continue a vigorous export business.

Furthermore, Florida is not asking for a free ride. Like some other States, our State government is under fiscal pressure. And, in fact, our Governor has filed a request for higher sales taxes with the legislature. Despite this pressure, Mr. President, the State of Florida is willing to forego over $9 million in annual royalties and fees that will be collected if mining takes place.

When these points are considered, I believe the case for banning mining in the Osceola becomes compelling. And under H.R. 9, fair compensation for affected companies is also provided. I would like to describe briefly the compensation provision. Upon relinquishing their lease rights, four companies will receive monetary credits. These credits will be applied against the portion of bonus payments, rental, or royalty payments due the Federal Government on other mineral, oil, or gas leases held by the applicants. However, such credits can be used only over a period of years provided not more than 10 percent is used in any one year. Thus minimizing the impact on Federal revenue during a given year. This extended payout provision represents a substantial concession by the companies. Dollars received later are obviously worth less than dollars received today.

The amount of the monetary credits awarded will be based on the fair market value of the replacement cost of the unmined recoverable phosphate in the ground. In addition, calculations to determine the size of credits must include all costs of compliance with applicable Federal, State, and local laws as well as other costs normally incurred in the mining of phosphate. However, the legislation also provides that the fair market value of any existing rights will be determined without reference to any restrictions on access or use that may result from the designation of any area as "wilderness." This has been agreed to, in part, since the companies applications were made prior to the RARE II report.

Establishing the actual settlement costs of this legislation is difficult. However, my maximum estimated is $74 million. I calculate this by assuming there is at most 90 million tons of phosphate and that it may be worth up to $3 a ton, resulting in a preliminary value of $270 million for the pending leases. From that value I subtract the additional reclamation and mining costs, associated with mining a fragile forest compared to other land, conservatively estimated at $100 million. This results in a maximum fair market value of the leases of $170 million. Because not more than 10 percent of the credits can be used in 1 year, the actual value of thse credits must be, discounted to determine a figure comparable to receiving them in a lump sum today. That figure is $102 million. Furthermore, these monetary credits must be treated for tax purposes as cash, and corporate capital gains tax must be paid equalling over $28 million. Therefore, the net, after-tax maximum estimate of the settlement cost is $74 million. However, I expect the actual cost will be substantially less.

Finally, in the event that the Secretary or any or all of the applicants cannot agree on a fair market value within 1 year of the date of inactment, either the Secretary or applicants have the right to petition the U.S. Claims Court for a binding determination of the fair market value. In this manner, all parties are protected.

Mr. President, to summarize H.R. 9 is neither an agggessive act against the mining industry nor an impediment to land development on progress. It is, rather a small bill with a big heart. It is a sincere attempt to protect a very tiny and wild stretch of land from being needlessly torn apart. Affected mining companies will be adequately compensated for the loss. If strip mining is allowed in the Osceola, the forest—and the people who enjoy it—will suffer a far greater loss.

I urge my colleagues to support this legislation.

Mr. CHILES. Mr. President, I am extremely pleased that the Senate now has the opportunity to consider legislation affecting national forest lands in the State of Florida. This bill, H.R. 9, will expand the National Wilderness Preservation System by adding seven areas located in three national forests in Florida—the Ocala, the Apalachicola, and the Osceola National Forests. In addition to designating wilderness areas, this legislation seeks to resolve a longstanding controversy concerning possible phosphate strip mining in the Osceola National Forest. The bill before us today would insure the continued protection of the forest by banning phosphate mining and setting forth a timely procedure to deal with the pending lease applications.

The seven wilderness proposals incorporated in H.R. 9, the Florida Wilderness Act of 1982, are roadless or undeveloped areas on national forest system lands in Florida that were studied and recommended by President Carter and the Forest Service in April 1979 as a result of the RARE II process. The recommended wilderness areas have been approved three times by the House of Representatives. The recommended areas, their locations and acreage involved are as follows:

Wilderness area and National Forest	*Approximate acreage.*
Bradwell Bay Wilderness, Apalachicola	1,170
Mud Swamp/New River, Apalachicola	7,800
Big Gum Swamp, Osceola	13,600
Alexander Springs, Ocala	7,700
Juniper Prairie, Ocala	13,260
Little Lake George, Ocala	2,500
Billies Bay, Ocala	3,120

Mr. President, I would now like to address the issue of protecting an important forest resource in my State, the Osceola National Forest. This 157,000-acre forest in north central Florida is a valuable source of timber, fish and wildlife species, wetlands, and recreational opportunities.

Unfortunately, the continued management and use of these lands for these purposes is threatened by the possibility that significant portions of the forest will be strip mined for phosphate deposits underlying the forest. The Department of the Interior is presently reviewing 41 preference right lease applications of phosphate mining covering 52,000 acres, or approximately one-third of the forest. I join that State of Florida, local and regional agencies, and interested citizen groups, in strongly opposing the issuance of phosphate mining leases in this area.

Environmental studies have pointed to the adverse impact of strip mining on water resources, wildlife habitat, and timber production.

At a time when other phosphate deposits in my State and elsewhere remain undeveloped, I feel it is both unwise and unnecessary to allow for the irreversible alteration or severe limitation of the use and productivity of this great forest.

H.R. 9 prohibits the issuance of phosphate mining leases at this time and sets up a process for dealing fairly with the pending lease applications under consideration by the Department of the Interior. The legislation represents a compromise of a variety

of proposals offered to address the concern of the destruction of the Osceola through strip mining operations.

The possibility of strip mining in the Osceola National Forest is drastically inconsistent with the purposes for which these lands were originally acquired—to promote timber management and protect the swamplands. The pending lease applications cover approximately 36,000 acres of pine/palmetto flatwoods.

If these leases are granted significant acreage will be permanently removed from timber production and other areas will experience reduced productivity. The pending lease applications cover 10,731 acres of cypress swamps, 4,354 acres of bay swamps, and 845 acres of creek swamps. The 1979 final supplement to the environmental impact statement on phosphate mining in the Osceola National Forest cites a high potential for irreversible damage to 16,000 acres of cypress, bay, and creek swamps. These figures clearly substantiate that mining would be contrary to effective timber management and swampland protection.

The Osceola National Forest is currently managed for a variety of activities including outdoor recreation, timber production, watershed protection, and fish and wildlife preservation. To allow strip mining in the forest would violate the policy of multiple-use management of the forest as public land.

Multiple use of these lands must be possible before mining can be allowed and, at the present time, it has not been successfully demonstrated that full restoration of strip mined land is possible.

In May 1980, Secretary of Agriculture Bob Bergland expressed concern about the adverse impacts of phosphate strip mining and requested the Secretary of the Interior to withhold leasing on the Osceola National Forest for the immediate future.

He said technology is presently available or unproven to assure mining could be carried out under conditions that would insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered.

Past environmental studies, agency reports, and public testimony have provided a clear record of adverse impacts of strip mining on the forest and have, in my view, presented a convincing case that the exclusive use of these lands for intensive phostate mining would be inconsistent with the multiple-use management objectives of the Osceola National Forest.

Phosphate mining would significantly impact existing uses of the forest for hunting, camping, vacationing, and other recreational activities. Mining would pose serious threats to wildlife habitats and populations found in the forest.

Environmental studies have pointed to the probable irretrievable loss to the forest of several Federal and State listed endangered species including the red-cockaded woodpecker, Florida panther, and gopher tortoise. Other impacts identified in past studies include the loss of suitable habitat and/or high potential for significant adverse effects to other animals in the forest including Bachman's warbler, Florida black bear, gray bat, eastern indigo snake, Sherman's fox squirrel, and Florida sandhill crane. It is clear from the information available on this issue that allowing phosphate mining in the Osceola National Forest is not in the public interest.

Soon after the Reagan administration took office, I contacted the Secretary of Agriculture, Mr. Block, concerning the Department's position on the Osceola phosphate mining leasing question. In an April 1981 response to me, Secretary Block indicated that the Department position was the same as that expressed by Secretary Bergland to Secretary Andrus in the previous administration. I was encouraged by this reponse.

Then, however, during an October 1981 House subcommittee hearing on H.R. 9, the Reagan administration announced a drastic departure from the previous position on phosphate mining in the forest. The Assistant Secretary for National Resources and Environment of the Department of the Interior reported that the administration felt the Osceola National Forest could be reclaimed if strip mined for phosphate, and plans were underway for moving forward in considering the phosphate lease applications. In response to the strong public sentiment against phosphate mining in the forest, the House of Representatives passed H.R. 9 in December 1981. I applaud the leadership efforts of Congressman DON FUQUA who sponsored H.R. 9 in the House, and he diligent work done by the House Public Lands Subcommittee in forging a resolution of the pending controversy. While differences exist between the House-passed bill and the committee substitute before use today, both bills attempt to accomplish the same goal. Both prohibit phosphate mining in the Osceola National Forest and both set forth a procedure for dispensing with the pending lease applications.

The history of the pending phosphate mining applications dates back to the early sixties when 92 prospecting permits were issued for the Osceola National Forest. Eventually, 41 of these permits resulted in noncompetitive lease applications. Under existing regulations, these applicants first must make an initial showing to demonstrate the discovery of minable reserves.

Then, they must make a final showing to prove the current profitability of a mining operation. This final show, the so-called valuable deposit test takes into account, among other things, the costs of operating the mining, of complying with existing governmental regulations, and of meeting reclamation requirements, Forest Service stipulations, and environmental standards.

Meeting the "valuable deposit" test is a condition precedent to issuance of a preference right lease. At the present time none of the Osceola National Forest lease applicants have yet demonstrated that they have discovered "valuable deposits," but the Department is presently in the process of making this determination. It is critical that Congress enact legislation to protect the Osceola National Forest before the Department completes the valuable deposit determination and rights to leases are established.

I would like to briefly summarize the major provisions of the Senate committee proposal and outline as well some major differences between this bill and the House-passed version of H.R. 9.

MINING BAN AND PRESIDENTIAL RECOMMENDATION

Both H.R. 9 and the Senate Committee Amendments prohibit the Secretary of the Interior from issuing a phosphate mining lease for deposits within the Osceola National Forest until such time as Congress determines that it would be in the national interest to allow mining to take place. Under the provisions of the House-passed bill, the President could reopen the forest for phosphate mining at some point in time unless Congress disapproves his recommendation to do so by enacting a concurrent resolution within 90 days. Under the Senate committee amendments, the President's recommendation to reopen the forest for mining would have to be endorsed by Congress before the mining ban were lifted. No leasing would take place unless Congress enacted a joint resolution approving the President's recommendation.

FAIR MARKET VALUE DETERMINATION

Both the House bill and the Senate committee amendments to H.R. 9 set up a mechanism for determining which of the lease applications would have been entitled to a lease if leases were issued, determining the fair market value of these lease rights, and providing just compensation for those applicants who establish a right to a lease. Both bills spell out specifically that the fair market value of the lease shall be determined by considering the replacement cost of the phosphate rock, the costs of complying with all applicable Federal, State, and local laws and regulations including reclamation and restoration of the land (in-

cluding wetlands), and other costs normally incurred in the mining of the phosphate. Under the House bill if the lease applicants and the Secretary of the Interior can not agree on fair market value within 1 year of the date of enactment of the bill, then the fair market value determination shall be subject to binding arbitration.

The Senate committee version does not provide for binding arbitration, rather it provides that any dispute will be referred to the Federal Court of Claims.

COMPENSATION OPTIONS

Under the House-passed version of H.R. 9, lease applicants found to be entitled to a lease enter into negotiations with the Secretary of the Interior for the purpose of acquiring these lease rights by exchange, monetary credits, suspension of leases until some later date, or, at the Secretary's option only, by purchase. The Senate committee amendment eliminates the exchange option because of the difficulties that have been encountered pursuant to other exchange legislation when the attempt is made to select lands for the exchange. In addition, the Senate committee proposal would allow the monetary credit to apply only to the Federal share of the royalties, thus avoiding any impact on States which receive a share of such royalties. And finally, the amendment includes a provision which permits not more than 10 percent of the credit to be applied in any one year thus avoiding a substantial impact on revenue during a given year.

In summary, Mr. President, I want to again point out the long history of controversy surrounding phosphate mining in the Osceloa National Forest. The legislation before us today seeks to put to rest the possibility that this forest will be unnecessarily damaged by strip-mining operations in the immediate future.

While I certainly recognize the critical importance of providing adequate phosphate supplies for our country, I see no reason to destroy a national forest when alternative undeveloped phosphate deposits exist.

The anticipated deposits underlying the Osceola National Forest are estimated to represent less than 5 percent of Florida's reserve base and less than 1.5 percent of the U.S. phosphate reserve base.

Surely we should put the question of mining the Osceola aside at least until such a time when the supply of phosphate becomes critical, and the supply of recoverable phosphates has been exhausted on private or Federal lands on which the mining would have lesser environmental impacts, or which can be more effectively reclaimed.

For the time being, Congress has a responsibility to encourage an effective management policy for the Osceola National Forest that recognizes the multiple uses and rich natural values associated with this important forest resource.

In addition, it is important that pending lease applications for phosphate mining leases be settled in a timely and equitable manner. The Senate Energy and Natural Resources Committee amendments to H.R. 9 seek to achieve both these goals. By prohibiting phosphate mining in the Osceola National Forest and establishing a procedure for justly compensation applicants who have established a right to a mining lease, this proposal sets the stage for resolving the long-lived controversy of strip mining in the Osceola National Forest.

In closing, Mr. President, I want to thank the chairman of the Senate Energy Committee, Senator McCLURE, for his assistance in getting this bill through committee and to the Senate floor. I appreciate as well the participation of the large number of interested parties. This includes Senator HAWKINS, Congressman FUQUA, Governor Graham, the State of Florida regulatory agencies, as well as interested citizen groups and the private mining companies involved—Kerr-McGee, Global Corp., Gulf Oil, and Monsanto. Countless hours have gone into developing this bill which I feel represents a fair and workable solution to this complex and longstanding problem. Without the spirit of cooperation and compromise we saw exhibited during deliberations on this bill, I suspect we never would have reached this point of consideration. I hope all these joint efforts will be productive and we will see final action taken on Osceola National Forest legislation during the remaining days of the 97th Congress.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO POSTPONE S. 2715—NATIONAL PARK VISITOR FACILITIES FUND

Mr. BAKER. Mr. President, next I would propose to postpone Calendar Order No. 1003 indefinitely, S. 2715, if the minority leader is prepared to clear that action.

Mr. ROBERT C. BYRD. I have no objection.

Mr. BAKER. Mr. President, then I ask unanimous consent that S. 2715, Calendar Order No. 1003, be indefinitely postponed.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Mr. President, reserving the right to object—

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I would like to inquire of the majority leader—as I indicated yesterday, I am very anxious that we always move along as expeditiously as we can in the legislative process. Of course, I have not personally made any effort to object to these bills because I know they mean a great deal to the Members of the Senate.

I was hoping that perhaps some of them we might consider postcloture. But I know there is a great desire to move these things through very promptly prior to the 6 o'clock cloture vote, and I have tried to accommodate that. I would just like to inquire of the leadership, the distinguished majority leader and the minority leader, directing my question, of course, to the majority leader, since I am obviously being cooperative as far as seeing these measures move through easily and expeditiously without objection, whether I could anticipate cooperation from the leadership on amendments, for example, that might be offered in postcloture, that we would not expect any efforts to perhaps forego yeas and nays on my amendments because I am simply raising the point, Mr. Leader, that I want to cooperate on this phase of the smooth operation of the U.S. Senate. And I am just hopeful that there will also be encountered in the body as a whole a willingness to allow good, substantive amendments to be considered in the postcloture period as regards the gas tax bill, assuming, of course, that cloture is invoked.

I would like to make that inquiry of the leadership. I think it is a fair inquiry in that I am cooperative on this side of postcloture, and I would hope that the leadership would be cooperative with me and other Members of the Senate—I have been cooperative in precloture, and I hope they would be cooperative in postcloture. I would just like to inquire of the majority leader where we might stand at that time on this matter.

Mr. BAKER. Mr. President, I must say to my friend from North Carolina that it is late in the weekend and even late in this day, there is snow outside, and I am almost too weary to say what I am about to say, but the Senator from North Carolina knows that I cannot do that.

He knows that I am committed to try to pass the highway bill, and that we are going to have a cloture vote now in 25 minutes; that if cloture is invoked, we will make an effort to complete this bill and to do so tonight. The Senator is within his rights to uti-

lize the rules and precedent of the Senate as he may wish after that vote, but I cannot, I simply cannot couch the facts in any other terms. I must try to pass that bill. Therefore, the Senator surely knows that I cannot agree to his request.

Now, as to the matters still in the unanimous-consent folder, I suppose that it will discommode a great number of Senators if we do not pass these matters which have gone through the clearance process on both sides, but it is no matter to me. I would like to accommodate the greatest number of Senators. But almost any one of these items in here can be stopped by a unanimous-consent request at this point, but at some point we will pass them.

Mr. President, I hope the Senator would not object, indeed I hope he would not utilize a great deal more time between now and 6 o'clock, because we will utilize that time in discussion of this point, I suspect, without effect and have a very little time left before cloture to try to do what I believe should be done. The answer to my friend from North Carolina is that I would be most anxious to cooperate with him under normal circumstances, but in this case we find ourselves on opposite sides of the fence.

He wants to keep me from passing a bill and I want to pass it. I guess we are just sort of locked into that position.

Mr. EAST. Well, I respect the majority leader's position. I would simply like for the Senate to know, for my colleagues to know that I have been forgoing a very rich opportunity here to object, to ask that these measures be taken up in the post-cloture situation.

Now, last evening I attempted to find a graceful way out of the filibuster because I knew that though the spirit was willing, the flesh was weak and one can only go so long with that. Some understood that to have been some sort of error on our part. We knew exactly what we were doing, and we wanted to do it as an accommodation to try to find some reasonable way to get together with the majority and the minority leaders and reach a unanimous-consent agreement. That seemed to be the appropriate time to do it. At some point the filibuster would have ended and we would have reached, it seemed to us, the prudent and reasonable time to do it. And naturally the opposition and the high keepers of the Nation's conscience will interpret that as some sort of error.

I tried to be cooperative last evening in getting out of the filibuster, not making it unduly long, working out a unanimous-consent agreement, which we did. Now, what I have been doing is sitting here for a couple of hours this afternoon allowing these measures to go through unchallenged, and I suspect again the keeper of the Nation's conscience would say, "Oh, EAST missed a golden opportunity."

No, I did not. I know exactly what is going on. All these measures are going through without objecting, and I am not objecting because I want to be cooperative, as I have from the outset. I just oppose the gas bill, and I do not think it should have been brought up in this lameduck session, Mr. Leader.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. EAST. I would like for the record to show——

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BAKER. Mr. President, the Senator is speaking on a reservation with his right to object. I do not make a point of order that this is not a statement of objection, but I would like to get on. I will now withhold making that point of order so the Senator may proceed.

Mr. EAST. I will complete my point quickly. I would like for the record to show that I fully understand what is occurring. I am not availing myself of a very rich opportunity to try to push these matters into a post-cloture position which would make it further difficult for our colleagues to move out of here and get home, which I know they are very anxious to do. I think that is an eminently fair position to take, an eminently responsible one to take. I only hope that when we get to the merits of the gas tax bill we could expect a response from the Chamber in terms of whether if substantive and meaningful amendments are offered we might be able to get yeas and nays on those particular matters. We shall see. I am only asking for reciprocity in terms of not taking advantage of the rules to unduly affect the outcome of legislation. So I shall not object to this particular request right now. I withdraw my objection. The majority leader may proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAST. I am, of course, reserving the right on any particular measure to possibly object and that it be taken up in a post-cloture period. Mr. President, I thank the leader and I thank the Chair.

Mr. BAKER. Mr. President, what is the last item that was acted on?

The PRESIDING OFFICER. The Chair agreed to the unanimous-consent request to indefinitely postpone Calendar item 1003.

Mr. BAKER. I thank the Chair.

PROTECTION OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS

Mr. BAKER. Mr. President, the next item on my list is H.R. 7102. If the minority leader is agreeable I will ask the Chair to lay that matter before the Senate at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7102) To provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1569

Mr. BAKER. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for Mr. HATCH proposes unprinted amendment numbered 1569.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 41, line 1, strike "on" through "1982" on line 2, and insert in lieu thereof the following: "ninety days from the date of enactment".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. KENNEDY be added as a cosponsor on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I am very gratified today to take a giant step toward enacting a major reform of the laws protection migrant and seasonal workers. At the outset I must acknowledge the strong and cooperative support of the distinguished ranking member of the commitee, Senator KENNEDY, who joins me in this unanimous-consent request. His participation was vital in developing this legislation and in securing the necessary bipartisan support to pass the bill without objection. I hope that our joint efforts on this measure foreshadows good things for the 98th Congress, as we work to develop the kind of consensus that is indispensable for enacting sound public policy.

Mr. President, H.R. 7102 will enact the Migrant and Seasonal Agricultural Worker Protection Act, and supersede entirely the Farm Labor Contractor Registration Act of 1963. The bill is identical to the measure S. 2930 which I introduced on September 17, 1982, with the cosponsorship of Mr. QUAYLE, Mrs. HAWKINS, and Mr. HELMS. Since then, Mr. BYRD of West Virginia and Mr. BOREN, and today, Mr. KENNEDY,

have been added as cosponsors. The proposal in fact carried the imprimatur of the current administration, which carried on extensive negotiations over an 18-month period with various interest groups to develop new legislation that would strengthen enforcement over labor contractors as well as enhance labor standard protections for migrant and seasonal agricultural workers. Among the representative groups consulted were the American Farm Bureau Federation, the AFL-CIO and its affiliate, the United Farm Workers of America, the migrant legal action program, the National Cotton Council, the National Council of Agricultural Employers, the National Food Processors Association, the United Fresh Fruit and Vegetable Association, and the Western Growers Association. As Secretary Donovan indicated in the letter transmitting the measure, "the bill represents a consensus among the parties who are most directly affected."

Congress enacted the current law FLCRA in 1963 to curb the exploitation of migrant agricultural workers and their employers by irresponsible farm labor contractors. Known commonly as crew leaders, these contractors typically traveled the country, following the planting and harvesting season. They recruited, transported, supervised, handled pay arrangements, and otherwise acted as intermediary between migrant workers and agricultural employers. Congressional hearings, however, revealed sordid abuses in many instances. Migrant workers were commonly promised higher wages and more work than they eventually received; they were transported long distances in unsafe vehicles and under degrading conditions; they were housed in hovels; they were subjected to physical abuse and kept in virtual slavery. The hearings also showed that itinerant crew leaders at times victimized agricultural employers. Lured by a more lucrative arrangement in the interim, a crew leader might break a previously made contract to supply labor to a farmer, who would then face financial ruin if he could not get help to harvest his crop in time.

The 1963 act regulated these crew leaders through a system of Federal registration and the imposition of affirmative obligations with respect to vehicle liability insurance, recordkeeping, and disclosure of prospective terms and conditions of employment. However, the act proved ineffective. After a decade of experience and several congressional studies, the Congress in 1974 adopted sweeping amendments. The amendments provided an express private right of action to migrant workers; it extended coverage to intrastate contracting activities; it extended registration requirements; it imposed affirmative duties on the Secretary of Labor to monitor and investigate the activities of contractors; and, it imposed substantive duties on a contractor with respect to transportation and housing. The amendments also imposed on farmers and other employers the requirement of confirming that a contractor is properly registered and the requirement to maintain payroll records on migrant workers furnished by the contractor.

Unfortunately, the experience under the 1974 amendments has been anything but satisfactory. Newspapers and the news magazines still periodically report on continuing exploitation of migrant workers, on squalid housing, and on unscrupulous crew bosses. At the same time, strong criticism has been directed against the Department of Labor, particularly against its expansive interpretation of the act and its enforcement policies. Congressional hearings have confirmed that the Department in the past concentrated its scarce resources on securing the registration of every employer who might conceivably be construed a farm labor contractor. In an inordinate number of cases, farmers and other agricultural employers—basically fixed situs employers, who were easy targets for Government enforcement—were cited for technical violations dealing with registration requirements. The impact of this enforcement policy has not been the improvement of the migrant workers' lot in the workplace.

The overriding result has been the harassment of agricultural employers. They have expended valuable time and energy in attempting to comply with burdensome registration requirements which in fact are of little utility when it comes to stationary employers. They have wasted resources fighting legal battles over technical violations. If anything, the whole enforcement philosophy of the past has undermined cooperation between the Government and the agricultural employer community in curbing the exploitation of migrant workers.

The bill we are enacting today seeks to rectify these fundamental problems with current law. It eliminates redtape, paperwork, and administrative burdens. Yet the bill preserves the rights of migrant and seasonal farm workers against abusive employment practices. As outlined in the Secretary's transmittal letter, this consensus measure follows certain basic principles.

First, unlike FLCRA, the bill distinguishes between the traditional, itinerant crewleaders and fixed situs agricultural employers by totally eliminating the obligation of fixed situs employers to register as crewleaders. Second, it maintains the basic farmworker protections under the present FLCRA and has made clear that these protections are to be provided by the appropriate agricultural employer or association, irrespective of whether that employer is a crewleader or a fixed situs employer; those protections pertain to vehicle safety, adequate housing, disclosure of wages, and working conditions, and maintenance of certain records. Third, the bill distinguishes between migrant agricultural workers and seasonal agricultural workers; under the bill migrant agricultural workers are those who are working away from their home overnight, while seasonal agricultural workers are those who live at home and commute to agricultural employment. Fourth, exemptions are provided for labor unions, family businesses and small businesses. Fifth, ambiguous words and phrases which have caused extensive litigation under FLCRA have been eliminated.

Now, Mr. President, it is true that the Labor Committee has not formally filed a report on this measure, nor on S. 2930 for that matter. However, I think it is appropriate to set forth some explanation for purposes of legislative history. First, I will outline the provisions of the bill by way of a section-by-section analysis.

SECTION-BY-SECTION ANALYSIS

Section 1.—This section provides the table of contents for this Act and that the Act may be cited as the "Migrant and Seasonal Agricultural Worker Protection Act".

Section 2.—This section states that the purpose of this Act is to remove the restraints on commerce caused by activities detrimental to migrant and seasonal agricultural workers; to require farm labor contractors to register under this Act; and to assure necessary protections for migrant and seasonal agricultural workers, agricultural associations, and agricultural employers.

Section 3.—This section provides for the definitions of terms to be used for the purpose of this Act.

(1) The term "agricultural association" is defined as "any nonprofit or cooperative association of farmers, growers, or ranchers, incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker."

(2) The term "agricultural employer" is defined as "any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker."

(3) The term "agricultural employment" is defined as "employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) and handling, planning, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state."

(4) The term "day-haul operation" is defined as "the assembly of workers at a pickup point waiting to be hired and employed, transportation of such workers to agricultural employment, and the return of such workers to a drop-off point on the same day."

(5) The term "employ" is defined as "having the meaning given such term under section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) for the purposes of implementing the requirements of that Act."

(6) The term "farm labor contracting activity" is defined as "recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker."

(7) The term "farm labor contractor" is defined as "any person, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other valuable consideraton paid or promised to be paid, performs any farm labor contracting activity."

(8) The term "migrant agricultural worker" is defined as "an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence." Specifically excluded from the definition of a migrant agricultural worker are any immediate family member of an agricultural employer or a farm labor contractor and any temporary nonimmigrant agricultural H-2 alien worker.

(9) The term "person" is defined as "any individual, partnership, association, joint stock company, trust, cooperative, or corporation."

(10) The term "seasonal agricultural worker" is defined as "an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—(i) when employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or (ii) when employed in canning, packing, ginning, seed conditioning or related research, or processing operations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation." Specifically excluded from the definition of a seasonal agricultural worker are any migrant agricultural worker, any immediate family member of an agricultural employer or a farm labor contractor, and any temporary nonimmigrant agricultural H-2 alien worker.

(11) The term "Secretary" is defined as "the Secretary of Labor or the Secretary's authorized representative."

(12) The term "State" is defined to include "any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam."

Section 4.—This section addresses the applicability of this Act and specifically excludes certain persons.

Subsection (a) enumerates the persons who are not subject to this Act.

(1) The family business exemption applies to any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual or an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.

(2) The small business exemption applies to any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable.

(3) Other exemptions include—

(A) Any common carrier which would be a farm labor contractor solely because the carrier is engaged in the farm labor contracting activity of transporting any migrant or seasonal agricultural worker.

(B) Any labor organization, as defined in section 2(5) of the Labor Management Relations Act (29 U.S.C. 152(5)) (without regard to the exclusion of agricultural employees in that Act) or as defined under applicable State labor relations law.

(C) Any nonprofit charitable organization or public or private nonprofit educational institution.

(D) Any person who engages in any farm labor contracting activity solely within a twenty-five mile intrastate radius of such person's permanent place of residence and for not more than thirteen weeks per year.

(E) Any custom combine, hay harvesting, or sheep shearing operation.

(F) Any custom poultry harvesting, breeding, debeaking, desexing, or health service operation provided the employees of the operation are not regularly required to be away from their permanent place of employment other than during their normal working hours.

(G) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultural employment, unless such full-time students or other individuals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person. The exemption is further extended to certain persons to the extent that they are supplied with the specified workers.

(H) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under eighteen years of age who are providing transportation on behalf of such person. The exemption is further extended to certain persons to the extent that they are supplied with the specified workers.

(I) Any employee of any person described in subparagraphs (A) through (H) when performing farm labor contracting activities exclusively for such person.

Subsection (b) states that Title I of this Act does not apply to any agricultural employer or agricultural association or to any employee of such an employer or association.

TITLE I—FARM LABOR CONTRACTORS

Section 101.—This section requires that no person shall engage in any farm labor contracting activity unless the person has a certificate of registration from the Secretary specifying which farm labor contracting activity is authorized. This section further prohibits a farm labor contractor from hiring, employing or using any individual to perform farm labor contracting activities unless such individual has a certificate of registration, or a certificate of registration as an employee of a farm labor contractor, which authorizes the activity. The section states that a farm labor contractor shall be held responsible for violations of this Act by any employee regardlesss of whether the employee possesses a certificate based on the contractor's certificate of registration.

The section also requires the farm labor contractor and the farm labor contractor employee to carry the certificate of registration at all times while engaging in farm labor contracting activities and to exhibit the certificate, upon requests, to all persons with whom he is dealing as a contractor.

The section would deny the use of the State employment service system, as provided through the Wagner-Peyser Act, to any contractor who refused or failed to produce, when asked a certificate of registration.

Section 102.—This section directs the Secretary, after appropriate investigation, to issue a certificate of registration or a certificate of registration as an employee of a farm labor contractor to any person who has filed a written application which contains the following information: a declaration stating the applicant's permanent place of residence and the contracting activities for which the certificate is requested, and any other relevant information; a statement identifying each vehicle to be used to transport migrant or seasonal workers and the appropriate documentation concerning ownership or control and compliance with the motor vehicle safety requirements of section 401; a statement identifying each facility or real property to be used to house migrant workers and the appropriate documentation concerning ownership or control and compliance with the safety and health standards of housing under sectin 203; a set of fingerprints; and a declaration consenting to the designation of the secretary as an agent available to accept service of summons if the contractor has left the jurisdiction in which the action is commenced, or is otherwise unavailable.

Section 103.—This section provides for determinations with respect to a certificate of registration. In accordance with regulations the Secretary may refused to issue or renew, or may suspend or revoke, a certificate if the applicant or holder has knowingly made any misrepresenatation; is not the real party in interest and the real party in interest has been refused a certificate, or has had a certificate suspended or revoked, or does not qualify for a certificate; has failed to comply with this Act or the regulations, has failed to pay a court judgment under the Farm Labor Contractor Registration Act of 1963 (FLCRA) or to comply with a final order issued by the Secretary, as a result of a violation under this act or FLCRA; or has been convicted within the preceding five years, or a crime relating to gambling or to the sale, distribution or possession of alcoholic beverages in connection with any farm labor contracting activity, or of any felony involving robbery, bribery, extortion, embezzlement, grand larceny, burglarly, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assult which inflicts grievous bodily injury, prostitution, peonage or smuggling or harboring individuals who have entered the country illegally.

Any person who is refused the issuance or renewal of a certificate or whose certificate is suspended or revoked will be afforded an opportunity for an agency hearing, upon request made within 30 days after the date of issuance of the notice of the refusal, suspension, or revocation. The hearings are held in

accordance with the Administrative Procedures Act and the agency determination shall be made by final order.

If no hearing is requested, the refusal, suspension, or revocation shall constitute a final and unappealable order. If a hearing is requested, the initial agency decision shall be made by an administrative law judge and the decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of an intent to modify or vacate the decision shall be issued to the parties within 30 days after the decision of the administrative law judge.

Any person against whom a final order has been entered after an agency hearing may obtain review by the district court by filing a notice of appeal within 30 days from the date of such order, simultaneously sending a copy to the Secretary. The Secretary shall certify the record to the court. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence. Any decision, order or judgment of the United States District Court shall be subject to appeal to the appropriate circuit courts.

Section 104.—This section provides that a certificate of registration may not be transferred or assigned. Unless suspended or revoked, a certificate shall expire 12 months from the date of issuance, except that certificates issued between December 1, 1982 and November 30, 1983 may be issued for a period of up to 25 months to provide for an orderly transition. Certificates may also be temporarily extended by filing an application with the Secretary at least 30 days prior to its expiration date. The Secretary may review a certificate for additional 12-month periods or for periods in excess of 12 months but not greater than 24 months. The eligibility for renewals of periods in excess of 12 months shall be limited to contractors who have not been cited for a violation of this Act of FLCRA during the preceding 5 years.

Section 105.—The section requires each farm labor contractor to provide to the Secretary within 30 days, a notice of each change of permanent place of residence. The section also directs the Secretary to amend a certificate whenever a contractor intends to: engage in another farm labor contracting activity; use another vehicle to transport migrant or seasonal workers; or use another facility or real property to house migrant workers.

Section 106.—This section states that no farm labor contractor shall recruit, hire, employ, or use, with knowledge, the services of any illegal alien. The contractor will be considered to have complied with this provision if he demonstrates that he relied in good faith on documentation prescribed by the Secretary and that he has no reason to believe that the individual was an illegal alien.

TITLE II—MIGRANT AGRICULTURAL WORKER PROTECTIONS

Section 201.—This section provides for informing migrant agricultural workers of their wages and working conditions and for the maintenance of records.

The section requires each farm labor contractor, agricultural employer and agricultural association which recruits migrant workers to ascertain and disclose to the worker the following information in writing at the time of the worker's recruitment; the place of employment; the wage rates to be paid; the crops and kinds of activities on which the worker may be employed; the period of unemployment; the transportation, housing and other employee benefits and their costs; the existence of a strike or other concerted work stoppage, slowdown, or interruption of operations at the place of employment; and the existence of any arrangements under which the farm labor contractor, agricultural employer or association is to receive a commission as a result of any sales to the workers.

The section requires each farm labor contractor, agricultural employer and agricultural association which employs migrant workers to post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded the workers under this Act, including their right to receive, upon request, a written statement of the information described in the preceding paragraph.

If housing is provided by a farm labor contractor, agricultural employer or agricultural association, they must post or present to the migrant workers a statement of the terms and conditions, if any, of occupancy.

The section requires, with respect to each worker, that each farm labor contractor, agricultural employer and agricultural association which employs migrant workers make, keep and preserve, for three years, records of the following: The basis on which wages are paid; the number of piecework units earned; the number of hours worked; the total pay period earnings; the specific sums withheld and the purpose of each withholding; and the net pay. The above information must also be provided through an itemized written statement to each migrant worker for each pay period.

If a farm labor contractor furnishes migrant workers to another contractor, agricultural employer or association, the farm labor contractor must provide copies of all records with respect to the above information for the workers so provided; the recipient of the records must keep them for a period of three years from the end of the period of employment.

The section further provides that no farm labor contractor agricultural employer or association shall knowingly provide false or misleading information to any migrant worker concerning the terms, conditions, or existence of employment required to be disclosed by the preceding paragraphs.

The information required to be disclosed to migrant workers when recruited, employed or housed must be in written form in English, or as necessary and reasonable, in Spanish or other fluent or literate in English. The Department will provide forms in English, Spanish and other languages, as necessary, which may be used in providing migrant workers with the required information.

Section 202.—This section provides for further protections for migrant workers with respect to wages, supplies and other working arrangements.

This section requires each farm labor contractor, agricultural employer and association to pay the wages owed to the migrant workers when due. The section also prohibits the contractor, employer or association from requiring migrant workers to purchase any goods or services solely from them. Finally, the section states that no contractor, employer or association shall, without justification, violate the terms of any working arrangements made with any migrant worker.

Section 203.—This section provides for the safety and health of housing. This section requires that each person who owns or controls a facility or real property which is used as housing for migrant workers shall be responsible for ensuring that the housing complies with substantive Federal and State safety and health standards applicable to that housing.

The section prohibits the occupancy of such housing by migrant workers unless the housing has been certified by an appropriate State or local health authority that it meets the applicable safety and health standards, and a copy of the certification of occupancy is posted at the site. The section notes that the receipt of such a certification does not relieve any person of the responsibilities of ensuring that the housing complies with substantive Federal and State safety and health standards. The owner of the housing is required to retain the original certification for a period of three years.

If a request for inspection and certification of a facility or real property is made to the appropriate State or local health agency at least 45 days prior to the anticipated date of occupancy by migrant workers and the agency has not conducted the investigation, this section permits the housing to be occupied although occupancy would not relieve any person of the responsibilities of ensuring that the housing complies with substantive Federal and State safety and health standards.

Finally, this section does not apply to any person who, in his ordinary course of business, regularly provides housing on a commercial basis to the general public, such as an innkeeper.

TITLE III—SEASONAL AGRICULTURAL WORKER PROTECTIONS

Section 301.—This section provides for informing seasonal agricultural workers of their wages and working conditions and for the maintenance of records.

The section required each farm labor contractor, agricultural employer and agricultural association which recruits seasonal workers, other than day-haul workers, to ascertain and disclose to the worker, upon request, the following information in writing when an offer of employment is made to such worker: the place of employment; the wage rates to be paid; the crops and kinds of activities on which the worker may be employed; the period of employment; the transportation and other employee benefits and their costs; the existence of a strike or other concerted work stoppage, slowdown, or interruption of operations at the place of employment; and the existence of any arrangements under which the farm labor contractor, agricultural employer or association is to receive a commission as a result of any sales to the workers.

In the case of day-haul workers, the above information shall be required to be disclosed in writing at the place of recruitment.

The section requires each farm labor contractor, agricultural employer and agricultural association which employs seasonal workers to post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded the workers under this Act, including their right to receive, upon request, a written statement of the information described in the preceding paragraphs.

The section requires, with respect to each worker, that each farm labor contractor, agricultural employer and agricultural association which employs seasonal workers make, keep and preserve, for three years, records of the following: the basis on which wages are paid; the number of piecework units earned; the number of hours worked; the

total pay period earnings; the specific sums withheld and the purpose of each withholding; and the net pay. The above information must also be provided through an itemized written statement to each seasonal worker for each pay period.

If a farm labor contractor furnishes seasonal workers to another contractor, agricultural employer or association, the farm labor contractor must provide copies of all records with respect to the above information for the workers so provided; the recipient of the records must keep them for a period of three years from the end of the period of employment.

The section further provides that no farm labor contractor, agricultural employer or association shall knowingly provide false or misleading information to any seasonal worker concerning the terms, conditions, or existence of employment required to be disclosed by the preceding paragraphs.

The information required to be disclosed to seasonal workers when recruited or employed must be in written form in English, or as necessary and reasonable, in Spanish or other language common to the seasonal workers who are not fluent or literiate in English. The Department will provide forms in English, Spanish and other languages, as necessary, which may be used in providing seasonal workers with the required information.

Section 302.—This section provides for further protections for workers with respect to wages, supplies and other working arrangements.

This section requires each farm labor contractor, agricultural employer and association to pay the wages owed to the seasonal workers when due. The section also prohibits the contractor, employer or association from requiring seasonal workers to purchase any goods or services solely from them. Finally, the section states that no contractor, employer or association shall, without justification, violate the terms of any working arrangements made with any seasonal worker.

TITLE IV—FURTHER PROTECTIONS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS

Section 401.—This section provides for motor vehicle safety and applies to the transportation of any migrant or seasonal agricultural worker. The section does not apply to transportation of any migrant or seasonal agricultural worker on a tractor, combine, harvester, picker, or other similar machinery and equipment while such worker is actually engaged in the planting, cultivating, or harvesting of any agricultural commodity or the care of livestock or poultry.

The section requires each farm labor contractor, agricultural employer and agricultural association to ensure that any vehicle used to transport a migrant or seasonal agricultural worker conforms to certain standards to be prescribed by the Secretary and other applicable Federal and State safety standards. The section would also ensure that the driver of each vehicle possess a valid and appropriate license and provides for the existence of an insurance policy or liability bound insuring against liability for damage to persons or property arising from the ownership or operation of the vehicle. The Secretary is required to issue regulations which would prescribe standards to protect the health and safety of migrant and seasonal agricultural workers, and in issuing the standards for the protection of those workers consider, among other factors, the type of vehicle used, the passenger capacity in the vehicle, the distance which such workers will be carried in the vehicle, the type of roads and highways on which such workers will be carried in the vehicle, and the extent to which a proposed standard would cause an undue burden on agricultural employers, agricultural associations, or farm labor contractors.

The standards prescribed by the Secretary shall be in addition to, and shall not supersede or modify, any standard under the Interstate Commerce Act relating to the transportation of migrant workers which is independently applicable. A violation of these standards shall also constitute a violation under this Act.

In the event the Secretary fails to prescribe the standards by the effective date of this Act, the standards prescribed under the Interstate Commerce Act relating to the transportation of migrant workers shall be deemed to be the standards prescribed by the Secretary and shall, as appropriate and reasonable in the circumstances, apply: (1) without regard to the mileage and boundary line limitations of that Act, and (2) until superseded by standards actually prescribed by the Secretary.

The level of insurance required by this section should be at least the amount required for common carriers under the Interstate Commerce Act.

If the farm labor contractor, agricultural employer or association is the employer of any migrant or seasonal worker for the purposes of State workers' compensation law and thus provides coverage for the workers in the case of bodily injury or death, the section would excuse the requirement of an insurance policy or liability bond if the workers are only transported under circumstances where there is coverage under State law. An insurance policy or liability bond will be required for those circumstances where there is no coverage under State law.

Finally, the section requires the Secretary to promulgate regulations, not later than the effective date of this Act and in accordance with section 511 of this Act.

Section 402.—This section requires that prior to utilizing the services of a farm labor contractor all persons should take reasonable steps to determine that the contractor possesses a valid certificate of registration which authorizes the activity to be performed. The section states that the person may rely on the possession of a certificate of registration or on confirmation by the Department of Labor. The section also requires the Secretary to maintain a central public registry of all persons issued a certificate of registration.

Section 403.—This section requires each farm labor contractor to obtain at each place of employment and make available for inspection to the workers he furnishes a written statement of the conditions of employment described in sections 201 and 301.

Section 404.—This section states that no farm labor contractor shall violate, without justification, the terms of any written agreements made with agricultural employers or associations pertaining to any contracting activity or worker protection under this Act. The provision also notes that written agreements under this section do not relieve the parties of any responsibilities that they would otherwise have under the Act.

TITLE V—GENERAL PROVISIONS

Part A—Enforcement provisions

Section 501.—This section provides for criminal sanctions of a fine of not more than $1,000 or a prison term not to exceed three years, or both, for willful and knowing violations of this Act. The section also provides for a fine of not more than $10,000 or a prison term not to exceed three years, or both, for any person who has been denied a certificate, or has failed to obtain a certificate or has had his certificate suspended or revoked and such person had been found to have recruited, hired, employed or used, with knowledge, the services of an illegal alien.

Section 502.—This section provides for judicial enforcement by permitting the Secretary to petition any appropriate district court for temporary or permanent injunctive relief if the Secretary determined that this Act, or any regulation, has been violated. This section also permits the Solicitor of Labor to appear for, and represent, the Secretary in any civil litigation brought under this Act, subject to the direction and control of the Attorney General.

Section 503.—This section provides for administrative sanctions of a civil money penalty of not more than $1,000 for each violation of this Act or the regulations. In determining the amount to be assessed the Secretary must take into account the previous record of the person in terms of compliance with this Act and with comparable requirements of FLCRA, and the gravity of the violation. Any person assessed a civil money penalty will be afforded an opportunity for an agency hearing, upon request made within 30 days after the date of issuance of the notice of assessment. The hearings are held in accordance with the Administrative Procedures Act and the agency determination shall be made by final order.

If no hearing is requested, the assessment shall constitute a final and unappealable order. If a hearing is requested, the initial agency decision shall be made by an administrative law judge and the decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of an intent to modify or vacate the decision shall be issued to the parties within 30 days after the decision of the administrative law judge.

Any person against whom a final order has been entered after an agency hearing may obtain review by the district court by filing a notice of appeal within 30 days from the date of such order, simultaneously sending a copy to the Secretary. The Secretary shall certify the record to the court. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence. Any decision, order or judgment of the United States District Court shall be subject to appeal to the appropriate circuit courts.

All penalties collected under the authority of this section shall be paid into the Treasury of the United States.

Section 504.—This section provides for a private right of action by any person aggrieved by a violation of this Act, or the regulations, by a farm labor contractor, agricultural employer, agricultural association or other person. The aggrieved party may file suit in any district court having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies. The court is authorized to appoint an attorney for such complainant, upon application, and may authorize the commencement of the action.

If the court finds that the respondent has intentionally violated any provision of this Act, or the regulations, it may award damages up to and including an amount equal to

the amount of actual damages, or statutory damages of up to $500 per plaintiff per violation, or other equitable relief. Multiple infractions of a single provision of this Act, or the regulations, shall constitute only one violation for purposes of determining statutory damages due a plaintiff. If a complaint is certified as a class action, the court shall award no more than the lesser of up to $500 per plaintiff per violation, or up to $500,000 or other equitable relief.

In determining the amount of damages to be awarded, the court is authorized to consider whether an attempt was made to resolve the issues in dispute before resorting to litigation.

Civil actions brought under this section shall be subject to appeal to the appropriate circuit courts.

Section 505.—This section prohibits the discrimination against any migrant or seasonal agricultural worker and provides that no person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against such worker because the worker has filed a complaint or caused a complaint to be filed under this Act, or has exercised on behalf of himself or others any rights or protections afforded by this Act.

A worker who believes that he has been discriminated against by any person in violation of this section, may within 180 days after the violation occurs, file a complaint with the Secretary. The Secretary shall investigate the complaint and if he determines that the provisions of this section have been violated, he shall bring an action in any appropriate district court against such person. The courts shall have jurisdiction, for cause shown, to restrain the violation and to order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

Section 506.—This section states that agreements by employees purporting to waive or to modify their rights under this Act shall be void as contrary to public policy, except for waivers or modifications in favor of the Secretary which shall be valid for purposes of enforcement of this Act.

Part B—Administrative provisions

Section 511.—This section authorizes the Secretary to issue rules and regulations as are necessary to carry out this Act.

Section 512.—This section authorizes the Secretary to investigate and pursue complaints, including the inspection of places and records and the questioning of persons and gathering of information to determine compliance with the Act or its regulations. The provision authorizes the Secretary to issue subpoenas requiring the attendance of witnesses or the production of evidence. The provision extends to the Secretary the authority contained in sections 9 and 10 of the Federal Trade Commission Act relating to the attendance of witnesses and the production of documents. The provision also makes it a violation of this Act for any person to interfere in any manner with an official during the performance of his investigation or law enforcement function under the Act.

Section 513.—This section permits the Secretary to enter into agreements with Federal and State agencies to use their facilities, and to delegate authority, other than rulemaking, as may be useful in carrying out this Act to a State agency pursuant to a written State plan. The State plan must include a description of the functions to be performed, the methods of performance and the resources to be devoted to the performance of such functions. The State plan must also provide assurances that the State agency's performance of functions so delegated will be at least comparable to the performance of such functions by the Department. The provision also permits the allocations or transfer of funds to the agencies for expenses incurred pursuant to such agreements.

Part C—Miscellaneous provisions

Section 521.—This section states that the Act is intended to supplement State action and therefore does not excuse anyone from compliance with State law or regulation.

Section 522.—This is a transition provision which permits the Secretary to deny a certificate of registration to any farm labor contractor who has a judgment outstanding against him under FLCRA or is subject to a final order of the Secretary under FLCRA assessing a civil money penalty which has not been paid. The provision also permits the use of any findings under FLCRA to be applied to determinations of willful and knowing violations under this Act.

Section 523.—This section repeals FLCRA.

Section 524.—This section, as reflected by the Senate amendment, makes this Act effective 90 days after enactment. The section also provides for classification in title 29, United States Code.

DAY-HAUL OPERATION

Mr. President, I would now like to supplement the preceding analysis with some specific comments on several areas. One of these areas is the day-haul operation which is defined in section 3(4) of the bill and utilized in connection with the definition of "seasonal agricultural worker" in section 3(10).

The term "day-haul operation" as defined in the bill means the assembly of workers at a pickup point waiting to be hired and employed, transportation of such workers to agricultural employment, and the return of such workers to a dropoff point on the same day. It is clear that to be considered part of a day-haul operation the workers must be waiting to be hired and employed. Thus, workers who have already been hired and are part of the employer's work force would not fall within the day-haul definition.

To illustrate, take the case of a processing plant which hires local workers at specific wage rates to work in the plant for a 3-month canning season. The persons hired for this period are told at the time of hire that the employer will provide bus transportation to and from work, and if the workers wish to use the bus transportation they should report to a particular pickup point. Since these workers are not waiting to be hired and employed, they are not part of a day-haul operation.

PRIVATE RIGHT OF ACTION

A second area deserving specific comment is the private right of action provided under section 504 of the bill. The bill changes the current act's provisions on private rights of action. Currently, FLCRA exposes employers to substantial monetary awards for highly technical violations, especially those related to registration status, when there may be very little actual damages. Where an intentional violation of the act has been committed, the bill would allow courts to award up to $500 per plaintiff, per violation, as statuory damages in a private lawsuit with an upper limit of $500,000 for a class action. There is no limit on the amount of actual damages that can be awarded by a court.

In determining the amount of statutory damages due a plaintiff, the bill is clear that multiple infractions of a single provision of the act of regulations constitute a single violation. Thus, maintaining inaccurate records of working time for an individual working for a 3- or 4-week period would be considered a single violation and not a new violation for each work day. It is my understanding, of course, that the same type of recordkeeping violation for another individual for the same time period would be an additional transaction or occurrence for which additional damages could be awarded. Similarly, in relation to housing safety violations, the continuation of violations over a period of time would be considered one violation for the purpose of determining statutory damages for each plaintiff. However, if these same safety violations were not corrected and another group of workers were exposed to them, that would be another occurrence for which additional statutory damages could be awarded. I want to make absolutely clear, however, that as I have stated earlier, full actual damages would be awarded in every case.

JUDICIAL REVIEW

A third area on which I would like to comment is the provision in sections 103(c) and 503(c) relating to the standard of judicial review of agency decisions. Both sections provide that the findings of the Secretary of Labor shall be set aside only if found to be unsupported by substantial evidence as provided by section of 706(2)(E) of title 5, United States Code. Section 706 of title 5, as part of the Administrative Procedure Act, sets forth generally the scope of judicial review of administrative agency decisions. Subsection (2) lists several grounds on which agency action may be held unlawful and set aside, including lack of substantial evidence—paragraph (E). I would like the record to be clear that by referring specifically to section 706(2)(E) in the migrant labor protection bill, we are not precluding the other grounds in section 706(2) as providing a basis for reviewing the actions of the Department of Labor.

At this point in the debate, Mr. President, I would like to insert in the RECORD the statement of Mr. Robert B. Collyer, Deputy Under Secretary of Labor for Employment Standards Administration, who testified before the

House Labor Committee in September on the bill, I think it provides a useful amplification of the basis for the bill and of the intent of the legislation.

STATEMENT OF ROBERT B. COLLYER, DEPUTY UNDER SECRETARY OF LABOR

Mr. Chairman and Members of the Subcommittee: Thank you for your invitation to appear before the Subcommittee today to describe the Administration's proposed legislation to replace the Farm Labor Contractor Registration Act (FLCRA).

The Administration's bill was developed because of concerns raised about FLCRA in the Congress and in the agricultural community among both employer and worker groups. In response to these concerns, we entered upon a cooperative effort to replace FLCRA with a new law better designed to provide needed protections for farmworkers and, at the same time, eliminate unnecessary regulatory requirements that FLCRA has placed on agricultural employers.

This cooperative effort has now resulted in a consensus bill, endorsed by the AFL-CIO, the Migrant Legal Action Program and by major agricultural employer organizations, such as the American Farm Bureau Federation, the National Food Processors Association and the National Council of Agricultural Employers. While none of these groups believes the bill to be ideal from its individual standpoint, there is important agreement that the bill materially improves the law. As a public administrator, there is no doubt in my mind that it does. Therefore, the Administration urges the Congress to give our proposal careful consideration and expedite its enactment.

Before describing our bill, I want to provide the Subcommittee with a brief background sketch of current law. FLCRA was enacted in 1964, following considerable media attention about the conditions of migrant agricultural workers. That concern was centered on crewleaders, who are the middlemen between agricultural workers and farm operators. In this capacity, crewleaders often transport agricultural workers to jobsites; they may also have some supervisory responsibility for these workers in the fields; they may act as a paymaster for the workers or furnish and maintain farmworker housing, collect rent or occasionally supply meals.

Evidence was developed at the time of the original Congressional hearings that crewleaders did not always provide these services to farm operators or to farmworkers in an honest way. The original Act was designed, therefore, to prevent exploitation by crewleaders engaged in interstate activities and to improve working conditions of migrant farmworkers who were employed by crewleaders. The Act required all farm labor contractors covered by its provisions to register with the U.S. Department of Labor and to observe certain requirements in dealing with farmworkers and farm operators.

In 1974—ten years after enactment of the original statute—Congress reviewed farmworker conditions and determined that an expansion of coverage was appropriate. These 1974 amendments to FLCRA had the effect of broadening coverage of individuals and entities other than the traditional crewleader by including any person who, for a fee for himself or another, recruited, solicited, hired, furnished, or transported any migrant worker for agricultural employment, either within a State or across State lines. One result of this broadening language was that large numbers of fixed-situs agricultural employers such as growers and processors were included as farm labor contractors and are now required to register as contractors under the Act. The situations however, under which these fixed-situs employers must register were not clearly stated in the amendments, and the exemptions from registration were even less clear.

The 1974 amendments dealt with other issues as well. For example, they eliminated the requirement pertaining to the recruitment of 10 or more workers and extended the Act's application to intrastate farm labor contracting activities. They also provided greater protection for workers injured while being transported in a contractor-owned or controlled motor vehicle, by increasing motor vehicle insurance requirements. Applicants for registration were required to have proof of a liability insurance policy equivalent to that required for vehicles transporting passengers under the Interstate Commerce Act. The amendments also strengthened the statutory enforcement mechanisms.

Thus, it is clear that the 1974 amendments made several important improvements in the law, but it is also clear that the amendments created substantial uncertainty about the status of fixed-situs agricultural employers and have resulted in great numbers of these employers being treated as if they were crewleaders with no fixed addresses or financial integrity. As a result, the Labor Department's administration of the 1974 amendments with regard to fixed-situs agricultural employers has become controversial, and our efforts to register fixed-situs employers have led to a great deal of litigation.

These matters have caused substantial concern in the Congress. In late 1979, the Department received a letter signed by 52 United States Senators expressing their concern about the issues I have just discussed. In 1980, legislation passed the Senate which would have substantially amended FLCRA. Soon after the Reagan Administration took office in 1981, the Department, therefore, set out to resolve these problems. Our guiding principle, as I have stated, Mr. Chairman, was to develop consensus legislation which would provide essential protections for farmworkers within a rational statutory structure that eliminated unnecessary paperwork and reduced the constant litigation which has been the hallmark of current law. We have achieved that goal.

Now, Mr. Chairman, let me describe this consensus bill.

We are proposing a completely new statutory structure. Our proposal repeals FLCRA and creates a new law, the "Migrant and Seasonal Agricultural Worker Protection Act"—MSPA. The bill encompasses five basic principles:

First, it distinguishes between the traditional crewleader and the fixed-situs agricultural employer, eliminating the fiction that fixed-situs employers are crewleaders and thus most register as such with the Labor Department.

Second, it provides important worker protections, irrespective of whether the worker is employed by a crewleader, a fixed-situs employer or both: vehicle safety housing safety and health requirements, disclosure of wages, hours and working conditions, maintenance of necessary records, and provision to workers of itemized information concerning pay and withholding.

Third, the bill distinguishes between migrant workers, seasonal workers and day-haul workers. Day-haul workers are included within the seasonal worker category.

Fourth, the bill provides exemptions for both family businesses and small businesses.

Fifth, the bill deletes the ambiguous words and phrases which have caused extensive litigation under the current law.

In examining these five principles, I want to emphasize the importance of distinguishing between fixed-situs employers and traditional crewleaders. Nothing under the current law has caused more bitterness—not to mention more litigation—than the failure to do so. Under MSPA, therefore, we have excluded fixed-situs employers from the definition of farm labor contractor. Agricultural employers and associations—and the employees of both—would not be required to register as farm labor contractors or carry out the requirements designed specifically for contractors under the Act, such as being fingerprinted. However, as we have emphasized in our second principle, these fixed-situs employers and associations would be required to comply with the substantive labor protections provided in the new law when they are the employers of migrant or seasonal agricultural workers. Of course, traditional crewleaders would also be required to comply with all of these worker protection provisions and would be required, in addition, to adhere to registration requirements, such as designating the farm labor contracting activities to be performed, providing the address of their permanent place of residence, providing documentation on housing and vehicle compliance, providing a set of fingerprints, and consenting to have the Secretary accept service of summons in certain instances. Agricultural employers and associations are specifically excluded from these registration requirements which apply to farm labor contractors.

As noted in our third principle, the bill would establish two categories of covered farmworkers. The term "migrant agricultural worker" has been redefined so it includes only those farmworkers who are away from their home overnight for purposes of agricultural employment. A new category of covered worker is established, namely "seasonal agricultural worker", to include persons who are employed on a farm or ranch but do not live away from their permanent residence. A seasonal agricultural worker employed on a farm or ranch to perform field work relating to planting, cultivating or harvesting operations is covered by the bill; but the bill does not cover local "in-plant" workers who commute daily to their jobs and are not part of a day-haul operation. "Field work" would typically be handwork such as setting out plants, hoeing, or picking but could also include loading baskets on a truck or riding on a potato harvester to sort the potatoes. It would not, for example, include tractor drivers, operators of complex or major farm machinery or truck drivers.

The bill would fully cover day-haul workers, including those employed by canneries, processing plants and similar agricultural employers, as listed in the bill. Day-haul is defined to mean the assembly of workers at a pick-up point where they are waiting to be hired and employed, transported to the agricultural employment, and then returned to a drop-off point at the end of the same day. Experience has shown that protection is needed for day-haul agricultural workers, irrespective of whether they are living away from home, as they are often highly vulnerable individuals who can be easily subjected to abuse.

As stated in our fourth basic principle, the bill contains a separate section which enumerates various exemptions from the Act. Included are exemptions for family and small businesses. The family business exemption applies where all farm labor contracting activity is performed exclusively by the owner (or owners) or a member of the immediate family, whether or not the family business is incorporated. The small business exemption is structured to exempt those employers who are also exempt from the minimum wage and overtime requirements of the Fair Labor Standards Act by reason of the "500 man-day" test for small agricultural employers under the FLSA.

Other exemptions in FLCRA are retained in MSPA—for example, the exemption for any custom combine, hay harvesting or sheep shearing operations. In the past, the Department has limited the custom combine exemption to grain combining. This interpretation will be continued.

The current exemption for employment of full-time students in the production of seed corn and sorghum has been clarified to include all seed production and to eliminate the four-week limitation on employment. A similar exemption has been provided for the employment of full-time students in the stringing and harvesting of shade grown tobacco.

To resolve the paradox concerning employees of otherwise exempt entities, the bill provides an exemption to ensure that employees of exempt employers are not subject to the new Act.

The exemption provision also provides a specific coverage exclusion for labor unions.

Finally, in order to deal with the potentially ambiguous situation where workers may be jointly employed by a farm labor contractor and an agricultural employer, the bill adopts the definition of the term "employ" used under the Fair Labor Standards Act (FLSA) as the term has been interpreted by the courts over the years for joint-employment circumstances. For example, under the FLSA Regulations a worker may be an employee of two or more employers. That determination is based on the facts of the individual case. Joint employment includes situations where there is an arrangement between employers to share the service of an employee or where one employer is acting directly or indirectly in the interest of another employer in relation to the employee. For example, crew members would be considered jointly employed by the labor contractor and farmer if the crewleader assembles a crew and brings them to the farm, and the farmer exercise the power to direct, control or supervise the work or to determine the pay rates and the methods of payment.

Our goal in dealing with "joint employer" issues was very simple: if a fixed-situs agricultural business "employs" a covered farmworker for FLSA purposes, it also "employs" that farmworker for MSPA purposes. The exact same principles will be used to define the term "employ" in MSPA "joint employment" situations as are used under FLSA.

As a related matter, the current definition of "agricultural employment" in the FLCRA would be retained under the new law.

Now, Mr. Chairman, I would like to describe the employer responsibility and worker protection provisions in the bill. Title I of the bill establishes the basic obligations of farm labor contractors—traditional crewleaders—beginning with the requirement that they be registered with the U.S. Department of Labor. There is a clear statement in the bill that this title will not apply to other types of agricultural employers or agricultural associations. The registration of employees of farm labor contractors who perform farm labor contracting activities for their employer remains unchanged. We intend that contractors should be fully responsible for the farm labor contracting activities of their employees.

Title II of the bill sets out the specific protections for migrant agricultural workers—those working away from their permanent residence. Title III sets out specific protections for seasonal workers. Title IV sets out protections for both.

For migrant workers, information about wages and working conditions must be provided in writing at the time of recruitment. For seasonal workers this basic information must be available, upon request, at the time employment is offered. Employers are required to keep certain payroll records, and employees must be given an itemized statement of earnings and deductions for each pay period. Each employer is also required to post at the place of employment a poster which sets forth the rights of workers under the Act, such as wage rates, period of employment, crops and activities on which the worker will be employed, the existence, if any, of a strike or work stoppage at the place of employment, and the right of a worker to have, upon request, a written statement pertaining to work and conditions of work. When there is joint employment, compliance by either employer will satisfy any requirement.

The bill also would expand the protections related to housing for migrant agricultural workers. For example, when more than one entity is involved in providing the housing, such as when the grower owns it and the farm labor contractor operates it, both will be responsible for the safety and adequacy of the housing. This is a significant change from the present law which fixes responsibility only on the farm labor contractor who may or may not own the housing. Substantive Federal and State housing health and safety standards must be complied with at all times. The bill provides for State and local health authorities to certify that the housing meets these standards based on inspection prior to occupancy. The bill, however, also provides sufficient enforcement flexibility so that employers will not be cited for mere technical or non-substantive violations that do not impact worker safety and health.

An exemption to the housing requirement is provided for hotels and motels that may provide accommodations to migrants and others in the general course of doing business. We do not, of course, intend that migrant labor camps would qualify for this "innkeeper exemption" simply by offering lodging to the general public.

The MSPA transportation provisions differ in several respects from the current FLCRA. MSPA recognizes that standards now in place under the Interstate Commerce Act are not always appropriate with respect to transportation of agricultural workers under certain circumstances, particularly on farms and for other local travel. The bill directs the Secretary to develop regulations that will apply to the transportation of farmworkers not covered by Department of Transportation regulations. The Department of Labor regulations will take into account the distances traveled, the type of vehicle used, the number of passengers, the types of roads to be traveled and the extent to which any standards would impose an undue burden on the person providing the transportation, while continuing to provide for the health and safety of migrant and seasonal agricultural workers.

The transportation standards will not be applied to farm equipment or machinery when used for its intended purpose, but use of such equipment or machinery purely for the transportation of workers from place-to-place will be regulated. The vehicle insurance requirement of the current FLCRA will be retained, except that no additional insurance will be required where transportation is fully covered by a State workers' compensation law and the employer provides such coverage.

The bill prohibits the using of services of a farm labor contractor without first taking reasonable steps to determine that a contractor is properly registered. Unlike the current law, the bill would not penalize farmers who do take those reasonable steps.

The enforcement provisions of the bill retain FLCRA's civil and criminal penalties, and the investigative authority of the Department of Labor. A new provision makes it unlawful to interfere with officials of the Department in the performance of their duties under the bill. This section has been added as a result of the increasing number of incidents involving threats of bodily harm to our compliance officers.

The bill would change the current Act's provisions on private rights of action. It is our basic intent to encourage resolution of differences without resorting to litigation, while retaining full access to the Federal courts by injured private parties. Currently, however, FLCRA exposes employers to substantial monetary awards for highly technical violations, especially those related to registration status, when there may be very little actual damages. Where an intentional violation of the Act has been committed, the bill would allow courts to award up to $500 per plaintiff, per violation, as statutory damages in a private lawsuit with an upper limit of $500,000 for a class action. However, there is no limit on the amount of actual damages that can be awarded by a court.

Multiple infractions of a single provision, however, would be counted a only one violation. For example, failure to keep accurate hours-worked records over a period of several weeks would be considered one violation for each worker involved. In determining the amount of damages, the Federal courts are authorized to consider whether an attempt was made to resolve the issues in dispute before resorting to litigation. The provision in the bill prohibiting individuals from waiving their rights is not intended to preclude their entering into settlements under the private right of action section in order to avoid litigation and reach resolution.

The bill also retains the current FLCRA provision prohibiting discrimination with respect to individuals who have filed a complaint or have testified in any proceeding under the Act. The Secretary of Labor will continue to have authority to investigate complaints alleging such discrimination and may seek redress in the Federal courts. The bill expands upon the provision of the FLCRA allowing for agreements with Federal and State agencies in order to ensure that those functions delegated, especially to the States, are performed with adequate resources and in a manner comparable to Federal enforcement efforts.

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There will, of course, be the matter of the transition from the application of the current statute to the new one. With regard to enforcement and compliance, the bill provides that for the purposes of determining appropriate action under the new law, the record of violations under the current FLCRA will be a factor to be considered if that individual or entity violates this Act.

Certificates of registration may be denied under this bill if the applicants under FLCRA have either failed to pay their court judgments obtained under FLCRA or failed to comply with a final order issued by the Secretary under FLCRA. Registration under the new Act will also require a phase-in. It is our intention to use a 12-month period for each certificate of registration based on the applicant's date of birth rather than the current calendar year method which creates an unnecessary administrative burden upon the Department at the close of each calendar year.

Mr. Chairman, in concluding my statement, I want to reemphasize two major points. First, the revised farm labor statute that we are proposing today greatly enhances the Labor Department's ability to protect migrant and seasonal agricultural workers. Second, the bill eliminates the unnecessary, burdensome and costly regulation of fixed-situs agricultural employers which has been so troublesome under current law. Enactment of the bill will, therefore, enable the Department to concentrate its enforcement efforts on those areas of farmworker employment where the most egregious violations of workers' rights occur.

I also want to again thank all those persons and organizations who participated in the cooperative effort over the past 18 months to develop this legislation. Without their thoughtful assistance—not to mention their vigorous advocacy—we would not be here today.

Mr. President, I have no further comments to make on the bill. I believe it addresses the problems which, as everyone now recognizes, undermines severely the effectiveness of the Farm Labor Contractor Registration Act. The bill substantially reforms the program, to enable a more efficient allocation of enforcement resources and to impose a fairer matrix of rights, obligations, and remedies. I am pleased to have played a part in its enactment.

Mr. ROBERT C. BYRD. Mr. President, it is with pleasure that I rise in support of H.R. 7102, the Migrant and Seasonal Agricultural Worker Protection Act. This measure will replace the unwieldy Farm Labor Contractor Registration Act, known as FLCRA.

Apple and peach orchardists in West Virginia's eastern panhandle have been frustrated by FLCRA. It imposes unfair burdens on agricultural employers without providing effective safeguards for workers.

H.R. 7102 will replace FLCRA with a more reasonable set of standards, including simpler reporting requirements and a clearer definition of the responsibilities of crew leaders. The current law causes employers confusion with its complicated and duplicative provisions. The bill before the Senate provides us with an opportunity to enact a valuable piece of regulatory reform legislation.

H.R. 7102 is a consensus bill. It is the product of negotiations carried out over more than a year. Last March, I met with leaders of the West Virginia fruitgrowers and the Labor Department to discuss this legislation. All the parties involved have shown patience and good faith in producing this bill.

I commend the distinguished chairman and the ranking members of the labor and human resources committee, Senator HATCH and Senator KENNEDY, for their attention to this matter. I also make a special point of singling out Senator BOREN's leading role in the development of these improvements in the law. The bill and amendments that he advocated in 1980 form an important basis for the Migrant and Seasonal Farmworker Program Act.

I ask that I be made a cosponsor of the bill, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP 1569) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 7102) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOE POOL LAKE

Mr. BAKER. Mr. President, I wish next to go to H.R. 7377, the Joe Pool Lake bill, if there is no objection to that.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7377) to designate the Lakeview Lake project, Mountain Creek, Texas, as the "Joe Pool Lake".

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (HR. 7377) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FISHERY CONSERVATION AND MANAGEMENT

Mr. BAKER. Mr. President, I propose to proceed next to a massage from the House on H.R. 5002, if there is no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5002.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 5002) entitled "An Act to improve fishery conservation and management", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. ANDERSON, Mr. BREAUX, Mr. STUDDS, Mr. SNYDER, and Mr. FORSYTHE be the managers of the conference on the part of the House.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendments and agree with the House request for a conference and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. PACKWOOD, Mr. GORTON, Mr. STEVENS, Mr. HOLLINGS, and Mr. INOUYE conferees on the part of the Senate.

PURCHASE, SALE, AND EXCHANGE OF LANDS BY THE DEVILS LAKE SIOUX TRIBE

Mr. President, next is another message from the House of Representatives on S. 503, if there is no objection.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 503

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 503) entitled "An Act to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, North Dakota, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

TITLE I

SECTION 101. The Congress finds that—

(1) the Devils Lake Sioux Tribe, of the Devils Lake Sioux Reservation, North Dakota, is vigorously pursuing its goal of self-determination through development of manufacturing and farming enterprises; and

(2) the continued existence of the Devils Lake Sioux Reservation, North Dakota, as a permanent homeland of the Devils Lake Sioux Tribe and as a necessary foundation for continued self-determination requires that the Secretary of the Interior have authority to—

(A) consolidate and increase the trust land base in the reservation for the tribe and individual tribal members; and

(B) prevent further loss of trust land.

SEC. 102. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to—

(1) purchase with any funds held by the Secretary in trust for the benefit of the Devils Lake Sioux Tribe or appropriated for the purpose, or acquire by gift, exchange, or relinquishment, any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation for the benefit of the Devils Lake Sioux Tribe or individual members of such tribe;

(2) sell or approve sales of any interest in tribal trust or tribal restricted land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation but only if additional tribal trust or tribal restricted land which is approximately equal in acreage or value to the interest sold is acquired by the Secretary at the time of such sale; and

(3) exchange any interest in tribal or individual trust land or tribal or individual restricted land (or any improvements thereon) for any land located within the Devils Lake Sioux Reservation but only if the values of the interests in land involved in such an exchange are equal or are equalized by the payment of money.

(b) Any purchase of Federal lands under subsection (a)(1) shall be made in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2744).

SEC. 103. The Secretary shall accept any transfer of title from the Devils Lake Sioux Tribe, or from any individual member of such tribe, for any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation, and shall take title to such property in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe, or for such individual member.

SEC. 104. Any acquisition, sale or exchange of lands for the Devils Lake Sioux Tribe which is made under this title shall be made only upon the request of the authorized governing body of the Devils Lake Sioux Tribe, subject to the limitations and procedures of the tribal constitution.

SEC. 105. Notwithstanding any other provision of applicable law, the title to any interest in land, or any improvements thereon, acquired by the Secretary under this title shall be acquired in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe or an individual member of such tribe, as the case may be, and such property shall be held and treated in the same manner as other trust or restricted Indian lands are held and treated under Federal law.

SEC. 106. Money or amounts credited to the Devils Lake Sioux Tribe from the sale or exchange under this title of any interest in trust or restricted land (or any improvements thereon) may be used only for the purpose of purchasing or acquiring property under this title and shall be deposited in a special account under the control of the Secretary or his duly authorized representative.

SEC. 107. Subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415), as amended, is further amended—

(1) by striking out "and leases of land on the Agua Caliente" in the second sentence and inserting in lieu thereof "leases of land on the Agua Caliente", and

(2) by striking out "and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington," in the second sentence and inserting in lieu thereof the following: "leases of the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation,".

SEC. 108. (a)(1) The devise or descent of any interest in trust or restricted land located within the Devils Lake Sioux Reservation to any person who is not a member of the Devils Lake Sioux Tribe shall be subject to the right of such tribe to purchase such interest within two years of the date of death of the decedent by paying to the Secretary for the benefit of such person an amount equal to the fair market value of such interest on the date of such purchase (as determined by the Secretary after appraised).

(2) Within ninety days after the date on which the Secretary receives payment of an amount for the benefit of a person under paragraph (1), the Secretary shall pay such amount to such person.

(3) The Devils Lake Sioux Tribe may exercise its right under paragraph (1) to purchase the interest of a person only if the governing body of such tribe notifies such person and the Secretary of the intent of such tribe to purchase such interest at least ninety days prior to the date of such purchase.

(b)(1) Subsection (a) shall not apply to any interest in land acquired by the spouse of a decedent if—

(A) the spouse elects the application of this subsection prior to the date which is ninety days after the date on which the governing body of the Devils Lake Sioux Tribe notifies the spouse of its intent to acquire such interest, and

(B) prior to such date, the spouse retains a life estate in such interest and conveys the remainder of such interest to any heir of the decedent who is a member of such tribe.

(2) If the spouse of a decedent elects the application of this subsection with respect to any interest in land which was trust or restricted land immediately prior to the death of the decedent, the life estate and the remainder of such interest created by the conveyance described in paragraph (1)(B) shall acquire such trust or restricted status.

(c) This section shall only apply to interests included in the estates of decedents dying on or after the date of enactment of this title.

SEC. 109. The Devils Lake Sioux Reservation, North Dakota, is hereby declared the permanent homeland of the Devils Lake Sioux Tribe.

SEC. 110. The Secretary is authorized to take such action as may be necessary to carry out the purposes of this title.

TITLE II

SEC. 201. This title may be cited as the "Indian Land Consolidation Act".

SEC. 202. For the purpose of this title—

(1) "tribe" means any Indiian tribe, band, group, pueblo, or community for which, or for the members of which, the United States holds lands in trust;

(2) "Indian" means any person who is a member of a tribe or any person who is recognized as an Indian by the Secretary of the Interior;

(3) "Secretary" means the Secretary of the Interior; and

(4) "trust or restricted lands" means lands, title to which is held by the United States in trust for an Indian or an Indian tribe or lands title to which is held by Indians or an Indian tribe subject to a restriction by the United States against alienation.

SEC. 203. The provisions of section 5 of the Act of June 18, 1934 (48 Stat. 985), shall apply to all tribes notwithstanding the provisions of section 18 of such Act: *Provided*, That nothing in this section is intended to supersede any other provision of Federal law which authorizes, prohibits, or restricts the acquisition of land for Indians with respect to any specific tribe, reservation, or state(s).

SEC. 204. (a) Notwithstanding any other provision of law, any tribe, acting through its governing body, is authorized, with the approval of the Secretary to adopt a land consolidation plan providing for the sale or exchange of any tribal lands or interest in lands for the purpose of eliminating undivided fractional interests in Indian trust or restricted lands or consolidating its tribal landholdings.

SEC. 205. Any Indian tribe may purchase at no less than fair market value all of the interests in any tract of trust or restricted land within that tribe's reservation or otherwise subjected to that tribe's jurisdiction with the consent of over 50 per centum of the owners or with the consent of the owners of over 50 per centum of the undivided interests in such tract: *Provided*, That—

(1) no such tract shall be acquired by any Indian or Indian tribe over the objection of three or less owners owing 50 per centum or more of the total interests in such tract;

(2) any Indian owning any undivided interest in, and in actual use and possession of such tract, may purchase such tract by matching the tribal offer;

(3) no Indian acquiring land under this section shall be eligible to apply for a fee patent in such lands for a period of 10 years after such acquisition;

(4) this section shall not apply to any tract of land owned by less than fifteen persons; and

(5) all purchases and sales initiated under this section shall be approved by the Secretary.

SEC. 206. Notwithstanding any other provisions of law, any Indian tribe may provide by appropriate action of its governing body, subject to approval by the Secretary, that nonmembers of the tribe or non-Indians shall not be entitled to receive by devise or

descent any interest in trust or restricted lands within that tribe's reservation or otherwise subjected to that tribe's jurisdiction: *Provided*, That in the event a tribe takes such action—

(1) the sale price or exchange value received by the tribe for land or interests in land covered by this section shall be no less than within 10 per centum of the fair market value as determined by the Secretary;

(2) if the tribal land involved in an exchange is of greater or lesser value than the land for which it is being exchanged, the tribe may accept or give cash in such exchange in order to equalize the values of the property exchanged;

(3) any proceeds from the sale of land or interests in land or proceeds received by the tribe to equalize an exchange made pursuant to this section shall be used exclusively for the purchase of other land or interests in land;

(4) the Secretary shall maintain a separate trust account for each tribe selling or exchanging land pursuant to this section consisting of the proceeds of the land sales and exchanges and shall release such funds only for the purpose of buying lands under this section; and

(5) any tribe may retain the mineral rights to such sold or exchanged lands and the Secretary shall assist such tribe in determining the value of such mineral rights and shall take such value into consideration in determining the fair market value of such lands.

(b) The Secretary must execute such instrument of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to an approved tribal land consolidation plan unless he makes a specific finding that such sale or exchange is not in the best interest of the tribe or is not in compliance with the tribal land consolidation plan.

(1) if an Indian dies intestate, the surviving non-Indain or nonmember spouse and/or children shall be entitled to a life estate in as much of the trust or restricted lands as he, she or they would have been entitled to take under existing law;

(2) if an intestate Indian decedent has no heir to whom interests in trust or restricted lands may pass, such interests shall escheat to the tribe, subject to any non-Indian or nonmember spouse and/or children's rights as described in pargraph (1) of this section;

(3) if an Indian decedent has devised interests in trust or restricted lands to persons who are ineligible for such an inheritance by reason of a tribal ordinance enacted pursuant to this section, the devise shall be voided only if, while the estate is pending before the Secretary for probate, the tribe acquires such interests by paying to the Secretary, on behalf of the devisees, the fair market value of such interests as determined by the Secretary as of the date of the decedent's death: *Provided*, That any non-Indian or nonmember spouse and/or children of such decedent who have been devised such interests may retain, at their option, a life estate in such interests, or be compensated by the tribe for the value of such interests.

SEC. 207. No undivided fractional interest in any tract of trust or restricted land within a tribe's reservation or otherwise subjected to a tribe's jurisdiction shall descedent by intestacy or devise but shall escheat to that tribe if such interest represents 2 per centum or less of the total acreage in such tract and has earned to its owner less than $100 in the preceding year before it is due to escheat.

SEC. 208. The Secretary in carrying out his responsibility to regulate the descent and distribution of trust lands under section 1 of the Act of June 25, 1910 (36 Stat. 855; 25 U.S.C. 372) as amended, and other laws, shall give full faith and credit to any tribal actions taken pursuant to section 206 of this title, which provision shall apply only to estates of decedent's whose deaths occur on or after the effective date of tribal ordinances adopted pursuant to this title.

SEC. 209. The Secretary shall have the authority to issue deeds, patents, or such other instruments of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to the terms of this title and to remove, at the request of an Indian owner, the trust status of individually held lands or interests therein, where authorized by law.

SEC. 210. Title to any land acquired under this title by any Indian or Indian tribe shall be taken in trust by the United States for that Indian or Indian tribe.

SEC. 211. All lands or interests in land acquired by the United States for an Indian or Indian tribe under authority of this title shall be exempt from Federal, State and local taxation.

Amend the title so as to read: "An Act to authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and for other purposes.".

Mr. BAKER. Mr. President, I move to concur in the House amendments with a further Senate amendment which I send to the desk on behalf of the Senator from Maine (Mr. COHEN).

UP AMENDMENT NO. 1570

(Purpose: Making technical corrections to the House amendment relating to Indian lands.)

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. COHEN, proposes unprinted amendment numbered 1570.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 17, delete subsection 205(3) by striking the language "(3) no Indian acquiring land under this section shall be eligible to apply for a fee patent in such lands for a period of 10 years after such acquisition;". Renumber subsections 205 (4) and (5) as subsections 205 (3) and (4).

On page 9, line 3, after the word "interest" and before the word "in", insert the words "of a member of such tribe".

● Mr. COHEN. Mr. President, the purpose of this amendment is to make technical corrections in the House amendment to this bill. The House Interior and Insular Affairs Committee worked closely with the administration in the development of the provisions of title II, the House amendment. This title is intended to address itself to a longstanding problem of fractionated heirship of Indian lands. This provision is avidly supported by the administration and appears to be a worthy first step toward addressing this controversy. The amendment I offer is technical in nature and I believe will help avoid certain problems that could occur in situations where more than one tribe occupies a single reservation of members of a different tribe reside on a reservation governed by a different tribe.

I ask the Senate to concur in the House amendments to S. 503 with the further amendment I have just offered.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator for Tennessee.

The amendment (UP No. 1570) was agree to.

The motion was agreed to.

TRICENTENNIAL ANNIVERSARY YEAR OF GERMAN SETTLEMENT IN AMERICA

Mr. BAKER. Mr. President, I propose next to ask the Chair to lay before the Senate Senate Joint Resolution 260, if the minority leader is prepared to proceed to that item.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 260.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 260) entitled "Joint resolution to designate the period commencing January 1, 1983, and ending December 31, 1983, as the 'Tricentennial Anniversary Year of German Settlement in America'." do pass with the following amendment:

Page 2, after line 16, insert:

SEC. 3. (a) There is hereby established a Commission to be known as the Presidential Commission for the German-American Tricentennial (hereinafter referred to as the "Commission") to plan, encourage, develop, and coodinate the commemoration of the German-American Tricentennial. In preparing its plans and carrying out its progam, the Commission shall give due consideration to any related plans and programs developed by State, local, private, and foreign groups.

(b) The Commission shall be composed of not more than 40 members, appointed by the President, 10 of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives, and 10 of whom shall be appointed upon the recommendation of the President pro tempore of the Senate, in consultation with the majority leader and minority leader of the Senate. One member shall be the Chief Justice of the United States or his designee. The members shall be from the public and private sectors and the President shall desginate a member from the private sector as Chairman. The members of the Commission shall receive no compensation for their ser-

vices as such but may be allowed necessary travel expenses, as authorized by law, to carry out Commission activities.

(c) The Commission is authorized to encourage the participation of, and receive donations of money, property and personal services from, public and private organizations and individuals to assist the Commission in carrying out its responsibilities. The Director of the United States Information Agency is authorized to provide administrative services and staff support to the Commission, as necessary, for which reimbursement shall be made from funds of the Commission under section 686 of title 31, United States Code, in such amounts as may be agreed upon by the Chairman of the Commission and the Director. The heads of other Executive agencies and departments are also authorized and requested to cooperate with and assist the Commission in fulfilling its responsibilities.

(d) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable and to appoint such advisory committees as it deems necessary. The Commission may also procure temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code. The Commission shall have authority to make contracts and grants as necessary and appropriate to carry out its program.

(e) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) All expenditures of the Commission shall be made from donated funds.

(g) A report of the Commission's activities shall be made to Congress no later than January 31, 1984, upon which date the Commission shall terminate.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

PADDY CREEK WILDERNESS ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1965, the Paddy Creek wilderness bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. Mr. President, I know of no objection on this side.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1965.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1965) entitled "An Act to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately six thousand eight hundred and eighty-eight acres, and which are generally depicted on a map entitled 'Paddy Creek Wilderness Area', as a component of the National Wilderness Preservation System", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this act may be known as the Paddy Creek Wilderness Act of 1981.

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), the following area as generally depicted on a map appropriately referenced, dated December 1981, is hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System; certain lands in the Mark Twain National Forest, Missouri, which comprise about six thousand hundred and eighty-eight acres, are generally depicted on a map entitled "Paddy Creek Wilderness Area", dated December 1981, and shall be known as the Paddy Creek Wilderness Area.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the Paddy Creek Wilderness Area with the Energy and Natural Resources Committee of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 4. The area designated as wilderness by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), except that any reference in such provisions to the effective date of such Acts shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Missouri and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Missouri such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Missouri;

(2) with respect to the National Forest System lands in the State of Missouri which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, or designated as wilderness by this Act or previous Acts of Congress that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewal Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Missouri reviewed in such final environmental statement and not designated as wilderness by this Act or previous Acts of Congress or remaining in further planning upon enactment of this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Missouri for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

RELIEF OF JERRY L. CROW

Mr. BAKER. Mr. President, next I ask that the Chair lay before the Senate a message from the House on S. 835, an act for the relief of Jerry L. Crow.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 835.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 835) entitled "an Act for the relief of Jerry L. Crow", do pass with the following amendments:

Page 2, after line 11, insert:

SEC. 4. That the Secretary is hereby authorized and directed to convey to Ralph D. and Connie V. Hubbell, Carbondale, Colorado, all right, title, and interest to the United States in and to a tract of land situated in lot 19 of section 27, township 7 south, range 88 west of the sixth principal meridian, Garfield County, Colorado, consisting of one and twenty-five one-hundredths acres, more or less. Notwithstanding any other provision of law, such conveyance shall be made upon prompt payment of the 1964 fair market value, as determined by the Secretary. For purposes of this Act, prompt payment shall be no more than thirty days after notification by the Secretary of such value.

Amend the title so as to read: "An Act for the relief of Jerry L. Crow and Ralph D. and Connie V. Hubbell.".

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

EDUCATIONAL MINING ACT OF 1982

Mr. BAKER. Mr. President, next I ask that the Chair lay before the Senate a message from the House on S. 1501, the Educational Mining Act of 1982.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. Mr. President, there is no objection for the Chair to lay before the Senate this message.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1501.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1501) entitled "An Act entitled 'Educational Mining Act of 1982'", do pass with the following amendment: Strike out all after the enacting clause, and insert

TITLE I

SEC. 101. (a) Subject to the conditions and limitations specified in this section, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to the University of Alaska, all right, title, and interest of the United States in the following described land comprising approximately fifty-seven acres:

FAIRBANKS MERIDIAN, ALASKA

Township 2 North, Range 1 East

Section 8:
East half southeast quarter southwest quarter northeast quarter southeast quarter,
North half southwest quarter southeast quarter northeast quarter southeast quarter,
South half south half southeast quarter northeast quarter southeast quarter,
East half northeast quarter northwest quarter southeast quarter southeast quarter,
Northeast quarter southeast quarter southeast quarter,
North half southeast quarter southeast quarter southeast quarter,
North half south half southeast quarter southeast quarter southeast quarter,
South half southeast quarter southeast quarter southeast quarter southeast quarter,
South half southwest quarter northwest quarter southeast quarter southwest quarter.
Section 9:
West half southwest quarter southwest quarter,
South half southwest quarter northwest quarter northeast quarter southwest quarter southwest quarter,
Southwest quarter northeast quarter southwest quarter southwest quarter,
Southeast quarter southwest quarter southwest quarter,
West half west half southwest quarter southeast quarter southeast quarter southwest quarter,
Southwest quarter southeast quarter southwest quarter,
South half southwest quarter northwest quarter southeast quarter southwest quarter.

(b) Conveyance under this section shall be made only upon the condition that the described land shall be held and used by the University of Alaska and shall not be conveyed by the University.

(c) No conveyance shall be made unless application for conveyance is filed by the university with the Secretary within six months of the date of the approval of this Act.

(d) The Secretary may at his discretion require that he be provided a perimeter survey of the lands to be conveyed under this section. All costs of obtaining such survey shall be borne by the university.

SEC. 102. (a) Notwithstanding the Act of March 4, 1931 (46 Stat. 1530-1548), or any other provision of law, the following described lands, situated in Mono County, California, and comprising approximately 202.167 acres, are withdrawn from settlement, sale, location, or entry under all of the general land laws, including the mining laws: The southeast quarter of the southeast quarter of section 23, the west half of the northwest quarter of section 25, and the north half of the northeast quarter of section 26, all in township 5 south, range 32 east, Mount Diablo meridian, California.

(b) Notwithstanding the first section of the Act of March 4, 1931 (46 Stat. 1530, 1532), the withdrawal accomplished by said Act of March 4, 1931, of the lands described as the southwest quarter of section 34, township 5 south, range 33 east, Mount Diablo meridian, comprising approximately 160 acres, situated in Mono County, California, is hereby modified to the extent that the lands described in this subsection may be exchanged by the Secretary of the Interior in accordance with the directive contained in subsection (c) of this section.

(c) Notwithstanding any other provision of law, the Secretary of the Interior is hereby authorized to exchange the Federal lands described in subsection (b) of this section for the lands described in subsection (a) of this section, the title to the lands to be acquired by the United States to be satisfactory in all respects to the Secretary and to be conveyed by a good and sufficient deed, in recordable form, that is satisfactory to the Secretary.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "American Conservation Corps Act of 1982".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 202. (a) FINDINGS.—The Congress finds that—

(1) public lands, resources, and facilities, including parks, rangelands, wildlife refuges, forests, water resources, fishery facilities, historic and cultural sites, and urban and community resources, have become subject to increasing public use and resource production demands;

(2) the condition of many of these lands, resources, and facilities has deteriorated as a result of these increasing uses and demands and as a result of the inability of Government agencies to adequately staff and fund the maintenance necessary to arrest the deterioration;

(3) public land management agencies have a responsibility to assure that public lands and resources are managed—

(A) to assure continued productivity,

(B) to protect public health and safety, and

(C) to assure their wise and economic conservation, maintenance, and use;

(4) a program designed to systematically guide and enhance the conservation, rehabilitation, and improvement of our public lands, resources, and facilities is urgently needed; and

(5) youth conservation programs have proven highly successful and cost effective in providing training and jobs for unemployed youth and in assisting land management agencies at all levels of government to reduce the backlog of neglected public land conservation, rehabilitation and improvement projects and to carry out other public land resource management work.

(b) PURPOSE.—It is the purpose of this title to—

(1) reduce the backlog of conservation, rehabilitation, and improvement work on the public lands, prevent the further deterioration of public lands and resources and facilities, conserve energy and restore and maintain community lands, resources, and facilities;

(2) establish an American Conservation Corps to carry out a program to improve, restore, maintain, and conserve public lands and resources in the most cost-effective manner;

(3) use such program to assist State and local governments in carrying out needed public land and resource conservation, rehabilitation, and improvement projects;

(4) provide for implementation of the program in such manner as will foster conservation and the wise use of natural and cultural resources through the establishment of working relationships among the Federal, State, and local governments, Indian tribes, and other public and private organizations; and

(5) use this program to increase (by training and other means) employment opportunities for young men and women especially those who are economically, socially, physically, or educationally disadvantaged and who may not otherwise be productively employed.

DEFINITIONS

SEC. 203. For purposes of this title:

(1) The term "Secretary" means the Secretary of the Interior, except where otherwise expressly provided.

(2) The terms "public lands" and "publicly owned lands" mean any lands and waters (or interest therein) owned or administered by the United States or by any agency or instrumentality of a State or local government.

(3) The term "program" means the public lands conservation, rehabilitation, and improvement program established under this Act.

(4) The term "program agency" means any Federal agency or instrumentality with responsibility for the management of any public or Indian lands, any State agency designated by the Governor to manage the program in that State, and the governing body of any Indian tribe.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary. Such term also includes any Native village corporation, regional corporation, and Native group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

(6) The term "Indian" means a person who is a member of an Indian tribe.

(7) The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for individual Indians or Indian tribes, and any real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States.

(8) The term "employment security service" means the agency in each of the several States with responsibility for the administration of unemployment and employment

programs, and the oversight of local labor conditions.

(9) The term "chief administrator" means the head of any program agency as that term is defined in paragraph (4).

(10) The term "enrollee" means any individual enrolled in the American Conservation Corps in accordance with section 205.

(11) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

PUBLIC LANDS CONSERVATION, REHABILITATION, AND IMPROVEMENT PROGRAM

SEC. 204. (a) ESTABLISHMENT AND ADMINISTRATION OF PROGRAM.—Not later than ninety days after the enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture and after consultation with the Secretary of Labor, shall establish and administer a public lands conservation, rehabilitation, and improvement program to carry out the purposes of this title. Under such program, the Secretary shall provide assistance to program agencies for the establishment and operation of residential and nonresidential American Conservation Corps centers and for the implementation by the American Conservation Corps of projects designed to carry out such purposes.

(b) PROJECTS INCLUDED.—The program established under this section may include, but shall not be limited to, projects such as—

(1) forestry, nursery, and silvicultural operations;

(2) wildlife habitat conservation, rehabilitation, and improvement;

(3) rangeland conservation, rehabilitation, and improvement;

(4) recreational area development, maintenance, and improvement;

(5) urban revitalization;

(6) historical and cultural site preservation and maintenance;

(7) fish culture and habitat maintenance and improvement and other fishery assistance;

(8) road and trail maintenance and improvement;

(9) erosion, flood, drought, and storm damage assistance and control;

(10) stream, lake, and waterfront harbor and port improvement, and pollution control;

(11) insect, disease, rodent, and fire prevention, and control;

(12) improvement of abandoned railroad bed and right-of-way;

(13) energy conservation projects and renewable resource enhancement;

(14) recovery of biomass from public lands, particularly forestlands; and

(15) reclamation and improvement of strip-mined lands.

(c) PREFERENCE FOR CERTAIN PROJECTS.—The program shall provide a preference for those projects which—

(1) will provide long-term benefits to the public;

(2) will provide meaningful work experience to the enrollee involved;

(3) will be labor intensive; and

(4) can be planned and initiated promptly.

(d) LIMITATION TO PUBLIC LANDS.—Projects to be carried out under the program shall be limited to projects on public lands or Indian lands except where a project involving other lands will provide a documented public benefit and reimbursement will be provided to the program agency for that portion of the total costs of the program which does not provide a public benefit. Notwithstanding any other provision of law, any reimbursement referred to in the preceding sentence shall be retained by the program agency and shall be used by the agency for purposes of carrying out other projects under the program.

(e) CONSISTENCY.—The Secretary and the chief administrators of other program agencies shall assure that projects selected under this title for conservation, rehabilitation, or improvement of any public lands are consistent with the provisions of law relating to the management and administration of such lands and with all other applicable provisions of law.

(f) CONSERVATION CENTERS.—(1) Each program agency may apply to the Secretary for approval of conservation centers to carry out projects under this title.

(2) Applications for approval of conservation centers shall be submitted to the Secretary in such manner as the Secretary may prescribe. Each application shall contain, in such detail as the Secretary deems necessary—

(A) a comprehensive description of the objectives and performance goals for the conservation center and a description of the types of projects to be carried out, including a description of the types and duration of training (including work experience) to be provided;

(B) a description of the facilities and equipment to be available for use in the center;

(C) an estimate of the number of enrollees and crew leaders necessary for the proposed projects, the length of time for which the services of such personnel will be required, and the services which will be required for their support;

(D) a plan for managing the conservation center, supplying the necessary equipment and material, and administering the payroll; and

(E) such other information as the Secretary shall prescribe.

(3) In approving conservation centers, the Secretary shall give due consideration to the cost and means of transportation available between the center and the homes of the enrollees who may be assigned to those centers. The location and type of conservation centers shall be selected in such manner as will increase the enrollment of economically, socially, physically, and educationally disadvantaged youths, and of youths from areas of high unemployment.

(g) LOCAL GOVERNMENT PARTICIPATION.—Any State carrying out a program under this title shall provide a mechanism under which local governments in the State may be approved by the State to participate in the program and to carry out projects in accordance with the requirements of this Act.

(h) AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the management of conservation centers under the program.

(i) JOINT PROJECTS.—The Secretary is authorized to develop jointly with the Secretary of Labor regulations designed to allow, where appropriate, joint projects in which activities supported by funds authorized under this title are coordinated with activities supported by funds authorized under employment and training statutes administered by the Department of Labor (including the Comprehensive Employment and Training Act and any successor statutes). Such regulations shall provide standards for approval of joint projects which meet both the purposes of this title and the purposes of such employment and training statutes under which funds are available to support the activities proposed for approval. Such regulations shall also establish a single mechanism for approval of joint projects developed at the State or local level.

ENROLLMENT, FUNDING, AND MANAGEMENT

SEC. 205. (a) ENROLLMENT IN PROGRAM.—(1) Enrollment in the American Conservation Corps shall be limited to individuals who, at the time of enrollment, are—

(A) unemployed;

(B) not less than sixteen or more than twenty-five years of age (except that programs limited to the months of June, July, and August may include individuals not less than fifteen years and not more than twenty-one years of age at the time of their enrollment); and

(C) citizens or lawful permanent residents of the United States or lawfully admitted alien parolees or refugees.

(2) Except in the case of a program limited to the months of June, July, and August, individuals who at the time of applying for enrollment have attained age sixteen but not attained age nineteen, and who are no longer enrolled in any secondary school shall not be enrolled unless they give adequate written assurances, under criteria to be established by the Secretary, that they did not leave school for the express purpose of enrolling.

(3) The selection of enrollees to serve in the American Conservation Corps in any conservation center shall be the responsibility of the chief administrator of the program agency. Enrollees shall be selected from those qualified persons who have—

(A) applied to, or been recruited by, the program agency, a State employment security service, a prime sponsor under the Comprehensive Employment and Training Act (or comparable entity under any successor statutes), community or community-based nonprofit organization, the sponsor of an Indian program, or the sponsor of a migrant or seasonal farmworker program; and

(B) been screened for eligibility and referred to the program agency by the State employment security service.

(4) In the recruitment and selection of enrollees, special consideration shall be given to both—

(A) economically, socially, physically, and educationally disadvantaged youths, and

(B) youths residing in areas, both rural and urban, which have substantial unemployment.

(5)(A) Except for a program limited to the months of June, July, and August, any qualified individual selected for enrollment may be enrolled for a period not to exceed twenty-four months. When the term of enrollment does not consist of one continuous twenty-four-month term, the total of shorter terms may not exceed twenty-four months.

(B) No individual may remain enrolled in the American Conservation Corps after that individual has attained the age of twenty-six.

(b) SERVICES, FACILITIES, SUPPLIES, ET CETERA.—The program agency shall provide such quarters, board, medical care, transportation, and other services, facilities, supplies, and equipment as the Secretary deems necessary for conservation centers. Whenever possible, the Secretary shall make arrangements with the Secretary of Defense to have such logistical support provided by a military installation near the proposed

center, including the provision of temporary tent centers where needed. The Secretary shall establish basic standards of health, nutrition, sanitation, and safety for all conservation centers, and shall assure that such standards are enforced.

(c) CONSERVATION CENTER MANAGEMENT.—Every conservation center shall have sufficient supervisory staff appointed by the chief administrator which may include enrollees who have displayed exceptional leadership qualities.

(d) FUNDING.—(1) The Secretary may award grants to, or enter into agreements with, program agencies for the funding and operation of conservation centers approved by the Secretary under this title.

(2) The Secretary shall not make any grant to, or enter into any agreement with any program agency for the funding of any conservation center under this title unless such agency certifies that projects carried out by the conservation center will not—

(A) result in the displacement of individuals currently employed by the program agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(B) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the program agency concerned; or

(C) impair existing contracts for services.

(3) Of the sums appropriated to carry out this title for any fiscal year—

(A) not less than 35 per centum shall be made available by the Secretary for expenditure by State program agencies;

(B) not less than 25 per centum shall be made available by the Secretary for expenditure pursuant to agreements with the Secretary of Agriculture;

(C) not less than 25 per centum shall be made available by the Secretary for expenditure by program agencies within the Department of the Interior;

(D) not less than 5 per centum shall be made available by the Secretary for expenditure by the governing bodies of participating Indian tribes; and

(E) the remaining amount shall be made available by the Secretary for expenditure by other Federal program agencies and for demonstration projects or projects of special merit carried out by any program agency or by any nonprofit organization or local government which is undertaking or proposing to undertake projects consistent with the purposes of this title.

10 per centum of the amount disbursed to State agencies under subparagraph (A) (or to local governments within the State where paragraph (4) applies) shall be divided equally among the States and 90 per centum of such amount shall be distributed among such States proportionately according to the total youth population of such States between the ages of fifteen and twenty-five (as determined on the basis of the most recent census). Any State receiving funds under subparagraph (A) for the operation of any conservation center shall be required to provide not less than 15 per centum of the cost of operation of such center. Any State receiving funds under subparagraph (A) for any fiscal year shall provide not less than 10 per centum of such funds to local governments approved by the State under section 4(g) to carry out projects under this Act unless no such local government in that State is approved before the end of such fiscal year. In any case where no such local government is approved before the end of such fiscal year, such 10 per centum may be expended by the State in accordance with this Act.

(4) If, at the commencement of any fiscal year, any State does not have a program agency designated by the Governor to manage the program in that State, then during such fiscal year each local government within such State may establish a program agency to carry out the program within the political subdivision which is under the jurisdiction of such local government. In any such case, the State share (or a reasonable portion thereof) for such State may be made available by the Secretary for expenditure by such local government program agencies to carry out the program within such political subdivisions. Such local government program agencies shall be in all respects subject to the same requirements as State program agencies. Where more than one local government within a State has established a program agency under this subsection, the Secretary shall allocate funds between such agencies in such manner as he deems equitable.

(5) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

(6)(A) There is authorized to be appropriated to the Secretary for purposes of carrying out this title $50,000,000 for the fiscal year 1983, and the amount determined under subparagraph (B) for each of the fiscal years 1984 through 1989 from so much of the following amounts as would otherwise be credited to miscellaneous receipts in the Treasury—

(i) all franchise fees estimated to be collected for the fiscal year concerned by the Secretary and Secretary of Agriculture; and

(ii) all receipts estimated to be due and payable to the United States for the fiscal year concerned from (I) permit fees (including fees for special use permits) imposed by the Secretary or the Secretary of Agriculture, (II) sales of timber by the Secretary or the Secretary of Agriculture, and (III) leasing activities of the Secretary and the Secretary of Agriculture other than leasing activities under the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.) or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

Such sums shall remain available until expended. Appropriations under this section shall be made without fiscal year limitation.

(B) The amount authorized to be appropriated under subparagraph (A) for each of the fiscal years 1984 through 1989 shall be $250,000,000 plus a percentage increase for each fiscal year based upon the percentage increase in the Consumer Price Index published by the Bureau of Labor Statistics. The increase for each such fiscal year shall be a percentage of $250,000,000 (plus unappropriated balances). Such percentage for any fiscal year shall be equal to the percentage increase of—

(i) the Consumer Price Index for the last calendar year ending prior to such fiscal year, over

(ii) the Consumer Price Index for the calendar year 1982.

(7) No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

FEDERAL EMPLOYEE STATUS

SEC. 206. (a) IN GENERAL.—Except as otherwise specifically provided in the following paragraphs, enrollees and crew leaders shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment:

(1) For purposes of the Internal Revenue Code of 1954 and title II of the Social Security Act, enrollees and crew leaders shall be deemed employees of the United States and any service performed by any person as an enrollee shall be deemed to be performed in the employ of the United States.

(2) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, enrollees and crew leaders shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except—

(A) the term "performance of duty" shall not include any act of an enrollee member or crew leader while absent from his or her assigned post of duty, except while participating in an activity authorized by or under the direction and supervision of the Secretary or the conservation center supervisory staff (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee's or crew leader's employment is terminated.

(3) For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of title 28, United States Code.

(4) For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee" as defined in that section.

(b) AMENDMENT OF TITLE 5.—Section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (12) the following new paragraph:

"(13) service as an enrollee or crew leader only if the enrollee or crew leader in the American Conservation Corps later becomes subject to this subchapter.".

USE OF VOLUNTEERS

SEC. 207. (a) Where any program agency has authority to use volunteer services in carrying out functions of the agency, such agency may use volunteer services for purposes of assisting projects related to conservation centers established under this title and may expend funds made available for those purposes to the agency, including funds made available under this title, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

(b)(1) The Secretary may recruit, without regard to the civil service classification laws, rules or regulations, the services of individuals contributed without compensa-

tion as volunteers for aiding or in facilitating the activities administered by the Secretary through the Bureau of Land Management.

(2) In accepting such services, the Secretary—

(A) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

(B) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

(3) Volunteers under this subsection shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 208. (a) PAY.—The Secretary shall establish standards for—

(1) rates of pay for enrollees which shall be not less than the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1));

(2) rates of pay for crew leaders which shall be at a wage comparable to the compensation in effect for grades GS-3 to GS-7; and

(3) reasonable hours and conditions of employment.

(b) COORDINATION.—The Secretary and the chief administrators of other program agencies carrying out programs under this Act shall coordinate the programs with related Federal, State, local, and private activities.

(c) MILITARY EXEMPTION STUDY.—The Secretary, in consultation with the Secretary of Defense, shall conduct a study to determine the feasibility and desirability of allowing enrollees who have completed a two-year enrollment in the program to be exempt from training and service under the Military Selective Service Act (50 U.S.C. App. 456). A report containing the results of the study shall be submitted to Congress not later than one year after the enactment of this Act.

EDUCATION, GUIDANCE, AND PLACEMENT

SEC. 209. (a) ACADEMIC CREDIT.—Whenever possible, the Secretary shall make arrangements for the award of academic credit by educational institutions and agencies to enrollees for competencies developed from work experience under this title.

(b) STUDY.—Program agencies may provide training and educational materials and services for enrollees and may enter into arrangements with academic institutions for academic study by enrollees during nonworking hours to upgrade literacy skills, obtain equivalency diplomas or college degrees, or enhance employable skills. Whenever possible, an enrollee seeking study or training not provided at his or her conservation center shall be offered assignment to a conservation center providing such study or training.

(c) CERTIFICATION.—The program agencies shall provide certification of the training skills acquired by enrollees who have participated in the program.

(d) GUIDANCE AND PLACEMENT.—The program agency shall provide such job guidance and placement information and assistance for enrollees as may be necessary. Such assistance shall be provided in coordination with appropriate State, local, and private agencies and organizations.

EVALUATION AND PILOT PROJECTS

SEC. 210. (a) RESEARCH AND EVALUATION.—The Secretary shall provide for research and evaluation to—

(1) determine costs and benefits, tangible and otherwise, of work performed under this title and of training and employable skills and other benefits gained by enrollees, and

(2) identify options for improving program productivity and youth benefits, including improved alternatives for: organization, subjects, sponsorship, and funding of work projects; recruitment and personnel policies; siting and functions of conservation centers; work and training regimes for youth of various origins and needs; and cooperative arrangements with programs, persons and institutions not covered under this Act.

(b) DEMONSTRATIONS.—The Secretary may authorize pilot or experimental projects to demonstrate or test new or alternative arrangements or subjects of work and training for programs under this title, which may include alternatives identified under subsection (a)(2).

ANNUAL REPORT

SEC. 211. The Secretary shall prepare and submit to the President and to the Congress at least once each year a report detailing the activities carried out under this Title. Such report shall be submitted not later than December 31 of each year following the date of enactment of this Act. The report shall describe (1) conservation work procedures, accomplishments and benefits; (2) the extent to which youth who are economically, socially, physically or educationally disadvantaged have been enrolled in and benefited by the program; (3) other youth benefits; and (4) problems and opportunities encountered in carrying out the Act which require attention. The Secretary shall include in such report such recommendations as he considers appropriate.

LABOR MARKET INFORMATION

SEC. 212. The Secretary of Labor shall make available to the Secretary and to any program agency under this title such labor market information as is appropriate for use in carrying out the purposes of this title.

EMPLOYEE APPEAL RIGHTS

SEC. 213. In the case of—

(1) the displacement of a Federal employee (including any partial displacement through reduction of nonovertime hours, wages or employment benefits), or the failure to reemploy an employee in a layoff status, contrary to a certification under section 205(d)(2) (A) or (B) of this Act, or

(2) the displacement of a Federal employee by reason of the use of one or more volunteers under section 207(b)(2)(A) of this Act,

such employee is entitled to appeal such action to the Merit Systems Protection Board under section 7701 of title 5, United States Code.

Mr. BAKER. Mr. President, I move to disagree to the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

U.S. SECRET SERVICE UNIFORMED DIVISION

Mr. BAKER. Mr. President, next I hope to discharge the Finance Committee from further consideration of H.R. 6254 if there is no objection by the minority.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 6254, a bill to clarify the function of the U.S. Secret Service Uniform Division and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6254) to amend title 3, United States Code, to clarify the function of the United States Secret Service Uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, H.R. 6254, a bill to amend section 202(7)(C) of title 3, United States Code, to authorize increased reimbursements for local police protection at foreign diplomatic missions, has been discharged from the Committee on Finance and held at the desk. This matter has been cleared with the distinguished chairman and ranking minority member of the Finance Committee, is that not correct?

Mr. DOLE. The Senator from New York is correct.

Mr. MOYNIHAN. Mr. President, H.R. 6254 passed the House of Representatives this year on June 15. It was referred to the Finance Committee, which was surely an instance of misreferral. The underlying legislation, Public Law 94-196, was reported out of the Senate Public Works Committee in 1975. The two Senate bills introduced this year which are similar in purpose to H.R. 6254 were referred to the Committee on Environment and Public Works. That committee held hearings on S. 2845, and reported it favorably to the Senate. Does the distinguished chairman of the Finance Committee agree with my explanation of this jurisdictional issue?

Mr. DOLE. I agree with Senator MOYNIHAN that this legislation has always before been within the jurisdiction of the Public Works Committee.

Mr. MOYNIHAN. Mr. President, I thank the majority and minority leaders, and the distinguished chairmen of the Finance and Environment and Public Works Committees for helping expedite consideration of H.R. 6254. This legislation, which passed the House on June 15, is identical to S. 2845, which Senator D'AMATO and I introduced on August 17, and which the Committee on Environment and Public Works ordered reported by a vote of 15 to 0 on December 15. It will provide adequate reimbursement to the city of New York for the police protection provided diplomatic mis-

sions to the United Nations and to chiefs of state visiting the U.N.

It is important to note that this legislation provides reimbursement, and not a grant. In protecting U.N. missions and visiting dignitaries, the New York Police Department is carrying out a national obligation. It is the responsibility of the Government of the United States, under international convention and custom to protect diplomats within its borders and, specifically, to assure the safety of diplomats posted to the United Nations. That is an obligation our Government took on when it agreed to provide a site for the headquarters of the U.N.

It is also a matter of national concern because our protection of foreign diplomats in the United States is the basis of our insistence upon reciprocal security arrangements for our diplomats abroad. Our Ambassador to the United Nations, Jeane Kirkpatrick, this year told the House subcommittee that considered H.R. 6254:

> The need for protection of diplomats attached to the United Nations community has gone up rather dramatically in recent years and is likely to continue to go up * * * the most cost-effective means of providing protection is through the New York City Police.

I would note that, here in the District of Columbia, over 12 years ago we established a Federal police force to guard embassies and diplomats, relieving the local police force of the responsibility. We could do that in New York also, but the Secret Service estimates that to do so would cost approximately twice each year what H.R. 6254 would authorize in annual reimbursements to the city of New York.

Finally, I would say to my colleagues that this legislation is not a referendum on the United Nations, nor should it be. As a former Ambassador to the United Nations, I would eagerly engage in a discussion of the problematic nature of the United Nations and of our participation in it. But this matter of our protecting diplomats in New York so long as the United Nations is there is a separate matter entirely, and one of pressing national concern.

I commend to my colleagues the draft report of the Committee on Environment and Public Works which explains the provisions of S. 2854—and congruently, of H.R. 6254—in great detail. And I urge my colleagues to approve H.R. 6254 and clear it for the President's approval.

Mr. President, I thank the Chair and the majority leader and minority leader.

Mr. BAKER. I thank the Senator from New York.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6254) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TO CODIFY CERTAIN LAWS REGARDING TRANSPORTATION

Mr. BAKER. Mr. President, I am prepared now to ask to discharge the Judiciary Committee from further consideration of H.R. 6993 if there is no objection on the minority side.

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. Mr. President, then I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 6993 making technical corrections of existing statutes, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. Mr. President, there is no objection to the immediate consideration of the measure.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 6993) to revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation".

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Senator THURMOND to me dated December 13, 1982.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., December 13, 1982.

Hon. HOWARD H. BAKER, Jr.,
Office of the Majority Leader, U.S. Senate, Washington, D.C.

DEAR SENATOR BAKER: The Law Revision Counsel's Office has an ongoing codification and technical correction program for systematically codifying the non-codified titles of the United States Code and for making technical corrections to existing statutes. These efforts do not involve making substantive changes in the law.

It is anticipated that a bill of this type—H.R. 6993—will shortly be passed by the House on its suspension calendar. We have consulted with the Office of the Law Revision Counsel and understand no objection has been made to this bill by interested agencies or congressional committees. Indeed, there is general agreement that it is an improving non-substantive proposal that should be promptly passed by the Senate without amendment. It is important to pass this bill now so that the statutory changes may be included in the new edition of the United States Code to be published at the end of this Congress.

We request that you take the necessary steps to have H.R. 6993 held at the desk upon receipt from the House and passed by the Senate under Senate procedures for acting on legislation by unanimous consent.

If we can be of further assistance to you, please have your staff contact Paul Summitt (ext. 4-8055) or Kathy Zebrowski (ext. 4-5701).

With kindest regards and best wishes.

Sincerely,

STROM THURMOND,
Chairman.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6993) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TO CODIFY RECENT LAWS RELATED TO MONEY AND FINANCE AND TO IMPROVE THE UNITED STATES CODE

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 7378, making technical corrections to existing statutes, and proceed to its consideration, if the minority leader is agreeable.

Mr. PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, there is no objection to the several requests.

Mr. BAKER. Mr. President, I ask unanimous consent, first, that the Committee on the Judiciary be discharged from further consideration of H.R. 7378, making technical corrections to existing statutes, and then I ask, Mr. President, that the Senate turn immediately to its consideration.

Mr. PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

> A bill (H.R. 7378) to codify without substantive change recent laws related to money and finance and to improve the United States Code.

Mr. PRESIDING OFFICER. If there be no amendments, the question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRIBALLY CONTROLLED COMMUNITY COLLEGE—CONFERENCE REPORT

Mr. BAKER. Mr. President, next is the conference report to accompany S. 2623, that I propose to consider at this time, if the minority leader is agreeable.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 2623 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MODIFICATIONS TO LIMITATIONS RELATING TO BIOCHEMICAL OXYGEN DEMAND AND PH

Mr. BAKER. Mr. President, next I would propose to proceed to the consideration of Calendar Order 1020, H.R. 7159, if the minority leader finds that agreeable.

Mr. ROBERT C. BYRD. I have no objection.

The Senate proceeded to consider the bill (H.R. 7159) to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, which had been reported from the Committee on Environment and Public Works with an amendment:

On page 1, strike line 6, through and including line 9 on page 4, and insert the following:

"(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 402, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds that—

"(A) the facility for which modification is sought is covered at the time of the enactment of this subsection by National Pollutant Discharge Elimination System permit number CA0005894 or CA0005282;

"(B) the energy and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

"(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota;

"(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

"(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

"(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act;

"(G) the applicant accepts as a condition to the permit a contractural obligation to use funds in the amount required (but not to exceed $250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

"(H) the facts and circumstances present a unique situation which, if relief is granted, will not establish a precedent or the relaxation of the requirements of this Act applicable to similarly situated discharges; and

"(I) no owner or operator of a facility comparable to that of the applicant situated in the United States has demonstrated that it would be put at a competitive disadvantage to the applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection.

"(2) The effluent limitations established under a permit issued under paragraph (1) shall be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife, and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

"(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for five additional periods not to exceed five years each upon a demonstration by the applicant and a finding by the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

"(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown: *Provided*, That if the effluent from a source with a permit issued under this subsection is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1571

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Washington (Mr. GORTON) and the distinguished Senator from Ohio (Mr. METZENBAUM).

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. GORTON and Mr. METZENBAUM, proposes an unprinted amendment numbered 1571.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 20 strike "to exceed" and insert "less than" and on page 6, line 25 and page 6, line 1 strike "five additional periods not to exceed five years each" and insert "one additional period not to exceed five years."

Mr. GORTON. Mr. President, I would like to express my support for H.R. 7159, the Clausen bill. This bill is designed to provide a procedure, pursuant to which, the Administrator of the Environmental Protection Agency may grant a variance from the best practicable and best conventional treatment technology requirements of the Clean Water Act for two pulp mills located on the Samoa Peninsula, near Eureka in Humboldt County, Calif.

These mills are in a unique situation. They currently discharge their effluent into deep Pacific Ocean waters in an area with strong currents and turbulent into deep Pacific Ocean waters in an area with strong currents and turbulent conditions through separate

outfalls about a half-mile long. Those familiar with the area believe that these conditions make it possible to discharge into these waters without any resulting decline in water quality. I understand the concern of some of my colleagues that we not depart from the underlying principle of the Clean Water Act; that of requiring technology without regard to the quality of the receiving water. That principle has proven to be most effective in our effort to clean up the Nation's waters. I do not believe, however, that this bill, in its narrowly drawn form, will constitute a precedent for departing from that principle.

In this case, the treatment facilities which would be required to be constructed without this amendment to the act would cause considerable adverse impact on a sensitive plant and wildlife habitat and cause a degradation of air quality. Because of this, this bill has the support of the environmental community of the north coast of California. Mr. President, I ask that a letter in support of H.R. 7159 from the Northcoast Environmental Center be reprinted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORTON. Mr. President, H.R. 7159 was amended by the Senate Environment and Public Works Committee in order to leave no doubt of its limited application and the fact that it is not to be considered as precedent for other mills or industries. I would like to thank the distinguished chairman of the committee, Senator STAFFORD, for his cooperation in crafting those amendments.

Finally, I would like to note that a part of any permit that might be issued under the provisions of this bill would be a commitment by the applicant to use up to $250,000 per year for period of 10 years for research and development into water pollution control processes. This is certainly a fair requirement to make of these mills and if it results in the development of a closed-cycle system for mills such as these, the benefit of the bill will be felt well beyond the local area of these mills.

EXHIBIT 1

THE NORTHCOAST ENVIRONMENTAL CENTER,
Arcata, Calif., December 3, 1982.

Re H.R. 7159.

GENTLEPERSONS: This letter is to indicate our support for H.R. 7159 which would prevent the creation of a larger environmental problem to solve one of less magnitude. The language of this measure represents a delicate balance and a local consensus amongst environmental and industrial interests on the north coast of California.

We would appreciate your support for this measure in its original form.

The Northcoast Environmental Center is a nonprofit educational organization established in 1971. Through our member organizations and through individual memberships the Center represents almost 4,000 people in the sparsely populated region of northwestern California.

The Center's member groups include Redwood Region Audubon Society, Six Rivers Branch—Friends of the Earth, the North Group of the Redwood Chapter of the Sierra Club, the North Coast Chapter of the California Native Plant Society, the North Coast Chapter of Friends of the River, the Redwood Alliance, the Arcata Community Recycling Center, the Humboldt Herbicide Task Force and the Hoopa Valley Business Council.

Thank you for your time and consideration in this matter.

Sincerely yours,

TIM MCKAY,
Coordinator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1571) was agreed to.

The PRESIDING OFFICER. If there be no further amendment, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TO IMPROVE THE INTERNAL SECURITY OF THE UNITED STATES

Mr. BAKER. Mr. President, I ask unanimous consent now that the Judiciary Committee be discharged from further consideration of S. 1963, the foreign agents registration bill, and, Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection to either request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1963) to improve the internal security of the United States by clarifying the notification requirements for foreign agents under section 951 of title 18, United States Code, and to increase the penalties for failure to notify.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time, was read the third time, and passes as follows:

A bill to improve the internal security of the United States by clarifying the notification requirements for foreign agents under section 951 of title 18, United States Code, and to increase the penalties for failure to notify.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 951 of title 18, United States Code, is amended by—

(1) striking out "Secretary of State" and inserting in lieu thereof "Attorney General if required in subsection (b)";

(2) striking out "$5,000" and inserting in lieu thereof "$50,000"; and

(3) inserting "(a)" before "Whoever" and adding at the end of such subsection the following new subsections:

"(b) The Attorney General shall promulgate rules and regulations establishing requirements for notification. Such rules and regulations shall set forth a definition of 'agent of a foreign government'.

"(c) The Attorney General shall upon receipt, promptly transmit one copy of every notification statement filed hereunder to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General to do so shall not be a bar to prosecution under this Act.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CERTAIN SERVICE OF PROCESS BY MAIL

Mr. BAKER. Now, Mr. President, I would now invite the attention of the minority leader to the fact that I am about to propose a unanimous-consent request to discharge the Committee on the Judiciary from further consideration of H.R. 7154 and then to proceed to its immediate consideration, if I can clear that for action by unanimous consent.

Mr. ROBERT C. BYRD. There is no objection to either request.

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 7154, a bill to amend the Federal rules of civil procedure and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 7154) to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1572

(Purpose: To improve the internal security of the United States by clarifying the notification requirements for foreign agents under section 951 of title 18, United States Code, and to increase the penalties for failure to notify)

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Alabama (Mr. DENTON).

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. DENTON, proposes and unprinted amendment numbered 1572.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end thereof add the following:

Section 951 of title 18, United States Code, is amended by—

(1) striking out "Secretary of State" and inserting in lieu thereof "Attorney General if required in subsection (b)";

(2) striking out "$5,000" and inserting in lieu thereof "$50,000"; and

(3) inserting "(a)" before "Whoever" and adding at the end of such subsection the following new subsections:

"(b) The Attorney General shall promulgate rules and regulations establishing requirements for notification.

"(c) The Attorney General shall, upon receipts, promptly transmit one copy of each notificaiton statement filed under this section to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General to do so shall not be a bar to prosecution under this section.

"(d) For purposes of this section, the term 'agent of a foreign government' means an individual who agrees to operate within the United States subject to the direction or control of a foreign government or official, except that such term does not include—

"(1) a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State;

"(2) any officially and publicly acknowledged and sponsored official or representative of a foreign government;

"(3) any officially and publicly acknowleged and sponsored member of the staff of, or employee of, an officer, official, or representative described in paragraph (1) or (2), who is not a United States citizen; or

"(4) any person engaged in a legal commerical transaction.".

Mr. DENTON. Mr. President, today I have submitted an amendment to H.R. 7154 which will serve to clarify the notification procedures for nondiplomatic foreign agents and to transfer the responsibility for receiving such notifications from the Secretary of State to the Attorney General.

Mr. President, title 18, United States Code, section 951 [1] is an act which in its present form requires nondiplomatic agents of foreign governments to notify the Secretary of State prior to their acting within the United States, on behalf of the foreign government which they represent.

The problem is this: In all the years the State Department has had responsibility for receiving these notifications, and this dates back to June 15, 1917, the Agency has never promulgated regulations nor formalized the procedures for receiving notifications. The State Department's view seems to have been that this act often puts the Agency at odds with representatives of "client" states and, therefore, is an impediment to foreign relations.

The Notification Act which this bill seeks to amend in its present form covers all activity performed by nondiplomatic agents who represent only foreign governments. It does not cover those who represent multinational corporations, foreign individuals, or political factions. In its present form, it requires no disclosure other than the mere fact of intention to act.

Mr. President, I believe the importance of 18 U.S.C. 951 should be apparent when we consider that the Department of Justice frequently utilizes it in the prosecution of major espionage cases and has found it to be a useful adjunct, especially in cases where it is difficult to establish the national defense character of classified materials transmitted by a defendant.

In transferring responsibility for the administration of this statute from the Department of State to the Department of Justice, I believe we allow for the creation of a mechanism whereby the Department of Justice is afforded an opportunity to monitor the activities of those who file notifications and thereby become informed when the activities cross the threshold which would trigger the registration and disclosure requirements of the Foreign Agents Registration Act, which it now administers. I would also hasten to add that this bill imposes upon the Attorney General the duty to keep the Department of State informed regarding notifications received.

On May 12, 1982, the Subcommittee on Security and Terrorism, which I chair, held a hearing on S. 1963, the measure from which this bill is derived. At that hearing, representatives from both the Department of Justice and the Department of State endorsed and supported the transfer of responsibility for receiving the notification, from the Secretary of State to the Attorney General, as provided for in S. 1963 and in the measure I am introducing today.

Both Departments also recommended that Congress should define the term "agent of a foreign government." The measure I am introducing today contains such a definition which is based on a proposed definition sent to the subcommittee by the Department of Justice subsequent to the hearing.

Mr. President, it should also be noted that while the period of imprisonment for violation of this 10-year statute is adequate, in my view, the financial sanctions have not kept up with inflation; therefore, my bill would increase the financial penalty from $5,000 to $50,000.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1572) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TO RECOGNIZE THE ORGANIZATION KNOWN AS FORMER MEMBERS OF CONGRESS

Mr. BAKER. Mr. President, I am prepared next to go to H.R. 7423, if the minority leader has no objection.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7423, recognizing an organization known as Former Members of Congress.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7423) to recognize the organization known as Former Members of Congress.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

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[1] 18 U.S.C 951 (June 25, 1981, c. 645 62 stat. 743.) Whoever, other than a diplomatic or consular officer or attache, acts in the U.S. as an agent of a foreign goverment without prior notification to the Secretary of State shall be fined not more than $5,000 or imprisoned not more than 10 years, or both.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REDUCTION, SUSPENSION, AND EXTENSION OF CERTAIN DUTIES

Mr. BAKER. Now Mr. President, next I would inquire of the minority leader if he is prepared to consider H.R. 4566 at this time.

Mr. ROBERT C. BYRD. No objection.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 829, H.R. 4566.

Mr. METZENBAUM. Mr. President, is this the tariff bill? Reserving the right to object, and I do not intend to object, providing there is an understanding with the manager of the bill that: First, the reciprocity provision will be dropped from the bill, and second, that the bill when it comes back from the conference will not contain any provisions other than similar tariff provisions that may presently be in the House bill, and that absent that, the manager of the bill on the House side will not ask the House to approve the conference report. Is that understood by the manager of the bill?

Mr. DOLE. That is understood by the manager of the bill.

Mr. METZENBAUM. I have no objection.

The Senate proceeded to consider the bill (H.R. 4566) to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes, which had been reported from the Committee on Finance with an amendment:

TITLE I—TARIFF PROVISIONS

SUBTITLE A—IN GENERAL

SEC. 101. AMENDMENT OF TARIFF SCHEDULES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, an item or other provision, the reference shall be considered to be made to an item or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

SEC. 102. REDUCTION IN RATE OF DUTY ON DICOFOL.

(a) IN GENERAL.—Item 408.24 is amended by inserting "1,1-Bis(4-Chlorophenyl)-2,2,2-trichloroethanol (Dicofol);" immediately under "N'-(4-Chloro-o-tolyl)-N,N-dimethylformamidine;".

(b) CONFORMING AMENDMENT.—The chemical appendix is amended by striking out "115-32-2".

SEC. 103. SUSPENSION OF DUTY ON COPPER SCALE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"911.05	Copper scale (provided for in item 603.70, part 1, schedule 6).	Free	No change	On or before 12/31/85.".

SEC. 104. LIMITATION ON IMPORTS OF SEED POTATOES.

The superior heading to items 137.20 and 137.21 is amended by inserting ", and imported for use as seed" after "tags".

SEC. 105. REDUCTION IN DUTY ON CERTAIN TEXTURING MACHINES.

Subpart E of part 4 of schedule 6 is amended by inserting immediately after item 670.02 the following new item:

"670.03	Specially designed for stretch or heat-set texturing of continuous manmade fibers.	Free	.....	40% ad val.".

SEC. 106. TEMPORARY SUSPENSION OF DUTY ON SMALL TOYS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.20	Articles provided for in parts 5D and 5E of schedule 7 (except balloons, marbles, dice, and die-cast vehicles), valued not over five cents per unit; and jewelry provided for in part 6A of schedule 7 (except parts), valued not over 1.6 cents per piece.	Free	No change	On or before 12/31/86.".

SEC. 107. TEMPORARY SUSPENSION OF DUTIES ON CERTAIN RED PEPPERS.

Item 903.60 of subpart B of part 1 of the Appendix is amended by striking out "6/30/81" and inserting in lieu thereof "6/30/85".

SEC. 108. 2-YEAR EXTENSION OF THE INTERNATIONAL SUGAR AGREEMENT.

Section 2 of the Act entitled "An Act providing for the implementation of the International Sugar Agreement, 1977, and for other purposes" (Public Law 96-236; 7 U.S.C. 3602) is amended by striking out "1983" and inserting in lieu thereof "1985".

SEC. 109. 1-YEAR EXTENSION OF THE INTERNATIONAL COFFEE AGREEMENT.

Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1983".

SEC. 110. ELIMINATION OF DUTY ON CASEIN BLANKS.

(a) IN GENERAL.—Subpart A of part 7 of schedule 7 is amended—

(1) by striking out "(item 745.40)" in headnote 2(b) of such subpart and inserting in lieu thereof "in the superior heading to items 745.41 and 745.42"; and

(2) by striking out item 745.40 and inserting in lieu thereof the following:

	"Button blanks and molds, and parts of buttons:			
745.41	Button blanks of casein.	Free	.....	45% ad val.
745.42	Other	24.2% ad val.	11.4% ad val.	45% ad val.".

(b) APPLICATION WITH OTHER PROVISIONS.—(1) The rate of duty in column numbered 1 for item 745.42 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by subsection (a)(2)) shall be subject to any staged rate reductions for item 745.40 which were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in the column numbered 1 for such item 745.42 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in the column entitled "LDDC" shall be deleted from such Schedules.

(3) For purposes of the Trade Act of 1974, the amendments made by this section (not including the rates of duty in column numbered 2 of the Tariff Schedules of the United States) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 111. TEMPORARY SUSPENSION OF DUTY ON CERTAIN FREIGHT CONTAINERS.

Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new item:

"911.80	Freight containers specially designed and equipped to facilitate the carriage of goods by one or more modes of transport without intermediate reloading, each having a gross mass rating of at least 40,000 pounds (provided for in item 640.30, part 3A, schedule 6).	Free	No change	On or before 12/31/86.".

SEC. 112. TEMPORARY SUSPENSION OF DUTY ON CERTAIN PHOTOGRAPHIC COUPLERS.

Items 907.10 and 907.12 of the Appendix are amended by striking out "6/30/82" and inserting in lieu thereof "9/30/85".

SEC. 113. TEMPORARY SUSPENSION OF DUTY ON CERTAIN BULK FRESH CARROTS.

Subpart B of part 1 of the Appendix is amended—

(1) by striking out headnote 2 and inserting in lieu thereof the following:

"2. For purposes of item 903.25—

"(a) the term 'culled carrots' refers to those carrots which fail to meet the requirements of the United States Department of Agriculture for carrots of grades 'U.S. No. 1' or 'U.S. No. 2' (See 7 CFR sections 2851.4141 and 2851.4142); and

"(b) the total quantity of carrots which may be entered under item 903.25 during the period specified in that item shall not exceed 20,000 tons."; and

(2) by inserting in numerical sequence the following new item:

"903.25	Culled carrots, fresh or chilled in immediate containers each holding more than 100 pounds (provided for in item 135.42, part 8A, schedule 1) if entered for consumption during the period from August 15 in any year, to the 15th day of the following February, inclusive.	Free	No change	On or before 6/30/85.".

SEC. 114. TEMPORARY SUSPENSION OF DUTY ON HATTERS' FUR.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.85	Fur, not on the skin, prepared for hatters' use, provided for in item 186.20.	Free	No change	On or before 12/31/85.".

SEC. 115. WATCHES.

(a) PRODUCTS OF INSULAR POSSESSIONS DEFINED.—Paragraph (a)(i) of headnote 3 of the General Headnotes and Rules of Interpretation is amended by striking out "(or more

than 70 percent of the total value with respect to watches and watch movements)".

(b) RATE OF DUTY ON WATCHES.—Headnote 6 of schedule 7, part 2, subpart E is amended—

(1) by striking out "paragraph (b)" in paragraph (a) and inserting in lieu thereof "paragraphs (b) through (h)"; and

(2) by striking out "an insular possession of the United States outside the customs territory of the United States" in paragraph (a), and inserting in lieu thereof "the Virgin Islands, Guam, and American Samoa (hereinafter referred to as the 'insular possessions')"; and

(3) by striking out paragraphs (b) through (d) and inserting in lieu thereof the following new paragraphs:

"(b) Watches and watch movements produced or manufactured in a United States insular possession which contain any foreign component may be admitted free of duty without regard to the value of the foreign materials such watches contain if they conform with the provisions of this headnote, but the total quantity of such articles entered free of duty shall not exceed the amounts established by or pursuant to paragraph (c) of this headnote.

"(c)(i) In calendar year 1983 the total quantity of such articles which may be entered free of duty shall not exceed 7,000,000 units.

"(ii) In subsequent calendar years, the Secretary of Commerce and the Secretary of the Interior (hereinafter referred to as the "Secretaries"), acting jointly, shall establish a limit on the quantity which may be entered free of duty during the calendar year, and shall consider whether such limit is in the best interest of the insular possessions and not inconsistent with domestic or international trade policy considerations. The quantity the Secretaries establish in any calendar year under this paragraph shall not—

"(I) exceed 10,000,000 units, or one-ninth of apparent domestic consumption (as determined by the International Trade Commission pursuant to paragraph (d) of this headnote), whichever is greater;

"(II) be decreased by more than 10 percent of the quantity established for the immediately preceding calendar year; and

"(III) be increased to more than 7,000,000 units, or by more than 20 percent of the quantity established for the immediately preceding calendar year, whichever is greater.

"(d) On or before April 1 of each calendar year (beginning with the first year in which watch imports from the United States insular possessions exceed 9,000,000 units), the International Trade Commission shall determine the apparent United States consumption of watches and watch movements (including solid state timepieces) during the preceding calendar year, shall report such determination to the Secretaries, and shall publish such determination in the Federal Register.

"(e)(i) In calendar year 1983, not more than 5,200,000 units of the total quantity of articles described in paragraph (d) which may be entered free of duty shall be the product of the Virgin Islands, not more than 1,200,000 units shall be the product of Guam, and not more than 600,000 units shall be the product of American Samoa.

"(ii) For calendar year 1984 and thereafter, the Secretaries may establish new territorial shares of the total amount which may be entered free of duty, taking into account the capacity of each territory to produce and ship its assigned amounts. A territory's share in any year shall not be reduced—

"(I) by more than 200,000 units in calendar year 1984 or 1985, and

"(II) by more than 500,000 units in calendar year 1986 or thereafter, except that no territorial share shall be established at less than 500,000 units.

"(f) The Secretaries, acting jointly, shall allocate the calendar year duty exemptions provided by paragraphs (b), (c), and (e) of this headnote on a fair and equitable basis among producers located in the insular possessions, and shall issue appropriate licenses therefor. Allocations made by the Secretaries shall be final. In making the allocations, the Secretaries shall consider the potential impact of territorial production on domestic production of like articles and shall establish allocation criteria (including minimum assembly requirements) that will reasonably maximize the net amount of direct economic benefits to the insular possessions.

"(g)(i) In the case of each calendar year beginning after December 31, 1982, and before January 1, 1995, the Secretaries, acting jointly, shall—

"(I) verify the wages paid by each producer to permanent residents of the insular possessions during the preceding calendar year, and

"(II) issue to each producer (not later than March 1 of such year) a certificate for the applicable amount.

"(ii) For purposes of subparagraph (i), except as provided in subparagraphs (iii) and (iv), the term 'applicable amount' means an amount equal to the sum of—

"(I) 90 percent of the producer's creditable wages on the assembly during the preceding calendar year of the first 300,000 units, plus

"(II) the applicable graduated declining percentage (determined each year by the Secretaries) of the producer's creditable wages on the assembly during the preceding calendar year of units in excess of 300,000 but not in excess of 750,000.

"(iii) The aggregate amount of all certificates which are issued during any calendar year shall not exceed an amount which bears the same ratio to $5,000,000 as—

"(I) the gross national product of the United States (as determined by the Secretary of Commerce) for the preceding calendar year, bears to—

"(II) the gross national product of the United States (as so determined) for 1982.

"(iv)(I) Subject to the provision of clause (II), if the amount of the certificates issued under subparagraph (i) would exceed the limit under subparagraph (iii), the applicable amount of each producer's certificate shall be reduced proportionately by the amount of such excess.

"(II) The applicable amount of any producer's certificate shall not be reduced below the amount determined under subparagraph (ii)(I), except that if the application of this clause would result in the aggregate amount of the certificates exceeding the limit under subparagraph (iii), the applicable amount of each producer's certificate shall again be reduced proportionately by the amount of the excess determined after application of this clause.

"(v) Any certificate issued under subparagraph (i) shall entitle the certificate holder to secure the refund of duties equal to the face value of the certificate on watches, watch movements (including solid state timepieces) and, with the exception of discrete cases, parts therefor imported into the customs territory of the United States by the certificate holder. Such refunds shall be made under regulations issued by the Treasury Department. Not more than 5 percent of such refunds may be retained as a reimbursement to the Customs Service for the administrative costs of making the refunds.

"(vi) Any certificate issued under subparagraph (i), or any portion thereof, shall be negotiable.

"(vii) Any certificate issued under subparagraph (i) shall expire 1 year from the date of issuance and may be applied against duties on imports of watches and watch movements the entry of which were made within 2 years prior to the date of issuance of the certificate.

"(viii) For purposes of determining the applicable amount of any producer's certificate to be issued during calendar year 1983, the greater of—

"(I) the producer's creditable wages for calendar year 1982, or

"(II) 60 percent of the producer's creditable wages for calendar year 1981,

shall be considered the creditable wages for calendar year 1982.

"(h) The Secretaries are authorized to issue such regulations, not inconsistent with the provisions of this headnote, as they determine necessary to carry out their respective duties under this headnote. Such regulations shall include minimum assembly requirements. Any duty-free entry determined not to have been made in accordance with applicable regulations shall be subject to the applicable civil remedies and criminal sanctions, and, in addition, the Secretaries may cancel or restrict the license or certificate of any manufacturer found in willful violation of the regulations.

SEC. 116. TEMPORARY SUSPENSION OF DUTY ON CAFFEINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.18	Caffeine (provided for in item 437.02, part 3B, schedule 4).	6% ad val...	No change...	On or before 12/31/83.".

SEC. 117. TEMPORARY SUSPENSION OF DUTY ON SULFAPYRIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.19	Sulfapyridine (provided for in item 411.28, part 1C, schedule 4).	Free.....	Free.....	On or before 12/31/85.".

SEC. 118. TEMPORARY REDUCTION OF DUTY ON SULFATHIAZOLE.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.22	Sulfathiazole (provided for in item 411.80).	14.6% ad val..	7¢ per lb. + 80% ad val..	On or before 12/31/82.".

(b) SPECIAL RATE FOR LEAST DEVELOPED DEVELOPING COUNTRIES.—During such time as item 907.22 (as added by subsection (a)) is in effect, the rate of duty on sulfathiazole that is a product of a least developed developing country shall be 8 percent ad valorem.

(c) PHASE-DOWN OF TEMPORARY RATE.—

(1) With respect to articles entered after December 31, 1982, and before January 1, 1984, item 907.22 is amended by striking out "14.6% ad val." and inserting in lieu thereof "13.3% ad val.", and by striking out "12/31/82" and inserting in lieu thereof "12/31/83".

(2) With respect to articles entered after December 31, 1983, and before January 1, 1985, item 907.22 is amended by striking out

"13.3% ad val." and inserting in lieu thereof "11.9% ad val.", and by striking out "12/31/83" and inserting in lieu thereof "12/31/84".

(3) With respect to articles entered after December 31, 1984, and before January 1, 1986, item 907.22 is amended by striking out "11.9% ad val." and inserting in lieu thereof "10.6% ad val.", and by striking out "12/31/85".

SEC. 119. FISH NETTING AND NETS.

Item 355.45 of subpart C of part 4 of schedule 3 is amended by striking out "21¢ per lb. + 30.6% ad. val." in duty rate column numbered 1 and inserting in lieu thereof "17% ad. val.".

SEC. 120. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this subtitle shall apply to articles entered on or after the date of the enactment of this Act.

(b) RETROACTIVE APPLICATION.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the application of the amendments made by this Act to the entry of any article described in paragraph (2) or (3) shall be treated as provided in such paragraphs.

(2) SECTION 102.—In the case of the application of the amendments made by section 102 to any entry—

(A) which was made before the date of the enactment of this Act;

(B) which was unliquidated, or the liquidation of which was not final, on such date of enactment; and

(C) with respect to which there would have been less duty if the amendments made by section 102 applied to such entry;

such entry shall be liquidated as though such entry had been made on the date of the enactment of this Act.

(3) CERTAIN OTHER PROVISIONS.—In the case of the application of the amendments made by sections 105, 107, 112, and 119 to any entry—

(A) which was made after the applicable date and before the date of the enactment of this Act; and

(B) with respect to which there would have been no duty or a lesser duty if the amendments made by such sections applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the date of the enactment of this Act.

(4) APPLICABLE DATE.—For purposes of paragraph (3), the term "applicable date" means—

(A) in the case of section 105, March 1, 1982,

(B) in the case of section 107, June 30, 1981,

(C) in the case of section 112, June 30, 1982, and

(D) in the case of section 119, December 31, 1981.

(c) ENTERED AND ENTRY DEFINED.—For purposes of this subtitle—

(1) the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States; and

(2) the term "entry" includes any withdrawal from warehouse for consumption.

SUBTITLE B—IMPLEMENTATION OF NAIROBI PROTOCOL

SEC. 131. SHORT TITLE, ETC.

(a) SHORT TITLE.—This subtitle may be cited as the "Educational, Scientific, and Cultural Materials Importation Act of 1982".

(b) PURPOSE.—The purpose of this subtitle is to enable the United States to give effect to the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials (opened for signature on March 1, 1977) with a view to contributing to the cause of peace through freer exchange of ideas and knowledge across national boundaries.

SEC. 132. BOOKS, PUBLICATIONS, AND DOCUMENTS.

Part 5 of schedule 2 is amended—

(1) by inserting, in numerical sequence, the following new item:

"270.90	Catalogs of films, recordings or other visual and auditory material of an educational, scientific, or cultural character.	Free		Free";

(2) by striking out items 273.45 through 273.55, and the superior heading thereto, and inserting in lieu thereof the following:

"273.52	Architectural engineering, industrial, or commercial drawings and plans, whether originals or reproductions.	Free		Free";

and

(3) by inserting immediately below the phrase "Printed not over 20 years at time of importation:" and above (and at the same hierarchical level as) "Lithographs on paper:" the following new item:

"274.55	Loose illustrations, reproduction proofs or reproduction films used for the production of books..	Free		Free".

SEC. 133. VISUAL AND AUDITORY MATERIALS.

(a) PHOTOGRAPHIC FILM.—Part 5 of schedule 2 is amended—

(1) by inserting the phrase "(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles)" immediately after "Photographs" in the superior heading to items 274.50 through 274.70, and

(2) by adding, in numerical sequence, the following new item:

"274.67	Developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles.	Free		Free".

(b) MOTION PICTURE FILMS.—Subpart G of part 2 of schedule 7 is amended—

(1) by striking out "724.05 and 724.10" in headnote 1 and inserting in lieu thereof "724.07 and 724.22",

(2) by striking out headnote 2,

(3) by striking out items 724.05 and 724.10, and the superior heading thereto, and inserting in lieu thereof the following:

"724.07	Motion-picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed.	Free		Free",

(4) by striking out items 724.15 through 724.40 and inserting in lieu thereof the following new item:

"724.22	Sound recordings, combination sound and visual recordings, and magnetic recordings not provided for in the foregoing provisions of this subpart.	Free		Free",

and

(5) by striking out the rates of duty appearing in rate columns 1, LDDC, and 2 for item 724.12 and inserting "Free" in rate columns numbered 1 and 2.

(c) PATTERNS, MODELS, ETC.—Part 7 of schedule 8 is amended—

(1) by striking out headnote 1 and redesignating headnote 2 as headnote 1,

(2) by striking out item 870.30, and

(3) by inserting, in numerical sequence, the following new item:

"870.35	Patterns, models (except toy models) and wall charts of an educational, scientific or cultural character; mock-up or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing.	Free		Free".

SEC. 134. TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS.

Part 4 of schedule 8 is amended by adding, in numerical sequence, the following new item:

"851.67	Tools specially designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus admitted under item 851.60.	Free		Free".

SEC. 135. ARTICLES FOR THE BLIND OR OTHER HANDICAPPED PERSONS.

(a) ELIMINATION OF DUTY.—Subpart D of part 2 of schedule 8 is amended by striking out items 825.00, 826.10, and 826.20.

(b) SPECIALLY DESIGNED ARTICLES.—Part 7 of schedule 8 is amended—

(1) by inserting, in numerical sequence, the following new items:

	"Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons:			
	Articles for the blind:			
870.50	Books, music, and pamphlets, in raised print, used exclusively by or for them.	Free		Free
870.55	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively.	Free		Free
870.60	Other	Free		Free";

and

(2) by adding the following new headnote:

"2. For the purposes of items 870.50, 870.55, and 870.60—

"(a) The term 'physically or mentally handicapped persons' includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"(b) These items do not cover—

"(i) articles for acute or transient disability;

"(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

"(iii) therapeutic and diagnostic articles; or

"(iv) medicine or drugs.".

(c) STATISTICAL INFORMATION.—The Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which the amendments made by this section apply.

SEC. 136. AUTHORITY TO LIMIT CERTAIN DUTY-FREE TREATMENT ACCORDED UNDER THIS ACT.

(a) AUTHORITY TO LIMIT.—

(1) IN GENERAL.—In addition to any authority under section 201 of the Trade Act of 1974 (19 U.S.C. 2251), the President may proclaim changes in the Tariff Schedules of the United States (19 U.S.C. 1202) to narrow the scope of, or place conditions upon, the duty-free treatment accorded under section 134, section 135, or section 137(b) (insofar as section 137(b) relates to temporary duty-free treatment of articles covered by sections 134 and 135) with respect to any type of article the duty-free treatment of which—

(A) has significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article, and

(B) is not provided for in the Florence Agreement or the Nairobi Protocol.

(2) RATES WHICH ARE TO TAKE EFFECT IF DUTY-FREE TREATMENT ELIMINATED.—If the President eliminates any duty-free treatment under paragraph (1), the rate of duty thereafter applicable to any article which is—

(A) affected by such action, and

(B) imported from any source,

shall be the rate proclaimed by the President as the rate applicable to such article from such source (determined without regard to this subtitle).

(b) RESTORATION OF TREATMENT.—If the President determines that any duty-free treatment which is no longer in effect because of action taken under subsection (a) could be restored in whole or in part without a resumption of significant adverse impact on a domestic industry or portion thereof, the President may proclaim changes to the Appendix to the Tariff Schedules of the United States to resume such duty-free treatment.

(c) OPPORTUNITY TO PRESENT VIEWS.—Before taking an action authorized by subsection (a) or (b), the President shall afford an opportunity for interested Government agencies and private persons to present their views concerning the proposed action.

SEC. 137. EFFECTIVE DATE; TEMPORARY DUTY-FREE TREATMENT.

(a) IN GENERAL.—The amendments made by sections 132, 133, 134, and 135 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date which the President proclaims as the date on which he ratifies the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials.

(b) TEMPORARY DUTY-FREE TREATMENT.—

(1) ARTICLES FOR THE BLIND OR OTHER HANDICAPPED PERSONS.—Subject to the provisions of paragraph (3) and section 136, the President shall proclaim changes to the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) to implement the provisions of section 135 with respect to articles entered, or withdrawn from warehouse for consumption, during the two and one-half-year period beginning on the thirtieth day following the date of the enactment of this subtitle.

(2) OTHER ARTICLES.—Subject to the provisions of paragraph (3) and section 136, the President, if he deems such action to be in the interest of the United States, may proclaim further changes to the Appendix to the Tariff Schedules of the United States to implement any provision of section 132, 133, or 134 with respect to articles entered, or withdrawn from warehouse for consumption, during any period beginning on or after the thirtieth day following the date of the enactment of this subtitle and ending not later than two and one-half years after such beginning date.

(3) TIME PROVISIONS CEASE TO HAVE EFFECT.—If any temporary duty-free treatment accorded under paragraph (1) or (2) has not yet expired, such treatment shall cease to be effective on and after the date proclaimed by the President pursuant to subsection (a).

TITLE II—IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

SEC. 201. SHORT TITLE.

This title may be cited as the "Convention on Cultural Property Implementation Act".

SEC. 202. DEFINITIONS.

For purposes of this title—

(1) The term "agreement" includes any amendment to, or extension of, any agreement under this title that enters into force with respect to the United States.

(2) The term "archaeological or ethnological material of the State Party" means—

(A) any object of archaeological interest;

(B) any object of ethnological interest; or

(C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State Party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaeological interest unless such object—

(I) is of cultural significance;

(II) is at least two hundred and fifty years old, and

(III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

(I) the product of a tribal or nonindustrial society, and

(II) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

(3) The term "Committee" means the Cultural Property Advisory Committee established under section 206.

(4) The term "consignee" means a consignee as defined in section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).

(5) The term "Convention" means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its sixteenth session.

(6) The term "cultural property" includes articles described in article 1 (a) through (k) of the Convention whether or not any such article is specifically designated as such by any State Party for the purposes of such article.

(7) The term "designated archaeological or ethnological material" means any archaeological or ethnological material of the State Party which—

(A) is—

(i) covered by an agreement under this title that enters into force with respect to the United States, or

(ii) subject to emergency action under section 204, and

(B) is listed by regulation under section 205.

(8) The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) The term "State Party" means any nation which has ratified, accepted, or acceded to the Convention.

(10) The term "United States" includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of the United States or any State; or

(C) any department, agency, or entity of the Federal Government or of any government of any State.

SEC. 203. AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION.

(a) AGREEMENT AUTHORITY.—

(1) IN GENERAL.—If the President determines, after request is made to the United States under article 9 of the Convention by any State Party—

(A) that the cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party;

(B) that the State Party has taken measures consistent with the Convention to protect its cultural patrimony;

(C) that—

(i) the application of the import restrictions set forth in section 207 with respect to archaeological or ethnological material of the State Party, if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by those nations (whether or not State Parties) individually having a significant import trade in such material, would be of substantial benefit in deterring a serious situation of pillage, and

(ii) remedies less drastic than the application of the restrictions set forth in such section are not available; and

(D) that the application of the import restrictions set forth in section 207 in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes;

the President may, subject to the provisions of this title, take the actions described in paragraph (2).

(2) AUTHORITY OF PRESIDENT.—For purposes of paragraph (1), the President may enter into—

(A) a bilateral agreement with the State Party to apply the import restrictions set forth in section 207 to the archaeological or ethnological material of the State Party the pillage of which is creating the jeopardy to the cultural patrimony of the State Party found to exist under paragraph (1)(A); or

(B) a multilateral agreement with the State Party and with one or more other na-

tions (whether or not a State Party) under which the United States will apply such restrictions, and the other nations will apply similar restrictions, with respect to such material.

(3) REQUESTS.—A request made to the United States under article 9 of the Convention by a State Party must be accompanied by a written statement of the facts known to the State Party that relate to those matters with respect to which determinations must be made under subparagraphs (A) through (D) of paragraph (1).

(4) IMPLEMENTATION.—In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exchange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) EFFECTIVE PERIOD.—The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the five-year period beginning on the date on which such agreement enters into force with respect to the United States.

(c) RESTRICTIONS ON ENTERING INTO AGREEMENTS.—

(1) IN GENERAL.—The President may not enter into a bilateral or multilateral agreement authorized by subsection (a) unless the application of the import restrictions set forth in section 207 with respect to archaeological or ethnological material of the State Party making a request to the United States under article 9 of the Convention will be applied in concert with similar restrictions implemented, or to be implemented, by those nations (whether or not State Parties) individually having a significant import trade in such material.

(2) EXCEPTION TO RESTRICTIONS.—Notwithstanding paragraph (1), the President may enter into an agreement if he determines that a nation individually having a significant import trade in such material is not implementing, or is not likely to implement, similar restrictions, but—

(A) such restrictions are not essential to deter a serious situation of pillage, and

(B) the application of the import restrictions set forth in section 207 in concert with similar restrictions implemented, or to be implemented, by other nations (whether or not State Parties) individually having a significant import trade in such material would be of substantial benefit in deterring a serious situation of pillage.

(d) SUSPENSION OF IMPORT RESTRICTIONS UNDER AGREEMENTS.—If, after an agreement enters into force with respect to the United States, the President determines that a number of parties to the agreement (other than parties described in subsection (c)(2)) having significant import trade in the archaeological and ethnological material covered by the agreement—

(1) have not implemented within a reasonable period of time import restrictions that are similar to those set forth in section 207, or

(2) are not implementing such restrictions satisfactorily with the result that no substantial benefit in deterring a serious situation of pillage in the State Party concerned is being obtained,

the President shall suspend the implementation of the import restrictions under section 207 until such time as the nations take appropriate corrective action.

(e) EXTENSION OF AGREEMENTS.—The President may extend any agreement that enters into force with respect to the United States for additional periods of not more than five years each if the President determines that—

(1) the factors referred to in subsection (a)(1) which justified the entering into of the agreement still pertain, and

(2) no cause for suspension under subsection (d) exists.

(f) PROCEDURES.—If any request described in subsection (a) is made by a State Party, or if the President proposes to extend any agreement under subsection (e), the President shall—

(1) publish notification of the request or proposal in the Federal Register;

(2) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 204) as is appropriate to enable the Committee to carry out its duties under section 206(f); and

(3) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

(A) required under section 206(f) (1) or (2), and

(B) submitted to the President before the close of the one-hundred-and-fifty-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(g) INFORMATION ON PRESIDENTIAL ACTION.—

(1) IN GENERAL.—In any case in which the President—

(A) enters into or extends an agreement pursuant to subsection (a) or (e), or

(B) applies import restrictions under section 204,

the President shall, promptly after taking such action, submit a report to the Congress.

(2) REPORT.—The report under paragraph (1) shall contain—

(A) a description of such action (including the text of any agreement entered into),

(B) the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and

(C) the reasons for any such difference.

(3) INFORMATION RELATING TO COMMITTEE RECOMMENDATIONS.— If any Committee report required to be considered by the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a report which contains the reasons why such agreement was not entered into.

SEC. 204. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) EMERGENCY CONDITION DEFINED.—For purposes of this section, the term "emergency condition" means, with respect to any archaeological or ethnological material of any State Party, that such material is—

(1) a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, dispersal, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular culture or civilization, the record of which is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions;

and application of the import restrictions set forth in section 207 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, dispersal, or fragmentation.

(b) PRESIDENTIAL ACTION.—Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in section 207 with respect to such material.

(c) LIMITATIONS.—

(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State Party unless the State Party has made a request described in section 203(a) to the United States and has supplied information which supports a determination that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 206(f)(3) if the report is submitted to the President before the close of the ninety-day period beginning on the day on which the President submitted information to the Committee under section 203(f)(2) on the request of the State Party under section 203(a).

(3) No import restrictions set forth in section 207 may be applied under this section to the archaeological or ethnological materials of any State Party for more than five years after the date on which the request of a State Party under section 203(a) is made to the United States. This period may be extended by the President for three more years if the President determines that the emergency condition continues to apply with respect to the archaeological or ethnological material. However, before taking such action, the President shall request and consider, if received within ninety days, a report of the Committee setting forth its recommendations, together with the reasons therefor, as to whether such import restrictions shall be extended.

(4) The import restrictions under this section may continue to apply in whole or in part, if before their expiration under paragraph (3), there has entered into force with respect to the archaeological or ethnological materials an agreement under section 203 or an agreement with a State Party to which the Senate has given its advice and consent to ratification. Such import restrictions may continue to apply for the duration of the agreement.

SEC. 205. DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.

After any agreement enters into force under section 203, or emergency action is taken under section 204, the Secretary, after consultation with the Director of the United States Information Agency, shall by regulation promulgate (and when appropriate shall revise) a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 207 are applied only to the archaeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

SEC. 206. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the Cultural Property Advisory Committee.

(b) MEMBERSHIP.—

(1) The Committee shall be composed of eleven members appointed by the President as follows:

(A) Two members representing the interests of museums.

(B) Three members who shall be experts in the fields of archaeology, anthropology, ethnology, or related areas.

(C) Three members who shall be experts in the international sale of archaeological, ethnological, and other cultural property.

(D) Three members who shall represent the interest of the general public.

(2) Appointments made under paragraph (1) shall be made in such a manner so as to insure—

(A) fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and

(B) that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A) Members of the Committee shall be appointed for terms of two years and may be reappointed for 1 or more terms.

(B) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) EXPENSES.—The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) TRANSACTION OF BUSINESS.—Six of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(e) STAFF AND ADMINISTRATION.—

(1) The Director of the United States Information Agency shall make available to the Committee such administrative and technical support services and assistance as it may reasonably require to carry out its activities. Upon the request of the Committee, the head of any other Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions, and provide such information and assistance as the Committee may reasonably require to carry out its activities.

(2) The Committee shall meet at the call of the Director of the United States Information Agency, or when a majority of its members request a meeting in writing.

(f) REPORTS BY COMMITTEE.—

(1) The Committee shall, with respect to each request of a State Party referred to in section 203(a), undertake an investigation and review with respect to matters referred to in section 203(a)(1) as they relate to the Staie Party or the request and shall prepare a report setting forth—

(A) the results of such investigation and review;

(B) its findings as to the nations individually having a significant import trade in the relevant material; and

(C) its recommendation, together with the reasons therefor, as to whether an agreement should be entered into under section 203(a) with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 203(e), prepare a report setting forth its recommendations together with the reasons therefor, as to whether or not the agreement should be extended.

(3) The Committee shall in each case in which the Committee finds that an emergency condition under section 204 exists prepare a report setting forth its recommendations, together with the reasons therefor, as to whether emergency action under section 204 should be implemented. If any State Party indicates in its request under section 203(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 203 or the implementation of emergency action under section 204 shall set forth—

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State Party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6) The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g) COMMITTEE REVIEW.—

(1) IN GENERAL.—The Committee shall undertake a continuing review of the effectiveness of agreements under section 203 that have entered into force with respect to the United States, and of emergency action implemented under section 204.

(2) ACTION BY COMMITTEE.—If the Committee finds, as a result of such review, that—

(A) cause exists for suspending, under section 203(d), the import restrictions imposed under an agreement;

(B) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(C) changes are required to this title in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

(h) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. Appendix I) shall apply to the Committee except that the requirements of subsections (a) and (b) of section 10 and section 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiating objectives or bargaining positions on the negotiation of any agreement authorized by this title.

(i) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—Any information (including trade secrets and commercial or financial information which is privileged or confidential) submitted in confidence by the private sector to officers or employees of the United States or to the Committee in connection with the responsibilities of the Committee shall not be disclosed to any person other than to—

(A) officers and employees of the United States designated by the Director of the United States Information Agency;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated by the chairman of either such Committee and members of the staff of either such Committee designated by the chairman for use in connection with negotiation of agreements or other activities authorized by this title; and

(C) the Committee established under this title.

(2) GOVERNMENTAL INFORMATION.—Information submitted in confidence by officers or employees of the United States to the Committee shall not be disclosed other than in accordance with rules issued by the Director of the United States Information Agency, after consultation with the Committee. Such rules shall define the categories of information which require restricted or confidential handling by such Committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the interests of the United States. Such rules shall, to the maximum extent feasible, permit meaningful consultations by Committee members with persons affected by proposed agreements authorized by this title.

(j) NO AUTHORITY TO NEGOTIATE.—Nothing contained in this section shall be construed to authorize or to permit any individual (not otherwise authorized or permitted) to participate directly in any negotiation of any agreement authorized by this title.

SEC. 207. IMPORT RESTRICTIONS.

(a) DOCUMENTATION OF LAWFUL EXPORTATION.—No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State Party after the designation of such material under section 205 may be imported into the United States unless the State Party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

(b) CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.—If the consignee of any designated archaeological or ethnological material is unable to present to the customs officer concerned at the time of making entry of such material—

(1) the certificate or other documentation of the State Party required under subsection (a); or

(2) satisfactory evidence that such material was exported from the State Party—

(A) not less than ten years before the date of such entry and that neither the person for whose account the material is imported (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before that date of entry, or

(B) on or before the date on which such material was designated under section 205,

the customs officer concerned shall refuse to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such docu-

mentation or evidence is not presented within ninety days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and forfeiture. The presentation of such documentation or evidence shall not bar subsequent action under section 210.

(c) DEFINITION OF SATISFACTORY EVIDENCE.—The term "satisfactory evidence" means—

(1) for purposes of subsection (b)(2)(A)—

(A) one or more declarations under oath by the importer, or the person for whose account the material is imported, stating that, to the best of his knowledge—

(i) the material was exported from the State Party not less than ten years before the date of entry into the United States, and

(ii) neither such importer or person (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before the date of entry of the material; and

(B) a statement provided by the consignor, or person who sold the material to the importer, which states the date, or, if not known, his belief, that the material was exported from the State Party not less than ten years before the date of entry into the United States, and the reasons on which the statement is based; and

(2) for purposes of subsection (b)(2)(B)—

(A) one or more declarations under oath by the importer or the person for whose account the material is to be imported, stating that, to the best of his knowledge, the material was exported from the State Party on or before the date such material was designated under section 205, and

(B) a statement by the consignor or person who sold the material to the importer which states the date, or if not known, his belief, that the material was exported from the State Party on or before the date such material was designated under section 205, and the reasons on which the statement is based.

(d) RELATED PERSONS.—For purposes of subsections (b) and (c), a person shall be treated as a related person to an importer, or to a person for whose account material is imported, if such person—

(1) is a member of the same family as the importer or person of account, including, but not limited to, membership as a brother or sister (whether by whole or half blood), spouse, ancestor, or lineal descendant;

(2) is a partner or associate with the importer or person of account in any partnership, association, or other venture; or

(3) is a corporation or other legal entity in which the importer or person of account directly or indirectly owns, controls, or holds power to vote 20 percent or more of the outstanding voting stock or shares in the entity.

SEC. 208. STOLEN CULTURAL PROPERTY.

No article of cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which is stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

SEC. 209. TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO TITLE.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the United States in violation of section 207 or section 208, the Secretary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if he finds that—

(1) sufficient safeguards will be taken by the institution for the protection of such material or article; and

(2) sufficient bond is posted by the institution to ensure its return to the Secretary.

SEC. 210. SEIZURE AND FORFEITURE.

(a) IN GENERAL.—Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 207 or section 208 shall be subject to seizure and forfeiture. All provisions of law relating to seizure, forfeiture, and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this title, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this title.

(b) ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL.—Any designated archaeological or ethnological material which is imported into the United States in violation of section 207 and which is forfeited to the United States under this title shall—

(1) first be offered for return to the State Party;

(2) if not returned to the State Party, be returned to a claimant with respect to whom the material was forfeited if that claimant establishes—

(A) valid title to the material,

(B) that the claimant is a bona fide purchaser for value of the material; or

(3) if not returned to the State Party under paragraph (1) or to a claimant under paragraph (2), be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

No return of material may be made under paragraph (1) or (2) unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and delivery, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(c) ARTICLES OF CULTURAL PROPERTY.—

(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 208, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article of cultural property which is imported into the United States in violation of section 208 and which is forfeited to the United States under this title shall—

(A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 208 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 211. EVIDENTIARY REQUIREMENTS.

Notwithstanding the provisions of section 615 of the Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture proceeding brought under this title in which the material or article, as the case may be, is claimed by any person, the United States shall establish—

(1) in the case of any material subject to the provisions of section 207, that the material has been listed by the Secretary in accordance with section 205; and

(2) in the case of any article subject to section 208, that the article—

(A) is documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

(B) was stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

SEC. 212. CERTAIN MATERIAL AND ARTICLES EXEMPT FROM TITLE.

The provisions of this title shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes", approved October 19, 1965 (22 U.S.C. 2459); or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been held in the United States for a period of not less than three consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of this title, but only if—

(i) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least fifty thousand, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from this title,

(ii) such material or article has been exhibited to the public for a period or periods aggregating at least one year during such three-year period, or

(iii) such article or material has been cataloged and the catalog material made available upon request to the public for at least two years during such three-year period;

(B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument

or similar institution in the United States open to the public; or

(C) if subparagraphs (A) and (B) do not apply, has been within the United States for a period of not less than ten consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States; and

(D) if none of the preceding subparagraphs apply, has been within the United States for a period of not less than twenty consecutive years and the claimant establishes that it purchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

SEC. 213. REGULATIONS.

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this title.

SEC. 214. ENFORCEMENT.

In the customs territory of the United States, and in the Virgin Islands, the provisions of this title shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

SEC. 215. EFFECTIVE DATE.

(a) IN GENERAL.—This title shall take effect on the ninetieth day after the date of the enactment of this Act or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

(1) before such ninetieth day and after such date of enactment; and

(2) after the initial membership of the Committee is appointed.

(b) EXCEPTION.—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 206 at any time after the date of the enactment of this Act.

TITLE III—RECIPROCAL TRADE AND INVESTMENT

SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) SHORT TITLE.—This title may be cited as the "Reciprocal Trade and Investment Act of 1982".

(b) AMENDMENT OF TRADE ACT OF 1974.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) IN GENERAL.—Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962, shall—

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of goods or services, and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the Reciprocal Trade and Investment Act of 1982, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) CONFORMING AMENDMENT.—The table of contents for title I is amended by adding at the end thereof the following:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"Sec. 181. Actions concerning barriers to market access.".

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) PRESIDENTIAL ACTION IN THE CASE OF UNFAIR TRADE PRACTICES.—Section 301(a)(19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) OTHER ACTION BY PRESIDENT.—Section 301(b)(19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least 90 days before the implementing bill is submitted.".

(c) INITIATION OF INVESTIGATIONS BY OR ON MOTION OF TRADE REPRESENTATIVE.—

(1) IN GENERAL.—Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than 45 days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the 30-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2) CONFORMING AMENDMENTS.—

(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.".

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) EXTENSION OF TIME FOR REQUESTS FOR CONSULTATIONS.—Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following new subsection:

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e) DEFINITIONS.—

(1) COMMERCE DEFINED.—Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) UNREASONABLE, UNJUSTIFIABLE, AND DISCRIMINATORY DEFINED.—Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) CONFORMING AMENDMENT.—Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

"(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) AMENDMENTS TO SECTION 305.—Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a) NEGOTIATING OBJECTIVES.—

(1) IN GENERAL.—Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SERVICES.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and the rights of establishment and operation in such markets; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) are consistent with the commercial policies of the United States, and

"(B) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

"(b) FOREIGN DIRECT INVESTMENT.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) will help ensure a free flow of foreign direct investment, and

"(B) will reduce or eliminate the trade distortive effects of certain investment related measures.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of, foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which impair access to domestic markets for key commodity products; and

"(D) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term 'barriers to, or other distortions of, international trade in services' includes, but is not limited to—

"(1) barriers to the right of establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) CONFORMING AMENDMENT.—The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 306. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a) COORDINATION OF UNITED STATES POLICIES.—

(1) IN GENERAL.—The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(2) FEDERAL AGENCIES.—In order to encourage effective development and coordination of United States policies on trade in services, each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(A) the treatment afforded United States service sector interests in foreign markets, or

(B) allegations of unfair practices by foreign governments or companies in a service sector.

(3) NO ALTERATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(b) SERVICE INDUSTRIES DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Secretary of Commerce is authorized to establish a service industries development program. Such program shall be designed to—

(A) promote the competitiveness of United States service firms and American employees through appropriate economic policies;

(B) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(C) develop a data base for policymaking pertaining to services;

(D) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) United States regulation of service industries;

(ii) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(iii) antitrust policies as such policies affect the competitiveness of United States firms;

(iv) treatment of services in international agreements of the United States; and

(v) adequacy of current United States export promotion activities in the service sector;

(E) provide, together with other appropriate agencies, staff support for negotiations on service-related issues by the United States Trade Representative and the domestic implementation of service-related agreements;

(F) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies toward the service sector;

(G) conduct sectoral studies of domestic service industries;

(H) collect comparative international information on service industries and policies of foreign governments toward services;

(I) develop policies to strengthen the export competitiveness of domestic service industries;

(J) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(K) provide statistical, analytical, and policy information to State and local governments and service industries.

(2) AVAILABILITY OF FUNDS.—The Secretary of Commerce shall carry out the program under this subsection from funds otherwise made available to him which may be used for such purposes.

(c) COORDINATION WITH STATES.—

(1) STATEMENT OF POLICY.—It is the policy of Congress that the President shall, as he deems appropriate—

(A) consult with State governments on issues of trade policy affecting the regulatory authority of non-Federal governments, or their procurement of goods and services; and

(B) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in subparagraph (A).

(2) ESTABLISHMENT OF NON-FEDERAL GOVERNMENTAL TRADE ADVISORY COMMITTEES.—Section 135 (19 U.S.C. 2155) is amended—

(A) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(B) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (2) representatives of non-Federal governmental interests where he finds such inclusion appro-

priate after consultation by the Trade Representative with such representatives.";

(C) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(D) by inserting "government," before "labor" in subsection (j); and

(E) by adding at the end thereof the following new subsection:

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).''; and

(F) by inserting "or Public" after "Private" in the heading thereof.

(3) CONFORMING AMENDMENTS.—

(A) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(B) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(C) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) AUTHORIZATION TO ENTER INTO AGREEMENTS.—The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objectives under section 104A(c) of the Trade Act of 1974.

(b) ANALYSIS OF FACTORS WHICH INFLUENCE UNITED STATES COMPETITIVENESS IN HIGH TECHNOLOGY INDUSTRIES.—In order to maintain and enhance the competitiveness of United States high technology industries, the Department of Commerce shall submit a report to Congress within one year of the date of the enactment of this title analyzing factors not addressed in this title which significantly affect the competitiveness of United States high technology industries and which have a potential for high sales growth in world markets, including—

(1) United States and foreign economic policies, in particular macroeconomic, regulatory, and sector or factor specific policies; and

(2) the structure of markets which supply production factors to, and distribute the product of, such industries.

(c) MODIFICATION OR CONTINUANCE OF DUTIES.—

(1) IN GENERAL.—Chapter 2 of title I is amended by inserting at the end thereof the following new section:

"SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

"(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

"(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

"(2) such additional duties,

as he deems appropriate.

"(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Accounting, computing, and other data processing machines provided for in item 676.15.

"(2) Data processing machines provided for in item 676.30.

"(3) Transistors provided for in item 687.70.

"(4) Monolithic integrated circuits provided for in item 687.74.

"(5) Integrated circuits provided for in item 687.77.

"(6) Electronic components provided for in item 687.81.

"(c) TERMINATION.—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the Reciprocal Trade and Investment Act of 1982.".

(2) CONFORMING AMENDMENT.—The table of contents of chapter 1 of title I is amended by adding at the end thereof the following new item:

"Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.".

UP AMENDMENT NO. 1573

Mr. DOLE. I send an amendment to the desk, Mr. President.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1573.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, lines 16 and 17, strike out "October 1, 1982" and insert in lieu thereof "the expiration of this joint resolution".

On page 26, line 21, after "amended" insert "by striking out '12/31/84' and inserting in lieu thereof '12/31/85' and".

On page 27, strike out lines 2 through 5 and insert in lieu thereof the following:

(a) IN GENERAL.—The headnotes for subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"(3) For purposes of item 905.30—

"(a) The term 'restricted amount' means, with respect to the 12-month period beginning on April 1 of any calendar year, the greater of—

"(A) 1,750,000 pounds, or

"(B) 28.5 percent of the aggregate apparent United States consumption of such netting and nets during the calendar year preceding such calendar year.

"(b) On or before April 1 of each calendar year (beginning with 1983), the International Trade Commission shall determine the aggregate apparent United States consumption of fish netting and fish nets, in pounds, during the preceding calendar year, shall report such determination to the Secretary of the Treasury and the Secretary of Commerce, and shall publish such determination in the Federal Register.".

(b) RATE OF DUTY.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"905.30	Fish netting and fishing nets (including sections thereof), of textile materials (provided for in item 355.45 of part 4C, schedule 3) not over the restricted amount entered during the 12-month period beginning April 1 of any calendar year.	17% ad val.	No change...	On or before 1/1/89".

On page 27, line 7, strike out "The" and insert in lieu thereof "Except as otherwise provided in this section, the".

On page 28, line 8, strike out "112, and 119" and insert in lieu thereof "and 112".

On page 28, line 23, insert "and" after "1981,".

On page 28, line 25, strike out ", and" and insert in lieu thereof a period.

On page 29, strike out lines 1 and 2 and insert in lieu thereof the following:

(c) Fish Netting and Fish Nets.—The amendments made by section 119 shall apply to articles entered after March 31, 1983.

On page 27, between lines 5 and 6, insert the following:

SEC. 120. CERTAIN FOURDRINIER WIRE.

(a) Subpart B of part 3 of schedule 6 is amended by striking out item 642.30 and inserting in lieu thereof the following:

"642.31	Fourdrinier wires, seamed or not seamed, suitable for use in papermaking machines (whether or not parts of, or fitted or attached to, such machines):			
	Of plastics	19.4% ad val..	10% ad val..	75% ad val.
	With 240 or more wires to the linear inch.	Free	10% ad val..	75% ad val.
	Other	19.4 ad val..	10% ad val..	75% ad val."

(b)(1) The rate of duty in column numbered 1 for item 642.32 (as added by subsection (a)) shall be subject to any staged rate reductions for item 642.30 which were proclaimed by the President before the effective date of the amendment made by subsection (a).

(2) Whenever the rate of duty specified in column numbered 1 for such item 642.32 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 121. NEEDLECRAFT DISPLAY MODELS.

Subpart B of part 1 of the Appendix is amended as follows:

(1) The headnotes to such subpart are amended by adding at the end thereof the following new headnote:

"5. For the purposes of the superior heading to items 906.10 and 906.12, the term 'mass-produced kits' includes only those which are designed to be sold in the customs territory of the United States exclusively in kit form.".

(2) The following new superior heading and new items are inserted in numerical sequence:

	"Needle-craft display models, primarily hand stitched, of completed mass-produced kits:			
906.10	Articles provided for in items 355.16, 360.70, 360.78, 364.18, 364.23, 364.30, 365.78, 365.84, 365.86, 366.79, 367.34, 367.55, 367.60, 386.04, 386.06, 386.09, 386.50 388.40, and 389.62 of schedule 3 (except shoe uppers and tents).	Free	No change	On or before 6/30/85
906.12	Aprons and baby bibs (provided for in items 383.03, 383,08, 383.20, and 383.50 of schedule 3).	Free	No change	On or before 6/30/85".

SEC. 122. NATURAL GRAPHITE.

Item 909.01 of the Appendix is amended by striking out "6/30/81" and inserting in lieu thereof "12/31/84".

SEC. MATERIALS CERTIFIED BY NASA.

(a) Subpart A of part 3 of schedule 8 is amended—

(1) by inserting immediately after "Subpart A—United States Government" the following headnote:

"Subpart A headnote:

"1. With respect to item 837.00, the return of materials from space by the National Aeronautics and Space Administration shall not be considered an importation, and an entry of such materials shall not be required."; and

(2) by adding immediately after item 836.00 the following new item:

	"Articles for the National Aeronautics and Space Administration and articles imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:		
837.00	Materials certified by it to the Commissioner of Customs to be imported to be launched into space, spare parts, or necessary and uniquely associated support equipment for use in connection with a launch into space.	Free	Free".

(b) Item 837.00 (as added by subsection (a)) shall not apply to articles entered, or withdrawn from warehouse for consumption, after December 31, 1994.

SEC. . (a) The superior heading for items 346.05 through 346.65 of part 4 of schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"Fabrics of pile construction, in which pile threads were inserted or knotted during the weaving or knitting, whether or not the pile threads cover the entire surface and whether the pile threads are wholly or partly cut or are not cut:".

(b) The superior heading for items 346.05 and 346.10 of part 4 of schedule 3 of such schedules is amended to read as follows:

"Fabric of corduroy construction, whether or not the filling floats are cut:".

(c) The superior heading for items 346.15 through 346.24 of part 4 of schedule 3 of such schedules is amended to read as follows:

"Fabric of velveteen construction, whether or not the filling floats are cut:".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Strike sections 114 and 115.

Strike title III.

SEC. . (a) Item 911.90 of subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by striking out "6/30/82" and inserting in lieu thereof "6/30/83".

(b) The amendments made by subsection (a) shall apply to articles entered on or after the date of enactment of this Act.

That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by adding at the end of the headnotes to such subpart the following new headnote:

"6. For the purposes of item 911.95, the term 'entertainment broadcast band receivers' means receivers designed principally to receive signals in the AM (530-1710 KHz) and FM (88-108 MHz) entertainment broadcast bands, whether or not capable of receiving signals on other bands such as aviation, television, marine, public safety, industrial, and citizens band."; and

(2) by inserting in numerical sequence the following new item:

"911.95	Entertainment broadcast band receivers valued not over $40 each (however provided for in schedule 6), incorporating timekeeping or time display devices, not in combination with any other article, and not designed for motor vehicle installation.	Free	No change	On or before 9/30/84".

Mr. DOLE. Mr. President, title I, part A of H.R. 4566, as amended by the Committee on Finance, contains 22 provisions. The majority of these provisions either temporarily or permanently suspend duties on a variety of articles. Although the duty reductions will reduce customs revenue by less than $14 million on an annual basis, many of the provisions are extremely important to small businesses and independent businessmen. One of these duty savings is estimated to be as low as $6,400. The biggest savings will accrue to vending machine operators and is estimated to be between $1 to $2 million annually.

This part also contains legislation implementing the international coffee and sugar agreements. The United States has joined both of these agreements, which basically seek to moderate extreme price fluctuations in the respective commodities. In order to implement these agreements the United States must be able to restrict the entry of noncertified, nonquota, coffee and sugar. Since the United States still represents the largest free markets for these products, we must be able to enforce the provisions of these agreements for them to function.

TITLE I—PART B

Mr. President, this title implements the Nairobi protocol to the Florence agreement. The protocol expands the duty-free entry currently provided for a broader range of educational, scientific, and cultural materials, and materials for the handicapped.

TITLE II

The cultural property convention title II includes provisions implementing the convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property.

These provisions authorize the President to enter into agreements to restrict imports of illicitly traded artifacts when the major importing nations are implementing similar controls. The provisions also authorize the President to impose import controls unilaterally in an emergency, and they bar the importation of certain items identified as having been stolen from museums or similar institutions abroad.

Mr. President, in addition I have offered an amendment to the bill which will make certain technical corrections in the bill as originally reported by the committee. We have agreed to delete one provision which has now been brought to our attention as controversial. We have also added several new controversial provisions including one to relieve NASA of the obligation to pay duties on imported materials launched into space and articles recovered from space.

Finally title III, the so-called "reciprocity bill" has been deleted. I fully expect, however, that its author, Senator DANFORTH, will seek early consideration of this measure.

Mr. DANFORTH. Mr. President, I would just like to ask the Senator from Kansas, this bill did have the reciprocity bill as a major part of it. We came within one Senator, I think, of clearing this, and the U.S. Trade Representative called me yesterday asking if we could not pass the reciprocity bill. I would simply like the assurance of the chairman of the Finance Committee that the reciprocity bill will receive prime consideration.

Mr. DOLE. The Senator has that assurance, and we think it may even be a better, tougher, broader reciprocity bill next year, with the Senator's leadership.

Mr. BAKER. Mr. President, the hour of 6 o'clock has arrived and we will finish the list of items later.

Mr. President, before that, Was action completed on the bill now before us?

The PRESIDING OFFICER (Mr. COHEN). It was not.

Mr. BAKER. Mr. President, I ask unanimous consent that we complete action on that measure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Kansas (Mr. DOLE).

The amendment (UP No. 1573) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4566), was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER).

The motion was agreed to.

(Later the following occurred.)

APPOINTMENT OF CONFEREES—H.R. 4566

Mr. BAKER. Next, Mr. President, in connection with H.R. 4566, I would propose to ask that the Chair be authorized to appoint conferees on the part of the Senate, if the minority leader has no objection.

Mr. ROBERT C. BYRD. I have no objection, Mr. President.

Mr. BAKER. I make that request.

The PRESIDING OFFICER. Without objections, the Chair appoints the following conferees: Senators DOLE, DANFORTH, HEINZ, LONG, and DENTON.

SURFACE TRANSPORTATION ACT OF 1982

The Senate resumed consideration of the bill (H.R. 6211).

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on an amendment in the nature of a substitute, to be proposed by the Senator from Tennessee (Mr. BAKER), to HR. 6211, the Surface Transportation Assistance Act of 1982.

Howard H. Baker, Jr., Rudy Boschwitz, Strom Thurmond, Ted Stevens, Warren Rudman, Arlen Specter, Robert Dole, Slade Gorton, John H. Chafee, Bob Packwood, Robert T. Stafford, S. I. Hayakawa, Richard G. Lugar, James A. McClure, Dan Quayle, Frank H. Murkowski, David Durenberger, and Jennings Randolph.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the amendment in the nature of a substitute proposed by the Senator from Tennessee (Mr. BAKER) to H.R. 6211, the Surface Transportation Act of 1982, shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are absent on official business.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PELL) would vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who have not voted who wish to do so?

The result was announced—yeas 89, nays 5, as follows:

[Rollcall Vote No. 456 Leg.]

YEAS—89

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Glenn	Murkowski
Baucus	Gorton	Nunn
Bentsen	Grassley	Packwood
Biden	Hart	Percy
Boren	Hatch	Pressler
Boschwitz	Hatfield	Pryor
Bradley	Hawkins	Quayle
Brady	Hayakawa	Randolph
Bumpers	Heflin	Riegle
Burdick	Hollings	Roth
Byrd, Harry F., Jr.	Huddleston	Rudman
	Inouye	Sarbanes
Byrd, Robert C.	Jepsen	Sasser
Chafee	Johnston	Schmitt
Chiles	Kassebaum	Simpson
Cochran	Kasten	Specter
Cohen	Kennedy	Stafford
D'Amato	Laxalt	Stennis
Danforth	Leahy	Stevens
DeConcini	Levin	Symms
Denton	Long	Thurmond
Dixon	Lugar	Tower
Dodd	Mathias	Tsongas
Dole	Matsunaga	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	Weicker
Eagleton	Melcher	Zorinsky

NAYS—5

East	Humphrey	Proxmire
Helms	Nickles	

NOT VOTING—6

Cannon	Goldwater	Jackson
Cranston	Heinz	Pell

The PRESIDING OFFICER. On this vote, the yeas are 89, the nays are 5. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The amendments of the Senator from Kansas fall.

Mr. ROBERT C. BYRD. Mr. President, may we have order so that people can understand what is being said?

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I understand that the two amendments of the Senators from Kansas are now displaced or whatever. They are gone.

The PRESIDING OFFICER. They were ruled to be nongermane.

Mr. DOLE. Mr. President, I would say this: I would certainly urge Members of both sides again to stay on the floor and to assist us in an effort to complete this bill as quickly as we can. There may be germane amendments offered. They will have to be dealt with. I would hope if we all stayed on the floor, or as many as can stay on the floor, it would be very helpful.

AMENDMENT NO. 5009

(Purpose: To remove the section of the bill relating to the payment of the prevailing rate of wage on construction work performed on highway projects on the Federal-aid systems)

Mr. NICKLES. Mr. President, I call up amendment No. 5009 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES) proposes an amendment numbered 5009.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 226(b) of unprinted amendment numbered 1440.

Mr. HELMS. Mr. President, will the Senator yield to me on my time?

Mr. NICKLES. I yield.

Mr. HELMS. I thank the Senator.

Mr. President, I would refer Senators to Senate procedure, page 243, where it says:

After the adoption of a cloture motion, "no Senator shall be entitled to speak in all more than 1 hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same * * *,"[93] but no Senator is restricted to one speech; he may divide his time as he sees fit or proper,[94] but all time is charged to the Senator having the floor, even if he yields for an interruption.[95]

I want to say for the record that, according to my understanding of the rules:

A Senator may divide his time as convenient and as the time will permit, until his hour is consumed.

A Senator can parcel his 1 hour time only to himself. He cannot yield to another Senator.

After a cloture motion has been made, but before it has been adopted a Senator would then have, as a matter of right, the privilege, if he obtained the floor, of presenting and having read by the clerk an amendment to the so-called substitute pending before the Senate.

Mr. President, I ask unanimous consent that certain documentation be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. SMITH. Mr. President, I rise to propound a parliamentary inquiry. As I understand the operation of Rule XXII, a Senator may speak in all one hour, but may divide his time, as is convenient and as the time will permit, until his hour is consumed. Am I correct in that?

The VICE PRESIDENT. That is my understanding.

Mr. HEFLIN. Mr. President, it is my understanding that a Senator can speak only once and not over an hour.

Mr. SMITH. My interpretation of the rule is that the Chair shall keep a record of the time consumed, and that a Senator may divide his time.

Mr. MANSFIELD. While a Senator can parcel out his time, he can parcel it out only to himself. Is that correct?

The VICE PRESIDENT. That is correct.

Mr. MANSFIELD. So far as amendments are concerned, if they are offered at the conclusion of the hour allocated to a Senator, they will then be nondebatable.

The Chair is further informed, however, that after a cloture motion has been made, but before it has been adopted, a Senator would then have, as a matter of right, the privilege, if he obtained the floor, of presenting and having read by the clerk an amendment to the so-called substitute pending before the Senate.

Mr. NICKLES. Mr. President, the amendment that I have called up is not a dilatory amendment. It is an amendment that is germane. It deals with the subject of Davis-Bacon. I will keep my remarks very brief.

Mr. President, I would like to take a few moments to discuss the Davis-Bacon extension to the 4-R—resurfacing, restoration, rehabilitation and reconstruction—construction program which is contained in the House-passed bill and is part of the Senate Public Works Committee bill.

Both these bills invalidate section 113 of the 1956 Highway Act that clearly states Davis-Bacon applies only to initial construction and not to post-Interstate 4-R construction.

SECTION 113—PREVAILING RATE OF WAGE, INTERSTATE SYSTEM

(a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the initial construction work performed on highway projects on the Interstate System authorized under section 108(b) of the Federal-Aid Highway Act of 1956, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of August 30, 1935, known as the Davis-Bacon Act (40 U.S.C., sec. 276a).

(b) In carrying out the duties of subsection (a) of this section, the Secretary of Labor shall consult with the highway department of the State in which a project on the Interstate System is to be performed. After giving due regard to the information thus obtained, he shall make a predetermination of the minimum wages to be paid laborers and mechanics in accordance with the provisions of subsection (a) of this section which shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. Pub.L. 85-767, Aug. 27, 1958, 72 Stat. 895.

I would like to analyze briefly the legislative history of section 113 of the 1956 Highway Act.

ANALYSIS OF LEGISLATIVE HISTORY OF SECTION 113 OF THE 1956 HIGHWAY ACT

Section 113 of title 23 of the United States Code provides for prevailing wage rates to be paid to "all laborers and mechanics employed by contractors or subcontractors on *the initial construction* work performed on highway projects * * *" funded under federal-aid highway law (emphasis supplied).

During the House debate on H.R. 10660 (The Federal Highway and Highway Revenue Acts of 1956), Representative Smith of Mississippi stated certain limitations intended by the legislation, so that—

"In the future it will be clear what the intent of the Committee was in writing in those limitations. First of all, the application is limited to the Interstate Highway System. Second, it is limited to the initial construction of that highway—not the maintenance or repair of the highway * * *"

In 1968, the law was amended to expand the application of section 113 to also cover the primary, secondary and urban systems. An attempt was made to delete the term "initial" from section 113. This was met with strong opposition from Representative Cramer who stated that the effect would be to include under the coverage of Davis-Bacon previously excluded construction work "that is performed after the highway is built, such as minor reconstruction, major repairs, possibly some maintenance functions and other small improvement or betterment projects." The attempt to delete "initial" from the language of section 113 failed.

When Congress enacted the Federal-Aid Highway Act of 1976, it established the 3R program for the Interstate System (resurfacing, restoration and rehabilitation). On April 29, 1977, the Office of the Chief Counsel of the Federal Highway Administration issued a legal opinion which specifically addressed the applicability of section 113 to the 3R program:

"You are advised that 23 U.S.C. 113 requiring the application of Federally established wage rates to Federal-aid highway projects does not extend to the R-R-R program. That section 113, by its terms, is limited to initial construction and the R-R-R program is designed to improve or restore the usability of existing roads, being thus predicated upon the existence of a highway facility that has already been constructed. Thus the R-R-R program precludes the initial construction element upon which the application of section 113 of Title 23, United States Code, is based."

On May 14, 1981, the Federal Highway Administration issued information stating that "title 23, United States Code, does not require the application of a prevailing rate of wage to Federal-aid highway contracts for resurfacing, restoration and rehabilitation project," and this was published in the Federal Register. After the enactment of the Post-Interstate Construction Program (Resurfacing, Restoration, Rehabilitation and Reconstruction (4R)) established by the Federal-Aid Highway Act of 1981, another notice was published (January 11, 1982) by the Federal Highway Administration regarding limited applicability of prevailing wage requirements to that program. 3R projects continued to be exempt from Davis-Bacon coverage, but 4R (reconstruction) projects or projects with at least 50 percent of the cost of the project for reconstruction would be covered by Davis-Bacon.

It seems clear that the intent of the basic federal-aid highway law was to limit the application of Davis-Bacon wage requirements to first-time or initial construction of our Nation's highway system, and not to its maintenance or upkeep. The 3R program is intended to improve or restore the usability of existing roads. Therefore 3R projects, by their very nature, lack the "initial" construction element of section 113, and should not be covered by Davis-Bacon.

At the time the provision requiring the payment of Davis-Bacon wage rates (Section 113) was inserted into H.R. 10660 (The Federal Highway and Highway Revenue Acts of 1956) much debate focused on the issue of states' rights and specifically, the appropriateness of "federal wage protection" being applied to highway construction of which an individual state was a party. Many of these same arguments could be made today, especially in light of the Administration's New Federalism policy.

For example, House Report No. 2022 contained Supplemental Views at pages 25-32, which sharply criticized the Davis-Bacon provision. These views were signed by five members of the Committee on Public Works (the Committee which inserted the Davis-Bacon language). Simply, the members believed that for "highway construction of which the State was a party . . . wages and working conditions have been prescribed by the fine State highway departments or other appropriate State agencies of these 48 sovereign States in conformance with the local economies . . ." They also warned that "Members of Congress may well be alarmed at this attempt to put Federal wage fixing on the highway program as a violation of State's rights and the spirit underlying our Constitution."

During the House debate this issue was raised again. Representative Smith of Virginia stated:

". . . if you adopt the Davis-Bacon provision, what you are doing is to impose another step on the march to do away with the powers and the sovereignty of the States, because under this bill you not only impose the provisions of the Davis-Bacon Act on the Federal money which you are disposing of, but you are requring the States, out of their 10 percent, to fix the same wage that is required under the Davis-Bacon Act. There is a direct and positive invasion of the sovereignty of the States in telling them how they shall spend their own money and what rate of wage they shall pay."

The states' rights issue was also fiercely debated in the Senate. Senator Knowland

feared the implication of passage of the Davis-Bacon language:

"It seems to me that the fundamental constitutional principle at issue today is whether we are to apply for the first time in this type of program Federal regulations upon the 48 sovereign States. . . . However, let us not in the future hear the plea for States' rights or for sovereignty of States. If today we override those rights and the sovereignty of the States, by giving to any Federal official, I care not what his party political affiliation may be, the right to override State authority and override State-established customs and laws. And to do so without any right of appeal. That is the fundamental issue before the Senate today. I am proud as one Republican in the Senate to appeal to my Democratic friends on the other side of the aisle: 'If you want to uphold the rights of the states in this Chamber, now is the time, this is the place, and this is the issue.' "

The above legislative history may appear a bit extreme, as it has been many years since the passage of the H.R. 10660. However the basic concept so diligently articulated by many members of Congress must not be overlooked.

The purpose of federal-aid highway law was to build new and improved highways and complete the interstate system. Today, this nation's highway system is essentially in place and the current task is to maintain the substantial capital investment that has previously been made in that system by the federal government and administered by the states. Why should the Federal government dictate the wages and working conditions of workers on repair projects within the control of the various states? Particularly in light of the current Administration's policy of New Federalism, it would seen appropriate that Davis-Bacon not apply to 3R program projects and that wage rates be determined by the local marketplace.

Additionally the regulations promulgated in January 1982 by the Secretary of Transportation would also be made inapplicable by this extension of Davis-Bacon to the 4R program. For my colleagues who are not acquainted with these regulations, I will read the pertinent paragraphs into the RECORD.

[From the Federal Register, Vol. 47, No. 6, Jan. 11, 1982]

Summary: This notice provides information on implementation of the new Post-Interstate Construction Program (Resurfacing, Restoration, Rehabilitation, and Reconstruction (4R)) established by the Federal-Aid Highway Act of 1981 and the limited applicability of prevailing rate of wage requirements to that program. Public comments are requested.

Supplementary Information: The Federal-Aid Highway Act of 1981 was signed into law by the President on December 29, 1981. Under this law, a new Post-interstate Construction Program is established which includes reconstruction as an eligible item for Federal-aid highway funding. Accordingly, the new program encompasses resurfacing, restoration, rehabilitation, and reconstruction (4R) projects.

Reconstruction, as provided for by the Federal-Aid Highway Act of 1981, includes, but is not limited to, the addition of travel lanes, interchanges, and overcrossings not included in the Interstate cost estimate and added to existing Interstate routes. Reconstruction also includes work on the Interstate System which was originally included as an eligible item for construction but has yet to be undertaken.

In accordance with the provisions of Federal-aid highway law incorporated in title 23 of the United States Code (23 U.S.C.), the FHWA has apportioned the Interstate (4R) funds authorized for fiscal year 1983 by the Federal-Aid Highway Act of 1981. The apportionments were made to the States, the District of Columbia, and the Commonwealth of Puerto Rico and were effective December 31, 1981. Accordingly, Interstate 4R funds are now available for obligation.

The FHWA previously determined that the prevailing rate of wage requirements of 23 U.S.C. 113 do not apply to resurfacing, restoration, and rehabilitation projects (46 FR 28735, May 14, 1981). The establishment of the new Post-Interstate Construction Program required the FHWA to define the applicability of 23 U.S.C. 113 to projects funded under this new program. Accordingly, the following information has been provided to the States in order to provide for the timely implementation of post-Interstate construction (4R) projects:

a. Wage rates established by the United States Department of Labor in accordance with the Davis-Bacon Act and required by 23 U.S.C. 113 to be used for initial construction projects on the Federal-aid highway systems shall not be incorporated in post-Interstate construction (4R) project contracts, except for those projects that provide for new construction. New construction for the purposes of this determination shall be projects which add new facilities to the existing roadway. This work would include such things as the addition of travel lanes, interchanges, grade separations, rest areas, or truck weigh stations.

b. the provisions of 23 U.S.C. 113 normally should not apply to post-Interstate construction (4R) projects where the work accomplished does not provide any new facilities as such projects are not included within the term "initial construction." These projects would normally provide for resurfacing, restoration, or rehabilitation of facilities that are already in place or incidental construction such as landscaping or guardrail.

c. When an Interstate (4R) project consists of a combination of the work described in a. and b. above, 23 U.S.C. 113 is applicable if the new construction described in a. above is estimated to represent at least 50 percent of the cost of the total project.

R. A. BARNHART,
Federal Highway Administrator.

It is clear, then, despite claims from some members of the house that currently the 4-R program is exempt from Davis-Bacon prevailing wage requirements. This is as it should be. State highway officials do not want Davis-Bacon extended to the 4-R program, and in fact, do not want Davis-Bacon coverage at all. Mr. Richard Ward, director and chief engineer of the Oklahoma Department of Transportation, testified before the Labor Subcommittee in April 1981 and had this to say abut the Davis-Bacon Act:

Mr. Chairman and members of the Subcommittee, I am pleased to appear before you today to discuss the Davis-Bacon Act as it affects the contruction of transportation facilities in our states.

I am Richard A. Ward, Director and Chief Engineer of the Oklahoma Department of Transportation. I am appearing in my capacity as the chief administrative officer of that department and also as President of the American Association of State Highway and Transportation Officials, which represents my counterparts from across the nation.

To begin this testimony, I would first like to state for the record the official position of AASHTO on the Davis-Bacon Act. It was adopted by a unanimous vote of chief administrative officers comprising the Policy Committee at our meeting last November, and reads as follows:

"The protection of the Davis-Bacon Act are no longer necessary or appropriation in today's economy. In fact, those protections have significantly contributed to the rapid escalation of highway construction costs, thereby reducing projects and limiting employment opportunities".

I share that position, only after first reviewing its long history and my own experience with the Act. We took into consideration the original goals of the Davis-Bacon legislation, which was to ensure the payment of fair wages for public construction projects during the Great Depression. We found that the conditions leading to the legislation have long ceased to exist. We are aware of the protections now provided by our minimum wages, the strength today of the organized labor movement, the complexity of modern construction, the increasing requirements for skilled personnel and other factors which in our judgment combine to assure that adequate wages will be paid in transportation construction whether or not there is a Davis-Bacon Act. It was our conclusion that the Act has minimal justification in the world of the 1980's.

We also looked at the issue of added costs to our taxpayers from the Davis-Bacon Act. These costs are frankly very difficult to measure, and vary depending upon the part of the nation. It is difficult to find cost comparisons in that most transportation construction has been under the Act for a long time, and there are few comparable non-Davis-Bacon impacted projects.

We have found that the affects of the Act are more marked in our rural states, and for projects in rural areas. These projects should be the natural domain of the small contractor, using local labor that is commonly paid a wage commensurate with local living costs but below wage demands in large urban areas. The requirements of the Act will often prevent the small contractor from successfully bidding on a project, either because the wage rates required are too excessive for his financial capacity, or because the paperwork demands are excessive, or both.

Some of our member departments feel that the presence or absence of the Davis-Bacon Act would make little real difference in their contract prices, because of the presence of a strong local labor market receiving uniformly high wages in excess of union scale. Others see it differently, but in balance it is believed the Act does increase project costs. Part of that increase is caused by the peculiarities of the Act itself.

For example, consider what can occur when a federal determination is made that a higher rate class of work should be assigned to a given task, when the responsible state officials believe a lower rate is proper. Perhaps the class incident of this kind occurred in 1977 in the Metropolitan Washington area, when the state of Virginia faced this issue on a 1.6-mile section of Interstate 66. The Virginia State Highway Department believed certain workers should be paid "high-

way" wages, but the Department of Labor made an arbitrary judgement that "heavy" construction rates should apply instead. Virginia paid "highway" wages for the same work in the past, only the specific geographic area of the project varied. That situation was resolved, but if the Department of Labor's judgment was left to stand it would have heavily increased direct labor costs.

But the Virginia case serves to point up what are perhaps the most pervasive and unjustifiable indirect costs created by the Davis-Bacon Act, those associated with administering the Act, and the time delays that often result. These costs are not commonly recognized, but are well known to our member departments.

In the Virginia situation, a time delay naturally occurred because of the necessity to settle the dispute. That time delay translated into increased indirect project costs, because of inflation. As usual, the taxpayers paid those costs.

Beyond the time delay cost increases, the Virginia dispute also required the employment of lawyers by the state and the Federal Department of Transportation, along with other experts. The cost of this was also paid by the general public, in the form of higher taxation.

More routinely, I and all of my counterparts must employ a number of persons who do nothing but handle the paperwork required to administer the Davis-Bacon Act. From the standpoint of producing a mile of highway, a bus stop, a rail siding or the like, that time is totally unproductive. Nor does it end there.

On the contractor's side, there are also people working to handle the paperwork required under the Act. Those people are not paid by the contractor, but by the public as part of the bid price.

Finally, within the Federal government there are many persons whose job is to enforce the Davis-Bacon Act, and to make the countless rulings it requires. All of this could perhaps be justified, if the purpose for doing it was valid and meaningful results were obtained.

Our Policy Committee members weighed what we regard as the limited social need of today for the Davis-Bacon Act, against the increased direct costs that result from its provisions on some projects and the indirect administrative costs that are always present. In our judgement, those costs far outweigh any limited benefits that might result. Thus, we believe the Act has outlived its usefulness.

One of today's problems with the American economy is our lack of productivity. For my department, repeal of the Davis-Bacon Act, or at least a sharp decrease in the seemingly endless paperwork it requires, would increase our productivity. If I could utilize the person hours now spent on Davis-Bacon Act paperwork to design projects, repair old roads, or supervise the construction of new roads, then we would be more productive for the citizens of Oklahoma. The result would be that I could deliver more transportation facilities for the dollar, with essentially the same wages.

I hope these brief general comments are of use to this Subcommittee. To the extent possible, I will be pleased to respond to detailed questions you may have, either now or in writing at a later time.

In closing, we appreciate the opportunity to express our viewpoint on the Davis-Bacon Act.

Moreover, the small contractors who are excluded from bidding because of the outlandish Davis-Bacon prevailing wage requirements certainly are opposed to this extension of the Davis-Bacon Act to 4R work. This year the National Federation of Independent Business (NFIB) testified before the Senate Small Business Committee's Subcommittee on Government Procurement on the Davis-Bacon threshold which is currently a ridiculously low $2,000. Against, for the benefit of my colleagues, I will read the NFIB statement into the RECORD:

The National Federation of Independent Business (NFIB), which has in excess of 500,000 small business members, is pleased to participate in this hearing regarding the impact of the $2,000 Davis-Bacon contract threshold on small construction firms.

As of October, 1981, about 57,426 of NFIB's members were small construction firms. These firms employed a total of about 853,105 people. About one-third of these construction firms are on government contract. Because NFIB represents such a broad sampling of the small business community, and such a significant percentage of NFIB's members are subject to the Davis-Bacon Act, it is easy to see that the law can have an impressive affect on the economy.

NFIB members have voted overwhelmingly to support repeal of the Davis-Bacon Act not only because of regulatory, paperwork and other cost burdens imposed on contractors, but because the law is obsolete and inflationary.

The Act's requirement that federal contractors pay the "prevailing wage" was intended by Congress to mean that contractors pay the average wage paid to each trade on private "projects of a character similar to (the federal) contract work in the city, town, village or other civic subdivision", where the public project was to be located. Major problems that have arisen in the interpretation of this ambiguous statute, and that remain today, are: just what is "prevailing", what is "a character similar", and what is immediate "city, town . . ."?

The Department of Labor (DOL) has so misconstrued the law that implementation costs associated with paperwork, regulations regarding helpers and learners and inflationary formulas for determining the prevailing wage have driven the costs of federal construction to unprecedented levels.

IMPACT ON SMALL BUSINESS

The Act has proven to be especially burdensome to small businesses because it discourages them from bidding on federal projects. This is because the Department of Labor prevailing wage determination is more often than not higher than the true wage in an area. Once a business accepts a federal construction contract and agrees to pay the prevailing wage as determined by the Department of Labor, it often feels compelled to pay all of its employees the prevailing wage, whether or not they work on the federal project. Also, once the project is complete, the firm often feels that if it reduced wages to the level paid before it entered the federal contract, labor relations would be strained. As a result, only large businesses, usually located in urban areas, feel comfortable in bidding on a federal project.

In addition to disrupting wage scales, the current DOL implementing regulations severely limit the use of helpers and trainees. This limitation is costly to contractors because it necessitates paying wages that exceed the productivity yield of inexperienced workers.

The implementing regulations also require substantial paperwork. Perhaps the most burdensome is the requirement for a weekly submission of the contractor's payroll records to the Department of Labor. A small contractor cannot afford to hire the staff, or a specialized firm to do this work.

The costs of these inflated wages and paperwork requirements go far beyond the payroll. They increase an employer's unemployment compensation taxes, his workers' compensation taxes and his social security taxes. Some of these costs can be passed on to the customer (the Federal Government), and some can be accommodated for by hiring fewer people. The aggregate effect is a higher unemployment rate, a higher inflation rate and a bigger federal deficit.

RECOMMENDATIONS

The most desirable action Congress could take in regard to the Davis-Bacon Act is to repeal it. In the alternative, the Act should be amended so as to be applicable to firms that have a federal contract of $1,000,000 or more. This would have the effect of exempting from Davis-Bacon provisions the majority of federal construction contracts.

The Office of Federal Procurement Policy reports that in Fiscal Year 1981, the Federal Government was party to 7,906 construction contracts for over $10,000 (See Table I). Of these, about 822 (10.40%) were for more than $1,000,000. These projects are usually quite significant and employ many people. However, small companies (20 or fewer employees) rarely, if ever, enter into a contract of this size. They must confine their activities to smaller contracts or subcontracts. A large company, however, is capable of bidding on large contracts as well as small contracts. Consequently, the effect of a $1,000,000 threshold would be to exempt from Davis-Bacon requirements those contracts that small businesses are most likely to be awarded. This would eliminate small business inhabitions about bidding on a federal construction contract.

This exemption would cover about 85 to 90 percent of all the federal construction contracts. However, it would only cover about 15 to 20 percent of the total federal dollars obligated under federal construction contracts. We can fairly assume that because the 85 to 90 percent exempted contracts account for only 15 to 20 percent of the obligated federal dollars, the vast majority of workers on federal projects are employed by firms that have a federal contract over $1,000,000. This is because in the universe of federal construction contracts, the number of employed workers will be directly proportional to the size of the contract. The 822 federal contracts over $1,000,000 account for 84-46 percent of total obligated federal dollars. Consequently, the 822 federal contracts over $1,000,000 account for the vast majority of people employed and subject to the Davis-Bason Act.

A $1,000,000 Davis-Bacon contract threshold would eliminate a very costly burden to many small businesses. However, it would have no effect on the vast majority of workers on federal construction projects. If the small business sector of our economy is expected to continue to be the nation's economic foundation, then an amendment to this law is one of many legislative actions that are necessary.

So, over the objections of the State officials, the small contractors, and

numerous other concerned parties, we are faced with an extension of the Davis-Bacon Act—a costly, counterproductive extension—ridiculous during this time of belt tightening.

Both the Washington Post and New York Times have seen through this folly. Both papers have editorialized against this extension.

Mr. President, I would like to read from these editorials.

The Post editorial hits the nail on the head, and I quote again:

> The Davis-Bacon Act, which, as currently applied, significantly increases wage costs on many construction projects. * * * If the unions try to tell you that Davis-Bacon doesn't drive-up wages, ask them why they are pressing so hard to extend it.

Of course, who is the one party that benefits from an extension of the Davis-Bacon Act? The building trades unions, and I might point out, at the expense of their own members, as well as the taxpayers. Outlandish, artificially propped up Davis-Bacon wage rates only lead to a greater share of the market going non-union and fewer skilled union members working.

One only has to look at the sharp dropoff of the membership of the building trades in recent years to understand this. But of course, Davis-Bacon coverage makes the jobs of union business agents and their people here in Washington easy—they do not have to worry about productivity, work rules, and the give and take of collective bargaining because they are assured of a high wage floor.

Perhaps there is a real injustice here—high wages but no union jobs. I suspect that this proposed extension will indeed have a short-term benefit for the building trades—more union jobs now—at a future cost to the trades of both members and work once the nonunion competition adjusts to the situation. Only time will tell.

In any event, Mr. President, now that the Public Works Committee has seen fit to open up the question of Federal labor standards provisions, it is my intent to offer a choice to the Senate to expand Davis-Bacon coverage at great expense or to restrict the coverage and let the States determine their contracting policies.

The Senate should bite the bullet now, and settle this problem before the start of the fiscal year 1984 budget process. With a prospective budget deficit approaching $200 billion, we cannot afford to look the other way when sacred cows like Davis-Bacon are wasting billions of tax dollars annually. The Senate will act on Davis-Bacon sooner or later, and it clearly is to our advantage to do it now before the start of the next budget cycle.

I ask unanimous consent that the editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 10, 1982]

IT ONLY LOOKS LIKE A JOBS BILL

For a brief moment it appeared that the lameduck session of Congress might produce a quick, clean bill to repair roadways and revive mass transit by increasing taxes on gasoline and heavy trucks. President Reagan and the Congressional leadership had all signed on. It looked like a sure thing—and a good one, too.

It doesn't look so good any more. The House has approved a version loaded with undesirable amendments, and the Senate Finance Committee has added another. The Senate would do well to adopt the far preferable substitute just proposed by its Democratic minority. Failing that, if the Senate has any pride it will produce a bill free of contaminating amendments.

The original proposal had four commendable goals: repair of rotting roads and bridges; improvements in mass transit; a 5-cent increase in the gasoline tax that would induce conservation, and higher taxes on heavy trucks. It also had a basic weakness: the idea that it would also meet a fifth goal by becoming a "jobs" program. It wouldn't have gotten anywhere politically without appearing to create jobs—320,000 of them in construction and related industries. But the increased taxes would probably kill off as many jobs in other industries.

Then the House compounded the problem, piling on noxious amendments in the name of creating more employment, but actually raising costs and reducing the net number of jobs created.

A "Buy American" amendment requires that road repair materials be bought in this country, even when cheaper foreign materials are available. A "domestic content" amendment requires that any buses or subway cars purchased have a specified amount of American components, also closing out lower-cost foreign suppliers. Both amendments follow a protectionist path that can only lead to trade war and fewer jobs.

Still another amendment expands the scope of the Davis-Bacon law, which would artificially inflate pay scales on public works projects.

Then the Senate Finance Committee got into the act by cutting the proposed increase in truck taxes. On the well-founded theory that heavy trucks do disproportionate damage, the Administration proposed taxing them more. Even that proposal was sugarcoated; it would have relaxed size and weight limits, changes long sought by the trucking industry. Truckers fought the tax increases anyhow, and succeeded in the Finance Committee.

If these amendments stand, they will turn a useful initiative into a solution that is worse than the problem. There's a better way. A bill proposed by Senate Democrats would create a broader public works bill providing twice as many jobs. It would be paid for in more appealing way—by trimming the tax cut next July for people with high incomes. This proposal would provide more stimulus on the jobs side and less negative effect on the tax side. Its weakness is that it leaves gasoline and truck taxes right where they are.

Congress is determined to do something quickly in response to rising unemployment. The realistic expectation is that the Democrats' proposal won't pass, and that the President would veto it if it did. Probably the best hope is that this Congress, in its dying days, and in the name of relieving hardship, will kill the amendments that pander to special interests. Lame duck need not mean lame law.

[From the Washington Post, Dec. 10, 1982]

THE GAS TAX—WITH DECORATIONS

The gas-tax-and-highway-repair bill is rapidly turning into this year's biggest Christmas tree. So far, there have been three especially damaging additions.

While creating new jobs is not the purpose or likely effect of this legislation, every effort should be made to get as many jobs out of the program as possible. The best way to do it would have been to amend the Davis-Bacon Act, which, as currently applied, significantly increases wage costs on many construction projects.

Instead, the bill would actually make the situation worse by extending Davis-Bacon requirements to repair work now primarily done by small contractors who pay lower wages. It means that perhaps 40,000 fewer jobs will be created each year. If the unions try to tell you that Davis-Bacon doesn't drive up wages, ask them why they are pressing so hard to extend it.

Another self-defeating provision of the House bill would stiffen the "Buy American" limits on imported construction materials and rolling stock. That would also drive up construction costs, ensuring that fewer repair and construction projects are completed.

Still worse, the Senate bill fully exempts gasohol from the tax. That is a truly destructive amendment. For years American farmers have dreamed of a boom in gasohol—one-tenth alcohol, nine-tenths gasoline—to eat up their surplus stocks of grain and do for their prices what the two great oil crises of the 1970's did for oil prices. The chairman of the Senate Finance Committee, Robert J. Dole, is from a farm state.

Gasohol is already exempt from the present 4-cent federal tax. If it is exempted from the next 5 cents as well, the total exemption is worth 90 cents a gallon for the grain alcohol going into the mixture. Cars with gasoline engines can run on gasohol without modification. If this enormous new subsidy becomes law, two things will happen. First, there will be a huge swing to gasohol simply because it will be, courtesy of the U.S. Treasury, cheaper than gasoline. It is quite possible that the swing would be large enough that, far from raising new revenue, the bill would reduce the amount raised by the present tax.

Next, in the longer run, the subsidy would divert very large amounts of grain from the food supply to the highway fuel supply. It is hard to imagine a more wanton misuse of food, or a more foolish way to raise grain prices. If the gasoline bill is passed with the gasohol exemption, President Reagan would do well to veto it.

Mr. NICKLES. Mr. President, in summary, to explain to my colleagues what this amendment will do, so they know a little bit of history, in 1956 when the Highway Act was initially passed, it stated that Davis-Bacon would apply but it would only apply to initial construction. We are talking about the initial construction of highways. What we have seen under the passage of the bill, both in the House and also as it came from the Public Works Committee, is the word "initial" was taken out, and Davis-Bacon would apply to the four R's.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NICKLES. The administration on Monday, January 1, 1982, put in the Federal Register some rules whereby Davis-Bacon requirements would be exempt from the so-called four R's. I will read part of the rules. It says:

> The wage rates established by the United States Department of Labor in accordance with the Davis-Bacon Act and required by the U.S. Code to be used for initial construction projects on Federal highways systems shall not be incorporated in post interstate construction 4-R project contracts except for those projects that provide for new construction. New construction for purposes of this determination shall be projects which add facilities to the existing roadway. This work would include such things as additional travel lanes, interchanges, grade separations, restoration or truck weigh stations.

Mr. ARMSTRONG. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. Will conversations please cease among Senators in the Chamber?

Mr. NICKLES. I thank the Chair.

It also goes further in making the rules. It says:

> The provisions of Davis-Bacon normally should not apply to post interstate construction 4-R projects where the work accomplished does not provide any new facilities and such projects are not included within the term "initial construction." These projects would normally provide for resurfacing, restoration or rehabilitation of facilities that are already in place or incidental construction such as landscaping or guardrails.

Mr. President, that is a very commonsense, solid ruling that would be overturned if we leave the language as it is in the bill.

The amendment that I have offered would take it out and leave it exactly as it was in prior law.

Under the bill we have before us, and also as the bill was passed before, we have seen an expansion of Davis-Bacon coverage to projects, the so-called 4-R projects, restoration projects.

I think if one looks at it they will see it is commonsense. I think it will help and it will also make jobs. If we leave the provision as it is today, you cannot really say that is a jobs bill because it flies in the face of being a jobs bill. Actually, it is going to cost jobs. If we do not adopt this amendment you are going to have fewer jobs.

If you want to have a pro-job vote, regardless of whether or not the bill itself is, and that can be debated on its merits, certainly this is a pro-jobs amendment.

If you want more jobs, if you want to allow the marketplace to work, if you do not want to have the Department of Labor going in and saying, "Yes, you are going to fix some potholes or you are going to do some repair or restoration on the highway," if you do not think the Federal Department of Labor in Washington, D.C., should be going into your county in North Dakota or your county in southern Virginia to be telling your people what they should be making for a small project, I hope you will support this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. Mr. President, I rise in support of Senator NICKLES' amendment which seeks to restore Davis-Bacon requirements on construction projects in this bill to existing coverage. As the Surface Transportation Act was approved in the House and also in the Senate version, Davis-Bacon requirements were substantially expanded to cover all rehabilitation, resurfacing and restoration. In the past, applicability of Davis-Bacon wage rate determinations have only been limited to new construction.

As my colleagues are aware, the Surface Transportation Act has the capacity to create 320,000 jobs in an economy suffering from 10.8 percent unemployment. However, I contend that we would create additional jobs if the inflated construction wages and restrictive practices of the Davis-Bacon Act were limited to existing coverage. Studies published by the General Accounting Office and the Council of Economic Advisers have conseratively estimated that Davis-Bacon requirements increase the cost of Federal and federally assisted construction by at least 10 percent. Applying this estimate to the number of jobs generated through the components of this bill, a significant number of additional jobs could be provided to the unemployed.

For those of us who have tried in the past to address the inequities in this outmoded law, it is disturbing to note that the needless expansion of this act is a step backward. It also seems ironic that this expansion of Davis-Bacon occurs in a bill which is supposed to provide employment opportunities for our unemployed.

The original intent of this law, to protect local contractors from unfair competition during the depression, is no longer valid. The practical effect of the Davis-Bacon Act has often been the establishment of artificially high wage determinations that do not truly reflect local wages. For 50 years, the act has increased the cost of Federal construction by billions of dollars and impeded the use of the unskilled, minorities and other highly unemployed work sectors.

We have the opportunity with this amendment to provide more jobs and make the greatest possible use of our limited resources. I urge my colleagues to join me in supporting this amendment which merely maintains existing coverage of Davis-Bacon requirements.

Mr. PACKWOOD. Mr. President, I rise in support of the Davis-Bacon provisions of H.R. 6211 for a number of reasons. We know very well that this law has the effect of protecting the standard of living of construction workers in their communities. But it is often overlooked that this law provides important benefits to small construction contractors attempting to survive in the very competitive construction business. In 1979 the Senate Committee on Labor and Human Resources confirmed that the Davis-Bacon Act is of particular importance to the smaller contractors, especially the small, minority contractor. Following hearings on the act, that committee stated:

> The testimony * * * made it clear that the smaller Federal construction jobs, because of the equality of bidding opportunity provided by Davis-Bacon, serve as entry for small contractors into the construction industry. The smaller contractor may compete with larger contractors because of the control upon wages. Because of the greater concentration of minority contractors in the ranks of these smaller contractors, the entry of minority contractors into the construction industry will be severely curtailed if the Davis-Bacon provisions are lifted from smaller Federal jobs (Senate Report No. 96-259, p. 15, July 26, 1979).

The contractor associations which represent the smaller construction contractors have recognized the special importance of Davis-Bacon for their members. Thus, the National Electrical Contractors Association has stated:

> If you eliminate the Davis-Bacon provisions * * * you have opened this up primarily where it affects small businesses very badly. And, you have unethical people bringing in unskilled labor and letting them into that whole area where the small business could do a very good job; and let the ethical contractors who would be employing people at the prevailing wage be subject to competition from more unethical and unscrupulous contractors. You are opening a great deal of possible liability there. * * *
>
> This is also probably the primary basis of what the original rationale for Davis-Bacon was. It is the employees of small business, the contractor on smaller jobs who are most liable to be hurt by the elimination of Davis-Bacon. (Senate Report No. 96-259, July 26, 1979, p. 11.)

It is clear, therefore, that the Davis-Bacon Act provides important protections to workers, the Government, and contractors. It is equally clear that Davis-Bacon is of particular importance to the small contractors, many of whom are also minority contractors.

If H.R. 6211 can be used as a vehicle to provide jobs and to create business opportunities for small contractors, I favor it. These businesses have been injured by the recession almost more than any other group. They need all the help they can receive and I sup-

port this measure as one small step in the march to do that.

Mr. President, I ask unanimous consent that a letter from Mr. Bob Georgine, president of the AFL-CIO Building Trades Union, be included at the end of my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BUILDING AND CONSTRUCTION TRADES DEPARTMENT—AFL-CIO, AMERICAN FEDERATION OF LABOR—CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, D.C., December 8, 1982.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: In the next several days, the Federal-Aid Highway Improvement Act of 1982 (S. 3043) will come before the Senate for your consideration. As you know, S. 3043 directs that the 5-cents-per gallon increase in the federal gas tax be used for construction on the Nation's highways, including the sorely needed resurfacing, restoration, rehabilitation and reconstruction of those highways and bridges.

The reported bill contains a provision to ensure that the status quo regarding Davis-Bacon labor-standards protections will be preserved for the construction workers performing the jobs created by this bill. This provison will not expand Davis-Bacon coverage, but will simply reassert that prevailing wage standards are to apply to federal highway reconstruction, rehabilitation, resurfacing and restoration.

By way of background, in 1956 the Congress enacted the original Federal-Aid Highway Act which authorized the construction of the Interstate Highway System. At that time, Congress carefully and thoroughly considered the manner in which the prevailing wage standards of the Davis-Bacon Act would apply to highway work. After extensive Congressional hearings and debate on this issue alone, the Congress tailored the Davis-Bacon provision to the unique nature of highway construction so as to ensure that prevailing wage determinations would accurately reflect local community labor standards. Thus Congress directed the Secretary of Labor to issue wage determinations based on the rate prevailing in the "immediate locality" and also directed the Secretary of Labor to consult with the highway department of the state in which the construction was to be performed and to give "due regard" to state wage information so provided.

The Congress also provided that the Davis-Bacon Act would apply to the "initial construction" of the interstate highway system. This language was inserted simply to indicate that the routine maintenance and repair of the system which was to be carried out by state highway departments with state funds would not be subject to the federal Davis-Bacon law, but rather would be carried out in accordance with applicable state labor standards. Therefore, the 1956 law provided that the initial federally financed construction of the system would be performed in accordance with the federal prevailing wage standards applicable to all other types of federally financed and assisted construction work. It was not contemplated by Congress in 1956 that the term "initial construction" was intended to exclude from prevailing wage protections any federally financed work.

In 1968, the Federal-Aid Highway Act was expanded to cover construction of primary and secondary systems as well as their extensions in urban areas. Congress once again applied Davis-Bacon to this type of construction. By 1976, it became clear that Congress would have to authorize additional funds for the restoration, resurfacing, rehabilitation and reconstruction of the system which had deteriorated in the previous twenty years. To ensure that there was no administrative misunderstanding as to the Congressional intent to apply Davis-Bacon to this work, Congress enacted a clarifying amendment in 1976 to specifically provide that resurfacing, rehabilitation and restoration work was included within the definition of construction. ("Reconstruction" had been placed in the definition in 1956).

This clarification was necessary to confirm that Davis-Bacon protections would continue to apply to all federally funded aspects of the work, while continuing to allow the states to perform routine repair and maintenance under applicable state labor protective statutes.

In accordance with the Congressional intent as expressed in 1956, 1968 and 1976, from 1956 to 1981 the Federal Highway Administration included prevailing wage requirements in all contracts for federally funded highway construction, reconstruction, resurfacing, rehabilitation and restoration. However, in May 1981, the Federal Highway Administration changed its policy and determined that Davis-Bacon coverage on restoration, rehabilitation and resurfacing work on the federal-aid systems would not be applicable. In January 1982, the Federal Highway Administration ruled that Davis-Bacon would also not apply to federally funded reconstruction unless it was commingled with at least 50 percent of so-called "new" construction. The FHA based both of these actions on an interpretation of the word "initial" which has the practical effect of eliminating Davis-Bacon coverage for reconstruction, resurfacing, rehabilitation and restoration work on the highway system.

We support the Committee bill that deletes the word "initial" from the Davis-Bacon provisions of the law in order to clarify this matter. The effect would not be to expand Davis-Bacon coverage, but simply will be to continue in force the status quo as it existed from 1956 to 1981. Without this provision, a significant part of the construction work authorized by S. 3034 could be performed by workers receiving substandard wages that would not be in accordance with rates prevailing in their immediate communities.

Therefore, on behalf of the Building and Construction Trades Department and the four million construction workers it represents, I urge you to support the provision in S. 3043 to preserve twenty-five years of Davis-Bacon protection for the workers engaged in constructing and rebuilding our Nation's highways and bridges and to vote for final passage of this measure with this protection.

Sincerely,

ROBERT A. GEORGINE,
President.

Mr. KENNEDY. Mr. President, the Senator from Oklahoma and the Senator from Colorado have asserted that we have acted to expand Davis-Bacon coverage under the highway act.

I want to clarify the record on this point. The Senate has tonight acted to restore the status quo with respect to Davis-Bacon which until May of 1981, had been applied to all federally funded highway construction for over 25 years.

The committee amendment does not expand Davis-Bacon coverage. It simply reaffirms the view that all Federal aid highway construction activity including resurfacing, restoration rehabilitation and reconstruction are subject to the Davis-Bacon Act.

That has been the law since 1956 when the Highway Act was first enacted. That position was reaffirmed in 1968 when the Highway Act was expanded to cover construction of primary and secondary systems and again in 1976 when a clarifying amendment specifically provided that resurfacing, rehabilitation and restoration work of the Interstate System was covered by Davis-Bacon.

In accordance with the congressisonal intent as expressed in 1956, 1968, and 1976, from 1956 to 1981 the Federal Highway Administration included prevailing wage requirements in all contracts for federally funded highway construction, reconstruction, resurfacing, rehabilitation, and restoration. Throughout this 24-year period, there was a clear understanding about the application of Davis-Bacon to federally funded work and little criticism of the provision. In May 1981, the Federal Highway Administration unilaterally decided to change the policy of 25 years of Davis-Bacon coverage on reconstruction, restoration, rehabilitation, and resurfacing work on the Federal-aid systems.

In January 1982, the Federal Highway Administration ruled that Davis-Bacon would cease to apply to federally funded reconstruction unless it was commingled with at least 50 percent of so-called new construction. The FHA based both of these actions on an erroneous and limiting interpretation of the word "initial" which has the practical effect of eliminating Davis-Bacon coverage for reconstruction, resurfacing, rehabilitation, and restoration work on the highway system.

But for this arbitrary, administrative action, it would not now be necessary to amend the language of the Federal-Aid Highway Act to delete the word "initial" from the Davis-Bacon provisions of the law. Some confusion has arisen because it has appeared that this provision would expand Davis-Bacon coverage to Federal construction hitherto not covered. This will not be its effect. The effect simply will be to continue in force the status quo as it existed from 1956 to 1981. If this provision is not enacted, the long-standing intent of Congress and the 25-year administrative practice of applying Davis-Bacon prevailing wage standards to federally funded highway reconstruction, resurfacing, rehabilita-

tion, and restoration work will be eliminated. It is unfortunate that the action of the Federal Highway Administration has made this provision necessary, but in practical terms, if it is not enacted, a substantial part of the construction work authorized by H.R. 6211 will be performed by workers receiving substandard wages that will not be in accord with rates prevailing in their immediate communities.

Mr. STAFFORD. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Oklahoma. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona, (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Washington (Mr. JACKSON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 48, nays 46, as follows:

[Rollcall Vote No. 457 Leg.]

YEAS—48

Andrews	Eagleton	Metzenbaum
Baker	Ford	Mitchell
Baucus	Glenn	Moynihan
Bentsen	Hart	Murkowski
Biden	Hatfield	Packwood
Bradley	Heflin	Percy
Bumpers	Huddleston	Proxmire
Burdick	Inouye	Randolph
Byrd, Robert C.	Johnston	Riegle
Chafee	Kennedy	Sarbanes
D'Amato	Leahy	Sasser
Danforth	Levin	Specter
DeConcini	Long	Stafford
Dixon	Mathias	Stevens
Dodd	Matsunaga	Tsongas
Durenberger	Melcher	Weicker

NAYS—46

Abdnor	Gorton	Nunn
Armstrong	Grassley	Pressler
Boren	Hatch	Pryor
Boschwitz	Hawkins	Quayle
Brady	Hayakawa	Roth
Byrd, Harry F., Jr.	Helms	Rudman
	Hollings	Schmitt
Chiles	Humphrey	Simpson
Cochran	Jepsen	Stennis
Cohen	Kassebaum	Symms
Denton	Kasten	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
East	Mattingly	Warner
Exon	McClure	Zorinsky
Garn	Nickles	

NOT VOTING—6

Cannon	Goldwater	Jackson
Cranston	Heinz	Pell

So the motion to lay on the table amendment No. 5009 was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr HEFLIN. Mr. President, I call up printed amendment No.——

Mr. ARMSTRONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. HEFLIN. I will take a minute or two and then the Senator can go after his point of order.

Mr. ARMSTRONG. Mr. President, I seek to make a point of order and ask to be recognized to debate this point of order at this time.

The PRESIDING OFFICER. Does the Senator from Alabama yield?

Mr. HEFLIN. I yield.

Mr. ARMSTRONG. Mr. President, at the time the motion to reconsider was before the body, I was on my feet seeking recognition. At the time the table motion was agreed to by unanimous consent, I was on my feet seeking to object to that unanimous-consent request, and therefore I ask the Chair to rule that the tabling motion has not been agreed to.

The PRESIDING OFFICER. If the Senator was seeking recognition at the time the vote was put, the Senator does have the right to be recognized.

Mr. ARMSTRONG. Is it the ruling of the Chair that the tabling motion then remains before the body?

The PRESIDING OFFICER. The Senator is correct.

Mr. ARMSTRONG. I thank the Chair, and I wish to speak to that motion, but I will be happy to defer to the Senator from Alabama so long as my right to do so is protected.

The PRESIDING OFFICER. The Chair would advise the Senator the motion to table is not debatable.

Mr. ARMSTRONG. Then I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second. The question is on the motion. All in favor say "Aye."

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Obviously, there is a quorum present. All those opposed?

Mr. ARMSTRONG. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. A division is requested. Senators in favor of the motion will rise and stand until counted.

Mr. BAKER. In favor of the motion to table?

The PRESIDING OFFICER. In favor of the motion to table.

Mr. JEPSEN. Mr. President, point of order.

Mr. President, it appears to me that there are staff standing. I do not know how anyone could—unless Senators are at their chairs and staffs sit down on these votes, there is too much room for error.

The PRESIDING OFFICER. The Chair directs staff members who are present in the Senate Chamber to be seated. The count will not proceed until such time as they remain seated.

Those opposed will rise and stand until counted.

On a division, the motion to reconsider was agreed to.

Mr. ARMSTRONG. Mr. President, does the Senator from Alabama now seek the floor?

Mr. HEFLIN. Yes.

Mr. ARMSTRONG. If he does, I defer to him and will seek recognition at a later time.

The PRESIDING OFFICER. The Senator from Alabama does have the floor.

Mr. HEFLIN. I thank the Chair.

Mr. MELCHER. Mr. President, could we have the motion to table the motion to reconsider?

The PRESIDING OFFICER. It was just voted on.

The Senator from Alabama is recognized.

Mr. RIEGLE. Parliamentary inquiry. Would the Chair announce the vote on the division?

The PRESIDING OFFICER. The Chair did announce the vote.

Mr. RIEGLE. I mean the numerical vote.

The PRESIDING OFFICER. The Chair never announces the numerical division vote.

The Chair now recognizes the Senator from Alabama.

AMENDMENT NO. 4994

(Purpose: To delay the third-year tax cut to October 1, 1983, and transfer the revenue savings to the highway trust fund in place of increased gasoline, etc., taxes to expend for certain highway projects)

Mr. HEFLIN. Mr. President, I call up amendment No. 4994, which is a printed amendment, Calendar No. 987.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) proposes an amendment numbered 4994.

Strike out section 101 through section 132 and insert in lieu thereof the following new sections:

SEC. 101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Highway Revenue Act of 1982".

(b) TABLE OF CONTENTS.—

TITLE I—HIGHWAY REVENUE ACT OF 1982

SUBTITLE A—SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE

Sec. 101. Short title; table of contents.
Sec. 102. Amendment of 1954 Code.

Subtitle B—Tax Changes

Sec. 111. Modification of tax cut.

Subtitle C—Highway Trust Fund

Sec. 121. Transfers to and expenditures from highway trust fund allocable to delay in tax cut.

SEC. 102. AMENDMENTS OF 1954 CODE.

Except as otherwise expressly provided therein, whenever in subtitle B an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SUBTITLE B—TAX CHANGES

SEC. 111. MODIFICATION OF TAX CUT.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended—

(1) by striking out paragraph (2) of subsection (a) and inserting in lieu thereof the following new paragraph:

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	12% of the excess over $3,400.
Over $5,500 but not over $7,600	$252, plus 13% of the excess over $5,500.
Over $7,600 but not over $11,900	$525, plus 15% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,170, plus 18% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,908, plus 20% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,748, plus 23% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,760, plus 27% of the excess over $24,600.
Over $29,900 but not over $35,200	$5,191, plus 31% of the excess over $29,900.
Over $35,200 but not over $45,800	$6,834, plus 36% of the excess over $35,200.
Over $45,800 but not over $60,000	$10,650, plus 41% of the excess over $45,800.
Over $60,000 but not over $85,600	$16,472, plus 45% of the excess over $60,000.
Over $85,600 but not over $109,400	$27,992, plus 49% of the excess over $85,600.
Over $109,400	$39,654, plus 50% of the excess over $109,400.

(2) by striking out paragraph (2) of subsection (b) and inserting in lieu thereof the following new paragraph:

"(2) For taxable years beginning in 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No Tax.
Over $2,300 but not ovr $4,400	12% of the excess over $2,300.
Over $4,400 but not over $6,500	$252, plus 13% of the excess over $4,400.
Over $6,500 but not over $8,700	$525, plus 15% of the excess over $6,500.
Over $8,700 but not over $11,800	$855, plus 18% of the excess over $8,700.
Over $11,800 but not over $15,000	$1,413, plus 20% of the excess over $11,800.
Over $15,000 but not over $18,200	$2,053, plus 22% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,757, plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,135, plus 30% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,725, plus 35% of the excess over $28,800.
Over $34,100 but not over $44,700	$7,580, plus 38% of the excess over $34,100.
Over $44,700 but not over $60,600	$11,608 plus 45% of the excess over $44,700.
Over $60,600 but not over $81,800	$18,763, plus 49% of the excess over $60,600.
Over $81,800	$29,151, plus 50% of the excess over $81,800.",

(3) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following new paragraph:

"(2) For taxable years beginning in 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	12% of the excess over $2,300.
Over $3,400 but not over $4,400	$132, plus 13% of the excess over $3,400.
Over $4,400 but not over $6,500	$262, plus 15% of the excess over $4,400.
Over $6,500 but not over $8,500	$577, plus 16% of the excess over $6,500.
Over $8,500 but not over $10,800	$897, plus 18% of the excess over $8,500.
Over $10,800 but not over $12,900	$1,311, plus 20% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,731, plus 22% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,193, plus 25% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,993, plus 28% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,477, plus 33% of the excess over $23,500.
Over $28,800 but not over $34,100	$6,226, plus 37% of the excess over $28,800.
Over $34,100 but not over $41,500	$8,187, plus 41% of the excess over $34,100.
Over $41,500 but not over $55,300	$11,221, plus 46% of the excess over $41,500.
Over $55,300	$17,569, plus 50% of the excess over $55,300.",

(4) by striking out paragraph (2) of subsection (d) and inserting in lieu thereof the following new paragraph:

"(2) For taxable years beginning in 1983.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	12% of the excess over $1,700.
Over $2,750 but not over $3,800	$126, plus 13% of the excess over $2,750
Over $3,800 but not over $5,950	$262.50, plus 15% of the excess over $3,800.
Over $5,950 but not over $8,000	$585, plus 18% of the excess over $5,950.
Over $8,000 but not over $10,100	$954, plus 20% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,374, plus 23% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,880, plus 27% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,595.50, plus 31% of the excess over $14,950.
Over $17,600 but not over $22,900	$3,417, plus 36% of the excess over $17,600.
Over $22,900 but not over $30,000	$5,325, plus 41% of the excess over $22,900.
Over $30,000 but not over $42,800	$8,236, plus 45% of the excess over $30,000.
Over $42,800 but not over $54,700	$13,996, plus 49% of the excess over $42,800.
Over $54,700	$19,827, plus 50% of the excess over $54,700.".

(5) by striking out paragraph (2) of subsection (e) and inserting in lieu thereof the following new paragraph:

"(2) For taxable years beginning in 1983.—

"If taxable income is:	The tax is:
Not over $1,050	12 percent of taxable income.
Over $1,050 but not over $2,100	$126, plus 13 percent of the excess over $1,050.
Over $2,100 but not over $4,250	$262.50, plus 15 percent of the excess over $2,100.
Over $4,250 but not over $6,300	$585, plus 18 percent of the excess over $4,250.
Over $6,300 but not over $8,400	$954, plus 20 percent of the excess over $6,300.
Over $8,400 but not over $10,600	$1,374, plus 23 percent of the excess over $8,400.
Over $10,600 but not over $13,250	$1,880, plus 27 percent of the excess over $10,600.
Over $13,250 but not over $15,900	$2,595.50, plus 31 percent of the excess over $13,250.
Over $15,900 but not over $21,200	$3,417, plus 36 percent of the excess over $15,900.
Over $21,200 but not over $28,300	$5,325, plus 41 percent of the excess over $21,200.
Over $28,300 but not over $41,100	$8,236, plus 45 percent of the excess over $28,300.
Over $41,100 but not over $53,000	$13,996, plus 49 percent of the excess over $41,100.
Over $53,000	$19,827, plus 50 percent of the excess over $53,000.".

(b) CONFORMING AMENDMENT.—Clause (ii) of section 3402(a)(3)(B) of such Code (relating to tax collected at source) is amended by striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

SUBTITLE C—HIGHWAY TRUST FUND

SEC. 121. TRANSFERS TO AND EXPENDITURES FROM HIGHWAY TRUST FUND ALLOCABLE TO DELAY IN TAX CUT.

Section 209 of the Highway Revenue Act of 1956 is amended by adding at the end thereof the following new subsections:

"(h) ADDITIONAL TRANSFERS TO HIGHWAY TRUST FUND.—The Secretary of the Treasury shall transfer to the Highway Trust Fund, as provided by appropriation Acts, an amount equal to the increase in revenues during fiscal year 1983 which is allocable to the amendments to the tax tables of section 1 of the Internal Revenue Code of 1954 made by title I of the Highway Revenue Act of 1982.

"(i) EXPENDITURES FROM HIGHWAY TRUST FUND OF ADDITIONAL TRANSFERS.—Amounts in the Highway Trust Fund from additonal transfers pursuant to subsection (h) of this section shall be available, as provided by appropriation Acts, only for making expenditures to meet obligations of the United States which are attributable to Federal-aid highway projects which—

"(1) are authorized by law, and

"(2) are scheduled for completion within eighteen months of the date of the enactment of this subsection.".

Mr. HEFLIN. Mr. President, this amendment that I offer would delay the third year Kemp-Roth tax cut from July 1, 1983, to October 1, 1983—3 months. It would transfer the revenue savings to the highway trust fund in place of the increased gasoline taxes, in place of the 5-cent gasoline taxes and the other taxes contained in the proposal that is now pending. It would sunset the highway bill at 18 months.

The PRESIDING OFFICER. If the Senator will suspend for a moment until the Chamber is in order.

The Senator will proceed.

Mr. HEFLIN. It would in effect be a 3-month delay of the Kemp-Roth, which is to take place on July 1, and it would call for a highway construction program of 18 months. It would allow us during this period of time to be able to consider a long-range highway program where there would be no retrogressiveness in regard to taxation on the poor, those people who are unemployed and would have to drive their automobiles as they search for work, those people who will have to drive their automobiles in order to buy groceries, and other things, the poor people at the time.

I think this is a good substitute for the revenue-raising measure that is here. I do not care to debate this long. I have discussed it with a number of Senators. I doubt that I am going to

have enough votes to carry, but I should like to have a vote on it.

Mr. BRADLEY. Will the Senator yield for a question?

Mr. HEFLIN. Yes.

Mr. BRADLEY. This amendment delays the 10-percent tax cut effective July 1 by 3 months.

Mr. HEFLIN. Yes, sir.

Mr. BRADLEY. It does not remove the tax cut?

Mr. HEFLIN. It does not remove it. It only postpones it for 3 months.

Mr. BRADLEY. I thank the Senator.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HEFLIN. Yes.

Mr. DOLE. Mr. President, I discussed this amendment with the distinguished Senator from Alabama. Obviously, I do not accept it. It does alter the third year of the tax cuts. It also alters the basic highway program.

I ask that the amendment be rejected, and I hope we might do that on a voice vote.

Mr. HEFLIN. I have no objection to doing it on a voice vote.

The PRESIDING OFFICER. The question is on the motion.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, during the last several days there has been extensive discussion about this bill, but primarily in peripheral terms. Most of the discussion has not focused on the substance of the bill but, rather, upon the parliamentary situation, about the parliamentary tactics employed both by the advocates and the opponents of the legislation, about various political perceptions, particularly about whether or not at this moment of national unemployment Congress must be perceived as doing something about the problem, about questions of political loyalty, whether or not a vote for or against this legislation was a test of loyalty to the President or a test of loyalty to the leadership of the Senate.

There has been a substantial amount of discussion about whether or not this was even a good time to consider such a bill and about the procedures under which the measure has been brought to the floor and debated.

I think all of those are peripheral issues. I happen to have an opinion on every single one of those subjects. But I do not think any of those subjects should be determinative of how Senators vote on the passage of this legislation.

Now, I started off sympathetic to the idea of this bill. In fact, on the day it was announced I said, "That's a good idea and I am going to support it." In fact, this summer, long before the President embraced the idea, I joined with vitually every Republican member of the Senate Finance Committee in saying we ought to have an increase in the gas tax as a part of the overall revenue program of this year because I think we need to do something to fix up the roads and bridges of this country. It is obvious, and there is ample testimony to this effect, that the roads and bridges of America are crumbling and are in need of repair.

Moreover, there is an urgent nationwide priority to complete the Interstate Highway System. I believe, and I think practically every Senator believes, the way to do that is through the user fee concept, that is, through a highway use tax.

So when the President announced recently that he thought this would be a good idea, I wanted to support him. Everything that has happened since then persuades me that we are running off the rails.

I do not know how many actually listened to the presentation last night of the distinguished junior Senator from North Carolina (Mr. EAST). Most of the discussion about his extended remarks had to do with whether or not he was or was not justified in taking the floor at that hour to speak on this subject, but I urge my colleagues to go back and read his very thoughtful remarks because he was addressing himself to the issue which is whether or not this is a good bill, and it is exactly that same subject I want to speak to just momentarily.

I am convinced in its present form it is not a good piece of legislation, even though I favored the initial notion of raising some revenue to fix up the roads and bridges of this country.

First of all, I do not think it is a good bill because it fails to contain an offsetting tax reduction in some other area.

The President was right in the first place when he said what we ought to do is pass this highway bill to fix up roads and bridges and then, at the same time, to advance the third year of the tax cut from July 1 to January 1. Interestingly, that is about a wash in terms of its economic impact; about as many dollars sucked out of the private economy as would be replaced by moving forward the date of the tax cut.

We are not going to do that, nor are we going to do anything about dividend withholding. I had hoped we would have had an amendment. To vote on that would permit those of us who are not sold on the idea of the dividend withholding of savings in the Nation's banks and savings and loans, that we could vote to repeal that burden and, in my judgment, unwise provision. Again, in rough terms, that would be a tradeoff in terms of dollar revenue involved; about as many dollars extracted from the private sector from the gas tax as would be added back by repealing the existing dividend withholding provision. So I think, for that reason, we are making a mistake.

Second, I think we have erred seriously in introducing what I think is really an extraneous issue on this truck tax. Now, I will admit, there is a lot about the whole truck tax issue I do not understand. The initial thrust of this bill, as I understood it, was we were going to raise gasoline and diesel fuel a nickel using the money for roads and bridges. The things I heard were a series of very technical and extraordinarily emotional arguments over changes in the regulations of trucks and truck taxes.

There is a study which has been published which purports to show that trucks do not pay their fair share of the use of the Nation's highways. In general, I am disposed to think that that study is corrct; that, in some way or another, those great big huge mammoth trucks have more of a wear-and-tear effect on the highways than they are probably paying. But I must say to my colleagues that, in talking to truckers, they have raised serious doubts about the accuracy of that study, even though I am instinctively inclined to believe it.

They point out that perhaps weather conditions were not taken adequately into account. They point out that, while maybe they are not paying enough, the idea of a 13-fold increase, which was contained in the House bill, or a 6-fold increase, which I understand to be in the Senate bill at the present time, is not justified on the basis of the amount of wear and tear which the large trucks put on the highways.

Now, I am not saying they are right. I am saying they have raised a substantial doubt and have raised it at a time when, as a practical matter, it is impossible for us to resolve those doubts because we are in the middle of a lameduck session at a very late hour.

Now, as I understand it, Mr. President, the amount of revenues which is raised by that portion of this bill is less than 10 percent of the total, and yet it engenders a very, very large percentage of the controversy.

I will admit that my attitude toward the truck tax is heavily colored by the conversations I have had with truckers from my own home State, many of whom are already losing money; a number of whom—particularly the smaller ones who depend primarily on shipping agriculture commodities—tell me that they may be forced out of business by this increase of a couple of hundred dollars a year on some of the trucks to as much as $1,200, $1,300, $1,400 per year.

I am not sure where the justice lies, but I am confident that this is the wrong time to take up an issue that has this many ramifications with as

little information as is available to most Senators. I predict we will rue the day we enact this particular portion of the bill.

Third, Mr. President, I am appalled by the vote which has just occured in this Senate. There are people who thought, at the outset, we ought to use this bill as the vehicle to repeal Davis-Bacon. And there is ample evidence from impartial sources to suggest that the Davis-Bacon Act, as it applies not just to highway construction, but, my colleagues, to construction of all kinds in this country, is one of the most outmoded, extravagant, wasteful pieces of legislation on the books.

The General Accounting Office has railed against the costs imposed upon the taxpayers of this country as a result of Davis-Bacon—in housing, in military construction, in highways, in all kinds of Federal projects.

But I do not think it would have been wise for Senators to try to use this legislation to repeal the basic Davis-Bacon legislation. That is a controversy that has been raging in this country for years. To try to use what started out to be a relatively simple and, at the outset, not very controversial piece of legislation having to do with raising some money to fix up the Nation's roads and bridges, to try to use that legislation to resolve a longstanding dispute on Davis-Bacon seemed unwise to me.

But I cannot believe that tonight this Senate has voted to use this same legislation to expand the scope of Davis-Bacon to an area not now covered. Now, I am not sure whether every Senator realizes that that was the import of the vote we have just had. There was a great deal of noise in the Chamber when the Senator from Oklahoma was speaking. It was difficult for him to obtain order so that he could be heard. There was little time for debate. He was the only Senator to speak on it.

But I hope Senators now realize that that is the issue. The bill, as it presently stands before us, extends the Davis-Bacon principle, with all its potential for abuse, extravagance, for the reduction in the amount of highways we are going to get for our money, for the interference, as the Senator from Oklahoma has pointed out, in local projects, extends that principle to areas not presently covered. And the Senate, by a very narrow margin—as I heard the Chair, by just two votes—has declined to take out of the bill and then, in an immediate subsequent vote, has declined to reconsider that decision.

That means that we are going to spend not next year or the year after, but until this legislation is repealed—if it is indeed enacted—billions and billions and billions of dollars unnecessarily.

Mr. President, I am not in any doubt as to what is going to happen. In a short time, the Senate is going to vote to approve this bill. And if it is approved in more or less this same form by the House, it will go to the President, and he will probably sign it, although those who have listened to what Ronald Reagan has said on such subjects in the past I think will find it hard to believe that he would sign legislation containing the kind of shortcomings I have just mentioned. Yet, that is what is in prospect.

They will probably think they stepped through the looking glass. But, in its present form, I suppose the President will sign it if we pass it.

I just did not want to let the moment pass to explain why I, as a Senator who initially supported this motion, am going to vote against it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The Senator from Kansas.

Mr. DOLE. Madam President, I make a point of order against the amendment as not being germane.

The PRESIDING OFFICER. The point of order is well taken.

Mr. DOLE. Third reading.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, early on, after I examined this bill, I made a statement to the press, offhand, that this may be the first time that a lameduck had given birth to a turkey. I want to apologize to the turkey.

Now, what we have going on here this evening, Madam President, may be high theater, but it is not legislating. I do not want to offend my colleagues, and especially I do not want to offend the majority leader, but the very idea, on a two-vote margin vote, to deny a rollcall on a motion to reconsider and a motion to table—I remember Mike Mansfield standing in the middle of the aisles one day saying, "What has happened to comity in the Senate?"

I believe that if Mike Mansfield were here tonight, though he might be totally in favor of this bill, he would say, "What has happened to comity in the Senate?"

Let us look at the scenario. A Senator cannot get a sufficient second for the request for yeas and nays unless the leadership consents. Now the Senator from North Carolina acknowledges that used to be the case, but this is the first time it has been imposed since I have been in the Senate.

This Senator has never failed to raise his hand to give a Senator a rollcall vote. I remember the occasion when the distinguished Senator from South Dakota (Mr. Abourezk) was conducting an extended debate and I was diametrically opposed to the position he was taking. But I thought he was entitled to a rollcall vote.

Senator METZENBAUM has been denied from time to time a rollcall vote, but I will say to Senator METZENBAUM that I never failed to raise my hand.

But I will tell you Senators, when you refuse to have a rollcall vote on a motion to reconsider and a motion to table a motion to reconsider on a vote that had only a two-vote margin, you have made a mistake.

You have made a mistake and you may rue it.

And no leadership ought to shake its head and say no rollcall vote under such circumstances like that.

The Senator from Colorado is absolutely correct about the Davis-Bacon Act. We are throwing the taxpayers' money out with a shovel by allowing this extension of that very bad law and we are perpetrating a ruse and a fraud on the taxpayers of America when we refuse to gut up to the implication of Davis-Bacon. I know the power of the labor unions in this country. All Senators do, including those who are the beneficiaries.

This is not quite a day of infamy as Franklin Roosevelt said. But I was amazed when the Senator from Colorado was denied a rollcall vote. I hope Senators will think about it, what they did.

I love you all. I respect you all. But the very idea of going this far in trying to crush an effort by a very few of us to point out that this bill is a turkey. I wish we could have a division, a show of hands on how many Senators have read this bill. It would be interesting to note.

The danger we run in trying to protect the interest of the American people is that by calling up amendments and raising points of order and that sort of thing we may set the precedents which will be injurious to the proper conduct of this Senate.

I am at this moment contemplating whether I should call up an amendment in anticipation of what the Chair will rule. But I say to Senators that we are making some bad mistakes. Senators can go ahead and steamroll if they want to. But I will say to them that the opera is not over until the fat lady sings. Do as you please. But I want to say again that I am appalled that there was not a sufficient second for Mr. ARMSTRONG's call for a rollcall on the motion to table the motion to reconsider the vote by which the amendment was defeated.

Mr. SYMMS. Madam President, am I recognized for purposes of debate?

The PRESIDING OFFICER. Yes.

Mr. SYMMS. Madam President, I say to my good friend, and I think that I have been associated with Senator ARMSTRONG since the days we both came to the other body in January of

1973, I probably have voted with him 90 percent of the time. We voted the same way in our years in the other body and since we have been here.

Senator HELMS came here and I think he has played a very important part in my political growth by the things that he has done and the image that he has created in the country as a standard bearer, a touchstone, if you will, for conservative principles.

I have a great deal of respect and affection for both of these Senators.

I only say to Senator ARMSTRONG that he was quite right when he made the point that the roads and bridges in the country are crumbling. It is never going to be a good time to do this. You do not shoot your dog because it has fleas. And it is not a perfect bill.

I can assure you, I do not like the Davis-Bacon aspect of this bill. The fact is I voted against it in the subcommittee; several of us did. But this is politics and we do not have it all the way we want it. There is a big divergence in this Senate from someone who represents the State of Idaho and someone else on the committee, Senator MOYNIHAN, who represents New York City. I think that our subcommittee and our committee——

Mr. MOYNIHAN. Madam President, will the Senator yield?

Mr. SYMMS. I yield.

Mr. MOYNIHAN. I represent New York State.

Mr. SYMMS. Excuse me. I apologize to my good friend.

I have to say to my good friend there are some of the issues in our committee on which I sometimes fail to separate the difference, and I apologize to my good friend from New York.

Anyway, you never can get it all quite the way you want in a bill like this because there is no way when you have a government system of roads. We have already gotten away from the market so the solutions to the highways are going to be done through the political side instead of through the voluntary side of the market.

So I am sympathetic to my colleagues from the conservative side of the aisle who are concerned about the issues that are before us. But I do think that overall it is not a bad bill for the needs that are in front of this country.

I am happy to yield to my distinguished friend, the former chairman of this committee and one who have been a great deal of help to us in this committee to formulate this legislation. I am sure he has comments to make that will tell us some of the reasons why it is important to get started now because it is going to be harder later. The longer we let the roads and bridges in this country go the more costly it will be. It is tough for us now but if you wait 5 years to start this program, it is going to be much, much tougher. I said this last night. Those of us from the conservative side have always complained about grafting on legislation, and so we passed a little piece of legislation last summer that took away indexing of the Tax Code. We have had just the opposite of indexing with respect to the amendment to the trust funds of the roads and bridges for the last 25 years. You do not ever hear anyone going out and telling the taxpayers that without any laws we have been lowering your taxes on the highways.

We have more cars and more trucks, and more roads to fix, and less money to do it with as time has gone on and that is why I support this legislation.

I yield to my good friend from West Virginia.

Mr. RANDOLPH. Madam President, there are differences of opinion and understandably so on one and maybe many amendments which will be offered here tonight.

I have the best of feelings for my colleague from North Carolina. I want to put into perspective perhaps the expression that he made about Franklin Delano Roosevelt speaking of a day of infamy, indicating that this might be in some way a day of infamy.

I remind the Senator that in 1933, under Franklin Delano Roosevelt, we brought into being collective bargaining for the first time in the history of this country. Men and women in industry, business, and commerce, giving to them the right and the responsibility to be able to negotiate on matters in which they and management were concerned.

That was trailblazing legislation in 1933.

In 1935 we passed the Davis-Bacon Act. I, of course, was not a Member of the Senate, but as on the earlier vote on the measure, the National Labor Relations Act, I was voting in the House of Representatives.

I voted for the National Labor Relations Act. Also, in my capacity as a Representative of the second district of West Virginia I voted for the Davis-Bacon Act.

Now I must add one more piece of legislation to that, I think, referring to the administration of Franklin Roosevelt at that time.

In 1938 we passed the Fair Labor Standards Act. I will not discuss that matter here tonight except to say that we found children, 8, 9, 10 years of age, working in the lofts of Brooklyn and other places. They were being paid 10, 12, and 15 cents an hour. We found the elderly of this country, including many thousands who were women, working in the garment industry with very poor light, working for a very small pittance.

So we brought into being what became known not so much as the Fair Labor Standards Act but as the Wage and Hour Act.

What did the Wage and Hour Act do? It simply set a ceiling on the number of hours that could be worked, and it set a floor on the amount of pay that could go to workers.

What were we trying to have? Twenty-five cents an hour. That was the floor. At that time, we could not do anything on the bill in reference to what we call employment in intrastate industry business or commerce. It was only that we passed it in connection with products in interstate commerce that we could bring it about. That was 1938.

I have respect, of course, for the eloquence of our colleague from Colorado (Mr. ARMSTRONG), and often do agree with him. But as he speaks, and as our able colleague from North Carolina also speaks, I must remind you that what we are doing is not to tear apart the fabric of a country where labor and management, very largely, cooperate and work together when we incorporate in this measure even the clarification of the Davis-Bacon Act.

I know that will not suit the membership entirely, but I do say to you that even though we do not call this a jobs bill, it is a bill that will employ some 320,000 workers as we attempt to do what we must do, regardless of the lateness of the hour. That is to pass the legislation.

I said earlier today—I do not want to be misunderstood so I now repeat it—I do not support this legislation because I necessarily am supporting the President of the United States. I do not support the legislation because necessarily, it is a so-called administration measure which is on the floor.

I am supporting this legislation because the Senator now speaking believes in it. That is why I am supporting it. Having had, I hope, a knowledgeable experience over a long period of years, I speak in this vein tonight.

I tried in 1937, when a Member of the House, to bring into being what later became in 1956 the Interstate System. I called it the transcontinental highway system.

I saw then, as I am sure many of you would have seen had you been a member of the Roads Committee of the House, an America which was going to have a great part of its development on wheels in this country; people going to and from their jobs would be on wheels.

I saw that product from the mine, the factory, and the fields that would move by wheels from where the manufacturing took place or the processing took place to the ultimate consumer thousands of miles away in this country.

So I basically believe in what we are doing, but I always have followed the practice of giving to every Member of this body every opportunity under the

rules to develop opposition to a bill that I favored, or, if he was for a bill, I wanted to have the opportunity to speak for or against it.

Perhaps I have taken too much time this evening, but I do it because I think this bill, although it does not have to pass now, in the waning hours of a so-called lameduck Congress.

So I am in good intent. I have no feeling of animosity toward any person. I have spoken vigorously for months and months about the need to rebuild the roads and the bridges, this network of transportation.

The chairman of our Subcommittee on Transportation (Mr. SYMMS) feels as I do. Not every provision in the measure as it now is before us is acceptable to us. But under the able, capable leadership and chairmanship of Senator STAFFORD, of Vermont, we worked very diligently to bring this bill to the Senate floor.

I say to you that it was not a cursory look at the need for such legislation. We had hearings within the subcommittee and within the committee.

I remind you what I earlier said today which perhaps few Members heard. We brought this bill into the Senate by a vote of 16 to 0.

I ask the chairman, is that not true?

Mr. STAFFORD. If my distinguished friend will yield, yes, it is. I might point out, if he will yield briefly, essentially title II of this bill is a somewhat expanded version because of the anticipated additional revenues of the bill we brought out of committee and, if my recollection is correct, passed in this body as a highway bill be a unanimous vote back in May.

Mr. RANDOLPH. Mr. President, before taking my seat, I may be treading on territory that I should not walk, but I read the Bible, and here tonight I remember the words that "A way shall be there for the redemption of his people," words spoken by the Prophet Isaiah. The highway system of this Nation is the way of the people.

I am no prophet in any way, but I have tried to look ahead through the years and envision an America stronger and better than in years past.

So I believe, in a sense, this program is not a way for redemption of our people but the development of this highway system and keeping it intact is certainly the right way for America to proceed.

Mr. President, I oppose the amendment to limit Davis-Bacon coverage on the highway bill. This act, adopted in 1935 during the Roosevelt administration, is important to the workers and the highway program. The committee bill contains a provision which makes clear that Davis-Bacon's prevailing wage protections apply to the construction work proposed to be done under the Federal-Aid Highway Act including restoration, resurfacing, rehabilitation and reconstruction activity.

The basic controversy relates to the meaning of the term "initial construction" as presently contained in section 113 of the Federal-Aid Highway Act which is the prevailing wage provision. The Federal Highway Administration has said that restoration, resurfacing and rehabilitation is not "initial construction" under the law but constitutes a rebuilding activity.

The legislative history clearly reflects that Congress intended for such work to fall within the Davis-Bacon protection. The only line that has been drawn on work not subject to the Federal Davis-Bacon Act is routine repair and maintenance work undertaken by a State and for which Federal funds were not available.

The legislative history since 1956 is replete with testimony from Government officials, contractors, and others that resurfacing, restoration and rehabilitation construction work under the Federal-Aid Highway Act meant substantially more than routine repair and maintenance.

The definition of "construction" contained in section 101 of the act was amended in 1976 to include the terms restoration, rehabilitation and resurfacing and the conference report on the Federal Highway Act of 1975 supports my view that the Davis-Bacon Act should apply to the work covered by this bill. If I may quote briefly from that report:

> The conference substitute contains the definition of "urban areas" from the House bill and "public road" from the Senate amendment and amends the definition of "construction" to authorize resurfacing, restoration and rehabilitation."
>
> The addition of the word "resurfacing" will make clear that Federal-aid funds may be used to restore existing road pavements to a smooth, safe, usuable condition even though further reconstruction is not feasible. "Resurfacing" may be expected to include strengthening or reconditioning of deteriorated or weakened sections of existing pavement, replacement of malfuctioning joints, pavement undersealing, and similar operations necessary to assure adequate structural support for the new surface course.
>
> The definition as amended, coupled with the Secretary's existing authority on standards, would permit Federal funding of such projects as: resurfacing or widening and resurfacing, of existing rural and urban pavements with or without revision of horizontal or vertical alignment or other geometric features.
>
> This change confirms policy established by the Federal Highway Administration, and evidences no intent to fund normal periodic maintenance activities which remain a State responsibility. (Emphasis added.) Conference Report No. 94-107 to accompany H.R. 8235 (April 1976) pp. 42-43.

In short, the legislative history is clear that the use of the term "initial" was designed to make sure that the Davis-Bacon labor standards provision did not apply to such work as the traditionally State-run process of routine repair and maintenance. It is also evident that Congress was not in doubt that Federal money available for resurfacing, restoration and rehabilitation would be considered the same as any other construction activity. All the highway bill provision does is to make clear the longstanding view that requires prevailing wage protection where Federal funds are involved.

The traditional state right to handle routine repair and maintenance under its relevant labor standards is preserved.

Mr. DOLE. Madam President, I want to remind our colleagues, our friends are not supposed to speak. It is the others who are supposed to speak. We have this mixed up. We have the wrong group filibustering. [Laughter.]

I appreciate all the statements which have been made, and they will look better in the morning, but we would like to finish this bill this evening. I know some have serious statements to make. I do not know anyone in the Chamber who knows more about this legislation than the distinguished junior Senator from West Virginia, so I do not say it lightly. But we do have a job to do. I would say those who are concerned about it should proceed. I voted for the Senator from Oklahoma; I held up my hand for the Senator from Colorado. We had a vote on that and we are ready for a vote on anything else.

We want to get this bill to final disposition. I do not suggest that everyone will vote for the bill. I hope a majority will vote for the bill. It seems to me that notwithstanding different views, that if, in fact, we really want to finish this bill and get home for New Year's, then we ought to move ahead because it is the intention of the leadership and the President of the United States that we finish this bill, as bad as some may think it is.

We just cannot design legislation that totally satisfies every Member of the Senate. It would be my hope that we could move quickly to the amendments. Some may have merit and some may not. I am going to try to set an example by only speaking when necessary. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I will speak a shorter length of time than the distinguished Senator from Kansas in urging us not to speak.

I urge the committee in conference to give consideration to two issues on amendments which I plan not to introduce. One relates to the issue of the funding for bridge levels. I urge that it be set with the House at the State-by-State unit price instead of the national unit price, because the real costs are State-by-State, and my State has a much higher cost than some others,

and I think that being the case, it should be the basis for allocation.

I similarly will not introduce an amendment on the formula for apportionment of funds for the Federal aid primary road system but would urge in conference that consideration be given to the House-passed formula which was the administration formula. I desist from pushing these amendments out of deference to the importance of this legislation. It has been crafted carefully over many months with strenous effort by the distinguished Secretary of Transportation, Drew Lewis, and I concur that we ought to move for final passage and therefore say no more.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Madam President, I rise only briefly to compliment the Senator from Pennsylvania for the statement he has just made. The amendments that he has in mind are important amendments. His position is an important contribution to the future deliberations on this bill. I wish to say that I especially appreciate him forbearing to offer those amendments at this time, and I assure him that I will urge the conferees to carefully consider his point of view as they finally arrive at the determination of these issues.

Mr. SPECTER. I thank the distinguished majority leader.

Mr. DOLE. Madam President, are there any amendments pending?

The PRESIDING OFFICER. No. The question is on the Baker substitute to H.R. 6211.

Mr. HUMPHREY addressed the Chair.

Mr. RIEGLE. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 5613

Mr. RIEGLE. I thank the Chair. I will only talk briefly on this amendment, which is amendment No. 5613 being offered by myself and Senator BRADLEY.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan (Mr. RIEGLE), for himself Mr. BRADLEY and Mr. SASSER proposes a printed amendment numbered 5613:

At the appropriate place in the amendment insert the following new section:

GASOLINE TAX SHALL NOT APPLY

SEC. . The tax emposed by section 111 shall not apply to individuals eligible for a credit under section 43 of the Internal Revenue Code of 1954.

Mr. RIEGLE. Mr. President, this amendment is an amendment that was filed several days ago and had to be put in revised form in order to be germane under the cloture rules, but Senator BRADLEY and I, like many others who had amendments to offer early in this debate, were unable to get indexed to the top of the queue for amendments actually being called up, and when the bill was taken down we were caught like others having been unable to have this issue brought before the Senate and resolved So we bring it now. and I think we can minimize the debate time on it.

Very simply, what this amendment would do is as follows:

The working poor in this country who earn $10,000 a year or less—and this would be families with children—today in the law receive an earned income tax credit as a matter of existing national policy, and we would like in the instance of those persons who have already been designated in our country as the working poor and who we want to have continue to be able to work and to have the motivation to work be exempt from this additional gasoline tax, and that can be accomplished by adjusting the earned income tax credit in a fashion that would offset the estimated $25 a year in increased gasoline taxes that they otherwise will be required to pay.

I note in passing that these families are the ones who have absolutely a bare minimum in terms of disposable income, because, as I say, the law defines them as families with children and so to the working family on an income, the highest level of which would be $10,000, in many cases a good deal less than that, the imposition of this gas tax is really a burden that I think they ought to be spared. I think it is not a matter of ideology. I think it is a matter of equity and just practical commonsense in terms of not applying additional financial burdens on people in our society who are barely able to function as it is. We find that most often it is the families in this circumstance who tend to have the oldest cars that get the lowest gas mileage. In many instances they are the families who have to locate far away from the jobs that they have so that getting to and from the job site is a more expensive proposition than it might be for others. The weight of this gas tax on them at this time would be something that I think we ought to avoid, and we can avoid through this means.

And so by the means of this amendment we would be instructing the IRS to see to it that in the administration of the earned income tax credit an additional allowance is given for that narrow class of working poor in this country, so that they would not feel the additional weight of the gas tax.

Now, the revenue implications, the outlays over a period of years would be zero in fiscal year 1983, about $65 million in 1984, $60 million in 1985, $55 million in 1986, and $50 million in 1987. Now, you might say, "Well, $65 million sounds like a big number in fiscal year 1984."

Well, in one sense it is, another sense it is not. I think in terms of the aggregate amounts we are talking about being raised by the gas tax this amount of money raised from this tax on taxpayers, I think, is an amount of money that we are well advised not to collect in order to enable them to have both an opportunity to continue to function in this society and to be able to continue as working people and as working families.

If one thinks now over the years of this tax running on an annual basis, the revenue impact being somewhere between $50 and $65 million per year out over the next 4 years starting with 1984, the question that I would pose is, Do we really want to take that amount of revenue away, spending power away, economic survival power away from those families across the country with incomes below $10,000 who we have already officially designated in other areas of the tax laws, the working poor in this country, do we really want to extract that money from them at this time in this form?

I just think we ought not to do that. I do not think it is a partisan issue. I do not think it is an ideological issue. I think it is a matter of simple equity, and it is a matter of the practical effect of weight of this tax coming down on people who are really not in a position to bear it and ought not to bear it.

Mr. BRADLEY. Madam President, will the Senator yield?

Mr. RIEGLE. I yield to the Senator from New Jersey.

Mr. BRADLEY. I join the Senator from Michigan in cosponsorship of this amendment. He stated very clearly what it is. It is an attempt to make the gas tax less onerous on those with the lower incomes. It is an attempt to remove the argument against the tax which has frequently been made on this side of the aisle and that is it is regressive. It is straightforward and clear, and I am pleased to join the Senator in offering the amendment.

Mr. RIEGLE. I thank the Senator for his cosponsorship and his comments.

I must say to the chairman of the Committee on Finance and others, I have chatted with him about this amendment, so it is no surprise. I hope the committee can feel it can accept this amendment, and I say accept it not just in terms of the spirit of the year that it is but in the spirit of the meaning of the amendment, and I say that in a very direct fashion.

I think this is a sound step we could take that we could be proud of as a Senate regardless of party, regardless of ideology.

I do not think we really want to impose this tax at this time as long as we have a mechanism for avoiding it on the poorest of our people who are

out there and who are still working, who are self-supporting, who are working and supporting their families, and we want them to continue to be able to do that and, hopefully, to be able to work up to even higher income levels.

I do not think we want to extract that tax from them, and I would ask my colleagues on both sides of this aisle to ponder it carefully, and I hope if it comes to a vote they will vote for it.

My hope would be that we could avoid a vote and that the committee would accept the amendment and endeavor to hold it in the bill in conference.

SEVERAL SENATORS addressed the Chair.

Mr. EAST. Mr. President, would the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I would be happy to yield for that purpose without losing my right to the floor.

Mr. EAST. I wanted to be yielded to on the time of the Senator from Michigan if he would like to do that.

Mr. RIEGLE. I would for the purpose of entertaining a direct question but not for the purpose of delay. I would be happy to respond to a question that goes to the issue itself.

Mr. EAST. I will do that, Senator, and I appreciate your allowing me just to ask a brief question.

As I understand what you are saying is you feel that the bill as it currently exists is putting a regressive tax burden on the working people of this country, and you would like to see that moderated by the inclusion of an amendment that would shift that burden from the working people of this country to those who are in stronger position to pay. Is that the sum and substance of what the Senator is proposing?

Mr. RIEGLE. I would say to the Senator from North Carolina that this is exactly right, and I might further say that I thought as I listened to his remarks last night that on the point which he addressed very clearly and forcefully himself, I found his remarks on that subject and on that question to be very persuasive, and I think very important remarks, and regardless of how one feels about the parliamentary procedure or how we finally dispose of this issue, I thought the contribution he made on that set of issues was an important contribution, and I think was stated as well on that point as I have heard anybody on the floor on either side speak to it, and you are exactly right.

But I would hasten to add I am not trying here to in any massive way deal with all of the issues of equity that one might raise here. I am deeply troubled about the equity issues. But I think as a practical matter if we could just chip off a piece of this that goes onto the poorest of the working families of this country, and only families with children who have already been designated under the law as being deserving of special consideration taxwise, because they are barely able to function in our society as working and contributing members, that they ought to be held harmless, those with $10,000 a year of income or lower ought to be held harmless by this bill.

I think that small measure of equity would be something that would stamp this measure, if it is to pass in the end, with a measure of fairness that it does not presently have and which it ought to have. That is precisely the aim of the amendment, I might say.

Mr. EAST. I thank the Senator.

Mr. DOLE. Madam President, I hope we would not accept this amendment, and I hope we can do it without a rollcall, but we will see what happens there.

First of all, I might suggest that gas prices have gone down about 7 cent a gallon in the past year, 3 cents in the past month, in this area. If you are going to do this for this tax, you maybe ought to have a little extra credit for the cigarette tax we imposed earlier this year. A lot of poor people smoke. Not all poor people have cars, not all poor people drive. This is a user tax, and there is no reason for other users to subsidize those in this category.

Finally, I will say, with all due respect to my colleagues, and I do not question their motives, it says that the gasoine tax shall not apply to "the tax imposed by section 111 to individuals." Well, individuals do not pay the tax, the companies pay the tax. So I say the amendment is not properly drawn. It is an area that we might want to consider. Maybe we ought to increase the earned income tax credit for other reasons, but I hope we will not do it at this time on the this bill, and I would suggest that we not adopt this amendment and that we move on to other amendments that directly relate to the gas tax, trucks, weights, lengths, and a lot of other things that are in the bill that directly affect the user fee, highways, byways. I ask that the amendment be rejected.

Mr. HARRY F. BYRD, JR. Before doing that, this does not deal with the gasoline tax. This increases the earned income tax credit, something entirely different, and I do not see how this is germane.

The amendment says that a certain individual shall not pay the extra 5 cents gasoline tax, but the Senator from Michigan, the author of the amendment, has stated that the way the individual will get back the tax is by increasing his earned income tax credit. So this does not put any restriction on the gasoline tax. The gasoline tax is going to be paid, and the Senator from Kansas is absolutely correct that this is a very wrong amendment to try to put on this bill, and I do not even think—I am confident it is not germane, and I will address a query to the Chair as to a point of order as to whether this amendment is germane. It deals with the earned income tax credit according to the author of the amendment.

The PRESIDING OFFICER. Under the precedents of the Senate, an amendment which is restrictive of the language of the bill or the Baker substitute is germane, so it is germane.

Mr. HARRY F. BYRD, JR. May I ask the author of the amendment, this does not prevent the person purchasing gasoline from paying the tax, does it?

Mr. RIEGLE. I wish we could define it in such a way as to abolish that, but the only way we can get that is by means of making them whole again through the earned income tax credit, as the Chair said, so it is the only way to address this situation we find ourselves in.

Mr. HARRY F. BYRD, JR. It does not do what the Parliamentarian says it does, it does not restrict payment of that tax, does it?

Mr. RIEGLE. I think the Senator—I will respond on my own time if he wishes—but the fact of the matter is what it does is that it makes that person whole in terms of the additional tax, and over the course of the year they will be made whole for the $25 it is estimated they will spend on the gas tax.

Mr. HARRY F. BYRD, JR. Under another part of the Tax Code.

Mr. RIEGLE. Under the part of the Tax Code that presently exists.

Mr. HARRY F. BYRD, JR. Correct.

Mr. RIEGLE. For this precise purpose. So we make the adjustment, suggesting the adjustment be made there to keep these people whole and to hold them harmless, just this narrow group, from the imposition of this particular tax.

Mr. HARRY F. BYRD, JR. Correct, under another part of the Tax Code which is not involved in the bill tonight. I join with the Senator from Kansas in urging the defeat of the amendment.

Mr. BRADLEY. Mr. President, will the Senator yield? Let me make just one brief point, and that is in 1980 the Committee on Finance reported on a tax cut bill that by a vote of 19 to 1 increased the earned income tax credit from 10 to 11 percent.

This is a bill in which we had exempted from the tax—taxicab owners, bus owners, varieties of trucks. It seems to me the least we could do is also exempt from the tax those families earning under $10,000 in income.

Mr. DOLE. Madam President, I am ready to vote.

Mr. RIEGLE. Madam President, if I may, I would like to make a brief additional comment.

I want to appeal to the body as earnestly as I am able to do to support the amendment. As I look around the body here now, it is not exactly on the eve of Christmas, but we are awfully close to it. I know everybody in this Chamber has deep humanitarian feelings about others in our society who are not very well situated. This amendment addresses people in our society—may I have order, Madam President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RIEGLE. This amendment addresses people in our society who, right now, are barely scraping by. They are the working poor of our country, people whose incomes are less than $10,000 a year. We have had a lot of controversy, a lot of feeling in this Chamber that we have expressed because the pay raise has become a great issue in the country, there is a lot of controversy about it, and so forth. The amount of pay raise being talked about is something on the order of $9,000-plus. That is an amount that is roughly equal to the entire income of these families, families with children.

As I look around the floor, I just hope that my colleagues who are here will be persuaded that this small piece of equity that we are capable of doing is something we ought to do. It is something we can do. We have an established mechanism for doing it and I think it is a step that we can take that will reflect some credit on this institution.

Mr. DOLE. Madam President, let me say very briefly that I would not like the RECORD's silence to indicate we are not concerned about the very thing the Senator from Michigan is concerned about. I hope we all understand that. But we are trying to pass a major piece of legislation. This is an important amendment, something that probably should be considered maybe in the whole UITC, the unearned income tax credit, next year in the Finance Committee.

I plead with my colleagues, let us try to move this legislation. It does not indicate that we are insensitive; it indicates that we have a major piece of legislation before us that should be passed.

I hope the Senator from Michigan will appreciate our concern and not only our concern, our actions in the past to address concerns of this kind—whether it is disability insurance payments or food stamps or whether it is in some other area.

Mr. RIEGLE. Madam President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

Mr. DOLE. Madam President, I move to table the amendment.

Mr. HUMPHREY. I ask for the yeas and nays, Madam President.

Mr. RIEGLE. I ask for the yeas and nays on that, Madam President.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. RIEGLE. Parliamentary inquiry, Madam President: If there is not a second on the tabling motion, will the vote occur up or down on the amendment itself?

The PRESIDING OFFICER. No; there will be a voice vote on the motion to table.

Mr. RIEGLE. I ask for the yeas and nays on the tabling motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

I also announce that the Senator from Utah (Mr. HATCH) is absent due to illness.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada, (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Washington (Mr. JACKSON), would each vote "nay."

The PRESIDING OFFICER (Mr. DURENBERGER). Are there any Senators in the Chamber who desire to vote who have not yet voted?

The result was announced—yeas 50, nays 42, as follows:

[Rollcall Vote No. 458 Leg.]

YEAS—50

Abdnor	Gorton	Packwood
Andrews	Grassley	Percy
Armstrong	Hatfield	Pressler
Baker	Hawkins	Quayle
Boschwitz	Hayakawa	Roth
Brady	Helms	Rudman
Byrd, Harry F., Jr.	Jepsen	Schmitt
	Kassebaum	Simpson
Chafee	Kasten	Stafford
Cochran	Laxalt	Stevens
D'Amato	Lugar	Symms
Danforth	Mathias	Thurmond
Denton	Mattingly	Tower
Dole	McClure	Wallop
Domenici	Melcher	Warner
Durenberger	Murkowski	Weicker
Garn	Nickles	Zorinsky

NAYS—42

Baucus	Exon	Matsunaga
Biden	Ford	Metzenbaum
Boren	Glenn	Mitchell
Bradley	Hart	Moynihan
Bumpers	Heflin	Nunn
Burdick	Hollings	Proxmire
Byrd, Robert C.	Huddleston	Pryor
Chiles	Humphrey	Randolph
Cohen	Inouye	Riegle
DeConcini	Johnston	Sarbanes
Dixon	Kennedy	Sasser
Dodd	Leahy	Specter
Eagleton	Levin	Stennis
East	Long	Tsongas

NOT VOTING—8

Bentsen	Goldwater	Jackson
Cannon	Hatch	Pell
Cranston	Heinz	

So the motion to lay on the table amendment No. 5613 was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ILLINOIS BRIDGES

Mr. PERCY. Mr. President, the committee report accompanying the Senate highway bill assigns priority in the use of discretionary bridge funds for the Franklin Street Bridge in Peoria and the Staley Viaduct in Decatur. My distinguished colleague from Illinois, Senator DIXON, and myself appreciate the committee's effort on behalf of these two Illinois projects, but it is our understanding that both bridge projects would not benefit from the committee's action. The Congress has already addressed the Peoria project in previous legislation, and the design and plans for the repair of the Decatur bridge project have not been agreed to by the State transportation agency, local officials and industries, and others concerned with the bridge. In line with this, the Decatur project could not take advantage of its designation as a Federal priority. Once the project's design has been agreed to by State and local interests, I would hope the committee would favorably consider our request that it be assigned priority in the use of discretionary bridge funds.

Mr. DIXON. Mr. President, I wish to associate myself with the remarks of my senior colleague from Illinois. We certainly appreciate the committee's effort to accommodate the needs of our State, but understand that the action by the committee would serve no useful purpose since the one bridge has already been established as a priority, and controversy surrounding the design of the other bridge is not yet resolved.

Mr. SYMMS. I understand the concerns of the Senators from Illinois concerning these two bridges, the Franklin Street Bridge in Peoria and

the Staley Viaduct in Decatur. In line with your concern, I will ask the committee to delete references to the two projects from the House and Senate conference report. It is my intent to vitiate the language in the Senate report concerning the bridge projects.

Mr. PERCY. Under the new bridge formula in the legislation presently under consideration by the Senate, Illinois' apportionment of the nationwide funding could be reduced by nearly 50 percent. Thus, despite the increase in Federal bridge funds, Illinois may see insufficient funding to repair its aging bridges—2,200 of which were constructed before the 1930's. For this reason, I would like to urge the committee to consider two bridges in Illinois that could receive priority consideration under the discretionary bridge program.

The Dan Ryan Bridge is part of the Dan Ryan Expressway—the world's busiest highway—in Chicago between 18th Street and 29th Street, crossing over the Illinois Central Gulf Railroad, the Chicago River, and the Stevenson Expressway. The bridge is eight lanes wide and serves an average of 225,000 vehicles per day—a volume which exceeds its original design capacity. The poor operating characteristics, as evidenced by the low level of service, congestion, traffic delays, and the narrow 2 foot right-of-way, contribute to a high accident rate. The pavement sufficiency rating is 4.4, and the estimated cost to improve the bridge ranges from $60 to $70 million.

The Clark Bridge was built in 1928 to carry traffic on U.S. 67 over the Mississippi River at Alton, Ill. The two-lane bridge is functionally obsolete and has a Federal sufficiency rating of 38.4. Illinois is proposing to replace the present two-lane structure with a four-lane structure estimated at $80 million.

Mr. DIXON. Mr. President, I support the designation of these two bridges as priority projects under the Federal discretionary bridge program. The Dan Ryan Bridge funding could extend the service life of this important structure an additional 20 to 25 years, and improve upon on the hazardous driving environment. The Clark Street Bridge in Alton is similarly in need of repair. It is a bridge that subjects motorists to very lengthy traffic delays.

Mr. SYMMS. In response to the concerns raised by the gentlemen from Illinois, I would agree that these bridges should receive priority consideration for discretionary bridge funding. The Dan Ryan Bridge in Chicago and the Clark Street Bridge in Alton will be designated as priorities for Federal funding in the Senate and House conference committee report on this legislation.

Mr. PERCY. We certainly appreciate this accommodation by the Senator from Idaho.

Mr. DIXON. We thank the distinguished Senator.

CARBONDALE RAIL RELOCATION

Mr. DIXON. Mr. President, H.R. 6211 contains a provision that attempts to insure that railroad relocation demonstration projects around the country that are now under construction will be able to be completed. It reduced the current $100 million a year authorization level to $50 million, and directs that projects not under construction by September 1986, will be phased out.

I believe we should allow those areas that have used railroad relocation demonstration program funds to being their projects to have a reasonable period of time to complete them. We have two projects in Illinois, in Carbondale and in east St. Louis that are well along in construction. State and local officials went forward with the projects in reliance on the availability of these funds. Abruptly terminating funds, rather than phasing out the program in an orderly way, could endanger the ability of the States and local governments involved to complete the projects that are now underway.

I would like to offer a similar amendment to the Senate bill, to insure that this problem is taken care of. I understand the problems facing the committee with respect to this bill, and I will not press an amendment at this time since the issue will be addressed in the Senate-House conference on the bill.

I hope the managers of the bill, however, will give this issue their closest attention in the conference, keeping in mind the importance of retaining a mechanism to complete projects now under construction.

Mr. PERCY. Mr. President, I agree with my distinguished colleague from Illinois. I believe it is vital to keep our commitments to the rail relocation projects now under construction. If Federal financing is cut off precipitiously, projects now underway in Carbondale and East St. Louis may not be able to be completed.

H.R. 6211 provides a reasonable way to address this problem. I urge the managers of the bill to do all they can in conference to insure that rail relocation demonstration projects now underway will be able to be completed.

Mr. STAFFORD. I understand the concerns of the two distinguished Senators from Illinois. This matter is addressed in the House bill, and I can assure my colleagues that the issue will get my closest attention in conference.

Mr. DIXON. Mr. President, I thank my colleague for this assurances. I know he understands and is sympathetic to the concerns Senator PERCY and I have raised and I appreciate his consideration.

TOLL ROADS

Mr. PERCY. Mr. President, I had intended to offer an amendment, to be cosponsored by my distinguished colleague from Illinois (Mr. DIXON), to allow new toll highways constructed in Illinois to receive Federal highway funding.

Under existing law, Federal highway funds may be used only in the construction of toll tunnels and bridges. Although the administration's proposed highway legislation included a provision allowing for Federal participation in toll highways, the Senate bill lacks such a provision. The amendment which I would offer essentially includes the elements of the administration's proposal on tollways, but restricts those provisions to Illinois only. Under my amendment, no tolls may be charged for the use of the Illinois highways after their construction costs have been repaid. Thus, the tollways would eventually be free highways. In addition, my amendment would not require the State to construct new toll highways, but rather simply provide the State the option to do so.

Mr. President, the Du Page County Board, the Du Page mayors and managers conference, and Du Page County residents have long urged the construction of a north/south expressway in central Du Page County. A proposed 18-mile, $190 million project for Illinois Route 53 would extend the expressway from Army Trail Road to the Stevenson Expressway, and provide the crticially needed North/South Expressway.

Existing Federal funds, and funds to be provided under this highway bill, however, are insufficient to complete construction of this expressway. Furthermore, according to the Illinois State Toll Highway Authority, it would not be feasible to construct this expressway (FAP 431) solely from the sale of revenue bonds that would be repaid with toll revenues; and an analysis by the county concluded that additional public funding would be necessary. For these reasons, they have requested assistance to eliminate legal barriers which might prevent the use of Federal funds on the proposed tollway extension.

Additionally, local Illinois officials are contemplating the use of toll revenues to construct the proposed Elgin-O'Hare Expressway (FAP 426). This approximately 22-mile project would cost an estimated $200 million to $220 million, providing an important western access to Chicago's O'Hare Airport—the world's busiest airport. The

Illinois General Assembly has approved resolutions calling for the State to study the feasibility of turning each of the proposed expressways into tollways. It should also be noted that my amendment would permit any new toll highway in Illinois to receive Federal funds, not only the two projects that I have mentioned.

Mr. President, as Du Page County Board Chairman Jack Knuepfer has pointed out, the concept of having toll revenues construct a road project is entirely consistent with the administration's policy of requiring users to make an investment in public facilities. Du Page County officials have expressed an interest in using toll revenues, and have implied that Du Page motorists would be willing to pay tolls, to construct critical expressways. The Congress should allow Illinois to explore this avenue.

Allowing Federal participation in Illinois tollways would serve as a useful demonstration project to assess the existing Federal policy prohibiting highways from receiving Federal funds. Since the administration is pressing for legislation to allow Federal tollways in all 50 States, this single State case study serves as a useful first step before the Congress considers the broader administration proposal.

Mr. President, I ask unanimous consent that a letter from the Du Page County Board chairman and two editorials from the Chicago Tribune be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DU PAGE COUNTY, ILL., *June 24, 1982.*

Hon. CHARLES H. PERCY,
Washington, D.C.

DEAR SENATOR PERCY: As you are aware, the Du Page County Board, the Du Page Mayors and Managers Conference, Inc. and many communities in the Illinois 53 corridor, have long supported the extension of FAR 431, a critical north-south freeway in Du Page County, from Army Trail Road to I-55. With the redesignation of the Crosstown Expressway in the Chicago Region, interstate transfer money was programmed for a partial freeway extension to Butterfield Road. Although we have received more Crosstown money than we thought might be released by the Federal government, it is still not sufficient to complete the partial extension, and the design study for the freeway extension has been stopped by the Illinois Department of Transportation.

In response to this action, the County Board, Du Page Mayors and Managers Conference, Inc. and individual municipalities recommended a study of the feasibility of constructing FAP 431 as a toll facility. We are pleased that the Illinois Legislature has passed a joint resolution authorizing a cost-revenue study, and have requested prompt action by IDOT to initiate this analysis.

In a report prepared by our Development Department, a "sketch" analysis of tollroad feasibility was made, with the conclusion that at present toll levels it would probably not be feasible to construct and maintain the FAP 431 extension without additional public funding. At the time our report was research, we did find reference to an agreement between the Federal government and the State of Louisiana for the use of Federal funds on a toll facility in that state.

The concept of having user fees (tolls) maintain and partially construct such a facility appears to be very consistent with the present Administration's desire for "users" to play an important role in funding public investments. At the local level, the utilization of Federal (i.e., Crosstown) funding would allow potential for the full extension of FAP 431 to I-55, as opposed to the Butterfield Road terminus now proposed, thereby avoiding the congestion problems experienced at the present terminus of the freeway at Army Trail Road (an arterial road).

I would therefore like to enlist your support to help eliminate any legal or regulatory barriers at the Federal level which might prevent use of Federal funds on our proposed tollway extension.

Sincerely,

JACK T. KNUEPFER,
County Board Chairman.

[From the Hinsdale (Ill.) Daily Suburban Trib, June 22, 1982]

HOPE FOR A HIGHWAY

An innovative idea for completing Ill. Hwy. 53 as a major thoroughfare has revived hopes for clearing the bottlenecks from Du Page County's congested north-south highways.

Completion of the freeway [known as FAP 431] south to Int. Hwy. 55 has been at issue ever since money ran out, leaving a dead end at Army Trail Road in Addison and resulting in massive traffic snarls and further overburdening of inadequate secondary roads.

In 1980, the Illinois Department of Transportation proposed a $120 million compromise—extending the expressway south to Butterfield Road and widening Ill. 53 to four lanes from Butterfield Road to Royce Road in Bolingbrook. But this would merely have substituted one bottleneck for another, and failed to ease the county's urgent need for a major north-south thoroughfare capable of moving traffic to and from I-55.

An alternative was suggested last week by State Rep. Beverly Fawell [R., Glen Ellyn] at a meeting with representatives of U.S. Sen. Charles Percy [R., Ill.] and the Illinois Toll Highway Authority.

Fawell has proposed combining federal, state and local funds with toll road funds—something now prohibited by federal law. If Congress lifted this restriction, however, federal funds from the abandoned Crosstown Expressway project could be combined with toll road funds to build the $325 million extension to I-55. The new road would run parallel to the existing two-lane portion of Ill. 53 south of Army Trail Road.

The prospect of completing Ill. 53 as a toll road was raised in 1980 but abandoned when high toll rates—two 60-cent toll plazas and three 10-cent exit ramps—made it doubtful that enough traffic could be attracted. If the Fawell plan is approved, tolls presumably could be reduced to the standard 30 cents.

If feasible, this alternative would remove the need to widen Ill. 83 in eastern Du Page County, a plan bitterly opposed by nearby residents and municipalities. It also would ease road congestion by providing the county with its first major north-south route. Such relief offers intriguing possibilities and merits further consideration by county, state and congressional leaders.

[From the Hinsdale (Ill.) Daily Suburban Trib, May 11, 1982]

ROAD PLAN NO SOLUTION

Wringing hands and searching for scapegoats is not going to clear the bottlenecks from Du Page County's north-south highway, regardless of who is to blame for the years of delay, indecision and poor planning that created them. The money simply isn't there any more.

Why, then, does the Illinois Department of Transportation propose spending money in a manner that would only make a bad situation worse? Lacking the funds to build an expressway known as FAP 431 south to Int. Hwy. 55 as originally planned, it proposes widening Ill. 53 south from Army Trail Road, where four-lane traffic now ends, to Butterfield Road, where it would create yet another bottleneck on already overcrowded secondary roads.

To ease inevitable congestion, the state proposes a $33 milion project for widening Butterfield to three lanes in each direction east of Ill. 53 and converting Ill. 53 to four lanes south to Royce Road in Bolingbrook.

Where are the planners? What happened to reason and common sense? The traffic snarls merely are being shifted from Army Trail Road to Butterfield Road with yet more bottlenecks at Royce Road, where the widened Ill. 53 would revert to two lanes.

Clearly, the State transportation department cannot be expected to spend funds it doesn't have. But, just as clearly, it can disburse wisely what it does have. If FAP 431 is to be extended, it makes more sense to add another mile and end it at the East-West Tollway, the one terminus capable of handling the heavy volume of traffic that would pour off of FAP 431.

Regardless, western Du Page County's urgent problem remains—the lack of any major north-south thoroughtfare capable of moving traffic to and from Int. 55.

County and municipal officials last year proposed completing FAP 431 as a toll road. Although the economic feasibility was questioned, circumstances have changed—including the hope that the state transportation department would have funds. It may be worthwhile to reconsider this option, starting with an updated projection of traffic volume, to determine if the project might indeed be self-supporting.

Mr. DIXON. Mr. President, I am pleased to join my colleague, the distinguished senior Senator from Illinois, Senator PERCY, in raising this issue.

Existing law permits Federal highway fund to be used only for the construction of toll bridges and tunnels. The administration bill, however, would permit Federal highway funds to be used in the construction of toll facilities. Further, the 1973 highway bill did permit certain toll roads in Louisiana to receive Federal funds.

I realize we are considering a major expansion of Federal assistance for highways. However, even with the new funds, there will not be enough money to complete construction of two major express routes in northeastern Illinois, the North/South Expressway in central Du Page County and the Elgin-O'Hare Expressway.

Construction of these routes is essential to the transportation system in

this part of Illinois. However, they would not generate sufficient toll revenues, with tolls at reasonable rates, to permit complete toll financing. Supplementary Federal highway financing is essential.

The amendment we would have liked to offer would permit mixed toll Federal highway program financing in Illinois as a demonstration program. Once construction costs were recovered, the routes would have to become freeways. The amendment would not have required the construction of any toll routes; it merely would have made that option available to the State.

The amendment is supported by the Illinois Department of Transportation, the Du Page County Board, the Du Page majors and managers conference, and by residents of the areas involved. I urge the managers of the bill to consider carefully the issues raised by the amendment.

Mr. PERCY. Mr. President, I will not press for the adoption of this amendment at this time, however, if the distinguished chairman of the subcommittee on transportation would be willing to provide certain assurances. Would the gentleman agree to schedule a field hearing in Illinois—after the completion of the studies on the Illinois tollways authorized by the Illinois General Assembly—on my amendment, which I may introduce as a clean bill during the next Congress.

Mr. SYMMS. I would agree to the Senator's request to schedule field hearings. His proposal is a matter in which he has expressed great interest, and the committee would surely give it the fullest consideration.

Mr. PERCY. I appreciate the Senator's accommodation, and will not offer the amendment.

Mr. THURMOND. Mr. President, I rise today in support of the amendment offered by my good friend and distinguished colleague from Oklahoma, of which I am a cosponsor.

Mr. President, this amendment would strike the language in section 154 of S. 3043, the Federal-Aid Highway Improvement Act of 1982 extending the prevailing wage provisions of the Davis-Bacon Act beyond the initial construction of our Nation's Federal-aid highways, perhaps even to the most minor repairs and resurfacing.

Mr. President, I can think of no more counterproductive step Congress could take in the context of this legislation. We have for the past few days been debating major increases in the Federal motor fuels, excise and highway use taxes. A major impetus behind consideration of these increases during the lameduck session has been the high rate of unemployment in the road construction and repair industry. It is my sincere belief that the proposed extension of the prevailing wage provisions of the Davis-Bacon Act would result in less employment opportunities for workers in this industry.

Mr. President, I hope my colleagues will read and reread the perceptive editorials from our Nation's premier newspapers read into the RECORD, by my distinguished colleague from Oklahoma. They make a convincing argument for the rejection of any further extension of the Davis-Bacon prevailing wage provisions. I congratulate the Senator from Oklahoma for his wisdom and courage in opposing such an extension, and I call upon the other Members of this body to follow his lead.

Mr. WEICKER. At this time, more than 600 bridges and viaducts cross over Amtrak's rail lines between Boston and Washington, D.C. I and my colleague from Connecticut (Mr. DODD) are very concerned with 209 of these bridges, which have come to be called the orphan bridges. These 209 bridges, of which 64 are in my State of Connecticut, are distinguished by the fact that neither Amtrak nor the States accept the responsibility for their upkeep and maintenance, because the ownership of these bridges cannot be determined from the legislation or deeds which provided for Amtrak to take over the right-of-way of the Northeast corridor. Consequently, these bridges have fallen into a severe state of disrepair and constitute major safety hazards to the affected communities and to rail passengers, who utilize Northeast rail corridor service.

Although the States do not claim responsibility for the upkeep of these bridges, they do include the bridges in their bridge inventories upon which State apportionments for Federal bridge assistance are calculated. To date, the States have been reluctant to use their limited bridge funds for the repair of these bridges. Amtrak, too, has a very limited capital budget. The result has been, therefore, that bridge problems are addressed on an emergency basis, with repair costs usually being the subject of lengthy battles among States, Amtrak, and local communities.

The bill before us today establishes a new strong Federal commitment to bridge rehabilitation and replacement. Under the Surface Transportation Act of 1982, $1.7 billion is authorized for fiscal years 1983 and 1984, $1.8 billion for fiscal year 1985, and $2 billion for fiscal years 1986 and 1987. Mr. STAFFORD, do you agree that the States, in expending their apportioned bridge funds, should give strong consideration to these bridges which overpass the Northeast corridor improvement project and which a State or Amtrak identify as constituting a potential danger to motorists, pedestrians, or rail operations?

Mr. STAFFORD. Yes; I agree that States should give these bridges strong consideration.

Mr. WEICKER. Do you agree that the following bridges which have been identified as orphan bridges should qualify for funding under the bridge replacement and rehabilitation program authorized under section 203(a)(7) of the Surface Transportation Act of 1982, if States included them in their bridge inventories?

Mr. STAFFORD. Yes; I do agree with the Senator from Connecticut that these bridges would qualify for funding under section 203(a)(7) of the Surface Transportation Act.

Mr. WEICKER. Since the aforementioned bridges are eligible for bridge rehabilitation and replacement funds, would the chairman of the Environment and Public Works Committee agree that these bridges pose a serious safety problem and that States, in expending funds apportioned under section 203(a)(7) for replacement or rehabilitation of eligible bridges, should give strong consideration to highway bridges which overpass the Northeast corridor improvement project and which a State or Amtrak identifies as constituting a potential danger to motorists, pedestrians, or rail operations?

Mr. STAFFORD. Yes; I agree to recommend to the conferees that these bridges constitute a safety problem. Furthermore, I agree that States, in expending their bridge funds, should give strong consideration to the aforementioned bridges.

Mr. WEICKER. I thank the chairman of the Committee on Environment and Public Works for his assistance and cooperation on this critical matter.

Mr. STAFFORD. I thank the Senator from Connecticut, Mr. WEICKER, for bringing to my attention this critical problem and for his cooperation.

TERRITORIAL HIGHWAYS PROGRAM

Mr. WEICKER. H.R. 6211 is a bill to provide jobs and assistance in the repair of roads and highways. Would you agree that the U.S. territories have been at least as hard hit as the States by unemployment and a deteriorating infrastructure?

Mr. STAFFORD. Yes; I generally agree with what the Senator has said.

Mr. WEICKER. I understand your interest in consolidating highway programs and controlling highway expeditures. However, since no authorizing legislation exists to transfer the function of the territorial highways program to the Department of Interior, and since it is crucial to the fragile economies of the territories to have a continuing highways program, would you agree that it is appropriate to include the territories in this bill?

Mr. STAFFORD. Yes; I believe that it makes sense to continue to fund

road repair and development in the territories in this legislation.

Mr. WEICKER. The House language is consistent with your interest in consolidating highways programs. It treats the Virgin Islands, Guam, and American Samoa as one State for one-half of 1 per centum of each years apportionment. However, it separately authorizes the Commonwealth of the Northern Mariana Islands for $1 million annually. Do you agree that it would further consolidate the program and save $1 million each year to include the Marianas together with the Virgin Islands, Guam, and American Samoa for a minimum State's share?

Mr. STAFFORD. Yes; it would be consistent with my concerns, here, to include the Commonwealth of the Northern Marianas with the Virgin Islands, Guam, and American Samoa as one State for a minimum State's share.

Mr. WEICKER. Would you agree to support this position in conference?

USE OF FEDERAL TRANSIT FUNDS FOR NEW CONSTRUCTION

Mr. TOWER. I would like to ask the Senator from Indiana if the proceeds of the 1 penny set-aside for mass transit will be available for service expansion and new construction in rapidly growing cities such as Houston?

Mr. LUGAR. The answer to the Senator's question is "yes". The bill before us contains no restrictions on the use of funds for needed bus fleet expansion or cost-effective new rail construction.

Let me also say, that in developing the mass transit title which we are considering today, the Committee on Banking, Housing, and Urban Affairs worked dilegently to insure that a fair share of funds be available to meet the transit needs of rapidly growing cities. While recognizing the importance of rehabilitating existing transit facilities which may be in disrepair, the committee believes it is equally important that pressing needs for new facilities in other areas of the country also receive due consideration. In this regard, I would point to recent statements by Transportation Secretary Lewis that the administration also is prepared to permit the availability of funds for cost-effective new rail construction.

In approving capital expenditures for new transit systems, however, it is the committee's belief that the relative cost of such systems should be looked at carefully. The committee believes that preference should be given to projects which maximize the cost effectiveness of the Federal investment through substantial non-Federal capital contributions or through the use of existing track or other facilities.

Mr. TOWER. I appreciate the Senator's remarks and would like to take this opportunity to compliment him as well as the very able chairman of the full committee for their fairness in producing a balanced bill which adequately addresses the needs of all regions of the country.

AMENDMENT NO. 4998 TO H.R. 6211

Mr. DANFORTH. Mr. President, the amendment we are considering to H.R., 6211, the Surface Transportation Assistance Act of 1982, is important legislation to the people of the State of Missouri. Missouri highways and bridges are in need of repair, and the construction industry in Missouri will receive a significant economic stimulus from its enactment. However, it would also force Missourians to accept bigger trucks on their highways.

The people of the State of Missouri have told their legislators, by referendum, that they are opposed to bigger trucks. In service to them, Senator EAGLETON and I consistently have voted against increased truck widths, increased truck lengths and increased truck weights every time these issues have come before this body, or before committees on which we serve.

But it is now clear that we are outnumbered. Further attempts to address this issue would be futile. The Senate has already voted to increase the uniform width of trucks, and in doing so rebuffed a valiant attempt by Senator EAGLETON to even so much as delay action on this part of the truck size issue until consideration of H.R. 6211. On the issue of truck weight, Missouri, Arkansas, and Illinois are the only continental States that presently do not allow 80,000 pound trucks. They are considered "barrier States" by the Senators from the other 45. Finally increased uniform truck trailer length enjoys similar broad support. Fortunately, this particular aspect of the truck size issue is of no real consequence to Missouri since State law already allows certain truck combinations to have trailers exceeding the new Federal lengths.

Mr. President, it is very disappointing that Missouri is going to be forced by the Federal Government to accept bigger trucks as part of this highway funding legislation. On the other hand the funding bill is necessary, and I do appreciate that my Senate colleagues and the administration have been willing to work with me to address the two biggest concerns that Missourians have about bigger trucks—that they cause expensive damage to bridges and roadbeds, and they create serious safety hazards to passenger cars.

Mr. President, Missourians do not want to pay for highway damage caused by interstate trucking operations; they want the trucking companies to pay the costs. As a member of the Senate Finance Committee, I have joined with those seeking that a fair user fee be paid by truck companies for their commercial use of the highways. I believe we have achieved that goal, and that the excess road repair necessitated by heavy trucks will be paid for by heavy trucks.

The safety issue is of even greater concern to many Missourians. Motor carrier safety is already a serious problem. There is a general fear that bigger trucks will make it worse. In 1982, 32,306 truck accidents were reported to the Bureau of Motor Carrier Safety of the Department of Transportation. These accidents resulted in over 2,800 fatalities, more than 28,500 injuries and $355 million in property damage. Fewer bus accidents were reported, but bus safety is related, and therefore also of significant concern.

As a member of the Senate Commerce Committee, I have been involved in the examination of this issue for several years. Hearings conducted in the 95th Congress and the 96th Congress on motor carrier legislation introduced by my colleague, Senator PERCY, demonstrated the need for comprehensive restructuring of commercial motor vehicle safety regulations. These hearings underscored the fact that Federal commercial motor vehicle safety rules are being flagrantly ignored. Random inspections by Federal and State law enforcement officials in various parts of the country uniformly found widespread violation of safety regulations, requiring numberous commercial vehicles to be put "out of service" due to defective brakes or other serious deficiencies in major safety equipment.

This pattern of noncompliance with commercial motor vehicle safety requirements demonstrates that Federal enforcement efforts have proven ineffective. This pattern will continue when violations go undetected, and when penalty levels are so small that they are easily absorbed as a cost of doing business.

Mr. President, when we move to increase truck size, we have an obligation to increase truck safety. Therefore I am grateful to Commerce Committee Chairman PACKWOOD, and to Secretary of Transportation Drew Lewis, for the support they have given me in seeking appropriate safety reforms as part of this legislative package.

Title IV of this amendment, as reported by the Commerce Committee, takes what I consider to be important steps toward improving highway safety. The grant program established under section 406 should increase enforcement of commercial motor vehicle safety regulations by strengthening State enforcement programs. Increased enforcement will assure that there is a far greater chance of detection of safety violations.

Section 407 expands DOT's civil penalty authority to prosecute a variety of violations of commerical motor vehicle safety regulations. Since increased penalties will be easier to en-

force, it will no longer be cost effective to keep a truck on the road if it is unsafe.

Title IV also protects motor carrier employees from discipline, discharge, or discrimination for refusing to drive an unsafe vehicle or for reporting safety violations. I believe the employee protection provisions are vital to insure that employees will not be harassed for not being willing to perpetuate safety violations.

Mr. President, perhaps the good people of Missouri can take some solace in the fact that, although they are being forced to accept bigger trucks, they are not having to do so without additional safety provisions within the bill.

I would ask unanimous consent to submit for the RECORD a summary of the major safety-related provisions of the committee reported version of title IV.

There being no objection, the Summary was ordered to be printed in the RECORD, AS FOLLOWS:

SUMMARY OF MOTOR CARRIER SAFETY PROVISIONS OF TITLE IV OF PRINTED AMENDMENT NO. 4998 AS REPORTED BY THE SENATE COMMERCE COMMITTEE

The motor carrier safety provisions of Title IV are designed to combat the increasing number of deaths, injuries, and property damage due to commercial motor vehicle accidents. These provisions aim to promote highway safety, encourage the safe operation and maintenance of commerical motor vehicles, and protect the health and safety of commercial motor vehicle operators.

These provisions develop new regulatory authority and enforcement tools to promote commercial motor vehicle safety.

1. APPLICABILITY.

Sections 401 through 417 provide for coverage under Title IV of specified commercial motor vehicles. These vehicles include:

a. all commercial motor vehicles that are 10,000 pounds gross vehicle weight rating or more;

b. all commercial motor vehicles used in the transportation of materials found by the Secretary of Transportation to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.); and

c. any commerical motor vehicle used on the highways that is designed to carry ten or more persons. The legislation provides an exemption from the application of the act for any vehicle engaged in farming activities or logging operations as defined by the Secretary of Transportation.

2. PENALITIES.

At present, DOT has civil penalty authority only with regard to reporting and filing violations. The Committee expanded DOT's civil penalty authority and provided increased civil and criminal penalties for the commercial motor vehicle health and safety area. These penalties are designed to assure widespread compliance with truck and bus safety requirements. Failure to meet recordkeeping requirements are to punished by up to $500 per violation. Each day of a violation constitutes a separate offense. Systematic recordkeeping is essential in order for DOT to set priorities for enforcement and to adequately monitor person in the commercial motor vehicle safety area. The Committee, however, set a penalty ceiling for separate offenses concerning a single violation of recordkeeping requirements of up to $10,000. This ceiling is considered sufficient to assure compliance with the recordkeeping requirements.

The Committee particularly wished to increase enforcement in circumstances in which the Secretary of Transportation determines that a substantial health or safety violation could reasonably lead to or has resulted in serious personal injury or death. It is important to provide substantially improved protection to drivers and the public in the commercial motor vehicle health and safety area. Therefore, the Secretary's determinations should be given great weight. DOT should focus its enforcement priorities on violations which can lead to death or injury.

In regard to all civil penalties, the Secretary of Transportation is directed to take into account: The nature, circumstances, extent, and gravity of the violation committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and safety may require.

These criteria can assist in assuring that the civil penalties provisions are imposed in a fair and equitable manner. The primary focus of the penalty provisions, however, is to improve the enforcement of essential health and safety requirements. Therefore, these criteria should not be utilized to minimize penalties to the point where they do not assure adequate compliance by violators. In regard to these criteria, the Secretary of Transportation may not be able in every instance to make a determination in regard to each of these factors. Rather, it is expected that the violators may bring this information to the attention of the Secretary of Transportation to assist the Secretary in making a fair determination.

The legislation also increases penalties for specified safety violations by operators of commercial motor vehicles. These penalties, although lower than for employers, are believed sufficient to create significant disincentives against violation of highway safety requirements.

3. INVESTIGATION OF COMPLAINTS

The legislation requires the Secretary of Transportation to investigate any non-frivolous complaint alleging that a material violation of any rule, regulation, standard, or order issued under Title IV, is occurring or has occurred in the preceding 60 days. This provision recognizes that complaints from motor carrier employees and other complaints can significantly assist DOT in quickly detecting violations of safety and health requirements. Although the bill requires an investigation of all such non-frivolous written complaints alleging a material violation, it is expected that the Secretary of Transportation also will investigate other complaints if they appear to be legitimate and serious violations of health and safety regulations.

4. EMPLOYEE PROTECTION PROVISIONS

The employee protection provisions in this legislation underscore the strong Congressional policy that persons reporting health and safety violations should not suffer because of this action. However, the bill is designed to assure that employers are provided protection from unjustified refusal by their employees to perform legitimate assigned tasks.

To protect employees, the bill provides that: "No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to the request of the employee) has filed any complaint or instituted or caused to be instituted a proceeding under or related to this title or other authorities of the Secretary of Transportation in the commercial motor vehicle safety area."

Employees are also protected from discharge, discipline, or discrimination if an employee refuses to operate a vehicle due to the employee's reasonable apprehension of serious injury to himself or to the public due to the unsafe condition of such equipment. The Department of Labor is to investigate employee complaints when such discriminatory activitiy is alleged. If a violation is discovered, the Secretary of Labor is directed to order affirmative action to abate the violation, including such remedies as reinstatement and specified compensation and damages.

5. GRANTS TO STATES AND STATE ENFORCEMENT

The Federal Government has an extremely limited number of enforcement personnel in the commercial motor vehicle safety area. Title IV, as reported, therefore, will provide grants to the States both to develop implementation plans and to assist the States in the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety. The Secretary of Transportation is directed to formulate procedures for the States to submit a plan and criteria for acceptance of the State plan. The legislation makes clear that these grants will be provided to develop additional programs over and above those already underway within a State. It is believed that only with increased State enforcement will there be a major improvement in commercial motor vehicle safety. While the bill is directed towards upgrading State enforcement powers, the Secretary of Transportation will retain all of his own authority and is directed to ensure that the State plans are being properly carried out.

6. ADVISORY COMMITTEE

Title IV established a Commercial Motor Vehicle Safety Advisory Committee. This Committee is to be composed of the Secretary of Transportation and 15 members appointed by the Secretary. The advisory committee appointees are to be experienced in the safety regulation of commercial motor vehicles or technically qualified by training, experience, or knowledge to evaluate commercial motor vehicle safety requirements. The Secretary of Transportation is directed to consult with public and private agencies and organizations concerned with commercial motor vehicle safety before making appointments to the advisory committee. Members are to include representatives of State governments, the motor carrier industry, shippers, union drivers, independent owner-operators, and the public.

7. AUTHORIZATION

The Legislation provides for Federal/State matching grant funding on an up to 80/20 basis. It is emphasized that the States must maintain their present efforts and the grant levels are for additional or expanded programs by the States. A total of $150 million is authorized to be appropriated out of the Highway Trust Fund over fiscal years 1984 through 1988.

COMMERCIAL MOTOR VEHICLE SAFETY

Mr. PERCY. Mr. President, I am concerned with one point which needs to be clarified. Although the Commerce Committee hearings concerning the Truck Safety Act demonstrated that existing remedies of law were inadequate to protect truckdrivers, I am nonetheless worried that the job protection, or whistle-blower, provision of the legislation might have the effect of preempting other avenues of relief, and remedies which might be available to employees under union contracts, or statutory or common law.

Mr. DANFORTH. I am glad that you raised this point and I do want to recognize the invaluable assistance you rendered to the committee in connection with its consideration of this legislation. The driver protection provisions of title IV are most certainly intended to strengthen, not displace any existing remedies employees may have at law.

Mr. LEVIN. Mr. President, section 422 of the Commerce Committee's amendment to H.R. 6211 prohibits the States from banning "double" combination trailers on the interstate and Federal-aid highway system. There are a number of States, including the State of Michigan, which have passed laws regulating the use of tractor double-trailer units in response to serious accidents involving these vehicles on State roads.

Although title IV of the administration's bill originally preempted State laws regulating the use of double-bottom trucks only on the interstate system, an amendment offered by Senator CANNON in the Commerce Committee markup expanded this preemption to include "any qualifying Federal-aid highway," except for roads designated by the States or the Secretary under subsection (e) of section 422.

As I understand it, subsection (e)(1) directs the Secretary of Transportation to promulgate guidelines setting forth specific factors that the States should consider in designating certain roads unsafe for trailer combination vehicles. Subsection (e)(2) provides that the Secretary can also designate certain roads upon which these vehicles cannot travel, if he determines that "public safety would be significantly and adversely affected."

While I am relieved that the bill establishes some mechanism for identifying roads which would not be safe for the motoring public if double-bottom vehicles are granted an unlimited right to use Federal aid highways, I am concerned that section 422 does not provide adequate assurances that unsafe roads will be properly identified. Studies have indicated that double-bottom vehicles are unsafe, regardless of the road they are traveling on. But if we are to preempt State laws prohibiting their use on State highways, we should at least establish a proper procedure for prohibiting them from traveling on two-lane roads or roads in urban areas, where there is an even greater risk of accidents involving fatalities. I have a number of questions related to my concern about the mechanism which has been established in section 422 for designating unsafe roads. First, I would inquire of my colleague whether the provision contained in this section prohibiting the States from banning double-bottom trucks on roads will take effect before the Secretary and/or the States have designated roads which would be a hazard to the public safety if these vehicles are permitted to use them?

Mr. CANNON. The new rules will become effective 180 days after enactment. That should be sufficient time for DOT to set forth initial guidelines and for the States to make their initial determinations. In special circumstances, the States would be able to go directly to DOT to request the designation of specific highways even before the guidelines are issued. As the author of this provision, I can assure the Senator from Michigan that it is my intent and the intent of the Commerce Committee that this matter be of the highest priority for DOT. They should complete the initial guidelines promptly.

Mr. LEVIN. Second, with respect to subsection (e)(1), which allows the States to prohibit double bottoms on Federal-aid roads pursuant to guidelines to be developed by the Secretary of Transportation, can you respond to the following questions: If under the guidelines established by the Secretary, the States determine that certain roads are unsafe and the Secretary disagrees with the State's determination, who prevails? Assuming the Secretary's determination prevails, will that be judicially reviewable?

Mr. CANNON. There is no provision in the legislation for the Secretary to overrule a determination by an individual State. The Secretary, in my judgment, would have standing to seek judicial review of a State decision, but could not overrule it on his own. In fact, any highway user would probably be able to challenge a State decision, but the courts, not DOT would decide the issue.

Mr. LEVIN. Third, what power do the States really have under subsection (1)(e)?

Mr. CANNON. I would say that the States have very substantial discretion, so long as they stick within the general guidelines of DOT. I would also hope that where the guidelines are not yet developed or where the States have special concerns, that the Secretary would be responsive to requests for specific designations by DOT. I also think that the Secretary should and will err on the side of caution in making designations. He can always change his mind on the specific designations, but if he has any doubts, he should declare the highway in question to be nonqualifying.

Mr. LEVIN. Fourth, with respect to the guidelines, I wonder whether it might not be possible to set forth specific factors which should be considered by the Secretary in developing the guidelines under subsection (e)(1). For example, data compiled by the National Center for Statistics and Analysis in the DOT that compares fatality rates among different types of vehicles on the roads at issue here could be an important source of information for the Secretary in developing the guidelines. Specifically, is it the Senator's intent that the following factors be taken into account by the Secretary in developing the guidelines?

Type of vehicle; the material being transported in the vehicle; conditions and dimensions and terrain of the road; weather conditions; and level of traffic on the road.

If so, will the Senator work to insure that the conference report on the gas tax bill requires the Secretary to rely on these factors in setting the guidelines under this subsection?

Mr. CANNON: The factors listed by the Senator from Michigan are precisely those that are intended to be considered. I can assure you that I will do everything I can to insure that the conference report specifies that these are among the factors to be considered. I thank the Senator for his concern about this issue. I think he has added a great deal to it.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, If I could have the attention of Members for a moment, I wish to apprise them of the unanimous-consent request that I wish to put in a few moments, but I shall not put it at this time.

The purpose of this announcement is to give all of those who may hear me on the floor or elsewhere by our public address system notice of what we are about.

First, let say that the National Weather Service has notified me that beginning at about 9 p.m. or 9:30 p.m. tonight they expect a second winter storm and snow accumulation in the Washington area of an additional 3 to 6 inches. Knowing the Weather Service as we do, that may mean it is going to be bright and sunny tomorrow. But taking it a face value, it means we may have trouble getting home if we stay very late.

I have consulted with Members on this side, principally the distinguished Senator from North Carolina, and I think perhaps he has consulted with others, and I am encouraged to think that if we can get out of here like the next 5 or 10 minutes and come in tomorrow at a decent time, say, 11 or 12

o' clock, so we miss the snow traffic in the morning, we could get a time certain to vote on the Baker substitute at either 5 or 6 p.m. tomorrow afternoon.

Senators should understand that that means that the matter is still not disposed of because assuming that the Baker substitute is passed we still have the bill to deal with and perhaps cloture to invoke on that measure as well.

But I strongly urge Senators to consider that a time certain for a vote on the Baker substitute is a great step forward and if we can get that at a time certain tomorrow I think it is a huge accommodation to the entire Senate, and my special gratitude would go to those who are involved in the opposition to this bill and if we can get out of here in the next 15 or 20 minutes I think we should do it.

That is my recommendation. It is not yet my unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. I think this is a good proposal. I think we should explore it just a little bit.

First, once the Baker substitute is agreed to and no amendments to the bill are in order—I do not know how many Senators on our side have amendments. I gather very few in number.

And the second thing is I am told that the conferees are supposed to go back to meet at 9 p.m. this evening on the continuing resolution.

The third question I ask is this: If the continuing resolution comes back, if the conference report on the continuing resolution comes back to the Senate, say, at 3 p.m. tomorrow afternoon or 4 p.m., and we are supposed to vote on the Baker amendment at 6 p.m. or whatever, what is the majority leader's intention? Is it his intention to immediately go to the continuing resolution?

Mr. BAKER. Mr. President, I have indicated previously that I am going to take up that continuing resolution conference report as soon as I can get it, and the answer to the minority leader is that means as soon as someone walks through the door with a message from the House of Representatives or soon thereafter.

I say that will not abandon nor vitiate the vote on the Baker substitute at 6 p.m.

But his query is, Am I going to go to the conference report immediately? And the answer is "yes."

Mr. ROBERT C. BYRD. I am glad to have that answer. That was one of the things I insisted on in the agreement last night and heretofore that the majority leader have the right to go immediately to that continuing resolution.

Mr. BAKER. That was granted last evening.

Mr. ROBERT C. BYRD. Notwithstanding cloture being invoked. I was very supportive of that.

Mr. BUMPERS. Mr. President, will the majority leader yield for a question?

Mr. BAKER. I am glad to yield.

Mr. BUMPERS. I make it on behalf of my wife and three children. They would like to know when I am going to join them in Arkansas. Could the majority leader give me any news that I could give them?

Mr. BAKER. Mr. President, I hardly know how to answer the Senator. I know he passes through Tennessee on his way to Arkansas. I always try to encourage tourism. [Laughter.]

And we will say to my friend we are going to make it. But as to when we are going to make it I do not know. I hope we make it tomorrow. I said this morning that we will make it tonight. One of my friends and colleagues on the other side of the aisle wanted to know if he could have a puff on my cigarette. [Laughter.]

I do not know what he meant by that, I hasten to say.

But, Mr. President, seriously, this is a major step forward. If we can get a time certain for the vote on the Baker substitute we have the conferees within striking distance of completing the matter. It is going to take 10 to 16 hours, I am told, to get the conference report in shape to deliver it to the House of Representatives.

The clock is going to require us to be in here all day tomorrow and probably late into the evening just to get the continuing resolution out of the way.

That is another reason why we should try to get out of here tonight so we do not once again have 2 late nights back to back.

So I say to my friend I hope we can finish this thing tomorrow night and he can be on his way through Tennessee at a leisurely pace and on to Arkansas on Tuesday.

Mr. ROBERT C. BYRD. Through West Virginia on his way to Tennessee.

Mr. President, has the Senator from Arkansas finished?

Mr. BUMPERS. I have finished.

Mr. ROBERT C. BYRD. Mr. President, if the majority leader will yield, we have run a hotline and we find no objection to this request. My suggestion would be that the majority leader put us in at noon tomorrow. We will have icy roads in the morning. We will be here and there be a vote no later than 6 p.m. on the majority leader's substitute, no later than 6 p.m. with the understanding that if the conference report on the continuing resolution comes in in the midst of that debate the majority leader will, as he has assured us, take up the conference report on the continuing resolution.

Mr. BAKER. I am sorry. I was momentarily diverted on the part of the continuing resolution on the continuing resolution.

Mr. ROBERT C. BYRD. My suggestion was that the Senator go ahead and propound his request. I find no objection on this side, but that he have the Senate come in tomorrow at noon because the House of Representatives is not going to come in until noon, it is my understanding, and that we vote no later than 6 p.m. on the Baker substitute with the understanding that when the conference report comes in, the majority leader, with the authority already given by the order of the Senate, call up that conference report.

ORDER FOR RECESS UNTIL TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR VOTE TO OCCUR NO LATER THAN 6 P.M. BAKER SUSTITUTE ON TOMORROW

Mr. BAKER. Mr. President, I further ask unanimous consent that not later than 6 p.m. tomorrow a vote occur on the Baker substitue.

Mr. President, I assure the Senator that when the conference report on the continuing resolution reaches the door I will consult with him as the order requires and ask the Senate to proceed to that matter as the Senate has already authorized me to do.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have one modification that the Senator from North Carolina suggests, that the vote on the Baker substitute would occur not eariler than 5 p.m. and not later than 6 p.m.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there will be no more record votes tonight.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. As in morning business, Mr. President, I have another matter to take care of that I believe has been cleared, and I should like to state it now for the consideration of the minority leader and other Senators.

Mr. President, there is a conference report here and available. If the minority leader is prepared to do so, I would like to proceed to the consideration of the false identification conference report to accompany H.R. 6946.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

PENALTIES FOR FALSE IDENTIFICATION — CONFERENCE REPORT

Mr. BAKER. I ask the Chair to lay before the Senate that conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6946) to amend title 18 of the United States Code to provide penalties for certain false identification related crimes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 17, 1982.)

The PRESIDING OFFICER. The question is on ageeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REGULATORY REFORM

Mr. LEAHY. Mr. President, one major issue before the Senate was the Laxalt-Leahy regulatory reform bill.

Mr. President, during the last 2 years many of us devoted much of our energies to framing a regulatory reform bill that would make our administrative agencies more efficient servants of the public, without weakening their effectiveness.

I want to call the attention of my colleagues to an article in yesterday's Christian Science Monitor reviewing the history of this legislation from its origins in the 96th Congress. The piece is by Stuart E. Eizenstat, who was President Carter's chief domestic policy adviser. During Mr. Eizenstat's tenure in the White House, he was a strong and effective spokesman for a more rational regulatory system. The article deftly summarizes the arguments in favor of the bill. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Dec. 17, 1982]

PASS THE REGULATORY REFORM BILL

(By Stuart E. Eizenstat)

It is time for Congress to pass the regulatory reform bill. It is a sound and valuable proposal, assigned top priority by Presidents Carter and Reagan, with broad support from all sides in the Congress. It is already sufficiently advanced—unanimously approved by the Senate and by the House Judiciary Committee—that it could pass without crowding the appropriations and employment bills that should be the chief preoccupation of the lame-duck session.

The bill is designed to make individual regulatory programs more orderly, open, and commonsensical—not to gut useful health, safety, and environmental legislation. Its passage can help calm the vexations and distracting national debate about whether regulation is good or bad, on terms that all sides, including the business community, should accept.

It is one administration priority in which the House leadership and the President can readily concur.

The bill that will have the blessing of the House leadership, if one reaches the floor, is the product of four months of negotiations between representatives of the business community, the Speaker's staff, and relevant House and Senate committee staffs. In substance, it differs little from the original regulatory reform proposal that President Carter sent to the Congress in March 1979.

The heart of the bill is a straightforward requirement that agencies analyze the costs and benefits of "major" new proposed rules, and the comparative cost-effectiveness of the realistic alternatives to them. The bill also requires a reappraisal of major existing rules to see if they should be retained, changed, or dropped.

The 96th and 97th Congress have added some features to the original proposal, sponsored mainly by prominent Democrats. Amendments by Senators Kennedy, Leahy, and Laxalt, and by Representatives Danielson and McClory promote disclosure of agency decision processes, including their written communications with the White House. Senator Bumpers has directed federal courts to take a "hard look" at agency decisions and not automatically defer to presumed agency "expertise"—something that good federal judges already do anyway. Senators Levin and Boren have contributed a procedure for congressional review of major agency rules, that preserves the President's constitutional authority to veto any legislative veto of any agency decision.

As President Carter said when he submitted it—and as the recent elections clearly confirm—the American people want "responsible regulations to provide equal opportunity for employment, a clean environment, safe drugs and food, a healthy workplace, and a competitive marketplace." But we also need, as Carter added, a device to enable us to stop and say: "Does each of these rules make sense? Does it do the job? How much does it cost, and is there a cheaper way to achieve goals just as effectively?"

I know that these concepts trouble some whom I greatly respect in the public interest and labor communities. As they observe, excessive new red tape could hamper the government's ability to respond to serious social problems. But this bill will require minimal new formality and procedural rigor.

Moreover, assuring reasoned agency decisionmaking and judicial scrutiny can help environmental and consumer advocates in court as much as industry lawyers. Earlier this year, for example, a federal court ordered administration deregulators to reinstate the Department of Transportation's auto passive restraint rule. The court held that DOT had failed to prove that scuttling the rule would cut new car prices more than it would increase medical, insurance, and social service costs.

In sum, the regulatory reform bill deserves the broad-based support it enjoys. But two caveats should be noted. First, the House should seek an understanding with the Senate that will preclude a lengthy conference and will assure a final product that, like the House bill, will not dilute substantive health and safety standards in existing laws. In practice, this may mean that the Senate will simply have to accept the House bill intact.

Second, the old bugaboo of a constitutionally defective government-wide legislative veto rider, with no presidential veto provision, could be added to the bill on the House floor. To be sure, courts have recently struck down legislative vetoes that do not preserve the President's veto power, and there are good indications that the Supreme Court would invalidate such a rider, if it were adopted. Still, it would be very risky and unwise policy to pass a regulatory reform bill that includes an unconstitutional legislative veto provision. The scarce time and resources of the lame-duck session should not be squandered on controversial proposals of questionable merit, that were at preliminary stages of the legislative process before the recess.

Regulatory reform has none of those deficiencies. Passing it now would be a big step in the direction of good government.

A TRIBUTE TO COL. JOHN G. CAMPBELL

Mr. HEFLIN. Mr. President, in our service here in the U.S. Senate, there are many persons to whom we should be indebted for the help and assistance they provide to us, as well as to our staffs.

By this, I mean to refer mainly to the people who you see in the many different offices, lining the halls of the Senate Office Buildings, serving as liaison offices for all the different branches and agencies of the Federal Government. Each of us is fully aware of the hard work done by staff members of these liaison offices, all done in an effort to assist us, in whatever ways possible, in the operation of the U.S. Senate.

Today, I am pleased to have the opportunity to pay tribute to one par-

ticular staff member of one particular liaison office. That individual is one who has been of great help to my office since I first came to the U.S. Senate some 4 years ago. His name is Col. John G. Campbell, who has recently retired as Chief of the Army's Senate Liaison Office.

I feel sure that all of my colleagues are well aware of the great deal of assistance and support that are provided by the Senate's military liaison offices. We all know that we each have many constituents who are in our Armed Forces, and who contact our offices for assistance with various problems. Additionally, it always seems that we, or our legislative assistants, are in need of quick assistance with facts or figures on military legislation.

The ease we all have in dealing with the Army Liaison Office is, in large part, due to the leadership of Colonel Campbell. He is retiring from the Army after some 22 years of outstanding and distinguished service. For the last few years of this service, Colonel Campbell has been assisting us here in the U.S. Senate, and it is indeed a great assistance that he and his colleagues have been.

Colonel Campbell has been not only a dedicated Army officer, but, through his work in the Army Liaison Office, a distinguished public servant. In his Army career, he has been decorated for his gallant and heroic actions in times of war, as well as for his highly meritorious service in peacetime.

We each owe a greal deal to Colonel Campbell. My staff and I wish him well during his retirement, and know he will go on to distinguish himself in all of his future endeavors.

Thank you, Mr. President.

THE RETIREMENT OF COACH PAUL "BEAR" BRYANT

Mr. HEFLIN. Mr. President, there are very few men of whom it may be said that they truly become legends in their own time. On Wednesday, November 15, 1982, Paul "Bear" Bryant, a man who is truly a legend in his own lifetime, retired as head football coach at the University of Alabama. He will remain as athletic director for another year.

Since 1945, Coach Bryant has had an unbelievably successful coaching career, and has, indeed, become probably more widely identifiable with the sport of college football than has any other individual.

During this career, Coach Bryant has coached 1 year at the University of Maryland, 8 years at the University of Kentucky, 4 years at Texas A&M University, and 25 years at the University of Alabama.

Through these moves, and all of the changes that 38 years have seen, one thing has remained constant—Coach Bryant and his teams have always been winners. His record as a head coach is 322 wins, 85 losses, and 17 ties. At Alabama, Bryant has coached the Crimson Tide to 231 wins against only 46 losses, and 9 ties. He has only one game remaining as head coach—the Liberty Bowl in Memphis, Tenn., on December 29, when he will lead the Crimson Tide against the University of Illinois.

Coach Bryant has been named National Coach of the Year three times. No other coach has been named more than twice. Seven times he has been named Southeastern Conference Coach of the Year, three more than any other coach. He has coached teams to 12 Southeastern Conference championships—1 at Kentucky and 11 at Alabama. His teams have won or shared six national championships. No other coach has led teams to more than four national titles.

Coach Bryant has been named Southeastern Conference Coach of the Century, and NCAA Coach of the Decade for the period 1960–69. After winning that honor, he swept through the 1970's, becoming the first coach to ever win 100 games in a decade.

The numbers can go on endlessly, it seems, but the dimensions of the man go far beyond mere numbers. Coach Bryant is the only coach or athletic director I know of to establish a scholarship fund with personal donations. He has given over $300,000 to the university to be used for scholarships for handicapped and needy students. None of the money may be used for athletic purposes.

As athletic director, Coach Bryant has built an athletic program which is financially sound, while also building an athletic dormitory, a coliseum, a track stadium, a tennis stadium, a natatorium, a club house for the golf course, and enlarging the football stadium. Additionally, acres of tennis courts and recreational facilities for student use have been constructed. All this has been done with athletic receipts, without the use of State funds.

His list of honors goes on and on—University Administrator of the Year, charter member of the Alabama and Arkansas Sports Halls of Fame, the National Award from the Fellowship of Christians and Jews, the National American Legion Commander's Public Relations Award, and only the third athletic figure to be named to the American Award of Achievement.

There are those who complain that football is only a sport, and that too much emphasis is given to winning. But while we are impressed by the number of wins Coach Bryant has achieved as a coach, we should be equally impressed by the impact he has had upon the lives of those who have come in contact with him.

Coach Bryant is a winner not only because he is a tough taskmaster, but also because he cares about the welfare of each athlete. He is involved in each player's future, as he teaches them as much about life as he does about football.

In his 38 years of coaching, Coach Bryant has had a remarkable effect upon the people with whom he has come in contact and who have been entrusted to his care.

Coach Bryant sets an example. The lines on his face, his expressions, his figures of speech, all reflect a history of practicing what he preaches. It has been said that, even if you have never met Bear Bryant, the first time you see him walk into a room, he has the kind of face that makes you want to stand up and cheer.

Coach Bryant is a humble person. He sees his many accomplishments not as personal triumphs for which he alone is responsible, but as collective achievements, in which his players, his coaching staff, their families and friends, and the fans have played a role.

He is a man of few words, of a solid philosophy. He has become not just a coach of a great football team, but he has become a true leader. More than that, he has become a legend and a folk hero of this great country of ours.

A true leader is someone who can inspire others to do great things, and, by this standard, coach Bryant is a truly gifted leader of men. More than 60 of his players have been named to the first team All-American teams. Almost 50 of his former players of assistant coaches have gone on to become head coaches in either college or professional football.

Among the coaches who he has tutored, as a player or assistant coach, or both, are Danny Ford of Clemson, Jackie Sherrill of Texas A&M, Howard Schnellenberger of Miami, Steve Sloan of Duke, and Pat Dye of Auburn.

Among the outstanding players he has coached are many familiar names: Joe Namath, Ken Stabler, Richard Todd, John Hannah, Lee Roy Jordan, Ozzie Newsome, and countless others.

Keeping all of this in mind, I guess it is not at all surprising that the person chosen to succeed Coach Bryant at Alabama is another of his proteges, a former All-American receiver for the Crimson Tide, and now head coach of the New York Giants, Ray Perkins.

Paul "Bear" Bryant—the winningest, and quite possibly the most famous, college football coach of all time. Still, this man who outfought, outcoached, oughtthought, or outlived his peers should be remembered not only for his winning record, but also for his record away from the football field.

I wish Coach Bryant the best in his retirement from coaching. I know that his lovely wife Mary Harmon will certainly enjoy having a little more time

with her husband than his career allowed.

Speaking, however, for all fans of Alabama football, we will miss Coach Bryant, a true legend in his own time.

Thank you, Mr. President.

MESSAGES FROM THE HOUSE

At 4:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its clerks, announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for fiscal year 1983, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. YATES, Mr. ROYBAL, Mr. BEVILL, Mr. DICKS, Mr. GINN, Mr. SABO, Mr. DIXON, Mr. FAZIO, Mr. CONTE, Mr. MCDADE, Mr. EDWARDS of Alabama, Mr. MEYERS, Mr. ROBINSON, Mr. COUGHLIN, Mr. KEMP, and Mr. LEWIS as managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

At 4:35 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 1340. An act to provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes;

S. 2611. An act to amend the Peace Corps Act; and

S. 3073. An act to provide for the distribution within the United States the U.S. Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson."

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

ADDITIONAL COSPONSORS

S. 2930

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2930, a bill to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

SURFACE TRANSPORTATION ACT OF 1982

AMENDMENT NO. 5629

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to an amendment to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

NATURAL AREAS TAX PROTECTION ACT OF 1982

AMENDMENT NO. 5630

(Ordered to be printed and lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to the bill (S. 3024) to amend the Internal Revenue Code of 1954 to promote transfers of real property interests to certain organizations for use for conservation purposes.

ADDITIONAL STATEMENTS

VIOLENT CRIME AND DRUG ENFORCEMENT IMPROVEMENTS ACT

● Mr. MATHIAS. Mr. President, the last days of this Congress have been extraordinarily busy. We in the Senate and our colleagues in the other body have had to make an enormous number of difficult decisions about the legislation before us. The number of rollcall votes over the past few days is indicative of the volume of those legislative decisions. But the record should reflect that many important choices have been made without a formal vote. That does not make those decisions any less significant.

In my view, one of the most important decisions which we have made in recent days is not clearly reflected in the pages of the CONGRESSIONAL RECORD. I rise, therefore, to point it out to my colleagues, and to the American people. I refer to the decision not to press forward in this Congress with the Violent Crime and Drug Enforcement Improvements Act of 1982, which came before this body on September 30 as S. 2572.

That bill did not excite much controversy on the floor of the Senate. I believe that it should have, but, in fact it passed the Senate after relatively brief debate, without attracting much attention to itself. It did, however, attract the attention of some outside the Senate, including the editors of the New York Times.

The Times printed an editorial on December 8, 1982, which included some rather harsh language directed against S. 2572. It called the bill "a 232-page prosecutor's Christmas tree." It said that "the only kind of attention this bill deserves is contempt." And it continued, "Those who support it are kidding themselves, as well as the country, about crime."

I opposed this bill on the Senate floor, but I do not believe that the supporters of this bill, including the distinguished chairman and ranking minority member of the Judiciary Committee, are "kidding themselves, as well as the country, about crime." The best refutation of that charge is the decision by the bill's supporters not to press forward with it in the waning days of this lameduck session.

The issues which S. 2572 addresses are real ones. The bail process, the sentencing decision, the handling of drug cases—all these aspects of our criminal justice system need improvement. I look forward to working with the Senator from South Carolina, the Senator from Delaware, and other Senators, to see what we can do during the 98th Congress to make the system work better.

Our chances of success in that endeavor will be enhanced if we can avoid two pitfalls into which S. 2572 stumbled. One is the omnibus approach to criminal legislation. Although the Violent Crime and Drug Enforcement Improvements Act was itself a slimmed-down version of the mammoth Criminal Code Reform Act, it still tried to address too many complex issues at once. Enactment of a useful statute in any one of the areas addressed by this bill would have required hard work, attention to detail, and the resolution of numerous important policy questions. The history of attempts at criminal code legislation over the past decade ought to teach us that any multiissue, comprehensive legislative initiative in this field is destined to collapse under its own weight. I hope that we can learn and apply that lesson in the next Congress.

Second, I hope that any criminal legislation which we consider next year will give due weight to the necessity to preserve judicial independence, particularly in the area of sentencing. The sentencing decision is perhaps the hardest that any judge has to make. For many judges, all the shortcomings and frustrations of our criminal justice system are epitomized in the moment when a decision must be made as to the disposition of a convicted criminal. Each criminal is different from any other; so is every crime. The sentencing decision has always been an individualized one; it must remain so. Certainly it is important for the Congress to give guidance to judges in passing sentence, and to take steps to reduce unwarranted disparities. But I hope that we can resist the temptation to hedge the sentencing process about with a proliferation of guidelines, policy statements, definitional standards, and other restrictions, all emanating from a body that lacks the independence and freedom from politi-

cal pressure that characterizes the Federal bench. This, in my view, was one of the principal defects in the system envisioned in S. 2572.

Mr. President, I ask that the times editorial be printed at this point in the RECORD.

The editorial follows:

[From the New York Times, Dec. 8, 1982]

KIDDING AROUND ABOUT CRIME

Just before the election, the Senate tried to show voters how tough Congress could be about crime. Never mind constitutional niceties like the presumption of innocence; in the name of public safety it passed a preventive detention bill that would make it national policy to jail people who can't prove they won't commit a violent crime.

Now in the lameduck session, the bill's supporters want the House of Representatives to accept the bill, a 232-page prosecutor's Christmas tree, without hearings on preventive detention or a dozen other of its provisions. The only kind of attention this bill deserves is contempt. Those who support it are kidding themselves, as well as the country, about crime.

When it comes to depriving suspects of bail, Congress has already stated an admirable Federal policy in the 1966 Bail Reform Act. Acknowledging the Constitution's commitment to reasonable bail and due process, it requires pretrial release for those accused of Federal crimes unless they are likely to flee to avoid trial. That policy recognizes that the accused hasn't been convicted of the crime charged, much less any future crime that prosecutors suspect he might commit.

That policy is not only constitutional, it is also practical. There is no Federal bail problem so pressing that Congress must address it now. The Reagan Administration has complained of bail-jumping, especially in narcotics cases. But that can be solved by pressing judges to set higher bail for well-financed narcotics suspects.

Other parts of the bill have merit. They would combat disparities in criminal sentencing, help crime victims and support drug enforcement. But many provisions have had scant attention in the Senate and none in the House. There's no reason to rush them into law. There's every reason not to tarnish the Constitution by plunging ahead. Preventive detention is useful only as a political trophy for the Reagan Administration. As a crime-fighting measure, it is unnecessary.●

RUSSELL BAKER ON NUCLEAR STRATEGY

● Mr. KENNEDY. Mr. President, in a recent article in the New York Times, Russell Baker makes the important point that nuclear strategy is too important to be left to the experts, and that the constant participation of the American people in the debate is essential to keep the experts in touch with reality.

At this critical stage in the debate, the commonsense of the American people is more important than ever. At the present time, the administration's experts are trying to convince us that building more and more nuclear warheads is the key to nuclear arms control. They urge us not to question their plans for the largest peacetime military buildup in our history. An Under Secretary of Defense claims that everyone can make it through a nuclear war, if only there are enough shovels to go around. And most recently, the administration has been trying to persuade us that the way to protect our strategic missiles from Soviet attack is to pack them all together in the same place.

Russell Baker's comments on the excesses of nuclear strategy are stated with his characteristic eloquence and humor, but his underlying message is of vital importance to all of us as Congress and the country continue to deal with these complex issues. I ask that Mr. Baker's article may be printed in the RECORD.

The article follows:

[From the New York Times, Dec. 12, 1982]

NUCLEAR FREEZE FRAME

(By Russell Baker)

My position on the nuclear freeze is that the Government ought to stop telling me I'm too dumb to have an opinion on it.

Of course it's a complicated business, but it's nowhere near as hard to understand as economics, and during the elections this fall President Reagan urged everybody in the country to have an opinion about his economic policy. So did every other politician in the Government, as well as all of those who hoped to get into the Government.

Not a single one of them said, "National economic policy is so complicated that only a handful of scholars can hope to understand it, so we'd appreciate it if the rest of you would realize that you're too dumb to get involved, and leave it up to the experts."

The reason nobody said this, I suppose, was fear that the whole country might collapse laughing at the suggestion that the experts understand the economy better than us dumbbells. The politicians know as well as the rest of us that in economics an expert is just another fellow waiting for events to make a monkey of him.

This sensible view of experts has never extended to nuclear policy. There, a small group of "strategic thinkers" has been elevated above mere experthood to a kind of secular priesthood. To suggest that they may be just as wrong about their business as economists usually are about theirs is treated, if not as an act of heresy, at least as an impudence silly in the extreme.

Why "strategic thinkers" should be immune to the skepticism to which all other experts are subjected is a mystery. For a long time, I thought it was because some many of them spoke with Middle European accepts. There is something intimidating about a man who can talk about "mutual assured destruction" in a Middle European accent. It sounds so much more profound than it does when discussed in a Middle Wester drawl.

I abandoned this theory after noting that many delicatessen countermen in New York also speak in Middle European accents, yet have trouble making change. And anyhow, what had Middle Europe ever produced except incessant warfare?

Gradually, I evolved another theory; namely, that nobody bothers to challenge them because nobody has yet had provocation to do so. When an economist's theory puts you out of work you're likely to look at him with a skeptical eye. In the same way, I suppose, if the nuclear philosophers got us all blown to pieces we would revise our respect for their credentials. But of course, by that time, there wouldn't be must point in it.

This being the case, it seems to me that the time to start treating the "strategic thinkers" priesthood as just another bunch of experts is right now. In this belief, I urge them to persuade their political front man to quit telling us we are too dumb to understand nuclear strategy.

Over 30 years their theories, aimed at protecting the country from destruction, have produced arsenals here and abroad sufficient to destroy civilization several times more than necessary to preserve it. Maybe this makes sense, but I doubt it. In any case, if you ask, "Are you guys sure you know what you're doing?" is it a satisfactory answer to be told, "Shut up, dummy, and worry about something like economics"?

Personally, I worry when I hire somebody to do a job like, say, putting on a new roof. If he puts on a layer of shingles and then starts putting on another, I'm apt to say, "What do you think you're doing?" And he'll probably say, "Two layers of shingles will give you a lot more insulation."

If he goes on to third, fourth and fifth layers, sooner or later I'm going to say, "Are you sure you know what you're doing?" and if he says, "Shut up, dummy, and worry about something like plumbing," I'm going to develop some strong roofing theories of my own, the first one being that I don't need a 30-story pile of shingles to keep me adequately insulated.

Now nuclear strategy is more complicated than roofing, and I don't want to suggest it isn't. On the other hand, economic policy is more complicated than nuclear strategy (if you think it isn't, just send me your formula for achieving full employment without inflation while rectifying the balance of trade throughout the world), yet how many of us would hesitate to tell an economist he doesn't know what he's doing?

Sure, we're dumb about economics and dumb about nuclear strategy too, but genuine unforgivable dumbness consists in letting ourselves be persuaded that the experts don't need us shouting at them to keep them in touch with human reality.●

THE SECOND AMENDMENT OF THE U.S. CONSTITUTION GUARANTEES THE INDIVIDUAL RIGHT TO KEEP AND BEAR ARMS

● Mr. SYMMS. Mr. President, these days it seems that any mention of the second amendment of the U.S. Constitution and the constitutional guarantee of the individual right to keep and bear arms will inevitably result in an energetic debate. In view of this continuing and heated controversy, the recently released report of the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, entitled "The Right To Keep and Bear Arms," is both timely and informational.

I urge my colleagues in the Senate to read this report which provides a careful analysis of the history, intent and purpose of the second amendment to the Constitution. Further, I would

like to draw my colleagues' attention to the preface of this report and its outstanding history of the development and intent of the second amendment's individual guarantee of the right to keep and bear arms, written by the distinguished Senator from Utah (Mr. HATCH), chairman of the Senate Judiciary Subcommittee on the Constitution. Senator HATCH had this report initiated as the first order of business on assuming chairmanship of the subcommittee. He is to be commended for his wisdom and foresight in carrying this project to fruition.

In addition, you may wish to inform your constituents about this report. For their convenience, the report is available from the Government Printing Office, Superintendent of Documents. Further, it can be read at any one of the numerous depository libraries within each of your respective States.

I ask that the following preface be inserted at this point in the RECORD.

The preface follows:

U.S. SENATE REPORT OF THE COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON THE CONSTITUTION, WASHINGTON, D.C., MARCH 1, 1982

"THE RIGHT TO KEEP AND BEAR ARMS"

Preface

"To preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them." (Richard Henry Lee, Virginia delegate to the Continental Congress, initiator of the declaration of Independence, and member of the first Senate, which passed the Bill of Rights.)

"The great object is that every man be armed . . . Everyone who is able may have a gun." (Patrick Henry, in the Virginia Convention on the ratification of the Constitution.)

"The advantage of being armed . . . the Americans possess over the people of all other nations . . . Notwithstanding the military establishments in the several Kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms." (James Madison, author of the Bill of Rights, in his Federalist Paper No. 26.)

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." (Second Amendment to the Constitution.)

In my studies as an attorney and as a United States Senator, I have constantly been amazed by the indifference or even hostility shown the Second Amendment by courts, legislatures, and commentators. James Madison would be startled to hear that his recognition of a right to keep and bear arms, which passed the House by a voice vote without objection and hardly a debate, has since been construed in but a single, and most ambiguous, Supreme Court decision, whereas his proposals for freedom of religion, which he made reluctantly out of fear that they would be rejected or narrowed beyond use, and those for freedom of assembly, which passed only after a lengthy and bitter debate, are the subject of scores of detailed and favorable decisions. Thomas Jefferson, who kept a veritable armory of pistols, rifles and shotguns at Monticello, and advised his nephew to forsake other sports in favor of hunting, would be astounded to hear supposed civil libertarians claim firearm ownership should be restricted. Samuel Adams, a handgun owner who pressed for an amendment stating that the "Constitution shall never be construed . . . to prevent the people of the United States who are peaceable citizens from keeping their own arms," would be shocked to hear that his native state today imposes a year's sentence, without probation or parole, for carrying a firearm without a police permit.

This is not to imply that courts have totally ignored the impact of the Second Amendment in the Bill of Rights. No fewer than twenty-one decisions by the courts of our states have recognized an individual right to keep and bear arms, and a majority of these have not only recognized the right but invalidated laws or regulations which abridged it. Yet in all too many instances, courts or commentators have sought, for reasons only tangentially related to constitutional history, to construe this right out of existence. They argue that the Second Amendment's words "right of the people" mean "a right of the state"—apparently overlooking the impact of those same words when used in the First and Fourth Amendments. The "right of the people" to assemble or to be free from unreasonable searches and seizures is not contested as an individual guarantee. Still they ignore consistency and claim that the right to "bear arms " relates only to military uses. This not only violates a consistent constitutional reading of "right of the people" but also ignores that the second amendment protects a right to "keep" arms. These commentators contend instead that the amendment's preamble regarding the necessity of a "well regulated militia . . . to a free state" means that the right to keep and bear arms applies only to a National Guard. Such a reading fails to note that the Framers used the term "militia" to relate to every citizen capable of bearing arms, and that Congress has established the present National Guard under its power to raise armies, expressly stating that it was not doing so under its power to organize and arm the militia.

When the first Congress convened for the purpose of drafting a Bill of Rights, it delegated the task to James Madison. Madison did not write upon a blank tablet. Instead, he obtained a pamphlet listing the State proposals for a bill of rights and sought to produce a briefer version incorporating all the vital proposals of these. His purpose was to incorporate, not distinguish by technical changes, proposals such as that of the Pennsylvania minority, Sam Adams, or the New Hampshire delegates. Madison proposed among other rights that "That right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service in person." In the House, this was initially modified so that the militia clause came before the proposal recognizing the right. The proposals for the Bill of Rights were then traimmed in the interests of brevity. The conscientious objector clause was removed following objections by Elbridge Gerry, who complained that future Congresses might abuse the exemption to excuse everyone from military service.

The proposal finally passed the House in its present form: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.:" In this form it was submitted into the Senate, which passed it the following day. The Senate in the process indicated its intent that the right be an individual one, for private purposes, by rejecting an amendment which would have limited the keeping and bearing of arms to bearing "For the common defense".

The earliest American constitutional commentators concurred in giving this broad reading to the amendment. When St. George Tucker, later Chief Justice of the Virginia Supreme Court, in 1803 published an edition of Blackstone annotated to American law, he followed Blackstone's citation of the right of the subject "of having arms suitable to their condition and degree and such as are allowed by law" with a citation to the Second Amendment, "And this without any qualification as to their condition or degree, as is the case in the British government." William Rawle's "View of the Constitution" published in Philadelphia in 1825 noted that under the Second Amendment: "The prohibition is general. No clause in the Constitution could by a rule of construction be conceived to give to Congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretense by a state legislature. But if in blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both." The Jefferson papers in the Library of Congress show that both Tucker and Rawle were friends of, and corresponded with, Thomas Jefferson. Their views are those of contemporaries of Jefferson, Madison and others, and are entitled to special weight. A few years later, Joseph Story in his "Commentaries on the Constitution" considered the right to keep and bear arms as "the palladium of the liberties of the republic", which deterred tyranny and enabled the citizenry at large to overthrow it should it come to pass.

Subsequent legislation in the second Congress likewise supports the interpretation of the Second Amendment that creates an individual right. In the Militia Act of 1792, the second Congress defined "militia of the United States" to include almost every free adult male in the United States. These persons were obligated by law to possess a firearm and a minimum supply of ammunition and military equipment. This statute, incidentally, remained in effect into the early years of the present century as a legal requirement of gun ownership for most of the population of the United States. There can be little doubt from this that when the Congress and the people spoke of a "militia", they had reference to the traditional concept of the entire populace capable of bearing arms, and not to any formal group such as what is today called the National Guard. The purpose was to create an armed citizenry, which the political theorists at the time considered essential to ward off tyranny. From this militia, appropriate measures might create a "well regulated militia" of individuals trained in their duties and responsibilities as citizens and owners of firearms.

If gun laws in fact worked, the sponsors of this type of legislation should have no difficulty drawing upon long lists of examples of crime rates reduced by such legislation. That they cannot do so after a century and a half of trying—that they must sweep under the rug the southern attempts at gun control in the 1870–1910 period, the northeastern attempts in the 1920–1939 period,

the attempts at both Federal and State levels in 1965-1976—establishes the repeated, complete and inevitable failure of gun laws to control serious crime.

Immediately upon assuming chairmanship of the Subcommittee on the Constitution, I sponsored the report which follows as an effort to study, rather than ignore, the history of the controversy over the right to keep and bear arms. Utilizing the research capa- bilities of the Subcommittee on the Constitution, the resources of the Library of Congress, and the assistance of constitutional scholars such as Mary Kaaren Jolly, Steven Halbrook, and David T. Hardy, the subcommittee has managed to uncover information on the right to keep and bear arms which documents quite clearly its status as a major individual right of American citizens. We did not guess at the purpose of the British 1689 Delclaration of Rights; we located the Journals of the House of Commons and private notes of the Declaration's sponsors, now dead for two centuries. We did not make suppositions as to colonial interpretations of that Declaration's right to keep arms; we examined colonial newspapers which discussed it. We did not speculate as to the intent of the framers of the second amendment; we examined James Madison's drafts for it, his handwritten outlines of speeches upon the Bill of Rights, and discussions of the second amendment by early scholars who were personal friends of Madison, Jefferson, and Washington and wrote while these still lived. What the Subcommittee on the Constitution uncovered was clear—and long-lost—proof that the second amendment to our Constitution was intended as an individual right of the American citizen to keep and carry arms in a peaceful manner, for protection of himself, his family, and his freedoms. The summary of our research and findings forms the first portion of this report.

In the interest of fairness and the presentation of a complete picture, we also invited groups which were likely to oppose this recognition of freedoms to submit their views. The statements of two associations who replied are reproduced here following the report of the Subcommittee. The Subcommittee also invited statements by Messrs. Halbrook and Hardy, and by the National Rifle Association, whose statements likewise follow our report.

When I became chairman of the Subcommittee on the Constitution, I hoped that I would be able to assist in the protection of the constitutional rights of American citizens, rights which have too often been eroded in the belief that government could be relied upon for quick solutions to difficult problems.

Both as an American citizen and as a United States Senator I repudiate the view. I likewise repudiate the approach of those who believe to solve American problems you simply become something other than American. To my mind, the uniqueness of our free institutions, the fact that an American citizen can boast freedoms unknown in any other land, is all the more reason to resist any erosion of our individual rights. When our ancestors forged a land "conceived in liberty", they did so with musket and rifle. When they reacted to attempts to dissolve their free institutions, and established their identity as a free nation, they did so as a nation of armed freemen. When they sought to record forever a guarantee of their rights, they devoted one full amendment out of ten to nothing but the protection of their right to keep and bear arms against government interference. Under my chairmanship the Subcommittee on the Constitution will concern itself with a proper recognition of, and respect for, this right most valued by free men.

JANUARY 20, 1982.

ORRIN G. HATCH.
Chairman, Subcommittee on the Constitution, Committee on the Judiciary, U.S. Senate.●

RECESS UNTIL 12 NOON TOMORROW

Mr. BAKER. Mr. President, I see no Senators seeking recognition. I move, in accordance with the order previously entered, that the Senate stand in recess until 12 noon tomorrow.

The motion was agreed to and, at 8:34 p.m., the Senate recessed until Monday, December 20, 1982, at 12 noon.

SENATE—*Monday, December 20, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D. offered the following prayer:

Let us pray.

Almighty God, Sovereign Lord of history, we thank Thee that Thou art a God of things as they are, not as we wish they were. Thou art a God of realism, not of fantasy. Thou hast not given us a faith that is so heavenly minded it is no earthly good. Thou didst sovereignly move Emperor Caesar Augustus, the most powerful man of his day, supreme ruler of Pax Romana, to order a census so Thy Son would be born in Bethlehem. Thy Son, whose birth split history into B.C. and A.D.—who was destined to be a king—was not born in a palace, but in a stable. Thou didst announce this cosmic event, not to the Roman senate, or the civilized elite, but to a handful of shepherds in the field.

Gracious Father, there is nothing about this powerful Senate, collectively or individually, which Thou dost not know. Our secret thoughts, desires, aspirations, and ambitions are known to Thee. Thou knowest the compounding frustration felt by Senators and their families as Christmas draws near and they are unable to be involved in arrangements that demand the attention of mothers and fathers. Practical, down-to-earth Heavenly Father, manifest Thy power and grace in this place today. Help the Senators to finish the 97th Congress in an honorable way that will please Thee and bless the people. Fill this place with Thy love and peace. Dissolve any lingering enmity between Members as the Senate comes to adjournment. We pray in the name of Him whose sacrificial love includes the least as well as the greatest. Amen....SENATE... A20DE6 #53793 Lankford 12-20-82 A20DE6.002 f. %131.5

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT Pro Tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, am I correct that the provisions of rule XXII postcloture debate do not extinguish the time allocated to the two leaders under the standing order?

The PRESIDENT Pro Tempore. The Senator is correct.

REDUCTION OF LEADER TIME

Mr. BAKER. There are a few things that might be taken care of before we go back to the debate on the Baker substitute to the gas tax bill, and in order to make room for that, I ask unanimous consent, if the distinguished minority leader has no objection, that the time be reduced to not more than 5 minutes each.

Mr. ROBERT C. BYRD. I agree.

The PRESIDENT Pro Tempore. Without objection, it is so ordered.

PEOPLE WHO WENT BY IN WINTER

Mr. BAKER. Mr. President, today is a perfect day for this week's poem which was written by William Stafford. It is entitled "People Who Went By in Winter," and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

PEOPLE WHO WENT BY IN WINTER

The morning man came in to report
that something had crossed the field
in the night during the storm. He heard
ribbons of wind snap at their tether
and a sound like some rider saying
the ritual for help, a chant or a song.
When we went out all we found
were deep, slow tracks in freezing mud
and some sticks tied together hanging
from the lowest branch of the oldest
tree by the river.

While beginning snow eddied and curtained
thicker and thicker on, we looked.
The grass hurried by, seething, then silent,
brown, all the way to the west, a little
touch-by-touch trail to the mountains.
Our boss turned back: "No.
We can't help them. They sing till
they find a place to winter. They have
tents. They make it, somehow." He
looked off that long way, where
the grass tossed.

Riding home, he told us:
"My people were like them,
over around Grand Prairie—slaves once,
then landowners. Now they pass like
this, and I hear them, because
I wake up and am partly theirs."
He looked at every man, and
he put his hand on the neck of his horse:
"They are our people, yours and mine,
all of us," he said.
"In every storm I hear them pass."

—WILLIAM STAFFORD.

RECYCLING AND RECOVERY OF VALUABLE RESOURCES

Mr. BAKER. Mr. President, for nearly a century, recycling or recovering valuable materials such as paper from solid waste, has made an important contribution to the economic strength of America by helping to reduce solid waste disposal problems, providing income to civic and charitable organizations, generating tax revenues, and extending our natural resources.

Accordingly, under the Resource Conservation and Recovery Act of 1976 the Congress called for solid waste management planning activities to promote both materials recovery or recycling and energy recovery.

Toward this end, one of the stated objectives of the act is to foster "a cooperative effort among Federal, State, and local governments and private enterprise in order to recover valuable materials and energy from solid waste." The act further states that millions of tons of recoverable materials which could be used are needlessly buried each year; methods are available to separate usable materials from solid waste and the recovery and conservation of such materials can reduce the dependence of the United States on foreign resources and ease our balance-of-payments problems.

Paper recycling, for example, is technically and economically feasible as evidenced by the fact that the paper industry is currently collecting over 18 million tons of recycled paper annually to meet the demand of some 600 papermills in the United States.

In my own State of Tennessee, three large papermills manufacture new paper exclusively from recycled paper.

Despite the Congress historic commitment to recycling or materials recovery, there is growing concern that as government moves to develop alternate sources of energy, paper recycling is threatened by some plans to turn all solid waste into energy. These plans in many cases do not make adequate provisions for preserving the collection system for recyclable paper.

To address this concern and to clarify the original intent of the Congress under the act that solid waste management planning efforts adequately consider both materials recovery and energy recovery, the Resource Conservation and Recovery Act Reauthorization Act of 1982 (H.R. 6307), as approved by the U.S. House of Representatives, contains certain provisions

designed to protect the interests of recycling.

The House adopted provisions which provide that State solid waste management plans and energy recovery system contracts should adequately provide for the present and reasonably anticipated future needs of recycling in the area encompassed by the planning process.

This issue will be considered next year when the Resource Conservation and Recovery Act is up for reauthorization. It is my belief that this provision will be enacted in the next Congress to foster the continued compatibility of materials recovery and energy recovery.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I am told there is some possibility we can do a nuclear waste bill. I do not believe that is quite yet cleared, but I am told there is some possibility we can. I am willing to do that before we get on this other measure, if we do so by unanimous consent, which is the only way we could do it. But the reason for abbreviating leader time, to which the minority leader agreed, is that we might take some action on matters which have been cleared.

I inquire of the minority leader if he is similarly inclined to take up matters that have unanimous consent during the next 15 minutes or so?

Mr. ROBERT C. BYRD. I am inclined to take up this measure only if it is by—there is a problem on the nuclear waste matter.

Mr. STENNIS. Mr. President, will the floor leader yield to me for a question?

Mr. BAKER. Yes, I am pleased to yield.

Mr. STENNIS. I was as anxious as you to set a time. I am interested, too, in a matter that may come up. We do not yet know. If you want to have a quorum call, that is all right. The Senator from Idaho had asked for me to meet him here.

Mr. BAKER. Mr. President, the Senator from Mississippi has been in the very forefront of those who have concern, interested concern, on this measure because I know it has a major impact potentially on his State. I think his suggestion is a good suggestion, and during leader time which still remains I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold?

Mr. BAKER. Yes, I withhold.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, and that the quorum shall not extend beyond the hour of 12:15 p.m.

Mr. ROBERT C. BYRD. Mr. President, there is no way that that can be enforced because any Senator who wishes to object can do so, and there are a lot of Senators who are not on the floor.

Mr. BAKER. Mr. President, may I inquire, is the constitutional right to establish the presence of a quorum of such magnitude and stature that a unanimous-consent agreement could not terminate the time in which the agreement was made?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. I thank the Chair.

RECESS FOR 5 MINUTES

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 12:09 p.m., recessed until 12:21 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BOSCHWITZ).

ORDER OF BUSINESS

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I gather from the continuing negotiations that are going on behind me on the nuclear waste bill that we have not yet obtained an agreement on that, so I will not try to make any arrangements for it at this time. I would encourage Senators to continue to explore that possibility. If they can work out an agreed time period, I will ask unanimous consent to take it up later today if the minority leader is agreeable.

At this particular time I do not see any point in delaying the Senate. We have only a certain length of time to continue the debate on the gas tax bill.

I believe leader time has expired, is that correct?

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator is correct.

Mr. BAKER. Would the Chair state the business before the Senate?

SURFACE TRANSPORTATION ACT OF 1982

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with Title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. Chairman, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3809

Mr. BAKER. Mr. President, we have tried two or three times, but I am inclined to believe there may now be some chance we could dispose of the nuclear waste bill. I am not certain we can, but I think it is worth an effort. I am going to put this unanimous-consent request, and before I do it should be understood that I am not providing for final passage. I am providing in this request I am about to make for a time in which this matter can be considered.

Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside so that the Senate may proceed to the consideration of the nuclear waste bill and that there be a time limitation on the consideration of that measure of 15 minutes to be equally divided and controlled in the usual form.

A further proviso, Mr. President: That if the bill is passed, the Senate will resume consideration of the pending measure, which is the highway tax bill, but that in any event, at the expiration of 15 minutes, whether the bill has been passed or not, the bill will be laid aside and the Senate will resume consideration of the highway tax measure.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. I thank all Senators.

Mr. McCLURE. addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I ask unanimous consent to proceed to the immediate consideration of Calendar No. 968, H.R. 3809.

Mr. BAKER. Mr. President, before the clerk reports, will the Senator yield to me?

Mr. McCLURE. Yes, I yield.

Mr. BAKER. It has been brought to my attention by the minority leader that one Senator is willing to go forward with this bill in his absence, but if a rollcall vote is ordered—and we do not anticipate that—that it be stacked until he returns.

I ask unanimous consent, Mr. President, that if a rollcall vote is ordered on, or in relation to this measure, or any amendment to this measure during the 15-minute period when it is up for consideration, that rollcall vote not occur until 2:30 p.m. today.

Mr. ROBERT C. BYRD. Mr. President, further reserving the right to object, will the leader include in his proposal that any amendment to this measure be germane?

Mr. BAKER. Yes, Mr. President, I include that in my request.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

NUCLEAR WASTE POLICY ACT OF 1982

Mr. McCLURE. Now, Mr. President, I ask that the clerk report Calendar No. 968, H.R. 3809.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3809) to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4983

(Purpose: To provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel to establish a program of research development and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel and for other purposes)

Mr. McCLURE. Mr. President, I call up Senate amendment No. 4983, the McClure substitute, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for himself and Mr. SIMPSON, Mr. JACKSON, Mr. JOHNSTON, and Mr. DOMENICI proposes an amendment numbered 4983, in the nature of a substitute.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof, the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Nuclear Waste Policy Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.
Sec. 3. Separability.
Sec. 4. Territories and possessions.
Sec. 5. Ocean disposal.
Sec. 6. Limitation on spending authority.
Sec. 7. Protection of classified national security information.
Sec. 8. Applicability.

TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

Sec. 101. State and affected Indian tribe participation in development of proposed repositories for defense waste.

SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

Sec. 111. Findings and purposes.
Sec. 112. Recommendation of candidate sites for site characterization.
Sec. 113. Site characterization.
Sec. 114. Site approval and construction authorization.
Sec. 115. Review of repository site selection.
Sec. 116. Participation of States.
Sec. 117. Consultation with States and Indian tribes.
Sec. 118. Participation of Indian tribes.
Sec. 119. Judicial review of agency actions.
Sec. 120. Expedited authorizations.
Sec. 121. Certain standards and criteria.
Sec. 122. Disposal of spent nuclear fuel.
Sec. 123. Title to material.
Sec. 124. Consideration of effect of acquisition of water rights.
Sec. 125. Termination of certain provisions.

SUBTITLE B—INTERIM STORAGE PROGRAM

Sec. 131. Findings and purposes.
Sec. 132. Available capacity for interim storage of spent nuclear fuel.
Sec. 133. Interim at-reactor storage.
Sec. 134. Licensing of facility expansions and transshipments.
Sec. 135. Storage of spent nuclear fuel.
Sec. 136. Interim Storage Fund.
Sec. 137. Transportation.

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

Sec. 141. Monitored retrievable storage.

SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

Sec. 151. Financial arrangements for site closure.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

Sec. 211. Purpose.
Sec. 212. Applicability.
Sec. 213. Identification of sites.
Sec. 214. Siting research and related activities.
Sec. 215. Test and evaluation facility siting review and reports.
Sec. 216. Federal agency actions.
Sec. 217. Research and development on disposal of high-level radioactive waste.
Sec. 218. Research and development on spent nuclear fuel.
Sec. 219. Payments to States and affected Indian tribes.
Sec. 220. Study of research and development needs for monitored retrievable storage proposal.
Sec. 221. Judicial review.
Sec. 222. Research on alternatives for the permanent disposal of high-level radioactive waste.

TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

Sec. 301. Mission plan.
Sec. 302. Nuclear Waste Fund.
Sec. 303. Alternate means of financing.
Sec. 304. Office of Civilian Radioactive Waste Management.
Sec. 305. Location of test and evaluation facility.

DEFINITIONS

SEC. 2. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "affected Indian tribe" means any Indian tribe—

(A) within whose reservation boundaries a monitored retrievable storage facility, test and evaluation facility, or a repository for high-level radioactive waste or spent fuel is proposed to be located;

(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: *Provided*, That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe;

(3) The term "atomic energy defense activity" means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

(A) naval reactors development;

(B) weapons activities including defense inertial confinement fusion;

(C) verification and control technology;

(D) defense nuclear materials production;

(E) defense nuclear waste and materials byproducts management;

(F) defense nuclear materials security and safeguards and security investigations; and

(G) defense research and development.

(4) The term "candidate site" means an area, within a geologic and hydrologic system, that is recommended by the Secretary under section 112 for site characterization, approved by the President under section 112 for site characterization, or undergoing site characterization under section 113.

(5) The term "civilian nuclear activity" means any atomic energy activity other than an atomic energy defense activity.

(6) The term "civilian nuclear power reactor" means a civilian nuclear powerplant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

(7) The term "Commission" means the Nuclear Regulatory Commission.

(8) The term "Department" means the Department of Energy.

(9) The term "disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such waste.

(10) The terms "disposal package" and "package" mean the primary container that holds, and is in contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials, and any overpacks that are emplaced at a repository.

(11) The term "engineered barriers" means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved. Such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

(12) The term "high-level radioactive waste" means—

(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

(13) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(14) The term "Governor" means the chief executive officer of a State.

(15) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recog-

nized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

(16) The term "low-level radioactive waste" means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)): and

(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

(17) The term "Office" means the Office of Civilian Radioactive Waste Management established in section 305.

(18) The term "repository" means any system licensed by the Commission that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in such system. Such term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

(19) The term "reservation" means—

(A) any Indian reservation or dependent Indian community referred to in clause (a) or (b) of section 1151 of title 18, United States Code; or

(B) any land selected by an Alaska Native village or regional corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(20) The term "Secretary" means the Secretary of Energy.

(21) The term "site characterization" means—

(A) siting research activities with respect to a test and evaluation facility at a candidate site; and

(B) activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(22) The term "siting research" means activities, including borings, surface excavations, shaft excavations, subsurface lateral excavations and borings, and in situ testing, to determine the suitability of a site for a test and evaluation facility.

(23) The term "spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(24) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(25) The term "storage" means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

(26) The term "Storage Fund" means the Interim Storage Fund established in section 137(c).

(27) The term "test and evaluation facility" means an at-depth, prototypic, underground cavity with subsurface lateral excavations extending from a central shaft that is used for research and development purposes, including the development of data and experience for the safe handling and disposal of solidified high-level radioactive waste, transuranic waste, or spent nuclear fuel.

(28) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(29) The term "Waste Fund" means the Nuclear Waste Fund established in section 302(c).

SEPARABILITY

SEC. 3. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TERRITORIES AND POSSESSIONS

SEC. 4. Nothing in this Act shall be deemed to repeal, modify, or amend the provisions of section 605 of the Act of March 12, 1980 (48 U.S.C. 1491).

OCEAN DISPOSAL

SEC. 5. Nothing in this Act shall be deemed to affect the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

LIMITATION ON SPENDING AUTHORITY

SEC. 6. The authority under this Act to incur indebtedness, or enter into contracts, obligating amounts to be expended by the Federal Government shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

PROTECTION OF CLASSIFIED NATIONAL SECURITY INFORMATION

SEC. 7. Nothing in this Act shall require the release or disclosure to any person or to the Commission of any classified national security information.

APPLICABILITY

SEC. 8. (a) ATOMIC ENERGY DEFENSE ACTIVITIES.—Subject to the provisions of subsection (c), the provisions of this Act shall not apply with respect to any atomic energy defense activity or to any facility used in connection with any such activity.

(b) EVALUATION BY PRESIDENT.—(1) Not later than 2 years after the date of the enactment of this Act, the President shall evaluate the use of disposal capacity at one or more repositories to be developed under subtitle A of title I for the disposal of high-level radioactive waste resulting from atomic energy defense activities. Such evaluation shall take into consideration factors relating to cost efficiency, health and safety, regulation, transportation, public acceptability, and national security.

(2) Unless the President finds, after conducting the evaluation required in paragraph (1), that the development of a repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only is required, taking into account all of the factors described in such subsection, the Secretary shall proceed promptly with arrangement for the use of one or more of the repositories to be developed under subtitle A of title I for the disposal of such waste. Such arrangements shall include the allocation of costs of developing, constructing, and operating this repository or repositories between the Federal Government and the separate account established by section 302. The costs resulting from permanent disposal of high-level radioactive waste from atomic energy defense activities shall be paid by the Federal Government, and not from the special account established under section 302.

(3) Any repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only shall (A) be subject to licensing under section 202 of the Energy Reorganization Act of 1973 (42 U.S.C. 5842); and (B) comply with all requirements of the Commission for the siting, development, construction, and operation of a repository.

(c) APPLICABILITY TO CERTAIN REPOSITORIES.—The provisions of this Act shall apply with respect to any repository not used exclusively for the disposal of high-level radioactive waste or spent nuclear fuel resulting from atomic energy defense activities, research and development activities of the Secretary, or both.

TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

STATE AND AFFECTED INDIAN TRIBE PARTICIPATION IN DEVELOPMENT OF PROPOSED REPOSITORIES FOR DEFENSE WASTE

SEC. 101. (a) NOTIFICATION TO STATES AND AFFECTED INDIAN TRIBES.—Notwithstanding the provisions of section 8, upon any decision by the Secretary or the President to develop a repository for the disposal of high-level radioactive waste or spent nuclear fuel resulting exclusively from atomic energy defense activities, research and development activities of the Secretary, or both, and before proceeding with any site-specific investigations with respect to such repository, the Secretary shall notify the Governor and legislature of the State in which such repository is proposed to be located, or the governing body of the affected Indian tribe on whose reservation such repository is proposed to be located, as the case may be, of such decision.

(b) PARTICIPATION OF STATES AND AFFECTED INDIAN TRIBES.—Following the receipt of any notification under subsection (a), the State or Indian tribe involved shall be entitled, with respect to the proposed repository involved, to rights of participation and consultation identical to those provided in sections 115 through 118, except that any financial assistance authorized to be provided to such State or affected Indian tribe under section 116(c) or 118(b) shall be made from amounts appropriated to the Secretary for purposes of carrying out this section.

SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

FINDINGS AND PURPOSES

SEC. 111. (a) FINDINGS.—The Congress finds that—

(1) radioactive waste creates potential risks and requires safe and environmentally acceptable methods of disposal;

(2) a national problem has been created by the accumulation of (A) spent nuclear fuel from nuclear reactors; and (B) radioactive waste from (i) reprocessing of spent nuclear fuel; (ii) activities related to medical re-

search, diagnosis, and treatment; and (iii) other sources;

(3) Federal efforts during the past 30 years to devise a permanent solution to the problems of civilian radioactive waste disposal have not been adequate;

(4) while the Federal Government has the responsibility to provide for the permanent disposal of high-level radioactive waste and such spent nuclear fuel as may be disposed of in order to protect the public health and safety and the environment, the costs of such disposal should be the responsibility of the generators and owners of such waste and spent fuel;

(5) the generators and owners of high-level radioactive waste and spent nuclear fuel have the primary responsibility to provide for, and the responsibility to pay the costs of, the interim storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary of Energy in accordance with the provisions of this Act;

(6) State and public participation in the planning and development of repositories is essential in order to promote public confidence in the safety of disposal of such waste and spent fuel; and

(7) high-level radioactive waste and spent nuclear fuel have become major subjects of public concern, and appropriate precautions must be taken to ensure that such waste and spent fuel do not adversely affect the public health and safety and the environment for this or future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish a schedule for the siting, construction, and operation of repositories that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste and such spent nuclear fuel as may be disposed of in a repository;

(2) to establish the Federal responsibility, and a definite Federal policy, for the disposal of such waste and spent fuel;

(3) to define the relationship between the Federal Government and the State governments with respect to the disposal of such waste and spent fuel; and

(4) to establish a Nuclear Waste Fund, composed of payments made by the generators and owners of such waste and spent fuel, that will ensure that the costs of carrying out activities relating to the disposal of such waste and spent fuel will be borne by the persons responsible for generating such waste and spent fuel.

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors, and the concurrence of the Commission shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrology, geophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall take into consideration the proximity to sites where high-level radioactive waste and spent nuclear fuel is generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository. Such guidelines shall specify population factors that will disqualify any site from development as a repository if any surface facility of such repository would be located in a highly populated area. Such guidelines also shall require the Secretary to consider the cost and impact of transporting to the repository site the solidified high-level radioactive waste and spent fuel to be disposed of in the repository and the advantages of regional distribution in the siting of repositories. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall recommend to the President at least 3 candidate sites that he determines suitable for site characterization for selection of the first repository site. Such sites shall be recommended by the Secretary not later than July 1, 1984. Not later than July 1, 1987, the Secretary shall recommend to the President at least 3 additional candidate sites the Secretary determines for possible subsequent selection as repository sites are suitable for site characterization. The Secretary shall not recommend for characterization any area of a site used for the test and evaluation facility pursuant to title II that the Secretary determines would permit the physical integration of the test and evaluation facility and a proposed repository.

Each recommendation of a candidate site under this subsection shall be accompanied by an environmental impact statement prepared pursuant to subsection (g) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) Each environmental impact statement prepared under this paragraph shall be made available to the public.

(C) Before recommending a candidate site to the President, the Secretary shall notify the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be, of such recommendation and the basis for such recommendation.

(2) Before recommending to the President any candidate site for site characterization, the Secretary shall hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of the proposed recommendation of such candidate site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental impact statement described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this section, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental impact statement described in subsection (g) shall be prepared within one year of the date of enactment of this Act; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites

recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c); and (3) the Secretary shall conduct public hearings under 113(b)(2) and comply with requirements under section 117 of this Act within 1 year of the date of enactment.

If site characterization is discontinued at any site under the second clause of the first sentence of this subsection, site characterization at such site may be continued by the Secretary if such site is subsequently approved by the President under subsection (c).

(g) ENVIRONMENTAL IMPACT STATEMENT.—Any recommendation of a candidate site under subsection (b) shall be accompanied by an environmental impact statement. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository. For purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, all consideration of alternative sites by the Secretary, shall be considered adequate if the statement provides an explanation of the process and reasons for the elimination of other sites for recommendation for site characterization pursuant to this section.

SITE CHARACTERIZATION

SEC. 113. (a) IN GENERAL.—The Secretary shall carry out, in accordance with the provisions of this section, appropriate site characterization activities beginning with the candidate sites that have been approved under section 112 and are located in various geologic media. The Secretary shall consider fully the comments received under subsection (b)(2) and section 112(b)(2) and shall, to the maximum extent practicable and in consultation with the Governor of the State involved or the governing body of the affected Indian tribe involved, conduct site characterization activities in a manner that minimizes any significant adverse environmental impacts identified in such comments or in the environmental assessment submitted under subsection (b)(1).

(b) COMMISSION AND STATES.—(1) Before proceeding to sink shafts at any candidate site, the Secretary shall submit for such candidate site to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe on whose reservation such candidate site is located, as the case may be, for their review and comment—

(A) a general plan for site characterization activities to be conducted at such candidate site, which plan shall include—

(i) a description of such candidate site;

(ii) a description of such site characterization activities, including the following: the extent of planned excavations, plans for any onsite testing with radioactive or nonradioactive material, plans for any investigation activities that may affect the capability of such candidate site to isolate high-level radioactive waste and spent nuclear fuel, and plans to control any adverse, safety-related impacts from such site characterization activities;

(iii) plans for the decontamination and decommissioning of such candidate site, and for the mitigation of any significant adverse environmental impacts caused by site characterization activities if it is determined unsuitable for application for a construction authorization for a repository;

(iv) criteria to be used to determine the suitability of such candidate site for the location of a repository, developed pursuant to section 112(a); and

(v) any other information required by the Commission;

(B) a description of the possible form or packaging for the high-level radioactive waste and spent nuclear fuel to be emplaced in such repository, a description, to the extent practicable, of the relationship between such waste form or packaging and the geologic medium of such site, and a description of the activities being conducted by the Secretary with respect to such possible waste form or packaging or such relationship; and

(C) a conceptual repository design that takes into account likely site-specific requirements.

(2) Before proceeding to sink shafts at any candidate site, the Secretary shall (A) make available to the public the site characterization plan described in paragraph (1); and (B) hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of such plan, and to receive their comments.

(3) During the conduct of site characterization activities at a candidate site, the Secretary shall report not less than once every 6 months to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be, on the nature and extent of such activities and the information developed from such activities.

(c) RESTRICTIONS.—(1) The Secretary may conduct at any candidate site only such site characterization activities as the Secretary considers necessary to provide the data required for evaluation of the suitability of such candidate site for an application to be submitted to the Commission for a construction authorization for a repository at such candidate site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) In conducting site characterization activities—

(A) the Secretary may not use any radioactive material at a candidate site unless the Commission concurs that such use is necessary to provide data for the preparation of the required environmental reports and an application for a construction authorization for a repository at such candidate site; and

(B) if any radioactive material is used at a candidate site—

(i) the Secretary shall use the minimum quantity necessary to determine the suitability of such candidate site for a repository, but in no event more than the curie equivalent of 10 metric tons of spent nuclear fuel; and

(ii) such radioactive material shall be fully retrievable.

(3) If site characterization activities are terminated at a candidate site for any reason, the Secretary shall (A) notify the Congress, the Governors and legislatures of all States in which candidate sites are located, and the governing bodies of all affected Indian tribes where candidate sites are located, of such termination and the reasons for such termination; and (B) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such candidate site as promptly as practicable.

(4) If a site is determined to be unsuitable for application for a construction authorization for a repository, the Secretary shall take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities.

(d) PRELIMINARY ACTIVITIES.—Each activity of the Secretary under this section that is in compliance with the provisions of subsection (c) shall be considered a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

SITE APPROVAL AND CONSTRUCTION AUTHORIZATION

SEC. 114. (a) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—(1) The Secretary shall hold public hearings in the vicinity of each site under consideration for recommendation to the President under this paragraph as a site for the development of a repository, for the purposes of informing the residents of the area in which such site is located of such consideration and receiving their comments regarding the possible recommendation of such site. If, upon completion of such hearings and completion of site characterization activities at not less than 3 candidate sites for the first proposed repository, or from all of the characterized sites for the development of subsequent respositories, under section 113, the Secretary decides to recommend approval of such site to the President, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such decision. No sooner than the expiration of the 30-day period following such notification, the Secretary shall submit to the President a recommendation that the President approve such site for the development of a repository. Any such recommendation by the Secretary shall be based on the record of information developed by the Secretary under section 113 and this section, including the information described in subparagraph (A) through subparagraph (G). In making site recommendations and approvals subsequent to the first site recommendation, the Secretary and the President, respectively, shall also consider the need for regional distribution of repositories and the need to minimize, to the extent practicable, the impacts and cost of transporting spent fuel and solidified high-level radioactive waste. Together with any recommendation of a site under this paragraph, the Secretary shall make available to the public, and submit to the President, a comprehensive statement of the basis of such recommendation, including the following:

(A) a description of the proposed repository, including preliminary engineering specifications for the facility;

(B) a description of the waste form or packaging proposed for use at such repository, and an explanation of the relationship between such waste form or packaging and the geologic medium of such site;

(C) a discussion of data, obtained in site characterization activities, relating to the safety of such site;

(D) a final environmental impact statement prepared pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including an analysis of the consideration given by the Secretary to not less than 3 candidate sites for the first proposed respository or to all of the characterized sites for the development of subsequent repositories, with respect to which site characterization is completed under section 113, together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that any such environmental impact statement concerning the first repository to be developed under this Act shall not be required to consider the need for a repository or the alternatives to geologic disposal;

(E) preliminary comments of the Commission concerning the extent to which the at-depth site characterization analysis and the waste form proposal for such site seem to be sufficient for inclusion in any application to be submitted by the Secretary for licensing of such site as a repository;

(F) the views and comments of the Governor and legislature of any State, or the governing body of any affected Indian tribe, as determined by the Secretary, together with the response of the Secretary to such views;

(G) such other information as the Secretary considers appropriate; and

(H) any impact report submitted under section 116(c)(2)(B) by the State in which such site is located, or under section 118(b)(3)(B) by the affected Indian tribe where such site is located, as the case may be.

(2)(A) Not later than March 31, 1987, the President shall submit to the Congress a recommendation of one site from the three sites initially characterized that the President considers qualified for application for a construction authorization for a repository. Not later than March 31, 1990, the President shall submit to the Congress a recommendation of a second site from any sites already characterized that the President considers qualified for a construction authorization for a second repository. The President shall submit with such recommendation a copy of the report for such site prepared by the Secretary under paragraph (1).

(B) The President may extend the deadlines described in subparagraph (A) by not more than 12 months if, before March 31, 1986, for the first site, and March 31, 1989, for the second site, (i) the President determines that such extension is necessary; and (ii) transmits to the Congress a report setting forth the reasons for such extension.

(3) If approval of any such site recommendation does not take effect as a result of a disapproval by the Governor or legislature of a State under section 116 or the governing body of an affected Indian tribe under section 118, the President shall submit to the Congress, not later than 1 year after the disapproval of such recommendation, a recommendation of another site for the first or subsequent repository.

(4)(A) The President may not recommend the approval of any site under this subsection unless the Secretary has recommended to the President under paragraph (1) approval of such site and has submitted to the President a report for such site as required under such paragraph.

(B) No recommendation of a site by the President under this subsection shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(b) SUBMISSION OF APPLICATION.—If the President recommends to the Congress a site for a repository under subsection (a) and the site designation is permitted to take effect under section 115, the Secretary shall submit to the Commission an application for a construction authorization for a repository at such site not later than 90 days after the date on which the recommendation of the site designation is effective under such section and shall provide to the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, a copy of such application.

(c) STATUS REPORT ON APPLICATION.—Not later than 1 year after the date on which an application for a construction authorization is submitted under subsection (b), and annually thereafter until the date on which such authorization is granted, the Commission shall submit a report to the Congress describing the proceedings undertaken through the date of such report with regard to such application, including a description of—

(1) any major unresolved safety issues, and the explanation of the Secretary with respect to design and operation plans for resolving such issues;

(2) any matters of contention regarding such application; and

(3) any Commission actions regarding the granting or denial of such authorization.

(d) COMMISSION ACTION.—The Commission shall consider an application for a construction authorization for all or part of a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than—

(1) January 1, 1989, for the first such application, and January 1, 1992, for the second such application; or

(2) the expiration of 3 years after the date of the submission of such application, except that the Commission may extend such deadline by not more than 12 months if, not less than 30 days before such deadline, the Commission complies with the reporting requirements established in subsection (e)(2);

whichever occurs later. The Commission decision approving the first such application shall prohibit the emplacement in the first repository of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of such a quantity of spent fuel until such time as a second repository is in operation. In the event that a monitored retrievable storage facility, approved pursuant to subtitle C of this Act, shall be located, or is planned to be located, within 50 miles of the first repository, then the Commission decision approving the first such application shall prohibit the emplacement of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of spent fuel in both the repository and monitored retrievable storage facility until such time as a second repository is in operation.

(e) PROJECT DECISION SCHEDULE.—(1) The Secretary shall prepare and update, as appropriate, in cooperation with all affected Federal agencies, a project decision schedule that portrays the optimum way to attain the operation of the repository involved, within the time periods specified in this subtitle. Such schedule shall include a description of objectives and a sequence of deadlines for all Federal agencies required to take action, including an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning repository operation.

(2) Any Federal agency that determines that it cannot comply with any deadline in the project decision schedule, or fails to so comply, shall submit to the Secretary and to the Congress a written report explaining the reason for its failure or expected failure to meet such deadline, the reason why such agency could not reach an agreement with the Secretary, the estimated time for completion of the activity or activities involved, the associated effect on its other deadlines in the project decision schedule, and any recommendations it may have or actions it intends to take regarding any improvements in its operation or organization, or changes to its statutory directives or authority, so that it will be able to mitigate the delay involved. The Secretary, within 30 days after receiving any such report, shall file with the Congress his response to such report, including the reasons why the Secretary could not amend the project decision schedule to accommodate the Federal agency involved.

(f) ENVIRONMENTAL IMPACT STATEMENT.—Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository. For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, the Secretary shall consider as alternate sites for the first repository to be developed under this subtitle 3 candidate sites recommended by the Secretary pursuant to the first sentence of section 112(b) and approved by the President for site characterization, pursuant to section 112(c), for which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination, including a statement of the reasons for such determination, of the suitability of each site for development as a repository. The Secretary shall consider as alternative sites for subsequent repositories those sites recommended by the Secretary by July 1, 1984, and by July 1, 1987, pursuasnt to section 112(b) and approved by the President for site characterization pursuant to seciton 112(c) for which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination, including a statement of the reasons for such determination, of the suitability of each site for development as a repository. Any environmen-

tal impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). In any such statement prepared with respect to the first repository to be constructed under this subtitle, the need for a repository or nongeologic alternatives to the site of such repository shall not be considered.

REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) IN GENERAL.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor of the State in which such site is located, or the governing body of an affected Indian tribe where such site is located, as the case may be, submits to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval is submitted, the designation of such site shall not be effective except as provided under subsection (b).

(b) CONGRESSIONAL REVIEW OF SITES.—If any notice of disapproval of a repository site designation is submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, the designation of such site as suitable for license application as a repository shall be effective upon the expiration of the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval unless, during such period, either House of the Congress passes a resolution in accordance with this subsection disapproving such site designation.

(c) DEFINITION.—For purposes of this subsection, the term "resolution under this section" means a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That hereby approves the notice of disapproval submitted by regarding the disapproval of the site at for a repository for the disposal of high-level radio-active waste and spent nuclear fuel.". The first blank space in such resolution shall be filled with the designation of the appropriate House of the Congress; the second blank space in such resolution shall be filled with the designation of the State Governor or Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the geographic location of the proposed repository site involved.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions under this section, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution under this section shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(B) Upon introduction, a resolution under this section shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(3) If any committee to which is referred a resolution introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution under this section introduced with respect to the site involved, has not reported such resolution at the end of 45 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution under this section has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on a resolution under this section and on all debatable motions and appeals in connection with such resolution shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution under this section and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution under this section shall be decided without debate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress.—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rule of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions under this section and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall upon introduction be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 45 days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution under this section after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 45-day period referred to in subsection (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of

such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

PARTICIPATION OF STATES

SEC. 116. (a) NOTIFICATION OF STATES AND AFFECTED TRIBES.—The Secretary shall identify the States with one or more potentially acceptable sites for a repository within 90 days after the date of enactment of this Act. Within 90 days of such identification, the Secretary shall notify the Governor, the State legislature, and the tribal council of any affected Indian tribe in any State of the potentially acceptable sites within such State. For the purposes of this title, the term "potentially acceptable site" means any site at which, after geologic studies and field mapping but before detailed geologic data gathering, the Department undertakes preliminary drilling and geophysical testing for the definition of site location.

(b) STATE PARTICIPATION IN REPOSITORY SITING DECISIONS.—(1) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under paragraph (2). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(2) Upon the submission by the President to the Congress of a recommendation of a site for a repository, the Governor or legislature of the State in which such site is located may disapprove the site designation and submit to the Congress a notice of disapproval. Such Governor or legislature may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why such Governor or legislature disapproved the recommended repository site involved.

(3) The authority of the Governor or legislature of each State under this subsection shall not be applicable with respect to any site located on a reservation.

(b) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to each State notified under subsection (a) for the purpose of participating in activities required by sections 116 and 117 or authorized by written agreement entered into pursuant to subsection 117(c). Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(B) The Secretary shall make grants to each State in which a candidate site for a repository is approved under section 112(c). Such grants may be made to each such State only for purposes of enabling such State—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the State and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to its residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(C) Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall provide financial and technical assistance to any State requesting such assistance in which there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such State of the development of such repository. Such assistance to such State shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any State desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site in such State. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the State involved setting forth the amount of assistance to be provided to such State under this paragraph and the procedures to be followed in providing such assistance.

(3) The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

(4)(A) A State may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies the Governor and legislature of the State involved of the termination of site characterization activities at the candidate site involved in such State;

(ii) the date on which the site in such State is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site in the State approved under section 112(c) with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) A State may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds shall be made available to such State under paragraph (1) or (2), except for—

(i) such funds as may be necessary to support State activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

(d) ADDITIONAL NOTIFICATION AND CONSULTATION.—Whenever the Secretary is required under any provision of this Act to notify or consult with the governing body of an affected Indian tribe where a site is located, the Secretary shall also notify or consult with, as the case may be, the Governor of the State in which such reservation is located.

CONSULTATION WITH STATES AND AFFECTED INDIAN TRIBES

SEC. 117. (a) PROVISION OF INFORMATION.—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of a repository in a State shall provide to the Governor and legislature of such State, and to the governing body of any affected Indian tribe, timely and complete information regarding determinations or plans made with respect to the site characterization siting, development, design, licensing, construction, operation, regulation, or decommissioning of such repository.

(2) Upon written request for such information by the Governor or legislature of such State, or by the governing body of any affected Indian tribe, as the case may be, the Secretary shall provide a written response to such request within 30 days of the receipt of such request. Such response shall provide the information requested or, in the alternative, the reasons why the information cannot be so provided. If the Secretary fails to so respond within such 30 days, the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, may transmit a formal written objection to such failure to respond to the President. If the President or Secretary fails to respond to such written request within 30 days of the receipt by the President of such formal written objection, the Secretary shall immediately suspend all activities in such State authorized by this subtitle, and shall not renew such activities until the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, has received the written response to such written request required by this subsection.

(b) CONSULTATION AND COOPERATION.—In performing any study of an area within a State for the purpose of determining the suitability of such area for a repository pursuant to section 112(c), and in subsequently developing and loading any repository within such State, the Secretary shall consult and cooperate with the Governor and legislature of such State and the governing body of any affected Indian tribe in an effort to resolve the concerns of such State and any affected Indian tribe regarding the public health and safety, environmental, and economic impacts of any such repository. In carrying out his duties under this subtitle, the Secretary shall take such concerns into account to the maximum extent feasible and as specified in written agreements entered into under subsection (c).

(c) WRITTEN AGREEMENT.—Not later than 60 days after (1) the approval of a site for site characterization for such a repository under section 112(c), or (2) the written request of the State or Indian tribe in any affected State notified under section 116(a) to the Secretary, whichever, first occurs, the Secretary shall seek to enter into a binding written agreement, and shall begin negotiations, with such State and, where appropriate, to enter into a separate binding agreement with the governing body of any affected Indian tribe, setting forth (but not limited to) the procedures under which the requirements of subsections (a) and (b), and the provisions of such written agreement, shall be carried out. Any such written agreement shall not affect the authority of the Commission under existing law. Each such written agreement shall, to the maximum extent feasible, be completed not later than 6 months after such notification. If such written agreement is not completed within such period, the Secretary shall report to the Congress in writing within 30 days on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such affected Indian tribe, as the case may be, for their review and comments. Such comments shall be included in such report prior to submission to the Congress. Such written agreement shall specify procedures—

(1) by which such State or governing body of an affected Indian tribe, as the case may be, may study, determine, comment on, and make recommendations with regard to the possible public health and safety, environmental, social, and economic impacts of any such repository;

(2) by which the Secretary shall consider and respond to comments and recommendations made by such State or governing body of an affected Indian tribe, including the period in which the Secretary shall so respond;

(3) by which the Secretary and such State or governing body of an affected Indian tribe may review or modify the agreement periodically;

(4) by which such State or governing body of an affected Indian tribe is to submit an impact report and request for impact assistance under section 116(c) or section 118(b), as the case may be;

(5) by which the Secretary shall assist such State, and the units of general local government in the vicinity of the repository site, in resolving the offsite concerns of such State and units of general local government, including, but not limited to, questions of State liability arising from accidents, necessary road upgrading and access to the site, ongoing emergency preparedness and emergency response, monitoring of transportation of high-level radioactive waste and spent nuclear fuel through such State, conduct of baseline health studies of inhabitants in neighboring communities near the repository site and reasonable periodic monitoring thereafter, and monitoring of the repository site upon any decommissioning and decontamination;

(6) by which the Secretary shall consult and cooperate with such State on a regular, ongoing basis and provide for an orderly process and timely schedule for State review and evaluation, including identification in the agreement of key events, milestones, and decision points in the activities of the Secretary at the potential repository site;

(7) by which the Secretary shall notify such State prior to the transportation of any high-level radioactive waste and spent nuclear fuel into such State for disposal at the repository site;

(8) by which such State may conduct reasonable independent monitoring and testing of activities on the repository site, except that such monitoring and testing shall not unreasonably interfere with or delay onsite activities;

(9) for sharing, in accordance with applicable law, of all technical and licensing information, the utilization of available expertise, the facilitating of permit procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws;

(10) for public notification of the procedures specified under the preceding paragraphs; and

(11) for resolving objections of a State and affected Indian tribes at any stage of the planning, siting, development, construction, operation, or closure of such a facility within such State through negotiation, arbitration, or other appropriate mechanisms.

PARTICIPATION OF INDIAN TRIBES

SEC. 118. (a) PARTICIPATION OF INDIAN TRIBES IN REPOSITORY SITING DECISIONS.—Upon the submission by the President to the Congress of a recommendation of a site for a repository located on the reservation of an affected Indian tribe, the governing body of such Indian tribe may disapprove the site designation and submit to the Congress a notice of disapproval. The governing body of such Indian tribe may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the governing body of such Indian tribe disapproved the recommended repository site involved.

(b) FINANCIAL ASSISTANCE.—(1) The Secretary shall make grants to each affected tribe notified under section 116(a) for the purpose of participating in activities required by section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such tribe, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall make grants to each affected Indian tribe where a candidate site for a repository is approved under section 112(c). Such grants may be made to each such Indian tribe only for purposes of enabling such Indian tribe—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the reservation and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to the residents of its reservation regarding any activities of such Indian tribe, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(B) The amount of funds provided to any affected Indian tribe under this paragraph in any fiscal year may not exceed 100 percent of the costs incurred by such Indian tribe with respect to the activities described in clauses (i) through (v) of subparagraph (A). Any salary or travel expense that would ordinarily be incurred by such Indian tribe may not be considered eligible for funding under this paragraph.

(3)(A) The Secretary shall provide financial and technical assistance to any affected Indian tribe requesting such assistance and where there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such Indian tribe of the development of such repository. Such assistance to such Indian tribe shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any affected Indian tribe desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site on the reservation of such Indian tribe. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the Indian tribe involved setting forth the amount of assistance to be provided to such Indian tribe under this paragraph and the procedures to be followed in providing such assistance.

(4) The Secretary shall grant to each affected Indian tribe where a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such Indian tribe would receive were it authorized to tax site characterization activities at such site, and the development and operation of such repository, as such Indian tribe taxes the other commercial activities occurring on such reservation. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

(5) An affected Indian tribe may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies such Indian tribe of the termination of site characterization activities at the candidate site involved on the reservation of such Indian tribe;

(ii) the date on which such site is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site on the reservation of such Indian tribe that is approved under section 112(c) and with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) An affected Indian tribe may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository at a site on the reservation of an affected Indian tribe, no Federal funds shall be made available under paragraph (1) or (2) to such Indian tribe, except for—

(i) such funds as may be necessary to support activities of such Indian tribe related to any other repository where a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support activities of such Indian tribe pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such Indian tribe with the Secretary during such 2-year period.

(6) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

JUDICIAL REVIEW OF AGENCY ACTIONS

SEC. 119. (a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—(1) Except for review in the Supreme Court of the United States, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

(A) for review of any final decision or action of the Secretary, the President, or the Commission under this subtitle;

(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this subtitle;

(C) challenging the constitutionality of any decision made, or action taken, under any provision of this subtitle;

(D) for review of any environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this subtitle, or as required under section 135(c)(1), or alleging a failure to prepare such statement with respect to any such action;

(E) for review of any environmental assessment prepared under section 135(c)(2); or

(F) for review of any research and development activity under title II.

(2) The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

(c) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought not later than the 180th day after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 180th day after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

EXPEDITED AUTHORIZATIONS

SEC. 120. (a) ISSUANCE OF AUTHORIZATIONS.—(1) To the extent that the taking of any action related to the site characterization of a site or the construction or initial operation of a repository under this subtitle requires a certificate, right-of-way, permit, lease, or other authorization from a Federal agency or officer, such agency or officer shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such agency or officer. All actions of a Federal agency or officer with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

(2) The provisions of paragraph (1) shall not apply to any certificate, right-of-way, permit, lease, or other authorization issued or granted by, or requested from, the Commission.

(b) TERMS OF AUTHORIZATIONS.—Any authorization issued or granted pursuant to subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

CERTAIN STANDARDS AND CRITERIA

SEC. 121. (a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Administrator, pursuant to authority under other provisions of law, shall, by rule, promulgate generally applicable standards for protection of the general environment from offsite releases from radioactive material in repositories.

(b) COMMISSION REQUIREMENTS AND CRITERIA.—(1)(A) Not later than January 1, 1984, the Commission, pursuant to authority under other provisions of law, shall, by rule, promulgate technical requirements and criteria that it will apply, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), in approving or disapproving—

(i) applications for authorization to construct repositories;

(ii) applications for licenses to receive and possess spent nuclear fuel and high-level radioactive waste in such repositories; and

(iii) applications for authorization for closure and decommissioning of such repositories.

(B) Such criteria shall provide for the use of a system of multiple barriers in the design of the repository and shall include such restrictions on the retrievability of the solidified high-level radioactive waste and spent fuel emplaced in the repository as the Commission deems appropriate.

(C) Such requirements and criteria shall not be inconsistent with any comparable standards promulgated by the Administrator under subsection (a).

(2) For purposes of this Act, nothing in this section shall be construed to prohibit the Commission from promulgating requirements and criteria under paragraph (1) before the Administrator promulgates standards under subsection (a). If the Administrator promulgates standards under subsection (a) after requirements and criteria are promulgated by the Commission under paragraph (1), such requirements and criteria shall be revised by the Commission if necessary to comply with paragraph (1)(C).

(c) ENVIRONMENTAL IMPACT STATEMENT.—The promulgation of standards or criteria in accordance with the provisions of this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

DISPOSAL OF SPENT NUCLEAR FUEL

SEC. 122. Notwithstanding any other provision of this subtitle, any repository constructed on a site approved under this subtitle shall be designed and constructed to permit the retrieval of any spent nuclear fuel placed in such repository, during an appropriate period of operation of the facility, for any reason pertaining to the public health and safety, or the environment, or for the purpose of permitting the recovery of the economically valuable contents of such spent fuel. The Secretary shall specify the appropriate period of retrievability with respect to any repository at the time of design of such repository, and such aspect of such repository shall be subject to approval or disapproval by the Commission as part of the construction authorization process under subsections (b) through (d) of section 114.

TITLE TO MATERIAL

SEC. 123. Delivery, and acceptance by the Secretary, of any high-level radioactive waste or spent nuclear fuel for a repository constructed under this subtitle shall constitute a transfer to the Secretary of title to such waste or spent fuel.

CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS

SEC. 124. The Secretary shall give full consideration to whether the development, construction, and operation of a repository may require any purchase or other acquisition of water rights that will have a significant adverse effect on the present or future development of the area in which such repository is located. The Secretary shall mitigate any such adverse effects to the maximum extent practicable.

TERMINATION OF CERTAIN PROVISIONS

SEC. 125. Sections 119 and 120 shall cease to have effect at such time as a repository developed under this subtitle is licensed to receive and possess high-level radioactive waste and spent nuclear fuel.

SUBTITLE B—INTERIM STORAGE PROGRAM

FINDINGS AND PURPOSES

SEC. 131. (a) FINDINGS.—The Congress finds that—

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at

the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this subtitle, not more than 1,900 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such reactors when needed to assure the continued, orderly operation of such reactors.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide for the utilization of available spent nuclear fuel pools at the site of each civilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and

(2) to provide, in accordance with the provisions of this subtitle, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,900 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

AVAILABLE CAPACITY FOR INTERIM STORAGE OF SPENT NUCLEAR FUEL

SEC. 132. The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

(1) the protection of the public health and safety, and the environment;

(2) economic considerations;

(3) continued operation of such reactor;

(4) any applicable provisions of law; and

(5) the views of the population surrounding such powerplant.

INTERIM AT REACTOR STORAGE

SEC. 133. The Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 219(a) for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS

SEC. 134. (a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after the date of the enactment of this Act, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

(b) ADJUDICATORY HEARING.—(1) At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

(2) In making a determination under this subsection, the Commission—

(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

(B) shall not consider—

(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor for which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

STORAGE OF SPENT NUCLEAR FUEL

SEC. 135. (a) STORAGE CAPACITY.—(1) Subject to section 8, the Secretary shall provide, in accordance with paragraph (5), not more than 1,900 metric tons of capacity for the storage of spent nuclear fuel from civilian nuclear power reactors. Such storage capacity shall be provided through any one or more of the following methods, used in any combination determined by the Secretary to be appropriate:

(A) use of available capacity at one or more facilities owned by the Federal Government on the date of the enactment of this Act, including the modification and expansion of any such facilities, if the Commission determines that such use will adequately protect the public health and safety, except that such use shall not—

(i) render such facilities subject to licensing under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); or

(ii) except as provided in subsection (c) require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), such facility is already being used, or has previously been used, for such storage or for any similar purpose.

(B) acquisition of any modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, and provision of such equipment, to any person generating or holding title to spent nuclear fuel, at the site of any civilian nuclear power reactor operated by such person or at any Federal site;

(C) construction of storage capacity at any site of a civilian nuclear power reactor.

(2) Storage capacity authorized by paragraph (1) shall not be provided at any Federal or non-Federal site within which there is a candidate site for a repository.

(3) In selecting methods of providing storage capacity under paragraph (1), the Secretary shall consider the timeliness of the availability of each such method and shall seek to minimize the transportation of spent nuclear fuel, the public health and safety impacts, and the costs of providing such storage capacity.

(4) In providing storage capacity through any method described in paragraph (1), the Secretary shall comply with any applicable requirements for licensing or authorization of such method, except as provided in paragraph (1)(A)(i).

(5) The Secretary shall ensure that storage capacity is made available under paragraph (1) when needed, as determined on the basis of the storage needs specified in contracts entered into under section 136(a), and shall accept upon request any spent nuclear fuel as covered under such contracts.

(6) For purposes of paragraph (1)(A), the term "facility" means any building or structure.

(b) CONTRACTS.—(1) Subject to the capacity limitation established in subsections (a)(1) and (d), the Secretary shall offer to enter into, and may enter into, contracts

under section 136(a) with any person generating or owning spent nuclear fuel for purposes of providing storage capacity for such spent fuel under this section only if the Commission determines that—

(A) adequate storage capacity to ensure the continued orderly operation of the civilian nuclear power reactor at which such spent nuclear fuel is generated cannot reasonably be provided by the person owning and operating such reactor at such site, or at the site of any other civilian nuclear power reactor operated by such person, and such capacity cannot be made available in a timely manner through any method described in subparagraph (B); and

(B) such person is diligently pursuing licensed alternatives to the use of Federal storage capacity for the storage of spent nuclear fuel expected to be generated by such person in the future, including—

(i) expansion of storage facilities at the site of any civilian nuclear power reactor operated by such person;

(ii) construction of new or additional storage facilities at the site of any civilian nuclear power reactor operated by such person;

(iii) acquisition of modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, for use at the site of any civilian nuclear power reactor operated by such person; and

(iv) transshipment to another civilian nuclear power reactor owned by such person.

(2) In making the determination described in paragraph (1)(A), the Commission shall ensure maintenance of a full core reserve storage capability at the site of the civilian nuclear power reactor involved unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor.

(3) The Commission shall complete the determinations required in paragraph (1) with respect to any request for storage capacity not later than 6 months after receipt of such request by the Commission.

(c) ENVIRONMENTAL REVIEW.—(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(2)(A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an estimate of the amount of storage capacity to be made available at such site;

(ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;

(iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;

(iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;

(v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;

(vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and

(vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.

(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).

(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119.

(d) REVIEW OF SITES.—(1) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under section (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such decision.

(2)(A) During the 60-day period following receipt of such notification, such Governor or legislature or governing body may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(3)(A) If any notice of disapproval is submitted to the Congress under paragraph (2), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at , with respect to which a notice of disapproval was submitted by on .". The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(B) For purposes of the consideration of any resolution described in subparagraph (A), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

(e) LIMITATIONS.—Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable following the date on which a repository developed under this Act is available for disposal of such spent fuel.

(f) REPORT.—The Secretary shall annually prepare and submit to the Congress a report on any plans of the Secretary for providing storage capacity under this section. Such report shall include a description of the specific manner of providing such storage selected by the Secretary, if any. The Secretary shall prepare and submit the first such report not later than 1 year after the date of the enactment of this Act.

(g) CRITERIA FOR DETERMINING ADEQUACY OF AVAILABLE STORAGE CAPACITY.—Not later than 90 days after the date of the enactment of this Act, the Commission pursuant to section 553 of the Administrative Procedures Act, shall propose, by rule, procedures and criteria for making the determination required by subsection (b) that a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity at the civilian nuclear power reactor site when needed to ensure the continued orderly operation of such reactor. Such criteria shall ensure the maintenance of a full core reserve storage capability at the site of such reactor unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor. Such criteria shall identify the feasibility of reasonably providing such adequate spent nuclear fuel storage capacity, taking into account economic, technical, regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, construction of additional spent nuclear fuel pool capacity, or such other technologies as may be approved by the Commission.

(h) APPLICATION.—Notwithstanding any other provision of law, nothing in this Act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.

(i) COORDINATION WITH RESEARCH AND DEVELOPMENT PROGRAM.—To the extent available, and consistent with the provisions of this section, the Secretary shall provide spent nuclear fuel for the research and de-

velopment program authorized in section 217 from spent nuclear fuel received by the Secretary for storage under this section. Such spent nuclear fuel shall not be subject to the provisions of subsection (e).

INTERIM STORAGE FUND

SEC. 136. (a) CONTRACTS.—(1) During the period following the date of the enactment of this Act, but not later than January 1, 1990, the Secretary is authorized to enter into contracts with persons who generate or own spent nuclear fuel resulting from civilian nuclear activities for the storage of such spent nuclear fuel in any storage capacity provided under this subtitle: *Provided, however,* That the Secretary shall not enter into contracts for spent nuclear fuel in amounts in excess of the available storage capacity specified in section 135(a). Those contracts shall provide that the Federal Government will (1) take title at the civilian nuclear power reactor site, to such amounts of spent nuclear fuel from the civilian nuclear power reactor as the Commission determines cannot be stored onsite, (2) transport the spent nuclear fuel to a federally owned and operated interim away-from-reactor storage facility, and (3) store such fuel in the facility pending further processing, storage, or disposal. Each such contract shall (A) provide for payment to the Secretary of fees determined in accordance with the provisions of this section; and (B) specify the amount of storage capacity to be provided for the person involved.

(2) The Secretary shall undertake a study and, not later than 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges that shall be calculated on an annual basis, commencing on or before January 1, 1984. Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the cost of the interim storage of any spent nuclear fuel. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment) and any legislative recommendations determined by the Secretary to be appropriate.

(3) Fees for storage under this subtitle shall be established on a nondiscriminatory basis. The fees to be paid by each person entering into a contract with the Secretary under this subsection shall be based upon an estimate of the pro rata costs of storage and related activities under this subtitle with respect to such person, including the acquisition, construction, operation, and maintenance of any facilities under this subtitle.

(4) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such storage services shall be made available.

(5) Except as provided in sections 137, nothing in this or any other Act requires the Secretary, in carrying out the responsibilities of this section, to obtain a license or permit to possess or own spent nuclear fuel.

(b) LIMITATION.—No spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code may be stored by the Secretary in any storage capacity provided under this subtitle unless such department transfers to the Secretary, for deposit in the Interim Storage Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such spent nuclear fuel were generated by any other person.

(c) ESTABLISHMENT OF INTERIM STORAGE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Interim Storage Fund. The Storage Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Storage Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Storage Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the interim storage of civilian spent nuclear fuel, which shall automatically be transferred to the Storage Fund on such date.

(d) USE OF STORAGE FUND.—The Secretary may make expenditures from the Storage Fund, subject to subsection (e), for any purpose necessary or appropriate to the conduct of the functions and activities of the Secretary, or the provision or anticipated provision of services, under this subtitle, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any interim storage facility provided under this subtitle;

(2) the administrative cost of the interim storage program;

(3) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at an interim storage site, consistent with the restrictions in section 135; and

(4) the cost of transportation of spent nuclear fuel.

(e) ADMINISTRATION OF STORAGE FUND.—(1) The Secretary of the Treasury shall hold the Storage Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Storage Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Storage Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Storage Fund shall consist of estimates made by the Secretary of expenditures from the Storage Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Storage Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Storage Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Storage Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Storage Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Storage Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Storage Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Storage Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Storage Fund, less the average undisbursed cash balance in the Storage Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

SEC. 137. (a) TRANSPORTATION.—(1) Transportation of spent nuclear fuel under section 136(a) shall be subject to licensing and regulation by the Commission and by the Secretary of Transportation as provided for transportation of commercial spent nuclear fuel under existing law.

(2) The Secretary, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each

aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost.

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

MONITORED RETRIEVABLE STORAGE

SEC. 141. (a) FINDINGS.—The Congress finds that—

(1) the Federal Government has the responsibility to provide for long-term storage of high-level radioactive waste and spent nuclear fuel;

(2) the executive branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for construction of one or more monitored retrievable storage facilities to provide such long-term storage;

(3) the Federal Government has the responsibility to ensure that such facilities are available with sufficient capacity when needed;

(4) the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities have primary responsibility to provide for, and the responsibility to pay the costs of, the long-term storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary in accordance with the provisions of this title; and

(5) disposal of high-level radioactive waste and spent nuclear fuel in a repository developed under this Act should proceed regardless of any construction of a monitored retrievable storage facility pursuant to this section.

(b) SUBMISSION OF PROPOSAL BY SECRETARY.—(1) On or before June 1, 1985, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel. Each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring, management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

(2) Such proposal shall include—

(A) the establishment of a Federal program for the siting, development, construction, and operation of facilities capable of safely storing high-level radioactive waste and spent nuclear fuel, which facilities are to be licensed by the Commission;

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities;

(C) site-specific designs, specifications, and cost estimated sufficient to (i) solicit bids for the construction of the first such facility; (ii) support congressional authorization of the construction of such facility; and (iii) enable completion and operation of such facility as soon as practicable following congressional authorization of such facility; and

(D) a plan for integrating facilities constructed pursuant to this section with other storage and disposal facilities authorized in this Act.

(3) In formulating such proposal, the Secretary shall consult with the Commission and the Administrator, and shall submit their comments on such proposal to the Congress at the time such proposal is submitted.

(4) The proposal shall include, for the first such facility, at least five alternative combinations of proposed sites and facility designs consistent with the criteria of paragraph (b)(1). The Secretary shall recommend the combination among the alternatives that the Secretary deems preferable. The environmental assessment under subsection (c) shall include a full such analysis of the relative advantage and disadvantages of all five such alternative combinations of proposed sites and proposed facility designs.

(c) ENVIRONMENTAL IMPACT STATEMENTS.—(1) Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act, an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.

(2) If the Congress by law, after review of the proposal submitted by the Secretary under subsection (b), specifically authorizes construction of a monitored retrievable storage facility, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of such facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility, alternate sites for such facility, or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(d) LICENSING.—Any facility authorized pursuant to this section shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of the first such facility, the Commission may not consider the need for such facility, alternate sites for such facility, or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(e) CLARIFICATION.—(1) Nothing in this section limits the consideration of alternative facility designs consistent with the criteria of paragraph (b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored, retrievable facility authorized pursuant to this section.

(2) If Congress by law after review of the proposal submitted by the Secretary under subsection (b), authorizes construction of a monitored retrievable storage facility without specifying the site for such facility, any environmental impact statement, and any licensing procedure of the Commission, with respect to the facility shall consider alternate sites to the site selected for the facility pursuant to law.

(f) IMPACT ASSISTANCE.—(1) Upon receipt by the Secretary of congressional authorization to construct a facility described in subsection (b), the Secretary shall commence making annual impact aid payments to appropriate units of general local government in order to mitigate any social or economic impacts resulting from the construction and subsequent operation of any such facility within the jurisdictional boundaries of any such unit.

(2) Payments made available to units of general local government under this subsection shall be—

(A) allocated in a fair and equitable manner, with priority given to units of general local government determined by the Secretary to be most severely affected; and

(B) utilized by units of general local government only for planning, construction, maintenance, and provision of public services related to the siting of such facility.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines are necessary to ensure achievement of the the purposes of this subsection. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Such payments shall be made available entirely from funds held in the Nuclear Waste Fund established in this Act and shall be available only to the extent provided in advance in appropriation Acts.

(5) The Secretary may consult with appropriate units of general local government in advance of commencement of construction of any such facility in an effort to determine the level of payments each such unit is eligible to receive under this subsection.

(f) LIMITATION.—No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 112. No repository may be developed under this Act in any State in which there is located any monitored retrievable storage facility developed pursuant to this section.

(g) PARTICIPATION OF STATES AND INDIAN TRIBES.—Any facility authorized pursuant to this section shall be subject to the provisions of sections 115, 116(a), 116(b), 116(d), 117, and 118. For purposes of carrying out the provisions of this subsection, any reference in sections 115 through 118 to a repository shall be considered to refer to a monitored retrievable storage facility.

SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE

SEC. 151. (a) FINANCIAL ARRANGEMENTS.—(1) The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial

arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on the date of the enactment of this Act, prior to termination of such licenses.

(2) If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

(b) TITLE AND CUSTODY.—(1) The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

(2) If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

PURPOSE

SEC. 211. It is the purpose of this title—

(1) to provide direction to the Secretary with respect to the disposal of high-level radioactive waste and spent nuclear fuel;

(2) to authorize the Secretary, pursuant to this title—

(A) to provide for the construction, operation, and maintenance of a deep geologic test and evaluation facility; and

(B) to provide for a focused and integrated high-level radioactive waste and spent nuclear fuel research and development program, including the development of a test and evaluation facility to carry out research and provide an integrated demonstration of the technology for deep geologic disposal of high-level radioactive waste, and the development of the facilities to demonstrate dry storage of spent nuclear fuel; and

(3) to provide for an improved cooperative role between the Federal Government and States, affected Indian tribes, and units of general local government in the siting of a test and evaluation facility.

APPLICABILITY

SEC. 212. The provisions of this title are subject to section 8 and shall not apply to facilities that are used for the disposal of high-level radioactive waste, low-level radioactive waste transuranic waste, or spent nuclear fuel resulting from atomic energy defense activities.

IDENTIFICATION OF SITES

SEC. 213. (a) GUIDELINES.—Not later than 6 months after the date of the enactment of this Act and notwithstanding the failure of other agencies to promulgate standards pursuant to applicable law, the Secretary, in consultation with the Commission, the Director of the Geological Survey, the Administrator, the Council on Environmental Quality, and such other Federal agencies as the Secretary considers appropriate, is authorized to issue, pursuant to section 553 of title 5, United States Code, general guidelines for the selection of a site for a test and evaluation facility. Under such guidelines the Secretary shall specify factors that qualify or disqualify a site for development as a test and evaluation facility, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall require the Secretary to consider the various geologic media in which the site for a test and evaluation facility may be located and, to the extent practicable, to identify sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering and selecting sites under this title.

(b) SITE IDENTIFICATION BY THE SECRETARY.—(1) Not later than 1 year after the date of the enactment of this Act, and following promulgation of guidelines under subsection (a), the Secretary is authorized to identify 3 or more sites, at least 2 of which shall be in different geologic media in the continental United States, and at least 1 of which shall be in media other than salt. Subject to Commission requirements, the Secretary shall give preference to sites for the test and evaluation facility in media possessing geochemical characteristics that retard aqueous transport of radionuclides. In order to provide a greater possible protection of public health and safety as operating experience is gained at the test and evaluation facility, and with the exception of the primary areas under review by the Secretary on the date of the enactment of this Act for the location of a test and evaluation facility or repository, all sites identified under this subsection shall be more than 15 statute miles from towns having a population of greater than 1,000 persons as determined by the most recent census unless such sites contain high-level radioactive waste prior to identification under this title. Each identification of a site shall be supported by an environmental assessment, which shall include a detailed statement of the basis for such identification and of the probable impacts of the siting research activities planned for such site, and a discussion of alternative activities relating to siting research that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(A) an evaluation by the Secretary as to whether such site is suitable for siting research under the guidelines established under subsection (a);

(B) an evaluation by the Secretary of the effects of the siting research activities at such site on the public health and safety and the environment;

(C) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(D) a description of the decision process by which such site was recommended; and

(E) an assessment of the regional and local impacts of locating the proposed test and evaluation facility at such site.

(2) When the Secretary identifies a site, the Secretary shall as soon as possible notify the Governor of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, of such identification and the basis of such identification. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be identified after such 1 year period, following the same procedure as if such sites had been identified within such period.

SITING RESEARCH AND RELATED ACTIVITIES

SEC. 214. (a) IN GENERAL.—Not later than 30 months after the date on which the Secretary completes the identification of sites under section 213, the Secretary is authorized to complete sufficient evaluation of 3 sites to select a site for expanded siting research activities and for other activities under section 218. The Secretary is authorized to conduct such preconstruction activities relative to such site selection for the test and evaluation facility as he deems appropriate. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be evaluated after such 30-month period, following the same procedures as if such sites were to be evaluated within such period.

(b) PUBLIC MEETINGS AND ENVIRONMENTAL ASSESSMENT.—Not later than 6 months after the date on which the Secretary completes the identification of sites under section 213, and before beginning siting research activities, the Secretary shall hold at least 1 public meeting in the vicinity of each site to inform the residents of the area of the activities to be conducted at such site and to receive their views.

(c) RESTRICTIONS.—Except as provided in section 218 with respect to a test and evaluation facility, in conducting siting research activities pursuant to subsection (a)—

(1) the Secretary shall use the minimum quantity of high-level radioactive waste or other radioactive materials, if any, necessary to achieve the test or research objectives;

(2) the Secretary shall ensure that any radioactive material used or placed on a site shall be fully retrievable; and

(3) upon termination of siting research activities at a site for any reason, the Secre-

tary shall remove any radioactive material at or in the site as promptly as practicable.

(d) TITLE TO MATERIAL.—The Secretary may take title, in the name of the Federal Government, to the high-level radioactive waste, spent nuclear fuel, or other radioactive material emplaced in a test and evaluation facility. If the Secretary takes title to any such material, the Secretary shall enter into the appropriate financial arrangements described in subsections (a) or (b) of section 302 for the disposal of such material.

TEST AND EVALUATION FACILITY SITING REVIEW AND REPORTS

SEC. 215. (a) CONSULTATION AND COOPERATION.—The Governor of a State, or the governing body of an affected Indian tribe, notified of a site identification under section 213 shall have the right to participate in a process of consultation and cooperation as soon as the site involved has been identified pursuant to such section and throughout the life of the test and evaluation facility. For purposes of this section, the term "process of consultation and cooperation" means a methodology—

(1) by which the Secretary—

(A) keeps the Governor or governing body involved fully and currently informed about any potential economic or public health and safety impacts in all stages of the siting, development, construction, and operation of a test and evaluation facility;

(B) solicits, receives, and evaluates concerns and objections of such Governor or governing body with regard to such test and evaluation facility on an ongoing basis; and

(C) works diligently and cooperatively to resolve such concerns and objections; and

(2) by which the State or affected Indian tribe involved can exercise reasonable independent monitoring and testing of onsite activities related to all stages of the siting, development, construction and operation of the test and evaluation facility, except that any such monitoring and testing shall not unreasonably interfere with onsite activities.

(b) WRITTEN AGREEMENTS.—The Secretary shall enter into written agreements with the Governor of the State in which an identified site is located or with the governing body of any affected Indian tribe where an identified site is located in order to expedite the consultation and cooperation process. Any such written agreement shall specify—

(1) procedures by which such Governor or governing body may study, determine, comment on, and make recommendations with regard to the possible health, safety, and economic impacts of the test and evaluation facility;

(2) procedures by which the Secretary shall consider and respond to comments and recommendations made by such Governor or governing body, including the period in which the Secretary shall so respond;

(3) the documents the Department is to submit to such Governor or governing body, the timing for such submissions, the timing for such Governor or governing body to identify public health and safety concerns and the process to be followed to try to eliminate those concerns;

(4) procedures by which the Secretary and either such Governor or governing body may review or modify the agreement periodically; and

(5) procedures for public notification of the procedures specified under subparagraphs (A) through (D).

(c) LIMITATION.—Except as specifically provided in this section, nothing in this title is intended to grant any State or affected Indian tribe any authority with respect to the siting, development, or loading of the test and evaluation facility.

FEDERAL AGENCY ACTIONS

SEC. 216. (a) COOPERATION AND COORDINATION.—Federal agencies shall assist the Secretary by cooperating and coordinating with the Secretary in the preparation of any necessary reports under this title and the mission plan under section 301.

(b) ENVIRONMENTAL REVIEW.—(1) No action of the Secretary or any other Federal agency required by this title or section 301 with respect to a test and evaluation facility to be taken prior to the initiation of onsite construction of a test and evaluation facility shall require the preparation of an environmental impact statement under section 102(2)(C) of the Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require the preparation of environmental reports, except as otherwise specifically provided for in this title.

(2) The Secretary and the heads of all other Federal agencies shall, to the maximum extent possible, avoid duplication of efforts in the preparation of reports under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

RESEARCH AND DEVELOPMENT ON DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

SEC. 217. (a) PURPOSE.—Not later than 64 months after the date of the enactment of this Act, the Secretary is authorized to, to the extent practicable, begin at a site evaluated under section 214, as part of and as an extension of siting research activities of such site under such section, the mining and construction of a test and evaluation facility. Prior to the mining and construction of such facility, the Secretary shall prepare an environmental assessment. The purpose of such facility shall be—

(1) to supplement and focus the repository site characterization process;

(2) to provide the conditions under which known technological components can be integrated to demonstrate a functioning repository-like system;

(3) to provide a means of identifying, evaluating, and resolving potential repository licensing issues that could not be resolved during the siting research program conducted under section 212;

(4) to validate, under actual conditions, the scientific models used in the design of a repository;

(5) to refine the design and engineering of repository components and systems and to confirm the predicted behavior of such components and systems;

(6) to supplement the siting data, the generic and specific geological characteristics developed under section 214 relating to isolating disposal materials in the physical environment of a repository;

(7) to evaluate the design concepts for packaging, handling, and emplacement of high-level radioactive waste and spent nuclear fuel at the design rate; and

(8) to establish operating capability without exposing workers to excessive radiation.

(b) DESIGN.—The Secretary shall design each test and evaluation facility—

(1) to be capable of receiving not more than 100 full-sized canisters of solidified high-level radioactive waste (which canisters shall not exceed an aggregate weight of 100 metric tons), except that spent nuclear fuel may be used instead of such waste if such waste cannot be obtained under reasonable conditions;

(2) to permit full retrieval of solidified high-level radioactive waste, or other radioactive material used by the Secretary for testing, upon completion of the technology demonstration activities; and

(3) based upon the principle that the high-level radioactive waste, spent nuclear fuel, or other radioactive material involved shall be isolated from the biosphere in such a way that the initial isolation is provided by engineered barriers functioning as a system with the geologic environment.

(c) OPERATION.—(1) Not later than 88 months after the date of the enactment of this Act, the Secretary shall begin an in situ testing program at the test and evaluation facility in accordance with the mission plan developed under section 301, for purposes of—

(A) conducting in situ tests of bore hole sealing, geologic media fracture sealing, and room closure to establish the techniques and performance for isolation of high-level radioactive waste, spent nuclear fuel, or other radioactive materials from the biosphere;

(B) conducting in situ tests with radioactive sources and materials to evaluate and improve reliable models for radionuclide migration, absorption, and containment within the engineered barriers and geologic media involved, if the Secretary finds there is reasonable assurance that such radioactive sources and materials will not threaten the use of such site as a repository;

(C) conducting in situ tests to evaluate and improve models for ground water or brine flow through fractured geologic media;

(D) conducting in situ tests under conditions representing the real time and the accelerated time behavior of the engineered barriers within the geologic environment involved;

(E) conducting in situ tests to evaluate the effects of heat and pressure on the geologic media involved, on the hydrology of the surrounding area, and on the integrity of the disposal packages;

(F) conducting in situ tests under both normal and abnormal repository conditions to establish safe design limits for disposal packages and to determine the effects of the gross release of radionuclides into surroundings, and the effects of various credible failure modes, including—

(i) seismic events leading to the coupling of aquifers through the test and evaluation facility;

(ii) thermal pulses significantly greater than the maximum calculated; and

(iii) human intrusion creating a direct pathway to the biosphere; and

(G) conducting such other research and development activities as the Secretary considers appropriate, including such activities necessary to obtain the use of high-level radioactive waste, spent nuclear fuel, or other radioactive materials (such as any highly radioactive material from the Three Mile Island nuclear powerplant or from the West Valley Demonstration Project) for test and evaluation purposes, if such other activities are reasonably necessary to support the repository program and if there is reasonable assurance that the radioactive sources involved will not threaten the use of such site as a repository.

(2) The in situ testing authorized in this subsection shall be designed to ensure that the suitability of the site involved for licensing by the Commission as a repository will not be adversely affected.

(d) USE OF EXISTING DEPARTMENT FACILITIES.—During the conducting of siting research activities under section 214 and for

such period thereafter as the Secretary considers appropriate, the Secretary shall use Department facilities owned by the Federal Government on the date of the enactment of this Act for the conducting of generically applicable tests regarding packaging, handling, and emplacement technology for solidified high-level radioactive waste and spent nuclear fuel from civilian nuclear activities.

(e) ENGINEERED BARRIERS.—The system of engineered barriers and selected geology used in a test and evaluation facility shall have a design life at least as long as that which the Commission requires by regulations issued under this Act, or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), for repositories.

(f) ROLE OF COMMISSION.—(1)(A) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Commission shall reach a written understanding establishing the procedures for review, consultation, and coordination in the planning, construction, and operation of the test and evaluation facility under this section. Such understanding shall establish a schedule, consistent with the deadlines set forth in this subtitle, for submission by the Secretary of, and review by the Commission of and necessary action on—

(i) the mission plan prepared under section 301; and

(ii) such reports and other information as the Commission may reasonably require to evaluate any health and safety impacts of the test and evaluation facility.

(B) Such understanding shall also establish the conditions under which the Commission may have access to the test and evaluation facility for the purpose of assessing any public health and safety concerns that it may have. No shafts may be excavated for the test and evaluation until the Secretary and the Commission enter into such understanding.

(2) Subject to section 305, the test and evaluation facility, and the facilities authorized in section 217, shall be constructed and operated as research, development, and demonstration facilities, and shall not be subject to licensing under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(3)(A) The Commission shall carry out a continuing analysis of the activities undertaken under this section to evaluate the adequacy of the consideration of public health and safety issues.

(B) The Commission shall report to the President, the Secretary, and the Congress as the Commission considers appropriate with respect to the conduct of activities under this section.

(g) ENVIRONMENTAL REVIEW.—The Secretary shall prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to conducting tests with radioactive materials at the test and evaluation facility. Such environmental impact statement shall incorporate, to the extent practicable, the environmental assessment prepared under section 217(a). Nothing in this subsection may be construed to limit siting research activities conducted under section 214. This subsection shall apply only to activities performed exclusively for a test and evaluation facility.

(h) LIMITATIONS.—(1) If the test and evaluation facility is not located at the site of a repository, the Secretary shall obtain the concurrence of the Commission with respect to the decontamination and decommissioning of such facility.

(2) If the test and evaluation facility is not located at a candidate site or repository site, the Secretary shall conduct only the portion of the in situ testing program required in subsection (c) determined by the Secretary to be useful in carrying out the purposes of this Act.

(3) The operation of the test and evaluation facility shall terminate not later than—

(A) 5 years after the date on which the initial repository begins operation; or

(B) at such time as the Secretary determines that the continued operation of a test and evaluation facility is not necessary for research, development, and demonstration purposes;

whichever occurs sooner.

(4) Notwithstanding any other provisions of this subsection, as soon as practicable following any determination by the Secretary, with the concurrence of the Commission, that the test and evaluation facility is unsuitable for continued operation, the Secretary shall take such actions as are necessary to remove from such site any radioactive material placed on such site as a result of testing and evaluation activities conducted under this section. Such requirement may be waived if the Secretary, with the concurrence of the Commission, finds that short-term testing and evaluation activities using radioactive material will not endanger the public health and safety.

RESEARCH AND DEVELOPMENT ON SPENT NUCLEAR FUEL

SEC. 218. (a) DEMONSTRATION AND COOPERATIVE PROGRAMS.—The Secretary shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission. Not later than 1 year after the date of the enactment of this Act, the Secretary shall select at least 1, but not more than 3, sites evaluated under section 214 at such power reactors. In selecting such site or sites, the Secretary shall give preference to civilian nuclear power reactors that will soon have a shortage of interim storage capacity for spent nuclear fuel. Subject to reaching agreement as provided in subsection (b), the Secretary shall undertake activities to assist such power reactors with demonstration projects at such sites, which may use one of the following types of alternate storage technologies: spent nuclear fuel storage casks, caissons, or silos. The Secretary shall also undertake a cooperative program with civilian nuclear power reactors to encourage the development of the technology for spent nuclear fuel rod consolidation in existing power reactor water storage basins.

(b) COOPERATIVE AGREEMENTS.—To carry out the programs described in subsection (a), the Secretary shall enter into a cooperative agreement with each utility involved that specifies, at a minimum, that—

(1) such utility shall select the alternate storage technique to be used, make the land and spent nuclear fuel available for the dry storage demonstration, submit and provide site-specific documentation for a license application to the Commission, obtain a license relating to the facility involved, construct such facility, operate such facility after licensing, pay the costs required to construct such facility, and pay all costs associated with the operation and maintenance of such facility;

(2) the Secretary shall provide, on a cost-sharing basis, consultative and technical assistance, including design support and generic licensing documentation, to assist such utility in obtaining the construction authorization and appropriate license from the Commission; and

(3) the Secretary shall provide generic research and development of alternative spent nuclear fuel storage techniques to enhance utility-provided, at-reactor storage capabilities, if authorized in any other provision of this Act or in any other provision of law.

(c) DRY STORAGE RESEARCH AND DEVELOPMENT.—(1) The consultative and technical assistance referred to in subsection (b)(2) may include, but shall not be limited to, the establishment of a research and development program for the dry storage of not more than 300 metric tons of spent nuclear fuel at facilities owned by the Federal Government on the date of the enactment of this Act. The purpose of such program shall be to collect necessary data to assist the utilities involved in the licensing process.

(2) To the extent available, and consistent with the provisions of section 135, the Secretary shall provide spent nuclear fuel for the research and development program authorized in this subsection from spent nuclear fuel received by the Secretary for storage under section 135. Such spent nuclear fuel shall not be subject to the provisions of section 135(e).

(d) FUNDING.—The total contribution from the Secretary from Federal funds and the use of Federal facilities or services shall not exceed 25 percent of the total costs of the demonstration program authorized in subsection (a), as estimated by the Secretary. All remaining costs of such program shall be paid by the utilities involved or shall be provided by the Secretary from the Interim Storage Fund established in section 136.

(e) RELATION TO SPENT NUCLEAR FUEL STORAGE PROGRAM.—The spent nuclear fuel storage program authorized in section 135 shall not be construed to authorize the use of research development or demonstration facilities owned by the Department unless—

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) has passed after the Secretary has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a written report containing a full and complete statement concerning (A) the facility involved; (B) any necessary modifications; (C) the cost thereof; and (D) the impact on the authorized research and development program; or

(2) each such committee, before the expiration of such period, has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed use of such facility.

PAYMENTS TO STATES AND INDIAN TRIBES

SEC. 219. (a) PAYMENTS.—Subject to subsection (b), the Secretary shall make payments to each State or affected Indian tribe that has entered into an agreement pursuant to section 215. The Secretary shall pay an amount equal to 100 percent of the expenses incurred by such State or Indian tribe in engaging in any monitoring, testing, evaluation, or other consultation and cooperation activity under section 215 with re-

spect to any site. The amount paid by the Secretary under this paragraph shall not exceed $3,000,000 per year from the date on which the site involved was identified to the date on which the decontamination and decommission of the facility is complete pursuant to section 217(h). Any such payment may only be made to a State in which a potential site for a test and evaluation facility has been identified under section 213, or to an affected Indian tribe where the potential site has been identified under such section.

(b) LIMITATION.—The Secretary shall make any payment to a State under subsection (a) only if such State agrees to provide, to each unit of general local government within the jurisdictional boundaries of which the potential site or effectively selected site involved is located, at least one-tenth of the payments made by the Secretary to such State under such subsection. A State or affected Indian tribe receiving any payment under subsection (a) shall otherwise have discretion to use such payment for whatever purpose it deems necessary, including the State or tribal activities pursuant to agreements entered into in accordance with section 215. Annual payments shall be prorated on a 365-day basis to the specified dates.

STUDY OF RESEARCH AND DEVELOPMENT NEEDS FOR MONITORED RETRIEVABLE STORAGE PROPOSAL

SEC. 220. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the research and development activities the Secretary considers necessary to develop the proposal required in section 141(b) with respect to a monitored retrievable storage facility.

JUDICIAL REVIEW

SEC. 221. Judicial review of research and development activities under this title shall be in accordance with the provisions of section 119.

SEC. 222. RESEARCH ON ALTERNATIVES FOR THE PERMANENT DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE.—The Secretary shall continue and accelerate a program of research, development, and investigation of alternative means and technologies for the permanent disposal of high-level radioactive waste from civilian nuclear activities and Federal research and development activities except that funding shall be made from amounts appropriated to the Secretary for purposes of carrying out this section. Such program shall include examination of various waste disposal options.

TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

MISSION PLAN

SEC. 301. (a) CONTENTS OF MISSION PLAN.—The Secretary shall prepare a comprehensive report, to be known as the mission plan, which shall provide an informational basis sufficient to permit informed decisions to be made in carrying out the repository program and the research, development, and demonstration programs required under this Act. The mission plan shall include—

(1) an identification of the primary scientific, engineering, and technical information, including any necessary demonstration of engineering or systems integration, with respect to the siting and construction of a test and evaluation facility and repositories;

(2) an identification of any information described in paragraph (1) that is not available because of any unresolved scientific, engineering, or technical questions, or undemonstrated engineering or systems integration, a schedule including specific major milestones for the research, development, and technology demonstration program required under this Act and any additional activities to be undertaken to provide such information, a schedule for the activities necessary to achieve important programmatic milestones, and an estimate of the costs required to carry out such research, development, and demonstration programs;

(3) an evaluation of financial, political, legal, or institutional problems that may impede the implementation of this Act, the plans of the Secretary to resolve such problems, and recommendations for any necessary legislation to resolve such problems;

(4) any comments of the Secretary with respect to the purpose and program of the test and evaluation facility;

(5) a discussion of the significant results of research and development programs conducted and the implications for each of the different geologic media under consideration for the siting of repositories, and, on the basis of such information, a comparison of the advantages and disadvantages associated with the use of such media for repository sites;

(6) the guidelines issued under section 112(a);

(7) a description of known sites at which site characterization activities should be undertaken, a description of such siting characterization activities, including the extent of planned excavations, plans for onsite testing with radioactive or nonradioactive material, plans for any investigations activities which may affect the capability of any such site to isolate high-level radioactive waste or spent nuclear fuel, plans to control any adverse, safety-related impacts from such site characterization activities, and plans for the decontamination and decommissioning of such site if it is determined unsuitable for licensing as a repository;

(8) an identification of the process for solidifying high-level radioactive waste or packaging spent nuclear fuel, including a summary and analysis of the data to support the selection of the solidification process and packaging techniques, an analysis of the requirements for the number of solidification packaging facilities needed, a description of the state of the art for the materials proposed to be used in packaging such waste or spent fuel and the availability of such materials including impacts on strategic supplies and any requirements for new or reactivated facilities to produce any such materials needed, and a description of a plan, and the schedule for implementing such plan, for an aggressive research and development program to provide when needed a high-integrity disposal package at a reasonable price;

(9) an estimate of (A) the total repository capacity required to safely accommodate the disposal of all high-level radioactive waste and spent nuclear fuel expected to be generated through December 31, 2020, in the event that no commercial reprocessing of spent nuclear fuel occurs, as well as the repository capacity that will be required if such reprocessing does occur; (B) the number and type of repositories required to be constructed to provide such disposal capacity; (C) a schedule for the construction of such repositories; and (D) an estimate of the period during which each repository listed in such schedule will be accepting high-level radioactive waste or spent nuclear fuel for disposal;

(10) an estimate, on an annual basis, of the costs required (A) to construct and operate the repositories anticipated to be needed under paragraph (9) based on each of the assumptions referred to in such paragraph; (B) to construct and operate a test and evaluation facility, or any other facilities, other than repositories described in subparagraph (A), determined to be necessary; and (C) to carry out any other activities under this Act; and

(11) an identification of the possible adverse economic and other impacts to the State or Indian tribe involved that may arise from the development of a test and evaluation facility or repository at a site.

(b) SUBMISSION OF MISSION PLAN.—(1) Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a draft mission plan to the States, the affected Indian tribes, the Commission, and other Government agencies as the Secretary deems appropriate for their comments.

(2) In preparing any comments on the mission plan, such agencies shall specify with precision any objections that they may have. Upon submission of the mission plan to such agencies, the Secretary shall publish a notice in the Federal Register of the submission of the mission plan and of its availability for public inspection, and, upon receipt of any comments of such agencies respecting the mission plan, the Secretary shall publish a notice in the Federal Register of the receipt of comments and of the availability of the comments for public inspection. If the Secretary does not revise the mission plan to meet objections specified in such comments, the Secretary shall publish in the Federal Register a detailed statement for not so revising the mission plan.

(3) The Secretary, after reviewing any other comments made by such agencies and revising the mission plan to the extent that the Secretary may consider to be appropriate, shall submit the mission plan to the appropriate committees of the Congress not later than 17 months after the date of the enactment of this Act. The mission plan shall be used by the Secretary at the end of the first period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) following receipt of the mission plan by the Congress.

NUCLEAR WASTE FUND

SEC. 302. (a) CONTRACTS.—(1) In the performance of his functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

(2) For electricity generated by a civilian nuclear power reactor and sold on or after the date 90 days after the date of enactment of this Act, the fee under paragraph (1) shall be equal to 1.0 mil per kilowatt hour.

(3) For spent nuclear fuel, or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to the application of the fee under paragraph (2) to such reactor, the Secretary shall, not later than 90 days after the date of enactment of this Act, establish a 1 time fee per kilogram of heavy metal in

spent nuclear fuel, or in solidified high-level radioactive waste. Such fee shall be in an amount equivalent to an average charge of 1.0 mil per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived there from, to be collected from any person delivering such spent nuclear fuel or high-level waste, pursuant to section 123, to the Federal Government. Such fee shall be paid to the Treasury of the United States and shall be deposited in the seperate fund established by subsection (c) 126(b). In paying such a fee, the person delivering spent fuel, or solidified high-level radioactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by subsection (a) and subsection (c). The Secretary shall annually review the amount of the fees established by subsections (a) and (c) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (a) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in section 601(a), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.

(5) The contracts entered into under this section shall provide that in return for the payment of the fees established by paragraphs (2) and (3), the Federal Government will reasonably undertake to perform the duties required of it under this Act and shall no later than December 31, 1996—

(A) take title to the spent nuclear fuel and high-level radioactive waste owned or generated by such person, and

(B) store or dispose of the spent nuclear fuel or high-level radioactive waste in a federally owned and operated repository or monitored, retrievable storage facility.

(6) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such disposal services shall be made available.

(b) ADVANCE CONTRACTING REQUIREMENT.—(1)(A) The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(i) such person has entered into a contract with the Secretary under this section; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

(B) The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of high-level radioactive waste and spent nuclear fuel that may result from the use of such license.

(2) Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in any repository constructed under this Act unless the generator or owner of such spent fuel or waste has entered into a contract with the Secretary under this section by not later than—

(A) June 30, 1983; or

(B) the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste;

whichever occurs later.

(3) The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

(4) No high-level radioactive waste or spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be disposed of by the Secretary in any repository constructed under this Act unless such department transfers to the Secretary, for deposit in the Nuclear Waste Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such waste or spent fuel were generated by any other person.

(c) ESTABLISHMENT OF NUCLEAR WASTE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Nuclear Waste Fund. The Waste Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Waste Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Waste Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the disposal of civilian high-level radioactive waste or civilian spent nuclear fuel, which shall automatically be transferred to the Waste Fund on such date.

(d) USE OF WASTE FUND.—The Secretary may make expenditures from the Waste Fund, subject to subsection (e), only for purposes of radioactive waste disposal activities under titles I and II, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository, monitored, retrievable storage facility or test and evaluation facility constructed under this Act;

(2) the conducting of nongeneric research, development, and demonstration activities under this Act;

(3) the administrative cost of the radioactive waste disposal program;

(4) any costs that may be incurred by the Secretary in connection with the transportation, treating, or packaging of spent nuclear fuel or high-level radioactive waste to be disposed of in a repository, to be stored in a monitored, retrievable storage site or to be used in a test and evaluation facility;

(5) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at a repository site, a monitored, retrievable storage site or a test and evaluation facility site and necessary or incident to such repository, monitored, retrievable storage facility or test and evaluation facility; and

(6) the provision of assistance to States, units of general local government, and Indian tribes under sections 116, 118, and 219.

No amount may be expended by the Secretary under this subtitle for the construction or expansion of any facility unless such construction or expansion is expressly authorized by this or subsequent legislation. The Secretary hereby is authorized to construct one repository and one test and evaluation facility.

(e) ADMINISTRATION OF WASTE FUND.—(1) The Secretary of the Treasury shall hold the Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Waste Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Waste Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Waste Fund shall consist of the estimates made by the Secretary of expenditures from the Waste Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Waste Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Waste Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Waste Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the

Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Waste Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Waste Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Waste Fund, less the average undisbursed cash balance in the Waste Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

ALTERNATIVE MEANS OF FINANCING

SEC. 303. The Secretary shall undertake a study with respect to alternative approaches to managing the construction and operation of all civilian radioactive waste management facilities, including the feasibility of establishing a private corporation for such purposes. In conducting such study, the Secretary shall consult with the Director of the Office of Management and Budget, the Chairman of the Commission, and such other Federal agency representatives as may be appropriate. Such study shall be completed, and a report containing the results of such study shall be submitted to the Congress, within 1 year after the date of the enactment of this Act.

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

SEC. 304. (a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

(c) ANNUAL REPORT TO CONGRESS.—The Director of the Office shall annually prepare and submit to the Congress a comprehensive report on the activities and expenditures of the Office.

(d) ANNUAL AUDIT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

LOCATION OF TEST AND EVALUATION FACILITY

SEC. 305. (a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report setting forth whether the Secretary plans to locate the test and evaluation facility at the site of a repository.

(b) PROCEDURES.—(1) If the test and evaluation facility is to be located at any candidate site or repository site (A) site selection and development of such facility shall be conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of repositories; and (B) the Secretary may not commence construction of any surface facility for such test and evaluation facility prior to issuance by the Commission of a construction authorization for a repository at the site involved.

(2) No test and evaluation facility may be converted into a repository unless site selection and development of such facility was conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of respositories.

(3) The Secretary may not commence construction of a test and evaluation facility at a candidate site or site recommended as the location for a repository prior to the date on which the designation of such site is effective under section 115.

UP AMENDMENT NO. 1574

Mr. McCLURE. Mr. President, I now send a group of printed amendments to the desk and ask for their immediate consideration en bloc and ask unanimous consent that when considered en bloc and adopted en bloc that they be then treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment en bloc numbered 1574.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make clear that if the Federal Government seeks to utilize repositories developed under this bill, the Federal Government must pay its pro rata share of development, construction and operating costs of such repositories)

On page 12, line 11, strike all beginning with the word "Such", through the word "302." in line 18, and insert in lieu thereof the following: "Such arrangements shall include the allocation of costs of developing, constructing, and operating this repository or repositories. The costs resulting from permanent disposal of high-level radioactive waste from atomic energy defense activites shall be paid by the Federal Government, into the special account established under section 302.".

(Purpose: To make it clear that with respect to transportation, nothing in the Act is intended to affect existing Federal, State, or local laws)

On page 13, following section 8, insert a new section 9 as follows:

"APPLICABILITY

"SEC. 9. TRANSPORTATION.—Nothing in this Act shall be construed to affect Federal, State, or local laws pertaining to the transportation of spent nuclear fuel or high-level radioactive waste.".

(Purpose: To amend the process by which potential sites for repositories are selected)

On page 18, line 18, strike subsection (b) of section 112 and insert in lieu thereof the following new subsection:

"(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall nominate at least 5 sites that he determines suitable for site characterization for selection of the first repository site.

"(B) Subsequent to such nomination, the Secretary shall recommend to the President three of the nominated sites not later than January 1, 1985 for characterization as candidate sites.

"(C) Not later than July 1, 1989, the Secretary shall nominate five sites, which shall include at least three additional sites not nominated under subparagraph (A), and recommend by such date to the President from such five nominated sites three candidate sites the Secretary determines suitable for site characterization for selection of the second repository. The Secretary may not nominate any site previously nominated under subparagraph (A), that was not recommended as a candidate site under subparagraph (B).

"(D) Such recommendations under subparagraphs (B) and (C) shall be consistent with the provisions of section 305.

"(E) Each nomination of a site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

"(i) an evaluation by the Secretary as to whether such site is suitable for site characterization under the guidelines established under subsection (a);

"(ii) an evaluation by the Secretary as to whether such site is suitable for development as a repository under each such guide-

line that does not require site characterization as a prerequisite for application of such guideline;

"(iii) an evaluation by the Secretary of the effects of the site characterization activities at such site on the public health and safety and the environment;

"(iv) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

"(v) a description of the decision process by which such site was recommended; and

"(vi) an assessment of the regional and local impacts of locating the proposed repository at such site.

"(F)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (E).

"(G) Each environmental assessment prepared under this paragraph shall be made available to the public.

"(H) Before nominating a site, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such nomination and the basis for such nomination.

"(2) Before nominating any site the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located of the proposed nomination of such site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

"(3) In evaluating the sites nominated under this section prior to any decision to recommend a site as a candidate site, the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at a site unless (i) such preliminary boring or excavation activities were in progress upon the date of enactment of this Act or (ii) the Secretary certifies that such available information from other sources, in the absence of preliminary borings or excavations, will not be adequate to satisfy applicable requirements of this Act or any other law: *Provided,* That preliminary borings or excavations under this section shall not exceed a diameter of six inches.".

(Purpose: To reflect the change made from an environmental impact statement back to an environmental assessment for sites recommended to the President)

On page 22, line 7, strike all of subsection (f) and insert in lieu thereof the following:

"(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c); and (3) the Secretary shall conduct public hearings under 113(b)(2) and comply with requirements under section 117 of this Act within one year of the date of enactment.".

(Purpose: To strike subsection 112(g) of the substitute amendment)

On page 23, strike lines 3 through 18.

(Purpose: To provide that no repository shall be built in the surface facility of any proposed repository would be located adjacent to a one square mile area with more than 1000 individuals)

On page 18, line 4 strike the words "in a highly populated area.", and insert in lieu thereof the following:

"(1) in a highly populated area; or (2) adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals.".

(Purpose: To provide the President discretion to recommend additional sites for the construction of subsequent repositories)

On page 32, line 2, add the following new sentence following the words "under paragraph (1)": "After submission of the second such recommendation, the President may submit to the Congress recommendations for other sites, in accordance with the provisions of this subtitle.".

(Purpose: To clarify the Secretary's preliminary determination that sites are suitable for development as repositories is to be made consistent with the Secretary's guidelines promulgated under section 112(a))

On page 37, line 4, strike the sentence beginning with "For purposes of", and insert in lieu thereof the following: "For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, the Secretary shall consider as alternate sites for the first repository to be developed under this subtitle 3 candidate sites with respect to which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination that such sites are suitable for development as repositories consistent with the guidelines promulgated under section 112(a)."

(Purpose: To clarify the Secretary's preliminary determination that sites are suitable for development as repositories is to be made consistent with the Secretary's guidelines promulgated under section 112(a))

On page 37, line 16, strike the sentence beginning with "The Secretary shall", and insert in lieu thereof the following:

"The Secretary shall consider as alternative sites for subsequent repositories at least three of the remaining sites recommended by the Secretary by January 1, 1985 and by July 1, 1989, pursuant to section 112(b) and approved by the President for site characterization pursuant to section 112(c) for which (1) site characterization has been completed under section 13; and (2) the Secretary has made a preliminary determination that such sites are suitable for development as repositories consistent with the guidelines promulgated under section 112(a).".

(Purpose: To provide for judicial review of environmental assessments prepared under 112(b)(1))

On page 63, line 14, after the word "section", insert the following: "112(b)(1) or".

On page 92, line 14, strike Subtitle C and insert in lieu thereof the following:

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

MONITORED RETRIEVABLE STORAGE

SEC. 141. (a) FINDINGS.—The Congress finds that—

(1) long-term storage of high-level radioactive waste or spent nucler fuel in monitored retrievable storage facilities is an option for providing safe and reliable management of such waste or spent fuel;

(2) the executive branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for construction of one or more monitored retrievable storage facilities to provide such long-term storage;

(3) the Federal Government has the responsibility to ensure that site specific designs for such facilities are available as provided in this section;

(4) the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities have the responsibility to pay the costs of the long-term storage of such waste and spent fuel; and

(5) disposal of high-level radioactive waste and spent nuclear fuel in a respository developed under this Act should proceed regardless of any construction of a monitored retrievable storage facility pursuant to this section.

(b) SUBMISSION OF PROPOSAL BY SECRETARY.—(1) On or before June 1, 1985, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel, each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring, management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

(2) Such proposal shall include—

(A) the establishment of a Federal program for the siting, development construction, and operation of facilities capable of safely storing high-level radioactive waste and spent nuclear fuel, which facilities are to be licensed by the Commission;

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities;

(C) site-specific designs, specifications, and cost estimates sufficient to (i) solicit bids for the construction of the first such facility; (ii) support congressional authorization of the construction of such facility; and (iii) enable completion and operation of

such facility as soon as practicable following congressional authorization of such facility; and

(D) a plan for integrating facilities constructed pursuant to this section with other storage and disposal facilities authorized in this Act.

(3) In formulating such proposal, the Secretary shall consult with the Commission and the Administrator, and shall submit their comments on such proposal to the Congress at the time such proposal is submitted.

(4) The proposal shall include, for the first such facility, at least three alternative sites and at least five alternative combinations of such proposed sites and facility designs consistent with the criteria of paragraph (b)(1). The Secretary shall recommend the combination among the alternatives that the Secretary deems preferable. The environmental assessment under subsection (c) shall include a full analysis of the relative advantages and disadvantages of all five such alternative combinations of proposed sites and proposed facility designs.

(c) ENVIRONMENTAL IMPACT STATEMENTS.—(1) Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act, an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.

(2) If the Congress by law, after review of the proposal submitted by the Secretary under subsection (b), specifically authorizes construction of a monitored retrievable storage facility, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of such facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(d) LICENSING.—Any facility authorized pursuant to this section shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of the first such facility, the Commission may not consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(e) CLARIFICATION.—Nothing in this section limits the consideration of alternative facility designs consistent with the criteria of paragraph (b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored, retrievable facility authorized pursuant to this section.

(f) IMPACT ASSISTANCE.—(1) Upon receipt by the Secretary of congressional authorization to construct a facility described in subsection (b), the Secretary shall commence making annual impact aid payments to appropriate units of general local government in order to mitigate any social or economic impacts resulting from the construction and subsequent operation of any such facility within the jurisdictional boundaries of any such unit.

(2) Payments made available to units of general local government under this subsection shall be—

(A) allocated in a fair and equitable manner, with priority given to units of general local government determined by the Secretary to be most severely affected; and

(B) utilized by units of general local government only for planning, construction, maintenance, and provision of public services related to the siting of such facility.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines are necessary to ensure achievment of the purposes of this subsection. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Such payments shall be made available entirely from funds held in the Nuclear Waste Fund established in section 302(c) and shall be available only to the extent provided in advance in appropriation Act.

(5) The Secretary may consult with appropriate units of general local government in advance of commencement of construction of any such facility in an effort to determine the level of payments each such unit is eligible to receive under this subsection.

(g) LIMITATION.—No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 112.

(h) PARTICIPATION OF STATES AND INDIAN TRIBES.—Any facility authorized pursuant to this section shall be subject to the provisions of section 115, 116(b), 116(d), 117 and 118. For purposes of carrying out the provisions of this subsection, any reference in sections 115 through 118 to a repository shall be considered to refer to a monitored retrievable storage facility.

(Purpose: To provide that the Secretary of Energy take title to high-level waste or spent fuel as expeditiously as practicable upon the request of the generator of such waste)

On page 133, strike lines 1 through 12 and insert in lieu thereof the following:

"(5) Contracts entered into under this section shall provide that—

(A) following commencement of operation of a repository, the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and

(B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.".

(Purpose: To clarify that interim storage may only be placed at Federal sites owned by the Government on the date of enactment of this act)

On page 75, line 24, strike "federal site", and insert in lieu thereof the following: "site owned by the federal government on the date of enactment of this Act;".

(Purpose: To conform the language of the substitute amendment to conform to the terminology employed throughout the House bill)

On page 70, line 19, strike the word "powerplant", and insert in lieu thereof the following: "reactor".

(Purpose: To correct cross-references contained in section 302(a)(4) of the bill)

On page 132, strike lines 5 through 25 and insert in lieu thereof the following:

"(4) Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and paragraph (3). The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (d) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in subsection (d), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of ninety days of continuous session have elapsed following the receipt of such transmittal unless during such ninety-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.".

Mr. McCLURE. Mr. President, this amendment is intended to make it clear that if the Federal Government seeks to utilize repositories developed under this bill for disposal of high-level radioactive waste resulting from atomic energy defense activities, the Federal Government must pick up its pro rata share of the costs of developing, constructing, and operating such a repository. This provision, in addition, directs those funds to be placed into the waste fund account established under section 302 for this purpose.

The intent of this amendment is simple and straightforward: We are proposing to add a new section to this bill to make it clear that, with respect to transportation of spent nuclear fuel or high-level radioactive waste, nothing in this act is intended to affect existing Federal, State, or local laws. Thus, this bill is intended to have no affect with respect to the validity of those individual laws, by either affirming or negating such validity, nor is it intended to alter the legal relationship between Federal, State, or local laws regarding transportation of spent nuclear fuel or high-level radioactive waste, as determined under existing law or judicial precedent.

REPOSITORY SITE SELECTION

Mr. President, this amendment represents a compromise as to the nature of the selection of sites for a potential repository. The Senate bill provided that that Secretary of Energy recommend to the President for his approval, at least 3 sites for characterization by January 1, 1984. One of those would then be selected for recommendation as a repository. The Secretary

would then select at least three additional sites to recommend for site characterization for a second repository in January of 1987. One additional site would then be chosen for a second potential repository.

The House approach to this same process was to have the Secretary of Energy recommend to the President for his approval, at least five sites by July 1, 1984 and one additional site by February 1, 1985 for site characterization. From these six sites at least three would be characterized and from those three, one would be recommended as a potential repository.

In the Senate approach an environmental assessment was required before sinking shafts for site characterization. In the House version the environmental assessement was to accompany the recommendations to the President for site characterization.

The compromise approach embodied in this amendment is as follows. First, five sites would be nominated by the Secretary as sites to be considered for recommendation to the President for site characterization. Of those sites, three would actually be recommended by January 1, 1985, to the President for his approval for characterization. Off these sites characterized the Secretary would recommend one for the selection of the first repository. The Secretary would nominate at least three additional sites by July 1, 1989, leading to the recommendation of three candidate sites that the Secretary determines suitable for site characterization for selection of the second repository.

Under the compromise no drilling of preliminary boreholes would be permitted at a site before that site was selected by the Secretary for site characterization unless drilling was already underway on the date of enactment of this act. The drilling or preliminary boreholes could take place if the Secretary were to find that existing geologic information was not sufficient.

The compromise would also provide that an environmental assessment be done on each site at the time the Secretary nominated the site. The environmental assessment provided under the compromise is identical to that in the House passed bill. Among other things the assessment would provide that a reasonable comparative evaluation be made by the Secretary of the site which is subject of the assessment and other sites which have been nominated.

Mr. President, I believe this compromise represents a very workable and fair process for the evaluation of sites and I urge the adoption of the amendment.

Mr. President, this is simply a conforming change, to reflect the change we have made from an environmental impact statement back to an environmental assessment for sites recommended to the President. In section 112(f), the Secretary, in the substitute amendment, was directed to prepare an environmental impact statement for all sites for which a borehole had been approved by DOE by August 1, 1982. It is my understanding that the only site involved in this subsection is the Hanford site in Washington. Consistent with our earlier change back to environmental assessments for these sites, we have restored the language requiring an environmental assessment under this subsection, as well.

Mr. President, this amendment is a technical change resulting from an earlier amendment already offered. As you recall, the substitute amendment included a provision requiring the preparation of an environmental impact statement on each site recommended to the President by the Department of Energy for site characterization. We have restored the requirement adopted by both the House and the Senate that the Secretary only prepare an environmental assessment, rather than impact statement. This amendment is a conforming amendment, striking subsection 112(g) of the substitute amendment, wherein we had defined what must be included in such an impact statement.

Mr. President, this amendment provides that the Secretary, in promulgating guidelines for recommendation of sites for repositories, shall specify that no repository shall be built if the surface facility of any proposed repository would be located adjacent to a 1 square mile area with more than 1,000 individuals.

Mr. President, this amendment to section 114(a)(2)(A) is a technical amendment to restore a provision contained in the House bill, as originally passed, to the Senate substitute amendment. This provision, which was inadvertently deleted when the substitute amendment was submitted for printing, simply says that after the President, after recommending two sites for the construction of the first and second repositories, may at his discretion recommend additional sites for the construction of subsequent repositories. We have included this provision to make it clear that, although the President is not required to recommend any more than two sites for the construction of repositories, if the need arises, the President may recommend additional sites.

Mr. President, these two amendments are of a clarifying nature, to make it clear that the Secretary's preliminary determination that sites are suitable for development as repositories is to be made consistent with the Secretary's guidelines promulgated under section 112(a). Without the reference to the 112(a) guidelines, it was not clear what criteria the Secretary was to use in making this preliminary determination, and this amendment is intended to clarify that oversight.

Mr. President, this is yet another technical change required as a result of the earlier amendment requiring environmental assessments, rather than environmental impact statements, on sites recommended to the President for characterization. Now that we have made that change, it was necessary to include in the judicial review section, under the provision authorizing judicial review of environmental assessments, a reference to those prepared under 112(b)(1).

Mr. President, this amendment substitutes with only a few changes the version of the monitored retrievable storage provisions of the House reported bill. Monitored retrievable storage of spent fuel and high-level radioactive waste means the long-term isolation of fuel and waste in facilities that permit continuous monitoring, ready retrieval and periodic maintenance, as necessary, of the canisters containing the fuel or waste. Basically, MRS facilities would be used to isolate the fuel and waste without losing control of it.

Both the House and Senate nuclear waste policy bills contained provisions calling on the President to submit to Congress a proposal including designs and other site-specific information about a proposed MRS facility.

The compromise substitute described here was developed by the principal sponsors of the House and Senate bills.

This compromise substitute provides for a MRS proposal to Congress in June of 1985—2½ years after enactment of this act. The Senate would recede from its original position of a 1-year deadline, and the House would recede from its 5-year deadline.

The proposal to Congress must contain at least five alternative combinations of site and design and at least three alternative sites. Thus if one site is identified that accommodates two different MRS designs—for example, either the dry-well or tunnel-rack approaches already analyzed by DOE—then the requirements of the substitute would be satisfied if three other sites, each with its own preferred design, were also included in the proposal. Under this scenario, Congress would have four sites to review. Alternatively, DOE could comply with the requirements of the substitute by submitting five separate sites, each with its own site-specific design.

MRS facilities would be licensed by the Nuclear Regulatory Commission, and, under the compromise substitute, the licensing process would involve consideration of alternative sites, even though the Congress itself had selected a specific site. The substitute explicitly provides that alternative de-

signs for an MRS may always be considered.

Full State participation is provided for the MRS program in exactly the same way as it is provided in the case of repository sites.

Congress must act before any construction application could proceed. Congress would be free to reject, by failing to act, any of the recommendations DOE makes under the provisions of the substitute. Even if Congress does act, the Nuclear Regulatory Commission could decline to issue a license for the facility chosen pursuant to congressional action.

Mr. President, this amendment amends section 302(a)(5) of the substitute amendment to provide that the Secretary of Energy take title to high-level waste or spent nuclear fuel as expeditiously as practicable upon the request of the generator of such waste. In addition, this amendment directs the Secretary to begin, not later than January 31, 1998, to begin to dispose of the high-level radioactive waste or spent nuclear fuel from those generating such waste. Under the substitute amendment, there was some concern that, in directing the Secretary to take title to and dispose of such wastes no later than December 31, 1996, we might not be giving the Secretary enough flexibility to tailor his schedule for accepting such wastes to the availability of a repository. This amendment simply directs the Secretary to take title to such wastes as expeditiously as practicable, upon the request of the generator of those wastes, after commencement of repository operation.

Mr. President, this amendment restores language inadvertently deleted from the House-passed bill in section 135(a)(B), the subtitle dealing with interim storage. In preparing our substitute amendment, it was not our intent to delete this language, and this amendment would serve to restore the language deleted.

Mr. President, this is another technical change to conform the language of the substitute amendment to the terminology employed throughout the House bill. In section 132(5), where we had included the word "powerplant," we have replaced that reference with the appropriate terminology, "reactor."

Mr. President, this is another technical amendment correcting cross-references contained in section 302(a)(4) of the bill. Specifically, where that section referred to subsections (a) and (c), those references have been changed to the appropriate references, "paragraphs (2) and (3), respectively. For ease of reference, Mr. President, we have simply repeated the entire paragraph.

Mr. President, have the amendments en bloc been adopted?

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Idaho.

The amendment (UP No. 1574) en bloc was agreed to.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. We now have pending the substitute which has been amended by the amendments en bloc and they will be treated as original text for the purpose of further amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 1575

Mr. McCLURE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration on behalf of Senator WEICKER.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for Senator WEICKER proposes an unprinted amendment numbered 1575.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 143, line 13, add a new section as follows:

"SEC. 306. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.—The Nuclear Regulatory Commission is authorized and directed to promulgate regulations, or other appropriate Commission regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operation licenses and for operator requalification programs; requirements governing NRC administration of requalification examinations; requirements for operating tests at civilian nuclear powerplant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs. Such regulations or other regulatory guidance shall be promulgated by the Commission within the 12-month period following enactment of this Act, and the Commission within the 12-month period following enactment of this Act shall submit a report to Congress setting forth the actions the Commission has taken with respect to fulfilling its obligations under this Section."

In Section 1 amend the table of contents accordingly.

Mr. METZENBAUM. Mr. President, will the Senator from Idaho be good enough to explain what the amendment does?

Mr. McCLURE. The amendment provides that the Commission license provide for the operator training.

Mr. METZENBAUM. The operator training. Nothing further?

Mr. McCLURE. Nothing further.

Mr. WEICKER. Mr. President, I rise today to offer an amendment which speaks directly to one of the public's great concerns regarding our use of nuclear power. The simple fact is, Mr. President, that of our nuclear power and the ability of the nuclear industry to insure the safe operation of our nuclear powerplants.

To many people, nuclear power is a mysterious and threatening institution. Understandably, the accidental failure of Three Mile Island galvanized much of this concern. My amendment addresses these concerns by establishing authority in the Federal Government to insure that nuclear powerplants are operated safely and with reliability, or not operated at all.

My colleagues will recall, that, following the failure at Three Mile Island, the Kemeny Commission, as well as numerous other studies, observed that the lack of adequate nuclear powerplant operator training had played a very significant role in the inability to control that accident.

Mr. President, my amendment specifically responds to that deficiency. It does so by requiring that the Nuclear Regulatory Commission—within the next 12 months—proceed to develop firm regulations for the proper training and requalification of nuclear powerplant operators, supervisors, technicians, and other appropriate plant personnel. In addition, Mr. President, my amendment requires that the NRC begin an orderly program of training drills for nuclear powerplant personnel so that such personnel will be skilled in dealing with emergency situations.

Now, Mr. President, these are simple, but very necessary steps. My amendment merely instructs the NRC to get on with the job it set for itself following the incident at TMI: To provide more adequate safeguards for the operation of our nuclear powerplants.

I believe it is fair to say that the nuclear industry, through the Institute of Nuclear Power Operations (INPO) has done a conscientious job of attempting to come to grips with the need for greater operator training. But, as INPO itself observed in a summary of a recent nuclear industry survey, some 50 percent of the respondents plan substantial modification of their operator training programs. I believe, Mr. President, that finding argues very forcefully for the need to have the NRC immediately undertake the effort to establish firm regulations and guidelines for such training programs.

Moreover, Mr. President, the fact is that over the next 10 years the nuclear power industry will need to add or replace some 41,300 managers and technical and professional personnel; 29,900 or some 72 percent of these positions are technical positions and will

require high levels of training. I believe that it would be folly to enter this period of intensive recruitment without strict guidelines and regulations outlining how these personnel are to be trained.

Lastly, Mr. President, let me quote from a December 18, 1981, letter from J. Carson Mark—Mr. Mark is chairman of NRC's advisory committee on nuclear safeguards. In this letter to the Department of Energy, Mr. Mark specifically notes the shortcomings of relying only upon INPO or other existing institutions:

The current draft of the report states that the "Nation's academic and nonacademic institutions, outside the nuclear industry, have a large and expandable capability in place to provide training in nuclear fundamentals and to augment specific training by utilities." While this may be true, we believe that it is important to recognize that this capability, particularly in terms of graduate education in nuclear engineering and radiation protection, has been declining in recent years. There is no assurance that the necessary resources and students will be available to enable the existing training capability to be fully utilized. Similarly, we believe it is overly optimistic to state that the "Institute of Nuclear Power Operations (INPO) has outlined an overall plan for an industry-wide program to provide adequately trained personnel to perform operational and supervisory functions." While commendable, the INPO plan, unless modified, appears to us to be capable of providing only a portion of the total number of people that will be required. We believe the report should acknowledge these deficiencies as well as the need to correct them.

In summary, Mr. President, my amendment simply seeks to provide that the personnel running our nuclear powerplants receive adequate training. However, elegant or sophisticated our technologies, we are, in the end, a society of humans who must operate and control that technology. My amendment recognizes that reality. By itself, this amendment will not restore our nuclear power industry to any measure of public confidence in that industry. Until we address this issue, the issue of industry's health is and will remain moot.

Mr. President, I understand both sides have agreed to accept the amendment.

I simply wish to outline its intent for the benefit of other Members.

The amendment requires that the Nuclear Regulatory Commission in 12 months, following passage of the bill, proceed to establish clear regulations and guidelines for training of nuclear powerplant operators and other technical personnel.

Mr. McCLURE. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1575) was agreed to.

UP AMENDMENT NO. 1576

Mr. McCLURE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration on behalf of Senator MITCHELL.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) for Senator MITCHELL proposes unprinted amendment numbered 1576.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 134(b) of the bill add the following new paragraph:

(4) The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand on-site spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear powerplant by the Commission.

Mr. METZENBAUM. Mr. President, will the Senator tell us what this amendment does?

Mr. McCLURE. Mr. President, the amendment in effect says that new technologies cannot be the subject of hybrid hearings. They must have separate hearings based upon the new technology, full-blown hearings in NRC.

Mr. METZENBAUM. I have no objection.

Mr. MITCHELL. Mr. President, my amendment would prohibit the use of an abbreviated hearing in the case of an application to the Nuclear Regulatory Commission which proposes the use of a new technology to increase onsite storage capacity.

Section 134 of the McClure substitute amendment to H.R. 3809 provides for an abbreviated, legislative-type hearing to precede the normal full adjudicatory hearing. The purpose of the abbreviated hearing is to speed up the licensing of onsite storage expansion. A full hearing would only be necessary if it were determined that a "genuine and substantial dispute of fact" exists; that such a dispute could be resolved in a full adjudicatory hearing; and that the decision of the Commission is likely to depend in whole or in part on the resolution of the dispute. These criteria by which the Commission may decide that a full adjudicatory hearing is necessary are extremely narrow.

As a member of the Senate Nuclear Regulation Subcommittee, I have opposed efforts by the Reagan administration and the nuclear industry to accelerate the licensing process at the expense of safety regulations and public involvement in the licensing process.

The abbreviated hearing procedure represents another attempt to speed up licensing at the expense of the full NRC public hearing process. For that reason I am opposed to the abbreviated hearing procedure in general. In its attempt to hasten final NRC action, the abbreviated hearing may only result in great harm to the integrity of the licensing process and in a serious restriction on the rights of ordinary citizens to participate in that process.

In response to questions on this subject put to him by the Environment Committee in November 1981, then NRC Commissioner Peter Bradford stated:

I do not favor modified hearing procedures. . . . Adjudicatory hearings, which the NRC currently uses for all contested power plant licensing issues, are a better way to get an accurate assessment of complex factual issues. If they are run effectively, they will not take significantly longer than informal hearings, but they will be a much more reliable decisionmaking tool. They are more reliable because they permit direct confrontation between the views of different parties under circumstances that allow each party a maximum of opportunity to probe the assumptions and the weaknesses of the other's position. Informal hearings, by contrast, allow the parties to make statements that contain untested allegations and assumptions and that need not face cross-examination. Within limits, this favors the witnesses who are most careless with the truth. In any clash of statements the chances of the fallacious ones prevailing, especially if they are sufficiently financed to be repeated by several witnesses, improve in direct proportion to the informality of the proceeding. As one of the officials who must pass judgment based on the records that will be built at these hearings, I ask you in the strongest terms not to change the current adjudicatory format.

Given my serious reservations with the abbreviated hearing concept, I am particularly concerned that this process not occur when an application before the NRC proposes the use of a new technology.

The abbreviated hearing is, after all, a totally new procedure to be incorporated into the NRC licensing process. As Commissioner Gilinsky has warned, "The Commission has not had any experience in conducting hearings pursuant to this procedure."

The purpose of my amendment is to prevent the use of a new and untested hearing procedure in the case of an application which proposes the use of a new and untested technology. We should not allow two virtual experiments to occur simultaneously when both directly relate to critical issues involving nuclear safety and public participation.

Let me say in closing that the objectives of the NRC licensing process must place safety and citizen involvement before development or hurried onsite storage expansion, not the other way around. Safety and the public's right to know about nuclear power must take precedence.

It is my view that public participation in nuclear safety issues enhances

the NRC licensing process. In the State of Maine, both the State and Sensible Maine Power have been permitted to intervene in Maine Yankee's petition for a license to use a new technology for expanded onsite storage capacity. The technology proposed for use at Maine Yankee is pin compaction, a technology never before approved for use in any nuclear powerplant in the country.

Public scrutiny will help make certain that this new technology is measured against the imperative health and safety concerns that all citizens legitimately have about the operation of nuclear powerplants.

My amendment goes a significant step in this direction. The amendment will insure that, at the critical juncture an application to use a new technology for onsite storage expansion is before the NRC, the most reliable and comprehensive hearing procedure will be used.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1576) was agreed to.

UP AMENDMENT NO. 1577

(Purpose: To improve the process for State participation in decisions relating to interim storage facilities)

Mr. McCLURE. Mr. President, I send to the desk four amendments on behalf of Senator THURMOND and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The Legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), proposes an unprinted amendment on behalf of Mr. THURMOND'S unprinted amendment numbered 1577.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Strike section 135(d) and insert in lieu thereof the following:

(d) REVIEW OF SITES AND STATE PARTICIPATION.—(1) In carrying out the provisions of this subtitle with regard to any interim storage of spent fuel from civilian nuclear power reactors which the Secretary is authorized by section 135 to provide, the Secretary shall, as soon as practicable, notify, in writing, the Governor and the State legislature of any State and the Tribal Council of any affected Indian tribe in such State in which is located a potentially acceptable site or facility for such interim storage of spent fuel of his intention to investigate that site or facility.

(2) During the course of investigation of such site or facility, the Secretary shall keep the Governor, State legislature, and affected Tribal Council currently informed of the progress of the work, and results of the investigation. At the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, the Secretary shall promptly notify the Governor, the legislature, and any affected Tribal Council in writing of such selection, and subject to the provisions of paragraph (6) of this subsection, shall promptly enter into negotiations with such State and affected Tribal Council to establish a cooperative agreement under which such State and Council shall have the right to participate in a process of consultation and cooperation, based on public health and safety and environmental concerns, in all stages of the planning, development, modification, expansion, operation, and closure of storage capacity at a site or facility within such State for the interim storage of spent fuel from civilian nuclear power reactors. Public participation in the negotiation of such an agreement shall be provided for and encouraged by the Secretary, the State, and the affected Tribal Council. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with such guidelines shall not be a basis for judicial review.

(3) The cooperative agreement shall include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. The cooperative agreement also shall include a detailed plan or schedule of milestones, decision points and opportunities for State or eligible Tribal Council review and objection. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the State and affected Tribal Council in any stage of planning, development, modification, expansion, operation, or closure of storage capacity at a site or facility within such State. The terms of any cooperative agreement shall not affect the authority of the Nuclear Regulatory Commission under existing law.

(4) For the purpose of this subsection, "process of consultation and cooperation" means a methodology by which the Secretary (A) keeps the State and eligible Tribal Council fully and currently informed about the aspects of the project related to any potential impact on the public health and safety and environment; (B) solicits, receives, and evaluates concerns and objections of such State and Council with regard to such aspects of the project on an ongoing basis; and (C) works diligently and cooperatively to resolve, through arbitration or other appropriate mechanisms, such concerns and objections. The process of consultation and cooperation shall not include the grant of a right to any State or Tribal Council to exercise an absolute veto of any aspect of the planning, development, modification, expansion, or operation of the project.

(5) The Secretary and the State and affected Tribal Council shall seek to conclude the agreement required by paragraph (2) as soon as practicable, but not later than one hundred and eighty days following the date of notification of the selection under paragraph (2). The Secretary shall periodically report to the Congress thereafter on the status of the agreements approved under paragraph (3). Any report to the Congress on the status of negotiations of such agreement by the Secretary shall be accompanied by comments solicited by the Secretary from the State and eligible Tribal Council.

(6)(A) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subsection (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State where such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision. During the 60-day period following receipt of notification by the Secretary of his decision to provide an aggregate of 300 or more metric tons of storage capacity at any one site, the Governor or legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(D) If any notice of disapproval is submitted to the Congress under subparagraph (A), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at , with respect to which a notice of disapproval was submitted by on .". The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(E) For purposes of the consideration of any resolution described in subparagraph (D), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

(7) As used in this section, the term "affected Tribal Council" means the governing body of any Indian tribe within whose reservation boundaries there is located a potentially acceptable site for interim storage capacity of spent nuclear fuel from civilian nuclear power reactors, or within whose boundaries a site for such capacity is selected by the Secretary, or whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties, as determined by the Secretary of the Interior pursuant to a petition filed with him by the appropriate governmental officials of such tribe, may be substantially and adversely affected by the establishment of any such storage capacity.

In subsection 136(d), sentence 16, strike the word "and". In subsection 136(d), after the line following sentence 16, strike the period and insert in lieu thereof a semicolon and the word "and".

In subsection 136(d), after the line following sentence 16, insert the following new material:

(5) impact assistance as described in subsection (e).

(e) IMPACT ASSISTANCE.—(1) Beginning the first fiscal year which commences after the date of the enactment of this Act, the Secretary shall make annual impact assistance payments to a State or appropriate unit of local government, or both, in order to mitigate social or economic impacts occasioned by the establishment and subsequent operation of any interim storage capacity within the jurisdictional boundaries of such government or governments and authorized under this subtitle: *Provided, however,* That such impact assistance payments shall not exceed (A) ten per centum of the costs incurred in paragraphs (1) and (2), or (B) $15 per kilogram of spent fuel, whichever is less;

(2) Payments made available to States and units of local government pursuant to this section shall be—

(A) allocated in a fair and equitable manner with a priority to those States or units of local government suffering the most severe impacts; and

(B) utilized by States or units of local governments only for (i) planning, (ii) construction and maintenance of public services, (iii) provision of public services related to the providing of such interim storage authorized under this title, and (iv) compensation for loss of taxable property equivalent to that if the storage had been provided under private ownership.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines necessary to ensure that the purposes of this subsection shall be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Payments under this subsection shall be made available solely from the fees determined under subsection (a).

(5) The Secretary is authorized to consult with States and appropriate units of local government in advance of commencement of establishment of storage capacity authorized under this subtitle in an effort to determine the level of the payment such government would be eligible to receive pursuant to this subsection.

(6) As used in this subsection, the term "unit of local government" means a county, parish, township, municipality, and shall include a borough existing in the State of Alaska on the date of the enactment of this subsection, and any other unit of government below the State level which is a unit of general government as determined by the Secretary.

On page 81, line 3, strike all after the word "practicable" through the end of the page, and insert in lieu thereof the following: , but in any event not later than three years following the date on which a repository or monitored retrievable storage facility developed under this Act is available for disposal of such spent suclear fuel.

In section 135(a)(2), insert at the end thereof the following: "The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository."

Mr. McCLURE. Mr. President, the Thurmond amendments regard State participation.

The second of the four amendments involves impact assistance. The third refers to the time limit on AFR storage. And the fourth refers to the availability of storage site for AFR storage.

All four of these amendments en bloc have been distributed to most of the principals who are involved. If any Member wants further explanation I will be glad to make further explanation of them.

Mr. METZENBAUM. What does it do with impact assistance?

Mr. McCLURE. It provides for payments to State and local governments to mitigate any adverse social or economic impact of hosting interim storage.

Mr. METZENBAUM. What was the second one?

Mr. McCLURE. That was the second one of the four

Mr. METZENBAUM. The first one was what?

Mr. McCLURE. The first is State participation and adds language to the House provisions, providing for cooperative agreement between Federal Government and potential host State, and outlining the State participation and decisionmaking on the AFR storage. It applies even if the State loses on the two House override, and it applies to any amount of fuel even less than 300 metric tons and expands the guarantees for State participation in the process.

Mr. METZENBAUM. Will the Senator indicate whether any of the amendments have been considered by the committee? Are these or any other amendments that are up for consideration at the moment?

Mr. McCLURE. I think it would be fair to say that the issues have been discussed in the committee, in the committee hearings, and the issues have been discussed at varying times with members of the other people who are involved in this discussion.

Mr. METZENBAUM. All right.

STATE PARTICIPATION AMENDMENT TO H.R. 3809, THE NATIONAL NUCLEAR WASTE POLICY ACT

Mr. THURMOND. Mr. President, this amendment will provide governing officials and tribal entities of those States which may be considered as host States for temporary, away-from-reactor (AFR) storage facilities with a more effective role in the decisionmaking process regarding such facilities.

The amendment essentially combines the State participation provisions of the Senate bill, which I inserted by floor amendment to S. 1662 during Senate debate on that bill, with the State veto and two-House override provisions in the House bill. The latter procedures apply to any decision to locate 300 or more tons of spent nuclear fuel at a Federal away-from-reactor site.

Under my proposal, a decision by the Secretary of Energy to provide any amount of interim spent fuel storage will trigger the State participation provisions, under which the Secretary is to negotiate a formal cooperative agreement with the State(s)—or eligible Indian tribe—in which an AFR is to be located. The agreement must include a detailed plan of decision points and opportunities for State review and objection, as well as procedures for negotiating and resolving State objections at any stage in the process.

Similar to the House bill, however, only if the Secretary of Energy decides to provide capacity for 300 or more tons of fuel storage will there be opportunity for an absolute State veto of the Federal AFR siting decision. In the event of such a siting decision and subsequent State veto, the objections of the State would stand unless both Houses of Congress pass a resolution overriding the veto. It is the intent of the author of this amendment that the process of close consultation with State officials under a formal cooperative agreement would continue to apply subsequent to any congressional override of a State veto.

Mr. President, this amendment has been discussed with the managers of the bill, and I understand they are willing to accept it.

IMPACT ASSISTANCE TO AREAS WHERE AN AFR MAY BE SITED

Mr. President, the Senate committee substitute to the House nuclear waste bill provides for impact assistance to States and localities in which monitored retrievable storage facilities and geologic repositories are located. However, the legislation does not provide such assistance to States and localities in which interim, away-from-reactor storage facilities may be located. This is a serious omission, one that should be corrected before any legislation, such as that presently before us, is passed. It simply makes sense that, if such impact assistance is necessary for the longer termed storage facilities and repositories, it also may be necessary to assist States and localities with costs incurred because of the operation of AFR facilities.

This amendment corrects this omission and provides that impact assistance be made available to States and localities which host an AFR facility. Under this amendment, the cost of such impact assistance is to be borne by the utility company users, is to be included in the determination of the interim storage fee, and is to be paid out of the interim storage fund. This is consistent with the other provisions in the bill governing payment of costs by commercial users of the various types of spent fuel storage facilities.

Mr. President, I hope the managers of the bill will accept this amendment, which is similar to the amendment offered and accepted when the Senate passed its version of the nuclear waste bill earlier this year.

REQUIRING THAT ALL SPENT FUEL BE REMOVED FROM AN INTERIM STORAGE FACILITY WITHIN 3 YEARS AFTER THE AVAILABILITY OF A REPOSITORY OR MONITORED RETRIEVABLE STORAGE FACILITY

Mr. President, this amendment simply requires that all spent nuclear fuel be removed from an interim storage facility within 3 years following the date on which a longer term monitored retrievable storage facility or a permanent repository is available.

I believe this definite time limitation further tightens the language in the House bill and the Senate committee substitute. It gives additional assurance that any Federal interim storage program will be temporary in nature and that any spent fuel stored in such a facility will be expeditiously removed once a longer term storage facility is in place.

During Senate consideration of S. 1662, the bill managers accepted an amendment I authored to put a 12-year time limit on the duration of any interim storage facility. I continue to believe that a specific, tight time limit is appropriate and consistent with the objectives in this legislation of providing a limited, last resort, interim spent fuel storage program. However, I understand the concerns voiced since acceptance of my original amendment that the time frame imposed by it might be impractical and could conceivably leave the Federal Government without any authority or means of storing spent fuel which it might have acquired, in the event an MRS or permanent repository is not available. Accordingly, I have modified my proposal to tie removal of spent nuclear fuel from an interim storage facility to the availability of a longer term storage facility or permanent repository.

My distinguished colleague from South Carolina, Senator HOLLINGS, joins me in offering this amendment, which I believe is acceptable to the managers of the bill.

LOCATING AN INTERIM STORAGE FACILITY AT A PERMANENT REPOSITORY SITE

Mr. President, this amendment simply clarifies the language in the committee substitute to the House nuclear waste bill which would eliminate from consideration as an interim, away-from-reactor waste storage site any site which is a candidate for a permanent repository.

The apparent intent of this provision is to assure the citizens in an area surrounding a potential waste repository that they need not be concerned about the additional possibility of an interim, AFR facility on that site. In other words, one type of nuclear waste facility will be considered to preclude the other.

Although there is considerable logic, from an engineering and economic standpoint, to the idea of locating an AFR at the site of a final repository, I can understand the concerns of those in potential repository sites who feel it is an unfair burden to ask them to shoulder both an interim and a permanent waste facility. I do feel, however, that once a potential repository site has been ruled out of consideration for a repository, it should thereafter no longer be automatically excluded from consideration as an AFR, if indeed there is a need for a Federal interim storage facility at that time. This amendment will accomplish that purpose.

Mr. HOLLINGS. Mr. President, I rise in support of the amendment of the senior Senator from South Carolina and am pleased to indicate that I am a cosponsor of this amendment.

Mr. President, if the need for an away-from-reactor storage facility is ever required, I would hope that every effort would be made to insure the participation of the concerned State both before and after the site selection has been made, and both before and after the State has used its veto prerogative concerning the siting of the facility. To that end, this amendment would broaden the State cooperation and consultation requirements of the bill and insure that at no point in the process would State participation be diluted.

Mr. President, the senior Senator from South Carolina and I have long been sensitive to the issue of States rights. One might argue that this is the result of our Southern heritage. However, it also might be because we have long recognized the need for Federal-State cooperation if issues of national importance are ever to be resolved. I prefer to think the latter is the reason and that the amendment being offered on behalf of the senior Senator from South Carolina and myself helps to make this a better bill.

Mr. President, I would hope that the managers of the bill would be willing to accept this amendment and to insure the participation of State government in this issue of importance to the entire Nation.

INTERIM STORAGE AT A REPOSITORY SITE NUCLEAR WASTE BILL

Basically, this amendment intends to reaffirm a basic contention of this bill, that all States should be considered equally as candidates for the siting of any of the facilities authorized in this bill.

With this principle in mind, I would argue that when a site being considered as a possible repository site is eliminated from that status, it be eligible as an away-from-reactor site.

I would also like to reiterate, I still assume that the need for an AFR is hightly improbable as a result of the needs test established in the bill. Yet, I feel that this provisions should be included to maintain the necessary equity established in this legislation.

In addition, I think it only appropriate that any repository site be considered as a possible site for storage of less than 300 metric tons of spent nuclear fuel. I would argue that such sites would be most appropriate for the storage of spent fuel in dry casks if the need ever should surface. However, as noted above, I still feel that an AFR is a last resort and a very unlikely occurrence.

LOCAL IMPACT ASSISTANCE NUCLEAR WASTE BILL

Mr. President, if the need for an away-for-reactor facility should ever be required, it is important that the involved State and local units of governments be assisted in planning for such a facility. To that end, I am supportive of this amendment and feel that its inclusion in H.R. 3809 will strengthen the away-from-reactor storage provisions of this bill.

Mr. President, a similar provision was included in the original Senate-version of the Nuclear Waste Management bill and I ask that you support the inclusion of this language in the version now being considered since it represents an important procedural safeguard for any community that could be selected as an away-from-reactor site.

DEFINITE TIME LIMITATIONS ON AN AFR NUCLEAR WASTE BILL

Mr. President, as my colleague indicated, the original Senate-passed nuclear waste bill, S. 1662, included a provision that limited utilization of an AFR for a minimum of 8 years and a maximum of 12 years. The purpose of that language, simply put, was to insure the construction of a permanent repository.

Mr. President, I need not repeat my story about the Savannah River facility and the fact that what was temporary has slowly become a fixture to the South Carolina landscape. Yet, I think it is important that a safeguard be included in this legislation that will insure the construction of a permanent repository and not let history repeat the Savannah River experience.

To that end, I support inclusion of this amendment in the bill that would limit the use of the AFR facility once a permanent respository or monitored retrievable storage facility has been constructed. Based on the information that I received, a 3-year grace period after either facility is operational should be more than enough to phase out any existing AFR and to provide for the safe and secure transport of spent fuel from the AFR site to either an MRS or permanent repository.

Mr. President, I hope that the managers of the bill would be willing to support this amendment that I feel will improve the bill and insure the construction of a permanent repository within a reasonable time frame.

Mr. McCLURE. Madam President, I move adoption of the amendments en bloc.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The question is on agreeing to the amendments en bloc.

The amendment (UP No. 1577) en bloc was agreed to.

UP AMENDMENT NO. 1578

(Purpose: To provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal)

Mr. McCLURE. Madam President, I send to the desk an unprinted amendment on behalf of Senator GLENN and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for Senator GLENN proposes an unprinted amendment numbered 1578.

Mr. McCLURE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, following section 222, add a new section 223 as follows:

TECHNICAL ASSISTANCE TO NON-NUCLEAR WEAPON STATES IN THE FIELD OF SPENT FULE STORAGE AND DISPOSAL

SEC. 223. (a) It shall be the policy of the United States to cooperate with and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal.

(b)(1) Within ninety days of enactment of this Act, the Secretary and the Commission shall publish a joint notice in the Federal Register stating that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of at-reactor spent fuel storage; away-from-reactor spent fuel storage; monitored, retrievable spent fuel storage; geologic disposal of spend fuel; and the health, safety, and environmental regulation of such activities. The notice shall summarize the resources that can be made available for international cooperation and assistance in these fields through existing programs of the Department and the Commission, including the availability of: (i) data from past or on-going research and development projects; (ii) consultations with expert Department or Commission personnel or contractors; and (iii) liaison with private business entities and organizations working in these fields.

(2) The joint notice described in the preceding subparagraph shall be updated and reissued annually for five succeeding years.

(c) Following publication of the annual joint notice referred to in paragraph (2), the Secretary of State shall inform the governments of non-nuclear weapon states and, as feasible, the organizations operating nuclear powerplants in such states, that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of spent fuel storage and disposal, as set forth in the joint notice. The Secretary of State shall also solicit expressions of interest from non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators concerning their participation in expanded United States cooperation and technical assistance programs in these fields. The Secretary of State shall transmit any such expressions of interest to the Department and the Commission.

(d) With his budget presentation materials for the Department and the Commission for fiscal years 1984 through 1989, the President shall include funding requests for an expanded program of cooperation and technical assistance with non-nuclear weapon states in the fields of spent fuel storage and disposal as appropriate in light of expressions of interest in such cooperation and assistance on the part of non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators.

(e) For the purposes of this subsection, the term "non-nuclear weapon state" shall have the same meaning as that set forth in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.C. 438).

(f) Nothing in this subsection shall authorize the Department or the Commission to take any action not authorized under existing law.

Mr. McCLURE. Madam President, this amendment merges into this bill an amendment provision previously adopted by the Senate with respect to U.S. assistance to foreign governments to study the problem of storage.

Mr. GLENN. Madam President, I am reintroducing today an amendment to the Nuclear Waste Policy Act, H.R. 3809 that was originally included in the Senate version of the bill, S. 1662. The amendment provides for increased U.S. cooperation with and technical assistance for nonnuclear weapon states in the field of spent nuclear fuel storage and disposal. I believe such cooperation and assistance can substantially enhance our efforts to curb the spread of nuclear weapons by offering alternatives to reprocessing the chemical process by which nuclear weapons-usable plutonium is separated from spent fuel. The United States, in the Nuclear Non-Proliferation Act and in numerous related initiatives, has long recognized the dangerous potential for increased proliferation inherent in the separation and stockpiling of plutonium. Even where this material is subject to international inspections, it would be possible for a government during a national crisis to seize this material and manufacture nuclear weapons in a matter of weeks, if not days, if the nonnuclear components for these weapons had been fabricated in advance. Moreover, the international inspection regime—known as safeguards—has, itself, been recognized as woefully inadequate by the Nuclear Regulatory Commission and others when applied to reprocessing plants and plutonium fabricating facilities, leaving open the serious possibility that a nation with such plants might surreptitiously divert plutonium from peaceful purposes to weapons, without the need for overt seizure of the material.

For many years it was assumed that spent fuel from nuclear power reactors would be reprocessed and the resulting plutonium reused as reactor fuel, either in the current generation of reactors, or in future breeder reactors. As the proliferation risks inherent in this course of action became more apparent, however, the United States under Presidents Ford and Carter, along with many other nations, began to reexamine the need for reprocessing and to consider the alternative of longer term storage of spent fuel. Reduced projections for nuclear power growth worldwide and sharply increased estimates of uranium availability have also called into doubt the need for early use of plutonium fuels on economic grounds. As a result of these factors, the question of the need for and timing of reprocessing of power reactor fuel remains unresolved in the vast majority of nuclear-power-using nations, including our own.

The Nuclear Waste Policy Act does not directly address this matter, but provides for a long-range nuclear waste disposal program that will accommodate both spent fuel and the wastes from reprocessing, should this option be selected in this Nation. In the meantime, the bill calls for spent fuel to be retained and managed in a variety of settings: At reactor sites, at interim away-from-reactor storage facilities, and, possibly at longer term "monitored retrievable storage" facilities. Technology for permanent disposal of spent fuel in geologic repositories will also be developed under the bill (in parallel with technology for disposal of high level waste) some in the relatively near term in conjunction with the mandated "test and evaluation facility." Plainly, the United States will soon become the world leader in spent fuel management technology at a time when increasing numbers of other nuclear-power-using nations will be confronting the choice of whether their spent fuel should be reprocessed. Given our own national security stake in curbing the spread of the nuclear weapons potential inherent in reprocessing and the accumulation of separated plutonium, the desirability of sharing our spent fuel management

technology with nonnuclear weapon states is obvious.

My amendment provides that as part of our broader nonproliferation program the policy of the United States will be to offer cooperation and technical assistance to nonnuclear weapon states in this broad field. No new funding would be required; rather cooperation and assistance would be provided through the resources already in place under existing Department of Energy and Nuclear Regulatory Commission programs. For example, data from past and ongoing research and development projects could be shared; DOE and NRC personnel working in this area could be made available for consultations and briefings; and joint demonstration projects could be set up with the costs shared with participating nonnuclear weapon state partners.

The availability of these resources would then be publicized in the Federal Register and by the Department of State in communications with potentially interested foreign governments and nuclear utilities. In future years, the program of cooperation and assistance could be expanded in response to expressions of interest from these foreign entities in accordance with Presidential budget submissions and subject to the normal authorization and appropriations processes. Existing DOE and NRC regulations would protect the confidentiality of all proprietary data, while officials of these agencies could provide informal liaison between interested foreign entities and private U.S. firms offering spent fuel management services or hardware.

While I consider my amendment to be a potentially important addition to our nonproliferation efforts, it is but a first step toward a far more significant initiative that I have long believed could serve as the focal point of our nonproliferation program, the International Nuclear Fuel Authority (INFA). The basic concept behind INFA was that nuclear importer member nations would receive guaranteed supplies of fresh uranium fuel—which cannot be used for nuclear weapons—and in return would turn their spent fuel, containing weapons usable plutonium, back to the Authority, where it would be stored under international auspices and inspections with further disposition made in accordance with agreements between INFA and supplier and recipient nations. Under this arrangement, the spent fuel could be removed from national control, providing significant protection against future misuse of the material. Although the outlines of INFA were included in the Nuclear Non-Proliferation Act with the requirement that the President promptly enter into discussion with other nations concerning establishment of the Authority, neither the Carter nor Reagan administrations have pursued this arrangement with the vigor it deserves. I remain committed to this alternative as a particularly promising nonproliferation tool.

With respect to my amendment, finally, let me make absolutely clear that all participation by foreign governments and nuclear utilities with the United States in the field of nuclear spent fuel storage and disposal would be entirely voluntary. Second, the assistance we would be providing would be for spent fuel storage or disposal in the country generating the fuel; the amendment is not an attempt to address the more controversial question of storing foreign spent fuel in the United States. Finally, my amendment does not impose any preconditions or export restrictions of any kind; any deferral of reprocessing activity which might result from U.S. cooperation and assistance would simply be the natural outgrowth of nonnuclear weapon states' voluntary decisions to place increased reliance on extended storage of spent fuel. In effect, my amendment is a declaration that it is in our national interest to assist other nations in managing their spent nuclear fuel and that, to the extent resources will permit, we stand ready to provide such assistance.

Mr. McCLURE. Madam President, if there be no further question, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1578) was agreed to.

Mr. JOHNSTON. Madam President, I thank the distinguished Senator from Idaho for a marvelous job along with the other parties to this matter, Senator SIMPSON from Wyoming, Senator HART, and all the rest, Senator DOMENICI, Senator GORTON, Senator JACKSON, Senator STAFFORD, and all the others who worked so hard to finally put together a bill.

UP AMENDMENT NO. 1579

Mr. PROXMIRE. Madam President, I have an amendment I am sending to the desk on behalf of myself, Mr. GARN, Mr. KASTEN, Mr. BOSCHWITZ, Mr. LEVIN, Mr. COCHRAN, Mr. STENNIS, Mr. LEAHY, Mr. BUMPERS, Mr. RIEGLE, Mr. GLENN, Mr. JOHNSTON, and Mr. MITCHELL, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), for himself and Mr. GARN, Mr. KASTEN, Mr. BOSCHWITZ, Mr. LEVIN, Mr. COCHRAN, Mr. STENNIS, Mr. LEAHY, Mr. BUMPERS, Mr. RIEGLE, Mr. GLENN, Mr. JOHNSTON, and Mr. MITCHELL proposes an unprinted amendment numbered 1579.

Mr. PROXMIRE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 115, and insert in lieu thereof:

REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) DEFINITION.—For purposes of this section, the term "resolution of repository siting approval" means a joint resolution of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the site at ——— for a repository, with respect to which a notice of disapproval was submitted by ——— on ———.". The first blank space in such resolution shall be filled with the name of the geographic location of the proposed site of the repository to which such resolution pertains; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or Indian tribe governing body submitting the notice of disapproval to which such resolution pertains; and the last blank space in such resolution shall be filled with the date of such submission.

(b) STATE OR INDIAN TRIBE PETITIONS.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor and legislature of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, has submitted to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval has been submitted, the designation of such site shall not be effective except as provided under subsection (c).

(c) CONGRESSIONAL REVIEW OF PETITIONS.—If any notice of disapproval of a repository site designation has been submitted to the Congress under section 116 or 118 after a recommendation for approval of such site has been made by the President under section 114, such site shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress after the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution of repository siting approval in according with this subsection approving such site, and such resolution thereafter becomes law.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions of repository siting approval, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution of repository siting

approval shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(B) Upon introduction, a resolution of repository siting approval shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(3) If any committee to which is referred a resolution of siting approval introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution of siting approval introduced with respect to the site involved, has not reported such resolution at the end of 60 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution of siting approval has been referred has reported, or has been deemed to be discharged from futher consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on a resolution of siting approval, and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution of siting approval, and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution of siting approval shall be decided without debate.

(5) If the Senate receives from the House a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the House with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the Senate with respect to such site—

(i) the procedure with respect to that or other resolutions of the Senate with respect to such site shall be the same as if no resolution from the House with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the Senate with respect to such site, a resolution from the House with respect to such site where the text is identical shall be automatically substituted for the resolution of the Senate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions of repository siting approval, and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 60 days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution of repository siting approval after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(5) If the House receives from the Senate a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the Senate with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the House with respect to such site—

(i) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjourment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 60-day period referred to in subsections (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

Mr. PROXMIRE. Mr. President, my amendment would give States a greater role in decisions affecting siting of nuclear repositories. It would offer these States the same rights now provided to States which will be the sites of temporary away-from-reactor storage.

The States most likely to be potential respository hosts are united in their support for a strong State siting role.

I have received the following telegram from the Governor of New Mexico.

[Mailgram, Apr. 16, 1982]

Hon. WILLIAM PROXMIRE,
Senator Office Building,
Washington, D.C.

DEAR SENATOR THE HONORABLE WILLIAM PROXMIRE: As you are aware, our States are certainly under consideration for the siting of a high level nuclear waste repository. While we have a number of additional, individual concerns, we feel the following amendments will provide assurance that the site selection process will be undertaken in full cooperation with potentially impact States and with full consideration of appropriate siting criteria.

First, similar language incorporated in the companion legislation of the House of Representatives Interior and Insular Affairs Committee allowing a State to disapprove of a site with a requirement of a two-House override is essential. Under S. 1662, State disapproval has no effect unless one House of Congress passes a resolution disapproving the site. Under such a provision the decision to override State objection may be made by the executive branch and sustained through the inaction of Congress. We believe it is extremely important that the Nuclear Waste Policy Act require action on both Houses to override State disapproval. The burden of proof should rest with the U.S. Department of Energy to sustain such an override. Requiring Western States with numerically small delegations to provide the burden of proof is an overwhelming and unfair task.

Second, we urge your support for an amendment which should leave intact the existing process for environmental review under the National Environmental Policy Act (NEPA). The creation of special exemptions will do little to expedite the construction of a repository which cannot in any case be in operation much before the turn of the century. Exemption from the review requirements feeds the suspicion that the project cannot bear upon examination.

We believe that the inclusion of this provision in S. 1662 will result in a nuclear waste repository siting policy and frame work which will meet the needs of both the Nation and potentially impact States.

BRUCE KING,
Governor of New Mexico.
ROBERT LIST,
Governor of Nevada.
SCOTT M. MATHESON,
Governor of Utah.
JOHN SPELLMAN,
Governor of Washington.

Neither the Senate- nor the House-passed bills addresses this concern.

Madam President, my view of the proper role for States in siting decision is not far-fetched. In fact, it is the view of the Reagan administration. Here is what Dr. Shelby Brewer of DOE had to say about the need for the two-House, joint resolution process when he testified before the Senate Energy and Environment Committees 1 year ago.

Mr. MEYERS. Yes. We think the procedures outlined in the bill would help accelerate the licensing of new storage capacity or expansion.

Senator SIMPSON. Let me ask one more question so we may take a recess and return at 1:30 p.m. I certainly apologize for my tardiness this morning dealing with other matters in the committee.

Your testimony states the Department believes the passage of a joint resolution by the Congress should be required to sustain the objections of an affected State or Indian tribe to a proposed facility.

Why do you believe the passage of a joint resolution is a more appropriate procedure or requirement than what is set out in S. 1662 which is basically the same procedure passed by the House and Senate last year? That procedure provided that the State or Indian tribe objections would stand if supported by the passage by either House of a resolution supporting the State or tribe.

Dr. BREWER. Your bill, S. 1662, allows either House to sustain an objection. We basically feel it would be more democratic to have both Houses act on the matter.

Senator SIMPSON. The joint resolution also gives the President the opportunity to veto. What about that?

Dr. BREWER. Senator, I will have to answer for the record. I am sorry. I was not aware a joint resolution can be vetoed by the Executive.

Senator SIMPSON. That is all right. I am not interested in sharpshooting you. I am just interested in your comments. I would appreciate it if you would furnish that for the record.

Dr. BREWER. Yes sir.

[Subsequent to the hearings Dr. Brewer supplied the following:]

Title VII of S. 1662 addresses congressional review of State objections to the Secretary's decision to submit an application to construct a repository or retrievable monitored storage facility. As we understand section 701(f)(3), it provides for a one-house veto of the Secretary's decision. The Administration of every President since 1932 has expressed opposition on constitutional grounds to one-house veto provisions, finding that these provisions represent legislative action in a manner inconsistent with the legislative procedures prescribed by the Constitution and also that they constitute an unconstitutional encroachment on the President's power and duty to execute the law. In the event Congress desires to overturn Executive Branch actions taken under authority vested by law in the Executive, the remedy lies in new legislation which, under the Constitution, must be presented to the President before it may become effective. A joint resolution, which would be presented to the President for signature or veto, is a proper mechanism for Congress to use to revoke authority or alter Executive decisions—such as the site selection involved here—otherwise provided by law to the Executive Branch of government.

If the Administration thinks 2 House action is required that is good enough for me.

But they aren't the only ones to share this view. This position is shared by the National Governors Association, National Conference of State Legislators, and by the State Planning Council set up by President Carter to advise him on nuclear waste matters.

The position is also supported by the League of Women Voters, Sierra Club, Union of Concerned Scientists, Environmental Policy Center, Congresswatch and Friends of the Earth, as well as close to a majority of both the House and Senate.

Here is what one group, the National Governors Association had to say on the matter of two House override:

STATE PARTICIPATION

The National Governors' Association has long maintained that the states must play a primary role in decisions affecting nuclear waste facilities. We have used the terms "consultation and concurrence" and "cooperative federalism" to describe how that should happen. Our position is based on the principle that while no state may reasonably impede the national interest, federalism makes the states equal partners in pursuing that interest.

The NGA's original policy statement on waste management, adopted in 1977, insisted that states be given the absolute power to veto a project. Subsequently, the states have dropped that provision and in its place endorsed as process of extensive participation in siting and construction and a Congressional review if a state objects to DOE plans. The formula contained in the present version of S. 1662 approximates the policy recommended by the National Governors' Association. There is, however, one point of disagreement. The governors and the State Planning Council have recommended a procedure where both houses of Congress are required to support the Department of Energy's plan rather than one house voting with the state, as S. 1662 provides. The states feel that the burden of securing support in Congress should be on DOE rather than on the state and that if the Department has designed and implemented its program correctly, Congressional assent in both houses is not an unreasonable requirement. We are convinced that early and substantial involvement of state and local officials and the public will strengthen and accelerate the waste managment program by building public confidence and diminishing opportunities for obstructionism and litigation.

Why is two-House override necessary? The answer is simple—it is needed for insurance.

The Broyhill amendment, adopted by the House, as well as the Senate-passed provision, does not offer enough protection. Under their amendments, once the President chooses a site and the State objects. the objection means nothing unless one House of Congress votes to uphold a State's objection. This provision would pit one State against the 49 others, against DOE and against the President. Since a State would have to live with a repository forever it is outrageous that State objections are not given more weight.

Even worse, the Broyhill language, which is now a part of the House bill, may well be ruled unconstitutional in a case currently before the Supreme Court. In fact, as I am sure most Members know, one-House vetos have been ruled unconstitutional by Federal courts.

If we enact a nuclear waste bill with the langauge now contained in the House and Senate bill and one-House vetos are ruled unconstitutional, we would be left with an act with, no, that is right, no State role. Would you want your State to be stuck with dangerous, nuclear waste which remains radioactive for thousands of years and have nothing to say about it?

On January 29, 1982, the U.S. Court of Appeals for the District of Columbia Circuit in the case of Consumer Energy Council of America against Federal Energy Regulatory Commission unanimously held unconstitutional the one-House congressional veto. The court said that the one-House veto abridges the constitutional process for lawmaking contained in article I, section 7 and the doctrine of separation of powers. Under this case, even two-House may be unconstitutional unless it is drafted in the form of a joint resolution, the form of my amendment.

How would it work in the Senate? The State would send its notice of disapproval of a site to Congress. The first day of session following the day of receipt of the notice a resolution is introduced on the subject and referred to the proper committee. After 60 days of continuous session after the introduction of the resolution the committee or committees to which it is referred makes its recommendation to the Senate or is discharged. At that time it is in order for any Member of the Senate to move to proceed to the consideration of the resolution. The motion is highly privileged and not debatable. Debate on the resolution is limited to 10 hours equally divided between Members favoring and Members opposing. Procedural motions are se-

verely limited. The House has similar procedures for resolutions which originate there and there are further procedures for the House which receives the resolution. Once it has already been approved by the other body.

This is a straightforward procedure which adds insurance to the bill. It is moderate, widely supported and a necessary addition to any nuclear waste legislation.

Madam President, what this amendment does is after the President of the United States picked a disposal site within the State the State would send its notice of disapproval, if it does disapprove it, if it wants to stop it, sends a notice of disapproval to Congress the first day of session the receipt of it and it is referred to the appropriate committee. After 60 days of continuous session after introduction of the resolution the committees or committee to which it is referred makes the recommendation to the Senate or for its discharge.

(The following proceedings occurred later:)

Mr. STENNIS. Madam President, the remarks I make are made on the amendment offered by the Senator from Wisconsin. That is what I want to address, as I understand, the Senator from Idaho has offered for the RECORD, and it has been accepted, a statement of approval of the amendment.

Mr. McCLURE. Madam President, the Senator is correct. I have approved this amendment. As we know, the Senator has urged the adoption of this amendment earlier. It was not adopted earlier, but at this time I am happy to endorse it. I think we can make it work, and I think, as a matter of fact, it is greater protection for the States. I thank the Senator from Mississippi for his very, very great help in forging some of the compromises that were involved here. I know of his reservations with respect to the legislation, inspite of those promises, but he has been a very constructive participant in the discussion.

Mr. STENNIS. I thank the Senator for his remarks.

I want to especially thank him for his statecraft and real statesmanship which he has shown not only as chairman but that shown by the others, members of the committee and others still, who carry responsibility in this field.

Madam President, I want to take just a little time of the Senate, some time at least of the Senate, at this point, not having a long or elaborate speech. But the contents of this amendment, Madam President, making it necessary before final selection of one of the sites—we have to have sites of some kind for this storage—but nevertheless, the matter has to be in effect submitted back to Congress and has to be approved, in effect, by both Houses, the House of Representatives and the U.S. Senate before it can become final.

Ordinarily, I do not favor giving any one House a veto or legislation before or after the fact. But this is a matter of such far-reaching consequence, so highly important to every State and to our energy field of the future, that certainly it is a small concession for us to agree here that as in any other far-reaching policy or bill it ought to be expressly approved by both Houses. So this is not an act of favoritism that is being shown wherever this site may go but it is just an act of essential justice and right and a part of the American system.

Now, the Senator from Nevada (Mr. CANNON) offered an amendment along this line within less than a year ago, and it had a tremendous appeal then when this legislation had not moved as far forward as it has now. But the Cannon amendment got 40 votes.

The Senator from Mississippi (Mr. COCHRAN) and I strongly supported that position and worked on it and at that time contacted many of the membership. Now this shows the process again and the leadership and the committees decided to approve this proposal, and now I judge it will get an overwhelming vote. So I want to thank each Member who has worked on it and considered it, and think it is a great step forward.

Now, Madam President, I know time is short here and other matters have got to come up. I really, in spite of these matters in the measure that I do approve, I cannot give all-out support or give a vote for this bill now. But, as I have just said, I heartily favor these amendments, and I know some legislation in this field is going to be necessary, and I hope things can settle down now and we can move along here according to the policies set forth in the act.

Reserving the right, Madam President—others here want to speak—I do want to take some more time of the Senate before we finally dispose of this measure. I yield the floor.

I believe that the leaders will agree that this policy which will establish a program for managing, storing, and disposing of radioactive material for tens of thousands of years is cause for great concern. I know from personal experience that the people of Mississippi are greatly concerned that this policy might cause the development of one of the first nuclear waste repositories in a geological formation of salt which serves as the bedrock for the town of Richton, in Perry County, Miss. For this reason, I have urged that we adopt a policy which would demonstrate that we can safely dispose of this waste before placing radioactive material near populated permanent towns. I feel very strongly that the public level of fear will only be heightened by this program which this bill will establish.

It greatly concerns me because I believe our past approach to locating a site for a nuclear waste repository has seriously undermined public confidence, making the disposition of nuclear waste much more difficult, and Richton, Miss., is a good example. The Department of Energy went down there in 1976 and started punching holes in the ground right near the town, and running tests which excited a great deal of public interest. And then as things progressed, some officials of the Department of Energy were quoted in a popular magazine, and in many of the newspapers that the Richton salt dome was "number one." Now that is when the sparks started flying. I was visited by concerned officials of the county and the State and I went down there myself to look into the Department of Energy program. My investigation led me to question the Department of Energy's rationale for going into an established community like Richton, Miss., and tell the people that there was nothing to be afraid of, there was nothing to fear, that this was only a test, and if the Department of Energy were allowed to continue the work, everybody in the town would get rich. Or, as some said, "It would be equivalent to the second coming."

I consulted with the Secretary of Energy, and wrote the Chairman of the Nuclear Regulatory Commission, and urged them to pursue this nuclear waste program in areas that were uninhabited, or in technical communities where the inhabitants are accustomed to working with nuclear material, so that our scientists and technicians could demonstrate in a step-by-step manner that they indeed had the technology to safely handle and dipose of nuclear waste. It made sense to me that we could only develop public confidence with a carefully thought out, carefully executed, step-by-step approach to the development of a nuclear waste repository.

In this regard, I am pleased, Mr. President, that the committees of jurisdiction have agreed with my personal conclusion in their finding that public confidence must be substantially increased. I am pleased that the committees have recognized the flaws in past efforts which have destroyed public confidence. Therefore, I must call into question those portions of the substitute amendment which appear to detract from the important purpose of developing public confidence.

Mr. President, it seems incredible to me that the work in Mississippi has progressed to the point it has. With the number of possibilities that exist in barren, uninhabited areas and with the number of possibilities in areas which have long been established as

communities of nuclear workers, scientists, and technicians, that we would create by legislating a program which would allow the further exploration of large, populated areas before we have adequately demonstrated that we indeed have the know-how to safely dispose of this waste. As the chairman knows, I have urged that if we must permanently dispose of true nuclear waste and so-called spent nuclear fuel, which, parenthetically, it too valuable to permanently dispose, that it would be wiser in the long run to demonstrate that we can develop one repository before characterizing other sites. I know that there are some who say that we must have at least three big shafts in various areas of the country to achieve equity and satisfy the National Environmental Policy Act. Well, what we need to do is to proceed on passage of a law which makes sense. It makes no sense to drill deep, wide shafts and storage rooms all at once. I think we should proceed to drill one and finish that before we go to a second shaft.

We need to demonstrate, and build confidence. Therefore, I cannot accept the policy established by this bill. There is no evidence to support that this plan will allay the fears of the public and develop confidence.

Mr. President, I also think we need to discuss the need for the variety of facilities called for in this policy. As the chairman knows, this bill calls for a geologic permanent repository, a so-called "away from reactor interim storage facility," so-called "monitorable and retrievable" storage facility, and a test and evaluation facility. I trust the committee has thought this through carefully, but I believe the public is entitled to an explanation of the need for these facilities which now appear to be redundant. I believe it is important to futher explain where these faciltites will be located, or if this is not known, what the procedure will be for siting these facilities.

Mr. MITCHELL. Mr. President, I rise to support the amendment to increase the rights of States in the siting process for the geological repository.

Both the Senate bill and the House bill as amended provide that a State's objections to a proposed final repository will stand only if a single House of Congress votes to sustain those objections.

During Senate consideration of S. 1662, the Senate waste bill, I voted against an amendment that would have provided States with an absolute veto of a proposed repository site. Clearly, such a provision would guarantee 50 State vetos, while the dilemma of permanent waste storage would remain unresolved.

States rights in the siting of the repository is a difficult issue on which to gain a fair and workable solution. The ultimate solution should meet two objectives. First, the States much have a just say in the siting process and have available to them a just mechanism to object to the final siting decision. Second, the bill itself should not burden the process with dilatory or obstructionist provisions.

In my judgment, the Senate and House bills do not provide a fair solution for the States. The amendment, however, strikes what I believe is a reasonable and viable balance.

The amendment, which is similar to the original House language, would require that a State's objection would stand unless both Houses of Congress vote to override the objection.

The difference between the two provisions is, on the surface, a slim one. But the crucial difference centers on where the burden of proof lies once the State registers an objection. The Senate and House bills place the burden of proof on the State. The State would effectively be forced to convince one House to sustain its objections.

The amendment, on the other hand, would place the burden of proof where it belongs—with the Department of Energy. If DOE decides on a specific site on the basis of a number of considerations, it is only right that the Federal agency should bear the responsibility to convince both Houses of the Congress of the virtues of its decision.

As both bills are presently written, the Department of Energy could decide on specific site, but be in no way compelled to argue for that site before the Congress.

Mr. President, there is no issue of greater importance in this legislation than the rights of States and ordinary citizens to participate in the evaluation, siting, and licensing processes. At the heart of this public participation discussion is the ability of States to object to the proposed siting of a repository and to be insured of a fair process after such an objection is made. This amendment would guarantee that a State's objections is dealt with in a fair and comprehensive manner.

Mr. PROXMIRE. Madam President, I ask unanimous consent that Senator HATCH be added as a cosponsor.

The PRESIDING OFFICER. Without objections, it is so ordered.

The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 1579) was agreed to.

UP AMENDMENT NO. 1580

Mr. LEVIN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 1580: Amend subsection (g) of section 141, by deleting the last sentence thereof, and inserting in lieu thereof the following:

"The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository. Such restriction shall continue to apply to any site selected for construction as a repository.".

Mr. LEVIN. Madam President, this amendment amends the committee amendment No. 3 by striking the second sentence so that it will be possible for a State that has a monitored retrievable storage facility to be considered, nonetheless, for a permanent site. It also clarifies the intention of the first sentence of that subsection to indicate that a State will be ineligible for consideration as a site for a monitored retrievable storage facility only so long as that State is under consideration for a permanent site or has been selected for the construction of such a repository.

Mr. McCLURE. Madam President, will the Senator yield?

Mr. LEVIN. I would be happy to yield.

Mr. McCLURE. I would be happy to accept the amendment.

Mr. JOHNSTON. It is acceptable to the minority.

Mr. LEVIN. I thank my friends.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 1580) was agreed to.

UP AMENDMENT NO. 1581

Mr. LEVIN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 1581: On page 38, line 13, following the words "2011 et seq.).", insert the following new sentence:

"Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission as established in title II of the Energy Reorganization Act of 1974 (Public Law 93-438).".

Mr. LEVIN. Madam President, I want to discuss this amendment with my colleagues. It is my understanding that there is nothing in this act that is intended to restrict, or amend, or modify in any way the licensing requirements for the permanent repositories, including, but not limited to, findings of need.

Mr. McCLURE. Madam President, the Senator is correct. That is my understanding also.

Mr. GORTON. I understand that by adopting this amendment we are not in any way changing the requirements of the statute that the maximum capacity for one facility will be 70,000 metric tons and that the reasonable

prospect of reaching that capacity within approximately 12 years constitutes the need for a second facility.

Mr. McCLURE. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 1581) was agreed to.

Mr. LEVIN. I thank Senator McCLURE and Senator JOHNSTON and numerous other Senators for their support of these amendments.

They are intended to assure that States must end up as disposal sites by elimination of other States that have more appropriate disposal sites.

I particularly thank Carla Kish of my staff for her excellent work on this bill and on these amendments.

Mr. DOMENICI. Madam President, I would like to thank the members of the Energy Committee and the Committee on Environment and Public Works for their work on this legislation for us. We have before us a compromise bill reached between Members of the House and Members of the Senate who have been working on this legislation for some time. As I have said in the past, I believe that one of the most difficult issues to come to grips with in putting together a program for the disposal of nuclear waste is an institutional issue, not a technical one. It is the issue of how States and affected Indian tribes would participate in this process. I am happy to see that the bill sent to us by the House contained many of the same principles in this regard as did the Senate bill.

The bill before us now contains some modifications of the House approach, modifications which I believe only make for better Federal, State, and tribal relationship. Let me explain briefly the program for State participation contained in this bill and its application to affected Indian tribes, as well. The bill provides for an early notification of those States or tribes which may have a potentially acceptable site for a repository. Once that notification has been made or at least when the Secretary makes a recommendation to the President for site characterization of a site, the State would be provided the opportunity to enter into a written agreement which would set the bounds for the future working relationship between the State or affected Indian tribe and the Federal Government. That agreement really sets the framework for a process, a process which is a continuous one and provides for a give and take with the Federal Government. The agreement will set out in writing just how the Federal Government will provide information to the State or affected Indian tribe and address issues relating to the public health and safety as well as social and economic impacts of any repository or monitored retrievable storage facility. The agreement would also provide an opportunity for the parties to resolve objections that a State or affected Indian tribe might have. It provides that this could be done through a process of negotiation or arbitration or any other appropriate mechanism.

Madam President, throughout this bill, in fact throughout the process of State or affected Indian tribe participation with the Federal Government, there are numerous opportunities for public comment and public hearings. It is my hope through this very open and comprehensive process that we will avoid arbitrary decisions by either party.

The bill before us also provides a provision for that eventuality where a State or affected Indian tribe would have outstanding objections that could only be resolved by the Congress. In that event, those objections and the comments of the Secretary of Energy would come before the Congress where the Congress could review those objections and determine whether or not the repository should be built. More specifically, if one House of the Congress were to concur with a State or affected tribe that a repository should not be built, then that repository would not be built. There has been considerable discussion as to whether this congressional mechansim is properly balanced. When the Senate considered S. 1662 the Senators here determined that it was the proper balance, the middle ground between an absolute veto and a two-House vote to override a State's objection. I believe that is truly the case. The mechanism in this bill provides that both the Federal Government and the States will behave in a responsible fashion. Neither will put forward arbitrary objections to the other's point of view.

On closing Madam President, I believe we have fashioned a good procedure here, a procedure which will provide for active State or affected Indian tribe participation, compensation for the full costs of the impacts of the construction of a repository both during site characterization and possible construction and operation, and ultimately for the opportunity of congressional review.

Mr. COCHRAN. Madam President, I want to commend the Senator from Idaho for the diligent work he has done in getting this bill to the floor and in the way he has managed it, although I still have very serious concern about the content of the reservation.

Can I ask the Senator from Idaho is there anything in this legislation that specifically limits any one State from selection as a repository site?

Mr. McCLURE. I would say there is nothing in this bill that would prohibit that. There is a restriction that is embodied in the language of the Senator from Mississippi—that both Senators from Mississippi had requested earlier—and that parallels the House action with respect to population density.

Mr. COCHRAN. Despite the excellent work of the distinguished Senator from Idaho, Mr. McCLURE, in obtaining concessions from the House to improve this bill, I continue to have serious reservations about the legislation.

I am worried that we will still have problems with this program as long as there is not in place an independent commission to administer the site selection and repository program. When the bill was before the Senate in April of this year, I urged the adoption of an amendment that would have created an institutional mechanism for managing the waste program. It was not approved, although agreement was reached on the need for a study of the idea.

The Office of Technology Assessment strongly advocates such a change in the administrative structure, and I am convinced we will need it. The Department of Energy and the Atomic Energy Commission have not provided American citizens with a sense of confidence in their ability to manage high-level radioactive waste safely or efficiently. To the contrary, people in my State have been alarmed and confused with piecemeal information and contradictions concerning timetables and Government intentions about geological investigations, eminent domain proceedings and siting decisions.

It is also a disappointment to me that no requirement is contained in the bill for a national site survey prior to the characterization of sites that have been identified during preliminary review of some locations.

Because of these and other deficiencies in the legislation, I cannot vote for it. Nonetheless, I have to say it is a much better bill than the one passed by the House.

Mr. McCLURE. Madam President, it is a great privilege and with a special pride that I join my colleagues on the Energy and Natural Resources Committee, the Environment and Public Works Committee, and the Armed Services Committee in bringing to the Senate H.R. 3809, the National Nuclear Waste Policy Act of 1981.

Shortly, the Senate will consider printed amendment No. 4983 in the nature of a substitute reflecting consultations with members of the Senate and Representatives of the House committees. I am most privileged to have proposed this amendment for myself and others.

I am pleased to say that the substitute we are presenting today represents the collective judgment of all the cosponsors representing themselves

and their respective committees on this side of the aisle and both sides of the Hill with regards to the appropriate and necessary nuclear waste policy for the United States. I believe that this action deserves special note in that these three committees have been working for the past three Congresses to fashion just such a consensus piece of legislation. Such legislation must deal with this most critical and serious national issue in the areas of both national energy policy and national environmental policy to assure the predictable and long-term viability of the nuclear power option for this Nation, and indeed for the free world.

I commend each of my colleagues with whom I have worked and all of those who have assisted and contributed to the efforts in reaching this action. Hopefully, the spirit of good faith, accommodation, and conciliation required to achieve the common goal represented by the totality of this substitute will engender a special spirit in the Senate, in the House, and in the administration to expedite and facilitate enactment finally of a comprehensive nuclear waste policy and program for America.

I would like to take this opportunity to review the provisions of the compromise text. I ask unanimous consent that there be printed in the RECORD at this point in my remarks a sumary of the major changes in the House passed bill that are being proposed in printed amendment No. 4983.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

The following summary sets forth those major changes in the House-passed bill that are being proposed in printed amendment No. 4983. Technical and confirming changes are not discussed in this summary, but appear in the text of the attached draft. Except where noted in the text of the attached draft and the following summary, the language of the House-passed bill would be retained. The following changes are presented in the order that they appear in H.R. 3809.

I. HIGH-LEVEL RADIOACTIVE WASTE FROM ATOMIC ENERGY DEFENSE ACTIVITIES

If defense wastes are to be disposed of in a civilian repository, the federal government shall pay a pro rata share of the costs of developing, constructing, and operating this repository (no such provision in H.R. 3809).

II. SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL WASTE

DOE, in issuing its guidelines for the recommendation of sites for repositories, must first obtain the concurrence of the NRC (H.R. 3809 only requires consultation.

DOE guidelines must include provisions for disqualifying potential repository sites if they are located in highly populated areas. Specific reference in H.R. 3809 to 1000 individuals in a 1 square mile area adjacent to the surface facility of the repository has been deleted.

DOE and the President, in developing and selecting repository sites, are directed to consider the cost and impact of transportation of high-level waste and the advantages of regional distribution in the siting of repositories. (No similar provision in H.R. 3809.)

DOE is directed to recommend 3 candidate repository sites to the President by July 1, 1984, and 3 additional candidate repository sites by July 1, 1987 that he determines are suitable for site characterization. Specific references to the number of media that must be represented are deleted. (H.R. 3809 requires 5 sites in at least 2 geologic media by July 1, 1984, and 1 additional site in a medium not included in the first round, by February 1, 1985.)

DOE is prohibited from recommending any candidate repository site that would permit the physical integration of the test and evaluation facility and the repository. (H.R. 3809 includes certain restrictions if test and evaluation facility is to be located at repository site.)

DOE must submit an environmental impact statement on each candidate site recommended. This statement must include an analysis of each of the candidate sites considered and an explanation of the reasons for eliminating any sites not recommended to the President. The EIS need not consider the need for a repository, the time of the initial availability of a repository, nor alternatives to disposal in a repository (H.R. 3809 required an environmental assessment to be submitted with each candidate site recommended.)

Capacity of the initial repository (or the combined capacity of the first repository and the monitored retrievable storage facility, if the latter is located within 50 miles of the repository) is limited to 70,000 metric tons, until such time as the second repository is in operation. (No similar provision in H.R. 3809.)

In examining alternative repository sites, DOE must consider 3 candidate sites for the initial repository or all sites recommended for a subsequent repository for which (i) site characterization has been completed, and (ii) DOE has made a preliminary determination of the suitability of each site for development as a repository.

Rights conferred upon an Indian tribe to participate in the development of a repository, enter into a written agreement, transmit objections to Congress, and receive financial assistance, are extended to "affected Indian tribes." The term "affected Indian tribe" includes those tribes which, although the proposed repository is not located on the reservation, would suffer substantial and adverse effects to possessory or usage rights to lands outside of the reservation. (H.R. 3809 limits tribal participation to those situations where the repository is located on the Indian reservation.)

NRC criteria for issuance of a construction authorization for a repository must provide for a system of multiple barriers in the design of the repository. (No similar provision in H.R. 3809.)

DOE is authorized to take to high-level waste when it is delivered to DOE for disposal in a repository (H.R. 3809 prohibited title from passing until the high-level waste was delivered to DOE at the repository.)

DOE is authorized to provide for the transportation of such high-level waste, subject to the condition that the costs of transportation are to be paid by the generator of such waste. (Under H.R. 3809, transportation would be the responsibility of the generator.)

III. SUBTITLE B—INTERIM STORAGE PROGRAM

AFR storage capacity provided by DOE may not be located at any federal or nonfederal site within which there is a candidate site for a repository. (H.R. 3809 allows the use of such sites.)

The NRC, in determining whether particular utilities require AFR capacity, is directed to ensure maintenance of a full core reserve capability at the site of the powerplant, unless the NRC determines that maintenance of such capability is not necessary for the continued orderly operation of the powerplant.

No authority is provided DOE under this bill to accept any foreign spent nuclear fuel. (H.R. 3809 authorized DOE to accept up to 100 metric tons.)

Rights conferred upon an Indian tribe to participate in the development of an AFR and to transmit objections to Congress under H.R. 3809 are extended to any "affected Indian tribe". (See discussion under Subtitle A for definition.)

Opportunity for State or "affected Indian tribe" to transmit objections to the Congress, and requirement that such objections be overriden by two houses of Congress before DOE may proceed, are extended to the provision of any AFR storage capacity over 300 metric tons.

DOE is directed to take title to and transport spent nuclear fuel for which utilities have entered into contracts for storage, subject to the condition that the costs of transportation are to be paid by the generator of such waste. Transportation of such fuel is subject to licensing and regulation, as provided under existing law. (Under H.R. 3809, DOE is prohibited from taking title and transportation would be the responsibility of the generator of such waste.)

MONITORED RETRIEVABLE STORAGE

DOE is directed to submit a report to Congress on the need for and feasibility of one or more MRS facilities by June 1, 1985 (H.R. 3809 calls for report within 5 years of the date of enactment.)

The DOE report is to include at least 5 alternate combinations of proposed sites and designs, with a discussion of the advantages and disadvantages of each combination. DOE is to recommend the preferable alternative. (H.R. 3809 prohibits DOE from selecting a specific site for the MRS facility.)

If Congress authorizes a MRS facility, NEPA shall apply to the construction of the facility, except that any EIS need not consider the need for the facility, nor any alternative to the design criteria. In addition, if Congress authorizes construction at a specific site, any EIS need not consider alternatives to that site. Similar restrictions apply to the NPC licensing of such a facility. (H.R. 3809 states that NEPA shall apply to any proposal to construct a facility, and that such facility shall be licensed by the NRC, with no reference to any restrictions.)

Any impact assistance for a MRS would come from the repository fund (H.R. 3809 provides for such assistance from the Interim Storage Fund).

V. NUCLEAR WASTE FUND

Adopted Senate one mil per kilowatt hour fee, but retained the basic structure of H.R. 3809 for the establishment and operation of the fund (H.R. 3809 directed DOE to submit to Congress within 180 days a report establishing payment charges per unit of spent fuel.)

Mr. President, due to the short time available at the end of this Congress,

we urge your support for the compromise text and for the prompt consideration by the Senate of this important legislation.

Mr. President, this bill is a truly comprehensive approach to the ultimate solution to disposition of the large and varied quantities of nuclear waste existing today in the United States and nuclear wastes which will be created in the years and decades ahead. The bill includes aggressive and predictable action in several major programmatic areas.

An interim spent-fuels storage program, which would maximize the existing at-reactor storage capacity, while at the same time providing all of the necessary elements for alternative storage for spent fuel, including away-from-reactor storage facilities, would be immediately implemented under the bill.

Recognizing that changes in Federal policy over the past decade have led to the disruption of utility planning for the storage of spent nuclear fuel prior to its disposal, the compromise text provides a firm national policy for spent-fuel storage, with clear guidelines for future utility planning. Utilities would bear the primary responsibility for providing interim storage of spent fuel and would be obligated to maximize the use of storage at existing reactor sites using a variety of means specified in the bill. Provisions of the compromise text would help expedite regulatory procedures which might otherwise delay expansion of at-reactor storage. However, the compromise text also provides for those limited circumstances where a utility that cannot reasonably provide adequate spent-fuel storage capacity faces disruptions in the orderly operation of its nuclear powerplant. In that circumstance the Secretary of Energy could provide storage at a federally operated away-from-reactor facility. The costs of spent-fuel transportation, operation, maintenance, and decommissioning of the facility would be borne by the utilities using it. The total capacity of such a Federal facility would be strictly limited to 1,900 metric tons of spent fuel—about 10 percent of the total projected need in the year 2000—and only those utilities that face disruption in the operation of their nuclear plants would be allowed to use the Federal facility. This "last resort" Federal option, totally paid for by its users, is not opposed by the administration. The comparable provision in the Senate-passed S. 2189 had authorized a Federal AFR storage program also, but without any specific limit on AFR or burden of responsibility on the utilities.

The interim spent-fuel provisions would include a streamlined regulatory process in the Nuclear Regulatory Commission to support both increased at reactor storage and necessary away-from-reactor facility availability on a timely basis. The combination of these several initiatives and the interim spent-fuel program would insure predictable and timely measures necessary to keep America's nuclear powerplants in full operation without any threat of reduced operations or shutdown because of a failure by the Federal Government to provide for interim spent fuel management.

In a similarly aggressive manner, the bill includes a much accelerated program for the ultimate disposal of commercial high-level waste and spent-fuel elements in mined geologic repositories. The objective of this much accelerated geologic disposal program would be to begin in the 1989 timeframe this Nation's first commercial geologic repository for high-level waste.

The compromise text provides a schedule for the establishment of repositories for the permanent disposal of nuclear waste, together with a realistic and workable schedule for their siting and construction. The deadlines set out in S. 1662 as originally introduced have been extended in the compromise text to take into account testimony received on the schedule. The compromise text also requires the Secretary of Energy to establish criteria for siting repositories which must include, among others, factors pertaining to geologic criteria, the location of valuable natural resources, and proximity to population. The Secretary would be required to apply those criteria to any site being considered for a repository.

The specific provisions within this part of the bill provide for the necessary actions for all Federal agencies to support the 1989 objective. Additionally, this part of the bill would establish a program for having at least one test and evaluation facility in full operation prior to 1988 to provide all necessary information to support the geologic repository program. Also, for the first time, the bill would create a mandatory national site survey program to identify acceptable sites to provide for additional geologic repositories which might be sited on various regions of the United States.

While the combination of the interim spent-fuel storage program and the geologic disposal program should conceptually provide two direct steps, one following the other, to a final disposition of high-level waste and spent fuel, the bill incorporates the Senate-passed proposal for a third, potentially necessary, program to be sequenced between interim spent-fuel storage on the one hand, and ultimate geologic disposal, on the other hand in the form of a retrievable monitored storage facility program.

This program would require the initial efforts necessary to prepare for congressional consideration in the next Congress of a retrievable-monitored storage facility proposal as an intermediate step or phase in the event that there are any unforeseen time delays because of institutional or technical difficulties in the geologic disposal program.

The compromise text requires the Secretary to provide the Congress with a proposal for one or more facilities which could provide for long-term storage of spent fuel or high-level waste in a way which permits continuous monitoring and maintenance and ready retrieval of the waste. The proposal would include a plan for integrating the operation of such monitored, retrievable storage (MRS) facilities into that of the repository and interim spent fuel storage facilities authorized in the bill. The compromise consists of provisions very similar to the MRS provisions passed by the Senate in S. 2139 and S. 1662. Before any MRS facilities could be built, subsequent congressional action would be required.

The retrievable monitored storage program would be the extra insurance under this bill to give complete confidence to the American pecple that nuclear wastes will be properly managed in the event of any foreseeable circumstances in the future. That approach of total confidence underlies the entire bill and is intended to insure that there can no longer be any valid question raised with regard to that complete confidence.

The bill includes several new or modified concepts from the bill passed by the Senate in the last Congress. One of the most noteworthy of those is the proposal for an assured full-cost recovery by the Federal Government from nuclear power-supplied ratepayers for the nuclear waste programs included in the bill. By establishing a 1 mill-per-kilowatt-hour users fee on nuclear generated electricity, this bill for the first time would provide a direct financial linkage between the beneficiaries of nuclear power and the cost for interim management and ultimate disposal for nuclear wastes.

The bill provides for a contractual fee, initially set a 1 mill per kilowatt-hour, which would be charged on the production of electricity from nuclear powerplants. Receipts from this fee would be placed in a separate account in the Treasury established solely for this purpose and would then be appropriated for the waste program on an annual basis. According to the Congressional Budget Office this fee is adequate to cover the costs of this legislation well into the 1990's. However, the bill requires that the adequacy of the fee be reviewed on an annual basis, and the fee could be modified in the future if receipts fell below costs of the program.

This funding mechanism would provide an assured source of funds to carry out the programs and would eliminate not only annual budgetary perturbations in an evermore constrained Federal budget, but the too often repeated shifts of policy direction under succeeding administrations. The nuclear waste policy, programs, and required financing would be statutorily fixed and quite predictable under this approach.

One of the more challenging issues which the Congress has confronted in attempting to develop such comprehensive legislative proposals for nuclear waste has been and continues to be the question of State participation in the siting, development, construction, and operation of interim storage facilities and geologic repositiories for nuclear waste. This bill incorporates a modification of the formulation passed by the Senate in the last Congress, which was the subject of intense negotiation with various parties over the past year.

The bill incorporates a combination of the so-called consultation and concurrence methodology developed and enacted, and now in practice for the waste isolation pilot project in New Mexico pursuant to statutory provisions, on the one hand, and the State-congressional approach adopted in the Senate-passed bill of last Congress and negotiated at length with our colleagues in the House and other interested parties. The formulation in this bill should insure, we sincerely hope, the best of the available methods reflecting our national experience in this area in the past several years.

The compromise text provides for the participation of States and Indian tribes in the development of a repository or a monitored-retrievable storage facility. The affected parties would enter into a written agreement with the Secretary under which their rights of "consultation and concurrence" would be exercised. Differences over health and safety issues between the State or Indian tribe and the Federal Government would be open to negotiation and arbitration. Funding for independent technical analysis and compensation for the effects of the facility would also be provided under this cooperative agreement. At the time that the Secretary was prepared to request a construction authorization from the Nuclear Regulatory Commission (NRC), the affected State or Indian tribe would be given the right to have any outstanding objections over the proposed facility be considered by the Congress. If either House were to agree that the State or tribe's objections had not been properly addressed, the Secretary could not submit his request to the NRC, thereby stopping further development of the facility. Those rights for State participation would be extended to both civilian facilities and licensed defense facilities. The comparable provision passed by the Senate in S. 1662 and S. 2189 had the same opportunity for congressional review of State or tribal objections with civilian facilities, but provided a more restricted opportunity for congressional review of objections to defense facilities.

I believe that these elements of the compromise text are essential to a balanced and adequate nuclear waste policy. The overriding Federal responsibility for the disposal of nuclear waste is clear. In the absence of this legislation, a Federal program for nuclear waste disposal would proceed, but it would do so without clear guidelines for utility planning; without a requirement for detailed controls on the selection and development of sites for geologic repositories; without a mechanism for user financing and a procedure for substantive State participation. For this reason we urge your support for the compromise text, and for prompt Senate action on this important legislation.

Mr. President, let me take a minute to comment as a representative of the people of my home State of Idaho on this bill. The good people of Idaho have been waiting for many, many long years for a predictable, near term conclusion to the nuclear waste issue and the management of nuclear wastes which have accumulated over the past three decades in our State.

Our people have waited through those many long years with great patience, while meanwhile continuing to support enthusiastically efforts in Idaho in the nuclear weapons program, the naval nuclear power program, and the civilian nuclear power research and development program.

Candidly, our people in Idaho have been promised more than once by various Federal officials a near-term solution to our waste management concerns. While the patience of our people may have been tested over time, and sorely tested in the last administration, the aggressive programs already proposed by this administration and the provisions of this bill should give the people of Idaho great comfort and great confidence at long last that the nuclear waste issue will be addressed constructively, positively, and successfully.

At long last, action by a seriously committed and concerned Congress will forge exactly the kind of partnership between the executive and legislative branches of the Federal Government needed to insure swift and responsible action on the nuclear waste issue. I am compelled to commend the people of my State for their continued efforts to deal with this issue. I sincerely hope that this Congress will mark a successful and more than acceptable conclusion to their long wait for promised Federal action.

Mr. President, in conclusion, again, I thank and commend my colleagues who are cosponsors. I believe it is fair to say that the cosponsors of this legislation believe that these provisions carefully balance the constitutional, equitable, legal, and practical interests of the several parties at the Federal, State, and local levels with legitimate interests in these facility matters. I would hope that these provisions will receive the most serious and thoughtful consideration by our colleagues in the Senate and also in the House, in the administration, the several States, and in the various elements of the nuclear industry.

We believe we have successfully fashioned a consensus approach to this most essential and important aspect of nuclear waste management in this country.

Mr. President, I ask unanimous consent that there appear in the RECORD at this point in my remarks a summary of the proposed amendments to printed amendment No. 4983. These amendments reflect discussions with Members of Congress which are intended to be proposed to the printed amendment.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF AMENDMENTS TO H.R. 3809, CALENDAR NO. 968

1. This amendment is intended to make it clear that if the Federal government seeks to utilize repositories developed under this bill for disposal of high-level radioactive waste resulting from atomic energy defense activities, the Federal government must pick up its pro rata share of the costs of developing, constructing, and operating such a repository. This provision, in addition, directs those funds to be placed into the waste fund account established under section 302 for this purpose.

2. The intent of this amendment is simple and straightforward: A new section has been added to this bill to make it clear that, with respect to transportation of spent nuclear fuel or high-level radioactive waste, nothing in the Act is intended to affect existing federal, state, or local laws. Thus, this bill is intended to have no affect with respect to the validity of those individual laws, by either affirming or negating such validity, nor is it intended to alter the legal relationship between federal, state, or local laws regarding transportation of spent nuclear fuel or high-level radioactive waste, as determined under existing law or judicial precedent.

3. This amendment represents a compromise as to the nature of the selection of sites for a potential repository. The compromise approach embodied in this amendment is as follows: First, five sites would be nominated by the Secretary as sites to be considered for recommendation to the President for site characterization. Of those sites, three would actually be recommended by January 1, 1985 to the President for his approval for characterization. Of those sites characterized the Secretary would recommend one for the selection of the first repository. The Secretary would nominate at

least five additional sites by July 1, 1989, leading to the recommendation of 3 candidate sites that the Secretary determines suitable for site characterization for selection of the second repository.

Under the compromise no drilling of preliminary bore holes would be permitted at a site before that site was selected by the Secretary for site characterization unless drilling was already underway on the date of enactment of this Act. The drilling of preliminary bore holes could take place if the Secretary were to find that existing geologic information was not sufficient.

The compromise would also provide that an environmental assessment be done on each site at the time the Secretary nominated the site. The environmental assessment provided under the compromise is identical to that in the House passed bill. Among other things the assessment would provide that a reasonable comparative evaluation be made by the Secretary of the site which is subject of the assessment and other sites which have been nominated.

4. This is simply a conforming change, to reflect the change made from an environmental impact statement back to an environmental assessment for sites recommended to the President. In section 112(f), the Secretary, in the substitute amendment, was directed to prepare an environmental impact statement for all sites for which a borehole had been approved by DOE by August 1, 1982. The understanding is that the only site involved in this subsection is the Hanford site in Washington. Consistent with the earlier change back to environmental assessments for these sites, language requiring an environmental assessment under this subsection has been restored as well.

5. This amendment is a technical change resulting from an earlier amendment already offered. The substitute amendment included a provision requiring the preparation of an environmental impact statement of each site recommended to the President by the Department of Energy for site characterization. The requirement adopted by by both the House and the Senate that the Secretary only prepare an environmental assessment, rather the impact statement has been restored. This amendment is a conforming amendment, striking subsection 112(g) of the substitute amendment, wherein it defined what must be included in such an impact statement.

6. This amendment provides that the Secretary, in promulgating guidelines for recommendation of sites for repositories, shall specify that no repository shall be built in the surface facility of any proposed repository would be located adjacent to a one square mile area with more than 1000 individuals.

7. This amendment provides clarification as to when the fee for waste disposal is to be paid for disposal of spent fuel generated prior to the date of enactment of this Act. It states that the fee be paid when delivery is made to the Federal Government.

8. This amendment to section 114(a)(2)(A) is a technical amendment to restore a provision contained in the House bill, as originally passed, to the Senate substitute amendment. This provision, which was inadvertently deleted when the substitute amendment was submitted for printing, simply says that after the President, after recommending two sites for the construction of the first and second repositories, may at his discretion recommend additional sites for the construction of subsequent repositories. This provision has been included to make it clear that, although the President is not required to recommend any more than 2 sites for the construction of repositories, if the need arises, the President may recommend additional sites.

9 & 10. These two amendments are of a clarifying nature, to make it clear that the Secretary's preliminary determination that sites are suitable for development as repositories is to be made consistent with the Secretary's guidelines promulgated under section 112(a). Without the reference to the 112(a) guidelines, it was not clear what criteria the Secretary was to use in making this preliminary determination, and this amendment is intended to clarify that oversight.

11. This is yet another technical change required as a result of the earlier amendment requiring environmental assessments, rather than environmental impact statements, on sites recommended to the President for characterization. Now that this change has been made it was necessary to include in the judicial review section, under the provision authorizing judicial review of environmental assessments, a reference to those prepared under 112(b)(1).

12. This amendment provides that the prohibiting against the location of any away-from-reactor storage capacity at a candidate site shall apply only so long as the candidate site is under consideration for development as a repository.

13. Monitored retrievable storage of spent fuel and high-level radioactive waste means the long-term isolation of fuel and waste in facilities that permit continuous monitoring, ready retrieval and periodic maintenance, as necessary, of the canisters containing the fuel or waste. Basically, MRS facilities would be used to isolate the fuel and waste without losing control of it.

Both the House and Senate nuclear waste policy bills contained provisions calling on the President to submit to Congress a proposal including designs and other site-specific information about a proposed MRS facility.

The compromise substitute described here was developed by the principal sponsors of the House and Senate bills.

This compromise substitute provides for a MRS proposal to Congress in June of 1985—2½ years after enactment of this Act. The Senate would recede from its original position of a 1-year deadline, and the House would recede from its 5-year deadline.

The proposal to Congress must contain at least five alternative combinations of site and design at at least three alternative sites. Thus if one site is identified that accommodates two different MRS designs—for example, either the dry-well or tunnel-rack approaches already analyzed by DOE—then the requirements of the substitute would be satisfied if three other sites, each with its own preferred design, were also included in the proposal. Under this scenario, Congress would have four sites to review. Alternatively, DOE could comply with the requirements of the substitute by submitting five separate sites, each with its own site-specific design.

MRS facilities would be licensed by the Nuclear Regulatory Commission, and, under the compromise substitute, the licensing process would involve consideration of alternative sites, even though the Congress itself had selected a specific site. The substitute explicitly provides that alternative designs for an MRS may always be considered.

Full State participation is provided for the MRS program in exactly the same way as it is provided in the case of repository sites.

Congress must act before any construction application could proceed. Congress would be free to reject, by failing to act, any of the recommendations DOE makes under the provisions of the substitute. Even if Congress does act, the Nuclear Regulatory Commission could decline to issue a license for the facility chosen pursuant to Congressional action.

14. This amendment amends section 302(a)(5) of the substitute amendment to provide that the Secretary of Energy take title to high-level waste or spent nuclear fuel as expeditiously as practicable upon the request of the generator of such waste. In addition, this amendment directs the Secretary to begin, not later than January 31, 1998, to begin to dispose of the high-level radioactive waste or spent nuclear fuel from those generating such waste. Under the substitute amendment, there was some concern that, in directing the Secretary to take title to and dispose of such wastes no later than December 31, 1996, the Secretary might not be given enough flexibility to tailor his schedule for accepting such wastes to availability of a repository. This amendment simply directs the Secretary to take title to such wastes as expeditiously as practicable, upon the request of the generator of those wastes, after commencement of repository operation.

15. This amendment restores language inadvertently deleted from the House-passed bill in section 135(a)(1)(B), the subtitle dealing with interim storage. In preparing the substitute amendment, the intent was not to delete this language, and this amendment would serve to restore the language deleted.

16. This is another technical change to conform the language of the substitute amendment to the terminology employed throughout the House bill. In section 132(5), where the word "powerplant" is included, that reference was replaced with the appropriate terminology, "reactor".

(There is no Amendment No. 17)

18. This is another technical amendment correcting cross-references contained in section 302(a)(4) of the bill, specifically, where that section referred to subsections (a) and (c), those references have been changed to the appropriate references, "paragraphs (2) and (3), respectively. For ease of reference, the entire paragraph has been repeated.

Mr. McCLURE. Madam President, I ask unanimous consent that Senator WARNER be added as a cosponsor of the substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask the Senator from Idaho to add my name as a cosponsor.

Mr. McCLURE. Madam President, I ask unanimous consent that Senator THURMOND be added as a cosponsor to the substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Will the Senator yield?

Mr. McCLURE. Yes.

Mr. THURMOND. Madam President, I am pleased that the Senate sponsors have chosen to basically adopt the House provisions regarding interim storage for commercial spent fuel. The House provisions come much closer, in my view, to establishing a

truly limited, "last resort" Federal storage program, and are, therefore, preferable to those found in the Senate bill. There is one major change from the House bill. In response to the concerns of potential repository States that they not be considered as a host State for both a new AFR facility and a final repository, the House option of constructing new AFR capacity at a repository site has been deleted. Language has also been added to the Senate substitute which would bar any use of potential repository sites for providing interim storage.

The more careful and limited nature of the House approach is reflected in a number of provisions. Primarily, the manner in which the Secretary of Energy may provide such storage is more carefully circumscribed. The Secretary may not, as he was authorized to do in the Senate bill, "construct, acquire, or lease" one or more new facilities to provide such storage. Instead, the Secretary is limited to three options, now that the option of construction at a repository site has been deleted. These options may be used in combination for meeting Federal storage commitments. The Secretary may, for example, utilize available capacity at one or more Federal facilities owned by the Federal Government on the date of enactment of this legislation. A second option is to provide modular or mobile spent nuclear fuel storage equipment to the utilities for use either at the reactor sites or at any Federal sites. The Secretary's third and final option is to construct storage capacity at any reactor site.

With regard to the use of a Federal facility, the House bill and the Senate substitute establish a two-tier environmental review process. If the Secretary decides to store 300 or more metric tons at any one Federal facility, that decision will require preparation of an environmental impact statement. A decision to store less than 300 tons at a given Federal facility, if such decision requires modification or expansion of the facility, necessitates the preparation of an assessment of probable environmental impacts.

The specific factors to be considered in such an assessment are delineated in the bill. In providing storage capacity through any other option, the Secretary must comply with applicable requirements for licensing or authorization of such method. It is my understanding that the provisions of the National Environmental Policy Act will apply, as they ordinarily would, for the other listed options.

The 300-ton figure also triggers the State participation provisions of the bill. If the Secretary decides to store 300 or more tons at one site, he must notify the Governor and legislature of the affected State. They in turn have 60 days in which to disapprove that decision and submit to Congress a notice of such disapproval. The Secretary's proposed action stands disapproved unless, within 90 days of continuous session, Congress passes a joint resolution approving the storage of 300 or more metric tons of fuel at the Federal site within the objecting State.

I believe, and I hope, that this 300-metric ton trigger for both preparation of an environmental impact statement and for the State participation provisions will encourage the Secretary to place smaller amounts of fuel at several sites, rather than requiring one State to bear the burden of storing all spent fuel which utilities cannot store onsite.

Another provision of the Senate substitute which has been improved is that relating to full core reserve (FCR). The original Senate bill mandated that full core reserve be maintained, while the House bill took the more flexible and reasonable approach of allowing the Commission to decide whether maintenance of FCR capability at a particular reactor is necessary for the continued orderly operation of that reactor. While NRC has always encouraged utilities to maintain FCR as a good management practice, the Commission has not required it as a safety matter. Obviously, if FCR capacity is mandated, less storage capacity is available at the reactor site and Federal storage would be needed at an earlier date. The Senate substitute now provides that NRC shall insure full core reserve, unless it determines that FCR is not necessary for the continued orderly operation of the reactor.

It remains my position that a Federal interim storage program is unnecessary and that the utilities should themselves provide such temporary storage capacity. Thus, I believe it is unfortunate that neither the House bill nor the Senate substitute totally insulates the State of South Carolina from providing any interim storage. While the applicability language of the House bill and Senate substitute precludes use of a facility already being utilized for atomic energy defense activity, the site at the Savannah River plant in my State might be used to provide some amount of interim spent fuel storage. Such a decision would, however, be subject to full environmental review, any applicable licensing requirements, and the State review process if over 300 tons of fuel is involved. Use of the Barnwell facility in South Carolina is not a possibility under the Senate substitute.

As I am sure our colleagues will recall, I and several other Senators interested in this issue offered an amendment regarding the AFR storage when the Senate considered S. 1662 this summer. That amendment, which completely struck the AFR title of the bill except for its licensing provisions, failed by only three votes. We argued at that time that utilities could provide such storage and that it should remain their responsibility to do so. We also expressed the concern that the establishment of a Senate-style AFR program might hinder efforts to find a permanent solution to the nuclear waste problem. I believe the closeness of that three-vote margin indicated that a number of Senators shared our concerns regarding the absence of need for an AFR program of the magnitude established by S. 1662.

Mr. President, I am pleased that the Senate sponsors of this substitute have responded to that concern. Limited, "last resort" Federal storage either at existing Federal facilities or sites, or at the reactor site, is a far more preferable approach. While I personally remain opposed to any interim storage program and would prefer that the bill not contain such provisions, I recognize that the majority of both Houses appear to be of the view that some limited amount of Federal storage should be provided for those utilities who are unable to reasonably provide for their own storage needs. In a spirit of reasonable compromise, we have decided not to pursue our earlier approach to the AFR issue. Instead, we are willing to accept the more reasonable provisions of the House bill.

Another major reason why I have agreed to go along with the House provisions is the need to enact a nuclear waste bill this Congress. It is essential that we begin to move forward with a policy and program for the permanent disposal of high-level nuclear waste and spent fuel. The Nuclear Waste Policy Act of 1982 is in the best interest of our Nation and of the utility industry as well. A permanent repository program would also serve the best interests of the State of South Carolina by increasing the likelihood of removing the 28 million gallons of high-level waste now stored at the Savannah River plant to a final repository.

Finally, Mr. President, I have decided to support the Senate substitute because of some of the improvements which it makes in the House bill. First and foremost, the total amount of authorized storage capacity is limited to 1,900 metric tons rather the 2,000-ton figure in the House bill. The difference of 100 tons results from the deletion of section 135(c) of the House bill authorizing the Secretary of Energy to provide storage capacity for up to 100 metric tons of foreign spent fuel. Second, the State participation provisions are extended to cover all options for providing interim storage, not just the first two listed options as under the House bill. It is essential, in my view, for an affected State to have every opportunity to participate in the

decisionmaking process for any method of providing interim storage.

Madam President, I just want to take this opportunity to commend all these people who worked so long and hard on this bill. This is one of the most important pieces of legislation facing this Nation.

I especially wish to commend the able Senator from Idaho (Mr. McCLURE) for the leadership he has shown in this matter and for the initiative he has shown in getting this bill before the Senate in this short, post-election session. It is very important. It should be acted upon and we are proud that has been done.

I wish to also commend Senator SIMPSON, Senator JOHNSTON, Senator DOMENICI, Senator STAFFORD, Senator GORTON, Senator JACKSON, and Senator HART for cooperating in this.

There are many staff members who have played an important part in this and they are to be commended also. Chuck Trabandt, Senator McCLURE's staff director on the Energy Committee; Jim Curtiss with Senator SIMPSON, Ben Cooper with Senator JOHNSTON, Paul Gilman with Senator DOMENICI, Keith Glaser with Senator HART, Will Smith with Senator JACKSON, Jim Davenport with Senator GORTON, and others have all worked diligently on this legislation for months and have been very helpful to me and my staff.

Madam President, I especially wish to commend Miss Sally Rogers of my staff who is an expert on nuclear energy issues and who so ably assisted me with respect to this landmark legislation.

AWAY FROM REACTOR FACILITIES NATIONAL NUCLEAR WASTE POLICY ACT OF 1982

Mr. PERCY. Mr. President, I would like to commend the floor managers of this bill for working out this compromise, especially given the time constraints they have had to contend with. When this bill was first considered by the Senate, I had considerable problems with it. Although the bill is by no means perfect, I believe it has been significantly improved and will provide a beginning for a program for the final disposal of nuclear waste.

One of my primary concerns with the original Senate bill was the section calling for Federal operation of away-from-reactor (AFR) spent fuel storage facilities. I introduced, along with many of my colleagues, an amendment which would have eliminated provisions for Federal operation of AFR's in entirety. I continue to believe firmly that the interim storage of spent fuel should remain a private sector responsibility while the Federal Government gets on with the business of finding a more permanent solution to our nuclear waste disposal problem.

If this Congress feels compelled to provide some provisions for AFR's, it is critical that this language be as limited as possible, and not provide a disincentive for utilities to responsibly handle the temporary storage of nuclear waste. I am pleased that over the past week, after lengthy negotiations, the Senate committees have moved toward a compromise which I believe significantly limits the future use of federally operated away-from-reactor facilities. The committee-drafted amendments would only allow the use of a Federal AFR after a determination by the Nuclear Regulatory Commission that the utility has no alternative means to temporarily store its spent fuel.

The amount of spent fuel storage which could be provided by the Federal Government will be limited to 1,900 metric tons. The Federal Government could only use an existing Federal facility or use the site of a nuclear reactor plant to provide this new spent fuel storage. The bill would not authorize the construction of a new AFR facility. In addition, Federal provision of large amounts of nuclear waste storage at non-Federal facilities will require a full NEPA environmental review.

Furthermore, if the Governor or legislature in the State object to the Federal Government placing a large AFR in the State, the State veto holds unless two Houses of Congress override the State objections. These various restrictions assure that Federal AFR's will only be used as a last resort.

I am also pleased that the compromise bill prohibits the Federal Government from taking over the interim spent fuel storage facility in Morris, Ill. The Morris facility was not built with the expectation that it would become a federally operated facility for storage of spent fuel from across the entire Nation. The people of Morris have been understandably concerned about the possibility of a Federal takeover, while many others throughout the State have been concerned about increasing shipments of nuclear waste en route to Morris. I have received many, many letters from citizens expressing these concerns and have met with a distinguished group of leaders from the community who have organized citizens against the Federal takeover (CAFT) of the Morris facility. I am sure that people in the Morris community will be relieved to know that they will no longer face the possibility of a Federal takeover of the nuclear waste storage facility in Morris.

Mr. President, I would like to ask the chairman one question on behalf of myself and my colleague, Senator DIXON, to reassure these people that their community will not be subjected to a federally operated nuclear waste storage facility.

AFR SITE RESTRICTIONS

Is it the intent of the managers of this legislation under section 135 to prohibit the Secretary from providing capacity for the storage of spent nuclear fuel from civilian nuclear power reactors at the following facilities:

First. The interim spent fuel storage facility owned and operated by General Electric in Morris, Ill.;

Second. The former nuclear fuel reprocessing center in West Valley, N.Y.; and

Third. The Allied General Nuclear Services facility near Barnwell, S.C.?

Mr. SIMPSON. Yes, that is the intent of the managers of this legislation.

Mr. PERCY. Thank you again, Mr. Chairman, for working so diligently to pull together this final compromise bill.

Mr. DIXON. Mr. President, I rise in total support of the comments made by the senior Senator from Illinois. I joined with him in an earlier amendment to delete the authorization far away-from-reactor storage in entirety. I am pleased that we have been able to work out language that both prohibits the Federal Government from taking over the spent fuel storage facility in Morris, Ill., and provides significant limitations on the future use of federall operated AFR's in this final compromise bill.

Mr. LEVIN. Although the full EIS will not be prepared until the Secretary recommends one of the characterized sites for construction of a repository, I assume that the environmental assessment on the five sites the Secretary nominates under section 112(b) for characterization would include as much detailed information as is reasonable on those five sites. Such information could then be included in the EIS that follows site characterization. Is my understanding correct?

Mr. McCLURE. Yes; that is correct.

Mr. SIMPSON. Mr. President, we are on the verge today of establishing the framework for this Nation's first comprehensive nuclear waste management and disposal program—a significant achievement for the Congress and the country. We now have before us the work of seven committees of the House of Representatives and three committees of the Senate, combined with the efforts of numerous individual Members on both sides of the aisle, all of whom have played formative roles in shaping this legislation.

The tough, hard work and dedication of everyone involved in the nuclear waste disposal issue, and the compromise that we have been able to fashion in this substitute amendment, is testimony to the overwhelming consensus in support of a solution to this difficult issue. And dealing with a very diverse cast of characters, Senators McCLURE, JOHNSTON, JACKSON, and DOMENICI, and Represenatatives DINGELL, OTTINGER, BROYHILL, and UDALL all labored diligently.

We all recall too readily the unfortunate failure of the Congress to reach agreement on a comprehensive nuclear waste disposal policy in the closing days of the 96th Congress. For my part, Mr. President, I am committed, as are many of our colleagues, to insuring that this important piece of legislation not suffer the same fate.

I strongly urge my colleagues to support the legislation we have before us, the product of so much time and effort by so many—principals and staff. In particular, I would like to commend my distingished colleague, Senator McCLURE, chairman of the Energy and Natural Resources Committee, for his hard work, leadership, and real statesmanship, together with the efforts of Bennett Johnston and many other colleagues, most notably my own distinguished chairman, Senator STAFFORD, ranking member JENNINGS RANDOLPH, and Senators HART, DOMENICI, JACKSON, and TOWER. So many more.

Suffice it to say, here it is, something we seem to always talk about but never seem to resolve. We never quite grapple the monster to the ground. Here is our chance.

Mr. THURMOND. I have a question regarding section 135(c) of the substitute, establishing the two-tier environmental review process for storage at any existing Federal facility. Since that process only applies to the existing Federal facilities option, does that mean that the other two storage options are subject to review under NEPA, as it would ordinarily apply, without regard to the amount being considered for storage?

Mr. McCLURE. Yes; that is correct.

Mr. JACKSON. I would like to ask the senior Senator from Idaho whether it is his understanding of the provision in paragraph 2 of subsection 135(a) that the DOE Hanford Reservation, which is a candidate site, would be precluded from use for away-from-reactor storage of spent nuclear fuel for so long as it remains under consideration as a potential site for a geologic repository.

Mr. McCLURE. My understanding of the effect of the provision is as the Senator has stated it regarding the Hanford Reservation. However, of the current places under consideration as possible candidate sites, I know of no other Federal site that would be precluded for AFR storage because of this provision.

Mr. JOHNSTON. I would like to ask the distinguished Senator from Idaho, Senator McCLURE, with respect to the words "to be collected from any person delivering spent fuel" to the Federal Government, which appear in section 302(a)(3), is it correct that the intent of this language is to specify not only who will pay the fee, but also when that fee is to be paid?

Mr. McCLURE. The Senator is correct. The language specifies both the person who will pay and the time the payment is made.

Mr. JOHNSTON. Is it also correct that the time that the payment is to be made is when the fuel is actually delivered by the payor to the Federal Government?

Mr. McCLURE. The Senator is again correct. The payment is to be made at the time of delivery to the Federal Government.

MRS DESIGN CRITERIA

Mr. McCLURE. I think we should clarify our intent with regard to the language of the MRS section of the bill where, in paragraph 141(c)(2) and in subsection 141(d), we refer to the design criteria set forth in subsection 141(b)(1). Are the design criteria of subsection 141(b)(1) the only design criteria applicable to MRS facilities under law?

Mr. JOHNSTON. No; the design criteria of subsection 141(b)(1) merely define a monitored retrievable storage facility for purposes of section 141. Other design criteria specific to MRS facilities, such as safety criteria, reliability criteria, public health criteria, environmental criteria, and so forth may be imposed on any MRS facility under law.

STATE PARTICIPATION

Mr. SIMPSON. Mr. President, I would like to ask my distinguished colleague from New Mexico to clarify a modification to the provisions of this legislation that I believe were in large part his doing. I would call the Senator's attention to that part of section 117 that deals with the written agreement between the Federal Government and States or affected Indian tribes. This provision establishes the framework for the process of consultation and cooperation. The Senate substitute expressly states that in resolving State or affected Indian tribe objections, the Secretary shall specify procedures for arbitration, negotiation, or other appropriate mechanisms. I wonder if the Senator from New Mexico could clarify the intent of the word "arbitration."

Mr. DOMENICI. I thank the Senator from Wyoming for drawing our attention to this matter. I believe it is a very significant one. The process we have in mind there certainly must be flexible enough to meet the ends of any particular objection which needs resolution, but we would expect that something like a technical review board, with an equal number of Members chosen by both sides, perhaps with an additional number chosen by both sides, would hear the technical arguments on both sides of an issue. This review board could then make a judgment as to the most appropriate resolution of the objection. Both parties would be expected to abide by the decision of that board. I hope that clarifies the use of that term for my friend from Wyoming. It certainly is an important one in that it is a key element in having States or affected tribes resolve their concerns within the process of consultation and cooperation rather than before Congress.

Mr. SIMPSON. I thank the Senator and would only ask him one further question at this time. Do the funds provided to potential repository States or affected Indian tribes under this legislation cover the costs of entering into this written agreement under section 117.

Mr. DOMENICI. They do.

Mr. SIMPSON. I thank the Senator for his responses.

CONCEPTUAL REPOSITORY DESIGN

Mr. DOMENICI. I wonder if I might inquire of the distinguished floor managers of this bill about precisely what is intended in section 113(b). The particular issue has to do with the requirement that DOE submit to the States a general plan for site characterization activities, a description of the possible packaging for the high level waste, and a conceptual respository design that takes into account likely site-specific requirements. Since this information must be submitted prior to sinking shafts at any candidate site, am I correct in assuming that the discussion of site-specific requirements associated with the conceptual repository design required by this subsection should be commensurate with the limited amount of work done at the candidate site, and that this discussion will, in all likelihood, entail an analysis of the overall conceptual repository design, rather than a detailed site specific design that must incorporate information not yet available at this stage of examination?

Mr. SIMPSON. The gentleman's understanding is absolutely correct. It would be our hope that DOE make available to the State a conceptual repository design that, to the extent practicable, includes information related to the particular site involved. We fully recognize, however, that since we are directing DOE to submit the design to the States prior to the sinking of any shaft, the amount of detailed, site-specific information that will be available at this stage will necessarily be limited. It is not our intent to require DOE to delay its program while it proceeds to acquire such additional information, since this would necessarily entail the sinking of a shaft at the site. Instead, we felt it important for the State to have, at this very early stage, a general discussion of the conceptual repository design being proposed by DOE for that site.

Mr. DOMENICI. I thank the gentleman for his clarification.

SITE NOMINATION

Mr. SIMPSON. I have some questions I would like to have answered by

the Senator from Louisiana. As the Senator knows, I favor a program which provides for as many alternative sites for the selection of a repository as are reasonable. This principle should apply to each of the two repositories required under this bill.

Under the provisions of subsection 112(b) it appears that the pool of alternatives from which a repository will ultimately be selected will include at least 5 nominated sites in each round. That is, a pool of at least five nominated sites will be available prior to selection of the first repository, and a pool of at least five nominated sites will be available for the selection of the second repository. Is that correct?

Mr. JOHNSTON. The Senator correctly describes the situation.

Mr. SIMPSON. I would like to clarify the intent of subparagraph 112(b)(1)(c) with regard to just how it provides for a pool of at least five nominated sites for the selection of the second repository.

As I read subsection 112(b), it would work like this. Of the five sites nominated in the first round, three will be recommended for characterization, and one of these three will be selected as the first repository.

For the second round, not later than July 1, 1989, the Secretary shall again nominate five sites. The two sites from the first round that were not selected for site characterization could not be among these five nominated sites for the second round. However, the other two sites that were nominated in the first round and did undergo site characterization could be included among the five nominated sites for the second repository.

The Secretary would be required in any event to insure that at least five sites are nominated for the second round by including in the nomination at least three new sites not nominated in the first round. If the Secretary nominated the two characterized sites from the first round, he would only be required to nominate three new sites in the second round. If the Secretary decided not to nominate for the second round one of the two sites characterized in the first round, he would be required to nominate at least four new sites for the second round. Is this an accurate description of the intent of the provision?

Mr. JOHNSTON. The Senator is correct.

POPULATION DENSITY

Mr. McCLURE. Mr. President, I would like to ask my colleague from Wyoming a question regarding the guidelines for the recommendation of sites for repositories. As the Senator knows, one of the factors that must be considered in these guidelines is the proximity to populations that a site would have. It is my understanding that this consideration is intended to pertain to the proximity of populations at the time the repository is being constructed and initially operated. It was not our intent that the Secretary try to see far off into the future as to population centers and their proximity to the site. Is that the Senator from Wyoming's understanding?

Mr. SIMPSON. Indeed it is.

Mr. McCLURE. I thank the Senator.

Mr. WARNER. Mr. President, I rise in strong support of the McClure substitute in H.R. 3809, the National Nuclear Waste Policy Act. This legislation is a product of many long years of negotiation and will be remembered as one of the most important legislative achievements of the 97th Congress. The Senator from Idaho and other Senators who have worked so tirelessly on this bill are to be highly commended for their efforts.

As a cosponsor of the legislation which originally passed the Senate, I wrote to and talked with Majority Leader HOWARD BAKER to urge him to bring this House-passed bill to the Senate floor.

The legislation is a blueprint for the safe disposal of high level radioactive waste. It will be especially important to States, such as Virginia, which have nuclear generating facilities that may reach their spent fuel storage capacities as early as 1985.

I urge the adoption of the legislation.

Mr. MOYNIHAN. Mr. President, I rise today in support of the Nuclear Waste Policy Act of 1982, H.R. 3809, as amended. The passage of comprehensive Federal nuclear waste management legislation is long overdue. Many have worked diligently and thoroughly on the legislation before us today and it would be unfortunate indeed if another Congress adjourned without enacting a much needed system to deal with the long-term storage and permanent disposal of the high-level nuclear wastes being generated by this Nation's commercial nuclear power plants.

The first commercial nuclear reactor in this country began operating in 1957. Over the last 25 years some 9,000 metric tons of spent nuclear fuel have accumulated. But we have no permanent repository for these wastes, wastes that will be dangerously radioactive for tens of thousands of years.

As Carroll L. Wilson, professor emeritus at the Massachusetts Institute of Technology and first general manager of the Atomic Energy Commission, observed in 1979, we have devoted much attention to the front end of these machines—nuclear reactors—but not enough to the problem of disposing of the radioactive waste they produce. By the year 2000 there will be some 89,000 metric tons of accumulated spent nuclear fuel, nearly 10 times the current quantity. We must be steadfast, therefore, in our efforts to develop and execute a Federal policy for the permanent disposal of these high-level nuclear wastes. We can no longer put off this undertaking.

My own experience with this perplexing problem is, I feel, quite telling. Upon coming to the Senate in 1977 I was faced most directly with the consequences of the Federal Government's inability to bring into being comprehensive nuclear waste management legislation. There existed a defunct nuclear fuel reprocessing facility, known as the Western New York Nuclear Service Center, in West Valley, N.Y. This small hamlet, some 30 miles from Buffalo, was home for the only commercial nuclear fuel reprocessing plant ever to have operated in the United States.

Between 1966 and 1972 about 640 metric tons of spent fuel were reprocessed at the West Valley facility. In 1972 the center shut down. It was thought that the plant needed to be larger in order to be cost efficient. As plans to enlarge the facility were being considered, the regulatory climate changed. Standards for such reprocessing operations became stricter, safeguards more extensive. By 1976 it became clear that reopening the West Valley Center was not practical and so the plant's operator, Nuclear Fuel Service, Inc., announced it was giving up its reprocessing plans and leaving the site. What was left behind was some 600,000 gallons of highly radioactive liquid wastes, a by-product of the reprocessing that had taken place at the plant.

A serious question arose as to what was to become of these wastes. They were being stored in tanks with useful lives of some 50 years. Simply replacing the tanks every 50 years was not the answer. Realizing we needed a permanent solution, Congressman LUNDINE, Senator JAVITS, and I set about to have the Federal Government conduct a nuclear waste solidification project at the West Valley Center.

Eventually we were successful in securing the passage of the West Valley Demonstration Project Act, Public Law 96-368, which became law on October 1, 1980. What we brought into being was the first commercial nuclear waste management legislation ever to become Federal law. On February 25, 1982, the U.S. Department of Energy took possession of the West Valley site to begin the waste solidification project, the only commercial nuclear waste management project currently being conducted by the Federal Government.

We must move on. May I say that the Western Europeans and Swedes are facing up to the nuclear waste management issue with far more discipline. I commend to my colleagues an article entitled "Nuclear Waste Disposal: Bold Innovations Abroad Instructive for U.S." by Walter Sullivan

that appeared in the New York Times on August 31, 1982. Mr. Sullivan points out that there are 73 operating commercial nuclear powerplants in the United States, more than in any other country. Yet we have no comprehensive nuclear waste management program in place to deal with the tremendous volume of waste that will be generated by these plants. Our lack of a nuclear waste policy stands in sharp contrast to the steps being taken by other countries. We should not allow this situation to continue.

What we have before us today is a bill that will finally put us on the path to comprehensive nuclear waste management. It is a bill that represents consensus on certain issues and compromise on others. After the intensive debate that has marked this issue during the current and the last Congress, it is time to come to a final agreement.

I wish to make particular reference to the provisions for the interim storage of spent fuel contained in title III of the bill. When the Senate first considered and passed this legislation, S. 1662, on April 29, 1982, the bill contained broad provisions for a federally owned and operated system for the interim storage of up to 2,800 metric tons of spent fuel at one or more away-from-reactor (AFR) storage facilities. I joined with Senators HOLLINGS, THURMOND, PERCY, DIXON, and D'AMATO in offering an amendment to S. 1662 to strike all provisions for AFR storage. We fell but three votes short of prevailing on the amendment.

I did not support the original Senate AFR storage provisions because I believed them to be unnecessary. Utilities, under the watchful eye of the Nuclear Regulatory Commission, have been taking care of the interim storage of their own spent fuel in good faith for some time. I am of the opinion that interim storage should continue to be the responsibility of those owning and operating civilian nuclear power plants. The utilities have on-site storage options, including the expansion of existing storage pools, reracking or consolidation of spent fuel rods into tighter assemblies, and the use of new technologies such as dry storage. I feel strongly that these options can and should be exercised.

When the House considered the nuclear waste management legislation, it adopted a narrow set of provisions for a Federal AFR storage program. The House-passed bill, H.R. 3809, is carefully crafted to insure that a Federal AFR storage program would only be used as an option of last resort. The substitute to H.R. 3809 that is now before the Senate includes AFR provisions that are almost identical to the House approved language. What we are considering, therefore, is a compromise, one I believe that includes a significant number of safeguards. While not ideal, the Senate language on AFR storage is acceptable.

In sum, I feel it is time to pass this much needed legislation. We have argued and debated, with the result being a consensus bill that I feel deserves support. The ultimate goal here is to establish a program for the permanent disposal of our Nation's nuclear wastes. We must not lose sight of this objective, we must move ahead with all due diligence.

Mr. President, I ask unanimous consent that Mr. Walter Sullivan's article, "Nuclear Waste Disposal: Bold Innovations Abroad Instructive for U.S.," be printed in full in the RECORD.

There being no objection, the article was/were ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 31, 1982]

NUCLEAR WASTE DISPOSAL: BOLD INNOVATIONS ABROAD INSTRUCTIVE FOR U.S.

(By Walter Sullivan)

Sweden is planning to dismantle, piece by piece, all 12 of its nuclear power plants by 2010 and is taking steps to bury the radioactive waste from them deep in granite at sea.

France, on the other hand, expects to have 55 nuclear power plants generating 55 percent of its electricity within three years. It too has enormous waste disposal problems and is looking into the possibility of storing the radioactive waste under the Alps.

These two approaches are among a wide range of West European strategies for dealing with the radioactive waste produced in generating nuclear power, strategies that must take into account the possibility that dangerous conditions could develop at waste-disposal sites thousands or millions of years hence.

The future of nuclear power depends on safe disposal at a reasonable cost. Thus the West European experience—diverse, innovative and laden with political, physical and practical problems—will be instructive to other nations.

The United States, for example, has 73 operating nuclear power plants generating 13 percent of its energy, but the Energy Department and Congress have been unable to agree on a plan for developing long-range storage sites. Some reactors may have to be shut down as soon as 1986, and a full-scale storage crisis is expected by 1990 unless proper disposal sites are created by then. Thus far, key Congressmen have been unwilling to vote for long-term disposal sites in their own districts.

Of principal interest among the European operations, as revealed in a series of recent interviews and visits to key disposal sites in Britain and on the continent, is an international project in Sweden. Techniques are being tested there for encasing high-level wastes in the granite walls of an abandoned mine more than 1,000 feet underground, at a site 100 miles west of Stockholm.

Sweden is keenly interested in having the mine shaft experiment succeed. Now the third most electrified country in the world, it will soon depend on nuclear plants for half its power.

But the Swedish people, concerned about the dangers of radiation and difficulties of waste disposal, voted in a referendum in 1980 to close down all the country's nuclear reactors within 30 years and to consider a whole range of alternative sources of power. The Government's overall program, therefore, is designed to dispose of all wastes produced up to then, including radioactive structural material from the plants themselves.

As in other countries, the waste is assigned to one of three radioactive categories: low, medium or high level. In the first category are slightly contaminated materials, such as empty containers, gloves and shoes discarded after exposure. Medium-level wastes consist of material radioactive enough to require special handling but not sufficient to generate high temperatures.

High-level wastes continue to be so radioactive that they generate too much heat for early burial. They have to be artificially cooled, by air circulation or other means, possibly for decades, before they can be permanently stored.

Reactor rods, removed after their fuel has been depleted, are treated as medium-level waste unless their more radioactive constituents are extracted and concentrated by a reprocessing plant. To handle the thousands of tons of spent fuel being generated in Sweden, an elaborate center is being built alongside the Oskarshamn nuclear power station on the Baltic coast. In a cavern carved out of bedrock underneath it, four large "swimming pools" are being constructed to hold the spent rods.

STORAGE TO START IN 1985

According to Erik Svenke, president of the Swedish Nuclear Fuel Supply Company, which handles disposal as well as production of fuel, the center should begin operation early in 1985 as an interim storage center. It is designed ultimately to hold 9,000 tons of spent fuel and reactor components.

For final storage of medium-level waste, Sweden plans a site excavated out of granite or similar rock under the Gulf of Bothnia. The site, a mile off shore, will be linked by tunnel to the nearby Forsmark nuclear power station. Above it will be a 165-foot layer of rock topped by 20 feet of water. When asked about the obvious construction difficulties, Mr. Svenke said with a grin, "Swedes are good at blasting."

Since the Swedish plants and medium-level disposal sites are all at four coastal sites, a contract was signed last year with a French shipyard to build a special ship to transport the waste.

High-level waste, according to the plan, will be disposed of in granite or comparably homogeneous rock at one or more sites to be chosen by 2000. Four test holes are being drilled into such formations, and at least 10 are planned. Each deposit will be tested for such factors as water permeability, corrosive chemistry and geologic stability. Archeological samples of copper are being studied to determine how that metal responds to prolonged exposure.

Sweden has contracted with British Nuclear Fuels Ltd. and France's state-owned COGEMA company to reprocess 956 tons of its spent fuel. The plan, as in most European programs, is to fuse the high-level waste in glassy material that resists heat and action by water or chemicals. The Swedish disposal program is financed by a fund to which the utilities make periodic contributions.

STUDIES OF GRANITE UNDERTAKEN

The problems of disposal in granite are being studied by an international project at the Stripa mine in Sweden, where mining began in 1485 and ended in 1976. Participants are Finland, Japan, Sweden, Switzer-

land and the United States, with Canada and France as associates.

Some of the questions they need to answer are: What are the effects of heat generated by high-level waste? Does water percolate through the rock? Does it pick up substances that, under such conditions, will corrode the canisters and dissolve the glassy, waste-laden material inside?

Electric heaters are testing such effects as well as heat conductivity of the rock, which facilitates dispersal of heat from the canisters of waste.

The tests at Stripa are also exploring ways to enclose the deposited canisters so that no material can enter or escape. A favored substance is bentonite, a clay of volcanic origin that, would provide a tight seal because it swells considerably when mixed with water.

By using remote means, such as seismic tests, it is also important to identify rock fractures in the disposal area through which water might flow.

In Britain, tests are being conducted in a number of bore holes in granite. Exploratory drilling has been conducted in northern Scotland; the heat response of Cornish granite 165 feet underground has been subjected to tests for more than three years. Britain operates a major reprocessing center at Windscale.

France has developed a vitrification process, in which high-level wastes are incorporated into borosilicate glass at Marcoule. Despite its present success, it is still not clear where France will be able to dispose of the wastes permanently.

WASTES ARE TURNED TO GLASS

In 1978, after five years of pilot plant operation, France's large AVM (Atelier de Vitrification Marcoule) plant started up, and by last year it had turned 13,400 cubic feet of concentrated high-level wastes into solid glass.

Roughly 40 gallons of a molten glass and waste mixture are poured into a three-foot stainless steel canister. The canisters are stored temporarily in wells, ventilated for cooling, beneath the Marcoule plant. Each of the 220 wells has a capacity of 10 canisters, to provide storage for a decade's output of 10 nuclear plants, each generating 1,000 megawatts, according to Jean-Marie Lavie, director of the French disposal program. Several decades of storage will be needed before the canisters are cool enough for burial.

In search of a permanent disposal site, holes have already been bored, one of them more than 3,000 feet deep, into granite of the Massif Central at Auriat.

Both at Marcoule and at La Hague on the Cherbourg Peninsula, France is reprocessessing spent reactor fuel not only from its own reactors and weapons program, but also from six European countries and Japan. This process extracts uranium and plutonium that can be used again, leaving a small residue of high-level waste.

Low-level waste is stored at the 30-acre La Manche site near La Hague. Drums filled with waste are either stored in the open or buried in shallow holes. Under an international arrangement, much of Europe's low-level waste is dumped at a site far out in the Atlantic Ocean.

Expansion of the French fuel-reprocessing plants, including construction of a plant that would double La Hague's capacity to 1,600 tons a year, was suspended when protesters blocked a train shipment of spent fuel from West Germany, but it was later resumed.

It is expected that La Hague will be filled to capacity for temporary high-level disposal by 1986. The Government has proposed using an abandoned uranium mine, which is already radioactive, at St. Priest de la Prugne in central France, but this has evoked opposition because it is in the mineral-water country.

GERMANS FACED POLITICAL CHOICES

West Germany's original intent was to establish a single center for processing spend fuel and disposing of nuclear waste. Attention focused on salt domes in northern Germany and, in 1977, on Gorleben, close to the East German border. Local authorities requested a review of the project by international specialists, who in 1979 found that while it appeared safe, the political feasibility of a large reprocessing plant was doubtful.

The Germans have since decided to make Gorleben their disposal site, but for fuel reprocessing, smaller plants are envisioned at other locations. At Gorleben drilling of shafts for the disposal mine began in February. At last report one shaft, 3,250 feet deep, had been completed, and drilling of the second was about to begin.

Nevertheless, various concerns have been expressed about the Gorleben deposit. Like other salt domes, it is a body of salt that has risen from a deeper deposit because of its buoyancy relative to other rock. Current boring may indicate whether or not it is still rising and eventually might bring a deep deposit to the surface.

The salt has apparently been free from water action for millions of years, but some fear that the Elbe River might change its course and penetrate the area. The advatages of salt, however, are that it is self-sealing and, unlike rock, will not open permanent cracks under the stress of an earthquake or other geologic change.

The Netherlands is also interested in salt deposition, primarily in offshore salt domes, far from communities that might protest.

Probably the most innovative approach is that of Belgium, which has no suitable salt or granite deposits. It is seeking to carve a repository out of the extremely homogeneous and impermeable clay deposited on what was a sea floor 35 million years ago.

About 525 feet under the Belgian nuclear research center at Mol, this clay forms a layer 360 feet thick. Disposal directly below the center would be ideal. A shaft has been sunk 720 feet, penetrating this layer, and a horizontal tunnel is being exavated for tests of the clay's suitability for storing medium- and low-level waste.

A slow descent down this shaft in a chin-high iron barrel is like Alice in Wonderland's trip down the rabbit hole. One must wear polar clothing in midsummer, because pipes have been inserted into the surrounding clay to carry refrigerants that freeze it solid. The shaft has been walled with concrete, to preserve it after thawing of the clay, and the tunnel will be lined with metal.

PROBLEMS WITH CLAY DEPOSITS

The chief drawback of such a clay deposit, however, may prove to be its low level of heat conductivity. Conceivably, heat would build up to unacceptable levels unless the high-level waste was stored above ground until relatively cool. Granite is a far better heat conductor.

Another drawback to clay deposition is the difficulty of building in a deep, high-pressure clay deposit that continually seeks to close any cavity.

Italy also has extensive clay deposits. It is able to study the long-term effects of heat on such material because some deposits, such as those near Pisa, were penetrated by volcanic material as much as 41 million years ago.

Some West European countries, such as Austria and Norway, have no operating nuclear plants, but they still must dispose of radioactive residues from industrial, medical and research applications.

While there appears to be general agreement among Europeans that low- and medium-level wastes will have to be disposed of on their own territories, some specialists are still concerned about public acceptance of high-level wastes, even in the deepest deposit of granite, salt, volcanic rock or clay. They would be happier if it was carried far away—to a midocean island or a sea-bed depository.

NUCLEAR WASTES: INNOVATIONS ABROAD: HOW RADIOACTIVE WASTES ARE RANKED FOR DISPOSAL

For long-term disposal, radioactive wastes are classified by Jean-Marie Lavie, director of the French disposal program, in three categories.

Category A consists of radioactive elements whose lifetimes do not exceed 30 years, plus trace amounts of long-lived forms that occur in all natural materials. Such wastes, of both low and medium radioactivity, are produced by nuclear power plants, fuel processing plants and industrial, medical and research centers using radioactive material. By volume, 99 percent of the wastes are in this category, but they contain less than 1 percent of the radiation.

Category B consists of wastes with lives longer than 30 years. Most of them emit alpha particles, similar to helium nuclei. These wastes are chiefly produced by plants preparing or recycling nuclear fuel.

Category C comprises all high-level, long-lived wastes. These come chiefly from plants that reprocess nuclear fuel to recover the residual uranium and plutonium. High-level wastes are so hot, from intensive radioactive decay, that most specialists believe they cannot be disposed of until the radiation has subsided after 20 to 50 years.

Such wastes consist largely of fission products, fragments produced by the splitting of uranium or plutonium atoms in a reactor. They also include superheavy elements created by neutron bombardment of the nuclear fuel and structural material made radioactive by such bombardment.

In depleted fuel rods the fission products may constitute less than 4 percent of the contents. Plutonium generataed in the reactor by exposure of uranium 238 to radiation may provide another 1 percent. In such a case more than 95 percent of the residue is uranium, most of it uranium 239, which cannot be used directly as fuel, plus a residue of fissionable uranium 235.

Mr. JOHNSTON. Mr. President, the Nuclear Waste Policy Act is one of the most important bills to come before the Senate this Congress. This bill establishes several very important programs to permit the Federal Government to assume its proper responsibilities with regard to the management of spent nuclear fuel and high-level radioactive waste. The responsibilities are not being fulfilled now, because the necessary congressional guidance has not been provided and, in certain important respects, the necessary legislative authority is not available.

The bill we have before us is far from perfect. Most of it is identical to the bill the House was finally able to pass in December. Under Senator McCLURE's determined leadership, we have attempted to modify that bill in only those ways that are absolutely necessary to make the policy work, so we can get Senate approval.

As my colleagues know, this is the second Congress in a row in which we find ourselves confronted with a difficult and complex House bill passed only at the very end of the second session. The Senate bills in each of these last two Congresses were passed early, providing plenty of time for the process to be completed. In the 96th Congress, time ran out on the proposed nuclear waste policy legislation. We are perilously close to the same fate this time around.

It would be a tragedy if we lose the legislation this time too. We can, of course, try again next year. But should we fail again this Congress, the message we will be sending to the public, to the embattled nuclear industry and to the Nation's electric utilities is not a good one. It suggests that the Federal Government simply does not intend to take up those reponsibilities that only the Federal Government can assume.

There are a number of important provisions in this bill. I do not intend to discuss all of them. I would like to talk about monitored retrievable storage (MRS).

MRS

Monitored retrievable storage of spent fuel and high-level radioactive waste means the long-term isolation of fuel and waste in facilities that permit continuous monitoring, ready retrieval and periodic maintenance, as necessary, of the canisters containing the fuel or waste. Basically, MRS facilities would be used to isolate the spent nuclear fuel and high-level radioactive waste without losing control of it.

In March 1979, I, along with Senators JACKSON and CHURCH, introduced to first comprehensive nuclear waste policy legislation to the seriously considered in any recent Congress. As we all know, in 1980, the Senate passed a bill that embodied the approach taken in that bill. In the 96th Congress MRS was the principal policy approved by the Senate for the long-term isolation of nuclear waste. Irreversible geologic disposal was the backup technology, which under the bill at that time was to be studied for later congressional evaluation before a specific site could be approved.

In this Congress, in the interest of gaining broad support for a comprehensive nuclear waste bill, we compromised with those who want to go in other directions than MRS with regard to nuclear waste. We have attempted to create "parallel" programs for MRS and for geologic disposal.

Under the present bill, facilities for the irreversible geological disposal of nuclear waste are authorized, while for MRS the bill provides for a proposal to Congress, subject to further congressional action, before any facility would be built.

If MRS is to become an alternative to the main program of irreversible geologic disposal of nuclear waste, we would at least like to know that the MRS approach will be "on the table" at approximately the same time that the Nation is seriously considering specific geological disposal sites. This timing could become especially important if, for some unforeseen reason, the repository program runs into any snag. In this eventuality, we would want the option to be available to move to MRS; if only on an interim basis.

To accomplish this it was essential that the House bill be amended. That bill provided that Congress would not even see the MRS proposal until 5 years after the enactment of the act—presumably in 1988. But this is well past the time when, under the provisions of the House bill, the commitment to a specific geological site would already be made.

The substitute that Senator McCLURE placed in the RECORD last Monday (amendment No. 4983) as modified by the McClure amendments to be offered today gets the timing right. Under the modified substitute, the first three geologic sites are chosen for characterization on January 1, 1985 and the final selection is made in March of 1987. In order to have timely availability of an MRS proposal, let alone any kind of fair comparison of the geologic and MRS approaches, the MRS proposal has to be available to Congress during this time period.

The MRS provision contained in the package of McClure amendments was negotiated with the principal sponsors of the House bill. The change proposed in the compromise substitute would bring the MRS proposal to Congress in June of 1985—2½ years after enactment of this act—after the selection of the first three candidate geologic sites, but with sufficient time for Congress to review its options and legislate before any final commitment to a specific geologic project is necessary. We would recede from original position in the Senate bill, S. 1662, of a 1-year deadline, and the House would recede from its 5-year deadline. A 2½-year deadline just about splits the difference.

Adoption of the timing proposed by the House for submission of the MRS proposal would reverse the position adopted by the Senate by overwhelming vote in two Congresses, including the present one, and render the option offered by the MRS technology unavailable for future implementation as an achievable, licensable and entirely adequate interim solution to the problem of long-term isolation of nuclear waste.

So the issue of timing is critical to the future availability of the MRS option. Whatever we decide about the process for considering MRS, it is essential that Congress have access to a detailed, site-specific evaluation of this option before an irreversible commitment to an irreversible geologic technology is made. If the assumptions implicit in both the House and Senate bill are correct about the time when some facility for long-term isolation of nuclear waste will be needed, it only makes sense to have the MRS option available, if only as a backup to the geologic option. In this regard, timing set forth in the negotiated compromise substitute is critical.

ALTERNATIVE SITES/DESIGNS

The compromise substitute explicitly provides for congressional access to information about alternatives with respect to MRS design and siting. The substitute requires that the MRS proposal to Congress include at least five alternative combinations of site and MRS design. Thus if one site is identified that accommodates two different MRS designs—for example, either the dry-well or tunnel-rack approaches already analyzed by DOE—then the requirements of the substitute would be satisfied if three other sites, each with its own preferred design, were also included in the proposal. Under this scenario, Congress would have four sites to review. Alternatively, DOE could comply with the requirements of the substitute by submitting five separate sites, each with its own site-specific conceptual design.

ONE SET OF DETAILED PLANS

It is our intent that the proposal offer alternatives with respect to sites and designs. However, the point of the proposal is to provide Congress with at least one set of site-specific plans, cost estimates and specifications. A complete set of detailed plans will be expensive. It is not our intent that the Secretary have a complete set of plans for each site/design combination he includes in the proposal. The purposes of Congress will be served if the proposal includes a complete set of plans for only one of these combinations, for example, the combination the Secretary thinks is preferable. For the other combinations, the proposal must only include a thorough conceptual design so that it is easy to see how the detailed site-specific plans might be drawn. However, we will not need to look at five detailed sets of plans to accomplish this.

Congress must act before any construction application could proceed. Congress would be free to reject, by failing to act, any of the recommendations DOE makes under the provisions

of the substitute. Even if Congress does act, the Nuclear Regulatory Commission could decline to issue a license for the facility chosen pursuant to congressional action.

NRC LICENSING

The licensing authority of the Commission with respect to a congressionally approved MRS facility is limited under the compromise substitute, as it was in the Senate bill. Equivalent and parallel limitations apply to the irreversible geological alternatives in the House bill.

If the Congress by law approves an MRS facility, that action is presumed, as it should be, to establish the need for the facility. A parallel provision also governs Commission licensing authority with respect to the first irreversible geologic disposal site.

Under the proposed substitute, there would be no limitation on NRC consideration of alternative sites, even though Congress, after reviewing the MRS proposal, authorizes a facility at a specific site. In making this change from the Senate bill, it is our intent to encourage the NRC and the drafters of any environmental impact statement for the Commission to consider a reasonable number of alternative sites for comparative purposes. It is not our intent to delay the program by endless analysis of alternative sites.

Any alternative design for an MRS facility may always be considered. This flexibility, implicit in the Senate-passed nuclear waste bill, is explicit in the negotiated compromise substitute.

The only aim of the MRS provision in the negotiated compromise substitute is to offer Congress the necessary detailed information to make, in a timely fashion, an intelligent choice between a site-specific irreversible geologic facility and a series of site-specific MRS facilities under which control of long-lived radioactive wastes is retained.

MRS IN EUROPE

Retention of control over these wastes is the key characteristic of the nuclear waste management strategies of the overwhelming majority of European countries that plan to rely on nuclear energy, in most cases, to a greater extent than the United States. The United Kingdom, France, and Sweden all have made a clear choice to store their nuclear wastes retrievably pending the availability of a more certain disposal option.

There are compelling technical reasons for this choice. Long-term storage of radioactive wastes permits use of passive thermal convection to cool the wastes before they are consigned to natural containment. The uncertainties of reliable, safe geologic isolation of wastes are dramatically reduced as the wastes cool.

More importantly, given the inevitable uncertainties of consigning hot wastes to isolation by nature alone, maintaining a monitoring capability and retrievability—that is, control—only makes good sense. As long as we control the waste, we control the tolerances of safety. Once we lose control of these wastes, as we must with the irreversible approach of geologic disposal, we are helpless to combat the uncertainties of geologic prediction. Based on what we know now, and on what we are likely to know in the foreseeable future, these uncertainties are simply too great.

The negotiated compromise substitute does not commit the United States to the MRS approach. It merely keeps this approach alive and available, should Congress, through normal legislative procedure, decide that it wants or needs to consider this option. The negotiated compromise substitute preserves all our options, and, if only for this reason, should be adopted.

Mr. HOLLINGS. Mr. President, it appears likely that the Senate will resolve an issue today that has been around for too long—sound legislation for the disposal of nuclear waste.

Mr. President, to be honest, there was a point last week when I thought the likelihood of a bill passing was minute, if not totally improbable. However, much to the credit of the managers of the bill, negotiations were kept open between the committee's staff and the respective offices that were directly concerned until an acceptable compromise was reached. The bill that stands before us today has gone a long way in addressing the concerns of many States by including important substantive and procedural safeguards. As a result of the modifications that have been made to the draft bill that was floated last week, I feel an acceptable compromise has been reached.

Mr. President, the bill that stands before us today clearly states four important principles.

First, utilities are primarily responsible for the interim storage of spent fuel and the Federal Government is responsible for permanent storage.

Second, an AFR is truly a last resort and before any facility is established a needs test must be met.

Third, a new AFR should not be constructed, and fourth, if such a facility ever is required, all States should be considered equally as candidates.

Mr. President, I have long been an opponent of a Federal AFR. On more than one occasion, I have stood on the floor of the Senate and argued that the interim storage of spent fuel is primarily the responsibility of the utilities and that temporary storage only delayed action on the construction of a much-needed permanent respository. Needless to say, I think all the Members of the Senate know that storage at Savannah River in South Carolina was perceived to be a temporary facility—such as we often describe any potential AFR—and that it has been there for over 30 years. One need not ask, therefore, why I have serious reservations about an AFR program. However, the bill before us today seems to say for once and for all that an AFR is truly a last resort and the Federal Government's responsibility is to establish a permanent, not a temporary, repository. Although it has taken 4 years of debate, we have finally come to clarify the lines of responsibility between the utilities and the Federal Government.

Mr. President, since 1977, time and time again proponents of an AFR have argued that the nuclear industry would come to a standstill if AFR's were not constructed. The truth of the matter is that the Department of Energy estimates of the need for AFR storage consistently have been revised downward. In the most recent estimate which I would like to include for the Record, that DOE shows that the earliest date when utilities will need additional storage capacity is in 1986 when they estimate there will be a shortfall of 8 metric tons.

I ask unanimous consent to have this estimate printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

However, even this estimate fails to take into account the potential contribution that new technologies can make to resolving this modest shortfall. To quote from a recent memorandum from the Office of Technology Assessment:

DOE's most recent analysis of spent fuel storage needs indicates that the amount of emergency storage capacity needed could be quite small, provided that it is indeed limited to cases in which utilities are experiencing unavoidable delays in their good-faith efforts to provide their own storage, and does not serve as relatively low cost, more convenient substitute for such storage. Specifically, DOE estimates that if applications for reracking of existing basins, and for transshipments to reactors that have additional storage capacity, are approved by the NRC in a timely manner, 400 metric tons of storage in new facilities would be needed through 1990 to ensure that every reactor maintains full core reserve. If this amount of storage in new facilities were made available, the 23 reactors expected to exhaust the maximum capacity of their existing basins by the end of 1990 would have time to construct and license a new water basin, a storage technology for which licensing should be quite easy. If the more flexible and less expensive dry storage technologies could be implemented sooner, which appears likely (particularly if DOE takes an active role in promoting their commercialization, as contemplated in these bills), this would further reduce—perhaps greatly—the need for any emergency backup storage capacity.

Mr. President, based on the OTA assessment, the DOE estimates, and the

needs test established in this bill, I remain confident that an AFR will never be required and that utilities will be able to take care of the need for interim storage of spent fuel on-site.

Mr. President, I ask unanimous consent that a telegram from Hon. Richard W. Riley, Governor of South Carolina, concerning an AFR be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

Table 3.—CUMULATIVE SPENT FUEL STORAGE REQUIREMENTS, 1982–2000 [1]

Year	Cumulative metric tons uranium		
	Current AR capacity [2]	Maximum AR capacity	Maximum plus transshipment
1982	0	0	0
1983	0	0	0
1984	13	13	0
1985	13	13	0
1986	120	90	8
1987	350	260	50
1988	690	500	110
1989	1,340	970	260
1990	1,960	1,420	400
1991	2,620	1,940	630
1992	3,520	2,610	980
1993	4,550	3,300	1,450
1994	5,900	4,320	2,260
1995	7,490	5,570	3,240
1996	9,350	7,080	4,590
1997	11,250	8,610	5,960
1998	13,470	10,380	7,660
1999	15,780	12,360	9,340
2000	18,190	14,490	11,320

[1] Rounded to nearest 10 metric tons.

[2] "Current AR Capacity" includes existing capacity plus planned and scheduled increases, or assumed increases to licensed capacity where no schedule exists.

Source: Spent Fuel Storage Requirements, DOE/RL–82–1, June 1982.

EXHIBIT 2

[Telegram]

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C. 20510

DEAR FRITZ: I am informed that, as a result of action by the U.S. House of Representatives, consideration of the National Nuclear Waste Policy Act will be before the U.S. Senate soon. I urge you to seriously consider the House version of this important legislation rather than that which was passed by the Senate.

I continue to strongly disagree with the provision for a program of Federal away-from-reactor spent fuel storage and a program for storage of commercial spent fuel from other countries. Both such programs are unwise and unnecessary. The legislation passed by the House at least has restrictions on such programs that require substantiation of need and requirements to involve State governments. Such restrictions are necessary and consideration should be given to possibly strengthening them.

A National Nuclear Waste Policy Act that will cause this country to move more expeditiously toward the goal of providing safe permanent disposal of spent fuel and other high-level nuclear waste is desperately needed. I encourage you to continue working toward this goal. If such a law is enacted, however, that contains authorization for new Federal programs for temporary storage, the State of South Carolina will resist those programs being implemented here.

If I can be of any assistance to you and your office in this matter, you know I stand ready to help.

Sincerely,

RICHARD W. RILEY,
Governor of South Carolina.

Mr. HOLLINGS. Mr. President, in conclusion, let me say that this bill closely resembles the House-passed bill and represents a sound compromise that protects the best interest of all States. While I still have some minor concerns, I feel that this bill represents the best possible nuclear waste management bill attainable and I intend to support this legislation.

Mr. JACKSON. Mr. President, for the last several years the Congress has been considering legislation aimed at establishing for the first time a comprehensive nuclear waste policy for the Federal Government. If the Senate and, subsequently, the House adopts the text of this substitute amendment to the House bill, we will finally have achieved this important legislative objective.

One of the major concerns that the American public has about the use of nuclear energy is what we will do with the nuclear wastes that inevitably result from its use. The American people have a right to expect the Federal Government to deal with this important issue in a definitive way. Only if we are able to convince them that their health and safety will be protected from nuclear waste will nuclear power have a future.

The biggest shortcoming of the Federal Government's efforts to date to dispose of nuclear waste has been an impression that shortcuts would be taken and that information about what was being done would not be available to those who want to follow closely the course of events. This legislation will address those concerns by establishing a set of clear and predictable procedures for the Department of Energy to follow.

The major political stumbling block for the Department of Energy in proceeding with a program to achieve the ultimate disposal of high-level waste or spent nuclear fuel is that States and Indian tribes currently have no legal right to participate in the process leading to the development of a repository. This bill provides the statutory authority for the Governor and the leadership of Indian tribes to participate fully in the entire process of repository development. The State and any affected Indian tribe will have full access to information, will have an opportunity to comment on all aspects of a repository development, and will in the end have an opportunity to stop the project if their objections have not been resolved until the Congress reviews their objections. The project will be terminated if one House of the Congress decides that the objections of the Governor have merit.

There are several aspects of this bill that I wish to comment on to explain the intent of the Congress. One important constraint on the away-from-reactor storage program is set forth in paragraph 2 of section 135(a), This provision is intended to preclude the use of a Federal site such as the DOE Hanford Reservation from being used for storing spent nuclear fuel for as long as the Hanford Reservation is a candidate site for a repository. Since the definition of candidate site includes the entire geologic formation of basalt underlying the Hanford Reservation, the words "within which there is a candidate site" are intended to totally preclude the Hanford Reservation. Since there are no known other candidate sites which fall within a Federal site, this provision only precludes the Hanford Reservation at the present time.

Logic of this action is quite simple. The Hanford Reservation already has more than 60 percent of the high-level wastes from the DOE military programs. Much of this waste is in a semi-liquid form in single-walled steel tanks which are increasingly worrisome as the years go by. The Hanford Reservation is one of the prime—if not the prime—sites for the first repository which I hope will be used to dispose of much of the high-level waste already stored there.

We already have a test and evaluation facility at the Hanford site which is a very publicly visible effort. To compound the public's concern by also using the Hanford Reservation for away-from-reactor storage is only likely to complicate the process for constructing a geologic repository there. We believe that this statutory prohibition is a part of the philosophy of this bill to insure that no one area of the country is required to share an inordinate portion of the Nation's nuclear waste problem. I would urge my colleagues to maintain this provision in the substitute text being proposed today.

Another feature of the House-passed bill which created a problem in the Senate was the requirement that the Secretary of Energy must build a test and evaluation facility under the provisions of title II. The case for building a new test and evaluation facility has simply not been made in testimony to the Congress. There are already two facilities at the Climax site on the Nevada test site and at Gable Mountain at the Hanford Reservation which should prove adequate for the facility to meet any programmatic needs.

The construction of another test and evaluation facility should not be undertaken unless it is clear ahead of time that it will render information that is crucial to the development of a

repository. The cost in dollars and potential public objection to one more set of activities at a repository site can only be justified if information for licensing the repository cannot otherwise be obtained. Thus, the House language has been modified to make the test and evaluation facility envisioned in title II a discretionary action of the Secretary rather than a mandated action.

Another feature of the House bill which I think is important to discuss is section 112(f) which was included through the efforts of Congressman MORRISON. This section allows activities currently underway at the Hanford Reservation on evaluating the basaltic formations there as a potential repository site. I decided not to oppose the continuation of this work because the efforts in other States will also be going forward under this bill, and no singling out of Hanford as "the repository site" will occur. Three sites must be characterized prior to a decision on one of the three to be recommended as the site for the first repository. However, I did insist that we insure that the Secretary bring his actions there into conformity with the other requirements of this act pertaining to public hearings and a cooperative agreement with the Governor within 1 year of the date of enactment of this act. We must not engage in activities where the public perception is that the State of Washington is being shortchanged vis-a-vis other States in overseeing the work at the Hanford Reservation.

I am also pleased to say that the provisions of the Senate bill requiring that a second repository on a specified time schedule following the first repository has been retained in the amendment. The 70,000 metric ton limit on disposal in the first repository will insure that a second repository is forthcoming. We must not make any one State feel that it is going to be the recipient of all of the Nation's nuclear waste. In fact, I believe that we will need more than two repositories and that they will be located on a regional basis as they are developed.

During the Senate's consideration of the nuclear waste legislation in 1981, I set forth, in an opening statement at a hearing, several civilian nuclear waste disposal issues which legislation would necessarily have to address. They were as follows:

We must resolve the problem of spent fuel storage by deciding when and if the Secretary of Energy can relieve a utility of spent fuel which is accumulating at operating nuclear powerplants.

We must address the question of whether spent fuel will be stored until a reprocessing capability is established in this country, or whether some spent fuel will be disposed of.

We must decide on how to achieve the proper balance in a schedule for disposal of high-level wastes between the competing objectives of protecting public health and safety and demonstrating that disposal of nuclear waste is possible.

We must structure the legislation in a way to insure that no individual State believes that they have been unfairly singled out as a site for a nuclear waste disposal facility.

We must provide an opportunity for interaction with the Secretary of Energy to insure that the concerns of the people of the affected State are properly addressed so as to maintain public acceptance of a disposal facility in that State.

We must also provide a funding mechanism for these activities where the full cost of the disposal of civilian nuclear waste is borne by those who derive the benefits from nuclear power, as opposed to taxing the general population.

I believe that the legislation in its present form adequately addresses each of these points. I urge my colleagues to support adoption of the amendment in its present form.

Mr. GORTON. Mr. President, the problem of high level nuclear waste disposal has been growing upon us since the beginnings of the nuclear age. First the defense nuclear programs and then the civilian nuclear power production created benefits for the American people. But they also created a byproduct, nuclear waste, which we have not known what to do with. Particularly with respect to the development of civilian nuclear power production, the waste problem has become a greater and greater impediment to the establishment of public acceptance and investor confidence in nuclear power as part of the necessary energy mix which is so important to this country's economic well-being.

The Congress has endeavored in several past Congresses to draft legislation which would orient and direct the Nation's civilian nuclear power industry in the solution to the nuclear waste problem. Last Congress, though the high level nuclear waste legislation under consideration did not pass, low level nuclear waste legislation did. It is time, in my opinion, that legislation establishing a national program, with Federal Government involvement, for the management and disposal of high level nuclear waste be enacted.

That legislation is before us today. It is the result of much debate and much compromise. Three Senate committees and seven committees of the House of Representatives have considered this legislation. Each has made its contribution.

The Senate counterpart to the bill now under consideration is S. 1662, passed by the Senate on April 29, 1982. That bill included several provisions which I advocated following a hearing on the bill held at Richmond, Wash., on October 31, 1981. Generally, those provisions required the planning and development of more than one high level radioactive waste repository located so as to serve various regions of the country, required the Secretary of the Department of the Energy to perform full environmental analysis of the siting of any repository, and required the Federal Government to compensate the State or local governments for the expenses of determining the appropriateness of sites for repositories as well as for the economic impact of a repository's construction and operation.

H.R. 7187, the bill now before us, contains much of the language of S. 1662. But there are some ways in which H.R. 7187 fails to accomplish the objectives which the Senate provisions I earlier advocated were designed to accomplish. In particular, and most significantly, H.R. 7187 fails to establish a firm plan and schedule for the siting of more than one repository. That deficiency is, however, as I understand it, cured by amendments offered in the Senate today and currently under consideration.

Throughout the discussion on high level nuclear waste legislation during this Congress, there has been a common misconception. That misconception is that the people of the State of Washington "want a repository located in Washington State." To be fair, this is not the case.

The State of Washington is a State of great diversity; geographically, climatologically, politically. The Cascade Mountain Range, bisecting the State into eastern and western regions, separates the densely populated Puget Sound region from the more sparsely populated agricultural and arid lands of eastern Washington. Were the disposal of nuclear waste in the State of Washington put to the people of the State of Washington as a general proposition, the overwhelming majority would answer no. Indeed, a State initiative, Initiative 383, which would have totally banned the disposal of nuclear waste generated outside of the State of Washington passed the electorate several years ago by a majority of 73 percent of the voters.

Notwithstanding this, the people living in and around Richland, Wash., in southeast central Washington, are receptive to the disposal of nuclear waste at the Hanford Nuclear Reservation near there. This is so, I believe, because of the many years of participation which those persons have had in the development of the nuclear industry in America and because of their economic dependence on the industry. A majority of these individuals did not

support the initiative mentioned earlier.

I have repeatedly taken the position that the nuclear waste disposal problem is detrimental to the energy independence of this Nation. Resolution of the problem is, therefore, a national responsibility from which no State should be allowed to remove itself unilaterally. I do not believe, however, that any State should be called upon to resolve this problem on its own. No one State should be called upon to bear the environmental, economic, and other impacts of nuclear waste disposal while other States bear none. In the case of the State of Washington, it is my opinion, that it should be asked to do no more than provide nuclear disposal capacity adequate to dispose of those wastes which are generated within a range of distance in which the transportation risks can be minimized. Other States in other regions of the country should be responsible to provide disposal capacity for nuclear waste generated within similar ranges of those disposal facilities. We should not be planning to move high level nuclear waste across the continent if we can avoid it. We should not be looking to a State on one side of the continent to provide disposal capacity for waste generated on the other.

I believe that the provisions of the Senate bill which are added by amendment to the bill now before us operate to accomplish the policy which I have above set forth, and I consequently support them.

There is one point of clarification which I would like to make regarding the application of the National Environmental Policy Act to the siting of high level nuclear waste repositories. Both the Senate and House bills contain provisions which limit the application of NEPA. I believe that this is appropriate because of the significant amount of congressional direction in the nature and timing of the facilities which would be developed under these bills, and because of the requirement that any facility to be developed be in conformance with guidelines which must respect environmental values. More specifically, section 112(e) and section 113(d) of H.R. 7187 provide that all of the President's or Secretary's actions taken pursuant to section 112 and section 113, respectively, are "preliminary decisionmaking activities," and that such actions do not require the preparation of an environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act.

Because section 112(e) and section 113(d) were altered somewhat through the amendment process, there is concern that the words "preliminary decisionmaking activity" have been left dangling, and could therefore be construed to apply in some non-NEPA context, for example the Administrative Procedures Act. It is my opinion that the words "preliminary decisionmaking activity" are NEPA words, having been utilized so greatly in judicial opinions construing that law. Those do not, in my opinion, bear on the determination whether an action is "final" under the Administrative Procedures Act. Neither do those words limit any other judicial remedies outside of NEPA.

I commend the sponsors of this legislation for bringing this complex issue to a well-thought legislative conclusion. I encourage the House of Representatives to consider the Senate's amendments favorably and to send H.R. 7187 to the President for signature at the earliest possible convenience of the House of Representatives.

I encourage all Members of the Senate to support the amendments offered.

Mr. GLENN. Mr. President, in a few moments we will be taking final action on long pending, and much needed legislation to establish a Federal program for the permanent disposal of the wastes from our nuclear powerplants and nuclear defense activities.

One of the central features of this bill is its attempt to harmonize the strong reservations of potential nuclear waste repository States with the interests of the Federal Government, which must deal with the national problem of finding a final resting place for the products of U.S. nuclear activities despite the fact that few States, if any, would welcome the establishment of a nuclear waste repository within their borders. The approach taken by H.R. 3809, as a result of amendment introduced by Senator FOXMIRE, is to provide a statutory opportunity for a host State to object to a proposed repository. This objection would bar construction of the facility unless overridden by both Houses of Congress. I believe this is an effective and evenhanded approach for fairly balancing the interests of all parties. It will give the States—whose rights to participate in the nuclear waste repository process have generally lacked statutory footing—new bargaining power vis-a-vis the Federal Government during the period when the particular technical, environmental, and health and safety features of the facility are being developed; at the same time it will provide a mechanism for the Federal Government to vindicate the overall national interest in building a repository if an impasse is reached in these negotiations.

I am particularly pleased to see this mechanism embodied in law since it was first introduced by Senator PERCY and myself in the 96th Congress as part of the Nuclear Waste Management Reorganization Act of 1979, legislation that we subsequently reintroduced as S. 95 in the 97th Congress. I believe it is fair to say that our active early support for this evenhanded concept for resolving State-Federal disputes began the public dialog on this approach and assisted substantially in gaining for it the widespread support it now enjoys in the Congress and among State and local organizations.

I would also like to highlight another valuable element in this bill, the "monitored, retrievable storage" concept. It has been my view for several years that serious uncertainties remain as to our ability to dispose of nuclear waste in permanently mined repositories in a completely failsafe way, and I think it is widely accepted that more research will still be needed in this sphere. Quite possibly, our level of confidence will be greatly enhanced by the time we are ready to emplace nuclear materials in such a facility. On the other hand, a long-term monitored facility would have many advantages as a parallel approach: Additional time would be available for resolving all outstanding technical issues surrounding the permanent geologic repository option; wastes could be cooled in an "MRS" for several decades prior to permanent burial, reducing heat/radiation stresses in any mined facility; a decision on whether to extract plutonium from spent nuclear fuel for further use could be deferred until clearly justified on economic grounds and until adequate methods for safeguarding this material were in hand; and finally, should any leaks or other loss of integrity occur at an MRS, it could be readily fixed—or the wastes removed to another site—actions that would be far more difficult, if not impossible, once a permanent repository were sealed. The bill, by requiring a study of the MRS concept keeps this option alive and available for future congressional consideration, while at the same time maintains necessary momentum toward solving the disposal problem on a permanent basis via the mined repository route.

Mr. KASTEN. Mr. President, I support the right of States to have a veto over the Department of Energy's nuclear waste siting decisions. The Senate-passed version of this would only allow a State's objection to a repository siting decision to stand if either the House or the Senate passes a resolution upholding that objection. Such a process is inadequate. Nuclear waste disposal decisions are far too important to allow an override of State and local concerns by congressional inaction.

The State of Wisconsin may be a potential future home for a permanent nuclear waste repository. The stable granite bedrock beneath scenic northern Wisconsin has been targeted by the Department of Energy for further study as a burial site, and the citizens of Wisconsin have a right to be con-

cerned over the role the State of Wisconsin will be given in the final decision.

Justified or not, there is a perception by States that the Federal Government cannot be counted on to keep its word on radioactive waste management programs. One only has to look at the problems the State of New Mexico has had with the waste isolation pilot project to realize a similar situation could occur anywhere. In fact, in the State of Wisconsin, the Governor's office has been having a great deal of trouble with the Department of Energy over receiving information as to what the Department is doing in northern Wisconsin. The Department of Energy cannot be allowed to build a disposal facility without giving the States a meaningful role in the siting and construction decisions.

A long-range nuclear waste disposal program is critical to our Nation's energy future, and the proper role to our Nation's energy future, and the proper role of States in the siting of disposal facilities is critical to the success of this program. The only successful nuclear waste disposal program will be one which matches national policy needs with local citizen concerns. I am proud to join today with Senator PROXMIRE in cosponsoring new language to this legislation which gives States a strong role in nuclear waste siting decisions.

Mr. STAFFORD. I wonder if I might inquire of the distinguished Senator from Wyoming about a particular issue. As the Senator recalls, the bill passed by the Senate, S. 1662, included a provision stating that nothing in that act precluded any recognized right of any State or Indian tribe under existing law with respect to such a repository or monitored, retrievable storage facility. That provison, as I understand it, was intended to simply reiterate what would have otherwise been true under existing law. That provision was not included in the substitute amendment offered here today. Am I to understand that to mean that the failure to include that provision suggests that this act would preclude recognized rights of States or Indian tribes under existing law with respect to either a monitored retrievable storage facility or a geologic repository.

Mr. SIMPSON. The failure to include this provision of the original Senate bill should not be so interpreted. It was our view that existing law makes it very clear that recognized rights of States or Indian tribes to participate in either an MRS facility or a geologic repository would not be affected by this bill. Stated differently, the substitute amendment should not be interpreted to preclude the right of a State or Indian tribe to excercise any right recognized under existing law with respect to a MRS facility or a geologic repository.

Mr. STAFFORD. I thank the Senator for his assurances.

Mr. SIMPSON. Mr. President, I would like to make one additional comment about the population criterion contained in this bill. We have provided in this bill that, in deciding where to locate a geologic repository, one of the factors that should be considered in making that determination is population. The specific language in this bill states that the Secretary shall not locate the surface facility of a repository in a highly populated area or adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals.

I want to emphasize that, in addition to this population criterion, there are a number of other criteria set forth in this bill that the Secretary would examine in deciding where to locate a repository, including such things as geologic media, location of valuable natural resources, hydrology, geophysics, seismic activity, atomic energy defense activities, proximity to water supplies, the effect upon the rights of users of water, proximity to sites where radioactive waste is generated, transportation, and others. All of these criteria would be examined by the Secretary under this bill, and the population criterion is simply one of the many criteria that must be factored into the Secretary's decision.

Mr. SCHMITT. Mr. President, I rise in support of the nuclear waste bill. Its enactment in effect will resolve the question of safe disposal of nuclear waste by clearing the path for implementation of appropriate waste disposal technology.

Mr. President, the experts assure us that nuclear waste can be safely disposed. As an additional assurance, the legislation before us provides for EPA standards and NRC technical requirements and criteria relating to that disposal. As provided under the Atomic Energy Act, these standards, requirements, and criteria must protect the public health and safety.

This is not to say, however, that EPA and NRC are authorized to impose any standard or requirement, no matter how burdensome or arbitrary. Obviously EPA and NRC actions must be reasonable and well supported. It would be a waste of society's resources, and an unwarranted imposition on taxpayers and private industry, if the agencies were to impose costly requirements designed to address de minimis hazards. Similarly, it makes no sense to impose requirements whose burdens exceed their projected benefits.

There are certain methodologies which must be employed if NRC and EPA are to discharge their duty to develop reasonable, nonarbitrary requirements. One of the most important of these methodologies is comparative risk analysis. It is well established that, to be meaningful, an assessment of the risks from exposure to radiation must be performed in the context of other known risks. If a projected risk is insignificant in comparison to other known risks which we commonly incur, it makes no sense to regulate it. Similarly, if a projected risk from exposures associated with an Atomic Energy Act activity is only a relatively small increment of background exposures, then imposition of additional requirements seems unwarranted.

Mr. President, I am unaware of any valid argument against use of comparative risk analysis. Given the fact that society's resources are limited, the only rational objective for regulatory agencies is to minimize overall societal risks given the resources available. This can only be done by devoting our risk reduction efforts to those activities where the efforts have the most impact. Identification of those activities obviously requires risk comparisons.

Furthermore, consideration of comparative risks is essential to avoid increasing overall societal risks. If unusually high demands are placed on particular activities, such as atomic energy activities, society will be predisposed against that activity and in favor of more risky alternatives. We will be worse off. A vignette related by Prof. David Okrent is particularly instructive here:

> In 1957 I designed my own passive solar home in northern Illinois. It was very well insulated and had the tightest storm windows available. Not till 20 years later did I become aware that I had thereby been exposing my family to increased indoor air pollution. I have learned to be skeptical about risk. I am particularly skeptical of those who advocate a particular technology as benign, or attack a technology as too risky without presenting a detailed, quantitative risk evaluation, without making a choice among feasible alternatives, and without placing the risks in some broader societal perspective." [1]

Another essential tool in formulating standards is balancing. No one seriously disputes that regulations should not be imposed if they will impose burdens which bear no reasonable relationship to their costs. It makes little sense to spend a billion dollars to avert some relatively remote and largely hypothetical hazard. Balancing of costs and benefits has long been practices under the Atomic Energy Act, and this practice obviously should continue.

Mr. President, I would add one final consideration. The regulatory agencies should base their requirements and standards on the best available scientific information and analysis. In areas of uncertainty, they should be sensi-

[1] Comment on Societal Risk, Science 208:372, 375 n.2 (1980).

tive to the warning of the National Council on Radiation Protection, in its Report No. 43, that undue concern or over conservatism with regard to radiation is as problematic as lack of adequate concern or precautions.[2] In all cases, regulations should be directed to a balanced minimization of actual hazards, and not to a counterproductive crusade against imagined, remote, or unsupported risks and fears.

Mr. MITCHELL. Mr. President, the Congress is once again on the brink of acting on legislation to establish a plan for the disposal of nuclear wastes.

During the 2d session of the 97th Congress, both the Senate and House have passed nuclear waste bills. On April 29, 1982, the Senate passed S. 1662, which was a result of efforts by three committees—the Senate Environment Committee, of which I am a member, and the Senate Energy and Armed Services Committees. The House on December 2 passed H.R. 3809, the result of seven committees' work. Instead of going to a House-Senate conference, and in the hope of expediting possible joint action, the Senate Energy Committee has introduced a substitute amendment to H.R. 3809.

The drive behind the efforts to bring up and pass nuclear waste legislation is based on one steadfast concern: that for too long, Congress has failed to act on a final, comprehensive solution to the problem of nuclear waste. Our total inability to act serves no one: The increasing mass of radioactive wastes continues to imperil our environment, and to fundamentally question the continued operation of all nuclear powerplants.

The saga of this Nation's inaction is almost unbelievable. Our current delemma reflects the illogical approach with which this Nation commenced with nuclear power development four decades ago.

Since 1942, when the first experimental weapons were produced, the byproducts of the nuclear age have been piling up in our Nation. With the startup of the first commercial nuclear plant in 1957, both the quantity of waste and the speed with which it accumulated accelerated rapidly.

For four decades, our energy policy and our military strategy have helped produce nuclear wastes as a byproduct of the generation of electricity and the maintenance of a defense capability. But neither our energy policy nor our military strategy have taken account of the disposition of these wastes. Both Federal policies virtually ignored their inevitable adverse results.

The ramifications of our neglect are manifold. Over 8,000 tons of spent fuel have already piled up at nuclear powerplants across the country. And, as a New York Times article of May 2, 1982, reported, the problem will only get worse:

> A recent survey by Science News estimates that by the year 2000, waste from commercial nuclear power plants will have increased from its current level of 104,000 cubic feet to more than nine times that amount. From weapons production, the nation has already amassed about 77 million gallons of high-level liquid waste created when spent fuel is reprocessed to remove uranium and plutonium. Wastes such as plutonium, neptunium and americium—produced in the reprocessing of nuclear fuel and the production of nuclear bombs—account for another 2 million cubic feet.

The four-decade-old pile of nuclear wastes, which will increase due to the continued operation of civilian and military reactors, is forceful proof of both our inaction and of the need to act immediately.

Given the serious need for congressional action, it is imperative that we forge a national nuclear waste policy that will meet certain basic objectives. Any solution to the nuclear waste dilemma should: One, provide full participation by States and ordinary citizens; two, preserve the integrity and full scope of the NRC licensing review and environmental analysis under the National Environmental Policy Act; three, focus on the long-term solution of permanent geological waste disposal, and utilize temporary methods of storage only when such steps are strictly necessary; and four, require a consistent and long-term commitment by the Federal Government to the resolution of the nuclear waste problem.

The legislation before the Senate is testimony to extensive efforts to solve the nuclear waste problem in the most reasonable manner available. But the legislation is also testimony to the politics of nuclear waste: Each of the possible four methods of storage will be available for purusit by DOE, and there are a number of clauses and provisions which attempt to prohibit the siting of certain methods in certain regions of the country. Not surprisingly, the legislation lacks a clear and singular direction.

I have reservations about a number of provisions in particular.

First, away-from-reactor (AFR) provision. The substitute amendment before the Senate severely restricts the use of the AFR. I would strongly prefer a prohibition against the construction of a federally mandated and owned AFR. I believe that an AFR is the clear responsibility of the private sector; that a Federal AFR would reduce the incentive to find a permanent solution; and that any AFR would dramatically increase the near-term transportation and handling risks.

Second, the title to waste substitute amendment allows DOE to take title to the waste at the plant gate, and provides that DOE will be responsible for the transportation of these wastes from the plant to the AFR. I disagree with these provisions, and believe that it is the responsibility of the utilities and not the Federal Government to transfer these wastes.

Third, monitored retrievable storage (MRS) of nuclear waste. The substitute amendment required that a DOE proposal for an MRS be submitted in 2½ years, and also calls for the exemptions in the environmental impact statement and NRC licensing review of the MRS proposal. The MRS concept represents a seriously diversionary mode of storage, the need for which has yet to be determined. Proponents of the MRS want it on equal footing with the geological repository. I believe just the opposite approach is necessary. Both DOE and Congress need more time to study the MRS concept, and it is critical that any MRS proposal not be allowed to compete head to head with the more important and urgent task of permanent waste disposal. I also oppose exemptions in the EIS analysis and NRC licensing review of the MRS.

Fourth, the test and evaluation (T&E) facility. The substitute amendment authorizes a T&E facility. I favor the original Senate language, which required DOE to study the need for a T&E facility before congressional authorization. DOE should study the need for such an additional temporary, diversionary program, the cost of which exceed $250 million, before and not after congressional authorization.

Fifth, the environmental impact statement. Under the substitute amendment, only an environmental assessment need be submitted with each of the three proposed repository sites recommended by the Department of Energy. In a decision of this magnitude—the disposal of wastes for 10,000 years to provide the required degree of waste isolation under EPA criteria—a full EIS should be completed for each candidate site. Only a full EIS will provide the fundamental and essential information DOE, and in turn the Congress and the American public, need to evaluate each candidate site.

Those concerns represent my major reservations with the substitute amendment. There are, however, a number of issues which provide important balance to the bill as a whole and deal directly with issues involving citizen and State participation. Two of these issues stand out as areas where significant improvements were made in the course of Senate consideration.

One. Hybrid hearing procedure. The substitute amendment provides for a hybrid hearing, essentially an abbreviated, legislative-type hearing, to precede the normal adjudicatory hearing, as a way of speeding up the licensing of onsite storage expansion. I oppose shortcuts in the full NRC licensing

[2] Review of the Current State of Radiation Protection Philosophy (NCRP Report No. 43) 4 (1975).

process by the use of this new, modified hearing procedure. I offered an amendment which was adopted that will prohibit the use of the abbreviated hearing procedure when an application to the NRC proposes the use of a new technology not previously approved for use at any nuclear powerplant by the Commission. Two virtual experiments should not be allowed to occur simultaneously. My amendment will guarantee greater public participation and scrutiny in the NRC hearing process.

Two. States rights. The substitute amendment provides that a State's objection to a proposed final repository site will stand only if a single House of Congress votes to sustain the objection.

During Senate consideration of S. 1662, I voted against an amendment that would have provided States with an absolute veto of a proposed repository site. Clearly such a provision would guarantee 50 State vetos, while the dilemma of permanent waste storage would remain unresolved.

I cosponsored an amendment, which was adopted, which requires that a State's objection would stand unless both Houses of Congress vote to override the objection.

The difference between the two provisions is, on the surface, a slim one. But there is a crucial difference, and it centers on where the burden of proof lies once a State registers an objection. The Energy Committee substitute amendment places the burden of proof on the State. The amendment, on the other hand, places the burden of proof where it belongs—with the Department of Energy. The amendment will insure that a State's objection is dealt with fairly.

Although far from perfect, the bill represents a critical first step toward addressing the problem of nuclear waste. I will support the bill, with serious reservations, because nuclear wastes are a problem which it is our positive obligation to resolve. We cannot allow it to be ignored, postponed, or put off until our children are faced with it. We are the generation which has developed nuclear power. We are the generation whose responsibility it is to cope with the byproducts of that power.

A New Yorker article of October 19, 1981, described our nuclear waste dilemma as "a national legacy of more than 3 billion cubic feet of radwaste." We have looked into the face of that legacy, hesitated, and stepped back too many times. It is time we address the legacy in the most reasonable and sound approach available to us.

The PRESIDING OFFICER. The bill is open to further amendment. If there is no further amendment to be offered, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 3809) was read the third time, and passed.

Mr. McCLURE. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SURFACE TRANSPORTATION ACT OF 1982

Mr. BAKER. Madam President, what is the pending question?

The PRESIDING OFFICER. The pending question is the substitute amendment to H.R. 6211.

Mr. BAKER. Madam President, may we have order?

The PRESIDING OFFICER. There should be order in the Chamber so we can hear what the pending business is before the Senate.

Mr. BAKER. Madam President, I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

OPERATING SUBSIDIES

Mr. BRADLEY. Madam President, I would like to engage in a colloquy with the distinguished Senator from Utah concerning the issues of operating subsidies in this bill before the Senate at this time. The issue of operating subsidies is an important one for many sections of the country and many types of mass transit.

In the present bill, these subsidies are reduced 20 percent. The original proposal was to reduce the subsidies also 20 percent, followed by reductions of 10 percent and another 10 percent. In addition, this bill provides for an exchange of a 3-to-2 ratio of capital assistance for operating assistance.

I had an amendment that would have made that exchange on a 1-to-1 basis. The Senator from Utah had an amendment which would have increased the cuts in operating assistance by 10 percent in each of the next 2 years, total of 20 percent further reduction.

What I would like to ask the Senators is, If I withdraw my amendment would the Senator withdraw his amendment?

Mr. GARN. I would be happy to respond to the distinguished Senator from New Jersey. But before I do let me give the Senate a little background on this mass transit legislation, which in this part of the bill is under the jurisdiction of the Banking Committee.

Unfortunately, we have not had an authorizing bill for 2 years because of a lot of disagreements. And so I am very pleased that we were finally able to get to a point where, with Senator D'Amato and Senator Lugar and others, we could come to a very carefully constructed bill, like walking on thin ice or on eggs, to get to the point where we could have an agreement that would allow the passage of a bill. And that was the result of 2 years of effort, as I have stated.

Now my own personal opinion, as a former mayor, and the administration's position was that operating subsidies were getting out of hand and they should be cut. As the Senator mentioned there was a 20-percent cut in the bill. I desired, along with the administration, to have a progression of those cuts to the second and third years of the bill that would have taken an additional 20 percent for a total of 40 percent, and I have an amendment that had been entered more than a week ago to do that.

But, having given that background, I think at this point in time, this late in the lameduck session, it is far more important that we have a mass transit bill than to lose it at this point. So I would be willing, on the assurance that the Senator from New Jersey would withdraw his amendment and not offer it, I would not offer the amendment for the additional cuts in mass transit. we do have to go to conference with the House. This would give us some flexibility in how we deal with the House. Obviously the bills are not exactly the same.

But I did want to assure the Senator that my opinion is still the same. We differ on the nature of the operating subsidies. I have not changed my mind. But, being pragmatic and practical at this stage in the legislative session, it is much, much better that we have a bill. So I would withdraw my amendment if the Senator withdrew his.

Mr. BRADLEY. Let me ask the Senator one further question. As I understand it, the bill provides a sort of a block grant for mass transit, is that true?

Mr. GARN. That is correct.

Mr. BRADLEY. Is it not consistent with the administration's general philosophy to return the basic decisions of how to spend moneys within a block grant to the local or State authority?

Mr. GARN. That is correct.

Mr. BRADLEY. I would then hope that the Senator, consistent with this philosophy, would look at the conference with the idea of implementing that philosophy, which is—in States such as New Jersey where, over the years, we have expended sizable dollars for capital investment in our mass

transit system—that the Governor might not desire more money for capital investment but that he indeed needs to have sufficient operating assistance so as to keep the system functioning and to keep the fares low enough so that working people actually have an option of using mass transit. It is kind of paradoxical that on the one hand we are spending money in this bill for highways and on the other hand we are in effect reducing operating subsidies which will put greater burdens on those highays as they push more and more people off the mass transit system.

So I would hope that the conference would give some consideration to the need for this flexibility, and indeed my amendment provided for that, in allowing States and municipalities to exchange a dollar of capital assistance for a dollar of operating assistance instead of what the present bill is $3 of capital assistance for $2 of operating assistance. I would hope that there might be in the conference a possible positive compromise.

Would the Senator have a comment about that?

Mr. GARN. I would just make the comment to the Senator from New Jersey that I am not in a position to give any guarantees or any promises. I am only one member of that conference and cannot do so. I have expressed my own personal philosophy, but I do not think I can go any further than to say there is some flexibility and there will have to be some give and take in the conference to achieve a bill that can be passed and sent to the President.

I cannot give any specific guarantees other than to look at those trade offs as we go into conference.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I have listened with interest to the colloquy between my distinguished colleague from New Jersey and my distinguished friend from Utah. There is no question about mass transit. Bringing back to mind how this whole program started, that money would be paid by the Federal Government only for capital expenditures. We have moved to the point of saying to the local communities, "You can get more and more of the Federal dollars for operating expenses."

Well, there may be a good case made for that. I am not one who feels so strongly that that is right or wrong. But I know there is one subject about which I feel very strongly, and that is the fact that throughout this Nation the administrators of the transit authorities—I do not care whether it is in San Francisco, Chicago, Washington, or wherever—are becoming the highest paid public executives in the Nation. They are getting more money than the mayors of their communities. They are getting more money than the Governors of their States. They are taking trips all over the Nation into the most luxurious areas, because they know that the Federal Government is picking up a very substantial portion of that tab.

I think it is high time that the Congress provide some limits that officials working for regional transit authorities, mass transit authorities, not be permitted to receive a salary in excess of the highest paid official in the community in which they are operating.

I think maybe we ought to send the message as well that it is time for them to cut back on their fancy vacations to all the luxurious areas of this Nation.

I know it is happening in my own State, and I am quite certain, from what I have heard, that it is happening in other States as well.

What happens is that there is an independent board created. They treat themselves well and their executives well.

We here in Washington are always criticized for being big spenders, but I hope we will send word back to those who operate the mass transit systems of the country that they, too, should not be big spenders, and that they ought to be concerned about those dollars. They are public dollars whether they are Federal or local in nature.

Mr. GARN. I agree with much of what the Senator from Ohio has said. But I think he is also well aware that this subject is outside the area that the Senator from New Jersey and I are talking about. I do agree, and it is one of my reasons that I have had concerns about operating subsidies, with much of what the Senator has said. Operating subsidies are not nearly as controlled as the capital subsidies.

Mr. METZENBAUM. I am not certain that it is beyond the purview of that colloquy. At this point, I would certainly guess that an amendment would be in order that none of the funds could be expended in connection with a mass transit system whose officials receive a salary higher than any public official in the area in which that transit association operates.

I believe that is a subject, frankly, to which the committee should give its attention. I believe it more appropriately comes as considered action on the part of a committee after making due deliberations.

Absent that, I want to say now that the next time this subject comes to the floor, I will have an amendment drafted to that effect. I would much prefer that the committee charged with the responsibility would come forth with its own effort to deal with this problem rather than to handle it by a floor amendment.

Mr. GARN. I do not want to prolong this, but I would suggest that the Senator from Ohio in drafting his amendment be very careful how it is worded. I remember as a mayor serving in the National League of Cities where the mayor of Phoenix, Ariz., made $6,000 a year. You have to be very concerned about this, so you are not limiting it to the highest ranking official in some cities because some of them are very poorly paid. I mean that suggestion very seriously.

Mr. METZENBAUM. Any language I would have would provide for the highest paid public official, whether the mayor or anyone else. Certainly, somebody in Phoenix, Ariz., gets paid more than $6,000 a year. I think we can draft that language.

That is one of the reasons that I am not prepared at this point to offer an amendment to this bill, but I would hope that the Senator from Utah would keep it uppermost in his mind and come forth with some sort of an amendment. It would be helpful to have consultations, of course, with all those involved in this industry.

Mr. GARN. I thank the Senator.

Mr. SYMMS. If the Senator will yield, I want to say to my colleague that some of us in the West have usually opposed operating subsidies based on philosophical reasons. The fact is that what the Senator has mentioned has happened under the present system. It is not just places like New Jersey or in New York City. In many small rural communities all across America cities have already purchased new equipment for their transit systems.

I would say to the chairman there has to be some flexibility, and no one knows better than him as a former mayor. We end up where you have small communities wanting to buy new buses every year because that is the only place they can get the Federal money for their transit system. In many cases, all they need do is repair the equipment they have to operate their system.

There is a place, I think, for some flexibility in this but I would hope we would not get carried away too far so that we lose the demand for efficiency.

Mr. GARN. I will say to the Senator from Idaho that last week in the consideration of this bill there was an amendment by the Senator from New Hampshire (Mr. HUMPHREY) that gave more flexibility in shifting funds from operating to capital to help the smaller cities that do not have the problems that some of the bigger States have. That amendment was agreed to. There is more flexibility in this bill than there was prior.

Mr. SYMMS. I thank the Senator.

Mr. BRADLEY. Let me say to the Senator from Idaho that there are

many cities, such as Phoenix, Fort Lauderdale, and so on, that have as much as 30 percent of their transit budgets taken up with operating assistance. In my State of New Jersey it is 13 percent. This is clearly an effort that will be made. I will make it on the floor of the Senate and I am sure the Banking Committee over the next year or so will follow it, attempting to bring this issue before the Senate as a whole, and to show, as the Senator from Idaho has clearly stated, that this is an issue that affects small communities and medium-size communities in the Southeast, Southwest, and the Northwest, as well as the more mature mass transit systems in the Northeast and upper Midwest.

I thank the Senator for his comments.

If the Senator from Utah is prepared, I am prepared to withhold my amendment and will do so.

Mr. GARN. I withhold my amendment.

Mr. BRADLEY. I withhold my amendment.

AMENDMENT NO. 5043

(Purpose: To allow certain vehicles using the Interstate System reasonable access to certain locations in proximity to such system)

Mr. BUMPERS. Madam President, I call up amendment No. 5043.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes amendment No. 5043.

At the appropriate place in the Baker amendment (printed No. 4998) insert the following new section:

REASONABLE ACCESS

SEC. . No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State which enacts or enforces any law denying reasonable access for commercial motor vehicles using, pursuant to title 23, United States Code, the Interstate System, national defense highways, and any other qualifying Federal-aid highways designated by the Secretary of Transportation, to the Federal-aid primary system and locations for loading and unloading, including terminals and facilities for fuel, food, repairs, and rest.

Mr. BUMPERS. Madam President, I have talked to the floor managers on both sides about this amendment. The amendment is designed to do one simple thing. That is, it makes certain that people in my State, the manufacturers and producers, are not deprived of the use of the interstate. It is not at all certain under the bill right now, though there is a provision under title 4 which says that reasonable access to the interstate shall not be denied. But that is under the safety provision. It does not cover the whole bill.

I am not very happy about this bill overriding our law which limits trucks to 73,000 pounds. We have had the 80,000-pound truck weight fight in our State for a millennium. I do not think it is very becoming of the Federal Government to override our law on that, but they are doing it. If they are going to do it, under the existing law, a shipper in California can ship to North Carolina and come all the way across 350 miles of Arkansas I-40, but people in my State who live within a mile of our side of the interstate might not be allowed to get to the interstate, because this does not provide that they can get there over the primary and secondary road system. I know the authors of the bill never intended such an untoward effect. My amendment will redress that.

Mr. STAFFORD. Madam President, I say first to my good friend, the most able Senator from Arkansas, that the condition in which he finds himself in respect to the 73,000 pounds is not something that the Senator from Vermont personally would have had happen. It is something that the Committee on Environment and Public Works collectively voted to do.

The distinguished Senator mentioned reasonable access, which has prevailed in the State of Vermont. I assume the Senator's amendment would codify "reasonable access" to the Interstate System. Am I correct in that?

Mr. BUMPERS. The Senator is correct. It simply says no funds may be appropriated. It does not say to deny access.

Mr. STAFFORD. We have reviewed the amendment, and I am prepared to accept it for the majority.

Mr. ROBERT C. BYRD. Madam President, I am advised that the distinguished senior Senator from West Virginia (Mr. RANDOLPH), who is the ranking member, has no problem with the arrangement here. I shall not pose any objection.

Mr. STAFFORD. In that event, Madam President, we are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5043) was agreed to.

Mr. STAFFORD. I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that amendment on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5190

(Purpose: To further restrict the Secretary's authority to make mass transit grants under this Act)

Mr. BUMPERS. Madam President, I call up my amendment No. 5190 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 5190.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title III of the Baker substitute (printed amendment No. 4998), add the following new section:

SEC. . None of the authority granted by this Act to the Secretary to make grants for transit capital infrastructure projects under section 314 of Title III of this Act shall be exercised unless the Secretary exercises such authority under the following additional restrictions on his authority to make such grants: He shall assure that each state receives not less than 85 per centum of the amount of estimated tax payment attributable to highway users in that state paid into the Mass Transit Account of the Highway Trust Fund in the latest fiscal year for which data are available, and he shall assume that such funds are available for operating expenses.

Mr. BUMPERS. Madam President, this amendment is not so easy. This applies to what I regard as a fatally flawed bill as it applies to my State and I think a number of other States. This bill has a provision in here that essentially provides 1 cent for mass transit. That would be about—I am not sure. I think in this year, it would amount to about $530 million the first year. The problem I have with that is that my State is not one of the States that fares well under the formula. We have a very complicated formula here as to how the mass transit money is going to be returned to the States. It deals with vehicle miles, it deals with density of population and a host of other things on which my State does not fare well.

What my amendment does is apply the same rule to that penny that applies to the other 48; namely, those States will get less than 85 percent of it.

This amendment simply provides that not less than 85 percent of the penny for mass transit shall be returned to the State. It also allows the State, in its own judgment, to use it for operating expenses if it chooses. It is just that simple.

Madam President, I am prepared to move the adoption of the amendment.

Mr. STAFFORD. Madam President, the Senator from Vermont, whose Committee on Environment and Public Works has title II of the bill, was unaware of this second amendment by the Senator from Arkansas. It applies against title III, which is not one of the titles of the bill for which I am responsible.

Mr. GARN. Will the Senator yield?

Mr. STAFFORD. Yes.

Mr. GARN. Madam President, this does appear to be under a section that comes under the Banking Committee. I simply have to say I have had no conversations about it, I was not aware the amendment was coming up. I have

not even had a chance to read it, I have just picked up a copy from the desk. I am not prepared at this point to go ahead and debate it.

I wish the Senator from Arkansas had discussed it. We have discussed whether many amendments were acceptable or not. At this point, I have to get some advice and then take a look at it, because it has taken me entirely by surprise.

Mr. D'AMATO. Madam President.

The PRESIDING OFFICER. Does the Senator from Vermont yield?

Mr. STAFFORD. I yield to the Senator from Utah.

Mr. GARN. The Senator from Arkansas is undoubtedly right, as I look at it. My response was before his motion for passage and I had not even had an opportunity to look at it. I am a little disappointed that the Senator was not willing to at least let us look at it and be prepared to debate it. At this time, I yield the floor while I take a further look at it.

Mr. BUMPERS. Madam President, that is the reason we offer amendments on the floor, to debate them. The situation here is about as simple as any I have ever seen.

First, my amendment has been at the desk since well before the first cloture vote. I did not file it for dilatory reasons, I filed it because I was deadly serious about what I think is a gross inequity in the bill. We have one urban mass transit system. We have six nonurban mass transit systems, and I daresay there are at least 25 to 30 States represented in this body which are similarly situated.

This bill says:

To the extent practicable, the Secretary shall assure a fair and equitable distribution of grants to all States so that each receives no less than one-half of 1 percent of the funds available under this section.

Bear in mind, Madam President, he is not obligated to see that any State does not get less than half. I shall go ahead, so that other States can relate to what I am saying.

My State will pay $12.5 million to $13 million for each penny tax of this bill. That means we are going to be paying $12.5 million to $13 million for mass transit and get back in our State, if the Secretary happens to wake up felling good, one-half of that amount. When you consider the fact that we are a poor State—I have said that on this floor a thousand times. I am not proud of it, but in the interest of candor and realism, we are a poor State. We are the second poorest State in the Nation. We use more gasoline than in any State in the Nation. When you consider those factors, plus the fact that we have just sustained a $350 million damage loss from tornadoes and floods, we are in a poor position to say we love this 5-cent gas tax.

We are certainly not in a position to say we love subsidizing the subway systems of New York, Washington, Atlanta, Chicago, and San Francisco. When you consider our poverty, we are ill-equipped and we are not so charitable as to want to send one-half of 1 cent plus the other $^{15}/_{100}$ of 1 percent of the other 4 cents to the U.S. Government so they can send it to somebody else.

We have more unpaved roads in my State per capita, I would venture to say, than almost any State in the Nation. So all I am trying to do is to say to the people of my State, you are at least going to get back 85 percent of what you send in. I can tell you they are not going to be terribly joyous this Christmas season at the prospect of spending about——

Mr. D'AMATO. Will the Senator from Arkansas yield for a question?

Mr. BUMPERS. I yield for a question.

Mr. D'AMATO. Is not the purpose of this bill to deal with the infrastructure needs as they now exist? Would the Senator agree to that?

Mr. BUMPERS. Absolutely.

Mr. D'AMATO. What do we do then? Do we say that where there is no need for mass transit we are going to give you 85 percent of those moneys which are contributed as the Senator's amendment calls for?

Mr. BUMPERS. What I am saying is that I understand New York's needs. They are very peculiar to New York. And I am not parochial about this. I voted to bail New York City out. That was not the most popular vote I ever cast in my State.

Mr. D'AMATO. It has noting to do with New York. The fact of the matter is that we have created a bill that takes into account the number of riders, passenger miles, route miles. The formula block grant section of the mass transit title does take into account the needs of nonurban as well as urban areas.

Under the Baker substitute, a portion of the receipts from the gas tax will be placed in a Secretary's discretionary fund. The Secretary will then determine the areas of need and distribute those funds accordingly.

Moreover, I might add that New York and other States are drastically short changed in other areas. For example New York is only reinsured at a rate of 50 percent of its medicaid costs. Other States receive much more I am only trying to insure, here, that there is equity and States receive those funds on the basis of need. I suggest that this amendment does violence to the whole concept of funding mass transit needs.

Mr. BUMPERS. To respond to the Senator from New York, why is the number of unpaved roads in the State not a part of the formula?

Mr. D'AMATO. We should address that. However, both Environment and Public Works Committee and the Banking Committee, after extensive hearings, developed formulas for the distribution of funds. The Baker substitute should be adopted.

Mr. BUMPERS. Will the Senator also be willing to add an element in this formula to consider per capita income?

Mr. D'AMATO. I think that we could consider that, but let me suggest that for 2 years nobody has come forth to the Banking Committee to suggest that. We attempted to craft a bill that deals with the needs of rural areas. If you begin to demonstrate the need, the Secretary will have money under this system to meet those needs. But to provide a State with moneys where there is not need, that would be unconscionable.

Mr. BUMPERS. Does the Senator understand that this bill reauthorizes the basic reauthorization which has always been in effect? Operating revenues are not going to be cut one dime from what they are right now. What we are talking about is the new formula of what we are going to do with the additional $1.2 billion that is being produced by one of the pennies of the five that goes for mass transit. In my State we have capital equipment; they just finished buying new buses, but we need help on operating.

Mr. D'AMATO. The Senator should understand that in the formula block grant section of title III of this bill, we try to insure that your transit properties will continue to receive the operating assistance which is so crucial to the maintenance of capital equipment.

You will recall part the administration's initial proposal would have completely phased out operating assistance. This bill, while making some reduction in operating assistance so that we may get a bill signed into law, retains operating assistance.

What we have done is made a cut, a modest cut of 20 percent over a 3-year period of time. We have also provided a provision for trade-in, $3 for $2, for those areas that wish to trade capital assistance in for operating. I think it is a vast improvement. I know it is a vast improvement over what the administration's initial proposal was. I admire the representation that the Senator from Arkansas gives to his constituents, but I think this goes beyond just a mere constituency issue. The fact is we are fighting to set up a formula block grant system that does not remove from localities, the opportunity to use Federal funds for operating expenses.

I ask the Senator to think very carefully before we go forward with this bill because he could cause great violence, I believe, to the entire concept of providing block grant systems and allowing a certain amount of flexibility that did not exist under the other program.

Mr. BUMPERS. Let me make a couple of observations so that we are not just like ships passing in the night and not really communicating.

I want to first say that the Senator is dead right; the basic authorization for mass transit in this bill does not change operating revenues. The city of New York is going to continue to get the same operating amount that it has been getting in the past, because we are reauthorizing the first 4 cents of the gas tax just as we always have.

Mr. D'AMATO. If I might just indicate, that is not entirely accurate. We will be taking a 20-percent cut in operating assistance, as will all of those areas that operate transit systems throughout the country in excess of a million people. Thereafter, in order to recognize the special needs of the smaller transit properties, that cut has been reduced to 10 percent, since operating assistance for the smaller properties is much more critical than it is for the larger properties.

So that for cities under a million, cuts for transit authorities will only be 10 percent. For the smaller communities of under 200,000, their cut in operating assistance will only be 5 percent. This has been a very delicately crafted bill that has the support of the American Public Transit Association, the National League of Cities, the National Association of Counties, National Association of Regional Counties and many other groups.

Mr. BUMPERS. I should like for Senators from North Dakota, South Dakota, Wyoming, Montana, and Idaho, just to name a few, and Oklahoma—I see the Senator from Oklahoma over here, the Senator from South Dakota back here—to come to the floor and tell this body and their constituents back home how much money they anticipate getting out of the mass transit provision of this extra 5 cents based on this language which says that the mass transit account is to be used to fund:

Transit capital infrastructure development projects involving the acquisition, rehabilitation and replacement of rolling stock;

The construction, rehabilitation, and modernization of commuter rail and fixed guideway systems;

The construction, rehabilitation, modernization, and replacement of bus facilities and related equipment;

The renovation and improvement of historic transportation facilities with related private investment, and intermodal terminals.

I can tell the Senator what that means for my State—zero.

I just made a quick calculation here. First of all, my State is one that because the House put the 85-percent provision in—that is of 4 of the 5 cents—no State shall receive less than 85 percent of that money back. If it were not for the House having put that language in, my State would have only received 40 to 50 percent back of the 4 cents we paid in.

When you take that combined with less than one-half of 1 percent that we will get back, and certainly that is about what we will get back, you are asking the people of Arkansas to levy a 1-cent tax on themselves to send to Washington and never see a dime of it. We are just not disposed to do that. That is what the net effect of it is and I would be very hard pressed to go home and say to my people "Yes, we levied a 5-cent tax but unhappily we are only going to get 4 back. We are a poor State, with lots of unpaved roads. We have the same deteriorating highways everyone else has but we are going to give a penny to the Secretary of Transportation, who, to the extent practicable, will send us one-half of 1 cent back if he is so disposed."

Mr. President, I ask unanimous consent that we both yield for a moment to receive a message from the House of Representatives.

The PRESIDING OFFICER. Is there objection?

(Mr. COHEN assumed the chair.)

Mr. BAKER. Mr. President, I wish to be recognized so I can yield for the message to be received. Am I recognized?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I yield now so the message from the House may be received.

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

MESSAGES FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 436. Concurrent resolution relating to the enrollment of H.J. Res. 631.

Mr. BAKER. Mr. President, this is the conference report on the continuing resolution. Under the authority granted to me after first consulting with the minority leader, the pending message may be laid aside notwithstanding the provisions for rule XXII, in order to take it up, I have consulted with the minority leader and I believe he will confirm that we agree that this should be done as soon as possible.

Mr. President, I am perfectly prepared to finish this particular amendment before going to the conference report, or to do it at this moment. But if the Senator from Arkansas has concluded, I recommend that we yield so that the distinguished Senator from Utah may be recognized. I understand he wishes to make a tabling motion, get that vote and then go to the conference report.

Mr. ROBERT C. BYRD. Will the majority leader yield?

Mr. BAKER. I hope we would proceed to the continuing resolution. The amendment by Mr. BUMPERS then would be the pending matter when we get back. It makes no difference to me if the Senator from Utah is agreeable to that.

Mr. BUMPERS. To the minority leader I say I am finished. There are a couple other Senators who wish to speak.

Mr. BAKER. I have no desire to cut anyone off. I will withhold that suggestion and we will take the message from the House.

Mr. President, I now ask pursuant to the authority granted to me under the unanimous-consent agreement of yesterday that the Chair lay before the Senate the conference report on the continuing resolution.

FURTHER CONTINUING APPROPRIATIONS, 1983—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on House Joint Resolution 631 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 20, 1982.)

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield myself whatever time is necessary.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield for a question?

Mr. HATFIELD. I am happy to yield.

Mr. ROBERT C. BYRD. Would the distinguished Senator allow the Chair, or the majority leader, or someone, or me to state what the time control agreement is on this measure so that all Senators would know?

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. HATFIELD. I will yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the minority leader. It is a good suggestion and one that I should have thought of.

Will the Chair please state for the Senate the terms of debate on this measure as embodied in the unanimous-consent agreement of yesterday?

The PRESIDING OFFICER. The time on this conference report is 4 hours, the time to be equally divided between the majority and minority leaders or their designees.

Mr. BAKER. Mr. President, I believe the 4 hours for debate is all-inclusive of debate on the conference report and any amendments in disagreement, is that correct?

The PRESIDING OFFICER. The leader is correct.

Mr. BAKER. Are there amendments in disagreement?

The PRESIDING OFFICER. There are no amendments in disagreement.

Mr. BAKER. Very well. So the entire 4 hours will be for debate on the conference report.

The PRESIDING OFFICER. The leader is correct.

Mr. BAKER. Mr. President, I designate the distinguished chairman of the Appropriations Committee, the Senator from Oregon, to manage the time on this side of the aisle.

The PRESIDING OFFICER. Does the Democratic leader designate anyone?

Mr. ROBERT C. BYRD. I designate the distinguished Senator from Wisconsin (Mr. PROXMIRE) on this side of the aisle.

Mr. HATFIELD. I thank the leadership for putting this in motion.

Mr. President, we now have before us at long last a conference report on House Joint Resolution 631, the last continuing resolution for fiscal year 1983.

Mr. President, it has been a very long week for all of us. I do not intend to stand here very long and belabor the Senate with a detailed description of the items contained in the conference report. We are making every effort to get the report duplicated and placed on every Senator's desk. And I might say that the Senate and the House met in conference yesterday from 10 a.m. to 10 p.m and the staff finished the report about 6 o'clock this morning, having worked all night as they have done on two of the last four nights.

And the service department has been working on this report since 7:30 a.m.

It is a very sizable report, and I understand Members will understand the amount of time necessary to reproduce it.

I will briefly summarize the basic terms of the resolution and leave it up to the subcommittee chairman to explain the detail of the individual bills covered by the resolution. I expect, for example, the Senators will have questions for Mr. STEVENS relative to defense, as an example.

Mr. President, this resolution covers eight regular appropriations bills, Commerce, Defense; Energy, Water; Foreign Operations; Interior, Labor, HHS, Education; Treasury, and the District of Columbia.

Since the Senate acted on this measure, the Transportation and Agriculture bills have been signed by the President. So they are no longer covered under the terms of the resolution. We expect the signature of Interior and D.C., if that has not occurred already. So that they, too, will fall out from under the terms of the CR.

The resolution is effective for the full year up to September 30, 1983.

A legislative provision allows for a pay raise for House Members, top-level executive branch employees, the Judiciary, House and Senate staff, but not, I underscore, underline, put in quotations and parentheses and every other kind of grammatical symbolism that I can, it does not include a pay raise for the Senate.

I imagine I will have that very question asked me sometime during this period of discussion on the floor. Maybe more than once. But I want to start out by saying as clearly as I can in the Queen's English that it does not include a pay raise for the Senators. As my colleagues have no doubt read in the paper, the conferees deleted title II, which is the jobs package. Your Senate conferees yielded to this House suggestion, at least as far as the chairman is concerned, with great regret. I will not speak for all the members of the committee because I sincerely hoped that some productive job package could be adopted by Congress and signed by the President.

It was not to be, however. Even the relatively small jobs stimulus package proposed by the committee was opposed by my leadership here in the Senate and the President made it quite clear over several occasions that he would veto any legislation that contained a job stimulus package.

The conferees decided, therefore, that the better course of valor was to recognize the practicality of the situation and delete title II rather than risk a Government-wide shutdown, a veto overriding struggle with the President, and the possibility of drafting yet another continuing resolution after this protracted debate.

I can assure my colleagues, however, that the issue by no means is at rest. I intend to do everything I can to persuade the President to incorporate these items or items similar in a jobs package in his fiscal year 1984 budget, and if the President does not see fit to do that, I want to indicate that I will certainly do everything that I can possibly do to provide our congressional budget and subsequent appropriations with such a proposal. We badly need a national program to improve the capital assets of our country, to restore and repair our infrastructure and, at the same time, we desperately need to do something to reverse this unemployment trend that is reaching close to 11 percent.

We do not need more soup kitchens, more handouts, more extensions of unemployment benefits. We need to put people to work, not just help them when they are out of work. Now is apparently not the time when we will accomplish that, so the conference dropped title II.

I am sure Senators will have specific questions which I will try to answer as they arise.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. HATFIELD. I will be happy to yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I assume the Senator from Oregon at the appropriate time wil ask for the yeas and nays?

Mr. HATFIELD. I will be very happy to ask for the yeas and nays at this time.

The PRESIDING OFFICER (Mr. COHEN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, one other item I would like to alert the Senator, that procedurally we have normally had amendments in disagreement with the House that have been acted on separately, of course, and individually. In this particular case there are no amendments in disagreement so the one vote up or down will in all probability determine the outcome of this product.

So the conference report, I believe, under the unanimous-consent agreement, was unamendable but we are ready for questions concerning the report.

Mr. President, if there are no questions, I would ask for the adoption of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, the conference report on the continuing resolution as it sits on each Senate desk today is probably the most voluminous and complex conference report ever filed by an appropriations conference in the long history of the Congress. It represents a huge series of compromises with the House on subjects as diverse as a funding for abortions, a Federal pay raise, and an MX missile basing plan.

As we all know the conference had to deal with at least a dozen highly controversial issues. Many of them never should have arisen in connection with a continuing resolution, which was originally devised as a means of extending the operations of the Government for a relatively short period of time while we dealt with the regular appropriations bills. However, these issues have been forced upon us by our refusal as a body to abstain from adding everything but the kitchen sink to this sort of appropriations measure.

I am sure that several Members feel that we conferees should have done much better. I wish they could have been with us in the conference so that they could have experienced the pressures and difficulties created by the fact that the Government closed down at midnight on Friday and that to avoid a disastrous interruption in Federal operations we had to come forth with a conference report in less than 24 hours.

Mr. President, I take no pride in this product. But given the legislative mess we had to deal with in conference and the short time period in which we had to act, I think it is about the best compromise we could come up with, especially if we were to avoid a veto that would delay Federal agency operations even further.

Mr. President, I would like to pay tribute to my distinguished colleague, the chairman of the Appropriations Committee, Senator HATFIELD, who did a really marvelous job in chairing the conference.

As we all know, he handled this enormously complicated legislation with great mastery and he has won the admiration of, I think, all Members of the Senate who have followed this bill.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, I would like to take a moment to thank again the Senator from Wisconsin for his leadership in this matter. It has certainly been a joint effort. I thank the Senator from Wisconsin for his leadership in this matter. It has certainly been a joint effort. I think the Senator from Wisconsin would agree with me that we had an extraordinary demonstration of devotion and diligence of the subcommittee chairman and ranking minority members. We have 13—I think Senator realizes—we have 13 chairman and ranking minority members, and when you consider the complexity of the issues with which each one of those committees was dealing, it is really a phenomenal effort that has been demonstrated here to bring us to a final decision.

In addition, I want to pay respect to the staff. I mentioned earlier, before the arrival of the Senator from Wisconsin, that the staff has remained on a 24-hour shift 2 out of the last 4 nights in order to do the support work and to bring us into a conference conclusion, and that is indeed a great example of quality of staff we have here on this committee and, I think, is typical of all of our Senate staff.

These are the unsung heroes of these long marathons. Our pictures are in the paper, but it is really the people at the staff level who are doing all of that basic support work that makes it possible for us to bring these matters to a conclusion. They seldom get the focus or the attention they certainly deserve. I have often said I think that Senators are only as good as their staffs because unless you have that kind of backup and auxilliary support no one person can really perform his tasks and responsibilities in any quality form at all.

So I wish to thank the staff again for their outstanding work on this project.

Mr. President, we are open for questions. I hope that Senators who have an interest in this subject will come to the floor because, after a reasonable period of time, the managers of the bill would like to complete this. We have no interest in self-flagellation. We have been through enough I think of the torture chamber of procedures and marathons that we are anxious to complete it.

So I am very hopeful that Senators who have a concern or interest or question will arrive on the floor in the next little while.

Mr. DOMENICI. Will the chairman yield?

Mr. HATFIELD. I yield to the distinguished chairman of the Budget Committee and the newest and most junior member of the Appropriations Committee, and my good friend.

Mr. DOMENICI. I thank the Senator so much.

I do not have any substantive questions on numbers at this point, but I wanted to ask one question that I know the answer to but I think the Senator ought to answer because I think it is such a momentous part of this bill. This bill now extends all of the subject matters within it through the entire fiscal year; namely, to October 1, of next year. Is that correct?

Mr. HATFIELD. I am most pleased to be happy to respond in the affirmative on that question.

Mr. DOMENICI. I say to the Senator, I am not sure that everyone appreciates as you do and as I do the significance of that. That means if this body and the other body are disposed to actually produce appropriation bills instead of continuing resolutions, that we start the new year without the need for another continuing resolution unless we are unable, come fiscal year October 1, to have produced appropriation bills. Is the Senator from New Mexico correct?

Mr. HATFIELD. The Senator from New Mexico is, indeed, correct.

Mr. DOMENICI. I say to the Senator, I do not think we have been in this posture at the end of a session, whether it be lameduck or whether we closed at an earlier time, I do not think we have been in this position for many years where we do not need a single continuing resolution in terms of keeping the ordinary operation of the Government, aside from supplements and add-ons that we are unaware of, as we are now.

Does the Senator remember how many years it has been since that event as I have described it?

Mr. HATFIELD. Not in the memory of humankind.

Mr. DOMENICI. I thank the Senator. And I am most complimentary of the committee with reference to this issue. I now know that it was very important that we prevail on amendments offered on the floor to fund Government, be it to March or April or May or June.

Frankly, as the Budget Committee chairman, as I said the other day and I say to my good friend from Oregon, I really do not believe we would have accomplished one single cent or dollar savings by cutting this bill to some shorter period of time. I think if you need supplementary appropriations they will be forthcoming.

But I agree with the Senator, had we not gone for the year, we would have been once again up against a deadline, not against a deadline of fiscal years but a deadline of we are going to close the Government again or we are going to close a piece of it.

I think the Senator agrees with me that that probably is the worst way to run Government and the worst way to appropriate. I just wanted to say, before anyone asks detailed questions, that that is an historic event. I commend him and the House Members for it and the House for passing it and certainly in advance of the Senate passing it, because they are going to pass it this afternoon.

I hope the President will sign the bill. That issue alone is worth the President giving on a number of issues in my opinion. For the first time he then starts, after 2 full years in office, with kind of a clean slate in terms of the appropriations process; am I not correct?

Mr. HATFIELD. The Senator is correct. It not only provides an opportunity for the appropriation process to move on track, on schedule, and in concert with the Budget Committee, but it does, as the Senator has indicated, provide the President and all the executive agencies with greater opportunity to plan for the rest of the year.

When we had these dates that went only for a portion of that fiscal year, agencies of Government could not plan for the full fiscal year. They did not know what levels would be reduced or added to in the expiration of a June continuing resolution or May or April or March, whatever it might be.

So I think we are going to really, in the long term on this fiscal year, we are going to save money. I cannot help but think it costs more money when we have these partial fiscal year CR's that really do not provide any long-term plan.

Mr. DOMENICI. I thank the Senator.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield to the Senator from Arkansas, for the purpose of questions, whatever time he requires.

Mr. PRYOR. I deeply appreciate the distinguished Senator from Oregon, the chairman of the Appropriations Committee, yielding to me.

I would like to ask this following question: Was there any item in the continuing resolution that was approved by the House of Representatives and subsequently approved by the Senate by rollcall vote that was then knocked out by the conference committee?

Mr. HATFIELD. Yes; there were a number of such instances.

Let me give you an example of one. Both Houses had divided the continuing resolution into two titles. Title I was the title dealing with all of the normal appropriation bills that were not yet signed—and there were only three that had been signed—and title II that was initiated on the House side had to do with a special jobs program. The Senate also had a title II having to do with a jobs program.

The House package was $5.4 billion; the Senate proposed committee bill was $1.2 billion. In both of those, there was a $50 million appropriation that was made under FEMA, which would have meant that $50 million would have been distributed through United Fund groups in order to provide for immediate relief of needy people.

In the conference, the House conferees indicated that they felt that it was very important to get a Presidential signature on whatever final product we came up with. And the President indicated publicly on a number of occasions that he would probably veto a jobs program at this time. The chairman of the House Appropriations Committee, Mr. WHITTEN, at one point in these negotiations made reference to that point and indicated it might be best for the House to recede from the jobs bill title I and that the Senate recede from its title II, the lesser package of the jobs program.

The House made a rescission to that position, followed by the Senate making a similar rescission, so that that program of $50 million which was included in both of the title II's dropped. That dropped the program itself that had been included in both title II's.

Mr. PRYOR. Would the distinguished chairman please advise this Senator as to how the $50 million appropriation for FEMA, after passing the Senate by a vote of 52 to 43, got to be an item that the conference committee could handle in the manner it did?

Mr. HATFIELD. It was not a conference item as such. FEMA itself was not a conferenceable item. Title II was because under the unanimous-consent agreement of the Senate, title II became a single standing issue that could be handled as a unit, and out of the dropping of title II, FEMA dropped as part of title II because as part of title II it was indivisible from title II.

Mr. PRYOR. It seems to me rather strange, maybe even without precedent, that once the House adopts a proposal and the Senate adopts a proposal, we suddenly find that it is not part of the conference report.

Mr. HATFIELD. I agree it is unusual but not without precedent. There is ample precedent where an issue is dropped from a conference in which both Houses have acted upon it by what is called mutual recession from that issue, or receding from that particular question.

Mr. PRYOR. If the distinguished chairman would answer this question, did the conference committee have an up-or-down vote on the issue of the $50 million appropriation to FEMA?

Mr. HATFIELD. No. It was one of many items within title II. The issue was on the question of retaining title II in the continuing resolution. When the issue of title II was decided, everything within title II on both sides fell with the title.

Mr. PRYOR. The reason I feel so concerned about this is because this money was going basically to FEMA acting as a conduit to the United Way of America and then going to recipients chosen by a board consisting of the Salvation Army, the Council of Jewish Federations, Inc., the Council of Churches, the National Conference of Catholic Charities, and others. These funds were to help the poor, to help the needy, to help those who are homeless, without food, to help those who are absolutely destitute. It was also going to help some 158,000 citizens of our land who have lost all disability payment benefits, as well as their medicare benefits.

I feel the conference has made a terrible mistake. And I also feel perhaps the conference was not aware that by dropping the entirety of title II, it was also dropping this small appropriation for such a worthy cause.

Mr. HATFIELD. Let me say to the Senator I think the conference was fully aware of what it was doing and I think the conference was wrong in doing it. I felt very strongly that we had put together on the Senate side a very responsible jobs program of a very modest size, $1.2 billion. If the Senator will recall, we had a vote on that on the floor of the Senate after it had been adopted by the Appropriations Committee. It was a proposal I offered to the Appropriations Committee to consider.

You can multiply the impact on the needy of this country that many other parts of that title had, not just the $50 million which is important. There were literally many other items in that title II that could have gone for immediate job development for people who are running out of their unemployment compensation or who have already run out.

It was not going to cure the natioanl unemployment problem, let me tell the Senator very candidly. I did not believe that this one package was going to, in itself, correct our unemployment problem today. But it would have the Government in a very positive leadership role, which I think could become a triggering mechanism for much of our private sector to step forth and to renew its confidence in the future, renew its confidence in the economic system, do some expansion, do some operation and maintenance, do some rebuilding. It could have triggered many jobs beyond those that would have been immediately created by that package.

As I say, the Senator is talking to the author of the bill, who has not a pride of authorship but just a deep commitment and deep concern on this issue. It was not an easy matter to do. I can say to the Senator that when the House of origin of this whole package began to signal that they were ready to toss in the question or recede to the question, it did not leave us in much of a position to deal from.

I looked down and the ground was gone.

Mr. PRYOR. I know the distinguished Senator from Oregon, and I know his compassion for his fellow humans. I also know his dedication and hard work during the last several weeks, especially the last 5 or 6 days. It has been intense. The chairman has done a miraculous job just standing and holding together. I compliment the Senator for the job he has been doing.

I would like to register my objection to the idea of taking away $50 million from the homeless and the poor, who are in such need at this time. I am particularly concerned Mr. President, because the amendment would have provided that the funds not be caught up in the bureaucracy but distributed within 45 days.

I think that is my deepest concern.

In addition to this, I am concerned that this conference report, as I understand it, has in the neighborhood of $11.5 billion for foreign aid which is an increase over earlier years. We are appropriating about $0.5 billion for refugees. We are giving a salary increase to the Members of the House of Representatives. But somehow we are not really answering the needs, especially in this Christmas period, of those who do not have a home and those who literally have nothing to eat. I think we will be judged very harshly for our action, and I think that judgment will be justified.

Mr. HATFIELD. I thank the Senator from Arkansas. I would only add one little further detail to his thesis that he has eloquently presented. That is that in that foreign aid bill we have $1.6 billion more this year for arms than last year, and some of those arms are going into countries that do not have a subsistence agriculture, that cannot feed their own people.

I received a letter from a constituent this morning. There was a very interesting comment made. I suppose it is a little macabre, but I would like to share it.

The person said, "I saw where you answered a certain question put to you by the press relating to shipping arms to Third World countries."

I had been critical of doing this type of thing in my response to that question.

This person said, "A better answer, a more appropriate answer than you gave, would have been to give an answer of, 'Send them a gun so they can go out and shoot their enemy and starve to death in peace.' "

Think about it. It has, as I say, a rather macabre tone or ring to it. But if you think about it, there is a very profound thought in that statement I received.

Mr. PRYOR. It is profound indeed. I share the Senator's feelings about arms sales.

Mr. President, I have expressed some of the reasons why I will continue to vote in opposition to this particular continuing resolution.

Mr. PROXMIRE. Will the Senator yield?

Mr. PRYOR. I will be glad to yield.

Mr. PROXMIRE. I commend the Senator from Arkansas because twice now he has made very serious and important criticisms of the continuing resolution. Yesterday I think he made the most important of all. That is, that we should not have a continuing resolution at all. It is a mark of failure on our part. We have to acknowledge that.

We have to acknowledge that.

This continuing resolution, as the Senator points out, goes for the whole year. It means there will be no careful, deliberate consideraton by all Senators of the biggest domestic bill we have, Health and Human Services, no careful, deliberate—we should have several days, maybe 3 or 4 days' consideration on the military aspect. We will not have that at all. It means we put it all together; then in a nightmare session of 36 hours or so, try to do the whole thing at once, covering all the appropriations. They cover relatively small matters, but take up a great deal of time. The Senator made that point very well. It should not be lost on us. I think he deserves great credit for having done that.

He makes the great point of knocking out the aid for the needy in the FEMA amendment. Again, that is in infuriating kind of situation. In principle, it should not be done. a few of us gathered together in conference have no right to overturn what a majority of the Congress have agreed to do.

I thought that was the whole principle of conference, that you are only allowed to compromise within the limits set by the two bodies. I think the Senator from Arkansas has made that point very well. We did not do that. There were technical reasons why we were able to get away with it.

There is another fundamental reason we did it—that is because we faced the veto, that great, big monster of a veto. I think all of us realized as a matter of realism that if we supported the jobs bill, which so many in this body supported and so many in the other body, the whole thing would have gone down. It went down last year. That would have meant we would have the Government out of operation for another 2 or 3 days. It was really a matter of adjusting to grim reality, why we did that.

I want to add a technical point on foreign aid. We are $500 million below last year, at the level President Reagan requested. So it is not as big in this respect as people might suspect.

I agree with the Senator. He has made two excellent points as far as principle is concerned. He is 100 percent correct. I am glad he called that to our attention.

I think he has to recognize that we had to keep with reality. We were really under the gun. Today, as we discuss this here, the Government technically should be out of operation. We do not have any continuing appropriation. So we had to act rapidly, recognizing that a veto was forthcoming. It was all we could do.

Mr. PRYOR. I thank the Senator for his comments. If I may offer one final commentary, then I shall sit down. I think if one inscription or one thought remains after this session finally concludes, if it ever does, it will be that of the great philosopher, Pogo, who said, "I have just met the enemy, and they is us."

We are our own worst enemy. Frankly, I think if the Government continued to run, that might be worthwhile. But I am beginning to wonder whether the Senate ought to continue to run. I think that is how frustrated a lot of us are.

It is not frustration with the people, it is frustration with the system. It is the system we have to change.

The problem is, we get to this point, we see all the problems in the system, we worked all night long, all week long, our families forget we even exist. The whole thing breaks down. Then we come back in January and forget how terrible it was. We forget the pressure.

The time to correct the system, I think, is eventually going to be in one of those long, all-night sessions when the pressure is on. That is probably how we are going to have to change the rules of this body so we can carry out the business of the country and so our procedures can be conformative with our century.

Mr. RIEGLE. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. I yield time to the distinguished Senator.

Mr. RIEGLE. I thank the Senator for yielding and I wanted to follow along with the comments of the Senator from Arkansas.

I have a question for the Senator from Wisconsin. I have heard it said that the reason the jobs part of the package was dumped over the side is that there was a clear signal that the White House would veto that bill and there was a feeling on the part of House Members that they dare not take a new bill back to the House because if they did, it would require another vote on the pay raise, which would not be able to survive; therefore, the jobs portion of the bill was just dumped over the side because of the chain of events that would follow. Therefore, in order to protect the pay raise,the jobs program had to be surrendered.

Is it the Senator's sense that that is what was at play here? Is that the bottom line?

Mr. PROXMIRE. I would not say that, Mr. President. I just do not know. I would hate, and I think the Senator from Michigan feels the same way, to attribute motives to people. I think they did realize the grim reality of the veto and acted accordingly. I might stress the fact that the House initiated that action.

Mr. RIEGLE. Which action?

Mr. PROXMIRE. The action that the distinguished chairman of the Appropriations Committee just told us he agreed to, that we would drop the jobs program from both bills. They may have also had in mind the fact that whatever we are able to get through would be far less than what we are going to be able to get in the next session. The next session will have a different lineup. There will be 26 new Democrats in the House of Representatives, maybe a new attitude in this body, too. I think they may have felt the problem would be better served not trying to get the relatively little amount we would get with the compromise after a veto and get set trying for the next year.

Mr. RIEGLE. If that were the reason, why would they not shorten the date on the continuing resolution to insure that early in January or February, all of these issues would have to come back to us so we would have the chance to do the jobs portion then? It seems to me that we surrender the leverage here of the continuing resolution date that otherwise would have given us a chance to force this jobs issue now, at a time when we have a jobs emergency in the country.

Mr. PROXMIRE. As I understand it, there is no reason why we cannot come back in January and February and pass a supplemental appropriations bill. We do not need a request. We can do it.

Certainly, if the economic situation worsens, as it may well do, and more and more States have the kind of situation Michigan has suffered from for so long and Wisconsin now suffers from, we might very well get legislation enacted that will be effective in the coming year. We would not have to wait until September 30, 1983.

Mr. RIEGLE. The problem is, it seems to me, the White House mentality still is to the effect that there is no jobs problem in the country. The President still makes reference to the want ad sections in the weekend and daily papers as listing plenty of jobs.

It seems to me one of the key items of leverage is to force this administration to address the real issues in this country.

Mr. PROXMIRE. The real leverage they have is that the Government is out of money and that we have to act on some kind of appropriation bill now. It seems to me that we have as much leverage next year as we would this for passing a supplemental appropriations bill. That leverage has always worked somehow because the master of communication, the President of the United States, has somehow worked against the Congress, we have been the fall guy. We would continue to be.

Mr. RIEGLE. It seems to me if we get trapped here with closing down a session, as well as the Christmas holidays, this is a particular kind of time period where everything gets jammed together. It seems to me if we had changed the date on a continuing resolution to some date at the end of January or the end of February, we would have brought all these issues back, it would have compelled them to come back.

It would have meant the President of the United States, no matter how detached he want to remain from the jobs crisis in this country, would not be able to because the certain need of financing the operation of the Government would bring us all back together so we can fight out these issue.

I think it is a tragedy that the jobs part of this bill was tossed over the side. The fact that a pay raise survives and the jobs program does not is something that cannot be defended. I do not think it can be defended in the country or to anybody who understands the severity of the problems that exist in this country. If we were going to come back here in a special session, the thing we should have accomplished was something that would have put people back to work.

I do not mean the so-called road/jobs bill which may pass later on, which has a minusclue job effect, a very minor one.

I think if we shut down here today, tomorrow, or the next day without having some component in the continuing resolution that is active and real in terms of creating jobs in this country, we all will have failed. I think that will be a mark of failure for the House and Senate together. What we will have, I think, will be an additional level of frustration and outrage in the people across the country, we will miss the boat on the jobs bill, but we will manage to provide additional help for the Members of Congress, whether in the form of a pay raise on the one side or the lifting of a cap on honoraria on the other side.

I do not think there is any justification for that.

Mr. PROXMIRE. It is my understanding that the chairman of the Appropriations Committee in the House indicated that he would do all he could—and he can do quite a bit—to push a jobs bill just as early as he can in the next session of the Congress, and that seemed under the circumstances to be the best way to proceed. I do not see that we gain anything by saying that the House sold out for a $9,000 pay increase. Whether the people think that is right or wrong, frankly, I do not think it would have made any difference. People may think that is naive. I do not think so. If there had been no pay increase in this bill, I think we would have come to the same conclusion.

Mr. RIEGLE. I guess my own feelings are different and that may arise from the fact that in my State the unemployment rate is 17.2 percent.

I do not make this as a point now directly to the Senator from Wisconsin, because I know of his concern for these jobs, but I am speaking now in terms of the sense of urgency that the Congress is showing, or failing to show, as well as the sense of urgency that the administration is failing to show.

We have been in session all these hours and all these days. There is an unemployment emergency in the country. We have 12 million people unemployed. If you add the underemployed and even those who dropped out looking for work, we have 20 million people out of work in this country and we are so inept as a Congress that we are unable to come back here, after all these days and all these hours, to pass any kind of a significant jobs initiative.

Yet, at the same time, we have managed to take care of ourselves. That is the bottom line, and that is the way it is going to look to the country, because that is exactly what the facts are. I think it is pathetic that that is the outcome. I do not think we have any justification—I do not care how hard Ronald Reagan's head is on the issue of unemployment in this country. We ought not to leave here until we have done something about the jobs crisis, whether we stay in on Christmas, on New Years, go right up to January 3, bring the new Congress in, come in early in January and stay here, then cancel out the recess in February, and do something about this jobs crisis.

I do not think the people of this country are going to be able to have any faith in what we do here after the message they sent on November 2 about the jobs crisis. The damage, the suffering, and the hardship is everywhere you look, in all 50 States, and here we are meeting and the one thing we need to do we have failed to do. We come back in here with a bill that does not have a jobs component. No matter who the responsible party is, whether the leadership in the House or the Senate on one side or the other that caved in to the pressure from the White House, in the end it is a failure of our duty to meet our obligations and our responsibilties. I do not know how anybody can leave here, when we

adjourn and go home for the holidays, knowing what this season is going to be like for so many other millions of people across this country in desperate circumstances and knowing that the only thing that we really managed to do was to take care of the pay issue and a few other miscellaneous issues. We have an enormous continuing resolution. We have not dealt with all the appropriation bills. We are tied in knots here, as others have said, in terms of the process with the filibuster and the fact that the rules are designed for obstruction more than they are for progress and for throughput in terms of dealing with problems. But the country is not going to understand this because what we have done has fallen short of what we needed to do. I think it is a shame on the entire institution that this is the situation we find ourselves in.

I express my disappointment. I disassociate myself with it. I am going to vote against this bill. I would like to see it go down. I would like to see us go right back in. Let us have more conversations. The White House, the people in the administration, Stockman and this whole crowd, they are all going to get paid through the holidays, we are going to get paid through the holidays. Maybe we ought to work through the holidays and see if we can come up with something that is significant. But to go into a conference and cave in and throw the jobs bill over the side because of this pressure or that pressure or this threat or the threat of a veto I just think sells us all short. And in the end it sells the country short. The country has been shorted. It is being shorted by this continuing resolution. It is being shorted by our failure to face up to the critical economic problems facing this country. There is no excuse for it, absolutely no excuse for it.

Mr. PRYOR. Will the Senator yield 1 minute?

Mr. RIEGLE. Yes. I do not have the floor but——

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. I yield myself 2 minutes.

Mr. President, I would like to correct the record. I am sure the Senator really did not mean to express himself quite in the state of error that he did about what the appropriations process has accomplished or not accomplished. I only remind the Senator from Michigan, the Senate Appropriations Committee reported all 13 bills. Seven of them have had conference reports. The President has signed five of them and is expected to sign the other two. So I want to make the record clear. The Senate Appropriations Committee has completed its work, under very adverse circumstances. If the Senator would go back and reread his history, he would realize that we were a month late on the budget report for this fiscal year which held up the appropriations process. Then the Appropriations Committee had to take up the urgent supplemental. Then we had to do a second urgent supplemental. Then we had to do a tax bill before we could act. Then we had to do a supplemental. Then we had to take action to override the President's veto on the supplemental, and then we had to start a continuing resolution because we were at September before the appropriations process on the Senate side or the whole Congress could really get on track.

So I just want to make the record clear that the Senator's remarks about the appropriations process are not accurate.

Mr. RIEGLE. If the Senator will yield, I want it understood that I have enormous regard for the Senator from Oregon. I think he has given as much leadership to this process as anybody I have seen. I appreciate the hours and the effort, and I do not want to be misunderstood on that point. But let me just ask this question: How many appropriations bills have not cleared and are contained in the continuing resolution here and what percent of the Federal budget does that represent as a total of all the appropriation bills?

Mr. HATFIELD. There would be six bills that will probably ultimately remain, because there are two conference reports waiting for signature at the White House which we anticipate either have been signed——

The PRESIDING OFFICER. The time the Senator yielded to himself has expired.

Mr. HATFIELD. I yield myself 5 minutes—or will be signed momentarily. So out of the 13 total, that means that we will have 6 remaining under this continuing resolution.

Mr. SCHMITT. Will the Senator yield on that point?

Mr. HATFIELD. I will say that that includes two of our largest, the Defense bill and the Labor-HHS bill, which will be incorporated in this continuing resolution.

Mr. RIEGLE. So in percentage terms might that be as much or more than half of the Federal budget?

Mr. HATFIELD. I might also say that in this continuing resolution report that we bring the Senate today, the Defense bill is incorporated in this. We handled it in conference as if it were a Defense Committee conference. So consequently that is the whole issue that you see here, or a major part of it is the actual Defense bill that we would have had this bill actually gone through to a completed legislative part of the process. So when the President signs this, he will in effect be signing the Defense bill as well.

Mr. SCHMITT. Will the Senator yield?

Mr. HATFIELD. And the Labor-HHS, I might say. Those two will be tantamount to a bill being signed.

Mr. SCHMITT. I just wanted to make that point and support the chairman in what he has said. This is the first time since 1979 that the regular bill has been signed into law. Why? Because the House receded to a Senate amendment that was the Labor-HHS bill. And I believe the same action was taken essentially on the Defense bill. So those bills have worked their way through both Houses of Congress. They particularly had the opportunity under adverse circumstances but still the opportunity for full consideration here on the floor of the U.S. Senate, and although it is not absolutely identical to a regular bill having been passed, it is so close to it that I think this Senate and the Appropriations Committee particularly, under the leadership of Chairman HATFIELD, has done an outstanding job.

Let me remind the Senator from Michigan that we did not receive the bill from the House of Representatives in time to work a normal process.

We barely received them at all. The Labor-HHS bill was not received until the first of December when it has not been many years, certainly too long before the Senator and I arrived in this body, when the House completed its work on the appropriations bills by July 4.

The first year I was on the Appropriations Committee we were dealing with the fiscal 1979 bill, the last regular bill to ever pass this body, as I recall, and we received it before the end of July, somewhere around August 1.

But this year, and in the preceding 2 years, we just have not been getting the bills from the House of Representatives.

So if the Senator wants to direct his criticism on how this process is working, a great deal of that criticism must be toward the House of Repesentatives, the other body, and not toward the chairman of the Appropriations Committee or the Appropriations Committee itself.

Mr. RIEGLE. If I may just respond, I do not direct my criticism to the chairman of the committee, and I do not want there to be any misunderstanding to suggest I am doing so. I think he has performed a Herculean duty here under the circumstances, and I am a genuine admirer of the work he has done.

I am talking about a collective failure. I am talking about the fact we are nevertheless left with a final product that is so deficient that I think it reflects poorly on all of us. We have an unemployment emergency in this

country and this bill does next to nothing to deal with it, and I think that is inexcusable.

Mr. SCHMITT. If the Senator will yield, Mr. President, yield me just a couple more minutes, again I think the Senator from Michigan, although it might not be an ideal bill that he personally would want and others might want, also nevertheless again, under the encouragement and guidance of the Senator from Oregon, there is a great deal that deals with unemployment in this bill. In the Labor-HHS bill, for which I have some responsibility, we have as a result of Senate action, either in committee or on the floor, the initiation of the dislocated workers program; we have significant new money for older workers, for the employment services, vocational education, title XX, WIN, all of these programs having been augmented under the leadership of the Appropriations Committee.

So I think the Senator may want to qualify his remarks a little bit in that we have tried to the best of our ability under the constraints that were placed on us by actions and suggested actions of the administration, as well as the late hour with respect to the 97th Congress, to do something about the jobs situation—not enough, and I do not think anybody in this body could say we got enough—but at least we have gotten started, and I certainly hope Congress continues to work in this problem field.

Mr. RIEGLE, Mr. President, will the Senator respond to this point: We had $50 million in this bill providing for funding for soup kitchens and emergency feeding programs to try to help deal with all of the millions of dispossessed people in this country going hungry at the present time. We voted on that here in the Senate. We took that to conference.

Is that $50 million in this bill? Did that come back from conference?

Mr. HATFIELD. I would like to respond. I wish the Senator had been on the floor earlier. We went through this with the Senator from Arkansas, but I would be very happy to repeat it.

The $50 million, which was added by the Senate to the jobs section, which was title II of the bill, and the House had a similar kind of program under FEMA to be distributed under the United Fund groups or United Way or whatever it was called, that was part of a number of items in title II.

When the House moved to recede from title II it fell, along with all other items in the title, when the title was deleted. So then the Senate receded because, as I said a while ago when I described this situation, all of a sudden when you look down and the ground is gone you realize you are no longer standing on anything, so when the House made that move we had no course but to follow that move because ours is $1.2 billion, theirs was $5.4 billion.

To get to the very specific program, the FEMA program, $50 million, fell with the title. The Senator is correct.

I would like to say I do not disagree with the Senator's assessment of the need and the immediacy of this. I again said that earlier on the floor today. It was a distressing experience to see this thing disappear after one had worked up even a very modest program.

But I also think it is wrong to communicate to the public that somehow even a $5.4 billion jobs program would have had a major impact on this country of 12 million unemployed today. The House program would have created about 325,000 jobs. I am willing to settle for anything that will create 100 new jobs.

However, all I am saying is that a jobs program in any congressional bill is not the answer to the basic problem. I said a while ago that I felt Government had a responsibility to play as a role setter, and even if it had been only 325,000 or only 100,000, it would show the Federal Government was giving leadership, and that is what I want to see the Federal Government doing, and that could trigger a lot of the private sector to at least move in and do 50 jobs here, 100 jobs there, and someplace else 1,000 jobs that they might otherwise be reluctant to take that step now.

So I feel the Government's role was not really solving the unemployment problem as much as it was setting into action a sequence of little actions that could together help turn this country around.

But I would not want to in any way convey to the American public that somehow this jobs bill, whether it was the Senate or the House or a combination thereof, in and of itself was going to correct the real basic problem of 12 million unemployed.

Mr. RIEGLE. Mr. President, if the Senator will yield.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Michigan.

Mr. RIEGLE. I think we all know that. But it was a start, and whether the figure was 300,000 jobs, that would have been 300,000 more jobs than we will otherwise have, and it was important.

The chairman says he supported it, and I certainly supported it.

One final question: If we were to vote down this continuing resolution, if we were to vote it down, I assume then the conferees would have to go back into conference, would they not, and put this package back together again? Would that not be the next step if the Senate decided not to accept this?

Mr. HATFIELD. The conference has been dissolved and would have to go through the process of starting all over again, and I would say to the Senator that I appreciate his concern and I think he has every right to be upset by this type of thing we are talking about.

But I think we have to look clearly and soberly at our options at this particular point in time, and I would say to the Senator that I see no options that we really have until January when the new Congress convenes, and I want to say to the Senator that I am not spending my Christmas vacation or my holiday doing nothing. In fact, we have already gone to work putting together another jobs bill that I would like to feel that maybe the President could incorporate and, hopefully, by that time to persuade the President to incorporate, in his state of the Union message, and his first budget proposal to the Congress. So I am not throwing in the towel on this. I am not sitting back and saying, "Well, we failed in this particular effort and, therefore, there is nothing else to do."

We have got to move this thing, whether it is now or whether it is January, and that is the option realistically, I would say with all due respect to my good friend from Michigan. Voting down this conference report today does not put us in any better position to get a jobs bill than when we passed this conference report. I have to put it just as bluntly as I can.

The jobs proposal for this "lameduck" session is dead, d-e-a-d, and there is no way to resurrect it.

So I think it is only putting a further burden upon the Republic to keep this "lameduck" session in session longer.

I think the sooner we adjourn and go home the better off the Republic will be and, therefore, vote "aye" on this conference report and do not torture us any longer as a committee or the Senate or the Republic.

Mr. RIEGLE. If the Senator will just yield for a final comment, Mr. President, it seems to me that if we were to defeat the conference report, if that were to happen, and with the operation of the Government now in the process of shutting down, we have already gone past the deadline, there would be an enormous sense of urgency on all parties to come up with an alternative package, literally within hours, because none of us can walk away from this problem, certainly the chairman would not nor would the rest of us, nor would the President of the United States.

So it would seem to me if there is an urgent requirement within the country to respond to the unemployment problem which we thus far have failed to do, that to take another 24 hours to do that may well be the most responsible thing we can do.

I mean, why should not the President of the United States be more di-

rectly involved in this process? And also I think those around him, as well as the House and Senate, so we have something here that we can really offer the country?

Mr. HATFIELD. I would say to the Senator, in response to his question, first of all, you are not going to craft anything in an hour that is going to be of any defensible character. I mean, that is the problem we find ourselves in too frequently that we are putting the Band-Aids on something because we really have not given careful thought to it and programed it and planned it and anticipated it, to begin with. So I would reject the idea we are going to come up with something better to be crafted within an hour.

Second, I would say realistically I am not at all in any way arguing the Senator's thesis that this Congress failed to act where it should have acted, but I am saying the alternative to what the Senator is suggesting here or what the Senator is suggesting of voting this down, a vote against this conference report is a vote to create unemployment. That is what it is, pure and simple.

Now, some of my friends on certain parts of the political spectrum would welcome seeing the Government shut down. What I am saying is the Government will literally shut down, there will literally be that many more people unemployed when those offices are closed, whether it is for 1 day, 1 week, or 1 hour, whatever we are going to increase the unemployment percentage in this country by a "no" vote or defeating this conference report.

I would urge the Senator from Michigan to vote his conscience and to, perhaps, withhold his vote until he sees the way this is going, and then I would urge him for the sake of the Republic again if it is necessary for his vote to vote for it in order to get this session ended and not to create more unemployment.

Mr. RIEGLE. I would just say to the Senator I think that within 2 days' time we could have another continuing resolution completed that was better, that would address the problem. We have to hold the feet of those of the administration to the fire, as well as those of the House and Senate who might otherwise be inclined to sidestep these problems until some time next year. I think that could be done. I think that would be a better course of action, and I think we ought to be prepared to stay here.

Mr. HATFIELD. Mr. President, I certainly grant the Senator his right to make an observation and make this the biggest part of his observation.

But there is absolutely no foundation to make an assessment to say we are going to get something better.

Let me tell the Senator as chairman of the committee who has been through the torturous process, through many days, weeks, and months, I can tell him my perspective as the one given the leadership to do this that it is not possible. To even convey that idea to the Members of the Senate is a false, false, false idea, and it is not true. I can assure him that.

We will not get something better in a few days or a few hours. We will have the continuing resolution right back that we have now.

I just tell the Senator that from the inside, from someone who struggled with this continuing resolution and dealing with the House of Representatives, dealing with my colleagues on the committee, dealing with this Senate, that that will not be, and I certainly reject that proposition that he proposes here that somehow we are going to get a better one back if we kill this and go back to the conference for another 2 or 3 days right up to Christmas Eve. They would not even get a quorum in that conference.

Therefore, what I am saying is if the Senator really wants to bring Government to a halt, and there are some in this body who may wish to do that—I do not think the Senator from Michigan is one of them, and I am not one of them—I do not see our Government as our enemy, but there are some who do—if the Senator from Michigan wants to really add to the unemployment figures and really wants to bring Government to a halt, then he will vote no.

Mr. SCHMITT and Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. I yield 5 minutes to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, what Chairman HATFIELD said is precisely correct. It would be extraordinarily difficult and I believe also that it would be impossible in the time remaining and under the circumstances remaining and as a consequence of what the Senator from Michigan obviously understands with his comments. I would say he broke the cord on one of the pressures at least that was operating in this conference. The interrelationship of the pay raise with other actions was very important in the considerations of the conference.

But, Mr. President, those who would vote against this conference report I hope will pause in the short time remaining and read and look and ask us what is in there with respect to the bills that are covered by this continuing resolution. What are the bills that have been passed now into law for the full fiscal year as a consequence of this continuing resolution because there is a great deal in these bills that under other circumstances almost certainly would not have been there? There is a remarkable increase in health funding, a remarkable increase in basic research in health and related matters, a remarkable increase in funding for vocational education, including the Job Corps. All of these do create significant new job opportunities. There are community health centers, the Job Corps, as I said. Head Start creates job opportunities. All of these things are going to contribute greatly to what the Senator from Michigan and others are concerned about.

Thank you, Mr. President.

Mr. PROXMIRE. Mr. President, will the Senator from New Mexico yield 1 minute?

Mr. SCHMITT. I yield.

Mr. PROXMIRE. I apologize to my good friend from Oregon.

I think we should point out that, although there are many disappointments in this continuing resolution, we are $18 billion under the President on defense, and we are $30 billion over the President, if we leave defense aside, $12 billion of which is in Health and Human Services.

So this is not exactly a stingy budget. The fact is we have gone much higher than the President in these areas of domestic spending and, as a matter of fact, we are still way above last year on defense because the President, of course, asked for a very large increase.

Mr. HATFIELD. Mr. President, I yield to the Senator from Pennsylvania 3 minutes.

Mr. SPECTER. Mr. President, I am very disappointed that the conference report has excluded the jobs program in a manner which I frankly find inexplicable and just totally not understandable on the grounds of public policy.

When the House of Representatives passed the continuing resolution with a jobs program in excess of $5 billion and the Senate responded with a jobs program for $2.1 billion, it seemed conclusive that there would be a jobs program submitted to the President in the continuing resolution. Considering the fact that unemployment is at an alltime high of some 10.8 percent, even higher in a State like the Commonwealth of Pennsylvania at 12.1 percent, and with the major problem in this country being jobs, Congress in this special session should be addressing this issue at least in some manner.

It may well be that there is not an opportunity in the 3 weeks or in the 4th week we are now in for a comprehensive program, but in my judgment it is just indispensable as a matter of good faith and good conscience that Congress should address the jobs issue.

The $1.2 billion program which was carefully crafted by the chairman of the Appropriations Committee and supported by the Appropriations Committee and supported by the Senate

after extensive debate in a relatively close vote is a minimal figure to come forward with to show the American people that Congress cares about unemployment and that Congress cares about a jobs program. For the House of Representatives and the Senate to be in a conference and not to accept even the lesser figure in my judgment simply cannot be explained and is unconscionable and inappropriate.

For those reasons I intend to vote against the conference report and against the continuing resolution.

It may well be that the President when confronted with the continuing resolution as a whole would have accepted the $1.2 billion jobs program.

I noted the President's statement that he would veto the continuing resolution with the jobs program, and I also noted another statement that he would study——

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. SPECTER. Mr. President, I ask for an additional minute.

Mr. HATFIELD. Mr. President, I yield the Senator an additional 1 minute.

Mr. SPECTER. I noted the two statements from the President, one that he would veto the continuing resolution with a jobs program and the second that he would study closely the continuing resolution with a jobs program.

It is my view that it is up to Congress to submit to the President what it is we think he should sign and then it is his responsibility to make the decision to approve it or to veto it.

But I do not think that we should abrogate our responsibility out of fear that he would veto the continuing resolution. It is our job to say what we think should be done and the $1.2 billion jobs program was minimal.

There are a great many factors in the continuing resolution and it may well have been that the President would have signed it with the $1.2 billion program, and I think it is unconscionable for us to leave this special session without that provision in it.

I thank the Chair and I thank the chairman of the Appropriations Committee and the ranking minority member for providing this time for my comments.

Mr. HATFIELD. Mr. President, I would only respond to the Senator from Pennsylvania by saying that I appreciate his concern. I would only remind him that we are in a timeframe in which such long involved discussions with the President on what he would sign was not possible.

I would also indicate the Senator from Pennsylvania signed the conference report, as I signed the conference report.

Mr. President, I know of no other Senator from the minority side or the majority side who have indicated to us their desire to speak. Therefore, I urge the Senate to adopt the conference report.

Mr. SPECTER. will the chairman of the Appropriations Committee yield me an additional minute?

Mr. HATFIELD. Mr. President, I withhold my motion. I would also say that we are not going to sit around here in continuing quorums for another hour waiting for Senators to wander onto the floor. If they have any remarks to make, I want them here now, because we have put too long a time on this thing to dilly-dally around here on this day getting the conference report adopted.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, if the chairman would yield 1 minute to me on my time, I agree with him wholeheartedly. As far as I know, there are no Democrats who now wish to speak. We are ready to vote.

Mr. SPECTER. Will the Senator yield?

Mr. HATFIELD. I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, with respect to the chairman's comments that there is insufficient time, it is my suggestion that we have sufficient time to have a discussion with the President as to what he is going to sign or to make a submission of the continuing resolution to the President and to await his veto. We have time until January 3, when a new Congress will be convened, for the business of the country and the unemployed of the country.

Mr. HATFIELD. Mr. President, may I ask the Senator what he would propose would happen to the Government between now and January 3 that he plans to shut down while we talk to the President? Who is going to pay these people?

Mr. SPECTER. I would suggest that could be forthcoming much sooner than January 2.

Mr. HATFIELD. When does the Senator suggest that?

Mr. SPECTER. I suggest that we submit the continuing resolution to the President. It is as much his responsibility as our responsibility to have the Government to continue to run.

Each time there is a confrontation between the executive and legislative branch, I hear the comments that we are going to take a chance on a Presidential veto and have the Government shut down. Let the President face that alternative. It is equally his responsibility and we should not shirk from what we think ought to be submitted to him because of the consequence that a veto will shut down the Government. There are millions of people who are "shut down"—on unemployment—and their concerns ought to addressed.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. HATFIELD. I thank the Senator from Pennsylvania.

Does the Senator from Alabama wish to ask a question?

Mr. DENTON. Yes. How many pages are in the conference report?

Mr. HATFIELD. I think the Senator has a copy of it on his desk. We were not able to number the pages.

Mr. DENTON. Several hundred would be a pretty good estimate.

Mr. HATFIELD. I would think that is probably true.

Mr. DENTON. I do not think it should be surprising to anyone that those Senators who have problems or potential problems with this have not yet come up with their prepared statements. I think, in all fairness, I should say, on behalf of some of them, that they are indeed going to make emphatic statements on the floor and are not just delaying for the purposes of being annoying. They are trying to understand the fine print. They are trying to understand the report language, as opposed to the language in the bill itself.

Mr. HATFIELD. Let me say to the Senator that this is not a strange document. The Senate has worked its will through the appropriations process and the bills and reports on this floor. There have been changes made in the conference report, but not, I would say, of that magnitude. So we have been through this. This is not a first-time deal that we are looking at. This is a first-time conference report that was completed last night at 11 o'clock.

Now, I must say to the Senator, in my view, the continuing resolution is not the best way to do business. But that is not my choice to make at this time. I have to deal with what options I have.

Mr. DENTON. I am referring to the changes that were made, not to the familiar language.

I think one of those things is about to be addressed by the Senator who just came in behind you, so I yield the floor.

Mr. HATFIELD. Mr. President, does the Senator have any specific questions he would like us to answer at this time?

Mr. DENTON. I do, but there are Senators senior to me who have more authority to address them and I only intend to help them in addressing them.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Schmitt). Without objection, it is so ordered.

Mr. HATFIELD. I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. I thank the distinguished chairman of the Appropriations Committee for yielding me that time.

Mr. President, I share the regret that has been expressed on this floor that a jobs bill did not emerge with the continuing resolution conference report. I think that the jobs bill that we passed here in the Senate, chiefly authored by the chairman of the Appropriations Committee, was a good one. I supported that. I believe it would be beneficial to our Nation. The amount involved was modest when one reviews the total budget. To me it seems regrettable that it was not included in the final conference report.

Mr. President, I also would like to comment briefly on the pay situation.

Mr. President, it has been the decision of the majority of Senators that this year there shall be a pay raise for Members of the House of Representatives, and that the cap on salaries paid to top civil servants and congressional staff members be raised.

At the same time, it has been decided that there shall be no raise for Members of the Senate, although the need for such an increase is acknowledged by many Senators. Instead, that need for Senators is now expected to be fulfilled through honoraria from speaking engagements.

This is bad policy. Clearly, it would be futile to attempt to derail the step we have taken, for the votes do not exist to change the outcome. Yet, I cannot cast my vote for the pending conference report on the continuing resolution without registering a protest.

I have consistently supported the right of Members of Congress—both Representatives and Senators—to earn honoraria, provided there remains a limit on the amount one can receive for each speech, currently $2,000, and provided that there be full disclosure of the amount and source of the honoraria. If Members abuse the practice of giving speeches by ignoring Senate duties—and few do—then they face retribution on election day.

It has always seemed to me that either to deny Members the right to earn honoraria, or to cap the amount that may be earned from speeches, creates a double standard. Those who have no outside source of income other than from honoraria would be limited, but those who enjoy revenue from investmants—in some cases, very substantial revenue—would not be affected in the slightest. Such a policy rewards those Senators who are wealthy and penalizes those who lack resources beyond their Senate salaries.

There is an additional reason for permitting Members—of which I am one—to earn money by giving speeches. It is not only a source of supplementary income; it also serves as a means of drawing Members to different sections of the country to meet diverse groups. The resultant exchange of information and ideas is frequently beneficial to both sides.

But there is all the difference in the world between a policy which treats honoraria as an income supplement, and a policy which is tantamount to requiring such speaking engagements if Senators hope to earn what has been determined to be a proper salary.

By approving the increase for Representatives, we are affirming that the new salary is the proper amount Members of Congress should be paid. By denying such a salary for ourselves, we are stating that giving our services as lecturers is a requirement if we expect to even attempt to keep our income at levels consistent with inflation.

Once again, we are creating double standards, both in setting different salary levels for Representatives and Senators, and among Senators themselves. There are those among us, I believe, who refuse honoraria, or who donate all such income to charities. In essence, this new policy further penalizes these Senators. This is not right.

The great error we have made in connection with our salary is the failure to take the same percentage increases which we annually grant to other Federal employees. By rejecting such modest percentage increases on a yearly basis—and I have participated in these rejections—we have once again found ourselves in a situation where an enormous increase would be required to bring our compensation to the same level as our predecessors, taking inflation into account.

Since 1969, congressional salaries have risen from $42,500 a year to $60,662—or slightly more than $18,000. Yet, the $42,500 of 1969 is equivalent to $114,000 in today's inflated dollars! Clearly that would be excessive but modest steps upward would have avoided the situation that now exists.

I recognize that the die has been cast—the House will be paid more than the Senate. Even so, I think Senators should at least be aware of the ramifications, one of which is that if the imbalance continues, pensions received by retiring Representatives will be higher than the pensions paid to Senators. I suppose that we will soon be asked to restrict the salaries of our staff to keep them below our own, while those who serve the House will be allowed to keep step with inflation.

I had hoped that we could use this occasion to start afresh by awarding ourselves the same 4-percent pay increase we approved for other Federal employees. Such a modest increase is both responsible and reasonable. I do not believe it would be begrudged us by the American people.

Sadly, that is not to be. I think we are making a mistake, and I believe we will come to regret it.

I thank the chairman and the ranking Member for giving me this time.

Mr. HATFIELD. I am happy to have yielded time to the Senator from Rhode Island.

I suggest the absence of a quorum. Mr. President, I ask that that time be charged against my time.

The PRESIDING OFFICER. The Chair advises the Senator that that is automatic.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I understand the minority leader has a few remarks he would like to make. I yield whatever time he may wish.

Mr. ROBERT C. BYRD. Mr. President, In the face of the deepest and severest recession since the days of the Great Depression, this Congress is about to adjourn without having enacted any jobs program into law. Because of the President's unyielding opposition, the conferees have been forced to drop any jobs program from the continuing resolution conference report, even though more than 12 million Americans are jobless—the largest number since 1933.

Senate Democrats worked hard to develop a jobs program which could earn bipartisan support.

We worked hard to craft a jobs program that targets help where it is needed most, that takes careful note of the lessons we have learned from past job creation efforts, that is fiscally responsible, and that distributes the burden of paying for this additional spending in the fairest way. We do not claim that our program is a panacea; on the contrary, it is only a first step in the effort to turn this economy around and put America's jobless citizens back to work. I regret very much that it is a step which the President is evidently not prepared to take.

What is the President's alternative? What is it that he believes we should do to offer America's jobless hope for the future? We do not pretend to have a corner on wisdom, we know that ours is not the only answer. We are ready to listen to other approaches, to meet the President halfway. But we have heard no suggestions from the Presi-

dent or his advisers, no alternate approach to adding the 12 million Americans who find themselves without jobs in this Christmas season.

We understand that the provisions that were in this bill, in and of themselves, were not going to resolve the unemployment problems, but it was certainly a step, a major step, in the right direction. It was a step that would give hope. It was a step that indicated that Congress recognizes the problem, and that Congress is willing to do something about the problem. But with the President's threats to veto a continuing resolution containing the jobs program, I think such a threat was a sledgehammer held over the heads of the conferees and in order to keep this Government from coming to a halt—a screeching halt, very soon—they had to do the best they could do under the circumstances. So, they dropped the provision, under that pressure.

The simple fact is that we cannot afford any longer to "stay the course". We must get America's economy off its back and moving again. Perhaps the most important provision of the continuing resolution is the one which expresses the sense of the Congress that monetary policy should continue to concentrate on achieving a level of interest rates that will help us climb out of this recordsetting recession.

Mr. President, this economy is not going to straighten itself out unless interest rates come down and the investors of this country, and the business community of this country have some confidence that real, positive interest rates are going to come down and are going to stay down, within a reasonable range of inflation.

There may be no more crucial part of this legislation than this sense of the Congress, for it tells the Federal Reserve Board that Congress wants interest rates at affordable levels.

Since the President's veto threat forced the Senate-House Conference Committee to drop the modest job packages approved by each body, the resolution of Congress in favor of reasonable interest rates and responsible monetary policy offers the only hope for the unemployed in this bleak Christmas season.

I am sure that the Federal Reserve Board will pay careful attention to this resolution when setting its monetary policy targets for the coming year, and I hope our colleagues on the Banking Committees will use the monetary policy oversight hearings next February to assure compliance with this resolution.

Mr. President, I compliment Mr. HATFIELD, the chairman of the Senate conferees, and I want to compliment and do compliment Mr. PROXMIRE, the ranking member, for the work that he did in chairing the Senate conferees. I think the conferees worked long and they worked hard. I am very disappointed in the dropping of the jobs provision and I think that that can only be laid at the door of the White House.

At the White House, according to news reports I read, the President was intent on vetoing any continuing resolution that carried a jobs provision. I may be misstating the news reports, but that is the impression I had and now have. Certainly, that Damocles sword was hanging over the heads of the conferees, and the conferees were forced to act responsibly. Certainly, the Senate conferees, for the most part, wanted to retain the jobs provision and I assume that many House conferees wanted to do the same. But they were also faced with the freight train that was coming down the track, the fact that the Government was coming to a halt and checks were not going to go out, that social security recipients, veterans, military personell, and others, would not get their checks and so on, et cetera, et cetera, and many Government agencies would grind to a halt.

The conferees were faced with that situation.

Mr. President, I am sorry that the President insisted on a date in the continuing resolution that expired last Friday at midnight. This whole thing could have been avoided, this whole postelection lameduck session could have been avoided if there had been an expiration date of, say, next March 1. Congress would have been out of session and could have come back in January and we could have dealt with this continuing resolution in a situation that was not a pressurized and emotional situation such as the one in which we find ourselves now, with time already having run out and with the Government being put in the position of having to be brought to a halt.

Mr. HART. Mr. President, I wonder if the minority leader will yield for a question?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. HART. I was struck by the comparison the minority leader used in his opening remarks about the situation the country found itself in in 1933. I wonder if the minority leader will agree that perhaps the first and foremost, most important thing that Franklin Roosevelt did for this country under those circumstances was to give the American people hope? Would he agree with that proposition?

Mr. ROBERT C. BYRD. Yes. Yes, I do agree. I was in high school. I was in the 11th grade in 1933, and so I very well remember that 4,000 banks closed their doors in 1 year. I very well remember that there were 12 or 13 million people walking the streets and the country roads of this country looking for work. They could not find work.

During earlier years I sold the Cincinnati Post, saved up $7, put the $7 in a bank at Matoaka, W. Va. The bank went under, and I have not seen my $7 since.

So I very well remember a good bit of what happened during the great stock market crash, and predepression days and the Great Depression days when businessmen, bankers, and other people, those who had shares of stocks, were jumping out of windows, or some of the few people in this country who had automobiles in those days who were pulling them into garages and closing the doors and turning on the motors and taking their lives, or pressing cocked pistols to their temples and snuffing out their lives because their whole financial world had come crashing down around them, and their life's savings had been snuffed out overnight.

I can remember the first thing Mr. Roosevelt did. He declared a banking holiday, and in those first 100 days, numerous laws were passed, one of which was that the miners and other working people who had no right to bargain collectively were given a right to bargain collectively regarding their working hours and wages. During that administration came the social security program, and unemployment compensation, many other laws, and a law which provided for insurance on bank deposits so that never again would a little boy sell the Cincinnati Post and see his $7 go down the drain.

But the President and a Democratic Congress took action to put people back to work and to give this country hope. I can remember as a young lad, 15 or 16 years of age in the 11th grade, the hope that surged across this land like a tornado when Roosevelt was elected. It was a feeling of hope that, at last, here was a President and a Congress that were going to act to put people back to work and take people out of the soup kitchens, the veterans selling apples off the street corners, and make it possible to get jobs.

Mr. HART. If the minority leader will yield further, did not President Roosevelt, the President that this President continues to quote all the time, do that by uniting the country, by pulling it together rather than dividing it and using confrontation and setting class against class?

Mr. ROBERT C. BYRD. Absolutely, he did. I have never seen a time when there was a President who had more unification on the part of the American people. They were on the verge of revolution, but when Roosevelt was elected there was hope and they came together. The fact that the President was able to accomplish so much in the first 100 days of that Congress—and we have heard time and time again my senior colleague (Mr. RANDOLPH) speak of programs enacted in those 100 days—was because that President had a mandate from the people. I think it

was one of the moments in the history of this country which cannot be equaled. There was born a new feeling of hope, rather than despair. Order was to take the place of chaos. Faith replaced desperation.

Mr. HART. Is it not also the case that the leadership of the Congress was fairly united; that we really did not want to have a so-called lameduck session because we did not think that it was necessary but that the President of the United States insisted on it; when it was insisted upon, it was undertaken by leadership on this side of the aisle and in the House to try to take a step in the direction of solving this country's most urgent problem, and that is unemployment; when the Congress, both Houses had tried to do that, it was in fact the President of the United States who, having called the lameduck session back, now sends it a message that he does not want even a single vital step taken on the road to providing hope again and bringing the country back together again? Is that not pretty much the case of what happened here?

Mr. ROBERT C. BYRD. The distinguished Senator preeminently reflects my feeling in the matter better than I could speak it myself.

Mr. HART. Does that not leave us then at this hour with perhaps the worst of all worlds, having displayed a rather lengthy struggle in the Halls of Congress and the Senate and beyond to try to solve some of these problems even in an inadequate way and we are now sent a message from the House and the President of the United States that he will not accept this continuing resolution if it has any provision in it that is going to provide jobs for even a handful of people?

Mr. ROBERT C. BYRD. That is the message that I have heard. That is what I got from my understanding of the media reports.

Mr. HART. And it does not do us good really as a Congress to kick ourselves around for failure because it really is not our failure; it is the failure of the leadership of the White House and his rejection of the actions which the Congress has tried to take?

Mr. ROBERT C. BYRD. And the stubbornness, if I may say so, on the part of the White House. We went through all this last year. We passed a continuing resolution which, as I recall, the President promised the majority leader of this body (Mr. BAKER) would be accepted.

So we passed that continuing resolution. What happened? A veto occurred, and that veto caused some agencies to shut down. It cost taxpayers money. But the President had to show his macho.

So here we are again. We did not want to come back for a lameduck session. All we needed was to pass a continuing resolution that would have expired on March 1 or March 30 or April 1, or whatever, and we would have avoided this session, but the President wanted the Congress to come back and pass the remaining appropriation bills. I think we have passed four since we have been back. And do not forget that we spent 5 weeks this summer debating a debt limit extension in order that certain Senators could offer amendments prior to the election, amendments which did not deal with jobs necessarily but which dealt with various emotional social issues—which could be used as campaign ammunition against incumbent candidates.

Now here we are, at the last moment, with the threat of a Presidential veto if a jobs provision is in the legislation. I think the conferees did the best they could do. I certainly want to commend them. We are now at a point where we can only vote this conference support up or down. It cannot be amended, and there are no amendments in disagreement.

Mr. HART. But the leadership is going to be as frustrated as the Senator from Colorado if the interpretation of what has happened here is that this Congress failed to pass the jobs bill. That is not the story.

Mr. ROBERT C. BYRD. That is emphatically not the case.

Mr. HART. The story is that the President of the United States threatened to veto the jobs bill. That is the story.

Mr. ROBERT C. BYRD. That is correct. That is the story the American people ought to hear, and ought to know. Congress passed a jobs provision. It was in the continuing resolution. It passed both Houses. And there then came this threat of a veto by the President.

What were the conferees to do? They have done their best. I cannot criticize the conferees. I can only say that the leadership which existed in 1933 at the White House does not exist now.

Apparently there is not that same understanding of the plight of the unemployed in this country and the need for giving the unemployed people hope.

Mr. HART. And instead of Government by unification we have Government by confrontation.

Mr. ROBERT C. BYRD. Yes. And Government by confrontation is not good for the Nation.

Now. the President may have won a victory on this, but it is not a victory for the unemployed.

Mr. HART. The American people are tired of those kind of victories.

Mr. ROBERT C. BYRD. The American people are tired of confrontation, tired of that kind of victory. I must say that in my judgment the minority in this Senate has worked in a very cooperative fashion with the majority. We have offered our alternatives when we disagreed with the majority. We offered our alternatives last year on the Kemp-Roth tax bill. We offered our alternatives on the budget cut packages last year. We offered our alternatives on the gas tax package on which there will be a vote today, on the Baker amendment, and then there will be a cloture vote on the bill itself today. We have cooperated in every way possible even though some of us will not vote for the gas tax bill. Yet, we have not sought to obstruct or delay. We have not followed a policy of obstruction and confrontation. We have done everything to cooperate and expedite passage of appropriations bills and the continuing resolution so that Government agencies could continue to function and checks might not be delayed for those entitled to receive them. We have performed the part of a responsible minority.

We in the minority have followed a policy of responsibility. We have tried to do our duty and where we could not agree, we offered our alternatives. We were voted down.

So I think it has to be said that this has been a minority that has acted reasonably and that many times could have obstructed. We did not have to give cloture on the gas tax bill and the majority could not have gotten cloture without the help of the minority here because it takes 60 votes, but we gave cloture on the Baker amendment, and as far as I am concerned, I am willing to give cloture on the gas tax bill itself this evening, and I think that there are a good many Democrats who are willing to do that. We in the minority are also willing to allow passage of the bill tonight. What happens beyond that point is something else.

We may then have to reevaluate our position, but we have cooperated in every way.

All we see from the White House is a politics of confrontation. The President vetoed a supplemental appropriation bill this year. He called it a budget buster. Yet, it was $1.9 billion under what the President requested. And that raised the hackles of a lot of our friends from the other side of the aisle who had worked hard on behalf of that supplemental appropriations bill.

The chairman of the Appropriations Committee, Mr. HATFIELD, and the chairman of the Budget Committee, Mr. DOMENICI, did not like it because that bill was called a budget buster. It was $1.9 billion under what the President had requested. And we saw then a bipartisan grouping together to override that President's veto and we overrode it by 60 to 30 votes which was a two-thirds vote here in the Senate.

Again, let me say that the President, if my memory is correct, not once, not twice, but at least twice, maybe three times before a joint session of the two

bodies early this year stated there would be no increase in taxes this year. What did he do? He reversed himself and supported an $89 billion tax increase, and again now he is supporting the proposed tax increase on gasoline.

I do not quarrel with Senators who wish to support that tax. That is their business. And I find no fault with any Senator who disagrees with me on that, but I say we have cooperated and this side has not filibustered. There has been a little minority on the other side that has filibustered. But we have tried to be constructive, we have tried to come up with a jobs provision that has had the support of at least some Members of the majority party, and yet the President has held out the threat of vetoing that continuing resolution.

I do not doubt his willingness to veto it because he has held out these threats before and he has followed through on them.

Mr. HART. Mr. President, the majority leader mentioned a minute ago the fact that the President can now claim a victory. I think that is exactly what is wrong with our Government today. Outside the beltway of this city people do not care about that kind of stuff. That is big news here in Washington. The President won a victory. It is like a political scorecard. The President wins one, Congress loses one; the Democrats win one, the Republicans lose one, and vice versa.

That does not mean anything to the American people. They do not see their Government that way. They do not see it like a baseball scorecard. They, for that matter, do not care who wins or loses so long as this country is doing well.

What I am suggesting, and I think the minority leader agrees, is that kind of confrontation, that kind of Government by scorecard, Government as a sport, who wins more often than the other side, is what has gotten this country into trouble.

And the minority leader is absolutely right about bipartisan cooperation. That is not the issue. The issue is there is no cooperation between the White House and Congress.

Mr. ROBERT C. BYRD. That is exactly right. That is precisely correct.

The Democrats in this body are an "invisible" force as far as the White House is concerned. They are not considered at all except when the administration wants something.

As far as I know, the minority in the other body, which is the Republicans, may not be considered—I do not know—I cannot speak for them at all.

But there is going to come a time when this Senate minority is no longer going to be an invisible force because the people out there beyond the beltway, as the Senator referred to them, may be interested in the scorecard as far as the Redskins are concerned, as far as the West Virginia University football against Penn State or Pitt, or West Virginia at the Gator Bowl—but they are not interested in the scorecard on who wins and who loses here in these confrontations, many of which do not have to happen. There does not have to be confrontations. They seem to be set up by the White House in order that they can have a confrontation and declare a victory from time to time.

The people outside the beltway and some of them within the beltway are not interested in that kind of scorecard and they are not interested in confrontation. That is not doing the country any good.

Mr. HART. I just hope tomorrow when they pick up the newspaper they do not read that Congress failed to pass the jobs bill. That was not what happened here.

Mr. ROBERT C. BYRD. That is exactly what has not happened.

Mr. HART. The President threatened to veto the jobs bill and it was dropped. That is the story.

Mr. ROBERT C. BYRD. I have one important paragraph which I shall read and then I will yield.

Mr. President, the conferees have been forced by the specter of a veto to jettison any effort to include a jobs program, however modest, in this continuing resolution. But unemployment will not go away with the adjournment of this Congress. On the contrary, it will be the first and most pressing issue before the new Congress when it convenes in January. It is a challenge which Senate Democrats stand ready to meet.

Again, I compliment the conferees. I intend to vote for the conference report. We can either vote it up or vote it down. I see no point in voting it down because why go through this again and come in with a slimmed down version. The House of Representatives has already dispensed with their conferees, so we cannot sent it back to conference. There is no conference which to sent it. The House of Representatives adopted the conference report and they have discharged their conferees. Even if it were possible for us to vote this down and if it were possible to get the votes by some parliamentary procedure to start it all over again, and I have no doubt that that could be done, we would get a slimmed down continuing resolution that still would not contain the jobs provision in it and the President would have won on the scorecard again and the people again would have lost.

I say instead of running that risk and instead of running the risk of bringing the Government to a halt and at a cost of millions of dollars to the American people, again we are put in the position of having to vote for a conference report, having to vote it up—at least I feel that way—that does not contain the provisions which Congress wanted and in this instance provisions which would have helped the unemployed, which would have given the unemployed hope and which would have given the employed who are wondering when they are going to get their little pink slips also some hope.

I for one will vote reluctantly for the conference report.

Mr. SARBANES. Mr. President, will the minority leader yield?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. PROXMIRE. Mr. President, how much time does the Senator require?

Mr. SARBANES. Three minutes.

Mr. PROXMIRE. Mr. President, I yield 3 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, are the managers of the bill familiar—if I could have the attention of the floor manager—with the report on the wire, and I quote:

> GOP aides hinted that Reagan may not make a decision for a day or two on signing the bill making reference to the continuing resolution. Perhaps part of the delicate balancing act is designed to increase chances for passage of the gasoline tax measure in the final hours of the 97th Congress.

Is the manager of the bill familiar with this report?

Mr. PROXMIRE. No, I am not. This is the first I have heard it.

Frankly, I am shocked and surprised. The President has had plenty of time to study this.

It is true that we acted on the MX which affects his decision on the jobs part of it, but I am very hopeful he will sign the bill.

As the Senator will recall, he vetoed a continuing resolution in a similar situation last year.

Mr. SARBANES. Speaking of confrontation, which is what the minority leader is just referring to, I cannot think of a clearer instance of it than the apparent indication that the President and his aides are seriously considering simply holding this bill for a day or two and using it as apparently a lever on the highway gas tax bill. That is apparently what this report states.

Do the managers on the other side know anything about this?

Mr. STEVENS. I do not know. If that is true, I will say to my friend—and you are going to hear some of that later this afternoon, there are several people who are severely strained by that portion of the bill that I managed, the defense bill—I think we have done the best we could under the circumstances. But it is my understanding there are quite a few of those provisions that are being reviewed now.

You have to remember they did not even get a copy of them until just this afternoon and see the actual text of the agreements we made.

The normal enrolled bill period is 10 days. The Senator realizes that, and it usually takes 10 days for the departments to report to the President, and they are supposed to report to them by this evening.

I would say it is at least 2 days before we will know whether the President is going to sign this bill.

Mr. SARBANES. It is going to be at least 2 days?

Mr. STEVENS. That is what I believe.

Mr. SARBANES. So there is credence to this report.

Mr. STEVENS. Today and tomorrow.

I think we will not know before tomorrow evening at the earliest.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

I think the American people are entitled to know whether the President is or is not going to sign this bill. I think all of this gamesmanship, we ought to forget it. He should say so.

Mr. STEVENS. Even though I do not have the floor, with all due respect, that is not what I said.

Mr. ROBERT C. BYRD. I know that is not what the Senator said. I am saying what I am saying. It is power gamesmanship. If what the Senator from Maryland is saying is accurately reported, that is gamesmanship, and I say the time for that has stopped. The President ought to indicate whether or not he is going to veto this bill.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. He certainly have advisers who can tell him what is in this bill. He does not need 2 days to make that determination, and he ought to say if he is going to veto it. Let the other body prepare a slimmed out version, and if he is not going to veto it, we ought to know.

Mr. STEVENS. I will say to my good friend, and I very seldom disagree with the Senator from West Virginia, I want you to know that there is more than $380 billion here. We started some ways the administration did not request. We have eliminated programs—it is $380 billion.

Mr. PROXMIRE. I yield an additional minute to the Senator from Maryland.

Mr. STEVENS. I would be happy to take the time out of this time over here for a minute or two if you do not mind, just to let me finish this response.

I served downtown in the administration in other days, and I know how long it takes to build up enrolled bill reports. The way we did this thing so fast we are not sure that there are not errors in this bill. I think it is incumbent upon us to give the President of the United States a chance to review this bill and not to start talking about some rubber stamping because we want to get home for Christmas.

We knew what we were doing when we sent this bill down or we will when we send it down now. They do not even know what the final terms are there yet, and when it gets down there they have a right to review it, and I would be astounded if any President of the United States signed a bill of this size without some reviewing of it by the Attorney General and the departments involved.

I do not think it is posturing or leveraging. The Government is going to go on. We learned that under the last administration when we were told we had to get this thing done or the Government is going to shut down. It has happened before, and it is not going to shut down. The bill has been passed or the bill will be passed, and they have every reason to know the money is going to be provided if it is not vetoed, but they have the right to review it.

Mr. SARBANES. If I can have the attention of the majority whip, the wire report which I quoted reads as follows:

GOP aides hinted that Reagan might not make a decision for a day or two on signing the bill, perhaps part of a delicate balancing act designed to increase chances for passage of the gasoline tax measure in the final hours of the 97th Congress.

Now, putting to one side all of what the majority whip just said about reviewing the provisions of the continuing resolution and his own distinguished and commendable prior experience in the executive branch, what about this report that the President intends to hold the continuing resolution in effect hostage for a day or two pending the passage of the gasoline tax measure?

Mr. STEVENS. I would say to my friend——

Mr. SARBANES. Will you comment on that report?

Mr. STEVENS. I would say, you know, we have been involved here last evening in all this business, and I have not been near any Christmas cheer yet, but it sounds to me like someone down there has because it has nothing to do with the facts. The President had not even gotten this bill yet, received this bill yet.

When the President receives it he must have it reviewed. I want you to know I was on the committee and I am still trying to make certain that the language that is in this bill is what we agreed on last night. I have got people in the office back there right now checking it over trying to make certain.

I am fairly certain the administration is going to check it over word for word because there are some very important programs here, and if they are not the way we thought they were, I might be the one to ask him to veto it because we had some agreements, and I want to make sure they are in this bill.

Mr. SARBANES. So the majority whip is, in effect, telling us he does not expect the President, for whatever the reason may be, to decide on signing this bill before tomorrow evening at the earliest, is that correct?

Mr. STEVENS. At the absolute earliest.

The PRESIDING OFFICER. The Senator from Maryland's 1 minute has expired.

Who yields time?

Mr. STEVENS. I do not know how much time we have, but I yield 5 minutes—

The PRESIDING OFFICER. The majority has 51 minutes.

Mr. DOLE. I do not need much time.

Mr. STEVENS. I had better yield him 3 minutes then because that is what he does to me on tax bills.

Mr. DOLE. Mr. President, I will not need 3 minutes. I heard the gas tax bill mentioned and that got my attention. I had hoped we would move on with the continuing resolution. We have 4 hours, and I hope we give the President at the least the same time we give ourselves to review it. Those opposed to our gas tax can demonstrate that when we come to the gas tax. But we really believe the highway bill will be passed, should be passed, and will be signed.

It may be that we will stay in Congress 1 additional day, but not many Americans get 3 weeks off for Christmas, and we will somehow struggle along.

I hope we pass the continuing resolution and move along to the highway bill. Those who want to kill the highway bill will get their chance.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. STEVENS. We do not have any time.

Mr. DOLE. My 3 minutes have not expired, just relax.

Mr. SARBANES. If the gas tax bill passes the Congress tonight, would you expect the President to sign the continuing resolution this evening so that people can go back to work in the morning?

Mr. DOLE. I have not talked to anyone about that. That is the judgment of the President. I ran and did not do very well, and he got elected, and he will make that judgment.

Mr. SARBANES. What is the Senator's expectation?

Mr. DOLE. I expect him to do the proper thing. He always has. [Laughter.]

Mr. SARBANES. You know, the Senator has developed a tremendous reputation in this country for his one-liners, and I can understand why. It

has just been demonstrated once again.

Mr. DOLE. And candor, too. [Laughter.]

Mr. PROXMIRE. Mr. President, I yield 3 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I thank the Senator from Wisconsin.

I might add an additional word. I, personally, find the wire report very disturbing and, if in fact the White House is using the continuing resolution as leverage with respect to the gas tax bill or the Caribbean Basin Initiative or anything else, I think that is an outrageous display of gamesmanship that the White House is undertaking. In fact, it confirms my view that the White House has been even more cynical than I thought they were.

We in the Congress did not want this lameduck session in the first place. The leadership of both Houses were opposed to this session. We are here because the President wanted us to be here.

Not only that, we are supposed to be here to pass a continuing appropriations resolution. Now the White House is pushing through the CBI and other legislation it wants and, apparently, is going to hold hostage the continuing appropriations resolution.

I think this kind of gamesmanship, as referred to by the minority leader, the Senator from Maryland, and by the Senator from Colorado, is absolutely demeaning of the Office of the President of the United States. I hope that is not what is going on.

One other matter, Mr. President, refers to action taken by the conference committee, that is the physician peer review which was cut from $25 million in the Senate bill to $15 million. I think this is very shortsighted.

Medicare costs are going up significantly in our country due, in large part, to hospital cost increases. The physician peer review system helps to put a lid on hospital costs. If we cut out the physician review, that is PSRO, in our country, medicare costs are going to continue to rise.

In addition, the administration is now talking about using a prospective reimbursement in medicare. Mr. President, if that happens, if we have prospective reimbursement in our medicare programs, hospitals will be inclined to add more patients to increase their bills on medicare. That, of course, is going to put more upward pressure on medicare.

If we do move to prospective reimbursement, we should have peer review to help keep the lid on, help keep the clamp on, and help reduce unnecessary hospital costs.

So, Mr. President, I regret that the conference has taken this action that was proposed, in large part, by the other body. I think it is very shortsighted.

The conferees agreed to lower the appropriation for physician peer review from $25 million, which was agreed to in the Senate Appropriations Committee, to $15 million. The House bill would have funded peer review at just over $24 million, the current rate of funding. However, the conferees chose to lower the appropriation, put forward by both Houses, by almost half.

If this provision is not changed, the medicare trust funds, already financially strapped, will be paying for health care that is not necessary or appropriate. If this provision is not changed, America's 25 million elderly and disabled will not be guaranteed that the care they receive is of high quality. If this provision is not changed, physicians who protect the Nation's investment in health care through local peer review organizations will be arbitrarily terminated as grantees by an administration that has never hidden its hostility to them.

Mr. President, we should not take the irresponsible fiscal step called for in this continuing resolution. If peer review is funded at $15 million, instead of $25 million, it appears that between one-third and one-half of the existing physician organizations will have to be terminated.

And who will decide which peer review organization will be terminated? The continuing resolution says that the Department of Health and Human Services shall terminate ineffective and inefficient peer review organization—the HHS Department which is opposed to physician peer review; which has, for 2 years, tried to zero-fund this program; which has conducted an evaluation of peer review organizations which GAO says is unfair and discriminatory.

So we have a situation where peer review organizations, which save the Government money, will not be funded. Many will have to be terminated. But the decisions about who will be terminated will be made by those in HHS who want to eliminate this program. And these HHS officials can use an evaluation methodology discredited by the GAO.

Mr. President, the Finance Committee is convinced that peer review is needed. The Finance Committee this year rewrote the peer review legislation. The Finance Committee sees the need for strong peer review organizations as we develop a new prospective reimbursenemt system for medicare.

It is worth noting that members of the House Ways and Means Committee and the House Commerce Committed accepted, without objection, the peer review legislation prepared by the Finance Committee. It is apparent that the committees with substantive programs know the merit of peer review.

The action taken this past weekend to reduce peer review funding is, I think, shortsighted. But, to be perfectly candid, I see little that can be done to remedy the error that was made. The appropriations process is not the place to legislate. Medicare beneficiaries will suffer by the action taken on peer review. The medicare trust funds will be less secure. I can only hope that remedial action will be taken early in the next Congress to shore up the peer review system.

I thank the Senator from Wisconsin for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum and ask that the time be taken out of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 49 minutes and 2 seconds remaining and the Senator from Wisconsin has 53 minutes and 54 seconds remaining.

Mr. STEVENS. Mr. President, I yield to the Senator from New Hampshire such time as he may need.

Mr. RUDMAN. Mr. President, I rise, not to support the conference report on the continuing resolution, which I do, but to discuss the conference committee's action in relation to the Senate amendment on Federal Trade Commission jurisdiction over the professions and their professional associations.

Mr. President, the issue of FTC jurisdiction over the professions has been one of the most heavily lobbied and thoroughly debated issues before the 97th Congress. It was considered by the House Energy and Commerce Committee, the Senate Commerce Committee, the Senate Appropriations Committee on two occasions, the full House, and the full Senate.

As frequently happens in matters of this kind, a compromise proposal was developed and adopted by the full Senate on a vote of 59–37 early Friday morning. The compromise, which I had initially offered in the Senate Appropriations Committee, eliminated the FTC's authority to invalidate any State laws relating to requirements for licensure and professionals' scope of practice, but retained the FTC's authority to bring antitrust and consumer protection cases. It differed

from the compromise which had previously been defeated in the House by 195-208 in that the House version contained a "pre-exemption override" which effectively allowed the FTC to make its own determinations as to which State laws it could not preempt. Many Members of Congress, in both Houses, were concerned that this created a loophole that the FTC could exploit to make the restriction meaningless. The Senate version of the compromise would have surely been approved by the House, and I believe it properly reflected the will of both Houses of Congress. Thus, although the House version of the continuing resolution contained no restriction, it seemed fair to assume that the House conferees would accept the Senate provision.

Mr. President, it is no secret that my preferred position on this issue was to have no restriction at all. Nonetheless, having produced a compromise position which had the support of a majority of Congress, I felt an obligation to see it enacted into law and to hopefully permanently dispose of this issue.

Through a series of discussions on Friday, all the many organizations opposing a complete exemption for professionals from the FTC agreed to support the Senate position, although many of them did so somewhat reluctantly. In addition, two of the three organizations supporting the complete exemption, the American Dental Association and the American Optometric Association, also decided to support the compromise. Mr. President, I will ask that a copy of a letter I received from the ADA be entered into the RECORD at the conclusion of my remarks.

Thus, Mr. President, it came as some surprise to discover that the American Medical Association alone was opposing the amendment and preferred to have no restriction on the FTC rather than the compromise adopted by the Senate.

The AMA not only opposed the Senate compromise, but they actively lobbied against it. And, I found myself in the ironic position of pushing for some restrictions on the FTC's authority over professionals while the AMA was pushing for allowing the FTC to retail its full powers.

We spent a considerable amount of time on this issue in conference, more than on almost any other issue, and the Senate conferees twice voted to insist on the Senate's position. Incidentally, the only Senators who voted to recede were Senators who voted against the compromise on the floor. The chief opponent to the Senate position among the House conferees was the distinguished chairman of the House Appropriations Committee, who was an original cosponsor of the total exemption for professionals. Ultimately, the Senate conferees were forced to recede and there is currently no restriction on the FTC's authority in relation to professionals in the continuing resolution.

Mr. President, I have given this rather lengthy recital so there would be no doubt in anyone's mind why the Senate compromise was dropped. It was not because of the efforts of those who opposed any restriction—they were willing to live with the compromise. It was the result of intense lobbying by the AMA and the AMA alone.

The question arises, Mr. President, as to why the AMA would prefer no restriction to the compromise adopted by the Senate. The fact is that the entire line of argument the AMA has raised for their amendment relating to State jurisdiction and the FTC getting involved in "quality of health care" decisions is a smokescreen for their real purpose. While those are a legitimate concern to many, the AMA's real purpose is to prevent the FTC from taking actions against State and local medical associations for price-fixing charges and the like. A compromise which left that problem of theirs unresolved was simply unacceptable to them.

Mr. President, I would hope that my colleagues remember this when, during the 98th Congress, the AMA again lobbies for a complete exemption for the AMA. The issue for them is not State jurisdiction or quality of care, as it is with the dentists and optometrists. The issue is price fixing, boycotts, and restrictions on ethical advertising.

For my part, I can categorically state that, as long as I am a Member of the Senate, the AMA will not successfully exempt themselves from FTC enforcement of the same antitrust and consumer protection laws that all businesses throughout the country must comply with.

Mr. President, I ask uanimous consent that the letter I received from the American Dental Association be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN DENTAL ASSOCIATION,
Washington, D.C., December 17, 1982.

Hon. WARREN RUDMAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RUDMAN: The American Dental Association believes it is extremely important that Congress take action this year clarifying FTC's jurisdiction with respect to invalidating state laws establishing training, education or other requirements for the licensure of professionals and the scope of their practice.

As you know, the Association opposed the earlier version of your amendment which would have allowed the FTC to make its own determinations with regard to which state laws could be overridden.

The language of your revised amendment which was adopted by the Senate Appropriations Committee is a significant improvement and we are therefore strongly supportive of its enactment.

We thank you for your consideration of this important matter and your efforts to resolve a substantial part of this controversial question.

Sincerely yours,

BURTON H. PRESS, D.D.S.,
President.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum and ask that the time be taken out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield me 6 minutes?

Mr. HATFIELD. I yield 6 minutes to the Senator from Alaska.

Mr. STEVENS. Mr. President, we have an extremely unusual situation in the case of the Defense Department portion of the continuing resolution. As Senators know, the House-passed resolution based defense spending authority on the provisions of the House-passed Defense appropriations bill while our version used the terms of the Senate-reported Defense appropriations bill. The conferees agreed as a realistic alternative to include the separate conference agreement on the entire Defense appropriations bill in the final report on the continuing resolution. Thus the conference report now before you does include the Defense appropriations bill in full, line for line, for the full fiscal year.

The managers for both the House and Senate thought it was important to conclude work on the Defense spending bill in this fashion for several reasons. First, the Defense appropriation is the largest of the spending bills enacted by Congress and addresses many issues critical to the Nation's security. Confining a bill of this size and complexity to a continuing resolution formula and leaving many significant issues unresolved is not a responsible solution in the final days of this Congress. Further, Mr. President, it is costly and damaging to underfund our armed forces and our national security requirement on the basis of some stopgap formula. Keep in mind that both

Houses had an opportunity to review, amend and vote on defense spending measures. Indeed, the Senate version underwent several floor revisions this past week as a part of the continuing resolution.

I call attention to the fact that we have not followed the usual formula of taking the lowest amount in the House bill and the lowest amount in the Senate bill in the continuing resolution.

We have met in conference on the Defense appropriations bill and it is covered in this bill.

Now, Mr. President, let me cover major issues in the conference agreement on Defense Department funding.

On the MX, with regard to the controversial question of MX strategic missile funding, Mr. President, it is accurate to say neither the House nor the Senate conferees are content with the final agreement. In the face of adamant House opposition, the final agreement deletes the $988 million approved by the Senate for MX Missile and basing procurement. However, the House did agree to language in the statement of the managers authorizing deployment of any missiles produced with the $2.5 billion in research and development funding once Congress has approved a permanent basing mode. That is a significant concession, Mr. President, because it permits progress on production of the MX and should preserve the 1986 initial operating capability goal established by the President. The restrictive lanaguage preventing obligation of certain R&D funds until Congress adopts a resolution approving a permanent basing mode is essentially that approved by the Senate. Finally, the R&D allowance agreed to in conference is $60 million more than approved in the Senate.

Mr. President, we would have preferred to preserve the Senate's position on the MX procurement, but this was impossible.

Let me read into the RECORD at this point to make certain that everyone understands the report language that is before the Senate on the MX missile.

MX MISSILE

The conferees agree that no further Congressional action on the $988,000,000 for MX missile and basing procurement will be taken until both houses have approved a basing mode. The conferees agree that a total of $2,509,332,000 be provided for MX and basing mode research, development, test and evaluation. The conference Committee bill restricts obligation or expenditure of $560,000,000 for full scale engineering development of a permanent basing mode until both Houses of Congress have approved a permanent basing mode. Further, no missile flight testing will be conducted until both Houses of Congress have approved a permanent basing mode.

The conferees note that the MX research and development program includes the acquisition of missiles. When both the House and the Senate have approved a permanent basing mode, missiles which have been acquired under the research and development program may be deployed in the approved permanent basing mode. The conferees intend by this action to emphasize their firm commitment to modernization of our strategic nuclear forces.

Mr. President, I think that despite all of the controversy about it, this portion of our bill is one that merits our approval.

It has been a most difficult conference because of the circumstances in which we faced the issues before us.

HIGHLIGHTS:

OPERATION AND MAINTENANCE

The conferees agreed to an allowance of $67.3 billion which is $84 million less than the Senate allowance and $384 million more than the House allowance. We feel that this fully supports the readiness aspects of the budget through funding for the pay raise, increases for real property maintenance and an enhanced flying hour program above the budgeted levels.

The conference agreement is $3.8 billion below the budget request. More than half of this reduction in the O&M budget stems from pricing adjustments for fuel and foreign currency—these reductions have no impact on readiness. Other reductions implement authorization limitations or unjustified costs which marginally affect readiness.

PROCUREMENT

The conference committee's $80.3 billion recommendation for military procurement is $9.3 billion below the President's budget and $6.1 billion under the authorized level. It exceeds the House allowance, however, by half a billion dollars, and provide $15.3 billion more than the 1982 funding level.

For the Army, this means full authorized funding for such key systems as the Apache and Black Hawk helicopters but not new procurement funds for the Pershing II intermediate range missile. Funds have been added to insure that the European deployment date for Pershing can be met. The recommendation for the M-1 tank supports increased production to 855 tanks. No procurement funding is recommended for the Viper antitank weapon as recommended by the Senate.

For the Navy, the authorized combat aircraft program is fully funded but at a level $963 million below the budget. The conferees agreed to funding less Trident C-4 missiles than the House in anticipation of an early introduction of the newer D-5 missile. The conferees recommended holding Tomahawk missile production essentially at 1982 levels in view of recent production and cost changes. Despite these and other reductions, the conference still recommended $3.6 billion for Navy missiles, torpedoes, and other weapons. This is an increase of $354 million over 1982 funding.

The largest acquisition investment is recommended for Air Force procurement of aircraft—$17.7 billion. This is only a slight reduction in the budget estimate but actually above both the House and Senate allowances. This fully supports procurement of the B-1B, F-15, F-16, and C-5B, with 10 C-130 aircraft added to the budget. Significantly, more than $6 billion is recommended for aircraft modifications, spares and repair parts.

The conferees, as you know, did not provide funding for MX procurement but, as with the Navy, did support the Tomahawk and antiradiation missiles. The missile procurement total of $4.9 billion is still more than $400 million over the 1982 budget. Significantly, full funding for the IR Maverick missile is being provided as recommended by the Senate.

Another important investment initiative recommended by the conferees as a budget addition is $125 million for equipping the Reserve and National Guard units. This had not been included in the House bill.

RESEARCH AND DEVELOPMENT

The continuing resolution provides $22.7 billion for RDT&E.

This is nearly $600 million above the House allowance, and about $70 million below the Senate position. The Senate was able to restore many House R&D cuts and maintain a sizable rate of real growth over 7 percent.

Major accomplishments in conference on the defense portions of the continuing resolution:

Sixty million dollars for the C-17 program;

Restoration of a $58 million House cut to the advanced lightweight torpedo program;

Addition of $10 million for short wavelength laser technology;

Restoration of $20 million of a House cut for the Mark 48 ADCAP torpedo program;

Restoration of a $9.2 million House, cut for over-the-horizon radar;

Restoration of $13 million of a House cut to the air launched cruise missile R&D program;

Provided $2.5 billion for MX research and development, $60 million above the Senate allowance.

Mr. President, I ask unanimous consent that a comparative statement of new budget authority be printed in the RECORD.

There being no objection, the comparative statement was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
TITLE I—MILITARY PERSONNEL									
Military personnel, Army	13,978,100,000	15,363,700,000	14,478,149,000	14,023,827,000	14,454,848,000	+476,748,000	−908,852,000	−23,301,000	+431,021,000
Military personnel, Navy	10,248,574,000	11,275,300,000	10,566,028,000	10,230,678,000	10,537,408,000	+288,834,000	−737,892,000	−28,620,000	+306,730,000
Military personnel, Marine Corps	3,120,745,000	3,496,300,000	3,300,008,000	3,221,394,000	3,293,277,000	+172,532,000	−203,023,000	−6,731,000	+71,883,000
Military personnel, Air Force	11,508,772,000	12,857,800,000	12,112,952,000	11,748,221,000	12,099,850,000	+591,078,000	−757,950,000	−13,102,000	+351,629,000
Reserve personnel, Army	1,078,200,000	1,302,000,000	1,247,450,000	1,224,800,000	1,247,250,000	+169,050,000	−54,750,000	−200,000	+22,450,000
Reserve personnel, Navy	375,000,000	683,500,000	657,125,000	641,300,000	657,125,000	+282,125,000	−26,375,000	.....	+15,825,000
(Liquidation of obligations)	(300,000)	.....	.....	.....	.....	(−300,000)	.....	.....	.....
Reserve personnel, Marine Corps	153,600,000	175,500,000	170,925,000	165,900,000	170,900,000	+17,300,000	−4,600,000	−25,000	+5,000,000
Reserve personnel, Air Force	328,126,000	372,300,000	358,925,000	350,900,000	358,925,000	+30,799,000	−13,375,000	.....	+8,025,000
National Guard personnel, Army	1,466,000,000	1,792,500,000	1,695,150,000	1,669,200,000	1,698,800,000	+232,800,000	−93,700,000	+3,650,000	+29,600,000
National Guard personnel, Air Force	479,900,000	583,600,000	549,553,000	534,100,000	548,425,000	+68,525,000	−35,175,000	−1,128,000	+14,325,000
Total, title I, new budget (obligational) authority, military personnel	42,737,017,000	47,902,500,000	45,136,265,000	43,810,320,000	45,066,808,000	+2,329,791,000	−2,835,692,000	−69,457,000	+1,256,488,000
TITLE II—RETIRED MILITARY PERSONNEL									
Retired pay, Defense	14,986,000,000	16,510,800,000	16,154,800,000	16,228,800,000	16,154,800,000	+1,168,800,000	−356,000,000	.....	−74,000,000
TITLE III—OPERATION AND MAINTENANCE									
Operation and maintenance, Army	15,222,197,000	17,086,142,000	15,754,766,000	15,931,700,000	15,847,425,000	+625,228,000	−1,238,717,000	+92,659,000	−84,275,000
(Transfer from other accounts)	(23,500,000)	.....	.....	.....	.....	(−23,500,000)	.....	.....	.....
Army stock fund	176,300,000	221,138,000	221,138,000	221,138,000	221,138,000	+44,838,000	.....	.....	.....
Army conventional ammunition working capital fund	.....	1,000,000	.....	.....	.....	.....	−1,000,000	.....	.....
Operation and maintenance, Navy	19,624,289,000	22,314,253,000	21,050,862,000	21,043,400,000	21,079,712,000	+1,455,423,000	−1,234,541,000	+28,850,000	+36,312,000
(Liquidation of contract authority)	(43,641,000)	.....	.....	.....	.....	(−43,641,000)	.....	.....	.....
(Transfer from other accounts)	(117,400,000)	.....	.....	.....	.....	(−117,400,000)	.....	.....	.....
Navy stock fund	9,435,000	354,372,000	354,372,000	354,372,000	354,372,000	+344,937,000	.....	.....	.....
Operation and maintenance, Marine Corps	1,203,040,000	1,500,371,000	1,472,371,000	1,403,300,000	1,481,671,000	+278,631,000	−18,700,000	+9,300,000	+78,371,000
(Transfer from other accounts)	(2,000,000)	.....	.....	.....	.....	(−2,000,000)	.....	.....	.....
Marine Corps stock fund	13,334,000	11,812,000	11,812,000	11,812,000	11,812,000	−1,522,000	.....	.....	.....
Operation and maintenance, Air Force	16,189,493,000	18,138,363,000	16,765,279,000	17,071,200,000	16,915,766,000	+726,273,000	−1,222,597,000	+150,487,000	−155,434,000
(Transfer from other accounts)	(75,726,000)	.....	.....	.....	.....	(−75,726,000)	.....	.....	.....
Air Force stock fund	78,800,000	161,600,000	161,600,000	161,600,000	161,600,000	+82,800,000	.....	.....	.....
Operation and maintenance, Defense agencies	5,156,000,000	5,838,103,000	5,664,678,000	5,665,800,000	5,715,778,000	+559,778,000	−122,325,000	+51,100,000	+49,978,000
Defense stock fund	69,000,000	160,500,000	160,500,000	160,500,000	160,500,000	+91,500,000	.....	.....	.....
Operation and maintenance, Army Reserve	670,161,000	699,184,000	707,784,000	692,200,000	705,584,000	+35,423,000	+6,400,000	−2,200,000	+13,384,000
Operation and maintenance, Navy Reserve	574,387,000	656,707,000	622,207,000	662,200,000	637,507,000	+63,120,000	−19,200,000	+15,300,000	−24,693,000
Operation and maintenance, Marine Corps Reserve	40,444,000	48,494,000	51,094,000	51,115,000	51,094,000	+10,650,000	+2,600,000	.....	−21,000
Operation and maintenance, Air Force Reserve	679,254,000	778,635,000	765,035,000	766,300,000	765,735,000	+86,481,000	−12,900,000	+700,000	−565,000
Operation and maintenance, Army National Guard	1,109,697,000	1,152,317,000	1,179,617,000	1,157,800,000	1,195,067,000	+85,370,000	+42,750,000	+15,450,000	+37,267,000
Operation and maintenance, Air National Guard	1,671,218,000	1,787,814,000	1,799,703,000	1,832,600,000	1,822,603,000	+151,385,000	+34,789,000	+22,900,000	−9,997,000
National Board for the Promotion of Rifle Practice, Army	861,000	875,000	875,000	875,000	875,000	+14,000	.....	.....	.....
Claims, Defense	155,700,000	172,500,000	147,500,000	172,500,000	147,500,000	−8,200,000	−25,000,000	.....	−25,000,000
Court of Military Appeals, Defense	2,700,000	3,271,000	3,271,000	3,210,000	3,271,000	+571,000	.....	.....	+61,000
Total, title III, operation and maintenance: New budget (obligational) authority	62,646,310,000	71,087,451,000	66,894,464,000	67,363,622,000	67,279,010,000	+4,632,700,000	−3,808,441,000	+384,546,000	−84,612,000
(Transfer from other accounts)	(218,626,000)	.....	.....	.....	.....	(−218,626,000)	.....	.....	.....
TITLE IV—PROCUREMENT									
Aircraft procurement, Army	1,911,100,000	2,745,914,000	2,514,900,000	2,444,522,000	2,506,572,000	+595,472,000	−239,342,000	−8,328,000	+62,050,000
Missile procurement, Army	2,131,200,000	2,846,600,000	2,287,600,000	2,611,600,000	2,287,000,000	+155,800,000	−559,600,000	−600,000	−324,600,000
Procurement of weapons and tracked combat vehicles, Army	3,825,200,000	5,024,485,000	4,488,815,000	4,451,016,000	4,551,946,000	+726,746,000	−472,539,000	+63,131,000	+100,930,000
(Transfer from other accounts)	.....	.....	(198,200,000)	(140,900,000)	(198,200,000)	(+198,200,000)	(−198,200,000	.....	(+57,300,000)
Procurement of ammunition, Army	2,381,900,000	2,625,684,000	2,075,394,000	2,123,694,000	2,122,394,000	−259,506,000	−503,290,000	+47,000,000	−1,300,000
Other procurement, Army	3,721,971,000	4,625,791,000	4,148,804,000	4,207,891,000	4,123,404,000	+401,433,000	−502,387,000	−25,400,000	−84,487,000
Aircraft procurement, Navy	9,115,800,000	11,582,300,000	10,616,546,000	10,650,100,000	10,416,107,000	+1,300,307,000	1,−166,193,000	−200,439,000	−233,993,000
Weapons procurement, Navy	3,207,100,000	3,901,600,000	3,644,060,000	3,506,300,000	3,561,700,000	+354,600,000	−339,900,000	−82,360,000	+55,400,000
Shipbuilding and conversion, Navy	8,821,400,000	18,648,300,000	15,973,000,000	16,848,800,000	16,076,700,000	+7,255,300,000	−2,571,600,000	+103,700,000	−772,100,000
Reappropriation	.....	.....	.....	176,200,000	176,200,000	+176,200,000	+176,200,000	+176,200,000	.....
(Transfer from other accounts)	(117,500,000)	.....	(35,000,000)	(35,000,000)	(35,000,000)	(−82,500,000)	(+35,000,000)	.....	.....
Other procurement, Navy	3,708,777,000	3,969,356,000	3,825,301,000	3,877,280,000	3,727,075,000	+18,298,000	−242,281,000	−98,226,000	−150,205,000
Procurement, Marine Corps	1,711,456,000	2,300,700,000	2,008,432,000	2,047,855,000	2,008,083,000	+296,627,000	−292,617,000	−349,000	−39,772,000
Aircraft procurement, Air Force	13,938,998,000	17,834,800,000	17,588,600,000	17,575,500,000	17,658,500,000	+3,719,502,000	−176,300,000	+69,900,000	+83,000,000
(Transfer from other accounts	(89,700,000)	.....	(254,800,000)	(170,000,000)	(170,000,000)	(+80,300,000)	(+170,000,000)	(−84,800,000)	.....
Missile procurement, Air Force	4,559,550,000	6,795,900,000	4,681,700,000	5,904,800,000	4,941,100,000	+381,550,000	−1,854,800,000	+259,400,000	−963,700,000
(Transfer from other accounts)	.....	.....	(15,000,000)	.....	(15,000,000)	(+15,000,000)	(+15,000,000)	.....	(+15,000,000)
Other procurement, Air Force	5,385,333,000	5,836,200,000	5,520,136,000	5,556,437,000	5,563,777,000	+178,444,000	−272,423,000	+43,641,000	+7,340,000
(Transfer from other accounts)	(800,000)	.....	(17,072,000)	.....	(4,963,000)	(+4,163,000)	(+4,963,000)	(−12,109,000)	(+4,963,000)
Reserve and National Guard	50,000,000	.....	.....	200,000,000	125,000,000	+75,000,000	+125,000,000	+125,000,000	−75,000,000
Procurement, Defense agencies	518,000,000	879,284,000	832,845,000	830,884,000	828,145,000	+310,145,000	−51,139,000	−4,700,000	−2,739,000
General reduction	.....	.....	−386,000,000	.....	−386,000,000	−386,000,000	−386,000,000	.....	−386,000,000
Total, title IV, procurement: New budget (obligational) authority	64,987,785,000	89,616,914,000	79,820,133,000	83,012,879,000	80,287,703,000	+15,299,918,000	−9,329,211,000	+467,570,000	−2,725,176,000
(Transfer from other accounts)	(208,000,000)	.....	(520,072,000)	(345,900,000)	(423,163,000)	(+215,163,000)	(+423,163,000)	(−96,909,000)	(+77,263,000)
TITLE V—RESEARCH, DEVELOPMENT, TEST AND EVALUATION									
Research, development, test, and evaluation Army	3,609,535,000	4,533,778,000	3,822,842,000	3,820,690,000	3,879,683,000	+270,148,000	+654,095,000	+56,841,000	+58,993,000
Research, development, test, and evaluation Navy	5,844,357,000	6,246,705,000	5,864,412,000	6,013,153,000	5,965,751,000	+121,394,000	−280,954,000	+101,339,000	−47,402,000
Research, development, test, and evaluation Air Force	8,659,610,000	11,298,748,000	10,246,361,000	10,835,468,000	10,650,661,000	+1,991,051,000	−648,087,000	+404,300,000	−184,807,000
Research, development, test, and evaluation Defense agencies	1,692,646,000	2,259,663,000	2,125,439,000	2,152,673,000	2,153,189,000	+460,543,000	−106,474,000	+27,750,000	+516,000
Director of Test and Evaluation Defense	53,000,000	60,000,000	55,000,000	55,000,000	55,000,000	+2,000,000	−5,000,000	.....	.....
Total, title V, new budget (obligation) authority, research, development, test, and evaluation	19,859,148,000	24,398,894,000	22,114,054,000	22,876,984,000	22,704,284,000	+2,845,136,000	−1,694,610,000	+590,230,000	−172,700,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	3,083,000	3,800,000	3,800,000	3,800,000	3,800,000	+717,000			
TITLE VII—GENERAL PROVISIONS									
(Additional transfer autority sec. 732)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(800,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)		(+400,000,000)
TITLE VIII—RELATED AGENCIES									
Intelligence Community Staff	13,695,000	750,000	15,676,000	15,400,000	15,856,000	+2,161,000	+15,106,000	+180,000	+456,000
CIA Retirement and Disability System Fund	84,600,000	91,300,000	91,300,000	91,300,000	91,300,000	+6,700,000			
Total, title VIII, new budget (obligational) authority related agencies	98,295,000	92,050,000	106,976,000	106,700,000	107,156,000	+8,861,000	+15,106,000	+180,000	+456,000
RECAPITULATION									
Title I—Military personnel	42,737,017,000	47,902,500,000	45,136,265,000	43,810,320,000	45,066,808,000	+2,329,791,000	−2,835,692,000	−69,457,000	+1,256,488,000
Title II—Retired military personnel	14,986,000,000	16,510,800,000	16,154,800,000	16,228,800,000	16,154,800,000	+1,168,800,000	−356,000,000		−74,000,000
Title III—Operation and maintenance	62,646,310,000	71,087,451,000	66,894,464,000	67,363,622,000	67,279,010,000	+4,632,700,000	−3,808,441,000	+384,546,000	−84,612,000
(Transfer from other accounts)	(218,626,000)					(−218,626,000)			
Title IV—Procurement	64,987,785,000	89,616,914,000	79,820,133,000	83,012,879,000	80,287,703,000	+15,299,918,000	−9,329,211,000	+467,570,000	−2,725,176,000
(Transfer from other accounts)	(208,000,000)		(520,072,000)	(345,900,000)	(423,163,000)	(+215,163,000)	(+423,163,000)	(−96,909,000)	(+77,263,000)
Title V—Research, development, test, and evaluation	19,859,148,000	24,398,894,000	22,114,054,000	22,876,984,000	22,704,284,000	+2,845,136,000	−1,694,610,000	+590,230,000	−172,700,000
Title VI—Special foreign currency program	3,083,000	3,800,000	3,800,000	3,800,000	3,800,000	+717,000			
Title VII—General provisions (additional transfer authority, sec. 732)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(800,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)		(+400,000,000)
Title VIII—Related agencies	98,295,000	92,050,000	106,976,000	106,700,000	107,156,000	+8,861,000	+15,106,000	+180,000	+456,000
Total, Department of Defense (NDA)	205,317,638,000	249,612,409,000	230,230,492,000	233,403,105,000	231,603,561,000	+26,285,923,000	−18,008,848,000	+1,373,069,000	−1,799,544,000
(Transfer from other accounts)	(426,626,000)		(520,072,000)	(345,900,000)	(423,163,000)	(−3,463,000)	(+423,163,000)	(−96,909,000)	(+77,263,000)
Total funding available	205,744,264,000	249,612,409,000	230,750,564,000	233,749,005,000	232,026,724,000	+26,282,460,000	−17,585,685,000	+1,276,160,000	−1,722,281,000
(Transfer authority)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(800,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)		(+400,000,000)
Distribution by organizational component:									
Army	51,332,422,000	60,021,108,000	54,623,284,000	54,780,953,000	54,966,986,000	+3,634,564,000	−5,054,122,000	+343,702,000	+186,033,000
(Transfer from other accounts)	(23,500,000)		(198,200,000)	(140,900,000)	(198,200,000)	(+174,700,000)	(+198,200,000)		(+57,300,000)
Navy	67,771,738,000	87,165,570,000	80,188,555,000	80,905,159,000	80,206,494,000	+12,434,756,000	−6,959,076,000	+17,939,000	−698,665,000
(Transfer from other accounts)	(236,900,000)		(35,000,000)	(35,000,000)	(35,000,000)	(−201,900,000)	(+35,000,000)		
Air Force	63,479,054,000	76,445,760,000	70,549,844,000	72,337,126,000	71,486,942,000	+8,007,888,000	−4,958,818,000	+937,098,000	−850,184,000
(Transfer from other accounts)	(166,226,000)		(286,872,000)	(170,000,000)	(189,963,000)	(+23,737,000)	(+189,963,000)	(−96,909,000)	(+19,963,000)
Defense agencies/OSD	7,650,129,000	9,377,121,000	8,993,033,000	9,044,367,000	9,067,183,000	+1,417,054,000	−309,938,000	+74,150,000	+22,816,000
Retired military personnel	14,986,000,000	16,510,800,000	16,154,800,000	16,228,800,000	16,154,800,000	+1,168,800,000	−356,000,000		−74,000,000
Related agencies	98,295,000	92,050,000	106,976,000	106,700,000	107,156,000	+8,861,000	+15,106,000	+180,000	+456,000
General reduction			−386,000,000		−386,000,000	−386,000,000	−386,000,000		−386,000,000
Total, Department of Defense (NOA)	205,317,638,000	249,612,409,000	230,230,492,000	233,403,105,000	231,603,561,000	+26,285,923,000	−18,008,848,000	+1,373,069,000	−1,799,544,000
(Transfer from other accounts)	(426,626,000)		(520,072,000)	(345,900,000)	(423,163,000)	(−3,463,000)	(+423,163,000)	(−96,909,000)	(+77,263,000)
Total funding available	205,744,264,000	249,612,409,000	230,750,564,000	233,749,005,000	232,026,724,000	+26,282,460,000	−17,585,685,000	+1,276,160,000	−1,722,281,000
(Transfer authority)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(800,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)		(+400,000,000)
CONGRESSIONAL BUDGET RECAPITULATION									
Total	205,317,638,000	249,612,409,000	230,230,492,000	233,403,105,000	231,603,561,000	+26,285,923,000	−18,008,848,000	+1,373,069,000	−1,799,544,000
Amounts in this bill	(205,317,638,000)	(249,612,409,000)	(230,230,492,000)	(233,403,105,000)	(231,603,561,000)	(+26,285,923,000)	(−18,008,848,000)	(+1,373,069,000)	(−1,799,544,000)
Prior year outlays associated with this bill									
Total congressional mandatory and discretionary	205,317,638,000	249,612,409,000	230,230,492,000	233,403,105,000	231,603,561,000	+26,285,923,000	−18,008,848,000	+1,373,069,000	−1,799,544,000
Mandatory (total)	(15,226,300,000)	(20,804,773,000)	(18,096,013,000)	(16,492,600,000)	(18,096,013,000)	(+2,869,713,000)	(−2,708,760,000)		(+1,603,413,000)
(Mandatory new)	(15,226,300,000)	(20,804,773,000)	(18,096,013,000)	(16,492,600,000)	(18,096,013,000)	(+2,869,713,000)	(−2,708,760,000)		(+1,603,413,000)
(Prior year)									
Discretionary (new)	(190,091,338,000)	(228,807,636,000)	(212,134,479,000)	(216,910,505,000)	(213,507,548,000)	(+23,416,210,000)	(−15,300,088,000)	(+1,373,069,000)	(−3,402,957,000)

[1] Includes supplemental. [2] As amended by H. Doc. 97–206 and H. Doc. 97–248. Also reflects an $109 million adjustment from O&M, Navy, to the Department of Energy budget, and adds $4,030,173,000, the amount anticipated to have been submitted for pay costs in the fiscal year 1983 pay supplemental. Note: Request includes $4,030,173,000 (budget authority) and $3,910,272,000 (outlays) for pay costs. Recommended includes $1,702,413,000 (budget authority) and $1,651,340,000 (outlays) for pay costs. These amounts are reflected in the mandatory totals.

Mr. STEVENS. Mr. President, I ask unanimous consent that there be printed in the RECORD the line item agreements for defense covered in the conference report so there can be no question about the amounts of request, the House action, the Senate action, and the final action taken by the conference.

There being no objection, the material referred to will be printed as follows:

TITLE I.—MILITARY PERSONNEL

The conferees agree to the following amounts for the military personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
MILITARY PERSONNEL, ARMY	15,363,700	14,478,149	14,023,827	14,454,848
MILITARY PERSONNEL, NAVY	11,275,300	10,566,028	10,230,678	10,537,408
MILITARY PERSONNEL, MARINE CORPS	3,496,300	3,300,008	3,221,394	3,293,277
MILITARY PERSONNEL, AIR FORCE	12,857,800	12,112,952	11,748,221	12,099,850
RESERVE PERSONNEL, ARMY	1,302,000	1,247,450	1,224,800	1,247,250
RESERVE PERSONNEL, NAVY	683,500	657,125	641,300	657,125
RESERVE PERSONNEL, MARINE CORPS	175,500	170,925	165,900	170,900
RESERVE PERSONNEL, AIR FORCE	372,300	358,925	350,900	358,925
NATIONAL GUARD PERSONNEL, ARMY	1,792,500	1,695,150	1,669,200	1,698,800
NATIONAL GUARD PERSONNEL, AIR FORCE	583,600	549,553	534,100	548,425
TOTAL, MILITARY PERSONNEL	47,902,500	45,136,265	43,810,320	45,066,808

MILITARY PERSONNEL, ARMY

The conferees agree to the following amounts for military personnel, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
END STRENGTH	13,156,478	13,109,170	13,078,478	13,109,170
DEACT. EUR. BRIGADE	42,000	42,000		42,000
CAREER BAS	5,208	8		
ENLISTMENT BONUS	142,943	110,143	122,843	115,000
REENLISTMENT BONUS	121,303	91,103	92,603	92,603
LUMP SUM TERM. LEAVE	101,319	101,319	96,254	101,319
OVERSEAS EXT. PAY	4,800	4,800	3,800	4,800
TEMPORARY LODGING EXPENSE	55,200	13,800		
MEMBER MILEAGE ALLOWANCE	14,000	3,500		
DEPENDENT MILEAGE ALLOWANCE	21,900	5,475		
HOUSEHOLD GOODS WEIGHT ALLOWANCE	27,500	6,875		
CLASSIFIED PROGRAM	1,600	−68		−68
FY 1983 PAY RAISE	962,600	360,175		360,175
ITEMS NOT IN CONFERENCE	706,849	629,849	629,849	629,849
TOTAL, MILITARY PERSONNEL, ARMY	15,363,700	14,478,149	14,023,827	14,454,848

MILITARY PERSONNEL, NAVY

The conferees agree to the following amounts for military personnel, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
END STRENGTH	9,786,957	9,726,677	9,710,857	9,710,857
CAREER BAS	32,240	40		
PERMANENT CHANGE OF STATION	333,862	272,262	256,862	272,262
ENLISTMENT BONUS	16,493	8,093	13,093	10,400
REENLISTMENT BONUS	265,500	205,300	180,300	205,300
LUMP SUM TERM. LEAVE	73,231	73,231	69,566	73,231
SELECTIVE REENLISTMENT BONUS (5%)	14,000	14,000		
TEMPORARY LODGING EXPENSE	23,800	5,950		
MEMBER MILEAGE ALLOWANCE	15,072	3,747		
DEPENDENT MILEAGE ALLOWANCE	5,070	1,245		
HOUSEHOLD GOODS WEIGHT ALLOWANCE	12,275	3,125		
CLASSIFIED PROGRAM	400	16		16
RECRUITING: ADVERTISING		−6,000		−6,000
FISCAL YEAR 1983 PAY RAISE	696,400	258,342		258,342
TOTAL, MILITARY PERSONNEL, NAVY	11,275,300	10,566,028	10,230,678	10,537,408

MILITARY PERSONNEL, MARINE CORPS

The conferees agree to the following amounts for military personnel, Marine Corps.

[In thousands of dollars]

	Budget	House	Senate	Conference
PERMANENT CHANGE OF STATION	136,320	115,520	130,320	115,520
ENLISTMENT BONUS	14,360	11,760	13,160	11,760
SELECTIVE REENLISTMENT BONUS	69,219	59,219	58,519	59,219
SELECTIVE REENLISTMENT BONUS (5%)			−3,500	
LUMP SUM TERM. LEAVE	25,519	25,519	24,244	25,519
CAREER BAS	5,987	−13		
TEMPORARY LODGING EXPENSE	9,774	2,424		
MEMBER MILEAGE ALLOWANCE	8,345	2,120		
DEPENDENT MILEAGE ALLOWANCE	2,800	700		
HOUSEHOLD GOODS WEIGHT ALLOWANCE	5,025	1,500		
CLASSIFIED PROGRAM	100	33		33
FY 1983 PAY RAISE	220,200	82,575		82,575
ITEMS NOT IN CONFERENCE	2,998,651	2,998,651	2,998,651	2,998,651
TOTAL, MILITARY PERSONNEL, MARINE CORPS	3,496,300	3,300,008	3,221,394	3,293,277

MILITARY PERSONNEL, AIR FORCE

The conferees agree to the following amounts for military personnel, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
END STRENGTH	9,727,224	9,665,904	9,630,924	9,665,004
CAREER BAS	11,004	4		
REENLISTMENT BONUS	118,962	115,762	105,562	115,762
LUMP SUM TERM LV/SEP ALLOW	65,473	59,273	62,198	62,198
TEMPORARY LODGING EXPENSE	33,000	8,250		
MEMBER MILEAGE ALLOWANCE	10,200	2,550		
DEPENDENT MILEAGE ALLOWANCE	8,900	2,225		
HOUSEHOLD GOODS WEIGHT ALLOWANCE	13,800	3,450		
CLASSIFIED PROGRAM	1,420	500	920	952
FY 1983 PAY RAISE	826,400	307,317		307,317
ITEMS NOT IN CONFERENCE	2,040,517	1,948,617	1,948,617	1,948,617
TOTAL, MILITARY PERSONNEL, AIR FORCE	12,857,800	12,112,952	11,748,221	12,099,850

RESERVE PERSONNEL, ARMY

The conferees agree to the following amounts for Reserve personnel, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
TEMPORARY LODGING EXPENSE	800	200	800	
SELECTED RESERVE INCENTIVE PROGRAM	23,157	19,457	23,157	19,457
DOUBLE SLOTTING		−2,000		−2,000
FY 1983 PAY RAISE	77,200	28,950		28,950
ITEMS NOT IN CONFERENCE	1,200,843	1,200,843	1,200,843	1,200,843
TOTAL, RESERVE, PERSONNEL, ARMY	1,302,000	1,247,450	1,224,800	1,247,250

RESERVE PERSONNEL, NAVY

The conferees agree to the following amounts for Reserve personnel, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
FY 1983 PAY RAISE	42,200	15,825		15,825
ITEMS NOT IN CONFERENCE	641,300	641,300	641,300	641,300
TOTAL, RESERVE PERSONNEL, NAVY	683,500	657,125	641,300	657,125

RESERVE PERSONNEL, MARINE CORPS

The conferees agree to the following amounts for Reserve personnel, Marine Corps:

[In thousands of dollars]

	Budget	House	Senate	Conference
TEMPORARY LODGING EXPENSES	100	25	100	
AIRCRAFT UNITS DEPLOYMENT SUPPORT		1,500		1,500
FY 1983 PAY RAISE	9,600	3,600		3,600
ITEMS NOT IN CONFERENCE	165,800	165,800	165,800	165,800
TOTAL, RESERVE PERSONNEL, MARINE CORPS	175,500	170,925	165,900	170,900

RESERVE PERSONNEL, AIR FORCE

The conferees agree to the following amounts for Reserve personnel, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
FY 1983 PAY RAISE	21,400	8,025		8,025
ITEMS NOT IN CONFERENCE	350,900	350,900	350,900	350,900
TOTAL, RESERVE PERSONNEL, AIR FORCE	372,300	358,925	350,900	358,925

NATIONAL GUARD PERSONNEL, ARMY

The conferees agree to the following amounts for National Guard personnel, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
CONV. OF CIV. TECH	11,300	−3,700		
TEMPORARY LODGING EXPENSE	200	50	200	
SELECTED RESERVE INCENTIVE PROGRAM	51,683	41,183	51,683	41,183
DOUBLE SLOTTING		−3,000		−3,000
M–1 BATTALION		1,300		1,300
FY 1983 PAY RAISE	112,000	42,000		42,000
ITEMS NOT IN CONFERENCE	1,617,317	1,617,317	1,617,317	1,617,317
TOTAL, NATIONAL GUARD PERSONNEL, ARMY	1,792,500	1,695,150	1,669,200	1,698,800

NATIONAL GUARD PERSONNEL, AIR FORCE

The conferees agree to the following amounts for National Guard personnel, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
CONV. OF CIV. TECH	10,500	1,053		
TEMPORARY LODGING EXPENSE	300	75		
FY 1983 PAY RAISE	39,000	14,625		14,625
ITEMS NOT IN CONFERENCE	533,800	533,800	533,800	533,800
TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE	583,600	549,553	534,100	548,425

TITLE II.—RETIRED MILITARY PERSONNEL

The conferees agree to the following amounts for retired military personnel:

[In thousands of dollars]

	Budget	House	Senate	Conference
RECONCILLIATION ACT 1983		−260,000	−266,000	−260,000
PROGRAM REESTIMATE		−180,000	−100,000	−180,000
ITEMS NOT IN CONFERENCE	16,510,800	16,594,800	16,594,800	16,594,800
TOTAL, RETIRED MILITARY PERSONNEL	16,510,800	16,154,800	16,228,800	16,154,800

TITLE III.—OPERATION AND MAINTENANCE

The conferees agree to the following amounts for the operation and maintenance accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY	17,086,142	15,754,766	15,931,700	15,847,425
ARMY STOCK FUND	221,138	221,138	221,138	221,138
ARMY CONVENTIONAL AMMUNITION WORKING CAPITAL FUND	1,000			
OPERATION AND MAINTENANCE, NAVY	22,314,253	21,050,862	21,043,400	21,079,712
NAVY STOCK FUND	354,372	354,372	354,372	354,372
OPERATION AND MAINTENANCE, MARINE CORPS	1,500,371	1,472,371	1,403,300	1,481,671
MARINE CORPS STOCK FUND	11,812	11,812	11,812	11,812
OPERATION AND MAINTENANCE, AIR FORCE	18,138,363	16,765,279	17,071,200	16,915,766
AIR FORCE STOCK FUND	161,600	161,600	161,600	161,600
OPERATION AND MAINTENANCE, DEFENSE AGENCIES	5,838,103	5,664,678	5,665,800	5,715,778
DEFENSE STOCK FUND	160,500	160,500	160,500	160,500
OPERATION AND MAINTENANCE, ARMY RESERVE	699,184	707,784	692,200	705,584
OPERATION AND MAINTENANCE, NAVY RESERVE	656,707	622,207	662,200	637,507
OPERATION AND MAINTENANCE, MARINE CORPS RES	48,494	51,094	51,115	51,094
OPERATION AND MAINTENANCE, AIR FORCE RESERVE	778,635	765,035	766,300	765,735
OPERATION AND MAINTENANCE, ARMY NATL GUARD	1,152,317	1,179,617	1,157,800	1,195,067
OPERATION AND MAINTENANCE, AIR NATL GUARD	1,787,814	1,799,703	1,832,600	1,822,603
NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY	875	875	875	875
CLAIMS, DEFENSE	172,500	147,500	172,500	147,500
COURT OF MILITARY APPEALS, DEFENSE	3,271	3,271	3,210	3,271
TOTAL, OPERATION AND MAINTENANCE	71,087,451	66,894,464	67,363,622	67,279,010

OPERATION AND MAINTENANCE, ARMY

The conferees agree to the following amounts for operation and maintenance, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
FUEL COST REESTIMATE	563,752	471,452	538,952	471,452
CURRENCY REVALUATION	1,651,426	1,062,326	1,309,926	1,062,326
FORCE MODERNIZATION	1,438,000	1,313,000	1,250,500	1,281,750
POMCUS	210,000	178,000	177,900	177,900
REAL PROPERTY MAINTENANCE	2,439,384	2,539,384	2,439,384	2,539,384
BACHELOR HOUSING FURNITURE	42,900	52,900	42,900	47,900
RECRUITING/ADVERTISING	205,970	164,970	180,970	164,970
CIVILIAN PERS-BORR MIL MANPOWER	226,240	196,240	176,240	176,240
INTELL REDUCTION	915,400	911,633	912,700	911,633
FLYING HOURS	306,272	306,272	272,672	286,272
EXECUTIVE TRAINING	8,954	8,954	6,154	6,154
LUXEMBOURG STORAGE	20,400	20,400	15,500	15,500
DARCOM REORGANIZATION	7,200	7,200	1,200	1,200
CONSULTANTS, STUDIES & ANALYSES	102,904	92,904	95,804	92,904
TRAVEL	410,716	409,916	395,916	395,916
LOGISTICS SUPPORT	19,774	19,774	9,774	14,774
SECURITY SUPPORT	8,500	8,500	3,600	3,600
SERVICE-WIDE SUPPORT	482,042	482,042	474,142	474,142
INTELLIGENCE COMMAND REORGANIZATION	4,700	3,700		
EUROPEAN FORCE STRUCTURE	5,066	−3,234	866	866
MILITARY SUPPORT	35,900	35,900	900	900
UNIT TRAINING—P2M			10,000	
PERSONAL SECURITY CLEARANCE PROCESSING		−5,300		−5,300
WEST GERMAN RESERVE SUPPORT		−6,000		−6,000
SLUC CHARGES		−15,400		−15,400
PATIENT CARE FUNDING REALIGNMENT (TRANSFER)		−32,000		
ENERGY CONSERVATON		−15,000		−15,000
STOCK FUND CASH		−100,000		
INDUSTRIAL PLANT EQ CHG		−50,000		
ARMY GUARD M–1 BATTALION (TRANSFER)		−6,800		
FHS SURCHARGE		−25,000		−12,500
HANDGUN SPARES		−1,000		−1,000
OVERSEAS BANKING		−1,500		−1,500
ARMY TRANSITION 90		−3,500		−3,500
BASE OPS (UNAUTHORIZED COMMISSARY SUPPORT)		−10,000		−10,000
REDUCE 4 BATTALIONS	15,000	9,591		5,000
JCS EXERCISES	11,800	11,800		
RAPID DEPLOYMENT FORCE	7,200	7,200		7,200
NONFOREIGN COLA		−4,000		
LEGISLATIVE LIAISON		−200		−200
PER DIEM EQUITY		−7,200		
DEPOT MAINTENANCE		−25,000		−12,500
INDUSTRIAL WORKLOAD CARRYOVER		−21,000		−10,500
PUBLIC AFFAIRS		−500		−500
ARMY HOUSEHOLD GOODS INCREASE		−1,400		−1,400
COMMUNICATIONS		−3,000		−3,000
PAY RAISE	270,042	162,042		162,042
PERSHING II				30,000
ITEMS NOT IN CONFERENCE	7,676,600	7,615,700	7,615,700	7,615,700
TOTAL, OPERATION AND MAINTENANCE, ARMY	17,086,142	15,754,766	15,931,700	15,847,425

OPERATION AND MAINTENANCE, NAVY

The conferees agree to the following amounts for operation and maintenance, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
CURRENCY REVALUATION	360,613	253,513	237,413	253,513
FLEET COMMAND & STAFF	225,610	220,610	211,910	211,910
SHIP/A/C MAINT & MOD	3,104,208	3,000,708	2,950,608	2,950,608
INTELL	940,102	925,711	937,202	925,711
FUEL COST REESTIMATE	2,504,937	2,204,937	2,348,537	2,204,937
RECRUITING & ADVERTISING	93,530	77,030	78,530	77,030
BASE OPERATIONS	614,727	594,727	605,227	599,977
REAL PROPERTY MAINTENANCE	690,396	720,396	690,396	720,396
EUROPE FORCE STRUCTURE			−10,200	
SERVICE-WIDE TRANSPORTATION			10,400	
AIR LAUNCHED WEAPONS REWORK			1,700	
TRIDENT SUB MISSION SUPPORT	163,521	163,521	142,321	142,321
TRIDENT WEAPON SYSTEM SUPPORT	162,455	162,455	147,455	147,455
PACIFIC FLEET SUB MISSION SPT	18,212	18,212	15,412	18,212
BASE OPS (UNAUTHORIZED COMMISSARY SUPPORT)		−4,700		−4,700
S–3 FLYING HOURS	53,035	53,035	44,835	44,835
FLYING HOURS	1,671,200	1,746,200	1,646,200	1,696,200
OTHER SEA SUPPORT	43,409	43,409	40,409	40,409
COMPONENT CALIBRATIONS	80,100	80,100	74,600	74,600
TECHNICAL SUPPORT	131,541	131,541	126,441	126,441
TRANSFER OF LKA SHIPS			4,600	
NAVY MATERIAL COMMAND	23,500	23,500	21,500	21,500
CONSULTANTS, STUDIES & ANALYSES	345,195	320,195	295,595	320,195
TRAVEL	291,772	290,872	262,572	262,572
RAPID DEPLOYMENT FORCE			−31,200	
PERSONNEL SECURITY CLEARANCE PROCESSING		−7,000		−7,000
SLUC CHARGES		−19,200		−19,200
PATIENT CARE FUNDING REALIGNMENT (TRANSFER)		−32,000		
ENERGY CONSERVATION		−15,000		−15,000
STOCK FUND CASH		−100,000		
INDUSTRIAL PLANT EQ CHG		−70,000		
NONFOREIGN COLA		−8,000		
LEGISLATIVE LIAISON		−200		−200
INDUSTRIAL WORKLOAD CARRYOVER		−26,600		−26,600
PUBLIC AFFAIRS		−500		−500
JCS EXERCISES	2,900	2,900		
NAVY REMOTE WAR GAMING		−200		−200
TAGOS SLIPPAGE		−2,600		−2,600
END STRENGTH TAIL		−8,000		−8,000
PER DIEM EQUITY		−13,600		
SHORESTAMPS		5,600		5,600
ID CARD SLIPPAGE		−2,400		−2,400
COMMUNICATIONS		−3,000		−3,000
FMS SURCHARGE		−35,000		−35,000
PAY RAISE	281,253	168,753		168,753
ITEMS NOT IN CONFERENCE	10,512,037	10,190,937	10,190,937	10,190,937
TOTAL, OPERATION AND MAINTENANCE, NAVY	22,314,253	21,050,862	21,043,400	21,079,712

OPERATION AND MAINTENANCE, MARINE CORPS

The conferees agree to the following amounts for operation and maintenance, Marine Corps:

[In thousands of dollars]

	Budget	House	Senate	Conference
FUEL COST REESTIMATE	50,694	44,694	50,694	44,694
CURRENCY REVALUATION	101,889	72,489	64,789	72,489
REAL PROPERTY MAINTENANCE	225,793	245,793	225,793	245,793
RECRUITING & ADVERTISING	56,089	49,589	51,089	49,589
CIVILIAN PERSONNEL			−1,500	
LVT–7 REPAIRS	6,840	6,840	40	6,840
HOUSEHOLD GOODS STORAGE	2,230	2,230	430	2,230
EMERGENCY LEAVE	220	220	20	220
CONSULTANTS, STUDIES & ANALYSES	31,166	21,166	19,866	21,166
TRAVEL	67,148	67,148	56,648	67,148
MARINE CORPS TRUCK RETROFIT		−500		−500
PERSONNEL SECURITY CLEARANCE PROCESSING		−500		−500
PER DIEM EQUITY		−6,000		
ENERGY CONSERVATION		−5,000		−5,000
INDUSTRIAL PLANT EQ CHG		−2,800		
BASE OPS (UNAUTHORIZED COMMISSARY SUPPORT)		−300		−300
PUBLIC AFFAIRS		−100		−100
MARINE CORPS O&M SHORTFALL		33,500		33,500
DISABILITY COMPENSATION		−700		
LAV SLIPPAGE		−2,200		−2,200
PAY RAISE	18,571	11,171		11,171
ENVIRONMENTAL AND MORALE LEAVE	200	200		
ITEMS NOT IN CONFERENCE	939,531	935,431	935,431	935,431
TOTAL, OPERATION AND MAINTENANCE, MARINE CORPS	1,500,371	1,472,371	1,403,300	1,481,671

OPERATION AND MAINTENANCE, AIR FORCE

The conferees agree to the following amounts for operation and maintenance, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
CURRENCY REVALUATION	657,457	430,857	491,857	430,857
C-140B REPLACEMENT LEASE	9,000	9,000	6,000	6,000
FUEL COST REESTIMATE	3,227,768	2,827,768	2,968,768	2,827,768
RECRUITING & ADVERTISING	51,335	41,335	51,335	41,335
AIR FORCE ACADEMY	29,274	27,222	27,274	27,222
BASE OPERATIONS	2,510,326	2,490,326	2,483,926	2,483,926
REAL PROPERTY MAINTENANCE	1,232,798	1,232,798	1,212,798	1,232,798
B-52D "FLYABLE STORAGE"		2,000		
INTELL & COMM	1,417,492	1,412,805	1,417,492	1,414,992
WWMCCS JOINT PROG	1,979	1,979	−21	−21
CONTRACT RANGE	34,415	34,415	24,815	24,815
CIVIL ENGINEERING SQUADRONS	9,490	9,490	5,490	5,490
ENVIRONMENTAL & MORALE LEAVE	533	533	33	33
CONSULTANTS, STUDIES & ANALYSES	275,612	235,612	227,312	235,612
TRAVEL	433,293	432,493	396,693	396,693
EUROPE FORCE STRUCTURE	1,308,900	1,308,900	1,290,400	1,308,900
RAPID DEPLOYMENT FORCE	1,095	1,095	−19,405	1,095
PERSONNEL SECURITY CLEARANCE PROCESSING		−5,700		−5,700
WEST GERMAN RESERVE SUPPORT	1,000		1,000	1,000
PATIENT CARE FUNDING REALIGNMENT (TRANSFER)	620,933	591,933	620,933	620,933
SLUC CHARGES	15,878	14,078	15,878	14,078
ENERGY CONSERVATION		−15,000		−15,000
STOCK FUND CASH		−100,000		
INDUSTRIAL PLANT EQ CHG	58,600	3,600	58,600	58,600
FMS SURCHARGE		−35,000		−35,000
PROGRAM 9		−4,900		−4,900
ALCONBURY ENGLAND DORMITORY		4,100		4,100
BASE OPS (UNAUTHORIZED COMMISSARY SUPPORT)	165,635	155,635	165,635	155,635
NONFOREIGN COLA		−8,000		
LEGISLATIVE LIAISON	1,000	800	1,000	800
INDUSTRIAL WORKLOAD CARRYOVER	2,838,500	2,822,000	2,838,500	2,822,000
C-5 CABIN LOAD	157,810	142,810	157,810	142,810
PUBLIC AFFAIRS	2,936	2,436	2,936	2,436
PER DIEM EQUITY		−20,900		
COMMUNICATIONS	235,945	232,945	235,945	232,945
DORMITORY FURNITURE	11,100	7,800	11,100	7,800
C-130 SIMULATORS	2,300	2,300		
HOUSEHOLD GOODS STORAGE	100	100		100
EMERGENCY LEAVE	3,200	3,200		3,200
END STRENGTH TAIL	10,945		9,445	
DEPOT MAINTENANCE	83,757	72,357	83,757	72,357
PAY RAISE	193,663	116,163		116,163
ITEMS NOT IN CONFERENCE	2,534,294	2,283,894	2,283,894	2,283,894
TOTAL, OPERATION AND MAINTENANCE, AIR FORCE	18,138,363	16,765,279	17,071,200	16,915,766

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

The conferees agree to the following amounts for operation and maintenance, defense agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
FUEL COST REESTIMATE	6,992	6,992	6,792	6,992
CURRENCY REVALUATION	138,898	91,098	106,198	91,098
INTELLIGENCE PROGRAM	1,421,779	1,397,354	1,401,879	1,397,354
CIVILIAN PERSONNEL	2,030,079	2,010,379	2,000,479	2,010,379
CONSULTANTS, STUDIES & ANALYSIS	80,871	65,871	70,971	65,871
TRAVEL	136,475	137,475	125,675	131,075
CHAMPUS	1,079,560	1,059,560	1,199,560	1,199,560
PERSONNEL SECURITY CLEARANCE PROCESSING		−1,800		−1,800
SLUC CHARGES	45,119	41,019	45,119	41,019
PATIENT CARE FUNDING REALIGNMENT(TRANSFER)		93,000		
FMS SURCHARGE		−5,000		−2,500
OVERSEAS SCHOOLS	537,949	523,949	537,949	530,949
LEGISLATIVE LIASON	2,118	2,018	2,118	2,018
PUBLIC AFFAIRS	1,683	1,183	1,683	1,183
CREATION OF DOD IG		4,000		4,400
COMMUNICATIONS		−1,000		−1,000
PAY RAISE	83,203	72,203		72,203
ITEMS NOT IN CONFERENCE	273,377	167,377	167,377	167,377
TOTAL, OPERATION & MAINTENANCE, DEFENSE AGENCIES	5,838,103	5,664,678	5,665,800	5,715,778

OPERATION AND MAINTENANCE, ARMY RESERVE

The conferees agreed to the following amounts for operation and maintenance, Army Reserve:

[In thousands of dollars]

	Budget	House	Senate	Conference
REAL PROGRAM GROWTH		2,300		2,300
FUEL COST REESTIMATE	24,410	24,410	23,510	24,410
TRAVEL	51,420	51,420	46,420	48,920
INDUSTRIAL PLANT EQ CHG		−300		
PAY RAISE	12,784	7,684		7,684
ITEMS NOT IN CONFERENCE	610,570	622,270	622,270	622,270
TOTAL, OPERATION AND MAINTENANCE, ARMY RESERVE	699,184	707,784	692,200	705,584

OPERATION AND MAINTENANCE, NAVY RESERVE

The conferees agree to the following amounts for operation and maintenance, Navy Reserve:

[In thousands of dollars]

	Budget	House	Senate	Conference
INDUSTRIAL PLANT EQUIPMENT	900		900	900
FUEL COST REESTIMATE	175,218	166,718	175,218	166,718
A/C MOD INSTALLATION	5,862	5,862	14,562	14,562
TRANSFER OF LKA SHIPS	23,600		19,000	
C–9 LEASE PROGRAM			6,300	6,300
TRAVEL	8,074	8,074	6,874	7,474
PAY RAISE	3,707	2,207		2,207
ITEMS NOT IN CONFERENCE	439,346	439,346	439,346	439,346
TOTAL, OPERATION AND MAINTENANCE, NAVY RESERVE	656,707	622,207	662,200	637,507

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

The conferees agree to the following amounts for operation and maintenance, Marine Corps Reserve:

[In thousands of dollars]

	Budget	House	Senate	Conference
FUEL PRICES		−1,100		−1,100
ADP SUPPORT		1,000		1,000
PAY RAISE	79	79		79
ITEMS NOT IN CONFERENCE	48,415	51,115	51,115	51,115
TOTAL, OPERATION & MAINTENANCE, MARINE CORPS RES	48,494	51,094	51,115	51,094

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

The conferees agree to the following amounts for operation and maintenance, Air Force Reserve:

[In thousands of dollars]

	Budget	House	Senate	Conference
INDUSTRIAL PLANT EQUIPMENT	700		700	700
FUEL COST REESTIMATE	159,438	151,438	159,438	151,438
PAY RAISE	12,335	7,435		7,435
ITEMS NOT IN CONFERENCE	606,162	606,162	606,162	606,162
TOTAL, OPERATION & MAINTENANCE, AIR FORCE RESERVE	778,635	765,035	766,300	765,735

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

The conferees agree to the following amounts for operation and maintenance, Army National Guard:

[In thousands of dollars]

	Budget	House	Senate	Conference
MINOR CONSTRUCTION	6,000	6,000	10,500	10,500
FUEL COST REESTIMATE	71,643	57,643	68,943	68,943
REPAIR PARTS	113,107	116,007	115,907	115,907
TRAVEL	13,586	13,586	12,086	12,836
ARMY GUARD M–1 BATTALION		5,500	4,900	5,500
INDUSTRIAL PLANT EQ CHG		−500		
BUFFALO ARMORY FIRE		3,900		3,900
MILITARY TECHNICIAN CONVERSION		15,000		15,000
PAY RAISE	28,417	17,017		17,017
ITEMS NOT IN CONFERENCE	919,564	945,464	945,464	945,464
TOTAL, OPERATION: MAINTENANCE, ARMY NATL GUARD	1,152,317	1,179,617	1,157,800	1,195,067

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

The conferees agree to the following amounts for operation and maintenance, Air National Guard:

[In thousands of dollars]

	Budget	House	Senate	Conference
INDUSTRIAL PLANT EQUIPMENT	1,700		1,700	1,700
SELFRIDGE PARKING APRON		6,000		6,000
FUEL COST REESTIMATE	544,832	507,732	544,832	513,732
COLD WEATHER EQUIPMENT	5,248	5,248	8,248	8,248
CHEMICAL DEFENSE EQUIP			8,200	8,200
JT3D REENGINING		50,000	59,600	54,000
DEPOT MAINTENANCE	289,637	284,437	289,637	284,437
MILITARY TECHNICIAN CONVERSION		10,289		10,289
PAY RAISE	26,014	15,614		15,614
ITEMS NOT IN CONFERENCE	920,383	920,383	920,383	920,383
TOTAL, OPERATION & MAINTENANCE, AIR NATL GUARD	1,787,814	1,799,703	1,832,600	1,822,603

TITLE IV.—PROCUREMENT

The conferees agree to the following amounts for the procurement accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
ARMY:				
AIRCRAFT	2,745,914	2,514,900	2,444,522	2,506,572
MISSILES	2,846,600	2,287,600	2,611,600	2,287,000
WEAPONS, TRACKED COMBAT VEHICLE	5,024,485	4,488,815	4,451,016	4,551,946
TRANSFER FROM OTHER ACCOUNTS		(198,200)	(140,900)	(198,200)
AMMUNITION	2,625,684	2,075,394	2,123,694	2,122,394
OTHER	4,625,791	4,148,804	4,207,891	4,123,404
TOTAL, ARMY	17,868,474	15,515,513	15,838,723	15,591,316
TRANSFER FROM OTHER ACCOUNTS		(198,200)	(140,900)	(198,200)
TOTAL FUNDING AVAILABLE	17,868,474	15,713,713	15,979,623	15,789,516
NAVY:				
AIRCRAFT	11,582,300	10,616,546	10,650,100	10,416,107
WEAPONS	3,901,600	3,644,060	3,506,300	3,561,700
SHIPS	18,648,300	15,973,000	16,848,800	16,076,700
REAPPROPRIATION			(176,200)	176,200
TRANSFER FROM OTHER ACCOUNTS		(35,000)	(35,000)	(35,000)
OTHER	3,969,356	3,825,301	3,877,280	3,727,075
MARINE CORPS	2,300,700	2,008,432	2,047,855	2,008,083
TOTAL, NAVY	40,402,256	36,067,339	36,930,335	35,789,665
REAPPROPRIATION			176,200	176,200
TRANSFER FROM OTHER ACCOUNTS		(35,000)	(35,000)	(35,000)
TOTAL FUNDING AVAILABLE	40,402,256	36,102,339	37,141,535	36,000,865
AIR FORCE:				
AIRCRAFT	17,834,800	17,588,600	17,575,500	17,658,500
TRANSFER FROM OTHER ACCOUNTS		(254,800)	(170,000)	(170,000)
MISSILES	6,795,900	4,681,700	5,904,800	4,941,100
TRANSFER FROM OTHER ACCOUNTS		(15,000)		(15,000)
OTHER	5,836,200	5,520,136	5,556,437	5,563,777
TRANSFER FROM OTHER ACCOUNTS		(17,072)		(4,963)
TOTAL, AIR FORCE	30,466,900	27,790,436	29,036,737	28,163,377
TRANSFER FROM OTHER ACCOUNTS		(286,872)	(170,000)	(189,963)
TOTAL FUNDING AVAILABLE	30,466,900	28,077,308	29,206,737	28,353,340
DEFENSE AGENCIES	879,284	832,845	830,884	828,145
NATIONAL GUARD AND RESERVE COMPONENTS			200,000	125,000
GENERAL REDUCTION, IR&D AND B&P		−386,000		−386,000
TOTAL NOA	89,616,914	79,820,133	83,012,879	80,287,703
TRANSFER FROM OTHER ACCOUNTS		(520,072)	(345,900)	(423,163)
TOTAL FUNDING AVAILABLE	89,616,914	80,340,205	83,358,779	80,710,866

AIRCRAFT PROCUREMENT, ARMY

The conferees agree to the following amounts for the aircraft procurement, Army account:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
AIRCRAFT				
FIXED WING:				
AIRPLANE, CARGO, C–12	11,000	21,000		21,000
AIRPLANE, RECON, RC–12D (GR PIP BUY)	41,200	41,200	41,200	41,200
ROTARY:				
HELICOPTER, ATTACK, AH–1S (COBRA/TOW)		53,900		53,900
HELICOPTER ELECTRONIC EH–60A (QUICKFIX) (AP–CY)	33,300	25,400	25,400	25,400
AH–64 ATTACK HELICOPTER	760,300	695,300	710,000	695,300
AH–64 ATTACK HELICOPTER (AP–CY)	116,500	115,000	115,000	115,000
UH–60A (BLACK HAWK) (HYP)	508,600	423,000	423,000	423,000
UH–60A (BLACK HAWK) (HYP) (AP–CY)	207,600	145,900	145,900	145,900
TOTAL, AIRCRAFT	1,1678.500	1,520,700	1,460,500	1,520,700

[In thousands of dollars]

	Budget	House	Senate	Conference
MODIFICATION OF AIRCRAFT:				
AIRPLANE, SURVEILLANCE, OV-1 (MOHAWK)	16,900	16,900	16,900	16,900
AIRPLANE, RECON, RC12D (GR PIP MOD)	8,700	8,700	8,700	8,700
AIRPLANE, RECONNAISSANCE, RV-1 (MOD)	9,900	9,900	9,900	9,900
HELICOPTER, ATTACK AH1S (COBRA-TOW) (MOD)	32,714	32,714	29,500	29,500
HELICOPTER CARGO CH-47 (CHINOOK)	261,300	261,300	261,300	261,300
AIRPLANE, CARGO, C-12 (MODS)	400	400	400	400
HELICOPTER, OBSERVATION, OH-58 (KIOWA) (MOD)	4,300	4,300	1,772	1,772
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)	45,100	28,700	28,700	28,700
AIRBORNE AVIONICS	5,000	5,000	5,000	5,000
MODIFICATIONS UNDER $900,000 (AIRCRAFT)	100	100	100	100
ACFT SWW	21,200	21,200	21,200	21,200
UNDISTRIBUTED REDUCTION		-3,214		
TOTAL, MODIFICATION OF AIRCRAFT	405,614	386,000	383,472	383,472
SPARES AND REPAIR PARTS	482,500	448,200	436,250	448,200
SUPPORT EQUIPMENT AND FACILITIES				
OTHER SUPPORT:				
AVIONICS SUPPORT EQUIPMENT	34,100	34,100	34,100	34,100
COMMON GROUND EQUIPMENT	90,600	82,300	75,600	75,600
INDUSTRIAL FACILITIES	31,000	21,800	31,000	21,800
WAR CONSUMABLES	6,400	6,400	6,400	6,400
HELLFIRE LAUNCHERS	17,200	17,200	17,200	17,200
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	179,300	161,800	164,300	155,100
INDUSTRIAL PLANT EQUIPMENT		-900		
PERSONNEL SECURITY CLEARANCES		-900		-900
TOTAL, AIRCRAFT PROCUREMENT, ARMY	2,745,914	2,514,900	2,444,522	2,506,572

MISSILE PROCUREMENT, ARMY

The conferees agree to the following amounts for missile procurement Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
OTHER MISSILES				
SURFACE-TO-AIR MISSILE SYSTEM:				
U.S. ROLAND	61,300	61,300	61,300	61,300
PATRIOT (SAM D)	805,100	779,100	687,300	779,100
STINGER	214,600	214,600	172,100	214,600
AIR-TO-SURFACE MISSILE SYSTEM:				
LASER HELLFIRE SYSTEM	249,200	249,200	249,200	249,200
ANTI-TANK/ASSAULT MISSILE SYSTEM:				
TOW (BGM-71A), (BTM-71A)	145,200	134,700	132,000	134,700
PERSHING	498,300		498,300	
MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	368,900	368,900	368,900	368,900
MULTIPLE LAUNCH ROCKET SYSTEM (MYP) (AP-CY)	53,200	53,200		53,200
OTHER MISSILE SUPPORT	4,500	4,500	4,500	4,500
TOTAL, OTHER MISSILES	2,400,300	1,865,500	2,173,600	1,865,500
MODIFICATION OF MISSILES				
MODIFICATIONS:				
CHAPARRAL MODIFICATIONS	32,500	32,500	32,500	32,500
TWO MODIFICATIONS	58,400	58,400	58,400	58,400
LANCE MODIFICATIONS	1,500	1,500	1,500	1,500
MODIFICATIONS LESS THAN $900,000	600	600	600	600
TOTAL, MODIFICATION OF MISSILES	93,000	93,000	93,000	93,000
SPARES AND REPAIR PARTS	233,300	233,300	208,000	233,000
SUPPORT EQUIPMENT AND FACILITIES:				
AIR DEFENSE TARGETS	12,100	12,100	9,100	9,100
ITEMS LESS THAN $900,000 (MISSILES)	4,800	4,800	4,800	4,800
PRODUCTION BASE SPT	69,300	57,700	89,300	58,700
OTHER PRODUCTION CHARGES	33,800	33,800	33,800	33,800
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	120,000	108,400	137,000	106,400
PERSONNEL SECURITY CLEARANCES		-900		-900
INDUSTRIAL PLANT EQUIPMENT		-1,400		
TOTAL, MISSILE PROCUREMENT, ARMY	2,846,600	2,287,600	2,611,600	2,287,000

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conferees agree to the following amounts for Procurement of Weapons and Tracked Combat Vehicles, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEH				
TRACKED COMBAT VEHICLES:				
CARRIER, COMMAND POST LIGHT, FT, M577A2	23,500			
CARRIER, PERSONNEL, FT, ARM, M113A2	92,000	92,000	92,000	92,000
BRADLEY FIGHTING VEHICLES	793,300	783,300	783,300	783,300
BRADLEY FIGHTING VEHICLES (AP-CY)	49,200	49,200	49,200	49,200
TRAINING DEVICES F/IFV/CFV	38,800	38,800	38,800	38,800
FIELD ARTILLERY AMMO SUPPORT VEHICLE	106,400		61,000	30,000

[In thousands of dollars]

	Budget	House	Senate	Conference
RECOVERY VEHICLE, MED, FT, M88A1	151,600	151,600	157,800	151,600
M1 ABRAMS TANK	1,457,000	1,360,400	1,211,800	1,360,400
TRANSFER		(198,200)	(140,900)	(198,200)
M1 ABRAMS TANK (AP-CY)	432,300	380,900	363,900	380,900
M60 SERIES TANK TRAINING DEVICES	12,600	12,600	12,600	12,600
TRAINING EQUIPMENT FOR M-1 SERIES TANK	58,200	58,200	58,200	58,200
LIGHT ARMORED SQUAD CARRIER	51,700			
MOBILE PROTECTED GUN-CANNON VEHICLE	51,900	25,000	25,000	25,000
MOBILE PROTECTED GUN-RECOVERY VEHICLE	7,700			
MODIFICATION OF TRACKED COMBAT VEHICLES:				
CARRIER, MOD, ROLL	41,000	41,000	27,200	27,200
IMPROVED TOW VEHICLE (ITV) (MOD)	81,900	60,700	60,700	60,700
FIST VEHICLE (MOD)	63,800	40,000	40,000	40,000
HOWITZER, MED SP FT 155 MM M109 SER (MOD)	2,100	2,100	2,100	2,100
HOWITZER, HV, SP, FT, 8-IN M110 SER (MOD)	26,800	26,800	26,800	26,800
TANK, COMBAT, FT, 105MM GUN, M60 SER (MOD)	162,900	162,900	162,900	162,900
SUPPORT EQUIPMENT AND FACILITIES:				
SPARES AND REPAIR PARTS	383,469	374,869	371,000	375,900
FAASV	(4,600)		(1,031)	(1,031)
M-1	(135,700)	(133,200)	(127,800)	(133,200)
LIGHT ARMORED SQUAD CAR	(1,300)		(300)	
LIGHT ARMORED RECOVERY VEH	(200)		(200)	
ITEMS LESS THAN $900,000 (TCV-WTCV)	900	900	900	900
PRODUCTION BASE SUPPORT (TCV-WTCV)	105,470	122,900	147,170	122,900
TOTAL, TRACKED COMBAT VEHICLES	4,194,539	3,784,169	3,692,370	3,801,400
WEAPONS AND OTHER COMBAT VEHICLES:				
DIVAD GUN	521,100	437,100	471,100	471,100
DIVAD GUN (AP-CY)	74,400	74,400	74,400	74,400
ARMOR MACHINE GUN, 7.62MM M240 ROLL	26,400	26,400	26,400	26,400
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM	10,500	10,500	9,400	9,400
LAUNCHER, SMOKE GRENADE	3,400	3,400	3,400	3,400
MORTAR, 81MM, XM252	10,600			
PERSONAL DEFENSE WEAPON, 9MM	4,400			
VEHICLE RAPID FIRE WEAPON SYSTEM	33,400	26,000	33,400	33,400
MAGNETIC HEADING SET	3,700			
MHS-GYRO GROUP	1,500			
MODIFICATION OF WEAPONS AND OTHER COMBAT VEHI: MODIFICATIONS UNDER $900,000 (WOCV-WTCV)	900	900	900	900
SUPPORT EQUIPMENT AND FACILITIES:				
SPARES AND REPAIR PARTS	107,946	107,946	107,946	107,946
ITEMS LESS THAN $900,000 (WOCV-WTCV)	2,600	2,600	2,600	2,600
PRODUCTION BASE SUPPORT (WOCV-WTCV)	29,100	21,000	29,100	21,000
TOTAL, WEAPONS AND OTHER COMBAT VEHICLES	829,946	710,246	758,646	750,546
INDUSTRIAL PLANT EQUIPMENT		−5,600		
TOTAL, PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEH	5,024,485	4,488,815	4,451,016	4,551,946
TRANSFER FROM OTHER ACCOUNTS		(198,200)	(140,900)	(198,200)
TOTAL FUNDING AVAILABLE	5,024,485	4,687,015	4,591,916	4,750,146

PROCUREMENT OF AMMUNITION, ARMY

The conferees agree to the following amounts for items in conference in procurement of ammunition, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
CARTRIDGE, 7.62MM, ALL TYPES	52,700	45,300	51,700	45,300
CARTRIDGE, CAL. .45, ALL TYPES	4,600		4,600	
CARTRIDGE, CAL. 50, ALL TYPES	93,600	68,900	92,600	68,900
CARTRIDGE, 30MM (ADEN/DEFA), ALL TYPES	64,100	9,000	64,100	64,100
CARTRIDGE, 4.2 INCH, ALL TYPES	55,300		12,000	24,100
CARTRIDGE, 105MM (APFSDS-T/TP) ALL TYPES	154,800	129,700	100,300	129,700
CARTRIDGE, 120MM, ALL TYPES	10,900		10,900	
PROJECTILE, 155MM, HE RAP	17,700	45,700	17,700	45,700
FUZE, FOR ARTY & MORTAR, ALL TYPES	108,000	108,000	98,600	108,000
VIPER, ALL TYPES	113,700	36,000		
ITEMS LESS THAN $900000 (MISC-AMMO)	14,500	12,000	14,500	12,000
GENERAL REDUCTION		−7,700		−7,700
MANUFACTURING TECHNOLOGY PROGRAM	24,400		24,400	
INDUSTRIAL PLANT EQUIPMENT		−3,800		
ITEMS NOT IN CONFERENCE	1,911,384	1,632,294	1,632,294	1,632,294
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	2,625,684	2,075,394	2,123,694	2,122,394

OTHER PROCUREMENT, ARMY

The conferees agree to the following amounts for items in conference in other procurement, army:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT, ARMY				
SMALL UNIT SUPPORT VEHICLE (SUSV)	28,700		28,700	28,700
PRODUCTION BASE SUPPORT (TAC)	8,200	900	8,200	900
LOG PERIODIC ANT, DE-314 ( )/GRC	3,800	3,800	5,800	3,800
SMALL UNIT TRANS AN/PRC-68	7,100	7,100	2,000	2,000
BASE COMM (EUCOM)	35,000	35,000	10,000	10,000
BASE COMM (PACOM)	7,900	4,300	7,900	4,300
MOD IN SER EQ (INT SPT)	58,600	46,600	46,300	46,600
SOFTCOPY IMAGERY TRAINING DEVICE	6,500		6,500	
INTELLIGENCE DATA HANDLING SYSTEM (IDHS)	8,500	5,913	6,000	5,913
DARCOM FIVE YEAR ADP PROGRAM	15,000	14,000	10,000	10,000

[In thousands of dollars]

	Budget	House	Senate	Conference
DECENTZED AUTO SER SUP SYS (DASA3)	33,700	26,700	33,700	26,700
DIV LEVEL DATA ENTRY DEVICE (DLDED)	24,600		10,400	
JAMMER, HAND EMPLACED, EXPENABLE	5,900		5,900	
GROUND LASER LOCATOR DESIGNATOR (GLLD)	45,400		45,400	
NIGHT SIGHT, INFRARED, AN/TAS-5	28,000	28,000	27,000	28,000
SPARES AND REPAIR PARTS	209,500	189,500	184,500	184,500
SPARES AND REPAIR PARTS	154,164	132,064	145,164	133,064
PRODUCTION BASE SUPPORT (C-E)	22,100	5,000	22,100	5,000
GENERAL REDUCTION		−7,600		
DECONTAMINATE APP PWR DR LT WT XM17	400	400	1,700	400
DETECTION: WARNING SYSTEM, BIOLOGICAL	6,200		6,200	
DISPENSER, MINE, XM128 (GEMSS)	8,500	8,200	11,500	8,200
DIVING EQUIPMENT	1,200	1,200	2,000	1,200
PROT OUTFIT, MICROCLIMATE CONTROLLED	3,300	3,300	3,900	3,300
TACTICAL WATER DISTR SYS	17,900	17,900	18,300	17,900
ITEMS LESS THAN $90,000 (CS EQ-OTH)	21,700	21,700	24,600	21,700
SMALL EMPLACEMENT EXCAVATOR (SEE)	3,800		4,900	
RAILWAY CAR, FLAT, 140 TON	11,100	8,300	8,100	8,100
QUICK RETURN ON INVESTMENT PROGRAM	33,800	33,800	18,800	18,800
PROD ENHANCING CAPITAL INVEST PRGM	10,900	10,900	5,900	5,900
PRODUCTIVITY INVESTMENT PRGM	5,900	5,900	7,100	5,900
BASE LEVEL COM'L EQUIPMENT	50,800	50,800	40,800	45,800
PRODUCTION BASE SUPPORT (OTH)	31,000	13,000	31,000	13,000
GENERAL REDUCTION	−23,800	−29,200		−29,200
INDUSTRIAL PLANT EQUIPMENT		−1,600		
CLASSIFIED PROGRAM, BUDGET AMENDMENT	95,400	95,400		95,400
ITEMS NOT IN CONFERENCE	3,645,027	3,417,527	3,417,527	3,417,527
TOTAL, OTHER PROCUREMENT, ARMY	4,625,791	4,148,804	4,207,891	4,123,404

AIRCRAFT PROCUREMENT, NAVY

The conferees agree to the following amounts for aircraft procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
COMBAT AIRCRAFT:				
A-6E (ATTACK) INTRUDER (MYP)	247,700	246,400	224,100	235,200
A-6E (ATTACK) INTRUDER (MYP) (AP-CY)	13,300	8,300	8,300	8,300
EA-6B (ELECTRONIC WARFARE) INTRUDER (MYP)	289,900	289,900	289,900	289,900
EA-6B (ELECTRONIC WARFARE) INTRUDER (MYP) (AP-CY)	26,700	17,600	17,600	17,600
AV-8B (V/STOL)	677,100	702,100	742,900	702,100
AV-8B (V/STOL) (AP-CY)	73,900	61,600	73,900	61,600
F-14A (FIGHTER) TOMCAT	915,300	901,700	819,300	875,000
F-14A (FIGHTER) TOMCAT (AP-CY)	202,400	202,400	202,400	202,400
F-18 (FIGHTER) HORNET	2,443,900	2,136,100	2,233,900	2,136,100
F-18 (FIGHTER) HORNET (AP-CY)	283,700	248,200	252,700	248,200
CH-53E (HELICOPTER) SUPER STALLION (MYP)	255,600	205,600	233,600	205,600
CH-53E (HELICOPTER) SUPER STALLION (MYP) (AP-CY)	33,500	2,900	2,900	2,900
AH-1T (HELICOPTER) SEA COBRA (AP-CY)	17,200			
SH-60B (ASW HELO) SEAHAWK	858,400	476,100	616,700	576,100
SH-60B (ASW HELO) SEAHAWK (AP-CY)	137,000	58,000	102,000	58,000
P-3C (PATROL) ORION	280,600	242,600	253,900	242,600
P-3C (PATROL) ORION (AP-CY)	48,800	48,800	48,800	48,800
E-2C (EARLY WARNING) HAWKEYE	316,200	274,100	307,500	274,100
E-2C (EARLY WARNING) HAWKEYE (AP-CY)	21,300	21,300	21,300	21,300
SH-2F (ASW HELO) SEASPRITE	169,000	150,000	165,400	150,000
SH-2F (ASW HELO) SEASPRITE (AP-CY)	20,400	13,400	20,400	13,400
TOTAL, COMBAT AIRCRAFT	7,331,900	6,407,100	6,637,500	6,369,200
AIRLIFT AIRCRAFT				
BA-2 AIRLIFT AIRCRAFT:				
C-9 SKYTRAIN II	16,200	16,200	16,200	16,200
C-2(MYP)	218,900	218,900	218,900	218,900
C-2(MYP) (AP-CY)	48,900	48,900	48,900	48,900
TOTAL, AIRLIFT AIRCRAFT	284,000	284,000	284,000	284,000
TRAINER AIRCRAFT:				
T-34C	34,400	34,400	34,400	34,400
TH-57	23,200	23,200	23,200	23,200
TOTAL, TRAINER AIRCRAFT	57,600	57,600	57,600	57,600
OTHER AIRCRAFT:				
EC-130D (TACAMO) HERCULES	36,800	36,800	36,800	36,800
EC-130R (TACAMO) HERCULES		30,000		30,000
TOTAL, OTHER AIRCRAFT	36,800	66,800	36,800	66,800
MODIFICATION OF AIRCRAFT:				
A-3 SERIES	7,300	7,300	7,300	7,300
A-4 SERIES	31,100	24,723	31,100	24,723
A-6 SERIES	184,400	175,345	184,400	175,345
EA-6 SERIES	91,100	85,177	91,100	85,177
A-7 SERIES	105,400	105,400	105,400	105,400
AV-8A	10,900	10,900	10,900	10,900
F-4 SERIES	22,700	22,700	22,700	22,700
RF-4 SERIES	9,900	51,970	9,900	29,470
F-14A	166,800	152,198	166,800	152,198
F-8 SERIES	1,200	1,200	1,200	1,200
F-5 SERIES	200	200	200	200

[In thousands of dollars]

	Budget	House	Senate	Conference
DV-10A	1,700	1,700	1,700	1,700
F-18 MODS	17,800	4,981	17,800	4,981
H-46 SERIES	51,000	51,000	51,000	51,000
H-53 SERIES	29,200	29,200	29,200	29,200
H-1 SERIES	18,900	18,900	18,900	18,900
H-2 SERIES	3,900	3,900	3,900	3,900
H-3 SERIES	20,600	20,600	20,600	20,600
EP-3 SERIES	28,200	28,200	28,200	28,200
P-3 SERIES	119,800	117,090	119,800	117,090
S-3	27,200	26,152	27,200	26,152
US-3A COD	2,700	92	2,700	92
E-2 SERIES	48,100	48,100	48,100	48,100
T-34	1,500	1,500	1,500	1,500
T-44	200	200	200	200
T39	1,500	1,500	1,500	1,500
TH-57	300	300	300	300
T-2	100	100	100	100
C9B SERIES	1,400	1,400	1,400	1,400
C-1A	200	200	200	200
UC-12B	200	200	200	200
EC-130 SERIES	62,700	54,779	62,700	54,779
C-130 SERIES	16,200	16,200	16,200	16,200
C-135	36,800	36,800	36,800	36,800
C-131 SERIES	100	100	100	100
VARIOUS	10,800	10,800	10,800	10,800
POWER PLANT CHANGES	11,700	11,700	11,700	11,700
MISC FLT SAFETY/OPER NECESSITY CHANGES	5,400	5,400	5,400	5,400
COMMON ECM EQUIPMENT	153,800	153,800	153,800	153,800
COMMON AVIONICS CHANGES	8,100	8,100	8,100	8,100
GENERAL REDUCTION			−103,000	−51,500
TOTAL, MODIFICATION OF AIRCRAFT	1,311,100	1,290,107	1,208,100	1,216,107
SPARES AND REPAIR PARTS	2,080,900	2,047,039	2,005,900	2,005,900
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES:				
COMMON GROUND EQUIPMENT	415,200	415,200	366,600	366,600
AIRCRAFT INDUSTRIAL FACILITIES	24,400	24,400	24,400	24,400
WAR CONSUMABLES	9,300	9,300	9,300	9,300
OTHER PRODUCTION CHANGES	31,100	31,100	31,100	31,100
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	480,000	480,000	431,400	431,400
PERSONNEL SECURITY CLEARANCES		−3,700		−3,700
INDUSTRIAL PLANT EQUIPMENT		−2,600		
CONSULTANTS, STUDIES, AND ANALYSES		−9,800	−11,200	−11,200
TOTAL, AIRCRAFT PROCUREMENT, NAVY	11,582,300	10,616,546	10,650,100	10,416,107

WEAPONS PROCUREMENT, NAVY

The conferees agree to the following amounts for weapons procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
WEAPONS PROCUREMENT, NAVY				
BALLISTIC MISSILES:				
UGM-73A (C-3) POSEIDON	9,700	9,700	9,700	9,700
UGM-96A (C-4) TRIDENT I	699,500	685,300	633,700	633,700
UGM-96A (C-4) TRIDENT I (AP-CY)	43,300	36,300	36,300	36,300
MODIFICATION OF MISSILES: UGM-73 A (C-3) POSEIDON MODS	7,500	7,500	7,500	7,500
SUPPORT EQUIPMENT AND FACILITIES:				
SPARES AND REPAIR PARTS	1,100	1,100	1,100	1,100
MISSILE INDUSTRIAL FACILITIES	2,600	2,600	2,600	2,600
ASTRONAUTICS	12,800	12,800	12,800	12,800
TOTAL, BALLISTIC MISSILES	776,500	755,300	703,700	703,700
OTHER MISSILES				
STRATEGIC MISSILES:				
BGM-109 TOMAHAWK	271,000	237,300	173,000	229,800
BGM-109 TOMAHAWK (AP-CY)	21,163	19,223	6,663	6,663
TACTICAL MISSILES:				
AIM/RIM-7 F/M SPARROW	132,800	131,100	132,800	131,100
AIM-9L/M SIDEWINDER	41,471	40,771	41,471	40,771
AIM-54A/C (PHOENIX)	222,100	212,500	182,600	212,500
AIM-54A/C (PHOENIX) (AP-CY)	34,200	34,200	30,200	34,200
AGM-84A HARPOON	236,136	219,736	225,136	219,736
AGM-88A HARM	176,800	127,100	95,800	127,100
RIM-66B STANDARD MR (MYP)	192,300	191,300	192,300	191,300
RIM-66B STANDARD MR (MYP) (AP-CY)	60,300			
RIM-66C STANDARD MR	122,800	122,100	122,800	122,100
RIM-67B STANDARD ER	302,800	301,000	302,800	301,000
LASER MAVERICK	33,100	32,400	33,100	32,400
OTHER MISSILE SUPPORT	5,300	5,300	5,300	5,300
AERIAL TARGETS	76,600	75,700	76,600	75,700
MODIFICATION OF MISSILES:				
AIM/RIM-7E/F SPARROW MOD	7,690	7,690	7,690	7,690
AIM-9 SIDEWINDER MOD	46,200	46,200	46,200	46,200
AIM-54A/C PHOENIX MOD	6,600	6,600	6,600	6,600
AGM-84A HARPOON MOD	8,100	8,100	8,100	8,100
RIM-66B STANDARD MR MOD	2,600	2,600	2,600	2,600
RIM-67A STANDARD ER MOD	3,000	3,000	3,000	3,000
SUPPORT EQUIPMENT AND FACILITIES:				
SPARES AND REPAIR PARTS	103,540	103,540	90,840	90,840
WEAPONS INDUSTRIAL FACILITIES	11,800	11,800	11,800	11,800
ENERGY CONSERVATION	2,700	2,700	2,700	2,700
FLEET SATELLITE COMMUNICATIONS	231,300	231,300	231,300	231,300
TOTAL, OTHER MISSILES	2,352,400	2,173,260	2,031,400	2,140,500

[In thousands of dollars]

	Budget	House	Senate	Conference
TORPEDOES AND RELATED EQUIPMENT:				
TORPEDO MK-48	124,300	119,300	124,300	119,300
TORPEDO MK-46 (MYP)	105,700	89,200	105,700	89,200
TORPEDO MK-46 (MYP) (AP-CY)	35,500	35,500	35,500	35,500
MK-60 CAPTOR	151,400	133,200	151,400	133,200
MOBILE TARGET MK-30	19,400	19,400	19,400	19,400
MK-38 MINI MOBILE TARGET (A)	2,300	2,300	2,300	2,300
ASROC	10,100	10,100	10,100	10,100
MOD OF TORPEDOES AND RELATED EQUIP:				
MOBILE MINE MK-67	22,900	22,900	22,900	22,900
TORPEDO MK-46 MODS	28,400	15,600	28,400	15,600
TORPEDO MK-48 MODS	35,600	35,600	35,600	35,600
CAPTOR MODS	2,400	2,400	2,400	2,400
SUPPORT EQUIPMENT:				
TORPEDO SUPPORT EQUIPMENT	36,000	36,000	36,000	36,000
ASW RANGE SUPPORT	17,800	17,800	17,800	17,800
SPARES AND REPAIR PARTS	13,100	13,100	13,100	13,100
TOTAL, TORPEDOES AND RELATED EQUIPMENT	604,900	552,400	604,900	552,400
OTHER WEAPONS				
GUNS AND GUN MOUNTS:				
MK-15 CLOSE IN WEAPONS SYSTEM	118,740	118,740	118,740	118,740
MK-75 76MM GUN MOUNT	10,700	10,700	10,700	10,700
MK-19	400	400	400	400
20MM GUN MOUNT	400	400	400	400
9MM HANDGUN	400			
MODIFICATION OF GUNS AND GUN MOUNTS:				
CIWS MODS	4,400	4,400	4,400	4,400
5'/54 GUN MOUNT MODS	9,000	9,000	9,000	9,000
3'/50 GUN MOUNT MODS	3,500	3,500	3,500	3,500
MK 75 76MM GUN MOUNT MODS	2,300	2,300	2,300	2,300
MODS UNDER $900,000	500	500	500	500
SUPPORT EQUIPMENT:				
GUN SUPPORT EQUIPMENT	400	400	400	400
SPARES AND REPAIR PARTS	17,060	17,060	17,060	17,060
TOTAL, OTHER WEAPONS	167,800	167,400	167,400	167,400
PERSONNEL SECURITY CLEARANCES		−1,200		−1,200
INDUSTRIAL PLANT EQUIPMENT		−3,100		
CONSULTANTS, STUDIES, ANALYSES			−1,100	−1,100
TOTAL, WEAPONS PROCUREMENT, NAVY	3,901,600	3,644,060	3,506,300	3,561,700

SHIPBUILDING AND CONVERSION, NAVY

The conferees agree to the following amounts for shipbuilding and conversion, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
SHIPBUILDING AND CONVERSION, NAVY				
FLEET BALLISTIC MISSILE SHIPS:				
TRIDENT (NUCLEAR)	2,241,100	1,428,600	1,462,600	1,462,600
TRIDENT (NUCLEAR) (AP-CY)	243,900	81,300	81,300	81,300
TOTAL, FLEET BALLISTIC MISSILE SHIPS	2,485,000	1,509,900	1,543,900	1,543,900
OTHER WARSHIPS:				
CVN AIRCRAFT CARRIER (NUCLEAR)	6,795,300	6,559,500	6,795,300	6,559,500
SSN-688 CLASS SUBMARINE (NUCLEAR)	1,027,400	1,004,200	1,027,400	1,004,200
SSN-688 CLASS SUBMARINE (NUCLEAR) (AP-CY)	416,000	416,000	416,000	416,000
BATTLESHIP REACT	323,400	300,800	323,400	300,800
BATTLESHIP REACT (AP-CY)	94,000	94,000		
CV SLEP	536,500	517,300	536,500	536,500
CV SLEP (AP-CY)	163,000	163,000	163,000	163,000
CG-47 AEGIS CRUISER	3,112,200	2,901,700	3,062,600	2,901,700
CG-47 AEGIS CRUISER (AP-CY)	22,200		22,200	
TOTAL, OTHER WARSHIPS	12,490,000	11,956,500	12,346,400	11,881,700
AMPHIBIOUS SHIPS:				
LSD-41 LANDING SHIP DOCK	379,200	377,800	379,200	377,800
LSAD-41 LANDING SHIP DOCK (AP-CY)	37,800	37,800	37,800	37,800
LHD-1 (AP-CY)	55,000	55,000	55,000	55,000
TOTAL, AMPHIBIOUS SHIPS	472,000	470,600	472,000	470,600
MINE WARFARE AND PATROL SHIP				
BA-4 MINE WARFARE AND PATROL SHIPS:				
FFG GUIDED MISSILE FRIGATE	666,400	666,400	631,400	646,300
(TRANSFER FROM FY82)		(35,000)	(35,000)	(35,000)
MCM MINE COUNTERMEASURES SHIP	371,600		371,600	100,000
TOTAL, MINE WARFARE AND PATROL SHIPS	1,038,000	666,400	1,003,000	746,300
BA-5 AUXILIARIES, CRAFT AND PY PROG COSTS				
AUXILIARIES AND CFAFT:				
TAO (MYP)	210,200	179,600		173,000
TAO (MYP) (AP-CY)	109,800			
AGOS SWATH SHIP (AP-CY)	24,300			
ARS	74,000		74,000	50,000
ARS	10,000		10,000	
FAST LOGISTICS SHIP (TAKRX) (CONV)	322,600			
FAST LOGISTICS SHIP (TAKRX) (CONV) (AP-CY)		44,000	44,000	44,000
TAHX	300,000	300,000	300,000	300,000
SERVICE CRAFT	79,000	78,100	79,000	79,000
LANDING CRAFT	83,100	65,300	72,500	65,300
OUTFITTING	136,400	136,400	136,400	136,400
POST DELIVERY	168,300	158,300	168,300	168,300

[In thousands of dollars]

	Budget	House	Senate	Conference
SHIP CONTRACT DESIGN	97,200		97,200	
COST GROWTH—ESCALATION ON PRIOR YEAR PROGRAMS	523,400	439,900	536,900	458,900
MANUFACTURING TECHNOLOGY	25,000			
TOTAL, BA-5 ANXILIARIES, CRAFT AND PY PROG COSTS	2,163,300	1,401,600	1,518,300	1,474,900
ACQUISITION, CONSTRUCTION AND IMPROVEMENTS:				
INDUSTRIAL PLANT EQUIPMENT		−5,100		
PERSONNEL SECURITY CLEARANCES		−5,900		−5,900
CONSULTANTS, STUDIES, AND ANALYSES		−21,000	−34,800	−34,800
TOTAL, SHIPBUILDING AND CONVERSION, NAVY	18,648,300	15,973,000	16,848,800	16,076,700
REAPPROPRIATION (FY77 PROGRAM COMPLETION)			176,200	176,200
TRANSFER FROM OTHER ACCOUNTS		(35,000)	(35,000)	(35,000)
TOTAL FUNDING AVAILABLE	18,648,300	16,008,000	17,060,000	16,287,900

OTHER PROCUREMENT, NAVY

The conferees agree to the following amounts for items in conference in other procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT NAVY				
STEAM PROPULSION IMPROVEMENT PROG	15,524	15,524	13,524	13,524
HIGH PRESSURE AIR COMPRESSOR	3,607	3,607	1,607	1,607
ELEC GYRO NAV SYS	16,974	4,200	16,974	4,200
SEALIFT SUPPORT EQUIPMENT	22,007	15,207	15,007	15,007
SMALL BOATS	14,987	14,987	13,587	13,587
AN/SLQ-17	21,857	21,857	22,657	21,857
NCCS ASHORE	6,573	4,573	6,573	4,573
AN/SSQ-77 (VLAD)	53,308	42,552	53,308	42,552
GENERAL PURPOSE BOMBS	18,402	2,600	18,402	2,600
MARINE LOCATION MARKERS	6,438	5,100	6,438	5,100
JATOS	14,873	12,873	14,873	12,873
5 /54 AMMO COMPONENTS	28,046	20,846	28,046	20,846
GUN FIRE CONTROL EQUIPMENT	11,698	11,698	9,798	9,798
AEGIS CSEDS	43,957		43,957	
SURFACE TOMAHAWK SUPPORT EQUIPMENT	144,847	104,564	144,847	104,564
SUBMARINE TOMAHAWK SUPPORT EQUIPMENT	31,398	14,699	31,398	14,699
SMALL ARMS AMMO	15,486	12,312	12,286	12,286
PRODUCTIVITY INVESTMENT FUND (PIF)	4,655	4,655	1,555	1,555
NAVY PRODUCTIVITY PROGRAM (COORI)	6,726	6,726	3,426	3,426
SPECIAL ACTIVITIES	16,074	12,534	8,974	12,534
TRAINING SUPPORT EQUIP	14,079	14,079	7,579	7,579
INTELLIGENCE SUPPORT EQUIPMENT	23,964	21,808	21,964	21,808
MANUFACTURING TECHNOLOGY	33,830	41,830	33,830	33,830
UNDISTRIBUTED REDUCTION			−12,400	−12,400
UNDISTRIBUTED REDUCTION			−7,400	−7,400
INDUSTRIAL PLANT EQUIPMENT		50,000		
ITEMS NOT IN CONFERENCE	3,400,046	3,366,470	3,366,470	3,366,470
TOTAL, OTHER PROCUREMENT NAVY	3,969,356	3,825,301	3,877,280	3,727,075

PROCUREMENT, MARINE CORPS

The conferees agree to the following amounts for items in conference in procurement, Marine Corps:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
M2 CUTTER CTG ACT REEF LINE 2-SEC DEL	1,288	1,288	788	788
LINEAR CHARGE, PRACTICE	16,443	16,443	10,443	10,443
CARTRIDGE, 9MM, BALL	649	649		
PROJECTILE, 155MM, SMOKE HC-BE	15,363	14,063	10,066	10,066
PROJECTILE, 155MM, ICM(DP)	131,714	131,714	73,731	73,731
CHARGE PROPELLING, 155MM, WHITE BAG	50,948	50,948	27,089	27,089
PROJ 155MM HE 107	46,193	46,193	44,388	44,388
CHARGE, PROPELLING, 8 INCH, WHITE BAG	11,341	11,341	8,341	8,341
PROJECTILE, 155MM, ADAM	57,176	28,876	24,427	24,427
PROJECTILE, 155MM, RAAM	38,131	28,931	28,191	28,191
PROJECTILE, 155MM, CLGP COPPERHEAD	20,884	20,884		
FUZE MECHANICAL TIME	19,633	19,633	1,950	19,633
GENERAL REDUCTION, 155MM		−160,200		
ITEMS LESS THAN $900,000	4,068	4,068	3,868	3,868
LVT7A1	151,513	124,753	151,513	124,753
LVT7A1 (AP-CY)		25,800		25,800
LVT7 SERVICE LIFE EXT PROG (SLEP)	157,240	131,400	141,840	116,000
LVT7 SERVICE SOURCE EST. PROG. (AP-CY)		25,800		25,800
MACHINE GUN, 50 CAL M2	2,983	2,512	2,983	2,512
STINGER MISSILE SYSTEM	115,593	99,500	115,593	99,500
RADIO SET AN/PRC-( )/UHF	17,818	17,818	14,718	14,718
RADIO SET AN/PRC-75A (TEL)	83	83		
RADIO SET AN/PRC-77	4,391	4,391	3,091	3,091
ANTENNA PROCESSOR CP-1380/VRC	3,897	3,897	3,497	3,497
AUTO, ATMOSPHERIC SNDG, SET	4,545		4,545	
TOW NIGHT SIGHT TAS-4	24,434	24,434	10,234	10,234
MOD UNIV LASER EQUIP-MULE (MYP)	35,214	37,314	35,214	37,314
MOD UNIV LASER EQUIP-MULE (MYP) (AP-CY)	12,600		12,600	
TRUCK CARGO 5 TON	63,817	62,117	63,817	62,117
5 TON RETROFIT	6,787	5,787	3,787	3,787
REFRIGERATION UNIT	2,158	1,058	2,158	1,058
REFRIGERATION BOX	1,346	246	1,346	246
COMMAND SPT EQUIP	25,220	10,000	11,520	10,000
SHELTER FAMILY	19,426		19,426	
ITEMS NOT IN CONFERENCE	1,237,804	1,216,691	1,216,691	1,216,691
TOTAL, PROCUREMENT, MARINE CORPS	2,300,700	2,008,432	2,047,855	2,008,083

AIRCRAFT PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Aircraft Procurement, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
COMBAT AIRCRAFT				
STRATEGIC OFFENSIVE:				
B-1B	3,393,100	3,393,100	3,393,100	3,393,100
B-1B (AP-CY)	475,000	475,000	475,000	475,000
TACTICAL FORCES:				
A-10A/B	357,300	357,300	357,300	357,300
F-5E/F	28,500	28,500	28,500	28,500
F-15A/B/C/D/E	1,296,800	1,240,400	1,240,400	1,240,400
F-15A/B/C/D/E (AP-CY)	305,400	162,000	162,000	162,000
F-16A/B	1,735,400	1,711,600	1,711,600	1,711,600
F-16A/B (AP-CY)	223,300	223,300	223,300	223,300
OTHER COMBAT AIRCRAFT:				
KC-10A (ATCA)	474,000	354,000	354,000	354,000
TRANSFER		(120,000)	(120,000)	(120,000)
KC-10A (ATCA) (AP-CY)	441,000	441,000	441,000	441,000
KC-130H		38,300	38,300	38,300
E-3A	114,900	114,900	140,600	114,900
E-3A (A-CY)	25,700	25,700	25,700	25,700
TOTAL, COMBAT AIRCRAFT	8,870,400	8,565,100	8,590,800	8,565,100
AIRLIFT AIRCRAFT				
STRATEGIC AIRLIFT:				
C-5N	700,000	697,500	650,000	700,000
C-5N (AP-CY)	100,000	102,500	100,000	100,000
TRANSFER		(50,000)		
TACTICAL AIRLIFT:				
C-130H		72,500	145,000	72,500
C-130 SKI EQUIPPED		106,500		106,500
WIDE BODIED CARGO AIRLIFT		60,000	94,800	94,800
TRANSFER		(84,800)	(50,000)	(50,000)
EUROPEAN DISTRIBUTION AIRCRAFT	5,000	5,000		5,000
TOTAL, AIRLIFT AIRCRAFT	805,000	1,044,000	989,800	1,078,800
OTHER AIRCRAFT:				
TR-1A	145,800	145,800	145,800	145,800
TR-1A (AP-CY)	10,700	10,700	10,700	10,700
TOTAL, OTHER AIRCRAFT	156,500	156,500	156,500	156,500
MODIFICATION OF IN-SERVICE AIRCRAFT				
STRATEGIC AIRCRAFT: B-52	554,600	521,600	530,500	532,200
TACTICAL AIRCRAFT:				
A-7	41,500	41,500	90,500	90,500
A-10	92,300	92,300	92,300	92,300
F/RF-4	127,300	120,000	120,200	120,000
F-5	3,400	3,400	3,400	3,400
F-15	36,200	36,200	36,200	36,200
F-16	40,100	40,100	40,100	40,100
F-111	96,000	96,000	96,000	96,000
EF-111	203,600	203,600	203,600	203,600
TR-1A	2,300	2,300	2,300	2,300
T/AT-37	7,800	7,800	7,800	7,800
AIRLIFT AIRCRAFT:				
C-5	231,000	231,000	231,100	231,100
C-141	33,900	33,900	33,900	33,900
TRAINER AIRCRAFT:				
T-38	8,000	8,000	8,000	8,000
T-39 AIRCRAFT SYSTEM	8,100	8,100	8,100	8,100
OTHER AIRCRAFT:				
C-130	154,800	154,800	154,800	154,800
C-135	613,700	558,700	558,600	558,700
CFM56		(−115,000)	(−115,000)	(−115,000)
B707		(60,000)	(59,900)	60,000)
E-3	150,500	150,500	150,500	150,500
E-4	7,500	7,500	7,500	7,500
OV-10 AIRCRAFT SYSTEM	3,500			
OTHER AIRCRAFT	81,500	81,500	81,500	81,500
OTHER MODIFICATIONS: CLASSIFIED PROJECTS	102,300	102,300	102,300	102,300
CIVIL RESERVE AIRLIFT FLEET (CRAF): UNDISTRIBUTED REDUCTION		−4,500	−4,500	−4,500
TOTAL, MODIFICATION OF IN-SERVICE AIRCRAFT	2,600,000	2,496,700	2,554,700	2,556,300
SPARES AND REPAIR PARTS	3,645,600	3,581,900	3,518,000	3,544,100
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
COMMON GROUND EQUIPMENT	330,600	310,600	313,000	310,600
INDUSTRIAL RESPONSIVENESS (AP-CY)	147,400	147,400	147,400	147,400
WAR CONSUMABLES	137,800	112,300	125,300	125,300
OTHER PRODUCTION CHARGES (AP-CY)	955,400	993,900	993,900	993,900
NATO AEW/C	186,100	186,100	186,100	186,100
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	1,757,300	1,750,300	1,765,700	1,763,300
INDUSTRIAL PLANT EQUIPMENT		−300		
PERSONNEL SECURITY CLEARANCE PROCESS		−5,600		−5,600
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	17,834,800	17,588,600	17,575,500	17,658,500
TRANSFER FROM OTHER ACCOUNTS		(254,800)	(170,000)	(170,000)
TOTAL FUNDING AVAILABLE	17,834,800	17,843,400	17,745,500	17,828,500

MISSILE PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for missile procurement, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, AIR FORCE				
BALLISTIC MISSILES:				
MINUTEMAN UPGRADE AND EXPANSION			15,000	
ADVANCED ICBM (M-X)	1,446,400		988,000	
TOTAL, BALLISTIC MISSILES	1,446,400		1,003,000	
OTHER MISSILES				
STRATEGIC:				
AIR LAUNCH CRUISE MISSILE	621,500	509,500	496,500	509,500
AIR LAUNCH CRUISE MISSILE (AP-CY)	43,000	38,700	43,000	38,700
GRD LAUNCH CRUISE MISSILE	490,300	416,800	432,300	431,500
GRD LAUNCH CRUISE MISSILE (AP-CY)	29,600	18,500	24,600	21,500
TACTICAL:				
AIM/7F/M SPARROW	198,600	198,600	198,600	198,600
AIM-9L/M SIDEWINDER	114,700	114,700	114,700	114,700
AGM-65D MAVERICK	342,600		244,900	244,900
AGH-BBA HARM	159,800	112,500	90,800	112,500
RAPIER	98,900	148,900	148,900	148,900
TARGET DRONES: TARGET DRONES	40,200	40,200	40,200	40,200
TOTAL, OTHER MISSILES	2,139,200	1,598,400	1,834,500	1,861,000
MODIFICATION OF IN-SERVICE MISSILES				
CLASS IV: CLASS IV	62,419	45,219	47,419	45,219
CLASS V:				
LGM/30F/G MINUTEMAN II-III	35,500	35,500	35,500	35,500
AIR LAUNCH CRUISE MISSILE	50,800			
UPDATE:				
AIM-7F/M SPARROW	7,691	7,691	7,691	7,691
GRD LAUNCH CRUISE MISSILE UPDATE	3,590	3,590	3,590	3,590
TOTAL, MODIFICATION OF IN-SERVICE MISSILES	160,000	92,000	94,200	92,000
SPARES AND REPAIR PARTS	274,000	212,800	206,400	209,600
OTHER SUPPORT				
SPACE PROGRAMS:				
SPACEBORNE EQUIP. (COMSEC)	13,077	13,077	13,077	13,077
GLOBAL POSITIONING (MYP)	102,000	102,000	102,000	102,000
SPACE LAUNCH SUPPORT	87,600	87,600	87,600	87,600
SPACE LAUNCH SUPPORT (AP-CY)	68,200	68,200	68,200	68,200
SATELLITE DATA SYSTEM	22,518	22,518	22,518	22,518
DEF METEOROLGOICAL SAT PROG	137,200	137,200	137,200	137,200
DEF METEOROLOGICAL SAT PROG (AP-CY)	30,700	30,700	30,700	30,700
DEFENSE SUPPORT PROGRAM	407,500	407,500	407,500	407,500
DEFENSE SATELLITE COMM SYSTEM	192,900	182,900	182,900	182,900
AF SATELLITE COMM SYSTEM	28,600	28,600	28,600	28,600
SPACE BOOSTERS	3,500	3,500	3,500	3,500
SPACE BOOSTERS (AP-CY)	67,600	67,600	67,600	67,600
SPACE SHUTTTLE	135,954	135,954	135,954	135,954
INDUSTRIAL FACILITIES: INDUSTRIAL FACILITIES	27,200	27,200	27,200	27,200
SPECIAL PROGRAMS:				
OTHER PROGRAMS	15,600	15,600	15,600	15,600
FOREST GREEN	3,508	3,508	3,508	3,508
IONDS	22,455	22,455	22,455	22,455
SPECIAL PROGRAMS	1,151,800	1,140,700	1,111,700	1,140,700
SPECIAL UPDATE PROGRAMS	258,388	283,888	298,888	283,888
TRANSFER		(15,000)		(15,000)
TOTAL, OTHER SUPPORT	2,776,300	2,780,700	2,766.700	2,780,700
PERSONNEL SECURITY CLEARANCE PROCESSING		−2,200		−2,200
TOTAL, MISSILE PROCUREMENT, AIR FORCE	6,795,900	4,681,700	5,904,800	4,941,100
TRANSFER FROM OTHER ACCOUNTS		(15,000)		(15,000)
TOTAL FUNDING AVAILABLE	6,795,900	4,696,700	5,904,800	4,956,100

OTHER PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for items in conference in other procurement, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT, AIR FORCE				
30 MM API	65,612	61,802	64,612	61,802
CBU-87 (CEM)			25,000	25,000
TRUCK CARGO 5T M-923, M-925	15,824	14,210	15,824	14,210
25K A/C LOADER	9,636	8,310	9,636	8,310
GLCH COMMUNICATIONS	10,772		10,772	10,772
AIR BASE DEFENSE SYSTEM	26,699	25,303	26,699	25,303
RANGE IMPROVEMENTS	74,149	54,149	68,400	54,149
RADAR BOMB SCORER	20,675	20,675	5,000	20,675
COMBAT SUPPLY SYSTEM	7,581		7,581	
CONSOLIDATED SPACE OPS CENTER	20,736	20,736	6,736	20,736
COMM-ELECTRONICS CLASS IV	49,510	49,510	44,000	49,510
GENERAL REDUCTION			−12,109	
BASE MECHANIZATION EQUIPMENT	14,645	14,645	12,000	12,000
PALLET, AIR CORGO, 108' X 108'	14,766	14,766	12,000	21,000
PRODUCTIVITY ENHANCEMENT	13,829	13,829	11,000	11,000
PHOTO PROCESSING/INTERPRETATION SYS	11,125	6,525	9,925	9,925
SELECTED ACTIVITIES	2,526,523	2,423,187	2,426,700	2,423,687
GENERAL REDUCTION		−20,072		−7,963
INDUSTRIAL PLANT EQUIPMENT		−100		
ITEMS NOT IN CONFERENCE	2,954,118	2,812,661	2,812,661	2,812,661
TOTAL, OTHER PROCUREMENT, AIR FORCE	5,836,200	5,520,136	5,556,437	5,563,777
TRANSFER FROM OTHER ACCOUNTS		(17,072)		(4,963)
TOTAL FUNDING AVAILABLE	5,836,200	5,537,208	5,556,437	5,568,740

PROCUREMENT, DEFENSE AGENCIES

The conferees agree to the following amounts for items in conference in procurement, defense agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, DEFENSE AGENCIES				
ITEMS LESS THAN $900,000 EACH	30,277	30,277	20,277	28,577
QUICK RETURN INVESTMENTS PROGRAM	2,420	2,420	1,420	1,420
OTHER CAPITAL EQUIPMENT	19,627	19,627	15,627	19,627
VEHICLES	6,313	6,313	4,313	4,313
CLASSIFIED PROGRAMS	753,289	706,850	721,889	706,850
ITEMS NOT IN CONFERENCE	67,358	67,358	67,358	67,358
TOTAL, PROCUREMENT, DEFENSE AGENCIES	879,284	832,845	830,884	828,145

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to the following amounts for Reserve and National Guard:

[In thousands of dollars]

	Budget	House	Senate	Conference
NATIONAL GUARD AND RESERVE COMPONENTS				
ARMY RESERVE			70,000	15,000
ARMY NATIONAL GUARD			40,000	50,000
NAVAL RESERVE			30,000	15,000
MARINE CORPS RESERVE			15,000	15,000
AIR FORCE RESERVE			20,000	15,000
AIR NATIONAL GUARD			25,000	15,000
TOTAL NATIONAL GUARD AND RESERVE COMPONENTS			200,000	125,000

TITLE V.—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conferees agree to the following amounts for the research, development, test and evaluation accounts:

[In thousands of dollars)

	Budget	House	Senate	Conference
RECAPITULATION				
TOTAL, RDTE, ARMY	4,533,778	3,822,842	3,820,690	3,879,683
TOTAL, RDTE, NAVY	6,246,705	5,864,412	6,013,153	5,965,751
TOTAL, RDTE, AIR FORCE	11,298,748	10,246,361	10,835,468	10,650,661
TOTAL, RDTE, DEFENSE AGENCIES	2,259,663	2,125,439	2,152,673	2,153,189
TOTAL, RDTE, DIRECTOR OF TEST AND EVALUATION	60,000	55,000	55,000	55,000
TOTAL, RDTE	24,398,894	22,114,054	22,876,984	22,704,284
IN-HOUSE LAB INDEPENDENT RESEARCH	21,902	21,902	21,902	21,902
DEFENSE RESEARCH SCIENCES	199,921	180,000	184,000	182,000
MATERIALS	9,615	9,615	9,615	9,615
ATMOSPHERIC INVESTIGATIONS	5,045	5,045	5,045	5,045
FUZE/NUCLEAR WPNS EFFECTS/FLUIDICS	6,532	6,532	6,532	6,532
AIRCRAFT WEAPONS TECHNOLOGY	2,492	2,492	2,492	2,492
AIRCRAFT AVIONICS TECHNOLOGY	8,389	7,389	7,389	7,389
AERONAUTICS TECHNOLOGY	24,349	22,349	22,349	22,349
AIRDROP TECHNOLOGY	1,688	1,688	1,688	1,688
MISSILE TECHNOLOGY	37,651	32,651	32,651	32,651
HIGH ENERGY LASER TECHNOLOGY	31,327	32,327	45,000	42,000
TANK AND AUTOMOTIVE TECHNOLOGY	19,925	17,000	19,925	17,000
SMALL CAL AND FIRE CNTRL TECHNOLOGY	9,902	9,000	9,902	9,500
BALLISTICS TECHNOLOGY	21,637	21,637	21,637	21,637
CHEMICAL MUNITIONS/CHEMICAL CMBT SPT	14,829	14,829	12,829	12,829
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	3,706	3,706	3,706	3,706
COMMUNICATIONS TECH	9,719	8,719	8,719	8,719
CMBT SURV TARGET ACQ/ID	2,918	2,918	2,918	2,918
MIL ENVIRONMENTAL CRITERIA DEV	2,584	2,584	2,584	2,584
ELECTRICAL AND ELECTRONIC DEVICES	17,725	17,725	17,725	17,725
CHEM BIOLOGICAL DEF/GEN INVEST	29,589	27,589	29,589	28,589
MAPPING—GEODESY	6,830	6,500	6,830	6,500
NIGHT VISION INVESTIGATIONS	14,101	14,101	14,101	14,101
HUMAN FACTORS ENGR IN SYS DEV	9,173	9,173	9,173	9,173
HUMAN PERFORMANCE EFFECT/SIMULATION	3,581	3,581	3,581	3,581
MOBILITY AND WEAPONS EFFECTS TECH	8,410	7,000	7,500	7,500
ENVIRONMENTAL QUALITY TECH	8,706	8,706	8,706	8,706
MANPOWER/PERSONNEL/TRAINING	7,370	6,070	6,370	6,070
CLOTHING EQUIP AND SHELTER TECH	6,970	6,300	4,900	6,000
JT SVC FOOD SYS TECH	5,595	5,595	5,595	5,595
COMPUTER AND INFORMATION SCIENCE	1,966	1,966	1,966	1,966
NON-SYSTEM TRAINING DEVICES	2,900	2,900	2,900	2,900
COLD REGIONS ENGINEERING TECHNOLOGY	6,660	6,000	6,100	6,000
MILITARY FACILITIES ENGINEERING TECHNOLOGY	4,250	4,250	4,250	4,250
RPV SUPPORTING TECHNOLOGY	1,588			
MOBILITY EQUIPMENT TECHNOLOGY	11,278	11,278	11,278	11,278
MED DEFENSE AGAINST CHEM AGENTS	26,865	26,865	26,865	26,865
TACTICAL ADP TECH	7,076	7,076	7,076	7,076
MILITARY DISEASE HAZARDS TECH	24,979	23,712	23,712	23,712
COMBAT CASUALTY CARE TECH	6,682	6,682	6,682	6,682
COMBAT MAXILLOFACIAL INJURY	2,619	2,022	2,022	2,022
SYSTEMS HEALTH HAZARD PREVENT TECH	18,066	16,000	16,500	16,500
ENERGY TECH APPL FOR MILITARY FACIL	1,891	1,891	1,891	1,891
CLASSIFIED PROGRAMS	30,700	28,700	30,700	28,700
TOTAL, TECHNOLOGY BASE	699,701	653,065	676,895	665,938
ADVANCE TECHNOLOGY DEVELOPMENT				
MATERIALS SCALE-UP	7,478	5,478	7,478	6,478
FUELS AND LUBRICANTS	1,871	1,871	1,871	1,871
AIRCRAFT POWER PLANTS AND PROPULSION	8,660	8,660	8,660	8,660
AIRCRAFT WEAPONS	5,581	424	200	200
AIRCRAFT AVIONICS EQUIPMENT	4,494	4,494	4,494	4,494

	Budget	House	Senate	Conference
AIR MOBILITY SUPPORT	3,784	3,784	3,649	3,649
ROTARY WING CONTROL/ROTORS/STRUCTURES	33,809	33,809	33,809	33,809
SYNTHETIC FLIGHT SIMULATORS DEVELOPMENT	3,522	3,522	3,522	3,522
AIRDRIP EQUIP AND TECHNIQUES	1,688	1,688	1,688	1,688
LIGHT HELIC ADVAN TECH DEMONSTRATION	944			
NOE AVIATION AND NAVIGATION EQUIPMENT	1,899	1,899	1,899	1,899
TERMINALLY GUIDED PROJECTILES	6,814	6,814	6,814	6,814
MSL/ROCKET COMPONENTS	9,181	9,181	9,181	9,181
HI-ENERGY LASER COMPONENTS	33,116			
HIGH TECHNOLOGY TEST BED	10,711	7,300	7,300	7,300
ADVANCED LAND MOB SYSTEMS CONCEPTS	7,767	7,767	7,767	7,767
LANDMINE WARFARE/BARRIER DEV	9,324	9,324	9,324	9,324
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	3,466	2,716	3,466	2,716
COMBAT VEHICLE PROPULSION SYS	12,918	12,918	12,918	12,918
CMBT VEH TURRET AND CHASSIS SUBSYS	11,146	11,146	11,146	11,146
COMBAT VEHICLE ARMOR/ANTI-ARMOR	10,888	10,888	8,888	9,888
NIGHT VISION ADVANCED DEVELOPMENT	30,224	30,224	30,224	30,224
REMOTELY PILOTED VEHICLES/DRONES	4,166	4,166	4,166	4,166
MANPOWER AND PERSONNEL	9,747	8,747	6,360	7,500
COMBAT ENGINEERING SYSTEMS	2,730	1,730	1,730	1,730
HUMAN FACTORS IN TNG/OPER EFFECT	3,755	3,755	3,755	3,755
ADV ELECTRONIC DEVICES DEV	4,006	4,006	4,006	4,006
EDUCATION AND TRAINING	9,764	9,764	9,764	9,764
TRAINING SIMULATION	2,790	2,790	2,790	2,790
ADV DEV OF AUTOMATIC TEST EQ/SYS	11,335	7,000	5,330	7,000
TECHNICAL VULNERABILITY REDUCTION	10,198	10,198	10,198	10,198
DEMILITARIZATION CONCEPTS	12,766	12,766	12,766	12,766
ELECTRONIC WARFARE FEASIBILITY DEVELOPMENT	4,995	4,995	4,995	4,995
INDUSTRIAL BASE BIO WRFR VACCINES/DRUGS	4,951		4,951	4,951
NONTACTICAL ADP TECHNOLOGY	495			
CLASSIFIED PROGRAMS	13,545	13,545	13,545	13,545
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	314,528	257,369	258,654	260,714
STRATEGIC PROGRAMS				
BMD ADVANCED TECHNOLOGY	143,243	143,243	143,243	143,243
BALLISTIC MSL DEF SYS TECH	727,311	377,311	377,311	377,311
MOBILE COMMAND CENTERS	4,961	4,961	4,961	4,961
CLASSIFIED PROGRAMS	43,486	43,486	43,486	43,486
TOTAL, STRATEGIC PROGRAMS	919,001	569,001	569,001	569,001
TACTICAL PROGRAMS				
JOINT SURVIVABILITY INVESTIGATIONS	1,103	1,103	1,103	1,103
SPECIAL ELECTRONIC MISSION AIRCRAFT-X	498			
HIGH-TO-MEDIUM AIR DEFENSE DEV	27,172	19,572		10,000
SURF-TO-SURF MSL ROCKET SYS	16,407	6,400	6,400	6,400
ADVANCED ROCKET CONTROL SYSTEM	27,869			
CORPS SUPPORT WEAPON SYSTEM	6,103	6,103	6,103	6,103
LIGHT WEIGHT AIR DEFENSE SYSTEM	3,466			
RATTLER	17,900	5,000	5,000	5,000
LETHAL CHEMICAL MUNITIONS CONCEPTS	13,733		11,000	
LANDMINE/BARRIER SYS	4,595	4,595	4,595	4,595
COMBAT SUPPORT MUNITIONS	2,700	2,700	2,700	2,700
FIELD ARTILLERY AMMO DEV	23,951	23,951	23,951	23,951
DIVISION SUPPORT WEAPONS SYSTEM	8,941	8,941	8,941	8,941
TANK AND MORTAR AMMUNITION DEVELOPMENT	9,053	9,053	9,053	9,053
MOBILE PROTECTED GUN	37,354	10,354	12,354	10,354
ELECTRIC POWER SOURCES	2,998	2,998	2,998	2,998
PHYSICAL SECURITY	5,452	5,452	5,452	5,452
IDENTIFICATION-FRIEND OR FOE DEV	6,146	6,146	6,146	6,146
AIRCRAFT SURVIVABILITY EQUIPMENT	3,563	3,563	3,563	3,563
ADDS-ARMY DATA DISTRIBUTION SYSTEM	32,886	32,886	32,886	32,886
EW VULN/SUSC	25,164	24,939	25,164	24,939
CHEMICAL DEFENSE MATERIEL CONCEPTS	26,542	16,542	26,542	16,542
COMMAND AND CONTROL	22,133	20,000	20,000	20,000
COMBAT SUPPORT EQUIPMENT	8,113	8,113	8,113	8,113
COMBAT MEDICAL MATERIAL	224	224	224	224
DIV AIR DEFENSE COND/CNTRL	4,399		4,399	1,000
SINGLE CHANNEL GRD/ABN RADIO SUB-SYS	17,862	17,862	17,862	17,862
SOLDIER SUPPORT/SURVIVABILITY	2,251	2,251	2,251	2,251
DRUG AND VACCINE DEVELOPMENT	8,796	8,796	8,796	8,796
MEDICAL DEFENSE AGAINST CHEM WARFARE	2,924	2,924	2,924	2,924
BATTLEFIELD DATA SYSTEMS	1,891	2,000		2,000
MEDICAL CHEM DEFENSE LIFE SUPPORT MAT	36,189	36,189	36,189	36,189
AIRCRAFT WEAPONS	686	686	686	686
AIR MOBILITY SUPPORT EQUIPMENT	2,245	2,245	2,245	2,245
UH-60A BLACKHAWK	6,708	5,664	5,664	5,664
ADVANCED ATTACK HELICOPTER	33,725	33,725	33,725	33,725
COBRA TOW	12,245	12,245	12,245	12,245
AIRCRAFT PROPULSION SYSTEMS	1,007			
SYNTHETIC FLIGHT TRAINING SYSTEMS	30,951	30,951	30,951	30,951
AIRDROP EQUIP DEVELOPMENT	3,136	3,136	3,136	3,136
ARMY HELICOPTER IMPROVEMENT PROG	75,811	75,811	65,811	73,811
SURVEILLANCE SYSTEM	12,868	12,868	12,868	12,868
JOINT SERVICE ROTARY WING AIRCRAFT DEVEL	49,765	30,000	30,000	30,000
AIRCRAFT COMPONENT IMPROVEMENT PROGRAM	10,996	8,000	8,000	8,000
STINGER			4,000	
PATRIOT (SAM-D)	47,076	47,076	47,076	47,076
HELIBORNE MISSILE-HELLFIRE	19,327	16,300	16,300	16,300
PERSHING II	111,301	111,301	111,301	111,301
GRASS BLADE	17,117	17,117	17,117	17,117
MULTIPLE LAUNCH ROCKET SYS	23,215	23,215	23,215	23,215
DIVISION AIR DEFENSE GUN	10,918	10,918	10,918	10,918
INFANTRY SUPPORT WEAPONS	5,601	5,601	5,601	5,601
COMBAT SUPPORT SYSTEMS	2,640	2,640	2,640	2,640
COUNTERMINE AND BARRIERS	5,692	5,272	6,192	5,500
FIGHTING VEHICLE SYS	50,488	46,000	46,000	46,000
LANDMINE WARFARE	9,701	9,701	9,701	9,701
TANK SYSTEMS	11,961	11,961	11,961	11,961
COPPERHEAD	2,075			
HIGH MOBILITY MULTI-PURPOSE VEHICLE	2,743	2,743	2,743	2,743
FIRE INTEGRATION SPT TEAM VEH	6,926	6,926	6,926	6,926
TANK GUN COOPERATIVE DEVELOPMENT	54,342	54,342	54,342	54,342
FLD ARTY AMMUNITION	2,573	2,573	2,573	2,573
105MM TANK AMMUNITION	1,059	1,059	1,059	1,059
COMM ENGINEERING DEV	11,705	11,705	11,705	11,705
JOINT TACTICAL INFO DISTRIBUTION SYSTEMS	14,556	14,556	14,556	14,556
UNATTENDED GROUND SENSORS	4,135	4,135	4,135	4,135
MODULAR INTEGRATED COMM AND NAVIGATION SYS	14,754	14,754	14,754	14,754
RADIOLOGICAL DEFENSE EQUIPMENT	838	838	838	838
IDENTIFICATION—FRINED OR FOE EQ	2,660	2,660	2,660	2,660
NIGHT VISION DEVICES	4,931	4,931	4,931	4,931

	Budget	House	Senate	Conference
AIRCRAFT SURVIVABILITY EQUIPMENT	20,335	20,335	20,335	20,335
TACTICAL C3 SYSTEMS ENGINEERING	14,900	14,900	14,900	14,900
COMBAT FEEDING, CLOTHING AND EQUIPMENT	2,574	2,574	2,574	2,574
TACTICAL ELECTRICAL POWER SOURCES	1,805	1,805	1,805	1,805
GENERAL COMBAT SUPPORT	5,967	5,967	5,967	5,967
PHYSICAL SECURITY	5,099	5,099	5,099	5,099
EDUCATION AND TRAINING	995	500		
BIOLOGICAL DEFENSE MATERIEL	391	391	391	391
CHEMICAL DEFENSE MATERIEL	26,017	26,017	23,517	25,000
COMMAND AND CONTROL	13,650	10,600	10,600	10,600
REMOTELY PILOTED VEHICLES	77,949	77,949	77,949	77,949
AUTOMATIC TEST SUPPORT SYSTEMS	2,940	2,940	2,940	2,940
BATTLEFIELD DATA SYSTEMS	27,868	26,000	15,000	26,000
JT INTEROPERABILITY TAC COMD/CNTRL	30,066	30,066	30,066	30,066
JOINT CB CONTACT POINT AND TEST	1,451	1,451	1,451	1,451
HV ANTI-TANK ASSAULT WPN SYS (TOW)	1,981	1,981	1,981	1,981
ADV FIELD ARTY TAC DATA SYS	7,224	7,224	7,224	7,224
CHAPARRAL	26,381	26,381	26,381	26,381
SAM HAWK/HAWK IMP PROG	37,971	37,971	37,971	37,971
COMBAT VEHICLE IMPROVE PROG	46,785	46,785	46,785	46,785
AN/TSQ-73 MODIFICATIONS	1,025	1,025	1,025	1,025
MANEUVER CONTROL SYSTEM (MCS)	14,947	14,947	14,947	14,947
COMMUNICATIONS SYSTEM ENGINEERING PROGRAM	1,485			
JT TACTICAL COMM PROG	47,184	47,184	47,184	47,184
EUCOM C3 SYSTEMS	527	527	527	527
CLASSIFIED PROGRAMS	174,087	150,487	168,387	150,487
LIGHT ANTITANK WEAPON TESTING AND EVALUATION				10,000
TOTAL, TACTICAL PROGRAMS	1,678,459	1,493,418	1,498,290	1,491,557
INTELLIGENCE AND COMMUNICATIONS				
MAPPING AND GEODESY	3,424	3,424	3,424	3,424
AIRCRAFT AVIONICS	3,799	3,799	3,799	3,799
NAVSTAR GLOBAL POS SYS (USER EQ)	11,911	11,911	11,911	11,911
STRATEGIC ARMY COMMUNICATIONS	812	812	812	812
LONG-HAUL COMMUNICATIONS (DCS)	7,578	7,578	7,578	7,578
SATCOM GROUND ENVIRONMENT	35,545	35,545	35,545	35,545
CLASSIFIED PROGRAMS	9,987	9,987	9,987	9,987
TOTAL, INTELLIGENCE & COMMUNICATIONS	73,056	73,056	73,056	73,056
DEFENSEWIDE MISSION SUPPORT				
NON-SYSTEM TNG DEVICES ENGR	8,645	8,645	8,645	8,645
METEOROLOGICAL EQUIPMENT SYSTEMS	2,172	2,172	2,172	2,172
TRADOC STUDIES AND ANALYSES	3,287	1,487	1,487	1,487
AVIATION ENGINEERING FLIGHT ACTIVITY	5,791	5,791	5,791	5,791
KWAJALEIN MISSILE RANGE	152,140	152,140	152,140	152,140
SUPPORT OF DEVELOPMENT TESTING	43,180	43,180	43,180	43,180
MATERIEL SYSTEMS ANALYSIS	13,166	13,166	13,166	13,166
EXPLOITATION OF FOREIGN ITEMS	2,021	2,021	2,021	2,021
SUPPORT OF OPERATIONAL TESTING	50,106	50,106	47,038	48,500
DEFENSE SYSTEMS MANAGEMENT COLLEGE	202			
PROGRAM-WIDE ACTIVITIES	70,101	65,000	65,000	65,000
INTL COOPERATIVE RESEARCH AND DEV	1,041	1,041	1,041	1,041
TECHNICAL INFO ACTIVITIES	5,249	5,249	5,249	5,249
DARCOM MAJOR RANGE/TEST FACIL	300,671	300,671	295,671	298,671
MUNITIONS-STANDARDIZATION EFFECT AND SAFETY	8,047	8,047	8,047	8,047
DOD HIGH ENERGY LASER SYSTEMS TEST FAC	34,030	34,030	34,030	34,030
MAINSITE	17,119	3,000	3,000	3,000
PRODUCTIVITY INVESTMENT FUNDING	34,139	34,139	14,139	20,000
INSTL AUDIOVISUAL SPT (R/D)	2,344	2,344	2,344	2,344
MGT HQ (RESEARCH/DEVELOPMENT)	45,304	45,304	45,304	45,304
MM&T/MACI				50,000
TOTAL, DEFENSEWIDE MISSION SUPPORT	798,755	777,533	748,794	809,117
GENERAL REDUCTION		−500		−500
PAY RAISE ABSORPTION	30,278			
CONSULTANTS, STUDIES & ANALYSES		−7,800	−4,000	−7,800
PERSONNEL SECURITY CLEARANCE PROCESSING		−1,400		−1,400
INDUSTRIAL PLANT EQUIPMENT CUSTOMER CHARGES		−10,900		
CLASSIFIED PROGRAM, BUDGET AMENDMENT	20,000	20,000		20,000
TOTAL, RESEARCH DEVELOPMENT TEST & EVAL, ARMY	4,533,778	3,822,842	3,820,690	3,879,683

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conferees agree to the following amounts for research, development, test and evaluation, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST PLUS EVAL, NAVY				
TECHNOLOGY BASE				
IN-HOUSE LAB INDEPENDENT RESEARCH	23,337	23,337	23,337	23,337
DEFENSE RESEARCH SCIENCES	290,051	181,000	285,000	283,000
AIRCRAFT TECHNOLOGY	27,414	27,414	27,414	27,414
MISSILE PROPULSION TECHNOLOGY	9,616	9,616	9,616	9,616
STRIKE WARFARE WEAPONRY TECHNOLOGY	29,808	27,000	29,808	27,000
NULCEAR PROPULSION TECHNOLOGY	53,624	53,624	53,624	53,624
SHIPS/SUBS/BOATS TECH	44,156	30,000	30,000	30,000
UNDERSEA WARFARE WEAPONRY TECHNOLOGY	25,064	25,064	25,064	25,064
UNDERSEA TARGET SURVEILLANCE TECH	37,966	37,966	37,966	37,966
SURF/AEROSPACE TARGET SURVEIL TECH	35,016	35,016	35,016	35,016
COMMAND/CONTROL TECHNOLOGY	30,577	30,577	30,577	30,577
COUNTERMEASURES TECHNOLOGY	29,144	29,144	29,144	29,144
HIGH ENERGY LASER TECH	63,210	58,000	63,210	61,000
HUMAN FACTORS/SIMULATION TECH	8,055	8,055	8,055	8,055
BIOMEDICAL TECHNOLOGY	8,996	9,236	8,996	9,236
OCEAN/ATMOSPHERIC SUPPORT TECHNOLOGY	20,557	20,557	20,557	20,557
LOGISTICS TECHNOLOGY	14,177	14,177	14,177	14,177
MATERIALS TECHNOLOGY	33,019	33,019	33,019	33,019
ELECTRONIC DEVICE TECHNOLOGY	27,134	27,134	27,134	27,134

	Budget	House	Senate	Conference
PERSONNEL & TRNG TECH	7,259	7,259	6,859	6,859
CHEM/BIOLOGICAL/RADIOLOGICAL DEFENSE TECH	1,789	1,789	1,789	1,789
ENERGY AND ENVIRONMENTAL PROTECTION	6,451	6,451	6,451	6,451
LAB INDEPENDENT EXPLORATORY DEV	12,091	12,091	12,091	12,091
Directed Energy technology	14,916	10,000	14,916	12,000
TOTAL, TECHNOLOGY BASE	853,427	817,526	833,820	824,126
ADVANCE TECHNOLOGY DEVELOPMENT				
AVIONICS	3,822	3,822	3,822	3,822
ENVIRONMENTAL APPLICATIONS	7,094	6,000	6,345	6,000
ADV A/C PROPUL SYS	10,113	10,113	10,113	10,113
AIRBORNE LIFE SUPPORT SYSTEMS	3,483	3,483	3,483	3,483
ADVANCED AIRCRAFT SUBSYSTEMS	4,928	4,928	4,928	4,928
AIRCRAFT SYSTEMS	3,430		3,000	1,000
ERASE SYS TECHNOLOGY	5,849	5,849	5,849	5,849
ADV A/L ASM SYSTEMS	4,011			
A/A MSL ADV TECH DEMOS	2,923	2,923	2,923	2,923
SHIP PROPULSION SYSTEM	20,457	20,457	25,000	20,457
ADV COMPUTER TECH	3,272	3,272	3,272	3,272
ELECTRIC DRIVE	9,767	9,767	7,267	7,267
SURFACE LAUNCHED MUNITIONS	4,331	4,331	4,331	4,331
JT SERV EXPLOSIVE ORD DEV	4,957	4,957	4,957	4,957
HUMAN FACTORS ENG DEV	2,604	2,604	2,604	2,604
OCEANOGRAPHIC INSTRUMENTATION DEV	2,999	2,999	2,999	2,999
MEDICAL DEVELOPMENT	8,858	8,384	8,384	8,384
MNPWR CONTROL SYS DEV	3,511	3,300	1,805	1,805
ADVANCED MARINE BIOLOGICAL SYSTEM	3,980	3,980	3,980	3,980
MAN-MACHINE TECHNOLOGY	1,365			
OCEAN ENGINEERING TECH DEVELOPMENTS	13,194	13,194	13,194	13,194
EDUCATION AND TRAINING	3,496	3,496	2,898	2,898
ENVIRONMENTAL PROTECTION	8,151	8,151	8,151	8,151
NAVAL SPECIAL WARFARE	6,037	8,287	6,037	8,287
NAV TECH INFO PRESENT SYS	1,453	1,253	1,253	1,253
MANUFACTURING TECH	3,339	3,339	3,339	3,339
MC ADV MANPOWER TRAINING SYS	1,509	1,509	1,509	1,509
TRAINING DEVICE TECH	7,399	6,200	6,200	6,200
ARBN ELECTRO-MAG/OPT SYS	8,790	8,790	8,790	8,790
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	165,122	155,388	156,433	151,795
STRATEGIC PROGRAMS				
FLEET BALLISTIC MISSILE SYSTEM	32,947	32,947	32,947	32,947
SSBN SECURITY PROGRAM	36,691	36,691	36,691	36,691
TRIDENT I	90,565	64,000	74,000	69,000
EXTREMELY LOW FREQUENCY COMM	49,827	49,827	49,827	49,827
NAVY STRATEGIC COMM	69,314	65,000	65,000	65,000
NAV SPASUR	501	501	501	501
MEECN	10,673	10,673	10,673	10,673
TRIDENT II MISSILE SYS	366,701	366,701	366,701	366,701
SSBN SUB-SYSTEM TECHNOLOGY	4,898			
WWMCCS ARCHITECTURE	903	903	903	903
STRATEGIC TECHNICAL SUPPORT	5,919	5,919	5,919	5,919
TOTAL, STRATEGIC PROGRAMS	668,939	633,162	643,162	638,162
TACTICAL PROGRAMS				
ABN ELECTRONIC WARFARE EQUIPMENT	10,490	10,490	10,490	10,490
VTX-TS	9,654	9,654	8,000	8,000
TACAIR IR C/M	1,493	1,493	1,493	1,493
HELICOPTER IR C/M	5,732	5,732	5,732	5,732
TAC COMD/CNTRL/COMM C/M	7,258	7,258	7,258	7,258
ADV A/C ARMAMENT SYS	6,541	6,541	6,541	6,541
TILT FAN VSTOL	36,284			
CV ASW MODULE	4,162	4,162	4,162	4,162
AIR ASW	13,994	13,994	13,994	13,994
V/STOL ACFT DEV	6,700	6,700		6,700
ACOUSTIC SEARCH SENSORS	8,622	8,622	8,622	8,622
AIRBORNE MINE COUNTERMEASURES	21,566	21,566	21,566	21,566
TACTICAL AIRBORNE RECONNAISSANCE	5,670	3,670	5,670	4,670
ACFT SURVIVABILITY/VULNERABILITY	10,864	10,864	10,864	10,864
COMBAT IDENTIFICATION SYS	6,694	6,694	6,694	6,694
IIR MAVERICK	4,992			
ARMY/NAVY SAM TECH	14,169	14,169	14,169	14,169
COMMON ASW STDOFF WPN	41,999	41,999	38,000	40,000
TOMAHAWK II	19,900	19,900	4,900	19,900
BGAAWC	6,458	6,458	6,458	6,458
REACTOR PROPULSION PLANTS	5,783	5,783	5,783	5,783
SURFACE MCM	31,572	31,572	31,572	31,572
ACOUSTIC COMMUNICATIONS	2,741	2,741	2,741	2,741
SUBMARINE SONAR DEV	18,371	18,371	18,371	18,371
SURFACE SHIP TORP DEF	2,447	2,447	2,447	2,447
NEW SHIP DESIGN	4,911	4,411	4,411	4,411
SHIPBOARD SYS COMPONENT DEVELOPMENT	15,452	15,452	15,452	15,452
SHIPBOARD DAMAGE CONTROL	23,659	23,659	23,659	23,659
ADVANCED IDENTIFICATION TECHNIQUES	2,247	2,247	2,247	2,247
ADVANCED COMMAND DATA SYSTEMS	4,412	4,412	4,412	4,412
PILOT FISH	93,823	93,823	93,823	93,823
NON-ACOUSTIC ASW	11,533	11,533	11,533	11,533
ADV ASW TARGET	3,919	3,919	3,919	3,919
SHIPS SYSTEMS ENGINEERING STANDARDS	1,749	1,749	1,749	5,000
RETRACT SILVER	94,365	94,365	94,365	94,365
RETRACT AMBER	13,017	13,017	13,017	13,017
SURFACE ASW	4,408			
SUBMARINES	44,413	44,413	44,413	44,413
SUB TACTICAL WARFARE SYS	7,032	7,032	7,032	7,032
SHIP CONFORM	18,810	15,810	15,810	15,810
AMPHIB ASSAULT CRAFT	10,437	10,437	13,437	12,000
COMBAT SYSTEMS ARCH	2,786			
ATTACK SUBMARINE DEV	10,959	10,959	10,959	10,959
ADV REACTOR COMPONENTS/SYS DEV	11,536	11,536	11,536	11,536
SHIPBOARD PHYSICAL SECURITY	6,560	6,560	6,122	6,122
CHALK EAGLE	6,401	6,401	6,401	6,401
A4W/AIG NUCLEAR PROP PLANT	12,238	12,238	12,238	12,238
D2W NUCLEAR PROP REACTOR	9,337	9,337	9,337	9,337
COMBAT SYSTEM INTEGRATION	17,138	8,000	8,000	8,000
DDGX	138,595	138,595	138,595	138,595
WIDE APERTURE ARRAY ADV	23,614	23,614	23,614	23,614
MINE DEVELOPMENT	5,555	5,555	5,555	5,555
ALWT ADV	56,784	56,784	56,784	56,784
HC ASSAULT VEHICLES	52,514	29,000	73,414	40,000

	Budget	House	Senate	Conference
TAC NUCLEAR WEAPON DEV	3,464	3,464	3,464	3,464
MC GRD COMBAT/SPT ARMS SYS	7,812	7,812	7,812	7,812
MK-48 ADCAP (ADV)	20,483	20,483	20,483	20,483
OCEAN ENGINEERING SYS DEVELOPMENT	2,320	2,320	2,320	2,320
LOGISTICS	3,339	3,339	3,339	3,339
ANTI-SUB WARFARE SIGNAL PROCESSING	5,202	5,202	5,202	5,202
FLEET TAC D/E PROGRAM	4,551	4,551	4,551	4,551
COMMAND AND CONTROL SYSTEMS	24,106	24,106	24,106	24,106
CONTAINER OFFLOAD/TRANSFER SYS	6,067	6,067	6,067	6,067
NAVY ENERGY PROGRAM	21,504	21,504	21,504	21,504
FACILITIES IMPROVEMENT	5,919	5,919	4,913	4,913
MERCHANT SHIP NAVAL AUG PROG (MSNAP)	5,773	5,773	5,773	5,773
MC COMBAT SERVICE SPT	4,410	4,410	4,410	4,410
MC INTEL/ELEC WARFARE SYS	7,024	7,024	7,024	7,024
MC COMD/CNTRL/COMM SYS	2,753	2,753	2,753	2,753
LINK HAZEL	42,760	1,000	16,000	1,000
ITSS	17,834	7,834	17,834	12,834
ASW SURVEILLANCE (C)	1,284	1,000	1,000	1,000
LRAP	12,578	12,578	12,578	12,578
SPECIAL PROCESSES	72,523	72,523	72,523	72,523
RDSS	19,312	19,312	19,312	19,312
AVIONICS DEVELOPMENT/VAST	8,960	4,000	4,000	4,000
AIMS/ATCRBS/MARK XII	6,228	6,228	6,228	6,228
LAMP III	8,977	8,977	8,977	8,977
HELICOPTER DEVELOPMENT	26,560	10,262	15,300	13,300
AV-8B AIRCRAFT	114,071	114,071	133,571	114,071
SUPPORT EQUIPMENT	8,700	8,700	8,700	8,700
S-3 WEAPONS SYS IMPROVEMENT	78,344	63,000	63,000	63,000
ENVIRONMENTAL SYSTEMS	356	356	356	356
AIRBORNE ASW DEV	25,539	25,539	25,539	25,539
ACFT IR SIGNATURE SUPPRESSION	1,495	1,495	1,495	1,495
P-3 MODERNIZATION PROG	21,598	21,598	21,598	21,598
ASPJ	29,331	29,331	29,331	29,331
HARPOON MODIFICATION	1,940	1,940	1,940	1,940
SH-60 CV VARIANT	9,868			
AIR ELECTRONIC WARFARE	13,394	13,394	13,394	13,394
CH-53E	11,201	11,201	11,201	11,201
ACOUSTIC SEARCH SENSORS	14,600	6,172	14,600	10,000
HXH	9,522	5,000	5,000	5,000
F/A-18	109,224	109,224	109,224	109,224
LIFE SUPPORT EQUIP	6,902	6,902	6,902	6,902
ADV SIGNAL PROCESSOR	3,525		1,000	
AWG-9 UPDATE	6,978	6,978	6,978	6,978
ACFT ENGINE COMPONENT IMPROVE PROG	89,486	89,486	89,486	89,486
MK-92 FCS UPGRADE	9,628	24,628	9,628	24,628
AEGIS	8,158	8,158	8,158	8,158
CSEDS	12,232	12,232	12,232	12,232
PENGUIN COMBAT DEV	1,623			
CG-47 AEGIS PRODUCT IMPROV	45,147	43,647	45,147	43,647
AMRAAM	4,714	4,714	4,714	4,714
SURFACE LAUNCHED WEAPONRY SYS TECH	3,413	3,413	3,413	3,413
VERTICAL LAUNCHING SYSTEM	33,878	33,878	33,878	33,878
AIR/AIR MSL SYS ENGR	23,844	22,844	22,844	22,844
CLOSE-IN WPN SYS (PHALANX)	1,387	1,387	1,387	1,387
HI-SPEED ANTI-RADIATION MSL	1,932	1,932	1,932	1,932
NATO SEA SPARROW	1,067	1,067	1,067	1,067
SM-2	18,810	18,810	18,810	18,810
STANDARD MISSILE IMPROVEMENTS	50,789	50,789	50,789	50,789
TOMAHAWK CRUISE MSL	78,934	78,934	78,934	78,934
5/ ROLLING AIR FRAME MSL	16,290	16,290	16,290	16,290
SSN-688 VLS	35,362	35,362	35,362	35,362
HELLFIRE	9,815	9,815	9,815	9,815
NEW THREAT UPGRADE	41,881	41,881	41,881	41,881
SUBMARINE COMMUNICATIONS	5,584	5,584	5,584	5,584
SUBMARINE SONAR DEV	41,770	41,770	41,770	41,770
AIR CONTROL	9,251	9,251	9,251	9,251
CW COUNTERMEASURES	8,357	8,357	8,357	8,357
EMSP	14,497	13,097	10,000	13,097
RADAR SURVEILLANCE EQ	10,488	10,488	10,488	10,488
COMMUNICATIONS SYSTEMS	4,693	4,693	4,693	4,693
INTELLIGENCE SYSTEMS	2,478	2,478	2,478	2,478
SHIP SURVIVABILITY PROTOTYPES	4,775	4,775	4,385	4,385
CIC CONVERSION	27,014	18,414	18,414	18,414
SUBACS ENG	85,937	78,537	85,937	81,000
SURFACE ELEC WARFARE	6,673	6,673	6,673	6,673
SUBMARINES	1,950	1,000	1,000	1,000
SUB TACTICAL WARFARE SYS	32,598	32,598	32,598	32,598
ACOUSTIC COMMUNICATIONS	4,696	4,696	4,696	4,696
SHIP SUBSYS DEV/LBTS	24,430	24,430	24,430	24,430
NATO SEA GNAT	6,589	6,589	6,589	6,589
SHIPBOARD ELECTRONIC WARFARE IMPROV	14,974	14,974	14,974	14,974
TAX EMBEDDED COMPUTER PROG	21,704	21,704	21,704	21,704
AN/SQS-53C	35,980	34,180	45,980	35,980
INFLUENCE MGM	5,820	5,820	5,820	5,820
MINE DEVELOPMENT	12,712	12,712	12,712	12,712
GUN AMMUNITION IMPROVEMENT	755	755	755	755
UNGUIDED CONVL AIR LAUNCHED WEAPONS	7,978	7,978	6,482	6,482
CHEMICAL WARFARE WEAPONS	8,066	8,066	8,066	8,066
ELECTRO OPTICS SENSOR DEV	10,422			
A/N SAL GP(ENG)	995	995	61,000	16,000
COMMON BOMB FUZE	1,306	1,306	1,306	1,306
ALWT (ENG)	58,365		58,365	58,365
GUN FCS IMP PROG	10,969	10,969	10,969	10,969
JT SERV EXPLOSIVE ORD DEV	2,926	2,926	2,926	2,926
MC ASSAULT VEHICLES	15,810		2,000	1,000
MC GRD COMBAT/SPT ARMS SYS	10,724	10,724	10,724	10,724
MK-48 ADCAP (ENG)	166,271	139,671	166,271	160,000
NAVY ENERGY PROGRAM	18,704	18,704	18,704	18,704
COMMAND AND CONTROL SYSTEMS	15,505	14,505	15,705	14,505
TACTAS AN-SQR 19	9,882	9,882	9,882	9,882
AIR WARFARE TNG DEV	20,089	17,000	17,000	17,000
SURFACE WARFARE TNG DEV	32,838	32,838	32,838	32,838
SUBMARINE WARFARE TNG DEV	3,226			
MC COMBAT SERVICE SPT	3,009	3,009	3,009	3,009
MC INTEL/ELEC WARFARE SYS	2,736	2,736	2,736	2,736
MC COMD/CNTRL/COMM SYS	27,888	27,888	27,888	27,888

	Budget	House	Senate	Conference
TACAIR OPER CENTRAL 85	12,736	12,736	12,736	12,736
INTELLIGENCE	13,092	13,092	13,092	13,092
MEDICAL DEVELOPMENTS	2,314	2,314	2,314	2,314
JINTACCS	6,395	6,395	6,395	6,395
JINTACCS MC	1,699	1,699	1,699	1,699
FLEET TACTICAL DEV/EVAL	18,316	18,316	18,316	18,316
MANAGEMENT AND TECHNICAL SUPPORT	11,685	11,685	11,685	11,685
TACTICAL ELECTRO SUPPORT	4,005			
C2 SURVEILLANCE/RECON SPT	2,820	1,968	2,820	1,968
TAC EXPLOITATION OF NATL CAPABILITY	360	360	360	360
A–6 SQUADRONS	4,725	4,725	4,725	4,725
EARLY WARNING ACFT SQUADRONS	52,291	52,291	42,291	52,291
AVIATION SPT CVW	7,968	7,968	7,968	7,968
FLEET TELECOMMUNICATIONS (TAC)	21,140	21,140	20,640	20,640
SUBMARINES	6,464	6,464	6,464	6,464
MINES/MINE SUPPORT	1,481	1,481	1,481	1,481
UNDERSEA SURVEILLANCE SYS	49,649	49,649	49,649	49,649
SURTASS	7,070	7,070	7,070	7,070
SPECIAL PROJECTS	6,720	6,720	6,720	6,720
COVER AND DECEPTION PROGRAM	14,312	14,312	14,312	14,312
ELECTRONIC WARFARE SPT PROJECTS	8,014	8,014	8,014	8,014
C3 COUNTER-MEAS DEVEL	11,533	11,533	11,533	11,533
JTIDS	100,330	100,330	91,330	91,330
ASW COMBAT SYSTEMS INTEGRATION	16,135	16,135	16,135	16,135
SURF SHIP SONAR MODERNIZATION	8,003	8,003	8,003	8,003
AN/SQR–18 IMPROVEMENT	4,939	4,939	4,939	4,939
ACFT EQ REL/MAINT PROG	7,067	7,067	7,067	7,067
SUBMARINE SILENCING	9,283	9,283	9,283	9,283
MODULAR GUIDED GLIDE WPN IMP	5,260	5,260	5,260	5,260
LAB FLEET SUPPORT	4,669	4,669	4,669	4,669
ACFT PROPULSION EVAL GENERAL	2,835	2,835	2,835	2,835
ACFT FLIGHT TEST GENERAL	953	953	953	953
F–14A	14,724	14,724	14,724	14,724
TACTICAL INTELL PROCESSING	1,942	1,942	1,942	1,942
EW COUNTER RESPONSE	12,653	12,653	12,653	12,653
OPERATIONAL REACTOR DEV	2,855	2,855	2,855	2,855
MARINE CORPS TELECOMMUNICATIONS	2,266	2,266	2,266	2,266
MC GRD COMBAT/SPT ARMS SYS	3,093	3,093	3,093	3,093
MC COMBAT SERVICE SPT	376	376	376	376
MC INTEL/ELEC WARFARE SYS	779	779	779	779
MC COMD/CNTRL/COMM SYS	18,447	18,447	18,447	18,447
MC TAC SUPT C/C SYS	2,798	2,798	2,798	2,798
TOMAHAWK CRUISE MISSILE	18,010			
TRI-TAC MC	15,543	15,543	15,543	15,543
TRI-TAC NAVY	9,374	9,374	9,374	9,374
ANTI-RADIATION SEEKER TECHNOLOGY		4,000		4,000
SUBROC			11,000	
CLASSIFIED PROGRAMS	9,547	9,547	9,547	9,547
SH–2F SEASPRITE PROD, IMP		9,000		
TOTAL, TACTICAL PROGRAMS	3,657,185	3,323,922	3,525,744	3,420,081
INTELLIGENCE & COMMUNICATIONS				
ADVANCED NAVIGATION DEVELOPMENT	476	476	476	476
NAVIGATION SYSTEMS	3,820	3,820	3,820	3,820
EHF SATCOM	43,826	43,826	43,826	43,826
NAVSTAR	39,822	39,822	39,822	39,822
ELECTROMAGNETIC SPECTRUM MGT	4,589	4,589	4,589	4,589
C2 SYS PLANNING/ENGINEERING SPT	5,060	5,060	5,060	5,060
PRAIRIE SCHOONER	5,072	5,072	5,072	5,072
TECHNICAL RECONNAISSANCE AND SURVEILLANCE	4,073	4,073	4,073	4,073
SATELLITE COMMUNICATIONS	1,632	1,632	1,632	1,632
LONG HAUL COMMUNICATIONS (DCS)	1,965	1,965	1,965	1,965
SPECIAL ACTIVITIES	120,380	134,038	134,038	134,038
CLASSIFIED PROGRAMS	17,091	17,091	17,091	17,091
TOTAL, INTELLIGENCE & COMMUNICATIONS	247,806	261,464	261,464	261,464
DEFENSEWIDE MISSION SUPPORT				
RANGE INSTRUMENTATION SYS DEV	12,392	12,392	12,392	12,392
TARGET SYSTEMS DEV	43,901	43,901	43,901	43,901
TRAINING DEVICES PROTOTYPE DEV	6,575	6,575	6,575	6,575
PROTO MPWR/PERSONNEL SYS	2,152	2,152	2,152	2,152
STUDIES AND ANALYSIS SUPPORT (MC)	2,148	2,000	2,000	2,000
STUDIES AND ANALYSIS SUPPORT (NAVY)	7,889	5,000	5,000	5,000
MCDAG	2,754	2,754	2,754	2,754
CENTER FOR NAVAL ANALYSIS (NAVY)	12,445	12,445	12,445	12,445
MAR CORPS OPERATIONAL TEST/EVAL	3,350	3,350	3,350	3,350
TECHNICAL INFORMATION SERVICES	1,665	1,665	1,665	1,665
AUTEC	45,658	45,658	43,658	43,658
DEVELOPMENT CENTER SUPPORT	3,598	3,598	3,598	3,598
INTERNATIONAL RDT/E	1,935	1,935	1,935	1,935
MOBILE SEA RANGE	3,229	3,229	3,229	3,229
RDTE LAB/FAC MGT SPT	59,101	59,101	59,101	59,101
RDTE INSTRUMENTATION/MATERIAL SPT	31,707	37,000	31,707	35,000
RDTE SHIP AIRCRAFT SPT	69,847	69,847	69,847	69,847
TEST/EVALUATION SPT	274,106	274,106	265,000	265,000
OPERATION-TEST/EVAL CAPABILITY	6,772	6,772	6,772	6,772
STRATEGIC SYSTEMS TEST SUPPORT	17,658	17,658	17,658	16,658
PRODUCTIVITY INVESTMENT	4,410	4,410	4,410	4,410
LONG RANGE PLANNING SUPPORT	1,281	1,000		
WEATHER SERVICE	1,186	1,186	1,186	1,186
SECURITY/INVESTIGATIVE ACTYS	689			
DEF METEOROLOGICAL SATELLITE PROG	1,316	1,316	1,316	1,316
CIVILIAN EDUCATION/TRAINING/DEV	1,157			
TOTAL, DEFENSEWIDE MISSION SUPPORT	618,921	619,050	601,651	604,944
GENERAL REDUCTION		−20,900		−20,900
CONSULTANT SERVICES			−9,121	−9,121
PAY RAISE ABSORPTION	35,305			
SHIP CONTRACT DESIGN		97,200		97,200
PERSONNEL SECURITY CLEARANCE PROCESSING		−2,000		−2,000
INDUSTRIAL PLANT EQUIPMENT CUSTOMER CHARGES		−20,400		
TOTAL, RESEARCH DEVELOPMENT TEST + EVAL, NAVY	6,246,705	5,864,412	6,013,153	5,965,751

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conferees agree to the following amounts for research, development, test and evaluation, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST + EVAL, AIR FORCE				
TECHNOLOGY BASE				
IN-HOUSE LAB INDEPENDENT RESEARCH	13,124	12,624	13,124	12,624
DEFENSE RESEARCH SCIENCES	165,858	155,000	155,000	155,000
GEOPHYSICS	37,780	37,780	37,780	37,780
MATERIALS	46,174	46,174	46,174	46,174
AEROSPACE FLIGHT DYNAMICS	61,219	61,219	61,219	61,219
AEROSPACE BIOTECHNOLOGY	41,718	39,000	41,718	40,500
AEROSPACE PROPULSION	58,645	53,000	53,000	53,000
AEROSPACE AVIONICS/VHSI CIRCUITS	67,652	67,652	67,652	67,652
TRAINING/SIMULATION TECH	18,545	16,000	18,545	17,000
ROCKET PROPULSION	37,072	37,072	37,072	37,072
AVANCED WEAPONS	44,471	44,471	44,471	44,471
CONVENTIONAL MUNITIONS	37,416	37,416	37,416	37,416
COMMAND/CONTROL/COMMUNICATION	69,840	69,840	69,840	69,840
PERS UTILIZATION TECH	7,194	6,000	6,500	6,500
TOTAL, TECHNOLOGY BASE	706,708	683,248	689,511	686,248
ADVANCE TECHNOLOGY DEVELOPMENT				
ADVANCED AIRBORNE RADAR DEVELOPMENT	3,475			
ACFT PROPULSION SUBSYS INTEGRATION	21,468	21,468	21,468	21,468
ADV AVIONICS FOR ACFT	18,201	17,201	18,201	17,201
FLT VEHICLE TECHNOLOGY	7,301	7,301	7,301	7,301
RECON SENSORS/PROCESSING TECHNOLOGY	6,383	4,600	6,383	4,600
AEROSPACE STRUCTURES/MATERIALS	23,545	23,545	23,545	23,545
AVIATION TURBINE FUEL TECHNOLOGY	8,699	8,699	8,699	8,699
ADV TURBINE ENGINE GAS GENERATOR	30,979	30,979	30,979	30,979
DOD COMMON PROG LANGUAGE (ADA) ADV DEV	6,930	6,930	6,930	6,930
ADVANCED SIMULATOR TECHNOLOGY	10,739	10,739	10,739	10,739
CREW SYSTEMS TECHNOLOGY	4,055	2,000	4,055	3,000
ADV FIGHTER TECH INTEGRATION	10,967	10,867	10,967	10,967
LINCOLN LABORATORY	23,079	23,079	23,079	23,079
ADVANCED SYSTEM INTEGRATION DEMO	16,421	16,421	16,421	16,421
CARTOG APPLICATIONS—TAC & STRAT SYS	890			
ADV MSLE PROPULSION	894			
HYPERVELOCITY MISSILE	992	992	992	992
SPACE SYS ENVIRON INTERACTIONS TECH	1,583	1,000	1,000	1,000
VERY HIGH SPEED INTEGRATED CIRCUITS	66,004	66,004	66,004	66,004
CONVENTIONAL WEAPONS	20,017	20,017	20,017	20,017
SPACE LASER PROGRAM	40,561			
ADVANCED RADIATION TECH	95,120	85,120	95,120	90,120
CIVIL/ENVIRONMENTAL ENGR TECH	4,502	4,502	4,102	4,102
ADVANCED COMPUTER TECHNOLOGY	4,957	3,457	3,457	3,457
ELECTRO-OPTICAL WARFARE	15,927	14,000	14,000	14,000
COUNTER/COUNTERMEASURES—ADV DEV	7,041	7,041	7,041	7,041
INNOVATIONS IN EDUCATION/TRAINING	3,073	2,800	3,073	2,800
COMD/CNTRL/COMM ADV DEV	18,295	18,295	15,295	18,295
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	472,098	407,057	418,868	412,757
STRATEGIC PROGRAMS				
COMMON STRATEGIC ROTARY LAUNCHER (T)	64,078	64,078	64,078	64,078
ADVANCED STRATEGIC MISSILE SYSTEMS	49,737	47,737	49,737	49,737
ADVANCED CONCEPTS	60,000	60,000	60,000	60,000
ADVANCED TECHNOLOGY CRUISE MISSILE	26,782	26,782	26,782	26,782
MSL SURVEILLANCE TECH	9,745	9,745	9,745	9,745
ADVANCED WARNING SYSTEMS	20,808		20,808	10,000
POST-ATTACK RECONNAISSANCE	9,919			
SPACE SURVEILLANCE TECHNOLOGY	40,285	20,285	20,285	20,285
WWMCCS ARCHITECTURE	15,110	15,110	15,110	15,110
B-1B	753,500	753,500	753,500	753,500
TANKER TRANSPORT BOMBER TRNG SYS	560			
M-X	2,759,332	2,509,332	2,449,332	2,509,332
AIR LAUNCHED CRUISE MISSILE	186,838	166,838	186,838	180,000
SPACE DEFENSE SYS	211,764	211,764	231,764	211,764
SYSTEMS SURVIVABILITY (NUC AFFECTS)	13,948	13,948	13,948	13,948
B-52 SQUADRONS	121,767	90,000	90,000	90,000
KC-135 SQUADRONS	28,950	28,950	28,950	28,950
MINUTEMAN SQUADRONS	12,857	12,857	12,857	12,857
POST ATTACK COMD/CNTRL SYS	24,034	24,034	24,034	24,034
SAC COMMUNICATIONS	28,096	28,096	28,096	28,096
WWMCCS ADP-NORAD/ADCOM	6,232	6,232	6,232	6,232
NORAD COC	25,378	25,378	25,378	25,378
BALLISTIC MSL TAC WNG/ATK ASSES SYS	1,283	1,283	1,283	1,283
JOINT SURVEILLANCE SYSTEM	1,187	1,187	1,187	1,187
SURVEILL RADAR STATIONS-SITES	1,147	1,147	1,147	1,147
DEW RADAR STATIONS	7,995			
CONUS OVER-THE-HORIZON RADAR	79,175	70,000	79,175	79,175
BALLISTIC MSL EARLY WNG SYSTEM	10,262	10,262	10,262	10,262
SPACETRACK	5,542	5,542	5,542	5,542
DEFENSE SUPPORT PROGRAM	120,447	120,447	120,447	120,447
SLBM RADAR WARNING SYSTEMS	2,570	2,570	2,570	2,570
INTEG OPERATIONAL NUDETS DETECT SYS	19,885	19,885	19,885	19,885
SPACE DEFENSE OPS	6,470	6,470	6,470	6,470
MINIMUM ESSENTIAL EMER COMM NETWORK	49,606	49,606	49,606	49,606
WWMCCS INFORMATION SYSTEM	8,366	8,366	5,000	5,000
AIR FORCE SAT COMM SYS	50,901	50,901	50,901	50,901
MIL STRATEGIC TACTICAL & RELAY SYS	79,784	117,784	79,794	117,784
SATELLITE DATE SYSTEM	7,886	7,886	7,886	7,886
CLASSIFIED PROGRAMS	50,784	50,784	50,784	50,784
TOTAL, STRATEGIC PROGRAMS	4,973,010	4,640,786	4,609,413	4,669,757

[In thousands of dollars]

	Budget	House	Senate	Conference
TACTICAL PROGRAMS				
NEXT GENERATION TRAINER ACFT	52,365	52,365	52,365	52,365
ADVANCED TACTICAL FIGHTER	27,338	23,000	23,000	23,000
ADV TACTICAL AIR RECONNAISSANCE SYS	4,006		4,006	
ACFT NON-NUCLEAR SURVIVABILITY	2,011	2,011	2,011	2,011
NIGHT ATTACK PROGRAM	4,491	4,491	4,491	4,491
ADV ATTACK WEAPONS	17,999	17,999	17,999	17,999
DOD PHYSICAL SECURITY EQ-EXTERIOR	3,911	3,911	3,911	3,911
ELECTRONIC WARFARE TECHNOLOGY	18,724	15,350	15,350	15,350
FIBER OPTICS DEVELOPMENT	2,864	2,864	2,864	2,864
ADVANCED COMMUNICATIONS TECHNOLOGY	6,106	6,106	6,106	6,106
COMBAT IDENTIFICATION TECHNOLOGY	17,486	17,486	17,486	17,486
CHEMICAL WARFARE DEFENSE	4,877	4,877	4,877	4,877
PAVE MOVER	2,003	2,003	2,003	2,003
ACFT AVIONICS EQUIPMENT DEVELOPMENT	21,237	17,137	17,137	17,137
AIRCRAFT EQUIPMENT DEV	1,864	1,864	1,864	1,864
ENGINE MODEL DERIVATIVE PROG	10,254	8,254	64,254	38,254
EW COUNTER RESPONSE	27,335	22,000	22,000	22,000
NUCLEAR WEAPONS SUPPORT	2,298	2,298	2,298	2,298
ALTERNATE FIGHTER ENGINE	94,125	94,125	94,125	94,125
MODULAR AUTOMATIC TEST EQUIPMENT	34,580	34,580	34,580	34,580
NIGHT PRECISION ATTACK	103,758	100,000	100,000	100,000
ACFT ENGINE COMPONENT IMPROVE PROG	120,472	120,472	120,472	120,472
ADV MED RANGE AIR-TO-AIR MSL	207,601	207,601	207,601	207,601
JOINT TACTICAL FUSION PROGRAM	5,280	5,280	9,908	5,280
GRD LAUNCHED CRUISE MSL	28,581	28,581	28,581	28,581
C/B DEFENSE EQUIPMENT	16,339	16,339	16,339	16,339
ARMAMENT ORDNANCE DEVELOPMENT	20,648	20,648	20,648	20,648
CONVENTIONAL STANDOFF WEAPON	38,858	32,500	32,500	32,500
WIDE-AREA ANTI-ARMOR MUNITION	8,503	18,503	8,503	18,503
CLOSE AIR SUPPORT WEAPONS SYSTEM	5,412	5,412	5,412	5,412
LOW LEVEL LASER GUIDED BOMB	3,016	3,016	3,016	3,016
MEDIUM RANGE AIR-TO-SURFACE MISSILE	42,682	42,682	42,682	42,682
CONSOLIDATED CRUISE MISSLE PROGRAM		−42,682	−42,682	−42,682
AIR-LAUNCED ASSAULT BREAKER	29,328	29,328	29,328	29,328
LIFE SUPPORT SYSTEM	12,417	12,417	12,417	12,417
OTHER OPERATIONAL EQUIPMENT	16,553	16,553	16,553	16,553
RECONNAISSANCE EQUIPMENT	7,695	7,695	7,695	7,695
DOD PHYSICAL SECURITY EQ-EXTERIOR	18,595	18,595	18,595	18,595
TAC C3 COUNTER-MEASURES	18,976	18,976	18,976	18,976
COMBAT IDENTIFICATION SYSTEMS	20,552	19,000	19,000	19,000
SURFACE DEF SUPRESSION	4,740	4,740	4,740	4,740
AIRBORNE SELF-PROTECTION JAMMER	46,726	46,726	46,726	46,726
PROTECTIVE SYSTEMS	110,234	110,234	110,234	110,234
TACTICAL PROTECTIVE SYSTEMS	28,093	28,093	28,093	28,093
APPL FOR INFO PROCESSING TECH	4,993	4,697	4,697	4,697
PRECISION LOCATION STRIKE SYSTEM	98,859	78,859	98,859	78,859
INTELLIGENCE EQUIPMENT	18,469	12,869	16,469	12,869
COMBAT HELICOPTER MODERNIZATION	32,347	27,347	27,347	27,347
JT TAC INFO DIST SYS	52,513	52,513	52,513	52,513
SIDE LOOKING AIRBORNE RADAR (SLAR)	27,192	27,192	27,192	27,192
JT INTEROPERABILITY TAC COMD/CNTRL	3,837	3,837	3,837	3,837
F-111 SQUADRONS	39,290	39,290	39,290	39,290
F-15 SQUADRONS	125,318	113,018	113,018	113,018
A-10 SQUADRONS	6,488	5,000	5,000	5,000
F-16 SQUADRONS	86,142	72,142	66,142	73,642
F-4G WILD WEASEL SQUADRONS	21,472	21,472	18,000	20,000
TACTICAL AGM MISSILES	4,790	4,790	4,790	4,790
TACTICAL SURVEILLANCE SYS	285	285	285	285
OVERSEAS AIR WEAPON CONT SYS	3,486	3,486	3,486	3,486
TACTICAL AIR CONTROL SYSTEM	5,422	5,422	5,422	5,422
TAC AIRBORNE COMD/CNTRL SYS	78,852	71,000	63,000	67,000
ADV COMM SYS	78,210	10,889	10,889	10,889
TAC AIR INTELL SYS ACTYS	8,253	8,253	8,253	8,253
SEEK SPINNER	26,900	26,900	26,900	26,900
JT TACTICAL COMM PROG (TRI-TAC)	52,875	52,875	42,875	47,875
ELECTROMAGNETIC COMBAT INTEL SPT	2,623	2,623	2,623	2,623
C-130 AIRLIFT SQUADRONS (IF)	688	688	688	688
C-141 AIRLIFT SQUADRONS (IF)	1,282	1,282		
C-5 AIRLIFT SQUADRONS (IF)	8,077	8,077	8,077	8,077
OPERATIONAL SUPPORT AIRLIFT	2,557	2,557		2,557
CLASSIFIED PROGRAMS	151,221	144,521	148,021	144,521
C-17 PROGRAM		1,000	200,000	60,000
TOTAL, TACTICAL PROGRAMS	2,213,302	2,010,314	2,255,737	2,085,060
INTELLIGENCE & COMMUNICATIONS				
SPACE COMMUNICATIONS	52,349	34,149	52,349	39,949
NAVSTAR GPS USER EQUIPMENT	122,837	122,837	122,837	122,837
MISSILE AND SPACE TECH COLLECTION	651	651	651	651
TECHNICAL SENSOR COLLECTION	2,000	2,000	2,000	2,000
FOREST GREEN	31,802	31,802	31,802	31,802
INTEG OPERATIONAL NUDETS DETECT SYS	1,996	1,996	1,996	1,996
DEF SATELLITE COMM SYS	53,126	53,126	53,126	53,126
LONG-HAUL COMMUNICATIONS (DCS)	9,537	9,537	9,537	9,537
ELECTROMAG COMPATIBILITY ANAL CTR	7,251	7,251	7,251	7,251
COMMUNICATIONS SECURITY	1,621	1,621	1,621	1,621
SPECIAL ACTIVITIES	1,186,200	818,300	1,126,200	1,126,200
TRAFFIC CNTRL/APPROACH/LANDING SYS	5,060	4,360	4,360	4,360
CLASSIFIED PROGRAMS	1,583	1,583	1,583	1,583
TOTAL, INTELLIGENCE & COMMUNICATIONS	1,476,013	1,089,213	1,415,313	1,402,913
DEFENSEWIDE MISSION SUPPORT				
CONCEPT DEVELOPMENT	984			
SPACE VEHICLE SUBSYSTEMS	4,339	4,339	4,339	4,339
SPACE TEST PROGRAM	62,573	62,573	62,573	62,573
ADV MIL SPACEFLIGHT CAPABILITY	2,670			
SATELLITE SYS SURVIVABILITY	22,525	22,525	22,525	22,525
WEATHER SYSTEMS	3,438	3,438	3,438	3,438
ADV AERIAL TARGETS DEV	13,856	13,856	13,856	13,856
FLIGHT SIMULATOR DEVELOPMENT	5,439	5,439	5,439	5,439
SPACE SHUTTLE	355,629	355,629	405,629	355,629
WEATHER SYSTEMS	4,064	4,064	4,064	4,064
RANGE IMPROVEMENT	25,311	25,311	25,311	25,311
ELECTROMAG RADIATION TEST FACIL	7,487	7,487	7,487	7,487

[In thousands of dollars]

	Budget	House	Senate	Conference
IMPROVED CAPABILITY FOR DT+E	46,478	46,478	31,478	31,478
PROJECT AIR FORCE	16,231	16,231	16,231	16,231
ACQ/COMD SPT—TELECOM	4,764	4,764	4,764	4,764
RANCH HAND II EPIDEMIOLOGY STUDY	840	840	840	840
AIRCRAFT NAVIGATION SYS VERIF	15,590	15,590	15,590	15,590
ACQUISITION AND COMMAND SUPPORT	269,229	267,000	267,000	267,000
TEST AND EVALUATION SPT	354,273	354,273	354,273	354,273
ADV SYS ENGINEERING/PLAN	5,443	3,500	3,500	3,500
PRODUCTIVITY IMPROVEMENT	2,201	2,201		
INSTL AUDIOVISUAL SPT (R/D)	5,622	5,622	5,622	5,622
MGT HQ (RESEARCH/DEV)	35,341	35,341	33,341	34,341
SATELLITE CONTROL FACILITY	60,219	60,219	60,219	60,219
SPACE BOOSTERS	15,011	15,011	15,011	15,011
CONSOLIDATED SPACE OPERATIONS CENTER	32,116	32,116	23,400	28,000
DEF METEOROLOGICAL SATELLITE PROG	27,751	27,751	27,751	27,751
SPACE LAUNCH SUPPORT	16,419	16,419	16,419	16,419
INDUSTRIAL PREPAREDNESS	1,977	1,977	1,977	1,977
UTAH TESTING + TRAINING RANGE	2,080	2,080	2,080	2,080
PRODUCT/RELIABLE/AVAIL/MAINTAIN PROG	9,681	9,681	9,681	9,681
INTERNATIONAL ACTIVITIES	2,788	2,788	2,788	2,788
TOTAL, DEFENSEWIDE MISSION SUPPORT	1,432,369	1,424,543	1,446,626	1,402,226
GENERAL REDUCTION		−4,700		−4,700
PAY RAISE ABSORPTION	25,248			
PERSONNEL SECURITY CLEARANCE PROCESSING		−3,600		−3,600
INDUSTRIAL PLANT EQUIPMENT CUSTOMER CHARGES		−500		
TOTAL, RESEARCH DEVELOPMENT TEST + EVAL, AIR FORCE	11,298,748	10,246,361	10,835,468	10,650,661

Note.—Senate floor amendment made a ceiling on expenditures for the following: C-17 Aircraft, $100,000,000. Senate floor amendment also made a ceiling on obligations and expenditures of $10,735,468,000 for this appropriation.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Defense Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL, DEF AGENCIES				
TECHNOLOGY BASE				
DEFENSE RESEARCH SCIENCES	112,100	101,000	101,000	101,000
IN-HOUSE LAB INDEPENDENT RESEARCH	1,800	1,800	1,800	1,800
TECHNICAL STUDIES	3,300	1,000	1,000	1,000
STRATEGIC TECHNOLOGY	151,900	151,900	171,900	161,900
TACTICAL TECHNOLOGY	93,900	93,900	93,900	93,900
PARTICLE BEAM TECHNOLOGY	31,000	31,000	33,000	33,000
INTEGRATED COMD/CONTROL TECH	55,300	45,300	55,300	45,300
EXPERIMENTAL EVAL MAJ INNOVATIVE TECH	268,500	258,500	253,500	253,500
MATERIALS PROCESSING TECH	15,400	15,400	15,400	15,400
NUCLEAR MONITORING	17,300	17,300	17,300	17,300
DEFENSE NUCLEAR AGENCY	326,600	315,500	315,500	315,500
TOTAL, TECHNOLOGY BASE	1,077,100	1,032,600	1,059,600	1,039,600
STRATEGIC PROGRAMS				
WWMCCS ARCHITECTURE	1,262	1,262	1,262	1,262
MMCS-WIDE SUPPORT	7,906	7,906	7,906	7,906
WWMCCS ADP-JTSA	23,355	23,355	23,355	23,355
WWMCCS SYSTEM ENGINEER	43,732	43,732	43,732	43,732
MINIMUM ESSENTIAL EMER COMM NETWORK	9,845	9,845	9,845	9,845
TOTAL, STRATEGIC PROGRAMS	86,100	86,100	86,100	86,100
INTELLIGENCE & COMMUNICATIONS				
CINC C2 INITIATIVES	700	700	700	700
MAP/CHART/GEODESY INV/PROTOTYPE DEV	17,863	17,863	17,863	17,863
MAP/CHART/GEODESY ENGR DEV/TEST	10,082	10,082	10,082	10,082
LONG-HAUL COMMUNICATIONS (DCS)	18,935	18,935	18,935	18,935
SUPPORT OF THE NCS	1,990	1,990	1,990	1,990
CLASSIFIED PROGRAMS	982,830	915,850	903,430	931,430
TOTAL, INTELLIGENCE & COMMUNICATIONS	1,032,400	965,420	953,000	981,000
DEFENSEWIDE MISSION SUPPORT				
TECHNICAL SUPPORT TO USDR/E	16,649	12,000	12,000	12,000
GENERAL SUPPORT FOR PA/E	3,712	2,000	2,000	2,000
SUPPORT TO POLICY	4,419	4,419	3,589	3,589
GENERAL SUPPORT FOR NET ASSESSMENT	4,006	3,500	3,500	3,500
GENERAL SUPPORT FOR MRA/L	3,014	2,000	2,000	2,000
DEFENSE TECHNICAL INFO CENTER	17,560	16,000	16,000	16,000
INFORMATION ANALYSIS CENTERS	5,140	4,000	4,000	4,000
MGT HQ (RESEARCH/DEVELOPMENT)	8,100	8,100	8,100	8,100
TECH TRANSFER CONTROL UNIT		2,000	7,000	2,000
TOTAL, DEFENSEWIDE MISSION SUPPORT	62,600	54,019	53,189	53,189
SPECIAL FOREIGN CURRENCY			784	
PAY RAISE ABSORPTION	1,463			
CONSULTANTS, STUDIES & ANALYSES		−12,000		−6,000
PERSONNEL SECURITY CLEARANCE PROCESSING		−700		−700
TOTAL, RDT&E, DEFENSE AGENCIES	2,259,663	2,125,439	2,152,673	2,153,189
DIRECTOR OF TEST & EVALUATION, DEFENSE				
FOREIGN WEAPONS EVALUATION	11,600	11,600	11,600	11,600
TEST AND EVALUATION	48,400	43,400	43,400	43,400
TOTAL, DIRECTOR OF TEST & EVALUATION, DEFENSE	60,000	55,000	55,000	55,000

Mr. PROXMIRE. Mr. President, I yield 10 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to have the attention of the chairman of the Appropriations Committee so that I can ask him the meaning of the language to the MX missile.

I have just a few questions, but I think it is important to have the MX issue clarified to the extent we can, so that what the conference agreed to will be very clear.

It is my understanding that the conference report prohibits any production money for the MX missile. Is that the chairman's understanding?

Mr. HATFIELD. Yes, that is my understanding.

Mr. KENNEDY. And is it also correct that no R&D money can be used for production of MX missiles for deployment until Congress has approved a basing mode?

Mr. HATFIELD. That is correct.

Mr. KENNEDY. Does this mean, therefore, that the five missiles that would have been produced with the $988 million originaly in the Senate bill can no longer be produced,

Mr. HATFIELD. That is correct.

Mr. KENNEDY. So the administration cannot proceed with the production or deployment of the MX missile by calling it R&D?

Mr. HATFIELD. That is correct, until Congress has approved the basing mode.

Mr. KENNEDY. Is it correct to say that any missile developed as part of the R&D cannot be flight tested at all until a basing mode is approved by the Congress?

Mr. HATFIELD. That is correct.

Mr. KENNEDY. I thank the chairman. I think it is helpful for our understanding of the language printed on page 141 to have these responses. Otherwise, it may be interpreted in different ways. I thank the chairman of the Appropriations Committee, who has been very much involved with this report, along with the deputy Republican manager. I hope this interpretation will guide future policy action by the administration.

Mr. HATFIELD. If the Senator will yield, I would like to make one further comment. That is, that in the R&D there has to be some correlation between that and the need for the program. It is not a matter of using R&D as an excuse to go ahead into the production of missiles until approved by the Congress. I must emphasize the fact that those funds are strictly for R&D, prototypes, and what have you, and having a correlation, of course, for the need.

Mr. STEVENS. To make certain that we understand what we are saying, I am not disagreeing with what the chairman has said, but I hope that the Senator from Massachusetts understands what has been said. Rather than talk about missiles, let us talk about satellites. During the satellite program we had R&D money. We built satellites with that R&D money. When they were proven to be successful, we then went on and used the ones that were made during the R&D program and they are up there now. They worked. I am a Scotsman. I do not see any reason to say that the missiles that are produced during R&D cannot be deployed. We have convinced the House of that. The ones that are produced during R&D may be deployed when the House and the Senate have approved the basing mode. But they are not being produced for deployment. They are being produced for R&D. Once they have served their purpose and we have a missile that is a good one, there is no reason to go on and say, "We have to buy others because we cannot use these, they were built with R&D funds."

They were built with taxpayers' money, just as the satellites were. That is the feeling that I want to bring forth here. We are watching these dollars. There is over $4 billion in this program for R&D. When those missiles are built and the Congress has approved the basing mode, if the missiles prove successful they ought to be available for deployment. That is what we have said.

Mr. KENNEDY. I do not differ with the Senator from Alaska, but I think it is very important to understand that even under R&D, no MX missiles can be flight tested until a basing mode is approved by Congress.

Mr. STEVENS. That is correct, until the basing mode is approved.

Mr. KENNEDY. There will not be any flight testing of these missiles, even with R&D funds?

Mr. STEVENS. That is correct.

Mr. KENNEDY. I thank the Senators for their responses. The House and Senate bills contained different provisions. But the clear intent of both bodies was to place substantial restrictions on MX missile production. The administration cannot use R&D funds as a back door method of circumventing these restrictions. Congress has reached an important decision, and I think it is important that the administration not try to avoid the very clear understanding of the House, the Senate, and the conferees. The administration cannot nullify the intention of this law by using R&D funds for the purpose of producing MX missiles.

I think the responses by the manager of the bill and the deputy manager clarify that intention very well. I thank the Senators.

Mr. HATFIELD. Mr. President, I yield 15 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I take no pleasure in feeling compelled to say what I am about to say in registering my displeasure with the legislative process that has caused the situation which we find ourselves in with the conference report on the continuing resolution, House Joint Resolution 631.

During the last week, many of us, including members of the Appropriations Committee, have criticized the process of continuing appropriations bills. Personally, I see no reason why many more appropriations bills, including the defense bill, could not have been enacted. By the way, I do not blame the Appropriations Committee for that.

Nevertheless, we stood on the floor for many hours and offered amendments we believed were necessary to change the bill as reported by the Appropriations Committee. It was our right and duty to do so.

The amendments offered by myself and other members of the Armed Services Committee were chosen based on their importance to national security. They were amendments which the Congress had previously approved in substance in the fiscal year 1983 defense authorization bill.

The conferees have returned a conference report which, on national defense matters at least, has for the most part ignored the positions ratified by the Senate only 2 days ago. The report will have serious adverse consequences for U.S. national security policy and will needlessly jeopardize the mutual security relationships which we have enjoyed with our allies.

The most serious example of the conferees' indifference to the Senate position on major national security issues was the action taken with respect to MX missile production funding. My colleagues will recall that, in the early hours of last Friday, the Senate overwhelmingly rejected a motion offered by Senator CRANSTON designed to bring our version of the continuing resolution into conformity with the House position. The Cranston motion failed by a vote of 70–28.

Having decisively discarded an amendment which eliminated the production funding for MX in fiscal year 1983, the Senate went on to adopt by a vote of 56–42 an amendment offered by a bipartisan group which included among its sponsors the Chairman of the Defense Subcommittee of the Senate Committee on Appropriations.

This amendment differed substantially from the House stance on MX production funding. It appropriated $988 million to initiate production in fiscal year 1983.

Such production was, however, subject to a stringent legislative "fence" which insured that operational missile production would not start until both

Houses of Congress had considered and adopted resolutions releasing the fence under expedited procedures.

It was, and remains, my view that the Senate-passed provision represented the only possible way to address the controversial MX missile and related basing system. Since President Reagan, in response to a congressionally imposed mandate, submitted his plan for survivably deploying MX on November 22, 1982, not a single public hearing has been held by either House of Congress in which all the substantive details of the proposed system have been reviewed.

Instead, in a little over 3 weeks time and in the utter absence of detailed technical information, the Congress of the United States has yielded to unrelenting criticism of the program in the press and has, by its actions, effectively precluded fair and reasoned consideration by the next Congress of the President's proposal. Consider the manner in which this was done:

All production funds for operational MX missiles were eliminated by the conferees. Consequently, the option to proceed with the President's recommended program, should the Congress elect to do so pursuant to the review period called for in both the Jackson amendment and the conference report, is forclosed. Thus, the very integrity and objectivity of that review are called into question—if not impeached, before it even is begun.

The conferees stipulated that only $155 million of basing-related research and development is available. It is my understanding that this level of funding is inadequate to support the necessary pre-full scale engineering development RDT&E so as to preserve an option to meet the earliest achievable MX initial operational capability. In this way, the Congress future freedom of action is restricted.

What is more, the relevant authorizing committees of the Congress—the Committees on Armed Services—are denied the oversight responsibility assigned to them under the respective rules of each House. Unlike the amendment adopted by the Senate which directed that reports of the President and resolutions mandated by this resolution be referred to the Armed Services Committees of the Senate and House of Representatives, the conference report dictates that such materials and resolutions be submitted to the Appropriations Committees.

As a precedent, the exclusion of the substantive committee from such oversight is extremely troublesome. As legislative practice, this approach is seriously flawed. But most importantly, from the standpoint of providing for the national defense, serious damage to our national security may result from the exclusive consideration of these weighty matters by a committee the breadth of whose duties dictate that the committee must give relatively superficial consideration to any single issue.

The authorizing committees, by contrast, are constituted by the Congress to delve in detail into the complex and often arcane matters uniquely within their respective jurdictions. It is most disturbing that the Congress is being asked to endorse in the conference report a legislative mechanism which may seriously infringe upon the systematic and detailed analysis required by so important a decision as that of the MX.

In short, with respect to MX, the continuing resolution prejudges and constrains the review the public expects us to undertake before taking action on MX. In fact, it constitutes a taking of such action—by eliminating production funding and by severely constraining basing R&D—before the detailed examination of the serious implications of such action can be conducted.

In addition to the MX provisions, the conference report contains three glaringly unacceptable provisions directly inconsistent with Senate action.

First, both the House and Senate versions of the fiscal year 1983 defense appropriations bill specifically prohibited the use of funds to transport equipment to fill POMCUS division sets 5 and 6. However the full Senate accepted a Nunn-Tower-Percy amendment to the continuing resolution which simply permitted DOD to fund this program within the appropriations totals. The conference agreement rejects the Senate position. Filling POMCUS sets 5 and 6 is critical if the United States is to fulfill its formal commitment to deploy 10 divisions in Europe within 10 days of the onset of hostilities.

Second, both the House and Senate versions of the fiscal year 1983 defense appropriations bill eliminated virtually all of the U.S. share of the cost of the wartime host nation support agreement reached with West Germany. The full Senate accepted a Nunn-Tower-Percy amendment to the continuing resolution which simply permitted DOD to fund the U.S. share of $44.3 million within the appropriations total. The conference agreement rejects the Senate position. If Congress fails to fund its one-half share of WHNS, the United States risks losing the vital logistical support of 93,000 reservists to be provided by West Germany during hostilities.

Therefore, we endanger the lives and safety of Americans deployed there if we got into an immediate conflict.

With regard to specialty metals, the House and Senate versions of the fiscal year 1983 Department of Defense bill allowed DOD to purchase only weapons or weapons systems manufactured outside the United States which contain specialty metals of non-U.S. origin. The full Senate, however, adopted a Heinz-Tower compromise which would have allowed the United States to purchase defense items, and parts and components of defense items, which are manufactured outside the United States. The conference committee, however, rejected the Senate compromise. The House language imperils a defense trade balance which favored the United States in 1980 by 9 to 1. This language puts thousands of American jobs at risk. For instance, the language jeopardizes a sale of the M-1 tank to Switzerland which represented 6,000 to 12,000 American jobs.

In other words, what we have done is demagog on protectionism, to make some of the folks back at home in afflicted industries think we have done something for them when, in fact, we are jeopardizing more jobs than we are likely to save by legislation of this type. Loss of sale of M-1 tanks to Switzerland, however, will cost us 6,000 to 12,000 jobs.

Finally, I want my colleagues to know that—by voting for this conference report—they are wasting at least $800 million in budget authority to fund programs that was neither requested by the Department of Defense nor approved by the authorizing committees.

For instance, the conference report provides $357 million for the procurement of 20 A-10 aircraft despite the fact that the Air Force has made it clear that it does not want or need any more A-10 aircraft.

And yet, Mr. President, for the F-16 aircraft—a program which both the Air Force and the Congress agree is absolutely essential—and one which many foreign countries regard as essential, because it is in inventories almost throughout the world—the conferees failed to approve $82 million in long lead funding which, if approved, would permit us to achieve some economics of scale on the F-16. It eliminated funds that would result in savings on the per-unit cost of the F-16. I might note what has happened here is pretty clear to me. Since they provided the money for the A-10, they said that this money is available, it is all right to authorize, but required reprograming for the F-16 funds. The purpose for that, let me tell you, is leverage so that the Department and the Congress are, in effect, levered into funding an aircraft for which there is no further use—an aircraft which cannot survive in a high-density air defense environment—because it is produced in somebody's district.

To protect a little pork, we have to make it more difficult or hold hostage something for which there is a validated military requirement.

I am getting a little tired of this procedure around here. We have a lot of people complaining about defense and high defense spending, but I do not hear any complaints about congressional pork in the defense bill.

We better face up to it. The American people are beginning to hold the Congress in contempt. It is not just the Pentagon everybody is down on for defense spending, be assured. We are wasting a lot of defense dollars by funding pork-barrel projects. The A-10 is a splendid example—or I should say a horrible example, depending on how you look at it.

In addition, the conferees having agreed to fund C-17 R&D at $60 million, despite the fact the Department of Defense has not requested such funding, and by best estimates even if they had it is doubtful they could have spent $50 million.

Now, I ask the Senate, is it DOD or the Congress who is the real cause of waste in the defense budget? I submit that the Congress must take a major share of the blame.

I have had only a few minutes to review this lengthy conference report as it applies to defense. I think it is irresponsible of us to pretend that we are making an informed judgment on nearly $232 billion of defense programs.

I have already discussed my dissatisfaction with several provisions contained in the conference report. There may be other provisions contained in that report which are also not well thought out. These provisions will not be considered in the detail that they deserve. I intend to vote against the conference report, and my vote is against the process itself, the pork barrel that is contained in the bill and the MX.

Mr. STEVENS. Will the Senator yield?

Mr. PROXMIRE. Mr. President, I yield 3 minutes——

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes.

Mr. KENNEDY. Mr. President, I want to make a parliamentary inquiry on the jobs issue. Both the Senate and the House of Representatives enacted a significant funding provision on this bill in order to help the unemployed. It seems to me that there is something wrong with the rules of the Congress when both Houses can pass separate job measures, and then the conferees ignore such action entirely. So I ask whether the conferees acted within the scope of their authority in eliminating the Senate and House jobs program?

The PRESIDING OFFICER. To whom is the Senator addressing his question?

Mr. KENNEDY. The Chair.

The PRESIDING OFFICER. The conferees are permitted to act within the language that is committed to them. Either House can recede to the other's language or less than the other's language, so that the conferees were acting within the scope of the conference.

Mr. KENNEDY. If I understand the response of the Chair, they can accept either House's language. That was not the case in this conference report, was it?

The PRESIDING OFFICER. They can accept either House's language or less. In this case they accepted less than either House had concurred in.

Mr. KENNEDY. Mr. President, for that reason I will oppose the conference report—because of its failure to include any funds at all for either the House or the Senate jobs initiative. I deplore the unwarranted, uncompromising, and insensitive position of the administration on this issue. I believe there is no clearer example of the let-them-eat-cake attitude of the administration than the harsh threat to veto even a single penny for jobs in this legislation. Twelve million Americans are out of work today. Unemployment has climbed steadily for the past 17 months to nearly 11 percent today. It is likely to keep rising in the months to come. The American economy is in the worst straits we have seen in half a century. Under these circumstances, Congress has an obligation to act, even when the administration says it does not care. There is no justification whatever for Congress to buckle to the veto threats of the President on the issue of jobs and justice for the workers of this country. This legislation should be rejected by the Senate because it does not deserve to pass.

Mr. HATFIELD. Mr. President, I say to the Senator from Massachusetts that I hope he would address his concerns to the leadership of the House of Representatives.

I should also say to the Senator from Massachusetts that if this is voted down, there is not going to be a jobs bill, there is not going to be an agreement on the MX missile, and there is going to be increased unemployment because this Government will shut down. And as I said earlier when the Senator from Michigan raised the same points, there may be those in this body who think it is best to shut the Government down. I am not one of them. But there are no options at this point that we have. It is not my creation, but as chairman of the committee I can only say that you vote this down and I do not know where we go from there.

I would yield 3 minutes——

Mr. KENNEDY. I think the question ought to be directed more toward the President. He made the veto threat, and he was willing to shut down the Government. and all because the White House says "no" to any jobs program at all.

Actually, as I understand it, the President has indicated he may wait for hours or even days before deciding whether to sign this bill. During that time, while we are waiting for his response, it seems to me that we could act on the jobs issue. A very reasonable position has been taken by the chairman of the Appropriations Committee. He sponsored a very modest jobs bill in the committee, and he defended it eloquently on the Senate floor. At the very least, we could act again on that proposal. I know, both by his record and his work, of Senator HATFIELD's deep commitment to unemployed Americans. I am very grateful for his past efforts and I hope he will continue to make those efforts in the future.

Mr. HATFIELD. I thank the Senator. I will pursue this efforts to try to get a jobs progrm, but I must admit that that is not going to be possible until the new Congress because the President made it abundantly clear where he stands at this point. Whether I think he is right or wrong, that is the President's role to play in the legislative process, and it is his prerogative to exercise that role as he sees fit.

I will yield 3 minutes to the Senator from Alaska, and then the Senator from Illinois wishes 3 minutes, the Senator from Idaho wishes 3 minutes, the Senator from Alabama wishes 3 minutes, and I know of no other Senator after that.

To the Senator from Alaska I yield 3 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I regret the disagreement with the chairman of the Armed Services Committee. I want to point out that although the A-10 was not authorized, the money in this bill is not available for expenditure until the Armed Services Committee does clear it. In fact, 20 A-10's were in the President's budget request.

There is an increase for the F-16's, but the increase was not requested in the budget and the House complained about that so we put those in the same situation. If that is leverage, it is because of the budget situation and not because of the action of the Appropriations Committee.

As a matter of fact, with regard to the MX, when the authorization bill first passed this Senate, it contained no money for procurement for the MX in fiscal year 1983. We were reminded of that constantly by the House. We have in fact established a position in

this bill, which was the original position taken by the Armed Services Committee for 1983 for the MX procurement. As far as the POMCUS and the host nation support, we did try to carry out the instructions of the Senate in that regard. But it was a Member of the Senate—and all of us in the conference agreed—who pointed out that our National Guard and our military Reserves do not have the equipment that they need, and the money that was originally earmarked for POMCUS and the host nation support is in this bill but it is earmarked for our National Guard and our Reserves across the board.

We had testimony in hearings this past year that indicated that these units that are scheduled to go overseas in the event of an emergency, at the first sign of hostilities, are not properly equipped, and yet we are asked to equip the host nation reserves and their national guard.

Finally, because of my great regard for the distinguished President pro tempore, I wish to address the Pershing missile.

He has inquired as to why we did not have more funds for the procurement of the Pershing I. I remind the Senate that the test flight that was originally scheduled was delayed and then failed. The most recent shot was postponed. Only one launch has been achieved. It was a partial failure. The missiles are not now ready for full production.

With the 1982 low rate of production funding, $200 million, the Army can make deployment with the $30 million that we added to the operation and maintenance account. There are 21 of these missiles currently funded and ongoing.

This agreement does not terminate the program and should not send the wrong signal. In fact, the conferees stated their continuing support for this program.

We will make the initial deployment. We will provide funds after a successful test program.

We have directed the Department to reprogram or give us a supplemental request immediately when this missile has been successfully flown.

Meanwhile, we have added $30 million to the operations and maintenance account so that the Pershing II crews can be trained and ready to operate the new missiles when they are available.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, yesterday I expressed support for the position that had been taken on the NATO U.S. troops in NATO issue. I was very pleased that Senator STEVENS was able to work this out. I also was very pleased that the House of Representatives receded to the Senate position thereby providing funds to establish the new U.S. central command in the Middle East region.

However, Mr. President, I am extremely disappointed to learn that the conferees on the continuing resolution agreed to provisions on a number of NATO-related issues which, in my opinion, will have a severely adverse impact on the well-being of the Alliance. Indeed, the conferees approved provisions on five separate NATO issues that are directly contrary to the positions recommended to the Congress by Gen. Bernard Rogers, the Supreme Allied Commander in Europe, and Undersecretary of State Lawrence Eagleberger and adopted by the Senate last week. These five provisions relate to the Pershing II and GLCM missile programs, the POMCUS sets for divisions five and six, the host nation support program with West Germany, and the specialty metals restriction.

I will not rehearse the arguments against the provisions adopted by the conferees on these five programs since colleagues and I fully aired them during Senate consideration of the bill. But I would repeat my deep regret that the Senate conferees felt compelled to yield to the House on all five points. I intend to work closely with Senator TOWER and Senator NUNN in the months ahead to overturn these unfortunate and damaging conference decisions.

I pay tribute to my distinguished Senator, our colleague, the chairman of the Armed Services Committee, for the way he forcefully carried these arguments on the floor of the Senate, and I think properly so, and for the way Senator NUNN, went before the conferees to argue those same positions with respect to those NATO issues. If their arguments had prevailed our alliance would have been stronger and the free world would have been stronger today than it would be otherwise.

The PRESIDING OFFICER (Mrs. HAWKINS). The Senator from Idaho is next.

Mr. SYMMS. Madam President, I am very concerned. The other night in the late hours of the night there was an amendment which was adopted by the full Senate which I was in hopes would not come back from the conference, and I do not in any way wish to say anything here that would have any of the distinguished Senators who are on the conference feel that I am being critical of what has happened here for their sincere efforts. But I am concerned, as one Senator, that this question of national defense and of the strategic importance of the MX missile is being downplayed here somehow in the midst of our rush to go home.

I have heard some of my colleagues here stand up and say that the President is playing gamesmanship, and so forth. I just absolutely disagree with that. I think the President has a tremendous responsibility. His first and foremost responsibility to the security of the American people is to keep the peace, and that is why we have a defense establishment in the first place.

The distinguished chairman of the Armed Services Committee has enlightened us greatly with some of the things that have happened within this bill, but as I read the Hart amendment that was adopted the other night, we are delaying our ability to flight test the MX and also limiting our ability to flight test the MX and the flexibility we could have only so we can comply with paragraph 9, article 4, of the unratified SALT II treaty, which in my judgment is a very poor reason.

I wonder if Senator TOWER would agree that there are some complications here with respect to flight testing and production, and I have one other question.

Is it correct that the conference has now fenced this money in so it has to be approved now by the Appropriations Committee both in the other body and in this body instead of by the respective Armed Services Committees?

Mr. TOWER. Madam President, the Senator is correct. That is to say whatever basing mode might be submitted would be subject to consideration by the Appropriations Committee, not by the Armed Services Committee. To me that is an unfortunate precedent to set. It means getting around the subject matter of committees.

Of course, I feel particularly strongly about this because the Armed Services Committee and the Foreign Relations Committee are the only two major spending committees of the Senate in which the majority is barred representation on the Appropriations Committee. So we have no protection.

Mr. SYMMS. I appreciate the distinguished chairman's answer, and I might just also say we just heard the concern expressed by the chairman of the Foreign Relations Committee about how this is going to be viewed by our NATO allies.

I do believe that the interpretation regarding the status of the MX ICBM that is going to be read around the world with this conference report, and I say that with all due respect and affection for my distinguished friend from my neighboring State of Oregon, is going to be one that the Europeans and people in NATO are going to view if the Americans are unwilling to make a development and deployment decision as their President called for, and if Congress is unwilling to back up their President to move forward with the third leg of the triad, that is a new land-based missile, then the Europeans are going to come back and say, "If they do not have the courage to

put it in their own country,why should we do it in our country."

I think we are really playing with the security of this Nation by what has happened in this conference report.

I know everyone wants to go home for Christmas. But I can only say as one Senator that if the President interprets this conference as this Senator does, he very likely will veto it over the issue of what happened with respect to the MX missile notwithstanding some other things in the bill.

Mr. TOWER. I cannot respond to the suggestion that the President might veto it.

I certainly agree with the Senator from Idaho that this has very serious implications for us from the standpoint of strategic arms reductions negotiations, from the standpoint of theater force reductions negotiations and from the standpoint of mutual balance of force reductions negotiations.

It does further inflame the climate in Europe that is opposed to the stationing of land-based missiles in European countries.

I think the Senator is absolutely correct. They are likely to conclude that if the Americans will not place them on their soil why on earth should we base them on ours?

That, of course, further degrades the capability of the United States to negotiate any kind of significant arms reduction, reduction of destabilizing arms with the Soviet Union.

Mr. SYMMS. Madam President, I rise to object to the provision in the conference report which delays MX ICBM testing due to the U.S. unilateral policy of complying with the unratified SALT II Treaty. This provision, the Hart amendment, does not specifically mention the unratified SALT II Treaty as the reason for delaying indefinitely the first flight test of the MX ICBM. However, the intent, and purpose of the Hart amendment is to comply with the unratified SALT II Treaty. Indeed, the sole and only reason for the Hart amendment is to comply with the unratified SALT II Treaty.

I strongly object to the U.S. compliance with the unratified SALT II Treaty regarding the testing, characteristics and deployment of the MX ICBM.

Madam President, I ask unanimous consent to revise and extend my remarks further on this subject in the RECORD with respect to my objections to what has been done here.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE SALT II TREATY AS UNRATIFIED

The United States has already constrained our strategic forces unilaterally in compliance with the unratified SALT II Treaty in at least eight significant cases. The Hart-Tower amendment would be case No. 9.

Mr. President, it is correct that under the second agreed statement to paragraph 9 of article IV of the unratified SALT II Treaty the United States should not flight test a new ICBM type that has a different number of stages than that of the first new ICBM type to be flight tested. In other words, once the United States launches the first MX—with its four stages—in February, we could not under SALT II then test launch a second new ICBM type with, say, three stages, which would probably be the number of stages on a small mobile ICBM. But the United States has not ratified the SALT II Treaty.

In sum, I oppose the Hart-Tower amendment because it would defer MX flight testing in compliance with the unratified SALT II Treaty. This is case No. 9 of U.S. unilateral SALT II compliance. The evidence is growing ever greater that the constitutional treatymaking power and prerogatives of the Senate are being circumvented. Someday soon, Senators may begin to challenge U.S. SALT II compliance directly.

Beyond the above constitutional legal and political problems, the Hart-Tower amendment would also have the following deleterious programatic effects:

First. It will delay MX R&D, which the Congress, administration, and Joint Chiefs of Staff all agree should go forward as soon as possible on top priority.

Second. It will increase the cost of the MX program.

Third. Delay of MX testing and deployment will reduce U.S. leverage at the START talks.

The specific results of the Hart-Tower amendment will be that the first MX flight-test will probably now be delayed from January 1983 to at least March 1983, a 2-month slippage at least. The Senate has thus agreed to another serious delay in the MX program. The U.S. should not comply with the unratified SALT II Treaty.

Mr. President, one of the virtues of the MX ICBM in the Dense Pack deployment mode is that it violates the unratified SALT II Treaty. The Soviets have been flagrantly violating the SALT II Treaty since late 1979. Over 10 separate Soviet SALT II violations have been documented and reported in the press. SALT II has been made a dead letter by the Soviets. Their massive SALT II violations are indisputable. Thus the time has come for America too to cast SALT II aside and deploy MX.

Regrettably, President Carter and President Reagan have defied the Senate's prerogatives in contravention of the treatymaking power of the Constitution. Both President Carter and President Reagan committed the United States to compliance with the SALT II Treaty, without the advice and consent of the Senate. This U.S. SALT II compliance policy under the Reagan administration began in March 1981, with a State Department announcement that the United States would not undercut the SALT II Treaty, as long as the Soviets did not undercut SALT II. But the U.S. Constitution says nothing about giving the Soviets a role in deciding whether or not the United States ratifies and complies with a treaty. Moreover, the Senate has a voice in U.S. treaty compliance. Further, on May 30, 1982, President Reagan himself stated:

As for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint.

SALT II is an existing arms control agreement, although it is an unratified treaty. The U.S. Constitution states that:

He (i.e., the President) shall have power, by and with the advice and consent of the Senate to make treaties provided two-thirds of the Senators present concur . . ."

This constitutional language is being contradicted by the President's policy that the United States not undercut SALT II contingent upon similar Soviet behavior. Further, the word "undercut" could even be interpreted to mean that the United States is bound to comply not only with the precise provisions of SALT II, but also with the undefined "spirit" of SALT II as interpreted by the U.S. President or even the Soviets. Thus, the President's policy of not undercutting SALT II is in effect Presidential ratification of the SALT II Treaty, committing the United States to compliance with SALT II's provisions. Not only have the Soviets officially never informed the United States that they will not undercut SALT II, but they are in fact undercutting SALT II with their many SALT II violations.

Thus, the Soviets have all the benefits of U.S. compliance with SALT II, while they themselves have accepted no obligations.

The President's policy of compliance with the unratified SALT II has official, even legal, status as a Department of Defense directive. Department of Defense Directives 5100.7 and 5100.72, and Air Force Regulation 28-1, require U.S. compliance with the unratified SALT II treaty. Further, these directives require quarterly reports from the military services on U.S. compliance with the unratified SALT II treaty.

There are many examples of U.S. unilateral compliance with the unratified SALT II treaty. The following listing is probably only partial:

First. The U.S. unilateral deactivation of 292 strategic delivery vehicles—160 Polaris SLBM's, 54 Titan II ICBM's, 80 B-52D bombers—counted in the SALT II treaty and in its data exchange, an integral part of the treaty.

Second. The U.S. modification of B-52 bombers to carry "strakelets" on those models which are also being equipped with air-launched cruise missiles. These "strakelets" are supposed to be "functionally related observable differences" required by the unratified SALT II, and they cost about $80 million.

Third. The U.S. redesigning of the B-1B bomber in order to carry 2 fewer air-launched cruise missiles, 20 instead of the 22 each is capable of carrying, in unilateral compliance with the unratified SALT II Treaty.

Fourth. the U.S. cancellation of deployment of 50 or 100 stockpiled Minuteman III ICBM's in compliance with the unratified SALT II Treaty's ceiling of 1,200 MIRV'ed missiles.

Fifth. The U.S. limitation of the throw weight of the MX ICBM to somewhat above 3,600 kilograms, in compliance with the unratified SALT II Treaty.

Sixth. The U.S. limitation of the launch weight of the MX ICBM to 90,000 kilograms, in compliance with the unratified SALT II Treaty.

Seventh. The U.S. limitation of the number of warheads on the MX ICBM to 10, instead of 14, in compliance with the unratified SALT II Treaty.

Given the above seven examples, President Reagan's decision to deploy the MX in the Dense Pack basing mode is not surprisingly being justified as being in compliance with the unratified SALT II Treaty. Both Defense Secretary Weinberger and Assistant Secretary Perle argue that MX Dense

Pack does not violate the SALT II Treaty. Thus the United States has constrained its strategic forces in eight significant ways. The administration argues that the MX canister, not the silo, is the launcher, and that this launcher is mobile. This argument, however, would be much more credible if the number of silos was greater than the number of canisters, and if the MX transporter-erector was also capable of launching the missile from its canister.

Instead, there are planned to be 100 canisters deployed in 100 silos. There is no reason to move each canister, because there are no extra silos, which in addition are to be very close together. Moreover, the canister can not launch the missile from the transporter-erector. Indeed, the only way the missile will be launched operationally will be from its silo. Indeed, logic and all observable characteristics of the MX Dense Pack suggest that the silo is the fixed ICBM launcher.

But article IV of the unratified SALT II Treaty states that:

(1) Each party undertakes not to start construction of additional fixed ICBM launchers.

(2) Each party undertakes not to relocate fixed ICBM launchers.

Thus, each of the 100 new MX Dense Pack silos would violate either one or the other of the above provisions.

In addition, article V. paragraph 2, of the unratified SALT II Treaty states that:

. . . each party undertakes to limit launchers of ICBM's and SLBM's equipped with MIRV's and ASBM's equipped with MIRV's, to an aggregate number not to exceed 1,200.

Due to the fact that at least seven Trident submarines carrying 168 MIRV'ed SLBM's are already under construction, the United States will be exceeding the 1,200 MIRV'ed missile ceiling with MX Dense Pack by as early as 1984, when the construction of the 100 MX Dense Pack silos will have to begin for them to be operational by 1986 as planned.

Thus we must conclude that MX Dense Pack will violate both aricle IV and article V of the unratified SALT II Treaty.

But the Reagan administration argues, incorrectly and contrary to the observable facts, that MX Dense Pack is in compliance with SALT II.

In sum, one of MX Dense Pack's virtues is the fact that it violates the unratified SALT II Treaty. Thus if MX Dense Pack is deployed, the unratified SALT II will have to be declared dead.

Section 33 of the Arms Control and Disarmament Act of 1961 states:

No action shall be taken under this or any other law that will obligate the United States to disarm or reduce or to limit the armed forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution, or unless authorized by further affirmative legislation by he Congress of the United States.

Strictly interpreted, section 33 states that Presidential policies to limit U.S. strategic force levels in compliance with expired or unratified SALT Treaties are both contrary to the law and inconsistent with the Constitution.

Thus MX Dense Pack has finally made the unratified SALT II Treaty a dead letter. The seven other examples of Reagan administration compliance with the unratified SALT II Treaty are equally contrary to the law and inconsistent with the Constitution.

The Soviets themselves have been behaving as if the SALT II Treaty was dead since late 1979. President Reagan recognized the existence of Soviet SALT II violations when he stated on May 9, 1982:

So far, the Soviet Union has used arms control negotiations primarily as an instrument to restrict U.S. defense programs, and in conjunction with their own arms buildup, as a means to enhance Soviet power and prestige. Unfortunately, for some time suspicions have grown that the Soviet Union has not been living up to its obligations under existing arms control treaties.

President Reagan is right. The Soviets have been violating the SALT II Treaty. The following examples of Soviet SALT II violations have been reported in the press, and are well known:

First, the reported Soviet rapid reload and refire exercises for their giant SS-18 cold-launched ICBM.

Second, the reported Soviet covert deployment of the camouflaged and concealed mobile SS-16 ICBM's at the Plesetsk test range. This activity is similar to the Soviet illegal deployment of 18 SS-9 ICBM's at the Tyuratam test range during SALT I.

Third, the Soviet deployment of AS-3 Kangaroo air-to-surface missiles on 100 TU-95 Bear intercontinental bombers in violation of several provisions of SALT II. This is also a Soviet falsification of the data exchange, calling into question all Soviet-supplied data.

Fourth, the continued almost total encryption of telemetry signals from the following Soviet missile programs: The SS-NX-20 SLBM, the SS-NX-19 SLCM, the SS-18 MOD X ICBM, the SS-20 IRBM, and now the new Soviet medium-heavy ICBM equivalent to the U.S. MX. This encryption is in violation of several provisions of SALT II.

Fifth, the fact that all Soviet camouflage, concealment, and deception is intended to deliberately interfere with U.S. national technical means of SALT verification—satellite reconnaissance—and therefore constitutes another Soviet SALT II violation. This violation is confirmed by a Soviet military dictionary dated as early as 1966, which states explicitly that all Soviet interference with satellite reconnaissance is deliberate.

Early in the Reagan administration, in January 1981, President Reagan called Soviet leaders liars and cheats who commit any crime to advance their objectives. In the same press conference, President Reagan declared that SALT II was unverifiable. President Reagan's concern that SALT II was unverifiable was fully consistent with his campaign statements opposing SALT II as "fatally flawed, unequal, destabilizing, and unverifiable." His concern was also fully consistent with the Republican platform's tough arms control section, which was reaffirmed by President Reagan after the election.

Thus if the Soviets are flagrantly violating SALT II, the United States should also cast SALT II aside and deploy MX Dense Pack.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. I thank the Chair and I thank the distinguished chairman of the Appropriations Committee.

Madam President, I preface my remarks by noting that it was 3 o'clock when we received the voluminous conference report, and my remarks are thus limited by the awareness which could be derived from a quick examination of it.

I am aware that as the Senator from Alaska maintains, at least on the MX the House of Representatives conferees had themselves in a strong position requiring concessions on our part. Nothing I say should be considered as a reflection upon the effectiveness of any of the Senators on our side in the conference.

But I must make note of the fact that, when we did not produce production money for the MX, we are flying in the face of a fundamental fact that the Soviets know. One-quarter of their land-based missiles can destroy 95 percent of ours. The Soviets cannot fail to note our increased acquiescence in the drift toward the day when it will become thinkable for them to hit us and produce the holocaust that well-intended peacemaking people want to avoid but may bring about by their choice of the wrong means to express their desire for peace.

On the MX, some of my colleagues are beginning to talk hopefully of alternatives such as the D-5 missile, without realizing that that missile is still a dream, a design concept, that cannot be deployed until 1989.

The MX, if things go reasonably well, could have been deployed very soon, and now the decision taken by the conference will slip the IOC until at least mid-1987.

But even beyond the MX, I think also of the Pershing, where the deletion of acquisition funds will have grave consequences.

I think also of the deletion of funds for prepositioning for theater division supplies in Europe. The distinguished Senator from Alaska said he had hearings in which they decided that the best thing to do was to give this money to the National Guard and Reserves. Let me say that, after 34 years in the service, I am aware that unless the POMCUS supply divisions win the Reserve and National Guard divisions will not leave our shores to go over there.

I do not know what kind of comprehensive hearings were held, but that is the most misleading result and decision I can think of.

I think also of the monstrosity of the reinclusion of funds for the A-10, which is so jokingly referred to by the media, so clearly rejected by this body, and so clearly unwanted by the Air Force.

I even think of the deletion of long lead time funds for the reactivation of the third battleship.

I say to my colleagues that neither our adversaries nor our allies are ignorant of the functioning and structure of the Congress and the committees of Congress. They know the difference between the Appropriations and Armed Services Committees, and the expertise that we can bring to the spectrum of consideration there. They

recognize that the remarkable shift in the weight of decisionmaking about national security issues away from the Armed Services Committee toward the Appropriations Committee is pregnant with significance for them. They will view it as a signal that this body is unwilling to face up to the demands of a sound defense.

I know the distinguished chairman and members of the Senate Appropriations Committee worked sincerely and diligently. Nonetheless, what was wrought was wrought, and I must state as my conscientious Senatorial opinion that, whatever considerations influenced the decisions of the conference, the country and the people whose security we are sworn to protect are ill-served by this resolution.

Mr. President, I turn to another issue symbolic of the conference committee's presumptuous changes. It relates to the fairness in the question of pay increases for ourselves and Federal workers. I refer to the conference committee's rejection by voice vote of the Ashbrook amendment which would prohibit payments for abortions subsidized by taxpayers performed under the Federal employees health insurance program. Financing these abortions includes a 60-percent contribution by the Federal Government. Congress is guilty of once again going on record as applying a double standard. That double standard denies Federal funds for abortions to poor citizens who must rely on medicaid, while at the same time permitting the use of Federal tax dollars for the abortions of another wealthier class of citizens, our Federal employees.

Moreover, despite previous protestations to the contrary, we have reversed both current law and practice by failing to leave the Ashbrook amendment in the new continuing resolution. The Ashbrook amendment is current law. It was included in the Treasury-Postal appropriations bills passed by both the House and Senate Appropriations Committees in September, and was thus enacted into law on October 1 as part of the omnibus continuing resolution. There was some disagreement about this point during the recent Senate floor debate, but there should be no confusion. As Senator HATFIELD himself explained to the Senator Appropriations Committee during a December 2 markup session:

> This year, by inaction on our own version of the Treasury bill, a provision (the Ashbrook amendment) was included. * * * And it is now in effect under the terms of the Continuing Resolution. (Committee transcript)

This start-again, stop-again manner of signaling changes in Federal policy is disconcerting to those at the Office of Personnel Management who are simply trying to do the job of enforcing a consistent and sensible policy of nonsubsidization of a hideous procedure that destroys innocent human life.

On another level, I would have to say that I am disappointed with the quality of the legal work that went into the preparation of the Senate Appropriations Committee report language that rationalizes the rejection of the Ashbrook amendment. In that report, the Appropriations Committee states:

> It is the view of the committee that the restriction constitutes an unwarranted attempt by the Congress to inject itself into the collective bargaining process by eliminating a medical benefit which Federal Employees have negotiated as part of their total compensation package.

This statement by the committee is simply erroneous. The General Counsel of OPM in a December 17, 1982, letter to Congressman CHRIS SMITH highlights the inaccuracy of this interpretation of current law. Mr. President, I ask unanimous consent that the letter be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF PERSONNEL MANAGEMENT,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., December 17, 1982.

Hon. CHRISTOPHER H. SMITH,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SMITH: Thank you for your request for information concerning the Ashbrook Amendment and any impact that it may have on Federal labor-management relations.

The law simply does not permit the Federal government to engage in negotiations with employee representatives regarding health benefits. Federal employees have certain rights to engage in collective bargaining with respect to conditions of employment, but not health insurance.

While it is true that the Office of Personnel Management contracts with certain employee organization plans for the provision of health benefits, the plans participate in those contracts as insurance carriers and not as labor unions. OPM is, by law, the sole representative of Federal employees in all negotiations for health benefits.

Accordingly, there is no connection whatsoever between the Federal-sector labor relations programs, on the one hand, and the Federal Employees Health Benefits Program and the Ashbrook Amendment, on the other.

I have enclosed a legal fact sheet explaining these matters. I trust that this information will be of assistance to you.

Sincerely your,

JOSEPH A. MORRIS,
General Counsel.

Mr. DENTON. Mr. President, needless to say I am very disappointed in the conference committee's rejection of Ashbrook amendment provisions that had passed the House four times by wide margins and were only defeated by one vote in the Senate during the early hours of December 17. Aside from the many disagreements on abortion-related issues, there is a broad concensus of disapproving Federal funding for abortions, and against all taxpayers being required to pay for the so-called choice of an individual person. I will urge the 97th Congress to reconsider this measure next year.

Mr. President, I am further upset by the provision in the Conference Report that eliminates the authority of the Legal Services Corporation's Board of Directors to alter and funding of any current Legal Services grantee so long as the Senate fails to take action to confirm that Board of Directors. We are effectively holding hostage to the whim of a single Senator—any Senator who places a hold on the Board Members' nominations—the central decision making authority of the Board of Directors.

Furthermore, with regard to the payment of expenses to the members of the Corporation's Board of Directors as restricted by the DeConcini amendment, I expect that expenses will be reimbursed for meetings of the Board's committees as well as for meetings of the full Board of Directors.

Mr. HATFIELD. Madam President, I yield 3 minutes to the Senator from New Mexico.

Mr. DOMENICI. Madam President, I support the conference report, and I want to congratulate the Senator from Oregon, the chairman of the committee, Senator HATFIELD, and all of the conferees. Hopefully, when the bill passes I will be able to congratulate all of the Congress for a job well done.

While we only have preliminary figures at this time, they show that the conference agreement is about $2.7 billion in budget authority and about $1 billion in outlays below the level passed by the Senate yesterday.

As I view it, that is a good result. This conference report, plus all action under the jurisdiction of the Appropriations Committee, will put the total outlays for fiscal year 1983 about $2.3 billion over the 302(b) crosswalk in outlays. That is about one-half of 1 percent on a total allocation of about $460 billion.

I might add that on budget authority the committee is more than $12 billion below the 302(b) allocations that were set by the committee pursuant to the budget targets.

I am not sure everyone agrees with the Senator from New Mexico, but I think a compelling majority of this body agree that this is an excellent result considering where we started, where the lameduck started, the kind of temperament that existed, and the very difficult job of completing another continuing resolution at the last minute. Again I think this is an excellent achievement.

I congratulate the committee on its work, and I hope that in years to come we will be able to come forth with all of the individual appropriation bills

which we will pass. I am sure the distinguished chairman hopes that this will be the way we budget our country's money, and that we will be able to come in within budget, as I have described it here for this year.

I thank the chairman again for yielding and I congratulate him.

MULTILATERAL DEVELOPMENT PROGRAMS

Mr. MATHIAS. Mr. President, during the marathon sessions of the last few days major attention has focused on the most controversial issues in the continuing resolution such as jobs funding and the MX. In this final debate I would like to draw your attention to some important decisions on less visible issues but ones which will also affect large numbers of people: The poor in developing countries. I am referring to conference decisions affecting U.S. contributions to multilateral development programs.

As a strong proponent of U.S. participation in multilateral development efforts I have mixed feelings about the conference results. On the one hand, I am very pleased by the decision of the conferees to provide $249.2 million in U.S. contributions to international development programs such as UNICEF, the U.N. Development Program (UNDP), and the International Fund for Agricultural Development (IFAD). It is particularly reassuring that the levels agreed to by the conferees for UNICEF and UNDP are slightly above those for fiscal year 1982. The conference level of $42.5 million of UNICEF is a recognition both of UNICEF's important contributions to improving maternal and child health in developing countries and an appropriate response to the immense popularity and support that UNICEF enjoys among the American people. Likewise, conferees' approval of $140 million for UNDP is a helpful indication of support at a time when delays in U.S. contributions have been causing budgetary problems for UNDP. Both these programs, in my view, warrant continuing, strong U.S. support. It is my hope that this signal of support from Congress will discourage any potential budget-cutting efforts against this account in fiscal year 1984.

I am also pleased that the conferees have seen fit to provide $24 million for the International Fund for Agricultural Development (IFAD), although that level is still disappointingly low when placed beside the $180 million replenishment for fiscal year 1981-83 pledged, but not yet paid, by the United States. While I would have preferred a larger contribution with payment made sooner, the conference action is a beginning step in providing U.S. funding for the replenishment and an important signal of continuing U.S. interest in IFAD. I strongly endorse both IFAD's programmatic mandate of increasing food production among small farmers in the poorest countries and the symbolic value of IFAD as an organization which combines Western industralized and OPEC donor support in nearly equal amounts.

On the other hand, I am deeply disappointed by the failure of the conferees to provide more than $700 million in funding for the International Development Association (IDA), contrasted with the $945 million requested by the administration for fiscal year 1983. This means that more than $1.3 billion would have to be provided for in fiscal year 1984 to prevent a 3-year replenishment, already stretched out to 4, from being further extended to 5 years.

This is not the time to hold back on U.S. contributions. The concessional assistance provided by IDA to the poorest countries contributes importantly their economic development and, by helping to keep their economies viable, contributes indirectly to sustaining the world economy. It is my hope that we will do much better by IDA in fiscal year 1984.

Mr. EAGLETON. Mr. President. I am voting against the continuing resolution as a way of protesting the slipshod, slapdash manner in which the Congress now handles the appropriations process.

There are 13 appropriation bills which the Congress is obliged to process each year. This year, we have sent on to the President only 7 of the 13: Agriculture, District of Columbia, Legislative, Interior, Transportation, HUD, and Military Construction. Therefore, the continuing resolution now before us contains the funding for the remaining 6 bills—State-Justice-Commerce, Defense, Energy, Foreign Operations, Labor/HHS, Treasury-Post Office. These six bills comprise 78 percent of all the money to be appropriated. In fact, Mr. President, it was 6 years ago—fiscal 1977—that we last passed all 13 appropriations bills and sent them in a timely way to the President before the new fiscal year started.

We have relegated the most important business that Congress is entrusted with—the expenditure of taxpayers' money—to marathon, round-the-clock sessions. The result is that none of these bills or amendments thereto receive the kind of attention they deserve.

Here is a brief statistical analysis of what we did and how we did it.

We spent a total of 41 hours and 44 minutes on the continuing resolution. In that time we considered for "individual" attention at total of 85 amendments, including committee amendments and floor amendments.

We had 34 rollcall votes on amendments.

For example, the longest debate was on the MX missile. We spent 2 hours and 48 minutes on the MX. In my judgment, this matter was important enough and controversial enough to merit 2 or 3 days of intelligent debate.

On foreign aid we spent 15 minutes.

On the Clinch River breeder reactor we spent 41 minutes.

On the jobs portion of the bill we spent 38 minutes. think of it, Mr. President, with 12,000,000 Americans out of work, we discussed and disposed of the major jobs component in the continuing resolution in half an hour.

On the major amendment dealing with our relationship with our NATO allies, we spent 13 minutes.

On the Rapid Deployment Force we spent 45 minutes.

On the nuclear aircraft carrier we spent 49 minutes.

On the major amendment dealing with our role in Central America we spent 48 minutes.

On home energy assistance to assist needy people in the payment of their skyrocketing fuel bills we spent 23 minutes.

Mr. President, this hectic, frantic, helter-skelter way of doing the Nation's business is unacceptable. To rush through, on a last-minute basis, the bill which funds 78 percent of appropriated moneys, makes a mockery of the Senate tradition as "The World's Greatest Deliberative Parliamentary Body." This year's continuing resolution stands as a monument to nondeliberation. For that reason, I will vote against the continuing resolution.

Mr. KENNEDY. Mr. President, I would like to engage the chairman of the State, Justice and Commerce Appropriations Subcommittee, Senator WEICKER, in a brief colloquy. I am sure that Senator WEICKER is aware of the meeting by the Board of Directors of the Legal Services Corporation on Thursday and Friday of last week. During that meeting, the Board adopted an amendment to the Corporation's regulations which would prohibit an organization that receives funds from the Corporation to respond to questions by elected officials on matters not relating to appropriations, authority, or oversight for legal services. However, I understand that the provision on this subject included in this conference report does not have such a prohibition.

Mr. WEICKER. That is correct, Senator.

Mr. KENNEDY. In fact, I understand that recipient organizations would be permitted to respond to formal inquiries submitted by any Member of this body on any areas within their expertise. That would, for example, include inquiries on legislation affecting the elderly or the handicapped or on the administration of the social security disability program. Is that correct, Senator WEICKER?

Mr. WEICKER. Yes, that is correct, Senator.

Mr. KENNEDY. But under the regulation adopted by the Board last Friday, we could not get such inquiries answered; could we?

Mr. WEICKER. That appears to be the case.

Mr. KENNEDY. It seems to me that the Board's regulation is not in accordance with the appropriate provision in the bill. I would suggest that the Corporation reconsider this regulation in light of the congressional action today.

Mr. WEICKER. I would concur in the Senator's suggestion, as currently proposed the regulation is contrary to the provisions of this act.

Mr. KENNEDY. I thank the Senator.

Mr. President, I am also pleased that the conferees on the continuing resolution have adopted a provision to assure that the Secretary of Energy will distribute to the States up to $200 million in petroleum overcharges collected by the Treasury as a result of violations of the Emergency Petroleum Allocation Act of 1973. These funds will be available for vital energy conservation and low-income energy assistance programs.

The conferees adopted a formula for distributing the funds which I strongly supported on the floor of the Senate. It assures that the funds will be distributed in proportion to a State's consumption of refined petroleum products during the period of overcharges. This approach is a reasonable exercise of remedial power to address the injuries to consumers as a result of the overcharges.

The conferees did not specifically address the disbursement of other funds collected as a result of overcharges. The proposal for distributing overcharge funds adopted by the Senate reflects the approach the DOE should be following under existing law, and in fact DOE has in part been proceeding in this fashion. It is the most appropriate method of providing restitution for the injuries suffered by the consumer. I hope that the action taken by the Senate and the conferees will provide a clear indication that the Department should proceed expeditiously to assure the appropriate distribution of all the overcharges previously or hereafter collected.

Mr. JEPSEN. Mr. President, I rise in opposition to this conference report. I do so for a number of reasons, including the fact that it spends too much money. But, even beyond that, I feel compelled to vote against this resolution simply because I do not know what is in the report: We received the 540-page report just 3 hours before we were required to vote on it.

Mr. President, I realize the conferees were under an extremely tight deadline. I further realize that the Government Printing Office has been swamped with work these past few days. But for the life of me, I cannot understand how we can ask any Member to vote either in favor of or in opposition to this resolution without having had an opportunity to read it.

As you know, some significant changes have been made since this document was passed by the Senate some 40 hours ago. Funding for some programs has been deleted and funding for other programs has been added. The news media has reported many of the major changes but, with few exceptions, most of us have been kept in the dark as to a number of significant alterations.

Again, I do not condemn the capable chairman of the Appropriations Committee nor any of the conferees. But I simply cannot bring myself to vote in favor of a report of this magnitude and importance which I have not had an opportunity to read. Therefore, I must regretfully vote no when the issue comes up.

Mr. GARN. Mr. President. Yesterday the conferees on House Joint Resolution 631, the continuing resolution for fiscal year 1983, met and resolved the differences between the two passed versions of the joint resolution. I believe that the conferees were able to reach a fair and equitable agreement that represents a wholehearted attempt to minimize Federal expenditures in fiscal year 1983.

I would now like the highlight the agreement of the conference on the HUD-independent agencies sections of the resolution.

HUD—ANNUAL CONTRIBUTIONS

The conferees agreed to provide $8,651,475,689 in new budget authority and $519,711,198 in contract authority, instead of $9,186,630,000 and $485,114,257 as proposed by the House and $5,732,355,689 and $313,477,865 as proposed by the Senate. This level of funding will provide 2,000 Indian housing units; 14,000 section 202 new and substantially rehabilitated units; 65,000 rent supplement and section 23/section 8 conversion units and 10,000 property disposition units. In addition, a total of 67,146 section 8 existing units and 15,000 section 8 moderate rehabilitation units are funded from an estimated $4,600,000,000 in recaptures in fiscal year 1983.

The most critical decision made by the conferees was not to include any moneys for new and substantial rehabilitation of low-rent public housing projects. This action was taken with the understanding that it is essential to "clean out" the existing public housing new construction pipeline of approximately $9,000,000,000. The conference committee believes that an effort must be made to at least begin to clear the pipeline before additional development authority can be provided. The conferees have indicated that budget authority for public housing new construction would be provided in fiscal year 1984 and future years if progress is made on clearing the pipeline.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

The conferees agreed to increase the housing for the elderly or handicapped fund loan limitation by $181,200,000 as well as language proposed by the Senate to assure that HUD provide loans at 9.25 percent for those section 202 pipeline units that go to closing during fiscal year 1983.

FEDERAL HOUSING ADMINISTRATION FUND

(LIMITATION ON GUARANTEED LOANS)

The conferees agreed to increase the Federal Housing Administration (FHA) fund limitation on guaranteed loans from $39,800,000,000 to $45,900,000,000. In addition, the conferees also agreed to the language proposed by the Senate to allow multifamily mortgages in highest cost areas to exceed the FHA limit by 140 percent.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SPECIAL ASSISTANCE FUNCTION FUND

The conferees agreed to provide $500,000,000 in mortgage purchase authority for the Government National Mortgage Association's Special Assistance Functions Fund. Of the total amount provided, the conferees agreed that $250,000,000 shall be made available to the targeted, tandem program. These funds are to be distributed on the basis of the chronological firm commitment date. The remaining $250,000,000 shall be made available for partially assisted section 8 projects.

VETERANS ADMINISTRATION

The conferees agreed to the House language directing the VA to terminate the development of a centralized hospitalwide information system—computerized medical information support system—Comiss and implement a decentralized minicomputer system—MUMPS. However, the conferees do not intend that such specifications as those taken in this account will become common practice. However, the Appropriations Committees for years have been encouraging the VA to resolve the issue of the proper medical computer system. Therefore, the conferees believe that the VA should continue to develop plans to use the automated output of the decentralized systems in order to provide systemwide data to the administrator.

GNMA TANDEM

Mr. PERCY. I would like to ask the distinguished chairman of the HUD-Independent Agencies Subcommittee whether my understanding is correct that the $500 million in special assistance funds contained in House Joint Resolution 631 is intended to be used under the same terms and conditions

as the 1982 funds, except as modified by the committee's report. It is my further understanding that targeted tandem funds would be distributed on the basis of the chronological firm commitment date to those who participated unsuccessfully in the March 1982, distribution of funds.

Mr. GARN. The gentleman's understanding is correct.

ALLOCATION OF GINNIE MAE 20-PERCENT, SECTION-8 TANDEM FUNDS

Mr. HUDDLESTON. Mr. Chairman, I want to clarify the situation with regard to allocation of the $250 million provided for 20-percent section-8 projects under the Ginnie Mae tandem program.

The conference report on House Joint Resolution 631 is silent with regard to the allocation. Is it, consequently, the chairman's understanding that HUD is not precluded from using a lottery for this allocation?

Mr. GARN. That is correct. As the distinguished ranking member of the subcommittee knows the statement of the managers on House Joint Resolution 631 does not contain any direction as to the mechanism for distributing the $250 million for the so-called 20-percent projects. In the past, Ginnie Mae has allocated funds through a random lottery system. This seems to be an equitable means of distributing the available funds among the eligible applicants.

Mr. HUDDLESTON. I thank the distinguished chairman for this clarification.

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

Mr. HATFIELD. Mr. President, I am pleased that the conferees included $24 million for a U.S. payment to the International Fund for Agricultural Development. I have strongly supported IFAD since its creation 5 years ago. Heretofore, Congress had not provided a contribution to this institution because of a number of issues relating to OPEC contributions, staff size, and the nature of the institution as a fund as opposed to another multilateral development agency. It is my belief that most of these concerns have been met, though I note that the conferees are hoping for further progress on these issues before the remainder of the U.S. share of the current replenishment is appropriated.

However, even with this limited appropriation, the United States is now in a position to join other countries in depositing its instrument of contribution to IFAD's first replenishment.

I believe our action on this item should encourage both IFAD and its supporters as to the eventual full appropriation of the U.S. share of the current replenishment—I will be working hard toward that end. In the meantime, I want to thank the chairman and ranking member of the Foreign Operations Subcommittee for their willingness to reexamine their position with respect to funding of this situation by going along with the $24 million provided in the conference agreement.

THE WARNER AMENDMENT AS MODIFIED BY THE CONFERENCE COMMITTEE ON THE CONTINUING RESOLUTION

Mr. HATFIELD. Mr. President, contained within the conference passed continuing resolution is modified language to a Warner amendment which was adopted by the Senate on Friday. The intent of the amendment was to authorize the distribution of $200 million in DOE escrow funds to States for the purpose of supplemental energy assistance. I would like to clarify for the RECORD the intent of the new language which has been agreed to by the appropriations conferees and representatives of the two principle authorizing committees of the House and Senate. First Mr. President, I introduce for the RECORD the actual language of the agreement which I am about to describe.

That the House recede from its disagreement to the amendment of the Senate numbered —, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

Sec. —. (a) It is the purpose of this section to provide the Secretary of Energy the exclusive authority for the disbursement of the designated petroleum violation escrow funds for limited restitutional purposes (1) which are reasonably expected to benefit the class of persons injured by such violations, and (2) which, based on information previously provided to Congress by the Secretary of Energy, are likely not to be, through procedures established by regulation, otherwise refunded to injured persons because the purchasers of the refined petroleum products cannot be reasonably identified or paid on because the amount of each purchaser's overcharge is too small to be capable of reasonable determination.

(b) As soon as practicable, the Secretary of Energy shall disburse designated petroleum violation escrow funds to the Governors of the States in accordance with the formula set forth in subsection (d).

(c) Amounts disbursed to the Governor of any State shall be used by the Governor as if such funds were received under one or more energy conservation programs. The Governor shall identify to the Secretary within 1 year after the time of disbursement the energy conservation program or programs to which the funds are or will be applied. Funds disbursed under this section shall be used to supplement, and not supplant, funds otherwise available for such programs under Federal or State law.

(d) The disbursement by the Secretary of Energy to each State shall be based on the ratio, calculated by the Secretary, which—

(1) the volume of refined petroleum products consumed within that State during the period beginning September 1, 1973, and ending January 28, 1981, bears to

(2) the volume of refined petroleum products consumed within all States during such period. Calculations made by the Secretary of Energy under this subsection shall be based upon estimates by the Secretary from reasonably available information.

(e) For purposes of this section—

(1) The term "designated petroleum violation escrow funds" means amounts (not in excess of $200,000,000) which are derived from settlements from alleged petroleum pricing and allocation violations generally resulting in overcharges to purchasers of refined petroleum products and held in trust accounts administered by the Department of Energy on December 17, 1982, and which—

(A) are not likely to be required for satisfying claims of potential claimants identified in proceedings of the Office of Hearings and Appeals initiated prior to December 17, 1982, or identified in judicial proceedings initiated prior to such date; and

(B) the use of under this section would be consistent with the remedial order or consent order covering such funds.

(2) The term "energy conservation programs" means—

(A) the program under part A of the Energy Conservation and Existing Buildings Act of 1976 (42 U.S.C. 6861 and following);

(B) the programs under part D of title III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs; 42 U.S.C. 6321 and following);

(C) the program under part G of title III of the Energy Policy and Conservation Act (relating to energy conservation for schools and hospitals; 42 U.S.C. 6371 and following);

(D) programs under the National Energy Extension Service Act (42 U.S.C. 7001 and following); and

(E) the program under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 and following).

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(4) The term "Governor", when used with respect to any State, means the Governor or the chief executive officer of that State.

(5) The term "refined petroleum product" means gasoline, kerosene, distillates, (including Number 2 fuel oil), LPG (other than ethane), refined lubricating oils, diesel fuel, and residual fuel oil, but does not include refinery feedstocks.

(f) No funds disbursed under this section may be used for any administrative expenses of the Department of Energy or of any State, whether incurred in connection with any energy conservation program or otherwise.

Mr. President, the compromise agreement "tightens" three major portions of the Warner amendment as it came out of the Senate. First, in subsection (a) language has been added to clarify that distribution of these funds is for the purpose of providing limited but expeditious restitution to claimants who have been injured by petroleum pricing and allocation violations but who are not likely to be identified through existing regulatory procedures.

Also, section (A) adds new language which states that for the purposes of those funds described herein, the Secretary shall make such distribution under the terms and conditions of this section and not by any other body of law. The Warner amendment as originally drafted cited authority to distribute such funds under the Emer-

gency Petroleum Allocation Act of 1973.

A second perfecting change was made to the Warner amendment with regard to the use of funds by States. Subsection (c) of the compromise amendment, and the related definitions under subsection (e)(2), require that States choose from five federally authorized State and local energy programs and obligate such funds under the rules and regulations which govern those activities as though the funds had been received for those purposes. This provision allows the States some flexibility in directing funds to those program areas of greatest need in the State and at the same time provides fiscal accountability upon the use of money by the States. The Governor is rquired, within 1 year after receipt of such moneys, to notify the secretary of those programs to which the funds will be applied. Those activities include the DOE low-income weatherization program, the energy extension service program, schools and hospitals energy conservation State energy planning, and/or the HHS low-income fuel assistance program. The Warner amendment as originally proposed, would have allowed the States to utilize their portion of the escrow funds for any energy activity without limitations. Furthermore, Mr. President, subsection (f) of the new text prohibits the use of these funds for administrative expenses, but shall not be constrained to limit the use of funds for those direct services such as labor costs associated with low-income weatherization and retrofit activities.

And finally, Mr. President, the Warner amendment has been perfected with regard to the distribution of funds to States. Rather than basing the State-by-State allocation formula on the amount of price-controlled refined petroleum products consumed within the State, the language has been amended to base the formula upon consumption of all refined petroleum products as defined in the Emergency Petroleum Allocation Act of 1973, including residual fuel oil.

Mr. President, I want to thank Senator WARNER for sponsoring the amendment and applaud the 76 Senators indorsing its original adoption. Not only does this provision provide supplemental funding to important State and local energy programs but it helps provide expeditious distribution of a portion of these escrow settlement funds.

Mr. GRASSLEY. Mr. President, this continuing resolution is a budget buster. It is $4.8 billion over the conference agreement on the first budget resolution.

According to that conference agreement, the total deficit reduction should have been $77 billion. That would leave a $104 billion deficit in fiscal year 1983.

As part of that agreement, Mr. President, $18.8 billion in savings should have found its way into this continuing resolution. The savings would break down as follows: $7.8 billion in defense; $5.9 billion in nondefense discretionary spending; $5.1 billion in Federal pay.

Well, Mr. President, we have achieved less than 75 percent of those savings. The Senate Appropriations Committee reported out a resolution that was $5.4 billion over the 302(b) allocations for fiscal year 1983, according to the Senate Budget Committee. Of the $18.8 billion savings target, only $13.4 billion was actually achieved by the committee.

The conference report now before us cuts the exceeding amount from $5.4 billion to $4.8 billion. However, this new figure still represents a significant amount over the budget resolution. Therefore, Mr. President, I cannot cast my vote in favor of this continuing resolution.

Since the conference agreement last June, the budget deficit has grown considerably larger. Congress should be cutting spending further. Instead, we are increasing spending, over and above the targets approved by Congress. The fiscal year 1983 deficit will not be $104 billion, but more like $150 to $200 billion. That is the size of the entire Federal budget in 1967. If deficits continue to expand at such a rate, the national debt will double in just 6 years, reaching $2 trillion by 1986.

It seems to me, Mr. President, that the seriousness and magnitude of our budget and economic problems are being totally missed.

Economic recovery will be threatened if we do not get the budget under control. The budget reflects this fact. It is out of control. We are losing the war against worldwide depression. Yet you would never know there is a world crisis out there by the actions taken by Congress during this lameduck session.

This is a time when we should be seeking new and innovative ideas to correct the imbalances in our economy. Instead, Congress remains obsessed with old fashioned remedies such as raising taxes and spending money on dead-end jobs.

This is too timid an approach, Mr. President.

The economy is undergoing dramatic structural changes. Industries are changing. Employment is being restructured. Education is becoming more specialized and sophisticated. Money and banking are being deregulated. The economy is disinflating.

We are in obvious need of an overhaul of economic policy. We must fashion new policies that are appropriate and flexible enough to handle change.

Right now, our biggest need is production. Over 30 percent of the Nation's industrial capacity is idle. At the same time, recent action by the Federal Reserve has loosened up on credit, which will eventually increase the money supply. If the economy does not begin to produce significantly, then the money expansion will be inflationary.

Mr. President, the biggest danger we face is to not take swift enough action to generate production. And we are simply adding to the problem by voting to increase spending above the amount of the budget resolution passed by Congress. The more we spend and increase the budget deficit, the less the economy will produce.

The work of this lameduck session has just about concluded. It is my hope, Mr. President, that when the new Congress convenes in January, it will be fearless and forward looking as it attempts to unravel the muddled economic predicament we are in. There is much to be done to turn the economy around. I hope we can deliberate wisely over the coming 5-week period to contemplate the task ahead.

THE MX MISSILE

Mr. BAUCUS. Mr. President, I will vote to prohibit any funds from being spent for construction of the MX missile. I oppose the Dense Pack basing mode. I oppose deadlines that would force Congress to make a hasty decision on the MX next year.

The Dense Pack proposal is the latest in a series of mistakes in developing the MX missile.

The MX has been promoted as a weapon to close the so-called window of vulnerability, the threat to the land-based leg of our strategic triad. But Dense Pack would almost certainly be vulnerable to a Soviet first strike within 4 to 7 years of deployment, if not sooner.

The MX has been referred to as "Peacekeeper." But it would be viewed by the Soviets as a first strike weapon, and they would undoubtedly respond with yet another escalation of the nuclear arms race.

The MX has been called a weapon that would enhance American security. Yet because it may be vulnerable to a Soviet first strike, and because it could make the Soviets vulnerable to an American first strike, the MX could be a destabilizing force that could endanger American security by increasing the dangers of nuclear war.

Mr. President, let us put the MX in perspective.

The MX would be one of the most powerful and dangerous weapons ever built. But we do not know how it should be based. We do not know if the basing modes would work. We do not know if we will be asked eventually to build an antiballistic missile system to protect a vulnerable MX. We do not know the ultimate cost of the system. We do not know whether

the MX will ultimately destroy the SALT and ABM treaties.

How can we vote to build such a powerful weapon under these uncertain circumstances? Does anyone really believe that if we vote to spend a billion dollars to build these missiles that we know what we are getting outselves into?

This is not a logical or sound way to build a nuclear weapon. It would be a dangerous leap into the unknown. It would be a strange and eerie step. it would be yet another mistake in the sorry history of the MX.

Others have suggested that we appropriate the money, prohibit it from being spent until Congress has agreed next year, and do so with a fast-track formula that would force a rush to judgment next year.

The last thing we need is to rush to judgment. The last thing we need is another hasty and ill-considered proposal. I will oppose deadlines because the last thing we need is Congress voting to build a missile before we know the full implications.

DENSE PACK

I have received classified briefings on Dense Pack. I have weighed volumes of information. I have evaluated the arguments, pro and con. I have concluded that for a number of reasons, Dense Pack would be a grave mistake.

First, I have concluded that within 4 to 7 years of deployment, Dense Pack would be vulnerable to a Soviet first strike. There are a number of possible ways a Soviet attack could occur.

The Soviets could pin down Dense Pack by exploding nuclear warheads every minute or so, at an altitude of about 120 miles above the Dense Pack field. The MX missiles would be prevented from taking off because onboard computers and other guidance systems would probably be vulnerable to radiation, electromagnetic pulses, and other effects of the nuclear explosions. While the missiles would be pinned down, the Soviets could launch a staggered attack with high yield warheads on the Dense Pack silos.

The Soviets also could develop Earth-penetrating warheads, which would fall beneath the Earth, and explode simultaneously. This would destroy many of the missiles and cover most of the rest with debris, ruining their targeting.

Moreover, it could be possible for the Soviets to explode a number of very large warheads, very low over the Dense Pack field, within a split second.

The Soviets can be expected to have the capability to launch one of these attacks within 4 to 7 years from the time of deployment.

The second problem is that a destabilizing situation could be created by deployment of the Dense Pack MX system. If it is vulnerable to a Soviet first strike, the result would be a dangerous two-way window of vulnerability. Such a situation would move both sides closer toward a launch-on-warning policy by increasing the degree of fear, and the temptations, on both sides, to attack first.

The third problem is cost. The Dense Pack system itself should cost close to $30 billion. However, I strongly suspect that proponents will be back soon, asking for at least another $12 billion for an antiballistic missile system to protect Dense Pack. Or they may seek to modify the system or build more missiles, raising the cost further. We do not know where the road ends. We do not know where the cost stops.

Our economy faces disastrous conditions. Twelve million people are jobless. Federal deficits could reach $200 billion a year. We cannot afford to spend so much for a system that might not work, and might make matters worse.

The fourth problem is that the MX could be the undoing of the SALT and the ABM treaties. If it does not destroy the treaties, it could force renegotiation, or attenuated legal interpretations that could ultimately strip the treaties of meaning and effect.

Mr. President, I believe it would be a serious mistake for Congress to allow any, repeat any, construction of MX missiles until the questions have been answered and the problems have been solved.

National security and nuclear arms control are far too important for ill-considered proposals or hasty judgments. We have a responsibility to say no to Dense Pack, and no to MX construction.

Mr. DURENBERGER. Madam President, it is with great disappointment that I reviewed the language contained in the continuing resolution providing funds for the Professional Standard Review Organizations. As this Senator has indicated in the past, adequate funds for these organizations are absolutely critical to their survival but more importantly are essential for the provision of quality care under the medicare program.

There have been, in the past, many criticisms and comments on the abilities of PSRO's to function. There are those of us who have attempted to correct the problems with the program and there are those who simply sought to rid us of the entire system. This year the Congress decided quite clearly to seek changes in the PSRO program, the end result of which was the enactment, as part of TEFRA, of the new utilization and quality control peer review program.

Recognizing the time necessary to move from the old PSRO program to the new PRO program, we directed the Secretary to continue the existing system until such time as the new program is in place.

In fact there is clear statutory language prohibiting the Secretary from terminating a PSRO in operation on September 3, 1982, the date of enactment, until such time as the Secretary replaces the PSRO by entering into a contract with a review organization under the new provision. The language contained in the appropriations bill before us basically guts that provision. Specifically there is language added in conference which states that:

None of the funds appropriated under this paragraph shall be allotted or otherwise awarded to any PSRO which the Secretary of the Department of Health and Human Services has determined should be terminated from the Professional Standards Review Program because of its inability to effectively or efficiently discharge its responsibilities under the Social Security Act.

Madam President, I am particularly concerned with the language which addresses the inability of PSRO's to effectively and efficiently discharge their responsibilities. HCFA's evaluations of PSRO's that were performed in the first two quarters of 1982 do not provide a sound basis for determining the effectiveness of PSRO's. The U.S. General Accounting Office has reached this conclusion and the Finance Committee has agreed. As a result the Secretary has been instructed to disregard those evaluations. It is clear to this Senator that the administration has made an effort to rid us of PSRO's on something less than a sound basis. We would certainly expect this to change.

By prohibiting the Secretary from terminating any PSRO in operation on September 3, 1982, we did not mean to suggest that we expected to continue ineffective organizations long into the future—but we did mean to keep some system in place until the new program takes over.

Therefore, notwithstanding the language added in conference and the reduction from $25 million to $15 million in funds to manage the program, I would expect the Secretary to proceed very cautiously in making determinations as to the effectiveness of PSRO's. In those limited circumstances where the termination of a PSRO is warranted, we would certainly expect the Secretary to immediately contract with a new effective organization able to discharge those responsibilities outlined in the Social Security Act.

In closing, let me reiterate my commitment to effective quality control and utilization review. It is in all of our best interests to make this program work. Certainly we have provided the necessary legislative framework for such a system. The need for effective peer review will certainly grow as the changes made this year in hospital reimbursement are put into place.

Mr. EXON. Madam President, there are many reasons a vote should be cast

for and many reasons why a vote should be cast against this conference report.

On balance, it is the judgment of this Senator that I shall vote no for many reasons, of which I will cite only a few.

In the first place, I am not one who believes lameduck sessions of the Congress should be held except in the event of a true emergency. There is no emergency now that properly justifies, in my mind, why we are here in the first instance. Nothing we have considered here, absolutely nothing, comes under the legitimate qualification of an emergency. Everything could have and should have been handled in the regular session or delayed a month or so until the convening of the regular session of the new 98th Congress. It was initially suggested that we come back here for the stated purpose of reviewing the President's Special Commission on Social Security recommendations that was promised the first part of December. We have no report from the Commission and they are not even meeting, but we are.

There is clearly something wrong with our procedure, when we continually finance Government with continuing resolutions, thereby effectively eliminating the traditional and more thorough budgetary authorization appropriation processes. In this instance we have written essentially a full year's budget via a continuing resolution. We have become a slave of continuing resolutions because we lack the discipline and possibly the mechanism to do our work orderly and properly. I do not like to think of it, but we may also lack the will anymore to do things properly.

The good that might come from this lameduck session is that it might, I emphasize "just might," convince us that we require a radical change in the rules and procedures of the Senate. Certainly, we can agree that before any further thought is given to televising all of this, we must first get our house in better order. Otherwise, we will certainly run the risk of seeing this institution further deteriorate in the minds of the people.

This Senator tried unsuccessfully to rectify what I believe to be the improper manner in which the House of Representatives pay increase was handled and if there is anything we can agree upon, it should be that there is no emergency on raising congressional pay during the drastic economic times facing our constituents and our country.

Madam President, my no vote is essentially in protest against the process, the timing, and the reason we are here at all.

This is in no way critical of any individual, official, or political party. We are all in this together and possibly from all of this will come needed reform and a return to basic commonsense. We cannot reason together, even disagree agreeably, working under a hammer of time that tends to substitute expediency for thoughtful deliberations.

MATERNAL AND CHILD HEALTH BLOCK GRANT

Mr. DECONCINI. It is my understanding that the committee explanation includes language regarding the maternal and child health block grant authorizing funds to support, "projects of regional and national significance." This program has been of great value to Indian populations who form a group that is in great need of the kinds of services provided under the maternal and child health block grant. It is also my understanding that because of their special relationship to the Federal Government. Indian maternal and child health projects could be funded as projects of national significance and should be continued as funds become available.

Mr. SCHMITT. The Senator's understanding is correct.

Mr. THURMOND. Mr. President, I had initially intended to vote in favor of the conference report on the continuing resolution. However, a few minutes ago I learned of the damage that will be done to our national security by the provisions in this conference report. I feel that the conference report is so badly flawed in the national defense area that I cannot support it.

The decision of the conferees to strike MX production funding has the potential to completely undermine our ongoing START talks and it may well kill any prospect of modernizing our theater nuclear forces in NATO. The Congress has taken an action that could tie the hands of the President in conducting foreign policy. I cannot imagine how our allies can deal effectively with the U.S. Government when the Congress makes such far-reaching unfavorable decisions.

The decision not to fund Pershing II production is likewise an alarming decision. Aside from the disturbing fact that the Army has already properly obligated fiscal year 1983 funds for procurement of the Pershing missile under the terms of the previous continuing resolution and, I am advised, will incur $30 million in termination costs, I suspect that our allies will have to reexamine their decisions to deploy both Pershing II and the ground launched cruise missile.

I am also concerned that funding was not provided for several key programs to include:

National Guard and Reserve programs authorized at $200 million were funded at only $80 million,

Funds to begin the modernization of the battleship *Missouri* were denied,

Funds for the air-launched and the ground-launched cruise missiles were provided at levels well below the budget request.

I share along with Senator TOWER, chairman of Senate Armed Services Committee, that appropriations were provided for programs specifically reviewed and denied by the authorizing committee. I refer, of course, to the situation with regard to A-10 aircraft, the C-17 aircraft, and others. I hope the Senate will not ignore the rules and tradition of this body that establish the authority of the authorizing committees. If the Appropriations Committee ignores the work of the authorizing committees, our system of legislation will come unraveled.

Mr. MOYNIHAN. Mr. President, I rise simply to state my opposition to the conference report on House Joint Resolution 631, the continuing appropriations measure.

At this very moment, we have no Government. Were it not for the presumption on the part of the Executive that Congress will finally do its job, the Government of the United States would, by all rights, now be approaching the point of cold shutdown. This is lamentable not for the inconvenience it places upon Government, but because it forces serious issues of public policy to be settled with less contemplation than they deserve.

Mr. President, this is a deliberative body. We were meant by the Constitution so to be. When the processes of Government and legislation become as hopelessly confused as they have in the last few days, we as a Senate lose that distinction. And we lose it at the peril of the careful procedures that makes our democracy among the oldest on Earth.

I do not favor chaos in Government. Or furloughs. Or benefit checks that will be halted in midstream. And I do not mean to tempt those consequences by my vote against the continuing resolution.

But, Mr. President, I vote against this measure for the reason that it does not represent good Government. It does not represent the kind of deliberation that this body owes the Nation.

I vote against this legislation as well for it does not contain the measure that is arguably the best reason for us being in session just a few short days before Christmas: a program of employment for those who are jobless.

I offered my own thoughts on these matters in legislation I introduced last summer. And I pursued that legislation as we developed proposals for this post-election session. That, of all events, was one of the reasons for returning to Washington, so that we might turn our nearly undivided attention to the nearly 14 million Americans who are either out of work or who have given up looking. We are deep into a depression that has no par-

allel, save the thirties. And it was proper of Congress to resolve action.

That we have not accomplished this purpose in our closing hours here borders on being shameful. What we now salvage we salvage by resolving to make jobs for the unemployed our very first item of business in the 98th Congress.

Mr. President, I vote, then, in protest against a process that leaves us with no Government and with no measurable achievement on the question of employment. We must do better.

IMPACT AID AMENDMENT

Mr. BAUCUS. Mr. President, I would like to express my gratitude to the conferees for accepting my amendment on impact aid. Your actions have set right a problem that has been snowballing into great financial loss for Montana's schools.

Without this technical amendment, 5 schools, serving 1,300 students, would have had to close next year. This is in spite of the fact that they were entitled to an education under the impact aid program.

These students might have lost out because of a miscalculation of the Federal distribution formula. For several years, Montana had been incorrectly computing their local contribution rate. The result was that the State had been requesting less Federal impact aid money than it was entitled to.

When the office of public instruction in Montana discovered this mistake, and attempted to correct the problem by submitting new data, the Department of Education explained that the continuing resolution had locked them into the incorrect figures.

Further, the Department of Education felt that it was not able to help us resolve this problem administratively, insisting that only this kind of technical amendment would correct the error.

My amendment corrected this problem by allowing the Department of Education to use Montana's corrected calculations. It did not provide for an increase in overall appropriations.

This amendment was essential for the continued operation of Montana's heavily impacted schools, and we deeply appreciate the cooperation of Chairman HATFIELD and the ranking minority member, Senator PROXMIRE.

DEFENSE ISSUES IN THE CONTINUING RESOLUTION

Mr. LEAHY. Mr. President, although I am very pleased at the conference's action in deleting funding for the MX missile and Dense Pack, I must say I am disappointed at the outcome on several issues of importance to NATO. The failure of the conferees to sustain the Senate's positions, reached after considerable debate and work, on these issues is a blow to efforts to improve NATO's conventional forces and to reduce overreliance on nuclear weapons.

Fortunately, the conferees agreed to maintain American troop levels in Europe at current levels. However, this solid achievement is substantially offset by the action of the conferees in dropping the Senate's position on funding the transport of Prepositioned Divisional Equipment Sets 5 and 6 to Europe, and by rejecting the wartime host nation support agreement with the Federal Republic of Germany. Both these measures, as voted by the Senate, were decidedly in the security interests of the United States and the NATO Allies. Receding to the House's position of restricting the NATO waiver on imports of defense items containing non-U.S.-origin specialty steel is also harmful to U.S.-NATO defense cooperation and to the prospects for important American military equipment sales to key allies.

Mr. President, these issues are important enough that supporters of strengthening NATO's conventional force posture will want to return to them next year. I will support efforts to reverse these actions of the conference as soon as possible.

Mr. GRASSLEY. Mr. President, I intend to vote against the conference report to the continuing resolution, Senate Joint Resolution 631, in part because of a 15-percent pay raise which House Members have insisted on granting themselves and 33,000 senior Federal executives and civil servants. I find this action to be ill timed, as well as grossly insensitive to the plight of millions of unemployed and disadvantaged citizens suffering under our crippled economy. It is amazing to this Senator from Iowa that this self-serving pay hike comes as we prepare a stopgap funding measure for fiscal year 1983, fully aware that the Federal deficit will draw close to $200 billion by the end of the fiscal year.

Those of us on the Budget Committee, my colleagues on the Appropriations Committee, as well as many others in this body, have labored to control the growth of social and defense programs in an attempt to attain some degree of fiscal responsibility. We have watched Federal programs be cut. We have made many difficult spending decisions in numerous programs because of our inability to pay for them. In good faith we have tried to sell the urgent necessity of holding tight of the Federal purse strings. And yet, this $9,000 pay increase flies in the face of this basic budget policy.

Yes, Americans will grow weary of our moralizing about the need to control Federal spending, if we fail to show fiscal restraint for ourselves. We cannot expect sacrifice exclusively from the grassroots, while Members of Congress attempt to insulate themselves from the pain imposed on others.

We are confronted with highest unemployment rate the Nation has ever witnessed, with 12 million Americans out of work. I have watched industries close in my State, unemployment benefits exhausted, and brave workers take cuts in their paychecks rather than lose their jobs and face the unemployment lines. I doubt the American public will look favorably at a huge pay increase for those who have helped us spend our way into this economic dilemna.

However, with the threat of elections barely over, Members of the House have wasted no time in richly rewarding themselves. How can they justify this arrogance? I am aghast at the insensitivity of the Members of the House; however, I commend my colleagues in the Senate for holding firm in conference to keep our salaries capped.

Mr. HATFIELD. Madam President, I wish to express my appreciation to the Senator from New Mexico for his constant cooperation and consistent effort to support and undergird the whole appropriation-budget process, and I am very grateful for his remarks.

Madam President, if no other Senator wishes to debate—and I know of no other Senator who has indicated that desire—I move the adoption of the conference report. I yield back the time.

Mr. PROXMIRE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 55, nays 41, as follows:

[Rollcall Vote No. 459 Leg.]

YEAS—55

Abdnor	Burdick	Dole
Andrews	Byrd, Robert C.	Domenici
Baker	Chafee	Durenberger
Bentsen	Chiles	Ford
Boschwitz	Cochran	Gorton
Brady	D'Amato	Hart
Bumpers	Danforth	Hatfield

Hawkins	Matsunaga	Roth
Hayakawa	Mattingly	Rudman
Hollings	McClure	Schmitt
Huddleston	Melcher	Simpson
Inouye	Murkowski	Stafford
Johnston	Nickles	Stennis
Kassebaum	Packwood	Stevens
Kasten	Percy	Tsongas
Laxalt	Pressler	Warner
Long	Proxmire	Weicker
Lugar	Quayle	
Mathias	Randolph	

NAYS—41

Armstrong	East	Mitchell
Baucus	Exon	Moynihan
Biden	Garn	Nunn
Boren	Glenn	Pell
Bradley	Grassley	Pryor
Byrd, Harry F., Jr.	Hatch	Riegle
Cannon	Heflin	Sarbanes
Cohen	Helms	Sasser
DeConcini	Humphrey	Specter
Denton	Jepsen	Symms
Dixon	Kennedy	Thurmond
Dodd	Leahy	Tower
Eagleton	Levin	Wallop
	Metzenbaum	Zorinsky

NOT VOTING—4

Cranston	Heinz
Goldwater	Jackson

So the conference report on the joint resolution (H.J. Res. 631) was passed.

Mr. HATFIELD. Madam President, I move to reconsider the vote by which the conference report was adopted.

Mr. STEVENS. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SURFACE TRANSPORTATION ACT OF 1982

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Madam President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. FORD. If the majority leader will yield, I might say we have enough people around the wall here to prevent the majority leader from being heard.

Mr. BAKER. Madam President, time is precious. If Senators will bear with me, I will try to be loud. I am not very big but I am loud.

Madam President, if I can be recognized for a moment, let me say there are two routine matters that have been cleared and I believe there is no objection.

We have about 20 minutes left before the vote will occur on the Baker substitute, according to the unanimous-consent agreement.

There are at least two matters that must be dealt with in the meantime; one by the Senator from Kansas (Mr. DOLE), and I believe another one by the Senator from Arkansas (Mr. BUMPERS). We may be pushed for time.

EXTENSION OF TIME FOR VOTE

Mr. BAKER. I ask unanimous consent, Madam President, that the time for the vote on the Baker substitute be extended from 6 p.m. until 6:30 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object. What is the rationale for that?

Mr. BAKER. The rationale is the Senator's caucus.

Mr. BIDEN. I thank the Chair.

The PRESIDING OFFICER. Is there objection? Without objection——

Mr. BUMPERS. Reserving the right to object, Madam President, as soon as we return, are we now on the gas tax bill?

Mr. BAKER. As soon as I get through these two items.

Mr. BUMPERS. Will the majority leader tell me, what is the pending business when we return to it?

Mr. BAKER. Madam President, will the Chair please state the pending question?

The PRESIDING OFFICER. The amendment of the Senator from Arkansas to the substitute offered by the majority leader.

Mr. BUMPERS. I have no objection.

Mr. BAKER. Madam President, there are two small actions. Has the request been acted on?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Two small matters have been cleared. One has to do with the expediting of the disposition of the continuing resolution for the consideration of the President.

ENROLLMENT OF HOUSE JOINT RESOLUTION 631

Mr. BAKER. Madam President, I call up House Concurrent Resolution 436, dealing with the enrollment of the continuing resolution and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 436) relating to the enrollment of H.J. Res. 631.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The concurrent resolution was considered and agreed to.

Mr. BAKER. I move to reconsider the vote.

Mr. PROXMIRE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

The concurrent resolution is as follows:

H. CON. RES. 436

Resolved by the House of Representatives (the Senate concurring), That the requirement of 1 U.S.C. 107 that the enrollment of H.J. Res. 631 or any measure continuing appropriations be printed on parchment be waived for the duration of the Ninety-seventh Congress, and that the enrollment of H.J. Res. 631 or any measure continuing appropriations be in such form as may be certified by the Committee on House Administration to be a truly enrolled joint resolution.

FISHERY CONSERVATION AND MANAGEMENT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5002.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its disagreement to the amendments of the Senate to the bill (H.R. 5002) entitled "An Act to improve fishery conservation and management," and ask a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Biaggi, Mr. Anderson, Mr. Breaux, Mr. Studds, Mr. Snyder, Mr. McCloskey, and Mr. Pritchard be the managers of the conference on the part of the House.

Mr. BAKER. Madam President, I move that the Senate insist on its amendment and agree to the request of the Hosse for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. PACKWOOD, Mr. GORTON, Mr. HOLLINGS, Mr. STEVENS, and Mr. INOUYE conferees on the part of the Senate.

ORDER OF BUSINESS

Mr. BAKER. Madam President, the conference report is now on its way to the President. I expect the President will act on that, I hope tonight, I expect tonight. In any event, I expect him to act on it promptly.

May I say I have seen wire service reports that he might wait "a day or two." I have talked to the President. That is not the case. He did not say that. He expects to act on it promptly and I hope—I want everybody to know that I have personally talked to the President. I make that representation on my own authority, based on my own conversation, which was less than 30 minutes ago.

After we proceed from now to 6:30, there will be a vote on the Baker substitute. It is the intention of the leadership to continue with the consideration of the highway bill and to complete it, if possible, this evening.

Madam President, I yield the floor.

Mr. HELMS. Will the Senator yield?

Mr. BAKER. Yes.

Mr. HELMS. Madam President, there is some hope that we might get to the PIK farm bill. Can the leader give me some indication—if we can resolve the one remaining difference, would there be a window of opportunity for that?

Mr. BAKER. Madam President, the Senator from North Carolina has never been in a better position to ask that.

Mr. HELMS. I thank the Senator.

SURFACE TRANSPORTATION ACT OF 1982

AMENDMENT NO. 5190

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, I yield to the Senator from Texas, who wishes to speak on behalf of the amendment.

Mr. BENTSEN. Mr. President, I want to commend the Senator from Arkansas on his amendment. He is hitting an issue now—before it becomes a threat to the total Federal mass transit program. It is appropriate to deal with it now. This issue is similar to the problem that has plagued the highway program for 25 years, an issue that is only now being addressed in an amendment to the law that I offered in the Committee on Environment and Public Works. That is what the Senator from Arkansas is trying to do.

Mr. President, I come from a "donor" State in the highway program. I know the frustration that results in my State from watching their tax dollars go to Washington and not see a fair return. Ultimately, it leads to an effort to terminate the entire program. I do not want to see termination of a sound Federal mass transit program.

We would be unwise not to realize that people contributing to the new mass transit fund will expect a fair return on those funds.

When I first looked at the new tax for mass transit, I was particularly disappointed that it did not recognize the need for new rail projects in growing areas of the country. I questioned Secretary of Transportation Drew Lewis on this point. I was pleased that he agreed with me and that he convinced the administration to support new rail starts such as the one being planned in Houston. Prehaps the development of this project will assure Texas a fair return on the portion of the tax it pays to the transit fund. But, I am not—nor can I be—certain that it will. Some early estimates indicated that My State would receive only about 50 cents back for every dollar it sent to te mass transit fund. Many other States would not do as well.

I suggest to my colleagues—both those with significant mass transit and those without—that it is not sound public policy to start a new program with an inherent weakness that will surely serve to create discontent among the States. The lack of a fair return of funds to each State is surely such a flaw.

Mr. BENTSEN. Mr. President, I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Madam President, I compliment the Senator from Arkansas. I ask unanimous consent that I be made a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Madam President, I had an amendment drafted, though not exactly in the same way as the Senator from Arkansas. I compliment him. I think it is a big step in the right direction. This mass transit, this additional penny, this 20 percent of the money that will be going to mass transit is nothing but income transfer. What it will do for my State of Oklahoma is that $5 million will stay in the State but $15 million or a little over will be going to the rest of the States for mass transit. What we are going to be finding is that farmers and ranchers and factory people in the State of Oklahoma will be sending this $15 million to mass transit systems throughout the country. That is not a national purpose.

The national purpose exists for interstate highways, possibly for secondary roads, but not for mass transit. I have nothing against mass transit for New York, Chicago, Washington, and San Francisco.

I have heard this tax called repeatedly a user tax, but it is certainly not a user tax if you are requiring three-quarters of the dollars from a lot of States to go into other States. That is income transfer. It is not user fees. So I just hope that my colleagues will join me and my distinguished colleague from Arkansas and pass this amendment so we can actually have a user fee and not increase the amount of income transfer that is coming about by passage of this tax.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, I think there has been a great misconception with respect to where the moneys come from and where the moneys go as a result of this legislation. An interesting statistic. Forty-five percent of all receipts from the proposed tax would come from urban areas, but those areas could only receive approximately 35 percent of the funds. If there was ever an amendment that would gut any reasonable distribution of funds, recognizing the infrastructure needs that exist, it would be this amendment. This amendment would not be accepted by the House, and I do not think it should be accepted by this body. It will totally emasculate mass transit in this Nation.

Let me once again raise a point I brought up earlier. I am arguing equity here. For years, my State has been hurt by inequitable formulas in a host of Federal programs. I cannot stand idly by and watch this occur again.

New York State gets only 50 percent of its medicaid expenses reimbursed by the Federal Government. Arkansas gets over 72 percent of its medicaid funds reimbursed from the Federal Government.

Under this amendment, I estimate that my State would lose $200 million; New Jersey would lose $30 million, Florida tens of millions of dollars, and so on.

This amendment destroys the concept of the creation of a fund which is dedicated to the rehabilitation of this Nation's infrastructure.

Mr. GRASSLEY. Madam President, I rise in strong support of the amendment offered by the Senator from Arkansas. I never have liked the idea of highway users being forced into subsidizing mass transit riders. A far more equitable solution would be to require transit users to pay their own way.

This is why I supported an amendment offered by my good friend, the Senator from Idaho, during Senate Finance Committee deliberations. This amendment would have barred the use of any of this increased highway tax for mass transit. Unfortunately, the amendment failed to pass. It was argued that this 1 cent mass transit give-away, as unfair as it might be, was necessary if we were to have a bill at all. In view of the deteriorating bridges and highways throughout my State and the country, there did not seem to be much choice. The revenues generated by the user tax, apportioned under the Senate formula that focuses upon needs, use, and to some degree, population, are essential to the continued viability of our highway system.

The more that I study this highway and tax proposal, the more concerned that I get about the prospects of protecting the interests of the rural States. In view of the House bill and the Senate bill, I am not certain that the Senate highway formula will be preserved. If it is not retained, I should not support this legislation.

The reason that I would not be able to support this legislation if the Senate highway formula was traded with the House formula because under the House highway formula, the same States that make out like bandits with this 1 cent give away, will also take an unfair portion from the highway fund. The reason for this is that the House formula is based upon populations, with little regard for actual highway needs. To dispell any notion that only people are transported on our highway system, I might point out that farm commodities, manufactured goods, and other items are moved over our highways, and this causes tremendous wear.

I do not have all the figures, but it is my understanding that under the House formula, Iowa would lose $7 million per year. Alaska would lose $68 million. Idaho would lose $8 million, Wyoming would lose $12.3 million, Montana would lose $17.6 million, Texas would lose $10.1 million, North

Dakota would lose $10.9 million, South Dakota would also lose about $11 million, Colorado would lose $8.7 million.

Now, some may argue that the issue of transit and that of highway formulas are unrelated. Well that simply is not the case. It is related because the representatives of the metropolitan areas said that we could not have a highway bill without first giving money for transit.

If I could have assurances that the Senate highway formulas could be preserved in conference, I might not be so inclined to vote for the pending amendment. But I do not know how anyone here in the Senate can guarantee that.

We can guarantee it if we pass this amendment. We will be able to go to conference in a better bargaining position. And if the House will not give us our fair highway formula, then we need not worry about their transit concerns, because frankly, this whole bill is going to otherwise go down in flames.

This amendment is protection for us representing rural States. I urge my colleagues to support it.

Mr. GARN. Madam President, I yield the floor if the Senator from Arkansas has any other comments.

Mr. BUMPERS. Madam President, I will just take 1 minute. I want to make these points to my colleagues. This is a simple amendment. Under the bill, your State is only assured of getting one-half of the penny that is allocated for mass transit. My amendment raises that to 85 percent, which applies to the other 4 cents. Otherwise, you are asking a poor State like mine, the second poorest State in the Nation, that uses more gasoline per capita than any State in the Nation, to vote for a 5-cent tax, 1 cent of which comes to Washington that we never see again. My State has more unpaved roads probably—I am not sure of this, but I bet we have as many unpaved, unimproved roads in my State as any State in the Nation per capita. We cannot afford it. We cannot afford to subsidize the other States of this country under the formula provided for in this bill.

So I urgently plead with my colleagues to support this slight increase for States like mine which desperately need it. I yield the floor and I am prepared to vote.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Madam President, I rise in opposition to this amendment. I will not take the time of the Senate at this late hour to discuss the merits or demerits of the particular issue but only to tell Senators there has been no mass transit authorization for 2 years. It has been a very difficult process to finally arrive at one, and even at this moment we have been in preconference discussions with the House on what we are able to achieve. I must oppose this amendment. If it were adopted, if the Senate chooses to adopt this amendment tonight, forget mass transit. There is no way on Earth that I could convince the House of Representatives with this amendment. They were having a hard enough time taking an amendment from the other night, if they will, by the Senator from New Hampsire that is far less reaching than this particular one, though I hesitate in a way to make that kind of an argument on what the House will or will not do. But that is a factual situation, having been in those meetings all day long. I do not want to cut off anyone, but if there is no further debate or anyone wishing to speak, I would move to table the amendment.

Mr. BUMPERS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Madam President, if it is agreeable to the Senator from Utah and the Senator from Vermont and the Senator from Kansas and the other managers of the bill, I would propose that the vote on the tabling motion be postponed until 6:30 p.m. this evening. I ask unanimous consent to that effect.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Madam President, just a minute; 6:15 p.m. instead of 6:30 p.m.

The PRESIDING OFFICER. Is there objection to the 6:15 p.m. time? The Chair hears none, and it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. DOLE. Madam President, I suggest the absence of a quorum for a brief moment.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Madam President, I ask unanimous consent to set aside the quorum call so I might call up the amendment of Senator CRANSTON.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, may we have order?

The MAJORITY LEADER. The Senate will be in order. Those in the gallery will please be quiet also.

Mr. DOLE. Madam President, let me first suggest what I propose to do so everyone will be informed. It is not controversial but I want to explain to all Members.

While we have been debating the continuing resolution and in the past 24 hours we have tried to find some, only the noncontroversial amendments, and I must say ahead of time even if those are adopted there is no assurance they will be retained by the House if and when we get to conference. What we have done is to package together seven noncontroversial amendments that we have cleared all the way around. There are an equal number of Democrats and Republicans interested in the amendments.

One is an amendment by the distinguished Senator from Delaware, Senator ROTH. Another is an amendment by the distinguished Senator from Indiana, Senator QUAYLE. Another is a technical amendment to an amendment offered earlier by the distinguished Senator from West Virginia, Senator ROBERT BYRD. Another one is known as a California public utilities amendment, which has been further modified to decrease the loss of revenues to the Treasury, which is of interest primarily to the distinguished retiring Senator from California, Senator HAYAKAWA, and the Senator from California, Senator CRANSTON.

We have a technical amendment of the Senator from New Mexico, Senator DOMENICI.

And then we have an amendment that deals with safe harbor leasing and affects only Eastern Airlines that has passed this body on two other occasions, and there are others that I assume are noncontroversial to those who have the amendments but they appear to spark some controversy to those who have at this time the right to object and frankly stop any amendment that we might want to consider.

Mr. METZENBAUM. Madam President, will the Senator from Kansas yield?

Mr. DOLE. I yield.

Mr. METZENBAUM. The Senator from Kansas mentioned an amendment of the Senator from Indiana (Mr. QUAYLE). Would he be good enough to tell us what that is?

Mr. DOLE. I yield to the Senator from Indiana to explain that. It is a technical amendment. It is a nontax amendment.

Mr. NICKLES. Madam President, if the Senator will give me just a few minutes I will have an answer for him.

Mr. METZENBAUM. Madam President, will the Senator from Kansas be good enough to yield?

Mr. DOLE. I yield.

Mr. METZENBAUM. He and I have had a number of conversations throughout the day, yesterday, and the day before. It is my understanding

that with respect to the California amendment it is as we have discussed and that with respect to each of the other amendments they are as discussed. The foundation amendments are not included.

Mr. DOLE. I can assure the Senator from Ohio that is an accurate statement. The California amendment is the narrowed version we discussed earlier today, and there are no foundation amendments in this package, and I make the record clear. It is not that the Senator from Ohio opposes certain foundation amendments but the list grew from three to about nine, as I understand it.

Mr. METZENBAUM. The Senator from Kansas is right. It continued to grow as the hours passed.

Mr. DOLE. We have no quarrel with the amendment of the Senator from Colorado, no quarrel with the amendment of the Senator from Texas, and no quarrel with the amendment of the Senator from Illinois. Beyond that there were six additions.

Mr. METZENBAUM. The Senator from Kansas is correct. I thought we had gone too far.

Will the Senator from Kansas be good enough to yield for one other question?

Mr. DOLE. I yield.

Mr. METZENBAUM. I had asked about closing the tax loophole, and I shall not be long, that business concerning the subchapter S and deferring the fiscal year. Has that matter been attended to in this measure or another measure?

Mr. DOLE. That purported loophole in subchapter S corporations as passed earlier this year has been agreed to by the House of Representatives and Senate and that loophole closing is part of the technical corrections which are now in the final stages of conference, and it will be agreed to hopefully later this evening by both the House of Representatives and the Senate.

Mr. METZENBAUM. So it need not be added as an amendment to this bill and that loophole or that error, or whatever, will be taken care of?

Mr. DOLE. That is correct.

I am more confident we will finish technical questions, although I have great confidence that we will finish this, but we are a little further along on the technical corrections.

Mr. METZENBAUM. I thank the Senator from Kansas for his total cooperation.

UP AMENDMENT NO. 1582

(Purpose: Making technical corrections and other miscellaneous amendments)

Mr. DOLE. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1582.

Mr. DOLE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31 of the matter proposed to be inserted, strike lines 8 through 10 and the matter between lines 10 and 11, and insert in lieu thereof "(3) Tread rubber, 6 cents per pound.

On page 41, strike line 21 and all that follows through line 3 on page 42 and redesignate the subsequent subsections accordingly.

On page 31 of the matter proposed to be inserted, in the table following line 6, strike "9.75" and insert "10", and strike "$4.875" and insert "$5.00", and strike "$12.375" and insert "$12.50".

Section 244 of the matter proposed to be inserted is amended—

(a) in subsection (a) by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1984";

(b) in subsection (c)—

(1) by striking out "fiscal year 1983 under section 104(b) of this Act" in paragraph (1) and inserting in lieu thereof "the year in which certification is made pursuant to subsection (b)"; and

(2) by striking out "fiscal year 1982" in paragraph (2) and inserting in lieu thereof "the preceding fiscal year"; and

(c) in subsection (d) by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

At the end of title I of the matter proposed to be inserted, insert the following:

SEC. . DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to the effective date for allowance of the deduction barriers to the handicapped and elderly) is amended by striking out "January 1, 1983" and inserting in lieu thereof "January 1, 1984".

SEC. . AFFIRMATIVE COMMITMENT RULE.

Clause (iii) of section 46(a)(2)(C) (relating to longer period for certain long-term projects) is amended by inserting "or (VII)" after "subclause (I)".

Sec. . TAX TREATMENT OF PUBLIC UTILITY PROPERTY.

(a) NORMALIZATION METHOD FOR PURPOSES OF DEPRECIATION.—(1)

In general.—Paragraph (3) of section 168(e) of the Internal Revenue Code of 1954 (relating to special rule for certain public utility property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC.—

"(i) IN GENERAL.—One way in which the requirements of subparagraph (B) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (B).

"(ii) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (B)(ii) unlelss such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).".

(2) AMENDMENT TO SECTION 167(l).—Subparagraph (G) of section 167(l)(3) of such Code (defining normalization method of accounting) is amended by adding at the end thereof the following new sentence: "For purpooses of this subparagraph, rules similar to the rules of section 16(e)(C) shall apply.".

(b) COMPUTATIONS FOR PURPOSES OF INVESTMENT CREDIT.—Subsection (f) of section 46 of such Code (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following new paragraph:

"(10) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC., FOR PURPOSES OF PARAGRAPHS (1) AND (2).—

"(A) IN GENERAL.—One way in which the requirements of paragraph (1) or (2) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of paragraph (1) or paragraph (2), as the case may be.

"(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS. The procedures and adjustments which are to be treated as inconsistent for purposes of subparagraph (A) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's qualified investment for purposes of the credit allowable by section 38 unless such estimate or projection is consistent with the estimates and projections of property which are used, for ratemaking purposes, with respect to the taxpayer's depreciation expense and rate base.

"(C) REGULATORY AUTHORITY.—The Secretary may be regulations prescribe procedures and adjustments (in addition to those specified in subparagraph (B)) which are to be treated as inconsistent for purposes of subparagraph (A).".

(c) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by subsection (a) and (b) shall apply to taxable years beginning after December 31, 1979.

(2) SPECIAL RULE FOR PERIODS BEGINNING BEFORE MARCH 1, 1980.—

(A) IN GENERAL.—Subject to the provisions of paragraphs (3) and (4), of notwithstanding the provisions of sections 167(l) and 46(f) of the Internal Revenue Code of 1954 and of any regulations prescribed by the Secretary of the Treasury (or his delegate) under such sections, the use for ratemaking purposes or for reflecting operating results in the taxpayer's regulated books of account, for any period before March 1, 1980, of—

(i) any estimates or projections relating to the amounts of the taxpayer's tax expense, depreciation expense, deferred tax reserve, credit allowable under section 38 of such Code, or rate base, or

(ii) any adjustments to the taxpayer's rate of return.

shall not be treated as inconsistent with the requirements of subparagraph (G) of such section 167(l)(3) nor inconsistent with the

requirements of paragraph (1) or (2) of such section 46(f), where such estimates or projections, or such rate of return adjustments, were included in a qualified order.

(B) QUALIFIED ORDER DEFINED.—For purposes of this subsection, the term "qualified order" means an order—

(i) by a public utility commission which was entered before March 13, 1980,

(ii) which used the estimates, projections, or rate of return adjustments referred to in subparagraph (A) to determine the amount of the rates to be collected by the taxpayer or the amount of a refund with respect to rates previously collected, and

(iii) which ordered such rates to be collected or refunds to be made (whether or not such order actually was implemented or enforced).

(3) LIMITATIONS ON APPLICATION OF PARAGRAPH (2).—

(A) PARAGRAPH NOT TO APPLY TO AMOUNTS ACTUALLY FLOWED THROUGH.—Paragraph (2) shall not apply to the amount of any—

(i) rate reduction, or

(ii) refund,

which was actually made pursuant to a qualified order.

(B) TAXPAYER MUST ENTER INTO CLOSING AGREEMENT BEFORE PARAGRAPH (2) APPLIES.—Paragraph (2) shall not apply to any taxpayer unless, before the later of—

(i) July 1, 1983, or

(ii) 6 months after the refunds or rate reductions are actually made pursuant to a qualified order.

the taxpayer enters into a closing agreement (within the meaning of section 7121 of the Internal Revenue Code of 1954) which provides for the payment by the taxpayer of the amount to which paragraph (2) does not apply by reason of subparagraph (A).

(4) SPECIAL RULES RELATING TO PAYMENT OF REFUNDS OR INTEREST BY THE UNITED STATES OR THE TAXPAYER.—

(A) REFUND DEFINED.—For purposes of this subsection, the term "refund" shall include any credit allowed by the taxpayer under a qualified order but shall not include interest payable with respect to any refund under such order.

(B) NO INTEREST PAYABLE BY UITED SATES.—No interest shall be payable under section 6611 of the Internal Revenue Code of 1954 on any overpayment of tax which is attributable to the application of paragraph (2).

(C) PAYMENTS MAY BE MADE IN TWO EQUAL INSTALLMENTS.—

(i) IN GENERAL.—The taxpayer may make any payment required by reason of paragraph (3) in two equal installments, the first installment being due on the last date on which a taxpayer may enter into a closing agreement under paragraph (3)(B), and the second payment being due one year after the last date for the first payment.

(ii) INTEREST PAYMENTS.—For purposes of section 6601 of such code, the last date prescribed for payment with respect to any payment required by reason of paragraph (3) shall be the last date on which such payment is due under clause (i).

(5) NO INFERENCE.—The application of subparagraph (G) of section 167(1)(3) of the Internal Revenue Code of 1954, and the application of paragraphs (1) and (2) of section 46(f) of such Code, to taxable years beginning before January 1, 1980, shall be determined without any inference drawn from the amendments made by subsections (a) and (b) of this section or from the rules contained in paragraphs (2), (3), and (4). Nothing in the preceding sentence shall be construed to limit the relief provided by paragraphs (2), (3), and (4).

At an appropriate place add:

(J) AFFIRMATIVE COMMITMENT RULE FOR SYNTHETIC FUEL.—Clause (iii) of section 46(a)(2)(C) of the Internal Revenue Code of 1954 (relating to longer period for certain long-term projects) is amended by adding at the end thereof the following new sentence: "In the case of property described in clauses (iii) or (v) of section 48(1)(3)(A), property described in clauses (vi) or (vii) of section 48(1)(3)(A) which is related to such clause (iii) or clause (v) property, or property described in clause (v) of section 48(1)(2)(A), this clause shall be applied by substituting 'January 1, 1985' for 'January 1, 1983.'"

At the end of title I, insert the following:

SEC. . LEASING OF CERTAIN AIRCRAFT. Subsection (d) of section 208 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end of subparagraph (D) of paragraph (3) the following new sentence "For purposes of sections 47 and 168(f)(8) of the Internal Revenue Code of 1954, if any property described in this subparagraph—

"(I) is sold (or assigned) pursuant to a title 11 or similar case (within the meaning of section 368(a)(3)(A)), or is transferred subsequent to such sale or assignment, and

"(II) is used outside the United States,

such property shall, with respect to the lessor under any agreement with respect to such property under section 168(f)(8), be treated as property described in section 48(a)(2)(B)(i), except that none of the benefits provided in this subparagraph shall inure to a foreign air carrier; however, it shall not be considered a benefit for a foreign air carrier to purchase airplanes sold in circumstances described in subclause (I)."

Mr. DOLE. Madam President, I suggest the absence of a quorum.

Mr. STEVENS. Madam President, if the Senator will withhold, will the Senator yield for a parliamentary inquiry?

Mr. DOLE. I yield.

Mr. EAST. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAST. Madam President, was the Senator from Kansas asking for a unanimous-consent agreement that the amendment be in order?

The PRESIDING OFFICER. It will take unanimous consent.

Mr. EAST. Has he propounded that request?

Mr. DOLE. No, I have not propounded that request yet.

Mr. EAST. Pardon?

Mr. DOLE. I have not propounded that request yet.

Mr. EAST. I cannot hear what the Senator is saying. What was the reply? Has the request been submitted?

Mr. DOLE. The amendment has been submitted and I am about to propound that request.

I suggest the absence of a quorum for 1 minute.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAST. I am sorry I did not hear the Senator.

Mr. DOLE. I am now going to ask unanimous consent that the amendments be in order.

Mr. EAST. I have an objection.

The PRESIDING OFFICER. Objection is heard.

VOTE ON MOTION TO TABLE BUMPERS AMENDMENT

The PRESIDING OFFICER. The hour of 6:15 having arrived, the Senate will now proceed to vote on the motion to table the Bumpers amendment. The question is on agreeing to the motion to lay the amendment of the Senator from Arkansas on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber who wish to vote who have not voted?

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 460 Leg.]

YEAS—52

Baker	Glenn	Murkowski
Biden	Gorton	Nunn
Boschwitz	Hart	Pell
Bradley	Hatch	Percy
Brady	Hawkins	Quayle
Byrd, Harry F., Jr.	Hayakawa	Riegle
Chafee	Heflin	Roth
Chiles	Hollings	Rudman
D'Amato	Humphrey	Sarbanes
Danforth	Johnston	Schmitt
Dixon	Kassebaum	Specter
Dodd	Kennedy	Stafford
Dole	Levin	Stennis
Domenici	Lugar	Stevens
Durenberger	Mathias	Tsongas
Eagleton	Mattingly	Warner
Garn	Metzenbaum	Weicker
	Moynihan	

NAYS—44

Abdnor	Exon	Mitchell
Andrews	Ford	Nickles
Armstrong	Grassley	Packwood
Baucus	Hatfield	Pressler
Bentsen	Helms	Proxmire
Boren	Huddleston	Pryor
Bumpers	Inouye	Randolph
Burdick	Jepsen	Sasser
Byrd, Robert C.	Kasten	Simpson
Cannon	Laxalt	Symms
Cochran	Leahy	Thurmond
Cohen	Long	Tower
DeConcini	Matsunaga	Wallop
Denton	McClure	Zorinsky
East	Melcher	

NOT VOTING—4

Cranston	Heinz
Goldwater	Jackson

So the motion to lay on the table Mr. BUMPERS' amendment (No. 5190) was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote by which the motion was passed.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. DECONCINI. A parliamentary inquiry, Madam President.

Mr. DOLE. Madam President, may we have order?

Mr. DECONCINI. Will the Senator from Kansas yield for a parliamentary inquiry?

Mr. DOLE. Let us first get order.

The PRESIDING OFFICER. Let us have order so we may hear the parliamentary inquiry.

Mr. DECONCINI. A parliamentary inquiry, Madam President.

Will the Chair please advise the Senator on how long a period of time that rollcall vote took?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. DECONCINI. I thank the Chair.

Mr. DOLE. I might suggest there was a lot of tallying going on there and it took longer than usual.

Madam President, I ask unanimous consent that the amendments at the desk be in order.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Madam President, reserving the right to object, what was the request?

Mr. DOLE. The request was renewing my request that the amendments be in order, the same amendments we have discussed.

Mr. EAST. I would be willing to accept that after the adoption of the Baker substitute. I would be willing to give unanimous consent to their consideration at that time.

Mr. DOLE. A parliamentary inquiry, Madam President. They would not be in order after the Baker substitute is adopted?

Mr. EAST. It would be by unanimous consent.

The PRESIDING OFFICER. The Senator from North Carolina is right. It would take unanimous consent.

Mr. PERCY. Madam President, reserving the right to object.

Mr. DOLE. A parliamentary inquiry. They would be in order, of course, by unanimous consent?

The PRESIDING OFFICER. They would be.

Mr. ROBERT C. BYRD. Madam President, a parliamentary inquiry.

Are not those amendments at the desk which qualify under the cloture rule—is it not in order to bring them up now without debate and have a vote on them?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Madam President, it is my understanding that the Senator from North Carolina is willing to give me that consent if the vote comes after the vote on the Baker substitute.

Mr. EAST. After adoption of the Baker substitute, I would be willing to given unanimous consent to the consideration of the amendments, yes.

Mr. DOLE. We could vote on the amendments following the vote on the Baker substitute. There would not be debate.

Mr. EAST. They would be debatable if we got some reasonable timeframe for debate. I would not want to consider them until after the adoption of the Baker substitute. I would be willing to enter into a unanimous-consent agreement to consider the matter at that time if we could work out some kind of reasonable time frame in terms of debate upon them.

Mr. DOLE. I think the Senator is concerned that they might be amendments that would enhance passage of the Baker substitute. I assure the Senator from North Carolina that they are not for that purpose. One is an architectural barrier to build ramps to provide access for people who are handicapped. Another is by the distinguished Senator from Delaware, who has been trying to get recognition for several days.

Another is a technical amendment by Senator ROBERT C. BYRD.

Mr. ROBERT C. BYRD. On behalf of myself and Senator LONG.

Mr. DOLE. Another is a technical correction by the Senator from New Mexico, which corrects a technical amendment. Another is safe harbor leasing, which affects Eastern Airlines. I suggest if we can work it out that way so the Senator would be assured it does not have any impact on the vote—a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Can we agree to act on the amendments after the vote on the Baker substitute?

The PRESIDING OFFICER. It could be arranged by unanimous consent.

Mr. DOLE. I would ask unanimous consent.

Mr. PERCY. Madam President, a parliamentary inquiry.

Mr. BAKER. Will the Senator yield to me for just a moment?

Mr. DOLE. Yes.

Mr. BAKER. I do not like to be unaccommodating, but we simply cannot arrange for time for debate and consideration of amendments after the Baker substitute is adopted. If we do that, I am afraid the horse is out of the barn and there is no telling how long that will go on.

Mr. ROBERT C. BYRD. That would be most unusual.

Mr. BAKER. It is most unusual.

I hope the Senator from North Carolina will reconsider this. I am perfectly willing to have the vote after the Baker substitute. But the consideration of the amendments, it seems to me, must surely come before the adoption of the substitute.

If the Senator wants to have a brief time for debate on those amendments, I am willing to try to arrange that, but I think we need to dispose of that before we go on with the vote on the substitute.

As I understand it, there is a package of amendments. There is an equal number of Republican and Democratic amendments, and we thought they had been cleared all around.

I hope the Senator from North Carolina will reconsider his objection and permit the distinguished Senator from Kansas to go forward with this on behalf of both Republicans and Democrats. We are trying to finish what seem to be important and necessary matters before we get to the substitute and start down what I hope is the final road on the consideration of the highway bill.

Mr. PERCY. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. Would it be permissible for the Senator from Illinois to ask unanimous consent that the MacArthur amendment be added to the package? So far as the Senator from Illinois is concerned, it has been cleared on both sides, supported by the Treasury, supported by the manager of the bill and is noncontroversial. It has now been reviewed by the distinguished Senator from North Carolina. I only ask him to respond whether or not he would accept it.

Mr. EAST. I am sorry, I did not hear.

Mr. PERCY. A tremendous hardship would be done if it is not enacted promptly, and this bill seems to be the only vehicle.

Mr. METZENBAUM. Madam President.

Mr. DOLE. Madam President.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. DOLE. Let me comment to the Senator from Illinois, I know this is another amendment that was agreed to several days ago. I am not sure this package is going to remain wrapped, and I do not want to unwrap it to stick in another item. It seems to me there are several amendments, and a Senator has a right to submit an amendment without debate on the floor. I know there are other Senators who have amendments that are foundation amendments. I understand there are nine. They are not objectionable to this Senator, but the Senator from Ohio has indicated he will object.

Mr. PERCY. My inquiry is if it is possible for me to ask unanimous consent that it be included in the package.

I think enough people know about it and know the consequences in every single State.

The John D. and Catherine T. MacArthur Foundation is an Illinois not-for-profit corporation created for charitable and public service purposes. It is committed to stimulating innovative activities that will contribute to the common health and welfare. It supports a carefully defined range of programs within which it can act as a catalyst to produce desirable change.

The foundation was fully activated in 1978 and is one of the newest foundations in the United States. Most of you will have heard of the MacArthur Foundation in the context of its prize fellows program, which honors a small number of exceptionally talented individuals who by their previous achievements have given evidence of originality, dedication to creative pursuits and capacity for self-direction. The award is given to these individuals over 5 years so that they may have the time and freedom to devote themselves to their own creative endeavors.

What makes these prize fellow awards so noteworthy is that they are made to recipients who have no knowledge that they are under consideration for such an award. Individuals do not apply for the prize fellows program awards; rather, the program relies on a substantial number of designated nominators or talent scouts. Direct applications and self-nominations are not accepted. Nominees are in turn considered by a selection committee which makes its recommendations to the board of directors of the foundation.

The MacArthur Foundation has a number of other important programs, too, including programs to spur research in mental health; help increase the effectiveness and improvement of education, Government, justice and mass communications; and recognize special service in the Chicago area community.

Mr. President, the need for this amendment stems from the short time period under the present law for divestiture. On December 1, 1978, the foundation received 100 percent of the shares of Bankers Life & Casualty Co.—an Illinois insurance company—upon the termination of a trust created by John D. MacArthur. These shares of Bankers Life & Casualty are subject to a 5-year divestiture period under the law, requiring the foundation to reduce its holdings of Bankers Life to 20 percent or less on or before November 30, 1983.

Mr. President, I submit that for a foundation the size of the MacArthur Foundation, that is an unreasonably short time to dispose of such major assets. The recent value of the foundation assests was over $800,000,000—nearly a billion dollars. According to the foundation extensive and lengthy worldwide marketing efforts by professional investment bankers have not yielded buyers willing and financially able to purchase all of the active assets of Bankers Life. The current recession and the stress conditions of insurance and real estate businesses have temporarily discouraged prospective purchasers.

To highlight the dilemma faced by the foundation, let me only point out that Bankers Life owns upwards of 50 office buildings and parcels in Manhattan alone. In addition, it owns sizeable real estate in Florida. All of these parcels are valuable but no one would demand that a foundation like the MacArthur Foundation should surrender its valuable assets for a song. Yet the present law could result in that development if we do not take action here today to grant the foundation an extension.

Mr. President, the amendment I offer today is simple and straightforward and I believe it has a considerable amount of support on both sides of the aisle.

My amendment would simply give the MacArthur Foundation another 2 years to dispose of these assests in order to meet the conditions of the law. We do not want to exempt the foundation for the important provisions of current law—we are simply seeking a reasonable, 2-year delay in this case.

In all other areas, the foundation is in accord with the purposes of the 1969 act that governs foundation divestitures: No family members own or operate a tax-exempt business and the active businesses pay full income taxes. Under the extension, these limits on its operations will continue in force.

Furthermore, this is a unique problem since among the 50 largest foundations, the MacArthur Foundation is the only one subject to this 5-year deadline. Other large foundations funded before 1969 have 10-, 15-, and even 20-year periods for divestiture. When that 1969 law was written, they were grandfathered in. In short, the 1969 law recognized the problem that divestiture would create and they provided for existing foundations. But they did not provide as good a mechanism for future, large foundations.

An extension of the present deadline has no revenue gain or loss consequences for the budget. If the deadline is not postponed, the foundation will have to sell by November 30, 1983, no matter what the price. The public will be the loser if the foundation is forced to sell within the deadline. Its grants, as outlined earlier today, will be smaller and fewer. None of us want to see that happen, I presume, and I urge my colleagues to support this important amendment. It is fully supported by the Treasury Department.

Madam President, I ask unanimous consent that the MacArthur amendment be considered.

Mr. METZENBAUM. Will the Senator from Illinois withhold his request for a minute?

Mr. METZENBAUM. If the Senator will withhold his request, the Senator from Illinois inquired about this amendment, and I indicated I had no objection to it. Since that point, there have been eight other special requests made including the Senator from Texas, who was there 2 years ago, 1 year ago, and the Senator from Colorado. There are also others who are asking for the same kind of treatment. I had spoken with the Senator from Illinois and indicated that if he had a separate measure and came forth with that measure alone, I would cooperate to support it. But as soon as you open the door to the Senator from Illinois, I noticed that the Senator from Colorado was on his feet. I have no doubt that the other eight will be on their feet as well asking for special consideration. Under the circumstances, I would object.

Mr. PERCY. I thought we had a clear understanding that had been made between us that if it was a clean amendment without other attachments to it there would be no objection.

Let me at least put the question and, if there is no objection—and I hope the distinguished Senator from Ohio would honor his word that he gave me—see if it can go clean, because it is absolutely unique. It is different than any other foundation. It is in a disastrous situation that would force it to liquidate $1 billion of assets in a few months.

Mr. METZENBAUM. The Senator from Illinois came over just a few minutes ago and said that there is a separate bill on this, would you have any objection. I indicated I would not.

Mr. DOLE. Madam President, I withdraw my request.

The PRESIDING OFFICER. The Senator from Kansas has withdrawn his request.

Mr. STEVENS. Parliamentary inquiry, Madam President.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. How many staff members may a Senator have on the floor at one time?

The PRESIDING OFFICER. Two.

Mr. STEVENS. Madam President, I request that the Chair direct the Sergeant at Arms to ascertain who these staff members belong to.

The PRESIDING OFFICER. The Sergeant at Arms is so directed.

Mr. BAKER. Madam President, I ask for regular order.

The PRESIDING OFFICER. The question is on the amendment.

Mr. HELMS. Madam President, I want to know precisely what the unanimous consent is. I appreciate——

Mr. DOLE. I withdrew it.

The PRESIDING OFFICER. The request has been withdrawn.

Mr. BAKER. It has been withdrawn.

Mr. HELMS. Very well.

The PRESIDING OFFICER. The request has been withdrawn.

The Senate is not in order. Senators cannot hear the conversation.

The Chair requests again that the Senate be in order.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Madam President, I want to call up an amendment at the desk. I realize there is no time for debate at this point. I call it up for Senator CRANSTON, who is unable to be here. It is amendment No. 5011

The PRESIDING OFFICER. The amendment will be stated.

Mr. SYMMS. Reserving the right to object, what is the amendment about?

Mr. ROBERT C. BYRD. No objection would lie to this amendment.

The PRESIDING OFFICER. The Senator has requested to call up the amendment. The clerk will report.

The assistance legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE), on behalf of Mr. CRANSTON, proposes printed amendment numbered 5011.

Mr. STEVENS. Objection.

Mr. ROBERT C. BYRD. Objection would not lie to this.

The PRESIDING OFFICER. The Senator has a right to call up his amendment. It is a germane, timely filed amendment. Now the question is on the amendment.

Mr. ROBERT C. BYRD. Yeas and nays, Madam President.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. Was the amendment read?

Mr. ROBERT C. BYRD. The amendment was not read.

Mr. DOLE. Was the amendment read?

Mr. STEVENS. The amendment must be read.

The PRESIDING OFFICER. The amendment has not been read.

The clerk will report.

The assistant legislative clerk read as follows:

The amendment of Mr. BAKER is amended as follows:

On page 133, lines 6 and 7, strike out the comma and "3.5 per centum." and insert in lieu thereof "and section 314 of the Federal Public Transportation Act of 1982, 3.5 per centum, and by adding at the end the following new paragraph:

"The Secretary shall not obligate or expend funds appropriated under section 314 of the Federal Public Transportation Act of 1982 for any fiscal year after fiscal year 1983 unless the Secretary, in carrying out subsection (a) of this section, section 165(b) of the Federal-Aid Highway Act of 1973, and section 504 of the Rehabilitation Act of 1973, shall first, not later than 90 days after the date of the enactment of this paragraph, have published in the Federal Register for public comment, proposed regulations and, not later than 180 days after the date of such enactment, shall have promulgated final regulations, establishing (A) minimum criteria for each recipient of Federal financial assistance under this Act or the Federal-Aid Highway Act of 1973 to provide handicapped and elderly individuals with transportation services that such individuals can use and that are the same as or comparable to those which such recipient provides to the general public, and (B) procedures for the Secretary to monitor and ensure compliance with such criteria. Such regulations shall include provisions for ensuring that organizations and groups representing such individuals are fully consulted by such recipients in the process of determining and carrying out actions to provide such transportation services to such individuals.".

Mr. RIEGLE. Madam President, I ask unanimous consent that Senator KENNEDY be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the amendment.

Mr. RIEGLE. I ask unanimous consent that Senator RANDOLPH also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, will the majority leader ask for 1 minute at least so that Members will know what it is they are voting on?

Mr. BAKER. Madam President, I ask that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader.

Mr. BAKER. Madam President, obviously what is happening is clearly within the rules of the Senate. We provided a time certain to vote, but in the ordinary course of affairs any amendment at the desk, timely filed and qualified, can be called up without debate.

Now, I do not know how many amendments are at the desk, but that could go on for a long, long time, if we are going to continue that.

Could I inquire if there are a number of amendments that Senators on either side of the aisle intend to try to call up without debate? If that is the case, then we have one situation. If there are not very many of them, maybe we ought to provide for a minute for somebody to explain what we are voting on.

Now, I do not mean to put anybody in a box, but I also need to find out where we are and what is going on.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that this is the only amendment—if I am mistaken, I hope someone will correct me, and I know they will. It is my understanding that this is the only amendment on this side that qualifies under the cloture role to be called up, and the ony one that would be called up before the vote on the Baker substitute. I would just hope that the Senator who is calling this up, on the basis of a promise that he made to Senator CRANSTON, who is not here, would be allowed to have a minute to explain what it is all about so we will all know what we are voting on.

Mr. BAKER. Madam President, on that basis, I request there be 1 minute of debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair. Again, I want to state that I am offering this for Senator CRANSTON, who is unable to be here.

This amendment is designed to provide for fair and equitable treatment of handicapped and elderly persons in the context of our Nation's public mass transit system. Specifically, this amendment would authorize—but not require—the Secretary of Transportation to set aside for handicapped and elderly transit purposes 3.5 percent of transit capital infrastrucure program funding. This is the same percentage that the Secretary may, under the Baker amendment, set aside for that purpose out of discretionary capital assistance funding under section 4(a)(3)(A) of the Urban Mass Transit Act as it is proposed to be amended.

Second, our amendment would require the Secretary of Transportation to issue regulations establishing criteria for handicapped and elderly transportation services.

Madam President, the Senator from California submitted this amendment Tuesday night and my detailed statement explaining it appeared in part II of the RECORD for December 14 at page S 14740.

Madam President, if the Congress is going to provide a multiyear extension of the mass transit program and if the Congress is going to levy a 5-cent gas tax, with a portion of those revenues dedicated to the transit capital infrastructure, I believe we should adopt this amendment to help assure that our Nation's handicapped and elderly citizens receive a modicum of fair treatment under these programs.

Madam President, the Senator from California and I have long been deeply concerned that federally assisted transit systems must deal fairly and adequately with handicapped and elderly citizens.

We are convinced that the current situation is most unsatisfactory and that we should not leave it unchanged. On July 20 of last year, the Secretary of Transportation rescinded regula-

tions that had been promulgated under section 504 of the Rehabilitation Act of 1973 and related statutes and that set forth specific standards by which federally assisted transit systems would be required to move closer to full accessibility. In place of those regulations, the Secretary issued an interim rule that requires that federally assisted systems certify themselves—subject to virtually no Transportation Department monitoring—that they are making so-called special efforts and that establishes no national standards or criteria by which those efforts are to be gaged.

This local-option, self-certification, self-policing process is an abdication of Federal responsibility for protecting handicapped persons from discrimination and inadequate services.

On January 27 of this year, four other members of the Banking Committee and I asked the Comptroller General of the United States to conduct a survey of transit services under the interim regulation. That report is very valuable and presents some very disturbing information regarding the effects of the interim rule. The survey covered 84 transit systems in 33 States and the District of Columbia, and the data came from the transit operators themselves.

The survey data showed widespread deficiencies were noted in paratransit services, the one alternative to accessible bus service. Those deficiencies include waiting lists for people needing the service for daily commutes; long advance-notice requirements; the setting of priorities by trip purpose; denials of requests for services; shorter hours and fewer days of service than bus service—and the list goes on.

Madam President, the GAO also reported in April, that, since the time that the local-option approach had been adopted in the interim rule, the Department has done very little to administer that rule and has provided almost no guidance or assistance to transit system operators regarding the requirements of the rule; and that UMTA regional and headquarters officials planned no active monitoring of transit operators to determine compliance.

These GAO findings clearly indicate a most unfortunate situation in which the Department of Transportation's hands-off, local-option, self-certification, no-monitoring, and no-criteria position is transforming the antidiscrimination laws into meaningless symbols. And it is not just that accessible bus service is fast becoming a lost hope in many parts of the country, the special services—paratransit—for handicapped persons are proving to be unsatisfactory.

The present course is clearly not the answer. Not only are we headed toward affording handicapped and elderly persons third-class treatment, we're frustrating our own efforts to rehabilitate people, help them get back into productive activities, be more independent, and get off of disability and welfare rolls. Mobility is certainly critical to these efforts, and it is a tragic waste to fund vocational rehabilitation programs and then frustrate those rehabilitation efforts by failing to insure that we continue to make progress in enabling disabled persons to find and to get to and from work.

In this amendment, we are not proposing an enormously costly burden for transit systems or requiring an immediate return to the controversial, tough standards that were in place before July of 1981.

I do believe, however, that it is essential that we turn the system around and get back on the right track. The four parts of our amendment are as follows:

First, it would require the Secretary to establish national criteria for providing handicapped and elderly persons with comparable, usable transportation services.

Second, our amendment would require the Secretary to establish some procedure for the Department to monitor and insure compliance with the criteria he sets up. The situation disclosed by the GAO report is totally unacceptable from the standpoint of the Department's current attitude and inactivity with respect to monitoring what services are being provided.

Third, our amendment would help give handicapped groups an opportunity on the local level to make their needs known and to be consulted on how they are to be met.

Fourth, recognizing that the proposed gas tax would provide a new source of funding for transit capital improvements, this amendment would authorize—but not require—the Secretary of Transportation to set aside a modest portion of that new funding for capital improvements specifically for the purpose of enabling the needs of elderly and handicapped persons to be met. In this connection, I urge my colleagues to keep in mind that, as the GAO report shows, transit services for handicapped and elderly persons are in very bad shape in some localities. These funds could be well spent to help correct that situation.

In summary, our amendment would deal with four vital aspects of handicapped and elderly transportation issues while still retaining the philosophy of granting broad discretion to local systems in the design and implementation of their programs.

I urge my colleagues to support this amendment.

REGULATIONS ARE OVERDUE

Madam President, I want to emphasize that this amendment by and large simply reinforces current provisions of law in section 16 of UMTA and section 504 of the Rehabilitation Act and elsewhere. The broad principles established in those provisions need to be carried out through regulations and it has now been almost a year and a half since the so-called interim final rule was promulgated. It has been almost a year since the Department of Transportation announced in the Federal Register that a permanent regulation is necessary and itself recognized the major shortcomings of the interim rule.

Clearly, the promulgation of new permanent regulations is overdue. And I believe that, when permanent regulations are proposed, they should provide some assurance that physically impaired individuals are provided with services that are in some fair measure comparable to the services that others receive. Is the U.S. Senate prepared to tell disabled and elderly citizens that they should receive much less from federally assisted systems?

Madam President, regarding the issue of cost, the set-aside portion of this amendment would, of course, result in no additional costs at all. With respect to the requirement that regulations be promulgated, as I am sure Senators can appreciate, since the criteria that this amendment would require would be developed by the Secretary of Transportation, it is not possible to forecast specifically what cost they might entail for transit systems. Obviously, for those systems that have continued to make progress toward providing adequate services for handicapped persons, the costs would be minimal. For those that have neglected the needs of these individuals the costs can be expected to be more substantial. In any event, through the use of the discretionary set-aside, the Secretary would be able to minimize the cost impact.

But let me ask my colleagues a question about cost: What will be the costs of continuing the present state of neglect? What will be the costs of treating disabled and elderly individuals as third-class citizens, the costs of precluding them from getting into the job market, the costs of forcing them to stay on the disability and welfare rolls? These are surely very substantial costs—in both human and economic terms. Those are the costs that we should be focusing upon and trying our best to avoid.

Madam President, what are "comparable" transportation services within the meaning of this amendment?

First, I would suggest that the question be addressed to the Secretary of Transportation. The Secretary would have discretion to make reasonable choices in establishing the criteria that would answer that question.

But let me give some examples of the kinds of issues that comparability raises where the services provided handicapped and elderly persons are

not in the form of accessible buses or other equipment serving the general public. Services for handicapped and elderly persons should cover the same general geographic area as do services for the general public. The fares charged handicapped and elderly persons should not on the average exceed the fares charged the general public for trips between the same destinations. Services for handicapped and elderly persons should not be denied or delayed based on the purpose of their trips.

The response time for services for handicapped and elderly persons should not impose an undue burden upon them. I would hope that the Secretary would allow no more than 24 hours advance notice—preferably less—to be required. He could provide for a progressively diminishing advance-notice maximum.

I would emphasize—as the word itself implies—that comparability does not require mathematical precision. A rule of reason would obviously have to be followed and, within reason, the Secretary would have a measure of latitude and discretion. But the goal is clear: Handicapped and elderly persons are to be assured the same type of benefit from transit services as nonhandicap persons enjoy.

(By request of Mr. RIEGLE, the following statement was ordered to be printed in the RECORD.)

● Mr. CRANSTON. Madam President, this amendment, which is cosponsored by the distinguished ranking minority member of the Banking Committee (Mr. RIEGLE), and the very able Senator from Connecticut (Mr. DODD), who serves on the committee with us, is designed to provide for fair and equitable treatment of handicapped and elderly persons in the context of our Nation's public mass transit system. Specifically, this amendment would authorize—but not require—the Secretary of Transportation to set aside for handicapped and elderly transit purposes 3.5 percent of transit capital infrastructure program funding. This is the same percentage that the Secretary may, under the Baker amendment, set aside for that purpose out of discretionary capital assistance funding under section 4(a)(3)(A) of the Urban Mass Transit Act as it is proposed to be amended.

Second, our amendment would require the Secretary of Transportation to issue regulations establishing criteria for handicapped and elderly transportation services.

Madam President, I submitted this amendment Tuesday night and my detailed statement explaining it appeared in part II of the RECORD for December 14 at page S14740.

Madam President, if the Congress is going to provide a multi-year extension of the mass transit program and if the Congress is going to levy a 5-cent gas tax, with a portion of those revenues dedicated to the transit capital infrastructure, I believe we should adopt this amendment to help assure that our Nation's handicapped and elderly citizens receive a modicum of fair treatment under these programs.

Madam President, I have long been deeply concerned that federally assisted transit systems must deal fairly and adequately with handicapped and elderly citizens.

I am convinced that the current situation is most unsatisfactory and that we should not leave it unchanged. On July 20 of last year, the Secretary of Transportation rescinded regulations that had been promulgated under section 504 of the Rehabilitation Act of 1973 and related statutes and that set forth specific standards by which federally assisted transit systems would be required to move closer to full accessibility. In place of those regulations, the Secretary issued an interim rule that requires that federally assisted systems certify themselves—subject to no Transportation Department monitoring—that they are making so-called special efforts and that establishes no national standards or criteria by which those efforts are to be gaged.

This local-option, self-certification, self-policing process is no more than a "paper-game" farce. It is not even a "paper tiger." It is a "paper kitten." In essence, these regulations are a total abdication of Federal responsibility for protecting handicapped persons from discrimination and inadequate services.

Indeed, the Department of Transportation came close to recognizing this fact when, on January 13 of this year, it published a Federal Register notice indicating that its interim final rule was being reconsidered. In that notice—published some 6 months after the interim rule—the Department stated that the disadvantage of the interim rule's approach "are that it leaves some transit operators unsure of what they should do and that it may permit some transit operators to make minimal transportation services available to handicapped persons." In addition, the Department noted that "without any substantive Federal criteria, the quality of transportation services offered to handicapped persons might be inconsistent or quite low in some areas."

That is the Department of Transportation talking about its own regulations.

On January 27 of this year, four other members of the Banking Committee and I asked the Comptroller General of the United States to conduct a survey of transit services under the interim regulation. That report is very valuable and presents some very disturbing information regarding the effects of the interim rule. The survey covered 84 transit systems in 33 States and the District of Columbia, and the data came from the transit operators themselves.

The survey data showed a very sharp drop-off in the acquisition of lift-equipped buses when the interim rule was issued. For example, 19 of the surveyed systems canceled orders for a total of 707 equipped buses. At the same time, widespread deficiencies were noted in paratransit services, the one alternative to accessible bus service. Those deficiencies include waiting lists for people needing the service for daily commutes; long advance-notice requirements; the setting of priorities by trip purpose; denials of requests for services; shorter hours and fewer days of service than bus service—and the list goes on.

Madam President, the GAO also reported in April, that, since the time that the local-option approach had been adopted in the interim rule, the Department has done very little to administer that rule and has provided almost no guidance or assistance to transit system operators regarding the requirements of the rule; and that UMTA regional and headquarters officials planned no active monitoring of transit operators to determine compliance.

These GAO findings clearly indicate a most unfortunate situation in which the Department of Transportation's hands-off, local-option, self-certification, no-monitoring, and no-criteria position is transforming the antidiscrimination laws into meaningless symbols. And it is not just that accessible bus service is fast becoming a lost hope in many parts of the country, the special services—paratransit—for handicapped persons are proving to be unsatisfactory.

The present course is clearly not the answer. Not only are we headed toward affording handicapped and elderly persons third-class treatment, we are frustrating our own efforts to rehabilitate people, help them get back into productive activities, be more independent, and get off of disability and welfare rolls. Mobility is certainly critical to these efforts, and it is a tragic waste to fund vocational rehabilitation programs and then frustrate those rehabilitation efforts by failing to insure that we continue to make progress in enabling disabled persons to find and to get to and from work.

In this amendment, we are not proposing an enormously costly burden for transit systems or requiring an immediate return to the controversial, tough standards that were in place before July of 1981.

I do believe, however, that it is essential that we turn the system around and get back on the right track. The four parts of our amendment are as follows:

First, it would require the Secretary to establish national criteria for providing handicapped and elderly persons with comparable, usable transportion services. In this regard, I would note that the Secretary would have broad discretion to formulate those criteria, and I am not sure that I or many others deeply concerned about these issues would necessarily be satisfied with the criteria that the Secretary would develop. But I believe it is even less productive to have regulations implementing section 504 and UMTA section 16 that set no minimum standards, no bottom lines.

Madam President, I want to emphasize that this amendment by and large simply reinforces current provisions of law in section 16 of UMTA and section 504 of the Rehabilitation Act and elsewhere. The broad principles established in those provisions need to be carried out through regulations and it has now been almost a year and a half since the so-called interim final rule was promulgated. It has been almost a year since the Department of Transportation announced in the Federal Register that a permanent regulation is necessary and itself recognized the major shortcomings of the interim rule.

Clearly, the promulgation of new permanent regulations is overdue. And I believe that, when permanent regulations are proposed, they should provide some assurance that physically impaired individuals are provided with services that are in some fair measure comparable to the services that others receive. Is the U.S. Senate prepared to tell disabled and elderly citizens that they should receive much less from federally assisted systems?

We have declarations of national policy in UMTA that elderly and handicapped persons have the same right as other persons to use mass transit services and that special efforts should be made in the planning and design of those services in order to assure the availability to elderly and handicapped persons of services they can use. How can we have those declarations and, at the same time, condone Federal regulations saying that federally assisted programs have no specific obligations other than to file a piece of paper—subject to no verification—simply stating that they are making special efforts?

Second, our amendment would require the Secretary to establish some procedure for the Department to monitor and insure compliance with the criteria he sets up. The situation disclosed by the GAO report is totally unacceptable from the standpoint of the Department's current attitude and inactivity with respect to monitoring what services are being provided.

Third, should not any flexible system that leaves considerable discretion to local transit operators assure that representative organizations of handicapped and elderly persons will have meaningful opportunities to participate in the process of planning and carrying out the services to meet their needs? The GAO report indicated that this consultative process is presently adequate. Our amendment would help give these groups an opportunity on the local level to make their needs known and to be consulted on how they are to be met.

Fourth, recognizing that the proposed gas tax would provide a new source of funding for transit capital improvements, this amendment would authorize—but not require—the Secretary of Transportation to set aside a modest portion of that new funding for capital improvements specifically for the purpose of enabling the needs of elderly and handicapped persons to be met. In this connection, I urge my colleagues to keep in mind that, as the GAO report shows, transit services for handicapped and elderly persons are in very bad shape in some localities. These funds could be well spent to help correct that situation.

In view of the nonavailabililty of mass transit services for handicapped persons, many of them are forced to rely on private cars and taxis. Thus, they will be bearing a particularly heavy burden in paying the new gas tax—directly or indirectly.

Is not it only fair, Madam President, that some of these revenues be dedicated to meeting their needs?

Let us not literally leave these deserving individuals behind. Through the adoption of this amendment, we can show them that the Senate cares about their needs and is willing to make some provision for helping to meet them.

In summary, our amendment would deal with four vital aspects of handicapped and elderly transportation issues while still retaining the philosophy of granting broad discretion to local systems in the design and implementation of their programs. It would provide disabled and elderly persons with some fairness, some participation in the process, some Federal accountability, and an opportunity to share in some of the new tax revenues they must pay. It would leave great flexibility to the Secretary of Transportation to set the criteria and establish procedures for monitoring. But it would not permit the Federal Government to shed entirely its responsibilities—to abandon vast numbers of physically impaired persons to a future like the past they have known—one in which they were excluded, as no citizen should be, from the mainstream of our society and the opportunities that adequate transit services can and should open up for them.

I urge my colleagues to support this amendment.●

Mr. RIEGLE. Madam President, I ask unanimous consent that Senator MELCHER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the amendment of the Senator from California.

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. We are prepared to accept the amendment without a rollcall.

Mr. RIEGLE. I thank the Senator.

The PRESIDING OFFICER. There is not a sufficient second at the moment.

The amendment (No. 5011) was agreed to.

Mr. RIEGLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Parliamentary inquiry, Madam President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. What is now the pending business?

The PRESIDING OFFICER. The amendment offered by the majority leader in the nature of a substitute.

Mr. HUMPHREY. Further question. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. DOLE. Madam President, I would like to make one more unanimous-consent request, that the amendment I have sent to the desk may be in order at this time.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Reserving the right to object, I am sorry, what is the unanimous-consent request?

Mr. DOLE. Madam President, I would say to the Senator from North Carolina it is the same package of noncontroversial amendments. Three are technical in nature, totally technical. One deals with architectural barriers for the handicapped. One is the amendment of the distinguished Senator from Delaware which is a germane amendment. One deals with Eastern Airlines' safe harbor leasing, and another is the amendment of the distinguished retiring Senator from California (Mr. HAYAKAWA) dealing with California public utilities.

Mr. EAST. Madam President, if we may have order.

The PRESIDING OFFICER. The Senate will please be in order.

The Senator from North Carolina.

Mr. EAST. First, let me say that I am not suggesting these amendments do not have their relative merit, as the implication in ticking off the list, for example, on the handicapped, that some way or other I do not think they have merit. I am sure that each and perhaps every one of them have merit and I am willing to look at the merits. As we saw on this last amendment, I do not really think Senators know what they voted for. We had 1 minute of explanation.

We just voted on faith, and I do not know that does violence to the deliberative process of having not the vaguest notion of what we are really doing.

I am not questioning these seven or eight or nine—I do not know; the package seems to grow by the minute—that every one of them have merit.

I am willing to do this: I am willing to enter into a unanimous-consent agreement to have 1 hour of debate before the Baker substitute so we can look at these amendments and debate them in that hour period and dispose of them.

But I do not want this to be interpreted as saying they do not have merit. This is not the issue before the group.

The point is let us look at them and see what they are and what they deal with and to allow 1 hour on seven or eight amendments to debate that prior to the vote on the Baker substitute I think is an eminently fair and reasonable request.

I am willing to entertain a unanimous-consent request to that effect.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I withdraw the amendment. (UP 1582).

STATEMENTS ON BAKER SUBSTITUTE AMENDMENT—AMENDMENT NO. 4998

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Mr. ROBERT C. BYRD. Mr. President, it is with some disbelief that I look back over the long days and nights during which the Senate has considered this legislation. Originally, we were called back by the President to act on as many regular appropriations bills as possible, and to pass a continuing resolution that would keep the remaining Government agencies functioning. Yet, we found that the President's main priority became a gasoline tax proposal that is unfair, unnecessary, and ill timed.

It is difficult to justify action on this legislation under our current economic circumstances, as well as the hurried conditions of this lamest of lameduck sessions. And I believe that the extraordinary time pressures under which the Senate has operated made it impossible to give these proposals the dispassionate consideration and analysis needed to separate good ideas from passing fancies.

Clearly, we must provide funds for badly needed road and bridge repairs. But the 5-cent-per-gallon tax increase on gasoline unfairly hits low- and middle-income people.

Perhaps there may be some instances in which a gas tax would be justified. But it is not justified under current circumstances. We are in the middle of a profound and record-setting recession. This administration's proposals have taken pennies here and dollars there from the poor and middle class throughout this Congress. Now they want to stifle recovery and put an additional burden on the poor with a gas tax. I cannot support such a move at this time.

This tax has been strongly supported by a President who promised earlier this year that he would not ask for tax increases. In his 1982 state of the Union message, he said, "I will seek no tax increases this year."

As recently as September 28 of this year, the President ruled out an increase in the Federal gasoline excise tax. He was asked the following question at a White House Press Conference on that date:

Knowing of your great dislike for taxes and tax increases, can you assure the American people now that you will flatly rule out any tax increases, revenue enhancers or, specifically, any increase in gasoline taxes?

And the President replied:

Unless there is a palace coup and I am overtaken or overthrown * * * I don't see the necessity for that.

The President does not give the appearance of a man overthrown, but he does give the appearance of a man whose word is not an iron promise.

Members may recall the $98 billion in tax increases and "revenue enhancers" that the President sought this summer. That particular package of tax increases had many unfair elements, particularly tax increases on tobacco and telephones, increased unemployment taxes for small businesses, decreased deductibility of medical expenses, and withholding of tax on interest and dividends.

These provisions most deeply affect the elderly and working Americans of all ages—those who can least afford new taxes.

Democrats offered an alternative—an amendment that was fair and equitable—to replace the unfair and inequitable tax increases. Our amendment would have deferred a portion of the Kemp-Roth tax cut for those with incomes between $46,500 and $78,600, and would have eliminated the third year of the cut for those with incomes greater than $78,600. This proposal would have reduced the deficit by a total of nearly $25 billion over 3 years.

Democrats offered a similar amendment to the pending bill, H.R. 6211. Our amendment would have deferred a part of the final installment of Kemp-Roth for those with incomes between $50,000 and $65,000, and would have more than paid for the additional bridge and highway construction contained in this bill.

Democrats fought hard to insure that the Nation's most significant problem—unemployment—was at least partially eased by extending unemployment benefits for those in grave danger of exhausting their eligibility. And we will continue to seek more help for the 12 million Americans out of work.

On behalf of Senate Democrats, I offered an alternative jobs package amendment to this bill. It reflected the suggestions and advice of many Senators representing a broad cross-section of views and philosophies. It was a balanced and carefully crafted amendment.

The amendment had several major components:

First, it would have authorized a labor-intensive community public works program funded at $2 billion in the current fiscal year. This program would have channeled funds directly to State and local governments through the community development block grant program, specifically for hiring unemployed workers referred to the program by the Employment Service to make repairs and improvements to public buildings, streets, schools, and other public facilities in the communities.

The amendment would have added $1 billion to the heavy public works proposal in the legislation, to be used for urban water system and sewer rehabilitation and construction programs. It also would have required that an inventory be made of existing components of the public infrastructure, and a plan developed and submitted to the Congress for their repair, modernization and regular replacement.

The amendment would have increased funding for several existing programs which would have generated significant employment, including $400 million for public housing rehabilitation and modernization; $100 million for reforestation and timber stand improvement through the Forest Service; $100 million for the senior citizens community service employment program under the Older Americans Act; and $37 million for reclamation of abandoned mine sites.

The amendment would have invested $200 million immediately in retraining workers who have lost jobs in declining industries—jobs which are not likely to be filled even when economic recovery begins.

The amendment would have helped create jobs in rural America by aiding farmers and ranchers in expanding

their markets through increased sales of U.S. agricultural exports, and provided $750 million for the agricultural export credit revolving fund in the food-for-peace program for this purpose.

For those millions of Americans whose unemployment benefits either have expired or are about to do so—in many cases in the week before Christmas—our amendment would have provided additional weeks of benefits.

Our amendment, altogether, would have resulted in the rapid creation of over 350,000 direct jobs—and a minimum of 100,000 indirect jobs—over and above the approximately 300,000 direct and indirect jobs that advocates of the highway and mass transit legislation claim will result from their program.

I believe it also is essential to note that there is a serious dispute concerning the number of net new jobs that actually will result from passage of the highway, mass transportation, and gas tax bill. A number of reknowned economists—both liberal and conservative—have indicated their belief that the bill, at best, will create only a very few jobs beyond those the gas tax will siphon off from the economy. Regardless of the accuracy of these observations, clearly this bill is not a bill to employ the currently unemployed. Virtually all of the jobs that will result from this program will be filled by skilled workers, many of whom now are employed, whose employers simply will move to undertake the new work generated by this legislation. President Reagan leveled with the country on this matter, and stated emphatically that this bill is not a "jobs bill."

It is clear that this Senator is committed to addressing the critical problem of unemployment. I offered the Democratic jobs program amendment in that spirit. Senator LEVIN's amendment to extend unemployment benefits, which was similar to a proposal I had advanced earlier, reaffirms that commitment.

Senator RIEGLE offered an amendment to make this regressive tax measure more fair by expanding the earned income tax credit program. This program helps our poorest working families—whose earned income must be below $10,000 a year. Senator RIEGLE's amendment would have offset the gas tax for these families who face a daily struggle for existence. But the Senate unfortunately defeated even this attempt at introducing a measure of fairness into the administration's program.

I worked with other Senators to gain a provision in the highway portion of this bill and its October predecessor that improves the quality of coal haul roads. West Virginia has a large number of these roads that are in sore need of improvement, and I have pursued that provision with vigor.

As a member of the Appropriations Committee, I have long been involved with bridge projects in West Virginia. The Weirton-Steubenville Bridge is one of the most recent examples of my concern for adequate transportation facilities. There are thousands of other bridges across America that need repair, and I will continue to be involved in seeing that this is accomplished.

Recognizing that we have failed repeatedly to make this bill stronger, fairer, more helpful to the unemployed and less painful to working Americans, I cannot justify support for this bill at this time.

The time between adjournment sine die and the convening of the 98th Congress should be spent in devising a far better approach to jobs, taxes, and infrastructure improvements.

I, as Democratic leader and as a Senator from West Virginia, have cooperated with the majority leader and his side of the aisle. We have bent over backward to cooperate in expediting consideration of this measure. Last week, we proposed to forebear from offering further amendments to the bill, if those on the Republican side would do the same. We cooperated in voting for cloture. We cooperated in setting a time certain to vote on the Baker substitute. So there has been no obstruction on our part.

In the end, we must ask if the President asked the Congress to return in order to present this microcosm of the flaws in his overall program? Perhaps there has been, as the President puts it, a "place coup." For there are certainly better ways and a more appropriate time to accomplish the purposes of this bill.

I might say that my constitutent mail is running about 7 to 1 against the basic gasoline tax increase. I have heard further serious opposition to the other tax increases in H.R. 6211 as well.

I simply suggest that the Senate can do better than this. I am confident that we can act in a more reasoned manner to produce a superior product at the beginning of the new Congress. For those reasons, I will vote against this measure.

I simply suggest that the American people deserve better than this bill. They deserve better that this hasty, regressive, half solution to a serious problem.

They deserve better than broken promises and trickle-down economics. They deserve a serious attempt to deal with the raging unemployment that plagues this great Nation, and the sickly state of our basic industries.

I am confident that the Senate can act in a more reasoned and creative manner at the beginning of the new Congress. I will not give the citizens of my State and this Nation a tax increase for Christmas. I will vote against this measure.

AMENDMENT NO. 4998

The PRESIDING OFFICER. The question is on agreeing to the amendment of the majority leader as the substitute.

The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I ask for a division of the question.

The PRESIDING OFFICER. The motion to strike and insert is not divisible.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. The pending business is the Baker substitute amendment?

The PRESIDING OFFICER. It is.

Mr. HUMPHREY. And that is ruled as a motion to strike and insert; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. Very well. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

On this question, the yeas and nays have been ordered, and the Clerk will call the roll.

The legislative Clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HEINZ) are absent on official business.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HEINZ), would vote "yea."

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Washington (Mr. JACKSON), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 24, as follows:

[Rollcall Vote No. 461 Leg.]

YEAS—71

Abdnor	Chafee	Durenberger
Andrews	Chiles	Exon
Armstrong	Cochran	Garn
Baker	Cohen	Glenn
Baucus	D'Amato	Gorton
Bentsen	Danforth	Grassley
Boschwitz	DeConcini	Hart
Brady	Dixon	Hatch
Burdick	Dodd	Hawkins
Byrd, Harry F., Jr.	Dole	Hayakawa
	Domenici	Huddleston

Humphrey	Moynihan	Schmitt
Jepsen	Murkowski	Simpson
Kassebaum	Nickles	Specter
Laxalt	Nunn	Stafford
Leahy	Packwood	Stennis
Levin	Pell	Stevens
Long	Percy	Symms
Lugar	Pressler	Thurmond
Mathias	Quayle	Tower
Matsunaga	Randolph	Tsongas
Mattingly	Riegle	Warner
McClure	Roth	Weicker
Melcher	Rudman	Zorinsky

NAYS—24

Biden	East	Kennedy
Boren	Ford	Metzenbaum
Bradley	Heflin	Mitchell
Bumpers	Helms	Proxmire
Byrd, Robert C.	Hollings	Pryor
Cannon	Inouye	Sarbanes
Denton	Johnston	Sasser
Eagleton	Kasten	Wallop

NOT VOTING—5

Cranston	Hatfield	Jackson
Goldwater	Heinz	

So Mr. BAKER's amendment (No. 4998) was agreed to.

Mr. BAKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. I yield the floor.

The PRESIDING OFFICER. Third reading.

Mr. HELMS. A point of order.

Mr. BAKER. Mr. President, I move to proceed to the motion to reconsider the vote by which the motion to invoke cloture on H.R. 6211 was defeated.

POINT OF ORDER

Mr. HELMS. Point of order.

The PRESIDING OFFICER. The question is on the motion to proceed.

Mr. HELMS. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina will state his point of order.

SEVERAL SENATORS. We cannot hear the Senator.

Mr. HELMS. I wish the man up there would turn on my microphone.

Mr. President, Public Law 95-435 provides:

Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

According to figures provided me by the Senate Budget Committee, estimated revenues from this bill would be, at most, $22.9 billion. Estimated expenditures, on the other hand, would be at least $27.1 billion. According to my arithmetic, this bill would add another $4.2 billion to the Federal deficit.

Since H.R. 6211 adds to the Federal deficit, it is in violation of Public Law 95-435. I raise a point of order against H.R. 6211 on the grounds that it violates Public Law 95-435.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, as I understood the point of order made by the distinguished Senator from North Carolina, it was not made under the Budget Act. Is my recollection correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Rather, it was made on interpretation of a previously enacted piece of statute law. Is that correct?

The PRESIDING OFFICER. That is true.

Mr. BAKER. Is it within the domain of the Chair to rule on an interpretation of law?

The PRESIDING OFFICER. It is not.

Mr. BAKER. Mr. President, is a statute previously passed then superseded by any statute which is subsequently passed?

The PRESIDING OFFICER. It is.

Mr. BAKER. Mr. President, I move to table the point of order.

The PRESIDING OFFICER. The point of order stated by the Senator from North Carolina involves interpretation of law which under the Senate procedures the Presiding Officer cannot make. The Chair submits to the Senate, Is the point of order well taken?

Mr. BAKER. Mr. President, I move to table the point of order and ask for the yeas and nays.

Mr. HELMS. Will the majority leader yield for a moment?

Mr. BAKER. Yes.

Mr. HELMS. I knew that.

Mr. BAKER. Well, I did not know that.

Mr. HELMS. It is a question for the Senate to decide and the Senate is going to decide whether it is going to vote to violate the law.

BAKER. Mr. President, I did not yield for debate and I believe debate is not in order.

Mr. HELMS. I believe the law is being violated.

Mr. BAKER. Mr. President, I do not think any law is being violated and I move to table the point of order.

The PRESIDING OFFICER. Are the yeas and nays requested?

Mr. BAKER. They are requested.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 73, nays 22, as follows:

[Rollcall Vote No. 462 Leg.]

YEAS—73

Abdnor	Garn	Packwood
Andrews	Glenn	Pell
Baker	Gorton	Percy
Baucus	Hart	Pressler
Bentsen	Hawkins	Quayle
Biden	Hayakawa	Randolph
Boschwitz	Hollings	Riegle
Bradley	Huddleston	Roth
Brady	Inouye	Rudman
Bumpers	Jepsen	Sarbanes
Burdick	Kassebaum	Sasser
Byrd, Robert C.	Kennedy	Schmitt
Cannon	Laxalt	Simpson
Chafee	Leahy	Specter
Chiles	Levin	Stafford
Cochran	Long	Stennis
Cohen	Lugar	Stevens
D'Amato	Mathias	Symms
Danforth	Matsunaga	Thurmond
Dixon	McClure	Tower
Dodd	Melcher	Tsongas
Dole	Metzenbaum	Wallop
Domenici	Mitchell	Weicker
Durenberger	Moynihan	
Eagleton	Murkowski	

NAYS—22

Armstrong	Ford	Mattingly
Boren	Grassley	Nickles
Byrd, Harry F., Jr.	Hatch	Nunn
	Heflin	Proxmire
DeConcini	Helms	Pryor
Denton	Humphrey	Warner
East	Johnston	Zorinsky
Exon	Kasten	

NOT VOTING—5

Cranston	Hatfield	Jackson
Goldwater	Heinz	

So the motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. The question is on the motion to proceed to the motion to reconsider the vote by which a cloture was defeated on H.R. 6211.

Mr. HELMS. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state this point of order.

Mr. HELMS. I want to make a point of order with reference to section 311 of the Congressional Budget Act, and I

think Senators ought to be reminded what they have said and, with their indulgence, I will read it.

Mr. BAKER. Mr. President, the point of order is not debatable.

Mr. HELMS. I am not debating.

Mr. President, I make the point of order under section 311 of the Budget Act that H.R. 6211 contains budget authority in excess of that permitted by the most recently agreed to concurrent resolution on the budget.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I move, in accordance with the provisions of section 904 of the Budget Act, to waive section 311 of that act with respect to the pending Baker substitute amendment.

The PRESIDING OFFICER. The question is on the motion.

Mr. HELMS. I ask for the yeas and nays, Mr. President. I am entitled to that.

Mr. BAKER. You are entitled to that.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Washington (Mr. JACKSON) are necessarily absent. I further announced that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 81, nays 14, as follows:

[Rollcall Vote No. 463 Leg.]

YEAS—81

Abdnor		
Andrews	Denton	Kasten
Baker	Dixon	Kennedy
Baucus	Dodd	Laxalt
Bentsen	Dole	Leahy
Biden	Domenici	Levin
Boschwitz	Durenberger	Long
Bradley	Eagleton	Lugar
Brady	Garn	Mathias
Bumpers	Glenn	Matsunaga
Burdick	Gorton	McClure
Byrd, Harry F., Jr.	Grassley	Melcher
Byrd, Robert C.	Hart	Metzenbaum
Cannon	Hatch	Mitchell
Chafee	Hawkins	Moynihan
Chiles	Hayakawa	Murkowski
Cochran	Heflin	Nunn
Cohen	Huddleston	Packwood
D'Amato	Inouye	Pell
Danforth	Jepsen	Percy
DeConcini	Johnston	Pryor
	Kassebaum	Quayle
Randolph	Simpson	Thurmond
Riegle	Specter	Tower
Roth	Stafford	Tsongas
Rudman	Stennis	Wallop
Sarbanes	Stevens	Warner
Schmitt	Symms	Weicker

NAYS—14

Armstrong	Helms	Pressler
Boren	Hollings	Proxmire
East	Humphrey	Sasser
Exon	Mattingly	Zorinsky
Ford	Nickles	

NOT VOTING—5

Cranston	Hatfield	Jackson
Goldwater	Heinz	

So the motion to waive section 311 of the Budget Act was agreed to.

Mr. BAKER. Mr. President, the pending question before the Senate, I believe, is my motion to proceed to the motion to reconsider the vote by which the motion to invoke cloture on H.R. 6211 was defeated.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, in the normal sequence of events if that motion prevails, then we will be on the motion to reconsdier, and if it is reconsidered, then we would be on cloture.

Let me ask the Chair this: I assume that the cloture vote, if we reach that, on that vote the yeas and nays woud be automatic, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Have the yeas and nays been ordered on the other two at this time?

The PRESIDING OFFICER. On neither.

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the motion to proceed and the motion to reconsider with one show of seconds, and that if it is granted that the votes be back to back which, of course, they would be, and the first vote be 15 minutes and the succeeding two votes be 10 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MOTION TO PROCEED TO MOTION TO RECONSIDER

Mr. BAKER. Now, Mr. President, the question before the Senate is the motion to proceed to the motion to reconsider.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I ask for the yeas and nays, Mr. President, under the order.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered on both motions.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to proceed to the motion to reconsider the vote by which the motion to invoke cloture on H.R. 6211 was rejected.

The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HART), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote" yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote or to change their vote?

The result was announced—yeas 86, nays 7, as follows:

Rollcall Vote No. Leg. 464

YEAS—86

Abdnor	Exon	Moynihan
Andrews	Ford	Murkowski
Baker	Garn	Nunn
Baucus	Glenn	Packwood
Bentsen	Gorton	Pell
Biden	Grassley	Percy
Boren	Hatch	Pressler
Boschwitz	Hawkins	Pryor
Bradley	Hayakawa	Quayle
Brady	Heflin	Randolph
Burdick	Hollings	Riegle
Byrd, Harry F., Jr.	Huddleston	Roth
Byrd, Robert C.	Inouye	Rudman
Cannon	Jepsen	Sarbanes
Chafee	Johnston	Sasser
Chiles	Kassebaum	Schmitt
Cochran	Kasten	Simpson
Cohen	Kennedy	Specter
D'Amato	Laxalt	Stafford
Danforth	Leahy	Stennis
DeConcini	Levin	Stevens
Denton	Long	Symms
Dixon	Lugar	Thurmond
Dodd	Mathias	Tower
Dole	Matsunaga	Tsongas
Domenici	Mattingly	Wallop
Durenberger	Melcher	Warner
Eagleton	Metzenbaum	Weicker
	Mitchell	Zorinsky

NAYS—7

Armstrong	Humphrey	Proxmire
East	McClure	
Helms	Nickles	

NOT VOTING—7

Bumpers	Hart	Jackson
Cranston	Hatfield	
Goldwater	Heinz	

So the motion to proceed to the reconsideration was agreed to.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to reconsider.

The assistant legislative clerk read as follows:

Motion to reconsider the cloture motion on the Surface Transportation Act of 1982.

Mr. ROBERT C. BYRD. Mr. President, this is a 10-minute rollcall vote; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 87, nays 8, as follows:

[Rollcall Vote No. 465 Leg.]

YEAS—87

Abdnor	Exon	Murkowski
Andrews	Ford	Nunn
Armstrong	Garn	Packwood
Baker	Glenn	Pell
Baucus	Gorton	Percy
Bentsen	Grassley	Pressler
Biden	Hart	Pryor
Boren	Hawkins	Quayle
Boschwitz	Hayakawa	Randolph
Bradley	Heflin	Riegle
Brady	Hollings	Roth
Bumpers	Huddleston	Rudman
Burdick	Inouye	Sarbanes
Byrd, Harry F., Jr.	Jepsen	Sasser
Byrd, Robert C.	Johnston	Schmitt
Chafee	Kassebaum	Simpson
Chiles	Kasten	Specter
Cochran	Kennedy	Stafford
Cohen	Laxalt	Stennis
D'Amato	Leahy	Stevens
Danforth	Levin	Symms
DeConcini	Long	Thurmond
Denton	Lugar	Tower
Dixon	Mathias	Tsongas
Dodd	Matsunaga	Wallop
Dole	Mattingly	Warner
Domenici	Melcher	Weicker
Durenberger	Metzenbaum	Zorinsky
Eagleton	Mitchell	
	Moynihan	

NAYS—8

Cannon	Helms	Nickles
East	McClure	Proxmire
Hatch	Mattingly	

NOT VOTING—5

Cranston	Hatfield	Jackson
Goldwater	Heinz	

So the motion to reconsider was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the clerk will state the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard H. Baker, Jr., Rudy Boschwitz, Strom Thurmond, Ted Stevens, Warren Rudman, Arlen Specter, Robert Dole, Slade Gorton, John H. Chafee, Bob Packwood, Robert T. Stafford, S. I. Hayakawa, Richard G. Lugar, James A. McClure, Dan Quayle, Frank H. Murkowski, David Durenberger, and Jennings Randolph.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on H.R. 6211, the Surface Transportation Assistance Act of 1982, shall be brought to a close? The yeas and nays are mandatory under the rule. The rollcall will be 10 minutes in duration. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 87, nays 8, as follows:

[Rollcall Vote No. 466]

YEAS—87

Abdnor	Ford	Murkowski
Andrews	Garn	Nunn
Baker	Glenn	Packwood
Baucus	Gorton	Pell
Bentsen	Grassley	Percy
Biden	Hart	Pressler
Boren	Hatch	Pryor
Boschwitz	Hawkins	Quayle
Bradley	Hayakawa	Randolph
Brady	Heflin	Riegle
Bumpers	Hollings	Roth
Burdick	Huddleston	Rudman
Byrd, Harry F., Jr.	Inouye	Sarbanes
Byrd, Robert C.	Jepsen	Sasser
Chafee	Johnston	Schmitt
Chiles	Kassebaum	Simpson
Cochran	Kasten	Specter
Cohen	Kennedy	Stafford
D'Amato	Laxalt	Stennis
Danforth	Leahy	Stevens
DeConcini	Levin	Symms
Denton	Long	Thurmond
Dixon	Lugar	Tower
Dodd	Mathias	Tsongas
Dole	Matsunaga	Wallop
Domenici	Mattingly	Warner
Durenberger	Melcher	Weicker
Eagleton	Metzenbaum	Zorinsky
Exon	Mitchell	
	Moynihan	

NAYS—8

Armstrong	Helms	Nickles
Cannon	Humphrey	Proxmire
East	McClure	

NOT VOTING—5

Cranston	Hatfield	Jackson
Goldwater	Heinz	

Mr. PRESIDING OFFICER. On this vote, the yeas are 87, the nays are 8. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

THIRD READING

Mr. BAKER. Third reading.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

(The following statements were delivered or submitted during consideration of the bill and are printed at this point for purposes of continuity:)

Mr. METZENBAUM. Madam President, I am going to vote against this legislation.

I have no higher legislative priority than helping to find jobs for the more than 11 million Americans, many of them Ohioans, who are out of work. I have spent countless hours in recent months working to ease the suffering of the unemployed. So I yield to no one in my desire to create jobs.

But the fact is, this is not a jobs bill. It is a tax bill—it is a tax bill—it is a tax bill masquerading as a jobs bill. It is not only a tax bill, it is a bad tax bill. The gasoline tax is unquestionably a regressive tax which falls most heavily on those least able to pay it. This administration and this Congress have already done enough to add to the tax burden of middle-income and poor Americans. Just a few months ago, we passed a bill doubling the cigarette tax and reducing the medical deduction. And a year ago we passed a tax bill to make the rich richer.

The tax might be defensible if it would, in fact, create hundreds of thousands of jobs. But that clearly will not be the result. Indeed, there is persuasive evidence that the tax will actually lead to a net reduction in employment. According to Martin Feldstein, Chairman of the Council of Economic Advisers, the tax "may actually increase unemployment during the first year or two."

I believe Mr. Feldstein is correct.

I also believe that my State of Ohio will be among the biggest losers if this program is enacted.

In 1984, the first full year that the new tax would be collected, Ohioans would pay $510 million into the highway trust fund. Under the 85-percent guarantee contained in the bill, Ohio would receive $433 million in return, yielding a net loss under the highway portion of the bill of $76.5 million. I might point out that today, Ohio receives back 89 cents on each dollar donated to the fund. That is hardly ideal, but it is certainly better than what is provided under this legislation. I see no reason why my State should receive a smaller share of the trust fund revenues than it currently gets.

With respect to the transit trust fund, Ohioans would contribute $51 million and could expect to receive $80 million in return, a net gain of $29 million.

In sum, the State would lose $47.5 million if this program is enacted. How on earth can I go back to the people of my State and explain to them that I not only voted to raise their taxes, but to make sure that they would not receive their fair share of those taxes?

What we have is a bill under which Ohioans would subsidize the creation of jobs in other States, chiefly in the Sun Belt, many of which have far lower unemployment rates than Ohio does. I invite the sponsors of the bill to explain that to unemployed steelworkers and other jobless Ohioans.

It would make far more sense for Ohio to simply impose its own 5-cent-a-gallon gas tax, knowing that all the revenue raised would benefit the citizens of our State.

In the final analysis, this legislation imposes a new, regressive tax, it will not return a fair share of that tax to Ohio and, indeed, will very likely lead to a net loss of jobs in the State while accelerating the flow of Federal aid—and jobs—to the less needy States in the Sun Belt.

To vote for this and then tell Ohioans that I voted for jobs would be a cruel sham. This legislation ought to be killed. Let us stop wasting our time with gimmicky programs that insult the jobless and let us get on with serious efforts to reduce unemployment.

TAR SANDS TAX CREDITS

Mr. GARN. Five years ago Congress enacted the energy tax credit, in part for synthetic fuel projects. Since then the IRS has ruled that we did not intend to apply the credit to tar sands synthetic fuel projects, such as the one in Santa Rosa, N. Mex. or Price, Utah. Did the Senator by his amendment, which was accepted last Wednesday, intend to ratify this misdirected interpretation of our legislative intent?

Mr. DOMENICI. No; not at all.

Mr. GARN. Do you agree that the tax credit for alternative energy property should include tar sands as well as coal gasification, liquifaction, and oil shale, and so forth?

Mr. DOMENICI. Yes; certainly. By extending the affirmative commitment rule in this instance, we intended for the extensions to apply across the board to all eligible alternative fuel sources including tar sands.

Mr. GARN. Thank you very much for helping clarify that point.

FEDERAL-AID HIGHWAY IMPROVEMENT ACT

● Mr. BENTSEN. Mr. President, I would like to commend Senator STAFFORD, the chairman of the Committee on Environment and Public Works, his distinguished ranking minority member, Senator RANDOLPH, and Senator SYMMS, the chairman of the Transportation Subcommittee, for their outstanding work on the Federal-Aid Highway Improvement Act.

As the senior Democratic member of the Transportation Subcommittee I have been deeply involved with the Federal-aid highway program for the last decade. I fully and strongly support this legislation as reported out of committee and I urge my colleagues to join me in this support.

S. 3043, Mr. President, provides for the largest authorization levels in the history of the highway program; $12 billion in 1983, with the gradual increase to $15 billion in 1987.

It should be emphasized, however, that our highway needs and requirments are larger and more urgent than at any time in the past. Thousands of bridges all across the country are in a state of disrepair and 1 out of every 2 paved miles of highway needs resurfacing or complete reconstruction.

Over the years we have made an enormous and, in my opinion, extremely productive investment in our Federal-aid highway system. If we want to preserve and protect that investment for the future we must be prepared to devote substantial resources to resurfacing, restoring, rehabilitating, and reconstructing the system. Without that investment America's highway system is in danger of crumbling and buckling into disrepair.

S. 3043 recognizes the urgent and massive nature of the maintenance requirement by increasing the 4R budget from $800 million this year to $1.8 billion in 1983, with a gradual increase to $3.4 billion in 1987.

Another important aspect of this legislation is that it maintains the "user pays" principle that has always been a key element of the Federal-aid highway program. Now it is true, Mr. President, that under S. 3043 the user pays more than in the past and has a greater stake in the system, but I sincerely believe that the millions of Americans who make use of and benefit from the Interstate Highway System recognize the importance of maintaining that system and the equity of the user pays principle.

However, in considering this legislation, I also felt strongly that it was time to deal with past inequities in the way Federal-aid highway funds are spent. With a vast increase in the size of the program those inequities would have been magnified to the detriment of donor States.

For example, the State of Texas has received a return of only 76 cents for every dollar invested since the program began. While it is true that the Texas rate of return has improved sharply in recent years, we are still a donor State contributing much more to the fund than we receive. While Texas has been losing, on the average, a quarter for every dollar invested, some States get back more than $2.50, and that is not a bad investment by any standard.

In an effort to redress this obvious, longstanding inequity in an expanded highway bill, I offered and the committee accepted an amendment that guarantees each State a minimum return of 85 percent for every dollar contributed to the highway trust fund.

Under the terms of my amendment the total authorization level for the Federal-aid highway program in each fiscal year 1983 through 1987 will be increased by an amount estimated by DOT to be sufficient to provide an 85 percent minimum apportionment under the total program. Any State slated to receive less than an 85 percent return would be granted an additional allocation to bring their total program level to the required minimum. These funds could be used by the States for any Federal-aid highway program category. It is important to understand that while my amendment will address the inequities of the past generation, it will not result in a reduction in the estimated apportionment to other States.

I have received correspondence from the Department of Transportation, confirming that this amendment creates contract authority for projects carried out with funds allocated under the amendment. I ask that the letter from John Fowler, General Counsel of the Department of Transportation, be placed in the RECORD at this point.

The letter follows:

DEPARTMENT OF TRANSPORTATION,
Washington, D.C., December 9, 1982.

The Hon. LLOYD BENTSEN,
U.S. Senate
Washington, D.C.

DEAR SENATOR BENTSEN: This is in response to the request of Mr. Lee Fuller of your staff on your amendment to S. 3043 made during the markup by the Committee on Environment and Public Works on December 7. The particular amendment concerned the minimization of contributions. This amendment allocates among the States amounts sufficient to ensure that a State's percentage of apportionments in each fiscal year (FY 1984–87) of primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination and rail-highway crossing funds shall not be less than 85 percent of the percentage of estimated tax payments attributable to highway users a State paid into the Highway Trust Fund, excluding the Mass Transit Account, in the latest fiscal year for which data is available. Under the draft of the amendment made available to the Department by Committee staff, there would be contract authority for projects carried out with funds allocated under this amendment.

Subsection (b) of the amendment provides that the amounts allocated under the section shall be available for obligation when allocated, shall be subject to the provisions of title 23, United States Code, and may be obligated for certain named projects.

Title 23, United States Code, provides contract authority for all the named projects pursuant to the provisions of section 106(a).

Sincerely,

JOHN M. FOWLER,
General Counsel.

I would like to take this opportunity, Mr. President, to express my appreciation to the Secretary of Transportation, Drew Lewis and Ray Barnhart, Federal Highway Administrator, for the spirit of helpfulness, fairness, and cooperation they brought to negotiations on this amendment. I was also pleased that the Secretary has expressed his support for the inclusion of new starts for mass transit programs that have become so essential for growth cities such as Houston.

S. 3043 will enable America to maintain its investment in the Interstate Highway System; it will help this country grow and prosper during the decade of the eighties; it corrects inequities in the way funds have traditionally been allocated and preserves the user-pays principle. In short, Mr. President, this legislation deserves the support of the Senate and I urge my colleagues to join me in voting for it.●

Mr. MITCHELL. I will not vote for the gas tax bill.

The proposal before us pursues two goals which have my strong support. It creates an accelerated program of much-needed highway construction and repair, and it seeks to create jobs at a time of record high unemployment.

Both these objectives individually merit support. There is an undeniable need to maintain the multibillion dollar investment that our highway system represents. There is an equally urgent need to provide jobs for those unable to find work in the current recession.

But it is the method by which these goals are to be financed—a 5-cents-per-gallon increase in the gasoline tax—that should be rejected.

An accelerated program to repair our highways is a sensible proposal, and one I support. The benefit of a sound transportation system to the Nation and the economy is indisputable.

If the only issue at stake were the question of maintaining our highways, the language reported by the Senate Public Works Committee would deserve unanimous support.

The allocation formula retains the essential elements of miles-traveled and miles of federally aided highways in each State. The committee wisely adopted a provision to allow those States which are economically hard-hit in this recession—such as Maine—to defer payment of the matching State share of costs for 2 years, until the economy improves.

Maine's geographic location means our roads do not compare on a miles-traveled basis with centrally located States. Maine must, however, still construct and maintain safe interstate highways. The one-half-percentage minimum allocation of the Highway Trust Fund would make certain that essential sections of our highway system do not fall into disrepair because the allocation formula takes no account of geography.

For these reasons, I support the extension of the highway program. Investment in our national infrastructure is an appropriate and rational role for the National Government, and has my support.

The other goal of the proposal before us, to create jobs at a time of record high unemployment, has my strong support as well.

Today, for the first time in four decades, more than 10 percent of our total work force is unemployed. Twelve million working men and women cannot find jobs in the private economy. Millions of these people are not even eligible for unemployment compensation benefits, because they have been out of work so long they have exhausted their benefits, or because their working history has been so interrupted or short they did not qualify in the first place.

Hundreds of thousands of our unemployed people are in a particularly tragic situation. They are the men and women who are 55 or older. These workers are too young to retire and too old to readily find jobs in new fields. They face the very real and tragic prospect of losing the results of their lives' work—their homes and their savings.

Thousands of the jobless from States particularly hard hit have been forced to migrate in search of work, but have reached their destinations at the same time as the recession. We have people living out of their automobiles and in makeshift tent cities in some parts of this country.

In these truly desperate circumstances, Congress is doing no more than its duty to consider jobs legislation. And given the budget deficits we face, we must find a way to create jobs without enlarging the Federal deficit. So the basic goal of this proposal has my strong support.

But unfortunately, an essential effort to employ the jobless on needed projects has come hand in hand with a proposal to increase the gas sales tax, which costs proportionately more for people with the lowest incomes. And that tax increase would be imposed on a commodity essential to virtually every working person in this country—gasoline.

Because the means of reaching the goal is so counterproductive, I am forced to vote against the entire proposal.

Both goals of this proposal could have been accomplished by an alternative. It was an alternative for which I voted and which I am convinced would be better, in economic terms, in effectiveness, and in simply equity.

That alternative would have retained and improved the best of the current proposal without the accompanying disadvantage of a higher gasoline tax.

It would have maintained the accelerated highway construction and repair program. In addition, it would have created a 1-year emergency public employment program to respond to the current emergency of a 10.8-percent unemployment rate.

This jobs program would have gone into effect promptly. It would have been targeted to the areas hardest hit by unemployment. It contained safeguards to prevent overhead costs from ballooning. It capped pay for these jobs at $10,000. It would have given priority to people who have been out of work for 3 of the last 6 months, and who do not receive unemployment compensation.

This jobs program would have directed the money to those most nearly at the end of their own resources. It would have done so quickly, to respond to the need, which is urgent. And it would have done so responsibly, to make certain the money was not misused or wasted.

Most importantly, that alternative would have been financed without enlarging the huge budget deficit, without imposing an additional tax on anyone, and without draining yet more billions from a recessionary economy.

It would have been financed by the straightforward and fair expedient of deferring the third year of the income tax cut for the most fortunate 5 percent of Americans in order to give a helping hand to the least fortunate.

The proposals would have delayed part of the cut—not the whole cut—for people with incomes between $50,000 and $65,000 per year, and it would have delayed the entire cut for those with incomes over $65,000. In 3 years, all these people would receive the full third installment of the tax cut. They would only be asked to defer a portion of tax relief, not to give it up. Over 3 years, this deferral would save $24.9 billion.

I supported that alternative because it was moderate, it was fair, and it asked a modest sacrifice only of those who could make it without hardship. Those at the upper end of the income scale have already received substantial tax relief from the 15-percent tax cut now in place. A 15-percent tax cut means far more to those in higher tax brackets than it does for the vast majority of the working people of this country.

The 15-percent cut has given the worker who earns $10,000 a year $52 in tax relief. It has given the person who earns $100,000 a year $2,127 in tax relief. I do not feel that a 3-year delay of further tax relief will impose a harsh or unfair burden on those fortunate enough to earn more than $65,000 per year.

But that alternative was rejected by the Senate majority.

The proposal before us now would not only create substantially fewer jobs for those in the most immediate need, it would finance that effort through a hike in the gasoline tax which, even by conservative estimates, will swallow up $30 of the $52 in tax relief that a worker earning $10,000 has received.

The gas tax increase will fall with particular harshness on States like Maine, which have relatively small populations in large land areas, have little or no mass transit and suffer from low per-capita income. Almost every person who works in Maine must drive to work—some very long distances. Many receive low pay. Upon these people—the working men and women who are the backbone of our society—this gas tax increase will have a severe adverse effect. It is an effect that is neither fair nor necessary.

An increase in a sales tax on a widely used and essential commodity is the wrong tax at the wrong time.

Like all sales taxes, the gas tax increase would fall most heavily on those with the lowest incomes. And because it drains the resources that contribute to creating jobs out of the economy, it would finance jobs in highway construction and repair at the cost of jobs lost in other sectors.

The analysis by the Congressional Budget Office clearly shows that the impact of this tax in terms of additional jobs created is zero. The highway construction jobs created will be paid for by other jobs lost. The Chairman of the President's Council of Economic Advisers has repeatedly emphasized that its overall effect will be to lose some existing jobs or prevent others being created.

So, from a purely economic point of view, the gasoline tax increase is not an effective way to finance additional jobs or a good way to finance accelerated highway construction at a time of record high unemployment.

And from the standpoint of equity, a higher gasoline tax exacerbates an already unfortunate tilt in the distribution of the tax burden.

A major but little-noticed effect of the President's 3-year tax program is the redistribution of the tax burden away from those who can best afford it and onto those who can least afford it.

The tax cut reduced all tax rates by an identical 25 percent over 3 years. But an identical rate reduction does not provide an identical measure of tax relief. If tax relief is measured against income, the Reagan cut gives 8.4 percent relief to an income of $80,000 and 2.3 percent to an income of $10,000. That is not identical, even-handed tax relief.

Two-thirds of the benefits of this tax cut go to the people who pay just one-third of the total tax bill: Those with incomes over $60,000. One-third of the benefit of this tax cut is shared among the millions whose taxes pay two-thirds of the total tax bill: The average working people of this country. A full 35 percent of the tax cut will go to the top 5 percent of the taxpayers.

And the imbalance in the tax burden will worsen, not lessen, in future years. When the effects of inflation and higher payroll taxes are taken into account, the tax relief for families with average incomes vanishes by 1984.

By 1985, with the full 3-year tax cut in place, fewer taxes will be paid by the top 5 percent of income earners. In average terms, their tax rates will be 3.5 percent lower than they were in 1980. These people will see actual, tangible tax relief in the form of more after-tax dollars in their pockets. By contrast, the millions of people who make up the lower 50 percent of income earners will actually pay more in taxes than they did in 1980. Their average tax rate will rise by 0.5 percent. So these millions of people will see no tangible benefit in terms of higher take-home pay from the tax cut, and will, in fact, be paying higher taxes despite the tax cut. That is simply unfair.

The overall effect is to shift the burden of Federal taxes away from those most able to pay—people earning higher salaries, who enjoy substantial discretionary disposable income—onto the people least able to pay, those earning average and lower incomes, whose every dollar is earmarked for essentials and for the most basic amenities of life.

By 1985, the principles of ability-to-pay, which is the cornerstone of any fair tax system, could be undermined.

The tax increase enacted this past summer also included changes which raised taxes on working people. The excise tax increases in that bill are regressive, falling most heavily on those with lower incomes. The curtailment of medical and casualty loss deductions falls most heavily on middle-income taxpayers who use the most common itemized deductions. These increased taxes will be paid disproportionately by the same people who received the least tax relief in the 1981 tax cut, a fact which further shifts the tax burden away from those with the greatest ability to pay. The cumulative effects of the 1981 tax cut and the 1982 tax increase argue strongly against yet another tax hike.

The middle of a recession is never a wise time to raise taxes, expecially taxes as broadly based and pervasive as a gasoline tax. This tax increase will siphon $5.5 billion out of consumers' pockets at a time when consumer spending is needed to stimulate our economy. It is illogical to take $5.5 billion away from consumers when economic reality dictates that consumers should spend more. It simply reduces their ability to spend. More particularly, it is contrary to economic reason to take that money with a sales tax, because that takes proportionately more from the very people whose income is almost all spent—those at the lower end of the income scale who cannot afford to save.

Equally importantly, the increase in another sales tax simply weights the tax burden further against people with average and lower incomes in favor of those with the highest incomes.

Tax cuts on high incomes are defended on the grounds that high incomes are the source of investments which expand our economy. Incentives for investment are important, and have always played a role in our economic policies. But investment incentives alone cannot make up for the lost buying power of millions of unemployed consumers. When consumers cannot afford to buy the goods already on the shelves, the producers of those goods have no rational incentive to invest in producing more.

The 3-year tax cut was based on the theory that investments by the wealthy would lift the economy into a period of growth. This has not happened. When a theory is disproven by events, it is only sensible to change the policies based on that theory. The alternative proposal I supported would have modified, slightly, one aspect of that policy. It would have delayed part of a tax cut, without sacrificing its longer range purpose, in order to accommodate a more immediate and more pressing economic need. It would have done so for an economically sensible and proven purpose: To put people back to work and thus add slight immediate stimulus to our economy. And it would have done so without accentuating the already unfortunate shift in the tax burden to the average-income working people of this country.

By contrast, the gasoline tax hike simply accelerates the shift in the tax burden, takes no cognizance of the fact that our economy needs stimulus, not a further tax drain, and does so to produce no additional jobs.

For those reasons, I cannot support this proposal, despite the fact that I support its overall objectives.

Mr. BENTSEN. Mr. President, Congress recognized the need to preserve this highway network when in 1976 it added the terms "resurfacing, restoration, and rehabilitation" to the highway program. These additional words were carefully selected specifically to make it clear that Federal-aid funds could be used to restore existing pavements to a smooth, safe, useable condition when extensive reconstruction is not feasible or prudent.

Mr. NICKLES. Will the Senator yield? I agree that it is very clear that the Congress intended that emphasis be placed on preserving the serviceability and improving the safety of existing highways in the most cost-effective manner possible. I do believe, however, that the standards for such restoration projects should be developed cooperatively with the individual States who own those roadways and have the responsibility for their maintenance.

Mr. BENTSEN. Certainly the individual States should participate in establishing the criteria. Uniformity of design is essential on the Interstate system, but logic demands that there must be some flexibility when the 3R process is used on other classes of roads, always mindful, of course, that safety is of high priority. The Federal Highway Administration has adopted an innovative, flexible, and cost-effective approach in establishing design criteria which are conducive to highway safety. It allows the States to select criteria, subject to FHWA approval, which are appropriate to their individual needs, but which still meet the stated objectives of Congress. The FHWA rule does just that. It is titled "Design Standards for Highways: Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways." It has been in development for 6 years and has received strong support from the National Association of Counties. It also was unanimously endorsed by the American Association of State Highways and Transportation Officials.

Mr. NICKLES. The Senator is correct. My State highway department strongly supports the FHWA rule, for it allows us to improve many miles of intolerably unsafe highways instead of having to spend all of our dollars on just a few miles. On balance, it makes for far more miles of safe highway driving than under previous procedures. I do expect that the Federal Highway Administration will continue to monitor this program to insure that our congressional objectives for building and maintaining safe highways are met.

Mr. BENTSEN. I thank the Senator. I am sure that will be done as FHWA continues with its implementation of this final 3R rule.

Mr. DODD. Mr. President, I would like to take this opportunity to seek clarification from the Senator from Idaho (Mr. SYMMS) of statements submitted on the highway bill, listing States that probably qualify for different truck weight limits under the grandfather clause in 23 U.S.C. 127. This list is illustrative only and by no means is exclusive. There are numerous States that are legitimately grandfathered for higher axle weight or gross weight or special permit authority or combinations thereof. Connecticut is one such State that has legitimate grandfather rights with respect to truck weight limits. Is it not clear that the language making a State the final arbiter of the scope of its grandfather rights applies equally as well to Connecticut and to a host of other States that have the benefit of grandfathered State laws that predated the enactment of the Federal law? Specifically, it is my understanding that Connecticut is currently grandfathered for axle weights, gross weights, and special permit authority that are different in all three instances than those limits prescribed under Federal law.

Mr. SYMMS. The Senator from Connecticut (Mr. DODD) is correct in his assessment of the grandfather clause.

Mr. RIEGLE. Mr. President, I support the portion of the amendment containing the mass transit provisions as proposed by the Senator from Indiana. It would create a special 2-year program to put Americans to work improving our mass transit systems, and would also reauthorize the successful and important Federal mass transit program through fiscal year 1985. This legislation represents a carefully constructed, even fragile compromise among the members of the Banking Committee on some very difficult issues. I want to commend both the Senator from Indiana and the distinguished chairman of the Banking Committee, the Senator from Utah, for their cooperative efforts in developing this legislation and bringing it to the floor.

This legislation represents an important component of a bipartisan response to the unemployment crisis in this country. It would put hundreds of thousand of Americans to work restoring the Nation's transportation system.

Under this amendment, the revenues produced through the 1 cent of the gasoline tax earmarked for mass transit purposes would be used to fund a special program of grants to finance transit projects which can begin construction or manufacturing in the shortest possible time. These projects must also be labor intensive to the extent practicable. I want to stress the short-time frame and labor intensiveness of this program which must be adhered to if the program is to have the intended fast economic impact. As a rule, the program should fund only projects

That are advanced enough in the planning and design stages to be able to go into actual construction or production within 4 months of passage where practicable, but certainly not more than 6 months.

The jobs impact of transit investment is significant: According to American Public Transit Association estimates, the use of $1.1 billion—the annual revenue projected for transit earmarked gas tax revenues—for transit capital projects would generate 84,000 jobs. These jobs would occur in every sector of the U.S. economy, but would be focused on the particularly hard hit construction and motor vehicle industries.

This legislation would also reauthorize the basic UMTA program at 1982 funding levels for 3 years. It would also accomplish an important restructuring of the program by putting about 75 percent of the funds into an expanded formula grant program, usable for both capital and operating assistance. Formula funds would be distributed in accordance with a revised formula that represents a balance between the needs of big and small cities, as well as the needs of both bus and rail systems. Remaining program funds would be available for discretionary grants for capital projects under section 3 of the act. As of fiscal year 1986, gas tax revenues earmarked for transit would be the funding source for the section 3 program.

Mr. President, in general, this legislation reaffirms the national commitment to mass transit, while at the same time creating a flexible efficient program that targets funds where most needed. In the last two Congresses the Banking Committee, as well as the Senate as a whole, spent a great deal of time and effort debating the shape and direction of the transit program. In the last Congress, legislation that had passed both Houses died in a filibuster at the end of the last lame-duck session. In this Congress, the Banking Committee held hearings in both sessions, considered transit funding levels and program structure on at least three occasions; and at the direction of the Members had conducted extensive staff negotiations that have resulted in the compromise we are considering today.

Let me stress at the outset that there is one element of this proposal with which I strongly disagree. This legislation would significantly reduce Federal assistance for operating costs of the Nation's transit systems. It would impose a 20-percent reduction of cities of over 1 million, a 10-percent reduction on cities of 200,000 to 1 million, and a 5-percent reduction on cities of 50,000 to 200,000. However, the administration has been seeking much more draconian cuts, which would impose a 33-percent cut in operating assistance in 1983, leading to full phaseout after 1984.

It is with considerable reluctance that I have decided not to actively oppose the reductions contained in this amendment. Since the House bill contains no mandatory cuts in operating assistance, it is my hope that the conference on this bill will produce a more acceptable result. While the

impact of the administration's would be devastating, the impact of the cuts contained in this amendment on transit operations in the major cities of this country will still be severe. It will particularly hurt those cities suffering the impact of the recession. They have few local resources to use to replace lost Federal funds. These cuts would hit hardest in cities like Detroit and Chicago, whose economies have been so hurt by this recession, and where transit service already faces major cutbacks. I am concerned that amendments may be offered today that would involve cuts along the lines proposed by the administration. I will strenuously oppose any such amendment.

Mr. President, apart from this last shortcoming, the legislation has many strengths. It provides positive action for employment and transit improvement, and is a comprehensive package of worthwhile reforms to the UMTA program that represents the views of many members of the Banking Committee, both majority and minority. Let me briefly highlight the major provisions of the package:

It would create a special discretionary grant program in fiscal years 1983 and 1984 to utilize transit-earmarked gas tax revenues for transit infrastructure grants for projects that can go into actual construction or manufacturing within the shortest possible time, and which are labor intensive to the extent practicable. We expect the Secretary to carefully adhere to these requirements. Over the 2 years $1.65 billion would be available for these projects.

In the third year, the gas tax revenues become the funding base for the section 3 discretionary program and the special restrictions are dropped.

It would retain current funding levels out of general revenues for 3 years, thus returning an important element of stability and predictability to the Federal transit program;

It would create a block-grant type of program, providing a significant degree of flexibility to local government and transit systems. The direct relationship between the larger urbanized areas and the Federal Government which has been so important to the success of the program would of course be continued. It would also provide for regular Federal review and audit of local uses of Federal transit funds, intended to assure closer monitoring of compliance with statutory requirements than would have been required under the administration's original block-grant proposal. This will help avoid inefficient or wasteful application of scarce funds. Under this block-grant approach, 76 percent of program funds would be made available to communities of all sizes to maintain and improve mass transportation services. There would be increased discretion in the use of funds for capital purposes. As I indicated earlier, urbanized areas would be limited as to the portion of their annual allocation that could be used to underwrite costs to between 80 to 95 percent of the amount available to them for operating assistance in fiscal year 1982.

The section 18 program of capital and operating assistance for small urban and rural areas is preserved at current funding levels. This is a major accomplishment of this legislation. The section 18 program has een an example of a successful Federal program in many States where increased mobility has been made available to thousands of residents of small and rural communities for the first time. This legislation also contains a 1-year reduction in the time during which section 18 funds can be obligated. One of the problems with the program has been that a number of States have failed to claim available funds, thereby endangering the overall funding level of the program.

For urbanized areas, the formula program would adopt a new distribution formula that stresses actual service, thereby focusing transit funds where they are most needed. Since the creation of the formula program in 1975, the program funds have been distributed primarily on a population basis, with little connection between the distribution of funds and the actual operation of transit service. All legislation that has been considered in Congress since that time has attempted to insert a significant factor related to actual transit service. This legislation would accomplish that long sought goal. It also balances the interests of bus and rail transit systems, and larger and smaller cities; 67 percent of the program funds will be focused on cities of over 200,000 population; 6.5 percent would go to cities over 50,000; and 2.5 percent would be reserved for the section 18 program. For the larger cities, two-thirds of the funds would be distributed to recipients based half on population and population density factors—as in the current formula—and half on the localities relative share of all bus revenue vehicle miles operated in the country; 32 percent of the funds would be distributed on a formula weighted 40 percent on the localities relative share of rail route miles and 60 percent on its relative share of rail revenue vehicle miles. This formula represents a difficult compromise of the many transit interests. I believe it is a fair division of funds that will allow both older existing systems and newer developing systems to meet their needs. Funds for smaller cities, those between 50,000 and 200,000 in population would continue to be distributed to the Governor, based on the existing population and population density formula.

A cap is placed on the use of block grant funds for operating assistance. For urbanized areas of over 1 million in population that cap is 80 percent of the amount available for operating assistance in fiscal year 1982; for urbanized areas between 200,000 and 1 million, the cap is 90 percent of the 1982 amount; and for urbanized areas of 50,000 to 200,000 the cap is 95 percent of the 1982 amount. As a transition provision, for 2 years, an area may transfer formula capital funds for operating uses, up to the amount available in fiscal year 1982, providing that it agrees to a reduction in the size of the overall formula grant of $1 for each $2 transferred to operating uses. It is my understanding of the intent of this provision that the exercise of this transfer provision would not affect the levels of section 3 discretionary grants made each year for projects being funded pursuant to a letter of interest or letter of commitment.

This legislation also contains an important revision of current procurement requirements. A recipient would be able to request secretarial approval of its own procurement system. If the Secretary finds that the system provides for competitive procurements, it shall be approved for all procurements under the section 9 program. This represents important progress in a very controversial area. I recently wrote the Department of Transportation to gain clarification of their views on the procurement question and the various legislative proposals that have been pending. The Department's response does help clarify how it interprets current law and would interpret the proposed changes. I believe it would be helpful to have the full text of this response printed in the RECORD.

I agree with the Department's interpretation of these proposed provisions, particularly its statement that grantees would not be required to adhere to a low initial cost bid system.

Mr. President, I believe this is, on balance, a positive piece of legislation that deserves strong support and I urge its adoption. I ask, therefore, that the full text of the letter be printed in the RECORD.

The letter follows:

URBAN MASS TRANSPORTATION ADMINISTRATION,
Washington, D.C., August 5, 1982.

Hon. DONALD W. RIEGLE, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR REIGLE. Secretary Lewis has asked me to respond to your letter regarding questions about the Urban Mass Transportation Administration's (UMTA) procurement procedures and certain procurement provisions in mass transit legislation now before the Congress. Your questions and our answers are set forth below.

1. "What procurement standards are currently imposed on UMTA grantees?"

UMTA currently requires its grantees to comply with the minimum procurement

standards contained in section 3 of the UMT Act of 1964, as amended, and OMB Circular A-102. Attachment O, Uniform Standards Governing State and Local Procurements. The latter circular was implemented by UMTA Circular 4220.1A, dated June 8, 1982. These standards provide that all procurements will be processed in a manner that ensures that maximum open and free competition will be obtained to the fullest extent practical. This is consistent with the UMT Act section 3 statutory prohibition against the use of discriminatory or exclusionary specifications. Such standards are also designed to ensure that all procurements result in goods and services being obtained efficiently and economically and in compliance with the provisions of applicable Federal law and Executive Orders.

2. "To what extent has the Department been implementing the provisions of section 12(b)(2), and what have been the results?"

The language of section 12(b)(2) is permissible, however, Congress specifically included this requirement in both the fiscal years 1980 and 1981 DOT Appropriations Act, and added a further requirement in the 1982 Act. In 1980 UMTA determined that the standard White Book specifications met the minimum requirements of the legislation with respect to the procurement of Advanced Design Buses. Thus, the grantees would be deemed to be in compliance with the legislation by utilizing the standard White Book specifications and upon furnishing certification of compliance thereto for every rolling stock procurement. UMTA also took other affirmative steps to implement the requirement, including: (1) hiring of a consultant to develop a viable life-cycle cost procurement method for transit equipment; (2) funding of bus procurements utilizing this procedure on an experimental basis; (3) funding of seminars nationwide to inform grantees of the requirement and to provide technical assistance in its implementation; and (4) funding of grants to assist grantees in updating and improving their data collection systems to facilitate life-cycle cost procurement methods. UMTA has been, and continues to be, concerned about the potential for abuse and anti-competitive practices in implementing this requirement, and has attempted to ensure that grantees apply this requirement in a manner which is fair and reasonable.

In the fiscal year 1982 DOT Appropriations Act, Congress imposed a further requirement calling for the evaluation of performance, standardization, life-cycled costs and other factors the Secretary may deem relevant. This new requirement became law on December 23, 1981, and was implemented by UMTA with a February 18, 1982, notice in the Federal Register, as amended on March 4, 1982. The notice included an explanation of the new requirement and the projects to which it applied. UMTA determined that the requirement would be applicable only to grants awarded after December 23, 1981, but also to procurements awarded using FY-1982 funds for which bids had not already been advertised by December 23, 1981. The notice informed grantees that specific methods of implementing the new requirement would not be prescribed in order to allow grantees the maximum flexibility possible in meeting the new requirements. Thus, grantees were allowed to select a method of their own choosing for implementing the new requirements so long as such method would not violate the minimum standards contained in section 3 of the UMT Act of 1964, as amended, and Attachment 0 to OMB Circular A-102. The grantees continue to be required to furnish a certification of compliance to UMTA for every rolling stock procurement.

To date, the only known problems resulting from this legislation have been administrative delays caused by the implementation of these requirements. This includes the need to have a balance between the established mthods of complying with these requirements while eliminating factors which will result in the use of discriminatory or exclusionary specifications. The use of such specifications is prohibited by statute and must be avoided even in the implementation of these requirements.

3. "What, in your view, are the differences between the language of section 306 of H.R. 6211 and that contained in the Senate bills?"

The Senate bills—S. 2367, S. 2377, and S. 2502—each contain the following provision:

A recipient may rquest the Secretary to approve its procurement system. If, after consultation with the Director of the Office of Federal Procurement Policy, the Secretary finds that such system provides for competitive procurements, the Secretary shall approve such system. Such approval shall be binding unless withdrawn. This subsection does not affect the [the Buy American] certification. . . .

It is our preliminary interpretation that there are three basic differences between this provision and that in the House legislation. First, the latter apparently provides an option automatically available to a grantee without Secretarial review. To the contrary, the Senate provisions would require a Secretarial finding that the grantee's procurement system is "competitive" before this option could be used. Second, the House provision, if chosen by a grantee, would eliminate the UMT Act section 12(b)(2) factors from the affected procurements; in addition, the grantee's procurement need not be based upon "lowest initial capital costs." (It bears noting at this point that UMTA does not now require grantee procurements to be based on low cost bids. While competitive bid, one method, uses low initial capital cost, competitive negotiation, another method, allows consideration of such factors as quality to be taken into consideration.) Under the Senate provisions, (other than the Administration's bill, S. 2367, discussed below) a grantee's procurement system found "competitive" would still be subject to the section 12(b)(2) factors since the legislation does not provide for their waiver. While the Administration's provision is the same as that contained in the other Senate bills, it is included in a section of the bill (section 9) that provides that no other provisions of the UMT Act other than those set forth in section 9 would apply. Thus the section 12(b)(2) factors would not apply if the Administration's section 9 procurement option were chosen by a grantee and approved by the Secretary. None of the Senate provisions include the House provision on the waiver of low cost bids, but as noted earlier, UMTA currently does not require grantee procurements to be based on low cost bids and would under any of the provisions, continue this existing policy. Third, and finally, the House provision is limited to the procurements of "rolling stock." The Senate provisions would apply to a larger category, a grantee's "procurement system."

4. "If any of the currently pending provisions were enacted, are there circumstances under which UMTA would require grantees to adhere to a 'low initial cost bid' system? If so, please explain."

If any of the currently pending provisions are enacted, UMTA would not require grantees to adhere to a 'low initial cost bid' system. As noted above, UMTA currently requires its grantees to comply with the minimum procurement standards contained in section 3 of the UMTA Act and OMB Circular A-102, Attachment 0. In brief, these procedures require that all procurements be processed in a manner that ensures maximum open and free competition. But the procedures do not require that the initial low bid be accepted in all cases; they recognize that sound procurement practices may accommodate such factors other than cost as quality and technical expertise. If any of the provisions are enacted. UMTA would continue to ensure that competitive systems retain this flexibility and would not require grantees to adhere to a low cost bid system.

5. "In approving a procurement process as 'compeitive,' as would be provided under any of the currently pending bills, what standards or criteria would UMTA use in making such a determination?"

Generally, we would only approve a procurement procedure that provides maximum free and open competition, does not allow exclusionary or discriminatory practices or otherwise restrict or eliminate competition, and provides protection against fraud and abuse.

We will be pleased to provide you with any additional information on these matters that you may request.

With regards.

Sincerely,

ARTHUR E. TEELE, Jr.

Mr. NICKLES. Mr. President, I must compliment the President of the United States, and the very able and distinguished Senate majority leader for holding firm to their commitment to see this legislation passed—despite opposition coming from myself and others.

At this time, I believe I should state my reasons for my opposition to this legislation.

It is certainly a setback for New Federalism. Where are the statesmen who not long ago rallied behind the belief that States know best how to solve most of their own problems—in this case, road repair and maintenance? Increasing Federal involvement only throws a roadblock in front of any State initiative to finding solutions as unique as the needs of each State.

The tax is just not fair, especially for so-called donor States like Oklahoma. My State has received a yearly average of 74 cents for every dollar it paid into the highway trust fund since 1956. Meaning: the State has been forced to pay more than one-half billion dollars to the Federal Government that it has received. The current apportionment formula has left 14 States holding the short end of the stick during the past 25 years. Even if Congress guarantees that States would receive no less than 85 percent, Oklahoma would still lose more than $60 million a year.

In addition, the tax bill earmarks an enormous amount of funds to proping up ailing mass transit systems. States

with relatively small populations, like Oklahoma, will lose millions. My State stands to lose at least $15 million a year.

States also lose money when forced to comply with Federal rules and regulations governing construction and maintenance. Oklahoma Department of Transportation officials estimate federally initiated projects cost as much as 30 percent more than those administered solely by the State.

Costs are also inflated by Federal labor laws such as the Davis-Bacon Act and Walsh-Healy Act. Davis-Bacon, the 51-year-old statute requiring payment of prevailing wages to workers on all federally funded construction and maintenance projects, has been expanded to cover resurfacing, restoration, rehabilitation, and reconstruction (post-interstate construction program). This action not only inflates project costs but also decreases employment and undercuts State control and responsibility.

Considering these inequities, my State of Oklahoma could get more mileage increasing its own gasoline tax 3 cents, than what Congress is forcing us to swallow for 5 cents.

As far as creating jobs, this tax bill will likely cause a net decrease in the number of jobs in this country. Taking an additional $27.5 billion from consumers over the next 5 years might help the construction industry somewhat but will reduce future job opportunities in the rest of private sector. In some industries, like trucking, many persons may actually lose work because of the tax. If raising taxes really created jobs, why do we not increase the tax to a dollar and put everyone back to work? Economic revovery is the only long-lasting solution to our unemployment problem—a recovery that is unfortunately slowed every time Congress enacts a bogus jobs bill.

Mr. President, no one denies the need for rebuilding the Nation's roads but the answer will not be found in raising Federal taxes—especially at a time when economists are counting on consumers to pull the country out of recession. Furthermore, State legislators and Governors are much closer to the intricacies of the problems of our roads and should be given the opportunity to address local needs. This tax increase will more than double the Federal gasoline tax and increase the Fed control and responsibility of transportation which should be left to individual States.

Mr. CANNON. Mr. President, I would like to ask a question of the Senator from Oregon (Mr. PACKWOOD) concerning the impact of this legislation. As the cosponsors of the Motor Carrier Act of 1980, we are both aware of the desire by Congress to direct the ICC to permit the trucking industry to compensate for legitimate foreseeable cost increases through changes in rates. I wonder if he would agree with the observation that I am about to make.

Mr. PACKWOOD. I would be delighted to respond.

Mr. CANNON. Thank you. We are all aware of the financial plight of America's trucking industry. In these difficult economic times the entire regulated trucking industry will show a net income for 1982 of less than one-half of 1 percent. To put it more graphically, on gross operating revenues of $44.1 billion the net after taxes, income will be only $210 million. In addition, Mr. President, the motor carrier bankruptcy rate is running more than double that of other business.

We are also aware that this bill's substantial increases in gasoline and heavy truck use taxes will place severe additional burdens on the industry's operating costs. And while we trust that future productivity gains will eventually brighten this dismal profit picture, I deem it important that motor carriers be able to obtain expeditious and favorable rate relief from the Interstate Commerce Commission.

Mr. PACKWOOD. I join with the ranking member of the Committee on Commerce, Science and Transportation in urging the Interstate Commerce Commission to give expeditious and adequate consideration to rate filings by motor carriers to cover these new costs imposed upon them.

Indeed, I might say to my colleagues, the Finance Committee fully recognized the difficult financial condition of the trucking industry during markup. That was, in fact, a major reason for our decision to phase in the heavy truck excise taxes over a 2½-year period.

Mr. CANNON. I thank the chairman.

Mr. DOMENICI. Mr. President, I would like to take this opportunity to comment the many Senators and committees whose cooperative efforts brought this vital legislation to the Senate floor. H.R. 6211, the Surface Transportation Act of 1982, positively addresses two serious and troubling problems facing our great Nation: The deterioration of our Nation's vital highway and mass transit systems and rising unemployment.

This bill is a wise investment. It increases our transportation excise taxes in return for providing over 300,000 jobs, for completing our Nation's Interstate Highway System, and for making essential highway, bridge, and mass transit repairs.

Title II of this legislation, as reported by the Environment and Public Works Committee, provides $12.2 billion in spending authority for fiscal year 1983. This represents a $3.9 billion increase above the current level of highway authorizations. Over the next 5 years, more than $70 billion in highway expenditures will be made possible by the enactment of this bill.

The Secretary of Transportation has assured us that every effort will be made to spend the funds raised by this bill as rapidly and efficiently as possible. This will create new business for construction materials, equipment, and service firms. This will allow a major portion of the construction industry to survive and continue to provide employment until economic recovery restores traditional demand for their services. Repairing our national transportation system will not only contribute directly to short-term new employment, but more importantly, it will increase long-term employment and productivity by maintaining a viable transportation system essential to the Nation's commerce and business.

Taxes under the bill would rise to 9 cents a gallon starting next April. The last time the tax was increased to its present level of 4 cents was 23 years ago, when gas sold for about 31 cents per gallon. At that time, the tax amounted to 13 percent of the price of a gallon of gasoline. Gasoline now sells for about $1.30 a gallon and even after the 5-cent-per-gallon increase, the tax will be only 7 percent of the price of gas. Furthermore, because the tax is applied at the refinery, the entire 5 cents may not automatically be passed on at the pump.

H.R. 6211 treats rural and urban areas fairly. My vast State of New Mexico comprises nearly 3.5 percent of the land area of the United States and 2 percent of highway lane miles, but only approximately half of 1 percent of the Nation's total population. As a result, States like New Mexico are often shortchanged when distribution for highway moneys are heavily weighted toward the more urbanized States. The Senate Environment and Public Works Committee bill proposes an equitable distribution which balances the needs of States like my own, where smooth and safe highways and farm-to-market roads are critical, and more heavily populated States where urban freeways have become a way of life. In addition, our urban neighbors will also significantly benefit from the new capital fund for improving mass transit that will be financed with revenues from 1 cent of the gasoline tax.

Special recognition has been given to the fact that this is a difficult time for the trucking industry to bear increased costs. For that reason the highway use tax increase has been delayed until January 1, 1984, and it is phased in over 18 months, to be fully effective on July 1, 1985.

Finally, the bill is fair to farmers and ranchers. Fuels used on farms will be fully exempt. Aerial and ground application of fertilizers and pesticides will also be exempt, and those who

provide such services will be permitted to claim the exemption directly without having to claim the exemption through the farmer as required under present law.

Farmers producing corn and other crops used in creating gasohol will benefit from a full exemption from the 9-cent-per gallon tax. This will encourage increased production of gasohol at a time when surplus grain supplies are heavily depressing market prices.

I am sure there are those who would prefer that we undertake this investment in our Nation's highways without imposing the user fees to pay for it. To do this would be shortsighted.

First, failure to charge user fees in proportion to wear and tear of roads would lead to more rapid deterioration of our roads than is currently taking place. Indeed, society is already paying more than it should for inadequate and deteriorating roads, through high car maintenance expenses and lower business productivity.

Second, the country simply cannot tolerate much more deficit financing. We already face deficits in the $200 billion range over each of the next 3 years if no changes are made to current laws. These deficits could absorb 87 percent of net savings. These are funds that should be going to private industry to revive our economy. The longer we permit such deficits to keep real interest rates high, the longer we will wait for a strong economy.

Mr. President, I support H.R. 6211 for all the reasons I have mentioned. H.R. 6211 puts the Nation on the right course by investing in the future. Repairing our national transportation system is an essential step toward long-term employment opportunities and improved productivity in all sectors of the national economy.

EXPLANATION OF VOTE TO SUPPORT THE MOTION TO WAIVE SECTION 311 OF BUDGET ACT

Mr. DOMENICI. Mr. President, I would like to take a moment to explain why I supported the motion to waive section 311 of the Budget Act.

Section 311 of the Budget Act applies to the fiscal year for which we have a budget resolution; namely, fiscal year 1983. This bill actually lowers the budget deficit in fiscal year 1983 by some $600 million. I realize that as a technical matter the increased outlay in the bill may violate section 311, but I think the purpose of section 311 is to make sure the deficit does not increase. This bill raises revenues in fiscal year 1983 by about $1.6 billion. Since outlays would increase by about $1 billion, the deficit would be reduced by $600 million as I have already indicated.

Because of this, I see no purpose to be served in this case by adhering to the technicalities of section 311. This bill would reduce the deficit. That is enough for me. I think the purposes of the Budget Act are well served by the motion to waive section 311 in this case.

Mr. PERCY. Mr. President, I am pleased to join with my good friend from Connecticut (Mr. DODD) to discuss our proposed amendment to the highway bill.

The legislation before us today is one of the most important pieces of legislation we have debated in this session of Congress. It comes at the tail end of the 97th Congress when the unemployment level in the United States is still rising—my own State of Illinois now ranks third among the industrial States with a jobless rate of over 13 percent. This legislation is also overdue acknowledgement that some of our crucial transportation networ', built up over decades, is rapidly deteriorating and needs immediate attention.

To highlight the importance of maintaining our transportation system, let me just highlight one item. Earlier this year the President signed into law a really landmark bill, creating export trading companies. The bill acknowledges the great importance of exporting to our national economic well-being. We simply must export to pay for the expensive oil we import. Illinois and the Midwest breadbasket contribute enormously to our foreign exchange earnings through exporting. But we all know we need more of it.

As important as this legislation is, the underlying assumption of it is that we can get our products to market. We must have a well-maintained transportation network if we are going to truck our manufactured goods from the factory to the airport or the seaport. We have had first-hand experience where our transportation system has not been up to snuff and it has cost us exports. I am speaking of the export of coal. It was not too long ago that ships were lined up at Baltimore and other ports for months waiting to get coal for sale overseas. Our export sales could have increased substantially if we had paid more attention to our lack of adequate harbor facilities for loading coal.

Of course, the international demand for our coal arose suddenly with the escalation in the price of oil. We did not forsee it 10 years ago. I cite this today, however, as an example of where inadequate transportation facilities have a major impact on our export potential and on our domestic economy.

Now we are confronted with an acknowledged deterioration of the highway system built up over the last 50 years. We have built a lot of highways but we have not paid much attention to their upkeep. In this legislation we are getting around to providing some of that much needed rebuilding.

Mr. President, we spend a lot of money in the budget each year for transportation and other types of capital improvements. In the fiscal 1983 budget, we will spend over $155 billion for capital investments of various types. Unfortunately, we have very little idea of whether we are funding the most needed projects. We simply do not have the information to make realistic cost-benefit analyses on the capital needs of the country.

The chief economist for the Conference Board, Dr. Albert T. Sommers, testified earlier this year on behalf of improving our Federal capital budgeting. I would like to quote from just one part of his remarks because it is so relevant to the need for better information on capital spending. The chief economist for the Conference Board noted, and I quote:

> Public capital formation has now subsided to about its lowest share of total output at any point in the postwar years. School construction has slowed—appropriately enough, with the decline in the school-age population. But the misdirected pressures to economize account for a 10-year liquidation of much of the U.S. defense system. Even if schools and defense are excluded from capital outlay, the remaining nondefense public-capital formation has taken less and less of our GNP. Outlays for highway construction fell after the completion of the interstate highway system several years ago, understandably; now the system is deteriorating again. The remaining programs—mass transit, general institutional construction, urban rehabilitation, bridges, parks, water and sewage systems, ports—have suffered. In current dollars (not adjusted for inflation), the investment-type programs identified in recent budgets have been growing at a 1.5 percent annual rate; the growth in current operations has been at a 14 percent annual rate. A Commerce Department study indicates that through much of the 1970's, Federal spending on "public works" fell short of depreciation, even with the depreciation calculated, with vast understatement, on an original-cost basis.

Dr. Sommers made another good point during this hearing in the House of Representatives. He said, and I quote:

> Productivity in the private sector rests on a great deal of support provided from the public sector. Businessmen know this. Even in our international position, your failure to construct the ports to export the coal is a limitation on our exports. The condition of the roads is an inhibition to the transfer of goods. These are tangible kinds of defaults. But I have a feeling there are others. There should be some measure of a falling sense of cohesiveness in a society that won't and can't organize itself to provide for its collective needs.

Mr. President, the point of the amendment we had planned to offer today was to provide a kind of measure—a crude one, to be sure—to begin to have a better understanding of where we stand on our capital needs.

We do not undertake this effort to have some type of "wish list" of public works projects. That is not my goal. Anyone who knows the public record knows that I have opposed wasteful

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public works projects—from the Tennessee-Tombigbee Waterway in Mississippi to phase II of the Deep Tunnel in my own backyard in Chicago. These are excellent examples of projects that got started because we had little sense of the other capital needs of the country.

Our amendment is clear and straightforward. Mr. President, I ask unanimous consent that the text of our amendment appear at the end of this colloquy. Our amendment would do the following things:

First, each year the President would submit to Congress a special analysis for the upcoming fiscal year stipulating the expected spending on public infrastructure investments like highways and ports.

Second, each year the President will also submit a capital budget which will evaluate capital investment needs. This would, of course, be part of the unified budget.

Third, the Secretary of Commerce—who has some experience in this area—is directed to pull together an inventory of civilian public facilities, with an assessment of the conditions of these facilities. The report would be due in January 1985 and the Secretary would work with each agency which would actually compile its own inventory.

Mr. President, this is a sensible approach to the Federal budget. It has been supported by the General Accounting Office—which helped us write this proposal, the chief economist of the Conference Board and the AFL-CIO. Moreover, there is a bipartisan approach to this in the House, where Republican Congressman CLINGER and Democratic Congressman EDGAR have championed this issue.

Mr. President, I ask unanimous consent to place at this point in the RECORD a letter from Congressmen EDGAR and CLINGER stating their support for this amendment and the warm welcome it would receive by House conferees on this highway bill.

In summary, I would like to cite remarks made by the Comptroller General, Mr. Bowsher, about our capital spending. He observed that:

> Investment in capital assets, both defense and domestic, are issues that warrant particular attention and visibility in the budget process. Investments in capital assets should involve longer term decisions on programs and funding whenever possible. Such a longer term focus for investment decisions would allow the Congress to consider budget levels in relation to the overall conditions and needs for the Nation's public infrastructure and defense structure.

Mr. President, this budgetary tool will vastly improve the information flow that we have. The budget each year does contain a special analysis on "Investment, Operating and Other Budget Outlays." This little pamphlet, however, has all of six pages of narrative. We feel it can be improved and that is what our amendment would do.

I would like to yield now to my good friend from Connecticut (Mr. DODD) for a few remarks.

Mr. DODD. Mr. President, the chairman of the Committee on the Budget (Mr. DOMENICI) and the chairman of the Committee on Environment and Public Works (Mr. STAFFORD) have been very accommodating in discussing both the merits of our amendment and their difficulties in moving forward with this proposition at this time. I don't believe we have any general disagreement over the absolute necessity of generating expanded information about the condition of our public facilities. We all want to insure that limited public resources directed at improving the quality of the Nation's infrastructures are allocated in an efficient and cost-effective manner. As long as the financing commitment does not match the enormous demand, we will need to expand our information base. We also must refine the decisionmaking process of the Congress so as to be able to address our most pressing needs in a rational manner.

The Dodd-Percy amendment did not modify the Budget Act of 1974. It did, however, require certain changes and additions in the presentation of the budget which do have implications for the future consideration of the unified Federal budget. In fact, I want to emphasize my strong feelings that the congressional budget process is the appropriate place for making these decisions among competing priorities.

In addition, the Senator from Illinois (Mr. PERCY) and I attempted to refine our amendment to convey a great deal of discretion to the administration as to the information to be generated. It may well be desirable to provide more precise definitions of the kind of information which would be the most useful and the manner in which such material would be presented to the Congress.

I recognize the need for hearings on these matters. But I have a problem in deferring this matter at this time on which I would like to seek some assurances from the respective committee chairmen. We have to act quickly on this subject. This highway bill increases the commitment by over $5 billion to certain segments of our infrastructure. In the next session, we cannot help but address the problems besetting other capital facilities. In this regard, may we have some assurance that this matter will receive a high priority on the agendas of your respective committees early in the next session?

Mr. DOMENICI. Mr. President, the Budget Committee has held extensive hearings on budgeting concepts, including the subject of capital budgeting. While the Percy-Dodd amendment does not require the adoption of a separate capital budget, it requires the President to include with the annual budget submission to Congress a "capital investment budget."

The argument has often been advanced by others that Federal capital investments should somehow be separated from the Federal budget totals. This could cause pressure to redefine budget deficits in terms of operating expenses only. That would totally distort the effect of the Federal budget on the economy, would cause Federal outlays to appear to be lower than they actually are, and could lead to less congressional scrutiny of Federal capital investments.

I am prepared to hold further hearings on the issue of capital budgeting. Furthermore, I extend my pledge to work with Senators STAFFORD, DODD, PERCY, ROTH, and others, as well as the Congressional Budget Office and the General Accounting Office, to analyze the Federal Government's investment in capital facilities, improvements, and repairs.

Mr. STAFFORD. Mr. President, I would join with my colleagues with a pledge to do all that I can to work with the Senator from New Mexico (Mr. DOMENICI) and the Senator from Connecticut (Mr. DODD). We need to request from CBO, GAO, and other agencies the information that is necessary to put together a solid program to improve the infrastructure of America. As chairman of the Committee on Environment and Public Works, I intend to do all I can to develop a rational capital improvement program for our Nation.

FEDERAL CAPITAL INVESTMENT BUDGET ACT DODD-PERCY AMENDMENT

Mr. DODD. Mr. President, the amendment being discussed by myself, Senator PRECY, and others would add a new title to the committee bill establishing a Federal capital investment budget. This amendment is a refinement of legislation which I originally introduced on June 15. A similar proposal, pending in the other body, has bipartisan support from approximately 60 cosponsors, at recent hearings before the House Subcommittee on Economic Development, this measure generally was endorsed by a wide range of experts, including the General Accounting Office. I might add that our amendment was refined with the benefit of advice from the GAO.

The amendment has three basic provisions; first, it requires a special analysis to be prepared and included in the President's budget submission beginning with the proposed budget for fiscal year 1985. This analysis would provide an estimate of the current levels of investment in our infrastructure. In additions this submission would include an identification of public and private financing sources and constraints, Federal investment

priorities, and surplus Federal assets. Let me emphasize that there is no mandate or intent to require the President to relate this information to any specific standards of present or future need.

The second part of the amendment would expand upon this information beginning with the budget submitted for fiscal year 1986 to include separate estimates of construction, rehabilitation, and repair investments. In addition, this expanded documentation would include an estimate of the current levels of services being provided and the costs of continuing such current levels.

Finally, our amendment requires the Secretary of Commerce to prepare and submit to the Congress by January 1, 1985, an inventory and assessment of public facilities which would then be updated every 2 years. I might add that this requirement for an inventory and needs assessment parallels an earlier proposal which I introduced on September 23, 1981.

In sum, all this amendment does is require the preparation and submission to the Congress of information about the state of our public capital facilities. The administration is accorded almost complete discretion in designing and preparing this data. Any costs associated with the development of this material would come from existing authorities and not new spending.

Our amendment seeks to fill an information void which makes it difficult, if not impossible, to effectively allocate limited public resources in response to the serious problems represented by the inadequacy and deterioration of our Nation's infrastructure of public facilities.

With this information in hand, we will be able to determine when a new highway is authorized, for example, when it will need to be repaired, how it will be maintained, where the resources will come from, and who will be responsible. This bill does not mandate additional spending on infrastructure investment. It does require, however, the more efficient utilization of public resources and a framework for establishing priorities among competency demands.

Clearly, and most importantly, this bill acknowledges that the Federal Government is not the total answer to the problem, but must take a lead in planning and managing the appropriate responses from government at all levels and the private sector.

I believe that there is a strong argument for attaching this measure to the pending bill. The Congress is about to make an increased, and in my opinion, long overdue commitment to certain segments of our infrastructure. In the next session, we cannot help but address the problems besetting other capital facilities; quite simply, we need better information before we make those decisions. Some may argue that this information is superfluous because the need is far greater than available resources. I would respond that this is precisely why we need this inventory, needs assessment and analysis. Limited funding demands the improved planning and management tools involved in our amendment.

Mr. President, our amendment will enhance the current approach to public investment in this Nation and allow us to get the most out of our total public capital investment. We have attempted to limit this proposal as much as possible without sacrificing the goal of improved planning to reverse the deterioration of our infrastructure. Such an effort is integrally related to our mutual goal of advancing long-term economic growth, development and employment. I urge my colleagues to support this modest, commonsense approach.

A letter from Representatives EDGAR and CLINGER, and a copy of the proposed amendment follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 9, 1982.

Hon. CHARLES H. PERCY,
Room 4321, DSOB,
Washington, D.C.

DEAR SENATOR PERCY: We are pleased to add our support to the Dodd-Percy amendment to provide a capital budget for the federal government.

As authors of similar legislation (H.R. 6591) in the House of Representatives, the Dodd-Percy amendment represents an important and necessary reform of our budget procedures. The House version of this legislation has over fifty cosponsors from both parties in all regions of the nation. H.R. 6591 was the subject of four days of hearings in the Subcommittee on Economic Development, on which we both serve, and was unanimously endorsed by a broad range of interests including business, labor, state and local officials, and private sector economists.

During consideration of the Surface Transportation Assistance Act of 1982, the Chairman of the Surface Transportation Committee assured us that should the Senate adopt a capital budget amendment along the lines of H.R. 6591, he would support the inclusion of such an amendment in the conference report.

Your amendment most certainly is an important step towards fulfilling a vital and necessary means of more rationally addressing our deteriorating infrastructure.

Sincerely,

BOB EDGAR.
BILL CLINGER, JR.

At the end of the bill, add the following new title:

SHORT TITLE

SECTION 1. This title may be cited as the "Federal Capital Investment Budget Act of 1982".

PURPOSES

SEC. 2. The purposes of this title are—

(1) to provide basic information of the capital infrastructure of the Nation in an organized and rational manner;

(2) to identify serious deficiencies in the public investments that are deteriorating and beyond repair and to identify those that are constraining national growth;

(3) to allocate limited funding in public infrastructure in a cost-effective and orderly manner by allowing the establishment of reasonable priorities in capital investment;

(4) to distinguish between Federal, State, and local responsibilities in order to reduce fragmentation and duplication of effort; and

(5) to improve legislative oversight over public capital investments.

FEDERAL CAPITAL INVESTMENT BUDGET

SEC. 3. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by adding at the end thereof the following new subsection:

"(k)(1) The President shall include with each Budget submitted under subsection (a) on or after January 1, 1984, a special analysis, for the ensuing fiscal year, which shall identify for each function, agency, and program the amount of appropriations and expenditures which may be classified as public infrastructure investments, and shall contain appropriate summaries of the total amount of such appropriations and expenditures. In addition, the special analysis under this paragraph shall contain—

"(A) an estimate of current aggregate public infrastructure investments;

"(B) an estimate of current aggregate operation and maintenance expenditures;

"(C) an identification of potential and alternative sources of financing and capital investment constraints at the State and the local level of government;

"(D) an identification of Federal public infrastructure investment priorities;

"(E) an identification explaining the relationship of the proposed annual capital expenditures contained in the proposed Budget to the Nation's longer term needs and the Federal Government's longer term public capital infrastructure strategies;

"(F) a 5-year projection on anticipated capital and related operation expenditures;

"(G) identification of surplus Federal assets in these categories; and

"(H) evaluation of whether some of these services would be better provided by the private sector or on contract to the private sector.

"(2) In addition to the information required by paragraph (1), the President shall include with each budget submitted under subsection (2) on or after January 1, 1985, a capital investment budget which shall identify by State (considering the District of Columbia and each insular area as a State) the amount of appropriations and expenditures which may be classifed as public infrastructure investments, and shall contain—

"(A) an estimate of construction and rehabilitation investments and operation and maintenance expenditures;

"(B) an estimate of the costs to continue specific present levels of service;

"(C) an assessment of the levels of service being produced by public infrastructure capital; and

"(D) a 5-year projection of appropriate amounts for the capital investment budget.

"(3) For the purposes of this subsection, any appropriation or expenditure shall be classified as a public infrastructure investment to the extent that funds so appropriated or expended will be used for the construction or rehabilitation of any civilian public facility in the United States.

"(4) For the purposes of this subsection—

"(A) the term 'construction' means the erection or acquisition of new structures

and the acquisition and installation of initial equipment therefor;

"(B) the term 'rehabilitation' means the alteration or reconstruction of an existing structure and the acquisition and installation of initial equipment or modernization or replacement of such equipment; and

SEC. 4. Title VII of the Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new section:

"INVENTORY AND ASSESSMENT OF PUBLIC FACILITIES

"SEC. 717. (a) The Secretary of Commerce (hereinafter referred to as the 'Secretary') shall prepare an inventory of civilian public facilities in the United States and an assessment of the physical condition of such public facilities.

"(b) The Secretary shall make a report of the inventory and assessment required by subsection (a) to Congress not later than January 1, 1985. The Secretary shall update such report and transmit a copy thereof to Congress every 2 years thereafter.

"(c) The Secretary may secure directly from any department or agency of the United States information necessary to enable the Secretary to carry out this section. Upon request of the Secretary, the head of such department or agency shall furnish such information to the Secretary.

"(d) The Secretary shall consult with officials of State and local governments in developing the inventory and assessment required by this section.".

Mr. CANNON. Mr. President, during the extensive debate prior to passage of the Motor Carrier Act of 1980, significant concerns were addressed to the question of the impact on highway safety which might result from the liberalized entry provisions contained in the legislation. Such concerns were based on the concept that—given the vast numbers of new certificates, combined with the expansion of existing certificates—many new carriers would become involved in the trucking industry including many new carriers transporting hazardous materials.

In response to these concerns Congress included a provision which would provide mandatory evidence of financial responsibility—insurance, bonding, et cetera—for all tank truck carriers of hazardous materials, in meaningful amounts. This was based upon the premise that such a caveat would best combine the elements of safety and profitability. In short, the carrier willing to pay for a meaningful safety program would: First, be able to obtain insurance coverage and thereby operate on the Nation's highways; and second, obtain such coverage at competitive rates. The carrier with a poor safety program would either: First, be unable to obtain coverage—thus prohibiting operations; or, second, pay high rates for coverages, thus subtracting from profitability. The entrepreneurial incentive was geared toward safety.

This, therefore, was the basis for section 30 of the 1980 Motor Carrier Act. While similar provisions were enacted with regard to nonbulk, nonhazardous materials carriers, Congress reserved its greatest concern for tank truck carriers of hazardous materials establishing minimum evidence of financial responsibility at $5 million for certain materials; while giving the Secretary of the Department of Transportation discretion to lower the limits to $500,000 for other materials.

While granting the Secretary discretion, the Congress was most direct in its intention. The House of Representatives report on the legislation (No. 96-1069) states at page 44:

The Committee wants to emphasize its strong belief that many of these hazardous materials should also be subject to at least a $5 million minimum, especially hazardous materials transported in bulk.

The report went on to note that Secretarial discretion was included in section 30 because some commodities on the DOT's hazardous materials list would obviously require less than $5 million liability protection—examples: charcoal briquettes and burlap bags.

Last, the legislation provided that the mandatory hazardous materials limits were to be extended to all types of motor carriers—for-hire, private, interstate, and intrastate.

In imposing the requirements of section 30, via regulation, the Secretary has not followed congressional intent. Instead of selecting the higher limits for tank truck carriers of the most dangerous and most commonly transported hazardous materials, the Secretary chose the lowest. Thus, a carrier transporting 9,000 gallons of gasoline need only possess evidence of financial responsibility of $500,000—the same limit required for the carrier of the charcoal briquettes and burlap bags.

The absurdity of the situation is best exemplified by California's highly publicized Caldecott Tunnel accident. Therein, seven persons were killed and there was an estimated $44 million in property damage. Additionally, a six-fatality grade crossing accident in Huntsville, Ala., involving a tanktruck load of gasoline has already produced one personal liability settlement of $9 million. While the carriers in both incidents were covered to responsible limits, the fact remains that had the accidents involved carriers strictly complying with current legal requirements, the burden on individuals and various elements of the public would be tremendous.

Now, in the bill we give the Secretary even greater discretion. But it is our intention that the discretion be used prudently with respect to hazardous materials. For the most hazardous materials, the upper limits should be used. We would not have set the limits in the legislation if we had not intended them to be used. This is a matter of urgency with respect to highway safety and I hope that DOT will not ignore this mandate.

Mr. THURMOND. Mr. President, I rise today in support of final passage of H.R. 6211, the Surface Transportation Act of 1982.

Mr. President, this measure will provide the funds necessary to begin rebuilding our crumbling surface transportation infrastructure and put hundreds of thousands of unemployed Americans back to work. Severe weather, heavy traffic, and years of neglect have left many of our roads and bridges in a deplorable state. A short drive along any of a number of the major thoroughfares leading away from our Nation's Capital bears witness to this fact.

This is not to say, Mr. President, that this measure is perfect. As it was originally introduced, Mr. President, I had grave concerns over certain aspects of the bill, particularly those relating to the heavy-vehicle highway-use tax. While I believe that the trucking industry should pay its fair share for the use of our Nation's highways, I felt that a tenfold increase in this tax would be too much for the industry to bear at this time.

Fortunately, Mr. President, the bill has now been amended so as to make the burden it originally would have imposed much less onerous and more bearable. I continue to have serious reservations about some of the remaining provisions, especially those that would direct that highway trust fund moneys be used to subsidize mass transit and the totally unjustified and, in my opinion, counterproductive expansion of the Davis-Bacon prevailing wage requirements.

On balance, however, I believe that this measure should pass. Accordingly, Mr. President, I call upon my colleagues to give it their support.

GASOLINE TAX

Mr. BOREN. Mr. President, I would like to bring to the attention of the Senate a possible inequity that exists in H.R. 6211 between types of truck semitrailers used to transport goods on the railroads. Under this bill, vehicles that are used both as highway vehicles and as a railway, which have two sets of wheels, one for the road and one for the rail, are exempted from the Federal excise tax. Yet vehicles that are used both as a highway vehicle and on a railway car, which have one set of wheels and are commonly called piggybacks are not exempted. These vehicles are in direct competition with each other, yet this bill appears to provide a considerable tax advantage of one over the other.

I was prepared to offer an amendment which would equalize the tax treatment between these vehicles, but it is my understanding that the chairman of the Finance Committee would be obliged to object due to revenue loss projections and objections from Treasury. Is that the situation, Mr. Chairman?

Mr. DOLE. The Senator from Oklahoma is correct. The revenue projections which I have seen average over $20 million in revenue loss per year over the next 6 years. We could not agree to a measure of that magnitude at this late point in the consideration of this bill.

Mr. BOREN. Then, Mr. Chairman, I will withhold offering my amendment. Could I ask the distinguished chairman if the committee would look at the entire area to assure the equal treatment of various types of piggyback vehicles in the next session through hearings with a view toward possible corrective legislation?

Mr. DOLE. I can assure the Senator that the committee will have an opportunity to consider this issue next year.

Mr. BOREN. I thank the distinguished chairman.

Mr. KENNEDY. Mr. President, I oppose the gas tax bill now pending before the Senate. Let me briefly outline some of my principal objections to this legislation.

The proposed increase in the gas tax is regressive. It will fall heavily on the average working American family, and the poor, and the unemployed. These Americans are already bearing the brunt of the administration's disasterous economic policies, and the tax increase will make their lives that much more difficult. I believe the Senate would have been better advised to adopt the proposal offered by the Democrats that would have repealed the third year of the Kemp-Roth tax cut for the wealthiest Americans. This would be a fairer and more equatable way of providing funds for vital job-creating activities.

Second, I believe the bill reflects unwise fiscal policy. It simply makes no sense, while we are in the midst of the greatest economic depression since World War II, to raise taxes now, for a construction program that will not begin to create jobs for many months into the future. A sound fiscal policy would reverse this approach to create jobs now when we need them most, and not take money from the very consumer whose spending is necessary to fuel the recovery.

Third, Mr. President, I believe this legislation places excessive emphasis on new construction, rather than on vitally needed repairs of our roads. The bill provides far more than the $11 billion the GAO estimates is needed to complete new construction of interstate highways of national significance, and it provides inadequate attention to essential repairs and refurbishment. Repairs are not only needed immediately; they also provide much more rapid job creation.

Finally, Mr. President, I am deeply concerned about provisions concerning mass transit. The bill before us eliminates the inflation adjustment for mass transit projects that are substituted for new highway construction under the transit provisions adopted in 1976. I believe that this provision unfairly discriminates against mass transit projects and interferes with national transportation planning. I am also deeply disturbed by the ceilings placed on mass transit operating subsidies.

In sum, this bill is neither good tax policy, nor good fiscal policy, nor good transportation policy. It is no answer to the desperate unemployment crisis facing our Nation. I support cloture because I believe the Senate should be permitted to work its will, but I urge my colleagues to oppose passage of this legislation.

ORPHAN BRIDGES

Mr. WEICKER. Mr. President, during debate on H.R. 6211, the Surface Transportation Act of 1982, it had been my intention to offer language which would address a critical bridge problem along the northeast corridor. My amendment would have directed the States in expending their apportioned bridge funds to give strong consideration to bridges which overpass the Northeast corridor improvement project. It would not have siphoned money away from the States' major bridge projects. However, in deference to the need to approve this important legislation before the adjournment of the 97th Congress, I instead engaged in a colloquy with my distinguished colleague, Mr. STAFFORD, who is chairman of the Committee on Environment and Public Works, and I commend Senator STAFFORD and his staff for their cooperation and assistance in this regard.

The colloquy focused on 209 bridges which overpass the Northeast corridor for which neither Amtrak nor the States claim responsibility for their upkeep and maintenance. While States do not claim responsibility, they do include these bridges in the bridge inventories upon which apportionments for Federal bridge assistance are calculated. Since H.R. 6211 establishes a new, strong Federal commitment to bridge rehabilitation and replacement, the following bridges have been indentified as "orphan bridges" and clearly would qualify for bridge assistance funding under the bridge repair and rehabilitation program authorized under section 144 of title 23 of the United States Code.

The list follows:

NORTHEAST CORRIDOR BRIDGES—ORPHAN BRIDGES

[OH bridges listed in order of priority for replacement or repairs]

Priority and bridge number	Crossing	Built	Length (feet)
Maryland:			
1—97.45 (SA)	Vincent Street, Baltimore	1873	27
2—97.56 (SA)	Fulton Avenue, Baltimore	1873	27
3—95.77	Charles Street, Baltimore	1915	221
4—97.49	Mount Street, Baltimore	1915	79

NORTHEAST CORRIDOR BRIDGES—ORPHAN BRIDGES—Continued

[OH bridges listed in order of priority for replacement or repairs]

Priority and bridge number	Crossing	Built	Length (feet)
5—99.81	Frederick Road, Baltimore	1932	96
6—120.48	Chestnut Avenue, Bowie	1943	149
Pennsylvania (main line):			
1—7.75	Primos Avenue, Folcroft	1891	121
2—7.58	Folcroft Avenue, Folcroft	1891	63
3—6.05	Calcon Hook Avenue, Curns Park	1896	128
4—14.28	Lloyd Street, Chester	1899	123
5—9.11	Amosland Road, Norwood	1901	97
6—7.16	Sharon Avenue, Sharon Hill	1901	96
7—6.09	4th Street, Darby	1901	103
8—8.03	Ashland Avenue, Folcroft	1904	124
9—17.71	Blue Ball Road, Marcus Hook	1904	143
10—5.31	71st Street, Philadelphia	1915	115
11—86.11	Ridge Avenue, Philadelphia	1917	113
12—64.34	Edgely Road, Edgely	1919	168
13—17.11	Market Street, Marcus Hook	1927	654
14—63.10	Fallsington Road, Tullytown	1929	390
15—88.13	Market Street, Philadelphia	1930	250
16—88.12	Stanton Plaza, Philadelphia	1930	210
17—88.00	30th Street, Philadelphia	1930	300
18—86.93	34th Street, Philadelphia	1930	250
19—88.25	Chestnut Street, Philadelphia	1931	250
20—10.42	Sellers Avenue, Ridley Park	1951	69
21—10.52	Swarthmore Avenue	1971	126
Pennsylvania (Harrisburg line):			
1—2.88	41st Street, Philadelphia	1875	226
2—12.02	Spring Mill Road, Villanova	1875	70
3—8.18	Church Road, Ardmore	1880	77
4—17.58	Casset Avenue, Berwyn	1882	116
5—89.60	Mill Road, Conewa	1888	90
6—50.90	Bridge Street, Gap	1890	134
7—94.40	Burd Street, Roylton	1890	76
8—6.38	Bowman Avenue, Marion	1891	114
9—21.45	Bridge Street, Malvern	1891	89
10—50.99	Futer Street, Gap	1891	85
11—48.53	Bridge Street, Christiana	1893	150
12—53.28	Hoover Road, Kinzer	1893	114
13—76.18	Holland Street, Salunga	1893	88
14—55.29	McIlvan Road, Leaman	1896	114
15—79.71	Jacob Street, Mt. Joy	1896	86
16—79.88	Barbara Street, Mt. Joy	1896	85
17—80.03	Marietta Street, Mt. Joy	1896	115
18—80.12	Market Street, Mt. Joy	1896	85
19—80.32	North Haven Street, Mt. Joy	1896	85
20—80.38	Lumber Street, Mt. Joy	1896	99
21—6.77	Narberth Avenue, Narberth	1897	106
22—84.96	Foreman's Road, Rheems	1898	80
23—85.88	Route 340, Elizabeth Town	1899	97
24—14.95	Eagle Road, Wayne	1899	169
25—16.29	Valley Forge Road	1899	99
26—87.73	Newville Road, Elizabeth	1900	94
27—6.51	Rockland Avenue, Marbeth	1900	117
28—83.81	Colebrook Road, Rheems	1901	117
29—72.66	Colebrook Road, Landisville	1901	97
30—19.86	Valley Road, Paoli	1902	68
31—44.32	East Bridge Street, Parksburg	1904	150
32—44.40	West Bridge Street, Parksburg	1904	170
33—45.50	Lenover Road, Lenover	1905	235
34—90.86	Brinser Road, Conewago	1906	87
35—3.23	Girard Avenue, Philadelphia	1908	127
36—10.40	Merion Avenue, Brynmawr	1910	73
37—50.73	Mine Road, Gap	1912	131
38—97.04	Whitehouse Lane, Hispire	1918	50
39—9.81	Pennswood Road, Brynmawr	1924	72
40—4.77	59th Street, Philadelphia	1927	309
41—68.15	Route 72, Lancaster	1929	143
42—57.99	Public Road, Gordonville	1937	153
43—68.74	Dillerville Road, Lancaster	1938	105
44—17.74	Old Lancaster Pike, Berwyn	1958	67
45—60.24	Private Road, Ronk	1958	66
New Jersey:			
1—40.70	Ridge Road, Monmouth Junction	1907	122
2—56.38	Monmouth Street, Trenton	1907	122
3—56.49	Chestnut Street, Trenton	1912	120
4—15.60	Park Avenue, Linden	1913	183
5—45.41	Plainsboro Road, Plainsboro	1916	74
6—54.83	Whitehead Road, Trenton	1917	268
7—55.77	Olden Avenue, Trenton	1924	107
8—39.97	Major Road, Monmouth Junction	1925	216
9—34.99	State Route No. 1, New Brunswick	1928	107
10—57.21	Center Street, Trenton	1930	76
11—26.66	Bridge Street, Matuchen	1933	136
12—13.10	Hand Place, Elizabeth	1936	86
13—21.43	Colonia Boulevard, Colonia	1937	634
14—47.45	Alexandra Road, Princeton Jct	1941	146
15—57.16	Broad Street, Trenton	1942	67
16—56.47	East State Street, Trenton	1942	109
17—33.94	Howe Lane, New Brunswick	1948	125
18—44.47	Schacks Road, Plainsboro	1949	380
19—41.20	East New Road, Monmouth Junction	1953	351
20—35.48	Adams Lane, Adams	1955	220
21—51.79	Youngs Road, Lawrence	1963	185
22—50.62	Quaker Bridge Road, Lawrence	1967	180
New York (main line):			
1—0.25	9th Avenue Viaduct	1909	376
2—0.08	7th Avenue Viaduct	1909	525
3—2.55	Hunters Point Avenue	1910	561
4—3.31	Queens Boulevard	1910	1032

NORTHEAST CORRIDOR BRIDGES—ORPHAN BRIDGES—Continued

[OH bridges listed in order of priority for replacement or repairs]

Priority and bridge number	Crossing	Built	Length (feet)
5—3.55	Honeywell Street	1910	1570
6—3.82	Harold Avenue	1910	745
7—A3.82	South Half	1910	556
Connecticut (mainline):			
1—138.63	Stony Hollow Road, Stonington	1865	38
2—79.29	Hosley Avenue, New Haven	1887	30
3—74.18	Blachley Avenue, New Haven	1887	301
4—78.69	Lake Road, East Haven	1888	40
5—100.54	Old Clinton Road, Clinton	1890	36
6—93.68	Horse Pond Road, Madison	1890	33
7—73.53	Wallace Street, New Haven	1906	67
8—73.60	East Street, New Haven	1906	75
9—72.94	Grand Avenue, New Haven	1907	93
10—97.87	East Main Street, Clinton	1910	144
11—125.63	Buddington Road, Groton	1914	64
12—124.54	Lords Point Road, Stonington	1915	123
13—102.85	Bushnells Road, Westbrook	1916	64
14—103.62	Schoolhouse Road, Westbrook	1916	128
15—104.15	Ingram Hill Road, Westbrook	1916	127
16—82.85	Great Plains Road, Pine Orchard	1917	65
17—133.06	Ocean Drive, Mystic	1926	142
18—74.38	Jerry Street, New Haven	1926	114
19—84.29	Pleasant Point Road, Stony Creek	1930	32
20—86.54	Moosehill Road, Leetes Island	1930	32
21—88.03	Mulberry Road, Guilford	1930	91
22—130.31	Mozier Avenue, Noank	1930	103
23—117.31	Millstone Point Road, Millstone	1935	32
24—97.49	Liberty Street, Clinton	1935	31
25—124.97	Bridge Street, Groton	1936	184
26—92.53	Copse Road, Madison	1938	32
27—88.95	Whitfield Road, Guilford	1940	65
28—91.82	Hulls Crossing, East River	1940	34
29—16.04	Viaduct, Stonington	1940	620
30—108.51	J. Cakehill Road, Lyme	1940	33
31—93.08	Durham Track, Madison	1941	32
32—124.69	State Route 84, Groton	1942	142
33—137.81	Palmers Neck, Stonington	1944	35
34—99.16	Grove Orchard, Grove Beach	1962	31
35—78.26	High Street, East Haven	1962	32
36—101.36	Essex Road, Westbrook	1962	33
37—81.25	Kirkham Street, Branford	1963	43
38—80.95	Harbor Street, Branford	1968	34
39—73.08	Olive Street, New Haven	1969	139
Connecticut (Springfield line):			
1—37.03 (SA)	Main & Albany, Hartford	1871	52
2—25.34	Camel Back Road, Berlin	1891	34
3—18.99	Camp Street, Meriden	1899	67
4—0.34 (CA)	Fair & Union, New Haven	1907	140
5—0.39 (CA)	Crown Street, New Haven	1907	185
6—0.37 (CA)	Chapel Street, New Haven	1907	165
7—0.56 (CA)	Court Street, New Haven	1907	132
8—36.83	Walnut Street, Hartford	1908	120
9—20.65	Hicks Avenue, Meriden	1909	99
10—27.31	South Street, Berlin	1910	126
11—43.99	Kennedy's, Haydens	1911	104
12—7.35	Broadway, New Haven	1937	210
13—30.15	Cedar Street, Newington	1938	32
14—31.68	Willard Avenue, Newington	1938	185
15—21.12	Yales Bridge, Meriden	1939	74
16—28.62	Newington Avenue, Berlin	1940	78
17—17.41	Hall Avenue, Meriden	1947	61
18—11.79	Colony Street, Wallingford	1967	54
19—22.87	Riselys Road, Meriden	1970	31
Rhode Island (main line):			
1—178.46	Pattacomsett Avenue, Hillsgrove	1895	33
2—189.00	Mineral Spring, Woodlawn	1904	144
3—180.29	Park Avenue, Cranston	1906	73
4—141.67	West Street, Westerly	1913	135
5—189.24	Conant Street, Woodlawn	1913	152
6—189.81	Broad Street, Pawtucket	1914	150
7—189.84	Barton Street, Pawtucket	1914	115
8—189.93	Clay Street, Pawtucket	1914	89
9—189.99	Jenics Street, Pawtucket	1915	70
10—142.46	Oak Street, Westerly	1918	87
11—187.60	Cemetary Street, Providence	1919	746
12—186.95	Branch Avenue, Providence	1920	507
13—154.04	Beaver River Road, Kenyons	1929	35
14—190.93	Cole Street, Boston SW	1930	31
15—181.16	Roger Williams Avenue, Cranston	1930	145
16—163.50	Dry Bridge Road, Slocums	1930	86
17—166.87	Stony Lane, Wickford	1930	61
18—148.41	Burduckville Road, Woodriver	1931	42
19—141.77	High Street, Westerly	1934	96
20—183.51	Westminster Street, Providence	1943	63
21—183.66	Broadway, Providence	1943	78
22—182.99	Union Avenue, Providence	1943	85
23—182.60	Cranston Street, Providence	1947	38
24—153.54	Hoxies, Shannock	1947	81
25—184.29	Atwell Avenue, Providence	1949	121

Mr. WEICKER. It is my hope that States, in expending their bridge apportionments, will utilize the 80-20 percent match to address the deteriorating condition of these 209 bridges. I do not attempt to answer the jurisdictional questions surrounding these bridges, nevertheless I hope that States will take action to resolve this significant problem. In my State of Connecticut alone, there are 64 "orphan bridges." I believe the time has come for responsible preventive action be taken by all parties involved.

Mr. President, I would like also at this time to thank my colleague from Connecticut, Mr. DODD, for his strong interest in this matter. I also appreciate the concern expressed by Senators HEINZ, D'AMATO, SPECTER, and PELL over the deterioration of these bridges. I look forward to working with my colleagues in the 98th Congress to insure prompt action on this important safety problem.

ORPHAN BRIDGES

Mr. DODD. Mr. President, I am pleased to join my distinguished colleague from Connecticut (Mr. WEICKER) in sponsoring this amendment which is consistent with the intent of this legislation to direct increased revenues to the rebuilding of our roads and bridges. Specifically, our amendment requires States to give strong consideration in allocating funds made available under this legislation for bridge repair to those bridges which run over rail lines which make up the Northeast corridor improvement project.

The need for this amendment results from the unique status of these so-called orphan bridges. At this time, more than 600 bridges and viaducts cross over Amtrak rail lines in the Northeast Corridor, However, neither Amtrak or the States involved accept responsibility for the upkeep and maintenance of 209 of these bridges—including 64 in my State of Connecticut—due to the fact that the ownership of these bridges was not expressly addressed when legislation was approved providing for Amtrak right-of-way over these rail lines. This confusion over ownership has resulted in a situation where both Amtrak and the States have been reluctant to undertake necessary upkeep and, as a result, the bridges have deteriorated to the point where their condition impedes both local traffic and rail service in our region.

Amtrak estimates that the current cost of repairing these bridges is $100 million. I wish to emphasize that our amendment does not provide additional funding for this purpose. In Connecticut, for example, these bridges are already listed on the bridge inventroy which the State develops and which serves as the basis for the allocation of Federal funds for bridge repair. Our amendment simply cuts through the problems associated with the uncertain ownership of these bridges which constitute a potential danger to motorists, pedestrians, and rail operations. Without some direction of this nature, it is our fear that the problems and time associated with determining ownership will cause further inaction on necessary repairs. While these bridges are being repaired, it is our strong intention that the involved parties seek some resolution of the ownership of these bridges and I would strongly urge the Department of Transportation to assist in this process where necessary. Mr. President, let me restate that this amendment does not require additional spending, but gives strong encouragement to the States to address a situation which threatens the adequacy and safety of the transportation network of our region. I want to thank the leadership and staff of the Committee on Environment and Public Works for working with us on this problem. I particularly want to commend my friend and colleague Senator WEICKER for pursuing this issue with me and I urge adoption of the amendment.

Mr. PRESSLER. Mr. President, I wish to commend my Senate colleagues for their long hours of hard work on section 201 of H.R. 6211, the Highway Revenue Act of 1982. Many Senators representing varied interests originally objected to the House bill. But we in the Senate have devised a compromise that is far superior to the version passed by the House of Representatives.

In particular, I believe that the highway-aid allocated formulas reported by the Senate Environment and Public Works Committee reflect a viable and fair blueprint for restoring our Nation's roads. I am pleased to be a cosponsor of S. 3043, the legislation containing these revised formulas, and incorporated into H.R. 6211 during Senate debate as the Baker substitute.

In the past few years we have seen an alarming trend to ignore the desperate highway needs of rural States. Under the House proposal, my home State of South Dakota would not be given credit for the many actual miles of road that must be maintained to serve our farmers, ranchers, and rural citizens.

The allocation formulas in the House bill discount the interests of States like South Dakota in many major Federal-aid programs, including interstate construction and primary road construction and resurfacing. However, I would like to detail the difference between the House and Senate plans regarding the interstate system's resurfacing, restoring, rehabilitation, and reconstruction—4R—apportionment formulas.

When the interstate 4R program began, funding was based on an assessment of the number of interstate lane miles compared to an estimate of vehicle miles traveled—VMT. The initial formula was constructed to put 75 percent of the emphasis on lane miles and

25 percent on VMT. States like South Dakota fared well under this arrangement because we have a large number of lane miles and relatively low levels of VMT. Last year, the Senate adjusted the formula to one based on 60 percent lane miles and 40 percent VMT. However, in conference with the House, the lane mile ratio was lowered to 55 percent. Consequently, the amount of money available to large rural States for interstate 4R was reduced.

These reductions are disturbing enough, yet the House has passed an allocation formula for interstate 4R money that totally eliminates the lane mile consideration. Such a formula is not in the best interests of the Nation's Interstate System. The key here is the concept of a nationwide highway system. We cannot allow the rural portions of this great transportation network to go into disrepair in order to benefit more heavily traveled highways. I urge my colleagues to carefully consider the ramifications of such a discriminatory allocation formula should it be included in the conference report on H.R. 6211.

POSTCLOTURE PROCEEDINGS

Mr. BAKER. Mr. President, we are in a postcloture situation, I believe, on the bill itself; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Are amendments in order to the bill at this stage?

The PRESIDING OFFICER. Amendments are not in order.

Mr. BAKER. Mr. President, would the Chair please state for the benefit of the Senate what rules apply to debate and at this point of postcloture in respect to the length of time Senators may speak.

The PRESIDING OFFICER. No Senator may speak for more than 1 hour.

Mr. BAKER. I thank the Chair.

Mr. HUMPHREY. Mr. President, unless some other Senator has an urgent wish to be the first to speak after cloture I shall proceed to use some of my time and reserve the remainder if there is a remainder,

Apparently no one else wants to be first.

Mr. President, this Senator believes that President Reagan is getting some very bad advice these days.

May we have order?

The PRESIDING OFFICER. (Mr. GRASSLEY). The Senator from New Hampshire has asked for order.

I ask that both the Members of the Senate, staffs, and visitors in the gallery be quiet, pay attention. Since we have called for order there is less order than there was previously. So I ask the Senator from New Hampshire to suspend until we get order.

Is it satisfactory to the Senator from New Hampshire or does he want me to seek further peace and quiet?

Mr. HUMPHREY. I thank the Chair.

Mr. President, I made the point that the President is getting some very bad advice. From whom I do not know. But in my mind I am certain he is getting very bad advice.

A number of columnists have written on the subject of the gasoline tax and suggested that initially the President was opposed to this gasoline tax, that he was brought aboard by his staff on the argument that if he did not get aboard this bandwagon he would be run over by it.

I do not know whether this contention is true or not, Mr. President, and have no way of being certain.

But inasmuch as the argument has been made by a number of columnists, respectable columnists, including Patrick Buchanan, I am inclined to believe it.

According to a recent column written by Mr. Buchanan—if we might have order, Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire has asked that the Chair bring order to the Senate.

So once again, for the second time in the 5-minute period the Chair reminds the Senate that the body is not in order and asks Senators to respect the right of the Senator from New Hampshire to be heard.

Mr. HELMS. Mr. President, will the Senator yield to me 1 minute?

Mr. HUMPHREY. I am happy to yield to my colleague.

The PRESIDING OFFICER. First of all, the Chair asks the Senator from New Hampshire if the peace and quiet is satisfactory to him.

Mr. HUMPHREY. It is. Thank you.

Mr. HELMS. Mr. President, the Chair's point is well taken about the order in the Senate.

Third reading was achieved when there was such a hubub around me that I did not hear it.

I am not going to protest, but I do hope that the Chair will do everything possible to maintain order in the Senate because we are entitled to hear what is going on.

Now, this hubbub to which I referred was very costly to us in terms of certain procedures, and I am not going to protest because maybe I should have been sitting on the front row or standing in the well, as I have to do a lot of times, to hear.

But I do hope the Chair will maintain order in this Chamber.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. EAST. Mr. President, may I make a parliamentary inquiry?

The PRESIDING OFFICER. Does the Senator from New Hampshire yield?

Mr. HUMPHREY. I am delighted to yield.

The PRESIDING OFFICER. What is the desire of the Senator from North Carolina?

Mr. EAST. In addition to Senator HELMS' point, was it appropriate to have third reading on the same legislative day?

The PRESIDING OFFICER. It was not so appropriate.

Mr. EAST. Pardon?

The PRESIDING OFFICER. It was not. If the point of order had been raised it would have been subject to a point of order.

Mr. HELMS. That is the point, Mr. President.

Mr. EAST. We raise the point of order.

Mr. HELMS. Too late.

Mr. EAST. I think clearly that what was done was not in conformity with the rules of the Senate and it clearly was done, Mr. President, while there was disarray in the Chamber, and I do not look upon it as a fair and ethical calling.

The PRESIDING OFFICER. The point of order is not timely.

Mr. EAST. The point of order is what?

The PRESIDING OFFICER. The point of order by the Senator from North Carolina is not timely and hence out of order.

Mr. EAST. But it is conceded by the Chair and by the Parliamentarian that having third reading on the same legislative day was contrary to the rules of the U.S. Senate.

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. EAST. How does one justify that? I put that question to the Chair.

The PRESIDING OFFICER. On many occasions in the past the Senate has had third reading on the same legislative day and points of order not being raised hence we can continue in the normal course of business.

Mr. EAST. Mr. President, let me continue this parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAST. The Senate was in disarray. Senator HELMS has already made that point, and the Chair is falling back on the very feeble explanation that the rules have been violated before. Under the laws of the United States, let alone of the U.S. Senate, is that a justification for deliberately violating the laws and the rules of the Senate when the Senate was in a period of disarray?

I find that hard to accept. That is hardball, that is parliamentary hardball, is it not, beyond the rules of the Senate itself, and at some point I

think it is appropriate to make that point that what occurred could not under the rules of the Senate occur on the same legislative day, and the decision and the call was made while the Senate was in disarray. I call that going beyond the pale of the rules.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment without losing his right to the floor?

Mr. HUMPHREY. The Senator from New Hampshire has the floor.

Mr. BAKER. Mr. President, will the Senator yield to me without losing his right to the floor?

The PRESIDING OFFICER. Will the Senator yield to the majority leader?

Mr. HUMPHREY. I yield.

Mr. BAKER. I surely hope the Senator from North Carolina does not think anybody has tried to play hardball with him, but the Chair has acted, in my opinion, in the way the Chair should act under the circumstances. But if the Senator is seriously concerned about that, the remedy is simply for me to adjourn for 1 minute. We are in a postcloture situation, and if I do that and the Senate will agree to adjourn, then we are back on this measure.

There is no reading of the Journal, nothing comes over under the rule, nothing of the procedure that follows after adjournment is actuated, and we are right back where we started. But I will do that if the Senator wishes. But I respectfully suggest there is nothing improper in what the Chair did. Indeed, there was implicit in what he did that this was routine and regular, and if you want to pull the whole thing out, we will vitiate it and move to adjourn.

Mr. HELMS. Mr. President, will the Senator yield to me? The majority leader and I discussed this point earlier in the evening, and he is exactly right.

The point I was making, Mr. President, is there was not order in the Senate. I was expressing the hope that the Chair would maintain order. This is a minuscule point, since the majority leader can adjourn for 1 minute, which he told me he would not do. Being conversant with the rules, I think not much time is involved, but just to keep the record clean so that everybody will be satisfied, I hope the majority leader will vitiate that and go through the routine. It will take about 2 minutes.

Mr. HUMPHREY. Mr. President——

Mr. BAKER. Mr. President, will the Senator yield?

Mr. HUMPHREY. Only on condition that my time may be back up to the time I first yielded.

Mr. BAKER. I am happy to do that.

The Senator from New Hampshire has the floor. If I may gain the floor in my own right, that will stop the time running of the Senator from New Hampshire.

I seek recognition.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. HUMPHREY. Point of order. Does the Senator from New Hampshire have the floor?

Mr. BAKER. I would not impinge on the Senator at all. I thought the Senator was concerned about time running against him, and I was proposing to change that by seeking recognition in my own right.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the time consumed in these various colloquies of the last minutes be removed from the time consumed by the Senator from New Hampshire of his 1 hour.

The PRESIDING OFFICER. Is there objection?

Mr. HUDDLESTON. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Let us not get tangled up. The Senator had a minuscule point. Will the Senator yield to me for a moment?

Mr. HUMPHREY. I will.

Mr. BAKER. Let me propose that I gain the floor in my own right. Let me propose that we go back and start over from scratch.

I propose I may be recognized for the purpose of vitiating third reading, at which time I would be recognized for the purpose of moving to adjourn for 1 minute.

Mr. President, I make that request in the form of a unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, before the Senator moves——

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. I would hope Senators would not press the majority leader to do this. What has been done is often done. The Chair often—once we give unanimous consent that a measure may be called up, we vitiate the 1-day rule. We do not necessarily vitiate the 3-day rule. But very seldom does anyone raise any question about that 3-day rule once we have given consent that the measure be called up, in which case the Chair proceeds to see if there are no further amendments, third reading. That is what happened here. He made it very clearly. I sat here and listened to him.

Mr. HUMPHREY. Pardon me, is the majority leader speaking on the majority leader's time? I yield no further on this.

Mr. BAKER. Will the Senator yield to me for a unanimous consent request?

Mr. HUMPHREY. No, sir.

The PRESIDING OFFICER. Will the Senator from New Hampshire yield the floor?

Mr. BAKER. If the Senator will yield to me, I will make the request I just suggested and that will put us back to square 1.

Mr. HUMPHREY. Very well, I yield.

Mr. BAKER. Very well.

VITIATION OF THIRD READING

I ask unanimous consent that third reading of the bill be vitiated. I ask unanimous consent that immediate thereafter I may be recognized for the purpose of making a motion to adjourn, and that no debate, no motion, no point of order may be raised against either one of those proceedings.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I object.

Mr. BAKER. Fritz, let me do this.

Mr. HOLLINGS. All right.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Has third reading been vitiated?

The PRESIDING OFFICER. It has.

ADJOURNMENT

Mr. BAKER. Mr. President, I move that the Senate stand in adjournment for 1 minute.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn.

The motion was agreed to; and at 9:17 p.m. on Monday, December 20, 1982, the Senate adjourned until 9:18 p.m., the same day.

AFTER ADJOURNMENT MONDAY, DECEMBER 20, 1982

The Senate met at 9:18 p.m., pursuant to adjournment, and was called to order by Hon. CHARLES E. GRASSLEY, a Senator from the State of Iowa.

THIRD READING

The PRESIDING OFFICER. The pending business is third reading of the bill.

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. BAKER. Mr. President, just in case we have not covered it, I ask unanimous consent that no time consumed in debate thus far be charged against the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Sixty minutes.

Mr. STEVENS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. HUMPHREY. Yes.

Mr. STEVENS. Mr. President, does the two-speech rule apply after cloture procedure?

The PRESIDING OFFICER. It does. The two-speech rule applies.

Mr. HUMPHREY. A parliamentary inquiry, Mr. President.

Can a Senator not manage his 1-hour time under rule XXII in any way he wishes?

The PRESIDING OFFICER. He may, but there can be no violation of the rules in so managing his time.

Mr. HUMPHREY. Very well.

Mr. President, I began by making the point that in the opinion of this Senator the President of late has been very badly advised on a number of issues. May we have order. Mr. President?

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. I thank the Chair.

Mr. President, it is alleged by a number of people, presumably in a position to know, that at first President Reagan was not inclined to support this gasoline tax, but that he was brought aboard to support it by his staff who advised him that the juggernaut was rolling and he had either better get out of the way or he was going to be crushed beneath it.

And this point was central to a piece written by Patrick Buchanan, published some days ago, who quoted some unnamed White House official in the following way: "If we had waited, the train would have left the station," referring, of course, to the gasoline tax.

Mr. President, I think those of us who have tried to oppose passage of this gasoline tax have made an important point. Just in case it has escaped my colleagues in confusion, and particularly if it has escaped the nincompoops at the White House who badly advised the President on this point, if four U.S. Senators, three of whom are freshmen, very nearly defeated this gas bill, it would have been very easy for the President not only to kill it but to keep it off the calendar at all. But the President was badly advised if Mr. Buchanan and others with excellent credentials and easy access to high officials in the White House were correct in their assertion that President Reagan really did not want this bill but was persuaded to support it by some White House officials.

I offer my congratulations to what appears to be a victory to the President, to the Secretary of the Department of Transportation, who is a persistent man, to the majority leader and the Senate leadership. But, in my opinion, this is no victory. If it is a victory, it is a mighty hollow victory. Now the press marginally against President Reagan will add to the list of their inconsistencies—which includes, as they put it, the largest peacetime tax in history—a very regressive tax on gasoline which, in large measure, was unnecessary in the view of this Senator. And so it is not only a victory, it is a disaster.

Mr. President, why has this bill been pushed so very hard? I cannot imagine. It is bad economics. How many times have those of us, on this side of the aisle, at least, heard the sermon about not raising taxes during a recession. I have heard it. I have preached it. I believe it. I thought President Reagan believed it. I thought my party believed it.

And yet we are raising taxes at a critical moment in the recession when the economy is grasping for straws, desperately struggling to gain footing, struggling to get on its feet. And this administration, with the cooperation of Republicans, has just delivered a knee to the groin of this economy. It is an economic mistake. It is a political disaster.

Some contend that this measure, this increase in the taxation, the net tax burden on our country, will create jobs. What utter nonsense. If raising taxes creates jobs, then why stop at a nickel? Why not 50 cents, so we create twice as many jobs? Why stop with gasoline? Why not increase the taxes on other things, as well? Indeed, why not confiscate paychecks in full? Why not simply wrest the paychecks from the hands of working men and women and decide we will spend it because we want to create jobs and we know how to restore prosperity?

May we have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Hampshire.

Mr. HUMPHREY. I thank the Chair.

It is perfectly clear, on the basis of simple logic, that this is a bad time to be raising taxes. And this tax does raise the net tax burden on our people and on our economy.

It seems clear, to this Senator, at least, that it will not create jobs. It will transfer jobs, yes, but what does that do except maybe some political good that permits Members of Congress to claim they are doing something about unemployment?

The gasoline tax, in the sense of creating jobs, is a political sleight of hand. Yes, we will increase employment in the construction industry, but we will reduce employment and reduce job creation in the private sector by this levy of $5.5 billion per year. The notion that we are creating jobs is New Deal nonsense, it is Keynesian claptrap, it is hypocrisy. We are not. We are destroying jobs.

Well, then, if it is not a good time to enact this tax and it does not create jobs, why do we need it? Well, the next retort of the proponents is that unless we do so this week and not next month or February, when the new Congress comes in, unless we do it now, why, bridges all across the country will be plunging into rivers and highways will be crumbling before our very eyes. This contention, although, of course, I have exaggerated it to a degree, is also nonsense on its face. Another month or 6 weeks, time enough so we can consider this with due process and careful deliberation—which it has not received—is not going to make a material difference.

So it is not needed for the economy. Obviously the economy does not benefit by raising taxes. It is not going to speed up the recovery, it is not going to create jobs, and it is immaterial whether we wait 6 or 8 weeks and do it correct. So why, then, all the pressure to have this bill?

Well, it has come down, I am afraid, to a matter of saving face. Maybe that is not so bad for the President. It is important that he win most of these efforts. But I hope that he and his men have learned a lesson and that the President will be a little bit more hesitant to accept the kind of advice he has been getting lately from his advisers. He could easily have stopped this tax. Simply by telling the Senate and the House leadership he did not want it would have been enough.

But, instead, we have gotten ourselves into a real mess where Republicans have aired their dirty laundry in public. Maybe some good will come out of that. I know the Senator from New Hampshire has a few malodorous socks he would like to air still but I shall wait for a private moment to do that.

Mr. President, this tax has been described as a user fee. And, to some extent, that is true, and I support that approach. And were there some offsetting tax reductions so that there were no net tax increase upon the economy, then the Senator from New Hampshire would be a lot more inclined to support this bill.

At the same time, how do we describe as a user fee the spending of 1 cent collected from motorists for mass transit? Tell that to the motorist pulling up to a gas pump in New Hamshire, that 1 out of 5 cents about to be collected from him by way of a tax increase is going to be spent on subway riders or cars in New York City and that it is just a little old user fee. He will not swallow that, I can assure you. It is not a user fee. It is intellectual dishonest for us to sell it on that basis.

Mr. President, there are many provisions in this bill which are bad, if not pernicious, one of which is the expansion of the applicability of the Davis-Bacon Act; a sorry act that has been on the stature books for decades too long, for which repeal has been urged time and time again by responsible and respectible bodies; a bill which cost taxpayers, on the average 36 percent more in construction costs, on construction projects where Davis-Bacon applies, in contrast to those

projects in which it does not apply. If anything, we ought to be repealing Davis-Bacon or at least exempting project funding by this tax increase from Davis-Bacon.

If we are truly concerned—I have heard a lot of pious sentiment here about our National Highway System and about how it is falling rapidly into disrepair—if we are truly concerned about repairing our highways and truly concerned about the interest of the taxpayers, obviously, we would want to do all that we can to insure that we get maximum value per dollar. Is that what we are doing? No, we are not doing that at all, although we have an opportunity to do it.

Instead, we are extending the applicability of Davis-Bacon from strictly new construction, to which it was formally restricted, to highway repairs, as well. So it is a giant step backward at a time when we could have taken a giant step forward.

There are other unfortunate provisions. It extends the responsibility of the Federal Government into areas of State responsibility at a time when, under the new Federalism thrust of this administration, the progress is supposed to be in the other direction.

Mr. President, I believe I already touched upon the disappointment of a number of us on the way in which this bill has been handled. It has been railroaded through the Congress. It has been rammed down our throats. There have been, I am told, only 2 hours of hearings on this gasoline tax. There are no reports, despite the fact that the matter came before at least three committees. There is not one single report available to Members to consult in their deliberations on this bill, not one. It is customary, of course, to have such reports.

There has been no time for a national debate to ensue, no time for a national consensus to evolve.

The Senator from New Hampshire went through his mail yesterday on this subject. He has stacks of telegrams from highway builders. He has stacks of telegrams from trucking companies. But so far he has only a smattering of letters from constituents interested enough to write individually written letters. Why is that? Because they do not care about paying a nickel more per gallon? Not at all. In my view, it is because this has been rushed through the Congress so fast there has not been time, given the slowness of the mail through the U.S. Post Office and the Senate Post Office, to reach the desks of the individual Senators. We are flying blind. We do not know how the people will really feel about this tax at this stage. But we have to press on for surely if we do not there will be no highways to repair in January when the new Congress comes in.

It would be better to put this aside and save it for a time when it could be considered calmly and rationally, when it could be given due deliberation, when adequate hearings could be held, when witnesses could be called, when a national debate could ensure, a consensus formed and reports issued to Senators so that they could read them and be knowledgeable on this very complex bill.

Mr. President, I began by referring to a column by Patrick Buchanan in which some unnamed White House official with whom he had talked said, "If we had waited, the train would have left the station."

In his piece, Mr. Buchanan, among other things, had this to say in particular about the train that the White House was worried about missing. Quoting Mr. Buchanan:

> And what is Ronald Reagan doing aboard a train headed in a direction opposite to the one in which he promised to point the United States?

I ask that question as well, Mr. President, as one of the earliest supporters of Ronald Reagan for his party's nomination, one who spent days with him on the road riding a campaign bus over the highways of New Hampshire, one who has been delighted to defend him against vicious charges, and one who wishes him well. But one who is growing tired of seeing his President pushed from the course which he had set for himself and the Nation by those who do not truly share his point of view.

If Ronald Reagan is President, then let Ronald Reagan be President. If we are going to try Reaganomics, then let us have Reaganomics and not some watered-down mush dredged up from the history of past administrations which has failed.

The President has been badly advised. He could easily have killed this bill, and I think we have proven it over the last week or 10 days.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from New Hampshire has consumed 16 minutes 37 seconds.

Does the Senator want to yield back the remainder of his time?

Mr. HUMPHREY. No, he does not.

Mr. President, I would like to talk about the filibuster, the perceived filibuster, that has taken place in this body, or a series of filibusters, actually.

Some have suggested that the use of the rules by a small number of determined Senators is somehow a perversion of the process, somehow unethical.

Instead, I would contend that the rule which permits extended debate, rule XXII, has worked very, very well in this case, very well. It has almost—unfortunately, not quite—prevented passage of a bill being railroaded through Congress without due process and without adequate consideration. It is a good thing when something like that can take place.

I was fascinated and educated in listening to the remarks of the distinguished junior Senator from North Carolina last evening. I regret that he lost the floor because he certainly had my rapt attention. He certainly has one of the clearer minds in this body, a man of lucid logic, a man well steeped in the history of our Republic and in that crazy science called political science, a man with the courage of his convictions, a man who knows that he is here to represent the people of his State and the people of the United States and not 99 other Senators.

I thought his remarks were excellent. I thought he well answered some rather rudely put inquiries.

One of the points on which he was particularly eloquent was the origin of rule XXII, and the fact that it is a democratically constructed rule, that is to say, it was created and can be changed, amended, or deleted by the democratic rules of the Senate.

It is a democratic process. The filibuster rule, to use the plain word, is one of the catalog of checks and balances that we have in this country to prevent a majority from abusing the minority.

I would point out that, in the knowledge of this Senator, at least, there has never been a matter about which the people of the United States felt stronger that was frustrated for any great length of time by the filibustering rule.

Yes, filibustering has sometimes delayed, annoyingly delayed at times, the exercising of the will of the American people, but never indefinitely. I hope it will always be so, I hope we always have that rule. It is a good rule.

I want to point out further, Mr. President, that anyone who consults the record of this last week or 10 days will find that, by far, the vast majority of the time consumed on this floor, including that during the 36-hour straight session we had the other day, was time consumed in the normal process of offering and debating and voting upon amendments. The Senate has fallen all over itself and made a fool of itself this last week. It has not been so much the fault of filibuster as the fault of trying to deal with matters that we had no business taking up in a lameduck session, which no one anticipated being taken up in a lameduck session, which had not been announced as pending during a lameduck session.

If we got ourselves tangled up in the tarbaby, it is not the fault of those who have been resisting the gasoline tax.

Mr. President, I point out further for myself that it has been my inten-

tion to delay only the gasoline tax and no other measure, important or otherwise, pending before this body during the lameduck session. I stated on the floor and in public that I would not delay the continuing resolution or any other business of the Senate, and I have not. I think the Senator from Kansas will agree with that.

Mr. DOLE. Will the Senator yield?

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I may yield to the Senator from Kansas without losing my right to the floor and without, upon resumption, my remarks counting as a second speech.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. I only interrupt the Senator to confirm what he just stated. As I indicated to him earlier, as far as this Senator knows, the Senator from New Hampshire has done nothing to delay anything but the gas tax bill. I have been on the floor every minute, and with the exception of a couple of amendments we adopted, offered by the Senator from New Hampshire, which were acceptable and may have taken 5 minutes, this Senator knows of no other except a brief statement by the Senator from New Hampshire. We shall include in the RECORD, and I have asked the clerk to compile a record of just how the time has been allocated the last few days so the RECORD will show and the public will know how the time was consumed.

I do affirm the statement just made by the distinguished senior Senator from New Hampshire.

Mr. HUMPHREY. I thank my friend from Kansas. I hope he remains my friend. I certainly feel friendly to him from time to time. He is a fine man, though we do not always agree. That is a part of politics.

Mr. President, I will admit that when I began, I was under the impression that I might interrupt my speech without getting zapped, but the Chair has me worried on the basis of earlier statements. Nevertheless, I am going to take a chance, because my colleagues advise me that they "know a way around" this problem. I am inclined to think they do, so I am going to yield the floor at this point and, for whatever it is worth, state that I reserve the remainder of my time.

Mr. EAST. Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection——

Mr. EAST. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the call of the roll.

The legislative clerk continued with the call of the roll.

Mr. EAST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Does the Senator from North Carolina desire to be recognized?

Mr. EAST. Yes, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EAST. Mr. President, I would like to utilize some of the time I have been allocated under the post-cloture rule of 1 hour for discussion and debate.

First, I want to thank the distinguished senior Senator from New Hampshire for his remarks about my comments the other evening. In particular, he made reference to my comments on the filibuster and the democratic process.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Kansas raises the point that the Senate is not in order.

Mr. DOLE. The Senator is entitled to be heard.

Mr. EAST. I thank the Senator from Kansas. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina may proceed.

Mr. EAST. There are those who will feel, and understandably—it is always so at the late hour when the filibuster is employed—that some way or other this does not seem appropriate; it seems out of order, but I should like to note that as regards the democratic process the filibuster rule provision was developed under the rules of the Senate, which is a democratic institution. It has the power under the Constitution to set its own rules, which it has done. The very purpose of the filibuster, that is, of allowing individual Senators to speak, is to slow down rash action on the part of the majority.

There are a number of us who feel this gas tax bill is rash. It is not a good bill to begin with. It comes late in the session. It comes possibly on the last day of the session. There is a great desire on the part of some, its supporters, to push it through.

I wish to note that yesterday the distinguished chairman of the Senate Finance Committee, the Senator from Kansas, for whom I yield to no one in my admiration as an individual and skill as a Senator, was encouraging, and understandably perhaps in his perspective, Senators not to speak on the issue, which I understand and certainly do not mean to intend reflects adversely on the distinguished Senator.

But it does, in my judgment, suggest the problem here that at the tail end of the session, in the wee hours of the morning, we run the risk of passing poor legislation. Ultimately, that will reflect adversely upon the deliberative process, which is the toughstone of the democratic process, namely that you have carefully examined and concluded that a particular measure is in the best interests of the country—in this case, we are U.S. Senators—and also in the best interests of our respective States.

I have searched my conscience on that point, and I find it in the best interests of neither the people of the United States nor the people of my State of North Carolina.

Trying to put this thing in perspective and trying to get a genesis of the problem, one will recall that the purpose of the lameduck, at least it was agreed upon, as the distinguished Senator from New Hampshire noted, was to deal with appropriations bills and/or with the continuing resolution.

A number of other things crept onto the agenda and the list grew—Radio Marti, for example; S. 99, for example. Those measures failed to survive cloture votes. They were pulled down and sent on their merry way. But for some reason or other the gas tax, like the cat with nine lives, kept being resurrected. I think it is being given not equal treatment under the rules and the law, but it is being given superior treatment for some reason.

Now, if in terms of merit it warranted it, I could understand. But I do not see, on the basis of the merit of it, why it was required that every effort be made to keep it alive and on the agenda. It has meant one of the most heavy expenditures of the energies of this body, and, of course, in conjunction with the administration, to keep this one alive and well.

Initially, I felt the measure deserved to be considered, to be examined, and, if it could survive a cloture vote initially, to have gone into it. But it could not do that any more than these other measures. It failed the test. Yet, we find that there was this effort to go back, pull it out, and do everything they could to get it back on the agenda.

At that point I felt it was a new era on this measure, and hence the need to resist it.

The lameduck has attempted to do too much, and we were right at the beginning of the lameduck, when something could not survive a cloture vote, to pull it down and move on. And if we had done that with this one, we would have finished the appropriations measures and/or the continuing resolution and we would be out of here.

So I am resistant to the notion that some way or other it is those of us who are unhappy with this measure who have insisted on prolonging the lameduck. To the contrary, it is those who have concluded, come whatever, that this measure must come before this body and it must be passed.

Now, the distinguished Senator from Kansas had noted way before the lameduck that he thought we ought to consider probably solely the social security issue.

That was a good proposal, a single issue in the case of an entitlement program, a fundamental problem in terms of restoring the integrity of it so that we could begin to restore the integrity of entitlement programs generally. It would have been a great precedent. I think the distinguished chairman of the Finance Committee made an excellent suggestion at that time.

Well, that did not gain much support, and so then it was concluded, and I recall the distinguished chairman of the Senate Appropriations Committee, the senior Senator from Oregon, saying that we ought to confine ourselves to appropriations measures and the continuing resolution. Well, that made eminently good sense, too.

I should like to point out that our leadership here, including the distinguished majority leader, for whom I yield to no one in my admiration as an individual and his personal character and integrity. I have voted for him in the past to be majority leader, and I will go on record right now, tonight, saying that in January one of the greatest pleasures I will have will be to vote for him as majority leader. He is a man of great character, great talent, great integrity.

We have then excellent majority leadership. Originally Senator DOLE said, "Let's try social security." Then, second, the distinguished chairman of the Appropriations Committee said, "Well, there is not much sentiment for that. Let's go to appropriations and the continuing resolution."

So that was agreed upon and seemed eminently reasonable and responsible. But I repeat, what happened was the list began to grow, so again the test was, can you survive cloture? If you cannot, you are pulled down—Radio Marti, S. 995. But again, it is the gas tax that has the nine lives of the proverbial cat; it keeps coming back. And so finally at some point I felt in my own mind I was relieved of the obligation—and I think others have, too, who have assisted us in this effort—to acquiesce in it; it could not survive the hurdles these other measures had to face. Why should this be allowed to keep coming back again and again and again?

What was so sacred about it? Was it that well conceived? Was it that substantively sound?

I submit the answers to those questions must be no.

So again, I submit for the first problem, is the lameduck session. The error was along the way, and I am not suggesting anyone in particular is to blame. This thing grew like Topsy and all of a sudden it became clear that the crown jewel of the lameduck would be a gas tax, 5 cents a gallon.

I got to thinking to myself for me to have to go back to North Carolina and when they said, "Now, EAST, what is the great accomplishment of the lameduck," I would say, "Well, we passed the continuing resolution," which is not a major accomplishment. We had to do that anyway.

I would say:

No, the crown jewel is the gas tax.

Oh, well, Senator, explain that to me.

Well, you are going to be paying a nickel a gallon more on gasoline.

You mean, Senator, that is the main thing you accomplished while you were up there, another 5 cents a gallon on my gasoline?

I do not think it is a good idea, and I have tried to figure out some way or other that I could in good conscience rationalize that this was a good thing, that it was positive, because I know in my State—oh, sure, you can find people who will support anything in this country if you look hard enough—but generally in my State there is strong opposition to it, and there was not any way that I could go back to North Carolina and be content with saying, "This is what we had done," and then the question will be:

Well, Senator, what did you do to stop it.

Well, I really did not do a great deal. I just kind of drifted along with the crowd.

Oh, I see. Now, when did you say you come up again for relection?

Well, 1986.

Well, we will remember that, Senator.

I presume they would be saying to themselves because I can tell you when I was sent up here by the people of my State it was not to drift along with legislation that I in my good conscience felt was not in their best interests or in the best interests of the country, or I might try this angle with them.

Well, I might say:

I do not think it is any good either, but I will tell you the problem was I would have inconvenienced my colleagues if I had not acquiesced because, you see, it was just before Christmas, it was time to go home.

But that is not very persuasive, either.

So what we have to fall back on I will acknowledge and I regret it and I do not do it with relish or any great feeling of satisfaction, we have had to avail ourselves of the rules of this distinguished body to try to do two things:

One, to delay a final vote on it so, two, that people might reflect upon it carefully and thoroughly.

All I am trying to do is to see that the deliberative process has been thoroughly exhausted on this measure and if it finally goes through then I can go back to my State and I can say to my voters and my constituents:

I fought the good fight, we finished the race, we kept the faith.

Yes, perhaps, we will have to report we lost. But there will not be any way that the good voters of North Carolina, I hope, can say:

Well, doggone it, East could have done a better job to fight that thing. He should have tried to head it off. We did not hear his voice raised very must in opposition to it. He did avail himself of his parliamentary opportunities. I do not know quite why we sent him up there.

So and so forth.

So it was in that spirit that I and I think the others have joined in this effort to make sure that this body is comfortable not only in terms of national policy but in what it is going to do to their respective States.

This bill, Mr. President, has many weaknesses in it.

I do not wish to worry my brethren going into them all again, but I will simply tick them off quickly and remind them that the bill is a regressive tax upon the working people of this country. Gas is a necessity; it is not a luxury. It is not a luxury. It comes in a time of, yes, recession, when you are trying to stimulate purchases by people at all levels. This will be taking away purchasing power. That, candidly, I would consider a negative.

I do not know of any economist worth his salt from left to right who recommends that taxes should be raised in time of recession.

Above all, because you are trying to stimulate purchasing power, certainly among those in the middle and lower rung of the economic scale as well as those at the top, but as you begin to scrape off, again you run the risk of lowering purchasing power.

Certainly, that is not the good thing to do, when we are all sitting on the threshold of hoping that this economy will turn around, How? By there being greater consumer demand and here consumer demand will be diluted by a new tax.

It has to be an economic negative.

I can understand why there would have been the suggestion by the distinguished Senator from Kansas that it is best not to go into this measure extensively. If I were a proponent of it I would discourage that also. It is not very soundly conceived.

Mr. President, the tax is regressive. The tax is coming in the time of recession. I consider those in and of themselves enormous negatives.

Mr. President, an additional objection that I have to it, one that has been alluded to before is this question of the user fee concept. We are told that this is not really a tax. We are

told it is a user fee, somewhat the new euphemism in Washington in terms of tax parlance and jargon—user fees, revenue enhancers. The ability of language and certainly the English language is endless, and that is good. It is one of our great cultural tools. But user fee, revenue enhancer to me it is the old problem of a rose is a rose is a rose. This is a tax of 5 cents per gallon on gasoline.

It is not even strictly a user fee because under a user fee as we have noted and others have noted user fees mean precisely that. You collect from the user of something and you directly without dilution or diversion put it into the thing used.

With all due respect to people with mass transit, when you slice it off 20 percent of your tax for mass transit, by definition that is not a using group. By definition users of mass transit are not using the roads, the highways, and the bridges. They are using mass transit in the urban centers.

If we want to have a specific tax for that, a user fee tax or whatever, I would be happy to consider it. But certainly if you place a user fee tax on the users of the highways and in the rural areas of North Carolina, you send it up to other areas for mass transit, that is not a user fee any more than if we place a tax upon the users of the subway in New York City and send it down to rural eastern North Carolina and tell the good people of New York it is a user fee. They do not use the rural roads of eastern North Carolina.

When you violate the fundamental tenet of the user fee, as we are doing here, that is bad tax policy. It is bad precedent. It is not to reflect adversely on the need for mass transit or from our great colleagues who represent urban areas who need this kind of a system.

Mr. RANDOLPH. Mr. President, will my able colleague from North Carolina yield to me for a very short comment of about 1 minute?

Mr. EAST. I will happily yield.

Mr. RANDOLPH. If it will come out of my time?

Mr. EAST. If it comes out of the Senator's time, I will yield on that basis.

Mr. RANDOLPH. I thank my colleague.

In effect, the able Senator said that the people of New York and other cities would not be using other than mass transit. The fact is that North Carolina is a State of great tourism, beautiful, and people by the thousands come into North Carolina and West Virginia and other States, and they buy their fuel for hundreds of miles in those States and so, in effect, the people from, let us say, the more metropolitan areas of Philadelphia, Pittsburgh, New York do go to rural States.

The people in Boston go into Vermont, New Hampshire, and Maine. We are a mobile society, and people move really by the millions every year, and not just in the areas of their own counties or their own States, but they move across America, across America where people from the East go to the west coast, people from the West go to the east coast. They go from the Maine area moving down into Florida, spending weeks and weeks in that sunny clime. They buy gasoline.

I think on balance perhaps there are as many users from some of the more metropolitan areas of the country who are coming into North Carolina and West Virginia, and I feel that that argument perhaps is in a sense not fully valid, that argument which my good colleague is making.

I thank my colleague.

Mr. EAST. Mr. President——

The PRESIDING OFFICER (Mr. SPECTER). The Senator from North Carolina.

Mr. EAST (continuing). I would like to move the further consideration of the bill be postponed until tomorrow.

Mr. STAFFORD addressed the Chair.

Mr. EAST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. EAST. I object, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. I object, Mr. President.

The PRESIDING OFFICER. The objection is heard.

The clerk will resume the call of the roll.

The clerk continued with the call of the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion by the Senator from North Carolina to postpone the matter to a subsequent day is not in order. Cloture requires that the Senate remain on the matter on which cloture has been invoked until that matter has been disposed of. A motion to postpone to a subsequent day is not a final action; therefore, the motion is not in order.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I support this legislation.

H.R. 6211, the gas tax highway bill, is essential for revitalizing Iowa's highway system. During the past few days I have been in communication with representatives of Iowa's Department of Transportation, the U.S. Department of Transportation, the Associated General Contractors of Iowa, and the Road Information Program to review the vast transportation needs of my State and to study what this pending legislation can offer. I would like to share my findings with my colleagues because I imagine Iowa's situation is not that much different from that of most other States.

The Federal Highway Administration has determined through the highway performance monitoring system that over 68 percent of the pavement on Iowa's main road system is deficient. This represents nearly 18,000 miles of Iowa's road system that carries over 87 percent of our State's total traffic volume.

Almost 2,000 miles of paved roads are rated as "poor" by AASHTO standards, which means that the roads are severely cracked, rutted, or broken. Riding quality is described as "intolerable."

The other 15,915 deficient miles of roads are identified as only "fair" by AASHTO standards. Riding quality on these roads is inferior not only because of ruts and cracks, but also because of the bumps created by extensive patching.

Over 3,000 miles of Iowa's pavement is over 40 years old although the design life expectancy was only 20 years. Furthermore, 3,600 miles are substandard with regard to width. These roads are narrower than 24 feet, and in many instances, as narrow as 18 feet.

The poor condition of Iowa's highways causes the waste of fuel and increases tremendously the costs resulting from damage to motor vehicles and tires.

Road deterioration is not the only problem facing Iowa. Indeed, the disrepair of our bridges present a major transportation problem.

The Federal Highway Bridge Replacement and Rehabilitation Program's Third Annual Report to Congress submitted this past March identified well over 13,000 bridges in Iowa as deficient. This equals over 52 percent of Iowa's 25,556 bridges over 20 feet in length.

These 13,000-plus deficient bridges can be separated into two major categories. Over 5,600 are "structurally deficient" by Federal inspection standards. These bridges are unable to accommodate maximum allowable vehicle weights because of deterioration of the surface and support structures. The second category of bridges are "functionally obsolete" because of restrictive width and height clearances and inadequate roadway approaches.

Four hundred of Iowa's bridges need immediate repair. These are presently or soon-to-be embargoed. Six hundred need repair within 5 years. Most of these bridges are more than 40 years

old and must be repaired or rehabilitated. Over 1,100 State bridges are over 50 years old and are designed for 15-ton trucks, not 40-ton trucks.

Based upon present needs—not the cost of future road and bridge deterioration, not the impact of future inflation, and not the minor structural repairs for general maintenance—over $8 billion are required to cover the backlog of road and bridge renewal needs in Iowa. Based upon an ordinary 10-year road program and 15-year bridge program, this translates into an average of $625.6 million in constant dollars each year for the first 10-year period. The estimates break down as follows:

Resurfacing—15,915 miles at $88,000 per mile—the cost: $1.4 billion or $140 million per year for next 10 years.

Rebuilding—1,925 miles at $650,000 per mile—the cost: $1.25 billion or $125 million per year for next 10 years.

Bridges—13,284 bridges at $407,000 per bridge—the cost: $5.41 billion or $361 million per year for next 15 years.

The total cost: $8.06 billion or $626 million per year for next 10 years.

A review of the fiscal year 1983 budget for the Iowa Department of Transportation, along with a comparison of the aforementioned needs provides a vivid picture that underscores the need for this new highway legislation.

This year, IDOT has been able to budget for only $303 million in transportation projects; $104 million of this originates from Federal-aid funds; $112 million was earmarked for administration, operations, and maintenance, which includes patchwork, but no rebuilding or resurfacing. In sum, only $218 million is available for all road and bridge work, including the cost of engineering, acquisition of rights-of-way, and new construction.

During this same period, Iowa's county and city governments will spend about $450 million, which includes $36 million in Federal-aid funds for all programs. Of this, only $124 million will be spent on capital improvements on county roads, city streets, and bridge rehabilitation.

Consequently, only about $342 million will be spent in fiscal 1983 in Iowa for road and bridge revitalization. This compares with the projected spending needs of $625 million per year for the next 10 years just to cover present road and bridge needs. This represents a staggering shortfall of at least $283 million.

This immediate shortfall is compounded by the current trends in revenues generated for Iowa's road use tax fund which is the major source of support for State and local highway budgets. In fiscal year 1982, about 14 percent of this road-use tax fund originated from a 3-percent sales tax on vehicles in Iowa. During this same period, 40 percent of these road fund revenues came from vehicle registration fees. Forty-six percent of this fund is created by motor fuel taxes.

Notwithstanding recent action taken by Iowa's General Assembly to raise fuel taxes, resulting revenues are expected to quickly level off and even decline during the next few years. Between fiscal year 1981 and fiscal year 1982, total motor fuel consumption in Iowa decreased by nearly 11 million gallons. This represents a continuing trend toward reduced fuel consumption. In view of the 150-percent increase in highway construction costs during the past decade, it is clear that State fuel taxes can no longer assure the generation of sufficient State and local road funds.

Moreover, although use and registration taxes can help, they cannot compensate for the shortfall in highway and bridge renewal funding. Under the present revenue arrangement, the State of Iowa simply cannot meet the backlog of highway and bridge repair needs, let alone hope to accommodate future needs. Increased Federal assistance will be necessary.

With the passage of this new highway legislation, the State of Iowa has much to gain. The Iowa Department of Transportation has estimated expected increases in interstate, interstate 4R, primary, and bridge program levels of Federal assistance based upon $12 billion program levels under the Senate bill. Interstate assistance will rise from the fiscal year 1982 level of $15 million to $18 million in fiscal year 1983. Assistance for the 4R program will rise from $11 million to about $30 million. Primary funding will increase from $24 million to $35 million. The bridge program will almost double, increasing from $16 million in fiscal year 1982 to $31 million in fiscal year 1983.

These Federal funding increase obviously translate into a general improvement of Iowa's ability to meet the enormous building and repair needs of our highway system. Specific projects can be identified, however, that will be expedited and enhanced by this pending legislation. The following represent only a small number of projects that will be helped.

Increased Federal assistance will guarantee the continued funding for the Waterloo-Cedar Falls highway construction program replacing Interstate 380, thus greatly expanding the funding for city and State projects.

This bill will assure completion of I-380 by the end of 1986. Moreover, if the Department of Transportation agrees to utilize discretionary funding, which is my desire, this highway can be completed by the end of 1984, gaining 2 full years.

By increasing funding by a factor of 3, sufficient money will be available to make the needed repairs on the older Interstate routes in Iowa. The bill allows the replacement of broken pavements and fixing old interchanges to help maintain Iowa's major truck route.

By doubling funding for bridge improvements, the number of bridge repairs will increase significantly. Particularly important is the fact that work can be completed on embargoed bridges that presently restrict truck loan limits. This legislation also will qualify the MacArthur Bridge located between Illinois and Burlington, Iowa, for Federal funding. Plans for this bridge project could possibly be ready as early as 1984. Funding the final construction of the Keokuk Bridge will so be assured, allowing this particular work to begin in 1983.

I could go on and on detailing the benefits that this legislation offers for my home State, but I think the point has been made. If other States across the Nation even come close to the problems facing Iowa with regard to the disrepair of highways and bridges, the need for additional assistance is clearly established and justified. I hope my colleagues will take a close look at the needs of their own State highway system and weigh carefully the benefits that road improvements will bring through enhanced energy conservation, reduced vehicle repair costs, increased transportation productivity with the accompanying reduction in consumer costs, increased employment, and so forth. By doing so, they will find some very compelling reasons for supporting this highway legislation.

Mr. Chairman, this legislation was designed to rebuild our national transportation system by taxing users. It is a comprehensive legislative package spanning the jurisdiction of many committees. Some of the revenue provisions of the original administration bill were unacceptable to me. As a member of the Committee on Finance, I have worked with Senator DOLE and other committee members to mitigate the most offensive provisions of this bill to the extent possible. Despite this effort, some difficult issues remain.

The American economy is weathering the effects of a national recession. The suffering caused by this recession is focused in my region of the country, the Midwest. Low agricultural prices have destroyed demand for consumer goods and services. With diminished personal income, my constituents are buying fewer consumer durables, such as cars, washing machines, and tractors. The manufacturers of these items are predominantely located in the Midwest. With reduced demand for these products and the raw materials needed to construct them, Midwestern manufacturers are laying off employees to slow production and reduce costs. With so many Midwesterners out of work, demand for housing and new construction has evaporated. With reduce customer traffic,

retailers are depleting their inventories and forestalling reorders.

Recently, there are some small indications that the economy may be beginning to revive. Retail sales increased 1.2 percent in November to a seasonally adjusted average of $9.1 billion. Producer prices for finished goods rose 6 percent in November equal to a 7.2-percent annual rate before compounding. Hopefully, these higher sales will prompt retailers to increase their orders, causing factories to step up production and rehire some of the many idled workers laid off in recent months.

At this point, we are faced with a Hobson's choice—should we enact a major jobs program before Christmas displaying our resolve to get people back to work or should we resist an employment program which funds itself by increasing taxes, a step which threatens a nascent and delicate recovery? Traditionally, we have funded public works projects of this nature by increasing the Federal deficit. To the credit of the 97th Congress, this alternative has not been seriously considered. If we eliminate deficit financing as a serious option, Congress is forced to look carefully at the costs and benefits of the legislation before us.

The 5-cent fuel tax hike will increase the cost of passenger and commercial transportation, it will send a ripple of price increases through the economy which will be reflected in the cost of goods all of us purchase which are transported on our Nation's roadways.

The revenue package also includes a series of fees on the heaviest trucks. Consumers will also see these fees added to the cost of the items they purchase. While trucks have always paid Federal taxes, the shift in user fees from light to heavy vehicles was prompted by the Department of Transportation's highway cost allocation study. In the study, the Department found that heavy trucks cause 33 percent of the road damage and contribute only 26 percent of the revenue to repair that damage. Consequently, the Department of Transportation proposes a set of user fees that imposes greater fees on the heaviest trucks to correct the perceived imbalance.

The trucking industry has attacked the study on the grounds that it fails to take into consideration weather conditions which cause road damage. The validity of the study is an issue which needs further examination. It is also an issue outside the expertise of the Senators on the Committee on Finance. To address the issue of the study's validity, the Committee on Finance pushed back the effective date of the increase in the user fee to January 1, 1984, and will seek the guidance of the committees of appropriate subject matter jurisdiction.

Irrespective of the merits of increasing user fees on vehicles which allegedly cause the greatest highway damage, there is some evidence that the trucking industry does not have sufficient income to pay the increased tax. Many of my constitutent truckers are operating at only 40 percent of capacity. They are still reeling from the effects of deregulation. They are scrounging for business in a highly competitive environment where the recession has diminished the amount of available cargo to haul. To many, the additional cost threatens their survival.

Within this hard-pressed industry, the proposed changes in the user fee structure fall most heavily upon the independent owner-operators. Independent owner-operators own their own power units, pay their own costs, including taxes, and lease their services to a trucking company at a fixed rate. Consequently, independent owner-operators have difficulty passing their costs through to shippers and trucking companies until the expiration of a contract. Already operating on razor-thin profit margins, these independent owner operators are unable to absorb any additional tax burden at this time.

In light of the serious financial condition of the trucking industry, the Senate Committee on Finance included many provisions designed to delay any increase in tax until the industry regains the ability to pay. The administration proposed an increased user fee of $2,700 per truck for the heaviest vehicles effective on April 1, 1984. The Ways and Means Committee sanctioned an increase of the fee to $2,000 effective on July 1, 1983. The Senate Finance Committee version increases the fee on the heaviest trucks to $1,600 phased in over a 3-year period beginning on January 1, 1984. The Senate version is a 41-percent reduction from the administration's proposal and a 20-percent reduction from the House proposal.

This tax applies to a truck in the heaviest weight classification, those trucks whose weight exceeds 80,000 pounds. According to the Iowa Department of Transportation, only 9½ percent of the Iowa trucks that currently pay tax would owe the highest user fee, these trucks represent only 1 percent of Iowa's truck population. Nevertheless, the current fee on heavy trucks is $210 annually and even the Senate Finance Committee proposal of $1,600 represents a dramatic increase in operating costs. For that reason, the tax's effective date was delayed until January 1, 1984, and phased in over 3 years. Despite these changes, concern still existed that the reduced and phased in levy might be a bankrupting increase for the trucking industry. Consequently, the Senate adopted the Boschwitz amendment which reduced the maximum user fee on the heaviest trucks from $1,600 to $1,200, and extended the phase-in period 6 months. I offered a successful amendment to the Boschwitz amendment to extend the phase-in period for independent owner operators from 3 to 4 years. the definition of an independent owner operator is contained within the Motor Carriers Act of 1980. This amendment was needed to soften the increase of user fees on independent owner operators who own their tractor, power unit and lease their services to trucking companies. These individuals cannot pass through their costs until their contracts are renegotiated. Independent owner operators are small businessmen and businesswomen that might face grave financial hardship if the user fee structure was implemented too quickly. I am proud to have worked with Senator DOLE and other members of the Committee on Finance to have devised this exemption and I am grateful to the Members of this body for accepting this provision. It is important to many of my constituents who rely on independent owner operators to transport their manufactured goods and agricultural products. If the industry is unable to pay the increased tax bill as it becomes effective, the levy should be reexamined.

In an effort to lower other taxes on large truck operators, the Senate Committee on Finance retained the tax on passenger tires and passenger retreaded tires. The committee adopted a graduated rate structure for tires, taxing the first 0 to 50 pounds of a tire's weight 9.75 cents per pound, the next 50 to 100 pounds at 15 cents per pound and any weight above 100 pounds is taxed at 25 cents per pound. The House bill taxed all tires over 100 pounds on their entire weight at 25 cents per pound. Under the House measure, a 99-pound tire would be untaxed, but a 101-pound tire would be taxed at $15.25. The tax on tread rubber has been reduced from the House fee of 25 cents per pound to 5 cents per pound for tires under 50 pounds and 16 cents per pound for tires over 100 pounds. These changes significantly reduced the tax burden on the heaviest trucks.

The Boschwitz amendment extends the tax on truck parts to all vehicles weighing more than 10,000 pounds. The Finance Committee recommended this tax be imposed on vehicles weighing over 33,000 pounds. Although this tax applies to a broader class of vehicles, the rate of the tax has been reduced from 12 to 10 percent. I supported this modification which was designed to reduce the costs of operating heavy vehicles.

These changes were the best compromises we could achieve in the Finance Committee and on the Senate

floor. I realize that a phased in user fee with a delayed effective date is still an increased business cost and is small consolation to those dedicated men and women who are transporting the Nation's goods by truck. Let me stress, it was the best compromise we could achieve.

To conclude, this is a very difficult issue for all of us. Even if the cost allocation study is accurate, it is important for us to be sensitive to the needs of the trucking industry. If economic conditions do not improve, the phase in and effective date provisions should be reexamined to reflect these events. The Federal Government will not attain it projected revenue pickup if truckers do not have the ability to pay. We must weigh the costs and benefits of this legislation. The benefits of better roads and the employment of construction workers must be balanced against the potentially crippling effect of tax increases on our Nation's truckers and the resultant increases in the cost of all goods consumed by Americans. The question before us is will this measure enhance or impede our economic recovery? Whichever path we select, we should carefully monitor our decision to be sure it addresses the economic conditions that exist in the future.

I have a copy of the Iowa Poll, published by the Des Moines Register, which shows support for an increase in the gasoline tax if the money is used for road repair: Favor 63 percent, 36 percent oppose.

I ask unanimous consent that that be printed in the RECORD. It reflects the views of 954 of my constituents on the gas tax legislation. This Iowa Poll should be of some assistance to my colleagues in attempting to gage the popularity of the measure before us.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IOWANS IN POLL BACK GAS TAX BOOST

(By Richard Doak)

Iowans overwhelmingly favor the increase in the federal gasoline tax that Congress has been considering, a new Iowa Poll shows.

The poll, conducted Dec. 9-16, found broad support for the nickel-a-gallon increase if proceeds are used to improve the nation's highways and bridges.

Here were the results when adults in a cross section of Iowa were asked:

Do you favor or oppose the plan to increase the federal gasoline tax by 5 cents per gallon to pay for improving highways and bridges?

[By Percent]

	Favor	Oppose	Don't know
All Iowans	63	36	1
Republicans	•	•	•
Democrats	•	•	•
Independents	•	•	•

Figures were illegible.

The tax increase, which was embraced by many members of Congress as a means of creating jobs and recommended by President Reagan, is intended to provide about $6.6 billion a year for highways and mass transit.

As the table shows support for the increase is greater among Iowa Republicans than among Democrats and independents, but majorities of all three political categories favor it.

Across the state, the least enthusiasm for the gasoline tax boost was found in rural Iowa. Residents of rural Iowa are split fairly evenly, the poll found, with 50 percent in favor and 45 percent opposed.

Residents of the state's largest cities (50,000 or more population), on the other hand, favor the increase by a margin of 47 percent to 32 percent. The margin of approval among residents of small-and medium-size towns was lower than among large city residents but higher than among residents of rural areas.

Most white-collar workers favor the plan (65 percent in favor) than blue-collar workers (38 percent in favor). The least support was among farmers (33 percent in favor). Among retired Iowans, 63 percent favor the increase.

There also were differences in levels of support among various income groups. Sixty-nine percent of Iowans with family income above $30,000 a year said they favor the increase, while 58 percent with income below $15,000 a year said they do so. In the middle range, between $15,000 and $18,000 family income, 63 percent expressed approval of the plan.

SUPPORT OF FULL 9-CENT TAX EXEMPTION FOR ETHANOL

Mr. GRASSLEY. Mr. President, I wish to express my strong support for the increase of the exemption of alcohol fuels from the gasoline tax to the full 9 cents. If we do not increase this exemption, we will be missing a great opportunity to put people back to work, strengthen the prices of corn and other commodities, reduce Government exposure to farm program payments, improve our overall economy, and enhance our efforts to become energy self-sufficient.

It has only been 4 short years ago that we did not have any real ethanol industry of which to speak. Estimates for 1982, however, indicate that 100 million bushels of corn will be utilized for ethanol production. The growth of the ethanol industry has created a significant, new market for corn. Bob Wisner, agriculture economist at Iowa State University determined that this ethanol market added anywhere from 5 to 7 cents per bushel of corn. If this new incentive is passed, we might see an expansion of the ethanol industry by threefold.

I would like to share with my colleagues the content of a letter sent to members of the Senate Finance Committee from a fellow Iowan, Mr. Jack Parsons, president of the National Corn Growers Association. His letter urges our support for this proposal and highlights the benefits that will accrue. The letter is as follows:

NATIONAL CORN GROWERS ASSOCIATION,

December 18, 1982, Washington, D.C.

The National Corn Growers Association urges you and your colleagues on the Committee on Finance of the United States Senate to include an exception, similar to the House version of this proposed legislation, that would increase the motor fuels tax by 5 cents per gallon for alcohol fuels produced from agricultural products. The current federal alcohol incentives in conjunction with the incentives in 34 states have contributed significantly to the development of a viable alcohol fuels industry in the United States. The most cogent arguments for the inclusion of an exception for alcohol fuels in motor fuels are the following:

Provides for genuine incentives for substantial increases in employment in the construction, operation and ancillary activities of grain alcohol processing facilities.

Increased utilization of corn by the alcohol fuels industry that could result in substantial increase per bushel of corn.

Increased domestic demand for corn in the alcohol fuels industry, a market that would neither be subject to displacement by unfair subsidized foreign competition nor disrupted by export embargoes.

Minimize the federal outlays and expenditures for domestic price support programs inasmuch as the U.S. Department of Agriculture will expend about 50 cents to 80 cents per bushel annually as the cost of government storage, interest and associated costs.

Minimize the federal expenditures to farmers not to produce corn and grain, which is approximately 75 cents per bushel for corn under the 1983 reduced acreage program.

Reduce substantially the prospect of a sizable federal outlay for grain deficiency payment in 1982/83, which could run as high as 21 cents per bushel for corn, by raising market price through demand.

The best estimate for federal outlays and expenditures in 1982/83 for the set-aside and storage programs for grain is about $3 billion.

Reduce the U.S. declining dependence on foreign petroleum imports and provide additional safeguards against any future petroleum export embargoes against the United States.

Continue the leadership role of the federal government in establishing and implementing a uniform federal policy on alcohol fuels in the 1980's.

U.S. corn farmers urge you and your colleagues to adopt the position of the National Corn Growers Association inasmuch as it will benefit the entire U.S. economy. The major and most immediate benefit to result from exempting alcohol fuels from the additional motor fuels tax will be increased jobs and permanent employment—particularly in the middle western states, all of which will improve the economic situation while developing a more viable federal and state tax base. The proposed exemption for alcohol fuels would be the most significant step that Congress could take toward restoring profitability to agriculture as well as moving America toward greater energy independence.

Sincerely yours,

JACK PARSONS, *President.*

Mr. President, to further elaborate the points detailing the benefits of an increased exemption for ethanol. I

would like to share an analysis produced by various representatives of the agriculture sector. This analysis addresses first, the revenue impact of the exemption; second, the potential impact on the U.S. farm sector; third, the stimulas to job creation; and fourth, a sampling of supporters.

REVENUE IMPACTS TREASURY AND AGRICULTURAL SECTOR

If passed into law, the exemption would result in approximately 200 million dollars [1] of revenue not collected by the Treasury annually out of estimated annual excise tax revenues of approximately $10 billion.

However, the exemption would directly benefit the U.S. Agricultural sector by creating an increased demand for feed and grain supplies domestically. The enhanced domestic market for agricultural products is both timely and needed. The U.S. Department of Agriculture predicts net farm income in 1982 as the lowest since the Depression. 1983 is expected to provide continuing financial problems and low incomes for American farmers.

REDUCTION OF FEDERAL DEFICIENCY PAYMENTS TO FARMERS

Due to apparent structural changes in world agricultural markets, the U.S. is in even greater need of a stable new domestic outlet to bring supply/demand balance to the agricultural marketplace. The fuel ethanol industry offers enormous potential as that new outlet. Its effects on 1981-1982 corn prices offers a perfect case in point: The USDA has computed last season's average market price for corn as $2.43 a bushel. The demand for corn caused by the fuel ethanol industry has been judged to be 5 cents per bushel increase for last crop year. In other words, the absence of a fuel ethanol industry would have resulted in an average market price of only $2.38 per bushel. The USDA further estimates that for each cent the market price was below $2.40 per bushel, the government would have had to make $82 million in direct payments to farmers ($2.40 was the loan rate for corn). Conservatively, then, the fuel ethanol industry saved taxpayers in just this one instance $164 million.

INCREASE IN FARM INCOME

The fuel ethanol industry also improves farm income substantially. For example, this crop year, USDA estimates an average corn price of $2.15-2.40 per bushel. The fuel ethanol industry should use about 150 million bushels of corn next year, which is estimated to increase prices approximately 5 cents per bushel. Assuming an 8 billion bushel corn crop (this year's was 8.3 billion), the fuel ethanol industry will increase farm income $400 million, thus injecting badly needed income into a very depressed industry.

REDUCTION IN FEDERAL LAND DIVERSION PAYMENTS

A vigorous fuel ethanol industry could also save hundreds of millions of taxpayer dollars by obviating the need for paying farmers to keep their land out of production. In 1983, USDA estimates that corn farmers who participate in the paid land diversion program will receive at least $1.35 billion in direct payments—$700 million in price "deficiency" payments and $650 million in land diversion payments.

REDUCTION OF FEDERAL SURPLUS CORN STORAGE PAYMENTS

A strong fuel ethanol industry could save taxpayers hundreds of millions of dollars by reducing the amount of surplus grain under government ownership. It is currently estimated that, counting storage, handling, interest, and transportation costs, a bushel of CCC-held corn costs from 50-80 cents per bushel per year to hold. The CCC is expected to hold 500 million bushels of corn alone by the end of next marketing year. By using 150 million bushels of corn for ethanol will reduce government storage payments by approximately $100 million annually.

IMPACT ON STATE REVENUES

Currently 34 individual states have exempted fuel ethanol/gasoline blends from state excise taxes on gasoline. The average exemption is 4.5¢ per gallon. The annual cost to these states is approximately $90 million.

The uniform federal exemption would permit state legislatures to rescind existing 34 state exemptions thereby producing an aggregate revenue increase at the state level of approximately $90 million per year. This would create a single national market for fuel ethanol and free up state revenues for highway maintenance.

CREATION OF JOBS

Relative to other energy and high technology industries, the fuel ethanol industry is a good source of job creation. Increased employment in the agriculture, trucking, construction, and chemical industries is generated, as well as the jobs resulting from increased use of coal as a process fuel source. Over 3,000 jobs were created just in the 100 mile radius of Peoria, Illinois alone due to the fuel ethanol industry. For each 36,000 bushels of corn utilization, it is estimated that one job is created in the industry.

During a period of high unemployment, the ethanol industry has had a substantial effect on creating new jobs. The Administration bill will stimulate the construction of additional plants. A uniform federal policy on alcohol fuels should stimulate the construction of new fuel ethanol plants.

A specific example of jobs creation within the ethanol industry is the New Energy Company of Indiana, which recently started the construction of a 50-million gallon per year alcohol plant in South Bend, Indiana. Indiana University Economists assessed its impact on jobs as follows: (1) Creation of 775 new permanent jobs; (2) Creation of an average of 200 construction jobs over 28-month period with peak of over 500 new construction jobs; (3) Increase local population (which has been declining) by over 1,500 persons; and (4) Increase local business activity by $16.6 million.

In addition, current corn processing employment data indicate that each 36,000 bushels of corn processed requires 1 full time job. Finally, in addition to on-site construction and operation jobs, new fuel ethanol facilities create or maintain jobs in steel, metal fabrication, and other industrial equipment sectors.

INCREASE NATIONAL SECURITY

The development of alternative energy production from renewable resources enhances national security by extending and increasing the supply of domestically produced liquid fuel. This reduces the need for foreign imports at a time when the political instability in certain Persian Gulf oil producing nations could threaten the supply of oil to the United States and its Western Europe and Japanese allies. Finally, the creation of domestic energy sources reduces balance of payments deficits by keeping funds in the United States.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. GRASSLEY. Yes, I yield the floor.

Mr. RANDOLPH. Mr. President, it is gratifying that the material presented by my colleague is not just discussion, but documentation. Would he be kind enough to repeat the vote in Iowa, in a very leading newspaper, not only of that State but of the country?

Mr. GRASSLEY. If the Senator from West Virginia will yield to me, I shall respond to his request by suggesting that the poll was taken the second week in December. It is the Iowa Poll, a syndicated poll owned and operated by the Des Moines Register, a very respected poll. It does show support for the gas tax increase: 63 percent favor, 36 percent oppose, and 1 percent undecided. Among Republicans, that was broken down to 74 percent in support, 24 percent opposed; Democrats, 56 percent for, 43 percent opposed; Independents, 63 percent for, 33 percent opposed.

It has support among all economic groups, overwhelming support by every economic group except farmers. Even among farmers, it had majority support.

I think this does speak to the point that people recognize that a use tax addressing the needs, to be spent for the purpose that it was raised for, is well received by the people of my State.

The Senator from West Virginia suggested that the poll may have spoken beyond the borders of my State for support of it. He may be correct, but I cannot attest to that. I cannot help but think, particularly in those areas of the country, where there is a tremendous reliance upon the automobile and the truck for transportation to meet the economic needs of our people, there would be general support. That would be my general supposition.

Mr. RANDOLPH. Will my colleague yield further?

Mr. GRASSLEY. Yes.

Mr. RANDOLPH. Would it be a fair statement—I want him to be careful, as he always is: Is this not a position of people generally, not always in the breakdown he has just indicated of the people in Iowa, but throughout the Midwest, the States we call the Midwest?

Mr. GRASSLEY. Yes, I would say for certain more so in the Midwest than maybe the country as a whole, because, generally speaking, in the rural areas, there is an understanding and appreciation of the need of highways as a part of the economic infra-

[1] Congressional Budget Office estimates current 4¢ exemption will reduce revenues by $100 million annually each year through 1987.

structure for that part of the country. I think the Senator would find that, yes.

Mr. RANDOLPH. I thank my colleague for the documentation, which is important in this debate.

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I say to my colleagues that we are making progress. That may be hard to determine. It is my understanding that the House is anxiously awaiting the outcome of our efforts. I hope we might be able to go to conference yet tonight, or during the night, and have a final product before the Senate sometime tomorrow. I know that is not the desire of at least three Members of the Senate who would not want this bill to pass at all. I really believe that if we all cooperate and not talk and let them talk, we could probably finish by midnight, third reading or passage or whatever.

Mr. EAST. Mr. President, I suggest the absence of a quorum.

Mr. BAKER. Mr. President, I hope the Presiding Officer will attempt to observe the presence of a quorum on the floor.

Mr. HELMS. Mr. President, the absence of a quorum has been suggested.

The PRESIDING OFFICER. The Chair is observing at the moment.

Mr. HELMS. I say to the Chair this does not do the proponents of the bill any good. There is no way to go.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DECONCINI. Mr. President, will the Senator withhold that for a unanimous-consent request?

The PRESIDING OFFICER. Does the Senator withhold his request for a quorum call?

Mr. HELMS. I object.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed and concluded the call of the role.

The PRESIDING OFFICER. A quorum is present.

The Chair recognizes the majority leader.

Mr. BAKER. Mr. President, I do not seek recognition.

Mr. EAST addressed the Chair.

The PRESIDING OFFICER: The Senator from North Carolina.

Mr. EAST. Mr. President, I was earlier addressing my concerns about this measure and I would like to continue with my discussion there. In particular, I would like to respond to the issue raised by the distinguished Senator from West Virginia (Mr. RANDOLPH), and I indicated that one of the deepest reservations I had about this measure was that this, in fact, was not a user fee in the usual sense that those who are using a facility are asked to pay a fee, and then the funds from that go directly back into that particular activity.

The distinguished Senator from Arkansas, of course, earlier raised this issue. That is not to suggest that anyone is hostile to the idea that you want effective mass transit in the urban centers of this country, but it was to observe that though you called this a user fee, in fact 20 percent of this tax will go to people who do not use in the direct sense as user fee is normally used, do not use the facilities being taxed; namely the roads, highways, and bridges. By definition they are using the mass transit systems of our large cities or urban areas.

Again this is not to express any hostility to their legitimate needs, but it is to note, as I had earlier noted, that there are serious flaws in this legislation, and I have tried in every way that I could to indicate I think it inappropriate that we rush through and vote upon and thrust upon the American people in the waning hours of the 97th Congress.

Mr. President, I would like to inquire, I would like to have order in the Chamber please, so that I might——

The PRESIDING OFFICER. The Senator is entitled to order, and the Senate will please be in order.

Mr. EAST. I thank the Chair.

So the Senator from West Virginia (Mr. RANDOLPH), who is a man of great distinction and always debates his case with great eloquence and persuasiveness, certainly I do not at all resist the very appropriate and pertinent point he raises that we would, of course, not want to not do well by those using mass transit. I am only saying this is not a user fee and that word is being used to describe what we are doing here.

When you violate the basic concept of the user fee, and in this case begin to drain off 20 percent of it for nonusers, I think it is bad precedent. I think it violates the fundamental concept of the user fee where if the words mean what they are supposed to mean that would not be present. So I wanted to clarify to the distinguished Senator why I was objecting to the user-fee notion here and simply reminding my colleagues this is not a user fee, again fully respecting and understanding the needs of those in the large cities for effective and useful mass transit.

I fully understand the reasoning behind that, but that is not the issue before us. It is whether this is technically a user fee, and it is not, I submit, Mr. President, and hence I consider this one of the principal weaknesses in the measure.

Earlier I noted again I was opposed to the bill because it is a regressive tax hitting the working people the hardest, and in a time of recession, and I did not think that was good economics.

Mr. President, I do not wish to unduly belabor the point, but I would appreciate it if we could have order in the Chamber and Senators might take their seats and staff might take theirs because, as I have indicated, Mr. President, my concern is with the substantive nature of this bill, that I question the soundness of it, and that has been my whole purpose from the very beginning to try to get some deliberation on it.

This is the greatest deliberative body in the world supposedly, allegedly, and it certainly is a body of great distinction in terms of the individual Members of it, as I hold all of my colleagues, all 99 of them, in the highest esteem. But I fear if we do not pay attention to the substance of discussion, if we are in the Chamber, then we run the risk of doing some violence to that fundamental concept of the deliberative process.

I am simply asking, Mr. President, for those who do not wish to "deliberate" that they might repair elsewhere and discuss their business and what else they are doing.

As I was indicating, Mr. President, my objections are substantive. Regressive tax in time of recession, user fee concept violated.

Now, another thing we are told by some at least is that this is a jobs bill. Well, Mr. President, I would underscore to my colleagues that upon serious substantive analysis and evaluation at best this is a jobs transfer bill.

It is not a jobs creation bill, it is a jobs transfer bill. Because for every alleged job that you might create in highway construction and road construction, and I am for that, but you very likely run the risk of taking it away from jobs in other areas.

For example, in North Carolina, and I know the great State of West Virginia is involved here too, we are States that have great trucking industries. Now a lot of the smaller truckers in particular are in dire economic straits right now. This is the kind of thing that could send them down the economic tube. So the trucker loses his job, the business goes bankrupt because of the bill. You might pick up a new job in highway construction, but I am saying that does not deal with the overall question of unemployment. It simply transfers from one point on the ledger to another and you stay basically, perhaps, equal; you may even lose ground.

The distinguished Senator from Colorado, Senator ARMSTRONG, was noting yesterday, Mr. President, this plight of truckers. And they are in very dire

straits at this point. And this sort of thing places an inordinate burden upon them and very likely will send many of them into bankruptcy, large trucking companies, but particularly the middle range ones, smaller ones. We have a lot of them in North Carolina.

So this is, at best, a jobs transfer bill. And in terms of the numbers of unemployed in the country, even if it was an increase of the figures that have been offered, it obviously is very small in terms of the general employment needs in this country. Mr. President, in terms of trying to keep our eye on the ball, the ball is not further taxation at this time.

The name of the game, I would say, in economic terms as to what we ought to be doing, is to gain control of Federal spending, the rate of growth, which would be a great contribution to getting interest rates down. And, if the Federal Reserve Board is cooperative, we would thereby be doing what everybody agrees would be the greatest jobs creation program in America—lower interest rates—so that construction of all kinds and the automobile industry could begin to take us out of the recession because these were the industries that led us into it because of the unconscionably high interest rates.

The touchstone is interest rates, is it not? I do not know anyone in either political party—liberal, conservative, maverick, independent, moderate, nondescript—who has not contended, as I understand it, over a long period of time that the problem in this country is interest rates—interest rates. And the greatest contribution we, the Congress, could make is to get Federal spending under control—the rate of growth of it—now. I am not talking about repudiating the past 40 years, I am not talking about repudiating anything, I am talking about getting the rate of growth of Federal spending under control.

That is why the distinguished Senator from Kansas, the chairman of the Finance Committee, was on target when he had suggested at one point we might take care of social security. Because if we got that entitlement program under control and restored its integrity, it would suggest the desire to getting to all of the other entitlement programs, which is the biggest single cause, is it not, I ask, of controlling the rate of growth of Federal spending? Of course it is. And one of the first things we shall have to do when we come back at some point is to come to grips with these problems.

So I submit this bill, whatever possible merit it has—and I question that—is cosmetic, at best, in terms of the fundamental economic problem in this country, which is getting interest rates down to revitalize the construction business, the automobile business, and lead us out of the recession.

Mr. President, I would like to make an inquiry as to how much additional time I have remaining.

The PRESIDING OFFICER (Mr. JEPSEN). The Senator has 25½ minutes remaining.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. RANDOLPH. Will the Senator yield to me out of my time?

Mr. EAST. I am not yielding the floor at this time to the distinguished Senator from West Virginia, but I would yield on his time.

Mr. RANDOLPH. Yes, that is what I requested.

Mr. EAST. For a question.

The PRESIDING OFFICER. Is there objection to the Senator yielding on the time of the Senator from West Virginia? Without objection, it is so ordered.

Mr. RANDOLPH. Will the Senator not at least consider very, very carefully what he believes is an opposition which should be thoroughly made on the issue here, not on other matters? Does he not feel that he has done that and should permit his colleagues on the Republican and Democratic sides of the aisles to vote either yes or no on this measure? He has done his job, is that not true?

Mr. MATHIAS. Hear! Hear!

Mr. EAST. Parliamentary inquiry. I want it fully understood that in this discussion we are discussing it on the time of the Senator from West Virginia——

Mr. RANDOLPH. That is correct.

Mr. EAST. Not on the time of the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from West Virginia has agreed to that.

Mr. DOMENICI. I do not believe the unanimous-consent request said the answer was on his time, I think the question was. Otherwise he could answer for a whole hour.

The PRESIDING OFFICER. The Senator from New Mexico is correct.

Mr. MATHIAS. Hear! Hear!

The PRESIDING OFFICER. The Senator from West Virginia asked the question on his time.

The Senator from North Carolina is recognized.

Mr. EAST. Mr. President, in view of the point the Senator from West Virginia raises, it was a question I addressed earlier and I would be happy to reiterate my answer to that.

Mr. President, I am still inquiring, and I think it is a fair and reasonable inquiry, whether this Chamber is in order. We have an extensive number of people in the back here and a great deal of milling around and talking and conversing. Now I do not mind answering questions on my time put by such distinguished colleagues as the Senator from West Virginia, but I do think it is an unreasonable imposition to ask me to speak over discussions and conferences, et cetera, that are going on in the back of the room.

The PRESIDING OFFICER. The Senator may proceed.

Mr. EAST. I would like to respond to what I think is a fair question by the Senator from West Virginia: Do I not unduly impose upon this body and my colleagues?

As I earlier indicated, I entered into this whole affair with reluctance. First, I felt that the lameduck session might have confined itself to social security programs, as the distinguished chairman of the Finance Committee had suggested was a good idea, but that was pulled down.

Then the distinguished chairman of the Appropriations Committee suggested we might confine our time to appropriations bills and the continuing resolution, and it was generally agreed that that was the second best or a very, very good idea. So the lameduck was called back into session for that purpose.

But before we got back, the list began to grow of things that would be added here and there. S. 995, for example; Radio Marti, for example, and so it went.

All of those things were subject to could they survive a cloture vote. When they could not, they were pulled down, and we were told, "We shall move on."

It was only the gas tax that seemed to have gained, as I noted earlier, the proverbial nine lives. It did not survive cloture votes. It kept getting renewed life and so it really did not have, if you will, equal treatment under the rules. This one keeps coming back again and again.

I do not think it a good bill, and I think we run the risk, when we adjourn, of having done what? Of having passed a continuing resolution, which candidly is not a major accomplishment because we were to do that anyway, but this will be the crown jewel for good or for ill of the 97th Congress lameduck session. To have to return to North Carolina and to explain to them this has been our great accomplishment I simply cannot in good conscience do.

I think it is a bad bill. We have tried to engage our colleagues in discussion, the deliberative process, if you wish, on the fundamental essentials of this bill.

Another point I would like to note in this regard, Mr. President, is this: Do you realize our distinguished Members of the House, some of whom I see here in the Chamber and it is a great honor to have them—do you know what they get to take home primarily if this bill goes through and they approve it? Do you know what they take back to their

constituents? Here are the main things they did; gave themselves a pay raise and put a gas tax upon their constituents. Those are the two major accomplishments they may have made.

I do not want to be a party to what I think, with all due respect to them and ourselves, is not only a bad bill but I think the political perception is enormously undesirable.

As I noted the other day, I think we lost our way somewhere along the line. Do you ever do that every now and then here in Congress, in Washington? You begin to say "How in the world did I get here?" I am beginning to say to myself, how did we ever get here late in the night, trying to decide whether to put a gasoline tax on the American people, when what we should have been keeping our eye on was getting the rate of growth of Federal spending under control, getting the Federal Reserve Board, we would hope, to keep that downward trend in interest rates. All of that together would contribute to the single greatest problem we have of lower interest rates to revitalize the private sector in this country, to broaden and deepen the tax base, to apply reasonable tax rates to it, and you will have more money for public funding of anything, of any kind, including highway construction, roads, and bridges.

So it is, I say to the Senator, that I have extended this debate because I think these are valid points. I am not just killing time for the sake of killing time. I like to feel those are serious, substantive tax policy, and economic policy points.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. EAST. Mr. President, I would like to move under the provisions of rule XXII to extend the time for debate by 1 hour and I would like to suggest the absence of a quorum.

Mr. STEVENS. I object. No business has been transacted since the last quorum.

Mr. EAST. I make the point of order that a quorum is not present.

I presume, Mr. President, no one is counting the House Members, with all due respect to the various gentlemen.

The PRESIDING OFFICER. The Chair will advise the Member there is no need for comedy.

The Chair will ask that all those people in the Senate Chamber who are not Senators will please either sit down or leave the Chamber.

The Chair will ask the Sergeant at Arms to come to the well, please.

Will the Sergeant at Arms come to the well, please?

Mr. EAST. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAST. Would it not be appropriate for the clerk, in fact, to determine that we have a quorum, to call the roll to determine that? Would that be appropriate?

CALL OF THE ROLL

The PRESIDING OFFICER. The clerk will call the role.

The bill clerk called the roll and the following Senators answered to their names:

[Quorum No. 54 Leg.]

Abdnor	Gorton	Quayle
Andrews	Grassley	Randolph
Baker	Hawkins	Riegle
Baucus	Hayakawa	Roth
Boschwitz	Huddleston	Rudman
Brady	Humphrey	Sasser
Bumpers	Jepsen	Schmitt
Byrd, Robert C.	Laxalt	Simpson
Chafee	Long	Specter
Chiles	Lugar	Stafford
Cochran	Mathias	Stevens
Cohen	Mattingly	Symms
DeConcini	McClure	Thurmond
Dole	Melcher	Tower
Domenici	Mitchell	Tsongas
Durenberger	Murkowski	Wallop
Eagleton	Nickles	Warner
East	Packwood	Weicker
Garn	Percy	

The PRESIDING OFFICER. A quorum is present.

The question is now on agreeing to the motion to extend the time for 1 hour.

The motion was rejected.

Mr. EAST. Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I move to reconsider the motion. I ask for the yeas and nays.

The PRESIDING OFFICER. Only one such motion is in order during any one calendar day. That motion has been made.

Mr. EAST. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. A quorum is present.

Mr. EAST. Mr. President, I would like to continue.

Mr. GORTON. Mr. President, I make the point of order that the Senator has already spoken twice.

The PRESIDING OFFICER. The Senator is making the point of order that the Senator from North Carolina is making a third speech on the same question in the same legislative day. The point of order is well taken.

Mr. EAST. Mr. President, I would like to move to indefinitely postpone consideration of the measure. I seek recognition.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. Mr. President, I would like to continue my discussion on the merits of this proposal, which I had indicated previously was my primary purpose—and, yes, I will concede dragging this into the wee hours of the morning. I think we run the risk of passing a very bad bill at a very late hour. I think it is not only bad for the country as a whole, I think it is bad for the citizens in my State, and since I represent not only a State—I do represent a State—I am of course a Member of the U.S. Senate. In both cases, as I have tried to make clear to the distinguished Senator from West Virginia, I think when something is not well advised—and I do not think this piece of legislation is, and it has been given new life, time and time again, unlike other measures before this body in the lameduck—they will be pulled down when they could not survive the first cloture vote.

I think it is a case not of trying to be obstructionist—it has been done before in this body; that is why the rule exists—but to utilize as well as I can the rules of this body to discourage passage of a bad bill. At least, I like to feel we have managed to get some focus upon the substance of this measure. What has troubled me, as I have indicated, is that this Congress—and my distinguished colleagues from the House being here brought the point home in a rather poignant way—this Congress runs the risk in the lameduck, in view of the continuing resolution and this possible passage of the tax bill, of going home and informing the American people that the primary things we have accomplished are to raise the pay of Members of Congress and to place an additional tax burden upon the American people—unwise economically, unwise politically. As I have suggested, and I suppose many will say that the point has been well made, I do not wish to return to my State and in any way, shape, or form to appear to be in complicity with that legacy of the Congress at this yuletide season, increasing the pay of Members of Congress and placing an additional regressive tax upon the working people of this country. What we have had to do is take advantage of every special opportunity we have had to drive that point home.

I would like to note to my colleagues, for what it is worth, that the other evening, when I spoke in the wee hours of the morning for 4 hours and 15 minutes, I spoke to the substance of this bill and the economic and political implications of it.

I simply did not consume time. And I appreciate, for example, the kind remarks that have been made on this floor regarding my comments that evening. For example, Senator ARMSTRONG, the distinguished Senator from Colorado, spoke well of my remarks. And I would also like to note, on the other side of the aisle, though I agree he would not necessarily partake of all that I was offering, thought I had some trenchant arguments on this matter, the distinguished Senator from Michigan (Mr. RIEGLE).

Senator RIEGLE, you will recall, was pointing out that we run the risk—that is why he offered his motion—in this Congress in terms of what we did last year with the 5, 10, and 10, the marginal tax rates. We run the risk of

being perceived as taking care of those at the top end of the economic scale. And then, having done that, we begin to add these excise taxes, sales taxes, and you know by definition they are regressive. They hit the working people hardest.

We did that last year in the tax package. We are doing it tonight again, and it is the principal legacy of the lameduck. Again, it is done under the rubric, the euphemism of a user fee, but it is a tax. So at least I concede—I hope Senators would concede—I am suggesting that I have tried in every way that I can to make the discussion substantive and relative and pertinent to the issue, because we really have not had a chance to deliberate, to discuss it.

To the contrary, the suggestion has been that we best not get into all of these things, best just to move it on through, pass it, and be done with it. And knowing that this is viewed and is considered as the greatest deliberative body in the world, of representative democracy, I think to ask that we have, to the limit of our rules, intelligent discussion and deliberation on an important measure of this kind is not unreasonable or unconscionable because, in fact, we had not had it to this point. And I think everybody would concede we have not had it. The point has been, let us pass it and go home for the yuletide.

Mr. President, I suggest the absence of a quorum.

Mr. DOLE. I object.

The PRESIDING OFFICER. A quorum is present.

Mr. EAST. Point of order. Is a quorum present, Mr. President?

The PRESIDING OFFICER. A quorum is present.

Mr. EAST. Pardon?

The PRESIDING OFFICER. A quorum is present.

Mr. EAST. Mr. President, as I was suggesting then——

The PRESIDING OFFICER. The question is on the motion to pospone.

The motion was agreed to.

Mr. EAST. I move to reconsider, and I ask for the yeas and nays.

Mr. BAKER. Mr. President, I move to table the motion.

Mr. EAST. I suggest the absence of a quorum.

The PRESIDING OFFICER. The motion has been made to reconsider and the motion to table has been made. A quorum is present. The question is on the motion to table.

The motion was agreed to.

The question is on final passage of H.R. 6211.

Mr. BAKER. Mr. President, if no other Senator seeks to speak at this moment, I think it would profit the Senate to have just a few moments to deliberate in private. I suggest the absence of a quorum. [Laughter.]

Mr. President, having been hoisted on my own petard, I shall speak.

Mr. President, it is clear that a quorum is present. It is also clear that we need some time for some of the principals in this matter to confer. So if someone wishes to speak at this time, ever so briefly and on a temporary license that is revocable at any moment, I would be glad to yield the floor for that purpose.

Mr. HART. Will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. HART. If the time has passed, what is it that the principals have to confer on?

Mr. BAKER. If the time had passed, they would have nothing to confer about, but I am hopeful that we are going to speed up the process of trying to get the time to pass.

Mr. HART. During that time the Senator would encourage others to speak?

Mr. BAKER. Mr. President, only if they will speak on a brief license.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. How much time do I have remaining?

Mr. EAST. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina (Mr. HELMS) has 60 minutes, and he has the floor.

Mr. EAST. Pardon?

The PRESIDING OFFICER. The Senator from North Carolina has 60 minutes.

Mr. EAST. Excuse me, Mr. President. Parliamentary inquiry. How much time do I have remaining, please?

The PRESIDING OFFICER. The junior Senator from North Carolina has 1 minute and 21 seconds.

Mr. EAST. I thank the Chair.

Mr. HELMS. Mr. President, I did not hear how much time I had.

The PRESIDING OFFICER. The senior Senator from North Carolina has 60 minute.

Mr. HELMS. Sixty minutes?

The PRESIDING OFFICER. Yes.

Mr. HELMS. I thank the Chair.

Mr. President, the majority leader and I have been working on another piece of legislation for the past 2 hours, and his purpose in asking for the quorum call was to allow me to complete a call to the Secretary of Agriculture.

Mr. QUAYLE. Point of order, Mr. President. The Senate is not in order.

The PRESIDING OFFICER. A point of order has been made, the Senate is not in order. It is well taken.

The Senate will be in order. The Chair will advise again that the Sergeant at Arms should clear the Senate of all those who are not seated who are not Senators.

The Senator from North Carolina may proceed.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. A quorum is present.

Mr. HELMS. Very well.

Mr. President, let me begin by reading an editorial from the Durham Morning Herald of December 1, 1982. It is headed, "Gasoline Tax: Another Outrage."

> The American taxpayer is being led around and around like a hog with a ring in its nose. It's time for the taxpayer to say stop this nonsense, but the prospect is bleak. The latest proposal for raiding the taxpayers' pocket, a 5-cents-a-gallon gasoline tax * * *.

Mr. President, if we are going to have a quorum, I want a silent quorum.

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order.

Mr. HELMS. Mr. President, arrangements have been made for me to take a telephone call that I have been trying to take in connection with the payment-in-kind farm bill, and I believe the distinguished Senator from Alaska desires the floor, so I yield the floor.

[The following proceedings occurred after midnight:]

Mr. STEVENS. Mr. President, I thought perhaps I might take the time of the junior Senator from Ohio to talk about the Alaska railroad bill, but I do not see him here. [Laughter.]

Mr. LEAHY. Does the Senator want us to call him?

Mr. STEVENS. I think perhaps he might appear.

The bill is at the desk.

I ask unanimous consent that it be put on the calendar. Is that in order at this time?

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object.

Mr. TSONGAS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. I wish to make sure Senators are still on their toes around here at this time of night.

You know, Mr. President, I have read——

Mr. LONG. Mr. President, will the Senator yield for a question at that point?

Mr. STEVENS. I yield.

Mr. LONG. Does the Senator understand that the objection is not directed to the merits; it is only because another Senator who would object is not here at the moment?

Mr. STEVENS. I understood what the role of the Senator was, and I appreciate his comments making sure that the record is clear about that.

The difficulty about this railroad is that it is a federally owned railroad and for 5 years now the House of Representatives has told us they cannot put up any more money to run it.

So we finally worked out a situation where it could be turned over to the State of Alaska, and it has taken us 2 years to get the people of Alaska to realize that they better take it over or it is going to go out of business.

Having done that we found someone saying on this floor that it is a giveaway. If it is such a giveaway, why were almost 200 people laid off this month? It is because the railroad does not have enough money to pay the employees necessary to keep the railroad running in minimum operating condition. The railroad has had to reduce the speed of its trains because of the bad condition of the track.

I have been trying now since last May to get this bill on the floor.

I am making this statement now because I do not think I will speak on this again this year, but when we come back next year I hope everyone understands it is not a lack of courtesy I have for the Senator from Ohio; it is just that I do not think he should be able to object every time something comes up that affects my State and not have similar treatment.

Mr. LONG. Mr. President, will the Senator yield for a question at that point?

Mr. STEVENS. I yield.

Mr. LONG. Has the Senator explored the possibility that the Government might lease the railroad to the State of Alaska and simply make a nonrecourse loan for the payment of it?

Mr. STEVENS. We did explore that, and I tell my friend that the trouble is that some of the existing statutes concerning the lease of property would trigger a finding that that property was surplus to the United States and that triggers an action as far as selling portions of the railroad. So it destroys the concept of having a railroad as an entity.

And we have explored, I think, every single possible effort to save this railroad.

Whether the Senator knows it or not, there is $7.6 million in the continuing resolution that just went to the President to try to keep the thing going until next year in hopes that we can get a bill passed so that my State can take it over. The State cannot spend money on a Federal railroad, and the Federal Government will not spend any more money on a Federal railroad, and it is just going to go out of business.

What I was really saying was that I hope the Members of the Senate know that I have deep respect and my colleague has deep respect for the Senate and for the rights of Senators. But starting the next session I intend to object to use the rules to the same extent against the Senator from Ohio.

My people are disturbed. Two-hundred people are now unemployed in my State. I might add there were 700 unemployed in the State of Ohio as a result of this because we were scheduled to buy five locomotives, 20 percent of the parts of which were made in Ohio, but we cannot order them because my State cannot take over the railroad.

I think I could take up this hour that is allotted to me in this postcloture session very easily, and if the Senator wants to speak I invite him to speak.

The Senator from Ohio now, according to my count, has 16 bills that have been passed by the House of Representatives or reported out of Senate committees and, incidentally, the action of the Senate committees have all been unanimous except one vote, and that was the Senator from Ohio. He has them held up here at the desk because of an antiquated procedure of unanimous consent to take them off the desk or his threat to filibuster in a postelection session.

My colleague on this side of the aisle who was debating a bill could have done the same thing that the Senator from Ohio has done and not let it come up at all, and our patience is being worn by the fact that the Senator from North Carolina is debating a bill and using all of the rules from his point of view, but at least we are debating it, at least the viewpoints of people who oppose or support the highway bill are being heard.

There is no chance to get these other bills up because of an objection from one person under antiquated rules that prevent them from even being discussed.

I hope my friend finishes his phone call soon because I think he should come back just to save the decorum of the Senate.

(Mr. MURKOWSKI assumed the chair.)

Mr. STEVENS. Alaska is most difficult to represent, and I see my colleague in the chair. My home is closer to Tokyo than it is to Washington, D.C. It is very hard for people that far away to understand this Government and continue to support it the way our people do.

We are almost totally owned by the Federal Government except for land that is owned by the State. We have 1 percent of our land in private ownership and we struggle under a private enterprise economy. Perhaps you do not know that President Nixon suggested in 1970 that this railroad be sold, and it has in effect been on the block for an offer from anyone who wants to make an offer since 1970, and no one has offered.

Two major companies have made studies. Two major companies have made studies about buying this and have given up the idea.

Senator METZENBAUM's staff and my staff have been working for weeks trying to see if we could come up with some language so that we could try, and in good conscience my colleague and I, to make some compromise with the Senator from Ohio, but that has been, so far, been impossible.

Today many of the Members of the Senate do not know but we have been trying to find some other way to get the bill before the Senate, but that is not possible either.

If this Congress goes home without having passed the Alaska Railroad bill, I think it will be a real national sorrow as far as our people are concerned, and let me tell you that railroad serves four military bases, Eielson Air Force Base, Fort Wainwright, Fort Richardson, and Elmendorf. The railroad has the means for the transportation of heavy equipment to those military bases.

My State is willing to take it over, willing to guarantee a $250 million investment to keep the railroad going, willing to agree if it is ever sold that the difference between what we have invested and what we received will be turned over to the Federal Government.

We have made every possible concession in the last 3 weeks trying to get a bill.

I really want the Senate to know if when we come back there is acrimony between Ohio and Alaska where it started. I hope that the Senate realizes that there comes a time when a person who uses the rules to the extent that the Senator from Ohio has used the rules, in my opinion, he deserves to have them fully, fully read against any effort he makes in his appearances on the floor of the Senate.

Now I have said my say. I will be happy to yield to the Senator from Ohio if he wants to speak. If he does not want to speak, that is all right with me, too.

Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. I yield to the Senator on condition that when the Senator from North Carolina returns, the Senator from Ohio will yield to him when he is finished.

Mr. METZENBAUM. I do not intend to accept the floor under any conditions.

Mr. STEVENS. In that case I will keep the floor, Mr. President. I have got an hour and——

Mr. METZENBAUM. I understand the Senator from Alaska wished me to respond to him first.

Mr. STEVENS. I did under conditions which I thought were honorable since everyone knows why I started talking in the first place. The Senator may not know that since he was not here, but he can get clued in very fast. I have the floor.

Mr. METZENBAUM. I thought the Senator from Alaska wanted me to answer him.

Mr. LONG. Mr. President, will the Senator yield to me for a question?

Mr. STEVENS. Yes.

Mr. LONG. This Senator hopes we can achieve some progress in what the Senator is trying to do. Why not yield the floor and permit the Senator from Ohio to respond to what he said here?

Mr. STEVENS. But I took the floor on condition I would return the floor to the Senator from North Carolina. I want the Senator from Ohio——

Mr. METZENBAUM. I want to assure the Senator from Alaska that when the Senator from North Carolina returns and he wants the floor I will yield.

Mr. STEVENS. I yield the floor.

Mr. METZENBAUM. I would first like to suggest to my friend from Alaska that he might get a lot further with his legislation without threatening the Senator from Ohio.

Mr. STEVENS. I did not threaten, it was a promise.

Mr. METZENBAUM. The last threat he made was he was going to come to Ohio to speak in connection with my reelection campaign, and to that I responded I would be pleased to send him a ticket, and he did not come.

Prior to that when we were debating the Alaska natural gas bill he promised to come to Ohio to debate me with respect to that matter, and he did not come.

He is welcome to come to my State any time he wants, and he is welcome to object to any of the measures that I have on the floor of the Senate any time he wants. But the next time I hope he understands that I will not have my staff working for the last 2 days trying to bring about a resolution of his problem only to have him move on the floor at 10 minutes after 12 and ask for a unanimous consent to bring up his bill, and I thank the Senators for objecting in my behalf so my rights on the floor would be protected.

Mr. DOLE addressed the Chair.

Mr. METZENBAUM. I have attempted, unless there is something urgent, to answer the Senator from Alaska, because the Senator from Alaska deserves a little further reply with respect to the facts of the legislation that he is attempting to bring up.

Mr. DOLE. I would not want to disturb my deputy. [Laughter.]

Mr. METZENBAUM. Please do not for the moment.

Of all the giveaway bills around here this is the best. Somehow the Senator from Alaska has the idea that his State, the richest State in America, should be given a railroad absolutely free owned by the Federal Government. The railroad runs for 700 miles through the State of Alaska. The railroad has in addition to it 36,000 acres of land, and he wants the U.S. Government to give it to the State of Alaska for free.

Well, you look at the legislation we passed here, we are always providing exemptions or special provisions to the State of Alaska. But I do not know of anything that I have learned about this Nation of ours that causes us to be so bountiful to one State, one State that just recently saw fit, because it had so much money, to give $1,000 back to each of the people who live in the State.

This is not a railroad that is a loser. This is a railroad that the Alaska Anchorage Times, I guess it is, recently said, "Alaska railroad finally in the black."

Another story in the Alaska papers stated, "Strong Year Predicted for Alaska Rail." According to the Anchorage Daily News of August 8, 1982:

In the past few months the earnings picture has brightened and railroad officials expect to be filling their ledgers with black ink when the fiscal year ends in September.

Another railroad fact: "In the last 18 months the railroad's volume has increased by 20 percent," quoting Mr. Smith. "The railroad could double its current tonnage in the next several years if coal export plans proceed on schedule, and if North Slope oil activity continues to grow."

According to the Anchorage Times of August 30, Mr. Jones, who runs the railroad, says "The best financial year ever for the railroad. He predicted $50 million in revenue, $12 million cash flow, and $8 million in profit for the line this year."

Give it away to the poor State of Alaska. Maybe we ought to give it to the State of Mississippi. I saw the other day where the Governor there is having some difficulty with respect to the educational programs, and I do not say that facetiously. I say if you are going to give something away then we ought to give it to those States that are much in need. Maybe we ought to give it to the State of Ohio. We have got about a $1 billion deficit. Why anybody would have the audacity to come to the U.S. Congress and ask for a 700-mile railroad to be given to it free and then cry they are not being treated fairly, because we do not give it to them—the House passed this measure, and even they did not go that far. They provided for 75 percent of liquidation value. That is an amount probably approximating $180 million, and independent reports indicate that this railroad and the land are worth something better than $500 million.

What does the Senator from Alaska want? He wants it free. He is the majority whip. The majority whip, I would think, has the responsibility of seeing to it that we balance the budget and not that we give away this country's assets.

I think the Alaska railroad bill is just nothing more than a boondoggle for one State, and it is a bill that I do not think should pass.

You can make all the threats in the world about objecting to unanimous consent to all the measures brought by the Senator from Ohio. Well, I have had the Senator from Alaska's threats before, and they have not bothered me in the past and they are not going to bother me now, and I say to him that my staff has been trying to figure out a way with his staff and the staff of the other Senator from Alaska and they have spent the last several days doing it to try to figure out a way to get the fair market value of this property in order that Alaska might decide whether it did or did not want to buy it.

For that, in appreciation, the Senator from Alaska comes here at 5 minutes after 12 and attempts by unanimous consent to get the bill brought to the floor and to possibly be passed, and I thank those who spoke up and objected in my behalf.

Mr. TSONGAS. Mr. President, will the Senator yield? I would like to say that I objected for the reasons described, but I think, in all fairness, the request was made in jest.

I just have one question of the Senator from Ohio. Would he be willing to give it to the State of North Carolina? [Laughter.]

Mr. METZENBAUM. Will that get us home?

Mr. TSONGAS. It seems like a fair deal to me. [Laughter.]

Mr. METZENBAUM. I have offered several things this evening. If we give it to the State of North Carolina we can go home. I also offered the Senator from Alaska during the dinner hour if he would exchange his beautiful little daughter Lily and gave her to me I would be willing to give him the Alaskan railroad. [Laughter.]

Mr. TSONGAS. If I may, I note for my colleagues the discussion going on in the back of the Chamber, which is certainly far more interesting than what is taking place publicly, and I, for one——

Mr. STEVENS. Will the Senator yield for one comment?

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. TSONGAS. I am going to monitor whether those who engage in filibusters are going to get a deal that rewards the filibuster, because if that happens the impact from now on is going to be tremendous, because the message will be clear.

The more obstinate you are, the greater the reward, and if that is the lesson for tonight, I just think it is one we should all learn, all take out our rule books because that is the way it is going to be from this time out.

Mr. LONG. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Louisiana.

Mr. LONG. There were two of us who objected to that request of the Senator from Alaska. The Senator

from Louisiana was sitting in the leadership chair and he objected, as well as the Senator from Massachusetts. The Senator did not see how all this happened, but he should know that in seeking to find some way to pass the time while other conversations occurred in the cloakroom and elsewhere, it was suggested that someone should make a speech. And so the Senator from Alaska took the floor and began to speak, and in the course of his speech he did make the suggestion that his bill should be acted on or some such thing as that. But I honestly do not believe anyone could see in his remark that he actually had any hope of passing the bill at that moment. I think he realized it would be objected to.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. METZENBAUM. Certainly, without losing my right to the floor, I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. The Senator just told the Senate he is willing to trade the Alaska railroad for my daughter. I told him all along he has it overpriced. [Laughter.]

Mr. LONG. Will the Senator yield to me further?

Mr. METZENBAUM. Yes.

Mr. LONG. Is there not some basis upon which the Senator from Ohio could settle his differences in this matter with the Senator from Alaska? Because, having heard good speeches made on both sides of the argument, it seems to the Senator from Louisiana that there ought to be some basis that men of good will could work this out. I think you are both men of good will, especially at this time of the year; my impression is that no lawyer wants to sue anybody at Christmastime. During this time of the year, it seems to me two men of good will might be able to get together and maybe split the difference and work out something.

Mr. METZENBAUM. Mr. President, I do appreciate the Senator from Louisiana having protected my rights on the floor. I do not actually believe the Senator from Alaska was expecting to pass this bill without giving me an opportunity to be heard, and I think he did it with some sense of levity.

But the facts are that the other Senator from Alaska spoke with me in the back of the Chamber probably 3 hours ago when we discussed a method by which this matter could be resolved which would not actually provide for title being transferred but it would provide for a fair evaluation to be made as to what the railroad is worth. It is in this area that my staff has literally been working on this matter to even the point where I have asked, "Why are you wasting so much time?" because we did not seem to be making any headway.

I gather the Senator from Alaska was well aware of those negotiations that were going on. And every bill I have a hold on here, I have indicated a willingness to talk about them and certainly have heard lots of stories about them and that includes the Alaska railroad bill. On some of them we found equitable compromise and the bills have gone through.

I yield to the Senator from Kansas.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. As I understand it, we are down to the last speaker, last official speaker, in this effort to move ahead on the highway bill. I think we are making progress. We can announce that every hour.

It would seem to me if the Senator from North Carolina would want to protect his rights, I know he is working on farm legislation, of course the longer we stay on this bill, the less chance we have of passing the farm legislation. And I have a lot of farmers in Kansas that would like to get on to the farm legislation. We have had a good long day, we have heard a lot of good speeches, and we have wasted a lot of time. Sooner or later, we are going to vote on this bill and, as one of the managers—we have four managers of this bill on each side—I would hope that we might be able to do that. Because if we intend to go to conference tonight—we have been doing a little preliminary, informal conferencing in the last few hours; there are only about three issues. It will not take long. As I understand it, others have been doing the same thing, so we are not going into the conference without some idea of where we intend to come out.

So I say to my colleagues that have been patient for the last several days; just bear with us for another day or two and, hopefully—only 1 day—we will be able to finally complete this action.

While the Senator from North Carolina is approaching the podium, I am happy to yield the floor.

Mr. HELMS. I thank the Senator sincerely. And I thank the Senator from Alaska for allowing me to leave the floor.

I will be candid with Senators. I have been walking straddle-legged between two issues, both of vital important—the gasoline tax being one of them, of course, the other being the payment-in-kind farm bill.

I believe that every Member of the Senate is in favor of the payment-in-kind farm bill, save one, and he, utilizing his rights as a Senator—and I respect him for doing so—has effectively delayed consideration of a bill which I believe vital to our hopes of restoring some measures of stability to American agriculture.

I will further confide in my fellow Senators that I have discussed this fix that we are in with everybody available, including the Secretary of Agriculture, and I have made a good faith offer to the Senator in question that we would accept his proposed amendments and take them to conference. He is now checking to see if he wants to accept that.

I apologize to the Senate for being the last at bat. It puts me in an uncomfortable position because I realize I am the Senator who is keeping you here at this late hour. But I think any Senator who had the conviction that a piece of legislation is undesirable would probably make the same judgment that I have made with respect to this one.

Earlier, before all of the telephoning and conferring began, I was reading from an editorial in a very fine North Carolina newspaper, the Durham Morning Herald. As many Senators know, Durham is the home of Duke University, one of the greatest educational institutions of our country. The Durham Morning Herald is a very fine newspaper, highly respected in my State. The editorial is headed, "Gasoline Tax: Another Outrage."

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order.

Mr. HELMS. Here is what the editorial said:

> The American taxpayer is being led around and around like a hog with a ring in its nose.
>
> It's time for the taxpayer to say stop this nonsense.

Mr. President, I am not going to attempt to use my time—

The PRESIDING OFFICER. The Senator may proceed.

Mr. HELMS. Mr. President, the editorial continues:

> But the prospect is bleak. The latest proposal for raiding the taxpayer's pocket, a five-cent-a-gallon gasoline tax, has received a supposedly grudging nod from President Reagan and it reportedly has the backing of influential and numerous members of the Pork Barrel Gang, alias the U.S. Congress.

Mr. JEPSEN. Mr. President, point of order. The Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will please come to order. Senators conversing, please cease and take a seat.

Mr. HELMS. Mr. President, may I inquire, it may have some effect upon whether we do have order. I assume that the timekeeper is not charging the time required to get order.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. So what the Senators and visitors are doing is delaying the process of the Senate; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. The editorial continues:

It looks as though this extra tax will be passed and the taxpayer will dutifully fork over yet more of his money to keep the bureaucrats in style.

Mr. Reagan calls the tax a necessity. Here's a better description: It is an absurdity and an outrage.

Just when the hard-pressed consumer begins to feel some relief from high gasoline prices, along come the killjoys in Washington. They want to make sure the consumer doesn't get to keep an extra nickel—if the market won't take his money, then the government will.

Mr. Reagan, a Republican, sounds just like North Carolina's Democratic governor, Jim Hunt, who inflicted a three-cents-a-gallon tax on Tar Heels last year.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HELMS. I thank the Chair.

First, Mr. Reagan paints a grim picture of crumbling roads and bridges, then he tries to sugar-coat the medicine by telling us the nickel-a-gallon tax won't cost the average taxpayer more than about $30 a year—"less than a couple of shock absorbers."

Of course an extra nickel won't cost you much a year, at least not directly. There is no way, however, to tell how much extra will be padded into the economy because of higher freight costs on every item you buy. You can bet it will be more than a couple of shock absorbers.

It is particularly galling to hear this soft soap from the President, the man who promised to get the government off the taxpayer's back. But after his preformance earlier this year, when he approved the largest tax increase in history (and said it was really a case of making the tax burden more equitable) we shouldn't be surprised.

Even if Mr. Reagan were correct in saying that the nickel gas tax will be a small burden for individuals, that is no consolation. Almost every tax increase can be and is justified as a mere piffle for the individual, a small price to pay for such a large amount of good for the society as a whole.

Mr. JEPSEN. Mr. President, the Senate is out of order. Is there some way that the Senate could be kept in order so we may proceed? We have been here a long time. It is the Christmas season. We are continually interrupted by people who ought to know better.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I thank the Chair and I thank the Senator from Iowa.

It doesn't matter what is on the government's shopping list—roads, buildings, you name it—the line is depressingly familiar. It will only cost you the price of a shock absorber or two, the price of a night at the movies, a few ice cream cones. You'll never miss it.

This tactic is used by the bureaucrats to make you feel guilty and appeal to your "social conscience." How can you be so selfish as to begrudge a few pennies or a few bucks and deny your fellow man the goodies the government will deliver?

This time-worn shabby argument ought not to begulle us any more. The thing to remember is that every "harmless" little tax increase is another straw on the camel's back. Add them up and before you know it, you're carrying a staggering burden.

We're at that point now. Taxes of all kinds, including the "hidden tax" of inflation, are eating us alive. Governments at all levels are taking 40 percent and more of the ordinary taxpayer's earnings. And still the politicians and bureaucrats, unsatiated, scheme to get more—as if they thought the taxpayer was a bottomless well.

American taxpayers ought not to accept any additional federal tax increase on any segment of the economy for any purpose. If the federal goverment thinks it must spend additional money on any given item, let it rearrange its budget and cut out something less important.

If you agree, write your congressman and the president and protest loudly.

Mr. President, I read that editorial into the RECORD not because I agreed fully with it, but I am absolutely persuaded that this editorial, written by a very fine editor, is a measurement of the discontent, the suspicion, and the cynicism of the American people about this Congress and about Washington in general.

A couple of hours ago I was stopped outside the Chamber by a young man who identified himself as an independent truckdriver. He said he had had an auditor look at this legislation and give him a horseback estimate. He said, "Senator, I will not be in business if this bill is enacted."

This is not one of the big, enormous trucking companies. This is a man who owns one truck.

That is one of the reasons why the Senator from North Carolina has felt obliged to oppose this legislation.

I do not doubt the sincerity and the good intentions of the authors of the legislation or Senators who support it, but I do say that it is contributing to a wildfire of cynicism across this land.

I talked with a lady in Southern Pines, N.C. She said, "Well, I see you are going to put another nickel on my gasoline tax." She went down the list of various things she did not like.

Then she said, "But I notice you fellows took care of yourselves. The House of Representatives gave itself a pay raise."

I said, "Well, we did not."

She said, "I know that, but you took care of yourselves by arranging to make more money on the side."

She said, "Have you any idea how I can make some money on the side?"

Let me read you something else, from the Wall Street Journal, of Tuesday, November 30, 1982.

The distinguished Deputy Director of the Joint Economic Committee of Congress, Mr. Bruce Bartlett, wrote as follows:

As Congress reconvenes for a lameduck session, congressional leaders seem united on the need for a new public works jobs program to combat unemployment, financed by an increase in the gasoline tax. President Reagan has said he supports the proposal primarily because of the deteriorating state of the nation's highways. Unfortunately, it is highly unlikely that such a program will have any significant impact on reducing the unemployment rate. Indeed, it may even increase joblessness.

The principal problem is that business cycles can seldom—if ever—be identified until they have substantially run their course. Consequently, federal jobs programs invariably aren't enacted or implemented until the recession is virtually, or even entirely, over. This is particularly so because politicians are inclined to react to the unemployment rate, which lags behind the business cycle, rather than to changes in real GNP growth.

For example, the 1954 Economic Report of the President, submitted to Congress in January, asserted that the economic state of the nation was "marvelously prosperous," although a downturn had begun the previous July. Similarly, it was not until late in 1960 that it was recognized that a recession had begun in April. And the relatively brief 1969-70 recession was over almost before anyone realized it was taking place.

JOBS WON'T BE CREATED IN TIME

Consequently, counter-cyclical jobs programs could not even be enacted until well after a recession had begun. Although the 1960-61 recession ended in February 1961, anti-recessionary actions were still being taken in September 1962, when Congress adopted a $900 million accelerated public works program to combat the recession that ended 19 months earlier. The Public Works Impact Program was approved in 1972 to fight the recession that ended in 1970. And two public works programs were enacted in response to the 1973-75 recession: one in 1976 and another in 1977.

In addition, a public works program, even if enacted in a timely fashion, will require a significant period before coming onstream.

Let me say parenthetically, Mr. President, that this is precisely what everybody who has discussed this bill with me has acknowledged, that it will take 6, 7, 8, or 10 months before anything is done. Bureaucracies are not established quickly, and all of the rules and regulations must be written and the labor unions have to come in to tell the Government how much to pay the fellow fixing the potholes—that sort of thing. So you can take Mr. Bartlett's word for it, the effects of this program will not be felt until the latter part of 1983.

On top of that, it is not a jobs program. I think a fair argument can be made, as Martin Feldstein' Chairman of the Council of Economic Advisors, said, it will result in a net loss of jobs.

According to a study by the Office of Management and Budget in 1979, less than 8 percent of public works projects can be completed in 9 months or less, whereas 30 percent require 2 years or more. Hence, even if a public works program can be enacted at the beginning of a session and construction begun within 90 days, the vast bulk of employment wouldn't be created until long after the average recession—which lasts about 12 months—had ended.

Another problem is the relatively low labor intensity of public works projects and the considerable mismatch between the job skills required for construction work and those of the unemployed. According to OMB, the typical public works project expends only 22 percent of its cost on direct employment. The other 78 percent of expenditures have only indirect employment

effects no different from a general increase in Government expenditures.

In addition, OMB found that very few workers employed in public works projects were unemployed prior to being hired—as few as 12 percent in program study and no more than 27 percent in another. And because 50 percent to 75 percent of jobs on public works projects are skilled, the chances of such a project helping unskilled, hard-core unemployed are almost nil.

Finally, OMB found that public works were a relatively high-cost method of creating unemployment—from $69,320 for each direct job created, assuming no substitution for existing employment, to as much as $198,059 per job, with 65 percent substitution.

Mr. TSONGAS. Will the Senator yield for a parliamentary inquiry?

Mr. HELMS. If the Chair will allow me to yield on the Senator's time, I shall be glad to do that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. TSONGAS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. If there is an arrangement arrived at whereby the PIK legislation would be brought to the floor, would it take unanimous consent for that to be accomplished?

The PRESIDING OFFICER. The Senate is operating under cloture at the present time. Under those circumstances, it requires unanimous consent to consider any other measure.

Mr. TSONGAS. I shall state, as someone who has been here unnecessarily for 4 days, that I shall not participate in any endeavor that rewards this activity. I will object, and I will stay to object as long as is necessary. I am not alone on this side. I am sure there are others. There is no way I am going to allow myself to be used to say to people that the more obstinate and destructive the tactics, the more likely we are to acquiesce. This body is out of control.

Mr. HELMS. The Senator is going too far.

Mr. TSONGAS. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from North Carolina yielded to the Senator provided the Senator from Massachusetts speaks on his time. However, the Senator from North Carolina has regained the floor and may decline to yield further.

Mr. HELMS. I am not inclined to yield further——

Mr. TSONGAS. I hope you got the message, though.

Mr. HELMS. Mr. President, I do not yield further. I request regular order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. The problem is twofold: First, the Federal public works project must comply with the Davis-Bacon regulations——

Mr. BRADLEY. Will the Senator yield for a parliamentary inquiry?

Mr. HELMS. The Senator can claim time, but if he will do me the courtesy of allowing me to finish my remarks, I would appreciate it.

Mr. BRADLEY. Mr. President, the Senator will not yield for a parliamentary inquiry?

Mr. HELMS. Certainly.

Mr. BRADLEY. Is it my understanding, based upon the Chair's response to the question of the Senator from Massachusetts, that it will take a unanimous consent to bring the PIK bill to the floor before cloture has been voted on?

The PRESIDING OFFICER. The Chair responded that while a matter on which cloture has been invoked is pending, it takes unanimous consent to consider any other measure.

Mr. BRADLEY. I simply want to state that, with Senator TSONGAS and Senator MELCHER, I shall object as well.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment on my time?

Mr. HELMS. Certainly.

Mr. BAKER. Mr. President, I think I ought to put something to rest right away.

It is not a question of having a unanimous-consent request before the Senate and objecting. There is no request. As far as I am concerned, there is not going to be a request to do that during this postcloture period. It is my intention to try to pass this bill. The Senator from North Carolina knows that and understands that. I thought it might be as well to let other Senators know that there will be no effort by the leadership on this side to lay aside this measure. We are going to finish this highway bill.

What happens after that remains to be seen. I shall consult with the minority leader and we shall proceed in an orderly way. But there is no intention nor has there even been any intention that I am aware of to lay aside this bill and take up anything else. On the contrary, it is my intention to finish this bill.

Mr. SARBANES. Will the majority leader yield?

Mr. BAKER. I yield.

Mr. SARBANES. Is there an intention to make such a unanimous-consent request after the disposition of this bill?

Mr. BAKER. Now, Mr. President, we are going to finish this bill. What happens after that is a matter that I shall discuss with the minority leader and with the Senator from Maryland and others, as they may wish. But I am not prepared to say what will come up next. The PIK bill is not a bill that has been cleared just on one side. It is my impression that it was mutually desired by the committee on both sides and that there is an objection to proceeding with it. If we could take it up sometime after we finish this bill, fine. If we cannot, we cannot.

I want to reassure Senators that there is no intention to set aside this measure and go to PIK. Whether or not we ever get to PIK depends on what we can arrange after we finish the highway bill. I just wanted to make that clear.

Mr. TSONGAS. Will the leader yield?

Mr. BAKER. I do not have the floor, but I shall yield if the Senator from North Carolina will permit me to.

Mr. HELMS. Yes, Mr. President.

Mr. BAKER. Mr. President, will the Senator permit me to yield for a question? I yield to the Senator from Massachusetts.

Mr. TSONGAS. I just want to say I have no objection to PIK. I will support that. I think it is an initiative that should be tried. That is not the issue here.

Mr. BAKER. It is the issue as far as I am concerned. What I am saying is that we are not going to lay aside this bill. We are going to finish it. We are going to decide after this bill is over what, if anything, we can take up. All I am saying is that there is no need for Members to object in advance to laying aside the highway bill, because we are not going to lay it aside.

Mr. HUDDLESTON. Will the Senator yield to me for a minute.

Mr. BAKER. Yes; I yield.

Mr. HUDDLESTON. Let me say that there are PIK bills and there are PIK bills. There is one that was approved over in the House and there has been some suggestion that we ought to do the same thing. Our committee dealt with the subject and felt that the PIK bill required some safeguards, and we have not been able to reach a decision because we have not had time to reach a decision. The reason we have not had time to reach a decision is that we have been going through this filibuster. We could have resolved the PIK bill yesterday afternoon. We spent 2 hours on it just talking. There were differences and there were some Senators who had concerns, but we could have worked those out. Now we are down here at nearly 1 o'clock on Monday night. The House has practically gone out already, and will be. I do not know whether we can get a conference. I do not know whether we can get a bill through that would be in any way acceptable to this body, so I do not know why we keep talking about the PIK bill as being some problem, because I think that opportunity left us. It left us because we had some Members with things that were very important to them, apparently more important than that

particular bill. I think the opportunity has left us as far as this particular session is concerned.

Mr. DOLE. Regular order.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that the remainder of this article from the Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 30, 1982]

PUBLIC WORKS PROGRAMS DON'T CREATE JOBS

(By Mr. Bartlett)

The problem is twofold: First, federal public works projects must comply with Davis-Bacon regulations, which effectively force the payment of high, union wage rates on all projects.

Second, experience has shown that federal public works expenditures simply replace a large amount of state and local government expenditures for public works, meaning there is no net job creation. The amount of this substitution rises the longer a program is in place, reaching as much as 100% according to some estimates.

In addition to the problem of substitution, there is also the problem of job displacement. The jobs program will destroy some jobs even as others are created. This is because the program will cause a reduction in spending for some other federal program, an increase in taxes, or the displacement of private expenditures due to "crowding out."

Putting all this together, consider the current proposal to increase federal expenditures for road and bridge repair funded by a five-cent increase in the gasoline tax. We are already 15 months into the recession, with many indicators showing it to be ending. It will take Congress several weeks to enact the proposal even if it works at high speed, with the possibility that final action cannot be completed before adjournment. It isn't such a simple thing for Congress to raise the gasoline tax without also opening up the bill to other tax issues, such as President Reagan's plan to speed next year's tax cut.

Nor will it be easy for Congress to devise a formula for allocating public works money that is fair to everyone. Thus there will probably be considerable debate on the form of the legislation even if there is consensus on the need for it. Assuming Mr. Reagan signs such legislation this year, moreover, it is doubtful that the first dollar can be spent until next spring at the earliest, with fall being a more reasonable starting time.

Also, it is highly unlikely that economic conditions won't have improved by next fall. This means the program will end up being pro-cyclical—increasing, rather than diminishing, business fluctuations. The program will take effect just when it will end up doing harm rather than good.

Perhaps most important, the gasoline tax boost will have negative effects on employment that no one has taken into account. It is certainly not going to do any good for the hard-hit U.S. auto industry. It may simply accelerate the purchase of smaller, more fuel-efficient foreign cars just as the OPEC oil price increase did.

And even if we assume that as many jobs are created as are destroyed—a very questionable assumption—the tax is likely to be implemented first, meaning that the job-destroying effect of the tax will occur before the job-creating effect of the public works spending. Even if the public works spending and the tax could be matched in the timing of dollar flows, the effect would simply be a trade-off between construction-related jobs and auto-related jobs.

QUICK FIX ISN'T THE ANSWER

There also will be regional impacts, since the jobs created are unlikely to be exactly where the unemployed currently are or where the additional job loss from the gasoline tax will be. We may end up creating more unemployment in Detroit while creating a labor shortage somewhere else. Congress also ought to consider that any gasoline tax incresae will be permanent, whereas the public works will create jobs only temporarily. Thus there will almost certainly be more unemployment in the long run than if Congress does nothing.

The old-fashioned Keynesian remedy assumed that public works were paid for by deficits. Congress could adopt this method in lieu of enacting a new gasoline tax. But given a deficit already approaching $200 billion and the fact that it would require some $80 billion in public works expenditures to knock one percentage point off the national unemployment rate, this approach seems implausible.

Moreover, it is unlikely that politicans could argue today, as they did earlier, that there are no negative effects from federal deficits. Many people believe that they are primarily responsible for high interest rates. If this is the case, we would simply be trading jobs in construction for others in housing and other interest-rate-sensitive industries, not to mention the negative impact of higher interest rates throughout the country.

The human cost of 10.4 percent unemployment is unacceptable. But at some point we must admit to ourselves that quick-fix public works programs aren't the answer. Instead of reacting to the last recession we ought to be working to make sure that the recovery can be sustained.

Mr. HELMS. Then, Mr. President, on December 2, 1982, there was an article in the Washington Post written by Anthony S. Earl, Governor elect of the State of Wisconsin, headed, "Why the Gas Tax Hike Is a Bad Idea." It reads:

As governor-elect of an economically distressed Midwestern state, I have spent the four weeks since the election in transition briefings learning in minute detail about the problems and the policy choices that will confront me in January. Not once so far in the search for answers has anyone jumped up in a briefing and said, "What this country needs is a good 5-cent gas tax increase."

The PRESIDING OFFICER. Will Senators standing please be seated.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Again, I thank the Chair for his courtesy.

Then Governor-elect Earl continued:

So before Congress constructs a bona fide bandwagon for highway legislation during the lame-duck session, will somebody explain once again why this particular highway legislation is important and why those of us digging out of the economic rubble in the Midwest should be happy to see it?

It is not that the roads and bridges in Wisconsin and the Midwest do not need attention. On the contrary, the amount of investment needed for basic road preservation efforts is staggering, as it is in other parts of the country.

It is not that we feel that enough money is already being devoted to highway needs. Rather, stagnant highway revenues and repeated deferral of necessary revenue increases at all levels have contributed greatly to the current situation.

And it is not that jobs are not needed in the region. New jobs are in desperate demand, especially jobs related to a productive investment in our economic future, like highway jobs.

Yet, on balance, it appears that the legislation likely to be considered by Congress will do more harm than good for Wisconsin and much of the Midwest. Unless the highway legislation that is actually passed makes some significant changes in the traditional federal highway program, passage of highway legislation this session will be one more problem to be overcome by several distressed states.

First, the jobs issue: everyone agrees that the highway legislation being proposed is not a jobs bill, as such. But everyone recognizes that if there were not intense pressure for some federal action to stimulate job creation, this legislation would not have such a high priority.

Mr. President, I ask unanimous consent that the remainder of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY THE GAS TAX HIKE IS A BAD IDEA

What seems to be overlooked in the rush for legislation is that the existing federal highway program, with its dedicated user taxes and categorical distribution formulas, is highly redistributive. It taxes all highway users equally, but sends far more back to some states in proportion to their contributions than to others. Thus a dollar of federal highway taxes will result in $1.50 in federal aid in one state, but will produce only 65 cents of federal aid in another.

For the "loser" states, the federal highway program actually exports jobs to other states. A 5-cent federal gas tax increase would cost Wisconsin highway users about $100 million annually, but we would expect to get back only about $70 million under existing formulas. The $30 million difference would be our contribution to highway construction employment in other states, most of which have lower unemployment than ours.

There are even bigger losers under the highway program who can afford their losses even less. Michigan (14.5 percent unemployment) would get back only 67 cents per dollar contributed, and would export about $150 million in fiscal year 1983 under the highway legislation under consideration by the House; Ohio (12.3 percent unemployment) would get 76 cents back, and export about $134 million; Indiana (11.4 percent unemployment) would get back only 68 cents, and export about $125 million.

This inequity exists in the current highway program at current tax levels. If the federal gas tax is raised and highway funding increased without changing the pattern of spending, the percentage relationships will remain the same, but the absolute

amount of dollar loss from these states will, of course, grow even larger.

Unless the highway legislation expressly recognizes unemployment as a factor for distributing funds, or some realistic minimum level of return on contributions is established, an expanded highway program could actually worsen the relative economic positions of some of the most severely affected states.

The other argument that is most often made in support of immediate action on an expanded federal highway program is that we can no longer ignore our decaying "infrastructure," especially the roads and bridges that serve as the basic arteries of mobility and commerce.

Again, this concern is valid. There is a need for greater resources to be devoted to highway system preservation at all levels.

Most often, rehabilitation of aging Interstate routes and repair or replacement of vital bridges are cited as examples of what increased emphasis on the highway program will accomplish.

But under last year's program, only 22 percent of the federal aid was directed at those two critically important needs. Under the bill to be considerd by the House for an expanded program, in FY 83 the proportion of federal aid for these catergories would rise only to 29 percent, By contrast, by conservative estimate, probably more than 40 percent of the expenditures from the Highway Trust Fund under the House bill would go for new construction. The remainder would probably be used for resurfacing, rehabilitation and reconstruction of routes not on the Interstate system.

Further, much of the work that is usually associated with road and highway repair is not done with federal aid: pothole repair, joint and shoulder repair, minor bridge repair and resurfacing of many older roads. These are specifically excluded from the federal program because they are defined as maintenance, which is a state or local responsibility, or because the most cost-effective repair or resurfacing alternative did not allow for widening shoulders, grading new sightlines or leveling hills, which is necessary to qualify for federal aid.

Two other factors about a federal gas tax increase and an expanded federal highway program appear to raise red flags at the state level.

First, most states are currently facing a need for increased revenues to fund their own basic preservation efforts. If a federal gas tax is passed along with a federal aid program geared to upgrading and new construction, many states may find it difficult to raise their own taxes next year enough to fund basic state and local preservation programs.

Second is the broad consensus that is developing in favor of completely redefining and restructuring federal-state highway relationships.

There is agreement that essentially local needs should be met locally, and that the future federal responsibility should only involve highways of overriding national concern. There is not yet agreement on where the lines of local and national interest should be drawn, on whether responsibilities and fiscal capacity will be passed in tandem to states, or on what the size and scope of the remaining federal programs should be.

Further, as documented by a Congressional Budget Office study this summer, there is increasing uncertainty regarding whether there exists either the fiscal capacity or the justification to continue blindly to pour money into a pot called "Interstate completion" since only one-quarter of the remaining cost actually represents unbuilt links in the intercity network, the rest being local segments primarily of benefit to commuters in various cities.

Considering the serious, informed questioning of the existing program that is going on, in contrast to the almost universal support that it has historically enjoyed, this does not appear to be the time for Congress routinely to authorize, and in fact to expand, the traditional program for four more years. If such authorization is enacted, it should come only after Congress has had time to examine the alternative approaches that have been proposed. The current session does not appear likely to offer an opportunity for realistic consideration of alternatives.

Mr. HELMS. Then, Mr. President, on December 12, 1982, we had an article in the Washington Post written by the distinguished Governor of Vermont, Gov. Richard A. Snelling, who was president of the National Governors Association during 1981–82. And the headline on this article is "Stop the 'Quick Nickel' Gas Tax."

No matter what combination of the three "quick nickel" highway bills now before Congress is ultimately passed as a result of the current steamroller in Washington, the bill will not do the things its backers have promised. Specifically, the quick nickel will not do anything about the current severe unemployment problem (except possibly make it worse) and it will not fill potholes.

The White House (correctly) denies that this is a jobs bill. Nevertheless, the Department of Transportation tells anybody who will listen that precisely 170,000 jobs will be created. The only reason the bill is being considered at all in the lame-duck session is the great need of Congress to appear to do something about the unemployment situation.

Mr. President, if anybody ever hit the nail on the head, Governor Snelling did it when he wrote that particular sentence. This is a pretense bordering on fraud.

I ask that the remainder of this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 12, 1982]

STOP THE "QUICK NICKEL" GAS TAX

(By Richard A. Snelling, Governor of Vermont)

The bill is not going to create jobs. In its early years, it takes more money out of the economy than it puts back in. Neither a Keynesian nor a supply-side economist would claim that sending more money to Washington is a way to create jobs.

If we don't have to send that $5.5 billion a year to Washington, we will presumably spend it to buy something else. If we do send that money to Washington, we won't be able to use it to buy something else. Whoever makes that "something else" will lose his or her job. Eventually, some of the money will result in creating some new construction jobs while eliminating jobs elsewhere in the economy.

Since the money leaves our pockets well before it ever comes back from Washington, the short-term effect will be a loss of jobs and not a gain. To make things even worse as far as jobs are concerned, it is unlikely that all states will be able to spend all the money that will theoretically be available to them. This federal money must be matched by state money. Since many states are already having difficulty matching the federal funds they are now eligible for, it is unlikely that these states will be able to match any more federal funds—especially since the federal government is planning to preempt their ability to raise state gas taxes.

The bill is touted as a way to fill the nation's potholes. There are certainly plenty of potholes that need filling. However, this bill simply extends existing federal highway programs, and federal highway money is not available for filling potholes under these programs unless the whole road is repaved. As a matter of fact, the road also has to be "wide enough" and "straight enough" to meet federal standards in order to qualify for this repaving money.

There are roads that do need to be completely reconstructed. There are also other roads that simply need to have their potholes filled and their cracks sealed. It is because of a lack of pot-hole-filling and crack-sealing over the last decade that so many roads need to be completely repaved or reconstructed now. This bill continues the tradition of encouraging massive reconstruction rather than simple preventive maintenance.

Many states, including Vermont, already need to raise their own gas taxes this year to meet unmet maintenance requirements. It is unlikely that those states will want to impose any further "user charges" on top of a large federal increase. When states raise their own gasoline tax, they can use the money from that increase to meet their most urgent priorities—whether those priorities be pot-hole-filling or new construction. It has been known for a long time that state-only projects are cheaper and can be done more quickly than projects using federal money.

It is easy to understand why those who have been frustrated by Congress' inability to pass a multi-year highway bill are jumping aboard the quick-nickel steamroller. They are afraid that, if Congress does not pass this bill now, it will never address highway needs constructively. They are willing to accept any bill, even a bad bill, as long as there is some more money for highways.

Nevertheless, a bad five-year bill passed during the lame-duck session will be worse for the nation than no bill at all. It will neither create jobs nor fill potholes. It will frustrate the ability of the states to achieve these goals themselves.

Although many states will be winners from the quick nickel, others will be substantial losers. The Reagan administration dedicated itself to a restructured federalism, which recognized the diversity of needs and problems in the different states. It is ironic that this administration is pushing a bill that extends federal decision-making even further and cripples the ability of states to meet their individual highest priority needs.

This lame-duck Congress ought to go home. After the Christmas recess, a new Congress should come back and address the nation's transportation (and other) problems in a constructive way. The quick nickel ought to be allowed to die a quick death.

Mr. RANDOLPH. Reserving the right to object, and I will not object, I wonder if I might have charged to my

time perhaps 30 to 40 seconds just to make a statement in reference to this matter.

Mr. HELMS. I am delighted to yield to the able Senator.

Mr. RANDOLPH. I thank my friend from North Carolina.

Is it not a fact, I ask my colleague, that the Washington Post editorially has given strong support to this legislation? The Washington Post, as other newspapers throughout the country, prints letters from Governors and readers, but editorially is it not true that the Washington Post has strongly supported this measure?

Mr. HELMS. My response, I would say to my dear friend—and he is my friend—is that I do not claim to be an authority on what the Washington Post does or says or intends. Far from it. But my impression of the editorial published by the Washington Post is that it agreed, as I agreed, that there is a need for doing something about our highways and the bridges and the like. But I am not at all confident that the Washington Post thinks that this is a good bill, but I will be happy to stand corrected.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. In that connection, I ask unanimous consent that an editorial by the Washington Post entitled "Gas Tax: Repairs Needed" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAS TAX: REPAIRS NEEDED

The highway tax-and-improvement bill, now speeding through Congress, needs some repair work of its own. Linking an increased tax on gasoline with a stepped-up effort to build and maintain highways, roads, bridges and transit systems was an obvious marriage of convenience; raising the gas tax promotes energy conservation; using the receipts for transportation improvements serves an obvious public need. And for those reasons, it deserved to be supported even though, at best, the measure was never ideal economic or social policy.

Despite all the job-creation enthusiasm now propelling the bill through Congress, this never was meant to be—and is not—a job-creation bill. That has always been understood. In fact, like previous anti-recession public-works measures, it could actually destroy more jobs than it creates. Construction jobs are very expensive. They require much heavy equipment and material, and construction wages—supported by the federal Davis-Bacon Act—are high. Construction projects also take a long time to complete. The extra $5.5 billion that the gas tax would raise almost surely would create more jobs if it were left in consumers' hands or devoted to public services with lower labor and overhead costs.

But the measure *can* be justified if the money raised is directed as closely as possible to essential transportation needs. The version of the bill passed on Monday by the House improves on the current federal highway program—the vehicle by which the money will be distributed—by earmarking 1 cent of the additional gas tax for mass transit capital improvements. However, the measure still directs too much money—about $4 billion annually—to construction of new interstate highway projects, many of which are of dubious national or even local interest. Why build more roads when the nation can't maintain those it has?

Then there's the matter of how the money is distributed. There is no perfect formula for distributing highway or any other federal money, but this one needs more work. Under the administration proposal, some severely distressed states would have paid much more in added gas taxes than they got back in federal aid. The House limited their losses to 15 cents on the dollar; but does it make sense for a state with a Depression-level unemployment rate, such as Michigan, to be losing at all while relatively prosperous states, such as Alaska and Hawaii, get back $3 to $4 for each dollar they contribute?

States will also have to put up $20 to $25 for each $100 in federal aid for maintaining state roads and bridges. Even with the House provision for one year of borrowing, this means that financially stricken states will have to forgo help or divert money from other pressing needs.

There are also good things in the House bill that may come under heavy pressure in the Senate. One is the inclusion of a stepped-up tax on heavy truckers—to cover their contribution to highway abuse—that the administration wanted. Another is the exclusion of changes in the current highway law that would be most harmful to the environment—also changes that the administration wanted. Time is short, but the Senate should be careful about how it proceeds. The changes it makes in the bill may make the crucial difference between one that is clearly not in the public interest and one that deserves full public support.

Mr. BAKER. Mr. President, will the Senator yield to me briefly without losing his right to the floor?

Mr. HELMS. Certainly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. It is close to 1 o'clock in the morning, and I judge that the Senator from North Carolina still has 28 or 29 minutes left of his time under cloture.

Let me just say in the interest of Senators that what I would like to do is finish the consideration of this measure tonight, get final passage, take whatever action is necessary to complete the action of the Senate on this measure, and get it to the House of Representatives and go out until sometime tomorrow.

The adjournment resolution at the desk originated in the House of Representatives. It provides for their adjournment at any time today or tomorrow, which is now today, Tuesday, and providing that the Senate may adjourn at any time prior to January 3, which is a depressing thought, and also providing authority for us to recess from time to time if we may wish while they are gone.

Mr. President, my question to the Senator from North Carolina, in view of the fact that I am willing to acknowledge that after we pass this bill we are going to go out tonight and come back tomorrow and do whatever we can do tomorrow, is I wonder if the Senator could give me some idea whether or not he intends to proceed with the full 30 minutes or thereabouts that he has remaining and whether or not we might get on with final passage of this measure?

Mr. HELMS. The Senator will be delighted to learn that I intend to stop at 1 a.m. in any event or thereabouts.

Mr. BAKER. Then it was a happy and fortunate coincidence that I spoke at this time.

Would the Senator then be prepared to permit us to go forward?

Mr. HELMS. Not quite. I have a few things that I will say briefly.

Mr. BAKER. All right. I yield.

Mr. HELMS. Then I will conclude.

Mr. ANDREWS. Mr. President, will the majority leader yield for a short question?

Mr. BAKER. If the Senator from North Carolina permits me to continue for that purpose.

Mr. HELMS. Certainly.

Mr. ANDREWS. Mr. President, some of us are concerned what is going to happen next. We support this bill totally and the great job that our colleagues have done on it. It has to go to a conference with the House of Representatives, however, and it will come back from that conference sometime short of papers, short of information.

Because the House version of this bill would have a State like North Dakota and about 15 other States paying a 9-cent gas tax and getting less money than we now get under a 4-cent gas tax, could the majority leader assure us that before we vote on the conference report we will be able to vote on the basis of fact rather than on the basis of rumor and that we will in fact have the breakdown of the conference out in distribution so we will not be voting for a bill that does that kind of violence to a distribution formula that has been here for years.

Mr. BAKER. The Senator can be assured and I give him my assurance that before I ask the Senate to turn to any conference report that might be sent to us by the House-Senate conferees that we will have the data and breakdown and be prepared to approach it intelligently and thoroughly.

Let me say to my friend, who served in the House of Representatives so long, that he knows even better than I do that in advance of a House-Senate conference it is not unusual for the respective parties to stake out positions for themselves and even to utter statements about their absolute intransigence, that sometimes does not always prevail when the conference convenes.

Mr. ANDREWS. That is true.

I might add, Mr. President, and the fact that so many of our conferees had their training alongside of those friends from the other body, I think

that we at least will come out on the long end of this conference agreement, but I think it is imperative that we do have the information when we vote right in front of us so we can see category by category through the four major categories just what kind of changes are being brought and how close we did stay with the Senate version because it means a difference, and I might assure the majority leader of about 17 or 18 changes in votes on that basis.

Mr. BAKER. Yes, Mr. President, I have absolute confidence we can do that, and will do that, and I also have absolute confidence in the Senator to assist us so that we have the figures available and fully understand them.

Mr. President, right now, though, the issue before us is to get the bill out of here and get it to conference or to the House of Representatives in some way. So I hope we could get on with the matter.

Mr. HELMS. Mr. President, I say to the majority leader he will get on very shortly.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER (Mr. RUDMAN). The Senator from North Carolina.

Mr. HELMS. Mr. President, let me first pay tribute to the majority leader. Throughout all of this he has been a model of patience. He and I have been as openhanded and forthright as any two people could be.

I know that tempers of Senators under the circumstances have been frayed, but I hope upon reflection during the holiday season they realize that on some future occasions they may be in the same position.

I also wish to pay tribute to my distinguished colleague, Mr. EAST, for the role that he has played in this battle. Whether we win it or lose it eventually, it remains to be seen in terms of what happens tomorrow.

Mr. President, the distinguished majority leader has enlivened the RECORD during this 97th Congress by the occasional insertion of items of verse. He has thereby provided readers of the RECORD with a wide variety of poetry for edification and delight.

As this Congress draws to a close, I will, this single time, follow his example, and for a particular purpose. I can think of no more appropriate poem to be put into the RECORD at this time than "Abraham Davenport," by John Greeleaf Whittier.

There was a day when all American schoolchildren read Whittier, along with Longfellow and the other great writers of our country's past. That literary heritage, based on enduring values and truths, seems to have been laid aside in favor of more modern reading. More's the pity.

This particular poem, I believe, stands as an appropriate tribute to our distinguished colleague, my fellow Senator from the State of North Carolina, JOHN EAST. In tribute to what he has done these past several days—in defending the rules of the Senate, in upholding the revered procedures of this body, and in asserting commonsense and foresight in our deliberation of public policy—I would like to share with the Members of the Senate, and with the American people, this fitting salute to a worthy servant of the people.

ABRAHAM DAVENPORT

In the old days (a custom laid aside
With breeches and cocked hats) the people sent
Their wisest men to make the public laws.
And so, from a brown homestead, where the Sound
Drinks the small tribute of the Mianas,
Waved over by the woods of Rippowams,
And hallowed by pure lives and tranquil deaths,
Stanford sent up to the councils of the State
Wisdom and grace in Abraham Davenport.

'Twas on a May-day of the far old year
Seventeen hundred eighty, that there fell
Over the bloom and sweet life of the Spring,
Over the fresh earth and the heaven of noon,
A horror of great darkness, like the night
In day of which the Norland sagas tell,—
The Twilight of the Gods. The low-hung sky
Was black with ominous clouds, save where its rim
Was fringed with a dull glow, like that which climbs
The crater's sides from the red hell below.
Birds ceased to sing, and all the barnyard fowls
Roosted; the cattle at the pasture bars
Lowed, and looked homeward; bats on leathern wings
Flitted abroad; the sounds of labor died;
Men prayed, and women wept; all ears grew sharp
To hear the doom-blast of the trumpet shatter
The black sky, that the dreadful face of Christ
Might look from the rent clouds, not as he looked
A loving guest at Bethany, but stern
As justice and inexorable Law.

Meanwhile in the old State House, dim as ghosts,
Sat the lawgivers of Connecticut,
Trembling beneath their legislative robes.
"It is the Lord's Great Day! Let us adjourn,"
Some said; and then, as if with one accord,
All eyes were turned to Abraham Davenport.
He rose, slow cleaving with his steady voice
The intolerable hush. "This well may be
The Day of Judgment which the world awaits;
But be it so or not, I only know
My present duty, and my Lord's command
To occupy till he come. So at the post
Where he hath set me in his providence,
I choose, for one, to meet him face to face,—
No faithless servant frightened from my task,
But ready when the Lord of the harvest calls;
And therefore, with all reverence, I would say,
Let God do his work, we will see to ours.
Bring in the candles." And they brought them in.

Then by the flaring lights the Speaker read,
Albeit with husky voice and shaking hands,
An act to amend an act to regulate
The shad and alewive fisheries. Whereupon
Wisely and well spake Abraham Davenport,
Straight to the question, with no figures of speech
Save the ten Arab signs, yet not without
The shrewd dry humor natural to the man:
His awe-struck colleagues listening all the while,
Between the pauses of his argument,
To hear the thunder of the wrath of God
Break from the hollow trumpet of the cloud.

And there he stands in memory to this day,
Erect, self-poised, a rugged face, half seen
Against the background of unnatural dark,
A witness to the ages as they pass,
That simple duty hath no place for fear.

One final point, Mr. President. The majority leader and others have mentioned the payment-in-kind legislation. I hope the majority leader will agree that I have done everything possible today to bring that bill before the Senate. I think it is absolutely essential that we do this for the farmers, and I do not say this in a derogatory way, but I simply cannot understand anyone who would deliberately prevent the passage of this bill because the payment-in-kind legislation is only a step in trying to pull the farmer back an inch or two from the brink of disaster, but that is water over the dam. I consulted with everyone I can possibly find on the matter, and it was to no avail. We got within one Senator of being able to have the bill considered tonight and passed, and the House of Representatives has already passed it, but in any case, I thank all Senators for their patience and I wish you Merry Christmas and a Happy New Year.

I yield the floor and yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I hope we will now vote on the passage of the bill.

I ask unanimous consent that any other Senators who wish to do so may also insert their statements in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, after much thought and consideration I have decided to vote against the proposed gasoline tax.

The President has, on several occasions, repeated his intention that this is not a jobs bill. No one questions the President on this statement because it will do very little to alleviate the high rate of unemployment which we are experiencing this day. It will principally provide added employment to those contractors, builders, and workers who are involved in the business of roadbuilding and road repair.

Second, the evidence has clearly shown that there is a great deal of money in the highway trust fund, to wit, $8.3 billion. Currently, the exist-

ence of this huge surplus account is viewed primarily as due to the tragic fact that those States which are in desperate need of road repair and bridge rebuilding cannot provide the necessary matching funds to qualify for this Federal largesse. Further, as most Senators are aware, there is some correlation between these poorer States and a high rate of unemployment. The wealthier States with low rates of unemployment have very little difficulty in coming up with matching funds.

Third, this gasoline tax will make it virtually impossible for those less affluent States to levy their own gasoline tax.

Studies have shown that most drivers can understand and approve a 5-cent gasoline tax, but would resist a 10-cent gasoline tax. Therefore, if this Federal gasoline tax is approved, poorer States that had planned to levy their own State gasoline tax would be politically prohibited from doing so. And so the vicious circle continues to spin: The poorer States continue to have bad roads and high unemployment, and the more affluent States continue to have better road and bridge conditions and less unemployment.

I believe the gasoline tax will benefit the State of Hawaii. Hawaii's credit rating is an enviable one. But I do not believe that the people of Hawaii, with its legendary aloha spirit, would care to reap such benefits at the expense of those who are less fortunate.

Mr. EAGLETON. Mr. President, I think the 5-cent Federal gasoline tax has been heavily oversold on the numbers of jobs created—not very many in relation to 12,000,000 unemployed—and heavily undersold on the jobs lost—probably about as many as are created—by the diversion of consumer purchasing power into payment of the 5-cent tax. For example, Walter Heller, President Kennedy's chief economic adviser, believes that the 5-cent gasoline tax will eliminate more jobs than it creates. "This is an anti-jobs bill," he states. Wharton Econometrics Forecasting Service, in its analysis of the 5-cent gasoline tax, states: "It will have an insignificant effect on aggregate joblessness. It does not really address the problem of unemployment."

The bill has been heavily oversold on the promptness with which these few jobs will be created—it will not be prompt; it will be years—and heavily undersold on the damage to the highways of States like Missouri because the bill now mandates longer, wider, and heavier trucks. Missouri's voters rejected longer, wider, and bigger trucks in a referendum on April 6, 1982, and as, I might add, have Missouri voters rejected, on several occasions, an increase in the Missouri State gasoline tax.

The bill makes a real mockery of President Reagan's New Federalism because by raising the gas tax by 5 cents at the Federal level, it, for all practical purposes, forecloses that source of additional revenue to the States. Limited State gasoline funds will make it harder for States to maintain their own road system and harder to come up with present or future required State matching funds.

All in all, it is not a very good bill and I will vote against it.

There was a better way. I voted for a substitute jobs bill which would have been financed by repealing the third year of the tax cut for those making over $50,000. That measure would have provided many more jobs without adding new burdens to low- and middle-income workers. Unfortunately, that alternative was defeated.

Mr. President, I ask unanimous consent that the Wharton study mentioned previously be printed at this point in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

WHARTON LONG-TERM MODEL ALTERNATIVE SCENARIOS

(By Geoff Greene)

JOBS BILL IMPACT

With the aggregate rate of unemployment for November reaching 10.8 percent, well above the post-Depression record of 10.4 percent set in the previous month, concern over joblessness has become the central preoccupation of the public, the media and both major political parties. In response to this concern, Congress has revived an expanded highway spending program first suggested by Transportation Secretary Drew Lewis. Now relabeled a "jobs" program, the proposal has been endorsed by President Reagan and leaders of both parties, and seems sure to become law during the current post-election session of the 97th Congress.

The legislation calls for $5.5 billion a year in new Federal higway expenditures, to be matched by $1.1 billion by the states, for a total of $6.6 billion annually through 1988. The proposal is to be funded by a 5 cents per gallon increase in the Federal tax on gasoline and diesel fuel, with the states permitted to raise the matching funds as they see fit, and with deferred matching payments permitted for the most financially hardpressed states. The bill also calls for increases in the Federal excise taxes on equipment for heavy trucks and corresponding decreases in those for light trucks and automobiles in order to reflect the greater highway damage caused by heavy trucks, although this provision is expected to raise no new revenues.

Backers of the proposed legislation claim that 320,000 new jobs will be created by the expenditures, with 170,000 of these in the construction industry, where unemployment is currently over 22%. On the other hand, critics argue that the new taxes imposed to pay for these jobs will lead to job losses in other sectors of the economy, with little overall net increase in employment. A study conducted by the Wharton Long-Term Service suggests that while job losses attributable to the tax increase do partly offset the creation of new jobs by the highway reconstruction program, there would be some net positive effect on economy-wide employment. Because of the lag between the beginning of the tax increase and actual new highway spending, there will be a net job loss in 1983, but employment gains will average about 119,000 over the life of the program, with new jobs in contract construction representing about 70 percent of the increase.

EMPLOYMENT IMPACT OF THE JOBS BILL COMPARED WITH BASELINE OUTLOOK

	1983	1984	1985	1986	1987	1988
Baseline (millions)	101.474	104.482	106.898	107.964	110.072	112.101
Jobs created by spending	.026	.193	.269	.291	.291	.288
Jobs lost due to new taxes	.034	.075	.127	.150	.138	.120
Net job gain from jobs bill	—.008	.118	.142	.141	.153	.168
Net job gain in construction from jobs bill	.007	.074	.094	.099	.105	.112

The impact of the bill on the rest of the economy would be small, and not altogether positive. GNP Growth differs negligibly from the baseline, slightly higher in some years, lower in others. While average annual unemployment would decline, the drop would be trivial, amounting to no more than .14 percentage points in any given year, with the aggregate rate remaining above 7% through 1988, as expected in the Baseline outlook.

ECONOMIC IMPACT OF THE JOBS BILL

	1983	1984	1985	1986	1987	1988
GNP growth (percent change):						
Baseline	3.23	5.23	3.68	1.93	3.61	3.29
Jobs bill	3.20	5.02	3.61	1.91	3.62	3.30
Unemployment rate (percent):						
Baseline	9.67	8.88	8.12	8.30	7.80	7.27
Jobs bill	9.68	8.76	7.99	8.17	7.67	7.13

The tax pass-through to consumers increases overall price inflation slightly, slowing the forecast decline in interest rates. Long-term rates, in particular the effective new home mortgage rate, hang somewhat higher as compared to the general consumer price level, increasing the relative price of housing and leading to a slight weakening of housing demand. This results in a loss of about 89,000 housing starts over the five years of the jobs program. Housing activity increases over the last four years of the forecast horizon, partly in response to the additional demographic pressure caused by slower growth in the housing stock during the period of the tax increases and partly due to the additional household income generated by employment increases, resulting in a net gain of 35,000 starts over the ten year forecast horizon.

IMPACT OF THE JOBS BILL ON THE HOUSING SECTOR

	1983	1984	1985	1986	1987	1988
Mortgage rate (percent):						
Baseline	13.03	11.35	10.66	10.21	10.04	9.83
Jobs bill	13.06	11.43	10.77	10.30	10.10	9.85
Housing starts (millions):						
Baseline	1.449	1.751	1.923	1.776	1.902	2.112
Jobs bill	1.445	1.741	1.895	1.748	1.881	2.096

Perhaps surprisingly, the effect of the fuel tax/highway spending bill is expected to have a slightly positive effect on auto

sales over the 5 years of the program. While higher gasoline taxes increase vehicle operating costs, leading to an 88,000 unit decline in new car sales in 1983 relative to the Baseline, the incentive to purchase newer, more fuel-efficient cars combined with the small increase in income generated by additional jobs should lead to increased scrappage rates and a net gain of 6,000 sales through 1988. The increase in scrappage rates exceeds new car purchases, however, so that the stock of cars decreases relative to the Baseline forecast, and their average age declines. With auto stocks smaller relative to the number of drivers, sales are actually somewhat stronger when the tax increase expires after 1988, averaging about 46,000 units more than forecast in the Baseline.

IMPACT OF THE JOBS BILL ON THE AUTOMOTIVE SECTOR

	1983	1984	1985	1986	1987	1988
Automobile scrappage (millions):						
Baseline	8.762	9.287	8.308	8.903	9.448	9.670
Jobs bill	8.804	9.324	8.327	8.921	9.477	9.664
New car sales (millions):						
Baseline	9.355	10.573	11.074	10.594	11.141	11.400
Jobs bill	9.267	10.592	11.075	10.615	11.173	11.422
Stock of automobiles:						
Baseline	109.53	111.20	112.83	114.97	117.05	118.84
Jobs bill	109.45	111.09	112.68	114.82	116.91	118.69

Although the projected revenues from the gasoline and diesel fuel tax increase amount to about $.5 billion less annually than Federal expenditures on the program, the additional economic activity generated by the program would result in increased personal and business tax revenues, so that the Federal deficit actually drops by an average of about $1.25 billion a year relative to the Baseline outlook. The largest reductions in the deficit occur in the first two years of the program, reflecting the fact that tax collections will begin when the new law takes effect on April 1, 1983, but the typical start-up delays associated with expanded public works programs mean that expenditures probably will not reach nominal levels until early 1984.

IMPACT OF THE JOBS BILL ON THE FEDERAL DEFICIT

	1983	1984	1985	1986	1987	1988
Federal deficit (billions):						
Baseline	$160.8	$135.9	$116.7	$114.0	$93.9	$86.5
Jobs bill	158.0	134.1	116.0	113.5	93.2	86.2

The results of our study suggest that, as its proponents have argued, the highway spending/fuel tax bill should be properly viewed as an "infrastructure" measure rather than a "jobs" program, since it will have an insignificant effect on aggregate joblessness. Judging the bill on this criterion, there is little doubt that the nation's infrastructure is in need of renovation, and although benefits are difficult to evaluate explicitly, improvements to the stock of public capital would reduce the costs of vehicle maintenance and repair, as well as inconvenience and discomfort, to both business and consumers, and are probably justified in their own right. But, while estimates of the nation's infrastructure needs are notoriously vague, most observers say that as much as $300 billion would be required to renovate roads and highways along, with repairs to bridges, sewage and water systems, and public transit adding over $45 billion, $225 billion and $50 billion in expenditures, respectively, for a total of well over $600 billion dollars. In this context, the $33 billion in outlays called for in the current proposal seems small, but perhaps better than nothing at all.

Another aspect of the fuel tax worth noting is the probable effect of the increased user cost of energy on conservation. As compared to the Baseline, petroleum consumption by vehicles in gallons under the new program is expected to drop almost one percent, or roughly 800 million of gasoline and diesel fuel annually through 1988. Both the Ford and Carter administrations proposed an increase in the Federal gasoline tax to induce energy conservation, as a measure to partially insulate the U.S. economy against future energy price shocks. Since political turbulence in the oil-producing nations remains a significant possibility, any measure reducing U.S. vulnerability to energy supply shocks is perhaps justified in its own right.

But, while the current legislation has some merit on these grounds, it does not really address the problem of unemployment. With unemployment rates expected to remain over 10 percent for most of 1983, joblessness is likely to be at the center of public attention for some time. House Democrats have already moved toward additional public service jobs spending by amending a one year, $5.4 billion dollar plan to a Budget continuing resolution, and the White House has indicated it may be willing to accept a portion of this figure in exchange for House approval of the previously rejected $988 million dollar MX missile appropriation. The measure is directed toward renovation of public housing, parks and other facilities, with a goal of creating 350,000 jobs. Simulation results, however, suggest that the program will produce only about 140,000 new jobs, reducing the unemployment rate only about .13 percentage points, even if the entire $5.4 billion package were to be approved.

Some sort of jobs program seems inevitable in the opening session of the 98th Congress, perhaps an additional $5 to $6 billion in public works and $2 billion in housing subsidies for a period of three years or more. But it is quite possible that no jobs program could substantially cut unemployment—the kind of federal deficits necessary to fund massive public job creation would almost certainly lead to sharp interest rate increases, deepening, rather than alleviating the effects of the recession. It is perhaps in recognition of this that the political discussion surrounding the issue has focused on relatively modest proposals, in spite of the unprecedented level of joblessness.

While a major cause of the current high level of unemployment in the U.S. is the confluence of factors that led to very high interest rates throughout the period from mid-1979 through 1982, aborting the brief 1980 economic rebound before employment had recovered, the decreased international competitiveness of major U.S. industries is also important, and of greater long-run impact. Many workers formerly employed in declining U.S. industrial sectors may well have been permanently displaced, and new jobs for younger, less skilled workers may not be forthcoming from traditional sources. This suggests that retraining will become increasingly important as an unemployment policy option, and Congress has recently shifted funding from the widely-criticized CETA program to a system of Private Industry Councils (PICs) in the Job Training Partnership Act of 1982. The PICs, which emphasize jobs skills in demand in local areas, are administered jointly by business and government, and have demonstrated some success since the pilot program was initiated in 1978. With the efficacy of traditional jobs programs increasingly in doubt, it seems likely that future jobs legislation will focus on retraining ranging from remedial education to specific training for employment in industries based on emerging technology.

Mr. LEVIN. Mr. President, I want to take just a moment to remind my colleagues that the Levin-Specter amendment extending the number of weeks of Federal supplemental unemployment benefits which was overwhelmingly approved by the Senate is part of the Baker substitute to the highway bill. While I personally have some very strong disagreements with the apportionment formulas of the highway bill, I believe that it is absolutely essential to do something to respond to the outrageously high level of unemployment which this Nation is currently enduring.

Since the jobs portions of the continuing resolution has been stripped from that bill in the face of certain Presidential veto, the only action which we can take which will bring immediate relief to many of the unemployed is to extend the number of weeks of Federal supplemental benefits, and to do that we must pass the Baker substitute to the highway bill.

But something about the way we are handling this gasoline tax and jobs bill bothers me and raises the question in my mind whether the trust fund apportionment formulas make any sense at all.

Everybody knows that if it had not been for the terrible unemployment situation, there would not be the sense of urgency about passing this bill that there is now. The push for the bill is the product of double digit unemployment. If that is the case, then how can we pass a tax, when the revenues collected by that tax will increase the unemployment problems of some of the States which the recession has already hit the hardest? If it were not for the Levin-Specter-Robert C. Byrd-Dole-Domenici amendments extending supplemental unemployment benefits, so desperately needed, I would have rigorously opposed this bill.

Why, may I ask, should the people of Michigan support a gas tax bill which will cost Michigan jobs. This Congress should not ask that my State, which has suffered the most from the recession, to export some of its jobs any more than it could ask an accident victim to become a blood donor.

I know that there have been some efforts to correct the inequities which exist in the ways that the money contributed to the highway trust fund is redistributed to the States and with some success. But these efforts, as well

meaning as they are, are akin to throwing a 15 foot rope to someone drowning 25 feet offshore. The Washington Post also pointed to this problem in its recent editorial.

The House limited their losses to 15 cents on the dollar; but does it make any sense for a State with a depression-level unemployment rate, such as Michigan, to be losing at all while relatively prosperous States, such as Alaska and Hawaii, get back $3 or $4 for each dollar they contribute?

Let me hasten to add that Michigan is not the only State in this situation. Ohio, for example, now has an unemployment rate of 14.2 percent, but has averaged back 89 cents on the dollar, and California has a rate of 11.2 percent, but has averaged only 80 cents back on the dollar. Over the past 15 years, Michigan has lost on the average of $57 million each year, Ohio has lost over $42 million each year, and California has lost almost $160 million each year. So, Mr. President, this is no small change.

I recently joined my friend from Wisconsin, Senator PROXMIRE, in calling attention to the intolerable inequity of the gas tax. I pointed out that since 1957, when the first allocations were made, my State of Michigan has received back on an average only 83 cents for every dollar it has contributed to the trust fund. The national average during that same 15-year period was $1.07, with one State receiving $9 for every dollar put into the trust fund and other States receiving two to three times the amount they contributed.

Now, I understand that some may argue that this is a national roads system, and therefore it is only natural that some States will give a little and some States will get a little for the sake of the overall national benefit. However, that rationale breaks down when you contrast contributions to the trust fund with interstate and noninterstate apportionments from the trust fund. When this analysis is done, what one finds is that the inequity is often greater when it comes to noninterstates. For example, over the 1957–81 period, California contributed 10 percent of the funds to the trust fund at the same time that it received only 8.2 percent of the apportionments from the fund for interstates and only 6.2 percent of the funds for noninterstates. Ohio contributed 4.9 percent of the funds to the trust fund at the same time that it received only 4.5 percent of the apportionments from the fund for interstates and only 3.75 percent of the apportionments from the fund for noninterstates. Finally, my State of Michigan has over the same period of time contributed 4.3 percent of the funds to the trust fund at the same time that it received only 3.5 percent of the apportionments from the fund for interstates and only 3.19 percent of the apportionments for noninterstates. Therefore, the ultimate rationale for whatever inequities there are in the formulas cannot be the need to promote a national road system when the inequities are often the most striking when it comes to the noninterstate roads.

There seems to be no single answer why some States contribute so much and get so little in return. The current formulas for reapportionment of money for the primary and secondary road programs emphasize such factors as the State's land area, and miles of Federal-aid roads in each State. A formula based on land area is detrimental to my State, while formulas based on vehicle miles would more accurately reflect the actual use of these roads by the people of the State and this is what we should emphasize if we are really talking about a user tax. Michigan contributes 4.3 percent of the total trust fund revenues, but has an area of only 1.6 percent of the Nation as a whole, and only has 3.5 percent of the postal route mileage in the country. On the other hand, for 1981, for example, Michigan had 4.29 percent of the total vehicle miles traveled within the United States. Nevertheless, in that same year, Michigan received only 2.65 percent of the payments from the trust fund. This has the effect of leading to the incongruity that although Michigan ranks 7th in vehicle miles actually traveled on Federal-aid roads, it ranks 46th in its rate of return from the highway trust fund.

It is for these reasons that I recently addressed the following letter to the Finance Committee and Environment and Public Works Committee:

I am writing to urge you to correct an intolerable inequity which exists in the way money contributed to the highway trust fund, is redistributed to the States. Since 1957, when the first apportionments were made, the State of Michigan has received back on the average only 83 cents for every dollar it has contributed to the trust fund. The national average during the same period was $1.07, with one State receiving over $9 for every dollar contributed and many other States doubling their contributions.

The highway authorization bill under consideration by the Committee on Environment and Public Works will have a negative effect on many States which have historically contributed more to the highway trust fund, than they have received back. For these States, the 5-cent increase in the gasoline tax is not a job-creating proposal, but a job-exporting proposal.

The amendment which was approved this morning by the committee is an inadequate attempt to address this problem. Michigan has the highest unemployment rate of any State in the Union. We cannot afford to take more than $60 million a year out of the Michigan economy to support road building projects in other states.

The question, then comes, what specifically can be done. An 85-percent floor as was agreed to in the House is better than no floor, but it is not good enough. I think more should be done. A deferral of the requirement for matching funds by the States is better than a requirement of immediate payment, but it is not good enough. I would like to see a total waiver of the requirement for States who are enduring long periods of high unemployment.

In the words of the newly elected Governor of Wisconsin in an article which recently appeared in the Washington Post:

Unless the highway legislation expressly recognizes unemployment as a factor for distributing funds or some realistic minimum level of return on contributions is established, an expanded highway program could actually worsen the relative economic positions of some of the most severely affected states.

And it would not be the first time such a present was delivered by Uncle Sam. In a study done in 1980 of recent trends in the Federal balance of payments among the States, there was one very troubling and all too consistent result. For fiscal years 1975–79 Michigan consistently ranked last or second to last in the net dollar flow into the State from the Federal Government. In 1975 it ranked last with 65 cents for every dollar, and in 1979 is ranked last with 66 cents for every dollar.

I know that I have already made reference on a number of occasions to this as a jobs bill. I know that the administration does not like to call it that. I am also aware of a number of articles which have appeared suggesting that it will cost more jobs in labor intensive industries than it will create in capital intensive industries such as construction. This is an interesting debate, but unfortunately it does not matter for my State of Michigan because even if a dollar in gasoline taxes would create a dollar's worth of jobs in theory, in fact, if the historical average is to be a guide, my State of Michigan will not even have a chance to get the dollar's worth of jobs.

Again, I would have opposed this bill but for the successful battle we fought to add a critically needed supplemental unemployment benefit extension for up to 6 weeks.

That is so vital to Michigan that I must vote "yes" on this bill.

Mr. BRADLEY. Mr. President, for 3 full weeks the Congress has been working intensively on legislation to raise gasoline and highway excise taxes and devote these revenues to pressing transportation needs. After giving much thought and consideration to the many issues involved, I will not vote for the Surface Transportation Act of 1982 as it is pending in the Senate.

I will vote against the pending bill on the following grounds:

First, I want to send a strong message to the conferees that the Senate bill does not adequately reflect New Jersey's needs. Our transportation system, like that of other States, is central to New Jersey's economic activity. Yet our roads and mass transit system are deteriorating due to age, weather, and heavy use. These conditions are a drain on our economy and must be improved.

But the Senate bill is clearly inadequate to meet New Jersey's transportation needs. Historically, New Jersey has always fared poorly under the provisions of the Federal-aid highway program and the highway trust fund. Since 1956, for every dollar that New Jerseyites have contributed to the highway trust fund, they have received back only 82 cents in Federal highway financial assistance. The bill before us continues this practice. The Federal Highway Administration estimates that New Jersey will receive back only 85 cents for every $1 contributed to the highway trust fund. And, New Jersey will receive as much as 85 cents per dollar only because a minimum floor was added to this legislation. Without the minimum floor, New Jersey would have received even less.

As I have noted, our current highway program formulas are inadequate for our transportation needs. Sadly, the bill before the Senate is actually inferior to current law in a number of areas.

For example, it dispenses funds for the repair and replacement of bridges by looking to the average national unit cost of repair, not the actual cost of repair incurred by a State. This means that a State like New Jersey which has high bridge repair costs will receive an amount of Federal funds which is insufficient to meet local repair needs.

Also, the 4-R program which provides for the reconstruction, resurfacing, restoration, and rehabilitation of Federal highways is woefully inadequate. The Senate bill changes current law so that funds will be distributed to a greater extent on how many miles of lanes exist in each State and to a lesser extent on how many vehicles travel over those miles. We are in agreement that our highways are deteriorating due to 20 years of heavy traffic. Does it make sense, then, to provide repair money to States which have a lot of highways rather than to States, like New Jersey, which have a lot of vehicle traffic? Of course not, yet, the Senate bill changes the "4-R" formula so that it is less sensitive to highway traffic.

Unfortunately, the mass transportation portion of the bill also contains many unwise and unfair provisions. While the bill does provide for greater Federal assistance for mass transportation capital investments, it simultaneously imposes a major reduction in Federal mass transit operating assistance. Under this bill, the transit authority in my State will be forced to reduce Federal operating assistance by 20 percent under the levels of last year. If the local transit officials want to use more Federal assistance for operating expenses and less for capital expenses, they may do so, up to certain limits, but only if they suffer a federally imposed penalty. Under the bill, for every $2 which the transit agency wants to use for operating assistance, they must forego $3 in Federal funds which would have been used for capital investments. This provision of the bill contradicts the basic decentralized decisionmaking philosophy of the administration by penalizing local officials who want to use Federal funds in accordance with local needs. It penalizes States such as New Jersey which have good capital investment programs but need operating assistance to keep mass transit available for people of moderate means and to prevent gridlock on our highways.

This bill not only ties the hands of local officials, it also unwisely ties the hands of the Secretary of Transportation. An amendment accepted by the Senate limits the discretion of the Secretary so that he may not approve a Federal grant for a highway or transit project if the funding for a State under the grant exceeds one half of 1 percent of the funds available under the transit capital infrastructure program. This program is designed to let the Secretary distribute funds for important and necessary mass transit investments, but the amendment in the Senate bill limits the Secretary's power to invest where investment is needed.

In addition to these substantive problems, there is a real question as to whether New Jersey will actually get anything out of this new program. The reason is that eligibility for a share of the gas tax revenues requires that a State come up with matching funds. New Jersey faces a serious budget crisis and there is no assurance that revenues will be available to meet the matching requirement. The fact that the bill cuts mass transit operating subsidies will only exacerbate the budget crunch and decrease the likelihood that New Jersey will benefit from the gas tax revenues. This means that if this bill passes, New Jersey runs the risk that our residents will have borne the brunt of higher gas taxes without the State getting any extra transportation money or any new jobs in return. Unless I am assured that we can avoid this outcome, and that there will be a fair deal for New Jersey, I cannot vote for this legislation.

I also object to the way this bill raises revenues. A gasoline tax is like a sales tax. It is levied on consumption and, unlike an income tax, takes no account of ability to pay. In other words, a gas tax is regressive, imposing the same burden on the poor and the well-to-do, even though the former can ill afford a new tax hike.

I offered two amendments that would have addressed this problem. One would have exempted families making below $10,000 from the gas tax by indexing the so-called earned income tax credit. The other amendment would have financed the transportation program by deferring the third year of the Reagan tax cut for families over $65,000. Both amendments were defeated.

The bill also does not do enough to promote jobs for the victims of the Reaganomic recession. Unemployment is approaching an alltime high. A large part of the impetus for the gas tax bill has been Congress desire to respond constructively to this alarming situation. Yet, the highway legislation proposed by the administration would have created very few jobs. To remedy this, I, along with other Democrats, offered an amendment that would have provided an extra $840 million for high priority jobs and retraining for about 100,000 additional unemployed persons. Moveover, these new revenues would have been raised in a much fairer manner.

Let me emphasize, Mr. President, that these would not have been dead-end, make-work jobs. They would have been real jobs repairing roads, bridges, sewers, and water systems—the skeleton of our vital infrastructure.

This, too, was defeated.

As I have noted, I am voting against the bill because it is inadequate. The revenue provisions which increase the gasoline tax and other highway taxes are inadequate. The spending provisions which are needed to create jobs are inadequate because they do not address the employment and infrastructure needs of the country in a comprehensive manner. The highway provisions of the bill are inadequate because highway funds are dispensed in a manner which is insensitive to our National and State transportation needs and priorities. And, the mass transportation provisions are inadequate, because they reduce Federal operating assistance and limit the actions of local transit authorities.

I sincerely hope that the conference who will settle the differences between the House and Senate bills produce a bill which makes corrections on all of these points. I am voting against the bill at this time as a signal to the conferees that I am not satisfied with the bill as in the Senate because I want a Surface Transportation Act which fairly raises revenues, wisely dispenses Federal funds, and one which meets both the employment and infrastructure needs of our Nation. The bill

before us meets some of those needs, but it does not go far enough, so I must vote against the measure.

Mr. GLENN. Mr. President, I rise to support the proposed increase in the gas tax to fund an expanded highway program. I do so because the need for increased spending on our transportation system is clear and immediate. America's transportation infrastructure—the foundation upon which our economy is built—is crumbling. Our roads are breaking up, our bridges are falling down, and our mass transit systems are grinding to a halt.

The amount of investment needed to preserve and repair these systems is staggering, but we can no longer postpone such expenditures. Our infrastructure problems will only grow worse through neglect; and, as these problems grow, our economic productivity will continue to decline. Simply stated, we cannot hope to strengthen the heart of our economy unless the arteries that deliver its lifeblood are healthy and robust.

In addition to general productivity increases, an expanded highway program holds out the promise of creating jobs that are in critical demand. Unemployment nationwide continues to rise, and in my home State of Ohio has reached 14.2 percent. The bill will not dramatically reduce this onerous statistic, but it will provide some new jobs immediately—and we can hardly afford to quibble over how many when the need for job creation is so great.

Additionally, this legislation, for the first time in our history assures a steady and reliable source of funding for mass transit. It does so by estabishing a separate mass transit account within the highway trust fund. This dedicated fund, which will provide $16.5 billion in transit aid over the next 4 years, will help put our transit programs on firmer footing, thereby alleviating inner-city traffic congestion and the need to build additional highways in urban areas.

Against this background, the expanded transportation program we are considering today would seem to merit unqualified support. Regrettably, this is not the case. The bill is flawed in many respects, and it is important to highlight these flaws because they portend trouble down the line for our transportation systems and for the future of our national transportation programs.

First, we should not delude ourselves or the public into thinking that this additional tax will immediately make our transportation system whole. The $5.5 billion in revenues that we project will be raised annually by the tax falls far short of our repair, rehabilitation, and replacement needs.

In fact, the formulas in this legislation do not even focus expenditures on our 3R needs. These formulas will lead to the allocation of more than 40 percent of outlays on new construction, while devoting only 29 percent to more labor intensive, job creating 3R work.

Now I realize that 5 percent of our Interstate Highway System is yet to be completed, but would it not be a more judicious and effective use of tax funds to: repair the 4,000 miles of interstate that needs immediate resurfacing; rehabilitate the 8,000 miles of the system and the 13 percent of its bridges that are beyond their designated service lives; and conduct a more thorough review of remaining interstate projects with special concern for their budgetary, employment and environmental impacts? Several studies, including one by the Congressional Budget Office, suggest that many of the uncompleted portions of the Interstate System are particularly local or regional in their nature and significance. It would seem to be far more prudent to defer such projects and concentrate our funds where they will have the most impact on employment and structural rehabilitation.

Second, the distribution formulas in this legislation are highly inequitable. Although the citizens of every State pay the same amount of gasoline tax, they do not share equally in its rewards. The formulas send far more funds back to some States—in proportion to their contributions—than they do to others. As a practical matter, this means that some States are actually exporting taxes and jobs to other States.

As a result of these disparities, my own State of Ohio currently recaptures barely 76 cents for every dollar it contributes to the trust fund. Although an effort has been made to inject some sorely needed equity into the program—by guaranteeing a minumum return of contributions—I do not believe that the "equity issue" has been adequately resolved. Although we all understand that redistribution is a necessary component of any effort to construct a national transportation infrastructure, the existing, pronounced disparities between donor and donee States can only undermine the cooperative spirit on which these programs depend.

Third, I think it is important to recognize that the trucking community is being asked to shoulder a heavy burden under this bill. We can argue forever whether truckers will be assuming their fair share of taxes under the new formulas, but one fact is beyond dispute: These increases are significant and they are painfully abrupt; so abrupt, in fact, that they will almost certainly cause true hardship for many carriers. Over the coming months, we should carefully monitor their impact and be ready to make adjustments should that be necessary. At the very least, we should insist that our Senate conferees fight to retain the adjustments in the trucking tax provisions that we adopted.

Finally, I think it is no small disappointment that by rejecting the Buy America amendment, the Senate declined the opportunity to truly make this legislation a "jobs bill." Under normal economic conditions we might not need such an amendment. But today's economic conditions are anything but normal. Unemployment is at its highest level since the Great Depression, and plant capacity utilization rates are at their lowest levels since World War II. Our steel industry's capacity utilization rate is at the depression level of 31.8 percent, and more than 160,000 steelworkers are unemployed. It seems to me only sensible and fair that the tax dollars Americans contribute to the highway program be used to create jobs for American workers.

The problems I have outlined are serious ones, but they can be corrected. Our more pressing concern is the sad state of our transportation infrastructure, and our more immediate need is to stimulate employment. Delaying enactment of this legislation will not bring us one step closer to addressing this agenda. And so I urge my colleagues to adopt H.R. 6211.

Mr. LEAHY. Mr. President, the Senate today is considering a 5-cent-a-gallon increase in the fuel tax and an increase in taxes on trucks. The revenue raised by these tax increases will be used to repair the Nation's roads, bridges, and transit systems.

There is no question that our rapidly deteriorating transportation infrastructure—the roads, bridges, transit, and other facilities upon which the Nation depends to deliver essential services—must be repaired. Roads and bridges in disrepair are dangerous, increase gasoline use, and lead to costly repairs on cars and trucks. Inadequate transit systems force more traffic onto already overcrowded highways, which only increase their deterioration and add to the Nation's energy bill.

It is also clear that the 320,000 jobs that will be created by this bill are desperately needed. Although these jobs will benefit but a small percentage of the over 11 million Americans forced out of work by the deepest recession of my lifetime, it is a positive step toward our common goal of putting people back to work.

The real question is whether this 5-cent increase in the fuel tax and increase in taxes on trucks is the best way to pay for this needed program of repair and rehabilitation. No one wants to pay more at the gas pump for their cars and trucks. But I feel that this device—a pay-as-you-go user fee—rather then an across-the-board tax or any spending measure that would increase the deficit, is the proper way to accomplish our common objective of

repairing the Nation's crumbling infrastructure.

My greatest concern is that this program, while funding the nationwide repair and rehabilitation efforts, not constrain the States in their effort to improve roads that urgently need repair, but are not eligible for funding under the Federal-aid highway program. Repairs of these roads will have to be financed by the States themselves, not the Federal Government.

For this reason, I support the compromise reached by the Senate Environment and Public Works Committee that will allow Vermont and other States to make full and immediate use of the additional highway funds provided under this bill. This compromise will give Vermont time to provide the significant increased matching funds necessary to receive the additional Federal funds and give it greater flexibility to meet its unique and specific highway needs.

After carefully considering this bill, I have concluded that it will be good for Vermont and good for the Nation. Vermont will continue to receive considerable more money for its roads, bridges, and transit system than it contributes in Federal taxes. This bill will specifically benefit Vermont as it contains a separate $50 million authorization for the important Essex junction circumvential highway demonstration project.

And, on the national level, we will finally be addressing the long neglected needs of our transportation system. It is essential to our economy and the safety of those traveling our roads and bridges that we face up to this responsibility now. To do otherwise will only add to the cost of making the repairs later.

For these reasons, I will today vote in favor of the highway gas tax bill.

THE SURFACE TRANSPORTATION ACT OF 1982

Mr. KASTEN. Mr. President, I strongly support the goals of the legislation before us today—to create jobs and to repair our decaying roads and bridges. If the Surface Transportation Act could actually accomplish these two goals, I would be the first to vote for it. In reality, however, this bill promises only to exacerbate the economic problems our country, and my State of Wisconsin, already face.

Wisconsin is currently suffering from an unemployment rate higher than the national average, and new jobs are in desperate demand. Yet if this legislation becomes law, Wisconsin will lose 15 cents of every extra dollar it sends to Washington. Wisconsin's economy is not strong enough to financially underwrite jobs in Alaska, Mississippi, and South Dakota.

I appreciate the efforts that were made to guarantee a minimum return of these new gas tax funds to each and every State. Yet under this bill, for every $100 million that leaves Wisconsin, only $85 million will come back to pay for highway and bridge construction. The rest will pay for new jobs somewhere else.

Some have questioned if this legislation would create any net new jobs at all. Council of Economic Advisers Chairman Martin Feldstein has said that a 5-cent-a-gallon Federal gas tax increase "may actually increase unemployment in the first year or two." Although the extra public spending on roads and bridges will provide jobs for some, the gas tax increase that pays for the program will take work away from others.

In other words, the $5.5 billion in extra Government revenue from the gas tax will mean $5.5 billion less spending power in the hands of consumers. Small cutbacks in spending here and there will add up across the economy, reducing jobs in a variety of industries. The trucking industry will be especially hard hit by these increased taxes, and small businesses nationwide will see their costs increase. The tax increase could become one more drag on the economy, one more impediment to the economic recovery our country so desperately needs.

The Surface Transportation Act could also reduce the ability of States to deal with their own decaying infrastructure problems. Much of the work that is usually associated with highway repair is done with State and local funds: Pothole repair, minor bridge work, and resurfacing of many older roads. The Federal program has been, and remains, geared to upgrading and expanding the interstate road system. If the Federal Government raises gas taxes to pay for this upgrading and construction, many States may find it difficult, if not impossible, to raise their own taxes to fund basic State and local preservation programs. We may end up forcing States and localities to sacrifice their own priorities for Federal ones.

Mr. President, the problems are clear. Too many Americans are out of work, and something must be done. Our roads and bridges are decaying, and they must be repaired. Yet the legislation before us today will not solve these problems, in fact, it could make them worse. I cannot support legislation which will penalize the people of Wisconsin by using their tax dollars to create jobs somewhere else. I ask my colleagues to join me in voting down the Surface Transportation Act of 1982.

SAFETY ON HIGHWAYS—TO SAVE LIVES

Mr. MELCHER. I am supporting this highway construction bill to provide for substantial repair, reconstruction, and rehabilitation of the highways in all of the 50 States. In addition the bill also provides for expedited completion of the Interstate System.

But the major significance in this measure is the resulting increase in safety on the highway by the upgrading of our Federal highway system, improvements on secondary roads, and the help it provides for those portions of the funds available for cities. We can save lives with the passage of this bill.

There are also the obvious benefits of more efficient operations of cars and trucks on improved roads. But that immeasurable result of safety on the highway resulting from better roads is the most important reason for the bill's passage.

For all Americans, saving and protecting lives is the most vital purpose for this bill.

The PRESIDING OFFICER. The question is on the passage of the bill, as amended.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

UP AMENDMENT NO. 1582

Mr. BAKER. Mr. President, earlier today a series of amendments that had thought to be agreed to by sponsors on both sides of the aisle were objected to as qualified notwithstanding provisions of rule XXII.

I think those measures are fully cleared with the exception of one or two objections, and I hope at this time the junior Senator from North Carolina might withdraw his objection so that we could adopt those amendments now and include them in this measure as we send it to the House of Representatives.

Does the Senator wish to pursue it?

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Mr. President, I believe that we had indicated a moment ago which objections to amendments to which we had objections would be withdrawn.

Now is the request currently to reconsider those that we are still objecting to?

Mr. BAKER. Mr. President, the request that I make is that seven items be qualified for consideration at this time notwithstanding the provisions of rule XXII, and I yield to the distinguished chairman of the Finance Committee to identify them.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I say again that one is the Roth amendment, which would have been a germane amendment, that deals with the taxation of retread rubber; the other is a technical nontax amendment offered by the Senator from Oklahoma (Mr. NICKLES), and another extends eliminating architectural and transportation barriers; a technical amendment to the Byrd amendment and the Byrd-Long amendment dealing with ferro alloy; another is the public utility amendment; another one is the Domenici technical amendment on synfuels; and the final one is the Eastern Airlines safe harbor leasing modification that passed the Senate on two other occasions.

Either we are going to—there are four technical amendments and three of some substance, and two of them impact directly on North Carolina.

Mr. President, while they are taking a look at the amendments, I would say so far as I know there are no objections to the amendments. They all ought to be adopted or none ought to be adopted. Some are very important to many Members of this body. They have been cleared by both sides, they have been cleared by everyone who has an interest in them, and I hope the distinguished junior Senator from North Carolina will permit us to proceed with all of the amendments or if he has an objection will will proceed with none of the amendments.

Mr. WALLOP. Mr. President, will the Senator from Kansas yield for a comment?

Mr. DOLE. I would be glad to yield.

Mr. WALLOP. I just saw one of our colleagues fleeing from the Chamber with tears in his eyes. He said he saw a note on his kitchen table which said:

MY DEAREST: The day before yesterday you arrived home yesterday. Yesterday you arrived home today. Now, my darling, if today you arrive home tomorrow you will find I left home yesterday.

[Laughter and applause.]

And it is already yesterday, and he has gone.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. I thank the Senator from Wyoming. I await the reply of the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Is there objection to the unanimous-consent request on the engrossment of the Baker amendment and that these amendments be included?

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Mr. President, as I understand it now we are asked to give unanimous consent to seven amendments. There is, with all due respect, probably another example of a tremendous amount going through the waning hours of the "lameduck" session—like a gas bill where most people have not the slightest idea what these amendments do, not the slightest.

I gave my approval of No. 1, No. 2, and No. 3; and I had given it on 6 and 7. On No. 4, on the Byrd amendment, I frankly have strong reservations about it, but I have great respect for the minority leader and I will acquiesce in that one.

That brings me down to the seventh one, which I am asked at this late hour to give my consent to, and because of the time pressure and all the colleagues staring at me, I shall do so in the name of harmony of this institution.

It has to do with the California public utilities provisions which, I daresay, anybody around here would not have the slightest idea what it deals with. It is my understanding that there are some negatives in it in terms of the advantages that it gives in this particular case, and I do not mean to be disrespectful of those who are supporting it. I am simply saying to the argument I have been making, having made it this evening time and time again, I am a little worried because of the late hour and not only because everyone is fatigued and tired, but you get more requests to push things through that people have not had the slightest idea as to what they will do, and when they did have some kind of reflection of a week or 10 days or 2 weeks ago they obviously had some reservations about it.

But I will accept the word of my colleagues, if I am the only one how holding out, that the California public utilities provision is a sound one, it is a good one, and as only one Senator here who does not feel it is, after the other 99 have examined it with great care and attention, that it is a good one, I guess that is the position you are putting me in, that I will not acquiesce as a single holdout, and if that is where we are on it and everybody else is thoroughly convinced it is that sound, I have strong reservations about it, but I will yield on it.

I would be willing to give unanimous-consent agreement to the seven amendments, but I will say with all due respect to the distinguished chairman of the Committee on Finance I am deeply troubled with this kind of procedure which has run rampant tonight, where one is constantly asked to approve last ditch, last minute bills, amendments, ad infinitum that candidly people do not have the slightest idea as to what they deal with.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Let me finish. I do acquiesce in the seven amendments, although I have strong reservations about the value of one or two in varying degrees of intensity, but I will acquiesce.

Mr. DOLE. Mr. President, I thank the distinguished junior Senator. I might say I can assure the Senator from North Carolina, as much as I can assure the Senator from North Carolina, that we have debated the California utilities amendment on this floor. We have tightened up the amendment more than many thought we should in an effort to make certain that we met the requirements of everyone in this Chamber, and I appreciate the Senator's not objecting to the amendments.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments are considered adopted en bloc.

The amendment (UP No. 1582) is as follows:

On page 31 of the matter proposed to be inserted, strike lines 8 through 10 and the matter between lines 10 and 11, and insert in lieu thereof "(3) Tread rubber, 6 cents per pound.

On page 41, strike line 21 and all that follows through line 3 on page 42 and redesignate the subsequent subsections accordingly.

On page 31 of the matter proposed to be inserted, in the table following line 6, strike "9.75" and insert "10", and strike "$4.875" and insert "$5.00", and strike "$12.375" and insert "$12.50".

Section 244 of the matter proposed to be inserted is amended—

(a) in subsection (a) by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1984";

(b) in subsection (c)—

(1) by striking out "fiscal year 1983 under section 104(b) of this Act" in paragraph (1) and inserting in lieu thereof "the year in which certification is made pursuant to subsection (b)"; and

(2) by striking out "fiscal year 1982" in paragraph (2) and inserting in lieu thereof "the preceding fiscal year"; and

(c) in subsection (d) by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

At the end of title I of the matter proposed to be inserted, insert the following:

SEC. . DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.

Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to the effective date for allowance of the deduction barriers to the handicapped and elderly) is amended by striking out "January 1, 1983" and inserting in lieu thereof "January 1, 1984".

SEC. . AFFIRMATIVE COMMITTEE RULE.

Clause (iii) of section 46(a)(2)(C) (relating to longer period for certain long-term projects) is amended by inserting "or (VII)" after "subclause (I)".

SEC. . TAX TREATMENT OF PUBLIC UTILITY PROPERTY.

(a) NORMALIZATION METHOD FOR PURPOSES OF DEPRECIATION.—

(1) IN GENERAL.—Paragraph (3) of section 168(e) of the Internal Revenue Code of 1954 (relating to special rule for certain public utility property) is amended by redesignating subparagraph (C) as subparagraph (D)

and by inserting after subparagraph (B) the following new subparagraph:

"(C) Use of inconsistent estimates and projections, etc.—

"(i) IN GENERAL.—One way in which the requirements of subparagraph (B) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adustment which is inconsistent with the requirements of subparagraph (B).

"(ii) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (B)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).".

(2) AMENDMENT TO SECTION 167(1).—Subparagraph (G) of section 167(1)(3) of such Code (defining normalization method of accounting) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, rules similar to the rules of section 168(e)(3)(C) shall apply.".

(b) COMPUTATIONS FOR PURPOSES OF INVESTMENT CREDIT.—Subsection (f) of section 46 of such Code (relatiog to limitation in case of certain regulated companies) is amended by adding at the end thereof the following new paragraph:

"(10) Use of inconsistent estimates and projection, etc., for purposes of paragraphs (1) and (2).—

"(A) IN GENERAL.—One way in which the requirements of paragraph (1) or (2) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of paragraph (1) or paragraph (2), as the case may be.

"(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of subparagraph (A) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's qualified investment for purposes of the credit allowable by section 38 unless such estimate or projection is consistent with the estimates and projections of property which are used, for ratemaking purposes, with respect to the taxpayer's depreciation expense and rate base.

"(C) REGULATORY AUTHORITY.—The Secretary may be regulations prescribed procedures and adjustments (in addition to those specified in subparagraph (B)) which are to be treated as inconsistent for purposes of subparagraph (A).".

(c) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1979.

(2) SPECIAL RULE FOR PERIODS BEGINNING BEFORE MARCH 1, 1980.—

(A) IN GERERAL.—Subject to the provisions of paragraphs (3) and (4), notwithstanding the provisions of sections 167(1) and 46(f) of the Internal Revenue Code of 1954 and of any regulations prescribed by the Secretary of the Treasury (or his delegate) under such sections, the use for ratemaking purposes or for reflecting operating results in the taxpayer's regulated books of account, for any period before March 1, 1980, of—

(i) any estimates or projections relating to the amounts of the taxpayer's tax expense, depreciation expense, deferred tax reserve, credit allowable under section 38 of such code, or rate base, or

(ii) any adjustments to the taxpayer's rate of return,

shall not be treated as inconsistent with the requirements of subparagraph (G) of such section 167(1)(3) nor inconsistent with the requirements of paragraph (1) or (2) of such section 46(f), where such estimates or projections, or such rate of return adjustments, were included in a qualified order.

(B) QUALIFIED ORDER DEFINED.—For purposes of this subsection, the term "qualified order" means an order—

(i) by a public utility commission which was entered before March 13, 1980,

(ii) which used the estimates, projections, or rate of return adjustments referred to in subparagraph (A) to determine the amount of the rates ot be collected by the taxpayer or the amount of a refund with respect to rates previously collected, and

(iii) which ordered such rates to be collected or refunds to be made (whether or not such order actually was implemented or enforced).

(3) LIMITATIONS ON APPLICATION OF PARAGRAPH (2).—

(A) PARAGRAPH NOT TO APPLY TO AMOUNTS ACTUALLY FLOWED THROUGH.—Paragraph (2) shall not apply to the amount of any—

(i) rate reduction, or

(ii) refund,

which was actually made pursuant to a qualified order.

(B) TAXPAYER MUST ENTER INTO CLOSING AGREEMENT BEFORE PARAGRAPH (2) APPLIES.—Paragraph (2) shall not apply to any taxpayer unless, before the later of—

(i) July 1, 1983, or

(ii) 6 months after the refunds or rate reductions are actually made pursuant to a qualified order,

the taxpayer enters into a closing agreement (within the meaning of section 7121 of the Internal Revenue Code of 1954) which provides for the payment by the taxpayer of the amount to which paragraph (2) does not apply by reason of subparagraph (A).

(4) SPECIAL RULES RELATING TO PAYMENT OF REFUNDS OR INTEREST BY THE UNITED STATES OR THE TAXPAYER.—

(A) REFUND DEFINED.—For purposes of this subsection, the term "refund" shall include any credit allowed by the taxpayer under a qualified order but shall not include interest payable with respect to any refund under such order.

(B) NO INTEREST PAYABLE BY UNITED STATES.—No interest shall be payable under section 6611 of the Internal Revenue Code of 1954 on any overpayment of tax which is attributable to the application of paragraph (2).

(C) PAYMENTS MAY BE MADE IN TWO EQUAL INSTALLMENTS.—

(i) IN GENERAL.—The taxpayer may make any payment required by reason of paragraph (3) in two equal installments, the first installment being due on the last date on which a taxpayer may enter into a closing agreement under paragraph (3)(B), and the second payment being due one year after the last date for the first payment.

(ii) INTEREST PAYMENTS.—For purposes of section 6601 of such Code, the last date prescribed for payment with respect to any payment required by reason of paragraph (3) shall be the last date on which such payment is due under clause (i).

(5) NO INFERENCE.—The application of subparagraph (G) of section 167(1)(3) of the Internal Revenue Code of 1954, and the application of paragraphs (1) and (2) of section 46(f) of such Code, to taxable years beginning before January 1, 1980, shall be determined without any inference drawn from the amendments made by subsections (a) and (b) of this section or from the rules contained in paragraphs (2), (3), and (4). Nothing in the preceding sentence shall be construed to limit the relief provided by paragraphs (2), (3), and (4).

(J) AFFIRMATIVE COMMITMENT RULE FOR SYNTHETIC FUEL.—Clause (iii) of section 46(a)(2)(C) of the Internal Revenue Code of 1954 (relating to longer period for certain long-term projects) is amended by adding at the end thereof the following new sentence: "In the case of property described in clauses (iii) or (v) of section 48(1)(3)(A), property described in clauses (vi) or (vii) of section 48(1)(3)(A) which is related to such clause (iii) or clause (v) property, or property described in clause (v) of section 48(1)(2)(A), this clause shall be applied by substituting 'January 1, 1985' for 'January 1, 1983.'"

SEC. LEASING OF CERTAIN AIR CRAFT.

Subsection (d) of section 208 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—by adding at the end of subparagraph (D) of paragraph (3) the following new sentence "For purposes of sections 47 and 168(f)(8) of the Internal Revenue Code of 1954, if any property described in this subparagraph—

"(I) is sold (or assigned) pursuant to a title 11 or similar case (within the meaning of section 368(a)(3)(A)), or is transferred subsequent to such sale or assignment, and

"(II) is used outside the United States,

such property shall, with respect to the lessor under any agreement with respect to such property under section 168(f)(8), be treated as property described in seciton 48(a)(2)(B)(i), except that none of the benefits provided in this subparagraph shall inure to a foreign air carrier; however, it shall not be considered a benefit for a foreign air carrier to purchase airplanes sold in circumstances described in subclause (I)."

THE CALIFORNIA UTILITY TAX AMENDMENT TO H.R. 6211

Mr. HAYAKAWA. Mr. President, the amendment offered on my behalf by the chairman is the so-called California utility tax bill. As passed by the House, the corresponding bill rectifies a long standing dispute between the Internal Revenue Service (IRS) and the California Public Utilities Commission (CPUC) regarding the normalization requirements associated with eligibility for Federal tax benefits. It is a noncontroversial matter which I hope the Senate can accept.

In 1960, the CPUC decided that California utilities could, at their discretion, claim accelerated depreciation under the Internal Revenue Code of 1954, but the benefits derived from the reduced tax expense would have to be flowed-through to the ratepayers. With the exception of Pacific Telephone and Telegraph Co. (Pacific) and General Telephone Co. of California

(General), all utilities in the State chose accelerated depreciation, and reduced their rates accordingly.

In 1968, the CPUC ordered that, for ratemaking purposes, the use of accelerated depreciation would be imputed regardless of which accounting method was used for tax purposes.

The following year, Congress enacted the Tax Reform Act of 1969, establishing in section 167(1) of the Internal Revenue Code that public utilities not then using accelerated depreciation could not switch to that method unless normalization accounting was used for ratemaking purposes. Subsequently, the two telephone companies elected to use accelerated depreciation with normalization, and the CPUC issued interim regulations authorizing the election with full normalization. In 1971, the California Supreme Court annulled the interim regulations, holding that the CPUC failed to consider "lawful alternatives," and remanded the decision for further consideration by the Commission.

In 1974, the CPUC again approved normalization accounting as a prerequisite for the utilities to qualify for accelerated depreciation and, in a separate rate case, the investment tax credit.

In December 1975, the California Supreme Court again annulled the CPUC normalization order, and again remanded it to the Commission for further consideration of alternatives. In 1977, the CPUC issued an order adopting a unique interpretation of the requirements set forth in the Internal Revenue Code, such that new accounting methods allowing a partial flow-through to ratepayers must be used by the utilities. Average annual adjustment (AAA) for accelerated depreciation and annual adjustment (AA) for the investment tax credit were adopted calling for reductions in the rate base and cost of service.

In a private letter ruling sought by the utilities, the IRS determined that the AAA and AA accounting methods did not meet the eligibility requirements for the Federal tax benefits.

Notwithstanding the differing interpretations of the eligibility standards by the IRS and the CPUC, in 1977 the California Supreme Court refused a petition of the telephone companies for review, and the U.S. Supreme Court refused to review the State court denial. In 1979, the companies filed a petition for rehearing, which was subsequently denied by the California Supreme Court, and the review of which was denied by the U.S. Supreme Court.

With all avenues of litigation exhausted, the CPUC ordered the telephone companies and Southern California Gas Co. (for its election of investment tax credit benefits) to make refunds to ratepayers. To date, Pacific has made refunds of $321 million, with an additional interest component of $97 million, and General has made refunds of $91 million, with an additional interest component of $34 million. Southern California Gas Co. has received a stay, but faces a refund order of $6 million.

Having made the refunds, the three California utilities are subject to the denial by the IRS of all the accelerated depreciation benefits and investment tax credits claimed by the utilities between 1971 and 1980. Including tax and interest, the potential liability of the California utilities amounts to approximately $1.7 billion.

This series of events places the California utilities in a serious dilemma. The utilities have obeyed the orders of their regulator, while also doing everything in their power to avoid the situation in which they now find themselves. They have, in effect, distributed funds to ratepayers that the IRS is seeking to deny them. If that is not bad enough, the IRS must attempt to extract from the utilities funds taken long ago as tax credits and depreciation benefits, the vast majority of which have been spent on plant and equipment, as Congress had intended. The companies are being forced, not only to pay twice the amount actually flowed through to the ratepayers, but to come up with payments to the Treasury of, in one case, nearly 40 percent of the company's equity. This situation, which was clearly beyond the control of the California utilities, seriously threatens the continued operation of the companies.

Mr. President, the legislation which we are today considering, seeks to rectify this situation by clearly defining normalization procedures and relieving the utilities of their potential tax liability. It seems to me that this solution is the only truly acceptable means of resolving the dispute between the IRS and the CPUC. In proposing restrictive language with respect to normalization requirements, the bill addresses the cause of the problem—a difference in interpretation of congressional intent. If adopted, I believe the language will ensure that State public utilities commissions do not pursue unique interpretations of the Internal Revenue Code with respect to normalization. The California experience has been a nightmare which this language will keep from happening again. The second part of the bill, as passed by the House, treats the utility companies in the only sensible manner it can—namely as victims. Because the companies have been at the mercy of the IRS and CPUC, and have done everything in their power to mitigate the dispute while still complying with the orders made by their regulators, they ought not to be penalized.

The amendment includes a proposal offered by the chairman of the Finance Committee and Senator HEINZ which seeks to extract from the California utilities a penalty equal to the tax savings experienced by the utilities and passed on to the ratepayers in the refund order. The provision is based on the notion that California ratepayers experienced a subsidy equal to the amount passed on, because the CPUC ordered a refund which violated the intent of Congress, at the expense of utility ratepayers across the country.

While I am willing to accept the provision purely because the parliamentary situation would keep the amendment from passing at all if it were not added, I want to register my sincere belief and protest that the amendment is ill conceived and will not achieve the ends that the Senator intends. First of all, I think the premise of the provision is fallacious. Where the chairman and the Senator from Pennsylvania believe that the utility ratepayers in California received a subsidy in the form of rate reductions, I contend that California ratepayers suffered a long term loss of the benefits of normalization, and the attendant investment in and improvement of productivity, by experiencing a modest short term reduction in rates. In addition to the loss of investment capital occasioned by the flow-through, the California utilities have experienced bond rating reductions which have exacerbated both capital financing and operating ability. So far from providing a subsidy to the people of California, this dispute has proved to be a current hinderence to the utility companies, and a future burden on California ratepayers that will be forced to bear higher financing costs to make capital expenditures that could have been made earlier and with funds generated by normalization. Thus, the premise of the provision to force the State of California to repay a subsidy is simply unfounded.

As a second matter, the penalty which the chairman and the Senator from Pennsylvania seek to extract from the CPUC for their actions, and the California ratepayers for their subsidy, will be entirely misdirected. This provision will not penalize either group; it will penalize the victims of this dispute—the utilities. There is no guarantee—indeed it is highly unlikely—that the CPUC will adjust the rates of the three utilities to compensate them for their loss. Instead, the utilities will have flowed-through benefits plus interest while being forced also to refund those same benefits to the Treasury; in effect, they will be paying twice for a matter over which they have no control and derive no gain.

While I am unhappy about this provision it was included in the amendment in order to accommodate the concerns of the chairman and the Senator from Pennsylvania, and facilitate passage of the amendment.

I urge the adoption of the amendment.

Mr. GRASSLEY. Mr. President, I am pleased to be a prime cosponsor with Senator ROTH in introducing an amendment for a 6-cent per pound Federal excise tax on all tread rubber tires at the manufacturer's level. This reduction will be financed by an increase in the Federal excise tax on new tires to 10 cents per pound for the first 50 pounds of a tire's weight. Our proposal retains the current law requiring the tread rubber manufacturer remit the Federal excise tax to Treasury at the time of sale.

This proposal would replace the provision agreed to by the Senate Committee on Finance which would subject tread rubber to a tax of 5 cents per pound when used for tires under 50 pounds, 8 cents per pound when used for tires between 50 and 100 pounds. Our proposal will also increase the Federal excise tax on new tires to 10 cents per pound for the first 50 pounds, and increase from the current levy of 9.75 cents per pound, which was retained in the Finance Committee's bill. The committee's provision imposes the Federal excise tax on tread rubber on two levels, the manufacturer and the retailer. This would be a very difficult tax to collect since manufacturers rarely know the total weight of the tire after the retreader applied the new rubber to the old tire. Under our proposal, the tax would be levied only on the manufacturer at the time of sale.

Of particular concern to me is the energy conservation aspect of retread rubber. In order to manufacture one new tire, 7 gallons of oil are used; only 2½ gallons of oil are required to make a retread. These figures translate into a savings of 400 million gallons of oil every year by retreading.

If the Federal excise tax on retread rubber is increased, either by the administration's proposed 25 cents per pound, or by the Finance Committee's proposed 5 cents, 8 cents, and 16 cents per pound on retread tires weighing up to 50 pounds, 50 to 100 pounds, and over 100 pounds, respectively, the price differential between new tires and retreads is narrowed considerably. At the present time, retread tires are sold for between 50 and 60 percent of the cost of a new tire. This would inevitably discourage the purchase of retreads, which is bad from both an energy conservation and cost factor point of view.

One-fifth of all passenger and light truck tires are retreads. Any increase in the Federal excise tax will ultimately increase the cost of retread tires for the consumer. Faced with a higher priced tire, the consumer is apt to delay making such a purchase long beyond the point of safety and retreadability. There are approximately 3,000 independent retreaders in the United States today, employing between 45,000 and 50,000 people. As the demand for retread rubber decreases, many small establishments will be forced to close due to lack of business, thus increasing our country's increasingly grave unemployment problems.

I ask that my esteemed colleagues support this amendment to S. 6211, the Surface Transportation Act of 1982. It is extremely important that our infrastructure be maintained and the cost borne by the users; however, we cannot allow an additional waste of energy to occur by discouraging the use of retread tires, nor can we take any chances of increasing our present unemployment situation.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

I also announce that the Senator from Utah (Mr. HATCH) is absent due to illness.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 56, nays 34—as follows:

[Rollcall Vote No. 467 Leg.]

YEAS—56

Abdnor	Baker	Bentsen
Andrews	Baucus	Boschwitz
Brady	Hart	Pell
Burdick	Hayakawa	Percy
Byrd, Harry F., Jr.	Huddleston	Pressler
Chafee	Jepsen	Quayle
Chiles	Kassebaum	Randolph
D'Amato	Laxalt	Roth
Danforth	Leahy	Rudman
DeConcini	Levin	Schmitt
Dixon	Long	Specter
Dodd	Lugar	Stafford
Dole	Mathias	Stennis
Domenici	Matsunaga	Stevens
Durenberger	McClure	Symms
Glenn	Melcher	Thurmond
Gorton	Murkowski	Tsongas
Grassley	Nunn	Warner
	Packwood	Weicker

NAYS—34

Armstrong	Ford	Nickles
Biden	Garn	Proxmire
Boren	Hawkins	Pryor
Bradley	Heflin	Riegle
Bumpers	Helms	Sarbanes
Byrd, Robert C.	Humphrey	Sasser
Cochran	Inouye	Simpson
Cohen	Johnston	Tower
Denton	Kasten	Wallop
Eagleton	Mattingly	Zorinsky
East	Metzenbaum	
Exon	Mitchell	

NOT VOTING—10

Cannon	Hatfield	Kennedy
Cranston	Heinz	Moynihan
Goldwater	Hollings	
Hatch	Jackson	

So the bill (H.R. 6211), as amended, was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate insist on its amendments and seek a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed: for title I, Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DURENBERGER, Mr. LONG, Mr. HARRY F. BYRD, JR., and Mr. MATSUNAGA; for title II, Mr. STAFFORD, Mr. DOMENICI, Mr. CHAFEE, Mr. ABDOR, Mr. SYMMS, Mr. BENTSEN, Mr. RANDOLPH, Mr. BURDICK, and Mr. MOYNIHAN; for title III, Mr. GARN, Mr. TOWER, Mr. LUGAR, Mr. PROXMIRE, and Mr. RIEGLE; for title IV, Mr. PACKWOOD, Mr. DANFORTH, and Mr. CANNON.

HOUSE CONCURRENT RESOLUTION 438—SINE DIE ADJOURNMENT OF BOTH HOUSES OF CONGRESS

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House on House Concurrent Resolution 438.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A House concurrent resolution (H. Con. Res. 438) providing for the sine die adjournment of the Ninety-seventh Congress.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The concurrent resolution (H. Con. Res. 438) was considered and agreed to.

Mr. BAKER. I move to reconsider the vote, Mr. President.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The concurrent resolution reads as follows:

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives shall adjourn Monday, December 20, 1982, or on Tuesday, December 21, 1982, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, and that when it adjourns on said day, it stand adjourned sine die; and be it further

Resolved, That the consent of the House of Representatives is hereby given to an adjournment sine die of the Senate at any time prior to January 3, 1983, when the Senate shall so determine; and that pending such sine die adjournment, the Senate may adjourn or recess for such period or periods in excess of three days as it may determine.

ORDER FOR RECESS UNTIL TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 2 a.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. COMMONER PRAISES DEVELOPMENT OF GASOHOL

Mr. PERCY. Mr. President, the distinguished director of the Center for the Biology of Natural Systems (CBNS) has written in support of the accelerated development of alcohol fuels.

Dr. Barry Commoner has written an eloquent letter to Senator ROBERT J. DOLE, chairman of the Finance Committee, addressing important questions raised about the future of this valuable domestic source of motor fuel.

I ask unanimous consent so that the letter from Dr. Commoner can be entered in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CENTER FOR THE BIOLOGY OF NATURAL SYSTEMS,
Flushing, N.Y., December 14, 1982.

Hon. ROBERT J. DOLE,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR DOLE: The exemption of gasohol from the proposed 5¢ per gallon increase in the federal road use tax is an important way to help the country break out of the pattern of blunders which has frustrated the efforts to establish sensible national policies on energy, agriculture and the economy. Continued dependence on non-renewable energy sources, such as oil—which inevitably escalate in price as the more accessible, less costly deposits are depleted—is eroding the standard of living, especially of the poor, and diverting capital from productive investments. By stimulating the production of ethanol from renewable agricultural sources, the exemption would move the nation's energy system in the right direction—toward renewable, solar sources which, because they are not depleted, need not rise in cost or cannibalize the economy. By expanding an on-going, domestic ethanol industry in place of imported oil, the measure would permanently increase the national base of employment, thus contributing to the implied purpose of the increased tax. Finally, the exemption would provide much needed long-term support for the faltering farm economy.

For all these reasons, I urge the passage of the gasohol exemption. It is important to recognize, however, that these gains can be realized only if further actions are taken.

The federal exemption can help to expand and stabilize the ethanol production industry if we take this opportunity to end the confusion and uncertainty engendered by the present variety of state-by-state subsidies by rescinding them in favor of the national one.

It should be recognized, as well, that while the exemption can act as a strong incentive to ethanol producers and thereby expand this important, solar, industry, the subsidy could make an even greater contribution to this purpose if it were shared with consumers. I would therefore urge Congress to ensure that unfair oil industry practices do not interfere with the reduction in price of gasohol, below that of comparable gasoline, which will become possible as ethanol supplies increase. In this way, the subsidy would help mitigate consumers' energy costs. Moreover, by enhancing the demand for gasohol, this process would in turn intensify the impact of the tax exemption on the development of the ethanol industry.

Finally, it should be recognized that unless ethanol production is properly integrated into agricultural policy, it is likely to exacerbate the instability of the farm economy, and burden consumers with higher food prices. In my opinion, the enactment of the tax exemption obligates Congress to take steps to retionalize our present policy toward agriculture—which keeps hands off until some economic or political crisis impels a short-term *ad hoc* action. First, ethanol production should be acknowledged as an on-going, expanding market for agricultural crops, and as a means of stabilizing overall agricultural production at higher levels and avoiding cutbacks. Second, it should be recognized that if agricultural ethanol production is to be expanded appreciably (that is, on the scale that is likely to be encouraged by the tax exemption) without interfering with the availability of food, then the crop system must be reorganized to enhance production of carbohydrate-rich crops, such as sugar beets. A study which CBNS has done for the U.S. Department of Energy shows that be a net addition of carbohydrate to the present crop output, such a crop system, can provide the carbohydrate feedstock for ethanol production, without significantly reducing the availability of the nutrients needed for food production. In turn, this requirement should condition the structure of the ethanol propduction industry, for example, by encouraging the construction of distilleries with the necessary feedstock handling equipment close to the site of the production of such alternative crops, which are necessarily more bulky and difficult to transport than grain.

I support the tax exemption for gasohol as an opportune vehicle for moving toward sensible national policies on energy, agriculture and the economy. And I urge that in enacting this measure, Congress accept the responsibility of taking the further actions that are needed if this potential is to be realized.

Sincerely yours,

BARRY COMMONER,
Director.

TRUCK SAFETY ACT

Mr. PERCY. Mr. President, I am pleased to address the Senate concerning the commercial motor vehicle safety provisions of this legislation. Sections 401 through 418 of title IV of S. 3044 include the elements of S. 1390 that I introduced in the last Congress.

I am delighted that the Commerce Committee has included these provisions, and want to express gratitude for its action. I am particularly grateful to the chairman Mr. PACKWOOD, the ranking minority member, Mr. CANNON, as well as Senator DANFORTH and the other members of the committee for the earnestness with which they have pressed for this matter. I commend their abiding interest in truck safety. I thank the committee. And, American motorists and truck drivers will be thankful.

Along with the distinguished chairman of the Commerce Committee, Mr. PACKWOOD, Senator KENNEDY, and former Senator Magnuson, I introduced the Commercial Motor Vehicle Safety Act on June 21, 1979. S. 1390 was the subject of a Commerce Committee hearing on July 17, 1979, reported by the committee on December 20, 1979, and passed by the Senate on February 20, 1980. With only minor changes, the committee has included this legislation in S. 3044.

Title IV of S. 3044 includes the following provisions of S. 1390.

First, the Secretary of Transportation is provided with regulatory power to assure that: Commercial motor vehicles are safely maintained, equipped, loaded, and operated; the responsibilities imposed upon truck drivers do not impair the driver's ability to operate safely; the physical condition of drivers is adequate to enable them to

drive safely; the operation of a truck does not create deleterious effects on the physical condition of such drivers.

Second, the Transportation Secretary is provided with expanded civil and criminal penalty authority to enforce the provisions of the act: $10,000 civil penalty for substantial health and safety violations that could lead to serious injury or death; $25,000 criminal penalty, or 1 year imprisonment, for an employer who violates the act; and, $2,500 for an employee who violates the act.

Third, disciplining, discriminating against or discharging an employee for filing a complaint or exercising rights provided under this act is prohibited. Employees who refuse to operate an unsafe vehicle are protected provided that they sought and were unable to obtain correction of the unsafe condition. Employees may appeal to the Secretary of Labor, who may order affirmative action to abate the violation, reinstatement to the employees original position, compensatory damages and exemplary damages.

Mr. President, this is a key provision of the Truck Safety Act. Because truck drivers are threatened with firing for cooperating with enforcement agencies, or for refusing to drive hazardous or overloaded vehicles, they have little choice other than to comply with their employer's instructions to violate the law. But, with the "whistle-blower" protection of this legislation, drivers will be given the protection to refuse to violate the law. Through the years, Congress has enacted legislation that makes it unlawful for an employer to discriminate against or discharge employees for seeking enforcement of legislation or for cooperating with the government. One of these laws, the Occupational Safety and Health Act, protects nearly every worker in America except those of the trucking industry. It was not applied to truckers because, it was argued, the Department of Transportation already had authority to regulate trucking industry safety practices. As a result, drivers were denied the OSHA protections against employer recrimination for their attempts to secure safe working conditions.

Last, this legislation authorizes the Secretary of Transportation to make grants to States to enforce Federal commercial motor vehicle safety laws and regulations. The Federal Government may pay up to 80 percent of State enforcements costs and, for this purpose, is authorized: $10 million in fiscal year 1984; $20 million in fiscal year 1985; $30 million in fiscal year 1986; $40 million in fiscal year 1987; and $50 million in fiscal year 1988.

S. 1390 originally authorized $250 million over 3 years for State grants, but I fully support this reduced authorization in S. 3044. Presently, the Federal Government has an extremely limited number of truck inspectors, and there is no systematic Federal/State cooperative program concerning truck safety. This provision will help insure effective enforcement of the act. According to the Bureau of Motor Carrier Safety, 41 percent of all trucks that were randomly inspected were found to have safety defects that were imminently hazardous and were ordered off the road until repaired. Yet, the Bureau was able to inspect less than 1 percent of 3 million trucks under its purview. It is reasonable to believe, therefore, that many more unsafe vehicles and conditions go undetected.

Mr. President, the legislation proposed by the administration included two elements of S. 1390—expanded civil and criminal penalties, and State grants to enforce Federal commercial motor vehicle safety laws and regulations. Section 406 of S. 3044, as introduced, corresponds with sections 110 and 111 of my original legislation, and section 407 corresponds to section 107 of S. 1390. I commend the administration for the inclusion of these provisions. By including virtually all elements of S. 1390 in S. 3044, however, we will expand upon and improve the administration's proposal, further enhancing motor carrier safety.

The International Brotherhood of Teamsters, in testimony before the Senate Commerce Committee urged the adoption of the full scope of S. 1390. According to their testimony that bill, "was a masterful compromise of competing interests, one which would greatly increase highway safety without imposing an undue burden on the trucking industry". Mr. President, the Teamsters raise an important point. By including the full scope of the Truck Safety Act in this bill we retain the balance resulting from legislative compromises. Were we to include only portions of the Truck Safety Act we would threaten to undermine the careful balance that the bill represents.

In line with this, I wish to commend the American Trucking Association on its cooperation on this proposal. The ATA has displayed a sincere and abiding commitment to upgrading the safety of its industry and they have made an outstanding contribution to this legislation.

Mr. President, this commercial motor vehicle safety legislation will address a serious problem. In my home State of Illinois, for example, there were 232 deaths reported in 1981 related to trucking accidents; 36,081 trucking accidents were reported in 1981. According to the U.S. Department of Transportation, there were 9,031 deaths reported in 1981 in which trucks were involved.

The provisions of this bill would greatly enhance the effectiveness and efficiency of DOT in regulating and enforcing truck safety. Abuse of present regulations has resulted in countless deaths, injuries, and loss of property. The time to crack down is now. The Highway Users Foundation predicts that, during the next 15 years, the number of trucks on the roads will double. Our highways should not be death traps—they were built for the safe enjoyment and use of all Americans.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS CONFERENCE REPORT

Mr. COHEN. Mr. President, I rise to provide clarification on the conference report to accompany H.R. 7356, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes. Included in this report and the accompanying legislation is the Indian Claims Limitation Act of 1982, an act to extend the current Federal statute of limitations (28 U.S.C. 2415) in a manner that will provide an orderly resolution of outstanding Indian claims. My remarks relate specifically to the provisions of section 3(a) of the proposed legislation which requires the Secretary of the Interior to publish a list of Indian claims which might be affected by 28 U.S.C. 2415. Under this section the Secretary of the Interior is given discretion to exclude from such list any matter which was erroneously identified as a claim and which has no legal merit whatsoever.

Mr. President, when this matter was before the House and Senate conferees I urged that this proviso be amended to further provide that the Secretary shall not exclude from the list any claim solely because of the absence of Federal acknowledgment of tribal existence or formal recognition. The administration informally opposed this on the grounds that such a provision was unnecessary and that the Department did not intend to exclude claims of tribes on this basis. In other words, their policy would be to err on the side of inclusion rather than exclusion. While I believe my proposed amendment would have made this provision clear, nevertheless I am satisfied that this is the intent of the bill and that the administration will carry out the requirements of the act in this fashion.

I would note that to treat this question otherwise would be self-defeating. To refuse to include claims of tribes on the grounds that they were not federally recognized would necessarily lead to the conclusion that the statute of limitations does not and never did apply to these tribes. Refusal to list the claims of unrecognized tribes would defeat the purposes of this stat-

ute in a number of respects, one of which is to gain a clear delineation of the outstanding claims; the second of which is to bar future claims not included on the lists of claims required by the act; and the third of which is to provide an orderly process for resolution of outstanding claims in a manner which avoids arbitrary time limits and allows adequate time for negotiation without mandating disruptive litigation.

Mr. President, this is my understanding of the legislation embodied in the Indian Claims Limitation Act of 1982. As a backdrop to this statement I would simply note that I chaired both of the hearings before the Select Committee on Indian Affairs dealing with administration compliance with the requirements of the 1980 extension of the statute of limitations; that following those hearings I introduced S. 2978 to extend the statute in this Congress; that following introduction of this bill, my committee staff worked closely with the staff of the House Interior Committee in the development of the bill eventually reported out that committee as House Joint Resolution 553; and that this is the bill ultimately adopted by the conferees to accompany H.R. 7356 making appropriations for the Department of the Interior.

THE MX IS VITAL

Mr. DECONCINI. Mr. President, Congress and the President have once again wrestled over the issue of how and where to base the MX missile system, and once again, it has been the American people who have lost. Although I am not a supporter of the Dense Pack basing mode and have told the President this, I am a strong supporter of the MX missile system and believe that it is vitally important that our land-based missile system be upgraded as soon as possible.

Tragically, the deployment debate has become politicized to such an extent that it may result in the demise of the MX missile system itself. When President Reagan first entered office—for reasons which have never been quite clear—he rejected the basing system which had been selected after exhaustive study by the Carter administration. This system, known as the multiple protective shelter or MPS system, was the first choice of the Air Force and was generally accepted by Congress as a workable albeit expensive system which would provide a high degree of survivability to our land based missile forces and was sufficiently flexible to allow for modifications in response to changing technology.

In the place of the well researched MPS system, the President offered the Nation an interim basing mode consisting of placing the MX in so-called superhardened Minuteman missile silos. It was quickly determined that the superhardening of these old silos could in no way provide the survivability necessary to deter a Soviet first strike. Congress torpedoed the interim basing system.

As a result, the administration has now proposed the closely spaced basing mode—better known as Dense Pack—for congressional approval. In addition to the prima facie challenge to this system that it places all the Nation's strategic eggs in one basket, the survivability of the Dense Pack based MX depends on the highly theoretical and basically untestable concept of "fratricide."

The legislation we pass today gives the President another chance to develop a realistic basing mode. I sincerely hope that he makes the most of this opportunity by swallowing a little pride and offending a few political allies and returning to the MPS system as conceived by the previous administration.

No matter which system the President picks, he is going to have to convince the Congress that it can meet our national strategic objectives. However, I am gravely concerned that if the President remains committed to the Dense Pack system, he will destroy our last chance to deploy the MX missile and he will delay the upgrading of our land based missile system for an unforeseeable amount of time.

My words of advice to the President, then, are to steer away from Dense Pack. My words of advice to my colleagues here today are somewhat different.

We do need the MX or a comparable missile system, and I think the vast majority of my colleagues here in the Senate agree. We also need to insure that whatever new missile system we deploy meets the minimum requirements of survivability. What concerns me, Mr. President, is that we may be losing sight of the forest in our detailed discussions about the trees.

Let us keep in mind what purpose survivability serves. The United States is not going to initiate a nuclear war. Our objective is to deter our enemies present and future from being tempted to initiate such a war. Our land-based, counterforce weapon—that is, MX—must be based in such a manner that it draws off most, if not all, of the adversary's first-strike force in an initial attack. It is, in that sense, little more than a lightning rod which exhausts the adversary's major first-strike counterforce weapon.

Should the very worst case scenario actually occur, and the Soviets launch a preemptive strike against our survivably based MX, the missile system would have succeeded if the Soviets were forced to utilize most of its own first-strike, counterforce system in the effort. Because, this would leave both sides with their second-strike capabilities intact and thus, at bay. Obviously, the outcome makes the initial undertaking foolish and costly—therefore, deterrence has been achieved.

My point, Mr. President, is simple. We delude ourselves if we continually search for a basing mode that is perfect. No basing mode is perfect or absolutely survivable. The beauty of MPS was its ability to draw-off most of the Soviet's first-strike, counterforce capabilities thus eliminating their incentive to do it in the first place. We must evaluate the system that the President submits to us by March 1, with these factors foremost in mind, regardless of how tempting it is for partisan reasons, for cost reasons, for nuclear freeze reasons, for whatever reasons, to pick apart any basing proposal because of its weaknesses and consequently to obscure its strengths.

I pray for the successful conclusion of the process we have set forth in this continuing resolution which allows for a structured appraisal of the President's chosen basing mode—an appraisal which will have a definite beginning and end. I pray that we will soon have the MX based in a survivable and workable mode and that we can move on from this position of strength to challenge the Soviets to join with us in negotiating a substantial and long lasting arms control agreement.

Mr. President, I ask unanimous consent that my December 8 letter to President Reagan be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., December 8, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Thank you for your letter discussing the importance of the MX missile to our nation's security and your decision to deploy 100 MX missiles in the so-called dense-pack configuration.

First, let me emphasize that I wholeheartedly agree that our nation needs the MX missile system and that it should be deployed as soon as possible in a survivable basing mode. I have always supported all facets of development of the MX missile, and I assure you that I will continue to do so.

Unfortunately, I must respectfully disagree with your decision to use the dense-pack mode of deployment for the MX. Because the dense pack system is based on the untestable theory of fratricide, the basing mode violates the tried and true maxim of never putting all your eggs in the same basket.

In addition to the fact that its workability depends on an untestable concept, the dense pack system would be vulnerable to a variety of Soviet countermeasures, including the use of high yield re-entry vehicles or of earth penetrator re-entry vehicles or the

timing of an attack so that the attacking missiles would arrive simultaneously (avoiding fratricide) or so that the attacking missiles would pindown the MX.

In the best interest of our nation, I urge you to reconsider the dense pack plan. I have long believed that some version of the multiple protective shelter (MPS) option proposed by the previous administration with the strong backing of the Air Force would form the optimal basis for a survivable MX system. If this basing mode could be combined with an ABM system or some other form of protective or concealment device, I believe that our nation would have a land based missile system which would protect our nation well into the next century.

Again, Mr. President, thank you for asking for my counsel on this vital issue. I assure you that I will do all I can to help achieve our goal of substantially improving the security of our nation.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

THE CONTINUING RESOLUTION

Mr. D'AMATO. Mr. President, as part of the continuing resolution, the Congress has added a provision postponing until March 15, 1983, the effective date of the recent rate increase by the Copyright Royalty Tribunal. I was greatly pleased to see that the House conferees recognized the importance of providing some relief, from the CRT's proposed January 1, 1983, implementation date. In fact, I have been informed just today that had the Congress not acted to delay the implementation of the rate increase, as many as 1.4 million cable homes in New York State alone would have lost one or more signals that they have been receiving under the current rates. Such a dramatic impact should result if at all only from an agency decision that has been thoroughly tested by the judicial process.

I am hopeful, Mr. President, that the new March 15 deadline provides the possibility of court review before the extension expires. If it does not, however, there is a possible liability for the higher rates retroactive to March 16. It is clear that the conferees intend that these higher rates will be applied only to those days after March 15 that the signal is actually carried, not applied retroactively back to January 1 even on a prorated basis. Thus, an operator who carriers a distant signal on January 1 through the 6-month period ending June 30, 1983, would incur a liability for royalties at the current rate from January 1 to March 15 and at the new rate from March 16 to June 30 if the CRT decision is not reversed as I expect it will.

I also hope, Mr. President, that the Copyright Office of the Library of Congress will promulgate new regulations to account for the special circumstances interposed by this new provision. Under current regulations as I understand them, a cable operator who carried a distant signal from January 1 to March 15 but who decided to drop the signal on March 15, rather than incur the possible liability of the increased rate in the event the CRT decision was not yet reversed, would nonetheless be required to pay for a full 6 months of carriage at the current rates. If this 6-month policy remains, such an operator who dropped signals on March 15, 1983, would still be required pay at the old rate, for the entire 6-month period.

This is a fair reading of the current regulations but it is hardly a fair treatment of the operators faced with the unusual circumstances of this new March 15 deadline. I would think that the Copyright Office would take this unique circumstance into account and provide an exception to their rules that would charge an operator only for that period the signal was carried—January 1 to March 15—and not for the entire 6 months. Thus, a cable operator who drops a signal on March 15, 1983, should only be liable at the current rates for the 2½ months—from January 1 to March 15—that they actually carried the signal.

Such an accommodation is fully consistent with Congress intent as we declared it in the continuing resolution to preserve the maximum availability of diverse program sources for the viewing public.

INACTION ON BANKRUPTCY

Mr. DECONCINI. Mr. President, it is with deep regret that I have come to the realization that we will not be able to adopt legislation this session in the bankruptcy area of the law. Not to dwell on the point, our lack of action will cause untold hardships for the literally millions of people who each year come into contact with the bankruptcy courts and the bankruptcy laws. It was senseless for us not to act to address the problem of the constitutionality of the bankruptcy courts placed on our laps as a result of the Supreme Court's Marathon decision. It was equally senseless and bullheaded of us not to correct some of the obvious inequities and faults with the bankruptcy law that have come to light since its last revision in 1978.

The game of chicken that has been acted out between the House and Senate, and also internally within each body, might have left some bruised egoes among our Members but it will result in economic catastrophe for the millions of Americans that will have to live with the fruits of our stubborness and shortsightedness for the remainder of their lives. I am not going to point a finger at any given party and try to lay the blame at their feet—there would be many feet I could choose from. I will make a plea that next year we address the issues of bankruptcy substantive law and the bankruptcy court structure in a more reasoned atmosphere. I will urge flexibility. I will urge compromise. Nobody should have the foolish gall to say "take it or leave it" as was all too prevalent with our efforts this year. Those who refused to compromise this year will have to live with nothing. They can content themselves with knowing they fought the good fight for whatever clean bill they espoused, but they will also have to realize their role in the crisis they will have caused in our Federal court system and the hardships they will have brought about needlessly.

I do not look forward to again addressing the issue of bankruptcy next year—but I will. I will try to take an open view of the issues as they are brought before us and again work for a resolution of the problems in a fashion that is acceptable to the vast majority of my colleagues. I do hope that those of my colleagues here and in the House who have expressed an interest in this legislation will try extra hard next year to come to grips with the issue and find a middle ground. I hope that the various lobbying groups, judicial organizations, educators, private interest groups, and conferences who have an interest in bankruptcy, will see the benefit of compromise and not stalk off sulking into their corners. Our inaction today will probably result in less than full article III status continuing to apply to our bankruptcy courts for some time into the future. The opportunity to place these courts on sound constitutional pinnings has been lost. I can only hope that the judges that continue to serve as bankruptcy judges under their more restrictive jurisdiction and the district court judges whose role in the orderly processing of bankruptcy cases will be so greatly augmented, will rise to the challenge, work hand in hand, and get the job done.

I would like to acknowledge the monumental efforts at compromise that have been engaged in by Senators DOLE and HEFLIN and their staffs, also special thanks to Bob Fiedler of my staff. I can assure them that I will again try to assist them in their future efforts in this area.

NATIONAL SECURITY EMERGENCY PREPAREDNESS TELECOMMUNICATIONS REQUIREMENTS

Mr. HOLLINGS. Mr. President, in September 1982, the Commerce Committee reported S. 2469, the International Telecommunications Act of 1982. There was hope that this bill could pass the Senate before the end of the 97th Congress; however, that now appears unlikely. I had prepared a statement concerning national security/emergency preparedness telecommunications needs that was to be part

of the floor debate on S. 2469. Since I consider this statement important to our future debate on this issue, I ask unanimous consent to have it printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE INTERNATIONAL TELECOMMUNICATIONS DEREGULATION ACT

This international telecommunications legislation, S. 2469, offers further proof that we have made a firm commitment to a pro-competitive policy and away from government regulation. We have found that an effectively working marketplace in telecommunications provides us with so many more goods and services at lower cost that government oversight pales by comparison. We have also found, however, that this pro-competitive approach should not be followed blindly.

We must temper this new policy so it best serves our national interests. First, we must ensure that we have a marketplace that is effectively competitive prior to deregulation. Many sectors of the telecommunications market are competitive today; others clearly are not. Second, in the international arena, it is clear that we must continue to coordinate use of the electromagnetic spectrum and to deal with foreign nations whose interests in a free market often diverge with ours. In such an environment, a role for the federal government remains necessary. Third, we must continue to promote "universal service." Access to our communications system is far more a necessity than a luxury and, all people must be offered a reasonable opportunity to use these services and facilities. Such an objective, if properly approached, can be fully consistent with the new, pro-competitive path. Finally, we must ensure that our telecommunications system is capable of meeting our national security/emergency preparedness needs. Again, this objective, if properly addressed, can be met consistent with the marketplace approach.

Congress has been examining telecommunications legislation intensely for over six years. In that time, we have focused almost exclusively on the question of whether and how to achieve a pro-competitive policy and how to mesh this new approach with the objective of universal service. With Congressional leadership and key actions by the Federal Communications Commission and the Federal courts, we are now well on the way to moving from a monopoly to a competitive era in telecommunications. We have also taken major steps to resolve how universal service is to be achieved in a competitive era. Just how far we have gone and what remains to be done should be evident later this month when the Commission meets to decide how to structure the local exchange access charge.

We, on the other hand, have paid little attention to the issue of how to resolve potential conflicts between our national security/emergency preparedness needs and this new marketplace approach. This is despite having provisions in all of the bills that have been before us, including S. 2469, that have addressed this problem. I believe this lack of attention has been largely due to the fact that we have been focusing on the fundamental issue of whether and how to move from a monopoly to a competitive environment. Other issues, such as those regarding national security/emergency telecommunications needs, were dependent on this outcome and thus could not be precisely identified.

I believe now that it is imperative that we pay greater attention to this subject. We are facing unprecedented threats to our national security, and a sound communications system is vital to our response. Congress has a responsibility to ensure as precisely as possible that such a communications system is constructed and well-run. In furthering my own needs of being thoroughly informed and in helping structure the debate, I would like to set forth three areas that require greater attention prior to proceeding: needs; authority; and cost.

(1) What telecommunications facilities, services, personnel, research, and development are required to fulfill our national security/emergency preparedness needs?

In the past, we depended with few exceptions upon the established common carriers to meet our national security/emergency preparedness needs. Such reliance was not unusual. Other users acted similarly in meeting their needs. In effect, everyone called the telephone company to get total service.

In a competitive era, such an approach is not possible. A call to the telephone company will not ensure the most innovative, lowest price end-to-end service. The opportunities created by the new environment can only be seized by users if they work vigorously to determine their own needs and then to take action to achieve them. Private telecommunications users have already convincingly demonstrated that this greater effort will result in better service at lower rates. The federal government must follow the same path. It must change its thinking and become more independent and aggressive in identifying and meeting its telecommunications needs.

A second factor in structuring a telecommunications network to meet our national security needs is our new approach for nuclear war. Because of the strategies in recent Presidential Directives, a premium is placed on a communications system that can endure a possible prolonged nuclear war. We are required to fashion telecommunications faciliites and operations with a capability that has little precedent. Such a task will require an enormous effort in research, development, and planning, and a tremendous expenditure of resources. Again, this points to a more independent role for the federal government in determining its telecommunications needs.

The national security and emergency preparedness agencies in the government have been working diligently for the past few years to determine how best to carry out their new responsibilities and what type of communications system we need. Their work is beginning to bear fruit. But, many proposals remain far too general and need significant refining. In other areas, basic information still needs to be gathered. Once this has occurred, we can have a clearer picture of the amount of money required for research and development and to construct and operate the needed facilities. We will also then know what additional statutory authority is needed by the government to ensure our national security and emergency preparedness.

(2) What government authority is required to ensure our national security/emergency preparedness telecommunications needs are met?

The 1934 Communications Act (Section 606) gives the President broad authority over the communications network in time of war and declared national emergency. The President is able to suspend or amend FCC rules, to order carriers to use their facilities for certain purposes upon just compensation, to give preference to any communication, and to use force to keep lines of communications open.

There are other provisions of the 1934 Act that also further national security/emergency preparedness. Under the general purpose provisions of Title I, the Commission has the responsibility to consider national security/emergency preparedness concerns in any determination. The Commission also has the authority to issue regulations to address any such concerns. In Title II (Section 214), the Commission has authority to require carriers to plan and act in concert for national security/emergency preparedness purposes.

Common carriers know they have obligations under the 1934 Act to promote national security/emergency preparedness communications. They have acted responsibly in fulfilling these obligations. Currently, they are meeting with Department of Defense officials to plan how best to meet these telecommunications needs. It is thus doubtful that the Commission will ever have to use its authority to compel reluctant carriers to meet. But, we should all know this important authority does exist today.

The authority in the bill now before the Senate and in the domestic common carrier bill we passed a year ago (S. 898) goes beyond the authority in the 1934 Act. Section 609 of S. 2469 gives the President the authority (1) to establish arrangements for interconnection of facilities as may be necessary to avert public peril or to ensure continuity of essential telecommunications and (2) to order carriers to furnish facilities if there exists a war or threat of war or state of public peril or if there is an immediate need for such facilities and such need cannot be otherwise met. This authority is quite broad, and I believe a very persuasive case needs to be made if we are to grant additional authority.

If the current authority is clearly insufficient, I believe we then should move expeditiously to grant necessary additional authority. Any such authority must, of course, be precisely drawn. The authority should be triggered only in well defined circumstances, and there must be accountability for any decision to use it. Further, any actions by carriers in response to the use of this authority must be linked directly and closely to the act triggering the use of this authority. Finally, any authority must lapse within a certain designated time and be extended only if proven necessary.

Congress has an obvious responsibility to guarantee that our national security/emergency preparedness needs are met. Broad, general pronouncements and ambiguous authority do not serve to meet such a responsibility.

(3) How should we pay the cost of developing, constructing, and operating a telecommunications system to meet our national security/emergency preparedness needs?

During the monopoly era of communications, we were merely able to turn to established common carriers for service for national security/emergency preparedness needs. The charges for these services were imposed like those for other telephone services: they were not based on cost but rather on some vague concept of value of service. In effect, we never knew what it truly cost to meet these important telecommunications needs.

As we enter the new, competitive era, we have firmly determined that if the market is to work price must be based on cost. This principle should extend to all areas of telecommunications.

It is my belief that any telecommunications facilities, services, personnel, research, and development needed by the government to meet our national security/emergency preparedness goals could best be determined and authorized through the normal appropriations process. By following such a procedure, all concerned can best ensure these essential needs are met. Further, such a process would least effect the pro-competitive pricing structure. In addition, by ensuring competitive procurement, such a process would promote a competitive environment. Finally, it would comport with Congress' obligation and authority to ensure that sufficient goods and services are procured to meet our national security/emergency preparedness needs.

The funding granted for national security/emergency preparedness telecommunications should be as specific as possible. If we must grant any general authority, it should be very carefully circumscribed. Decisions by executive branch and independent agency officials should be restricted as discussed in the previous section and, as in the current Section 606 of the 1934 Act, any use or acquisition of private sector property or services should be accompanied by just and timely compensation. While such a standard of compensation is traditional, I believe that in any legislation we pass we must define such a standard more precisely to avoid complaint and litigation.

CONCLUSION

As I have said at the outset, I believe it is vital that we upgrade our telecommunications facilities, services, personnel, research, and development to meet our national security/emergency preparedness needs. Such a program can be accomplished fully consistent with the new, pro-competitive approach in telecommunications—an approach we need to foster and maintain with the fewest restraints.

The national security and emergency preparedness agencies are well on the way to determining what we need, but they have a long way to go. They are now meeting with the telecommunications industry to further determine what is needed and what can be done. I strongly urge that the dialogue between the public and private sectors continue.

I am hopeful that a consensus can be reached by all parties involved on the issues I have set forth. If such a consensus is produced and legislative action is required, it could then proceed quickly. Otherwise, we might well again be mired in legislation that never becomes law, an event all too familiar to those of us who have worked on past telecommunications legislation.

THE RETIREMENT OF ALBERT A. APPLEGATE DECEMBER 20, 1982

Mr. WARNER. Mr. President, on October 1 of this year, my chief legislative assistant, Albert A. Applegate, retired as an employee of the U.S. Senate.

Al has devoted nearly 10 years of his professional life to the Senate. He came to the Senate as a member of the staff of the distinguished former Senator from Michigan and minority leader, Robert P. Griffin. Al served as the Senator's press secretary, director of communications, and administrative assistant. On January 2, 1979, Albert joined my staff as my administrative assistant.

A native of Michigan, Al began his career as an instructor and assistant professor of political science at Eastern Michigan University. Later he became administrative assistant to Gov. George Romney. When Governor Romney became Secretary of Housing and Urban Development, he was able to persuade Al to come with him to Washington as his executive assistant.

In a very large way I owe George Romney a debt of gratitude. Had he not urged Al to work in Washington back in 1968, I may never have benefited from Al's wisdom and skill.

Al's outstanding experience proved invaluable to me during my first year in the Senate. In order to maximize my use of Albert's expertise, we made the decision that he would become my chief legislative adviser with responsibility for my legislative department. His keen understanding and in-depth knowledge of the political process cannot easily be matched. Nor can his masterful knowledge of the English language be equaled by many.

My staff and I wish Albert well in future endeavors. He and his wife, Beverly, are looking forward to the new and exciting life that waits ahead of them which, hopefully, will be much calmer than the hectic Senate pace.

There are many of you in the Chamber who had the occasion to work with Albert Applegate during his time as a Senate employee. I am certain you join with me in extending our best wishes to him.

GOV. GEORGE BUSBEE

Mr. NUNN. Mr. President, George D. Busbee soon will step down after 8 highly successful years as Governor of my home State of Georgia.

Many of my colleagues because familiar with George Busbee when he served as chairman of the National Governors' Association in 1980. Under his leadership, the association took on an enlarged role in national affairs, and he became one of the foremost experts and spokesmen on federalism.

Governor Busbee's leadership of the Governors' Association brought to national attention what we in Georgia have known all along—that George Busbee is a man of intellect and dedication, of foresight and sound judgment, of vision and an abiding faith in the ability of men and women to solve difficult problems by working together.

As pointed out recently by David S. Broder, the reporter and columnist the the Washington Post, Governor Busbee "has a genius for negotiation and consensus-building."

George Busbee has served the people of Georgia with great distinction for 26 years. He began his political career in the Georgia General Assembly, where he served for 18 years and became the majority leader of the house representatives.

In 1974 he was elected Governor, and under his leadership Georgia has become one of the leading States of our Nation.

Throughout his administration, Governor Busbee placed the quality of education and economic development of Georgia as his two highest priorities, improving and increasing the opportunities and benefits for our people in these two distinct but related areas.

As a result, Georgia has steadily improved every aspect of its education structure. More attention than ever has been focused on remedial, vocational, and postsecondary education as well as on the teaching profession.

In terms of economic development, Georgia has become one of the fastest growing States. Despite the troubles in the national economy, Georgia has recorded well over $5 billion worth of new and expanded industry over the last 5 years of the Busbee administration.

During this time, our capital city of Atlanta has exploded on the international scene. Businesses from throughout the world have been locating in the Atlanta area, and the city now has offices of 15 international banks. Much of his growth can be credited to industry-seeking missions Governor Busbee has led to Europe, Japan, and other parts of the world.

Georgia also now has one of the finest transportation systems in the world. Hartsfield Atlanta International Airport is the largest and second busiest airport on Earth, with many new international flights—successfully promoted by Governor Busbee—going in and out of Georgia.

Under Governor Busbee's direction, Georgia's two natural seaports have been upgraded and expanded.

President Carter recognized Governor Busbee's record on foreign trade by naming him to the President's Export Council, a position he has retained under President Reagan.

Governor Busbee's contributions to Georgia have not stopped with education, economic development, and foreign trade.

He completely reorganized our State's department of human resources and created a new department of medical assistance. He helped to create a statewide network for mental health and retardation. He guided through a new State constitution which was approved by the voters in the 1982 election.

As crime has increased throughout the Nation, Governor Busbee expanded the State crime laboratory, beefed

up the Georgia Bureau of Investigation, and constantly pushed for more and better anticrime legislation. He also launched a massive effort to solve the many problems of our State's prison system, which is faced with a growing inmate population.

Finally, in an effort to protect all the citizens of Georgia, Governor Busbee has created within his administration an office of consumer affairs, an office of fair employment practices, and an office of the consumer utility counsel.

Governor Busbee's record of accomplishments was recognized by the Georgia General Assembly and the people of our State, who together amended our constitution to allow him to run for a second term. In 1978 George Busbee was overwhelmingly reelected—making him the first person in modern times to serve two consecutive terms as Governor of Georgia.

I am proud of what George Busbee has done for the State of Georgia. George has made an indelible imprint on our State. Future generations of Georgians will benefit from his foresight and his leadership.

George Busbee will soon become a private citizen, but I am certain he will continue to contribute his energy and his wise leadership to the citizens of Georgia and the Nation.

POLITICAL ACTION COMMITTEE

Mr. DECONCINI. Mr. President, I rise on a matter of great concern to me both as a citizen and as an elected official.

A dark cloud is drifting over the American political landscape. I fear we may be in the midst of a transformation of the values that underlie our political dialog. Distortion, misrepresentation, and downright lies are becoming increasingly evident in political campaigns. The currency is being debased and we seem helpless to restore its former value. American politics has never been perfect, and politicians have always been a rough and tumble lot. But politics is not without its rules—though they be both tacit and somewhat elastic. On the whole, however, the public has demanded—and received—a degree of honesty which, if not exemplary in the absolute sense, certainly distinguishes American politics from the politics of most of the rest of the world.

The moral consensus which has propped up the system is starting to crack because of the introduction of new players who, quite simply, do not want to play by the rules. Given enough time, these forces will permanently change the nature and quality of American politics. The voting public will find itself devoid of real information about candidates and with no means of separating truth from malicious fiction. Politics will become "content-less."

The great irony of this changing ethos in our politics is that it was made possible by the very Federal election laws that were initially designed to bring more accountability to the political process. Although unintended consequences, they are nonetheless grave consequences.

The new players who reject the traditional values are the freestanding political action committees. These organizations are free standing in the sense that they represent no settled and identifiable interest group, such as a political action committee associated with a company or an association. Nor are these new organizations connected with traditional political parties or specific candidates.

They tend to be organizations created for the express purpose of raising money under the banner of some ideological principle and disbursing those funds to defeat candidates who hold opposing points of view. Under existing law, these committees can spend whatever they like to defeat a candidate as long as they do it independently, that is, separate from the campaign organization of their target's opponent.

Existing Federal election law limits the amount of funds that a candidate can receive from any single source, the theory being that too much indebtedness will result in special interest obligations that translates into bad national policy. The independent committees are also limited in the amount they can contribute to a candidate; they are not limited in how much they can spend against a candidate.

The law thus creates a basic lack of symmetry which gives freestanding committees virtual carte blanche. They are free to raise unlimited amounts of money for the purpose of defeating a particular candidate. Thus, to the extent that the law was concerned with limiting the influence of any group or individual, it has not succeeded. The freestanding political action committee is limited only by the amout of money it can collect and disburse. And even though its large contributors must be identified, this does nothing to inhibit its ability to spend hundreds of thousands of dollars—perhaps milions—to defeat candidates it opposes.

They argue that there is a material or substantive difference between directly assisting a candidate and spending vast sums to defeat that candidate's opponent is difficult, if not impossible. Although the actual intent may be slightly different, the effect is not. Viewed from that perspective, our campaign laws have created a set of super political organizations which are not governed by the same limitation that govern more conventional—I am tempted to say, "legitimate"—organizations.

The negative effects of that free rein is compounded by the lack of responsibility and accountability of the freestanding political action committees. These are the only major political groups which do not have to account to someone. A candidate must account to the voter, a PAC must account to the company or association it represents and political parties must account to its members.

However, committees like the National Conservative Political Action Committee—NCPAC—are responsible to no one. They raise funds through mass mailings on the basis of ideological principles. The only accounting they need provide for the money they raise is the actual money they spend in a political campaign, but this accounting does not affect the amount they can spend nor does it cover the money they raise and do not spend.

Mr. President, I admire entrepreneurial initiative. But somehow, I find myself appalled by the prospect of our politics being fundamentally affected by such totally freelance, self-serving organizations. I suppose my perspective would be different if those organizations had demonstrated some responsibility to the system in which they participate. However, they have not. Not only have they proved themselves to be irresponsible in a technical sense, but they are irresponsible in a moral sense, as well.

NCPAC, Mr. President, targeted my recent reelection effort. Mr. Terry Dolan and company decided that they would wage a negative campaign against me. They did considerable research on my voting record, and shared this information with my opponents. As it turned out, the person they indicated would coordinate their efforts against me had already been paid by my opponents to do work for them. Frankly, I began to question the extent to which NCPAC was operating independently. Indeed, that independence was a legal fiction. The reality is that they supported my opponents and every dollar they spent against me was the equivalent to a dollar spent on their behalf.

The documents that NCPAC provided my opponents were entirely misleading. They painted a picture of my voting record which was inconsistent with the facts. The entire document was a total misrepresentation. Substantive and philosophical differences between me and my opponents abounded, and I would have been happy to debate and defend those differences. But the NCPAC document sought to make me defend not what I had done, but what I had not done. It was not my voting record that was the issue—and that would be a perfectly legitimate issue—but a gross and mali-

cious distortion of that record, twisted around to serve a purely partisan objective.

Another of the freestanding committees with which my campaign came into contact was the National Right-to-Work Committee. This organization used tactics perhaps even more blatantly dishonest than those of NCPAC.

The Right-to-Work Committee targeted my race for reasons unrelated to their stated objective. As a long-time supporter of right-to-work there was agreement on that central issue. But the Right-to-Work Committee is a fundraising front which is responsible to no one. In fact, I am convinced that it is generally a partisan organization which supports Republican candidates over Democratic candidates as a matter of course. A candidates's position on their major issue—right-to-work—seems to mean little.

The Right-to-Work Committee launched an attack on me that was based on a total and outright lie. It sent telegrams to all its Arizona members stating that I was part of a conspiracy to prevent consideration of the Hobbs Act by failing to make a quorum. In actual fact, I was among the handful of Senators—which included the chairman, Senator THURMOND and my colleague from Alabama, Senator HEFLIN—who consistently showed up for meetings. It was the Republican majority who for reasons totally unrelated to the Hobbs Act were not making the quorum.

A number of my friends and supporters in Arizona who are also supporters of the Right-to-Work Committee wrote its president, Reed Larson, to bring these facts to his attention. Judging both from Mr. Larson's response and subsequent behavior, it is clear that the truth was irrelevant to his narrow partisan purpose. It is unfortunate that organizations like the National Right-to-Work Committee have abused the public's trust by acting irresponsibly.

NCPAC did not ultimately spend the money it had originally earmarked to defeat me—and promote my opponents—because we made NCPAC itself an issue early on. In a television ad, we listed some of the more radical and ridiculous objectives that NCPAC had, made it clear that NCPAC would be campaigning in the State to oppose me and support—indirectly—my opponents, and further suggested that if the voting public did not want our race contaminated by NCPAC to make its views known. The response was considerable, and a few days later my opponent asked NCPAC not to participate in the race and NCPAC withdrew.

Our strategy of making NCPAC negative baggage to carry was made possible not only by the extremism of NCPAC's own political objectives, but also by the growing bad press it is receiving nationwide as the result of its irresponsible behavior.

Although we made NCPAC a political liability for those it had determined to help—albeit indirectly by opposing me, the NCPAC legacy permeated the campaign, dragging me and the voters of Arizona through the mud. One of the State's major dailies was moved to say that the campaign against me was "the dirtiest campaign for major office in Arizona in a long time. It has been a negative campaign which has distorted the DeConcini record."

The irresponsible activities carried out or inspired by organizations like NCPAC and the Right-to-Work Committee raise difficult problems for all of us. For example, I had irrefutable documentary evidence that these organizations were either lying or totally distorting the truth. Yet, the lies and distortions were being broadcast almost hourly as paid campaign commercials. How can this type of base and irresponsible campaigning be effectively dealt with?

Jefferson has argued that in the free marketplace of ideas the truth would ultimately prevail. In the long run, that is in all likelihood true. But what about the short run of a political campaign? Television with its intimacy and impact has changed communications forever. If the unscrupulous launch an attack of lies and distortions during the waning days of a political campaign and have enough funds to insure substantial air time, truth may not win out.

I do not know if there is an answer—let alone, an easy answer—to this dilemma. We have two pretty basic rights standing in opposition to one another. There is the right of individuals and organizations to express their views—even if those views are lies and distortions—and the right of the public to be informed about issues and candidates. The dilemma becomes acute when it is recognized that present trends, if continued, will inevitably debase the quality of American politics.

Congress does need to address this question. However, I am convinced that we cannot approach it from the point of view of placing any limitation on what organizations choose to say or not to say in campaign commercials. The principle of free speech must remain inviolate. Nor, can we ask the press corps to serve as the arbiter of truth.

If we are to deal with this problem at all—and I believe we must—then it will have to be in terms of reforming election laws. Frankly, I believe we must reexamine the provisions which allow freestanding committees to expend however much they want in a political campaign. I am not sure that the distinction which has been drawn between contributing to a political campaign and working to defeat a candidate is a valid one.

In any event, it is my understanding that the Senate Rules Committee upon which I will be sitting in the 98th Congress intends to consider Federal election laws. I look forward to those hearings to address the issues I have just raised as well as others.

ESCAPE FROM SOBIBOR

Mr. PROXMIRE. Mr. President, on Tuesday, December 14, 1982, the Washington Post featured a review of the book "Escape From Sobibor." On October 14, 1943, 300 Jews successfully fled Sobibor, a Nazi death camp where thousands reportedly died in the gas chambers. According to this review, the author, Richard Radke, traveled extensively throughout the United States and abroad in order to talk with survivors. His book recounts these individuals' memories of Sobibor, their flight from the camp, and finally, their fearful life afterward.

When characterizing those interviewed by Radke, the reviewer says: "Those who made it out of Sobibor speak and live as we do. And yet they feel as though they are still there. They are trapped in another prison by their memories." She goes on to say, "* * * They would like to forget, but for the sake of all those they lost, they cannot. And that is the point of a very good book—for the sake of all those lost, no one must be allowed to forget."

Mr. President, her words are both a tribute to the author of "Escape From Sobibor" and a warning against indifference on the part of the reader. Indeed, they remind us all of the horrors of the Nazi Holocaust and of our duty to forestall another attempt to systematically destroy any racial, religious, or ethnic group.

Mr. President, it is not enough simply to bemoan the horrors of the Nazi Holocaust or any other incident of genocide in history. We must take concrete action to prevent this heinous act. And, in order to meet our full responsibility, our Nation must ratify the Genocide Convention, a treaty currently ignored by this body. Once again, I urge the Senate to ratify the Treaty on the Prevention and Punishment of Genocide.

CONVERSION OF CIVILIAN TECHNICIANS IN NATIONAL GUARD

Mr. THURMOND. Mr. President, during debate on the continuing resolution on December 18, 1982, I offered an amendment concerning conversion of civilian technicians in the National Guard. Some supporting documents, however, were not printed in the RECORD.

I ask unanimous consent that those documents be included in the permanent RECORD following my original remarks.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

DEPARTMENTS OF THE ARMY AND THE AIR FORCE, NATIONAL GUARD BUREAU,
Washington, D.C., December 10, 1982.
Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: In response to your inquiry, the Guard has budgeted the voluntary conversion of 1,200 technician positions in fiscal year 1983.

Conversion of technician positions to military positions began in fiscal year 1979 after studies revealed that some technicians were not viable mobilization assets to the units for which they worked because of loss of military status or disqualification for military assignment in the unit of civilian employment. Technicians should serve concurrently as full-time civilian employees of a Reserve Component and as part-time military member of that same unit. They perform the day-to-day administrative, supply, maintenance and training tasks as civilians and participate in weekend military training (drills) as military members. Upon mobilization, they are to deploy as active duty military personnel with their units.

Since the conversion program's inception in fiscal year 1979, the Guard has converted 7,808 technician positions to military. These conversions were accomplished entirely through attrition or voluntary action, except for those involuntary conversions in the Air National Guard directed by Congress in fiscal year 1979.

The SAC and the HAC have recommended the elimination of our fiscal year 1983 budgeted conversions. I fully agree that their rationale that the conversion program should only continue where it is cost effective and where readiness is enhanced. It is true that in the beginning of the program there were a few instances where technician positions were converted to military that resulted in a higher rate of pay than that authorized by the technician grade. However, we corrected this situation by establishing military grades for our technician positions that could not be exceeded. At the same time we directed that those military personnel who held military grades higher than that authorized be reduced or reassigned. Additionally, in the distribution of our conversion spaces we have placed emphasis on converting technician positions that will enhance our readiness in the areas of training, administration, personnel and supply at unit level.

Based on our experience, the estimated 1983 attrition in our technician program is approximately 4,500. Since we have budgeted only 1,200 conversions, there are ample Technician vacancies that will not be impacted by our Conversion program

If the conversion program is allowed to proceed as programmed, we will consider for conversion only vacant technician positions and assure that military technician positions will not be abolished while incumbered for the purpose of changing them to military status. Military technicians will be allowed to change to military status only voluntarily; no involuntary conversions will be directed.

Sincerely.

EMMETT H. WALKER, Jr.
Lieutenant General, USA,
Chief, National Guard Bureau.

SECRETARY OF THE ARMY,
Washington, December 10, 1982.
Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: As I am sure you are aware, the Army National Guard (ARNG) has budgeted the voluntary conversion of 600 technician positions in fiscal year 1983 whereas the Army Reserve (USAR) has planned the elimination of 43 senior technician positions. These actions have precipitated the issue of conversion of technician positions to full-time military positions.

Conversion of technician positions to military positions began in fiscal year 1979 after studies revealed that the majority of USAR technicians were not viable mobilization assets to the units for which they worked because of loss of military status or disqualification for military assignment in the unit of civilian employment. Technicians are supposed to serve concurrently as full-time civilian employees of a Reserve Component unit and as part-time military members of that same unit. They perform the day-to-day administrative, supply, maintenance, and training tasks as civilians and participate in weekend military training (drills) as military members. Upon mobilization, they are to deploy as active duty military personnel with their units.

Since the beginning of the conversion program in fiscal year 1979, a total of 5,691 ARNG and 1,639 USAR technician positions have been converted by attrition or voluntary action to military status. This amounts to 20 and 29 percent of the technician force respectively. Further conversions of technician positions are planned this fiscal year, and beyond, and will result in a total reduction in the technician force of 25 percent for the ARNG and 58 percent for the USAR over the ten year period fiscal year 1979 through fiscal year 1988. All conversions are designed to enhance deploying unit readiness. No further conversions are planned beyond fiscal year 1988 when the technician force level will stabilize at 21,000 for the ARNG and 3,500 for the USAR.

Addition of a general provision to the fiscal year 1983 Appropriation Bill or a new "Continuing Resolution" to prohibit programmed conversions will impede the efforts of the Army to upgrade the readiness of its Reserve Component units and will deny to individual technicians the freedom to voluntarily assume military status. In addition, such a prohibition may be inconsistent with the labor management relations provisions of 5 USC 71 granting authority to agencies to determine the number and kinds of positions to be used in accomplishing the duties of such agencies. It will also place an arbitrary, non-mission related, manpower utilization constraint on the Army that will degrade readiness and which can not be justified on the basis of cost. Indeed, a comparative cost analysis of the full-time support (FTS) program was completed in October 1982 by a private consulting firm under contract to OSD. This study shows that the conversions planned for fiscal year 1983 to be cost-effective and that the cost-effectiveness of any future conversions would depend upon comparative grade structures.

The Army, as a matter of policy, does wish to inform you that in 1983 it will consider for conversion only vacant positions or those technicians who volunteer for conversion, and will not eliminate any technician position as long as an incumbent chooses to remain in the technician program.

I trust that my comments will assist the Senate in its deliberations concerning the fiscal year 1983 Defense Appropriation Bill.

With warm personal regards, I am

Sincerely,

JOHN O. MARSH, Jr.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, D.C., December 10, 1982.
Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: This is in regard to your request for the Air Force position on the Senate Appropriations Committee recommendation to prohibit the Air Force from converting 600 Air National Guard military technicians to full-time active duty Guardsmen (page 18 of the SAC Report.) I strongly support the proposed conversions as both cost effective and mission enhancing. Our proposed mix of military technicians and full-time active duty guardsmen is based first and foremost on mission requirements; readiness is enhanced by the ability to provide a more dynamic full-time active duty guardsman resource in more military oriented areas and technicians where more stability is necessary. However, cost effectiveness has been and will remain a principal factor in the overall decision. Positions identified for conversion require a wide range of experience in military duties and are better suited for full-time guardsmen. Further, our proposal is not forcing any involuntary conversions to full-time active duty. Thus, we have minimized personnel turbulence that might otherwise result.

I would appreciate your support in allowing the Air Force to continue with the programmed conversions as requested in the President's Budget request.

Sincerely,

VERNE ORR,
Secretary of the Air Force.

AFGE VICTORIOUS IN STOPPING CONVERSIONS

AFGE has been successful in getting Congress to pass legislation which prohibits any further conversions of civilian technicians to military status for fiscal year 1983. The Joint Resolution of the Ninety-Seventh Congress of the United States of America making continuing appropriatons for the fiscal year 1983 provides:

That pending passage of the regular Department of Defense Appropriation Act for fiscal year 1983, none of the funds appropriated or made available pursuant to this paragraph shall be available for the additional conversion of any full time personnel in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard, from military technician to Active Guard/Reserve status.

In addition, the Report which accompanied the House version, H.J. 559, states that:

The language in the joint resolution is intended to put a stop to conversion of military technicians.

Our success on Capitol Hill would not have been possible without the extensive grassroots support which you provided and the thousands of letters which you sent to

your Congressmen and members of the House and Senate Appropriations Committees.

Congratulations.

1983 INTERIOR APPROPRIATIONS BILL

Mr. PRESSLER. Mr. President, I must speak against the decision of the House/Senate conference on the 1983 Interior appropriations bill, H.R. 7356, to close the Spearfish and McNenny hatcheries headquartered in South Dakota. While these facilities have been an invaluable source of trout fry for stocking Federal waters in the Black Hills region, at the same time, the Spearfish hatchery has served as an educational facility for thousands of students and visitors every year.

The Black Hills of South Dakota offer many interesting vacation sites, as well as ample opportunity for hunting and fishing. I strongly believe that the decision of the conferees to accept the original position of the House bill to provide no funding is a grave error.

Tours are available at these hatcheries to give people from all over the country a chance to see first hand the great improvements made in managing and improving our natural resources. The employees of the Spearfish and McNenny operations have made their facilities more than a factory for hatching fish. Significant scientific progress has been made in understanding these biological and environmental patterns. These important scientific goals will no longer be advanced.

I have made detailed arguments in support of the Spearfish complex time and time again to my colleagues in the Senate and the House. This year, the House version of the 1983 Interior appropriations bill eliminated funding for the entire complex along with a number of other hatcheries around the country. I contacted my colleagues to voice my concern and oppose the closing of these facilities. I was pleased when the Senate version went to conference with funding included for Spearfish and McNenny. Unfortunately, the conference report did not include this funding. I regret that the facts, but not the votes, were on the side of South Dakota in this debate.

FREEDOM AND RADIO MARTI

Mr. PRESSLER. Mr. President, I wish to note with regret the Senate decision not to include funds for Radio Marti in the continuing resolution.

As a cosponsor of the effort to secure appropriations for Radio Marti, I believe it is essential that we continue to press for the establishment of this vehicle of free communication to the people of Cuba.

Mr. President, Cubans are denied access to factual information about conditions in their own country and the rest of the world. They are unaware of the facts they need to properly assess the true nature of the totalitarian political system which dominates them. The key pillar upon which totalitarian systems such as Cuba rest is state control of communications and the flow of information. This sharply contrasts with democracies such as the United States in which freedom of expression and alternative sources of information are regarded as the principal guarantees of political and economic freedom. Realization of the hope for a free life requires overcoming the ignorance and illusions which are the real strength of totalitarian regimes.

The desire for freedom is unquenchable and undeniable. But those of us who already enjoy the advantages and the blessings of liberty have a responsibility to assist those who are not so blessed. The most appropriate way to provide such assistance is to expand the opportunities of oppressed peoples to receive information that is truthful and accurate. If we who enjoy freedom can use the airwaves to communicate factual information, then we will have helped to open the intellectual doors through which Cuban liberty eventually may stride. In this way we will have done our duty to support the interests of those who thirst for freedom.

Mr. President, to support the need for better information sources for the Cuban people—to provide some partial documentation of the need for Radio Marti—I ask unanimous consent that an article from the Miami News be printed in the RECORD following my remarks. The article reports on political prisoners in Cuba. I also ask unanimous consent that the letter referred to in this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Miami News, Nov. 12, 1982]

A CRY FROM CUBAN JAIL

(By Kathy McCarthy)

"We appeal to . . . free men everywhere and plead for a mobilization in our behalf. We pray our outcry for justice will reach the heart of all Cuban exiles as well as that of humanity.

"Only an outraged world's response and the mercy of God can help us."

An open letter from Cuban political prisoners pleading for help from the free world has been smuggled out of a Cuban jail into Miami, says the exile son of a prisoner.

The letter, entitled "Declaration of the Cuban Political Prisoners to the Exile Community" is dated Sept. 15, and bears the signatures of 11 political prisoners, most of whom have spent half their lives in the island's Boniato Prison.

The letter says that some 33 political prisoners at Boniato have completed their jail sentences, ranging from nine to 20 years, yet Fidel Castro refuses to release them.

In protest, the prisoners declared a hunger strike set to begin Oct. 10—33 days ago—on a patriotic holiday commemorating Cuba's independence from Spain.

The letter bore an Oct. 12 Cuba postmark but did not reach the home of a Hialeah woman whose husband is in Boniato Prison until last Saturday.

Translated into English, the letter reads in part: "Mr. Castro still is arbitrarily keeping in prison, as state hostages, those who have long since served their sentences of 15, 18 and 20 years . . . The authorities have negated the right—recognized by every citizen in a civilized country—to regain freedom once a sentence has been served and return home to their families.

"We have in essence, been sentenced to life in prison."

Cristina Valls of Hialeah received the letter Saturday and gave it to Fort Lauderdale engineer Victor Pujals, whose 58-year-old father, Jose Pujals Mederos, has been imprisoned at Boniato since Aug. 8, 1961. Pujals said he was "amazed" that the letter reached the United States.

"Apparently, this is one of several copies that they tried to get out," Pujals said. "We don't know how many made it."

Pujals' father was not one of the signers of the letter.

Printed in Spanish on thin, waxlike paper that was folded several times, the letter arrived in Valls' mailbox. Valls' husband, Jorge, is a prisoner at Boniato, but his name does not appear on the letter, either.

Victor Pujals, 30, believes several of the men who signed the letter have relatives in Miami, and he would like to find them.

The letter gives the men's names, ages, the year they were imprisoned and the dates they were scheduled to be released. Seven of the men had been scheduled for release this year, while another has waited six years since his 12-year sentence was up in 1976.

They range from Julian Dominguez Lima, 53, the eldest prisoner who has served 20 years and five months, to Santos Mirabal Rodriguez, 28, the youngest. He has been in jail since he was 12.

The other names are Hector Cabrera Torres, age 50, who has served 21 years; Eduardo Capote Rodriguez, 51, served 16 years; Jose del Pino Gonzalez, 46, served 18 years; Alejandro Novo Alvarez, 38, served 20 years; Pedro Gonzalez Rodriguez, 40, served 20 years; Pedro Montey Hernandez, 47, served 18 years; Augusto Duque Fabelo, 39, served 20 years; Servando Infante Jimenez, 40, served 17 years, and Roberto Azcuy Cruz, 41, served nine years.

"Since Castro took power, the treatment of the political prisoners is worse than it's ever been," said Victor Pujals, who has not seen his father since he left Cuba at nine.

Pujals said his father was sentenced to die before a firing squad in 1961. Instead, he was spared and is serving 30 years. Pujals Mederos has not been heard from since June, and his wife in Cuba has not been allowed to see him for nearly two years, Pujals said.

Last night, Pujals sat with his wife and two children he fears his father will never see and read the letter again.

"Although our bodies are undermined with sickness, the product of many years of barbaric and subhuman prisoner conditions, we have strengthened our spirits and moral fortitude for this hunger strike.

"I am proud of being Cuban, proud because of my father and men like these," Pujals said, clutching the thin, folded letter in his hand.

DECLARATION OF THE CUBAN POLITICAL PRISONERS TO ALL CUBAN EXILES AND TO WORLD PUBLIC OPINION

We, the undersigned, Cuban political prisoners from the "tapiadas"[1] of Boniato Prison, appeal to a just World's conscience regarding the unmerciful incarceration policies which the ruling Communist regime of Cuba enforces on its imprisoned ideological opponents. We also make known the just reasons which force us to declare ourselves on a hunger strike. While the illegal circumstances which constitute a flagrant violation of our human rights and all universal rules of conduct toward political prisoners persist, we have decided in an assertion of our right to freedom that starting October 10, 1982—an honorable date in our Country's history—to consume only water, unless this right is negated by prison authorities as in previous occasions.

On September 6, 1978, in a press conference with a group of North American news correspondents, and Cuban-exile representatives, Mr. Castro responded to a question formulated by Manuel de Rios Vazquez ("La Prensa", New York) regarding the political prisoners that were excluded from the amnesty: "Well, of course, they have their sanctions; when they fulfill them they will go in liberty."

Demonstrating once more his total disregard for justice and the honor of keeping his word, Mr. Castro still is arbitrarily keeping in prison, as state hostages, those who have long since served their sentences of 15, 18 and 20 years. The authorities have negated the right—recognized by every citizen in a civilized country—to regain freedom once a sentence has been served and return home to their families. Thirty-three of us political prisoners find ourselves in this Medieval situation; we have, in essence, been sentenced to life in prison.

Although our bodies are undermined with sickness, the product of many years of barbaric and subhuman prison conditions, we have strengthened our spirits and moral fortitude for this hunger strike. We are true followers of Jose Marti's ideology regarding the dignity of man and are fully aware of our historical responsibility. We make the Communist government of Havana solely responsible and guilty of the consequences. We appeal to all international organisms and free men everywhere and plead for a mobilization in our behalf. We pray our outcry for justice will reach the heart of all Cuban exiles as well as that of humanity.

Only an outraged world's response and the mercy of God can help us.

Name	Age	Case No.	Sentence (years)	Served sentence
Hector Cabrera Torres	50	134/61	20	Mar. 24, 1981.
Eduardo Capote Rodriguez	51	1411/66	15	Mar. 28, 1981.
Jose M. del Pino Gonzalez	46	53/64	18	Jan. 17, 1982.
Alejandro M. Novo Alvarez	38	471/62	20	Apr. 14, 1982.
Pedro Gonzalez Rodriguez	40	283/62	20	May 19, 1982.
Julian T. Dominguez Lima	53	313/62	20	June 15, 1982.
Pedro M. Montey Hernandez	47	398/64	18	June 18, 1982.
Augusto Duque Fabelo	39	465/62	20	Sept. 19, 1982.
Santos O. Mirabal Rodriguez	28	284/66	(1)	June 24, 1971.
Servando Infante Jimenez	40	46/65	12	Dec. 24, 1976.
Roberto A. Azcuy Cruz	41	148/73	9	June 16, 1982.

[1] Of age.

[1] "Tapiadas" word used to describe Cuban prison cells whose bar openings are covered with metal plates.

INTERNATIONAL TERRORISM

Mr. PRESSLER. Mr. President, the terrorist is a self-appointed executioner who uses the instruments of war—guns, bombs, landmines—to kill or injure unsuspecting civilians. His victims include women, children, and the helpless. Indeed, terrorism is an outrage against mankind.

Terrorists frequently try to justify their criminal actions on the grounds they are "liberating" the oppressed or representing a counterforce to an authoritarian regime. These are unacceptable rationalizations. There can be no justification for terrorism by anyone, at anytime, any place, or for any reason.

Negotiations and compromise are the civilized and orderly democratic processes for resolving international disputes. Turning a blind eye on terrorism or making feeble efforts to explain it away only contribute to further erosion of the democratic process in the international community.

The Soviets and their fellow travelers finance, equip, and train terrorists, mankind in the plumage of "freedom fighters". Usually these terrorist groups are surrogates trying to advance Soviet interests in the Middle East, Africa, and the Caribbean.

A December 16, 1982, Washington Times article by Thomas Gulick of the Heritage Foundation calls attention to the fact that the United Nations, supported by U.S. taxpayers as a peace-promoting parliament of the world, has helped to sponsor numerous Soviet-backed terrorist groups, such as the Palestine Liberation Organization (PLO), the Southwest Africa People's Organization (SWAPO), Castro-Cuban proxies, and others. Indeed, a Washington Post senior editorial writer not long ago described the United Nations as an "institutional outrage" and "a moral swamp which operates much of the time by the mob rule of its Third World Majority to close alliance with the Soviet Bloc".

The U.N. General Assembly, in violation of its own charter, has reallocated millions of U.S. taxpayers' dollars to finance activities which support Soviet-backed terrorist groups. For example, several sources have questioned PLO use of U.N. "refugee" camps as military bastions in Africa and Lebanon and SWAPO use of Institute for Namibia (Southwest Africa) facilities in Africa to train more SWAPO terrorists in furtherance of a Soviet proxy campaign to seize control of Namibia in the same way a Soviet proxy seized control of Angola in 1975.

Fortunately, the Congress, working with President Reagan, has enacted legislation requiring that the massive U.S. contribution to the United Nations be reduced by any sums the U.N. misuses in support of the terrorist activities of SWAPO, the PLO, Cuba, and other Soviet-dominated terrorist organizations. The Washington Times article to which I have referred suggests why it is imperative that the U.S. assert better leadership in halting the spread of terrorism and preventing U.N. support of terrorist activities.

Mr. President, I ask unamimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Thursday, Dec. 16, 1982]

TRAINING TERRORISTS IN U.N. CAMPS

(Thomas Gulick)

The military use of United Nations refugee camps by the Palestine Liberation Organization, which was revealed during the Israeli occupation of Lebanon, is just the tip of the iceberg. There is now considerable evidence that Soviet-backed guerrillas are also using U.N. camps in southern Africa and Central America for similar purposes. Even more disheartening is the fact that the United States is picking up the tab for 25 percent, and often more, of the operating costs of these training camps.

Recently captured PLO documents show that the Siblin Training Center, a U.N. trade school near Beirut, was used to train PLO military recruits.

Yet another document intercepted by Israeli forces reveals that the PLO used U.N. International Force in Lebanon intelligence reports to monitor Israeli troop movements. The captured documents were dated May 26, 1981.

A Heritage Foundation report dated April 8, 1982—several months before the Israeli move into Lebanon—quoted Lebanese officials as saying the PLO had "transformed most of the (Lebanese) refugee camps—if not all—into military bastions." The charges were emphatically denied by U.N. officials.

As early as 1976, U.N. General Kurt Waldheim had been informed in writing that the PLO had installed "heavy weapons" in U.N. refugee camps in Lebanon. Lebanese officials also told Waldheim that the PLO had "even occupied the UNRWA (U.N. Relief Works Agency) offices in the camps." This was confirmed by the Israeli invasion discoveries.

The use of U.N. camps and "schools" in other parts of the world by Marxist terrorists has gone virtually unreported in the press.

For instance, in southern Africa, the Southwest African People's Organization, another Marxist guerrilla organization, is recognized by the U.N. as the "sole and authentic" representative of the Namibian people, even though there are some 45 political parties in that African country. The U.N. and its specialized agencies have allocated some $40 million to SWAPO for U.N. programs begun between 1977 and 1981 and new programs slated for the 1982-to-1986 period.

Among these programs is the SWAPO-controlled Institute for Namibia, located in Lusaka, Zambia. Between 1977 and 1981, about $1 million in U.N. funds went annually to finance the institute. In 1982 a handful of U.N. member-nations pledged an additional $2 million. The United States' pledge of $500 thousand for 1982 was by far the largest.

While the institute is charged by the U.N. with responsibility to train administrators

for a future independent Namibia, serve as an information center on Namibia; perform research on Namibia, and aid in the "struggle for freedom of the Namibian people" in practice, it would appear that only SWAPO members are accepted as students at the institute and that the school is used for SWAPO military training.

Located in Zambia, the Institute for Namibia provides SWAPO with a strategic site for a military training center. With its common border with Angola—the point from which SWAPO launches its terrorist attacks into Namibia—a more suitable spot would be hard to find.

One might ask why no U.N. members have questioned whether the Institute is being used by SWAPO to train officers and troops for guerrillas warfare in Namibia.

On March 28, 1981, New York Times correspondent Barnard Nossiter reported from Angola that yet another U.N. facility was being commandeered by SWAPO for its terror campaign—the Namibian Health and Education Center in Luanda, Angola. The camp is run by the U.N. High Commissioner for Refugees. Nossiter said SWAPO was using this camp to train students aged 5 to 18 as guerrillas to be returned to Namibia.

The Times newsman also said a nearby U.N. women's camp with a population of 25,000 seems to be SWAPO-dominated.

Futher evidence of U.N. support of Marxist terrorism is evident in Botswana, just south of Zambia. Here, the African National Congress, a thoroughly Marxist terror organization aimed at overthrowing the government of South Africa, uses a U.N. refugee camp in Dukwe as a recruiting center for territorists, according to military sources there.

And within the very borders of South Africa, the tiny country of Lesotho hosts another refugee center run under the UNHCR auspices, which also is suspected of being an ANC recruiting center. Refugees recruited there and in Botswana are moved to military and terriorist training centers in Angola, Tanzania, Algeria, Eastern Europe and the U.S.S.R. This was confirmed in recent testimony by former ANC members during hearings before the U.S. Senate Subcommittee on Security and Terrorism.

In the Western Hemisphere, there also is strong evidence that the U.N. refugee camps in Central America are being used to train Marxist guerillas and terrorists.

A UNHCR camp at La Virtud, Honduras has supplied food and medicine to Marxist guerillas staging raids into El Salvador, according to Heritage Foundation Latin American expert Richard Araujo. In addition, Araujo says, the French medical volunteer group, Medecins Sans Frontieres, which is part of the UNHCR operation in the Honduras refugee camps, is funneling intelligence reports to the Communists-oriented Sandanista army of Nicaragua.

It is high time the United States and its Western Allies demand a full internal investigation of U.N. aid and support for terrorist groups which operate freely in refugee camps in the middle East, southern Africa and latin America.

These investigative teams should include representatives of the United States and the Western nations, which pay the lion's share of the tab for the U.N. refugee program.

In addition, the U.S. Congress, General Accounting Office, and Central Intelligence Agency should conduct their own intensive investigation into all aspects of U.N. support for terrorist and guerrilla groups and subversives of all kinds—including those directed by the Soviet KGB, the U.S.S.R.'s secret police, which considers the U.N.'s New York headquarters its home away from home.

The United States and the West can make a big dent in U.N. funding of international terrorism and Marxist guerrillas movement by cutting off all U.S. contributions to U.N. organizations backing terrorist and guerrillas cadres until this practice is stopped. U.S. taxpayers can help stop the flow of aid to terrorists simply by refusing to give their money to those at the U.N. who would abuse our trust and the legitimate needs of the world's refugee population.

NO ONE WOULD PREVAIL IN A NUCLEAR WAR

Mr. PROXMIRE. Mr. President, the innocuous-sounding word "prevail" has become part of the nuclear arms vocabulary, and the administration's use of the word makes its murky stand on nuclear war even less clear.

The administration says one of its goals is to prevail in the event of a nuclear war. But what does it mean by this? The dictionary tells us that to prevail means to "gain the advantage or mastery; be victorious; triumph." It can also mean, "to become stronger or more widespread; predominate," and, finally, to prevail means to "exist widely, be in general use."

The word "prevail," as used by the administration, suggests that a nuclear war can be won. This is a suggestion many laugh at. Administration officials deny that they are saying a nuclear war could be fought and won. They deny they are planning weapons with winning in mind. But then the word "prevail" keeps popping up, casting doubt on their denials. The result is a confusing and contradictory picture of the adminstration's view of nuclear war.

The New York Times reported in November that Secretary of Defense Caspar W. Weinberger has privately endorsed a strategy calling for American nuclear capabilities that can "prevail even under the conditions of a prolonged war." Publicly, Secretary Weinberger rejects the thesis that a nuclear war can be won. Weinberger berates the Kremlin for carrying out offensive-minded programs that suggest a philosophy of winning a nuclear war. But then he promises similar programs for our own forces.

Secretary Weinberger's double speak is typical of the administration's wishywashiness on what it means when it says prevail.

A top Presidential aide describes what he meant by prevail. The Washington Post quoted him November 10. He said:

> Prevailing means achieving the objectives of preserving the institutions of the United States, protecting economic interests and the possibility to rebuild.

Does that definition, Mr. President, clear up for you the perplexing questions about prevail? It does not for me.

I would suggest that the administration reread the final dictionary definition of prevail—"to exist widely, be in general use."

In my view, Mr. President, the only way anyone in the United States can prevail is to never experience a nuclear war. And one way to help insure that a war never happens is to freeze the production of the nuclear weapons that would be used to fight a war in which, I assure you, no one or nothing would prevail.

Mr. President, I ask unanimous consent that two articles from the Washington Post and New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 10, 1982]

ADMINISTRATION'S NUCLEAR WAR POLICY STANCE STILL MURKY

(By Michael Getler)

Virtually from the moment it took office the Reagan administration has generated controversy because of its supposed attitudes toward nuclear war.

It has created an impression that it is more inclined to fight than its predecessors, and that it believes a nuclear war, even possibly a protracted one, could be fought and won. That belief, critics say, lowers the nuclear threshold by making nuclear war less unthinkable and so more likely to occur.

Such charges of nuclear recklessness have come more frequently in recent months. The administration vigorously rejects them. Presidential aides say that there has been no fundamental change in U.S. nuclear strategy in this administration. They stress that President Reagan has said there can be no winners in a nuclear war.

They also say that Reagan a year ago signed a top secret directive basically reaffirming the nuclear strategy that had evolved gradually under several preceding presidents including Jimmy Carter, who stiffened it in several ways.

Officials describe the Reagan plan as a "nonpolitical strategy rather than a Reagan strategy," one consistent with the longstanding idea that this country should have enough strength to deter Soviet attack, and if deterrence fails, to fight either a limited or prolonged nuclear war that would deny the Soviets a victory.

The officials claim the main difference between Reagan's National Security Decision Directive 13 of November, 1981, and Carter's comparable Presidential Directive 59 of July, 1980, is that Reagan's directive was accompanied by another presidential order at about the same time. This required the Pentagon to file a "master acquisition plan" that would link the development and procurement of specific weapons and communications systems to the carrying out of U.S. strategy.

Interviews with several senior officials produce private acknowledgement that the administration itself is largely responsible for its bellicose image.

They ascribe this in part to loose talk about nuclear alternatives, especially in the first year of the administration, as well as to some intended toughening of rhetoric and policy toward Moscow. They also attribute it to a search for words in official documents to make the Reagan approach to

strategic nuclear doctrine seem somewhat different from what has gone before.

In addition, they say there has been some considerable misinterpretation by the media.

Nevertheless, the crucial issue of where this administration stands on nuclear war policy remains murky. One major reason is that the administration frequently uses the word "prevail" to describe its military goals. It is a term that previous administrations have avoided because it suggests nuclear wars can be won.

The actual wording of some of the most important strategic documents, such as NSDD-13, remains highly classified, so that very few officials and probably no journalists know exactly what they say. Even the existence of NSDD-13 has never been publicly confirmed.

One key document that has become public, however, is the five-year guidance issued to the military early this year by Defense Secretary Caspar W. Weinberger and leaked to The Washington Post and then some other newspapers in May.

On May 30, The New York Times headlined the guidance as the "first strategy for fighting a long nuclear war" and described Reagan as embarking on a "new nuclear strategy."

On Aug. 15, Los Angeles Times reporter Robert Scheer also disclosed for the first time the existence of NSDD-13 and described it, without any attribution and without quoting any language from it, as "the first reported time the U.S. government has declared that nuclear war with the Soviets can be won." Scheer, who has since written a book about the subject that also has no details on NSDD-13, also used the leaked Weinberger guidance to back up his reporting.

Late in August, without reference to specific reports, Weinberger sent a letter to some 70 editors here and abroad complaining about "completely inaccurate" stories "that portray this administration as planning to wage protracted nuclear war or seeking to acquire a nuclear war-fighting capability."

Weinberger stressed that "there is nothing new about our policy." A policy of deterrence demands that the United States always have forces that can survive an initial attack or prolonged battle and retaliate if the Soviets are to be dissuaded from attacking in the first place, he said.

Experienced civilian and military officials agree with this explanation. Weinberger, however, never mentions the leaked guidance and the problem is that the language of that classified document provides ample grounds for a different interpretation.

For example, the guidance says:

"Should deterrence fail and strategic nuclear war with the U.S.S.R. occur, the United States must prevail and be able to force the Soviet Union to seek earliest termination of hostilities on terms favorable to the United States."

The United States must have plans that assure U.S. strategic nuclear forces can render ineffective the total Soviet military and political power structure . . . and forces that will maintain, throughout a protracted conflict period and afterward, the capability to inflict very high levels of damage against the industrial/economic base of the Soviet Union . . . so that they have a strong incentive to seek conflict termination short of an all-out attack on our cities and economic assets."

"U.S. strategic nuclear forces" and their command and communication links should be capable "of supporting controlled nuclear counterattacks over a protracted period while maintaining a reserve of nuclear forces sufficient for trans- and post-attack protection and coercion."

Aside from the defense guidance, the administration has used the word "prevail" in a number of public descriptions of security policy toward Moscow, although not always specifically in the nuclear context. White House deputy for national security Thomas C. Reed, for example, has used it several times in speeches this year and even the White House "Program for Economic Recovery" issued just one month after the administration came to office in 1981 contained the little-noted call to prevail if deterrence fails.

Top White House officials decline to say whether the word prevail is also used in Reagan's NSDD-13, which is the basic nuclear policy document. But they say they are confident that the word win is not included.

So what does prevail man in a nuclear battle if not to win?

Here is how one top presidential aide describes it:

"Prevailing and winning are two different things. Winning implies an army of occupation" as in World War II. "Prevailing means achieving the objectives of preserving the institutions of the United States, protecting economic interests and the possibility to rebuild."

Another senior White House official says prevailing "is not intended to be oriented toward anything other than avoiding losing. In other words, how can you stop escalation to the lowest possible level. That is the definition in this administration . . . preventing escalation from getting willy-nilly beyond our control."

Both officials claim that NSDD 13 did not, as one put it, "get into prevailing in any way that wasn't intended by PD-59," the Carter directive on nuclear doctrine, or that it wasn't "the exact same sense that was put into NSDM-242," which was the National Security Decision Memorandum signed by President Nixon in January, 1974. All of those documents are secret.

The Nixon policy, developed by then defense secretary James R. Schlesinger, was the first important shift in U.S. policy in many years. It pointed this country toward an ability to fight a limited nuclear war if necessary by being able to strike back at selected military targets rather than simply launching an immediate, all-out retaliatory strike.

Carter's PD-59 carried this idea further, giving a president more options, putting more emphasis on denying the Soviets a military victory by destroying their forces and leadership and setting in motion efforts to buy the equipment that would enable a president to keep more precise control of his forces during a nuclear exchange.

Carter aide Zbigniew Brzezinski recently described PD-59 as "essentially a war-fighting doctrine, not in order to fight a war but in order to deter the other side."

The Carter administration said this new doctrine was needed in part because there were signs that Moscow considered victory in a nuclear war as possible and that such a war could be prolonged.

So one top Reagan administration official claims that NSDD-13, despite charges that it is a dangerous new commitment to win a protracted nuclear war, "is highly overrated as a document of change. It really is not that. It is a document which confirms both PD-59 and NSDM-242. The fact is that the United States adopted a counter-force doctrine," meaning one capable of knocking out an opponent's military targets, "under Jim Schlesinger and it has been essentially the same doctrine ever since."

A high-ranking military officer who has served several administrations and is intimately familiar with actual war-fighting plans said that, in fact, "most of the changes in doctrine over the years have been rhetorical," with little real impact on the targets that are already cranked into the vast array of American nuclear weapons. Frequently, he said, the money never catches up to the rhetoric.

The officer said the Reagan administration has put more emphasis and some more money into an ability to fight a protracted nuclear war, if necessary, where other administration did not, even though these these others also recognized the potential need.

And he said that the idea of prevailing has, in fact, been around a long time, although other administrations have been careful to express it in other ways, such as in terms of serving the interests of the nation. "They all have struggled for words that are different than winning," he said, "but this administration has had a little problem with rhetoric."

A number of officials made the point that the Reagan administration came into office with many ideologues and few strategic experts. "At first," one senior officer said, "there were a number who thought you could get a meaningful capability to prevail. But as time went on, the sober realities of being in office resulted in the realization that you can't achieve some of the more ambitious plans."

Weinberger is right in what he says about policy, the officer said, "but previous administrations have been far more careful about not leaving the perception with the public of fighting and winning a protracted nuclear war. Frankly we were starting to scare people . . . and I don't think this administration can escape scot-free that they've left that impression around the world.

"Reagan, in essence, let a hundred flowers bloom early in his administration and that has caused many of the problems with the anti-nuclear movement in Europe and the United States," he said.

Now, he believes, the administration is trying to correct this impression. "I think we will be hearing less and less about protracted nuclear war as time goes on," he said.

[From the New York Times, Nov. 29, 1982]

ARMS NONPOLICY

(By Michael Krepon)

WASHINGTON.—President Reagan's address supporting "dense pack" basing for the MX missile, deep cuts in strategic arms and a stable strategic balance was a testament to confused and contradictory thinking.

How can the accumulation of nuclear war fighting capabilities by either side lead to a stable strategic balance? How can a buildup lead to deep reductions? The Administration, approaching its two-year mark, still has not come close to offering a coherent strategy to improve national security.

The Reagan team rejected the Carter Administration's "race track" plan for deploying the MX as not assuring survivability against a Soviet first strike. Instead, it offers a bizarre basing proposal that hinges

the MX's survival on attacks easily directed against it.

Contradictions abound in other areas, too. The Reagan proposals for deep cuts require reductions by two-thirds in Soviet land-based missiles while allowing a net increase in our strategic forces. Why? Because our negotiating proposal does not encompass cruise missiles, the primary "growth stock" in our arsenal over the next decade. Not surprisingly, the Start negotiations in Geneva are dead in the water.

The Administration could have cut into Soviet land-based missiles quite simply by percentage reductions from the SALT II agreement. But SALT II was "fatally flawed." Why? Because the Soviet Union's Backfire bomber was excluded and the Russians had the sole right to "heavy" missiles. The Reagan negotiating proposals do not cover bombers and still confer the sole right to heavy missiles on the Soviet Union.

The Pentagon's new strategic doctrine is no less confusing. Secretary of Defense Caspar W. Weinberger has privately endorsed a strategy calling for American nuclear capabilities that can "prevail even under the condition of a prolonged war," while publicly rejecting the thesis that a nuclear war can be won. He charges the Kremlin with carrying out offensive-minded programs that suggest a philosophy of winning such a war, and then promises similar programs for our forces.

Meanwhile, an Administration that accused its predecessor of standing still in the face of a Soviet strategic buildup is now dismantling aged B-52 bombers and Titan missiles. The Titans represent one-third of the land-based-missile throw-weight available to us. Throw-weight is one measure of destructive power that can be launched against an adversary—another one of the Soviet advantages that so troubled Mr. Reagan's advisers during the SALT debate.

* * * * *

At least, negotiations over deep cuts are under way, even though the American and Soviet positions are far apart. Other arms-control initiatives have not fared as well. The Threshold Test Ban Treaty limiting the yield of underground nuclear tests has been shelved by the Administration. That treaty mandates exchanges of geological and test data to help both countries monitor compliance. Unlike the intelligence community's assessment in 1977, Mr. Reagan's advisers now deem this data insufficient to monitor Soviet compliance; the necessary improvements have yet to be defined. The Peaceful Nuclear Explosions Treaty with its provisions for on-site inspections for non-military tests has also been put on hold. Negotiations banning antisatellite and space warfare remain dormant. Why? Eugene V. Rostow, Director of the Arms Control and Disarmament Agency, says: "Any space weapon limitations which limit the threat to United States satellites will necessarily protect threatening Soviet satellites as well."

No one should expect total logical consistency, for once nuclear weapons were designed the logic of a stable international political system turned several degrees off axis. Nor can we expect every utterance of a new Administration to fit neatly into a coherent design. But we have every right to expect more sense from this Administration on nuclear questions than has been the case up to now. We also have the right to expect concrete arms-control achievements. At this point, however, contradictions in national-security policies are becoming more, not less, pronounced. And concrete results in arms reductions appear no closer to fruition than on the day Ronald Reagan took office.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. BAKER. Mr. President, I call the Senate's attention to the December 16, 1982, decision by the U.S. District Court for the District of Columbia dismissing a challenge to the constitutionality of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). In August of this year, 19 Members of the House filed two lawsuits challenging the constitutionality of the legislation on the grounds that it violated the origination clause of the Constitution. The plaintiff named the Senate, the President of the Senate, and the Secretary of the Senate as three of the defendants; and the Senate, by Senate Resolution 477, directed the Senate Legal Counsel to defend the Senate parties. M. Elizabeth Culbreth, the Deputy Senate Legal Counsel, presented the Senate's argument to the district court.

The plaintiff argued that TEFRA was invalid because it was "revenue raising" legislation which had not originated in the House. Their objection had been considered and rejected by the House of Representatives during its consideration and passage of TEFRA.

The district court has now dismissed the lawsuits because the plaintiffs had a remedy with their fellow legislators and they lack standing to bring the case. Mr. President, I ask unanimous consent that the memorandum opinion and order of U.S. District Judge Joyce Hens Green in these cases be printed in the RECORD.

There being no objection, the memorandum opinion and order were ordered to be printed in the RECORD, as follows:

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

W. HENSON MOORE, ET AL., PLAINTIFFS, V. THE U.S. HOUSE OF REPRESENTATIVES, ET AL., DEFENDANTS—CIVIL ACTION NO. 82-2318

RON PAUL, PLAINTIFF, V. THE UNITED STATES OF AMERICA, ET AL., DEFENDANTS—CIVIL ACTION NO. 82-2352

Memorandum Opinion and Order

These consolidated cases, before the Court on plaintiffs' motion for summary judgment and defendants' motions to dismiss, present the threshold question whether plaintiffs, 19 members of Congress, have standing to challenge the constitutionality of the "Tax Equity and Fiscal Responsibility Act of 1982," Pub. L. No. 97-248 ("TEFRA"), which the President signed into law on September 3, 1982. Upon consideration of the supporting documentation, the record as a whole and oral arguments presented by the parties, it is determined that plaintiffs lack standing [1] to maintain these actions and that the actions therefore must be dismissed.

Plaintiffs brought their complaints against the United States,[2] the United States House of Representatives, the United States Senate, and officials of those two bodies, seeking a declaratory judgment that the actions of Congress in enacting TEFRA infringed upon the prerogatives of the House in contravention of the "origination clause" of the United States Constitution, U.S. Const. art. I, § 7, cl. 1. The origination clause provides: "All Bills for raising revenue shall originate in the House of Representatives; but the Senate may propose and concur with Amendments as on other Bills."

On November 13, 1981, H.R. 4961, denominated "Miscellaneous Revenue Act of 1981," was introduced in the House of Representatives. After certain amendments, the bill was reported out of the House Ways and Means Committee on December 14, 1981. The House Report estimated that the net effect of the tax provisions of the bill would reduce revenues by 976 million dollars over five years. H.R. Rep. No. 404, 97th Cong., 1st Sess. 9 (1981). The bill was passed by the House on December 15, 1981. 127 Cong. Rec. 31515-18

Thereafter, the bill was referred to the Senate Finance Committee, which reported it out on July 12, 1982 under the new name, "Tax Equity and Fiscal Responsibility Act of 1982" (TEFRA). S. Rep. No. 494, 97th Cong., 2d Sess. (1982). Although carrying the House number, the bill that left the Senate Committee, unlike the bill passed by the House, was designed to raise revenues in the amount of 99 billion dollars over three years. The Senate passed this bill on July 19, 1982. 128 Cong. Rec. 16833-16902. The difference between the bill as passed by the Senate and as passed by the House prompted the Senate to seek a conference with the House. 128 Cong. Rec. 18253.

In response to the Senate's request, plaintiff Rousselot offered this privileged resolution: "*Resolved*, that the Senate Amendments to the bill, H.R. 4961, in the opinion of the House, contravene the first clause of the seventh section of the first article of the Constitution of the United States, and are an infringement of the privileges of this House and that the said bill, with amendments be respectfully returned to the Senate with a message communicating this resolution." 128 Cong. Rec. 18375, July 28, 1982.

Representative Dan Rostenkowski, Chairman of the Committee on Ways and Means, immediately moved to table the resolution, with 229 members voting yea, 169 voting nay and 36 not voting. Each of the plaintiffs voted against the motion to table. Id. at 18375-76. At the direction of this committee, Representative Rostenkowski then moved to send the bill to conference with the Senate. Id. at 18376. This motion passed after debate, which included plaintiffs, on the constitutionality of the Senate amended bill. 128 Cong. Rec. 18376-87, July 28, 1982. Each of the plaintiffs voted against the motion to go to conference. Id. at 18385-86.

During the following two weeks the constitutional issue was addressed by several Representatives. See Statements of Representative Bereuter, 128 Cong. Rec. 19142, 19158, August 3, 1982; Representative Dreier, 128 Cong. Rec. 206324 (daily ed.,

[1] For this reason other grounds for dismissal advanced by defendants need not be addressed.

[2] Only plaintiff *Paul* named the United States as a defendant. However, the United States successfully moved to intervene as a defendant in *Moore*.

August 11, 1982); Representative Porter, 128 Cong. Rec. 27155-56, August 13, 1982. On August 17, 1982, a conference bill was reported, substantially similar to the Senate version but including two tax provisions of the House version which the Senate had deleted. Conference Report to Accompany H.R. 4961, H.R Rep. No. 760, 97th Cong., 2d Sess. 267-68 (1982). Plaintiffs in *Moore* promptly filed suit on August 18, 1982.

The next day the constitutional issue was debated further on the House floor, 128 Cong. Rec. 22155, August 19, 1982. Plaintiff Rousselot introduced a second resolution to have the bill returned to the Senate. 128 Cong. Rec. 22155 August 19, 1982. This resolution was also rejected, with 268 members voting yea, 144 voting nay and 22 not voting, in favor of a motion to table. Each of the plaintiffs voted against this motion. 128 Cong. Rec. 22155, August 19, 1982. The bill was passed by both Houses on August 19, 1982, 128 Cong. Rec. 22446-47, August 19, 1982, with each of the plaintiffs exercising their voting rights on this legislation. Plaintiff Williams voted in favor of passage. All other plaintiffs voted against passage. Id. at 22339-40. Plaintiff Paul filed his action on August 20, 1982. On September 3, 1982, President Reagan signed the bill into law.

When voting on a motion to dismiss for want of standing the court "must accept as true all material allegations of the complaint, and must construe the complaint in favor of the complaining party." *Warth* v. *Seldin*, 422 U.S. 490, 501 (1975). However, even assuming the legal conclusion [3] that TEFRA was enacted in violation of the origination clause of the Constitution, plaintiffs have not demonstrated the injury-in-fact required by Art. III to invoke the judicial power. At a minimum, a plaintiff must show that he personally has suffered an actual or threatened injury which reasonably can be traced to the challenged conduct of the defendant and would likely be redressed by a favorable decision, *Valley Forge Christian College* v. *Americans United for Separation of Church and State*, 459 U.S. , 102 S. Ct. 752, 758 (1982). "In this manner, does Art. III limit the federal judicial power 'to those disputes which confine federal courts to a role consistent with a system of separated powers and which are traditionally thought to be capable of resolution through the judicial process.'" id. (quoting *Flast* v. *Cohen*, 392 U.S. 83, 97 (1968)). Thus, a court should refrain from adjudicating the constitutionality of an act of a co-equal branch of government unless the claimant has suffered a cognizable injury. Id. at 759.

The separation of powers concerns which underlie the concept of standing are particularly acute when plaintiffs are members of Congress. Although "there are no special standards for determining Congressional standing questions," *Harrington* v. *Bush*, 553 F.2d 190, 204 (D.C. Cir. 1977) (emphasis deleted), injury-in-fact for a congressional plaintiff "must amount to a disenfranchisement, a complete nullificaton or withdrawal of a voting opportunity." *Goldwater* v. *Carter*, 617 F.2d 697, 702 (D.C. Cir. 1979 (en banc), vacated on other grounds, 444 U.S. 996 (1979) (mem.). *Riegle* v. *Federal Open Market Committee*, 656 F.2d 873 (D.C. Cir. 1981), cert. denied, 102 S. Ct. 636 (1982); *Reuss* v. *Balles*, 584 F.2d 461, 467 (D.C. Cir.), cert denied, 439 U.S. 997 (1978); see also *Kennedy* v. *Sampson*, 511 F.2d 430 (D.C. Cir. 1974).

As the legislative history plainly reflects, plaintiffs had ample opportunity to exercise their voting rights and in fact, save for plaintiff Williams, voted their disapproval of TEFRA at every turn. Plaintiffs fully participated in the legislative process which culminated in the passage of the act they now challenge. They were simply out voted. The argument that plaintiffs' votes were effectively nullified by the Senate's usurpation of their right to originate revenue raising bills, and the House acquiescence therein, is unpersuasive. To support this contention, plaintiffs rely on *Kennedy* v. *Sampson*. In that case, however, the plaintiff had standing because his successful vote had been nullified by the allegedly illegal packet veto of the President. But where, as in this case, "Congress itself, and not the Executive, renders any individual legislator's vote ineffective, the courts have no role." *Goldwater* v. *Carter*, 617 F.2d at 712. See also *Korioth* v. *Briscoe*, 523 F.2d 1271, 1278 (5th Cir. 1975) (state legislator denied standing to challenge the validity of a statute passed over his objecting vote); *McClure* v. *Carter*, 513 F. Supp. 265, 270 (D. Idaho), aff'd mem. sub nom., *McClure* v. *Reagan*, 102 S. Ct. 559 (1981) ("Certainly no one would contend * * * that the losing senators in any vote should automatically have the right to appeal to a federal court for a determination of the correctness of the result approved by a majority of their colleagues").

In short, plaintiffs speak as a frustrated minority. Unless the institution of Congress itself has suffered injury-in-fact at the hand of the Executive, an individual legislator has no standing to complain of impairment to the effectiveness of his vote. "His injury can only be derivative." *Goldwater* v. *Carter*, 617 F.2d at 712. Here, Congress specifically considered and rejected the suggestion of any constitutional infirmities in the enactment of TEFRA, and in fact opposes this lawsuit. Judicial interference into this intra-legislative dispute is constitutionally precluded.

Even if plaintiffs' claim of injury to their rights as members of Congress to originate bills for raising revenue could be deemed constitutionally sufficient to confer standing, the doctrine of equitable discretion announced by this Circuit in *Riegle* v. *Federal Open Market Committee* squarely governs this action and mandates dismissal.

In *Riegle* an individual senator challenged the constitutionality of the section [4] of the Federal Reserve Act which provides for the election of five representatives of the Federal Open Market Committee by the Board of Directors of the Federal Reserve Banks, claiming that the selection of these individuals without submission of their nominations to the Senate deprived him of his constitutional right [5] to advise and consent regarding the appointment of these United States officers. Declining to distinguish between Congressional and private plaintiffs, [6] the court determined that Senator Riegle had standing. Nevertheless, the fundamental constitutional principle of separation of powers required that his action be dismissed. Because suits by Congressmen present "the possibility of thwarting Congress' will by allowing a plaintiff to circumvent the process of democratic decisionmaking," a court should, as a matter of equitable discretion, dismiss a Congressman's action where he "could obtain substantial relief from his fellow legislators through the enactment, repeal, or amendment of a statute." *Riegle* v. *Federal Open Market Committee*, 656 F.2d at 881. Application of the *Riegle* doctrine is especially appropriate where a plaintiff's dispute is not with the executive branch but with his fellow legislators. See *Reuss* v. *Balles*, 584 F.2d at 468. In this way a court may avoid intrusion into the internal functioning of the legislative branch.

In the instant case, plaintiffs must be relegated to their legislative remedies, despite their previous failures to convince their colleagues of the rightness of their views, and no matter how remote their chances for success in the future. "It would be unwise to permit the federal courts to become a higher legislature where a congressman who has failed to persuade his colleagues can always renew the battle." *Riegle* v. *Federal Open Market Committee*, 656 F.2d at 882.

Before dismissing an action under the *Riegle* doctrine a court must also inquire whether "a similar action could be brought by a private plaintiff." Id. Although the *Moore* plaintiffs refuse to discuss this part of the analysis, and refer to it as "baggage", *Moore* plaintiffs' memorandum in opposition to defendants' motions to dismiss at 26, plaintiff Paul argues that "[i]n this instance a private plaintiff has no immediate redress." Plaintiff Paul's opposition to defendants' motions to dismiss at 5. Yet, Representative Paul acknowledges that a taxpayer could challenge the constitutionality of TEFRA by filing for a refund after January 1, 1983. Id. Private taxpayer plaintiffs have asserted claims under the origination clause before. See *Rainey* v. *United States*, 232 U.S. 310 (1914); *Flint* v. *Stone Tracy Co.*, 220 U.S. 107 (1911); *Miller* v. *Roberts*, 202 U.S. 429 (1906); *Twin City Bank* v. *Nebeker*, 167 U.S. 196 (1897); *Bertelson* v. *White*, 65 F.2d 719 (1st Cir. 1933); *Hubbard* v. *Lowe*, 226 F. 135 (S.D.N.Y. 1915), appeal dismissed, 242 U.S. 654 (1916).

It is, accordingly, this 16 day of December, 1982

Ordered, That plaintiffs' motion for summary judgment be and it hereby is denied; and it is

Further ordered, That defendants' motions to dismiss be, and they hereby are, granted, and that these actions stand dismissed.

JOYCE HENS GREEN,
U.S. District Judge.

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[3] In its response to plaintiffs' opposition to defendants' motion to dismiss, the United States rightly points out that "standing in no way depends on the merits of plaintiffs' contention that particular conduct is illegal." *Warth* v. *Seldin*, 422 U.S. 490, 500 (1975).

[4] 12 U.S.C. § 263(a) (1976).

[5] U.S. Const. art. II, § 2 ("appointments clause").

[6] See generally, McGowan, "Congressmen in Court: The New Plaintiffs," 15 Ga. L. Rev. 241 (1981).

JOHN RHODES

Mr. DECONCINI. Mr. President, as the 97th Congress winds down and prepares to slip into history, I rise today to call attention to a Member of the Arizona delegation who is retiring with the end of the 97th Congress and has distinguished himself over nearly a 30-year period, JOHN RHODES was elected to the U.S. House of Representatives nearly 30 years ago and has,

during the ensuing time, been a true leader among his colleagues, Arizonans are very proud that JOHN RHODES has represented them so well and faithfully over the years.

JOHN RHODES rose quietly in the House hierarchy, becoming the second ranking member on the Appropriations Committee and chairman of the House Republican Policy Committee, and in 1973, when Gerald Ford became Vice President, RHODES was elected House Minority Leader. JOHN RHODES served honorably in that very difficult and challenging post through the 96th Congress.

In the 6 years that I have been in the Senate, from the other side of the political aisle, and from the other side of the Capitol, I have seen JOHN RHODES and respected him for his initiative, industry, and integrity. I congratulate him on his years of distinguished service,

The 1982 edition of the Almanac of American Politics states, "A word should be said about Arizona's House delegation. What other State with such a small delegation has had two leaders, of different parties, of the brainpower, clout, and integrity of MORRIS UDALL and JOHN RHODES?"

When the 98th Congress convenes, JOHN RHODES will be sorely missed by the remaining Members of the Arizona delegation, by the people of Arizona, and most importantly, by the people of the United States. What greater gage is there of the worth of a man than to see how sorely he is missed at such time as he passes from the national scene. JOHN RHODES will indeed be sorely missed.

Thank you, Mr. President.

CARIBBEAN BASIN LEGISLATION

Mr. PERCY. Mr. President, I communicate to my colleagues my very strong support for the Caribbean Basin legislation and my hope that we may yet be able to bring the bill, H.R. 7397, to a vote before Congress adjourns.

The House of Representatives passed the CBI late Friday afternoon with a vote of 260 to 141.

I commend my distinguished colleague, the chairman of the House Ways and Means Committee, DAN ROSTENKOWSKI, for the creative and effective leadership on this issue.

The House of Representatives passed the CBI late Friday afternoon with a vote of 260 to 141. Senator DOLE's Finance Committee is holding its markup of the bill today. Mr. President, if there is any opportunity to bring this legislation to a vote before the 97th Congress adjourns, I urge my colleagues to seize that opportunity and to give the CBI our full, bipartisan support.

Over the past 9 months, nearly every leader in the Caribbean has come to Washington to ask for our support for the CBI. We have all given assurances of our concern for the economic troubles those tiny countries face. It would be a tremendous, perhaps irreparable, disappointment if we were to reject the chance to affirm our support for these neighbor countries.

In September, we voted $350 million in economic assistance, the first leg of the CBI. But, the Caribbean leaders said that more than aid, they wanted opportunities such as those offered by the 12-year duty-free trade provision of the CBI. I remember well that President Monge of Costa Rica said that the Caribbean countries have been waiting for 30 years for this kind of relationship with the United States.

What is important is that new production in the Caribbean Basin will create jobs. Unemployment ranges from 20 to 40 percent there. Jobs are desperately needed and people are eager to work. The CBI will provide an important stimulus to economic activity by removing some of the risk from new investments.

The United States is a very large country, especially seen from the small countries of the region—countries with populations as small as 80,000 and gross national products only as large as $7 billion. Our neighbors in the Caribbean will be tremendously disappointed if we cannot meet their expectations on this issue.

I recognize that labor in this country is concerned about the impact of the CBI on their jobs. I am convinced that this legislation will have only a minuscule negative impact on jobs in this country. If the Caribbean countries take full advantage of the CBI, the principal impact will be felt by producers like Singapore, Taiwan, or Korea. But even then, production in the Caribbean Basin will hardly dent the dominant position those countries have. More importantly, by stimulating economic activity in the Caribbean countries, the CBI will be creating demand for U.S. goods and services. The Chicago Association of Commerce & Industry saw the CBI and immediately understood that economic activity in the Caribbean means opportunity for U.S. businesses, too. The United States will provide plant, technology and materials to Caribbean producers, and as the countries expand economically, they will buy more in this country. The United States already supplies 50 percent of Caribbean countries' imports. These are worth about $7 billion to us each year. If the Caribbean countries grow, they will buy more from us, supporting U.S. employment in the process.

Time is of the essence. The House Ways and Means Committee performed exhaustive study on the trade and tax provisions of this legislation. Seven members went to the Caribbean to see firsthand what the prospects are there. The bill now represents the best bill we can produce.

This bill was debated for 3 hours on the House floor on Friday. The support for it was extremely enthusiastic. It is the right thing to do. It is good policy for the United States. If we dissect the CBI, and look at its individual components, it may not seem to be a momentous package. It certainly is not a Marshall plan. Because it is not, it is all the more important that we take this small initiative to help our very deserving hemisphere neighbors.

As an example of one country of importance to the United States, the country of Jamaica is extremely anxious that this bill be passed. My lifelong friend, Bill Hewitt, former chairman of the John Deere Co., and now Ambassador in Jamaica called this weekend to relate how important this package is to Jamaica. Just today, the Prime Minister of Jamaica, Edward Seaga called to reemphasize the importance of the trade provisions to his country. That country is trying to overcome tremendous obstacles to put its economy back on track. The trade legislation in this bill will allow Prime Minister Seaga to plan for the future rather than just dealing with the immediate crises. Other countries in the Caribbean are as anxious as Jamaica that we pass the CBI.

The United States has tremendous interest in the economic prosperity and stability of the Caribbean Basin. It is our southern border and what happens there is ultimately reflected back here in the United States.

Equally important, I can think of no better way to signal Fidel Castro that we will give our full support for the struggling democracies in the Caribbean Basin.

Mr. President, I urge my colleagues to give their full and unqualified yea to the CBI.

MAJOR LEAGUE SPORTS COMMUNITY PROTECTION ACT

Mr. HEFLIN. Mr. President, it is apparent that in this session Congress will be unable to act on S. 2784, the Major League Sports Community Protection Act of 1982. Last July, I introduced this legislation along with several other members of the Judiciary Committee, and the legislation has been cosponsored by more than 180 Members of the House and Senate. In my view, the antitrust laws, as sometimes applied to sports leagues, neither reflect business or legal realities nor operate in a fashion that serves the interests of the public, taxpayers, and sports fans.

It is most unfortunate that Congress will not enact this legislation in the current session. This issue has already been extensively studied by both Houses of Congress. The Committee

on the Judiciary, of which I am a member, has held in-depth hearings on this legislation under the skilled direction of STROM THURMOND. We received a great deal of testimony—virtually all of it supportive of the major goals of this legislation.

Most significantly, the legislation has received enormous support from public officials and civic leaders across the Nation. Over 50 mayors, Governors, and county executives have endorsed this bill as being vital to the economic and social well-being of their communities. In our Judiciary Committee hearings, a number of distinguished mayors—Mayors Feinstein of San Francisco, Caliguiri of Pittsburgh, Berkley of Kansas City, Halloin of Green Bay, Hance of Phoenix, Schaefer of Baltimore, and Wilson of Oakland—testified as to the urgent need for passage of this legislation to protect the public and pro sports fans in this country. Among the other mayors supporting this legislation, for example, are those from Boston, Chicago, Cleveland, Dallas, Houston, Indianapolis, Jacksonville, Memphis, Milwaukee, Minneapolis and St. Paul, New Orleans, Philadelphia, Portland, San Diego, San Antonio, and Tampa. I am including in the RECORD a partial listing of the many mayors supporting S. 2784/H.R. 6467, a formal resolutiuon of support signed by many of these mayors, and excerpts from statements of a number of mayors summarizing their reasons for supporting enactment of this measure.

In addition to the overwhelming support of mayors and Governors, the Major League Sports Community Protection Act has been endorsed throughout the Nation by leading newspapers in editorials and other commentary. A sampling of these editorials are included in the RECORD with this statement.

Mr. President, a recognition of the business nature of a professional team sports league leads inevitably to the conclusion that a league is not a collection of ordinary business competitors of the same character as the members of a trade association. The member clubs of a sports league have no valid interest in driving each other out of business or in maximizing profits at each other's expense. Rather, as Justice Rehnquist recently observed in an NFL case:

> The NFL owners are joint venturers who produce a product, professional football, which competes with other sports and other forms of entertainment in the entertainment market. Although individual NFL teams compete with one another on the playing field, they rarely compete in the marketplace. * * * This arrangement, * * * is largely a matter of necessity.

Other courts, as well as commentators and congressional committees, have often recognized the joint venture nature of sports leagues, and it is time for Congress to clarify antitrust law based upon that recognition.

Justice Rehnquist has, in my view, accurately described the unique nature of a professional team sports league. Leagues are joint ventures and there is no reason why a league's members should be regarded as business competitors in dealing with most phases of their operations, including team location and revenue-sharing matters. The courts have been remiss when they fail to recognize the unique business nature of a sports league and to have that uniqueness reflected in the application of the antitrust laws to professional sports. I hope that in the near future, Congress will fashion a statute that reflects these business realities.

With respect to the bill before us in this session S. 2784, there is a clear consensus that the two limited antitrust provisions of the bill deserve enactment. Those provisions would, first, allow leagues to keep successful teams where they are, and, second, allow leagues to share revenues to the benefit of teams in the less well-situated markets. Both of these provisions will protect the enormous financial and civic investments that taxpayers, fans, and communities make on behalf of their professional sports teams.

Recently another reason for prompt congressional action became apparent. Throughout our consideration of this bill, we have been aware of the tangled legal situation involving the effort of the Oakland Raiders of the NFL to transfer their home operations to Los Angeles, Calif., over the objection of both the city of Oakland and the NFL itself. Among the lawsuits currently pending is an action by the city of Oakland to acquire the Raiders franchise in eminent domain in order to maintain the team in Oakland. Last June, a unanimous California Supreme Court held that the State's eminent domain statute would permit precisely such an acquisition by the city. Now a State trial judge has implemented that Supreme Court decision by ruling that the Raiders must return to Oakland in 1983 pending a final decision approving the city's eminent domain purchase of the Raiders. This action underscores the direct conflict between State law and Federal antitrust law on this matter of the location of a sports league's member teams. This latest California court decision demonstrates the inadequacy of inflexible antitrust rules that fail to recognize and promote public and consumer interests. It underscores the need to clarify the Federal antitrust laws.

S. 2784 is a simple clarification that would avoid the need for cities to take expensive—and unprecedented—steps in eminent domain to keep their sports teams. And S. 2784 does not realistically seek any antitrust "immunity" at all. The team relocation provision basically seeks confirmation of an earlier Federal court decision which held that league decisions on team relocations represent decisions of a common enterprise that do not pose antitrust issues. That decision was properly based upon recognition of the league as the relevant "firm" with the member clubs engaged in a joint effort to promote and sell their common product much like a national accounting firm operating as a partnership. Similarly, the bill's revenue-sharing provision basically reconfirms what would normally be regarded as the inherent prerogative of joint ventures to agree on the appropriate allocation of their jointly produced revenues.

Prompt congressional action in the next session will establish a uniform Federal law standard on team location matters, preserve the status quo in Oakland by protecting the interests of both the Raiders and the Oakland community, and eliminate the evident conflict between State eminent domain law and Federal antitrust law that threatens to keep the city of Oakland-Raiders dispute in State and Federal courts for almost a decade.

Mr. President, the U.S. Supreme Court has often said that the sports-antiturst issue needs to be addressed by the Congress, and not left exclusively to the courts. The Supreme Court has said that professional sports leagues, as businesses operating in interstate commerce, should be subject to uniform, Federal law standards, rather than varying State standards. S. 2784 would establish a sensible, uniform standard to govern team location decisions and revenue-sharing agreements in professional sports. It would establish a standard that would operate in the public interest, a standard that would protect taxpayers and communities, and a standard that puts legal and commonsense back into the antitrust laws. And for that reason, Mr. President, this bill deserves promptly to be taken up again and reported by the Judiciary Committee to the full Senate early in the next session.

There is, in my view, little question but that this bill would have been enacted into law except for two events that in no way reflect on its merits or on the clear need for it. First, it became a hostage of the labor-management dispute the NFL experienced earlier this fall. I do not understand why that was so, since the bill quite clearly had no effect whatsoever on player rights or union prerogatives. Nonetheless, some of my colleagues were unwilling to take action on the bill until that strike was satisfactorily resolved, as it now has been.

Second, as with so much other legislation, the bill has simply been mired in the pressures of this postelection

session, with a few able to thwart action by the threat of filibusters or other procedural maneuvering. But it would be erroneous to suggest that this Congress thought it a bad idea for successful, well-supported sports teams to stay in their home communities or for leagues to share revenues in order to preserve the viability of teams in small and mid-sized communities. The Congress has long supported stable team-community relations and geographic and competitive balance within sports leagues. S. 2784/H.R. 6467 is simply a further expression of that public policy.

Finally, Mr. President, I think it important to remember that if the Congress does not sensibly resolve these issues, there is likely to be years of additional, costly litigation in the courts that will continue to yield uncertain and conflicting results. Further, our failure to act does not put an end to legislative activity. Indeed, last summer a parochial, special interest effort was made to persuade the California State Legislature to enact legislation that would amend the State eminent domain law in a fashion that would retroactively extinguish the city of Oakland's lawsuit against the Oakland Raiders. I was heartened that Mr. Al Davis, in his testimony before the Senate Judiciary Committee, stated that the Raiders had no involvement in that activity, that he did not condone it, and that he would attempt to have others working for such State legislation cease their activities in Sacramento. A national sports-antitrust policy should be established at the Federal level, not through conflicting State legislative actions, and it should reflect the interests of taxpayers and communities throughout the Nation, not simply those of a particular locale.

Mr. President, it is my hope that when the new Congress assembles next month, one of its early priorities will be to finish the work that we have begun on this legislation. The foundation has been established. There is no credible argument against a national policy of team stability and community protection. There is a strong case for even a broader antitrust clarification for professional sports leagues. I recognize that there are many important matters presently before us and that many of those will require action in the next Congress. Nonetheless, enactment of the Sports Community Protection Act is one clear way in which the Congress can show that its concern is with sound legal principles and with the interests of the public and taxpayers.

Mr. President, I ask unanimous consent that the materials to which I referred earlier in my statement be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION OF MAYORS ON S. 2784/H.R. 6467

Whereas, the United States Congress has introduced the Major League Sports Community Protection Act of 1982 (H.R. 6467), which would exempt professional sports leagues from certain anti-trust provisions; and

Whereas, such legislation would be helpful in preventing professional sports teams from abandoning cities which have expended large sums of money in attracting such teams to these cities; and

Whereas, cities would be unable to recoup their investments if such teams were to leave prematurely; and

Whereas, it is in the best interest of cities to support H.R. 6467 which would exempt professional sports leagues from certain anti-trust provisions,

Now, therefore, be it resolved by Mayors in support of Major League Sports:

Section 1. That the Mayors lends its wholehearted support for the passage of the Major League Sports Community Protection Act of 1982 (H.R. 6467).

Section 2. That the undersigned Mayors shall be directed to send a copy of this Resolution to all members of the United States Congress as evidence of this Conference's support for the passage of the aforementioned bill.

PARTIAL LIST OF MAYORS AND COUNTY EXECUTIVES SUPPORTING S. 2784 (AND H.R. 6467)

City—Mayor or County Executive
Alameda, Calif., C. J. Corica.
Albany, Calif., Ruth Ganong.
Atlanta, Ga., Andrew Young.
Baltimore, Md., William D. Schaefer.
Berkeley, Calif., Gus Newport.
Boston, Mass., Kevin White.
Buffalo, N.Y., James D. Griffin.
Carson City, Nev., Harold Jacobson.
Chicago, Ill., Jane M. Byrne.
Cleveland, Ohio, George V. Voinovich.
Dallas, Tex., Jack W. Evans.
Erie County, N.Y., Edward Rutkowski.
Fairfield, Calif., Gary Falati.
Farmers Branch, Tex., John Dodd.
Fort Worth, Tex., Bob Bolen.
Fresno, Calif., Daniel Whitehurst.
Garland, Tex., Ruth Nicholson.
Gary, Ind., Richard G. Hatcher.
Green Bay, Wis., Samuel Halloin.
Hayward, Calif., Alex Guiliani.
Houston, Tex., Kathryn Whitemore.
Indianapolis, Ind., William H. Hudnutt III.
Jacksonville, Fla., Jake M. Godbold.
Kansas City, Mo., Richard Berkley.
Livermore, Calif., Dick Turner.
Memphis, Tenn., Wyeth Chandler.
Midland, Tex., G. Thane Akins.
Milwaukee, Wis., Henry W. Maier.
Minneapolis, Minn., Donald M. Fraser.
Newark, N.J., Kenneth Gibson.
New Orleans, La., Ernest Morial.
Oakland, Calif., Lionel J. Wilson.
Philadelphia, Pa., William Green.
Phoenix, Ariz., Margaret Hance.
Pittsburgh, Pa., Richard S. Caliguiri.
Portland, Oreg., Frank Ivancie.
San Antonio, Tex., Henry Cisneros.
San Diego, Calif., Pete Wilson.
San Francisco, Calif., Dianne Feinstein.
San Leandro, Calif., Valerie Gill.
Steubenville, Ohio, William Crabbe.
Stockton, Calif., Arnold I. Rue.
Tampa, Fla., Robert Martinez.
Union City, Calif., Tom Kitayama.
Vallejo, Calif., Terry A. Curtola, Jr.

SAMPLE STATEMENTS OF MAYORS SUPPORTING THE MAJOR LEAGUE SPORTS COMMUNITY PROTECTION ACT

Mayor Richard Berkley: "As the Mayor of Kansas City . . ., I know the importance of our profesional sports teams—the Chiefs, the Royals, the Kings and the Comets—to our local economy and to our sense of community pride. For this reason, I strongly support the provisions of S. 2784, the 'Major League Sports Community Protection Act'. . . ."

Mayor George Voinovich: "I am not concerned that the present ownership of our sports franchises would consider any move from Cleveland. Their commitment and dedication to Northeastern Ohio . . . is unquestionable. However, what future ownerships might consider is unknown. Thus, I urge passage of this legislation to insure that Cleveland's future is protected from any possible attempt to move our teams out of our area."

Mayor Andrew Young: "Swift enactment of this legislation during this Congress is badly needed by Atlantans and the residents of all sports communities because it would protect their interests and those of sports fans by keeping competitive teams and the needed tax revenues they generate at home."

Mayor Donald M. Fraser: "The stability provided by this Act is very important to all cities with sports franchises and cities who may acquire franchises in the future. As the Mayor of a city [Minneapolis] with a brand new stadium, I am particularly aware of the need to protect our stadium bonds and to prevent the economic dislocations that would occur should our team be wooed away by another city."

Mayor William J. Green: "As Mayor of Philadelphia, I cannot overstate the tangible as well as intangible benefits which our sports teams have brought to this city. The Eagles, the Phillies, and the Flyers have brought pride, prestige, a unique spirit and a common purpose to the fans of greater Philadelphia, and the entire community has responded with loyal public support. Philadelphia's teams have also enjoyed the support of sports fans in New Jersey and throughout the Middle Atlantic states. It is that stable relationship and loyalty among fans, a community, and a home team which is essential to the long term viability of professional sports and to the public interest which this legislation is designed to protect."

Mayor Dianne Feinstein: "From my perspective as mayor [San Francisco], I believe that this legislation is of critical importance to my community and to many others. . . . [Professional sports] leagues and their teams enrich the lives of our cities, metropolitan areas and States. They also serve important economic roles in many communities, and the leagues and teams have been the recipients of public monies in facilities of many kinds".

Mayor Williams Donald Schaefer: "Baltimore needs passage of the Major League Sports Community Protection Act. It affords the kind of protection we think we have earned over a period of nearly 30 years. Prevailing antitrust law only helps to fuel an already unfortunate circumstance. We are seeking stability from a business which is a bit different from most others. Our support for the Colt franchise deserves protection and antitrust law should be adjusted as necessary to work for caring fans and communities."

[From the Detroit News, Nov. 7, 1982]

SCRIMMAGING ON THE HILL

The National Football League is trying to score on Capitol Hill, and has manned its rush with an impressive array of bipartisan lobbying muscle.

The league entered the legislative arena because of the precedent set by Al Davis, maverick owner of the Oakland Raiders.

Mr. Davis moved his successful Oakland team, over NFL opposition, to the even more lucrative fields of Los Angeles. He gained legal support for the move when the courts ruled that the league requirement of approval from 24 of 28 owners was in violation of anti-trust laws. But Mr. Davis earned general condemnation for betraying supportive Oakland fans.

The NFL hopes the public's outrage at Mr. Davis will help pass House Bill 6467, which would give the league an anti-trust exemption so that it could deny, without threat of suit, any owner's request to move his team. The exemption would be retroactive to scotch the Davis damage suit against the NFL.

In the same legislative package, the league seeks an anti-trust exemption for its sharing of revenues. The league now divides gate receipts 60-40 and television revenues equally among all teams. But such revenue sharing is unsupported in law, and the league fears it could be the next target of anti-trust action.

We agree with the NFL that professional sports require special consideration in anti-trust law. Athletic competition is not necessarily furthered by economic competition.

Stability of franchise location is important. Clubs that hop from town to town destroy the fan loyalties upon which interest in pro football depends. And communities that provide facilities and support for a team are unfairly penalized when it moves away to ostensibly greener pastures.

A caveat: The NFL bill doesn't guarantee that no club will ever move again. An owner, particularly one who is losing money, could still convence the other owners of the need to move. However, an enforceable NFL veto is likely to prevent franchises that are doing well from shifting location, as the Oakland Raiders did.

The case for revenue sharing is even clearer, because it guarantees that franchises in smaller markets can survive slumps and come back to win. It has permitted clubs with below average revenues, such as the Pittsburgh Steelers, to win Super Bowls.

Were there no revenue sharing, clubs with big TV markets—New York, Chicago, and Los Angeles—could easily dominate. Too, geographic distribution would be less diverse. And without revenue sharing, it is unlikely the league could support all of the more than 1,500 players at their present high salaries.

Revenue sharing hasn't discouraged the league from expanding or clubs from trying to mount the best teams. The NFL has added two teams since 1970 and plans further expansions. Since the 1970 merger of the NFL and the old American Football League, all but two clubs have qualified for the playoffs. Mediocre clubs that could have coasted on revenue sharing have instead spent big money to hire and keep superstars. What else explains Billy Sims' salary?

It's easy to be suspicious of a group that, in 1980, had revenues of $377 million and recently signed a $2 billion, five-year contract with the networks. But, in this case, protecting existing NFL policies means as much to fans as it does to owners. We add our support of this legislation to that of 40 U.S. mayors and 158 House co-sponsors, including 13 of Michigan's 19 congressmen.

[From the New Orleans Times-Picayune, July 30, 1982]

FRANCHISE MOVES CAN COST TAXPAYERS PLENTY

(By Bob Roesler)

Folks who used to visit the Polo Grounds never thought it would happen. Neither did the Flatbush fanatics who made Ebbetts Field one of baseball's most hallowed baseball homes.

But Horace Stoneham did, indeed, move his Giants from New York to San Francisco. And didn't Walter O'Malley tear the heart and soul out of the borough of Brooklyn when he shifted his Bums to Los Angeles.

OK, so reflect a bit before you laugh at the question I'm about to pose:

What if John Mecom decided to move the Saints from New Orleans when their Superdome lease expires in 1984?

A hypothetical question, to be sure.

But there is nothing hypothetical about the plight of Oakland's (Alameda County) taxpayers. With Al Davis getting the green light in a Los Angeles courtroom, he is now calling his team the Los Angeles Raiders. Al's move is going to cost Oakland taxpayers a bunch.

The county needs $1.5 million a year to retire bonds issued to build the coliseum that Raider fans had filled for years. The coliseum is going to miss the dollars that were generated by the Raiders.

Davis' move has brought fear to those communities that provide homes for National Football League teams, especially if a team's stadium lease is almost up. What has happened to Oakland could happen to New Orleans, or anywhere else in Pete Rozelle's troubled empire.

The NFL, if enough owners begin to think like Davis, could become a nomadic nation, a Foreign Legion moving about North America in search of more and more gold.

There should be some protection for communities like Oakland and New Orleans, Baltimore or Miami. Where is it to be found?

In Washington, a bipartisan group of congressmen that includes Don Edwards, Calif., Fortney Stark, Calif., Jerry Hyde, Ill., Dan Glickman, Kan., and Jack Brooks, Texas, are behind a bill that would help protect cities from franchise moves.

According to the bill's sponsors, it would ". . . clarify the application of the antitrust laws to professional sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes."

Basically, the bill would enable the NFL to "enforce rules requiring approval by the membership of the league for any relocation of a member club" and "to enforce rules for the division of league or member club revenues that tend to promote comparable economic opportunities for the member clubs of such a league."

Louisiana Congresswoman Lindy Boggs is not only working to have the bill passed, she has added her name as a co-sponsor. "I found the legislation to be advantageous to the Saints and certainly beneficial to the Louisiana Superdome," Mrs. Boggs said from her Washington office. "As such, I am happy to cosponsor and work for its passage as soon as possible."

Congressman Bob Livingston says he is studying the bill, but as yet has made no final determination. The part of the bill dealing with team movement doesn't give Livingston trouble. But the revenue-sharing section does.

"I am definitely in sympathy with the plight of the people of Oakland," Livingston said by phone. "I don't feel that a team ought to be able to pick up and take off at whim. But I am still hung up on the second part of the bill which would seek to take from the prosperous teams and give to the less prosperous. The reason the teams are less prosperous may be of their own making."

Maybe so. But to me, what has been the NFL's strength the fact that all teams shared the television plum equally, to the tune of about $12 million per annum. What would happen if each team made its own deal? Would the Saints get as much for their TV package as New York? Obviously not, since New York is the No. 1 market and New Orleans is No. 34, which is even smaller than Green Bay's. So revenue sharing is a big help to clubs like the Saints and the Packers.

But back to the hypothetical question. What if the Saints were to pull up stakes?

Suppose a fat cat from Memphis, Birmingham, Indianapolis, Jacksonville or Phoenix would make Mecom a deal he couldn't refuse. John would say yes, pocket the millions, and the Saints would become the Memphis Muggers or Phoenix Pickpockets.

Possible? Certainly. Probable? Unlikely. But Louisiana has stadium bonds to retire, just like Oakland. The Superdome needs the Saints. The Superdome also needs protection against franchise piracy.

Would the Saints really ever move? I posed the question to Eddie Jones, the club's president. Read his reply carefully.

"I don't think John (Mecom) would ever move the team," Jones said slowly, "No I don't think he would. Out of loyalty to the fans, out of pride. You know, though, money does strange things."

Jones is aware of the bill in Congress and is in favor of it. As he put it, "I want to make it clear that we are concerned with the availability of the loophole in our situation."

"In any city where there is fan support, there is always that remote possibility. With someone able to do it (move a franchise without league approval), an Al Davis, then it makes those kind of situations possible."

In June 1966, Sen. Russell Long of Louisiana spoke of the "orderly development and improvement" of pro football that was brought on by the merger of the American Football League with the NFL.

At that time Long offered these words of wisdom:

"It is important to note that the expansion to new cities will not be brought about at the sacrifice of franchises in cities which enjoy this sport now. All of the existing 24 franchises in both existing leagues will be maintained."

[From the San Diego Union, July 10, 1982]

THIRD AND GOAL

The public at large and the sports world share some significant stakes in the outcome of the struggle to decide whether the Oakland Raiders can be uprooted from their highly supportive community where they have been since 1960, and be transplanted to the Los Angeles Coliseum.

After the Los Angeles Rams moved to Anaheim some two year ago, Al Davis, the managing general partner of the Raiders, and Los Angeles leaders agreed to move the

Oakland team to the Coliseum. But not a single owner in the National Football League voted to permit this move in recognition that Oakland deserves to keep its professional football team after more than a decade of sellouts and unmatched support by Oakland fans.

Whereupon Mr. Davis and the Los Angeles Coliseum Commission sued the NFL for violation of the Sherman Antitrust Act, asking respectively $160 million and $53 million in damages. The first trial ended last year with a deadlocked jury. Then, in May of this year, came the shocker. In Los Angeles (which trial locale itself has raised eyebrows on the question of impartiality), a federal court jury of six women decided the Raiders have a right to move to Los Angeles despite the NFL's constitution and its vote to the contrary.

But before Mr. Davis could fold his tents in Oakland, that city and its football fans won an amazing reprieve. The California Supreme Court, in a bizarre ruling, said the city of Oakland may exercise its power of eminent domain and acquire the Raiders. The decision sends the Oakland case back to a Monterey County Superior Court for trial, which could require years.

This ruling may be shaky law, as legal scholars contend, but it is not without substantial justice. Mr. Davis is guilty of unconscionable conduct in suing the owners of the NFL whose revenue sharing has led the Raiders to compete successfully with franchises in much larger cities. And it's a rotten business for Mr. Davis to desert loyal fans who have brought him fame and fortune.

The proposed kidnapping of the Raiders from Oakland has prompted introduction of legislation in Congress which would protect Oakland and other cities that support their sports franchises.

Beyond the Oakland consideration, we have a parochial interest in this legislation. Such a law might defeat the effort by Los Angeles to snatch away our San Diego Clippers. We trust therefore that the legislation known as the Major League Sports Community Protecton Act of 1982 (H.R. 6467) will gain early passage. Otherwise there could be mounting chaos in professional sports across the country. An unscruplous franchise owner could skim off the cream in a given area for a few years, make unreasonable demands upon the city, and move on to greener pastures if they are not met.

[From the Baltimore Sun, July 9, 1982]

GET ON THE TEAM, SENATORS

The National Football League has a rule that an owner may not move a franchise without the votes of 24 of the 28 club owners. The owners believe that "stability" of franchises ought to be maintained, except where there is real economic distress. When the Oakland team decided that dispite years of capacity crowds there, it would move to the bigger, richer Los Angeles market, the owners voted "no." Oakland went to court contending this was a violation of anti-trust laws—and won.

The verdict is on appeal but, however it turns out, Congress should give the league some help. This could be either an anti-trust exemption insofar as such questions as franchise-jumping are concerned, or a law that merely requires the courts to interpret anti-trust laws differently when dealing with an entity like the NFL.

A professional football club is not your basic garden variety industry. It can't go it alone. Without a league making decisions for the good of all clubs—scheduling, national broadcast arrangements, etc.—no club could be in business. The law ought to recognize that.

Our concern is that the Colts might seek greener pastures someday if the league can't insist on owner loyalty. It would be devastating to this city to lose the Colts. The economic benefits the club brings in are substantial. The intangible benefits to civic spirit are so large as to be immeasurable.

A number of members of Congress recognize this. They support a bill that declares "the public has an interest in preserving the stability in the relationship between professional sport teams and the communities in which they operate" and allows the league to keep franchises put. It also would allow the league to continue its practice of revenue sharing. Under this, teams all receive approximately the same revenue each year. This promotes both meritocracy and democracy. It's a wise practice that organized baseball ought to adopt.

Representative Parren Mitchell was an early co-sponsor of this bill. Yesterday, Representative Barbara Mikulski became a co-sponsor. Good for them both. They (and Mayor Schaefer) have been urging Maryland's two senators to support the bill. So far to no avail. That legislation of such importance to Baltimore and Maryland would not have the support of Senator Paul Sarbanes and, more especially, of Senator Charles Mathias, whose committee would write the legislation, is troublesome. Come on, senators. Get on the team.

[From the Seattle Post-Intelligencer, July 28, 1982]

SPORTS FRANCHISES COMMUNITY ASSETS

The California Supreme Court ruling this week in connection with the controversy swirling around the proposed move to Los Angeles of the Oakland Raiders was good news for all National Football League cities including Seattle.

The court ruled that the City of Oakland has the right if it chooses to exercise it to acquire the Oakland football team under its power of eminent domain. That's the power granted to governmental bodies to acquire private property if there is an overriding public interest in its acquisition.

Although it's doubtful that Oakland will pursue ownership of the Raiders, the ruling did serve to recognize a community-wide, public interest in retention of sports franchises.

A bill that would recognize such community interests throughout the nation and give them the force of law is presently before Congress. Known as the "Major League Sports Community Protection Act of 1982," it was introduced last month by Rep. Fortney H. Stark (D-Calif.)

Stark's bill would do two things—require that sports franchise owners obtain approval of a majority of their league members before abandoning communities, and encourage the sharing among league members of revenues from televison and other revenue sources to assure successful operations of teams in smaller and mid-sized communities.

Stark argues persuasively that taxpayers often have financial stakes in stadium facilities, as King County taxpayers do in the Kingdome, and he adds: "These professional sports teams serve vital interests in their communities and represent invaluable community assets. The teams are a source of deep; and lasting pride to the metropolitan areas in which they are located."

Well, not all teams are sources of "deep and lasting pride" each and every season, but Stark's point is well taken. His bill deserves serious congressional consideration.

MAYORS BACKING OAKLAND

Minneapolis (AP)—Mayors of cities with National Football League teams and some who wish they had professional sports teams organized on Monday to push for passage of a bill that would make it harder for owners to move teams.

Twenty-seven mayors attending the annual convention of the U.S. Conference of Mayors signed a resolution supporting a bill introduced in the House last month and aimed at blocking efforts to move the Oakland Raiders to Los Angeles.

"Such legislation would be helpful in preventing professional sports teams from abandoning cities which have expended large sums of money in attracting such teams to these cities," the resolution said.

The resolution also says cities that make big investments in luring teams would be unable to recover their money if teams pull out prematurely, leaving empty stadiums and big municipal debts behind.

Among signers were Mayors Dianne Feinstein of San Francisco, Robert Martinez of Tampa, Richard Berkley of Kansas City, Ernest Morial of New Orleans, Richard Caligiari of Pittsburgh, Samuel Halloin of Green Bay, Wis., Jane Byrne of Chicago, Jack Evans of Dallas and Lionel Wilson of Oakland.

The resolution was drafted after a meeting of interested mayors sponsored by the city of Oakland.

"What happened to Oakland could really happen to you," said Ray Ward, manager of the Oakland Coliseum.

Raiders owner Al Davis won a recent court decision in California which would allow him to move the team to Los Angeles. Oakland and the league are appealing the decision.

The House bill sponsored by Rep. Fortney H. Stark, D-Calif., would grant the league right of approval over franchise transfers, something that was knocked down in the court ruling, and guarantee the right to continue the practice of sharing revenue among the league's 28 teams.

Participants at the meeting were provided kits by Oakland containing copies of the bill and suggested letters to send to members of Congress in support of the bill.

NATURAL GAS PRICING

Mr. JEPSEN. Mr. President, I rise to express my disappointment in this so-called lameduck session of the Congress. We have assembled here to address many serious problems facing our Nation. We have debated the highway and bridge situation at great length, I think too long. We have debated the MX missile, and we have debated appropriations which we should have passed a year ago.

However, Mr. President, we have not addressed a very serious problem which our Nation faces, and that causes me great concern. We have failed to address the serious and economically disrupting problem of natural gas pricing.

This is a problem which affects millions of Americans. Early in the debate

on the so-called gas tax bill, we briefly touched on this subject. And much to my disappointment, the Senate declined to proceed on proposed solutions by myself and the distinguished Senator from Kansas, Mrs. KASSEBAUM. It was pointed out in that brief debate that this is a serious problem affecting low-income and middle-income Americans. This problem is here today. The solution to the problem is needed today. As I have said before, Americans have a right to expect that their energy conservation efforts and the natural forces of the marketplace work properly and fairly in their behalf. That is clearly not the situation now.

I commend the Appropriations Committee for including funds in the continuing appropriations resolution for low-income energy assistance. This helps to address part of the problem. But the situation extends far beyond that area to include middle-class Americans. They are in need of some form of assistance also. In doing this, we are addressing not the natural gas problem, but rather, one of the results of that drastic problem. In effect, Congress has once again proposed a solution to the symptoms rather than a solution to the problem. Skyrocketing natural gas prices are the problem. If we take action to control this, low-income energy assistance will become less necessary.

Rest assured, Mr. President, this problem will not disappear. In fact, it will in all likelihood get worse. I am therefore putting my colleagues on notice that I intend to reintroduce my natural-gas-pricing legislation during the 98th Congress and seek its early consideration.

TRIBUTE TO SENATOR HARRISON SCHMITT OF NEW MEXICO

Mr. STENNIS. Mr. President, one of the greatest adventures initiated in our time is the exploration of space. I had the privilege of participating in the initiation of the space program and have continued to follow the effort with great interest. We all recognize how much the great achievements of this program have contributed to the advancement of our Nation in science and technology. It is widely recognized that we as a nation have prospered in a positive, material way because of the discoveries and inventions which came out of the space program. But this program's greatest achievement is the contribution to the Nation's wealth in human capital. The thousands of men and women who participated in this program are a tremendous storehouse of knowledge and experience which will continue to serve our Nation for generations to come.

At the forefront of the men and women in the space program are those selected to serve as astronauts. They are men and women of exceptional courage and ability who are bonded by an experience which only a few have shared. One of these men is Senator HARRISON SCHMITT of New Mexico. A man with great intellectual ability; a man with great energy; a man recognized for his tenacity and spirit. He has distinguished himself as an astronaut and as a Member of the Senate. He is a leader for our future.

His special interest and experience in energy and science has made his contribution to the Nation as a Member of the Senate especially timely. His counsel and advice was extremely valuable during a very difficult period in the Nation's history. He has served New Mexico and the Nation well. I am confident in his ability and know that he will continue to serve and distinguish himself as a leader and citizen of our Nation. Certainly he has my good wishes and I wish him well in every way.

MESSAGES FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 436. Concurrent resolution relating to the enrollment of House Joint Resolution 631.

At 4:20 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6094) to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. GIBBONS, and Mr. FRENZEL as managers of the conference on the part of the House.

The message also announced that the House insists upon its disagreement to the amendments of the Senate to the bill (H.R. 5002) to improve fishery conservation and management; asks a further conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. BIAGGI, Mr. ANDERSON, Mr. BREAUX, Mr. STUDDS, Mr. SNYDER, Mr. MCCLOSKEY, and Mr. PRITCHARD as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, without amendment:

S. 717. An act for the relief of Carole Joy Maxfield-Raynor and Bruce Sherlock Maxfield-Raynor, wife and husband, and their children Charlton Bruce Maxfield-Raynor and Maxine Anne Maxfield-Raynor;

S 1364. An act for the relief of Jose Ramon Beltron Aivenda Ostler; and

S. 1838. An act for the relief of Cesar Noel Jump.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 135. Concurrent resolution instructing the Clerk to make corrections in the enrollment of H.R. 2330.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2481. An act for the relief of Cynthia Gambon Rabena; and

H.R. 5633. An act for the relief of Dana Bradford Baretto.

At 7:04 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House agrees to the amendment, in which it requests the concurrence of the Senate:

H.R. 3963. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated;

H.R. 5161. An act to designate certain lands in the Monongahela National Forest, W. Va., as wilderness; and to designate management of certain lands for uses other than wilderness; and

H.R. 7154. An act to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1978. An act to quiet title and possession with respect to a certain private land claim in Livingston Parish, La.

The message further announced that the House agrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, and 14 to the bill (H.R. 7173) to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations; and that the House agrees to the amendments of the Senate numbered 8 and 13 to the bill, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House recedes from its amendment to the bill (S. 1501) entitled the "Educational Mining Act of 1982".

The message further announced that the House has passed the following bills and joint resolution, without amendment:

S. 2955. An act to establish the Cheaha Wilderness in Talladega National Forest, Ala.;

S. 3103. An act to amend section 1304(e) of title 5, United States Code; and

S.J. Res. 270. Joint resolution to designate 1983 as the "Bicentennial of Air and Space Flight."

The message also announced that the House agrees to the following concurrent resolution, without amendment:

S. Con. Res. 136. Concurrent resolution providing for printing a report by the Joint Committee on Taxation.

The message further announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 4566) to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. GIBBONS, and Mr. FRENZEL as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4746. An act for the relief of Kin Chi Eng Sims; and

H.J. Res. 635. Joint resolution establishing the dates for submission of the budget and economic report.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 1735. An act to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 9:40 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 503) to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, N. Dak., and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes.

The message further announced that the House has passed the following bill and joint resolution, without amendment:

S. 3105. An act to modify the judicial districts of West Virginia, and for other purposes; and

S. J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1982 as "National Closed-Captioned Television Month."

The message also announced that the House insists upon its amendments to the amendments of the Senate to the bill (H.R. 3420) to authorize appropriations for fiscal year 1982 for carrying out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. JONES of North Carolina, Mr. BIAGGI, Mr. RODINO, Mr. SNYDER, and Mr. MCCLOSKEY as managers of the conference on the part of the House for title I of the amendment of the House to the bill; and appoints Mr. DINGELL, Mr. FLORIO, and Mr. LENT as managers of the conference on the part of the House for titles II through VIII of the amendment of the House to the bill and modifications committed to conference.

The message further announced that the House has passed the following joint resolution and concurrent resolution, in which it requests the concurrence of the Senate:

H.J. Res. 636. Joint resolution directing the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia; and

H. Con. Res. 437. Concurrent resolution expressing the sense of the Congress concerning the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia.

The message also announced that the House agree to the amendment of the Senate to the following bills:

H.R. 9. A bill to designate components of the National Wilderness Preservation System in the State of Florida; and

H.R. 7102. A bill to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor, and for other purposes; and

H.R. 7159. A bill to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3731) to amend the Act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission of the Court of Claims; and

H.R. 4001. A bill to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 11:04 a.m. a message from the House announced that the House Speaker has signed the following enrolled joint resolution:

H.J. Res. 631. Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year ending September 30, 1983, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS SIGNED

At 11:40 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

S. 187. An act to authorize the Secretary of the Interior to convey certain lands near Miles City, Mont., and to remove certain reservations from prior conveyances;

S. 3113. An act to make certain minor and technical amendments to the Job Training Partnership Act;

H.R. 1952. An act authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1983, 1984, and 1985, and for other purposes;

H.R. 5204. An act to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians;

H.R. 6588. An act to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes;

H.R. 6946. An act to amend title 18 of the United States Code to provide penalties for certain false identification related crimes;

H.R. 7144. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes;

H.R. 7155. An act to settle certain Indian land claims within the State of Florida, and for other purposes; and

H.R. 7377. An act to designate the Lakeview Lake project, Mountain Creek, Tex., as the "Joe Pool Lake."

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

At 11:53 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5002) to improve fishery conservation and management;

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3809) to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel,

to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 438. Concurrent resolution providing for the sine die adjournment of the 97th Congress.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2481. An act for the relief of Cynthia Gambon Rabena; to the Committee on the Judiciary.

H.R. 4746. An act for the relief of Kin Chi Eng Sims; to the Committee on the Judiciary.

H.R. 5633. An act for the relief of Dana Bradford Baretto; to the Committee on the Judiciary.

ENROLLED BILLS PRESENTED

The Secretary reported that on today, December 20, 1982, he had presented to the President of the United States the following enrolled bills:

S. 1340. An act to provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes;

S. 2611. An act to amend the Peace Corps Act; and

S. 3073. An act to provide for the distributions within the U.S. Information Agency Film entitled "Dumas Malone: A Journey With Mr. Jefferson."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1730. A bill entitled the "Freedom of Information Reform Act" (with supplemental views) (Rept. No. 97-690).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRESSLER:

S. 3120. A bill to repeal employer reporting requirements with respect to tips; to the Committee on Finance.

By Mr. HART:

S. 3121. A bill entitled the "Joint Research and Development Ventures Act."; to the Committee on the Judiciary.

By Mr. JEPSEN:

S. 3122. A bill to prohibit the use of Federal financial assistance for political advocacy; to the Committee on Governmental Affairs.

By Mr. COHEN:

S. 3123. An bill to give priority to conserving the biological integrity and genetic diversity of naturally spawning populations of anadromous fish and to make improvements in the Fish and Wildlife Coordination Act; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOSCHWITZ:

S. Res. 524. A resolution to express the sense of the Senate that the Secretary of Agriculture use his existing authorities to export surplus dairy products; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER:

S. 3120. A bill to repeal employer reporting requirements with respect to tips; to the Committee on Finance.

REPEAL OF TIP INCOME REPORTING REQUIREMENTS

Mr. PRESSLER. Mr. President, today, I am introducing legislation to repeal the tip income reporting requirements contained in the Tax Equity and Fiscal Responsibility Act (TEFRA).

I opposed the tip income provisions during the passage of TEFRA. Since that time, I have only become more alarmed at the possible effects of this legislation.

As chairman of the Business, Trade, and Tourism Subcommittee, I believe that the burden on our tourism industry is simply too large. Tourism is the second most important industry in my home State of South Dakota, and during these difficult economic times no industry is in need of further regulation which would harm business.

In addition, I have heard from many waitresses in South Dakota. They have formed a grassroots movement to see this legislation repealed. They feel, and I believe justly, that they will suffer the most as a result of the tip income requirements.

These requirements presume that each and every waiter or waitress makes at least 8 percent in tips for his or her services. This may be a very conservative estimate by Washington standards, but in rural South Dakato it is nothing short of outrageous.

South Dakota waitresses have estimated that their tips amount closer to 4 percent. This means that South Dakato waitresses will be paying taxes on money they have not even made. I think that we would all agree that such a situation is not in the best interest of anyone. It is particularly punitive to a group of employees who are not making a great deal of money in any case.

The tip income legislation would also be a burden on small restaurants of South Dakota. For these small businesses, the reporting requirements will be particularly onerous. The language of the requirements stipulate that only "large restaurants" would be subject to this law. However, the law defines as "large" a restaurant having more than 10 employees. When you count up cooks, waiters, busboys, bartenders, et cetera, it is easy to see that 10 employees are very few and would in fact indicate a very small establishment.

I believe that increasing taxpayer compliance is a very commendable goal. However, tax laws regarding nonpayment of tip income prior to passage of TEFRA were already sufficient if enforcement was not. I would prefer to see more efficient efforts by the IRS to find those not reporting tip income rather than possibly taxing honest taxpayers for money they did not receive.

I ask unanimous consent that the text of my bill be printed in its entirely in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3120

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That Section 314 of the Tax Equity and Fiscal Responsibility Act of 1982 is hereby repealed.

By Mr. HART:

S. 3121. A bill entitled the "Joint Research and Development Ventures Act"; to the Committee on the Judiciary.

JOINT RESEARCH AND DEVELOPMENT VENTURES ACT

● Mr. HART. Mr. President, I am today introducing the Joint Ventures Research and Development Act with the cosponsorship of Senator CHARLES MATHIAS. This legislation is designed to encourage more efficient use of our Nation's research and development funds by facilitating the development of joint venture R&D activities.

This bill is needed because the high and increasing cost of many large-scale complex R&D projects is slowing our investment of pure, state-of-the-art research. Technology has been a key driving force behind the unprecedented growth the United States has enjoyed during this century. But today, we can no longer rely solely on intracompany R&D efforts to achieve continued pushing back the technological frontier. Indeed, the only way that many such projects can be afforded is by a pooling of resources and scientific and technical talent through R&D joint venture efforts.

Currently, such efforts are hindered or blocked altogether by the treble damages provision of the Antitrust Code and the great uncertainty with regard to the conditions under which legal R&D joint venture activities may be conducted. The result is that very

few business leaders dare commit their company to participating in an R&D joint venture.

PROVISIONS ON THE BILL

The primary purpose of this bill is to specify a set of objective criteria under which a R&D joint venture activity would be judged legal. This would greatly diminish the uncertainty and, hence, a company's perception of the risk involved in participating in such a venture.

The thrust of the legislation would be to clarify the explicit legality of joint ventures. But it would not restrict the ability to initiate a suit alleging antitrust violations of any kind against a joint R&D venture. All individuals participating in the venture would be subject to all the existing conditions of the antitrust laws. If, for example, the participants of a venture engaged in price fixing, those participants could be sued. The venture and its participants would be libel for treble damages of any antitrust activity that stems from the venture or its individual participants.

The bill would allow joint ventures to be formed through a self-certification process, monitored by the Department of Justice. A company found in violation of the qualifications set forth in this legislation would be ordered by Justice to either disband and discontinue activities or take corrective measures to bring the venture back within the confines of the qualifications.

The criteria for self-certification would include:

All projects would be of a pure research nature. No product development or design would be allowed.

All participants would have to pay equal shares of the cost associated with the project and would derive equal benefits.

Any company which wished to join the venture could not be excluded, with the exception of a company that accounted for 25 percent of the world market of its goods for any one of the 3 years preceding the venture and where their participation would bring the total world market share of all partners above 50 percent. This particular component of the present language may pose some potential problems with existing Antitrust Codes, and could be further clarified in debate on the legislation.

Notification of the venture would be made to the Department of Justice under section 553 of title 5 of the United States Code. The notification would include the names of all participants, description of the nature of the project, projected duration, explicit exposure of any agreements between partners with regard to the project, and a detailed statement of compliance with the qualifications as set forth in this legislation.

If new technologies or knowledge are developed through the joint venture, it would be required, upon completion of the project and when proper legal patents are secured, to sell the information at an acceptable and reasonable rate to other companies and businesses that did not directly participate in the project.

Based on my discussions with business leaders, I believe this kind of legislation is vitally needed as part of an overall strategy to enhance our economic vitality and ability to develop innovative technologies. The time has come to take action on this issue, and I hope that Congress will move swiftly to put into place one strategic element for our country's industrial revitalization.●

By Mr. JEPSEN:

S. 3122. A bill to prohibit the use of Federal financial assistance for political advocacy; to the Committee on Governmental Affairs.

FINANCIAL ASSISTANCE FOR POLITICAL ADVOCACY

● Mr. JEPSEN. Mr. President, I submit the attached bill, the "Tax Funded Advocacy Act of 1982," in order to bring a serious misuse of tax dollars to the attention of my colleagues for future debate. This bill may need some minor alterations but the principles of preventing the use of taxpayer dollars from advocating political philosophy is clear. By opening the forum for debate, I believe we can address this problem and prevent future misuse of the dollars that have been entrusted to us by our constituents.

In addition, I ask unanimous consent that the two attached articles, one from the Washington Post and one from the Washington Times, be included in the CONGRESSIONAL RECORD preceding the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tax Funded Advocacy Act of 1982".

SEC. 2. The Congress finds that—

(1) whereas the Constitution and the Bill of Rights protect the rights of all citizens to be free from government financed propaganda, State religion, and the imposition of the views of one faction by the government, in whatever manner;

(2) whereas Thomas Jefferson, in the Virginia Declaration of Religious Liberty of 1777, said, "To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical.";

(3) whereas the function of government under the Constitution is a limited power, restrained by the tenth amendment, to reside in the people and their local government, there is no need for the advocacy and speech of factions to be subsidized in any manner whatsoever by the Federal Government;

(4) whereas the first amendment protects the speech and ideas of all citizens, it is unconstitutional for the Federal Government to promote political factions with taxpayer dollars;

(5) whereas the separation of church and State forbid the mingling of subsidies which even indirectly contribute to the ideological purposes of sects and religions, the same doctrine commands the integrity of government can only be maintained with a similar policy in matters of secular culture, political parties, parapolitical organizations, by those trying to affect public policy by lobbying legislature, affecting public opinion on matters of government policy, supporting others with financial and political influence with government resources, and in any way furthering one ideology with the tax dollars extracted from taxpayers by the Federal Government; and

(6) wherefore the Congress of the United States finds that henceforth the policy of Federal Government will be one of abject neutrality in so far as political factions may attempt to derive their income and sustenance from the Federal Treasury, allowing none to use the powers of taxation for private ideologies, religious views or sects, in any form whatsoever.

SEC. 3. (a)(1) No Federal funds may be disbursed directly or indirectly by grant, (contract, loan, cooperative agreement, or by any similar means whatsoever,) to any person who engages in advocacy or who is allied (either by common officials, personnel, resources, or in any other way) to any organization which engages in advocacy.

(2) No funds in any form which are received from the United States or from one of its instrumentalities or agents, may be used for lobbying or advocacy.

(3) Only enterprises incorporated as nonprofit under Internal Revenue Service rules are covered by this Act.

(b) DEFINITIONS.—For the purposes of this Act—

(1) "Advocacy" includes, but is not limited to lobbying, travel, propaganda, union activities, training, networking, publication, dues paying, holding or attending conferences, and other activities intended in any way to influence public policy formation or to advance particular viewpoints with the Congress or any legislative body, administrative office or administrative individuals, litigation, or the general public.

(2) "Lobbying" means any activity to influence (with respect to legislation, regulations, executive pronouncements, judicial decisions, and all other pronouncements and decisions, formal and informal, which bear on matters of public policy) officers or employees of the executive, legislative, or judicial branches of either the Federal Government, of State or local government at any level. Moreover, any activity to procure legislative decision on matters of appropriated dollars which benefits the recipients is a violation of this statute.

(3) "Propaganda" includes any activity which would be reasonably expected to have the effect of influencing opinion in support of or in opposition to any question of public policy or organizational activity.

(4) "Training" means activities related to influencing public policy formation of the advancement of particular viewpoints, or any concerted action to further grass roots lobbying on matters of public policy or public issues.

(5) "Networking" includes activities intended to aggregate resources and further organizational cooperation in the context of

influencing public policy formation or advancing particular viewpoints.

(6) "Publication" means the preparation, production, and distribution of writings, films, radio, television, and telephone communications, books, pamphlets, journals, newsletters, newspapers, articles, public appearances, press interviews, and other communications related to public policy formation and/or the advancement of particular viewpoints on issues of public policy.

(7) "Dues paying" includes direct and indirect, cash and in kind, financial support or endorsement tendered to organization or individuals engaged in advocacy and includes the purchase, lease, or rental of services, products, publications, subscriptions, which either directly or indirectly are intended to subsidize the advancement of matters of public policy, and/or public opinion. No recipient of Federal dollars may launder funds or contribute them to any organization or individual which could not certify as to its own lack of advocacy and present intent to refrain from engaging in advocacy. Recipients of Federal funds from any intermediary are subject to all provisons of the Act.

(8) "Holding or attending conferences" includes, but is not limited to, participation in meetings, either in person or by electronic communications, which have as their purpose, in whole or in part advocacy as herein defined.

(9) "Union activities" include any direct or indirect assignment of human, material, or financial resources to aid or hinder union activity.

(10) "Travel" means any movement beyond a fifty-mile radius of a funded organization's established offices, using the organization's funds, when such movement relates in any way, directly or indirectly, to advocacy, training, propaganda, lobbying, networking, publication, conference attending, dues paying, or any of the other activities prohibited by this Act.

(11) Litigation includes class action suits or amicus curiae briefs. No legal fees may be paid from any government source whatsoever in excess of the wage rate paid to civil service lawyers for legal fees to any person receiving Federal funds as described herein.

(12) "Recipient" means any person who receives any funds, directly or indirectly by grant, loan, contract, or cooperative agreement administered by the Government of the United States, as defined in Section 3(a)(3).

SEC. 4. ENFORCEMENT.—

(1) All recipients of Federal funds by grant, contract, loan, or any other means shall certify to the granting agency, as a prior condition to consideration of their funding, that they do not presently and will not in the future engage in advocacy, as defined in this Act.

(2) All government officials, independent corporations, agents, or anyone disbursing Federal funds by grant contract, loan, cooperative agreement, or any similar means, shall be responsible for establishing, prior to any consideration of funding, that all applicants for Federal funds subject to their consideration, do not presently, and will not in the future engage in advocacy.

(3) In addition to an action entitled to be brought under this section, the United States or an appropriate instumentality thereof, shall have a civil cause of action against any person who has unlawfully expended, or is or has been in possession or control of monies expended by any person in violation of the provisions of this Act, and shall be entitled to recover an amount equal to three times the amount so expended, possessed, or controlled.

(4)(A) Whoever, being an officer or employee of the United States, or of any agency or other instrumentality thereof, or an officer or employee of any corporation chartered by the United States, or of any "recipient" (as defined in section (2 of this Act, intentionally violates any provision of this Act, shall be fined not more than $10,000 or imprisoned not more than six months, or both.

(B) Whoever, being an office or employee of the United States, any agency or other instrumentality thereof, or an officer or employee of any corporation chartered by the United States, or of any "recipient" (as defined in section (2 of the Act) negligently violates any provision of this Act shall, upon such a finding by the appropriate district court of the United States, be subject to such personnel action as his employer, in his sole discretion, shall determine to be appropriate.

(C) Whoever makes a material statement that he knows is false in connection with any certification submitted under this section shall be fined not more than $10,000, imprisoned not more than two years, or both.

(D) Any interested person shall have a civil cause of action on behalf of such person and on behalf of the United States or an appropriate instrumentality thereof, against any person violating the provisions of this Act in an appropriate district court of the United States, and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of $1,000 or of $100 per day for each day of violation, whichever is greater;

(b) in the case of a judgment entered on behalf of the United States or of any instrumentality thereof, three times the damages sustained by the United States or the instrumentality;

(c) such equitable relief as the court shall deem appropriate;

(d) in the case of a recipient, an order disbarring such recipient from direct or indirect receipt of any funds from the United States or any agency or instrumentality thereof;

(e) a reasonable attorney's fee and other investigation and litigation costs reasonably incurred;

(f) punitive damages; and

(g) in the case of an individual acting on behalf of the United States or an instrumentality thereof, an amount not to exceed 10 per centum of all moneys recovered on behalf of the United States or the instrumentality.

(5) Self certification by recipients with respect to noninvolvement in advocacy activity is required prior to any renewal or extension of contract, grant or loan, or any other provision of funds. Any intentional misrepresentation with respect to the self certification requirement shall constitute a felony, punishable by a fine up to $10,000 per offense, or a prison term not to exceed two years per offense.

(6) Prosecution for violation of this Act will extend to all employees of the Federal Government, federally chartered corporations, as well as officers and employees of recipient organizations.

(7) Whoever fails to comply with an order by the United States Department of Justice—

(A) to appear at a specified time and place as a witness in an official proceeding arising under the provisions of this Act;

(B) to remain at a specified place where he is to appear as a witness in an official proceeding arising under the provisions of this Act;

(C) to be sworn or to make an equivalent affirmation as a witness in an official proceeding arising under the provisions of this Act;

(D) to answer a question in the course of an official proceeding arising under the provisions of this Act, or to produce a record document, or other object material to such proceeding, shall be subject to a civil penalty not to exceed $10,000 for each violation. Any agency or instrumentality of the United States responsible for the disbursement of funds shall, as a condition of disbursing such funds—

(A) require that every recipient certify to such agency or instrumentality that such recipient is nor engaged in advocacy and will not engage in advocacy;

(B) require that every renewal or extension of Federal funds to any recipient contain certifications described in subsection (a) of this section;

(C) require that the officers, agents, and employees of such agency or instrumentality establish procedures necessary to guarantee that no recipient is engaged in or will engage in advocacy;

(D) require that all recipients submit such reports as the agency or instrumentality determines to be reasonably necessary to assure compliance with this Act;

(E) conduct such audits as are necessary to insure compliance with the provisions of this Act;

(F) require that any application for funds contain such information as the agency or instrumentality determines to be necessary to insure compliance with the provisions of this Act.

(8) Any violation of this statute shall be the basis of total disbarment of Federal benefits from any source or agreement whatsoever.

[From the Washington Post, Apr. 26, 1982]

FINANCING THE LEFT?

Is the federal government financing the left? Yes, says the April issue of Conservative Digest, published by New Right direct-mail king Richard Viguerie. "Cold bureaucrats and committed leftists," the magazine tells us, are "working hand-in-glove to achieve their political and social goals—using your tax dollars."

There is something to these charges. The magazine has its lists of foolish-sounding research projects. It seems to have come up with some examples of government subsidization of political advocacy—a business government certainly should not be in. And it is surely correct in suggesting that there are many buddy systems, of grant givers and grant recipients, spending tax dollars in ways many—perhaps most—taxpayers wouldn't like.

When you look in more detail at many of the charges Conservative Digest makes, however, you get a different and much less objectionable picture than its headlines suggest. Many of the organizations that receive the largest sums receive them as contractors performing services successive congresses and presidents have said they wanted performed and for which they have consistently appropriated money. Examples are the monies the government pays Planned Parenthood for providing family planning services and the National Council of Senior Citizens for administering "senior aide" employment programs. These organizations

take care to separate these government-financed activities from the programs they finance with money they raise from private sources; they are audited regularly and in enough depth that, in the case of Planned Parenthood, there have been charges of harassment by audit.

The programs they administer have received political scrutiny and have survived largely intact. Reagan administration proposals last year to merge family planning and "Senior aide" programs into block grants were rejected by Congress; administration proposals this year to "zero" them out have not been accepted. Congress has voted to continue the legal services program. Conservative Digest's quarrel, then, is not so much with federal bureaucrats who defy the law—though there may be a few of them—as it is with Congress, which declines to change the law. The "funding of the left" is not a public scandal but a political issue.

As a political issue it is, of course, debatable. We can expect that the Reagan administration will "defund" some organizations its supporters dislike. And on a broader level, we agree that there is something disturbing about organizations that strongly advocate positions many sensible people find politically or morally repugnant, acting at the same time as administrators of government programs. It is easy to believe that the advocacy groups' employees will sometimes proselytize the program's beneficiaries in ways we would consider inappropriate (though not unheard of) for a civil servant. Advocacy organizations might also want to ask themselves whether they risk compromising their own purposes by accepting government money, and whether they want to assume the inevitable risk that it might be withdrawn suddenly for legitimate political reasons. This is not an area you should rush into with a set of hard and fast rules. But Conservative Digest, though it does not prove all it claims, raises some difficult questions that thoughtful people of right, left and center should ponder.

[From the Washington Times, Nov. 11, 1982]

FUNDING THE LEFT WITH TAX MONEY

(By Allan Brownfeld)

Although most Americans do not know it, one reason for our high tax burden is the fact that the U.S. government has, for many years, been in the business of subsidizing private organizations which seek to impose their own radical political agenda upon the country.

Consider some of the uses being made of our tax dollars:

New Ways Ministries of Mount Rainier, Maryland received $18,416 to study "the coming out process and coping strategies of gay women" from the Department of Health and Human Services (HHS). In 1979-80, HHS gave $167,724 to the California State University at San Francisco's Center for Homosexual Education, Evaluation and Research to study "civil liberties and sexual orientation."

Planned Parenthood, which urges abortion on demand and abortion referrals for teenagers without telling their parents, received $12.8 million in tax dollars—more than half of its budget. Planned Parenthood affiliates operated 36 abortion clinics and performed 75,000 abortions. In addition, Planned Parenthood used taxpayers' funds to advocate sex education in the public schools based on the Swedish model, preaching value-free "reproductive freedom."

In a pamphlet, entitled The Great Orgasm Robbery published by Rocky Mountain Planned Parenthood in 1977 it is written: "Sex is fun and joyful . . . and it comes in all types and styles, all of which are OK. Do what gives pleasure and enjoy what gives pleasure. Don't rob yourself of joy by focusing on old-fashioned ideas."

VISTA gave $792,156 to the Youth Project, a self-described "tax-exempt foundation which supports a wide range of grassroots social change efforts." The Youth Project gave cash and technical support to the Nevada Uranium Project, which opposes nuclear power and the basing of the MX missile in Nevada. It gave funds to the radical American Indian Movement's Freedom for Survival Group and to the California Indian Land Acquisition Project, which seeks to reclaim large portions of California for Indian ownership. This group, using taxpayers' funds, has sued to place land in San Diego and Yosemite National Park under Indian control.

In 1981, the Department of Education gave PUSH, headed by the Rev. Jesse Jackson, $656,644. President Reagan's then-Assistant Education Secretary Vincent Reed called PUSH's accounting system unstable and "not adequate to safeguard assets." Two studies by the department had severely criticized PUSH's handling of federal funds. "This does not add up to a program," said one study. While receiving federal funds, Jesse Jackson has engaged in partisan political activity. He was a major participant in the anti-Reagan Solidarity Day and is lobbying for more food stamps, more welfare, and less defense spending.

Legal Services is giving tax dollars to 325 private legal groups that are accountable only to themselves. The governor of Pennsylvania blames Community Legal Services of Philadelphia for helping to cause violence at Graterford prison in October and November, 1981. Thirty persons were held hostage by a three-time killer, who was returned to the general prison system as a result of a 1975 Legal Services suit. "Never again should government permit 'cause' groups . . . to place the purported rights of vicious criminals above the safety of law officers," said Gov. Richard Thornburgh. This was a typical case of Legal Services working against not for the public interest.

The anti defense lobby is largely being supported by taxpayer funds. The American Friends Service Committee, which urges unilateral American disarmament, received a total of $596,092 in federal funding during 1980. The National Council of Churches received $435,775 from the Department of Labor in 1980. The Marxist-led U.S. Student Association received $107,630 from the Department of Education.

It is high time that such funding of partisan political organizations be brought to an end. To use our tax dollars to finance social and political ideas with which we may disagree is an abuse of government power. This was understood by Thomas Jefferson who, in the Virginia Declaration of Religious Liberty of 1777, declared: "To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical."

If the National Council of Churches and Planned Parenthood and Operation PUSH and the others want to advance their opinions they have every right in a free society to do so. They should solicit funds from those who agree with their views and engage in the free and open debate of the marketplace of ideas. They have no right, however, to use government funds in this pursuit.

President Reagan once seemed to understand all of this. Under his administration, however, such radical groups continue to be funded by the government. The Legal Services Corporation, which has been fomenting radical litigation with taxpayers' money for years, will not be abolished by President Reagan but will be continued.

Rather than end the subsidization of radical political groups, David Stockman, the director of the Office of Management and Budget, issued a memorandum on April 26 to the heads of U.S. departments and agencies. Discussing this memorandum. Howard Phillips, chairman of Conservative Caucus and former head of O.E.O., declared: "The memorandum indicates that the administration will continue to award grants and contracts . . . Thus, political advocacy groups may continue to receive . . . awards. This decision by David Stockman fails to deal with the civil liberties concerns of millions of Americans who voted for conservative government in the 1980 election and are outraged to see federal grants and contracts go, as a matter of administrative discretion, to liberal activist groups which oppose the basic public policy changes for which Ronald Reagan compaigned."

Why does this administration continue to finance those whose goal for the future of American is radically different from the stated principles and purposes for which it was elected? The president has it within his power to end the funding of the left whenever he resolves to do so. If he does not, he will find his enemies increasingly strong and vocal—using tax dollars to fuel their increasing destructive efforts.●

By Mr. COHEN:

S. 3123. An act to give priority to conserving the biological integrity and genetic diversity of naturally spawning populations of anadromous fish and to make improvements in the Fish and Wildlife Coordination Act; to the Committee on Commerce, Science, and Transportation.

ANADROMOUS FISH CONSERVATION AND PROTECTION ACT OF 1982

● Mr. COHEN. Mr. President, today I am introducing a bill that would conserve the biological integrity and genetic diversity of the naturally spawning populations of anadromous fish that originate in the rivers and streams of the United States.

The purpose of this legislation is to focus national policy on the importance of our naturally spawning anadromous fish stocks and on the necessity of assuring that the health and viability of this resource is sustained. By providing language that would coordinate several existing fishery-related laws, this bill would accomplish that purpose.

The House Committee on Merchant Marine and Fisheries' report on the Anadromous Fish Conservation Act authorization for fiscal year 1983, explains that the U.S. commercial harvest of salmon generated between $700 million and $1 billion to the U.S. economy in 1980. The recreational fishery for salmon and steelhead trout gener-

ated $73 million in the States of Oregon and Washington alone.

In Maine, our Atlantic Sea-Run Salmon Commission estimates that one pound of sport-caught salmon brings between $50 and $100 to the economy. Since 1947, when this commission was created to enhance the salmon population by the Maine State Legislature, the amount of watershed habitat where salmon can be found has increased from 462 square miles to 9,000 square miles.

Today, the annual run of salmon returning to Maine rivers and streams is estimated at over 7,000 fish. This represents an increase in the salmon population of over 300 percent since the commission began their conservation efforts in 1948 when a population of 1,500 fish was estimated.

The most important tool that the Atlantic Sea-Run Salmon Commission has employed in realizing these successes is the salmon hatchery program. The responsibilities for this effort are shared between the Commission and the U.S. Fish and Wildlife Service.

Hatchery fish provided by the Fish and Wildlife Service are offspring of the wild stocks that have been returning to Maine's rivers and streams for centuries. As I have described, this population is thriving. The purpose of the bill that I am introducing today is to make sure that the integrity of all of this country's anadromous fish resources is protected by similarly responsible hatchery programs whether they are run by government or by private industry.

Mr. President, the salmon, like all species of anadromous fish, is a unique creature, and one that is specially adapted to survive a particularly rigorous existence.

In Maine, due in great part to the success of the Salmon Commission, thousands of Atlantic Salmon return each fall to our rivers and streams to spawn. These remarkable fish have endured many perils during their adult lives at sea. These include predatory birds, seals, commercial fishermen, and fly fishermen who crowd the banks of the mouths of the rivers where the returning fish, after migrations of thousands of miles, mill about before beginning their arduous passage upstream to the places of their births.

After their return, spawning begins. The spawning process takes about 2 weeks. Afterwards, in smaller rivers and streams, many adult salmon return to the sea; in larger rivers, the spent adults usually over winter in lakes or in deadwater areas before making their way offshore for another year. These returning fish have gone a long time without feeding and are in very poor physical condition. In most years, only about 1 in 10 fish return to spawn for a second time, even fewer return to spawn for a third time.

Mortalities at sea are very high. An average female salmon may produce 71,000 eggs. Of these, 100 live to return to sea as adults after spending 2 to 3 years in the freshwater streams where they were hatched, and only 2 or 3 of these fish return to spawn. Under the best possible situation, salmon have only a 0.5 percent chance of survival to maturity.

Anadromous fish need to be protected against the introduction of disease and genetic inefficiences which may result from the irresponsible release of inferior hatchery fish or fish which originated outside of the wild stock's habitat. By introducing inferior individuals into the breeding stock, the long run result would be the decline, and perhaps the ultimate extinction of this valuable national resource.

If we do not insure that a coordinated system of regulation is provided to protect our naturally occuring anadromous fish populations, all of the efforts that have been made to protect and enhance these fish stocks would become a tragic waste of time and money.

The problems of our anadromous fishery resource are problems that require a broad range of international, Federal, State, and private coordination and expertise.

The Atlantic salmon, for instance, migrates from Connecticut to Greenland and back. These fish, which originate in U.S. rivers and streams, are intensely harvested by Canadian and Greenland fishermen. It has long been a goal of Federal fisheries management that stocks such as these should be managed throughout their range to provide for their conservation.

Mr. President, in September, the Senate voted to accept the Convention for the Conservation of Salmon in the North Atlantic Ocean which provides for international management of salmon and will be a useful conservation tool. The Atlantic Salmon Convention Act of 1982, which would provide for U.S. participation under the Salmon Treaty, is ready for Senate approval and I urge the leadership to bring the bill to the floor for a vote, before the end of this session, so that the long sought goal of management of this important resource, throughout its range, can be attained.

I am encouraged that the salmon treaty will work for the international protection of this remarkable fish. I am also encouraged that the proposed amendments to the Magnuson Fishery Conservation and Management Act, (MFCMA) which are found in S. 2450 will emphasize the importance of our anadromous fishery resources by requiring that all the fisheries management plans, developed by any of the eight regional management councils, "assess and specify the effect which * * * the plan will have on the stocks of naturally spawning anadromous fish in the region."

Mr. President, S. 2450 is also ready for Senate consideration and I urge the leadership to bring this bill to the floor for a vote before the end of this session.

The legislation that I am introducing today would go a step further than S. 2450 goes, regarding the MFCMA, by requiring the regional councils, when considering management plans that would impact upon anadromous fish stocks, to conserve and protect the biological integrity of, and genetic diversity represented by, each naturally spawning stock of anadromous fish. The bill is also designed to provide this conservation consideration under the—

Salmon and Steelhead Conservation and Enhancement Act of 1980,

Anadromous Fish Conservation Act,

Dingell-Johnson Fish Restoration Act,

Commercial Fisheries Research and Development Act of 1964,

Fish and Wildlife Coordination Act,

Columbia River Initiative, and

Pacific Northwest Electric Power Planning and Conservation Act.

Mr. President, a responsible, coordinated management effort is essential if this country is to protect, and enhance, our valuable anadromous fish resource. We are making some progress toward this goal but greater consideration of the complexities involved in such an effort is necessary. The legislation that I am introducing today would require the consideration of the biological and genetic complexities of the hatchery-rearing of anadromous fish to be used in enhancing our naturally occurring wild stocks. I believe that this is an essential part of responsible fishery management.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Anadromous Fish Conservation and Protection Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) Congress finds that—

(1) through homing instincts and natural selection, discrete populations of anadromous fish have evolved genetic diversity that ensures the greatest likelihood of their survival under the particular conditions of their home environments;

(2) the biological integrity and genetic diversity of individual populations of fish that have adapted to different environments are essential to the survival of the species to which they belong;

(3) anadromous fish stocks produced by hatchery systems are frequently characterized by marked fluctuations in abundance and are maintained only through constant

human intervention, high energy requirements, and high economic costs;

(4) artificial propagation of large numbers of hatchery fish produced from narrow genetic base has created populations that are vulnerable to disease, competition, predation, fluctuations in physical environments, and changes in budget priorities;

(5) in the past, indiscriminate releases of hatchery-produced fish into streams have adversely affected the survival of naturally spawning populations; and

(6) the most practical and economical means of preserving a species is to protect those inherited traits that assure the biological integrity and maintain the genetic diversity of individual naturally spawning populations of fish.

(b) The purpose of this Act is to provide for the conservation and protection of naturally spawning populations that have adapted to the unique and diverse environments into which they are born by preserving their biological integrity and genetic diversity.

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

SEC. 3. (a) Section 303 (a) of the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1853 (a)) is amended by adding at the end thereof the following: "With respect to a fishery having species of anadromous fish, excluding lampreys, the conservation and management measures of the fishery management plan shall be designed to conserve and protect the biological integrity of, and genetic diversity represented by, each naturally spawning population of such species originating in a specific river or lake. Such measures shall include standards for managing spawning escapements for each such population and the management of harvests consistent with such standards throughout its migratory range. Such measures shall not apply to a naturally spawning population if the affected Federal, State, and tribal managers agree that such population should be so exempt, notify the appropriate Council in writing of such agreement and the reasons for it, and include such reasons in the plan. For purposes of this subsection, the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces; the term 'genetic diversity' means the genetic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reproduces; the term 'naturally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.".

SALMON AND STEELHEAD CONSERVATION AND ENHANCEMENT ACT OF 1980

SEC. 4. (a) Section 120(d)(2) of the Salmon and Steelhead Conservation and Enhancement Act of 1980 (Public Law 96-561; 16 U.S.C. 3321(d)(2)) is amended to read as follows—

"(2) conserve and protect the naturally spawning populations of salmon and steelhead and their biological integrity and genetic diversity by such means as may be necessary, including, but not limited to, establishing policies for managing spawning escapements for each naturally spawning population and minimizing significant adverse interaction, including competition, between naturally spawning and artificially propagating stocks;".

(b) Section 120(d) of such Act is further amended by adding at the end thereof the following: "For purposes of clause (2), the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces; the term 'genetic diversity' means the genetic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reproduces; the term 'naturally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.".

ANADROMOUS FISH CONSERVATION ACT

SEC. 5. Subsection (a) of the first section of the Anadromous Fish Conservation Act (Public Law 92-362; 16 U.S.C. 757a(a)) is amended by adding immediately after the first sentence the following new sentence: "Such agreements shall include as their primary goal the conservation and protection of the naturally spawning populations of such fish and their biological integrity and genetic diversity. For purposes of the preceding sentence, the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces; the term 'genetic diversity' means the genetic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reproduces; the term 'naturally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.".

DINGELL-JOHNSON FISH RESTORATION ACT

SEC. 6. Section 2 of the Act of August 9, 1957 (commonly known as the "Dingell-Johnson Act" (64 Stat. 431; 16 U.S.C. 777a)) is amended by adding at the end thereof the following: "Each fish restoration and management project applicable to anadromous fish shall be designed to conserve and protect the naturally spawning populations of such fish and their biological integrity and genetic diversity. For purposes of the preceding sentence, the term 'anadromous' refers to those species of fish, excluding lampreys, that are born in freshwater lakes or streams, migrate to the sea of the Great Lakes, and then return as adults to the lakes or streams of their birth to reproduce; the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces; the term 'genetic diversity' means the genetic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reproduces; the term 'nationally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.".

COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964

SEC. 7. (a) Section 6(a) of the Commercial Fisheries Research and Development Act of 1964 (Public Law 86-797; 16 U.S.C. 779d(a)) is amended by adding at the end thereof the following new sentence: "No project involving anadromous fish may be approved by the Secretary under this section unless the project includes appropriate measures to conserve and protect the naturally spawning populations of such fish and their biological integrity and genetic diversity.".

(b) Section 6(a) of such Act is further amended by inserting "(1)" after "(a)" and adding at the end thereof the following new paragraph:

"(2) For purposes of this subsection—

"(A) the term 'anadromous' refers to those species of fish, excluding lampreys, that are born in freshwater lakes or streams, migrate to the sea or the Great Lakes, and then return as adults to the lakes or streams of their birth to reproduce;

"(B) the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces;

"(C) the term 'genetic diversity' means the genetic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reproduces;

"(D) the term 'naturally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and

"(E) the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.".

SIKES ACT

SEC. 8. Section 205(6) of the Act of September 15, 1960 (commonly known as the Sikes Act (Public Law 96-797; 16 U.S.C. 670k (6))) is amended by adding immediately before the last sentence the following new sentence: "Such methods and procedures shall also, in the case of anadromous fish, conserve and protect the naturally spawning populations of such fish and their biological integrity and genetic diversity. For purposes of the preceding sentence, the term 'anadromous' refers to those species of fish, excluding lampreys, that are born in freshwater lakes or streams, migrate to the sea or the Great Lakes, and then return as adults to the lakes or streams of their birth to reproduce; the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces; the term 'genetic diversity' means the genet-

ic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reporduces; the term 'naturally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.".

FISH AND WILDLIFE COORDINATION ACT

SEC. 9. The Fish and Wildlife Coordination Act (48 Stat. 401; 16 U.S.C. 561 et seq.) is amended—

(1) in section 2(b) (16 U.S.C. 662(b)) by adding immediately before the last sentence the following new sentence: "In any case in which the impoundment, diversion, or other control or modification as set forth in subsection (a), affects anadromous fish, such report and recommendations shall give priority to the conservation and protection of naturally spawning populations of anadromous fish and their biological integrity and genetic diversity.";

(2) in section 3(a) (16 U.S.C. 663(a)) by adding at the end thereof the following new sentence: "In any case in which such impoundment, diversion, or other control or modification affects anadromous fish, such conservation, maintenance, and management shall give priority to the conservation and protection of naturally spawning populations of such fish and their biological integrity and genetic diversity."; and

(3) in section 8 (62 Stat. 1080; 16 U.S.C. 666(b) by adding at the end thereof the following: "As used in sections 2 and 3 of this Act, the term 'anadromous' refers to those species of fish, excluding lampreys, that are born in freshwater lakes or streams, migrate to the sea or the Great Lakes, and then return as adults to the lakes or streams of their birth to reproduce; the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces; the term 'genetic diversity' means the genetic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reproduces; the term 'naturally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.".

COLUMBIA RIVER BASIN

SEC. 10. Section 2 of the Act of May 11, 1938 (52 Stat. 345; 16 U.S.C. 756) is amended by adding at the end thereof the following new sentences: "The Secretary, in carrying out these provisions, shall include such measures as are necessary to conserve and protect the naturally spawning populations of anadromous fish in the Columbia River and their biological integrity and genetic diversity. For purposes of the preceding sentence the term 'anadromous' refers to those species of fish, excluding lampreys, that are born in freshwater lakes or streams, migrate to the sea, and then return as adults to the lakes or streams of their birth to reproduce; the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces; the term 'genetic diversity' means the genetic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reproduces; the term 'naturally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.".

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

SEC. 11. Section 4 of the Pacific Northwest Electric Power Planning and Conservation Act (Public Law 96-501; 16 U.S.C. 839b) is amended—

(1) in subsection (e)(2) by adding at the end thereof the following: "Such plan shall ensure the conservation and protection of the naturally spawning populations of anadromous fish in the rivers and lakes in the region and also their biological integrity and genetic diversity. For purposes of the preceding sentence, the term 'anadromous' refers to those species of fish, excluding lampreys, that are born in freshwater lakes or streams, migrate to the sea, and then return as adults to the lakes or streams of their birth to reproduce; the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces; the term 'genetic diversity' means the genetic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reproduces: the term 'naturally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.";

(2) in subsection (h)(6)(E)—

(A) by striking out "and" at the end of clause (i);

(B) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(iii) conserve and protect the naturally spawning populations of such fish and their biological integrity and genetic diversity."; and

(3) in subsection (h)(6) by adding at the end thereof the following: "For purposes of this paragraph, the term 'anadromous' refers to those species of fish, excluding lampreys, that are born in freshwater lakes of streams, migrate to the sea, and then return as adults to the lakes or streams of their birth to reproduce; the term 'biological integrity' means the genetic characteristics of a given population that ensure the greatest likelihood of their survival under the specific environmental conditions associated with the location where the population reproduces; the term 'genetic diversity' means the genetic differences between populations in a collection of genetically distinct populations of a species, where each population has become adapted to the specific environmental conditions associated with the location where it reproduces; the term 'naturally spawning' refers to fish which, regardless of ancestry, spawn on a natural substrate without the need for significant human intervention; and the term 'population' means a group of fish of the same species that spawn at approximately the same time of year in the same lake or stream or part thereof.".●

ADDITIONAL COSPONSORS

S. 1939

At the request of Mr. BAKER, the name of the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 2642

At the request of Mr. WALLOP, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 2642, a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of reserves for mining land reclamation and for the deduction of amounts added to such reserves.

S. 2792

At the request of Mr. HOLLINGS, the names of the Senator from New Jersey (Mr. BRADLEY), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2792, a bill to establish an ocean and coastal development impact assistance fund and to require the Secretary of Commerce to provide to States national ocean and coastal development and assistance block grants from moneys in the fund, and for other purposes.

S. 3048

At the request of Mr. THURMOND, the names of the Senator from New Jersey (Mr. BRADLEY), the Senator from Georgia (Mr. NUNN), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of S. 3048, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic and other products with intent to cause personal injury, death, or other harm.

SENATE RESOLUTION 516

At the request of Mr. GRASSLEY, the names of the Senator from Kentucky (Mr. FORD), the Senator from Wyoming (Mr. WALLOP), the Senator from South Dakota (Mr. PRESSLER), the Senator from Ohio (Mr. METZENBAUM), the Senator from South Dakota (Mr. ABDNOR), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of Senate Resolution 516, a resolution expressing the sense of the

Senate on urging Presidential action pursuant to section 103 of the Revenue Act of 1971, 26 United States Code, section 48(A)(7)(D) to disqualify certain Japanese-manufactured, numerically controlled machine tools from the U.S. investment tax credit.

AMENDMENT NO. 4983

At the request of Mr. THURMOND, his name was added as a cosponsor of amendment No. 4983 proposed to H.R. 3809, a bill to provide for repositories for the disposal of high-level radioactive waste, transuranic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low-level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes.

AMENDMENT NO. 4998

At the request of Mr. WARNER, his name was added as a cosponsor of amendment No. 4998 proposed to H.R. 6211, a bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

AMENDMENT NO. 5011

At the request of Mr. RIEGLE, the names of the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of amendment No. 5011 proposed to H.R. 6211, a bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

At the request of Mr. CRANSTON, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of amendment No. 5011 proposed to H.R. 6211, supra.

AMENDMENT NO 5190

At the request of Mr. BUMPERS, the names of the Senator from Texas (Mr. BENTSEN), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of amendment No. 5190 proposed to H.R. 6211, a bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

AMENDMENT NO. 5613

At the request of Mr. SASSER, his name was added as a cosponsor of amendment No. 5613 proposed to H.R. 6211, a bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

UP AMENDMENT NO. 1579

At the request of Mr. PROXMIRE, the name of the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of UP amendment No. 1579 proposed to H.R. 3809, a bill to provide for repositories for the disposal of high-level radioactive waste, transuranic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low-level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes.

SENATE RESOLUTION 524—RELATING TO EXPORT OF SURPLUS DAIRY PRODUCTS

Mr. BAKER (for Mr. BOSCHWITZ) submitted the following resolution; which was considered and agreed to:

S. RES. 524

Whereas the Secretary of Agriculture has been given the authority under the Agriculture and Food Act of 1981 to export surplus Commodity Credit Corporation dairy stocks and has been urged to use that authority in both the Omnibus Budget Reconciliation Act of 1982 and the Agriculture Appropriations Act for Fiscal Year 1983; and

Whereas there is a tremendous surplus of dairy products, including butter, cheese, and nonfat dry milk in the United States being maintained at a considerable cost to the United States taxpayer; and

Whereas there currently is known demand for dairy products in the world market; Now, therefore, be it

Resolved, That the Secretary of Agriculture is strongly encouraged to use those authorities available to him to move surplus dariy products into the international market.

NOTICES OF HEARINGS

COMMITTEE MEETING NOTICE

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will conduct its first meeting of the 98th Congress on Tuesday, January 25, 1983, at 9:30 a.m., in room 301, Russell. The committee has on its agenda both legislative and administrative business, including the adoption of the committee's rules of procedure, the selection of members for the Joint Committee on Printing and the Joint Committee on the Library, the consideration of the committee's 1983 funding resolution, the authorization of tests of computer equipment in Senators' offices, and the consideration of any other pending business.

For further information regarding this meeting, please contact Carole Blessington of the Rules Committee staff on x40278.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, the Committee on Rules and Administration will hold hearings early in the 98th Congress on congressional and Presidential campaign finance laws. At 9:30 a.m., on Wednesday and Thursday, January 26 and 27, 1983, in room 301, Russell, the committee will hear testimony from witnesses on the operation and possible modification of current campaign finance laws governing congressional and Presidential campaigns.

These hearings are being held early in the session so that the committee may forward any recommendations for legislative changes to the Senate by mid-1983. If legislative changes are to be made, they should occur well in advance of the 1984 elections.

Proposals for changes have come from many quarters. The Campaign Finance Study Group of Harvard's Institute of Politics, in its report to the Rules Committee, has recommended a series of changes in the Presidential campaign finance laws. Copies of the report may be obtained from the Rules Committee (224-3449).

Let me briefly outline other areas in which the committee will invite the comments and recommendations of witnesses:

First. The desirability of adjusting either individual or political committee contribution limits;

Second. The consequences of removing the State-by-State expenditure limits;

Third. The desirability of permitting increased political party spending on behalf of the party's candidate; and

Fourth. The need for clarification and revision of the public funding provisions that apply to third party and independent presidential candidates.

Senators and other interested parties are invited to present testimony, or to submit written statements for the hearing record, concerning revisions of the campaign finance laws. For further information, please contact the elections staff of the Rules Committee at 224-3449.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, on Wednesday, February 2, 1983, at 9:30 a.m., in room 301, Russell, the Committee on Rules and Administration will meet to receive testimony from Senators and other interested parties on mass mailings and the use of postal patron mail.

On September 13, 1982, I brought to the attention of the Senate the high cost of the newsletters that Senators send to their constituents. To recap the central fact, it is estimated that Senators' mass mailings, most of which are newsletters, will cost the American taxpayer $37 million this year. Most of that amount, $31 million, is for postage.

On December 20, 1982, I shared some additional information on this subject and some ideas for reform. Anyone who would like to read my re-

marks will find them beginning on page S11332 in the September 13 CONGRESSIONAL RECORD and in the RECORD for December 20, 1982.

I hope Senators and other interested parties will ponder this difficult matter and give the Committee on Rules and Administration the full benefit of their reflections at the hearings.

Senators and other individuals who wish to testify or to submit a statement for the record should contact Ron Hicks of the Rules Committee staff at 224-9078.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, the Committee on Rules and Administration has set aside Tuesday, Wednesday, and Thursday, February 15, 16, and 17, 1983, to receive testimony from committee chairmen and ranking minority members on their committees' 1983 funding resolutions. These hearings will begin at 9:30 a.m., in room 301, Russell.

Mr. President, I ask unanimous consent that the letter my distinguished colleague, Senator FORD, the ranking member on the Rules Committee, and I sent to all committee chairmen on December 17, 1982, be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, D.C., December 17, 1982.

DEAR MR. CHAIRMAN: Pursuant to paragraph 9 of rule XXVI of the Standing Rules of the Senate, each Senate committee (excluding the Select Committee on Ethics) must report to the Senate not later than January 31 a resolution authorizing it to make expenditures to defray its expenses during the period March 1, 1983, through February 29, 1984.

To assist committee in preparing and expediting their request for funds, the Committee on Rules and Administration has issued a revised edition of its committee print entitled "Expenditure Authorizations and Requirements for Senate Committees." Copies of that publication, the standard budget form, and a questionnaire are included herewith. Additional copies of each are obtainable from the Rules Committee office.

The committee print will provide you with detailed information on the requirements for expenditure authorizations in effect at the beginning of the 1983 funding year. Included in the print are sample resolutions, a sample budget form, regulations in respect to procurement of consultants and the training of professional staff members, and rates of compensation for staffs of Senate committees which, pursuant to P. L. 97-276 (the Continuing Appropriations Resolution, H.J. Res. 599) and the Order of the President Pro Tempore of October 1, 1982, were effective October 1, 1982.

If a committee thinks it will be requesting the services of consultants or the training of professional staff during the course of the year, the committee should include authority for such spending in its resolution. A committee may not exceed the specific dollar authority provided for in the resolution for consultants or training, but it may utilize unexpended funds within the limitations of that authority for other authorized purposes. It should be noted that, even if authority for consultants and training of professional staff is included in the resolution, requests for individual consultants or training of professional staff must be approved in advance by the Rules Committee.

Since every effort has been made to include sufficient details within the text of the enclosed document, we will stress here only the most important considerations in respect to expenditure authorizations which should be borne in mind by Members of the Senate and their committee personnel who will be involved with the funding procedure.

Fiscal year—The fiscal year for expenditure authorizations will be the 12-month period from March 1, 1983, through February 29, 1984, except for the Select Committee on Indian Affairs whose fiscal year is March 1, 1983, through January 2, 1984, when it is due to expire.

Budgets, supporting materials, and questionnaires—(1) Committee budgets should be prepared on the standard forms obtainable from the Rules Committee office; (2) an original and 30 legible duplicate copies of the budget, supporting materials, and questionnaire should be submitted to the Rules Committee not later than the date committees report their respective resolutions to the Senate, but no later than January 31; (3) the supporting letter should be signed jointly by the Chairman and the Ranking Minority Member of the committee; and (4) the questionnaire should be signed jointly by the Chairman and the Ranking Minority Member or by the staff director and the minority staff director unless the minority does not concur with the information supplied therein.

It should be noted that the Rules Committee will not schedule a committee for hearings on its authorization resolution before the resolution has been reported to the Senate and its budget, supporting materials, and completed questionnaire have been submitted to this committee.

In the line item "cost-of-living salary increase (5 mos. @———percent)" on page 1 of the budget form, the Committee on Rules and Administration suggests that all committees use 4 percent as the rate of increase. The Committee makes the suggestion only because of the fairness of all committees to use the same percentage when compiling their budgets. It should be noted that it is not the Rules Committee's intention to estimate what percentage of cost-of-living salary increase will be granted October 1, 1983—if any.

Medicare—On the committee budget forms for the coming year a new item has been added under the heading "Administrative Expenses: Agency Contribution To:". The new item reads: "Medicare (1.3 percent of the first $35,700 of each salary)". This is the maximum amount to be withheld for those employees who earn $35,700 or more. For those employees who earn less than $35,700, the maximum deduction would be 1.3 percent of their annual salary.

Rooms—On the questionnaire please list the rooms the committee will be occupying in 1983 if they have been assigned by the Rules Committee. If not, list the rooms the committee currently occupies.

We remind all Senate committee chairmen that the 1983 expenditure authorization resolutions must be reported not later than January 31, 1983. Committees are urged to submit their budgets, supporting materials, and completed questionnaires to the Rules Committee at the earliest possible date, since it is the Committee's intention to schedule these resolutions as one of its first orders of business in 1983.

The cooperation of all involved Members and staff personnel in expediting this procedure will be deeply appreciated. If the Members or staff of the Committee on Rules and Administration can be of any assistance, please do not hesitate to call upon us.

With all best wishes,
Sincerely,

WENDELL H. FORD,
Ranking Minority Member.
CHARLES MCC. MATHIAS, JR.,
Chairman.

COMMITTEE MEETING NOTICE, COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, the markup of Senate Committees' 1983 funding resolutions and the consideration of proposed regulations for Senate mass mailings will comprise the agenda for the Rules Committee's meeting on Tuesday, February 22, 1983, at 9:30 a.m., in room 301, Russell.

For further information concerning this meeting contact Rules Committee staff on x40278.

ADDITIONAL STATEMENTS

THE A-10: A VITAL WEAPON SYSTEM

● Mr. D'AMATO. Mr. President, I rise to respond to some comments made by the senior Senator from Texas regarding the A-10 aircraft program. This aircraft has been the victim of changes in signals by two administrations and by a failure to support foreign military sales efforts in its behalf.

The fact remains that the A-10 is the best close air support aircraft in the world. It is also the most reliable and maintainable combat aircraft in the Air Force inventory. The Air Force itself has testified to those points.

There is no question that the Air Force can use the 20 aircraft in the defense appropriations bill. With these 20 aircraft, the Air Force will have a total inventory of 727 A-10's. That number of A-10's will not allow the Air Force to maintain its A-10 units at full strength beyond 1987. Simple peacetime attrition will reduce the combat capability of the A-10 units just as Soviet armored strength becomes dominant in Europe.

I believe the Air Force should purchase enough A-10's to match the 825 aircraft objective contained in Secretary Brown's last 5-year defense plan. If the Air Force completed that buy, the A-10 force structure would remain at full strength through 1993. I strongly believe that choice would be the wisest policy the Air Force could follow.

Why is this important? After all, the Army and the Air Force are now boosting deep strike air interdiction. Their "air-land battle" concept calls for complex, expensive new aircraft—F-15E's or F-16E's—which can carry large bomb loads deep into an enemy's rear areas. If this new concept is correct, why do we need to keep our close air support force strong?

The answer is simple "Air-land battle" is directed at an attacking force's second echelon—those enemy units at least 72 hours' travel away from the front lines. Our analysis has shown that if that second group of enemy forces arrives intact and on time at the battlefront, they would probably overwhelm our defenders, forcing us to resort to a nuclear option. We must avoid that if we can. In theory, we can use long-range attack forces to slow down and disrupt that second echelon, so our forces have time to resort to maneuver warfare. Using maneuver warfare, we can then attack on the ground, destroying the enemy's first echelon and throwing back their second echelon.

That is a good concept. But we must not forget that the condition of the second echelon will not matter if we lose the battle with the first echelon. If we do not have the power to stop the first wave of attacking armor, all of our efforts to stop the second wave are irrelevant.

That is why the A-10 force is so critically important. Only the A-10 force, working with army attack helicopters, can be moved quickly from place to place to destroy enemy armored spearheads. Given Soviet air power and the lack of depth on the western side of the German border, our ground reserves cannot maneuver to block attacking spearheads. If we weaken our A-10 force in this decade, we risk being forced to move to a nuclear option to stop the attacking first wave of enemy units.

Opponents of the A-10 will say that the aircraft is not fast enough to survive along the battlefront. They claim that Soviet air defenses will prevent both the A-10 and attack helicopters from performing their antiarmor missions. Then, they talk in favor of buying many more F-16's and using them for close air support.

Those arguments ignore some basic facts. First, no aircraft has been built which can outrun a surface-to-air missile. If a F-16 is able to make a bombing run and then zoom into the sky, it will zoom right into the radars of tens of Soviet antiaircraft systems. It will zoom right up into the range of hundreds of antiaircraft guns and missiles. It will zoom to its destruction with blinding speed.

In contrast, the slow, simple, maneuverable A-10 is able to follow the contours of the ground. Its great agility allows it to fly around hills, in radar shadow from the majority of the enemy's antiaircraft weapons. Those weapons which can detect the aircraft may not be able to lock on and fire before it dodges behind a ridge or a tree line. Finally, if they do fire on an A-10, the A-10 is a much tougher, more survivable aircraft than an F-16.

The A-10's vital areas are armored. The cockpit is located within a titanium bathtub. Critical flight controls are redundant and protected. The A-10 is a twin engine airplane, with the engines carried in nacelles on opposite sides of the fusilage. If one engine is hit and destroyed, the aircraft can continue to fly using the other engine. The aircraft is so designed that if it does suffer battle damage, it can be quickly and easily repaired.

Contrast, if you will, those characteristics with the characteristics of those systems the opponents of the A-10 would advocate. They tout the F-16 as the answer to close air support. That aircraft is unarmored, has a single engine, and was not designed to operate close to the ground. If its single engine is knocked out, it does not come home. If it comes home with battle damage, it is not as simple or easy to repair.

If one of those fragile F-16's is lost, you have lost an airplane with a program acquisition unit cost of $21.02 million, according to the September 30, 1982, Selected Acquisition Report. If you lose an A-10, you have lost an aircraft with a program acquisition unit cost of $7.39 million according to the March 31, 1982, Selected Acquisition Report, the most recent report available on A-10 costs.

Thus, in the A-10, you have a cost-effective, very reliable, easy to maintain aircraft which does a vital job as part of our national defense. Its characteristics are appealing to those of you who have been pressing for the purchase of simple weapons in larger numbers which we know work.

Let me now return to the issue of cost. Some of my colleagues may have received a letter quoting a cost of $17 million each for A-10's. If you divide 20 aircraft into $357.3 million, you get that sort of an answer. However, as I said a moment ago, the program acquisition unit cost for this aircraft, which is the standard way of measuring the cost of a system, is $7.39 million. In anyone's eyes, that has to be a bargain.

At this time, I want to express my sincere thanks to those who have supported my efforts to sustain the A-10 program. I believe the test of time will prove that we have acted wisely and in the best interests of our national defense. I intend to press for authorization for those funds which have been appropriated in the continuing resolution.●

LEGAL SERVICES

● Mr. SARBANES. Mr. President, in recent weeks newspapers across the country have carried accounts of the administration's efforts to dismantle Legal Services Corporation and to thwart the Senate's execution of its advice and consent responsibilities with respect to the Legal Services Corporation. To those accounts have now been added others reporting the increase in the budget of the Corporation's Board of Directors from $113,721 to $273,731 in the period from October 1, 1981 through September 30 of this year, the increase in board appointees consulting fees from $72,029 to $156,201 over the January-November, 1982 period, during which members collecting the fees have continued to serve on recess appointments. This information was presented to the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee at a hearing held Tuesday, December 14.

Mr. President, there are several obvious and deplorable inconsistencies evident here: Between the administration's often-expressed desire to dismantle the office which makes legal counsel available to those who could not otherwise afford it and its willingness to give a free hand, financially speaking, to Legal Services appointees; between the administration's concern with budget cuts, notably with cuts in important and effective domestic programs from childhood immunization to housing, and its indifference to the dramatic escalation in consulting fees which the President's own appointees are drawing from the Corporation. The actions of the Administration with respect to the Legal Services Corporation and the actions of the administration's appointees to the Legal Services Board have been widely reported and also condemned, and I ask that these newspaper stories and editorials be printed in the RECORD:

The material follows:

[From the New York Times, Dec. 19, 1982]

POLITIC AND PERKS REVISE REAGAN FIGHT ON LEGAL AID

(By Stuart Taylor, Jr.)

WASHINGTON.—The people President Reagan appointed to tame the Legal Services Corporation bowed out last week in a blaze of recriminations. After seeing their nominations for full terms on the board of directors unceremoniously dumped by the President, they were tongue-lashed by a Congressional panel, harangued by a hostile crowd at their last public meeting and temporarily blocked at the door by a stooped old black woman as they tried to go into closed session.

The main legacy of the factionalized Reagan board, even some of the President's supporters say, was a public-relations debacle, an appearance of flailing away relentlessly at a program for the poor that has broad Congressional and public support. But Mr. Reagan's feud with legal aid lawyers is also a paradigm of the ideological

hostility that divides the President and his allies from people they consider troublemakers.

Mr. Reagan's view is that legal aid lawyers have subverted the democratic process by using unelected Federal judges to promote social change. The corporation, created by Congress in 1974 to take the program out of politics, distributes Federal funds to locally administered programs that provide free legal aid to indigents in noncriminal cases. Its 4,300 attorneys spend most of their time handling the routine legal problems of individual poor people—evictions from public housing, family disputes, wage claims, bankruptices, installment contracts. But they also bring class-action lawsuits challenging governmental actions such as welfare cutoffs without hearings and disciplinary rules in jails.

The parting blast of William J. Olson, a Reagan appointee, typifies the White House view. He declared the program riddled with "abuses and rampant illegality" and a "waste of the taxpayers' money through the funding of the left." Mr. Olson and others on the 11-member parttime board were on the receiving end too last week, in Congress, for paying themselves five-figure "consulting fees" ($19,726 in Mr. Olson's case) for less than a year of part-time work. There were also attacks on the full-time president the departing directors hired, Donald P. Bogard, a conservative Republican corporate lawyer whose experience with legal aid lawyers comes from fighting them in court. He hedged his bets by negotiating a contract with a year's severance pay at his full $57,500 salary and membership in the private club of his choice.

CRITICIZED COMING AND GOING

"It sounds an awful lot like the first thing they do was to go and put all four feet and a snout in the trough," Representative M. Caldwell Butler, a Virginia Republican who is no friend of "the left," said at the oversight hearing conducted by the Subcommittee on Courts, Civil Liberties and the Administration of Justice. The President found some of his appointees disappointing in a different way. Not "philosophically in tune with his policies," is the way White House spokesman Larry Speakes put it in announcing the withdrawal of all nine nominees for full terms. Asked to explain, he said "I could look back at some (Presidential) campaign rhetoric."

The history is more instructive. When he was Governor of California in 1970, Mr. Reagan and Edwin Meese 3d, a top adviser then and now, tried but failed to cut off the funding of a legal aid group that kept suing the state and winning. Charges of improper activities were dismissed as unfounded and irresponsible by a panel of state jurists appointed by the Nixon Administration. Mr. Reagan renewed the attack soon after he became President in 1981, asking Congress to abolish the Legal Services Corporation and to eliminate direct Federal legal aid funding. Congress refused, though the program's budget was cut $80 million, to $241 million. So the President tried to exert control by appointing conservatives to interim terms on the board while Congress was in recess.

But some of these members agreed that while legal aid lawyers had sometimes used tax dollars improperly for politically motivated activities, the program was basically sound and needed only modest reforms. The leader of this group was Howard H. Dana Jr., a longtime Reagan supporter who chaired his 1980 campaign in Maine. Mr. Dana became embroiled in bitter disputes with Mr. Olson and William F. Harvey, the board chairman, who advocated drastic restrictions including a virtual prohibition of class actions against Government units.

The Senate made it clear earlier this month that it would approve Mr. Dana and five other nominees, but not Mr. Harvey, Mr. Olson and George E. Paras, who was criticized for calling a California judge who used to be a legal aid lawyer a "professional Mexican." The President's response was withdrawing his nominations.

That leaves only two members, who were appointed more recently on an interim basis. Presumably, the rest of the seats could be filled with a new batch of recess appointees. But this time, Mr. Speakes said, Mr. Reagan will be more careful to find "fine, upstanding citizens who believe like he believes." Friday, Harold S. Sawyer of Michigan and six other Republican Congressmen wrote Mr. Reagan, suggesting that this time he heed their recommendations. "We are alarmed," they said, "by the growing public perception of this Administration's and our party's lack of sensitivity for the poor and the elderly, which is exacerbated by the recent actions of the Legal Services Corporation's board." Mr. Sawyer also said he would ask the Justice Department to recover the consulting fees paid to Mr. Reagan's appointees.

[From the Washington Post, Dec. 16, 1982]

SABOTAGING LEGAL SERVICES

Even opponents of the administration's efforts to abolish the Legal Services Corporation must give the administration credit for ingenuity. The strategic attacks and counterattacks, the creative use of the recess appointment power and the bold regulatory assaults at the last minute illustrate the determination and resolve of the corporation's foes. But while these efforts have confused and frustrated backers of legal services for the poor, they have not succeeded in convincing Congress or the public that we can do without this program.

The courts have guaranteed free legal services to the indigent in criminal, but not civil cases. Until the creation of the corporation in 1974, attorneys to represent those who could not afford to pay were provided by volunteers, often through local legal aid societies. The corporation was created to supplement this fragile and fragmented system with a permanent corps of federally paid lawyers, based in neighborhoods, who could assist the poor. In some areas of the country, most notably California, the legal services lawyers went far beyond providing standard individual legal services and brought class action suits on behalf of the poor against businesses and state and local governments. The man who was then governor of California—and feeling the brunt of much of this activity—is now President of the United States, and he wants to abolish the Legal Services Corporation altogether.

Because Congress will not go along, and stubbornly keeps appropriating money for the corporation's work, another lateral attack was devised: load up the corporation's board with those who can be counted on to subvert its work. That's what the President thought he had done, but last week he withdrew eight nominations—the board has 11 members—that have not yet been confirmed by the Senate and indicated some of them would be replaced by individuals who are even more zealous in opposition to the program. The President can make a new set of recess appointments as soon as Congress adjourns, and these people will continue to serve, even though unconfirmed by the Senate, until the next Congress adjourns. Thus, even a board that has not a single member who has been confirmed can continue to make decisions binding on the corporation.

This week four proposed regulations will come before the current lame-duck board of directors. They would, if adopted, prohibit class actions, the most efficient and effective means of vindicating the rights of large numbers of citizens, and severely hamper the work of poverty lawyers in a number of other ways.

Perhaps it is asking too much of such an avowed foe of the Legal Services program, but the president could mend some fences with Congress and help the poor in a time when they need all the help they can get by putting an end to all this fooling around with the program. Accept the fact that Congress will not let it die, find some people who are conservatives but who see merit in it, and put them in charge. There is broad support in Congress for some changes that would clarify the rules for class actions and set guidelines for this important work. But there is also a determination to save the program, because it is truly worth saving. Killing it by bits and pieces, regulations and recess appointees just won't work. There's a real need for poverty lawyers out there in a country savaged by recession and unemployment, and all who are concerned about the fate of those who suffer will not let the program die.

As a footnote to the above, we give you a quotation from Rep. Caldwell Butler, the Virginia Republican who is retiring this year: "It sounds like the first thing they did was put all four feet and a snout in the trough."

Mr. Butler was speaking of the administration's appointees to the Legal Services board and the consulting fees they have billed the government. Chairman-designate William Harvey, for example, has submitted $25,028 in consulting bills for the first 11 months of this year. Overall, the 11-member board collected $156,201 in consulting fees through November. Members are entitled, we should add, to reimbursement for expenses and consulting fees for the time they work. But previous members billed the government far, far less.

Do these men have to give the impression that they're getting rich in the process of cutting programs for the poor?

[From the Washington Post, Dec. 16, 1982]

LEGAL SERVICES HEAD'S CONTRACT SWEET

(By Mary Thornton and Juan Williams)

The new president of the Legal Services Corp. has negotiated a contract with his former law professor, now the chairman of the board, that gives the president extensive government-financed fringe benefits, including paid membership "in a private club of [his] choosing."

The board of the corporation was attacked earlier this week for collecting large consulting fees. As criticism mounted yesterday President Reagan said it is "highly unfortunate" that his appointees have been billing the corporation—the federal program of legal assistance to the poor—at more than twice the rate of that of any previous board.

"We think the expenses are high," said White House spokesman Larry Speakes. "We'd like to know why."

Speakes said White House counselor Edwin Meese III had asked the Office of Management and Budget to review the matter.

However, Meese told NBC Tuesday night, "I think if people have been working or have special responsibilities where they donate a lot of time and the law provides consulting fees. . . then they should take consulting fees."

Meanwhile, documents obtained by The Washington Post indicate that Donald P. Bogard, who started Monday as president of the Legal Services Corp., has been given substantial benefits in addition to his $57,500 annual salary.

The contract was negotiated by board chairman William F. Harvey, a former law professor of Bogard, without the participation of the other 10 board members, board members said.

Besides the club membership, the contract contains a severance clause that would entitle Bogard to a full year's pay, benefits and expenses if he were fired.

In addition, since Bogard's family prefers not to move to Washington until the end of the school year, the corporation will pay an unlimited amount for his food and lodging, plus two trips month to Indianapolis until June 15. Round-trip, tourist-class air fair to Indianapolis is $350.

Bogard said yesterday that private club membership has been standard in the contracts of previous Legal Service presidents.

Asked if he will join a club, he said, "I haven't thought about it." Bogard also said he had no comment on Reagan's statement.

Bogard, 41, is an Indianapolis lawyer who spent eight years in the Indiana attorney general's office and then moved to Stokely-Van Camp Inc., where he defended the firm against lawsuits brought by Legal Services Corp. attorneys on behalf of migrant farmworkers.

On Oct. 29, the Legal Services Corp. board voted to authorize a three-man committee of Harvey, board member Howard Dana, and acting president Clint Lyons to negotiate Bogard's contract. Instead, Harvey negotiated it himself, board members said.

Rep. Barney Frank (D-Mass.), a member of the House Judiciary oversight subcommittee, said, "I think that was clearly a violation. * * * The terms of that contract were negotiated improperly—in violation of an explicit vote of the board."

Reagan has twice tried to persuade Congress to eliminate all funding for the Legal Services Corp., saying that the private bar would handle these cases at no charge and at no cost to the government. He named the board members only after Congress rejected his efforts to eliminate the program.

Meanwhile, the corporation has been operating on a reduced budget—25 percent below 1980.

The board is scheduled to meet today to consider changes in regulations to limit the kind of cases that Legal Services attorneys may bring.

According to Legal Services records, Reagan's board members charged consulting fees of $29 an hour, totaling $156,201 for their part-time work for the first 11 months of the year, more than twice the $72,029 that the previous board charged for all of 1981.

Speakes said yesterday that the White House was not aware of the fees until Tuesday, when the matter came up in a House hearing. He said Reagan "expressed the view this morning that he believes it to be highly unfortunate that expenses for the board have apparently doubled over the past year, and it is his hope that future expenses could be reduced to an absolute minimum."

In another matter affecting the corporation, U.S. District Court Judge Norma Holloway Johnson yesterday refused to block Friday's scheduled Legal Services board meeting. A group of former board members had sought to prevent the meeting on grounds that Reagan has withdrawn the nominations of nine recess appointees to the board.

But Johnson said that if the Senate's rights to confirm the appointees "are being abridged . . . there is no reason why the Senate cannot file suit on its own behalf."

Moreover, she said, the president's withdrawal of the nominations does not affect the validity of the recess appointments, which will expire when the lame-duck session of Congress ends.

[From the New York Times, Dec. 16, 1982]

INQUIRY BEGINS INTO FEES PAID LEGAL SERVICES BOARD

(By Francis X. Clines)

WASHINGTON.—The White House began an inquiry today into reports that President Reagan's appointees to the Legal Services Corporation have been paying themselves five-figure consulting fees while services to the poor were being cut.

Mr. Reagan's spokesman quoted him as saying it was "highly unfortunate" that expenses for the board had practically doubled over last year. And the White House spokesman, Larry Speakes, said that Edwin Meese 3d, the President's counselor whose duties include acting as legal services liaison, had asked the Office of Management and Budget "to assemble the facts."

Mr. Speakes was asked whether the White House's concern was over the higher fees and expenses submitted by some appointees, or over what one Congressman termed the spectacle of supposed legal service reformers putting "all four feet and a snout into the trough."

"A little of both," Mr. Speakes replied. "They're both basically the same: One, that they're getting a lot of money, the other that they're getting a lot of money.

Appointees to the 11-member corporation board perform part-time services in overseeing Government-financed legal services for the poor. According to records presented Tuesday at a Congressional oversight hearing, $244,096 in the fees and reimbursement for various expenses has been charged by the board so far this year, at least twice as much as any previous board's annual total.

Mr. Meese said in an interview that he expected to hear from budget examiners in the next day or two, and would decide what to do based on their report.

"This is the first we've heard about it," said Mr. Meese, who added that one possible reason for the increase was that "conceivably, they're busier and hold more meetings."

At the White House briefing, a questioner noted that all 11 board members has been appointed by Mr. Reagan. "That's true," Mr. Speakes said, "but he's also indicated what they can do with our nominations." This was a reference Mr. Reagan's action last week in withdrawing the names of the appointees amid resistence by many members of Congress to his attempts to abolish or restrict the legal services program.

William F. Harvey, the board's chairman, who received consulting fees of $25,028, was reimbursed for such expenses as $55.85 for two days of local taxi rides, according to Congressional sources, and $221 a day for time spent in driving back and forth from Indianapolis. Mr. Harvey, a law professor, called the basic consulting fee of $29 an hour as "small sums for a very large amount of work."

Mr. Speakes stressed that the corporation was independent and said, "There's a limit to what we can demand of this board." The Congressional hearing showed expense records indicating Mr. Harvey had made 72 phone calls in a seven-month period to the White House, including 30 to Mr. Meese's office.

Mr. Meese said the calls probably were related to the attempts to obtain Congressional confirmation of the appointees. He denied the charges of critics that the Reagan Administration, frustrated in its attempt to abolish the program, had kept tight control over the program through its appointees.

[From the New York Times, Dec. 15, 1982]

LEGAL SERVICES BOARD MEMBERS CRITICIZED ON FEES

(By Stuart Taylor Jr.)

WASHINGTON, December 14.—President Reagan's appointees to the board of the Legal Services Corporation were criticized at a Congressional hearing today for paying themselves five-figure consulting fees at a time when the corporation's services to its poor clients have been slashed.

"I must tell you that it has a bad appearance," Representative M. Caldwell Butler of Virginia said as William F. Harvey and William J. Olson of the unpaid corporation board testified. They have received "consulting fees" of $25,028 and $19,725, respectively, from the Government since Mr. Reagan put them on the board of the independent Federal corporation Dec. 31. Mr. Harvey is the chairman and Mr. Olsen a member of the board.

"I'm a Republican and we bring in these Republicans to take charge of this corporation in an effort to reform it," Mr. Butler said, "and it sounds an awful lot like the first thing they do was to go and put all four feet and a snout into the trough."

Mr. Harvey, a professor and former dean at Indiana University Law School, defended the consulting fees of $29 an hour, or $221 a day, for the 11 board members as "small sums for a very large amount of work."

All of the board members combined have charged the corporation for a total of $156,201 in consulting fees since Jan. 1, and $87,896 additional for expenses such as travel to and from meetings and food and lodging while on board business, according to corporation records.

The corporation's regulations authorize such payments, and the board allocates funds for them in the corporation's overall budget.

Mr. Olson said the appointees, who continue with their own careers while serving on the board, had spent long days learning their jobs and seeking to reform the program, which he, Mr. Harvey and other conservatives say was used in the past by legal aid lawyers to pursue a leftist political agenda.

Mr. Olson, a Washington lawyer, said that the consulting fees were far less than he normally billed private clients.

The exchange came in an oversight hearing into the troubled legal program before the House Subcommittee on Courts, Civil Liberties and Administration of Justice.

The corporation distributes Federal funds to locally administered programs around the country that provide legal aid to poor people in civil cases.

Mr. Reagan filled all 11 board positions on an interim basis in Congresssional recesses, after Congress rebuffed his efforts to abolish the program.

He also nominated eight of the interim members and one other man for full terms on the board. But last week he withdrew the nominations after it became clear that the Senate was ready to confirm six, but not Mr. Harvey and Mr. Olson.

Mr. Harvey and Mr. Olson have called for severe restrictions on the activities of legal aid lawyers, including a virtual prohibition on the bringing of class action suits against Government units.

Sources close to the board said the White House had been pleased with their performance but not with that of other members.

The total of $244,096 in consulting fees and expenses for board members since January is small in relation to the corporation's $241 million total budget.

But Representative Harold S. Sawyer, Republican of Michigan, said at the hearing that "it seems kind of generous" for people in charge of providing free legal services to the poor.

In other testimony today, Donald P. Bogard, who began his $57,500 job as the corporation's new full-time president Monday, said he had an "absolute commitment" to continue the program, but was noncommittal about changes.

The board is scheduled to meet Thursday and Friday to consider proposed restrictions on class actions and other activities by legal aid lawyers.

[From the Washington Post, Dec. 15, 1982]

LEGAL SERVICE APPOINTEES GET FAT FEES

(By Mary Thornton)

President Reagan's appointees to the board of the Legal Service Corp., the program that provides free legal help to the poor, have been collecting large consulting fees for their part-time jobs, at least twice as large as those paid to any previous board in the program's history.

"I must tell you that it has a bad appearance," Rep. M. Caldwell Butler (R-Va.) told a congressional oversight hearing yesterday. "I'm a Republican, and we bring in Republicans to reform [the program], and it sounds a lot like the first thing they did was put all four feet and a snout in the trough."

Rep. Harold S. Sawyer (R-Mich.) said, "It really offends me that you people are doing this." He noted that board Chairman William F. Harvey submitted consulting bills for $25,028 in the first 11 months of this year.

"Here the board members are making a substantial amount of money for just a part-time thing," he said. "I know there are top-flight lawyers in the U.S. . . . who would devote pro bono [free] time without taking this kind of money out of the program." Sawyer added that the president of the American Bar Association serves a one-year term which is virtually full-time with no payment besides expenses.

Documents provided by Legal Services to the House Judiciary subcommittee on oversight indicate that the 11-member Reagan board collected $156,201 in consulting fees in the first 11 months of 1982, compared to $72,029 for the previous board in a year.

In fact, the overall budget for the board of directors has grown from $113,721 on Sept. 30, 1981, under the old board, to $273,731 on the same day this year, according to Legal Services Corp. figures.

Since the program was created in 1975, directors have been entitled to reimbursement for expenses and to a consulting fee for the time they work.

But in most cases those fees have been small. Last year, for example, former board chairman William McCalpin, who was appointed by President Carter, collected $4,704 in consulting fees.

William Olson, a Reagan board member who testified yesterday, rejected a suggestion by Butler that the $221-a-day consulting fee be limited, suggesting that this board may be working harder than previous ones.

Olson, 33, a Washington lawyer, collected $19,721 in consulting fees, but he said he considers his work on the board to be "pro bono work" because the $29-an-hour consulting fee is less than he earns at his law firm.

Reagan twice has tried unsuccessfully to persuade Congress to abolish Legal Services.

Last week, he withdrew all his formal nominations for the board when he received word from the Senate that neither Harvey nor Olson would be confirmed.

The board has been serving all year in recess appointment that will expire when Congress adjourns for the year, possibly by the end of this week.

Legal Services payment records obtained by the Washington Post indicate that Harvey, who does not like to travel on airplanes, frequently billed the corporation at the $221-a-day rate for his driving time. Under Legal Services guidelines, board members are allowed to charge as consultants for the time they spend traveling.

In some cases, the 615-mile trip each way from Indianapolis to Washington was billed for two days in each direction, in addition to automobile expenses, lodging expenses and meals on the trips.

Harvey also had some substantial expenses during his trips on official business.

On a trip to Washington in late October and early November for a two-day board meeting and related business, Harvey was reimbursed for $194.22 in postal expenses and $55.85 in taxi expenses.

He tried to charge the program for his four nights at the Watergate Hotel at 131.80 a night, but the corporation paid only $69.78 a night.

On another trip in May in which he spend five nights in Washington, Harvey spent $147.05 on taxis and $63 on long-distance phone calls. On a six-day trip in March, he collected on a long-distance phone bill of $118.28, in addition to other travel expenses.

Harvey, who did not return telephone calls yesterday, is not the only board member with large consulting fees or expenses.

Daniel Rathbun, 23, an under-graduate student who was added to the board by Reagan in late October, collected $1,032.07, not including his travel expenses, by working for 35 hours over six days.

Another board member, Clarence McKee, has flown first-clas several times.

He said yesterday that he needs the larger seats because he suffers from sciatica, a back condition, and that he had submitted letters from his doctor to the board to justify the expense.

A source at Legal Services said yesterday that the doctor's note was not turned in until last week, after Congress requested the travel records. McKee collected $15,757 in consulting fees.

[From the New York Times, Dec. 13, 1982]

INSULT TO THE POOR, AND THE CONSTITUTION

Not content with abusing the poor by trying to gut their legal services program, President Reagan is extending the insult to the United States Senate. His sudden withdrawal of all his nominations for the Legal Services Corporation's board of directors brings chaos to the organization and cynically frustrates the Senate's ability to protect it with its advise-and-consent power. The maneuver is a gross abuse of the President's authority to make so-called recess appointments.

The Constitution lets Presidents fill vacancies during Senate recesses to keep the Government running, on the understanding that those so appointed will be duly nominated and subjected to the confirmation process when the Senate reconvenes. Mr. Reagan, unable to persuade Congress to scrap Legal Services altogether, has installed recess appointees who aim to cripple the program.

The leaders of the wrecking operation are William Harvey, a law professor who is chairman of the legal services board, and William Olson, a former officer of the Young Americans for Freedom. They have offered rules that would make it impossible for the poor to file class actions, an effective legal device that settles the claims of numerous people in a single lawsuit.

Though sloppily drafted, their proposals convey an unmistakable contempt for the poor by denying them access to an avenue of justice fully available to the affluent. Last week 53 Senators asked their leadership to hold the Harvey and Olson nominations while confirming six other directors who have acted more independently of the White House.

That's when President Reagan pulled all the names. His spokesman, Larry Speakes, explained with appalling candor that the six—but not Mr. Harvey and Mr. Olson—had failed their screen tests. "The President has had the opportunity to observe these nominees in a recess appointment capacity over the past year," he said. "He will submit names that he feels are more philosophically in tune with his policies."

The practical effect of the withdrawal is to leave the recess appointees in place, where they may continue to undermine the program. In fact, the lame duck board may give its approval to the Harvey/Olson class action rules this week.

This wild procedure assaults the constitutional system. Presidents may try to influence courts and agencies by their choice of nominees, but they are not supposed to make provisional appointments and then yank them when the appointees behave independently. Nor are they supposed to perpetuate recess appointees in office by withdrawing their nominations when the Senate shows hostility.

The whole performance reveals a shocking disregard for the sense of Congress when it created Legal Services in 1974. The lawmakers made clear that the corporation's directors were to be willing to support lawyers who might find it necessary to file lawsuits offensive to some politicians.

But the main issue is larger still: Mr. Reagan is simply refusing to grant the Senate its constitutional power of advise and consent. His actions are so far out constitutionally that even an aroused Senate may not easily correct them. One place to begin might be a sense-of-the-Senate resolution that reasserts Congress prerogatives

and notifies the White House that this valuable program—not to mention the Constitution—will be defended.

[From the New York Times, Dec. 5, 1982]

MORE LEGAL INSULTS FOR THE POOR

What would you think of a law that gave you the right to sue the Government for depriving you of your rights—provided only that no public funds be used to redress the grievance if you win? No one ever dreams of such a law for suits by those who can afford a lawyer, but President Reagan's appointed guardians of the national poverty law program want just such a rule for the poor.

Their proposal takes the form of draft guidelines for the Legal Services Corporation, the federally funded system for helping the poor in civil cases. Congress told the corporation to write rules for class actions, which are lawsuits filed on behalf of large groups of people who share a legal grievance. But instead of regulating class lawsuits, the new proposal would eliminate them for the poor—and only the poor.

Class actions are useful tools in business litigation and other cases involving persons too numerous to sue individually. A unanimous Supreme Court praised the device in a complicated 1979 Social Security case because it "saves the resources of both the courts and the parties by permitting an issue potentially affecting every Social Security beneficiary to be litigated in an economical fashion." The device gives the plaintiffs the strength of numbers, if they can afford to sue.

The idea of banning awards from public funds is only the most blatant discrimination against the poor. The other proposed technical hurdles are dazzling. For example, a legal services program could not sue in the name of all injured families over a maladministered school lunch program without the advance consent of every affected family. Even the courts have no right to require litigants, rich or poor, to run that obstacle course.

A staff lawyer who so misread the commission's purpose and the law's intent ought to be sent to retake the bar exam. But these guidelines were written not by staffers or clerks but by directors named by the President: Chairman William Harvey, a law professor in Indianapolis, and William Olson, a Washington attorney. Both share Mr. Reagan's hostility to legal services.

Congress tried mightily in 1974 to nourish legal services by creating an independent corporation that would foster competent, fearless legal representation free from political meddling. The White House has frustrated this system by nominating directors, notably Mr. Harvey and Mr. Olson, who are unacceptable to Senate friends of the program but serve under recess appointments. Required by the 1974 law to appoint some directors who are eligible clients, the Administration picked a 23-year-old son of middle-class parents who is working his way through college.

Such parodies of poverty law are ridiculous but not amusing. They not only cheat but insult the poor. Congress has little time to rescue this program from the Reagan wrecking crew. The Senate can begin by voting promptly to reject the Harvey and Olson nominations.

[From the Washington Post, Oct. 30, 1982]

LEGAL SERVICES BOARD, HIT BY PROTESTS, OFFERS PRESIDENCY TO INDIANA LAWYER

(By Mary Thornton)

The Legal Services Corp. board of directors voted yesterday to offer the job of president to a lawyer who has no poverty law experience and who represents Stokely-Van Camp Inc. against migrant farm workers.

Donald Bogard of Indianapolis, who said he has not decided whether to accept the $57,000-a-year job, said yesterday in a telephone interview that he sees "no conflict" in having handled cases for the company against farm workers represented by legal services lawyers.

In an emotional and often angry meeting, the board members were berated by citizens and legal services lawyers demanding to be heard and charging that the board's makeup is illegal because none of the 11 members has been confirmed by the Senate and the board no longer includes the required two bona fide poor people.

The 11-member board sat impassively through the proceedings, despite continuing angry outbursts from spectators who jammed the hearing room. The decision to offer the job to Bogard was made on a voice vote with only two members making it clear they opposed him.

President Reagan named two new members of the board last weekend in what critics have called a last-ditch effort to "stack" the board.

The White House refused to provide any information on the two new members, other than their names: Frank Donatelli and Daniel M. Rathbun. Donatelli is a Washington lawyer who worked in the Reagan campaign and is a former member of National Conservative Political Action Committee (NCPAC) and Young Americans for Freedom. Rathbun, 23, is a student at Christendom College, a 95-student school located in Front Royal, Va.

There were widespread complaints from critics of the board's philosophy that Rathbun, who has declared financial independence from his parents, is filling one of the spots on the board reserved for a poor person eligible for help from legal services.

Mary Lanier of Washington, a stooped, elderly woman leaning on a cane, told the board: "I'm a client. There's not one of you that is an eligible client. You do not feel what clients feel. You hardly know what it is to speak to a client, some of you. There are some of you all that have had a silver spoon in your mouth and all that your've wanted. How can you speak for poor people?"

"I'm poor," she said, asking the board members to "search their souls" and resign if they do not feel they can serve the nation's poor. If they don't, she warned, "God's going to move you off."

Earlier, legal services sources had said the two leading candidates to assume the presidency were Robert D'Agostino, a former Justice Department official who raised a furor in the department by writing a memo suggesting that blacks are more likely than whites to be emotionally disturbed, and Alfred S. Regnery, a Justice Department official who once called for the abolition of legal services.

Some of those sources said D'Agostino and Regnery were dropped from consideration because of an onslaught of negative publicity.

Bogard is a former law student of William F. Harvey, the Indiana Law School professor who is board chairman of the Legal Services Corp.

Referring to Bogard, Dennison Ray of the North Carolina legal services program shouted angrily, "He may be an expert in pork and beans law, but what does he know about poverty law?"

A number of legal service representatives asked the board to postpone the vote on the presidency until after a majority of the members are confirmed by the Senate. The president of the American Bar Association and a bipartisan group of 32 senators asked the committee to either postpone the vote or prevent the two new board members from voting.

Do we have to sue you?" asked Mary Ellen Hamilton of Louisiana, questioning the rush in choosing a president. "You aren't confirmed and you might never be confirmed after this."

Clarence McKee, one of two blacks on the board, asked for a postponement of the vote on Bogard until the board could look into whether his current work constitutes a confict of interest. He was defeated on a voice vote.

Only two members voted against Bogard, Howard H. Dana, who headed the presidential search committee, and Annie L. Slaughter, the only woman on the board.

The Reagan administration had made it clear that it wants to eliminate the Legal Services Corp. but it has not been able to persuade Congress to go along. Reagan made his first appointments to the board during the New Year's weekend last year, in a futile attempt to stop funding that had already been allocated.

The former board filed a lawsuit against the current board, questioning the legality of actions by unconfirmed board members in a semi-independent agency designed to be insulated from political pressures. That suit failed at the district court level but was appealed yesterday to the U.S. Court of Appeals here.

[From the New York Times, Oct. 29, 1982]

SENATORS PROTEST CHOICES BY REAGAN

(By Stuart Taylor, Jr.)

WASHINGTON, October 28.—Thirty-two Senators, including nine Republicans, expressed "grave concern" today over President Reagan's appointment last week of two new members to the board of the Legal Services Corporation.

"These 'recess appointees,' on the eve of a board meeting at which a new president of the corporation will be selected, create a disturbing suggestion that the responsibility of the Senate to approve nominations is being directly circumvented," the Senators said in a letter to Mr. Reagan.

The letter complained that the timing of the appointments had created "the impression of undue political interference with a board of directors which was created for the express purpose of removing the legal services program from political manipulation."

The letter is the latest round in a battle between the Administration and backers of the federally financed program of legal aid for the poor, which the corporation administers.

TWO KEY POSTS TO BE FILLED

That battle heated up at the approach of a meeting Friday and Saturday at which the board is to choose a chairman as well as a new president.

The board met in closed session today to interview candidates for the vacant $57,500

job as president. The president runs the program under general guidelines set by the board.

The two leading candidates for the job, Alfred S. Regnery and Robert J. D'Agostino, are conservative Republicans. Both have been termed unacceptable by the National Legal Aid and Defender Association, which is made up of legal aid lawyers and public defenders.

The letter urged Mr. Reagan to request his two new appointees to refrain from voting at this week's board meeting, saying that they "have little apparent knowledge of the corporation" and an "unknown" degree of commitment to legal services for poor people.

Mr. Reagan, whose attempts to abolish the $241 million program have been rebuffed by Congress, has not filled all 11 seats on the board, under his power to make temporary "recess appointments" while Congress is out of session without first submitting nominations to the Senate for confirmation.

Last Saturday he added Frank J. Donatelli, a Washington lawyer, and Daniel M. Rathbun, a student at Christendom College, in Front Royal, Va.

SPECULATION ABOUT MOVES

The timing of the appointments prompted assertions by sources in the corporation that they had been made to strengthen the hand of William F. Harvey, the current chairman, whom the sources view as sharing Mr. Reagan's hostility to legal aid lawyers.

Today's letter was signed by 23 liberal and moderate Democrats and nine Republicans. The Republicans were Dave Durenberger of Minnesota, John C. Danforth of Missouri, John H. Chafee of Rhode Island, John Heinz of Pennsylvania, Slade Gorton of Washington, Lowell P. Weicker, Jr. of Connecticut, Mark O. Hatfield of Oregon, Robert T. Stafford of Vermont and Charles McC. Mathias Jr. of Maryland.

The Democrats were Edward M. Kennedy of Massachusetts, Thomas F. Eagleton of Missouri, Alan Cranston of California, Donald W. Riegle, Jr. and Carl Levin of Michigan, Claiborne Pell of Rhode Island, Dale Bumpers and David Pryor of Arkansas, Jennings Randolph of West Virginia, Paul S. Sarbanes of Maryland, Bill Bradley of New Jersey, Joseph R. Biden Jr. of Delaware, Gary Hart of Colorado, Daniel Patrick Moynihan of New York, Alan J. Dixon of Illinois, Patrick J. Leahy of Vermont, Henry M. Jackson of Washington, John Glenn of Ohio, Christopher J. Dodd of Connecticut, Daniel K. Inouye and Spark M. Matsunaga of Hawaii, Jim Sasser of Tennessee and Howard M. Metzenbaum of Ohio.

[From the Boston Globe, Oct. 29, 1982]

SENATORS RAP REAGAN ON LEGAL SERVICES

(By Nick King)

A bipartisan group of US senators yesterday charged President Ronald Reagan with "political interference" in his handling of appointments to the board of the Legal Services Corp.

In a letter delivered to the White House, 30 senators accused Reagan of trying to pack the Legal Services board by filling vacancies while Congress was in recess.

His naming of two such nominees last Saturday, the letter said, raised "grave concerns" and "creates the impression of undue political interference with a board of directors created for the express purpose of removing the legal services program from political manipulation." Under current federal rules, recess appointees are allowed to serve on boards without congressional confirmation until the end of the session.

The letter also said the timing of Reagan's two appointments was suspect—just five days before the board began meeting yesterday to select a new president and chairman and to decide the future of the program that provides legal services for poor people.

The letter noted that one of the positions had been vacant for more than a year and the other for six months. Because of the timing and the lack of any evidence of the nominees' commitment to legal services for the poor, the senators urged him to ask the new members to refrain from voting this week.

Among those signing the letter were Sen. Edward M. Kennedy, Howard Metzenbaum (D-Ohio) and Lowell Weicker (R-Conn.).

The White House said it was unaware of the letter yesterday and declined comment.

Two hardline conservatives are rumored to be frontrunners for the board presidency. One is Alfred S. Regnery, a Justice Department lawyer who helped prepare a 1980 Heritage Foundation report calling for the abolition of the Legal Services Corp.

The other is Robert J. D'Agostino, a former Justice Department official who ignited controversy last year by writing that "blacks, because of their family, cultural and economic background, are more disruptive in the classroom on the average" than whites.

The letter is the latest in a long controversy over Reagan's handling of the federally funded legal services program. Last year, he tried to abolish the $320 million-a-year agency but was overruled by Congress, which cut its budget to $240 million.

In January, Reagan made nine conservative recess appointees to the eleven-member board, but the group has split on the direction of the program. The nine appointees have not yet been confirmed.

[From the Los Angeles Times, Oct. 29, 1982]

32 SENATORS QUESTION QUALIFICATIONS OF LEGAL SERVICES APPOINTEES

(By David Treadwell)

WASHINGTON.—A bipartisan group of 32 senators Thursday expressed "grave concern" over President Reagan's two recent appointments to the board of the Legal Services Corp., the government agency that funds legal aid projects for the poor.

The senators said that the appointments—made when Congress was in recess and only a week before the 11-member board is to choose a new chairman and corporation president—create a "disturbing suggestion" that the White House wants to circumvent Senate confirmation of the appointees, who could sit through the life of the next Congress without being confirmed.

In a letter to Reagan, the senators questioned the qualifications of the appointees, saying, "The two individuals have little apparent knowledge of the corporation, and their commitment to the provisions of legal services for the poor is unknown.

"We urge you to request these two appointees to refrain from voting or from taking any action which would affect the affairs of the Legal Services Corp." when the board meets today, the letter said.

White House spokesman Anson Franklin said that the White House had not received the letter, and he withheld comment.

The letter adds fuel to the already heated controversy over Reagan's appointment last Saturday of Frank J. Donatelli, a Washington, D.C., attorney, and Daniel Rathbun, 25, an undergraduate at Christendom College in Front Royal, Va., to fill the remaining vacancies on the board.

Sources closely associated with the board have charged that the latest appointments are an attempt to stack the voting for chairman in favor of William F. Harvey, and Indiana University law professor and the current chairman, who allegedly shares Reagan's view that the agency should be abolished or at least sharply curtailed.

Liberal groups have also protested that the two leading candidates for corporation president—Robert D'Agostino, a former Justice Department official, and Alfred Regnery, an assistant attorney general—are hostile to the program.

Because Donatelli and Rathbun were named to the board when Congress was in recess, they were given interim appointments subject to Senate confirmation after the lawmakers return to Washington on Nov. 29. But any action taken by interim appointees is binding.

Twenty-three Democrats and nine Republicans signed the letter to Reagan, including Sen. Lowell P. Weicker Jr. (R-Conn.), chairman of the Senate Appropriations subcommittee that has jurisdiction over the legal services agency.

In a separate letter to Harvey, Weicker urged that the board postpone selection of a new chairman and corporation president.

FEDERAL COURTS AND THE RULE OF LAW

● Mr. HELMS. Mr. President, unrestricted power has always been the mortal enemy of the rule of law. In our day we have learned that this is as true in the case of judges as it has been in the case of tyrannical kings and communist dictators.

The American Constitution gives Federal judges substantial power to do their job. This power, however, is subject to a variety of checks both by Congress and the President. Unfortunately, many of these checks have in practice atrophied from disuse. Emboldened by congressional and presidential inaction, Federal judges in recent years have moved ahead to wield more and more power—more than the framers ever intended. At this point the de facto power they exercise is virtually unlimited. Therein lies the problem: Unchecked power is dangerous power that inevitably subverts the rule of law.

Mr. President, the irony in the present case is that the division of Government tempted by the availability of unrestricted power is the division whose special responsibility is to uphold the rule of law. Tragically, the temptation has proved too much, and the courts themselves have done more to undercut the rule of law in the recent past than any other division of Government.

We have seen Federal judges take over local school systems and order massive busing of school children to achieve racial quotas. We have seen Federal judges eliminate centuries of tradition and tell children and their teachers that they could not pray in

school. We have seen Federal judges wipe out virtually all the power of the States to protect unborn children from abortion. We have seen Federal judges rob the States of their constitutional authority to punish criminals largely as they see fit.

In each of these instances and in countless others, Federal judges have abdicated their role as upholders of the rule of law and become instead tyrants who substitute their own personnal views for law. We are indeed becoming a nation of men not laws. On this point I can only agree with the distinguished former Senator from North Carolina, the Honorable Sam J. Ervin, Jr., when he said in the December 1982 ABA Journal, "I abhor judicial usurpation and deem tyranny on the bench as reprehensible as tyranny on the throne."

Mr. President, in the Washington Post of December 19, 1982, Hadley Arkes had an article dealing with how far afield the courts have gone on the subject of abortion. He points out the sheer arrogance of Justice Blackmun in the abortion matter and how the justice has even tried to change the meaning of Supreme Court precedents to serve his own purposes on abortion. The article is another glaring indictment of the corruption of law effected by Justice Blackmun's original opinion in Roe against Wade.

As this Senator has pointed out before, Congress fortunately has authority to correct judicial abuses such as the abortion and prayer decisions of the Supreme Court. I urge my colleagues to consider the available congressional remedies and move expeditiously to put them into law during the next session. The survival of the rule of law is at stake, and therefore it is imperative that we in Congress act.

Mr. President, I ask that the article by Hadley Arkes, Cromwell professor of jurisprudence at Amherst College and currently a visiting Leavy professor at Georgetown University, appearing in the December 19, 1982, Washington Post, be printed in the RECORD at the conclusion of my remarks.

The article follows:

[From the Washington Post, Dec. 19, 1982]

(By Hadley Arkes)

ABORTION: THE COURT WASN'T PERSUASIVE

Where does sedition lurk these days in the minds of Americans? Justice Harry Blackmun knows: behind every effort to restrain the practice of abortion, he sees the willful refusal to concede that when the Supreme Court has spoken, the final, authoritative word has been said on the meaning of the Constitution. And so Blackmun loosed his terrible swift sword on the solicitor general very recently, during an argument before the court over the laws on abortion.

The justice asked Rex Lee whether the administration was requesting the court, in effect, to overrule *Roe* v. *Wade*, the decision that made abortions legal for virtually any reason, at any stage of the pregnancy. When Lee denied that the administration was seeking that change just yet, Blackmun replied with sarcasm that "it seems to me . . . you are asking that or you're asking that we overrule *Marbury* v. *Madison*."

It is apparently a long while since Justice Blackmun has studied *Marbury* v. *Madison*, or he has absorbed now the fable that has been fashioned mainly by judges: that the case that established the authority of the courts to interpret the Constitution also established the court as the *sole*, authoritative interpreter of the Constitution. In this superstition he is joined by most judges.

And yet, that understanding was not shared by the Founders, and it found no expression in the Constitution they framed. Nor was that understanding ever set forth by Chief Justice Marshall in his classic opinion in *Marbury* v. *Madison*. In later years, the supporters of the Dred Scott decision claimed that the court must be sovereign in settling the meaning of the Constitution. But that argument was rejected officially, decisively, by the Lincoln administration with reasoning—and precedent—that we could not wish to overturn, even today.

In *Marbury* v. *Madison*, Marshall had to confront a case in which a statute passed by Congress came into conflict with an explicit provision of the Constitution. If the court failed to give precedence to the Constitution, then it would implicitly lower the Constitution to the plane of an ordinary statute, which could be altered and superseded by any piece of subsequent legislation. But if the Constitution had to be regarded as "fundamental law," then it had to follow, as Marshall said, that "those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each."

This "judicial duty," as Marshall described it, was modestly drawn: Marshall simply recognized that the court had an obligation to be governed by the Constitution as it sought to settle the particular case that was submitted for its judgment. In that sense, nothing was claimed for the judges that could not be claimed for other officers of the government: presidents and congressmen would also be obliged to consider whether their decisions were compatible with the text or the principles of the Constitution.

Such, at any rate, was the understanding of Thomas Jefferson and Andrew Jackson, and without that traditional understanding, it would be hard to grasp Lincoln's resistance to the Dred Scott decision. In that infamous case, the court "established" that blacks could not have the standing of citizens to sue in the courts, and that no man could be deprived of his property in slaves, even if he brought that property into the territories in which slavery had been forbidden by Congress.

In respecting the processes of law, Lincoln was willing to respect the disposition made by the court in settling the fate of Dred Scott in this case. But he and his party would "oppose that decision as a political rule which shall be binding on the . . . members of Congress or the President to favor no measure that does not actually concur with the principles of that decision."

Lincoln was willing, that is, to accept the judgment of the case as it bore on the conflict between two litigants. What he was not obliged to accept was the principle or the broader rule of law that the court was trying to create in the case. As Alexander Hamilton once remarked, the court had neither the power of the sword nor of the purse; its authority would ultimately depend on the force of its reasoned argument. In that spirit, Lincoln insisted that other officers of the government could not be obliged to accept any new "law" created by the court unless they, too, were persuaded by the force of the court's reasoning.

The Lincoln administration came to discover very quickly just how far the executive branch had been willing to apply the principle of the *Dred Scott* decision. In two notable cases arising from Boston, a black student had been denied a passport to study in France and a black inventor had been denied a patent on a new invention. Since the court had decided, in *Dred Scott*, that blacks were not citizens, the local agents of the federal government now reasoned that blacks could not carry the passports of American citizens and they could not receive patents under the laws of United States.

The Lincoln administration reversed both decisions. The attorney general announced that the administration would be guided by its own understanding: that free blacks born in the United States were citizens of the United States. A year later Lincoln would sign new legislation that banned slavery from the territories of the United States—as the president affirmed, again, that in the decisions which came under his hand he would not be bound by the "principles" declared by the court in the *Dred Scott* case.

And yet, in the understanding that now dominates the federal courts, these moves of the Lincoln administration would be regarded as unconstitutional. They would be defensible only on the understanding held by Lincoln and the Founders about the separation of powers and the responsibility of each branch to interpret the Constitution. But when Congress and the state legislatures seek, in our own day, to restrict the practice of abortion, their efforts are instantly branded as unconstitutional if they seem to be acting on the premise that abortion is wrong. Since the Supreme Court "established," in *Roe* v. *Wade*, that abortion is a legitimate medical procedure, it is assumed now that it is impermissible for Congress or the states to legislate upon any other premise. To do that would be treason to *Roe* v. *Wade*, and in the temper of Justice Blackmun, treason to *Roe* v. *Wade* is treason to the Constitution itself.

But if Blackmun persistently faces, on the matter of abortion, an opposition that will not be stilled, it is precisely because the court has not passed the test proposed by Hamilton: 10 years after *Roe* v. *Wade*, people of serious reflection have simply not found compelling or persuasive the reasons offered by the court. A majority of women remain convinced that life begins at conception, that the offspring of Homo sapiens cannot be anything other than human from its very beginning, and that the matter cannot be, as Blackmun suggested, an inscrutable religious question.

In the spirit of Lincoln, legislators in Congress and the states are claiming their right to honor their own judgments in the matters that come before them; and in the spirit of the separation of powers—the spirit of shared powers and reasoned exchange—they would urge the court to take a sober second look at what it has done and consider the possibility that it might have been mistaken.●

SENATOR COHEN'S ARTICLE ON "PRESIDENTIAL PARADOXES"

● Mr. NUNN. Mr. President, the New York Times printed a column on December 19, 1982, by the senior Senator from Maine, Senator COHEN, which I want to bring to the attention of my colleagues.

Senator COHEN, the chairman of the Armed Services Seapower and Force Projection Subcommittee, has spent a significant amount of time studying and working on strategic nuclear issues and arms control.

His thoughtful column on "Presidential Paradoxes" is a perceptive analysis of some of the current dilemmas in the national security area. I believe this excellent column provides a perspective that is worth the Senate's attention, and I ask that the article be reprinted in the RECORD at this point.

The article follows:

PRESIDENTIAL PARADOXES

(By William S. Cohen)

WASHINGTON.—A majority of voters in 1980 supported the proposition that the United States had to modernize its strategic and conventional forces if we were to avoid having to choose one day between conflict or capitulation. But something happened on the road to redemption.

Perhaps it was all the loose talk of firing a nuclear shot across the Soviet bow, confining a nuclear war to European soil, preparing for and surviving a long nuclear conflict, or throwing a shovel full of dirt on an underground shelter for every household in America. Maybe it was a sense of betrayal that we experienced in discovering we had elected a President who was putting into practice the very things he promised as a candidate.

Whatever the reason, it is clear that a new consensus evolved during 1982 that said significant defense cuts could and should be made. It was not that the world had become less dangerous, that the Soviet Union was not still butchering innocent people in Afghanistan, that Gen. Wojciech Jaruzelski was cutting the pressure of his water cannons in Poland, that the skies of Cambodia were not quite so yellow with poison, that the Middle East was any less volatile or Persian Gulf oil more secure. Rather, we concluded that President Reagan's military program was no longer affordable or desirable—that we must reduce our deficits and rebuild our domestic economy before our military capability, and should refuse to build systems that the Soviet Union would use as threatening and destabilizing.

By noting the radical shift in public opinion within a two-year time span, I do not seek to denigrate the perceptions or wishes of the electorate. Nor do I suggest that the defense budget should be sacrosanct or immune from a surgeon's knife. Defense cuts can be made, although they should not be so substantial as to move us immediately within field-goal range of a balanced budget.

The shift in public opinion represents a political phenomenon more deeply rooted than fear or fickleness. It suggests that conservative Republican Presidents (moderates or liberals need not apply) may be able to open doors to China and secure support for arms control treaties yet be unable to sustain a significant or even stable growth in military spending.

By contrast, liberal or moderate Democratic Presidents may be able to secure support for strategic and conventional modernization (few questioned the need for the MX, Stealth aircraft, Trident submarine, or a Rapid Deployment Force under Jimmy Carter) but will be less able to obtain ratification or arms control treaties.

Ronald Reagan is viewed by many as being overly aggressive in word and deed—too likely to produce war rather than preserve peace. By contrast, if Jimmy Carter had proposed an MX "dense pack" or hardened silos reinforced by ballistic-missile defense, he would have stood a better chance of achieving Congressional approval. Mr. Carter was a self-proclaimed peace candidate who wanted to abolish nuclear weapons from the face of the earth. He was a religious man who prayed daily and publicly. Paradoxically, the perception of his weakness in the face of Soviet aggression would have provided the basis of bipartisan Congressional support for arms modernization. With Ronald Reagan, just the opposite appears to be the case—rearmament is seen by an increasing number of people as being unnecessary, unaffordable or dangerous.

Shortly before the November elections, the Kremlin revealed that it would welcome a new Congress that would be more moderate in character. It would be logical to conclude that it would also welcome a change in the occupant of the White House in 1984. But Yuri V. Andropov may possess a subtler turn of mind. He may prefer President Reagan to run as a peace candidate in 1984 with a ratified arms control treaty in hand. In the long run, Mr. Andropov may see the wisdom of having a Republican President with a treaty and without an arms buildup rather than a Democratic President with an arms buildup but without an arms control treaty.●

APPOINTMENT OF MARINE MAMMAL COMMISSIONERS

● Mr. PACKWOOD. Mr. President, the Senate and House of Representatives recently passed H.R. 3942, a reauthorization of the Commercial Fisheries Research and Development Act. Included in the legislative package was a requirement that all future members of the Marine Mammal Commission shall be confirmed by the Senate. To insure that there is no confusion about the intent of this provision, I want to take this opportunity to add some additional clarification.

First, we are only talking about future Commissioners. The members of the Commission currently in place are not covered by this change in procedure.

Second, the Congress in taking this action is insisting on an orderly transition to the new system of advice and consent appointments to the Commission. Congress intends that the current Commissioners shall continue to serve until they are replaced by a new nominee, or nominees, who have been confirmed by the Senate in the 98th Congress or thereafter.

Third, I want to remind all interested parties that the provision in question is retroactive to September 1, 1982, so that any appointments after that date shall be subject to confirmation by the Senate.●

VERMONT VIETNAM WAR MEMORIAL

● Mr. LEAHY. Mr. President, on October 30, 1982, I stood with hundreds of other Vermonters at the Vermont Vietnam War Memorial. It was a bright fall day, and all of us were brought together to honor the Vietnam veterans.

Certainly one of the most moving statements made that day was by Louise Ransom. She and her husband were there, and she spoke of her son, Mike, who died in Vietnam.

There is no way that I could adequately paraphrase what she said. However, what she said was so important that I will momentarily ask the permission of the Senate to have her remarks printed in full.

I hope that everyone within this body and outside will take these words to heart. Mr. President, I ask that the remarks of Louise Ransom be included in the RECORD in full.

The remarks follow:

DEDICATION OF VERMONT VIETNAM WAR MEMORIAL

(Remarks of Louise Ransom)

My son, Mike, died over fourteen years ago in May of 1968 at Chu Lai, Vietnam. He was an infantryman with the American Division, near My Lai.

I am proud to join you here today to dedicate this most fitting memorial to the young Vermonters who gave their lives in Southeast Asia.

The minister of our church read Archibald MacLeish's poem, "The Young Dead Soldiers" at Mike's funeral. Ted Pickett read it here last Memorial Day at the ground-breaking ceremonies. Its words keep coming back again and again. It begins:

"The young dead soldiers do not speak.
Nevertheless they are heard in the still houses. They say
We were young, We have died, Remember us * * *"

And what is it that we remember?

First, we remember how they looked the last time we saw them—the shiny buttons on their new uniforms pressing into us as we hugged them goodbye, trying to shield them with our love.

We remember how we awaited the letters home. In one Mike wrote: "There is not a man over here that wants to see this war go on any longer. This is not to say that anybody shrinks from doing a job. But everyone is as confused as I as to exactly what, if anything, we're accomplishing."

Then we remember our desperate prayers during those last few days in a surgical field hospital after we had learned of the critical wounds.

We remember sadly now the things that will not be: The weddings never attended; the children never born; the houses never built and the fields not ploughed; the books never written; the songs never sung; even possibly from among those listed here, the Governor or the Senator not elected.

But this is our personal pain. We also remember our national pain:

Our anger at our government:

For covering up so many truths about the war, including how we got into it, and for lacking the courage to pull out, as Senator George Aiken so wisely said we should.

For requiring such unequal sacrifices of its citizens through a system that permitted nine out of every ten men to legally avoid service or ride out the war safely in the very Reserve or Guard units we pay to protect us. If our cause was so righteous and just, how did it happen that no member of Congress lost a son or a grandson there?

For not putting a stop to the huge profits made by American here and in Vietnam at the expense of our soldiers.

For its callous neglect of the returning veterans—other parents' sons—who had been sent off to fight and die in an alien land, in alien ways.

Most of all, we remember our disillusionment:

In the bleak fear that the lives of our beloved sons, husbands, brothers, and some sisters, may have been wasted by the nation we love—for no visible gain to its people.

In the perception that the war brought out the worst in us: our racism, our egotism, our intolerance and our unquestioning chauvinism.

In the knowledge that a whole generation has become cynical and lost faith in their government and in the American dream of freedom for all, for which our fore-fathers fought and died.

But we have not come here today only to remember the painful past. What of the future?

The MacLeish poem goes on to say:

"We leave you our deaths. Give them their meaning."

In our search for meaning, one of the things we do is erect monuments. It is symbolic, I think, of the difference between the Vietnam War and other wars, that this monument was built in memory of their fallen comrades by the veterans themselves, as was the one in Washington, and not in their honor by a grateful nation. The veterans have erected these monuments in their rightful effort to find value and thereby pride in their service.

To me, they have always been deserving of pride and honor, but not because it was a good war. I know that my son and all these others were brave and strong, devoted to their fellow Americans, and to their duty as they saw it. No controversy among us over the war itself can minimize that. If a monument helps veterans to find that pride in themselves, let there be many monuments.

However, the true meaning of these deaths can only be determined by how we, the survivors, regard the monuments and the value we find for ourselves in what they stand for.

If we use them to glorify the Vietnam War, rather than as a tribute to its warriors, righteously feeling that now we have done our bit, (remembering that it is the veterans and not we that put up the monuments) and then wash our hands of the whole tragic business with no concern for its victims at home and abroad, we shall have failed.

But if we can strive mightily to seek creative and not military solutions to overwhelming world problems, if we can acknowledge in humility the possibility of error in ourselves, and above all if we can learn to love one another as we love them, their sacrifice for us will not have been in vain.

A crucial line of the poem reads:

"Whether our lives and our deaths were for peace and a new Hope or for nothing, we cannot say; it is you who must say this."

Future generations will not judge us by our monuments, but rather by our actions. We are proud of our soldiers, all of them. Let us by our actions make them proud of us, that they may rest in peace.●

PIONEERS OF SERVICE

● Mr. HELMS. Mr. President, I am a strong believer in what the people of this great country are capable of doing. They do not need compulsion from Government to stir them into action, but simply the conviction and commitment that come from conscience.

As we all know, the President is also a believer in the American spirit of voluntarism. Addressing a recent conference of volunteers, the President noted that—

These volunteer efforts can do it so much more efficiently . . . so much more effectively than Government can, that it isn't a case of waiting for Government to do it. But take a look at the neighborhood, the community, the thing that needs doing, and then find out how you can enlist people to do this.

I can think of no better example of what the President was talking about, of what America needs more of, than the service project involving the American Children's Home in Lexington, N.C., recently completed by Chapter 79 Telephone Pioneers of America. I salute one and all connected with this project as pioneers in service. Like the pioneers of old they have blazed a path that we would all do well to follow.

Mr. President, I ask that their own account of this commendable achievement be printed in the RECORD at the conclusion of these remarks as evidence that the American spirit is alive and well.

The material follows:

A PLACE TO CALL HOME

Mayday, Mayday—The distress signal was heard in late winter, January 1980, from the American children's Home, Lexington, N.C. The boys' dormitory, Pennsylvania House, was under threat of closure due to deterioration, a natural non-phenomenon of 52 years of constant occupancy.

Chapter 79 Pioneers responded. The home's boys had no other refuge. They are social orphans—abused and/or abandoned by parents. The dormitory must remain open to provide them a home. A task force investigated the worth and permanency of the home and recommended we accept the challenge. The Executive Committee voted for the project, and we were underway.

A Steering Committee was formed to organize, plan, and direct the work, Henry Wesley, Project Manager; Len Schaffer, Assistant Manager; Ted Getchell, JOb Superintendent; Gene Lankford, Purchasing Agent; and John Barnette, Engineer are Life Members. Two dozen other Pioneers were on the Committee.

The Orphanage was founded in 1925 by Junior Order of United American Mechanics (JOUAM). It has been home to almost 3,000 boys and girls from ages four to twenty years. The campus is a beautiful complex of brick buildings of superior basic construction situated in a tranquil semi-rural setting of over 300 acres. The home is still owned by JOUAM fraternity which today is about one-third the 1920-30 membership. This orphanage is non-sectarian. It is controlled by a Board of Directors. Financial support comes from JOUAM members, home alumni, civic groups, area businesses and government social service agencies. There is never an excess of funds; therefore, major costly repairs have often been delayed. Several buildings were renovated in recent years by community civic groups, but the 12,900 square feet Pennsylvania Building had only received multiple coats of paint and some crude partitioning during its fifty years.

Renovation of this building was a monumental undertaking. Everything had to be done. The electrical wiring was inadequate and unsafe, plumbing likewise. Both required extensive rework. Rotted woodwork was removed and replaced. "Tons of paint" were removed from doors, mantels, windows, and casements. New ceilings and lighting were installed. Walls were repaired. Partitions were ripped out and new floor layouts were made. New partitions and closets were built. The kitchens were entirely redone with new exhaust systems, stoves, sinks, commercial refrigerators, cabinets, etc. Old floor coverings were removed, floors were repaired and retiled or carpeted. Bathroom fixtures and damaged tile were replaced. Much broken glass was replaced in doors, windows, and storm windows. The exterior woodwork was stripped, repaired, and repainted. The interior was refinished. Over 1200 square yards of carpet and 300 square yards of vinyl were installed. We applied more than 250 gallons of paint, made and hung 100 sets of window curtains, and installed shades.

All tasks were undertaken with zeal and dedication. Each Saturday—(spring, summer, fall, and winter) for over 18 months buses, vans, and cars filled with enthusiastic Pioneers arrived on-site early and stayed late. Life Members even worked weekdays. Everyone worked hard and cheerfully. Fellowship among workers was great. Many new friendships developed among Pioneers united in a spirit of love and joy to fulfill a great need.

Word of this project was spread across the State and the Pioneer association via area newspapers, Company and Pioneer publications. Responses and donations were received from as far away as Arizona.

Members of the Children's Home Board of Directors were contacted and persuaded to provide new furniture for living rooms, dayrooms, houseparents' apartments and bedrooms via area manufacturers.

Today, the campus boasts a newly conditioned dormitory officially renamed "Pioneer Cottage." It will provide excellent housing for hundreds of homeless and, for some, it will be the only home they remember.

Culminating the Pioneers' effort, the Home's Board of Directors decided to establish a maintenance trust fund to insure that the building will be kept in good condition hereafter. Several Pioneers pledged continuing gifts to the trust. More pledges are expected as people capture the children's spirit and the atmosphere of loving care shown by the staff of the Home.

This miracle happened because 3,050 Pioneers and partners, including 400 Life Members and 500 Future Pioneers, cared enough

to raise $103,000 in funds to buy materials and gave more than 30,000 hours labor to accomplish the beautiful restoration. Estimated value of the project is $323,000 including $40,000 in new furnishings.

Chapter 79 Telephone Pioneers entered this project in Regional and National competition for the 1982 "People Who Care" award given each year at the Telephone Pioneer of America General Assembly. The project was awarded first place in both contests. This is the first time a North Carolina Chapter has won first place. It is also the first time a wholly Western Electric Company Chapter has received the award.

On November 6, 1982, a final Pioneer Appreciation Day was held by the staff and Board of Directors of American Children's Home. About 600 people attended the half-day event. They toured the refurbished building, had dinner, and were entertained by the children's chorus and by a pioneer band. The Home's Executive Director, Ray Mims, gave out several plaques to pioneers who spearheaded the restoration project. Former Senator, Robert Morgan spoke briefly of the value and lasting quality of the project and of the impact it will have on today's and tomorrow's children at the Home.●

SENATORIAL NEWSLETTERS

● Mr. MATHIAS. Mr. President, on September 13, 1982, I brought to the attention of the Senate the high cost of the newsletters that Senators send to their constituents. To recap the central fact, it is estimated that Senators' mass mailings, most of which are newsletters, will cost the American taxpayers $37 million this year. Most of that amount, $31 million, is for postage. I do not intend to repeat today what I said then. Anyone who would like to read my remarks will find them beginning on page S11332 in the September 13 CONGRESSIONAL RECORD.

My purpose today is to advise my colleagues that the Committee on Rules and Administration will hold hearings on this subject on February 2, early in the 1st session of the 98th Congress. I would also like to share some additional information on this subject, and some ideas for reform, which I hope Senators will ponder so that the Committee on Rules and Administration can have the full benefit of their reflections on this difficult problem at the hearings.

I. SUMMARY OF POSTAL PATRON MAIL ISSUE

Public Law 97-67 authorized Senate use of postal patron mail, under regulations to be issued by the Committee on Rules and Administration. In Rules Committee hearings on implementation on February 2, 1982, it became obvious that a number of Senators wanted to send more newsletters, and that they saw postal patron mail as a way to do so more easily. The desire to retain mailing lists for directed mass mailings, while using postal patron for other mass mail, was also apparent.

Our hearing brought out both positive and negative aspects to postal patron mail. One positive aspect is that the postage rate is slightly lower than the third-class, bulk-sort rate now used—7.9 cents versus 9.3 cents. The much larger savings, which were predicted in the legislation authorizing postal patron, assumed the Senate would be going from first-class addressed to postal patron rates. Those savings have been largely realized already in the shifting to third-class addressed. A second benefit predicted in the legislation was that use of postal patron would allow the Senate to discontinue the mailing lists which run in the millions of names. Maintenance of mailing lists is a labor-intensive activity that pervades the Senate. The third benefit of postal patron mail is that it would relieve the Postal Service from returning the thousands of newsletters which are not deliverable because the addressee has moved. The Senate would save return postage, which now runs between $2 and $3 million a year.

The most important negative aspect of postal patron mail is its potential for increasing the volume of mass mail substantially. The very inefficiencies of the present system which would be eliminated by postal patron mail may be the only dam holding back a flood. It is not possible to predict how high volumes would become if sending newsletters became so much easier. It is conceivable that the current volume of mass mailings, and, therefore, the cost, would increase by several times if postal patron mail were implemented in the Senate.

II. BACKGROUND

A. SUMMARY OF RECENT GROWTH IN NEWSLETTER VOLUME

With the assistance of the Sergeant at Arms and the Senate service department, the Committee on Rules and Administration has studied the trends in mass-mail. Volume has steadily increased since 1979, and has continued to increase throughout this year. No effective limit seems to exist to prevent mass-mailing, either by postal patron or by direct addressing, from increasing to several times its present level.

Senate mass-mail volume has increased rapidly for several years. In 1982, 2½ times as many pieces of mass-mail were sent as in 1979, just 3 years earlier. The increase is primarily attributable to newsletters. In 1981 and 1982 mass-mail constituted about 92 percent of all Senate mail, with newsletters accounting for 69 percent. By contrast, letters sent in response to incoming mail were only 4 percent of the total. I have two tables which depict this growth. I will not read these tables, but I ask that they be included at this point in my remarks. Table 1 illustrates the increase in the volume of mass-mail from 1979 through 1982. Table 2 shows how Senators' newsletters dominate all other categories of Senate mail.

The tables follow:

TABLE 1.—SENATE MASS-MAIL VOLUME

Year	Millions of pieces of mass-mail	Percentage of increase over prior year
1979	93	
1980	118	27
1981	142	20
1982	[1] 245	73

[1] The 1982 estimate is based on first 6 months of 1982.

TABLE 2.—*Senators' Newsletters as a percentage of all Senate mail (1981–82)*

	Percent
1. Mass mailings:	
A. Newsletters	69
B. Information notices, press releases and town meeting notices	23
2. Other than mass mail:	
A. Correspondence prepared with the Senate correspondence management system (CMS)	4
B. All other mail	4
Total	100

Mr. MATHIAS. In my remarks in September, I pointed out that although total volume has increased nearly threefold, most Senators still send fewer than one piece of mass-mail per mailbox per year, and that if all Senators were to become high-volume mass-mailers, like some of our colleagues, volumes and costs would really skyrocket. For example, in 1981, only 13 Senators accounted for over 50 percent of the mass mail volume. That group of 13 included Senators from large States who sent as little as one piece of mass-mail for every three mailboxes, Senators from large States who sent as many as three or four pieces per mailbox, and Senators from smaller States who sent almost eight pieces per mailbox.

B. THE PAPER ALLOTMENT

Theoretically, Senate mailing is limited by several allotments. For newsletters, Senators are alloted a number of sheets of paper based on State population, In practice, no Senator is ever known to have been unable to mail a newsletter because he or she could not find enough paper. The limitation is ineffective because of carryover and transfer of unused balances. Senators can transfer their allotments to each other, so that those who send few or no newsletters can give paper to others whose allotments would not be enough for high-volume newsletter operations. Unused paper allotments can carry over for 2 years; then they pass to the appropriate party secretary. Over the years the party secretaries have amassed supplies of paper which they can allocate to Senators who have exhausted their own supplies. In drawing on their inventories, Senators must exhaust the current year's allotment before drawing on the remaining

balance of the prior year, and must exhaust the prior year before drawing on the year before that. Whatever unused allotment a Senator has when he leaves the Senate is customarily given to other Senators.

C. ELEMENTS OF COST

The service department incurs costs for printing, folding, labeling bundling, and a modest cost for composing. The Computer Center incurs costs for printing and sorting labels and for adding computer tape files acquired by Senators from outside sources to their file of addresses. The Secretary of the Senate incurs costs for paper allotment accounting. The Government Printing Office incurs costs for the paper itself.

However, the major element of cost is postage, which is paid from a House and Senate joint account, "Official Mail." Payments are made on vouchers submitted quarterly by the Postal Service. This is the $31 million I mentioned earlier.

D. POSTAGE RATES

Most Senate newsletters are sorted by ZIP code and sent third-class at 9.3 cents each. A few mailings too small to be sorted efficiently are sent first class, at 20 cents each. Postcard town-meeting notices are sent at 13 cents each. The third-class newsletters and postcard, town-meeting announcements are recent cost-saving innovations, without which Senate postage costs might have risen another $20 million this year. Those are the rates for outgoing mail. Unfortunately, a lot of that mail is undeliverable. Undelivered first-class newsletters are returned at no additional cost, but undelivered third-class newsletters cost an additional 20 cents each. Address corrections on first-class and third-class newsletters cost 25 cents each. Compare these costs to newsletters sent "postal patron," which would cost 7.9 cents each, with no returns.

At comparable volumes, postal patron is less expensive than the current mailing system. If the Senate can agree to effective ways to limit volume, postal patron mailings would free the Senate and the Postal Service from the inefficiencies associated with the maintenance of huge mailing lists and the processing of mail with incorrect addresses. It would also eliminate the embarrassing eyesore of 35 or 40 mail tubs lined up outside a Senator's office, each full to the brim with thousands of undeliverable newsletters.

III. POSSIBILITIES FOR REFORM.

Because of its high potential for multiplying newsletters volume and costs, postal patron mail for newsletters should not be adopted unless action has been taken to prevent that increase from occurring. Let me briefly summarize a few things that could be done. I hope that my colleagues will comment on these suggestions in the committee hearings on February 2, and make some suggestions of their own.

A. COST AWARENESS

Simply increasing Senators' awareness of the costs incurred on their behalf is one possibility. Periodically, statements could be sent to Senators informing them of the costs incurred on their behalf in printing and mailing their newsletters and other mass mailings. Notification to each Senator might be the "word to the wise" that is sufficient.

B. PAPER ALLOTMENT

The paper allotment has all the appearances of a bottomless well. Things that could be done to improve its usefulness as a control device are:

First, prohibit the carryover of unused paper allotment from year to year. Paper allowances would be treated in a manner similar to that of appropriated funds, where unobligated funds lapse on the last day of the fiscal year.

Second, prohibit the transfer of paper allowances among Senators. As long as there is no rule against it, only the most curmudgeonly of us would be so unaccommodating as to refuse such a request. A rule prohibiting transfers would be fair to all and would relieve all of the burden of having to respond to such requests.

Third, prohibit transfer of unused paper to the party secretaries.

Fouth, recast the paper allotment, so that two one-page newsletters no longer count the same as one two-page newsletter, which costs half the postage.

C. LIMIT THE SIZE OF NEWSLETTER ADDRESS FILES

Improvements that could be made to reduce the volume of mail sent out that cannot be delivered are:

First, require processing of all returned newsletters through the optical character recognition (OCR) machine for deletion, and hand deletion of all those which fail OCR deletion.

Second, establish two classes of mailing lists. One would be a list of names and addresses obtained as tape files from outside sources. Such files could be limited to a single use or to use for a limited period of time, such as 6 months. All other names could be retained indefinitely.

Third, limit the number of addresses which a Senator can have in his address file to the number of addresses in his State, plus out-of State students and military personnel.

D. ENVELOPES

Prohibit mailing newsletters in envelopes.

CONCLUSION

This issue is not going to go away. It is of considerable interest to the press and to our constituents. I would like to submit for the RECORD copies of articles and editorials voicing concern about mass mailings which appeared in the Baltimore Sun; the New York Times; the Scranton Times; the Santa Barbara News-Press; U.S. News and World Report; Congressional Quarterly; the Washington Post; and the Arizona Republic. I ask that the articles and editorials be printed in the RECORD following my remarks.

You will listen in vain for even a quartet of voices crying out "Don't take away our newsletters." Not even a duet will pipe up to defend them as valuable sources of information. Instead, you will hear a swelling chorus of voices advocating a bipartisan effort to establish restraints. They are waiting for us to take some remedial action before the situation spirals completely out of control.

Finally, Mr. President, I would like to share with my colleagues a packet of material a concerned, public-spirited, cost-conscious citizen sent me. She is not a resident of the State of Maryland, but she had heard of the effort to curb mailing costs and eliminate waste. And she sent me proof that we are on the right track. She enclosed nine newsletters, or rather, nine copies of the same newsletter, which had been delivered to the same mailboxhers. The newsletters were addressed to different members of the same family; some were sent more than one copy; and some of the addressees had moved some time before. Indeed, one person, who was sent two copies, had married and moved out 10 years earlier. This public-spirited citizen was kind enough to take the time to write a brief note on each newsletter, commenting on the names and addresses. Let me just read the address labels to you and her comments. In order to protect the privacy of the addressees, I will change the surname to "Smith" and I will not reveal the city, State, or ZIP code.

Address labels:	Mrs. "Smith's" Notes:
Mrs. Lura A. Smith, Rt. 3, City, St. 12345.	Where does Senator —— —— get his addresses? Mrs. Lura A. Smith, Wife of County Commissioner, L. A. Smith, Rt. 6, Box 34, City, State 12345.
Mrs. Lura A. Smith, Rt. 3, City, St. 12345.	Old address.
Mrs. Maxine J. Smith, Rt. 3, City, St. 12345.	Old address and same person as Mrs. Lura A. Smith.
L. A. Smith, Rt. 3 B 26, City, St. 12345.	Old address.
Samuel L. Smith, Rt. 6 Box 34, City, St. 12345.	Married and moved out 10 years ago. The only correct address for the box of Mr. and Mrs. Lura A. Smith.
Mrs. Samuel L. Smith, Rt. 3, City, St. 12345.	Old address for son who moved out 10 years ago.
Mrs. Donald C. Smith, Rt. 6, City, St. 12345.	Donald is not married.
Mrs. Rebecca A. Smith, Rt. 6, City, St. 12345.	Rebecca is not married and moved out 3 years ago.
Mr. Stephen L. Smith, Rt. 3, City, St. 12345.	Old address.

If Senators will take a look at their own newsletter operations, they may be startled to find that this is not such an unusual occurrence. Perhaps we should ask ourselves if we might not be making an impression on our constituents quite opposite to what we intend. To illustrate, the particular newsletter that Mrs. "Smith" sent me contained an article on the need to restrain Federal spending. The last line on the first page contained the words, all in capitals, "the spending spree must end." Not inappropriately, Mrs. "Smith" marked those words with yellow highlighter.

I urge my colleagues to give this subject serious consideration so that the Committee on Rules and Administration may have the full benefit of their wisdom in the hearings on February 2.

I submit for the RECORD various articles with reference to this subject matter.

The articles follow:

[From the Baltimore Evening Sun, Sept. 13, 1982]

SENATORS' POSTAGE BILL SPURS HEARINGS

(By Michael J. Himowitz)

WASHINGTON.—The nation's 100 senators may be the most prolific correspondents in the country. So prolific, in fact, that during this election year they will send out 245 million pieces of mail—all paid for by the people who find the stuff in their mailboxes.

That's the equivalent of more than one letter for every man, woman and child in the country, and Sen. Charles McC. Mathias Jr., R-Md., who presides over the torrent of what he candidly refers to as "junk mail," thinks it may be getting out of hand.

Alarmed by a 70 percent increase in the number of Senate "newsletters" sent out this year, Mathias is expected to announce today that the Rules Committee he chairs will hold hearings on that most cherished of congressional perquisites—franked mail, which uses the congressman's imprinted signature in place of a stamp.

"Newsletters have been growing at an alarming rate," Mathias said. Although comparable figures are not available for the House, records indicate that the House spent almost $60 million on postage alone in the first half of fiscal 1982.

This means that Congress may far exceed the $75 million alloted for postage in its fiscal 1982 budget—despite the passage of a law last October that put some restrictions on the type of mail a congressman or senator may send.

The hearings are likely to open some sores as old as Congress itself. Congress established the franking privilege in 1789, the first year it met, to make it easier for senators and representatives to communicate with their constituents on matters of official business.

But almost from the beginning, use of the frank has led to charges that it has been used mainly as a tool for re-election

Until recently, for example, legislators often used their franking privilege to send constituents congratulatory letters for births, marriages, high school graduations and anniversaries. The lawmakers themselves agreed that this was a public purpose only by a great leap of the imagination, and new rules have put somewhat of a crimp in that kind of mailing.

The volume of franked mail increases markedly in election years. Postal Service reports show that in 1977, an off year, Congress sent out an estimated 307,030,000 pieces of mail.

In 1978, an election year, the number jumped to almost 448 million and dipped to 374 million the following year. In 1980, Congress sent out 512 million pieces of mail, but last year the number dipped to about 400 million pieces. It will be up again this year.

The $75 million postal budget for 1982 represented a 42 percent increase over 1981. There are a number of reasons for the huge leap in mail. Besides being an election year, this is the first year after reapportionment, so members of the House are spending money to introduce themselves to constituents in their newly-drawn districts.

Just as important, the nature of politics has changed drastically in the last few years, thanks to the growth of special interest groups with sophisticated, computer-directed mass-mailing drives which can generate thousands of letters and postcards to Congress on specific issues in a matter of days.

In 1970, Congress received only 15 million pieces of mail. But by last year, with special interest groups all over the political spectrum bombarding legislators every day, the incoming volume had grown to 300 million letters.

As a result, many Congressmen have installed sophisticated mass-mailing systems of their own, and the public is treated to the electronic spectacle of Congressional computers churning out thousands of computerized replies to letters generated by special interest computers.

In fact, a study by the Senate Rules Committee staff showed that only 12 percent of the upper chamber's outgoing mail represented responses to individual letters.

The bulk of the mailings in both houses were in two categories. One is the so-called targeted response, with congressmen using their own computers to take the political offensive. Both Mathias and Sen. Paul S. Sarbanes, D-Md., as well as many members of House, keep track of everyone who sends a letter on any subject.

With the computer, they can send out "Dear Friend" letters to a targeted group on any subject, whether it be to accountants interested in depreciation schedules, old house buffs interested in historic district laws, or environmentalists worried about polluted air.

But a much larger volume is generated by so-called "newsletters," which legislators send out to all of their constituents. Since 1973, House members have been allowed to send out the equivalent of six district-wide mailings a year, using the "Postal patron" designation.

This means that congressmen provide the Postal Service with enough newsletters to reach every home in the district (usually 200,000 to 250,000).

[From the New York Times, Sept. 24, 1982]

MATHIAS'S COMPLAINT ON MAIL COSTS

(By Marjorie Hunter)

WASHINGTON.—If United States senators had to buy and lick all those stamps, says Senator Charles McC. Mathias Jr., they might forfeit some of their mass mailings now costing the Federal Government about $31 million a year.

Senators, of course, don't have to do their own licking. Members of Congress have, free of charge, what is called the franking privilege for all except strictly personal mail. "But because we are not aware of our postage costs," said Senator Mathias, a Maryland Republican, "that does not mean that there are none. In fact, the Postal Service recently estimated that the postage costs for Congress as a whole will be $102 million this year."

As chairman of the Senate Rules and Administration Committee, Senator Mathias is so disturbed about this postal problem that he intends to hold hearings, perhaps early next year, if the Republicans retain control of the Senate in the upcoming elections.

The Senate does have some hardnosed restrictions on newsletters, but they concern content, not how many copies may be dropped into the mail slot. No page may contain more than eight references to any senator. No more than four pictures of a senator may be used in an issue. And senators are restricted from asking constituents for their votes.

Senator Mathias is not concerned about ordinary mailings in which Members of Congress respond to letters from constituents. This category of Senate mail totals only about 11 million pieces a year and Mr. Mathias considers it a necessary service.

What bothers him are mass mailings, the unsolicited newsletters and the like, which will add up to some 245 million pieces this year.

In addition to the estimated $31 million spent on Senators' mass mailings, Mr. Mathias says there are about $6 million in other costs, such as paper and printing. Furthermore, he reports, some Senate offices are inundated with mass mailings that have been returned because addresses were incorrect or addressees had moved.

Compared with some costs of Government, Senator Mathias said in a recent floor speech, $31 million might not seem like a great deal of money. But, paraphrasing Senator Everett McKinley Dirksen, Republican of Illinois, Mr. Mathias added. "A million here. A million there. And pretty soon you're talking about real money."

[From the Scranton Times, Sept. 30, 1982]

CONGRESS COULD EASILY SAVE $31 MILLION

If members of Congress stopped sending out mass mailings, chances are not a single complaint would be filed. Some of the lawmakers aren't content to confine their mailings to people in their home state. Those with national ambitions frequently direct their newsletters to newspaper, television and radio editorial offices, as well.

These are all self-serving messages, of course. Members of Congress are not in the habit of reporting their failures to their constituents. Every newsletter is designed to show the work of the legislator in the best possible light.

This practice might be tolerable if it weren't for the cost. Sen. Charles McC. Mathias Jr., R-Md., estimates the mass mailings are costing the taxpayers $31 million a year. This is on top of conventional use of the mail to correspond with constituents and others. The Postal Service has said that the entire postage cost for Congress this year is likely to be $102 million, not counting paper, envelopes and the time and equipment that go into putting newsletters together.

The Senator, who is chairman of the Senate Rules and Administration Committee, intends to hold hearings on the subject early next year provided he still holds the championship at that point. Irrespective of whether the Republicans or Democrats

have control of the Senate in 1983, spotlighting this waste of public money at a public hearing is an excellent idea. Members from both sides of the aisle engage in the mass mailings. Restricting the practice should be a bipartisan endeavor.

[From the Santa Barbara News Press, Oct. 1, 1982]

FREE IS EXPENSIVE

The late Sen. Everett Dirksen of Illinois once made a remark about government spending that has been borrowed by many others since his time: "A million here, a million there, and pretty soon you're talking about real money."

Sen. Charles Mathias Jr., R-Md., chairman of the Senate Rules and Administration Committee, borrowed it the other day. He is disturbed about $31 million, a mere drop in the federal bucket. That's the amount of the public's money that senators are spending each year to promote themselves in their constituents' eyes.

It's done with newsletters; it's a rare senator who doesn't have them compiled and mailed to the voters back home. These newsletters' purpose, at least originally, was to bring citizens up to date on some of the activity on Capitol Hill. But senators, naturally, tend to put their own actions in the best light.

The Senate has a few rules about these newsletters. No page may contain more than eight references to a particular senator. No issue may contain more than four pictures of the senator. No senator may use free postage to come right out and plead for votes. But the Senate has no restrictions on the number of copies of newsletters.

Whatever the total number, it keeps growing, and that free postage is now costing us $31 million.

Mathias is determined to find a lid. We're with him. A million here, a million there, and pretty soon. . . .

[From U.S. News & World Report, Nov. 1, 1982]

WHY IT'S SO HARD FOR OUTS TO BEAT INS

FREE MAIL, PHONES, TRAVEL STAFF—AN ENDLESS LIST OF PUBLICLY FINANCED ADVANTAGES GIVES INCUMBENT LAWMAKERS A BIG EDGE FOR RE-ELECTION

(By Joseph P. Shapiro)

With a vast array of taxpayer-financed advantages at their disposal, members of Congress this year are proving harder than ever to unseat.

Only 10 of the 423 lawmakers seeking reelection were defeated in the 1982 primaries, and, despite widespread voter dissatisfaction with Congress' overall performance, the overwhelming majority of incumbents can be sure of victory November 2.

While incumbency does not assure re-election—senators particularly have had to struggle in recent years—more and more members of both houses are becoming experts at using their positions and millions of taxpayers' dollars to bolster their chances.

Few challengers, for instance, can hope to win the name recognition of a lawmaker who uses free mail privileges and official expense accounts to blitz an area endlessly with newsletters, government publications or computer-generated "personal" mail.

No outsider can match an incumbent's easy access to a broad range of other campaign tools, such as free telephone service, subsidized broadcast studios, low-cost printing and mailing, free travel, and public-provided research and speech writing.

Larry Bates, unsuccessful in a Tennessee House primary, may not be far wrong when he complains: "An incumbent has a half-million-dollar advantage over a challenger."

What riles challengers most is the frank—a privilege that permits members to send mail under their signatures in lieu of stamps.

In the first half of 1982, Senator Jim Sasser (D-Tenn.) mailed 8 million letters, including thousands commending voters for registering.

One congressional aide's strategy for success: "Use the franking privilege. Keep your name in a household, and you can't be defeated."

Most members send out newsletters that extol the lawmaker's skill, power and influence in Washington.

Newsletters typically are written by the member's staff, financed by official funds and printed in a subsidized plant on Capitol Hill.

To be mailed free, newsletters must meet certain tests. References to a lawmaker, for instance, can average only eight per page. Still, some newsletters resemble campaign brochures; Representative Vin Weber (R-Minn.) emblazoned his with a campaign slogan until an opponent objected.

Costly perk. One sign of the frank's election-year value: Its use is up 73 percent in the Senate and 29 percent in the House this year, compared with 1981. For the full year, the cost to taxpayers will be an estimated record 102 million dollars, up from 49 million as recently as 1978.

House members faced with redistricting this year were allowed to send mail across district lines to homes in the new territory they will represent if re-elected. The Senate also planned to extend its mailing powers but delayed the step after critics publicized the extra cost: 89.1 million dollars a year.

When the frank is combined with office computers and computerized address lists, all acquired with public funds, lawmakers can turn mass mailings into highly effective promotional operations. Knowing that someone is a doctor, boat owner or union member, legislators tailor letters to each group.

Members also use their office funds unabashedly to impress constituents—from buying meals for visitors to sending out thousands of expensively printed calendars at year-end.

Multimillion-dollar House and Senate recording studios allow members, at cut rates, to tape television and radio shows for free distribution to stations back home. The result: Many get free air time in their areas, while rivals scramble to buy such exposure.

Another advantage is staff, which has doubled in a decade. Most staff work is noncontroversial—aiding people with everything from finding lost Social Security checks to arranging White House tours. Lately, however, the line between traditional casework and political promotion has blurred.

Some members, realizing a pampered constituent is a likely backer, now seek casework by setting up storefront or mobile offices. Representative Thomas A. Daschle (D-S.D.) has a toll-free hot line. Representative Jerry Huckaby (D-La.) gives the elderly free blood-pressure checks.

Challengers seldom can match an incumbent's ability to make news. One tactic is the district hearing—an expensive roadshow staged by a House or Senate panel. A week before his difficult September 11 primary, Representative Gillis Long (D-La.) led a House subcommittee to his district to hear constituents testify against proposed budget cutbacks at a federal health facility there.

Fund-raising edge. Incumbents have a far easier time filling campaign treasuries. So far in the 1982 races, they have netted 27.5 million dollars from interest groups' political-action committees, compared with challengers' 3.6 million dollars.

Officeholders defend their perquisites, noting that reforms have eliminated many abuses. Both houses, for instance, bar free mass mailings within 60 days of an election.

Still, reforms are easily skirted. Mail that does not meet the franking standard, for example, can be sent with stamps from office accounts.

The real test is the election record. It shows that since 1960, 92 percent of House members and 77 percent of senators seeking new terms have won.

What worries critics is that incumbents in their quest for security may be thwarting the electoral system. Says Fred Wertheimer of the citizens' lobby, Common Cause: "If the system tilts too much toward incumbents, it's no longer a competitive process."

[From the Congressional Quarterly, Sept. 11, 1982]

PROXY MAIL REPLACES COLD SWEAT LETTERS: COMPUTERS AND LASER PRINTERS HAVE RECAST THE INJUNCTION: "WRITE YOUR CONGRESSMAN"

Earlier this year, the motion picture industry was at work on a lobbying epic called the Home Recording Act of 1982 when a casting problem arose.

The moviemakers' trade group, the Motion Picture Association of America, had signed up a stellar company of lobbyists to push the bill (HR 5705), which would force makers of home video recorders to pay copyright royalties to the movie studios. But the industry lacked the all-important cast of thousands—the constitutents back Home—to make their production big box office on Captiol Hill.

The problem was, where to find large numbers of people willing to write Congress in support of an esoteric, highly complex copyright bill aimed at helping the not-so-impoverished motion picture industry.

The industry turned to Robert M. Smith of Targeted Communications Corp., a practitioner of what he calls "ad hoc constituency mobilization." And within a few weeks, by Smith's estimate, 20,000 letters and telegrams arrived in congressional offices. The letters appeared, at first glance anyway, to have been individually composed on the constituents' own letterheads.

"Using conventional notions of direct mail, this campaign should have been impossible," Smith said later. "It shows there are a lot of different issues people will respond to that, before, they hadn't even heard of."

What influence that mailing had is impossible to tell. The movie copyright bill is still a long way from being in the can, as the Hollywood folks say. *(Weekly Report p. 629)*

But the mass mail techniques used in the campaign gave a preview of politics' evolution from a mysterious art of "blue smoke and mirrors" into a science of computers, lasers and "geo-demographic targeting."

The use of mass mail to sell products, raise money and tout political candidates, as well as to lobby Congress, is familiar to anyone with a mailbox. What is less well-known is the state of the art—refinements that some political operatives claim are

making direct mail increasingly subtle, personal and effective:

Demographic targeting that enables interest groups to write only to people most likely to respond, with a message aimed at their special concerns. This is especially valuable for political candidates and for lobby groups that do not already have a built-in membership list.

Printing technology that allows messages to be customized while they are being printed at high speed, so that a computer-generated letter more or less resembles a personal message.

Proxy mailings, purportedly signed by individual constituents but actually sent in bulk by interest groups, sometimes without the constituent seeing the actual message.

BIRDS OF A FEATHER

The first step for a practitioner of modern postal politics is to identify people likely to respond to his pitch.

Following the lead of commercial advertisers, political marketers have sliced up the nation into ZIP code areas, voting precincts, census tracts and other fragments, and, using public data and polls, have tried to classify the tastes and behavior of each unit.

Perhaps the most sophisticated dissection of America was done by Claritas Corp. of Arlington, Va.

The company started 10 years ago with the 215,000 "block groups" and "enumeration districts" used by government census-takers. Each is a unit of a few city blocks, about 280 households. Using census data, polling and other information, Claritas classified each little chunk of America into one of 40 "lifestyle clusters," based on affluence, education, ethnic group, age, type of housing and other variables.

Cluster 28 (called "Blue Blood Estates" in the company's fanciful lexicon) includes neighborhoods of super-rich, white, college-educated suburban families. The clusters range on down through "Money and Brains," "Old Melting Pot," "Shotguns and Pickups" and "Urban Renewal" to the poor, grade school-educated, racially mixed rural neighborhoods of Cluster 6: "Hard Scrabble."

Those who use the system say people in a similar cluster tend to buy, vote and behave the same way, whether their neighborhood is in New Jersey or North Dakota.

"We like to say, birds of a feather flock together," explains Claritas founder Jonathan E. Robbin.

Over the years, the company's system has been used to peddle everything from chain saws to sex toys. More recently, it has begun to gain popularity for political fund raising and voter appeals and for "grassroots" lobbying.

"You can 'read' the attitudes of people," or at least the prevailing attitude in the cluster, said Matt Reese, a political consultant who uses the system for Democratic candidates. "Then you can send a dozen different versions of a message, all telling the truth, but talking about what the people are interested in."

Or as Robbin puts it: "You don't talk about food stamps to cluster 28."

Sponsors of a liberal cause, looking for someone likely to write or call a congressman, would probably aim for the "Bohemian Mix" cluster (often found in university communities) or "Young Influentials" (swank town houses on tree-lined streets)—two groups found to be predominantly liberal and quick to write.

Conversely, a lobbyist is unlikely to spend much postage on "Share Croppers" and "Hard Scrabble," clusters that "you couldn't move with dynamite," according to political consultant. Eddie Mahe Jr., who sells targeting advice to Republicans.

A GOP candidate seeking campaign donations will probably start out mailing to like-minded "Young Suburbia," then move to "Young Homesteaders," a cluster known for its persuadable swing voters.

By polling a sample of cluster households, politicians can estimate the views and likely votes of similar clusters across the country, and thus determine where to invest their advertising and get-out-the-vote dollars.

Reese gave the Claritas system its first political tryout in a successful 1978 campaign against a right-to-work law proposed in Missouri. In 1980, he used it in the re-election campaign of West Virginia Gov. John D. "Jay" Rockefeller IV; Reese claims a study showed the mailing gave Rockefeller a "lift" of 7 percentage points.

This year, the system is being employed in about a dozen political campaigns, Robbin said. So far, cluster targeting has been used in only a handful of lobbying efforts, mostly at the state level, but Mahe and Reese predict its use for that purpose will mushroom.

ATTENTION: CHARLTON HESTON

Smith, who broke off last year from the liberal fund-raising firm of Craver and Matthews to start his own company, used similar techniques to build mailing lists for corporate lobbying and campaign appeals. (His most prominent political client is presidential hopeful Walter F. Mondale.)

In the movie copyright campaign, Smith started with the congressional districts of several key committee members, then narrowed his focus to the "swing" voter precincts of gravest concern to the incumbents. Within those precincts, he identified neighborhoods with large numbers of cable television hookups, reasoning that residents were likely to be motion picture devotees. He concentrated on older and affluent families, who are believed to be most responsive to mail.

Smith sent each household a letter "signed" by actor Charlton Heston warning that a horde of "wealthy, powerful Japanese electronics firms" was flooding America with home video recorders that copy movies form TV. Unless the video companies are forced to pay copyright fees, movie producers might withhold movies from television, the letter threatened.

The package included another letter for the recipients to sign and sent on to their congressmen in their own envelopes. It also contained a form to be returned to the lobby group ("Attention: Charlton Heston") so the response could be measured.

Apparently not all of the recipients absorbed the finer points of the issue. One woman contacted about her letter to Congress told Congressional Quarterly: "I got something in the mail and just sent it in. Anything the Japanese are doing to us, I'm against."

Whatever their motives, however, they wrote. Smith said that 10 percent of the targeted households did as they were asked, about 10 times the normal response to a direct-mail appeal.

PACKAGING

To promote a big response, mass mailers like to "personalize" messages—addressing them to householders by name, adding paragraphs that cater to any known interests, and inserting useful, specific information such as the name of the person's congressman.

"The challenge is how to get a letter to look like a personalized letter when you're mailing a million of them," Smith said.

In the copyright effort, Smith used the Cadillac of the direct-mail business, a high-speed laser printer linked to a computer, to customize each piece of the package. Laser printers can snap out two pages a second while varying the text in many ways.

The letters that constituents were asked to forward to Congress on the copyright bill were printed on different colors of paper imprinted with the constituents' names and addresses to resemble personal stationery. The wording was varied slightly in hopes congressional offices would not immediately spot them as form letters.

Rep. Harold S. Sawyer, R-Mich., a swing vote on the House Judiciary Committee, received more than 650 of the letters and 100 telegrams.

"When it first started coming in, my reaction was, 'Gee, a lot of our constituents have really nice stationery,'" said Charlene L. Vanlier, Sawyer's legislative assistant. Then her father back in Michigan received his letter from Charlton Heston, and everything became clear.

"The congressman has been very amused by it," Vanlier said. She added that while the letters "did not influence him," he was impressed that the movie industry cared enough to buy such a slick campaign.

The mailing, incidentally, gave Sawyer a golden opportunity. Members of Congress who are nearing an election are strictly limited in the mailings they can send constituents at government expense; but there is not limit on answering mail they receive.

Sawyer suddenly found himself with a list of more than 700 constituents interested in his views. Cranking up his own computerized printer, he sent each one a "personalized" reply discussing the copyright bill (he wants several amendments) and adding a plug for another bill he recently supported to promote American exports.

Roberta Haeberle, legislative assistant to Rep. Don Edwards, D-Calif., who sponsored the copyright bill, pointed out that opponents also organized a mail campaign. Letters opposing the bill were displayed on counters in video stores for customers to sign.

Nonetheless, she added, the mailings from both sides "helped to get people focusing on the issue. Otherwise, I think no one would have paid the bill much attention at all."

To Smith, that is no small achievement: "On these esoteric corporate issues, that may be 75 percent of the battle—to get their attention."

Smith used the same strategy to generate some 70,000 pieces of mail for a coalition of telecommunications firms pressing legislation governing the breakup of American Telephone & Telegraph Co. (AT&T).

That campaign generated some controversy because Smith stamped each envelope with an imitation of the Bell System logo and the eye-catching warning: "Notice of Telephone Rate Increase Enclosed." The message inside said that unless the constituent helped lobby for the breakup of AT&T, phone rates could "double."

AT&T protested that the mailing was deceptive. But Robert Beckel, lobbyist for the AT&T competitors, said it was "pivotal" in getting the bill through a House subcommittee. He said it helped offset the pressure put on lawmakers by AT&T, which generated its own mail storm from shareholders and customers.

Despite Smith's effort, the bill (HR 5158) later succumbed to AT&T opposition. *(Weekly report p. 1773)*

Beckel said his group paid about $200,000 for Smith's help, which points up one reason such packaging is still in limited use. The cost—from 50 cents to 70 cents per piece of mail—is extremely high, and Smith concedes it is best suited to well-heeled corporate clients.

Less expensive methods of personalizing mail are now widely available through various marriages of the computer and the printing press.

Webcraft, a leading direct-mail printer, uses "ink-jet" presses that can vary the text of a message in midprinting. Webcraft executive Robert W. Ruddero said the technique is nearly 10 times as fast as laser printing, and cheaper. While the result is not so slick—the typeface would not be mistaken for something produced on a constituent's typewriter—it still enables mailers to address messages to recipients by name and to include customized information such as names of their representatives in Congress.

Bruce Eberle, a prominent conservative mailer, said he personalizes smaller batches of mail using a computerized impact printer—a slower, cheaper process technology buffs consider old-fashioned. Laser and ink-jet, he contends, "are really enhancements. I don't consider them great technological leaps forward."

Stephen Hayes, a printer who uses a laser press, also cautions that no matter how sophisticated, mail has its limits. "The best technology in the world cannot make a dead issue look like it's alive, or a badly written letter look like it's well written," he said.

Even with the speediest presses, producing a mass mailing and getting the returns back to Congress can take weeks. The mail may hit Capitol Hill too early or too late to help.

Some interest groups solve that problem by collecting the proxies of their supporters in advance.

The National Education Association (NEA), for example, has a well-regarded lobbying apparatus of 1.7 million members, many of whom respond to the association's calls for mail and phone calls. But much of the activity in Congress occurs in the summer, when teachers are on vacation.

So NEA has collected permission from 100,000 teachers to sign their names to telegrams on issues ranging from tuition tax credits to Social Security. The telegrams pour in when they are needed, whether the teachers "signing" them know it or not.

Smith's mailing on the copyright bill employed a similar option. A post-script in the Charlton Heston letter noted, "Because time is short, you might choose to call us toll free . . . and authorize us to send, at no cost to you, a public service message on your behalf to your Congressman."

Mailing letters on behalf of someone else, however, is not without risk.

During deliberations on the recent tax bill, for example, Maine's senators began getting a stream of telegrams from grocers back home opposing an increase in the cigarette tax. When GOP Sen. William S. Cohen replied, some constituents complained that they had never written. Several of Cohen's letters come back marked that the constituents had died.

The telegrams were sent by the Tobacco Institute, using a list supplied by the Maine Retail Grocers Association. According to an official of the grocer group, the association directors voted to oppose the cigarette tax, then sent its 350 members letters saying their names would be used unless they objected. Only two did, and the rest of the names were turned over to the Tobacco Institute.

"When you get a batch of post cards, you usually assume they were not wholly spontaneous," said Cohen's press secretary, Robert Tyrer. "But telegrams—you generally assume somebody woke up in a cold sweat and called Western Union."

Tyrer said henceforth Cohen's office will view telegrams with greater skepticism. That does not mean they will be ignored, however.

"Generated mail counts maybe half as much as a personal letter, but it still gives you an idea of how many people a group can mobilize," he said.

[From the Washington Post, Sept. 23, 1982]

THE "INS" HAVE IT—PERQUISITE POWERS HELP TO KEEP INCUMBENTS IN OFFICE

(By Saundra Saperstein)

In the heat of this summer's political wars, Rep. Stanford E. Parris (R-Va.), fighting to retain his congressional seat, sent out a constituent newsletter to the 240,000 households in his district. Printed and mailed at government expense, it listed several "misstatements" about his record and next to them "the truth" according to Parris.

Parris' rival in the race, Herbert Harris, says the newsletter was a direct response to charges he has made against the congressman—in effect, a piece of campaign literature mailed at taxpayers' expense.

Parris says the letter talked about "the issues of the day. What else would we talk about? We don't send newsletters just to chitchat."

Whoever is right, one thing is certain—only an incumbent could send a letter to 240,000 voters for free. It's one of the perquisites of office, the powers that make it hard to knock a congressman off the Hill. Indeed, political scientist Normal Ornstein of the American Enterprise Institute has found that 90 percent of incumbent congressmen who ran for office since 1960 have been reelected.

"If you can't get elected as an incumbent," said one longtime congressional aide, "you're either crooked or you're in the middle of a Depression with your party in power. You've got to be in trouble to lose with all the advantages they build in for you."

Though that's an exaggeration, the powers of incumbency are potent, and it's hard to find a Washington-area member who doesn't indulge in their use.

When Social Security was American's hottest topic, Rep. Roy Dyson, a freshman Democrat from Maryland's Eastern Shore, used his office expense fund to produce a low-cost television show on the problems of the elderly for the voters back home. When some folks in Prince George's County were lobbying for a new stamp to commemorate the nation's "first balloon flight," which took place in Bladensburg, their representative, Steny Hoyer, commended them in the CONGRESSIONAL RECORD and made sure they got copies of his remarks.

In theory it's all done in the name of public service. But members of Congress, like the president, have an ability to command attention that their challengers can only dream of matching, and no one argues that it hurts your reelection chances to get your face on television or your constituents' names in the official record of congressional affairs.

Rep. Michael Barnes (D-Md.), for example, just happened to schedule a press conference to accept a citizen group's nuclear freeze petition on Sept. 15—the day after the Maryland primary. The fact that he had just acquired a Republican opponent, Elizabeth Spencer, was probably more than a coincidence.

The most practical advantage of incumbency, observers say, is the congressional privilege to send an almost unlimited amount of official mail by using the congressional "frank" instead of a postage stamp. In the final three months of 1981, the House of Representatives spent more than $1 million to send out franked mail.

Earlier this month, as the preelection cutoff for mass mailings approached, the Longworth and Rayburn office buildings began to look like warehouses. Shoulder-high stacks of newsletters lined the cavernous halls, in a boggling assortment of "Reports to the People" and questionnaires asserting that your congressman "wants to know your views."

Upstairs in the Cannon Building, the staff of the commission on mailing standards was poring over a deluge of last-minute letters, scrutinizing them for any violation of guidelines like the one forbidding a member's name, or the words "I," "me" or "the congressman" from appearing on the average more than eight times per page.

Acknowledging the power of the mails, the House has passed a regulation cutting off mass mailings 60 days before the general election. But the rule has a loophole big enough to drive a mail truck through.

Mass mailings are "deemed to be in compliance" if they arrive at the House Folding Room at least 62 days before the election, with instructions for "immediate dispatch." But with the mountains of mail to be processed, congressional aides say it is anybody's guess just when it all gets out.

A printer delivering one congressman's letters with only hours to spare before the midnight Sept. 1 deadline speculated that many members try to get in as late as they can, so the mail will hit their districts closer to Nov. 2.

Parris, whose final mass mailing went to the folding room on Aug. 31, said it would "be less than candid if I said there wasn't some truth to that."

Indeed, the seesaw battle between Parris and Harris, each of whom has turned the other out of Congress once, illustrates the most ingenious uses of the mails.

During the 1980 campaign, according to a Parris aide, then-congressman Harris "dropped a newsletter on us in October. He must have sent it down the last day." To that, Harris responded demurely, "Any letter we sent out went to the folding room on time. After that we lost control. I don't remember it being an issue."

Another potent power of office is instant access to the people in Washington who get things done, from the bureaucrat who can answer a constituent's question to the president who can grant a congressman's fondest wish.

As a top White House aide from the Carter administration explains, "The most prestigious thing is to let the congressman come in and make a presentation to the president, and then let the press know that the president has agreed to do whatever inane thing the congressman wants for his homestate."

Better yet is to have the president respond to an important constituent concern. Last December, for example, when Presi-

dent Reagan was set to end the Carter administration's policy of charging federal workers fees for previously free parking spaces, he called three local Republicans in for a chat.

When Marjorie Holt of Maryland and Frank Wolf and Parris of Virginia left the Oval Office 15 minutes later, they walked out with the announcement that Reagan was abolishing a program that had infuriated a huge number of their constituents.

Soon, the three members were announcing the decision to the White House press, their names now indelibly linked to the good news.

"Certainly it's helpful to be able to go down to the White House and make your case," said Wolf, who has good reason to know.

Last April, on the morning after Wolf Trap burned, Wolf happened to be having breakfast at the White House. He started lobbying Deputy Chief of Staff Michael Deaver for federal funds to rebuild the performing arts center.

Wolf was named to the committee to rebuild the park, and when the federal grant was announced, the congressman was there at the press conference.

Of course, even the best-laid plans do not always work out completely. When Wolf held a community hearing this month to discuss opening up the Dulles Access Road to area residents, his Democratic opponent, Ira Lechner, had someone in place to sign him up as the first witness. Lechner had his say, and not incidentally, managed to grab some valuable air time on the evening news.

Despite the occasional one-up-manship by a challenger, incumbents generally have the upper hand. Their annual staff allowances of $352,000 and "official expense" allowances of $110,000 on the average can buy an awful lot of constituent service.

Dyson was able to use about $300 from his official expense account to tape his Social Security forum in the fully equipped recording studio available to members. Then he bought $325 worth of air time on the CBS affiliate in Salisbury, the largest city in his district.

The half-hour show aired twice, most recently on Aug. 15 sandwiched between Sunday sports and CBS network news, according to a station official. "This is basically a public affairs show," said Carol Oldach, sales coordinator for WBOC-TV. "But let's face it, it does him good to be in the public eye."

Oldach said the station did not have to give Dyson's possible Republican opponents equal time because the show was a public affairs presentation and Dyson made no mention of running for office.

Members can also use their official expenses to put together lists of constituents interested in specific subjects. "Just call it the power of the mailing list," said the man running one challenger's campaign.

Each time there's an important development in that area, the congressional computers spew forth "Dear Friend" letters that open with the line, "Knowing of your interest in" the environment, education or whatever is appropriate.

Congressional action on federal retirees triggers about 1,200 "Dear Friend" letters to Barnes' Maryland constituents. A new twist on Dulles Airport, and Wolf's computers start churning our missives to about 1,000 Northern Virginians. Comes a development on federal workers, and Parris' system whips off as many as 6,000 blue-and-white "Federal Papers."

And if members want to augment their own staffs, the federal agencies are just down the street. When Parris wanted to send a Social Security pamphlet to the 40,000 senior citizens in his district, he borrowed someone from the Social Security Administration to help put it together, an aide explained. It cost about $2,000 to print copies of the handsome blue booklet that recently appeared in doctor's offices and senior citizens' mailboxes emblazoned with the message, "Compliments of Your Congressman Stan Parris."

If consumer brochures are popular back home, then a congressman may draw on the 10,000 offered free each year to each of the members by the Department of Agriculture.

In fiscal 1981, the department spent a little over $1 million to print the publications that cover everything from "Beekeeping for Beginners" to "How to Buy Poultry." Last year, like many of his colleagues, Hoyer made the list available to his constituents and funneled more than 1,100 requests for the books back to the department.

Despite these built-in powers, Congress members are quick to point out that incumbents are not invulnerable. Sometimes they lose, particularly in the politically volatile Washington area.

That, congressional observers say, gives members even more impetus to exercise the powers of office. "All a congressman needs is one example of the incumbent who loses," said political scientist Ornstein, "and they say, 'There but for the grace of God go I.' "

[From the Arizona Republic, Oct. 28, 1982]

"FRANKING"—SENATORS' MAILING COSTS GO UP—AND UP—AND UP

WASHINGTON.—Sen. Jesse Helms remembers touring the Senate printshop shortly after he came to Washington and seeing the high-speed presses "going lickety-split" on one prominent senator's newsletter.

As the newsletters rolled off the presses, the North Carolina conservative was told that nearly one million copies would be printed and mailed on this one job alone.

Later, inquiries to the General Accounting Office revealed that the newsletter cost around 26 or 27 cents per issue. This spurred Helms to offer legislation to restrict the Senate's publishing binge. It was never approved.

More recently, one of Helms' colleagues, Maryland Sen. Charles Mathias, also has expressed anger over excessive newsletter costs that, he suggests, are getting out of control.

In the megabucks world our lawmakers live in, the Senate's direct-mail bill is relatively small potatoes.

Nonetheless, says Mathias, senators "will send out 245 million pieces of mass mailings" this year, 75 percent of which are newsletters.

The Senate's mass mailings, not including letters responding to individual constituents, will cost taxpayers about $31 million in postage—nearly one-third of Congress' total annual postage bill of $102 million.

But the postage bill is only a part of the Senate's promotional-mailing costs, a study by Mathias' Rules Committee now reveals.

Add another $6 million for paper, printing and mailing lists, for a total of $37 million yearly.

Then include the payroll costs for about 70 Senate employees who help get the newsletters printed and bagged for mailing.

Add, too, the senatorial staff employees who write the newsletters for their bosses and maintain the mailing lists. It mounts up.

This is why Mathias says that there is "an alarming rate of growth" in the use of mass mailings by senators.

In fact, he says, "This year's total is 73 percent higher than last year's," and last year's was 20 percent higher than the previous year's.

There are about 83 million mailboxes in America, and the figures Mathias has compiled show that the Senate alone is mailing out nearly three pieces per mail box.

In one case last year, Mathias says, "the combined mailings of both senators from one state amounted to more than 12 pieces per mailbox."

In another state, a senator sent out more than 6 million mass-mail pieces, even though his state has only 1.7 million mailboxes.

But this is an election year, and senators begin to run early, using the incumbent's privilege of unlimited postage to saturate the voters with promotional mailings.

One senator sent out a staggering 13 million pieces of mass mail last year, while another mailed 8 million pieces in just the first six months of this year, Mathias reported.

So, the next time you get a batch of mass mailings from your senators or representative, don't forget that you are paying for them—and paying plenty.

"Remember," says Mathias, "every mailing of 1 million newsletters costs taxpayers $150,000."

In the meantime, the Maryland lawmaker is making plans to hold hearings on the Senate's direct-mail abuses sometime early next year.●

THE PEOPLE OF VERMONT

● Mr. LEAHY. Mr. President, on Tuesday evening, December 7, 1982, on network television, the entire country had the unique opportunity to visually visit Vermont through the Andy Williams "Early New England Christmas Show." The program which was filmed last March at the Shelburne Museum in Shelburne, Vt., was an exciting combination of early Americana and good deal of hard work and participation by the people of Vermont.

Andy Williams marshaled an impressive cast with Aileen Quinn of the movie, "Annie," Dorothy Hamill, Dick Van Patten, and James Galway. Vermont talent was added with the Beaudoin family, the Green Mountain Volunteers, Erik Johannson, the University Choral Union, Austin Hand Bell Choir, and the many extras, the people of Vermont.

Vermonter Dee Pomerleau as location coordinator and production assistant located the talent and local support, working along with Ben Mason, director of the Shelburne Museum, and Bob Banner Production of Los Angeles, Calif.

The product was a joyous view of what Vermont was and what it continues to be. The landscape, the people working together, the museum, which so impressively speaks of our past, all were put together with great care.

What a joy it was to see the credits include: "The People of Vermont."

It was a most enjoyable hour and reinforces how proud I am to represent this unique State, Vermont.●

HOW TO FIX SOCIAL SECURITY

● Mr. HOLLINGS. Mr. President, one of the greatest difficulties facing this country today is the impending crisis with the social security system. The program's three trust funds threaten to run dry by late next year unless we do something about it now.

The problem is a difficult and complex one, but not impossible if we in Congress show a willingness to set aside partisan considerations and deal with it responsibly. Thirty-six million Americans currently receive benefit payments from social security. Since its inception in 1935, it has been one of the most successful and morally well-founded of the New Deal, and perhaps all Federal, programs.

But unless some action is taken, the system will soon be bankrupt, facing a deficit of up to $200 billion by 1989. Its importance to millions of elderly and other Americans is too great to treat it as a mere political football, or simplistically suggest massive cuts in benfits as an easy cure. Intelligent discourse on the subject has been sadly lacking on both sides of the aisle.

Andrew Tobias, a noted financial writer, has provided one of the few exceptions with the commonsense and clearhead solutions he proposed in the October 31 issue of Parade magazine. While I do not necessarily agree with everything he has to say, he depicts the problem succinctly and accurately, suggesting alternatives we in Congess should look at closely as we begin to take up the vital issue of social security funding again. This is a problem that can be solved, if only we have the will and bipartisan spirit to do so.

I ask that Mr. Tobias' article be printed in the RECORD.

The article follows:

How To Fix Social Security

(By Andrew Tobias)

There's a dirty little secret about Social Security, and it isn't that the system's going broke. Everybody knows that. The secret is that there are some simple, fair and relatively painless ways to solve the problem. Almost nobody knows *that*, because our elected representatives—who do know it—would rather make political hay than lead the nation. "Everything has been geared to the first Tuesday of November," House Speaker Tip O'Neill candidly told a reporter this summer.

THE PROBLEM

In 1949, there were 16.5 workers paying into Social Security for every retiree or surviving spouse drawing money out. The maximum tax on wages was $30 a year.

Today, there are just 3.2 workers supporting each retiree, and the maximum annual tax—$174 as recently as 1965—has risen to $2171. Employers pay an equal sum, which they then add to the price of their products. So we wind up paying that $2171, too.

And it gets worse: In 30 years, there may be barely two workers to support each retiree.

In large part, the problem—if you can call it a problem—is that people live longer than they used to. In 1940, a 20-year-old woman was expected to live to be 71; now she can expect to live to 80. That's wonderful, but look what it means: Instead of collecting Social Security for six years, say, she may now collect it for 15.

Longevity was expected to increase a mere six months during the 1970s. Instead, due largely to a decline in fatal disease and strokes, it increased 2.8 years! This is surely no one's "fault"—but it does require adjustments to the Social Security system.

The money we pay in Social Security tax is not invested for retirement, even if some people were gently misled into thinking so. It is paid right back out to the elderly—our parents and grandparents. The young assist the old on the assumption that their young will do likewise. It is a contract between the generations.

The idea was never that this program would provide a full and comfortable retirement—that was the responsibility of the individual. Social Security was designed to assure the bare essentials. Yet, in the last dozen years, the benefits a worker gets upon retirement have jumped from 34 percent to 55 percent of his prior year's wages.

So not only are there far fewer workers to support each retiree—each retiree costs more to support!

People say they could do better saving for retirement themselves than paying into Social Security. Quite true. But who, then, would pay benefits to today's senior citizens? Should they be allowed to starve? Like it or not, we are paying into the system not for our own retirement (our children will do that) but for our elders'. And at the rate things are going, the system is going to fall tens of billions of dollars short over the next few years and more than a trillion dollars short early in the next century.

THE SOLUTION

Conceptually, the situation couldn't be simpler. The Social Security system is paying out more than it's taking in. That's all. To fix it, we must either take in more (raise taxes) or pay out less (cut the growth or benefits).

Those who favor raising taxes will be delighted to know that increases are already on the way. The 13.4 percent bite we and our employers pay on wages up to $32,400 is slated to keep rising. But even with those hikes, mammoth deficits are projected. To raise taxes still further seems almost too much to bear. Instead, what most people agree must be done is to slow the growth in benefits. Not cut them, just slow their growth. These three changes would more than suffice:

(1) Raise the retirement age from 65 to 68—gradually, over the next 36 years. One month would be added to the retirement age each year. it would rise to 65-and-one-month in 1983, to 65-and-two-months in 1984, and so forth. Twelve years from now, it would reach 66. (Early retirement, likewise, would have risen by a full year from 62 to 63.) In 36 years, the retirement age would have climbed to 68.

Current recipients would not be affected one whit.

Naturally, it would be nice if we didn't have to do something like this. It would be nice, indeed, if we could lower the retirement age. And double benefits! But we can't afford to.

Indeed, as sacrifices go, perhaps this one—raising the retirement age for today's 30-year-olds from 65 to 68—is not so great. But its impact on the system would be enormous. People would eventually be paying into the fund for three years longer and withdrawing from it three years less. This one change would go about two-thirds of the way toward solving the problem all by itself.

Yet when House Ways and Means Subcommittee Chairman J. J. Pickle was drafting such a bill, to begin phasing in about 1990, Tip O'Neill told him to stop. According to Time, O'Neill didn't want voters to think the Democrats were tinkering with Social Security.

(2) Subject benefits to federal (but not state or local) income tax. People say, "Now, wait just a damn minute. I paid into that system for 30 years (or my spouse did)—how dare you tamper with what's rightfully mine?!"

Nonsense. In the first place, that money is gone. It went, with at least the tacit consent of us voters, to support prior generations.

But even putting that aside, today's average retiree can expect to collect something like five times what he or she paid into the system (even taking into account the interest that money would have earned). The most anyone retiring in 1982 could possibly have paid into the system since 1937 is $16,937. On average, that will be paid back in just a year or two. The next 20 or 30 years are gravy.

If benefits were taxed, many recipients would have no tax due. Only those with outside income would pay any tax. And why not? Today's 20- and 30-year-olds can be expected to help the elderly who need help. But why should they be taxed to support the elderly who don't need help? If Social Security benefits were taxable, then those with less need would simply "return" some of the money by paying taxes on it. Crediting that money to Social Security would reduce the projected shortfalls dramatically.

Consider a widow whose husband contributed a total of $2086 to the system over his lifetime. She has been receiving benefits—currently, $5520 a year—for 25 years. She also has a trust fund and investments that pay her $16,000 a year. She is in no sense rich; but given the nation's economic condition, would it be cruel or unfair to tax her Social Security check? I hope not. She's my grandmother.

Still, to ease its impact, any such change could be applied only to future recipients and to current recipients with incomes in excess of, say, $30,000 a year.

(3) Suspend the automatic cost-of-living adjustment for one year (and one year only). Social Security recipients saw their untaxed benefits rise 40 percent over the last three years, while the wages of workers taxed to pay those benefits rose just 30 percent. A one-year moratorium on the cost-of-living adjustment would have only a small effect on current recipients but would do wonders for the financial health of the system.

Other steps could be taken as well. One would be to return to the fold those who have been exempted from participating in Social Security (government employees, for the most part—funny how well they manage to take care of themselves). But the three proposals above would solve the problem. Indeed, they would more than do the trick.

confirms Robert J. Myers, 70, executive director of the National Commission on Social Security Reform (due to make its report to the President by the end of the year).

Yet, so vocal have our representatives been in politicizing the problem rather than dealing with it that two-thirds of Americans under 45 don't believe Social Security will exist when they retire. There's no reason why it shouldn't; benefits might just start a little later. (In the meantime, believers and nonbelievers alike would be smart to join the tens of millions who already have set up Individual Retirement Accounts.)

Putting Social Security on firm ground would do something even more important. It would signal the financial markets that ours is a country that can cope with its future. Right now, there is considerable uncertainty among investors here and abroad of our ability to do so. (Or else why would long-term bonds that promise 12 or 14 percent interest go begging?) Uncertainty over the future, together with gargantuan projected deficits, translate into murderously high interest rates. And murderously high interest rates are killing the country.

Editorialized The Wall Street Journal: "The elderly are no different from anyone else in this democracy. They are willing to be fair if the issues are explained honestly. The longer the necessary Social Security decisions are postponed, the worse the problems will become and the more unpalatable the remedies. Everyone, young and old, understands this, except, of course, members of Congress."

If you want to have a real impact, rip out this article and send it to one of your elected representatives. Quick.●

PAY VERSUS FREE TV

● Mr. HATFIELD. Mr. President, the entire issue of pay TV versus free network programing has been controversial throughout the 97th Congress. We have heard the hue and cry from the national networks, and from the cable industry, that each is trying to put the other out of business. Only last week, the battle was fought again in the Appropriations Committee markup of the continuing resolution, despite my unhappiness with legislating on appropriations bills. It would be my hope that in the 98th Congress the differing sides will be able to compromise and work out an agreement that will benefit both groups, and the television watching public.

Part of the upcoming controversy will be the effect the FCC will have on the competitive climate for both groups. TV regulations are complex, archane, and controversial. I have no illusions of understanding them completely. Hopefully, the FCC will be able to accommodate both free and pay TV in their future deliberations.

At the request of a prominent broadcaster from the State of Oregon, Mr. Dean H. Woodring of KGW-TV in Portland, I submit for the RECORD his perspective of FCC involvement in one part of this controversy.

The material follows:

THE UNSETTLED FUTURE OF FREE TELEVISION

HISTORY

The blurry images flickering on the screen in the early 1920's were far from promising. The kinescope, the first primitive television system seemed, at best, an improbable technological fantasy of its American inventor, Dr. Vladimir Zworykin.

But in the intervening half century, the enormous popularity of television has transformed it into a vital entertainment and information medium. In the process, free television has grown and expanded and has dramatically changed the American experience.

Today, there are competing forms of pay television media available to those who can afford them. These new pay services are rapidly entering the market, competing with free television for audiences and programs. Fair competition, of course, is a healthy part of our free enterprise system and the public can benefit from it.

But the competition between free and pay TV is not fair. Discriminatory government regulations are moving popular programming away from free TV—where they have been available to all Americans. Increasingly, these important programs are going to pay TV, where only a fraction of the public can afford to watch.

This backgrounder will show that an increasingly dark shadow looms over the future of services and programs Americans have come to expect from free television. It will advocate repeal of two government regulations, the financial interest and syndication rules, which prevent free television from competing fully for programming and give preferential treatment to pay television. Repeal of these rules will help ensure a healthy future for the free television service enjoyed by the American viewer, a service now hampered by these outdated federal rules.

Free Entertainment and Sports

To a great extent, the forty years of growth in television viewing have been dependent on two important factors. The first is the wide variety of programming which has been offered over the years to the American public. The second is the instantaneous access to entertainment and information that television has provided free of charge to the public. Taken together, these two factors led to the unprecedented success of Dr. Zworykin's improbable invention.

The array of entertainment available free to the American public has been, by any standard, impressive. In comedy, it has ranged from Milton Berle's unpredictable antics on the live "Texaco Star Theatre," to the decade-long adventures of the team of misfit surgeons in M*A*S*H. Through these and countless other programs, principally from the television networks, the American public has been treated to a feast of American comic genius. The availability of dramatic entertainment provided by free nework television has been equally impressive. Programs have ranged from the critically acclaimed "Playhouse 90" to the unprecedented undertaking of the series "Roots." The American viewing public has come to take for granted these free programs as well as major sporting events such as the Olympic Games, the World Series, the Super Bowl, the NBA playoffs and many others.

Free News and Information

Television has also come to provide much of the nation with near-instantaneous access to major local, national and international news and information events. A recent poll indicated that 64 percent of the American population gets most of its current news from television broadcasts, local and network. As a result, in the modern age television has become the critical method of transmitting vital public information to the American people.

Again, this information, important to our democratic society, has been provided free of charge to the public.

The tradition of public service began with the 1932 Roosevelt-Hoover election, and has dramatically expanded over the years. It has included in-depth coverage of national political conventions and campaigns, presidential debates, local public service programs, the McCarthy and the Watergate hearings, debate on the House floor, morning and nightly news telecasts, space exploration, and countless others. This unprecedented availability of free news and information has transformed the American citizenry into the best and most immediately informed society in human history.

Free television can be improved. Access for varying points of view should be expanded. Broadcasters must continue to be increasingly responsive to their public service obligations—obligations not shared by their pay competitors. But there can be no doubt that today free televison is basic to the democratic process and the exchange of ideas.

REPEALING UNFAIR REGULATIONS

The extent of entertainment and information available from free television is being threatened. A recent study shows that pay television revenues will exceed that of the three television networks by some $3 billion by the end of this decade. But even now, significant programming is being purchased by pay TV.

Sports

Major sporting events, such as important boxing championships and some major league baseball games, have already been lost to pay television. Free television was outbid by cable TV for the headliner collegiate basketball game of the 1982-83 season, Virginia versus Georgetown. In the most recent negotiations, pay TV outbid the networks for the Wimbledon Tennis Championship in England. (Wimbledon chose to stay with free TV for the present.) At $190 million, a company bidding largely for cable rights submitted the second highest bid—more than NBC or CBS—for the 1984 Olympic Games in Los Angeles. In addition, this year's NFL players' strike reflected in part a desire to share in the future profits from pay television buying rights to professional football games.

These are only a few of many examples, and they add up to a disturbing trend. According to a recent edition of the U.S. News and World Report, "Fewer games will appear on free television as pay and cable TV gradually take over."

This movement of programs to pay TV has been accelerated by the Federal Communications Commission's (FCC) financial interest and syndication rules. Under these regulations, adopted over a decade ago, the three networks are prohibited from receiving any profits from later broadcasts of their programs after the intitial network viewing. As a result, free television is restricted in the amount it can spend to buy quality programs. Free television also cannot participate fully in the development of television programs from new suppliers. Pay television has no such restrictions.

The FCC in the past decade has made revolutionary decisions in a dramatic effort to deregulate the communications marketplace. Cable television is already in 35 percent of U.S. television homes. Beyond basic cable, there also are pay cable networks which are available only to those who can afford the additional payments. These pay cable networks have the resources and the leverage to compete successfully for high cost, high quality programs.

Movies and Series

The fact is that these companies can outbid free TV for much more than just sports events. Increasingly the first telecasts of new motion pictures will no longer be on free television, but on pay TV. Pay cable, for example, spent $80 million for the rights to first run movies in 1980 compared with $30 million paid by free networks.

The box office hit, "Star Wars," was telecast in September, but only those pay-per-view subscribers who paid an $8 viewing charge were able to see it. Pay networks are bidding to take primetime series, such as "Taxi", and production has already begun on other television series.

The FCC rules have placed only free TV at an unfair disadvantage. It is unrealistic to believe that the recent, enormous success experienced by pay television will not limit the economic resources traditionally available to free television.

This limitation of buying power will certainly affect the extent and quality of programming available free to the American public. And while individual estimates may vary, all agree that pay television will increasingly draw popular programs away from the free television market. This could have the effect, even if unintended, of forcing the cutback of existing free entertainment and sports program services. It may also limit the development of new and innovative programs and may force reductions in the news and information services now available free to the general public.

The free television networks spent some $486 million on news and public affairs in 1980. This was more than twice the amount spent in the previous Presidential election year. But millions are lost by the free TV networks during coverage of special news and public affairs events such as the Presidential primaries, the war over the Falkland Islands, and the recent crisis in Lebanon.

As pay TV's profits increase, at the expense of free TV, the networks may be forced to cut back public affairs programs which lose money. This cutback, combined with the increased costs of pay TV, would have a serious effect particularly for lower income Americans.

FREE TELEVISION AND THE POOR

How will this occur? Costs for those receiving pay television generally range from $10-$40 per month depending on the services provided. These costs can be expected to increase in the years ahead. Middle and upper income American families may be able to afford the additional costs of special sports, movies, and entertainment events, the rights to which are increasingly being purchased by the pay television companies. But lower income Americans, and in the future even middle income Americans, may have difficulty affording a substantial monthly entertainment and news bill, in addition to fuel, food, clothing and other essential expenses which continue to increase. A significant percentage of senior citizen and minority groups, for example, may well not be able to afford the additional cost of pay television.

Worse yet, there is evidence that pay television technologies have, in some instances, been reluctant to provide delivery of their services to lower income areas. New York City has been engaged in a running battle with cable companies over service to the Bronx, a lower income borough. Pay television interests are now lobbying hard in Congress for legislation aimed at vastly restricting local government control over their actions.

The result? Even lower income Americans who want to direct their limited incomes to pay TV may not have the option at all in the future. Or, the amount they may be able to spend could be too little for the many different movies, sports, or other pay services, each of which may require a separate payment. It may not be economically viable to provide poor areas with pay technologies. This could cause a splintering of society, with the poor unable to participate in a shared communications base. This could occur even as free TV is being forced to cutback on costly public affairs programming.

The American public as a whole will be disserved if some elements of society don't have access to a common thread of information and entertainment programming. As our broad-based communications system becomes splintered, a loss of understanding among social groups also may occur. The danger is that these outdated federal regulations will increasingly, and unfairly, serve to isolate lower income Americans from information vital to our free society.

The movement of first-rank programming from free, advertiser-supported television to the pay services has a broad impact on society. Even those who can afford exclusive pay television will ask themselves: why should I have to pay for what I once got for free? They might also ask why the federal government, through its financial interest and syndication rules, is helping to bring about that result. Why should the government favor pay over free and the unfair loss of television network programming to the public?

NEW COMMUNICATIONS GIANTS

The rules have had a special irony. They were imposed despite the fact that all three networks combined had less than 10 percent of the United States syndication market in the period before the rules were adopted.

The rules were imposed in the name of increasing diversity in the television industry. But quite the opposite has occurred. Since the rules were imposed against the networks, there has been an ominous and steady increase in the concentration of power in pay television and in the industry that produces programs for network viewing.

Concentration of wealth and power among companies involved with pay television is substantial. For example, according to a recent report in Business Week, a single cable TV company, Home Box Office and its sister-service, Cinemax, both subsidiaries of Time, Inc., control nearly 57 percent of the total pay television market. In the entire history of free television there has never been a company which so dominated an audience.

In 1970, according to one network's study, 54 percent of that network's primetime entertainment series programming was supplied by eight Hollywood-based production companies. A decade later, that figure had risen to 97 percent.

Proponents of free TV believe that, by repealing the rules, the three networks will be able to finance smaller independent production companies which can then provide a degree of competition for the concentrated groups of major companies now providing most of primetime network programming. This will add to diversity, and creativity, in the television industry.

CONCLUSION

Free television is facing the greatest challenge in its many years of contributions to America's culture and society. The challenge of this competition may be healthy, but only if free and pay TV are placed on a fair footing in their ability to invest in programs. If not, the federal government bias for pay television will increasingly diminish the service now available to all Americans.

The financial interest and syndication rules are an unfair, unnecessary, and damaging burden to free television. These rules are regulatory relics of a vastly more simple era in communications.

The trend toward concentation of power in the television production industry is continuing. Unless the rules are repealed, they can have long-term repercussions on the extent and quality of entertainment and news provided to all Americans. This poses serious problems for lower income Americans, particularly the elderly and minority groups.

It also places an undue burden on those who will increasingly have to pay for what they now receive from free television. And it jeopardizes the ability of all Americans to have access to the common communications base that free television now provides.

This issue is one of fairness and common sense. The FCC should not have rules which work to deprive the general public of the wide range of programming it has come to expect from free television. Repealing the financial interest and syndication rules is fair, long overdue, and in the best interest of the American people.●

RETIREMENT OF LUCIEN PAQUETTE

● Mr. LEAHY. Mr. President, I rise to offer my congratulations today to Lucien Paquette who will retire at the end of this month after serving Vermonters in a most distinguished manner for more than 40 years as a county extension agent. For 36 of those years, Mr. President, he has served as the Addison County extension agent, after spending 6 years as the Grand Isle County agent.

Mr. Paquette's long record of service to Vermont dairy farmers and others in our agriculture community began in 1946. Two years later, he founded the Addison County Field Days, an annual celebration of agriculture and crafts work in Vermont that has remained an important date on many a calendar—including my own—every year.

Mr. President, in a recent news article about Mr. Paquette's long tradition of service to our State, he was quoted as saying he wanted to be remembered as an educator. In difficult times past, as well as the hard times facing many Vermont farm families today, Mr. Paquette's advice and teachings have helped many.

Mr. President, I want to again extend my congratulations and thanks to Mr. Lucien Paquette for serving our State and its people for so long and so well.

I ask that the article on Mr. Paquette be printed in the RECORD.

The article follows:

[From the Rutland Daily Herald, Dec. 17, 1982]

VETERAN EXTENSION AGENT LUCIEN PAQUETTE RETIRES

(By Pete Hobton)

MIDDLEBURY.—One of Vermont's best known and most respected dairy farming experts, Addison County Extension Agent Lucien D. Paquette, will retire from the job he's held for 36 years.

Paquette was raised on a Craftsbury dairy farm and was extension agent in Grand Isle County before coming here. In 1948 he founded the Addison County Fair and Field Days.

Paquette said in an interview he would rather be remembered, not as an organizer or spokesman for dairy farmers, but as an educator.

"Our job is to help people help themselves," he said.

"I've had so much help in the county, whatever I've done has been small," Paquette said.

Farmers and friends who disagree with Paquette's assessment of his achievements will honor Paquette at a retirement banquet Dec. 28 at the Knights of Columbus Hall in Middlebury.

Paquette said he remained "pretty optimistic" about the future of dairying, despite the national milk surplus, rising farm operating costs and smaller milk checks.

He said he expects the number of dairy farms will continue to decline, but noted that this trend has slowed. He said he expects to see most of the current agricultural acreage remain in farming.

Northeastern dairy farmers should benefit in time because it is a "milk-deficit area," Paquette said. That is, more milk is being consumed in the Northeast than dairy farmers here are producing.

Dairy farmers throughout the country will be helped by the Midwestern glut of grain, which means lower feed costs, Paquette said.

Some of the current milk surplus is a result of Midwestern and Western grain farmers diversifying into dairying to take advantage of their surplus grain production.

Paquette is open-minded about dairy farmers here diversifying into other livestock or crops. He said many would switch if alternative farming made economic sense.

"Farmers are not glued to the cow's tail," Paquette said. "I get the feeling some would be glad to convert into crops."

"But should we get into the market they (the Midwestern grain farmers) vacated?" Paquette asked with a raised eyebrow and a twinkle in his eyes. "If there's a surplus of grain, why grow grain?"

Most alternative crops appear too risky with uncertain markets and a lack of established quality controls, Paquette said.

He said one Middlebury farm experimented with 60 acres in wheat this year but was unable to find a market for the crop, the wheat is being fed to cows.

He tells about a local cabbage farmer who moved away after failing to find markets for a bountiful crop. He said a local beef producer is now having to feed and maintain steers he had hoped to market before Christmas.

Farmers must establish marketing channels and prove the economic returns of a commodity before planting, Paquette said.

Milk has a proven track record in Vermont, Paquette said. Despite the frequent ups and downs of the markets and natural disasters, dairy farmers receive a milk check every two weeks.

Since Paquette began his job here in 1946, the number of farms has declined 88 percent, from 2,186 to 701. The land in agriculture has declined 32 percent.

But the number of cows in the county has increased 15.5 percent, from 29,700 to 34,300, and the average pounds of milk a cow produces a year has doubled, from 7,800 to 15,400.

There seems to be no shortage of young farmers ready and willing to take over the family farm, Paquette said.

But he cautioned, "Young persons have to have tremendous support and understanding to move into a family farm business."

Paquette said his first advice to young persons interested in farming is, "You need to make a living."

For those interested in raising crops on Addison County clay, his advice is, "Look for lighter soils."

For those interested in dairying without previous experience, Paquette recommends a job on a dairy farm as a way to get started.

Paquette said the extension service in recent years has placed less emphasis on personal farm visits and more emphasis on helping farmers through meetings, farm tours, newsletters and other media.

The meetings and tours may draw a large crowd, Paquette said, but frequently the same group of farmers attend while others who need help the most remain home.

One of the hardest things for an extension agent to bear, Paquette said, is to read about a farm auction involving farmers he does now know and obviously has not helped.

Among the frequent economic and natural disasters to hit dairying, Paquette best remembers the drought years of the mid-1980s, when farmers' springs and wells dried up and pastures turned brown.

By documenting the precise number and location of cows without water, Paquette played an aggressive role in organizing around-the-clock delivery of tankloads of water by National Guardsmen in "Operation Water Wagon."

Help was later supplied by Sen. George Aiken, who sponsored enabling legislation for the Tri-Town Water District 1 serving Addison, Bridport and Shoreham, the nation's first rural water system.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received requests for a determination under rule 35 which would permit Ms. Laura Hudson, of the staff of Senator JOHNSTON, and Mr. George Ramonas, of the staff of Senator DOMENICI, to participate in a program in Jerusalem from January 9–18, 1983, sponsored by the Hebrew University of Jerusalem.

The committee has determined that participation by Ms. Hudson and Mr. Ramonas in the program in Jerusalem, at the expense of the Hebrew University, to participate in discussions on American-Israeli relations, is in the interest of the Senate and the United States.●

CALCULUS WHIZZES

● Mr. DODD. Mr. President, the Sunday edition of the Washington Post featured an article entitled "Dedicated California Teacher Turns Students Into Calculus Whizzes."

This article was written about an outstanding teacher who has proved that the Nation's education problems can be solved by dedication and hard work.

Press accounts treated the work of this teacher, Mr. Jaime Escalante, a Bolivian immigrant as highly unusual. His students, from a disadvantaged Hispanic area in East Los Angeles, scored so high on the national advanced placement calculus test that the students were requested to repeat the exam.

That achievement contrasted sharply with the former reputation of the school as a hotbed of truancy and gang warfare.

Now Garfield enjoys the image of a school well-motivated, hard working, high scoring students, rarely missing a class and staying home at night to study rather than hanging out and looking for trouble.

In fact, the number of students at Garfield excelling in mathematics continues to grow. In 1979, for example, four Garfield students passed the advanced placement calculus test, and as a result, were given a full semester of college credit. Eight students passed the test in 1980 and 14 passed the test in 1981. This year, Mr. Escalante has a total of 42 calculus students and is predicting that at least 35 of them will pass.

I yield to no one in my admiration of Mr. Escalante's success. But I do not think it detracts from his achievement to note that it is hardly unique.

Anyone familiar with the history of American education knows how often a dedicated, tireless teacher has made all the difference in the world to the future of the young lives he or she has touched. In fact, the high caliber of the American educational system over the years can be traced directly to the influence of thousands upon thou-

sands of teachers upon their students. The news media were correct in paying tribute to Jaime Escalante—because what he has done is vital but not because it is exceptional.

Nonetheless, Mr. President, it is clear that the Nation needs more Jaime Escalante's.

A recent survey by the National Science Teachers Association reported a 77-percent decline in the number of mathematics teachers adequately trained to teach in secondary schools. In addition, there is a decline in the number of individuals who are entering the mathematics teaching profession. This has resulted in an 80-percent reduction in the number of qualified newly employed mathematics teachers since 1971.

It is not surprising, Mr. President, that this lack of qualified mathematics teachers has contributed to the decline in SAT scores and mathematical ability of American students.

In addition, it is alarming to note the comparison between the mathematical ability of U.S. students and those of the Soviet Union.

According to a recent article published in U.S. News & World Report:

> A Soviet secondary school graduate, on average, surpasses that of his American counterpart by eight years in geometry, four years in physics and three years in chemistry.

Izaak Wirszup, professor of mathematics at the University of Chicago, has estimated that there are over 5,000,000 Soviet secondary school graduates who have studied calculus for 2 years. By contrast, there are only 105,000 U.S. secondary school graduates who have studied calculus for a single year.

Mr. President, Federal, State, and local educational leaders must work together to prohibit further escalation in the decline of mathematical skills of American students. In addition, support to upgrade the quality of our school systems and our school teachers must be provided at all levels of government.

On September 15, 1982, I introduced in the Senate a bill, S. 2909, to provide funding for continuing education programs for secondary school science and mathematics teachers. Although this is not the whole answer, Mr. President, it is, in my judgment, the base upon which the rest can be built.

I congratulate Mr. Escalante—and the countless American teachers like him—for providing a good mathematics foundation for his students. I urge other teachers to follow the example of this dedicated individual.

Mr. President, I ask that the article, "Dedicated California Teacher Turns Students Into Calculus Whizzes," be printed in the RECORD following my statement.

[From the Washington Post, Dec. 12, 1982]

DEDICATED CALIFORNIA TEACHER TURNS STUDENTS INTO CALCULUS WHIZZES

(By Jay Mathews)

LOS ANGELES.—Garfield High School, a drab block of concrete in the middle of a low-income, Hispanic neighborhood in East Los Angeles, has been known for high absenteeism and youth gangs, but never for higher mathematics. Perhaps that is what fooled the Educational Testing Service of Princeton, N.J.

In the May 19 national advanced placement calculus test, which is so difficult that only 2 percent of graduating high school seniors ever attempt it, a startling total of 18 Garfield students passed. Many had similar correct answers and seven made the top score of five, what one Garfield teacher compared with "walking on water."

Sensitive to the slightest hint of invalid scores, the service, which composes the Scholastic Aptitude Test and other national examinations, demanded a retest for 14 of the students, but the results were the same. It had stumbled across, not a cabal of cheaters, but the students of Jaime Escalante, 51, a Bolivian immigrant who has performed a miracle in a tough, big-city school.

In the process, he also has shown what rigidly organized classroom routine and a deep devotion to teaching might do to solve what is becoming a national crisis.

In the third decade since the Soviets put the first artificial satellite in orbit, science and mathematics in American high schools have fallen on hard times. Qualified teachers are quitting in droves for better-paying jobs in private industry.

In California, according to a recent study by University of California researchers James W. Guthrie and Ami Zusman, 750 science and mathematics high school teachers are retiring each year, but only 250 students in the state university system currently are training for such jobs.

Some school districts are trying to retrain athletic coaches to fill the gap, but students still graduate woefully ill-equipped for the new era of high technology, thus adding to the unemployment rolls at a time when high-tech jobs are going begging.

To motivate his students, Escalante uses a Spanish word, ganas, which loosely translates as "the urge"—the urge to succeed, to achieve, to grow. It is difficult to teach, and impossible to legislate, but a look at one remarkable teacher can show how it grows and the forms it comes in.

Garfield High School sits five miles east of downtown Los Angeles, drawing students from long, flat blocks of small stucco and frame houses, the homes of middle- and lower-income families, almost all of Hispanic descent. The community, said principal Henry Gradillas, "does not have that great love for education. They have large families, they have to go to work, they start families early."

Escalante's routine includes a five-minute test at the beginning of every class. He insists that homework be done; he has taped the assignments for the whole year into each textbook so no one can claim forgetfulness. His tests are long and difficult, and after-school work is usually a must.

Escalante came to the United States in 1964, with 11 years' experience as a teacher in Bolivia. But he could not speak English well and could only find a job as a busboy in a Pasadena restaurant. Within six months he had been promoted to head cook. He studied electronics in his free time at Pasadena City College and soon won a job with the Burroughs Corp. as a technician. The money was good, "but I hoped to go back to school and teach again."

When a friend told him of a possible National Science Foundation scholarship, he applied, and scored first in the qualifying examination in mathematics, physics, chemistry and English. After a year of courses at California State University at Los Angeles, and at Fullerton and the University of Southern California, Escalante had his teaching credentials. Local school officials asked him if he wanted to teach "Anglos, blacks or Chicanos." He picked Garfield.

That was in 1974. The school had not had anyone pass the advanced placement calculus test for several years. As Escalante worked his way to higher responsibilities in the mathematics department, eventually becoming chairman, he treated the 3,000-member student body as if it were a farm club for the Dodgers. He kept asking other teachers: "Do you have any kid who could do calculus? Do you have any stars?" Those with potential he brought into his classes, then loaded them down with special assignments.

Students who reject the system, who refuse to try to learn after repeated chances, usually are ejected from Escalante's class. Earnest but slow learners are moved to desks near Escalante's desk and receive his after-hours attention; personal tutoring before school, at lunch and after school. He withdrew from his desk several cans of fruit juice and soft drinks and a plastic bag full of breakfast cereal—all gifts from students who worried that he might be missing a meal.

By 1979, Escalante's efforts began to bring results. In that year, four Garfield students passed the advanced placement calculus test, giving them a full semester of college credit. Eight passed in 1980, and 14 passed in 1981. As this year's test date approached, Escalante was driving the 18 students who would take the test like a well-disciplined team of show horses. They were doing two hours of work at school and two hours after school, solving at least 30 problems a day.

He worked so hard that three weeks before the test he suffered a heart attack. He was hospitalized for a week, defying his doctor's orders by making up more problems in his hospital bed and sending them over to his class.

"He devoted a lot ot time, so much time, all unpaid," said Josie Richkarday, the one junior in the group. "He asked nothing in return."

After passing the test, Escalante's students graduated, bound for college careers at Columbia, Berkeley, UCLA, and other schools. Most hope to pursue careers in engineering or computers. The news in August that the Educational Testing Service was questioning their scores angered them, but did not appear to sidetrack them.

Escalante, Gradillas and the students said they all felt that the testing service had questioned the scores because they came from a low-income, Latino school.

Joy McIntyre, a spokeswoman for the service, strongly denied this. She said that the tests were scored by people who did not know the names or origins of the pupils who took the test, and the decision to ask for a retest was based on statistical calculation of the likelihood of so many similar answers.

"We're selling a service, which depends on the fact that there are no doubts about the validity of our scores," said McIntyre, and Escalante said he could see the service's point.

Aili Tapio, who turned down Harvard so that she could enter the University of Southern California as a sophomore, said that Escalante told his students: "You know, in the end, you're going to have to take it again."

Tapio said that she and the other students received only a week's notice of the new test in late August. All of them passed a second time except two, one of whom already had joined the Army. The other had already enrolled at Columbia.

This year, Escalante plans an even grander assault on the calculus test. He says that the Educational Testing Service should be warned.

"I've got 42 calculus students this time," he said. "I expect at least 35 of them will pass."●

JOB CREATION

● Mr. NUNN. Mr. President, I take a moment to address the national tragedy of growing unemployment. As you know, after having risen steadily over the past 3 years, the national unemployment rate now stands at a post-World War II high of 10.8 percent. Among males who maintain families, 9½ percent are unemployed, and among female head of households, 12 percent cannot find jobs. Furthermore, unemployment among minority teenagers is at an explosively high level of 45 percent.

In great part, these tragically high rates of unemployment reflect the adverse impact of the prolonged recession, and if a recovery materializes in 1983, we can look forward to modest declines in unemployment from existing levels. However, I feel it is critically important to point out that even if a robust recovery develops over the next few years, there are factors at work that will, unless dealt with, maintain unemployment at painfully high levels. These factors are the acute and growing shortages of skilled labor, the permanent displacement of labor in industries that are increasingly resorting to automation in their production processes, and the artificially high cost of labor created by the spiraling payroll tax burden.

According to the Labor Department's publication, "Occupational Projections and Training Data," throughout this decade we can expect, for example, an annual shortage of 57,500 positions in industrial machinery repair, 28,000 computer operators, 21,300 machinists, 30,000 computer systems analysts and technicians, 5,000 tool and die makers, and 19,000 licensed nurses. By 1990, the Labor Department projects a cumulative skilled labor shortage of 2.5 million workers in just 13 occupations.

It is also important to note that the skilled labor shortage is also impairing our efforts to improve our national defense capabilities. Concern has been expressed at the Pentagon whether the labor market will be able to supply the skilled labor needed for the ongoing defense buildup. To comply with an amendment I offered which was approved by the Congress, the Department of Defense is currently conducting a study to assess where their skilled labor shortages are likely to develop.

At the same time, according to researchers at the Robotics Institute at Carnegie-Mellon University, the generation of robots now being used could by 1990, replace about 1 million of the 9 million manufacturing workers currently employed in production activities involving welding, painting, and operating machine tools. In addition, they found that another 3 million inspectors, packagers, assemblers, grinders, and electroplaters may be displaced by a new generation of robots that will be able to "see" and "feel."

In 1981 alone, the number of industrial robots increased by about 30 percent, and the researchers at Carnegie-Mellon predict at least a tenfold increase in robot purchases by 1990, while increasing its robot force from 1,400 to 14,000 over the same timeframe. Moreover, up to three-fourths of the workers most vulnerable to displacement were less than 45 years old in 1980. In short, we face a labor displacement problem of massive proportions, which will affect thousands of individuals in their working prime.

To make matters worse, the cost of labor has risen dramatically over the last 10 years as a result of a growing payroll tax burden, and unless action is taken, the payroll tax burden will rise even further. Not only are payroll taxes regressive, but they also are a direct cost of labor to employers, and as such, are a disincentive to hiring people. To the extent that payroll taxes are allowed to continue rising, the displacement of labor by capital, that is, automation, will be augmented as the cost effectiveness of machinery relative to labor improves with every rise in payroll taxes.

According to an econometric forecast study conducted by the Wharton Econometric Forecasting Associates, if the social security payroll tax scheduled to take effect in 1990 is moved up to 1984, about 350,000 jobs will be lost in 1984, and a further 450,000 jobs will be lost in 1985. Clearly then, additional payroll tax increases must be viewed with great caution, and policies designed to offset the adverse impact of the current onerous level of payroll taxes deserve serious consideration.

Mr. President, when all of these developments are taken into account, we are left with a sad reality—structural unemployment in this country will rise rapidly throughout this decade unless corrective action is taken, and clearly, corrective action is needed now.

While we have meritoriously devoted a great deal of attention in recent years to promoting increased investment in plant and equipment, it is high time that we recognize the importance of encouraging greater investment in our human capital stock. Our ability to grow and prosper as a Nation, is ultimately determined by the creativity of our people. For too long we have neglected the importance of insuring that our existing and future labor force is adequately equipped to meet the changing needs of our own society and of the world in which we live. If we continue to neglect our human capital needs, we will be fueling unemployment, in addition to impairing our ability to adequately defend our national security.

Consequently, we must address the skilled labor shortage and permanent labor displacement problems, and this will require a renewed sense of national commitment to improved public education and job training, at a scale comparable to the National Defense Education Act that was enacted in the aftermath of Sputnik.

Our public schools and universities, for instance, face critical shortages of mathematics and science teachers, the subject areas most important to our future as a Nation. Incentives must be put in place to encourage our youth to pursue careers in these areas, in addition to making it more profitable for individuals to pursue teaching careers in mathematics and the physical sciences.

Furthermore, the scope of the labor market problems we face can only be handled by the massive job-creating capacities of the private sector, and as such, policy measures intended to address these problems should take the private sector's needs into account. With this in mind, we must implement policies in the 98th Congress that will address: First, remedial and preentry level job training needs; second, entry level training needs; third, upgrading and retraining needs; fourth, critical skills needs; and fifth, displaced worker needs.

Mr. President, I cannot overemphasize the point that even if a strong economic recovery develops over the next few years, unemployment will still remain at disruptively high levels because of the existing deficiencies in the labor market and the structural changes that are taking place in American industry. We cannot afford to let this happen. In addition to the human tragedy it will result in a continued deterioration of our productivity, in addition to harming our ability to harness our technology, and defend our national security interests. The only way we will be able to prevent this structural deterioration in our labor markets is to deal effectively with our job training and education needs. It is my intent to work toward such an end in the 98th Congress, and it is my fervent hope that my colleagues will join me in a bipartisan effort to insure a

brighter future for the American work force.●

RECRUIT QUALITY RATED BEST EVER

● Mr. COHEN. Mr. President, the Defense Department has just released its recruiting results for fiscal year 1982, and the news is very good. The Army Times reported in its December 20 issue, "Recruit Quality Rated Best Ever," summing up well the military's excellent recruiting year.

According to Defense Secretary Caspar Weinberger, fiscal year 1982 was one of the best years since the beginning of the All-Volunteer Force, was better than most years under conscription, and even surpassed the strong results of last year.

Each of the services met or exceeded its overall recruiting objectives, and 86 percent of all new recruits had a high school diploma. This is the highest proportion ever achieved and compares favorably with the 75 percent of the youth population with high school diplomas. In addition, 87 percent of new recruits scored average or above on the enlistment test, with an overall average percentile score higher than the average youth population.

The good news extends beyond recruiting. Reenlistment rates were higher than they have been since 1964, Selected Reserve strength continues to grow, and the services have continued to recruit and retain representative proportions of the population.

The key to continued success, as Secretary Weinberger said, is "stability and continuity in manpower programs." If we in Congress provide that stability, the All-Volunteer Force should be able to meet our Nation's military manpower requirements as successfully and well as it has the past 2 years.

For the benefit of my colleagues, I ask that the Army Times article and the Defense Department's December 9 news release on the year's recruiting results be inserted in the RECORD.

[The articles follows:]

[From the Army Times, Dec. 20, 1982]

RECRUIT QUALITY RATED BEST EVER

(By Tom Philpott)

WASHINGTON.—The armed forces recruited their highest percentage of high school graduates ever in Fiscal Year 1982 as they continued to take advantage of a troubled economy and high unemployment rates.

Final recruiting statistics released this month show 86 percent of non-prior-service recruits in Fiscal Year 1982 were high school graduates compared with 81 percent the year before and 68 percent in Fiscal Year 1980. Only 75 percent of young adults in the U.S. population hold high school diplomas.

The other important measure of "quality" among recruits, average scores on the military entrance exam, also rose during the year. In Fiscal Year 1982, about 87 percent of new recruits scored average or above on the Armed Force Qualifications Test compared with 82 percent in Fiscal Year 1981 and only 69 percent in Fiscal Year 1980. Overall it was the best performance on the tests since 1976, the last year GI Bill education benefits were offered to persons joining the military.

The Air Force led the services in both quality categories. Ninety-four percent of Air Force recruits were high school graduates compared with 86 percent in the Army, 85 percent in the Marine Corps and 79 percent in the Navy. The Air Force also reported that 94 percent of its new recruits scored in Category I through III (average or above) on the AFQT compared with 91 percent for the Marines, 89 percent of the Navy and 81 percent for the Army.

Women recruits had average test scores higher than the men and a higher percentage of them held diplomas in every service. All the women recruited by the Army and Marine Corps were high school graduates. Only four percent of female Air Force recruits and seven percent of female Navy recruits were high school dropouts. Still, the services recruited 7,000 fewer women in Fiscal Year 1982 than the year before and their percentage among new recruits dropped from 13 to 11. Because of higher reenlistment rates, however, the total number of women on active duty increased by 3,000 to 163,300.

Reenlistment rates, both first-term and career, continued to climb in Fiscal Year 1982.

[News Release, Office of Assistant Secretary of Defense (Public Affairs), Dec. 9, 1982]

MILITARY MANPOWER STRENGTH ASSESSMENT, RECRUITING AND REENLISTMENT RESULTS ACTIVE FORCE—FISCAL YEAR 1982 (OCTOBER 1981 THRU SEPTEMBER 1982)

Secretary of Defense Caspar W. Weinberger today announced that in terms of both recruiting and retention fiscal year 1982 was one of the best years since the beginning of the All-Volunteer Force (AVF), was better than most years under conscription, and even surpassed the excellent results of last year.

The Active Force strength as of September 30, 1982 was 2,108,600. This represents an increase of more than one percent over the end strength of a year ago. Each of the Military Services met or exceeded its overall recruiting objectives, enlisting nearly 301,600 men and about 36,600 women. In terms of quality, 86 percent of all new recruits or non-prior service (NPS) accessions had a high school diploma. This is the highest proportion ever achieved and compares favorably with the 75 percent of the youth population with high school diplomas. Additionally, 87 percent of the new recruits scored average or above on one enlistment test (AFQT Categories I thru III) with an overall average percentile score of 56, compared to the youth population average of 50. Thirty-seven percent were in the top two (above average) categories, just as high as the levels achieved under conscription.

Reenlistment rates were higher than they have been since 1964 resulting in improved levels of manpower readiness. The number of people in operating units, the number of career enlisted personnel, and the number of key, mid-level leadership and critical skill jobs that are filled by experienced personnel have increased dramatically.

Secretary Weinberger stated that the Military Services have continued to recruit and retain representative proportions of the population. Nearly 25 percent of the NPS enlisted accessions were Black, Hispanic, Native American, Asian or Pacific Islander, compared to 23 percent of the 18 to 24 year old youth. The geological distribution of the FY 1982 accessions closely paralleled that of the by-state youth population.

Secretary Weinberger also announced that preliminary numbers show the Selected Reserve end strength was 963,700, an increase of almost 65,000 members, and that the National Guard and Reserves recruited 240,900 accessions (104 percent of objective) during the past fiscal year.

While pointing out the FY 1982 successes, Secretary Weinberger noted that the DOD is facing an increased challenge in FY 1983 due to desired strength increases, the declining youth population and expected improvement in the economy. He stated that with continued Congressional and public support, the Department will be able to attract and retain the required numbers of qualified personnel. The Secretary emphasized that stability and continuity in manpower programs will be necessary to ensure continued success. Finally, the Secretary stated that he continues to believe that voluntary military service is the most equitable and desirable way to meet the military manpower requirements of the 1980s.

FACT SHEET—MILITARY MANPOWER STRENGTH, RECRUITING AND REENLISTMENT RESULTS FOR FISCAL YEAR 1982[1]

STRENGTHS

ACTIVE FORCE (TABLE 1)

Total active strength up 26,400 (+1.25 percent) over fiscal year 1981 levels.

DOD met congressionally authorized strength ceilings.

SELECTED RESERVE (TABLE 2)

Overall strength up 64,900 (+7 percent over fiscal year 1981 levels.

Largest increase in Army Reserve (up 31,700 or +14 percent.

TABLE 1.—ACTIVE DUTY MILITARY END STRENGTHS

[In thousands]

Service	Sept. 30, 1982			September 1981, actual[1]
	Objective	Actual strength[1]	Percent of objective	
Army	[2]780.3	780.4	100	781.0
Navy	554.6	553.0	99+	540.2
Marine Corps	192.1	192.4	100	190.6
Air Force	580.8	582.8	100	570.3
DOD total	2,107.8	2,108.6	100	2,082.2

[1] Includes reimbursable active duty military personnel, but excludes active duty military personnel paid from civil functions, Reserve and National Guard appropriations.

[2] Does not include additional Army end strength requested in fiscal year 1982 Program Supplemental which initially was denied and then authorized on Sept. 8, 1982.

TABLE 2.—PRELIMINARY SELECTED RESERVE END STRENGTHS

[In thousands]

Component	Fiscal year—		Change from Sept. 30, 1981
	1981	1982	
Army National Guard (ARNG)	389.0	407.6	+18.6
Army Reserve (USAR)	225.0	256.7	+31.7
Naval Reserve (USNR)	87.9	93.9	+6.0
Marine Corps Reserve (USMCR)	37.0	40.5	+3.4
Air National Guard (ANG)	98.3	100.7	+2.4

[1] Numbers in all tables may not add due to rounding.

TABLE 2.—PRELIMINARY SELECTED RESERVE END STRENGTHS—Continued

[In thousands]

Component	Fiscal year— 1981	1982	Change from Sept. 30, 1981
Air Force Reserve (USAFR)	61.6	64.4	+2.9
DOD total	898.8	963.7	+64.9

RECRUITING RESULTS

ACTIVE FORCE (TABLE 3)

Total accessions were 338,200 (102 percent of objective).

All services met or exceeded their objectives for each category: 305,700 total NPS accessions (102 percent of goal); 271,100 NPS males (102 percent of goal); 34,600 NPS females (101 percent of goal); and 32,500 prior service accessions (104 percent of goal).

SELECTED RESERVE (TABLE 4)

Overall Selected Reserve components recruited 240,900 individuals in fiscal year 1982 (102 percent of goal).

Air Force and Marine Corps slowed down recruiting since improvements in retention allowed them to meet authorized strengths with lower accession levels.

TABLE 3.—ACTIVE DUTY ENLISTED ACCESSIONS BY SOURCE

Service	Fiscal year 1981					Fiscal year 1982				
	Nonprior service			Prior service	Total accessions	Nonprior service			Prior service	Total accessions
	Male	Female	Total			Male	Female	Total		
Total number in thousands:										
Army	99.6	18.3	117.9	20.0	137.9	105.2	15.2	120.4	9.8	130.2
Navy	81.9	10.1	92.0	12.3	104.3	71.4	8.4	79.8	13.0	92.8
Marine Corps	38.6	2.3	40.9	3.0	44.0	35.7	2.3	38.1	3.6	41.6
Air Force	66.0	11.0	76.9	4.1	81.0	58.8	8.7	67.5	6.1	73.6
DOD total	286.1	41.7	327.8	39.5	367.2	271.1	34.6	305.7	32.5	338.2
Recruiting objectives in thousands:										
Army	98.5	18.3	116.8	20.0	136.8	100.5	15.1	115.6	9.5	125.1
Navy	81.5	10.1	91.6	10.3	101.9	71.4	8.4	79.8	13.0	92.8
Marine Corps	38.1	2.3	40.4	2.2	42.6	35.7	2.2	37.9	2.7	40.6
Air Force	66.0	11.0	76.9	4.1	81.0	58.8	8.7	67.5	6.1	73.6
DOD total	284.1	41.6	325.7	36.6	362.3	266.4	34.4	300.8	31.3	332.1
Percent of objective:										
Army	101	100	101	100	101	105	101	104	104	104
Navy	101	103	100	120	102	100	100	100	100	100
Marine Corps	101	103	101	138	103	100	105	101	132	103
Air Force	100	100	100	100	100	100	100	100	100	100
DOD total	101	100	101	108	101	102	101	102	104	102

TABLE 4.—PRELIMINARY SELECTED RESERVE ACCESSIONS BY SOURCE

[In thousands]

Component	NPS objective	Actual	Percent of objective
ARNG	55.0	51.6	94
USAR	34.0	34.8	102
USNR	2.5	2.1	83
USMCR	8.5	8.9	105
ANG	6.6	5.5	83
USAFR	3.2	3.1	95
DOD total	109.8	106.0	97

Component	PS objective	Actual	Percent of objective
ARNG	41.0	44.0	107
USAR	33.7	40.1	119
USNR	24.6	28.9	118
USMCR	5.8	4.8	82
ANG	8.2	8.7	106
USAFR	8.7	8.4	96
DOD total	122.0	134.9	111

Component	Total objective	Actual	Percent of objective
ARNG	96.0	95.6	+99
USAR	67.7	74.9	111
USNR	27.1	31.0	115
USMCR	14.3	13.7	96
ANG	14.9	14.3	96
USAFR	11.9	11.4	96
DOD total	231.8	240.9	104

ACTIVE DUTY ENLISTED RECRUIT QUALITY (TABLES 5 AND 6)

Fiscal year 1982 was excellent for both quality indicators—educational attainment and scores on the Armed Forces Qualification Test (AFQT).

Well above the Congressional quality constraints.

Eighty-six percent of all NPS accessions had a high school diploma. Highest level ever achieved by DOD (up from 81 percent in fiscal year 1981). Compares to 75 percent of the general youth population. Largest improvement in the Army (86 percent in fiscal year 1982 versus 80 percent in fiscal year 1981).

Eighty-seven percent of all NPS accessions scored average or above on AFQT (Categories I–III). Up from 82 percent in fiscal year 1981. Compares to 67 percent of the general youth population. Largest improvement in Army (81 percent in fiscal year 1982 versus 69 percent in fiscal year 1981).

TABLE 5.—HIGH SCHOOL DIPLOMA GRADUATE NPS ACCESSIONS

Service	Fiscal year 1981			Fiscal year 1982		
	Male	Female	Total	Male	Female	Total
Total number in thousands:						
Army	77.5	17.2	94.7	88.4	15.2	103.6
Navy	60.4	9.4	69.7	55.0	7.8	62.8
Marine Corps	30.4	2.3	32.7	30.0	2.3	32.4
Air Force	57.8	9.6	67.4	54.9	8.4	63.3
DOD total	226.1	38.5	264.6	228.3	33.7	262.0
Percentage of NPS accessions:						
Army	78	94	80	84	100	86
Navy	74	93	76	77	93	79
Marine Corps	79	100	80	84	100	85
Air Force	88	88	88	93	96	94
DOD total	79	92	81	84	97	86

TABLE 6.—AFQT CATEGORY I THRU III ACCESSIONS

Service	Fiscal year 1981			Fiscal year 1982		
	Male	Female	Total	Male	Female	Total
Total number in thousands:						
Army	68.4	13.1	81.5	82.2	15.0	97.2
Navy	71.4	9.3	80.6	63.4	8.0	71.4
Marine Corps	33.3	2.3	35.6	32.5	2.3	34.8
Air Force	60.9	10.6	71.4	54.9	8.6	63.5
DOD total	233.9	35.3	269.2	233.0	33.9	266.9
Percentage of NPS accessions:						
Army	69	72	69	78	99	81
Navy	87	92	88	89	95	89
Marine Corps	86	99+	87	91	100	91
Air Force	92	96	93	93	98	94
DOD total	82	85	82	86	98	87

ACTIVE DUTY REENLISTMENTS (TABLE 7)

Total reenlistments in fiscal year 1982 were 224,500. Increase of 17,600 reenlistments over fiscal year 1981 number. Increase occurred despite lower number of individuals eligible to reenlist (12,000 fewer eligibles in fiscal year 1982 that in fiscal year 1981).

Total reenlistment rate was 68 percent of eligibles.

First-term reenlistment rate was 52 percent of eligibles. Compares to 43 percent in fiscal year 1981.

Career reenlistment rate was 82 percent of eligibles. Compares to 76 percent in fiscal year 1981.

TABLE 7.—ACTIVE DUTY REENLISTMENT RATES

Service	Fiscal year 1981			Fiscal year 1982		
	Eligibles	Reenlist	Percent	Eligibles	Reenlist	Percent
Total reenlistments in thousands:						
Army	116.7	77.9	67	117.3	84.6	72
Navy	94.3	51.5	55	82.2	52.3	64
Marine Corps	36.8	15.9	43	32.9	16.1	49
Air Force	93.5	61.6	66	96.8	71.5	74
DOD total	341.4	206.9	61	329.3	224.5	68
First-term reenlistments in thousands:						
Army	38.8	21.3	55	36.3	21.0	58
Navy	55.1	23.0	42	43.7	21.9	50
Marine Corps	23.9	6.3	27	21.3	7.3	34
Air Force	43.9	18.8	43	47.6	27.1	57
DOD total	161.6	69.4	43	148.9	77.3	52
Career reenlistments in thousands:						
Army	78.0	56.5	73	81.0	63.6	79
Navy	39.2	28.6	73	38.5	30.3	79
Marine Corps	13.0	9.6	74	11.6	8.9	76
Air Force	49.7	42.8	86	49.3	44.4	90
DOD total	179.8	137.5	76	180.4	147.2	82

ACTIVE FORCE REPRESENTATION

Racial/ethnic (table 8)

Twenty-eight percent of Active Force were minority (Black, Hispanic, Native American, Asian and Pacific Islander). Ten percent of officers. Thirty percent of enlisted. Compares to 21 percent of the general population.

Twenty five percent of active enlisted NPS accessions were minority. Compares to 23 percent of the 18- to 24-year-old youth population.

Blacks (black race—includes black Hispanics) (table 9)

Twenty percent of Active Force were black. Six percent of officers. Twenty-two percent of enlisted. Compares to 12 percent of the general population.

Nineteen percent of active enlisted NPS accessions were black. No change in DOD percent from fiscal year 1981. Compares to 14 percent of the 18- to 24-year-old youth population.

TABLE 8.—MINORITY PARTICIPATION IN THE ACTIVE FORCE

[Total officers and enlisted]

Service	Black (non-Hispanic)	Hispanic	Other minorities	Total minorities
Minorities as a percentage of fiscal year 1982 active duty end strengths:				
Army	29	4	4	37
Navy	11	3	6	20
Marine Corps	20	5	2	27
Air Force	15	4	3	22
DOD total	20	4	4	28
Total U.S.	12	7	2	21
Minorities as a percentage of fiscal year 1982 active duty NPS accessions:				
Army	24	4	3	32
Navy	13	3	3	19
Marine Corps	17	4	3	24
Air Force	15	3	3	21
DOD total	18	4	3	25
18- to 24-year-old youth population	13	7	2	23

TABLE 9.—RACIAL DISTRIBUTION OF ACTIVE ENLISTED NPS ACCESSIONS[1]

Service	Fiscal year 1981				Fiscal year 1982			
	White	Black	Other	Total	White	Black	Other	Total
Total number in thousands:								
Army	80.3	32.2	5.3	117.9	85.5	29.6	5.3	120.4
Navy	77.1	11.5	3.4	92.0	66.2	10.7	2.8	79.8
Marine Corps	31.8	7.3	1.9	40.9	29.6	6.7	1.8	38.1
Air Force	63.4	10.8	2.6	76.9	54.9	10.5	2.4	67.5
DOD total	252.7	61.8	13.3	327.8	236.0	57.4	12.3	305.7
Percentage of NPS accessions:								
Army	68	27	5	100	71	25	4	100
Navy	84	13	4	100	83	13	4	100
Marine Corps	78	18	5	100	78	18	5	100
Air Force	82	14	3	100	81	16	4	100
DOD total	77	19	4	100	77	19	4	100
18- to 24-year-old youth population	84	14	2	100	84	14	2	100

[1]Racial definitions are consistent with Office of Management and Budget (OMB) guidelines. ("Other" represents Native American, Asian, and Pacific Islanders. Persons of Spanish origin may be of any race and not specifically defined in this table.)●

NEED FOR A PHYSICIANS' ADVISORY COMMISSION ON CLINICAL PRACTICE

● Mr. BAUCUS. Mr. President, it would seem that hospital cost containment is an idea whose time has finally come.

Traditionally, health benefit plans have based their payments on each individual hospital's own unique costs or charges. Thus, expensive hospitals have been paid more to treat a given patient than an inexpensive hospital. Since hospitals have not had to compete for patients, both expensive hospitals and inexpensive hospitals have flourished.

This method of buying hospital care is now beginning to change. Employers and public agencies that finance health benefit plans increasingly will set their payments at levels which they—rather than the hospitals—believe to be adequate reimbursement for the condition being treated.

The impetus for these measures comes not only from the concern over hospital costs but because of the development of innovative techniques for pricing hospital care. One of these new payment techniques bases payments on the patient's diagnosis, so that both high-cost hospitals and low-cost hospitals receive essentially the same payment for, say, a cataract patient. This approach is already being followed by the New Jersey hospital rate-setting program and is being proposed by HHS as the method medicare should use in paying hospitals. Another approach now being developed would match a hospital's reimbursement to the severity of the patient's condition.

Some health benefit plans will limit their health benefit costs by choosing to do business with only the less expensive hospitals. The State of California is presently negotiating such "preferred provider" arrangements for its medicaid program and the State's laws permit private plans to follow suit.

I do not doubt that hospital management will respond to these various initiatives by increasing, where necessary, the efficiency of their purchasing practices, staffing, and other aspects of their operations. It will be far more difficult, however, to deal with high costs that are a result of the utilization practices of their medical staff. For today there is a good deal of disagreement among physicians on such important matters as when to admit and discharge a given patient, and there is no authority to which one can go to resolve these differences.

For example, virtually nothing has been done to explain and evaluate the substantial differences in utilization patterns that have long been known to exist both locally and regionally. It has been shown that in 1979, medicare patient stays ranged from an average of 13.1 days in one New Jersey area to 6 days in an area of California. Taking

a broader perspective, average stays of patients of all ages in the four main census regions ranged from a low of 6.1 days in the West to 8.5 days in the Northeast. It seems almost certain, based on the analysis that has been performed to date, that these variations are the result of the different styles of medical practice rather than on differences in the patients' being treated.

Studies of efficacy in the health care area rarely have dealt with existing practices despite their importance from a fiscal standpoint. Instead these studies focus on new or emerging technology—for example, basic biomedical research, discovery and testing of new drugs, tests and procedures, and other areas of strong medical interest.

Mr. President, I am concerned that without rational benchmarks that both the payors and the medical community can agree on, hospital payment rates in this country soon will bear no rational relationship to the cost of caring for hospital patients. Initially, the tendency will be to be cautious and set rates at relatively high levels. As time passes, and as hospitals learn to live with the new rates, there will be a growing temptation to reduce payments, but without that objective information on the level of spending needed to support an acceptable level of care.

In light of the sizable potential of hospital cost containment activities to affect the cost and quality of medical care, and the lack of objective information for setting payment levels, I plan to propose legislation early in the next Congress that would establish a Physicians' Advisory Commission on Clinical Practices. The Commission would not duplicate existing research efforts. It would, for example, review variations in the care of hospitalized patients together with their health implications and, where agreement can be reached, make recommendations on appropriate admission policies and lengths of stay criteria.

Such a Commission would be composed of physicians who would be representative of the different regions of the country and of the various medical specialties. Their conclusions would be purely advisory.

It is my intention to draft and introduce the proposed legislation only after consultation with interested parties.●

THE CASE FOR A BUDGET FREEZE

● Mr. GRASSLEY. Mr. President, there seems to be a popular misconception that if Federal funds to State and local governments are curtailed, then State and local governments must raise their taxes to compensate for the shortfall.

Well, Mr. President, this is only the case if State and local governments have not the will to make creative and innovative spending decisions.

A reduction of Federal funds can be more than made up on the spending side of the budget alone. Taxes should not even enter the discussion. An indication of how this can and is happening at the State level is the subject of a recent Reader's Digest article by Eugene Methvin.

The importance of this article is that it shows what can be done when money stops flowing freely to Government. As long as money is flowing freely, no administrative adjustments are made. It is only when the flow of funds is cut off that creative budget solutions surface.

It is simply a matter of survival. Virtually every business and family household in the world lives by this commonsense rule. Slowly, State and local governments are learning to do this. My greatest hope is that one day soon the Federal Government will learn as well.

Mr. President, this is the idea behind my call for a freeze on Federal spending. By limiting the amount of money that the Government can spend, Congress and Federal agencies would be forced to be more responsible and innovative. We would not be able to continue spending the way we are presently. Adjustments would have to be made. Disinflation would demand it. The size of projected budget deficits and the size of the national debt are too imposing.

Mr. President, I ask that the article by Mr. Methvin be printed in the RECORD.

The article follows:

COPING WITH BUDGET CUTS: HOW TWO STATES DO IT

(By Eugene H. Methvin)

(When the Reagan Administration began cutting federal spending, many state governments made loud protests—and said that they would be forced to raise taxes. In the first few months of this year 26 states proposed to do exactly that, by a total of $6.4 billion. Last year some 30 increased taxes by $4 billion.

Two states (one governed by Democrats and the other by Republicans) are, however, successfully bucking this trend. In fact, state capitals seeking to live with Reagan budget cuts could learn much by examining how Kentucky and Pennsylvania are approaching spending and taxation—and making *their* governments work.)

KENTUCKY

John Y. Brown, Jr., a Democrat, was elected governor in 1979 on the pledge that he would run the state like a business. Many thought it was about time. Faced with a recession and the withdrawal of federal funds, Kentuckians were suddenly up against a projected two-year deficit of over $1 billion, a revenue shortfall amounting to $600 per taxpayer.

The 46-year-old Brown brought to state government the same management qualities that had enabled him to build Kentucky Fried Chicken into a billion-dollar-a-year worldwide enterprise. Equally important, he recruited ten self-made millionaires, most of whom, like Brown, were relatively young, semi-retired and attracted by the challenge of Kentucky's appalling management mess. He dubbed his administration Kentucky & Company.

At the Kentucky Department of Transportation (DOT), Frank Metts, an eight-grade dropout from the Louisville slums who had made millions as a developer by the time he was 30, was amazed at the often bizarre waste he encountered. His department, for example, included an aerial-photography division whose 27 staffers produced millions of pictures a year—no more than one percent of which were ever used. So he abolished the division, which had cost $1 million a year, and by contracting each job got all the aerial photographs the department required at a savings of $900,000 annually.

DOT's planning division had grown from zero to 219 employees in six years, with 200 file drawers of plans the state had no money to implement. Metts abolished the unit. He found fire-insurance premiums on concrete bridges, and even a DOT employee whose check was routinely mailed home because he never showed up for work. He got rid of both.

Each of Kentucky's 120 counties, regardless of size or highway mileage, had a garage. Metts closed and combined dozens of them, selling off land, bulldozers and dump trucks. The $10-million proceeds were used to rebuild roads.

Once he came upon ten men sitting down near a highway project; when they saw him, they fought to get their hands on the four shovels they had with them. Metts cut DOT's 9300 employees to 6545. Accused by a DOT engineer of being "an evil man with no compassion for human beings," Metts replied, "I've got plenty of compassion, but it's for the taxpayers."

His reforms produced results. He more than doubled the miles of roads resurfaced last year. The year before he took charge, DOT received 1169 complaints about state roads. Last year motorists registered only 157.

So it went, throughout Kentucky & Company. In 30 months Brown has cut the state's employees from 37,241 to 30,783, a savings of $150 million in salaries, fringe benefits and overhead. But those employees who remained fared better than before. The state raised their salaries an average 28 percent and installed a "pay for performance" merit system. From the top down, Kentucky & Company found ways to cut spending and better use state resources:

Brown abolished his public-information division, which had been cranking out useless press releases, and slashed his own office staff from 97 to 30. He also sold seven of the state's nine aircraft, netting $2.6 million.

Agents cracked down on food stamp fraud. The state's error rate in granting aid to families with dependent children has been cut nearly in half since 1978 and now ranks well below the national average. All this occurred with 300 fewer employees.

Another millionaire financial wizard produced an extra $50 million in revenues by such money-management reforms as compelling banks to bid for state deposits. Incredibly, some $240 million in state cash balances had been drawing no interest, and another $400 million was earning far below market rates.

Kentucky & Company's worst pinch was in the Department of Human Resources, which comprises a third of the state's employees and budget. The responsibility fell to 37-year-old Grady Stumbo, a dynamic physician who had built successful private clinics in eastern Kentucky that had become a model for low-cost health-delivery programs in at least half a dozen states. Stumbo faced a 25-percent cut in state money, but managed to squeeze out enough administrative fat so that the state had to reduce money going to county offices by only eight percent. Additional savings at the local level resulted in no cut in service to the public.

Meanwhile, running Kentucky government like a business has been good for business. So far 153 companies announced new plants in Kentucky—far more than in the entire previous decade. Another 1000 expanded existing operations. It all has meant 20,000 new jobs for Kentuckians.

The state ended fiscal 1982 with a slight surplus. The billion-dollar revenue shortfall was handled without a tax increase, while spending for human services and education increased 20 percent.

The federal "balance sheet" for Kentuckians is equally promising. By decreasing the rate of growth of federal spending, President Reagan proposes in his 1983 budget to reduce federal payments to Kentucky bureaucracies and individuals by $344 million. Yet, as a result of reduced inflation, Kentuckians gained more than four times that much in increased purchasing power in the past year alone.

PENNSYLVANIA

Four years ago this state's government was mired in debt and scandal. Financial planning consisted of annual budget brawls, including one fist fight on the floor at the general assembly. Legislators had passed the budget on time in only 6 of 16 years, and during the interim the government could not pay creditors, contractors or employees.

In eight years 238 Pennsylvania public officials—including members of the governor's cabinet, the chairman of the senate appropriation committee and the speaker of the house—had been convicted of crimes in office. The state had run deficits for two years, and projected some $80 million more in the year ahead.

Then voters issued a mandate to clean up and shrink state government to 46-year-old Richard Thornburgh, a Republican and a former racket-busting Assistant U.S. Attorney General. And two years ago voters gave Republicans control of the legislature. Now Thornburgh has become the first Pennsylvania governor in 36 years to complete a term without a sales- or income-tax hike. For the last four years Pennsylvania kept the budget's growth below inflation—and paid off nearly $300 million of state debt. Thornburgh's administration reduced the state work force so that today Pennsylvania has the lowest number of employees per capita in the nation. (Kentucky runs a close second.)

How did all this happen? To clean house, Thornburgh empaneled the first statewide investigating grand jury in Pennsylvania's history. He imported career Justice Department and FBI lawmen and sent them forth armed with crucial legal crowbars—witness immunity and wiretapping—to smash organized crime and corruption. In the state's scandal-ridden Department of Transportation, for example, he installed the first inspector general, whose probes have resulted in 39 firings, 25 suspensions and 12 convictions. The inspector general also filed suit to recover over $2 million in contract abuses.

A cost-cutting team was established to review the work of everybody from department heads to flagmen on highway work crews. It slashed the state's fleet of cars by 1300, and last year state employees drove 38-million fewer miles. Sick leave and overtime were reduced. The error rate on granting aid to families with dependent children was cut nearly in half. These hundreds of recommendations produced savings of nearly $200 million a year.

No challenge loomed larger than Pennsylvania's runaway welfare costs. A 1980 survey showed 94,000 cases of the able-bodied receiving state assistance, 11,000 of them having moved into the state within the preceding 12 months. Pennsylvania, with 5.2 percent of the nation's population, had nearly 20 percent of the general-welfare recipients. The welfare program was the most expensive in the nation, costing $25.92 for every man, woman and child in Pennsylvania—four to five times as much as in neighboring New Jersey and Ohio.

Earlier this year legislation was passed aimed at severely limiting cash assistance to the able-bodied who refuse to work, and targeting the savings of those who cannot. An estimated 80,000 of the state's 800,000 welfare recipients will have to sign up for community-service jobs, and 64,000 others will be limited to three months of cash assistance. The state will save an estimated $30 million, and businesses will receive $25 million in tax credits to hire welfare recipients. Meanwhile, benefits for families of three or more have been increased.

Thornburgh found 70 percent of vocational-rehabilitation money going into counseling services, so his administration laid off 70 staffers and increased direct aid to Pennsylvania's handicapped. The state Department of Public Welfare threw open for competitive bids contracts for Pennsylvania's day-care centers. Result: with 22-percent fewer dollars, the state actually will decrease services by only seven percent.

Meanwhile, Pennsylvanians at all levels are scratching to make do with less government and fewer federal dollars from Washington. In the affluent Pittsburgh suburb of Bethel Park, for example, school officials had to cope with a drop of $400,000 in state aid. They cut the staff by 40 and put one school up for sale. Instead of cutting programs or raising taxes, they asked parents to accept a fee system for frills: $1 dues for drama clubs, $5 for cheerleading, $35 for football. Fees of $10 to $20 are charged for luxury course such as photography. They got almost no complaints from parents.

Relieved by Reagan Administration block grants from playing paper Ping-Pong with Washington bureaucrats, officials at all levels are saving dollars and devoting increased resources to their original mission. Caseworkers in a Pittsburgh social-service agency who had been spending 65 percent of their workday on paper work can now spend far more time helping people. Warren County commissioners save enough on the printing costs of a single report to keep an additional child in foster care. "Multiply these little bits over the state, and you get a huge savings," says Public Welfare Secretary Helen O'Bannon.

The American people, by tax-slashing votes from California to Massachusetts, have demonstrated they want an end to Congress's addiction to "printing-press money" and deceitful taxation by inflation. While the process may be painful, polls show they are determined to stay the course.

As Kentucky's Human Resources Secretary Grady Stumbo puts it: "Nobody got really serious about waste and inefficiency until the money quit flowing so freely from Washington."●

HEALTH CARE—THE PRICE OF SUCCESS

● Mr. DURENBERGER. Mr. President, on October 23, 1982, Irving Shapiro delivered an address marking the 100th anniversary of Abbott Northwestern Hospital in Minneapolis, Minn. Mr. Shapiro recently retired as chief executive of E. I. du Pont de Nemours & Co., and he now practices law and serves as chairman of Du Pont's finance committee.

In his speech, Mr. Shapiro demonstrates remarkable insight into the workings and problems of our country's health system. He paints a painfully clear picture of the choices that face us. Without greater involvement by the private sector, without a realining of financial incentives and, without leadership from within the health professions we will be left with an overregulated, inefficient, two-tiered system of health care which is expensive and serves no one well.

Mr. Shapiro's speech has already attracted national attention. It deserves to be read and reread, for it is clearly one of the most thoughtful discourses on health to appear in a long time. I urge my colleagues and my fellow Americans to read it carefully.

HEALTH CARE—THE PRICE OF SUCCESS

(Irving S. Shapiro, Du Pont Company)

Health care has become a right in our society. There is no longer a question that an individual who is seriously ill or badly injured is entitled to reasonable medical care, whether able to pay for it or not. The questions are all of degree: How sick? How badly hurt? How much care?

We ought to be proud of the fact that we do look upon this as a right and not a privilege that could be withheld. It fits our sense of community and our constellation of values. It goes well with the notion that a society can fairly be judged by the way it treats its neediest and most vulnerable citizens.

It is also a compliment of a high order to the professionals dispensing health care and to the enormous supporting cast working with them. Included are people in research, medical education, and health management; the people who produce pharmaceuticals, diagnostic tools and other goods or services for health care; and the unsung people who caused the hospitals and nursing homes to be built.

The occasion of the centennial of a hospital as renowned as Abbott Northwestern is an appropriate time to remind ourselves that the nation has a high quality health care system, a work of many decades and countless sacrifices. It is only because so many people have done their work well that society has the luxury of regarding health care as a right. Not incidentally, this is also

a tribute to an economic system that pays the bills and gives us the ability to deliver on this kind of social contract.

Success has a price, though, and the price is going up. As we are continually reminded, health care costs have been rising more rapidly than the rate of inflation, and more rapidly than the average individual's disposable income. The national health care bill is about $300 billion and represents close to 10 percent of the gross national product. It was about 5 percent a quarter century ago.

To put this in perspective, there has been a great deal of public attention to national defense and to the Federal budget increases this year, but the nation spends tens of billions more for health care than for defense. Consider the money going to some other programs where the Federal Government is an important factor though not the only one: pollution control, education, housing, community development, transportation, energy programs, and international affairs. The Federal spending on health care alone is nearly as great as the Federal support for all those areas put together. By any measure, health care is a gigantic societal commitment.

Unless the trend line is changed, health care costs will continue to rise faster than the nation's economy. One driving factor is the increasing number of people age 65 and over. Understandably, older people have a disproportionately large call on medical help. The elderly now account for about 11 percent of the population but demand almost 30 percent of all health care resources. Partly for that reason, Medicare and Medicaid expenses, which more than doubled in the past five years (to $73 billion in 1981), will double again by 1986, absent major changes in programs.

Given those numbers and their implications, I would argue for two points:

First, we must rearrange the incentives within the system. The way it is set up now is topsy turvy. All the logic is to spend more without sufficient concern for how much good it does. The payment system was designed to favor cure but not prevention. It rewards professionals for providing more services, but provides no rewards for exercising constraint. If we do nothing else to change health care services in the next decade, we should reverse the incentives to give the individual a direct stake in cost containment.

We have passed the time when it makes sense to have rules which permit an individual to be compensated if his problem is attended to in a hospital, but deny payment if the problem is solved, probably at lower cost, through home care. It is also time to challenge payment schemes which make the elderly more dependent on nursing homes then some of them need to be, and give no incentive for sheltered living arrangements that fall short of full nursing.

We have to be clear about our objectives. What counts is the outcome as measured by the health of people, not the amount of medical or nursing service provided. The two are not the same, or always correlated.

Second, we must recognize that problems associated with health care are societal in nature and cannot be solved within the health care industry alone. All major groups in society should help to set the priorities and manage this national resource better. Unless all of us do participate, the reform efforts are likely to center on details instead of the larger issues.

There is concern now about the Federal role, as well there should be. Medicare, like the Social Security system, is going to run out of money. Something must be done, and the Federal Government has recently taken action to constrain its future spending. Unless the economy moves to get at the heart of the problem though, the burdens will fall unfairly on the poor and the elderly, or simply be dumped on other segments of society. The question of equity for the needy must be addressed with compassion and wisdom, or we will have broken faith with ourselves. Should that happen, there probably will be renewed pressure for a national health insurance scheme. That would be the worst of all possible solutions but it is not beyond imagining politically.

In a longer time frame, it is not the Federal Government but the private sector that is in the best position to provide the lead in improving the health care system. The most underused tool of all is the private corporations which pay for all or most of the medical expenses of their employees. It is time for more of those companies to become active, to demand more for what they are buying, and to change some of their own habits that keep the system running in its old ruts. On their own and in cooperation with others, corporations should be promoting alternative systems for delivery and payment, encouraging conservative health care practices, educating their employees to the need for changes (they have a large stake in this, too) and developing other programs that relate to cost containment and utilization of services.

Recently, through the Business Round Table, more than 160 large corporations have agreed to try some additional steps along this line. Throughout the country, local and regional health care coalitions have sprung up in recent years, usually with business' help. Minnesota's example is a good one. Those are steps forward, but many companies are still at the handwringing stage. What is needed from them is informed action. What is needed as well is support throughout the private sector for changes in laws and regulations to take physicians and nurses off the defensive when they do call for less than maximum intervention.

In terms of health care costs, there is not much doubt about the villain of the piece. It is not the medical technology in the hospitals that is responsible for the cost runups. Properly applied, technology can reduce costs. It can make diagnosis more efficient and the management of treatment more effective. Nor is it the poor on public assistance who are responsible for most of the increase in the overall health bill. Medicaid, the program for the needy, is unquestionably expensive—well over $30 billion in this fiscal year—but even so, it is only 11 percent of all health care costs. Large savings in costs in the future cannot be achieved by squeezing the neediest 10 percent of the population.

The unit to be dealt with is the middle-income majority covered by private or governmental health insurance programs, mostly through arrangements which reimburse doctors, hospitals, and nursing homes for whatever services they perform, and usually covering the patient from the first dollar onward. That is where the money goes—two-thirds of that $300 billion.

There is nothing to gain by blaming the doctors. To be sure, they are the people who order the services that can be costly, but as one physician said in a recent issue of a Massachusetts medical journal, blaming them for the high cost of medical care is like blaming the pilot for the cost of the airplane fuel. It is a loose analogy but not a bad one. People want to go coast to coast in a hurry, and the price of that is a 747 plus 60 tons of jet fuel. Many people want the equivalent of 747 health care. Doctors and nurses try to oblige them, and for that they deserve no blame.

The difference is with us, the passengers. When we fly we pay; but when most of us call on medical service, the system makes it appear that somebody else is paying for the tickets. It is this that has helped to double the intensity of use of health care facilities in the past dozen years or so, and increased the number of physicians and (more dramatically) the number of other people working in hospitals and nursing homes (the two institutions together account for nearly one-half of all health care spending). The question is not whether all this medical attention is a social good. It does help people. The question is whether the present system encourages the wisest and most prudent use of resources; and the answer has to be, "No."

There is also an element of business responsibility here. After all, there are still many private health care plans that will reimburse patients only if they are admitted to hospitals, and not if they are treated in doctors' offices. Where would you want to go for treatment in that situation?

Enough of finger pointing. To drag out the old line from Pogo, we have met the enemy and he is us. Nothing much else will happen that is good unless this is acknowledged, and the incentives are turned in favor of more careful, personal stewardship by each of us.

There is no magic number for health care that is right and proper. Is 10 percent of GNP too much or too little? Who knows? It all depends on one's sense of the scale of unfilled needs at a point in time, and on a judgment about the competing claims for the same dollars. Suppose we did cut back on health care spending. Where would we put the billions of dollars we saved, and would the outcome be better or worse for the country?

Like any numbers game that has to be played in the real world, this one is loaded with subjectivity, not to say politics. One man's expense in the health care world is another man's income—and this is a people-intensive field. What strikes an observer as wasteful might seem no more than necessary care if he or she were the patient. Perhaps the only way to deal with this is to accept 10 percent of GNP as a given—no one is able to change it much in the short range anyway—and let the burden of finding a better target fall on others: If someone wants to argue for a substantially lower or higher health care spending rate, let him show how and why that would help society.

What deserves more attention than a specific figure is the general question of limits. The success of medical science presents us with policy decisions not encountered before, now unavoidable. On one side stands an ethic that says that the ideal health care system delivers everything that will be helpful to everyone who can be helped by it. That has been the target if not always the accomplishment, and the present entitlement system was set up accordingly. Opposite that is the fact that medicine can do things today it could not do in the past, and the list of those things grows constantly. Looking at future possibilities, many people would rate it a bargain if the health care

bill could be kept from growing larger than the 10 percent figure.

The old ideal and modern reality cannot coexist. An endless supply of money cannot be assumed, and a displacement of resources from other worthwhile social objectives cannot be ignored.

We are driven toward uncomfortable options. Do we impose a lid on services through some public mechanism—kidney dialysis and open-heart surgery only to age 65 but not beyond? Do we withhold life-support measures for the terminally ill or the seriously handicapped? What about infant care? Medicine can now save many babies born very prematurely, but those babies may well need much more than average amounts of medical care throughout their lives. Are we to deny them life because they were born much too soon?

Consider some less emotional questions. Should we put a cap on the fees hospitals and nursing homes may charge—and thus in effect impose wage and salary controls on the segment of the population working therein? Do we put new constraints on the time doctors may spend on their patients, and thus interpose more strangers into relationships we like to think of as personal? Is not medicine too impersonal already? Do we toss out the whole system as it stands, with its mixture of private and public funding, and replace it with a nationalized health structure?

I exaggerate for emphasis. Some of the proposals sound mean-spirited. There are other, less harsh options. Surely society does not intend to send to the scrap heap people who are helpless or inconveniently expensive. Nonetheless, we are forced to make choices, because there is no believable scenario for providing everybody with literally every kind of health care that might do some good.

One way out of that box is to search for an amended charter, one that deals with the attainable and is still deserving of public support. What I believe we are striving for is not a system that tries to promise everything for everybody, but one that assures access to necessary health care for all who are in genuine need (the operative word is "necessary"). It also should be a system that retains options for special attention (above and beyond medical necessity) to those who are willing to pay their own money for the luxury of Cadillac medical services.

An amended charter need not and should not mean that the indigent should have to suffer catastrophe before they become eligible for help. Nor does it mean that the 90 percent of the population protected by health plans can line up for every service imaginable. It implies some screens based on the demonstrated values of various procedures, and it assumes sound advice based on agreement among professionals as to what ought to be done, and when. It implies, unavoidably, some risks—which is why we need some changes in the law and medical governance, to constrain what could be an endless amount of second-guessing.

"Take two aspirin and call me in the morning."

"Surgery now, without delay."

"One more day in the hospital and two weeks in bed."

Only those with appropriate training can pretend to know whether those are responsible prescriptions in given situations. Physicians confess that they are not always of one mind on such matters. They admit they may do more than needed, simply to cover their flanks. That is one of the problems. However, their disagreements cannot be allowed to stand as permanent impediments to change in the system. If the professionals cannot arrive at consensus standards at least in a great majority of cases, and if we cannot arrive at ground rules that protect them from unwarranted disciplinary action or lawsuits, then society is left with a system lacking internal restraint. "Do it all" becomes the fallback position.

Part of the solution has been suggested by medical professionals themselves, in their findings that for most people most of the time, the benefits of medical care taper off rapidly after the amount of care passes a certain level. The curve goes flat, or nearly so. We have it on their own testimony that in some instances additional medication or service cannot be shown either to speed a patient's recovery or to make a measurable difference in his or her eventual health. It may even be counterproductive. Such a finding can only be taken as good news by all concerned with health care problems, for it lends support to the notion that limits can be set without doing harm to people. In other words, it is possible to seek cost containment with a clear conscience.

To a layman, the decisions at the margins look easy. More medication, more tests, more surgery, more nursing care—these are sure to cost more money. If there is no good evidence that they promote better health, don't do them.

It is appreciated that to the professional the decisions may not seem so simple. A variety of other factors intrude—institutional, financial, and ethical, not to mention the psychological makeup of patients. It is hardly a surprise that doctors and nurses are inclined to err on the side of caution. They have some tough calls to make.

It is not too much to hope, though that we can define the mission such that those calls are based on medical judgment and not on factors that ought to be extraneous. It is hard to defend a system that encourages hospitalization, or increases the prices that hospitals charge for certain services—for example, the prescriptions dispensed by the hospital pharmacy—because that is the only way doctors and patients can get a third party to pay the bill, or because that is a way to cover a deficit caused by an underpayment in some other account.

As a society we are at one of those turning points where we know what the problem is, we feel some urgency about it, but all the simpler solutions can be seen, in H. L. Mencken's phrase, to be "neat, plausible, and wrong."

The first among these, national health insurance, qualifies as the leading idea whose time has come and gone, or should have. A decade or more ago it commanded a large following, but on the merits there is little to say for it. Other nations have now accumulated considerable experience with it, and left us with no reason to believe that a comprehensive, government-managed health service in the U.S. would do otherwise than reduce quality and increase costs. Judging from some governmental welfare, health, and public housing projects, it is to be doubted that a national health plan would even be equitable or responsive to its clients.

Whatever the theoretical ideal in some other social setting, in the American environment health care is best addressed by the private and public sectors working in tandem. The task is to achieve a good mix of responsibilities among the various participants, and find mechanisms for getting different actors to resolve differences and work toward common goals.

There is no great difficulty in identifying tasks for particular groups. It is mostly a matter of assembling the laundry list of challenges that have already been placed before these groups, frequently by their own members. For the medical profession, for instance, such a list includes, among other items, more utilization of people with less training than physicians and registered nurses, to provide selected services that do not require the more advanced (read more expensive) skills; the development of more data to pinpoint areas where less medical intervention is acceptable, and to clarify the risks and advantages; better peer review of practitioners, not merely to police the ranks for malpractice but also to discourage excesses; and changes in medical education to encourage more conservative health care, as versus training biased toward more elaborate treatment. There is nothing new in those thoughts. Some in the profession have been urging these steps for years, with varying success. It goes without saying that more is possible. It always is.

For people in health care administration, either running facilities or programs, there is a need to recognize that they are managing a changing, complex business. Health care is not a cottage industry anymore. It has to be run professionally in terms of purchasing economies, reduction of waste, personnel management, and the training of the senior administrators themselves. The amount of room for improvement is demonstrated by the spread to be found in different facilities in operating costs, and even in the cost of delivering a specific service to patients.

The wise health care providers are those who see that improvement would work to their own benefit long range, and who therefore are willing to team up with others to review the utilization of services. Such review projects are under way in Minneapolis, Phoenix, the state of Iowa, and elsewhere. There is probably lots more mileage in such collaborative, community based efforts.

Interestingly, most such projects stem from the initiative of people outside the medical profession, but the onus is put on the physicians to correct overutilization. Cooperation, not coercion, is the approach to try first, with the understanding that if the doctors fail to put pressure on their peers when needed, someone else will.

There are complicating factors in every efficiency formula. Some hospitals are more burdened than others by losses from patients who cannot pay at all, or who come to them under programs such as Medicare and Medicaid which fail to reimburse them for the full costs. Some facilities have the benefit of newer, better physical plants and equipment. When all the caveats are covered, though, it remains that some hospitals and nursing homes are more effective and efficient in providing care than others, and there is good evidence that the discipline of market forces can make useful contributions to efficiency.

For each of us as an individual there is a role. We should accept more responsibility for our own health. That point has been made countless times before, to some good effect but far less than is needed. Whether the result has been adequate or not, however, it is impossible to discuss health care as a national problem without directly addressing this side of it. There are all sorts of numbers, all big, on the savings that could be realized if people only tried harder to stay well. It is said that health bills might

drop 30 to 50 percent. Maybe that is high, but fully one-third of medical expenses can be traced to three problems—circulatory conditions, respiratory ailments, and accidents—and all to some extent are preventable by individuals themselves.

There are no miracles out there. Young, thin, superbly conditioned athletes can have heart attacks. It happened to Arthur Ashe when he was still near his prime as a tennis player. Yet the literature is bulging with proof that a large payback in health care would be ours if we cleaned up our lifestyles through better diet and exercise, wore seat belts, and avoided habitual, heavy use of alcohol and tobacco. That would defer or eliminate tens of billions of dollars in costs, and who can say how much suffering?

Instead of restating more of what everybody knows, or offering advice to health care professionals already saturated with it, it is worth commenting at more length on the two groups that cover most of the health care costs, private businesses and the state and Federal Governments.

Consider first the private sector companies. No part of society has a better reason for wanting to see the present system changed. Private businesses have seen their health-related benefit costs quadruple, per employee, in the past 12 years. In 1981 and 1982 those costs have climbed at rates of 15-25 percent per year. It is not unusual for a company today to put more than $1,000 a year into health benefits for each of its employees.

The experience of the Du Pont Company may be instructive here. Medical and hospital benefits cost the company $32 million in 1970; this year, with only a slightly larger work force (the numbers do not include Du Pont's recent merger partner, Conoco), the bill will be nearly five times as much.

Du Pont is a supplier as well as buyer in the health care field. The company sells many medically related products, and sponsors extensive research programs in the life sciences. Du Pont manufacturers pharmaceuticals, X-ray film and processing systems, clinical instruments, diagnostic test systems and associated services and supplies. In the past decade this has been one of the company's most successful lines of business. Last year it brought in $1 billion in sales. Not that the company keeps the books this way, but simply as a matter of interest it is notable that the company's growing success in the health care business barely compensates for the escalation in the parent company's health benefit costs. The profits on Du Pont's health-related businesses totaled $141 million last year, while the cost of health benefits is now running above $150 million per year. The "supply" side is having trouble keeping up.

When a business cost is running out of control, a sensible management team will move to get it in hand. Health care costs quality as much as any other kind, and the managers of many companies have begun to look at them in a businesslike way. From the perspective developed in one such company, the recommended strategy is to emphasize more strongly the preventive route, to build more choice into delivery systems, and to redirect the payments structure away from overdependence on post-event, entitlement contracts which give neither the patient nor the provider a personal stake in restraining spending. Pre-event payment plans, and contracts which reward doctors and patients (or at least do not penalize them) for avoiding expenses, are ideas whose time has come.

Internally, many companies are moving toward cafeteria-style benefits plans. We can call this, to create a label, the Beneflex trend. It offers not one package that applies to all employees, take it or leave it, but a number of options from which people may choose according to personal and family wishes. Typically, companies include health care as one of the variables.

There may be a voucher system: In one example, $500 for medical expenses is given to the employee, and he or she pays the initial bills. If there is money left over at the end of the year, the employee keeps it. If the bills go beyond $500, a health insurance plan takes over at the employer's expense. There are endless such variations, but at the end of the line for all of them stands a cash register showing a "not-to-exceed" figure, to maintain equity as well as cost control.

Externally, businesses have gone shopping. They are negotiating with health care providers to reduce costs, and encouraging development of alternative health care delivery systems. They are buying into health maintenance plans, referring employees to preferred physicians and treatment centers, contracting for primary care services to cover the routine and simpler needs, requiring second opinions before approving nonemergency surgery, and self-insuring while contracting with outside firms for administrative services.

Again, there is little about this on the surface that is new. HMO's have been around for decades. Growth, variety and scale are the notables now. The most recent figures I have seen put the number of HMO's at 250, with enrollment of 10-11 million people. In many metropolitan areas, companies are able to offer not one alternative but several. In the Twin Cities area, there are seven HMO's. The Control Data Company offers its employees a choice of five plans; Honeywell, six.

Companies have rarely found it possible to abandon the rudimentary system adopted in the 1960's and early 1970's, under which the employer agreed to provide coverage from the first dollar onward, with little or no contribution from the employee's pocket. That arrangement has become entrenched by time and, in many companies, by collective bargaining agreements. Employee "givebacks" on benefits are even more difficult to obtain than voluntary reductions in wages and salaries. The better course (at any rate, the one most are taking) is to seek reasonable top limits on what the "first-dollar," "fee-for-services" plans can cost, and to place alongside them additional plans that require employees to share in the costs, but give them a financial incentive to do so. If the incentives are there, both laymen and medical professionals can be counted on to find ways of capping the costs.

What more can private businesses do? For business leaders as for the medical professionals, there is much to be said for closer involvement in community and regional health care coalitions. These have been created to bring better management to health care, to broaden public understanding of the problems, and to help break down the rules that now distort the system to greater expense.

Coalitions exist in 60 or 70 communities, and while they get mixed reviews they do provide a mechanism that neither the private sector not the government can deliver on its own. Bringing together people from all quarters—medicine, business, government, education, labor, and so forth—coalitions can move into parts of the health care problem that are divisive and politically hot to handle. When coalitions do their work well, they achieve an objectivity and develop a public credibility that the separate members have trouble matching. Business has talents and viewpoints to bring to the table, and it has more to gain by joining in coalitions than by trying to go it alone.

One further area deserves the strongest possible emphasis within business, and that is preventive care in the broadest sense of the word. Nothing business might do in the health care area would help people more than to improve its front-end, in-house health education and safety programs. There are too many calls on the system by people who need not have become sick or hurt in the first place, and too many such problems originate on the job. The number of occupationally-related injuries is far too high. Apart from the pain and suffering, the workdays lost to the economy are the equivalent of the full-time work of 170,000 people. That is the same as taking out of the nation's productive system all of the employees of the Du Pont Company including Conoco.

Nowhere is it given that people must be hurt or made sick because of irreducible hazards or fictions about "human nature." Some of the best health and safety records are found in industries which, by their nature, deal with potentially dangerous processes and products. One example is the chemical industry. For every lost-time injury of a chemical company employee (the data include occupational illnesses), there are 26 lost-time incidents in the trucking business, and 12 in the meat products industry. The all-industry average would be four. It is hard to believe that is has to be 26 times more dangerous to drive a truck than to work in a chemical company. Within specific industries there is a similar spread. The average chemical company's safety record is 17 times worse than the best chemical company's record.

There is no mystery as to why some private firms do better than average on health and safety: They work at it. They treat health and safety not just as the employees' responsibility but management's as well, and supervision is held accountable for results.

The companies that do best in this area obviously care about people, and defend their programs without trying to prove that they save money. The chances are that they do, though. By a rough calculation in Du Pont, which has one of the best safety records in all of industry, if company safety performance in 1981 had been no better than the industry's average, Du Pont's direct and indirect costs for injuries would have been $365 million more than they were.

If on-the-job health and safety programs have value, it is natural to ask whether there is a similar rationale for the "wellness" programs now springing up around the country. These involve health monitoring and physical fitness programs plus action on diet, mental health and alcoholism. Companies involved include IBM, Johnson & Johnson, Control Data, Kimberly-Clark, and the New York Telephone Company. Though good numbers are hard to come by, the efforts of such companies are well worth imitating. The risks and costs are relatively low and the health benefits could be high. Consider heart problems as an example. Currently, the largest single cause of claims for permanent disability for people

below age 65 is heart disease. Some 2.5 million people still at work are restricted in their activities by heart conditions. If wellness programs produced even a modest reduction in the rate of heart disease, they would be justified.

(That justification, though, does not rest in an argument that wellness programs will bring a net decline in the national health bill long range. They save lives and money now, but that means they will keep more people alive to advanced ages, where they would be expected to command medical service for one condition or another. Cost-benefit calculations obviously have to be cut off before they become ludicrous. Were cost savings society's only goal, the way to proceed would be to have the largest number of people die at the earliest possible age.)

The problem of changing the government's role in health care has been saved for last. It is crucial but frustrating. Like the ancient task of the mice trying to hang a bell on the cat, it is far easier to see what needs to be done than to figure out a way to do it.

It is not especially difficult to gain agreement, even within government, on some general propositions. The indigent and elderly need help and are entitled to something more than bare minimum, life-sustaining services. Government must be the health care provider of last resort. There are research and educational needs which will not be filled unless government helps. Coordination and oversight in some areas properly fall to government.

On the specifics it becomes harder to translate principles into action, and action is what is needed. Legislation and regulation should be amended to encourage cost efficiency, broaden choice, and make the payment incentives neutral as to type and place of care.

There also should be more and better means of resolving conflicts and compensating people for harms that may be done in the name of health. That too calls for government action. There is too much reliance today on courts and juries of laymen to adjudicate malpractice claims. Justice sometimes is done but at a high price to society. Plaintiffs wait for years to have their cases decided, and in many instances the principal beneficiaries are lawyers who are members of the malpractice bar, some of whom delight in seeking six-figure fees. One consequence is the high cost of malpractice insurance for physicians, which ultimately is reflected in their fees. Less measurable but equally unwelcome is the cost of defensive medicine: physicians calling up more tests than they or most others think are needed, in case someone takes them to court for doing too little and a sympathetic jury agrees. Better safe than sorry.

There are ways to reduce that problem. Fee limits to lawyers might be set for certain classes of injury, to discourage the fortune hunters. Arbitration is an alternative to litigation. It is quicker and less costly than trials. (Some surgeons reportedly require patients to agree to binding arbitration, should there be a claim, as a condition of taking the case.) We should also consider a no-fault system for compensating those who are harmed. As with the workers' compensation system, the objective would not be to extract large sums from those inflicting harm, but to "make whole" the injured party; i.e., to cover his costs. There would be top limits on the amounts collected, but the offset is that the injured party would not have to prove negligence on the part of the health care provider. For such ideas to be pursued more aggressively, though, would require changes in law, regulation, or both.

In any of these areas it is foolish to expect too much of government, especially in the short time frame. In fairness, the government has special problems for which the rest of us share some of the blame.

Government became wedded long ago to a command-and-control philosophy of regulation, which has not been an overwhelming success, and was trapped by its own entitlement system of benefits. There was broad public and political support for this at the outset, but there was not enough attention to the escalation of costs, and there have been perverse side effects. As the best illustration, the reimbursement schedules for Medicare and Medicaid fail to pay most hospitals as much as it costs to provide a bed for a patient. To balance the books, hospital administrators have been forced to mark up the prices paid by private individuals and health plans. On the average, a patient with a private insurance plan pays $41 more for a day of hospital care than a Medicare or Medicaid patient. The cost to business: $5 billion per year. Such price shifting only distorts the system. By any other name, it is an unlegislated redistribution of economic resources from one group to another. It does not solve a problem; it only moves it.

Government often tries to do the right thing, but it does not always succeed at the right price. For example, in the hope of providing better oversight the Federal Government in 1972 set up Professional Standards Review Organizations. These were mostly concerned with payments under the Medicare and Medicaid programs. Now their funding is being withdrawn, at least partly because the Congressional Budget Office has found that the cost of the reviews—$174 million in 1981—was greater than the amount they saved.

This is not to say that all public sector regulation is misdirected or negative—hospital rate regulations that apply in some states; limits on new construction where the need cannot be shown for more hospital beds, equipment, and programs; licensing of facilities; setting of standards for practitioners; and all the rest. However, whether regulation works reasonably well or not, the command-and-control model has serious, inherent limits.

It can be argued that, by agreeing to an approach that contained few cutoff provisions, government in effect gave away the store. (Its representatives will quickly respond that private corporations did the same in their health plans, and there is some truth in that.) Now, the call is for a move in the opposite direction, but it takes exceptional political courage to lead such a charge, and it is tempting to take refuge in stopgaps and cost-shifting. For example, the tax bill passed this summer anticipates slower growth for Federal spending on Medicare and Medicaid (by $13 billion over three fiscal years), but simply leaves it to the states and private sector to make up the difference as best they can. Again, a problem was only being moved, not solved.

More recently, the Administration has proposed a prospective payment plan for Medicare. While the Department of Health and Human Services is to be commended for wanting to turn in this direction, there are enormous complications in its proposal. It takes several hundred pages of the Federal Register just to set forth the rules and regulations—and within a matter of days after these were published, health care experts had raised serious questions about the plans, challenging both feasibility and fairness. One good possibility the experts foresee is that there will be even more cost shifting to private individuals and employers.

Whatever happens in Medicare, the larger point is this: Considering how difficult it is to direct the Federal portion of national health care via command-and-control, there is no reason to believe that the whole system could be run that way. The problem is unmanageable in that fashion, and it is unrealistic to suppose that in some magic way, a Federal initiative is going to provide a formula for solving this national problem.

Individuals in government are as aware of their limits as anyone else, and recognize full well that the nation needs to do more than come at the problem at the margins. They as much as anyone might welcome more private sector support and, where appropriate, political help. This is as good a time as any for those outside government to stop criticizing and provide some leadership pointed toward a better managed system.

As one specific, I would encourage the creation of a national commission on health care, to be formed by the President and to include outstanding individuals from government, the health care industry, education, private business, and labor. The commission's job would be to back away from the detail that is consuming the attention of government agencies and officials today, analyze the system overall, and recommend structural changes that address in a single package the interlocking problems of quality, access, equity, and cost. The commission would have to have strong leadership and be staffed with first-rate people if its proposals are to have a chance of legislative passage.

Several of the state governors have established commissions. One in Iowa has just completed its work and issued its report. Utah has had one, and in Minnesota the health care coalition has acted as a governor's commission. There is nothing analogous on the national scene, although two groups have this as a partial mission, the one examining private sector initiatives and the one dealing with reform and management in government. However, the health care problem deserves concentrated national attention on its own.

I would not propose such a commission with any notion that it should replace local groups. Many parts of the problem require local attention, and this cannot successfully be contralized in Washington. Nor would I expect a national commission to deliver major gains of any by itself. Some commission reports only gather dust, and even when that does not happen, the recommendations can be neutralized by political inertia. Exactly that happened in the 1970's with national commissions on water and air quality, the first headed by Nelson Rockefeller, then Vice President, and the other by Senator Gary Hart. The only trouble with either report was that Congress did not adopt enough of the recommendations.

There is no guaranteeing that this will not also happen in the health care area. Still, such a commission is worth a try. It could provide a needed forum if not an easy answer. It could raise the level of public debate, separate what is known from what is merely supposed, and clarify the issues of greatest moment.

Perhaps it will have a decent chance if it is given specific questions for a charter:

What should the role of the Federal Government be in health care over the next 20

years, and what does this imply for the state governments and the private sector?

Is there a better way to manage the Federal role? Should Medicare remain in the Social Security system, or be handled separately? Do we have too many Federal agencies in the health business?

What impediments to needed change are embedded in law and regulation, and what would the commission recommend be done about them? Is government regulating too much, or the wrong things?

What are the capital needs going to be?

What shifts will or should occur in health care needs and practices, or in health care education, based on changes in the population and health care technology?

With questions such as these on the agenda, and with a suitably strong, able national leader in the chair, such a commission could provide a better basis than we now have for hammering out political and social consensus.

Surely, it is not enough to put band-aids on the system, or to treat different parts of the problem in isolation. Such topics as payment reforms, efficiency in management of health care, depreciation and obsolescence of facilities, choice and competition among providers, limitations on services—these are not separate, distinct issues, but parts of the whole. The way to approach this, in my judgment, is not to compartmentalize the issues but instead to accept them for what they are—an integrated national problem—and to identify the contributions that different groups in society can make to solve that problem.

In sum, we are the victims of our own success. We have been able to expand access to health care, and turn this into a right, because we have had the technology, human resources and wealth to do so. That can only be regarded as a triumph of our society; but like any other right in a free society this one has limits, and we need a common approach that respects those limits. Otherwise, the costs will continue to climb and the nation will be driven to a two-tier system in which the indigent may receive less than the necessary quality of care, and people who need the largest amounts of help will be driven to the wall financially.

The way to cope with this is not through fiat but through more participation and leadership from the private sector, more collaborative efforts among health care professionals and other people in the community, more choice among programs, and more use of the technologies and management skills that can reduce costs while preserving the quality of care. Above all, we need different incentives. Changes in law and regulation to favor prospective payment, plus stronger preventive programs, would be major steps in the right direction.

Time is a factor. Health care is an issue that is sure to heat up, socially and politically, as more people discover there is no such thing as a free lunch.

There is no one model to follow, and no way to induce swift change in a $300 billion industry employing more than five million people. Those ought not be crippling factors, though. We have at hand a variety of alternatives already tried in one setting or another, and often found helpful. We have the advantage of experience, and the knowledge that experiments with change, launched voluntarily, are not irreversible. If some steps do not work as well as we hope, we can try others. Above all, we have strong reasons to believe that a "do nothing" strategy is likely to be the most costly and painful to all. That ought to give us enough to get the job done.●

THE 175TH ANNIVERSARY OF JOHN WILEY & SONS, INC.

● Mr. BRADLEY. Mr. President, I am pleased to recognize the distinguished publishing firm of John Wiley & Sons, Inc. on their 175th anniversary. An outstanding publisher of scientific, technical, and educational books and journals, the firm began in 1807 as a small printing shop at 6 Reade Street in New York City. The founder, Charles Wiley, and his son John were committed to the emerging Nation's authors, publishing the early works of Poe, Melville, and Hawthorne. They helped establish the reputation of James Fenimore Cooper with the publication of "The Spy" in 1821.

After the death of Charles Wiley in 1826, John took over the family business, which he ran for the next 65 years. From 1836 to 1848, the firm was in partnership with George Putnam, continuing to publish works of general literary interest. After the relationship with Putnam ended, John Wiley, along with his son William, perceived that the Industrial Revolution would create a greater need for scientific and technical books. The company began to publish pioneering works in areas such as engineering, aeronautics, and chemistry and started on the course which has earned it a worldwide reputation today.

In fact, Wiley's publishing programs have paralleled the Nation's intellectual and technological growth over the past 150 years. Its authors, who include 10 Nobel Prize winners, have often generated that growth. The company is now an international concern, publishing works in over 40 languages around the world. Consistent with its historic mission to meet accelerating information needs, Wiley has recently launched a database publishing unit, and introduced professional and educational computer software. After 175 years of continuous business, John Wiley & Sons remains an independent publisher dedicated to its profession.

At a recent anniversary dinner, Townsend Hoopes, president of the Association of American Publishers, made the following remarks, which I would like to insert into the RECORD.

The remarks follow:

REMARKS BY TOWNSEND HOOPES, PRESIDENT OF THE ASSOCIATION OF AMERICAN PUBLISHERS, AT WILEY DINNER, NOVEMBER 18, 1982

How is John Wiley perceived in the realms of American and international publishing?

One can answer without hesitation—as a distinguished leader. And as a company whose claim to leadership is solidly based on the relevance and quality of its books and on the integrity of its management in all of their dealings. Wiley managers, editors and sales representatives have earned standing as informed associates in the academic and scientific worlds, and they are engaged in a genuine dialogue with these communities on trends in education and science, on the books needed to extend knowledge in these areas, and on the selection of the best authors to write such books.

Wiley is especially noted for the closeness of its editor-author relations, which appear to be of such mutual benefit and long duration as to be almost familial. More broadly, there is a sense in which the whole body of Wiley employees seems to be a single close-knit family. The company is seen to treat its people with a special consideration, and this is seen to produce that extra measure of cohesion, loyalty and continuity of service which is reflected on the final result.

In brief, John Wiley & Sons is perceived throughout the world publishing community as a company which has built its enviable reputation, its steady growth and its financial success on the solid foundations of integrity, quality, and humaneness. I doubt if there can be higher praise.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have a number of things in the folder that appear to be cleared for action by unanimous consent. For the sake of time, I say to the minority leader, I shall simply put the request. If the minority leader objects, he will simply pose the objection.

Mr. ROBERT C. BYRD. I have no objection to that. If the distinguished majority leader is like-minded, at the end of the actions, perhaps he will then get an order to reconsider.

Mr. BAKER. Very good, I shall do that.

ACREAGE LIMITATION AND RESIDENCY PROVISIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 533, S. 1867.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1867) to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause and insert the following:

That this Act shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C 371), hereinafter referred to as the "Federal reclamation law".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "district" means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water.

(b) The term "full cost" means an annual rate as determined by the Secretary that shall amortize the construction costs properly allocable to irrigation facilities in service, plus all operation and maintenance deficits funded, less payments, over such periods as may be required under reclamation law or applicable contract provisions, with interest on both accruing from the date of enactment on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to the date of enactment. The interest rate used pursuant to this Act shall be determined by the Secretary of the Treasury on the basis of the computed average interest rate payable by the Treasury upon its marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance: Provided, That normal operation, maintenance, and replacement charges will be collected in addition to the full cost charge.

(c) The term "individual" means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152).

(d) The term "irrigation water" means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.

(e) The term "landholding" means total irrigable acreage of one or more tracts of land owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary.

(f) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five such individuals or less.

(g) The term "limited recipient" means any legal entity established under State or Federal law benefiting more than twenty-five individuals.

(h) The term "Secretary" means the Secretary of the Interior.

SEC. 3. (a) The provisions of the Federal reclamation laws shall remain in full force and effect, except to the extent such laws are amended by, or are inconsistent with, this Act.

(b) Nothing in this Act shall repeal or amend any existing statutory exemptions from the acreage limitation of the Federal reclamation law.

ACREAGE LIMITATION

SEC. 4. (a)(1) Notwithstanding any other provisions of law to the contrary, irrigation water may be delivered to a qualified or limited recipient for use in the irrigation of a landholding of not more than two thousand and eighty acres of class I lands, or the equivalent thereof: Provided, That not more than one thousand two hundred and eighty acres of such landholding may be owned by a qualified recipient and that not more than six hundred and forty acres of such landholding may be owned by a limited recipient.

(2) Lands leased for a term of one year or less for the purpose of water management and conservation in years of inadequate project water supply shall not be considered as part of a landholding solely because of having been so leased.

(b) Irrigation water may be delivered to lands leased in excess of a landholding of two thousand and eighty acres or the equivalent thereof as described in subsection (a), only if full cost as defined in subsection 2(b) of this Act is paid for such water as is assignable to those lands leased in excess of a landholding of one thousand two hundred and eighty acres in the case of a qualified recipient or lands leased in excess of a landholding of six hundred and forty acres in the case of a limited recipient: Provided, That "full cost" shall not be applied to excess lands under recordable contract.

(c) In determining the extent of a landholding the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that owner in proportion to that ownership.

EQUIVALENCY

SEC. 5. Wherever an acreage limitation is imposed by the Federal reclamation law, including this Act, the Secretary, upon the request of a contracting entity, shall designate lands under the applicable acreage limitation within a district classified as having class I productive potential or the equivalent thereof in other lands of lesser productive potential. Standards and criteria for determination of land classes pursuant to this authority shall take into account all factors which significantly affect the economic feasibility of irrigated agriculture, including but not limited to, soil characteristics, crop adaptability, costs of crop production, and length of growing season.

RESIDENCY NOT REQUIRED

SEC. 6. Notwithstanding any other provision of law, irrigation water made available from the operation of reclamation project facilities shall not be withheld from delivery to any project lands for the reason that the owners, lessees, or operators do not live on or near them.

RECORDABLE CONTRACTS

SEC. 7. (a)(1) Irrigation water made available in the operation of reclamation project facilities constructed after the enactment of this Act may not be delivered for use in the irrigation of lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, unless and until the owners thereof shall have executed a recordable contract with the Secretary.

(2) Lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, which on the date of enactment of this Act are or are capable of receiving delivery of irrigation water made available by the operation of existing reclamation project facilities may receive such deliveries only: (i) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or (ii) if the owners of such lands have requested that a recordable contract be executed by the Secretary.

(b) The recordable contracts referred to in subsection (a) shall require the disposal of interests in excess lands within a reasonable time to be established by the Secretary, but shall not exceed ten years after the recordable contract is executed by the Secretary in accordance with terms and conditions required by the Federal reclamation law generally.

(c) Recordable contracts existing on the date of enactment shall be amended at the request of the landowner to conform with the acreage limitations contained in this Act: Provided, That the time period for disposal of excess lands specified in the existing recordable contract shall not be extended except as provided in subsection (e).

(d) All recordable contracts covering excess lands sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the contracts. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as he may establish: Provided, That the Secretary shall recover for the owner the fair market value of the land and improvements thereon unrelated to irrigation water deliveries.

(e) The period of time for which the disposal of excess lands may have been required under recordable contracts executed under the Federal reclamation law, including this Act, are hereby, and in the future shall be, extended for the period of time in which the Secretary shall have withheld the processing or approval of the disposition of such lands, whether he may have been compelled to do so by court order or whether he may have declined to do so for other reasons.

(f) Excess lands which have been or may be disposed of in compliance with the Federal reclamation law, including this Act, shall not be considered eligible to receive irrigation water unless—

(1) they are held by nonexcess owners; and

(2) in the case of disposals made after the date of enactment of this Act, their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with the Federal reclamation law, including this Act, for values exceeding the sum of the value of newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 432e of title 43, United States Code.

CORPS OF ENGINEERS PROJECTS

SEC. 8. (a) Notwithstanding any other provision of law to the contrary, neither the acreage limitation provisions nor the other provisions of the Federal reclamation laws, including this Act, shall be applicable to lands receiving benefits from Federal water resources projects constructed by the United States Army Corps of Engineers, unless—

(1) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(2) the Secretary, pursuant to his authority under the Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.

(b) Notwithstanding any other provisions of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect.

REPAYMENT OF CONSTRUCTION CHARGES

SEC. 9. (a) The acreage limitation provisions of the Federal reclamation law shall cease to apply to any part of a landholding upon completion of the repayment by any contracting entity of the amount of any construction costs required to be repaid by such contracting entity (or by a person within the district pursuant to a contract existing

on the date of enactment of this Act) by the terms of any contracts with the Secretary relating to the delivery of water supplies to such part of a landholding for agricultural use: Provided, That where any such contract may be entered into pursuant to the authority of the Rehabilitation and Betterment Act (Act of October 7, 1949, 63 Stat. 724, as amended), the contracting entity shall have the additional option of adopting a form of repayment consistent with section 5(c)(2) of the Small Reclamation Projects Act of 1956 (Act of August 6, 1956, 70 Stat. 1044, as amended) and if such form of repayment is adopted, the acreage limitation provisions of the Federal reclamation law shall not apply solely as a result of the indebtedness under such contract.

(b) The Secretary shall provide, upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the landholding is free of the acreage limitation of the Federal reclamation law. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located. Any certificate issued prior to the date of enactment of this Act is hereby ratified.

(c) Nothing in this Act shall be construed as authorizing or permitting lump sum or accelerated repayment of construction costs, except in the case of a repayment contract which is in effect upon the date of enactment of this Act and which provides for such lump sum or accelerated repayment by an individual or district or except as provided in subsection (d) of this section.

(d) The Secretary is authorized to negotiate with such contracting entity to conform the terms of any such contract to permit lump sum or accelerated repayment if the Secretary finds that the amount of outstanding indebtedness is less than 5 per centum of the total repayment obligation associated with such contract and that a pattern of family farming has been established in the project service area.

RELIGIOUS OR CHARITABLE ORGANIZATIONS

SEC. 10. An individual religious or charitable entity or organization (including but not limited to a congregation, parish, school, ward, or chapter) which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, and which owns, operates, or leases any lands within a district shall be treated as a person under the provisions of this Act regardless of such entity or organization's affiliation with a central organization or its subjugation to a hierarchical authority of the same faith and regardless of whether or not the individual entity is the owner of record if—

(a) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;

(b) said land is operated by said individual religious or charitable entity or organization (or subdivisions thereof); and

(c) no part of the net earnings of such religious or charitable entity or organization (or subdivision thereof) shall inure to the benefit of any private shareholder or individual.

EXEMPTIONS

SEC. 11. Neither the limitations and restrictions imposed by this Act nor any other provision of the Federal reclamation law shall prohibit the delivery of irrigation water—

(a) so long as the lands are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the lands served do not exceed the limits imposed by the Federal reclamation law, including this Act;

(b) when the lands served receive only a temporary, not to exceed one year, supply made possible as a result of—

(1) an unusually large water supply not otherwise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration;

(c) when the lands are acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a mortgage, by inheritance, by devise: Provided, That if after acquisition, such lands are not qualified under the Federal reclamation law, including this Act, they shall be furnished temporarily with a water supply for a period not exceeding ten years from the effective date of such acquisition;

(d) to isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed the acreage limitations of the Federal reclamation law, including this Act;

(e) to lands which will receive a substitute water supply and will be required by the Secretary in his contract with the district to reduce ground water pumping in equal quantity from aquifers in the project area as a condition of receiving substitute water from a Federal reclamation project.

CONTRACT REQUIRED

SEC. 12. Irrigation water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such water would not have been available without the operations of those facilities, may be used for water quality, irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of the Federal reclamation laws.

VALIDATION

SEC. 13. Any non-Federal party to a repayment contract with the Secretary relating to a reclamation project may obtain validation of any provisions of such contract relating to the acreage limitation available to such party pursuant to such contract or under the Federal reclamation law by making application therefor to the Secretary in writing within three years from the date of enactment of this Act. The Secretary shall review each such application and within ninety days from the date on which he receives such application shall transmit it to the Congress together with his comments and recommendations. Unless the Congress by joint resolution disapproves the application within ninety days from the date on which it receives the Secretary's transmittal, the application shall be approved and the provisions shall be considered to be validated.

CONSENT TO SUE

SEC. 14. In addition to any other remedy available in law or equity, any party to a contract with the Secretary providing for water service or for the repayment of the construction costs of Federal reclamation project facilities used to store and deliver irrigation water may bring an action in the United States district court for the district in which the project facilities are located, and only in such district, for mandatory injunctive or other appropriate relief to adjudicate, confirm, validate, or decree the contractual right of any person or entity, including but not limited to any contracting entity, who is the beneficiary of any such contract and to reform such contract in accordance with the terms of any written representation concerning the application or interpretation of the Federal reclamation law, including this Act, or contracts made by the Secretary or his representative to such party or his predecessor in interest. Exclusive jurisdiction for such suit is hereby vested in the United States district court. In the case of a written representation, if the court finds, on the basis of the evidence submitted, that the party would not have entered into the contract but for the written representations made by the Secretary or his representative, which were relied on by those using such irrigation water, then the court shall order the Secretary to reform the contract to conform with the representations, and the contract, as reformed, shall be considered valid as of the date of the written representation.

ADMINISTRATIVE PROVISIONS

SEC. 15. (a) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this Act and other provisions of the Federal reclamation law.

(b) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase "for a period not to exceed twenty-five years" following the term "project water".

(c) Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of mortgage, inheritance, or devise, may be sold at its fair market value without regard to any other provision of this Act or to section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes," approved May 25, 1926 (43 U.S.C. 423e): Provided, That if the status of mortgaged land changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law, by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value.

(d) Beginning October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(e) The Secretary is hereby authorized and directed to amend any provision of any contract between the Secretary and another party existing upon the date of enactment of this Act which is inconsistent with the provisions of this Act but only at the request of said other party.

(f) The Act of May 26, 1926, Appointment of Commissioner of Reclamation (44 Stat. 657) is amended by adding the words "by and with the advice and consent of the Senate" after the word "President".

LEASING REQUIREMENTS

SEC. 16. (a) Notwithstanding any other provision of the Federal reclamation law, including this Act, lands which receive irrigation water may be leased only if the lease instrument is—

(1) written; and

(2) for a term not to exceed ten years, including any exercisable options: Provided, however, That with the prior approval of the Secretary, leases of lands for the production of perennial crops having an average life of

more than ten years may be for periods of time equal to the average life of the perennial crop but in any event not to exceed twenty-five years. In addition, the Secretary shall be provided with a certificate signed by the lessee which contains a legal description of the leased land, including a statement of the number of acres leased, the term of the lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land.

(b) Any lease in effect as of January 1, 1982, shall be required to comply with the provisions of this Act within ten years of enactment of this Act.

(c) Lessees holding lands in excess of the acreage limitation of this Act or of any other provisions of the Federal reclamation law under the provisions of a valid written lease effective as of January 1, 1982, shall be required to comply with the appropriate acreage limitation within ten years of enactment of this Act.

REPORTING

SEC. 17. Any contracting entity subject to the acreage limitation of the Federal reclamation law shall compile and maintain such records and information as the Secretary deems reasonably necessary to implement this Act and the Federal reclamation law. On a date set by the Secretary following the date of enactment of this Act, and annually thereafter, every such contracting entity shall provide in a form suitable to the Secretary such reports on the above matters as the Secretary may require.

UP AMENDMENT NO. 1583

(Purpose: To provide for the non-Federal development of the Bradley Lake Hydroelectric Project, Alaska)

Mr. BAKER. Mr. President, I send to the desk an amendment in the nature of a substitute by the Senator from Alaska (Mr. MURKOWSKI).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. MURKOWSKI, proposes an unprinted amendment numbered 1583.

1. Strike all after the enacting clause and insert in lieu

SEC. . Notwithstanding any prior authorizations or appropriations with respect to the Bradley Lake Project, Alaska, the Federal Energy Regulatory Commission shall have jurisdiction to license, in accordance with the procedures established under the Federal Power Act (16 USC Sections 791a-825r) and other applicable provisions of law, the non-Federal construction, operation, and maintenance of the Bradley Lake Project, Alaska.

2. Strike the title.

Mr. MURKOWSKI. Mr. President, the amendment that I offer today is intended to encourage and facilitate the development of the Bradley Lake hydroelectric project in Alaska.

Bradley Lake, near Cook Inlet, Alaska, was originally authorized as an hydroelectric project by the Flood Control Act of 1962. The effect of this authorization was to preclude the consideration by the Federal Energy Regulatory Commission of any application by a non-Federal entity for construction of the project. My amendment would authorize the FERC to consider and act upon such an application.

As currently proposed, the project would provide 135 megawatts to the Kenai Peninsula, a rapidly developing area in southwest Alaska. Because of the rapidly increasing demand for power in that area, the proposed project has received wide support from the State legislature, the municipality of Anchorage, the Kenai Peninsula Borough, Homer Electric Association, and other neighboring utilities.

In addition, the project enjoys support from the Alaska Center for the Environment, and has been determined to be consistent with the Alaska coastal management program, with certain conditions.

The Alaska Power Authority, a State agency, desires to undertake the development of this project pursuant to a license to be issued under the Federal Power Act. This amendment would provide the FERC with the needed authority to consider such an application.

Studies undertaken by the U.S. Army Corps of Engineers clearly indicate the technical and economic feasibility of the development of this site for the production of hydroelectric power. A comprehensive environmental impact statement for the proposed project has been completed by the corps and is available for use by the non-Federal entity in planning for the appropriate development of the site.

Mr. President, I am a strong advocate of our Nation's hydroelectric resources as a source of clean energy. Their fuel is both free, and free from foreign embargo. Hydro development is the only renewable energy source which is capable of having a significant impact on our need for generating capacity while at the same time having the most benign environmental impact of any central generating source.

In addition to encouraging the development of this particular site, I would also like to point out that this amendment suits very well both the administration's and this Congress' intent to encourage, where appropriate, non-Federal development, with non-Federal dollars, of water resource projects.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1583) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute as amended.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

WOLF TRAP FARM PARK ACT OF 1982

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 782, S. 1999.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1999) to amend the Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, on matters that do require consent, I ask the Chair to yield to the minority an opportunity to object.

The PRESIDING OFFICER. The Chair will recognize the minority.

Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wolf Trap Farm Park Act of 1982."

SEC. 2. The purposes of this Act are to—

(a) allow the Secretary of the Interior to cooperate with the Wolf Trap Foundation for the Performing Arts (Foundation) in the operation of Wolf Trap Farm Park (Park); and

(b) provide financial assistance to the Foundation for reconstruction of the Filene Center in the Park.

SEC. 3. (a) The Secretary of the Interior is authorized to provide to the Foundation, or its designee, on such terms and conditions as he deems appropriate, for reconstruction of the Filene Center in the Park: (1) a grant not to exeed $9,000,000; and (2) a loan not to exceed $9,000,000 to be repaid in full, with interest on any unpaid obligation at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of the loan, plus an allowance adequate, in the judgment of the Secretary of the Interior, to cover the administrative expenses of servicing the loan. In his determination of terms and conditions governing the loan, the Secretary shall fix a term of not more than five years from the date the loan agreement is executed.

(b) For purposes of carrying out the grant and loan under subsection (a) of this section, there are authorized to be appropriated such sums as may be necessary, but not to exceed $18,000,000, and such sums shall remain available until expended.

(c) All right, title and interest in any reconstructed Filene Center in the Park shall vest in the United States. The Secretary of the Interior is authorized to provide support services in the reconstruction of the Filene Center, as requested by the Foundation, on a reimbursable basis, for the purposes of this Act.

(d) The plans and design for any reconstruction of the Filene Center shall be sub-

ject to the approval of the Secretary of the Interior.

(e) The Foundation shall be deemed to have an insurable interest in the physical facilities of the Filene Center in addition to any other insurable interest it may be entitled to in the Filene Center, subject to the terms and conditions of any cooperative agreement pursuant to the Act of October 15, 1966, as amended: Provided, That if the Foundation procures insurance, it shall do so at its own expense, and that any proceeds from any insurance recovery shall be applied to the repair or replacement of the Filene Center.

SEC. 3. The Secretary of the Interior shall cooperate with the Wolf Trap Foundation for the Performing Arts, organized pursuant to the District of Columbia Nonprofit Corporation Act and, as a charitable organization, exempted from taxation under section 501(c)(3) of the Internal Revenue Service Code of 1954, in the operation of the Park, under such terms and conditions as the Secretary deems appropriate.".

SEC. 4. Section 3 of the Act of October 15, 1966 (80 Stat. 950) is redesignated as section 4 and the following new section is inserted after section 2:

UP AMENDMENT 1584

Mr. BAKER. Mr. President, I send an amendment to the desk in the nature of a substitute to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) proposes an unprinted amendment numbered 1584.

Mr. BAKER. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That the Secretary of the Interior is authorized to procure, and provide for the installation of, twelve new stainless steel casings and minor appurtenant parts to replace twelve existing cast steel pump casings in pumping plants 1A and 2A of the southern Nevada water project, first stage.

SEC. 2. The Secretary is hereby authorized to negotiate with the original manufacturer for the procurement of the new stainless steel replacement casings.

SEC. 3. Costs incurred in the procurement of the twelve pump casings and minor appurtenant parts shall be borne by the United States and shall be nonreimbursable and nonreturnable. The State of Nevada shall install the twelve stainless steel casings and minor appurtenant parts at its cost in a manner satisfactory to the Secretary.

SEC. 4. There is hereby authorized to be appropriated beginning October 1, 1983, for procurement of twelve stainless steel pump casings and minor appurtenant parts for southern Nevada water project pumping plants 1A and 2A the sum of $1,500,000 (July 1980 price levels), plus or minus such amounts, if any, as may be justified by reason of changes in procurement costs as indicated by engineering cost indexes applicable to the type of procurement involved: Provided, That, except as otherwise may be required by existing contracts, the United States shall incur no further liability with respect to the twelve pumps in pumping plants 1A and 2A of southern Nevada water project, first stage and no further expenditures or actions by the United States with respect to those pumps are either expressly or impliedly authorized by this Act.

2. Strike the title and insert in lieu thereof "A bill to authorize the Secretary of Interior to install pump casings in the Southern Nevada water project."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP 1584) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

EMIGRATION OF IDA NUDEL

Mr. BAKER. I ask that the Chair lay before the Senate House Concurrent Resolution 330, Calendar Order No. 950.

Mr. ROBERT C. BYRD. Mr. President, again, I say on matters on which there could be an objection filed, the Chair should give the minority the chance to object before he asks the clerk to state the matter. I do not expect to object.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Without objection, it is so ordered.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 330) expressing the sense of the Congress with respect to the Soviet Union's obligations under international law to allow Ida Nudel to emigrate to Israel, and for other purposes,

Mr. PERCY. Mr. President, I am heartened to see the Senate concur in adoption of House Concurrent Resolution 330 calling for the emigration from the Soviet Union of Ida Nudel. I know that all of my colleagues share my interest and my concern for her fate.

Ida Nudel has been seeking to leave the Soviet Union to rejoin her sister in Israel for 11 years now. Frustrated in her quest, she became a mainstay of support, assistance, and hope for other Soviet Jewish "refuseniks." For her humanitarian courage, she was arrested in 1978, convicted of alleged hooliganism, and sentenced to 4 years of internal exile. Upon completion of her term last spring, she was released, but has not been permitted to resume residence in Moscow, and has not been permitted to join her sister in Israel.

Mr. President, Ida Nudel has been the heart and soul of the Jewish emigration movement. She means a great deal to all of us. I have been seeking her emigration for 6 years. Adoption of this resolution is a pledge that her friends in the U.S. Senate and around the world will not cease our efforts until she has realized her wish of rejoining her sister in Israel.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

BUDGET ACT WAIVER—S. 2863

Mr. BAKER. Mr. President, there is a Budget Act waiver to accompany Calendar Order No. 978, S. 2863. I ask unanimous consent that the Senate proceed to consider the waiver, Senate Resolution 504.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 504) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2863,

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 504) was agreed to, as follows:

S. RES. 504

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 2863. Such waiver is necessary because S. 2863, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

This budget waiver will allow Senate consideration of S. 2863 which extends to all Federal jurors eligibility for Federal workers' compensation, provides for the taxing of attorneys' fees in certain actions brought by jurors, and authorizes the service of jury summonses by ordinary mail. After hearings in the Agency Administration Subcommittee, S. 2863 was reported favorably by all members of the subcommittee October 1, 1982.

S. 2863 indirectly authorizes the appropriation of an estimated $100,000 to compensate jurors suffering duty-related injuries. However, enactment of the regular mail option for the service of jury summonses is anticipated to save $300,000 to $500,000 a year resulting in an estimated net gain of between $200,000 and $400,000.

S. 2863 was not reported on or before May 15, 1982, because it was not introduced until August 19, 1982.

JURY PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate the underlying measure, S. 2863, Calendar Order No. 978.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2863) to amend title 28 to provide protection to all jurors in Federal cases, to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

That section 1875(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" immediately after "(d)"; and

(2) by amending paragraph (2) to read as follows:

"(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney's fee as part of the costs. The court may tax a defendant employer, as costs payable to the court, the attorney fees and expenses incurred on behalf of a prevailing employee, where such costs were expended by the court pursuant to paragraph (1) of this subsection. The court may award a prevailing employer a reasonable attorney's fee as part of the costs only if the court finds that the action is frivolous, vexatious, or brought in bad faith.".

SEC. 2. (a) The second paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"Each person drawn for jury service may be served personally, or by registered, certified, or first-class mail addressed to such person at his usual residence or business address.".

(b) The fourth paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"If such service is made by mail, the summons may be served by the marshal or by the clerk, the jury commission or their duly designated deputies, who shall make affidavit of service and shall attach thereto any receipt from the addressee for a registered or certified summons.".

SEC. 3. Chapter 121 of title 28, United States Code, is amended—

(1) by adding at the end thereof the following:

"§ 1877. Protection of jurors

"(a) Subject to the provisions of this section and title 5 of the United States Code, subchapter 1 of chapter 81, title 5, United States Code, applies to a Federal grand or petit juror, except that entitlement to disability compensation payments does not commence until the day after the date of termination of service as a juror.

"(b) In administering this section with respect to a juror covered by this section—

"(1) a juror is deemed to receive monthly pay at the minimum rate for grade GS-2 of the General Schedule unless his actual pay as a Government employee while serving on court leave is higher, in which case monthly pay is determined in accordance with section 8114 of title 5, United States Code, and

"(2) performance of duty as a juror includes that time when a juror is (A) in attendance at court pursuant to a summons, (B) in deliberation, (C) sequestered by order of a judge, or (D) at a site, by order of the court, for the taking of a view."; and

(2) by amending the table of sections for such chapter by adding after the item relating to section 1876, the following:

"1877. Protection of jurors.".

SEC. 4. Section 8101 of title 5, United States Code, is amended in paragraph (F) of subsection (1) by striking out "juror" through the end of such paragraph and inserting in lieu thereof "juror;".

AUTHORIZATION OF A BUST OR STATUE OF DR. MARTIN LUTHER KING, JR.

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate House Concurrent Resolution 153, Calendar Order No. 989.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 153) authorizing a bust or statue of Dr. Martin Luther King, Jr., to be placed in the Capitol.

There being no objection, the concurrent resolution was considered and agreed to.

EXTENSION OF CERTAIN PROGRAMS UNDER THE FOREIGN ASSISTANCE ACT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate H.R. 7143, Calendar Order No. 997.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7143) to amend the Foreign Assistance Act of 1961 to extend for an additional year the agricultural and productive credit and self-help community development programs.

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to a third reading, read the third time, and passed.

SENATE CONCURRENT RESOLUTION 46—MUTUAL SECURITY EFFORTS OF THE UNITED STATES AND JAPAN

Mr. BAKER. Mr. President, I next ask the Chair lay before the Senate, Senate Concurrent Resolution 46, Calendar Order 1013.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 46) expressing the sense of the Congress with regard to the mutual security efforts of the United States and Japan.

The PRESIDING OFFICER. The question is on the substitute amendment.

The amendment was agreed to.

Mr. PERCY. Mr. President, the Senate has before it for consideration Senate Concurrent Resolution 46 expressing the sense of the Congress with regard to the mutual security effects of the United States and Japan. Senator LEVIN introduced the original resolution and more than 60 Senators cosponsored it. On December 14 the Senate Foreign Relations Committee adopted a substitute resolution which has just been adopted.

The substitute is the product of a truly bipartisan, consensus approach. Senators HAYAKAWA, GLENN, LEVIN, and I all participated in the drafting of the substitute language and the resolution is now stronger and, I believe, will have a positive effect in Tokyo.

There is no question that there is a widespread view here in the Senate that Japan should do more to contribute its fair share to Western defense. Japan benefits both directly and indirectly from the effort we are making to strengthen U.S. defense capabilities during a time of fiscal austerity and high budget deficits.

Japan has the second largest economy in the free world. Estimates are that per capita GNP in Japan will surpass that of the United States by the century's end. It is unconscionable that Japan, which has so much to gain from a peaceful and stable world, should stand aside while others are making significant sacrifices to carry their share of the burden.

This resolution calls on Japan to make greater efforts to improve its self-defense capabilities. It urges Japan to increase its foreign assistance to developing nations as an additional means to contribute to Western security. It calls on Japan to carry out its announced policy of defending its sealanes and indicates a desire for Japan to assume a larger share of the operating costs of U.S. Forces in Japan.

The resolution shows a special sensitivity to some of the concerns expressed by Japan's Asian neighbors. It states that the upgrading of Japan's self-defense capability can and should be achieved through the deployment of weapons and forces of a strictly defensive nature.

The resolution also expresses an interest in an assessment by our colleagues in the Japanese Diet of security challenges in the Pacific and of appropriate U.S. and allied responses.

We hope and intend that this resolution be received constructively in Tokyo. If adopted, it will be the Senate's first formal message to the new Japanese Government and should be seen as an important, first priority item in the U.S. congressional view of overall United States-Japan relations.

The committee has had a longstanding interest in the issue of Japanese defense spending. A letter I sent in April 1980 to Prime Minister Ohira calling for greater defense efforts on the part of Japan attracted 36 signatures, many from both the Foreign Relations and Armed Services Committees.

The committee does feel special gratitude to Senator LEVIN because he provided the impetus for this important statement and we thank him for his invaluable insight and contribution to the issue.

Mr. HAYAKAWA. Mr. President, I chaired the Senate Foreign Relations Committee hearing on June 16 in which we discussed Senate Congressional Resolution 46 in detail with Senators LEVIN and ROTH, as well as with three outside witnesses, Adm. James L. Holloway III, Dr. Evelyn Colbert, and Prof. James Morley. I would like to report to my colleagues and for the record some of my impressions from that hearing.

All of our witnesses agreed that U.S. security interests in the Pacific are well served by the United States-Japan alliance. A strong United States-Japan relationship is the keystone to U.S. defense strategy in the region. By providing the United States access to facilities and pursuing a friendly, supportive partnership, Japan is already making a significant contribution to both United States and Western defense. By calling on Japan to improve its self-defense capabilities, we are not overlooking what Japan is already doing. Nor are we trying to reduce our own commitments to the security of the region. We see Japan's role as a complement to, not a substitute for, our own increased efforts.

Another issue discussed extensively during the hearing was the call in the original resolution for Japan to spend at least 1 percent of its GNP on defense. The substitute language passed by committee and now being considered does not contain that request. Professor Morley argued, persuasively in my opinion, that the figure is illusory. He said that if military retirement benefits are included in Japanese calculations, as they are in NATO, the figure has already been surpassed. My own view is that such numerical limits are arbitrary and do not reflect what is necessary for adequate self-defense. Just as we have decided to avoid the use of the artificial measure, we hope that the Japanese will rise above their fixation on that figure.

An issue which I raised during the hearing and which we must continue to be sensitive to is the reaction of Japan's neighbors as they see the United States pushing Japan to improve its military capabilities. There is a serious concern about a strongly rearmed Japan in the Philippines, Malaysia, Indonesia, Singapore, and in other nations where the Japanese occupation during World War II was an embittering and tragic experience. The Japanese are aware of these sensitivities, but sometimes I believe we Americans forget them. Improved Japanese defense capabilities must take place within the context of the United States-Japanese alliance, they must be seen as defensive, and they must not substitute for a strong U.S. military presence in the region.

I support and am a cosponsor of the resolution as we have rewritten it. I thank my colleagues for their interest in the issue and their assistance and advice on appropriate language and urge the Senate to vote favorably on the resolution.

Mr. LEVIN. Mr. President, during consideration of the fiscal 1983 continuing funding resolution, the Senate has debated the largest defense appropriations bill in real dollars since the height of the Korean war.

That bill is the financial foundation for our own national security, but it also is important to point out that our NATO allies and Japan are major beneficiaries of this measure.

The Armed Forces funded by this bill protect our allies as much as they do every American.

Unfortunately, the burden borne by the American taxpayers to pay for these forces is not fairly matched by the burdens placed on our allies' citizens to contribute to our mutual security.

Despite solemn commitments to bear their fair share of the common defense burden, many of our allies have failed to do so.

Nowhere is this more obvious and well documented than in the case of our Pacific ally, Japan, which has one of the worst burden sharing records of all our allies.

Japan's meager contributions to the common defense are particularly disappointing because of its position as a virtual economic superpower.

The Japanese are now in the final phases of deciding their defense budget for 1983.

As we finish consideration of our own defense budget, Congress should send Japan a "loud and clear" message that it must live by its sovereign commitments and bear a much larger share of the mutual security burden.

The Senate can do that, Mr. President, by unanimously passing the Levin-Percy-Hayakawa-Glenn resolution, which urges Japan to increase significantly its annual defense spending.

The Foreign Relations Committee unanimously approved this resolution just a few days ago, because it recognized Japan has repeatedly failed to keep its defense spending promises.

This endorsement that the full Senate pass this resolution is doubly significant. It is the Foreign Relations Committee's first official statement to the new Government in Japan about the United States-Japan relationship, according to Chairman PERCY.

I am honored that Chairman PERCY, Chairman HAYAKAWA and Senator GLENN have joined as original cosponsors of this resolution. Their long association with United States–Japan affairs reinforces this message to the people and Government of Japan.

I want to thank them for their cooperation in revising this resolution, which is based on my original resolution, known as Senate Concurrent Resolution 46. That measure now has 60 Senate cosponsors, reflecting the strong feelings Americans have on this subject.

The key operative language of the revised resolution is that Japan should immediately increase its annual defense spending to the levels required for its forces to deploy fully, by 1990, an effective conventional self-defense capability, including the promised capability to protect its sea lanes of communication out to 1,000 miles from the home islands.

The only way that Japan can achieve these capabilities is to begin immediately to spend an average of between 1.4 percent to 2 percent of its gross national product for defense each year until at least the end of this decade, compared to its current annual defense spending of less than 1 percent of GNP.

That is the bottom line meaning of this resolution, Senate Concurrent Resolution 46.

For the first time, we are establishing a public standard against which the American people can judge the adequacy of the efforts by their Pacific ally to keep its promises, made in May 1981, to make greater defense contributions and to defend those sea lanes out to 1,000 miles.

Knowledgeable observers calculate that, to keep these commitments,

Japan must increase its defense budgets annually by 10–12 percent after accounting for inflation, and that increases must begin as soon as early 1983. Those required yearly increases are a far cry from the totally inadequate 4.6-percent raise, after inflation—7.75 percent including inflation—adopted last year, and from the paltry 4-percent increase after inflation—7.34 percent including inflation—contemplated by the previous Japanese Government for this year.

This resolution further outlines how Japan can help offset indirectly the increased U.S. burden imposed by the additional need to defend American, Japanese, and other allies' vital interestes in the Persian Gulf.

This is reflected in its call for Japan to help pay operations, maintenance, repair, and overhaul costs of U.S. ships and aircraft protecting the home islands by patrolling in other areas of the Pacific region. Much larger Japanese contributions toward paying the costs to operate U.S. forces in Japan itself are urged, also.

To those who might question whether we are asking Japan to do too much, let me say this resolution simply urges the Japanese to keep the commitments their Government already has made for our mutual security: The Reagan-Suzuki communique and the pledge to defend the sea lands of communication out to 1,000 miles.

This resolution respects the historical sensitivities of those in Asia who fear a resurgence of Japanese militarism. Our own memories of World War II remain strong. It is for these reasons that the resolution emphasizes that we are calling on Japan to significantly improve its capabilities only for self-defense and only by deploying weapons and forces which are clearly defensive in nature.

Many of the improvements needed in Japan's forces clearly fall into this category: Enhanced antisubmarine and mine warfare capabilities, upgraded air defenses, strengthened logistics systems and sufficient spare parts and ammunition stockpiles to permit Japan's forces to fight for more than a minimum amount of time before running out of bullets and beans.

Such improvements do not threaten the resurrection of the Greater East Asia Co-Prosperity Sphere, nor can the Japanese argue convincingly that they are impermissible within the accepted definition of their self-defense forces.

As the Senate considers this resolution, some special words to the people of Japan and their elected representatives in the Diet are appropriate.

An America gripped by 10.8 percent unemployment and staggering Federal deficits will remain unconvinced when the Japanese Government pleads that its own debt-financing problems prevent increased defense investments.

Economic growth, while slower than before, remains substantially better in Japan than in the United States, and Japanese "poor mouthing" about deficits is more than rebutted by a recent statement by the last Finance Minister that their economy remains strong.

The Japanese cannot cry poverty and prospertiy simultaneously and expect to be believed by our own citizens, who know full well about Japan's tremendous and continuing economic resources.

Furthermore, the Japanese should recognize that the dissatisfaction and disappointment with their meager defense efforts extend across the United States and are not restricted to those States suffering economic hardships due to the present trade frictions between our two nations.

The 60 cosponsors of the original Levin resolution represent all regions of the United States, both parties and all positions on the philosophical spectrum.

And even if our trade and economic differences are resolved, the need for Japan to increase its contributions to our mutual security will remain, and the U.S. Congress will continue to press for it to do so.

The Levin-Percy-Hayakawa-Glenn resolution now before us demonstrates that, while the executive branch engages in "quiet diplomacy" to urge these increases, the Congress will speak out more and more loudly. It shows that, unless Japan begins substituting action for words and more yen for mere promises, then the relationship between our two nations will be further strained.

There is some chance that this harmful consequence can be avoided. A new government in Tokyo presents opportunities for real progress in this area of contention. However, only events in the next few weeks, when Japan decides its 1983 defense budget, will provide indications of that.

Neither nation wants the deterioration in our relationship that could occur. This resolution is an attempt to avoid that unhappy event by encouraging positive Japanese actions before even more drastic American reactions are demanded by our own citizens, whose patience with Japan is exhausted with low allied contributions to our mutual security while we are spending record amounts for defense in the midst of a recession.

I urge the Senate to unanimously approve this resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended, and the preamble, as amended, are as follows:

S. CON. RES. 46

Whereas the Committee on Foreign Relations has recently assessed security challenges in the Pacific and United States and allied responses;

Whereas the current situation in the region requires greater mutual efforts on the part of the United States and its friends and allies in defending democratic values and ideals;

Whereas Japan has demonstrable economic strength but contributes a far smaller percentage of its gross national product and its national budget for defense expenditures than any industrialized country;

Whereas, in the joint communique signed by Japan's Prime Minister and the President of the United States in Washington on May 8, 1981, the Prime Minister stated that Japan will seek to make greater efforts to improve its defense capabilities;

Whereas the Senate has welcomed increases in Japan's foreign assistance and increases in support for United States facilities in Japan and would welcome further efforts in these areas to complement the greater efforts to improve Japanese defense capabilities; and

Whereas the Senate would highly value increased Japanese contributions to Western security at a time when the United States is assuming additional responsibilities in the Indian Ocean and Persian Gulf, a region from which the United States receives only 6 per centum of its energy needs and Japan receives 54 per centum of its total energy requirements: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the United States and Japan should exert maximum efforts to resist challenges to security and democracy in Asia;

(2) the defense efforts of the United States and Japan should be governed by an assessment of the mutual threat confronting them;

(3) Japan should accelerate its current efforts to make a greater contribution to its own defense so that a full partnership and closer cooperation in sharing the burden of common defense can be achieved thereby enhancing the combined effectiveness of Japanese and United States defense forces in preserving peace and security in the Far East;

(4) as a tangible sign of commitment to these aims, Japan should immediately increase its annual defense expenditures to the levels required for its forces to deploy fully by 1990 an effective conventional self-defense capability, including the capability to carry out its policy, announced by the Prime Minister in May 1981, of defending its sealanes of communication;

(5) this significant upgrading of Japan's self-defense capability can and should be achieved through the deployment of weapons and forces which, by their strictly defensive characteristics, would not raise concerns among other Asian nations;

(6) Japan should assume a significantly larger share of the total annual overall operating costs of the United States forces in Japan and should contribute to meeting the United States costs currently incurred in Japan for operations, maintenance, repair, and overhaul of United States ships and aircraft operating in Japan's security interests in the Pacific Ocean region; and

(7) in a spirit of friendship, partnership and cooperation, the Senate would welcome an assessment by its colleagues in the Japanese Diet of security challenges in the Pacific and of appropriate United States and allied responses.

ESTABLISHMENT OF THE U.S. SENATE PRODUCTIVITY AWARD

Mr. BAKER. Mr. President, I ask the Chair lay before the Senate, Senate Resolution 503, Calendar Order 1014.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 503) to establish the U.S. Senate Productivity Award.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I thank the Senate leadership and all the other cosponsors of this measure for their support and assistance, especially Senators MATHIAS, FORD, PACKWOOD, and CANNON whose committee staff members provided the help necessary to report the measure in a timely fashion.

Some questions have been raised about technical matters regarding Senate Resolution 503, which will create a U.S. Senate Productivity Award. This statement should clarify these questions.

The funds authorized in this resolution are to come from the "miscellaneous items" account of the Senate contingency fund. These funds are not intended to supplement the office account of each Senator to cover items such as travel.

These funds are intended to pay an outside organization (contracted with by the Senate Commerce, Science, and Transportation Committee) to provide each participating Senator with the medallion necessary for implementation of the U.S. Senate Productivity Award. The committee, in its discretion, may also contract for other materials that would assist in the implementation of the award such as reference lists of media in a Senator's State who are willing to help communicate the productivity message to the public; productivity information appropriate for use in the announcement of the productivity award process; the names of businessmen, labor leaders, academicians, and others appropriate for the Senator's consideration in the selection of a Senator's State productivity board if authorized pursuant to the Commerce Committee criteria; certificates of membership for those appointed to such productivity boards; appropriate biographical background on such productivity board members and the productivity information which can be used in the announcement of the establishment of such boards; briefing materials for a board's better understanding of the productivity issue; recommendations of people and organizations in each State which warrant a particular letter of invitation to apply for a productivity award; outlines suggesting details for the productivity award presentation ceremony; pertinent productivity information recommended for use in a Senator's remarks on productivity and recipients; information about the award winner and other productivity matters for the press release announcing and explaining the award ceremony; press materials and other materials that the committee may deem necessary for the implementation of the program.

If only one contractor is selected by the committee to provide any or all of the necessary services mentioned, that contractor will also monitor and assist the various stages of the award presentation process and assist each Senator's office. The contractor will also prepare a descriptive compilation of the 100 award winning productivity projects. If more than one contractor is selected by the committee to provide services, then the committee would designate the contractor responsible for monitoring the award process and preparing award compilations. It is anticipated that any contracted services will be obtained on an appropriate competitive basis.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 503) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 503

Whereas the economic productivity of the United States has drastically fallen from its traditional rate;

Whereas the economic productivity rates of other nations in economic competition with the United States are higher than the traditional productivity rate of the United States;

Whereas the American people suffer from the national decline in productivity which contributes to high unemployment as foreign industries with greater productivity capture many markets which were once served by American industries;

Whereas the average household of the American worker would have received over $5,000 more in 1982 if the traditional productivity rate of the Nation had been maintained;

Whereas economic preeminence of the United States will continue to fall, industry by industry, unless the productivity rate is increased;

Whereas an essential first step to the restoration of the productivity rate is an understanding by the public of the seriousness of the problem and the specific practices needed for a solution; and

Whereas a cost effective way to facilitate such an understanding is for each United States Senator to present an annual United States Senate Productivity Award in his State and for the news media to utilize the event to communicate information to the public regarding productivity improvement: Now, therefore, be it

Resolved, That (a) the United States Senate Productivity Award is established.

(b) Beginning with calendar year 1983 and each year thereafter, each Senator may by participation in the award program select a recipient of the award pursuant to the guidelines established by the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 2. The Committee on Commerce, Science, and Transportation of the Senate shall—

(a) establish guidelines for the selection of recipients and the awarding of medallions to such recipients; and

(b) enter into a contract for the design and striking of suitable medallions for the purposes of this resolution.

SEC. 3. Expenses necessary and not in excess of $100,000 per year to carry out the provisions of this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee on Commerce, Science, and Transportation of the Senate.

VIOLENT CRIME AND DRUG ENFORCEMENT IMPROVEMENT ACT

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 3963.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3963) entitled "An Act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

HOUSE AMENDMENT TO THE SENATE AMENDMENT TO H.R. 3963

In lieu of the matter inserted by the Senate amendment to the text of the bill, insert the following:

SEC. 3. Titles I through III may be cited as the "Violent Crime and Drug Enforcement Improvements Act of 1982".

TITLE I—CONTROLLED SUBSTANCES PENALTIES AND CRIMINAL FORFEITURE

PART A

SEC. 101. This part may be cited as the "Comprehensive Drug Penalty Act of 1982".

SEC. 102. (a) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(7) All land and buildings used, or intended for use, for holding or storage of property described in paragraph (1) or (2), if the offense involved is a felony, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been com-

mitted or omitted without the knowledge or consent of that owner.".

(b) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(1) by inserting "(1)" before "The provisions of law"; and

(2) by adding at the end the following new paragraph:

"(2) In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(c) Subsection (e) of section 511 of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by striking out "used to pay" in the sentence beginning "The proceeds from" and all that follows through the end of the subsection and inserting in lieu thereof the following: "deposited in accordance with subsection (h) of this section.".

SEC. 103. (a) Section 511 of the controlled Substances Act (21 U.S.C. 811) is amended by adding at the end the following new subsections:

"(h)(1) There is established in the United States Treasury a fund to be known as the Drug Enforcement Fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Attorney General, with respect to this title, title III, and section 1963(c) of title 18, United States Code, without fiscal year limitation in such amounts as may be specified in appropriation Acts for—

"(A) payment of expenses of forfeiture and sale, including expenses of seizure and detention;

"(B) payment of rewards for information resulting in a conviction or forfeiture;

"(C) payment of liens against forfeited property; and

"(D) payment of amounts with respect to remission and mitigation.

"(2) Any reward paid from the fund shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay a reward of $10,000 or more shall not be delegated to any person other than the Director of the Federal Bureau of Investigation or the Administrator of the Drug Enforcement Administration. Any reward for such information shall not exceed $250,000, except that a reward paid for information resulting in a forfeiture, shall not exceed the lesser of $250,000 or one quarter of the amount realized by the United States from the property forfeited.

"(3) There shall be deposited in the fund—

"(A) during the period beginning on the effective date of this section and ending on September 30, 1983, proceeds from forfeiture—

"(i) under this title and title III; and

"(ii) under section 1963(c) of title 18, United States Code, in any case in which the racketeering activity consists of a narcotic or other dangerous drug offense referred to in section 1961(1)(A) of such title;

that, under this title and title III and such sections of title 18, United States Code, as in effect on the day before the effective date of this section, would have been deposited in the general fund of the Treasury; and

"(B) during the period beginning on October 1, 1983, and ending on September 30, 1985, all proceeds from forfeiture under this title and title III and such sections of title 18, United States Code, as a reimbursement to the appropriation for the fund.

"(4) During the period beginning on the effective date of this section and ending on September 30, 1983, proceeds from forfeiture under the provisions referred to in subparagraph (A) of paragraph (3) of this subsection (other than proceeds deposited in the fund under such subparagraph) shall be treated as provided under such provisions as in effect on the day before the effective date of this section.

"(5) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(6) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a detailed report on receipts and disbursements with respect to the fund for such year.

"(7) There are authorized to be appropriated from the fund for fiscal year 1984 and fiscal year 1985 such sums as may be necessary for expenses of payments under paragraph (1) of this subsection, of which not more than $10,000,000 may be appropriated for each such fiscal year for unreimbursed expenses. At the end of the last fiscal year for which appropriations from the fund are authorized by this Act, the fund shall cease to exist and any amount then remaining in the fund shall be deposited in the general fund.

"(i) The filing of an indictment or information alleging a violation of this title or title III that is related to a civil forfeiture proceeding under this section shall, upon motion of the United States or a claimant in that proceeding, and for good cause shown, stay the civil forfeiture proceeding.".

SEC. 104. (a) A reference in this section to a section or other provision is a reference to a section or other provision of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(b) Section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(c) Section 401(b)(1)(B) (21 U.S.C. 841(b)(1)(B)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$30,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(d) Section 401(b)(2) (21 U.S.C. 841(b)(2)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$10,000, or both" and inserting in lieu thereof "$100,000, or both if such person is an individual, or to a fine of not more than $250,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$20,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than an individual".

(e) Section 401(b)(3) (21 U.S.C. 841(b)(3)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$5,000, or both" and inserting in lieu thereof "$10,000, or both if such person is an individual, or to a fine of not more than $25,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$10,000, or both" and inserting in lieu thereof "$25,000, or both if such person is an individual, or to a fine of not more than $50,000 if such person is other than an individual".

(f) Section 401(b)(5) (21 U.S.C. 841(b)(5)) is amended—

(1) in the sentence beginning "Notwithstanding paragraph (1)(B)", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(g) Section 401(b)(6) (21 U.S.C. 841(b)(6)) is amended—

(1) in the sentence beginning "In the case of", by striking out "and in addition, may be fined not more than $125,000," and inserting in lieu thereof "a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "and in addition, may be fined not more than $250,000" and inserting in lieu thereof "a fine of not more than $500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(h) Section 401(d) (21 U.S.C. 841(d)) is amended by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(i) Section 402(c)(2)(A) (21 U.S.C. 842(C)(2)(A)) is amended by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(j) Section 402(c)(2)(B) (21 U.S.C. 842(c)(2)(B)) is amended by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(k) Section 403(c) (21 U.S.C. 843(c)) is amended—

(1) by striking out "$30,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$60,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine

of not more than $1,000,000 if such person is other than an individual."

(l) Section 408(a)(1) (21 U.S.C. 848(a)(1)) is amended—

(1) by striking out "100,000 and inserting in lieu thereof "$500,000 if such person is an individual, or a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$200,000" and inserting in lieu thereof "$1,000,000 if such person is an individual, or a fine of not more than $2,000,000 if such person is other than an individual".

(m) Part D is amended by adding at the end the following new sections:

"ALTERNATIVE FINE

"SEC. 413. In lieu of a fine authorized by this part, a defendant who derives profits or other proceeds directly from the offense may be fined not more than twice the gross profits or other proceeds so derived, if such amount is greater than the fine so authorized.

"GENERAL PROVISIONS RELATING TO FINES

"SEC. 414. (a) In determining whether to impose a fine under this part, and the amount, time for payment, and method of payment of a fine, the court shall—

"(1) consider the defendant's income (regardless of source), earning capacity, and financial resources, including the nature of the burden that the fine will impose on the defendant and on any person who is legally or financially dependent upon the defendant;

"(2) consider the proof received at trial or as a result of a plea of guilty or nolo contendere concerning any profits or other proceeds derived by the defendant;

"(3) consider any other pertinent equitable consideration; and

"(4) give primary consideration to the need to deprive the defendant of illegally obtained profits or other proceeds from the offense.

"(b) As a condition of a fine, the court may require that payment be made in specified installments or within a specified period of time, but such period shall not be greater than the maximum applicable term of probation or imprisonment, whichever is greater. If not otherwise required by such a condition, payment of a fine shall be due immediately.

"(c) If a fine under this part is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization.

"(d)(1) A defendant who has been sentenced to pay a fine, and who has paid part but not all of such fine, may petition the court for extension of the time for payment, modification of the method of payment, or remission of all or part of the unpaid portion.

"(2) The court may enter an appropriate order under this subsection, if it finds that—

"(A) the circumstances that warranted imposition of the fine in the amount imposed, or payment by the time or method specified, no longer exist; or

"(B) it is otherwise unjust to require payment of the fine in the amount imposed or by the time or method specified.

"CRIMINAL FORFEITURE

"SEC. 415. (a) Any person who is convicted of a violation of this title or title III that is punishable by imprisonment for more than one year shall forfeit to the United States—

"(1) any property constituting or derived from gross profits or other proceeds obtained as a result of such violation;

"(2) any property used, or intended to be used, to commit such violation; and

"(3) in the case of a person convicted under section 408 of this title, in addition to the property described in paragraphs (1) and (2), any interest in, claim against, or property or contractual right of any kind affording a source of control over, the continuing criminal enterprises.

"(b) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(c)(1) Upon filing of an indictment or information alleging that any property is subject to forfeiture under this section, the United States may request an order for seizure of such property in the same manner as provided for a search warrant. The court shall enter an order for seizure upon determining that—

"(A) there is probable cause to believe that the property to be seized is subject to forfeiture; and

"(B) an order restraining transfer of the property is not sufficient to ensure availability of the property for a forfeiture proceeding under this section.

"(2) The court shall enter an order of forfeiture of any property referred to in subsection (a)(1), (2), or (3) if the trier of fact determines that the United States has established beyond a reasonable doubt that such property is subject to forfeiture under this section.

"(3) The United States shall, to the maximum extent practicable, identify all persons with an alleged interest in property that is subject of an order under paragraph (2) and shall provide to such persons notice of the order and the relief available under paragraph (4).

"(4)(A) Not later than sixty days (or such longer period as the court may order for good cause shown) after the date of an order under paragraph (2), any person with an alleged interest in the property may petition the Attorney General for remission or mitigation of the forfeiture—

"(i) on the ground that when acquiring the interest for value, such person did not know or have reason to know of the violation of law on which the order of forfeiture is based or of any existing order restraining transfer for the property; or

"(ii) on other equitable grounds that justify remission or mitigation.

A petition under this paragraph shall be verified and shall set forth the nature and extent of the petitioner's interest in the property, the time and circumstances of the petitioner's acquisition of interest in the property, any additional facts and circumstances supporting remission or mitigation, and the relief sought.

"(B) In the case of a petition under subparagraph (A)(ii), not later than ninety days (or such longer period as the court may order for good cause shown) after the end of the period specified in subparagraph (A), the Attorney General shall issue a decision with respect to the petition. The property shall be disposed of pursuant to such decision, which shall not be subject to review of any kind.

"(C) In the case of a petition under subparagraph (A)(i), not later than ninety days (or such longer period as the court may order for good cause shown) after the end of the period specified in subparagraph (A), the Attorney General shall provide the relief sought or submit to the court a written recommendation for other disposition of the property. Except as provided in subparagraph (D), the court shall order disposition of the property in accordance with a recommendation made under the preceding sentence.

"(D) The court shall provide notice of the recommendation and opportunity for a hearing to any petitioner under subparagraph (A)(i). If, at such hearing, a petitioner establishes, by a preponderance of the evidence, that such petitioner's interest was acquired for value without actual or constructive knowledge of the violation of law on which the order of forfeiture is based, or of any order restraining transfer of the property, the court shall grant appropriate relief that does equity to that interest.

"(5)(A) Except as provided in subparagraph (B), the provisions of the customs laws relating to disposition of forfeited property shall apply to dispositions of property forfeited under this chapter, to the extent that such provisions are not inconsistent with this chapter.

"(B) The duties of the Secretary of the Treasury with respect to dispositions of forfeited property under the customs laws shall be performed under subparagraph (A) by the Attorney General, except to the extent that such duties arise from forfeitures effected under the customs laws.

"(d) The United States shall promptly dispose of all property forfeited under this section through commercial means or as otherwise permitted by law, making due provision for the rights of innocent persons, but the United States shall take such action as may be required to prevent any convicted person from purchasing or otherwise acquiring property forfeited as a result of such conviction. Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize forfeited property under such reasonable conditions as the court may impose. If a forfeited property right is not exercisable or transferable for value by the United States, it shall expire and shall not revert to the convicted person.

"(e)(1) In addition to any order authorized by subsection (b), the court may, before the filing of an indictment or information, enter an order restraining the transfer of property that is or may be subject to forfeiture under subsection (a) of this section.

"(2) An order shall be entered under this subsection if the court determines that—

"(A) there is a substantial probability that the United States will prevail on the issue of forfeiture;

"(B) there is a substantial probability that failure to enter the order will result in unavailability of the property for forfeiture; and

"(C) the need to assure availability of the property outweighs the hardship on any party against whom the order is to be entered.

"(3)(A) Except as provided in subparagraph (B), an order under this subsection shall be entered only after notice to persons appearing to have an interest in the property and opportunity for a hearing.

"(B) A temporary order under this subsection may be entered upon application of the United States, without notice or opportunity for a hearing, if an information or indictment has not been filed with respect to the property and the United States demon-

strates that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, except that the effective period of the order may be extended by the court for not more than ten days for good cause shown and for a longer period with the consent of all parties affected by the order.

"(f) There may be a rebuttal presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

"(1) such property was acquired by such person during the period of the violation of this title or title III or within a reasonable time after such period; and

"(2) there was no likely source for such property other than the violation of this title or title III.

"(g) The findings of the trier of fact with respect to property subject to forfeiture shall be set forth in a special verdict.".

SEC. 105. (a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended in the sentence beginning "In the case of" by striking out "$25,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(b) Section 1010(b)(2) of such Act (21 U.S.C. 960(b)(2)) is amended in the sentence beginning "In the case of" by striking out "$15,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(c) Section 1010(b) of such Act (21 U.S.C. 960(b)) is amended by adding at the end the following new paragraph:

"(3) In the case of a violation under subsection (a) involving more than 1,000 pounds of marihuana, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $250,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual.".

(d) Section 1011(2) of such Act (21 U.S.C. 961(2)) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(e) Part A of such Act is amended by adding at the end the following new section:

"APPLICABILITY OF SECTION 413 AND SECTION 414

"SEC. 1017. Sections 413 and 414 shall apply with respect to fines under this part to the same extent that such sections apply with respect to fines under part D of title II. For purposes of such application, any reference in such section 413 or 414 to 'this part' shall be deemed to be a reference to part A of title III.".

SEC. 106. Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by section 4(1) of this Act, is further amended—

(1) in subsection (a)—

(A) by striking out "SEC. 408. (a)(1)" and inserting in lieu thereof "SEC. 408. (a)";

(B) by striking out "paragraph (2)" each place it appears and inserting in lieu thereof "section 415"; and

(C) by striking out paragraph (2); and

(2) by striking out subsection (d).

SEC. 107. (a) The table of contents for part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 412 the following new items:

"Sec. 413. Alternative fine.
"Sec. 414. General provisions relating to fines.
"Sec. 415. Criminal forfeiture."

(b) The table of contents for part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 1016 the following new item:

"Sec. 1017. Applicability of section 413 and section 414.".

PART B

SEC. 201. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE; VALUE $100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise is merchandise the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 202. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended in the second sentence by inserting after "penal sum of" the following: "$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than".

SEC. 203. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended by striking out ", after deducting the actual expenses of seizure, publication and sale, in the Treasury of the United States." and inserting in lieu thereof "in the Customs Forfeiture Fund.".

SEC. 204. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and inserting in lieu thereof "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,".

SEC. 205. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears;

(2) by striking out "and the value of such vessel, vehicle, merchandise, or baggage as determined under section 606 of this Act, does not exceed $10,000," in the first sentence and inserting in lieu thereof "and the article is subject to section 607 of this Act,"; and

(3) by striking out "If such value of such vessel, vehicle, merchandise, or baggage exceeds $10,000" in the second sentence and inserting in lieu thereof "If the article is not subject to section 607 of this Act,".

SEC. 206. (a) The last sentence of section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended—

(1) by inserting after "proceeds of sale" the following: "shall be deposited in the Customs Forfeiture Fund, except that in the case of an application of this subsection to a law other than a customs law, the proceeds of sale"; and

(2) in paragraph (3), by striking out "with the Treasurer of the United States as a customs or navigation fine" and inserting in lieu thereof the following: "in the general fund of the Treasury of the United States".

(b) Section 613(b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by striking out "(a) (1) and (2) of this section" and inserting in lieu thereof "(a)(3) of section 613A of this Act".

SEC. 207. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the 'fund') which shall be available to the United States Customs Service without fiscal year limitation in such amounts as may be specified in appropriation Acts for—

"(1) payment of expenses of forfeiture and sale, including expenses of seizure and detention;

"(2) payment of awards of compensation to informers under section 619 of this Act;

"(3) payment for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) payment of amounts authorized by law with respect to remission and mitigation.

"(b) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the net proceeds of the sale or, if the property is retained or transferred for official use, the appraised value less all applicable expenses.

"(c)(1) There shall be deposited in the fund—

"(A) during the period beginning on the effective date of this section and ending on September 30, 1983, proceeds from forfeiture under the customs laws that, under such laws as in effect on the day before the effective date of this section would have been deposited in the general fund of the Treasury; and

"(B) during the period beginning on October 1, 1983, and ending on September 30, 1985, all proceeds from forfeiture under such laws as a reimbursement to the appropriation for the fund.

"(2) During the period beginning on the effective date of this section and ending on September 30, 1983, proceeds from forfeiture under the customs laws (other than proceeds deposited in the fund under paragraph (1)(A) of this subsection) shall be treated as provided under such laws as in effect on the day before the effective date of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States,

"(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f) There are authorized to be appropriated from the fund for fiscal year 1984 and fiscal year 1985 such sums as may be necessary for expenses of payments under subsection (a) of this section, of which not more than $10,000,000 may be appropriated for each such fiscal year for unreimbursed expenses. At the end of the last fiscal year for which appropriations from the fund are authorized by this Act, the fund shall cease to exist and any amount then remaining in the fund shall be deposited in the general fund of the Treasury of the United States.".

SEC. 208. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581) is further amended by adding after section 615 the following new section:

"SEC. 616. TRANSFER OF FORFEITED PROPERTY.

"(a) The Secretary of the Treasury may order the discontinuance of forfeiture proceedings under this Act in favor of forfeiture under State law. After the filing of a complaint for forfeiture under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

"(b) If forfeiture proceedings are discontinued or dismissed under this section—

"(1) the United States may transfer the seized property to the appropriate State or local official; and

"(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

"(c) The United States shall not be liable in any action arising out of seizure, detention, or transfer of property transferred under this section.".

SEC. 209. Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$250,000".

SEC. 210. (a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is further amended by adding after section 588 the following new section:

"SEC. 589. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

"Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b)(1) Section 7607 of the Internal Revenue Code of 1954 (26 U.S.C. 7607) is repealed.

(2) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

SEC. 211. Sections 602, 605, 606, 608, 609, 611, 613, 614, 615, 618, and 619 (19 U.S.C. 1602, 1605, 1606, 1608, 1609, 1611, 1613, 1614, 1615, 1618, and 1619) of the Tariff Act of 1930 are each amended—

(1) by inserting "aircraft," after "vehicle," each place it appears; and

(2) by inserting "aircraft" after "vehicles," each place it appears.

PART C

SEC. 301. This title and the amendments made by this title shall take effect on March 1, 1983.

TITLE II—AMENDMENTS TO OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

PART A

SHORT TITLE

SEC. 201. This part may be cited as the "Justice Assistance Act of 1982".

DECLARATION AND PURPOSE

SEC. 202. The declaration and purpose contained in title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701) is amended to read as follows:

"DECLARATION AND PURPOSE

"The Congress finds and declares that the high incidence of crime in the United States is detrimental to the general welfare of the Nation and its citizens, and that criminal justice efforts must be better coordinated and intensified, and made more effective and equitable at all levels.

"Congress further finds that there is an urgent need to encourage basic and applied research, to gather and disseminate accurate and comprehensive justice statistics, and to evaluate methods of preventing and reducing crime.

"Congress further finds that although crime is essentially a local problem that must be dealt with by State and local government, the financial and technical resources of the Federal Government should be made available to assist in the development of innovative and effective National, State, and local efforts.

"Congress further finds that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require systematic and sustained action by Federal, State, and local governments; and continuing efforts at all levels to streamline programs and upgrade the functioning of agencies responsible for planning, implementing, and evaluating efforts to improve justice systems.

"It is, therefore, the declared policy of the Congress to aid in strengthening and improving justice systems by providing assistance with maximum certainty and effectiveness and minimum delay and waste. It is the purpose of this title to authorize funds and technical assistance (1) to be used to strengthen justice systems; (2) to develop and fund new methods and programs to enhance the effectiveness of justice systems; (3) to support the development of National, State, and local priorities and programs to meet the problems confronting justice systems; (4) to reduce court congestion and trial delay; (5) to support community and neighborhood anti-crime efforts; (6) to improve and modernize correctional systems and encourage rehabilitation; (7) to encourage the undertaking of promising, innovative projects and programs to combat crime; (8) to encourage research directed toward the improvement of justice systems and new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals; (9) to encourage the collection and analysis of statistical information concerning justice systems and the development and operation of justice information systems; (10) to develop and implement programs assisting victims, jurors, and witnesses; and (11) to support law enforcement-related personnel development and training efforts.

"It is further the policy of the Congress that the Federal assistance made available under this title not be utilized to reduce the amount of State and local financial support for justice activities below the level of such support prior to the availability of such assistance.".

OFFICE OF JUSTICE ASSISTANCE

SEC. 203. (a) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended in the heading to such part by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 101 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711) is amended to read as follows:

"ESTABLISHMENT OF OFFICE OF JUSTICE ASSISTANCE

"SEC. 101. (a) There is established within the Department of Justice under the general authority of the Attorney General an Office of Justice Assistance (hereinafter referred to in this part as the 'Office').

"(b) The Office shall be headed by a Director who shall be appointed by the Attorney General. The Director may appoint Deputy Directors to assist in the direction of the Office. The Director shall have primary authority over all grants, cooperative agreements, and contracts awarded by the Office. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director, nor shall the Director hold any office, or in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this title.".

(c) Section 102 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended—

(1) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director",

(2) in paragraph (1) by striking out "and units of local government",

(3) by amending paragraph (2) to read as follows:

"(2) establish priorities for programs in accordance with part E, inform States, units of local government, and private nonprofit organizations of such priorities, and award and allocate funds and technical assistance in accordance with the criteria of part E and on terms and conditions determined by the Director to be consistent with part E;".

(4) in paragraph (4) by striking out "Administration" and inserting in lieu thereof "office", and

(5) in the heading for such section by striking out "administrator" and inserting in lieu thereof "director".

(d) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended by striking out section 103.

NATIONAL INSTITUTE OF JUSTICE

SEC. 204. (a) Section 202 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended—

(1) by striking subsection (b) and inserting in lieu thereof the following:

"(b)(1) The Institute shall be headed by a Director who shall be appointed by the Attorney General. The Director shall have had experience in justice research.

"(2) The Director may appoint Deputy Directors to assist in the direction of the Institute. The Director shall have primary authority over all grants, cooperative agreements, and contracts awarded by the Institute. The Director shall have primary authority over administrative functions as may be necessary to carry out out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for any organization, agency, or institution with which the Institute makes any contract or other arrangement under this title.".

(2) in subsection (c)—

(A) in paragraph (2)(A) by striking out ", including programs authorized by section 103 of this title", and

(B) in paragraph (10)—

(i) by striking out "national priority grants under part E and", and

(ii) by striking out "part F" and inserting in lieu thereof "part E", and

(C) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(D) by adding at the end of such subsection the following new paragraph:

"(12) provide financial assistance to encourage replication, coordination, and sharing among State and local justice agencies and public and private nonprofit organizations regarding successful programs or projects and useful information resulting from multiyear and short-term research and development activities authorized under this part.", and

(3) in subsection (d)(5) by striking out "part H" and inserting in lieu thereof "part G".

(b) Part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3724) is amended by striking out section 204.

BUREAU OF JUSTICE STATISTICS

SEC. 205. (a) Section 302 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (a) by inserting before "Bureau" the word "the", and

(2) by striking subsection (b) and inserting in lieu thereof the following:

"(b) The Bureau shall be headed by a Director who shall be appointed by the Attorney General. The Director shall be experienced in statistical programs. The Director may appoint Deputy Directors to assist in the direction of the Bureau. The Director shall have primary authority over all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director; nor shall the Director hold any office in, or in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.".

and

(C) by adding after paragraph (16) the following new paragraph:

"(17) provide assistance to encourage replication, coordination, and sharing among justice agencies regarding information systems, information policy and statistics; and".

(b) Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended—

(1) by striking out section 304, and

(2) by redesignating section 305 as section 304.

FORMULA GRANTS

SEC. 206. (a) Section 401 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) is amended—

(1) in subsection (a)—

(A) by striking out "innovative programs" and all that follows through "success, or" and insert in lieu thereof "programs",

(B) by striking out "and units of local government" the second place it appears,

(C) by striking out "Administration" and inserting in lieu thereof "Office",

(D) by inserting "funding programs and projects that" after "purpose of",

(E) by amending paragraphs (1) through (23) to read as follows:

"(1) identify and process within justice systems persons with a history of serious criminal conduct;

"(2) provide programs that address the problems of serious and violent offenses committed by juveniles;

"(3) combat arson;

"(4) disrupt illicit commerce in stolen goods and property;

"(5) effectively investigate and bring to trial white-collar crime, organized crime, public corruption crimes and fraud against the Government;

"(6) provide community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(7) provide programs to speed the trial of criminal cases, reform sentencing practices and procedures, improve the efficiency of the jury system, and improve the processing of cases involving the mentally incompetent and pleas of mental incapacity;

"(8) provide training, management, and technical assistance to justice personnel;

"(9) provide assistance for the development and operation of justice information systems, including management information systems;

"(10) Coordinate the activities of components of the criminal justice system;

"(11) develop and implement programs which provide assistance (other than compensation) to jurors, witnesses, and victims of crime;

"(12) provide programs which address offenses committed against the elderly;

"(13) provide programs which identify and meet the needs of drug-dependent offenders;

"(14) provide alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

"(15) provide programs which alleviate prison and jail overcrowding;

"(16) provide programs that address critical problems of crime, such as drug trafficking, and have been certified by the Director of the Office, after consultation with the Director of the Institute, as having proven successful, based on available objective, empirical or statistical data, information, or evaluation; and

"(17) provide programs that are innovative and that are likely to prove successful after testing, demonstration, evaluation, and refinement.",

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) For any fiscal year ending after September 30, 1982, the Federal portion of any grant made under this part shall be 50 per centum of the cost of programs and projects specified in the application for such grant, except that—

"(A) in the case of funds distributed for a program or project described in subsection (a)(17), the Federal portion shall be 75 per centum of such cost; and

"(B) in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any program or project described in subsection (a), the Federal portion shall be 100 per centum of such cost.",

(B) in paragraph (2)—

(i) by striking out "(2)(A)" and inserting in lieu thereof "(2)", and

(ii) by striking out subparagraph (B),

(3) by striking out subsection (c), and

(4) by amending subsection (b)(3) to read as follows:

"(c) A grant recipient shall assume the cost of a current program or project funded under this part after a four-year period (including any period occurring before the effective date of this subsection) of Federal assistance.".

(b) Section 402 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3742) is amended to read as follows:

"ELIGIBILITY

"SEC. 402. The Office is authorized to make financial assistance under this part available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this part.".

(c) Section 403 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743) is amended—

(1) in subsection (a)—

(A) by striking out "Administration" each place it appears and inserting in lieu thereof "Office",

(B) by striking out "three-year" and inserting in lieu thereof "two-year",

(C) in the first sentence by inserting ", designates which objective specified in section 401(a) each such program is intended to achieve, and identifies the State agency or unit or local government which will implement each such program" before the period,

(D) in paragraph (3) by striking out ", and to the council where the applicant is a State agency, the judicial coordinating committees, a nongovernmental grantee, or a unit or combination of units of local government",

(E) in paragraph (6)—

(1) by striking out "a provision for" and inserting in lieu thereof "an assurance that", and

(ii) by inserting "will be provided" after "prescribe",

(F) in paragraph (7)—

(i) by striking out "a provision for the maintenance of" and inserting in lieu thereof "an assurance that the State will maintain", and

(ii) by striking out "for the submission of" and inserting in lieu thereof "submit", (G) in paragraph (8)—

(i) by striking out "officer" the first place it appears, and

(ii) by striking out "and" at the end thereof,

(H) in paragraph (9) by striking out the period and inserting in lieu thereof a semicolon,

(I) by striking out paragraphs (1), (2), and (5),

(J) by redesignations paragraphs (3), (4), (6), (7), (8), and (9) as paragraphs (1), (2), (3), (4), (5), and (6), respectively, and

(K) by adding at the end thereof the following new paragraphs:

"(7) an assurance that not more than 10 per centum of the aggregate amount of funds received by a State under this part for a fiscal year will be distributed for programs and projects designated as intended to achieve the objective specified in section 401(a)(17); and

"(8) an assurance that not more than 5 per centum of the Federal assistance expended by any unit of government under this part for a fiscal year will be spent for purposes of section 401(a)(10)."; and

(2) by amending subsection (b) to read as follows:

"(b) The chief executive officer of a State shall submit the application described in subsection (a), and any amendment to such application, to the State legislature while in session, or to a body designated to act in behalf of the State legislature if the State legislature is not then in session, for review. For purposes of section 404, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the ninety-day period beginning on the day it is so submitted.".

(d) Section 404 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3744) is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking out "and" at the end thereof,

(B) in paragraph (3) by striking out the period and inserting in lieu thereof "; and",

(C) by inserting after paragraph (3) the following new paragraph:

"(4) prior to the approval of the application or amendment thereof the Office has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 403(b).", and

(D) by inserting before the period at the end thereof "or the application or amendment has not been reviewed in accordance with section 403(b)",

(2) in subsection (b) by striking out "section 802(b)" each place it appears and inserting in lieu thereof "section 701(b)",

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) the purchase of equipment or hardware, or the payment of personnel costs, unless the cost of such purchases and payments is incurred as an incidental and necessary part of a program under section 401(e);", and

(B) in paragraph (4) by striking out "Law Enforcement Assistance Administration," and inserting in lieu thereof "Office of Justice Assistance,",

(4) in subsection (d)—

(A) by striking out "Administrator" and inserting in lieu thereof "Director", and

(B) by striking out "section 803" and inserting in lieu thereof "section 702", and

(5) by striking out "Administration" each place it appears and inserting in lieu therof "Office".

(e) Section 405 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3745) is amended to read as follows:

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 405. (a) Of the total amount appropriated for this part and part E in any fiscal year, 80 per centum shall be set aside for this part and allocated to States as follows:

"(1) One-fourth of 1 per centum of the amount set aside for this part, but not to exceed $250,000, shall be allocated to each of the participating States.

"(2) Of any funds remaining after the allocation under paragraph (1) is made, there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 401(a) that portion of such funds which bears the same ratio to the aggregate amount of such funds as the same ratio to the aggregate amount of such funds the amount of funds expended by all units of local government for law enforcement in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for law enforcement in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Office determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under this part, then such portion shall be reallocated to the other participating States.".

(f) Part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741-3745) is amended by adding at the end thereof the following new section:

"STATE OFFICE

"SEC. 406. (a) Each participating State shall establish or designate by statute a State office for purposes of—

"(1) preparing an application to obtain funds under this part; and

"(2) administering funds received from the Office of Justice Assistance and its predecessor agency, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).".

NATIONAL PRIORITY GRANTS

SEC. 207. Titles I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended by striking out part E.

DISCRETIONARY GRANTS

SEC. 208. (a) Sections 601 and 602 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3762) are amended to read as follows:

"PURPOSE

"SEC. 501. The purpose of this part is to provide additional Federal financial assistance to States, units of local government, combinations of such units, and private nonprofit organizations for purposes of—

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multi-State in scope, which address the purposes specified in section 401, and which have not received sufficient funds under part D; and

"(4) providing financial assistance for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction and are not likely to be funded with moneys from other sources.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

SEC. 502. Of the total amount appropriated for part D and this part in any fiscal year—

"(1) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in making grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501; and

"(2) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in making grants to carry out the purpose specified in paragraph (4) of section 501.

The Director shall ensure that recipients of grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501 include private nonprofit organizations. Grants under this part may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application. The National Institute of Justice shall review the types of programs described in section 501 of part E of this title for the purpose of identifying programs of proven success, and the Director of the National Institute of Justice shall consult with the Director of the

(d) Section 605 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765) is amended—

(1) by striking out "Administration" each place it appears and inserting in lieu thereof "Office",

(2) by striking out "section 603" and inserting in lieu thereof "section 503",

(3) by striking out the third sentence, and

(4) by striking out "type of section 402 eligible jurisdiction" and inserting in lieu thereof "State".

(e) Section 606 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(f) The headling for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3766) is amended by striking out "Part F" and inserting in lieu thereof "Part E".

(g) Part E of title I, as so redesignated, is amended by redesignating sections 603, 604, 605, and 606 as sections 503, 504, 505, and 506, respectively.

TRAINING AND MANPOWER DEVELOPMENT

SEC. 209. (a) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3775) is amended—

(1) by striking out sections 701, 702, and 703,

(2) in section 705 by striking out "Administration" each place it appears and inserting in lieu thereof "Office", and

(3) by redesignating sections 704 and 705 as sections 601 and 602, respectively.

(b) The heading for part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by striking out "Part G" and inserting in lieu thereof "Part F".

ADMINISTRATIVE PROVISIONS

SEC. 210. (a) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by striking out section 801 and inserting in lieu thereof the following:

"ASSISTANT ATTORNEY GENERAL

"SEC. 801. (a) There is hereby authorized to be appointed within the Department of Justice an Assistant Attorney General for Justice Assistance who shall be appointed by the President by and with the advice and consent of the Senate.

"(b) The Assistant Attorney General for Justice Assistance shall have final authority over the activities of the Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics.".

(b) Section 802 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782) is amended—

(1) in subsection (a) by striking out "The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," and inserting in lieu thereof "The Office of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention,", and

(2) in subsection (b)—

(A) by striking out "Law Enforcement Assistance Administration" and "law Enforcement Assistance Administration" each place they appear and inserting in lieu thereof "Office of Justice Assistance",

(B) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics,",

(C) by striking out "parts D, E, and F" and inserting in lieu thereof "parts D and E",

(D) by striking out the second sentence,

(E) by amending the third sentence to read as follows: "In conducting evaluations described in this subsection, the Office of Justice Assistance, with the assistance and expertise of the National Institute of Justice, shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants.", and

(F) by striking out "administration" and inserting in lieu thereof "Office".

(c) Section 803 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783) is amended—

(1) by striking out "Law Enforcement Assistance Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics," each place it appears, and

(3) in subsection (c) by striking out "Administration," and inserting in lieu thereof "Office,".

(d) Section 804 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3784) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(e) Section 805 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3785) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," each place it appears and inserting in lieu thereof "Office of Justice Assistance,",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," before "or the National Institute of Justice" each place it appears,

(3) in subsection (a) by striking out "section 803, 804, or 815(c)(2)(G)" and inserting in lieu thereof "section 702, 703, or 712(c)(2)(G)", and

(4) in subsection (b) by inserting "the Office of Juvenile Justice and Delinquency Prevention" before "or the Bureau of Justice Statistics".

(f) Sections 806 and 807 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3786-3787) are each amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics,", and

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(g) Sections 810 and 811 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3788-3789) are amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," each place it appears,

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(h) Section 812 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789a) is amended by striking out "Director of the Office of Justice Assistance, Research, and Statistics, the Administrator of the Law Enforcement Assistance Administration," and inserting in lieu thereof "Director of the Office of Justice Assistance, the Administrator of the Office of Juvenile Justice and Delinquency Prevention,".

(i) Section 813 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789b) is amended in subsections (a) and (b)—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(j) Section 814 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789c) is amended—

(1) in subsections (a) and (b)—

(A) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(B) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(2) in subsection (c) by striking out "Administration" and inserting in lieu thereof "Office".

(k) Section 815 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance", and

(2) in subsection (b) by striking out "or the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office or Juvenile Justice and Delinquency Prevention, or the Office of Justice Assistance".

(l) Section 816 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e) is amended to read as follows:

"REPORT TO PRESIDENT AND CONGRESS

"SEC. 816. Not later than April 1 of each year, the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics shall each submit a report to the President and to the Congress on their activities under this title during the preceding fiscal year.".

(m) Section 817 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789f) is amended—

(1) by striking out "Office of Justice, Research and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance",

(2) in subsection (d) by striking out "section 815(c)" each place it appears and inserting in lieu thereof "section 712(c)", and

(3) in subsection (f)—

(A) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director".

(n) Section 818 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789c) is amended by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance".

(o) Section 819 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789h) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(p) Section 820(a) of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789i(a)) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(q) Section 823 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789l) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(r) Section 826 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789o) is amended—

(1) by striking out "council" each place it appears,

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(3) by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(s) The heading for part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by striking out "Part H" and inserting in lieu thereof "Part G".

(t) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by redesignating sections 801, 802, 803, 804, 805, 806, 807, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, and 827 as sections 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, and 725 respectively.

(u) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by striking out sections 808 and 809.

(v) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by adding at the end thereof the following new sections:

"REPAYMENT

"SEC. 726. (a) If Federal financial assistance provided under this part is used by the recipient of such assistance for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the United States an amount equal to the value of such assistance.

"(b) The Director shall bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

"ESTABLISHMENT OF JUSTICE ASSISTANCE BOARD

"SEC. 727. (a) There is established a Justice Assistance Board (hereafter referred to as the 'Board'). The Board shall consist of—

"(1) fifteen voting members who shall be appointed by the President; and

"(2) the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, the Director of the National Institute of Justice, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention, who shall be nonvoting, ex officio members; and

"(3) two nonvoting, coordinating members from the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(b) Members shall represent the public interest and shall be knowledgeable and experienced in the justice systems; such as law enforcement personnel, prosecutors, public and defense attorneys, judges, court administrators, probation and correctional personnel, researchers and scholars, representatives of public and private nonprofit and voluntary organizations, including those which offer programs of assistance to victims of crime, representatives of neighborhood and community-based groups and representatives of local and State governments. Five members shall be experienced in the types of programs and services provided by the Office of Justice Assistance; five members shall be experienced in the types of programs and services provided by the National Institute of Justice; and five members shall be experienced in the types of programs and services provided by the Bureau of Justice Statistics.

"(c)(1) Voting members of the Board shall be appointed for 3-year terms, except that in order to provide for continuity in its operations and to establish staggered groups of vacancies, five members of the initial Board shall be appointed for 4-year terms, five members of the initial Board shall be appointed for 3-year terms, and five members of the initial Board shall be appointed for 2-year terms.

"(2) The initial appointment of members shall be made not later than ninety days after the effective date of the Justice Assistance Act of 1982. Vacancies among Board members shall be filled within ninety days of the vacancy. Any member appointed to fill a vacancy occurring before the scheduled expiration of a term shall be appointed for the remainder of such term. Members shall be eligible for reappointment, but shall serve consecutively no more than two terms or six years, whichever is less. Members once appointed, may not be removed prior to the expiration of their term except for cause.

"(d) The Board shall elect from among its voting members a Chair and Vice Chair. The Board shall select from among its voting members two representatives to serve as nonvoting coordinating members on the National Advisory Committee of Juvenile Justice and Delinquency Prevention.

"(e) The Board shall meet at the call of the Chair, but not less frequently than quarterly. Notice of all Board meetings shall be published. Eight voting members of the Board shall constitute a quorum.

"(f) The Board shall—

"(1) recommend to the Assistant Attorney General for Justice Assistance and the Directors funding priorities and selection criteria to be used in determining the award and allocation of funds through the Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics;

"(2) recommend to the Assistant Attorney General for Justice Assistance and the Directors such policies and program priorities as it deems advisable;

"(3) review and evaluate the activities of the Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics and make such recommendations to the Assistant Attorney General for Justice Assistance and the Directors as it considers necessary or appropriate;

"(4) in the event of a vacancy, recommend to the President at least three condidates for the position of Assistant Attorney General for Justice Assistance;

"(5) review and evaluate Federal policies and priorities in justice assistance, research, and statistics; and

"(6) coordinate its activities with the National Advisory Committee for Juvenile Justice and Delinquency Prevention and the Coordinating Council on Juvenile Justice and Delinquency Prevention.

"(g) Beginning January 1, 1983, the Board shall submit an annual report to the President and to the Congress not later than April 1 of each year and may submit such interim reports as it considers advisable to the President and to the Congress. Each annual report shall describe the activities of the Board during the preceding fiscal year and shall contain such findings and recommendations as the Board considers necessary or appropriate.

"(h) The head of each Federal agency shall make available to the Board such information and other assistance as it may require to carry out its responsibilities. The Board shall not have any authority to procure any temporary or intermittent services of any personnel under section 3109 of title 5, United States Code, or under any other provision of law.

"(i)(1) Members of the Board shall, while engaged in the actual performance of the duties vested in the Board, be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS-18 of the General Schedule in section 5332 of title 5, United States Code, including traveltime.

"(2) Members of the Board shall be entitled to reimbursement for travel expenses, including per diem in lieu of subsistence, while serving away from their place of residence or regular place of business, in the same manner as the expenses are authorized by section 5703 of title 5, United States Code, for persons in the Federal Government service employed intermittently.".

DEFINITIONS

SEC. 111. (a) Section 901 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) Section 901(a)(4) of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(4)) is amended—

(1) by inserting "renovation, repairs, remodeling," after "acquisition,", and

(2) by striking out ", but does not include renovation, repairs, or remodeling".

(c) The heading for part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Part I" and inserting in lieu thereof "Part H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by redesignating section 901 as section 801.

FUNDING

SEC. 212. (a) Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a) There is authorized to be appropriated to carry out the functions of the Office of Justice Assistance $170,000,000 for each of the fiscal years 1983 and 1984.

"(b) There is authorized to be appropriated to carry out the functions of the National Institute of Justice $25,000,000 for each of the fiscal years 1983 and 1984.

"(c) There is authorized to be appropriated to carry out the functions of the Bureau of Justice Statistics $25,000,000 for each of the fiscal years 1983 and 1984.

"(d) There are authorized to be appropriated for each of the fiscal years 1983 and 1984, such sums as may be necessary to carry out the purposes of part K of this title.".

(b) Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by striking out sections 1002 and 1003 and inserting in lieu thereof the following new section:

"PROHIBITION ON USE OF FUNDS

"SEC. 1002. Notwithstanding any other provision of law, no funds appropriated under this section for parts D and F of this title may be expended for programs or projects involving the resolution of civil dis-

putes or may be transferred or reprogramed for carrying out any activity which is not authorized under such parts.".

(c) The heading for part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by striking out "Part J" and inserting in lieu thereof "Part I".

(d) Part I, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by redesignating sections 1001 and 1002 as sections 901 and 902, respectively.

CRIMINAL PENALTIES

SEC. 213. (a) Section 1101 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 1103 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(c) The heading for part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by striking out "Part K" and inserting in lieu thereof "Part H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by redesignating sections 1101, 1102, and 1103 as sections 1001, 1002, and 1003, respectively.

PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 214. (a) Sections 1201 and 1204 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) are amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) The heading for part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) is amended by striking out "Part L" and inserting in lieu thereof "Part K".

(c) Part K, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) is amended by redesignating sections 1201, 1202, 1203, and 1204 as sections 1101, 1102, 1103, and 1104, respectively.

TRANSITION

SEC. 215. (a) Section 1301 of part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799 (a)) is amended—

(1) by adding "(1)" after "(a)",

(2) by adding at the end of subsection (a) the following new paragraph:

"(2) All orders, determinations, rules, regulations, and instructions issued under this title which are in effect on the date of the enactment of the Justice Assistance Act of 1982 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Office of Justice Assistance with respect to their functions under this title or by operation of law.",

(3) by striking out subsection (j), and

(4) by redesignating subsection (k) as subsection (j).

(b) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by striking out "Part M" and inserting in lieu thereof "Part L".

(c) Part L, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by redesignating section 1301 as section 1201.

TABLE OF CONTENTS

SEC. 216. The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3799) is amended—

(1) by amending the item relating to part A to read as follows:

"PART A—OFFICE OF JUSTICE ASSISTANCE"

(2) by striking out the item relating to section 103,

(3) by adding at the end of the items relating to part D the following new item:

"Sec. 406. State office.".

and

(4) by amending the items relating to parts E, F, G, H, I, J, K, L, and M, to read as follows:

"PART E—DISCRETIONARY GRANTS

"Sec. 501. Purpose.
"Sec. 502. Percentage of appropriation for discretionary grant program.
"Sec. 503. Procedure for establishing discretionary programs.
"Sec. 504. Application requirements.
"Sec. 505. Criteria for award.
"Sec. 506. Period for award.

"PART F—TRAINING AND MANPOWER DEVELOPMENT

"Sec. 601. Federal Bureau of Investigation training of State and local criminal justice personnel.
"Sec. 602. Criminal justice education program.

"PART G—ADMINISTRATIVE PROVISIONS

"Sec. 701. Assistant Attorney General.
"Sec. 702. Consultation; establishment of rules and regulations.
"Sec. 703. Notice and hearing on denial or termination of grant.
"Sec. 704. Finality of determinations.
"Sec. 705. Appellate court review.
"Sec. 706. Delegation of functions.
"Sec. 707. Subpena power; authority to hold hearings.
"Sec. 708. Employment of hearing officers.
"Sec. 709. Authority to use available services.
"Sec. 710. Consultation with other Federal, State, and local officials.
"Sec. 711. Reimbursement authority.
"Sec. 712. Services of experts and consultants; advisory committees.
"Sec. 713. Prohibition of Federal control over State and local criminal justice agencies.
"Sec. 714. Report to President and Congress.
"Sec. 715. Recordkeeping requirement.
"Sec. 716. Confidentiality of information.
"Sec. 717. Authority to accept voluntary services.
"Sec. 718. Administration of juvenile delinquency programs.
"Sec. 719. Prohibition on land acquisition.
"Sec. 720. Prohibition on use of CIA services.
"Sec. 721. Indian liability waiver.
"Sec. 722. District of Columbia matching fund source.
"Sec. 723. Limitation on civil justice matters.
"Sec. 724. Reimbursement for unused equipment.
"Sec. 725. Staff support; coordination of activities.
"Sec. 726. Repayment.
"Sec. 727. Prison industry enhancement.

"PART H—DEFINITIONS

"Sec. 801. Definitions.

"PART I—FUNDING

"Sec. 901. Authorization of appropriations.
"Sec. 902. Prohibition on use of funds.

"PART J—CRIMINAL PENALTIES

"Sec. 1001. Misuse of Federal assistance.
"Sec. 1002. Falsification or concealment of facts.
"Sec. 1003. Conspiracy to commit offense against United States.

"PART K—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"Sec. 1101. Payments.
"Sec. 1102. Limitations.
"Sec. 1103. Definitions.
"Sec. 1104. Administrative provisions.

"PART L—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1201. Continuation of rules, authorities, and proceedings.".

REFERENCES IN THE OTHER LAWS

SEC. 217. (a) Any reference to the Law Enforcement Assistance Administration, or to the Administrator of the Law Enforcement Assistance Administration, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice Assistance shall be deemed to be a reference to the Office of Justice Assistance, or to the Director of the Office of Justice Assistance, as the case may be.

(b) Any reference to the Office of Justice Assistance, Research, and Statistics, or to the Director of the Office of Justice Assistance, Research, and Statistics, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice of Assistance, Bureau of Justice Statistics, the National Institute of Justice, or the Office of Juvenile Justice Delinquency Prevention shall be deemed to be a reference to the Office of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, or Office of Juvenile Justice Delinquency Prevention, Director of the Office of Justice Assistance or to the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, or the Administrator of the Office of Juvenile Justice and Delinquency Prevention, as the case may be.

TECHNICAL AMENDMENTS TO OTHER LAWS

SEC. 218. (a) Section 5314 of title 5, United States Code is amended by striking out "Director, Office of Justice Assistance, Research, and Statistics.".

(b) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator of Law Enforcement Assistance.", and

(2) by adding at the end thereof the following new item:

"DIRECTOR, OFFICE OF JUSTICE ASSISTANCE.".

(c) Section 1761(c) of title 18, United States Code, is amended by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Director of the Office of Justice Assistance".

EFFECTIVE DATES

SEC. 219. (a) Except as provided in subsection (b), this part, title and the amendments made by this Part shall take effect on the date of the enactment of this Act.

(b) Section 202(b)(1) of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 204(a)(1) of this Act, shall take effect on the date of the first occurrence, after the date of the enactment of this Act, of a vacancy in the office of Director of the National Institute of Justice.

PART B—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

APPLICATION

SEC. 221. (a) In the event that a crime problem of serious and epidemic proportions exists throughout a State or a part of a State, a State (on behalf of itself or another appropriate unit of government) may submit an application under this section for Federal law enforcement assistance.

(b) An application for assistance under this section shall be submitted in writing by the chief executive officer of a State to the Attorney General, in a form prescribed by rules issued by the Attorney General. The Attorney General shall, after consultation with appropriate members of the Federal law enforcement community, approve or disapprove such application not later than ten days after receiving such application.

(c) Federal law enforcement assistance may be provided if such assistance is necessary to provide an adequate response to a crime problem described in subsection (a). In determining whether to approve or disapprove an application for assistance under this section, the Attorney General shall consider—

(1) the nature and extent of the crime problem throughout a State or in any part of a State,

(2) the emergency or extraordinary circumstances which produced the problem,

(3) the availability of State and local criminal justice resources to resolve the problem,

(4) the cost associated with the increased Federal presence,

(5) the need to avoid unnecessary Federal involvement and intervention in matters primarily of State and local concern, and

(6) any assistance which the State or other appropriate unit of government has received, or could receive, under any provision of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

DEFINITIONS

SEC. 222. For purposes of this part—

(1) the term "Federal law enforcement assistance" means funds, equipment, training, intelligence information, and personnel,

(2) the term "Federal law enforcement community" means the heads of the following departments or agencies:

(A) the Federal Bureau of Investigation,

(B) the Drug Enforcement Administration,

(C) the Criminal Division of the Department of Justice,

(D) the Internal Revenue Service,

(E) the Customs Service,

(F) the Immigration and Naturalization Service,

(G) the United States Marshals Service,

(H) the National Park Service,

(I) the United States Postal Service,

(J) the Secret Service,

(K) the Coast Guard,

(L) the Bureau of Alcohol, Tobacco, and Firearms, and

(M) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws, and

(3) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

LIMITATION ON AUTHORITY

SEC. 223. (a) Nothing in this part authorizes the use of Federal law enforcement personnel to investigate violations of criminal law other than violations with respect to which investigation is authorized by other provisions of law.

(b) Nothing in this part shall be construed to authorize the Attorney General or the Federal law enforcement community to exercise any direction, supervision, or control over any police force or other criminal justice agency of an applicant for Federal law enforcement assistance.

(c) No funds provided under this part may be used to supplant State or local funds that would otherwise be made available for such purposes.

(d) Nothing in this part shall be construed to limit any authority to provide emergency assistance otherwise provided by law.

PROHIBITION OF DISCRIMINATION

SEC. 224. (a) No person in any State shall, on the ground of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any acitivity for which Federal law enforcement assistance is provided under this title.

(b) Paragraph (3) and paragraph (4) of section 712(c) of part G of title I of the Omnibus Control and Safe Streets Act of 1968 (as so redesignated by section 209 of this Act) shall apply with respect to a violation of subsection (a), except that the terms "this section" and "paragraph (1)", as such terms appear in such paragraphs, shall be deemed to be references to subsection (a) of this section, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such paragraphs shall be deemed to be a reference to the Attorney General.

CONFIDENTIALITY OF INFORMATION

SEC. 225. Section 715 of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 209 of this Act) shall apply with respect to—

(1) information furnished under this part,

(2) criminal history information collected, stored, or disseminated with the support of Federal law enforcement assistance provided under this part, and

(3) criminal intelligence systems operating with the support of Federal law enforcement assistance provided under this part,

except that the terms "this title" and "this section", as such terms appear in such section 715, shall be deemed to be references to this part and this section, respectively, of this Act, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such section 715 shall be deemed to be a reference to the Attorney General.

PROHIBITION OF LAND ACQUISITION

SEC. 226. No funds provided under this part shall be used for land acquisition.

REPAYMENT

SEC. 227. (a) If Federal law enforcement assistance provided under this title is used by the recipient of such assistance in violation of section 224 or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

(b) The Attorney General may bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

RECORDKEEPING REQUIREMENT

SEC. 228. (a) Each recipient of Federal law enforcement assistance provided under this part shall keep such records as the Attorney General may prescribe to facilitate an effective audit.

(b) The Attorney General and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of recipients of Federal law enforcement assistance provided under this part which, in the opinion of the Attorney General or the Comptroller General, are related to the receipt or use of such assistance.

REPORT TO CONGRESS

SEC. 229. Not later than April 1 of each year, the Attorney General shall submit to the President, and to the Congress a report describing Federal law enforcement assistance provided under this part during the preceding fiscal year.

LIMITATION ON CIVIL JUSTICE MATTERS

SEC. 230. Federal law enforcement assistance provided under this part may not be used with respect to civil justice matters except to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or are inextricably intertwined with criminal justice matters.

ISSUANCE OF RULES

SEC. 231. The Attorney General, after consultation with appropriate members of the law enforcement community and with State and local officials, shall issue rules to carry out this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 232. (a) There is authorized to be appropriated $20,000,000 for each fiscal year ending after September 30, 1982, to provide under this part Federal law enforcement assistance other than funds.

(b) There are authorized to be appropriated for each fiscal year ending after September 30, 1982, such sums as may be necessary to provide under this part Federal law enforcement assistance in the form of funds.

EFFECTIVE DATE

SEC. 233. This part shall take effect on the date of the enactment of this Act.

JUSTICE III—MISCELLANEOUS CRIMINAL JUSTICE IMPROVEMENTS

PART A

SEC. 301. That this part may be cited as the "Federal Anti-Tampering Act".

SEC. 302. Chapter 65 of title 18 of the United States Code is amended by adding at the end the following new section:

"§ 1365. Tampering with consumer products with intent to cause injury or death

"(a) Whoever, with intent to cause the death of or bodily injury to any individual,

knowingly tampers with any food, drug, device, or cosmetic which—

"(1) at any time affects interstate commerce or foreign commerce; and

"(2) is produced or distributed for consumption or use by individuals;

and thereby causes the death of or bodily injury to any individual, or attempts to do so, shall be punished as is provided in subsection (b) of this section.

"(b) The punishment for an offense under subsection (a) of this section is—

"(1) in the case of an attempt, a fine of not more than $20,000 or imprisonment of not more than 5 years, or both;

"(2) in the case that serious bodily injury to or the death of any individual is caused, a fine of not more than $100,000 or imprisonment for any term of years or for life, or both; and

"(3) in any other case, a fine of not more than $100,000, or imprisonment for not more than 20 years, or both.

"(c) As used in this section—

"(1) the term 'food' has the definition given such term in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)) and also includes 'meat food product' as such term is defined in section 2(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j)), 'poultry' as such term is defined in section 4(d) of the Poultry Products Inspection Act (21 U.S.C. 453(e)), 'poultry product' as such term is defined in section 4(e) of the Poultry Products Inspection Act (21 U.S.C. 453(f)), 'egg product' as such term is defined in section 4(f) of the Egg Products Inspection Act (21 U.S.C. 1033(f)), and 'egg' as such term is defined in section 4(g) of the Egg Products Inspection Act (21 U.S.C. 1033(g));

"(2) the term 'drug' has the definition given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1));

"(3) the term 'device' has the definition given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h));

"(4) the term 'cosmetic' has the definition given such term in section 201(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(i));

"(5) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) extreme physical pain;

"(C) protracted and obvious disfigurement; or

"(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(6) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of a function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary.".

SEC. 303. The table of sections at the beginning of chapter 65 of title 18 of the United States Code is amended by adding at the end the following new item:

"1365. Tampering with consumer products with intent to cause injury or death.".

PART B

SEC. 304. That this Part may be cited as the "Federal Intelligence Personnel Protection Act."

SEC. 305. Chapter 51 of title 18 of the United States Code, section 1114, is amended—

(a) by inserting "or attempts to kill" after "kills";

(b) by striking out "while engaged in the performance of his official duties or on account of the performance of his official duties" and inserting in lieu thereof "or any officer or employee of any department or agency within the Intelligence Community (as defined in section 3.4(F) of Executive Order 12333, December 8, 1981, or successor orders) not already covered under the terms of this section"; and

(c) by inserting before the period at the end thereof a comma and the following: "except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

PART C

SEC. 306. Chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2118. Armed Career Criminals

"(a) Any person who while he or any other participant in the offense is in possession of or has readily available any firearm or imitation thereof, commits, or conspires or attempts to commit robbery or burglary in violation of the felony statutes of the State in which such offense occurs or of the United States—

"(1) may be prosecuted for such offense in the courts of the United States if such person has previously been twice convicted of robbery or burglary, or an attempt or conspiracy to commit such an offense, in violation of the felony statutes of any State or of the United States; and

"(2) shall, if found guilty pursuant to this section, and upon proof of the requisite prior convictions to the court at or before sentencing, be sentenced to a term of imprisonment of not less than fifteen years nor more than life and may be fined not more than $10,000.

"(b) Notwithstanding any other provision of law: (1) any person charged pursuant to this section shall be admitted to bail pending trial or appeal as provided in section 3148 of title 18, United States Code; (2) the prior convictions of any person charged hereunder need not be alleged in the indictment nor shall proof thereof be required at trial to establish the jurisdiction of the court or the elements of the offense; (3) any person convicted under this section shall not be granted probation nor shall the term of imprisonment imposed under paragraph (a), or any portion thereof, be suspended; and (4) any person convicted under this section shall not be released on parole prior to the expiration of the full term of imprisonment imposed under paragraph (a).

"(c) For purposes of this section—

"(1) 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

"(2) 'felony' means any offense punishable by a term of imprisonment exceeding one year; and

"(3) 'firearm' has the meaning set forth in section 921 of title 18, United States Code.

"(d) Except as expressly provided herein, no provision of this section shall operate to the exclusion of any other Federal, State, or local law, nor shall any provision be construed to invalidate any other provision of Federal, State, or local law.

"(e) Ordinarily the United States should defer to State and local prosecutions of armed robbery and armed burglary offenses. However, if after full consultation between the local prosecuting authority and the appropriate Federal prosecuting authority, the local prosecuting authority requests or concurs in Federal prosecution and the Attorney General or his designee approves such prosecution to be appropriate, then Federal prosecution may be initiated under this Act.".

SEC. 3. The table of sections for chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"2118. Armed Career Criminals.".

SEC. 4. (a) It is the intent of Congress that any person prosecuted pursuant to this Act be tried expeditiously and that any appeal arising from a prosecution under this Act be treated as an expedited appeal.

(b) This section shall not create any right enforceable at law or in equity in any person, nor shall the court have jurisdiction to determine whether or not any of the procedures or standards set forth in this section have been followed.

PART D

SEC. 307. (a) This section may be cited as the "National Narcotics Act of 1982".

(b)(1) The Congress hereby makes the following findings:

(A) The flow of illegal narcotics into the United States is a major and growing problem.

(B) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.

(C) Illegal drug trafficking is estimated by the General Accounting Office to be a $79,000,000,000 a year industry in the United States.

(D) The annual consumption of heroin in the United States is in the range of four metric tons, and annual domestic consumption of cocaine is estimated to be forty to forty-eight metric tons.

(E) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no more than 5 to 15 per centum of all hard drugs flowing into the country.

(F) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(G) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 per centum of heroin users rely upon criminal activity as a means of income.

(H) Much of the drug trafficking is handled by syndicates which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(I) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(J) The magnitude and scope of the problem requres a director of National International Drug Operations and Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies.

(K) Such a director must have broad authority and responsibility for making management, policy, and budgetary decisions with respect to all Federal agencies involved in attacking this problem so that a unified and efficient effort can be made to eliminate the illegal drug problem.

(2) It is the purpose of this section to insure—

(A) the development of a national policy with respect to illegal drugs;

(B) the direction and coordination of all Federal agencies involved in the effort to implement such a policy; and

(C) that a single, competent, and responsible high-level official of the United States Government, who is appointed by the President, by and with the advice and consent of the Senate, and who is accountable to the Congress and the American people, will be charged with the responsibility of coordinating the overall direction of United States policy, resources, and operations with respect to the illegal drug problem.

(c) There is established in the executive branch of the Government an office to be known as the "Office of the Director of National and International Drug Operations and Policy" (hereinafter in this section referred to as the "Office of the Director"). There shall be at the head of the Office of the Director a Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Director"). There shall be a Deputy Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this section.

(d)(1) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and the Deputy Director shall each serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than four years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. The Director shall be entitled to the compensation provided for in section 5313, title 5, United States Code. The Deputy Director shall be entitled to the compensation provided for in section 5314, title 5, United States Code.

(2) The Director shall serve as the principal director and coordinator of United States operations and policy on illegal drugs.

(3) The Director shall have the responsibility, and is authorized to—

(A) develop, review, implement, and enforce United States Government policy with respect to illegal drugs;

(B) direct and coordinate all United States Government efforts to halt the flow into, and sale and use of illegal drugs within the United States;

(C) develop in concert with governmental entities budgetary priorities and budgetary allocations of entities of the United States Government with respect to illegal drugs; and

(D) coordinate the collection and dissemination of information necessary to implement United States policy with respect to illegal drugs.

(4) In carrying out his responsibilities under paragraph (3) the Director is authorized to—

(A) direct, with the concurrence of the head of the agency employing such personnel, the temporary reassignment of government personnel within the United States Government in order to implement United States policy with respect to illegal drugs;

(B) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals, not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(C) accept and use donations of property from all government agencies; and

(D) use the mails in the same manner as any other department or agency of the executive branch.

(5) Notwithstanding any other provision of law, rule, or regulation to the contrary, the Director shall have the authority to direct each department or agency with responsibility for drug control to carry out the policies established by the Director consistent with the general authority of each agency or department.

(6) The Administrator of the General Service Administration shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

(e) The Director shall submit to the Congress, within nine months after enactment of this section, and annually thereafter, a full and complete report reflecting United States policy with respect to illegal drugs, plans proposed for the implementation of such policy, and, commencing with the submission of the second report, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

(f) For the purpose of carrying out this section, there are authorized to be appropriated $500,000 for fiscal year 1983, and such sums as may be necessary for each of the four succeeding fiscal years, to be available until expended.

(g) This section shall be effective January 1, 1983.

The Senate proceeded to consider the amendment of the House to the amendment of the Senate.

Mr. BIDEN. Mr. President, the completion of congressional action on this measure, H.R. 3963, represents a major breakthrough in the longstanding effort to move meaningful anti-crime legislation through the Congress.

This legislation is important not only because it contains major elements of the Senate Democrats 1981 crime package and the bipartisan Senate crime package which Senator THURMOND and I sponsored earlier this year. It is also important because we have, through its consideration, won commitments from the House leadership that other major elements of those two Senate packages—specifically, bail and sentencing reforms—will be taken up by the House early next year.

H.R. 3963 contains three major elements of the earlier Senate crime packages: Establishment of a new Cabinet-level post to coordinate Federal drug enforcement policy and operations; a new, closely targeted program of law enforcement assistance for States and localities; and a strengthening of Federal criminal forfeiture statutes.

Each of these steps is significant in itself, and together they will make a meaningful contribution toward strengthening the overall Federal anti-crime effort.

Their primary thrust, however, is programmatic in nature. In the case of the drug enforcement coordinator in particular, they deal primarily with structural changes needed to overcome programmatic and bureaucratic problems which have been hampering current efforts.

What we have not undertaken in H.R. 3963 is the substantive law reforms contained in the earlier Senate packages—reforms of bail and sentencing provisions. These reforms are, in my opinion and in the opinion of many of my colleagues, essential, and they must now be our priority for next year.

With the new assurances we have from the House leadership that these reforms will be considered in that body, I am hopeful that we can move expeditiously and successfully upon them as well.

Mr. President, I have prepared a detailed summary of the provisions of H.R. 3963, and ask unanimous consent that they be entered into the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COORDINATING THE DRUG EFFORT

No general would send an army into battle without a commander, but that, unfortunately, is what President Reagan has done earlier this fall in launching his new program for stepping up Federal efforts to control illegal drugs.

The Administration program is modeled on the South Florida Drug Task Force that has produced some success over the past year, but it omits the key element of those successes. To be effective, such a program must have someone—in the case of Florida, it has been the Vice President—with enough authority to assure a coordinated strategy among the ten or more Federal agencies involved. The President's new program, which relies on two, ad hoc Inter-Agency Committees for Coordination, does not provide for a strong, central figure of this kind.

With no single commander giving orders, the President's initiative is likely to join the long list of casualties of the bureaucratic turf—wars that have wrecked more than one anti-crime program. The agencies involved will almost certainly, as they have traditionally, subordinate their drug interdiction tasks to what they perceive as their primary duties. Recent history is studded with examples of how such conflicts can divert attention from the primary goal of controlling drugs:

The Drug Enforcement Administration has failed at times to follow up on drug smuggling information provided by the Customs Service.

The Agriculture Department has refused to give Customs Service information about foreign ownership of American land, hampering investigations of money-laundering schemes.

In Government forfeitures of narcotics profits, seizures have been inflated by duplication among the DEA, IRS and Customs, all of which have, on occasion, taken credit for seizing the same illicit proceeds.

Our congressional investigations have disclosed chronic, but not ill-founded, reluc-

tance in national intelligence agencies to collect intelligence on drug trafficking for fear of getting enmeshed in court proceedings that will compromise operations.

In 1979, when the CIA unilaterally decided to reduce its commitment to covert collection of narcotics intelligence abroad, there was no commander of the drug war who had the authority and the responsibility to protest this desertion of one of the critical partners in narcotics control.

The State Department was not even consulted before the President unveiled his new drug enforcement program, and for that reason crop-substitution programs have been frozen at $36 million—despite the Attorney General's admission that a dollar spent on those programs abroad is worth $10 spent on domestic law enforcement.

Reports in the New York Times and elsewhere suggest that such agency infighting has already taken its toll of the President's new program while it is still in the planning stage.

It has been reported that the Justice Department and other agencies have been squabbling over who is going to control the budget for the program. There have even been reports of arguments within Justice itself over who will conduct the prosecutions and how the program will relate to existing programs.

No one seems to know, for example, how the new task forces will mesh with existing organized crime strike forces, or how a dozen U.S. attorneys, each responsbile for a task-force region, will pursue independent investigations that may overlap into other regions.

There is little likelihood that the ad hoc committees designated to coordinate the new progam will be able to provide effective solutions to these kinds of problems. Committee members and their staffs will necessarily be preoccupied with their other, primary responsibilities and commitee participation may only serve to heighten, not lessen, the opportunities for beureaucratic conflict.

There is a better alternative and it is contained in H.R. 3963.

The catastrophic illustration of problems in coordination of U.S. intelligence activities by the 1941 surprise attack of Pearl Harbor led Congress to create the Office of Director of Central Intelligence, with authority to coordinate the activities of the intelligence community. A similar arrangement is the key to coordinating Federal anti-drug programs.

Last year, on behalf of the Senate Democratic Task Force on Crime, I introduced legislation which would establish a Cabinet-level Office of Director of Narcotics Control. In September the Senate passed and sent to the House a bipartisan anti-crime bill incorporating the same proposal. Today that very same language was sent back to us by the House.

An office of this kind is needed because the coordination of Federal drug enforcement efforts is a job of such complexity and size that it requires undivided attention and responsibility. And the office should have Cabinet-level status to ensure that it has the requisite clout to do what needs to be done: Impose a truce on interagency quarreling, task each agency for its appropriate participation and allocate budget resources for maximum efficiency and economy. As a Cabinet-level appointee, the individual holding the office would be subject to Senate confirmation, and thus accountable to both the President and Congress.

Although the President has said he generally supports the Senate's anti-crime legislation, his administration has shown no enthusiasm for the new Cabinet-level office described above. This, no doubt, is a function of this administration's appropriate reluctance to create new bureaucracies.

But is should be recognized that what we are talking about here is not more government—the office in question need not be large. Indeed, its responsibilities could be performed by personnel borrowed from existing agencies. We are talking about making the government we have work right, and do the job it is supposed to do.

And it should be recognized that we will not be able to significantly strengthen Federal drug-enforcement efforts until we put someone in charge with the authority and responsibility to command all the troops.

JUSTICE ASSISTANCE ACT

I would simply like to echo the words of the chairman, and join him and Senator Spector in moving forward with this badly needed justice assistance bill.

My colleagues will recall that when the justice assistance bill was debated on the Senate floor I raised objection to an amendment that I felt would have completely eliminated the independence of the research and statistics components of the program.

Through discussions, compromise and general agreement I believe we have developed a program that is streamlined but yet still recognizes the need for separation of functions like research, statistics and monitoring justice assistance grants.

The recognition of three separate agencies—Office of Justice Assistance, National Institution of Justice and Bureau of Justice Statistics—with Directors appointed by the Attorney General who will have primary authority over the administrative functions of their agencies, should insure sufficient autonomy to carry out the agencies' activities. The purpose for giving these Directors primary authority is to make sure that outside the ultimate veto of their decisions by an Assistant Attorney General, each Director runs his/her agency.

Another concern I raised was the involvement of the National Institute of Justice in more practical and applied forms of research and evaluation. This is important in linking the research and then development of new effective crime fighting programs.

This bill now calls for the National Institute of Justice to be more involved with the evaluation and review of the types of programs being funded by the grant-making agency, the Office of Justice Assistance. This should insure that the types of research and evaluation carried out by NIJ will be geared to the realities of the day to day operations and political constraints that make up the "real world" of police officers and prosecutors.

ISSUES DISCUSSED WITH THE HOUSE

There were several issues discussed with the House that related to whether the Bureau of Justice Statistics should be involved in the development of operational information systems, information policy and statistics. There is no doubt in my mind that an important function now and even more so in the future is the improvement and security of information systems used by criminal justice agencies at all levels of government. This is particularly important as States move forward in upgrading their information systems. Encouraging the development of innovative—state of the art—information systems is a function that BJS should carry out.

I don't believe at this stage that State and local criminal justice agencies have the expertise or the resources, on their own, to develop state-of-the-art information systems that are compatible with one another, or with national statistical needs.

The Bureau of Justice Statistics mission should be to effectively provide Federal leadership and support in this area. Furthermore, without a national role in the development of these systems it is doubtful a common approach that addresses sensitive information policy issues posed by the collection and exchange of justice information, such as privacy and due process, will emerge.

If BJS is to continue its function of producing accurate and reliable statistics it must also begin moving forward in the development of operational information systems.

Limiting the authorization of this program through fiscal year 1984 will permit Congress to review the success of this new structure and funding approach that was requested by the administration. As the ranking member of the Judiciary Committee it will be my intent to participate in the oversight of this program to determine how well this new structure works and in what form it should be reauthorized.

At this point let me acknowledge the hard and diligent work of Senators Specter, Thurmond, Kennedy and Heflin in discussions with the House so that we are now able to agree to a bill that will once again provide assistance funds to our State and local criminal justice agencies.

In April 1981, I released a General Accounting Office report entitled "Asset Forfeiture—A Seldom Used Tool in Combatting Drug Trafficking." It was undertaken at my request as chairman of the Subcommittee on Criminal Justice and it describes efforts by the Federal Government to break up illegal drug traffiking networks by using Federal criminal forfeiture statutes to seize the assets of persons involved in those illegal activities. The report makes it clear that the Department of Justice ignored this legislation since its passage 10 years ago. The issue had also been explored in hearings that I held in July 1980 as subcommittee chairman.

The report showed forfeiture of a mere $2 million from narcotics traffickers over a period of 10 years. During the same period of time, about $60 billion is generated by these networks yearly. More forfeiture will not eliminate drug trafficking, but it should be tried. Witnesses during several days of hearings suggested several ways to increase the amount of property forfeited. The General Accounting Office also suggested amendments to the forfeiture statutes to clarify them and eliminate the disparity in Federal court interpretations of the laws.

In May 1981 I introduced S. 1126, which resulted from the suggestions for improvements of the statutes contained in the report. That bill would have allowed prosecutors to get more money from traffickers by broadening the kind of property that can be forfeited; by making it easier to prove that the money came from illegal narcotics activities, and by making sure that when a defendant puts illegally-generated property in someone else's name or transports it out of the United States, the Government can get substitute money from him.

Several hearings on the same subject followed in the House of Representatives. This

bill is thus the culmination of several years of congressional effort and study.

Enactment of this legislation will mark an improvement over current criminal and civil forfeiture law. Criminal forfeitures under the controlled substances statutes will now be able to reach the direct proceeds of drug trafficking enterprises, with no deductions for the trafficker's operating expenses. On the civil side, provisions for administrative forfeiture should facilitate a more expeditious disposition of assets that are used in connection with illegal activity. Penalties for trafficking also are increased substantially.

A significant and innovative provision of this legislation provides for the creation of two revolving funds—one for the DEA and one for the Customs Service. Once forfeited assets are liquidated and converted to cash, the proceeds ordinarily will be deposited to the credit of one of these revolving funds. Among other purposes, the proceeds may be used to pay for the cost of maintaining and restoring unliquidated forfeitures. The revolving funds may be sound in concept, but there are a number of issues that deserve further study. On this point, I am advised that the GAO is currently auditing the major seizing agencies' (FBI, DEA, INS, and Customs) practices concerning the disposal and management of confiscated and forfeited property.

This review, requested by the Chairman, House Committee on Government Operations, is scheduled to be completed by mid-1983. At that time, I believe the Congress will be in a far better position than it is now to comprehensively evaluate the issues involved in the management and disposal of forfeited assets. I am hopeful that the GAO review requested by Chairman Brooks will offer some suggestions on the operation of the revolving funds created by this legislation, such as the congressional controls needed over the funds to properly exercise oversight, the allowable purposes for which the funds can be used, the equitable distribution of proceeds among the revolving funds, and the circumstance in which agencies may keep for their own use assets forfeited under this or other legislation. Since both the DEA and Customs fund contain a 2-year sunset provision, GAO's review may provide a useful basis for considering refinements established by this law. On balance, the legislation will improve the law and is long overdue.

Despite these improvements, however, I fear the legislation does not go far enough in several areas. While the bill does amend and improve the controlled substance statutes, it makes no amendments to the racketeer influenced and corrupt organization statute, commonly known as RICO. Offenses cognizable under RICO are not limited to drug trafficking, but extend to virtually all forms of racketeering and syndicated criminal activity.

Another shortcoming of this legislation is that it does not contain a "substitute" assets provision. Such a provision would allow the courts to forfeit a defendant's "clean" assets if other property subject to forfeiture has been transferred to a third party or otherwise cannot be located. Time after time we hear about the lavish lifestyles of drug traffickers but when the investigators and prosecutors finally do the tedious work necessary to identify a specific property that is no longer owned by the defendant. That is not to say, however, that the defendant no longer has any assets. The infamous Black Tuna Case demonstrates the problems that can occur. This marijuana trafficking organization grossed $300 million in a little more than a year and it purchased luxury automobiles and property and was known for its extravagant lifestyles. Even though investigators and prosecutors attempted forfeiture of numerous assets, by the time the case was fully adjudicated the Government realized a mere $16,000 from the forfeiture.

As experience is acquired with this legislation, I believe the Congress will find it necessary to further strengthen the forfeiture statutes by amending RICO to cover "profits" and incorporating a substitute assets forfeiture provision. I suggest the bill, and I regard it as the first step in a number of improvements in the law of forfeiture.

THE ARMED CAREER CRIMINAL ACT OF 1981

This legislation will provide an important new tool for local prosecutor to use against the most serious criminals—repeat offenders who use a firearm in the commission of a third robbery or burglary. The bill will for the first time establish Federal jurisdiction over those offenders. However, the Federal Government can exercise jurisdiction only if the local prosecutor requests or concurs in the prosecution. The bill provides a punishment of a minimum of 15 years up to life in prison and a maximum of $10,000 fine.

Probation, suspended sentence and parole are specifically prohibited.

Repeat criminals pose the most serious threat to the safety of our citizens. It is, therefore essential that we make the full use of Federal investigative and prosecutorial resources available to ensure that they receive long prison terms.

THE FEDERAL ANTI-TAMPERING ACT

I joined Senator THURMOND in introducing the Federal Anti-Tampering Act, S. 3048, because I strongly believe that we cannot affort to wait any longer to enact necessary legislation.

The recent Tylenol tragedies have clearly demonstrated just how vulnerable we all are to the horror of random violence. These crimes are most reprehensible because the victims were innocent people and because the weapon used was a common household item we have all grown to trust. Fortunately, local authorities—in this instance the Chicago Police Department—have done excellent investigative work.

This bill will enable the Federal law enforcement authorities to do all it can to assist local officials. In sum, it creates a felony punishable by up to life in prison and $100,000 when anyone, with intent to cause death or bodily injury tampers with or attempts to tamper with a food, drug, device or cosmetic.

The bill increases the penalties for similar acts which under current Federal law are misdemeanors. In addition it will allow the full use of Federal investigative resources in most cases, thereby providing local authorities with assistance.

S. 2552—VIOLENT CRIMES DIRECTED AT INTELLIGENCE PERSONNEL

The bill makes two changes in the current federal murder statute (18 U.S.C. 1114). First, it expands the statute to make it a federal offense to attempt to kill the federal officers and officials enumerated in the statute. Currently federal law applies only if an attack results in death. The officials covered by 18 U.S.C. 1114 include U.S. Attorneys, Judges, and various other specific employees if the murder or attempted murder occurs while they are engaged in or on account of their official duties.

Second, the bill adds officers and employees of the department and agencies within the Intelligence community to the federal murder statute.

Mr. THURMOND. Mr. President, I wish to urge my colleagues to accept the House amendment to H.R. 3963 as the best we can do in the waning days of the 97th Congress to enhance the Federal response to violent crime and distribution of illegal drugs. I had hoped that we could accomplish more. There is an acknowledged need to address sentencing and bail reform in the Federal system, as well as other obvious improvements passed by the Senate by a vote of 95 to 1 on September 30, 1982. Because of the press of time, many of these issues could not be worked out and must be addressed next Congress.

These introductory remarks are not intended to down play the progress in providing tools to deal with crime in the amendment under consideration. Much is accomplished. For this progress, a lot of credit must be given to the distinguished ranking minority member of the Judiciary Committee (Mr. BIDEN), the chairman of the Juvenile Justice Subcommittee (Mr. SPECTER), as well as Senator KENNEDY. Nor could we have reached this point without the dedicated work and cooperation of the chairman and ranking minority member of the House Judiciary Subcommittee on Crime, Congressman WILLIAM HUGHES and Congressman HAROLD SAWYER, respectively. I am looking forward to the work of the next Congress to take up the important issues which remain.

Mr. President, the bill and House substitute amendment essentially address seven relatively unrelated matters.

First, major improvements are made with respect to criminal and civil property forfeiture applicable to all drug offenses. Current criminal forfeiture provisions under the Controlled Substances Act and the Controlled Substances Import and Export Act would apply to all felonies under these acts. Improvements are made in criminal forfeiture procedures by strengthening the authority to obtain protective orders to prevent disposal of assets and by providing a rebuttable presumption that assets acquired by a defendant at the same time of the drug offense came from the illegal drug activities.

Moreover, the civil drug forfeiture provisions of current law will be more effective with new provisions to raise the cap on administrative forfeitures, to provide more efficient handling of forfeited assets through streamlined funds in the Department of Justice and the Customs Service. to modify the venue rules to permit consolidation of related cases, and to provide for forfeiture of real property used to

hold or store illegal drugs. In addition, the House amendment substantially increases the fine levels for drug felonies, including an innovative provision to permit a fine of twice the profits from the illegal drug activity.

Second, the amendment addresses the Federal justice assistance program to make it more effective. The administrative framework of this program is streamlined by creating a new Assistant Attorney General position in the Department of Justice with authority over the National Institute of Justice, the Bureau of Justice Statistics, and a new Office of Justice Assistance. Much redtape is eliminated.

The new Office of Justice Assistance would provide technical assistance, training, and grant funds to State and local criminal justice agencies and to nonprofit and neighborhood organizations engaged in crime-fighting activities. Federal assistance is targeted on specific kinds of programs that deal with violent crime and repeat offenders, particularly with respect to proven programs. In my judgment, the changes made by the amendment would substantially improve the Federal justice assistance program.

Mr. President, I would like to make a collateral observation on this legislation and a current program—the Bureau of Justice Statistics. The version of H.R. 3963 which the Congress passed and sent to the President on December 21, 1982, reauthorizes the Bureau of Justice Statistics (BJS) until September 30, 1984, and keeps in place language in existing law setting out BJS' mission and functions. However, this language does not include the language which was contained in the Senate bill, specifically section 5 of S. 2411, which would have clarified BJS' authority to provide support for the development of State and local criminal justice information systems.

The absence of the Senate language should not be interpreted as an indication that the Congress does not want BJS to continue to support the development of State and local justice information systems. That responsibility is established in existing law and is vital because BJS cannot accomplish its statistical mission without providing leadership, coordination, and support for the information systems which supply BJS with the raw data.

BJS' authorization under the new legislation will expire at the end of fiscal year 1984, and thus the Senate Judiciary Committee will have reason in the near future to monitor and review the extent to which BJS is providing support for criminal justice information systems.

Third, the House amendment covers the most important aspects of the product antitampering bill (S. 3048) introduced recently by myself and the ranking minority member of the Judiciary Committee (Mr. BIDEN). This part of the House amendment would provide serious Federal penalties for tampering with any food, drug, device, or cosmetic with the intent to cause death or bodily injury if the result of the tampering or attempted tampering affects interstate or foreign commerce and the food, drug, device, or cosmetic is produced or distributed for consumption or use by individuals. If death or serious bodily injury occurs from the tampering, a life-term imprisonment sentence may be imposed; otherwise, a 20-year term is applicable.

This provides the basic Federal authority for investigating and prosecuting tampering with products to kill or injure. This is the most important part of the original Senate bill.

Mr. President, I personally prefer to include product hoaxes that either terrorize our citizens or damage the marketability of the product involved. The House amendment does not include such coverage, but I understand hearings on and consideration of these issues in the House will be undertaken next year. I certainly urge this inquiry.

Fourth, the House amendment expands current homicide protection of certain Federal officials to cover an "attempt to kill" such officials and extends the list of officials covered by the homicide statute to include officers or employees of a department or agency within the intelligence community not already covered.

Fifth, the House amendment adopted the measure (S. 1688) diligently pressed by the Senator from Pennsylvania (Mr. SPECTER) on new and stringent Federal provisions to deal with armed career robbers and burglars.

Sixth, the House amendment adopts the floor amendment of Senator DECONCINI in the consideration of S. 2572 on September 30, 1982, to create a new Executive Office of the Director of National and International Drug Operations and Policy to be the focal point for the direction and coordination of U.S. operations and policy on illegal drugs. Illegal drugs may be the single most serious criminal problem we have in the United States. It is absolutely necessary that we have the most effective worldwide effort by the United States to control illegal trafficking in drugs. Hopefully, this new office can make a major contribution to this important objective.

Finally, the bill under consideration would reauthorize the important drug aftercare program administered by the probation service.

Mr. President, this is a brief summary of the scope of H.R. 3963, as further amended by the House. It makes major improvements in the law to deal with violent crime and illegal drugs. I am looking forward to continued cooperation between the Senate and the House in the next Congress to deal with significant criminal justice issues.

CAREER CRIMINALS

Mr. SPECTER. The bill includes the Armed Career Criminal Act of 1982, which authorizes Federal prosecution of repeat offenders who use firearms to commit further robberies or burglaries. For the first time, the Federal Government will be able to supplement State efforts to incapacitate these hardened, dangerous offenders.

Studies show that about 6 percent of those persons arrested commit 60 percent of all violent crime. Rapid trials and lenghty sentences for such offenders are the essential first step in reducing violent street crime which has grown fourfold in recent decades. The act requires expedited trials and appeals, permits consideration of the dangerousness of the offender in setting bail, mandates fixed sentences of between 15 years and life, and prohibits probation and parole.

The act does not supersede local prosecutions but provides an auxiliary procedure which can be utilized at the request of local prosecutors who sometimes face severe trial delays, plea-bargaining, judge-shopping, lenient sentencing and other severe problems that plague prosecutions in many State courts, especially in large cities.

Since many career robbers and burglars commit a felony nearly every day, speedier trials and longer sentences will directly prevent hundreds of violent crimes for each prosecution under the act. In addition, the act should encourage State judges with a history of inadequate sentences to impose more realistic sentences on repeat felons using firearms. Finally, the act is expected to deter defendants and their counsel from delaying trials and holding out for probation or short sentences on plea bargains. Thus, the total impact of the act will be far greater than indicated by the number of prosecutions initiated under its provisions.

The act allows significant Federal action to combat armed street crime without requiring significant increases in Federal budget expenditures. It will promote proper priorities in concentrating scarce law enforcement resources on the most prevalent and dangerous violent offenses and encourage closer cooperation among crime fighters of Federal, State, and local government.

JUSTICE ASSISTANCE

Mr. President, I thank the chairman and members of both the House and Senate Judiciary Committees for working together to produce a bipartisan bill which will assist States and local communities in combating crime. The House has submitted an amendment to the Senate amendment that includes a compromise version of the Justice Assistance Act. After having met and conferred over an extended period, representatives from both the

House and Senate have agreed upon this compromise amendment and recommend it be adopted. Through enactment of this amendment, we hope to fulfill the Federal Government's proper role in assisting local law enforcement through justice assistance, research, and statistics.

When I introduced the predecessor bill in the Senate last spring as S. 2411, the bill did not include a State block grant distribution system for allocating Federal assistance provided for establishing programs of proven effectiveness in the battle against crime. At the strong recommendation of the Department of Justice and consistent with understandings worked out with the White House, I have agreed to support the House-passed block grant program.

In examining the failure of the old Law Enforcement Assistance Administration, I came to believe that much of the redtape, unaccountability and unproductiveness that ultimately doomed that program derived from the State block grant method for fund distribution. I remain personally concerned that the new program we are now considering not repeat the mistakes of the past. With our House colleagues we have tried to structure the block grant program of the Office of Justice Assistance so that with a minimum of conditions we achieve appropriate safeguards and direction for the expending of the Federal financial assistance provided.

As an example, I note that we have placed a 5-percent cap on the grant funds that may be expended for the purpose of coordinating components of the criminal justice system. In addition, we have included no express provision to authorize expending the Federal assistance on planning and administrative costs of the States or grant recipients. We have thereby sought to design legislation that will expend the financial assistance appropriated in the form of grants without dissipating its impact on program overhead or administration. It is my understanding that the State block grant allocation will be passed through and awarded to grant recipients and not used to fund administration of the block grant.

We were also careful to include a matching requirement for grant recipients in order to foster the local institutionalization of these programs and to demonstrate the local commitment to continuation.

I believe and strongly endorse the proposition that research, statistics, and grant components of this Federal effort must be coordinated and focused. To maximize the impact of funds, there must be a strategy for research, program development, testing, demonstration, and evaluation.

Another of the difficult issues on which we have developed a legislative consensus is the restructuring of the criminal justice grant, research, and statistics offices of the Department of Justice. We have come as close as legislatively possible to the structure recommended by the Department of Justice. Some of my colleagues were insistent on retaining the basis underlying the Justice System Improvement Act of 1979. They, too, have accommodated. The Justice Assistance Act authorizes an Assistant Attorney General and will eventuate in the elimination of four other presidential appointments, although I am pleased that the recently confirmed Director of the National Institute of Justice will not be downgraded.

Likewise, we have eliminated the research and statistics advisory boards and established a single advisory board for criminal justice assistance, research and statistics in accordance with amendments I offered on the Senate floor on December 9 at the request of the Department of Justice. We expect that working committees of the Board will be established to advise and assist with respect to each of the three offices.

Over the years, the Bureau of Justice Statistics has devoted a portion of its appropriations to the development of information systems. It is through these systems that local and national statistics are gathered and disseminated. I believe that these information systems should continue to be developed and replicated. Accordingly, the Bureau should fulfill its information policy mandate and assist State and local law enforcement agencies to develop and operate criminal justice information systems.

I believe that a substantial portion of the discretionary grant funding should be expended by nonprofit organizations, which have traditionally originated and demonstrated innovative program ideas. Such efforts are to be encouraged. Both the House, Senate, and compromise bills expressly indicate the value of nonprofit organizations to this entire effort. I add my personal endorsement of their importance.

The bill respects the existence of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the separate authorization under which it is organized while allowing for appropriate coordination among the offices. I hope that OJA will seek relevant data and evaluation findings from OJJDP and assist in the fostering of successful programs directed at juvenile crime as part of its function.

This compromise Justice Assistance Act, while not conforming to my personal preferences or anyone's in every detail, is a positive legislative development. It satisfies, in my view, the undertaking I assumed as part of our understanding with the administration. In that regard, I continue to look forward to a prompt budget and supplemental appropriation request to fund the programs of the new Office of Justice Assistance and will do all that I can to assure that the approximately $100 million in additional budget authority and supplemental appropriations is realized this year.

In closing, I again reiterate my appreciation to my colleagues in both the House and Senate for their cooperative effort in the enactment of a Justice Assistance Act.

ANTITAMPERING AMENDMENT

This country is only now slowly recovering from a depraved act of terrorism that should never happen again. In Chicago bottles of Tylenol pain medicine were converted into capsules of death containing the poison cyanide. Shortly after the incident in Chicago, copycat crimes were reported in other cities involving other medicines and products. From this point on, all of us are in constant fear from acts of terrorists who indiscriminately cause death and injury through tampering with the food we eat, the drugs we take, and cosmetics we use.

This section will make it a Federal offense to tamper with any food, drug, cosmetic, or device intended for home use. By so doing, the resources of the FBI, U.S. attorney, and other Federal law enforcement can be mobilized to investigate and prosecute persons who would seek to harm innocent strangers through dispensing death over the counter.

We need this bill and we need adequate penalties for those persons.

FORFEITURE AMENDMENT

Among the largest law enforcement problems facing America is drug trafficking. In some parts of the country traffickers employ more people, have more money, and at times seem to exert more control and power than the Government. Certainly, law enforcement's biggest challenge is crippling the drug trafficking network.

It is essential that prosecutors have sufficient tools to achieve the goal of stopping drug trafficking. The forfeiture provision that is a part of this bill is just such a tool.

In order to remove the attraction of entering the illegal drug trade, penalties must include not only traditional means of incarceration but must also include financial hardships. Persons who seek financial gain from illegal activity should not be permitted to profit from that activity. Forfeiting property acquired from drug trafficking removes that profit.

In order that forfeiture be effective, the current system must be modified. Our law books now contain burdensome and inadequate procedures. As a consequence, law enforcement is sometimes reluctant to pursue this avenue of just penalty. Current law also prohibits the Government from reaching much of the property acquired from il-

legal conduct. It is, therefore, too easy for criminals to hide the property or otherwise escape the full impact of our present forfeiture laws.

These new forfeiture provisions will be heralded by agents and attorneys fighting to rid our country from drug traffickers.

DRUG ADMINISTRATION

Violent crime is continuing to increase despite our best efforts over the past 20 years. Many agencies of the Federal Government share responsibility for combating crime. This disjointed effort has not resulted in an effective coordinated attack on crime.

President Reagan has recognized the need for the different agencies to work together and has established a national system of regional task forces, local law enforcement coordinating committees and an operational merger of the FBI and the DEA. While these measures represent a good beginning, they stop short of accomplishing the primary goal of organizing a joint State-Federal attack on crime.

The creation of the Violent Crime Administration provided for in this bill should lead to better utilization and coordination of present State and Federal law enforcement resources.

Managed by one Administrator, the Administration will seek to work in cooperation with State and local law enforcement to grant technical support, decrease bureacuratic gridlocks and simplify grant structures.

Toward this end, the Administration will work with the States to improve juvenile justice programs, statistical reporting and dissemination, violent crime response techniques, firearm control, drug network penetration, and relationships between citizens and police.

The Federal role in addressing and preventing crime must be better integrated with the States' efforts. The Administration is an attempt to satisfy this void.

DRUG DEPENDENT FEDERAL OFFENDER PROGRAM

The drug aftercare program, while small, is an extremely worthwhile and successful endeavor. The program permits the courts to direct that certain Federal offenders receive special treatment in an attempt to divert them from further criminal activity.

The program has been operational since 1966. Addicts receiving treatment for their drug dependency have been shown to reduce their recidivisim rates by 84 percent. This makes the recidivism rate among persons participating in programs such as this far below the rate for persons not afforded treatment.

The program is not expensive. Only $4.5 million for 1983, $5.5 million for 1984 and $6.5 million for 1985. Yet it is money well spent and effectively utilized.

Management of the program rests with the Division of Probation. They are responsible for identifying candidates for treatment, making the contract for treatment with private sector drug rehabilitation centers and for insuring the offender complies with the conditions of his participation which includes that he remain absolutely drug free.

The relationship between drug use and crime is firmly established. Recent studies by Dr. John C. Ball show that 243 addicts in Baltimore committed over half a million crimes over a 11-year period. Other studies performed by the Administrative Office of the U.S. Courts show that 29 percent of all robbers, 22 percent of all burglars, 17 percent of all larcenists and 16 percent of all forgers and counterfeiters are addicted to drugs. This program can help relieve us from future crimes by drug users.

Mr. MATHIAS. Mr. President, I rise to support the motion to agree to the House amendments to the Senate amendment to H.R. 3963. The passage of this motion will bring to a fruitful conclusion the efforts of many Members of both Houses to fashion a concrete and constructive means for translating into action our commitment to fight crime. The fruit of our labors is the Justice Assistance Act of 1982. As a cosponsor of the Senate legislation, I am pleased to support the compromise measure which is now before us.

While the measure which we are now considering differs in several important respects from the bill which the Senate passed on December 9, it retains many features which are essential to the efficient provision of justice assistance to the States.

H.R. 3963, in its present form includes a block grant system for most of the programs administered by the Office of Justice Assistance (OJA). But it retains the Senate bill's emphasis on the setting of priorities in the funding of programs at the State and local levels. It limits to 5 percent the proportion of Federal assistance funds which can be used for criminal justice system coordination. Private nonprofit organizations, including the neighborhood and community groups which have such an important role to play in local crime-fighting efforts, remain eligible to receive assistance. This measure will give the States a more direct role in monitoring federally funded criminal justice activities within their borders. It will make good use of the expertise of the most effective of the State criminal justice coordinating agencies. But it will not interpose a cumbersome bureaucracy between the grantmaking Federal office and the ultimate recipient.

The bill before us also retains the Justice Advisory Board. This 15-member, Presidentially appointed group will advise OJA and its sister agencies, the Bureau of Justice Statistics (BJS), and the National Institute of Justice (NIJ). It will mobilize State, local, and private sector expertise in support of the important responsibilities of these agencies under this legislation. And it will have the crucial role of recommending to the President the names of candidates for the position of Assistant Attorney General for Justice Assistance. The recommendations of this export advisory board ought to be accorded great weight in the selection process for this important post.

All of the Members in both Houses who have been most active in their efforts on behalf of this legislation have shared a desire to build into this program a structure which would safeguard the independence and impartiality of OJA, NIJ, and BJS. The plan included in the Senate legislation remains, in my view, the best protection against political interference in the functions of these agencies. But the measure before us also incorporates some safeguards. The Senate proposed that the Directors of NIJ and BJS remain as Presidential appointees. The compromise version gives the Attorney General responsibility for appointing these officers. This provision eliminates the Senate's role to advise and consent to these appointments; but at least it recognizes their importance by committing this responsibility to the Nation's top law enforcement officer. The measure before us also emphasizes that the Directors of NIJ and BJS have primary grantmaking authority within their respective spheres of responsibility. However, the weakening of the proposed structural protections for the independence of the research and statistics agencies underscores the importance of careful congressional oversight with regard to the activities administered by the Assistant Attorney General for Justice Assistance.

The bill before us authorizes OJA, BJS, and NIJ only through September 30, 1984. While I would have preferred the longer authorization period contained in the Senate bill, the 2-year authorization ought to be sufficient to allow OJA to establish a track record.

In the hectic legislative activity of recent weeks, many of my colleagues seem to have come to view the Justice Assistance Act as a beast of burden which could be loaded up with a heavy cargo of other legislative initiatives. I am gratified that the freight has been lightened somewhat in recent days. That permits us to focus our attention on the underlying bill itself. It remains one of the most important pieces of anticrime legislation which we have considered in the entire Congress which now draws to a close. Once again, I commend the junior Senator from Pennsylvania for his unceasing efforts on its behalf. The labors of Representative HUGHES, the distin-

guished chariman of the Subcommittee on Crime in the other body, have also contributed much to the progress of this legislation. We can all take pride in the passage of this measure, and I am happy to support the motion to agree to the House's amendments to the Senate amendment.

Mr. SASSER. Mr. President, I note with disappointment that the House today has again passed H.R. 3963, the Drug Dependent Federal Offenders Act amendments and returned it to the Senate with an amendment. One of the unfortunate effects of that amendment is to remove the section dealing with the theft of controlled substances from a pharmacy.

Early in this Congress, I introduced legislation, S. 20, which would make the theft of controlled substances from a pharmacy a Federal crime. Several of my colleagues have introduced bills of a similar nature. Hearings were held on the bills and pharmacy crime provisions were incorporated in S. 2572 the comprehensive crime bill passed by the Senate earlier this year as an amendment to H.R. 3963.

In 1980 I held hearings in the Senate Small Business Committee at which the problem of pharmacy crime was discussed. I heard from pharmacists who live in fear. They have been victims, and their friends have been victims. Some of them have been forced to set aside "goody bags" in an attempt to keep the criminal happy and prevent a shooting. They have seen too much violence and intimidation, and the time is now to remedy the situation.

All of us are disturbed by the fact that violent crime has risen by 59 percent since 1970 and robberies in general have risen 33 percent since 1970.

At the same time, between 1976 and 1979, a 3-year period, pharmacy robberies have risen more than 100 percent. In a 6-year period between 1973 and 1979, pharmacy robberies rose 150 percent.

These statistics alone are alarming enough. But the real issue here is that the Federal Government does not have enough enforcement power to control the theft of drugs from pharmacies. When drugstores are robbed the criminal is not looking for cash. He is looking for drugs. Drugs that are controlled by Federal law. Drugs will be sold on our streets and compound an already serious national drug problem.

Mr. President, it really does seem a bit absurd that the Federal Government may investigate and prosecute the trafficking of drugs on the sidewalk outside of a drugstore but it cannot investigate and prosecute the theft of the same drugs from inside the pharmacy.

I had intended to offer a further amendment to H.R. 3963 if it had again been considered by the Senate. It now appears that will not be possible. That is very disappointing because this is an issue that will not go away. I hope that the chairmen of the committees with legislative jurisdiction will address the issue early in the 98th Congress.

Mr. President, I ask unanimous consent that the amendment I had intended to offer be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Insert in the bill at an appropriate place the following new section: "That (a) Chapter 103 of title 18 of the United States Code is amended by adding at the end thereof a new section as follows:

"§ 2118. Robbery of a pharmacy

"(a) Whoever takes property from a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) by force or violence, or by intimidation shall be imprisoned for not more than ten years, or fined not more than $5,000, or both.

"(b) For purposes of this section, the term 'property' means a controlled substance, consisting of a narcotic, amphetamine, or barbiturate that is listed in Schedules I through IV established by section 202 of the Controlled Substances Act (21 U.S.C. 812).".

(b) The analysis for chapter 103 of title 18 of the United States Code is amended by adding at the end thereof the following:

"2118. Robbery of a pharmacy.".

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The motion was agreed to.

MONONGAHELA NATIONAL FOREST

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5161, the Monongahela National Forest in West Virginia.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, there is not only no objection, but my distinguished senior colleague and I join in the request.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5161) entitled "An Act to designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness", with the following amendment:

Page 19, strike out lines 4 through 18, inclusive, of the Senate hand-engrossed amendment, and insert:

SEC. 6. Notwithstanding any other provision of law, effective October 1, 1983, there is hereby authorized to be appropriated up to $2,200,000 to be paid to Pocahontas and Webster Counties, West Virginia; such sum in compensation for property tax revenues and other taxes or payments foregone by the aforementioned counties as a consequence of the acquisition of the nonfederally owned coal deposits and other mineral interests and rights within the boundaries of the Cranberry Wilderness as designated by this Act.

Mr. ROBERT C. BYRD. Mr. President, I move on behalf of my senior colleague and myself that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL TRADE COMMISSION

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6094.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 6094) entitled "An act to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. ROSTENKOWSKI, Mr. GIBBONS, and Mr. FRENZEL be the managers of the conference on the part of the House.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendment and agree to a conference with the House of Representatives and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Chair appointed Mr. DOLE, Mr. ROTH, Mr. DANFORTH, Mr. LONG, and Mr. BENTSEN as conferees on the part of the Senate.

SARATOGA NATIONAL HISTORICAL PARK

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1540.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1540) entitled "An Act to revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. In order to preserve certain lands historically associated with the Battle of Saratoga and to facilitate the administration and interpretation of the Saratoga National Historical Park (hereinafter in this

Act referred to as "the park"), the boundary of the park is hereby revised to include the area generally depicted on the map entitled "Saratoga National Historical Park," numbered 80,001, and dated March 23, 1979.

SEC. 2. (a) Except as provided in subsection (b), within the boundary of the park, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary"), is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange. Except for the tract identified on the aforesaid map as tract number 01-132, which was authorized to be acquired by section 115 of the Act of March 5, 1980 (94 Stat. 71), the Secretary may not acquire (except by donation) fee simple title to those lands depicted on the map as proposed for less than fee acquisition. The map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b)(1) Appropriated funds may not be used to acquire lands or interests therein within the park without the consent of the owner except when—

(A) the Secretary determines that such owner is subjecting, or is about to subject, the property to actions which would significantly degrade its value as a component of the park; or

(B) the owner fails to comply with the provisions of paragraph (2).

The Secretary shall immediately notify the owner in writing of any determination under subparagraph (A). If the owner immediately ceases the activity subject to such notification, the Secretary shall attempt to negotiate a mutually satisfactory solution prior to exercising any authority provided by subsection (a) of this section.

(2) If an owner of lands or interests therein within the park intends to transfer any such lands or interest to persons other than the owner's immediate family, the owner shall notify the Secretary in writing of such intention. Within forty-five days after receipt of such notice, the Secretary shall respond in writing as to his interest in exercising a right of first refusal to purchase fee title or lesser interests. If, within such forty-five days, the Secretary declines to respond in writing or expresses no interest in exercising such right, the owner may proceed to transfer such interests. If the Secretary responds in writing within such forty-five days and expresses an interest and intention to exercise a right of first refusal, the Secretary shall initiate an action to exercise such right within ninety days after the date of the Secretary's response. If the Secretary fails to initiate action to exercise such right within such ninety days, the owner may proceed to otherwise transfer such interests. As used in this subsection with respect to a property owner, the term "immediate family" means the spouse, brother, sister, parent, or child of such property owner. Such term includes a person bearing such relationships through adoption and a stepchild shall be treated as a natural born child for purposes of determining such relationship.

(c) Subsection (b) shall not apply with respect to tract number 01-142.

(d) When an owner of property within the park desires to take an action with respect to his property, he shall request, in writing, a prompt written determination from the Secretary as to the likelihood of such action provoking a determination by the Secretary under the provisions of subsection (b)(1)(A). The Secretary is thereupon directed to promptly issue such owner a certificate of exemption from condemnation for such actions proposed by the owner which the Secretary determines to be compatible with the purposes of the park.

(e)(1) An owner of improved property which is used solely for noncommercial residential purposes, or for commercial agricultural purposes found to be compatible with the General Management Plan, on the date of its acquisition by the Secretary may retain, as a condition of such an acquisition, a right of use and occupancy of the property for such residential or agricultural purposes. The right retained may be for a definite term which shall not exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value, of the term retained by the owner.

(2) Except for tract number 01-142, paragraph (1) shall not apply to property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use.

(f) Any owner of lands or interests therein within the park who desires to have such lands or interests acquired by the Secretary may notify the Secretary in writing of such desire. It is the intention of the Congress that, upon receipt of such notification, and on the condition that such acquisition will transpire at fair market value and in accordance with other conditions acceptable to the Secretary, the Secretary shall endeavor to acquire such lands or interests therein within six months of the date of receipt of such notice from the owner.

SEC. 3. Section 2 of the Act approved June 22, 1948 (62 Stat. 571; 16 U.S.C. 159d), is amended to read as follows:

"SEC. 2. The Secretary of the Interior is authorized to accept all or any portion of the General Philip Schuyler Mansion property, real and personal, situated at Schuylerville, New York, comprising approximately fifty acres.".

SEC. 4. There are hereby authorized to be appropriated after October 1, 1983, such sums as may be necessary, but not to exceed $1,000,000 for the acquisition of lands and interests therein, to carry out the purposes of this Act.

Mr. MOYNIHAN. Mr. President, I rise today to urge my colleagues to pass S. 1540, a bill I introduced to revise and expand the boundaries of the Saratoga National Historical Park in Stillwater, N.Y. Though the Senate passed this bill on June 10, the House passed an amended version of S. 1540 which I strongly support. It is my hope that the Senate will today vote to adopt the amended bill.

Mr. President, it was at Saratoga that the Continental Army soundly defeated the British and thus turned the tide of the American Revolution. To commemorate the Battle of Saratoga and the American patriots who sacrificed their lives there, legislation was enacted in 1938 to create the Saratoga Historical Park. The legislation we are considering today will add over 800 missing acres of historical significance and esthetic beauty to unify the park and incorporate into our national parks system land of paramount historical importance.

S. 1540 will finally make complete this memorial to one of the most stirring and important military battles in our Nation's history.

Mr. BAKER. Mr. President, I move the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

FEDERAL SEED ACT AMENDMENTS OF 1982

Mr. BAKER. Mr. President, I now ask unanimous consent that the Committee on Agriculture be discharged from further consideration of H.R. 7005, the Federal Seed Act Amendments of 1982, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7005) to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes.

There being no objections, the Senate proceeded to consider the bill.

Mr. HELMS. Mr. President, the matter now pending before the Senate is a bill, H.R. 7005, that would amend the Federal Seed Act to change certain labeling and testing requirements applicable to domestic shipments of seed and to allow USDA to extend the maximum allowable period between the germination test date and the date of shipment when warranted. In addition, H.R. 7005 would delete certain testing requirements for imported seeds. These changes are necessitated as a result of certain requirements in the act being made obsolete by advances in seed technology and marketing practices. Further, the amendments will reduce unnecessary expenses incurred by both the seed industry and the Federal Government while simultaneously maintaining adequate protection for seed users.

Now, let me be a little bit more specific. Title II of the Federal Seed Act requires that any agricultural seed mixtures intended for lawn and turf seed purposes, in containers of 50 pounds or less, be labeled as "Fine-textured Grasses" or "Coarse Kinds." The regulations under the act list the varieties that fall within each of these categories. Because of the development of new improved varieties of grass seed, it has become increasingly difficult to make a distinction between the required categories in order to

meet the requirements of the Federal Seed Act. The differences between the varieties in the lists in the regulations have been blurred to the point that it is now virtually impossible, from a legal standpoint, to classify a new variety of grass into one category.

As a result of this situation, the Association of American Seed Control officials has adopted a change in the recommended uniform State seed laws to eliminate the labeling requirement according to these categories. Although a number of States have already adopted the labeling change, other States are awaiting changes in the Federal Seed Act before following suit. This inconsistency between the laws in various States, and between State and Federal laws, has placed an unnecessary burden on seedsmen who must comply with the different requirements. This has been particularly troublesome and expensive for seedsmen marketing seed on a nationwide basis. H.R. 7005 would amend the Federal Seed Act to delete the requirement that grass seed mixtures be labled as "Fine-textured" or "Coarse" grasses.

A second area where changes in title II of the Federal Seed Act would be made involves the germination labeling requirements for lawn seed mixtures. H.R. 7005 would amend the Federal Seed Act to require that only the month and year of the oldest germination test be specified on the label. Since the germination test must be completed within a 5-month period of the date of shipment, listing only the oldest germination test date would automatically cover those varieties within the mixture which had been tested at a later date. There is a great deal of information required on seed labels currently and since the germination data is a control measure that does not actually afford the consumer additional protection, unnecessary expense and loss of time in drawing up and printing labels can be avoided by this amendment. This change will also simplify the labeling requirements and aid the industry in providing more meaningful labeling information to the prospective seed buyer.

H.R. 7005 also authorized the Secretary of Agriculture to extend the 5-month period between the germination test date and the date of shipment when it is found, under ordinary conditions of handling, that the seed will maintain its germination qualities over a longer period of time.

Seed viability is an important factor to persons purchasing seed for planting purposes. Thus, under the Federal Seed Act, and the laws of many States, restrictions have been established limiting the time period between germination testing and the date of shipment. However, the 5-month limitation in the Federal Seed Act is too short in many instances and is resulting in substantially increased costs to seed users in cases where retesting and relabeling is required of seed that maintains a high viability level beyond that time period but is not shipped soon enough. The amendment would provide flexibility to the Secretary to eliminate wasteful repackaging of seed in such cases, but would not reduce protection to seed users.

Title III of the Federal Seed Act now requires testing of imported seed to determine if it meets the pure-live seed requirements of the act and to determine whether the seed contains more than 2 percent by weight of common weed seeds. There is currently no demonstrated need for continuing to carry out these activities. Additionally, testing requirements for imported seed place a heavy demand on the Department's laboratory resources at a time when budget constraints have resulted in the closing of four regional seed laboratories. Examining seed imports to determine that the level of common weed seed contamination does not exceed 2 percent has not proven to be cost effective. In 1980, for example, only two of over 9,000 imported seed lots were determined to exceed that level. In addition, since common weed species are prevalent throughout this country, continuing to maintain this requirement appears to offer little or no potential for protecting U.S. lands from contamination. Further, it does not serve to protect seed buyers since domestic crop seeds containing various amounts of these same common weed seeds are routinely marketed in this country. It is emphasized, however, that the amendment to delete the requirements for pure-live seed and common weed seed would not in any way affect the Department's responsibility for examining imports for the presence of noxious weed seed under the Noxious Weed Act.

Many seed imports have been produced outside the United States for various reasons, by or under the direct control of United States seed firms, with the balance produced or purchased under specific contract specifications for quality factors. Thus, the purity and germination qualities of imported seed are established prior to shipment. Once the seed enters interstate commerce, it must meet all requirements for the shipment of domestic seed as established under the Federal Seed Act and the State seed laws. Elimination of the requirements for pure-live seed testing and testing for common weed seed contamination will facilitate movement of imported seed, reduce the workload in laboratory testing, and thus result in some cost savings.

Finally, I would like to point out that enactment of this bill is strongly supported by the administration and by the seed trade industry, generally. In addition, the measure was the subject of a hearing before the appropriate subcommittee of the House Committee on Agriculture and is similar to a bill (S. 2855) introduced here in the Senate by the distinguished Senator from California, Mr. HAYAWAKA. I am aware of no opposition to the adoption of this legislation. For these reasons, I urge the Senate to adopt this necessary legislation.

Mr. President, I ask unanimous consent that a more detailed section-by-section explanation of H.R. 7005 be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION EXPLANATION

SHORT TITLE

The first section provides that H.R. 7005 may be cited as the "Federal Seed Act Amendments of 1982".

LAWN AND TURF SEED

Section 2(a) amends section 201(a) of the Federal Seed Act by deleting the provision that subjects seed mixtures intended for lawn and turf purposes to the labeling requirements set forth in section 201(j). This is a conforming change necessitated by the deletion of section 201(j) elsewhere in the bill.

Section 2(b) amends section 201(a)(1) to provide that a seed mixture intended for lawn and turf purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance.

In addition, this section amends section 201(a)(1) to exempt seed mixtures intended for lawn and turf purposes from the requirement that if any component of a seed mixture is one which the Secretary has determined is generally labeled as to variety, the label shall bear, in addition to the name of the kind, either the name of the variety or the statement "Variety Not Stated."

Section 2(c) repeals section 201(j) of the Federal Seed Act which requires, among other things, that seed mixtures intended for lawn and turf seed purposes in containers of 50 pounds or less must be labeled as "Fine-textured Grasses" and "Coarse Kinds" for each lawn and turf seed component in excess of 5 percent of the whole, as well as providing other ingredient information.

SEED MIXTURE TEST DATES

Section 3 amends section 201(a)(8) of the Federal Seed Act to provide that in the case of a seed mixture, it is only necessary to state the calendar month and year of the germination and hard seed test for the kind or variety or type of agricultural seed contained in the mixture which has the oldest calendar month and year test date. This provision would be an exception to the current requirement in paragraph (8) that the calendar month and year of the test date be provided for each agricultural seed in excess of 5 percent of the whole that is contained in the seed mixture.

PERIOD BETWEEN GERMINATION TESTS AND TRANSPORTATION

Section 4 amends section 201(c) of the Federal Seed Act to provide that for any agricultural or vegetable seed the Secretary may by rule or regulation extend the maxi-

mum period of time within which germination testing must have been completed to more than 5-months immediately prior to transportation or delivery for transportation in interstate commerce. To make such an extension, the Secretary must find that the seed will maintain a percentage of germination within the limits of tolerance established under the Federal Seed Act under ordinary conditions of handling. Under the requirements currently in effect, the sale of any agricultural or vegetable seed is unlawful unless germination testing of the seed was completed within a 5-month period, exclusive of the month in which the testing was completed, immediately prior to transportation or delivery for transportation in interstate commerce.

PROHIBITIONS RELATING TO IMPORTATION

Section 5(a) amends section 101(a) of the Federal Seed Act by deleting in paragraph (8) the definition of the term "weed seeds" applicable to title III, by deleting paragraph (17), which defines the term "pure-live seed" for purposes of title III, and by appropriately redesignating paragraphs (18) through (25).

Section 5(b)(1) amends section 301(a)(1) of the Federal Seed Act to prohibit the importation of any agricultural or vegetable seed if the seed contains noxious weed seeds. This new prohibition is substituted for the current prohibition on the importation of any seed containing 10 percent or more of any agricultural or vegetable seed if the seed is adulterated or unfit for seeding purposes.

Section 5(b)(2) amends section 302(a) of the Federal Seed Act by deleting the second sentence. That sentence currently authorizes the Secretary to apply statistical sampling and inspection techniques to seed samples and screenings to determine whether the pure-live seed requirement of any kind of seed is being met, in which case the Secretary is required to advise the importer of each lot of such seed not examined for pure-live seed percentage. This amendment is conforming in nature as a result of the deletion, elsewhere in the bill, of the requirements to test for pure-live seed with respect to imported seed.

Section 5(b)(3) amends section 302(d) of the Federal Seed Act, which exempts certain seed from the prohibition against the importation of seed that is adulterated or unfit for seeding purposes, by deleting the reference to seed that is adulterated or unfit for seeding purposes. The effect of this change is to broaden the exemption to make all import restrictions under title III inapplicable to: (1) any seed grown in the United States that is returned from a foreign country without being admitted into commerce in any foreign country, or (2) any seed imported for use for experimental or breeding purposes and not for sale. This amendment also deletes section 302(d)(30), which relates to the pure-live seed requirements of the Act that are deleted elsewhere in the bill.

Section 5(b)(4) repeals sections 303 and 304 of the Federal Seed Act. Section 303 currently establishes the criteria for determining whether imported seed has been adulterated with another kind of seed. Section 304 currently sets standards for determining when imported seed is unfit for seeding purposes, including, among others, requirements for testing the seed to determine if it meets the standards for pure-live seed and whether the seed contains more than 2 percent common weed seeds.

Mr. HUDDLESTON. Mr. President, I am pleased to support H.R. 7005, the Federal Seed Act Amendments of 1982.

The original Federal Seed Act was enacted in 1939. Since that time, a number of advancements in seed technology and marketing have been made, making certain provisions of the act obsolete. The legislation before us will update and improve the Federal Seed Act.

The legislation will—

First. Delete the requirement that any agricultural seed mixtures intended for lawn and turf seed purposes, in containers of 50 pounds or less, be packed in containers labeled as "fine-textured grasses" or "coarse kinds" for each component of the mixture;

Second. Provide that, in the case of a seed mixture, it is only necessary to state the calendar month and year of the oldest germination test for any variety of agricultural seed contained in the mixture;

Third. Authorize the Secretary of Agriculture by rule or regulation to designate a longer period for completion of the germination test than a maximum of 5 months immediately prior to the transportation or delivery of an agricultural or vegetable seed if the Secretary finds the seed will maintain a percentage of germination within the limits of tolerance established by the act under ordinary conditions of handling;

Fourth. Prohibit the importation of any agricultural or vegetable seed that contains noxious weed seeds; and

Fifth. Eliminate the requirement for testing to determine if imported seeds meet the pure-live seed requirements of the act or contains more than 2 percent by weight of common weed seeds.

H.R. 7005 is similar to S. 2855, a bill that Senator HAYAKAWA introduced. I understand that both bills have the support of the Department of Agriculture and the American Seed Trade Association.

I urge my colleagues to join me in supporting H.R. 7005.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7005) was ordered to a third reading, was read the third time, and passed.

FEDERAL PLANT TEST ACT

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration on H.R. 6679, the Feed Plant Test Act, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. There is none.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6679) to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain Acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such Acts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. HELMS. Mr. President, H.R. 6679 expands the scope of sanctions for violation of certain animal and plant quarantine laws established to prevent the introduction into and the dissemination within the United States of livestock and poultry diseases, plant diseases, and plant pests by conforming the criminal penalties to a greater degree and providing for the imposition of civil penalties for violations of these laws and the rules or regulations promulgated thereunder. In order to insure that the public is protected against arbitrary or capricious action by the Secretary, the bill provides that a civil penalty may be assessed only after notice and opportunity for an agency hearing on the record, and any order of the Secretary imposing a civil penalty is subject to court review.

Violations of the laws designed to protect the United States against the introduction and dissemination of animal and plant diseases and pests generally subjects the violators to criminal penalties. No civil money penalties are authorized under these acts. In some instances, violation of the acts does not subject the violator to any penalty. Furthermore, these statutes were adopted at numerous times over the last century and as a result the criminal sanctions lack consistency.

While criminal sanctions are vital in assuring enforcement of our laws, criminal prosecution is a lengthy and cumbersome process. Therefore, even while the system is moving, violators are often free to continue the practices they have been following which threaten the livestock and plant industries of this country. Civil penalties, on the other hand, can be imposed administratively, insuring that the violator will be dealt with in a timely and effective manner. Moreover, a monetary penalty is more real to most than a distant and lengthy legal process that may or may not be instituted and that can sometimes be overcome. Civil penalties can thus become not only an effective enforcement tool but a potential deterrent as well.

Violations of the laws that are designed to prevent the introduction or

dissemination of destructive animal and plant diseases and pests in the United States present a real and constant threat to the agricultural industry in this country—an industry of significant importance to our national economy. In 1982, the total value of the U.S. animal population was estimated to be $75.8 billion. Cash receipts from the marketing of farm crops were $69 billion in 1980. Enforcement of the animal and plant protection laws is crucial in protecting this industry.

H.R. 6679 will substantially aid in the protection of the livestock and poultry populations, plants and other agricultural interests of this country. It will enable the Department of Agriculture to handle violations more expeditiously, provide greater flexibility in sanctions for more effective enforcement, and insure a greater degree of consistency in sanctions imposed.

Since some violators might consider the payment of a civil money penalty as merely a cost of doing business, the bill retains the current criminal sanctions in order to deter potential violators and discourage repeat violations. The bill also provides criminal penalties where none exist now and adds violations of the rules and regulations promulgated under these laws as a punishable offense. It also increases the monetary penalties where they already exist and adjusts the imprisonment penalties to make them as consistent as possible considering the nature of the offense.

The House Committee on Agriculture held hearings on H.R. 6679 on September 21, 1982. Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service of the Department of Agriculture, testified in support of the bill. I introduced a comparable bill (S. 2427) here in the Senate at the request of the Secretary of Agriculture. I know of no opposition to the bill and urge its adoption.

Mr. HUDDLESTON. Mr. President, I am pleased to support H.R. 6679, a bill to expand the scope of sanctions for violations of certain Animal and Plant Quarantine Acts intended to prevent the introduction into, and the dissemination within, the United States of livestock and poultry diseases and plant diseases and pests.

H.R. 6679 will permit the Secretary of Agriculture to impose, administratively, civil money penalities for violations of these laws whenever he believes that civil penalties are appropriate to effectuate the purposes of the act involved. Under these laws now, the Secretary does not have the authority to assess civil penalties: They authorize only criminal prosecution of violations.

While H.R. 6679 retains the criminal sanctions now provided for in the acts, it also adds violations to rules and regulations promulgated under the acts as a punishable offense, increases the monetary criminal fines where they already exist, and makes the criminal provisions of the acts more uniform.

This legislation will enable the Department of Agriculture to handle many violations more expeditiously, provide greater flexibility in sanctions for more effective enforcement, and insure a greater degree of consistency in the sanctions.

H.R. 6679 is similar to S. 2427, which was introduced in the Senate on April 22, 1982. I urge my colleagues to join me in supporting this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6679) was ordered to a third reading, was read the third time, and passed.

PLANT QUARANTINE ACT AMENDMENT

Mr. BAKER. Mr. President, I now ask unanimous consent that the Committee on Agriculture also be discharged from further consideration of H.R. 5456, to eliminate certain unnecessary regulatory requirements, and I ask for immediate consideration of that measure.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5456) to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements.

There being no objection, the Senate proceeded to consider the bill.

Mr. HELMS. Mr. President, H.R. 5456 would amend the Plant Quarantine Act of August 20, 1912, to delete requirements for public hearings before the Secretary of Agriculture may promulgate certain regulations under that act.

The Plant Quarantine Act, which is administered by the Animal and Plant Health Inspection Service of the Department of Agriculture, was enacted by Congress to regulate the importation of nursery stock and other plants and plant products in order to prevent the introduction of injurious plant diseases or insect pests and avoid the spread of certain dangerous plant diseases or insect infestations.

To accomplish these objectives, the Plant Quarantine Act authorizes the Secretary of Agriculture; one, to restrict the importation into the United States of any of its territories or districts of certain articles in order to prevent the introduction of injurious plant diseases or insect pests; two, to prohibit the entry into the United States of certain articles in order to prevent the introduction of certain tree, plant, or fruit diseases or of injurious insects; and three, to quarantine States, territories, or districts of the United States, or portions thereof, with respect to certain movements of specified articles in order to prevent the spread of dangerous plant diseases or insect infestations.

The Plant Quarantine Act requires that a public hearing be held before a regulation may be promulgated for any of these purposes. This requirement was incorporated into the act to provide for public participation in the rulemaking process. In 1912, public hearings were a practical way to provide for public particpation. Since the passage of the administrative procedure Act in 1946, and its subsequent revision in 1966, other, more practical means of public participation in the rulemaking process have been established.

The Administrative Procedure Act requires generally that notice of proposed rulemaking be published in the Federal Register and that the agency give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments, with an opportunity for oral presenation if the agency should consider it advisable.

The Department believes that the public participation process under the Administrative Procedure Act provides interested parties ample opportunity to have their views considered and included as part of the official record. Moreover, if a strong need is perceived for a public hearing, such an activity is authorized under the Administrative Procedure Act.

Specifically, the bill deletes the following public hearing requirements in the Plant Quarantine Act:

One. The provision in section 5 of the act requiring a public hearing before the Secretary of Agriculture may promulgate a determination that the unrestricted importation of any plants, fruits, vegetables, roots, bulbs, seeds, or other plant products not included by the term "nursery stock" may result in the entry into the United States or any of its territories or districts of injurious plant diseases or insect pests.

Two. The provision in section 7 of the act requiring a public hearing before the Secretary may promulgate a determination that it is necessary to forbid the importation into the United States of any class of nursery stock or of any injurious insect, new to or not widely prevalent or distributed in the United States.

Three. The provision in section 8 of the act requiring a public hearing before the Secretary may promulgate a determination that it is necessary to quarantine any State, territory, or district of the United States, or portion thereof, to prevent the spread of a dangerous plant disease or insect infestation, new to or not widely prevalent or distributed in the United States.

Elimination of the mandatory requirements for public hearings under the Plant Quarantine Act will remove several unnecessary regulatory requirements and allow the department greater flexibility in obtaining public input. The public interest will continue to be protected through the provisions of the Administrative Procedure Act requiring public input in the decisionmaking process.

Hearings were held on H.R. 5456 by the House Committee on Agriculture on September 21, 1982. Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service of the Department of Agriculture, testified in support of the bill. I introduced an identical measure (S. 2122) here in the Senate at the request of the Secretary of Agriculture. I know of no opposition to this legislation, and I urge its adoption.

Mr. HUDDLESTON. Mr. President, H.R. 5456 would eliminate the requirement for public hearings prior to the promulgation of regulations under the Plant Quarantine Act of 1912. These changes in the law, requested by the Department of Agriculture, are appropriate in view of the provisions of the Administrative Procedure Act, enacted after the Plant Quarantine Act, that protects the public interest by requiring publication of proposed regulations in the Federal Register, solicitation of views, and a public hearing if advisable.

The Plant Quarantine Act was enacted on August 20, 1912, to regulate the importation of nursery stock and other plants and plant products in order to prevent the introduction of injurious plant diseases or insect pests and to avoid the spread of certain dangerous plant diseases or insect infestations.

Among other things, the act requires that a public hearing be held before a regulation under the act can be promulgated. However, over the years, more practical means of public participation in the rulemaking process have evolved under the Administrative Procedure Act.

The Department of Agriculture believes that the public participation process under the Administrative Procedure Act provides interested parties ample opportunity to have their views considered and included as part of the official record. In addition, if a strong need is perceived for a public hearing, such a hearing is authorized under the Administrative Procedure Act.

H.R. 5456 is similar to S. 2122, which was introduced in the Senate earlier in the year. I urge my colleagues to join me in supporting this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5456) was ordered to a third reading, was read the third time, and passed.

PUBLIC HEALTH SERVICE ACT AMENDMENT

Mr. BAKER. Mr. President, I now ask unanimous consent that the Labor Committee be discharged from consideration of S. 1939, the arthritis bill, and I ask that that measure be immediately considered by the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1939) to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

There being no objection, the Senate proceeded to the consideration of the bill.

UP AMENDMENT NO. 1585

(Purpose: To amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal and Skin Diseases)

Mr. BAKER. Mr. President, I send an amendment to the desk in the nature of a substitute on behalf of the Senator from Utah (Mr. HATCH) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. HATCH, proposes an unprinted amendment numbered 1585.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) title IV of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART J—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

"ESTABLISHMENT OF INSTITUTE

"SEC. 481. There is established in the Public Health Service a National Institute of Arthritis and Musculoskeletal and Skin Diseases (hereafter in this part referred to as the "Institute").

"PURPOSE OF THE INSTITUTE

"SEC. 482. (a) The purpose of the National Institute of Arthritis and Musculoskeletal and Skin Diseases is the conduct and support of research and training, the dissemination of health information, and related programs with respect to arthritis and musculoskeletal and skin diseases, including sports-related disorders.

"(b) The Director of the Institute, with the advice of the National Arthritis Advisory Board, shall develop a plan for a national arthritis and musculoskeletal diseases program to expand, intensify, and coordinate the activities of the Institute respecting such diseases, and shall carry out the program in accordance with such plan. The program shall be coordinated with the other national research institutes of the National Institutes of Health to the extent that they have responsibilities respecting such diseases and shall, at least, provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms of arthritis and musculoskeletal diseases, including sports-related disorders, primarily through support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of these diseases;

"(2) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, and prevention of arthritis and musculoskeletal diseases;

"(3) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(4) the establishment of mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

The Director of the Institute shall transmit to the Director of the National Institutes of Health the plan required by this subsection, together with such comments and recommendations as the Director of the Institute determines appropriate.

"(c) The Director of the Institute shall—

"(1) Carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of arthritis and musculoskeletal and skin diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and

"(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

"INFORMATION CLEARINGHOUSE AND DATA SYSTEM

"SEC. 483. The Director shall—

"(1) establish the National Arthritis and Musculoskeletal and Skin Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with arthritis and musculoskeletal and skin diseases, including where possible, data involving general populations for the purpose of detection of indi-

viduals with a risk of developing such diseases, and

"(2) establish the National Arthritis and Musculoskeletal and Skin Diseases Information Clearinghouse to facilitate and enhance knowledge and understanding of arthritis and musculoskeletal and skin diseases on the part of health professionals, patients, and the public through the effective dissemination of information.

"INTERAGENCY COORDINATING COMMITTEES

"SEC. 484. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to arthritis, musculoskeletal diseases, and skin diseases, including sports-related disorders; and

"(2) coordinating the aspects of all Federal health programs and activities relating to such diseases in order to assure the adequacy and technical soundness of such programs and activities and in order to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

the Secretary shall establish an Arthritis and Musculoskeletal Disease Interagency Coordinating Committee and a Skin Diseases Interagency Coordinating Committee (hereafter in this section individually referred to as a "Committee").

"(b) Each Committee shall be composed of the director (or his designee) of the Institute and its divisions involved in research involving arthritis, musculoskeletal diseases, or skin diseases, as may be appropriate, the chief medical director (or the director's) designee of the Veterans' Administration, and a medical officer designated by the Department of Defense, and shall include representation from all other Federal departments and agencies whose programs involve health functions or responsibilities relevant to arthritis, musculoskeletal diseases, and skin diseases, as determined by the Secretary. Each Committee shall be chaired by the Director of the National Institutes of Health (or his designee). Each Committee shall meet the call of the chairman, but not less often than four times a year.

"(c) Each Committee shall prepare an annual report for—

"(1) the Secretary, and

"(2) the Director of the National Institutes of Health,

detailing the work of the Committee in the fiscal year for which the report was prepared in carrying out the coordinating activities described in paragraph (1) and (2) of subsection (a). Such report shall be submitted not later than the one hundred and twentieth day after the end of each fiscal year.

"ARTHRITIS AND MUSCULOSKELETAL DISEASES DEMONSTRATION PROJECTS

"SEC. 485. (a) The Secretary may make grants to public and other nonprofit entities to establish and support projects for the development and demonstration of methods for arthritis and musculoskeletal diseases screening and detection and for referral for treatment, and for dissemination of information on these methods to the health and allied health professions. Activities under such projects shall be coordinated with (1) Federal, State, local, and regional health agencies, (2) centers assisted under section 486, and (3) the data system established under subsection (c).

"(b) Projects under this section shall include—

"(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referral for treatment, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

"(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

"(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the projects and methods referred to in the preceding paragraphs of this subsection to health and allied health professionals;

"(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

"(A) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis and musculoskeletal diseases; and

"(6) projects for the investigation into the epidemiology of all forms and aspects of arthritis and musculoskeletal diseases, including investigations into the social, environmntal, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of such diseases.

"(c) The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 486, and other persons engaged in arthritis and musculoskeletal disease programs.

"MULTIPURPOSE ARTHRITIS AND MUSCULOSKELETAL DISEASES CENTERS

"SEC. 486. (a) The Director of the Institute shall, after consultation with the National Arthritis Advisory Board, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis and musculoskeletal diseases. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1)(A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

"(2) conduct—

"(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of arthritis and musculoskeletal diseases and complications resulting from such diseases, including research into implantable biomaterials and biomechanical and other orthopaedic procedures;

"(B) training programs for physicians, scientists, and other health and allied health professionals;

"(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis and musculoskeletal diseases; and

"(D) programs for the dissemination to the general public of information—

"(i) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and in effective drugs and devices.

A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in paragraph (2)(B).

"(c) Each center assisted under this section may conduct programs to—

"(1) establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases,

"(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping, and

"(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

"(d) The Director shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis.

"(e) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"BIENNIAL REPORT

"SEC. 487. (a) The Director of the Institute shall prepare and transmit to the Secretary, for transmission by the Secretary to the President, a biennial report containing a description of the Institute's activities under the current Arthritis Plan under the National Arthritis Act of 1974 and an evaluation of the activities of the centers supported under section 486.

"(b) The first report under subsection (a) shall be submitted not later than the first November 30 which occurs at least eighteen months after the date of the enactment of this section and shall relate to the two-fiscal-year period ending on the preceding September 30.".

(b)(1) Section 431(a) of the Public Health Service Act (42 U.S.C. 289a(a)) is amended by striking out "arthritis, rheumatism, and".

(2)(A) Subsection (a) of section 434 of such Act (42 U.S.C. 298c-1) is amended—

(i) by striking out "Arthritis, Rheumatism, and"; and

(ii) by striking out "Arthritis, Diabetes," each place it appears and inserting in lieu thereof "Diabetes".

(B) Subsection (b) of such section is amended—

(i) by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes"; and

(ii) by striking out "an Associate Director for Arthritis and Musculoskeletal and Skin Diseases,".

(C) Subsection (c) of such section is amended—

(i) by striking out "a subcommittee on arthritis and musculoskeletal and skin diseases," in the first sentence; and

(ii) by striking out "arthritis, musculoskeletal and skin diseases" in the last sentence.

(D) Subsection (d) of such section is amended—

(i) by striking out "the Associate Director for Arthritis and Musculoskeletal and Skin Diseases," in the matter preceding paragraph (1); and

(ii) by striking out "arthritis, musculoskeletal and skin diseases," in paragraph (1).

(E) Subsection (e) of such section is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(F) The heading for such section is amended by striking out "ARTHRITIS, DIABETES," and inserting in lieu thereof "DIABETES".

(3)(A) Subsection (a) of section 436 of such Act (42 U.S.C. 289c-3) is amended—

(i) by striking out "arthritis, diabetes mellitus," in paragraph (1) and inserting in lieu thereof "diabetes mellitus"; and

(ii) by striking out "an Arthritis Interagency Coordinating Committee," in the matter following paragraph (2).

(B) Subsection (b) of such section is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(4)(A) Paragraph (2) of subsection (b) of section 437 of such Act (42 U.S.C. 289c-4) is amended—

(i) by striking out "each Advisory Board" and inserting in lieu thereof "the National Diabetes Advisory Board and the National Digestive Diseases Advisory Board"; and

(ii) by striking out the last sentence.

(B) Subsection (b) of such section is amended by adding at the end thereof the following new paragraph:

"(3) The following shall be ex officio members of the National Arthritis Advisory Board: The Assistant Secretary for Health, the Director of the National Institutes of Health, the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the Director of the Center for Disease Control, the chief medical director of the Veterans' Administration, a medical officer designated by the Department of Defense, the Director of the National Heart, Lung, and Blood Institute, the Director of the National Eye Institute, the Director of the National Institute of Child Health and Human Development, the Administrator of the Health Resources Administration, and the Administrator of the Health Services Administration (or their designees of such ex officio members), and such other officers and employees of the United States as the Secretary deems necessary for the Advisory Board to carry out its functions.".

(C) Subsection (g) of such section is amended to read as follows:

"(g) Each Advisory Board shall meet at the call of the chairman or upon request of the Director of the National Institute for Diabetes and Digestive and Kidney Diseases (in the case of the National Diabetes Advisory Board or the National Digestive Diseases Advisory Board), or on the request of the Director of the National Institute for Arthritis and Musculoskeletal and Skin Diseases (in the case of the National Arthritis Advisory Board), but not less often than four times a year.".

(D) Paragraph (3) of subsection (h) of such section is amended to read as follows:

"(3) for the purpose of assuring the most effective use and organization of resources respecting such diseases, advise and make recommendations to Congress, the Secretary, the Director of the National Institutes of Health, the Director of the National Institute for Diabetes and Digestive and Kidney Diseases (in the case of the National Diabetes Advisory Board and the National Digestive Diseases Advisory Board), the Director of the National Institute for Arthritis and Musculoskeletal and Skin Diseases (in the case of the National Arthritis Advisory Board), and the heads of other appropriate Federal agencies for the implementation of such plan; and".

(5) Sections 438 and 439 of such Act (42 U.S.C. 289c-5, 289c-6) are repealed.

(6) The heading for part D of title IV of such Act is amended by striking out "ARTHRITIS, DIABETES," and inserting in lieu thereof "DIABETES".

(c)(1)(A) The Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall in accordance with paragraph (2) arrange for the conduct of a study of the effectiveness of the existing combinations of disease research programs within the individual national research institutes and of the standards which should be followed in establishing new or realigning existing national research institutes.

(B) The Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the study. The report shall be submitted not later than 18 months after the date of the enactment of this Act.

(2)(A) The Secretary of Health and Human Services shall request the National Academy of Sciences to conduct the study required by paragraph (1)(A) under an arrangement under which the actual expenses incurred by the Academy in conducting such study will be paid by the Secretary and the Academy will prepare the report required by paragraph (1)(B). If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with the Academy for the conduct of the study.

(B) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private entities.

(3) Notwithstanding section 431(b)(2) of the Public Health Service Act, no national research institute shall be established in addition to the institutes in existence on the date of the enactment of this Act before the expiration of 6 months after the submission of the report referred to in paragraph (1)(A). Until the expiration of such months, disease research programs in existence on the date of the enactment of this Act shall be administered by the entities which administered them on such date and funds authorized to be appropriated for such programs in a new national research institute shall be made available to such entities for such programs.

(d) The Secretary of Health and Human Services shall conduct an administrative review of the disease research programs within the National Institute of Diabetes and Digestive and Kidney Diseases to determine if any of such programs could be more effectively and efficiently managed by other national research institutes. The Secretary shall complete such review within the sixty-day period beginning on the date of enactment of this Act.

Mr. HATCH. Mr. President, I am offering a substitute which is nearly identical to S. 1939 introduced by my distinguished colleagues, Senators GOLDWATER and SYMMS. The substitute, like the original bill, establishes a separate National Institute of Arthritis and Musculoskeletal Diseases and the changes are acceptable to the sponsors of S. 1939. It is a noncontroversial item because of the support it has in the Senate and because a companion bill has passed the House of Representatives.

I held full Labor and Human Resources Committee hearings devoted to this issue in July of this year. At that time, I heard ample arguments, both for and against establishing a new Institute, and I am persuaded that it is in the best interest of our citizens to focus a national research effort on arthritis and musculoskeletal disorders. These diseases collectively affect over 30 million Americans and result in extraordinary costs in disability and health care. The slogan of the National Arthritis Foundation is: "It's time we took arthritis seriously." And I agree. This new Institute holds the promise of providing much-needed answers to prevention, treatment, and cure of these painful and often fatal diseases.

In addition to technical and perfecting changes, I have added two minor provisions to Senators GOLDWATER and SYMMS' proposal, with their concurrence. The first is simply to title the new Institute "the National Institute of Arthritis, Musculoskeletal and Skin Diseases." At present, skin research is conducted primarily in the National Institute of Arthritis, Diabetes, Digestive and Kidney Disorders, but also in most of the other Institutes. Skin diseases are among the most common of all human ailments, and in fact, account for 45 percent of all occupational illness. I understand that officials at NIH have recommended the proposed new Institute would be the proper home for skin-related research, and I propose the importance of this work be recognized in the title.

The second provision I proposed requires a study of the National Institutes of Health to determine the most effective overall administrative structure to enable the agency to fulfill its statutory mission. A similar provision, introduced by Congressman MADIGAN, passed the House.

The need for this amendment was made clear to me over the past year, as we prepared for reauthorization of the NCI and NHLBI. I listened to multiple requests for restructuring of NIH, all

from well-intentioned scientists or representatives of victims of certain diseases. They all believe that research devoted to their specific interest will be highlighted and improved by establishing a new institute, or at least a bureau, or some new unit. I support this argument for establishment of a new arthritis institute. But any changes in administrative structure are costly, and I have strongly encouraged the chairman of the Labor HHS Subcommittee on Appropriations to provide the estimated $5 million needed to establish the new institute. Many critics of the proposed arthritis institute pointed out that the administrative costs could actually diminish, not enhance the research effort, and that Congress would be deluged with requests for multiple new institutes. I share these concerns, and believe strongly that we risk a serious threat to the excellence of NIH research by legislating further administrative restructuring. However, I simply do not know what the optimal structure and administration of our National Institutes of Health should be. Our research effort may be more efficient if we coalesce some of the existing 11 institutes. Or it may be appropriate to have a dozen more separate institutes. For this reason, I believe it imperative we have a thorough, external study of the administrative structure of NIH, and that the recommendations of this study be made available to Congress before further legislation establishing separate institutes can be considered.

Mr. President, the 53 cosponsors of this bill are convinced the establishment of the National Institute of Arthritis, Musculoskeletal and Skin Diseases will result in major advances in the prevention, cure, and treatment of these widespread diseases. I urge immediate passage.

(By request of Mr. HATCH, the following statement was ordered to be printed in the RECORD:)

● Mr. GOLDWATER. Mr. President, I am extremely grateful to my colleagues, Senator BAKER, the majority leader; Senator HATCH, chairman of the Labor and Human Resources Committee; Senator SYMMS, a leader among the 53 cosponsors of the Arthritis Institute legislation; and Senator CRANSTON, the Democratic coauthor of the measure, for their cooperation and outstanding efforts in bringing this matter to the floor for action this morning.

At long last, Congress is redeeming the promise it made with establishment of the orginial institute in 1950 and passage of the National Arthritis Act of 1974. That law established a National Commission to draw up a comprehensive plan for research attacking the cluster of diseases known as arthritis.

The Commission recommended in 1976 that "A National Institute of Arthritis should be created * * * to lead the national effort against this and allied diseases." The record of the Senate Labor and Human Resources Committee, development during a thorough hearing in July of this year, shows that arthritis has not received the concentrated attention Congress intended when it set up the present Institute in 1950. Arthritis is now grouped with nine other major diseases, including diabetes, digestive disorders, and kidney disease.

A new institute devoted exclusively to arthristis and related diseases is needed in order to restore the original intent of Congress and focus attention on a disease that afflicts so many of our citizens.

Mr. President, arthritis, musculoskeletal, and related skin problems consist of more than 100 forms of joint and connective tissue diseases that afflict young and old alike, men and women, and all ethnic groups. Over 31.5 million Americans have some form of arthritis—one out of every seven citizens. Each year approximately 1 million more Americans fall victim to these painful and debilitating diseases.

The financial costs of arthritis to patients, insurance companies, the gross national product, and taxpayers are staggering. The physical and emotional costs to the victims of these diseases and their families are immeasurable.

It is estimated that in 1978, Americans paid $14.5 billion in costs related to arthritis. In fact, arthritis and related musculoskeletal diseases rank first among all disease groups in costs attributable to lost earnings and are leading causes of:

Confinement to hospitals and nursing homes;

Increasing costs of the medicare and social security disability programs;

Increasing costs of workers' compensation programs; and

Deterioration in the quality of life for our senior citizens.

Mr. President, I wish to spell out my purpose and understanding in authoring the arthritis institute proposal to include related chiropractic care within the scope of the responsibilities of the new institute. The diagnosis and treatment of neuromusculoskeletal ailments are an integral part of a chiropractor's practice.

Mr. President, an accelerated research effort in arthritis could provide the millions of arthritis sufferers with relief from their pain and the potential for a future of full participation in everyday activities, without the constant frustration of immobile joints and limitation of movement. I urge my colleagues to approve the substitute amendment offered for Senator HATCH and myself by Senator BAKER.●

Mr. ROBERT C. BYRD. Mr. President, I am proud to cosponsor the pending legislation to establish a National Institute on Arthritis and Musculoskeletal Diseases. While arthritis is generally thought of as a condition of old age, it is actually a generic term encompassing more than 100 forms of disease afflicting both young and old. More than 31.5 million Americans suffer from some form of arthritis—1 out of every 7 citizens. Moreover, the number grows annually. Almost 1 million more Americans are plagued by these painful and debilitating diseases each year.

Arthritis and musculoskeletal diseases are important factors behind the increasing costs of the medicare and social security disability programs, and the rising costs of other workers' compensation programs.

Eight years ago the Congress enacted the National Arthritis Act to organize a national campaign against arthritis. Implementation of that plan has fallen short; the gap between recommended and actual expenditures has grown annually, and arthritis and musculoskeletal disease research has received neither the priority nor the focus it warrants. This is partially because this research is currently lumped in the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK) with an inappropriate array of diseases. While 14 percent of the population suffers from arthritis and musculoskeletal diseases, in 1981 only 16.7 percent of the NIADDK budget—or 1.7 percent of the National Institutes of Health research budget—was earmarked to this research. The result is, each year Americans spend many times more money on ineffective "remedies" for arthritis, than the Federal Government spends on research into the causes, treatment, and prevention of all types of musculoskeletal diseases.

The time for an accelerated research effort in arthritis and musculoskeletal conditions is now. As our society grows older, these diseases will take an even greater toll in economic and human terms. A significant scientific breakthrough could bring us closer to affording relief from almost daily pain for millions of Americans, and to greater future participation in everyday activities for millions more. Such medical advances would also help to contain the future costs of Federal entitlement programs, most notably the social security disability and medicare programs.

Given current Federal budget constraints, this bill does not attempt to spend more money on biomedical research endeavors. It does not even provide increased funding to create the Institute. Because research efforts in NIADDK pertaining to arthritis and musculoskeletal diseases are already concentrated in one systematic Division, the overhead and administrative costs connected with separating these

disease groups from NIADDK are not expected to be significant. Hopefully, arthritis-related research efforts would benefit from greater visibility, and more coordinated future research activity.

I commend the distingushed Senator from Arizona, Senator GOLDWATER, for his significant contributions to this legislation.

Mr. CRANSTON. Mr. President, as the coauthor with my distinguished colleague from Arizona (Mr. GOLDWATER), of S. 1939, legislation we introduced on December 11, 1981, to establish a National Institute of Arthritis and Musculoskeletal Diseases, I am pleased to add my support to the amendment in the form of a substitute offered by the chairman of the Labor and Human Resources Committee (Mr. HATCH) to S. 1939. The provisions of this amendment to establish a National Institute of Arthritis and Musculoskeletal Diseases within the National Institutes of Health are derived from S. 1939, with two modifications I support. The first modification would include the study of skin diseases in the mandate of the new Institute. The second would require an NIH-wide study which I will discuss later.

If enacted, this legislation would help to promote our Nation's research efforts for some of the most prevalent and devastating diseases in our society. I would like to note that Senator GOLDWATER and I, in our efforts to establish this new Institute have been joined by 50 of our Senate colleagues who have cosponsored S. 1939 and that H.R. 6457, as passed by the House, included a provision similar to the amendment being offered.

Mr. President, we cannot ignore the costs to the Nation in both human and economic terms resulting from arthritis and related diseases. The consequences of these disorders are staggering. An estimated 37 million Americans suffer from some form of arthritis—1 out of every 6 citizens, and 1 in every 3 families. Arthritis affects more Americans than any other disease. Each year approximately 1 million Americans fall victim to this painful and debilitating disease. The physical and emotional costs to the victims of the disease and their families are enormous. Arthritis attacks the body's moveable joints and connective tissues, sometimes resulting in systemic complications with critical damage to major organs. Over 20 million Americans suffer from arthritis severe enough that they seek a physician's help. In 1978, 549,000 hospitalizations were due to arthritis and arthritis-related disorders.

The financial costs of arthritis to patients, insurance companies, and taxpayers are staggering. The Arthritis Foundation estimated that in 1978 Americans paid $14.5 billion in costs related to arthritis. In 1980, approximately $1 billion was spent on quack remedies. Over 27 million workdays were lost in 1981 due to arthritis and related disabilities. This represents over $5 billion in wages lost to employees. Although many workers with arthritis remain on the job as long as possible, it is estimated that over half a million workers disabled by arthritis and forced by their intense pain and physical limitations to leave their jobs are today collecting social security disability insurance [SSDI] benefits. Arthritis is second only to heart problems as the reason for SSDI payments, and individuals with arthritis account for about 19 percent of those beneficiaries. The cost to the Nation for these SSDI payments in fiscal year 1981 alone is estimated to have been $2.7 billion—$3.25 billion if payments for dependents are included.

THE NEED FOR A SEPARATE INSTITUTE

Mr. President, research is the best investment we can make to help arthritis sufferers. As the author of the National Arthritis Act of 1974—Public Law 93-640—and amendments to it in 1976 and 1980, I have long been acutely aware of the needs of and potential for research into arthritis, musculoskeletal and skin diseases. It is clear to me that we need a stronger approach to arthritis research. Although the National Arthritis Act of 1974 was tremendously successful in organizing and utilizing our national resources to wage a strong attack against arthritis, and progress in biomedical research has substantially increased our knowledge of arthritis, implementation of the act has fallen short of what should have been achieved and far short of what could be gained through an accelerated research effort into this important area of study.

The National Arthritis Act of 1974 provided for the design of a master arthritis research plan—the so-called national arthritis plan—to establish the areas of research to be pursued, the existing resources with which that can be done, and the additional resources that are needed for research progress. The act also authorized the creation of research and demonstration centers to provide an opportunity for intensive interdisciplinary arthritis research and also training in and demonstration of advanced diagnostic, prevention, treatment, and control methods related to arthritis. Unfortunately, the budget levels recommended under the national arthritis plan for arthritis-related research within NIH have not been realized. Indeed, with each passing year the gap between recommended and actual expenditures has grown wider.

The national arthritis plan recommended that funds be doubled in 1977 for arthritis-related research and that thereafter funding be increased annually by about 20 percent through 1980. However, those levels of funding for arthritis, musculoskeletal, and skin disease research within the National Institute of Arthritis, Diabetes, Digestive, and Kidney Diseases (NIADDK) have never been realized. The result has been that, during the period 1977 through 1981, substantially less than half of the arthritis-related research grant applications that were approved for funding have been able to be funded by the NIADDK. Worse yet, under the administration's proposed fiscal year 1983 budget for NIADDK, only 20 percent of the approved research projects could be funded.

Part of the reason that arthritis, musculoskeletal, and skin disease research has not received the focus and priority it warrants is that it is lumped within the current institute, NIADDK, with an incongruous mixture of disease categories. Congressional intent to focus research on arthritis-related diseases under the original National Institute of Arthritis and Metabolic Diseases has been diluted over time by the combination of so many disparate research programs under NIADDK, that Institute now includes in its mission—in addition to musculoskeletal and skin diseases—diabetes, kidney diseases, digestive diseases, nutrition, endocrinology, urology, and hematology.

Within the current Institute, arthritis lacks the focus, direction, and visibility that are essential to a comprehensive and integrated research program addressing one of our country's major health problems. The existing structure has led to funding disparities within NIADDK. In the last 12 years, funding for arthritis research has grown from 7.8 percent of the total NIADDK budget in 1970 to 16.9 percent in 1982. By comparison, in 1970 diabetes funding amounted to 5.5 percent of that Institute's budget, and by 1982 funding for diabetes research had grown to 35.3 percent of the NIADDK's total budget.

Although arthritis, musculoskeletal, and skin diseases afflict more than 14 percent of the total U.S. population, in 1982 just 1.7 percent of the entire NIH research budget was devoted to arthritis-related research. The Federal Government, through NIH, annually spends only $1.50 per person afflicted with arthritis in this country. Several hundred times that amount is spent per patient on cancer research each year.

The funding recommendations originally proposed under the national arthritis plan reflect the human and economic costs of arthritis and related diseases. To reduce those costs, we need to move far closer to the levels of support and national commitment called for in the arthritis plan.

Given the administration's shrinking budget for our overall Federal research effort, I believe we must develop policies for using limited financial resources more effectively and effi-

ciently so that we can gain the maximum benefits. By establishing a separate institute for arthritis, musculoskeletal, and skin diseases, we would provide arthritis-related disease issues with the greater visibility they should have at the national level and hence enable researchers in these areas to compete more successfully for increasingly scarce resources. A separate institute would have clear-cut advantages leading eventually to channeling additional, well-targeted funds into arthritis-related research as well as promoting better coordination for such research. These have been the results of the establishment of other institutes specializing in a one-family or other logical grouping of disorders such as the National Eye Institute and the National Institute of Aging.

Most important, the creation of a separate institue for arthritis-related research would attract new, high quality scientists and lead to an accelerated research effort into the causes, prevention, and treatment of arthritis. Thus, this amendment would facilitate the implementation of high-priority programs as authorized by the National Arthritis Act of 1974 and the national arthritis plan.

ORGANIZATION OF THE NATIONAL INSTITUTE OF ARTHRITIS MUSCULOSKELETAL, AND SKIN DISEASES

The statutory authority in S. 1939 as it would be amended for the establishment of the new National Institute of Arthritis, Musculoskeletal, and Skin Diseases would be patterned after that of other NIH research institutes. Thus, the new Institute would be directed to undertake research and demonstrations related to the causes, prevention, and treatment of arthritis and musculoskeletal diseases; to promote coordination of research programs in the public and private sector; to make grants for research; to establish an information clearinghouse; and to conduct research training. This is the same mandate that the current NIADDK has with respect to arthritis and musculoskeletal diseases. In addition, in very fitting recognition of the tremendous number of traumatic musculoskeletal injuries that Americans receive in sports and other recreational activities, the new Institute would include in its focus research on sports-related disorders.

The National Institute of Arthritis, Musculoskeletal, and Skin Diseases would receive its funding under the existing authority of section 301 of the Public Health Service Act, as is the case for other NIH institutes. Because the present organizational division pertaining to arthritis and musculoskeletal diseases within NIADDK is already autonomous in many of its functions, the benefits to be gained from the greater visibility for such research would more than compensate for any increase in administrative costs—which is likely to be very minor.

STUDY OF CURRENT NIH ORGANIZATION

Mr. President, I would like to note that I also support the provision in this amendment derived from a provision in H.R. 6457 requiring that a study be conducted of the effectiveness of the existing combinations of disease research programs within the individual institutes of NIH and of what standards should be followed in the future in establishing additional new institutes or realining existing institutes. I do not believe that the current structure of NIH provides adequate assurance of achieving the goal of making research funding allocations based on the level of economic, social, human, and scientific advances that reasonably can be expected to result from such funding. Through a more efficient and effective management structure involving a systematic grouping of related functions, such as this amendment would provide for arthritis, achievement of this important goal will be moved closer to reality.

CONCLUSION

Mr. President, we cannot ignore the need to find ways to improve the quality of life for those unfortunate individuals whom arthritis strikes so unfairly. An accelerated research effort in arthritis has great potential to bring us much closer to providing these millions of arthritis sufferers with relief from their pain and the potential for full participation in everyday activities without the constant frustration of restricted movement and crippling pain.

Thus, I urge my colleagues to support this important legislation.

Mr. SYMMS. Mr. President, I offer my strong support for S. 1939, a bill introduced by Senators GOLDWATER and CRANSTON, and which now has 53 cosponsors. This bill would establish a separate Institute for Arthritis and Musculoskeletal Diseases at the NIH.

The House of Representatives, on September 30 of this year, approved H.R. 6457, the Health Research Extension Act, which authorizes a separate Institute for Arthritis and Musculoskeletal Diseases.

The Labor and Human Resources Committee held a hearing on S. 1939 in July of this year, and testimony was received in support of the separate institute to reaffirm arthritis research as a national priority.

The 1974 National Arthritis Act recognized that the focus on arthritis should be sharpened. In 1976 the "Arthritis Plan" was submitted to the Congress after the National Commission on Arthritis and Musculoskeletal Diseases conducted nationwide hearings and investigations. This national commission recommended the establishment of a separate institute directed specifically toward the problems of arthritis and allied rheumatic diseases.

Unfortunately, the original intent of Congress and the focus on arthritis has been lost through the shifting of health priorities. I believe it is time we took a new look at the direction and focus on arthritis and musculoskeletal diseases, and made it a national priority. The establishment of a separate institute to address the problems of these crippling diseases would provide an environment to attract researchers to the field. By demonstrating the concern of the Federal Government, we would provide the incentive and encouragement to the private sector for financial support of research to complement the publicly funded research.

Arthritis is the major cause of disability in America, with over 7 million people severely disabled. The economic impact to our Nation is estimated to approach $30 billion a year—represented by medical care and treatment costs, disability payments, half of all workers compensation claims, lost earnings, and diminished tax revenues. This does not include the estimated $1 billion a year spent by the victims seeking relief through purchases of unproven or ineffective remedies, gimmicks or useless treatment.

The population at risk includes everyone, from infants to juveniles, to young adults, to our most elderly. And, unfortunately, the percent afflicted is growing, at the rate of 1 million each year, from 10 percent in 1969 to 16 percent today.

As we look at the number of sufferers, the growing incidence, and the economic impact on the families as well as the Government, we realize the significance of these devastating diseases and their effects—a diminished quality of life over entire lifetimes.

What is being done to help? Significant advances are being made in the treatment of arthritis. Surgery, pain-relieving drugs and physical therapy are helping to restore functioning to the disabled. Research is continuing, with important advances in identifying the causes of some of the more than 100 forms of arthritic conditions. Significant discoveries from grant-supported research are increasing our level of scientific knowledge about arthritis and related diseases. With accelerated effort, perseverance and determination, I believe the scientific community could make major advances in the prevention, treatment, and cure of this most widespread of chronic diseases afflicting Americans.

In my view and that of others, arthritis and musculoskeletal disease research has not received the focus and priority warranted. Part of the reason is that arthritis research has been lumped together in the current National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK). The 1982 revised operating plan for this Institute, totaling

$353 million in program funds allocates only 19 percent for arthritis, musculoskeletal and skin diseases research, while 46 percent is allocated for diabetes research.

We need the visibility, the focus, and the strength which a separate institute would provide to arthritis and musculoskeletal diseases. In removing this cluster from the NIADDK umbrella, this would at the same time give sharper focus to the remaining clusters: diabetes, digestive diseases, and kidney diseases.

Reestablishing a separate institute will not only restore the original intent of Congress, but will insure that adequate attention is focused on a disease that afflicts so large a segment of the population. Even with current budget restraints, the added focus on arthritis research will, at minimum, attract more established and experienced research scientists.

Our struggle with the economic problems of the country is painful right now, as we work to make the most of our limited tax dollars, but the high cost of human suffering caused by arthritis makes it imperative to devote more attention and rehabilitation of those afflicted by the Nation's No. 1 crippler.

I urge my colleagues to join me in placing a renewed emphasis on arthritis by approving establishment of this separate institute.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1585) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The billing having been read the third time, the question is, Shall it pass?

So the bill (S. 1939) was passed.

Mr. BAKER. Mr. President, earlier we considered and passed S. 1939, I believe. I ask unanimous consent that the title be amended appropriately.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The title was amended so as to read: "A bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal and Skin Diseases."

TO PROVIDE FOR THE DISTRIBUTION OF WARM SPRINGS JUDGMENT FUNDS AWARDED IN DOCKET NUMBERED 198 BEFORE THE INDIAN CLAIMS COMMISSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of H.R. 6243, and I ask for the immediate consideration of that measure.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6243) to provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes

The Senate proceeded to consider the bill.

Mr. COHEN. Mr. President, H.R. 6243 is a bill to provide for the distribution of judgment funds awarded by the Indian Claims Commission in docket number 198 to members and descendants of one of the tribes occupying the Warm Springs reservation in the State of Oregon. At one time the distribution of this judgment was in dispute among the members of this tribe. However, in hearings before the House Interior and Insular Affairs Committee in this term of Congress there were no witnesses opposed to this bill and it appears that to the extent possible all differences have been resolved. A companion bill to H.R. 6243 was introduced by request by Senator HATFIELD (S. 2153). H.R. 6243 will resolve a long standing controversy at the Warm Springs reservation by providing for a final distribution of these funds.

The amendment I have sent to the desk adds title II for distribution of judgment funds awarded the Muscogee (Creek) Nation of Oklahoma by the Indian Claims Commission in dockets numbered 21 and 276 a number of years ago. I offer this amendment at the request of Senator NICKLES of Oklahoma. Mr. President, funds in satisfaction of the judgments entered in these dockets were appropriated by the Congress a number of years ago. The majority of the funds have already been distributed. However, a small portion of the funds were retained by the United States pending resolution of appeals of persons claiming to be entitled to share in the distribution. Over the years these funds have accumulated substantial interest and the funds now total approximately $800,000. This amendment will provide for final distribution of these funds.

This amendment also adds a new title III which is included on behalf of Senator DURENBERGER of Minnesota. This amendment adds additional provisions to H.R. 6243 to provide for the use and distribution of funds awarded the Red Lake Band of Chippewa Indians by the U.S. Court of Claims in docket No. 15-72. The funds which are the subject of this amendment total approximately $600,000. The provisions of this amendment track S. 2994 which was introduced in the Senate on September 30, 1982, by Senator DURENBERGER for himself and Senator BOSCHWITZ.

Finally this amendment adds a new title IV to provide for the use and distribution of judgment funds awarded the Cowlitz Tribe in the State of Washington. This title is added to implement a bill introduced by Senator GORTON for himself and Senator JACKSON. The Cowlitz Tribe is not presently recognized but is seeking recognition through an administrative process established within the Department of the Interior. This title will provide that 80 percent of the judgment funds awarded this tribe shall be distributed per capita to persons of one-sixteenth Cowlitz blood except those who have participated in or are eligible to participate in judgments recovered against the United States by another tribe. An exception to this limitation is made for members of the Yakima Tribe. One reason for this is because the members of that tribe who are of Cowlitz descent have supported the current Cowlitz tribe in its efforts to obtain this legislation in prior years. A second feature of this legislation is that it provides for 20 percent of the funds to be paid directly to the Cowlitz Tribe for their own use for tribal purposes and the acquisition of land in fee status. This will not extend Federal recognition to the Cowlitz Tribe and none of the funds which are the subject of this title will remain in any trust status. While this tribe does not yet have a federally recognized status there does not appear to be any reason why these funds cannot be paid out to the tribe for its own purposes to be governed under its own rules

Mr. President, in each of these cases the funds have previously been appropriated and are in fact funds belonging to the tribes or distributees. There is no cost to the United States in this legislation. I urge that the Senate adopt H.R. 6243 with this amendment.

Mr. NICKLES. Mr. President, the amendment offered by Senator COHEN at my request is the final step in satisfying a longstanding debt of the United States to the Creek Nation of Oklahoma.

Public Law 90-576 and Public Law 90-504, of September 21, 1968, provided for the disposition of judgment funds awarded to the Creek Nation of Indians in dockets 21 and 276. Per capita payments were made and a balance was held pending appeals for 6 years.

This legislation provides for the disposition of this balance to the Creek Nation of Oklahoma for tribal programs.

The Creek Nation of Oklahoma was the first Indian tribe to take over the administration of an Indian Health Service hospital which took place in the mid 1970's. On December 5 of this year, the tribe initiated the contracting of the services that have been provided by the agency office of the Bureau of Indian Affairs. I commend the diligence demonstrated by the tribal leadership in these giant strides toward self-determination.

These remaining funds will be used by the tribe to purchase farmland to enhance their cattle operation consisting of 250 head of dairy cattle and 150 head of beef cattle.

I am pleased to have the opportunity of sponsoring this legislation and urge my colleagues to accept my amendment.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

FOR THE RELIEF OF CYNTHIA GAMBON RABENA

Mr. BAKER. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of H.R. 2481, a bill for the relief of Cynthia Gambon Rabena.

The PRESIDING OFFICER. Is there objection?

Mr. MATSUNAGA. Mr. President, I join in the request.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2481) for the relief of Cynthia Gambon Rabena.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

FOR THE RELIEF OF DANA BRAFORD BARETTO

Mr. BAKER. Mr. President, I ask that the Committee on the Judiciary be discharged from further consideration of H.R. 5633.

Mr. President, I ask next that the Chair lay before the Senate H.R. 5633, a bill for the relief of Dana Braford Baretto.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5633) for the relief of Dana Braford Baretto.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

FOR THE RELIEF OF KIN CHI ENG SIMS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 4746 and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4746) for the relief of Kin Chi Eng Sims.

The Senate proceeded to consider the bill.

Mrs. HAWKINS. Mr. President, I rise to support this bill, H.R. 4746, a private immigration bill to permit Kin Chi Eng Sims to become a permanent resident of the United States. Kin Sims is the adopted son of citizens of the United States. His adopted parents are constituents of mine from Florida. He was 20 years old when he was adopted by Gerald and Patricia Sims, and as a result of his age there is no provision under the Immigration and Nationality Act to accord him a preference status to permit him to become a permanent resident of the United States.

I believe that there is unquestionably a longstanding parent-child relationship between Kin and his adoption parents. Kin was born in Hong Kong in 1957 and came to the United States on a student visa and lived with his aunt and uncle, also Florida residents, until 1975, at which time, due to marital problems Kin left his aunt and uncle's home and began to live with the Sims.

Kin was adopted by the Sims in 1976. He had become acquainted with the Sims family while living with his aunt and uncle, and during that time the entire Sims family grew quite fond of Kim.

Mr. President, I ask unanimous consent that a "home study" of the Sims family conducted by the Catholic Service Bureau be included in the RECORD at the end of my statement.

Mr. President, I concur with the House in finding this request for an exemption to the Immigration and Nationality Act meritorious, and ask my colleagues to support the passage of this bill.

The material follows:

HOME STUDY OF THE SIMS FAMILY BY THE CATHOLIC SERVICE BUREAU

At the request of Congressman Dan Mica our agency has completed a home study of the Gerald Sims Family.

Present situation: House Bill 4746 was introduced by Congressman Mica for the relief of Kin Chi Eng Sims. The present situation is that Kin, age 25, is the legally adopted son of Gerald and Patricia Sims. The adoption took place in Florida's Fifteenth Judicial Circuit on October 4, 1976. Kin had entered this country with a student status in 1967, and the Sims assumed that the adoption automatically changed Kin's immigration status. Their attorney never advised them that any other action was necessary. It wasn't until sometime later that the Immigration Office informed the Sims family that Kin would have to return to his country of origin, Hong Kong, upon completion of his education. Since that notification the Sims have made innumerable efforts to have Kin's status changed. They worked with former Congressman Paul Rogers, they were ill advised by the British Embassy to return to Kin's country of origin, Hong Kong, to pursue the change of status. Kin and Mr. Sims made this trip in August 1978. This trip interrupted a seven year continuous stay in the United States which would have been another way to change Kin's status.

The passing of H.R. 4746 will effect Kin's change of status and he will not have to return to Hong Kong.

Kin Chi: Kin Chi, age 25, was born in Hong Kong on October 21, 1956. He and his brother, Chow, now 30 years old, entered the United States with a student status in 1967. They both lived with their uncle, Gam Eng, the owner of a local oriental restaurant. While living with his uncle, Kin met Mr. and Mrs. Sims. Mr. Sims knew members of the Eng family as they worked for him at Kenny Davis Electric. Kin and Mr. Sims began their relationship in 1971–72 by playing chess together and also a common interest in fishing. As the relationship continued, Kin began spending the weekends over at the Sims home and finally moved in permanently in late 1974 or early 1975. Because of the close relationship that developed, Mr. and Mrs. Sims legally adopted Kin in 1976.

Kin has attended public school since living with the Sims. He attended Grove Park Elementary, Howell Watkins Junior High, Sun Coast High School, Palm Beach Junior College and Florida Atlantic College. Kin was graduated from Florida Atlantic in June 1981. Although Kin originally majored in pre-veterinary studies, he switched his major to elementary education. Kin has been a good student throughout his schooling and made the Dean's list on several occasions.

Kin's activities and interests over the years appear to be those of a normal young man. In high School Kin was a member of the Chess Club and the Key Club. He was on the school wrestling team and on a blowling team as well. In Junior College, Kin was a member of the science club. And at Florida Atlantic, Kin was elected to the student senate. Today Kin continues to enjoy the sports of tennis and bowling. He jogs on a regular basis. Kin also appears to have some artistic talent as he has decorated his bedroom with some of his work.

Kin is not employed because his immigration status does not permit work.

Kin socializes with several friends in the neighborhood, Chip Burch and Donnie

Moore. Kin dates regularly, but has no "special" girl at present.

Kin is 5'5½ inches tall and weighs 124 pounds. He has black hair and dark brown eyes. He is a nice looking young man who is quite personable. He is bright and well mannered and possesses a delightful wit. He appears to enjoy a positive relationship with his parents.

Kin sees members of his biological family on occasions. His cousins and Uncle Gam continue to live in the West Palm Beach area. His brother, Chow Eng, lives in Bradenton, Florida. Chow is a divorced man and has one child. He is employed as a chef and waiter at the China Plaza in Bradenton. They see each other maybe once a year. Kin's biological parents live in Hong Kong as does his younger brother, Kin Wag Eng. who is 23 years old. His brother Kin Wag is a surveyor for the government. His parents Kam Yuen Eng, age about 50, and Lau Chi Kam, about 48, both work in machine shops. Kin and his biological parents write to each other perhaps once or twice a year. He visited with his biological parents when he visited Hong Kong in 1978.

Mr. and Mrs. Sims Patricia and Gerald Sims, ages 48 and 51 respectively have been married for 32 years. The Sims have two daughters by birth—Gerri Lynne Butler, age 31 and Patricia Stanley Bolten, age 29. And one son, Kin, age 25, by adoption. Temporarily Patty Bolten and her two children, Brandi and Barry are staying with the Sims, as Mrs. Bolten's husband, Chester, is in the process of being reassigned. Gerri Butler and her two children Kelly, age 10, and Tracey, age 7, live in Palm Beach Gardens. She and her husband, Henry are separated. Mrs. Butler works for her father and Mrs. Bolten works for J. C. Penny.

When Mr. and Mrs. Sims were married, Mr. Sims was in the Army. He had joined at age 16 and completed his high school education in the Army. Mr. and Mrs. Sims spent 21 years in the service and retired in 1967. Mr. Sims was a member of the Green Baret—special forces. During Mr. Sims Army career, he served in Korea twice, from 11/46 to 1/48 and from 8/50 to 12/51. He served in Germany from 1952-1956 and from 1958-1961. Mr. Sims was in Viet Nam twice from 5/63 to 12/63 and from 11/64 to 10/65. Mr. Sims' family accompanied him to Germany from 1953 to 1956. Otherwise his family lived around this country at various bases where Mr. Sims had been assigned. They have lived in Fort Campbell, Kentucky (1949), Washington (1952), Carson in Colorado (1956), Fort Sill, Oklahoma (1961-62) and Fort Bragg, North Carolina (1962).

The family, after retirement, relocated in Junction City, Kansas where they remained until 1971 when they came to West Palm Beach. Mr. Sims was learning to be an electrician while living in Kansas.

Mr. Sims worked for Kenny Davis Electrical Contractors, Inc. until 1973 when he began his own business, Jerry's Electrical Contracting, Inc. His work consists primarily of new construction and he presently employs 12 people, although he has had as many as 22 employees.

Mrs. Sims has worked sporadically over the years. She is presently not employed but has worked as a clerk, waitress, telephone operator, factory worker and secretary.

Neither Mr. nor Mrs. Sims are participating members of a church. Mr. Sims is of the Baptist faith and Mrs. Sims is of the Catholic faith.

Mr. and Mrs. Sims are generally busy with work or family. For recreation, Mr. and Mrs. Sims attend monthly meetings of the Special Forces Association and functions of Viet Nam Veterans of America. Mr. Sims is active with other organizations in the community related to his trade. He is current president of Gulfstream Electrical Contractors Association. He is secretary-treasurer of the Internal Association of Electrical Inspectors.

Both Mr. and Mrs. Sims enjoy bowling and Mrs. Sims enjoys ceramics.

Background and Family Relations of Mrs. Sims: Mrs. Sims, age 48, is 5'½ inches tall and weighs 145 pounds. She has red hair, brown eyes and a fair complexion. Mrs. Sims' maiden name was Richetts and she was born in Uniontown, Kentucky. She moved to Morganfield, Kentucky at the age of 12 when her parents were divorced. Mrs. Sims' mother is now Rose Mathias, have remarried twenty-three years ago. She lives across the street from the Sims. Her sister, Delver Ann Segars, age 55, lives in West Palm also. Her father, Delver Richetts, lives in Junction City, Kansas.

Background and Family Relation of Mr. Sims: Mr. Sims, age 51, is 5'10½ inches tall and weighs 170 pounds. He has red hair, blue eyes and fair complexion. Mr. Sims completed high school while in the service and is now a master electrician with his own business.

Mr. Sims was born in Youngstown, Ohio and remained there until he joined the service.

Mr. Sims has two brothers and five sisters. His father died in 1961 and his mother, age 60, is living. His siblings who continue to live in Youngstown, Ohio are Maxine O'Neil, Ida Budrivick, Joann Kennedy, and Thomas Sims, Jr. Betty Tyndall, his sister lives in Los Angeles. Ruth Anderson lives in Idaho and his brother James lives in Lake Worth.

Health: Mr. and Mrs. Sims have had general physicals and are in very good health. Kin has always enjoyed excellent health.

Their home: Mr. and Mrs. Sims purchased their home in 1972. It has three bedrooms and one bath. Their home is well cared for, nicely furnished and comfortable to visit.

Finances: I have attached a copy of a financial information form that the Sims family completed for our agency.

Personal references: The three personal references given by the Sims have known the family between 5-10 years. They all speak in positive terms about the family. Kin is thought to be a bright and studious young man who is even-tempered and considerate. The family is thought to be responsible and caring.

Agency impressions: The Sims impress me as individually well adjusted people who enjoy a wholesome family life. They are cordial and intelligent and have a good sense of humor. They are successful and responsible.

Kin, too, is bright and likeable. He is well mannered and witty. He has never been in any difficulties with school or police and in fact, has developed and achieved in a very positive way.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

TO EXEMPT THE U.S. CAPITOL HISTORICAL SOCIETY FROM CERTAIN TAXES

Mr. BAKER. Mr. President, I ask that the Committee on Governmental Affairs be discharged from further consideration of H.R. 4491, Capitol Historical Society, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4491) to exempt the United States Capitol Historical Society from certain taxes.

The Senate proceeded to consider the bill.

Mr. MATHIAS. Mr. President, the U.S. Capitol Historical Society provides an invaluable service to the Congress and the people of the United States. Since its creation in 1962, the society has made the visit of thousands of tourists a more memorable and rewarding experience. Through educational publications, films, and symposiums the society has traced the history and importance of the U.S. Capitol, the Congress, and the many events which mark critical points in the 200 year history and origins of our Government. The society has been diligent in carrying out the objects and purposes set forth in its Federal Charter, namely:

(a) to encourage in the most comprehensive and enlightened manner an understanding by the American people of the founding, growth, and significance of the Capitol of the United States of America as the tangible symbol of their representative form of government;

(b) to undertake research into the history of the Congress and the Capitol and to promote the discussion, publication, and dissemination of the results of such studies;

(c) to foster and increase an informed patriotism of the land in the study of this living memorial to the founders of this Nation and the continuing thread of principles as exemplified by their successors; and

(d) to mutually cooperate with the standing committees of the Congress, the Library of Congress, the Architect of the Capitol, and relevant departments and agencies of the executive branch of the Federal Government in furthering the objectives of the corporation.

Its publication, "We The People," now in its 12th edition, is printed in French, 30,000 copies; Spanish, 30,000 copies; German, 60,000 copies; and Japanese 70,000 copies, for foreign visitors to the Capitol.

The board of trustees of the society includes the President of the United States, former Presidents, the Chief Justice of the Supreme Court, distinguished Members of Congress, and presidents of distinguished professional history associations.

Mr. President, I ask unanimous consent that the complete listing of the society's board of trustees appear at this point in the RECORD.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

HONORARY BOARD OF TRUSTEES

Gerald R. Ford, *Chairman:* President Ronald Reagan, Vice President George Bush, Chief Justice Warren E. Burger, Speaker Thomas P. O'Neill, Jr., Jimmy Carter, Walter F. Mondale, Richard M. Nixon, Sen. Howard H. Baker, Jr., Sen. Robert C. Byrd, Sen. Howard W. Cannon, Sen. Claiborne Pell, Rep. Lindy Boggs, Rep. James T. Broyhill, Rep. Augustus F. Hawkins, Rep. Robert H. Michel, Rep. John J. Rhodes, Rep. Charles Rose, Rep. James C. Wright, Jr., Daniel J. Boorstin, Marshall B. Coyne, Arthur S. Flemming, Mrs. Lyndon B. Johnson, Mary Regula, S. Dillon Ripley, Robert M. Warner, George M. White; and Presidents of the American Association for State and Local History, American Historical Association, American Political Science Association, Columbia Historical Society, National Trust for Historic Preservation, Society of American Historians, and Society of Architectural Historians; Chairman of the Committee on Historic Resources, American Institute of Architects; and Director of the National Park Service.

ACTIVE BOARD OF TRUSTEES

Lonnelle Aikman, Ralph E. Becker, Herbert Blunck, John Brademas, Robert L. Breeden, Sen. Robert C. Byrd, Mrs. Edward Clark, Hyman J. Cohen, Rep. Barber B. Conable, Jr., Robert E. Doyle, Leslie W. Dunlap, Rep. Bill Frenzel, Mrs. Saunders Gregg, Arthur B. Hanson, Bryce N. Harlow, Sen. Mark O. Hatfield, Brooks Hays, Alvin M. Josephy, Jr., Walter H. Judd, Sen. Charles McC. Mathias, Jr., Gene McGreevy, Robert Morgan, Ralph G. Newman, Rep. J. J. Pickle, Harold T. Pinkett, Forrest C. Pogue, Mrs. Richard Denny Shelby, Clement M. Silvestro, Charles J. Simpson, Mrs. Wakelee Rawson Smith, Robert G. Stephens, Jr., Florian H. Thayn, Rep. Guy Vander Jagt, Frank van der Linden, George M. White, and Ralph W. Yarborough.

Mr. MATHIAS. Among the more significant projects which the Capitol Historical Society has undertaken are:

Publication of "Magna Carta and the Tradition of Liberty," a book which describes the history of Magna Carta and its influence on the shaping of the American form of government.

Publication of a scholarly journal of history, politics, art, and architecture focusing on the Capitol and the Congress.

Oral histories by past and present Members of Congress recording their perspectives on the institution. This collection is stored at the Library of Congress for the benefit of scholars and students of history and political science.

Production of an award-winning film for the Bicentennial titled "City Out of Wilderness" which was presented hourly in the National Visitors Center. The film traced the history of the development of the Nation's Capital.

Funding contributions to the Maryland Historical Society for the editing and publication of the papers of Benjamin Henry Latrobe, who was charged with restoration of the Capitol Building after it was burned by the British in 1814.

Funding contributions to the American Institute of Architects Foundation editing and publication of the papers of William Thornton, original designer of the Capitol and Architect of the Capitol until 1802.

Funding contributions toward the painting of murals, ceilings, and other artwork in the Halls of the House side of the Capitol. Under the master guidance of the late Allyn Cox, two halls of magnificent murals have been completed: Capitol Hall, depicting the most important events in the history of the Congress; and Great Experiment Hall, portraying events in the growth of the republic.

Conducting annual symposiums at which scholars present papers on the American Revolution and Confederation era. Registration for these conferences ranges from 150–350. Symposia topics have included:

"Diplomacy and Revolution: The Franco-American Alliance of 1778,"

"Sovereign States in An Age of Uncertainty."

"Slavery in the Age of the American Revolution,"

"Arms and Independence: The Military Character of the American Revolution,"

"An Uncivil War: The Southern Backcountry During the American Revolution,"

"Peace and the Peacemakers: The Treaty of 1783."

A secondary school program which brings together high school students, teachers, and historians in seminars geared to making the legislative process and the history of the Congress and Capitol come alive.

I would note, Mr. President, that all of the items proposed for sale or distribution by the society are reviewed and approved by the Architect of the Capitol after consultation with the Committee on House Administration and the Senate Committee on Rules and Administration pursuant to the National Visitor Center Facilities Act of 1968, Public Law 90-264.

Title III of that act reads in pertinent part:

TITLE III—CAPITOL VISITOR CENTER

SEC. 301. Notwithstanding any other provision of law, the Architect of the Capitol, in consultation with the House Office Building Commission and the Senate Office Building Commission, is hereby authorized and directed to provide adequate space and facilities in the Capitol Building for an educational and informational center and information and distribution stations to afford visitors to the Capitol Building an opportunity to acquire (1) information relative to Congressional offices, (2) assistance relative to their visit to the Capitol, (3) pamphlets, books, drawings, slides and photographs, and related materials, and (4) information about the Capital and the history of the Capitol Building and past and present Congresses. All materials distributed by such educational and informational center and such stations shall first be approved by the Architect of the Capitol, after comsultation with the House Committee on House Administration, the Senate Committee on Rules and Administration, the United States Capitol Historical Society, and such other educational and historical groups as the Architect of the Capitol deems appropriate. The Architect of the Capitol is hereby authorized to enter into such agreements as may be reasonably necessary to operate such educational and informational center and stations.

Approved March 12, 1968.

Mr. President, such an agreement between the Architect of the Capitol and the society has been entered into annually since 1968.

The society has over the last several years become, with each succeeding year, a more integral part of the U.S. Congress in the Congress desire and responsibility to serve as the custodian and guardian of the U.S. Capitol and the various artifacts of national and historic significance contained in this Capitol Building.

Mr. President, I recite this background in order to emphasize that this legislation providing for the society's exemption from District of Columbia taxes is appropriate and in keeping with the intent of the Congress as to the role which the society plays. In providing this exemption for the society it is in no way the committee's intent to establish a precedent regarding the tax status of the other federally chartered organizations or institutions operating in the District of Columbia.

I am acutely aware of the potential negative impact that this widespread tax exemption could have upon the District of Columbia. It is, however, very clear to me that the U.S. Historical Society plays a unique role which is by and large performed within the U.S. Capitol's Buildings and Grounds.

I note that the Justice Department's Acting Assistant Attorney General for Tax Matters, in a March 3, 1981, letter to the Architect of the Capitol, concerning the attempt by the District of Columbia government to assess sales taxes against the society noted:

. . . the action of the District appears on the face of it an impermissable attempt to exert taxing authority within a federal enclave. Moreover, the defense of laches also must be considered, taking into account the fact that the proposed assessment runs back to 1967.

During its lifetime the society has, without the appropriation of funds from the U.S. taxpayers, performed an invaluable service for the Nation. It is undoubtedly the case that the work of the society would be both desirable and necessary even if the society did not exist, for we in the Congress clearly have a responsibility to foster a better understanding among citizens of the history of the Congress and the Capitol. I believe it is fair to say that

if there were no U.S. Historical Society it would, in all probability, have to be invented.

Mr. EAGLETON. Mr. President, the motion to discharge H.R. 4491 from the Governmental Affairs Committee when there has been no official committee review of the bill is a procedure to which I would normally object. I have not found that H.R. 4491—which exempts the U.S. Capitol Historical Society from the payment of District of Columbia sales tax, retroactive to 1964—is without controversy.

First, the issue is now on appeal before the U.S. Court of Appeals for the District of Columbia, and a strong argument can be made that Congress should not act before conclusion of the litigation. I have stated before my belief that the judicial system suffers when litigants believe that they can appeal to Congress rather than complete action in the normal judicial channels.

Second, the District of Columbia, which is seeking approximately $740,000 in back sales tax from the Society, has never testified on the matter before Congress. The House action took place in the House Committee on the Judiciary, not in the House Committee on the District of Columbia, and the city's view was not aired.

Third, the basic reason for exempting the U.S. Capitol Historical Society from District sales tax hinges on the fact that the group carries a Federal charter, operates within the confines of the U.S. Capitol, uses its resources to record and interpret the history of the U.S. Capitol, and has honorary and active boards of trustees whose interests and affiliations are overridingly Federal. These key Federal components have led both the House of Representatives and Judge Charles Richey of the U.S. District Court for the District of Columbia—in a decision rendered in September 1982—to conclude that the Historical Society is a Federal instrumentality which should not be liable for local taxes. After a review of the Society's functions, I find I agree that an overriding case can be made for the uniqueness of the Society and its designation as a Federal instrumentality.

However, I am concerned, Mr. President, that other groups—groups which also carry a Federal charter, and which also deal in Federal areas, and which also have boards of trustees with dominantly Federal backgrounds and interests—will also attempt, if it would help them financially, to obtain congressional exemption from District or other local taxes. They will come to us and cite the U.S. Capitol Historical Society exemption as precedent.

Senator MATHIAS, chairman of the Subcommittee on Governmental Efficiency and the District of Columbia, has acknowledged this concern in his statement and stated "it is in no way the committee's intent to establish a precedent regarding the tax status of the other federally-chartered organizations or institutions operating in the District of Columbia."

Mr. President, I certainly agree with Chairman MATHIAS and wish to emphasize that the possibility of other groups seeking such a congressional favor is not an idle threat. According to a Library of Congress study, there are more than 350 organizations, beginning in 1791, which have been chartered by the Federal Government. The list of these organizations, the history of Federal charters, and the official congressional position regarding Federal charters is available through Library of Congress publication HD2755, which I urge my colleagues to read.

It has been the congressional position since 1969 that Federal charters should be granted only when an organization meets standards demonstrating unique Federal ties. Nonetheless, scores of bills are introduced each Congress by groups seeking the prestige of such charters. I hope that none of these applicants take passage of H.R. 4491 as evidence that now there might be advantages to a Federal charter other than prestige, that is, the potential of District of Columbia or other local tax exemption.

Finally, let me comment on the loss to the District of Columbia of exclusion of such groups as the U.S. Capitol Historical Society from the city's tax base. Congressman WALTER FAUNTROY, who opposed H.R. 4491, estimates that the District loses nearly three-quarters of a billion dollars annually because of congressionally mandated tax exemptions. When Congress passes such exmptions, it must be fully aware that it has a responsibility to make up the losses suffered by the District through increases in the city's Federal payment—the lump sum paid to the city annually in lieu of the Federal Government paying property taxes, in lieu of Federal payment for city services, such as police and fire protection, and yes, in lieu of taxes from organizations exempted from the District of Columbia tax rolls by congressional action.

Mr. President, the concerns raised by H.R. 4491 are serious. However, a number of letters I have gathered from sponsors of the measure, plus a reading of Judge Richey's court decision and the House committee report, have convinced me that the U.S. Capitol Historical Society is unique. Therefore, I will not oppose the motion to discharge. So that others can also understand why this particular organization receives such special treatment, however, I ask unanimous consent to include some background information in the RECORD following my remarks.

Mr. President, I ask that the letters I have received on this issue, Judge Richey's court decision, the House Judiciary Committee report on H.R. 4491, and some background information on the Society itself be printed following this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE
DISTRICT OF COLUMBIA,
Washington, D.C., December 16, 1982

Hon. THOMAS F. EAGLETON,
Subcommittee on Governmental Efficiency and the District of Columbia, Dirksen Senate Office Building, Washington D.C.

DEAR TOM: Please know that I strongly oppose H.R. 4491, a bill to exempt the Capitol Historical Society, United States, from certain District of Columbia taxes. When the bill was before the House Judiciary Committee, I wrote the Chairman of that Committee and others stating my opposition, but did not seek sequential referral to the D.C. Committee because:

(1) The matter was then before the Courts (and is now on appeal); and

(2) It was argued that this was a one-time unique situation.

When the matter reached the Floor of the House it was clear that further opposition would not be fruitful.

If this bill should become law, I hope that it will not be viewed as a precedent for exemptions for others.

Sincerely,

RONALD V. DELLUMS,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES
Washington, D.C., December 17, 1982

Hon. THOMAS F. EAGLETON,
Senator, U.S. Senate, Washington, D.C.

DEAR TOM: The issue of the Capitol Historical Society is clearly outlined in my attached statement.

I shall deeply appreciate your assistance in presenting the circumstances surrounding this matter on the Senate side of the Congress.

Sincerely,

WALTER E. FAUNTROY,
Member of Congress.

Attachment.

STATEMENT OF CONGRESSMAN WALTER E. FAUNTROY BEFORE THE U.S. HOUSE OF REPRESENTATIVES IN OPPOSITION TO H.R. 4491

Mr. Speaker—I rise in vigorous opposition to this proposed legislation. My opposition is twofold.

First, this bill, if enacted, well further erode the tax base of the Distict of Columbia. Secondly, it is in the nature of "special legislation" since it will singularly benefit a multi-million dollar private corporation doing business in the District.

H.R. 4491 is aimed at exempting the Capitol Historical Society from the payment of District of Columbia sales tax. The Society is a private corporation which was chartered in 1962.

This measure is before us today because its proponents have asserted that it is noncontroversial and have sought to quickly move it through this body.

The fact is that at issue is the threatened loss of some $800,000 in revenue which is currently owed to the District, and an incalculable amount of future revenue which will be lost. The fact is that the only witnesses called by the House Judiciary's Subcommit-

tee on Administrative Law and Governmental Relations have a direct or pecuniary interest in passage of this bill. Representatives of the District Government were not invited to testify. The Delegate from the District of Columbia was not even informed about this bill.

As a result of Congressionally mandated tax exemptions over the years, the District loses nearly three-quarters of a billion dollars annually. At a time when all levels of Government must make the best use of dwindling revenue sources, we should not force District residents to absorb another loss of revenue simply because a private corporation does not want to pay local taxes.

This private corporation maintains that it is doing a service for the United States Government by selling educational material to visitors to the Nation's Capitol—yet its sales of non-educational, general merchandise total more than a million dollars annually and exceeds educational sales by a four to one ratio. Moreover, the salaries of its officers and employees is in excess of $300,000 a year today as compared to $2,200 when the Society began operations.

The benefit of tax exemption will be for a few at the expense of many. This bill is private and special and has no real public interest.

Mr. Speaker, the Society competes with local merchants in its general merchandise sales. Thus, the revenue loss to the District will be more than the absence of tax payments from the Society. The loss will necessarily include lost sales by those competing merchants who do not enjoy as much price flexibility. The actual District revenue losses are and will be major and are not fully measureable.

The Society is an enormous business which pays sizeable salaries to Officers and Employees, conducts general merchandise sales which far outweigh its educational sales, and has a large, interest-collecting general investment fund. It is a big business.

Mr. Speaker, the Dsitrict of Columbia will never run its government right if the Congress continues to muscle in, on the whim or caprice of a few individuals.

Thank you.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 17, 1982.

Hon. THOMAS F. EAGLETON,
U.S. Senate, Dirksen Building,
Washington, D.C.

DEAR SENATOR: From the time of its inception in 1962, the U.S. Capitol Historical Society has been a truly unique organization. Its uniqueness has grown through the years. It was formed by the bi-partisan leadership of the Congress and historical scholars for the sole purpose of studying the history of the Capitol Building and the Congress as an institution. Thus, its charge has been to preserve the rich heritage of the Capitol's history and interpret to the American people the functions and role of Congress. Through the years, broad new responsibilities were given to the historical society. Under the authority of the National Visitor Center Facilities Act of 1968, the U.S. Capitol Historical Society was charged to operate the Capitol Information Center in the Capitol, under direction of the Architect of the Capitol and with Congressional authority.

With the incorporation and the granting of a Federal Charter on October 20, 1978 by the Congress and signed by the President, still broader authorities were extended to the Society. It was mandated to preserve and improve the Capitol, and in that light the Society, with full Congressional authority, has sponsored an extensive art program in the Capitol, which will provide inspiration to present and future generations. The Society was directed to "mutually cooperate with the standing committees of the Congress, the Library of Congress, the Architect of the Capitol, and relevant departments and agencies of the Executive branch of the Federal Government" in furthering its objectives. Toward that end, the Society develops projects and programs in cooperation with Federal agencies. But it is in the realm of the Society's constant work with the Committees of the Congress that its role as an arm of Congress becomes most clearly evident. Two such examples are 1. The "We the People" historical Calendar in which every step in the planning, design, selection of photographs is mutually worked out with the counsel and guidance of the Committee on House Administration and the Senate Committee on Rules and Administration and 2. When the Society acquires furnishings and works of art to be given to the Capitol, it works closely with the Architect of the Capitol and the Joint Committee on the Library—often responding to recommendations of the Architect of the Capitol. All members of the Congress are honorary members of the U.S. Capitol Historical Society and many take an active part in Society programs. Thus through membership alone, the Society is unique.

Consequently, the purpose of the Society, the requirements of its Congressional Charter of 1978, its authority to operate the Capitol Information Center for the Congress, and its unique working relationship with the Committees of the Congress all contributed to the ultimate finding of the House Committee on the Judiciary that "the Society is an instrumentality of the Federal Government." And such finding was further confirmed in a judgment given in the U.S. District Court for the District of Columbia, wherein his Honor, Judge Richey held that the Society was an instrumentality of the United States.

Therefore, because of the nature of its historical work, revolving solely around the Capitol and the Congress, its official responsibilities in the Capitol, and its responsive work and cooperation with the Committees of the Congress and the Leadership of the Congress on matters relating to the Capitol, the U.S. Capitol Historical Society is a unique organization. There are no other chartered organizations with any such duties involving the Capitol and the Congress, nor such use as an instrumentality of Government. Consequently, passage of H.R. 4491 would in no way set a precedent. There is but one U.S. Capitol Historical Society operating in the one Capitol, which belongs to all Americans.

Sincerely yours,

J. J. PICKLE.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 17, 1982.

Hon. THOMAS F. EAGLETON,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR EAGLETON: I would like to ask your assistance to do everything possible to ensure that H.R. 4491 is considered by the Senate prior to adournment. As you know, that bill, which passed the House earlier this week, would amend the charter of the U.S. Capitol Historical Society to specify that the Society is not subject to the District of Columbia sales tax.

On November 6, 1981, the District of Columbia sued the Society, asserting an unpaid sales tax collection liability of approximately $750,000 from materials sold in the Capitol after August 1, 1966. Subsequently, upon the request of the Architect of the Capitol, the United States sued the District of Columbia in Federal Court on behalf of the U.S. Capitol Historical Society and denied the alleged tax liability.

The U.S. Capitol site has been the exclusive jurisdiction of the Federal Government since the land was acquired by the U.S. under proclamations by Presidents Washington and Adams in 1797 and 1798; Congress did not create the District of Columbia until 1800. The District does not have, nor has it ever had, jurisdiction over public activities in the Capitol building where all the sales of the Historical Society have occurred. In addition, the Society is an instrumentality of the Federal Government and, as such, is not subject to the District of Columbia sales tax.

Nothing in the record indicates that Congress has ever made any other assumption than that the U.S. Capitol Historical Society is an instrumentality of the Congress itself, subject to Congress' direct supervision and close association. Any activity over it, including the taxing power exercised by the District of Columbia, is intrusive.

The Society, which was chartered in 1962, is a nonprofit organization dedicated to the beautification and enrichment of the traditions of the Capitol. Since 1964, it has operated a visitor information center, which has also sold historical and souvenir items exclusively in the U.S. Capitol. Those items have never been subject to sales tax. Profit from such sales by the Society is required by law to be returned to the Capitol, through improvements and programs that promote an appreciation of the Capitol. Since it was chartered, the Society has received no Federal subsidies or reimbursement of any kind, yet it has returned to the Capitol hundreds of thousands of dollars in improvements, art works, antiques, and historic preservation. For example, the Society has made many contributions to the collections of the Capitol, including the sponsorship of recently dedicated murals of the late Allyn Cox in the House Corridors.

H.R. 4491 should never have been necessary. However, since the District of Columbia has tried to impose a sales tax as though the Society were a normal commercial institution operating on private property, a clarifying law has become essential. Without enactment of such legislation, the Society could be bankrupt and the American people would be left without the good works it has performed over the years. I hope you can make possible passage of this measure during the closing days of the 97th Congress.

Very truly yours,

BARBER B. CONABLE, Jr.

THE ARCHITECT OF THE CAPITOL,
Washington, D.C., December 17, 1982.

THOMAS F. EAGLETON,
Subcommittee on Governmental Efficiency and the District of Columbia, U.S. Senate, Washington, D.C.

DEAR SENATOR EAGLETON: In response to a recent request from your staff, I am pleased to advise that, for the reasons hereinafter detailed, I am in full support of H.R. 4491, a bill to exempt the United States Capitol Historical Society (Society) from certain

taxes, which, as you know was passed by the House of Representatives on December 13, 1982.

By way of background, the Society was originally chartered as District of Columbia non-profit corporation on August 8, 1962. In 1978 the Society was granted a federal charter pursuant to Public Law 95-493, approved October 20, 1978 (92 Stat. 1643, 36 U.S.C. 1201 et seq.). In my capacity as Architect of the Capitol, I serve as a member of the honorary board of trustees of the Society.

Pursuant to title III of the National Visitor Center Facilities Act of 1968, Public Law 90-264, 82 Stat. 46 (40 U.S.C. 831), the Architect of the Capitol is authorized and directed to provide space and facilities in the Capitol Building for an educational and informational center and information and distribution stations for the benefit of visitors to the Capitol. Pursuant to this mandate the Architect of the Capitol entered into an agreement with the Society on May 16, 1968, since renewed on an annual basis, to operate such a center and stations in the Capitol Building. The purpose of these facilities is to make available to visitors to the Capitol, information and assistance relative to Congressional offices and the Capitol and its history, as well as pamphlets, books, drawings, slides and photographs and related materials. All materials offered for sale by the Society are first approved by my office after consultation with the Committee on House Administration, the senate Committee on Rules and Administration and the Society.

In addition to these valuable public services, the Society, pursuant to its agreement with my office, utilizes a significant portion of the proceeds from the operation of the Capitol Visitor Center to fund the acquisition, subject to the approval of the Joint Committee on the Library, of works of art and objects of historical interest for display in the United States Capitol. One such program was the decoration of the first floor corridors in halls of the House wing of the Capitol by the late Allyn Cox, the noted American muralist.

The Government of the District of Columbia has asserted a sales tax collection liability against the Society in the amount of $743,228.61 with respect to sales approved materials in the United States Capitol made subsequent to August 1, 1966. On January 19, 1981, a "Notice of District Tax Lien" reflecting this asserted tax liability was filed with the Recorder of Deeds by the D.C. Government.

Because this action by the District of Columbia appeared, in my judgment, to be an impermissible attempt to assert local taxing authority within a federal enclave, by letter dated February 12, 1981, I requested, with the concurrence of the Chairman, respectively, of the Senate Committee on Rules and Administration and the Committee on House Administration, that the Department of Justice assume cognizance of the matter.

In the ensuing litigation, the Federal District Court for the District of Columbia on September 3, 1982, granted the motion of the United States and the Society for summary judgment in its countersuit against the District of Columbia, agreeing in its opinion with the contention that the Society is an instrumentality of the United States and, therefore, not subject to District of Columbia sales tax. On November 4, 1982, the District of Columbia filed its notice of appeal from this decision.

Although the specific issue of the Society's liability for the collection and payment of D.C. sales taxes is still in litigation, I do feel that I may properly state that it has always been my position that the District of Columbia Government lacks the authority to assert jurisdiction over any activities conducted within the United States Capitol buildings or grounds, whether for sales tax, or any other purpose.

The record clearly shows, as a matter of historical perspective, that the land upon which the U.S. Capitol stands was part of original Reservation Number Two (which, in its entirety, included the "Capitol Square and the Mall east of Fifteenth Street West"). Reservation Number Two was acquired by the United States as a site for the Capitol Building under proclamations of Presidents Washington and Adams, dated March 2, 1797 and July 23, 1798, respectively, whereas the District of Columbia was created by the Congress and became a federal district in the year 1800 pursuant to 1 Stat. 130 and 2 Stat. 103 (see generally District of Columbia Code, Vol. 1, p. XVII). In my view, therefore, it is abundantly clear that the Congress has, historically, had unbroken, exclusive jurisdiction over the land upon which the Capitol Building is situated, such as would not admit of any power in the District of Columbia to assert its taxing authority therein.

The exclusivity of federal jurisdiction on Capitol Hill is, in my judgment, further demonstrated by the fact that Congress has with great particularity established in law the geographical boundaries of the United States Capitol Grounds and has prescribed rules governing the public use of the grounds and the conduct of individuals therein (40 U.S.C. 193a-m). Further in this regard, Congress has acted to place responsibility for policing the United States Capitol Grounds exclusively in the Capitol Police under the direction of the Capitol Police Board. The Metropolitan Police force of the District of Columbia is authorized to act in the United States Capitol buildings and grounds only with the consent, or upon the request of the Capitol Police Board (40 U.S.C. 212a).

Likewise, Congress has seen fit to extend certain provisions of the District of Columbia Traffic Act to the United States Capitol Grounds (40 U.S.C. 212b), which, in my judgment, is inconsistent with the notion of any residual jurisdiction over the grounds inhering in the District of Columbia.

I appreciate the opportunity to comment on H.R. 4491 and shall, of course, be pleased to provide any additional information you may deem necessary.

Cordially,

GEORGE M. WHITE, FAIA.

[U.S. District Court for the District of Columbia, Civil Action No. 82-0923]

UNITED STATES OF AMERICA, PLAINTIFF, *v.* DISTRICT OF COLUMBIA, DEFENDANT

MEMORANDUM OPINION OF U.S. DISTRICT JUDGE CHARLES R. RICHEY

Appearances

Charles E. Stratton, *Department of Justice, Tax Division*, and John C. Martin, *Assistant United States Attorney*, for the United States.

Richard L. Aguglia, *District of Columbia Corporation Counsel*, and John C. Salyer, *Deputy General Counsel to the Architect of the Capitol* for the District of Columbia.

The Court has before it two motions: [1] (1) Defendant's Motion to Dismiss; and, (2) Plaintiff's Motion for Summary Judgment.[2] For the reasons stated herein, the Court denies Defendant's Motion to Dismiss and grants Plaintiff's Motion for Summary Judgment. These motions are decided without oral argument.

I. BACKGROUND

This is an action brought by the United States, seeking a declaratory judgment that the United States Capitol Historical Society ("USCHS") is a federal instrumentality and that the defendant, District of Columbia, has no power to tax sales by the USCHS. Alternatively, the United States seeks a declaration that USCHS is exempt from taxation because it operates in a federal enclave.

The USCHS is a nonprofit corporation organized under District of Columbia law and granted a federal charter in 1978. USCHS operates the Capitol Visitors Center on the United States' Capitol grounds as authorized by Title III of the Capitol Visitors Center Facilties Act of 1968. Pub. L. No. 90-624 (40 U.S.C. § 831). The Society produces a variety of books, pamphlets, brochures and general merchandise which are sold at the Visitors Center.[3]

In November 1981, defendant filed suit against USCHS in the District of Columbia Superior Court to collect $743,029.30 in sales taxes, penalties and interest. Defendant also sought a declaratory judgment to require the Society to collect sales taxes and file sales and use tax returns.[4] *District of Columbia* v. *United States Capitol Historical Society*, CA No. 81-3119 (hereinafter *"DC* v. *USCHS")*. A third party complaint was filed against the United States and the case was removed to federal district court. This Court dismissed the third party complaint and remanded to the Superior Court. Thereafter, the United States brought this action in federal district court and the motions pending before the Court were filed.

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[1] A third motion was filed in this case—Plaintiff's Motion to Stay the Proceedings in *District of Columbia* v. *United States Capitol Historical Society* CA No. 81-3119 (*"DC* v. *USCHS"*) pending the resolution of the matter currently before the Court. However, on August 12, 1982, Superior Court Judge Carlisle E. Pratt stayed the proceedings in *DC* v. *USCHS* until this Court has ruled in this case. Therefore, Plaintiffs' Motion to Stay Proceedings is now moot.

[2] Defendant has not filed an opposition to Plaintiff's Motion for Summary Judgment. Pursuant to this Court's Order of June 4, 1982, defendant was given leave to respond to that motion 10 days after service upon defendant of an Order denying its Motion to Dismiss. However, because there are no disputed issues of material fact and because the Court believes that plaintiff is entitled to judgment as a matter of law, the Court grants summary judgment at this time.

[3] Defendant has never sought to tax sales of educational material. Rather, this dispute centers on taxation of items of general merchandise such as jewelry, slides and photographic supplies. Additionally, the status of the sales of the "We the People" calendar is in dispute because the District of Columbia has included such sales in its assessments. Ninety-three percent of calendar sales are to Members of Congress. These sales constitute a major portion of the sales made by the USCHS and a major part of the assessments levied by the defendant.

[4] In that suit the District of Columbia also sought to have the Court declare valid a lien it filed against the USCHS but this issue has no bearing on the matter before the Court.

II. DEFENDANT'S MOTION TO DISMISS IS DENIED BECAUSE THE UNITED STATES HAS STANDING AND THE SUIT IS NOT BARRED BY RES JUDICATA OR COLLATERAL ESTOPPEL.

Defendant moves to dismiss Plaintiff's Complaint for Declaratory Judgement on three grounds: (a) res judicate; (b) standing; and, (c) collateral estoppel.

(a) Defendant contends that because the instant case is virtually identical to the case of *DC* v. *USCHS*, this Court's remand of the latter case bars this action under the doctrine of res judicata. The Court disagrees. This Court's Order of March 22, 1982 struck the third party complaint filed by the USCHS against the United States and then remanded the case to the Superior Court because the grounds for removal were eliminated once the United States was no longer a party. The Order merely determined that USCHS had not filed a proper third party complaint against the United States under Rule 14(a) Fed. R. Civ. Pro., as the District of Columbia argued at that time.[5] At most, this Order could bar USCHS from refiling the third party complaint against the United States in the case of *DC* v. *USCHS* and again seeking removal. But it does not preclude the filing of the instant case which is a separate action brought by the United States to protect its sovereign rights.

In this action, jurisdiction is clearly conferred upon this Court by 28 U.S.C. § 1345. See *United States v. District of Columbia*, 669 F. 2d 738, 741-42 (D.C. Cir. 1981) (hereinafter *"US* v. *DC"*).

(b) The defendant alleges that the United States does not have standing to bring this complaint because, first, it has suffered no injury and second, the USCHS is not a federal agency. The Court rejects these arguments.

The requirements for standing in a suit brought by the United States are not the same as for a private person. *United States* v. *City of Jackson, Mississippi*, 318 F. 2d 1, 15 (5th Cir. 1963). The United States need not show that it has suffered pecuniary harm. *United States* v. *County of Arlington, Virginia*, 669 F. 2d. 925 (4th Cir. 1982); *United States* v. *Lewisburg Area School District*, 539 F. 2d 301 (3d Cir. 1976). Rather, the United States may sue to vindicate its own policies and authority, to enforce laws of the United States, and to protect its sovereign rights. *United States* v. *County of Arlington, Virginia, supra* at 928-29; *1 Moore's Federal Practice* ¶0.65 [1-1] n.2 at 700.81 (2d ed 1982). In this case, the United States is doing precisely that—it is suing to protect its sovereign right to be immune from taxation. If immunity from taxes imposed by the District exists, it is on behalf of the United States either because USCHS is a federal instrumentality or because it operates in a federal enclave. The USCHS' right to be free of the taxes is solely derivative. See *United States* v. *Bureau of Revenue*, 291 F. 2d 677, 679 (10th Cir. 1961). Thus, the United States is the real party in interest and clearly has standing to sue to enforce its sovereign rights.

(c) Finally, defendant argues that plaintiff is collaterally estopped from claiming tax immunity because it abandoned that argument at an early stage in *US* v. *DC*, 669 F. 2d 738 n.1 (D.C. Cir. 1981) and the Circuit Court rejected the argument. The Court finds, however, that collateral estoppel does not apply in this case because the issues presented here are not the same issues decided in *US* v. *DC*. Collateral estoppel only applies to issues actually raised and concluded in the prior action. *Brown* v. *Felsen*, 442 U.S. 127 (1979). The issues in the instant case are different from those in *US* v. *DC* in two respects. First, the United States did not argue that the organization in *US* v. *DC* was entitled to tax immunity as a federal instrumentality. Instead, that case focused on the legal incidence of the tax and statutory sections exempting sales *to* the United States. Second, this case asserts federal tax immunity by virtue of USCHS being located on the grounds of the Federal Capitol—a federal enclave. This question did not arise in *US* v. *DC*.

Thus, the United States does have standing to bring the above entitled action and its claim is not barred by either res judicata or collateral estoppel. Defendant's Motion to Dismiss is, therefore, denied.

III. PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT IS GRANTED BECAUSE THE USCHS IS A FEDERAL INSTRUMENTALITY IMMUNE FROM TAXATION

The plaintiff presents two questions for decision on summary judgment. The first question is whether the USCHS is a federal instrumentality entitled to federal tax immunity under the Supremacy Clause. The second question is whether the District of Columbia is barred from imposing a sales tax on persons or organizations with respect to activities conducted on the Capitol Grounds because the grounds constitute a federal enclave within the federal government's exclusive jurisdiction. The Court grants plaintiff's motion because it holds that the USCHS is a federal instrumentality. The Court therefore finds it unnecessary to consider the second question presented.

There is no simple test for determining when an entity is so closely related to the government as to be a federal instrumentality immune from taxation. As noted by the Supreme Court, it often seems that "the line between the taxable and the immune has been drawn by an unsteady hand." *United States* v. *County of Allegheny*, 322 U.S. 174 (1944). *See also United States* v. *New Mexico*, 102 S.Ct. 1373, 1380-81 (1982) (Courts decisions in the area of tax immunity fail to speak with one voice). Yet, by examining the cases in which the Supreme Court has found that an entity is a federal instrumentality, it is possible to discern a number of factors that aid in making such a determination. The foremost cases in this area that are of use in the matter at hand are *Department of Employment* v. *United States*, 385 U.S. 355 (1966) in which the Supreme Court held that the American National Red Cross is a federal instrumentality and *Standard Oil Co.* v. *Johnson*, 316 U.S. 481 (1942) in which the Supreme Court held that army post exchanges are federal instrumentalities.

Applying the factors that the Supreme Court has relied upon in its federal instrumentality cases to the case at hand, the Court finds that the USCHS is a federal instrumentality entitled to tax exempt status. Like the Red Cross, the USCHS operates pursuant to federal charter and is audited by the federal government. It is subject to government supervision in that the items sold at the Visitors Center (including items of general merchandise) must be approved by the Architect of the Capitol in consultation with the relevant House and Senate committees. The day to day operations of the USCHS and the Visitors Center are not under direct government control. But the Supreme Court has noted that this fact does not mean that the organization in question is not a federal instrumentality. Neither the Red Cross in *Department of Employment* nor the post exchanges in *Johnson* were directly controlled by the United States, yet the Court found both to be federal instrumentalities.

Unlike the Red Cross, USCHS is not headed by a Presidential appointee. Nor is the President of USCHS a government employee as are the officers in charge of post exchanges. Rather, the USCHS is headed by a President elected by the membership. However, the USCHS does have an Honorary Board of Trustees. The President and Vice President of the United States and other distinguished government figures are members of the Board. This is an indication of the unusual relationship the USCHS has with the federal government.

Perhaps the most important factor in this Court's determination that the USCHS is a federal instrumentality is that all profits of the Society are dedicated to achieving its purposes: "to preserve and improve the Capitol, research, publish, create items, medals and materials of historical interest and to cooperate with congressional committees and federal agencies in the work of the Society and the distribution of its products." Congressional Charter for USCHS, Pub. L. No. 95-493 (October 20, 1978). None of the Society's profits inure to the benefit of its members. Instead, the moneys are used to advance a national cause.

The Supreme Court highlighted the important of this factor in *Johnson* where it pointed out that none of the profits from the post exchange went to individuals, rather, all earnings were used to add to the pleasure and comfort of the troops. 316 U.S. at 485. The Court further noted the importance of this factor in *United States* v. *Livingston*, 179 F. Supp. 9 (E.D.S.C. 1959), *aff'd* 364 U.S. 281 (1960), when it affirmed a district court's ruling that a private corporation that contracted with the government to perform services for one dollar was the alter ego of the government and thus tax immune. In that case the Court stressed the fact that the corporation was acting "out of a high sense of public responsibility." *Id.* at 23. *Cf. United States* v. *Boyd*, 378 U.S. 39 (1964) (contractors for profit held not federal instrumentalities—key element is use of property in connection with own commercial activities). Like the contractor in *Livingston*, the USCHS conducts all of the activities in which it engages as a patriotic service, with no prospect of monetary gain for any of the individuals involved. This factor weighs heavily in favor of finding that the USCHS is a federal instrumentality.

In considering cases in which an organization claimed to be a federal instrumentality, the Supreme Court has also focused on the financial relationship between the entity and the government. In *Department of Employment*, the Court cited as a factor in its decision the fact that the Red Cross receives substantial government contributions. Yet, in *Johnson*, the Court concluded that post exchanges were federal instrumentalities despite the fact that the government assumed none of the risk of their operation. Similarly, the USCHS bears all financial risk and burden of its activities. Yet, on the other hand, it is given substantial government assistance in the form of rent free space in the Nation's Capitol in which it op-

[5] Memorandum of Points and Authorities in Support of Plaintiff District of Columbia's Motion to Strike Third-Party Complaint and to Remand Case to the Superior Court of the District of Columbia at pp. 4-5 (February 16, 1982).

erates the Visitor's Center. Thus, the USCHS' financial relationship with the government demonstrates both the independence found in *Johnson* and the interdependence evident in the *Department of Employment.*

Another of the most significant factors in a determination that an entity is a federal instrumentality is that the entity performs an essential function for the government. The USCHS does perform such a function. It provides valuable services as the principal historian for the United States Capitol. The USCHS also provides services to Congress. A majority of the sales made by the USCHS are of the "We the People" calendar and 93% of these calendars are sold to members of Congress who give them to their constituents. Additionally, by operating the Visitor's Center the USCHS provides education, information and convenience to Congress and visitors to the Capitol. The Court finds that the USCHS is an "instrumentality so closely connected to the government that the two cannot realistically be viewed as separate entities, at least insofar as the activity being taxed [— here the operation of Capitol Visitor's Center—] is concerned." *United States* v. *New Mexico,* 102 S. Ct. 1373, 1382 (1982).

In arguing that USCHS is not a federal instrumentality the District of Columbia points to two provisions in the contract providing for operation of the Visitor's Center. These provisions state that the USCHS is not an agent of the United States and that the USCHS agrees to hold the United States harmless for any claims against the Society. But this argument confuses agency with federal instrumentality status. The federal government may not be liable for torts of employees of its instrumentalities but it is liable for acts committed by agents of the government. Thus, an entity need not be in an agency relationship with the United States to be a federal instrumentality. For example, the Red Cross is not an agency of the United States but it is an instrumentality. *Department of Employment* v. *United States,* 385, U.S. 355 (1966). See also *United States* v. *New Mexico,* 102 S. Ct. 1373, 1383 (1982) ("a finding of constitutional tax immunity requires more than the invocation of traditional agency notions"). Thus, although these contract provisions establish that USCHS is not an agent of the government they do not effect a finding that the USCHS is a federal instrumentality.

Having held that the USCHS is a federal instrumentality the Court necessarily must conclude that the USCHS is exempt from taxation.[6] "Under the Supremacy Clause, as interpreted in a line of cases dating to *McCulloch* v. *Maryland,* 17 U.S. (4 Wheat.) 316, 436-37 (1819), federal instrumentalities are immune from taxation by a State, unless such taxation is specifically authorized by Congress. *See e.g., First National Bank* v. *State Tax Commission,* 392 U.S. 339 (1968); *Smith* v. *Kansas City Title Trust Co.,* 255 U.S. 180, 212-13 (1921); *United States* v. *States Tax Commission,* 481 F.2d 963, 969 (1st Cir. 1973)." *United States* v. *Maine,* 524 F.Supp. 1056, 1058 (D. Me. 1981). The Court finds that Congress did not specifically authorize the District of Columbia to tax the USCHS. Although the District is regulated by Congress, Section 47-2605(m) of the D.C. Code limits the District of Columbia's taxing power to the same extent that the states are limited by the federal constitution. *United States* v. *District of Columbia,* 669 F.2d 738, 747 (D.C. Cir. 1981). Thus, because states would be barred from taxing a federal instrumentality—here the USCHS—the District of Columbia too is precluded from exacting such a tax.

An Order in accordance with the foregoing shall be issued of even date with this Opinion.

CHARLES R. RICHEY,
September 2, 1982.

[U.S. District Court for the District of Columbia, Civil Action No. 82-0923]

UNITED STATES OF AMERICA, PLAINTIFF, V. DISTRICT OF COLUMBIA, DEFENDANT

ORDER

Upon consideration of Plaintiff's Motion to Stay, Defendant's Motion to Dismiss and Plaintiff's Motion for Summary Judgment and the oppositions to these motions and the entire record in this case, it is, by the Court, this 2nd day of September, 1982, hereby,

Ordered that Plaintiff's Motion to Stay is dismissed as moot; and it is further,

Ordered that Defendant's Motion to Dismiss is denied; and it is further,

Ordered that Plaintiff's Motion for Summary Judgment is granted.

CHARLES R. RICHEY,
U.S. District Judge.

UNITED STATES CAPITOL HISTORICAL SOCIETY EXEMPTION FROM DISTRICT OF COLUMBIA SALES TAX

REPORT TO ACCOMPANY H.R. 4491

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4491) having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass,.

The amendment is as follows:

On page 1, line 9, strike "the corporation" and all that follows thereafter and insert in lieu thereof: "or title 47, chapter 26 of the District of Columbia Code (1973), or any other provision of the District of Columbia Code, the corporation shall not be required to pay, collect, or account for any tax specified in such sections applicable to taxable events occurring within the United States Capitol building and grounds on or after January 1, 1964."

PURPOSE

The bill, as amended by the subcommittee, amends the charter of the United States Capitol Historical Society to make it clear that the Society is not subject to the District of Columbia sales tax.

STATEMENT

The Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee held a hearing on the bill H.R. 4491 on December 9, 1981. At that hearing, the subcommittee heard testimony in favor of H.R. 4491 from the Honorable Frederick D. Schwengel, President of the United States Capitol Historical Society (hereinafter referred to as the Society), Mr. George M. White, Architect of the Capitol and Mr. Cornelius W. Heine, Executive Secretary of the Society.

The Society was chartered as a non-profit corporation in the District of Columbia in 1962. On January 1, 1964 the Society commenced operation of an information center which, among other activities, engaged in the sale of historical and souvenir items in the United States Capitol. The relationship between the Society and the Congress was formalized in 1968 with enactment of the National Visitors Center Facilities Act of 1968.[1]

Pursuant to this Act, the Architect of the Capitol is authorized and directed to provide space and facilities in the Capitol Building for an educational and informational center and information and distribution stations for the benefit of visitors to the Capitol. Pursuant to this mandate, the Architect of the Capitol entered into an agreement with the Society on May 16, 1968, since renewed on an annual basis, to operate such a center and stations in the Capitol Building. The purpose of these facilities is to make information and assistance relative to Congressional offices and the Capitol and its history, as well as pamphlets, books, drawings, slides and photographs and related materials available to visitors to the Capitol. In accordance with the Act, all materials offered for sale by the Society are first approved by the Architect of the Capitol after consultation with the House Committee on House Administration, the Senate Committee on Rules and Administration, and the Society.[2]

In addition to these valuable public services, the Society, pursuant to its agreement with the Architect of the Capitol, utilizes a significant portion of the proceeds from the operation of the Capital Visitor Center to fund the acquisition, subject to the approval of the Joint Committee on the Library, of works of art and objects of historical interest for display in the United States Capitol. One such program is the decoration of the first floor corridors in halls of the House wing of the Capitol by the noted American muralist, Allyn Cox.

The Society was granted a federal charter pursuant to Public Law 95-493, approved October 20, 1978.[3] One object of the Society set forth in the charter is "to mutually cooperate with the standing committees of Congress, the Architect of the Capitol, and relevant departments and agencies of the Executive branch of the Federal government in furthering the objectives of the (society)".[4]

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[6] This case is different than other cases dealing with federal instrumentalities and tax immunity in that here the District seeks to tax sales *by* a federal instrumentality rather than *to* such an entity. However, the Court concludes that this distinction does not require a different result.

[1] 40 U.S.C. 831 (1976 ed., Title III, 82 Stat. 46, 1968).

[2] *Id.* "All materials . . . shall first be approved by the Architect of the Capitol after consultation with the House Committee on House Administration, the Senate Committee on Rules and Administration, the United States Capitol Historical Society and such other educational and historical groups as the Architect of the Capitol deems appropriate."

[3] 36 U.S.C. 1201 *et. seq.* (1976 ed., Supp. III).

[4] *Ibid.* § 1203(d). The other objects and purposes of the Society are as follows:

The objects and purposes of the corporation shall be—

(a) to encourage in the most comprehensive and enlightened manner an understanding by the American people of the founding, growth, and significance of the Capitol of the United States of America as the tangible symbol of their representative form of government;

(b) to undertake research into the history of the Congress and the Capitol and to promote the discussion, publication, and dissemination of the results of such studies;

(c) to foster and increase an informed patriotism of the land in the study of this living memorial to the founders of this Nation and the continuing thread of principles as exemplified by their successors; and

(d) to mutually cooperate with the standing committees of the Congress, the Library of Congress,

On November 6, 1981, the District of Columbia brought an action in the Superior Court of the District of Columbia against the Society and, in his representative capacity, its president, Mr. Frederick D. Schwengel, to recover unpaid sales taxes and for declaratory and injunctive relief.[5] On November 27, 1981, the Society answered the District's complaint and joined the United States as a third-party defendant in the suit. At the request of the Architect of the Capitol, the Department of Justice is representing the Society in this lawsuit.

The Government of the District of Columbia has asserted a sales tax collection liability against the Society in the amount of $743,228.61 with respect to sales of approved materials in the United States Capitol made subsequent to August 1, 1966. On January 19, 1981, a "Notice of District Tax Lien" reflecting this asserted tax liability was filed with the Recorder of Deeds by the D.C. Government.

Congress has provided the states and localities with authority to levy sales and use taxes in Federal areas within the jurisdiction of the states in the "Buck Act".[6] The provisions of the "Buck Act" are not explicitly applicable to the District of Columbia since the District of Columbia is not included within the definition of "state" in the Act.[7] The District of Columbia Government has alleged [8] that sales by the Society in the United States Capitol are subject to tax pursuant to the District of Columbia Code.[9]

Facts presented in testimony before the subcommittee and supported by historical research indicate that the Society should clearly not be subject to the taxing authority of the Government of the District of Columbia. The historical record reflects that the District of Columbia does not now have, nor has it ever had jurisdiction over the site of the United States Capitol Building where all of the allegedly taxable sales occurred. In addition, the course of dealings between the Architect of the Capitol and the Society pursuant to the National Visitors Facilities Act of 1968 indicate that the Society is an instrumentality of the Congress.

The record clearly shows, as a matter of historical perspective, that the land upon which the U.S. Capitol stands was part of original Reservation Number Two (which, in its entirety, included the Capitol, portions of the Capitol Grounds and the Mall east of Fifteenth Street West). Reservation Number Two along with sixteen other parcels within what is now the District of Columbia was acquired by the United States under proclamations of Presidents Washington and Adams, dated March 2, 1797 and July 23, 1798, respectively,[10] whereas the District of Columbia was created by Congress and became a federal district in the year 1800.[11] The texts of the proclamations by Presidents Washington and Adams are reprinted as Appendix 1. A map indicating those parts of the United States Capitol grounds which are a part of Reservation Number Two is reprinted as Appendix 2.

The seventeen parcels originally reserved for public use and placed under the control of the Federal Commissioners in 1797 are still public lands. Those original reservations are indicated on maps reprinted as Appendices 3 through 7. The National Capitol Parks Office of the National Park Service is the Federal agency with jurisdiction over most of the land [12] included in these seventeen reservations.[13] Other parcels are currently under the jurisdiction of the General Services Administration,[14] the United States Army,[15] the United States Navy,[16] the Smithsonian Institution [17] and the District of Columbia Government.[18]

The land comprising the site of the United States Capitol Building where the sales allegedly subject to the taxing authority of the District of Columbia government occurred is and has been an enclave subject to the exclusive jurisdiction of the Federal government since 1797, three years before the establishment of the District of Columbia.[19] Until 1828, the Architect of the Capitol exercised jurisdiction over the United States Capitol Building. The Commissioner of Buildings and Grounds assumed the duties of the Architect of the Capitol and the Office of the Architect was abolished in 1828.[20] The Chief of Engineers of the Army assumed the duties of the Commissioner of Buildings and Grounds including the jurisdiction over the United States Capitol Building, and the office of Commissioner of Buildings and Grounds was abolished in 1867.[21] In 1876, the duties of the Chief of Engineers of the Army relative to the United States Capitol Building were transferred to the Architect of the Capitol.[22] The name of the Office of Architect of the Capitol was changed to "Superintendent of the Capitol Building and Grounds" in 1902,[23] but the original appellation of the office was restored in 1922.[24] The current jurisdiction of the Architect, namely the United States Capitol Grounds is defined by statute [25] and includes the site of the United States Capitol Building.[26]

The exclusivity of the Federal jurisdiction over the Capitol is further demonstrated by the Federal statutes governing the conduct of individuals on the United States Capitol grounds. Such conduct as sales, pedestrian and motor traffic, advertising, solicitation, possession of weapons, parades, assemblages and concerts are governed by provisions of the United States Code.[27] Pursuant to Federal statute, the United States Capitol Police has exclusive jurisdiction over law enforcement on the Capitol grounds.[28] The only traffic laws promulgated by the District of Columbia in force on the streets within the United States Capitol grounds are those specifically enumerated by Federal statute.[29] The nature and extent of Federal statutes specifically defining the jurisdiction of the District of Columbia over the United States Capitol grounds are consistent with the legal status of the U.S. Capitol Building and grounds as a Federal enclave not subject to the jurisdiction of the District of Columbia.

The Committee concludes that the United States Capitol Building and grounds are within the exclusive jurisdiction of the Federal government and that the taxing authority of the District of Columbia does not and should not extend to sales within this Federal enclave.

In addition, the de jure and de facto relationship between the United States Capitol

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the Architect of the Capitol, and relevant departments and agencies of the executive branch of the Federal Goernment in furthering the objectives of the corporation.

[5] *District of Columbia* v. *United States Capitol Historical Society, et al. v. United States of America*, Civil Action No. 81-3119 (1981, D.C. Dist. Ct.).

[6] Chapter 389, 61 Stat. 644, 1947, 4 U.S.C. 105 (1976 ed.).

[7] *See* 4 U.S.C. 110(d) (1976 ed.), "As used in sections 105-109 of this title . . . the term "state" includes any territory or possession of the United States."

[8] *See District of Columbia v. United States Capitol Historical Society et al. v. United States, supra* note 5, ("Complaint For Sales Taxes And For Declaratory And Injunctive Relief" by the District of Columbia at 3, allegation numbered 6).

[9] *See* § 47-2602, § 47-2603, § 47-2607 and § 47-2608, D.C. Code (1973).

[10] The original documents were attached to a map of the City of Washington known as the "Dermott" or "Tin Case" map. The original documents are located in the National Archives (Record Group 42, Register of Squares, v. 1). The original map is not extant, however facsimiles produced from the original by the United States Coast and Geodetic Survey which include both the map and the text of the proclamations were published in 1888 and 1909. Copies of these facsimiles are located in the Geography and Map Division of the Library of Congress (G38501798D41888 and G38501798D41909) and in the National Archives (Record Group 23, Map No. 3035-B).

[11] *See* Act of July 16, 1790, ch. 28, 1 Stat. 130 (1790); Act of February 27, 1801, ch. 15, 2 Stat. 103 (1801); 1 D.C. Code at xvii (1973 ed.).

[12] *See*, National Park Service, Department of the Interior, Reservation List, National Capitol Parks, 1973 (Reservations numbered 1, 2 (except the Capitol Grounds) 3 and 6 remain in the control of the National Park Service).

[13] *See* Act of July 16, 1790, ch. 28, 1 Stat. 130 (1790); Act of May 1, 1802, ch. 53, 2 Stat. 175 (1802) (Superintendent of Public Buildings created); Act of April 29, 1816, ch. 149, 150, 3 Stat. 324 (1816) (Office of Superintendent replaced by Commissioner of Public Buildings); Act of March 2, 1867, ch. 167 14 Stat. 466 (1867) (Chief Engineer, U.S. Army replaced Commissioner of Public Buildings); Act of February 26, 1925, ch. 339, 43 Stat. 983 (1925) (Director of Buildings and Public Parks of the National Capitol assumed responsibilities of Officer in Charge of Public Buildings and Grounds); Act of March 3, 1933, 5 U.S.C.A. App. Reorganization Plan No. 1 of 1933. Pt. III (1967 ed.) (E.O. June 10, 1933, Office of National Parks, Buildings and Reservations of the Department of the Interior replaced Director of Buildings and Public Parks of the National Capitol); Act of March 2, 1934. ch. 38, 48 Stat. 389 (Interior Department appropriation 1934) (changed name of Office of National Parks, Buildings and Reservations to National Park Service). For a more detailed treatment of the history of the National Capitol Parks see, Heine, Cornelius W., *A History of National Capitol Parks* (publication of the National Park Service, Department of the Interior, 1953).

[14] *See* Federal Property and Administrative Service Act of 1949, ch. 288, 63 Stat. 377 (1949) *as amended*, (reservations numbered 4, 7, 9 (pension building square only), and 11).

[15] Fort McNair includes reservation numbered 5.

[16] The Bureau of Medicine and Surgery occupies the majority of reservation numbered 4, and the Navy Yard includes reservation numbered 14.

[17] The Smithsonian Institution has jurisdiction over the old Patent Office which occupies reservation numbered 8.

[18] *See* Act of May 20, 1932, 40 U.S.C. 122 (1976 ed.). The District of Columbia exercises jurisdiction over part of reservation 9, reservations 13, 15 and 16 and that part of reservation 17 known as "Garfield Park".

[19] *Supra* note 11.

[20] *See* Act of May 2, 1828, ch. 45 § 3, 4 Stat. 266 (1828); *supra* note 13 and accompanying text.

[21] *See* Act of March 2, 1867, ch. 167 § 2, 14 Stat. 466 (1867).

[22] *See* Act of August 15, 1876, ch. 287 § 1, 19 Stat. 147 (1876).

[23] *See* Act of February 14, 1902, ch. 17 § 1, 32 Stat. 20 (1902).

[24] *See* Act of March 3, 1921, ch. 124 § 1, 41 Stat. 1291 (1921).

[25] *See* 40 U.S.C. 193a. (definition United States Capitol Grounds); 40 U.S.C. 162 (duties of Architect) (1976 ed.).

[26] *Infra* Appendix 2.

[27] *See* 40 U.S.C. 193a-m (1976 ed.).

[28] *Id.* at 212a.

[29] *Id.* at 212b.

Historical Society and the Federal government indicate that the Society is an instrumentality of the Federal government and therefor not subject to the taxing authority of the District of Columbia government, if in fact that government has taxing authority over any Federal area pursuant to the "Buck Act".[30] Pursuant to the "Buck Act", inferior governments are authorized to assert their authority to levy sales tax on taxable events occurring in Federal areas within their jurisdictions. However, the provisions of the "Buck Act" specifically do not authorize the "levy or collection of any tax on or from the United States or any instrumentality thereof.[31]

Webster's defines "instrument" as "a means whereby something is achieved, performed, or furthered; one used by another as a means or aid".[32] Black's defines "instrumental" as "serviceable, helpful".[33] There is no doubt that the United States Capitol Historical Society has been of service and help to the United States in furthering, performing and achieving the functions mandated by title III of the National Visitors Center Facilities Act of 1968.[34] Title III provides as follows:

"Notwithstanding any other provision of law, the Architect of the Capitol, in consultation with the House Office Building Commission and the Senate Office Building Commission, is hereby authorized and directed to provide adequate space and facilities in the Capitol Building for an educational and informational center and information and distribution stations to afford visitors to the Capitol Building an opportunity to acquire (1) information relative to Congressional offices, (2) assistance relative to their visit to the Capitol, (3) pamphlets, books, drawings, slides and photographs, and related materials, and (4) information about the Capitol and the history of the Capitol Building and past and present Congresses. All materials distributed by such educational and informational center and such stations shall first be approved by the Architect of the Capitol, after consultation with the House Committee on House Administration, the Senate Committee on Rules and Administration, the United States Capitol Historical Society, and such other educational and historical groups as the Architect of the Capitol deems appropriate. The Architect of the Capitol is hereby authorized to enter into such agreements as may be reasonably necessary to operate such educational and informational center and stations."

The 1968 Act formalized a relationship between the Society and the Congress that had existed since 1964. Since 1968, the United States Capitol Historical Society had conducted its sales operation in the Capitol Building pursuant to contract with the Architect of the Capitol as authorized and directed by law. The sale of historical materials, relics, souvenirs, art and other items to visitors to the Capitol furthers the explicit goals of the Visitors Center Facilities Act in two ways. The sales facilitate the visitors' direct acquisition of available pamphlets, books, slides, photographs and related materials as well as information about the Capitol. Moreover, since the Society uses proceeds from the sales to improve the Capitol Building, to create new educational materials and to research the history of the Capitol, the sales indirectly further the goals of the Act by expanding the selection of available materials. Thus, sales by the Society are instrumental to the accomplishment of the tasks authorized and directed by the law of the United States, and the Committee concludes tht the Distrit of Columbia does not and should not have the authority to tax such sales pursuant to the "Buck Act".

[30] Supra note 6.
[31] See 4 U.S.C. 107 (1976 ed.)
[32] Webster's New Collegiate Dictionary 599 (1977).
[33] Black's Law Dictionary 942 (rv'd 4th ed. 1968).
[34] Supra note 1.

CONCLUSION

For reasons enumerated above, the Committee on the Judiciary favors amending the Federal charter of the National Capitol Historical Society to make it clear that the Society is not subject to the District of Columbia sales tax, and recommends that this bill as amended to pass.

STATEMENTS UNDER CLAUSE 2(l)(2)(B), CLAUSE 2(l)(3)(A), CLAUSE 2(l)(3)(B), CLAUSE 2(l)(3)(D) AND CLAUSE 2(l)(4) OF RULE XI, AND CLAUSE 7(A)(1) OF RULE XIII

COMMITTEE VOTE

(Rule XI(2)(l)(2)(B))

On March 3, 1982, the full Committee on the Judiciary approved the bill, H.R. 4491, as amended, by voice vote.

OVERSIGHT STATEMENT

(Rule XI(2)(l)(3)(A))

The Subcommittee on Administrative Law and Governmental Relations of this Committee exercises the Committee's oversight responsibility with reference to Federal charter legislation in accordance with Rule VI(b) of the Rules of the Committee. The favorable consideration of this bill was recommended by that Subcommittee and the Committee has determined that the legislation should be enacted as set forth in this bill.

BUDGET STATEMENT

(Rule XI(2)(l)(3)(B))

The bill does not directly provide budget authority nor does it involve new or increased tax expenditures contemplated by Clause 2(l)(3)(B) of Rule XI.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

(Rule XI(2)(l)(3)(D))

No findings or recommendations of the Committee on Government Operations were received as referred to in subdivision (D) of clause 2(l)(3) of House Rule XI.

INFLATIONARY IMPACT

(Rule XI(2)(l)(4))

In compliance with clause 2(l)(4) of House Rule XI, it is stated that this legislation will have no inflationary impact on prices and costs on the operation of the national economy.

COST

(Rule XIII(7)(a)(1)

The costs are those outlined in the cost estimate of the Congressional Budget Office included in this report.

ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

(Rule XI(2)(l)(3)(C))

[The following estimate was received from the Director of the Budget Office:]

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 4, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 4491, a bill to exempt the United States Capitol Historical Society from certain taxes, as ordered reported by the House Committee on the Judiciary, March 3, 1982.

This bill would exempt the activities of the Society from the District of Columbia sales tax. Based on this review, it is expected that no additional cost to the Federal Government would be incurred as a result of enactment of this legislation.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

CHANGES IN EXISTING LAW

In compliance with paragraph 2 of clause 3 of rule XIII of the rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 36—PATRIOTIC SOCIETIES AND OBSERVANCES

* * * * *

(Public Law 95-493, 92 Stat. 1643, 1978)

AN ACT To incorporate the United States Capitol Historical Society

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons:

Honorable Fred Schwengel, Washington, District of Columbia;

Honorable Marguerite Stitt Church, Evanston, Illinois;

Doctor Melvin M. Payne, Washington, District of Columbia;

Carl Haverlin, Northridge, California;

Doctor Walter Rundell, College Park, Maryland;

Victor M. Birely, Washington, District of Columbia;

Arthur B. Hanson, Esquire, Washington, District of Columbia;

Mrs. Adlai Stevenson III, Hanover, Illinois;

Mrs. Florian Thayn, Washington, District of Columbia;

and their successors are hereby created and declared to be a body corporate of the District of Columbia having the name "United States Capitol Historical Society" (hereinafter the corporation"). The said corporation shall have perpetual existence and the powers, limitations, and restrictions herein contained.

COMPLETION OF ORGANIZATION

SEC. 2. The persons named in the first section of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary to carry out the provisions of this Act.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be—

(a) to encourage in the most comprehensive and enlightened manner an understanding by the American people of the founding, growth, and significance of the Capitol of the United States of America as the tangible symbol of their representative form of government;

(b) to undertake research into the history of the Congress and the Capitol and to promote the discussion, publication, and dissemination of the results of such studies;

(c) to foster and increase an informed patriotism of the land in the study of this living memorial to the founders of this Nation and the continuing thread of principles as exemplified by their successors; and

(d) to mutually cooperate with the standing committees of the Congress, the Library of Congress, the Architect of the Capitol, and relevant departments of agencies of the executive branch of the Federal Government in furthering the objectives of the corporation.

POWERS OF THE CORPORATION

SEC. 4. The corporation shall have the power—

(a) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(b) to adopt, alter, and use a corporate seal;

(c) to choose officers, managers, and agents as the business of the corporation may require;

(d) to charge and collect membership dues;

(e) to adopt, amend, apply, and alter a constitution and bylaws not inconsistent with the laws of the United States of America or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(f) to contract and be contracted with;

(g) to take hold by lease, gift, purchase, grant, devise, bequest, or otherwise any property, real, personal, or mixed, necessary or convenient for attaining the objects of the corporation, subject, however, to applicable provisions of law of any State (1) governing the amount or kind of real and personal property which may be held by, or (2) otherwise limiting or controlling the ownership of real and personal property which may be held by, or (3) otherwise limiting or controlling the ownership of real and personal property by, a corporation operating in such State;

(h) to transfer, lease, or convey real or personal property;

(i) to borrow money for the purposes of the corporation and issue bonds or other evidences of indebtedness therefor and secure the same mortgage or pledge subject to applicable Federal or State laws;

(j) to conduct campaigns for raising of funds and to accept contributions from individuals, corporations, and other bodies, foundations, and organizations;

(k) to print, to create and distribute commemorative medals, edit and publish, make, display, and sell books and magazines, pictures, slides, and cinemas, as may be necessary or desirable for the accomplishment of the purposes of the corporation;

(l) to buy, sell, and generally deal in appropriate and related souvenirs, commemorative medals, curios, momentos, and publications; and

(m) to do any and all acts necessary and proper to carry out the purposes of the corporation.

PRINCIPAL OFFICE; TERRITORIAL SCOPE OF ACTIVITIES; RESIDENT AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Washington, District of Columbia, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place and may be conducted throughout the various possessions of the United States.

(b) The corporation shall have in the District of Columbia at all times a designated agent authorized to accept service of process for the corporation, and notice to or service upon such agent or mailed to the business address of such agent shall be deemed as service or notice upon the corporation.

MEMBERSHIP

SEC. 6. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide.

ACTIVE BOARD OF TRUSTEES

SEC. 7. (a) The control and management of the affairs and funds of the corporation shall be vested in its active board of trustees which, exclusive of ex officio and honorary members, shall consist of not more than forty active members and not less than twelve active members, one of whom shall be elected chairman.

(b) The term of an active trustee of the board shall be four years in duration and, exept by the unanimous vote of the members of the board of trustees present and voting, no active trustee may be reelected as an active trustee until after a lapse of one year from the expiration of his term as active trustee.

(c) The board of trustees shall meet not less than once annually in the Capitol of the United States at Washington, District of Columbia, and at such other times as may be determined by the chairman. No meeting of the board of trustees may be held except pursuant to a time and place stated in the bylaws or upon thirty days written notice in advance of any such meeting.

(d) Trustees of the corporation shall be elected by action of the active board of trustees. Trustees may be removed by the vote of two-thirds of the other active trustees at any time with or without cause.

OFFICERS OF THE CORPORATION

SEC. 8. (a) The officers of the corporation shall be a president, who shall be the chief executive officer, five vice presidents, a treasurer, and a secretary.

(b) During their respective terms of office, the officers of the corporation shall be ex officio members of the board with all the rights and privileges of a trustee including the right to vote. Officers may receive compensation or other remuneration for their services as determined by the board of trustees, and they may be reimbursed for their actual expenses.

(c) Officers of the corporation shall be elected annually by action of the board of trustees and shall continue in office at the pleasure of the board.

(d) The duties of the officers of the corporation shall be such additional duties as may be delegated by the board of trustees.

(e) The board of trustees may employ an executive secretary and such other paid personnel as may be needed to assist the officers and the board and to accomplish the programs and business of the corporation. The board shall fix the compensation and prescribe the duties of the executive secretary and such other paid personnel who shall serve at the pleasure of the board.

USE OF INCOME: LOANS TO OFFICERS, TRUSTEES, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the Corporation shall inure to any of its members, trustees, or officers, as such, or be distributable to any of them during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation to officers or employees of the corporation or reimbursement for actual expenses in amounts approved by the board of trustees of the corporation.

(b) The corporation shall not make loans to its officers, trustees, or employees. Any director who votes for assets to the making of a loan or advance to an officer, director, or employee of the corporation, and any officer who participates in the making of such loan or an advance shall be jointly and severally liable to the corporation for the amount of such loan or advance until the repayment thereof.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 10. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 11. The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

BOOKS AND RECORDS: INSPECTION

SEC. 12. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of trustees, and committees having any authority under the board of trustees, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or the agent or attorney of such member, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 13. (a) The provisions of sections 2 and 3 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1102, 1103), shall apply with respect to the corporation.

(b) The corporation shall comply with the provisions of Public Law 91-510, section 451, October 26, 1970.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 14. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, any remaining assets of the corporation shall be distributed in accordance with the determination of the board of trustees of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto.

EXCLUSIVE RIGHT TO NAME, EMBLEM, SEALS, AND INSIGNIA

SEC. 15. The corporation shall have the sole and exclusive right to the name "United States Capitol Historical Society" and to have and use in carrying out its purpose, distinctive insignia, emblems, seals, description or designating marks, and words or phrases, as may be required in the furtherance of its functions. Nothing in this section

shall be construed to interfere or conflict with established or vested rights.

ACQUISITION OF ASSETS AND LIABILITIES OF EXISTING CORPORATION

SEC. 16. The corporation may acquire the assets of the United States Capitol Historical Society, a corporation incorporated under the laws of the District of Columbia. The United States Capitol Historical Society shall retain and maintain its existing status as a corporation incorporated under the laws of the District of Columbia or a State.

ANNUAL REPORT

SEC. 17. The corporation shall, as soon as practicable after the end of each fiscal year, submit a report to each House of the Congress with respect to the activities of the corporation during the preceding fiscal year.

RESERVATION OF RIGHT TO AMEND OR REPEAL ACT

SEC. 18. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

EXEMPTION FROM CERTAIN TAXES

SEC. 19. Notwithstanding section 105 of title 4, United States Code, or title 47, chapter 26 of the District of Columbia Code (1973), or any other provision of the District of Columbia Code, the Corporation shall not be required to pay, collect, or account for any tax specified in such sections applicable to taxable events occurring within the United States Capitol building and grounds on or after January 1, 1964.

APPENDIX 1

ORIGINAL RESERVATION OF PUBLIC PROPERTY BY PRESIDENTS WASHINGTON AND ADAMS

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA

TO THOMAS BEALL OF GEORGE & JOHN M. GANTT:

You are hereby requested to convey all the streets in the City of Washington, as they are laid out and delineated in the Plan of the said City hereto annexed, and also the several squares, parcels, & lots of ground following, to wit:

First. The public appropriation beginning at the intersection of the south side of North H street, and at the west side of a street ninety feet in width, drawn parallel to the west side of square numbered two hundred and twenty-one, and running due south with the west side of said street until it intersects the south side of an east & west street, drawn parallel to the south front of said square, numbered two hundred and twenty-one, being ninety feet wide; thence east with the south side of said street until it intersects the west side of fifteenth street west; thence south with the west side of fifteenth street west until it intersects the north side of Canal street; thence westerly with the north side of Canal street until it intersects the east side of Seventeenth street west; thence north, with the east side of Seventeenth street west, until it intersects the south side of an east & west street of ninety feet wide, from the south side of square numbered One hundred & sixty-seven; thence east with the south side of said street until it intersects the east side of a north and South street of ninety feet wide, from the east side of Square numbered One hundred and Sixty-seven aforesaid; thence north with the east side of said street until it intersects the south side of North H Street; thence east with the south side of said street to the beginning.

Second. The public appropriation beginning at the intersection of the North side of an east and west street of ninety feet wide, from the north front of square numbered six hundred and eighty-eight, and the west side of first street east; thence west along the north side of said street until it intersects the west side of a north and south street, drawn at the distance of ninety feet from the west front of square numbered six hundred and eighty-eight; thence south with the west side of said street until it intersects the north side of South B street; thence west with the north side of south B street until it intersects the east side of first street west; thence north with the east side of first street west until it intersects the north side of Maryland Avenue; thence southwesterly with the north side of Maryland Avenue until it intersects the north side of south B street; thence west with the north side of south B street until it intersects the east side of fifteenth street west; thence north with the east side of fifteenth street west until it intersects the south side of Canal street, drawn at a distance of eighty feet, on the south side of said Canal; thence east with the south side of said street until it intersects the South side of Pennsylvania Avenue. Thence with the south side of Pennsylvania Avenue until it interesects the east side of first street west; thence north with the east side of first street west until it intersects the south side of North B street; thence east with the south side of North B street until it intersects the west side of a North and south street of ninety feet wide, drawn parallel to the west front of Square numbered Six hundred and eighty-seven; thence south with the west side of said street until it intersects the south side of an east & west street ninety feet wide, from the south front of Square numbered Six hundred and eighty-seven; thence east with the south side of said street until it intersects the west side of first street east; thence south with the west side of said street to the beginning.

Third. The public appropriation beginning at the intersection of the south side of Canal street, drawn on the south side of the Canal, and the west side of fifteenth street west. Thence south with the west side of fifteenth street west until it intersects the Potomac River. Thence northwesterly until it intersects the Canal; thence easterly with the Canal to the beginning.

Fourth. The public appropriation bounded on the north by the south side of north E street; on the east by the west side of twenty-third street west; on the west by the east side of twenty-fifth street west; and on the south by the Potomac River.

Fifth. The public appropriation bounded on the north by south T street; on the east by Canal street; on the south by the eastern branch, on Anacostia River; and on the west by the Potomac River.

Sixth. The public appropriation bounded on the north by north B street; on the west by twenty-first street west; on the east by twentieth street west; and on the south by the Potomac River.

Seventh. The public appropriation beginning at the intersection of the north side of the Canal street and the east side of ninth street west; thence north to the south side of an avenue, drawn in front of square numbered three hundred and eighty-two; Thence northeasterly with the south side of said Avenue until it intersects the south side of Pennsylvania Avenue; thence with the south side of said Avenue until it intersects the west side of Seventh street west; Thence with the west side of said street until it intersects Canal street; thence west with the north side of Canal street to the beginning.

Eighth. The public appropriation beginning at the intersection of the east side of ninth street west and the north side of an east and west street of One hundred feet wide, from the north fronts of squares numbered four hundred and six & four hundred and thirty; Thence north with the east side of said ninth street until it intersects the south side of an east and west street of ninety feet wide, from the south fronts of squares numbered four hundred and five and four hundred and twenty-nine; thence east with the south side of said street until it intersects the west side of seventh street west; thence south with the west side of seventh street until it intersects the north side of the east and west street first mentioned; Thence west with the north side of said street to the beginning.

Ninth. The appropriation beginning at the intersection of the east side of fifth street west and the south side of North G street; thence east with the south side of said G street until it intersects the west side of fourth street west; thence south with the west side of fourth street west until it intersects the north side of an avenue; Thence westerly, parallel with the north fronts of squares numbered five hundred and thirty-three and four hundred and ninety, until it intersects the east side of fifth street west, leaving the street equally wide; Thence with the east side of fifth street west to the beginning.

Tenth. The appropriation beginning at the intersection of the east side of four & a half street west and south side of North C street; Thence with the south side of said C street until it intersects the west side of third street west; thence south with the west side of said third street west until it intersects the North side of north B street; Thence west until it intersects the north side of Pennsylvania Avenue;

First. The public appropriation beginning at the intersection of the southside of North H street, and at the west side of a street ninety feet in width, drawn parallel to the west side of square numbered two hundred and twenty-one, and running due south with the west side of said street until it intersects the south side of an east & west street, drawn parallel to the south front of said square, numbered two hundred and twenty-one, being ninety feet wide; thence east with the south side of said street until it intersects the west side of fifteenth street west; thence south with the west side of fifteenth street west until it intersects the north side of Canal street; thence westerly with the north side of Canal street until it intersects the east side of Seventeenth street west; thence north, with the east side of Seventeenth street west, until it intersects the south side of an east & west street of ninety feet wide, from the south side of square numbered One hundred & sixty-seven; thence east with the south side of said street until it intersects the east side of a north and South street of ninety feet wide, from the east side of Square numbered One hundred and Sixty-seven aforesaid; thence north with the east side of said street until it intersects the south side of North H Street; thence east with the south side of said street to the beginning.

Second. The public appropriation beginning at the intersection of the North side of an east and west street of ninety feet wide, from the north front square numbered six hundred and eighty-eight, and the west side

of first street east; thence west along the north side of said street until it intersects the west side of a north and south street, drawn at the distance of ninety feet from the west front of square numbered six hundred and eighty-eight; thence south with the west side of said street until it intersects the north side of South B street, thence west with the north side of south B street until it intersects the east side of first street west; thence north with the east side of first street west until it intersects the north side of Maryland Avenue; thence southwesterly with the north side of Maryland Avenue until it intersects the north side of south B street; thence west with the north side of south B street until it intersects the east side of fifteenth street west; thence north with the east side of fifteenth street west until it intersects the south side of Canal street, drawn at a distance of eighty feet, on the south side of said Canal; thence east with the south side of said street until it intersects the South side of Pennsylvania Avenue; thence with the south side of Pennsylvania Avenue until it intersects the east side of first street west; thence north with the east side of first street west until it intersects the south side of North B street; thence east with the south side of North B street until it intersects the west side of a North and south street of ninety feet wide, drawn parallel to the west front of Square numbered Six hundred and eighty-seven; Thence south with the west side of said street until it intersects the south side of an east & west street ninety feet wide, from the south front of Square numbered Six hundred and eightyseven; Thence east with the south side of said street until it intersects the west side of first street east; Thence south with the west side of said street to the beginning.

Third. The public appropriation beginning at the intersection of the south side of Canal street, drawn on the south side of the Canal, and the west side of fifteenth street west. Thence south with the west side of fifteenth street west until it intersects the Potomac river. Thence northwesterly until it intersects the Canal; thence easterly with the Canal to the beginning.

Fourth. The public appropriation bounded on the north by the south side of north E Street; on the easy by the west side of twenty-third street west; on the west by the east side of twenty-fifth street west; and on the south by the Potomac River.

Fifth. The public appropriation bounded on the north by south T street; on the east by Canal street; on the south by the eastern branch or Annakostia River; and on the west by the Potomac River.

Sixth. The public appropriation bounded on the north by north B street; on the west by twenty-first street west; on the east by twentieth street west; and on the south by the Potomac River.

Seventh. The public appropriation beginning at the intersection of the north side of Canal street and the east side of ninth street west; thence north to the south side of an avenue, drawn in front of square numbered three hundred and eighty-two; Thence northeasterly with the south side of said Avenue until it intersects the south side of Pennsylvania Avenue; thence with the south side of said Avenue until it intersects the west side of Seventh street west; Thence with the west side of said street until it intersects Canal street; thence west with the north side of Canal street to the beginning.

Eighth. The public appropriation beginning at the intersection of the east side of ninth street west and the north side of an east and west street of One hundred feet wide, from the north fronts of squares numbered four hundred and six & four hundred and thirty; thence north with the east side of said ninth street until it intersects the south side of an east and west street of ninety feet wide, from the south fronts of squares numbered four hundred and five and four hundred and twenty-nine; thence east with the south side of said street until it intersects the west side of seventh street west; thence south with the west side of seventh street until it intersects the north side of the east and west street first mentioned; thence west with the north side of said street to the beginning.

Ninth. The appropriation beginning at the intersection of the east side of fifth street west and the south side of North G street; thence east with the south side of said G street until it intersects the west side of fourth street west; thence south with the west side of fourth street west until it intersects the north side of an avenue; Thence westerly, parallel with the north fronts of squares numbered five hundred and thirty-three and four hundred and ninety, until it intersects the east side of fifth street west, leaving the street equally wide; Thence with the east side of fifth street west to the beginning.

Tenth. The appropriation beginning at the intersection of the east side of four and a half street west and south side of North C street; Thence with the south side of said C street until it intersects the west side of third street west; thence south with the west side of said third street west until it intersects the North side of north B street; Thence west until it intersects the north side of Pennsylvania Avenue; Thence with the north side of said avenue until it intersects the east side of four and a half street west; Thence north with the east side of four and a half street west to the beginning.

Eleventh. The appropriation beginning at the intersection the east side of third street west and south side of north C street; thence east with the south side of said C street until it intersects the west side of second street west; thence south with the west side of second street west until it intersects the north side of north B street; Thence west with the north side of north B street until it intersects the east side of the third street west; Thence north with the east side of said third street west to the beginning.

Twelfth. The appropriation bounded on the North by B street north, on the east by second street west, on the southwest by Pennsylvania Avenue, and on the west by third street west.

Thirteenth. The appropriation bounded on the north by the south side of south B street, on the west by the east side of nineteenth street east, the south by the north side of south G street, and on the east by the eastern Branch, or Annakostia River.

Fourteenth. The appropriation bounded on the west by the east side of seventh street east, on the northwest by the south side of Georgia Avenue, on the north by the southside side of M street south, on the east by the west side of ninth street east, and on the south by the eastern Branch, or Annakostia River.

Fifteenth. The public appropriation bounded on the north by south K street, on the south by south L street, on the east by Sixth street east, and on the west by fifth street east.

Sixteenth. The public appropriation bounded on the north by K street south, on the south by L street south, on the west by Sixth street east, and on the east by an alley of Sixty feet wide, bounding square eight hundred & eighty.

Seventeenth. The appropriation beginning at the intersection of the west side of first street east and the south side of south E street; thence south with the west side of said street east until it intersects the south side of an east & west street, one hundred feet in width, from the south front of Square numbered seven hundred & thirty-six; thence east with the south side of said street until it intersects the west side of third street east; thence south with the west side of third street east until it intersects the north side of an east & west street, of One hundred feet in width, from the north front of Square numbered seven hundred & thirty-seven; thence west with the north side of said street until it intersects the west side of a north & south, street, seventy feet in width, from the west front of square numbered seven hundred & thirty-seven; thence south with the west side of said street until it intersects the north side of Canal street; thence with the north side of Canal street until it intersects the south side of south E street; thence east with the south side of said street to the beginning, as the same are also laid out and delineated on the said plan, to Gustavus Scott, William Thornton, and Alexander White, Commissioners, appointed under the Act of Congress entitled "An Act for establishing the temporary & permanent seat of the Government of the United States," to hold to the said Gustavus Scott, William Thornton, & Alexander White, & their Successors in Office, as Commissioners aforesaid, to the use of the United States forever, according to the tenor of the Act of Congress aforesaid.

Given under my hand & the Seal of the United States this Second day of March, in the Year One thousand seven hundred & ninety-seven.

[U.S. SEAL] By the President:
(Signed) GEORGE WASHINGTON.
TIMOTHY PICKERING,
Sec't'y of State.

JOHN ADAMS, PRESIDENT OF THE UNITED STATES OF AMERICA

TO THOMAS BEALL OF GEORGE AND JOHN M. GANTT;

Whereas George Washington, late President of the United States, by his Act bearing date the Second day of March, in the year One thousand seven hundred and ninety-seven, did request you, the said Thomas Beall of George and John M. Gantt, to convey all the streets in the City of Washington, as they are laid out and delineated in the plan of the said City, in the said Act mentioned, to be thereto annexed; and also the several squares, parcels, and lots of ground appropriated to the use of the United States, and particularly described in the said act, of Gustavus Scott, William Thornton, and Alexander White, Commissioners, appointed under the act of Congress entitled "An Act for establishing the temporary and permanent Seat of the Government of the United States," the annexing of which plan was at that time omitted: Now know ye, that I have caused the said plan to be annexed to the said Act of the late President of the United States, and to this writing. And I do hereby request you, the said Thomas Beall of George and John M. Gantt, to convey all the streets in the said City of Washington, as they are laid

out and delineated in the plan of the said City hereto annexed, and all the Squares, Parcels, and lots of ground described in the said Act of the late President of the United States as public appropriations, to the said Gustavus Scott, William Thornton, and Alexander White, and their Successors in Office, as Commissioners aforesaid, to the use of the United States forever, according to the tenor of the Act of Congress aforesaid.

Given under my hand and the Seal of the United States this twenty-third day of July, in the year One thousand seven hundred and ninety-eight.

[U.S. SEAL]

By the President:
(Signed) JOHN ADAMS.
TIMOTHY PICKERING,
Secretary of State.

WASHINGTON CITY,
March 30, 1854.

I, Joseph Elgar, late Commissioner of Public Buildings of the United States, do hereby certify and declare that at the time I was Commissioner the two papers hereunto attached, one dated March 2, 1797, and signed by George Washington, then President of the United States, and the other dated July 23, 1798, and signed by John Adams, then President of the United States, were attached to a certain manuscript plan of the City of Washington, and were detached therefrom by me.

I have this day identified said plan by subscribing my name to a certificate thereon written in the following words, viz:

"WASHINGTON CITY,
March 30, 1854.

"This plan of the City of Washington I recognize as the plan of the City to which were attached two papers, one signed by George Washington, March 2, 1797, the other by John Adams, July 23, 1798, which papers I have this day identified as having been attached to this plan, this being the plan referred to in the first paragraph of the paper first above mentioned. The said papers having become very much disfigured and torn by the unrolling and rolling up of the plan, I detached them in order to prevent their entire destruction."

(Signed) JOSEPH ELGAR.

DISTRICT OF COLUMBIA,
Washington County, to wit:

On this thirtieth day of March, eighteen hundred and fifty-four, the within-named Joseph Elgar, to me well known, personally appeared before me and made solemn oath on the Holy Evangelists of Almighty God that the foregoing certificate, by him signed in my presence, is true.

(Signed) B. B. FRENCH,
Justice of the Peace.

OFFICE OF PUBLIC BUILDINGS AND GROUNDS,
Washington, D.C., May 3, 1888.

I certify that the foregoing letters from George Washington, President of the United States, and from John Adams, President of the United States, and the affidavit signed Joseph Elgar, are true copies of the originals on file in this office.

JOHN M. WILSON,
Lieutenant-Colonel of Engineers, Colonel United States Army, In Charge of Public Buildings and Grounds.

It will be noted that James R. Dermott's name is spelled erroneously, Dermot, throughout the old manuscripts. I have followed the Dermott spelling throughout as given in his own signature.

The tracings of the Dermott Map of the City of Washington, in the District of Columbia, which have been prepared to be photolithographed, are as nearly exact copies as it is practicable to make. They have been carefully prepared under my personal direction by Mr. H. J. Schneider, and compared by Mr. E. A. Trescot, and the whole verified by Mr. A. Lindenkohl, Draughtsman, U.S. Coast and Geodetic Survey, and Acting Chief of the drawing Division of the Coast and Geodetic Survey Office. Nothing has been added and nothing has been omitted. I respectfully submit the whole for your approval for publication.

Yours respectfully,
B. A. COLONNA,
Assistant United States Coast and Geodetic Survey, In Charge of Office and Topography.
F. M. THORN,
Superintendent.

Approved for publication.

BACKGROUND INFORMATION ON U.S. CAPITOL HISTORICAL SOCIETY—FISCAL YEAR FEB. 1, 1982 THROUGH JAN. 31, 1983 BUDGET

	Income	Expenses
Income:		
"We, the People"—English	$250,000	0
"We, the People"—foreign	120,000	$115,000
Other books	80,000	42,000
Calendars	725,000	451,000
Jewelry	30,000	15,000
Postcards, etc.	110,000	40,000
Film and cameras	128,000	90,000
Slides and prints	25,000	10,000
Medals and accessories	75,000	50,000
1978, 1979, 1980, 1981, and 1982 medals	100,000	60,000
Other income:		
Interest income	58,000	
Membership	5,000	
Income discount	4,500	
Royalties	15,000	
Contributions	1,000	
Total income	1,726,500	
Expenses:		
Selling and administrative expenses:		
Salaries		330,482
Payroll and unemp. taxes		29,000
Insurance		33,000
Postage and mailing		7,000
Promotion		10,000
Membership expenses		5,000
Office expense		8,000
Office rent and storage		29,000
Miscellaneous		10,320
General counsel		10,000
Equipment		5,000
Library		500
Oral History		12,000
Contributions		50,000
Congressional Studies		13,000
Symposium		57,100
Surplus		244,098
Total expenses		1,726,500

Selling and administrative expenses

	Amounts
Salaries—Office of the president:	
President	$34,284
Executive secretary (C. Heine)	31,525
Other	
Total	65,809
Administrative office:	
Bookkeeper/office manager (S. Whittington)	17,500
F. Miller—annual leave	5,500
Secretary (I. Lintz)	22,000
Secretary to president (J. Hanson)	22,000
Receptionist/assistant bookkeeper (S. Hennessy)	15,752
Mail clerk (B. Davis)	13,798
Total	96,550
Department of history:	
Editor—historian (R. Striner)	19,442
Assistant editor—historian (D. Kennon)	15,279
Total	34,721
Capitol sales:	
Sales manager (J. Beck)	18,402
Full-time staff employees	70,000
Part-time staff employees	45,000
Total	133,402
Payroll taxes (FICA)	25,000
Unemployment	4,000
Total	29,000
Insurance:	
Group Hospitalization	9,000
Life Insurance	5,500
Retirement	13,500
General Insurance	5,000
Total	33,000
Postage and Mailing	
Postage and shipping	3,500
Mailing cartons	3,500
Total	7,000
Promotion	10,000
Total	10,000
Membership Expense: Capitol Dome	5,000
Total	5,000
Office Expenses:	
Telephone	3,500
Stationery	1,700
Copy machine	1,000
Service contracts	800
Miscellaneous	1,000
Total	8,250
Office rent and storage:	
Office	21,300
Storage (V.F.W.)	4,400
Storage (miscellaneous)	3,300
Total	29,000
General counsel	10,000
Total	10,000
Miscellaneous:	
Computer	1,320
Auditor	2,500
Dues	500
Miscellaneous	6,000
Total	10,320
Library	500
Equipment	5,000
Oral history	12,000
Contributions	50,000
Congressional studies	13,000
Symposium	57,100
Total	137,600

United States Capitol Historical Society—Contributions

	Amounts
Bibliography:	
Salaries	$64,617.00
Other Exp	1,768.00
Total	$66,385.00
Latrobe sofa	377.00
Congressional chairs	95.00
Information desk in Capitol	8,955.00
Allyn Cox for art work (preliminary)	1,182.00
Senate Committee—Art and Antiquities	500.00
Norton picture	575.00
Former Member of Congress Organization	1,000.00
Visitor's film (preliminary script)	10,000.00
Total	89,069.00
Art work for Capitol Hall (Anticipated within 30 days) September 1971	80,000.00
Framed House and Senate Pictures—April 1972 (for the cloak rooms)	678.00
Maryland Historical Society—National Endowment for the Humanities for the papers of Benjamin Henry Latrobe (September, October, November, and December 1972 Executive Committee meeting June 28, 1972)	4,000.00
Additional Art work for Capitol Hall (Executive Committee meeting Dec. 5, 1972) Pd. Jan. 5, 1973	10,000.00
Total Jan. 31, 1973	183,747.00
Additional cost of finishing and to make preparation for finalization of the art for Capitol Hall by Allyn Cox (Executive Committee meeting Sept. 24, 1973) Pd. November 1973	5,000.00
Construction of two walnut cabinets for use at the information center in Capitol Building contract with Harold Wills Pd. Nov. 6, 1973 (Executive Committee meeting June 7, 1973)	2,525.00
Total Jan. 31, 1974	191,272.00
Maryland Historical Society for the papers of Benjamin Henry Latrobe, Dr. Edward C. Carter II, editor (5 monthly payments—1974)	10,000.00
Paid insurance for Mr. Cox for art work in the Capitol building	810.00
Mr. Allyn Cox for master plan of art work for the U.S. Capitol Building (Executive Committee Aug. 29, 1974)	25,000.00
Mr. Harold Wills—construction of a walnut cabinet for use in the Capitol January 1976	295.00
An advance to Allyn Cox for supplies to start additional art work in the U.S. Capitol (Executive Committee May 17, 1975)	5,000.00
Lincoln Commission of the New York Presbyterian Church (Executive Committee Jan. 30, 1975)	500.00
Refund on insurance paid for Mr. Cox (Jan. 3, 1975)	324.00
Maryland Historical Society for the papers of Benjamin Henry Latrobe, Dr. Edward C. Carter II, editor (5 monthly payments—1976	10,000.00
Allyn Cox—sketches for East-West Hall Oct. 28, 1976	22,924.00
Allyn Cox—Dec. 17, 1976	5,000.00
Cliff Young—Jan. 31 1977	2,000.00
Macrotect edition—Latrobe papers, Gift U.S. Capitol—May 1977	600.00
The papers of William Thornton: Dr. Charles M. Harris, editor	8,000.00
The Frederich Law Olmsted papers: Dr. Charles McLaughlin editor	10,000.00
Federal Government Bicentenary Group	1,610.00
Additional funds for the art program December 1978	10,000.00
Federal Government Bicentenary Group, January 1979	1,610.00
The Architecture of Wash. D.C., Dunlap Society for Architect's Office, March 1979	190.00
The papers of William Thornton: Dr. Charles M. Harris, editor (matching funds—NEH) October 1979	8,000.00
Freight—Bekins Van Lines—freight 3 chairs from Napa, Calif., donation to Architect's Office, October 1979	329.00
Additional donation—art work: Allyn Cox—December 1979	5,000.00
The Dunlap Society—The Architect's Office, January 1980	10,00.00
Three Brumidi drawings—from Christie, Manson & Woods International, Inc., N.Y. for Architect's collection, February 1980	7,150.00
Argosy Book Store—9 prints—Democrat cloak room—Hon. John Brademas, August 1979	1,105.00
Papers of William Thornton: Dr. Charles M. Harris, editor 1980	4,000.00
Dr. Charles M. Harris, editor February 7, 1982	4,000.00
Pledge for William Thornton papers February 2, 1982	13,066.50
Purchase of 1857 congressional desk from Max Ware to give to Capitol June 2, 1982	3,000.00
Total June 1982	360,137.50
Cost of symposium:	
1978 symposium No. 1	9,660.98
1979 symposium No. 2	19,800.45
1980 symposium No. 3	34,166.97
1981 symposium No. 4	45,050.00
1982 symposium No. 5	52,400.00
Total cost of symposia to date June 1982	161,078.40
Cost of miscellaneous projects:	
"We The People" book—4,500,000 copies cost approximately 75 cents each (4,500,000 X .75)	3,375,000.00
Film—"City Out of Wilderness: Washington"	480,000.00
U.S. Capitol Historical Society yearly calendars from 1969 to 1982 (11,455,074 X .30)	3,436,522.20

UNITED STATES CAPITOL HISTORICAL SOCIETY,
Washington, D.C., April 10, 1980.

Memorandum for: Arthur B. Hanson, Chief Counsel, U.S. Capitol Historical Society.

Subject: Facts about the U.S. Capitol Historical Society and specific contributions to the U.S. Capitol.

THE SOCIETY

Founded in Washington, D.C. in 1962 by the Honorable Fred Schwengel, then representing the First District of Iowa in the United States House of Representatives, the Society is still headed by Mr. Schwengel, now retired from Congress. Its main purpose is to encourage an understanding by the people of America of the founding, growth and significance of the Capitol of the United States as the tangible symbol of their representative form of government. Its offices are on Capitol Hill in Washington, D.C. at 200 Maryland Avenue, N.E.

The Society is chartered in the District of Columbia as a non-profit educational organization under the laws of the United States. Though not subsidized, it is recognized by the United States Congress under Public Law 90-264 which authorizes it to provide in the Capitol—under supervision of the Architect of the Capitol—an educational and information center affording visitors information relative to Congressional offices; assistance in their visit to the Capitol; pamphlets, books, drawings, slides, photographs and related materials; and information about the Capitol and the history of the Capitol Building and past and present Congresses.

All materials offered in the Capitol by the Society are first approved by the Architect in consultation with the House Administration Committee and the Senate Committee on Rules and Administration. All operations of the Society are audited annually by the General Accounting Office of the Comptroller General of the United States.

The National Geographic Society in 1962 provided help enabling the Historical Society to publish the first edition of its Capitol guidebook and this help has been generously continued in the form of technical advice and guidance. Today the Society is wholly self-supporting, maintaining itself and funding its projects through successful publications and the contributions of foundations, firms and individuals to specific projects and programs.

ITS MEMBERSHIP

Numbers more than five thousand but it is not supported by member dues. There are various classes of membership with a one-time entry fee ranging from five to one thousand dollars according to the generosity and interest of the individual member. The single fee in every case provides life

membership including a quarterly newsletter, The Capitol Dome, and an annual meeting in Washington to which every Society member is invited. All Members of Congress become members of the Society upon election to the Congress by the people of the United States.

ITS PUBLICATIONS

Most acclaimed and successful is the full-color guidebook, *"We the People:* The Story of the United States Capitol." With three and a half million copies in print, this book is kept current by succeeding editions of which there are presently ten. A complementary publication, Washington Past and Present, an illustrated historical guidebook to the city of Washington, was brought out in 1975.

Annually the Society produces a large-format historical calendar with full color photographs of Washington's best-known and best-loved buildings, scenes and monuments. The day-by-day historical information provided by this calendar is developed from research sources in the Library of Congress and private libraries. In addition to Society staff historians who conduct this research, the Society employs student interns for the task in the summer, frequently reinforced by other students whose college or university arranges with the Society for them to participate as part of their academic programs. The organization, content and illustration of the calendar is developed in full consultation with the leadership of the United States Congress and members of Congressional staffs to insure that the finished product is of highest quality and fully conforms to the standards of workmanship and production desired by the Congress.

For young visitors to the Capitol, the Society provides an inexpensive and enjoyable publication entitled "Our Nation's Capital Coloring Book" which is also revised from time to time.

On the occasion of the loan to the United States Capitol by the government and the people of Great Britain of one of the earliest extant copies of Magna Carta, the Society in cooperation with the American Revolution Bicentennial Administration and the Supreme Court Historical Society produced an impressive book, "Magna Carta and the Tradition of Liberty." With prefaces by the Lord Chief Justice of England and the Chief Justice of the United States, this book describes and illustrates the history of Magna Carta and its tremendous influence on the life and growth of the American people.

Twice a year, the Society publishes a scholarly interdisciplinary journal of history, politics, art and architecture, focusing on the Capitol and the Congress it houses. In the past five years, some of this country's foremost scholars have used the pages of Capitol Studies as a forum for their ideas. A year ago the journal began a special feature: the thoughts of a sitting Member of Congress on some aspect of American life and government. To date, Representative Charles Whalen (R, Oh) and Senator Dick Clark (D, Ia) have submitted articles to Capitol Studies. Acclaimed by students the country over, Capitol Studies is becoming an integral part of the burgeoning new field, Congressional studies.

Other Society publications include large prints of original water color paintings of the East and West Fronts of the United States Capitol by the noted artist, Paul Norton, and smaller Christmas cards reproduced annually from these prints. From the splendid illustrations of WE, THE PEOPLE—photographs taken by the skilled photographers of the National Geographic Society—the Society produces a variety of picture postal cards affording Capitol visitors mementos of paintings, statuary, chambers and activities in the Capitol Building.

CURRENT PROJECTS AND FUTURE PROGRAMS

The Medals Program.—Deemed of interest to visitors, and a special program to enhance history, include the Society's own medal created by the late Ralph Menconi, illustrating in deep relief the laying of the Capitol cornerstone in 1793 by President George Washington. Also provided are other officially approved medals: presidential, vice presidential and others of topical interest.

With the authority of the Congress, H.J. Res. 386 introduced April 6, 1977 by Members of Congress, the Society created and distributed, in 1978, its first national medal. This resolution, later culminated in Public Law 95-229 provides for striking by the U.S. Mint of the first of a series of national medals to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789. These medals will be distributed by the Society in conjunction with a series of thirteen annual historical symposia of distinguished scholars.

Our 1978 medal commemorated the adoption by the Continental Congress of the Articles of Confederation, the creation of the nation's first official stars and stripes flag and the heroism of the Continental Army during its bitter winter struggle of 1777-1778 at Valley Forge, Pa. In 1979 the Society created a John Paul Jones medal commemorating his leadership and identification with Bonhomme Richard.

Cox Artwork in the Capitol.—From its own resources and generous contribution from the Daughters of the American Revolution—the Society has provided more than two hundred and fifty thousand dollars to fund the splendid murals and art work being created in the halls of the House side of the Capitol by the noted American muralist, Allyn Cox. The eastern north-south corridor has been completed. Funds are in hand for completion of the main east-west corridor and scaffolding erected, Allyn Cox with his assistants are at work now on the ceiling of this corridor. A plan has been prepared and approved for the westernmost north-south corridor and a concept is being developed for murals in the House connecting corridor between the Hall of Columns and the central Crypt area.

Congressional Oral History.—This project is underway, launched by Society Board member, Frank Van der Linder, who has already recorded an interview with retired Senate Minority Leader Hugh Scott, Senate Chaplain Rev. Edward L. R. Elson, muralist Allyn Cox, and currently working on Senate Majority Leader Robert Byrd. This project, we hope, will eventually be expanded so that we will be able to record the experiences of other important people who are associated with the Congress. This will be an invaluable collection available to future scholars and students of history and political science. We have arranged to have this collection stored in the Library of Congress.

Congressional Studies.—In the fall of 1976 the Society, in cooperation with the Catholic University of America, inaugurated a program in Congressional Studies offering a Master's degree from the University—to the best of our knowledge, the only such degree offered in America. This program makes available a diversity of studies ranging from a two-semester course in the history and development of the United States Congress to a shorter intensive study of the role of Congress in the national budget-making procedure. Drawing on instructional talent both within and without the University, the program has assembled an outstanding faculty. With the related effectiveness of the Society journal, Congressional Studies, and the Master's Degree program of Congressional Studies, the Society has taken a major step toward its goal of informing the public about the history and activities of the United States Congress.

Speakers Bibliography.—The Society is compiling a comprehensive bibliography of material by and about the men who have served as Speakers of the House of Representatives and the position itself. Included will be published books and articles, unpublished theses and dissertations, and manuscript collections. The completed bibliography will include thousands of annotated entries. Already in progress for more than a year, it will not be completed for at least another year. Even at this early date, however, one major publisher has evinced an interest in its publication. It is hoped that the bibliography will stimulate students in both history and political science to embark on studies of an institution that has been sorely neglected and on some of the important men who served as Speakers but are virtually unknown today.

Sound and Light At The Capitol.—At the suggestion of Congressman Henry Reuss, the Society developed a concept for a Sound and Light production on the East Front of the United States Capitol. A bill authored in Congress by Gerald Ford and Thomas O'Neill was passed by the House and Senate directing the Society to conduct a feasibility study of the concept. The completed study, funded entirely by the Society, found the project both feasible and desirable. Detailed plans for a Sound and Light production entitled "Our Capitol: Freedom Speaks" have been approved by the Society's Board of Trustees, the Architect of the Capitol and the leadership of the House of Representatives. With the approval of the Senate Commission on Art and Antiquities, the project will be launched.

"Son et Lumiere" as it is called in Europe—Sound and Light as we know it here—is an exciting new art form proven successful at the Acropolis in Athens, the Tower of David in Jerusalem, Les Invalides in Paris, and Persepolis in Iran. It evokes history's great events on the actual sites where they occurred by playing not on a stage but on the structure itself and on the imagination of the viewer.

Sophisticated stereophonic loudspeakers and extensive lighting equipment will be installed completely out of view around the Capitol grounds. When the program begins, the "Son et Lumiere" effect seems to come from nowhere and everywhere. The music, light, and sound will evoke the spirit of history more surely than live actors could.

OTHER SOCIETY PRODUCTS

Recently produced by the Society with the talented help of Arch Lustberg is a handsomely jacketed long-playing phonograph record of dramatic incidents which have occurred in the Capitol throughout its history. With narration by Helen Hayes, E. G. Marshall and others and original music by John Cacavas, "The Voice of the People" has intrigued individual listeners and proved most useful to teachers at all levels as a classroom aid to instruction in the history of our country. Dore Schary was proj-

ect consultant during the development of this historically accurate dramatization of Capitol events and great debates.

Of special interest to children and their teachers are meticulously accurate pasteboard models of the Capitol Building to be cut out and assembled individually or as class projects. An advisory committee composed largely of the wives of Members of Congress has selected half a dozen famous decorative seals or architectural details from the Capitol interior which have been reproduced in transfer patterns for needlework and other crafts. Some of these are provided in complete kits containing much of the materials necessary to create most unusual and striking mementos of the Capitol by the artistry of the individual who acquires them.

PAST PROGRAMS

In 1973, after several years of preparation and research, the Society published an extensive, annotated bibliographical guide to published works concerning the development of the United States Capitol Building and the dramatic events which have occurred within it. "The United States Capitol, An Annotated Bibliography" provides a starting place in their search for information about the home of American government. Like most Society scholarly ventures, the Bibliography is of use to a wide range of students, including those interested in political history, art history, architectural history, and political science. An easily referenced guide, the Bibliography has already been cited in several important publications; a clear indication of its usefulness.

When the conversion of Washington's Union Station to a National Visitors Center began, the Society accepted the challenge and invitation of the National Park Service to produce a short film in color to be shown in the Center to visitors to the nation's capital city. More than two years in production; generously supported by the National Park Service, the National Endowment for Humanities, foundations, business organizations and public-spirited individuals; this magnificent film was completed by Francis Thompson, noted New York filmmaker, in late 1974. "Washington: City Out of Wilderness" had its first showing for President and Mrs. Ford and other government officials and legislators in January 1975 in the Kennedy Center for the Performing Arts in Washington. It was subsequently nominated for an award in the short documentary category by the Academy of Motion Picture Arts and Sciences; won a 1975 CINE Golden Eagle Award, a Chris Bronze Plaque at the Columbus International Film Festival and the FAC Cup at the 28th Salerno International Film Festival. More than seven hundred prints and movie strips of this film have been distributed.

The Society raised nearly four hundred thousand dollars to create this film which was presented hourly in the National Visitors Center. Witty and enjoyable, "City Out of Wilderness" opens in the lonely, verdent wilderness along the Potomac River; follows the growth of a riverside town as its temples rose from the mud, marches to war, celebrates peace, looks at the faces of great men and common folk as they built their city and their laws and their government. It speaks of hard work and fear and triumph; listens to the voices of protest, honors the dead and welcomes the living all in just under half an hour.

The film itself and less expensive filmstrips made from it have been made available to schools, colleges, libraries and organizations of every kind throughout the United States. Many congressmen have obtained prints of it to be shown in their home districts and states. It has proven a popular success which will apparently continue to receive wide acclaim both in Washington and throughout the nation.

The Maryland Historical Society has for some years been at work editing and preparing for publication the papers of Benjamin Henry Latrobe who, as Surveyor of Public Buildings in 1803, greatly influenced the design of the interior of the United States Capitol and was charged with repairing the building after the British burned it in 1814. The Society has contributed $24,000 to this project and on its completion, purchased and donated to the Capitol a complete microfiche edition of Latrobe's papers. Recently, the Society has pledged a contribution of $20,000 to the American Institute of Architects Foundation project to edit the papers of William Thornton, original designer of the Capitol and its Architect until 1802.

AN ADDENDUM REGARDING OTHER GIFTS

There are times when there is need for special contributions that we cannot finance from our own funds. So, therefore, the U.S. Capitol Historical Society becomes the agent to acquire money from other sources.

The film entitled "Washington, City Out of Wilderness" was produced at a cost of just under $500,000.00. This money came from foundations, corporations, individual people and special funds.

Recently we were made aware of an original Samual F. B. Morse painting of the old House Chamber. By negotiation, this office helped to acquire it at a cost of $35,000.00. The Cafritz Foundation, at our invitation, furnished the money for this.

U.S. CAPITOL HISTORICAL SOCIETY, HONORARY BOARD OF TRUSTEES

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Mr. Alvin M. Josephy, Jr., Editor, American Heritage Publishing Co., 10 Rockefeller Plaza, New York, N.Y. 10020.

The Hon. Walter H. Judd, 3083 Ordway Street, N.W., Washington, D.C. 20008.

The Hon. Charles McC. Mathias, Jr., 358 Russell Senate Office Building, Washington, D.C. 20510.

Mr. Gene McGreevy, 1735 Jersey Ridge Road, Davenport, Iowa 52803.

The Hon. Robert Morgan, P.O. Box 397, Lillington, N.C. 27546.

Mr. Ralph G. Newman, 175 E. Delaware Place, Apt. No. 5112, Chicago, Ill. 60611.

The Hon. J. J. Pickle, 242 Cannon House Office Building, Washington, D.C. 20515.

Dr. Harold T. Pinkett, 5741 27th Street, N.W., Washington, D.C. 20015.

Dr. Forrest C. Pogue, Director, Dwight D. Eisenhower Institute for Historical Research, Smithsonian Institution, Room 4027, 1000 Jefferson Drive, S.W., Washington, D.C. 20560.

Mrs. Richard Denny Shelby, President General, Daughters of the American Revolution, 1776 D Street, N.W., Washington, D.C. 20006.

Mr. Clement M. Silvestro, Museum of Our National Heritage, P.O. Box 519, Lexington, Mass. 02173.

The Hon. Joseph Gaydos, 2366 Rayburn House Office Building, Washington, D.C. 20515.

Mrs. Wakelee Rawson Smith, Honorary President General, DAR, 538 Pamela Circle, Hinsdale, Ill. 60521.

The Hon. Robert Stephens, Jr., 435 Woodward Way, Athens, Ga. 30601.

Mrs. Florian H. Thayn, Art and Reference Division, Office of the Architect of the Capitol, HB-28, The Capitol, Washington, D.C. 20515.

The Hon. Guy Vander Jagt, 2334 Rayburn House Office Building, Washington, D.C. 20515.

Mr. Frank Van der Linden, 5312 Blackistone Road, Bethesda, Md. 20816.

The Hon. George M. White, Architect of the Capitol, SB-15, The Capitol, Washington, D.C. 20515.

The Hon. Ralph W. Yarborough, 721 Brown Building, Austin, Tex. 78701.

Mr. Joseph McCaffrey, WMAL, 4400 Jenifer Street, N.W., Washington, D.C. 20015.

Mrs. Barbara Bush, Room 268, Old Executive Office Building, Washington, D.C. 20501.

THE U.S. CAPITOL HISTORICAL SOCIETY ANNOUNCES ITS SLATE OF OFFICERS FOR 1983

The Officers of the U.S. Capitol Historical Society for 1983 elected at the Society's Annual Meeting are the following: President, Fred Schwengel; Vice Presidents—Marguerite Stitt Church, Melvin M. Payne, Carl Haverlin, Hon. David Pryor, and Walter Rundell, Jr. (since election, Dr. Walter Rundell passed away); Treasurer, Hyman J. Cohen; Secretary, Joanne Hanson; and Treasurer-Emeritus, Victor Birely.

Newly elected to the Society's officers was Hyman J. Cohen as the Tresaurer. A graduate of Tufts University and the Harvard Law School (Class of 1931), Mr. Cohen has been a practicing attorney in Washington, D.C. and in Arlington, Virginia since 1947. Mr. Cohen has maintained a lifelong interest in history and cultural affairs. His memberships are most numerous and include the National Trust for Historic Preservation, the American Jewish Historical Society, and the Jewish Historical Society of Greater Washington.

New members elected for the first time to the Active Board of Trustees included Mrs. Mary Regula of Ohio, Miss Jean Jacobs, National Society, Daughters of the American Revolution, and the Hon. Jeseph M. Gaydos, Member of Congress from Pennsylvania.

The U.S. Capitol Historical Society was founded in 1962 as a nonprofit educational organization. It was chartered by the Congress in 1978 and given authorities to preserve the Capitol through historical research and publications. The well-known publication of the Society—the history book We the People—has sold over five million copies. The Society sponsors numerous scholarly meetings and seminars. Its activities include a Congressional Studies Program leading to a Master's Degree in cooperation with The Catholic University of America, and the publication of a bi-annual journal on "Congress and the Presidency" in cooperation with The American University.

MEMBERSHIP INFORMATION

The United States Capitol Historical Society is an educational organization incorporated under the laws of the District of Columbia in 1962 and chartered by the Congress of the United States in 1978. Its active membership is open to everyone in the United States and elsewhere who wishes to foster an informed understanding of the inspiration and promise of American history.

THE SOCIETY'S PURPOSE

From the time its cornerstone was laid on September 18, 1793 by the Nation's first Commander-in-Chief, George Washington, the Capitol became the center of our National Government. Symbolizing a Government founded on the principles "of the people, by the people, for the people," the Capitol became the workplace of the Congress—the arena where the people's representatives forged the laws and contributed to the programs that have moulded the national destiny for nearly 200 years.

To preserve the rich heritage of the Capitol and interpret to the American people the functions and role of the Congress, the U.S. Capitol Historical Society was formed in 1962. The Society operates the Capitol Visitor Center in the Capitol, where information on the Congress, assistance to visitors, and publications relative to the Capitol are provided throughout the year. The U.S. Capitol Historical Society is a unique historical organization, dedicated solely to recording and interpreting the history of the United States Capitol.

All members of the Congress are members of the Society. Upon their election they are presented their certificate of life membership. Congressmen call upon the U.S. Capitol Historical Society to assist constituents with historical information, and the Members utilize publications of the Society such as "We the People—The Story of the United States Capitol" and the "We the People" historical day-by-day calendar. The publications of the Society are sold at the Society's Capitol Visitor Center, or may be obtained by writing to the U.S. Capitol Historical Society.

The U.S. Capitol Historical Society and its Board of Trustees realize that as America moves into the future, there has never been a greater need for a spirited and informed body of citizens—both young and old. Americans need to know more about the history of their country and about their system of representative government. The Capitol is the ideal focus for this increased study—for it is the building, of which Alexander Hamilton said, "Here, sir, the people govern."

The U.S. Capitol Historical Society needs members who will actively support its educational programs in the Nation's Capital and in the respective States, with dedication and enthusiasm.

MEMBERSHIP

The United States Capitol Historical Society—patriotically motivated, and inspired by a profound sense of mission—looks to the Congress, to the Executive and Judicial branches of Government, and most of all to the American people for support.

There are several classes of membership with a one-time membership fee ranging from ten to one thousand dollars but each provides the same privileges: a quarterly newsletter, The Capitol Dome; an invitation to attend each annual meeting in Washington and a membership discount on the purchase of most Society publications and other products. If you wish to join us, simply determine from the membership application form which class of membership you would like to enter, fill out the form in accordance with your entry contribution (which is tax deductible) and send it to us with your remittance.

Write: United States Capitol Historical Society, 200 Maryland Avenue, Northeast, Washington, D.C. 20002, (202) 543-8919.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

TO MAKE CERTAIN TECHNICAL AMENDMENTS TO IMPROVE IMPLEMENTATION OF THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate H.R. 7336, a bill making technical amendments to chapter 1 and chapter 2 of the Education Act.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7336) to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981.

Mr. STAFFORD. Mr. President, I move that the Senate take from the desk and pass H.R. 7336, making technical amendments to chapter 1 and chapter 2 of the Education Consolidation and Improvement Act.

As my colleagues recall, the changes which we made during last year's budget reconciliation resulted in the simplification of title I of the Elementary and Secondary Education Act, which provides compensatory education to disadvantaged children, and the creation of chapter 2, a consolidation of 28 separate educational programs into a new block grant, a program which has become exceedingly popular with our local school districts.

Yet, in the expedited budget process in which we were involved, certain technical errors were made in creating the Education Consolidation and Improvement Act that need correction. This legislation represents not only technical corrections in ECIA but also clarification of congressional intent in passing that law.

At the heart of H.R. 7336 is the reinstitution of certain provisions of the old title I which allowed local school districts flexibility in operating their programs. Understanding that the objective of chapter 1 was to provide flexibility for our schools, it makes eminent sense to reestablish those provisions of title I which accomplished this but were inadvertently dropped.

There are additional changes as well—clarification of the State's role in chapter 2, clarification of chapter 1's emphasis on economically disadvantaged children, and other proposals. It must be emphasized that this legislation was developed with the closest collaboration of Members on both sides of the aisle, on both sides of the Hill. In addition, most of the proposals made herein are applauded by the various national groups having a stake in the effective operation of ECIA.

Therefore, I urge the Senate to approve the motion and pass H.R. 7336.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

TO EXPRESS THE SENSE OF THE SENATE THAT THE SECRETARY OF AGRICULTURE USE HIS EXISTING AUTHORITIES TO EXPORT SURPLUS DAIRY PRODUCTS

Mr. BAKER. Mr. President, I send a resolution to the desk on behalf of the distinguished Senator from Minnesota (Mr. BOSCHWITZ) and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 524) to express the sense of the Senate that the Secretary of Agriculture use his existing authorities to export surplus dairy products.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. ROBERT C. BYRD. No objection.

The Senate proceeded to consider the resolution.

Mr. BOSCHWITZ. Mr. President, today I am offering a sense-of-the-Senate resolution to encourage the Secretary of Agriculture to export surplus Commodity Credit Corporation (CCC) dairy products onto the world market. I had originally hoped to offer legislation mandating that a minimum quantity of dairy products be exported in this and the next 2 fiscal years. However, my colleagues on the Agriculture Committee were reluctant to force the administration to take this action.

This reluctance was mostly due to a fear that the delicate balance struck in the United States-European Community (EC) bilateral meetings on December 9 and 10 might be upset. If someone has a more constructive approach for dealing with the EC than pressuring them with dairy products, I would be glad to hear of it. At any rate, there seems to be a glimmer of hope that we will not have to confront the EC quite as directly as had been expected.

If we set the EC issue aside, however, it soon becomes clear that the United States could export a substantial quantity without negatively affecting the world market. After all, in 1981 we sold 100,000 tons to New Zealand, which was handled very judiciously. It was absorbed into the world market without destroying the market. The United States could follow the same approach now, either selling to New Zealand or else directly to the final recipient countries in appropriate amounts.

Mr. President, selling some of our surplus dairy products has very broad support among farm groups in my State and all across the country. Just as two examples, my good friend Eugene Paul, president of the National Farmers Organization in Minnesota, has patiently but persistently advised me for several months to push the administration in this direction. Just recently the Blue Ribbon Export Committee of the National Council of Farmer Cooperatives adopted a resolution very similar to the one I have introduced. Involvement of the NCFC shows the importance of dairy exports to the country as a whole and not only to dairy States such as Minnesota.

In addition, many individual farmers asked me about this issue during 3 days of dairy hearings I held across Minnesota in July. There is a high level of awareness at the grassroots level that the administration is procrastinating on dairy export sales.

I sincerely hope that the administration will quickly show its good faith to the dairy industry. Congress has given the Secretary all the authority he needs. The next move is up to him. If nothing happens very soon, I will come back in the new Congress and offer legislation which would actually require that dairy products be exported.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 524) was agreed to.

The preamble was agreed to.

The resolution together with the preamble is as follows:

S. RES. 524

Whereas the Secretary of Agriculture has been given the authority under the Agriculture and Food Act of 1981 to export surplus Commodity Credit Corporation dairy stocks and has been urged to use that authority in both the Omnibus Budget Reconciliation Act of 1982 and the Agriculture Appropriations Act for Fiscal Year 1983; and

Whereas there is a tremendous surplus of dairy products, including butter, cheese, and nonfat dry milk in the United States being maintained at a considerable cost to the United States taxpayer; and

Whereas there currently is known demand for dairy products in the world market; Now, therefore, be it

Resolved, That the Secretary of Agriculture is strongly encouraged to use those authorities available to him to move surplus dairy products into the international market.

AUTHORIZING THE PRESIDENT TO PROCLAIM MAY 13, 1983, AS "AMERICAN INDIAN DAY"

Mr. BAKER. Mr. President, next I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 459, American Indian Day.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 459) authorizing the President to proclaim May 13, 1983, as "American Indian Day."

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

PER CAPITA PAYMENTS TO INDIANS

Mr. BAKER. Mr. President, I now ask the Chair to lay before the Senate Calendar Order No. 949, H.R. 4635.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The Senate proceeded to consider the bill (H.R. 4365) to provide that per capita payments to Indians may be made by tribal governments, and for other purposes, which had been reported from the Select Committee on Indian Affairs with an amendment on page 2, line 20, strike "met.", and insert "met, including but not limited to, the protection of the interests of minors and incompetents in such funds."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

TEXAS BAND OF KICKAPOO ACT

Mr. BAKER. Mr. President, finally on my list of items to be passed by unanimous consent is Calendar Order No. 1017, H.R. 4496, and I ask the Chair to lay that measure before the Senate.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4496) to grant Federal recognition of the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes,

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee (Mr. BAKER)?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Texas Band of Kickapoo Act".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) Congress finds that the Texas Band of Kickapoo Indians is a subgroup of the Kickapoo Tribe of Oklahoma; that many years ago, the Band was forced to migrate from its ancestral lands to what is now the State of Texas and the nation of

Mexico; that, although many members of the band meet the requirements for United States citizenship, some of them cannot prove that they are United States citizens; that, although the Band resides in the State of Texas, it owns no land there; that, because the Band owns no land in Texas, members of the Band are considered ineligible for services which the United States provides to other Indians who are members of federally recognized tribes because of their status as Indians except when the members of the Band are on or near the reservation of the Kickapoo Tribe of Oklahoma; that members of the Band live under conditions that pose serious threats to their health; and that, because their culture is derived from three different cultures, they have unique needs including, especially, educational needs.

(b) Congress therefore declares that the Band should be recognized by the United States; that the right of the members of the Band to pass and repass the borders of the United States should be clarified; that services which the United States provides to Indians because of their status as Indians should be provided to members of the Band in Maverick County, Texas; and, that land in the State of Texas should be taken in trust by the United States for the benefit of the Band.

DEFINITIONS

SEC. 3. For purposes of this Act—

(a) "Band" means the Texas Band of Kickapoo Indians, a subgroup of the Kickapoo Tribe of Oklahoma;

(b) "Tribe" means the Kickapoo Tribe of Oklahoma; and

(c) "Secretary" means the Secretary of the Interior.

ESTABLISHMENT OF BAND ROLL; CLARIFICATION OF UNITED STATES CITIZENSHIP

SEC. 4. (a) Within one year of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a roll of those members of the Tribe who posses Kickapoo blood and who are also members of the Band. When said roll is complete, the Secretary shall immediately publish notice in the Federal Register stating that the roll has been completed. The Secretary shall ensure that the roll, once completed, is maintained and that it is current.

(b) If the Secretary does not compile the roll within the period prescribed in subsection 4(a), he shall submit a report to Congress setting forth the reasons he did not do so.

(c) For a period of five years after the publication of the Federal Register notice required under subsection 4(a), any member of the Band whose name appears on the roll compiled by the Secretary, may, at his option, apply for United States citizenship. Such application shall be made to the Immigration and Naturalization Service and, upon receipt of the application, citizenship shall promptly be granted to the applicant.

(d) Notwithstanding the Immigration and Nationality Act, all members of the Band shall be entitled to freely pass and repass the borders of the United States and to live and work in the United States.

LAND ACQUISITION; APPLICABILITY OF THE INDIAN REORGANIZATION ACT

SEC. 5. (a) The Act of June 18, 1934 (48 Stat. 984), is hereby made applicable to the Band: *Provided however,* That the Secretary is only authorized to exercise his authority under section 5 of that Act (25 U.S.C. 465) with respect to lands located in Maverick County, Texas.

(b) The Secretary is authorized and directed to accept no more than one hundred acres of land in Maverick County, Texas which shall be offered for the benefit of the Band with the approval of the Tribe. Nothing in this subsection shall be construed as limiting the authority of the Secretary under section 5 of the Act of June 18, 1934 (48 Stat. 985).

JURISDICTION

SEC. 6. The State of Texas shall exercise jurisdiction over civil causes of action and criminal offenses arising on the Band's trust lands in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code, as if it had assumed jurisdiction pursuant to sections 401 and 402 of the Act of April 11, 1968 (82 Stat. 78, 79). The provisions of section 403 of the Act of April 11, 1968 (82 Stat. 79), shall be applicable and available to the State of Texas.

PROVISION OF FEDERAL INDIAN SERVICES

SEC. 7. (a) Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, the Band and its members in Maverick County, Texas shall be eligible for such programs and services without regard to the existence of a reservation, the residence of members of the Band on or near a reservation, or the compilation of the roll pursuant to subsection 4(a) of this Act.

(b) In providing services pursuant to subsection (a), the Secretary and the head of each department and agency shall consult and cooperate with appropriate officials or agencies of the Mexican Government to the greatest extent possible to ensure that such services meet the special tricultural needs of the Band and its members. Such consultation and cooperation may include, whenever practicable, joint funding agreements between such agency or department of the United States and the appropriate agencies and officials of the Mexican Government.

The PRESIDING OFFICER. The bill is open to further amendment if there is no further amendment to be offered, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4496) was read the third time, and passed.

Mr. BAKER. Finally, Mr. President, I ask unanimous consent that it may be in order to reconsider by one motion to reconsider en bloc all actions taken in the unanimous-consent file.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection to the order that there be one motion to reconsider en bloc all actions taken.

Mr. BAKER. Mr. President, I then move to reconsider en bloc the actions just taken.

Mr. ROBERT C. BYRD. Mr. President, I again have the last word. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, when the Senate reconvenes, it will do so at the hour of 12 noon on today. Mr. President, the adjournment resolution has been passed. I fully expect that we will be able to transact the business of the Senate today, and I hope that we will be able to accomplish a great deal. In any event, this day is over and I am grateful.

RECESS

Mr. BAKER. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 noon today.

The motion was agreed to; and at 2:07 a.m., the Senate recessed until Tuesday, December 21, 1982, at 12 noon.

HOUSE OF REPRESENTATIVES—*Monday, December 20, 1982*

(Legislative day of Sunday, December 19, 1982)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock noon on Monday, December 20, 1982.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we prepare to celebrate this holy season and to recall the ways in which we have been blessed, we are conscious of people for whom times are difficult and for whom there is no holiday. We reach out in our prayer to those who live under tyranny and know not the liberty we cherish, for those nations for whom freedom is but a faint hope. We commend to You, O God, those who are hungry or alone or forgotten, even as we dedicate ourselves to use our resources to help those who need our care. Teach us, O God, that it is in giving of yourselves, and our gifts that we truly receive Your blessings and serve those about us. Amen.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6946) entitled "An act to amend title 18 of the United States Code to provide penalties for certain false identification related crimes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2623) entitled "An act to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to bills and a joint resolution of the Senate of the following titles:

S. 835. An act for the relief of Jerry L. Crow;

S. 1965. An act to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System; and

S.J. Res. 260. Joint resolution to designate the period commencing January 1, 1983, and ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America."

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 503. An act to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, N. Dak., and for other purposes.

The message also announced that the Senate recedes from its amendments numbered 2, 3, 4, 5, 6, and 7 to the bill (H.R. 2475) entitled "An act to modify a withdrawal of certain lands in Mono County, Calif., to facilitate an exchange for certain other lands in Mono County, Calif., and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1501) entitled the "Educational Mining Act of 1982."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 9. An act to designate components of the National Wilderness Preservation System in th State of Florida;

H.R. 3731. An act to amend the Act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims;

H.R. 4566, An act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes;

H.R. 7102. An act to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes;

H.R. 7154. An act to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes; and

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5002) entitled "An act to improve fishery conservation and management," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PACKWOOD, Mr. GORTON, Mr. STEVENS, Mr. HOLLINGS, and Mr. INOUYE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4566) entitled "An act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. DANFORTH, Mr. HEINZ, Mr. LONG, and Mr. BENTSEN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1705. An act to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior;

S. 1963. An act to improve the internal security of the United States by clarifying the notification requirements for foreign agents under section 951 of title 18, United States Code, and to increase the penalties for failure to notify;

S. 1978. An act to quiet title and possession with respect to a certain private land claim in Livingston Parish, La.;

S. 2308. An act to direct the Secretary of Agriculture to convey certain property to the city of Show Low, Ariz.;

S. 2955. An act to establish the Cheaha Wilderness in Talladega National Forest, Ala.; and

S.J. Res. 155. Joint Resolution redesignating the St. Croix Island National Monument in the State of Maine as the "St. Croix Island International Historic Site."

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 631, FURTHER CONTINUING APPROPRIATIONS, 1983

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes:

[The conference report referred to appears on pages 32983-33075 of today's RECORD.]

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

89-059 O-86-23 (Pt. 24)

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 631, FURTHER CONTINUING APPROPRIATIONS, 1983

Mr. WHITTEN. Mr. Speaker, I call up the conference report on the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. The conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, December 20, 1982.)

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on consideration of the conference report to House Joint Resolution 631, and that I may include extraneous and tabular matter.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

The SPEAKER. The gentleman from Mississippi is recognized.

Mr. WHITTEN. Mr. Speaker, I suppose in all sessions of the Congress there are times when a great amount of work has to be done in a very short order. I bring you this conference report and advise you that the conference was in session from 10 a.m. until 10 p.m. All 13 subcommittees were involved to one extent or another. Mr. Speaker, I am pleased to report that in that 10 hours we resolved all our differences without fanfare. We reached agreement on 133 amendments, including several extremely controversial issues.

Long difficult conferences are nothing new to Members of the House and Senate Appropriations Committees. We have had to meet until all hours of the night on several occasions. May I say that the diligence, the good humor and the high level of debate during our long conference made a difficult task much more tolerable.

I especially want to acknowledge the contribution of the distinguished Senator from Oregon (Mr. HATFIELD), the chairman of the Senate Appropriations Committee. He presided over this conference with his usual magnanimity and decorum. I also want to mention the special contribution of the ranking minority member of the House committee, the gentleman from Massachusetts (Mr. CONTE). It has been a great pleasure during the years to serve with him. His devotion to the causes he believes in and the tenacity he displays in his arguments—spiced with generous doses of humor—are tremendous assets during a arduous conference such as this.

The role played by every conferee was essential during this procedure. In order to streamline the conference, we broke up into subgroups which then made recommendations to the full conference. The cooperation of everyone—majority and minority—contributed to the final conference agreement.

I would like to take this time to pay tribute to the staff of our Committee on Appropriatons. Not only have they done a good job through the years, but also their being able to put all this material together, and all these figures in a short period of time is almost unbelievable.

I would like to advise the House that here we have in this conference report all these matters dealing with all phases of the Government, and yet we bring you a bill that is under the committee's section 302 allocation. Our committee has done a marvelous job throughout the year under very difficult circumstances, and we are hopeful that this is the last continuing resolution we will have to have. I have discussed it with my colleagues on the committee, and next year we hope to bring up our appropriations bills soon after May 15, and we hope we will not be faced with this type of situation.

Mr. Speaker, the resolution we bring before the House today provides funding authority for eight major appropriations bills for fiscal year 1983. Projects and activities carried in the Treasury, Postal Service, and General Government bill are provided for at the lower level of the House or Senate. Foreign assistance programs are provided for at a compromise rate contained in the conference report. The conferees also agreed—after much debate—on funding levels for the Department of Defense. The House position provided denying procurement funds for the MX missile. Research and development moneys are provided with certain restrictions. The Commerce, Justice, State, and Judiciary programs are provided for at the amounts contained under amendment number 13 as described in the joint explanatory statement.

The District of Columbia and Interior and related agencies appropriations bills are provided for at the rates, and under the terms and conditions set forth in the conference reports on H.R. 7144 and H.R. 7356, respectively. The conference agreements on these two bills have been adopted by both Houses of Congress and it is anticipated both bills will soon be signed into law.

Programs and activities carried in the Departments of Labor, Health and Human Services, and Education and Related Agencies bill are provided for as outlined in the joint explanatory statement under amendments 14 through 23.

The energy and water development bill is provided for at the current rate, with certain exceptions. In addition, the resolution provides approximately $9 billion for assisted housing programs which were deferred during consideration of the regular 1983 HUD Independent Agencies Appropriation Act.

The resolution also provides for a partial lifting of the cap on executive salaries. Although existing law would provide for an increase of 27.2 percent, the conference agreement allows an increase of 15 percent. Certain conferees, including myself, believe even this increase is too high in today's uncertain economic climate. The conference agreement excludes Senators from the salary increase. The conferees also agreed to delete the provision of the House-passed resolution which would have limited to 30 percent of salary outside earned income of all Members of Congress. The provisions of the House rules concerning outside earned income will not be affected by this action.

The termination date of the resolution is September 30, 1983, as proposed by the Senate, instead of March 15, 1983, as recommended by the House. Agreement having been reached on the major bills provided for in the resolution, the conferees decided a termination date of September 30, 1983, was the most practical.

One of the overriding concerns of the conferees was that the Attorney General's ruling requires the orderly shutdown of all nonessential Government activities if appropriations are not enacted. In a mutual realization that ideological differences should not result in the termination of many Government activities, the conferees, I believe, made extra efforts to reach accommodation.

Mr. Speaker, the House-passed resolution included $5.4 billion for productive employment in title II. The conferees deleted the entire title. Later in the debate I will explain the reasons for this action.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during my 24 years in this body, I have helped to bring hundreds of conference agreements to this floor.

Not a single one gave me the satisfaction I feel today.

Not a single one started so badly, and ended so well.

Forty-eight hours ago this Congress was staggering from comedy to farce. We did not know whether this resolution could even pass the other body, much less get through conference and be signed into law.

Twenty-four hours ago we went to conference on a resolution which left the House as a prime cut of veto bait, and was almost buried by special interests in the other body.

We disagreed on 133 separate amendmends, which covered thousands of individual line items, and included: Members pay, foreign aid, a complete defense bill, including the MX, and a jobs bill which the President promised he would veto.

This morning we bring you a responsible conference agreement that should be signed into law—a conference agreement made possible only by political statesmanship of the highest order.

I am proud of my House and Senate colleagues in the conference. And I pay a special tribute to my chairman, JAMIE WHITTEN, to the chairman of the conference, the Senator from Oregon, Senator HATFIELD and to the House conferees for the majority.

The major issues in disagreement were personally and politically troublesome for each of these men. Yet each and every one placed the interests of the country above his own and those of his party.

That is why I can say to all of my colleagues and friends in this House on both sides of the aisle that this conference agreement deserves your support.

Let me outline the most important agreements.

The jobs bill is out. Both the House and the Senate receded, and there is no title II, or "Jobs Title" in the conference agreement. The President stood firm on this issue, and had the votes to back him up. I am pleased that the majority conferees and the Senate conferees saw the wisdom of his position.

The resolution runs for the remainder of the fiscal year. The business of this Congress is now behind us, and the 98th Congress can start with a clean slate.

The conference agreement covers six bills for the entire fiscal year: Commerce-Justice, Defense, energy and water development, foreign aid, Labor-HHS, and Treasury.

We agreed on a complete defense bill, including an agreement on the MX missile that closely tracks the House position. There is no money for missile procurement, and research funds for basing are funded exactly as the House provided. A mechanism for further congressional action on the system is established.

We agreed on a complete Labor-HHS bill for the entire fiscal year.

The four other bills are continued as follows: Commerce-Justice is continued at the Senate rate, with many individual items specified in the resolution. Conferees agreed to extend certain FTC authorities, including the legislative veto, but did not agree to the Senate amendment which would have prohibited the FTC from invalidating State laws that establish licensure of professional and permissable tasks and duties.

For foreign aid, the conferees agreed to provide a total of $11.2 billion, compared to the Senate amount of $11.6 billion and the House amount of $11 billion. The administration's request was $11.2 billion, and the fiscal 1982 appropriation was $11.5 billion. The conference agreement is $8.6 million below the President's request.

Appropriations for energy and water development are continued at the current rate. The conferees agreed, over my strong opposition, to drop the House restrictions on Clinch River, the Garrison diversion project, and the O'Neill unit.

The rate for Treasury-Postal Service, which was not in conference, is the House or Senate amount, whichever is lower. Over my strong objections, the conferees agreed to strike the Ashbrook amendment which prohibits payments for abortions under Federal health insurance plans.

The conferees agreed to the House-passed relaxation of the pay cap on Members of Congress and other exective branch and judicial officials, with the exceptions, of Members of the Senate, who chose instead to retain their unlimited outside earnings. I strongly urge the House to accept this compromise.

Under the circumstances, this is an excellent conference report agreement.

I will vote for it and I urge you to do likewise.

The programs of the Departments of Commerce, Justice and State, the Judiciary and various related agencies are to be funded under the continuing resolution at the rates and under the terms of S. 2956, the Senate-reported appropriations bill for fiscal 1983, except in a large number of items on which the conferees adjusted the Senate numbers and provisons, as explained in the statement of the managers.

One item of special interest is the continued funding of the Federal Trade Commission, funding for which was left out of the House-passed resolution. The conferees have agreed to fund the FTC at a level of $63,638,000, and leave intact language in force prior to September 30, 1982 regarding public participation funding, the regulation of commercial advertising, trademarks, agricultural cooperatives and marketing orders, and the legislative veto. No language is included in the conference report regarding the regulation of professions.

The Legal Services Corporation is funded at $241 million, the same amount appropriated for fiscal 1982. Language is included governing the use of the funds for such activities as assistance to illegal aliens, local board composition, lobbying, class action suits, minimum access allocation of funding and the refunding of current grantees. Language is also included, as proposed by the Senate, to place restrictions on the compensation and contract terms of the Legal Services Corporation Board, officers and employees in view of recent allegations of misuse of such compensation and contracts.

If I might be permitted one reference to an item of special interest to my and me State of Massachussetts, I am pleased that the conferees have agreed to include $7.1 million for the replacement or repair of the Massachusetts Maritime Academy training ship, the *Bay State*. This fills a critical need in the education of the academy's students, and we have been working on this for some time.

ENERGY AND WATER

For programs funded through the energy and water development appropriations bill, the conferees generally provided for the continuation of activities at the current level, as provided in the fiscal year 1982 appropriations act.

Mr. Speaker, I was extremely disappointed by the action of the conferees in receding to the Senate position on the Garrision diversion unit, the O'Neill irrigation unit, and the Clinch River breeder reactor. Particularly in light of the vote margins on these issues during House floor consideration of the continuing resolution, I do not believe that the interests of the House are adequately represented by the conference agreement.

I continue to believe that the Garrision diversion unit is economically and environmentally unsound, and a threat to our relations with Canada. I will continue to oppose further funding for the project as it is now designed, and would encourage the appropriate authorizing committees to take a long hard look at this project as well.

With regard to the Clinch River breeder reactor, I was disappointed by the decision to continue funding at the 1982 level. Nevertheless, I am pleased by language in the statement of managers directing a reconsideration of the original cost-sharing arrangement to secure greater private sector participation in the project.

Although the House did not have an opportunity to vote on the Tennessee-

Tombigbee Waterway this year, the conferees did accept a Senate amendment prohibiting the use of funds for further study or construction of an extension of the Tennessee-Tombigbee project south from Demopolis, Ala.

The conferees agreed to provide a total of $11.2 billion for foreign assistance programs, compared to the Senate amount of $11.6 billion and the House amount of $11 billion. The administration's request was $11.2 billion, and the fiscal 1982 appropriation was $11.5 billion. The conference agreement is $8.6 million below the President's budget.

The conference report includes the House figures and terms for Israel and Egypt. Israel receives a total of $2.485 billion, of which $785 million is economic assistance under the Economic Support Fund, and $1.7 billion is foreign military credit sales, $750 million of which is forgiven. The total amount provided and the economic assistance portion are the same as the President's request. The amount of forgiven military credits is $250 million over the President's request. The Senate had provided a total aid package for Israel of $2.61 billion, of which $910 million is economic assistance and $1.7 billion is foreign military credit sales, $850 million of which would have been forgiven.

Egypt will receive a total of $2.075 billion, composed of $750 million in economic assistance under the Economic Support Fund and $1.325 billion in foreign military credit sales, $425 million of which is forgiven. The only change from the President's budget is the addition of $25 million in military credit sales, which are also forgiven. The Senate had provided the same amounts and terms as the President's request.

The Export-Import Bank is given direct lending authority of $4.4 billion, the same as in fiscal 1982, and guaranteed lending authority of $9.0 billion, a reduction of $220 million below 1982. The President's requests were $3.83 billion for direct loans and $8 billion for guarantees. The amounts in the conference report are the same as the Senate figures.

The International Development Association (IDA) will receive $700 million, since both the House and Senate bills included that amount and the figure was not subject to conference action. The United Nations development program gets $140 million, the Senate amount, compared to $134 million in the House bill. UNICEF receives $42.5 million, compared to $41.5 million in the House bill and $37 million in the Senate bill. The International Atomic Energy Agency receives $10 million, with a restriction that the funds are not available until the United States is assured that Israel is allowed to participate fully as a member nation in the activities of the Agency. The International Fund for Agriculture Development (IFAD) receives $24 million, compared to the President's request and House amount of $65.4 million and the Senate amount of $10 million. The Peace Corps receives $109 million, the Senate amount. The House had provided $105 million.

Military assistance grants are funded at $290 million. The President's request for this amount is $557 million, the House provided $176.5 million, and the Senate had $367 million. MAP funds are earmarked for key U.S. friends, such as Turkey, Portugal and Morocco. Military training is funded at $45 million, an increase over the House amount of $38.5 million and a reduction below the budget request and Senate amount of $53.7 million. Foreign military sales guarantees are limited to $3.638 billion, and earmarks are included in this account for Turkey, Portugal, Morocco and Spain.

The conferees have included an amended version of the Simon "Bread for the World" amendment requiring the President to attempt to provide not less than 40 percent of AID's development assistance funds for the absolute poor in fiscal year 1983, and requiring a report by the AID Administrator within 6 months on the practicality of such a provision, the types of projects which meet these guidelines, and the overall effect on AID's operations. By including this language the conferees hope that a clearer picture can be ascertained on this issue.

DEPARTMENT OF INTERIOR AND RELATED AGENCIES

Since the conference report on the regular fiscal year 1983 Interior and Related Agencies appropriations bill (H. Rept. 97-978) was agreed to in the House on Saturday, December 18, the programs of the Department of Interior and Related Agencies would be continued at that agreed-to conference level in this continuing resolution.

In addition, the conference agreement on the CR provides $3 million to permit the National Park Service to continue the construction of bridges on Grandfather Mountain in North Carolina, part of the Blue Ridge Parkway and $94,000 for the Fish and Wildlife Service to permit the Ennis National Fish Hatchery in Montana to remain open in fiscal year 1983 and $2 million to the Secretary of Labor.

I am also pleased to note that the conference agreement includes with modifications an amendment included by the Senate to make available a maximum of $200 million from petroleum violation escrow funds to the States for use in supplementing funds available for five energy conservation programs: low income weatherization, schools and hospitals weatherization, energy extension service, State energy grants and low-income fuel assistance. The distribution of these funds among the five eligible programs is left to the discretion of each State.

LABOR-HHS-EDUCATION

The House and the Senate went into the conference in disagreement over the formula to be used to fund programs in the Departments of Labor, Health and Human Services, and Education for fiscal year 1983. The House version of the continuing resolution called for the funding levels to be in accord with the levels set in H.R. 7205, as it passed the House on December 1, by a vote of 330—70. The Senate version called for funding levels to be in accord with the levels set in H.R. 7205, as reported by the Senate Committee on Appropriations on December 8. The conferees decided the only way to resolve this difference was to conference the items of disagreement within H.R. 7205, and incorporate the resulting agreement into the continuing resolution. In other words, we had a conference within a conference on the Labor/HHS/Education bill for fiscal year 1983.

Before I describe the highlights of that agreement, I would like to briefly touch on how we disposed of the numerous amendments relating to the departments of Labor, Health and Human Services and Education made in the continuing resolution.

Numerous amendment to the text of the continuing resolution were taken care of by coming to an agreement on H.R. 7205. These include refugee and entrant assistance, advances to States for unemployment trust funds, and PSRO's.

In addition, we took the following actions:

Adopted the Tauzin amendment relating to fuel assistance provided by utilties and other private parties;

Added $3.5 million for runaway youth programs;

Agreed to the Senate amendment relating to impact aid in Montana;

Agreed to the Heflin amendment relating to SSI pass throughs, to correct a particular problem in Alabama;

eEtended the President's Commission on Biomedical Ethics at no cost through March 31, 1983;

Agreed to two separate amendments adding a total of $125 million to low-income energy assistance;

Agreed to an amendment providing $25 million to fund the dislocated worker provisions of the Job Training Partnership Act.

With respect to resolving the differences between the House and the Senate with respect to funding levels in H.R. 7205, I would like to describe some of the highlights, and after my general statement, together with the distinguished chairman of the subcommittee, my good friend from Kentucky, Mr. NATCHER, I will endeavor to answer any questions you may have.

Four-million eight-hundred-thousand dollars in additional funds for title V, Senior Community Service Employment;

An additional $75 million in trust funds for unemployment insurance offices and employment services as a contingency for higher workloads;

Thirteen million dollars in additional funds over the House level for community health centers;

Retained $2 million as a separate line item for acquired immune deficiency syndrome, a very fatal disease spreading rapidly among our population;

Stayed within $2 million of the House level for the National Institutes of Health;

Added $7 million to the alcohol, drug abuse and mental health block grant and $3.5 million to mental health clinical training;

Added $125 million to title I, compensatory education for the disadvantaged;

Agreed to a $4.2 million reduction in the chapter 2, special education programs block grant, half the proposed Senate cut;

Added $12 million over the House level to college work study programs, and subtracted $13 million from State student incentive grants; and

Funded VISTA at the House level of $11.8 million.

One very important point to make is that we funded every entitlement at the best estimate of its actual cost for the fiscal year. That includes Guaranteed Student Loans at $3.1 billion and Title XX Social Services Block Grant at $2.45 billion. It is our earnest hope that this action will mean we will not have to come back for any large supplementals over the course of the year.

All in all, I think we did a good job. These programs are exceedingly important in this difficult economy. Many people will be relying on these programs for the first time in their lives, through no choice of their own. I urge you to support our actions on this section of the continuing resolutions.

LEGISLATIVE BRANCH

The conferees agreed to the House-passed relaxation of the pay cap on Members of Congress and other executive branch and judicial officials, with the exception of Members of the Senate, who chose instead to retain their unlimited outside earnings. I strongly urge the House to accept this compromise.

By a vote of almost 3 to 1 (303 to 109), the House voted to partially lift the pay cap which has been imposed on Members of Congress for over 3 years now. The raise allowed by the House is 15 percent, a significant reduction below the 27.2 percent to which Members are entitled under the law.

Under the law, and as stated in Executive Order 12387 of October 8, 1982, and as confirmed by the Comptroller General of the United States in a letter to Chairman Fazio dated December 10, 1982, the scheduled rate of pay for Members of Congress is now $77,300. The House amendment reduces this to $69,800, a pay cut of $7,500.

Frankly, I do not think we ought to take a cut below our statutory pay level at all. It is demeaning to the positions of U.S. Representative and U.S. Senator, and to the people holding those positions, to be paid less than the law provides.

For those who may be politically nervous about taking any raise, let us put these pay figures in perspective. Since 1977, more than 5 years ago, Members of Congress have taken one pay raise of 5.5. percent. That is an increase of about 1 percent a year for the last 5 years.

During those same 5 years, social security beneficiaries received cost-of-living annual increases of 6.5 percent, 9.9 percent, 14.3 percent, 11.2 percent, and 7.4 percent. That adds up to a 5-year increase in social security benefits of nearly 50 percent, even without compounding the effect of those annual increases. Members of Congress got 5.5 percent.

Also during the same 5 years, Federal employees, those not subject to the pay caps we imposed on ourselves, received pay raises of 5.5 percent, 7.02 percent, 9.11 percent, 4.8 percent, and 4 percent, adding up to more than 30 percent, again without compounding. Members of Congress got 5.5 percent.

Again during the same 5 years, private sector wages on an average went up 7.8 percent, 8.0 percent, 6.9 percent, 8.6 percent, and 7.5 percent, for a total of 39 percent. Members of Congress got 5.5 percent.

And finally, during those same 5 years, the Consumer Price Index, that index to which we tie so many Federal programs, went up by 9.8 percent, 13.3 percent, 12.4 percent, 8.9 percent and 6.97 percent. That is a total of 51 percent. Members of Congress got 5.5 percent.

If the salaries of Members of Congress had gone up at the same rates as Federal employees not affected by pay caps during the past 5 years, our pay would now be $82,995. If they had gone up the same as the private sector, our pay would be $89,979. If they had been tied to the Consumer Price Index, we would be paid $99,236 a year.

In these calculations I have used a 5-year period, but the comparisons do not look any better over a longer time period. If you compare increases since 1970, under the Federal employee raises, we would be getting $92,675; with the private sector, we would get $101,781; and under the Consumer Price Index, $113,253.

All of these figures are included in the information package which I will place in the RECORD, together with endorsement of the congressional pay increase by such diverse interests as the New York Times, the AFL-CIO, Common Cause, the National Association of Manufacturers, all of the reporters on "Agronsky and Company," the Business Roundtable, the Washington Post, and the United Auto Workers.

Note that last one: the United Auto Workers. We heard arguments in the House that certain Members could not support this increase at a time when so many people were unemployed. Listen to this paragraph from a letter dated December 13, from the legislative director of the United Auto Workers:

> As a Member of Congress, you are familiar with arguments for a congressional salary increase. None is more persuasive to us than the need to set salaries at a level which will permit men and women of modest means who may not have accumulated independent wealth to aspire to such offices. We must attract more than just the wealthy and near-wealthy to serve in Congress, and the salaries should be sufficient to assure that it is not necessary to augment them in ways that detract from the full-time job of legislating and representation.

That is a very enlightened point of view, as usual, from the United Auto Workers.

ASSISTED HOUSING

The conference agreement includes $8.65 billion for assisted housing programs. Action on these programs was deferred when Congress acted on the regular fiscal year 1983 HUD/independent agencies bill (Public Law 97-272). The recommended new budget authority level of $8.65 billion together with estimated carryovers and recaptures would provide a total fiscal year 1983 program level for assisted housing of approximately $15.6 billion.

The conference agreement provides that the new budget authority be used to fund an estimated 14,000 units of section 202 housing for the elderly and handicapped; 2,000 Indian housing units $2.5 billion worth of public housing modernization and continued conversions of 65,000 Section 23 and rent supplement units to section 8. Out of carryover funds and the anticipated recapture of approximately $4.6 billion, the Department of Housing and Urban Development would fund 15,000 section 8 moderate rehabilitation units and 67,000 section 8 units. The conferees also agreed to the House provision making available $500 million in mortgage purchase authority for the Special Assistance Fund of Ginnie Mae. Of this $500 million, $250 million shall be available for the targeted tandem program with the remaining $250 mil-

lion available for partially assisted section 8 projects.

The conferees also agreed to Senate language increasing the FHA limitation on guaranteed loans by $6.1 billion to $45.9 billion. This increase is necessary to reflect the current level of activity in the FHA insurance program which has increased as interest rates have fallen. The conference agreement also includes Senate language permitting an increase in the multifamily mortgage ceiling in highest cost areas.

Mr. Speaker, there were very few differences between the House and Senate versions of the continuing resolution for programs funded through the Transportation appropriations bill. I am pleased to note that the regular fiscal year 1983 bill was signed into law on December 18, thereby eliminating the need to establish a rate of funding for transportation programs in the continuing resolution.

The Senate had included in its version of the continuing resolution, and the conferees accepted, an amendment that would put employees of Conrail who are adversely affected as a result of Amtrak's direct operation and control of intercity rail passenger service on an equal footing with other Conrail employees who are affected by changes in Conrail's freight and passenger operations.

The Senate also included an amendment withdrawing a section of Interstate Route 95 and Interstate Route 295 in New Jersey from the Interstate System. I know that this was of interest to my friends from that State, especially the gentlewoman from New Jersey (Mrs. ROUKEMA), and I am therefore happy to report that the conferees agreed to that amendment.

TREASURY-POSTAL SERVICE

Mr. Speaker, the Treasury-Postal Service-General Government portion of this continuing resolution conference agreement contains funds for the treasury department operations, the U.S. Postal Service, activities of the Executive Office of the President and various independent agencies such as the General Services Administration.

Part of the Treasury Department operations, as Members know, cover the area of law enforcement. This conference report provides a specified amount of $235 million for the Secret Service for the hiring of 200 new agents. Although not at conference, I note that both House and Senate continuing resolutions provide funds for the Bureau of Alcohol, Tobacco and Firearms to continue to carry out its mission.

In addition to funding for these two law enforcement elements, funding at a level of $553.7 million is provided for the Customs Service to allow them to adequately enforce our international traffic and trade laws. Within this figure, we provided extra funding to customs to allow for an expansion of Project Exodus, a program to counter and prevent Soviet efforts to illegally export or divert U.S. manufactured or designed critical materials and high technology items to the Soviet Union and her allies.

In the December 14 edition of the Washington Post, there was a report that a Federal investigation has uncovered a plot to illegally export U.S. military equipment to Iran, following the discovery by a Customs officer of a folder inside the briefcase of a Pakastani national. The source for the story spoke of the role that Project Exodus played in the discovery.

At this point, in talking about the Customs Service, I would like to mention that the conferees intended that the language in both House and Senate reports accompanying respective continuing resolution versions, directing Customs to vacate a rulemaking proposal to establish a schedule of fees on commercial aircraft, be adhered to.

Also, regarding Customs plans to close and/or consolidate offices, programs, functions or personnel, including personnel relocations, the conferees intend that restrictions in both House and Senate versions of the continuing resolution and

Accompanying reports remain in place for now, to include restrictions on transferring import specialists from San Antonio, Tex. to Laredo, Tex. However, the conferees also intend that during fiscal year 1984 appropriations hearings, Customs concerns over restrictions and their effects should be thoroughly discussed. In other words, the managers statement language expresses the view that the need for savings should be balanced with local and area economic interests, and this is what we hope to explore in the hearings.

Two other Treasury entities worth noting, though not at conference, relate to the importance both bodies have placed on a specific funding level of $248 million for the Bureau of Government Financial Operations in their respective continuing resolution versions. The $248 million level has been provided to insure orderly and timely issuance of social security checks in the absence of a specific authorization allowing a reimbursement from the Social Security Administration to the Bureau of Government Financial Operations for check issuing services.

The second item within the Treasury section, of concern to many Members, and of great importance to untold thousands of taxpayers, deals with the various taxpayer assistance services provided by the Internal Revenue Service. These services include toll-free telephone assistance to taxpayers, and tax counseling for the elderly. The administration proposed a $50 million reduction for these services with a corresponding reduction in the scope of services available. The House and Senate versions of the continuing resolution restore these funds, and contain a provision which mandates fiscal year 1982 operating levels for the various taxpayer assistance programs. Language in each version prohibits a personnel reduction level in these services below the 1982 level.

For the Postal Service, Mr. Chairman, the conference report provides for the continuation of 6-day delivery of mail, as well as rural delivery.

In addition, the conferees agreed that rates for preferred-rate mailers should not rise above the step 14 level. This means that revenue foregone, those funds appropriated to the Postal Service to make up for lost revenues resulting from preferred-class service, will be funded at an annual level of $789 million rather than $708 million had the step 14 rate not been specified.

Conferees felt that with economic times as they are now, the burden of rising postal rates on charities, nonprofit organizations, libraries, et cetera, would entail too much cost for these entities to offset. Therefore, in the interest of the work many of the preferred-rate mailers perform, we agreed to fix the step increase at step 14 and the higher subsidy rate.

For Independent Agencies, the conference report provides that funds made available to the General Services Administration Federal Building Fund may be used to start up or otherwise proceed with projects which have been approved by the House and Senate for construction. This category also includes repair, alteration and renovation funds for improving Federal facilities in such areas as handicapped aids, energy conservation efforts, and safety modifications.

Also, regarding GSA, conferees have included a provision for the GSA in general which prohibits funds from being used to contract out certain veterans- preference jobs in GSA facilities which would, without the prohibition, be contracted out pursuant to an OMB directive. These jobs consist of building security, custodial, and messenger positions which are filled by veterans. To allow them to be contracted out now would go back on past congressional intentions to assist veterans.

Mr. Speaker, let me say this: Yesterday, the press grabbed me. The TV cameras were there, and the reporters said, "Hey, the jobs bill is going down. This is a great victory. This is a great victory for the President of the United States."

I say before all my colleagues that this is no victory for the President of the United States, it is no victory for the House of Representatives, and it is no victory for the Senate. Everyone

who was involved in this had to compromise.

I hope that the President is going to compromise on the MX missile. No one won on this issue. Everyone was a loser. Everyone walked away disgruntled, hoping that they had something else. But, Mr. Speaker, let me tell the Members one thing: It is the best thing in town today, and we had better vote for it.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to commend the gentleman in the well for his leadership, particularly on the Garrison diversion project, and ask just a question about the statement the gentleman has just made.

These are difficult times and difficult days, and yet last week the House of Representatives gave its will on the Clinch River and on the O'Neill project and on the Garrison diversion project. Yet, the conference agreement comes back, and none of those projects are impacted significantly except for a small reduction in Clinch River. Could the gentleman just take a moment just to explain the reasoning why none of the House positions on those issues prevailed?

Mr. CONTE. Certainly. First, the Senate struck all of the three provisions that the gentleman mentioned, and then we went into conference and we debated the issues in the conference, and after we debated the issues in conference, I think Mr. COUGHLIN asked for a vote on Clinch River. We lost on that vote on our side.

Then, we had a vote that I asked for on the Garrison diversion project, and we lost on that on a rollcall vote. But, I think the gentleman has to look at the whole picture. There was an amendment in there that the Senate put in regarding silver. I had an interest in it. We battled that, battled with with Senator MCCLURE for about an hour, and we had a rollcall on the thing.

What I am trying to say is, after 10 hours you have to look at the entire package. Do you want the entire package? Do you want to bring the Government to a standstill? Do you want to bring the Government to its knees for your particular interest in that package? I would make one suggestion, and one suggestion alone, and I have told that to my good friend from California on the way over here.

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I think we learned a lesson. I think we all get smarter the more we go through these things. We got good healthy votes here in the House on Clinch River, and over in the Senate it lost by one vote. We got good healthy votes on the Garrison diversion project.

I think next year if we get into the same problem and the same issue, either on the continuing resolution or on the water and energy bill, we are going to take some different action than we took this year.

Mr. EDGAR. Like binding the conferees?

Mr. CONTE. Like instructing the conferees.

Mr. EDGAR. Mr. Speaker, I have just one followup question.

Does the gentleman know if any additional projects were added to this bill in the water area that have not been discussed?

Mr. CONTE. Not in title II. There was money in title II for the Corps of Engineers for Tennessee-Tombigbee and several other projects. Those were dropped in title II. There were two small projects added to title I.

Mr. EDGAR. Mr. Speaker, I appreciate the gentleman's work and his leadership, and I wish him a happy holiday.

Mr. CONTE. I thank the gentleman very much. I appreciate that.

Mr. COUGHLIN. Mr. Speaker, will my colleague yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, I want to congratulate the distinguished ranking minority member of the Appropriations Committee, as well as the chairman of the committee. I think it resolve all the myriad of issues that are involved in this absolutely mammoth bill is a miracle second only to the miracle of Christmas. It was a miracle that it was all put together and that we have a package that is a good package.

I regret the Clinch River decision, as the ranking minority does, and the Garrison diversion and the O'Neill projects, but overall to try to resolve all the issues involved in this continuing resolution is nothing short of a miracle ranking with the miracle of Christmas.

Mr. Speaker, I congratulate the distinguished ranking minority member on a great accomplishment.

Mr. CONTE. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, may I say at this time I wish to thank my colleague, the gentleman from Massachusetts (Mr. CONTE), for his fine statement, and I call the attention of the Members again to the fact that when we are in trouble, it is time to unite and pull together. That is what we did, I think, in conference. I think we recognized reality.

I wish to thank all the members of the Committee on Appropriations on both sides of the aisle and especially the conferees for the work they did in bringing this complicated legislation before the House.

Mr. Speaker, I yield such time as he may require to the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, I am inserting in the RECORD at this point a table showing the amounts provided in the joint resolution for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year 1983, along with appropriate comparisons, as follows:

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
SUMMARY (excluding Title II of HJ Res 631)								
Title I - Department of Labor:								
Federal Funds	9,975,391,000	8,950,882,000	11,452,595,000	11,757,105,000	11,676,179,000	+223,584,000	-80,926,000	+2,725,297,000
Trust Funds	(2,294,834,000)	(2,380,601,000)	(2,424,272,000)	(2,499,672,000)	(2,499,672,000)	(+75,400,000)	---	(+119,071,000)
Title II - Department of Health and Human Services:								
Federal Funds:								
Current year	62,601,976,000	57,522,572,000	58,917,695,000	62,584,904,000	61,702,966,000	+2,785,271,000	-881,938,000	+4,180,394,000
FY 1984 advance	---	5,919,703,000	5,919,703,000	6,951,600,000	6,951,600,000	+1,031,897,000	---	+1,031,897,000
Trust Funds	(4,033,529,000)	(4,280,372,000)	(4,349,472,000)	(4,394,472,000)	(4,384,472,000)	(+35,000,000)	(-10,000,000)	(+104,100,000)
Title III - Department of Education:								
Federal Funds	14,611,471,000	9,899,245,000	14,287,390,000	15,017,746,000	15,011,145,000	+723,755,000	-6,601,000	+5,111,900,000
Trust Funds	(576,000)	---	(576,000)	---	---	(-576,000)	---	---
Title IV - Related Agencies:								
Federal Funds	837,656,000	747,339,000	878,296,000	874,808,000	878,639,000	+343,000	+3,831,000	+131,300,000
Trust Funds	(47,032,000)	(44,080,000)	(46,361,000)	(46,361,000)	(46,361,000)	---	---	(+2,281,000)
Total, all titles:								
Federal Funds	88,026,494,000	83,039,741,000	91,455,679,000	97,186,163,000	96,220,529,000	+4,764,850,000	-965,634,000	+13,180,788,000
Current year 1/	(87,896,494,000)	(77,035,038,000)	(85,405,976,000)	(90,104,563,000)	(89,138,929,000)	(+3,732,953,000)	(-965,634,000)	(+12,103,891,000)
1984 advance	---	(5,919,703,000)	(5,919,703,000)	(6,951,600,000)	(6,951,600,000)	(+1,031,897,000)	---	(+1,031,897,000)
1985 advance	(130,000,000)	(85,000,000)	(130,000,000)	(130,000,000)	(130,000,000)	---	---	(+45,000,000)
Trust Funds	(6,375,971,000)	(6,705,053,000)	(6,820,681,000)	(6,940,505,000)	(6,930,505,000)	(+109,824,000)	(-10,000,000)	(+225,452,000)

1/ Does not include FY 83 funds advanced in previous year; $1,787,341,000 for Assistance Payments and $137,000,000 for CPB; Does not include $105,000,000 appropriated in PL 97-276.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
TITLE I, DEPARTMENT OF LABOR								
EMPLOYMENT AND TRAINING ADMINISTRATION								
PROGRAM ADMINISTRATION 1/								
Federal funds	91,465,000	81,068,000	91,465,000	91,465,000	91,465,000	---	---	+10,397,000
Trust funds	(29,438,000)	(41,467,000)	(29,438,000)	(29,438,000)	(29,438,000)	---	---	(-12,029,000)
EMPLOYMENT AND TRAINING ASSISTANCE 1/	3,031,844,000	2,387,000,000	3,764,000,000	3,764,000,000	3,764,000,000	---	---	+1,377,000,000
DISLOCATED WORKERS	---	---	---	50,000,000	25,000,000	+25,000,000	-25,000,000	+25,000,000
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS	277,100,000	---	277,100,000	286,800,000	281,950,000	+4,850,000	-4,850,000	+281,950,000
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES								
Payments to ex-servicemen	125,000,000	20,000,000	20,000,000	205,000,000	161,000,000	+141,000,000	-44,000,000	+141,000,000
Trade adjustment assistance	75,000,000	10,000,000	10,000,000	65,000,000	54,000,000	+44,000,000	-11,000,000	+44,000,000
Unemployment assistance and payments under other Federal unemployment programs	106,000,000	5,000,000	5,000,000	10,000,000	15,000,000	+10,000,000	+5,000,000	+10,000,000
Total, FUBA	306,000,000	35,000,000	35,000,000	280,000,000	230,000,000	+195,000,000	-50,000,000	+195,000,000

1/ H.J. Res. 631 provides 'current rate' for this activity.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES								
Unemployment Insurance Service:								
Federal funds	1/ $20,000,000	---	---	---	---	---	---	---
Trust funds	(1,027,379,000)	1/ (1,114,924,000)	1/ (1,114,924,000)	1/ (1,114,924,000)	1/ (1,114,924,000)	---	---	---
Employment Services:								
Federal funds	19,272,000	22,200,000	22,200,000	22,200,000	22,200,000	---	---	---
Trust funds	(657,751,000)	(637,200,000)	(712,200,000)	(712,200,000)	(712,200,000)	---	---	1/ (+75,000,000)
Subtotal, Employment Services	677,023,000	659,400,000	734,400,000	734,400,000	734,400,000	---	---	+75,000,000
Contingency Fund	(566,544,000)	(571,076,000)	(551,776,000)	(627,176,000)	(627,176,000)	1/ (+75,400,000)	---	(+56,100,000)
Total, Grants to States	2,290,946,000	2,345,400,000	2,401,100,000	2,476,500,000	2,476,500,000	+75,400,000	---	+131,100,000
Federal funds	39,272,000	22,200,000	22,200,000	22,200,000	22,200,000	---	---	---
Trust funds	(2,251,674,000)	(2,323,200,000)	(2,378,900,000)	(2,454,300,000)	(2,454,300,000)	(+75,400,000)	---	(+131,100,000)
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS	4,318,000,000	4,572,000,000	5,411,000,000	5,411,000,000	5,411,000,000	---	---	+839,000,000
Total, Employment & Training Administration	10,344,793,000	9,461,935,000	12,009,103,000	12,389,203,000	12,309,353,000	+300,250,000	1/ -79,850,000	+2,847,418,000
Federal funds	8,063,681,000	7,097,268,000	9,600,765,000	9,905,465,000	9,825,615,000	+224,850,000	-79,850,000	+2,728,347,000
Trust funds	(2,281,112,000)	(2,364,667,000)	(2,408,338,000)	(2,483,738,000)	(2,483,738,000)	(+75,400,000)	---	(+119,071,000)

1/ House orisinally included $3,798 million in HR 7205 modified to $5,411 million in HJ Res 631.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
LABOR-MANAGEMENT SERVICES ADMINISTRATION								
SALARIES AND EXPENSES								
Labor-management relations policy and service	$3,291,000	$2,843,000	$2,843,000	$2,843,000	$2,843,000	---	---	---
Labor-management standards enforcement	18,071,000	22,432,000	18,281,000	22,432,000	20,356,000	+2,075,000	-2,076,000	-2,076,000
Veterans reemployment rights	2,523,000	2,609,000	2,609,000	2,609,000	2,609,000	---	---	---
Pension and welfare benefit programs	26,712,000	27,813,000	27,813,000	27,813,000	27,813,000	---	---	---
Executive direction, management and support	4,313,000	4,456,000	4,456,000	4,456,000	4,456,000	---	---	---
Total, LMSA	54,910,000	60,153,000	56,002,000	60,153,000	58,077,000	+2,075,000	-2,076,000	-2,076,000
EMPLOYMENT STANDARDS ADMINISTRATION								
SALARIES AND EXPENSES								
Improving and protecting wages	64,978,000	69,436,000	69,436,000	69,436,000	69,436,000	---	---	---
Elimination of discrimination in employment	41,415,000	42,614,000	42,614,000	42,614,000	42,614,000	---	---	---
Workers' compensation	39,413,000	44,651,000	44,651,000	44,651,000	44,651,000	---	---	---
Trust funds	(360,000)	(347,000)	(347,000)	(347,000)	(347,000)	---	---	---
Program development and administration	12,103,000	12,595,000	12,595,000	12,595,000	12,595,000	---	---	---
Total, salaries and expenses	158,269,000	169,643,000	169,643,000	169,643,000	169,643,000	---	---	---
Federal funds	157,909,000	169,296,000	169,296,000	169,296,000	169,296,000	---	---	---
Trust funds	(360,000)	(347,000)	(347,000)	(347,000)	(347,000)	---	---	---
SPECIAL BENEFITS								
Federal employees compensation act benefits	344,926,000	336,000,000	336,000,000	336,000,000	336,000,000	---	---	---
Longshore and harbor workers' benefits	3,966,000	3,600,000	3,600,000	3,600,000	3,600,000	---	---	---
Total, Special Benefits	348,892,000	339,600,000	339,600,000	339,600,000	339,600,000	---	---	---
BLACK LUNG DISABILILTY TRUST FUND								
Benefit payments and interest on advances	734,149,000	639,255,000	639,255,000	639,255,000	639,255,000	---	---	---
Employment Standards Admin., salaries & expenses	23,752,000	21,192,000	21,192,000	21,192,000	21,192,000	---	---	---
Departmental Management, salaries and expenses	10,793,000	13,097,000	13,097,000	13,097,000	13,097,000	---	---	---
Total, Black Lung Disability Trust Fund	768,694,000	673,544,000	673,544,000	673,544,000	673,544,000	---	---	---
Portion funded from advances account	(264,000,000)	(62,000,000)	(72,000,000)	(72,000,000)	(72,000,000)	---	---	(+10,000,000)
Treasury administrative costs (indefinite)	756,000	756,000	756,000	756,000	756,000	---	---	---
Total, Employment Standards Administration	1,276,611,000	1,183,543,000	1,183,543,000	1,183,543,000	1,183,543,000	---	---	---
Federal funds	1,276,251,000	1,183,196,000	1,183,196,000	1,183,196,000	1,183,196,000	---	---	---
Trust funds	(360,000)	(347,000)	(347,000)	(347,000)	(347,000)	---	---	---

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION								
SALARIES AND EXPENSES								
Safety and health standards	$6,802,000	$6,841,000	$6,841,000	$6,841,000	$6,841,000	---	---	---
Enforcement:								
Federal Enforcement	76,005,000	76,004,000	76,004,000	76,004,000	76,004,000	---	---	---
State programs	47,238,000	51,481,000	51,481,000	51,481,000	51,481,000	---	---	---
Technical Support	13,678,000	14,207,000	14,207,000	12,207,000	13,207,000	-1,000,000	+1,000,000	-1,000,000
Compliance Assistance	36,812,000	42,693,000	42,693,000	42,693,000	42,693,000	---	---	---
Safety and health statistics	8,912,000	8,998,000	8,998,000	8,998,000	8,998,000	---	---	---
Executive direction and administration	6,018,000	6,032,000	6,032,000	6,032,000	6,032,000	---	---	---
Total, OSHA	195,465,000	206,256,000	206,256,000	204,256,000	205,256,000	-1,000,000	+1,000,000	-1,000,000
MINE SAFETY AND HEALTH ADMINISTRATION								
SALARIES AND EXPENSES								
Enforcement:								
Coal	64,634,000	75,025,000	75,025,000	75,025,000	75,025,000	---	---	---
Metal/nonmetal	27,366,000	29,331,000	29,331,000	29,331,000	29,331,000	---	---	---
Standards development	1,045,000	1,126,000	1,126,000	1,126,000	1,126,000	---	---	---
Assessments	4,545,000	2,705,000	2,705,000	2,705,000	2,705,000	---	---	---
Technical support	23,237,000	18,932,000	18,932,000	18,932,000	18,932,000	---	---	---
Program administration	13,580,000	14,099,000	14,099,000	14,099,000	14,099,000	---	---	---
Educational policy and development	14,906,000	12,610,000	12,610,000	12,610,000	12,610,000	---	---	---
Total, Mine Safety and Health Administration	149,313,000	153,828,000	153,828,000	153,828,000	153,828,000	---	---	---
BUREAU OF LABOR STATISTICS								
SALARIES AND EXPENSES								
Labor force statistics	38,602,000	39,967,000	41,467,000	39,967,000	39,967,000	-1,500,000	---	---
Prices and cost of living	41,913,000	44,117,000	44,117,000	44,117,000	44,117,000	---	---	---
Wages and industrial relations	13,705,000	14,819,000	15,819,000	14,819,000	14,819,000	-1,000,000	---	---
Productivity and technology	3,630,000	4,036,000	4,036,000	4,036,000	4,036,000	---	---	---
Economic growth and employment projections	2,529,000	2,758,000	2,758,000	2,758,000	2,758,000	---	---	---
Executive direction and staff services	12,688,000	14,446,000	14,446,000	14,446,000	14,446,000	---	---	---
Total, Bureau of Labor Statistics	113,067,000	120,143,000	122,643,000	120,143,000	120,143,000	-2,500,000	---	---

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
DEPARTMENTAL MANAGEMENT								
SALARIES AND EXPENSES								
Executive direction	$10,136,000	$10,643,000	$10,643,000	$10,643,000	$10,643,000	---	---	---
Legal services	35,639,000	34,792,000	34,792,000	34,792,000	34,792,000	---	---	---
Trust funds	(221,000)	(217,000)	(217,000)	(217,000)	(217,000)	---	---	---
International labor affairs	3,292,000	3,346,000	3,346,000	3,346,000	3,346,000	---	---	---
Administration and management	23,186,000	25,011,000	25,011,000	25,011,000	25,011,000	---	---	---
Adjudication	8,274,000	9,920,000	9,920,000	9,920,000	9,920,000	---	---	---
Promoting employment of the handicapped	1,901,000	1,973,000	1,973,000	1,973,000	1,973,000	---	---	---
Women's Bureau	3,624,000	3,594,000	3,594,000	3,753,000	3,753,000	$+159,000	---	$+159,000
Civil Rights Activities	2,563,000	2,426,000	2,426,000	2,426,000	2,426,000	---	---	---
Veterans Employment Service	1,267,000	---	---	---	---	---	---	---
Trust funds	(7,137,000)	(8,535,000)	(8,535,000)	(8,535,000)	(8,535,000)	---	---	---
Total, Salaries and expenses	97,240,000	100,457,000	100,457,000	100,616,000	100,616,000	+159,000	---	+159,000
Federal funds	89,882,000	91,705,000	91,705,000	91,864,000	91,864,000	+159,000	---	+159,000
Trust funds	(7,358,000)	(8,752,000)	(8,752,000)	(8,752,000)	(8,752,000)	---	---	---
SPECIAL FOREIGN CURRENCY PROGRAM	67,000	200,000	67,000	67,000	67,000	---	---	-133,000
Total, Departmental Management	97,307,000	100,657,000	100,524,000	100,683,000	100,683,000	+159,000	---	+26,000
Federal funds	89,949,000	91,905,000	91,772,000	91,931,000	91,931,000	+159,000	---	+26,000
Trust funds	(7,358,000)	(8,752,000)	(8,752,000)	(8,752,000)	(8,752,000)	---	---	---
OFFICE OF THE INSPECTOR GENERAL								
SALARIES AND EXPENSES								
Office of the Inspector General	32,755,000	38,133,000	38,133,000	38,133,000	38,133,000	---	---	---
Trust funds	(6,004,000)	(6,835,000)	(6,835,000)	(6,835,000)	(6,835,000)	---	---	---
Total, Labor department	12,270,225,000	11,331,483,000	13,876,867,000	14,256,777,000	14,175,851,000	+298,984,000	$-80,926,000	+2,844,368,000
Federal funds	9,975,391,000	8,950,882,000	11,452,595,000	11,757,105,000	11,676,179,000	+223,584,000	-80,926,000	+2,725,297,000
Trust funds	(2,294,834,000)	(2,380,601,000)	(2,424,272,000)	(2,499,672,000)	(2,499,672,000)	(+75,400,000)	---	(+119,071,000)

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
TITLE II--DEPARTMENT OF HEALTH AND HUMAN SERVICES								
PUBLIC HEALTH SERVICE								
HEALTH SERVICES ADMINISTRATION								
HEALTH SERVICES								
Community health services:								
Primary Care:								
Expanded Block Grant	---	$416,760,000	---	---	---	---	---	$-416,760,000
Community health centers (existing block) 1/	$281,217,000	---	$281,217,000	$302,500,000	$295,000,000	$+13,783,000	$-7,500,000	+295,000,000
Black lung services 1/	3,240,000	---	3,000,000	3,240,000	3,120,000	+120,000	-120,000	+3,120,000
Migrant health 1/	38,208,000	---	38,000,000	38,208,000	38,104,000	+104,000	-104,000	+38,104,000
Family planning 1/	124,176,000	---	124,000,000	124,176,000	124,088,000	+88,000	-88,000	+124,088,000
Research and demonstration centers	1,920,000	---	---	---	---	---	---	---
Subtotal, Primary care	448,761,000	416,760,000	446,217,000	468,124,000	460,312,000	+14,095,000	-7,812,000	+43,552,000
Maternal and Child Health Block Grant 2/ 3/	373,750,000	350,000,000	373,000,000	373,000,000	373,000,000	---	---	+23,000,000
Program support	23,879,000	8,979,000	22,000,000	23,443,000	22,722,000	+722,000	-721,000	+13,743,000
Subtotal, Community health services	846,390,000	775,739,000	841,217,000	864,567,000	856,034,000	+14,817,000	-8,533,000	+80,295,000

1/ Budget proposes legislation to merge these activities into the Primary Care Block Grant.
2/ 15% set aside for programs of national significance, hemophilia and genetic diseases
3/ The budget proposed legislation to transfer the Women, Infants and Children program from the Dept. of Agric. to the MCH Block Grant and included an addl. $650 million for this activity. This request has been considered under the FY83 Ag. Appn. Bill.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
Health professions education and services:								
National Health Service Corps:								
NHSC Scholarships	$ 36,358,000	$ 11,042,000	$ 11,042,000	$ 11,042,000	$ 11,042,000	---	---	---
NHSC field	95,078,000	103,438,000	93,000,000	93,782,000	93,391,000	$ +391,000	$ -391,000	$ -10,047,000
Subtotal, NHSC	131,436,000	114,480,000	104,042,000	104,824,000	104,433,000	+391,000	-391,000	-10,047,000
Health professions student assistance:								
Loans	5,640,000	---	2,000,000	---	1,000,000	-1,000,000	+1,000,000	+1,000,000
Loan repayments	3,100,000	---	---	50,000	25,000	+25,000	-25,000	+25,000
Exceptional need scholarships	4,700,000	---	6,500,000	4,700,000	5,600,000	-900,000	+900,000	+5,600,000
Nursing student assistance:								
Loans	6,720,000	---	---	1,720,000	860,000	+860,000	-860,000	+860,000
Loan repayments & cancellations	940,000	---	---	1,500,000	750,000	+750,000	-750,000	+750,000
Program support	17,411,000	16,764,000	16,764,000	17,411,000	17,087,000	+323,000	-324,000	+323,000
Subtotal, Health professions educ. & serv.	169,947,000	131,244,000	129,306,000	130,205,000	129,755,000	+449,000	-450,000	-1,489,000
Patient care and spec. health services:								
PHS hospitals and clincs	145,685,000	---	---	---	---	---	---	---
National Hansen's Disease Center (Carville)	15,947,000	17,876,000	17,876,000	17,876,000	17,876,000	---	---	---
Federal employee health	985,000	974,000	974,000	974,000	974,000	---	---	---
Payments to Hawaii	1,890,000	1,732,000	1,732,000	1,732,000	1,732,000	---	---	---
Subtotal	164,507,000	20,582,000	20,582,000	20,582,000	20,582,000	---	---	---
Buildings and facilities	4,700,000	3,292,000	3,292,000	3,292,000	3,292,000	---	---	---
Program management, HSA	11,368,000	6,875,000	8,600,000	9,200,000	8,900,000	+300,000	-300,000	+2,025,000
Total, Health Services	1,196,912,000	937,732,000	1,002,997,000	1,027,846,000	1,018,563,000	+15,566,000	-9,283,000	+80,831,000
Loan limitations:								
Health Professions Graduate Student loans 1/	(200,000,000)	(80,000,000)	NO LIMIT	NO LIMIT	NO LIMIT	NO LIMIT	NO LIMIT	NO LIMIT
NHSC private practice loans	---	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	---	---	---

1/ FY82 and FY83 lim. incl. in Omnibus Reconcil. Act.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
CENTERS FOR DISEASE CONTROL								
PREVENTIVE HEALTH SERVICES								
Preventive Health Services Block Grant 1/	$81,600,000	$82,600,000	$82,600,000	$90,000,000	$86,300,000	+$3,700,000	-$3,700,000	+$3,700,000
Risk reduction and health education	---	1,349,000	1,349,000	1,349,000	1,349,000	---	---	---
Disease Prevention Program:								
Venereal diseases:								
Grants	35,419,000	40,000,000	40,000,000	40,000,000	40,000,000	---	---	---
Direct operations	7,335,000	5,645,000	7,399,000	7,335,000	7,335,000	-64,000	---	+1,690,000
Immunization:								
Grants 2/	27,817,000	21,928,000	27,928,000	---	---	-27,928,000	---	-21,928,000
Direct operations 3/	6,770,000	6,946,000	6,946,000	---	---	-6,946,000	---	-6,946,000
Fluoridation (federal activities)	1,100,000	---	1,100,000	1,100,000	1,100,000	---	---	+1,100,000
Control of chronic conditions:								
Chronic diseases	20,649,000	19,503,000	19,503,000	21,003,000	19,503,000	---	-1,500,000	---
Environmental hazards	4,131,000	3,746,000	4,279,000	3,746,000	4,279,000	---	+533,000	+533,000
Tuberculosis grants	---	---	5,000,000	2,000,000	5,000,000	---	+3,000,000	+5,000,000
National Institute of Occupational Safety and Health:								
Research	53,486,000	48,436,000	48,436,000	48,436,000	48,436,000	---	---	---
Training	5,760,000	---	5,760,000	5,760,000	5,760,000	---	---	+5,760,000
Program support	2,816,000	2,085,000	2,085,000	2,085,000	2,085,000	---	---	---
Subtotal, NIOSH	62,062,000	50,521,000	56,281,000	56,281,000	56,281,000	---	---	+5,760,000
Epidemiology services	34,328,000	34,757,000	34,757,000	34,757,000	34,757,000	---	---	---
Acquired immune deficiency syndrome (AIDS)	---	---	2,600,000	---	2,000,000	-600,000	+2,000,000	+2,000,000
Technology Development and Application	27,782,000	28,142,000	28,142,000	28,142,000	28,142,000	---	---	---
Buildings and facilities	1,440,000	2,050,000	2,050,000	2,050,000	2,050,000	---	---	---
Program management	2,516,000	2,605,000	1,105,000	2,605,000	2,605,000	+1,500,000	---	---
Total, Preventive Health Services	312,949,000	299,792,000	321,039,000	290,368,000	290,701,000	-30,338,000	+333,000	-9,091,000

1/ $82.6 M for this activity and related admin. costs requested in the President's budget under a new "health block grant" account not approved by the Committee.
2/ $32 million additional provided in PL 97-276.
3/ $7 million additional provided in PL 97-276.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
NATIONAL INSTITUTES OF HEALTH								
National Cancer Institute	$943,029,000	$955,449,000	$981,441,000	$985,711,000	$983,576,000	+$2,135,000	-$2,135,000	+$28,127,000
National Heart, Lung, and Blood Institute	559,637,000	577,143,000	620,947,000	624,542,000	622,745,000	+1,798,000	-1,797,000	+45,602,000
National Institute of Dental Research	71,983,000	74,462,000	80,304,000	77,416,000	78,860,000	-1,444,000	+1,444,000	+4,398,000
National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases	368,191,000	379,422,000	408,508,000	415,856,000	412,182,000	+3,674,000	-3,674,000	+32,760,000
National Institute of Neurological and Communicative Disorders and Stroke	265,901,000	274,505,000	294,361,000	297,077,000	295,719,000	+1,358,000	-1,358,000	+21,214,000
National Institute of Allergy and Infectious Diseases	235,895,000	246,043,000	276,367,000	270,795,000	273,581,000	-2,786,000	+2,786,000	+27,538,000
National Institute of General Medical Sciences	335,462,000	345,621,000	367,009,000	372,114,000	369,561,000	+2,552,000	-2,553,000	+23,940,000
National Institute of Child Health and Human Development	226,309,000	233,575,000	251,561,000	255,749,000	253,655,000	+2,094,000	-2,094,000	+20,080,000
National Eye Institute	127,374,000	131,550,000	138,763,000	144,360,000	141,561,000	+2,798,000	-2,799,000	+10,011,000
National Institute of Environmental Health Sciences	154,258,000	157,448,000	162,695,000	166,040,000	164,367,000	+1,672,000	-1,673,000	+6,919,000
National Institute on Asing	81,903,000	84,556,000	96,104,000	91,887,000	93,996,000	-2,108,000	+2,109,000	+9,440,000
Research Resources	184,177,000	191,024,000	227,642,000	199,967,000	213,804,000	-13,838,000	+13,837,000	+22,780,000
John E. Fogarty International Center	9,205,000	10,147,000	10,147,000	10,147,000	10,147,000	---	---	---
Subtotal	3,563,324,000	3,660,945,000	3,915,849,000	3,911,661,000	3,913,754,000	-2,095,000	+2,093,000	+252,809,000
National Library of Medicine	45,035,000	46,043,000	46,043,000	46,043,000	46,043,000	---	---	---
Office of the Director	23,618,000	24,283,000	24,683,000	24,683,000	24,683,000	---	---	+400,000
Buildings and facilities	9,898,000	17,500,000	17,500,000	17,500,000	17,500,000	---	---	---
Total, National Institutes of Health	3,641,875,000	3,748,771,000	4,004,075,000	3,999,887,000	4,001,980,000	-2,095,000	+2,093,000	+253,209,000

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION								
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH								
Alcohol, Drug Abuse & Mental Health Block Grnt 1/.....	$432,000,000	$432,000,000	$432,000,000	$446,000,000	$439,000,000	+$7,000,000	-$7,000,000	+$7,000,000
Mental Health:								
Mental Health Services Demonstrations, CSP.....	5,760,000	---	8,000,000	---	6,000,000	-2,000,000	+6,000,000	+6,000,000
Research	141,153,000	149,962,000	152,300,000	152,300,000	152,300,000	---	---	+2,338,000
Research trainins.....	15,360,000	14,410,000	14,410,000	15,360,000	15,360,000	+950,000	---	+950,000
Clinical trainins.....	42,238,000	---	18,000,000	25,000,000	21,500,000	+3,500,000	-3,500,000	+21,500,000
Prosram support.....	29,667,000	31,411,000	31,411,000	31,411,000	31,411,000	---	---	---
Subtotal, mental health.....	234,178,000	195,783,000	224,121,000	224,071,000	226,571,000	+2,450,000	+2,500,000	+30,788,000
Drus Abuse:								
Research	41,026,000	46,356,000	47,374,000	47,374,000	47,374,000	---	---	+1,018,000
Research trainins.....	816,000	891,000	891,000	891,000	891,000	---	---	---
Clinical trainins.....	2,777,000	---	---	---	---	---	---	---
Prosram support.....	12,727,000	13,087,000	13,087,000	13,087,000	13,087,000	---	---	---
Subtotal, drus abuse.....	57,346,000	60,334,000	61,352,000	61,352,000	61,352,000	---	---	+1,018,000
Alcoholisa:								
Research	23,413,000	32,911,000	33,484,000	33,484,000	33,484,000	---	---	+573,000
Research trainins.....	1,152,000	1,086,000	1,086,000	1,086,000	1,086,000	---	---	---
Clinical trainins.....	934,000	---	---	---	---	---	---	---
Prosram support.....	9,560,000	9,040,000	9,040,000	9,040,000	9,040,000	---	---	---
Subtotal, alcoholisa.....	35,059,000	43,037,000	43,610,000	43,610,000	43,610,000	---	---	+573,000
Buildinss and facilities.....	3,260,000	100,000	100,000	100,000	100,000	---	---	---
Prosram manasement, ADAMHA 1/.....	6,194,000	6,923,000	6,923,000	6,923,000	6,923,000	---	---	---
Total, Alcohol, Drus Abuse and Mental Health....	768,037,000	738,177,000	768,106,000	782,056,000	777,556,000	+9,450,000	-4,500,000	+39,379,000
ST. ELIZABETHS HOSPITAL.....	92,592,000	67,505,000	76,505,000	76,505,000	76,505,000	---	---	+9,000,000
Total, ADAMHA	860,629,000	805,682,000	844,611,000	858,561,000	854,061,000	+9,450,000	-4,500,000	+48,379,000

1/ $433 M for this activity and related admin. costs originally requested under a new 'health block grant' account not approved by the Committee.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
HEALTH RESOURCES ADMINISTRATION								
HEALTH RESOURCES								
Health planning and resources development:								
Health planning 2/	$64,432,000	$2,083,000	$64,432,000	$64,432,000	$64,432,000	---	---	+$62,349,000
Health Fac. Financing, Compliance & Conversion:								
Health teaching facilities:								
Interest subsidies	4,128,000	2,800,000	1,500,000	1,500,000	1,500,000	---	---	-1,300,000
New facility grants	42,790,000	---	5,000,000	5,000,000	5,000,000	---	---	+5,000,000
Loan repayment	---	---	29,000,000	29,000,000	29,000,000	---	---	+29,000,000
Program support	5,175,000	5,813,000	5,568,000	5,000,000	5,000,000	-$568,000	---	-813,000
Health professions education:								
Institutional assistance:								
Financial distress	7,104,000	5,600,000	7,286,000	7,286,000	7,286,000	---	---	+1,686,000
Start-up/Conversion	768,000	---	800,000	800,000	800,000	---	---	+800,000
Public Health and Health Administration:								
Public Health capitation	4,176,000	---	4,176,000	4,176,000	4,176,000	---	---	+4,176,000
Public Health traineeships	2,880,000	2,500,000	2,500,000	2,500,000	2,500,000	---	---	---
Special projects	---	2,500,000	---	---	---	---	---	-2,500,000
Health Administration grants	1,440,000	---	1,440,000	1,440,000	1,440,000	---	---	+1,440,000
Health Administration traineeships	480,000	---	480,000	480,000	480,000	---	---	+480,000
Primary care:								
Family Medicine/General Dentistry Residencies and Training 1/	26,880,000	22,500,000	26,880,000	---	---	-26,880,000	---	-22,500,000
Family medicine departments	7,680,000	7,048,000	7,680,000	10,000,000	8,840,000	+1,160,000	-$1,160,000	+1,792,000
General Internal Medicine and Pediatrics	16,320,000	11,412,000	11,412,000	11,412,000	11,412,000	---	---	---

1/ $34 million additional provided in PL 97-276.
2/ HJ Res 631 provides "current rate" for this activity.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
Special manpower initiatives:								
Physician assistants	$4,800,000	$4,405,000	$4,800,000	$4,800,000	$4,800,000	---	---	$+395,000
Area health education centers	18,240,000	13,920,000	17,920,000	17,920,000	17,920,000	---	---	+4,000,000
Manpower supply and distrib. analysis	2,962,000	3,424,000	2,962,000	2,962,000	2,962,000	---	---	-462,000
Disadvantaged Assistance	16,882,000	17,240,000	17,240,000	17,240,000	17,240,000	---	---	---
Preventive medicine residences	---	1,000,000	1,000,000	1,000,000	1,000,000	---	---	---
Special health professions initiative	---	4,405,000	---	4,000,000	2,000,000	$+2,000,000	$-2,000,000	-2,405,000
Nursing programs:								
Institutional assistance:								
Advanced nurse training	11,520,000	1,145,000	11,520,000	15,000,000	13,260,000	+1,740,000	-1,740,000	+12,115,000
Nurse practitioner	11,520,000	5,726,000	11,520,000	12,000,000	11,760,000	+240,000	-240,000	+6,034,000
Special projects	6,175,000	5,667,000	5,667,000	7,000,000	6,333,000	+666,000	-667,000	+666,000
Student assistance:								
Traineeships	9,600,000	---	9,600,000	9,600,000	9,600,000	---	---	+9,600,000
Fellowships	960,000	---	960,000	960,000	960,000	---	---	+960,000
Research grants 1/	3,400,000	---	3,400,000	---	---	-3,400,000	---	---
Subtotal, Nursing programs	43,175,000	12,538,000	42,667,000	44,560,000	41,913,000	-754,000	-2,647,000	+29,375,000
Health professions program support	12,614,000	9,023,000	13,381,000	13,381,000	13,381,000	---	---	+4,358,000
HRA program management	9,510,000	8,200,000	9,881,000	9,881,000	9,881,000	---	---	+1,681,000
Total, Health Resources	292,436,000	136,411,000	278,005,000	258,770,000	252,963,000	-25,042,000	-5,807,000	+116,552,000
MEDICAL FACILITIES GUARANTEE AND LOAN FUND	22,000,000	32,000,000	32,000,000	32,000,000	32,000,000	---	---	---
Total, Health Resources Administration	314,436,000	168,411,000	310,005,000	290,770,000	284,963,000	-25,042,000	-5,807,000	+116,552,000

1/ $5.0 million additional provided by PL 97-276.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH								
HEALTH SERVICES MANAGEMENT								
Research, Statistics and Technology:								
Health Services Research:								
Research	9,746,000	10,506,000	10,506,000	10,506,000	10,506,000	---	---	---
Program support	6,454,000	5,615,000	5,615,000	5,615,000	5,615,000	---	---	---
Subtotal	16,200,000	16,121,000	16,121,000	16,121,000	16,121,000	---	---	---
Health Statistics:								
Program operations	34,820,000	37,254,000	37,254,000	37,254,000	37,254,000	---	---	---
Program support	3,368,000	3,040,000	3,040,000	3,040,000	3,040,000	---	---	---
Subtotal	38,188,000	40,294,000	40,294,000	40,294,000	40,294,000	---	---	---
Program management	812,000	---	---	---	---	---	---	---
Health Maintenance Organizations:								
Management training & tech. assistance	480,000	480,000	480,000	480,000	480,000	---	---	---
Program support	4,169,000	4,220,000	4,220,000	4,220,000	4,220,000	---	---	---
Subtotal, Health Maintenance Organizations	4,649,000	4,700,000	4,700,000	4,700,000	4,700,000	---	---	---
Special health initiatives:								
Smoking and health	1,944,000	2,098,000	2,098,000	2,098,000	2,098,000	---	---	---
Health promotion	1,170,000	2,326,000	1,326,000	2,326,000	1,826,000	+500,000	-500,000	-500,000
Physical fitness and sports	1,009,000	1,100,000	1,100,000	1,100,000	1,100,000	---	---	---
International health	555,000	---	---	---	---	---	---	---
Adolescent family life	11,037,000	16,000,000	16,000,000	11,037,000	13,518,000	-2,482,000	+2,481,000	-2,482,000
Subtotal, Special health initiatives	13,771,000	19,426,000	18,426,000	14,463,000	16,444,000	-1,982,000	+1,981,000	-2,982,000
Public Health Service Management	18,678,000	17,037,000	17,037,000	17,037,000	17,037,000	---	---	---
PHS termination costs, salaries and expenses	10,317,000	9,887,000	---	---	---	---	---	-9,887,000
Total, Salaries and expenses	104,559,000	109,563,000	98,676,000	94,713,000	96,694,000	-1,982,000	+1,981,000	-12,869,000

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
HMO LOAN AND LOAN GUARANTEE FUND:								
New capital contribution	$17,500,000	$2,500,000	---	---	---	---	---	$-2,500,000
(Limitation on direct loans)	(75,500,000)	(24,500,000)	$(24,500,000)	$(24,500,000)	$(24,500,000)	---	---	---
(Limitation on guaranteed loans) 1/	(75,500,000)	---	---	---	---	---	---	---
RETIREMENT PAY AND MED. BENEFITS FOR COMM. OFFICERS:								
Retirement payments	49,146,000	59,943,000	59,943,000	59,943,000	59,943,000	---	---	---
Survivors benefits	3,105,000	1,862,000	1,862,000	1,862,000	1,862,000	---	---	---
Dependent's medical care	53,921,000	17,056,000	17,056,000	17,056,000	17,056,000	---	---	---
Contingency	---	6,572,000	---	---	---	---	---	-6,572,000
Total, Retirement pay and medical benefits	106,172,000	85,433,000	78,861,000	78,861,000	78,861,000	---	---	-6,572,000
Total, Public Health Service	6,555,032,000	6,157,884,000	6,660,264,000	6,641,006,000	6,625,823,000	$-34,441,000	$-15,183,000	+467,939,000
HEALTH CARE FINANCING ADMINISTRATION								
GRANTS TO STATES FOR MEDICAID								
Grants to States 2/	17,539,843,000	17,895,162,000	17,895,162,000	19,652,750,000	19,361,845,000	+1,466,683,000	-290,905,000	+1,466,683,000
Appropriation available from subsequent year	4,081,000,000	---	---	---	---	---	---	---
Appropriation available in prior year	-4,093,355,000	-4,081,000,000	-4,081,000,000	-4,745,585,000	-4,745,585,000	-664,585,000	---	-664,585,000
Total adjusted appropriation including borrowing	17,527,488,000	13,814,162,000	13,814,162,000	14,907,165,000	14,616,260,000	+802,098,000	-290,905,000	+802,098,000
FY 1984 advance appropriation	---	4,470,000,000	4,470,000,000	5,105,600,000	5,105,600,000	+635,600,000	---	+635,600,000
PAYMENTS TO HEALTH CARE TRUST FUNDS								
Military Service Credits	207,000,000	207,000,000	207,000,000	207,000,000	207,000,000	---	---	---
Supplemental medical insurance	13,323,000,000	14,480,000,000	14,480,000,000	14,669,000,000	14,238,000,000	-242,000,000	-431,000,000	-242,000,000
Hospital insurance for uninsured	808,000,000	889,000,000	889,000,000	867,000,000	877,000,000	-12,000,000	+10,000,000	-12,000,000
Federal uninsured payment	---	---	---	---	25,000,000	+25,000,000	+25,000,000	+25,000,000
Total, Payment to Trust Funds	14,338,000,000	15,576,000,000	15,576,000,000	15,743,000,000	15,347,000,000	-229,000,000	-396,000,000	-229,000,000

1/ No limitation proposed for FY 83.
2/ President's FY83 budget assumes legis. savings of $2,022 million; includes state & local admin.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
PROGRAM MANAGEMENT								
Professional Standards Review Organization: 2/								
Non-hospital activities:								
Trust funds	$(24,409,000)	$(5,000,000)	---	$(25,000,000)	$(15,000,000)	$(+15,000,000)	$(-10,000,000)	$(+10,000,000)
Research, demonstration, and evaluation:								
Federal funds	11,500,000	20,000,000	$20,000,000	20,000,000	20,000,000	---	---	---
Trust funds	(18,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---	---	---
Subtotal, Research and evaluation	29,500,000	30,000,000	30,000,000	30,000,000	30,000,000	---	---	---
Medicare Contractors (Trust Funds) 1/	(711,000,000)	(704,000,000)	(755,000,000)	(755,000,000)	(755,000,000)	---	---	(+51,000,000)
Continsency fund (Trust Fund)	---	---	---	(20,000,000)	(20,000,000)	(+20,000,000)	---	(+20,000,000)
State Certification:								
General program support, federal funds	535,000	535,000	535,000	535,000	535,000	---	---	---
Medicare certification, trust funds	(13,591,000)	(18,700,000)	(32,300,000)	(32,300,000)	(32,300,000)	---	---	(+13,600,000)
Subtotal, State certification	14,126,000	19,235,000	32,835,000	32,835,000	32,835,000	---	---	+13,600,000
End Stage Renal Disease (ESRD) Networks (trust funds).	(4,546,000)	(4,546,000)	(4,546,000)	(4,546,000)	(4,546,000)	---	---	---
Federal Administration:								
Federal funds	69,742,000	68,870,000	72,370,000	72,370,000	72,370,000	---	---	+3,500,000
Trust funds	(115,287,000)	(113,325,000)	(122,825,000)	(122,825,000)	(122,825,000)	---	---	(+9,500,000)
Subtotal, Federal Administration	185,029,000	182,195,000	195,195,000	195,195,000	195,195,000	---	---	+13,000,000
Total, Program management:								
Federal funds	81,777,000	89,405,000	92,905,000	92,905,000	92,905,000	---	---	+3,500,000
Trust funds	(886,833,000)	(855,571,000)	(924,671,000)	(969,671,000)	(959,671,000)	(+35,000,000)	(-10,000,000)	(+104,100,000)
Total, Health Care Financing Administration:								
Federal funds:								
Current year	31,947,265,000	29,479,567,000	29,483,067,000	30,743,070,000	30,056,165,000	+573,098,000	-686,905,000	+576,598,000
1984 advance	---	4,470,000,000	4,470,000,000	5,105,600,000	5,105,600,000	+635,600,000	---	+635,600,000
Trust funds	(886,833,000)	(855,571,000)	(924,671,000)	(969,671,000)	(959,671,000)	(+35,000,000)	(-10,000,000)	(+104,100,000)

1/ PL 97-248 includes an additional $45 million for this activity.
2/ Hospital review costs are not appropriated and do not appear on this table.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
SOCIAL SECURITY ADMINISTRATION								
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	$844,698,000	$855,213,000	$855,213,000	$855,213,000	$855,213,000	---	---	---
SPECIAL BENEFITS FOR DISABLED COAL MINERS								
Benefit payments	1,090,865,000	1,095,000,000	1,095,000,000	1,082,000,000	1,082,000,000	$-13,000,000	---	$-13,000,000
Administration	7,900,000	7,000,000	7,000,000	11,000,000	11,000,000	+4,000,000	---	+4,000,000
Total, Black Lung	1,098,765,000	1,102,000,000	1,102,000,000	1,093,000,000	1,093,000,000	-9,000,000	---	-9,000,000
SUPPLEMENTAL SECURITY INCOME								
Federal benefit payments 1/	6,943,529,000	8,013,133,000	7,665,387,000	7,637,254,000	7,637,254,000	-28,133,000	---	-375,879,000
Hold harmless payments	21,600,000	15,300,000	15,300,000	15,300,000	15,300,000	---	---	---
Beneficiary services	3,116,000	4,616,000	4,616,000	4,616,000	4,616,000	---	---	---
Federal fiscal liability	15,600,000	20,737,000	20,737,000	20,737,000	20,737,000	---	---	---
Administration	788,543,000	865,709,000	865,709,000	865,709,000	865,709,000	---	---	---
Total, Supplemental Security Income	7,772,388,000	8,919,495,000	8,571,749,000	8,543,616,000	8,543,616,000	-28,133,000	---	-375,879,000
Appropriation available from subsequent year	28,133,000	---	---	---	---	---	---	---
Appropriation available in prior year	-2,952,000	-28,133,000	-28,133,000	-28,133,000	-28,133,000	---	---	---
Total adjusted appropriation including borrowing	7,797,569,000	8,891,362,000	8,543,616,000	8,515,483,000	8,515,483,000	-28,133,000	---	-375,879,000

1/ President's budget assumes legis. savings of $270,400,000.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
ASSISTANCE PAYMENTS 1/ 2/								
AFDC benefit payments	$6,186,000,000	$6,125,659,000	$6,125,659,000	$7,291,231,000	$7,291,231,000	+$1,165,572,000	---	+$1,165,572,000
State and local administrations	824,194,000	766,000,000	766,000,000	951,000,000	951,000,000	+185,000,000	---	+185,000,000
Admin. and training, Territories	6,406,000	6,716,000	6,716,000	6,716,000	6,716,000	---	---	---
Adult categories	13,350,000	13,350,000	13,350,000	13,350,000	13,350,000	---	---	---
Emergency assistance	55,181,000	---	---	49,000,000	49,000,000	+49,000,000	---	+49,000,000
Repatriation	1,653,000	1,801,000	1,801,000	1,801,000	1,801,000	---	---	---
Research & evaluation	1,470,000	2,950,000	2,950,000	2,950,000	2,950,000	---	---	---
Federal administration	27,600,000	32,000,000	32,000,000	32,000,000	32,000,000	---	---	---
Less FY 83 funds advanced in FY 82	---	-1,663,841,000	-1,663,841,000	-1,663,841,000	-1,663,841,000	---	---	---
Total, Assistance payments, appropriation	7,115,854,000	5,284,635,000	5,284,635,000	6,684,207,000	6,684,207,000	+1,399,572,000	---	+1,399,572,000
Appropriation available from subsequent year	728,659,000	---	---	---	---	---	---	---
Appropriation available in prior year	-1,938,059,000	-728,659,000	-728,659,000	-708,659,000	-708,659,000	+20,000,000	---	+20,000,000
Advance appropriation 1st quarter FY 1984	---	1,327,203,000	1,327,203,000	1,718,000,000	1,718,000,000	+390,797,000	---	+390,797,000
CHILD SUPPORT ENFORCEMENT								
Program level 3/	510,457,000	408,377,000	408,377,000	471,000,000	471,000,000	+62,623,000	---	+62,623,000
Less FY 83 funds advanced in FY 82	---	-123,500,000	-123,500,000	-123,500,000	-123,500,000	---	---	---
Current appropriation, Child Support Enforcement	510,457,000	284,877,000	284,877,000	347,500,000	347,500,000	+62,623,000	---	+62,623,000
Appropriation available from prior year	-101,624,000	---	---	---	---	---	---	---
Advance appropriation, FY 1984	---	112,500,000	112,500,000	118,000,000	118,000,000	+5,500,000	---	+5,500,000

1/ Funds for State and local admin. requested in Combined Welfare Admin. Block grant in FY 83.
2/ President's budget assumes legis. savings of $1,215,000,000.
3/ President's FY83 budget req. assumes legis. savings of $145 million.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
LOW INCOME HOME ENERGY ASSISTANCE								
Energy Assistance Block Grant	#1,872,000,000	#1,297,800,000	#1,847,800,000	#2,072,800,000	#1,972,800,000	#+125,000,000	#-100,000,000	#+675,000,000
Federal Administration	3,000,000	2,200,000	2,200,000	2,200,000	2,200,000	---	---	---
Subtotal, Energy assistance	1,875,000,000	1,300,000,000	1,850,000,000	2,075,000,000	1,975,000,000	+125,000,000	-100,000,000	+675,000,000
OFFICE OF REFUGEE RESETTLEMENT								
REFUGEE AND ENTRANT ASSISTANCE	670,670,000	532,152,000	532,152,000	670,670,000	585,000,000	+52,848,000	-85,670,000	+52,848,000
LIMITATION ON ADMINISTRATIVE EXPENSES (trust funds)	(3,131,000,000)	(3,408,451,000)	(3,408,451,000)	(3,408,451,000)	(3,408,451,000)	---	---	---
Total, Social Security Administration:								
Federal funds:								
Current year	18,601,989,000	17,521,580,000	17,723,834,000	19,532,414,000	19,346,744,000	+1,622,910,000	-185,670,000	+1,825,164,000
FY 1984 advance	---	1,439,703,000	1,439,703,000	1,836,000,000	1,836,000,000	+396,297,000	---	+396,297,000
Trust funds	(3,131,000,000)	(3,408,451,000)	(3,408,451,000)	(3,408,451,000)	(3,408,451,000)	---	---	---

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES								
SOCIAL SERVICES BLOCK GRANT (Title XX)	$2,400,000,000	$1,974,126,000	$1,974,126,000	$2,450,000,000	$2,450,000,000	+$475,874,000	---	+$475,874,000
HUMAN DEVELOPMENT SERVICES								
Programs for Children, Youth, and Families:								
Head start	911,700,000	912,000,000	912,000,000	912,000,000	912,000,000	---	---	---
Child abuse:								
State grants	6,720,000	4,620,000	6,720,000	6,720,000	6,720,000	---	---	+2,100,000
Discretionary activities	9,479,000	---	9,479,000	9,479,000	9,479,000	---	---	+9,479,000
Runaway youth 1/	10,514,000	6,600,000	10,514,000	7,000,000	3,500,000	-7,014,000	$-3,500,000	-3,100,000
Subtotal, CY & Families	938,413,000	923,220,000	938,713,000	935,199,000	931,699,000	-7,014,000	-3,500,000	+8,479,000
Programs for the Aging:								
State agency activities	21,673,000	19,928,000	21,673,000	21,673,000	21,673,000	---	---	+1,745,000
Social Services and Centers	240,869,000	216,199,000	240,869,000	240,869,000	240,869,000	---	---	+24,670,000
Grants to Indians	5,735,000	5,252,000	5,735,000	5,735,000	5,735,000	---	---	+483,000
Nutrition:								
Congregate meals	286,749,000	258,133,000	319,074,000	319,074,000	319,074,000	---	---	+60,941,000
Home-delivered meals	57,350,000	48,142,000	62,025,000	62,025,000	62,025,000	---	---	+13,883,000
Research, training, and special projects	22,175,000	20,307,000	22,175,000	22,175,000	22,175,000	---	---	+1,868,000
Federal Council on Aging	191,000	175,000	175,000	175,000	175,000	---	---	---
National clearinghouse	1,721,000	---	---	---	---	---	---	---
Subtotal	636,463,000	568,136,000	671,726,000	671,726,000	671,726,000	---	---	+103,590,000
Developmental disabilities program:								
Basic grants and advocacy	49,133,000	31,977,000	49,133,000	51,180,000	50,500,000	+1,367,000	-680,000	+18,523,000
Special projects	2,350,000	---	2,350,000	2,500,000	2,500,000	+150,000	---	+2,500,000
University affiliated facilities	7,200,000	---	7,200,000	7,500,000	7,500,000	+300,000	---	+7,500,000
Subtotal, Developmental disabilities	58,683,000	31,977,000	58,683,000	61,180,000	60,500,000	+1,817,000	-680,000	+28,523,000
Native American Programs	28,000,000	23,282,000	28,000,000	28,000,000	28,000,000	---	---	+4,718,000
Program direction	65,660,000	65,089,000	65,089,000	65,089,000	65,089,000	---	---	---
Total, Special populations	1,727,219,000	1,611,704,000	1,762,211,000	1,761,194,000	1,757,014,000	-5,197,000	-4,180,000	+145,310,000

1/ $18 million additional provided in PL 97-276.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
CHILD WELFARE SERVICES								
Entitlement activities:								
Foster care	$300,000,000	---	$233,251,000	$395,000,000	$395,000,000	$+161,749,000	---	$+395,000,000
Adoption assistance	5,000,000	---	5,000,000	5,000,000	5,000,000	---	---	+5,000,000
Consolidated programs (requires legislation) 1/	---	$250,000,000	---	---	---	---	---	-250,000,000
Discretionary activities:								
Child welfare assistance	156,326,000	---	156,326,000	156,326,000	156,326,000	---	---	+156,326,000
Adoption opportunities	1,912,000	---	1,912,000	1,912,000	1,912,000	---	---	+1,912,000
Child welfare training	3,823,000	---	3,823,000	3,823,000	3,823,000	---	---	+3,823,000
Child welfare research	10,608,000	---	10,608,000	10,608,000	10,608,000	---	---	+10,608,000
Consolidated program (requires legislation) 1/ 2/	---	160,920,000	---	---	---	---	---	-160,920,000
Total, Child Welfare block grant	477,669,000	410,920,000	410,920,000	572,669,000	572,669,000	+161,749,000	---	+161,749,000
WORK INCENTIVES								
Grants to States	266,760,000	---	266,760,000	246,760,000	256,760,000	-10,000,000	$+10,000,000	+256,760,000
Program direction and evaluation	14,000,000	---	14,000,000	14,000,000	14,000,000	---	---	+14,000,000
Total, Work incentives	280,760,000	---	280,760,000	260,760,000	270,760,000	-10,000,000	+10,000,000	+270,760,000
COMMUNITY SERVICES BLOCK GRANT								
Grants to States	348,000,000	100,000,000	348,000,000	348,000,000	348,000,000	---	---	+248,000,000
CSA close out	18,075,000	6,200,000	6,200,000	6,200,000	6,200,000	---	---	---
Program support	---	6,300,000	6,300,000	6,300,000	6,300,000	---	---	---
Subtotal, program level	366,075,000	112,500,000	360,500,000	360,500,000	360,500,000	---	---	+248,000,000
Less, transfer from Rural Dev. Loan Fund	---	-9,000,000	---	---	---	---	---	+9,000,000
Total, Community Services appropriation	366,075,000	103,500,000	360,500,000	360,500,000	360,500,000	---	---	+257,000,000
Total, Asst. Sec. for Human Development	5,251,723,000	4,100,250,000	4,788,517,000	5,405,123,000	5,410,943,000	+622,426,000	+5,820,000	+1,310,693,000

1/ Single consolidated req. of 380.1 M in budget req.
2/ Also included here is request of $30,800,000 requested in Budget under "Human Resources Research and Demonstrations."

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
DEPARTMENTAL MANAGEMENT								
GENERAL DEPARTMENTAL MANAGEMENT:								
Federal funds	$146,709,000	$158,143,000	$158,143,000	$158,143,000	$158,143,000	---	---	---
Trust funds	(7,680,000)	(8,000,000)	(8,000,000)	(8,000,000)	(8,000,000)	---	---	---
Total, Departmental management	154,389,000	166,143,000	166,143,000	166,143,000	166,143,000	---	---	---
OFFICE OF THE INSPECTOR GENERAL:								
Federal activities:								
Federal funds	40,825,000	44,921,000	44,921,000	44,921,000	44,921,000	---	---	---
Trust funds	(5,760,000)	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)	---	---	---
State Medicaid Fraud units	29,158,000	36,346,000	36,346,000	36,346,000	36,346,000	---	---	---
Total, Inspector General:								
Federal funds	69,983,000	81,267,000	81,267,000	81,267,000	81,267,000	---	---	---
Trust funds	(5,760,000)	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)	---	---	---
Appropriation available from subsequent year	10,000,000	---	---	---	---	---	---	---
Appropriation available in prior year	-11,625,000	-10,000,000	-10,000,000	-10,000,000	-10,000,000	---	---	---
Total adjusted appropriation including borrowing	68,358,000	71,267,000	71,267,000	71,267,000	71,267,000	---	---	---
FY 84 advance appropriation	---	10,000,000	10,000,000	10,000,000	10,000,000	---	---	---
OFFICE FOR CIVIL RIGHTS:								
Federal funds	17,460,000	19,163,000	19,163,000	19,163,000	19,163,000	---	---	---
Trust funds	(2,256,000)	(2,350,000)	(2,350,000)	(2,350,000)	(2,350,000)	---	---	---
Total, Civil Rights	19,716,000	21,513,000	21,513,000	21,513,000	21,513,000	---	---	---
POLICY RESEARCH	13,440,000	14,718,000	13,440,000	14,718,000	14,718,000	$+1,278,000	---	---
Total, Departmental management:								
Federal funds	245,967,000	273,291,000	272,013,000	273,291,000	273,291,000	+1,278,000	---	---
Trust funds	(15,696,000)	(16,350,000)	(16,350,000)	(16,350,000)	(16,350,000)	---	---	---
Total, Department of Health and Human Services, Federal funds:								
Current year 1/	62,601,976,000	57,522,572,000	58,917,695,000	62,584,904,000	61,702,966,000	+2,785,271,000	$-881,938,000	$+4,180,394,000
1984 advance	---	5,919,703,000	5,919,703,000	6,951,600,000	6,951,600,000	+1,031,897,000	---	+1,031,897,000
Trust funds	(4,033,529,000)	(4,280,372,000)	(4,349,472,000)	(4,394,472,000)	(4,384,472,000)	(+35,000,000)	(-10,000,000)	(+104,100,000)

1/ Does not incl. $1,787,341,000 of FY 83 funds advanced in FY 82.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
TITLE III--DEPARTMENT OF EDUCATION								
COMPENSATORY EDUCATION FOR THE DISADVANTAGED								
Grants for the Disadvantaged (Title I):								
Grants to local educational agencies	$2,562,754,000	$1,726,256,000	$2,562,754,000	$2,727,360,000	$2,687,754,000	$+125,000,000	$-39,606,000	$+961,498,000
State agency programs:								
Migrants	255,744,000	167,012,000	255,744,000	255,744,000	255,744,000	---	---	+88,732,000
Handicapped 1/	146,520,000	---	146,520,000	146,520,000	146,520,000	---	---	+146,520,000
Neglected and delinquent	32,616,000	21,886,000	32,616,000	32,616,000	32,616,000	---	---	+10,730,000
State administration	30,575,000	22,100,000	30,575,000	33,014,000	33,014,000	+2,439,000	---	+10,914,000
Evaluation and studies	5,760,000	4,746,000	5,760,000	4,746,000	4,746,000	-1,014,000	---	---
Total, Title I	3,033,969,000	1,942,000,000	3,033,969,000	3,200,000,000	3,160,394,000	+126,425,000	-39,606,000	+1,218,394,000
Migrant education:								
High school equivalency program	5,851,000	---	5,851,000	6,300,000	6,300,000	+449,000	---	+6,300,000
College assistance migrant program	1,160,000	---	1,160,000	1,200,000	1,200,000	+40,000	---	+1,200,000
Total, Compensatory Education programs	3,040,980,000	1,942,000,000	3,040,980,000	3,207,500,000	3,167,894,000	+126,914,000	-39,606,000	+1,225,894,000
SPECIAL PROGRAMS								
Block grant:								
State activities	455,616,000	406,080,000	454,810,000	446,500,000	450,655,000	-4,155,000	+4,155,000	+44,575,000
Secretary's discretionary fund:								
Inexpensive book distribution (including RIF)	5,850,000	5,372,000	5,850,000	5,850,000	5,850,000	---	---	+478,000
Arts in education	2,025,000	1,860,000	2,025,000	2,025,000	2,025,000	---	---	+165,000
Alcohol and drug abuse education	2,850,000	2,617,000	2,850,000	2,850,000	2,850,000	---	---	+233,000
Law related education	960,000	---	1,000,000	---	1,000,000	---	+1,000,000	+1,000,000
Discretionary projects	16,539,000	16,071,000	17,305,000	17,775,000	17,040,000	-265,000	-735,000	+969,000
Evaluation	---	1,000,000	---	---	---	---	---	-1,000,000
Subtotal, Secretary's discretionary fund	28,224,000	26,920,000	29,030,000	28,500,000	28,765,000	-265,000	+265,000	+1,845,000
Subtotal, Block grant	483,840,000	433,000,000	483,840,000	475,000,000	479,420,000	-4,420,000	+4,420,000	+46,420,000
Training and advisory services (Civil Rights IVA)	24,000,000	---	24,000,000	24,000,000	24,000,000	---	---	+24,000,000
Follow through	19,440,000	---	19,440,000	19,440,000	19,440,000	---	---	+19,440,000
Territorial teacher training assistance	960,000	---	960,000	960,000	960,000	---	---	+960,000
General assistance for the Virgin Islands	1,920,000	---	1,920,000	1,920,000	1,920,000	---	---	+1,920,000
Ellender fellowships 2/	960,000	---	3,000,000	3,000,000	3,000,000	---	---	+3,000,000
Women's educational equity	5,760,000	---	5,760,000	5,760,000	5,760,000	---	---	+5,760,000
Total, Special programs	536,880,000	433,000,000	538,920,000	530,080,000	534,500,000	-4,420,000	+4,420,000	+101,500,000

1/ Proposed to be transf. to Special Educ. Block Grant
2/ Includes initial forward funding of $1,500,000.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
BILINGUAL EDUCATION								
Grants to school districts	[B] 79,222,000	[B] 60,524,000	[B] 83,622,000	[B] 84,126,000	[B] 84,126,000	[B] +504,000	---	[B] +23,602,000
Training grants	28,836,000	25,500,000	28,836,000	31,288,000	31,288,000	+2,452,000	---	+5,788,000
Support services	18,957,000	8,510,000	14,557,000	18,957,000	16,557,000	+2,000,000	[B] -2,400,000	+8,047,000
Bilingual desegregation grants	7,356,000	---	7,356,000	---	2,400,000	-4,956,000	+2,400,000	+2,400,000
Bilingual vocational training	3,686,000	---	3,686,000	3,686,000	3,686,000	---	---	+3,686,000
Total	138,057,000	94,534,000	138,057,000	138,057,000	138,057,000	---	---	+43,523,000
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS								
Maintenance and operations:								
Payments for 'a' children	345,000,000	275,080,000	362,400,000	384,000,000	373,200,000	+10,800,000	-10,800,000	+98,120,000
Payments for 'b' children	72,600,000	---	72,600,000	51,000,000	61,800,000	-10,800,000	+10,800,000	+61,800,000
Special provisions (Section 2)	9,600,000	8,800,000	10,000,000	10,000,000	15,000,000	+5,000,000	+5,000,000	+6,200,000
Disaster assistance	9,800,000	---	10,000,000	10,000,000	10,000,000	---	---	+10,000,000
Subtotal	437,000,000	283,880,000	455,000,000	455,000,000	460,000,000	+5,000,000	+5,000,000	+176,120,000
Construction	19,200,000	3,000,000	20,000,000	20,000,000	20,000,000	---	---	+17,000,000
Total	456,200,000	286,880,000	475,000,000	475,000,000	480,000,000	+5,000,000	+5,000,000	+193,120,000

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
EDUCATION FOR THE HANDICAPPED 2/								
Education for the handicapped:								
Special Education Block Grant 1/	---	#771,685,000	---	---	---	---	---	#-771,685,000
Special purpose funds 1/	---	73,983,000	---	---	---	---	---	-73,983,000
State assistance:								
State grant program	#931,008,000	---	#962,428,000	#970,000,000	#970,000,000	#+7,572,000	---	+970,000,000
Preschool incentive grants	24,000,000	---	24,000,000	25,000,000	25,000,000	+1,000,000	---	+25,000,000
Deaf-blind centers	15,360,000	---	15,360,000	15,360,000	15,360,000	---	---	+15,360,000
Special population programs:								
Severely handicapped projects	2,880,000	---	2,880,000	2,880,000	2,880,000	---	---	+2,880,000
Early childhood education	16,800,000	---	16,800,000	16,800,000	16,800,000	---	---	+16,800,000
Regional, vocational, adult and postsecondary programs	2,832,000	---	2,832,000	2,832,000	2,832,000	---	---	+2,832,000
Innovation and development	10,800,000	---	12,000,000	12,000,000	12,000,000	---	---	+12,000,000
Media and resource services:								
Media services and captioned films	11,520,000	---	14,000,000	12,000,000	12,000,000	-2,000,000	---	+12,000,000
Regional resource centers	2,880,000	---	2,880,000	2,880,000	2,880,000	---	---	+2,880,000
Recruitment and information	720,000	---	720,000	720,000	720,000	---	---	+720,000
Special education personnel development	49,300,000	---	49,300,000	49,300,000	49,300,000	---	---	+49,300,000
Special studies	480,000	---	480,000	480,000	480,000	---	---	+480,000
Total 2/	1,068,580,000	845,668,000	1,103,680,000	1,110,252,000	1,110,252,000	+6,572,000	---	+264,584,000
REHABILITATION SERVICES AND HANDICAPPED RESEARCH								
Rehabilitation services:								
Basic State grants	863,040,000	579,536,000	943,900,000	943,900,000	943,900,000	---	---	+364,364,000
Special purpose funds	---	43,780,000	---	---	---	---	---	-43,780,000
Service projects	23,894,000	---	26,094,000	26,094,000	26,094,000	---	---	+26,094,000
Independent living	17,280,000	---	17,280,000	17,280,000	17,280,000	---	---	+17,280,000
Training	19,200,000	---	19,200,000	19,200,000	19,200,000	---	---	+19,200,000
Subtotal	923,414,000	623,316,000	1,006,474,000	1,006,474,000	1,006,474,000	---	---	+383,158,000
National Institute for Handicapped Research	28,560,000	26,491,000	28,560,000	30,060,000	30,060,000	+1,500,000	---	+3,569,000
National Council on the Handicapped	197,000	193,000	193,000	193,000	193,000	---	---	---
Total 3/	952,171,000	650,000,000	1,035,227,000	1,036,727,000	1,036,727,000	+1,500,000	---	+386,727,000

1/ Requires legislation.
2/ FY 83 est. proposed for later transmittal.
3/ FY83 est. orig. prop. under A/S for Human Dev., HHS

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CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
VOCATIONAL AND ADULT EDUCATION								
Consolidated (Block) Grant 1/	---	#500,000,000	---	---	---	---	---	#-500,000,000
Vocational education:								
State grants and innovative programs:								
Basic grants	#497,280,000	---	#558,155,000	#558,155,000	#558,155,000	---	---	+558,155,000
Program improvement and supportive services	89,590,000	---	109,590,000	89,590,000	99,590,000	#-10,000,000	#+10,000,000	+99,590,000
Programs of national significance	8,178,000	---	8,178,000	7,178,000	7,678,000	-500,000	+500,000	+7,678,000
Special programs for the disadvantaged	14,356,000	---	14,356,000	14,356,000	14,356,000	---	---	+14,356,000
Consumer and homemaking education	29,133,000	---	34,133,000	29,133,000	31,633,000	-2,500,000	+2,500,000	+31,633,000
State advisory councils	6,500,000	---	6,500,000	6,500,000	6,500,000	---	---	+6,500,000
State planning	3,588,000	---	3,588,000	3,588,000	3,588,000	---	---	+3,588,000
Subtotal, Vocational education	648,625,000	500,000,000	734,500,000	708,500,000	721,500,000	-13,000,000	+13,000,000	+221,500,000
Adult education	86,400,000	---	95,000,000	95,000,000	95,000,000	---	---	+95,000,000
Total 2/	735,025,000	500,000,000	829,500,000	803,500,000	816,500,000	-13,000,000	+13,000,000	+316,500,000
STUDENT FINANCIAL ASSISTANCE								
Pell grants:								
Program funds	2,419,040,000	1,400,000,000	2,419,040,000	2,419,040,000	2,419,040,000	---	---	+1,019,040,000
Campus based programs:								
Supplemental opportunity grants	355,400,000	---	355,400,000	355,400,000	355,400,000	---	---	+355,400,000
Work study	528,000,000	397,500,000	528,000,000	550,000,000	540,000,000	+12,000,000	-10,000,000	+142,500,000
Direct loans:								
Capital	178,560,000	---	178,560,000	178,560,000	178,560,000	---	---	+178,560,000
Cancellations	14,800,000	2,500,000	14,800,000	14,800,000	14,800,000	---	---	+12,300,000
Subtotal, Direct loans	193,360,000	2,500,000	193,360,000	193,360,000	193,360,000	---	---	+190,860,000
State student incentive grants	73,680,000	---	73,680,000	50,000,000	60,000,000	-13,680,000	+10,000,000	+60,000,000
Total	3,569,480,000	1,800,000,000	3,569,480,000	3,567,800,000	3,567,800,000	-1,680,000	---	+1,767,800,000

1/ Requires legislation.
2/ FY 83 est. proposed for later transmittal.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
GUARANTEED STUDENT LOANS								
Guaranteed student loan program:								
Insurance costs (net)	---	[1] 74,300,000	---	---	---	---	---	[1] -74,300,000
Reinsurance costs (net)	---	295,300,000	---	---	---	---	---	-295,300,000
Interest subsidies (net)	---	2,008,231,000	---	---	---	---	---	-2,008,231,000
Other subsidies	---	106,800,000	---	---	---	---	---	-106,800,000
Undistributed	[1] 3,073,846,000	---	[1] 2,484,631,000	[1] 3,100,500,000	[1] 3,100,500,000	[1] +615,869,000	---	[1] +3,100,500,000
Total 1/	3,073,846,000	2,484,631,000	2,484,631,000	3,100,500,000	3,100,500,000	+615,869,000	---	+615,869,000
HIGHER AND CONTINUING EDUCATION								
Student services:								
Special programs for the diasdvantaged	150,240,000	82,251,000	159,240,000	150,240,000	154,740,000	-4,500,000	[1] +4,500,000	+72,489,000
Veterans cost of instruction	4,800,000	---	4,800,000	---	3,000,000	-1,800,000	+3,000,000	+3,000,000
Program development:								
Strengthening developing institutions	134,416,000	129,600,000	129,600,000	129,600,000	129,600,000	---	---	---
Minority institutions science improvement	4,800,000	3,287,000	4,800,000	4,800,000	4,800,000	---	---	+1,513,000
Cooperative education	14,400,000	---	14,400,000	14,400,000	14,400,000	---	---	+14,400,000
International education and foreign language studies:								
Domestic programs	19,200,000	8,767,000	20,000,000	21,000,000	21,000,000	+1,000,000	---	+12,233,000
Overseas programs	4,800,000	1,547,000	5,000,000	5,000,000	5,000,000	---	---	+3,453,000
Graduate support:								
Graduate/Professional educational opportunities	8,640,000	---	10,000,000	10,000,000	10,000,000	---	---	+10,000,000
Public service grants and fellowships	1,920,000	---	1,920,000	1,000,000	1,920,000	---	920,000	+1,920,000
Construction:								
Interest subsidy grants	25,500,000	25,000,000	25,000,000	25,000,000	25,000,000	---	---	---
Special endowments:								
General Chappie James Memorial, Tuskegee 2/	---	9,000,000	9,000,000	---	---	-9,000,000	---	-9,000,000
Carl Albert Center	---	---	3,000,000	---	2,000,000	-1,000,000	+2,000,000	+2,000,000
Taft Institute	---	---	750,000	750,000	750,000	---	---	+750,000
Law related education:								
Legal training for disadvantaged	960,000	---	1,000,000	1,000,000	1,000,000	---	---	+1,000,000
Law school clinical experience	960,000	---	960,000	250,000	605,000	-355,000	+355,000	+605,000
Fund for the Improvement of Postsecondary Education	11,520,000	11,900,000	11,520,000	11,900,000	11,710,000	+190,000	-190,000	-190,000
Total	382,156,000	271,352,000	400,990,000	374,940,000	385,525,000	-15,465,000	+10,585,000	+114,173,000

1/ Assumes legis. savings of $912,369,000 in FY83.
2/ $9 million provided in PL 97-276.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
HIGHER EDUCATION FACILITIES LOANS AND INSURANCE.....	$11,096,000	$20,143,000	$20,143,000	$20,143,000	$20,143,000	---	---	---
EDUCATIONAL RESEARCH AND STATISTICS								
National Institute of Education.....	53,389,000	53,645,000	53,389,000	55,614,000	55,614,000	$+2,225,000	---	$+1,969,000
National Center for Educational Statistics.....	8,589,000	8,747,000	8,589,000	8,589,000	8,589,000	---	---	-158,000
Total.....	61,978,000	62,392,000	61,978,000	64,203,000	64,203,000	+2,225,000	---	+1,811,000
EDUCATIONAL, RESEARCH, & TRAINING ACTIVITIES OVERSEAS								
Grants to American institutions.....	960,000	516,000	516,000	516,000	516,000	---	---	---
Total.....	960,000	516,000	516,000	516,000	516,000	---	---	---
LIBRARIES AND LEARNING RESOURCES								
Public libraries:								
Services.....	60,000,000	---	60,000,000	60,000,000	60,000,000	---	---	+60,000,000
Interlibrary cooperation.....	11,520,000	---	11,520,000	11,520,000	11,520,000	---	---	+11,520,000
College library resources.....	1,920,000	---	1,920,000	1,920,000	1,920,000	---	---	+1,920,000
Training and demonstrations.....	880,000	---	880,000	880,000	880,000	---	---	+880,000
Research libraries.....	5,760,000	---	5,760,000	6,000,000	6,000,000	+240,000	---	+6,000,000
Total.....	80,080,000	---	80,080,000	80,320,000	80,320,000	+240,000	---	+80,320,000

CONFERENCE AGREEMENT - H.J. RES. 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimate	House Bill	Senate Bill	Conference	Conference compared with: House Bill	Conference compared with: Senate Bill	Conference compared with: FY 83 Estimate
SPECIAL INSTITUTIONS								
AMERICAN PRINTING HOUSE FOR THE BLIND	$5,000,000	$4,924,000	$5,000,000	$5,000,000	$5,000,000	---	---	$+76,000
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF:								
Educational programs	23,300,000	26,297,000	26,300,000	26,300,000	26,300,000	---	---	+3,000
Construction	3,000,000	---	---	---	---	---	---	---
Total, National Technical Institute for the Deaf	26,300,000	26,297,000	26,300,000	26,300,000	26,300,000	---	---	+3,000
GALLAUDET COLLEGE:								
College programs	32,310,000	33,910,000	33,910,000	33,910,000	33,910,000	---	--	---
Model Secondary School for the Deaf	11,700,000	11,700,000	11,700,000	11,700,000	11,700,000	---	---	---
Kendall Demonstration Elementary School	6,390,000	6,390,000	6,390,000	6,390,000	6,390,000	---	---	---
Construction	1,600,000	---	---	---	---	---	---	---
Total	52,000,000	52,000,000	52,000,000	52,000,000	52,000,000	---	---	---
HOWARD UNIVERSITY:								
Academic program	109,594,000	123,094,000	123,094,000	123,094,000	123,094,000	---	---	---
Howard University hospital	22,106,000	22,106,000	22,106,000	22,106,000	22,106,000	---	---	---
Construction	13,500,000	---	---	---	---	---	---	---
Total	145,200,000	145,200,000	145,200,000	145,200,000	145,200,000	---	---	---
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES								
Office for civil rights	45,038,000	44,868,000	44,868,000	44,868,000	44,868,000	---	---	---
DEPARTMENTAL MANAGEMENT, SALARIES AND EXPENSES								
Program administration	222,850,000	217,900,000	217,900,000	217,900,000	217,900,000	---	---	---
Advisory committees	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	---	---	---
Program and management evaluation	2,350,000	2,350,000	2,350,000	2,350,000	2,350,000	---	---	---
Subtotal, Federal funds	226,950,000	222,000,000	222,000,000	222,000,000	222,000,000	---	---	---
Trust funds	(576,000)	---	(576,000)	---	---	$(-576,000)	---	---
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES								
Office of the Inspector General	11,994,000	12,840,000	12,840,000	12,840,000	12,840,000	---	---	---
Undistributed S&E reduction	-8,500,000	---	---	---	---	---	---	---
TOTAL, Department of Education	14,612,047,000	9,899,245,000	14,287,966,000	15,017,746,000	15,011,145,000	+723,179,000	$-6,601,000	+5,111,900,000
Federal funds	14,611,471,000	9,899,245,000	14,287,390,000	15,017,746,000	15,011,145,000	+723,755,000	-6,601,000	+5,111,900,000
Trust funds	(576,000)	---	(576,000)	---	---	(-576,000)	---	---

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
TITLE IV - RELATED AGENCIES								
Action (Domestic Programs):								
Volunteers in Service to America:								
VISTA operations	$16,000,000	$231,000	$11,831,000	$8,000,000	$11,831,000	---	$+3,831,000	$+11,600,000
Service learning	1,757,000	1,830,000	1,757,000	1,830,000	1,830,000	$+73,000	---	---
Subtotal	17,757,000	2,061,000	13,588,000	9,830,000	13,661,000	+73,000	+3,831,000	+11,600,000
Older Americans Volunteer Programs:								
Foster Grandparents Program	46,079,000	48,400,000	48,400,000	48,400,000	48,400,000	---	---	---
Senior Companion Program	12,170,000	12,016,000	12,016,000	12,016,000	12,016,000	---	---	---
Retired Senior Volunteer Program	26,388,000	27,445,000	27,445,000	27,445,000	27,445,000	---	---	---
Subtotal, Older Volunteers	84,637,000	87,861,000	87,861,000	87,861,000	87,861,000	---	---	---
Citizen Participation and Volunteer Demonstration Programs	1,809,000	1,984,000	1,809,000	1,984,000	1,984,000	+175,000	---	---
Program Support	27,663,000	25,815,000	25,815,000	25,815,000	25,815,000	---	---	---
Total, Action	131,866,000	117,721,000	129,073,000	125,490,000	129,321,000	+248,000	+3,831,000	+11,600,000
Corporation for Public Broadcasting:								
FY 1985 advance (current request) 1/	130,000,000	85,000,000	130,000,000	130,000,000	130,000,000	---	---	+45,000,000
Federal Mediation and Conciliation Service	24,552,000	20,190,000	21,721,000	21,321,000	21,321,000	-400,000	---	+1,131,000
Federal Mine Safety and Health Review Commission	3,544,000	3,686,000	3,686,000	3,686,000	3,686,000	---	---	---
National Commission on Libraries and Information Science	674,000	---	674,000	674,000	674,000	---	---	+674,000
National Commission on Student Financial Assistance	960,000	840,000	345,000	840,000	840,000	+495,000	---	---
National Labor Relations Board	117,600,000	133,000,000	124,045,000	124,045,000	124,045,000	---	---	-8,955,000
National Mediation Board	4,758,000	3,618,000	5,468,000	5,468,000	5,468,000	---	---	+1,850,000
Occupational Safety and Health Review Commission	7,092,000	6,316,000	6,316,000	6,316,000	6,316,000	---	---	---
President's Commission on Ethical Problems in Medicine	1,749,000	---	---	---	---	---	---	---

1/ FY 1982 appropriation adv. in FY80 was $172 million
FY 1983 appropriation adv. in FY81 was $137 million
FY 1984 appropriation adv. in FY82 is $130 million.

CONFERENCE AGREEMENT - H J RES 631 (including HR 7205)
SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HHS AND EDUCATION AND RELATED AGENCIES

	FY 1982 Enacted	FY 1983 Estimates	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Conference compared with FY 83 Estimates
Railroad Retirement Board:								
Dual Benefits Payments Account	$390,200,000	$350,000,000	$430,000,000	$430,000,000	$430,000,000	---	---	$+80,000,000
Limitation on administration	(47,032,000)	(44,080,000)	(46,361,000)	(46,361,000)	(46,361,000)	---	---	(+2,281,000)
Milwaukee Railroad restructuring, administration	240,000	250,000	250,000	250,000	250,000	---	---	---
Soldier's and Airmen's Home (trust fund appropriation):								
Operation and maintenance	24,421,000	26,718,000	26,718,000	26,718,000	26,718,000	---	---	---
Total, Related Agencies:								
Federal funds	837,656,000	747,339,000	878,296,000	874,808,000	878,639,000	$+343,000	$+3,831,000	+131,300,000
Current year	707,656,000	662,339,000	748,296,000	744,808,000	748,639,000	+343,000	+3,831,000	+86,300,000
FY 1984 advance	130,000,000	85,000,000	130,000,000	130,000,000	130,000,000	---	---	+45,000,000
Trust funds	(47,032,000)	(44,080,000)	(46,361,000)	(46,361,000)	(46,361,000)	---	---	(+2,281,000)
SUMMARY (excluding Title II of HJ Res 631)								
Title I - Department of Labor:								
Federal Funds	9,975,391,000	8,950,882,000	11,452,595,000	11,757,105,000	11,676,179,000	+223,584,000	-80,926,000	+2,725,297,000
Trust Funds	(2,294,834,000)	(2,380,601,000)	(2,424,272,000)	(2,499,672,000)	(2,499,672,000)	(+75,400,000)	---	(+119,071,000)
Title II - Department of Health and Human Services:								
Federal Funds:								
Current year	62,601,976,000	57,522,572,000	58,917,695,000	62,584,904,000	61,702,966,000	+2,785,271,000	-881,938,000	+4,180,394,000
FY 1984 advance	---	5,919,703,000	5,919,703,000	6,951,600,000	6,951,600,000	+1,031,897,000	---	+1,031,897,000
Trust Funds	(4,033,529,000)	(4,280,372,000)	(4,349,472,000)	(4,394,472,000)	(4,384,472,000)	(+35,000,000)	(-10,000,000)	(+104,100,000)
Title III - Department of Education:								
Federal Funds	14,611,471,000	9,899,245,000	14,287,390,000	15,017,746,000	15,011,145,000	+723,755,000	-6,601,000	+5,111,900,000
Trust Funds	(576,000)	---	(576,000)	---	---	(-576,000)	---	---
Title IV - Related Agencies:								
Federal Funds	837,656,000	747,339,000	878,296,000	874,808,000	878,639,000	+343,000	+3,831,000	+131,300,000
Trust Funds	(47,032,000)	(44,080,000)	(46,361,000)	(46,361,000)	(46,361,000)	---	---	(+2,281,000)
Total, all titles:								
Federal Funds	88,026,494,000	83,039,741,000	91,455,679,000	97,186,163,000	96,220,529,000	+4,764,850,000	-965,634,000	+13,180,788,000
Current year 1/	(87,896,494,000)	(77,035,038,000)	(85,405,976,000)	(90,104,563,000)	(89,138,929,000)	(+3,732,953,000)	(-965,634,000)	(+12,103,891,000)
1984 advance	---	(5,919,703,000)	(5,919,703,000)	(6,951,600,000)	(6,951,600,000)	(+1,031,897,000)	---	(+1,031,897,000)
1985 advance	(130,000,000)	(85,000,000)	(130,000,000)	(130,000,000)	(130,000,000)	---	---	(+45,000,000)
Trust Funds	(6,375,971,000)	(6,705,053,000)	(6,820,681,000)	(6,940,505,000)	(6,930,505,000)	(+109,824,000)	(-10,000,000)	(+225,452,000)

1/ Does not include FY 83 funds advanced in previous year: $1,787,341,000 for Assistance Payments and $137,000,000 for CPB; Does not include $105,000,000 appropriated in PL 97-276.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to thank and commend the gentleman from Mississippi (Mr. WHITTEN), the chairman of our committee, and the ranking minority member, the gentleman from Massachusetts (Mr. CONTE), and all the conferees for the support they gave me as far as the defense appropriations bill is concerned. With their support we were able to bring back to the Congress almost the same bill that left the House.

Mr. Speaker, the entire defense appropriations bill for fiscal year 1983 has been incorporated into the conference report on the continuing resolution. It appropriates $232 billion in total funding availability, including $231.6 billion in new budget authority and $423.2 million in transfers of unobligated balances to the current fiscal year. This is a massive sum and is more than I feel is needed for national defense at a time when we are facing significant deficits. There is little doubt this defense bill will have a great impact on our economy and the people of this Nation.

There are probably Members who are not entirely happy with the outcome of the conference. Nevertheless, I believe the bill does represent the best possible resolution of a very difficult conference. I believe the managers on the part of the House did a superb job in achieving an accommodation on the defense bill under extremely trying circumstances.

The Senate was $3.2 billion over the House figure, and in the conference, the Senate receded on about $1.8 billion, and the House receded on nearly $1.4 billion. The managers on the part of the Senate acted diligently and with statesman-like qualities when faced with very difficult options, even after many days of almost around the clock debate on the continuing resolution. I salute them, and the managers on the part of the House, who spent most of the day and evening yesterday in working out our differences.

The conference agreement is $18 billion under the revised budget estimate. I predict that next year, and the years to follow, continuing high deficits will force larger reductions in the defense budget. It may be that the next Congress will find it necessary to terminate a number of very costly programs that are not absolutely essential to our national defense, such as nuclear carriers and B-1 bombers.

The defense appropriation bill, as reflected in this conference report, is by no means a rubberstamped bill. The stamp of Congress has been firmly placed in the bill.

While the bill funds two nuclear-powered aircraft carriers and the B-1B bomber, production funds were not agreed to on the Pershing II and MX missiles. The so-called Jackson and Hart amendments adopted in the Senate were deleted from MX procurement and attached to the research and development portion of the bill pertaining to the MX. In essence, the Pentagon will be able to spend in fiscal year 1983 a total of $1.7 billion developing the MX missile, and $215 million in research on a basing mode. A total of $560 million for full scale engineering development of the permanent basing mode cannot be spent, and flight testing of the MX missile cannot proceed until all the requirements of the Jackson amendment are met. The conferees agreed that in the event of an ultimate successful flight test program on the MX missile, the Pentagon will be permitted to deploy developmental MX missiles if the President deems that to be necessary. Both Houses of Congress must approve the basing mode before affirmative actions relating to the MX can be taken by the President.

Now let me highlight some of the conference agreements that were achieved.

CIVILIAN AND MILITARY PERSONNEL

In the personnel area, the conferees included the fiscal year 1983 pay raise for both civilians and the military, but required DOD to absorb 25 percent of the cost.

The conferees also agreed to limit the number of U.S. military personnel stationed onshore in Europe to the planned 1982 level. Of course, the President was given authority to waive this limitation in the event of an overriding national security requirement. In addition, the conferees agreed to place a floor on the number of military technicians based upon the September 30, 1982, levels, preventing the planned conversion of 1,200 additional technicians.

Due to the continuing absence of an authorizing pay bill, the conferees extended the expiration date of the military enlistment and reenlistment bonus programs to March 30, 1983. This will provide ample time for the authorizing committees to act if they desire this program to continue.

Finally, a general provision was included which prohibits placing a civilian personnel ceiling on DOD industrially funded activities. Since funding for these activities is dependent directly upon customer workload, the conferees believe that removal of this artificial ceiling will increase productivity.

OPERATIONS AND READINESS

The conferees agreed upon several initiatives which will improve the readiness of DOD.

A total of $150 million was added above the budget for the maintenance of real property. This will continue the congressionally directed initiative to improve the facilities where our troops live and train both in the United States and overseas.

The conferees also increased Marine and Navy flying hours by $25 million above the budget to insure that our sea services are able to train to the extent of their logistics support capability.

Finally, the bill approves a $240 million initiative to replace obsolescent equipment at our DOD-owned industrial activities. Over a period of years, this investment will be repaid many times over through productivity increases as well as improved readiness of our maintenance and logistics pipeline.

PROCUREMENT

For the procurement appropriations, the conference agreement includes $80,710,866,000 in total funding, an increase of $370,661,000 above the House figure, and a decrease of $2,647,933,000 below the Senate figure. Significant items resolved in the conference agreement include: A total of $125 million was provided for procurement of Guard and Reserve equipment; $1,939,500,000 was made available for procurement of 855 M-1 tanks; $21 million was provided for procurement of 12 C-12 aircraft; $30 million was made available for two KC-130 tankers for the Marine Corps Reserves; $229,800,000 was recommended for the Tomahawk missile; Funds for the third battleship reactivation were not provided; $173 million for one T-AO fleet oiler was recommended; $100 million was provided for one MCM mine countermeasure ship; The conference recommended $179 million for eight C-130 aircraft, including 4 ski-equipped planes; $244,900,000 was recommended for 1,355 infrared Maverick missiles.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement on funding for the research, development, test and evaluation (RDT&E) accounts is $22,704,284,000, an increase of $590,230,000 above the House figure, and a decrease of $172,700,000 below the Senate figure. Significant RDT&E items resolved in the conference agreement include: $42 million for Army's high-energy laser technology; $73,811,000 for the Army helicopter improvement program; $58,365,000 for the Navy's advanced lightweight torpedo; $24,628,000 for the Navy's Mark 92 fire control system, which includes $15 million for the phased array radar; $38,254,000 for the Air Force's engine model derivative program; $78,859,000 for the precision location strike system; and $10 million for short wavelength laser.

Mr. Speaker, it is rare to find a conference agreement that will please ev-

eryone. This one is no exception. But we did the best we could under the circumstances.

In closing, I want to compliment our extremely capable staff for the untiring assistance they rendered to the committee that permitted us to bring this bill to conference and successfully conclude the agreement. They often worked around the clock, and on behalf of the committee, I want to thank them for their efforts.

Mr. Speaker, the following table outlines the results of the conference agreement:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
TITLE I—MILITARY PERSONNEL									
Military personnel, Army	13,978,100,000	15,363,700,000	14,478,149,000	14,023,827,000	14,454,848,000	+476,748,000	−908,852,000	−23,301,000	+431,021,000
Military personnel, Navy	10,248,574,000	11,275,300,000	10,566,028,000	10,230,678,000	10,537,408,000	+288,834,000	−737,892,000	−28,620,000	+306,730,000
Military personnel, Marine Corps	3,120,745,000	3,496,300,000	3,300,008,000	3,221,394,000	3,293,277,000	+172,532,000	−203,023,000	−6,731,000	+71,883,000
Military personnel, Air Force	11,508,772,000	12,857,800,000	12,112,952,000	11,748,221,000	12,099,850,000	+591,078,000	−757,950,000	−13,102,000	+351,629,000
Reserve personnel, Army	1,078,200,000	1,302,000,000	1,247,450,000	1,224,800,000	1,247,250,000	+169,050,000	−54,750,000	−200,000	+22,450,000
Reserve personnel, Navy	375,000,000	683,500,000	657,125,000	641,300,000	657,125,000	+282,125,000	−26,375,000	.....	+15,825,000
(Liquidation of obligations)	(300,000)	.....	.....	.....	.....	(−300,000)	.....	.....	.....
Reserve personnel, Marine Corps	153,600,000	175,500,000	170,925,000	165,900,000	170,900,000	+17,300,000	−4,600,000	−25,000	+5,000,000
Reserve personnel, Air Force	328,126,000	372,300,000	358,925,000	350,900,000	358,925,000	+30,799,000	−13,375,000	.....	+8,025,000
National Guard personnel, Army	1,466,000,000	1,792,500,000	1,695,150,000	1,669,200,000	1,698,800,000	+232,800,000	−93,700,000	+3,650,000	+29,600,000
National Guard personnel, Air Force	479,900,000	583,600,000	549,553,000	534,100,000	548,425,000	+68,525,000	−35,175,000	−1,128,000	+14,325,000
Total, title I, new budget (obligational) authority, military personnel	42,737,017,000	47,902,500,000	45,136,265,000	43,810,320,000	45,066,808,000	+2,329,791,000	−2,835,692,000	−69,457,000	+1,256,488,000
TITLE II—RETIRED MILITARY PERSONNEL									
Retired pay, Defense	14,986,000,000	16,510,800,000	16,154,800,000	16,228,800,000	16,154,800,000	+1,168,800,000	−356,000,000	.....	−74,000,000
TITLE III—OPERATION AND MAINTENANCE									
Operation and maintenance, Army	15,222,197,000	17,086,142,000	15,754,766,000	15,931,700,000	15,847,425,000	+625,228,000	−1,238,717,000	+92,659,000	−84,275,000
(Transfer from other accounts)	(23,500,000)	.....	.....	.....	.....	(−23,500,000)	.....	.....	.....
Army stock fund	176,300,000	221,138,000	221,138,000	221,138,000	221,138,000	+44,838,000	.....	.....	.....
Army conventional ammunition working capital fund	.....	1,000,000	.....	.....	.....	.....	−1,000,000	.....	.....
Operation and maintenance, Navy	19,624,289,000	22,314,253,000	21,050,862,000	21,043,400,000	21,079,712,000	+1,455,423,000	−1,234,541,000	+28,850,000	+36,312,000
(Liquidation of contract authority)	(43,641,000)	.....	.....	.....	.....	(−43,641,000)	.....	.....	.....
(Transfer from other accounts)	(117,400,000)	.....	.....	.....	.....	(−117,400,000)	.....	.....	.....
Navy stock fund	9,435,000	354,372,000	354,372,000	354,372,000	354,372,000	+344,937,000	.....	.....	.....
Operation and maintenance, Marine Corps	1,203,040,000	1,500,371,000	1,472,371,000	1,403,300,000	1,481,671,000	+278,631,000	−18,700,000	+9,300,000	+78,371,000
(Transfer from other accounts)	(2,000,000)	.....	.....	.....	.....	(−2,000,000)	.....	.....	.....
Marine Corps stock fund	13,334,000	11,812,000	11,812,000	11,812,000	11,812,000	−1,522,000	.....	.....	.....
Operation and maintenance, Air Force	16,189,493,000	18,138,363,000	16,765,279,000	17,071,200,000	16,915,766,000	+726,273,000	−1,222,597,000	+150,487,000	−155,434,000
(Transfer from other accounts)	(75,726,000)	.....	.....	.....	.....	(−75,726,000)	.....	.....	.....
Air Force stock fund	78,800,000	161,600,000	161,600,000	161,600,000	161,600,000	+82,800,000	.....	.....	.....
Operation and maintenance, Defense agencies	5,156,000,000	5,838,103,000	5,664,678,000	5,665,800,000	5,715,778,000	+559,778,000	−122,325,000	+51,100,000	+49,978,000
Defense stock fund	69,000,000	160,500,000	160,500,000	160,500,000	160,500,000	+91,500,000	.....	.....	.....
Operation and maintenance, Army Reserve	670,161,000	699,184,000	707,784,000	692,200,000	705,584,000	+35,423,000	+6,400,000	−2,200,000	+13,384,000
Operation and maintenance, Navy Reserve	574,387,000	656,707,000	622,207,000	662,200,000	637,507,000	+63,120,000	−19,200,000	+15,300,000	−24,693,000
Operation and maintenance, Marine Corps Reserve	40,444,000	48,494,000	51,094,000	51,115,000	51,094,000	+10,650,000	+2,600,000	.....	−21,000
Operation and maintenance, Air Force Reserve	679,254,000	778,635,000	765,035,000	766,300,000	765,735,000	+86,481,000	−12,900,000	+700,000	−565,000
Operation and maintenance, Army National Guard	1,109,697,000	1,152,317,000	1,179,617,000	1,157,800,000	1,195,067,000	+85,370,000	+42,750,000	+15,450,000	+37,267,000
Operation and maintenance, Air National Guard	1,671,218,000	1,787,814,000	1,799,703,000	1,832,600,000	1,822,603,000	+151,385,000	+34,789,000	+22,900,000	−9,997,000
National Board for the Promotion of Rifle Practice, Army	861,000	875,000	875,000	875,000	875,000	+14,000	.....	.....	.....
Claims, Defense	155,700,000	172,500,000	147,500,000	172,500,000	147,500,000	−8,200,000	−25,000,000	.....	−25,000,000
Court of Military Appeals, Defense	2,700,000	3,271,000	3,271,000	3,210,000	3,271,000	+571,000	.....	.....	+61,000
Total, title III, operation and maintenance: New budget (obligational) authority	62,646,310,000	71,087,451,000	66,894,464,000	67,363,622,000	67,279,010,000	+4,632,700,000	−3,808,441,000	+384,546,000	−84,612,000
(Transfer from other accounts)	(218,626,000)	.....	.....	.....	.....	(−218,626,000)	.....	.....	.....
TITLE IV—PROCUREMENT									
Aircraft procurement, Army	1,911,100,000	2,745,914,000	2,514,900,000	2,444,522,000	2,506,572,000	+595,472,000	−239,342,000	−8,328,000	+62,050,000
Missile procurement, Army	2,131,200,000	2,846,600,000	2,287,600,000	2,611,600,000	2,287,000,000	+155,800,000	−559,600,000	−600,000	−324,600,000
Procurement of weapons and tracked combat vehicles, Army	3,825,200,000	5,024,485,000	4,488,815,000	4,451,016,000	4,551,946,000	+726,746,000	−472,539,000	+63,131,000	+100,930,000
(Transfer from other accounts)	.....	.....	(198,200,000)	(140,900,000)	(198,200,000)	(+198,200,000)	(+198,200,000)	(+198,200,000)	(+57,300,000)
Procurement of ammunition, Army	2,381,900,000	2,625,684,000	2,075,394,000	2,123,694,000	2,122,394,000	−259,506,000	−503,290,000	+47,000,000	−1,300,000
Other procurement, Army	3,721,971,000	4,625,791,000	4,148,804,000	4,207,891,000	4,123,404,000	+401,433,000	−502,387,000	−25,400,000	−84,487,000
Aircraft procurement, Navy	9,115,800,000	11,582,300,000	10,616,546,000	10,650,100,000	10,416,107,000	+1,300,307,000	1,−166,193,000	−200,439,000	−233,993,000
Weapons procurement, Navy	3,207,100,000	3,901,600,000	3,644,060,000	3,506,300,000	3,561,700,000	+354,600,000	−339,900,000	−82,360,000	+55,400,000
Shipbuilding and conversion, Navy	8,821,400,000	18,648,300,000	15,973,000,000	16,848,800,000	16,076,700,000	+7,255,300,000	−2,571,600,000	+103,700,000	−772,100,000
Reappropriation	.....	.....	.....	176,200,000	176,200,000	+176,200,000	+176,200,000	+176,200,000	.....
(Transfer from other accounts)	(117,500,000)	.....	(35,000,000)	(35,000,000)	(35,000,000)	(−82,500,000)	(+35,000,000)	.....	.....
Other procurement, Navy	3,708,777,000	3,969,356,000	3,825,301,000	3,877,280,000	3,727,075,000	+18,298,000	−242,281,000	−98,226,000	−150,205,000
Procurement, Marine Corps	1,711,456,000	2,300,700,000	2,008,432,000	2,047,855,000	2,008,083,000	+296,627,000	−292,617,000	−349,000	−39,772,000
Aircraft procurement, Air Force	13,938,998,000	17,834,800,000	17,588,600,000	17,575,500,000	17,658,500,000	+3,719,502,000	−176,300,000	+69,900,000	+83,000,000
(Transfer from other accounts	(89,700,000)	.....	(254,800,000)	(170,000,000)	(170,000,000)	(+80,300,000)	(+170,000,000)	(−84,800,000)	.....
Missile procurement, Air Force	4,559,550,000	6,795,900,000	4,681,700,000	5,904,800,000	4,941,100,000	+381,550,000	−1,854,800,000	+259,400,000	−963,700,000
(Transfer from other accounts)	.....	.....	(15,000,000)	.....	(15,000,000)	(+15,000,000)	(+15,000,000)	.....	(+15,000,000)
Other procurement, Air Force	5,385,333,000	5,836,200,000	5,520,136,000	5,556,437,000	5,563,777,000	+178,444,000	−272,423,000	+43,641,000	+7,340,000
(Transfer from other accounts)	(800,000)	.....	(17,072,000)	.....	(4,963,000)	(+4,163,000)	(+4,963,000)	(−12,109,000)	(+4,963,000)
Reserve and National Guard	50,000,000	.....	.....	200,000,000	125,000,000	+75,000,000	+125,000,000	+125,000,000	−75,000,000
Procurement, Defense agencies	518,000,000	879,284,000	832,845,000	830,884,000	828,145,000	+310,145,000	−51,139,000	−4,700,000	−2,739,000
General reduction	.....	.....	−386,000,000	.....	−386,000,000	−386,000,000	−386,000,000	.....	−386,000,000
Total, title IV, procurement: New budget (obligational) authority	64,987,785,000	89,616,914,000	79,820,133,000	83,012,879,000	80,287,703,000	+15,299,918,000	−9,329,211,000	+467,570,000	−2,725,176,000
(Transfer from other accounts)	(208,000,000)	.....	(520,072,000)	(345,900,000)	(423,163,000)	(+215,163,000)	(+423,163,000)	(−96,909,000)	(+77,263,000)
TITLE V—RESEARCH, DEVELOPMENT, TEST AND EVALUATION									
Research, development, test, and evaluation Army	3,609,535,000	4,533,778,000	3,822,842,000	3,820,690,000	3,879,683,000	+270,148,000	+654,095,000	+56,841,000	+58,993,000
Research, development, test, and evaluation Navy	5,844,357,000	6,246,705,000	5,864,412,000	6,013,153,000	5,965,751,000	+121,394,000	−280,954,000	+101,339,000	−47,402,000
Research, development, test, and evaluation Air Force	8,659,610,000	11,298,748,000	10,246,361,000	10,835,468,000	10,650,661,000	+1,991,051,000	−648,087,000	+404,300,000	−184,807,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
Research, development, test, and evaluation									
Defense agencies	1,692,646,000	2,259,663,000	2,125,439,000	2,152,673,000	2,153,189,000	+460,543,000	−106,474,000	+27,750,000	+516,000
Director of Test and Evaluation Defense	53,000,000	60,000,000	55,000,000	55,000,000	55,000,000	+2,000,000	−5,000,000		
Total, title V, new budget (obligation) authority, research, development, test, and evaluation	19,859,148,000	24,398,894,000	22,114,054,000	22,876,984,000	22,704,284,000	+2,845,136,000	−1,694,610,000	+590,230,000	−172,700,000
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	3,083,000	3,800,000	3,800,000	3,800,000	3,800,000	+717,000			
TITLE VII—GENERAL PROVISIONS									
(Additional transfer autority sec. 732)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(800,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)		(+400,000,000)
TITLE VIII—RELATED AGENCIES									
Intelligence Community Staff	13,695,000	750,000	15,676,000	15,400,000	15,856,000	+2,161,000	+15,106,000	+180,000	+456,000
CIA Retirement and Disability System Fund	84,600,000	91,300,000	91,300,000	91,300,000	91,300,000	+6,700,000			
Total, title VIII, new budget (obligational) authority related agencies	98,295,000	92,050,000	106,976,000	106,700,000	107,156,000	+8,861,000	+15,106,000	+180,000	+456,000
RECAPITULATION									
Title I—Military personnel	42,737,017,000	47,902,500,000	45,136,265,000	43,810,320,000	45,066,808,000	+2,329,791,000	−2,835,692,000	−69,457,000	+1,256,488,000
Title II—Retired military personnel	14,986,000,000	16,510,800,000	16,154,800,000	16,228,800,000	16,154,800,000	+1,168,800,000	−356,000,000		−74,000,000
Title III—Operation and maintenance	62,646,310,000	71,087,451,000	66,894,464,000	67,363,622,000	67,279,010,000	+4,632,700,000	−3,808,441,000	+384,546,000	−84,612,000
(Transfer from other accounts)	(218,626,000)					(−218,626,000)			
Title IV—Procurement	64,987,785,000	89,616,914,000	79,820,133,000	83,012,879,000	80,287,703,000	+15,299,918,000	−9,329,211,000	+467,570,000	−2,725,176,000
(Transfer from other accounts)	(208,000,000)		(520,072,000)	(345,900,000)	(423,163,000)	(+215,163,000)	(+423,163,000)	(−96,909,000)	(+77,263,000)
Title V—Research, development, test, and evaluation	19,859,148,000	24,398,894,000	22,114,054,000	22,876,984,000	22,704,284,000	+2,845,136,000	−1,694,610,000	+590,230,000	−172,700,000
Title VI—Special foreign currency program	3,083,000	3,800,000	3,800,000	3,800,000	3,800,000	+717,000			
Title VII—General provisions (additional transfer authority, sec. 732)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(800,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)		(+400,000,000)
Title VIII—Related agencies	98,295,000	92,050,000	106,976,000	106,700,000	107,156,000	+8,861,000	+15,106,000	+180,000	+456,000
Total, Department of Defense (NDA)	205,317,638,000	249,612,409,000	230,230,492,000	233,403,105,000	231,603,561,000	+26,285,923,000	−18,008,848,000	+1,373,069,000	−1,799,544,000
(Transfer from other accounts)	(426,626,000)		(520,072,000)	(345,900,000)	(423,163,000)	(−3,463,000)	(+423,163,000)	(−96,909,000)	(+77,263,000)
Total funding available	205,744,264,000	249,612,409,000	230,750,564,000	233,749,005,000	232,026,724,000	+26,282,460,000	−17,585,685,000	+1,276,160,000	−1,722,281,000
(Transfer authority)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(800,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)		(+400,000,000)
Distribution by organizational component:									
Army	51,332,422,000	60,021,108,000	54,623,284,000	54,780,953,000	54,966,986,000	+3,634,564,000	−5,054,122,000	+343,702,000	+186,033,000
(Transfer from other accounts)	(23,500,000)		(198,200,000)	(140,900,000)	(198,200,000)	(+174,700,000)	(+198,200,000)		(+57,300,000)
Navy	67,771,738,000	87,165,570,000	80,188,555,000	80,905,159,000	80,206,494,000	+12,434,756,000	−6,959,076,000	+17,939,000	−698,665,000
(Transfer from other accounts)	(236,900,000)		(35,000,000)	(35,000,000)	(35,000,000)	(−201,900,000)	(+35,000,000)		
Air Force	63,479,054,000	76,445,760,000	70,549,844,000	72,337,126,000	71,486,942,000	+8,007,888,000	−4,958,818,000	+937,098,000	−850,184,000
(Transfer from other accounts)	(166,226,000)		(286,872,000)	(170,000,000)	(189,963,000)	(+23,737,000)	(+189,963,000)	(−96,909,000)	(+19,963,000)
Defense agencies/OSD	7,650,129,000	9,377,121,000	8,993,033,000	9,044,367,000	9,067,183,000	+1,417,054,000	−309,938,000	+74,150,000	+22,816,000
Retired military personnel	14,986,000,000	16,510,800,000	16,154,800,000	16,228,800,000	16,154,800,000	+1,168,800,000	−356,000,000		−74,000,000
Related agencies	98,295,000	92,050,000	106,976,000	106,700,000	107,156,000	+8,861,000	+15,106,000	+180,000	+456,000
General reduction			−386,000,000		−386,000,000	−386,000,000	−386,000,000		−386,000,000
Total, Department of Defense (NOA)	205,317,638,000	249,612,409,000	230,230,492,000	233,403,105,000	231,603,561,000	+26,285,923,000	−18,008,848,000	+1,373,069,000	−1,799,544,000
(Transfer from other accounts)	(426,626,000)		(520,072,000)	(345,900,000)	(423,163,000)	(−3,463,000)	(+423,163,000)	(−96,909,000)	(+77,263,000)
Total funding available	205,744,264,000	249,612,409,000	230,750,564,000	233,749,005,000	232,026,724,000	+26,282,460,000	−17,585,685,000	+1,276,160,000	−1,722,281,000
(Transfer authority)	(750,000,000)	(1,000,000,000)	(1,200,000,000)	(800,000,000)	(1,200,000,000)	(+450,000,000)	(+200,000,000)		(+400,000,000)
CONGRESSIONAL BUDGET RECAPITULATION									
Total	205,317,638,000	249,612,409,000	230,230,492,000	233,403,105,000	231,603,561,000	+26,285,923,000	−18,008,848,000	+1,373,069,000	−1,799,544,000
Amounts in this bill	(205,317,638,000)	(249,612,409,000)	(230,230,492,000)	(233,403,105,000)	(231,603,561,000)	(+26,285,923,000)	(−18,008,848,000)	(+1,373,069,000)	(−1,799,544,000)
Prior year outlays associated with this bill									
Total congressional mandatory and discretionary	205,317,638,000	249,612,409,000	230,230,492,000	233,403,105,000	231,603,561,000	+26,285,923,000	−18,008,848,000	+1,373,069,000	−1,799,544,000
Mandatory (total)	(15,226,300,000)	(20,804,773,000)	(18,096,013,000)	(16,492,600,000)	(18,096,013,000)	(+2,869,713,000)	(−2,708,760,000)		(+1,603,413,000)
(Mandatory new)	(15,226,300,000)	(20,804,773,000)	(18,096,013,000)	(16,492,600,000)	(18,096,013,000)	(+2,869,713,000)	(−2,708,760,000)		(+1,603,413,000)
(Prior year)									
Discretionary (new)	(190,091,338,000)	(228,807,636,000)	(212,134,479,000)	(216,910,505,000)	(213,507,548,000)	(+23,416,210,000)	(−15,300,088,000)	(+1,373,069,000)	(−3,402,957,000)

[1] Includes supplemental. [2] As amended by H. Doc. 97-206 and H. Doc. 97-248. Also reflects an $109 million adjustment from O&M, Navy, to the Department of Energy budget, and adds $4,030,173,000, the amount anticipated to have been submitted for pay costs in the fiscal year 1983 pay supplemental. Note: Request includes $4,030,173,000 (budget authority) and $3,910,272,000 (outlays) for pay costs. Recommended includes $1,702,413,000 (budget authority) and $1,651,340,000 (outlays) for pay costs. These amounts are reflected in the mandatory totals.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman from New York (Mr. ADDABBO) for the work he did on the conference, as well as all the conferees, and I wish to engage in a short colloquy, if I may, on the subject of the MX.

It is my understanding that we need to look at the bill language or the conference language on the MX as well as the conference report language, but what we have done is to provide in round numbers $2.5 billion for research and development on the MX missile, of which $560 million has been fenced until such time as the basing mode is in fact approved by the Congress pursuant to the language which we generally call the "Jackson language" and which was made a part of the conference language; is that correct?

Mr. ADDABBO. That is correct. It is also in accordance with the Hart language, which also fences part of the research and development.

Mr. EDWARDS of Alabama. But it is correct that the amount fenced is $560 million?

Mr. ADDABBO. The gentleman is correct.

Mr. EDWARDS of Alabama. Mr. Speaker, I thank the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. The $560 million is the exact figure in the House-passed bill as it left the House.

Mr. DAN DANIEL. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Speaker, will the subcommittee chairman advise the

gentleman as to what happened to the funds for the Pershing missile?

Mr. ADDABBO. Mr. Speaker, on the Pershing II missile, the Senate receded to the House position. There were no production funds in the bill. But the conferees agreed to put $30 million in O&M for the training of Pershing I troops to operate the Pershing II missile, to refurbish missiles for training, upgrade Pershing I fire units to accommodate the Pershing II missile, and for engineering services to get ready for Pershing II deployment.

Mr. DAN DANIEL. Mr. Speaker, I thank the gentleman from New York (Mr. ADDABBO).

Mr. CONTE. Mr. Speaker, I yield myself 2 minutes.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just wanted to check on a couple of things where it is not clear from the volume of paperwork we have before us as to whether or not they were retained.

Was the Hyde amendment regarding abortion retained in the language of the continuing resolution?

Mr. CONTE. Yes, the Hyde language was retained.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Was the language with regard to the Department of Education and school prayer retained in the language of the continuing resolution?

Mr. CONTE. Mr. Speaker, that was the amendment offered by the gentleman from Pennsylvania (Mr. WALKER) and it was retained. That was section 307 of the 1983 Labor-HHS bill which says that no funds appropriated under the act may be used to prevent implementation of programs of voluntary prayer and meditation in the public schools.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and will the gentleman yield further?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The other concern I have about the bill is the fact that we are going clear through until September 30, so we are going to have a full year of operations under a continuing resolution. I realize that the committee worked hard and did the very best it could under very difficult circumstances, but I think as a matter of policy we are making very basic decisions about a lot of programs, sending them all through for the full year with no chance to come back and review them in the next Congress. That does give this gentleman some pause, that we are operating in such a way on $450 billion in spending.

I also have real concerns about the salary provisions that were adopted in the bill. I would say to the gentleman that I am pleased that we have retained the school prayer language and the abortion language as he has indicated.

Mr. Speaker, I thank the gentleman very much for yielding.

The SPEAKER. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

Mr. CONTE. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, let me tell the gentleman from Pennsylvania, first of all, that I appreciate his cooperation. Second, let me say that I could not agree with him more on the continuing resolution. Members have heard me on the floor time and time again say that this is a poor way to run the Government. I hope that we do something with regard to the Budget Act. This committee was ready with bills, and we could not report these bills because the budget resolution had not been adopted.

Unless something is done, Government is going to be paralyzed and be brought to its knees. But there is one good thing about extending the resolution to the end of the year. As I said in the well of the House, on the defense portion of this bill, the gentleman from Alabama, Mr. JACK EDWARDS, the gentleman from New York, Mr. JOE ADDABBO, and TED STEVENS in the Senate, went through the defense bill item by item, so the bill that is in the continuing resolution would be exactly the same defense bill that would have been passed had it been approved by the House and the Senate.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I thank my colleague for yielding.

I want to take this opportunity to congratulate him and the gentleman from Mississippi (Mr. WHITTEN) and all the conferees for doing one of the most thankless and yet one of the most important jobs in this entire Congress. When nobody is satisfied, you can be reasonably sure that you have done a good job because compromises work out that way.

I want to express my disappointment that the Ashbrook amendment fell in the conference. I know that the gentleman from Massachusetts (Mr. CONTE) and others committed themselves to fight for it. The damage was done in the other body, and I regret that. It lost by one vote.

I simply want to say that this issue is not one that will go away. The House has established the policy, and it has been followed by the other body, that no Federal funds should go to pay for abortions, and because this Government is technically shut down as we debate and because we are in the afternoon of the first day of no funding for the Government, it would be a very difficult situation to seek to force the defeat of the conference report on that single issue, and thus bring Government to a halt. But I suggest that that issue will not go away, and it will be rebattled and refought in the next Congress.

Mr. Speaker, I just want to express my appreciation for the steadfastness of the conferees on this important issue—I know they did all they could under the circumstances. We will do better next year.

The SPEAKER. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

Mr. CONTE. Mr. Speaker, I yield myself 2 additional minutes.

I want to take this opportunity to thank the gentleman from Illinois (Mr. HYDE), who is my good friend, for his fairness in being reasonable about this whole issue. The gentleman is absolutely right, we did fight, and if the Members will read the report, they will find where the gentleman from Pennsylvania, Mr. JOE MCDADE and others have taken exception to that particular amendment. Unfortunately, as they say back home, "you can't win them all," but there are other avenues, not only for that issue, but for some other issues here that are very dear to my heart. There are other avenues, and there are going to be other opportunities when we get back next year. There will be supplementals and other bills up here where can take those issues and we will be fighting with the gentleman side by side.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. CONTE. Mr. Speaker, I yield to my friend, the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman for yielding.

From what I understand from the colloquy between the gentleman from Massachusetts (Mr. CONTE) and the gentleman from Illinois (Mr. HYDE), the conference report language allows payments for abortions under the Federal employees health plan benefits; is that correct?

Mr. CONTE. That is right.

Mr. MILLER of Ohio. Also I understand that the cap was removed for the pay for the House?

Mr. CONTE. Yes, it was.

Mr. MILLER of Ohio. Therefore, Mr. Speaker, I oppose the conference report and would request a no vote.

Like everyone else here, I would like to go home for Christmas. The easiest way to be able to go home for Christmas would be to approve this conference report and send it on its way. But I am going to vote against it, and I urge my colleagues to do the same.

Let us not forget the Christmas present for Members of Congress that is allowed in this bill. The House and Senate will not now be receiving the

same present, but that does not alter the fact that there is handsome gift for Senators and Congressmen in this measure.

Members of the House could receive the 15-percent increase which I opposed earlier. Senators will forgo the pay increase in exchange for being granted the opportunity to obtain unlimited amounts of outside income.

So in effect, Members of the House will enrich themselves at taxpayer expense, while Members of the Senate will be given the opportunity to use their public office and position of public trust to enrich themselves by engaging in activities for which they were not elected—activities which might well involve them in conflicts of interest.

When the pay increase was being discussed in the House, it was alleged that the American people want us to have a pay increase. Anyone who really believes that is dreadfully out of touch with the American people.

The American people are not stingy or mean spirited. But they quite correctly feel that Members of Congress, who daily claim to be concerned about the plight of those who are going through difficult economic times, ought to be willing themselves to make some sacrifices for the common good. If we are not willing to make some sacrifices ourselves, all these speeches about our concern and all our hand-wringing amount to nothing more than empty gestures.

Do you really want your constituents to know that you care about them and about our Nation's economic difficulties? Then vote against this conference report which allows the congressional pay increase. Actions speak louder than words.

Now let me bring to Members' attention an item that is not in the conference report. This is an item which should be of interest to a majority of Members of the House. Contrary to the provisions of the House-passed Treasury/Postal appropriation bill, the conference report allows payment for abortions under Federal employees health benefit plans. Last year an amendment denying abortion coverage under Federal employees health benefit plans was offered on the House floor, and passed by the overwhelming vote of 253 ayes to 167 noes. This year this provision was included in the bill as reported from the Appropriations Committee. Even opponents of the measure acknowledged that the provision had strong support in the House, and would simply be added on the floor if not included at the outset. Now, however, the provision has been knocked out in conference, and the Members of the House will not even have an opportunity to vote separately on this matter. The will of the House has been thwarted, and we are prevented from doing anything about it—unless we disapprove the conference report as a whole. I urge a no vote on this conference report.

Mr. CONTE. Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may require to the gentleman from Massachusetts (Mr. BOLAND), the ranking member of the committee.

Mr. BOLAND. Mr. Speaker, as I reminded the House a few days ago when we passed the continuing resolution, the 1983 HUD appropriation bill, which was signed into law on September 30, deferred action on four accounts. The thrust of those accounts involve the subsidized housing programs.

Because we recognized that it was very unlikely a housing authorization bill would be signed into law this year—we provided a total of $9.7 billion for subsidized housing programs in the resolution. That amount included approximately $9.2 billion for the annual contributions account and $500 million for the Ginnie Mae tandem account.

The comparable Senate figure contained only $5.7 billion for the annual contributions account. That represented a difference of $3.5 billion. The conference agreement which we have before us today brings back a total of $8.7 billion. That level of funding is $530 million below the House figure but nearly $3 billion above the Senate allocation.

So, Mr. Speaker, I believe that the House can look upon this agreement as being a very good compromise. In fact, it is estimated that the conference report will fund approximately 173,000 units of subsidized housing. That compares with only 118,000 units carried in the Senate version of the continuing resolution and 159,000 carried in the House version.

The fact is this conference agreement supports more subsidized housing units than either the House or Senate version.

Summarizing, the resolution includes the following; 2,000 units of Indian housing construction; 14,000 units of section 202 housing for the elderly and handicapped; 67,000 units of section 8 existing housing; 15,000 units of section 8 moderate rehabilitation; and 65,000 units of section 8 authority that will be allocated for conversion of units from the rent supplement and section 23 programs.

In addition, and this is something I think the House conferees can be truly proud of, we also provided $2.5 billion for the public housing modernization program. Every dollar of that $2.5 billion will be derived from new budget authority. Those funds will help rehabilitate up to 100,000 units of public housing—many of which are unoccupied—and which can be made habitable for low-income families. There are a number of public housing projects—particularly in the older cities of the upper Midwest and the East—that desperately need rehabilitation moneys. The amount provided in this resolution—the full $2.5 billion—represents a strong commitment from the committee and the Congress to help revive some of these projects. And, not insignificant, is the fact that these funds will provide upward of 90,000 jobs.

Finally, Mr. Speaker, on the plus side, the Senate yielded to the House and we have included in this resolution $500 million for the Ginnie Mae tandem program. Of the total, the conferees agreed that $250 million would be allocated to the targeted tandem program. Those funds are to be distributed on the basis of the chronological firm commitment date to those projects that participated unsuccessfully in the March 1982 distribution of funds. The other $250 million is made available for partially assisted section 8 projects and can be allocated at the discretion of the Department.

Now, of course, like almost every conference that I have been involved in—we did not get everything we wanted. The biggest disappointment was that we could not get the Senate to yield on providing any new public housing units. I believe, however, that we do have an agreement—which if the Department gets busy and does the kind of a job it should for the public housing program—will result in providing new budget authority for this program in 1984.

The Senate felt strongly that until some beginning had been made to clean out the public housing new construction pipeline—it was inappropriate to provide additional budget authority in fiscal year 1983. In that connection, I want to make clear that both the bill and report language are constructed so as to insure that HUD gets moving and permits every reasonable, viable new public housing project—regardless of how long it has been in the pipeline—to go to construction as soon as possible. What we want to do is let the viable projects succeed and get rid of the deadwood.

I also want to point out to the Department the language in the statement of the managers which directs HUD to implement an emergency effort to bring to the construction stage those public housing projects currently reserved for new construction. The statement requires the Department to report on the progress of this effort within 90 days of the enactment of this resolution. We will be keeping an eye on that on that effort, and I will report back to the House as soon as we have some firm data.

There is no other program in the subsidized housing area which prob-

ably has been more maligned than the public housing program. But in my view—it has been a very successful program—housing over 3,000,000 low-income American families in more than 1.2 million units. I do not intend to see this program killed—and I want HUD and the Congress to know that I will work to see that it is not killed.

Finally, Mr. Speaker, the Senate yielded on another item of concern to the committee involving the Veterans' Administration medical computer system. I spoke about this issue when the continuing resolution was before the House last week. I only want to add that I am very pleased that the Senate yielded to our language—and I believe that there is now nothing that should impede the Veterans' Administration from beginning to install a workable medical computer system in its 172 hospitals.

Thank you, Mr. Speaker.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, this post-election session met with high hopes. The Nation on November 2 that it wanted action to combat the worst unemployment we have seen since the Great Depression.

The outyear deficits had to be brought until control if interest rates were to be brought down. Programs for public works, housing, and jobs had to be put on the books if unemployment was to be countered.

Today, with the Federal establishment shut down, the session draws to a close. The outyear deficit still runs out of control, with the hemorrhage of military spending and revenue losses unabated. The public works and jobs programs have been stricken from the continuing resolution.

And passage of the 5-cent gasoline tax increase scheduled for April 1, which will cause additional unemployment, seems assured.

The President and Congress gazed eyeball to eyeball, and Congress blinked. The last word from the White House was that it was not sure whether Congress offer of unconditional surrender would be accepted.

□ 1230

We may not even be allowed to keep our horses for the spring plowing.

Never was a prayer more in order. We have left undone those things we ought to have done. We have done those things we ought not to have done.

There is no health in us.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, the House position on the Clinch River breeder reactor is strongly in favor of termination. In the Senate, the project only survived by one vote. Any compromise lanuguage should be in the true spirit of the word "compromise."

During debate on this issue the fact was brought our that the authorization for the project has not been considered by the Congress. I do feel that this issue would best be resolved by the authorizing committee and strongly urge the appropriate authorizing committees, as is stated in the report language, to consider this issue early in the 98th Congress. We have been denied this opportunity by the provisions of the Gramm/Latta bubget which authorized Department of Energy programs for 3 years. Nevertheless, the Science and Technology Committee on which I serve voted to terminate the Clinch River project the last time it was up before us.

I believe that the Members of Congress who voted in a majority to terminate Clinch River, as well as the members of the authorizing committees, will be looking forward to the March 15 report by the Department of Energy exploring possible cost-sharing arrangements that will require greater participation by the private sector and reduce Federal expenditures on this project. I would like it to be made clear that this report to Congress ought to be more than an accounting of what is already owed the Government by the private sector. I am very familiar with the requirements of the current contract, as are many of my colleagues, I am sure. This report ought to explore the extent of the private sector's interest in participation in the Clinch River breeder reactor. Even if current requirements are met, the private sector's contribution will only amount to approximately 7 percent. The original cost-sharing scheme called for 50/50 cost sharing. I certainly would like to see at least a minimum of 30-percent cost sharing by the private sector, as I believe was recently agreed to by utilities in Germany.

Report language states that "the Department will not initiate construction of any permanent facility structures or place any additional major equipment orders during the period of this resolution." This would indicate, although not explicitly stated in the fiscal year 1983 resolution, that it is the intent of Congress that fiscal year 1982 funding shall not be used for these purposes either. Furthermore, while the report language permits the ongoing activities related to the Nuclear Regulatory Commission licensing process, this should not be interpreted to mean that if a construction license is obtained that construction shall begin. The language is explicit in stating that funds shall not be used for construction of permanent facilities. Neither should this language be interpreted as an endorsement of the NRC's actions last year granting an emergency licensing exemption permitting site clearance at Clinch River. In fact, I believe that Members of Congress and the public can insist on a normal licensing procedure for this first-of-a-kind project.

Finally, the language clearly states that the current rate of Federal funding shall be determined so as to take into account the anticipated $19 million available from non-Federal contributions. Of the original $200 million in the continuing appropriations this indicates that only $181 million can actually be appropriated.

Am I correct in this, Mr. Speaker?

Mr. WHITTEN. Will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman.

Mr. WHITTEN. May I answer briefly and then I hope the chairman of the Energy and Water Development Subcommittee, the distinguished gentleman from Alabama (Mr. BEVILL), will respond in more detail. I call my friend's attention to the fact that we met with the other body with the threat of the Government coming to a standstill. The conference actually began after the expiration of the earlier continuing resolution. In this instance, they took one position and we took another. So on all of these subjects we ended up with a compromise which is necessary to bring the two sides together.

Mr. BEVILL. Will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Alabama.

Mr. BEVILL. This language is a compromise. It was worked out with the Department of Energy and the interested Members on both sides. The new Secretary of Energy is anxious to look at some other arrangements on funding of the Clinch River.

He wants to see if he can get the private industry more involved and other alternatives.

Mr. BROWN of California. I thank the gentleman for that response. I am sure that a larger participation by private industry would certainly help in many ways to assuage the fears of some Members of Congress.

The other aspect of the language that I wanted to ask about is the language that the conferees strongly urge the authorizing committee to consider this issue early in the 98th Congress. Is that the language of the report?

Mr. BEVILL. That is the language in the report.

Of course it will be necessary for the authorizing committee to make this decision. Additional participation would require the authorizing committee to act on it.

Mr. BROWN of California. I thank the gentleman for that information.

Of course I will urge on at least one of the authorizing committees prompt

action in the next Congress to resolve this.

I thank the gentleman very much.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. I commend the distinguished chairman of the Appropriations Committee and his colleagues who have served the House so ably as conferees for their cooperation and assistance to those of us who were concerned with matters relative to legislation added the other body in the continuing resolution. Clearly, there must be a reasonable solution to bringing to a halt this practice of the Senate curcumventing the House legislative committees.

The conferees on the part of the House have certainly labored hard and effectively and well, and with remarkable sensitivity for the concerns of those of us who are interested in these legislative matters under circumstances which would be violative of the rules of the House.

I would like especially to commend my friends from Illinois, (Mr. YATES), Mr. CONTE and Mr. MCDADE and the other House conferees. They have done an outstanding job on behalf of the House and I express to them my personal thanks and commendations.

Also, Mr. Speaker, this is rarely said, my thanks to the very able staff of the Appropriations Committee who we all owe a debt of thanks. I particularly single out Mr. YATES' staff, Mr. Neil Sigmon, Mr. Fred Mohrman, and Mrs. Kathy Johnson.

Mr. Speaker, included in the continuing resolution is a revision of the so-called Warner amendment, which was worked out, with the cooperation of the distinguished gentleman from Illinois (Mr. YATES) between Senators WARNER, JOHNSTON, and HATFIELD and Congressmen OTTINGER, SHARP, and myself. I especially want to express my appreciation to Chairman YATES and all of the House conferees for their help and cooperation with our committee on this matter.

My appreciation also goes to the distinguished Senators I have just mentioned, and their staff, for their help and cooperation in developing a more acceptable alternative.

As indicated in the correspondence which follows these remarks, I support the provision as the best alternative. I am, however, concerned, as I have also indicated in my letters to the Appropriations Committee. Also, I refer my colleagues to my remarks of December 18, 1982, at page 32388 of the CONGRESSIONAL RECORD.

The provision is a one-time provision. It should not be viewed as a precedent. It does not confer on DOE any new restitutional or remedial authority or imply that the DOE has such authority. It is a very limited provision aimed at helping people. It is, I stress, an exclusive, one-time disbursement authority.

The situation is that, as a result of DOE settlements of alleged petroleum pricing and allocation violations which generally resulted in customers of refined petroleum products being injured, escrow or suspense accounts at the DOE were established for some of these funds. The DOE was supposed to proceed through regulations of the Office of Hearings and Appeals to identify the overcharged customers, including bulk users, and disburse the funds to them. To the extent that the bulk users passed the costs through to their customers, they are supposed to pass the recovered funds through also.

Unfortunately, because DOE officials were more bent on dismantling the DOE, including the Economic Regulatory Administration and the Office of Hearings and Appeals. The OHA petition process under the regulations was largely ignored, until recently, by DOE during the Reagan administration. This has caused consternation for all, including this committee, who are interested in overcharged customers being made as whole as possible, as quickly as possible. Delay is in no one's interest.

This has caused many in Congress and the National Governors' Association to seek legal ways to provide for disbursement of this growing trust account of non-Federal funds. Under prior GAO opinions, it was clear that the DOE lacked authority to provide such disbursement to other than the overcharged customers, although I understand that officials at DOE have wasted many man-hours trying to devise schemes to turn over the trust funds to the States as energy grants. I strongly oppose such gifts on the basis that the DOE lacks authority to make such grants to the States. The GAO has supported that view. This amendment in this continuing resolution does not affect that view. In fact, it tends to bolster it.

The amendment limits the DOE to using not more than $200 million of the trust funds in the escrow account on December 17, 1982, for disbursement to the States. It is my understanding from various information provided to me that this amounts to about $490 million. All, but about $275 million, of this sum is pledged to the OHA procedure. Of the remainder, about $80 to $90 million relates to the first sale of crude oil. It is the remainder of these funds that presumably would be considered for disposal under this section.

At this juncture, it is important to stress the purpose of the new section as follows:

It is the purpose of this section to provide the Secretary of Energy the exclusive authority for the disbursement of the designated petroleum violation escrow funds for limited restitutional purposes (1) which are reasonably expected to benefit the class of persons injured by such violations, and (2) which, based on information previously provided to Congress by the Secretary of Energy, are likely not to be, through procedures established by regulation, otherwise refunded to injured persons because the purchasers of the refined petroleum products cannot be reasonably identified or paid or because the amount of each purchaser's overcharge is too small to be capable of reasonable determination.

In regard to clause (2), I want to make it clear that it is the intent of Congress that the DOE only utilize funds that the DOE can honestly conclude are not likely to be refunded to injured persons because such injured persons cannot be readily identified or paid, or if identity is poscible, the amount involved is too small to be capable of reasonable determination. I understand that the DOE has made some presumptions concerning these injured people and amounts which my subcommittee is now examining with the help of the GAO to determine whether or not they are valid.

In providing funds under this section to the States, I expect the DOE to provide for the pro rata distribution from all of the settlements, consistent with the requirements of this section. In all cases the DOE can only use funds for disbursement where such use is consistent with the remedial order or consent order under which such funds were covered into the trust account.

Under the section, the funds will be disbursed to the States under a formula set forth in the section which is intended to provide an equitable distribution to all of the States and not tilt the distribution too heavily in favor of the heavy driving States. The formula does not include the term "price controlled refined petroleum products" in the Senate amendment, but instead refers to "refined petroleum products" which is a defined term. It retains, however, the same period; that is, 1973–81. I understand that the DOE's Energy Information Administration has reliable consumption data for the defined products for each State. However, to the extent such data is not readily available and reliable, the DOE is directed to use estimates from reasonably available EIA information. Clearly, the intent is to use the best data possible so all States are treated fairly, but not to delay disbursement unduly.

Once received by the States, the Governors are authorized to distribute the funds in accordance with the conservation programs listed in the section. The Governors would do this as if the funds were received under one or more of these energy programs. Thus, the rules and regulations applicable to these programs would apply to these funds as well.

Mr. Speaker, our intent here is to benefit people, just as we would do if the money were provided directly to injured persons. Thus, we provided that none of the funds should be used for administrative expenses. This is intended to be reviewed broadly. For example, we would not want to see these funds used to pay salaries or other expenses of those administering these programs, although we recognize that direct labor costs for installing weatherization or the other materials would, of course, not be precluded. Under these programs, low-interest loans might be possible. I again stress the people objectives of this provision.

Mr. Speaker, I reiterate my earlier cautions about this program. Still I support this alternative adopted by the conferees, which we jointly developed, over the Senate amendment. I also join my colleagues in urging that it be promptly, but properly implemented by the DOE and the Governors.

My Subcommittee on Oversight and Investigations will be examining the DOE's handling of this section, as well as the actions of the States in implementing this one-time program.

The pertinent correspondence follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., December 19, 1982.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, the Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of my December 17, 1982 letter to you concerning the so-called "Warner amendment" to the Continuing Resolution scheduled for House-Senate Conference today. Since then, my Committee staff has met with staff representatives of Senators Warner and Hatfield and the Senate Energy Committee to discuss this amendment.

While the staff has jointly developed vastly improved legislative language which is enclosed, I would strongly support you, Subcommittee Chairman Yates, and other House Members of the Conference in insisting that no legislative provision on this matter be adopted by the Conferees.

While there is a great temptation to complain that the Department of Energy has for too long delayed disbursement of the funds covered by the legislation, and that the funds could be used for good public purposes at this time, the fact remains that these are trust funds, and not Federal funds, and thus should not be disposed of through the whims of the Executive or Legislative branches. The funds derive from oil companies settling alleged oil pricing and allocation violations. They are held in escrow by the Department, pursuant to consent agreements, pending their disbursement to identifiable overcharged customers. Unfortunately, the Department has been slow to develop procedures under its existing regulations to provide for such dispersal—although I have repeatedly requested that this be done. Thus, the funds grow dust and earn interest.

The Warner amendment and the enclosed alternative draft both seek to break the trust and disburse funds to the States for "energy purposes." Neither the Senate-passed amendment nor the staff's draft would assuredly cut off possible future attempts to claim the trust funds by yet unidentified persons who claim to be overcharged customers, such as oil jobbers, bulk users and individuals. If those claimants were to be successful, and if the escrow account were already spoken for, the United States Treasury could well be held liable for the funds disbursed by this hastily considered legislation. That only would ensure another debacle such as we saw in the Swine Flu vaccination program. Moreover, it is even possible that the Secretary of Energy could be personally liable.

I do recognize that the House Conferees must reach quick agreement on the Continuing Resolution, and may not be able to refuse to accept any provision relative to this matter. With that in mind, I reluctantly support adoption for this Conference of the enclosed draft alternative, which was negotiated by Members of my Committee and our staff in discussions with Senators and their staffs. If, however, the President were to veto this Continuing Resolution, I would oppose any language dealing with oil overcharges in any other Continuing Resolution to be considered in this Congress.

I can support this provision only because it is a one-shot approach; it does not confer broad remedial or restitutional authority on the Department of energy; it limits the funds to a maximum of $200 million; it makes clear that only funds that are not subject to proceedings before the Office of Hearings and Appeals or judicial proceedings can be disbursed (so long as permitted by the applicable consent orders); it restructures the distribution formula in more equitable fashion than contained in the Senate amendment; it precludes use by the Department and the States of the funds for administrative purposes and, most importantly, it limits the States' discretion in using the funds to specified energy conservation programs and low income energy assistance. Those uses are clearly more closely akin to the purposes for which these funds were collected.

I appreciate your cooperation and that of Subcommittee Chairman Yates in this matter.

Sincerely,

JOHN D. DINGELL, *Chairman.*

DECEMBER 19, 1982

That the House recede from its disagreement to the amendment of the Senate numbered —, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. —. (a) It is the purpose of this section to provide the Secretary of Energy the exclusive authority for the disbursement of the designated petroleum violation escrow funds for limited restitutional purposes (1) which are reasonably expected to benefit the class of persons injured by such violations, and (2) which, based on information previously provided to Congress by the Secretary of Energy, are likely not to be, through procedures established by regulation, otherwise refunded to injured persons because the purchasers of the refined petroleum products cannot be reasonably identified or paid or because the amount of each purchaser's overcharge is too small to be capable of reasonable determination.

(b) As soon as practicable, the Secretary of Energy shall disburse designated petroleum violation escrow funds to the Governors of the States in accordance with the formula set forth in subsection (d).

(c) Amounts disbursed to the Governor of any State shall be used by the Governor as if such funds were received under one or more energy conservation programs. The Governor shall identify to the Secretary within 1 year after the time of disbursement the energy conservation program or programs to which the funds are or will be applied. Funds disbursed under this section shall be used to supplement, and not supplant, funds otherwise available for such programs under Federal or State law.

(d) The disbursement by the Secretary of Energy to each State shall be based on the ratio, calculated by the Secretary, which—

(1) the volume of refined petroleum products consumed within that State during the period beginning September 1, 1973, and ending January 28, 1981, bears to

(2) the volume of refined petroleum products consumed within all States during such period.

Calculations made by the Secretary of Energy under this subsection shall be based upon estimates by the Secretary from reasonably available information.

(e) For purposes of this section—

(1) The term "designated petroleum violation escrow funds" means amounts (not in excess of $200,000,000) which are derived from: settlements from alleged petroleum pricing and allocation violations generally resulting in overcharges to purchasers of refined petroleum products and held in trust accounts administered by the Department of Energy on December 17, 1982, and which—

(A) are not likely to be required for satisfying claims of potential claimants identified in of the Office of Hearings and Appeals initiated prior to December 17, 1982, or identified in judicial proceedings initiated prior to such date; and

(B) the use of under this section would be consistent with the remedial order or consent order covering such funds.

(2) The term "energy conservation programs" means—

(A) the program under part A of the Energy Conservation and Existing Buildings Act of 1976 (42 U.S.C. 6861 and following);

(B) the programs under part D of title III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs; 42 U.S.C. 6321 and following);

(C) the program under part G of title III of the Energy Policy and Conservation Act (relating to energy conservation for schools and hospitals; 42 U.S.C. 6371 and following);

(D) programs under the National Energy Extension Service Act (42 U.S.C. 7001 and following); and

(E) the program under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 and following).

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(4) The term "Governor", when used with respect to any State, means the Governor or the chief executive officer of that State.

(5) The term "refined petroleum product" means gasoline, kerosene, distillates, (including Number 2 fuel oil), LPG (other than ethane), refined lubricating oils, diesel fuel, and residual fuel oil, but does not include refinery feedstocks.

(f) No funds disbursed under this section may be used for any administrative ex-

penses of the Department of Energy or of any State, whether incurred in connection with any energy conservation program or otherwise.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., December 17, 1982.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, the Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that today the Senate amended the continuing resolution adding legislation to provide that $200 million of the funds collected by the Energy Department, in settlement of cases involving oil company overcharges and held in escrow pending disposition in accordance with the DOE regulations, shall be made availabel to the States for energy purposes. This is the Warner amendment.

As you know, I supported efforts by your Committee in passing this resolution with funds appropriated from general revenues for weatherization, State EPCA and ECPA conservation grants, and low income energy assistance. Such funding through appropriations from the general fund is essential and should be a part of the budget. Supporting those needed programs through raids on DOE non-government escrow accounts is an attempt to circumvent the budget and should be avoided.

I am particularly disturbed because the amendment would, as I understand it, allow the States unlimited discretion to utilize the funds for energy purposes, which could include many energy activities that are unrelated to the persons overcharged, such as farmers, school districts, small businesses, and other citizens. The Governor could even use the money to fund the State energy program and pay fat salaries. That will hardly help low income families who need money for fuel during the winter.

Further, I understand that the funding formula in the Warner amendment differs from the carefully considered formula established in current law for low income energy assistance programs. It would also allow the Energy Department to circumvent its own regulations which require that the DOE try to identify the overcharged customers entitled to these funds.

Subcommittee Chairman Yates and I have been vigorous in our efforts to insist that the DOE quickly resolve these overcharge cases without amnesty and distribute the funds to the overcharged citizens. This hastily drawn amendment will undercut that effort and establish a precedent for further Senate raids on the escrow funds, which are not limitless, for various other purposes.

The Congressional Budget Office informs me that the escrow funds are in a special deposit or suspense account administered by the DOE Comptroller, because they are non-government funds. Many citizens have a claim against these monies because they were unlawfully overcharged by the oil companies. This amendment would wipe out many of those claims.

I proposed that the house can resolve this matter simply by providing this funding through general revenues and only for specifically authorized programs. The result will be the same and will not require any legislation in an appropriation act. This is, in fact, the approach taken in the House-passed resolution, as I have noted above. The House position should be maintained.

Subcommittee Chairmen Ottinger and Sharp, and myself want to cooperate with your Committee. We are aware of the importance and urgency of the continuing resolution. However, we are also most familiar with the details of the DOE oil overcharge program and the other relevant DOE programs. We therefore urge that we and our staff participate in the consideration of this matter, as well as other legislative matters that are added by the Senate to this resolution which fall within our jurisdiction.

I am sending a copy of this letter to the Speaker requesting that Members from our Committee be added to the Conference to deal solely with the matters relating to our jurisdiction. You might, however, prefer a less formal approach which would assure our participation regarding matters under our jurisdiction and we would be pleased to cooperate with you.

Sincerely,

JOHN D. DINGELL, *Chairman.*

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I do not intend to support this conference report as it partially lifts the 1979 freeze on the cost-of-living increases for Members of Congress. Even though the amount contained in the conference report is approximately one-half of what Members would be entitled to if it were completely removed, I still am opposed to any increase at this time. I, therefore, shall vote "no" on the conference report.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. Mr. Speaker, I rise in support of this conference report. I have been privileged to be a Member of this body for 20 years and a member of the Committee on Appropriations for 18 years. I do not believe I have ever engaged in a more arduous exercise than the one we were compelled to engage in on this continuing resolution.

I want to offer my commendation to the distinguished gentleman from Mississippi, the chairman, Mr. WHITTEN, and the other conferees, and to my friend from Massachusetts, the ranking minority member, Mr. CONTE, and assure my colleagues that I do not believe anybody is happy with the results of the work product that we have to bring you.

None of us want to proceed on a continuing resolution but this is where we are.

All of us know that if we had our druthers we would have the individual bills here. But we do not.

I hope when you vote you will keep some things in mind. I hope you will keep in mind that the entire defense bill for the next fiscal year for the Department of Defense is contained in this piece of legislation. I hope you will keep in mind that our friends on the Defense Subcommittee, headed by the able gentleman from New York (Mr. ADDABBO) and my good friend from Alabama (Mr. EDWARDS), did yeoman work to try to bring together the differences, and there were enormous differences that existed between the House and Senate versions on this bill, and to present to the body a piece of legislation agreed to by both sides of the House, both the House and the other body, in a form that can be, I believe, accepted by the administration and make sure that the vital security interests of our Nation are protected around the world.

I want to say it has been a pleasure to work with my dear friend from Illinois (Mr. YATES) on the Interior title. We made some significant changes in the continuing resolution from our regular bill that will also impact on the people of this Nation, particularly with respect to making sure that those who are forced to live on low income and meet rising fuel costs will have some kind of assistance and protection against the threat of shutoffs.

We have had estimates that as many as 300,000 individuals, people in terrible dire circumstances, will have literally their heat turned off unless some assistance is provided.

As the body will recall, we have a fund in the Interior Department, Department of Energy appropriation, that contains some $200 million in recoupment from the oil industry that was recaptured because of overpayments that they had made during the period of the oil embargo, and which was recaptured after a thorough investigation and court proceedings. We will attempt to make that money available through the Governors of the various States to try to make sure that no citizen of this country in these difficult times will face that kind of problem.

This was difficult to work out. Happily we were able to.

Mr. Speaker, I hope that all of us will recognize the practicality of the situation and the reality of where we are and vote this with a resounding vote of confidence.

I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I am pleased to hear that an amendment has been added to the continuing resolution which helps the recipients of SSI who are the beneficiaries of private, nonprofit charity.

Throughout this year, I have served on the President's Task Force on Private Sector Initiatives. My task was to identify legal impediments and barriers to the fullest use of private problem solving in this country. As part of this effort, I asked Members of Congress to inform me of any such impediments they had come across in the course of their casework or correspondence. Several responded by pointing to the impact of SSI rules on

discouraging charitable groups from assiting the aged, blind, and disabled. The task force included this impediment to private sector initiative in its report listing specific items which ought to receive legislative attention.

The amendment I have mentioned temporarily addresses this problem. However this amendment will expire along with the continuing resolution next March 15. I agree with the chairman of the Committee on Ways and Means, Mr. ROSTENKOWSKI, and the chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Mr. FORD, that legislation needs to be enacted making permanent changes in the law as it is currently administered. The present law and regulations distort patterns of charitable assistance based on need. Because SSI recipients have their benefits reduced by the amount of charitable assistance they receive, organizations attempting to help them find that they are, in effect, subsidizing the Federal Government rather than helping needy individuals. They frequently decide, therefore, to help others who do not receive SSI, even though their needs may not be as great. I support this amendment to deal with this situation and hope that it will be contained in the final version of this bill and that a similar, permanent change will be enacted early next year.

I would like to insert, at this point, the section of the report on impediments submited to the Task Force on Private Sector Initiatives dealing with this issue.

CONTRIBUTIONS TO SSI RECIPIENTS

IMPEDIMENT

In most circumstances, recipients of Federal Supplemental Security Income (SSI) lose a dollar of Federal support for every dollar of private assistance they receive. This discourages charitable groups from providing assistance to these aged, blind or disabled individuals, even though they may have needs which exceed Federal assistance.

DISCUSSION

The Federal SSI program began in 19~4 paying a guaranteed minimum income to desperately needy elderly, blind and disabled individuals whose income and assets were low enough to meet very strict Federal requirements. In 1976, the program was amended to permit SSI recipients to receive additional assistance from State and local government agencies without losing any of their Federal benefits.

However, under the current program, SSI recipients lose a dollar of Federal support for every dollar of private or charitable assistance they receive.[1] This occurs when they receive cash assistance or in-kind help from churches or other organizations in their communities.

This requirement of the law has the effect of discouraging charitable groups from assisting SSI recipients, even though these individuals may have needs far in excess of other non-SSI recipients who have been identified as potential beneficiaries. By helping SSI recipients, the charitable organizations are in effect helping the Federal government, since the SSI recipient is no better off as a result of the charitable assistance. Therefore, they often choose to help less needy non-SSI recipients instead. Examples of this situation are common.

Independent Living for the Handicapped, a nonprofit organization in California, uses donations from private sources to help individuals establish themselves in independent living situations rather than being forced to depend on others for their most basic needs. However, any aid they provide for SSI recipients is offset by a dollar-for-dollar decrease in the SSI benefit. The Mount Pleasant Church of the Brethren in rural Virginia decided to aid the poor and elderly in their area with cash assistance to be used toward their rent. However, the result of this assistance was no net improvement in the circumstances of those receiving assistance who were also SSI recipients.[2]

One of the reasons this dollar-for-dollar offset was included in the SSI program was to provide equal assistance to individuals in comparable circumstances. When one person is receiving regular or irregular assistance from some source, that person is better off than someone with no source of income whatsoever. Paying identical SSI benefits to individuals who have varying amounts of outside assistance breaches this notion of horizontal equity.

PROPOSAL

Charitable organizations have suggested that occasional assistance, particularly aid of an in-kind nature such as fuel, food, clothing or transportation assistance, not be deducted from individuals' SSI benefits so long as this help is not provided on a permanent, regularly recurring basis.

REPERCUSSIONS

It is not expected that this change in the law would have any impact on the Federal budget since charitable groups have hitherto been discouraged from providing assistance to SSI recipients. However, the benefits to the aged, blind and disabled individuals would meet very severe needs and would do so outside government channels and funding.

A policy which did not "count" gifts made to SSI recipients by private individuals might encourage an abuse of the program by families who wish to supplement their support of elderly or disabled dependents with government funds. A policy which permitted the "non-counting" of assistance provided by charitable tax-exempt organizations, however, would not lead to such a situation.

However, permitting some individuals who receive charitable assistance from an organization to receive the same SSI benefit as other individuals who have only SSI benefits upon which to rely might be viewed as inequitable, particularly by individuals who do not receive additional outside assistance. Therefore, it might be wise to limit the liberalization of the treatment of charitable assistance to occasional, or non-recurring assistance, or assistance provided on a regular basis but only for meeting some unusual need relating to the recipient's handicap, living situation, or the like.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, it is very difficult to take a document of this size and review it in the very few minutes that we have to review the legislation and make a decision as to whether you are for it or against it.

I would like to simply say that I think that the conference committee had a very difficult task. While I am disappointed at their decision on the Clinch River breeder reactor, while I am disappointed in the way in which they handled the O'Neill project and the Garrison diversion project, and while I feel that we as a House should have had an opportunity to deal constructively with the energy and water parts of this bill, I am prepared to support this continuing resolution.

I think we made the right decision on the MX. I think also that the pressure of this resolution should lead all of us to carefully consider and deal with the issue of jobs.

Mr. Speaker, I would just like to ask my colleagues on both sides of the aisle, in light of the fact that this compromise was made primarily on the jobs portion of the continuing resolution versus the MX decision, to commit ourselves to coming back in on January 3 to work carefully and constructively on a jobs bill that will help to deal with the issues of the 10.8-percent unemployment.

Mr. Speaker, I hope we can have opportunities in the authorizing committees to shape that jobs bill, to put Americans back to work.

Unfortunately, the provisions of the House-passed concurrent resolution have not been agreed to in the conference with the other body. It will however, provide us the momentum to move toward a national capital budget and repairing the basic infrastructure of our society. Let us use this time to draft a careful jobs bill which addresses the many issues involved in putting people back to work. Many of us are ready to work on this issue now.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I wish to draw attention to the joint explanatory statement of the managers in connection with amendment No. 133—title II of the resolution. We have respectfully requested the President to review the economic situation and include funding in his fiscal year 1984 budget submission for programs such as those in title II which will improve the economic situation and contribute to the country's real wealth.

As indicated in the statement of the managers, Government cannot solve the many problems facing the country by itself. It will take a coordinated effort with business and industry to restore the Nation's financial vigor.

There is a growing awareness in the Congress and in the country that we have neglected certain problems for

[1] Sec. 1612(a)(2) of the Social Security Act, as amended.

[2] Remarks by Rep. Panetta in Congressional Record, October 1, 1982.

too long. Many of our highways are in poor repair. Bridges have been allowed to deteriorate to a dangerous extent in many places. We are not taking adequate precautions to preserve and conserve our parks and recreational facilities.

If we will take care of the real wealth of the country, it will help to restore our financial might. It will generate productive employment—not make work—dead end jobs. At the same time, we must not forget those who are trying without success to find employment. Title II of the House resolution would have increased opportunities for small business. It would have increased assistance for the unemployed through employment services. It would have provided additional employment and training assistance. All these areas need to be addressed. It is hoped the President will review these programs carefully and request funding accordingly in his 1984 budget submission.

May I repeat here, in my judgment title II as passed the House was a fine piece of legislation. What we did was call on the various subcommittees of the Appropriations Committee for those projects that have been advocated and sponsored and supported in their committee but which had not been funded. So it had a sound basis to start with. But we were faced here with the statement that there was to be a veto and we were faced with the fact that the Government would come to a halt. So I think we handled it very well indeed and I think everybody realizes that with all of the things facing us that we had to delay it briefly. But we do think it is sound. Of course, it is open to the new Congress to take such action as it may desire.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I express my support for this conference report.

The conference report on the continuing resolution contains a legislative provision that states that commuter authorities operating commuter service transferred from Conrail pursuant to the Northeast Rail Service Act (NERSA) shall be subject to applicable laws. The statement of managers indicates it is up to the authorizing committees to clarify any ambiguities. As chairman of the subcommittee with jurisdiction over NERSA and other railroad laws, I want to make it clear that there are no ambiguities in existing law.

It was clearly the intent of Congress in enacting NERSA that laws such as the Railroad Retirement Act, the Railroad Retirement Tax Act, the Railroad Unemployment Insurance Act, and the Railway Labor Act apply to the commuter authorities affected by NERSA. Thus, these laws would apply to the commuter authorities after they take over the commuter service from Conrail on January 1, 1983. Since the provision in the continuing resolution indicates that these commuter authorities are subject to applicable laws, it merely affirms the clear intent of Congress in enacting NERSA.

Mr. CONTE. Mr. Speaker, I yield myself so much time as I may require.

As most of my colleagues know, the conferees agreed last night to delete title II from the continuing resolution. This was not an easy decision for the conferees to make. While that decision makes the way clearer for signature of this continuing resolution downtown, it should not and cannot be regarded as a victory for any one side.

At a time of 10.8-percent unemployment, with more than 12 million people looking for work, and another 2 million that have given up on the job search, any attempt to provide relief and jobs is not to be dismissed lightly. At a time when our industrial capacity is functioning at its lowest level since the Great Depression, any attempt to turn the downward spiral around is not to be disregarded.

The decision made by the conferees was not a decision to dismiss the national tragedy of our unemployed or to disregard their plight. The decision was a realistic appraisal of what could be accomplished in the framework of an emergency bill designed to keep the Government running, and within the short time period we had to enact a bill.

In my opinion, the decision was also an honest realization that the approach taken in both the House and the Senate versions of title II was problematic, both in terms of how fast and how many people would be put to work, and in terms of the potential negative impact on economic recovery.

But let me make it very clear. I do not regard the deletion of title II as a victory. With so many of our people out of work, there simply are not victories, and no winners or losers. We are all in the same boat, and we sink or swim together. The only victory there can be is turning our economy around and putting our people back to work.

The decision that was made last night was a decision only to delay action, if our economy does not turn up immediately, until a more reasonable approach to putting people to work can be found. I will be working to find that approach, and I urge my fellow colleagues to work together, in a bipartisan fashion, toward that goal. Partisan politics deserve no place in consideration of this national crisis, and I hope we have all learned a lesson from the way title II was handled.

I want to commend the chairman of the Appropriations Committee, JAMIE WHITTEN, the chairman of the Senate Appropriations Committee, MARK HATFIELD, and all the conferees for their deliberations on this issue. The conference yesterday proved over and over again how high is the price of leadership, and how circumstances can require action that may be personally difficult, if not unpalatable, in the interest of the whole.

Finally, I would like to recall, as the holidays approach, under the Christian teachings, the story of Christmas, when Mary and Joseph found no room in the inn. The biggest danger inherent in the exercise of power is insensitivity. As long as I stand on my two feet, I shall fight to prevent our Government from becoming insensitive to the needs of our people. We will be back here in the New Year, and I hope we will seek a reasonable and effective way to address the needs of the unemployed, and to continue to do our best to bring our economy back to life.

□ 1245

The gentleman from New York (Mr. FISH) has a little Christmas gift in this continuing resolution. We prevailed over the Senate and we provided that money for that little hamlet outside of West Point. May they all have a joyous Christmas out there.

I now yield such time as he may consume to the gentleman from Illinois, Mr. MICHEL, the minority leader.

Mr. MICHEL. Mr. Speaker, for our colleagues who may not yet be present on the floor of the House but who are in their offices, or wherever, I would urge them to come in and help us establish a firm quorum here in the House. It is much better that we do it in that informal way than in a formal call of the House. I know of several Members who, for no reason other than family considerations, had to leave because of the urgency of the holidays, families, children, and having to go by automobile rather than by plane. So it would help considerably not to be in the kind of position of putting Members unduly on the spot by not being here for a critical rollcall.

Having said that, I hope Membrs who are doing nothing other than watching the proceedings here in their offices would get themselves over here to the floor of the House.

Now, may I say to my friend, the gentleman from Massachusetts (Mr. CONTE) and to my distinguished friend, the gentleman from Mississippi (Mr. WHITTEN) how much I personally appreciate what they did, along with their contemporaries, in meeting during all hours of the day and night over this past weekend to fashion this compromise. There were considerations from downtown, as the Members very well know. The President made his position clear on several significant items here, and I think all of us were out to make certain that we

got a resolution fashioned here that would pass muster down with the President as we are coming into the closing days of this session.

I feel rather good about the way this package was put together, and that it will pass muster when the appropriate time comes. I do understand that the President would still like to have, the CBI and, of course, the highway bill, which we have already considered over here in this body. Hopefully, the other body will join us in that effort in the remaining hours of this session.

I just want to thank each and every one of the Members for what they did by way of giving and taking and compromising, to give us this kind of an agreement that we have before us.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I wish to thank my friend and colleague, the gentleman from Illinois (Mr. MICHEL), the minority leader, for this kind statement and for the support we have had from the Members of Congress on both sides of the aisle. We appreciate it very, very much. We are proud of our work that we did. It took us a long time, about 12 hours. But we resolved all our differences and we are proud of the conference agreement we bring before the House today.

Mr. Speaker, at this time I yield 1 minute to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. I thank the gentleman for yielding.

Mr. Speaker, I rise in reluctant support of the provisions of this conference report which relate to the Clinch River breeder reactor. My reluctance is, in no way, a reflection on the diligence, ingenuity and abilities of the conferees. They have labored hard to bring us a genuine compromise.

At this point, the Congress has invested nearly $1.5 billion on the Clinch River breeder reactor. Under the terms of the conference agreement, a reduction in the proposed fiscal year 1983 funding level of nearly $40 million is provided together with a prohibition on construction activities during the course of the continuing resolution, which will last for the remainder of the fiscal year. These two modifications will add to the ultimate cost of the project, and I would call this fact to the attention of those who have opposed the project on the basis of its escalating cost. Approximately $900 million of the additional cost of this project is attributable to the delays enforced on the project by the continuing policy debate. I also wish to advise the Members of the letter which I have received from the Secretary of Energy regarding that Agency's willingness to explore alternative financing arrangements for the project with a view toward reducing, and I would hope substantially reducing, the Federal Government's financial commitment to this project.

THE SECRETARY OF ENERGY,
Washington, D.C., December 17, 1982.

Hon. MARILYN LLOYD BOUQUARD,
Chairman, Subcommittee on Energy Research and Production, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: You have inquired regarding the Department's undertaking preliminary reviews of mechanisms for enhancing private sector involvement, especially financial, in the Clinch River Breeder Reactor Project.

I have requested Dr. Shelby T. Brewer, Assistant Secretary for Nuclear Energy, to pursue such reviews.

It is my intention to provide the results of these reviews to the Congress so that they could be utilized in deliberations regarding the project early in the 98th Congress.

With best wishes,

Sincerely,

DONALD PAUL HODEL.

It is clearly possible that we will not be able to force a separate vote on the issue of congressional pay raises in this conference report. I want simply to indicate for the record that there is much in this bill to commend it, the CRBR provisions, the antibusing provisions, the prayer in school provisions, the defense funding provisions, and the fact that the total funding is below the section 302 budget ceilings; but, I also want to emphasize that I continue to object to the pay raise provisions of this bill. Mr. Speaker, I would say to those Members of the House who, along with me, voted against the pay raise provisions and in favor of reimposing the pay cap last Tuesday, that we have fought the good fight. It is unfortunate that our position did not prevail. Nonetheless, we can take considerable satisfaction from having been able to achieve recorded votes on this matter and thus, we have provided our constituents with a clear indication of our position on the matter of pay raises.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. I thank the gentleman for yielding.

Mr. Speaker, the most serious domestic problem facing the American people is the absense of jobs. The greater challenge facing the 98th Congress is the creation of an economic climate in which jobs will be created in the private sector.

No issue is of greater concern to the Congress at this time than jobs for the large number of unemployed men and women in this Nation today. Nor should there be. Unemployment is at a post-World War II high, and the prospects for the immediate future are less than rosy. Congress obviously recognizes the need to take action, but the proposals which have been made to provide jobs are mere band aids, and offer no long-term solutions.

Public jobs can only be paid for with taxpayer's money which is either taxed away or borrowed. If it is taken through taxes, the individual is denied the opportunity to spend money on goods and services which are the basis for private sector jobs. If it is taken through borrowing, the individual is denied credit for purchases, and business is denied credit for investment.

Unemployment does not just happen. It is caused. And it is not caused because there are people of ill will out there in the marketplace deliberately withholding employment opportunities.

So what causes our present level of unemployment?

Perhaps the largest share of the blame goes to the loss of our competitive edge. At first, it was only foreign markets we lost to international competitors; now, even within our own country, foreign manufacturers are out-selling domestic ones. They are in many cases turning out a better product, at a better price, than we are doing here at home. As an example, a Member of Congress recently cited his own experience: In the belief he should put his money where his national spirit was, he bought an American car. In this $16,000 automobile, there were 16 defects in the hood alone. From my own experience, just last weekend my son and I went shopping for a fairly expensive item. No one seemed excited about waiting on us.

A second big cause is that we have completely lost touch with the work ethic. Now, work ethic does not necessarily mean working hard; it does mean working proud—proud of what we do and our ability to do it. In our own district, 1,300 Mexicans were brought in to work on farms, while there were an even greater number of unemployed. When asked why they neither sought nor accepted these jobs, some of the unemployed replied the work is undignified. Booker T. Washington said, "There is as much dignity in tending the fields as in writing a poem."

This same false sense of dignity has resulted in another inconsistency. There are, I have been told, about the same number of job openings in this country as there are unemployed. Many of these jobs require skills the unemployed do not possess, it is true. And it is in part a fault of our education system, which has failed to see the career paths of the future, and prepare young people for them. But a great many of these openings are in jobs which require minimum or no skills, and they are simply scorned by those who feel such work as undignified. Certainly, I have not always held the job that I wanted. However, like many others I took what was available

until I could prepare for something better.

A complicating factor has been near-hysterical reporting by some of the national media. Many in this professsion operate on the theory that "good news is no news," and so if there is a peril to be found, they will exploit it in the name of a good story. Consider a few examples.

On October 25 of this year, Wall Street experienced "its worst day since the last Monday in October of 1929"—a direct quote from a metropolitan daily. The commentators made much of this, since the next day was "Black Tuesday," October 29, 1929, the beginning of the stock market collapse and the forerunner of the Great Depression.

What the reporters did not tell us was that the 30-point drop in 1929 was at a time when the Dow Jones average was only 300; the 36 point drop in 1982 was from an average more than three times greater. It made a catchy story, but the perspective was lousy.

Again, we are repeatedly told that each month's unemployment statistics are the "worst since * * *" Yet in 1932, one of the worst years of the Depression, unemployment was 12 million, just like today; the unemployment rate was 23.6 percent—more than twice as high as today.

The unemployment figures of today, while unacceptable, do not have the same economic impact as in the 1930's. During that era few women and teenagers had entered the work force in what is now called the private sector, then referred to as public work. Generally, there was only one bread earner in a family. Perspective again is important for objective comparison.

Is there any wonder that the people of this country, even those who are employed in relatively safe jobs, are afraid to spend money and buy the things which will get industrial wheels turning?

Unemployment exacts an enormous cost to the Nation. In the second quarter of 1982, the annual deficit ran at $120 billion. If we had enjoyed full employment, it would have amounted to $9 billion, an easily managed amount.

But the cost to the Nation is as nothing to the cost to the individual who is unemployed. No Member of Congress feels more compassion for the jobless than I. The idea of being unemployed is not something I merely think about; unlike most others, I can remember it. I have been without work, without food, without a roof for my head. And while I do not recommend it to anyone, I know it is a state which can be survived.

And I know as well that it is within the capability of this Nation to find the solution to this problem, once we accept some hard truths, and get about the world's work.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report on the continuing resolution and I ask permission to revise and extend.

The overwhelming reason for approving this conference report, Mr. Speaker, is that without it, our Government will come to a crashing halt. Unless we approve this resolution, thousands of Federal offices will close and tens of thousands of people will be put out of work.

This is not a perfect bill. I have reservations about the congressional pay raise. I did not support the pay raise nor did I support raising the cap.

Nevertheless, this matter has gone before both the House and Senate and now agreement has been reached in the conference committee.

I think the Members of Congress deserve a pay raise, Mr. Speaker. While I did not support a raise in this amount or removal of the cap, the issue has been debated in an open and straightforward manner and the majority has spoken. Despite my reservations, I think we should approve this resolution at this time.

I thus support the pay raise position though I have differed in the past with my leadership on this and I urge approval of the continuing resolution.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. WRIGHT), the majority leader.

Mr. WRIGHT. Mr. Speaker, surely the contents of this conference committee report are not wholly pleasing to anybody. But worse than any of our individual objections would be the consequences of our failure to pass it.

We need to concentrate on the consequences of such a failure. If we were to permit our personal pique over our individual failure to get our way in various matters to create a precarious game of brinkmanship between the White House and the Congress, just think of the consequences to the American people, those whom we are sworn to serve.

If this bill does not pass, then the men and women of our armed services will face payless paydays.

If this bill does not pass, the Defense Department will not be able to buy fuel for its planes and ships and tanks.

If this bill goes down, 36 million social security beneficiaries will be denied the timely receipt of their monthly checks.

Many employment offices would be shut down, and the services that they provide for the unemployed would be terminated.

Possible layoffs in the postal ranks if this bill does not pass could hopelessly delay the delivery of mail in this busiest season of the year, to the detriment of all Americans.

Six of the departments of Government would close down completely.

I do not think any of us wants to be responsible for those results.

Quite frankly, there are those on the Democratic side—I among them—who are bitterly disappointed over our inability to get any money included in this bill to initiate jobs to put Americans back to work. We have tried faithfully, and the House three times this year has passed significant jobs initiatives. The housing initiative was passed by the other body also and then vetoed by the President. We did not muster the votes to override the veto. In the summer we passed a modest public works jobs bill, and it was not taken up in the other body. Earlier this month we passed a $5 billion public works jobs bill to stimulate employment, to do the things that need to be done for America and employ some of America's unemployed. The other body trimmed it down to $1.2 billion, and finally abandoned it entirely in the face of a Presidential veto threat.

So be it. In the words of Disraeli, we appeal to history. Let us take some consolation on this side in the fact that that history is only 1 month away, when a new Congress can take up once more the imperative demands to get this economy moving again. But for now we have the responsibility to keep the Government functioning. Let us face that responsibility and do our duty and vote for the bill.

Many on the other side, including the President, are disappointed because the bill does not contain money for funding now of the building of the MX missile, although it does contain money for the research and development. Perhaps some good will flow from that. Perhaps a better basing mode will result. Or we may even achieve a break through in our negotiations with the Soviet Union to make the production of the missiles unnecessary. In this lull perhaps we both may contemplate those words that were spoken 22 years ago by President Dwight D. Eisenhower who said:

> What can the world or any nation even hope for if no turning is to be found? The worst is a total war. The best would be this: A life of perpetual fear and tension, a burden of arms draining the wealth and labor of all people . . .

So nobody has been a complete winner in this matter, not Democrats, not Republicans, not the House, not the Senate. But the American people clearly would be the losers if in childish obstinacy we were to stamp our feet and hold our breath and in our petty pique refuse to pass the bill because it does not reflect all that is in each of our own wish lists. No one of

us can create legislation totally in his or her own image.

So today let us join together, disappointed though we may be individually in the contents of this legislation, and resolve that we shall do the responsible thing for the American Nation. Let us keep the American Government functioning and vote aye on this bill today, and then resolve in our hearts that we shall come back in January and together find the ways to make this American economy move forward, put the American jobless back to work and revitalize and revive America's industry, to the end that the coming year may be a year of expansion and not another year of retraction.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FAZIO).

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this conference report. It does not solve all the problems we set out to deal with but it is the best we could do under the circumstances.

I would like to outline the conference agreement on the cost-of-living adjustment issue. Over 32,000 senior-level Government employees will be affected. This is only the second cost-of-living adjustment that the most senior people in Government—Cabinet officials, Members of Congress, heads of other agencies, deputy and some assistant secretaries—have had since 1975. During this same period, all other general schedule employees have received over 40 percent in cost-of-living increases, while the senior people will have received about 20 percent if this conference agreement is approved.

The agreement provides the following:

Salary effective December 18, 1982

Executive level:	*Amount*
I (includes Cabinet)	$80,100
II (includes Members of Congress except Senators)	69,800
III	68,400
IV	67,200
V	63,800

Senators were excluded from this adjustment at the request of the Senate conferees. For the past several years, however, Members of the Senate have had no ceiling on their outside earned income—while Members of the House are limited by the Rules of the House. Thus, there has been inequity for a long time in the allowable income of Senators and House Members. The Senate has enjoyed a much higher income level potential, and that will remain the case even under the new salary schedule.

The conferees also agreed that Federal judges and Justices of the Supreme Court are entitled to the October 1982 cost-of-living adjustment of 4 percent, which had previously been capped because of section 140 of Public Law 97-92. Language has also been added so that Senate staff salary limits will be pegged at the new salaries of a Member of Congress, as if Senators received the increase.

It is worthy to note, Mr. Speaker, that as of midnight Friday, the salary of Members of Congress was raised to $77,300. This is based on the operation of normal, uncapped cost-of-living adjustments based on the Executive Salary Cost-of-Living Act of 1975, and the December 10, 1982, decision of the Comptroller General regarding the legal interpretation of section 130(c) of Public Law 97-51.

So, by our action here, we are reducing salaries of Members from $77,300 to $69,800. I hope the Members and public understand that.

On another matter, Mr. Speaker, the conferees reached a compromise on the very complex question of the Copright Royalty Tribunal's recent decision on cable system rates paid into the copyright owners fund.

There was some concern about the timing of this decision and the Senate provision was based upon that concern. The conference agreement delays the effective date of the Tribunal's October 20, 1982, decision with respect to rates charged to cable system operators for certain broadcast signals until the U.S. Court of Appeals for the District of Columbia renders a final decision or March 15, 1983, whichever occurs first. The accrual of liability for copyright royalty fees is similarly delayed. The conference agreement also includes a proviso to insure that in the meantime the Copyright Office and the Library of Congress may continue to perform routine business except as solely and specifically related to the subject decision.

Mr. Speaker, I support the conference report, and I urge the Members to approve it.

Mr. Speaker, I am happy to report that in the statement of the managers accompanying this continuing resolution (H.J. Res. 631) the Congress clarifies its intent that funds approved for the Sacramento Municipal Utility District's photovoltaic project should be provided by the Department of Energy at a rate sufficient to enable the utility to maintain its proposed schedule for the project's second phase. I would like to submit for the record a pair of letters; one from the utility, the other from representatives of the Acurex Corp., which set forth the schedule SMUD hopes to maintain for phase II. The reference in the statement of managers will thus be unambiguous, and the schedule to be met hereby defined.

SACRAMENTO MUNICIPAL
UTILITY DISTRICT,
Sacramento, Calif., December 1, 1982.

Re SMUD photovoltaic project.

Hon. VIC FAZIO,
House of Representatives,
Washington D.C.

In your letter of November 22, 1982, you asked for a description of our program plan for the first and second megawatts of this project.

The purpose of this letter is to outline to you the District's plans for overcoming some of the near-term barriers to cost-efficient use of photovoltaic generation by utilities during the design and construction of the first two megawatts. In addition, I have included a brief description of how we plan to approach development of the project beyond the first two phases.

PHASE I—PROOF-OF-CONCEPT AND SYSTEM DESIGN

SMUD views the first one-megawatt phase of the project as a benchmark of current technology. Amongst the claims of capability and potential is a need to show where the industry stands in relation to the fundamental requirements of a utility. The objectives of Phase I are, therefore, to:

Provide a large-scale, grid-interactive system to obtain needed experience in central-station structures, power conversion, grounding, and dispatching of a photovoltaic generation source.

Demonstrate that the photovoltaics industry has the technical and manufacturing capabilities to meet utility standards of performance, delivery, and reliability at a price which indicates progress towards cost-effective power generation.

The challenge of Phase I is to design a complete fully-integrated system which addresses these critical central-station objectives. The procurement of the entire quantity of photovoltaic devices from a single source gives us the best opportunity for economies-of-scale in module production and balance-of-system installation.

PHASE II—EXTENSION OF PHOTOVOLTAIC MODULE TECHNOLOGY

Current photovoltaic module technology does not allow SMUD to purchase technically-appropriate, cost-effective equipment for the entire 100MW project. The photovoltaic modules purchased for Phase I will not be the long term solution. In Phase II, SMUD needs advanced technology.

If we are to stay on our original project plan, more effective photovoltaic modules are required. For example, central-station modules should be capable of operating at a level of at least 1000 volts relative to ground. Furthermore, because SMUD anticipates purchasing large quantities in the near future, we see the need for the industry to establish and adhere to module performance and configuration standards specifically for central-station applications.

If a sufficient number of vendors can respond during Phase II, we anticipate the purchase of standardized modules from several vendors for qualification and comparison. These qualification arrays, which will operate at the 1000 volt condition, may represent 10 to 30 percent of the one megawatt system contemplated for Phase II. A qualification array purchase from an individual vendor may be as large as 100KW. This approach will enable SMUD to extend what will be learned from Phase I while still providing an increase in our generating capability commensurate with ratepayers investment. Our ability to purchase from multiple

vendors depends on the photovoltaic industry's willingness to standardize their modules and share some of the risks of developing a utility-quality product.

FUTURE PHASES—COST EFFECTIVE PHOTOVOLTAIC POWER

The development of standardized modules in Phase II will significantly enhance our ability to carry this project to completion. Starting in Phase III, we will begin to install capacity in ever large increments. The availability of several photovoltaic module suppliers is the key to the success of this strategy. Many issues will remain to be resolved in the future phases of our 100-MWe project. Further module price reductions, large scale DC-AC inverter qualification, automated installation, and balance-of-system cost reductions have all been specifically identified as areas needing attention. The successful resolution of these issues will place heavy demands on all elements of the photovoltaic industry. Our project is multi-phased to remain open and flexible to be able to assimilate new developments as the industry brings them to commercial readiness.

We, at SMUD, have great expectations for photovoltaic generation and appreciate the effort made to bring the industry to its current level. We enlist your continued effort so that we may all span the gap between our first megawatt of generation and the future of central-station photovoltaic power.

JOHN J. MATTIMOE,
General Manager.

ACUEX CORP.,
MOUNTAIN VIEW, CALIF.,
December 1, 1982.

Re: SMUDPV, Phase II budgetary estimate and timing.

Hon. VIC FAZIO,
U.S. House of Representatives,
Washington, D.C.

At SMUD's request, Acurex has prepared a budgetary estimate and rough schedule to implement the programmatic approach discussed in the letter to you from SMUD, dated December 1, 1982.

PROJECT APPROACH

An objective of Phase II is to install 1MW of photovoltaic power generation using technology which will be more representative of the eventual utility application than is available for the Phase I system. SMUD, with industry involvement and hopefully, with guidance from the Department of Energy laboratories at JPL and Sandia will prepare specifications and procure "standardized" photovoltaic devices. Currently no such industry wide standard exists. As many as four vendors will be identified to provide up to 100 kilowatts each with the remainder of the 1MW purchase going to the best of the vendors. 100 kilowatt procurements are needed to achieve representative utility operating conditions.

Although the primary approach is to install utility-standard, flat panel devices, other techniques (such as photovoltaic concentrators) may be included if cost, delivery and performance constraints can be satisfied.

SCHEDULE

The goal of the SMUD PV project is to install a second 1MW field one year after installation of Phase I.

Rapid initiation of Phase II is necessary to provide time for industry interchange, procurement, installation and comparison of the 100 kilowatt subfields prior to full system purchase. Assuming initial Phase II funding in May 1983, the 100 kilowatt subfields will be installed by May 1984. A draft Phase II project schedule is enclosed for your information. The key element is commitment of funds in December 1983 to several PV vendors, an event which must occur prior to the time that FY 84 funds would become available.

BUDGETARY ESTIMATES

Although the Phase II costs are highly dependent on the response from the PV industry, Acurex has prepared Phase II budgetary estimate under two funding scenarios: (1) Full Phase II funding in FY '83, and (2) minimum required funding. Exhibit A provides the breakdown.

The major impact of partial funding will be to alter the PV panel procurement leverage. With full funding, the 100 kilowatt purchases could include a commitment to the subsequent 600 kilowatt purchase for the top supplier. We anticipate much lower prices from all vendors under this scenario. Overall additional cost of the partial funding approach will be roughly $1.5 million.

Allowing for the appropriations process, allocation by OMB, and contracting by DOE, one must assume that FY '84 funds will not be available to the project before May 1984. Government share by this time will exceed $3 million by either funding approach.

If you have questions regarding the enclosed information, please give me a call.

Very truly yours,

MITCHELL WOOL,
Project manager.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I rise in support of the conference agreement on the continuing appropriations resolution. I was proud to serve as a House conferee and while none of us is totally satisfied by the agreement we have reached, I believe it represents a fair and supportable resolution of the differences we had to resolve.

I want to focus on two particular aspects of the conference report. First, I am disappointed that the imminent threat of a Presidential veto forced us to delete the title II jobs program. The unemployment problem in the Nation is totally unacceptable, and I, for one, strongly believe the Government has a responsibility to take affirmative steps to help address the problem. I am happy to note that the conferees of the other body have agreed to join us in urging the President to include a positive jobs program in his fiscal year 1984 budget submission.

Second, let me discuss the agreement we have reached on the MX issue. I believe it combines the most positive elements of both the House and Senate positions. First, the House held firm to its position that we should not approve procurement funding for the MX missile at a time when it is obvious that a majority in Congress, and a wide range of experts in the arms field do not support the basing mode proposed by the President. It is just commonsense not to commit to missile production until we can be assured that a survivable and effective basing mode is available.

It should also be noted that recent court decisions bring into question the constitutionality of all forms of congressional veto, and an effort to "fence" procurement funds could lack legal standing and be challenged in the courts by an aggrieved party.

The agreement also includes the language added in the other body that requires the President not only to submit a detailed technical assessment of Dense Pack and any modifications to it, but also an assessment of alternative basing modes, alternative missiles, and alternative programs. These alternative programs include acceleration of the Trident II, enhancements and improvements to Minuteman, a road mobile missile and a common missile for land and sea deployment. This assessment will provide the Congress the opportunity to examine all our options and reach an informed decision on this aspect of our strategic modernization program.

The agreement also gives the President the accelerated time schedule for congressional action. He would then have the ability to submit a supplemental request tailored to the position that the administration and the Congress agree upon. In order to preserve this flexibility, research and development funds for full scale development of Dense Pack and for missile R&D to initiate flight tests is also held back until the agreement on basing and missile options is resolved. Missiles acquired for the test program would be available for deployment if the Congress approves them.

This is certainly a compromise that the President should accept. It keeps the opportunity for deployment of MX in the stated timeframe if a suitable basing mode can be found, and if Dense Pack does in fact prove unacceptable, it gives us the mechanism to fully examine a better course in a timely fashion.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DIXON).

Mr. DIXON. Mr. Speaker, my support for this conference report is tempered by true sadness and deep regret.

Although the basic components of this agreement represent a balanced compromise, the glaring exclusion of any funds for the title II jobs program will have tragic consequences.

After much talk and promises, it seems the 97th Congress will end with our tail between our legs, and no funding for this important jobs stimulus package.

Because of the Senate's filibuster, there is understandable reluctance to send the President a resolution he would be inclined to disapprove. Such a veto could seriously disrupt our

country due to the lack of time to draft another resolution.

Yet this conference report backs down from the President's challenge, and dashes the hopes of Americans who believed Congress would prevail so that we might begin the new year by putting hundreds of thousands of men and women back to work.

This disappointment will be felt nowhere more deeply than among black Americans, who have borne the brunt of joblessness—a record 20-percent joblessness for black adults, and 50 percent among black teenagers.

When the American people spoke in November, their call was for a change.

A new direction for our country, and positive action to restore the economy and create jobs.

When the new Congress convenes in January, I ask that the leadership again make this legislation the first priority, and that we not delay action while this body organizes.

The American people look to us for representation and action. This setback must only strengthen our resolve and commitment for a major job stimulus program to put America back to work.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. BEDELL).

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. LONG).

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I am hesitant during this holy season to Christian and Jew alike to speak on a piece of legislation which brings saddness to the Nation, to this House and to me personally. The manner in which we have considered and by which, I believe, we will adopt House Joint Resolution 631 represents a failure of our legislative process.

In the normal course of House consideration of appropriation bills, each Member would have an opportunity to weigh carefully the provisions of the legislation and to make contributions to items which that Member felt were not in the interests of the country. By lumping not only appropriations but many authorizations into one omnibus piece of legislation we have removed that careful oversight. Even as a member of the conference committee, I was unable to monitor all of the miniconference and private negotiations through which decisions were made. Several items in which I had a distinct personal interest were decided and included in the final legislation while I worked on the legislation for the subcommittee on which I serve.

Legislating in this manner does not serve the people well. This is the peoples' branch of the Government and I believe that the people we serve expect and deserve better than we are giving in House Joint Resolution 631. I compliment the chairman and ranking member for their hard work, patience, and dedication. I respect them very much.

Sadly, I must oppose approval of this legislation. After long consideration, with a full understanding of the implications of defeating this bill and sending our committee back to the drafting stage, I did not sign the conference report. I wish that I had been able to sign and support the conference report, because I know it was the result of much dedication and hard work on the part of all concerned. But I declined to sign, because I have serious reservations about key aspects of this legislation, as it impacts on the national security of the United States.

So I rise in opposition to this bill. I think that it will pass. But my purpose in speaking and voting against this continuing resolution is to increase the awareness of my colleagues of the state of our legislative process and the ramifications of this legislation.

I speak out not in anger but in sadness to express my opposition to this continuing resolution.

In this single bill, the Congress has zeroed funding for the production of the only two land-based ballistic missiles proposed for deployment by this country since the détente era dawned: The MX ICMB and the Pershing II IRBM.

These two programs are at the heart of our Nation's defense and negotiation strategy. The national security of the United States depends upon a secure deterrent and a viable forward defense in Europe. With this bill, in a single stroke, we are severely undercutting the President's national security policy and his ability to negotiate with the Soviets at Geneva.

Following the House vote on the MX, President Reagan said:

> I had hoped that most of the members in the House had awakened to the threat facing the United States. That hope was apparently unfounded.

By action of this continuing resolution, we have negated any incentive that the Soviets may have had to negotiate an arms control agreement in good faith. Why should the Soviets be interested in agreeing to reduce their arms, if the United States is practicing what amounts to a large measure of unilateral disarmament?

Let us face facts. There is no way to obtain an arms control agreement that would serve the security interests of the United States, that would enhance stability or preserve the peace, if the Soviet Union sees that we are not going to take the minimal steps necessary to offset their enormous military buildup of the past decade.

I do not believe that any of us would want to see the United States attempt to negotiate with the Soviets from a position of weakness. Unless this action is reversed, we no longer will have any reason to continue with strategic arms reduction talks in Geneva.

Our allies also look to the actions of this Congress as evidence of our national determination—or failure of will—to respond to the severe and unprecedented growth of the Soviet military threat to peace.

The governments of our NATO allies, for the most part, recognize the urgent need to modernize our defenses in Europe. Indeed, just this month the NATO ministers issued a communique expressing their support for the modernization of U.S. land-based strategic forces, as essential to the security of Western Europe, while reaffirming their commitment to Pershing II and GLCM deployment. But how are they to explain to their citizenry why they should support a new generation land-based missile in Western Europe if we refuse to support a new land-based missile in this country? And how are they to explain the pressing need to modernize NATO defenses when this Congress decides to shutdown Pershing production lines that were just started up last year?

The allies have emphasized the importance of the intermediate range force negotiations in Geneva and the promise of those talks for eliminating the unstable balance of forces in Europe. The U.S. position, which NATO has steadfastly supported, is that we will desist from deploying Pershing II if the Soviets will dismantle their vast SS-20 force now targeted on our NATO allies.

But his bill has eliminated production funds for Pershing II. As a consequence, the credibility of our negotiating position is called sharply into question. In fact, without an ongoing Pershing production line, I fear that the INF talks are doomed to fail.

It seems to me that to continue the negotiations without funding for Pershing II would be little more than an exercise in self-delusion.

Sadly, I have reluctantly concluded that this country cannot expect to achieve worthwhile arms control agreements with the Soviet Union unless the flaws in this continuing resolution are rectified. Unless production funds for the MX and Pershing II are restored, I believe that President Reagan should consider telling our negotiators to stay out of the negotiations until Congress repairs the damage to our position at Geneva.

I am also dismayed by the broad-stroke cuts we have taken in our defense and military assistance budgets. This continuing resolution cuts our ability to meet our security assistance requirements by $700 million. This cannot help but have a negative impact on this country's ability to secure its interests in many parts of

the world. In particular, I am concerned about our ability to secure access to needed facilities in the vital Persian Gulf region, where countries which were to receive needed military assistance will now be shortchanged. I hope that the most egregious shortfalls can be compensated through supplemental funding.

In defense, by this bill we have cut the President's request by almost $20 billion. I fear that we have ignored President Kennedy's admonition when he said:

> Let us put an end to this policy of deciding our fiscal requirements and then trimming our defenses to meet them. Let our dangers decide our defense requirements—and then fit our fiscal policies to meet them.

President Reagan's efforts to redress our serious defense deficiencies across the spectrum deserve more support from this Congress than is reflected in this continuing resolution.

Let me turn to an area of the legislation with which I had more direct responsibility, that of foreign operations.

The conferees agreed to provide a total of $11.2 billion for foreign assistance programs, compared to the Senate amount of $11.6 billion and the House amount of $11 billion. The administration's request was $11.2 billion, and the fiscal 1982 appropriation was $11.5 billion. The conference agreement is $8.6 million below the President budget.

The conference report includes the House figures and terms for Israel and Egypt. Israel receives a total of $2.485 billion, of which $785 million is economic assistance under the economic support fund, and $1.7 billion is foreign military credit sales, $750 million of which is forgiven. The total amount provided and the economic assistance portion are the same as the President's request. The amount of forgiven military credits is $250 million over the President's request. The Senate had provided a total aid package for Israel of $2.61 billion, of which $910 million is economic assistance and $1.7 billion is foreign military credit sales, $850 million of which would have been forgiven.

Egypt will receive a total of $2.075 billion, composed of $750 million in economic assistance under the economic support fund and $1.325 billion in foreign military credit sales, $425 million of which is forgiven. The only change from the President's budget is the addition of $25 million in military credit sales, which are also forgiven. The Senate had provided the same amounts and terms as the President's request.

The Export-Import Bank is given direct lending authority of $4.4 billion, the same as in fiscal year 1982, and guaranteed lending authority of $9 billion, a reduction of $220 million below 1982. The President's request were $3.83 billion for direct loans and $8 billion for guarantees. The amounts in the conference report are the same as the Senate figures.

The International Development Association (IDA) will receive $700 million, since both the House and Senate bills included that amount and the figure was not subject to conference action. The United Nations development program gets $140 million, the Senate amount, compared to $134 million in the House bill. UNICEF receives $42.5 million, compared to $41.5 million in the House bill and $37 million in the Senate bill. The International Atomic Energy Agency receives $10 million, with a restriction that the funds are not available until the United States is assured that Isreal is allowed to participate fully as a member nation in the activities of the Agency. The International Fund for Agriculture Development (IFAD) receives $24 million, compared to the President's request and House amount of $65.4 million and the Senate amount of $10 million. The Peace Corps receives $109 million, the Senate amount. The House had provided $105 million.

Military assistance grants are funded at $290 million. The President's request fo this account is $557 million, the House provided $176.5 million, and the Senate had $367 million. MAP funds are earmarked for key U.S. friends, such as Turkey, Portugal, and Morocco. Military training is funded at $45 million, an increase over the House amount of $38.5 million and a reduction below the budget request and Senate amount of $53.7 million. Foreign military sales guarantees are limited to $3.638 billion, and earmarks are included in this account for Turkey, Portugal, Morocco, and Spain.

The conferees have included an amended version of the Simon "Bread for the World" amendment requiring the President to attempt to provide not less than 40 percent of AID's development assistance funds for the absolute poor in fiscal 1983, and requiring a report by the AID Administrator within 6 months on the practicality of such a provision, the types of which meet these guidelines, and the overall effect on AID's operations. By including this language, the conferees hope that a clearer picture can be ascertained on this issue.

Finally, I would like to comment on one other feature of this legislation. I am concerned about the provisions in this continuing resolution concerning the Legal Services Corporation. Particularly, I am concerned that the provision that requires that all of last year's grantees and contractors be funded at the same level as last year until Board members who have been confirmed by the Senate can make funding decisions may be misinterpreted. I would like to make clear my understanding, as a conferee on the resolution, that this language limits the Board only in deciding upon levels of funding, but in no way limits the Board's authority to issue regulations, policies, or in other ways to require grantees and contractors to comply with Board regulations and policies.

I am also concerned that this provision may be unconstitutional, in that it purports to limit a constitutional power of the President to make recess appointments.

Finally this provision violates the spirit of the Legal Services Authorization Act, which set up the Corporation to be free of political interference in individual funding decisions from both the executive branch and the Congress.

Mr. SMITH of New Jersey. Mr. Speaker, from listening to some of the accolades and praises this afternoon being lavishly heaped upon the conferees—and frankly, I, too, admire and respect the herculean effort made by the conferees—I reluctantly rise to sound a note of discordance.

I rise to point out to my colleagues that the conferees yesterday rejected the House position on barring funding of abortions under the Federal employees health benefits program.

This, Mr. Speaker, was a grave mistake. In our rush to adjourn, the conferees rejected another necessary ban on abortion funding.

As I am sure many Members know, the continuing resolution that expired on December 17 contained the so-called Ashbrook amendment to prohibit this unconscionable funding.

Mr. Speaker, I am sad to say that the conferees action was directly contrary to the sentiment of this body. On three separate occasions, this body has overwhelmingly expressed its will and desire to end these abortion subsidies: 228 to 170 in August 1980; 242 to 155 in May 1981; and 253 to 167 in July 1981.

These are hardly close votes—and I for one thought the message was quite clear: Get the Government out of the abortion business, we clearly do not want to subsidize the demise of the unborn.

The other body's conferees—with a 49-to-48 landslide mandate to back them up—prevailed in forcing the House to recede from its position. So much for majority rule.

Mr. Speaker, when all the arguments concerning the advisability of legislating on appropriations or the argument that the physical destruction of an unborn child is somehow an "earned" benefit are stripped away, we are faced with the real issue—and that is whether or not abortion denies fundamental human rights to a helpless minority—very young children.

Mr. Speaker, I know that abortion is controversial and divisive. I know

there are some in this Chamber who object to consideration of this issue. "Oh, that again," some in this Chamber say. "Let's do something more substantive," others say. We have no time for the social agenda—besides its Christmas, time to go home.

But let me point out, Mr. Speaker, this issue is literally a life or death proposition for tens of thousands of infants. The office of personnel management reports that in 1980, over 17,000 abortions were paid for under the Federal employees health benefits program. Therefore, this is no minor detail.

Mr. Speaker, over the last 2 years, I have often marveled over the priorities of this Chamber. We "agonize" over a pay raise, time and time again. Both parties engage in continuious one-upsmanship.

And meanwhile, every 30 seconds—because of our inaction, apathy and ignorance—a baby dies a violent death owing to our enlightened abortion policy.

● Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in total support of the position taken by the gentleman from Massachusetts (Mr. BOLAND) with respect to the Veterans' Administration medical computer program.

Mr. BOLAND, in his capacity as chairman of the Independent Agencies Subcommittee on Appropriations, has done an excellent job in attempting to assist the Veterans' Administration by providing direction with respect to computer capability. In many respects, the VA is behind the private sector in the use of computers for admission to hospitals, discharge from hospitals, in pharmacy, and in other matters. They need to move into the future and the action of Mr. BOLAND and his subcommittee will be extremely helpful in this regard.

I am pleased that they are holding firm in their position in conversations with the other body.●

● Mr. MONTGOMERY. Mr. Speaker, when the House recently passed the continuing resolution, I complimented the distinguished chairman of the Subcommittee on HUD-Independent Agencies, Mr. BOLAND, and other members of the committee, for the language contained in the resolution that would assure the early implementation of a computer capability within the Department of Medicine and Surgery of the Veterans' Administration.

I am delighted that the other body has receded and has accepted the House provision. I compliment the committee for holding firm to our position. Veterans everywhere will benefit greatly from our action. The quality of veterans' health care will be enhanced in every VA medical center. It will also mean that physicians will have a tool not now available to assist them in saving lives. In addition, giving VA hospitals computer capability will mean that veterans will not be required to wait long periods of time to see a physician or to get his or her prescription filled at a VA pharmacy.

Mr. Speaker, this is a very important decision by the Congress. The Veterans' Administration has wasted years because of its inability to make a decision on the kind of computer system to be installed in VA hospitals. Computer capability is desperately needed if the VA is to provide the quality of care veterans expect to receive.

The language contained in the resolution is unusual. We do not like having to make decisions like this, but veterans have waited long enough for this important ADP component to be placed in VA hospitals.

Mr. Speaker, I compliment the conferees for standing firm with the other body and congratulate the distinguished gentleman from Massachusetts (Mr. BOLAND) for his leadership on such an important veterans' health-care issue.

Now, Mr. Speaker, let me make a few brief remarks about another provision contained in the continuing resolution.

On June 2, 1982, I introduced H.R. 6527, the Military Widows and Surviving Children Benefits Restoration Act. This bill was introduced to restore benefits to widows and children of certain veterans who were killed on active duty in the Armed Forces or who died from service-connected disabilities related to their military service before August 13, 1981. These benefits were terminated last year under the Budget Reconciliation Act of 1981. Prior to the enactment of the Reconciliation Act, these benefits were available to the widows and children of veterans through the social security trust fund.

The legislation I introduced was in response to the request of a group of military widows led by Madeline Van Wagenen of California. This group of dedicated and determined women came to Washington early this year to make certain that Congress was made aware that termination of social security benefits last year had a tremendous adverse impact on the lives of many military families. These widows felt compelled to get personally involved in this issue. They felt the Department of Defense had assured their husbands, while serving on active duty, that certain social security benefits would be provided to members of their families were they to lose their lives in defense of their country. To put it another way, Mr. Speaker, these widows felt that a contract existed between the Department of Defense and the service member and that families relied on such an agreement in planning for the future. Although no such contract existed in a legal sense, I agree with them that our country did make a firm commitment that these benefits would be provided, and for that reason, I agreed to sponsor the legislation.

On Friday of last week, the Senate, by a vote of 94 to 1, adopted an amendment offered by Senator CRANSTON of California, to the continuing resolution (H.J. Res. 631) that would provide benefits to the widows and children of those servicemen killed on active duty during the Vietnam conflict or who died of service-connected disabilities prior to August 13, 1981.

The Cranston amendment would provide that the Department of Defense shall pay these benefits which would replace social security benefits paid to this limited class of American citizens prior to the passage of last year's Omnibus Budget Reconciliation Act. The Senator and I had introduced this legislation together, and I am pleased that the other body accepted his amendment which carries out the intent of our legislative proposals.

I am very pleased, Mr. Speaker, that the House conferees accepted the Cranston amendment in conference and that this provision is contained in the conference agreement.

The fact that the House accepted the amendment reaffirms our promise to the members of the Armed Forces that we will fully carry out our commitment to care for their families in the event they lose their lives in service to our Nation.

I want to thank my colleague, the distinguished and very able chairman of the full committee, Mr. WHITTEN, the very able ranking minority Member, the gentleman from Massachusetts, Mr. CONTE, and all conferees of the House for having accepted this provision. It is the right thing to do and the surviving widows of Vietnam veterans and their children, whose lives will be enriched by this provision, should it be signed into law, are most grateful for the support they have received by both Houses of Congress and the administration.●

● Mr. BONIOR of Michigan. Mr. Speaker, last week, an extraordinary event took place in the House. For the first time in memory, a number of amendments were made in order on a continuing resolution. This occurred because of pervasive sentiment in the House that Members were no longer going to swallow distasteful policy and programs without a vote in the name of expediency, that a few chesnuts were not going to be pulled from the fire by playing on the general desire of Members to act responsibly. Seven of the eight amendments made in order passed. The eight failed on a tie vote.

Three amendments were made in order in the area of energy and water resources: To delete funds for the Clinch River breeder reactor and the Garrison Diversion water project, and to prevent the expenditure of any funds for the O'Neill irrigation unit in

Nebraska. All were adopted in the House, the last two by overwhelming margins.

Despite this, the House conferees receded to Senate language restoring the projects even as the Senate was offering conciliatory language on at least one.

Mr. Speaker, there are two points to be made here: One institutional and the other economic.

First, I think it is fairly obvious that the House Appropriations Committee is no longer representative of the Congress on these issues. That is not an unusual situation. However, the circumvention of the expressed will of the majority first by parliamentary means then by manipulation of time constraints is a device with dangerous ends. Members will recall that it was only through the graces of the Rules Committee that Members were able to vote on these projects at all this year. A groundswell of dissatisfaction is building in the House that could rebound with full fury to permeate and countervene much of the constructive work done by the Appropriations Committee. Members will not suffer for long that their participation in the representative process will be rendered absolutely meaningless.

Second, if we cannot be expected to bring projects such as these to heel in times of fiscal austerity and sacrifice, if we are not allowed to choose between, at best, marginal utility programs and policies, and those of a critical need then we have lost our purpose and place in the fiscal process.

The President has threatened to kill a program that would have provided more than 200,000 jobs while he has lobbied on behalf of the O'Neill project which costs $368 million and benefits 300 people. Like it or not, we will have embraced those priorities by approving the conference report on the continuing resolution. I doubt that there is little else to be done in this instance. However, I hope that enough Members will be revolted by the position to which they have been relegated in the legislative process to put an end to it before this institution loses all credibility as an independent, deliberative, and representative body.●

● Mr. GLICKMAN. Mr. Speaker, I rise in opposition to this conference report. I do so for a very simple reason: We have applied a double standard in putting this bill together.

On the one hand, the conferees found it convenient to literally give both the House and Senate what they wanted as far as compensation is concerned. The House gets its pay raise, and Senators can now go out and take in honoraria and other outside earned income to the hearts' content.

On the other hand, they decided that they simply could not find the funds to help put Americans back to work as envisioned in the jobs bill that came out of the House-passed version of this legislation.

I, for one, will make sure that this pay raise does not end up in my own pocket. Instead, it will go to Kansas charitable organizations so that it can help people who really need it in these incredibly difficult economic times.●

● Mr. HAMMERSCHMITT. Mr. Speaker, the continuing resolution has some provisions in it with which I have problems. However, I enthusiastically support one of its provisions. The Reconciliation Act of 1981 eliminated social security benefits for a number of sons and daughters of individuals who had been killed in Vietnam or who died as a result of disabilities incurred in that conflict. I believe that many Members did not fully realize the effect of their action.

An organization called the Survivors of Sacrifice is composed of widows of the deceased servicemen. They have very effectively argued that a solemn promise was made to them at the time their husbands went into the service that in the event of their husband's death, this social security benefit would be available for their children irrespective of the receipt of any other benefit. I accept their argument. This Government did make a solemn promise in this regard.

The other body has amended the continuing resolution to restore social security for these young people and it is in the bill before us.

President Reagan recently wrote to me endorsing the Senate action. It is my hope that all of my colleagues will support the restoration of this benefit to this most deserving group of individuals.●

● Mr. SEIBERLING. Mr. Speaker, with the approval by both Houses of the conference report on the continuing appropriations resolution, it would appear that the current round of debate over the MX missile and its basing mode has been completed. That does not mean that it will not be revived next year. It undoubtedly will be.

However, the debate, which was kicked off by the President's speech to the Nation on November 22, 1982, has been salutary indeed. The weaknesses in the so-called Dense Pack basing mode were glaringly revealed.

Beyond that, it has become apparent that there is probably no way to base MX on land that would not leave it vulnerable to a first strike. This very vulnerability, in turn, would force the Russians to view the MX as part of a U.S. first-strike strategy, thereby dangerously destabilizing the current strategic balance between the two nuclear super powers.

The debate also served the very useful purpose of bringing out the falsity of the President's misleading portrayal of the strategic balance between the United States and the Soviet Union. The misleading nature of the President's original arguments was nowhere better described than in an article by Senator PATRICK J. LEAHY of Vermont that appeared in the Washington Post of November 28.

As Senator LEAHY said:

By distorting reality to make a case of basing the MX in Dense Pack, the president is doing a serious disservice to the American public. He is making us appear weak when we are immensely strong. He is making the Soviets look superior, when in fact, there is overall nuclear balance.

Senator LEAHY went on to point out that the most objectionable aspect of the President's speech was his attempt to portray the MX Dense Pack decision as essential to his arms control negotiations. Indeed, the supporters of the MX Dense Pack appeared to argue both sides of that issue: in one breath they said MX was needed as a "bargaining chip," but in the next breath they said they had no intention of giving it up in any arms control negotiations.

As Senator LEAHY said:

The way to halt the nuclear arms race is to freeze it immediately before there is another dramatic escalation. There is a nuclear balance now, and it is time to stop.

The full text of Senator LEAHY's article follows these remarks.

[From the Washington Post, Nov. 28, 1982]

REALITY—OR A CARICATURE?

(By Patrick J. Leahy)

Speaking to the nation on Nov. 22, President Reagan painted a frightening—and misleading—picture of overwhelming Soviet military might contrasted with a stagnant and aging American nuclear deterrent. After hearing the president, you have to wonder what has been holding the Soviets back. But, fortunately, the president was doing a commercial for basing the MX in Dense Pack and not describing reality.

Let's look at the facts rather than the caricature put forward by President Reagan. First and most important, his glossy television graphics omitted the principal measure of destructive capability, nuclear warheads. It is warheads, not missiles, that explode and kill. Had he shown this comparison, the country would have seen that the United States and the Soviet Union each has roughly 7,500 missile warheads. When bombs and short-range missiles on strategic bombers are added, the United States has a substantial lead, some 9,500 to perhaps 8,000 for the Soviets.

It is true, as the president said, that the Soviets have more missiles. But, again, let's look at the facts. By the mid-1970s, the United States completed placing multiple, independently targetable warheads on its missile force. The Soviets are still doing that. The Soviets have indeed introduced new types of land-based missiles since the United States began fielding the Minuteman, but Minuteman III is still more accurate than Soviet missiles, and a new, more powerful warhead and advanced guidance system is being deployed on it. To think of the modernized Minuteman of the 1980s as equivalent to the 1960s vintage Minuteman I is absurd.

The situation with regard to missiles at sea is overwhelmingly favorable to the

Unites States. The Soviets do have more sea-launched missiles, but only recently began introducing multiple warheads on them. Many of their sea-based missiles are short-range and aging; their submarines cannot compare with ours technologically or in capability. In our forces, all the old Polaris SLBMs have been replaced by longer-range Poseidons, and the Trident I is now entering the force, both in Poseidon submarines, the U.S. SLBM force has over 5,000 warheads, while the Soviets have only about 1,500. Although the president did not say so, we are fortunate that U.S. defense planners had the foresight to put over 50 percent of the American deterrent at sea. By contrast, the Soviets, with better than 65 percent of their warheads on land-based missiles, will face a grave vulnerablility of the bulk of their deterrent by the end of this decade when the super accurate Trident II is introduced.

Another comparison the president neglected to mention is the enormous bomber advantage possessed by the United States, both in numbers and capability. The United States has now begun deployment of air-launched cruise missiles on B52s, which will enable these planes to launch an attack hundreds of miles away from Soviets air defenses. The Soviet do not have a comparable capability. The United States plans to deploy more than 3,000 air-launched cruise missiles (and hundreds more on suface ships and submarines).

The president also made it appear that NATO is almost naked in the face of the Soviet SS20 intermediate-range missile. He ignored the hundreds of nuclear bombers the United States, Britain and France maintain in Western Europe and on aircraft carriers in adjacent waters. Nor did he allude to the fact that our British and French allies have about 180 sea- and land-based missiles aimed at the Soviet Union, or that they have ambitious modernization programs to upgrade these forces.

Finally, the president dredged up the old comparison of U.S. and Soviet defense spending, with the graphics showing the Soviets spending vastly more than we. The sad fact is that no one (outside the Kremlin) really knows how much the Soviets spend on their military. The United States estimates Soviet military spending by calculating how much it would cost us to buy and maintain equivalent forces. That means that every time the U.S. military gets a pay raise, estimates of Soviet defense spending go up. Every time there is a cost overrun on a big American defense program, Soviet weapons cost more.

By distorting reality to make a case of basing the MX in Dense Pack, the president is doing a serious disservice to the American public. He is making us appear weak when we are immensely strong. He is making the Soviets look superior, when in fact, there is overall nuclear balance. Concern for America's security did not begin with Ronald Reagan's election. Congress and every administration, Republican and Democratic, have worked hard to maintain adequate defenses—and although one can quarrel about whether priorities between nuclear and conventional forces were right, I believe that in terms of quality and capability, U.S. forces are second to none. To imply otherwise is not the way for the president to make his argument for Dense Pack.

Perhaps the most objectionable aspect of the president's speech was his attempt to portray the MX Dense Pack decision as designed to advance the cause of arms control. His message to Congress was either support Dense Pack or undermine the hope for serious reductions. This is the old bargaining-chip theory all over again—support something whether it makes sense or not just so we can trade it in arms control negotiations.

I don't buy it.

The way to halt the nuclear arms race is to freeze it immediately before there is another dramatic escalation. There is a nuclear balance now, and it is time to stop.●

● Mr. BIAGGI. Mr. Speaker, I am pleased that the conferees retained the language adopted by the Senate which protects SSI and AFDC recipients from having their heating assistance be used to offset SSI or AFDC payments. As an original member of the House Select Committee on Aging, I have maintained an active interest in this area. My Subcommittee on Human Services conducted a number of hearings across the country several years ago which set the stage for the passage of our low-income energy assistance program. Our hearings pointed out—in dramatic fashion—that low-income seniors were making the cruel choice of heating or eating in the face of rising energy costs.

This provision protects these low-income recipients by insuring that their SSI payments will not be reduced when nonprofit organizations provide funds—an "inkind" donation—to help them pay their heating and cooling bills. This would include, for example, a payment made by a nonprofit group directly to a utility company to help pay an individual's heating bill. I am pleased to see that we retained the Senate language which went one step beyond the House-passed language for SSI recipients and included AFDC beneficiaries as well. Clearly, the economic choices which low-income seniors face are just as pressing a problem for AFDC families and this language protects both these needy groups.

It is important that we address this issue in this fashion because SSI and AFDC law now require, with certain exceptions, that support and maintenance, inkind or cash, be counted as income in determining SSI eligibility and benefit amounts. Program regulations defines this aid as anything given to a recipient for food, shelter, or clothing. Gas, electricity and fuel assistance from the private sector can be considered "shelter support." Federal energy assistance programs are not considered as income under present SSI and AFDC program rules.

Mr. Chairman, at a time when we are trying to encourage the private sector to be more involved in helping those in our midst who are truly needy, we cannot allow such work to be penalizing the very people we are trying to help. At a time when fuel costs have risen between 20 and 60 percent in certain parts of the country in just this past year, we should be actively encouraging the private and nonprofit sector to step in and assist us with a job we need to do. I commend the conferees for their recognition of this problem as well as our colleague Mr. TAUZIN who offered this amendment in the House and Senator JOHN HEINZ, chairman of the Senate Committee on Aging who authored this provision in the Senate.●

● Mr. GINN. Mr. Speaker, the continuing resolution contains a provision that postpones the effective date of a decision by the Copyright Royalty Tribunal until March 15, 1983. This action by Congress was essential to allow cable operators enough time to seek court review of the CRT's decision. It was also critical to prevent the loss of diversity that was threatened by the CRT's decision.

Mr. Speaker, the conferees agreed that March 15, 1983, would be the effective date of the CRT's decision. A cable system that carries a distant signal during this next 6-month period will be liable for a mixed royalty fee that would reflect charges for the signal for the 2½, month period under the current rates (until March 15, 1983) and for the remainder of the 6-period at the increased rates, only if a cable operator carries the signal during the second part of this bifurcatured 6-month period. The Congress does not intend that a cable operator who carries a distant signal after the March 15 date should have to pay the increased rates retroactive to January 1. That interpretation would frustrate the very purpose of this provision. This next 6-month period is clearly divided into two separate segments, each of which will have its own rates.

Similarly, Mr. Speaker, I believe that the Tribunal should look carefully at whether an operator should have to pay for a full 6-month period for a signal that he drops on or before March 15. It seems to me that Congress has changed the normal circumstances under which these decisions have been made in the past and an operator should not have to pay for a full 6 months, if he, in fact, only carries the signal for 2½ months until March 15.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, although I realize the urgency to pass a continuing resolution, as a stop gap funding measure, to prevent a major shut down of our Government curtailing services to the American public, I regret that I must rise in opposition to the conference report to accompany this legislation now before us. This agreement includes a major objectionable provision, which would raise Members' salaries by 15 percent to $69,800 annually, and repeal the outside earnings limitation for Senators.

Earlier this week, during House debate, I opposed the continuing resolution presented to the House from

the Appropriations Committee which contained a 27 percent salary increase for Members of Congress. I supported and voted for an amendment proposed first to reduce that raise to 15 percent which passed and then also voted for the Traxler amendment proposed next, which would have continued the pay cap on congressional salaries that has been in effect for the past 5 years. This one failed on a tie vote. Of course, both amendments would have reduced the $77,300 salary proposed in the continuing resolution brought to the floor by the House Appropriations Committee.

Now, we are again faced with a conference agreement that grants Members of the House a 15-percent pay raise. This unrelated pay raise was attached to a critical appropriations bill by the House leadership. We should now act to instruct the conferees to repeal this provision.

Earlier this session, I cosponsored legislation that would require that a recorded vote be taken on any bill or resolution that adjusts the rate of pay for Members, affect the limitation on outside earnings or provides Members with income tax credits or deductions. I provides that such changes in compensation be the only item considered—this is a critical feature of my proposal. It will continue to press forward for enactment of my bill so that these embarrassing predicaments can be avoided in the future. It is incumbent on Members to show the people of this Nation that we want open and proper procedures as well as full accountability on compensation issues. By attaching the pay raise to a continuing resolution, an umbrella bill, during the 11th hour of the 97th Congress, we are doing a disservice to this body.

Mr. Speaker, I must oppose the passage of the measure in its present form.●

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Let me repeat that in this resolution I do not think the country is sacrificing anything in that we know what the situation was with regard to the jobs bill. I would like to say again that we have not given up the idea that we need to do what we can to improve the economic situation in this country. We are asking the President to consider all of these things in connection with the budget for fiscal year 1984 which will be submitted to the Congress next month. We will be back here next year and we will have the opportunity to deal with these problems then. But under the circumstances, I think we have a good bill, and I wish to thank all of the Members for their support and for their kind statements.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. DANNEMEYER. Mr. Speaker, I demand a division.

On a division (demanded by Mr. DANNEMEYER) there were—ayes 232, noes 54.

So the conference report was agreed to.

A motion to reconsider was laid on the table.

□ 1300

WAIVING REQUIREMENT THAT ENROLLMENT OF HOUSE JOINT RESOLUTION 631 BE PRINTED ON PARCHMENT FOR DURATION OF 97TH CONGRESS, AND ENROLLMENT OF HOUSE JOINT RESOLUTION 631 BE CERTIFIED AS TRULY ENROLLED JOINT RESOLUTION

Mr. WRIGHT. Mr. Speaker, I offer a privleged concurrent resolution (H. Con. Res. 436) and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

Mr. WRIGHT. I ask unanimous consent that reading of the text of the concurrent resolution be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object.

The SPEAKER. The Chair understands that this has been agreed to by the minority.

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I shall not, I thought while a good portion of the Members were here we ought to give them a little idea of how the scenario will unfold for the balance of this day, if I might.

Under my reservation, Mr. Speaker, I would be happy to yield to the distinguished majority leader, if he would give us a little idea of how the rest of the day might go—Members would probably appreciate that.

Mr. WRIGHT. I thank the gentleman for yielding.

Assuming the adoption of this concurrent resolution, which does not do anything except waive the requirement that the bill be printed on parchment paper, that is all it does, assuming its adoption, then this legislation is ready to go to the other body and thence to the President presumably upon its passage.

Obviously we must await the action of the President, rather than leaving.

There are some 16 unanimous-consent requests of which the House leadership has been notified, some of them involve such things as conference committee reports.

Mr. MICHEL. What was that number again of unanimous-consent requests?

Mr. WRIGHT. I am told there are 16 who have notified the leadership and the Speaker that they would like to be recognized for a unanimous-consent request of one kind or another.

Mr. MICHEL. I would hope the gentleman would be sure that the minority is notified of exactly what those are, and in what form. We want to be cooperative. But when we get in this last day—and the gentleman very well knows the shenanigans that can be pulled—and we get the pressure "If you are going to do it for so and so, why not for so and so." And somewhere along the line we have to call a halt to the whole business.

Mr. WRIGHT. I sympathize with my friend's concern. I assure him, the distinguished minority leader, that we will share with him the knowledge we have. We have the list available. We will make it immediately available to the minority leader, and it will be continuously available to the minority leadership. There will be no effort to get something aboard that Members are not aware of.

I hope nothing is offered that has not been cleared with the minority. When a Member comes to me and asks for recognition under a unanimous-consent request, or to the Speaker, we ask that Member if he has cleared it with the minority. And only upon that affirmative assurance do we entertain recognizing such a Member.

So that will be our policy throughout the day. The gentleman may be assured that right of his and of his Members on his side of the aisle to know what is being considered will be fully protected. Because it is a right to which all Members are entitled.

Now, beyond that, I am told that the other body is working desperately to complete action on the highway legislation in hopes that a conference committee report may be considered on that before our final adjournment.

Beyond that I am not aware of any urgencies. While it is possible that the Caribbean Basin Initiative may be enacted by the Senate, I am not in any position to discuss what they are going to do about it.

The SPEAKER. The Chair will announce there will be no unanimous-consent request recognized unless it has already been cleared by either the leadership on the minority side or the ranking member.

Let us not go into another hour and a half dialog as we have been doing all week.

Many Members have come up to the Chair and said, "We have family obli-

gations at home. When are you going to get us out of here."

The Chair hopes the Members will cooperate in accommodating the needs of the body and their fellow Members.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, did I understand the majority leader correctly in stating that there would be no motions to suspend the rules on legislation other than conference committee reports considered today?

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Florida.

Mr. PEPPER. I thank the gentleman for yielding.

Mr. Speaker, the Rules Committee has not met and has no contemplation to meet.

Mr. WRIGHT. If the gentleman will yield further, we do not have any plans of which I am aware at this time to suspend the rules.

Mr. SENSENBRENNER. I thank the majority leader.

Mr. PEPPER. If the distinguished minority leader will yield further.

Mr. MICHEL. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Speaker, there is a certain bill which has passed this House. It is now embodied in S. 1939. It provides for the establishment of an institute for research in arthritis. It has been held up because of some differences of opinion of some other matter in the Senate. But Senator KENNEDY has to do I think with the release of it, and told me last night that he expected the Senate to pass the bill. And I wanted to advise the able gentleman that if we give him more details, we might bring that up, if the Senate does pass it.

Mr. MICHEL. The gentleman from Illinois would have to have some more details because we do not have what we need right at the moment.

The SPEAKER. The Chair understands that is a matter about which the gentleman from Florida should consult with the chairman from the Committee on Energy and Commerce. The Chair would advise the gentleman to go to the gentleman on the majority side and see if he can get it cleared there, and then go to the minority.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas to dispense with reading.

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 436

Resolved by the House of Representatives (the Senate concurring), That the requirement of 1 U.S.C. 107 that the enrollment of House Joint Resolution 631 or any measure continuing appropriations be printed on parchment be waived for the duration of the Ninety-seventh Congress, and that the enrollment of House Joint Resolution 631 or any measure continuing appropriations be in such form as may be certified by the Committee on House Administration to be a truly enrolled joint resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5002, FISHERY CONSERVATION AND MANAGEMENT

Mr. BREAUX submitted the following conference report and statement on the bill (H.R. 5002) to improve fishery conservation and management:

CONFERENCE REPORT (H. REPT. NO. 97-981)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5002) to improve fishery conservation and management having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same.

And the Senate agree to the same.

SECTION 1. AMENDMENT REFERENCE.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or subsection, the reference shall be considered to be made to a section or subsection of the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (90 Stat. 31 et seq., 16 U.S.C. 1801 et seq.).

SEC. 2. FOREIGN FISHING.

(a) Section 201 (16 U.S.C. 1821) is amended as follows:

(1) Subsection (c)(2)(D) is amended to read as follows:

"(D) United States observers required under subsection (i) be permitted to be stationed aboard any such vessel and that all of the costs incurred incident to such stationing, including the costs of data editing and entry and observer monitoring, be paid for, in accordance with such subsection, by the owner or operator of the vessel;".

(2) Subsection (c)(4) is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) take, or refrain from taking, as appropriate, actions of the kind referred to in subsection (e)(1) in order to receive favorable allocations under such subsection.".

(3) The first sentence of subsection (d)(4) is amended by striking out "shall be allocated" in the matter following subparagrpah (B) and inserting in lieu thereof "may be allocated".

(4) Subsection (e)(1) is amended to read as follows:

"(e) ALLOCATION OF ALLOWABLE LEVEL.—(1)(A) The Secretary of State in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to each fishery subject to the exclusive fishery management authority of the United States.

"(B) From the determinations made under subparagraph (A), the Secretary of State shall compute the aggregate of all of the fishery allocations made to each foreign nation.

"(C) The Secretary of State shall initially release to each foreign nation for harvesting up to 50 percent of the allocations aggregate computed for such nation under subparagraph (B), and such release of allocation shall be apportioned by the Secretary of State, in cooperation with the Secretary, among the individual fishery allocations determined for that nation under subparagraph (A). The basis on which each apportionment is made under this subparagraph shall be stated in writing by the Secretary of State.

"(D) After the initial release of fishery allocations under subparagraph (C) to a foreign nation, any subsequent release of an allocation for any fishery to such nation shall only be made—

"(i) after the lapse of such period of time as may be sufficient for purposes of making the determination required under clause (ii); and

"(ii) if the Secretary of State and the Secretary, after taking into account the size of the allocation for such fishery and the length and timing of the fishing season, determine in writing that such nation is complying with the purposes and intent of this paragraph with respect to such fishery.

If the foreign nation is not determined under clause (ii) to be in such compliance, the Secretary of State shall reduce, in a manner and quantity he considers to be appropriate (I) the remainder of such allocation, or (II) if all of such allocation has been released, the next allocation of such fishery, if any, made to such nation.

"(E) The determinations required to be made under subparagraphs (A) and (D)(ii), and the apportionments required to be made under subparagraph (C), with respect to a foreign nation shall be based on—

"(i) whether, and to what extent, such nation imposes tariff barriers or nontariff barriers on the importation, or otherwise restricts the market access, of United States fish or fishery products;

"(ii) whether, and to what extent, such nation is cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

"(iii) whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of United States fishing regulations;

"(iv) whether, and to what extent, such nation requires the fish harvested from the fishery conservation zone for its domestic consumption;

"(v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

"(vi) whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

"(vii) whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

"(viii) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.".

(5)(A) Subsection (i) is amended—

(i) by amending paragraph (3) to read as follows:

"(3) Observers, while stationed aboard foreign fishing vessels, shall carry out such scientific, compliance monitoring, and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act; and shall cooperate in carrying out such other scientific programs relating to the conservation and management of living resources as the Secretary deems appropriate."; and

(ii) by adding at the end thereof the following new paragraph:

"(6) If at any time the requirement set forth in paragraph (1) cannot be met because of insufficient appropriations, the Secretary shall, in implementing a supplementary observer program:

"(A) certify as observers, for the purposes of this subsection, individuals who are citizens or nationals of the United States and who have the requisite education or experience to carry out the functions referred to in paragraph (3);

"(B) establish standards of conduct for certified observers equivalent to those applicable to Federal personnel;

"(C) establish a reasonable schedule of fees that certified observers or their agents shall be paid by the owners and operators of foreign fishing vessels for observer services; and

"(D) monitor the performance of observers to ensure that it meets the purposes of this Act.

(6) Such section is further amended by adding at the end thereof the following new subsection:

"(j) Recreational Fishing.—Notwithstanding any other provision of this title, foreign fishing vessels which are not operated for profit may engage in recreational fishing within the fishery conservation zone and the waters within the boundaries of a State subject to obtaining such permits, paying such reasonable fees, and complying with such conditions and restrictions as the Secretary and the Governor of the State (or his designee) shall impose as being necessary or appropriate to insure that the fishing activity of such foreign vessels within such zone or waters, respectively, is consistent with all applicable Federal and State laws and any applicable fishery management plan implemented under section 305. The Secretary shall consult with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating in formulating the conditions and restrictions to be applied by the Secretary under the authority of this subsection.".

(b) The amendments made by subsection (a)(1) and (5)(A)(ii) shall take effect January 1, 1984.

SEC. 3. FOREIGN FISHING PERMITS.

Section 204(b) (16 U.S.C. 1824(b)) is amended—

(1) by inserting "hold" immediately before "capacity" in paragraph (3)(B);

(2) by striking out "and shall be set forth under the name of each Council to which it will be transmitted for comment" in that portion of paragraph (4) which precedes subparagraph (A);

(3) by striking out subparagraphs (B) and (C) of paragraph (4) and inserting in lieu thereof the following:

"(B) a copy of the application to the Secretary of the department in which the Coast Guard is operating; and

"(C) a copy or a summary of the application to the appropriate Council, upon its request."; and

(4) by striking out "After receipt of an application transmitted under paragraph (4)(B), each appropriate Council shall" in paragraph (5) and inserting in lieu thereof "After receiving a copy or summary of an application under paragraph (4)(C), the Council may".

SEC. 4. NATIONAL STANDARDS.

Section 301(b) (16 U.S.C. 1851(b) is amended to read as follows:

"(b) The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.".

SEC. 5 REGIONAL FISHERY MANAGEMENT COUNCIL ORGANIZATION AND FUNCTIONS.

Section 302 (16 U.S.C. 1852) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "pursuant to subsection (b)(C)" each place it appears therein and inserting in lieu thereof "in accordance with subsection (b)(2)"; and

(B) by amending paragraph (8) to read as follows:

"(8) Western Pacific Council.—The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).".

(2) Subsection (b) is amended—

(A) by amending paragraph (1)(C) to read as follows:

"(C) The members required to be appointed by the Secretary in accordance with subsection (b)(2).";

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting immediately after paragraph (1) the following new paragraph:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the geographical area concerned.

"(B) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy. The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of the required knowledge or experience required by subparagraph (A). If the Secretary determines that any individual is not qualified, he shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question.

"(C) Whenever the Secretary makes an appointment to a Council, he shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.";

(D) by striking out "pursuant to paragraph (1)(C)" in subsection (b)(3) (as redesignated by subparagraph (B)) and inserting in lieu thereof "by the Secretary in accordance with subsection (b)(2)"; and

(E) by adding at the end thereof the following new paragraph:

"(5) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) if the Council concerned first recommends removal by not less than two-thirds of the members who are voting members. A removal recommendation of a Council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.".

(3) Subsection (f)(6) is amended by inserting after the first sentence thereof the following new sentence: "The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (c), must be consistent with the procedural guidelines set forth in subsection (i)(2).".

(4) Subsection (h) is amended as follows:

(A) Paragraph (1) is amended by inserting "that requires conservation and management" immediately after "authority".

(B) Paragraph (2) is amended by striking out "204(b)(4)(B)" and inserting in lieu thereof "204(b)(4)(C)".

(C) Paragraph (3) is amended by inserting immediately before the semicolon at the end thereof the following: "(and for purposes of this paragraph, the term 'geographical area concerned' may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area)".

(D) Paragraph (4) is amended to read as follows:

"(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;".

(5) Such section is further amended by adding at the end thereof the following new subsection:

"(i) PROCEDURAL MATTERS.—(1) The Federal Advisory Committee Act (5 U.S.C. App. 1) shall not apply to the Councils or to the scientific and statistical committees or advisory panels of the Councils.

"(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, and of the scientific and statistical committee and advisory panels of a Council:

"(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.

"(B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.

"(C) Timely public notice of each regular meeting and each emergency meeting, in-

cluding the time, place, and agenda of the meeting, shall be published in local newspapers in the major fishing ports of the council's region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity. Timely notice of each regular meeting shall also be published in the Federal Register.

"(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings.

"(E) Minutes of each meeting shall be kept and shall contain a record of the persons present, and accurate description of matters discussed and conclusions reached, and copies of all statements filed.

"(F) Subject to the procedures established by the Council under paragraph (4), and the guidelines prescribed by the Secretary under section 303(d), relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council.

"(3)(A) Each Council, scientific and statistical committee, and advisary panel—

"(i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and

"(ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested;

and if any meeting or portion is closed, the Council, committee, or panel concerned shall publish notice of the closure in local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including the time and place at the meeting. Subparagraphs (D) and (F) shall not apply to any meeting or portion thereof that is so closed.

"(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of that State concerning the confidentiality of such statistics.".

SEC. 6. CONTENTS OF PLANS.

Section 303 (16 U.S.C. 1853) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking out "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting immediately after paragraph (6) the following new paragraph:

"(7) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region; and".

(2) Subsection (c) is amended to read as follows:

"(c) PROPOSED REGULATIONS.—The proposed regulations which the Council deems necessary or appropriate for purposes of carrying out a plan or amendment to a plan shall be submitted to the Secretary simultaneously with the plan or amendment for action by the Secretary under sections 304 and 305."; and

(3) Such section is amended by adding at the end thereof the following new subsection:

"(e) DATA COLLECTION PROGRAMS.—If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for the purposes of—

"(1) determining whether a fishery management plan is needed for a fishery; or

"(2) preparing a fishery management plan;

the Council may request that the Secretary implement a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for a data collection program is not justified, he shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after he receives that request.".

SEC. 7. ACTION BY SECRETARY.

(a) Section 304 (16 U.S.C. 1854) is amended as follows:

(1) Subsections (a) and (b) are amended to read as follows:

"(a) ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.—(1) After the Secretary receives a fishery management plan, or amendment to a plan, which was prepared by a Council (the date of receipt of which is hereafter in this section referred to as the 'receipt date'), the Secretary shall—

"(A) immediately commence a review of the management plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law;

"(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 75-day period beginning on the receipt date; and

"(C) by the 30th day after the receipt date—

"(i) make such changes in the proposed regulations submitted for the plan or amendment under section 303(c) as may be necessary for the implementation of the plan, and

"(ii) publish such proposed regulations, including any changes made thereto under clause (i), in the Federal Register together with an explanation of those changes which are substantive.

"(2) In undertaking the review required under paragraph (1)(A), the Secretary shall—

"(A) take into account the data, views, and comments received from interested persons;

"(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

"(b)(1) A plan or amendment shall take effect and be implemented in accordance with section 305(c) if—

"(A) the Secretary does not notify the Council in writing of his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or

"(B) at any time subsequent to the 75th day after the receipt date and before such 95th day, the Secretary notifies the Council in writing that he does not intend to disapprove, or partially disapproval, the plan or amendment.

"(2) If after review under subsection (a) the Secretary determines that the plan or amendment is not consistent with the criteria set forth in paragraph (1)(A) of that subsection, the Secretary shall notify the Council in writing of his disapproval or partial disapproval of the plan or amendment. Such notice shall specify—

"(A) the applicable law with which the plan or amendment is inconsistent;

"(B) the nature of such inconsistency; and

"(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

"(3)(A) If the Secretary disapproves, or partially disapproves, a proposed plan or amendment under paragraph (2), the Council may submit a revised plan or amendment, accompanied by appropriately revised proposed regulations, to the Secretary.

"(B) After the Secretary receives a revised plan or amendment under subparagraph (A) or (C)(ii), the Secretary shall immediately—

"(i) commence a review of the plan or amendment to determine whether it complies with the criteria set forth in subsection (a)(1)(A);

"(ii) publish in the Federal Register a notice stating that the revised plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 30-day period beginning on the date (hereinafter in this paragraph referred to as the 'revised receipt date') the plan or amendment was submitted to the Secretary under subparagraph (A) or (C)(ii); and

"(iii) review the revised proposed regulations, if any, submitted by the Council and make such changes to them as may be necessary for the implementation of the plan, and thereafter publish such revised proposed regulations (as so changed) in the Federal Register together with an explanation of each of such changes that is substantive.

"(C)(i) Before the close of the 60th day after the revised receipt date, the Secretary, after taking into account any data, views, or comments received under subparagraph (B)(ii), shall complete the review required under paragraph (B)(i) and determine whether the plan or amendment complies with the criteria set forth in subsection (a)(1)(A). If the Secretary determines that a plan or amendment is not in compliance with such criteria, he shall immediately notify the Council of the disapproval of the plan or amendment.

"(ii) After notifying a Council of disapproval under clause (i), the Secretary shall promptly provide to the Council a written statement of the reasons on which the disapproval was based and advise the Council that it may submit a further revised plan or amendment, together with appropriately re-

vised proposed regulations, for review and determination under this paragraph.

"(D) A revised plan or amendment shall take effect and be implemented in accordance with section 305(c) if the Secretary does not notify the Council, in writing, by the close of the 60th day after the revised receipt date of his disapproval of the plan or amendment.".

(2) Subsection (c)(1) is amended—

(A) by amending paragraph (1)—

(i) by amending subparagraph (B) to read as follows:

"(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment, as the case may be.", and

(ii) by adding immediately after the last sentence thereof the following flush sentence:

"The Secretary shall also prepare such proposed regulations as he deems necessary or appropriate to carry out each plan or amendment prepared by him under this paragraph."; and

(B) by amending paragraph (2) to read as follows:

"(2)(A) Whenever, under paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall immediately—

"(i) submit such plan or amendment, and proposed regulations to implement such plan or amendment, to the appropriate Council for consideration and comment;

"(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amemdment may be submitted to the Secretary during the 75-day period beginning on the date the plan or amendment was submitted under clause (i); and

"(iii) by the 30th day after the date of submission under clause (i), submit for publication in the Federal Register the proposed regulations to implement the plan or amendment.

"(B) The appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 75-day period referred to in subparagraph (A)(ii). After the close of such 75-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may implement such plan or amendment under section 305(c).".

(3) Subsection (d) is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits.".

(b) The amendments made by subsection (a) shall only apply with respect to fishery management plans and amendments thereto that are initially submitted to the Secretary of Commerce on or after the date of the enactment of this Act for action under section 304.

SEC. 8. IMPLEMENTATION OF PLANS.

Section 305 (16 U.S.C. 1855) is amended as follows:

(1) Subsections (a) and (b) are repealed.

(2) Subsections (c) is amende to read as follows:

"(c) Implementation.—The Secretary shall promulgate each regulation that is necessary to carry out a plan of amendment—

"(1) within 110 days after the plan or amendment was received by him for action under section 304(a), if such plan or amendment takes effect under section 304(b)(1);

"(2) within 75 days after a revised plan or amendment was received by him under section 304(b), if such plan or amendment takes effect under paragraph (3)(D) of such section; or

"(3) within such time as he deems appropriate in the case of a plan or amendment prepared by him under section 304(c).".

(3) Subsection (e) is amended to read as follows:

"(e) EMERGENCY ACTIONS.—(1) If the Secretary finds that an emergency exists involving any fishery, he may promulgate emergency regulations necessary to address the emergency, without regard to whether a fishery management plan exists for such fishery.

"(2) If a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

"(A) the Secretary shall promulgate emergency regulations under paragraph (1) to address the emergency if the council, by unanimous vote of the members who are voting members, requests the taking of such action; and

"(B) the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action.

"(3) Any emergency regulation which changes any existing fishery management plan or amendment shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

"(A) shall be published in in the federal register together with the reasons therefor;

"(B) shall remain in effect for not more than 90 days after the date of such publication, except that any such regulation may, by agreement of the Secretary and the council, be promulgated for one additional period of not more than 90 days; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.".

(4) Subsection (f) is repealed.

(5) Such section is further amended by adding at the end thereof the following new subsection:

"(h) Effect of Certain Laws on Certain Time Requirements.—The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order Numbered 12291, dated February 17, 1981, shall be complied with within the time limitations specified in subsection (c) or section 304(a) and (b) as they apply to the functions of the Secretary under such provisions.".

SEC. 9. STATE JURISDICTION.

Section 306(a) (16 U.S.C. 1856(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "For purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend (1) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party and (2) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich.".

SEC. 10. SUBPENA POWER.

Section 308 (16 U.S.C. 1858) is amended by adding at the end thereof the following new subsection:

"(e) SUBPENAS.—For the purposes of conducting any hearing under this section, the Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.".

SEC. 11. OFFENSES.

(a) Section 309(b) (16 U.S.C. 1859(b)) is amended by striking out ", or imprisonment for not more than 1 year, or both".

(b) The amendments made by subsection (a) applies with respect to offenses committed under section 309 on or after the date of the enactment of this Act.

SEC. 12. CIVIL FORFEITURES.

Section 310(a) (16 U.S.C. 1860(a)) is amended by inserting "(or the fair market value thereof)" immediately after "fish" each place it appears.

SEC. 13. POWERS OF AUTHORIZED OFFICERS.

Section 311(b) (16 U.S.C. 1861(b)) is amended—

(1) by inserting "(1)" immediately before "Any officer";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by redesignating subparagraphs (A), (B), (C), (D), and (E) as clauses (i), (ii), (iii), (iv), and (v), respectively; and

(4) by adding at the end thereof the following new paragraph:

"(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony. The arrest authority described in the preceding sentence may be conferred upon an officer or employee of a State agency, subject to such conditions and restrictions as are set forth by agreement between the State agency, the Secretary, and, with respect to enforcement operations within the fishery conservation zone, the Secretary of the department in which the Coast Guard is operating.".

SEC. 14. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Section 406 (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraphs:

"(9) $59,000,000 for the fiscal year ending September 30, 1983.

"(10) $64,000,000 for the fiscal year ending September 30, 1984.

"(11) $69,000,000 for the fiscal year ending September 30, 1985.".

(b)(1) Subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a(c)) is amended—

(A) by inserting "(1)" immediately before "Whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(2) In the case of any State that has implemented an interstate fisheries management plan for anadromous fishery resources, the Federal share of any grant made under this section to carry out activities required by such plan shall be 90 percent.".

(2) Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by adding after paragraph (3) the following new paragraph:

"(4) $7,500,000 for each of fiscal years 1983, 1984, and 1985.".

(3) The first sentence of section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking out "and" after "1981,", and by inserting immediately before the period the following: ", and not to exceed $1,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984".

SEC. 15. TECHNICAL AMENDMENTS.

(a) Section 3(27) (16 U.S.C. 1802(27)) is amended to read as follows:

"(27) The term 'vessel of the United States' means—

"(A) any vessel documented under the laws of the United States;

"(B) any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 et seq.) and reassuring less than 5 net tons; or

"(C) any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 et seq.) and used exclusively for pleasure.".

(b) Section 307(2) (16 U.S.C. 1857(2)) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) in fishing within the boundaries of any State, except recreational fishing permitted under section 201(j);"; and

(B) striking out "in fishing" in subparagraph (B) and inserting in lieu thereof "in fishing, except recreational fishing permitted under section 201(j),".

(c) The last sentence of section 311(a) (16 U.S.C. 1861(a)) is repealed.

(d) Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking out "and 1982" and inserting in lieu thereof "1982, 1983, 1984, and 1985".

JOHN BREAUX,
GERRY E. STUDDS,
GENE SNYDER,
EDWIN B. FORSYTHE,
Managers of the Part on the House.

BOB PACKWOOD,
SLADE GORTON,
TED STEVENS,
ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT STATEMENT OF MANAGERS

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5002) to improve fishery conservation and management, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying Conference report:

The Senate amendment to the text of the bill struck a provision passed by the House which created three obligatory seats for the State of California on the Pacific Fishery Management Council. These seats are in addition to the seats held by the principal State official with marine fishery management responsibility and expertise.

The Conferees recommend that the House recede from its disagreement to the amendment of the Senate and agree to the same. The bill supported by the House and Senate Conferees in light of this recommendation is summarized as follows.

SECTION-BY-SECTION ANALYSIS

Section 1. Amendment reference

Section 1 contains an amendment reference indicating that, unless specifically noted otherwise in the bill, all amendment references shall be considered as made to "An Act to provide for the conservation and management of the fisheries, and for other purposes," approved April 13, 1976. The short title for that 1976 law is the Magnuson Fishery Conservation and Management Act (MFCMA).

Section 2. Foreign fishing

Section 2 makes several amendments to the foreign fishing provisions of Section 201 of the MFCMA.

Section 2(a)(1) amends Section 201(c)(2)(D) of the MFCMA to require, as a condition of each Governing International Fishery Agreement (GIFA), that the foreign nation involved permit U.S. observers to be stationed aboard their vessels operating under the exclusive management authority of the U.S. The provision further requires that such nations pay for all costs of such stationing in accordance with Section 201(i) of the MFCMA including the costs associated with the processing of data developed by such observers.

Section 2(a)(2) amends Section 201(c)(4) of the MFCMA by adding a new provision which requires, as a condition of a GIFA, a binding commitment on the part of foreign nations to comply with Section 201(e)(1) of the MFCMA.

Section 2(a)(3) amends Section 201(d)(4) of the MFCMA, which provides a mechanism for the phase-out of foreign fishermen from the U.S. Fishery Conservation Zone (FCZ), by deleting the requirement that the Secretary of State reallocate to foreign nationals, in succeeding harvesting seasons, surplus fishery resources not harvested by the U.S. fishing industry.

Section 2(a)(4) relates to the method by which fishery allocations are released to a particular foreign nation. Under the new provision, the Secretary of State, in cooperation with the Secretary of Commerce, must first determine a nation's allocation, if any, with respect to each fishery subject to the exclusive management authority of the United States. From this determination, the Secretary of State must determine the aggregate of all fishery allocations to each foreign nation and then initially release up to 50 percent of this aggregated total. The 50 percent release provision, however, does not necessarily apply equally to each fishery which is part of the aggregate total allocation. This will permit the Secretary to allow for small and incidental foreign fisheries while maximizing the flexibility of the Secretary in implementing "fish and chips" policy.

After the initial releases are made, the Secretaries of State and commerce must determine in writing that the foreign nation is continuing to comply with "fish and chips" before undertaking further allocation releases. The legislation does not specify a standard time that must elapse between the initial and subsequent allocation releases, and indicates that the Secretaries should take into account the size of the allocation given to the foreign nation under consideration for a particular fishery, as well as the length and timing of the fishing season for that fishery. If within that time frame, however, the Secretaries determine that the foreign nation in question is not complying with "fish and chips" policy, the Secretary of State is directed to reduce, in a manner and quantity he determines appropriate, the subsequent allocation release. If all of the annual allocation for a particular fishery has already been released to a non-complying foreign nation, the Secretary of State is directed to reduce the next year's allocation, of such fishing, if any, to such foreign nation.

Section 2(a)(5)(A) amends Section 201(i) of the MFCMA to provide a mechanism for ensuring U.S. observer coverage of 100 percent of the foreign fishing vessels operating in the U.S. FCZ and to clarify the responsibilities of such observers. Section 2(a)(5)(A)(i) requires that observers, in addition to their normal responsibilities under Section 201(i)(3) of the MFCMA, cooperate in carrying out other scientific programs such as the monitoring of sea bird mortality, as the Secretary of Commerce deems appropriate. Section 2(a)(5)(A)(ii) provides that in the event that appropriations are not sufficient to achieve the 100 percent observer coverage of foreign vessels required under Section 201(i), the Secretary of Commerce, beginning in 1984, is directed to set up a supplementary system involving the certification of U.S. citizens who have the requisite education or experience to carry out the functions of observers. It will be incumbent upon the foreign fishing vessel, operating under a U.S. permit, to contract with such certified individuals. This provision will also apply to foreign vessels operating in the U.S. zone for highly migratory species of tuna, if such vessels have a permit for an incidental take of billfish.

Section 2(a)(6) amends Section 201(i) of the MFCMA by adding a new provision which permits foreign nationals to engage in recreational fishing within U.S. waters including all State waters even if the nation of which that person is a citizen does not have a Governing International Fishery Agreement (GIFA) or other fisheries treaty with the United States. Such foreign nation must agree to obtain any permit, pay any fee and comply with any conditions or restrictions imposed. The Secretary of Commerce in consultation with the Coast Guard will make determinations with regard to activities by such vessels in the federal FCZ and the Governor of each State will make determinations when the proposed activity would occur in state waters. In no case can the foreign vessel operate in a manner inconsistent with applicable federal or state law and any applicable fishery management plan.

Section 2(b) provides that Sections 2(a)(1) and 2(a)(5)(A)(ii) relating to U.S. observers

stationed aboard foreign vessels shall take effect on January 1, 1984.

Section 3. Foreign fishing permits

Section 3 amends Section 204 of the MFCMA relating to foreign fishing permits.

Section 3(1) amends Section 204(b) of the MFCMA to require that an application for a foreign fishing permit contains, in addition to other information, the hold capacity of a vessel which would operate pursuant to such permit.

Paragraphs (2), (3) and (4) of Section 3 amend Section 204(b) of the MFCMA to relieve the Regional Fishery Management Councils of their responsibility to review each and every foreign fishing permit application made pursuant to Section 204(b) of the MFCMA, and to make such review subject to Council discretion.

Section 4. National standards

Section 4 amends Section 301(b) of the MFCMA to clarify that the guidelines, promulgated by the Secretary of Commerce to assist the eight Regional Fishery Management Councils in the development of fishery management plans pursuant to Section 303 of the MFCMA, are purely advisory in nature and do not carry the force and effect of law.

Section 5. Regional fishery managment council organization and functions

Section 5 amends Section 302 of the MFCMA which provides for the establishment, structure, and functions of the eight Regional Fishery Management Councils.

Section 5 (1)(B) of the House bill provides for the appointment of two additional voting seats on the Pacific Fishery Management Council for the State of California. Thus, in addition to the obligatory seat already held by the principal State official with marine fishery management responsibility and expertise, the Secretary is required to choose three residents of the State of California for voting membership. The Senate amendment struck this provision and the Conferees agreed to the Senate amendment.

As a result of the Conference, Section 5(1)(B) of the bill provides for the expansion of the jurisdiction and size of the Western Pacific Fishery Management Council to include the Northern Mariana Islands and other U.S. possessions in this region.

Section 5(2) amends Section 302(b) of the MFCMA to require that the Secretary of Commerce appoint to the Regional Fishery Management Councils only those individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of fishery resources found within the geographical area of jurisdiction of a given Council. The provision further requires the Secretary of Commerce to review the list of candidates for such appointment submitted by the Governors of each affected State to ensure that such candidates are so qualified. The Secretary of Commerce is then required to announce the appointment of new Council members at least 45 days prior to the first day such prospective members will assume Council responsibilities. In addition, this new provision allows the Secretary of commerce to remove Council members appointed by him for cause, if the Council on which that person is a member first recommends such removal by a two-thirds vote of all voting members on the Council and such Council submits a statement to the Secretary containing the reasons for such recommendation.

Section 5(3) requires that the procedures of each Council, and of the associated scientific and statistical committee and advisory panels, must be consistent with the procedural guidelines set forth under a new Section 302(i) established by Section 5(5) of the bill.

Section 5(4) amends Section 302(h) of the MFCMA to clarify that the function of the Councils is not to prepare a Fishery Management Plan (FMP) for each and every fishery within their geographical areas of authority. Rather, such plans are to be developed for those fisheries which require conservation and management. Section 5(4) further provides that the Councils may conduct public hearings at locations within the area of authority of other Councils if such hearings are appropriate considering the nature of the fish and/or fishery concerned. Finally, Section 5(4) eliminates the present requirement for Councils to submit annual activity reports to the Secretary of Commerce, and authorizes periodic reports by the Councils to the Secretary.

Section 5(5) expressly makes inapplicable to the Councils or to the scientific and statistical committees or advisory panels of the Councils the provisions of the Federal Advisory Committee Act (FACA). Instead, Section 5(5) stipulates the minimum procedures that must be met by all Councils during the course of their deliberations over conservation and management practices. These include the requirement that all regular and emergency meetings be open to the public. A mandatory exception to this general rule applies to all meetings or portions of meetings where matters or information bearing a security classification are discussed. At the discretion of each Council, meetings or portions of meetings wherein matters or information that pertains to national security, Council employment or litigation in which the Council is interested are being discussed may be closed. Emergency meetings are permitted at the call of the Council Chairman. Timely notice of all regular and emergency meetings and the agenda for such meetings shall be published in the Federal Register and in local newspapers in major fishing ports having a direct interest in this fishery whether inside the area of authority of the Council concerned or not. The provision also requires that persons be afforded the opportunity to submit oral or written statements regarding matters before the Council at each meeting. Full and accurate records of the proceedings of each such meeting shall be available for public inspection and copying subject to certain confidentiality provisions relating to statistics submitted by state, federal or private entities. These requirements shall also apply to the proceedings of the scientific and statistical committee of each Council as well as all advisory panels established by the Councils. It is intended that the term "advisory panels" shall cover Plan Development Teams, Plan Management Teams, and any other formally constituted work group or team which meets at the request or direction of the Councils.

Section 6. Content of plans

Section 6 amends Section 303 of the MFCMA regarding the contents of fishery management plans.

Section 6(1) amends Section 303(b) of the MFCMA to add a new paragraph (7) which increases the discretionary powers of the Councils or Secretary of Commerce to include as part of an FMP, an assessment of the effects that the implementation of the conservation and management measures of the plan will have on stocks of naturally spawning anadromous fish within the region of such plans applicability.

Section 6(2) amends Section 302(c) of the MFCMA to require that those proposed regulations necessary for the purposes of carrying out an FMP or amendment thereto be submitted by the Councils simultaneously with the submission of an FMP or an amendment thereto.

Section 6(3) amends Section 303 of the MFCMA to add a new subsection (e) which provides procedures for the collection of supplemental data by the Secretary of Commerce when a Council determines that such data necessary for the determination of whether a fishery management plan is needed for a fishery or for the actual preparation of an FMP, and upon approval of the Secretary. Upon such approval, the Secretary must promulgate regulations to implement the program within 60 days.

Section 7. Action by Secretary

Section 7 amends Section 304 of the MFCMA regarding the participation of the Secretary of Commerce in the development of FMP's and regulations.

The provisions of Section 7 substantially revise the process of review by the Secretary of Commerce of FMP's and regulations prepared by the Regional Fishery Management Councils after the date of enactment of this legislation. The purpose of this review is to determine whether such plans and regulations are consistent with the national standards set forth in Section 301 of the MFCMA, the other provisions of this Act, and any other applicable law. Under this new system, the Secretary upon the simultaneous receipt of an FMP and regulations from a Council, must publish in the Federal Register such plan and a request for comments, the period for which lasts 75 days. Following the close of the comment period the Secretary of Commerce must complete a review of the FMP within 20 days of such date which includes addressing the public comments, data and views received, consultations with the Secretary of State regarding foreign fishing, and consultations with the Coast Guard regarding enforcement issues. At any time during this period the Secretary may notify the appropriate Council of his approval, disapproval, or partial disapproval. If approval is granted, the FMP becomes effective upon such approval. If no action is taken by the Secretary within the 20-day period, the plan becomes effective upon the close of the 20-day period. If the plan is disapproved, or partially disapproved, the Secretary of Commerce must immediately notify the appropriate Council of such action and the reasons therefor. The Council is then free to pursue the revision of the FMP without time restrictions. Upon submission of the revised FMP to the Secretary, the Secretary must again publish such plan and a request for public comment, the period for which lasts 30 days. Following the close of the 30-day comment period, the Secretary must complete his review as before, and notify the appropriate Council of his approval, disapproval or partial disapproval of the FMP within 30 days of such date. If approval is granted the FMP will take effect upon such approval. If no such action is taken, the plan becomes effective at the close of the second 30-day period. If the revised plan is disapproved or partially disapproved the Council may follow the same revised-plan procedure.

Section 7 also provides for a new system of FMP preparation by the Secretary of

Commerce. Upon such preparation, the Secretary must submit the FMP to the appropriate Councils for consideration and comment, and publish such FMP in the Federal Register requesting public comment, the period for which lasts 75 days. Following the close of the comment period and after consideration of such comments, views, data and recommendations, the Secretary may implement such plan upon his discretion.

All of the provisions of Section 7 relating to FMP's relate as well to FMP amendments.

With regard to regulations Section 7 requires the Secretary of Commerce, upon the initial simultaneous receipt of an FMP and regulations, to consider and revise as necessary and appropriate such regulations by the close of a 30-day period following such receipt. Although the receipt of the FMP and regulations are simultaneous, the review and subsequent action on such are independent. At the close of such period the Secretary must publish in the Federal Register such regulations and changes made thereto with accompanying explanations therefor.

Upon submission for review of a revised FMP, the Councils must also submit revised regulations which implement the proposed revised FMP. Again the Secretary has 30 days to make changes to the revised regulations and publish such regulations and changes thereto with accompanying explanations therefor.

Section 7 also provides for the Secretary to prepare and implement regulations to accompany any FMP prepared by him.

Finally, Section 7 provides that the Secretary of Commerce may enter into cooperative agreements with appropriate States by which such States can administer a permit and fee collection system for U.S. vessels. The provision restricts the collection of such fees to the level of administrative costs associated with such program.

Section 8: Implementation of plans

Section 8 amends Section 305 of the MFCMA regarding the process for the implementation of FMP's.

Section 8 substantially revises the process of promulgating regulations developed for the purposes of implementing FMPs. Under this new process, the Secretary must promulgate each regulation necessary to implement a plan; within 110 days of the initial receipt from a Council of such regulations and accompanying plan, within 75 days of the receipt from a Council of revised regulations and accompanying plan, and within such time as the Secretary deems appropriate in the case when the Secretary prepares the regulations and accompanying plan.

Section 8 further provides for the promulgation of emergency regulations, without regard to the existence of an FMP, at his discretion or at the unanimous request of a Council. Such emergency regulations must be published in the Federal Register with the reasons therefor, may remain in effect for a maximum of two 90-day terms upon the agreement of the Secretary and the appropriate Council, and may be terminated at an earlier date upon the discretion of the Secretary and/or an agreement with the appropriate Council.

Section 8 further amends Section 305 of the MFCMA to relieve the Secretary of the mandate to report annually to the Congress and the President regarding the activities of the Councils and Secretary with respect to fishery matters.

Lastly, Section 8 adds a new subsection (h) to Section 305 of the MFCMA which limits the applicability of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Regulatory Flexibility Act (5 U.S.C. 3501 *et seq.*), and Executive Order 12291 dated February 17, 1981, to the functions of the Secretary of Commerce under Sections 304 and 305 of the MFCMA.

Section 9. State jurisdiction

Section 9 amends Section 306(a) of the MFCMA by extending State fisheries jurisdictions to: (1) any pockets of waters adjacent to a State and totally enclosed by the territorial sea of the United States; and (2) with respect to the waters commonly known as Nantucket Sound, the pocket of water west of the seventieth meridian west of Greenwich.

Section 10. Subpoena power

Section 10 amends Section 308 of the MFCMA by adding a new subsection (e) which empowers the Secretary of Commerce to subpoena witnesses for the purpose of civil penalty hearings. This section further provides that witnesses are to be paid fees and mileage and treated as in any court of the United States.

Section 11. Offenses

Section 11 amends Section 309(b) of the MFCMA by eliminating the penalty which permits the imprisonment of the operator of a foreign vessel which conducts fishing operations in the U.S. FCZ without a valid permit or violates the terms of its fishing permit.

Section 12. Civil forfeitures

Section 12 amends Section 310(a) of the MFCMA by permitting the Secretary of Commerce to seize the fair market value of the fish on those fishing vessels that violate Section 307 of the MFCMA, except for those acts for which the observance of a citation under Section 311 of the MFCMA is sufficient.

Section 13. Powers of authorized officers

Section 13 amends Section 311(b) of the MFCMA by allowing persons charged with fishery or other marine resources enforcement responsibilities, and subject to the direction of the Secretary of Commerce, to make arrests without a warrant for an offense against the United States committed in such person's presence, or for a felony, if there is reasonable grounds to believe that the person has or is committing a felony. This additional authority may also be conferred upon an officer or employee of a State agency, subject to conditions and restrictions agreed upon between the State agency, the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating.

Section 14. Authorization of appropriations

Section 14 amends Section 406 of the MFCMA by authorizing the sums of $59,000,000, $64,000,000, and $69,000,000 for the fiscal years 1983, 1984 and 1985, respectively.

Section 14 also amends the Anadromous Fish Conservation Act (16 U.S.C. 757a(c)) by providing that in the case when States have implemented an interstate fisheries management plan for anadromous fishery resources, the Federal share of any grants made pursuant to such act to carry out activities required of such plan shall be 90 percent.

Section 4(a) of the Anadromous Fish Conservation Act (AFCA) is amended by reauthorizing appropriations for each of fiscal years 1983, 1984 and 1985 at $7,500,000.

Section 7(d) of the AFCA (16 U.S.C. 757g(d)) is amended by authorizing, for striped bass (*Morone Saxatilus*) research, $1,000,000 for each fiscal year ending September 30, 1983 and September 30, 1984.

Section 15. Technical amendments

Section 15(a) amends Section 3(27) of the MFCMA by defining vessels as: (1) any vessel documented under laws of the United States; (2) any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than 5 net tons; or (3) any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

Section 15(b) also amends Section 307(2) of the MFCMA by deleting language referring to recreational fishing, thus conforming this section with the provisions which allow for recreational fishing by foreign nations as outlined in Section 2(a)(6) of the bill.

Section 15(c) also deletes the last sentence of Section 311(a) of the MFCMA, thereby relieving the Secretary of Commerce from the duty of reporting to Congress, on a semiannual basis, the degree and extent of compliance with the provisions of the MFCMA.

Section 15(d) reauthorizes funds for the Central, Western and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) for each of fiscal years 1983, 1984 and 1985 at current level of $5,000,000.

JOHN BREAUX,
GERRY E. STUDDS,
GENE SNYDER,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

BOB PACKWOOD,
SLADE GORTON,
TED STEVENS,
ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7102), to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors and migrant and seasonal agricultural labor and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 41, lines 2 and 3, strike out "on December 1, 1982," and insert "ninety days from the date of enactment".

Mr. MILLER of California. Mr. Speaker, this has been cleared with the ranking minority member.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ERLENBORN. Mr. Speaker, reserving the right to object—and I will not object—I take this time to yield to my colleague from California for an explanation of unanimous-consent request.

Mr. MILLER of California. I thank my colleague for yielding.

What this is, Mr. Speaker, is legislation that we passed to reform the Federal Farm Labor Contractors Act which was passed overwhelmingly in this House.

The Senate has put an amendment to change the effective date which would move it from 90 days to the passage by this body, which because of the delay passing the bill is necessary.

Mr. ERLENBORN. Mr. Speaker, it is my understanding, as the gentleman from California has explained, that the legislation before us, subject to the unanimous-consent request, is identical in every respect to the bill already passed by the House by an overwhelming majority. The only change is a change in the effective date.

Under those circumstances, I am very much in favor of the legislation.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Is it my understanding there is no money in this bill, so it would have no budgetary impact?

Mr. MILLER of California. If the gentleman will yield, that is correct.

Mr. WALKER. I thank the gentleman.

● Mr. FORD of Michigan. Mr. Speaker, I am pleased that the 97th Congress is finally acting to pass H.R. 7102, the Migrant and Seasonal Agricultural Worker Protection Act (AWPA) which replaces the Farm Labor Contractor Registration Act (FLCRA). If President Reagan signs this bill it will be by far the biggest step he has taken to enlarge and protect the rights of working Americans, rights Mr. Reagan's administration has often seemed to ignore or disdain.

I am a cosponsor of AWPA and, as one who has worked to insure decent working conditions for agricultural workers, particularly migrants, for many years, I know how desperately this law is needed. As chairman of the House Agricultural Labor Subcommittee during the midseventies, I learned firsthand that the housing, transportation, pay and working conditions of hundreds of thousands of farmworkers are grossly substandard, indeed, are a blot on the good name of our Nation.

H.R. 7102 offers a hope to correct many of the worst abuses which migrant and seasonal farmworkers are forced to suffer. For the first time, agricultural employees will, under Federal law, have a right to statutory damages from their employer if he furnishes unsafe housing or transportation, fails to give them itemized information concerning their pay and amounts withheld from it for taxes, or refuses to disclose in advance the wages, hours and working conditions under which the employees will work. The AWPA corrects the key weakness of the FLCRA, which held only the farm labor contractor responsible for such abuses and shielded the employer unless he fell within the narrow definition of "farm labor contractor" under that act.

It has long been apparent that neither volunteerism on the part of agribusiness nor the puny enforcement efforts of the Department of Labor can be expected to make a significant difference in the working conditions of farmworkers. Like the FLCRA, the AWPA provides for a private right of action and holds out the prospect of large damage awards against agricultural employers who mistreat their workers. This, I am sure, will prove to be the most important deterrent against the continued abuse of migrant and seasonal farmworkers. As budget cuts undermine the Federal Government's ability to enforce the law, farmworkers will depend increasingly on the private bar and legal services organizations to insure that violations are punished and that they are made whole for their losses and suffering.

In sum, the act maintains or strengthens most of the provisions of the FLCRA relating to itinerant crewleaders, while freeing fixed situs employers from the administrative burdens which they have protested against for many years. Employers will continue to be prohibited from using the services of any unregistered farm labor contractor and will be made directly liable for violations of the act when they engage in farm labor contracting activities such as recruiting, transporting or housing workers.

This is a consensus bill, and I am not happy with every one of its provisions. In particular, I can see no justification to limit damages in a class action to $500,000. Larger awards than this have been won for farmworkers under FLCRA, and underpayments to workers exceeding $500,000 can easily occur where 1,000 or more farmworkers are employed by a major corporation.

Overall, however, I believe H.R. 7102 is a step forward, and I applaud the success of CARL PERKINS and GEORGE MILLER in persuading the administration, the representatives of agribusiness and farmworker advocates to support it. I join with Representative MILLER in pledging to follow the implementation of this law very closely, to monitor its effect on the living and working conditions of agricultural workers, and to push for changes in the law if it does not succeed in correcting the worst abuses in agricultural labor relations.●

Mr. ERLENBORN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California (Mr. MILLER)?

There was no objection.

A motion to reconsider was laid on the table.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

Mr. ROE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7159), to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, strike out all after line 5, over to and including line 5 on page 4, and insert:

"(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds that—

"(A) the facility for which modification is sought is covered at the time of the enactment of this subsection by National Pollutant Discharge Elimination System permit number CA0005894 or CA0005282;

"(B) the energy and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

"(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota;

"(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

"(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

"(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act;

"(G) the applicant accepts as a condition to the permit a contractural obligation to use funds in the amount required (but not less than $250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

"(H) the facts and circumstances present a unique situation which, if relief is granted, will not establish a precedent of the relaxation of the requirements of this Act applicable to similarly situated discharges; and

"(I) no owner or operator of a facility comparable to that of the applicant situated in the United States has demonstrated that it would be put at a competitive disadvantage to the applicant (or the parent company or any subsidiary thereof) as a result of

the issuance of a permit under this subsection.

"(2) The effluent limitations established under a permit issued under paragraph (1) shall be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife, and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

"(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for one additonal period not to exceed five years upon a demonstration by the applicant and a finding by the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

"(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown: *Provided,* That if the effluent from a source with a permit issued under this subsection is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.".

Mr. ROE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not plan to object, I rise in support of H.R. 7159. This legislation—in its original form passed by the House and in its amended version from the Senate—provides an environmentally preferred means of dealing with a clean water situation in northern California.

The ranking Republican member of the Committee on Public works and Transportation, DON CLAUSEN, deserves full recognition for his efforts in bringing this matter to the attention of the Members of the committee and the Congress. The local community, including environmental interests, remain strongly supportive of this action.

The legislation permits discharge of nontoxic materials by two mills into the ocean as had been approved by the State of California prior to that decision being overturned by the Environmental Protection Agency.

As was noted when this bill first passed the House, discharge to the ocean has not caused nor will cause harm because of the ocean characteristics. In fact, failure to allow these discharges will lead to environmental problems because of the need to dispose of large quantities of sludge, related air pollution problems, and others. In addition, the expenditure of large sums of money on unnecessary facilities by the companies will certainly be economically harmful in this time of economic recovery.

The bill, as it passed the House was environmentally sound and economically reasonable. The Senate amendments merely "fine tuned" the provisions. For instance, one of the Senate amendments—No. 9—provides that competitors with facilities comparable to the applicant have the opportunity to demonstrate that they would be put at a competitive disadvantage. The Senate report properly notes that the burden for such a showing is on the competitor. If no competitors come forward, this provides the evidence that there is no competitive disadvantage created.

Again, Mr. Speaker, H.R. 7159 provides for appropriate action in this particular case and is in keeping with the goals of the Clean Water Act and will provide the best overall environmental results. I support this legislation and urge my colleagues to support it as well.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. ROE), the distinguished chairman of the subcommittee, for further explanation.

Mr. ROE. I thank the gentleman for yielding.

Mr. Speaker, H.R. 7159 amends the Federal Water Pollution Control Act to give the Environmental Protection Agency the authority to modify the permit requirements for two pulp mills in California currently discharging into the Pacific Ocean. The situation facing these two mills is unique and the legislation is drafted very narrowly so that it applies only to the circumstances in this particular case and does not establish a precedent for similarly situated discharges.

Under existing law, industries are required to achieve effluent limitations that require the application of the best practicable technology by July 1, 1977. The effluent limitations applicable in this case, pertaining to the pulp and paper industry, were finalized by EPA in 1976. The State of California, which had authority to administer the act's permit program, proposed to issue permits to the two pulp mills involved in this case that included variances from the effluent limitations set by EPA for discharge of biochemical oxygen demand and acidity. The State concluded that the discharge would not result in a discernible impact on the marine environment. EPA vetoed the permits and this veto was later upheld by the courts.

H.R. 7159, as passed by the House, authorizes EPA to modify the requirements for best practicable and best conventional treatment technology with very strict limitations. The applicants must show that they have established a monitoring system; the modified requirements will not require any additional treatment by other sources; there will be no new or substantially increased discharges from the applicant's facilities; and the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which will allow for fishable and swimmable wate after the discharge.

The Senate amendments add further detail to the restrictions on the granting of a modification by EPA contained in the House-passed bill. These include:

First, the pulp mills must agree to spend at least $250,000 per year for 10 years for research and development on water pollution control technology;

Second, EPA finds that this is a unique situation which will not establish a precedent; and

Third, EPA finds that no owner or operator of a comparable facility in the United States has demonstrated that it would be put at a competitive disadvantage as a result of the granting of an effluent modification to the California mills.

Mr. Speaker, this legislation does not establish a precedent for similarly situated discharges. The bill, as passed by the House, was very narrowly drawn to insure that it would apply only to the two pulp mills in question. The Senate added two provisions designed to accomplish the same purpose. The permit numbers of the two mills are specifically mentioned, and the fact that it is not to set a precedent is stated in the legislative language. This bill is not to be interpreted as an indication that our committee intends to abandon the concept of technology-based standards. It represents, rather, a necessary solution to a very limited problem arising from a very unique situation.

Mr. Speaker, I urge enactment of this bill.

□ 1315

We have analyzed this amendment clearly and we have no objection to the Senate amendments.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California (Mr. CLAUSEN), a sponsor of the bill.

Mr. CLAUSEN. Mr. Speaker, I want to thank the distinguished chairman, the gentleman from New Jersey, and the gentleman from Arkansas and all the members of the committee for cooperating with us in bringing about what I think will be a refined version of what passed the House unanimously.

Mr. Speaker, I am pleased to rise in strong support of H.R. 7159, a bill which in its original version I authored and which, in the amended form that we have under consideration today, preserves our House intent to provide a workable and attainable mechanism for the two mills covered by the bill to receive the effluent limitation modifications they seek.

When, some 2½ months ago, we in this body voted overwhelmingly—without a single voice being raised in opposition—to pass this bill, we voted to establish a reasonable and balanced procedure by which two California pulpmills in a unique situation could be granted relief from the need to install additional pollution control facilities that are unnecessary for both environmental and other reasons. The amendments added to H.R. 7159 by our Senate counterparts do nothing to upset the fundamental principles of reasonableness and balance that are the basic premises around which the bill has been developed and that are intended to be guiding with respect to implementation of this legislation.

Three of the eleven changes that were made to the bill in the Senate were designed to assure that decisions made under authority of H.R. 7159 were subject to the usual standards of judicial review. It was never my intent as author of the bill that such decisions would not be subject to judicial review, and I consider these three amendments to more specifically state what has always been our position on this matter.

Thus, the new requirements in paragraphs 301(m)(1) and 301(m)(3) calling for a finding by the Administrator and deletion in paragraph 301(m)(2) of the phrase "in the view of the Administrator" are not at all inconsistent with what has always been the intent of this bill.

Most of the other amendments adopted by the Senate similarly either make more explicit what has always been my intent with respect to this bill or add to the bill language that refines and particularizes my original intent.

For example, the pulpmills are described now in subparagraph 301(m)(1)(A) by permit number rather than in more general terms. In addition, statutory language has been added as subparagraph 301(m)(1)(H) with respect to the uniqueness of the pulpmill situation and the fact that H.R. 7159 is not intended to be a precedent with respect to similarly situated discharges. These amendments state in different statutory language what the original bill's subparagraph 301(m)(1)(A) was intended to address. These two mills and their situation with respect to their permits are entirely unique.

No precedent is created or intended to be created. The committee has already conducted a review of similarly situated dischargers who may wish to attempt improperly to avail themselves of this amendment and has determined that this is a unique situation and will not establish a precedent for the relaxation of the requirements of the Clean Water Act applicable to such dischargers. As Chairman ROE described when we passed H.R. 7159 in September: "The bill has been drafted very narrowly so that it applies only to the circumstances in this case."

And as I stated on the floor at the same time:

H.R. 7159 is in no way intened, nor should it be viewed, as a precedent for future general policy with respect to the act generally. The bill addresses what we believe is a totally unique situation, and it is meant to be and do nothing more.

The Senate adopted another amendment deleting the words "to the extent practicable" from the bill's subparagraph 301(m)(1)(C). This amendment has been described as one designed to clarify that the monitoring requirement imposed by that subparagraph cannot be avoided, waived, or diminished. With that understanding of the amendment, I strongly support it. It was never my intent that the bill's monitoring requirements be capable of being avoided, waived, or diminished. I have always intended, however, that all of the bill's requirements be bounded by the concept of reasonableness, and nothing about the Senate's amendment changes this underlying premise of the bill and its requirements.

Our Senate counterparts refined my original intent somewhat in paragraph 301(m)(4) by adding to the House-passed language a proviso whereby, if the effluent from one or both of the pulp mills is contributing to a decline in the ambient water quality of the receiving waters, the Administrator must terminate the contributing mill's permit. In making the degradation determination that leads to nondiscretionary termination of either mill's permit, the Administrator shall assess whether the conditions of paragraph 2 of this subsection are being violated. The primary gauge of whether this nondiscretionary responsibility must be carried out should revolve around considerations of whether and to what extent applicable State water quality standards are being maintained.

Two of the Senate's amendments Fine Tune H.R. 7159's language to more closely track the particular facts concerning these mills and their unique circumstances. Replacement of the word "economic" with the word "energy" in subparagraph 301(m)(1)(B) recognizes that the State of California, in deciding in 1977 to approve the mills' requests for permit modifications, concluded that the modifications were justified after thoroughly evaluating the energy and enivronmental effects of requiring additional pollution control facilities at the two mills. Second, the Senate's addition of a new subparagraph 301(m)(1)(I) reflects the fact that no known significant competitive advantage or disadvantage, with respect to the Clean Water Act's effect and operation within the United States, will result from enactment of H.R. 7159.

In paragraph 301(m)(3), a change has been made to my original language to limit to 10 years the total length of time that the permit modifications authorized in this subsection may remain in force under authority of H.R. 7159.

The final Senate amendment, adding a new subparagraph 301(m)(1)(G), is the most significant of the amendments made to the bill by the other body. In principle and effect, this new provision requires that the two mills commit a portion of the economic gain realized as a result of this legislation to research and development of water pollution control technology that could lead to the reduction or complete elimination of wastewater discharges from these mills as well as others. I heartily endorse this concept. I believe that this new subparagraph greatly enhances the already extremely strong case for granting the mills the permanent relief they seek.

And I believe that, if ever there was a doubt in anyone's mind that the environment—both locally and nationally—will be better off as a result of H.R. 7159's becoming law, this provision should lay those doubts to rest. The House Members understand that the money to be spent by the companies would be used for research, development, and installation of experimental equipment designed to achieve the progress toward attainment of closed cycle technology or other water pollution control technology at these and other facilities.

Mr. Speaker, before we pass this important bill, I would like to express my heartfelt thanks to a number of colleagues and their staff, without whose assistance and support this legislation would not have been possible. The gentlemen from New Jersey, the chairman of our full public works committee and its water resources subcommittee, have been truly outstanding in terms of their cooperation and bipartisanship. The gentleman from Arkansas. The banking minority member of our Water Resources Subcommittee, has been of inestimable assistance on this legislation as he has throughout the entire tenure of our Congressional relationship. And on the Senate side, thanks must also go to Senators STAFFORD, CHAFEE, ABDNOR, RANDOLPH, BENTSEN, and their colleagues on the Environment and Public Works Committee for recognizing how important the need for this legislation is and for being willing to make it a high priority

matter in these final hours of the 97th Congress.

Finally, Mr. speaker, very special thanks must go to Senator GORTON and his exceptional staff counsel, Marianne McGettigan, who toiled long and hard to enable this bill to become law.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Mr. Speaker, under my reservation, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I understood the gentleman from New Jersey to say there is $250,000 a year in this for several years.

What I am wondering is how we are spending that kind of money with no budgetary impact.

Mr. CLAUSEN. Mr. Speaker, if the gentleman will yield further, there is no budgetary impact. It is simply a requirement on the part of the affected pulp mills that they themselves will have to pay that minimal amount. It is not Federal money.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, I understand then that the budgetary impact of this bill is nonexistent, that this will have no impact on the budget whatsoever.

Mr. CLAUSEN. The gentleman is correct, as I assured him before.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from New Jersey (Mr. ROE)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS ACT AMENDMENT OF 1981

Mr. HUGHES. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 3963) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated, with the Senate amendment thereto, recede from disagreement to the Senate amendment, and agree to the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment.

The Clerk proceeded to read the House amendment to the Senate amendment.

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Michigan reserves the right to object to considering the amendment as being read and printed in the RECORD.

Mr. WALKER. Mr. Speaker, I reserve the right to object. It is a little hard to tell in the House, with all the loud noise, just exactly what we are doing.

Is the gentleman considering to go to conference?

Mr. HUGHES. No, if the gentleman will yield, I asked to take from the Speaker's table the bill (H.R. 3963) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated, with the Senate amendment thereto, recede from disagreement to the Senate amendment, and agree to the Senate amendment with an amendment.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey to consider the amendment as read and printed in the RECORD?

Mr. CONYERS. Mr. Speaker, might the chairman of the Subcommittee on Crime explain what is involved in the Senate amendment or amendments from which he is receding?

Mr. HUGHES. Mr. Speaker, if the gentleman will yield, I am going to explain that in the text of my remarks.

Mr. CONYERS. Mr. Speaker, I object.

Mr. HUGHES. Will the gentleman let me explain, if I might?

Mr. CONYERS. That is all right, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will continue to read the amendment.

The Clerk continued to read the House amendment to the Senate amendment.

□ 1400

Mr. HUGHES (during the reading). Mr. Speaker, I withdraw the motion.

PARLIAMENTARY INQUIRY

Mr. CONYERS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. CONYERS. Mr. Speaker, does that request have to be made in the form of a motion?

The SPEAKER pro tempore. No; it does not.

Mr. CONYERS. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. CONYERS. Does the request have to receive unanimous consent?

The SPEAKER pro tempore. No. It is a matter of right to withdraw the motion in the House prior to action thereon.

AUTHORIZING EXCHANGE OF CERTAIN LANDS HELD IN TRUST BY UNITED STATES FOR NAVAJO TRIBE

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4001) to authorize the exchange of certain land held in trust by the United States for the Navajo tribe, and for other purposes with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 9, strike out "Vanderwagon" and insert "Vanderwagen".

Page 1, line 10, strike out "Vanderwagon" and insert "Vanderwagen".

Page 2, after line 2, insert:

SEC. 2. The Act entitled "An Act to provide for the partitioning of certain restricted Indian land in the State of Kansas", approved October 15, 1982 (Public Law 97-344), is amended by striking out "township 11" in paragraph (1) and inserting in lieu thereof "township 12".

SEC. 3. Section 6(i) of the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420) is amended by adding at the end thereof the following:

"Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Houlton Band of Maliseet Indians in or near the Town of Houlton, Maine, shall be eligible for such programs and services without regard to the existence of a reservation or of the residence of such member on or near a reservation.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, H.R. 4001, as passed by the House a year ago,

simply provided authority for the Navajo Tribe to exchange a small tract of tribal land for a similar tract of privately owned land nearby.

The Senate has added two unrelated, but completely noncontroversial amendments.

The first would make a technical correction in the land description contained in a law we passed earlier this year, Public Law 97-344.

The second provides that members of the Houlton Band of Maliseet Indians of Maine would be eligible for certain Federal services despite the fact that the land base they are entitled to has not yet been secured. The act settling their land claims in Maine made them eligible for these services, but this is administratively contingent upon their getting the land. Unavoidable delay in not securing the land has left them ineligible for the services. The Senate amendment remedies this problem.

I can say that all concerned, including the administration, support these amendments and that this bill, as amended, does not authorize any new appropriation or represent an additional cost to the Government.

● Mrs. SNOWE. Mr. Speaker, I rise in support of H.R. 4001, because it contains important provisions that would assist the Houlton Band of Maliseet Indians receive Indian services provided by the Federal Government.

Under the Maine Indian Claims Settlement Act, the Houlton Band of Maliseet Indians received $900,000 to acquire a land base of 5,000 acres of land. Also under the act, the Houlton Band would be eligible to receive all of the Federal services which the United States provides to Indians. The band has yet to acquire the land, however, and as a result is not located on or near a reservation. Since the Bureau of Indian Affairs and the Indian Health Service are legally bound from delivering such services to Indians who do not live on or near a reservation, the Houlton Band is presently denied access to these U5Federal services.

The Senate has added an amendment to H.R. 4001, which would make the Houlton Band eligible for all Federal services, despite the fact that the Houlton Band has not yet acquired all of the land provided to them in the Maine Indian Claims Settlement Act. These provisions would thus bring the act into conformity with the intent of Congress and allow members of the Houlton Band of Maliseet Indians to receive the Federal services which are desperately needed.●

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING PURCHASE, SALE, AND EXCHANGE OF LAND BY DEVILS LAKE SIOUX TRIBE, NORTH DAKOTA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 503) to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, N.D., and for other purposes, with Senate amendments to the House amendments, and concur in the Senate amendments to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

Page 8, strike out lines 17, 18, and 19, of the House engrossed amendments.

Page 8, line 20, of the House engrossed amendments, strike out "(4)" and insert "(3)".

Page 8, line 22, of the House engrossed amendments, strike out "(5)" and insert "(4)".

Page 9, lines 3, of the House engrossed amendments, after "interest" insert "of a member of such tribe".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, S. 503 is a bill to authorize the purchase, sale and exchange of lands by the Devils Lake Sioux Tribe of North Dakota specifically and also by other tribes.

This bill passed the Senate once and was referred to the committee. It was reported out of the committee with an amendment and passed the House by unanimous consent with the active support of the administration. The Senate has added a minor amendment and the bill is now in front of the House for its concurrence.

Mr. Speaker, this bill has been endorsed by all concerned parties, it does not contain any authorization for appropriation of any funds and on the contrary, if enacted, it will save the U.S. taxpayers some money by simplifying certain aspects of the U.S. administration over Indian trust lands.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

RELATING TO DISTRIBUTION OF CERTAIN JUDGMENT FUNDS AWARDED BY INDIAN CLAIMS COMMISSION OR COURT OF CLAIMS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3731) to amend the Act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 9, after "2." Insert "(a)".

Page 3, line 16, after "involved." insert "Such plans or plans shall be limited to urgent needs arising from extenuating circumstances and shall accord with general principles governing administration of trust funds of minors and legal incompetents, including a requirement for strict accounting for expenditures.".

Page 3, after line 16, insert:

(b) Clause (5) of section 3(b) of said Act is hereby striking out "warrant otherwise" and inserting in lieu thereof the following: "warrant otherwise: *Provided*, That in the development of such plan the Secretary shall survey past and present plans of the tribe for economic development, shall consider long range benefits which might accrue to the tribe from such plans, and shall encourage programing of funds for economic development purposes where appropriate.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, H.R. 3731 simply amends the Indian Judgment Distribution Act of 1973 to extend the time the Secretary has to submit plans under the act. A recent Federal court decision has shown that Congress did not give the Secretary adequate time to complete the task. The Senate has amended the bill in three major respects.

First, the one-house veto provision of the act has been eliminated in favor of a joint resolution disapproval. This was done at the request of the administration and I reluctantly accept it.

Second, the provisions of section 7 of the act, exempting the distributed funds from certain taxation and from being considered as other resources for purposes of certain Federal programs, is made retroactive to secretarial plans submitted and approved by Congress since January 1, 1982.

Third, the Senate amended the bill to provide that interests in lands held by the United States in trust for individual Indians shall not be considered

as other income for purposes of certain State welfare benefits.

These amendments are acceptable to the committee and, I understand, acceptable to the administration.

●Mr. JONES of Oklahoma, Mr. Speaker, I am pleased to have been the prime sponsor in the House of the Indian Tribal Government Tax Status Act, and wish to acknowledge the wholehearted support and assistance of the distinguished cosponsors of this measure.

This legislation addresses and corrects certain inequitable applications of the Tax Code where Indian governments are concerned in the areas of charitable gift and deductions, excise tax exemptions, municipal bonding, and so forth. Indian governments, whose people are the poorest in the country, have been especially hard hit by the current economic conditions. It is hoped that this legislation may, in some measure, relieve their dire economic situation and aid in their path toward self-sufficiency.

The conferees agreed to provide a 2-year period to assess the manner in which the legislation has helped the Indian governments and what further changes, if any, might be required to bring full equity in this area of the Tax Code as it relates to States, local governments, and Indian tribes. I will be particularly interested to learn how this measure has benefited the Cherokee Nation, the Creek Nation, and other Indian governments in Oklahoma, who have patiently waited since 1974 for this body to conclude action on this matter.●

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

REQUEST TO CONSIDER SENATE AMENDMENT TO H.R. 6612, MASHANTUCKET PEQUOT INDIAN CLAIMS SETTLEMENT ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6612) to provide for the settlement of land claims of the Mashantucket Pequot Indian Tribe of Connecticut, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Mashantucket Pequot Indian Claims Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(a) there is pending before the United States District Court for the District of Connecticut a civil action entitled Western Pequot Tribe of Indians against Holdridge Enterprises Incorporated, et al., Civil Action Numbered H76-193 (D. Conn.), which involves Indian claims to certain public and private lands within the town of Ledyard, Connecticut;

(b) the pendency of this lawsuit has placed a cloud on the titles to much of the land in the town of Ledyard, including lands not involved in the lawsuit, which has resulted in severe economic hardships for the residents of the town;

(c) the Congress shares with the State of Connecticut and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claims;

(d) the parties to the lawsuit and others interested in the settlement of Indian land claims within the State of Connecticut have reached an agreement which requires implementing legislation by the Congress of the United States and the Legislature of the State of Connecticut;

(e) the Western Pequot Tribe, as represented as of the time of the passage of this Act by the Mashantucket Pequot Tribal Council, is the sole successor in interest to the aboriginal entity generally known as the Western Pequot Tribe which years ago claimed aboriginal title to certain lands in the State of Connecticut; and

(f) The State of Connecticut is contributing twenty acres of land owned by the State of Connecticut to fulfill this Act. The State of Connecticut has provided special services to the members of the Western Pequot Tribe residing within its borders. The United States as provided few, if any, special services to the Western Pequot Tribe and has denied that it had jurisdiction over or responsibility for said Tribe. In view of the provision of land by the State of Connecticut and the provision of special services by the State of Connecticut without being required to do so by Federal law, it is the intent of Congress that the State of Connecticut not be required to further contribute directly to this claims settlement.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) the term "Tribe" means the Maschantucket Pequot Tribe (also known as the Western Pequot Tribe) as identified by chapter 832 of the Connecticut General Statutes and all its predecessors and successors in interest. The Mashantucket Pequot Tribe is represented, as of the date of the enactment of this Act, by the Mashantucket Pequot Tribal Council;

(b) the term "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(c) the term "private settlement lands" means (1) the eight hundred acres, more or less, of privately held land which are idenfied by a red outline on a map filed with the Secretary of the State of Connecticut in accordance with the agreement referred to in section 2(d) of this Act, and (2) the lands known as the Cedar Swamp which are adjacent to the Mashantucket Pequot Reservation as it exists on the date of the enactment of this Act. Within thirty days of the enactment of this Act, the Secretary of the State of Connecticut shall transmit to the Secretary a certified copy of said map;

(d) the term "settlement lands" means

(1) the lands described in sections 2(a) and 3 of the Act to Implement the Settlement of the Mashantucket Pequot Indian Land Claims as enacted by the State of Connecticut and approved on June 9, 1982, and

(2) the private settlement lands.

(e) the term "Secretary" means the Secretary of the Interior;

(f) the term "transfer" means any transaction involving, or any transaction the purpose of which was to effect, a change in title to or control of any land or natural resources, and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources, including any sale, grant, lease, allotment, partition, or conveyance, whether pursuant to a treaty, compact or statute of a State or otherwise; and

(g) the term "reservation" means the existing reservation of the Tribe as defined by chapter 824 of the Connecticut General Statutes and any settlement lands taken in trust by the United States for the Tribe.

APPROVAL OF PRIOR TRANSFERS; EXTINGUISHMENT OF ABORIGINAL TITLES AND INDIAN CLAIMS

SEC. 4. (a) Any transfer before the date of enactment of this Act from, by, or on behalf of the Tribe or any of its members of land or natural resources located anywhere within the United States, and any transfer before the date of enactment of this Act from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians of land or natural resources located anywhere within the town of Ledyard, Connecticut, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: *Provided, however,* That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(b) By virtue of the approval and ratification of a transfer of land or natural resources effected by subsection (a), any aboriginal title held by the Tribe or any member of the Tribe, or any other Indian, Indian nation, or tribe or band of Indians, to any land or natural resources the transfer of which was approved and ratified by subsection (a) shall be regarded as extinguished as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, any claim (including any claim for damages for trespass or for use and occupancy) by, or on behalf of, the Tribe or any member of the Tribe or by any other Indian, Indian nation, or tribe or band of Indians, against the United States, any State or subdivision thereof or any other person which is based on—

(1) any interest in or right involving any land or natural resources the transfer of which was approved and ratified by subsection (a), or

(2) any aboriginal title to land or natural resources the extinguishment of which was effected by subsection (b),

shall be regarded as extinguished as of the date of any such transfer.

(d)(1) This section shall take effect upon the appropriation of $900,000 as authorized under subsection 5(e) of this Act.

(2) The Secretary shall publish notice of such appropriation in the Federal Register when the funds are deposited in the fund established under subsection 5(a) of this Act.

MASHANTUCKET PEQUOT SETTLEMENT FUND

SEC. 5. (a) There is hereby established in the United States Treasury a fund to be known as the Mashantucket Pequot Settlement Fund. This fund shall be held in trust by the Secretary for the benefit of the Tribe and administerd in accordance with this Act.

(b)(1) The Secretary is authorized and directed to expend, at the request of the Tribe, the fund together with any and all income accruing to such fund in accordance with this subsection.

(2) Not less than $600,000 of the fund shall be available until January 1, 1985, for the acquisition by the Secretary of private settlement lands. Subsequent to January 1, 1985, the Secretary shall determine whether and to what extent an amount less than $600,000 has been expended to acquire private settlement lands and shall make that amount available to the Tribe to be used in accordance with the economic development plan approved pursuant to subsection 5(b)(3).

(3) The Secretary shall disburse all or part of the fund together with any and all income accruing to such fund excepting the amount reserved in subsection 5(b)(2) according to a plan to promote the economic development of the Tribe. (A) The Tribe shall submit an economic development plan to the Secretary and the Secretary shall approve such plan within sixty days of its submission if he finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, he shall, at the time of his decision, set forth in writing and with particularity, the reasons for his disapproval. (B) The Secretary may not agree to terms which provide for the investment of the fund in a manner not in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037), unless the Tribe first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment. (C) The Tribe may, with the approval of the Secretary, alter the economic development plan subject to the conditions set forth in subsection 5(b)(3)(A).

(4) Under no circumstances shall any part of the fund be distributed to any member of the Tribe unless pursuant to the economic development plan approved by the Secretary under subsection 5(b)(3).

(5) As the fund or any portion thereof is disbursed by the Secretary in accordance with this section, the United States shall have no further trust responsibility to the Tribe or its members with respect to the sums paid, any subsequent expenditures of these sums, or any property other than private settlement lands or services purchased with these sums.

(6) Until the Tribe has submitted and the Secretary has approved the terms of the use of the fund, the Secretary shall fix the terms for the administration of the portion of the fund as to which there is no agreement.

(7) Lands or natural resources acquired under subsection (5)(b) which are located within the settlement lands shall be held in trust by the United States for the benefit of the Tribe.

(8) Land or natural resources acquired under subsection (b) which are located outside of the settlement lands shall be held in fee by the Mashantucket Pequot Tribe, and the United States shall have no further trust responsibility with respect to such land and natural resources. Such lands or natural resources shall not be subject to any restriction against alienation under the laws of the United States.

(9) Notwithstanding the provisions of section 1 of the Act of August 1, 1888 (25 Stat. 357), as amended, and section 1 of the Act of February 26, 1931 (46 Stat. 1421), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner.

(c) For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer of private settlement lands to which subsection (b) applies shall be deemed to be an involuntary conversion within the meaning of section 1033 of such Code.

(d) The Secretary may not expend on behalf of the Tribe any sums deposited in the fund established pursuant to subsection (a) of this section unless and until he finds that authorized officials of the Tribe have executed appropriate documents relinquishing all claims to the extent provided by sections 4 and 10 of this Act, including stipulations to the final judicial dismissal with prejudice of its claims.

(e) There is authorized to be appropriated $900,000 to be deposited in the fund.

JURISDICTION OVER RESERVATION

0Section 6. Nothwithstanding the provision relating to a special election in section 406 of the Act of April 11, 1968 (25 U.S.C. 1326), the reservation of the Tribe is declared to be Indian country subject to State jurisdiction to the maximum extent provided in title IV of such Act.

LIMITATION OF ACTIONS: FEDERAL COURT JURISDICTION

SEC. 7. (a) Notwithstanding any other provision of law, the constitutionality of this Act may not be drawn into question in any action unless such question has been raised in—

(1) a pleading contained in a complaint filed before the end of the one-hundred-and-eighty-day period beginning on the date of the enactment of this Act, or

(2) an answer contained in a reply to a complaint before the end of such period.

(b) Notwithstanding any other provision of law, exclusive jurisdiction of any action in which the constitutionality of this Act is drawn into question is vested in the United States District Court for the District of Connecticut.

(c) Any action to which subsection (a) applies and which is brought in the court of any State may be removed by the defendant to the United States District Court for the District of Connecticut.

(d) Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

RESTRICTION AGAINST ALIENATION

SEC. 8. (a) Subject to subsection (b), lands within the reservation which are held in trust by the Secretary for the benefit of the Tribe or which are subject to a Federal restraint against alienation at any time after the date of the enactment of this Act shall be subject to the laws of the United States relating to Indian lands, including section 2116 of the Revised Statutes (25 U.S.C. 177).

(b) Notwithstanding subsection (a), the Tribe may lease lands for any term of years to the Mashantucket Pequot Housing Authority, or any successor in interest to such Authority.

EXTENSION OF FEDERAL RECOGNITION AND PRIVILEGES

SEC. 9. (a) Notwithstanding any other provision of law, Federal recognition is extended to the Tribe. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians or Indian nations, tribes or bands of Indians which are not inconsistent with any specific provision of this Act shall be applicable to the Tribe.

(b) The Tribe shall file with the Secretary a copy of its organic governing document and any amendment thereto. Such instrument must be consistent with the terms of this Act and the Act to Implement the Settlement of the Mashantucket Pequot Indian Land Claim as enacted by the State of Connecticut and approved June 9, 1982.

(c) Notwithstanding any other provision of law, the Tribe and members of the Tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indians tribes as of the date of enactment of this act.

OTHER CLAIMS DISCHARGED BY THIS ACT

SEC. 10. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Connecticut and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of the Tribe or the United States as trustee therefor.

INSEPARABILITY

SEC. 11. In the event that any provision of section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. WALKER. Mr. Speaker, reserving the right to object, this particular bill I think has some $900,000 in it. Is that amount of money covered anywhere in the budget?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Arizona.

Mr. UDALL. Not in this year's budget, but we will propose it for next year's budget. I understand the administration has no objection to the bill.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

□ 1410

AUTHORIZING CLERK TO MAKE CORRECTION IN ENROLLMENT OF H.R. 2330, AUTHORIZING APPROPRIATION TO NUCLEAR REGULATORY COMMISSION

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 135) authorizing the Clerk of the House of Representatives to make correction in the enrollment of the bill, H.R. 2330, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, may I ask the distinguished chairman if this resolution contains the correction which resolves the stalemate we had with the other body with respect to H.R. 2330, which simply provides for the study of the viability of the domestic uranium mining and milling industry and its relationship with our national security?

Mr. UDALL. If the gentleman will yield, the gentleman is exactly correct.

Mr. FRENZEL. Further reserving the right to object, does it contain any restrictions of any kind on imports, may I ask the chairman?

Mr. UDALL. If the gentleman will yield, no; there was a very serious limitation on imports in the original Senate amendment, and through negotiations in the conference committee we have reduced this to a study, and this contains a study on and no import restrictions.

Mr. FRENZEL. I thank the gentleman.

This bill has been considered by the gentleman from New Mexico (Mr. LUJAN), myself, the gentleman from Florida (Mr. GIBBONS), the gentleman from North Carolina (Mr. BROYHILL), and a number of others who are interested in the matter. We do not object to the studies.

We have noted that a certain percentage of imports triggers a section 232 study by the Secretary of Commerce. We don't object to a study at that level, but we don't believe that any specific level of imports should govern any Presidential decision on import restrictions or relief. In other words, we believe that the President should be able to act as he sees fit, and not be bound by the import percentage which generated the study.

We also believe the criteria for both of the studies contemplated in the resolution are overwritten. We believe the studies should go forward in the traditional manner. We are confident they will proceed well without diverting necessary departmental resources and without being unnecessarily detailed.

I withdraw my reservation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill H.R. 2330, the Clerk of the House of Representatives shall make the following correction:

At the end of the bill insert the following new section:

URANIUM SUPPLY

SEC. 23. (a)(1) Not later than 12 months after the date of enactment of this section, the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives.

(2) The comprehensive review prepared for submission under paragraph (1) shall include—

(A) projections of uranium requirements and inventories of domestic utilities;

(B) present and future projected uranium production by the domestic mining and milling industry;

(C) the present and future probable penetration of the domestic market by foreign imports;

(D) the size of domestic and foreign ore reserves;

(E) present and projected domestic uranium exploration expenditures and plans;

(F) present and projected employment and capital investment in the uranium industry

(G) an estimate of the level of domestic uranium production necessary to ensure the viable existence of a domestic uranium industry and protection of national security interests;

(H) an estimate of the percentage of domestic uranium demand which must be met by domestic uranium production through the year 2000 in order to ensure the level of domestic production estimated to be necessary under subparagraph (G);

(I) a projection of domestic uranium production and uranium price levels which will be in effect both under current policy and in the event that foreign import restrictions were enacted by Congress in order to guarantee domestic production at the level estimated to be necessary under subparagraph (G);

(J) the anticipated effect of spent nuclear fuel reprocessing on the demand for uranium; and

(K) other information relevant to the consideration of restrictions on the importation of source material and special nuclear material from foreign sources.

(b)(1) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 170B. URANIUM SUPPLY.—

"a. The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

"b. Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

"c. The criteria referred to in subsection a. shall also include, but not be limited to—

(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than thirty-seven and one-half pecent of actual or projected domestic uranium requirements for any two consecutive year periods being supplied by source material or special nuclear material from foreign sources;

"(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

"(3) present and probable future use of the domestic market by foreign imports;

"(4) whether domestic economic reserves can supply all future needs for a future ten year period;

"(5) present and projected domestic uranium exploration expenditures and plans;

"(6) present and projected employment and capital investment in the uranium industry;

"(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a ten year period; and

"(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

"d. The Secretary of Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

"e. (1) If, during the period of 1982 to 1992, the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period, or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request and such other information that will assist the Secretary of Commere in the conduct of the investigation.

"(2) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including information regarding the impoact on national security of projected or executed contracts or options for source material or special nuclear material from foreign sources or whether domestic production capacity is sufficient to supply projected national security requirements.

"(3) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (1), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CYNTHIA GAMBON RABENA

Mr. MAZZOLI, Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 2481) for the relief of Cynthia Gambon Rabena, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. SENSENBRENNER. Reserving the right to object, Mr. Speaker—and I shall not object—I take this reservation to ask the gentleman from Kentucky to explain the bill.

Mr. MAZZOLI. If the gentleman would yield, this is an adoption case of a 6-year-old child whose name is Cynthia Rabena. She was adotped while in the Philippine Islands. A favorable home study, which means that this is a legitimate adoption and that the parents are prepared to take care of this young child, has been submitted.

This was the subject of favorable action in the subcommittee meeting which we had on December 9, and the favorable action is within subcommittee precedents.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Cynthia Gambon Rabena may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Wilfredo Reg Rabena and his wife, Lourdes Gambon Rabena, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST TO CONSIDER H.R. 4746, KIN CHI ENG SIMS

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 4746) for the relief of Kin Chi Eng Sims, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object—and I shall not object, I take this time to ask the gentleman from Kentucky to explain this bill.

Mr. MAZZOLI. If the gentleman will yield, this is another adoption case of a young 19-year-old man named Kin Sims, who entered the United States from Korea at the age of 10 and has been in this country for 9 years.

A favorable home study has been submitted, in which this is a legitimate adoption. His parents do want him. This matter was favorably reported by the subcommitte on December 9 and it does fall within the precedents of the subcommittee.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. CONYERS. Mr. Speaker, reserving the right to object, might I inquire of the subcommittee chairman: Do not these matters normally go before the full Committee on the Judiciary before they are reported?

Mr. MAZZOLI. If the gentleman will yield, I would answer my friend, the gentleman from Michigan, that traditionally that is the case. We reached the end of the session without the opportunity of having a full committee meeting.

Mr. CONYERS. What irremedial harm would occur if this matter were put over until the next Congress?

Mr. MAZZOLI. If the gentleman will yield, the gentleman is fully and freely permitted to object. The harm, if not irremedial, would be that a young man would not be able to be affiliated legally with his parents.

Mr. CONYERS. But could that not occur in the 98th Congress?

Mr. MAZZOLI. I could not deny that to the gentleman. It could occur in the 98th Congress.

Mr. CONYERS. Then what is the emergency?

Mr. MAZZOLI. I would hope the gentleman would defer to the fact that when you have an adoption, a young man who needs a family, and whose people are willing to adopt him, at the Christmas season I would hope that the gentleman would understand that the subcommittee is trying its best to do essential justice and equity, and we have tried our best.

Mr. CONYERS. I commend the gentleman for that, and I do not want to be any less sentimental than he at Christmastime. But might I just inquire how many other cases like this were before the subcommittee?

Mr. MAZZOLI. We probably had 400 before the subcommittee, and we reported 6.

Mr. CONYERS. Then can the gentleman suggest what differentiates this case from the 394 other cases and makes it essential that we dispense Christmas cheer to this 1 family out of 400?

Mr. MAZZOLI. The gentleman asks a question, and I can only say that the subcommittee has worked for 2 years together. We have had a lot of private bills before us. And some, these few, rise to the point of being meritorious and have excited on the part of the entire subcommittee, and I want to commend all of the members of my subcommittee for their——

Mr. CONYERS. Just a moment, before the gentleman begins that. The gentleman may be premature.

Mr. Chairman, I happen to like the idea of reuniting young persons with their families at Christmastime. But there are 400 such cases that the gentlemen went through. A number of them went before the full committee. Some were approved and some were not approved. But what the gentleman is doing by this procedure is short cir-

cuiting the very kinds of questions that I as a member of the full committee would have every right to ask. We are now holding up the business of the entire House to find out what, if the gentleman had brought it in a timely fashion, would have been disposed of, probably favorable, in the full Committee on the Judiciary.

I think this is an extraordinary procedure, without any particular redeeming merits, especially since I and most of the Members here have no idea what is in the 394 similar requests that are before the gentleman's subcommittee.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman from Michigan knows, I have probably got the most restrictive view of private legislation of anyone in the House. I will go to the defense of the gentleman from Kentucky in this particular instance. During the last Congress, as well as this one, I was one of the three Republican official objectors to the private calendar; and on the last or next-to-the-last day of the last Congress there were a number of private bills that were brought up by unanimous consent and were passed because it was deemed to be especially meritorious that the legislation pass. I recall that that was just before Christmas, too.

So what the gentleman from Kentucky is proposing to do with this bill and the preceding bill and four other bills is definitely in tune with at least the precedent that occurred 2 years ago when the 97th Congress ground to a halt, and I would urge the gentleman from Michigan to withdraw his reservation of objection.

□ 1420

Mr. CONYERS. I appreciate the advice from the gentleman from Wisconsin. I normally try to follow it whenever I can.

Let me ask one question. What happens to the other 394 similar petitions, which I presume by the gentleman's subcommittee action do not rise to the same level of urgency or charity as these several before us now?

Mr. MAZZOLI. If the gentleman will yield further, they are held over until next year. If the sponsors wish to reintroduce them, they may be reintroduced.

Mr. CONYERS. In other words, that is what could happen to these four?

Mr. MAZZOLI. That is right. I think it is time for the gentleman——

Mr. Speaker, regular order.

Mr. CONYERS. Is the gentleman advising me how to handle my objection?

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

DANA BRAFORD BARETTO

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 5633) for the relief of Dana Braford Baretto and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. SENSENBRENNER. Reserving the right to object, Mr. Speaker, I take this time to ask the distinguished gentleman from Kentucky (Mr. MAZZOLI) to explain this bill and why it ought to pass.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

I will very briefly. This is a case in which an illegitimate daughter of a U.S. citizen is being legitimized and being made a permanent resident of the United States. The natural father of this young lady has tried through the Red Cross to locate her and found her eventually in the Philippines in 1961.

The natural father has through this entire time supported the daughter. This again was before our subcommittee December 9. It was reported favorably. And it is within the precedents of our subcommittee.

Mr. McCOLLUM. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. McCOLLUM. I thank the gentleman for yielding.

I would like to point out as part of the discussion here I am a member of that subcommittee. We met the other day on these private bills and reviewed those 400 that the chairman is talking about as an accommodation to the Members here to screen them.

We knew, at least we believed we were not going to have a full committee meeting. It was because of the vast majority, I think almost every Member here had some bill of theirs that was in the hopper, that met and did this 6 or 7 hours.

It seems to me it is utterly futile for the distinguished gentleman from Kentucky to even call such meetings to accommodate our membership if once we have done that and screened these handful we are not going to be able to proceed.

I think it is a very important point to make out that that is why we have done this, is to accommodate the Members.

Mr. MAZZOLI. If the gentleman will yield further, I would like to ask the gentleman to yield to the gentleman from Michigan.

Mr. SENSENBRENNER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman for yielding.

I will make my own reservation of objection.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky (Mr. MAZZOLI)?

Mr. CONYERS. Mr. Speaker, reserving the right to object, this bill is before us as the result of a very interesting procedure in the Committee on the Judiciary. We have been here for all of these months, and now I am told that 400 petitions had to be screened by the subcommittee and those petitions were never brought to the attention of the full committee, the full committee has never met.

Would it be too inconvenient to ask why the full committee, of which I am member, could not participate in the deliberations on this bill in the regular course. The Member who was the sponsor of the other motion to which I was forced to object is now begging me to reconsider.

I have nothing against the merits of the proposal. But the full committee has not met in months. Is there some particular reason why this bill could not have been scheduled in the regular order?

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

The gentleman is wrong. The full committee has met within months. The full committee has not had an opportunity to meet during the "lame-duck" session. The subcommittee in an effort to do essential justice to the petitions of many people like our friend from Florida has met, and I might say again to commend my colleagues, each one of my colleagues was there.

Mr. CONYERS. I would like to recapture my time.

I thank the gentleman for his explanation.

Now, when these bills were taken up in the gentleman's subcommittee, did the gentleman know that the full committee was not going to meet?

Mr. MAZZOLI. If the gentleman will yield further, I did know that it was probably unlikely for the full committee to meet. That is why my colleagues and all of us showed up for the meeting. We were there from 9:30 to 2:30 in

the afternoon. We approached this thing with care, and I think the gentleman would be proud of the kind of work we did.

Mr. CONYERS. I am sure I would. Let me ask the gentleman this.

What did the gentleman tell the other 100 or so Members who had petitions that were turned down?

Mr. MAZZOLI. The docket was probably perhaps—around 100. There were 400 cases in our docket. Not all the Members showed up. Some of them came and we had to turn them down.

Mr. CONYERS. The gentleman told them to come back if they were reelected in the next session. But these four cases were of such high merit that in the gentleman's judgment they should go forward. The gentleman not only felt that, but so did his subcommittee. And the gentleman feels, I guess by extension, that the full committee would support him.

Mr. MAZZOLI. I do not want to derogate to myself or the subcommittee saying what the full committee would do. I believe the gentleman would rest assured the scrutiny we give to the cases would probably mean the full committee would have looked with some favor on them.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. Further reserving the right to object, I yield to my distinguished colleague from New Jersey, the chairman of the Judiciary Committee.

Mr. RODINO. I thank the gentleman for yielding.

I merely want to remind the gentleman from Michigan, though he is diligent about these matters, this is not an unusual procedure. In my 34 years in the Congress we have during the last waning hours of the Congress considered matters that were urgent matters, where there might have been prejudice to individuals, where serious injury might have occurred, where it might have been not only an act of charity, but an act of justice and equity to take these matters up.

During the time that I served as chairman of the Subcommittee on Immigration, we went through the thousands of bills that came before us. We considered them and whether they had any merit and whether they were of a substantial nature that we felt deserved action.

I was fully informed of what the subcommittee has done. This is just an act of compassion and justice in these last days. I would hope that we repose confidence in our subcommittee, especially when it is unanimous and that when it takes this kind of action, it is taking action that reflects credit on the committee.

Mr. CONYERS. I appreciate the chairman's explanation. It is perfectly logical, and I support it completely. I did not know this was an extraordinary procedure. The cases seemed to overflow with merit. Who am I to prevent a young person from being reunited with his or her family?

And I would further say to my colleague from Florida (Mr. MICA), to whose bill I objected, that I would be happy to support its reconsideration.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky (Mr. MAZZOLI)?

Mr. LUNGREN. Mr. Speaker, reserving the right to object, and I shall not object, I just thought we might make it clear to this body that under the leadership of the chairman of the subcommittee during this Congress, we have met on a regular basis, far more than we ever did in my previous term on this subcommittee, in which we had, unfortunately, complaints from Members because we had private bills stacked up for months on end.

The gentleman from Kentucky has attempted to have approximately one meeting per month on only the private bills. I have talked with other Members who have served on this subcommittee before and I can find no one who has suggested that any previous subcommittee has worked more diligently on trying to go through the literally hundreds and thousands of private bills that occur in this Congress year after year.

We had a meeting just a week ago in which we dealt with—I hear the number 400—I remember something like 85 bills—in which we heard testimony and met for over 6 hours, in which we tried to cull very carefully from that entire list those that needed immediate attention.

Certainly it is true if they die at the end of this year they can be brought up again. But we thought as an accommodation to other Members and under the leadership of the gentleman from Kentucky (Mr. MAZZOLI), we ought to go the extra mile.

And that is purely and simply what has been done here.

I think the chairman ought to be recognized for the efforts that he has made which I would believe to be extraordinary efforts that have never been forwarded before to my knowledge in this House. And I think the entire body owes the gentleman from Kentucky congratulations for doing this.

We are only bringing very, very few private bills out of the literally thousands that are presented to us. And I would suggest that I have not found a tremendous propensity for Members to volunteer to serve on that subcommittee to do this work.

□ 1430

So I would just say, Mr. Speaker, that I withdraw my reservation; but as a member of that subcommittee, I think the record ought to be clear on what has taken place.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky (Mr. MAZZOLI)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of section 203(c) of the Immigration and Nationality Act, the petition filed on behalf of Dana Braford Baretto by Emily Irene Braford under section 204(a) of such Act shall be held and considered to have been filed on March 29, 1979, the date on which a petition was filed on behalf of Dana Braford Baretto under such section by Ralph Otis Braford.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CAROLE JOY MAXFIELD-RAYNOR, BRUCE SHERLOCK MAXFIELD-RAYNOR, CHARLTON BRUCE MAXFIELD-RAYNOR, AND MAXINE ANNE MAXFIELD-RAYNOR

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 717) for the relief of Carole Joy Maxfield-Raynor and Bruce Sherlock Maxfield-Raynor, wife and husband, and their children Charlton Bruce Maxfield-Raynor and Maxine Anne Maxfield-Raynor, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, and I shall not object, I take this time to ask the gentleman from Kentucky to explain this bill.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

This is another case of legitimization of an illegitimate child involving Charles Maxfield, a U.S. citizen, who is in ill health. Mr. Maxfield has been in constant touch with his daughter, his illegitimate daughter, since her early youth and has sent money and supported her throughout the entire time.

This subcommittee did meet on December 9 and reported the bill favorably and we did find it within the subcommittee precedents.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to

object, is it not true that there is some urgency in this bill, since Mr. Maxfield is suffering from lung cancer and that it is important that this bill be passed to legitimize his child for purposes of inheritance?

Mr. MAZZOLI. I thank the gentleman for suggesting that. That is indeed the truth. There is a matter of time. Time is of the essence in this particular case.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky (Mr. MAZZOLI)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Carole Joy Maxfield-Raynor and Bruce Sherlock Maxfield-Raynor, wife and husband, and their children Charlton Bruce Maxfield-Raynor and Maxine Anne Maxfield-Raynor shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 202 of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOSE RAMON BELTRON AIVENDA OSTLER

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1364) for the relief of Jose Ramon Beltron Aivenda Ostler, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I take this time to ask the distinguished gentleman from Kentucky (Mr. MAZZOLI) to explain this bill.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

This again is an adoption case of a young man who is of the age of 16. Under the law he was not adoptable under the current terms of the law. He has no family to return to. He is a native and citizen of Mexico. The bill would grant him permanent residency.

The bill did come before the subcommittee on December 9 and was unanimously reported favorably. It is well within the subcommittee precedence.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Jose Ramon Beltron Aivenda Ostler of Orem, Utah, shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed in his behalf by Mr. and Mrs. M. Ray Ostler of Orem, Utah, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Jose Ramon Belton Aivenda Ostler shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CESAR NOEL JUMP

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1838) for the relief of Cesar Noel Jump, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I take this time to ask the gentleman from Kentucky (Mr. MAZZOLI) to explain this bill and why it is necessary.

Mr. MAZZOLI. Mr. Speaker, I thank my friend, the gentleman from Wisconsin.

This is another adoption case. It involves a native and citizen of El Salvador who has five brothers and sisters already in the United States, one of whom was the subject of a private bill in the earlier Congress.

This bill did come before your subcommittee on December 9, was found to be meritorious, reported unanimously and was held to be within the precedence of our subcommittee.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I note that the subcommittee did not have this bill until November 29, 1982; so there was no full committee meeting between the time it was referred to the subcommittee and the present time to consider it.

Mr. MAZZOLI. Mr. Speaker, the gentleman is correct.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky (Mr. MAZZOLI)?

Mr. CONYERS. Mr. Speaker, reserving the right to object, is the subcommittee chairman proposing to this body that this November request, upon being carefully examined against the 399 others, had more redeeming merit?

Mr. MAZZOLI. Mr. Speaker, if the gentleman will yield, it came from the other body which had studied it carefully and it did have redeeming value, yes.

Mr. CONYERS. The other body's judgment was decisive in this?

Mr. MAZZOLI. No, hardly. I would say to the gentleman that this subcommittee worked it carefully and during that period of time of 6 hours that the gentleman from California suggested that we were in meetings, looked at the bill very carefully and found it to be meritorious.

Mr. CONYERS. Well, it is not included in the regular matters that came before the committee, Mr. Chairman; is that not correct?

Mr. MAZZOLI. The gentleman has before him the copy. It was done just like every other bill is done, with a copy of the subcommittee markup.

Mr. CONYERS. Well, Mr. Speaker, I apologize. It is in that list.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky (Mr. MAZZOLI)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Cesar Noel Jump may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed on his behalf by Mr. and Mrs. Robert I. Jump, citizens of the United States: *Provided,* That the natural parents, brothers, and sisters of the said Cesar Noel Jump shall not, but virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KIN CHI ENG SIMS

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 4746) for the relief of Kin Chi Eng Sims, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky (Mr. MAZZOLI)?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, just to confirm with the distinguished gentleman from Kentucky that this is the same bill about which we had a colloquy earlier?

Mr. MAZZOLI. I would say to my friend, the gentleman from Wisconsin, he is exactly correct. This is the identical bill we had a few moments ago and the subject of an extended discussion.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I support the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky (Mr. MAZZOLI)?

Mr. CONYERS. Mr. Speaker, reserving the right to object, I would like to indicate to my colleague, the gentleman from Florida, who I believe offered this matter before the subcommittee, that I apologize for any inconvenience that was caused him, Kin Sims, or her family, or any of our friends in Korea.

Mr. MICA. Mr. Speaker, I thank the gentleman.

Mr. CONYERS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky (Mr. MAZZOLI)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of section 203(a)(1) and 204 of the Immigration and Nationality Act, Kin Chi Eng Sims shall be held and considered to be the natural-born alien son of Gerald and Patricia Sims, citizens of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 6094, AUTHORIZING APPROPRIATIONS FOR U.S. INTERNATIONAL TRADE COMMISSION, U.S. CUSTOMS SERVICE, AND OFFICE OF U.S. TRADE REPRESENTATIVE, 1983

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6094) to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes, disagree to the Senate amendments thereto and agree to a conference requested by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I reserve the right to object to ask the gentleman from Florida or the gentleman from Minnesota to confirm that the authorizations we are dealing with here are within the budget.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, all of these agencies have already received their appropriations either in an appropriations bill or in the continuing resolution. The Senate number on Customs is below the House number, so we cannot do the gentleman any worse than that. All the other figures are within the budget as we understand it.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? The Chair hears none and, without objection, appoints the following conferees: Messrs. ROSTENKOWSKI, GIBBONS, and FRENZEL.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4566, AMENDING CERTAIN TARIFF SCHEDULES

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4566) to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes, agree to the Senate amendments thereto, with an amendment which is the text of H.R. 4566 and H.R. 6867 as those bills were approved by the House, insist upon the House amendment, and request a conference with the Senate thereon.

□ 1440

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? The Chair hears none and, without objection, appoints the following conferees: Messrs. ROSTENKOWSKI, GIBBONS, and FRENZEL.

There was no objection.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF PUBLICATION ENTITLED "GENERAL EXPLANATION OF THE REVENUE PROVISIONS OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982"

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent for immediate consideration of the Senate concurrent resolution (S. Con. Res. 136) to provide for the printing of an additional 3,000 copies of the forthcoming publication by the staff of the Joint Committee on Taxation, entitled "General Explanation of the Tax Equity and Fiscal Responsibility Act of 1982."

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, this resolution comes under the jurisdiction of the Committee on House Administration. The chairman of that committee, the distinguished gentleman from California (Mr. HAWKINS) and I have reviewed it.

It is similar to the resolutions which we pass after each major tax bill. It will provide a significant savings if we can publish the additional copies at the same time we publish the regular copies. They will be made available to Members of the House.

I withdraw my reservation:

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 136

Resolved by the Senate (the House of Representatives concurring), That 3,000 additional copies of the General Explanation of the Revenue Provisions of the Tax Equity and Fiscal Responsibility Act of 1982, prepared by the Staff of the Joint Committee on Taxation, be printed for the use of the Joint Committee on Taxation.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REQUEST TO CONSIDER CONFERENCE REPORT ON H.R. 5002, FISHERY CONSERVATION AND MANAGEMENT IMPROVEMENT

Mr. BREAUX. Mr. Speaker, pursuant to the order of the House of December 17, 1982, I call up the conference report on the bill (H.R. 5002) to improve fishery conservation and management, and ask for its immediate consideration.

The Clerk read the title of the bill.

Mr. WALKER. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. There is no unanimous consent request pending.

Mr. WALKER. Is there any money in the bill?

Mr. BREAUX. Mr. Speaker, I would say to the gentleman from Pennsylvania that the bill is supported by the administration and it is within the budget that we are operating under and supported by the administration as such.

POINT OF ORDER

Mr. ANDERSON. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman was on his feet and will state his point of order.

Mr. ANDERSON. I make a point of order against the conference report on H.R. 5002 because the Senate conferees were not formally appointed at the time the conferees met. This procedure violates House rule XXVIII, clause 6, which requires an open meeting of the conferees. In this case there was never a valid conference meeting because the Senate conferees were not appointed at the time the conference met.

According to the rules on the conference report, it should be considered as rejected.

I would also like to point out that several of the conferees signed the signature sheets of the conference report prior to the premature meeting of the House and Senate conferees. This is clearly an improper procedure, so they actually signed the report prior to a conference. It was, if not illegal, a very improper procedure because there was no conference because the Senators were not conferees at the time, it was not an existent conference, and because they were not appointed until the next day.

That is my point of order, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Louisiana care to respond?

Mr. BREAUX. Yes, I do, Mr. Speaker.

I would only point out that I did not have any control over the Senate procedures. I would only say to the Speaker that the House does not have any control over the speakers of the other body.

I would only note for the Speaker's consideration that the conference report, when filed in the House, was done subsequent to the necessary action in appointing the conferees by the Senate.

Mr. ANDERSON. But the Senators that we met with were not conferees. It was wholly an improper conference.

The SPEAKER pro tempore. The Chair notes that pursuant to the Senate message of yesterday, the conferees were not named until yesterday, so the Chair is prepared to rule, unless either gentleman wishes to make a further statement.

Mr. BREAUX. This Member is certainly willing to abide by the rules.

Mr. SPEAKER pro tempore. The Chair sustains the point of order based on the concession that a conference formally appointed by both Houses did not meet in open session following appointment.

Pursuant to clause 6(b), rule XXVIII, the conference report is considered as rejected, the House considered to have insisted upon disagreement to the Senate amendment, and the Chair is authorized to appoint conferees without intervening motion.

APPOINTMENT OF CONFEREES ON H.R. 5002

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. BIAGGI, ANDERSON, BREAUX, STUDDS, SNYDER MCCLOSKEY, and PRITCHARD.

There was no objection.

ESTABLISHING CHEAHA WILDERNESS IN TALLADEGA NATIONAL FOREST, ALA.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2955) to establish the Cheaha Wilderness in Talladega National Forest, Ala., and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so only to inquire of the gentleman from Ohio if this is the Cheaha Wilderness bill we scaled down, the Alabama wilderness to include only this area? Is that correct?

Mr. SEIBERLING. If the gentleman will yield, yes, this wilderness area was included in the bill as passed by the House, which passed on August 4 under H.R. 6011. this is the smaller of the two areas included in the bill. It is totally noncontroversial.

For reasons which I do not quite understand, the Senate took out the other area, but I see no opposition whatsoever to this. It is supported by the entire Alabama delegation.

Mr. WALKER. If the gentleman will yield to me under this reservation of objection, there is no budgetary impact of this bill; is that correct?

Mr. LUJAN. Absolutely none at all.

Mr. WALKER. And there is no problem with the individual Members whose districts this bill will affect?

Mr. LUJAN. As far as I am concerned, as a matter of fact, I have been asked to support it by the entire delegation, and it is supported by the administration.

Mr. WALKER. I thank the gentleman for yielding.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield to me.

S. 2955 designates a 6,780-acre Cheaha Wilderness in the Talladega National Forest in the State of Alabama. The Cheaha proposal passed the House on August 4 of this year as part of a statewide RARE II bill (H.R. 6011) for Alabama. The Senate bill, however, designates only the Cheaha Wilderness and does not address the other areas and issues in Alabama. Apparently the Senate wanted more time to consider the other provisions.

The proposed Cheaha Wilderness is supported by the entire Alabama congressional delegation, and as far as I am aware has no opposition whatsoever. A description of the area can be found in House Report 97-646, part I, so I will not elaborate further here. I urge my colleagues' support of S. 2955 so that we can send this meritorious proposal to the President for his signature.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cheaha Wilderness Act".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), certain lands in the Talladega National Forest, Alabama, which comprise approximately six thousand seven hundred and eighty acres, as generally depicted on a map entitled "Cheaha Wilderness Proposed", dated May 1982, are hereby designated as wilderness and shall be known as the Cheaha Wilderness.

(b) Subject to valid existing rights, the wilderness area designated under subsection (a) shall be administered by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act of 1964 (16 U.S.C. 1131-1136) governing areas designated by that Act as wilderness except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(c) As soon as practicable after the date of the enactment of this Act, the Secretary shall submit a map and legal description of the wilderness area designated by subsection (a) to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical error in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service, Department of Agriculture.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2623, TRIBALLY CONTROLLED COMMUNITY COLLEGE ACT OF 1978 AMENDMENT

Mr. KILDEE. Mr. Speaker, I call up the conference report on the Senate bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 19, 1982.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. KILDEE) will be recognized for 30 minutes.

Mr. KILDEE. Mr. Speaker, I will not take up the time of the House. This has been fully discussed with the minority. This is basically like the bill that passed the House with some changes by the Senate which will not take effect immediately. I have discussed this with the majority.

There are no fiscal implications for 1983 and 1984. It is well within the Omnibus Reconciliation Act of 1983 and 1984.

Today, I ask the House to favorably consider a bill to aid American Indians in their postsecondary efforts. I support this measure principally because I know what a positive effect such community colleges can have in rural, isolated areas.

This program of support to tribal colleges located on very depressed reservations has already shown the progress and promise. The amendments to the program proposed today are the result of hours of research, discussion, and consideration. I am sure that they will improve the program.

The major thrust of these amendments is the clarification of the congressional intent for the program and the simplification of administrative provisions. The conferees also agreed to Senate provisions to aid in the development of facilities and to encourage these schools to seek and obtain outside, non-Federal endowment funding. Finally, the program is extended, at its present levels, for 3 years. This will greatly aid the schools in obtaining full accreditation.

The major provisions of the conference report are:

A tribe would now define its membership for the purposes of the program;

The method of computation of the number of students to credit to a school for the purposes of the formula (to be multiplied by $4,000) is simplified;

The bill states that this program is pursuant to the Federal trust responsibility as it relates to Indian education;

Planning grants are authorized for tribes that wish to examine the possibility of establishing a community college;

The amount authorized per full-time equivalent student is adjusted for the fiscal years 1985, 1986, and 1987, to reflect cost-of-living increases (for the first time since the program started);

New schools may not enter the program if this will reduce the pre-student amount of the participating schools (the per-student amount has fallen steadily each year since the program started. Further continuing reductions would seriously threaten the accreditation prospects, the program quality and even the continued existence of the participating schools);

The bill provides for assessment of available structures and for renovation to the colleges' use, where possible;

Money for new construction would be made available for fiscal years 1985, 1986, and 1987, on a matching basis (a 4-to-1 match, four parts Federal to one part tribal);

Endowment funds are authorized at $5 million per year for fiscal years 1985, 1986, and 1987. Colleges participating in the program are eligible for up to $350,000 per year on a 1-to-1 match, funds to be invested in a federally insured account and only the interest usable. This provision is designed to assist the colleges to begin tapping private sources of funding and to establish stable independent funding mechanisms.

The House passed the committee bill last Thursday under unanimous consent, and the other body has acted on this conference report yesterday.

In closing, I particularly want to commend the conferees and several members of the Education and Labor Committee for their special efforts on this measure. Mr. SIMON, who unfortunately could not be here today to see the product of his labors, chairs our Postsecondary Subcommittee. He worked long and hard to see that this legislation was fair and workable.

I would also like to give particular recognition to Mr. COLEMAN, the ranking minority member of the Postsecondary Subcommittee, Mr. ERDAHL, who has been untiring in his support for Indian education. And, of course, Mr. ERLENBORN, the committee's ranking minority member. Through the good offices and work of these gentlemen, we have maintained the nonpartisan and cooperative outlook that has always characterized the committee's work in the area of Indian education.

I believe that this conference is a good measure and I urge its approval.

● Mr. SIMON. Mr. Speaker, I am pleased to join my colleague from Kentucky, the distinguished chairman of the Committee on Education and Labor and Mr. KILDEE, in recommending House adoption of the conference report on S. 2623. The chairman has ably outlined the major provisions of the bill and several major reasons for enactment of the bill at this time.

I do want to emphasize several points that I believe are extremely important to these colleges and to the higher education community as a whole. Most of the 18 tribally controlled colleges are located in isolated areas and are providing a college-level education opportunity to Indian students who otherwise would not receive a college education. Additionally, these institutions are an important source of trained leadership and an economic resource for the tribes. The tribally controlled colleges are not only essential to Indian self-determination, but to the improvement of Indian educational opportunity.

S. 2623 contains two important provisions which I believe are critical to the growth and development of these colleges—many of which are operating at the financial margin. First, the act contains the endowment provisions, which I authored, originally included in H.R. 6485. This provision will permit the tribally controlled colleges to raise funds privately or use Snyder Act funds and have those funds matched by Federal funds appropriated under this section of the act. This provision will not be effective until fiscal year 1985, permitting the tribes to raise funds in the private sector and the Congress to provide additional appropriations for this new authorization. Funded endowments will be essential to the survival and enhancement of these colleges. Second, the construction and renovation section will permit the Federal Government to assist in improving the physical facilities at these institutions. Recently, my friend, Jim Spencer, chancellor of Illinois Eastern Community Colleges, wrote me regarding Sinte Gleska College on the Rosebud Indian Reservation in South Dakota. He chaired an accrediting team from the North Central Association, which is recommending that Sinte Gleska be fully accredited to grant baccalaureate degrees. In

his letter to me, Dr. Spencer emphasized "* * * that no better purpose would be served than to provide some funds for permanent construction for Sinte Gleska College." It is clear that if the Congress wants to help these colleges in a meaningful way, we must provide funds for construction.

I am most concerned about the quality of education provided to the students at the tribally controlled colleges and I believe that this bill will do just that—improve the quality of education.

I want to thank the gentleman from Kentucky, the gentleman from Missouri, Mr. COLEMAN, the ranking Republican member of the subcommittee, and the other members of the subcommittee for their hard work. I would like to pay special tribute to Mr. KILDEE of Michigan, Mr. WILLIAMS of Montana and to the full committee and the subcommittee staff on both sides for their fine contributions in these last few days of the session and during the past 2 years.●

● Mr. DASCHLE. Mr. Speaker, I rise in support of S. 2623, a bill to amend and extend the Tribally Controlled Community College Assistance Act of 1978. As a cosponsor of the House bill, I want to thank the distinguished full committee and subcommittee chairmen for their leadership on this very important legislation.

We have four tribally controlled community colleges in my home State of South Dakota. By virtue of the dedication of the Indian tribes, and the foundation funding provided under the 1978 act, these colleges are providing quality instruction tailored to the cultural and educational needs of the Indian students.

Mr. Speaker, of all groups in the United States, American Indians have the lowest average level of educational achievement and the highest rate of unemployment. On the Indian reservations in South Dakota, unemployment is running at the 80 percent level. But due to the wisdom of the Congress in 1978, Indian tribes have been given an opportunity to make an assault upon these deplorable conditions. And they do a fine job. Tribally controlled community colleges have high student retention rates and an impressive record of placement.

This bill will significantly improve and strengthen the tribal college program, and thereby improve the higher education opportunities available to our first Americans. Additionally, it will further strengthen the self-determination efforts of Indian tribes.

I strongly urge my colleagues to support this bill.●

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I assume this has been cleared by everyone over here on this side.

Mr. KILDEE. Yes, it has been.

Mr. Speaker, I move the previous question on the conference report.

The SPEAKER pro tempore (Mr. PANETTA). The Chair would inquire if anyone on the minority side requests any time.

Mr. LUJAN. No, Mr. Speaker, we do not.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extent their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

□ 1450

FLORIDA WILDERNESS ACT OF 1982

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speakers table the bill (H.R. 9) to designate components of the National Wilderness Preservation System in the State of Florida, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Florida Wilderness Act of 1982".

WILDERNESS DESIGNATION

SECTION 1. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Apalachicola National Forest, Florida, which comprise approximately one thousand one hundred and seventy acres, are generally depicted on a map entitled "Bradwell Bay Wilderness Addition—Proposed", dated February 1980, and which are hereby incorporated in and shall be deemed a part of, the Bradwell Bay Wilderness as designated by Public Law 93-622;

(2) certain lands in the Apalachicola National Forest, Florida, which comprise approximately seven thousand eight hundred acres, are generally depicted on a map entitled "Mud Swamp/New River Wilderness—Proposed", dated February 1980, and shall be known as the Mud Swamp/New River Wilderness;

(3) certain lands in the Osceola National Forest, Florida, which comprise approximately thirteen thousand six hundred acres, as generally depicted on a map entitled "Big Gum Swamp Wilderness—Proposed", dated March 1980, and shall be known as the Big Gum Swamp Wilderness;

(4) certain lands in the Ocala National Forest, Florida, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Alexander Springs & Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Alexander Springs Wilderness: *Provided, however,* That the Secretary of Agriculture shall not prohibit existing motorboat use on Alexander Springs Creek;

(5) certain lands in the Ocala National Forest, Florida, which comprise approximately thirteen thousand two hundred and sixty acres, as generally depicted on a map entitled "Juniper Prairie Wilderness—Proposed", dated November 1981, and shall be known as the Juniper Prairie Wilderness;

(6) certain lands in the Ocala National Forest, Florida, which comprise approximately two thousand five hundred acres, as generally depicted on a map entitled "Little Lake George Wilderness—Proposed", dated March 1980, and shall be known as the little Lake George Wilderness; and

(7) certain lands in the Ocala National Forest, Florida, which comprise approximately three thousand one hundred and twenty acres, as generally depicted on a map entitled "Alexander Springs & Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Billies Bay Wilderness.

MAPS AND DESCRIPTIONS

SEC. 2. As soon as practicable after the provisions of section 1 of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by such section with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clercial and typopgraphical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provisions of this Act.

SEC. 4. (a)(1) The Department of the Interior shall not issue phosphate leases in the Osceola National Forest, Florida, unless and until the President transmits a recommendation to the Congress that phosphate leasing be permitted in a specified area in the Osceola National Forest. Notice of such transmittal shall be published in the Federal Register. No recommendation of the

President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

(2) FINDINGS.—A recommendation may be transimitted to the Congress under subsection (a) if the President finds that, based on the information available to him—

(i) there is a clear and present national need for the phosphate resulting from a domestic shortage of phosphate reserves, and

(ii) such national need outweighs the overall public values of the public lands involved, including the wilderness area designated in section 1(3) of this Act, and any adverse environmental impacts which are likely to result from the activity.

(3) REPORT.—Together with his recommendation, the President shall submit to the Congress—

(i) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(ii) a statement of the conditions and stipulations which would govern the activity; and

(iii) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

(4) DISAPPROVAL.—Any recommendation under this section shall take effect only upon enactment of a joint resolution of Congress approving such a recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(5) NINETY-DAY COMPUTATION.—For purposes of this section—

(i) continuity of session of Congress is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day calendar period.

(b) Within sixty days of the date of enactment of this Act, the Secretary of the Interior shall, with respect to those individuals and companies (hereinafter referred to as "applicants") which have applied for phosphate preference right leases by applications numbered:

BLM-A-080538, 080539, 080540, 080544, 080545, 080546, 080547, 080548, 080549, 080093, 080297, 080298, 080299, 080801, 080975, 079903, 079904, 079905, 079906, 079907, 079956, 079957, 079958, 079959, 079992, 080004, 080027, 080028, 080048, 080067, 080069, 080070, 080632, 080634, 080638; ES-0980, 0982, 0983, 3181, and 3208.

determine if any of those individuals or companies have made a discovery or discoveries of valuable deposits in accordance with the regulations and policies in effect as of the date of filing of the applications.

(c) Within one year of the date of enactment of this Act, the Secretary, in consultation with the applicants, shall determine the present fair market value of leases which would be issued, absent the leasing prohibition of subsection (a) of this section, for those applications for which the Secretary has determined that a valuable deposit discovery or discoveries exist.

(1) The determination of fair market value shall be based on the replacement cost of the unmined recoverable phosphate in the ground, taking into account comparable sales of unmined recoverable phosphate in the ground in the Eastern United States, costs of compliance with all applicable Federal, State, and local laws and regulations, including reclamation and restoration of the land (including wetlands) and other costs normally incurred in the mining of phosphate. In determining fair market value the Secretary may contract with an applicant to perform any necessary exploratory drilling or other evaluation work and may compensate the applicant therefor through payment of money or as an addition to the monetary credit under this Act. In lieu of the monetary credits described above, the Secretary may, at his option only, offer to purchase the preference right to the applicant's lease.

(2) In the event the Secretary and any or all of the applicants cannot agree on fair market value within one year of the date of enactment of this Act, either the Secretary, or any of the applicants shall have the right to petition the United States Claims Court for determination of fair market value in accordance with the standards set forth in this subsection, and said court shall have jurisdiction to make said determination which shall be binding on all parties for purposes of this Act subject to the right of appeal.

(d)(1) Within three months of the date of enactment of this Act the Secretary of the Interior shall enter into negotiations and shall, within one year of the date of enactment of this Act for those lease applications for which he has determined a valuable deposit discovery or discoveries exist, extend to the applicant, its successors or assigns upon voluntary surrender and relinquishment by the lease applicant of the preference right lease applications and all right to lease the land covered by such applications, a monetary credit to be used against that portion of bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal Government on any mineral, oil, or gas lease competitively won or otherwise held by the applicant, its successors, or assigns. Such credit shall be used over a period of years with not more than 10 per centum of the credit to be used in any one year.

(2) Monetary credits authorized pursuant to this subsection shall be based on the fair market value of the prospective leases as determined pursuant to subsection (c) of this section.

(e) The designation of the Big Gum Swamp wilderness shall in no way be construed to diminish, abate, impair, or modify any rights which may be vested in the applicants on the date of enactment of this Act for Federal phosphate preference right leases applicable to any lands within the Big Gum Swamp wilderness area designated by this Act. The fair market value of any such rights as may exist shall be determined without reference to any restrictions on access or use which may result from designation of this area as wilderness.

(f) Notwithstanding any provision of this section to the contrary, the Secretary and the applicant may mutually agree to extend any of the time limitations in this section.

(g) Effective October 1, 1983, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act: *Provided*, That any payments made pursuant to this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts: *Provided*, however, That until the necessary sums are appropriated the holder of a phosphate lease application specified in section 4(b), will retain such legal rights he may have under such application and such rights shall remain in full force and effect.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so because there was some concern about this bill. As the chairman knows, the ranking minority member of the subcommittee had some problems with it, had a hold on it, and I assume that by this point that that controversy has been cleared up.

Mr. SEIBERLING. If the gentleman will yield, that is absolutely correct. He has released his hold on this bill and has no objection to it.

Mr. LUJAN. Further reserving the right to object, could the gentleman explain the difference between what we passed over here with the exchange provisions and the Senate changing that?

Mr. SEIBERLING. Mr. Speaker, H.R. 9 is essentially the same bill which passed the House on December 15, 1981, and is long-overdue legislation to implement the RARE II wilderness recommendations for Florida and ban phosphate mining in the Osceola National Forest. H.R. 9 has the strong support of the entire Florida delegation and the State administration as well.

The wilderness proposals of the bill contained some modifications of the original RARE II submissions in order to accommodate the concerns of the administration, the Florida delegation, and other interested parties. With one minor exception, they are the same as were contained in legislation which passed the House in the 96th Congress, and I believe they are noncontroversial.

The other major issue addressed by H.R. 9 deals with the question of banning phosphate leasing and mining in the Osceola National Forest. Briefly, as passed by the Senate, the bill prohibits leasing and mining unless and until a future Presidential recommendation for leasing is forwarded to Congress and Congress approves such recommendation by joint resolution. The major Senate amendment to the bill deletes the mineral exchange provision of the House-passed bill and substitutes an extension of a credit to phosphate lease applicants whose

valid claims to leases would be terminated by the bill's ban on leasing. Such credit would be used in connection with other mineral or oil and gas leases held or sought by the lease applicant, and would be assignable. The Senate amendments also delete the House language providing for binding arbitration on the issue of fair market value of prospective phosphate leases and replace it with a process for appeal to the U.S. Claims Court.

Mr. Speaker, I am especially gratified that we are finally able to resolve this difficult problem. Legislation to ban phosphate leasing in the Osceola National Forest has been considered in four successive Congresses, and it is high time that the matter be settled. In closing, I would particularly like to commend the entire Florida delegation, and especially Congressman FUQUA and Senators CHILES and HAWKINS, for their tireless efforts on behalf of this bill. Additional thanks are also in order to Senators MCCLURE, WALLOP, and METZENBAUM for their patience and hard work in helping to achieve a bill that is supported by the companies involved, environmental groups, and the State of Florida.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Speaker, I appreciate the gentleman yielding to me. This bill, as he knows, came out of the Interior Committee. It has been in the Senate for over a year, and I think they made some corrections that essentially are constructive suggestions. It has no budgetary impact as far as revenues are concerned, and I would hope that there would be no objection to the bill.

Mr. CRAIG. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Further reserving the right to object, I yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Speaker, I appreciate the gentleman showing an interest in this. I am pleased to see that we have brought some final solution to H.R. 9 and the problem it addresses. I expressed concern on it in the subcommittee, and in the major committee at the time I was fearful of some precedents being set with this type of legislation.

I think the Senate amendments clarify some of that language, and I am pleased to see that there is no objection.

● Mr. FUQUA. Mr. Speaker, I rise in strong support for H.R. 9, Florida Wilderness act, legislation I first introduced back in 1974. We have come a long way since then and H.R. 9 has undergone many modifications. The essence of the act, however, remains intact. My original thesis was that we could not permit phosphate mining in the Osceola National Forest without doing irreparable harm to the environment, and H.R. 9 retains that prohibition.

The Senate changes do not do damage to the intent of the bill, and I urge the House to accept the Senate language and speed H.R. 9 to the President for signature.

I have spoken in the well of this body on two separate occasions in behalf of this act and shall not repeat earlier statements. Let me say simply that this bill is of great importance to me, its prime sponsor, as well as to the entire Florida House delegation, which agreed to cosponsor the act. Additionally, its Senate consideration was assisted by the fact that both Senator CHILES and Senator HAWKINS introduced similar proposals. The people of Florida and of the Nation want to provide protection to our national forests in situations where there is no overwhelming national need for the minerals. There is no need for phsophate now, and H.R. 9 provides a merchandism should we ever determine that mining is needed.

No one person makes a law and I received tremendous assistance from a variety of people, I would like to take just a minute to thank the staffs who helped, especially Lynda Goodgame with Senator CHILES and Mike Sauls with Senator HAWKINS. The staff of the Senate Energy and Natural Resources Committee did excellent work, and I must not forget the yeoman-like efforts of Andy Wiessner of the House Interior and Insular Affairs Committee.

Many Members on both sides of the aisle played a vital role in shaping H.R. 9. My special thanks to Congressman LARRY CRAIG and Congressman DON YOUNG as well as Senator MALCOLM WALLOP and Senator JIM MCCLURE.

Legislation like this never gets to the floor without the cooperation of the committee chairman and Chairman UDALL rendered invaluable assistance.

Mr. Speaker, since 1974, I have made this a cause because it is so important to the people I represent. One man, however, has made my cause his own. H.R. 9 would still be languishing in subcommittee if JOHN SEIBERLING had not accepted the challenge of protecting the Osceola National Forest. To you, JOHN, my heartfelt thanks and appreciation.

Mr. Speaker, I urge my colleagues to adopt H.R. 9 in order that we might provide the protection we need to this important national forest.●

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

QUIET TITLE AND POSSESSION REGARDING CERTAIN PRIVATE LAND CLAIM IN LIVINGSTON PARISH, LA.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1978) to quiet title and possession with respect to a certain private land claim in Livingston Parish, La., with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the Senate bill.

The Clerk read the House amendments to the Senate amendment, as follows:

In lieu of the Senate amendment strike all after the enacting clause and insert the following:

SEC. 1. (a) For the purposes of this Act only, the limitation provision of section 1 of the Act of December 22, 1928, as amended (45 Stat. 1069; 43 U.S.C. 1968), popularly known as the Color-of-Title Act, that limits conveyances under that Act to not more than 160 acres, shall not apply to any claim for a patent that may be filed under the Color-of-Title Act for a parcel of land described as section 39, township 5 south, range 4 east, Saint Helena Meridian, Louisiana.

(b) Except as provided in subsection (a) of this section, all provisions of the Color-of-Title Act shall apply to any claim for a patent under the Color-of-Title Act for the parcel of land described in subsection (a) of this section.

SEC. 2. (a) Section 5 of the Act entitled "An Act to authorize the Secretary of the Interior to provide an administrative site for Yosemite National Park, California, on lands adjacent to the park, and for other purposes", approved September 2, 1958 (16 U.S.C. 47-1(e)), is amended by striking *"Provided,"* and all that follows in such section and inserting in lieu thereof *"Provided,* That he may grant nonexclusive privileges, leases, and permits for the use of land in the area and enter into contracts relating to the same which he determines necessary to further the purposes of this Act."

(b) The first sentence of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to grant long-term leases with respect to lands in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes", approved July 21, 1968 (16 U.S.C. 47-2(a)), is amended by striking out "for periods of fifty-five years".

SEC. 3. (a) Subject to subsection (b), the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall release by quitclaim deed or other good and sufficient instrument, on behalf of the United States, with respect to the land described in subsection (c) which was conveyed by the United States to the city of Albuquerque, New Mexico, by a patent numbered 30-64-0081, all conditions in such patent—

(1) which require that such land be used for a public purpose pursuant to a plan approved by the Secretary, and

(2) which prohibit the transfer of title or control of such land by the patentee or its successor.

(b) The Secretary shall not deliver the release authorized by subsection (a) until the city of Albuquerque, New Mexico, simultaneously with such delivery—

(1) consummates an exchange of the land described in subsection (c) for the land described in subsection (d) and (e); and

(2) enters into a recordable agreement, in consideration of such release, that is satisfactory to the Secretary providing that—

(A) the city of Albuquerque will carry out at its sole expense a plan of development for the lands described in subsections (d) and (e), such plan to be submitted for the Secretary's written approval within one year after the date of the exchange and to be implemented by the city substantially in accordance with a timetable to be set forth in the plan;

(B) the city of Albuquerque will not use or permit the use of the lands described in subsections (d) and (e) which are received by the city of Albuquerque in exchange for the land described in subsection (c) for any purpose except exclusively for a community park or for other public purposes that are described in the plan of development, as approved by the Secretary;

(C) the city of Albuquerque will not transfer or attempt to transfer title to, or control over, any land described in subsections (d) or (e) after the city of Albuquerque receives title to such lands; and

(D) the city of Albuquerque will forfeit to the United States the title to and possession of the land described in subsections (d) and (e) if such property should ever cease to be used for a community park or for other public purposes described in the approved development plan, or if the city of Albuquerque attempts to transfer title to, or control over, such lands after the city receives title to such lands.

(c) The land referred to in subsection (a) which was conveyed by the United States to the city of Albuquerque, New Mexico, on December 31, 1963, by a patent numbered 30-64-0081 is the following two tracts or parcels:

(1) One tract or parcel containing 1.250 acres, more or less, which is all of the north half southwest quarter northeast quarter southwest quarter southwest quarter of section 33, township 11 north, range 4 east, New Mexico principal meridian, county of Bernalillo, State of New Mexico.

(2) A second tract or parcel which is all of the south half northeast quarter northwest quarter southwest quarter southwest quarter and the south 26 feet of the north half northeast quarter northwest quarter southwest quarter southwest quarter of section 33, township 11 north, range 4 east, New Mexico principal meridian, county of Bernalillo, State of New Mexico.

(d) The land referred to in subsection (b) which was conveyed by the United States to the devisees of Tom Hughes on October 17, 1955, by patent number 1155047 is the tract or parcel containing 1.624 acres, more or less, which is all of lot 58 (also known as north half northwest quarter northeast quarter southwest quarter southwest quarter) of section 33, township 11 north, range 4 east, New Mexico principal meridian, county of Bernalillo, State of New Mexico.

(e) The land referred to in subsection (b) which was conveyed by the United States to Leyburn B. Kimble on March 2, 1955, by a patent numbered 1150213 is all of the south half northwest quarter northeast quarter southwest quarter southwest quarter of section 33, township 11 north, range 4 east, New Mexico principal meridian, county of Bernalillo, State of New Mexico.

SEC. 4. This Act does not affect—

(1) any right to coal, oil, gas or other mineral deposit, or

(2) except as otherwise expressly provided herein, any right, title or interest held by the United States in any land described in this Act.

SEC. 5. The authority of the Secretary to execute and deliver the release required by the first section of this Act shall not be limited by the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes.", approved June 14, 1926 (43 U.S.C. 869 et seq.).

And amend the title to read as follows: "To provide for consideration, under the Color-of-Title Act, of a certain private land claim in Livingston Parish, Louisiana, and for other purposes."

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LUJAN. Mr. President, I reserve the right to object to ask the gentleman if my understanding is correct. The basic legislation is the Livingston Parish land claim bill?

Mr. SEIBERLING. That is correct.

Mr. LUJAN. The gentleman has added the El Portal site?

Mr. SEIBERLING. That is correct.

Mr. LUJAN. Has the gentleman added also the Albuquerque land section?

Mr. SEIBERLING. That is correct.

Mr. LUJAN. All three sites are in there?

Mr. SEIBERLING. That is correct.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. MOORE. Mr. Speaker, reserving the right to object, and I do not intend to object, the basic bill, S. 1978, is the same bill as H.R. 5785, introduced in this House, which clarifies a noncontroversial land title problem in Livingston Parish, La., which is in the district I represent. I am a little bit disappointed that we are putting two amendments on this bill. As I understand it, the bill came back from the Senate as a clean bill. If we pass that bill now, it will go on for the President's signature.

As I understand it, both the gentleman from New Mexico and the gentleman from Ohio are putting amendments on it to which the Senate has previously disagreed, and we are sending it back, which will mean that this bill might not pass.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield, as this bill passed the House there were two amendments attached. One dealt with the El Portal issue, a question of setting aside some public land at the entrance to Yosemite National Park so that the land can be used for housing for the Park Service employees who work in the park. The other amendment was a bill for the private relief of an individual in California. It is my feeling that with the private relief bill eliminated this bill should not result in a real problem on the Senate side.

The other amendment that we would attach is a substitute for the private bill that was deleted by the Senate, would be the one the gentleman from New Mexico has offered, which is a completely noncontroversial bill for a land exchange in Albuquerque, N. Mex. It has passed the House before, and it seems to me that we ought to dispose of both these issues and not have them tied up.

I realize that there is always the possibility that it might get somehow bogged down in the Senate, but I do feel that there is a strong case for this bill, the original bill, there is a strong case for the attachments we are making to it. I really do not think, if it is dealt with on the merits in the Senate, it will cause it to get blocked.

Mr. MOORE. I thank the chairman for his explanation. I certainly have no knowledge with which to disagree with any of the amendments the gentleman is putting on the bill. It is just that I am somewhat concerned about the bill being passed. I want to assure the membership that there is absolutely nothing controversial about the basic bill, S. 1978.

Mr. SEIBERLING. Let me assure the gentleman that if for some reason it should get stuck in the Senate and not get passed before adjournment, I will take it up promptly in the next Congress and try to get it over there, because I agree that this kind of legislation should not be bogged down. We ought to dispose of it expeditiously.

Mr. MOORE. I very much appreciate the gentleman's explanation and agreement.

● Mr. COELHO. Mr. Speaker, I am extremely pleased that my colleagues have joined me in support of language adopted as an amendment to S. 1978 to provide the Secretary of the Department of Interior with the statutory authority to extend the period of leases at El Portal, located just outside Yosemite National Park in the congressional district which I represent. I am hopeful that this legislation will provide the much-needed impetus to realize the master plan for this administrative site—a master plan which would alleviate the stress on the valley of Yosemite, one of the most spectacular valleys in the world.

Development of the El Portal area has been hempered by inability to secure financing through conventional

sources due to the length of time that the Secretary may grant leases for this land. This bill provides the authority to issue leases for periods deemed necessary to National Park, Service employees, concessioners and their employees, and individuals and organizations which are determined to support the administrative needs of Yosemite National Park. This will provide the flexibility necessary to write leases that are in keeping with the lending policies of financial insitutions so that an individual, organization, park service employee, or concessioner that may seek a development loan for an El Portal project can work within a timeframe acceptable to a lender.

This provision, in facilitating the development of El Portal, makes good environmental sense for Yosemite and good business sense for the private business community. I am pleased the Congress has taken this step to realize the goals of the 1958 El Portal Act.●

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Speaker, reserving the right to object, do we have any money in this bill at all?

Mr. SEIBERLING. No, there is no money in this bill.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

EDUCATIONAL MINING ACT OF 1982

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1501) entitled the "Educational Mining Act of 1982," with House amendments thereto, and to recede from the House amendments.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I ask for this reservation of objection simply to ask the gentleman from Ohio if that just leaves the Educational Mining Act by itself, and if it is passed here, it goes to the President?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield.

Mr. SEIBERLING. That is correct.

Mr. Speaker, on December 14, the House passed this bill with an amendment which added the provisions of an earlier-passed House bill to establish the American Conservation Corps. The Senate has amended the House version so as to delete the matter added by the House. Thus the bill comes back to us in the same form in which it originally passed the Senate—that is, it deals solely with the transfer of certain lands in Alaska to the University of Alaska.

I have discussed this matter with the senior Senator from Alaska, the senior Senator from Idaho, and other interested Members of the other body. Based on the assurances that they have given me with regard to other legislation now pending in the other body, and on early and serious consideration of the American Conservation Corps bill in the 98th Congress, I agreed to urge the House to pass the Educational Mining Act in the form in which the Senate has now returned it to us. That is the reason for my unanimous consent request.

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Mr. LUJAN. Mr. Speaker, I thank the gentleman from Ohio (Mr. SEIBERLING) for his explanation.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, may I ask the gentleman, do we have any money in this bill?

Mr. LUJAN. No, there is not any money. It is just transferring some claims to the university for some instructional purposes, as I understand it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks with respect to the legislation just considered, S. 1978, and also with respect to S. 2995 and H.R. 9.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

S. 1777, ACADIA NATIONAL PARK—ISLE AU HAUT

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, during the last hours of the session before the election recess the House, by unanimous consent, passed S. 1777, a bill to establish a permanent boundary for the portion of Acadia National Park that lies within the town of Isle au Haut, Maine. The bill was passed without amendment to the Senate version. However, there were discussions within the Committee on Interior and Insular Affairs that clarify the intent of the bill language which should be part of the public record.

S. 1777 contained two provisions unique to national park legislation, which may have the potential for encouraging litigation: Subsection 3(b), authorizing the Park Service to accept easement outside the boundary of the park "for enforcement purposes only"; and subsection 4(a), directing that management and use of parklands "shall not interfere" with maintenance of a viable local community with a traditional resource-based economy outside the park. In approving the first provision, the Committee understood that, although the new boundary would define the national interest in terms of fee ownership and park use, nevertheless there is a public interest in maintaining the undeveloped character of land and islands in proximity to park lands. This public interest is manifest by the authority of the Secretary in subsection 3(b) to accept and hold, with other parties, easements outside the boundary. The committee felt strongly that; first, the National Park Service should provide adequate written notice to the committee in advance of accepting any such easements; second, the National Park Service should not undertake to enforce the convenants in any such easement through the initiation of litigation unless to do so is necessary to mitigate, abate, or prevent actions which would demonstrably harm park resources; and third, the committee should be advised in advance of any litigation begun by the Park Service or on its behalf. The committee noted that the authority to accept such easements is completely discretionary, and further, the committee intended that the decision to institute any enforcement proceeding is also completely discretionary and cannot be compelled either by a cotrustee or any other party. In approving the second provision—subsection 4(a)—committee was cognizant of the well-known maxim that the Government cannot be sued unless it consents to such suit and the management direction to the Park Service in this subsection did not hold the Park Service liable for the way it manages park lands. If the town at anytime believes that management practices should be changed, the remedy is legislative and not judicial. The committee felt in this regard, that the Park Service would consider carefully the concerns of the townspeople

and, consistent with proper management, seek to accommodate those concerns.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 6324, ATMOSPHERIC, CLIMATIC, AND OCEAN POLLUTION ACT OF 1982

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6324) to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal year 1983 and 1984, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk proceeded to read the Senate amendments.

Mr. SCHEUER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WALKER. Mr. Speaker, reserving the right to object, we are authorizing money here for some specific purposes. Is this all money that has been included in the budget, or is any of the money over the budget?

Mr. SCHEUER. Yes, Mr. Speaker, if the gentleman will yield, there is a very modest amount over the budget. In the climate program under NOAA, the bill provides for $1.8 million, and, the administration budget provides for $1.1 million.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MAKING CERTAIN CHANGES IN MEMBERSHIP AND OPERATIONS OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7173) to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations, with Senate amendments thereto, concur in the Senate amendments numbered 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, and 14, and concur in Senate amendments 7, 8, and 13 with amendments.

The Clerk read the title of the bill.

The Clerk read the House amendments to Senate amendments 7, 8, and 13, as follows:

House amendment to the Senate amendment numbered 7: In lieu of the matter proposed to be inserted by Senate amendment numbered 7 insert "unit of local government".

House amendment to the Senate amendment numbered 8: Restore the matter proposed to be stricken out by the Senate amendment numbered 8, and on page 2, lines 15 and 16 of the House engrossed bill, strike out "or other municipal government".

House amendment to the Senate amendment numbered 13: In lieu of the matter proposed to be inserted by the Senate amendment numbered 13 insert the following:

(c) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The term 'unit of local government' means the government of a town, township, or other municipal government which (A) is a unit of general government as determined by the Bureau of the Census for general statistical purposes, (B) meets the requirements specified in paragraph (2), and (C) imposes taxes or receives intergovernmental transfers for substantial performance for its citizens of at least two of the services described in paragraph (3).

"(2) To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services described in paragraph (3), except that the foregoing restriction shall not apply to a unit of local government which substantially performs four or more of such public services.

"(3) The services described in this paragraph are (A) police protection; (B) courts and corrections; (C) fire protection; (D) health services; (E) social services for the poor or aged; (F) public recreation; (G) public libraries; (H) zoning or land use planning; (I) sewerage disposal or water supply; (J) solid waste disposal; (K) pollution abatement; (L) road or street construction and maintenance or street lighting; (M) mass transportation; and (N) education.

"(4) For the purposes of this subsection, a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unit of local government and an amount equivalent to the net proceeds of that tax is paid to that unit of local government.".

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments be considered read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. McGRATH. Mr. Speaker, reserving the right to object, and I do not intend to object, will the distinguished committee chairman please explain the amendments?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. McGARTH. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I am delighted to talk with my distinguished friend, the gentleman from New York (Mr. McGRATH).

On September 28, the House passed H.R. 7173, which would add three new members to the Advisory Commission on Intergovernmental Relations. The three would be one representative of school boards, one representative of the Federal judicial system, and one representative of the State judiciary. In addition, one of the current four members nominated by the National League of Cities would be designated as a member representing towns or other municipal governments with a population of less than 10,000 and the recommendation would be made jointly by the National Association of Towns and Townships and the National League of Cities.

The Senate amended the bill by providing four new members for the ACIR. Like the House, new members would represent school boards and Federal and State judges. However, instead of taking a seat from the current four recommended by the National League of Cities, there would be a new position added for small governments of under 10,000 population. In the Senate amendment, however, this position would be designated for officials of townships only.

The amendment I am offering to the Senate amendment would agree to the four new positions, but the position for small units of government would not be limited to representatives of townships only. It would allow the National Association of Towns and Townships to recommend a member representing towns, townships, and other general purpose municipal governments with a population of less than 10,000 as defined in the General Revenue Sharing Act.

The result would be four new members for the ACIR, one to represent school boards, one to represent the Federal judicial system, one to represent the State judicial systems, and one to represent units of government with less than 10,000 population. The National League of Cities would continue to, in conjunction with the National Conference of Mayors, make recommendations for four of the positions on the ACIR.

The only other amendment by the Senate is a technical amendment concerning quorums. Instead of requiring 13 members to be present, they would require a majority of the membership at any given time. My amendment accepts that Senate change.

Mr. McGRATH. Mr. Speaker, continuing to reserve my right to object, I supported the original House-passed legislation altering the membership of the Advisory Commission on Intergovernmental Relations to add Federal and State judges, elected officials from small towns, and elected school board members. This legislation retains the principles of the original bill, while accepting most of the proposed changes of the other body. Specifically these amendments add a representative of a municipality of not more than 10,000

population that performs significant governmental functions. This change is much more in line with the original House bill than that proposed by the other body. There is also a technical change in the Commission's quorum requirements.

These amendments improve an already worthy piece of legislation by alleviating a number of concerns raised by the groups responsible for nominating Commissioners. I support quick acceptance of H.R. 7173, as amended, and withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do not intend to object, but I am just making certain that my understanding is correct that all of the moneys in this bill are going to be covered out of previously appropriated moneys, is that true?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, that is my understanding.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Texas, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

AMENDING SECTION 1304(e) OF TITLE 5, UNITED STATES CODE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3103) to amend section 1304(e) of title 5, United States Code, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I shall not object, I would appreciate it if the good gentleman from Michigan (Mr. FORD) would explain briefly what the legislation does. I am in full accord with its purpose, but I think it would be best if the gentleman making the request would explain it to the Members.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, this bill grants temporary authority to the President's Commission on Executive Exchange to impose fees for private sector participation in the Commission's Executive Exchange program. These fees will be used to fund educational activities under the exchange program. Without this authority, the Commission will have to severely curtail its educational programs.

This legislation has been requested by the administration, and it will result in no additional costs to the Federal Government.

Mr. MICHEL. Mr. Speaker, is it not true, if the gentleman would respond further, that rather than costing the Government any additional sums of money, we are as a matter of fact authorizing the private sector to fund part of the cost of this exchange program?

□ 1510

Mr. FORD of Michigan. Yes. I suspect that they are doing that out of the anxiety of the private sector to make contributions and be able to deduct them from their income tax.

Mr. WALKER. Mr. Speaker, will the gentleman yield under his reservation?

Mr. MICHEL. I am happy to yield.

Mr. WALKER. This is the bill I think I objected to on the other night when there was not an explanation of a waiver being granted in the bill.

I have since been contacted and assured that the waiver is technical in nature and therefore I no longer have any objection.

Mr. MICHEL. I thank the gentleman for his consideration and express my personal appreciation to the gentleman from Michigan who was inconvenienced the other day and particularly appreicate his coming back today to make the request again. I appreciate the consideration of the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1304(e)(1) of title 5, United States Code, is amended by inserting "(i)" after "(1)", and by adding a new paragraph as follows:

"(ii) Participation fees, which the President's Commission on Executive Exchange may impose for private sector participation in its Executive Exchange Program shall be collected and credited to the fund, and shall be available for the costs of education and related travel of exchanged executives; for printing without regard to section 501 of title 44, United States Code; and, in such amounts as may be specified in appropriations Acts, for entertainment expenses.".

(b) The authority granted in subsection (a) shall terminate on December 31, 1983.

Passed the Senate December 15 (legislative day, November 30), 1982.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the Senate bill, S. 3103.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

FEDERAL RULES OF CIVIL PROCEDURE AMENDMENTS ACT OF 1982

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7154) to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 8, after line 13, insert:

SEC. 6. Section 951 of title 18, United States Code, is amended by—

(1) striking out "Secretary of State" and inserting in lieu thereof "Attorney General if required in subsection (b)";

(2) striking out "$5,000" and inserting in lieu thereof "$50,000"; and

(3) inserting "(a)" before "Whoever" and adding at the end of such subsection the following new subsections:

"(b) The Attorney General shall promulgate rules and regulations establishing requirements for notification.

"(c) The Attorney General shall, upon request, promptly transmit one copy of each notification statement filed under this section to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General to do so shall not be a bar to prosecution under this section.

"(d) For purposes of this section, the term 'agent of a foreign government' means an individual who agrees to operate within the United States subject to the direction or control of a foreign government or official, except that such term does not include—

"(1) a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State;

"(2) any officially and publicly acknowledged and sponsored official or representative of a foreign government;

"(3) any officially and publicly acknowledged and sponsored member of the staff of, or employee of, an officer, official, or representative described in paragraph (1) or (2), who is not a United States citizen; or

"(4) any person engaged in a legal commercial transaction.".

The Clerk read the House amendment to the Senate amendment, as follows:

Amendment to the Senate amendment to H.R. 7154, a bill to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes, offered by Mr. EDWARDS.

Strike all of the Senate amendment and insert in lieu thereof:

"SEC. 6. Section 951 of Title 18, United States Code, is amended by striking out '$5,000' and inserting in lieu thereof '$75,000'."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I take this time to ask the distinguished subcommittee chairman, the gentleman from California (Mr. EDWARDS) to explain this bill, the amendment attached thereto by the other body and the proposed amendment of the House to the Senate amendment.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, last July, the Congress delayed the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure. The President, when he signed that legislation, urged Congress to act promptly to cure the problems raised by the proposed amendments, and last week this House passed by unanimous consent a bill doing so. That bill, coauthored by the gentleman from Illinois (Mr. MCCLORY) and myself, was drafted after consultation with all the affected parties. It is endorsed by all the affected parties, including the Department of Justice on behalf of the administration and the Judicial Conference of the United States.

The Senate has passed our bill with extensive amendments to section 951 of title 18 of the United States Code. Inasmuch as most of the provisions of the Senate amendment were not subject to hearings and consideration by the relevant House committees and subcommittees, it would be inappropriate to accept the Senate amendment whole cloth. The amendment does, however, increase the fine for violating section 951. Raising fine levels is consistent with the policy applied by the Judiciary Committee and by the House in dealing with recent criminal enactments, such as the Record and Film Piracy Act of 1982, which the President signed into law earlier this year. It is, therefore, appropriate to increase the fine level for section 951. My amendment, hence, is to concur in the Senate amendment with an amendment that raises the fine level in section 951.

Mr. Speaker, this legislation is in response to the President's urging to act promptly to amend rule 4. It appropriately amends rule 4 and I urge my colleagues to endorse it.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, is it my understanding that the bill which was originally passed by the House saved money in that U.S. marshals or registered mail would no longer have to be used for service of process and that the amendment that is proposed to the Senate amendment by the distinguished gentleman from California would increase the revenues of the Government perhaps only marginally by raising the fine for violation of the Foreign Agents Registration Act; am I correct?

Mr. EDWARDS of California. If the gentleman would yield further, the distinguished gentleman from Wisconsin is correct. The bill will save money in three ways.

The marshals' role in serving summonses and complaints in private civil actions will be markedly reduced. Registered or certified mail will not be necessary, because ordinary mail will be used. Also, the fines for violations of the Foreign Agents Registration Act will be raised to an appropriate level.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WRONG COUNTS EXPLAINED

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I am this afternoon releasing the results of a study which I know will be of interest to all of the Members. This study, commissioned over the weekend, found that recent apparent instances of willful wrong counting from the Chair were in fact not intentional but were the result of uncontrollable phenomena.

The study found that the television lights interacting with the varnish on the Chair's gavel has recently been causing an emission which leads to double vision and a lack of peripheral vision. Persons occupying the chair may at one moment see twice the number of people really occupying the Chamber and the next moment be completely unable to see people standing both to their left and right.

The study recommends as a long-term solution that a different varnish, nonsusceptible to television glare, be used on the gavel, but as a short-term precaution over the remainder of this lameduck session strongly suggests persons occupying the chair keep the gavel as far as possible away from their eyes.

RECENT OFFENSIVE LAWSUIT FILED AS UNITED STATES GOVERNMENT VERSUS HOUSE OF REPRESENTATIVES OF THE UNITED STATES

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEVITAS. Mr. Speaker, I take this time to update the Members on the Gorsuch contempt of Congress matter that is now in process.

Subsequent to the action of the House last week in citing for contempt the Administrator of the Environmental Protection Agency, the Department of Justice filed a lawsuit unprecedented in the history of this Nation entitled the United States of America versus the House of Representatives of the United States et al. which in and of itself is not only unprecedented, it is obviously offensive by its very name.

This Justice Department suit has been described by Lawrence Tribe, a professor of law at Harvard University, as totally without basis or merit. He accused the Justice Department officials who filed the case with "either abject ignorance of the Constitution or contemptible cynicism about constitional separation of powers."

By instructing the U.S. attorney of the District of Columbia not to fulfill his duties to prosecute the contempt as required by the law, the Attorney General of the United States has failed to faithfully execute the law and is engaging, in my judgment, in an obstruction of justice.

I would hope that the Judiciary Committee will take action as promptly as possible to inquire into whether the actions of the U.S. attorney and the Attorney General of the United States constitute impeachable offenses for failing to carry out and faithfully execute the law.

This is a very serious and grave matter raising the most fundamental

constitutional questions, Mr. Speaker, and I think that when the highest law officer of this land fails to obey the law, it brings the entire system into discredit and into disrepute.

Accordingly, I would hope that the Judiciary Committee would promptly look into this matter to determine what further action might be taken.

The truth is that what we really want is the information from EPA to proceed with our oversight investigation of the Superfund program to clean up the hundreds of dangerous abandoned hazardous waste dumps. This investigation is our constitutional duty. It affects the health of the American people.

We do not want subpenas. We do not want contempt citations. We do not want impeachment proceedings. We do not want confrontation. We only want the facts so that we can do our job.

However, the administration seems to want a fight. They have failed to cooperate; failed to respond to a subpena; and now are failing to faithfully execute the law. That is our only way to get the facts. We must go forward.

DESIGNATING 1983 AS "BICENTENNIAL OF AIR AND SPACE FLIGHT"

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 270) to designate 1983 as the "Bicentennial of Air and Space Flight," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, and I will not object, will the gentleman from Michigan, the chairman of the committee, please explain what this bill is and what it does. Does it cost any money?

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

It does not cost anything. It is done at the request of the chairman of the Committee on Science and Technology.

I wish that the gentleman would yield to him.

Mr. ROUSSELOT. I would be glad to yield.

As I understand it our ranking minority member, the gentleman from Illinois (Mr. DERWINSKI) has supported this resolution; is that correct?

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

Mr. ROUSSELOT. The year 1983 marks the 200th anniversary of manned flight. There are several ceremonies planned throughout this country and other countries of the world that have been leaders in flight. And this is to commemorate the 200th anniversary of the magnificent event that happened, and we have benefited, as the gentleman may use that means of transportation in order to get home for Christmas.

Mr. ROUSSELOT. Or to fly around the country when I am not doing this.

Mr. Speaker, I withdraw my reservation of objection because I think this is a very fine resolution. I actually am for it.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan (Mr. FORD)?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 270

Whereas the first manned flight in history was made by Etienne de Montgolfier at LaMuette, France, on November 21, 1783, releasing man from his terrestrial shackles;

Whereas a few months later in Baltimore, Maryland, a thirteen-year-old boy named Edward Warren soared aloft in a balloon launched by Peter Carnes, Esquire, who a few days previously launched America's first hot air balloon, the Splendid Chariot, from the grounds of the Indian Queen Tavern in Bladensburg, Maryland;

Whereas the United States and its first ally, France, together with many other countries will celebrate the extraordinary achievements in air and space flight of the past two centuries;

Whereas the United States Organizing Committee has been established to plan, coordinate, and assist in the implementation of national, State, and local festivities during 1983;

Whereas the bicentennial provides an opportunity for increasing public awareness in international trade, of education in science, mathematics, and engineering, and of reigniting the creativity and competitiveness that has historically fueled America and its economy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year commencing January 1, 1983, is hereby designated the "Bicentennial of Air and Space Flight", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the year with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1520

ANNOUNCEMENTS BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce that the House will now proceed with special orders, and the Chair reserves the right to return to legislative business when legislative business is pending.

PENN STATE VERSUS UNIVERSITY OF GEORGIA

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I am pleased to announce to my colleagues that certain arrangements have been made between myself, representing with pride the fabled Nittany Lions of Penn State University and the gentleman from Georgia, Mr. BARNARD, representing the Junkyard Dawgs of the University of Georgia with regard to an athletic event which will occur in New Orleans about 10 days from now.

The gentleman from Georgia will be providing this Member with a bountiful supply of some of Georgia's famous products, namely peanuts and chickenfingers, as a result of the outcome of said athletic event. In the unlikely event that Georgia prevails I will supply the gentleman from Georgia with an equally bountiful supply of delicious Penn State cheese and luscious Pennsylvania apples.

In addition, the gentleman from Georgia will don the playing jersey of Penn States stellar tailback Curt Warner early in the new year for a photo opportunity. I promise to have it cleaned and pressed for the occasion. As a mere formality I have agreed to model Hershel Walker's jersey if Penn State is somehow done out of a deserved victory—a humiliation I do not anticipate being subjected to.

BULLDOGS TRIUMPH AT SUGAR BOWL

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNARD. Mr. Speaker, no doubt every Member already is aware of what will be taking place on the evening of January 1 in New Orleans, when the No. 2 football team from Penn State will be attempting to beat the No. 1 team in the Nation, the University of Georgia Bulldogs.

While I have the utmost respect from my colleague from Pennsylvania, Mr. CLINGER, and for the team from his district, I have no doubt whatsoever that the Dawgs will win out. Therefore I plan to enjoy the evening with the utmost serenity.

Meanwhile Heisman trophy winner Herschel Walker and his friends will be extending to the visitors the ultimate in Southern hospitality—including running, stomping, crashing, mauling, and otherwise running amok among the Penn State team.

So confident am I that the Dawgs will prevail that I have entered into a wager with the Honorable Mr. CLINGER. Mr. CLINGER is offering a bushel of Pennsylvania apples, and a wheel of Pennsylvania's finest cheese. I am putting up a bushel of Georgia's tastiest peanuts, and goodly supply of the Georgia delicacy known as "chicken fingers." When Mr. CLINGER and I meet again, I fully expect to be paid off for the Bulldogs' triumph.

I am so sure that the Bulldogs will win that I am willing to risk my integrity by making an additional offer. On the slim chance that the Bulldogs should lose, I offer to wear an odious Penn State jersey for 1 day in the Halls of this hallowed institution, submitting myself to the ridicule of my colleagues and the taunts of my friends. Of course if Georgia wins—which I fully expect—then Mr. CLINGER will be honored to wear the colors of Georgia.

THE RETIREMENT FROM THE HOUSE OF TWO OUTSTANDING MEMBERS FROM NEW YORK STATE, HON. PETER A. PEYSER, AND HON. LEO C. ZEFERETTI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 60 minutes.

Mr. STRATTON. Mr. Speaker, as dean of the New York delegation, I take this time to pay tribute to two of our distinguished colleagues who will be retiring from the House at the close of the 97th Congress, PETER A. PEYSER, from Irvington, N.Y., and LEO C. ZEFERETTI of Brooklyn.

As Members are aware, the vagaries of the 1982 congressional reapportionment actions in the several States have led to a large number of forced retirements from the House. No State suffered more from these redistricting statutes than the Empire State of New York, which lost a total of five of its House Members out of a 97th Congress total of 39 Members, the greatest loss of seats of any single State. Moreover, as usually happens in a situation of this kind, other Members decided to retire voluntarily. As a result, a total of eight Members of the New York State bipartisan delegation in the 97th Congress will not be Members of the House in the 98th Congress, four Republicans, and four Democrats.

As it turns out, special orders have already been taken previously to pay proper tribute to the contributions of six of these eight Members. Prior to the October recess, a special order was taken by the New York delegation to pay tribute to the gentleman from New York, Mr. BINGHAM. Earlier in the lameduck session a special order was taken by Hon. FRANK HORTON, dean of the New York State Republican delegation in the House to the four retiring Republican Members: Messrs. MITCHELL of New York, LENT, CARMAN, and LEBOUTILLIER. About a week ago members of the delegation scheduled a special order to pay tribute to our very distinguished and beloved colleague from Brooklyn, SHIRLEY CHISHOLM.

Thus, as we move to the close of this very hectic lameduck session of the 97th Congress it is most appropriate that we salute the two remaining members of the New York delegation who have not been previously honored. And I am pleased to be able to provide this opportunity today for our colleagues to join in commemorating the achievements of the two outstanding Members of the House, incidentally both of whom were victims of the two head-to-head incumbent Democrat versus incumbent Republican, election contests that were created by the reapportionment statute in New York State.

Our colleague, PETER PEYSER first came to the House in 1971 as a Republican in the 92d Congress, and was reelected to the 93d and 97th Congress. In 1976 Mr. PEYSER ran unsuccessfully for the U.S. Senate in the Republican primary in New York. However, having in the meantime became a Democrat, PETER ran successfully in 1978 to recover the House seat he gave up to run for the Senate, and was reelected again in 1980.

As Members will appreciate, it is no easy matter for any Member of the House, who gives up his seat to run for the U.S. Senate and who fails, to come back again to his old seat in the House.

Our colleague, PETER PEYSER, not only performed that difficult feat but did it while switching parties in the process, which clearly testifies to his remarkable political skills

In his reincarnation as a Democrat PETER has been a very active Member of the House indeed, and has been a very frequent and eloquent advocate of the Democratic philosophy and program in the House during the course of the 1982 election campaign, where Mr. PEYSER's own reelection, as a result of the State reapportionment plan presented him with a rather formidable task of campaigning in a new district, mostly on the west bank of the Hudson River, of which a very small percentage of the population of its new district included the previous PEYSER district on the east bank of the Hudson.

Thoughout the 97th Congress PETER PEYSER has been a tireless fighter for education, and was a primary leader in 1982 in the fight to restore the budget cuts made in student aid and the college loan programs, and was in large measure responsible for the action later taken by the Congress in restoring funds for these vital programs.

The other retiring Member whom we honor today is LEO C. ZEFERETTI of Brooklyn. LEO entered Congress in the 94th Congress, the famous Watergate-Vietnam 1975 freshman class which brought about a rather sweeping change in the operation of the House although not all of us believe that every one of those changes may have been completely helpful but LEO was a rather more moderate Member of that class. He came to Congress from a long career of government service in the city of New York and in the State of New York. LEO was a correction officer in the city of New York and later a member of the New York State Crime Control Planning Board by former Governor Rockefeller.

Although he was a rather junior Member of the House, LEO ZEFERETTI had the high distinction of being appointed to the very powerful and prestigious Committee on Rules, where he has served with great distinction. In addition, in the 97th Congress LEO took over the very important post of chairman of the Select Committee on Narcotics Abuse and Control from our former colleague, Hon. Lester Wolff, also of New York. LEO performed with great skill in that capacity, one of the most difficult and troubling problems in the Nation.

Like PETER, LEO also found himself in 1982 running in a new district where the large percentage of voters were not residents of his former district.

LEO ZEFERETTI has been one of the most respected Members of the House, a moderate in his views and one who would always give careful consideration to the issues, especially as they affected New York State.

We shall certainly miss his wise counsel and advice.

Mr. Speaker, we in the New York legislation want to wish both of these colleagues success and happiness in the years ahead. Yes, Mr. Speaker, as so many of our former colleagues who come back to these Halls from time to time demonstrate: "There is indeed life after Congress." We know that LEO and PETER will also discover that truth—and who knows, they may even be back again.

□ 1530

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I am very happy to yield to our distinguished retiring colleague, and I want to express my sadness that he is going to be leaving us and particularly that there are not more Members here in the House who

would be here to hear these remarks on behalf of our delegation.

Mr. PEYSER. Mr. Speaker, I thank the gentleman in the well, the dean of the New York delegation, for yielding.

I want the gentleman to know how much I appreciate this effort on his behalf.

I know our colleagues after the exhaustion of these last days are trying to pack up and put together to get home and I know where their thoughts are.

I do want to say that obviously I have loved serving in this House. To me it has been a high point in my life and something that I will never forget, and particularly to serve and work with the New York delegation that on both sides of the aisle have been really I believe outstanding Members who have contributed so much not only to our State, but to the country and to me personally have contributed so much in their friendship.

So I thank the dean of our delegation and I thank all of you for the honors that you have given me.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his comments. Certainly we will miss him and miss his very articulate and eloquent messages on the House floor and in debate.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Speaker, I thank the gentleman from New York.

I would like to join with the gentleman and stand here and say that the words the gentleman has so clearly put forth are words that those of us in the New York delegation feel very strongly about and feel appreciative that the gentleman, as the dean of our delegation, has asked for this special order.

I know that the time is late and it is one of the problems with these special orders in the lameduck session that so many Members are trying to come in from New York right now, many of our Members, but I know one or two of them have called me to express their support and the fact that they join with the gentleman as the dean of our delegation in a salute both to Congressman PEYSER and Congressman ZEFERETTI, who have long been a credit to our State.

Mr. PEYSER. Mr. Speaker, I thank the gentleman for his remarks.

● Mr. RODINO. Mr. Speaker, I would like to say a few words about two members of the New York delegation who have served with distinction in this House, but who will not be returning in January.

Congressmen LEO ZEFERETTI and PETER PEYSER have given a great deal of themselves to this institution, and in so doing have enriched our country.

As chairman of the Select Committee on Narcotics Abuse and Control, LEO ZEFERETTI has furthered Congress efforts to fight drug abuse throughout out Nation. I know my friend from New York is dedicated to finding solutions to the drug trafficking and addiction that destroy lives and devastate communities. I am confident that he will carry on his personal commitment to fight this national problem.

Congressman ZEFERETTI's efforts to save the minimum wage for American workers as a member of the Education and Labor Committee and his championing of human needs programs as a member of the Rules Committee have helped to improve the quality of life for millions of our citizens.

PETER PEYSER's enthusiasm, independence, and sincerity have made him a very special Member of this House. He has been one of the most outspoken and determined advocates in Congress for maintaining a high-quality educational system in our country. The battles he has fought on behalf of student loan programs and general education funding have kept the hope of advancement alive for millions of young Americans.

As a member of the Education and Labor Committee, PETER PEYSER has been a voice for many of America's most vulnerable citizens, as he has worked for senior citizens programs, child nutrition programs, and low-cost housing for the disadvantaged.

The House will miss the contributions of LEO ZEFERETTI and PETER PEYSER. I wish them good luck and good health in the future.

● Mr. BIAGGI. I wish to join with my colleagues here in paying tribute to PETER PEYSER who will be leaving at the end of this session.

I have had the pleasure of working with PETER during his term as a Representative from New York. His dedication to the interests of his district, his constituents, and New York State made him an active and effective member of our delegation.

As a colleague on the House Education and Labor Committee where we both serve, PETER distinguished himself as a fighter on behalf of a number of worthy causes. He was successful in raising the issue of student financial aid at a time when we were fighting to prevent budget cuts in these programs most effectively by mobilizing students—the beneficiaries of these programs. As a result of his efforts, student groups have formed across the country which have been effective in demonstrating the importance of financial aid to students and the schools they attend.

PETER has also been a tireless advocate for the American consumer in leading the fight against higher sugar prices through the price support system.

I am also proud to note that PETER has been one of the key members of the Ad Hoc Congressional Committee for Irish Affairs in helping us to raise the issue of Northern Ireland in the Congress and across the Nation. His commitment to peace, justice, and human rights for all citizens of Northern Ireland is second to no one and his contributions helped us bring this issue from a position of relative obscurity to one which now commands national and international atttention.

His activism on behalf of human rights did not stop with the Irish. PETER has been an outspoken critic of immigration policy of the Soviet Union for its Jewish citizens as well as treatment of citizens in a number of South American nations.

I would be remiss if I did not also note that PETER PEYSER has been an ambitious and energetic Member of this body, always ready to raise an issue or a question. Our Democratic Party, as well as his other friends and colleagues in Washington will miss him and his contributions. I join with other Members today in wishing him well in any and all of his future endeavors.●

● Mr. SOLARZ. Mr. Speaker, I rise to pay tribute to Congressman PETER PEYSER with whom I have served in the House for 6 years.

Congressman PEYSER has fought long and hard as a member of the Education and Labor Committee to protect Federal aid to students, particularly the guaranteed study loan program and Pell grants. He was a leader in the effort to mobilize thousands of students who came to Washington last year to fight for the survival of this important program which has allowed thousands of moderate- and low-income students to attend the college of their choice. And they won.

On a lighter note, I will never forget Congressman PEYSER's "Dear Colleague" on the sugar subsidy vote. In his unique fashion he sent each and every Member of this House a lemon. It certainly got our attention, and I might add proved of some use to the tea-drinking Members and their staffs.

It is hard to say goodbye to a colleague, particularly when redistricting shrinks your State's delegation. But given Congressman PEYSER's past performance, we may well be hearing from him some time in the not too distant future.

So let me just say that it has been a privilege to work with you in the House and I wish you the best in your next endeavor.

Mr. Speaker, I rise today to pay tribute to a distinguished colleague, LEO ZEFERETTI, whom I have come to know and respect through our 8 years of service in this House.

Congressman ZEFERETTI served as the chairman of the Select Committee on Narcotics where his background in law enforcement and criminal justice made him an effective advocate of in-

creased Federal, State, and local efforts to control the international trafficking in narcotics. He has sponsored numerous pieces of legislation to improve Federal law enforcement efforts and to improve the administration of our criminal justice system. But he has also been an effective advocate for health care and senior citizen programs, and the social and economic development programs that improve our neighborhoods and make them more decent places in which to live and work and raise a family.

As a member of the House Rules Committee, Congressman ZEFERETTI has constantly demonstrated his loyalty and commitment to the goals of the Democratic Party. He has worked long and hard to see that our Government not forget the needs of its citizens, particularly their right to live safely and securely in their homes.

As a colleague from the New York City delegation, and as another frequent commuter on the shuttle, I have come to know and appreciate LEO ZEFERETTI and what he has tried to do as the Representative of some of the best neighborhoods in Brooklyn, including those made famous by "Saturday Night Fever." I am proud to have had the opportunity to work with Congressman ZEFERETTI over the last 8 years in the effort to make both our borough and our State a better and fairer place in which to live.

Due to reapportionment, I am going to be representing some of those neighborhoods in the next Congress. My new constituents have already let me know just how much they will miss LEO and how grateful they are for all that he accomplished as their Representative.

So here in the closing hours of the 97th Congress, I wanted to take this opportunity to say to LEO and his family "Thank you and congratulations for a job well done." The New York City delegation will miss you but we won't forget you, or the endless hours and efforts that you put into representing the needs of your constituents.

Good luck and Godspeed in the years ahead.●

● Mr. RANGEL. Mr. Speaker, I rise today to pay a tribute to our esteemed colleague, the chairman of the Select Committee on Narcotics Abuse and Control, LEO ZEFERETTI.

We in this body will truly miss his stature, his expertise, and his experience in the field of narcotics control. And we in the New York delegation will miss his willingness to work with us on a number of issues for the good of the country and of New York.

I think that I can speak for all of us in the House in wishing him the very best for the future.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable PETER A. PEYSER, who represented the people of the 23d District of New York for 6 years in the 92d, 93d, and 94th Congresses, and was reelected to serve 4 additional years in the 96th and 97th Congresses.

Congressman PEYSER began his career of service to our Nation as a private in the infantry and was sent overseas in the fall of 1944 where he fought in the Battle of the Bulge and the Remagen Bridge engagement when the Allied forces crossed the Rhine in Germany. His military decorations include the Combat Infantry Badge, the Belgian Fourragere, the Presidential Unit Citation, the Bronze Star Medal, and three battle stars. During the years 1955-58, he commanded the New York National Guard infantry company stationed in Yonkers Armory. In 1963, he was elected the mayor of Irvington, N.Y.

PETER has given 10 years of dedicated and devoted service to his constituents in New York as a Congressman, and has compiled a splendid record of excellence and ability. His diligent efforts as a member of the House Government Operations Committee have been both fruitful and beneficial to the citizens of this Nation.

Few men have given more of themselves to good government, or have a more compassionate understanding of human problems than has PETER PEYSER. As a member of the House Committee on Education and Labor and the House Committee on Post Office and Civil Service, he was in the forefront of efforts to implement meaningful solutions and effective action on behalf of the individual citizen.

Congressman PEYSER'S actions on behalf of my constituent, Walter Polovchak, the Ukrainian boy who wishes to remain in America rather than return to the Soviet Union, are most commendable, and I urge my colleagues in the new 98th Congress to support his proposed immigration amendment to clarify Walter's refugee status.

PETER is a fine legislator and a distinguished leader, and he will be missed here in the House of Representatives.

I extend to PETER A. PEYSER my wishes for continued success in devoting to the highest principles.●

● Mr. BIAGGI. Mr. Speaker, I rise to join with my colleagues from New York and other places to pay tribute to one of our finest members, LEO C. ZEFERETTI, who for the past 8 years has served with the great distinction as the Representative from the 15th Congressional District of Brooklyn, N.Y.

The fact is I have known LEO for a number of years well before his election to the House, because of our mutual backgrounds in law enforcement. I was a police officer for 23 years before being elected to Congress and LEO was a corrections officer. When LEO was president of the Correction Officers' Benevolent Association we had many dealings with one another and even shared offices in the same building on Broadway.

LEO and I served together on the House Education and Labor Committee and together worked to insure that our home city of New York was provided adequate Federal funding from various education programs enacted by the Congress. He became a member of the House Rules Committee in the 96th Congress and was respected by his colleagues as one of the more effective members of this committee. However the apex of LEO'S career in Congress came when he was selected to be chairman of the House Select Committee on Narcotics Abuse and Control. In that capacity LEO has been an outstanding champion in this Congress fight against the grave problem of drug abuse. I have had the pleasure of serving on the committee and know firsthand that LEO was an outstanding chairman.

To bid farewell to LEO ZEFERETTI involves far more than saying goodby to a colleague. LEO has been a good friend for many years and will be in the future. Our families know each other, we spend time together, we have shared many good times together. The House will miss LEO ZEFERETTI but no one group will miss him more than the New York congressional delegation. LEO helped in the fight to keep New York City from going bankrupt and his voice has always been heard when New York City's interests were at stake.

I know that the future will be good to LEO ZEFERETTI, and I wish continued good health, happiness, and prosperity to both LEO and his wife, Barbara.●

● Mr. MOLINARI. Mr. Speaker, I rise in reference to the special order regarding Mr. LEO ZEFERETTI, Member of Congress from new York.

LEO ZEFERETTI served the people of his district for 8 years, but even before he was first elected to the Congress, LEO had already established a long and dedicated career of service.

LEO ZEFERETTI was elected to be head of the New York City Corrections Officers' Benevolent Association, and many of the benefits that those officers enjoy today were the direct result of LEO'S hard work and persistence. He was so much valued by the people of New York City and New York State, that he was appointed to the New York State Crime Control Planning Board by the late Gov. Nelson Rockefeller. His work on that important panel brought Mr. ZEFERETTI nationwide acclaim, and he was appointed by President Nixon to the Presidential Conference on Correction.

His wide experience was put to good use here in the Congress, where he

was selected to chair the Select Committee on Narcotics Abuse and Control, and he also served with distinction on the House Rules Committee.

The achievements of LEO ZEFERETTI are a matter of public record, and it is a proud record indeed. Few men or women achieve the position in life that he has gained, and even fewer do it while maintaining a spirit of friendship and personal warmth that is so much a part of his demeanor.

LEO has been a friend of mine for years, and through a quirk of fate, it was decreed that he and I should face each other in political battle last November, as the result of reapportionment.

In all of my years in politics, I have never faced a man who was as decent and honest, who fought the good fight, but never for a moment lost his dignity, even in defeat. In the weeks since the election, LEO ZEFERETTI has put all of his considerable assets at the disposal of the people he will not represent next year. He has cooperated fully in the transition, and has worked hard to make sure that not one single constituent will go even 1 day without the protection of the Congress of the United States, and he has done so with a humor and grace that passes all boundaries.

It is my sincere privilege to have had LEO ZEFERETTI as a colleague, a friend, and even an adversary. He has brought honor to the Congress, and on his own good name.

Whatever direction his life takes now, I am sure of two things, that LEO ZEFERETTI will continue to serve, and no matter what the future brings, he will always be my friend.●

● Mr. RANGEL. Mr. Speaker, I would like to take this time to say a special goodby to our friend and colleague, PETER PEYSER.

A champion for the rights of consumers, our colleague from New York struck a blow for us all in leading the struggle to keep sugar prices low. The gentleman has served his country well, served his State well, and served his district well.

I can only say that we will miss the gentleman not only professionally, but personally as well.●

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the achievements and accomplishments of the Honorable LEO ZEFERETTI and the Honorable PETER PEYSER.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A TRIBUTE TO EDMUND L. (TED) HENSHAW, CLERK OF THE HOUSE, ON HIS RETIREMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, this body has been privileged for the last 7 years to have had the devoted service of Edmund L. (Ted) Henshaw, Jr., as Clerk of the House of Representatives. He has been friend and associate and comrade to all of us over here—member and staff person alike—and he has inspired us with a deep sense of affection and respect.

Ted is retiring at the end of this session, and he will be missed. As we all know, he has been coeditor of "Who's Who in American Politics" for the editions of 1967, 1969, 1971, 1973, 1975, and 1977. Appropriately, Ted's life is itself one of the bright pages of American political history.

After returning from wartime service with the Army Air Corps from 1943 to 1946, Ted graduated from the University of Maryland with a degree in business and public administration. He then attended George Washington University Law School for a year, during the course of which he began his long and fruitful public service career.

Ted served the Democratic National Congressional Committee as research director from 1955 to 1972 and as executive director from 1972 to 1975. He distinguished himself on the committee and was appointed by Speaker Carl Albert to his present position on December 17, 1975. He has earned reelection to the job on four occasions since then and has become, in truth, an institution.

We wish Ted further golden years in private life. He carries with him not only our heartfelt appreciation but a standing invitation to visit us here whenever he wishes—which we hope, of course, will be often. It will be hard to say goodby to his counsel and his great good will.

It is with a deep sense of affection that we say farewell to our friend, Ted Henshaw,

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I would like to add my personal comments to the gentleman's laudatory comments about Ted Henshaw.

I know that he has done a great service for the country, a great service for the Democratic Party. It is nice to see him on the floor tending to his duties today.

□ 1540

It is nice to see him working, as he always does, right up to the end of his term. There is nobody who has done more to make sure that the administration of the House was adhered to and all the details, delicate details, were taken care of, so I join the gentleman from Arkansas in commending and lauding Ted Henshaw for all the work he has done over the years and compliment the deputy whip for saying such nice things about such a fine person.

Mr. ALEXANDER. I thank the gentleman for his contribution to our friend.

Mr. FOUNTAIN. Mr. Speaker, will the gentleman yield to me?

Mr. ALEXANDER. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. I thank the gentleman for yielding.

Mr. Speaker, I just entered and heard the gentleman discussing our good friend, Ted Henshaw. I guess I have probably had the privilege of working with and associating with Ted Henshaw longer than most of the Members here, and I would like to say that one of the great joys I have had in serving as a Member of this body is not alone the friends you make among its Members, but the associations and friendships we make among those who make it possible for us to survive in this institution and to do our jobs.

Ted Henshaw, in a number of capacities before he became Clerk of the House, has done that. He has been most cooperative, he and his wonderful staff, in so many ways. He has reflected credit not only upon himself and his staff, but upon this House, this great institution, and upon his family and this Nation.

Mr. Speaker, I want to associate myself with the gentleman from Arkansas and others who have spoken words of tribute about Ted Henshaw, and I express the hope that he will continue to recover and that he will enjoy an abundance of the blessings of life wherever he may go and in whatever he and members of his family may undertake.

Mr. BARNARD. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Georgia.

Mr. BARNARD. I thank the gentleman for yielding.

Mr. Speaker, I want to say that I certainly associate myself with the remarks of the gentleman from Arkansas and the gentleman from North Carolina. The gentleman from North Carolina spoke from the view of those who have been in Congress for long periods of service and their impressions of what Ted Henshaw has meant to them. I am a relatively new Member of Congress, only three terms, but I might say, Mr. Speaker, that no one has been more helpful to new Members coming into the Congress than Ted Henshaw. He certainly took us by the hand and led us through all the

accoutrements of getting settled in the Congress, and that type of treatment is well received and well appreciated by new Members in the Congress.

I want to join the many, many friends of Ted Henshaw in wishing him well for the future. Certainly he knows that at any time and at all times he has friends in this Congress and always will.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I just want to commend my colleague from Arkansas for taking out this special order for our good friend Ted Henshaw.

I came to the Congress in 1974, and one of the first people I met was Ted. What impressed me about Ted was his willingness to try to assist young Members. I remember very well, as a matter of fact, a number of Democratic study group meetings where Ted Henshaw was present. He was always willing to listen; he was always willing to help; he always had a pleasant smile.

It really has been a pleasure for me to serve with him over the some 8 years that I have been in the Congress. I wish he and his family all the very best in the years ahead.

Mr. ALEXANDER. I thank the gentleman for his remarks.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, I would have to say that I probably know Ted as well as and as long as anybody in this Congress. For many years he worked for the Committee to Reelect a Democratic Congress. From 1967 to 1971 I had the position that TONY COELHO has now, as chairman of that body. The organization was small in those days. We just had Ted and one or two others, and Ted was acting as executive director.

The help and the aid that he gave to the Members of the Congress, not only the help and the aid, the dedicated spirit that he had to this body, the love and affection that he had for the Congress of the United States, he did a tremendous job.

I remember being in the leadership with Carl Albert when the Clerk of the House job became available. How do you pick a man to become Clerk of the House? You look around the Capitol and you say, "Where is there a man with talent and ability, who is aggressive, with an engaging personality, who loves the body and has the respect of all the Members on this side of the aisle?"

In a matter like this, you want no confrontation, so you look around for a man who is universally liked. We came up with the name of Ted Henshaw.

There is Ted standing over there today. Adversity has come his way through ill health. I know of no person with such genuine character, such an effervescent personality, such a love and affection for this as Ted has.

Ted, it is with great regret that we see you leave, and if it had not been for your health I am sure you would have been here for many years to come. You did a magnificent job. You leave with your head high because you know the position that you held was improved by your innovative ideas, you prevented problems and abuses that could have occurred, and you have made the office a better place, and because of it this institution is a better place to serve in.

I guess it is 20 years that we have known each other. During this time your devoted wife, Barbara, has been a beacon of strength. I admire her greatly. Ted, I just want to say to you, thanks for your friendship, thanks for your loyalty when you were working for me, and thanks for what you have done for this institution. You are a great man.

Mr. ALEXANDER. I thank the gentleman.

● Mr. WRIGHT. Mr. Speaker, today I am honored to join my colleagues in paying tribute to Edmund L. Henshaw, Clerk of the House.

For two decades, Ted has been a devoted servant of the Congress, first as a professional staff director of the Democratic Congressional Campaign Committee, and since 1975 Clerk of the House of Representatives.

Members, will recall that Ted threw himself into his avocations as well as his work. In fact, Ted sported a handsome cast after throwing himself "a foul" in a congressional softball game. His ever-present smile and kind words helped remove the sting from long days and intense proceedings.

Always informed, patient, and professional, Ted assisted Members of this House with a myriad of problems. His expertise and soothing demeanor will be sorely missed.

Members of the House can never repay Ted for years of yeoman service to this institution, but we can thank him for his contributions.

We all wish Ted and his lovely wife, Barbara, a bounty of life's rewards in the future.●

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman for yielding. I, as a typical member of the minority, had occasion to work with Ted, and I can attest to the fact that he was always totally bipartisan. I did notice that he had a tendency to pretend to be a Boston Red Sox fan, which I attributed to the necessity of holding his office, but other than that occasional performance he was totally dedicated, very effective, had an excellent staff, and without a doubt was an outstanding public officer.

I would also like to remind the Members that as Clerk of the House Ted represented all of us at meetings of an organization called the association of Secretaries General, which is his equivalent in the parliaments of the world. His participation there was such that he was an instant leader, a tower of strength, and a source of great respect for his expertise.

Wherever Ted served, he served well, he served effectively. I wish him well as he contemplates retirement.

About the best you could say on an occasion like this is, Ted, we even forgive the partisanship of your very early years. Best wishes.

Mr. ALEXANDER. I thank the gentleman.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise at this time to give recognition and praise to Ted Henshaw who at the end of the 97th Congress will retire as Clerk of the House of Representatives.

As an official of the House during the 94th, 95th, 96th, and 97th Congresses, Ted has given much to this institution: dedication, devotion, respect, dignity, humor—above all, he has shown remarkable courage. His numerous contributions to this House will provide a legacy for all who follow. His achievements throughout his career are indeed laudable. Ted has been an outstanding leader and a dependable friend to every Member of this body.

Ted Henshaw has been involved in the political process all his life and has loved every minute of it. He started his career in 1955 working for the Democratic National Congressional Committee. His dedication and devotion to that job and the Democratic Party earned him the position of executive director. After 20 years with the DNCC, Ted was appointed and then elected as Clerk of the House of Representatives where he has served honorably and effectively to this day. Tomorrow will mark the anniversary of Ted's election to this position 7 years ago.

The 98th Congress will miss this courageous, brave, and honorable gentleman. I wish Ted, his wife, Butch, and his family their much deserved happiness in the years ahead. Ted, you have been an inspiration to us all, and we thank you for sharing your talents and professionalism with us.

● Mr. WHITTEN. Mr. Speaker, it is my great pleasure to join in paying tribute to my friend, the Clerk of the House of Representatives, Ted Henshaw. We are all saddened to learn of Ted's retirement for he will be missed.

It has been a pleasure to work with Ted for the duration of his tenure as Clerk. Ted's contributions to this body are innumerable and his dedicated service is second to none.

I would also like to point out the courageous example Ted has shown us all by his overcoming such extenuating personal circumstances to continue to serve the House. Ted has given us his best; I want to wish him well in all future endeavors.●

● Mr. SKELTON. Mr. Speaker, I take this time to say a few words in honor of Ted Henshaw, the retiring Clerk of the House of Representatives.

Ted Henshaw has been a good friend of mine for a number of years and his departure will be a great loss not only to this House, but to all of us who had the pleasure of working with him. I got to know Ted well not only through my work here in Congress, but also during the Many occasions that we drove to the House together as he lived near me. Ted's hard work and dedication make him a person that one not only admires, but a person that one tries to emulate in one's own life.

Ted's exemplary service has not been limited to his work here for the House of Representatives. Ted has a good family, and this comes not by luck but from the example he sets and provides as a husband and a father.

Ted has also served this country as well as he has the House of Representatives. His unimpeachable citizenship is a lesson to others, and a rare find in today's world. Ted will be missed by all and I wish him luck on the future.●

● Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to Ted Henshaw, who is retiring as Clerk of the House after the adjournment of the 97th Congress.

Ted Henshaw has carried out the duties of the Clerk—which are not only difficult and complex but absolutely vital to the smooth running of the House—with skill and sensitivity. It is not easy dealing with 435 disparate personalities such as ourselves and administering a large office at the same time, but Ted has managed with flying colors. I appreciate the help he has provided to me and to my office over the past 6 years, and I know my colleagues all appreciate the job he has done.

I know we all want to wish Ted the best of luck in the future. His shoes will be hard to fill, and we will miss him a great deal.●

● Mr. EVANS of Indiana. Mr. Speaker, I would like to say a few words in praise of Ted Henshaw.

During the past 27 years, Ted has well served the public and the Democratic Party. In his tenure with the Democratic National Congressional Committee he provided candidates with valuable directions for running their campaigns. When I made my first trip to Washington as a congressional candidate in 1972, Ted was one of the first people I met. Being a novice, I had no contacts and had no idea where to begin. Ted provided names of people who were important for putting together a good campaign. Without his help, mastering the intricacies of Washington would have been much more difficult. I will always appreciate the help he gave me.

Being the Clerk of the House is no easy task. Things that we as Members take for granted require a great deal of time and effort in order to run smoothly. Fortunately, Ted brought the same dedication to Congress that he has always displayed. His presence at the Capitol will be greatly missed.●

● Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleagues, Majority Leader JIM WRIGHT, Majority Whip THOMAS FOLEY, and Chief Deputy Majority Whip BILL ALEXANDER for taking this special order so that Members can salute the Clerk of the House, Ted Henshaw. As we all know, Ted will be retiring as the Clerk of the House at the end of the 97th Congress.

It is a pleasure for me to join in this well-deserved salute to my good friend, Ted Henshaw. I can think of few people, Mr. Speaker, who have served this body with such vigor and unceasing dedication as Ted Henshaw. We all shall miss him as he retires from his position.

Since 1974, when Ted Henshaw was elected Clerk of the House of Representatives, Members have enjoyed exemplary service from that office. Ted's admirable qualities of hard work, efficiency, and dedication to the Members and the American people have served as a perfect model for his staff. Accordingly, his staff has served both him and the Members well. Additionally, Ted has enjoyed the respect and admiration of Members on both sides of the aisle.

On a more personal note, Mr. Speaker, I can think of no time that I have called on Ted Henshaw for assistance that he has not promptly and efficiently rendered it. I take this forum to thank him for that service and consideration.

Even though Ted Henshaw is retiring from his position as the Clerk of the House, the work he has rendered will serve as a lasting tribute to him. Mr. Speaker, I send my best wishes to Ted on his retirement.●

● Mr. REGULA. Mr. Speaker, many words of appreciation will be spoken here today as the House of Representatives honors our retiring Clerk, Ted Henshaw. I would add but a few.

This is a man whose name appears immediately below yours in the Congressional Directory which attests to the importance of his duties to this body and the Nation.

I believe we should commend Ted for the manner in which he performed those duties and say to him—thank you for a job well done.

Ted has been always considerate of the Members and, despite the demands of his job, always helpful.

I join my colleagues in wishing him happiness in his retirement.●

● Mr. MONTGOMERY. Mr. Speaker, it is a great pleasure for me to join with my colleagues in paying tribute to a most outstanding and dedicated public servant, Ted Henshaw.

It just would not seem to be the same around here without Ted keeping things running smoothly as Clerk of the House of Representatives. He has handled the enormous duties of Clerk in a truly professional manner and I know he has earned the respect of Members of Congress as well as the hundreds of staff assistants who have worked with him over the past 7 years.

Ted has had an impressive career of service to this Chamber and to this country. He served with the Army Air Force during World War II before becoming research director of the Democratic National Congressional Committee in 1955. He worked in that position until 1972, when he became executive director. He was appointed Acting Clerk of the House on November 17, 1975, and elected Clerk a month later.

I know my colleagues will join with me in saying that we will indeed miss Ted Henshaw around Capitol Hill as the 98th Congress convenes. I want to wish him well and say that I hope he will visit us often. He has been a truly outstanding Clerk of the House and we appreciate the service he has given to this Chamber.●

● Mr. DE LA GARZA. Mr. Speaker, today we pay tribute to a man whose decision to retire at the end of this session I learned of with deep regret—Edmund Henshaw, Jr., Clerk of the House.

Those of us privileged to serve while he has been Clerk recognize his splendid character and fine ability. He is living proof of the success a man may attain by steady application, by long hours of hard work, and by unselfish discipline.

As a man who was always ready, willing, able, and highly qualified to lend a hand he will be missed. As I think back I remember when I first came to the 89th Congress how Ed Henshaw impressed me with his unassuming but highly effective conduct and how over the years I was proud to earn his friendship. The passage of

time has only confirmed and enhanced this high opinion.

While it is sad to see him retire to private life I know I can understand why a man has to go sometime to see to his own concerns and interests. I will certainly miss our association, but I have a feeling we will miss Ed far more than he will miss us.

It is my sincere hope that the retirement days ahead are blessed with good health and an abundance of those things which go to make up happiness. As he leaves may I say—Vaya con Dios.●

● Mr. DINGELL. Mr. Speaker, one of my very best friends has chosen to retire from service in the House. Ted Henshaw, our respected Clerk, is finishing a congressional career spanning years of both Democratic Party and House change and has seen and has been involved in many victories for the American people.

Ted has been a valiant defender of the system of representative government, always working for good government for the people as he was known to often say.

He served all Members of the House, but I can recall how he gave so much of himself when he worked on the Democratic Congressional Campaign Committee of the Congress to insure the election of good men and women to our American legislative institution.

My tribute to Ted goes equally to his wonderful wife, Butch, as we most affectionately call her. My personal family friendship with the Henshaws will always be treasured and my good wishes go with them always.●

● Mr. FORD of michigan. Mr. Speaker, it is with great pleasure that I join my colleagues in paying tribute to Edumnd L. "Ted" Henshaw, the retiring Clerk of the house of Representatives. Ted has served as Clerk since his appointment by House speaker Carl Albert and has subsequently been reelected for every Congress since then. In his capacity as Clerk, Ted has made life in the House a lettle easier for all of us. As the head of a 500-person staff, the administrative functions of the Clerk have grown over the years. The efficiency and diligence of the Clerk's office reflect the dedication of Ted to his position. The behind-the-scenes functions of the Clerk, such as payroll, finance, recordkeeping and publication of documents, are essential to the smooth operation of the House of Representatives.

Prior to serving as the Clerk of the house, Ted worked for 20 years for the democratic National Congressional Committee and served as executive director for his last 3 years at the DNCC. During his tenure there, the Democrats formed a substantial working majority in the House which has continued to this day. I will truly miss Ted Henshaw when he retires at the end of the 97th Congress.●

● Mr. REUSS. Mr. Speaker, I am delighted to join my colleagues in this tribute to a man on whom all House Members depend, Ted Henshaw, who is retiring this month after 7 years of excellent service as Clerk of the House.

That title might be deceiving to those who do not know this institution. But as one who trod these Halls for 28 years, I know well that the daily efficiency and long-term effectiveness of the House of Representatives depends largely on the skill of its Clerk and his staff. He is responsible for almost everything—the document room, the finance office, the bill clerk, office equipment, office supplies, records and registration, even typewriter repair. A well-run Office of the Clerk, serving the Members well, enables those Members to serve the public well.

Ted Henshaw, who has served as Clerk since November 17, 1975, has fulfilled his many tasks with dedication and professional skill. He and his staff are too often the unsung heroes of the House.

Prior to becoming Clerk, Ted proved his skills as an administrator at the Democratic National Congressional Committee from 1955 to 1975, and demonstrated his extensive political knowledge as coeditor of six editions of "Who's Who in American Politics." This combination of talent and experience ably served him in this body and has made his tenure as Clerk one of the most outstanding in history.

I wish Ted and his wife, Barbara, the best, and want to express again my deep thanks for a job superbly done.●

● Mr. ZABLOCKI. Mr. Speaker, it is a pleasure and a privilege to join the many friends and admirers of Ted Henshaw in paying tribute to his service to this House and to the Democratic Party over the past decade.

As Clerk of the House, Ted Henshaw has provided many important services to all Members of this body, and he has done so with conscientiousness, fairness, and efficiency. During his tenure, in fact, the Clerk's office has taken on added administrative responsibilities and has played a major role in instituting the televised floor proceedings.

As research director and subsequently as executive director of the Democratic National Congressional Committee, Ted Henshaw has served his party with great dedication and distinction.

To Ted Henshaw, his wife Barbara, and their three children, I extend my warmest best wishes and appreciation, and I wish Ted the happy and rewarding retirement which I know will be provided him in the great State of Virginia.●

● Mr. RODINO. Mr. Speaker, I want to join my colleagues in this tribute to a devoted public servant, Ted Henshaw, who is retiring at the end of this year.

As Clerk of the House since 1975, Ted Henshaw has been much more than an important officer of the House, who is responsible for the smooth running of this institution. He has been a friend and counselor to many of us, and I appreciate the many times he has performed above and beyond the call of duty to be of help.

As Ted Henshaw prepares to leave the House, I want to thank him for his commitment and wish him much happiness in the years ahead.●

● Mr. FUQUA. Mr. Speaker, as an officer of the U.S. House of Representatives, Ted Henshaw has conducted himself with a dignity and dedication which has done credit not only to himself but to the House of Representatives as an institution.

As Clerk of the House of Representatives of the United States, Ted Henshaw has had numerous and difficult duties.

He has dispatched these duties with efficiency, good will, and fairness, thus making all of our lives better as a result of his tireless efforts.

Added to his efficiency and dedication, the courage demonstrated by Ted Henshaw in fighting back from illness to continue the fine tradition of service he set and maintained as Clerk of the House cannot go unnoticed.

The fact that during his illness the office of Clerk continued to function according to the standards he had set is a tribute to the care he gave to his administrative responsibilities in hiring and training an excellent staff.

I will personally miss Ted Henshaw when he retires at the adjournment of the 97th Congress, and even more I believe he will be sadly missed by the entire House of Representatives.●

● Mr. WINN. Mr. Speaker, I have known and admired Ted Henshaw for many years. When I first came to Congress Ted was director of the Democrat Congressional Campaign Committee, and a party player. Though our politics differed he was always fair and honorable in our dealings. He was later elected to the post of Clerk of the House, a position he has held for a number of years. His service to the Members of the House has been exemplary.

In every day life we have opportunities to know people who you truly value. Ted Henshaw is one of those people. He has always been a dedicated public servant, and has given of himself to make this institution a well run hub of Government.

Ted will be missed by all of us who had the privilege to know and work with him. His retirement is well deserved and I want to wish him the very best of everything as he leaves his much loved post on the Hill.

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Good luck and God bless you in all your future undertakings.●

● Mr. SENSENBRENNER. Mr. Speaker, as the 97th session of the House of Representatives draws to a close, I am grateful for the opportunity to join with my fellow colleagues in extending my thanks and appreciation to Edmund Lee Henshaw for his dedication and fine service to the House of Representatives for over half a decade.

Having a broad range of both legislative and administrative duties, he is a jack-of-all-trades, always producing quality workmanship. It is testimony to this quality that he has been reelected as the Clerk of the House three times. Ironically, it is at the end of his career in the House that we take time to say thank you. But, like many of the tasks that take place in the day-to-day running of our Government, they and the people who perform them are taken for granted when they run smoothly and efficiently.

It is with deep respect that I join with my fellow colleagues in honoring Edmund Lee Henshaw and wish him the very best in the future.●

● Mr. CORRADA. Mr. Speaker, it is an honor and a privilege to join this institution in praising the dedicated and efficent service that Ted Henshaw has given the U.S. House of Representatives and, as he retires, I am pleased to note that Ted has exemplified the best in the tradition of public service.

As Members of Congress, we are the beneficiaries of the smooth functioning of many dedicated employees working long hours and at considerable sacrifice for all of us. Ted is a leader among all of our House employees and it is indeed fitting that we honor all of them by marking this occasion in his honor.

Ted has certainly earned the right to an enjoyable retirement, or another career, if he chooses to embark on one. His reputation for diligence, his attention to detail, and his courteous consideration of the requests of all Members of the House of Representatives is known throughout our institution.

It is a pleasure to join with the leadership in this special order and I wish the very best in the future to Ted and his family.●

● Mr. RAHALL. Mr. Speaker, it is my pleasure to participate in this tribute, arranged by the distinguished majority leader, majority whip, and chief deputy whip, honoring a man who has dedicated many years of service to the House of Representatives, the Clerk of the House, Ted Henshaw.

Ted has served as Clerk since 1975, and has done so with distinction and great skill. He has performed a task that few of us actually realize how demanding it is. While we may not come in day-to-day contact with Ted, we always have been confident knowing that he had things under control, that he was seeing to it that this House ran well.

I want to take this opportunity to wish Ted and his family the very best in the years to come, and hope that he can look forward to a happy and healthy retirement.●

● Mr. FASCELL. Mr. Speaker, I am happy to have this opportunity to join in tribute to my good friend, Ted Henshaw, and to wish him well in his retirement. It is always with a touch of regret that we say goodby to old friends, but Ted has served the House and all the Members with distinction, excellence, and humor through the years, and he deserves a hard-earned rest. He will be greatly missed.

I have known Ted since 1955 when I first came to the Congress and when he joined the Democratic National Congressional Committee as its research director. He was always an able and willing assistant, and very highly regarded by John Buckley, my administrative assistant for 20 years. I know John would want to join me in wishing Ted the very best. As all of us on this side of the aisle know, Ted became the executive director of the congressional committee in 1972 and held that position until he was appointed Acting Clerk in 1975.

The Clerk of the House is the CEO of the House of Representatives. We are all dependent on him to insure that the technical and very important procedures for enacting laws is followed, and that the equipment needed for the orderly functioning of this body is available and up to date. Under his leadership, for example, the House made great progress in efforts to join the computer revolution. The fulfillment of these and the myriad other duties requires a master of administrative skills and a great tactician. Ted has distinguished himself in these and many other areas. He has served the House of Representatives and his Nation well, and deserves our thanks.●

● Mr. HOYER. Mr. Speaker, I rise at this time to give recognition and praise to Ted Henshaw who at the end of the 97th Congress will retire as Clerk of the House of Representatives.

As an official of the House during the 94th, 95th, 96th, and 97th Congresses, Ted has given much to this institution: Dedication, devotion, respect, dignity, humor—above all, he has shown remarkable courage. His numerous contributions to this House will provide a legacy for all who follow. His achievements throughout his career are indeed laudable. Ted has been an outstanding leader and a dependable friend to every Member of this body.

Ted Henshaw has been involved in the political process all his life and has loved every minute of it. He started his career in 1955 working for the Democratic National Congressional Committee. His dedication and devotion to that job and the Democratic Party earned him the position of executive director. After 20 years with the DNCC, Ted was appointed and then elected as Clerk of the House of Representatives where he has served honorably and effectively to this day. Tomorrow will mark the anniversary of Ted's election to this position 7 years ago.

The 98th Congress will miss this courageous, brave, and honorable gentleman. I wish Ted, his wife, Butch, and his family their much deserved happiness in the years ahead. Ted, you have been an inspiration to us all, and we thank you for sharing your talents and professionalism with us.●

● Mr. BOLAND. Mr. Speaker, I am pleased to join with the House leadership in paying tribute to my long-time friend, Edmund L. Henshaw, Jr., who is retiring as Clerk of the House of Representatives.

Ted has been a valued friend of mine, going back to his early years as research director of the Democratic National Congressional Committee in 1955. He was always available to dispense wise counsel to new Members of Congress as they organized their staffs and offices and acquainted themselves with House procedures.

As executive director of the Democratic National Congressional Committee from 1972 to 1975 and as Clerk of the United States House of Representatives since 1975, Ted Henshaw has rendered dedicated service to this institution to the satisfaction of all Members of Congress.

Mr. Speaker, it is my fondest desire that as Ted prepares to leave us that he will continue to regain his strength so that he may have many happy years in retirement and good health with his beloved wife, Barbara, and their three children.●

● Mr. ANNUNZIO. Mr. Speaker, it is a genuine pleasure for me to join with my distinguished colleagues, Majority Leader JIM WRIGHT, Majority Whip THOMAS S. FOLEY, and Chief Deputy Majority Whip BILL ALEXANDER, in paying tribute to Edmund Lee Henshaw, Jr., who has ably served as Clerk of the House of Representatives since 1975. Ted's dedication to high standards is an inspiration to his friends and fellow citizens, and his exemplary service to the Congress, and to the people of this Nation is most commendable.

Before his election as Clerk of the House of Representatives, Ted Henshaw served as research director of the Democratic National Congressional Committee from 1955 to 1972, and as executive director from 1972 to 1975. He also honorably served our country in the U.S. Army from 1943 to 1946.

Appointed to the position of Clerk of the House of Representatives by the Speaker of the House, Carl Albert,

Ted Henshaw has served in this office with diligence and distinction for the last 7 years. His actions to insure that the business of the House of Representatives is running smoothly are deeply appreciated by every Member of the House on both sides of the aisle.

Ted Henshaw is an outstanding American, who has devoted his life to public service, and he will be missed by all of us who know and respect his integrity and his administrative abilities.

I extend to Ted Henshaw my congratulations for a job well done, and my best wishes for success in his future endeavors.●

● Mr. SAM B. HALL, JR. Mr. Speaker, Ted Henshaw has been an outstanding Clerk of the House, and all of us are going to miss him. He has brought innovation and automation to the House, and has been an untiring worker in behalf of a more efficient administration of the normal routine of the House. His has not been an easy job. Since the midsixties Congress has grown by leaps and bounds. Our mail has increased some tenfold in just the past 12-15 years, and the demands on our time and that of our staff makes the job one that is around-the-clock. Ted Henshaw has done his best to make the job easier. He is a forward-thinking person and was the right man for the job as the role of Congress expanded so dramatically.

When Ted suffered a severe illness some time back there was not a person in the House establishment who was not saddened and genuinely concerned for his welfare. Like all of us who admire and respect Ted so much, I want to wish for him good health and happiness in retirement. He has provided exemplary service, and I, for one, am grateful for his good advice and many courtesies.●

GENERAL LEAVE

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the tribute to Ted Henshaw today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

DESIGNATING CERTAIN LANDS IN WEST VIRGINIA AS MONONGAHELA NATIONAL FOREST

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5161) to designate certain lands in the Monongahela National Forest in West Virginia as wilderness, and designate management of certain lands for uses other than wilderness, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

Strike section 6 in its entirety and insert in lieu thereof the following:

"SEC. 6. Notwithstanding any other provision of law, effective October 1, 1983, there is hereby authorized to be appropriated up to $2,200,000 to be paid to Pocahontas and Webster Counties, West Virginia; such sum in compensation for property tax revenues and other taxes or payments foregone by the aforementioned counties as a consequence of the acquisition of the nonfederally owned coal deposits and other mineral interests and rights within the boundaries of the Cranberry Wilderness as designated by this Act."

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I take this time to ask the subcommittee chairman, the gentleman from Ohio (Mr. SEIBERLING), to explain what he is doing and whether there is any cost involved.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker. H.R. 5161 is essentially the same bill which passed the House by voice vote on June 14 of this year and is long-overdue legislation to implement the bulk of the Forest Service's RARE II proposals for the State of West Virginia. The centerpiece of H.R. 5161 is the proposed 35,600-acre Cranberry Wilderness. The Cranberry area was designated as a wilderness study area by Congress in 1975 and has been proposed for wilderness by many West Virginians for decades. In 1979, the Forest Service completed the required wilderness study and recommended wilderness for the area contained in H.R. 5161. I have personnally visited the area and can understand why the Forest Service and so many West Virginians support such a designation.

An excellent description of the wilderness proposals and other provisions of H.R. 5161 can be found in House Report 97-561, part I, and on pages 30167-30170 of the CONGRESSIONAL RECORD of December 13, 1982, so I will not elaborate further here.

In brief, the Senate amendments to the bill delete the mineral exchange provision of the House-passed measure and substitute an extension of a monetary credit to the owner of the mineral interests in the Cranberry area. Such credit would be used in connection with other Federal mineral or oil and gas leases which the owner might seek and would be transferable. It is my understanding that this approach is agreed to by the CSX Corp., which currently owns the mineral rights underlying the proposed Cranberry Wilderness. The amendments also, include provision for compensation to two counties in which the wilderness is situated, for lost property taxes and other revenues from the acquisition of the non-federally owned coal deposits.

I urge my colleagues' approval of this legislation and in closing would particularly commend the CSX Corp., the West Virginian Highlands Conservancy, Congressman CLEVE BENEDICT, and Senators BYRD, RANDOLPH, MCCLURE, and WALLOP for working together to develop this consensus solution to a difficult problem.

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Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just approved.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1029. An act to amend section 1 of the Act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible; and

H.R. 3809. An act to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes.

CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS ACT AMENDMENT OF 1981

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 3963) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated, and recede from disagreement to the Senate amendment and concur in th Senate amendment with an amendment which is at the desk.

The Clerk read as follows:

House amendment to the Senate amendment to H.R. 3963: In lieu of the matter inserted by the Senate amendment to the text of the bill, insert the following:

SEC. 3. Titles I through III may be cited as the "Violent Crime and Drug Enforcement Improvements Act of 1982".

TITLE I—CONTROLLED SUBSTANCES PENALTIES AND CRIMINAL FORFEITURE

PART A

SEC. 101. This part may be cited as the "Comprehensive Drug Penalty Act of 1982".

SEC. 102. (a) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(7) All land buildings used, or intended for use, for holding or storage of property described in paragraph (1) or (2), if the offense involved is a felony, except that no property shall be forfeited under this pargraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.".

(b) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(1) by inserting "(1)" before "The provisions of law"; and

(2) by adding at the end of the following new paragraph:

"(2) In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(c) Subsection (e) of section 511 of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by striking out "used to pay" in the sentence beginning "The proceeds from" and all that follows through the end of the subsection and inserting in lieu thereof the following: "deposited in accordance with subsection (h) of this section.".

SEC. 103. (a) Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new subsections:

"(h)(1) There is established in the United States Treasury a fund to be known as the Drug Enforcement Fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Attorney General, with respect to this title, title III, and section 1963(c) of title 18, United States Code, without fiscal year limitation in such amounts as may be specified in appropriation Acts for—

"(A) payment of expenses of forfeiture and sale, including expenses of seizure and detention;

"(B) payment of rewards for information resulting in a conviction or forfeiture;

"(C) payment of liens against forfeited property; and

"(D) payment of amounts with respect to remission and mitigation.

"(2) Any reward paid from the fund shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay a reward of $10,000 or more shall not be delegated to any person other than the Director of the Federal Bureau of Investigation or the Administrator of the Drug Enforcement Administration. Any reward for such information shall not exceed $250,000, except that a reward paid for information resulting in a forfeiture, shall not exceed the lesser of $250,000 or one-quarter of the amount realized by the United States from the property forfeited.

"(3) There shall be deposited in the fund—

"(A) during the period beginning on the effective date of this section and ending on September 30, 1983, proceeds from forfeiture—

"(i) under this title and title III; and

"(ii) under section 1963(c) of title 18, United States Code, in any case in which the racketeering activity consists of a narcotic or other dangerous drug offense referred to in section 1961(1)(A) of such title;

that, under this title and title III and such sections of title 18, United States Code, as in effect on the day before the effective date of this section, would have been deposited in the general fund of the Treasury; and

"(B) during the period beginning on October 1, 1983, and ending on September 30, 1985, all proceeds from forfeiture under this title and title III and such sections of title 18, United States Code, as a reimbursement to the appropriation for the fund.

"(4) During the period beginning on the effective date of this section and ending on September 30, 1983, proceeds from forfeiture under the provisions referred to in subparagraph (A) of paragraph (3) of this subsection (other than proceeds deposited in the fund under such subparagraph) shall be treated as provided under such provisions as in effect on the day before the effective date of this section.

"(5) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(6) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a detailed report on receipts and disbursements with respect to the fund for such year.

"(7) There are authorized to be appropriated from the fund for fiscal year 1984 and fiscal year 1985 such sums as may be necessary for expenses of payments under paragraph (1) of this subsection, of which not more than $10,000,000 may be appropriated for each such fiscal year for unreimbursed expenses. At the end of the last fiscal year for which appropriations from the fund are authorized by this Act, the fund shall cease to exist and any amount then remaining in the fund shall be deposited in the general fund.

"(i) The filing of an indictment or information alleging a violation of this title or title III that is related to a civil forfeiture proceeding under this section shall, upon motion of the United States or a claimant in that proceeding, and for good cause shown, stay the civil forfeiture proceeding.".

SEC. 104. (a) A reference in this section to a section or other provision is a reference to a section or other provision of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(b) Section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(c) Section 401(b)(1)(B) (21 U.S.C. 841(b)(1)(B)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$30,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(d) Section 401(b)(2) (21 U.S.C. 841(b)(2)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$10,000, or both" and inserting in lieu thereof "$100,000, or both if such person is an individual, or to a fine of not more than $250,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$20,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than an individual".

(e) Section 401(b)(3) (21 U.S.C. 841(b)(3)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$5,000, or both" and inserting in lieu thereof "$10,000, or both if such person is an individual, or to a fine of not more than $25,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$10,000, or both" and inserting in lieu thereof "$25,000, or both if such person is an individual, or to a fine of not more than $50,000 if such person is other than an individual".

(f) Section 401(b)(5) (21 U.S.C. 841(b)(5)) is amended—

(1) in the sentence beginning "Notwithstanding paragraph (1)(B)", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(g) Section 401(b)(6) (21 U.S.C. 841(b)(6)) is amended—

(1) in the sentence beginning "In the case of", by striking out "and in addition, may be fined not more than $125,000" and inserting in lieu thereof "a fine of not more than

$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "and in addition, may be fined not more than $250,000" and inserting in lieu thereof "a fine of not more than $500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(h) Section 401(d) (21 U.S.C. 841(d)) is amended by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(i) Section 402(c)(2)(A) (21 U.S.C. 842(c)(2)(A)) is amended by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(j) Section 402(c)(2)(B) (21 U.S.C. 842(c)(2)(B)) is amended by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(k) Section 403(c) (21 U.S.C. 843(c)) is amended—

(1) by striking out "$30,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$60,000, or both" and inserting in lieu thereof "$500,00, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual." (l) Section 408(a)(1) (21 U.S.C. 848(a)(1)) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$500,000 if such person is an individual, or a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$200,000" and inserting in lieu thereof "$1,000,000 if such person is an individual, or a fine of not more than $2,000,000 if such person is other than an individual".

(m) Part D is amended by adding at the end the following new sections:

"ALTERNATIVE FINE

"SEC. 413. In lieu of a fine authorized by this part, a defendant who derives profits or other proceeds directly from the offense may be fine not more than twice the gross profits or other proceeds so derived, if such amount is greater than the fine so authorized.

"GENERAL PROVISIONS RELATING TO FINES

"SEC. 414. (a) In determining whether to impose a fine under this part, and the amount, time for payment, and method of payment of a fine, the court shall—

"(1) consider the defendant's income (regardless of source), earning capacity, and financial resources, including the nature of the burden that the fine will impose on the defendant and on any person who is legally or financially dependent upon the defendant;

"(2) consider the proof received at trial or as a result of a plea of guilty or nolo contendere concerning any profits or other proceeds derived by the defendant;

"(3) consider any other pertinent equitable consideration; and

"(4) give primary consideration to the need to deprive the defendant of illegally obtained profits or other proceeds from the offense.

"(b) As a condition of a fine, the court may require that payment be made in specified installments or within a specified period of time, but such period shall not be greater than the maximum applicable term of probation or imprisonment, whichever is greater. If not otherwise required by such a condition, payment of a fine shall be due immediately.

"(c) If a fine under this part is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization.

"(d)(1) A defendant who has been sentenced to pay a fine, and who has paid part but not all of such fine, may petition the court for extension of the time for payment, modification of the method of payment, or remission of all or part of the unpaid portion.

"(2) The court may enter an appropriate order under this subsection, if it finds that—

"(A) the circumstances that warranted imposition of the fine in the amount imposed, or payment by the time or method specified, no longer exist; or

"(B) it is otherwise unjust to require payment of the fine in the amount imposed or by the time or method specified.

"CRIMINAL FORFEITURE

"SEC. 415. (a) Any person who is convicted of a violation of this title or title III that is punishable by imprisonmment for more than one year shall forfeit to the United States—

"(1) any property constituting or derived from gross profits or other proceeds obtained as a result of such violation;

"(2) any property used, or intended to be used, to commit such violation; and

"(3) in the case of a person convicted under section 408 of this title, in addition to the property described in paragraphs (1) and (2), any interest in, claim against, or property or contractual right of any kind affording a source of control over, the continuing criminal enterprise.

"(b) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(c)(1) Upon filing of an indictment or information alleging that any property is subject to forfeiture under this section, the United States may request an order for seizure of such property in the same manner as provided for a search warrant. The court shall enter an order for seizure upon determining that—

"(A) there is probable cause to believe that the property to be seized is subject to forfeiture; and

"(B) an order restraining transfer of the property is not sufficient to ensure availability of the property for a forfeiture proceeding under this section.

"(2) The court shall enter an order of forfeiture of any property referred to in subsection (a) (1), (2), or (3) if the trier of fact determines that the United States has established beyond a reasonable doubt that such property is subject to forfeiture under this section.

"(3) The United States shall, to the maximum extent practicable, identify all persons with an alleged interest in property that is the subject of an order under paragraph (2) and shall provide to such persons notice of the order and the relief available under paragraph (4).

"(4)(A) Not later than sixty days (or such longer period as the court may order for good cause shown) after the date of an order under paragraph (2), any person with an alleged interest in the property may petition the Attorney General for remission or mitigation of the forfeiture—

"(i) on the ground that when acquiring the interest for value, such person did not know or have reason to know of the violation of law on which the order of forfeiture is based or of any existing order restraining transfer of the property; or

"(ii) on other equitable grounds that justify remission or mitigation.

A petition under this paragraph shall be verified and shall set forth the nature and extent of the petitioner's interest in the property, the time and circumstances of the petitioner's acquisition of interest in the property, any additional facts and circumstances supporting remission or mitigation, and the relief sought.

"(B) In the case of a petition under subparagraph (A)(ii), not later than ninety days (or such longer period as the court may order for good cause shown) after the end of the period specified in subparagraph (A), the Attorney General shall issue a decision with respect to the petition. The property shall be disposed of pursuant to such decision, which shall not be subject to review of any kind.

"(C) In the case of a petition under subparagraph (A)(i), not later than ninety days (or such longer period as the court may order for good cause shown) after the end of the period specified in subparagraph (A), the Attorney General shall provide the relief sought or submit to the court a written recommendation for other disposition of the property. Except as provided in subparagraph (D), the court shall order disposition of the property in accordance with a recommendation made under the preceding sentence.

"(D) The court shall provide notice of the recommendation and opportunity for a hearing to any petitioner under subparagraph (A)(i). If, at such hearing, a petitioner establishes, by a preponderance of the evidence, that such petitioner's interest was acquired for value without actual or constructive knowledge of the violation of law on which the order of forfeiture is based, or of any order restraining transfer of the property, the court shall grant appropriate relief that does equity to that interest.

"(5)(A) Except as provided in subparagraph (B), the provisions of the customs laws relating to disposition of forfeited property shall apply to dispositions of property forfeited under this chapter, to the extent that such provisions are not inconsistent with this chapter.

"(B) The duties of the Secretary of the Treasury with respect to dispositions of forfeited property under the customs laws shall be performed under subparagraph (A) by the Attorney General, except to the extent that such duties arise from forfeitures effected under the customs laws.

"(d) The United States shall promptly dispose of all property forfeited under this section through commercial means or as otherwise permitted by law, making due provision

for the rights of innocent persons, but the United States shall take such action as may be required to prevent any convicted person from purchasing or otherwise acquiring property forfeited as a result of such conviction. Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize forfeited property under such reasonable conditions as the court may impose. If a forfeited property right is not exercisable or transferable for value by the United States, it shall expire and shall not revert to the convicted person.

"(e)(1) In addition to any order authorized by subsection (b), the court may, before the filing of an indictment or information, enter an order restraining the transfer of property that is or may be subject to forfeiture under subsection (a) of this section.

"(2) An order shall be entered under this subsection if the court determines that—

"(A) there is a substantial probability that the United States will prevail on the issue of forfeiture;

"(B) there is a substantial probability that failure to enter the order will result in unavailability of the property for forfeiture; and

"(C) the need to assure availability of the property outweighs the hardship on any party against whom the order is to be entered.

"(3)(A) Except as provided in subparagraph (B), an order under this subsection shall be entered only after notice to persons appearing to have an interest in the property and opportunity for a hearing.

"(B) A temporary order under this subsection may be entered upon application of the United States, without notice or opportunity for a hearing, if an information or indictment has not been filed with respect to the property and the United States demonstrates that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, except that the effective period of the order may be extended by the court for not more than ten days for good cause shown and for a longer period with the consent of all parties affected by the order.

"(f) There may be a rebuttable presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

"(1) such property was acquired by such person during the period of the violation of this title or title III or within a reasonable time after such period; and

"(2) there was no likely source for such property other than the violation of this title or title III.

"(g) The findings of the trier of fact with respect to property subject to forfeiture shall be set forth in a special verdict.".

SEC. 105. (a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended in the sentence beginning "In the case of" by striking out "$25,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

Section 1010(b)(2) of such Act (21 U.S.C. 960(b)(2)) is amended in the sentence beginning "In the case of" by striking out "$15,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(c) Section 1010(b) of such Act (21 U.S.C. 960(b)) is amended by adding at the end the following new paragraph:

"(3) In the case of a violation under subsection (a) involving more than 1,000 pounds of marihuana, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $250,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual.".

(d) Section 1011(2) of such Act (21 U.S.C. 961(2)) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(e) Part A of such Act is amended by adding at the end the following new section:

"APPLICABILITY OF SECTION 413 AND SECTION 414

"SEC. 1017. Sections 413 and 414 shall apply with respect to fines under this part to the same extent that such sections apply with respect to fines under part D of title II. For purposes of such application, any reference in such section 413 or 414 to 'this part' shall be deemed to be a reference to part A of title III.".

SEC. 106. Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by section 4(1) of this Act, is further amended—

(1) in subsection (a)—

(A) by striking out "SEC. 408. (a)(1)" and inserting in lieu thereof "SEC. 408. (a)";

(B) by striking out "paragraph (2)" each place it appears and inserting in lieu thereof "section 415"; and

(C) by striking out paragraph (2); and

(2) by striking out subsection (d).

SEC. 107. (a) The table of contents for part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 412 the following new items:

"Sec. 413. Alternative fine.

"Sec. 414. General provisions relating to fines.

"Sec. 415. Criminal forfeiture.".

(b) The table of contents for part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 1016 the following new item:

"Sec. 1017. Applicability of section 413 and section 414.".

PART B

SEC. 201. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE: VALUE $100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise is merchandise the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 202. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended in the second sentence by inserting after "penal sum of" the following: "$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than".

SEC. 203. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended by striking out ", after deducting the actual expenses of seizure, publication and sale, in the Treasury of the United States." and inserting in lieu thereof "in the Customs Forfeiture Fund.".

SEC. 204. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and inserting in lieu thereof "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,".

SEC. 205. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears;

(2) by striking out "and the value of such vessel, vehicle, merchandise, or baggage as determined under section 606 of this Act, does not exceed $10,000," in the first sentence and inserting in lieu thereof "and the article is subject to section 607 of this Act,"; and

(3) by striking out "If such value of such vessel, vehicle, merchandise, or baggage exceeds $10,000" in the second sentence and inserting in lieu thereof "If the vehicle is not subject to section 607 of this Act,".

SEC. 206. (a) The last sentence of section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended—

(1) by inserting after "proceeds of sale" the following: "shall be deposited in the Customs Forfeiture Fund, except that in the case of an application of this subsection to a law other than a customs law, the proceeds of sale"; and

(2) in paragraph (3), by striking out "with the Treasurer of the United States as a customs or navigation fine" and inserting in lieu thereof the following: "in the general fund of the Treasury of the United States".

(b) Section 613(b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by striking out "(a) (1) and (2) of this section" and inserting in lieu thereof "(a)(3) of section 613A of this Act".

SEC. 207. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the 'fund') which shall be available to the United States Customs Service without fiscal year limitation in such amounts as may be specified in appropriation Acts for—

"(1) payment of expenses of forfeiture and sale, including expenses of seizure and detention;

"(2) payment of awards of compensation to informers under section 619 of this Act;

"(3) payment for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property; and

"(4) payment of amounts authorized by law with respect to remission and mitigation.

"(b) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the net proceeds of the sale or, if the property is retained or transferred for official use, the appraised value less all applicable expenses.

"(c)(1) There shall be deposited in the fund—

"(A) during the period beginning on the effective date of this section and ending on September 30, 1983, proceeds from forfeiture under the customs laws that, under such laws as in effect on the day before the effective date of this section would have been deposited in the general fund of the Treasury; and

"(B) during the period beginning on October 1, 1983, and ending on September 30, 1985, all proceeds from forfeiture under such laws as a reimbursement to the appropriation for the fund.

"(2) During the period beginning on the effective date of this section and ending on September 30, 1983, proceeds from forfeiture under the customs laws (other than proceeds deposited in the fund under paragraph (1)(A) of this subsection) shall be treated as provided under such laws as in effect on the day before the effective date of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f) There are authorized to be appropriated from the fund for fiscal year 1984 and fiscal year 1985 such sums as may be necessary for expenses of payments under subsection (a) of this section, of which not more than $10,000,000 may be appropriated for each such fiscal year for unreimbursed expenses. At the end of the last fiscal year for which appropriations from the fund are authorized by this Act, the fund shall cease to exist and any amount then remaining in the fund shall be deposited in the general fund of the Treasury of the United States.".

SEC. 208. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581) is further amended by adding after section 615 the following new section:

"SEC. 616. TRANSFER OF FORFEITED PROPERTY.

"(a) The Secretary of the Treasury may order the discontinuance of forfeiture proceedings under this Act in favor of forfeiture under State law. After the filing of a complaint for forfeiture under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

"(b) If forfeiture proceedings are discontinued or dismissed under this section—

"(1) the United States may transfer the seized property to the appropriate State or local official; and

"(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

"(c) The United States shall not be liable in any action arising out of seizure, detention, or transfer of property transferred under this section.".

SEC. 209. Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$250,000".

SEC. 210. (a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is further amended by adding after section 588 the following new section:

"SEC. 589. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

"Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b)(1) Section 7607 of the Internal Revenue Code of 1954 (26 U.S.C. 7607) is repealed.

(2) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

SEC. 211. Sections 602, 605, 606, 608, 609, 611, 613, 614, 615, 618, and 619 (19 U.S.C. 1602, 1605, 1606, 1608, 1609, 1611, 1613, 1614, 1615, 1618, and 1619) of the Tariff Act of 1930 are each amended—

(1) by inserting "aircraft," after "vehicle," each place it appears; and

(2) by inserting "aircraft" after "vehicles," each place it appears.

PART C

SEC. 301. This title and the amendments made by this title shall take effect on March 1, 1983.

TITLE II—AMENDMENTS TO OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

PART A

SHORT TITLE

SEC. 201. This part may be cited as the "Justice Assistance Act of 1982".

DECLARATION OF PURPOSE

SEC. 202. The declaration and purpose contained in title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701) is amended to read as follows:

"DECLARATION AND PURPOSE

"The Congress finds and declares that the high incidence of crime in the United States is detrimental to the general welfare of the Nation and its citizens, and that criminal justice efforts must be better coordinated and intensified, and made more effective and equitable at all levels.

"Congress further finds that there is an urgent need to encourage basic and applied research, to gather and disseminate accurate and comprehensive justice statistics, and to evaluate methods of preventing and reducing crime.

"Congress further finds that although crime is essentially a local problem that must be dealt with by State and local government, the financial and technical resources of the Federal Government should be made available to assist in the development of innovative and effective National, State, and local efforts.

"Congress further finds that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require systematic and sustained action by Federal, State, and local governments; and continuing efforts at all levels to streamline programs and upgrade the functioning of agencies responsible for planning, implementing, and evaluating efforts to improve justice systems.

"It is, therefore, the declared policy of the Congress to aid in strengthening and improving justice systems by providing assistance with maximum certainty and effectiveness and minimum delay and waste. It is the purpose of this title to authorize funds and technical assistance (1) to be used to strengthen justice systems; (2) to develop and fund new methods and programs to enhance the effectiveness of justice systems; (3) to support the development of National, State, and local priorities and programs to meet the problems confronting justice systems; (4) to reduce court congestion and trail delay; (5) to support community and neighorhood anti-crime efforts; (6) to improve and modernize correctional systems and encourage rehabilitation; (7) to encourage the undertaking of promising, innovative projects and programs to combat crime; (80 to encourage research directed toward the improvement of justice systems and new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals; (9) to encourage the collection and analysis of statistical information concerning justice systems and the development and operation of justice information systems; (10) to develop and implement programs assisting victims, jurors, and witnesses; and (11) to support law enforcement-related personnel development and training efforts.

"It is further the policy of the Congress that the Federal assistance made available under this title not be utilized to reduce the amount of State and local financial support for justice activities below the level of such support prior to the availability of such assistance.".

OFFICE OF JUSTICE ASSISTANCE

SEC. 203. (a) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended in the heading to such part by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 101 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711) is amended to read as follows:

"ESTABLISHMENT OF OFFICE OF JUSTICE ASSISTANCE

"SEC. 101. (a) There is established within the Department of Justice under the general authority of the Attorney General and Office of the Justice Assistance (hereinafter referred to in this part as the 'Office').

"(b) The Office shall be headed by a Director who shall be appointed by the Attorney General. The Director may appoint Deputy Directors to assist in the direction of the Office. The Director shall have primary authority over all grants, cooperative agreements, and contracts awarded by the Office. The Director shall have primary authority over administrative function as may be necessary to carry out the provisions of

this title. The Director shall not engage in any employment other than that of serving as Director, nor shall the Director hold any office in, or in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this title.".

(c) Section 102 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended—

(1) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director",

(2) in paragraph (1) by striking out "and units of local government",

(3) by amending paragraph (2) to read as follows:

"(2) establish priorities for programs in accordance with part E, inform States, units of local government, and private nonprofit organizations of such priorities, and award and allocate funds and technical assistance in accordance with the criteria of part E and on terms and conditions determined by the Director to be consistent with part E;".

(4) in paragraph (4) by striking out "Administration" and inserting in lieu thereof "Office", and

(5) in the heading for such section by striking out "administrator" and inserting in lieu thereof "director".

(d) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended by striking out section 103.

NATIONAL INSTITUTE OF JUSTICE

SEC. 204. (a) Section 202 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended—

(1) by striking subsection (b) and inserting in lieu thereof the following:

"(b)(1) The Institute shall be headed by a Director who shall be appointed by the Attorney General. The Director shall have had experience in justice research.

"(2) The Director may appoint Deputy Directors to assist in the direction of the Institute. The Director shall have primary authority over all grants, cooperative agreements, and contracts awarded by the Institute. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for any organization, agency, or institution with which the Institute makes any contract or other arrangement under this title.",

(2) in subsection (c)—

(A) in paragraph (2)(A) by striking out ", including programs authorized by section 103 of this title", and

(B) in paragraph (10)—

(i) by striking out "national priority grants under part E and", and

(ii) by striking out "part F" and inserting in lieu thereof "part E", and

(C) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(D) by adding at the end of such subsection the following new paragraph:

"(12) provide financial assistance to encourage replication, coordination, and sharing among State and local justice agencies and public and private nonprofit organizations regarding successful programs or projects and useful information resulting from multiyear and short-term research and development activities authorized under this part.", and

(3) in subsection (d)(5) by striking out "part H" and inserting in lieu thereof "part G".

(b) Part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3724) is amended by striking out section 204.

BUREAU OF JUSTICE STATISTICS

SEC. 205. (a) Section 302 of Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (a) by inserting before "Bureau" the word "the", and

(2) by striking subsection (b) and inserting in lieu thereof the following:

"(b) The Bureau shall be headed by a Director who shall be appointed by the Attorney General. The Director shall be experienced in statistical programs. The Director may appoint Deputy Directors to assist in the direction of the Bureau. The Director shall have primary authority over all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director; nor shall the Director hold any office in, or in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.".

(b) Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended—

(1) by striking out section 304, and

(2) by redesignating section 305 as section 304.

FORMULA GRANTS

SEC. 206. (a) Section 401 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) is amended—

(1) in subsection (a)—

(A) by striking out "innovative programs" and all that follows through "success, or" and insert in lieu thereof "programs",

(B) by striking out "and units of local government" the second place it appears,

(C) by striking out "Administration" and inserting in lieu thereof "Office",

(D) by inserting "funding programs and projects that" after "purpose of",

(E) by amending paragraphs (1) through (23) to read as follows:

"(1) identify and process within justice systems persons with a history of serious criminal conduct;

"(2) provide programs that address the problems of serious and violent offenses committed by juveniles;

"(3) combat arson;

"(4) disrupt illicit commerce in stolen goods and property;

"(5) effectively investigate and bring to trial white-collar crime, organized crime, public corruption crimes and fraud against the Government;

"(6) provide community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(7) provide programs to speed the trial of criminal cases, reform sentencing practices and procedures, improve the efficiency of the jury system, and improve the processing of cases involving the mentally incompetent and pleas of mental incapacity;

"(8) provide training, management, and technical assistance to justice personnel;

"(9) provide assistance for the development and operation of justice information systems, including management information systems;

"(10) coordinate the activities of components of the criminal justice system;

"(11) develop and implement programs which provide assistance (other than compensation) to jurors, witnesses, and victims of crime;

"(12) provide programs which address offenses committed against the elderly;

"(13) provide programs which identify and meet the needs of drug-dependent offenders;

"(14) provide alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

"(15) provide programs which alleviate prison and jail overcrowding;

"(16) provide programs that address critical problems of crime, such as drug trafficking, and have been certified by the Director of the Office, after consultation with the Director of the Institute, as having proven successful, based on available objective, empirical or statistical data, information, or evaluation; and

"(17) provide programs that are innovative and that are likely to prove successful after testing, demonstration, evaluation, and refinement.",

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) For any fiscal year ending after September 30, 1982, the federal portion of any grant made under this part shall be 50 per centum of the cost of programs and projects specified in the application for such grant, except that—

"(A) in the case of funds distributed for a program or project described in subsection (a)(17), the federal portion shall be 75 per centum of such cost; and

"(B) in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any program or project described in subsection (a), the Federal portion shall be 100 per centum of such cost.",

(B) in paragraph (2)—

(i) by striking out "(2)(A)" and inserting in lieu thereof "(2)", and

(ii) by striking out subparagraph (B),

(3) by striking out subsection (c), and

(4) by amending subsection (b)(3) to read as follows:

"(C) A grant recipient shall assume the cost of a current program or project funded under this part after a four-year period (including any period occurring before the effective date of this subsection) of Federal asistance.".

(b) Section 402 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3742) is amended to read as follows:

"ELIGIBILITY

"SEC. 402. The Office is authorized to make financial assistance under this part available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this part.".

(c) Section 403 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743) is amended—

(1) in subsection (a)—

(A) by striking out "Administration" each place is appears and inserting in lieu thereof "Office",

(B) by striking out "three-year" and inserting in lieu thereof "two-year",

(C) in the first sentence by inserting ", designates which objective specified in section 401(a) each such program is intended to achieve, and identifies the State agency or unit of local government which will implement each such program" before the period,

(D) in paragraph (3) by striking out ", and to the council where the applicant is a State agency, the judicial coordinating committees, a nongovernmental grantee, or a unit or combination of units of local government",

(E) in paragraph (6)—

(i) by striking out "a provision for" and inserting in lieu thereof "an assurance that", and

(F) in paragraph (7)—

(ii) by inserting "will be provided" after "prescribe",

(i) by striking out "a provision for the maintenance of" and inserting in lieu thereof "an assurance that the State will maintain", and

(ii) by striking out "for the submission of" and inserting in lieu thereof "submit", (G) in paragraph (8)—

(i) by striking out "officer" the first place it appears, and

(ii) by striking out "and" at the end thereof,

(H) in paragraph (9) by striking out the period and inserting in lieu thereof a semicolon,

(I) by striking out paragraphs (1), (2), and (5),

(J) by redesignating paragraphs (3), (4), (6), (7), (8), and (9) as paragraphs (1), (2), (3), (4), (5), and (6), respectively, and

(K) by adding at the end thereof the following new paragraphs:

"(7) an assurance that not more than 10 per centum of the aggregate amount of funds received by a State under this part for a fiscal year will be distributed for programs and projects designated as intended to achieve the objective specified in section 401(a)(17); and

"(8) an assurance that not more than 5 per centum of the Federal assistance expended by any unit of government under this part for a fiscal year will be spent for purposes of section 401(a)(10)."; and

(2) by amending subsection (b) to read as follows:

"(b) The chief executive officer of a State shall submit the application described in subsection (a), and any amendment to such application, to the State legislature while in session, or to a body designated to act in behalf of the State legislature if the State legislature is not then in session, for review. For purposes of section 404, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the ninety-day period beginning on the day it is so submitted.".

(d) Section 404 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3744) is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking out "and" at the end thereof,

(B) in paragraph (3) by striking out the period and inserting in lieu thereof "; and",

(C) by inserting after paragraph (3) the following new paragraph:

"(4) prior to the approval of the application or amendment thereof the Office has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 403(b).", and

(D) by inserting before the period at the end thereof "or the application or amendment has not been reviewed in accordance with section 403(b)",

(2) in subsection (b) by striking out "section 802(b)" each place it appears and inserting in lieu thereof "section 701(b)",

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) the purchase of equipment or hardware, or the payment of personnel costs, unless the cost of such purchases and payments is incurred as an incidental and necessary part of a program under section 401(a);", and

(B) in paragraph (4) by striking out "Law Enforcement Assistance Administration," and inserting in lieu thereof "Office of Justice Assistance,",

(4) in subsection (d)—

(A) by striking out "Administrator" and inserting in lieu thereof "Director", and

(B) by striking out "section 803" and inserting in lieu thereof "section 702", and

(5) by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(e) Section 405 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3745) is amended to read as follows:

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 405. (a) Of the total amount appropriated for this part and part E in any fiscal year, 80 per centum shall be set aside for this part and allocated to States as follows:

"(1) One-fourth of 1 per centum of the amount set aside for this part, but not to exceed $250,000, shall be allocated to each of the participating States.

"(2) Of any funds remaining after the allocation under paragraph (1) is made, there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 401(a) that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for law enforcement in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for law enforcement in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Office determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under this part, then such portion shall be reallocated to the other participating States.".

(f) Part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741-3745) is amended by adding at the end thereof the following new section:

"STATE OFFICE

"SEC. 406. (a) Each participating State shall establish or designate by statute a State office for purposes of—

"(1) preparing an application to obtain funds under this part; and

"(2) administering funds received from the Office of Justice Assistance and its predecessor agency, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).".

NATIONAL PRIORITY GRANTS

SEC. 207. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended by striking out part E.

DISCRETIONARY GRANTS

SEC. 208. (a) Sections 601 and 602 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3762) are amended to read as follows:

"PURPOSE

"SEC. 501. The purpose of this part is to provide additional Federal financial assistance to States, units of local government, combinations of such units, and private nonprofit organizations for purposes of—

"(1) undertaking educational and traning programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multi-State in scope, which address the purposes specified in section 401, and which have not received sufficient funds under part D; and

"(4) providing financial assistance for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction and are not likely to be funded with moneys from other sources.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

"Sec. 502. Of the total amount appropriated for part D and this part in any fiscal year—

"(1) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in making grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501; and

"(2) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in making grants to carry out the purpose specified in paragraph (4) of section 501.

The Director shall ensure that recipients of grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501 include private nonprofit organizations. Grants under this part may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application. The National Insti-

tute of Justice shall review the types of programs described in section 501 of part E of this title for the purpose of identifying programs of proven success, and the Director of the National Institute of Justice shall consult with the Director of the * * *

(d) Section 605 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765) is amended—

(1) by striking out "Administration" each place it appears and inserting in lieu thereof "Office",

(2) by striking out "Section 603" and inserting in lieu thereof "Section 503",

(3) by striking out the third sentence, and

(4) by striking out "type of section 402 eligible jurisdiction" and inserting in lieu thereof "State".

(e) Section 606 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(f) The heading for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3766) is amended by striking out "Part F" and inserting in lieu thereof "Part E".

(g) Part E of title I, as so redesignated, is amended by redesignating sections 603, 604, 605, and 606 as sections 503, 504, 505, and 506, respectively.

TRAINING AND MANPOWER DEVELOPMENT

SEC. 209. (a) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3775) is amended—

(1) by striking out sections 701, 702, and 703,

(2) in section 705 by striking out "Administration" each place it appears and inserting in lieu thereof "Office", and

(3) by redesignating sections 704 and 705 as sections 601 and 602, respectively.

(b) The heading for part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by striking out "Part G" and inserting in lieu thereof "Part F".

ADMINISTRATIVE PROVISIONS

SEC. 210. (a) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by striking out section 801 and inserting in lieu thereof the following:

ASSISTANT ATTORNEY GENERAL

"SEC. 801. (a) There is hereby authorized to be appointed within the Department of Justice an Assistant Attorney General for Justice Assistance who shall be appointed by the President by and with the advice and consent of the Senate.

"(b) The Assistant Attorney General for Justice Assistance shall have final authority over the activities of the Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics.".

(b) Section 802 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782) is amended—

(1) in subsection (a) by striking out "The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," and inserting in lieu thereof, "The Office of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention,", and

(2) in subsection (b)—

(A) by striking out "Law Enforcement Assistance Administration" and "law Enforcement Assistance Administration" each place they appear and inserting in lieu thereof "Office of Justice Assistance",

(B) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics,",

(C) by striking out "parts D, E, and F" and inserting in lieu thereof "parts D and E",

(D) by striking out the second sentence,

(E) by amending the third sentence to read as follows: "In conducting evaluations described in this subsection, the Office of Justice Assistance, with the assistance and expertise of the National Institute of Justice, shall, when practical, compare the effectiveness programs conducted by similar applicants and different applicants.", and

(F) by striking out "administration" and inserting in lieu thereof "Office".

(c) Section 803 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783) is amended—

(1) by striking out "Law Enforcement Assistance Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics," each place it appears, and

(3) in subsection (c) by striking out "Administration," and inserting in lieu thereof "Office,".

(d) Section 804 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3784) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(e) Section 805 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3785) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistic, the Law Enforcement Assistance Administration," each place it appears and inserting in lieu thereof "Office of Justice Assistance,",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," before "or the National Institute of Justice" each place it appears,

(3) in subsection (a) by striking out "section 803, 804, or 815(c)(2)(G)" and inserting in lieu thereof "section 702, 703, or 712(c)(2)(G)", and

(4) in subsection (b) by inserting "the Office of Juvenile Justice and Delinquency Prevention" before "or the Bureau of Justice Statistics".

(f) Sections 806 and 807 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3786-3787) are each amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics,", and

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(g) Sections 810 and 811 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3788-3789) are amended—

(1) by striking out "Office of Justice Assistance, Research and Statistics," each place it appears,

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(h) Section 812 of Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789a) is amended by striking out "Director of the Office of Justice Assistance, Research, and Statistics, the Administrator of the Law Enforcement Assistance Administration," and inserting in lieu thereof "Director of the Office of Justice Assistance, the Administrator of the Office of Juvenile Justice and Delinquency Prevention,".

(i) Section 813 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789b) is amended in subsections (a) and (b)—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(j) Section 814 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3798c) is amended—

(1) in subsections (a) and (b)—

(A) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(B) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(2) in subsection (c) by striking out "Administration" and inserting in lieu thereof "Office".

(k) Section 815 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3739d) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance", and

(2) in subsection (b) by striking out "or the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, or the Office of Justice Assistance".

(l) Section 816 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e) is amended to read as follows:

"REPORT TO PRESIDENT AND CONGRESS

"SEC. 816. Not later than April 1 of each year, the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics shall each submit a report to the President and to the Congress on their activities under this title during the preceding fiscal year.".

(m) Section 817 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789f) is amended—

(1) by striking out "Office of Justice, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance",

(2) in subsection (d) by striking out "section 815(c)" each place it appears and inserting in lieu thereof "section 712(c)", and

(3) in subsection (f)—

(A) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director".

(n) Section 818 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789c) is amended by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance".

(o) Section 819 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789h) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(p) Section 820(a) of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789i(a)) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(q) Section 823 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789l) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(r) Section 826 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789o) is amended—

(1) by striking out "council" each place it appears,

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(3) by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(s) The heading for part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781–3789o) is amended by striking out "Part H" and inserting in lieu thereof "Part G".

(t) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by redesignating sections 801, 802, 803, 804, 805, 806, 807, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, and 827 as sections 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, and 725 respectively.

(u) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781–3789c) is amended by striking out sections 808 and 809.

(v) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781–3789c) is amended by adding at the end thereof the following new sections:

"REPAYMENT

"SEC. 726. (a) If Federal financial assistance provided under this part is used by the recipient of such assistance for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the United States an amount equal to the value of such assistance.

"(b) The Director shall bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

"ESTABLISHMENT OF JUSTICE ASSISTANCE BOARD

"SEC. 727. (a) There is established a Justice Assistance Board (hereafter referred to as the 'Board'). The Board shall consist of—

"(1) fifteen voting members who shall be appointed by the President; and

"(2) the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention, who shall be nonvoting, ex officio members; and

"(3) two nonvoting, coordinating members from the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(b) Members shall represent the public interest and shall be knowledgeable and experienced in the justice systems; such as law enforcement personnel, prosecutors, public and defense attorneys, judges, court administrators, probation and correctional personnel, researchers and scholars, representatives of public and private nonprofit and voluntary organizations, including those which offer programs of assistance to victims of crime, representatives of neighborhood and community-based groups and representatives of local and State governments. Five members shall be experienced in the types of programs and services provided by the Office of Justice Assistance; five members shall be experienced in the types of programs and services provided by the National Institute of Justice; and five members shall be experienced in the types of programs and services provided by the Bureau of Justice Statistics.

"(c)(1) Voting members of the Board shall be appointed for 3-year terms, except that in order to provide for continuity in its operations and to establish staggered groups of vacancies, five members of the initial Board shall be appointed for 4-year terms, five members of the initial Board shall be appointed for 3-year terms, and five members of the initial Board shall be appointed for 2-year terms.

"(2) The initial appointment of members shall be made not later than ninety days after the effective date of the Justice Assistance Act of 1982. Vacancies among Board members shall be filled within ninety days of the vacancy. Any member appointed to fill a vacancy occurring before the scheduled expiration of a term shall be appointed for the remainder of such term. Members shall be eligible for reappointment, but shall serve consecutively no more than two terms or six years, whichever is less. Members once appointed, may not be removed prior to the expiration of their term except for cause.

"(d) The Board shall elect from among its voting members a Chair and Vice Chair. The Board shall select from among its voting members two representatives to serve as nonvoting coordinating members on the National Advisory Committee of Juvenile Justice and Delinquency Prevention.

"(e) The Board shall meet at the call of the Chair, but not less frequently than quarterly. Notice of all Board meetings shall be published. Eight voting members of the Board shall constitute a quorum.

"(f) The Board shall—

"(1) recommend to the Assistant Attorney General for Justice Assistance and the Directors funding priorities and selection criteria to be used in determining the award and allocation of funds through the Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics;

"(2) recommend to the Assistant Attorney General for Justice Assistance and the Directors such policies and program priorities as it deems advisable;

"(3) review and evaluate the activities of the Office of Justice Assistance, the National Insititute of Justice, and the Bureau of Justice Statistics and make such recommendations to the Assistant Attorney General for Justice Assistance and the Directors as it considers necessary or appropriate;

"(4) in the event of a vacancy, recommend to the President at least three candidates for the position of Assistant Attorney General for Justice Assistance;

"(5) review and evaluate Federal policies and priorities in justice assistance, research, and statistics; and

"(6) coordinate its activites with the National Advisory Committee for Juvenile Justice and Delinquency Prevention and the Coordinating Council on Juvenile Justice and Delinquency Prevention.

"(g) Beginning January 1, 1983, the Board shall submit an annual report to the President and to the Congress not later than April 1 of each year and may submit such interim report as it considers advisable to the President and to the Congress. Each annual report shall describe the activities of the board during the preceding fiscal year and shall contain such findings and recomendations as the Board considers necessary or appropriate.

"(h) The head of each Federal agency shall make available to the Board such information and other assistance as it may require to carry out its responsibilities. The Board shall not have any authority to procure any temporary or intermittent services of any personnel under provision of law.

"(i)(1) Members of the Board shall, while engaged in the actual performance of the duties vested in the Board, be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS-18 of the General Schedule in section 5332 of title 5, United States Code, including traveltime.

"(2) Members of the Board shall be entitled to reimbursement for travel expenses, including per diem in lieu of subsistence, while serving away from their place of residence or regular place of business, in the same manner as the expenses are authorized by section 5703 of title 5, United States Code, for persons in the Federal Government service employed intermittently.".

DEFINITIONS

SEC. 211. (a) Section 901 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "administration" each place it appears and inserting in lieu thereof "Office".

(b) Section 901(a)(4) of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(4)) is amended—

(1) by inserting "renovation, repairs, remodeling," after "acquisition,", and

(2) by striking out but does not include renovation, repairs, or remodeling".

(c) The heading for part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Part I" and inserting in lieu thereof "Part H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by redesignating section 901 as section 801.

FUNDING

SEC. 212. (a) Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a) There is authorized to be appropriated to carry out the functions of the Office of Justice Assistance $170,000,000 for each of the fiscal years 1983 and 1984.

"(b) There is authorized to be appropriated to carry out the functions of the National Institute of Justice $25,000,000 for each of the fiscal years 1983 and 1984.

"(c) There is authorized to be appropriated to carry out the functions of the Bureau of Justice Statistics $25,000,000 for each of the fiscal years 1983 and 1984.

"(d) There are authorized to be appropriated for each of the fiscal years 1983 and 1984 such sums as may be necessary to carry out the purposes of part K of this title.".

(b) Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by striking out sections 1002 and 1003 and inserting in lieu thereof the following new section:

"PROHIBITION ON USE OF FUNDS

"SEC. 1002. Notwithstanding any other provision of law, no funds appropriated under this section for parts D and E of this title may be expended for programs or projects involving the resolution of civil disputes or may be transferred or reprogramed for carrying out any activity which is not authorized under such parts.".

(c) The heading for part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by striking out "Part J" and inserting in lieu thereof "Part I".

(d) Part I, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by redesignating sections 1001 and 1002 as sections 901 and 902, respectively.

CRIMINAL PENALTIES

SEC. 213. (a) Section 1101 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 1103 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(c) The heading for part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by striking out "Part K" and inserting in lieu thereof "Part H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by redesignating sections 1101, 1102, and 1103 as sections 1001, 1002, and 1003, respectively.

PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 214. (a) Sections 1201 and 1204 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) are amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) The heading for part L of title of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3797-3797c) is amended by striking out "Part L" and inserting in lieu thereof "Part K".

(c) Part K, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3797-3797c) is amended by redesignating sections 1201, 1202, 1203, and 1204 as sections 1101, 1102, 1103, and 1104, respectively.

TRANSITION

SEC. 215. (a) Section 1301 of part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799(a)) is amended—

(1) by adding "(1)" after "(a)",

(2) by adding at the end of subsection (a) the following new paragraph:

"(2) All orders, determinations, rules, regulations, and instructions issued under this title which are in effect on the date of the enactment of the Justice Assistance Act of 1982 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Office of Justice Assistance with respect to their functions under this title or by operation of law.".

(3) by striking out subsection (j), and

(4) by redesignating subsection (k) as subsection (j).

(b) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by striking out "Part M" and inserting in lieu thereof "Part L".

(c) Part L, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by redesignating section 1301 as section 1201.

TABLE OF CONTENTS

SEC. 216. The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3799) is amended—

(1) by amending the item relating to part A to read as follows:

"PART A—OFFICE OF JUSTICE ASSISTANCE"

(2) by striking out the item relating to section 103,

(3) by adding at the end of the items relating to part D the following new item:

"Sec. 406. State office.".

and

(4) by amending the items relating to parts E, F, G, H, I, J, L, and M, to read as follows:

"PART E—DISCRETIONARY GRANTS

"Sec. 501. Purpose.
"Sec. 502. Percentage of appropriation for discretionary grant program.
"Sec. 503. Procedure for establishing discretionary programs.
"Sec. 504. Application requirements.
"Sec. 505. Criteria for award.
"Sec. 506. Period for award.

"PART F—TRAINING AND MANPOWER DEVELOPMENT

"Sec. 601. Federal Bureau of Investigation training of State and local criminal justice personnel.
"Sec. 602. Criminal justice education program.

"PART G—ADMINISTRATIVE PROVISIONS

"Sec. 701. Assistant Attorney General.
"Sec. 702. Consultation; establishment of rules and regulations.
"Sec. 703. Notice and hearing on denial or termination of grant.
"Sec. 704. Finality of determinations.
"Sec. 705. Appellate court review.
"Sec. 706. Delegation of functions.
"Sec. 707. Subpena power; authority to hold hearings.
"Sec. 708. Employment of hearing officers.
"Sec. 709. Authority to use available services.
"Sec. 710. Consultation with other Federal, State, and local officials.
"Sec. 711. Reimbursement authority.
"Sec. 712. Services of experts and consultants; advisory committees.
"Sec. 713. Prohibition of Federal control over State and local criminal justice agencies.
"Sec. 714. Report to President and Congress.
"Sec. 715. Recordkeeping requirement.
"Sec. 716. Confidentiality of information.
"Sec. 717. Authority to accept voluntary services.
"Sec. 718. Administration of juvenile delinquency programs.
"Sec. 719. Prohibition on land acquisition.
"Sec. 720. Prohibition on use of CIA services.
"Sec. 721. Indian liability waiver.
"Sec. 722. District of Columbia matching fund source.
"Sec. 723. Limitation on civil justice matters.
"Sec. 724. Reimbursement for unused equipment.
"Sec. 725. Staff support; coordination of activities.
"Sec. 726. Repayment.
"Sec. 727. Prison industry enhancement.

"PART H—DEFINITIONS

"Sec. 801. Definitions.

"PART I—FUNDING

"Sec. 901. Authorization of appropriations.
"Sec. 902. Prohibition on use of funds.

"PART J—CRIMINAL PENALTIES

"Sec. 1001. Misuse of Federal assistance.
"Sec. 1002. Falsification or concealment of facts.
"Sec. 1003. Conspiracy to commit offense against United States.

"PART K—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"Sec. 1101. Payments.
"Sec. 1102. Limitations.
"Sec. 1103. Definitions.
"Sec. 1104. Administrative provisions.

"PART L—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1201. Continuation of rules, authorities, and proceedings.".

REFERENCES IN OTHER LAWS

SEC. 217. (a) Any reference to the Law Enforcement Assistance Administration, or to the Administrator of the Law Enforcement Assistance Administration, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice Assistance shall be deemed to be a reference to the Office of Justice Assistance, or to the Director of the office of Justice Assistance, as the case may be.

(b) Any reference to the Office of Justice Assistance, Research, and Statistics, or to the Director of the Office of Justice Assistance, Research, and Statistics, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment

of this Act are carried out by the Office of Justice of Assistance, Bureau of Justice Statistics, the National Institute of Justice, or the Office of Juvenile Justice Delinquency Prevention shall be deemed to be a reference to the Office of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, or Office of Juvenile Justice Delinquency Prevention, Director of the Office of Justice Assistance or to the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, or the Administrator of the Office of Juvenile Justice and Delinquency Prevention, as the case may be.

TECHNICAL AMENDMENTS TO OTHER LAWS

SEC. 218. (a) Section 5314 of title 5, United States Code is amended by striking out "Director, Office of Justice Assistance, Research, and Statistics.".

(b) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator of Law Enforcement Assistance.", and

(2) by adding at the end thereof the following new item:

"Director, Office of Justice Assistance.".

(c) Section 1761(c) of title 18, United States Code, is amended by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Director of the Office of Justice Assistance".

EFFECTIVE DATES

SEC. 219. (a) Except as provided in subsection (b), this part and the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) Section 202(b)(1) of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 204(a)(1) of this Act, shall take effect on the date of the first occurrence, after the date of the enactment of this act, of a vacancy in the office of Director of the National Institute of Justice.

PART B—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

APPLICATION

SEC. 221. (a) In the event that a crime problem of serious and epidemic proportions exists throughout a State or a part of a State, a State (on behalf of itself or another appropriate unit of government) may submit an application under this section for Federal law enforcement assistance.

(b) An application for assistance under this section shall be submitted in writing by the chief executive office of the State to the Attorney General, in a form prescribed by rules issued by the Attorney General. The Attorney General shall, after consultation with appropriate members of the Federal law enforcement community, approved or disapprove such application not later than ten days after receiving such application.

(c) Federal law enforcement assistance may be provided if such assistance is necessary to provide an adequate response to a crime problem described in subsection (a). In determining whether to approve or disapprove an application for assistance under this section, the Attorney General shall consider—

(1) the nature and extent of the crime problem throughout a State or in any part of a State,

(2) the emergency or extraordinary circumstances which produced the problem,

(3) the availability of State and local criminal justice resources to resolve the problem,

(4) the cost associated with the increased Federal presence,

(5) the need to avoid unnecessary Federal involvement and intervention in matters primarily of State and local concern, and

(6) any assistance which the State or other appropriate unit of government has received, or could receive, under any provision of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

DEFINITIONS

SEC. 222. For purposes of this part—

(1) the term "Federal law enforcement assistance" means funds, equipment, training, intelligence information, and personnel,

(2) the term "Federal law enforcement community" means the heads of the following departments or agencies:

(A) the Federal Bureau of Investigation,

(B) the Drug Enforcement Administrator,

(C) the Criminal Division of the Department of Justice,

(D) the Internal Revenue Service,

(E) the Customs Service,

(F) the Immigration and Naturalization Service,

(G) the United States Marshals Service,

(H) the National Park Service,

(I) the United States Postal Service,

(J) the Secret Service,

(K) the Coast Guard,

(L) the Bureau of Alcohol, Tobacco, and Firearms, and

(M) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws, and

(3) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

LIMITATION ON AUTHORITY

SEC. 223. (a) Nothing in this part authorizes the use of Federal law enforcement personnel to investigate violations of criminal law other than violations with respect to which investigation is authorized by other provisions of law.

(b) Nothing in this part shall be construed to authorize the Attorney General or the Federal law enforcement community to exercise any direction, supervision, or control over any police force or other criminal justice agency of an applicant for Federal law enforcement assistance.

(c) No funds provided under this part may be used to supplant State or local funds that would otherwise be made available for such purposes.

(d) Nothing in this part shall be construed to limit any authority to provide emergency assistance otherwise provided by law.

PROHIBITION OF DISCRIMINATION

SEC. 224. (a) No person in any State shall, on the ground of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any activity for which Federal law enforcement assistance is provided under this title.

(b) Paragraph (3) and paragraph (4) of section 712(c) of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 209 of this Act) shall apply with respect to a violation of subsection (a), except that the terms "this section" and "paragraph (1)", as such terms appear in such paragraphs, shall be deemed to be references to subsection (a) of this section, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such paragraphs shall be deemed to be a reference to the Attorney General.

CONFIDENTIALITY OF INFORMATION

SEC. 225. Section 715 of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 209 of this Act) shall apply with respect to—

(1) information furnished under this part,

(2) criminal history information collected, stored, or disseminated with the support of Federal law enforcement assistance provided under this part, and

(3) criminal intelligence systems operating with the support of Federal law enforcement assistance provided under this part,

except that the terms "this title" and "this section", as such terms appear in such section 715, shall be deemed to be references to this part and this section, respectively, of this Act, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such section 715 shall be deemed to be a reference to the Attorney General.

PROHIBITION OF LAND ACQUISITION

SEC. 226. No funds provided under this part shall be used for land acquisition.

REPAYMENT

SEC. 227. (a) If Federal law enforcement assistance provided under this title is used by the recipient of such assistance in violation of section 224 or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

(b) The Attorney General may bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

RECORDKEEPING REQUIREMENT

SEC. 208. (a) Each recipient of Federal law enforcement assistance provided under this part shall keep such records as the Attorney General may prescribe to facilitate an effective audit.

(b) The Attorney General and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of recipients of Federal law enforcement assistance provided under this part which, in the opinion of the Attorney General or the Comptroller General, are related to the receipt or use of such assistance.

REPORT TO CONGRESS

SEC. 229. Not later than April 1 of each year, the Attorney General shall submit to the President, and to the Congress a report describing Federal law enforcement assistance provided under this part during the preceding fiscal year.

LIMITATION ON CIVIL JUSTICE MATTERS

SEC. 230. Federal law enforcement assistance provided under this part may not be used with respect to civil justice matters except to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or are inextricably intertwined with criminal justice matters.

ISSUANCE OF RULES

SEC. 231. The Attorney General, after consultation with appropriate members of the law enforcement community and with State

and local officials, shall issue rules to carry out this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 232. (a) There is authorized to be appropriated $20,000,000 for each fiscal year ending after September 30, 1982, to provide under this part Federal law enforcement assistance other than funds.

(b) There are authorized to be appropriated for each fiscal year ending after September 30, 1982, such sums as may be necessary to provide under this part Federal law enforcement assistance in the form of funds.

EFFECTIVE DATE

SEC. 233. This part shall take effect on the date of the enactment of this Act.

TITLE III—MISCELLANEOUS CRIMINAL JUSTICE IMPROVEMENTS

PART A

SEC. 301. That this Part may be cited as the "Federal Anti-Tampering Act."

SEC. 302. Chapter 65 of title 18 of the United States Code is amended by adding at the end of the following new section:

"§ 1365. Tampering with consumer products with intent to cause injury or death

"(a) Whoever, with intent to cause the death of or bodily injury to any individual, knowingly tampers with any food, drug, device, or cosmetic which—

"(1) at any time affects interstate commerce or foreign commerce; and

"(2) is produced or distributed for consumption or use by individuals;

and thereby causes the death of or bodily injury to any individual, or attempts to do so, shall be punished as is provided in subsection (b) of this section.

"(b) The punishment for an offense under subsection (a) of this section is—

"(1) in the case of an attempt, a fine of not more than $20,000 or imprisonment of not more than 5 years, or both;

"(2) in the case that serious bodily injury to or the death of any individual is caused, a fine of not more than $100,000 or imprisonment for any term of years or for life, or both; and

"(3) in any other case, a fine of not more than $100,000, or imprisonment for not more than 20 years, or both.

"(c) As used in this section—

"(1) the term 'food' has the definition given such term in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)) and also includes 'meat food product' as such term is defined in section 2(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j)), 'poultry' as such term is defined in section 4(d) of the Poultry Products Inspection Act (21 U.S.C. 453(e)), 'poultry product' as such term is defined in section 4(e) of the Poultry Products Inspection Act (21 U.S.C. 453(f)), 'egg product' as such term is defined in section 4(f) of the Egg Products Inspection Act (21 U.S.C. 1033(f)), and 'egg' as such term is defined in section 4(g) of the Egg Products Inspection Act (21 U.S.C. 1033(g));

"(2) the term 'drug' has the definition given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1));

"(3) the term 'device' has the definition given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h));

"(4) the term 'cosmetic' has the definition given such term in section 201(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(i));

"(5) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) extreme physical pain;

"(C) protracted and obvious disfigurement; or

"(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(6) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of a function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary.".

SEC. 303. The table of sections at the beginnig of chapter 65 of title 18 of the United States Code is amended by adding at the end the following new item:

"1365. Tampering with consumer products with intent to cause injury or death.".

PART B

SEC. 304. That this part may be cited as the "Federal Intelligence Personnel Protection Act."

SEC. 305. Chapter 51 of title 13 of the United States Code, section 1114, is amended—

(a) by inserting "or attempts to kill" after "kills";

(b) by strikinkg out "while engaged in the performance of his official duties or on account of the performance of his official duties" and inserting in lieu thereof "or any officer or employee of any department or agency within the Intelligence Community (as defined in section 3.4(F) of Executive Order 12333, December 8, 1981, or successor orders) not already covered under the terms of this section"; and

(c) by inserting before the period at the end thereof a comma and the following: "except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

PART C

SEC. 306. Chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2118. Armed Career Criminals

"(a) Any person who while he or any other participant in the offense is in possession of or has readily available any firearm or imitation thereof, commits, or conspires or attempts to commit robbery or burglary in violation of the felony statutes of the State in which such offense occurs or of the United States—

"(1) may be prosecuted for such offense in the courts of the United States if such person has previously been twice convicted of robbery or burglary, or an attempt or conspiracy to commit such an offense, in violation of the felony statutes of any State or of the United States; and

"(2) shall, if found guilty pursuant to this section, and upon proof of the requisite prior convictions to the court at or before sentencing, be sentenced to a term of imprisonment of not less than fifteen years nor more than life and may be fined not more than $10,000.

"(b) Notwithstanding any other provision of law: (1) any person charged pursuant to this section shall be admitted to bail pending trial or appeal as provided in section 3148 of title 18, United States Code; (2) the prior convictions of any person charged hereunder need not be alleged in the indictment nor shall proof thereof be required at trial to establish the jurisdiction of the court or the elements of the offense; (3) any person convicted under this section shall not be granted probation nor shall the term of imprisonment imposed under paragraph (a), or any portion thereof, be suspended; and (4) any person convicted under this section shall not be released on parole prior to the expiration of the full term of imprisonment imposed under paragraph (a).

"(c) For purposes of this section—

"(1) 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

"(2) 'felony' means any offense punishable by a term of imprisonment exceeding one year; and

"(3) 'firearm' has the meaning set forth in section 921 of title 18, United States Code.

"(d) Except as expressly provided herein, no provision of this section shall operate to the exclusion of any Federal, State, or local law, nor shall any provision be construed to invalidate any other provision of Federal, State, or local law.

"(e) Ordinarily the United States should defer to State and local prosecutions of armed robbery and armed burglary offenses. However, if after full consultation between the local prosecuting authority and the appropriate Federal prosecuting authority, the local prosecuting authority requests or concurs in Federal prosecution and the Attorney General or his designee approves such prosecution to be appropriate, then Federal prosecution may be initiated under this Act.".

SEC. 3. The table of sections for chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"2118. Armed Career Criminals.".

SEC. 4. (a) It is the intent of Congress that any person prosecuted pursuant to this Act be tried expeditiously and that any appeal arising from a prosecution under this Act be treated as an expedited appeal.

(b) This section shall not create any right enforceable at law or in equity in any person, nor shall the court have jurisdiction to determine whether or not any of the procedures or standards set forth in this section have been followed.

PART D

SEC. 307. (a) This section may be cited as the "National Narcotics Act of 1982".

(b)(1) The Congress hereby makes the following findings:

(A) The flow of illegal narcotics into the United States is a major and growing problem.

(B) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.

(C) Illegal drug trafficking is estimated by the General Accounting Office to be a $79,000,000,000 a year industry in the United States.

(D) The annual consumption of heroin in the United States is in the range of four metric tons, and annual domestic consumption of cocaine is estimated to be forty to forty-eight metric tons.

(E) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no

more than 5 to 15 per centum of all hard drugs flowing into the country.

(F) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(G) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 per centum of heroin users rely upon criminal activity as a means of income.

(H) Much of the drug trafficking is handled by syndicates which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(I) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(J) The magnitude and scope of the problem requires a director of National and International Drug Operations and Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies.

(K) Such a director must have broad authority and responsibility for making management, policy, and budgetary decisions with respect to all Federal agencies involved in attacking this problem so that a unified and efficient effort can be made to eliminate the illegal drug problem.

(2) It is the purpose of this section to insure—

(A) the development of a national policy with respect to illegal drugs;

(B) the direction and coordination of all Federal agencies involved in the effort to implement such a policy; and

(C) that a single, competent, and responsible high-level official of the United States Government, who is appointed by the President, by and with the advice and consent of the Senate, and who is accountable to the Congress and the American people, will be charged with the responsibility of coordinating the overall direction of United States policy, resources, and operations with respect to the illegal drug problem.

(c) There is established in the executive branch of the Government an office to be known as the "Office of the Director of National and International Drug Operations and Policy" (hereinafter in this section referred to as the "Office of the Director"). There shall be at the head of the Office of the Director a Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Director"). There shall be a Deputy Director of National and International Drug Operations and Policy (hereinafter in this section referrred to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this section.

(d)(1) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and the Deputy Director shall each serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than four years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. The Director shall be entitled to the compensation provided for in section 5313, title 5, United States Code. The Deputy Director shall be entitled to the compensation provided for in section 5314, title 5, United States Code.

(2) The Director shall serve as the principal director and coordinator of United States operations and policy on illegal drugs.

(3) The Director shall have the responsibility, and is authorized to—

(A) develop, review, implement, and enforce United States Government policy with respect to illegal drugs;

(B) direct and coordinate all United States Government efforts to halt the flow into, and sale and use of illegal drugs within the United States;

(C) develop in concert with governmental entities budgetary priorities and budgetary allocations of entities of the United States Government with respect to illegal drugs; and

(D) coordinate the collection and dissemination of information necessary to implement United States policy with respect to illegal drugs.

(4) In carrying out his responsibilities under paragraph (3) the Director is authorized to—

(A) direct, with the concurrence of the head of the agency employing such personnel, the temporary reassignment of government personnel within the United States Government in order to implement United States policy with respect to illegal drugs;

(B) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(C) accept and use donations of property from all government agencies; and

(D) use the mails in the same manner as any other department or agency of the executive branch.

(5) Notwithstanding any other provision of law, rule, or regulation to the contrary, the Director shall have the authority to direct each department or agency with responsibility for drug control to carry out the policies established by the Director consistent with the general authority of each agency or department.

(6) The Administrator of the General Services Administration shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

(e) The Director shall submit to the Congress, within nine months after enactment of this section, and annually thereafter, a full and complete report reflecting United States policy with respect to illegal drugs, plans proposed for the implementation of such policy, and, commencing with the submission of the second report, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

(f) For the purpose of carrying out this section, there are authorized to be appropriated $500,000 for fiscal year 1983, and such sums as may be necessary for each of the four succeeding fiscal years, to be available until expended.

(g) This section shall be effective January 1, 1983.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

Mr. SENSENBRENNER. Mr. Speaker, I object to unanimously ordering the second, and on that I demand tellers.

The SPEAKER pro tempore. The question is, Will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. HUGHES and Mr. SENSENBRENNER.

The House divided, and the tellers reported that there were—yeas 21, nays 1.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant-at-Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 275, nays 15, not voting 143, as follows:

[Roll No. 484]

YEAS—275

Akaka	Dyson	Kennelly
Albosta	Early	Kildee
Alexander	Eckart	Kindness
Anderson	Edwards (AL)	Kogovsek
Andrews	Edwards (OK)	Kramer
Annunzio	Emerson	LaFalce
Anthony	Emery	Lagomarsino
Applegate	English	Latta
Archer	Erdahl	Leach
Ashbrook	Erlenborn	Leath
Atkinson	Fary	Leland
AuCoin	Fazio	Lent
Badham	Fiedler	Levitas
Bailey (MO)	Findley	Loeffler
Bailey (PA)	Fithian	Long (MD)
Barnard	Florio	Lowery (CA)
Barnes	Foglietta	Lowry (WA)
Bedell	Ford (TN)	Lujan
Beilenson	Fountain	Lundine
Bennett	Frank	Lungren
Bereuter	Frenzel	Madigan
Bevill	Fuqua	Marks
Bliley	Garcia	Marriott
Boggs	Gejdenson	Martin (IL)
Boland	Gephardt	Martin (NC)
Boner	Gibbons	Martin (NY)
Bowen	Gilman	Martinez
Breaux	Gingrich	Matsui
Brinkley	Glickman	Mavroules
Brodhead	Gore	McCloskey
Brooks	Gradison	McCollum
Brown (CO)	Gramm	McCurdy
Broyhill	Guarini	McDade
Butler	Gunderson	McDonald
Byron	Hall (IN)	McHugh
Campbell	Hall, Ralph	McKinney
Carman	Hall, Sam	Mica
Carney	Hamilton	Michel
Cheney	Hance	Mikulski
Clausen	Hansen (ID)	Miller (OH)
Clinger	Harkin	Mineta
Coats	Hatcher	Minish
Coelho	Hawkins	Moakley
Conable	Hefner	Molinari
Conte	Hendon	Montgomery
Corcoran	Hertel	Moore
Courter	Hightower	Moorhead
Coyne, James	Hiler	Morrison
Coyne, William	Hollenbeck	Murtha
Craig	Howard	Myers
D'Amours	Hoyer	Napier
Daniel, Dan	Hubbard	Natcher
Dannemeyer	Huckaby	Neal
Daschle	Hughes	Nelson
Daub	Hunter	Nowak
Derrick	Hutto	O'Brien
Derwinski	Hyde	Oberstar
Dickinson	Ireland	Obey
Dicks	Jeffords	Oxley
Dingell	Jenkins	Panetta
Donnelly	Johnston	Parris
Dorgan	Jones (NC)	Pashayan
Dornan	Jones (OK)	Patman
Dreier	Jones (TN)	Patterson
Duncan	Kastenmeier	Pease
Dunn	Kazen	Pepper
Dwyer	Kemp	Perkins

Petri	Sharp	Volkmer
Pickle	Shelby	Walker
Porter	Shumway	Wampler
Price	Skeen	Watkins
Quillen	Skelton	Waxman
Rahall	Smith (AL)	Weaver
Ratchford	Smith (IA)	Weber (OH)
Regula	Snowe	White
Rinaldo	Snyder	Whitley
Ritter	Solarz	Whittaker
Robinson	Solomon	Whitten
Rodino	Spence	Williams (MT)
Roemer	St Germain	Williams (OH)
Rogers	Stenholm	Winn
Rose	Stokes	Wirth
Rostenkowski	Stratton	Wolf
Roth	Studds	Wolpe
Roukema	Stump	Wortley
Sawyer	Swift	Wright
Scheuer	Tauke	Wyden
Schneider	Tauzin	Wylie
Schumer	Thomas	Yatron
Seiberling	Trible	Young (AK)
Sensenbrenner	Udall	Zablocki
Shannon	Vento	

NAYS—15

Brown (CA)	Edwards (CA)	Lewis
Burton, John	Evans (IA)	Rangel
Conyers	Gonzalez	Roybal
Crockett	Hammerschmidt	Savage
Edgar	Jacobs	Smith (OR)

NOT VOTING—143

Addabbo	Foley	Nichols
Aspin	Ford (MI)	Oakar
Bafalis	Forsythe	Ottinger
Beard	Fowler	Paul
Benedict	Frost	Peyser
Bethune	Gaydos	Pritchard
Biaggi	Ginn	Pursell
Bingham	Goldwater	Railsback
Blanchard	Goodling	Reuss
Bolling	Gray	Rhodes
Bonior	Green	Roberts (KS)
Bonker	Gregg	Roberts (SD)
Bouquard	Grisham	Roe
Broomfield	Hagedorn	Rosenthal
Brown (OH)	Hall (OH)	Rousselot
Burgener	Hansen (UT)	Rudd
Burton, Phillip	Hartnett	Russo
Chappell	Heckler	Sabo
Chappie	Heftel	Santini
Chisholm	Hillis	Schroeder
Clay	Holland	Schulze
Coleman	Holt	Shamansky
Collins (IL)	Hopkins	Shaw
Collins (TX)	Horton	Shuster
Coughlin	Jeffries	Siljander
Crane, Daniel	Lantos	Simon
Crane, Philip	LeBoutillier	Smith (NE)
Daniel, R. W.	Lee	Smith (NJ)
Davis	Lehman	Smith (PA)
de la Garza	Livingston	Stangeland
Deckard	Long (LA)	Stanton
Dellums	Lott	Stark
DeNardis	Luken	Staton
Dixon	Markey	Synar
Dougherty	Marlenee	Taylor
Dowdy	Mattox	Traxler
Downey	Mazzoli	Vander Jagt
Dymally	McClory	Walgren
Ertel	McEwen	Washington
Evans (DE)	McGrath	Weber (MN)
Evans (GA)	Miller (CA)	Weiss
Evans (IN)	Mitchell (MD)	Whitehurst
Fascell	Mitchell (NY)	Wilson
Fenwick	Moffett	Yates
Ferraro	Mollohan	Young (FL)
Fields	Mottl	Young (MO)
Fish	Murphy	Zeferetti
Flippo	Nelligan	

□ 1620

Mr. EDGAR changed his vote from "yea" to "nay."

Mr. WOLPE changed his vote from "nay" to "yea."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. SAWYER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what we have before the House in this amendment is a substitute to a 240-page Senate amendment to our 14-line non-controversial bill. This complex Senate amendment contains numerous substantive issues involving various committee jurisdictions most of which have not been subject to any orderly procedures of this House. I believe in these waning hours that we should not entertain such a gargantuan endeavor. In lieu thereof, the House amendment now at hand would limit this bill to subjects that have been overwhelmingly approved by the Senate are within the jurisdiction of the Judiciary Committee and for which there is a strong House consensus.

Briefly I will explain the substance of these titles. The first title of this amendment is the Controlled Substances, Penalties, and Criminal Forfeiture Act.

This title is essentially H.R. 7140, the Comprehensive Drug Penalty Act of 1982, as passed by the House on the Suspension Calendar on September 28, 1982. It was cosponsored by the ranking minority member of the Subcommittee on Crime, Mr. SAWYER, and as far as I know, there is no opposition to it.

The following are the essential elements of this title:

First, it amends the present civil forfeiture law (21 U.S.C. 881) to permit the civil forfeiture of land and buildings used, or intended to be used, for holding or storage of dangerous drugs. Under existing law only "containers" could be forfeited.

Second, it changes certain venue authority to allow the Justice Department to bring civil forfeiture actions in the district where the defendant is found or where the criminal prosecution is brought.

Third, it sets aside up to $10 million in fiscal year 1984 and fiscal year 1985 from forfeiture dispositions into a fund to be used for drug law enforcement purposes. At the request of the Senate, this title now spells out more specifically the purposes of the drug enforcement fund. It also provides for deposits from forfeitures into the fund prior to October 1983, in order that the fund will have an initial funding.

Fourth, this title substantially increases the criminal fines in drug cases and establishes a new "alternative fine" concept under which drug offenders can be fined up to twice their gross profits or proceeds.

Fifth, it provides, for the first time, criminal forfeiture provisions for all felony drug cases.

Sixth, it outlines authority for courts to restrain the transfer of property which might be subject to forfeiture and to order the seizure of such property in order to insure its availability for a forfeiture proceeding. Remission and mitigation provisions are also provided in order to protect the interests of innocent property owners.

It also details procedures for allowing temporary restraining orders in ex parte hearings under extraordinary circumstances.

Seventh, this title also creates a permissive presumption in criminal forfeiture cases that all property acquired by drug offenders during the period of the violations or shortly thereafter, is subject to forfeiture if no other likely source for such property exists.

In this manner, this title as passed by the House attempts to address drug trafficking in a reasonable and practical fashion in order to develop effective tools for law enforcement agencies. At the same time, it balances this strong societal interest in eradicating illegal trafficking in drugs with the constitutional rights of our citizens. I am satisfied that a proper balance has been struck in this title.

In addition to this title as passed in this House, it includes an amendment dealing with the Customs Service, their procedures in regard to civil forfeitures and certain customs' law enforcement authority, which was attached to H.R. 7140 in the Senate by Senator BAKER. I have had numerous discussions with administration officials and fellow Members of Congress about it, all of whom recommend this amendment on its merits. Personally, I had several reservations as to the procedural aspects of attaching a customs amendment at this late date, but in conversations with the appropriate ways and means subcommittee, we agree to add the provision. The essence of this amendment would be to: First, increase the scope of what customs could "administratively forfeit"; that is, essentially a default judgment process in their civil forfeiture procedure, from $10,000 to $100,000 and facilitate other civil forfeiture procedures involving conveyances of contraband in default situations; second, set up a "Customs Forfeiture Fund"; third, allows customs to discontinue forfeiture on property in favor of similar proceedings by State and local agencies; and fourth, increase certain customs' law enforcement authority.

Mr. Speaker, section 201 of this amendment would amend section 607 of the Tariff Act by raising value of property which can be administratively forfeited to $100,000 except in the case of conveyances used to import,

export, or otherwise transport controlled substances, for which there would be no limit. Increased enforcement activities have led to a dramatic rise in the number of conveyances seized by Customs during the last few years. Many of the conveyances were used to smuggle multiton loads of controlled substances. Under present law, all property over $10,000 must be judicially forfeited. Thus, the increased number of seizures has led to crowded civil court dockets. However, many of the conveyances—particularly vessels—are not claimed by their owners who apparently write off the expenses as a cost of doing business. Thus, the 12-18 month delay in forfeiture in formal civil suits—from the date the complaint is filed—only results in a default judgment. Nonetheless, during this period, the Government must pay for the conveyances' storage and maintenance and the conveyances generally deteriorate tremendously in value. Keeping a large number of seizures also strains Customs resources making it difficult to properly maintain the property under seizure and to prevent vandalism. Increasing the administrative forfeiture limit will reduce costs by speeding up forfeitures. The provision of law permitting individuals desiring to contest forfeitures to obtain court review if they are willing to post a claim and cost bond is retained.

Section 202 would amend section 608 of the Tariff Act to increase the amount of the bond which must be posed in order to judicially contest the forfeiture of an article normally subject to administrative forfeiture. The present $250 cost bond has not been increased since 1844 when it was 2½ times the $100 value of property which could then be administratively forfeited. Although the administrative forfeiture amount has increased to $500, $1,000, $2,500, and $10,000, the cost bond has remained at $250. In order to keep the cost bond at a reasonable amount a $2,500 maximum is included. Under present Customs' procedures, poor persons may obtain judicial forfeiture proceedings without the bond if they complete and file an affidavit on financial inability. This procedure would remain unchanged.

Section 203 contains conforming amendments of section 609 of the Tariff Act.

Sections 204 and 205 contain conforming amendments to sections 610 and 612 to bring them into line with the proposed changes to section 607 of the Tariff Act.

Section 206 would amend section 613 of the Tariff Act to make it conform to new section 613a which makes it clear that the proceeds of sale after deducting expenses, would be deposited in the new Customs enforcement fund rather than the general fund of the Treasury, while at the same time preserving existing authority of other agencies to use the current Customs' proceeding.

Section 207 would establish a special Customs forfeiture fund. New section 613a would: First, remove certain contingency appropriations from the Customs budget, thereby resulting in budget savings; second, provide greater efficiency in the handling of seized and forfeited property; and third, eliminate the irony that the agencies' operating funds for enforcement actions are decreased by the amount of moneys expended on forfeitures, which has the net effect of reducing Customs funds for more direct law enforcement purposes. Under present law the costs in handling each seizure are deducted from the proceeds of that seizure, if any. The resulting net proceeds are then transferred to the general fund in the Treasury. But if the proceeds do not exceed the expenses, the agency must cover the expenses out of its regular budget. In other words, the net proceeds from the sale of one seizure cannot presently be used to offset the unrecouped costs of another seizure. The new fund would allow the agency to balance all proceeds against all expenses, with the over-all net proceeds being transferred to the General Fund of the Treasury. The agency would only maintain a balance of $10 million in the fund for operating expenses.

The current procedure requiring the agency to account separately for costs associated with each individual seizure is inefficient, both in costs to the appropriation and manpower, but would no longer be required under the proposed Customs forfeiture fund. The establishment of the social account would also encourage more efficient maintenance, storage, and inventory procedures that are feasible under current requirements, such as possible national inventory control through computerization.

The establishment of the fund would also give greater protection to innocent lienholders and it would also allow the agency to pay the costs of maintenance of the properties on a regular basis without regard to the sale or transfer date of the property and without the need of contracting for services on a contingency basis. The net effect would be to relieve the agency of the financial restrictions and complications of having to deal with each and every siezure on a separate basis, but would maintain the accountability on an over-all basis. The agency would be required to furnish a complete accounting of these deposits and expenditures to the Congress. The combined effect of 613a and the amendments to 607 is to increase revenue while reducing costs and overhead.

Section 208 would interest a new section 616 in the Tariff Act permitting the Secretary of the Treasury or the Attorney General to turn over property initially seized by the United States to States to permit those States with forfeiture laws to institute State forfeiture proceedings when appropriate.

In this situation, the Federal Government would cease to be liable once the property was turned over to the State agency. Subsection (b) and (c) contain the procedures to be followed when turnovers to State or local governments are contemplated and require that the Federal Government notify all known interested parties of the decision to turn the articles over to local officials.

Section 209 raises the maximum informant's award contained in section 619 of the Tariff Act from $50,000 to $250,000. The 25-percent award is only paid if the Government makes a tangible recovery of property from the information provided. Many informants take great risks in reporting violations of Federal law to the Federal Government. The $50,000 amount has not been raised since 1922.

Section 210 would make changes in existing law by adding a new section 589 to the Tariff Act to grant additional arrest authority to customs officers. Under existing law, a customs officer has authority to arrest without a warrant for violations of the narcotic drug and marihuana laws under section 7607 of the Internal Revenue Code and for violation of the navigation laws if committed in the officer's presence or laws providing for forefiture or any law respecting the revenue under section 581 of the Tariff Act of 1930 as amended (19 U.S.C. 1581), where the violation is committed in the officer's presence or where the officer has reason to believe that the person to be arrested has committed or is committing such violation. In addition, miscellaneous conservation, fisheries, and pollution on customs officers in various situations (16 U.S.C. 3405, 16 U.S.C. 772d, 916g, 959(b), and 33 U.S.C. 413).

Currently, court decisions require customs officers making arrests for export violations, assaults on customs officers and other Federal felony violations to rely on the various State laws conferring arrest authority on private persons—citizen's arrest—unless State law confers peace officer status on them. This reliance on 50 different State laws is both confusing and inconsistent with the authority conferred upon other Federal officers. *United States v. Swarovski*, 557 F.2d 40 (2d Cir. 1977); *United States* v. *Heliczer*, 373 F2d 241 (2d Cir. 1967) cert. den. 388 U.S. 917 (1967)).

Customs officers are now engaged in Federal enforcement programs where such limited authority has proven to be clearly inadequate and potentially compromises and hinders the Customs Service's present role in the efficient

enforcement of such Federal programs. For example, Customs officers involved in preventing the export of high technology must rely on State arrest laws see United States against Swarovski, supra. Also, fugitive felons and persons in possession of stolen property have been encountered entering the United States by Customs inspectors who have access to the National Crime Information Center. In both of these instances, Customs officers presently must call upon other law enforcement officers to make the arrest, or make a citizen's arrest, exposing them to a greater potential liability. In remote border areas and late at night, other law enforcement officers may be unavilable officers engaged in protecting Federal property and employees like those who participated in the Federal air security program and the so-called Cuban freedom flotilla program had to be sworn in as deputy U.S. marshals to enable them to carry out their duties. This procedure has proven to be inefficient, cumbersome, and inadequate.

The proposal would add a new section 589 to the Tariff Act which would grant additional arrest authority to officers of the customs as those officers are defined in section 401(i) of the Tariff Act of 1930, as amended (19 U.S.C. 1401). It would incorporate present authority contained in section 767 of the Internal Revenue Code of 1954 for customs officers to carry firearms, execute and serve search and arrest warrants, and serve subpenas, and would, in addition, authorize an officer of the Customs Service to make arrests without a warrant for any offense against the United States committed in the officer's presence, or outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed, or is committing, a felony.

Enactment of subsection (2) would also make it clear that customs officers may serve search and arrest warrants for any Federal offense including drug offenses. This would eliminate the problem raised in *United States* v. *Harrington*, 520 F. Supp. 93 (1981) which although reversed on appeal No. 81-1672, ninth circuit on July 13, 1982, questioned customs authority to serve search warrants in joint DEA-Customs investigations away from the border.

The bill would also authorize customs officers to perform any other law enforcement duties that the Secretary of the Treasury designates. This provision would codify present practice and permit maximum utilization of customs personnel in other Treasury activities, such as protective details and inspector general investigations.

By approving the provisions establishing law enforcement authority for the U.S. Customs Service, the committee does not intend to greatly expand or diminish Customs Service jurisdiction over criminal offenses. Neither should these provisions be construed as an attempt to alter the terms of Reorganization Plan No. 2 of 1973. Executive Order 11727, "Establishing a Drug Enforcement Administration in the Department of Justice," which order defines the functions, jurisdictions, and authority of the Drug Enforcement Administration as the principal Federal narcotics enforcement agency. Rather, this section of the bill is an effort to clarify existing Customs Service authority and is supported by the Department of Justice as well as the Department of the Treasury.

Section 211 would amend various sections—602, 605, 606, 608, 609, 611, 613, 614, 615, 618, 619—of the Tariff Act as do some of the preceding sections of the bill, to include references to aircraft. Although aircraft are presently covered by such provisions, the coverage is indirect, appearing in 49 U.S.C. 1509 and Part 6 of 19 CFR, rather than in the Tariff Act. This amendment would merely incorporate the term "aircraft" into the text of the Tariff Act's administrative provisions.

I would also like to point out to the Members that both the DEA and custom's funds provided for in this bill will be authorized only for fiscal year 1984 and fiscal year 1985 at which time the Congress can assess the effectiveness of the procedures.

Title II of this amendment is the Justice Assistance Act which essentially is H.R. 4481 as passed by the House with some changes which were negotiated with the Senate and the Department of Justice.

The major feature of title II is a block grant program for criminal justice funds. Under the bill, the modest block grant pool of about $150 million will be distributed to the States and units of local government. The bill would abolish the bureaucratic nightmare of LEAA and replace it with a lean and scaled-down operation that would not impose Federal bureaucratic requirements on State and local recipients.

The major features of the legislation include a requirement that the States provide a 50-percent match before they receive any Federal funds; the elimination of the federally required State planning agencies and councils, and a narrower focus for the grants.

The proposed Office of Justice Assistance (OJA) would have limited discretion under the bill. Eighty percent of the money would be distributed directly to the States, with each State getting a minimum amount of $250,000 with the remainder to be distributed one-half on the basis of population and one-half based on the State's crime rate.

The justice assistance title provides 16 permissible categories of criminal justice programs which can be funded under this legislation. The 14 programmatic areas generally reflect those projects that have a proven record of effectiveness. The permissible categories include:

One. Community and policy anti-crime programs;

Two. Sting operations;

Three. Arson programs;

Four. White-collar crime and organized crime programs;

Five. Career criminal programs;

Six. Victim/witness programs;

Seven. Treatment alternatives to street crime (TASC); and

Eight. Prosecutor and police management information systems.

These program categories were chosen by the committee because they have been positively evaluated and had the support of the law enforcement community. In addition, a State may use up to 10 percent of its criminal justice grant for innovative or new criminal justice programs which address critical crime issues.

In addition to the block grant programs which are provided for in section 401 of the legislation, 20 percent of the funds are reserved for discretionary grants at the Federal level. Under the bill, the committee recognized that in order to move some new and worthwhile programs from the research to the implementation stage that some Federal money had to be made available for new programs. Under the bill, 10 percent of the total appropriation is authorized to be expended for innovative programs. Also under this section the Director of the Office of Justive Assistance is authorized to spend up to 10 percent of the appropriated funds for either: First, programs of the type which are fundable at the State level, but which are national or multistate in scope; or second, programs which are designed to provide technical assistance or training to criminal justice personnel.

The bill also provides for emergency grants to States and units of local government experiencing criminal justice crisis conditions.

Title III of this amendment includes four parts. Part A deal with tampering of food, drugs, and cosmetics; part B with protection of certain designated Federal employees; part C with career criminals; and part D creates an Office of the Director of National and International Drug Operation and Policy.

Part A of title III deals with tampering and provides for a Federal prohibition against tampering or attempting to tamper with food, drugs, cosmetics, and other devices that affect interstate commerce and that are designed for use by individuals. The bill is a response to the tragic recent deaths of seven people in the Chicago area and to the spate of copycat tamperings that followed.

This part prohibits tampering and attempts to tamper, and punishes such actions severely. Where serious bodily injury or death results, such actions are punishable by a fine of $100,000 and up to life in prison. In other cases, the bill provides for a $100,000 fine and 20 years in prison.

I think my amendment covers the essential issues in this emergency situation. If there are other, more tangential issues that should also be considered in this area, the Subcommittee on Crime will hold early hearings on them. I, therefore, urge your support of this part of title III.

Part B of this title adds attempts to kill certain designated Federal employees to the provisions of 18 U.S.C. § 114. Section 1114 currently covers only the completed act of killing. The bill provides a penalty for attempts to kill of a maximum of 20 years in prison. It also adds to the list of designated Federal employees "any officer or employee of any department or agency within the intelligence community * * * not already covered" by section 1114. Finally, the first section deletes repetitive language requiring that, for the Federal Government to prosecute the matter, a designated Federal employee must be killed "while engaged in the performance of his official duties or on account of the performance of his official duties." Since this requirement appears twice in section 1114, the first statement is stricken as repetitive.

This amendment to section 1114 is needed so that the Federal Government can prosecute if officers and employees of the CIA, the DIA, and other intelligence agencies, as a result of their official duties, are killed or if an attempt is made on their lives. Presently, such attacks are punished only under State law, which may be inconsistent and inadequate to fully deal with attacks on Federal employees. This language should, however, be construed narrowly so as not to include informers and others rendering similar kinds of assistance.

Part C of this title deals with career criminals. It makes a Federal offense for a defendant to commit a robbery or burglary with a firearm if such a defendant had been convicted two or more times previously of a robbery or burglary under either Federal or States laws.

This part also sets up a 15-year mandatory minimum sentence with no parole, probation, or suspension of sentence allowed, provides bail procedures for these defendants the same as those which are applied in capital and post-conviction cases under 18 U.S.C. 3148, and gives local prosecutors a veto over Federal prosecutions.

Part C is the same as S. 1688 which passed the Senate by a vote of 95 to 1 and in substance has been reported by the House Subcommittee on Crime.

Part D creates an Office of the Director of National and International Drug Operations and Policy. The Director, to be appointed by the President with the advice and consent of the Senate, would be the primary person in the executive branch to coordinate and direct the Nation's operations against drug trafficking. He shall have broad authority to develop U.S. policy and to direct all U.S. efforts necessary to carry out that policy. He will be given the authority to direct the redeployment of personnel in all agencies of the U.S. Government who are involved in, and necessary to, the attack and elimination of the illegal drug problem. The sum of $500,000 is authorized to be appropriated for this office for fiscal year 1983

□ 1630

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Speaker, I would like to explain for the record the rationale for my support to the amendments to H.R. 3963, the Contract Services Drug Dependent Federal Offenders Act Amendment of 1981.

The specific parts of the amendment stand on their own merit and I will discuss them later. At this juncture, however, I would like to explain why we brought up this amendment at this time and in this unusual manner. In the first place, our noncontroversial bill, H.R. 3963, was passed and sent to the Senate on October 27, 1981. This bill was a 14-line item which authorized urinalysis testing, treatment, and supervision of convicted Federal offenders who are addicted to drugs. The Senate on September 30, 1982, added their omnibus crime bill as a 240-page amendment to this bill and sent it back to the House just prior to our October adjournment. The Judiciary Committee, not willing to let H.R. 3963 expire, resisted the Senate amendment and sent back to the Senate H.R. 3963 as it was orginally passed by the House. When we returned to our postelection session, the Senate again returned to the House H.R. 3963 with their omnibus criminal bill as an amendment. Since many of the provisions of this omnibus crime amendment had not been subject to the normal and orderly procedure of the House and in fact included provisions that would properly be before at least four other committees, I initially resisted any conference as being too cumbersome. However, eventually I acceded to the personal request of the chairman of the Senate Judiciary Committee to see if there was some limited provisions in their omnibus package which we could agree upon. This however, was a monumental task, considering the time constraints—one week before scheduled adjournment—and the Senate conferees decided that there was not sufficient movement and dismissed their conferees and sent back to the House the original package—that is, H.R. 3963 plus their omnibus criminal bill.

It was at this point, over the weekend, that we again began negotiations with the Senate and agreed upon the package before the House today.

This package in essence contains three titles:

The first title is a combined criminal forfeiture and increased fines provisions for all drug felonies. Essentially, this title is H.R. 7140 which passed the House on suspension on September 28, 1982.

The second title is the Justice Assistance Act which authorizes a 2-year program of assistance to State and local anticrime efforts. This bill, essentially the Justice Assistance Act, is a compromise with the Senate and in substance had previously passed the House 289 to 73 and the Senate 95 to 1 in this Congress.

Title III of this bill is in four parts and would first, punish tampering with food, drugs, cosmetics, and devices that affect interstate commerce if those items are designed for individual use. This is an emergency response to the recent tragic deaths in Chicago by cyanide poisoned pain killers.

Second, the second part of this title merely makes it a Federal crime to attempt to kill a Federal intelligence agent. At present, section 1114 of title 18 punishes the killing of these employees.

Third, the third part involves a career criminal provision which makes it a Federal offense for a person to commit a robbery or burglary with a firearm if such a defendant has been convicted previously of a robbery or burglary under either Federal or State law. There is a mandatory minimum sentence—15 years—and no parole for such violation. The local district attorney however, would have veto power over Federal prosecution. This bill passed the Senate by 95 to 1 and had been reported by the House Subcommittee on Crime.

Fourth, the fourth part creates an Office of the Director of National and International Drug Operations and Policy to coordinate and direct all efforts of the U.S. Government to fight the illegal traffic in drugs.

This whole package is something which I could support on its own but in fact it was a compromise package which we worked out with the Senate. I must emphasize, however, that we were successful in cutting down the scope of this agreement to relatively noncontroversial bills and one which I am informed will be accepted by our Senate colleagues. It is on this basis that I agreed to this procedure and upon that basis, I support this bill on

the suspension procedure of the House.

□ 1640

Mr. HUGHES. Mr. Speaker, let me say to my colleagues in summary, this legislation has been worked out with the other body. It has the support of both sides of the aisle. It is a major anticrime bill. Many of the initiatives in this legislation were called for by the President, and we believe that it will make a difference in our effort to combat organized, violent, and drug-related crime.

I want to commend particularly my colleague, the gentleman from Michigan (Mr. SAWYER), the ranking minority member of our subcommittee.

This represents the work product of 2 years of our subcommittee's operations. We received testimony from hundreds of witnesses from all parts of the country. We have traveled overseas to examine the drug enforcement operations and to identify problem areas. It is our judgment that this particular package will make a difference in our effort to combat violent, drug-related and organized crime. It is not the final solution, for there is no single answer. But it will really help.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair will state that the gentleman has used 16 minutes of his 20 minutes.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

First, let me say that if I have anything in opposition to this bill it is what is not in it, as opposed to what is in it.

The Senate amendments had included a bail reform provision allowing detention of prisoners who pose a danger to their community. It had a sentencing reform which is greatly needed in the federal system, and some other provisions, all of which I was strongly in favor of.

As a matter of fact, I was a conferee, and when we had a conference we had eight House conferees, and five of them were in favor of the bail reform amendment but the chairman would not allow a vote, so if I am for any reasons taking opposition to this, it would be one of irritation of the way it was handled.

But when you look at what is left in it, there is absolutely no basis to be opposed to it, and other than a kind of a dog-in-the-manger feeling about it, because the things I was in favor of and which could have carried had they been allowed to vote, were not.

At the urging of the gentleman from Wisconsin (Mr. KASTENMEIER) on the bail reform, and the gentleman from Michigan (Mr. CONYERS) on the criminal sentencing revision, both of whom made enough fuss, the chairman would not let those happen.

But having gotten over my own pique at being shabbily treated, and I consider that I was, I cannot oppose the amendments that are being taken. One is making tampering, in effect, a Federal crime, this Tylenol-type tampering with products; the handling of drug-dependent offenders so when they are out on bail they are required to submit to or take various tests to make sure they are not using drugs on bail; criminal forfeiture aimed at big drug dealers, making them forfeit, for use in the apprehension of other offenders, of assets in preventing their transfer having the kind of nice ring to it of using their own money to prosecute and apprehend their fellow dealers; justice assistance, which is subject to some controversy in that it takes what is the best or the proven items out of LEAA, and some other programs such as developing alternatives to imprisonment, reducing jail overcrowding, programs aimed at preventing crimes to the elderly as well as the well established things like Sting and career criminals that I think deserve our support.

Incidentally, for those of you who have some reservations about that, I might tell you that the chairman of the subcommittee and I went down and personally cleared these with the White House and they have Mr. Meese's blessing, and they gave us their OK on it, and the Senate got the same clearance.

So I may say that what we have left here, there is really nobody in good conscience, in my opinion, who can vote against these programs. They are all needed programs. They are all aimed at fighting crime. They have support on both sides of the aisle.

As I say, the only thing about the bill is that some of the things that were taken out should have been left in there, and that is my only bad feeling about it. I do, on two of those, have a commitment from the committee chairman that they will be processed in the full committee during the next year, which is better than nothing, anyway, even though we had to take them out of this.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

I rise in support of H.R. 3963 to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978, and I commend the gentleman from New Jersey (Mr. HUGHES), the chairman of the Subcommittee on Crime, and the ranking member from Michigan (Mr. SAWYER), for their wisdom, and hard work in bringing this legislation to the floor today. While I endorse all the anticrime provisions contained in this legislation, particularly the section dealing with mandatory sentencing and bail reform as it applies to career criminals, as a member of the Select Committee on Narcotics, I particularly support those provisions that bolster our fight against narcotics abuse and trafficking in our Nation.

Title I, which incorporates the substance of H.R. 7140, the Comprehensive Drug Penalty Act of 1982, which passed the House in September 1982, contains strong elements to assist law enforcement officials in bringing to justice those involved in drug trafficking and drug related crimes by allowing for the civil forfeiture of lands and buildings used or intended for use in holding or storing dangerous drugs. More importantly, the bill provides the mechanism and funding for the effective use of this forfeiture provision. It also broadens the utilization of forfeiture in cracking down on international drug trafficking by extending the current forfeiture provisions to the Customs Service. For the first time, criminal forfeiture is made possible for all felony drug cases. Another strong deterrent to drug related crime is the bill's provision for increased criminal fines and an alternative fine under which drug offenders can be forced to pay up to twice their gross profits or proceeds.

I strongly support the language contained in the bill, which calls for the appointment of a director of national and international drug operations and policy. Although currently there is a Director of the White House Drug Abuse Office, what we need, and what this legislation would accomplish, is the appointment of a highly visible director who could coordinate all aspects of our Federal efforts to control drug abuse in four major areas—law enforcement, treatment, rehabilitation, and prevention. At the present time, the Director of the White House Drug Abuse Office devotes his work to the drug treatment area, while the Associate Attorney General is focusing his efforts on developing the 12 regional drug task force programs proposed by the President on October 14, 1982.

If we truly mean what we say—that we are going to wage an all out war against drug abuse—then this issue must be elevated to the top level of Presidential priorities. Therefore, we need to create an office with the stature and accessibility to the President required to provide the personnel, resources, and expertise to help formulate, coordinate, and implement a comprehensive and highly visible Federal strategy. Accordingly, I urge my colleagues to support this language and this legislation.

Mr. SAWYER. I thank the gentleman.

Mr. Speaker, in summary, I know everybody is tired and everybody wants to go home and get this session over with, and I am certainly in accord with that.

I just want to wind up by urging your support for this bill and assuring you that the only things wrong with it are some of the things that were left out of it, and there is nothing bad about anything that is in it.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. SAWYER) has consumed 5 minutes.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. WYDEN).

Mr. WYDEN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the legislation before us.

Before I came to Congress, I spent 8 years working with senior citizens as director of the Gray Panthers in my home State of Oregon.

During that time, I saw first hand how senior citizens and others are forced to become prisoners in their own homes, afraid that, if they venture out, they will be attacked on the street or their homes will be broken into and ransacked.

When I came to Congress 2 years ago, I vowed to do what ever I could to make the Federal Government a better partner in assisting local law enforcement officials in combating the unprecedented wave of street crimes that has engulfed our towns and cities in recent years.

Earlier this year, I introduced H.R. 6386, a bill that would permit Federal prosecution of an individual who, after being previously convicted of two or more felony robberies or burglaries in any jurisdiction, is charged with a third robbery or burglary involving the use of a firearm.

Conviction under this new section of the Federal Criminal Code would trigger a minimum 15-year sentence in a Federal penitentiary with no possibility of parole.

Mr. Speaker, the House Judiciary Subcommittee on Crime passed H.R. 6386 and the legislation before us treats career criminals in a manner that is almost identical to H.R. 6386.

I see this section as a small but solid step in the right direction, an opportunity for the Federal Government to lend a much-needed hand to beleaguered local criminal justice officials trying to grapple with this unprecedented crime wave.

It is no secret that local criminal justice resources are stretched to the limit—and beyond. Because of a limited number of prosecutors and investigators, a huge backlog of cases pending in our courts, and a severe shortage of jail space, our cities and States are rapidly losing the war on crime.

Local officials are forced to resort to excessive plea bargaining, too many probationary sentences and too early parole for many serious offenders.

The career criminal section of the legislation before us would expand Federal criminal jurisdiction narrowly by focusing on the worst habitual offenders. The number of crimes committed by career criminals is truly mind boggling. A leading study indicated that 50 percent of all crime and two-thirds of all violent crime is committed by just 6 percent of the criminal population.

Even with limited Federal prosecution and incarceration, I believe this provision could play a significant role in reducing the epidemic of armed robberies and burglaries.

If several hundred of the worst career criminals are sentenced to 15-year Federal prison terms, that in itself will prevent tens of thousands of robberies and burglaries.

More important, the existence of this sort of tough no-nonsense Federal statute should have a substantial deterrent effect.

The type of criminal this legislation seeks to stop is rational, calculating, and street smart.

In my opinion awareness of this new Federal statute will filter down to the street. Once a career criminal has been apprehended and convicted twice of robbery or burglary, they are more likely to think long and hard about doing it again.

A third conviction no longer will mean another trip through the revolving door of a severely overloaded local criminal justice system.

These people no longer will be back on the streets again in a matter of a few hours, weeks, or months—after pleading quilty to a reduced charge or after being paroled prematurely because the State penitentiary or county jail is overflowing.

Repeat offenders no longer will be able to assume that they can thumb their nose at the system and quickly return to a life of preying on the safety and property of innocent victims.

They instead will be faced with the very real possiblity of spending 15 years in a Federal penitentiary with no possibility of parole.

In conclusion, Mr. Speaker, I would like to commend my colleague from New Jersey, Mr. HUGHES, for his herculean efforts in guiding this legislation through his subcommittee and for the masterful work he has done on the justice assistance portion of the legislation before us. I would also like to commend the ranking minority member, Mr. SAWYER, for his cooperation and gracious assistance to me on this legislation.

Mr. Speaker, this is a good bill and a necessary bill and I urge my colleagues to support it. I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I reluctantly rise in opposition to this measure. This measure comes before the House through probably the most disgraceful procedure that has ever been utilized with regard to the Federal Criminal Code.

I am extremely opposed to this rush to judgment and, accordingly, must separate myself from it. It is true that this measure is far more innocuous than the Senate amendment. The fact of the matter is, however, that this bill has been committed to conference, and the conferees have not been allowed to finish their work. The conferees have never met, a meeting has never been scheduled. Yet, incredibly, upon the motion of the chairman of the other body's Judiciary Committee, this bill was unilaterally removed from conference last Saturday evening. My staff reported to me that our Parliamentarian's Office told them that it was unable to find any precedent for removing a bill unilaterally from conference in this manner. Our body's rules amply protect against such irregular usurpation of the conference committee's responsibilities. House conferees can be discharged only if no agreement has been reached after 20 days. During the last 6 days of a session, the rules permit the conferees to be discharged after 36 hours if no agreement has been reached.

The other body has failed to display the respect due this House and its rules. This House should not condone such disrespect and irregularity by considering this measure under these circumstances.

This is especially true because the amendment of the other body—and, indeed, the pending amendment to that amendment—include many controversial matters that have been, and remain, the subject of careful study by a number of this body's committees and subcommittees. These matters deal with such fundamental questions as due process protections against the deprivation of one's property and the appropriate balance between Federal and State roles in law enforcement. These are matters that deserve, indeed demand, separate debate and meaningful deliberation. We must not allow the other body to extort from us significant concessions and hastily considered legislation.

I urge my colleagues to vote against the motion to suspend the rules so that the measure may be disposed of by procedures that will insure consideration pursuant to the normal legislative process.

Mr. SAWYER. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to rise in commendation of the gentleman from New Jersey (Mr. HUGHES) and the gen-

tleman from Michigan (Mr. SAWYER) for their hard work in putting together this bill.

The amendment that is before us has many good provisions relative to increasing penalties for drugs, criminal forfeiture provisions, increasing penalties for career criminals, the establishment of a drug czar, and penalties for criminal tampering so that the FBI can get involved in instances like the Tylenol tragedy a little bit earlier.

□ 1650

But I have to object strenuously to the procedure that this bill has been called under. As my colleague from Michigan (Mr. CONYERS) has stated, this bill was withdrawn from conference without a conference ever meeting, and there has been a great delay in even getting the machinery to even get this bill into conference. The Senate requested a conference on September 30, but it was not until December 9 that the House agreed to the conference.

Now, we come back with a motion to suspend the rules, which is nonamendable, that puts bail reform and sentencing reform down the drain in a way that none of us can get a vote, and resurrects the Law Enforcement Assistance Administration under another name with a $170 million a year authorization. We have been talking about ballooning budget deficits, and neither this body nor the other body included the Justice Assistance Act in this particular piece of legislation nor the nongermane amendment the other body attached on, but lo and behold, just like the phoenix rising from the ashes, LEAA is back with a $170 million authorization.

There is no way under a motion to suspend the rules that this can be taken out. Now, I had hoped that we would be able to take up the House amendment to the Senate amendment in a way so that a preferential motion to take LEAA out of what is being considered could at least be voted on on the floor, but we do not have that opportunity because the motion to suspend the rules is before us.

I would remind the membership that in a colloquy I had several hours ago with the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT), he assured us that there would be no motions to suspend the rules except on conference reports coming up today. But, we have one here now.

So, for all these reasons, I would urge a no vote on the motion to suspend the rules. We ought to take these matters up in the regular order, not with a hastily put together amendment that was not even drafted until this morning, and submitted.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding. I rise in support of the motion that is pending. That support may be somewhat reluctant for the reasons cited by the gentleman from Michigan. In a time when crime, particularly of a violent nature, in drug trafficking, is rising every day as concerns in the minds of Americans, out of the Judiciary Committee and out of this Congress comes a pitiful dribble of legislation dealing with the problems of crime in this country.

Here we are on the last day, presumably, of the 97th Congress with this pitiful measure of criminal law, criminal legislative activity. But, here we are. And it is the best that there is to be offered at this point.

We have heard from a previous participant in this debate that this is an inappropriate procedure to be followed for such serious criminal legislative matters. For 2 years that same participant has sat on the Criminal Code effort. Nothing has happened there. The jurisdiction of the Subcommittee on Criminal Justice has been exercised only with hot air, nothing else.

No; the patience of the members of the Judiciary Committee has been sorely tried, just as the patience of the Members of the House has been sorely tried on many an occasion when a judiciary bill comes here, with often little results. No; it is time to take what action can be taken in this Congress in the way of legislation dealing with crime. It is time to do it now. It is not a perfect bill. It does not have all in it that ought to be in it. In fact, if my single will were to be exercised as against that of the House in general, I would rather see the whole criminal code effort right here today, any time, rather than the pitiful bit we have.

But, it is a movement in the right direction. It is something that has to be done, and I am not pleased with every jot and tittle in it.

The gentleman from Michigan (Mr. SAWYER) indicated that he is pleased with most of what is in it, and I share that. I am not certain that we could not do better under a different procedure, but this is what can be agreed upon between two Houses, as well as, I think, reasonably within this House.

It has been said that the procedure by which H.R. 3963 came back out of conference and was thrust upon us again by the Senate is unusual. Well, it is not so unusual. It happened in 1907; it happened in 1936. Why not today? And it is here. If the gentleman who is concerned about that procedure would like to take a look in his spare time for spare time reading, at volume 8 in Cannon's Precedents, section No. 3218, he would find a precedent for that procedure in it. In volume 5 of Hind's Precedents, in 6319, he will find a 1907 case. The Senate has done it before. They have done it to us before; they will do it to us again.

So, we are under an unusual situation, perhaps, but it is time for us to act to support what can be worked out by legislation dealing with serious crime problems in our country.

Mr. CONYERS. Mr. Speaker, would my colleague yield briefly?

Mr. KINDNESS. I yield.

Mr. CONYERS. I would just like him to know that the Subcommittee on Criminal Justice has reported out a criminal code, and it lays waiting in the clutches of the full Judiciary Committee—just for his information.

Mr. KINDNESS. Would the gentleman care to mention the date?

Mr. CONYERS. Yes; the date was rather recently.

Mr. KINDNESS. Yes.

Mr. CONYERS. But that speaks to the point that the subcommittee has not acted. I am sorry it was not early enough.

Mr. KINDNESS. The gentleman is quite correct, that something came out of the subcommittee after it was clear that there was to be no full committee meetings.

Mr. SAWYER. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, as happens so many times in the House, the ideological extremes on issues seem to coalesce together, and they have on this bill to oppose it, but I would like to say that from my perspective this is a darn good managerie or collection of anticrime pieces of legislation that will do a lot, particularly in the area of organized crime; the bills on career criminals; on drug forfeitures, as well as the Justice Assistance Act, will have a dramatic effect on the reduction of organized crime. I would compliment both my colleague from Michigan (Mr. SAWYER) and my colleague from New Jersey (Mr. HUGHES), for taking the leadership on crime issues, which has been so much lacking this year.

I would like to ask my colleague from New Jersey a question regarding the Tylenol part of the legislation, the antitampering part of the legislation.

This bill does differ from the Senate-passed legislation in this area in that it does not include language which would make it a criminal offense for an individual to falsely claim to have purchased a tampered-with product or otherwise provide false information about a tampering. In that such false claims have led to costly recalls, not to mention a loss of consumer confidence in a number of products, I think that is an aspect of this problem that needs to be looked at carefully. I hope the subcommittee will look at this aspect in dealing with this next year.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield.

Mr. HUGHES. Mr. Speaker, the gentleman has made an important point, and I can assure him that the subcommittee will make as a first order of business a hearing on the subject of hoaxes or threats to use, because this is a very serious matter. However, we have conducted no hearings, and no hearings were conducted on the Senate side. As the gentleman well knows, it is a very sensitive area of the criminal law and we just did not feel competent dealing with this issue at this time without hearings. But we intend to do so.

□ 1700

But what we have done is we have taken care of the major offense; that is, tampering or an attempt to tamper, which is the immediate problem.

Mr. GLICKMAN. Mr. Speaker, I thank my colleague, the gentleman from New Jersey (Mr. HUGHES). That is a satisfactory response to me. I think we do need to review the whole issue of tampering with consumer products next year. But I would repeat to my colleagues that this is a very important piece of anticrime legislation, and if Members want to exhibit their attitude about bringing particularly the organized elements of crime to a standstill the best way we can, I would urge that they give us a "yea" vote on this legislation.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I have remaining.

The SPEAKER pro tempore. The Chair will state that the gentleman from Michigan (Mr. SAWYER) has 4 minutes remaining.

Mr. SAWYER. Mr. Chairman, I would just like to speak in a response to a couple of items. While it is true that the Subcommittee on Criminal Justice, chaired by the gentleman from Michigan (Mr. CONYERS) last week, I believe, finally passed out his version of a criminal justice bill, he was ordered to deliver one to the full committee by January 30 this year, so he is a little less than a year later, and he came out with a somewhat revised version.

I may say also in response to the question that we have not turned out any crime law that I think our Subcommittee on Crime has been one of the most active and productive in the Congress. We turned out the pretrial services bill dealing with reviewing and investigating suitability for bail and other items. We passed an exceedingly important bill repealing or modifying severely what is known as the doctrine of posse comitatus, which permits for the first time the military, and particularly the intelligence, to assist in the interdiction of drugs coming into the country, and that has worked fantastically well.

We passed the arson bill, the nuclear materials bill, the false identification bill, and others, all of which came from our subcommittee.

So I just do not want the impression left that we have not produced crime legislation. I have joined with the gentleman from Ohio in decrying the fact that one individual has succeeded in thwarting the production of a meaningful criminal code on which this House and even the full committee could work its will. I hope that will not happen in the next Congress.

Just to wind this up, Mr. Speaker, I want to say that great credit goes to our chairman, the gentleman from New Jersey, Mr. BILL HUGHES. He has worked diligently on this. He has really gone to the wall to try to save some of the provisions that were removed at the insistence of some other committee chairmen, to the point where he has probably temporarily alienated some of his own side of the aisle on the committee in trying to do that. But I want to say that I have totally enjoyed and appreciated working with the gentleman. He is a lawyer's lawyer and a real professional, and it has been a great pleasure.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore. The Chair will state that the gentleman from New Jersey (Mr. HUGHES) has 1 minute and a half remaining.

Mr. HUGHES. Mr. Speaker, this is going to sound like a mutual admiration society and so be it. But I want to say that I could not have a better partner for the ranking minority member of the subcommittee. Combined we have about 15 years in law enforcement, and we have endeavored to bring that experience to bear in order to fashion the best anticrime package achieveable at this time.

I happen to support bail reform. I would like to have seen bail reform enacted in this session of Congress I would liked to have seen sentencing reform passed in this session. They are both long overdue.

We have talked in session after session about reforming our sentencing procedures. It is important that we act in the 98th Congress and I intend to work very closely with my colleague and, in fact, with the chairman of the full committee, who also, I might say, is deeply committed to sentence reform. I am optimistic that in the early days of the 98th session we will indeed have bail reform before our full committee, and that we will pass out of the full committee a sentence reform measure that will be enacted into law.

Mr. Speaker, it is a good bill. It is an anticrime package that I am very proud to bring to the House. It is a bill that has the support of Senators STROM THURMOND and TED KENNEDY in the other body. It has the support of Senator ARLEN SPECTER, the distinguished former district attorney of Philadelphia on one hand and Senator JOE BIDEN of Delaware on the other hand. It has the strong support of our chairman, PETER RODINO and most of the measures in this bill have the support of the White House.

Mr. Speaker, it is a bill that Members can point to with pride and truly say that they voted for a good anticrime measure. I urge my colleagues to support the package.

● Mr. SHAW. Mr. Speaker, I rise in enthusiastic support of this fine piece of legislation aimed at combating our Nation's most insidious menace—crime. I, too, applaud the diligent efforts of the chairman and the ranking member of the Subcommittee on Crime. If not for their hard work and dedication, we would have concluded this session of Congress without addressing this most important issue.

In my home State of Florida, drug trafficking has reached epidemic proportions. It is estimated that 80 percent of the marihuana entering this country in some way effects my State. Therefore, I support the "get-tough" approach encompassed in this legislation.

I was proud to have cosponsored the Justice Assistance Act contained in this bill. I believe that the block grant approach is the most effective approach in controlling our escalating crime problem. The State law enforcement community is on the front line in the battle against crime. They are in desperate need of reenforcement; this bill will meet this need.

I am also proud to have cosponsored the product antitampering bill which is contained in this anticrime package. We all learned through the recent tragedy in Chicago, of the void in our Federal statutes. If this legislation serves to deter even one of these murdering fanatics, then it will serve a noble cause.

Mr. Speaker, I am disappointed however, that the much needed bail reform provisions were deleted from this bill. The Attorney General of the United States, noting the serious deficiencies in our current bail laws, state the courts "should have the authority to deny bail to those persons who are found by facts established by clear and convincing evidence to present a danger to particular persons or the community." The lack of such a provision is an infuriating ridicule of justice. Because it has become evident that no amount of bail will assure appearance by a drug trafficker at a trial, I introduced H.R. 4705, a bail reform measure. I was pleased to gain the support of every member of the Florida delegation, as well as over 60 other well-intended Members of Congress. I intend to reintroduce this legislation at the earliest possible date.

Mr. Speaker, again I want to extend my congratulations to the members of this subcommittee for their diligent work.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and recede from its disagreement to the Senate amendment and concur in the Senate amendment with an amendment.

The question was taken.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 271, nays 27, not voting 135, as follows:

[Roll No. 485]

YEAS—271

Akaka	Dingell	Horton
Albosta	Donnelly	Howard
Alexander	Dorgan	Hoyer
Anderson	Dornan	Hubbard
Andrews	Dougherty	Huckaby
Annunzio	Downey	Hughes
Anthony	Dreier	Hunter
Applegate	Duncan	Hyde
Archer	Dwyer	Jeffords
Atkinson	Dyson	Jones (NC)
AuCoin	Early	Jones (TN)
Bailey (PA)	Eckart	Kastenmeier
Barnard	Edgar	Kazen
Bedell	Edwards (CA)	Kemp
Beilenson	Emerson	Kennelly
Bennett	Emery	Kildee
Bereuter	English	Kindness
Bevill	Erdahl	Kogovsek
Boland	Erlenborn	Kramer
Boner	Evans (IA)	LaFalce
Bowen	Fary	Lagomarsino
Breaux	Fazio	Latta
Brinkley	Fenwick	Leach
Brodhead	Fiedler	Leath
Brooks	Fields	Lent
Brown (CA)	Findley	Levitas
Brown (CO)	Fithian	Lewis
Butler	Florio	Loeffler
Byron	Foley	Long (MD)
Campbell	Fountain	Lowery (CA)
Carman	Fowler	Lowry (WA)
Carney	Frank	Lujan
Chappie	Frenzel	Lundine
Cheney	Garcia	Lungren
Clausen	Gaydos	Madigan
Clinger	Gejdenson	Markey
Coats	Gephardt	Martin (NC)
Coelho	Gibbons	Martin (NY)
Coleman	Gilman	Martinez
Collins (IL)	Gingrich	Matsui
Conable	Ginn	Mavroules
Conte	Glickman	Mazzoli
Corcoran	Goodling	McCloskey
Coughlin	Gore	McCollum
Courter	Gradison	McCurdy
Coyne, James	Gramm	McDade
Coyne, William	Guarini	McGrath
Craig	Gunderson	McHugh
Crane, Daniel	Hall, Ralph	Mica
Crane, Philip	Hall, Sam	Michel
Crockett	Hamilton	Mikulski
D'Amours	Hance	Miller (CA)
Daniel, Dan	Harkin	Miller (OH)
Daub	Hatcher	Mineta
Deckard	Hefner	Minish
Derrick	Hendon	Moakley
Derwinski	Hertel	Molinari
Dickinson	Hightower	Montgomery
Dicks	Hiler	Moore
Moorhead	Roemer	Studds
Morrison	Rose	Swift
Murphy	Rostenkowski	Synar
Murtha	Roth	Tauke
Napier	Roukema	Tauzin
Natcher	Rousselot	Trible
Neal	Roybal	Udall
Nelson	Sabo	Vander Jagt
Nowak	Sawyer	Vento
O'Brien	Scheuer	Volkmer
Oberstar	Schneider	Wampler
Obey	Schumer	Watkins
Pashayan	Seiberling	Weaver
Patman	Shannon	Weber (MN)
Pease	Sharp	Weber (OH)
Pepper	Shaw	White
Perkins	Shelby	Whitley
Peyser	Siljander	Whittaker
Pickle	Skeen	Whitten
Porter	Skelton	Wilson
Price	Smith (AL)	Winn
Pritchard	Smith (IA)	Wirth
Quillen	Smith (NE)	Wolf
Rahall	Snowe	Wolpe
Ratchford	Snyder	Wortley
Regula	Solarz	Wright
Rinaldo	Solomon	Wyden
Ritter	Spence	Wylie
Roberts (KS)	St Germain	Yatron
Robinson	Stenholm	Zablocki
Rodino	Stokes	
Roe	Stratton	

NAYS—27

Ashbrook	Gonzalez	Paul
Bailey (MO)	Hall (IN)	Petri
Bliley	Hammerschmidt	Rangel
Broyhill	Hansen (ID)	Savage
Burton, John	Johnston	Sensenbrenner
Conyers	Jones (OK)	Shumway
Dannemeyer	McDonald	Stump
Edwards (OK)	Myers	Walker
Ford (TN)	Patterson	Weiss

NOT VOTING—135

Addabbo	Forsythe	Mollohan
Aspin	Frost	Mottl
Badham	Fuqua	Nelligan
Bafalis	Goldwater	Nichols
Barnes	Gray	Oakar
Beard	Green	Ottinger
Benedict	Gregg	Oxley
Bethune	Grisham	Panetta
Biaggi	Hagedorn	Parris
Bingham	Hall (OH)	Pursell
Blanchard	Hansen (UT)	Railsback
Boggs	Hartnett	Reuss
Bolling	Hawkins	Rhodes
Bonior	Heckler	Roberts (SD)
Bonker	Heftel	Rogers
Bouquard	Hillis	Rosenthal
Broomfield	Holland	Rudd
Brown (OH)	Hollenbeck	Russo
Burgener	Holt	Santini
Burton, Phillip	Hopkins	Schroeder
Chappell	Hutto	Schulze
Chisholm	Ireland	Shamansky
Clay	Jacobs	Shuster
Collins (TX)	Jeffries	Simon
Daniel, R. W.	Jenkins	Smith (NJ)
Daschle	Lantos	Smith (OR)
Davis	LeBoutillier	Smith (PA)
de la Garza	Lee	Stangeland
Dellums	Lehman	Stanton
DeNardis	Leland	Stark
Dixon	Livingston	Staton
Dowdy	Long (LA)	Taylor
Dunn	Lott	Thomas
Dymally	Luken	Traxler
Edwards (AL)	Marks	Walgren
Ertel	Marlenee	Washington
Evans (DE)	Marriott	Waxman
Evans (GA)	Martin (IL)	Whitehurst
Evans (IN)	Mattox	Williams (MT)
Fascell	McClory	Williams (OH)
Ferraro	McEwen	Yates
Fish	McKinney	Young (AK)
Flippo	Mitchell (MD)	Young (FL)
Foglietta	Mitchell (NY)	Young (MO)
Ford (MI)	Moffett	Zeferetti

Messrs. LATTA, BARNARD, EMERSON, GOODLING, GRAMM, SMITH of Alabama, DREIER, DANIEL B. CRANE, and PHILIP M. CRANE changed their votes from "nay" to "yea."

Mr. HANSEN of Idaho changed his vote from "yea" to "nay."

Mr. BROYHILL changed his vote from "present" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the House receded from its disagreement to the Senate amendment and concurred in the Senate amendment with an amendment.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 3963

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct section numbers, punctuation marks, and cross-references in the engrossment of the House amendment to the Senate amendment to H.R. 3963.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RELATING TO PROCEDURES FOR SUBMISSION OF CERTAIN REPORTS AND ESTIMATES BY THE PRESIDENT

Mr. WRIGHT. Mr. Speaker, I call up the joint resolution (H.J. Res. 635) relating to procedures for submission of certain reports and estimates by the President, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 635

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That (a) notwithstanding the provisions of section 1105 of title 31, United States Code, the President shall transmit to the Congress not later than January 31, 1983, the budget for the fiscal year 1984, and (b) notwithstanding

the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. section 1022), the President shall transmit to the Congress not later than January 31, 1983, the Economic Report.

SEC. 2. That (a) notwithstanding the provisions of section 1109(a) of title 31, United States Code, the President shall submit to the Senate and the House of Representatives the estimates required to be submitted by said subsection for the fiscal year 1984 not later than the date on which the President transmits to the Congress the budget for the fiscal year 1984, and (b) notwithstanding the provisions of section 1109(b) of title 31, United States Code, the Joint Economic Committee shall submit to the Committees on the Budget of both Houses the evaluation required to be submitted by said subsection for the fiscal year 1984 not later than the date on which the report for the fiscal year 1984 pursuant to section 5(b)(3) of the Employment Act of 1946 (15 U.S.C. 1024b) is filed with the Senate and House of Representatives.

Mr. WRIGHT (during the reading). Mr. Speaker, I ask unanimous consent that the joint resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. Mr. Speaker, this resolution, which has been cleared with the minority leadership, simply permits the President to have until January 31 to submit his budget. Otherwise he would be required to submit the budget on January 18.

I am advised that this additional amount of time will be useful to the executive branch, and it certainly is of no harm to the Congress in that we will not even be in session on January 18.

I know of no objection to the resolution.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Speaker, I see the chairman of the Budget Committee here. Check me if I am wrong. Is it not true that 15 days after the Congress convenes the President normally would be obliged to submit his budget. And because we would be in a period of recess at that time, that this would be accommodating to both executive and legislative branches?

Mr. WRIGHT. The gentleman is exactly correct.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that I may proceed out of order for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. Mr. Speaker, I do this so I may yield to my friend, the gentleman from Texas (Mr. BROOKS).

BANKRUPTCY LEGISLATION

Mr. BROOKS. Mr. Speaker, there has been considerable discussion about bankruptcy courts in this country and here in Congress. I wondered what the procedure was we were going to follow, just what the leadership had in mind on this rather controversial issue.

Mr. WRIGHT. It is the plan of the leadership that this legislation will not be considered in this Congress. We do hope that it may be considered early in the next Congress.

There is, as the gentleman knows, as many of the Members, an order from the Supreme Court declaring the manner in which bankruptcy judges have been chosen to be unconstitutinal. It is necessary for some rectification to be made of that.

An extension already has been accorded by the Court to the Congress, and given the controversial nature of the legislation, Members have requested of the majority leader that it not be taken up at this time, but that it be taken up after we reconvene next year.

Mr. BROOKS. I thank the gentleman.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New Jersey (Mr. RODINO), my distinguished friend, the chairman of the Committee on the Judiciary.

Mr. RODINO. I certainly appreciate the majority leader yielding to me.

Mr. Speaker, I must state, I regret that the leadership has advised the House that it will not take action on what I consider to be the most important measure that the House could consider. We have a deadline date of December 24 which the Supreme Court mandated. It stayed the order until that date based on a request that was made by the Solicitor General on the representation that we would act in this lameduck session.

□ 1730

I want this House to know that the Judiciary Committee, recognizing its responsibility, proceeded with the consideration of this matter. We believe that there is but one single issue, and that is the establishment of a constitutional system of bankruptcy.

The Judiciary Committee reported out a bill from its subcommittee and then out of the full committee with bipartisan support. I believe it behooves this House to have taken action.

I regret this very much, because I believe it is a reflection on the integrity of this institution to fail to act. Experts in constitutional law and on the question of bankruptcy feel that there could be an economic disruption because of the failure of our courts to be able to hand down decisions that are constitutional.

For this reason, I have requested that the leadership consider this. I know that there were other matters that might have been in controversy regarding bankruptcy as a whole; but I had pledged that since those matters were so complex and so varied to deal with, that we could have dealt with those matters in the 98th Congress.

I must say, with all respect to the majority leader and to the leadership of this House, that this is a matter that really, in my judgment, is something on which we are going to be found sorely wanting.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman.

I think all of us have enormous respect and great appreciation for the gentleman from New Jersey for his diligence, for his statesmanship and for the leadership he provides always for the Committee on the Judiciary.

I think all of us appreciate the comments he has made today and are on notice that it is necessary for the House and the Congress to take some action in the reasonably near future to resolve the problem.

I simply would report, without attempting to pass judgment on the merits of the issues, that many Members, not a few, but many Members have come to the majority leader and have complained that this is a highly controversial matter, that the bill as drafted by the committee and proposed to be forwarded has been opposed officially by the Judicial Conference.

They report that it is opposed by the Chief Justice of the Supreme Court.

They report that it has been officially acted against by the Trial Lawyers Association.

They report that it would result in the creation of some 230 additional judgeships bearing title chapter III jurisdiction and that this would dilute the judiciary.

They report, therefore, that in view of all these controversial characteristics of the legislation, they would be constrained to want to get a rule, if it were to come forward, and debate it fully with opportunities to amend. That, of course, could not be accomplished under a suspension of the rules, and all those things being considered, the lateness of the hour being considered, the desires of most Members to get about our business and go home without undertaking any additional controversies that are not necessary being considered, the leadership decided that we would postpone action until next year.

Mr. RODINO. Mr. Speaker, will the majority leader yield further?

Mr. WRIGHT. Of course, I yield to my friend.

Mr. RODINO. I again appreciate the gentleman yielding.

I merely want to state that we are aware of the fact that the Judicial Conference has another opinion regarding this matter and so has the Chief Justice. I respect both the Judicial Conference and the Chief Justice of the Supreme Court; but the Judicial Conference cannot be substituted, nor can it substitute its opinion for the legislature, and the Chief Justice was in the dissent of those who passed upon this measure.

I would add that the hearings before our committee reflected that the wide spectrum of those who are constitutional lawyers and those who are experts in bankruptcy law all stated that there was one single issue that was not in controversy and that was to establish article III courts so that we might have a constitutional system where there would be no challenge.

Among those the committee has heard from in support are the following:

Department of Justice.
American Council of Life Insurance.
American Bankers Association.
Los Angeles County Bar Association, Commercial Law & Bankruptcy.
Bar Association of the Seventh Federal Circuit, Chicago, Ill.
Iowa State Bar Association Board of Governors.
The Association of the Bar of the City of New York.
The Bar Association of the District of Columbia.
Knoxville Bar Association Board of Governors.
Maine State Bar Association, Bankruptcy and Reorganization Section.
Washington State Bar.
Bankruptcy Lawyers Bar Association, New York, N.Y.
Chattanooga Bar Association.
Federal Bar Association, Council on Federal Litigation.
The Cuyahoga County Bar Association, Cleveland, Ohio.
The Bar Association of Greater Cleveland.
The Association of the Federal Bar of the State of New Jersey.
The Equitable Life Assurance Society of the United States.
The National Bankruptcy Conference.
The Commercial Law League of America.
National Association of Credit Management.
New England Association of Credit Executives.
Wells Fargo Bank.
Union 76.
Ashland Oil, Inc.
TRW.
Georgia Pacific Corporation.
General Electric.
Delta Steel, Inc.
All States Steel Corporation.

Mr. BUTLER. Mr. Speaker, will the majority leader yield?

Mr. WRIGHT. I believe the gentleman from Virigina was on his feet first and I will yield to him and then, of course, I will yield to my friend, the gentleman from Ohio.

Mr. BUTLER. Mr. Speaker, I thank the gentleman for yielding.

I must tell this House how disappointed I am that we cannot find 40 minutes to discuss this very significant piece of legislation.

Twice within the last 2 weeks the Attorney General of the United States has written to the Speaker of this House and told him the chaos that will result if we do not act by December 24.

Twice the Attorney General has told the Speaker of this House that it is imperative that we take some action before the December 24 deadline which the Supreme Court has set.

After December 24, the bankruptcy courts of the United States will be virtually unable to act in a great portion of all the litigation that comes before them; 600,000 cases are pending in the bankruptcy courts of the United States. Without jurisdiction to determine these controversies, the whole load will fall upon the district courts of the United States, the already overburdened and overcrowded district courts. Every case, every issue, will be resolved over does this court have jurisdiction, without ever getting to the substantive issues that will come before the court.

How do you decide whether you are going to sell an asset or not? How do you decide whether you are going to hold it or not? All these things will be chaotic.

In this time of more bankruptcies than ever before in this time in which the Supreme Court has given us two extensions until December 24, for this Congress not to act is the height of irresponsibility.

The chaos that will result, I say to the majority leader, the chaos that will result is blood that will be on our hands. It will be our fault and there is no excuse for not assigning 40 minutes to this issue.

Mr. WRIGHT. With great respect for the gentleman and his opinions, I should simply like to report that the Attorney General has written not only to the Speaker in that vein, but also twice has written to the majority leader in the Senate and I am advised that the Senate has no intention of taking action on this legislation this year.

Therefore, we would do nothing but waste our time and perhaps the patience of some of the Members by taking it up at this time. For that reason, we would postpone it until next year.

Mr. BUTLER. Well, Mr. Speaker, if the gentleman will yield further, it seems to me that the body has spent as much time as we have on domestic content, as much time as we have spent on immigration, as much time as we have spent on those endless roads that are going nowhere, could spare 40 minutes for this controversial piece of legislation, this significant piece of legislation which I assure the gentleman if it passes this body, the Senate will act on it, because they have every intention of following the lead that we have in this body.

Mr. WRIGHT. Mr. Speaker, may I say to my distinguished friend that the litany of those things on which this House has frittered away time might be endless ad infinitum and as mindful as I am of those words written by Kipling when he spoke of old men and he said;

They peck out, dissect and extrude to the mind the flaccid tissues of long dead issues offensive to God and mankind, like vultures over an ox that the Army has left behind.

DIRECTING COMPLETION OF VIETNAM VETERANS MEMORIAL IN WEST POTOMAC PARK IN THE DISTRICT OF COLUMBIA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 636) directing the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro temopre. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 636

Whereas many Vietnam veterans and veterans' organizations have expressed great concern that the design of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia as dedicated on November 13, 1982, honor and recognize appropriately the service and sacrifice of the men and women of the Armed Forces of the United States who served in Southeast Asia during the Vietnam war;

Whereas many individual veterans and veterans' organizations expressing such concern met with the Vietnam Veterans Memorial Fund, Inc. (the organization authorized by Public Law 96-297 to carry out the design and construction of the memorial), and reached an agreement in October 1982, concerning the memorial's final design;

Whereas the final design agreed upon and recommended by the Vietnam Veterans Memorial Fund, Inc. and the various veterans' organizations and other interested parties would provide for the placement of an American flag with an inscription at the point that is pointed at by the V-shape of the two intersecting walls of the memorial and is 40 feet from the apex of the walls on a line bisecting the apex and equidistant from the end of each wall and for the placement of a statute by Frederick Hart of three American servicemen of the Vietnam war on the same line at a point 170 feet from the apex of the walls of the memorial and facing into the V-shape formed by the walls; and

Whereas these two elements of the design complete the memorial as a fitting commemoration to the men and women of the

Armed Forces of the United States who served in Southeast Asia during the Vietnam war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, the Commission of Fine Arts, the National Capital Planning Commission, and other pertinent parties shall follow the clear wishes of Vietnam-era veterans of the United States, veterans' service organizations, the Vietnam Veterans Memorial Fund, Inc., and other interested persons and parties and approve the Vietnam Veterans memorial in West Potomac Park in the District of Columbia to include the flag and inscription and the statue as agreed upon, submitted, and recommended in October 1982 by these organizations and interested persons and parties.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1740

EXPRESSING THE SENSE OF CONGRESS CONCERNING THE COMPLETION OF THE VIETNAM VETERANS MEMORIAL IN WEST POTOMAC PARK IN THE DISTRICT OF COLUMBIA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 437) expressing the sense of Congress concerning the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 437

Whereas many Vietnam veterans and veterans' organizations have expressed great concern that the design of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia as dedicated on November 13, 1982, honor and recognize appropriately the service and sacrifice of the men and women of the Armed Forces of the United States who served in Southeast Asia during the Vietnam war;

Whereas many individual veterans and veterans' organizations expressing such concern met with the Vietnam Veterans Memorial Fund, Inc. (the organization authorized by Public Law 96-297 to carry out the design and construction of the memorial), and reached an agreement in October 1982, concerning the memorial's final design;

Whereas the final design agreed upon and recommended by the Vietnam Veterans Memorial Fund, Inc. and the various veterans' organizations and other interested parties would provide for the placement of an American flag with an inscription at the point that is pointed at by the V-shape of the two intersecting walls of the memorial and is 40 feet from the apex of the walls on a line bisecting the apex and equidistant from the end of each wall and for the placement of a statue by Frederick Hart of three American servicemen of the Vietnam war on the same line at a point 170 feet from the apex of the walls of the memorial and facing into the V-shape formed by the walls; and

Whereas these two elements of the design complete the memorial as a fitting commemoration to the men and women of the Armed Forces of the United States who served in Southeast Asia during the Vietnam war: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the Secretary of the Interior, the Commission of Fine Arts, the National Capital Planning Commission, and other pertinent parties should follow the clear wishes of Vietnam veterans of the United States, veterans' service organizations, the Vietnam Veterans Memorial Fund, Inc., and other interested persons and parties and approve the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia to include the flag and inscription and the statue as agreed upon, submitted, and recommended in October 1982 by these organizations and interested persons and parties.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL CLOSE-CAPTIONED TELEVISION MONTH

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 258) to authorize and request the President to designate the month of December 1982 as "National Close-Captioned Television Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, I do so to request the distinguished chairman of the subcommittee to explain this measure.

Mr. GARCIA. If the gentleman will yield, I would like to yield to the sponsor of the legislation, the gentleman from Iowa (Mr. HARKIN).

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

As a matter of explanation, this joint resolution has already been passed by the Senate. It designates December of this year as the "National Close-Captioned Television Month." This is a bill jointly cosponsored by myself and the gentleman from Michigan (Mr. VANDER JAGT) earlier on in the session.

Basically, this just recognizes the tremendous contribution that close-captioning has made to the deaf and hard of hearing in our society. It recognizes that it has been a tremendous success.

As the resolution states, over $17 million has been invested by deaf and hearing-impaired persons in the United States to purchase these close-captioned devices and put them on their television sets. It recognizes the fact that President Reagan mentioned this in his inaugural address; that he was the first President to so speak to those millions of deaf and hearing-impaired. What this resolution does is permit the President to designate December of this year as "National Close-Captioned Television Month."

Mr. Speaker, I want to thank the gentleman from New York (Mr. GARCIA) for bringing this resolution to the floor. I thank the gentleman from Illinois (Mr. DERWINSKI) for his support, and I urge its passage.

Mr. DERWINSKI. Mr. Speaker, the gentleman's explanation is very proper, factual, and impressive.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 258

Whereas the Congress has officially proclaimed 1982 as the National Year of Disabled Persons;

Whereas hearing-handicapped Americans of all ages traditionally have suffered isolation from society and too often have unwillingly ended up as burdens to society rather than participating citizens;

Whereas the recent telecommunications breakthrough of "closed captioning" now enables these people to read on the television screen what they cannot hear and thus share—for the first time in history—that wealth of information, entertainment, and language so abundantly absorbed by the general public;

Whereas the innovative service, provided through the nonprofit and tax-exempt National Captioning Institute (NCI), represents the culmination of almost ten years of technological research and development, market exploration, and cooperation between government, industry, and community;

Whereas the nationwide service which began in March 1980 on ABC, NBC, and PBS is already proving to open up new educational horizons and new avenues toward equal opportunity for this severely disadvantaged population, particularly its children and youth;

Whereas hearing-impaired citizens have personally invested over $17,000,000 to date for purchase of decoding devices;

Whereas many Members of the Congress have long been actively supporting development, implementation, and expansion of the closed-captioned television service which is the first of its kind anywhere in the world; and

Whereas President Reagan, referring to the closed captioning of his inaugural ceremonies and televised addresses to the

Nation, has stated: "I feel very honored to be the first President in history to have spoken directly to people who had never before experienced this historic tradition": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the month of December 1982 as "National Closed-Captioned Television Month" in recognition of this invaluable new service for deaf and hard-of-hearing American citizens, and calling on the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

VACATING PROCEEDINGS ON SENATE BILL S. 3081

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to vacate the proceedings that occurred on Saturday, December 18, 1982, with respect to the passage of the Senate bill (S. 3081) to modify the judicial districts of West Virginia, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BUTLER. Mr. Speaker, reserving the right to object, and ask the gentleman from Wisconsin, and yield to him for that purpose, why it is necessary to vacate this and what is the purpose, and is this the last trip to the well?

Mr. KASTENMEIER. If the gentleman from Virginia will yield, I am chagrined to suggest that on Friday we attempted to take the bill S. 3105, dealing with the same subject, up and it was objected to on the grounds that it was not germane to the subject of the bill.

Saturday, inadvertently, this gentleman referred to, to take up a bill dealing with the same subject, S. 3081, which had passed the Senate earlier but had an error in the county designation only and to correct that I have asked that we vacate the proceedings relating to S. 3081 and I intend to ask that we unanimously consent to proceed with S. 3105 again.

Mr. BUTLER. Mr. Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MODIFYING WEST VIRGINIA FEDERAL JUDICIAL DISTRICTS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3105) to modify the judicial districts of West Virginia, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BUTLER. Mr. Speaker, reserving the right to object, I ask the gentleman to explain the intent of this bill.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. BUTLER. I am happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Speaker, this bill has been explained twice before, on Friday and on Saturday. The explanation is the same.

Incidentally, the bill has the complete support of all Members in this body and in the other body of the West Virginia delegation. There is no opposition whatsoever that I can determine.

The bill merely shifts two districts from the northern district to the southern district, and three districts from the southern district to the northern district, and the places of holding court, correspondingly.

It also shifts the two swing judges, one into each district.

It has no cost and has the complete support, as I say, of the West Virginia delegation. There is no reason not to agree, to my knowledge, to my request.

Mr. BUTLER. Further reserving the right to object, I would like to observe, Mr. Speaker, that we have now taken on this piece of legislation approximately 25 percent of the time it would have taken us to discuss the bankruptcy bill on this floor. I do not understand how we can always find time for these sorts of things when we cannot take time to support important legislation like the bankruptcy bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

The Clerk read the Senate bill, as follows:

S. 3105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 129 of title 28, United States Code, is amended—

(1) in subsection (a) by—

(A) striking out ", Wirt, and Wood";

(B) inserting "Braxton," after "Berkeley,";

(C) inserting "Pocahontas," after "Pleasants,";

(D) inserting "Webster, and" after "Upshur"; and

(F) by striking out "Parkersburg," and

(2) in subsection (b) by—

(A) striking out "Braxton,", "Pocahontas," and "Webster,"; and

(B) inserting "Wirt, Wood," after "Wayne,"; and

(C) striking out "and Lewisburg." and inserting in lieu thereof "Lewisburg, and Parkersburg.".

SEC. 2. (a) The existing district judgeship for the Southern District of West Virginia, authorized by section 2 of the Act entitled "An Act to provide for the appointment of additional district and circuit judges and for other purposes", approved October 20, 1978, (92 Stat. 1632; 28 U.S.C. 133 note) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28 of the United States Code as a district judgeship for the Northerm District of West Virginia, and the incumbent of that office shall henceforth hold office under section 133, as amended by this Act.

(b) The existing district judgeship for the Northern and Southern Districts of West Virginia shall be authorized as the district judgeship for the Southern District.

SEC. 3. The table in section 133 of title 28, United States Code, is amended by striking out the following:

"West Virginia:

"Northern	1
"Southern	3
"Northern and Southern	1",

and inserting in lieu thereof the following:

"West Virginia

"Northern	2
"Southern	4".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3420, PIPELINE SAFETY AUTHORIZATION ACT OF 1981

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3420) to authorize appropriations for fiscal year 1982 for carrying out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes, with Senate amendments thereto, concur in the Senate amendments with amendments, and that the House insist on its amendments and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The Clerk proceeded to read the Senate amendments and the House amendments to the Senate amendments.

Mr. FLORIO (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. LENT. Mr. Speaker, reserving the right to object, this is a bill which the minority on the Committee on Energy and Commerce has reviewed and it is in accordance with our wishes that the bill be passed.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LENT. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, do we have any money involved in this bill?

Mr. LENT. There are funds in the bill, but these funds are consistent with the funds that have been approved by representatives of the administration. It is, I believe, consistent with the budget.

Mr. WALKER. It is within the budget?

Mr. LENT. That is my understanding.

Mr. WALKER. I thank the gentleman.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey to dispense with the reading?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New Jersey?

Mr. KAZEN. Mr. Speaker, reserving the right to object, is the gentleman not going to explain the amendment we are offering?

□ 1750

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. KAZEN. Mr. Speaker, reserving the right to object, I do so only for the purpose of understanding what we are doing.

Mr. FLORIO. Will the gentleman yield?

Mr. KAZEN. I would be delighted to yield.

Mr. FLORIO. We are attempting to go to conference on the basic bill and two pieces of legislation which have passed this House. One is the Railroad Safety Act, and the other is the Shipping Reform Act, which passed by overhelming majorities. Both these pieces of legislation passed the House and we are attempting to go to conference. Both are supported by the administration.

Mr. KAZEN. I understood the gentleman to say that the Senate had amended it, and he is asking to take it up with House amendments.

Mr. FLORIO. The House amendments embody and consist of the House position. The House amendments involve the bodies of the House bills.

Mr. KAZEN. I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and without objection appoints the following conferees: Title I, Messrs. JONES of North Carolina, BIAGGI, RODINO, SNYDER, and MCCLOSKEY; for title II through title VIII of the House amendment and modifications committee to conference, Messrs. DINGELL, FLORIO, and LENT.

A CALL FOR ATLANTIC UNION

(Mr. FINDLEY asked and was given permission to address the House for 1 minute.

Mr. FINDLEY. Mr. Speaker, the devastation of two world wars produced the greatest incentive for the union of democratic peoples in the 20th century. World War I inspired Woodrow Wilson to formulate his Fourteen Principles and led to the creation of the League of Nations.

World War II yielded more—and more successful—attempts at union: the North Atlantic Treaty Organization, and the European Community. The post-1945 success is accountable in part because of the bitter fruits of disunity in the post World War I era—the failure of the League of Nations, the disintegration of the European political fabric, and the isolationism of the United States. These fragmenting events contributed greatly to the outbreak of war in 1939.

The destructive power of nuclear weapons may not again, however, permit the international community to reshape itself after a world war. Today's efforts to improve the well-being and security of the democratic nations through greater cohesion must, therefore, precede and help to deter conflict rather than emerge from it.

Though world war III is not imminent, we are, nonetheless, witnessing growing divisions in the Western World whose implications for peace and security are disturbing. The United States and its allies differ on the nature of the Soviet threat and the necessary efforts to meet that threat. Defense spending, East-West arms limitation, and technology transfer controls are areas that provoke sharp intra-Alliance debate. A new Greek Government suggests that it may close down U.S. bases in Greece and even withdraw Greece from NATO which would be a devastating blow to Alliance solidarity. Perceptions about the Middle East, Africa, and other regions of the Third World often are sharply at variance among NATO member States. While it would be tragic to overemphasize United States-European differences and foolish to predict the end of Atlantic cooperation, divisions among the Western partners are, nevertheless, serious and to be taken seriously.

It is critical to bridge these differences before they become deeper yet.

The United States should, therefore, take the lead in building a Union of Western Democracies, a federal union which would enhance the security of all peoples of the federation by more effectively pooling their resources toward a common defense and other common needs.

I speak here of an organic political union on the order of the union which successfully united the Thirteen Original United States. It would be a federation, not a confederation. It would be a government, not just an alliance. The basic unit of sovereignty, as in the United States, would be the individual citizen—not the nation-States which would form the union. The authority established in the new federation would be exercised by democratic institutions based on majority rule and protection of individual rights. Other authority would be reserved to the lower levels of government.

The United States and Europe already recognize that their security interests are intertwined. The destruction of either continent would mean the destruction of both.

However, each side of the Atlantic fears that the other is lacking the resolve to defend its common interests. We have witnessed these fears expressed in an acrimonious transatlantic debate over NATO nuclear strategy, commitments to target levels of defense spending and what to do about the crisis in Poland.

A Union of the Atlantic Democracies would dispel these fears because it would establish a system through which Europe, the United States, and Canada would establish common policy on defense obligations and other matters of external policy. Each would have a greater incentive because the United States, Canada, and Europe could be certain that the burden was equally shared, fairly divided, and directed toward an effort that involved a joint commitment.

A Union of Western Democracies should be more realizable today than in the immediate aftermath of World War II. International communications including television, education, and travel have brought the citizens of the Western democracies closer together and made their separate cultures more familiar, better understood, and more compatible.

Moreover, there is no longer a gap between the standard of living in the United States and that in Europe. Indeed, U.S. per capita gross domestic product ranks only sixth among the NATO partners after Denmark, West

Germany, Luxembourg, the Netherlands, and Belgium.

Another factor which makes Atlantic Union more realizable today, ironically, is the greater appreciation in the United States and in European capitals such as Paris and Brussels of the need to permit the decentralization of government and greater local control over many of the decisions that affect the daily lives of all citizens. This is very much in keeping with a basic premise of Atlantic Union which stresses the decentralization of decisionmaking in all but foreign policy and defense and places highest priority upon the right of individuals to control their own lives.

Moreover, Europe has had its own considerable experience with union through its efforts to coordinate economic policies and political decisions in the European Community. This experience has demonstrated the importance of making the burgeoning federation in Europe a trans-Atlantic endeavor at the earliest possible date.

Today, when the Soviet threat challenges the West and totalitarianism defies democratic hopes and aspirations everywhere, it is critical for the West to pool its energies and resources through effective union. A union of free people will strengthen the democratic community of nations, and at the same time quicken the promise of democracy in other nations which would later seek to join.

Atlantic union offers the best hope the world can finally emerge from the costly and dangerous nuclear arms, race. With the vast resources of the western world united behind a common external policy, the Soviet Union, even the blindest of its leaders, would see the futility of nuclear blackmail.

A would be aggressor would no longer be able to divide and conquer—to play one part of the community of free peoples off against another. He would know he must engage the military might of the entire union if he engaged any part of it.

Finally, after all these years, the burden of armaments could be lifted safely and wisely from the taxpayers.

And it would also relieve anxieties within the Soviet system. Twice in recent history Russia has been invaded through Poland, and this memory is bound to cause anxieties in Soviet leadership. The political union of western Europe with the United States and Canada would reduce to zero the danger to Russia of renewed invasion.

Dwight D. Eisenhower once told me, "Atlantic union would solve almost all of our Nation's problems."

A dream world proposal? Hopelessly visionary?

The great union of the free which began its business on this continent in 1789 was the product of men of vision who had wisdom to see the need for political union of the free and the courage to act.

We, today, surely can see the need for a new broader political union of the free—Atlantic union. Do we have the courage to act?

It is my fervent hope that in the new Congress will be Members willing to pick up the torch of Atlantic union and carry it. Public understanding is needed. Each Congressman has what Teddy Roosevelt would call "a bully pulpit." Each can help create public understanding.

One of the primary motivations that led me to seek election to Congress years ago was the desire to create support for the Atlantic union idea. My dream was to get elected, secure membership on the Foreign Affairs Committee and from that position elicit support from my colleagues for legislative initiatives moving toward the goal of union.

I received broad support for several years although never quite enough votes to emerge successfully from the legislative process. A resolution I sponsored called the Atlantic union resolution came within 18 votes of majority approval one day on the floor of this body. Joining me as chief sponsors were the gentleman from Texas, now the majority leader, and the gentleman from Arizona, Mr. UDALL.

The experience demonstrated the need for broader public understanding of the federal principle. That need still exists.

My membership in this body will end in a few hours, closing an exciting and rewarding experience of 22 years. Wherever I am in the future I will seek ways to further the goal of Atlantic union, because I believe it is not only desirable but a necessity. It must some day come into being. The only question is whether it will happen in desperate circumstances in the wake of some engulfing international calamity—economic or military—or whether it will come into being soon enough to prevent such calamity.

I invite all my colleagues of the present, and those who will serve in the next Congress, to help prevent a calamity by pressing for Atlantic union.

TRIBUTE TO DEPARTING REPUBLICAN MEMBERS OF CONGRESS

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I cannot let the waning hours of the 97th Congress dwindle into the record books without commenting that Republicans are supposed to be drab, stuffy, colorless individuals, and Democrats are supposed to be bright, effervescent, quotable, and where all the fun is. I suggest that in the taking leave from this body of ROBERT DORNAN of California, MILLICENT FENWICK of New Jersey, and EDWARD DERWINSKI of Illinois, a lot of color, a lot of excitement, a lot of rhetorical ability, and a lot of integrity is leaving, and this body will be somewhat the less for their absence.

ED DERWINSKI contributed a rare sense of humor leavened with an uncommon practicality to the vital issues we must deal with.

MILLICENT FENWICK brought an elegant sincerity to the many issues in which she took an interest.

BOB DORNAN brought a fierce commitment to his tireless work in this body—a sense of patriotism and total devotion to "the permanent things."

I cannot mention the litany of colorful, contributing people and leave out the name of JOHN ROUSSELOT, who has been known for many a fiery speech, and through the sheer force of his personality exercising great influence.

But these people and many, many others have contributed so much to this body. America has been well served by them all. We have all learned from them. We have all been illuminated by them. Yes, we have often been entertained by them, and this body will be the less for their leaving. Most of us can be replaced, but they shall each leave a place that cannot be easily filled. I regret their leaving, but the memory does linger on.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of December 17, 1982, the Chair declares a recess subject to the call of the Chair. Bells will be rung 15 minuutes prior to the reconvening of the House.

Accordingly (at 5 o'clock and 56 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2130

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. NATCHER) at 9 o'clock and 35 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 2520. An act for the relief of Emanuel F. Lenkersdorf;

H.R. 5858. An act for the relief of Mocatta & Goldsmid, Ltd., Sharps, Pixley & Co., and Primary Metal & Mineral Corp.;

H.R. 6120. An act to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984;

H.R. 6254. An act to amend title 3, United States Code, to clarify the function of the U.S. Secret Service Uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes;

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University;

H.R. 6993. An act to revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation";

H.R. 7377. An act to designate the Lakeview Lake project, Mountain Creek, Texas, as the "Joe Pool Lake";

H.R. 7378. An act to codify without substantive change recent laws related to money and finance and to improve the United States Code;

H.R. 7423. An act to recognize the organization known as Former Members of Congress; and

H. Con. Res. 436. Concurrent resolution relating to the enrollment of House Joint Resolution 631.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 631) entitled "Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes."

The message also announced that the Senate further insists upon its amendments to the bill (H.R. 5002) entitled "An act to improve fishery conservation and management" disagreed to by the House, agrees to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PACKWOOD, Mr. GORTON, Mr. STEVENS, Mr. HOLLINGS, and Mr. INOUYE, to be the conferees on the part of the Senate.

MAKING IN ORDER CONSIDERATION OF SENATE AMENDMENT OR AMENDMENTS TO H.R. 6211, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it shall be in order, any rule of the House to the contrary notwithstanding, to consider, without intervening motion, a motion, if offered by Representative ROSTENKOWSKI of Illinios, to take from the Speaker's table the bill, H.R. 6211, to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes, with the Senate amendment or amendments thereto, and to concur in the Senate amendment or amendments with an amendment or amendments, all points of order against the Senate amendment or amendments and against the motion are hereby waived, the Senate amendment or amendments and the motion shall be considered as having been read, and the previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. MICHEL. Mr. Speaker, reserving the right to object, I wonder if the chairman of the committee would tell us precisely what he is asking here.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, the chairman of the Ways and Means Committee is moving in a direction which is consistent with the Senate agreement, that we can conclude what has already been passed by the House of Representatives, known as the gas tax bill, without as much controversy as has been evidenced in the last 24 hours.

Mr. MICHEL. Is this similar to the unanimous-consent request that we had adopted for consideration of the continuing resolution?

Mr. ROSTENKOWSKI. Similar to it, yes, it is.

Mr. MICHEL. And if the gentleman does not get unanimous consent, would it be the gentleman's intention to get a rule?

Mr. ROSTENKOWSKI. The chairman of the Committee on Ways and Means or the conference would be constrained to get a rule, yes.

Mr. WALKER. Mr. Speaker, will the gentleman yield under his reservation?

Mr. MICHEL. I am happy to yield.

Mr. WALKER. Mr. Speaker, the language seemed to cover a pretty broad swath, amendment or amendments. Do we have any idea as to what the subject areas are that might be included in some of those amendments that would be coming over in the bill?

I think we are all familiar with the gas tax argument. What about several other things that might have been adopted? I do not think we are necessarily familiar with some of those.

Mr. MICHEL. The gentleman is saying that the request is rather broad sweeping, that amendments and all amendments thereto, that that being rather loose, could the gentleman from Illinois enlighten the gentleman from Pennsylvania a little bit more specifically?

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, as my colleague is aware, this is an amendment to the public works provisions. It has the jurisdiction of both the Public Works Committee and the Ways and Means Committee.

One understands, certainly, that germaneness in the other body is not as confined as it is here in the House of Representatives.

One would understand, as chairman of the conference representing the House, the gentleman from Illinois would protect the prerogatives of the House.

Mr. MICHEL. Do I gather from what the gentleman says that the other body having no rule of germaneness, that the gentleman would intend to clean up some of the very loose language of the other body to more conform to what we would like to see embodied in this measure?

□ 2140

Mr. ROSTENKOWSKI. If the gentleman from Illinois would yield, it would be the intention of the chairman of the Committee on Ways and Means to protect the legislation as passed by the House of Representatives and to, if necessary, clean up what the other body has done.

Mr. MICHEL. I would have to say to the gentleman that I have, personally, no objection, but under my reservation, I would be happy to yield to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, the only thing I am concerned about is that I understood a couple dozen amendments have been added by the Senate in this bill. I am seeking whether or not we are going to have that come back in that form or, if I understand the gentleman from Illinois, he is going to try to remove some of those in conference before he brings it back here so we are not faced with a couple dozen amendments on rather important subjects in voting on it in the House.

Mr. ROSTENKOWSKI. If the gentleman from Illinois would yield further, I think a commitment has been made in debate originally on the provisions of this legislation to protect the position of the House and as consistent with his policy will try in every way to refrain from adopting any amendments, whether mischievous or not, in the conference.

Mr. WALKER. I thank the gentleman for yielding.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ATOMIC ENERGY ACT AMENDMENTS OF 1981

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. 97-983) on the resolution (H. Res. 636) providing for the consideration of the bill (H.R. 3809) to pro-

vide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes, and the Senate amendment thereto, which was referred to the House Calendar and ordered to be printed.

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 636 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 636

Resolved, That immediately upon adoption of this resolution, the bill, H.R. 3809, to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes, together with the Senate amendment thereto be, and the same is hereby taken from the Speaker's table to the end that the Senate amendment be and the same is hereby agreed to.

The SPEAKER pro tempore. The gentleman from Massachusetts, Mr. MOAKLEY, is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA) and pending that I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MOAKLEY. Mr. Speaker, the resolution (H.R. Res. 636) provides for the consideration of the House-Senate agreement on the bill (H.R. 3809), the nuclear waste disposal legislation.

Mr. Speaker, this is an unusual rule and I should explain the parliamentary situation. The Senate passed a nuclear waste bill (S. 1662) on April 29.

Three House bills, however, were initially referred to four committees and sequentially to four other committees. The bills were involved in considerable controversy because of differing interests of the large number of committees and the concerns of Members representing candidate States for nuclear waste facilities. The House was unable to finally pass the bill (H.R. 3809) until December 2.

Even after passage, the House was faced with additional difficulties. Since the Senate bill contained a provision (S. 1662, section 603) clearly within the jurisdiction of the Committee on Ways and Means for revenue measures, the Committee on Rules properly could not provide for a motion to go to conference on the Senate bill. Likewise, even if a conference could have been fashioned within the constitutional constraints, the legitimate jurisdictional claims of eight House committees and three Senate committees would have made it impossible for a conference committee to act, within the timeframe of the impending adjurnment of the Congress.

Faced with these difficulties, the managers for the two bodies have negotiated an agreement that protects the positions of each House. They have worked in close consultation with Members and committees who have vital interests in the bill.

In virtually every important respect, the process by which the matter is placed before the House today represents the full equivalent of a conference report. The Senate amendment is a prenegotiated text. The Senate has included nothing which was not accepted by House managers. The rule takes up that text and concurs, clearing the compromise for the President.

Neither I, nor the Members who have managed this measure for the House are completely satisfied with every provision.

But, Mr. Speaker, it must be recognized that it would be impossible to deal with such a complicated and controversial bill without dissent. Certainly the agreement does not meet all of my personal preference for a sound nuclear waste policy.

However, I wish to point out that the negotiators have agreed to restore the Rules Committee amendments. The amendments guarantee that a State can object to the siting of an away-from-reactor—AFR—facility or to the siting of a repository. A State objection would be absolute unless overturned by action of both Houses of Congress.

This amendment significantly strengthens the bill. If the Department of Energy, or any successor organization which may be established, develops a sound and fair siting process and a State objection is clearly political, there is little doubt that Congress would vote to permit construction.

But, equally, it is clear that Congress will not intervene if an inadeaquate or unfair program is established.

A strong State veto insures a comprehensive, fair, and responsible siting process. The strength of the State veto proposed here places an enormous responsibility on the Department to seek, and on the Congress to enact, any legislative improvements suggested by our early experience with the nuclear waste program.

Mr. Speaker, I do not want to claim that the Rules Committee amendments are the total solution to the nuclear waste issue. But I do believe their acceptance balances any structural problems in the bill by insuring a high degree of protection against mismanagement or unfairness in the program.

I wish to explain the parliamentary situation clearly before concluding. The rule inself adopts the agreement. No other motion or debate is provided and the matter is cleared by the adoption of the rule. Therefore, the managers for the committee will yield for debate on the merits of the measure and for any necessary colloquy. The committee is eager to accommodate Members in this regard because of the problem posed, in relation to legislative history, by the highly expedited handling of this matter in the other body.

The committee is aware that the Senate substitute was handled on the floor under a 15-minute time agreement. The managers for the Senate attempted to resolve the difficult matter of establishing a legislative history by submitting statements and colloquies for subsequent printing in the RECORD. For this reason, the committee proposes to be as generous as possible with its time to accommodate Members in establishing clearer legislative history.

Mr. Speaker, the rule provides a fair and orderly procedure for dealing with a complex matter. I urge the adoption of the resolution and reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I would respond to a few of the points that have been made during debate on the resolution.

The most difficult issue to respond to is that raised by my friend and colleague from Massachusetts (Mr. MARKEY) because I find myself in general agreement with him on his amendment. In fact, it was clear that it enjoyed the support of a majority of my committee.

But the committee, with some reluctance has not recommended opening the bill to amendment, and I find it painful to be in disagreement with the gentlemen, for whom I have the highest regard and affection. But, if any change, no matter how meritorious, is made, the bill will die for this session. And, frankly, if the bill dies now, I would be surprised to see any nuclear waste bill in the next Congress.

Mr. Speaker, if this country fails to enact a comprehensive waste policy soon, the issue of waste disposal will have been decided. And that policy will be the abandonment of buried spent waste at scores of reactors around the country as reactors begin to decommission in the later part of this century.

None of the alternatives for a waste program, Mr. Speaker, is worse than that. I would also stress that the strong State review provisions in this

legislation will force the administration and Congress to monitor and improve the program.

And, on that point of State review, I wish to review the history of the congressional review provisions of this legislation. The distinguished gentleman from New York (Mr. STRATTON) argues strongly for a one-House sustain procedure. But I wish to point out that the Committee on Armed Services, of which the gentleman is a ranking and respected member, reported to the House on the subject recommending a two-House vote to overturn a State objection. The same position was taken by the Committee on Interior and Insular Affairs and the Committee on Rules. The Committee on Energy and Commerce proposed a one-House sustain procedure.

The Rules Committee compromise resolved the issue in a fair manner. We proposed a two-House veto of a State objection but required that both the House and Senate must vote within a short timeframe. So long as a vote is guaranteed, the procedures are identical as a political and parliamentary matter. For a State to win under the one-House language, it needs only the support of one House to pass a resolution sustaining its objection. For a State to win under the two-House language, it needs only the support of one House to defeat a resolution overturning its objection.

Mr. Speaker, based on previous House and Senate votes, I am aware that many Members share the concern of the gentleman from New York and do not agree that the procedure is identical. I am also aware, that I have been successful in getting my amendment put back in this agreement only because of the parliamentary situation now in force, and that it is unlikely that the two-House procedure would be in a future nuclear waste bill.

Mr. Speaker, I do not endorse every provision of the agreement. As I listen to my friend from Massachusetts, I am concerned that many of the legitimate issues he raises need to be addressed in the future. But I see no reasonable alternative at the present and I move the previous question on the resolution.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, let me say I listened very closely to what the gentleman from Massachusetts said about this rule and I concur 100 percent.

Very simple, upon the adoption of this resolution, H.R. 3809 and the Senate amendment thereto are taken from the Speaker's table and agreed to by the House. As he indicated, this procedure does not allow for amendment. The Committee on Rules did not provide for that, but it did provide for agreeing to the Senate amendments.

This bill represents years of work in both Houses on this nuclear waste problem. We do have a serious problem with nuclear waste in the United States. There are people who believe that this is not the perfect bill, but it is the most perfect piece of legislation on this subject that this House has before it and that this Congress can pass before adjournment.

With that, Mr. Speaker, I would like to yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to urge my colleagues to vote for this rule tonight. It is vital that we do pass this rule and send this bill to the President for signature.

□ 2150

This is the third Congress that I have worked in on this legislation and this subject matter. The last Congress, I recall that we failed at the last moment, just like this, to pass a bill. I would urge my colleagues not to let that happen again.

This legislation has been endorsed by three House committees; has had not only hours upon hours and days and weeks of consideration in this Congress, but also in prior Congresses as well. Members will recall that this bill is to establish the procedures, the schedule for the selection of a final repository for nuclear waste. So far as generation in this country, we have had the technology, the know-how, to deal with this problem of where nuclear waste will be sited, but we have lacked the political will to do something about it. At the same time, other nations in the world are far ahead of us in putting that kind of technology to work, and have come up with their own solutions while we have done nothing. Let us not let that happen again.

This bill is essentially the House bill. The other body worked from the House bill in drafting and crafting their amendments to it. Yes, there have been some changes, but I would say in only a few instances have those changes been substantive. I think that these changes that have been made improve the bill, improve the workability, of the selection process that will take place.

One of the amendments in this bill is one which I had to give up on, about which Members felt strongly, and that was the amendment providing for a State veto of the final site selection at the end of the process. I felt strongly that we should not adopt the Markey amendment, the amendment that was proposed in the House by Mr. MARKEY, that would give the Governors a State veto. However, we compromised on this and we agreed to the amendment that he offered in the House providing that there would be expedited procedures, consideration here in the House and the other body, if that should ever take place.

So, all through this bill that we are asking the Members to support we find compromises, workable compromises that assure, in my opinion, broad support of this legislation.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Mr. Speaker, I rise in support of H.R. 3809 as amended by the Senate, but I do so with some dismay regarding one provision which, unlike the version approved by the House, now provides for a two-House veto of the Presidential selection of a permanent repository site for final storage of nuclear waste.

In December 1980 the House approved the "one-House sustain" approach, as did the Senate in its consideration of nuclear waste disposal legislation in April of this year. On December 2, the House reaffirmed its recorded vote of November 29 in support of this mechanism. The siting veto provision in the bill as it was returned to us by the Senate thus clearly goes beyond the scope of previous deliberations.

The significance of the two-House veto is that it makes it much more difficult, and indeed unduly difficult, to serve the national public interest by creating a permanent repository. To that extent, the likelihood is increased that use of interim spent nuclear fuel storage facilities will persist and that pressures will continue to grow for Federal takeover of private away-from-reactor storage facilities such as the one in my district near Morris, Ill., which is generally viewed as potentially most attractive in that context. Establishment of a permanent repository, by eliminating any need for interim storage away from reactors, reduces transportation of spent fuel as well.

This aspect of the bill before us is not in the interest of the Illinoisans I represent. From our standpoint, this amendment by the Senate to the House-passed bill is a weakening one. In our State, as I noted in House debate recently, six reactors are projected to lack storage capacity in 1993, and two by the end of this decade, even assuming at-reactor storage is maximized beyond present conditions. Other States have even worse problems in this respect, putting even greater pressure on the AFR facility at Morris. Without resorting to away-from-reactor storage beyond a utility's service area and with no change in present storage capacity, problems are anticipated as soon as mid-decade in our country. Certainly, we must not induce the shut-down of reactors upon

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which so many Illinoisans and other Americans depend for lack of spent fuel storage space, yet without timely operation of a permanent repository the only alternative to that is away-from-reactor storage.

As the need for capacity grows increasingly over the coming years should a permanent disposal facility not be available, the interim storage provisions of this legislation, which I offered in significantly the same form as they appear at this hour, may well be inadequate because of this new Senate provision. That situation would again prompt consideration of granting the Secretary of Energy the authority to "construct, acquire or lease one or more away-from-reactor facilities" which was proposed to Congress in 1980 by former President Carter and which was contained in the bill passed by the Senate in April. It was to eliminate that broad power that so concerns my constituents that I suggested the compromise which remains largely intact.

As I said in a letter dated December 2, to my Illinois colleagues in the House, Mr. Speaker, on the permanent disposal matter "the one-house language represents a compromise approach that carefully balances our desire to build and put into service a permanent repository with the desire of States to have a role in the selection of repository sites." Though we appear to be on the verge of finally surmounting the political obstacles that have for so long impeded attaining a nuclear waste disposal program, for which I have worked over the last several years in the context of my committee assignment, it is unfortunate that the Senate has insisted on putting my citizens in a threatened position by the adoption of this ill-advised two-House veto on permanent disposal repository sites for nuclear wastes. With that substantial reservation, I urge the approval of the bill with the Senate amendments.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. STRATTON) for the purpose of debate only.

Mr. STRATTON. Mr. Speaker, I know what happened to King Canute when he tried to keep the waves and the tide from coming in, and I know, having been here a few years in the House of Representatives, probably nothing is more futile than to try to take on the distinguished Committee on Rules, but I think at least the Members, before we vote on this unfortunate rule, should at least realize what is going on.

In the first place, Members may recall that this morning when we came in, the question was asked of the chairman of the Rules Committee as to whether there were any bills waiting for rules, and the majority leader said he knew of no bills that were waiting for rules.

□ 2200

The bill on which we have the rule now—and it was a rule that was cooked up just about 20 minutes ago without any notice whatsoever to the membership—is a rule that is designed to thwart the procedures which we have been operating under during most of these final days of the lame-duck session, namely, unanimous consent. Somebody found out that the gentleman from New York was going to refuse unanimous consent, so suddenly we get the Rules Committee to come out with a rule.

But let me tell the Members what is even worse about this rule. I find it difficult to see how the gentleman from North Carolina, who fought very violently, and with my support and with the support of the House on two occasions, for a one-House sustained arrangement on the legislation, could now say that there is nothing really in the bill that he does not like, but the Senator from Wisconsin succeeded in putting in the two-House veto arrangement which actually guts the basic purpose of the bill.

This bill does only two things. It is designed to create interim storage, and it is designed to create permanent repositories eventually for nuclear waste. If we are going to have a two-House veto, obviously no State is ever going to accept any repository, either interim or permanent.

Why the Rules Committee should go into a surreptitious session to come out with a rule that violates what the House of Representatives voted on two occasions when we had the bill before us, is hard for me to understand. What we are doing here is a charade because we are not going to get this kind of a repository with this kind of legislation, and I think it is a disgrace that we should allow one Senator to do this.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. STRATTON) has expired.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I think it is unfortunate that one Senator should be able to hold up the whole House on this operation. If we have a two-House sustaining requirement or override requirement, along with the President, we have seen in the last few days what one Senator can do in tying up the Congress, and if we have two Senators from each State, they will be able to tie it up even more, so we will not really have what this is intended or designed to do.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I appreciate everything the gentleman is saying, and we did fight together here.

Mr. STRATTON. But the gentleman gave up too easily, and that is exactly what happens when we do not have anybody who is willing to stand up for nuclear power.

Mr. BROYHILL. Mr. Speaker, the gentleman knows that——

Mr. STRATTON. The gentleman from Illinois says that this is all right and it is going to work out, but he knows the sustaining arrangement will not work.

Mr. CORCORAN. Mr. Speaker, will the gentleman yield to me?

Mr. BROYHILL. Mr. Speaker, will the gentleman yield to me to point this out?

Mr. CORCORAN. Mr. Speaker, could we have 1 additional minute?

Mr. Speaker, I appreciate what the gentleman said.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. STRATTON) has expired.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentleman from New York (Mr. STRATTON).

Mr. CORCORAN. Mr. Speaker, will the gentleman yield to me?

Mr. STRATTON. I will be glad to yield to the gentleman from New York. I think we ought to tell the story as it is, and I think the gentleman wants to do that.

Mr. CORCORAN. Mr. Speaker, I certainly do want to tell the story as it is, and I appreciate what the gentleman says about the unfortunate circumstance where the Senator from Wisconsin has had this impact.

What would be even worse would be if one Member from this body would have the occasion to hold up the passage of this monumental legislation. I do not like what is in here, but I certainly understand that we have to move forward on nuclear waste management.

Mr. STRATTON. Mr. Speaker, let me reclaim my time. It is not going to be monumental legislation with a two-House override.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY) for yielding me this time.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield to me for just about 20 seconds?

Mr. MONTGOMERY. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I want to point out to the Members that when we agreed to this, we did agree

to it on the proviso that we have what is called expedited procedures, and I have this in my hand—and Members have seen this so often—and it says that these matters move expeditiously, the motions are highly privileged, they are not debatable, they are not subject to amendment, and they are not subject to motions to postpone, or motions to proceed to consideration of other business.

In other words, there is written into this procedure the ways these matters are considered, so what the gentleman is concerned about is groundless and there will not be endless delay.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from North Carolina (Mr. BROYHILL) for that explanation, but I really do not like that provision. I like the two-House veto to be strong as possible to give States a fighting chance.

I would like to give the Governors more protection, and I think when it does come up to a two-House veto, there is going to be a tendency to gang up on that one State. The Governor needs all the protection he can get, so the two-House veto will help.

Mr. Speaker, I rise in support of the rule. I do have some reservations, and I would like to ask the gentleman from North Carolina this question, In regard to the two-House veto containing the same procedures in the commercial nuclear waste disposal, does that apply to the military also?

Mr. BROYHILL. Mr. Speaker, if the gentleman will yield, that amendment was put into this bill by the gentleman in the well, the gentleman from Mississippi (Mr. MONTGOMERY), and the same procedures would apply in the case of a military repository as in a civilian repository.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from North Carolina (Mr. BROYHILL).

I say to my colleagues that the bottom line is that we need a nuclear waste bill. We might disagree with some of the provisions, but I hope that we will support this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY) for yielding this time to me.

Mr. Speaker, during these unusual negotiations that have been going on in the last few days—it really has been for the last few months—there have been what I consider significant changes made in the permanent site selection process of how the Secretary goes through this process, and if I might I would like to engage the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL), in a brief colloquy so that perhaps we could clarify the intentions of both the House and the Senate as to how this process would work.

Mr. Speaker, I would like to clarify what is intended to be the intent of both the Senate and the House amendments to the nuclear waste bill. Is it the gentleman's understanding that the Secretary might proceed as far as site selection is concerned to fulfill the various responsibilities imposed by this act simultaneously? That is, may the Secretary develop the guidelines, nominate the candidate site, and prepare the environmental assessments required by section 112 as the information becomes available?

Is there intent to impose an order on the execution of these duties?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, there is no intent to impose an order on the execution of these duties.

Mr. HUCKABY. Mr. Speaker, I thank the gentleman.

Further, is it the gentleman's understanding that if the Secretary has accomplished all the requirements that are outlined in this section 112, he might proceed to nominate the five sites and then narrow the five sites to three sites, as required, as soon as the information is available, and that this may occur prior to the January 1, 1985, deadline established in the bill, even as early as January 1, 1984?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the chairman of the committee.

Mr. UDALL. Mr. Speaker, as long as the Secretary has fulfilled the responsibilities established in this act, the Secretary is only required to have the three sites selected by no later than January 1, 1985.

Mr. HUCKABY. Mr. Speaker, I thank the gentleman.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. UDALL) for purposes of debate only.

Mr. UDALL. Mr. Speaker, this country has been generating nuclear waste since the dawn of the nuclear age, about 44 years ago. Tomorrow more nuclear waste will be generated both in our electric utility companies and in the military uses of nuclear.

We have yet to dispose or set up a system which will lead to the disposal of a single pound of this great volume of nuclear waste, and for the first time in the years I have been associated with this issue, we are near the point where we might get something done on this matter. As was pointed out by the gentleman from North Carolina (Mr. BROYHILL), just 2 years ago about this same time the House had passed a bill and the Senate had passed a bill and we were on the verge of accomplishing something, but we were unable to get it over that last 2 or 3 yards to the goal line.

□ 2210

Here we are tonight with a chance to break this impasse.

I have heard since I have been involved in all of this that we do not have a technical problem, we know how to dispose of nuclear wastes. We have a political problem and I guess there is something to be said for that.

But the political will, the political innovation, the political ability of all of us to resolve these problems has never been more fully tested than in this legislation.

It was referred in due course to seven different committees with legislative jurisdiction. We had all kinds of formal and informal conferences. We just finished today a series of conferences that I doubted would come to fruition, but they finally did.

So I think we have a bill here that does not have a lot of things I want in it. It has a lot of things in it I object to. But this is a bill that industry can live with, a bill the environmentalists can live with. This is a bill that the people for nuclear power or against nuclear power can live with. Because if you dumped all of the nuclear wastes out in the ocean tomorrow morning and dumped all of the rods from all the nuclear power facilities the next day you would still have on your hands a 40-year accumulation of junk.

You talk about toxic wastes; this is the most toxic of all.

We have a schedule set up here so this country will have in the early 1990's a licensed, safe nuclear repository.

I would urge my colleagues to support this legislation and get this job done this year. My friend and colleague from Massachusetts, Mr. MARKEY, will be telling you in a few minutes that this bill that has come back from the other body sets up a whole new agency of Government. What we are doing with nuclear waste management is to put it in charge of somebody and that somebody is the Department of Energy. So in the bill we say within the Department of Energy there shall be a waste management section.

So this is no new department. It is not a new agency. It will take some doing. It has some responsibilities. But it is a part of a sound approach to this overall problem.

So I strongly urge my colleagues to support this legislation tonight and finish the job. We are so close now that it would be a shame to put it off yet another year, yet another Congress.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 10 minutes to the gentleman from Massachusetts, (Mr. MARKEY) for purposes of debate only.

Mr. MARKEY. I thank the gentleman for yielding.

I am kind of embarrassed at the way in which this bill has come to the floor this evening. We have worked on this bill for 5 years now. It is a bill which has great significance. It will dispose for the next 20,000 years of all of the nuclear wastes generated in our society.

Seven committees in the House have worked on this bill long, hard hours, thousands of hours, thousands of hours put in by dozens of Members to put together the best possible piece of legislation to deal with this, the single most important environmental issue that we will vote upon in this Congress.

We passed this bill out of this body 18 days ago. In 18 days we had no conference committee with the other body, no conference committee, none.

The problem is that what we are dealing with is a bill which has basically been constructed in the past day by the U.S. Senate. This is where I get into some problems.

I have a book here entitled "How Our Laws Are Made." Let me read one passage that we try to teach our eighth graders:

> Unlike some other parliamentary body, both the Senate and the House of Representatives have equal, equal legislative functions and powers, and the designation of one as the upper house and the other as the lower house is not appropriate.

Well, this afternoon, with 15 minutes of debate, evenly divided, the other body passed 16 amendments, 12 colloquys, none of them printed, and sent them over to the House.

We at that point, at 4 o'clock this afternoon, were told by the other body, "If you reject any, any of these amendments, the bill is dead."

Now, in an expeditious fashion, all of the relevant Energy Committee members have tried as best they could to decipher what has been put into all of these amendments, what all of these colloguys mean.

I can assure my colleagues that as good as our staffs are it is well nigh impossible to decipher what 18 amendments, of a very complicated nature, have as implication for the waste policies of this country in 3 hours.

Now, at 8 o'clock I go before the Rules Committee, because we had to have a rule to get this bill out on the floor. I asked the Rules Committee for one amendment, one amendment, please, Rules Committee. Let me bring one amendment on one portion of all of the amendments that the other body has given to us on a take it or leave it basis.

Do you know what our Rules Committee said? The Rules Committee said, "We cannot do that to the other body. They have just given us 18 amendments. If we send them back one amendment they will kill the bill. They will kill the bill."

That is the position that the House, the equal Chamber, not the lower Chamber, but the equal branch of the Congress has said.

We have a rule here for 1 hour of debate. When this debate is ended the vote will be up or down. There are no other votes after that.

If we pass this rule the House of Representatives has signed off on the nuclear waste bill.

My argument is this: that at a minimum, to have some self-respect as an institution, so that our procedural processes are not trampled upon by the U.S. Senate, we ought to thave the courage, the courage to reject this bill, to set up a confernece committee to meet for the next 3 or 4 hours, and to perhaps have then again meet for 15 minutes on the Senate floor and maybe to pass through a measure which pays some respect to the concerns of the House, gives us some opportunity to examine the amendments which they have sent over to us.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I would like to finish my statement.

Mr. STRATTON. I just want to agree with the gentleman, remarkably.

Mr. MARKEY. I thank the gentleman.

This is an historic moment.

The amendment that I asked for was a modest amendment. What we are going to set up in this bill is a new Federal Transportaiton Agency for Nuclear Wastes, we are just going to hire a couple of hundred people to transport these nuclear wastes from the nuclear reactors to the repositories all around the country.

Let me ask my colleagues this: Do you think once we set up this Federal agency that we are going to abolish it in 3 or 4 or 5 years?

The minimum we are going to do is double and triple the personnel, since every utility in the country will be trying to get on the gravy train of trying to have the Federal Government transport this stuff off their property.

What do we do in the process? We just kind of run roughshod over the Federal Authorities Claims Act, and the Price-Anderson Act, and over any sense of understanding of the ways in which the Federal bureaucracy functions, and we are going to create a brand new system that takes the burden off the private utilities to deal with this problem.

In addition to all of the rest of the things that are wrong with this bill that we have discussed in the past, we still do not deal with military wastes, 90 percent of the problem. We still do not deal with the problems of transporting these wastes from the repositories at the away-from-reactor facility to a monitorable, retrievable storage facility, and finally perhaps in another couple of hundred years to the permanent repository, because that is how long it will take to build this new repository, the permanent repository, once we pass this piece of legislation.

We are going to have nuclear wastes transported up and down every major highway of this country for the next couple of decades as these utilities try to get this problem off their hands. That is what we are talking about here.

What we are talking about is a bad bill, but a bad bill made worse by a process, a process which has violated the fundamental equality of the House in insuring that their prerogatives, their interests are protected, as are those of the other body.

So they have played a game with us and here is what they have said: "Here are all of our changes. Here is everything we want. Here is our wish list. We give it to you at the last minute. We ask you to accept it or reject it on a take it or leave it basis."

□ 2220

I recommended to this House that we leave it, that we leave it, that we not accept their gun-at-our-head proposal that says to us, "You and we will not sit down again if you reject one of our amendments."

I ask to have in order one amendment to deal with that new Federal bureaucracy. I ask that at a minimum you reject this rule so we can sit down in a real conference with the Senate. It has not yet occurred. From day 1 we have yet to have a conference with the Senate on this most important of all nuclear waste bills. Any activity which has taken place has transpired behind closed doors in a clandestine atmosphere that has given preeminence to the interest of the Senate staffers. There is not a Senator who could tell us what is in this bill. Fifteen minutes of debate for 18 amendments. They do not know what is in this bill. Eight or ten Senate staffers have drafted a nuclear waste bill that they have handed us on a take-it or leave-it basis. That is where we are today. That is the moment we have in this House of Representatives. Do we have the courage to reject a bill which has no business being on our floor because it totally violates the processes that this House has to expect in order to formulate good solid strong legislation?

A major problem. Monitored retrievable storage facilities. What does that mean. Let me tell my colleagues. There are many people in this country and in this body who do not want to see constructed a permanent waste repository in this country. What this bill does is it begins a process that will allow for the construction of a huge above-ground mausoleum that will have the capacity of dealing with all of the surplus spent fuel in our country for the next 200 years. That will alleviate the pressures put upon Utah,

Nevada, upon Mississippi, Louisiana, upon Washington State, upon every State in this Union that feels as though it might be victimized by the placing of the permanent repository in their State.

As we pass this bill, what we are doing through the away from reactor storage facilities, through the monitored retrievable facilities is we are guaranteeing that we will never see the day in which a permanent repository is built.

In addition, by not including military wastes in this bill, what we are guaranteeing is that this Congress and no subsequent Congress for at least a decade will ever return to the question as to whether or not the 90 percent of the nuclear wastes in this country which is indistinguishable in the minds of the average citizens in this country that have been demanding a comprehensive nuclear waste bill will never be dealt with, because the pressure for this bill comes from the utilities. They have been handcuffed by the referenda which are passed across this country saying no new nuclear powerplants can be constructed until a nuclear waste bill is found.

But in the minds of the American public, military and civilian waste is indistinguishable.

I would ask for a "no" vote on this rule.

Mr. LATTA. Mr. Speaker, I yield myself 30 seconds.

Let me say that the gentleman went to great length to point out that he wanted the Rules Committee to give him the authority to offer one amendment. We had testimony by the gentleman from Arizona (Mr. UDALL), who referred to the gentleman from Michigan (Mr. DINGELL), the gentleman from North Carolina (Mr. BROYHILL), and the gentleman from Florida (Mr. FUQUA), noting that they were unanimously agreed that the amendment if adopted would kill the bill. We did not want to see the bill killed. So we granted this type of rule.

Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I rise in support of the rule on the waste bill. The bill will finally resolve the log jam blocking the siting, construction, and operation of a waste repository for civilian nuclear waste in this country. It is essential to and will facilitate the basic objective and important national purpose of the Atomic Energy Act to develop the energy technology in this country to foster nuclear energy as a safe, clean, and environmentally desirable alternative for meeting our electrical needs.

I note that the waste repositories authorized by this bill will be subject to pervasive and comprehensive Federal regulation by the Nuclear Regulatory Commission and by the Environmental Protection Agency.

I believe that an exchange of letters with the Department of Energy, which I will include in another section of the RECORD, gives valuable guidance and direction to the action on how to carry out that regulation in a reasonable and nonarbitrary fashion under the Atomic Energy Act, and this legislation in order to assure that the public health and safety and the environment are responsibly protected.

Mr. Speaker, in the interest of time I also have an attachment with additional remarks:

[Attachment]

REMARKS BY THE HONORABLE MANUAL LUJAN ON HIGH LEVEL WASTE BILL

Mr. Speaker, I am pleased to support adoption of the pending legislation. I wish to comment briefly on section 121 of the bill, the section providing for EPA standards and NRC regulations pertaining to nuclear waste repositories. We clearly intend thorough and adequate federal regulations of repositories to protect the public health and safety and the environment under this section. However, some further comment on how this should be accomplished is in order.

Mr. Speaker, there is no such thing as a zero-risk technology. This is especially true in the case of atomic energy technology, because radiation, which is toxic at high dosages, is usually assumed for regulatory purposes to be proportionately toxic even at minute dosages, despite a lack of affirmative evidence to establish that fact. Given the usual employment of this conservative "linear non-threshold" assumption, the only means to guarantee zero-risk is to eliminate all radiation exposures, no matter how small. This exercise would be incredibly expensive not only in terms of the direct cost of accomplishment but also in terms of foregone benefits from allowing wider use of atomic energy technology on less restrictive terms.

Since zero-risk is simply not feasible, standards and the regulations must be set through some kind of comparitive analysis and balancing. Unless this is done, the regulatory requirements will be totally arbitrary. The three most useful tools for achieving supportable and non-arbitrary requirements are comparative risk analysis, balancing of costs and benefits, and cost-effectiveness analysis.

Comparative risk analysis basically entails placing risk in perspective. This has three dimensions. First, the risks should be compared to the risks which we commonly and ordinarily incur. For example, it makes no sense to concern ourselves with risks so remote that they will occur, if at all, only as frequently as the risk of being struck by lightning or of encountering other natural catastrophes. Many experts believe that risks in the neighborhood of 1 in 100,000 or even greater are essentially *de minimis*. Second, the risks should be compared to the risks which we incur from laternative technologies. Obviously it makes no sense to regulate one technology so stringently that people are forced to rely on an alternative but more risky technology. Any such action would be counterproductive and would increase rather than decrease overall societal risk. Third, in the case of radiation, which is always present in our environment, the risk should be evaluated against the risks attributable to other sources of exposure, including natural background. It serves no purpose to further minimize a source of exposure if that source is a relatively minor increment against background or other sources. In short, regulatory agencies must employ comparative risk analysis in setting their standards and requirements in order to fashion supportable, non-arbitrary and meaningful regulations.

Balancing of costs and benefits has varying degrees of refinement, ranging from full-scale cost-benefit analysis and optimization to efforts to assure that the costs imposed by regulations bear a reasonable relationship to the benefits derived. Some form of balancing is clearly in order to prevent the imposition of requirements whose costs are so great in comparison to their expected benefits that they are totally arbitrary. For example, it makes no sense to require an expenditure of $10,000,000 to address a remote risk of, say 1 in 100,000 per person. If we spent this amount on such remote risks, we would quickly run out of money and have nothing to show for it. Indeed, we would be worse off because of the lower standard of living caused by the unsupported diversion of funds. In sum, regulatory agencies must engage in some balancing in setting their requirements lest society wind up the loser. Ideally, the balancing in question should take the form of a rigorous cost-benefit approach. However, in some instances this may not be possible and, in such cases, a less stringent analysis designed to assure a reasonable relationship is appropriate.

Cost-effectiveness analysis is generally employed once basic regulatory goals have been set. Basically it is used to determine the least expensive means to attain a goal—a goal which should have been set on the basis of comparative risk and balancing of costs. Choosing the least expensive path to a particular goal makes obvious sense because it guards against a clear and needless waste of society's efforts and resources. I know of a no valid argument in opposition to general use of the cost-effectiveness approach.

It is worth emphasizing that balancing of costs and benefits and cost-effectiveness analysis should be distinguished from cost-feasibility analysis. A cost-feasibility analysis, in essence asks only whether money is available to pay for a requirement without bankrupting the government or an industry. Although clearly an agency bears a heavy and almost always insurmountable burden in justifying economically infeasible requirements, a determination of cost feasibility is no substitute for, and no excuse for failure to engage in, a proper analysis of costs and benefits and a proper determination of the least cost approach to attain a particular goal.

Mr. Speaker, comparative risk analysis, balancing, and cost-effectiveness analysis should all be used in the context of formulating regulations for the nuclear waste repositories authorized under this bill, just as they should be for other Atomic Energy Act activities. Failure to employ these three tools will result in imposition of arbitrary regulations to the detriment of taxpayers. Utility ratepayers and the health and safety of the public. In sum, EPA and NRC should employ these approaches in discharging their duties under this legislation and under the Atomic Energy Act. Such is my intent in sponsoring and in voting for this bill.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 15, 1982.
Hon. HERMAN E. ROSER,
Assistant Secretary for Defense Programs (DP-1), U.S. Department of Energy, Washington, D.C.

Dear MR. ROSER: As you know, final action by Congress on the nuclear waste bill is expected in the next few days. The bill provides a framework for siting, constructing and operating nuclear waste, repositories. As part of that framework, the bill porvides for issuance of standards by the Environmental Protection Agency and more detailed requirements by the Nuclear Regulatory Commission. I would appreciate your personal views concerning the factors the agencies ought to consider or the approaches which they ought to employ in discharging their obligations in this regard.

Sincerely,

MANUEL LUJAN, Jr.

DEPARTMENT OF ENERGY,
Washington, D.C., December 16, 1982.
Hon. MANUEL LUJAN, Jr.,
House of Representatives, Washington, D.C.

DEAR MR. LUJAN: Thank you for your letter of December 15, 1982, requesting my views concerning the factors which should be considered and the approaches which should be employed in devising standards and requirements for nuclear waste repositories.

As you know, the Department of Energy (DOE), the Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA) all operate under the basic guidance of the Atomic Energy Act that atomic energy activities should be so conducted and so regulated to protect the public health and safety. We are operating our facilities safely and effectively under this authority. Future high-level waste repositories are subject to regulation as provided by law. Regulatory requirements should be directed to the basic goal: protection of public health and safety. We firmly believe that nuclear waste facilities, can be sited, constructed, and operated in a fashion which is safe, efficient, and fully protects the public health and safety and the environment from all significant hazards, whether radiological or non-radiological.

It is useful, however, to briefly clarify the basic approaches which should be employed in arriving at standards and requirements. First, we believe that regulatory goals should be set through appropriate use of comparative risk analysis. As we stated to the General Accounting Office (GAO) with respect to the development of radiation standards for decommissioning activities. Federal standards and requirements should be "realistic and balanced with consideration of risks and costs accepted by society for non-nuclear activities." The GAO agreed with that assessment (GAO). Cleaning Up Nuclear Facilities—An Aggressive and Unified Federal Program Is Needed 65-66, 1982). We also believe that the risks associated with radiation from atomic energy activities should be evaluated against the risks associated with exposure to natural background radiation. It makes no sense to impose costly controls to minimize an incremental exposure which is trivial in comparison to natural background.

Second, we feel that EPA and NRC regulations should be cost justified. If the risk is slight, so should be the cost of complying with regulations addressing it. This is supported by the federal chartered National Council on Radiation Protection and Measurment (NCRP) which declared, in its Report No. 43, that:

". . . numerical estimates of radiation-related risks, even when realistic, are of little use in a vacuum, i.e., without comparable numerical estimates of associate benefits, and of risks and benefits for alternative means to achieve the desired end."

Finally, we believe that the agencies should select the most cost-effective, alternative to attain particular goals in order to avoid unnecessary expenditure of taxpayers' money.

We also believe that regulatory risk assessments should be based on the best available scientific information and should be realistic. We take notice of NCRP's admonition in Report No. 43 in which NCRP stated that it:

". . . wished to caution governmental policy-making agencies of the unreasonableness of interpreting or assuming "upper limit" estimates of carcinogenic risks at low radiation levels, by linear extrapolation from data obtained at high doses and dose rates, as actual risks, and of basing unduly restrictive policies on such an interpretation or assumption. The NCRP has always endeavored to insure public awareness of the hazards of ionizing radiation, but it has been equally determined to insure that such hazards are not greatly overestimated. Undue concern, as well as carelessness with regard to radiation hazards, is considered detrimental to the public interest."

Again, we appreciate this opportunity to express our views.

Sincerely,

HERMAN E. ROSER,
Assistant Secretary for Defense Programs.

I would like to, however, point to a couple of statements that have been made this evening. I think they are probably exaggerations. And that is being very mild about it.

First of all, it is said on this floor that we accepted all of what the Senate sent to us without any question.

Let me point out to this House that 95 percent of what is in this bill was drafted by the House of Representatives.

It is also said that in the case of the transportation that we will have to form a new Federal agency. Nothing could be further from the truth.

The section of the bill that gives rise to this type of talk is a section that says instead of, as was in the original bill, the Federal Government accepting the responsibility, accepting title to nuclear waste at the repository site, we should accept it at the reactor site.

Now, that conjures up all kinds of ideas that because we are going to accept title to the waste at the reactor site, that we must form a Federal agency. That is how some people think we can or we should.

However, it would be no different, the same people that would transport it for the private utilities, if they owned it, would be the same people that could transport it for the Federal Government. We do all kinds of jobs on a contract basis.

As a matter of fact, it would be a lot better to take title to it at the reactor site because at least we have someone to take a look at it. Instead of having—we have 70 reactors—having 70 trucking companies all over the country delivering waste from one place to the other.

Third, we talk we are going to build a monitored retrievable storage system.

Nothing could be further from the truth. The bill calls for a 2½ year study on whether that is a good technology or whether it is not.

If at the end of those 2½ years, or however long it takes, it is recommended that we use monitored retrievable storage, then and only then will the Congress have the opportunity to authorize such a storage facility if the Congress sees fit to do so.

And so, Mr. Speaker, I ask my colleagues to support this legislation.

Mr. CORCORAN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Illinois.

Mr. CORCORAN. I thank the gentleman for yielding.

The previous speaker, at least one of the previous speakers, our good friend from Massachusetts (Mr. MARKEY) has indicated that the House has caved in on all of the major issues.

Well, as the speaker knows and our friend from New Mexico knows, there are two major issues. One is the interim storage program, and two, probably more important, is the permanent repository. In fact what has happened in the negotiations between the House of Representatives and the other body is that the other body has caved in on the question of interim storage, because the other body wanted to have a permanent authority for the Federal Government in the person of the Department of Energy to purchase, acquire or lease an interim privately owned away-from-reactor storage program.

What this legislation does is prohibit that, Mr. Speaker.

I urge its passage.

The SPEAKER pro tempore. The time of the gentleman from New Mexico (Mr. LUJAN) has expired.

Mr. LATTA. I yield 1 additional minute to the gentleman from New Mexico.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Texas.

Mr. HANCE. Mr. Speaker, it is my understanding the other body passed in their language that the waste would be transferred to the Federal Government, the ownership would be transferred at the time it left the facility.

Mr. LUJAN. That is correct.

Mr. HANCE. And then you would have the limited liability under the Federal tort law?

Mr. LUJAN. That is correct. The important question in this was who was going to pay for it. That is what we were considering at the time. It was decided, regardless of who kept the title to it, that out of the waste fund we were going to charge 1 cent per kilowatt-hour, that out of that fund would be paid.

□ 2230

Now, the whole question was who should retain title to it. I feel perhaps it would be better if the Federal Government returns title to it at the reactor site because then at least you have some structured system in which to move the waste.

Mr. HANCE. But in effect, the utilities were able to absolve themselves of any liability whatsoever by taking the language of the other body.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD. Mr. Speaker, I rise in support of this legislation.

We have been struggling over a nuclear waste bill for many Congresses. The time has come when we must act. It is clear that comprehensive nuclear waste disposal must provide not only for long-term problems of permanent disposal of nuclear waste, but it must also alleviate the short-term problem of lack of interim storage capacity for spent nuclear fuel.

A June report in 1982, prepared by the Nuclear Regulatory Commission, told us that as many as 39 nuclear powerplants in 19 States would run out of on-site storage by 1990.

We cannot afford to wait any longer. There are provisions in this bill that every Member of this Congress could find fault with, but we must compromise with the Senate and with our other fellow Members of Congress if we are going to come to a conclusion. No one ever gets his total way.

We have a good bill, one that will adopt a permanent policy for this country and one which I think will work.

I ask for an "aye" vote.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. If I could have the attention of the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan, Mr. DINGELL, I know that he has been very involved in the development of this legislation.

It is my understanding that H.R. 3809 precludes Federal use or acquisition of any of the three privately owned facilities that are capable of storing high level spent nuclear fuel. As the gentleman knows, these facilities are located in Morris, Ill., Barnwell, S.C., and West Valley, N.Y. It is further my understanding that any last resort Federal interim storage of spent fuel that occurs as a result of this legislation will be at facilities owned today by the Federal Government. I just want to confirm that this is also the understanding of the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield.

Mr. DINGELL. Mr. Speaker, the gentleman is correct. In addition, any Federal storage that does occur can only be as a last resort when a utility cannot increase on-site storage by reracking, dry storage or construction of new on-site storage facilities, and when the potential for transshipment is also exhausted.

Mr. UDALL. Mr. Speaker, would the gentleman yield to me?

Mr. MADIGAN. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. I too would like to give my assurances to the gentleman. After many years of work on nuclear waste legislation, we have been able to achieve a consensus bill that includes carefully drawn limited away-from-reactor storage provisions. These provisions preclude Federal acquisition or use of private facilities in Morris, Barnwell, and West Valley for the limited away-from-reactor storage program authorized by the bill.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I am happy to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, the gentleman certainly has my assurances. We have worked on this for some time and we have drawn a very limited away-from-reactor storage program. It does not contain any authorization for the use of private storage facilities, such as Morris, Barnwell, or West Valley.

Mr. MADIGAN. I thank the gentleman. As you well know, the compromise that has been reached on away-from-reactor storage is delicate, and I appreciate the work that the gentleman from Michigan, the gentleman from Arizona, and the gentleman from North Carolina have done to protect the communities surrounding Morris, Barnwell, and West Valley.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MORRISON).

Mr. MORRISON. Mr. Speaker, I thank the gentleman for yielding.

I would like to commend my colleagues who worked so diligently on this legislation.

The nuclear waste issue is indeed controversial and it is a credit to this Congress that we were able to finally pass this legislation subject to the rule now under discussion.

As a representative of what could possibly be the Nation's first permanent repository site, I am satsified with both the environmental safeguards contained in the bill, as well as the economic compensation provided to the State and local governments.

Mr. Speaker, there has been criticism of the procedures bringing this bill before us this evening. This gentleman must indicate that there has been more open communication, more give and take between Senate Members, the staff, House committee chairmen, and ranking Members on this nuclear waste package, than on any conference committee I have observed.

Again, I commend my colleagues on their efforts and urge passage of this rule and this vital legislation.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. FOLEY).

(By unanimous consent, Mr. FOLEY was allowed to proceed out of order.)

ADJOURNMENT SINE DIE OF THE HOUSE AND SENATE

Mr. FOLEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 438) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 438

Resolved by the House of Representatives (the Senate concurring), that the House of Representatives shall adjourn Monday, December 20, 1982, or on Tuesday, December 21, 1982, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, and that when it adjourns on said day, it stand adjourned sine die; and be it further

Resolved, That the consent of the House of Representatives is hereby given to an adjournment sine die of the Senate at any time prior to January 3, 1983, when the Senate shall so determine; and that pending such sine die adjournment, the Senate may adjourn or recess for such period or periods in excess of 3 days as it may determine.

Mr. FOLEY. Mr. Speaker, just in order that the Members not believe that this adjournment resolution indicates any imminent action on the part of the leadership to move adjournment sine die, it is done for the purpose of referring it to the other body.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Speaker, to accommodate a request for colloquies and because of the uniqueness of the parliamentary situation we find ourselves in, I ask unanimous consent for 10 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Speaker, I rise in support of this rule and in support of the legislation encompassed in this bill.

I would like to ask the gentleman from Arizona to clarify that the Senate amendments which modify section 114 with regard to a repository site pursuant to the Environmental Policy Act include all sites that are suitable for development, based upon all reasonable information obtained by the Secretary.

Is it the understanding of the gentleman from Arizona that the site will be considered through this point in the site selection process?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, the answer to his question is "yes." The Secretary must consider alternative sites that meet both criteria. The Secretary must have completed characterization of the site and he must make a preliminary finding under guidelines in section 112 after having completed those activities that the site is suitable for subsequent development as a repository.

□ 2240

Mr. LUNDINE. I thank the gentleman, and I yield back the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. KAZEN. Mr. Speaker, will the gentleman from Massachusetts yield for a question?

Mr. MOAKLEY. I would be glad to yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, is it my understanding that under the rule there will not be a vote on the conference report itself but, rather, on the rule, and that upon adoption of the rule the conference report will have been deemed to have been adopted?

Mr. MOAKLEY. The gentleman is correct. There is no other vote. It will be just a vote on the rule.

Mr. KAZEN. I thank the gentleman.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. SWIFT).

Mr. SWIFT. I thank the gentleman for yielding.

Mr. Speaker, I would like to engage the gentleman from Arizona (Mr. UDALL) in a colloquy.

The Senate amendments also lengthen the schedule for site selection by extending the time for nominating the first five sites by January 1, 1985, and nominating a second set of five sites for a second repository not later than July 1, 1989. These changes obviously crowd other decision points in the site selection and licensing schedule especially the requirement that NRC act upon the repository license applications by a date certain—January 1, 1989, for the first repository and January 1, 1992, for the second. In light of this new schedule for NRC review, can I be assured that this schedule will remain consistent with the NRC's predominant goal for protecting the public health and safety.

Mr. UDALL. The gentleman's concerns are well founded. By setting dates in this bill for DOE and NRC decisions we are setting statutory goals for the repository activities authorized in this legislation. Nothing in this bill, including the establishment of decision dates, is inconsistent with the statutory responsibilities of the Nuclear Regulatory Commission to protect the public health and safety and the environment.

Mr. SWIFT. I thank the gentleman for his assurance.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in order to enter into a brief colloquy with the distinguished chairman of the Committee on Energy and Commerce. I have several concerns with reference to this bill, but first I want to ask the question relative to the operation of section 112.

As I understand it, the bill requires public hearings in the vicinity of any site of a proposed nomination. Am I correct that the bill requires just one set of hearings at each of the nominated sites?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Michigan.

Mr. DINGELL. That is correct. Although further hearings are required for the three sites which are recommended for characterization, there would be no further hearings required at the two sites which are not recommended. These further hearings would be held only after the three sites are recommended.

Mr. TAUZIN. I thank the gentleman for that clarification, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, how much time does this side have remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts has 10 minutes remaining, and the gentleman from Ohio has 5½ minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I rise to comment on an interpretation that concerns section 302(a)(3), which requires the Secretary to establish a one-time fee which will cover the costs of previously generated spent fuel and high-level radioactive waste. I am concerned that this may lead to an ambiguity as to the date of collection of the fees. The House passed bill assumed that payment of these fees would be phased in over the coming years. There was a similar intent in the Senate bill. It is our intention that the current section 302(a)(3) also require a similar phasein of payments. The Secretary should take special care in the collection of such fees, using a phasein schedule, to take into account the financial health of the utilities and the impact upon rate payers. The Secretary could, however, begin collection of these fees prior to delivery of the spent fuel.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan, (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, what has happened here is very simple. The Senate passed the bill. The House did not like it. The House did not take it.

The House, with seven committees working together, Rules, Energy and Commerce, the Committee on Interior and Insular Affairs, the Committee on Merchant Marine and Fisheries, and a number of other committees here passed a bill which was bipartisan in character. It had so little controversy attached to it that it passed this body by a voice vote.

The leadership on this side said we would not take the Senate bill. We found it unacceptable and we found that it was impossible to have a conference which would bring us a bill as good as that which we have. The House leaders on this side refused to accept the Senate language.

Then the Senate sent out some further proposals. We refused those proposals. We insisted they be changed, and they were changed.

This bill before us now, with minor changes in language, is the House-passed bill. It is a good bill and its adoption, and the adoption of the rule which the able members of the Committee on Rules have put together, is the only way we will get a nuclear waste bill during this session of the Congress.

Now, what are the changes? The significant changes in the earlier House-passed bill are as follows:

A two-House override is required to override a State veto. That is a tougher bill insofar as overriding the veto than was passed by the House earlier. So if you were opposed to nuclear waste storage or you are concerned about State prerogatives, this is a better bill in that particular.

The restrictions on the duration of interim spent fuel storage at Federal facilities are stricter.

The compromise with regard to monitored retrievable storage program endorsed by all contains only a 2½-

year study and there will be no construction unless subsequently authorized by the Congress. The monitored retrievable storage facility is subject to all environmental reviews and NRC licensing.

The repository selection schedule has been pushed back to January 1 in the first round in 1985 and 1989 in the second round, as opposed to July 1, 1984, and 1987 in the House bill. More time is given.

The last change of any significance here is that the Federal Government will manage transportation of spent fuel and waste from the powerplant gate to the repository and AFR, but that will be financed by private user fees, will rely on private carriers, will remain subject to full licensing by the Federal Government, and control. Title will pass at the powerplant gate in order to assure full tracking, and in order to assure that Federal laws and Federal controls are fully maintained, but Federal, State, and local laws are expressly maintained, as under current law.

This compromise nuclear waste bill is endorsed by the leadership in the House and Senate. It is endorsed by the administration. It is endorsed by the Edison Electric Institute, by the AFL-CIO Building Trades Department. It is a bipartisan bill. It had the support of seven committees in the House and the leadership on both sides support the bill.

I urge my colleagues to understand: The only way we are going to get a nuclear waste storage bill this year is by adoption of this bill. Had we gone to conference, we would have gotten no bill or we would have gotten a worse bill.

I would urge my colleagues to join me in ending this controversy. Let us vote for the bill. Let us pass this bill. Let us adopt the rule and I believe the public interest will be served.

Mrs. BYRON. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentlewoman from Maryland.

Mrs. BYRON. I thank the gentleman for yielding.

Mr. Speaker, I am in favor of the bill, but could the gentleman clarify?

At what type of a timeframe is he talking about for finally having a repository available? What time in this bill is the gentleman talking about finally?

Mr. DINGELL. We think that the repositories will be in operation by about 1998.

Mrs. BYRON. 1998? The year 2000, in other words.

Mr. DINGELL. That is the anticipated date, 1998.

● Mr. ROEMER. Mr. Speaker, I rise to admit that the question of where and how to store nuclear waste in a permanent repository is a difficult one.

This bill as amended by the Senate is certainly an improvement in protection for the citizens of Louisiana. Although the number of candidate sites remains at five, once a site meets preliminary selection but does not become a permanent candidate, then the site is excluded from round two.

In addition, the bill provides for a two-House veto which is clearly superior in protecting the rights of Louisiana than the provisions in the original House bill.

This bill does not guarantee that Louisiana will escape permanent site designation, but it limits our risk. This fact is evident in listening to the debate tonight, wherein the only objections to the bill stem from those Members who feel that we have gone too far in protecting States rights.

I honestly feel that we have not gone far enough, but it is a significant improvement over the original House bill.●

● Mr. SKEEN. Mr. Speaker, I strongly support adoption of the nuclear waste bill. One cannot emphasize enough the importance of getting on with the job of constructing and operating a nuclear waste respository. The public is tired of waiting for resolution of the political hangups preventing fruition of a waste disposal program. This legislation will provide a complete regulatory structure and time schedule for this end. I believe that it is important that we adhere to this regime. Given the provisions for comprehensive Federal regulation of the repository under the Atomic Energy Act and this legislation, and given the ample provision for State participation in the siting of the repository provided in this legislation, there is no question but that the public health and safety and the environment will be fully protected and that all legitimate State interests will be responsibly taken into account in the process provided in this bill. There is no need for additional, duplicative, or conflicting regulation by yet more agencies or at some other level or under yet other statutes. There is no need for further equivocation and hand wringing. In short, the provisions for Federal regulation in this bill fully and adequately occupy the field. Thankfully, the public can honestly be assured of no further unnecessary and frustrating delays. We will have safe and efficient nuclear waste facilities when they are needed.

I am holding an attachment in the interest of time.

STATEMENT OF HON. JOE SKEEN IN SUPPORT OF NUCLEAR WASTE BILL

Mr. Chairman, there is a widespread fear of any exposure to radiation associated with nuclear power activities. This fear has spawned widespread litigation against the Department of Energy and private companies. In these lawsuits, people assert that they have incurred an increased risk of cancer as a result of low levels of exposure. They ask for milions of dollars in damages from taxpayers and private industry. The fear of radiation has also resulted in the imposition of a myriad of legal obstacles to continued development of nuclear power in this country. Indeed, we have had no new reactor orders since 1978. Instead, there have been dozens of reactor concellations. NRC has imposed more and more retrofit requirements, driving up the cost of, and delaying, other reactors. We have been unable to site or prorate a nuclear waste repository. The fear, the litigation, and the legal obstacles are impeding our ability to carry out the basic purpose of the Atomic Energy Act to develop atomic energy technology in this country.

Mr. Chairman, the fear that has precipitated all this does not appear to be supported by the facts. Although high levels of radiation are unquestionably hazardous, the situation is far less clear with respect to exposures to low levels of radiation—exposures at the rate of one to two rem per year or lower. There is no evidence that demonstates that exposures to radiation at these levels is hazardous at all. The hazard is purely hypothetical. Regulartory agencies assume that low levels of radiation are hazardous in proportion to the hazard at high levels. The assumption is solely based on policy; it is certainly not scientifically or logically compelled. The policy reason for the assumption is to be conservative for regulatory purposes. The fact that the assumption is made in no way means that low-level radiation is in fact hazardous.

This linear, non-threshold assumption is not intuitively obvious. Too much oxygen can blind or kill, but at least some oxygen is essential to life. Similarly, too much selenium, or too much of many other trace elements, will result in toxicity, but in smaller amounts these elements are essential to human health.[1] It is relatively common to find that small amounts or otherwise toxic material are biologically stimulatory, a phenomenon known as "hormesis."

Mr. Chairman, there is a considerable body of evidence that, contrary to the conventional wisdom, low levels of radiation may not be harmful and may in fact be beneficial. This is known as radiation hormesis.[2]

Epidemiological studies exposed to elevated levels of natural background radiation fail to detect any adverse health effects and in fact correlate increased exposure to radiation with better health and lower cancer rates.[3] In a recent, letter to the editor of the

[1] See, for example, *Selenium in the Heart of China.* The Lancet 889-90 (Oct. 27, 1979); Keshan Disease Research Group, *Observations of Effect of Sodium Selenite in Preventing Keshan Disease,* Chinese Med. J. 92(7):471 (1979); Keshan Disease Research Group, *Epidemiologic Studies on the Relationship of Sekntinum and Keshan Disease,* Chinese Med. J. 92(7): 477 (1979); Collipp, et al., *Cardiomyopathy and Selenium Deficiency in a Two-Year-Old Girl,* N. Eng. J. Med. 304:1304 (1981). Ironically, EPA has adopted stringent regulations limiting selenium in water to very low levels on the theory that it might be carcinogcnic. Instead, selenium appears to be anti-carcinogenic. Shamberger, *Relationship of Selenium to Cancer. I. Inhibitory Effect of Selenium is Carcinogenesis,* J. Nat'l Cancer Inst. 44:931 (1970). Given the unfortunate permanence of many regulatory standards. EPA may never catch up with science on this issue.

[2] See, for example, Luckey, Hormesis with Ionizing Radiation, (CRC Press 1980); Luckey, *Hormesis,* Nuclear News 48 (Dec. 1981).

[3] See, for example, Hickey, et al., *Low Level Ionizing Radiation and Human Mortality; Multiregional Epidemiological Studies,* Health Physics 40:626-41 (1981); (ARIP). I. Frigerio, et al. The Argonne Radiological Impact Program Carcinogenic Hazard from Low-Level, Low-Rate Radiation (1973).

New England Journal of Medicine, two statisticians from The Wharton School explained that:

"There have been literally hundreds of reports over the past century demonstrating that ecologically realistic low levels of ionizing radiation are usually stimulatory and beneficial to a wide variety of life forms, including human life. . . . Studies on the population of U.S. states showed that mean background-radiation levels and mortality rates for several cancer categories were generally negatively correlated. . . . [T]he prevalence of mortality from cancer was lower, on average, in urban areas with higher background radiation than in areas with low background radiation." [4]

Evidence such as this not only totally undercuts the litigation against the nuclear power industry and refutes the misdirected fear of low-level radiation but also throws into serious doubt the basic assumptions on which regulatory agencies are basing their standards and requirements relating to the nuclear fuel cycle. In the words of The Wharton School statisticians.

"The extensive evidence in support of hormesis casts doubt on dose-response models that represent the health effects of low levels of ionizing radiation in terms of monotonically decreasing functions extrapolated from the observed effects of high levels." [5]

Clearly we would all do well to heed the warning by the National Council on Radiation Protection against over-reaction to the purported hazards of low-level radiation.[6] It may well be that there is absolutely no hazard at all, or that the beneficial effects outweigh the adverse ones. This point is especially important because essentially all the hypothesized adverse health effects from the nuclear fuel cycle, including those from nuclear reactors and high level waste, are based on assumed adverse effects from low levels of exposure.

Under the circumstances, it seems particularly ridiculous to shun nuclear power as a major source of our electrical energy. Indeed, the basis for any such action amounts to nothing more than a kind of Lysendoism,[7] the net effect of which will be to erode our country's scientific and technological leadership and the welfare of our citizens, Nuclear power is a clean, cheap, and for all practical purposes, risk-free source for our electrical needs.

The attack on nuclear power should be recognized for what it is, anti-environmental and fundamentally irrational and anti-scientific. To the extent that the nuclear waste legislation removes one of the obstacles to further use of nuclear energy, I strongly support it. We all should.●

● Mr. LOWERY of California. Mr. Speaker, I rise in support of the nuclear waste bill. It is an important although belated milestone in the continued development of atomic energy in this country. It provides a detailed framework for our national program to site, construct, and operate repositories for civilian nuclear waste. This program will be subject to comprehensive Federal regulation to assure that the public health and safety and the environmment are protected. It is pertinent to say a few words about this regulation. The bill provides for general EPA standards and more detailed NRC regulations and requirements. In either case, the regulations must be adequate to protect the public health and safety as under the Atomic Energy Act. It is also important to emphasize, however, that the regulations must be reasonable and not arbitrary. We do not intend to confer authority on the regulatory agencies to insist on unnecessary requirements the primary function of which is to escalate the user fees for the repositories in question. Standards and requirements should be designed to address only those risks which are significant in comparison to other risks. If the risk is slight, regulations designed to address that risk should impose commensurate costs. Once regulatory objectives are set, the regulations should permit the least expensive means of meeting those objectives. These rules are consistent with the approach long recommended by groups such as ICRP and NCRP. I expect the agencies to adopt these approaches in the regulation of nuclear facilities, including the waste facilities provided under this bill.

I am pleased to see that the legislation before us provides for thorough and complete Federal regulation of nuclear repositories. It is my understanding that this will be accomplished on a reasonable and cost-effective basis and that, consistent with the Atomic Energy Act and cases under it, duplicative or contrary regulatory regimes and requirements will be displaced. I wish to compliment the other supporters of this legislation and the many committees involved for their hard work which has fortunately culminated in this bill.●

Mr. LATTA. Mr. Speaker, I have no further requests for time.

□ 2250

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARKEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 32, not voting 145, as follows:

[Roll No. 486]

YEAS—256

Akaka	Gaydos	Nowak
Albosta	Gejdenson	O'Brien
Anderson	Gephardt	Oakar
Andrews	Gibbons	Oberstar
Applegate	Gilman	Obey
Archer	Gingrich	Pashayan
Ashbrook	Glickman	Patman
Atkinson	Gonzalez	Patterson
AuCoin	Goodling	Pease
Badham	Gore	Pepper
Bailey (MO)	Gramm	Perkins
Bailey (PA)	Green	Pickle
Barnard	Guarini	Porter
Barnes	Gunderson	Pritchard
Bedell	Hagedorn	Quillen
Bennett	Hall (IN)	Rahall
Bereuter	Hall, Ralph	Rangel
Bevill	Hall, Sam	Regula
Bliley	Hamilton	Reuss
Boggs	Hammerschmidt	Rinaldo
Boland	Hansen (ID)	Ritter
Boner	Hatcher	Roberts (KS)
Bonker	Hefner	Rodino
Bowen	Heftel	Roe
Breaux	Hendon	Roemer
Brinkley	Hightower	Rogers
Brodhead	Hiler	Rose
Brooks	Holland	Rostenkowski
Brown (CA)	Howard	Roukema
Brown (CO)	Hoyer	Rousselot
Broyhill	Hubbard	Sabo
Butler	Huckaby	Sawyer
Byron	Hughes	Scheuer
Campbell	Hunter	Schneider
Carney	Hyde	Schulze
Chappie	Ireland	Sensenbrenner
Cheney	Jacobs	Sharp
Clausen	Jeffords	Shaw
Clinger	Johnston	Shelby
Coats	Jones (NC)	Shumway
Coelho	Jones (OK)	Siljander
Coleman	Jones (TN)	Skeen
Conable	Kastenmeier	Skelton
Conte	Kazen	Smith (AL)
Corcoran	Kennelly	Smith (NJ)
Coughlin	Kindness	Snowe
Coyne, James	Kramer	Snyder
Coyne, William	Lagomarsino	Solarz
Craig	Latta	Solomon
Crane, Philip	Leach	Spence
D'Amours	Lent	St Germain
Daniel, Dan	Levitas	Stangeland
Dannemeyer	Lewis	Stenholm
Daub	Loeffler	Studds
Derrick	Long (MD)	Stump
Derwinski	Lujan	Swift
Dicks	Lundine	Synar
Dingell	Lungren	Tauke
Donnelly	Madigan	Tauzin
Dorgan	Martin (IL)	Udall
Dornan	Martin (NC)	Vander Jagt
Dougherty	Martin (NY)	Vento
Dreier	Martinez	Volkmer
Duncan	Matsui	Walgren
Dyson	Mavroules	Walker
Edgar	Mazzoli	Wampler
Edwards (OK)	McCloskey	Watkins
Emerson	McCollum	Weber (MN)
Emery	McCurdy	Weber (OH)
English	McDonald	White
Erdahl	McGrath	Whitley
Evans (IA)	McKinney	Whittaker
Fary	Mica	Williams (MT)
Fenwick	Michel	Winn
Fiedler	Miller (OH)	Wolf
Fields	Mineta	Wolpe
Findley	Moakley	Wortley
Fish	Molinari	Wright
Fithian	Montgomery	Wylie
Florio	Moore	Yatron
Foley	Moorhead	Young (FL)
Ford (MI)	Morrison	Young (MO)
Fountain	Murtha	Zablocki
Fowler	Napier	Zeferetti
Frenzel	Natcher	
Garcia	Neal	

NAYS—32

Beilenson	Downey	Kogovsek
Conyers	Eckart	LaFalce
Daschle	Foglietta	Leland
Davis	Frank	Lowry (WA)
Deckard	Hance	Markey
Dellums	Kildee	Marks

[4] Hickey, et al., Letter to the Editor, N. Eng. J. Med. 307:1450 (1982).

[5] *Id.*

[6] NCRP, Report No. 43, at p. 4 (1975).

[7] Lysenkoism (after a Soviet agronomist who, on behalf of Stalin, propagated a now-repudiated theory of genetics which set Soviet genetics back a decade or more) stands broadly for any scientifically unsupported doctrine imposed on science and technology for political or moralistic reasons.

Mikulski	Ratchford	Seiberling
Mitchell (MD)	Roth	Stokes
Myers	Roybal	Stratton
Paul	Schroeder	Weiss
Price	Schumer	

NOT VOTING—145

Addabbo	Flippo	Mottl
Alexander	Ford (TN)	Murphy
Annunzio	Forsythe	Nelligan
Anthony	Frost	Nelson
Aspin	Fuqua	Nichols
Bafalis	Ginn	Ottinger
Beard	Goldwater	Oxley
Benedict	Gradison	Panetta
Bethune	Gray	Parris
Biaggi	Gregg	Petri
Bingham	Grisham	Peyser
Blanchard	Hall (OH)	Pursell
Bolling	Hansen (UT)	Railsback
Bonior	Harkin	Rhodes
Bouquard	Hartnett	Roberts (SD)
Broomfield	Hawkins	Robinson
Brown (OH)	Heckler	Rosenthal
Burgener	Hertel	Rudd
Burton, John	Hillis	Russo
Burton, Phillip	Hollenbeck	Santini
Carman	Holt	Savage
Chappell	Hopkins	Shamansky
Chisholm	Horton	Shannon
Clay	Hutto	Shuster
Collins (IL)	Jeffries	Simon
Collins (TX)	Jenkins	Smith (IA)
Courter	Kemp	Smith (NE)
Crane, Daniel	Lantos	Smith (OR)
Crockett	Leath	Smith (PA)
Daniel, R. W.	LeBoutillier	Stanton
de la Garza	Lee	Stark
DeNardis	Lehman	Staton
Dickinson	Livingston	Taylor
Dixon	Long (LA)	Thomas
Dowdy	Lott	Traxler
Dunn	Lowery (CA)	Trible
Dwyer	Luken	Washington
Dymally	Marlenee	Waxman
Early	Marriott	Weaver
Edwards (AL)	Mattox	Whitehurst
Edwards (CA)	McClory	Whitten
Erlenborn	McDade	Williams (OH)
Ertel	McEwen	Wilson
Evans (DE)	McHugh	Wirth
Evans (GA)	Miller (CA)	Wyden
Evans (IN)	Minish	Yates
Fascell	Mitchell (NY)	Young (AK)
Fazio	Moffett	
Ferraro	Mollohan	

□ 2300

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The text of the Senate amendment to H.R. 3809 is as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Nuclear Waste Policy Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.
Sec. 3. Separability.
Sec. 4. Territories and possessions.
Sec. 5. Ocean disposal.
Sec. 6. Limitation on spending authority.
Sec. 7. Protection of classified national security information.
Sec. 8. Applicability.
Sec. 9. Applicability.

TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

Sec. 101. State and affected Indian tribe participation in development of proposed repositories for defense waste.

SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

Sec. 111. Findings and purposes.
Sec. 112. Recommendation of candidate sites for site characterization.
Sec. 113. Site characterization.
Sec. 114. Site approval and construction authorization.
Sec. 115. Review of repository site selection.
Sec. 116. Participation of States.
Sec. 117. Consultation with States and Indian tribes.
Sec. 118. Participation of Indian tribes.
Sec. 119. Judicial review of agency actions.
Sec. 120. Expedited authorizations.
Sec. 121. Certain standards and criteria.
Sec. 122. Disposal of spent nuclear fuel.
Sec. 123. Title to material.
Sec. 124. Consideration of effect of acquisition of water rights.
Sec. 125. Termination of certain provisions.

SUBTITLE B—INTERIM STORAGE PROGRAM

Sec. 131. Findings and purposes.
Sec. 132. Available capacity for interim storage of spent nuclear fuel.
Sec. 133. Interim at-reactor storage.
Sec. 134. Licensing of facility expansions and transshipments.
Sec. 135. Storage of spent nuclear fuel.
Sec. 136. Interim Storage Fund.
Sec. 137. Transportation.

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

Sec. 141. Monitored retrievable storage.

SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

Sec. 151. Financial arrangements for site closure.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

Sec. 211. Purpose.
Sec. 212. Applicability.
Sec. 213. Identification of sites.
Sec. 214. Siting research and related activities.
Sec. 215. Test and evaluation facility siting review and reports.
Sec. 216. Federal agency actions.
Sec. 217. Research and development on disposal of high-level radioactive waste.
Sec. 218. Research and development on spent nuclear fuel.
Sec. 219. Payments to States and affected Indian tribes.
Sec. 220. Study of research and development needs for monitored retrievable storage proposal.
Sec. 221. Judicial review.
Sec. 222. Research on alternatives for the permanent disposal of high-level radioactive waste.
Sec. 223. Technical assistance to non-nuclear weapons states in the field of spent fuel storage and disposal.

TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

Sec. 301. Mission plan.
Sec. 302. Nuclear Waste Fund.
Sec. 303. Alternate means of financing.
Sec. 304. Office of Civilian Radioactive Waste Management.
Sec. 305. Location of test and evaluation facility.
Sec. 306. Nuclear Regulatory Commission training authorization.

DEFINITIONS

SEC. 2. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "affected Indian tribe" means any Indian tribe—

(A) within whose reservation boundaries a monitored retrievable storage facility, test and evaluation facility, or a repository for high-level radioactive waste or spent fuel is proposed to be located;

(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: Provided, That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe;

(3) The term "atomic energy defense activity" means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

(A) naval reactors development;

(B) weapons activities including defense inertial confinement fusion;

(C) verification and control technology;

(D) defense nuclear materials production;

(E) defense nuclear waste and materials byproducts management;

(F) defense nuclear materials security and safeguards and security investigations; and

(G) defense research and development.

(4) The term "candidate site" means an area, within a geologic and hydrologic system, that is recommended by the Secretary under section 112 for site characterization, approved by the President under section 112 for site characterization, or undergoing site characterization under section 113.

(5) The term "civilian nuclear activity" means any atomic energy activity other than an atomic energy defense activity.

(6) The term "civilian nuclear power reactor" means a civilian nuclear powerplant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

(7) The term "Commission" means the Nuclear Regulatory Commission.

(8) The term "Department" means the Department of Energy.

(9) The term "disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such waste.

(10) The terms "disposal package" and "package" mean the primary container that holds, and is in contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials, and any overpacks that are emplaced at a repository.

(11) The term "engineered barriers" means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved. Such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

(12) The term "high-level radioactive waste" means—

(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced direct-

ly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

(13) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(14) The term "Governor" means the chief executive officer of a State.

(15) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

(16) The term "low-level radioactive waste" means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or byproduct material as defined in section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

(17) The term "Office" means the Office of Civilian Radioactive Waste Management established in section 305.

(18) The term "repository" means any system licensed by the Commission that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in such system. Such term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

(19) The term "reservation" means—

(A) any Indian reservation or dependent Indian community referred to in clause (a) or (b) of section 1151 of title 18, United States Code; or

(B) any land selected by an Alaska Native village or regional corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(20) The term "Secretary" means the Secretary of Energy.

(21) The term "site characterization" means—

(A) siting research activities with respect to a test and evaluation facility at a candidate site; and

(B) activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(22) The term "siting research" means activities, including borings, surface excavations, shaft excavations, subsurface lateral excavations and borings, and in situ testing, to determine the suitability of a site for a test and evaluation facility.

(23) The term "spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(24) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(25) The term "storage" means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

(26) The term "Storage Fund" means the Interim Storage Fund established in section 137(c).

(27) The term "test and evaluation facility" means an at-depth, prototypic, underground cavity with subsurface lateral excavations extending from a central shaft that is used for research and development purposes, including the development of data and experience for the safe handling and disposal of solidified high-level radioactive waste, transuranic waste, or spent nuclear fuel.

(28) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(29) The term "Waste Fund" means the Nuclear Waste Fund established in section 302(c).

SEPARABILITY

SEC. 3. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TERRITORIES AND POSSESSIONS

SEC. 4. Nothing in this Act shall be deemed to repeal, modify, or amend the provisions of section 605 of the Act of March 12, 1980 (48 U.S.C. 1491).

OCEAN DISPOSAL

SEC. 5. Nothing in this Act shall be deemed to affect the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

LIMITATION ON SPENDING AUTHORITY

SEC. 6. The authority under this Act to incur indebtedness, or enter into contracts, obligating amounts to be expended by the Federal Government shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

PROTECTION OF CLASSIFIED NATIONAL SECURITY INFORMATION

SEC. 7. Nothing in this Act shall require the release or disclosure to any person or to the Commission of any classified national security information.

APPLICABILITY

SEC. 8. (a) ATOMIC ENERGY DEFENSE ACTIVITIES.—Subject to the provisions of subsection (c), the provisions of this Act shall not apply with respect to any atomic energy defense activity or to any facility used in connection with any such activity.

(b) EVALUATION BY PRESIDENT.—(1) Not later than 2 years after the date of the enactment of this Act, the President shall evaluate the use of disposal capacity at one or more repositories to be developed under subtitle A of title I for the disposal of high-level radioactive waste resulting from atomic energy defense activities. Such evaluation shall take into consideration factors relating to cost efficiency, health and safety, regulation, transportation, public acceptability, and national security.

(2) Unless the President finds, after conducting the evaluation required in paragraph (1), that the development of a repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only is required, taking into account all of the factors described in such subsection, the Secretary shall proceed promptly with arrangement for the use of one or more of the repositories to be developed under subtitle A of title I for the disposal of such waste. Such arrangements shall include the allocation of costs of developing, constructing, and operating this repository or repositories. The costs resulting from permanent disposal of high-level radioactive waste from atomic energy defense activities shall be paid by the Federal Government, into the special account established under section 302.

(3) Any repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only shall (A) be subject to licensing under section 202 of the Energy Reorganization Act of 1973 (42 U.S.C. 5842); and (B) comply with all requirements of the Commission for the siting, development, construction, and operation of a repository.

(c) APPLICABILITY TO CERTAIN REPOSITORIES.—The provisions of this Act shall apply with respect to any repository not used exclusively for the disposal of high-level radioactive waste or spent nuclear fuel resulting from atomic energy defense activities, research and development activities of the Secretary, or both.

APPLICABILITY

SEC. 9. TRANSPORTATION.—Nothing in this Act shall be construed to affect federal, state or local laws pertaining to the transportation of spent nuclear fuel or high-level radioactive waste.

TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

STATE AND AFFECTED INDIAN TRIBE PARTICIPATION IN DEVELOPMENT OF PROPOSED REPOSITORIES FOR DEFENSE WASTE

SEC. 101. (a) NOTIFICATION TO STATES AND AFFECTED INDIAN TRIBES.—Notwithstanding the provisions of section 8, upon any decision by the Secretary or the President to develop a repository for the disposal of high-level radioactive waste or spent nuclear fuel resulting exclusively from atomic energy defense activities, research and development activities of the Secretary, or both, and before proceeding with any site-specific investigations with respect to such repository, the Secretary shall notify the Governor and legislature of the State in which such repository is proposed to be located, or the governing body of the affected Indian tribe on whose reservation such repository is proposed to be located, as the case may be, of such decision.

(b) PARTICIPATION OF STATES AND AFFECTED INDIAN TRIBES.—Following the receipt of any notification under subsection (a), the State or Indian tribe involved shall be entitled, with respect to the proposed repository involved, to rights of participation and consultation identical to those provided in sections 115 through 118, except that any financial assistance authorized to be provid-

ed to such State or affected Indian tribe under section 116(c) or 118(b) shall be made from amounts appropriated to the Secretary for purposes of carrying out this section.

SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

FINDINGS AND PURPOSES

SEC. 111. (a) FINDINGS.—The Congress finds that—

(1) radioactive waste creates potential risks and requires safe and environmentally acceptable methods of disposal;

(2) a national problem has been created by the accumulation of (A) spent nuclear fuel from nuclear reactors; and (B) radioactive waste from (i) reprocessing of spent nuclear fuel; (ii) activities related to medical research, diagnosis, and treatment; and (iii) other sources;

(3) Federal efforts during the past 30 years to devise a permanent solution to the problems of civilian radioactive waste disposal have not been adequate;

(4) while the Federal Government has the responsibility to provide for the permanent disposal of high-level radioactive waste and such spent nuclear fuel as may be disposed of in order to protect the public health and safety and the environment, the costs of such disposal should be the responsibility of the generators and owners of such waste and spent fuel;

(5) the generators and owners of high-level radioactive waste and spent nuclear fuel have the primary responsibility to provide for, and the responsibility to pay the costs of, the interim storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary of Energy in accordance with the provisions of this Act;

(6) State and public participation in the planning and development of repositories is essential in order to promote public confidence in the safety of disposal of such waste and spent fuel; and

(7) high-level radioactive waste and spent nuclear fuel have become major subjects of public concern, and appropriate precautions must be taken to ensure that such waste and spent fuel do not adversely affect the public health and safety and the environment for this or future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish a schedule for the siting, construction, and operation of repositories that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste and such spent nuclear fuel as may be disposed of in a repository;

(2) to establish the Federal responsibility, and a definite Federal policy, for the disposal of such waste and spent fuel;

(3) to define the relationship between the Federal Government and the State governments with respect to the disposal of such waste and spent fuel; and

(4) to establish a Nuclear Waste Fund, composed of payments made by the generators and owners of such waste and spent fuel, that will ensure that the costs of carrying out activities relating to the disposal of such waste and spent fuel will be borne by the persons responsible for generating such waste and spent fuel.

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors, and the concurrence of the Commission shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrology, geophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall take into consideration the proximity to sites where high-level radioactive waste and spent nuclear fuel is generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository. Such guidelines shall specify population factors that will disqualify any site from development as a repository if any surface facility of such repository would be located (1) in a highly populated area; (2) adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals. Such guidelines also shall require the Secretary to consider the cost and impact of transporting to the repository site the solidified high-level radioactive waste and spent fuel to be disposed of in the repository and the advantages of regional distribution in the siting of repositories. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall nominate at least 5 sites that he determines suitable for site characterization for selection of the first repository site.

(B) Subsequent to such information, the Secretary shall recommend to the President three of the nominated sites not later than January 1, 1985 for characterization as candidate sites.

(C) Not later than July 1, 1989, the Secretary shall nominate five sites, which shall include at least three additional sites not nominated under subparagraph (A), and recommend by such date to the President from such five nominated sites three candidate sites the Secretary determines suitable for site characterization for selection of the second repository. The Secretary may not nominate any site previously nominated under subparagraph (A), that was not recommended as a candidate site under subparagraph (B).

(D) Such recommendations under subparagraphs (B) and (C) shall be consistent with the provisions of section 305.

(E) Each nomination of a site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(v) a description of the decision process by which such site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such site.

(F)(i) the issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (E).

(G) Each environmental assessment prepared under this paragraph shall be made available to the public.

(H) Before nominating a site, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such nomination and the basis for such nomination.

(2) Before nominating any site the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located of the proposed nomination of such site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(3) In evaluating the sites nominated under this section prior to any decision to recommend a site as a candidate site, the Secretary shall use available geophysical, geological, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at a site unless (i) such preliminary boring or excavation activities were in progress upon the date of enactment of this Act or (ii) the Secretary certifies that such available information from other sources, in the absence of preliminary borings or excavations, will not be adequate to satisfy applicable requirements of this Act or any other law: Provided, That preliminary boring or excavations under this section shall not exceed a diameter of six inches.

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation

made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this section, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any stie on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c); and (3) the Secretary shall conduct public hearings under 113(b)(2) and comply with requirements under section 117 of this Act within 1 year of the date of enactment.

SITE CHARACTERIZATION

SEC. 113. (a) IN GENERAL.—The Secretary shall carry out, in accordance with the provisions of this section, appropriate site characterization activities beginning with the candidate sites that have been approved under section 112 and are located in various geologic media. The Secretary shall consider fully the comments received under subsection (b)(2) and section 112(b)(2) and shall, to the maximum extent practicable and in consultation with the Governor of the State involved or the governing body of the affected Indian tribe involved, conduct site characterization activities in a manner that minimizes any significant adverse environmental impacts identified in such comments or in the environmental assessment submitted under subsection (b)(1).

(b) COMMISSION AND STATES.—(1) Before proceeding to sink shafts at any candidate site, the Secretary shall submit for such candidate site to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe on whose reservation such candidate site is located, as the case may be, for their review and comment—

(A) a general plan for site characterization activities to be conducted at such candidate site, which plan shall include—

(i) a description of such candidate site;

(ii) a description of such site characterization activities, including the following: the extent of planned excavations, plans for any onsite testing with radioactive or nonradioactive material, plans for any investigation activities that may affect the capability of such candidate site to isolate high-level radioactive waste and spent nuclear fuel, and plans to control any adverse, safety-related impacts from such site characterization activities;

(iii) plans for the decontamination and decommissioning of such candidate site, and for the mitigation of any significant adverse environmental impacts caused by site characterization activities if it is determined unsuitable for application for a construction authorization for a repository;

(iv) criteria to be used to determine the suitability of such candidate site for the location of a repository, developed pursuant to section 112(a); and

(v) any other information required by the Commission;

(B) a description of the possible form or packaging for the high-level radioactive waste and spent nuclear fuel to be emplaced in such repository, a description, to the extent practicable, of the relationship between such waste form or packaging and the geologic medium of such site, and a description of the activities being conducted by the Secretary with respect to such possible waste form or packaging or such relationship; and

(C) a conceptual repository design that takes into account likely site-specific requirements.

(2) Before proceeding to sink shafts at any candidate site, the Secretary shall (A) make available to the public the site characterization plan described in paragraph (1); and (B) hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of such plan, and to receive their comments.

(3) During the conduct of site characterization activities at a candidate site, the Secretary shall report not less than once every 6 months to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be, on the nature and extent of such activities and the information developed from such activities.

(c) RESTRICTIONS.—(1) The Secretary may conduct at any candidate site only such site characterization activities as the Secretary considers necessary to provide the data required for evaluation of the suitability of such candidate site for an application to be submitted to the Commission for a construction authorization for a repository at such candidate site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) In conducting site characterization activities—

(A) the Secretary may not use any radioactive material at a candidate site unless the Commission concurs that such use is necessary to provide data for the preparation of the required environmental reports and an application for a construction authorization for a repository at such candidate site; and

(B) if any radioactive material is used at a candidate site—

(i) the Secretary shall use the minimum quantity necessary to determine the suitability of such candidate site for a repository, but in no event more than the curie equivalent of 10 metric tons of spent nuclear fuel; and

(ii) such radioactive material shall be fully retrievable.

(3) If site characterization activities are terminated at a candidate site for any reason, the Secretary shall (A) notify the Congress, the Governors and legislatures of all States in which candidate sites are located, and the governing bodies of all affected Indian tribes where candidate sites are located, of such termination and the reasons for such termination; and (B) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such candidate site as promptly as practicable.

(4) If a site is determined to be unsuitable for application for a construction authorization for a repository, the Secretary shall take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities.

(d) PRELIMINARY ACTIVITIES.—Each activity of the Secretary under this section that is in compliance with the provisions of subsection (c) shall be considered a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

SITE APPROVAL AND CONSTRUCTION AUTHORIZATION

SEC. 114. (a) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—(1) The Secretary shall hold public hearings in the vicinity of each site under consideration for recommendation to the President under this paragraph as a site for the development of a repository, for the purposes of informing the residents of the area in which such site is located of such consideration and receiving their comments regarding the possible recommendation of such site. If, upon completion of such hearings and completion of site character-

ization activities at not less than 3 candidate sites for the first proposed repository, or from all of the characterized sites for the development of subsequent respositories, under section 113, the Secretary decides to recommend approval of such site to the President, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such decision. No sooner than the expiration of the 30-day period following such notification, the Secretary shall submit to the President a recommendation that the President approve such site for the development of a repository. Any such recommendation by the Secretary shall be based on the record of information developed by the Secretary under section 113 and this section, including the information described in subparagraph (A) through subparagraph (G). In making site recommendations and approvals subsequent to the first site recommendation, the Secretary and the President, respectively, shall also consider the need for regional distribution of repositories and the need to minimize, to the extent practicable, the impacts and cost of transporting spent fuel and solidified high-level radioactive waste. Together with any recommendation of a site under this paragraph, the Secretary shall make available to the public, and submit to the President, a comprehensive statement of the basis of such recommendation, including the following:

(A) a description of the proposed repository, including preliminary engineering specifications for the facility;

(B) a description of the waste form or packaging proposed for use at such repository, and an explanation of the relationship between such waste form or packaging and the geologic medium of such site;

(C) a discussion of data, obtained in site characterization activities, relating to the safety of such site;

(D) a final environmental impact statement prepared pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including an analysis of the consideration given by the Secretary to not less than 3 candidate sites for the first proposed respository or to all of the characterized sites for the development of subsequent repositories, with respect to which site characterization is completed under section 113, together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that any such environmental impact statement concerning the first repository to be developed under this Act shall not be required to consider the need for a repository or the alternatives to geologic disposal;

(E) preliminary comments of the Commission concerning the extent to which the at-depth site characterization analysis and the waste form proposal for such site seem to be sufficient for inclusion in any application to be submitted by the Secretary for licensing of such site as a repository;

(F) the views and comments of the Governor and legislature of any State, or the governing body of any affected Indian tribe, as determined by the Secretary, together with the response of the Secretary to such views;

(G) such other information as the Secretary considers appropriate; and

(H) any impact report submitted under section 116(c)(2)(B) by the State in which such site is located, or under section 118(b)(3)(B) by the affected Indian tribe where such site is located, as the case may be.

(2)(A) Not later than March 31, 1987, the President shall submit to the Congress a recommendation of one site from the three sites initially characterized that the President considers qualified for application for a construction authorization for a repository. Not later than March 31, 1990, the President shall submit to the Congress a recommendation of a second site from any sites already characterized that the President considers qualified for a construction authorization for a second repository. The President shall submit with such recommendation a copy of the report for such site prepared by the Secretary under paragraph (1). After submission of the second such recommendation, the President may submit to the Congress recommendations for other sites, in accordance with the provisions of this subtitle.

(B) The President may extend the deadlines described in subparagraph (A) by not more than 12 months if, before March 31, 1986, for the first site, and March 31, 1989, for the second site, (i) the President determines that such extension is necessary; and (ii) transmits to the Congress a report setting forth the reasons for such extension.

(3) If approval of any such site recommendation does not take effect as a result of a disapproval by the Governor or legislature of a State under section 116 or the governing body of an affected Indian tribe under section 118, the President shall submit to the Congress, not later than 1 year after the disapproval of such recommendation, a recommendation of another site for the first or subsequent repository.

(4)(A) The President may not recommend the approval of any site under this subsection unless the Secretary has recommended to the President under paragraph (1) approval of such site and has submitted to the President a report for such site as required under such paragraph.

(B) No recommendation of a site by the President under this subsection shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(b) SUBMISSION OF APPLICATION.—If the President recommends to the Congress a site for a repository under subsection (a) and the site designation is permitted to take effect under section 115, the Secretary shall submit to the Commission an application for a construction authorization for a repository at such site not later than 90 days after the date on which the recommendation of the site designation is effective under such section and shall provide to the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, a copy of such application.

(c) STATUS REPORT ON APPLICATION.—Not later than 1 year after the date on which an application for a construction authorization is submitted under subsection (b), and annually thereafter until the date on which such authorization is granted, the Commission shall submit a report to the Congress describing the proceedings undertaken through the date of such report with regard to such application, including a description of—

(1) any major unresolved safety issues, and the explanation of the Secretary with respect to design and operation plans for resolving such issues;

(2) any matters of contention regarding such application; and

(3) any Commission actions regarding the granting or denial of such authorization.

(d) COMMISSION ACTION.—The Commission shall consider an application for a construction authorization for all or part of a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than—

(1) January 1, 1989, for the first such application, and January 1, 1992, for the second such application; or

(2) the expiration of 3 years after the date of the submission of such application, except that the Commission may extend such deadline by not more than 12 months if, not less than 30 days before such deadline, the Commission complies with the reporting requirements established in subsection (e)(2);

whichever occurs later. The Commission decision approving the first such application shall prohibit the emplacement in the first repository of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of such a quantity of spent fuel until such time as a second repository is in operation. In the event that a monitored retrievable storage facility, approved pursuant to subtitle C of this Act, shall be located, or is planned to be located, within 50 miles of the first repository, then the Commission decision approving the first such application shall prohibit the emplacement of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of spent fuel in both the repository and monitored retrievable storage facility until such time as a second repository is in operation.

(e) PROJECT DECISION SCHEDULE.—(1) The Secretary shall prepare and update, as appropriate, in cooperation with all affected Federal agencies, a project decision schedule that portrays the optimum way to attain the operation of the repository involved, within the time periods specified in this subtitle. Such schedule shall include a description of objectives and a sequence of deadlines for all Federal agencies required to take action, including an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning repository operation.

(2) Any Federal agency that determines that it cannot comply with any deadline in the project decision schedule, or fails to so comply, shall submit to the Secretary and to the Congress a written report explaining the reason for its failure or expected failure to meet such deadline, the reason why such agency could not reach an agreement with the Secretary, the estimated time for completion of the activity or activities involved, the associated effect on its other deadlines in the project decision schedule, and any recommendations it may have or actions it intends to take regarding any improvements in its operation or organization, or changes to its statutory directives or authority, so that it will be able to mitigate the delay involved. The Secretary, within 30 days after receiving any such report, shall file with the Congress his response to such report, including the reasons why the Secretary could not amend the project decision schedule to accommodate the Federal agency involved.

(f) ENVIRONMENTAL IMPACT STATEMENT.—Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository. For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 1321 et seq.) and this section, the Secretary shall consider as alternate sites for the first repository to be developed under this subtitle 3 candidate sites with respect to which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination that such sites are suitable for development as repositories consistent with the guidelines promulgated under section 112(a). The Secretary shall consider as alternative sites for subsequent repositories at least three of the remaining sites recommended by the Secretary by January 1, 1985, and by July 1, 1989, pursuant to section 112(b) and approved by the President for site characterization pursuant to section 112(c) for which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination that such sites are suitable for development as repositories consistent with the guidelines promulgated under section 112(a). Any environmental impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission as established in title II of the Energy Reorganization Act of 1974 (Public Law 93-438). In any such statement prepared with respect to the first repository to be constructed under this subtitle, the need for a repository or nongeologic alternatives to the site of such repository shall not be considered.

REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) DEFINITION.—For purposes of this section, the term "resolution of repository siting approval" means a joint resolution of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the site at for a repository, with respect to which a notice of disapproval was submitted by on .". The first blank space in such resolution shall be filled with the name of the geographic location of the proposed site of the repository to which such resolution pertains; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or Indian tribe governing body submitting the notice of disapproval to which such resolution pertains; and the last blank space in such resolution shall be filled with the date of such submission.

(b) STATE OR INDIAN TRIBE PETITIONS.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor and legislature of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, has submitted to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval has been submitted, the designation of such site shall not be effective except as provided under subsection (c).

(c) CONGRESSIONAL REVIEW OF PETITIONS.—If any notice of disapproval of a repository site designation has been submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, such site shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress after the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution of repository siting approval in accordance with this subsection approving such site, and such resolution thereafter becomes law.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions of repository siting approval, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution of repository siting approval, shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(B) Upon introduction, a resolution of repository siting approval, be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution of repository siting approval, with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(3) If any committee to which is referred a resolution approval introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution of siting approval introduced with respect to the site involved, has not reported such resolution at the end of 60 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution of siting approval has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on a resolution of siting approval, and on all debatable motions and appeals in connection with such resolution shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution of siting approval, and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution of siting approval shall be decided without debate.

(5) If the Senate receives from the House a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the House with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the Senate with respect to such site—

(i) the procedure with respect to that or other resolutions of the Senate with respect to such site shall be the same as if no resolution from the House with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the Senate with respect to such site, a resolution from the House with respect to such site where the text is identical shall be automatically substituted for the resolution of the Senate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress.—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions of repository siting approval, and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 60 days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution of repository siting approval after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(5) If the House receives from the Senate a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the Senate with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the House with respect to such site—

(i) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 60-day period referred to in subsections (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

PARTICIPATION OF STATES

SEC. 116. (a) NOTIFICATION OF STATES AND AFFECTED TRIBES.—The Secretary shall identify the States with one or more potentially acceptable sites for a repository within 90 days after the date of enactment of this Act. Within 90 days of such identification, the Secretary shall notify the Governor, the State legislature, and the tribal council of any affected Indian tribe in any State of the potentially acceptable sites within such State. For the purposes of this title, the term "potentially acceptable site" means any site at which, after geologic studies and field mapping but before detailed geologic data gathering, the Department undertakes preliminary drilling and geophysical testing for the definition of site location.

(b) STATE PARTICIPATION IN REPOSITORY SITING DECISIONS.—(1) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under paragraph (2). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(2) Upon the submission by the President to the Congress of a recommendation of a site for a repository, the Governor or legislature of the State in which such site is located may disapprove the site designation and submit to the Congress a notice of disapproval. Such Governor or legislature may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why such Governor or legislature disapproved the recommended repository site involved.

(3) The authority of the Governor or legislature of each State under this subsection shall not be applicable with respect to any site located on a reservation.

(c) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to each State notified under subsection (a) for the purpose of participating in activities required by sections 116 and 117 or authorized by written agreement entered into pursuant to subsection 117(c). Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(B) The Secretary shall make grants to each State in which a candidate site for a repository is approved under section 112(c). Such grants may be made to each such State only for purposes of enabling such State—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the State and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to its residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(C) Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall provide financial and technical assistance to any State requesting such assistance in which there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such State of the development of such repository. Such assistance to such State shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any State desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site in such State. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the State involved setting forth the amount of assistance to be provided to such State under this paragraph and the procedures to be followed in providing such assistance.

(3) The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

(4)(A) A State may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies the Governor and legislature of the State involved of the termination of site characterization activities at the candidate site involved in such State;

(ii) the date on which the site in such State is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site in the State approved under section 112(c) with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) A State may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds shall be made available to such State under paragraph (1) or (2), except for—

(i) such funds as may be necessary to support State activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

(d) ADDITIONAL NOTIFICATION AND CONSULTATION.—Whenever the Secretary is required under any provision of this Act to notify or consult with the governing body of an affected Indian tribe where a site is located, the Secretary shall also notify or consult with, as the case may be, the Governor of the State in which such reservation is located.

CONSULTATION WITH STATES AND AFFECTED INDIAN TRIBES

SEC. 117. (a) PROVISION OF INFORMATION.—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of a repository in a State shall provide to the Governor and legislature of such State, and to the governing body of any affected Indian tribe, timely and complete information regarding determinations or plans made with respect to the site characterization siting, development, design, licensing, construction, operation, regulation, or decommissioning of such repository.

(2) Upon written request for such information by the Governor or legislature of such State, or by the governing body of any affected Indian tribe, as the case may be, the Secretary shall provide a written response to such request within 30 days of the receipt of such request. Such response shall provide the information requested or, in the alternative, the reasons why the information cannot be so provided. If the Secretary fails to so respond within such 30 days, the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, may transmit a formal written objection to such failure to respond to the President. If the President or Secretary fails to respond to such written request within 30 days of the receipt by the President of such formal written objection, the Secretary shall immediately suspend all activities in such State authorized by this subtitle, and shall not renew such activities until the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, has received the written response to such written request required by this subsection.

(b) CONSULTATION AND COOPERATION.—In performing any study of an area within a State for the purpose of determining the suitability of such area for a repository pursuant to section 112(c), and in subsequently developing and loading any repository within such State, the Secretary shall consult and cooperate with the Governor and legislature of such State and the governing body of any affected Indian tribe in an effort to resolve the concerns of such State and any affected Indian tribe regarding the public health and safety, environmental, and economic impacts of any such repository. In carrying out his duties under this subtitle, the Secretary shall take such concerns into account to the maximum extent feasible and as specified in written agreements entered into under subsection (c).

(c) WRITTEN AGREEMENT.—Not later than 60 days after (1) the approval of a site for site characterization for such a repository under section 112(c), or (2) the written request of the State or Indian tribe in any affected State notified under section 116(a) to the Secretary, whichever, first occurs, the Secretary shall seek to enter into a binding written agreement, and shall begin negotiations, with such State and, where appropriate, to enter into a separate binding agreement with the governing body of any affected Indian tribe, setting forth (but not limited to) the procedures under which the requirements of subsections (a) and (b), and the provisions of such written agreement, shall be carried out. Any such written agreement shall not affect the authority of the Commission under existing law. Each such written agreement shall, to the maximum extent feasible, be completed not later than 6 months after such notification. If such written agreement is not completed within such period, the Secretary shall report to the Congress in writing within 30 days on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such affected Indian tribe, as the case may be, for their review and comments. Such comments shall be included in such report prior to submission to the Congress. Such written agreement shall specify procedures—

(1) by which such State or governing body of an affected Indian tribe, as the case may be, may study, determine, comment on, and make recommendations with regard to the possible public health and safety, environmental, social, and economic impacts of any such repository;

(2) by which the Secretary shall consider and respond to comments and recommendations made by such State or governing body of an affected Indian tribe, including the period in which the Secretary shall so respond;

(3) by which the Secretary and such State or governing body of an affected Indian tribe may review or modify the agreement periodically;

(4) by which such State or governing body of an affected Indian tribe is to submit an impact report and request for impact assistance under section 116(c) or section 118(b), as the case may be;

(5) by which the Secretary shall assist such State, and the units of general local government in the vicinity of the repository site, in resolving the offsite concerns of such State and units of general local government, including, but not limited to, questions of State liability arising from accidents, necessary road upgrading and access to the site, ongoing emergency preparedness and emergency response, monitoring of transportation of high-level radioactive waste and spent nuclear fuel through such State, conduct of baseline health studies of inhabitants in neighboring communities near the repository site and reasonable periodic monitoring thereafter, and monitoring of the repository site upon any decommissioning and decontamination;

(6) by which the Secretary shall consult and cooperate with such State on a regular, ongoing basis and provide for an orderly process and timely schedule for State review and evaluation, including identification in the agreement of key events, milestones, and decision points in the activities of the Secretary at the potential repository site;

(7) by which the Secretary shall notify such State prior to the transportation of any high-level radioactive waste and spent nuclear fuel into such State for disposal at the repository site;

(8) by which such State may conduct reasonable independent monitoring and testing of activities on the repository site, except that such monitoring and testing shall not unreasonably interfere with or delay onsite activities;

(9) for sharing, in accordance with applicable law, of all technical and licensing information, the utilization of available expertise, the facilitating of permit procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws;

(10) for public notification of the procedures specified under the preceding paragraphs; and

(11) for resolving objections of a State and affected Indian tribes at any stage of the planning, siting, development, construction, operation, or closure of such a facility within such State through negotiation, arbitration, or other appropriate mechanisms.

PARTICIPATION OF INDIAN TRIBES

SEC. 118. (a) PARTICIPATION OF INDIAN TRIBES IN REPOSITORY SITING DECISIONS.—Upon the submission by the President to the Congress of a recommendation of a site for a repository located on the reservation of an affected Indian tribe, the governing body of such Indian tribe may disapprove the site designation and submit to the Congress a notice of disapproval. The governing body of such Indian tribe may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the governing body of such Indian tribe disapproved the recommended repository site involved.

(b) FINANCIAL ASSISTANCE.—(1) The Secretary shall make grants to each affected tribe notified under section 116(a) for the purpose of participating in activities required by section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such tribe,

may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall make grants to each affected Indian tribe where a candidate site for a repository is approved under section 112(c). Such grants may be made to each such Indian tribe only for purposes of enabling such Indian tribe—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the reservation and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to the residents of its reservation regarding any activities of such Indian tribe, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(B) The amount of funds provided to any affected Indian tribe under this paragraph in any fiscal year may not exceed 100 percent of the costs incurred by such Indian tribe with respect to the activities described in clauses (i) through (v) of subparagraph (A). Any salary or travel expense that would ordinarily be incurred by such Indian tribe may not be considered eligible for funding under this paragraph.

(3)(A) The Secretary shall provide financial and technical assistance to any affected Indian tribe requesting such assistance and where there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such Indian tribe of the development of such repository. Such assistance to such Indian tribe shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any affected Indian tribe desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site on the reservation of such Indian tribe. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the Indian tribe involved setting forth the amount of assistance to be provided to such Indian tribe under this paragraph and the procedures to be followed in providing such assistance.

(4) The Secretary shall grant to each affected Indian tribe where a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such Indian tribe would receive were it authorized to tax site characterization activities at such site, and the development and operation of such repository, as such Indian tribe taxes the other commercial activities occurring on such reservation. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

(5) An affected Indian tribe may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies such Indian tribe of the termination of site characterization activities at the candidate site involved on the reservation of such Indian tribe;

(ii) the date on which such site is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site on the reservation of such Indian tribe that is approved under section 112(c) and with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) An affected Indian tribe may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository at a site on the reservation of an affected Indian tribe, no Federal funds shall be made available under paragraph (1) or (2) to such Indian tribe, except for—

(i) such funds as may be necessary to support activities of such Indian tribe related to any other repository where a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support activities of such Indian tribe pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such Indian tribe with the Secretary during such 2-year period.

(6) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

JUDICIAL REVIEW OF AGENCY ACTIONS

SEC. 119. (a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—(1) Except for review in the Supreme Court of the United States, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

(A) for review of any final decision or action of the Secretary, the President, or the Commission under this subtitle;

(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this subtitle;

(C) challenging the constitutionality of any decision made, or action taken, under any provision of this subtitle;

(D) for review of any environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this subtitle, or as required under section 135(c)(1), or alleging a failure to prepare such statement with respect to any such action;

(E) for review of any environmental assessment prepared under section 112(b)(1) or 135(c)(2); or

(F) for review of any research and development activity under title II.

(2) The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

(c) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought not later than the 180th day after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 180th day after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

EXPEDITED AUTHORIZATIONS

SEC. 120. (a) ISSUANCE OF AUTHORIZATIONS.—(1) To the extent that the taking of any action related to the site characterization of a site or the construction or initial operation of a repository under this subtitle requires a certificate, right-of-way, permit, lease, or other authorization from a Federal agency or officer, such agency or officer shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such agency or officer. All actions of a Federal agency or officer with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

(2) The provisions of paragraph (1) shall not apply to any certificate, right-of-way, permit, lease, or other authorization issued or granted by, or requested from, the Commission.

(b) TERMS OF AUTHORIZATIONS.—Any authorization issued or granted pursuant to subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

CERTAIN STANDARDS AND CRITERIA

SEC. 121. (a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Administrator, pursuant to authority under other provisions of law, shall, by rule, promulgate generally applicable standards for protection of the general environment from offsite releases from radioactive material in repositories.

(b) COMMISSION REQUIREMENTS AND CRITERIA.—(1)(A) Not later than January 1, 1984, the Commission, pursuant to authority under other provisions of law, shall, by rule, promulgate technical requirements and criteria that it will apply, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), in approving or disapproving—

(i) applications for authorization to construct repositories;

(ii) applications for licenses to receive and possess spent nuclear fuel and high-level radioactive waste in such repositories; and

(iii) applications for authorization for closure and decommissioning of such repositories.

(B) Such criteria shall provide for the use of a system of multiple barriers in the design

of the repository and shall include such restrictions on the retrievability of the solidified high-level radioactive waste and spent fuel emplaced in the repository as the Commission deems appropriate.

(C) Such requirements and criteria shall not be inconsistent with any comparable standards promulgated by the Administrator under subsection (a).

(2) For purposes of this Act, nothing in this section shall be construed to prohibit the Commission from promulgating requirements and criteria under paragraph (1) before the Administrator promulgates standards under subsection (a). If the Administrator promulgates standards under subsection (a) after requirements and criteria are promulgated by the Commission under paragraph (1), such requirements and criteria shall be revised by the Commission if necessary to comply with paragraph (1)(C).

(c) ENVIRONMENTAL IMPACT STATEMENT.—The promulgation of standards or criteria in accordance with the provisions of this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

DISPOSAL OF SPENT NUCLEAR FUEL

SEC. 122. Notwithstanding any other provision of this subtitle, any repository constructed on a site approved under this subtitle shall be designed and constructed to permit the retrieval of any spent nuclear fuel placed in such repository, during an appropriate period of operation of the facility, for any reason pertaining to the public health and safety, or the environment, or for the purpose of permitting the recovery of the economically valuable contents of such spent fuel. The Secretary shall specify the appropriate period of retrievability with respect to any repository at the time of design of such repository, and such aspect of such repository shall be subject to approval or disapproval by the Commission as part of the construction authorization process under subsections (b) through (d) of section 114.

TITLE TO MATERIAL

SEC. 123. Delivery, and acceptance by the Secretary, of any high-level radioactive waste or spent nuclear fuel for a repository constructed under this subtitle shall constitute a transfer to the Secretary of title to such waste or spent fuel.

CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS

SEC. 124. The Secretary shall give full consideration to whether the development, construction, and operation of a repository may require any purchase or other acquisition of water rights that will have a significant adverse effect on the present or future development of the area in which such repository is located. The Secretary shall mitigate any such adverse effects to the maximum extent practicable.

TERMINATION OF CERTAIN PROVISIONS

SEC. 125. Sections 119 and 120 shall cease to have effect at such time as a repository developed under this subtitle is licensed to receive and possess high-level radioactive waste and spent nuclear fuel.

SUBTITLE B—INTERIM STORAGE PROGRAM

FINDINGS AND PURPOSES

SEC. 131. (a) FINDINGS.—The Congress finds that—

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this subtitle, not more than 1,900 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such reactors when needed to assure the continued, orderly operation of such reactors.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide for the utilization of available spent nuclear fuel pools at the site of each civilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and

(2) to provide, in accordance with the provisions of this subtitle, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,900 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

AVAILABLE CAPACITY FOR INTERIM STORAGE OF SPENT NUCLEAR FUEL

SEC. 132. The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

(1) the protection of the public health and safety, and the environment;

(2) economic considerations;

(3) continued operation of such reactor;

(4) any applicable provisions of law; and

(5) the views of the population surrounding such reactor.

INTERIM AT REACTOR STORAGE

SEC. 133. The Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 219(a) for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS

SEC. 134. (a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after the date of the enactment of this Act, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

(b) ADJUDICATORY HEARING.—(1) At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

(2) In making a determination under this subsection, the Commission—

(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

(B) shall not consider—

(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor for which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the

Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

(4) The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear powerplant by the Commission.

(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

STORAGE OF SPENT NUCLEAR FUEL

SEC. 135. (a) STORAGE CAPACITY.—(1) Subject to section 8, the Secretary shall provide, in accordance with paragraph (5), not more than 1,900 metric tons of capacity for the storage of spent nuclear fuel from civilian nuclear power reactors. Such storage capacity shall be provided through any one or more of the following methods, used in any combination determined by the Secretary to be appropriate:

(A) use of available capacity at one or more facilities owned by the Federal Government on the date of the enactment of this Act, including the modification and expansion of any such facilities, if the Commission determines that such use will adequately protect the public health and safety, except that such use shall not—

(i) render such facilities subject to licensing under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); or

(ii) except as provided in subsection (c) require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), such facility is already being used, or has previously been used, for such storage or for any similar purpose.

(B) acquisition of any modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, and provision of such equipment, to any person generating or holding title to spent nuclear fuel, at the site of any civilian nuclear power reactor operated by such person or at any site owned by the Federal Government on the date of enactment of this Act;

(C) construction of storage capacity at any site of a civilian nuclear power reactor.

(2) Storage capacity authorized by paragraph (1) shall not be provided at any Federal or non-Federal site within which there is a candidate site for a repository. The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a condidate site under consideration for development as a repository.

(3) In selecting methods of providing storage capacity under paragraph (1), the Secretary shall consider the timeliness of the availability of each such method and shall seek to minimize the transportation of spent nuclear fuel, the public health and safety impacts, and the costs of providing such storage capacity.

(4) In providing storage capacity through any method described in paragraph (1), the Secretary shall comply with any applicable requirements for licensing or authorization of such method, except as provided in paragraph (1)(A)(i).

(5) The Secretary shall ensure that storage capacity is made available under paragraph (1) when needed, as determined on the basis of the storage needs specified in contracts entered into under section 136(a), and shall accept upon request any spent nuclear fuel as covered under such contracts.

(6) For purposes of paragraph (1)(A), the term "facility" means any building or structure.

(b) CONTRACTS.—(1) Subject to the capacity limitation established in subsections (a)(1) and (d), the Secretary shall offer to enter into, and may enter into, contracts under section 136(a) with any person generating or owning spent nuclear fuel for purposes of providing storage capacity for such spent fuel under this section only if the Commission determines that—

(A) adequate storage capacity to ensure the continued orderly operation of the civilian nuclear power reactor at which such spent nuclear fuel is generated cannot reasonably be provided by the person owning and operating such reactor at such site, or at the site of any other civilian nuclear power reactor operated by such person, and such capacity cannot be made available in a timely manner through any method described in subparagraph (B); and

(B) such person is diligently pursuing licensed alternatives to the use of Federal storage capacity for the storage of spent nuclear fuel expected to be generated by such person in the future, including—

(i) expansion of storage facilities at the site of any civilian nuclear power reactor operated by such person;

(ii) construction of new or additional storage facilities at the site of any civilian nuclear power reactor operated by such person;

(iii) acquisition of modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, for use at the site of any civilian nuclear power reactor operated by such person; and

(iv) transshipment to another civilian nuclear power reactor owned by such person.

(2) In making the determination described in paragraph (1)(A), the Commission shall ensure maintenance of a full core reserve storage capability at the site of the civilian nuclear power reactor involved unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor.

(3) The Commission shall complete the determinations required in paragraph (1) with respect to any request for storage capacity not later than 6 months after receipt of such request by the Commission.

(c) ENVIRONMENTAL REVIEW.—(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(2)(A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an estimate of the amount of storage capacity to be made available at such site;

(ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;

(iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;

(iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;

(v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;

(vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and

(vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.

(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).

(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119.

(d) REVIEW OF SITES AND STATE PARTICIPATION.—(1) In carrying out the provisions of this subtitle with regard to any interim storage of spent fuel from civilian nuclear power reactors which the Secretary is authorized by section 135 to provide, the Secretary shall, as soon as practicable, notify, in writing, the Governor and the State legislature of any State and the Tribal Council of any affected Indian tribe in such State in which is located a potentially acceptable site or facility for such interim storage of spent fuel of his intention to investigate that site or facility.

(2) During the course of investigation of such site or facility, the Secretary shall keep the Governor, State legislature, and affected Tribal Council currently informed of the progress of the work, and results of the investigation. At the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, the Secretary shall promptly notify the Governor, the legislature, and any affected Tribal Council in writing of such selection, and subject to the provisions of paragraph (6) of this subsection, shall promptly enter into negotiations with such State and affected Tribal Council to establish a cooperative agreement under which such State and Council shall have the right to participate in a process of consultation and cooperation, based on public health and safety and environmental concerns, in all stages of the planning, development, modification, expansion, operation, and closure of storage capacity at a site or facility within such State for the interim storage and spent fuel from civilian nuclear power reactors. Public participation in the negotiation of such an agreement shall be provided for and encouraged by the Secretary, the State, and the affected Tribal Council. The Secretary, in cooperation with the States and Indian

tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with such guidelines shall not be a basis for judicial review.

(3) The cooperative agreement shall include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. The cooperative agreement also shall include a detailed plan or schedule of milestones, decision points and opportunities for State or eligible Tribal Council review and objection. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the State and affected Tribal Council in any stage of planning, development, modification, expansion, operation, or closure of storage capacity at a site or facility within such State. The terms of any cooperative agreement shall not affect the authority of the Nuclear Regulatory Commission under existing law.

(4) For the purpose of this subsection, "process of consultation and cooperation" means a methodology by which the Secretary (A) keeps the State and eligible Tribal Council fully and currently informed about the aspects of the project related to any potential impact on the public health and safety and environment; (B) solicits, receives, and evaluates concerns and objections of such State and Council with regard to such aspects of the project on an ongoing basis; and (C) works diligently and cooperatively to resolve, through arbitration or other appropriate mechanisms, such concerns and objections. The process of consultation and cooperation shall not include the grant of a right to any State or Tribal Council to exercise an absolute veto of any aspect of the planning, development, modification, expansion, or operation of the project.

(5) The Secretary and the State and affected Tribal Council shall seek to conclude the agreement required by paragraph (2) as soon as practicable, but not later than 180 days following the date of notification of the selection under paragraph (2). The Secretary shall periodically report to the Congress thereafter on the status of the agreements approved under paragraph (3). Any report to the Congress on the status of negotiations of such agreement by the Secretary shall be accompanied by comments solicited by the Secretary from the State and eligible Tribal Council.

(6)(A) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subsection (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State where such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision.

During the 60-day period following receipt of notification by the Secretary of his decision to provide an aggregate of 300 or more metric tons of storage capacity at any one site, the Governor or legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which state law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(D) If any notice of disapproval is submitted to the Congress under subparagraph (A), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at , with respect to which a notice of disapproval was submitted by on .". The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(E) For purposes of the consideration of any resolution described in subparagraph (D), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

(7) As used in this section, the term "affected Tribal Council" means the governing body of any Indian tribe within whose reservation boundaries there is located a potentially acceptable site for interim storage capacity of spent nuclear fuel from civilian nuclear power reactors, or within whose boundaries a site for such capacity is selected by the Secretary, or whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties, as determined by the Secretary of the Interior pursuant to a petition filed with him by the appropriate governmental officials of such tribe, may be substantially and adversely affected by the establishment of any such storage capacity.

(e) LIMITATIONS.—Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable, but in any event not later than three years following the date on which a repository or monitored retrievable storage facility developed under this Act is available for disposal of such spent nuclear fuel.

(f) REPORT.—The Secretary shall annually prepare and submit to the Congress a report on any plans of the Secretary for providing storage capacity under this section. Such report shall include a description of the specific manner of providing such storage selected by the Secretary, if any. The Secretary shall prepare and submit the first such report not later than 1 year after the date of the enactment of this Act.

(g) CRITERIA FOR DETERMINING ADEQUACY OF AVAILABLE STORAGE CAPACITY.—Not later than 90 days after the date of the enactment of this Act, the Commission pursuant to section 553 of the Administrative Procedures Act, shall propose, by rule, procedures and criteria for making the determination required by subsection (b) that a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity at the civilian nuclear power reactor site when needed to ensure the continued orderly operation of such reactor. Such criteria shall ensure the maintenance of a full core reserve storage capability at the site of such reactor unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor. Such criteria shall identify the feasibility of reasonably providing such adequate spent nuclear fuel storage capacity, taking into account economic, technical, regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, construction of additional spent nuclear fuel pool capacity, or such other technologies as may be approved by the Commission.

(h) APPLICATION.—Notwithstanding any other provision of law, nothing in this Act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.

(i) COORDINATION WITH RESEARCH AND DEVELOPMENT PROGRAM.—To the extent available, and consistent with the provisions of this section, the Secretary shall provide spent nuclear fuel for the research and development program authorized in section 217 from spent nuclear fuel received by the Secretary for storage under this section. Such spent nuclear fuel shall not be subject to the provisions of subsection (e).

INTERIM STORAGE FUND

SEC. 136. (a) CONTRACTS.—(1) During the period following the date of the enactment of this Act, but not later than January 1, 1990, the Secretary is authorized to enter into contracts with persons who generate or own spent nuclear fuel resulting from civilian nuclear activities for the storage of such spent nuclear fuel in any storage capacity provided under this subtitle: Provided, however, That the Secretary shall not enter into contracts for spent nuclear fuel in amounts in excess of the available storage capacity

specified in section 135(a). Those contracts shall provide that the Federal Government will (1) take title at the civilian nuclear power reactor site, to such amounts of spent nuclear fuel from the civilian nuclear power reactor as the Commission determines cannot be stored onsite, (2) transport the spent nuclear fuel to a federally owned and operated interim away-from-reactor storage facility, and (3) store such fuel in the facility pending further processing, storage, or disposal. Each such contract shall (A) provide for payment to the Secretary of fees determined in accordance with the provisions of this section; and (B) specify the amount of storage capacity to be provided for the person involved.

(2) The Secretary shall undertake a study and, not later than 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges that shall be calculated on an annual basis, commencing on or before January 1, 1984. Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the cost of the interim storage of any spent nuclear fuel. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment) and any legislative recommendations determined by the Secretary to be appropriate.

(3) Fees for storage under this subtitle shall be established on a nondiscriminatory basis. The fees to be paid by each person entering into a contract with the Secretary under this subsection shall be based upon an estimate of the pro rata costs of storage and related activities under this subtitle with respect to such person, including the acquisition, construction, operation, and maintenance of any facilities under this subtitle.

(4) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such storage services shall be made available.

(5) Except as provided in sections 137, nothing in this or any other Act requires the Secretary, in carrying out the responsibilities of this section, to obtain a license or permit to possess or own spent nuclear fuel.

(b) LIMITATION.—No spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code may be stored by the Secretary in any storage capacity provided under this subtitle unless such department transfers to the Secretary, for deposit in the Interim Storage Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such spent nuclear fuel were generated by any other person.

(c) ESTABLISHMENT OF INTERIM STORAGE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Interim Storage Fund. The Storage Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Storage Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Storage Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the interim storage of civilian spent nuclear fuel, which shall automatically be transferred to the Storage Fund on such date.

(d) USE OF STORAGE FUND.—The Secretary may make expenditures from the Storage Fund, subject to subsection (e), for any purpose necessary or appropriate to the conduct of the functions and activities of the Secretary, or the provision or anticipated provision of services, under this subtitle, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any interim storage facility provided under this subtitle;

(2) the administrative cost of the interim storage program;

(3) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at an interim storage site, consistent with the restrictions in section 135;

(4) the cost of transportation of spent nuclear fuel; and

(5) impact assistance as described in subsection (e).

(e) IMPACT ASSISTANCE.—(1) Beginning the first fiscal year which commences after the date of the enactment of this Act, the Secretary shall make annual impact assistance payments to a State or appropriate unit of local government, or both, in order to mitigate social or economic impacts occasioned by the establishment and subsequent operation of any interim storage capacity within the jurisdictional boundaries of such government or governments and authorized under this subtitle: Provided, however, That such impact assistance payments shall not exceed (A) ten per centum of the costs incurred in paragraphs (1) and (2), or (B) $15 per kilogram of spent fuel, whichever is less;

(2) Payments made available to States and units of local government pursuant to this section shall be—

(A) allocated in a fair and equitable manner with a priority to those States or units of local government suffering the most severe impacts; and

(B) utilized by States or units of local governments only for (i) planning, (ii) construction and maintenance of public services, (iii) provision of public services related to the providing of such interim storage authorized under this title, and (iv) compensation for loss of taxable property equivalent to that if the storage had been provided under private ownership.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines necessary to ensure that the purposes of this subsection shall be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Payments under this subsection shall be made available solely from the fees determined under subsection (a).

(5) The Secretary is authorized to consult with States and appropriate units of local government in advance of commencement of establishment of storage capacity authorized under this subtitle in an effort to determine the level of the payment such government would be eligible to receive pursuant to this subsection.

(6) As used in this subsection, the term "unit of local government" means a country, parish, township, municipality, and shall include a borough existing in the State of Alaska on the date of the enactment of this subsection, and any other unit of government below the State level which is a unit of general government as determined by the Secretary.

(f) ADMINISTRATION OF STORAGE FUND.—(1) The Secretary of the Treasury shall hold the Storage Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Storage Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Storage Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Storage Fund shall consist of estimates made by the Secretary of expenditures from the Storage Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Storage Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Storage Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Storage Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Storage Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Storage Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Storage Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may

be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Storage Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Storage Fund, less the average undisbursed cash balance in the Storage Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

SEC. 137. (a) TRANSPORTATION.—(1) Transportation of spent nuclear fuel under section 136(a) shall be subject to licensing and regulation by the Commission and by the Secretary of Transportation as provided for transportation of commercial spent nuclear fuel under existing law.

(2) The Secretary, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost.

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

MONITORED RETRIEVABLE STORAGE

SEC. 141. (a) FINDINGS.—The Congress finds that—

(1) long-term storage of high-level radioactive waste or spent nuclear fuel in monitored retrievable storage facilities is an option for providing safe and reliable management of such waste or spent fuel;

(2) the executive branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for construction of one or more monitored retrievable storage facilities to provide such long-term storage;

(3) the Federal Government has the responsibility to ensure that site-specific designs for such facilities are available as provided in this section;

(4) the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities have responsibility to pay the costs of the long-term storage of such waste and spent fuel; and

(5) disposal of high-level radioactive waste and spent nuclear fuel in a repository developed under this Act should proceed regardless of any construction of a monitored retrievable storage facility pursuant to this section.

(b) SUBMISSION OF PROPOSAL BY SECRETARY.—(1) On or before June 1, 1985, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel. Each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring, management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

(2) Such proposal shall include—

(A) the establishment of a Federal program for the siting, development, construction, and operation of facilities capable of safely storing high-level radioactive waste and spent nuclear fuel, which facilities are to be licensed by the Commission;

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities;

(C) site-specific designs, specifications, and cost estimates sufficient to (i) solicit bids for the construction of the first such facility; (ii) support congressional authorization of the construction of such facility; and (iii) enable completion and operation of such facility as soon as practicable following congressional authorization of such facility; and

(D) a plan for integrating facilities constructed pursuant to this section with other storage and disposal facilities authorized in this Act.

(3) In formulating such proposal, the Secretary shall consult with the Commission and the Administrator, and shall submit their comments on such proposal to the Congress at the time such proposal is submitted.

(4) The proposal shall include, for the first such facility, at least three alternative sites and at least five alternative combinations of such proposed sites and facility designs consistent with the criteria of paragraph (b)(1). The Secretary shall recommend the combination among the alternatives that the Secretary deems preferable. The environmental assessment under subsection (c) shall include a full such analysis of the relative advantages and disadvantages of all five such alternative combinations of proposed sites and proposed facility designs.

(c) ENVIRONMENTAL IMPACT STATEMENTS.—(1) Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act, an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.

(2) If the Congress by law, after review of the proposal submitted by the Secretary under subsection (b), specifically authorizes construction of a monitored retrievable storage facility, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of such facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility, alternate sites for such facility, or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(d) LICENSING.—Any facility authorized pursuant to this section shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of the first such facility, the Commission may not consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(e) CLARIFICATION.—Nothing in this section limits the consideration of alternative facility designs consistent with the criteria of paragraph (b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored, retrievable facility authorized pursuant to this section.

(f) IMPACT ASSISTANCE.—(1) Upon receipt by the Secretary of congressional authorization to construct a facility described in subsection (b), the Secretary shall commence making annual impact aid payments to appropriate units of general local government in order to mitigate any social or economic impacts resulting from the construction and subsequent operation of any such facility within the jurisdictional boundaries of any such unit.

(2) Payments made available to units of general local government under this subsection shall be—

(A) allocated in a fair and equitable manner, with priority given to units of general local government determined by the Secretary to be most severely affected; and

(B) utilized by units of general local government only for planning, construction, maintenance, and provision of public services related to the siting of such facility.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines are necessary to ensure achievement of the purposes of this subsection. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Such payments shall be made available entirely from funds held in the Nuclear Waste Fund established in section 302(c) and shall be available only to the extent provided in advance in appropriation Acts.

(5) The Secretary may consult with appropriate units of general local government in advance of commencement of construction of any such facility in an effort to determine the level of payments each such unit is eligible to receive under this subsection.

(g) LIMITATION.—No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 112. The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository. Such restriction shall continue to apply to any site selected for construction as a repository".

(h) PARTICIPATION OF STATES AND INDIAN TRIBES.—Any facility authorized pursuant to

this section shall be subject to the provisions of sections 115, 116(a), 116(b), 116(d), 117, and 118. For purposes of carrying out the provisions of this subsection, any reference in sections 115 through 118 to a repository shall be considered to refer to a monitored retrievable storage facility.

SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE

SEC. 151. (a) FINANCIAL ARRANGEMENTS.—(1) The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on the date of the enactment of this Act, prior to termination of such licenses.

(2) If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

(b) TITLE AND CUSTODY.—(1) The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

(2) If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

PURPOSE

SEC. 211. It is the purpose of this title—

(1) to provide direction to the Secretary with respect to the disposal of high-level radioactive waste and spent nuclear fuel;

(2) to authorize the Secretary, pursuant to this title—

(A) to provide for the construction, operation, and maintenance of a deep geologic test and evaluation facility; and

(B) to provide for a focused and integrated high-level radioactive waste and spent nuclear fuel research and development program, including the development of a test and evaluation facility to carry out research and provide an integrated demonstration of the technology for deep geologic disposal of high-level radioactive waste, and the development of the facilities to demonstrate dry storage of spent nuclear fuel; and

(3) to provide for an improved cooperative role between the Federal Government and States, affected Indian tribes, and units of general local government in the siting of a test and evaluation facility.

APPLICABILITY

SEC. 212. The provisions of this title are subject to section 8 and shall not apply to facilities that are used for the disposal of high-level radioactive waste, low-level radioactive waste transuranic waste, or spent nuclear fuel resulting from atomic energy defense activities.

IDENTIFICATION OF SITES

SEC. 213. (a) GUIDELINES.—Not later than 6 months after the date of the enactment of this Act and notwithstanding the failure of other agencies to promulgate standards pursuant to applicable law, the Secretary, in consultation with the Commission, the Director of the Geological Survey, the Administrator, the Council on Environmental Quality, and such other Federal agencies as the Secretary considers appropriate, is authorized to issue, pursuant to section 553 of title 5, United States Code, general guidelines for the selection of a site for a test and evaluation facility. Under such guidelines the Secretary shall specify factors that qualify or disqualify a site for development as a test and evaluation facility, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall require the Secretary to consider the various geologic media in which the site for a test and evaluation facility may be located and, to the extent practicable, to identify sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering and selecting sites under this title.

(b) SITE IDENTIFICATION BY THE SECRETARY.—(1) Not later than 1 year after the date of the enactment of this Act, and following promulgation of guidelines under subsection (a), the Secretary is authorized to identify 3 or more sites, at least 2 of which shall be in different geologic media in the continental United States, and at least 1 of which shall be in media other than salt. Subject to Commission requirements, the Secretary shall give preference to sites for the test and evaluation facility in media possessing geochemical characteristics that retard aqueous transport of radionuclides. In order to provide a greater possible protection of public health and safety as operating experience is gained at the test and evaluation facility, and with the exception of the primary areas under review by the Secretary on the date of the enactment of this Act for the location of a test and evaluation facility or repository, all sites identified under this subsection shall be more than 15 statute miles from towns having a population of greater than 1,000 persons as determined by the most recent census unless such sites contain high-level radioactive waste prior to identification under this title. Each identification of a site shall be supported by an environmental assessment, which shall include a detailed statement of the basis for such identification and of the probable impacts of the siting research activities planned for such site, and a discussion of alternative activities relating to siting research that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(A) an evaluation by the Secretary as to whether such site is suitable for siting research under the guidelines established under subsection (a);

(B) an evaluation by the Secretary of the effects of the siting research activities at such site on the public health and safety and the environment;

(C) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(D) a description of the decision process by which such site was recommended; and

(E) an assessment of the regional and local impacts of locating the proposed test and evaluation facility at such site.

(2) When the Secretary identifies a site, the Secretary shall as soon as possible notify the Governor of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, of such identification and the basis of such identification. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be identified after such 1 year period, following the same procedure as if such sites had been identified within such period.

SITING RESEARCH AND RELATED ACTIVITIES

SEC. 214. (a) IN GENERAL.—Not later than 30 months after the date on which the Secretary completes the identification of sites under section 213, the Secretary is authorized to complete sufficient evaluation of 3 sites to select a site for expanded siting research activities and for other activities under section 218. The Secretary is authorized to conduct such preconstruction activities relative to such site selection for the test and evaluation facility as he deems appropriate. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be evaluated after such 30-month period, following the same procedures as if such sites were to be evaluated within such period.

(b) PUBLIC MEETINGS AND ENVIRONMENTAL ASSESSMENT.—Not later than 6 months after the date on which the Secretary completes the identification of sites under section 213, and before beginning siting research activities, the Secretary shall hold at least 1 public meeting in the vicinity of each site to inform the residents of the area of the activities to be conducted at such site and to receive their views.

(c) RESTRICTIONS.—Except as provided in section 218 with respect to a test and evaluation facility, in conducting siting research activities pursuant to subsection (a)—

(1) the Secretary shall use the minimum quantity of high-level radioactive waste or other radioactive materials, if any, necessary to achieve the test or research objectives;

(2) the Secretary shall ensure that any radioactive material used or placed on a site shall be fully retrievable; and

(3) upon termination of siting research activities at a site for any reason, the Secretary shall remove any radioactive material at or in the site as promptly as practicable.

(d) TITLE TO MATERIAL.—The Secretary may take title, in the name of the Federal Government, to the high-level radioactive waste, spent nuclear fuel, or other radioactive material emplaced in a test and evaluation facility. If the Secretary takes title to any such material, the Secretary shall enter into the appropriate financial arrangements described in subsections (a) or (b) of section 302 for the disposal of such material.

TEST AND EVALUATION FACILITY SITING REVIEW AND REPORTS

SEC. 215. (a) CONSULTATION AND COOPERATION.—The Governor of a State, or the governing body of an affected Indian tribe, notified of a site identification under section 213 shall have the right to participate in a process of consultation and cooperation as soon as the site involved has been identified pursuant to such section and throughout the life of the test and evaluation facility. For purposes of this section, the term "process of consultation and cooperation" means a methodology—

(1) by which the Secretary—

(A) keeps the Governor or governing body involved fully and currently informed about any potential economic or public health and safety impacts in all stages of the siting, development, construction, and operation of a test and evaluation facility;

(B) solicits, receives, and evaluates concerns and objections of such Governor or governing body with regard to such test and evaluation facility on an ongoing basis; and

(C) works diligently and cooperatively to resolve such concerns and objections; and

(2) by which the State or affected Indian tribe involved can exercise reasonable independent monitoring and testing of onsite activities related to all stages of the siting, development, construction and operation of the test and evaluation facility, except that any such monitoring and testing shall not unreasonably interfere with onsite activities.

(b) WRITTEN AGREEMENTS.—The Secretary shall enter into written agreements with the Governor of the State in which an identified site is located or with the governing body of any affected Indian tribe where an identified site is located in order to expedite the consultation and cooperation process. Any such written agreement shall specify—

(1) procedures by which such Governor or governing body may study, determine, comment on, and make recommendations with regard to the possible health, safety, and economic impacts of the test and evaluation facility;

(2) procedures by which the Secretary shall consider and respond to comments and recommendations made by such Governor or governing body, including the period in which the Secretary shall so respond;

(3) the documents the Department is to submit to such Governor or governing body, the timing for such submissions, the timing for such Governor or governing body to identify public health and safety concerns and the process to be followed to try to eliminate those concerns;

(4) procedures by which the Secretary and either such Governor or governing body may review or modify the agreement periodically; and

(5) procedures for public notification of the procedures specified under subparagraphs (A) through (D).

(c) LIMITATION.—Except as specifically provided in this section, nothing in this title is intended to grant any State or affected Indian tribe any authority with respect to the siting, development, or loading of the test and evaluation facility.

FEDERAL AGENCY ACTIONS

SEC. 216. (a) COOPERATION AND COORDINATION.—Federal agencies shall assist the Secretary by cooperating and coordinating with the Secretary in the preparation of any necessary reports under this title and the mission plan under section 301.

(b) ENVIRONMENTAL REVIEW.—(1) No action of the Secretary or any other Federal agency required by this title or section 301 with respect to a test and evaluation facility to be taken prior to the initiation of onsite construction of a test and evaluation facility shall require the preparation of an environmental impact statement under section 102(2)(C) of the Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require the preparation of environmental reports, except as otherwise specifically provided for in this title.

(2) The Secretary and the heads of all other Federal agencies shall, to the maximum extent possible, avoid duplication of efforts in the preparation of reports under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

RESEARCH AND DEVELOPMENT ON DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

SEC. 217. (a) PURPOSE.—Not later than 64 months after the date of the enactment of this Act, the Secretary is authorized to, to the extent practicable, begin at a site evaluated under section 214, as part of and as an extension of siting research activities of such site under such section, the mining and construction of a test and evaluation facility. Prior to the mining and construction of such facility, the Secretary shall prepare an environmental assessment. The purpose of such facility shall be—

(1) to supplement and focus the repository site characterization process;

(2) to provide the conditions under which known technological components can be integrated to demonstrate a functioning repository-like system;

(3) to provide a means of identifying, evaluating, and resolving potential repository licensing issues that could not be resolved during the siting research program conducted under section 212;

(4) to validate, under actual conditions, the scientific models used in the design of a repository;

(5) to refine the design and engineering of repository components and systems and to confirm the predicted behavior of such components and systems;

(6) to supplement the siting data, the generic and specific geological characteristics developed under section 214 relating to isolating disposal materials in the physical environment of a repository;

(7) to evaluate the design concepts for packaging, handling, and emplacement of high-level radioactive waste and spent nuclear fuel at the design rate; and

(8) to establish operating capability without exposing workers to excessive radiation.

(b) DESIGN.—The Secretary shall design each test and evaluation facility—

(1) to be capable of receiving not more than 100 full-sized canisters of solidified high-level radioactive waste (which canisters shall not exceed an aggregate weight of 100 metric tons), except that spent nuclear fuel may be used instead of such waste if such waste cannot be obtained under reasonable conditions;

(2) to permit full retrieval of solidified high-level radioactive waste, or other radioactive material used by the Secretary for testing, upon completion of the technology demonstration activities; and

(3) based upon the principle that the high-level radioactive waste, spent nuclear fuel, or other radioactive material involved shall be isolated from the biosphere in such a way that the initial isolation is provided by engineered barriers functioning as a system with the geologic environment.

(c) OPERATION.—(1) Not later than 88 months after the date of the enactment of this Act, the Secretary shall begin an in situ testing program at the test and evaluation facility in accordance with the mission plan developed under section 301, for purposes of—

(A) conducting in situ tests of bore hole sealing, geologic media fracture sealing, and room closure to establish the techniques and performance for isolation of high-level radioactive waste, spent nuclear fuel, or other radioactive materials from the biosphere;

(B) conducting in situ tests with radioactive sources and materials to evaluate and improve reliable models for radionuclide migration, absorption, and containment within the engineered barriers and geologic media involved, if the Secretary finds there is reasonable assurance that such radioactive sources and materials will not threaten the use of such site as a repository;

(C) conducting in situ tests to evaluate and improve models for ground water or brine flow through fractured geologic media;

(D) conducting in situ tests under conditions representing the real time and the accelerated time behavior of the engineered barriers within the geologic environment involved;

(E) conducting in situ tests to evaluate the effects of heat and pressure on the geologic media involved, on the hydrology of the surrounding area, and on the integrity of the disposal packages;

(F) conducting in situ tests under both normal and abnormal repository conditions to establish safe design limits for disposal packages and to determine the effects of the gross release of radionuclides into surroundings, and the effects of various credible failure modes, including—

(i) seismic events leading to the coupling of aquifers through the test and evaluation facility;

(ii) thermal pulses significantly greater than the maximum calculated; and

(iii) human intrusion creating a direct pathway to the biosphere; and

(G) conducting such other research and development activities as the Secretary considers appropriate, including such activities necessary to obtain the use of high-level radioactive waste, spent nuclear fuel, or other radioactive materials (such as any highly radioactive material from the Three Mile Island nuclear powerplant or from the West Valley Demonstration Project) for test and evaluation purposes, if such other activities are reasonably necessary to support the repository program and if there is reasonable assurance that the radioactive sources involved will not threaten the use of such site as a repository.

(2) The in situ testing authorized in this subsection shall be designed to ensure that the suitability of the site involved for licensing by the Commission as a repository will not be adversely affected.

(d) USE OF EXISTING DEPARTMENT FACILITIES.—During the conducting of siting research activities under section 214 and for such period thereafter as the Secretary considers appropriate, the Secretary shall use Department facilities owned by the Federal Government on the date of the enactment of this Act for the conducting of generically applicable tests regarding packaging, handling, and emplacement technology for solidified high-level radioactive waste and spent nuclear fuel from civilian nuclear activities.

(e) ENGINEERED BARRIERS.—The system of engineered barriers and selected geology used in a test and evaluation facility shall have a design life at least as long as that which the Commission requires by regulations issued under this Act, or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), for repositories.

(f) ROLE OF COMMISSION.—(1)(A) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Commission shall reach a written understanding establishing the procedures for review, consultation, and coordination in the planning, construction, and operation of the test and evaluation facility under this section. Such understanding shall establish a schedule, consistent with the deadlines set forth in this subtitle, for submission by the Secretary of, and review by the Commission of and necessary action on—

(i) the mission plan prepared under section 301; and

(ii) such reports and other information as the Commission may reasonably require to evaluate any health and safety impacts of the test and evaluation facility.

(B) Such understanding shall also establish the conditions under which the Commission may have access to the test and evaluation facility for the purpose of assessing any public health and safety concerns that it may have. No shafts may be excavated for the test and evaluation until the Secretary and the Commission enter into such understanding.

(2) Subject to section 305, the test and evaluation facility, and the facilities authorized in section 217, shall be constructed and operated as research, development, and demonstration facilities, and shall not be subject to licensing under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(3)(A) The Commission shall carry out a continuing analysis of the activities undertaken under this section to evaluate the adequacy of the consideration of public health and safety issues.

(B) The Commission shall report to the President, the Secretary, and the Congress as the Commission considers appropriate with respect to the conduct of activities under this section.

(g) ENVIRONMENTAL REVIEW.—The Secretary shall prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to conducting tests with radioactive materials at the test and evaluation facility. Such environmental impact statement shall incorporate, to the extent practicable, the environmental assessment prepared under seciion 217(a). Nothing in this subsection may be construed to limit siting research activities conducted under section 214. This subsection shall apply only to activities performed exclusively for a test and evaluation facility.

(h) LIMITATIONS.—(1) If the test and evaluation facility is not located at the site of a repository, the Secretary shall obtain the concurrence of the Commission with respect to the decontamination and decommissioning of such facility.

(2) If the test and evaluation facility is not located at a candidate site or repository site, the Secretary shall conduct only the portion of the in situ testing program required in subsection (c) determined by the Secretary to be useful in carrying out the purposes of this Act.

(3) The operation of the test and evaluation facility shall terminate not later than—

(A) 5 years after the date on which the initial repository begins operation; or

(B) at such time as the Secretary determines that the continued operation of a test and evaluation facility is not necessary for research, development, and demonstration purposes;

whichever occurs sooner.

(4) Notwithstanding any other provisions of this subsection, as soon as practicable following any determination by the Secretary, with the concurrence of the Commission, that the test and evaluation facility is unsuitable for continued operation, the Secretary shall take such actions as are necessary to remove from such site any radioactive material placed on such site as a result of testing and evaluation activities conducted under this section. Such requirement may be waived if the Secretary, with the concurrence of the Commission, finds that short-term testing and evaluation activities using radioactive material will not endanger the public health and safety.

RESEARCH AND DEVELOPMENT ON SPENT NUCLEAR FUEL

SEC. 218. (a) DEMONSTRATION AND COOPERATIVE PROGRAMS.—The Secretary shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission. Not later than 1 year after the date of the enactment of this Act, the Secretary shall select at least 1, but not more than 3, sites evaluated under section 214 at such power reactors. In selecting such site or sites, the Secretary shall give preference to civilian nuclear power reactors that will soon have a shortage of interim storage capacity for spent nuclear fuel. Subject to reaching agreement as provided in subsection (b), the Secretary shall undertake activities to assist such power reactors with demonstration projects at such sites, which may use one of the following types of alternate storage technologies: spent nuclear fuel storage casks, caissons, or silos. The Secretary shall also undertake a cooperative program with civilian nuclear power reactors to encourage the development of the technology for spent nuclear fuel rod consolidation in existing power reactor water storage basins.

(b) COOPERATIVE AGREEMENTS.—To carry out the programs described in subsection (a), the Secretary shall enter into a cooperative agreement with each utility involved that specifies, at a minimum, that—

(1) such utility shall select the alternate storage technique to be used, make the land and spent nuclear fuel available for the dry storage demonstration, submit and provide site-specific documentation for a license application to the Commission, obtain a license relating to the facility involved, construct such facility, operate such facility after licensing, pay the costs required to construct such facility, and pay all costs associated with the operation and maintenance of such facility;

(2) the Secretary shall provide, on a cost-sharing basis, consultative and technical assistance, including design support and generic licensing documentation, to assist such utility in obtaining the construction authorization and appropriate license from the Commission; and

(3) the Secretary shall provide generic research and development of alternative spent nuclear fuel storage techniques to enhance utility-provided, at-reactor storage capabilities, if authorized in any other provision of this Act or in any other provision of law.

(c) DRY STORAGE RESEARCH AND DEVELOPMENT.—(1) The consultative and technical assistance referred to in subsection (b)(2) may include, but shall not be limited to, the establishment of a research and development program for the dry storage of not more than 300 metric tons of spent nuclear fuel at facilities owned by the Federal Government on the date of the enactment of this Act. The purpose of such program shall be to collect necessary data to assist the utilities involved in the licensing process.

(2) To the extent available, and consistent with the provisions of section 135, the Secretary shall provide spent nuclear fuel for the research and development program authorized in this subsection from spent nuclear fuel received by the Secretary for storage under section 135. Such spent nuclear fuel shall not be subject to the provisions of section 135(e).

(d) FUNDING.—The total contribution from the Secretary from Federal funds and the use of Federal facilities or services shall not exceed 25 percent of the total costs of the demonstration program authorized in subsection (a), as estimated by the Secretary. All remaining costs of such program shall be paid by the utilities involved or shall be provided by the Secretary from the Interim Storage Fund established in section 136.

(e) RELATION TO SPENT NUCLEAR FUEL STORAGE PROGRAM.—The spent nuclear fuel storage program authorized in section 135 shall not be construed to authorize the use of research development or demonstration facilities owned by the Department unless—

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) has passed after the Secretary has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a writ-

ten report containing a full and complete statement concerning (A) the facility involved; (B) any necessary modifications; (C) the cost thereof; and (D) the impact on the authorized research and development program; or

(2) each such committee, before the expiration of such period, has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed use of such facility.

PAYMENTS TO STATES AND INDIAN TRIBES

SEC. 219. (a) PAYMENTS.—Subject to subsection (b), the Secretary shall make payments to each State or affected Indian tribe that has entered into an agreement pursuant to section 215. The Secretary shall pay an amount equal to 100 percent of the expenses incurred by such State or Indian tribe in engaging in any monitoring, testing, evaluation, or other consultation and cooperation activity under section 215 with respect to any site. The amount paid by the Secretary under this paragraph shall not exceed $3,000,000 per year from the date on which the site involved was identified to the date on which the decontamination and decommission of the facility is complete pursuant to section 217(h). Any such payment may only be made to a State in which a potential site for a test and evaluation facility has been identified under section 213, or to an affected Indian tribe where the potential site has been identified under such section.

(b) LIMITATION.—The Secretary shall make any payment to a State under subsection (a) only if such State agrees to provide, to each unit of general local government within the jurisdictional boundaries of which the potential site or effectively selected site involved is located, at least one-tenth of the payments made by the Secretary to such State under such subsection. A State or affected Indian tribe receiving any payment under subsection (a) shall otherwise have discretion to use such payment for whatever purpose it deems necessary, including the State or tribal activities pursuant to agreements entered into in accordance with section 215. Annual payments shall be prorated on a 365-day basis to the specified dates.

STUDY OF RESEARCH AND DEVELOPMENT NEEDS FOR MONITORED RETRIEVABLE STORAGE PROPOSAL

SEC. 220. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the research and development activities the Secretary considers necessary to develop the proposal required in section 141(b) with respect to a monitored retrievable storage facility.

JUDICIAL REVIEW

SEC. 221. Judicial review of research and development activities under this title shall be in accordance with the provisions of section 119.

SEC. 222. RESEARCH ON ALTERNATIVES FOR THE PERMANENT DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE.—The Secretary shall continue and accelerate a program of research, development, and investigation of alternative means and technologies for the permanent disposal of high-level radioactive waste from civilian nuclear activities and Federal research and development activities except that funding shall be made from amounts appropriated to the Secretary for purposes of carrying out this section. Such program shall include examination of various waste disposal options.

TECHNICAL ASSISTANCE TO NON-NUCLEAR WEAPON STATES IN THE FIELD OF SPENT FUEL STORAGE AND DISPOSAL

SEC. 223. (a) It shall be the policy of the United States to cooperate with and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal.

(b)(1) Within 90 days of enactment of this Act, the Secretary and the Commission shall publish a joint notice in the Federal Register stating that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of at-reactor spent fuel storage; away-from-reactor spent fuel storage; monitored, retrievable spnt fuel storage; geologic disposal of spent fuel; and the health, safety, and environmental regulation of such activities. The notice shall summarize the resources that can be made available for international cooperation and assistance in these fields through existing programs of the Department and the Commission, including the availability of: (i) data from past or ongoing research and development projects; (ii) consultations with expert Department or Commission personnel or contractors; and (iii) liaison with private business entities and organizations working in these fields.

(2) The joint notice described in the preceding subparagraph shall be updated and reissued annually for 5 succeeding years.

(c) Following publication of the annual joint notice referred to in paragraph (2), the Secretary of State shall inform the governments of non-nuclear weapon states and, as feasible, the organizations operating nuclear powerplants in such states, that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of spent fuel storage and disposal, as set forth in the joint notice. The Secretary of State shall also solicit expressions of interest from non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators concerning their participation in expanded United States cooperation and technical assistance programs in these fields. The Secretary of State shall transmit any such expressions of interest to the Department and the Commission.

(d) With his budget presentation materials for the Department and the Commission for fiscal years 1984 through 1989, the President shall include funding requests for an expanded program of cooperation and technical assistance with non-nuclear weapon states in the fields of spent fuel storage and disposal as appropriate in light of expressions of interest in such cooperation and assistance on the part of non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators.

(e) For the purposes of this subsection, the term "non-nuclear weapon state" shall have the same meaning as that set forth in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.C. 438).

(f) Nothing in this subsection shall authorize the Department or the Commission to take any action not authorized under existing law.

TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

MISSION PLAN

SEC. 301. (a) CONTENTS OF MISSION PLAN.—The Secretary shall prepare a comprehensive report, to be known as the mission plan, which shall provide an informational basis sufficient to permit informed decisions to be made in carrying out the repository program and the research, development, and demonstration programs required under this Act. The mission plan shall include—

(1) an identification of the primary scientific, engineering, and technical information, including any necessary demonstration of engineering or systems integration, with respect to the siting and construction of a test and evaluation facility and repositories;

(2) an identification of any information described in paragraph (1) that is not available because of any unresolved scientific, engineering, or technical questions, or undemonstrated engineering or systems integration, a schedule including specific major milestones for the research, development, and technology demonstration program required under this Act and any additional activities to be undertaken to provide such information, a schedule for the activities necessary to achieve important programmatic milestones, and an estimate of the costs required to carry out such research, development, and demonstration programs;

(3) an evaluation of financial, political, legal, or institutional problems that may impede the implementation of this Act, the plans of the Secretary to resolve such problems, and recommendations for any necessary legislation to resolve such problems;

(4) any comments of the Secretary with respect to the purpose and program of the test and evaluation facility;

(5) a discussion of the significant results of research and development programs conducted and the implications for each of the different geologic media under consideration for the siting of repositories, and, on the basis of such information, a comparison of the advantages and disadvantages associated with the use of such media for repository sites;

(6) the guidelines issued under section 112(a);

(7) a description of known sites at which site characterization activities should be undertaken, a description of such siting characterization activities, including the extent of planned excavations, plans for onsite testing with radioactive or nonradioactive material, plans for any investigations activities which may affect the capability of any such site to isolate high-level radioactive waste or spent nuclear fuel, plans to control any adverse, safety-related impacts from such site characterization activities, and plans for the decontamination and decommissioning of such site if it is determined unsuitable for licensing as a repository;

(8) an identification of the process for solidifying high-level radioactive waste or packaging spent nuclear fuel, including a summary and analysis of the data to support the selection of the solidification process and packaging techniques, an analysis of the requirements for the number of solidification packaging facilities needed, a description of the state of the art for the materials proposed to be used in packaging such waste or spent fuel and the availability of such materials including impacts on strategic supplies and any requirements for new or reactivated facilities to produce any such materials needed, and a description of a plan, and the schedule for implementing such plan, for an aggressive research and development program to provide when needed a high-integrity disposal package at a reasonable price;

(9) an estimate of (A) the total repository capacity required to safely accommodate the disposal of all high-level radioactive waste

and spent nuclear fuel expected to be generated through December 31, 2020, in the event that no commercial reprocessing of spent nuclear fuel occurs, as well as the repository capacity that will be required if such reprocessing does occur; (B) the number and type of repositories required to be constructed to provide such disposal capacity; (C) a schedule for the construction of such repositories; and (D) an estimate of the period during which each repository listed in such schedule will be accepting high-level radioactive waste or spent nuclear fuel for disposal;

(10) an estimate, on an annual basis, of the costs required (A) to construct and operate the repositories anticipated to be needed under paragraph (9) based on each of the assumptions referred to in such paragraph; (B) to construct and operate a test and evaluation facility, or any other facilities, other than repositories described in subparagraph (A), determined to be necessary; and (C) to carry out any other activities under this Act; and

(11) an identification of the possible adverse economic and other impacts to the State or Indian tribe involved that may arise from the development of a test and evaluation facility or repository at a site.

(b) SUBMISSION OF MISSION PLAN.—(1) Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a draft mission plan to the States, the affected Indian tribes, the Commission, and other Government agencies as the Secretary deems appropriate for their comments.

(2) In preparing any comments on the mission plan, such agencies shall specify with precision any objections that they may have. Upon submission of the mission plan to such agencies, the Secretary shall publish a notice in the Federal Register of the submission of the mission plan and of its availability for public inspection, and, upon receipt of any comments of such agencies respecting the mission plan, the Secretary shall publish a notice in the Federal Register of the receipt of comments and of the availability of the comments for public inspection. If the Secretary does not revise the mission plan to meet objections specified in such comments, the Secretary shall publish in the Federal Register a detailed statement for not so revising the mission plan.

(3) The Secretary, after reviewing any other comments made by such agencies and revising the mission plan to the extent that the Secretary may consider to be appropriate, shall submit the mission plan to the appropriate committees of the Congress not later than 17 months after the date of the enactment of this Act. The mission plan shall be used by the Secretary at the end of the first period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) following receipt of the mission plan by the Congress.

NUCLEAR WASTE FUND

SEC. 302. (a) CONTRACTS.—(1) In the performance of his functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

(2) For electricity generated by a civilian nuclear power reactor and sold on or after the date 90 days after the date of enactment of this Act, the fee under paragraph (1) shall be equal to 1.0 mil per kilowatt-hour.

(3) For spent nuclear fuel, or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to the application of the fee under paragraph (2) to such reactor, the Secretary shall, not later than 90 days after the date of enactment of this Act, establish a 1 time fee per kilogram of heavy metal in spent nuclear fuel, or in solidified high-level radioactive waste. Such fee shall be in an amount equivalent to an average charge of 1.0 mil per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom, to be collected from any person delivering such spent nuclear fuel or high-level waste, pursuant to section 123, to the Federal Government. Such fee shall be paid to the Treasury of the United States and shall be deposited in the seperate fund established by subsection (c) 126(b). In paying such a fee, the person delivering spent fuel, or solidified high-level radioactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

(4) Not later than one hundred eighty days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by subsection (2) and paragraph (3). The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (d) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in section (d), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of ninety days of continuous session have elapsed following the receipt of such transmittal unless during such ninety-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.

(5) Contracts entered into under this section shall provide that—

(A) following commencement of operation of a repository, the Secretary shall take title to the high-level radioactive waster or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste of spent fuel; and

(B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.

(6) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such disposal services shall be made available.

(b) ADVANCE CONTRACTING REQUIREMENT.—(1)(A) The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(i) such person has entered into a contract with the Secretary under this section; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

(B) The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of high-level radioactive waste and spent nuclear fuel that may result from the use of such license.

(2) Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in any repository constructed under this Act unless the generator or owner of such spent fuel or waste has entered into a contract with the Secretary under this section by not later than—

(A) June 30, 1983; or

(B) the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste;

whichever occurs later.

(3) The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

(4) No high-level radioactive waste or spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be disposed of by the Secretary in any repository constructed under this Act unless such department transfers to the Secretary, for deposit in the Nuclear Waste Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such waste or spent fuel were generated by any other person.

(c) ESTABLISHMENT OF NUCLEAR WASTE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Nuclear Waste Fund. The Waste Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Waste Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Waste Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the disposal of civilian high-level radioactive waste or civilian spent nuclear fuel, which shall automatically be transferred to the Waste Fund on such date.

(d) USE OF WASTE FUND.—The Secretary may make expenditures from the Waste Fund, subject to subsection (e), only for purposes of radioactive waste disposal activities under titles I and II, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository, monitored, retrievable storage facility or

test and evaluation facility constructed under this Act;

(2) the conducting of nongeneric research, development, and demonstration activities under this Act;

(3) the administrative cost of the radioactive waste disposal program;

(4) any costs that may be incurred by the Secretary in connection with the transportation, treating, or packaging of spent nuclear fuel or high-level radioactive waste to be disposed of in a repository, to be stored in a monitored, retrievable storage site or to be used in a test and evaluation facility;

(5) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at a repository site, a monitored, retrievable storage site or a test and evaluation facility site and necessary or incident to such repository, monitored, retrievable storage facility or test and evaluation facility; and

(6) the provision of assistance to States, units of general local government, and Indian tribes under sections 116, 118, and 219.

No amount may be expended by the Secretary under this subtitle for the construction or expansion of any facility unless such construction or expansion is expressly authorized by this or subsequent legislation. The Secretary hereby is authorized to construct one repository and one test and evaluation facility.

(e) ADMINISTRATION OF WASTE FUND.—(1) The Secretary of the Treasury shall hold the Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Waste Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Waste Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Waste Fund shall consist of the estimates made by the Secretary of expenditures from the Waste Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Waste Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Waste Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Waste Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Waste Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Waste Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Waste Fund, less the average undisbursed cash balance in the Waste Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

ALTERNATIVE MEANS OF FINANCING

SEC. 303. The Secretary shall undertake a study with respect to alternative approaches to managing the construction and operation of all civilian radioactive waste management facilities, including the feasibility of establishing a private corporation for such purposes. In conducting such study, the Secretary shall consult with the Director of the Office of Management and Budget, the Chairman of the Commission, and such other Federal agency representatives as may be appropriate. Such study shall be completed, and a report containing the results of such study shall be submitted to the Congress, within 1 year after the date of the enactment of this Act.

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

SEC. 304. (a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

(c) ANNUAL REPORT TO CONGRESS.—The Director of the Office shall annually prepare and submit to the Congress a comprehensive report on the activities and expenditures of the Office.

(d) ANNUAL AUDIT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

LOCATION OF TEST AND EVALUATION FACILITY

SEC. 305. (a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report setting forth whether the Secretary plans to locate the test and evaluation facility at the site of a repository.

(b) PROCEDURES.—(1) If the test and evaluation facility is to be located at any candidate site or repository site (A) site selection and development of such facility shall be conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of repositories; and (B) the Secretary may not commence construction of any surface facility for such test and evaluation facility prior to issuance by the Commission of a construction authorization for a repository at the site involved.

(2) No test and evaluation facility may be converted into a repository unless site selection and development of such facility was conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of respositories.

(3) The Secretary may not commence construction of a test and evaluation facility at a candidate site or site recommended as the location for a repository prior to the date on which the designation of such site is effective under section 115.

NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION

SEC. 306. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.—The Nuclear Regulatory Commisison is authorized and directed to promulgate regulations, or other appropriate Commission regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operator licenses and for operator requalification programs; requirements governing NRC administration of requalification examinations; requirements for operating tests at civilian nuclear pow-

erplant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs. Such regulations or other regulatory guidance shall be promulgated by the Commission within the 12-month period following enactment of this Act, and the Commission within the 12-month period following enactment of this Act shall submit a report to Congress setting forth the actions the Commission has taken with respect to fulfilling its obligations under this section.

CONFERENCE REPORT ON H.R. 5002, FISHERY CONSERVATION AND MANAGEMENT IMPROVEMENT

Mr. BREAUX. Mr. Speaker, pursuant to the order of the House of December 17, 1982, I call up the conference report on the bill (H.R. 5002), to improve fishery conservation and management, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of December 17, 1982, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, December 20, 1982.)

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. BREAUX) will be recognized for 30 minutes, and the gentleman from Washington (Mr. PRITCHARD) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5002 amends the Fishery Conservation and Management Act (FCMA), which was signed into law on April 13, 1976. The FCMA was enacted to provide conservation and management authority over valuable fishery resources found within 200 miles of the U.S. coast. These resources, which account for approximately 20 percent of the world total, had been heavily overfished by foreign fishermen, leading to the virtual demise of 10 U.S. fisheries and losses in excess of half a billion dollars by 1974.

Under the FCMA, eight regional fishery management councils were created and charged with the responsibility of developing fishery management plans (FMP's) for fisheries in need of protection within their geographical areas of authority. The Department of Commerce was granted authority to review, and finally approve, the plans developed by the councils.

During the 96th and 97th Congresses, the Merchant Marine and Fisheries Committee conducted nine oversight hearings which illustrated the need for amendments to further insure the smooth operation of the domestic regulatory regime and strengthen the U.S. negotiating position with foreign nations participating in the harvest of U.S. fishery resources in the fishery conservation zone (FCZ). In combination with the American Fisheries Promotion Act (Public Law 96-561), H.R. 5002 concludes the first comprehensive review of the FCMA.

The basic elements of H.R. 5002:

First, streamline the process for the implementation of fishery management plans (FMP's) and the necessary regulations. The system set forth in H.R. 5002 will insure that FMP's are reviewed and adopted within 95 days of their submission by the regional councils and that Federal regulations will be in effect within 110 days of such plan submissions;

Second, provide a mechanism for allowing foreign vessels to participate in the recreational harvest of U.S. fishery resources; and

Third, strengthen what has come to be known as the U.S. "fish and chips" policy, designed to maximize the benefits for U.S. fishermen of foreign participation in the harvest of fishery resources in the U.S. fishery conservation zone.

The original House bill contained a provision which would have amended existing law so as to insure the State of California two additional obligatory seats on the Pacific Fishery Management Council. Unfortunately, the House was not able to hold this provision in the conference committee and the deletion of this provision is the sole difference between the conference report and the bill which passed the House unanimously last week. I would point out, however, that existing law guarantees California two seats on that council and, thus, that State is guaranteed no fewer seats than any other.

Mr. Speaker, although, as I have just said, the House could not prevail upon the Senate to accept this change to existing law, this bill contains many provisions as I have outlined above that will provide tremendous benefits to the entire U.S. fishing industry and I urge its adoption by the House.

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Mr. Speaker, I reserve the balance of my time.

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume.

This is a good bill. We had a small controversy and I think we have worked that out.

The President and the administration support this legislation. It was, I think, explained adequately by the chairman of the subcommittee and it went through this House without any dissenting votes.

I hope my colleagues will support it.

Mr. BREAUX. Mr. Speaker, I yield such time as he may consume to the chairman of the committee, the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of conference report H.R. 5002, a bill to improve fishery conservation and management.

Among other things, this bill will provide for:

First, greater utilization of our fishery resources by U.S. fishermen;

Second, improved conservation and management of our fishery resources; and

Third, greater cooperation between United States and foreign fishermen, which will benefit our fishermen.

The House supported the addition of two California seats on the Pacific Marine Fisheries Council as in the original bill; however, the Senate conferees were unbending in their opposition to the additional seats, and no compromise was possible.

Although the extra California seats are not included in this conference report, this bill as now reported is a step in the direction of better management and conservation of our fishery resources, and is of vital importance to America's fishing industry.

I urge my colleagues to join me in voting for its passage.

Mr. BREAUX. Mr. Speaker, I have no further requests of time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

1981 TAX YEAR CORPORATE TAX STUDY

(Mr. PEASE asked and was given permission to extend his remarks at this point in the RECORD AND TO INCLUDE EXTRANEOUS MATTER.)

Mr. PEASE. Mr. Speaker, I am today inserting in th CONGRESSIONAL RECORD a corporate tax study done for myself and Congressman BYRON DORGAN by the Joint Committee on Taxation and the General Accounting Office.

Congressman DORGAN and I initiated this study for an important reason. We think it is crucial that the long-term trends of corporate taxation be monitored. Other studies similar to this one have been done—notably by our former House colleague, Congressman Charles Vanik—and are currently being done (by Tax Analysts, a private tax study group). Together, these and other studies, with their different approaches in methodology, can show the public and the Congress the effects of longterm trends in corporate taxes. Do corporate taxpayers shoulder their share of the responsiblity for raising the revenues necessary to operate our country? Are tax cuts or tax increases actually achieving their in-

tended purposes? Do particular sectors of corporate taxpayers pay more or less in Federal income taxes, and why?

Mr. Speaker, other corporate tax studies have concentrated on the effective corporate tax rates of individual companies. This study has taken a different approach and instead presents computed tax rates for 22 different industry sectors representing 179 Fortune 500 companies—from petroleum refining to retailing to electronics. Looking at a single isolated tax year of an individual company can sometime lead to misleading conclusions. Transitory economic factors, poor profit levels, or plain bad management are just some of the factors that may skew a company's tax rates. We are interested in long-term corporate and sectoral trends.

This study accomplishes that by grouping like companies together. While individual companies that make up an industry sector are identified, their income, taxes and tax rate figures are not. Rather, figures are presented for each group of compaines.

The Study is intended to be only the first of a series of similar studies that we hope will show the long-term direction of corporate taxation.

To begin to analyze these computations, readers should look first at table III, Federal Government receipts from 1950 to 1981. Personal income taxes as a percentage of total Federal receipts have climbed from 39.2 percent in 1950 to 47.7 percent last year. However, corporate income tax receipts have plunged from 28.3 percent in 1950 to 11.4 percent last year. For every 2 percentage points that corporate tax receipts have declined, individual tax receipts have gone up 1 point. This basic decline in corporate taxes is important to remember as other parts of the figures are examined.

In 1981, the Congress passed President Reagan's Economic Recovery Tax Act (ERTA). It contained huge supply side tax incentives for corporate taxpayers, most in the form of radically accelerated depreciation provisions for new equipment purchases.

The drastic nature of the corporate provisions was emphasized during hearings on corporate tax cuts before the House Ways and Means Committee. A panel of business witnesses was asked whether they would prefer that the corporate income tax be eliminated completely or the supply side tax incentives enacted. Each member of the four or five member corporate panel indicated they would prefer the tax cut package rather than an end to Federal income taxes. They did not do so out of the goodness of their hearts or charity, but because they stood to actually be taxed at negative rates—meaning Government would end up owing them money.

Because the corporate tax rate is a flat 46 percent over $100,000, inflation and bracket creep do not force large corporations into higher tax brackets. There is no automatic adjustment that serves to increase corporate revenues as individual tax revenues increase—although indexing in 1985 will end bracket creep for individuals. The result is that corporate taxes must be raised by specific intent of the Congress to keep businesses' contributions to Government stable as a precentage of Federal receipts.

After enactment of the supply side tax cut it became clear even to its supporters that the bill had gone too far. In particular, the accelerated depreciation provisions, including the now infamous leasing provisions, were straining the Federal budget. On one hand the provisions forgave billions of dollars in Federal income taxes. But at the same time the promise of improved business investment and productivity did not materialize. Together with other factors, the result was a sharply increased Federal deficit—far in excess of projections by supporters of the tax cut.

In order to raise revenue to slow the increasing deficit, the administration and the Senate Finance Committee proposed and the Congress eventually approved the Tax Equity and Fiscal Responsibility Act (TEFRA) this year. One-half to one-third of the large reductions in corporate revenues enacted in 1981 were offset or at least limited.

Although the effective dates of the changes vary, the tax cut of 1981 and the tax equity legislation of 1982 add up to a chance for those studying corporate taxes to look at 1980's pretax cut figures, the year of large corporate tax cuts—1981—and a third year where excesses were removed—1982. This study is only the first of what we hope will be a long series of studies that will show corporatewide trends and specific sector rates. Taken by itself, this study is no earthshaker; while it confirms the continuing decline in corporate taxes and shows how little some corporate sectors are paying in taxes, it must be set in the context of consecutive tax studies—especially in light of the limitations on corporate taxes enacted just this year. Next year and the years after will show us the effects of the major tax acts of 1981 and 1982.

Mr. Speaker, table I contains the aggregate income and tax data for each of the 22 sectors. While raw numbers are of little interest by themselves, tracking their year-to-year changes in future tax studies will allow us to see growth or decline of industries and their tax contributions to the operation of our country.

In looking at table I tax rates, it should be kept in mind that the basic U.S. Federal corporate income tax rate is a flat 46 percent over $100,000. However, only 4 out of 22 industry sectors in the study paid more than 30 percent in U.S. Federal income taxes on U.S. income.

Table II shows tax rates for tax years 1980 and 1981 for each of the 22 industry groups. While 2 consecutive years does not amount to a long-term trend, one of the most striking findings of this study is the wide disparity across industries in the effective tax rate. It hardly seems fair that some industries are able to escape virtually all their obligation to contribute to the cost of Government, while others are saddled with a relatively heavy burden. What these disparities also show is that the tax system creates much more favorable opportunities for investment in some industries than in others. As a result capital has moved out of some industries and into others simply because of the structure of our current corporate income tax.

It is possible that those induced changes in the allocation of capital are designed to serve some social purpose. It is more likely, however, as many economists argue, that these shifts in the deployment of capital are in fact distortions and misallocations which hinder economic growth and prevent the economy from making the best and most productive use of available resources.

Companies are able to reduce or defer their taxes through entirely legitimate and allowable tax provisions that have been made law by past Congresses and Presidents. They range from special credits for the purchase of equipment or the hiring of disadvantaged employees to more arcane and sophisticated exemptions or deductions that hope to stimulate certain business activities such as the construction of low-income housing or exports of American products.

The Tax Code also includes many special tax provisions meant to aid clearly social aims such as reducing air and water pollution, conserving energy, or encouraging charitable contributions.

Mr. Speaker, while taxes are fundamentally meant to raise money to operate our country, the system has come to contain special provisions that are an entitlement program that every special interest group wants to use to its advantage. Because tax provisions are not subject to the usual annual authorization and appropriations cycle which gives scrutiny to almost every other Federal program, they can be enacted and practically forgotten—except for their continuing drain on the revenues that our income tax system otherwise collects. Programs, too often, remain law that long ago may have outlived their original purpose.

Mr. Speaker, there has long been a philosophical debate over the redistribution of income—meaning that Federal policies have either deliberately

or inadvertently led to a shifting of our country's wealth. The shifts can occur within either corporate or individual groups or between the two groups.

In the last several years, redistribution of income has come to have a negative connotation—it is a euphemism used to indicate that Federal policy has enriched individuals at the expense of business. This study shows that the real redistribution is occurring in the opposite direction—individuals are paying more and more for the costs of operating our country while corporate taxpayers, particularly large ones like those in this study, are reducing their tax contributions substantially.

Mr. Speaker, the figures from this study form the base for a series of corporate tax studies that Congress can use to determine the relative balance of corporate and individual Federal income taxation. It is fairly clear that corporate contributions to Federal receipts are continuing to decline while individuals' contributions are going up. How far they will decline and what the Congress should do must be addressed in future tax legislation. We hope this resource can help in that debate.

The tax study follows:

STUDY OF THE 1981 INCOME TAX EXPENSE REPORTED BY SELECTED LARGE U.S. CORPORATIONS

INTRODUCTION

This study presents calculations, from corporation's financial statements, comparing income tax liability and income. A tax rate, the ratio of "taxes paid" to income before tax, is computed for each company studied, and average tax rates by industry are presented.

In annual financial statements corporations disclose net income before tax, income tax expense and net income after tax. The provision for taxes, or income tax expense, is separated into two parts—current and deferred. Current income tax expense represents taxes currently payable on "book" income. Deferred tax expense represents a liability for taxes which will be payable in some future year, or years, although it is treated as a current year's expense for financial reporting purposes. Deferred taxes generally result from differences in the timing of income recognition or deductions allowed under the rules for computing book income and those for computing taxable income (the total amounts ultimately allowed are equal under the two sets of rules). Cost recovery deductions for equipment are an example of such an item.

In this study, tax rates are compiled by comparing reported current income tax expense with net income before tax. This approach differs from other studies which compute effective tax rates by matching, generally by using tax return data, the taxes paid with the income on which the tax is imposed. The difference between these approaches arises because income, and the taxes imposed on that income, are not necessarily reported in the same period. Because this study compares current tax expense with net income before tax as reported to shareholders, it does not address the complex theoretical, and factual, problems inherent in an effective tax rate computation for which taxes paid are matched with the income on which the tax is imposed.

Current tax expense, rather than the total provision for taxes, is used to measure taxes paid because, for many corporations, during a period of growth or a period of inflation, deferred taxes roll over from one year to the next and are, in fact, never paid or paid in the distant future. The present value of each dollar of deferred tax liability is less than the present value of each dollar of current tax liability. Depending upon the period of deferral and prevailing interest rates, it is possibly considerably less. In effect, by assuming that deferred taxes represent zero tax liability, these estimates are a lower bound for the tax rate calculation. Primarily because of this treatment of deferred taxes, the tax rates in this study differ from those in corporate financial statements or other studies of effective tax rates computed from published data which exclude no, or only a portion, of deferred taxes from the measure of taxes used to compute the tax rate.

Where data are available to separate foreign and domestic earnings, a foreign tax rate on foreign income and a U.S. rate on U.S. income is computed in addition to the worldwide rate on worldwide income.

This report covers 179 companies selected from the Fortune 500 industrials and the Fortune 50's non-industrials. Industrials are grouped by the Standard Industrial Classification Code numbers (SIC Codes). Each company is included in the industry group which represents the greatest volume of industrial sales for that company. The corporations (listed in Appendix B) are grouped as follows:

Aerospace, Beverages, Chemicals, Commercial Banks, Crude Oil Production, Diversified Financials, Diversified Services, Electronics, Appliances, Food Processors, Industrial & Farm Equipment, Metal Manufacturing, Motor Vehicles, Office Equipment, Oil and Refining, Paper and Wood Products, Pharmaceuticals, Retailing, Tobacco, Transportation—Airlines, Railroads, Trucking, and Utilities.

METHODOLOGY

In general, this study compares current income tax expense with net income before taxes as reported in financial statements. However, to provide a better basis for comparing the tax rates of different industries, as well as the trend in tax rates over a period of time, some adjustments, outlined below, are made to reported income and income tax expense. A technical discussion of the methodology is included in Appendix A.

Adjustments

1. Consolidation of subsidiaries: Net income per financial statements is adjusted to include the income or loss attributable to minority interests.

2. Equity accounting for investments in affiliates and joint ventures: Typically, the parent corporation's provision for income taxes does not include the tax attributable to the parent's equity in the net income or loss of the affiliate or joint venture. In this case, the equity income or loss is eliminated from the net income of the parent.

3. Extraordinary items and discontinued operations: The profit or loss from extraordinary items and discontinued operations, which is reported separately, is excluded from income. Similarly, the current tax expense, or savings, attributable to such extraordinary items or discontinued operations is excluded from total current tax expense.

4. Securities transactions (banks only): Net income or loss is adjusted to reflect the profit or loss on securities transactions, which is reported separately. The current income taxes attributable to the profit or loss on securities transactions are aggregated with current taxes on normal operations.

5. State taxes: Income is reduced by the current portion of state or local income tax expense. The current income tax expense is adjusted to eliminate the current portion of state or local income tax expense.

Computation of tax rates

Tax rates are computed by dividing the adjusted worldwide, foreign and U.S. current income tax expense by adjusted worldwide, foreign and U.S. income before tax, respectively.

For those companies which do not disclose foreign earnings, only the rate of worldwide tax on worldwide income is determinable. Companies with losses are eliminated.

APPENDIX A

TECHNICAL DISCUSSION OF METHODOLOGY

CONSOLIDATION OF SUBSIDIARIES

For financial statement purposes, companies generally consolidate subsidiaries that are more than 50 percent owned, including foreign subsidiaries. For Federal income tax purposes, however, generaly only 80 percent or more owned domestic subsidiaries are eligible to be included in a consolidated income tax return. Thus, the "taxable entity" and the "financial statement entity" upon which this study is based may not be the same.

In financial statements, the entire Federal income tax expense of all consolidated subsidiaries is reported as though it were an income tax or refund wholy attributable to the majority interest of the consolidated group. However, the minority interest in the subsidiaries' income or loss (perhaps as much as 49 percent) is eliminated net of tax. Thus, the consolidated financial statements often show the total tax expense of even 51 percent owned subsidiaries while eliminating the after-tax income attributable to the minority interest.

To compensate for this, the net income per financial statement is adjusted to reverse the elimination of the income or loss attributable to the minority interest. (See also worldwide, U.S. and foreign income.)

Equity accounting for investments in affiliates and joint ventures: Generally, investments in affiliates (20 to 50 percent owned companies) and joint ventures are accounted for by the equity method. This method, which is sometimes called a one line consolidation, produces the same net income as does the consolidation method, but through a different technique. Under the equity method, the parent corporation's proportionate share of the "after tax" earnings of the affiliate or joint venture is shown on one line in the income statement. In a consolidation, on the other hand, all income and expense accounts of the subsidiary are combined with those of the parent, and the minority interest is eliminated as a single item.

Under the equity method the parent corporation's provision for income taxes generally does not include the tax attributable to the parent's equity in the net income or loss of the affiliate or joint venture. If the equity earnings are reported in this manner, an adjustment is made to eliminate the

equity income or loss from net income of the parent.

In some instances, equity earnings are shown "broad" in the financial statements, which means that the pre-tax equity income is included in income of the parent and the related taxes are included in the parent's tax provision. This occurs usually where the parent owns more than an 80 percent interest in the equity company, but is not consolidating it for some other reason. If equity earnings are reported in this manner, no adjustment is deemed necessary.

"Overstating" the provisions for Federal income taxes: Corporations may "overstate" the accrued Federal income tax liability, and thus overstate the provision to provide a "cushion" for potential increases in tax liability resulting from Internal Revenue Service examinations. Corporations "book" this "overstatement" because of the tendency to resolve doubtful items in the corporate favor while realizing that they may result in tax deficiencies on examination by the Internal Revenue Service. Because the amount of this "overstatement" of the provision for Federal income taxes cannot be determined from public information sources, no attempt is made in this study to adjust for this amount in arriving at the estimated current Federal income tax expense.

DEFERRED TAXES

If generally accepted accounting principles and tax accounting rules were exactly the same, then all corporations would show an effective rate of tax equal to the statutory rate before credits. The differences between tax and financial accounting rules account for the variances in effective tax rates. Some of these differences are "timing differences" which will reverse in future periods, while others are "permanent differences" which will not reverse. Examples of timing differences include accelerated depreciation, completed contract method of accounting for long-term contracts, installment sale reporting, amortization of investment tax credit and provision for losses on discontinued operations. Examples of permanent differences include the 85 percent dividends received deduction and non-taxable municipal bond interest.

Interperiod tax allocation is an accounting concept that is based on the assumption that the vagaries of the tax law that result merely in timing differences should not affect the overall reported tax expense of the company in a given year. The concept provides in essence that the total tax expense for the period should be the statutory rate times income before tax (after allowing for permanent differences). Some portion of this expense will be due currently under the tax law while the rest will be due (or perhaps refundable) in the future. The portion that is due currently is termed "current tax expense" and the portion that is due (or refundable) in the future is termed "deferred tax expense."

It is sometimes difficult to determine whether a particular difference should be classified as a permanent difference or a timing difference. Realization of timing differences in the future may depend on the level of future profits or may be affected by the level of investment in plant assets or other factors. Subjective determinations are often required. No attempt was made to reclassify the companies' determinations.

INTRAPERIOD TAX ALLOCATION

This accounting technique results in showing the effect of taxes on the various sections of the income statement. For example, the tax expense or savings attributable to extraordinary items or discontinued operations is shown separately from that which is attributable to normal operations. Similarly, for banks, securities transactions are generally shown separately. Occasionally the extraordinary item is recognized for financial statement purposes in a period different than for tax purposes, which causes interperiod and intraperiod tax allocation rules to operate together.

For purposes of this study, the profit or loss from extraordinary items and discontinued operations which is reported separately is excluded from income and the related tax is excluded from tax expense. However, the current portion of other intraperiod taxes, such as those which relate to securities transactions for banks, is aggregated with the current tax expense which relates to normal operations.

INVESTMENT TAX CREDIT

Investment tax credits pertaining to lease financing are frequently recognized over the recovery period of the lease investment and are amortized to lease income. For purposes of computing the tax rates, income should be reduced by the amortized investment tax credit and current tax expense should also be reduced. However, the amount of investment tax credit amortized to lease income is not always disclosed. Therefore, for consistency purposes, no adjustment is made to income or tax expense for these amounts. Generally, this would result in a slightly higher tax rate than if the adjustment were made.

CURRENT INCOME TAX EXPENSE

Adjustments to prior years' estimates: Current worldwide tax expense is comprised of the current portion of the Federal and foreign income taxes reported for financial accounting purposes. Generally, financial accounting rules require that the income taxes currently payable be stated separately from those payable in the future. The taxes payable currently in most cases represent the tax estimated to be shown on the return to be filled. However, the current provision for each year is adjusted by the over- or under-estimation of the prior year's current provision. To the extent of the current and prior years errors in estimation, the current income tax provision does not represent the actual current tax expense as it would be calculated on a strict accrual basis.

Carryovers from prior years: Net operating losses and tax credits, such as the investment tax credit, may be carried over from prior years into the current year. Similarly, losses and credits from the current year may be carried back to prior years. Current income tax expense is not adjusted to eliminate the effect of these carryovers.

WORLDWIDE, U.S. AND FOREIGN INCOME TAXES

Consolidation of subsidiaries: Worldwide income before tax is comprised of income before Federal and foreign income taxes, adjusted to eliminate the equity in earnings or losses of unconsolidated subsidiaries. In several instances the adjustment for equity in earnings of an unconsolidated subsidiary is not made because the parent has at least 80 percent ownership of the subsidiary and the subsidiary's income taxes are separately disclosed. In these circumstances it is likely that the subsidiary is consolidated with the parent for tax purposes, even though it is not for financial statement purposes.

Allocation of income between U.S. and foreign sources: The allocation of income between U.S. and foreign sources is based on information voluntarily disclosed in the companies' financial statements. Effective for fiscal years beginning after December 15, 1976, Financial Accounting Standards Board Statement No. 14 requires certain disclosures relating to foreign operations. The SEC also requires similar information to be disclosed.

Uniform methods of allocating income between U.S. and foreign sources have not been developed; and corporate administrative, capital and product development costs are subject to arbitrary allocation methods. However, the information provided, subject to the accuracy of the allocations, provides information useful in analyzing the effective income tax burden of multinational corporations.

Most companies allocate unrealized foreign currency exchange gains and losses recognized under FASB Statement No. 8 to foreign source income. Net exchange gains decrease the current effective tax rate and net exchange losses increase the effective tax rate. Some companies report high effective foreign tax rates (perhaps in excess of 100 percent) because of the recognition of such losses for financial reporting purposes.

Under FASB Statement No. 52, some foreign currency translation adjustments are not included in net income. Although FASB Statement No. 52 is effective for fiscal years beginning on or after December 15, 1982, some companies adopted this treatment of foreign currency gains and losses in 1981. In this study no attempt has been made to evaluate the effect on tax rates of this change in the accounting rules.

Allocation of income taxes between U.S. and foreign sources: The allocation of current income taxes between U.S. and foreign expense is required by the SEC. In some instances, where the amount involved is not material, State or foreign income taxes may be included with U.S. income taxes. Thus, companies that do not separately state U.S. and foreign earnings must at least separately state U.S. and foreign income taxes allocated between current and deferred, when they are material.

Potential overstatement of U.S. tax on U.S. income: The estimated rate of U.S. tax on U.S. income may be overstated to the extent that some portion of the U.S. tax is actually attributable to foreign earnings. This will occur when the foreign tax paid on foreign earnings is less than the U.S. tax on those earnings, so that even after utilization of the foreign tax as a credit against U.S. tax, an incremental U.S. tax is payable on the foreign earnings. It is not possible to adjust accurately for this occurrence on the basis of publicly available information.

APPENDIX B

Aerospace (SIC Code No. 41): United Technologies, McDonnell Douglas, Rockwell International, Lockheed, General Dynamics, Boeing.

Beverages (SIC Code No. 49): PepsiCo, Coca-Cola, Anheuser-Busch, Consolidated Foods, Heublein.

Chemicals (SIC Code No. 28): E. I. du Pont de Nemours, Dow Chemical, Union Carbide, Monsanto, W. R. Grace, Allied.

Commercial Banks: BankAmerica Corp., Citicorp, Chase Manhattan Corp., Manufacturers Hanover Corp., J. P. Morgan & Co., Continental Illinois Corp., Chemical New York Corp., First Interstate Bancorp., Bankers Trust New York Corp., First Chicago Corp., Security Pacific Corp., Wells Fargo & Co., Crocker National Corp., Marine Midland Banks, Mellon National Corp., Irving

Bank Corp., Interfirst Corp., First National Boston Corp., Northwest Bancorp, First Bank System.

Crude Oil Production (SIC Code No. 10): Occidental Petroleum, MAPCO, Superior Oil, Natomas, Louisiana Land & Exploration.

Deversified Financials: Federal National Mortgage Assn., Aetna Life & Casualty, American Express, Travelers, Merrrill Lynch & Co., H. F. Ahmanson, INA Great Western Financial, First Boston, Loews.

Diversified Services: Phibro, Halliburton, Fluor, Super Valu Stores, Foremost-McKesson, CBS, Fleming Companies, Tesoro Petroleum, AGRI Industries, American Hospital Supply.

Electronics, Appliances (SIC Code No. 36): General Electric, International Telephone & Telegraph, Western Electric, Westinghouse Electric, RCA, Raytheon, Litton Industries, Texas Instruments.

Food Processors (SIC Code No. 20): Dart & Kraft, Beatrice Foods, General Foods, Nabisco Brands, United Brands, Ralston Purina, General Mills, Greyhound, Borden, CPC International, IC Industries.

Industrial & Farm Equipment (SIC Code No. 45): Caterpillar Tractor, Dresser Industries, Deere, Combustion Engineering, FMC.

Metal Maufacturing (SIC Code No. 33): United States Steel, LTV, Bethlehem Steel, Armco, Aluminum Co. of America, Republic Steel, National Steel.

Motor Vehicles (SIC Code No. 40): General Motors, Ford Motor, Chrysler, International Harvester, Signal Companies, TRW, Bendix.

Office Equipment (SIC Code No. 44): International Business Machines, Sperry, Honeywell, NCR, Burroughs.

Oil and Refining (SIC Code No. 29): Exxon, Mobil, Texaco, Standard Oil of California, Standard Oil (Indiana), Gulf Oil, Atlantic Richfield, Shell Oil, Phillips Petroleum, Tenneco, Sun, Standard Oil (Ohio), Getty Oil, Union Oil of California, Amerada Hess, Ashland Oil, Marathon Oil, Cities Service, Union Pacific, Charter, Coastal, Farmland Industries, Agway.

Paper and Wood Products (SIC Code No. 26): Georgia-Pacific, International Paper, Weyerhaeuser, Champion International, Crown Zellerbach.

Pharmaceuticals (SIC Code No. 42): Johnson & Johnson, American Home Products, Bristol-Myers, Warner-Lambert Pfizer.

Retailing: Sears Roebuck, Safeway Stores, K mart, J. C. Penney, Kroger, F. W. Woolworth, Lucky Stores, American Stores, Federated Department Stores, Great Atlantic & Pacific Tea.

Tobacco (SIC Code No. 21): R. J. Reynolds Industries, Phillip Morris, American Brands, BATUS, Universal Leaf Tobacco.

Transportation—Airlines: Trans World, UAL, American Airlines, Pan American World Airways, Eastern Air Lines, Delta Air Lines.

Transportation—Railroads: CSX, Burlington Northern, Santa Fe Industries, Southern Pacific, Missouri Pacific.

Transportation—Trucking: United Parcel Service, Consolidated Freightways, Roadway Express, Leaseway Transportation, Yellow Freight System.

Utilities: American Telephone & Telegraph, General Telephone and Electronics, Southern Company, Pacific Gas & Electric, American Electric Power, Commowealth Edison, Southern California Edison, Middle South Utilities, Consolidated Edison, Texas Utilities.

TABLE I.—FEDERAL INCOME TAX RATES BY SECTOR, 1981

	Thousands of dollars						Percent of tax rate on—		
	Income before tax			Current tax expense			U.S. income	Foreign income [1]	Worldwide income [2]
	United States	Foreign [1]	Worldwide [2]	United States	Foreign [1]	Worldwide			
Aerospace	2,282,317	473,541	2,755,858	155,291	172,943	339,834	6.8	36.5	12.3
Beverages	1,186,983	885,719	2,072,702	342,251	346,457	688,708	28.8	39.1	33.2
Chemicals	3,116,500	2,707,400	5,823,900	154,300	1,545,800	1,700,100	5.0	57.1	29.2
Commercial Banks	2,050,168	3,274,376	5,312,823	47,975	1,247,677	1,311,036	2.3	38.1	24.7
Crude Oil Production	996,075	2,470,226	3,887,881	31,043	1,833,019	2,040,988	3.1	74.2	52.5
Diversified Financials	1,653,911	238,357	2,282,168	277,816	93,645	399,161	16.8	39.3	17.5
Diversified Services	1,714,074	951,309	2,522,970	507,179	319,152	693,958	29.6	33.5	27.5
Electronics, Appliances	4,551,281	1,703,692	6,222,036	1,335,269	722,004	2,131,060	29.3	42.4	34.3
Food Processors	2,809,725	905,571	3,715,296	752,603	458,973	1,211,576	26.8	50.7	32.6
Industrial & Farm Equipment	1,594,768	438,395	2,033,163	383,574	177,167	560,741	24.1	40.4	27.6
Metal Manufacturing	2,557,389	329,755	3,297,944	249,680	115,820	382,000	9.8	35.1	11.6
Motor Vehicles	1,188,694	468,088	1,099,982	566,704	456,299	240,103	47.7	97.5	21.8
Office Equipment	4,327,124	2,877,055	7,204,179	1,093,007	1,725,520	2,818,527	25.3	60.0	39.1
Oil and Refining	21,489,584	19,737,334	47,638,253	4,003,997	11,913,965	18,092,162	18.6	60.4	38.0
Paper and Wood Products	1,354,143	197,959	1,552,102	(192,877)	57,339	(135,538)	(14.2)	29.0	(8.7)
Pharmaceuticals	1,692,049	1,280,600	2,972,649	606,782	619,915	1,176,697	35.9	48.4	39.6
Retailing	2,365,877	301,268	2,621,145	536,268	123,822	642,090	22.7	41.1	24.5
Tobacco	2,593,421	536,340	3,129,761	811,881	110,678	922,559	31.3	20.6	29.5
Transportation:									
Airlines	239,571	95,635	326,374	38,533	25,800	57,469	16.1	27.0	17.6
Railroads	1,723,273	.....	1,723,273	(129,434)	.....	(129,434)	(7.5)	.....	(7.5)
Trucking	796,654	10,826	795,395	367,550	5,183	372,733	46.1	47.9	46.9
Utilities	15,375,821	204,521	16,202,651	1,417,224	83,024	1,514,037	9.2	40.6	9.3

[1] Foreign income as disclosed in the financial statements may be divided between foreign and domestic income in a manner consistent with U.S. tax rules. Current foreign tax expense may include amounts which are not creditable foreign taxes for purposes of the foreign tax credit under the applicable U.S. tax rules. For this and other reasons (such as foreign currency translation gains and losses) the foreign tax rate may not be comparable with the U.S. tax rate.
[2] Worldwide income is not necessarily the total of U.S. income and foreign income because some companies do not disclose foreign earnings and because losses are excluded from group totals. Thus, the worldwide tax rate does not necessarily fall between the U.S. and foreign tax rates.

TABLE II.—COMPARISON OF FEDERAL INCOME TAX RATES FOR 1980 AND 1981 (PERCENT)

	U.S. tax rate on U.S. income		Foreign tax rate on foreign income [1]		Worldwide tax rate on worldwide income [2]	
	1981	1980	1981	1980	1981	1980
Aerospace	6.8	16.4	36.5	41.1	12.3	20.3
Beverages	28.8	28.0	39.1	38.8	33.2	32.7
Chemicals	5.0	13.7	57.1	48.8	29.2	30.3
Commercial Banks	2.3	5.6	38.1	39.0	24.7	22.5
Crude Oil Production	3.1	21.8	74.2	63.2	52.5	54.3
Diversified Financials	16.8	7.7	39.3	32.7	17.5	12.3
Diversified Services	29.6	32.2	33.5	35.4	27.5	33.6
Electronics, Appliances	29.3	29.9	42.4	34.8	34.3	31.4
Food Processors	26.8	35.6	50.7	43.3	32.6	37.4
Industrial & Farm Equipment	24.1	21.4	40.4	28.5	27.6	22.9
Metal Manufacturing	9.8	15.1	35.1	31.9	11.6	18.5
Motor Vehicles	47.7	13.4	97.5	35.3	21.8	21.9
Office Equipment	25.3	24.9	60.0	49.3	39.1	36.9
Oil and Refining	18.6	30.0	60.4	58.4	38.0	44.7
Paper and Wood Products	(14.2)	(1.4)	29.0	35.2	(8.7)	7.0
Pharmaceuticals	35.9	39.2	48.4	43.9	39.6	41.5
Retailing	22.7	34.1	41.1	41.3	24.5	35.1
Tobacco	31.3	31.4	20.6	23.2	29.5	30.6
Transportation:						
Airlines	16.1	(0.1)	27.0	33.1	17.6	14.3

TABLE II.—COMPARISON OF FEDERAL INCOME TAX RATES FOR 1980 AND 1981 (PERCENT)—Continued

	U.S. tax rate on U.S. income		Foreign tax rate on foreign income [1]		Worldwide tax rate on worldwide income [2]	
	1981	1980	1981	1980	1981	1980
Railroads	(7.5)	10.7			(7.5)	10.7
Trucking	46.1	37.5	47.9	55.6	46.9	38.4
Utilities	9.2	7.3	40.6	41.0	9.3	7.9

[1] See note, 1, table 1. [2] See note, 2, table 1.

TABLE III.—FEDERAL GOVERNMENT RECEIPTS, 1950–81

[By category, as percent of total annual receipts [1]]

Fiscal year	Personal tax and nontax receipts	Corporate profits tax accruals	Indirect business tax and nontax accruals	Contributions for social insurance
1950	39.2	28.3	19.5	13.1
1952	44.2	29.6	14.9	11.2
1954	46.0	26.3	15.8	11.9
1956	44.4	27.9	14.3	13.5
1958	46.5	22.9	14.9	15.7
1960	44.9	23.5	13.9	17.6
1962	45.4	21.8	13.6	19.1
1964	43.9	22.2	13.5	20.4
1966	43.3	23.2	11.7	21.8
1968	44.7	20.7	10.7	24.0
1970	48.2	16.9	9.9	25.0
1972	47.1	16.0	9.3	27.6
1974	45.2	16.0	7.9	31.0
1976	43.6	16.7	7.7	32.1
1978	45.0	16.2	6.6	32.2
1980	47.4	13.4	6.8	32.5
1981	47.4	11.4	9.2	32.0

[1] Components may not total 100 percent due to rounding.

Source: Based on the Economic Report of the President, 1970 and 1982.

FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT

(Mr. FRENZEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, again I would like to reiterate my support for the Fenwick amendment to H.R. 5133. This amendment would insure that the provisions of H.R. 5133 cannot be implemented should they violate any treaty, international convention or agreement on tariffs and trade to which the United States is a party. Since the bill quite clearly does violate articles III, IV, and XI of the General Agreement on Tariffs and Trade and, in addition, the United States-Canadian Automotive Products Agreements Act and several of our treaties of friendship, commerce, and navigation, it is obvious to me that inclusion of the Fenwick amendment into H.R. 5133 would preclude the implementation of any section of the bill, H.R. 5133.

It is important that we live up to our international agreements to provide some order in what would otherwise be haphazard and chaotic relationships with other countries. Passage of H.R. 5133 without this amendment would mean a serious breach in commitments we have signed and promised to uphold. The Fenwick amendment would provide the assurance we need that the provisions of this bill will never be implemented.

NUCLEAR NONPROLIFERATION: AGENDA FOR THE 98TH CONGRESS

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, on December 16, I introduced a bill to strengthen U.S. policy aimed at preventing the spread of nuclear weapons. This legislation had been approved and ordered reported favorably the day before by the full Committee on Foreign Affairs. There was not, however, time in the 97th Congress to file a report, or to bring this important legislation before the House as a whole. I have introduced the bill in its final form to make these proposals a matter of record in the hope that they will provide a clear and precise agenda for enactment of legislation in this area early in the 98th Congress. The bill number is H.R. 7430; it was cosponsored by Mr. OTTINGER, Mr. UDALL, Mr. FASCELL, Mr. WOLPE, Mr. SHAMANSKY, Mr. BONKER, Mr. ECKART, Mr. BARNES, Mr. STUDDS, Mr. EDGAR, Mr. GEJDENSON, Mr. SEIBERLING, and Mr. MARKEY.

Basic policy and procedures for the export by the United States of nuclear materials and technology which could be diverted to use in nuclear weapons is set forth in the Nuclear Nonproliferation Act of 1978 which was passed in the House by a vote of 411 to 0. The essence of that legislation is the requirement that nations which wish to obtain U.S. nuclear materials and technology must adhere strictly to internationally verified safeguards on all of their nuclear facilities. The Nuclear Regulatory Commission and the State Department are charged with the responsibility of making sure that that important standard is met prior to any U.S. nuclear export.

Extensive oversight hearings and activities by the Subcommittee on International Economic Policy and Trade, which I have had the honor to chair, and the Subcommittee on International Security and Scientific Affairs, revealed certain gaps in the coverage of the Nuclear Nonproliferation Act. Some categories of technology which have potential nuclear applications are licensed for export by the Energy and Commerce Departments without any requirement for State Department or NRC review. Those exports, therefore, have not been subject to the standards set forth in the Nuclear Nonproliferation Act. As a result, some exports and transfers of U.S. nuclear related items have been approved to countries like South Africa and Argentina which do not adhere to full-scope safeguards.

The legislation approved by the committee and introduced as a clean bill today would close those gaps by making full-scope safeguards the criterion for all nuclear exports, regardless of the reviewing or licensing agency. (Titles I and VI.)

Our oversight hearings and investigations over the past several years have also demonstrated the need to scale back as much as possible our exports of highly enriched uranium, which is widely used in research reactors, but is also useable for weapons. This legislation mandates continuation of highly enriched uranium to pledge to convert to such alternative fuels as soon as they become available as a condition of continued access in the meantime to highly enriched uranium from the United States (title II).

Mr. Speaker, this bill also gives the Secretary of Defense a more formal role in nuclear export licensing decisions in light of the national security implications of such exports, title IV, sets standards for the programmatic approval of transfers for reprocessing or other purposes of U.S.-origin nuclear materials by foreign countries (title III) and prohibits the export of reprocessing technology (title V).

Perseverence and continued vigilence by the United States are crucial to avoid the nightmare of widespread nuclear weapons proliferation. A clear, consistent, and carefully implemented nuclear export policy is the key to such vigilence. The legislation I am introducing today would extend the policy and procedures set forth in the Nuclear Nonproliferation Act and thereby increase the effectiveness of that Act as a deterrent to nuclear proliferation. I commend this legislation to my colleagues who have been elected to the 98th Congress. I hope they will follow the lead of the Foreign Affairs Committee in reporting out this legislation yesterday, and enact it into law early in 1983.

I proceed now to a more detailed fuller summary discussion of the bill's various provisions, and the reasons therefor.

TITLE I: AUTHORIZATION BY THE SECRETARY OF ENERGY FOR CERTAIN ACTIVITIES OUTSIDE THE UNITED STATES

BACKGROUND

The Nuclear Non-Proliferation Act of 1978 (NNPA) delegated authority to the Department of Energy (DOE) to grant authorizations for firms and individuals to engage directly or indirectly in the production of special nuclear material, such as plutonium and enriched uranium, outside the United States. Activities typically included in these authorizations are training, provision of designs and specialized research equipment with nuclear applications, assistance managing nuclear facilities, and transfer of nuclear equipment and fuel from third countries.

Such activities can contribute as much to proliferation as the direct export of nuclear fuel and equipment from the United States. Yet, while the direct export of nuclear fuel and equipment licensed by the Nuclear Regulatory Commission (NRC) is governed by a tough set of restrictions, DOE authorizations are not. Notwithstanding DOE's recent revision of its authorization procedures, activities can still be authorized to take place in a country that has not accepted full-scope safeguard inspections of all its nuclear facilities by the International Atomic Energy Agency (IAEA). Even if a nonnuclear weapons state acquired and detonated a bomb, it would still be eligible for DOE authorized activities. Moreover, as testimony submitted to the Subcommittee on International Economic Policy and Trade has confirmed, DOE continues to make these authorizations without public or congressional notice, as well as, without NRC concurrence or the possibility of a congressional veto by concurrent resolution. The GAO has concluded that DOE's administration of these authorizations "provides too many opportunities for arbitrary executive branch decisions."

Recent events have dramatized this weakness in the NNPA. Press accounts reveal that Westinghouse Corp. is contemplating an arrangement that would permit the sale of a nuclear power reactor to Pakistan through a third country. Pakistan has not agreed to full-scope safeguards and substantial evidence exists that it is on the road to making its own nuclear weapons. In a similar incident, DOE approved the export to Switzerland last year of a process control system for end use in an Argentinian heavy-water production facility. Argentina, like Pakistan, is not eligible under the NNPA for NRC licenses for fuel or equipment because it has not agreed to full-scope safeguards.

THE AMENDMENT

The amendment strengthens the statutory requirements governing DOE authorizations. First, it requires that all authorizations issued by the Secretary of Energy be published in the Federal Register and that the Secretary report annually on all activities carried out under DOE authorizations. Second, the amendment prohibits DOE authorizations for activities in a nonnuclear weapons state that does not accept full-scope nuclear safeguards or otherwise fails to meet criteria for direct nuclear exports licensed by the NRC. Likewise, the bill would require termination of authorizations to nations engaging in activities such as denotation of a nuclear devise by a nonnuclear weapons state, that could lead to a halt of exports licensed by the NRC. A Presidential waiver of these requirements and a congressional veto of this waiver by concurrent resolution is provided for under provisions already contained in the NNPA for NRC licensed exports.

TITLE II: HIGHLY ENRICHED URANIUM

BACKGROUND

Title II involves the export of highly enriched uranium (HEU). HEU, uranium highly enriched in the isotope-235, is used chiefly for nuclear research. But it is also capable of providing the explosive for a nuclear device. The United States, China, the Soviet Union, Great Britain, and France have all denotated bombs with HEU.

The United States can play an important leadership role in restricting commerce in this dangerous substance. For one thing, the DOE is by far the largest world exporter of HEU. For another, it is currently undertaking a program to develop an alternative fuel that does not pose the proliferation risks of HEU. Unfortunately, however, funding that does not pose the proliferation risks of HEU. Unfortunately, however, funding for this program has been below originally projected needs, as was substantiated by a GAO report published in August 1982, which also noted that the so-called reduced enrichment program is one of the few concrete U.S. nonproliferation policy initiatives to gain widespread international support. Inadequate funding has necessitated cutbacks in the development of an alternative fuel and set back the day when an alternative fuel can be put into use. At one point last year, it even appeared that the program might be scrapped altogether.

THE AMENDMENT

The bill provides stiffer criteria for the export of HEU. Specifically no license could be granted by the NRC for the export of HEU to a foreign reactor that can use an available alternative fuel. If no alternative fuel is available, the license could not be issued unless that recipient gives assurances that it shall use an alternative fuel when it becomes available and the NRC finds that the executive branch is taking steps to develop an alternative fuel.

The NRC, together with the Secretary of State, would be required to determine a kilogram limit on the amount of U.S.-origin HEU that could be stored at each foreign reactor. The bill also requires efforts to support improvement of physical security for HEU exports. Finally, the President would be required to submit a plan to Congress for the "development and use in foreign reactors of alternative nuclear reactor fuel."

These provisions relating to HEU are intended to encourage the executive branch to develop aggressively an alternative fuel to insure that the fuel is introduced into commerce as soon as possible. In the meantime, HEU exports, which go to some of our closest allies, can continue. The bill also recognizes that an alternative fuel, once developed may not work adequately in all reactors that now use HEU. In reactors where HEU is still the only workable fuel, HEU exports will continue, though the bill strives to keep the enrichment levels of exported uranium as low as possible while still meeting reactor requirements.

TITLE III: ARRANGEMENTS INVOLVING REPROCESSING

Title III involves approvals called subsequent arrangements to allow the processing of U.S.-exported fuel or its retransfer for that purpose. Reprocessing creates plutonium, a substance even more dangerous than HEU. Not only is plutonium capable of serving as an explosive but it is the most toxic substance known to man. Moreover, two Directors General of the International Atomic Energy Agency and the current head of the Nuclear Regulatory Commission, appointed by President Reagan, have said that technical mechanisms do not exist for adequately safeguarding that material so as to detect a diversion.

Yet, the institutional checks on the executive branch decisions to grant subsequent arrangements for reprocessing are weaker than on exports of far less dangerous substances. Both the executive branch and the independent NRC must agree that a license should be issued before any fuel, including low enriched uranium, is exported. But once the fuel is abroad, the executive branch—primarily the Departments of Energy and State—has the sole responsibility for granting approvals for countries to reprocess the fuel. NRC concurrence is not required. And while the executive branch must notify the Congress of its decision, there is no provision for a congressional veto.

An additional concern over subsequent arrangements has surfaced in connection with a recently announced administration policy regarding reprocessing abroad. Rather than toughen restrictions on subsequent arrangements, the administration proposes to ease them for select countries by providing long-term, programmatic

approvals for reprocessing that would not require standard case-by-case review through subsequent arrangements. While the administration has yet to indicate precisely how it would make such approvals in light of the restrictions already existing in the NNPA, the concept of programmatic approval clearly conflicts with the case-by-case approach anticipated in the act and, in addition, would make it increasingly difficult to discourage countries from engaging in the separation of plutonium. Moreover, while programmatic approvals would constitute major policy concessions on the part of the United States, the administration has not indicated how it will use these concessions to win greater allied cooperation in nuclear nonproliferation efforts.

THE AMENDMENT

Title III would require NRC concurrence before the United States could grant a subsequent arrangement for reprocessing. This replaces the original provision in H.R. 6032, which allowed for a congressional veto by concurrent resolution of subsequent arrangements for reprocessing.

Title III would permit the administration to grant programmatic approvals for reprocessing through new or amended agreements for cooperation. As a condition for such approvals, however, the country for which the approval is made must have established export policies of its own prohibiting nuclear sales to those countries that do not permit full-scope IAEA safeguards. This is in keeping with our own export restrictions that do not permit NRC licenses for exports to countries not subject to full-scope IAEA safeguards. The NNPA, as currently written, provides for a congressional veto over agreements for cooperation.

For the purpose of this legislation, the term programmatic approval for reprocessing is defined as any approval governing the reprocessing and retransfer of spent fuel in excess of 31 metric tons or of plutonium in excess of 240 kilograms. A large nuclear power reactor produces 31 metric tons of spent fuel annually. The reprocessing of this fuel produced 240 kilograms of plutonium.

TITLE IV: SPECIFIC FUNCTIONS OF THE SECRETARY OF DEFENSE IN NUCLEAR NONPROLIFERATION MATTERS

BACKGROUND

Title IV addresses the role of the Secretary of Defense in executive branch nuclear nonproliferation decisionmaking. Above all, nuclear nonproliferation—the spread of nuclear weapons—is a national defense problem. For this reason, the NNPA prohibits export licenses for nuclear fuel or equipment unless the executive branch believes the sale is "not inimical to the common defense and security." Nevertheless, the Secretary of Defense is peripheral to most of our international nuclear decisions: He has only a consultative role in decisions to grant export licenses and to permit subsequent arrangments. He has no formal say whatsoever concerning agreements for cooperation, except in the few cases where such agreements relate to military partnerships.

This lack of formal DOD involvement in U.S. commercial nuclear decisions is particularly troublesome today, when a number of countries on the brink of confrontation might well seek to acquire a nuclear bomb. The United States, for example, could easily become embroiled in any conflict that erupted in the Middle East. Just the fear that a country might build a bomb can cause hostilities, as happened last year when Israel carried out a preemptive strike against an Iraqi nuclear facility, which could have created bomb-grade material. In the midst of this tension it is critical that the Department of Defense's national security perspective play a large role in our export decisions.

THE AMENDMENT

This bill gives a stronger role to the Secretary of Defense in nuclear decisionmaking. The Secretary would have a de facto veto over agreements for nuclear cooperation, nuclear export licenses, and subsequent arrangements. This veto would stem from requirements that the Secretary of Defense make favorable findings and judgments before final decisions are reached in these areas by the executive branch. The bill would also increase DOD's influence over decisions in the sensitive area of subsequent arrangements for reprocessing.

TITLE V: EXPORTS OF REPROCESSING COMPONENTS AND TECHNOLOGY PROHIBITION

BACKGROUND

The administration has recently announced that it will permit the export of reprocessing technology. This marks a major shift from the policies of previous Republican and Democratic administrations which not only blocked the export of reprocessing technology but declared a moratorium on reprocessing in the United States. This previous export ban was imposed because it was considered neither safe nor economical to recover plutonium through reprocessing and therefore, reprocessing should not be encouraged. Witnesses appearing before the Subcommittees on International Security and Scientific Affairs and on International Economic Policy and Trade testified in August that reprocessing facilities still cannot be adequately safeguarded and that as reprocessing increases so do the risks of diversions by nations or subnational groups. In addition, witnesses pointed out that plutonium certainly will not be economical until the price of uranium triples. With improvements in reactor efficiency the price of uranium would have to increase seven times. Moreover, reprocessing plants abroad have compiled dismal operating records, which further challenge economic and safety assumptions for reprocessing. By opening up the possibility that it will export reprocessing technology, the United States would be sending confusing signals to allies and reduce its ability, successfully exercised in the past, to discourage allies not to export reprocessing technology.

THE AMENDMENT

Title V, adopted from H.R. 6318, would prohibit the export of essential reprocessing components, sensitive reprocessing technology, and other assistance which is essential to nuclear fuel reprocessing.

TITLE VI: EXPORTS LICENSED BY THE DEPARTMENT OF COMMERCE

BACKGROUND

Like the Department of Energy authorizations for nuclear activities abroad, Department of Commerce export licenses for nuclear related commodities are not subject to restrictions comparable to those governing NRC export licenses. As a result, items on the Commerce Nuclear Referral List, which include commodities that have direct application for nuclear weapons production, may be sent to a country that has not accepted full-scope safeguards or provided other assurances that it will use commercial nuclear facilities strictly for nonmilitary purposes. Indeed, according to Commerce testimony before the subcommittees on International Security and Scientific Affairs and on International Economic Policy and Trade in June, the Department is currently permitting such exports to Pakistan, South Africa, Brazil, and Argentina, all countries that are considered serious proliferation risks.

THE AMENDMENT

The amendment prohibits the Secretary of Commerce from issuing a validated license for the export to a nonnuclear weapons state of goods or technology that are to be used in a production or utilization facility or are likely to be diverted for use in such a facility unless the recipient country accepts full-scope IAEA safeguards and otherwise meets the criteria for direct nuclear exports licensed by the NRC. The bill also requires termination of exports to nations engaging in activities that would lead to a halt of exports licensed by the NRC. A Presidential wavier of these requirements and a congressional veto of this waiver by concurrent resolution is provided for under provisions already contained in the NNPA for NRC licensed exports.●

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 631

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 97-980)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 10, 11, 12, 16, 22, 33, 35, 37, 40, 41, 58, 61, 67, 73, 81, 82, 83, 84, 86, 87, 88, 90, 91, 97, 98, 109, 112, 113, 114, 115, 116, 120, 122, 123, 128, and 130.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 15, 17, 18, 19, 20, 21, 24, 25, 27, 28, 29, 32, 36, 38, 39, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 62, 63, 64, 65, 66, 68, 69, 72, 74, 76, 77, 78, 80, 85, 89, 100, 101, 102, 103, 104, 105, 106, 107, 108, 111, 117, 118, 124, 126, 129, and 132, and agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment insert the following: , *or any other provision of law or section 102 of this joint resolution*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

That notwithstanding the provisions of this paragraph making amounts available or otherwise providing for levels of program authority, the following amounts only shall be available and the following levels of authority only shall be provided for the following accounts or under the following headings: $284,100,437 for payment to the "Inter-American Development Bank" and not to exceed $828,137,742 in callable capital subscriptions; $126,041,553 for payment to the "International Bank for Reconstruction and Development" and not to exceed $1,530,275,913 in callable capital subscriptions; $700,000,000 for payment to the "International Development Association"; $131,882,575 for payment to the "Asian Development Bank" and not to exceed $2,243,811 in callable capital subscriptions; $50,000,000 for payment to the "African Development Fund"; $249,002,000 for "International Organizations and Programs"; including the provisions of section 103(g) of the Foreign Assistance Act of 1961, except that such funds shall be made available only in accordance with the Joint Explanatory Statement of the Committee of Conference accompanying the conference report on this joint resolution (H.R. Res. 631); $140,288,000 for "Energy and selected development activities, Development Assistance"; $25,000,000 for "International disaster assistance"; $93,757,000 for "Sahel development program", of which not less than $2,000,000 shall be available only for the African Development Foundation; $35,403,000 for "Payment to the Foreign Service Retirement and Disability Fund"; $1,700,000 in foreign currencies for "Overseas training and special development activities (foreign currency program)"; $2,576,000,000 for the "Economic Support Fund" (without applying prior year earmarking of funds for Sudan and Poland), of which not less than $785,000,000 shall be available for Israel and not less than $750,000,000 shall be available for Egypt; $31,100,000 for "Peacekeeping operations"; $335,000,000 for "Operating expenses of the Agency for International Development"; $10,500,000 for "Trade and development"; $109,000,000 for the "Peace Corps", $395,000,000 for "Migration and Refugee Assistance" (without applying prior year earmarking of funds); $290,000,000 for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 and the provisions of title I of S. 2608, as reported, of which not less than $110,000,000 shall be available for Turkey, not less than $37,500,000 shall be available for Portugal, and not less than $25,000,000 shall be available for Morocco; $45,000,000 for "International Military Education and Training"; $1,175,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act and the provisions of title I of S. 2608, as reported, of which not less than $750,000,000 shall be allocated to Israel ($1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the current fiscal year shall be allocated only to Israel) and not less than $425,000.000 shall be allocated to Egypt; $3,638,000,000 of contingent liability (of which not less than $290,000,000 shall be available for Turkey, not less than $52,500,000 shall be available for Portugal, not less than $75,000,000 shall be available for Morocco, and not less than $400,000,000 shall be available for Spain) for total commitments to guarantee loans under "Foreign Military Credit Sales"; not to exceed $125,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed $4,400,000,000 of gross obligations for the principal amount of direct loans and $9,000,000,000 of total commitments to guarantee loans under "export-Import Bank of the United States": Provided further, That none of the funds available under this paragraph may be made available for payment to the "International Finance Corporation": Provided further, That in addition to the funds made available under this paragraph for the "Economic Support Fund" $85,000,000 is available for the "Economic Support Fund" to be transferred to the Agency for International Development for economic development assistance projects, under the terms and conditions of sections 103 through 106 of the Foreign Assistance Act of 1961, such projects to be approved through the established reprograming processes of the Appropriations Committee of the House of Representatives and of the Senate, except that none of the funds provided herein shall be available for non-development activities including balance of payments support, commodity imports, sector loans, and program loans: Provided further, That notwithstanding any other provision of this joint resolution or any other Act, $5,500,000 of the funds provided for Honduras under the authority of this joint resolution shall not be made available until that country meets the final terms of the binding arbitration award established by the Inter-American Commercial Arbitration Commission as regards Construction Aggregates Corporation.

(2) Notwithstanding section 102 of this joint resolution, chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 128. Targeting Assistance for Those Living in Absolute Poverty.—In carrying out this chapter, the President in fiscal year 1983, shall attempt to use not less than 40 per centum of the funds made available to carry out this chapter to finance productive facilities, goods, and services which will expeditiously and directly benefit those living in absolute poverty (as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association). Such facilities, goods, and services may include, for example, irrigation facilities, extension services, credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, goods, and services may not include studies, reports, technical advice, consulting services, or any other items unless (A) they are used primarily by those living in absolute poverty themselves, or (B) they constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty. Research shall not consititue the major part of such facilities, goods, and services.":

Provided further, That within six months after the date of approval of this joint resolution, the Administrator of the Agency for International Development shall report to Congress on the implementation of this provisio, the types of projects determined to meet these requirements, and the effect on the overall U.S. foreign assistance program. and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(c) Notwithstanding any other provision of this joint resolution, such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriation Act, 1983, at a rate of operations and to the extent and in the manner provided, to be effective as if it had been enacted into law as the regular Appropriation Act, as follows:

An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1983, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (includ-

ing all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; $14,454,848,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; $10,537,408,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); $3,293,277,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; $12,099,850,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $1,247,250,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or personnel while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $657,125,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $170,900,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $358,925,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under sections 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on active duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $1,698,800,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under sections 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on active duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $548,425,000.

TITLE II

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

For retired pay and retirement pay, as authorized by law, of military personnel on the retired lists of the Army, Navy, Marine Corps, and Air Force, including the reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve, and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code; $16,154,800,000.

TITLE III

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $7,310,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $15,847,425,000, of which not less than $1,240,000,000 shall be available only for the maintenance of real property facilities.

ARMY STOCK FUND

For the Army stock fund; $221,138,000.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $2,620,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $21,079,712,000, of which not less than $657,000,000 shall be available only for the maintenance of real property facilities: Provided, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $2,887,000,000 shall be available for the performance of such work in Navy shipyards: Provided further, That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981.

NAVY STOCK FUND

For the Navy stock fund; $354,372,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,481,671,000, of which not less than $218,000,000 shall be available only for the maintenance of real property facilities.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund; $11,812,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed $4,490,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $16,915,766,000, of which not less than $1,100,000,000 shall be available only for the maintenance of real property facilities.

AIR FORCE STOCK FUND

For the Air Force stock fund; $161,600,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $5,715,778,000: Provided, That not to exceed $7,890,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided further, That not less than $80,000,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities.

DEFENSE STOCK FUND

For the Defense stock fund; $160,500,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $705,584,000, of which not less than $35,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $637,507,000, of which not less than $25,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $51,094,000, of which not less than $1,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $765,735,000, of which not less than $17,500,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,195,067,000, of which not less than $35,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,822,603,000, of which not less than $35,000,000 shall be available only for the maintenance of real property facilities.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; $875,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed $680,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311: Provided, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $147,500,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,271,000, and not to exceed $1,500 can be used for official representation purposes.

TITLE IV

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,506,572,000, of which $10,000,000 shall be available only for procurement of C-12 cargo aircraft for the Army National Guard, to remain available for obligation until September 30, 1985: Provided, That notwithstanding any other provision of this Act, after the head of the agency concerned gives written notification of a proposed multiyear contract for the CH-47D Helicopter Modernization Program to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives, such contract may not then be awarded until the end of a period of 45 days beginning on the date of such notification.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,287,000,000, of which $422,100,000 shall be available only for purchase of the Multiple Launch Rocket System under a multiyear contract, to remain available for obligation until September 30, 1985.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $4,551,946,000, and in addition, $198,200,000, of which $67,000,000 shall be derived by transfer from "Procurement of Weapons and Tracked Combat Vehicles, Army, 1981/1983", and $131,200,000 shall be derived by transfer from "Procurement of Weapons and Tracked Combat Vehicles, Army, 1982/1984", to remain available for obligation until September 30, 1985.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public

and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2673, title 10, United States Code, and the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,122,394,000, to remain available for obligation until September 30, 1985.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support (including not to exceed 7 vehicles required for physical security of personnel notwithstanding price limitations applicable to passenger carrying vehicles but not to exceed $100,000 per vehicle), and nontracked combat vehicles; the purchase of not to exceed two thousand and twenty-five passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $4,123,404,000, to remain available for obligation until September 30, 1985.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $10,416,107,000, of which $267,800,000 shall be available only for purchase of C-2 aircraft under a multiyear contract, to remain available for obligation until September 30, 1985: Provided, That none of the funds appropriated or made available pursuant to this paragraph for the F/A-18 aircraft program may be obligated or expended until the Secretary of the Navy submits to the Committees on Appropriations of the House of Representatives and the Senate a certified plan to incorporate a United States manufactured ejection seat system in F/A-18 aircraft purchased with fiscal year 1983 and future funds: Provided further, That none of the funds appropriated or made available pursuant to this paragraph for F/A-18 advance procurement may be obligated or expended for any of those aircraft scheduled to replace Navy attack mission aircraft squadrons until such time as the Secretary of Defense certifies, in writing, that the A-18 version of the aircraft meets the originally established attack mission requirements, goals, and specifications.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $3,561,700,000, of which $124,700,000 shall be available only for the purchase of Mark-46 torpedoes under a multiyear contract, to remain available for obligation until September 30, 1985, distributed as follows: For missile programs, $2,844,200,000; for the MK-48 torpedo program, $119,300,000; for the MK-46 torpedo program, $124,700,000; for the MK-60 torpedo program, $133,200,000; for the MK-30 mobile target program, $19,400,000; for the MK-38 mini-mobile target program, $2,300,000; for the antisubmarine rocket (ASROC) program, $10,100,000; for modification of torpedoes, $76,500,000; for the torpedo support equipment program, $66,900,000; for the MK-15 close in weapons system program, $118,740,000; for the MK-75 76-millimeter gun mount program, $10,700,000; for the MK-19 gun mount program, $400,000; for the 20-millimeter gun mount program, $400,000; for the modification of guns and gun mounts, $19,700,000; for the guns and gun mounts support equipment program, $17,460,000; and reductions of $1,100,000 for consultants, studies and analyses and $1,200,000 for personnel security clearances.

SHIPBUILDING AND CONVERSION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended, as follows: for the Trident submarine program, $1,462,600,000; for Trident submarine program advance procurement, $81,300,000; for the CVN aircraft carrier program, $6,559,500,000, to be available for construction only under a firm, fixed price type contract; for the SSN-688 nuclear attack submarine program, $1,420,200,000; for the reactivation of the U.S.S. Iowa, $300,800,000; for the aircraft carrier service life extension program, $699,500,000; for the CG-47 AEGIS cruiser program, $2,901,700,000; for the LSD-41 landing ship dock program, $415,600,000; for the FFG guided missile frigate program, $646,300,000, of which not less than $40,000,000 shall be available only for an X-band phased array radar, and in addition, $35,000,000 shall be derived by transfer from the "FFG guided missile frigate program" of "Shipbuilding and Conversion, Navy, 1982/1986"; for the T-AO fleet oiler ship program, $173,000,000; for the MCM mine countermeasures ship program, $100,000,000; for the ARS salvage ship program, $50,000,000; for the T-AKRX fast logistics ship program, $44,000,000; for the T-AHX hospital ship program, $300,000,000, however, none of these funds may be obligated or expended until such time as the Department of the Navy provides a budget quality cost estimate, based upon a completed contract design which supports the original hospital ship requirements as presented to the Congress; for the LHD-1 amphibious assault ship program, $55,000,000; for craft, outfitting, post delivery, cost growth, and escalation on prior year programs, $907,900,000; and reductions in the amounts, as follows: $5,900,000 for personnel security clearances; $34,800,000 for consultant, studies and analyses; in all: $16,076,700,000, and in addition, $35,000,000 to be derived by transfer, to remain available for obligation until September 30, 1987: Provided, That of the appropriation for "Shipbuilding and Conversion, Navy," that expired for obligation on September 30, 1982, $176,200,000 shall remain available for obligation until September 30, 1984: Provided further, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: Provided further, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed three hundred and twenty-four passenger motor vehicles of which two hundred and ninety-two shall be for replacement only (including not to exceed 2 vehicles required for physical security of personnel notwithstanding price limitations applicable to passenger carrying vehicles but not to exceed $100,000 per vehicle); expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $3,727,075,000, to remain available for obligation until September 30, 1985, distributed as follows: For ship support equipment, $543,689,000; for communications and electronics equipment, $1,481,798,000; for aviation support equipment, $552,636,000; for ordnance support equipment, $667,456,000; for civil engineering support equipment, $172,837,000; for supply support equipment, $81,224,000; and for personnel/command support equipment, $227,435,000.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and vehicles for the Marine Corps, including purchase of not to exceed one hundred and forty-three passenger motor vehicles for replacement only; $2,008,083,000, of which $6,779,000 may not be obligated or expended for procurement of the 81mm SMAW Assault Rocket Launcher and ammunition until the Secretary of Defense certifies to the Committees on Appropriations of the House of Representatives and the Senate that all technical and operational requirements have been demonstrated and that no other weapon is available to fulfill those requirements, to remain available for obligation until September 30, 1985.

AIRCRAFT PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $17,658,500,000, of which $186,100,000 shall be available for contribution of the United States share of the cost of the acquisition by the North Atlantic Treaty Organization of an Airborne Early Warning and Control System (AWACS) and, in addition, the Department of Defense may make a commitment to the North Atlantic Treaty Organization to assume the United States share of contingent liability in connection with the NATO E-3A Cooperative Programme; of which $71,300,000 shall be available only for the procurement of B-707 aircraft to provide for engines and parts to reengine KC-135 aircraft; and of which $94,800,000 and, in addition, $50,000,000 to be derived by transfer from "Aircraft procurement, Air Force, 1982/1984", shall be available only for procurement of commercial wide body cargo aircraft; of which $795,000,000 shall be available only for purchase of KC-10 aircraft under a multiyear contract, and in addition, $120,000,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1982/1984", and shall be available only for the purchase of KC-10 aircraft under a multiyear contract, notwithstanding the provisions of the language contained in the Supplemental Appropriations Act, 1982; to remain available for obligations until September 30, 1985.

MISSILE PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $4,941,100,000, of which $102,000,000 shall be available to initiate multi-year contracting for the global positioning system, and in addition, $15,000,000 shall be derived by transfer from "Missile Procurement, Air Force, 1982/1984", to remain available for obligation until September 30, 1985.

OTHER PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed one thousand three hundred and fifty-nine passenger motor vehicles of which eight hundred and eighty-five shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; $5,563,777,000, and in addition, $4,963,000, which shall be derived by transfer from "Other Procurement, Air Force, 1982/1984", to remain available for obligation until September 30, 1985.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, other weapons, and other procurement for the reserve components of the Armed Forces, not to exeed $125,000,000, to remain available until September 30, 1985, distributed as follows: Army National Guard, not to exceed $50,000,000; Air National Guard, not to exceed $15,000,000; Army Reserve, not to exceed $15,000,000; Naval Reserve, not to exceed $15,000,000; Marine Corps Reserve, not to exceed $15,000,000; Air Force Reserve, not to exceed $15,000,000.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed one thousand one hundred and thirty-nine passenger motor vehicles of which three hundred and forty-five shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; $828,145,000, to remain available for obligation until September 30, 1985.

TITLE V

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $3,879,683,000, to remain available for obligation until September 30, 1984.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,965,751,000, of which not less than $15,000,000 shall be available only for the phased array radar improvement program for the Mark 92 fire control system, to remain available for obligation until September 30, 1984: Provided, That none of the funds appropriated or made available pursuant to this paragraph for the development of the Undergraduate Flight Training System (VTX-TS) may be obligated or expended until the Secretary of the Navy submits to the Committees on Appropriations of the House of Representatives and the Senate a certified plan to incorporate a United States manufactured ejection seat system in the new Undergraduate Flight Trainer Aircraft.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $10,650,661,000, to remain available for obligation until September 30, 1984: Provided, That none of the funds appropriated in this Act may be obligated or expended to initiate full scale engineering development of a basing mode for the MX missile, until such basing mode is approved by both Houses of Congress in a concurrent resolution, as specified in subsection (1) hereof.

(1) For the purposes of this section, the term "concurent resolution" means only a resolution introduced in either House of Congress, the matter after the resolving clause of which is as follows: "That the————approves the obligation and expenditure of funds appropriated in Public Law————for MX missile procurement and full-scale engineering development of a basing mode for the MX misssile," the first blank space therein being filled with the name of the resolving House, and the second blank space being filled with the public law number of this statute. It shall not be in order to introduce any such resolution prior to the receipt by the Congress of the report of the President required under subsection (7).

(2) A resolution in the Senate shall be referred to the Committee on appropriations of the Senate. A resolution in the House of Representatives shall be referred to the Committee on appropriations of the House of Representatives.

(3) If the committee to which is referred the first resolution introduced in the Senate or the House, as the case may be, expressing approval of the obligation and expenditure of funds referred to in this subsection has not reported the resolution at the end of 45 calendar days after the introduction of a resolution pursuant to subsection (1) hereof, such committee shall be automatically discharged from further consideration of the resolution and the resolution shall be placed on the calendar of the Senate, in the case of a resolution of the Senate, or the Union calendar, in the case of a resolution of the House of Representatives.

(4) When the committee has reported a resolution or been discharged under subsection (3) hereof it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged in the House and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(5)(A) Debate on the resolution shall be limited to not more than fifty hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(B) Motions to postpone and motions to proceed to the consideration of other business shall be decided without debate.

(C) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(6) Subsections (1) through (5) are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in subsection (1), and they supercede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(7)(A) The President shall submit a report to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives, not earlier than March 1, 1983, containing:

(i) a detailed technical assessment of the closely spaced basing system transmitted by the President to Congress on November 22, 1982 or such modifications thereto as the President determines to be advisable;

(ii) a detailed technical assessment of other MX basing systems that might serve as alternatives to the closely spaced basing system transmitted by the President to Congress on November 22, 1982;

(iii) a detailed technical assessment of different types of intercontinental ballistic missiles that might serve as alternatives to the MX missile; and

(iv) a comparative detailed technical assessment of alternative programs including acceleration of the Trident II program to provide target coverage equivalent to that of the MX missile system, enhancements and improvements to the Minuteman missile force, and development and deployment of a land-based missile system in deep underground basing, multiple protective shelters and closely spaced basing incorporating mobility and deception, a road mobile missile smaller than the MX and a common missile for land and sea deployment.

(v) a reaffirmation by the President of his selection of the MX missile basing plan transmitted to Congress on November 22, 1982 or a proposal for an alternative basing plan.

(B) The President shall also include in the report submitted pursuant to paragraph (A) an assessment of the military capability of each alternative system or missile; an assessment of the survivability of each such system or missile against current and projected Soviet threats; an assessment of the projected cost of each such system or missile and possible upgrades thereof; an assessment of the impact each such system or missile might have on present and future arms control negotiations; an assessment of the geographic, geological, and other qualifications a site for each such system or missile would likely require; an assessment of the environmental impact each such system or missile would likely have; and the identification of possible sites for each such system or missile.

(C) The report required under this subsection shall not be subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, relating to environmental impact statements.

Provided further, That notwithstanding any other provision of this Act, no initial flight test of the MX missile may be conducted until after both Houses of the Congress have agreed, in accordance with the provisions of subsections (1) through (5) of the preceding proviso, to a concurrent resolution approving the obligation and expenditure of funds for full-scale engineering development of a basing mode for such missile.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $2,153,189,000, to remain available for obligation until September 30, 1984: Provided, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: Provided further, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; $55,000,000, to remain available for obligation until September 30, 1984.

TITLE VI

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $3,800,000, to remain available for obligation until September 30, 1984: Provided, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VII

GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 701. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 702. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 703. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: Provided, That such contracts may be renewed annually.

SEC. 704. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 705. Appropriations contained in this Act shall be available for insurance of official motor vehicles in foreign countries, when required by laws of such countries; payments in advance of expenses determined by the investigating officer to be necessary and in accord with local custom for conducting investigations in foreign countries incident to matters relating to the activities of the department concerned; reimbursement to General Services Administration for security guard services for protection of confidential files; and all necessary expenses, at the seat of government of the United States of America or elsewhere, in connection with communication and other

services and supplies as may be necessary to carry out the purposes of this Act.

SEC. 706. Any appropriation available to the Army, Navy, or Air Force may, under such regulations as the Secretary concerned may prescribe, be used for expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status is determined by the Secretary concerned to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamation.

SEC. 707. Appropriations available to the Department of Defense for the current fiscal year for maintenance or construction shall be available for acquisition of land or interest therein as authorized by section 2672 or 2675 of title 10, United States Code.

SEC. 708. Appropriations for the Department of Defense for the current fiscal year shall be available (a) for transportation to primary and secondary schools of minor dependents of military and civilian personnel of the Department of Defense as authorized for the Navy by section 7204 of title 10, United States Code; (b) for expenses in connection with administration of occupied areas; (c) for payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (d) for payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (e) for leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of title 43, United States Code, section 315q, rentals may be paid in advance; (f) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (g) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (h) for the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 1446a, title 7, United States Code, and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (i) transporting civilian clothing to the home of record of selective service inductees and recruits on entering the military services; (j) payments under leases for real or personal property, including maintenance thereof when contracted for as a part of the lease agreement, for twelve months beginning at any time during the fiscal year; (k) pay and allowances of not to exceed nine persons, including personnel detailed to International Military Headquarters and Organizations, at rates provided for under section 625(d)(1) of the Foreign Assistance Act of 1961, as amended; (l) the purchase of right-hand-drive vehicles not to exceed $12,000 per vehicle; (m) for payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for ships inducted into industrial fund activities or contracted for in prior fiscal years: Provided, That the Secretary of Defense shall notify the Congress promptly prior to obligation of any such payments; (n) for payments from annual appropriations to industrial fund activities and/or under contract for changes in scope of ship overhaul, maintenance, and repair after expiration of such appropriations, for such work either inducted into the industrial fund activity or contracted for in that fiscal year; and (o) for payments for depot maintenance contracts for twelve months beginning at any time during the fiscal year.

SEC. 709. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed $25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in hospitals; (e) expenses of prisoners confined in nonmilitary facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin American cooperation as authorized for the Navy by law (10 U.S.C. 7208); (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed $75 in any one case; (k) for carrying out section 10 of the Act of September 23, 1950, as amended; and (l) providing, without reimbursement, not to exceed $50,000,000 to procure secure communications systems, equipment and related items throughout the United States Government.

SEC. 710. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 711. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 712. During the current fiscal year no funds available to agencies of the Department of Defense shall be used for the operation, acquisition, or construction of new facilities or equipment for new facilities in the continental limits of the United States for metal scrap bailing or shearing or for melting or sweating aluminum scrap unless the Secretary of Defense or an Assistant Secretary of Defense designated by him determines, with respect to each facility involved, that the operation of such facility is in the national interest.

SEC. 713. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

SEC. 714. No appropriation contained in this Act shall be available in connection with the operation of commissary stores of the agencies of the Department of Defense for the cost of purchase (including commercial transportation in the United States to the place of sale but excluding all transportation outside the United States) and maintenance of operating equipment and supplies, and for the actual or estimated cost of utilities as may be furnished by the Government and of shrinkage, spoilage, and pilferage of merchandise under the control of such commissary stores, except as authorized under regulations promulgated by the Secretaries of the military departments concerned with the approval of the Secretary of Defense, which regulations shall provide for reimbursement therefor to the appropriations concerned and, notwithstanding any other provision of law, shall provide for the adjustment of the sales prices in such commissary stores to the extent necessary to furnish sufficient gross revenues from sales of commissary stores to make such reimbursement: Provided, That under such regulations as may be issued pursuant to this section all utilities may be furnished without cost to the commissary stores outside the continental United States and in Alaska: Provided further, That no appropriation contained in this Act shall be available to pay any costs incurred by any commissary store or other entity acting on behalf of any commissary store in connection with obtaining the face value amount of manufacturer or vendor cents-off discount coupons unless all fees or moneys received for handling or processing such coupons are reimbursed to the appropriation charged with the incurred costs: Provided further, That no appropriation contained in this Act shall be available in connection with the operation of commissary stores within the continental United States unless the Secretary of Defense has certified that items normally procured from commissary stores are not otherwise available at a reasonable distance and a reasonable price in satisfactory quality and quantity to the military and civilian employees of the Department of Defense.

SEC. 715. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 716. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of thirteen thousand five hundred pounds.

SEC. 717. Vessels under the jurisdiction of the Department of Commerce, the Department of Transportation, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

SEC. 718. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

SEC. 719. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: Provided, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: Provided further, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 720. During the current fiscal year, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Service concerned.

SEC. 721. No appropriation contained in this Act shall be available for the payment of more than 75 per centum of charges of educational institutions for tuition or expenses of off-duty training of military personnel (except with regard to such charges of educational institutions (a) for enlisted personnel in the pay grade E-5 or higher with less than 14 years' service, for which payment of 90 per centum may be made or (b) for military personnel in off-duty high school completion programs, for which payment of 100 per centum may be made), nor for the payment of any part of tuition or expenses for such training for commissioned personnel who do not agree to remain on active duty for two years after completion of such training: Provided, That the foregoing limitation shall not apply to the Program for Afloat College Education.

SEC. 722. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

SEC. 723. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: Provided, That nothing in this section shall preclude the procurement of foreign produced specialty metals used in the production or manufacture of weapons or weapons systems made outside the United States, except those specialty metals which contain nickel from Cuba, or the procurement of chemical warfare protective clothing produced outside the United States, if such procurement is necessary to comply with agreements with foreign governments: Provided further, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: Provided further, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations other than certain contracts not involving fuel made on a test basis by the Defense Logistics Agency with a cumulative value not to exceed $4,000,000,000, as may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations: Provided further, That the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards of such contracts will be made at a reasonable price and that no award shall be made for such contracts if the price differential exceeds 2.2 per centum: Provided further, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 724. None of the funds appropriated by this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories or possessions, as to which the Secretary of Defense does not certify in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

SEC. 725. None of the funds appropriated by this Act may be obligated under section 206 of title 37, United States Code, for inactive duty training pay of a member of the National Guard or a member of a reserve component of a uniformed service for more than four periods of equivalent training, instruction, duty or appropriate duties that are performed instead of that member's regular period of instruction or regular period appropriate duty.

SEC. 726. Appropriations contained in this Act shall be available for the purchase of household furnishings, and automobiles from military and civilian personnel on duty outside the continental United States, for the purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of the Department of Defense on duty outside the continental United States or in Alaska, upon a determination, under regulations approved by the Secretary of Defense, that such action is advantageous to the Government.

SEC. 727. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901; 80 Stat. 508).

SEC. 728. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $9,100,000 for the current fiscal year: Provided, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense.

SEC. 729. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: Provided, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to

be used based upon modern aircraft operated by the civil reserve air fleet.

SEC. 730. During the current fiscal year, appropriations available to the Department of Defense for operation may be used for civilian clothing, not to exceed $40 in cost for enlisted personnel: (1) discharged for misconduct, unsuitability, or otherwise than honorably; (2) sentenced by a civil court to confinement in a civil prison or interned or discharged as an alien enemy; or (3) discharged prior to completion of recruit training under honorable conditions for dependency, hardship, minority, disability, or for the convenience of the Government.

SEC. 731. No part of the funds appropriated herein shall be available for paying the costs of advertising by any defense contractor, except advertising for which payment is made from profits, and such advertising shall not be considered a part of any defense contract cost. The prohibition contained in this section shall not apply with respect to advertising conducted by any such contractor, in compliance with regulations which shall be promulgated by the Secretary of Defense, solely for (1) the recruitment by the contractor of personnel required for the performance by the contractor of obligations under a defense contract, (2) the procurement of scarce items required by the contractor for the performance of a defense contract, or (3) the disposal of scrap or surplus materials acquired by the contractor in the performance of a defense contract.

SEC. 732. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,200,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

SEC. 733. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 734. Not more than $217,600,000 of the funds appropriated by this Act shall be made available for payment to the Federal Employees Compensation Fund, as established by 5 U.S.C. 8147.

SEC. 735. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

SEC. 736. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

SEC. 737. None of the funds appropriated by this Act shall be available for any research involving uninformed or nonvoluntary human beings as experimental subjects: Provided, That this limitation shall not apply to measures intended to be beneficial to the recipient and consent is obtained from the recipient or a legal representative acting on the recipient's behalf.

SEC. 738. Appropriations for the current fiscal year for operation and maintenance of the active forces shall be available for medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment); welfare and recreation; hire of passenger motor vehicles; repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public and private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions.

SEC. 739. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for the reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 740. No funds appropriated by this Act shall be available to pay claims for nonemergency inpatient hospital care provided under the Civilian Health and Medical Program of the Uniformed Services for services available at a facility of the uniformed services within a 40-mile radius of the patient's residence: Provided, That the foregoing limitation shall not apply to payments that supplement primary coverage provided by other insurance plans or programs that pay for at least 75 per centum of the covered services.

SEC. 741. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem with results of that treatment to be communicated back to the physician who made such referral; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) surgery which improves physical appearance but which is not expected to significantly restore functions including, but not limited to, mammary augmentation, face lifts and sex gender changes except that breast reconstructive surgery following mastectomy and reconstructive surgery to correct serious deformities caused by congenital anomalies, accidental injuries and neoplastic surgery are not excluded; (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (g) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, optometrist, podiatrist, certified nurse-midwife, certified nurse practitioner, or certified clinical social worker, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code: Provided, That any changes in availability of funds for the Program made in this Act from those in effect prior to its enactment shall be effective for care received following enactment of this Act.

SEC. 742. Appropriations available to the Department of Defense for the current fiscal year shall be available to provide an individual entitled to health care under chapter 55 of title 10, United States Code, with one wig if the individual has alopecia that resulted from treatment of malignant disease: Provided, That the individual has not previously received a wig from the Government.

SEC. 743. Funds appropriated in this Act shall be available for the appointment, pay, and support of persons appointed as cadets and midshipmen in the two-year Senior Reserve Officers' Training Corps course in excess of the 20 percent limitation on such persons imposed by section 2107(a) of title 10, United States Code, but not to exceed 60 percent of total authorized scholarships.

SEC. 744. None of the funds appropriated by this Act shall be available to pay any member of the uniformed service for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976.

SEC. 745. None of the funds appropriated by this Act may be used to support more than 300 enlisted aides for officers in the United States Armed Forces.

SEC. 746. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $32,900,000.

SEC. 747. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1) of that Act: Provided, That such amounts so credited shall be deposited in the Treasury as miscellaneous receipts as provided in 31 U.S.C. 484.

SEC. 748. No appropriation contained in this Act shall be available to fund any costs

of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1982, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: Provided, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: Provided further, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: Provided further, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 749. (a) None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate government quarters are available, but are not occupied by such person.

(b) The limitation set forth in subsection (a) is not applicable to employees whose duties require official travel in excess of fifty percent of the total number of the basic administrative work weeks during the current fiscal year.

SEC. 750. (a) None of the funds appropriated by this Act shall be available to pay the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, if the provisions of section 6330(d) of title 10, are utilized in determining such member's eligibility for retirement under section 6330(b) of title 10: Provided, That notwithstanding the foregoing, time creditable as active service for a completed minority enlistment, and an enlistment terminated within three months before the end of the term of enlistment under section 6330(d) of title 10, prior to December 31, 1977, may be utilized in determining eligibility for retirement: Provided further, That notwithstanding the foregoing, time may be credited as active service in determining a member's eligibility for retirement under section 6330(b) of title 10 pursuant to the provisions of the first sentence of section 6330(d) of title 10 for those members who had formally requested transfer to the Fleet Reserve or the Fleet Marine Corps Reserve on or before October 1, 1977.

(b) None of the funds appropriated by this Act shall be available to pay that portion of the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, which is attributable under the second sentence of section 6330(d) of title 10 to time which, after December 31, 1977, is not actually served by such member.

SEC. 751. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve, which shall remain available until September 30, 1984.

SEC. 752. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 753. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 754. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 755. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 756. None of the funds appropriated by this Act shall be used for the provision, care or treatment to dependents of members or former members of the Armed Services or the Department of Defense for the elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

SEC. 757. None of the funds appropriated by this Act shall be available for the purchase of insignia for resale unless the sales price of such insignia is adjusted to the extent necessary to recover the cost of purchase of such insignia and the estimated cost of all related expenses, including but not limited to management, storage, handling, transportation, loss, disposal of obsolete material, and management fees paid to the military exchange systems: Provided, That amounts derived by the adjustment covered by the foregoing limitations may be credited to the appropriations against which the charges have been made to recover the cost of purchase and related expense.

SEC. 758. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 759. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3 of the Federal Claims Collection Act of 1966, as codified at section 3711 of title 31, United States Code, and amended by Public Law 97-258, September 13, 1982, and any such contract entered into by the Department of Defense may provide that appropriate fees charged by the contractor under the contract to recover indebtedness may be payable from amounts collected by the contractor to the extent and under the conditions provided under the contract.

SEC. 760. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 761. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: Provided, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care.

SEC. 762. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 763. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 764. During the current fiscal year, not to exceed $125,000,000 of the funds provided in this Act for the Civilian Health and Medical Program of the Uniformed Services may be used to conduct a test program in accordance with the following guidelines: In carrying out the provisions of sections 1079 and 1086 of title 10, United States Code, the Secretary of Defense, after consulting with the Secretary of Health and Human Services, may contract with organizations that assume responsibility for the maintenance of the health of a defined population, for the purpose of experiments and demonstration projects designed to determine the relative advantages and disadvantages of providing pre-paid health benefits: Provided, That such projects must be designed in such a way as to determine methods of reducing the cost of health benefits provided under such sections without adversely affecting the quality of care. Except as provided otherwise, the provisions of such a contract may deviate from the cost-sharing arrangements prescribed and the types of health care authorized under sections 1079 and 1086, when the Secretary of Defense determines that such a deviation would serve the purpose of this section.

SEC. 765. None of the funds in this Act shall be available to execute a multiyear contract which employs any economic order quantity procurement or which includes an unfunded contingent liability in excess of $20,000,000 unless the Committees on Appro-

priations and Armed Services of the Senate and House of Representatives have been notified in advance: Provided, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for major weapons systems except as specifically provided herein.

SEC. 766. None of the funds appropriated in this or any other Act for the Department of Defense shall be available for obligation to reimburse a contractor for the cost of commercial insurance that would protect against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

SEC. 767. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence: Provided, That if an enlisted member is in a travel status and is not entitled to receive a per diem in lieu of subsistence because the member is furnished meals in a Government mess, funds available to pay the basic allowance for subsistence to such a member shall not be used to pay that allowance, or pro rata portion of that allowance, for each day, or portion of a day, that such enlisted member is furnished meals in a Government mess.

SEC. 768. Effective January 1, 1982, none of the funds appropriated by this Act shall be available to pay the retired pay or retainer pay of a member of the Armed Forces for any month who, on or after January 1, 1982, becomes entitled to retired or retainer pay, in an amount that is greater than the amount otherwise determined to be payable after such reductions as may be necessary to reflect adjusting the computation of retired pay or retainer pay that includes credit for a part of a year of service to permit credit for a part of a year of service only for such month or months actually served: Provided, That the foregoing limitation shall not apply to any member who before January 1, 1982: (a) applied for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve; (b) is being processed for retirement under the provisions of chapter 61 of title 10 or who is on the temporary disability retired list and thereafter retired under the provisions of sections 1210 (c) or (d) of title 10; or (c) is retired or in an inactive status and would be eligible for retired pay under the provisions of chapter 67 of title 10, but for the fact that the person is under 60 years of age.

SEC. 769. None of the funds appropriated by this Act shall be obligated under the competitive rate program of the Department of Defense for the transportation of household goods to or from Alaska and Hawaii.

SEC. 770. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 771. So far as may be practicable Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense.

SEC. 772. Funds available to the Department of Defense during the current fiscal year shall be available to establish a program to provide child advocacy and family counseling services to deal with problems of child and spouse abuse.

SEC. 773. None of the funds appropriated by this Act shall be available for the transportation of equipment or materiel designated as Prepositioned Materiel Configured in Unit Sets (POMCUS) in Europe in excess of four division sets.

SEC. 774. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) No funds appropriated by this Act may be used for the transfer of a technical data package from any Government-owned and operated defense plant manufacturing large caliber cannons to any foreign government, nor for assisting any such government in producing any defense item currently being manufactured or developed in a United States Government-owned, Government-operated defense plant manufacturing large caliber cannons.

SEC. 775. None of the funds appropriated in this Act may be made available through transfer, reprograming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 776. Of the funds appropriated by this Act for strategic programs, the Secretary of Defense shall provide funds for the Advanced Technology Bomber program at a level at least equal to the amount provided by the committee of conference on this Act in order to maintain priority emphasis on this program.

SEC. 777. Section 766(c) of the Department of Defense Appropriation Act, 1980, is amended by adding the following to the end thereof: ": Provided, That this limitation shall not apply to individuals who are at the top step of the compensation schedule, and who were employed as teachers in the Panama Canal Zone on September 30, 1979. This modification shall become effective on August 1, 1982".

SEC. 778. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 779. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for the payment for any service or supply for persons enrolled in any other insurance, medical service, or health plan to the extent that the service or supply is a benefit under the other plan, except in the case of those plans administered under title XIX of the Social Security Amendments of 1965 (79 Stat. 286).

SEC. 780. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within States which are Signatories to the Warsaw Pact.

SEC. 781. Notwithstanding any other provision of law, $500,000 of the funds made available by this Act for Operation and Maintenance, Army, shall be available for payment for the cost of extending utility lines to connect with the proposed West Point Jewish Chapel.

SEC. 782. None of the funds appropriated by this Act may be used to appoint or compensate more than 35 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 783. None of the funds made available by this Act shall be available to pay any member of the uniformed services a variable housing allowance pursuant to section 403(a)(2) of title 37, United States Code, in an amount that is greater than the amount which would have been payable to such member if the rates of basic allowance for quarters for members of the uniformed services in effect on September 30, 1982, had been increased by 8 per centum on October 1, 1982.

SEC. 784. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programed to be occupied by, a military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programed to be occupied by, military technicians of the component concerned, below the number of positions occupied by military technicians in that component on September 30, 1982.

SEC. 785. None of the funds appropriated by this Act shall be available to pay claims for inpatient mental health services provided under the Civilian Health and Medical Program of the Uniformed Services in excess of sixty days per patient per year: Provided, That the foregoing limitation shall not apply to inpatient mental health services (a) provided under the Program for the Handicapped; (b) provided as residential treatment care; (c) provided as partial hospital care; (d) provided to individual patients admitted prior to January 1, 1983 for so long as they remain continuously in inpatient status for medically or psychologically necessary reasons; or (e) provided pursuant to a waiver for medical or psychological necessities, granted in accordance with the findings of current peer review, as prescribed in guidelines established and promulgated by the Director, Office of Civilian Health and Medical Program of the Uniformed Services.

SEC. 786. During the current fiscal year the Department of the Air Force will transfer from aircraft assigned to the active Air Force one C-130H aircraft in good condition to the Coast Guard without reimbursement.

SEC. 787. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon. This section does not apply to security or special mission automobiles.

Sec. 788. None of the funds in this Act may be used to impose civilian personnel ceilings on Department of Defense industrially funded activities: Provided, That any increase in civilian personnel of such industrial funds in excess of the number employed on September 30, 1982, shall not be counted for the purposes of any statutory or administratively imposed civilian personnel ceil-

ing otherwise applicable during fiscal year 1983.

SEC. 789. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 790. Notwithstanding the budget authority levels provided in title IV of this Act for the procurement appropriation accounts, the sum total of such budget authority levels is hereby reduced by $386,000,000: Provided, That not more than $2,100,000,000 of the remaining budget authority provided in title IV of this Act and as further reduced herein for the procurement appropriation accounts may be obligated or expended to pay independent research and development and bid and proposal costs allocated to procurement contracts as items of indirect expense.

SEC. 791. No later than the end of the second fiscal year following the fiscal year for which appropriations for Operation and Maintenance have been made available to the Department of Defense, unobligated balances of such appropriations provided for fiscal year 1982 and thereafter may be transferred into the appropriation "Foreign Currency Fluctuations, Defense" to be merged with and available for the same time period and the same purposes as the appropriation to which transferred: Provided, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amount in the appropriation "Foreign Currency Fluctuations, Defense" does not exceed $970,000,000 at the time such a transfer is made.

SEC. 792. During the current fiscal year, for the purposes of the appropriation "Foreign Currency Fluctuations, Defense" the foreign currency exchange rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on this Act.

SEC. 793. None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.

SEC. 794. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: Provided, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: Provided further, That nothing in this section shall prohibit such leasing when specifically authorized in a subsequent Act of Congress.

SEC. 795. None of the funds made available by this Act shall be available for any competition between the currently approved LANTIRN system and any other system under provisions of section 203 of Public Law 97-252.

SEC. 796. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 797. None of the funds made available in the Act or any subsequent Act shall be available for the purchase of the alternate or new model fighter aircraft engine that does not have a written warranty or guarantee attesting that it will perform not less than 3,000 tactical cycles. The warranty will provide that the manufacturer must perform the necessary improvements or replace any parts to achieve the required performance at no cost to the Government.

SEC. 798. Section 308(g) and 308a(c) of title 37, United States Code, are amended by striking "December 17, 1982" and inserting in lieu thereof "March 31, 1983".

SEC. 799. Funds available under this Act may be used by the Department of Defense to enter into purchases of or commitments to purchase metals, minerals or other materials under section 303 of the Defense Production Act of 1950, as amended, (50 U.S.C. 2093): Provided, That the total funds under this Act for such purchases or commitments to purchase shall not exceed $50,000,000.

SEC. 799A. None of the funds made available by this Act may be used to support active United States military personnel stationed on shore in Europe at the end of fiscal year 1983 in excess of the planned number of such personnel stationed on shore in Europe at the end of fiscal year 1982 (315,600): Provided, That this limitation may be waived by the President upon a declaration to Congress of overriding national security requirements.

SEC. 799B. After the date of enactment of this Act, annual sales of silver from the National Defense Stockpile under the authority of Public Law 97-35, or any other Act, shall not exceed 10 per centum of the silver produced from existing domestic producing mines in the preceding 12 month period.

TITLE VIII

RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $15,856,000.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $91,300,000.

This Act may be cited as the "Department of Defense Appropriation Act, 1983".

And the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

SEC. 101(d). Such amounts as may be necessary for programs, projects, and activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1983 (S. 2956), at a rate for operations and to the extent and in the manner provided for in such Act as reported in the Senate on September 24, 1982, as if such Act had been enacted into law, except that the following appropriation items shall be a rate for operations and to the extend and in manner provided herein:

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $31,613,000.

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs, provided for by law, $97,294,000, of which $150,000 shall be available together with $50,000 from non-Federal sources for a new combined monthly survey of men's and women's apparel, to remain available until expended. None of the funds made available to the Bureau of the Census under this Act may be expended for prosecution of any person for the failure to return 1978 Agricultural Census forms 78-A40A or 78-A40B, or 78-A40C or 78-A40D, or form 79-A9A, or form 79-A9B, or for the preparation of similar forms for any future agricultural census.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $36,832,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(INCLUDING TRANSFER OF FUNDS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $168,500,000, and in addition, $30,000,000 shall be available by transfer from the unobligated balances in the Economic Development Revolving Fund, notwithstanding section 203 of the Act of 1965: Provided, That during 1983 total commitments to grarantee loans shall not exceed $150,000,000 of contingent liability for loan principal.

ECONOMIC DEVELOPMENT REVOLVING FUND

(LIMITATION ON LOAN GUARANTEES)

During fiscal year 1983, total commitments to guarantee loans to steel companies shall not exceed $20,000,000 of contingent liability for loan principal.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activites of the department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $135,200 for official respresentation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad; $166,426,000, to remain available until expended: Provided, That the provisions of the first sentence

of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. During fiscal year 1983 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $12,484,000. During fiscal year 1983, total commitments to guarantee loans shall not exceed $28,250,000 of contingent liability for loan principal.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, or other agreements with public or private organizations, $48,000,000, of which $33,463,000 shall remain available until expended: Provided, That not to exceed $14,537,000 shall be available for program management: Provided further, That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the House and Senate Appropriations Committees have approved the performance of the program, project, or activity as a central service in accordance with the policies of said Committees applicable to reprogramming of funds.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration, as provided for by law, including employment of aliens by contract for service abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $5,000 for representation expenses abroad; $8,100,000 of which $500,000 shall be used only to provide direct financial assistance to the State of Hawaii (which has been declared as a major disaster area by the President) and that such funds: (1) shall be used to supplement and increase rather than replace funds that normally would be used to promote travel by foreign visitors to Hawaii; (2) shall be obligated or expended within 60 days of the date of enactment of this Act; and (3) shall not be used to pay the administrative costs of the United States Travel and Tourism Administration or any other unit of the Federal Government.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $850,127,000, to remain available until expended, of which so much as may become available during the current fiscal year shall be derived from the Pribilof Islands Fund, and, in addition, $22,600,000 shall be transferred to this appropriation from the fund entitled "Promote and develop fishery products and research pertaining to American fisheries", and $4,140,000 from repayments of principal and interest on outstanding loans in the fund entitled "Coastal Energy Impact Fund".

FISHERIES LOAN FUND

For expenses necessary to carry out the provisions of Section 221 of the American Fisheries Promotion Act of December 22, 1980 (Public Law 96-561), there are appropriated to the Fisheries Loan Fund, $10,000,000 from receipts collected pursuant to that Act: Provided, That during fiscal year 1983 not to exceed $300,000 of the Fisheries Loan Fund shall be available for administrative expenses.

SCIENCE AND TECHNICAL RESEARCH

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $117,861,000, to remain available until expended. Of the foregoing amount, not to exceed $47,816,000 is for Measurement, Research and Standards (including not to exceed $1,000,000 for "Measurement Standards for the Handicapped"); not to exceed $21,635,000 is for Engineering Measurements and Standards; not to exceed $10,000,000 is for Computer Science and Technology; not to exceed $13,557,000 is for Core Research Program for Innovation and Productivity; not to exceed $5,491,000 is for the Fire Research Center; not to exceed $6,986,000 is for Technical Competence; not to exceed $12,376,000 is for Central Technical Support; and not to exceed $6,286,000 may be transferred to the "Working Capital Fund". $700,000 is provided for a metal processing program.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $12,667,000, to remain available until expended, of which $503,000 of prior year unobligated balances in the appropriation "Public telecommunications facilities planning and construction" shall be transferred to this appropriation".

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

During the current fiscal year applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act.

During the fiscal year appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

No funds in this title shall be used to sell to private interest, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, including not to exceed $2,500 for entertainment of officials of other countries when specifically authorized by the Maritime Administrator; not to exceed $2,500 for representation allowances; not to exceed $2,500 for contingencies for the Superintendent, United States Merchant Marine Academy, to be expended in his discretion; $78,113,000, to remain available until expended: Provided, That reimbursements may be made to this appropriation from receipts to the "Federal ship financing fund" for administrative expenses in support of that program.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $63,638,000: Provided, That notwithstanding any other provision of law, the provisions of sections 10, 11(b), 18, 20, and 21 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374) are hereby extended until the termination date set forth in section 102(c) of H.J. Res. 631, as enacted into law, notwithstanding subsections 10(e) and 21(i) of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $1,500 for official reception and representation expenses, $202,029,000; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended $16,000,000. In addition, $25,600,000 for disaster loan making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster loan fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business loan and investment fund", authorized by the Small Business Act, as amended, $128,700,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business loan and investment fund", authorized by the Small Business Act, as amended, $185,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be made only to disabled veterans and veterans of the Vietnam era as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72, $25,000,000.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $54,873,000, of which $350,000 is to remain available until expended for the Federal justice research program.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust, consumer protection and kindred laws, $43,389,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

For necessary expenses of the offices of the United States attorneys, and marshals, and bankruptcy trustees; including acquisition, lease, maintenance, and operation of aircraft, $330,981,000.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions $34,254,000: Provided, That not to exceed $4,050,000 shall be available for the purpose of renovating, constructing, and equipping State and local jail facilities that confine Federal prisoners under the Cooperative Agreement Program: Provided further, That accounts made available for constructing any local jail facility shall not exceed the cost of constructing space for the average Federal prisoner population for that facility as projected by the Attorney General: Provided further, That following agreement on or completion of any Federally assisted jail construction, the availability of such space shall be assured and the per diem rate charged for housing Federal prisoners at that facility shall not exceed direct operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $35,700,000.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by Title X of the Civil Rights Act of 1964, $5,764,000.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For expenses necessary for the detection, investigation, prosecution, and incarceration of individuals involved in organized criminal drug trafficking not otherwise provided for, $127,500,000, of which $18,000,000 is to remain available until expended for construction of new facilities and constructing, remodeling, and equipping buildings and facilities at existing detention and correctional institutions.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use (not to exceed one thousand three hundred for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $825,154,000, of which not to exceed $3,000,000 for automated data processing and telecommunications and $600,000 for undercover operations shall remain available until September 30, 1984: Provided, That notwithstanding the provisions of title 31 U.S.C. 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than $13,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: Provided further, That passenger motor vehicles for police-type use may be purchased without regard to the general purchase price limitation for the current fiscal year.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for policy-type use (not to exceed four hundred one of which four hundred shall be replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; and for expenses necessary under Section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-442) for the processing, care, maintenance, security, transportation, and the initial reception and placement in the United States of Cuban and Haitian entrants; $484,431,000, of which not to exceed $400,000 shall remain available for research until expended: Provided, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $20,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed two hundred seventy-seven pasenger motor vehicles (for replacement only) for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $248,162,000, of which not to exceed $1,200,000 for research shall remain available until expended and $1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1984.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $35,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding section 501(e)(2)(B) of Public Law 96-422, funds appropriated to the Department of Justice in this title may be expended for assistance to Cuban-Haitian entrants as authorized under section 501(c) of said Act.

SEC. 203. Authorities contained in Public Law 96-132, "Department of Justice Appropriation Authorization Act, Fiscal Year 1980", are in effect until the termination date in section 102(c) of this joint resolution as enacted into law.

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, $11,626,000.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended, 29 U.S.C. 206(d) and 621-634, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $18,500,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended and sections 6 and 14 of the Age Discrimination in Employment Act; $142,771,000.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $241,000,000: Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be expended to provide legal assistance for or on behalf of any alien unless the alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by section 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15), (20)).

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 1007(b)(1) of the Legal Services Corporation Act, to be an alien described in subparagraph (C) of such section: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (a) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (b) a qualified nonprofit organization chartered under the laws of one of the States for the primary

purpose of furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance: Provided further, That none of the funds appropriated in this Act shall be expended by the Legal Services Corporation to participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself: Provided further, That none of the funds appropriated in this Act shall be available to any recipient to be used—

(A) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except where legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights and responsibilities, or

(B) to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this subsection shall not preclude such funds from being used in connection with communications made in response to any Federal, State, or local official, upon the formal request of such official: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal government or any State or local government unless (1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient; (2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and (3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interests of the clients: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to section 11 of H.R. 3480, as passed the House of Representatives on June 18, 1981: Provided further, That notwithstanding any regulation, guideline, or rule of the Corporation, the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts under section 1006(a) (1) and (3) so as to insure that funding for each such current grantee and contractor is maintained in 1983 at the annualized level at which each such grantee and contractor was funded in 1982, or in the same proportion which total appropriations to the Corporation in fiscal year 1983 bear to the total appropriations to the Corporation in fiscal year 1982, until action is taken by directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: Provided further, That no member of the Board of Directors of the Legal Services Corporation shall be compensated for his services to the Corporation except for the payment of an attendance fee at meetings of the Board at a rate not to exceed the highest daily rate for grade fifteen (15) of the General Schedule and necessary travel expenses to attend Board meetings in accordance with the Standard Government Travel Regulations: Provided further, That no officer or employee of the Legal Services Corporation or a recipient program shall be reimbursed for membership in a private club, or be paid severance pay in excess of what would be paid a Federal employee for comparable service.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945); expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 240 et seq.), and section 2 of the Act of August 1, 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $995,000,000, of which $25,000,000 shall remain available until September 30, 1984.

REOPENING CONSULATES

For necessary expenses of the Department of State and the Foreign Service for reopening and operating certain United States consulates as specified in Section 103 of the Department of State Authorization Act, Fiscal Years 1982 and 1983, $1,000,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $444,315,000, of which $12,506,000 shall be for payment of the full 1983 assessed contributions to the Inter-American Institute for Cooperation on Agriculture: Provided, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States' share of interest costs made known to the United States government by such organization for loans incurred on or after October 1, 1982, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of United Nations peacekeeping forces, $73,400,000: Provided, That section 149 of Public Law 97-276 shall be effective until the termination date of H.J. Res. 631 as enacted into law.

THE ASIA FOUNDATION

For a grant to the Asia Foundation, $4,100,000 to remain available until expended.

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Wartime Relocation and Internment of Civilians, as authorized by Public Law 96-317, $300,000 to be available only until June 30, 1983.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary, to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $20,000); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928; and entertainment, including official receptions, within the United States, not to exceed $10,000; $407,830,000, of which not to exceed $2,671,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended; Provided, That not to exceed $500,000 may be used for representation abroad: Provided further, That receipts not to exceed $500,000 may be credited to this appropriation from fees or other payments received from or in connection with English-teaching programs as authorized by section 810 of Public Law 80-402, as amended; and, for expenses of certain exchange programs of the United States Information Agency, $84,292,000, of which $73,965,000 shall be for the Fulbright and International Visitor Programs, $3,206,000 shall be for the Humphrey Fellowship Program, and $7,121,000 shall be for the Private Sector Programs.

THE JUDICIARY

BANKRUPTCY COURTS, SALARIES AND EXPENSES

For salaries and expenses of the judges and other officers and employees of the Bankruptcy Courts of the United States, not otherwise provided for, $89,000,000.

And the Senate agreed to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

The following Act, notwithstanding any other provision of the joint resolution; this subsection shall be effective as if it had been enacted into law as the regular appropriation Act:

An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1983, and for other purposes.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $219,921,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $62,029,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and allowances to ex-servicemen, as authorized by title 5, chapter 85 of the United States Code, as amended, of benefits and payments as authorized by title II of Public Law 95-250, as amended, of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended) $230,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: Provided, That amounts recovered from the States during the current fiscal year pursuant to 5 U.S.C. 8505(d) shall be available for such payments during the year. Amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For grants for activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49n; 39 U.S.C. 3202(a)(1)(E)); Veterans' Employment and Readjustment Act of 1972, as amended (38 U.S.C. 2001-2013); title III of the Social Security Act, as amended (42 U.S.C. 501-503); and necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, chapter 2, title II, of the Trade Act of 1974, as amended, and sections 101(a)(15)(H)(ii) and 212(a)(14) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), including, upon request of any State, the payment of rental for space made available to such State in lieu of grants for such purpose, $22,200,000, together with not to exceed $2,454,300,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund and of which $627,176,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant was based, which cannot be provided for by normal budgetary adjustments: Provided, That any portion of the funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended, and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code and by title VI of the Tax Equity and Fiscal Responsibility Act of 1982, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1984, $5,441,000,000.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Labor-Management Services Administration, $58,077,000.

PENSION BENEFIT GUARANTY CORPORATION

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program through September 30, 1983, for such Corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal and local agencies and their employees for inspection services rendered, $169,296,000, together with $347,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshoremen's and Harbor Workers' Compensation Act, as amended, $339,600,000, together with such amount as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: Provided, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1983.

BLACK LUNG DISABILITY TRUST FUND

For payments from the Black Lung Disability Trust Fund, $673,544,000, of which $639,255,000 shall be available until September 30, 1984, for payment of all benefits and interest on advances under subsection (c)(2) of section 9501 of the Internal Revenue Code of 1954, as amended, as authorized by section 9501(d) (1), (2), (4), and (7) of that Act and of which $21,192,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses and $13,097,000 for transfer to Departmental Management, Salaries and Expenses for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: Provided, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to June 15 of the current year: Provided further, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $205,256,000, including not to exceed $47,625,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: Provided, That none of the funds appropriated under this paragraph shall be obligated or expended to enforce or prescribe as a condition for initial, continuing, or final approval of State plans under section 18 of the Occupational Safety and Health Act of 1970, State administrative or enforcement staffing levels which are greater than levels which are determined by the Secretary to be equivalent to Federal staffing levels: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational

Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and take any action pursuant to such investigation authorized by such Act;

(6) to take any action authorized by such Act with respect to complaints of discrimination againt employees for exercising rights under such Act: Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: Provided further, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: Provided further, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: Provided further, That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $153,828,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed eighty-eight passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: Provided, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirement, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $120,143,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including $1,973,000 for the President's Committee on Employment of the Handicapped, $91,864,000, together with not to exceed $8,752,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund and of which $8,535,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-03.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, $67,000, to remain available until expended. This appropriation shall be available in addition to other appropriations to such agency for payments in foreign currencies.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $38,133,000, together with not to exceed $6,835,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISION

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

This title may be cited as the "Department of Labor Appropriation Act, 1983".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

For carrying out titles III, V, VII, VIII, X, and XIX of the Public Health Service Act, the Act of August 8, 1946 (5 U.S.C. 7901), section 1 of the Act of July 19, 1963 (42 U.S.C. 253a), section 108 of Public Law 93-353, section 427(a) of the Federal Coal Mine Health and Safety Act, as amended, and title V of the Social Security Act, $1,018,563,000 of which $1,732,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with Hansen's disease; and of which $3,292,000, to be available until expended, shall be used to renovate the National Hansen's Disease Center: Provided, That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: Provided further, That when the Health Services Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in advances to this appropriation: Provided further, That during 1983, and within the resources and authority available under sections 338 and 338E of the Public Health Service Act, gross obligations for the principal amount of direct loans under section 338E of that Act shall not exceed $1,000,000: Provided further, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer of the Public Health Service for any period during which

the officer is providing obligated service under section 338B (or under former sections 225(e) or 752) of the Public Health Service Act except that this proviso shall not apply to any period of service covered by an agreement entered into by an officer under 37 U.S.C. 302(c)(1) before the date of enactment of this Act.

CENTERS FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

To carry out titles III, XI, and XIX of the Public Health Service Act, the Federal Mine Safety and Health Act of 1977, and the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, $290,701,000, of which $2,050,000 shall remain available until expended and shall be for construction and equipment of facilities of or used by the Centers for Disease Control: Provided, That training of employees of private agencies shall be made subject to reimbursement or advances to this appropriation for the full cost of such training.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out, to the extent not otherwise provided, the Public Health Service Act with respect to cancer, $983,576,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For expenses, not otherwise provided for, necessary to carry out the Public Health Service Act with respect to heart, lung, blood vessel, and blood diseases, $622,745,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For expenses, not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to dental diseases, $78,860,000.

NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For expenses necessary to carry out title IV of the Public Health Service Act with respect to arthritis, diabetes, digestive and kidney diseases, $412,182,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For expenses necessary to carry out, to the extent not otherwise provided, title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $295,719,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For expenses, not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to allergy and infectious diseases, $273,581,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For expenses, not otherwise provided for, necessary to carry out title IV of the Public Health Service Act with respect to general medical sciences, $369,561,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

To carry out, except as otherwise provided, title IV of the Public Health Service Act with respect to child health and human development, $253,655,000.

NATIONAL EYE INSTITUTE

For expenses necessary to carry out title IV of the Public Health Service Act, with respect to eye diseases and visual disorders, $141,561,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

To carry out, except as otherwise provided, sections 301, 311, and 472 of the Public Health Service Act with respect to environmental health sciences, $164,367,000.

NATIONAL INSTITUTE ON AGING

To carry out, except as otherwise provided, title IV of the Public Health Service Act with respect to aging, $93,996,000.

RESEARCH RESOURCES

To carry out, except as otherwise provided, sections 301 and 472 of the Public Health Service Act with respect to research resources and general research support grants, $213,804,000: Provided, That none of these funds, with the exception of funds for the Minority Biomedical Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN THE HEALTH SCIENCES

For the John E. Fogarty International Center for Advanced Study in the Health Sciences, $10,147,000, of which $1,800,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

To carry out, to the extent not otherwise provided for, section 301 with respect to health information communications and parts I and J of title III of the Public Health Service Act, $46,043,000.

OFFICE OF THE DIRECTOR

For expenses necessary for the Office of the Director, National Institutes of Health, $24,683,000, including purchase of not to exceed thirteen passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, where not otherwise provided, $17,500,000, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, and alcoholism, $777,556,000, of which $100,000 for design, modernization and improvement of government owned or leased intramural research facilities shall remain available until expended.

SAINT ELIZABETHS HOSPITAL

For expenses necessary for the maintenance and operation of Saint Elizabeths Hospital in the District of Columbia, $76,505,000: Provided, That the Secretary of Health and Human Services may set rates for inpatient and outpatient services provided through Saint Elizabeths Hospital that in the aggregate do not exceed the estimated total cost of providing such services, and may bill and collect from (prospectively or otherwise) individuals, the District of Columbia, Executive agencies and other entities for any services so provided. Amounts so collected shall be credited to the appropriation for Saint Elizabeths Hospital for the year in which the services are provided.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

For carrying out titles III, IV, VII, VIII, and XVI of the Public Health Service Act and section 1122 of the Social Security Act, $188,531,000 of which $1,500,000 shall remain available until expended for loan guarantees made prior to fiscal year 1981 and interest subsidies under part B of title VII, $5,000,000 shall remain available until expended for grants for construction of teaching facilities under section 720(a)(3) of the Public Health Service Act, and $29,000,000 shall be available until expended to enable the Secretary of Health and Human Services to enter into appropriate financial arrangements to repay in full any loan to Meharry Medical College guaranteed under section 726 (formerly section 729) of the Public Health Service Act.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

For carrying out title XVI of the Public Health Service Act, $32,000,000 shall be available without fiscal year limitation for the payment of interest subsidies. The total principal amount of loans to be guaranteed or directly made, which may be allotted among the States, pursuant to titles VI and XVI of the Public Health Service Act shall not exceed a cumulative amount of $1,500,000,000. During fiscal year 1983, no commitments for direct loans or loan guarantees shall be made.

ASSISTANT SECRETARY FOR HEALTH

HEALTH SERVICES MANAGEMENT

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XIII, and XX of the Public Health Service Act, $96,694,000 and section 2008(g) does not apply to these programs.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

Any amounts received by the Secretary as repayment of loans under title XIII of the Public Health Service Act for direct loans as authorized by said title XIII, and not to exceed $16,500,000 may be disbursed with respect to any liability or contingent liability incurred prior to 1983. During 1983 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $24,500,000.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C., ch. 55), such amounts as may be required during the current fiscal year: Provided, That none of these funds shall be available for payment to retired personnel of the Coast Guard or the National Oceanic and Atmospheric Administration or to the survivors of such personnel or for payment of medical care for dependents of such personnel and shall be used solely for Commissioned Officers of the Public Health Service, their dependents and survivors.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, title XIX of the Social Security Act, $19,361,845,000 to remain available until expended.

For making, after June 30 of the current fiscal year, payments to States under title XIX of the Social Security Act, for the last three months of the current fiscal year, such sums as may be necessary, the obligations

incurred and the expenditures made thereunder for payments under such title to be charged to the subsequent appropriation therefor for the current or succeeding fiscal year.

In the administration of title XIX of the Social Security Act, payments to a State under such title for any quarter in the period beginning July 1 of the prior year and ending September 30 of the current year may be made with respect to a State plan approved under such title prior to or during such period. After a plan or plan amendment is approved, payment may be made with respect to it for the quarter in which it was submitted or any subsequent quarter in which it remains in effect.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in the prior fiscal year subsequent to June 30 of that year.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1984, $5,105,600,000 to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g), 229(b) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of P.L. 97-248 $15,347,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII and XIX of the Social Security Act, and sections 1526 and 1533(d) of the Public Health Service Act, $92,905,000 together with not to exceed $959,671,000, to be transferred to this appropriation as authorized by section 201(g)(1) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: Provided, That these amounts shall be in addition to funding for this purpose available under section 118 of Public Law 97-248. Provided further, That $20,000,000 of the foregoing amount shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: Provided further, That none of the funds appropriated under this paragraph shall be allotted or otherwise awarded to any Professional Standards Review Organization which the Secretary of the Department of Health and Human Services has determined should be terminated from the Professional Standards Review Program because of its inability to effectively or efficiently discharge its responsibilities under the Social Security Act.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 217(g), 228(g), 229(b), and 1131(b)(2) of the Social Security Act, $855,213,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $1,093,000,000: Provided, That after July 31, such amounts for benefit payments as may be necessary may be charged to the subsequent year appropriation.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program under title XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $8,543,616,000 to remain available until expended: Provided, That after July 31, such amounts for benefit payments as may be necessary may be charged to the subsequent year appropriation: Provided further, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

ASSISTANCE PAYMENTS PROGRAM

For carrying out, except as otherwise provided, titles I, IV, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $6,684,207,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States under titles I, IV, X, XIV, and XVI of the Social Security Act for the last three months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary, the obligations and expenditures to be charged to the subsequent appropriations therefor for the current fiscal year.

For making payments to States under titles I, IV, X, XIV, and XVI of the Social Security Act for the first quarter of fiscal year 1984, $1,718,000,000, to remain available until expended.

CHILD SUPPORT ENFORCEMENT

For carrying out, except as otherwise provided, titles IV-D and XI of the Social Security Act, $347,500,000 to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States under title IV-D of the Social Security Act for the last three months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary, the obligations and the expenditures to be charged to the subsequent appropriations therefor.

For making payments to States under title IV-D of the Social Security Act for the first quarter of fiscal year 1984, $118,000,000 to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

For carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,850,000,000.

REFUGEE AND ENTRANT ASSISTANCE

For expenses necessary to carry out the provisions of the Refugee Act of 1980, as amended, and sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980, $585,000,000: Provided, That such funds may be expended for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act, 94 Stat. 1810, but for the application of paragraph (2)(B) thereof.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,408,451,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: Provided, That travel expense payments under section 1631(h) of such Act may be made only when travel of more than seventy-five miles is required: Provided further, That $50,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: Provided further, That $47,026,000 authorized herein shall be available only for acquisition of sites, construction, renovation, and equipment of facilities and for payments for principal, interest, taxes and any other obligations under contracts entered into pursuant to the Public Buildings Purchase Contract Act of 1954 and the Public Buildings Amendments of 1972, and shall remain available until expended: Provided further, That $151,625,000 for automatic data processing and telecommunications activities shall remain available until expended.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANTS

For carrying out the Social Services Block Grant Act, $2,450,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Older Americans Act of 1965, the Child Abuse Prevention and Treatment Act, title VIII of the Community Services Act, the Developmental Disabilities Assistance and Bill of Rights Act of 1981, and the Head Start Act of 1981, $1,753,514,000, of which $43,180,000 shall be for grants under part C of the Developmental Disabilities Assistance and Bill of Rights Act, and $7,320,000 shall be for section 113 of such Act.

CHILD WELFARE SERVICES

For carrying out, except as otherwise provided, parts A, B, and E of title IV and sections 1110 and 1115 of the Social Security Act and title II of Public Law 95-266 (adoption opportunities), $572,669,000.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $270,760,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

For carrying out the Community Services Block Grant Act, $360,500,000, of which $18,840,000 shall be for carrying out section 681(a)(2)(A), $3,840,000 shall be for carrying out section 681(a)(2)(D), $2,880,000 shall be for carrying out section 681(a)(2)(E), and $5,760,000 shall be for carrying out section 681(a)(2)(F): Provided, That the Secretary of Health and Human Services may waive the requirements of section 138 of Public Law 97-276, relating to continuing appropriations for fiscal year 1983, for any State applying for such a waiver if—

(1) the State had, prior to October 1, 1982, submitted an application for fiscal year 1983 under the Community Services Block Grant Act, containing provisions for the use of assistance under that Act by political subdivisions; and

(2) the chief executive officer of the State certifies that, in at least 45 percent of the counties of the State, services assisted under the Community Services Block Grant Act were not available in fiscal year 1982 (other than a State for which the distribution of funds within the State for such fiscal year was contested by more than one eligible entity).

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For expenses not otherwise provided, which are necessary for general departmental management, including hire of six medium sedans, $158,143,000, together with not to exceed $8,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $44,921,000, together with not to exceed $6,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

For making payments to States for medicaid State fraud control units under section 1903(a)(6) of the Social Security Act for fiscal year 1983, $36,346,000.

For making, after May 31 of the current fiscal year, payments to States under section 1903(a)(6) of the Social Security Act for the last three months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, not to exceed $5,000,000, the obligations and expenditures to be charged to the subsequent appropriations therefor.

For making payments to States for medicaid State fraud control units under section 1903(a)(6) of the Social Security Act for the first quarter of fiscal year 1984, $10,000,000 to remain available until expended.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $19,163,000, together with not to exceed $2,350,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $14,718,000: Provided, That not less than $1,500,000 shall be obligated to continue research on poverty conducted by the Institute for Research on Poverty.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of research an amount equal to as much as the entire cost of such research.

SEC. 203. Appropriations in this Act for the Health Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Health Resources Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand eight hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term: Provided, however, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327(a) of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration and the Office of Child Support Enforcement shall be available for not to exceed $5,000 for official reception and representation expenses related to income maintenance or child support enforcement activities of the Department when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

This title may be cited as the "Department of Health and Human Services Appropriation Act, 1983".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, $3,160,394,000 to become available on July 1, 1983, and remain available until September 30, 1984: Provided, That no funds shall be used for the purposes of section 554(a)(1)(B), $4,746,000 shall be available for purposes of section 555(d), $255,744,000 shall be available for the purposes of section 554(a)(2)(A), $146,520,000 shall be available for purposes of section 554(a)(2)(B), and $32,616,000 shall be available for purposes of section 554(a)(2)(C).

For carrying out section 418 of the Higher Education Act, $7,500,000.

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981; title IX, part C of the Elementary and Secondary Education Act; title IV of the Civil Rights Act of 1964; the Follow Through Act; sections 1524 and 1525 of the Education Amendments of 1978; and Public Law 92-506, $534,500,000: Provided, That $450,655,000 to carry out the State block grant program authorized under chapter 2 of the Education Consolidation and Improvement Act shall become available for obligation on July 1, 1983, and shall remain available until September 30, 1984: Provided further, That $28,765,000 for the purpose of subchapter D of the Education Consolidation and Improvement Act shall become available for obligation on October 1, 1982: Provided further, That $3,000,000 of the amount appropriated above shall be for the purpose of Public Law 92-506 of which $1,500,000 shall become available on July 1, 1983, and shall remain available until September 30, 1984.

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act and part B, subpart 3 of the Vocational Education Act, as amended, $138,057,000, of which $3,686,000 for part B, subpart 3 of the Vocational Education Act shall become available on July 1, 1983, and shall remain available until September 30, 1984: Provided, That $2,400,000 of the funds appropriated by title III of this bill shall be used for section 751 of title VII of the Elementary and Secondary Education Act.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), $455,000,000, of which $445,000,000 shall be for entitlements under sections 2 and 3 and $10,000,000 shall be for payments under section 7 of said Act: Provided, That payment to any local educational agency with respect to entitlements under section 3(a) shall be 90 per centum of the amount of such payment for the fiscal year 1981 unless such agency is determined eligible for payment under section 3(d)(2)(B), except that payment to any local educational agency with respect to entitlements under section 3(a) shall be 95 per centum of the amount of such payment for fiscal year 1981 for any agency in which the number of children determined under such section 3(a) is at least 20 per centum of the total number of children who are in average daily attendance at the schools of such agency; and payment to any local educational agency with respect to entitlements under section 3(b) shall not exceed the amount of such payment for the fiscal year 1982 unless such agency is determined eligible for payment under section 3(d)(2)(B): Provided further, That notwithstanding the payment provisions stated herein, the Secretary is authorized to determine and make payment of a fair and equitable amount with regard to an otherwise eligible local educational agency which was not eligible in the fiscal years 1981 or 1982: Provided further, That the aggregate amount for payments of entitlements calculated under section 3(d)(2)(B) shall not exceed $15,000,000: Provided further, That no payments shall be made under section 3 of said Act to any local educational agency whose payment under that section fails to exceed $5,000: Provided further, That no payments shall be made under section 7 of said Act to any local educational agency whose need for assistance under that section fails to exceed the lesser of $10,000 or 5 per centum of the district's current operating expenditures during the fiscal year preceding the one in which the disaster occurred: Provided further, That in addition to the $10,000,000 appropriated in the foregoing, there is hereby appropriated $5,000,000 for section 2 for the purpose of paying entitlements, including the payment of entitlements under this section for the Douglas School District in the State of South Dakota impacted as a result of Ellsworth Air Force Base which shall be made at 100 per centum of the amount to which such school district is entitled under section 2.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $20,000,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act: Provided, That with the exception of up to $8,500,000 for section 10 and up to $8,500,000 for section 14 (a) and (b), none of the funds contained herein for providing school facilities shall be available to pay for any other section of the Act of September 23, 1950, until payment has been made of 100 per centum of the amounts payable under sections 5 and 14(c).

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $1,110,252,000, of which $970,000,000 for section 611 and $25,000,000 for section 619 shall become available for obligation on July 1, 1983, and shall remain available until September 30, 1984.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, as amended, and the International Health Research Act of 1960, $1,036,727,000, of which $939,753,158 shall be for allotments under section 100(b)(1), $4,146,842 shall be for activities under section 110(b)(3), and $650,000 shall be made available to the Navajo Tribal Council for activities under section 130: Provided, That of the amount appropriated for centers for independent living under part B of title VII of the Rehabilitation Act of 1973, such amounts as are necessary shall be available for fiscal year 1983 to fund all such centers which received assistance under such part in fiscal year 1981 at the level of assistance made to each such center in fiscal year 1981: Provided further, That of the amount appropriated and available for projects with industry under section 621 of the Rehabilitation Act of 1973, such amounts as are necessary shall be available for fiscal year 1983 to fund all such projects which received assistance under such part in fiscal year 1981 at the level of assistance made to each such project in fiscal year 1981.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Vocational Education Act, and the Adult Education Act, $816,500,000 which shall become available for obligation on July 1, 1983, and shall remain available until September 30, 1984, except that $7,678,000 for part B, subpart 2 of the Vocational Education Act shall become available for obligation on July 1, 1983, and shall remain available until expended: Provided, That $6,500,000 for State advisory councils under section 105 of the Vocational Education Act shall be used to provide to each State, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Trust Territory of the Pacific Islands, and Northern Mariana Islands an amount equal to the amount it received in the previous fiscal year: Provided further, That not to exceed $99,590,000 shall be for carrying out part A, subpart 3, of the Vocational Education Act: Provided further, That $2,243,100 shall be made available for the National Occupational Information Coordinating Committee.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A, and parts C and E of title IV of the Higher Education Act, $3,567,800,000 which shall remain available until September 30, 1984: Provided, That amounts appropriated for Pell Grants shall be available first to meet any insufficiencies in entitlements resulting from the payment schedule for Pell Grants published by the Secretary of Education for the 1982-1983 academic year: Provided further, That pursuant to section 411(b)(4)(A) of the Higher Education Act, amounts appropriated herein for Pell Grants which exceed the amounts required to meet the payments schedule published for any fiscal year by 15 per centum or less shall be carried forward and merged with amounts appropriated for the next fiscal year: Provided further, That the maximum grant a student may receive in the 1983-1984 academic year shall be $1,800 notwithstanding section 411(a)(2)(A)(i)(III) of the Higher Education Act: Provided further, That notwithstanding any other provision of law, such sums as may be necessary not to exceed $30,000,000 of the amount appropriated by Public Law 97-257 for Pell Grants shall be available for the purpose of restoring eligibility for Pell Grants to individuals adversely affected by the modification, pursuant to paragraphs (4) and (5) of section 124 of Public Law 97-92, of the family contribution schedule with respect to the treatment of payments under title 38, United States Code, to such individuals. For the purposes of determining eligibility and amount of Pell Grant awards under this section, only one-third of the benefits received under such title 38 shall be considered as student financial assistance. The Secretary of Education shall take such steps as may be necessary to notify such individuals of restored eligibility and to make appropriate allocations of the reserved sum: Provided further, That notwithstanding any other provision of this Act, any other Act, or section 415B of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 415A of the Higher Education Act of 1965 for the fiscal year 1983 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in the fiscal year 1982 bears to the total amount appropriated pursuant to section 415A for that fiscal year.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $3,100,500,000, to remain available until expended.

HIGHER AND CONTINUING EDUCATION

For carrying out titles III; VI, parts A and B; VIII; IX, parts B, D and E; title X; and sections 417, 420, and 734 of the Higher Education Act; section 406A(2) of the General Education Provisions Act (20 U.S.C. 1221e-1b(2)); section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; title XIII, part H, subparts 1 and 2 of the Education Amendments of 1980; H.R. 3598 as passed the House on November 4, 1981; and title V, section 528(5) of the Omnibus Budget Reconciliation Act of 1981, without regard to section 512(b) of the Omnibus Budget Reconciliation Act of 1981, $385,525,000: Provided, That funds made available in Public Law 96-536, section 110 for the Wayne Morse Chair of Law and Politics shall remain available for obligation until September 30, 1985: Provided further, That $2,000,000 shall be available until expended for the Carl Albert Congressional Research and Studies Center: Provided further, That $25,000,000 made available for interest subsidy grants under section 734 of the Higher Education Act shall remain available until expended: Provided further, That sections 922(b)(2) and 922(e)(2) and the funding limitations set forth in section 922(e) of the Higher Education Act shall not apply to funds in this Act.

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

For the payment of principal and interest on participation certificates as authorized

by the Department of Health, Education, and Welfare Appropriation Act, 1968, issued by the Government National Mortgage Association as trustee on the behalf of the Department of Education pursuant to the Federal National Mortgage Association Act (12 U.S.C.1717(c)), and for the payment of interest expenses to the Department of the Treasury as required by title VII, section 733(b)(2) of the Higher Education Act, $20,143,000 to remain available until expended. The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 849) as may be necessary in carrying out the program set forth in the budget for the current fiscal year. During fiscal year 1983, no new commitments for loans may be made from this account.

COLLEGE HOUSING LOANS

The aggregate amount of commitments for loans made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749), for the fiscal year 1983 shall not exceed the total of loan repayments and other income available during such period, less operating costs. Payments of insufficiencies in fiscal year 1983 as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717) shall be made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749) using loan repayments and other income available during fiscal year 1983. During fiscal year 1983 and within the resources and authority available, gross commitments for the principal amount of direct loans shall be $40,000,000.

EDUCATIONAL RESEARCH AND STATISTICS

For necessary expenses for education statistics activities and for research and development, to carry out sections 405 and 406 of the General Education Provisions Act, $64,203,000.

EDUCATIONAL, RESEARCH, AND TRAINING ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be in excess of the normal requirements of the United States, for necessary expenses of the Department of Education, as authorized by law, $516,000, to remain available until expended.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I and III of the Library Services and Construction Act (20 U.S.C., ch. 16); title II, part A, part B except section 224, and part C of the Higher Education Act, notwithstanding the provisions of section 221, $80,320,000.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-105), $5,000,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681 et seq.), $26,300,000.

GALLAUDET COLLEGE

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet College authorized by the Act of June 18, 1954 (68 Stat. 265), $52,000,000.

HOWARD UNIVERSITY

For partial support of Howard University, $145,200,000. If requested by the university, construction financed by prior year appropriations to this account shall be supervised by the General Services Administration.

OFFICE FOR CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $44,868,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three medium sedans, $222,000,000. During the current fiscal year up to $10,500,000 from collections of federally insured defaulted loans may be transferred to this account for payment of related collection activities.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $12,840,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet College shall be subject to audit by the Secretary of Education.

SEC. 303. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of research an amount equal to as much as the entire cost of such research.

SEC. 304. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 305. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 306. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 307. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriation Act, 1983".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, $129,321,000, of which $11,831,000 shall be available to carry out title I, part A of said Act: Provided, That none of the funds appropriated under this heading may be used to close State field offices of the Action agency or to reduce the number of personnel engaged in operating State field offices of the Action agency.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Public Broadcasting Amendments Act of 1981, an amount which shall be available within limitations specified by said Act, for the fiscal year 1985, $130,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties and similar forms of entertainment for government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person on the basis of race, color, national origin, religion or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry

out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. Chapter 71), $21,321,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission, $3,686,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $674,000.

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

For necessary expenses to carry out section 491 of the Higher Education Act, $840,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $124,045,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $5,468,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, $6,316,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $430,000,000, which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

LIMITATION ON ADMINISTRATION

For expenses necessary for the Railroad Retirement Board, $46,361,000 to be derived from the railroad retirement accounts: Provided, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,162 full-time-equivalent employees: Provided further, That $500,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: Provided further, That notwithstanding any other provisions in law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228 a-r). For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $16,644,000 shall be apportioned for fiscal year 1983 pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665) from moneys credited to the railroad unemployment insurance administration fund: Provided, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 416 full-time-equivalent employees.

MILWAUKEE RAILROAD RESTRUCTURING, ADMINISTRATION

For administrative expenses authorized by section 14(c) of the Milwaukee Railroad Restructuring Act, $250,000.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $26,718,000: Provided, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Education, and Health and Human Services are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Education, and Health and Human Services are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. Section 104 of Public Law 97-276 is deemed to charge no amount appropriated by section 132, 134, 137, 141, or 142 of that joint resolution to any appropriation, fund, or authorization contained in this or any other measure whenever enacted.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1983".

And the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of subsection "(5)" named in said amendment, insert: *"(3)"*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Provided further, That Department of Energy, Atomic Energy Defense Activities, shall be funded at not to exceed an annual rate for new obligational authority of $5,700,000,000, of which not more than $4,372,000,000 shall be available for operating expenses and not more than $1,328,000,000 shall be available for plant and capital equipment, except that no funds shall be available for Project 82-D-109.

And the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriation Acts, is increased by $519,711,198: Provided, That the budget authority obligated under such contracts shall be increased above amounts heretofore provided in appropriation Acts by $8,651,475,689: Provided further, That of the budget authority provided herein, $361,760,000 shall be for assistance in financing the development or acquisition cost of public housing for Indian families, $1,834,000,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), and $2,500,000,000 shall be for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437l): Provided further, That all budget authority recaptured and becoming available for obligation in fiscal year 1983 shall only be made available for annual contributions contracts under the section 8 moderate rehabilitation program and the section 8 existing housing program (42 U.S.C. 1437f): Provided further, That any balances of authorities made available prior to the enactment of this Act which are or become available for obligation in fiscal year 1983, shall be added to and merged with the authority approved herein, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1983: Provided further, That the $89,321,727 of budget authority deferred and made available in accordance with the provisos under the heading "Annual Contributions for Assisted Housing" in Chapter VII of the Supplemental Appropriations Act, 1982 (Public Law 97-257), shall be made available for the modernization of vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such act: Provided further, That none of the merged amounts available for obligation in 1983 shall be subject to the provisions of section 5(c) (2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): Provided further, That with respect to newly constructed and substantially rehabilitated projects under section 8 of the United States Housing Act of 1937, as amended, during 1983, the Secretary shall not impose a percentage or other arbitrary limitation on the cost and rent increases resulting from increased construction cost in exercising the authority to approve cost and rent increases set forth in section 8(1) of such Act: Provided further, That no funds provided in this joint resolution or any other Act shall be used to administer or implement any regulation, policy direction or handbook instruction concerning maximum total development costs applicable to the public housing, Indian housing or low-rent homeownership programs not in effect before September 7, 1982: Provided further, That the proceeding proviso may be waived by the Committees on Appropriations after the Department of Housing and Urban Development presents to the Appropriations Committees, an analysis of the impact of the maximum total development cost regulation, published September 8, 1982 in the Federal Register, amending 24 CFR 804, 805 and 841, upon the ability of local public housing authorities to develop the units in the pipeline in a timely fashion.

And the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$181,200,000,* and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

(h) Notwithstanding any other provision of this joint resolution such amounts as may be necessary for programs, projects, or activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1983 (H.R. 7356), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 97-978), passed by the House of Representatives on December 18, 1982, and by the Senate on December 19, 1982, as if such Act had been enacted into law: Provided, That notwithstanding any other provision of this joint resolution or any other Act including the Department of the Interior and Related Agencies Appropriation Act, 1983, $2,000,000 is appropriated for "Fossil energy research and development", Department of Energy, to remain available until expended.

And the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted, insert: *"111A"*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted, insert: *"111B"*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 128. No funds provided under this joint resolution shall be used to deny or reduce supplemental security income or aid to families with dependent children benefits because of home energy assistance provided by a private nonprofit organization, or any entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental body, if the appropriate State agency has certified that such assistance was based on need as determined by such organization or entity.

And the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 128. (a) Section 101(e) of Public Law 97-276 is amended by striking out "December 17, 1982," and inserting "September 30, 1983,".

(b) In lieu of payment of salary increases of up to 27.2 percent as authorized by law for senior executive, judicial, and legislative positions (including members of Congress), it is the purpose of this section to limit such increases to 15 percent. Notwithstanding the provisions of section 306 of S. 2939 made applicable by subsection (a) of this section, nothing in subsection (a) shall (or be construed to) require that the rate of salary or pay payable to any individual for or on account of services performed after December 17, 1982, be limited to an amount less than the rate (or maximum rate, if higher) of salary or pay payable as of such date for the position involved increased by 15 percent

and rounded in accordance with section 5318 of title 5, United States Code.

(c) Subsection (b) shall not apply to Senators.

(d) For the purposes of any rule, regulation, or order having the force and effect of law and limiting the annual rates of compensation of officers and employees of the Senate by reference to the annual rate of pay of Senators, the annual rate of pay of Senators shall be deemed to be the annual rate of pay that would be payable to Senators without regard to subsection (c) of this section.

And the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert

SEC. 132. Notwithstanding any other provision of this joint resolution, none of the funds appropriated or made available (other than funds for "Operating expenses of the Agency for International Development") pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to finance the operating expenses of the Agency for International Development, except that funds contained in deferral numbered D83-1 shall be used for operating expenses of the Agency for International Development.

And the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 136. Any commuter authority operating commuter service transferred from the Consolidated Rail Corporation under part 2 of the Northeast Rail Service Act of 1981 shall be subject to applicable laws with respect to such service.

And the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 149. The authorization for the water project on Bradley Lake, near Cook Inlet, Alaska described in the plans recommended in the report of the Chief of Engineers contained in House Document Numbered 455, 87th Congress, which plan was adopted and authorized by the Flood Control Act of 1962 (76 Stat. 1180, 1193) is hereby terminated: Provided, That for clarification, funds in the amount of $31,050,000 authorized to be appropriated in fiscal year 1978 for continuation of construction of distribution systems and drains on the San Luis Unit, Central Valley Project under Public Law 95-46 shall remain available until expended: Provided further, That $4,000,000 shall be made available for the Yatesville Lake construction project: Provided further, That funds available or hereafter made available for the project for flood protection on the Sacramento River, California, authorized by the Flood Control Act of 1960, may be used for construction of bank erosion control works along the banks of the Sacramento River for Chico Landing to the upstream ends of the project levees.

And the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$3,500,000*; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 151. (a) For payment to the Alaska Railroad Revolving Fund for capital improvements, replacements, operations, and maintenance, $7,600,000, to remain available until expended.

(b) For an additional amount to execute contracts for the Dodge Island Bridge Project, Miami, Florida, in accordance with the provisions of Title 23, United States Code, Section 144, $23,200,000 to be derived from the Highway Trust Fund, and to remain available until expended: Provided, That, notwithstanding any other provision of law, obligations incurred under this section shall not be subject to any limitation on obligations for federal-aid highways.

And the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 152. Notwithstanding any other provision of this joint resolution, until the United States court of Appeals for the District of Columbia renders a final decision in Case No. 82-2389, (National Cable Television Assoc., Inc. v. Copyright Royalty Tribunal), or March 15, 1983, whichever occurs first, no funds appropriated by this joint resolution or any other Act of Congress which provides funds for the Library of Congress and the Copyright Royalty Tribunal for fiscal year 1983 shall be expended to implement, enforce, award, or collect royalty fees under, and no obligation or liability for copyright royalty fees shall accrue until March 15, 1983 pursuant to, the decision announced by the Copyright Royalty Tribunal on October 20, 1982, Docket Numbered 81-2, and any subsequent decision, order, memorandum, or opinion issued by the Tribunal in such docket, insofar as such decision and any subsequent decision, order, memorandum, or opinion relate to the establishment of a royalty rate of 3.75 per centum of the gross receipts of certain cable systems for the carriage of certain distant signal equivalents. Nothing in this section shall be construed as barring the Copyright Royalty Tribunal from expending funds to decide, and to issue written materials with regard to its Docket Number 81.2, and to defend in court or elsewhere its decisions, orders, memoranda, or opinions in such docket or relating to the subject matter of such docket.

Nothing in this joint resolution shall inhibit the Library of Congress and the Copyright Office from expending funds duly appropriated for the general purpose of administering the Copyright Act, including the compulsory licensing provisions therein, except as solely and specifically related to implementation of the Copyright Royalty Tribunal's rate determination of October 20, 1982 as set out in 47 FR 42146 (November 19, 1982) until the Court of Appeals has rendered a final decision regarding said determination as it relates to the distant signal rate adjustment.

And the Senate agree to the same.

Amendment numbered 96:

That the Hosue recede from its disagreement to be the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 153. Notwithstanding any provision of this joint resolution or any other law or regulation, payments for local educational agencies under the Act of September 30, 1950 (Public Law 874, 81st Congress) in Montana for fiscal year 1983 shall be computed from corrected 1981 financial data. The provisions of this section shall not apply unless the following conditions are met:

(1) No such payments shall be made until an audit is conducted. (2) No such payments shall be made prior to March 30, 1983. (3) The total amount of the increase in payments made by reason of this section shall not exceed $3,000,000. (4) No such payments shall be made prior to the submission of the audit report to the Committee on Appropriations of the Senate and of the House of Representatives.

And the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 156. Notwithstanding any other provision of this joint resolution, section 5546a(a) of title 5, United States Code, is amended (1) by deleting the period at the end of paragraph (2) of subsection (a) and inserting in lieu thereof a semicolon and the word "and", and (2) by inserting immediately after paragraph (2) of subsection (a) the following new paragarph:

"(3) any employee of the Federal Aviation Administration who occupies a position at the Federal Aviation Administration Academy, Oklahoma City, Oklahoma, the duties of which are determined by the Administrator to require the individual to be actively engaged in or directly responsible for training employees to perform the duties of a position described in subparagraphs (a); (b); or (c) or paragraph (1) of this subsection, and who, immediately prior to assuming such position at such Academy, occupied a position referred to in subparagraph (a), (b), or (c) of paragraph (1) of this subsection.".

And the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

"SEC. 110. (a) It is the purpose of this section to provide the Secretary of Energy the exclusive authority for the disbursement of the designated petroleum violation escrow funds for limited restitutional purposes (1) which are reasonably expected to benefit the class of persons injured by such violations, and (2) which, based on information previously provided to Congress by the Secretary of Energy, are likely not to be, through procedures established by regulation, otherwise refunded to injured persons because the purchasers of the refined petroleum products cannot be reasonably identified or paid or because the amount of each purchaser's

overcharge is too small to be capable of reasonable determination.

(b) As soon as practicable, the Secretary of Energy shall disburse designated petroleum violation escrow funds to the Governors of the States in accordance with the formula set forth in subsection (d).

(c) Amounts disbursed to the Governor of any state shall be used by the Governor as if such funds were received under one or more energy conservation programs. The Governor shall identify to the Secretary within one year after the time of disbursement the energy conservation program or programs to which the funds are or will be applied. Funds disbursed under this section shall be used to supplement, and not supplant, funds otherwise available for such programs under Federal or State law.

(d) The disbursement by the Secretary of Energy to each State shall be based on the ratio, calculated by the Secretary, which

(1) the volume of refined petroleum products consumed within that State during the period beginning September 1, 1973, and ending January 28, 1981, bears to

(2) the volume of refined petroleum products consumed within all States during such period.

Calculations made by the Secretary of Energy under this subsection shall be based upon estimates by the Secretary from reasonably available information.

(e) For purposes of this section—

(1) The term "designated petroleum violation escrow funds" means amounts (not in excess of $200,000,000) which are derived from settlements from alleged petroleum pricing and allocation violations generally resulting in overcharges to purchasers of refined petroleum products and held in trust accounts administered by the Department of Energy on December 17, 1982, and which—

(A) are not likely to be required for satisfying claims of potential claimants identified in the proceedings of the Office of Hearings and Appeals initiated prior to December 17, 1982, or identified in judicial proceedings initiated prior to such date; and

(B) the use of under this section would be consistent with the remedial order or consent order covering such funds.

(2) The term "energy conservation programs" means—

(A) the program under Part A of the Energy Conservation and Existing Buildings Act of 1976 (42 U.S.C. 6861 and following);

(B) the programs under part D of title III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs; 42 U.S.C. 6321 and following);

(C) the program under part G of title III of Energy Policy and Conservation Act (relating to energy conservation for schools and hospitals; 42 U.S.C. 6371 and following);

(D) program under the National Energy Extension Service Act (42 U.S.C. 7001 and following); and

(E) the program under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 and following).

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(4) The term "Governor", when used with respect to any State, means the Governor or the chief executive officer of that State.

(5) The term "refined petroleum product" means gasoline, kerosene, distillates, (including Number 2 fuel Oil), LPG (other than ethane), refined lubricating oils, diesel fuel, and residual fuel oil, but does not include refinery feedstocks.

(f) No funds disbursed under this section may be used for any administrative expenses of the Department of Energy or of any State, whether incurred in connection with any energy conservation program or otherwise."

And the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 176. Funds in this joint resolution may not be made available for payment to the International Atomic Energy Agency unless the Board of Governors of the International Atomic Energy Agency certifies to the United States Government that the State of Israel is allowed to participate fully as a member nation in the activities of that Agency, and the Secretary of State transmits such certification to the Speaker of the House of Representatives and the President of the United States Senate.

And the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$100,000,000*; and the Senate agree to the same.

Amendment numbered 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$25,000,000*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 184. Notwithstanding any other provision of this joint resolution, $94,000 is appropriated to the United States Fish and Wildlife Service, "Resource Management".

And the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 188. Notwithstanding any other provision of law, an additional amount of $2,000,000 shall be available to the Secretary of Labor to enter into a contractual or other agreement to support social science and historical studies of international labor issues.

And the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

Delete the matter stricken by the Senate and delete the matter proposed by the Senate.

And the Senate agree to the same.

JAMIE L. WHITTEN
(except amendment 71),
EDWARD P. BOLAND
(except amendments 71, 85, 27, 28 and 29),
WILLIAM H. NATCHER
(except amendment 71),
NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES
(except amendments 27, 28, 29, 71 and 9),
EDWARD R. ROYBAL,
TOM BEVILL
(except amendment 71),
NORMAN D. DICKS
(except amendment 133),
BO GINN,
MARTIN O. SABO,
JULIAN C. DIXON,
VIC FAZIO,
SILVIO O. CONTE
(except 85, 27, 28, and 29),
JOSEPH M. MCDADE
(except amendments 85 and 27),
JACK EDWARDS,
JOHN T. MYERS
J. KENNETH ROBINSON
LAWRENCE COUGHLIN
JERRY LEWIS

Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER,
JAMES A. MCCLURE,
HARRISON SCHMITT,
THAD COCHRAN,
MARK ANDREWS,
ROBERT KASTEN,
ALFONSE M. D'AMATO,
MACK MATTINGLY,
WARREN RUDMAN,
ARLEN SPECTER,
WILLIAM PROXMIRE,
JOHN C. STENNIS,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DECONCINI,
DALE BUMPERS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 631), making further continuing appropriations and providing for productive employment for the fiscal year 1983 and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and

recommended in the accompanying conference report:

TITLE I—FURTHER CONTINUING APPROPRIATIONS ACT, 1983

Amendment No. 1: Technical change as proposed by the Senate.

Amendment No. 2: Deletes "Agriculture, Rural Development and Related Agencies Appropriation Act, 1983" from Title I as proposed by the Senate.

Amendment No. 3: Deletes House reference to the "District of Columbia Appropriation Act, 1983;" from section 101(a)(1) which provides funding for activities in the D.C. Appropriation Act (H.R. 7144) at the House or Senate bill rate, whichever is lower. See amendment No. 36 for the funding rate agreed to by the Committee of Conference.

Amendment No. 4: Deletes language proposed by the House which would have provided funding for programs and activities in the Department of the Interior and Related Agencies Bill at the lower of the House or Senate passed levels.

Amendment No. 5: Deletes language proposed by the House which provides for funding projects and activities in the Department of Transportation and Related Agencies Appropriation Act at the lower of the House or Senate passed bill.

Amendment No. 6: Changes paragraph number.

Amendment No. 7: Provides for an expiration date of September 30, 1983 for foreign assistance programs as proposed by the House and drops the earmarking for the United Nations Development Program which is carried in another section.

Amendment No. 8: Provides funding for programs normally contained in the Foreign Assistance Appropriation bill at a level for new budget authority of $8,113,729,656 for economic and military assistance and $4,400,000,000 for the Export Import Bank compared with $7,869,288,970 and $4,400,000,000 proposed by the House and $8,534,562,565 and $4,400,000,000 proposed by the Senate.

A number of the accounts within the foreign assistance program, both military and economic, are well below the administration's request. During these times of constraint on the domestic budget, high deficits, and budgetary limitations, the Conferees cannot at this time recommend any higher levels. However, should serious and far reaching foreign policy problems develop as a result of these recommendations, the Appropriations Committees of the House and Senate would be willing to consider additional requests in a supplemental. However, any such supplemental request must be in response to serious emergency needs. A simple re-requesting of those items which the conferees have not provided under the regular fiscal year 1983 budget estimates will not be considered genuine needs resulting from real foreign policy problems.

The conferees are seriously concerned about the growing number of expropriation cases involving U.S. companies in foreign countries. In case after case, the Department of State, which is responsible for these matters frequently appears to be more interested in defending the position of the foreign country rather than the rights of U.S. citizens. Consequently, more and more foreign countries are failing to respect internationally recognized tenets of law involving expropriation claims. Besides the issue of Honduras which is referenced in the Conference Report, the conferees are particularly concerned about expropriation claims in El Salvador, Indonesia and Haiti. The conferees expect prompt resolution of these matters.

In the House report accompanying the fiscal year 1982 foreign Assistance Appropriations bill, language was included that requested the Agency for International Development and the Department of Treasury to report to the appropriate Committees on the domestic economic policies of countries receiving development assistance by February 1 of each year beginning in 1982. The 1982 reports were not received. The conferees fully expect the Administrator of AID and the Secretary of the Treasury to provide these reports as requested on an annual basis.

Although the conferees have agreed to recommend funding for the International Fund for Agricultural Development, (IFAD), the conferees continue to have a number of concerns which are fully discussed in the Senate report accompanying the Foreign Assistance bills for fiscal year 1982 and fiscal year 1983. the conferees expect that these concerns will be resolved before IFAD receives additional funding in subsequent years.

The conferees are concerned over the numerous critical reports from the Office of the Inspector General of the Agency for International Development concerning management of the Sahel Development Program. The conferees expect that significant improvements in the management of this program will be forthcoming if it is to continue to receive funding at the present levels.

The conferees have reduced funding for the Migration and Refugee Account by $24,000,000 below the budget request level. This reduction is based primarily on concerns about the United Nations Relief and Works Agency (UNRWA) and its involvement with the Palestine Liberation Organization. These concerns are fully discussed in the Senate report accompanying the 1983 Foreign Assistance bill. The conferees expect these issues to be resolved before additional funding will be provided to UNRWA.

The conferees have not provided funds for the new anti-terrorism program requested by the Administration. The denial of funds was based in part on a lack of details regarding the countries in which the program would operate and the type of equipment that would be supplied. If the Administration desires to request this program again in the future and provides sufficient information about it the Committees will consider it.

The conferees have provided authority amounting to $125,000,000 for the Special Defense Acquisition Fund, the same level as provided in fiscal year 1982. Because this program has only been operating for one year the conferees were reluctant to increase the funding available to it before a thorough review could be made of its initial operation and performance. Accordingly the conferees direct that the General Accounting Office make a complete review of the program and report back to the Committees well in advance of their budget deliverations on fiscal year 1984 funding.

The funds provided for international organizations and programs are allocated as shown in the following table:

United Nations:	
U.N. Development Program	140,000
U.N. Children's Fund	42,500
U.N. Capital Development Fund	2,000
U.N./Food and Agriculture Organization: World Food Program	2,000
U.N. Voluntary Fund for the Decade for Women	.....
World Meteorological Organization Voluntary Cooperation Program	2,300
International Atomic Energy Agency	10,000
U.N. Environment Program	7,850
U.N. Educational and Training Program for Southern Africa	1,000
U.N. Institute for Namibia	500
U.N. Trust Fund for South Africa	343
U.N. Institute for Training and Research	422
Convention on International Trade in Endangered Species.	138
International Fund for Agriculture Development	24,000
U.N. fellowship program	449
Subtotal, United Nations	233,502
Organization of American States.	15,500
Total, International Organizations and Programs	249,002

DEPARTMENT OF DEFENSE APPROPRIATIONS

Amendment No. 9: Section 101(c) of House Joint Resolution 631 provides appropriations for programs, projects and activities provided for in the Department of Defense Appropriations Act, 1983. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate of operations and to the extent and in the manner provided for in H.R. 7355 as passed the House of Representatives on December 8, 1982. The Senate version of the joint resolution provides appropriations for these programs, projects and activities at the rate and in the manner provided for in S. 2951 as reported to the Senate on September 23, 1982, with certain exceptions, and placed certain restrictions on MX missile funding.

The conference agreement on House Joint Resolution 631 incorporates some of the provisions of both the House and Senate versions of the Department of Defense Appropriations Act, 1983, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 97-943 and Senate Report 97-580 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. The Department of Defense Appropriaton Act, 1983 put in place by this joint resolution incorporates the following agreements of the managers.

Pay raise.—The managers concur with the House position with regard to the fiscal year 1983 pay raise. Achievement of 25 percent absorption will require an intensive scrutiny of all DoD accounts, and may well require, transfers and reprogrammings, especially into the military personnel accounts. The managers, therefore, direct the Department to submit a plan for achieving these amounts by May 15.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
MILITARY PERSONNEL, ARMY	15,363,700	14,478,149	14,023,827	14,454,848
MILITARY PERSONNEL, NAVY	11,275,300	10,566,028	10,230,678	10,537,408
MILITARY PERSONNEL, MARINE CORPS	3,496,300	3,300,008	3,221,394	3,293,277
MILITARY PERSONNEL, AIR FORCE	12,857,800	12,112,952	11,748,221	12,099,850
RESERVE PERSONNEL, ARMY	1,302,000	1,247,450	1,224,800	1,247,250
RESERVE PERSONNEL, NAVY	683,500	657,125	641,300	657,125
RESERVE PERSONNEL, MARINE CORPS	175,500	170,925	165,900	170,900
RESERVE PERSONNEL, AIR FORCE	372,300	358,925	350,900	358,925
NATIONAL GUARD PERSONNEL, ARMY	1,792,500	1,695,150	1,669,200	1,698,800
NATIONAL GUARD PERSONNEL, AIR FORCE	583,600	549,553	534,100	548,425
TOTAL, MILITARY PERSONNEL	47,902,500	45,136,265	43,810,320	45,066,808

The following items represent language as agreed to by the conferees:

European troop strength.—The House made no specific force structure assumptions in connection with its end strength actions, while the Senate specifically directed the Army to deactivate the 3rd Brigade, 1st Cavalry Division, and directed the Department to hold European strength to 1980 levels. The Senate, however, added language to the joint resolution which established a limitation on active U.S. military personnel stationed on shore in Europe at the planned 1982 level, except that the President may waive this limitation if he declares to Congress that overriding national security requirements make such action necessary. The managers concur with the language added by the Senate to the joint resolution. Furthermore, the managers reduce the budget by the amount of support savings associated with the disestablishment of the European Brigade. The Department is directed to report to the Appropriations Committees by March 30, 1982, describing exactly how the savings will be achieved, either through disestablishment of the European Brigade or by other changes in force structure, if the Department attests that the European Brigade is essential and must be maintained.

Reenlistment bonus drag along—The managers intend the amounts provide in this Act to fund the selective reenlistment bonus program through fiscal year 1983. It has been the practice in the past for the Department to initiate cost of living adjustments for this program after the fiscal year began, and to seek funding necessary to cover these actions through supplemental appropriations. The managers' action does not preclude continuation of the Department's practice of linking the program to cost of living adjustments. It simply requires the Department to fund these actions within the total amount appropriated for the program in the regular annual defense appropriations bill. If the Department wishes to continue the practice of linkage, the managers urge the Department to include the full estimated costs of the program in the original budget submission for the year.

Enlistment bonus test.—The managers expect the ongoing Army enlistment bonus test program to continue.

Joint advertising test.—The managers expect the joint advertising test to be initiated in fiscal year 1983.

Operational and rotational moves.—The managers accept the Department's downward revisions for permanent change of station, although the managers do not necessarily expect the entire amount to be achieved by reductions in operational and rotational moves as the Department indicated might be possible.

Navy selective reenlistment bonus.—The managers agree to restore all but $1,000,000 of the Senate reduction associated with out-of-skill bonus awards. The managers note that the Navy is actively examining this disjunction between Navy policy and practice and that it now asserts it has solid management control over the assignment and utilization of SRB recipients. The managers likewise recognize, however, that the Navy had no idea of how widespread the problem was when the initial Senate reduction was made, and that the Navy disregarded Naval Audit Report recommendations to correct the issue long before any Senate reduction was made. Accordingly, the managers will withhold determination of whether the Navy has satisfactorily controlled bonus awards until an independent review confirms the Navy's assertion. The managers expect the Committees on Appropriations to be fully informed of the progress of Navy bonus management.

Extension of authority for military bonuses.—The managers agree to change the expiration date of the enlistment and reenlistment bonus programs from December 17, 1982, to March 31, 1983, rather than to September 30, 1983 as proposed by the Senate. The authority to operate these programs expires on December 17, 1982. The conferees agree to extend this authority to March 30 to prevent the disruption and confusion that would otherwise occur from closing down these activities entirely. The conferees note that similar action was taken in connection with the continuing resolution that ran from October 1 to December 17, 1982, in the expectation that authority for the operation of these programs would be extended through action on authorizing legislation. The conferees feel that the extension through March 30 provides reasonable time for extension of these programs through the end of the fiscal year by authorizing legislation.

Travel initiatives.—The House funded three travel initiatives at the budget request and four other travel initiatives at 25 percent of the budget request. The Senate funded none of these initiatives. The Managers agree to fund two new travel programs. Although the Managers reviewed seven requests for higher and new travel reimbursement, those for increased mileage allowances for members and dependents, household goods weight allowances, environmental and morale leave, and a temporary lodging expense have been rejected. The Managers believe the current mileage reimbursement of 13¢ is more than fair, based on the latest Runzheimer Corporation data obtained from the American Automobile Association. These data show the national average cost for operating an automobile as 8.37¢ per mile. Operating expenses range from 7.0¢ to 10.6¢ per mile for subcompact to standard cars, respectively. Furthermore, legislative actions in each house during this session recommended against increased dependent mileage, temporary lodging expense, and increased weight allowances. The Managers believe that the Department's transfer policy results in too many moves at great expense to the taxpayer. Accordingly, the Managers concur with the House direction that the General Accounting Office study Department travel policy and practices as well as various travel initiatives to assist in a comprehensive review by the Appropriations Committees.

The Managers deny funding for environmental and morale leave since the program is not reasonable and it is ripe for cost increases. It is noted that this program permits government-sponsored rest and relaxation (R&R) transportation to the United States for personnel stationed in Bermuda and Barbados. Accordingly, the Managers direct a program review before any budget request is again submitted. Funding for emergency leave and for household goods storage in excess of 180 days is recommended. Because only the Marine Corps and Air Force budgeted for these programs, the Army and Navy are expected to implement these programs using existing resources. Each program should be initiated concurrently by all services.

Emphasis on Guard and Reserve Forces.—The managers have accepted various reductions to the active forces' accounts offered by the Department of Defense to achieve outlay savings. The managers have not accepted, however, those reductions which would have reduced National Guard and Reserve accounts. On the contrary, the managers urge continued growth in these forces and have increased the operation and maintenance and procurement items necessary to facilitate this growth.

The managers are convinced that by augmenting the strength and capabilities of the Guard and Reserve forces, the military readiness of the armed forces can be maintained at a lower cost with no degradation to combat effectiveness.

Opportunities for such cost-effectiveness exist for a test case transfer of a number of functions to the Air National Guard. The conferees recognize that the specific assets of the Alaska Air National Guard permit outstanding prospects for a transfer of responsibilities, and the National Guard Bureau and Department of the Air Force are encouraged to examine these alternatives.

Military technician conversions.—The Continuing Resolution for Fiscal Year 1983 included a section prohibiting further conversions of military technicians, and it in-

cluded the following explanation of the conferees' action in the Statement of the Managers:

"In fiscal year 1982, congressional report language directed the Department of Defense to let each reserve component be free to determine the appropriate mix of full time military and military technicians. It has come to the managers' attention that this language has been interpreted to mean that cost should not be a principal factor in the determination of the appropriate mix. The managers wish to reaffirm that cost is clearly intended to remain a principal factor in this determination as set forth in Public Law 93-365 (DOD Appropriation Authorization Act of 1975), which directed DOD to "use the least costly form of manpower that is consistent with military requirements and other needs of the Department of Defense". This is particularly the case since (1) the quality of cost comparisons previously presented to the Congress has been called into question by the General Accounting Office; and (2) Congress has approved significant pay increases for the military since the last comprehensive comparative cost assessment of conversions. Furthermore, the managers understand that a significant portion of the conversions planned for fiscal year 1983 are principally responsive to the requirement to reduce the number of civilian personnel to achieve personnel ceiling objectives, rather than considerations of relative cost and relative effect on readiness. Finally, the managers understand that in some components the Active Guard/Reserve personnel involved in these conversions are not deployable assets, which is also in contradiction to congressional report directives.

"The language in the joint resolution is intended to put a stop to conversion of military technicians, by whatever means that may be accomplished administratively. It, therefore, is intended specifically to cover the 43 military technician Senior Staff Administrative Assistant positions in the Army Reserve now scheduled to be eliminated on October 1, 1982."

The Department has indicated that the revised language included in this Act will better accomplish the purpose of the managers, which is to establish a floor for the strength of military technicians for each component at the September 30, 1982 levels. Those levels are as follows:

Army Reserve	6,753
Air Force Reserve	7,283
Army National Guard	22,557
Air National Guard	21,834

Setting the floor at these strength levels means that the 1,200 conversions planned for fiscal year 1983 cannot take place. Accordingly, the managers have reduced military personnel accounts to reflect the lower requirement for Active Guard/Reserve (AGR) personnel. Furthermore, they have increased the operations and maintenance accounts to reflect a comparable increase in military technician personnel. The net effect is to approve the same total strength as was budgeted for fiscal year 1983.

Growth in the full-time support personnel required by National Guard and Reserve units is to be provided by the least costly form of manpower, which is consistent with readiness requirements. Each component is directed to submit a cost-benefit analysis in support of future budget submissions, justifying the mix of AGR personnel and military technicians proposed by that component. These analyses should cover at least full life cycle costs to the government, including insurance and retirement programs, fringe benefits, medical care costs, and other relevant items, as well as direct pay. Each analysis should also describe in detail how readiness is best improved through the mix of personnel proposed. To assist the Committees in their deliberations, the General Accounting Office will report its views on these analyses submitted to the Committees by the components.

The managers direct the Secretary to use authority available to him to exceed the civilian personnel ceilings of the Department and hire the additional Army and Air National Guard civilians funded by this Act. For future years the managers urge the Department to submit legislation streamlining the programming and budgeting process for all components of both the AGR and military technicians of the full-time support. Presently the AGR have specific limitations, but are not counted against overall active end strength. Military technicians are also subject to specific ceiling limitations, but more importantly fall under overall civilian ceilings of the Department. Earlier studies of the military technician conversion program and recent GAO reports indicate that overall personnel ceilings are a major factor affecting proposals to convert military technicians to AGR status. This conversion program provides, at least, an administrative path of least resistance by permitting reductions in civilian personnel ceilings, while at the same time acquiring strength to meet requirements through alternative sources. The managers' concern is that this situation denies prominence to cost effectiveness and readiness in manpower decisionmaking. It seems that a streamlined approach would remove military technicians from overall ceilings to permit the determination of appropriate mix for each component on the basis of cost effectiveness and combat readiness.

The managers believe that cost effectiveness and combat readiness also will be enhanced if each component develops a plan for the management of its full time support personnel. These management plans must insure at a minimum that:

Military technicians may change to AGR status only voluntarily. No involuntary conversion or change of status is allowed.

No military technician or civilian position will be abolished while incumbered for the purpose of reestablishing it as an AGR position.

Military technicians and AGR personnel are employed in approved, validated full-time positions.

Every position incumbered by AGR personnel has a maximum authorized military grade that is consistent with the day-to-day responsibilities and skill level required for the position.

The annual AGR grade ceilings authorized for each component are not exceeded.

MILITARY PERSONNEL, ARMY

The conferees agree to the following amounts for Military Personnel, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
END STRENGTH	13,156,478	13,109,170	13,078,478	13,109,170
DEACT. EUR. BRIGADE	42,000	42,000		42,000
CAREER BAS	5,208	8		
ENLISTMENT BONUS	142,943	110,143	122,843	115,000
REENLISTMENT BONUS	121,303	91,103	92,603	92,603
LUMP SUM TERM. LEAVE	101,319	101,319	96,254	101,319
OVERSEAS EXT. PAY	4,800	4,800	3,800	4,800
TEMPORARY LODGING EXPENSE	55,200	13,800		
MEMBER MILEAGE ALLOWANCE	14,000	3,500		
DEPENDENT MILEAGE ALLOWANCE	21,900	5,475		
HOUSEHOLD GOODS WEIGHT ALLOWANCE	27,500	6,875		
CLASSIFIED PROGRAM	1,600	−68		−68
FY 1983 PAY RAISE	962,600	360,175		360,175
ITEMS NOT IN CONFERENCE	706,849	629,849	629,849	629,849
TOTAL, MILITARY PERSONNEL, ARMY	15,363,700	14,478,149	14,023,827	14,454,848

MILITARY PERSONNEL, NAVY

The conferees agree to the following amounts for Military Personnel, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
END STRENGTH	9,786,957	9,726,677	9,710,857	9,710,857
CAREER BAS	32,240	40		
PERMANENT CHANGE OF STATION	333,862	272,262	256,862	272,262
ENLISTMENT BONUS	16,493	8,093	13,093	10,400

	Budget	House	Senate	Conference
REENLISTMENT BONUS	265,500	205,300	180,300	205,300
LUMP SUM TERM. LEAVE	73,231	73,231	69,566	73,231
SELECTIVE REENLISTMENT BONUS (5%)	14,000	14,000		13,000
TEMPORARY LODGING EXPENSE	23,800	5,950		
MEMBER MILEAGE ALLOWANCE	15,072	3,747		
DEPENDENT MILEAGE ALLOWANCE	5,070	1,245		
HOUSEHOLD GOODS WEIGHT ALLOWANCE	12,275	3,125		
CLASSIFIED PROGRAM	400	16		16
RECRUITING: ADVERTISING		−6,000		−6,000
FY 1983 PAY RAISE	696,400	258,342		258,342
TOTAL, MILITARY PERSONNEL, NAVY	11,275,000	10,566,028	10,230,678	10,537,408

Military Personnel, Marine Corps

The conferees agree to the following amounts for Military Personnel, Marine Corps:

[In thousands of dollars]

	Budget	House	Senate	Conference
PERMANENT CHANGE OF STATION	136,320	115,520	130,320	115,520
ENLISTMENT BONUS	14,360	11,760	13,160	11,760
SELECTIVE REENLISTMENT BONUS	69,219	59,219	58,519	59,219
SELECTIVE REENLISTMENT BONUS (5%)			−3,500	
LUMP SUM TERM. LEAVE	25,519	25,519	24,244	25,519
CAREER BAS	5,987	−13		
TEMPORARY LODGING EXPENSE	9,774	2,424		
MEMBER MILEAGE ALLOWANCE	8,345	2,120		
DEPENDENT MILEAGE ALLOWANCE	2,800	700		
HOUSEHOLD GOODS WEIGHT ALLOWANCE	5,025	1,500		
CLASSIFIED PROGRAM	100	33		33
FY 1983 PAY RAISE	220,200	82,575		82,575
ITEMS NOT IN CONFERENCE	2,998,651	2,998,651	2,998,651	2,998,651
TOTAL, MILITARY PERSONNEL, MARINE CORPS	3,496,300	3,300,008	3,221,394	3,293,277

Military Personnel, Air Force

The conferees agree to the following amounts for Military Personnel, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
END STRENGTH	9,727,224	9,665,004	9,630,924	9,665,004
CAREER BAS	11,904	4		
REENLISTMENT BONUS	118,962	115,762	105,562	115,762
LUMP SUM TERM LV/SEP ALLOW	65,473	59,273	62,198	62,198
TEMPORARY LODGING EXPENSE	33,000	8,250		
MEMBER MILEAGE ALLOWANCE	10,200	2,550		
DEPENDENT MILEAGE ALLOWANCE	8,900	2,225		
HOUSEHOLD GOODS WEIGHT ALLOWANCE	13,800	3,450		
CLASSIFIED PROGRAM	1,420	500	920	950
FY 1983 PAY RAISE	826,400	307,317		307,317
ITEMS NOT IN CONFERENCE	2,040,517	1,948,617	1,948,617	1,948,617
TOTAL, MILITARY PERSONNEL, AIR FORCE	12,857,800	12,112,952	11,748,221	12,099,850

Reserve Personnel, Army

The conferees agree to the following amounts for Reserve Personnel, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
TEMPORARY LODGING EXPENSE	800	200	800	
SELECTED RESERVE INCENTIVE PROGRAM	23,156	19,457	23,157	19,457
DOUBLE SLOTTING		−2,000		−2,000
FISCAL YEAR 1983 PAY RAISE	77,200	28,950		28,950
ITEM NOT IN CONFERENCE	1,200,843	1,200,843	1,200,843	1,200,843
TOTAL, RESERVE PERSONNEL, ARMY	1,302,000	1,247,450	1,224,800	1,247,250

Reserve Personnel, Navy

The conferees agree to the following amounts for Reserve Personnel, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
FY 1983 PAY RAISE	42,200	15,825		15,825
ITEMS NOT IN CONFERENCE	641,300	641,300	641,300	641,300
TOTAL, RESERVE PERSONNEL, NAVY	683,500	657,125	641,300	657,125

Reserve Personnel, Marine Corps

The conferees agree to the following amounts for Reserve Personnel, Marine Corps:

[In thousands of dollars]

	Budget	House	Senate	Conference
Temporary lodging expense	100	25	100	
Aircraft units deployment support		1,500		1,500
FY 1983 pay raise	9,600	3,600		3,600
Items not in conference	165,800	165,800	165,800	165,800
Total, Reserve personnel, Marine Corps	175,500	170,925	165,900	170,900

Reserve Personnel, Air Force

The conferees agree to the following amounts for Reserve Personnel, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
FY 1983 PAY RAISE	21,400	8,025		8,025
ITEMS NOT IN CONFERENCE	350,900	350,900	350,900	350,900
TOTAL, RESERVE PERSONNEL, AIR FORCE	372,300	358,925	350,900	358,925

National Guard Personnel, Army

The conferees agree to the following amounts for National Guard Personnel, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
CONV. OF CIV. TECH	11,300	−3,700		
TEMPORARY LODGING EXPENSE	200	50	200	
SELECTED RESERVE INCENTIVE PROGRAM	51,683	41,183	51,683	41,183
DOUBLE SLOTTING		−3,000		−3,000
M–1 BATTALION		1,300		1,300
FY 1983 PAY RAISE	112,000	42,000		42,000
ITEMS NOT IN CONFERENCE	1,617,317	1,617,317	1,617,317	1,617,317
TOTAL, NATIONAL GUARD PERSONNEL, ARMY	1,792,500	1,695,150	1,669,200	1,698,800

National Guard Personnel, Air Force:

The conferees agreed to the following amounts for National Guard Personnel, Air Force

[In thousands of dollars]

	Budget	House	Senate	Conference
Conv. of civ. tech	10,500	1,053		
Temporary lodging expense	300	75	300	
FY 1983 pay raise	39,000	14,625		14,625
Items not in conference	533,800	533,800	533,800	533,800
Total, National Guard Personnel, Air Force	583,600	549,553	534,100	548,425

Title II—Retired Military Personnel

The conferees agree to the following amounts for Retired Military Personnel:

[In thousands of dollars]

	Budget	House	Senate	Conference
RECONCILIATION ACT 1983		−260,000	−266,000	−260,000
PROGRAM REESTIMATE		−180,000	−100,000	−180,000
ITEMS NOT IN CONFERENCE	16,510,000	16,594,800	16,594,800	16,594,800
TOTAL, RETIRED MILITARY PERSONNEL	16,510,800	16,154,800	16,228,800	16,154,800

TITLE III—OPERATION AND MAINTENANCE

The conferees agree to the following amounts for the Operation and Maintenance accounts:

(In thousands of dollars)

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY	17,086,142	15,754,766	15,931,700	15,847,425
ARMY STOCK FUND	221,138	221,138	221,138	221,138
ARMY CONVENTIONAL AMMUNITION WORKING CAPITAL FUND	1,000	---	---	---
OPERATION AND MAINTENANCE, NAVY	22,314,253	21,050,862	21,043,400	21,079,712
NAVY STOCK FUND	354,372	354,372	354,372	354,372
OPERATION AND MAINTENANCE, MARINE CORPS	1,500,371	1,472,371	1,403,300	1,481,671
MARINE CORPS STOCK FUND	11,812	11,812	11,812	11,812
OPERATION AND MAINTENANCE, AIR FORCE	18,138,363	16,765,279	17,071,200	16,915,766
AIR FORCE STOCK FUND	161,600	161,600	161,600	161,600
OPERATION AND MAINTENANCE, DEFENSE AGENCIES	5,838,103	5,664,678	5,665,800	5,715,778
DEFENSE STOCK FUND	160,500	160,500	160,500	160,500
OPERATION AND MAINTENANCE, ARMY RESERVE	699,184	707,784	692,200	705,584
OPERATION AND MAINTENANCE, NAVY RESERVE	656,707	622,207	662,200	637,507
OPERATION AND MAINTENANCE, MARINE CORPS RES	48,494	51,094	51,115	51,094
OPERATION AND MAINTENANCE, AIR FORCE RESERVE	778,635	765,035	766,300	765,735
OPERATION AND MAINTENANCE, ARMY NATL GUARD	1,152,317	1,179,617	1,157,800	1,195,067
OPERATION AND MAINTENANCE, AIR NATL GUARD	1,787,814	1,799,703	1,832,600	1,822,603
NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY	875	875	875	875
CLAIMS, DEFENSE	172,500	147,500	172,500	147,500
COURT OF MILITARY APPEALS, DEFENSE	3,271	3,271	3,210	3,271
TOTAL, OPERATION AND MAINTENANCE	71,087,451	66,894,464	67,363,622	67,279,010

The following items represent language as agreed to by the conferees:

Working capital fund transfers.—The conferees endorse the House language directing DOD to comply with Section 732 when transferring funds between working capital funds. However, the conferees agree that these transfers may be accomplished without regard to the dollar limitation contained in section 732 inasmuch as 733 provides the basic authorization for such transfers and contains no dollar ceiling.

Consultants, studies, and analyses.—In order to preclude dual adjustments to the same item, the conferees agree that recruiting and advertising programs should be excluded from the reduction for consultants, studies, and analyses.

Further, the conferees agree that the reduction to consultants, studies, and analyses is in full compliance with section 622 of S. 2916 as applicable under this continuing resolution.

West German reserve support and equipment.—The conferees have deleted all funding requested for the support and equipping of West German Reservists. The conferees believe that any such request should be considered as a part of the foreign military aid budget. DOD is directed not to proceed with this program.

Foreign military sales.—The conferees agree with the House language concerning Foreign Military Sales program management. In addition, the conferees agree that DOD should recover all direct and indirect costs of administering the FMS program by increasing the administrative surchage to an appropriate level.

Real property maintenance.—While the Senate conferees agree to the House language and amounts on real property maintenance, it is expected that DOD shall make necessary repairs to the Shemya Air Force Base and storm damaged facilities in Hawaii from within funds available.

Industrial plant equipment.—The managers are in agreement with the Department's intent to provide industrial fund financing for industrial plant equipment. Obligations for equipment purchases through industrial funds will be limited to an annual rate of $240 million, which is the level of depreciation charges factored into the fiscal year 1983 industrial fund rates. DOD shall allocate obligation authority by military service. In accordance with testimony provided to the Congress concerning need for local flexibility in equipment purchases, approval shall be at a level no higher than an echelon above the industrial activity. Further, general purpose passenger vehicles are specifically excluded from purchase through the industrial funds. Under no circumstances will the level of obligation exceed $240 million in fiscal year 1983.

Items not addressed by conferees.—The conferees agree that language addressed in only one Committee report shall be controlling unless otherwise addressed in the statement of the managers.

OPERATION AND MAINTENANCE, ARMY

The conferees agree to the following amounts for Operation and Maintenance, Army:

(In thousands of dollars)

	Budget	House	Senate	Conference
FUEL COST REESTIMATE	563,752	471,452	538,952	471,452
CURRENCY REVALUATION	1,651,426	1,062,326	1,309,926	1,062,326
FORCE MODERNIZATION	1,438,000	1,313,000	1,250,500	1,281,750
POMCUS	210,000	178,000	177,900	177,900
REAL PROPERTY MAINTENANCE	2,439,384	2,539,384	2,439,384	2,539,384
BACHELOR HOUSING FURNITURE	42,900	52,900	42,900	47,900
RECRUITING/ADVERTISING	205,970	164,970	180,970	164,970
CIVILIAN PERS-BORR MIL MANPOWER	226,240	196,240	176,240	176,240
INTELL REDUCTION	915,400	911,633	912,700	911,633
FLYING HOURS	306,272	306,272	272,672	286,272
EXECUTIVE TRAINING	8,954	8,954	6,154	6,154
LUXEMBOURG STORAGE	20,400	20,400	15,500	15,500
DARCOM REORGANIZATION	7,200	7,200	1,200	1,200
CONSULTANTS, STUDIES & ANALYSES	102,904	92,904	95,804	92,904
TRAVEL	410,716	409,916	395,916	395,916
LOGISTICS SUPPORT	19,774	19,774	9,774	14,774
SECURITY SUPPORT	8,500	8,500	3,600	3,600
SERVICE-WIDE SUPPORT	482,042	482,042	474,142	474,142
INTELLIGENCE COMMAND REORGANIZATION	4,700	3,700	---	---
EUROPEAN FORCE STRUCTURE	5,066	-3,234	866	866
MILITARY SUPPORT	35,900	35,900	900	900
UNIT TRAINING - P2M	---	---	10,000	---
PERSONL SECURITY CLEARANCE PROCESSING	---	-5,300	---	-5,300
WEST GERMAN RESERVE SUPPORT	---	-6,000	---	-6,000
SLUC CHARGES	---	-15,400	---	-15,400
PATIENT CARE FUNDING REALIGNMENT (TRANSFER)	---	-32,000	---	---
ENERGY CONSERVATION	---	-15,000	---	-15,000
STOCK FUND CASH	---	-100,000	---	---
INDUSTRIAL PLANT EQ CHG	---	-50,000	---	---
ARNY GUARD M-1 BATTALION (TRANSFER)	---	-6,800	---	---
FMS SURCHARGE	---	-25,000	---	-12,500
HANDGUN SPARES	---	-1,000	---	-1,000
OVERSEAS BANKING	---	-1,500	---	-1,500
ARNY TRANSITION 90	---	-3,500	---	-3,500
BASE OPS (UNAUTHORIZED COMMISSARY SUPPORT)	---	-10,000	---	-10,000
REDUCE 4 BATTALIONS	15,000	9,591	---	5,000
JCS EXERCISES	11,800	11,800	---	---
RAPID DEPLOYMENT FORCE	7,200	7,200	---	7,200
NONFORIEGN COLA	---	-4,000	---	---
LEGISLATIVE LIAISON	---	-200	---	-200
PER DIEM EQUITY	---	-7,200	---	---
DEPOT MAINTENANCE	---	-25,000	---	-12,500
INDUSTRIAL WORKLOAD CARRYOVER	---	-21,000	---	-10,500
PUBLIC AFFAIRS	---	-500	---	-500
ARNY HOUSEHOLD GOODS INCREASE	---	-1,400	---	-1,400
COMMUNICATIONS	---	-3,000	---	-3,000
PAY RAISE	270,042	162,042	---	162,042
PERSHING II	---	---	---	30,000
ITEMS NOT IN CONFERENCE	7,676,600	7,615,700	7,615,700	7,615,700
TOTAL, OPERATION AND MAINTENANCE, ARMY	17,086,142	15,754,766	15,931,700	15,847,425

The following items represent language as agreed to by the conferees:

Pershing II.—The funds provided shall be used for engineering services, for refurbishment of training missiles, and for Project SWAP.

OPERATION AND MAINTENANCE, NAVY

The conferees agree to the following amounts for Operation and Maintenance, Navy:

(In thousands of dollars)

	Budget	House	Senate	Conference
CURRENCY REVALUATION	360,613	253,513	237,413	253,513
FLEET COMMAND & STAFF	225,610	220,610	211,910	211,910
SHIP/A/C MAINT & MOD	3,104,208	3,000,708	2,950,608	2,950,608
INTELL	940,102	925,711	937,202	925,711
FUEL COST REESTIMATE	2,504,937	2,204,937	2,348,537	2,204,937
RECRUITING & ADVERTISING	93,530	77,030	78,530	77,030
BASE OPERATIONS	614,727	594,727	605,227	599,977
REAL PROPERTY MAINTENANCE	690,396	720,396	690,396	720,396
EUROPE FORCE STRUCTURE	---	---	-10,200	---
SERVICE-WIDE TRANSPORTATION	---	---	10,400	---
AIR LAUNCHED WEAPONS REWORK	---	---	1,700	---
TRIDENT SUB MISSION SUPPORT	163,521	163,521	142,321	142,321
TRIDENT WEAPON SYSTEM SUPPORT	162,455	162,455	147,455	147,455
PACIFIC FLEET SUB MISSION SPT	18,212	18,212	15,412	18,212
BASE OPS (UNAUTHORIZED COMMISSARY SUPPORT)	---	-4,700	---	-4,700
S-3 FLYING HOURS	53,035	53,035	44,835	44,835
FLYING HOURS	1,671,200	1,746,200	1,646,200	1,696,200
OTHER SEA SUPPORT	43,409	43,409	40,409	40,409
COMPONENT CALIBRATIONS	80,100	80,100	74,600	74,600
TECHNICAL SUPPORT	131,541	131,541	126,441	126,441
TRANSFER OF LKA SHIPS	---	---	4,600	---
NAVY MATERIAL COMMAND	23,500	23,500	21,500	21,500
CONSULTANTS, STUDIES & ANALYSES	345,195	320,195	295,595	320,195
TRAVEL	291,772	290,872	262,572	262,572
RAPID DEPLOYMENT FORCE	---	---	-31,200	---
PERSONNEL SECURITY CLEARANCE PROCESSING	---	-7,000	---	-7,000
SLUC CHARGES	---	-19,200	---	-19,200
PATIENT CARE FUNDING REALIGNMENT (TRANSFER)	---	-32,000	---	---
ENERGY CONSERVATION	---	-15,000	---	-15,000
STOCK FUND CASH	---	-100,000	---	---
INDUSTRIAL PLANT EQ CHG	---	-70,000	---	---
NONFOREIGN COLA	---	-8,000	---	---
LEGISLATIVE LIAISON	---	-200	---	-200
INDUSTRIAL WORKLOAD CARRYOVER	---	-26,600	---	-26,600
PUBLIC AFFAIRS	---	-500	---	-500
JCS EXERCISES	2,900	2,900	---	---
NAVY REMOTE WAR GAMING	---	-200	---	-200
TAGOS SLIPPAGE	---	-2,600	---	-2,600
END STRENGTH TAIL	---	-8,000	---	-8,000
PER DIEM EQUITY	---	-13,600	---	---
SHORESTAMPS	---	5,600	---	5,600
ID CARD SLIPPAGE	---	-2,400	---	-2,400
COMMUNICATIONS	---	-3,000	---	-3,000
FMS SURCHARGE	---	-35,000	---	-35,000
PAY RAISE	281,253	168,753	---	168,753
ITEMS NOT IN CONFERENCE	10,512,037	10,190,937	10,190,937	10,190,937
TOTAL, OPERATION AND MAINTENANCE, NAVY	22,314,253	21,050,862	21,043,400	21,079,712

The following items represent language as agreed to by the conferees:

Ship overhaul and repair.—The Conferees recognize that the Navy has had some difficulty staying within budgeted schedules and costs for complex ship overhauls in the past. In part, this difficulty has been caused by erratic workloading of Navy yards and the inability to qualify private sources for overhaul of complex surface combatants and their associated subsystems.

The expanding ship overhaul program will force the Navy to utilize fully qualified private shipyards and subcontractors to a greater extent than in the past. In order to accommodate this expanding workload, Navy should certify those private shipyards holding commercial master ship repair licenses and nuclear certification and establish a procedure to qualify firms to act as master ordnance repair facilities. This action will guarantee a fully qualified private sector capability.

As directed by the Senate Committee, the Navy will report to the Congress on its assessment of the total demands on the shipbuilding industrial base resulting from naval and commercial new construction and repairs. In addition, the Navy will provide the Congress with a quarterly assessment of actual inductions and obligations compared to the budgeted overhaul plan. Furthermore, the Navy should include in the overhaul account, the costs for provisioning and berthing crews on ships and submarines in overhaul. With regard to the Fleet Modernization Program, the Navy is expected to include in the FY 1984 budget submission, the actual cost to install alterations.

Finally, within the amount provided, the active Navy shall pay the costs of the overhaul of the US Mobile being transferred from the Navy Reserve, and provide reimbursement to the Navy Reserve for the cost of said vessel.

Administration of shipbuilding and maintenance.—The conferees agree that the Navy should review the feasibility of transferring the administrative costs of shipbuilding and maintenance to the procurement accounts as requested by the Senate. However, the conferees agree that the Department is not to make any change in the present method of budgeting for these costs without specific congressional guidance to do so.

OPERATION AND MAINTENANCE, MARINE CORPS

The conferees agree to the following amounts for Operation and Maintenance, Marine Corps:

(In thousands of dollars)

	Budget	House	Senate	Conference
FUEL COST REESTIMATE	50,694	44,694	50,694	44,694
CURRENCY REVALUATION	101,889	72,489	64,789	72,489
REAL PROPERTY MAINTENANCE	225,793	245,793	225,793	245,793
RECRUITING & ADVERTISING	56,089	49,589	51,089	49,589
CIVILIAN PERSONNEL	---	---	-1,500	---
LVT-7 REPAIRS	6,840	6,840	40	6,840
HOUSEHOLD GOODS STORAGE	2,230	2,230	430	2,230
EMERGENCY LEAVE	220	220	20	220
CONSULTANTS, STUDIES & ANALYSES	31,166	21,166	19,866	21,166
TRAVEL	67,148	67,148	56,648	67,148
MARINE CORPS TRUCK RETROFIT	---	-500	---	-500
PERSONNEL SECURITY CLEARANCE PROCESSING	---	-500	---	-500
PER DIEM EQUITY	---	-6,000	---	---
ENERGY CONSERVATION	---	-5,000	---	-5,000
INDUSTRIAL PLANT EQ CHG	---	-2,800	---	---
BASE OPS (UNAUTHORIZED COMMISSARY SUPPORT)	---	-300	---	-300
PUBLIC AFFAIRS	---	-100	---	-100
MARINE CORPS O&M SHORTFALL	---	33,500	---	33,500
DISABILITY COMPENSATION	---	-700	---	---
LAV SLIPPAGE	---	-2,200	---	-2,200
PAY RAISE	18,571	11,171	---	11,171
ENVIRONMENTAL AND MORALE LEAVE	200	200	---	---
ITEMS NOT IN CONFERENCE	939,531	935,431	935,431	935,431
TOTAL, OPERATION AND MAINTENANCE, MARINE CORPS	1,500,371	1,472,371	1,403,300	1,481,671

OPERATION AND MAINTENANCE, AIR FORCE

The conferees agree to the following amounts for Operation and Maintenance, Air Force:

(In thousands of dollars)

	Budget	House	Senate	Conference
CURRENCY REVALUATION	657,457	430,857	491,857	430,857
C-140B REPLACEMENT LEASE	9,000	9,000	6,000	6,000
FUEL COST REESTIMATE	3,227,768	2,827,768	2,968,768	2,827,768
RECRUITING & ADVERTISING	51,335	41,335	51,335	41,335
AIR FORCE ACADEMY	29,274	27,222	27,274	27,222
BASE OPERATIONS	2,510,326	2,490,326	2,483,926	2,483,926
REAL PROPERTY MAINTENANCE	1,232,798	1,232,798	1,212,798	1,232,798
B-52D "FLYABLE STORAGE"	---	2,000	---	---
INTELL & COMM	1,417,492	1,412,805	1,417,492	1,414,992
WWMCCS JOINT PROG	1,979	1,979	-21	-21
CONTRACT RANGE	34,415	34,415	24,815	24,815
CIVIL ENGINEERING SQUADRONS	9,490	9,490	5,490	5,490
ENVIRONMENTAL & MORALE LEAVE	533	533	33	33
CONSULTANTS, STUDIES & ANALYSES	275,612	235,612	227,312	235,612
TRAVEL	433,293	432,493	396,693	396,693
EUROPE FORCE STRUCTURE	1,308,900	1,308,900	1,290,400	1,308,900
RAPID DEPLOYMENT FORCE	1,095	1,095	-19,405	1,095
PERSONNEL SECURITY CLEARANCE PROCESSING	---	-5,700	---	-5,700
WEST GERMAN RESERVE SUPPORT	1,000	---	1,000	1,000
PATIENT CARE FUNDING REALIGNMENT (TRANSFER)	620,933	591,933	620,933	620,933
SLUC CHARGES	15,878	14,078	15,878	14,078
ENERGY CONSERVATION	---	-15,000	---	-15,000
STOCK FUND CASH	---	-100,000	---	---
INDUSTRIAL PLANT EQ CHG	58,600	3,600	58,600	58,600
FMS SURCHARGE	---	-35,000	---	-35,000
PROGRAM 9	---	-4,900	---	-4,900
ALCONBURY ENGLAND DORMITORY	---	4,100	---	4,100
BASE OPS (UNATHORIZED COMMISSARY SUPPORT)	165,635	155,635	165,635	155,635
NONFOREIGN COLA	---	-8,000	---	---
LEGISLATIVE LIAISON	1,000	800	1,000	800
INDUSTRIAL WORKLOAD CARRYOVER	2,838,500	2,822,000	2,838,500	2,822,000
C-5 CABIN LOAD	157,810	142,810	157,810	142,810
PUBLIC AFFAIRS	2,936	2,436	2,936	2,436
PER DIEM EQUITY	---	-20,900	---	---
COMMUNICATIONS	235,945	232,945	235,945	232,945
DORMITORY FURNITURE	11,100	7,800	11,100	7,800
C-130 SIMULATORS	2,300	2,300	---	---
HOUSEHOLD GOODS STORAGE	100	100	---	100
EMERGENCY LEAVE	3,200	3,200	---	3,200
END STRENGTH TAIL	10,945	---	9,445	---
DEPOT MAINTENANCE	83,757	72,357	83,757	72,357
PAY RAISE	193,663	116,163	---	116,163
ITEMS NOT IN CONFERENCE	2,534,294	2,283,894	2,283,894	2,283,894
TOTAL, OPERATION AND MAINTENANCE, AIR FORCE	18,138,363	16,765,279	17,071,200	16,915,766

The following items represent language as agreed to by the conferees:

WWMCCS joint program office.—While the conferees support the concept of a joint office, a reduction of $2.0 million is to be applied against unjustified expenditures for furniture, travel, and office supplies.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

The conferees agree to the following amounts for Operation and Maintenance, Defense Agencies:

(In thousands of dollars)

	Budget	House	Senate	Conference
FUEL COST REESTIMATE	6,992	6,992	6,792	6,992
CURRENCY REVALUATION	138,898	91,098	106,198	91,098
INTELLIGENCE PROGRAM	1,421,779	1,397,354	1,401,879	1,397,354
CIVILIAN PERSONNEL	2,030,079	2,010,379	2,000,479	2,010,379
CONSULTANTS, STUDIES & ANALYSIS	80,871	65,871	70,971	65,871
TRAVEL	136,475	136,475	125,475	131,075
CHAMPUS	1,079,560	1,059,560	1,199,560	1,199,560
PERSONNEL SECURITY CLEARANCE PROCESSING	---	-1,800	---	-1,800
SLUC CHARGES	45,119	41,019	45,119	41,019
PATIENT CARE FUNDING REALIGNMENT (TRANSFER)	---	93,000	---	---
FMS SURCHARGE	---	-5,000	---	-2,500
OVERSEAS SCHOOLS	537,949	523,949	537,949	530,949
LEGISLATIVE LIAISON	2,118	2,018	2,118	2,018
PUBLIC AFFAIRS	1,683	1,183	1,683	1,183
CREATION OF DOD IG	---	4,000	---	4,000
COMMUNICATIONS	---	-1,000	---	-1,000
PAY RAISE	83,203	72,203	---	72,203
ITEMS NOT IN CONFERENCE	273,377	167,377	167,377	167,377
TOTAL, OPERATION & MAINTENANCE, DEFENSE AGENCIES	5,838,103	5,664,678	5,665,800	5,715,778

The following items represent language as agreed to by the conferees:

Expansion of CHAMPUS coverage.—The Senate included report language addressing the need for CHAMPUS coverage for members of the U.S. merchant seamen. While the conferees are not at this time endorsing this proposal, it is noted the Department of Defense has no jurisdiction over the U.S. merchant seamen. It is agreed that the General Accounting Office should investigate the need for such an expansion of the CHAMPUS program.

Civilian Health and Medical Program of the Uniformed Services.—The conferees agree to the additional funding of $120,000,000 above the budget, as proposed by the Senate.

The conferees agree that, based on new initiatives by the Department of Defense whereby greater utilization is anticipated for the direct care health system in fiscal year 1983, the $93,000,000 originally transferred by the House should be restored to the medical departments of the Services. In adding the $120,000,000 in new appropriations, the conferees believe the funding will be sufficient if these new initiatives are followed.

The conferees direct the Services to report to the Committees on Appropriations no later than 30 days after the enactment of this joint resolution what actions are being taken to increase the specific numerical workload goals for beneficiaries treated in military medical facilities. The conferees direct that a quarterly report be made to the Committees on Appropriations showing patient workload data as a result of the new initiatives undertaken in fiscal year 1983.

To the extent that the Services fail to meet their own goals, the Committees will consider reducing the resources as recommended by the House.

JCS Exercises.—The conferees agree to reduce the allowance for port handling and inland transportation costs associated with JCS Excerises. While the management of this support should be retained at the service level, funds shall be reimbursed to the services from the allowances provided for JCS Exercises within the Defense Agencies account. This will complete the transfer of such support costs initiated by the Congress last year.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conferees agree to the following amounts for Operation and Maintenance, Army Reserve:

(In thousands of dollars)

	Budget	House	Senate	Conference
REAL PROGRAM GROWTH	---	2,300	---	2,300
FUEL COST REESTIMATE	24,410	24,410	23,510	24,410
TRAVEL	51,420	51,420	46,420	48,920
INDUSTRIAL PLANT EQ CHG	---	-300	---	---
PAY RAISE	12,784	7,684	---	7,684
ITEMS NOT IN CONFERENCE	610,570	622,270	622,270	622,270
TOTAL, OPERATION AND MAINTENANCE, ARMY RESERVE	699,184	707,784	692,200	705,584

OPERATION AND MAINTENANCE, NAVY RESERVE

The conferees agree to the following amounts for Operation and Maintenance, Navy Reserve:

(In thousands of dollars)

	Budget	House	Senate	Conference
INDUSTRIAL PLANT EQUIPMENT	900	---	900	900
FUEL COST REESTIMATE	175,218	166,718	175,218	166,718
A/C MOD INSTALLATION	5,862	5,862	14,562	14,562
TRANSFER OF LKA SHIPS	23,600	---	19,000	---
C-9 LEASE PROGRAM	---	---	6,300	6,300
TRAVEL	8,074	8,074	6,874	7,474
PAY RAISE	3,707	2,207	---	2,207
ITEMS NOT IN CONFERENCE	439,346	439,346	439,346	439,346
TOTAL, OPERATION AND MAINTENANCE, NAVY RESERVE	656,707	622,207	662,200	637,507

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

The conferees agree to the following amounts for Operation and Maintenance, Marine Corps Reserve:

(In thousands of dollars)

	Budget	House	Senate	Conference
FUEL PRICES	---	-1,100	---	-1,100
ADP SUPPORT	---	1,000	---	1,000
PAY RAISE	79	79	---	79
ITEMS NOT IN CONFERENCE	48,415	51,115	51,115	51,115
TOTAL, OPERATION & MAINTENANCE, MARINE CORPS RES	48,494	51,094	51,115	51,094

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

The conferees agree to the following amounts for Operation and Maintenance, Air Force Reserve:

(In thousands of dollars)

	Budget	House	Senate	Conference
INDUSTRIAL PLANT EQUIPMENT	700	---	700	700
FUEL COST REESTIMATE	159,438	151,438	159,438	151,438
PAY RAISE	12,335	7,435	---	7,435
ITEMS NOT IN CONFERENCE	606,162	606,162	606,162	606,162
TOTAL, OPERATION & MAINTENANCE, AIR FORCE RESERVE	778,635	765,035	766,300	765,735

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

The conferees agree to the following amounts for Operation and Maintenance, Army National Guard:

(In thousands of dollars)

	Budget	House	Senate	Conference
MINOR CONSTRUCTION	6,000	6,000	10,500	10,500
FUEL COST REESTIMATE	71,643	57,643	68,943	68,943
REPAIR PARTS	113,107	116,007	115,907	115,907
TRAVEL	13,586	13,586	12,086	12,836
ARMY GUARD M-1 BATTALION	---	5,500	4,900	5,500
INDUSTRIAL PLANT EQ CHG	---	-500	---	---
BUFFALO ARMORY FIRE	---	3,900	---	3,900
MILITARY TECHNICIAN CONVERSION	---	15,000	---	15,000
PAY RAISE	28,417	17,017	---	17,017
ITEMS NOT IN CONFERENCE	919,564	945,464	945,464	945,464
TOTAL, OPERATION & MAINTENANCE, ARMY NATL GUARD.	1,152,317	1,179,617	1,157,800	1,195,067

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

The conferees agree to the following amounts for Operation and Maintenance, Air National Guard:

(In thousands of dollars)

	Budget	House	Senate	Conference
INDUSTRIAL PLANT EQUIPMENT	1,700	---	1,700	1,700
SELFRIDGE PARKING APRON	---	6,000	---	6,000
FUEL COST REESTIMATE	544,832	507,732	544,832	513,732
COLD WEATHER EQUIPMENT	5,248	5,248	8,248	8,248
CHEMICAL DEFENSE EQUIP	---	---	8,200	8,200
JT3D REENGINING	---	50,000	59,600	54,000
DEPOT MAINTENANCE	289,637	284,437	289,637	284,437
MILITARY TECHNICIAN CONVERSION	---	10,289	---	10,289
PAY RAISE	26,014	15,614	---	15,614
ITEMS NOT IN CONFERENCE	920,383	920,383	920,383	920,383
TOTAL, OPERATION & MAINTENANCE, AIR NATL GUARD..	1,787,814	1,799,703	1,832,600	1,822,603

CLAIMS, DEFENSE

The conferees agreed to provide $147,500,000 as proposed by the House, instead of $172,500,000 as proposed by the Senate.

COURT OF MILITARY APPEALS

The conferees agreed to provide $3,271,000 as proposed by the House, instead of $3,210,000 as proposed by the Senate.

TITLE IV—PROCUREMENT

The conferees agree to the following amounts for the Procurement accounts:

(In thousands of dollars)

	Budget	House	Senate	Conference
SUMMARY				
ARMY:				
AIRCRAFT	2,745,914	2,514,900	2,444,522	2,506,572
MISSILES	2,846,600	2,287,600	2,411,600	2,287,000
WEAPONS, TRACKED COMBAT VEHICLES	5,024,485	4,488,815	4,451,016	4,551,946
TRANSFER FROM OTHER ACCOUNTS	---	(198,200)	(140,900)	(198,200)
AMMUNITION	2,625,684	2,075,394	2,123,694	2,122,394
OTHER	4,625,791	4,148,804	4,207,891	4,123,404
TOTAL, ARMY	17,868,474	15,515,513	15,838,723	15,591,316
TRANSFER FROM OTHER ACCOUNTS	---	(198,200)	(140,900)	(198,200)
TOTAL FUNDING AVAILABLE	17,868,474	15,713,713	15,979,623	15,789,516
NAVY:				
AIRCRAFT	11,582,300	10,616,546	10,650,100	10,416,107
WEAPONS	3,901,600	3,644,060	3,506,300	3,561,700
SHIPS	18,648,300	15,973,000	16,848,800	16,076,700
REAPPROPRIATION	---	---	176,200	176,200
TRANSFER FROM OTHER ACCOUNTS	---	(35,000)	(35,000)	(35,000)
OTHER	3,969,356	3,825,301	3,877,280	3,727,075
MARINE CORPS	2,300,700	2,008,432	2,047,855	2,008,083
TOTAL, NAVY	40,402,256	36,067,339	36,930,335	35,789,665
REAPPROPRIATION	---	---	176,200	176,200
TRANSFER FROM OTHER ACCOUNTS	---	(35,000)	(35,000)	(35,000)
TOTAL FUNDING AVAILABLE	40,402,256	36,102,339	37,141,535	36,000,865
AIR FORCE:				
AIRCRAFT	17,834,800	17,588,600	17,575,500	17,658,500
TRANSFER FROM OTHER ACCOUNTS	---	(254,800)	(170,000)	(170,000)
MISSILES	6,795,900	4,681,700	5,904,800	4,941,100
TRANSFER FROM OTHER ACCOUNTS	---	(15,000)	---	(15,000)
OTHER	5,836,200	5,520,136	5,556,437	5,563,777
TRANSFER FROM OTHER ACCOUNTS	---	(17,072)	---	(4,963)
TOTAL, AIR FORCE	30,466,900	27,790,436	29,036,737	28,163,377
TRANSFER FROM OTHER ACCOUNTS	---	(286,872)	(170,000)	(189,963)
TOTAL FUNDING AVAILABLE	30,466,900	28,077,308	29,206,737	28,353,340
DEFENSE AGENCIES	879,284	832,845	830,884	828,145
NATIONAL GUARD AND RESERVE COMPONENTS	---	---	200,000	125,000
GNERAL REDUCTION, IR&D AND B&P	---	-386,000	---	-386,000
TOTAL NOA	89,616,914	79,820,133	83,012,879	80,287,703
TRANSFER FROM OTHER ACCOUNTS	---	(520,072)	(345,900)	(423,163)
TOTAL FUNDING AVAILABLE	89,616,914	80,340,205	83,358,779	80,710,866

The following items represent language as agreed to by the conferees:

AUTHORIZATIONS—REPROGRAMMINGS

In several instances throughout this conference agreement programs are funded in excess of the authorization. The conferees direct the Department to submit a proposal to the Armed Services and Appropriations Committees of the House and Senate, through the reprogramming procedure, to effect the necessary authorizations. The programs involved are: C-2 aircraft procurement; A-10 aircraft procurement; C-17 aircraft RDT&E; Shipbuilding reappropriation; and Marine Corps Reserve procurement.

It is expected that the funds for the unauthorized programs will not be obligated until the Armed Services Committees of the House and Senate authorize these programs through the reprogramming procedure. Although the entire amount authorized for the F-16 program was not provided in the bill, the Committee will consider an F-16 reprogramming action if one is subsequently submitted by the Department.

AIRCRAFT PROCUREMENT, ARMY

The conferees agree to the following amounts for the Aircraft Procurement, Army account:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
AIRCRAFT				
FIXED WING				
AIRPLANE, CARGO, C-12	11,000	21,000	---	21,000
AIRPLANE, RECON, RC-12D (GR PIP BUY)	41,200	41,200	41,200	41,200
ROTARY				
HELICOPTER, ATTACK, AH-1S (COBRA/TOW)	---	53,900	---	53,900
HELICOPTER ELECTRONIC EH-60A (QUICKFIX) (AP-CY)	33,300	25,400	25,400	25,400
AH-64 ATTACK HELICOPTER	760,300	695,300	710,000	695,300
AH-64 ATTACK HELICOPTER (AP-CY)	116,500	115,000	115,000	115,000
UH-60A (BLACK HAWK) (MYP)	508,600	423,000	423,000	423,000
UH-60A (BLACK HAWK) (MYP) (AP-CY)	207,600	145,900	145,900	145,900
TOTAL, AIRCRAFT	1,678,500	1,520,700	1,460,500	1,520,700
MODIFICATION OF AIRCRAFT				
AIRPLANE,SURVEILLANCE,OV-1(MOHAWK)	16,900	16,900	16,900	16,900
AIRPLANE, RECON, RC12D (GR PIP MOD)	8,700	8,700	8,700	8,700
AIRPLANE,RECONNAISSANCE, RV-1 (MOD)	9,900	9,900	9,900	9,900
HELICOPTER, ATTACK AH1S (COBRA-TOW) (MOD)	32,714	32,714	29,500	29,500
HELICOPTER CARGO CH-47 (CHINOOK)	261,300	261,300	261,300	261,300
AIRPLANE, CARGO, C-12 (MODS)	400	400	400	400
HELICOPTER, OBSERVATION, OH-58 (KIOWA) (MOD)	4,300	4,300	1,772	1,772
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)	45,100	28,700	28,700	28,700
AIRBORNE AVIONICS	5,000	5,000	5,000	5,000
MODIFICATIONS UNDER $700,000 (AIRCRAFT)	100	100	100	100
ACFT SWW	21,200	21,200	21,200	21,200
UNDISTRIBUTED REDUCTION	---	-3,214	---	---
TOTAL, MODIFICATION OF AIRCRAFT	405,614	386,000	383,472	383,472
SPARES AND REPAIR PARTS	482,500	448,200	436,250	448,200
SUPPORT EQUIPMENT AND FACILITIES				
OTHER SUPPORT				
AVIONICS SUPPORT EQUIPMENT	34,100	34,100	34,100	34,100
COMMON GROUND EQUIPMENT	90,600	82,300	75,600	75,600
INDUSTRIAL FACILITIES	31,000	21,800	31,000	21,800
WAR CONSUMABLES	6,400	6,400	6,400	6,400
HELLFIRE LAUNCHERS	17,200	17,200	17,200	17,200
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	179,300	161,800	164,300	155,100
INDUSTRIAL PLANT EQUIPMENT	---	-900	---	---
PERSONNEL SECURITY CLEARANCES	---	-900	---	-900
TOTAL, AIRCRAFT PROCUREMENT, ARMY	2,745,914	2,514,900	2,444,522	2,504,572

The following items represent language as agreed to by the conferees:

C-12 AIRCRAFT

The conference agreement provides $21,000,000 for procurement of 12 C-12 aircraft as proposed by the House. The conferees agree that six of these aircraft be used to support diplomatic missions in third world countries only. The other six shall be allocated to the Army National Guard.

MANUFACTURING METHODS AND TECHNOLOGY

The Conferees have agreed to the reductions proposed by the House for manufacturing methods and technology and military adaptation of commercial items programs funded in the Army procurement appropriations. However, $50,000,000 has been included in the Research, Development, Test and Evaluation, Army appropriation to carry out these programs in fiscal year 1983.

MISSILE PROCUREMENT, ARMY

The conferees agree to the following amounts for Missile Procurement, Army:

(In thousands of dollars)

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
OTHER MISSILES				
SURFACE-TO-AIR MISSILE SYSTEM				
U.S. ROLAND	61,300	61,300	61,300	61,300
PATRIOT (SAM D)	805,100	779,100	687,300	779,100
STINGER	214,600	214,600	172,100	214,600
AIR-TO-SURFACE MISSILE SYSTEM				
LASER HELLFIRE SYSTEM	249,200	249,200	249,200	249,200
ANTI-TANK/ASSAULT MISSILE SYSTEM				
TOW (BGM-71A), (BTM-71A)	145,200	134,700	132,000	134,700
PERSHING	498,300	---	498,300	---
MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	368,900	368,900	368,900	368,900
MULTIPLE LAUNCH ROCKET SYSTEM (MYP) (AP-CY)	53,200	53,200	---	53,200
OTHER MISSILE SUPPORT	4,500	4,500	4,500	4,500
TOTAL, OTHER MISSILES	2,400,300	1,865,500	2,173,600	1,865,500
MODIFICATION OF MISSILES				
MODIFICATIONS				
CHAPARRAL MODIFICATIONS	32,500	32,500	32,500	32,500
TOW MODIFICATIONS	58,400	58,400	58,400	58,400
LANCE MODIFICATIONS	1,500	1,500	1,500	1,500
MODIFICATIONS LESS THAN $900,000	600	600	600	600
TOTAL, MODIFICATION OF MISSILES	93,000	93,000	93,000	93,000
SPARES AND REPAIR PARTS	233,300	223,000	208,000	223,000
SUPPORT EQUIPMENT AND FACILITIES				
AIR DEFENSE TARGETS	12,100	12,100	9,100	9,100
ITEMS LESS THAN $900,000 (MISSILES)	4,800	4,800	4,800	4,800
PRODUCTION BASE SPT	69,300	57,700	89,300	58,700
OTHER PRODUCTION CHARGES	33,800	33,800	33,800	33,800
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	120,000	108,400	137,000	106,400
PERSONNEL SECURITY CLEARANCES	---	-900	---	-900
INDUSTRIAL PLANT EQUIPMENT	---	-1,400	---	---
TOTAL, MISSILE PROCUREMENT, ARMY	2,846,600	2,287,600	2,611,600	2,287,000

The following items represent language as agreed to by the conferees:

PERSHING II

The conferees agree to provide no funds for Pershing II as proposed by the House, instead of $498,300,000 as proposed by the Senate. The conferees share the concern expressed by the House over concurrency in the program schedule, and agree that more test results are needed before additional Pershing II procurement funds can be justified. The conferees nevertheless remain firmly committed to modernization of the theater nuclear forces. To emphasize that commitment, the conferees agree to add $30,000,000 to the Operation and Maintenance, Army account for Pershing II engineering services, refurbishment of training missiles, and project SWAP. These efforts will ensure meeting the initial operational capability date of December, 1983 with the missiles and hardware funded in the fiscal year 1982 appropriation.

The conferees agree that Pershing II procurement funds may be requested by reprogramming or budget supplement following successful completion of full flight testing.

MULTIPLE LAUNCH ROCKET SYSTEM

The conference agreement includes $422,100,000 for procurement of the Multiple Launch Rocket System under a multiyear contract. The conferees are in agreement that the contract shall extend for no more than five years. The two additional option years proposed by the Army are unacceptable since procurement would begin for items to be funded in those years during the basic contract period. If the Army wishes to propose fixed price, fully funded, and severable options for years six and seven, the Committees on Appropriations of the House and Senate would consider such a proposal.

The conference agreement includes, under production base support, $1,000,000 for an examination of the requirements for production of insensitive high explosive materials as proposed by the Senate.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conferees agree to the following amounts for Procurement of Weapons and Tracked Combat Vehicles, Army:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEH				
TRACKED COMBAT VEHICLES				
CARRIER, COMMAND POST LIGHT, FT, M577A2	23,500	---	---	---
CARRIER, PERSONNEL, FT, ARM, M113A2	92,000	92,000	92,000	92,000
BRADLEY FIGHTING VEHICLES	793,300	783,300	783,300	783,300
BRADLEY FIGHTING VEHICLES (AP-CY)	49,200	49,200	49,200	49,200
TRAINING DEVICES F/IFV/CFV	38,800	38,800	38,800	38,800
FIELD ARTILLERY AMMO SUPPORT VEHICLE	106,400	---	61,000	30,000
RECOVERY VEHICLE, MED, FT, M88A1	151,600	151,600	157,800	151,600
M1 ABRAMS TANK	1,457,000	1,360,400	1,211,800	1,360,400
TRANSFER	---	(198,200)	(140,900)	(198,200)
M1 ABRAMS TANK (AP-CY)	432,300	380,900	363,900	380,900
M60 SERIES TANK TRAINING DEVICES	12,600	12,600	12,600	12,600
TRAINING EQUIPMENT FOR M-1 SERIES TANK	58,200	58,200	58,200	58,200
LIGHT ARMORED SQUAD CARRIER	51,700	---	---	---
MOBILE PROTECTED GUN-CANNON VEHICLE	51,900	25,000	25,000	25,000
MOBILE PROTECTED GUN-RECOVERY VEHICLE	7,700	---	---	---
MODIFICATION OF TRACKED COMBAT VEHICLES				
CARRIER, MOD, ROLL	41,000	41,000	27,200	27,200
IMPROVED TOW VEHICLE (ITV) (MOD)	81,900	60,700	60,700	60,700
FIST VEHICLE (MOD)	63,800	40,000	40,000	40,000
HOWITZER, MED SP FT 155MM M109 SER(MOD)	2,100	2,100	2,100	2,100
HOWITZER, HV, SP, FT, 8-IN M110 SER(MOD)	26,800	26,800	26,800	26,800
TANK,COMBAT,FT,105MM GUN,M60SER(MOD)	162,900	162,900	162,900	162,900
SUPPORT EQUIPMENT AND FACILITIES				
SPARES AND REPAIR PARTS	383,469	374,869	371,000	375,900
FAASV	(4,600)	---	(1,031)	(1,031)
M-1	(135,700)	(133,200)	(127,800)	(133,200)
LIGHT ARMORED SQUAD CAR	(1,300)	---	(300)	---
LIGHT ARMORED RECOVERY VEH	(200)	---	(200)	---
ITEMS LESS THAN $900,000 (TCV-WTCV)	900	900	900	900
PRODUCTION BASE SUPPORT (TCV-WTCV)	105,470	122,900	147,170	122,900
TOTAL, TRACKED COMBAT VEHICLES	4,194,539	3,784,169	3,692,370	3,801,400

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY—Continued

The conferees agree to the following amounts for Procurement of Weapons and Tracked Combat Vehicles, Army:

(In thousands of dollars)

	Budget	House	Senate	Conference
WEAPONS AND OTHER COMBAT VEHICLES				
DIVAD GUN	521,100	437,100	471,100	471,100
DIVAD GUN (AP-CY)	74,400	74,400	74,400	74,400
ARMOR MACHINE GUN, 7.62MM M240 ROLL	26,400	26,400	26,400	26,400
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM	10,500	10,500	9,400	9,400
LAUNCHER, SMOKE GRENADE	3,400	3,400	3,400	3,400
MORTAR, 81MM, XM252	10,600	---	---	---
PERSONAL DEFENSE WEAPON, 9MM	4,400	---	---	---
VEHICLE RAPID FIRE WEAPON SYSTEM	33,400	26,000	33,400	33,400
MAGNETIC HEADING SET	3,700	---	---	---
MHS-GYRO GROUP	1,500	---	---	---
MODIFICATION OF WEAPONS AND OTHER COMBAT VEHI				
MODIFICATIONS UNDER $900,000 (WOCV-WTCV)	900	900	900	900
SUPPORT EQUIPMENT AND FACILITIES				
SPARES AND REPAIR PARTS	107,946	107,946	107,946	107,946
ITEMS LESS THAN $900,000 (WOCV-WTCV)	2,600	2,600	2,600	2,600
PRODUCTION BASE SUPPORT (WOCV-WTCV)	29,100	21,000	29,100	21,000
TOTAL, WEAPONS AND OTHER COMBAT VEHICLES	829,946	710,246	758,646	750,546
INDUSTRIAL PLANT EQUIPMENT	---	-5,600	---	---
TOTAL, PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEH	5,024,485	4,488,815	4,451,016	4,551,946
TRANSFER FROM OTHER ACCOUNTS	---	(198,200)	(140,900)	(198,200)
TOTAL FUNDING AVAILABLE	5,024,485	4,687,015	4,591,916	4,750,146

The following items represent language as agreed to by the conferees:

M-1 TANK PROGRAM

The Conferees have agreed to the funding proposed by the House for production and advance procurement of the M-1 tank. However, the Conferees specify that production of these vehicles be scheduled at a rate not to exceed 60 per month until the Army has successfully demonstrated and reported to the Committees on Appropriations of the House and Senate that the power train durability requirements have been demonstrated using production vehicles in a test like the recently terminated durability test.

PROCUREMENT OF AMMUNITION, ARMY

The conferees agree to the following amounts for items in conference in Procurement of Ammunition, Army:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
CARTRIDGE, 7.62MM, ALL TYPES	52,700	45,300	51,700	45,300
CARTRIDGE, CAL. .45, ALL TYPES	4,600	---	4,600	---
CARTRIDGE, CAL. 50, ALL TYPES	93,600	68,900	92,600	68,900
CARTRIDGE, 30MM (ADEN/DEFA), ALL TYPES	64,100	9,000	64,100	64,100
CARTRIDGE, 4.2 INCH, ALL TYPES	55,300	---	12,000	24,100
CARTRIDGE, 105MM (APFSDS-T/TP) ALL TYPES	154,800	129,700	100,300	129,700
CARTRIDGE, 120MM, ALL TYPES	10,900	---	10,900	---
PROJECTILE, 155MM, HE RAP	17,700	45,700	17,700	45,700
FUZE, FOR ARTY & MORTAR, ALL TYPES	108,000	108,000	98,600	108,000
VIPER, ALL TYPES	113,700	36,000	---	---
ITEMS LESS THAN $900000 (MISC-AMMO)	14,500	12,000	14,500	12,000
GENERAL REDUCTION	---	-7,700	---	-7,700
MANUFACTURING TECHNOLOGY PROGRAM	24,400	---	24,400	---
INDUSTRIAL PLANT EQUIPMENT	---	-3,800	---	---
ITEMS NOT IN CONFERENCE	1,911,384	1,632,294	1,632,294	1,632,294
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	2,625,684	2,075,394	2,123,694	2,122,394

The following items represent language as agreed to by the conferees:

120MM TANK AMMUNITION

The Conferees have agreed to the reduction proposed by the House for the production of 120mm tank ammunition. However, this reduction is made without prejudice and the Army may submit a reprogramming as necessary to support the fielding of the new 120mm M-1E1 tank when ammunition development problems have been clearly resolved and production readiness can be demonstrated.

VIPER

The conferees agree with the Senate position that no further funds shall be spent to develop or procure Viper. However, an additional $10,000,000 is included in the Research, Development, Test and Evaluation appropriation to expedite completion of the Congressionally mandated competitive test and evaluation of alternative, individual shoulder-fired anti-armor weapons.

Funds provided for Viper procurement in fiscal years 1981 ($24,800,000) and 1982 ($98,600,000) should be adequate for continued low rate production of Viper pursuant to termination of the production of the current Viper. The Viper variant will remain a competitor in the alternative testing.

The conferees reaffirm their special interest in the Viper program, and no funds can be reprogrammed into this account without the prior specific approval of the Appropriations Committees of both Houses of Congress.

OTHER PROCUREMENT, ARMY

The conferees agree to the following amounts for items in conference in Other Procurement, Army:

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT, ARMY				
SMALL UNIT SUPPORT VEHICLE (SUSV)	28,700	---	28,700	28,700
PRODUCTION BASE SUPPORT (TAC)	8,200	900	8,200	900
LOG PERIODIC ANT, OE-314 ( )/GRC	3,800	3,800	5,800	3,800
SMALL UNIT TRANS AN/PRC - 68	7,100	7,100	2,000	2,000
BASE COMM (EUCOM)	35,000	35,000	10,000	10,000
BASE COMM (PACOM)	7,900	4,300	7,900	4,300
MOD IN SER EQ (INT SPT)	58,600	46,600	46,300	46,600
SOFTCOPY IMAGERY TRAINING DEVICE	6,500	---	6,500	---
INTELLIGENCE DATA HANDLING SYSTEM (IDHS)	8,500	5,913	6,000	5,913
DARCOM FIVE YEAR ADP PROGRAM	15,000	14,000	10,000	10,000
DECENTZED AUTO SER SUP SYS (DASAS)	33,700	26,700	33,700	26,700
DIV LEVEL DATA ENTRY DEVICE (DLDED)	24,600	---	10,400	---
JAMMER,HAND EMPLACED,EXPENABLE	5,900	---	5,900	---
GROUND LASER LOCATOR DESIGNATOR (GLLD)	45,400	---	45,400	---
NIGHT SIGHT, INFRARED, AN/TAS-5	28,000	28,000	27,000	28,000
SPARES AND REPAIR PARTS	209,500	189,500	184,500	184,500
SPARES AND REPAIR PARTS	154,164	132,064	145,164	133,064
PRODUCTION BASE SUPPORT (C-E)	22,100	5,000	22,100	5,000
GENERAL REDUCTION	---	-7,600	---	---
DECONTAMINATE APP PWR DR LT WT XM17	400	400	1,700	400
DETECTION&WARNING SYSTEM, BIOLOGICAL	6,200	---	6,200	---
DISPENSER, MINE, XM128 (GEMSS)	8,500	8,200	11,500	8,200
DIVING EQUIPMENT	1,200	1,200	2,000	1,200
PROT OUTFIT, MICROCLIMATE CONTROLLED	3,300	3,300	3,900	3,300
TACTICAL WATER DISTR SYS	17,900	17,900	18,300	17,900
ITEMS LESS THAN $900,000 (CS EQ-OTH)	21,700	21,700	24,600	21,700
SMALL EMPLACEMENT EXCAVATOR (SEE)	3,800	---	4,900	---
RAILWAY CAR, FLAT, 140 TON	11,100	8,300	8,100	8,100
QUICK RETURN ON INVESTMENT PROGRAM	33,800	33,800	18,800	18,800
PROD ENHANCING CAPITAL INVEST PRGM	10,900	10,900	5,900	5,900
PRODUCTIVITY INVESTMENT PRGM	5,900	5,900	7,100	5,900
BASE LEVEL COM'L EQUIPMENT	50,800	50,800	40,800	45,800
PRODUCTION BASE SUPPORT (OTH)	31,000	13,000	31,000	13,000
GENERAL REDUCTION	-23,800	-29,200	---	-29,200
INDUSTRIAL PLANT EQUIPMENT	---	-1,600	---	---
CLASSIFIED PROGRAM, BUDGET AMENDMENT	95,400	95,400	---	95,400
ITEMS NOT IN CONFERENCE	3,645,027	3,417,527	3,417,527	3,417,527
TOTAL, OTHER PROCUREMENT, ARMY	4,625,791	4,148,804	4,207,891	4,123,404

The following items represent language as agreed to by the conferees:

ARMY CALIBRATION EQUIPMENT

The Committee is concerned that the Army has not resolved serious problems in its calibration program. The Army has failed to issue a final comprehensive report which included a detailed implementation plan for the acquisition of calibration equipment, as directed in the conference report accompanying the Department of Defense Appropriations Act, 1982.

The Committee remains concerned that production contracts will be awarded before the Army issues the comprehensive report. Accordingly, the Army should not award any production contracts for calibration equipment before the issuance of the comprehensive report without the prior approval of the Committee.

GROUND LASER LOCATOR DESIGNATOR

The conference agreement deletes the $45,400,000 budgeted for procurement of the Ground Laser Locator Designator as proposed by the House. This action is taken in recognition of the large delivery backlog. The conferees expect the Army to budget for an economic procurement quantity, based on a production rate of about 20 per month, in fiscal year 1984.

AIRCRAFT PROCUREMENT, NAVY

The conferees agree to the following amounts for Aircraft Procurement, Navy:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
COMBAT AIRCRAFT				
A-6E (ATTACK) INTRUDER (MYP)	247,700	246,400	224,100	235,200
A-6E (ATTACK) INTRUDER (MYP) (AP-CY)	13,300	8,300	8,300	8,300
EA-6B (ELECTRONIC WARFARE) INTRUDER (MYP	289,900	289,900	289,900	289,900
EA-6B (ELECTRONIC WARFARE) INTRUDER (MYP) (AP-CY)	26,700	17,600	17,600	17,600
AV-8B (V/STOL)	677,100	702,100	742,900	702,100
AV-8B (V/STOL) (AP-CY)	73,900	61,600	73,900	61,600
F-14A (FIGHTER) TOMCAT	915,300	901,700	819,300	875,000
F-14A (FIGHTER) TOMCAT (AP-CY)	202,400	202,400	202,400	202,400
F-18 (FIGHTER) HORNET	2,443,900	2,136,100	2,233,900	2,136,100
F-18 (FIGHTER) HORNET (AP-CY)	283,700	248,200	252,700	248,200
CH-53E(HELICOPTER)SUPER STALLION(MYP)	255,600	205,600	233,600	205,600
CH-53E(HELICOPTER)SUPER STALLION(MYP) (AP-CY)	33,500	2,900	2,900	2,900
AH-1T (HELICOPTER) SEA COBRA (AP-CY)	17,200	---	---	---
SH-60B (ASW HELO) SEAHAWK	858,400	576,100	616,700	576,100
SH-60B (ASW HELO) SEAHAWK (AP-CY)	137,000	58,000	102,000	58,000
P-3C (PATROL) ORION	280,600	242,600	253,900	242,600
P-3C (PATROL) ORION (AP-CY)	48,800	48,800	48,800	48,800
E-2C (EARLY WARNING) HAWKEYE	316,200	274,100	307,500	274,100
E-2C (EARLY WARNING) HAWKEYE (AP-CY)	21,300	21,300	21,300	21,300
SH-2F (ASW HELO) SEASPRITE	169,000	150,000	165,400	150,000
SH-2F (ASW HELO) SEASPRITE (AP-CY)	20,400	13,400	20,400	13,400
TOTAL, COMBAT AIRCRAFT	7,331,900	6,407,100	6,637,500	6,369,200
AIRLIFT AIRCRAFT				
BA-2 AIRLIFT AIRCRAFT				
C-9 SKYTRAIN II	16,200	16,200	16,200	16,200
C-2(MYP)	218,900	218,900	218,900	218,900
C-2(MYP) (AP-CY)	48,900	48,900	48,900	48,900
TOTAL, AIRLIFT AIRCRAFT	284,000	284,000	284,000	284,000
TRAINER AIRCRAFT				
T-34C	34,400	34,400	34,400	34,400
TH-57	23,200	23,200	23,200	23,200
TOTAL, TRAINER AIRCRAFT	57,600	57,600	57,600	57,600

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER AIRCRAFT				
EC-130Q (TACAMO) HERCULES	36,800	36,800	36,800	36,800
KC-130R (TANKER) HERCULES	---	30,000	---	30,000
TOTAL, OTHER AIRCRAFT	36,800	66,800	36,800	66,800
MODIFICATION OF AIRCRAFT				
A-3 SERIES	7,300	7,300	7,300	7,300
A-4 SERIES	31,100	24,723	31,100	24,723
A-6 SERIES	184,400	175,345	184,400	175,345
EA-6 SERIES	91,100	85,177	91,100	85,177
A-7 SERIES	105,400	105,400	105,400	105,400
AV-8A	10,900	10,900	10,900	10,900
F-4 SERIES	22,700	22,700	22,700	22,700
RF-4 SERIES	9,900	51,970	9,900	29,470
F-14A	166,800	152,198	166,800	152,198
F-8 SERIES	1,200	1,200	1,200	1,200
F-5 SERIES	200	200	200	200
OV-10A	1,700	1,700	1,700	1,700
F-18 MODS	17,800	4,981	17,800	4,981
H-46 SERIES	51,000	51,000	51,000	51,000
H-53 SERIES	29,200	29,200	29,200	29,200
H-1 SERIES	18,900	18,900	18,900	18,900
H-2 SERIES	3,900	3,900	3,900	3,900
H-3 SERIES	20,600	20,600	20,600	20,600
EP-3 SERIES	28,200	28,200	28,200	28,200
P-3 SERIES	119,800	117,090	119,800	117,090
S-3	27,200	26,152	27,200	26,152
US-3A COD	2,700	92	2,700	92
E-2 SERIES	48,100	48,100	48,100	48,100
T-34	1,500	1,500	1,500	1,500
T-44	200	200	200	200
T-39	1,500	1,500	1,500	1,500
TH-57	300	300	300	300
T-2	100	100	100	100
C9B SERIES	1,400	1,400	1,400	1,400
C-1A	200	200	200	200
UC-12B	200	200	200	200
EC-130 SERIES	62,700	54,779	62,700	54,779
C-130 SERIES	16,200	16,200	16,200	16,200
C-135	36,800	36,800	36,800	36,800
C-131 SERIES	100	100	100	100
VARIOUS	10,800	10,800	10,800	10,800
POWER PLANT CHANGES	11,700	11,700	11,700	11,700
MISC FLT SAFETY/OPER NECESSITY CHANGES	5,400	5,400	5,400	5,400
COMMON ECM EQUIPMENT	153,800	153,800	153,800	153,800
COMMON AVIONICS CHANGES	8,100	8,100	8,100	8,100
GENERAL REDUCTION	---	---	-103,000	-51,500
TOTAL, MODIFICATION OF AIRCRAFT	1,311,100	1,290,107	1,208,100	1,216,107
SPARES AND REPAIR PARTS	2,080,900	2,047,039	2,005,900	2,005,900
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
COMMON GROUND EQUIPMENT	415,200	415,200	366,600	366,600
AIRCRAFT INDUSTRIAL FACILITIES	24,400	24,400	24,400	24,400
WAR CONSUMABLES	9,300	9,300	9,300	9,300
OTHER PRODUCTION CHARGES	31,100	31,100	31,100	31,100
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	480,000	480,000	431,400	431,400
PERSONNEL SECURITY CLEARANCES	---	-3,700	---	-3,700
INDUSTRIAL PLANT EQUIPMENT	---	-2,400	---	---
CONSULTANTS, STUDIES, AND ANALYSES	---	-9,800	-11,200	-11,200
TOTAL, AIRCRAFT PROCUREMENT, NAVY	11,582,300	10,416,546	10,450,100	10,416,107

The following items represent language as agreed to by the conferees:

A-6E AND F-14 AIRCRAFT PROGRAMS

The conferees provided $235,200,000 to procure 8 A-6E aircraft and $875,000,000 to procure 24 F-14 aircraft. The Department stated that the amount requested in the budget did not reflect anticipated contract savings. Although the amount recommended by the conferees represents a reduction from the budget request, the Committee directs that no less than 8 A-6E aircraft or 24 F-14 aircraft be procured with the funds provided.

KC-130 TANKER AIRCRAFT

The conferees direct that any additional funds required, over and above the $30,000,000 provided herein, to procure 2 KC-130 tanker aircraft be absorbed within existing Department of the Navy funds.

CH-53E HELICOPTER

In avoiding further delay of the depot-level facilitization of the Main Rotor Blade Dynamic Balance Facility at Naval Air Station, Pensacola, the conferees direct that the facilitization be funded within existing funds. In complying with the conferees direction, the Department is not to reduce any quantities of aircraft being procured.

C-9 AIRCRAFT

While the conferees agree on the allowance for the purchase of C-9 aircraft, the Navy is directed to purchase such aircraft only from U.S. flag carriers. Further, the aircraft must have been owned by U.S. carriers prior to December 1, 1982.

RF-4 AIRCRAFT MODIFICATIONS

The conferees agree to $29,470,000 for the Maine Corps RF-4 Aircraft Modification program instead of $51,970,000 as proposed by the House and $9,900,000 as proposed by the Senate. Of the funds agreed to, $22,500,000 is provided to complete procurement of side-looking airborne radar (SLAR) data link packages and related aircraft modification equipment, and the remaining funds, $6,970,000, are provided for the purposes for which they were budgeted.

WEAPONS PROCUREMENT, NAVY

The conferees agree to the following amounts for Weapons Procurement, Navy:

(In thousands of dollars)

	Budget	House	Senate	Conference
WEAPONS PROCUREMENT, NAVY				
BALLISTIC MISSILES				
UGM-73A (C-3) POSEIDON	9,700	9,700	9,700	9,700
UGM-96A (C-4) TRIDENT I	699,500	685,300	633,700	633,700
UGM-96A (C-4) TRIDENT I (AP-CY)	43,300	36,300	36,300	36,300
MODIFICATION OF MISSILES				
UGM-73A (C-3) POSEIDON MODS	7,500	7,500	7,500	7,500
SUPPORT EQUIPMENT AND FACILITIES				
SPARES AND REPAIR PARTS	1,100	1,100	1,100	1,100
MISSILE INDUSTRIAL FACILITIES	2,600	2,600	2,600	2,600
ASTRONAUTICS	12,800	12,800	12,800	12,800
TOTAL, BALLISTIC MISSILES	776,500	755,300	703,700	703,700
OTHER MISSILES				
STRATEGIC MISSILES				
BGM-109 TOMAHAWK	271,000	237,300	173,000	229,800
BGM-109 TOMAHAWK (AP-CY)	21,163	19,223	6,663	6,663
TACTICAL MISSILES				
AIM/RIM-7 F/M SPARROW	132,800	131,100	132,800	131,100
AIM-9L/M SIDEWINDER	41,471	40,771	41,471	40,771
AIM-54A/C (PHOENIX)	222,100	212,500	182,600	212,500
AIM-54A/C (PHOENIX) (AP-CY)	34,200	34,200	30,200	34,200
AGM-84A HARPOON	236,136	219,736	225,136	219,736
AGM-88A HARM	176,800	127,100	95,800	127,100
RIM-66B STANDARD MR(MYP)	192,300	191,300	192,300	191,300
RIM-66B STANDARD MR(MYP) (AP-CY)	60,300	---	---	---
RIM-66C STANDARD MR	122,800	122,100	122,800	122,100
RIM-67B STANDARD ER	302,800	301,000	302,800	301,000
LASER MAVERICK	33,100	32,400	33,100	32,400
OTHER MISSILE SUPPORT	5,300	5,300	5,300	5,300
AERIAL TARGETS	76,600	75,700	76,600	75,700

(In thousands of dollars)

	Budget	House	Senate	Conference
MODIFICATION OF MISSILES				
AIM/RIM-7E/F SPARROW MOD	7,690	7,690	7,690	7,690
AIM-9 SIDEWINDER MOD	46,200	46,200	46,200	46,200
AIM-54A/C PHOENIX MOD	6,600	6,600	6,600	6,600
AGM-84A HARPOON MOD	8,100	8,100	8,100	8,100
RIM-66B STANDARD MR MOD	2,600	2,600	2,600	2,600
RIM-67A STANDARD ER MOD	3,000	3,000	3,000	3,000
SUPPORT EQUIPMENT AND FACILITIES				
SPARES AND REPAIR PARTS	103,540	103,540	90,840	90,840
WEAPONS INDUSTRIAL FACILITIES	11,800	11,800	11,800	11,800
ENERGY CONSERVATION	2,700	2,700	2,700	2,700
FLEET SATELLITE COMMUNICATIONS	231,300	231,300	231,300	231,300
TOTAL, OTHER MISSILES	2,352,400	2,173,260	2,031,400	2,140,500
TORPEDOES AND RELATED EQUIPMENT				
TORPEDO MK-48	124,300	119,300	124,300	119,300
TORPEDO MK-46(MYP)	105,700	89,200	105,700	89,200
TORPEDO MK-46(MYP) (AP-CY)	35,500	35,500	35,500	35,500
MK-60 CAPTOR	151,400	133,200	151,400	133,200
MOBILE TARGET MK-30	19,400	19,400	19,400	19,400
MK-30 MINI MOBILE TARGET (A)	2,300	2,300	2,300	2,300
ASROC	10,100	10,100	10,100	10,100
MOD OF TORPEDOES AND RELATED EQUIP				
MOBILE MINE MK-67	22,900	22,900	22,900	22,900
TORPEDO MK-46 MODS	28,400	15,600	28,400	15,600
TORPEDO MK-48 MODS	35,600	35,600	35,600	35,600
CAPTOR MODS	2,400	2,400	2,400	2,400
SUPPORT EQUIPMENT				
TORPEDO SUPPORT EQUIPMENT	36,000	36,000	36,000	36,000
ASW RANGE SUPPORT	17,800	17,800	17,800	17,800
SPARES AND REPAIR PARTS	13,100	13,100	13,100	13,100
TOTAL, TORPEDOES AND RELATED EQUIPMENT	604,900	552,400	604,900	552,400
OTHER WEAPONS				
GUNS AND GUN MOUNTS				
MK-15 CLOSE IN WEAPONS SYSTEM	118,740	118,740	118,740	118,740
MK-75 76MM GUN MOUNT	10,700	10,700	10,700	10,700
MK-19	400	400	400	400
20MM GUN MOUNT	400	400	400	400
9MM HANDGUN	400	---	---	---
MODIFICATION OF GUNS AND GUN MOUNTS				
CIWS MODS	4,400	4,400	4,400	4,400
5"/54 GUN MOUNT MODS	9,000	9,000	9,000	9,000
3"/50 GUN MOUNT MODS	3,500	3,500	3,500	3,500
MK 75 76MM GUN MOUNT MODS	2,300	2,300	2,300	2,300
MODS UNDER $900,000	500	500	500	500
SUPPORT EQUIPMENT				
GUN SUPPORT EQUIPMENT	400	400	400	400
SPARES AND REPAIR PARTS	17,060	17,060	17,060	17,060
TOTAL, OTHER WEAPONS	167,800	167,400	167,400	167,400
PERSONNEL SECURITY CLEARANCES	---	-1,200	---	-1,200
INDUSTRIAL PLANT EQUIPMENT	---	-3,100	---	---
CONSULTANTS, STUDIES, AND ANALYSES	---	---	-1,100	-1,100
TOTAL, WEAPONS PROCUREMENT, NAVY	3,901,600	3,644,060	3,506,300	3,561,700

The following items represent language as agreed to by the conferees:

BGM-109 TOMAHAWK

The conferees agree to provide $229,800,000 for BGM-109 Tomahawk, instead of $237,300,000 as proposed by the House, or $173,000,000 as proposed by the Senate. The amount provided will be sufficient to procure approximately 100 missiles. The conferees direct that the total of 52 missiles to be procured from a second source with fiscal year 1983 funds, consisting of some Tomahawks and some Ground Launched Cruise Missiles, be fully funded as proposed in the budget.

The conferees agree to provide $6,663,000 for BGM-109 Tomahawk Advanced Procurement as proposed by the Senate, instead of $19,223,000 as proposed by the House.

AGM-88A HARM

The conferees agree to provide $127,100,000 for AGM-88A HARM as proposed by the House, instead of $95,800,000 as proposed by the Senate. The conferees agree that $40,000,000 of the amount provided shall be specifically for establishment of a second source. The Navy is directed to procure the maximum possible number of missiles with the remaining funds.

MARK-48 TORPEDO

The conferees direct that the Department not exceed the procurement of 144 Mark-48 torpedoes. This acquisition is to be accomplished within the funds requested and prior year contract savings.

SHIPBUILDING AND CONVERSION, NAVY

The Conferees agree to the following amounts for Shipbuilding and Conversion, Navy:

(In thousands of dollars)

	Budget	House	Senate	Conference
SHIPBUILDING AND CONVERSION, NAVY				
FLEET BALLISTIC MISSILE SHIPS				
TRIDENT (NUCLEAR)	2,241,100	1,428,600	1,462,600	1,462,600
TRIDENT (NUCLEAR) (AP-CY)	243,900	81,300	81,300	81,300
TOTAL, FLEET BALLISTIC MISSILE SHIPS	2,485,000	1,509,900	1,543,900	1,543,900
OTHER WARSHIPS				
CVN AIRCRAFT CARRIER (NUCLEAR)	6,795,300	6,559,500	6,795,300	6,559,500
SSN-688 CLASS SUBMARINE (NUCLEAR)	1,027,400	1,004,200	1,027,400	1,004,200
SSN-688 CLASS SUBMARINE (NUCLEAR) (AP-CY)	416,000	416,000	416,000	416,000
BATTLESHIP REACT	323,400	300,800	323,400	300,800
BATTLESHIP REACT (AP-CY)	94,000	94,000	---	---
CV SLEP	536,500	517,300	536,500	536,500
CV SLEP (AP-CY)	163,000	163,000	163,000	163,000
CG-47 AEGIS CRUISER	3,112,200	2,901,700	3,062,600	2,901,700
CG-47 AEGIS CRUISER (AP-CY)	22,200	---	22,200	---
TOTAL, OTHER WARSHIPS	12,490,000	11,956,500	12,346,400	11,881,700
AMPHIBIOUS SHIPS				
LSD-41 LANDING SHIP DOCK	379,200	377,800	379,200	377,800
LSD-41 LANDING SHIP DOCK (AP-CY)	37,800	37,800	37,800	37,800
LHD-1 (AP-CY)	55,000	55,000	55,000	55,000
TOTAL, AMPHIBIOUS SHIPS	472,000	470,600	472,000	470,600
MINE WARFARE & PATROL SHIPS				
BA-4 MINE WARFARE & PATROL SHIPS				
FFG GUIDED MISSILE FRIGATE	666,400	666,400	631,400	646,300
(TRANSFER FROM FY82)	---	(35,000)	(35,000)	(35,000)
MCM MINE COUNTERMEASURES SHIP	371,600	---	371,600	100,000
TOTAL, MINE WARFARE & PATROL SHIPS	1,038,000	666,400	1,003,000	746,300
BA-5 AUXILIARIES, CRAFT & PY PROG COSTS				
AUXILIARIES & CRAFT				
TAO (NYP)	210,200	179,600	---	173,000
TAO (NYP) (AP-CY)	109,800	---	---	---
AGOS SWATH SHIP (AP-CY)	24,300	---	---	---
ARS	74,000	---	74,000	50,000
ARS	10,000	---	10,000	---
FAST LOGISITICS SHIP (TAKRX) (CONV)	322,600	---	---	---
FAST LOGISITICS SHIP (TAKRX) (CONV) (AP-CY)	---	44,000	44,000	44,000
TAKX	300,000	300,000	300,000	300,000
SERVICE CRAFT	79,000	78,100	79,000	79,000
LANDING CRAFT	83,100	65,300	72,500	65,300
OUTFITTING	136,400	136,400	136,400	136,400
POST DELIVERY	168,300	158,300	168,300	168,300
SHIP CONTRACT DESIGN	97,200	---	97,200	---
COST GROWTH - ESCALATION ON PRIOR YEAR PROGRAMS	523,400	439,900	536,900	458,900
MANUFACTURING TECHNOLOGY	25,000	---	---	---
TOTAL, BA-5 AUXILIARIES, CRAFT & PY PROG COSTS	2,163,300	1,401,600	1,518,300	1,474,900
ACQUISITION, CONSTRUCTION AND IMPROVEMENTS				
INDUSTRIAL PLANT EQUIPMENT	---	-5,100	---	---
PERSONNEL SECURITY CLEARANCES	---	-5,900	---	-5,900
CONSULTANTS, STUDIES, AND ANALYSES	---	-21,000	-34,800	-34,800
TOTAL, SHIPBUILDING AND CONVERSION, NAVY	18,648,300	15,973,000	16,848,800	16,076,700
REAPPROPRIATION (FY77 PROGRAM COMPLETION)	---	---	176,200	176,200
TRANSFER FROM OTHER ACCOUNTS	---	(35,000)	(35,000)	(35,000)
[illegible] AVAILABLE	18,648,300	16,008,000	17,060,000	16,287,900

The following items represent language as agreed to by the conferees:

RESTORATION OF MANAGEMENT RESERVES FOR THE TRIDENT AND CV-SLEP PROGRAMS.

The conferees agree to provide full funding of $1,462,600,000 for the Trident submarines. This estimate has been certified by the Navy as budget quality for the cost of the submarine configured for D-5 missiles. Reductions recommended by the House pertaining to management reserves and future characteristic changes have been rejected by the conferees to assure full funding. Consequently, any future budget requests for cost growth on the fiscal year 1983 Trident program will not be approved. Similarly, the conferees agree to an allowance of $536,500,000 for the CV Forrestal Service Life Extension Program with the understanding that any future cost growth requests would be denied. Restored management reserves should be adequate to foreclose any shortfalls in the modification package.

T-AO FLEET OILER PROGRAM

The conferees fully support the T-Ao diesel engine technology transfer program, which would ultimately provide a low speed diesel engine manufacturing capability in the United States. The conferees direct that the Department fund the low speed diesel engine technology transfer program within fiscal year 1982 T-AO program savings.

MCM MINE COUNTERMEASURE SHIPS

The conferees believe the Department requirements for mine warfare forces, which call for over 30 mine countermeasures ships and low mix mine hunters, MSH ships, necessitates establishing a second source shipyard. Accordingly, the conferees direct that the funds provided for the MCM mine countermeasure ship be used to establish a second source shipyard and construct an MC-1 avenger class mine countermeasure ship.

ARS SALVAGE SHIP PROGRAM

The conferees agree to provide $50,000,000 for the ARS Salvage Ship Program instead of $74,000,000 as proposed by the Senate and no funding as proposed by the House. The conferees direct that prior year ARS Salvage Ship program savings are to be used to offset any additional funding requirements. Also, the conferees agree that this fourth ARS ship is to be the last ARS-50 class Salvage Ship funded. Therefore, the conferees direct that the Department not include future procurement requests for the ARS Salvage Ship program.

OTHER PROCUREMENT, NAVY

The conferees agree to the following amounts for items in conference in Other Procurement, Navy:

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT NAVY				
STEAM PROPULSION IMPROVEMENT PROG	15,524	15,524	13,524	13,524
HIGH PRESSURE AIR COMPRESSOR	3,607	3,607	1,607	1,607
ELEC GYRO NAV SYS	16,974	4,200	16,974	4,200
SEALIFT SUPPORT EQUIPMENT	22,007	15,207	15,007	15,007
SMALL BOATS	14,987	14,987	13,587	13,587
AN/SLQ-17	21,857	21,857	22,657	21,857
NCCS ASHORE	6,573	4,573	6,573	4,573
AN/SSQ-77 (VLAD)	53,308	42,552	53,308	42,552
GENERAL PURPOSE BOMBS	18,402	2,600	18,402	2,600
MARINE LOCATION MARKERS	6,438	5,100	6,438	5,100
JATOS	14,873	12,873	14,873	12,873
5 /54 AMMO COMPONENTS	28,046	20,846	28,046	20,846
GUN FIRE CONTROL EQUIPMENT	11,698	11,698	9,798	9,798
AEGIS CSEDS	43,957	---	43,957	---
SURFACE TOMAHAWK SUPPORT EQUIPMENT	144,847	104,564	144,847	104,564
SUBMARINE TOMAHAWK SUPPORT EQUIPMENT	31,398	14,699	31,398	14,699
SMALL ARMS AMMO	15,486	12,312	12,286	12,286
PRODUCTIVITY INVESTMENT FUND (PIF)	4,655	4,655	1,555	1,555
NAVY PRODUCTIVITY PROGRAM (COORI)	6,726	6,726	3,426	3,426
SPECIAL ACTIVITIES	16,074	12,534	8,974	12,534
TRAINING SUPPORT EQUIP	14,079	14,079	7,579	7,579
INTELLIGENCE SUPPORT EQUIPMENT	23,964	21,808	21,964	21,808
MANUFACTURING TECHNOLOGY	33,830	41,830	33,830	33,830
UNDISTRIBUTED REDUCTION	---	---	-12,400	-12,400
UNDISTRIBUTED REDUCTION	---	---	-7,400	-7,400
INDUSTRIAL PLANT EQUIPMENT	---	50,000	---	---
ITEMS NOT IN CONFERENCE	3,400,046	3,366,470	3,366,470	3,366,470
TOTAL, OTHER PROCUREMENT NAVY	3,969,356	3,825,301	3,877,280	3,727,075

PROCUREMENT, MARINE CORPS

The conferees agree to the following amounts for items in conference in Procurement, Marine Corps:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
M2 CUTTER CTG ACT REEF LINE 2-SEC DEL	1,288	1,288	788	788
LINEAR CHARGE, PRACTICE	16,443	16,443	10,443	10,443
CARTRIDGE, 9MM, BALL	649	649	---	---
PROJECTILE, 155MM, SMOKE WC-BE	15,363	14,063	10,066	10,066
PROJECTILE, 155MM, ICM(DP)	131,714	131,714	73,731	73,731
CHARGE PROPELLING, 155MM, WHITE BAG	50,948	50,948	27,089	27,089
PROJ 155MM HE 107	46,193	46,193	44,388	44,388
CHARGE,PROPELLING,8 INCH, WHITE BAG	11,341	11,341	8,341	8,341
PROJECTILE, 155MM, ADAM	57,176	28,876	24,427	24,427
PROJECTILE, 155MM, RAAM	38,131	28,931	28,191	28,191
PROJECTILE, 155MM, CLGP COPPERHEAD	20,884	20,884	---	---
FUZE MECHANICAL TIME	19,633	19,633	1,950	19,633
GENERAL REDUCTION, 155MM	---	-160,200	---	---
ITEMS LESS THAN $900,000	4,068	4,068	3,868	3,868
LVT7A1	151,513	124,753	151,513	124,753
LVT7A1 (AP-CY)	---	25,800	---	25,800
LVT7 SERVICE LIFE EXT PROG (SLEP)	157,240	131,400	141,840	116,000
LVT7 SERVICE SOURCE EST. PROG. (AP-CY)	---	25,800	---	25,800
MACHINE GUN,50 CAL M2	2,983	2,512	2,983	2,512
STINGER MISSILE SYSTEM	115,593	99,500	115,593	99,500
RADIO SET AN/PRC-( )/UHF	17,818	17,818	14,718	14,718
RADIO SET AN/PRC-75A (TEL)	83	83	---	---
RADIO SET AN/PRC-77	4,391	4,391	3,091	3,091
ANTENNA PROCESSOR CP-1380/VRC	3,897	3,897	3,497	3,497
AUTO. ATMOSPHERIC SNDG. SET	4,545	---	4,545	---
TOW NIGHT SIGHT TAS-4	24,434	24,434	10,234	10,234
MOD UNIV LASER EQUIP-MULE (MYP)	35,214	37,314	35,214	37,314
MOD UNIV LASER EQUIP-MULE (MYP) (AP-CY)	12,600	---	12,600	---
TRUCK CARGO 5 TON	63,817	62,117	63,817	62,117
5 TON RETROFIT	6,787	5,787	3,787	3,787
REFRIGERATION UNIT	2,158	1,058	2,158	1,058
REFRIGERATION BOX	1,346	246	1,346	246
COMMAND SPT EQUIP	25,220	10,000	11,520	10,000
SHELTER FAMILY	19,426	---	19,426	---
ITEMS NOT IN CONFERENCE	1,237,804	1,216,691	1,216,691	1,216,691
TOTAL, PROCUREMENT, MARINE CORPS	2,300,700	2,008,432	2,047,855	2,008,083

The following items represent language as agreed to by the conferees:

MODULAR UNIVERSAL LASER EQUIPMENT (MULE)

The conference agreement includes $37,314,000 for procurement of 120 Modular Universal Laser Equipment (MULE) as proposed by the House. The multiyear procurement proposed in the budget is denied since the program does not meet the criteria established for multiyear procurement. However, the Conferees agree that the MULE may qualify for a traditional multiyear procurement contract under which the base year contract provides for several prepriced options to be fully funded in the outyears. The Committees on Appropriations of the House of Representatives and the Senate would consider such a proposal if the Marine Corps demonstrates that it is an economical and supportable alternative to fully funded annual contracts.

AIRCRAFT PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Aircraft Procurement, Air Force:

(In thousands of dollars)

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
COMBAT AIRCRAFT				
STRATEGIC OFFENSIVE				
B-1B	3,393,100	3,393,100	3,393,100	3,393,100
B-1B (AP-CY)	475,000	475,000	475,000	475,000
TACTICAL FORCES				
A-10A/B	357,300	357,300	357,300	357,300
F-5E/F	28,500	28,500	28,500	28,500
F-15A/B/C/D/E	1,296,800	1,240,400	1,240,400	1,240,400
F-15A/B/C/D/E (AP-CY)	305,400	162,000	162,000	162,000
F-16A/B	1,735,400	1,711,600	1,711,600	1,711,600
F-16A/B (AP-CY)	223,300	223,300	223,300	223,300
OTHER COMBAT AIRCRAFT				
KC-10A (ATCA)	474,000	354,000	354,000	354,000
TRANSFER	---	(120,000)	(120,000)	(120,000)
KC-10A (ATCA) (AP-CY)	441,000	441,000	441,000	441,000
MC-130H	---	38,300	38,300	38,300
E-3A	114,900	114,900	140,600	114,900
E-3A (AP-CY)	25,700	25,700	25,700	25,700
TOTAL, COMBAT AIRCRAFT	8,870,400	8,565,100	8,590,800	8,565,100
AIRLIFT AIRCRAFT				
STRATEGIC AIRLIFT				
C-5N	700,000	697,500	650,000	700,000
C-5N (AP-CY)	100,000	102,500	100,000	100,000
TRANSFER	---	(50,000)	---	---
TACTICAL AIRLIFT				
C-130H	---	72,500	145,000	72,500
C-130 SKI EQUIPPED	---	106,500	---	106,500
WIDE BODIED CARGO AIRLIFT	---	60,000	94,800	94,800
TRANSFER	---	(84,800)	(50,000)	(50,000)
EUROPEAN DISTRIBUTION AIRCRAFT	5,000	5,000	---	5,000
TOTAL, AIRLIFT AIRCRAFT	805,000	1,044,000	989,800	1,078,800

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER AIRCRAFT				
TR-1A	145,800	145,800	145,800	145,800
TR-1A (AP-CY)	10,700	10,700	10,700	10,700
TOTAL, OTHER AIRCRAFT	156,500	156,500	156,500	156,500
MODIFICATION OF IN-SERVICE AIRCRAFT				
STRATEGIC AIRCRAFT				
B-52	554,600	521,600	530,500	532,200
TACTICAL AIRCRAFT				
A-7	41,500	41,500	90,500	90,500
A-10	92,300	92,300	92,300	92,300
F/RF-4	127,300	120,000	120,200	120,000
F-5	3,400	3,400	3,400	3,400
F-15	36,200	36,200	36,200	36,200
F-16	40,100	40,100	40,100	40,100
F-111	96,000	96,000	96,000	96,000
EF-111	203,600	203,600	203,600	203,600
TR-1A	2,300	2,300	2,300	2,300
T/AT-37	7,800	7,800	7,800	7,800
AIRLIFT AIRCRAFT				
C-5	231,100	231,100	231,100	231,100
C-141	33,900	33,900	33,900	33,900
TRAINER AIRCRAFT				
T-38	8,000	8,000	8,000	8,000
T-39 AIRCRAFT SYSTEM	8,100	8,100	8,100	8,100
OTHER AIRCRAFT				
C-130	154,800	154,800	154,800	154,800
C-135	613,700	558,700	558,600	558,700
CFM56	---	(-115,000)	(-115,000)	(-115,000)
B707	---	(60,000)	(59,900)	(60,000)
E-3	150,500	150,500	150,500	150,500
E-4	7,500	7,500	7,500	7,500
OV-10 AIRCRAFT SYSTEM	3,500	---	---	---
OTHER AIRCRAFT	81,500	81,500	81,500	81,500
OTHER MODIFICATIONS				
CLASSIFIED PROJECTS	102,300	102,300	102,300	102,300
CIVIL RESERVE AIRLIFT FLEET (CRAF)				
UNDISTRIBUTED REDUCTION	---	-4,500	-4,500	-4,500
TOTAL, MODIFICATION OF IN-SERVICE AIRCRAFT	2,600,000	2,496,700	2,554,700	2,556,300

(In thousands of dollars)

	Budget	House	Senate	Conference
SPARES AND REPAIR PARTS	3,645,600	3,581,900	3,518,000	3,544,100
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
COMMON GROUND EQUIPMENT	330,600	310,600	313,000	310,600
INDUSTRIAL RESPONSIVENESS (AP-CY)	147,400	147,400	147,400	147,400
WAR CONSUMABLES	137,800	112,300	125,300	125,300
OTHER PRODUCTION CHARGES (AP-CY)	955,400	993,900	993,900	993,900
NATO AEW/C	186,100	186,100	186,100	186,100
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	1,757,300	1,750,300	1,765,700	1,763,300
INDUSTRIAL PLANT EQUIPMENT	---	-300	---	---
PERSONNEL SECURITY CLEARANCE PROCESS	---	-5,600	---	-5,600
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	17,834,800	17,588,600	17,575,500	17,658,500
TRANSFER FROM OTHER ACCOUNTS	---	(254,800)	(170,000)	(170,000)
TOTAL FUNDING AVAILABLE	17,834,800	17,843,400	17,745,500	17,828,500

The following items represent language as agreed to by the conferees:

B-1 BOMBER

The conferees agree that the Secretary of Defense should promptly advise the Congress of any alterations in procurement goals, structures, or schedule which are anticipated and could result in an increase in the total cost of the B-1B program.

WIDE BODIED CARGO AIRLIFT

The conferees direct the Air Force to prepare a plan which provides an expanded heavier airlift mission for the Air National Guard.

C-5B AIRCRAFT

The Conferees expect the Air Force to expeditiously execute a firm fixed-price contract for 50 C-5B aircraft, subject to the annual availability of funds. This does not constitute approval to enter into a multiyear contract without the specific authority required by section 765 of the Department of Defense Appropriations Act, 1983, as contained in H.J. Res. 631.

EUROPEAN DISTRIBUTION SYSTEM AIRCRAFT

The conferees have provided $5,000,000 for the first two aircraft. However, none of these funds, nor any Operations and Maintenance, Air Force funds for multi-year leases of CT-39 replacement aircraft, may be obligated until thirty days after the Air Force provides a thorough analysis and plan for the replacement of all operational support aircraft to include the CT-39 fleet. The plan should address all wartime operational support aircraft requirements (to include basing schemes) within the current authorization of 120 CT-39's. The number of types of jet or propeller aircraft to be in the operational aircraft fleet need not be restricted to two, but minimized to ease training and logistics requirements. The plan should clearly consider all liability that might occur to the government from damage during wartime operation of leased aircraft in the combat zone. The Air Force should consider the use of a "civilian reserve" air fleet in its study to back fill for domestically based aircraft deployed to the combat zone. Further, the report should fully examine the benefit to the government of alternate financing methods (single year or multi-year procurement, lease with purchase option) to procuring the proposed fleet in a competitive environment. Use of commercially available and supportable aircraft must be considered. Finally, the introduction of replacement aircraft must be phased with the scheduled retirement of CT-39 aircraft.

B-52 MODIFICATION

The conferees recommend a total of $532,200,000 for B-52 modifications, instead of $521,600,000 as proposed by the House and $530,500,000 as proposed by the Senate. The reduction of $22,400,000 from the budget request is to be applied to the common strategic rotary launcher program.

KC-135 RE-ENGINING

The conferees recommend a total $558,700,000, for KC-135 re-engining, as proposed by the House, of which $60,000,000 shall be available only for the purchase of as many used B-707 aircraft as feasible. The JT3D engines removed from these used aircraft shall be refurbished and installed on Air Guard KC-135's currently in the inventory. The continuation of the JT3D re-engining program accelerates the timetable for re-engining KC-135's, and thus diminishes the need for the Pacer Grade modification program.

SPARES AND REPAIR PARTS

The conferees recommend a total of $3,544,100,000 for spares and repair parts instead of $3,581,900,000 as proposed by the House and $3,518,000,000 as proposed by the Senate. This net reduction of $101,500,000 consists of the following: Undistributed reduction: −$61,000,000—F-15 initial spares: −$5,700,000—C-5B initial spares: −$12,500,000—C-130H initial spares: +$7,000,000—MC-130H initial spares: +$5,000,000—JT3D spares: +$11,300,000—Pacer Grade: −$39,200,000—F-100 Engine: −$6,400,000.

MISSILE PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Missile Procurement, Air Force:

(In thousands of dollars)

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, AIR FORCE				
BALLISTIC MISSILES				
MINUTEMAN UPGRADE AND EXPANSION	---	---	15,000	---
ADVANCED ICBM (M-X)	1,446,400	---	988,000	---
TOTAL, BALLISTIC MISSILES	1,446,400	---	1,003,000	---
OTHER MISSILES				
STRATEGIC				
AIR LAUNCH CRUISE MISSILE	621,500	509,500	496,500	509,500
AIR LAUNCH CRUISE MISSILE (AP-CY)	43,000	38,700	43,000	38,700
GRD LAUNCH CRUISE MISSILE	490,300	416,800	432,300	431,500
GRD LAUNCH CRUISE MISSILE (AP-CY)	29,600	18,500	24,600	21,500
TACTICAL				
AIM-7F/M SPARROW	198,600	198,600	198,600	198,600
AIM-9L/M SIDEWINDER	114,700	114,700	114,700	114,700
AGM-65D MAVERICK	342,600	---	244,900	244,900
AGM-88A HARM	159,800	112,500	90,800	112,500
RAPIER	98,900	148,900	148,900	148,900
TARGET DRONES				
TARGET DRONES	40,200	40,200	40,200	40,200
TOTAL, OTHER MISSILES	2,139,200	1,598,400	1,834,500	1,861,000
MODIFICATION OF IN-SERVICE MISSILES				
CLASS IV				
CLASS IV	62,419	45,219	47,419	45,219
CLASS V				
LGM-30F/G MINUTEMAN II/III	35,500	35,500	35,500	35,500
AIR LAUNCH CRUISE MISSILE	50,800	---	---	---

(In thousands of dollars)

	Budget	House	Senate	Conference
UPDATE				
AIM-7F/M SPARROW	7,691	7,691	7,691	7,691
GRD LAUNCH CRUISE MISSILE UPDATE	3,590	3,590	3,590	3,590
TOTAL, MODIFICATION OF IN-SERVICE MISSILES	160,000	92,000	94,200	92,000
SPARES AND REPAIR PARTS	274,000	212,800	206,400	209,600
OTHER SUPPORT				
SPACE PROGRAMS				
SPACEBORNE EQUIP (COMSEC)	13,077	13,077	13,077	13,077
GLOBAL POSITIONING (MYP)	102,000	102,000	102,000	102,000
SPACE LAUNCH SUPPORT	87,600	87,600	87,600	87,600
SPACE LAUNCH SUPPORT (AP-CY)	68,200	68,200	68,200	68,200
SATELLITE DATA SYSTEM	22,518	22,518	22,518	22,518
DEF METEOROLOGICAL SAT PROG	137,200	137,200	137,200	137,200
DEF METEOROLOGICAL SAT PROG (AP-CY)	30,700	30,700	30,700	30,700
DEFENSE SUPPORT PROGRAM	407,500	407,500	407,500	407,500
DEFENSE SATELLITE COMM SYSTEM	192,900	182,900	182,900	182,900
AF SATELLITE COMM SYSTEM	28,600	28,600	28,600	28,600
SPACE BOOSTERS	3,500	3,500	3,500	3,500
SPACE BOOSTERS (AP-CY)	67,600	67,600	67,600	67,600
SPACE SHUTTLE	135,954	135,954	135,954	135,954
INDUSTRIAL FACILITIES				
INDUSTRIAL FACILITIES	27,200	27,200	27,200	27,200
SPECIAL PROGRAMS				
OTHER PROGRAMS	15,600	15,600	15,600	15,600
FOREST GREEN	3,508	3,508	3,508	3,508
IONDS	22,455	22,455	22,455	22,455
SPECIAL PROGRAMS	1,151,800	1,140,700	1,111,700	1,140,700
SPECIAL UPDATE PROGRAMS	258,388	283,888	298,888	283,888
TRANSFER	---	(15,000)	---	(15,000)
TOTAL, OTHER SUPPORT	2,776,300	2,780,700	2,766,700	2,780,700
PERSONNEL SECURITY CLEARANCE PROCESSING	---	-2,200	---	-2,200
TOTAL, MISSILE PROCUREMENT, AIR FORCE	6,795,900	4,681,700	5,904,800	4,941,100
TRANSFER FROM OTHER ACCOUNTS	---	(15,000)	---	(15,000)
TOTAL FUNDING AVAILABLE	6,795,900	4,696,700	5,904,800	4,956,100

The following items represent language as agreed to by the conferees:

MX MISSILE

The conferees agree to provide no procurement funds as proposed by the House instead of $988,000,000 as proposed by the Senate.

GROUND LAUNCHED CRUISE MISSILE

The conferees agree to provide $431,500,000 for Ground Launched Cruise Missile (GLCM), instead of $432,300,000 as proposed by the Senate, or $416,800,000 as proposed by the House. The amount provided will be sufficient to procure approximately 84 missiles. The conferees direct that the total of 52 missiles to be procured from a second source with fiscal year 1983 funds, consisting of some Tomahawks and some GLCMs, be fully funded as proposed in the budget. The conferees further direct that procurement of Transporter Erector Launchers and of Launch Control Centers be fully funded as proposed in the budget.

The conferees agree to provide $21,500,000 for GLCM Advanced Procurement, instead of $18,500,000 as proposed by the House, or $24,600,000 as proposed by the Senate.

AGM-88A HARM

The conferees agree to provide $112,500,000 for AGM-88A HARM as proposed by the House, instead of $90,800,000 as proposed by the Senate. The conferees agree that $40,000,000 of the amount provided shall be specifically for establishment of a second source. The Air Force is directed to procure the maximum possible number of missiles with the remaining funds.

RAPIER

The conferees endorse the language concerning Rapier and off-the-shelf alternatives such as Rapier and European Roland appearing on pages 166 and 167 of House Report 97-943.

DEFENSE METEOROLOGICAL SATELLITE PROGRAM

The conferees agree to appropriate $167,900,000 as proposed by the House and the Senate. The conferees agree with the House position as regards the proposed multiyear procurement of DMSP satellites. Accordingly, the funds provided are for the full funding of two satellites. The $30,700,000 budgeted for Advanced procurement of two additional satellites under the multiyear proposal are, therefore, not required, and the conferees agree to earmark these funds for the full funding of future DMSP satellites. However, the Appropriations Committees of the House and Senate will extend full consideration to a fully justified supplemental or future budget request to approve multi-year procurement if such a proposal clearly documents reliable cost savings estimates.

OTHER PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for items in conference in Other Procurement, Air Force:

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT, AIR FORCE				
30 MM APT	65,612	61,802	64,612	61,802
CBU-87 (CEM)	---	---	25,000	25,000
TRUCK CARGO 5T M-923,M-925	15,824	14,210	15,824	14,210
25K A/C LOADER	9,636	8,310	9,636	8,310
GLCM COMMUNICATIONS	10,772	---	10,772	10,772
AIR BASE DEFENSE SYSTEM	26,699	25,303	26,699	25,303
RANGE IMPROVEMENTS	74,149	54,149	68,400	54,149
RADAR BOMB SCORER	20,675	20,675	5,000	20,675
COMBAT SUPPLY SYSTEM	7,581	---	7,581	---
CONSOLIDATED SPACE OPS CENTER	20,736	20,736	6,736	20,736
COMM-ELECTRONICS CLASS IV	49,510	49,510	44,000	49,510
GENERAL REDUCTION	---	---	-12,109	---
BASE MECHANIZATION EQUIPMENT	14,645	14,645	12,000	12,000
PALLET, AIR CARGO, 108" X 108"	14,766	14,766	12,000	12,000
PRODUCTIVITY ENHANCEMENT	13,829	13,829	11,000	11,000
PHOTO PROCESSING/INTERPRETATION SYS	11,125	6,525	9,925	9,925
SELECTED ACTIVITIES	2,526,523	2,423,187	2,426,700	2,423,687
GENERAL REDUCTION	---	-20,072	---	-7,963
INDUSTRIAL PLANT EQUIPMENT	---	-100	---	---
ITEMS NOT IN CONFERENCE	2,954,118	2,812,661	2,812,661	2,812,661
TOTAL, OTHER PROCUREMENT, AIR FORCE	5,836,200	5,520,136	5,556,437	5,563,777
TRANSFER FROM OTHER ACCOUNTS	---	(17,072)	---	(4,963)
TOTAL FUNDING AVAILABLE	5,836,200	5,537,208	5,556,437	5,568,740

The following items represent language as agreed to by the conferees:

COMBINED EFFECTS MUNITION

The conference agreement includes $25,000,000 for procurement of the CBU-87 Combined Effects Munition. Since this item was not budgeted, and since this is the first procurement, the conferees direct that the Air Force provide complete justification material, including testing results, to the Committees on Appropriations of the House of Representatives and the Senate at least 30 days before contract award.

RANGE IMPROVEMENTS

The Conference agreement includes $54,149,000 for range improvements. The conferees agree that these funds shall include the procurement of the Modular Threat Emitter.

PROCUREMENT, DEFENSE AGENCIES

The conferees agree to the following amounts for items in conference in Procurement, Defense Agencies:

(In thousands of dollars)

	Budget	House	Senate	Conference
PROCUREMENT, DEFENSE AGENCIES				
ITEMS LESS THAN $900,000 EACH	30,277	30,277	20,277	28,577
QUICK RETURN INVESTMENTS PROGRAM	2,420	2,420	1,420	1,420
OTHER CAPITAL EQUIPMENT	19,627	19,627	15,627	19,627
VEHICLES	6,313	6,313	4,313	4,313
CLASIFIED PROGRAMS	753,289	706,850	721,889	706,850
ITEMS NOT IN CONFERENCE	67,358	67,358	67,358	67,358
TOTAL, PROCURMENT, DEFENSE AGENCIES	879,284	832,845	830,884	828,145

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to the following amounts for Reserve and National Guard:

(In thousands of dollars)

	Budget	House	Senate	Conference
NATIONAL GUARD AND RESERVE COMPONENTS				
ARMY RESERVE	---	---	70,000	15,000
ARMY NATIONAL GUARD	---	---	40,000	50,000
NAVAL RESERVE	---	---	30,000	15,000
MARINE CORPS RESERVE	---	---	15,000	15,000
AIR FORCE RESERVE	---	---	20,000	15,000
AIR NATIONAL GUARD	---	---	25,000	15,000
TOTAL NATIONAL GUARD AND RESERVE COMPONENTS	---	---	200,000	125,000

TITLE V—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conferees agree to the following amounts for the Research, Development, Test and Evaluation accounts:

(In thousands of dollars)

	Budget	House	Senate	Conference
RECAPITULATION				
TOTAL, RDTE, ARMY	4,533,778	3,822,842	3,820,690	3,879,683
TOTAL, RDTE, NAVY	6,246,705	5,864,412	6,013,153	5,965,751
TOTAL, RDTE, AIR FORCE	11,298,748	10,246,361	10,835,468	10,650,661
TOTAL, RDTE, DEFENSE AGENCIES	2,259,663	2,125,439	2,152,673	2,153,189
TOTAL, RDTE, DIRECTOR OF TEST AND EVALUATION	60,000	55,000	55,000	55,000
TOTAL, RDTE	24,398,894	22,114,054	22,876,984	22,704,284

The conferees agree to the following language:

DEFENSE RESEARCH SCIENCES

The conferees agree that no funding reductions are to be applied against the university research instrumentation initiative, or against the naval research graduate fellowship program, or against the $1,739,000 transfer to Navy Defense Research Sciences made by the House for medical research and development activities.

INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS

The conferees share the concern expressed by the House over visibility and accountability of Independent Research and Development (IR&D) and Bid and Proposal (B&P) costs. The House directed, as a result of those concerns, that IR&D and B&P be carried as line items in the budget starting with the fiscal year 1984 budget. The Department has stated that, because of the time element, implementation of this directive will work hardship. The conferees therefore modify the House directive as follows: (1) The Department is directed to submit not later than April 1, 1983, an annex to the fiscal year 1984 budget which proposes the total ceilings for fiscal year 1984 for negotiated IR&D costs and for negotiated B&P costs, by Service. The Committees on Appropriations will review and approve or modify the proposed ceilings. The Department will subsequently ensure that the sum totals of negotiated IR&D and B&P costs remain within the Committee approved ceilings. (2) The Department is directed to begin carrying IR&D and B&P costs as line items in the fiscal year 1985 budget, provided that hearings do not show conclusively that line item budgeting will be counterproductive.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Army:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL, ARMY				
TECHNOLOGY BASE				
IN-HOUSE LAB INDEPENDENT RESEARCH	21,902	21,902	21,902	21,902
DEFENSE RESEARCH SCIENCES	199,921	180,000	184,000	182,000
MATERIALS	9,615	9,615	9,615	9,615
ATMOSPHERIC INVESTIGATIONS	5,045	5,045	5,045	5,045
FUZE/NUCLEAR WPNS EFFECTS/FLUIDICS	6,532	6,532	6,532	6,532
AIRCRAFT WEAPONS TECHNOLOGY	2,492	2,492	2,492	2,492
AIRCRAFT AVIONICS TECHNOLOGY	8,389	7,389	7,389	7,389
AERONAUTICAL TECHNOLOGY	24,349	22,349	22,349	22,349
AIRDROP TECHNOLOGY	1,688	1,688	1,688	1,688
MISSILE TECHNOLOGY	37,651	32,651	32,651	32,651
HIGH ENERGY LASER TECHNOLOGY	31,327	31,327	45,000	42,000
TANK AND AUTOMOTIVE TECHNOLOGY	19,925	17,000	19,925	17,000
SMALL CAL AND FIRE CNTRL TECHNOLOGY	9,902	9,000	9,902	9,500
BALLISTICS TECHNOLOGY	21,637	21,637	21,637	21,637
CHEMICAL MUNITIONS/CHEMICAL CMBT SPT	14,829	14,829	12,829	12,829
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	3,706	3,706	3,706	3,706
COMMUNICATIONS TECH	9,719	8,719	8,719	8,719
CMBT SURV TARGET ACQ/ID	2,918	2,918	2,918	2,918
MIL ENVIRONMENTAL CRITERIA DEV	2,584	2,584	2,584	2,584
ELECTRICAL AND ELECTRONIC DEVICES	17,725	17,725	17,725	17,725
CHEM BIOLOGICAL DEF/GEN INVEST	29,589	27,589	29,589	28,589
MAPPING - GEODESY	6,830	6,500	6,830	6,500
NIGHT VISION INVESTIGATIONS	14,101	14,101	14,101	14,101
HUMAN FACTORS ENGR IN SYS DEV	9,173	9,173	9,173	9,173
HUMAN PERFORMANCE EFFECT/SIMULATION	3,581	3,581	3,581	3,581
MOBILITY AND WEAPONS EFFECTS TECH	8,410	7,000	7,500	7,500
ENVIRONMENTAL QUALITY TECH	8,706	8,706	8,706	8,706
MANPOWER/PERSONNEL/TRAINING	7,370	6,070	6,370	6,070
CLOTHING EQUIP AND SHELTER TECH	6,970	6,300	4,900	6,000
JT SVC FOOD SYS TECH	5,595	5,595	5,595	5,595
COMPUTER AND INFORMATION SCIENCE	1,966	1,966	1,966	1,966
NON-SYSTEM TRAINING DEVICES	2,900	2,900	2,900	2,900
COLD REGIONS ENGINEERING TECHNOLOGY	6,660	6,000	6,100	6,000
MILITARY FACILITIES ENGINEERING TECHNOLOGY	4,250	4,250	4,250	4,250
RPV SUPPORTING TECHNOLOGY	1,588	---	---	---
MOBILITY EQUIPMENT TECHNOLOGY	11,278	11,278	11,278	11,278
MED DEFENSE AGAINST CHEM AGENTS	26,865	26,865	26,865	26,865
TACTICAL ADP TECH	7,076	7,076	7,076	7,076
MILITARY DISEASE HAZARDS TECH	24,979	23,712	23,712	23,712
COMBAT CASUALTY CARE TECH	6,682	6,682	6,682	6,682
COMBAT MAXILLOFACIAL INJURY	2,619	2,022	2,022	2,022
SYSTEMS HEALTH HAZARD PREVENT TECH	18,066	16,000	16,500	16,500
ENERGY TECH APPL FOR MILITARY FACIL	1,891	1,891	1,891	1,891
CLASSIFIED PROGRAMS	30,700	28,700	30,700	28,700
TOTAL, TECHNOLOGY BASE	699,701	653,065	676,895	665,938

(In thousands of dollars)

	Budget	House	Senate	Conference
ADVANCE TECHNOLOGY DEVELOPMENT				
MATERIALS SCALE-UP	7,478	5,478	7,478	6,478
FUELS AND LUBRICANTS	1,871	1,871	1,871	1,871
AIRCRAFT POWER PLANTS AND PROPULSION	8,660	8,660	8,660	8,660
AIRCRAFT WEAPONS	5,581	424	200	200
AIRCRAFT AVIONICS EQUIPMENT	4,494	4,494	4,494	4,494
AIR MOBILITY SUPPORT	3,784	3,784	3,649	3,649
ROTARY WING CONTROLS/ROTORS/STRUCTURES	33,809	33,809	33,809	33,809
SYNTHETIC FLIGHT SIMULATORS DEVELOPMENT	3,522	3,522	3,522	3,522
AIRDROP EQUIP AND TECHNIQUES	1,688	1,688	1,688	1,688
LIGHT HELIC ADVAN TECH DEMONSTRATION	944	---	---	---
NOE AVIATION AND NAVIGATION EQUIPMENT	1,899	1,899	1,899	1,899
TERMINALLY GUIDED PROJECTILES	6,814	6,814	6,814	6,814
MSL/ROCKET COMPONENTS	9,181	9,181	9,181	9,181
HI-ENERGY LASER COMPONENTS	33,116	---	---	---
HIGH TECHNOLOGY TEST BED	10,711	7,300	7,300	7,300
ADVANCED LAND MOB SYSTEMS CONCEPTS	7,767	7,767	7,767	7,767
LANDMINE WARFARE/BARRIER DEV	9,324	9,324	9,324	9,324
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	3,466	2,716	3,466	2,716
COMBAT VEHICLE PROPULSION SYS	12,918	12,918	12,918	12,918
CMBT VEH TURRET AND CHASSIS SUBSYS	11,146	11,146	11,146	11,146
COMBAT VEHICLE ARMOR/ANTI-ARMOR	10,888	10,888	8,888	9,888
NIGHT VISION ADVANCED DEVELOPMENT	30,224	30,224	30,224	30,224
REMOTELY PILOTED VEHICLES/DRONES	4,166	4,166	4,166	4,166
MANPOWER AND PERSONNEL	9,747	8,747	6,360	7,500
COMBAT ENGINEERING SYSTEMS	2,730	1,730	1,730	1,730
HUMAN FACTORS IN TNG/OPER EFFECT	3,755	3,755	3,755	3,755
ADV ELECTRONIC DEVICES DEV	4,006	4,006	4,006	4,006
EDUCATION AND TRAINING	9,764	9,764	9,764	9,764
TRAINING SIMULATION	2,790	2,790	2,790	2,790
ADV DEV OF AUTOMATIC TEST EQ/SYS	11,335	7,000	5,330	7,000
TECHNICAL VULNERABILITY REDUCTION	10,198	10,198	10,198	10,198
DEMILITARIZATION CONCEPTS	12,766	12,766	12,766	12,766
ELECTRONIC WARFARE FEASIBILITY DEVELOPMENT	4,995	4,995	4,995	4,995
INDUSTRIAL BASE BIO WRFR VACCINES/DRUGS	4,951	---	4,951	4,951
NONTACTICAL ADP TECHNOLOGY	495	---	---	---
CLASSIFIED PROGRAMS	13,545	13,545	13,545	13,545
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	314,528	257,369	258,654	260,714
STRATEGIC PROGRAMS				
BMD ADVANCED TECHNOLOGY	143,243	143,243	143,243	143,243
BALLISTIC MSL DEF SYS TECH	727,311	377,311	377,311	377,311
MOBILE COMMAND CENTERS	4,961	4,961	4,961	4,961
CLASSIFIED PROGRAMS	43,486	43,486	43,486	43,486
TOTAL, STRATEGIC PROGRAMS	919,001	569,001	569,001	569,001

(In thousands of dollars)

	Budget	House	Senate	Conference
TACTICAL PROGRAMS				
JOINT SURVIVABILITY INVESTIGATIONS	1,103	1,103	1,103	1,103
SPECIAL ELECTRONIC MISSION AIRCRAFT-X	498	---	---	---
HIGH-TO-MEDIUM AIR DEFENSE DEV	27,172	19,572	---	10,000
SURF-TO-SURF MSL ROCKET SYS	16,407	6,400	6,400	6,400
ADVANCED ROCKET CONTROL SYSTEM	27,869	---	---	---
CORPS SUPPORT WEAPON SYSTEM	6,103	6,103	6,103	6,103
LIGHT WEIGHT AIR DEFENSE SYSTEM	3,466	---	---	---
RATTLER	17,900	5,000	5,000	5,000
LETHAL CHEMICAL MUNITIONS CONCEPTS	13,733	---	11,000	---
LANDMINE/BARRIER SYS	4,595	4,595	4,595	4,595
COMBAT SUPPORT MUNITIONS	2,700	2,700	2,700	2,700
FIELD ARTILLERY AMMO DEV	23,951	23,951	23,951	23,951
DIVISION SUPPORT WEAPONS SYSTEM	8,941	8,941	8,941	8,941
TANK AND MORTAR AMMUNITION DEVELOPMENT	9,053	9,053	9,053	9,053
MOBILE PROTECTED GUN	37,354	10,354	12,354	10,354
ELECTRIC POWER SOURCES	2,998	2,998	2,998	2,998
PHYSICAL SECURITY	5,452	5,452	5,452	5,452
IDENTIFICATION-FRIEND OR FOE DEV	6,146	6,146	6,146	6,146
AIRCRAFT SURVIVABILITY EQUIPMENT	3,563	3,563	3,563	3,563
ADDS-ARMY DATA DISTRIBUTION SYSTEM	32,886	32,886	32,886	32,886
EW VULN/SUSC	25,164	24,939	25,164	24,939
CHEMICAL DEFENSE MATERIEL CONCEPTS	26,542	16,542	26,542	16,542
COMMAND AND CONTROL	22,133	20,000	20,000	20,000
COMBAT SUPPORT EQUIPMENT	8,113	8,113	8,113	8,113
COMBAT MEDICAL MATERIAL	224	224	224	224
DIV AIR DEFENSE COMD/CNTRL	4,399	---	4,399	1,000
SINGLE CHANNEL GRD/ABN RADIO SUB-SYS	17,862	17,862	17,862	17,862
SOLDIER SUPPORT/SURVIVABILITY	2,251	2,251	2,251	2,251
DRUG AND VACCINE DEVELOPMENT	8,796	8,796	8,796	8,796
MEDICAL DEFENSE AGAINST CHEM WARFARE	2,924	2,924	2,924	2,924
BATTLEFIELD DATA SYSTEMS	1,891	2,000	---	2,000
MEDICAL CHEM DEFENSE LIFE SUPPORT MAT	36,189	36,189	36,189	36,189
AIRCRAFT WEAPONS	686	686	686	686
AIR MOBILITY SUPPORT EQUIPMENT	2,245	2,245	2,245	2,245
UH-60A BLACKHAWK	6,708	5,664	5,664	5,664
ADVANCED ATTACK HELICOPTER	33,725	33,725	33,725	33,725
COBRA TOW	12,245	12,245	12,245	12,245
AIRCRAFT PROPULSION SYSTEMS	1,007	---	---	---
SYNTHETIC FLIGHT TRAINING SYSTEMS	30,951	30,951	30,951	30,951
AIRDROP EQUIP DEVELOPMENT	3,136	3,136	3,136	3,136
ARMY HELICOPTER IMPROVEMENT PROG	75,811	75,811	65,811	73,811
SURVEILLANCE SYSTEM	12,868	12,868	12,868	12,868
JOINT SERVICE ROTARY WING AIRCRAFT DEVEL	49,765	30,000	30,000	30,000
AIRCRAFT COMPONENT IMPROVEMENT PROGRAM	10,996	8,000	8,000	8,000

(In thousands of dollars)

	Budget	House	Senate	Conference
STINGER	---	---	4,000	---
PATRIOT (SAM-D)	47,076	47,076	47,076	47,076
HELIBORNE MISSILE-HELLFIRE	19,327	16,300	16,300	16,300
PERSHING II	111,301	111,301	111,301	111,301
GRASS BLADE	17,117	17,117	17,117	17,117
MULTIPLE LAUNCH ROCKET SYS	23,215	23,215	23,215	23,215
DIVISION AIR DEFENSE GUN	10,918	10,918	10,918	10,918
INFANTRY SUPPORT WEAPONS	5,601	5,601	5,601	5,601
COMBAT SUPPORT SYSTEMS	2,640	2,640	2,640	2,640
COUNTERMINE AND BARRIERS	5,692	5,272	6,192	5,500
FIGHTING VEHICLE SYS	50,488	46,000	46,000	46,000
LANDMINE WARFARE	9,701	9,701	9,701	9,701
TANK SYSTEMS	11,961	11,961	11,961	11,961
COPPERHEAD	2,075	---	---	---
HIGH MOBILITY MULTI-PURPOSE VEHICLE	2,743	2,743	2,743	2,743
FIRE INTEGRATION SPT TEAM VEH	6,926	6,926	6,926	6,926
TANK GUN COOPERATIVE DEVELOPMENT	54,342	54,342	54,342	54,342
FLD ARTY AMMUNITION	2,573	2,573	2,573	2,573
105MM TANK AMMUNITION	1,059	1,059	1,059	1,059
COMM ENGINEERING DEV	11,705	11,705	11,705	11,705
JOINT TACTICAL INFO DISTRIBUTION SYSTEMS	14,556	14,556	14,556	14,556
UNATTENDED GROUND SENSORS	4,135	4,135	4,135	4,135
MODULAR INTEGRATED COMM AND NAVIGATION SYS	14,754	14,754	14,754	14,754
RADIOLOGICAL DEFENSE EQUIPMENT	838	838	838	838
IDENTIFICATION-FRIEND OR FOE EQ	2,660	2,660	2,660	2,660
NIGHT VISION DEVICES	4,931	4,931	4,931	4,931
AIRCRAFT SURVIVABILITY EQUIPMENT	20,335	20,335	20,335	20,335
TACTICAL C3 SYSTEMS ENGINEERING	14,900	14,900	14,900	14,900
COMBAT FEEDING, CLOTHING AND EQUIPMENT	2,574	2,574	2,574	2,574
TACTICAL ELECTRICAL POWER SOURCES	1,805	1,805	1,805	1,805
GENERAL COMBAT SUPPORT	5,967	5,967	5,967	5,967
PHYSICAL SECURITY	5,099	5,099	5,099	5,099
EDUCATION AND TRAINING	995	500	---	---
BIOLOGICAL DEFENSE MATERIEL	391	391	391	391
CHEMICAL DEFENSE MATERIEL	26,017	26,017	23,517	25,000
COMMAND AND CONTROL	13,650	10,600	10,600	10,600
REMOTELY PILOTED VEHICLES	77,949	77,949	77,949	77,949
AUTOMATIC TEST SUPPORT SYSTEMS	2,940	2,940	2,940	2,940
BATTLEFIELD DATA SYSTEMS	27,868	26,000	15,000	26,000
JT INTEROPERABILITY TAC COMD/CNTRL	30,066	30,066	30,066	30,066
JOINT CB CONTACT POINT AND TEST	1,451	1,451	1,451	1,451
HV ANTI-TANK ASSAULT WPN SYS (TOW)	1,981	1,981	1,981	1,981
ADV FIELD ARTY TAC DATA SYS	7,224	7,224	7,224	7,224
CHAPARRAL	26,381	26,381	26,381	26,381
SAM HAWK/HAWK IMP PROG	37,971	37,971	37,971	37,971
COMBAT VEHICLE IMPROVE PROG	46,785	46,785	46,785	46,785
AN/TSQ-73 MODIFICATIONS	1,025	1,025	1,025	1,025
MANEUVER CONTROL SYSTEM (MCS)	14,947	14,947	14,947	14,947
COMMUNICATIONS SYSTEM ENGINEERING PROGRAM	1,485	---	---	---
JT TACTICAL COMM PROG	47,184	47,184	47,184	47,184
EUCOM C3 SYSTEMS	527	527	527	527
CLASSIFIED PROGRAMS	174,087	150,487	168,387	150,487
LIGHT ANTITANK WEAPON TESTING AND EVALUATION	---	---	---	10,000
TOTAL, TACTICAL PROGRAMS	1,678,459	1,493,418	1,498,290	1,491,557

(In thousands of dollars)

	Budget	House	Senate	Conference
INTELLIGENCE & COMMUNICATIONS				
MAPPING AND GEODESY	3,424	3,424	3,424	3,424
AIRCRAFT AVIONICS	3,799	3,799	3,799	3,799
NAVSTAR GLOBAL POS SYS (USER EQ)	11,911	11,911	11,911	11,911
STRATEGIC ARMY COMMUNICATIONS	812	812	812	812
LONG-HAUL COMMUNICATIONS (DCS)	7,578	7,578	7,578	7,578
SATCOM GROUND ENVIRONMENT	35,545	35,545	35,545	35,545
CLASSIFIED PROGRAMS	9,987	9,987	9,987	9,987
TOTAL, INTELLIGENCE & COMMUNICATIONS	73,056	73,056	73,056	73,056
DEFENSEWIDE MISSION SUPPORT				
NON-SYSTEM TNG DEVICES ENGR	8,645	8,645	8,645	8,645
METEOROLOGICAL EQUIPMENT SYSTEMS	2,172	2,172	2,172	2,172
TRADOC STUDIES AND ANALYSES	3,287	1,487	1,487	1,487
AVIATION ENGINEERING FLIGHT ACTIVITY	5,791	5,791	5,791	5,791
KWAJALEIN MISSILE RANGE	152,140	152,140	152,140	152,140
SUPPORT OF DEVELOPMENT TESTING	43,180	43,180	43,180	43,180
MATERIEL SYSTEMS ANALYSIS	13,166	13,166	13,166	13,166
EXPLOITATION OF FOREIGN ITEMS	2,021	2,021	2,021	2,021
SUPPORT OF OPERATIONAL TESTING	50,106	50,106	47,038	48,500
DEFENSE SYSTEMS MANAGEMENT COLLEGE	202	---	---	---
PROGRAM-WIDE ACTIVITIES	70,101	65,000	65,000	65,000
INTL COOPERATIVE RESEARCH AND DEV	1,041	1,041	1,041	1,041
TECHNICAL INFO ACTIVITIES	5,249	5,249	5,249	5,249
DARCOM MAJOR RANGE/TEST FACIL	300,671	300,671	295,000	298,000
MUNITIONS-STANDARDIZATION EFFECT AND SAFETY	8,047	8,047	8,047	8,047
DOD HIGH ENERGY LASER SYSTEMS TEST FAC	34,030	34,030	34,030	34,030
MAINSITE	17,119	3,000	3,000	3,000
PRODUCTIVITY INVESTMENT FUNDING	34,139	34,139	14,139	20,000
INSTL AUDIOVISUAL SPT (R/D)	2,344	2,344	2,344	2,344
MGT HQ (RESEARCH/DEVELOPMENT)	45,304	45,304	45,304	45,304
MM&T/MACI	---	---	---	50,000
TOTAL, DEFENSEWIDE MISSION SUPPORT	798,755	777,533	748,794	809,117
GENERAL REDUCTION	---	-500	---	-500
PAY RAISE ABSORPTION	30,278	---	---	---
CONSULTANTS, STUDIES & ANALYSES	---	-7,800	-4,000	-7,800
PERSONNEL SECURITY CLEARANCE PROCESSING	---	-1,400	---	-1,400
INDUSTRIAL PLANT EQUIPMENT CUSTOMER CHARGES	---	-10,900	---	---
CLASSIFIED PROGRAM, BUDGET AMENDMENT	20,000	20,000	---	20,000
TOTAL, RESEARCH DEVELOPMENT TEST & EVAL, ARMY	4,533,778	3,822,842	3,820,690	3,879,683

The conferees agree to the following language:

INDUSTRIAL BASE BIOLOGICAL WARFARE

The conferees agree to provide $4,951,000 for Industrial Base Biological Warfare as proposed by the Senate, instead of no funds as proposed by the House. The conferees note the concerns expressed previously by the House, and direct that the report requested by the House concerning this program be submitted not later than June 30, 1983.

CHEMICAL DEFENSE MATERIEL CONCEPTS

XM-21 ALARM

The conferees agree to provide $16,542,000 for Chemical Defense Materiel Concepts as proposed by the House, instead of $26,542,000 as proposed by the Senate. The conferees agree that the Appropriations Committee will entertain a reprogramming request for additional funds for the XM-21 Alarm, if that request is accompanied by adequate justification material.

DIVISION AIR DEFENSE COMMAND/CONTROL

The conferees agree to provide $1,000,000 for Division Air Defense Command/Control, instead of $4,399,000 as proposed by the Senate, or no funds as proposed by the House. The conferees note that as recently as December 10, 1982, representatives of the Army and of OSD were in apparent disagreement over the content and objectives of this program. The conferees emphasize that allowing $1,000,000 for planning does not in any way represent agreement to starting a program which was stated by the Army to cost $1.6 billion. The conferees direct that the immediate focus of efforts in this program be preparation of a specific plan of action, agreed upon by both the Army and OSD, which will lead to an affordable, cost-effective system based on improving existing equipment rather than developing new items.

ARMY HELICOPTER IMPROVEMENT PROGRAM

The conferees agree to provide $73,811,000 for the Army Helicopter Improvement Program, instead of $65,811,000 as proposed by the Senate, or $75,811,000 as proposed by the House. The conferees note that in excess of $4 million of TRACE funds are still available in the program, and agree that the $2,000,000 reduction shall be applied to TRACE. The amount provided will be sufficient to protect the fixed price incentive contract now in effect.

LIGHT ANTITANK WEAPON ALTERNATIVE TESTING AND EVALUATION

The conferees agree to provide $10,000,000 for expedited testing and evaluation of light antitank weapon alternatives to the Viper. This initiative is discussed in the Procurement of Ammunition, Army section of this statement.

MANUFACTURING METHODS AND TECHNOLOGY

MILITARY ADAPTATION OF COMMERCIAL ITEMS

The conferees agree to provide $50,000,000 for MM&T/MACI, for reasons discussed in the Procurement section of this report. The conferees agree that $3,000,000 of the amount provided shall be used for eleven projects to be conducted at Watervliet Arsenal.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Navy:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL, NAVY				
TECHNOLOGY BASE				
IN-HOUSE LAB INDEPENDENT RESEARCH	23,337	23,337	23,337	23,337
DEFENSE RESEARCH SCIENCES	290,051	281,000	285,000	283,000
AIRCRAFT TECHNOLOGY	27,414	27,414	27,414	27,414
MISSILE PROPULSION TECHNOLOGY	9,616	9,616	9,616	9,616
STRIKE WARFARE WEAPONRY TECHNOLOGY	29,808	27,000	29,808	27,000
NUCLEAR PROPULSION TECHNOLOGY	53,624	53,624	53,624	53,624
SHIPS/SUBS/BOATS TECH	44,156	30,000	30,000	30,000
UNDERSEA WARFARE WEAPONRY TECHNOLOGY	25,064	25,064	25,064	25,064
UNDERSEA TARGET SURVEILLANCE TECH	37,966	37,966	37,966	37,966
SURF/AEROSPACE TARGET SURVEIL TECH	35,016	35,016	35,016	35,016
COMMAND/CONTROL TECHNOLOGY	30,577	30,577	30,577	30,577
COUNTERMEASURES TECHNOLOGY	29,144	29,144	29,144	29,144
HIGH ENERGY LASER TECH	63,210	58,000	63,210	61,000
HUMAN FACTORS/SIMULATION TECH	8,055	8,055	8,055	8,055
BIOMEDICAL TECHNOLOGY	8,996	9,236	8,996	9,236
OCEAN/ATMOSPHERIC SUPPORT TECHNOLOGY	20,557	20,557	20,557	20,557
LOGISTICS TECHNOLOGY	14,177	14,177	14,177	14,177
MATERIALS TECHNOLOGY	33,019	33,019	33,019	33,019
ELECTRONIC DEVICE TECHNOLOGY	27,134	27,134	27,134	27,134
PERSONNEL & TRNG TECH	7,259	7,259	6,859	6,859
CHEM/BIOLOGICAL/RADIOLOGICAL DEFENSE TECH	1,789	1,789	1,789	1,789
ENERGY AND ENVIRONMENTAL PROTECTION	6,451	6,451	6,451	6,451
LAB INDEPENDENT EXPLORATORY DEV	12,091	12,091	12,091	12,091
DIRECTED ENERGY TECHNOLOGY	14,916	10,000	14,916	12,000
TOTAL, TECHNOLOGY BASE	853,427	817,526	833,820	824,126
ADVANCE TECHNOLOGY DEVELOPMENT				
AVIONICS	3,822	3,822	3,822	3,822
ENVIRONMENTAL APPLICATIONS	7,094	6,000	6,345	6,000
ADV A/C PROPUL SYS	10,113	10,113	10,113	10,113
AIRBORNE LIFE SUPPORT SYSTEMS	3,483	3,483	3,483	3,483
ADVANCED AIRCRAFT SUBSYSTEMS	4,928	4,928	4,928	4,928
AIRCRAFT SYSTEMS	3,430	---	3,000	1,000
ERASE SYS TECHNOLOGY	5,849	5,849	5,849	5,849
ADV A/L ASM SYSTEMS	4,011	---	---	---
A/A MSL ADV TECH DEMOS	2,923	2,923	2,923	2,923
SHIP PROPULSION SYSTEM	20,457	20,457	25,000	20,457
ADV COMPUTER TECH	3,272	3,272	3,272	3,272
ELECTRIC DRIVE	9,767	9,767	7,267	7,267
SURFACE LAUNCHED MUNITIONS	4,331	4,331	4,331	4,331
JT SERV EXPLOSIVE ORD DEV	4,957	4,957	4,957	4,957
HUMAN FACTORS ENG DEV	2,604	2,604	2,604	2,604
OCEANOGRAPHIC INSTRUMENTATION DEV	2,999	2,999	2,999	2,999

(In thousands of dollars)

	Budget	House	Senate	Conference
MEDICAL DEVELOPMENT	8,858	8,384	8,384	8,384
MNPWR CONTROL SYS DEV	3,511	3,300	1,805	1,805
ADVANCED MARINE BIOLOGICAL SYSTEM	3,980	3,980	3,980	3,980
MAN-MACHINE TECHNOLOGY	1,365	---	---	---
OCEAN ENGINEERING TECH DEVELOPMENTS	13,194	13,194	13,194	13,194
EDUCATION AND TRAINING	3,496	3,496	2,898	2,898
ENVIRONMENTAL PROTECTION	8,151	8,151	8,151	8,151
NAVAL SPECIAL WARFARE	6,037	8,287	6,037	8,287
NAV TECH INFO PRESENT SYS	1,453	1,253	1,253	1,253
MANUFACTURING TECH	3,339	3,339	3,339	3,339
MC ADV MANPOWER TRAINING SYS	1,509	1,509	1,509	1,509
TRAINING DEVICE TECH	7,399	6,200	6,200	6,200
ABN ELECTRO-MAG/OPT SYS	8,790	8,790	8,790	8,790
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	165,122	155,388	156,433	151,795
STRATEGIC PROGRAMS				
FLEET BALLISTIC MISSILE SYSTEM	32,947	32,947	32,947	32,947
SSBN SECURITY PROGRAM	36,691	36,691	36,691	36,691
TRIDENT I	90,565	64,000	74,000	69,000
EXTREMELY LOW FREQUENCY COMM	49,827	49,827	49,827	49,827
NAVY STRATEGIC COMM	69,314	65,000	65,000	65,000
NAV SPASUR	501	501	501	501
MEECN	10,673	10,673	10,673	10,673
TRIDENT II MISSILE SYS	366,701	366,701	366,701	366,701
SSBN SUB-SYSTEM TECHNOLOGY	4,898	---	---	---
WWMCCS ARCHITECTURE	903	903	903	903
STRATEGIC TECHNICAL SUPPORT	5,919	5,919	5,919	5,919
TOTAL, STRATEGIC PROGRAMS	668,939	633,162	643,162	638,162
TACTICAL PROGRAMS				
ABN ELECTRONIC WARFARE EQUIPMENT	10,490	10,490	10,490	10,490
VTX-TS	9,654	9,654	8,000	8,000
TACAIR IR C/M	1,493	1,493	1,493	1,493
HELICOPTER IR C/M	5,732	5,732	5,732	5,732
TAC COMD/CNTRL/COMM C/M	7,258	7,258	7,258	7,258
ADV A/C ARMAMENT SYS	6,541	6,541	6,541	6,541
TILT FAN VSTOL	36,284	---	---	---
CV ASW MODULE	4,162	4,162	4,162	4,162
AIR ASW	13,994	13,994	13,994	13,994
V/STOL ACFT DEV	6,700	6,700	---	6,700
ACOUSTIC SEARCH SENSORS	8,622	8,622	8,622	8,622
AIRBORNE MINE COUNTERMEASURES	21,566	21,566	21,566	21,566
TACTICAL AIRBORNE RECONNAISSANCE	5,670	3,670	5,670	4,670
ACFT SURVIVABILITY/VULNERABILITY	10,864	10,864	10,864	10,864

(In thousands of dollars)

	Budget	House	Senate	Conference
COMBAT IDENTIFICATION SYS	6,694	6,694	6,694	6,694
IIR MAVERICK	4,992	---	---	---
ARMY/NAVY SAM TECH	14,169	14,169	14,169	14,169
COMMON ASW STDOFF WPN	41,999	41,999	38,000	40,000
TOMAHAWK II	19,900	19,900	4,900	19,900
BGAAWC	6,458	6,458	6,458	6,458
REACTOR PROPULSION PLANTS	5,783	5,783	5,783	5,783
SURFACE MCM	31,572	31,572	31,572	31,572
ACOUSTIC COMMUNICATIONS	2,741	2,741	2,741	2,741
SUBMARINE SONAR DEV	18,371	18,371	18,371	18,371
SURFACE SHIP TORP DEF	2,447	2,447	2,447	2,447
NEW SHIP DESIGN	4,911	4,411	4,411	4,411
SHIPBOARD SYS COMPONENT DEVELOPMENT	15,452	15,452	15,452	15,452
SHIPBOARD DAMAGE CONTROL	23,659	23,659	23,659	23,659
ADVANCED IDENTIFICATION TECHNIQUES	2,247	2,247	2,247	2,247
ADVANCED COMMAND DATA SYSTEMS	4,412	4,412	4,412	4,412
PILOT FISH	93,823	93,823	93,823	93,823
NON-ACOUSTIC ASW	11,533	11,533	11,533	11,533
ADV ASW TARGET	3,919	3,919	3,919	3,919
SHIPS SYSTEMS ENGINEERING STANDARDS	1,749	7,749	1,749	5,000
RETRACT SILVER	94,365	94,365	94,365	94,365
RETRACT AMBER	13,017	13,017	13,017	13,017
SURFACE ASW	4,408	---	---	---
SUBMARINES	44,413	44,413	44,413	44,413
SUB TACTICAL WARFARE SYS	7,032	7,032	7,032	7,032
SHIP CONFORM	18,810	15,810	15,810	15,810
AMPHIB ASSAULT CRAFT	10,437	10,437	13,437	12,000
COMBAT SYSTEMS ARCH	2,786	---	---	---
ATTACK SUBMARINE DEV	10,959	10,959	10,959	10,959
ADV REACTOR COMPONENTS/SYS DEV	11,536	11,536	11,536	11,536
SHIPBOARD PHYSICAL SECURITY	6,560	6,560	6,122	6,122
CHALK EAGLE	6,401	6,401	6,401	6,401
A4W/A1G NUCLEAR PROP PLANT	12,238	12,238	12,238	12,238
D2W NUCLEAR PROP REACTOR	9,337	9,337	9,337	9,337
COMBAT SYSTEM INTEGRATION	17,138	8,000	8,000	8,000
DDGX	138,595	138,595	138,595	138,595
WIDE APERTURE ARRAY ADV	23,614	23,614	23,614	23,614
MINE DEVELOPMENT	5,555	5,555	5,555	5,555
ALWT ADV	56,784	56,784	56,784	56,784
MC ASSAULT VEHICLES	52,514	29,000	73,414	40,000
TAC NUCLEAR WEAPON DEV	3,464	3,464	3,464	3,464
MC GRD COMBAT/SPT ARMS SYS	7,812	7,812	7,812	7,812
MK-48 ADCAP (ADV)	20,483	20,483	20,483	20,483
OCEAN ENGINEERING SYS DEVELOPMENT	2,320	2,320	2,320	2,320
LOGISTICS	3,339	3,339	3,339	3,339
ANTI-SUB WARFARE SIGNAL PROCESSING	5,202	5,202	5,202	5,202
FLEET TAC D/E PROGRAM	4,551	4,551	4,551	4,551
COMMAND AND CONTROL SYSTEMS	24,106	24,106	24,106	24,106
CONTAINER OFFLOAD/TRANSFER SYS	6,067	6,067	6,067	6,067
NAVY ENERGY PROGRAM	21,504	21,504	21,504	21,504

(In thousands of dollars)

	Budget	House	Senate	Conference
FACILITIES IMPROVEMENT	5,919	5,919	4,913	4,913
MERCHANT SHIP NAVAL AUG PROG (MSNAP)	5,773	5,773	5,773	5,773
MC COMBAT SERVICE SPT	4,410	4,410	4,410	4,410
MC INTEL/ELEC WARFARE SYS	7,024	7,024	7,024	7,024
MC COMD/CNTRL/COMM SYS	2,753	2,753	2,753	2,753
LINK HAZEL	42,760	1,000	16,000	1,000
ITSS	17,834	7,834	17,834	12,834
ASW SURVEILLANCE (C)	1,284	1,000	1,000	1,000
LRAP	12,578	12,578	12,578	12,578
SPECIAL PROCESSES	72,523	72,523	72,523	72,523
RDSS	19,312	19,312	19,312	19,312
AVIONICS DEVELOPMENT/VAST	8,960	4,000	4,000	4,000
AIMS/ATCRBS/MARK XII	6,228	6,228	6,228	6,228
LAMP III	8,977	8,977	8,977	8,977
HELICOPTER DEVELOPMENT	26,560	10,262	15,300	13,300
AV-8B AIRCRAFT	114,071	114,071	133,571	114,071
SUPPORT EQUIPMENT	8,700	8,700	8,700	8,700
S-3 WEAPONS SYS IMPROVEMENT	78,344	63,000	63,000	63,000
ENVIRONMENTAL SYSTEMS	356	356	356	356
AIRBORNE ASW DEV	25,539	25,539	25,539	25,539
ACFT IR SIGNATURE SUPPRESSION	1,495	1,495	1,495	1,495
P-3 MODERNIZATION PROG	21,598	21,598	21,598	21,598
ASPJ	29,331	29,331	29,331	29,331
HARPOON MODIFICATION	1,940	1,940	1,940	1,940
SH-60 CV VARIANT	9,868	---	---	---
AIR ELECTRONIC WARFARE	13,394	13,394	13,394	13,394
CH-53E	11,201	11,201	11,201	11,201
ACOUSTIC SEARCH SENSORS	14,600	6,172	14,600	10,000
HXM	9,522	5,000	5,000	5,000
F/A-18	109,224	109,224	109,224	109,224
LIFE SUPPORT EQUIP	6,902	6,902	6,902	6,902
ADV SIGNAL PROCESSOR	3,525	---	1,000	---
AWG-9 UPDATE	6,978	6,978	6,978	6,978
ACFT ENGINE COMPONENT IMPROVE PROG	89,486	89,486	89,486	89,486
MK-92 FCS UPGRADE	9,628	24,628	9,628	24,628
AEGIS	8,158	8,158	8,158	8,158
CSEDS	12,232	12,232	12,232	12,232
PENGUIN COMBAT DEV	1,623	---	---	---
CG-47 AEGIS PRODUCT IMPROV	45,147	43,647	45,147	43,647
AMRAAM	4,714	4,714	4,714	4,714
SURFACE LAUNCHED WEAPONRY SYS TECH	3,413	3,413	3,413	3,413
VERTICAL LAUNCHING SYSTEM	33,878	33,878	33,878	33,878
AIR/AIR MSL SYS ENGR	23,844	22,844	22,844	22,844
CLOSE-IN WPN SYS (PHALANX)	1,387	1,387	1,387	1,387
HI-SPEED ANTI-RADIATION MSL	1,932	1,932	1,932	1,932
NATO SEA SPARROW	1,067	1,067	1,067	1,067
SM-2	18,810	18,810	18,810	18,810
STANDARD MISSILE IMPROVEMENTS	50,789	50,789	50,789	50,789
TOMAHAWK CRUISE MSL	78,934	78,934	78,934	78,934
5\ ROLLING AIR FRAME MSL	16,290	16,290	16,290	16,290

(In thousands of dollars)

	Budget	House	Senate	Conference
SSN-688 VLS	35,362	35,362	35,362	35,362
HELLFIRE	9,815	9,815	9,815	9,815
NEW THREAT UPGRADE	41,881	41,881	41,881	41,881
SUBMARINE COMMUNICATIONS	5,584	5,584	5,584	5,584
SUBMARINE SONAR DEV	41,770	41,770	41,770	41,770
AIR CONTROL	9,251	9,251	9,251	9,251
CW COUNTERMEASURES	8,357	8,357	8,357	8,357
EMSP	14,497	13,097	10,000	13,097
RADAR SURVEILLANCE EQ	10,488	10,488	10,488	10,488
COMMUNICATIONS SYSTEMS	4,693	4,693	4,693	4,693
INTELLIGENCE SYSTEMS	2,478	2,478	2,478	2,478
SHIP SURVIVABILITY PROTOTYPES	4,775	4,775	4,385	4,385
CIC CONVERSION	27,014	18,414	18,414	18,414
SUBACS ENG	85,937	78,537	85,937	81,000
SURFACE ELEC WARFARE	6,673	6,673	6,673	6,673
SUBMARINES	1,950	1,000	1,000	1,000
SUB TACTICAL WARFARE SYS	32,598	32,598	32,598	32,598
ACOUSTIC COMMUNICATIONS	4,696	4,696	4,696	4,696
SHIP SUBSYS DEV/LBTS	24,430	24,430	24,430	24,430
NATO SEA GNAT	6,589	6,589	6,589	6,589
SHIPBOARD ELECTRONIC WARFARE IMPROV	14,974	14,974	14,974	14,974
TAC EMBEDDED COMPUTER PROG	21,704	21,704	21,704	21,704
AN/SQS-53C	35,980	34,180	45,980	35,980
INFLUENCE MCM	5,820	5,820	5,820	5,820
MINE DEVELOPMENT	12,712	12,712	12,712	12,712
GUN AMMUNITION IMPROVEMENT	755	755	755	755
UNGUIDED CONVL AIR LAUNCHED WEAPONS	7,978	7,978	6,482	6,482
CHEMICAL WARFARE WEAPONS	8,066	8,066	8,066	8,066
ELECTRO OPTICS SENSOR DEV	10,422	---	---	---
A/N SAL GP(ENG)	995	995	61,000	16,000
COMMON BOMB FUZE	1,306	1,306	1,306	1,306
ALWT (ENG)	58,365	---	58,365	58,365
GUN FCS IMP PROG	10,969	10,969	10,969	10,969
JT SERV EXPLOSIVE ORD DEV	2,926	2,926	2,926	2,926
MC ASSAULT VEHICLES	15,810	---	2,000	1,000
MC GRD COMBAT/SPT ARMS SYS	10,724	10,724	10,724	10,724
MK-48 ADCAP (ENG)	166,271	139,671	166,271	160,000
NAVY ENERGY PROGRAM	18,704	18,704	18,704	18,704
COMMAND AND CONTROL SYSTEMS	15,505	14,505	15,705	14,505
TACTAS AN-SQR 19	9,882	9,882	9,882	9,882
AIR WARFARE TNG DEV	20,089	17,000	17,000	17,000
SURFACE WARFARE TNG DEV	32,838	32,838	32,838	32,838
SUBMARINE WARFARE TNG DEV	3,226	---	---	---
MC COMBAT SERVICE SPT	3,009	3,009	3,009	3,009
MC INTEL/ELEC WARFARE SYS	2,736	2,736	2,736	2,736
MC COND/CNTRL/COMM SYS	27,888	27,888	27,888	27,888
TACAIR OPER CENTRAL 85	12,736	12,736	12,736	12,736
INTELLIGENCE	13,092	13,092	13,092	13,092
MEDICAL DEVELOPMENTS	2,314	2,314	2,314	2,314
JINTACCS	6,395	6,395	6,395	6,395

(In thousands of dollars)

	Budget	House	Senate	Conference
JINTACCS MC	1,699	1,699	1,699	1,699
FLEET TACTICAL DEV/EVAL	18,316	18,316	18,316	18,316
MANAGEMENT AND TECHNICAL SUPPORT	11,685	11,685	11,685	11,685
TACTICAL ELECTRO SUPPORT	4,005	---	---	---
C2 SURVEILLANCE/RECON SPT	2,820	1,968	2,820	1,968
TAC EXPLOITATION OF NATL CAPABILITY	360	360	360	360
A-6 SQUADRONS	4,725	4,725	4,725	4,725
EARLY WARNING ACFT SQUADRONS	52,291	52,291	42,291	52,291
AVIATION SPT CVN	7,968	7,968	7,968	7,968
FLEET TELECOMMUNICATIONS (TAC)	21,140	21,140	20,640	20,640
SUBMARINES	6,464	6,464	6,464	6,464
MINES/MINE SUPPORT	1,481	1,481	1,481	1,481
UNDERSEA SURVEILLANCE SYS	49,649	49,649	49,649	49,649
SURTASS	7,070	7,070	7,070	7,070
SPECIAL PROJECTS	6,720	6,720	6,720	6,720
COVER AND DECEPTION PROGRAM	14,312	14,312	14,312	14,312
ELECTRONIC WARFARE SPT PROJECTS	8,014	8,014	8,014	8,014
C3 COUNTER-MEAS DEVEL	11,533	11,533	11,533	11,533
JTIDS	100,330	100,330	91,330	91,330
ASW COMBAT SYSTEMS INTEGRATION	16,135	16,135	16,135	16,135
SURF SHIP SONAR MODERNIZATION	8,003	8,003	8,003	8,003
AN/SQR-18 IMPROVEMENT	4,939	4,939	4,939	4,939
ACFT EQ REL/MAINT PROG	7,067	7,067	7,067	7,067
SUBMARINE SILENCING	9,283	9,283	9,283	9,283
MODULAR GUIDED GLIDE WPN IMP	5,260	5,260	5,260	5,260
LAB FLEET SUPPORT	4,669	4,669	4,669	4,669
ACFT PROPULSION EVAL GENERAL	2,835	2,835	2,835	2,835
ACFT FLIGHT TEST GENERAL	953	953	953	953
F-14A	14,724	14,724	14,724	14,724
TACTICAL INTELL PROCESSING	1,942	1,942	1,942	1,942
EW COUNTER RESPONSE	12,653	12,653	12,653	12,653
OPERATIONAL REACTOR DEV	2,855	2,855	2,855	2,855
MARINE CORPS TELECOMMUNICATIONS	2,266	2,266	2,266	2,266
MC GRD COMBAT/SPT ARMS SYS	3,093	3,093	3,093	3,093
MC COMBAT SERVICE SPT	376	376	376	376
MC INTEL/ELEC WARFARE SYS	779	779	779	779
MC COMD/CNTRL/COMM SYS	18,447	18,447	18,447	18,447
MC TAC SUPT C/C SYS	2,798	2,798	2,798	2,798
TOMAHAWK CRUISE MISSILE	18,010	---	---	---
TRI-TAC MC	15,543	15,543	15,543	15,543
TRI-TAC NAVY	9,374	9,374	9,374	9,374
ANTI-RADIATION SEEKER TECHNOLOGY	---	4,000	---	4,000
SUBROC	---	---	11,000	---
CLASSIFIED PROGRAMS	9,547	9,547	9,547	9,547
SH-2F SEASPRITE PROD. IMP	---	9,000	---	---
TOTAL, TACTICAL PROGRAMS	3,657,185	3,323,922	3,525,744	3,420,081
INTELLIGENCE & COMMUNICATIONS				
ADVANCED NAVIGATION DEVELOPMENT	476	476	476	476
NAVIGATION SYSTEMS	3,820	3,820	3,820	3,820
EHF SATCOM	43,826	43,826	43,826	43,826
NAVSTAR	39,822	39,822	39,822	39,822
ELECTROMAGNETIC SPECTRUM MGT	4,589	4,589	4,589	4,589
C2 SYS PLANNING/ENGINEERING SPT	5,060	5,060	5,060	5,060
PRAIRIE SCHOONER	5,072	5,072	5,072	5,072
TECHNICAL RECONNAISSANCE & SURVEILLANCE	4,073	4,073	4,073	4,073
SATELLITE COMMUNICATIONS	1,632	1,632	1,632	1,632
LONG HAUL COMMUNICATIONS (DCS)	1,965	1,965	1,965	1,965
SPECIAL ACTIVITIES	120,380	134,038	134,038	134,038
CLASSIFIED PROGRAMS	17,091	17,091	17,091	17,091
TOTAL, INTELLIGENCE & COMMUNICATIONS	247,806	261,464	261,464	261,464

(In thousands of dollars)

	Budget	House	Senate	Conference
DEFENSEWIDE MISSION SUPPORT				
RANGE INSTRUMENTATION SYS DEV	12,392	12,392	12,392	12,392
TARGET SYSTEMS DEV	43,901	43,901	43,901	43,901
TRAINING DEVICES PROTOTYPE DEV	6,575	6,575	6,575	6,575
PROTO MPWR/PERSONNEL SYS	2,152	2,152	2,152	2,152
STUDIES AND ANALYSIS SUPPORT (MC)	2,148	2,000	2,000	2,000
STUDIES AND ANALYSIS SUPPORT (NAVY)	7,889	5,000	5,000	5,000
MCOAG	2,754	2,754	2,754	2,754
CENTER FOR NAVAL ANALYSIS (NAVY)	12,445	12,445	12,445	12,445
MAR CORPS OPERATIONAL TEST/EVAL	3,350	3,350	3,350	3,350
TECHNICAL INFORMATION SERVICES	1,665	1,665	1,665	1,665
AUTEC	45,658	45,658	43,658	43,658
DEVELOPMENT CENTER SUPPORT	3,598	3,598	3,598	3,598
INTERNATIONAL RDT/E	1,935	1,935	1,935	1,935
MOBILE SEA RANGE	3,229	3,229	3,229	3,229
RDTE LAB/FAC MGT SPT	59,101	59,101	59,101	59,101
RDTE INSTRUMENTATION/MATERIAL SPT	31,707	37,000	31,707	35,000
RDTE SHIP/AIRCRAFT SPT	69,847	69,847	69,847	69,847
TEST/EVALUATION SPT	274,106	274,106	265,000	265,000
OPERATION-TEST/EVAL CAPABILITY	6,772	6,772	6,772	6,772
STRATEGIC SYSTEMS TEST SUPPORT	17,658	17,658	17,658	17,658
PRODUCTIVITY INVESTMENT	4,410	4,410	4,410	4,410
LONG RANGE PLANNING SUPPORT	1,281	1,000	---	---
WEATHER SERVICE	1,186	1,186	1,186	1,186
SECURITY/INVESTIGATIVE ACTYS	689	---	---	---
DEF METEOROLOGICAL SATELLITE PROG	1,316	1,316	1,316	1,316
CIVILIAN EDUCATION/TRAINING/DEV	1,157	---	---	---
TOTAL, DEFENSEWIDE MISSION SUPPORT	618,921	619,050	601,651	604,944
GENERAL REDUCTION	---	-20,900	---	-20,900
CONSULTANT SERVICES	---	---	-9,121	-9,121
PAY RAISE ABSORPTION	35,305	---	---	---
SHIP CONTRACT DESIGN	---	97,200	---	97,200
PERSONNEL SECURITY CLEARANCE PROCESSING	---	-2,000	---	-2,000
INDUSTRIAL PLANT EQUIPMENT CUSTOMER CHARGES	---	-20,400	---	---
TOTAL, RESEARCH DEVELOPMENT TEST & EVAL, NAVY	6,246,705	5,864,412	6,013,153	5,965,751

The conferees agree to the following language:

TOMAHAWK II

The conferees agree to provide $19,900,000 for Tomahawk II as proposed by the House, instead of $4,900,000 as proposed by the Senate. The conferees agree that development of the Medium Range Air-to-Surface Missile (MRASM) is to be continued, and direct the Navy to pursue MRSAM development as a joint effort with the Air Force.

MARINE CORPS ASSAULT VEHICLES

The conferees agree to provide $40,000,000 for Marine Corps Assault Vehicles, instead of $29,000,000 as proposed by the House, or $73,414,000 as proposed by the Senate. The conferees agree that the amount provided shall be applied as follows: $11,200,000 for the LAV; $8,600,000 for the LVTX; and, $20,200,000 for the Mobile Protected Gun.

LINK HAZEL

The conferees agree to provide $1,000,000 for Link Hazel, the authorized amount, as proposed by the House, instead of $16,000,000 as proposed by the Senate. The conferees invite the Navy to submit a reprogramming request.

AV-8B AIRCRAFT

The conferees agree to provide $114,071,000 for AV-8B Aircraft as proposed by the House, instead of $133,571,000 as proposed by the Senate. The conferees support efforts to develop an AV-8B Trainer, and understand that the Marine Corps will finanace those efforts within available AV-8B procurement funds.

HELICOPTER DEVELOPMENT

The conferees agree to provide $13,300,000 for Helicopter Development, instead of $10,262,000 as proposed by the House, or $15,300,000 as proposed by the Senate. The conferees agree that the reduction from the budget request is to be applied only to the Helo Night Vision System.

ACOUSTIC SEARCH SENSORS

The conferees agree to provide $10,000,000 for Acoustic Search Sensors, instead of $6,172,000 as proposed by the House, or $14,600,000 as proposed by the Senate. The conferees note that the Expendable Reliable Acoustic Path Sonobuoy (ERAPS), which has been in development for approximately twenty years, continues to exhibit high technical risk and a dubious cost effectiveness. The conferees agree that no funds for ERAPS will be provided in the future, unless the Navy submits a report which documents acceptable technical progress, a practical plan for deployment, a demonstration of cost effectiveness, and a certification of affordability.

AN/SQS-53C

The conferees agree to provide $35,980,000, the originally budgeted amount, for AN/SQS-53C instead of $34,180,000 as proposed by the House, or $45,980,000 as proposed by the Senate. The conferees agree that the Appropriations Committees will entertain a reprogramming request, if the Navy desires funds to accelerate this program.

A/N SEMI-ACTIVE LASER GUIDED PROJECTILE

The conferees agree to provide $16,000,000 for the A/N Semi-Active Laser Guided Projectile budget line. The conferees agree that $1,000,000 of the amount provided shall be used for the Infrared Search and Track project, and that $15,000,000 of the amount provided shall be for the Seafire project. The conferees agree that if funds are needed for semi-active laser guided projectile program, the Navy should submit a reprogramming request.

ADVANCED LIGHTWEIGHT TORPEDO

The conferees agree to provide $58,365,000 for Advanced Lightweight Torpedo (ALWT) as proposed by the Senate, instead of no funds as proposed by the House. The conferees agree that $40,365,000 of the amount provided may be used for advanced development of the ALWT, because funding for that phase of the project was underbudgeted. The conferees direct the Navy to perform a "Should Cost" study and present it to the Appropriations Committees not later than June 30, 1983. The conferees agree that $18,000,000 of the amount provided may be used for engineering development of the ALWT, but direct that funds for that purpose may not be obligated or expended until 30 days after the Secretary of the Navy states in writing the firm costs and schedules of the program, his satisfaction that these items are fixed with reasonable certainty, and his belief that eventual procurement will be affordable.

SH-2F SEASPRITE PRODUCT IMPROVEMENT

The conferees agree that $9,000,000 is required to support an SH-2F Seasprite Product Improvement program. This amount can be obtained from within available procurement funds because of contract savings in SH-2F procurement. The conferees direct the Navy to reprogram by transfer $9,000,000 from Aircraft Procurement, Navy to Research, Development, Test and Evaluation, Navy for the purpose of funding an SH-2F Product Improvement program.

IMAGING INFRARED MAVERICK

The conferees agree that the Navy may conduct developmental and operational test and evaluation of Imaging Infrared Maverick within available funds, at a cost not to exceed $5,000,000.

SHIP PROPULSION SYSTEMS

The conferees agree to provide $20,457,000 for the Ship Propulsions Systems program as provided by the House, instead of $25,000,000 as provided by the Senate. The conferees agree that the Committees on Appropriations will entertain a reprogramming request from the Navy to permit RACER to be deployed on the lead DDG-51 class ship.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conferees agree to the following amounts for Reaearch, Development, Test and Evaluation, Air Force:

(In thousands of dollars)

	Budget*	House	Senate	Conference
RESEARCH DEVELOPMENT TEST + EVAL, AIR FORCE				
TECHNOLOGY BASE				
IN-HOUSE LAB INDEPENDENT RESEARCH	13,124	12,624	13,124	12,624
DEFENSE RESEARCH SCIENCES	165,858	155,000	155,000	155,000
GEOPHYSICS	37,780	37,780	37,780	37,780
MATERIALS	46,174	46,174	46,174	46,174
AEROSPACE FLIGHT DYNAMICS	61,219	61,219	61,219	61,219
AEROSPACE BIOTECHNOLOGY	41,718	39,000	41,718	40,500
AEROSPACE PROPULSION	58,645	53,000	53,000	53,000
AEROSPACE AVIONICS/VHSI CIRCUITS	67,652	67,652	67,652	67,652
TRAINING/SIMULATION TECH	18,545	16,000	18,545	17,000
ROCKET PROPULSION	37,072	37,072	37,072	37,072
ADVANCED WEAPONS	44,471	44,471	44,471	44,471
CONVENTIONAL MUNITIONS	37,416	37,416	37,416	37,416
COMMAND/CONTROL/COMMUNICATION	69,840	69,840	69,840	69,840
PERS UTILIZATION TECH	7,194	6,000	6,500	6,500
TOTAL, TECHNOLOGY BASE	706,708	683,248	689,511	684,248
ADVANCE TECHNOLOGY DEVELOPMENT				
ADVANCED AIRBORNE RADAR DEVELOPMENT	3,475	---	---	---
ACFT PROPULSION SUBSYS INTEGRATION	21,468	21,468	21,468	21,468
ADV AVIONICS FOR ACFT	18,201	17,201	18,201	17,201
FLT VEHICLE TECHNOLOGY	7,301	7,301	7,301	7,301
RECON SENSORS/PROCESSING TECHNOLOGY	6,383	4,600	6,383	4,600
AEROSPACE STRUCTURES/MATERIALS	23,545	23,545	23,545	23,545
AVIATION TURBINE FUEL TECHNOLOGY	8,699	8,699	8,699	8,699
ADV TURBINE ENGINE GAS GENERATOR	30,979	30,979	30,979	30,979
DOD COMMON PROG LANGUAGE(ADA)ADV DEV	6,930	6,930	6,930	6,930
ADVANCED SIMULATOR TECHNOLOGY	10,739	10,739	10,739	10,739
CREW SYSTEMS TECHNOLOGY	4,055	2,000	4,055	3,000
ADV FIGHTER TECH INTEGRATION	10,967	10,867	10,967	10,967
LINCOLN LABORATORY	23,079	23,079	23,079	23,079
ADVANCED SYSTEM INTEGRATION DEMO	16,421	16,421	16,421	16,421
CARTOG APPLICATIONS-TAC & STRAT SYS	890	---	---	---
ADV MSLE PROPULSION	894	---	---	---
HYPERVELOCITY MISSILE	992	992	992	992
SPACE SYS ENVIRON INTERACTIONS TECH	1,583	1,000	1,000	1,000
VERY HIGH SPEED INTEGRATED CIRCUITS	66,004	66,004	66,004	66,004
CONVENTIONAL WEAPONS	20,017	20,017	20,017	20,017
SPACE LASER PROGRAM	40,561	---	---	---
ADVANCED RADIATION TECH	95,120	85,120	95,120	90,120
CIVIL/ENVIRONMENTAL ENGR TECH	4,502	4,502	4,102	4,102
ADVANCED COMPUTER TECHNOLOGY	4,957	3,457	3,457	3,457
ELECTRO-OPTICAL WARFARE	15,927	14,000	14,000	14,000
COUNTER/COUNTERMEASURES -ADV DEV	7,041	7,041	7,041	7,041
INNOVATIONS IN EDUCATION/TRAINING	3,073	2,800	3,073	2,800
COMD/CNTRL/COMM ADV DEV	18,295	18,295	15,295	18,295
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	472,098	407,057	418,868	412,757

(In thousands of dollars)

	Budget	House	Senate	Conference
STRATEGIC PROGRAMS				
COMMON STRATEGIC ROTARY LAUNCHER (T+	64,078	64,078	64,078	64,078
ADVANCED STRATEGIC MISSILE SYSTEMS	49,737	49,737	49,737	49,737
ADVANCED CONCEPTS	60,000	60,000	60,000	60,000
ADVANCED TECHNOLOGY CRUISE MISSILE	26,782	26,782	26,782	26,782
MSL SURVEILLANCE TECH	9,745	9,745	9,745	9,745
ADVANCED WARNING SYSTEMS	20,808	---	20,808	10,000
POST-ATTACK RECONNAISSANCE	9,919	---	---	---
SPACE SURVEILLANCE TECHNOLOGY	40,285	20,285	20,285	20,285
WWMCCS ARCHITECTURE	15,110	15,110	15,110	15,110
B-1B	753,500	753,500	753,500	753,500
TANKER TRANSPORT BOMBER TRNG SYS	560	---	-r-	---
M-X	2,759,332	2,509,332	2,449,332	2,509,332
AIR LAUNCHED CRUISE MISSILE	186,838	166,838	186,838	180,000
SPACE DEFENSE SYS	211,764	211,764	231,764	211,764
SYSTEMS SURVIVABILITY (NUC AFFECTS)	13,948	13,948	13,948	13,948
B-52 SQUADRONS	121,767	90,000	90,000	90,000
KC-135 SQUADRONS	28,950	28,950	28,950	28,950
MINUTEMAN SQUADRONS	12,857	12,857	12,857	12,857
POST ATTACK COMD/CNTRL SYS	24,034	24,034	24,034	24,034
SAC COMMUNICATIONS	28,096	28,096	28,096	28,096
WWMCCS ADP-NORAD/ADCOM	6,232	6,232	6,232	6,232
NORAD COC	25,378	25,378	25,378	25,378
BALLISTIC MSL TAC WNG/ATK ASSES SYS	1,283	1,283	1,283	1,283
JOINT SURVEILLANCE SYSTEM	1,187	1,187	1,187	1,187
SURVEILL RADAR STATIONS/SITES	1,147	1,147	1,147	1,147
DEW RADAR STATIONS	7,995	---	---	---
CONUS OVER-THE-HORIZON RADAR	79,175	70,000	79,175	79,175
BALLISTIC MSL EARLY WNG SYSTEM	10,262	10,262	10,262	10,262
SPACETRACK	5,542	5,542	5,542	5,542
DEFENSE SUPPORT PROGRAM	120,447	120,447	120,447	120,447
SLBM RADAR WARNING SYSTEMS	2,570	2,570	2,570	2,570
INTEG OPERATIONAL NUDETS DETECT SYS	19,885	19,885	19,885	19,885
SPACE DEFENSE OPS	6,470	6,470	6,470	6,470
MINIMUM ESSENTIAL EMER COMM NETWORK	49,606	49,606	49,606	49,606
WWMCCS INFORMATION SYSTEM	8,366	8,366	5,000	5,000
AIR FORCE SAT COMM SYS	50,901	50,901	50,901	50,901
MIL STRATEGIC TACTICAL + RELAY SYS	79,784	117,784	79,794	117,784
SATELLITE DATA SYSTEM	7,886	7,886	7,886	7,886
CLASSIFIED PROGRAMS	50,784	50,784	50,784	50,784
TOTAL, STRATEGIC PROGRAMS	4,973,010	4,640,786	4,609,413	4,669,757

(In thousands of dollars)

	Budget	House	Senate	Conference
TACTICAL PROGRAMS				
NEXT GENERATION TRAINER ACFT	52,365	52,365	52,365	52,365
ADVANCED TACTICAL FIGHTER	27,338	23,000	23,000	23,000
ADV TACTICAL AIR RECONNAISSANCE SYS	4,006	---	4,006	---
ACFT NON-NUCLEAR SURVIVABILITY	2,011	2,011	2,011	2,011
NIGHT ATTACK PROGRAM	4,491	4,491	4,491	4,491
ADV ATTACK WEAPONS	17,999	17,999	17,999	17,999
DOD PHYSICAL SECURITY EQ-EXTERIOR	3,911	3,911	3,911	3,911
ELECTRONIC WARFARE TECHNOLOGY	18,724	15,350	15,350	15,350
FIBER OPTICS DEVLOPMENT	2,864	2,864	2,864	2,864
ADVANCED COMMUNICATIONS TECHNOLOGY	6,106	6,106	6,106	6,106
COMBAT IDENTIFICATION TECHNOLOGY	17,486	17,486	17,486	17,486
CHEMICAL WARFARE DEFENSE	4,877	4,877	4,877	4,877
PAVE MOVER	2,003	2,003	2,003	2,003
ACFT AVIONICS EQUIPMENT DEVELOPMENT	21,237	17,137	17,137	17,137
AIRCRAFT EQUIPMENT DEV	1,864	1,864	1,864	1,864
ENGINE MODEL DERIVATIVE PROG	10,254	8,254	64,254	38,254
EW COUNTER RESPONSE	27,335	22,000	22,000	22,000
NUCLEAR WEAPONS SUPPORT	2,298	2,298	2,298	2,298
ALTERNATE FIGHTER ENGINE	94,125	94,125	94,125	94,125
MODULAR AUTOMATIC TEST EQUIPMENT	34,580	34,580	34,580	34,580
NIGHT PRECISION ATTACK	103,758	100,000	100,000	100,000
ACFT ENGINE COMPONENT IMPROVE PROG	120,472	120,472	120,472	120,472
ADV MED RANGE AIR-TO-AIR MSL	207,601	207,601	207,601	207,601
JOINT TACTICAL FUSION PROGRAM	5,208	5,280	9,908	5,280
GRD LAUNCHED CRUISE MSL	28,581	28,581	28,581	28,581
C/B DEFENSE EQUIPMENT	16,339	16,339	16,339	16,339
ARMAMENT ORDNANCE DEVELOPMENT	20,648	20,648	20,648	20,648
CONVENTIONAL STANDOFF WEAPON	38,858	32,500	32,500	32,500
WIDE-AREA ANTI-ARMOR MUNITION	8,503	18,503	8,503	18,503
CLOSE AIR SUPPORT WEAPONS SYSTEM	5,412	5,412	5,412	5,412
LOW LEVEL LASER GUIDED BOMB	3,016	3,016	3,016	3,016
MEDIUM RANAGE AIR-TO-SURFACE MISSILE	42,682	42,682	42,682	42,682
CONSOLIDATED CRUISE MISSILE PROGRAM	---	-42,682	-42,682	-42,682
AIR-LAUNCHED ASSAULT BREAKER	29,328	29,328	29,328	29,328
LIFE SUPPORT SYSTEM	12,417	12,417	12,417	12,417
OTHER OPERATIONAL EQUIPMENT	16,553	16,553	16,553	16,553
RECONNAISSANCE EQUIPMENT	7,695	7,695	7,695	7,695
DOD PHYSICAL SECURITY EQ-EXTERIOR	18,595	18,595	18,595	18,595
TAC C3 COUNTER-MEASURES	18,976	18,976	18,976	18,976
COMBAT IDENTICATION SYSTEMS	20,552	19,000	19,000	19,000
SURFACE DEF SUPRESSION	4,740	4,740	4,740	4,740
AIRBORNE SELF-PROTECTION JAMMER	46,726	46,726	46,726	46,726
PROTECTIVE SYSTEMS	110,234	110,234	110,234	110,234
TACTICAL PROTECTIVE SYSTEMS	28,093	28,093	28,093	28,093
APPL FOR INFO PROCESSING TECH	4,993	4,697	4,697	4,697
PRECISION LOCATION STRIKE SYSTEM	98,859	78,859	98,859	78,859
INTELLIGENCE EQUIPMENT	18,469	12,869	16,469	12,869
COMBAT HELICOPTER MODERNIZATION	32,347	27,347	27,347	27,347
JT TAC INFO DIST SYS	52,513	52,513	52,513	52,513
SIDE LOOKING AIRBORNE RADAR (SLAR)	27,192	27,192	27,192	27,192
JT INTEROPERABILITY TAC COMD/CNTRL	3,837	3,837	3,837	3,837
F-111 SQUADRONS	39,290	39,290	39,290	39,290
F-15 SQUADRONS	125,318	113,018	113,018	113,018
A-10 SQUADRONS	6,488	5,000	5,000	5,000
F-16 SQUADRONS	86,142	76,142	66,142	73,642
F-4G WILD WEASEL SQUADRONS	21,472	21,472	18,000	20,000
TACTICAL AGM MISSILES	4,790	4,790	4,790	4,790
TACTICAL SURVEILLANCE SYS	285	285	285	285
OVERSEAS AIR WEAPON CONT SYS	3,486	3,486	3,486	3,486
TACTICAL AIR CONTROL SYSTEM	5,422	5,422	5,422	5,422
TAC AIRBORNE COMD/CNTRL SYS	78,852	71,000	63,000	67,000
ADV COMM SYS	78,210	10,889	10,889	10,889
TAC AIR INTELL SYS ACTYS	8,253	8,253	8,253	8,253
SEEK SPINNER	26,900	26,900	26,900	26,900
JT TACTICAL COMM PROG (TRI-TAC)	52,875	52,875	42,875	47,875
ELECTROMAGNETIC COMBAT INTEL SPT	2,623	2,623	2,623	2,623
C-130 AIRLIFT SQUADRONS (IF)	688	688	688	688
C-141 AIRLIFT SQUADRONS (IF)	1,282	1,282	---	---
C-5 AIRLIFT SQUADRONS (IF)	8,077	8,077	8,077	8,077
OPERATIONAL SUPPORT AIRLIFT	2,557	2,557	---	2,557
CLASSIFIED PROGRAMS	151,221	144,521	148,021	144,521
C-17 PROGRAM	---	1,000	200,000	60,000
TOTAL, TACTICAL PROGRAMS	2,213,302	2,010,314	2,255,737	2,085,060

(In thousands of dollars)

	Budget	House	Senate	Conference
INTELLIGENCE & COMMUNICATIONS				
SPACE COMMUNICATIONS	52,349	34,149	52,349	39,949
NAVSTAR GPS USER EQUIPMENT	122,837	122,837	122,837	122,837
MISSILE AND SPACE TECH COLLECTION	651	651	651	651
TECHNICAL SENSOR COLLECTION	2,000	2,000	2,000	2,000
FOREST GREEN	31,802	31,802	31,802	31,802
INTEG OPERATIONAL NUDETS DETECT SYS	1,996	1,996	1,996	1,996
DEF SATELLITE COMM SYS	53,126	53,126	53,126	53,126
LONG-HAUL COMMUNICATIONS (DCS)	9,537	9,537	9,537	9,537
ELECTROMAG COMPATIBILITY ANAL CTR	7,251	7,251	7,251	7,251
COMMUNICATIONS SECURITY	1,621	1,621	1,621	1,621
SPECIAL ACTIVITIES	1,186,200	818,300	1,126,200	1,126,200
TRAFFIC CNTRL/APPROACH/LANDING SYS	5,060	4,360	4,360	4,360
CLASSIFIED PROGRAMS	1,583	1,583	1,583	1,583
TOTAL, INTELLIGENCE & COMMUNICATIONS	1,476,013	1,089,213	1,415,313	1,402,913
DEFENSEWIDE MISSION SUPPORT				
CONCEPT DEVELOPMENT	984	---	---	---
SPACE VEHICLE SUBSYSTEMS	4,339	4,339	4,339	4,339
SPACE TEST PROGRAM	62,573	62,573	62,573	62,573
ADV MIL SPACEFLIGHT CAPABILITY	2,670	---	---	---
SATELLITE SYS SURVIVABILITY	22,525	22,525	22,525	22,525
WEATHER SYSTEMS	3,438	3,438	3,438	3,438
ADV AERIAL TARGETS DEV	13,856	13,856	13,856	13,856
FLIGHT SIMULATOR DEVELOPMENT	5,439	5,439	5,439	5,439
SPACE SHUTTLE	355,629	355,629	405,629	355,629
WEATHER SYSTEMS	4,064	4,064	4,064	4,064
RANGE IMPROVEMENT	25,311	25,311	25,311	25,311
ELECTROMAG RADIATION TEST FACIL	7,487	7,487	7,487	7,487
IMPROVED CAPABILITY FOR DT&E	46,478	46,478	31,478	31,478
PROJECT AIR FORCE	16,231	16,231	16,231	16,231
ACQ/COMD SPT - TELECOM	4,764	4,764	4,764	4,764
RANCH HAND II EPIDEMIOLOGY STUDY	840	840	840	840
AIRCRAFT NAVIGATION SYS VERIF	15,590	15,590	15,590	15,590
ACQUISITION AND COMMAND SUPPORT	269,229	267,000	267,000	267,000
TEST AND EVALUATION SPT	354,273	354,273	354,273	354,273
ADV SYS ENGINEERING/PLAN	5,443	3,500	3,500	3,500
PRODUCTIVITY IMPROVEMENT	2,201	2,201	---	---
INSTL AUDIOVISUAL SPT (R/D)	5,622	5,622	5,622	5,622
MGT HQ (RESEARCH/DEV)	35,341	35,341	33,341	34,341
SATELLITE CONTROL FACILITY	60,219	60,219	60,219	60,219
SPACE BOOSTERS	15,011	15,011	15,011	15,011
CONSOLIDATED SPACE OPERATIONS CENTER	32,116	32,116	23,400	28,000
DEF METEOROLOGICAL SATELLITE PROG	27,751	27,751	27,751	27,751
SPACE LAUNCH SUPPORT	16,419	16,419	16,419	16,419
INDUSTRIAL PREPAREDNESS	1,977	1,977	1,977	1,977
UTAH TESTING & TRAINING RANGE	2,080	2,080	2,080	2,080
PRODUCT/RELIABLE/AVAIL/MAINTAIN PROG	9,681	9,681	9,681	9,681
INTERNATIONAL ACTIVITIES	2,788	2,788	2,788	2,788
TOTAL, DEFENSEWIDE MISSION SUPPORT	1,432,369	1,424,543	1,446,626	1,402,226
GENERAL REDUCTION	---	-4,700	---	-4,700
PAY RAISE ABSORPTION	25,248	---	---	---
PERSONNEL SECURITY CLEARANCE PROCESSING	---	-3,600	---	-3,600
INDUSTRIAL PLANT EQUIPMENT CUSTOMER CHARGES	---	-500	---	---
TOTAL, RESEARCH DEVELOPMENT TEST & EVAL, AIR FORCE	11,298,748	10,246,361	10,835,468	10,650,661

The conferees agree to the following language:

CIVIL/ENVIRONMENTAL ENGINEERING TECHNOLOGY

The conferees agree to provide $4,102,000 for Civil/Environmental Engineering Technology as proposed by the Senate, instead of $4,502,000 as proposed by the House. The $400,000 reduction is to be applied to the Rapid Runway Repair project, thereby deferring that project for one year. The conferees suggest that the Air Force supply more substantial justification for this project in future budget submissions.

MX MISSILE

The conferees agree that no further Congressional action on the $988,000,000 for MX missile and basing procurement will be taken until both houses have approved a basing mode. The conferees agree that a total of $2,509,332,000 be provided for MX and basing mode research, development, test and evaluation. The conference Committee bill restricts obligation or expenditure of $560,000,000 for full scale engineering development of a permanent basing mode until both Houses of Congress have approved a permanent basing mode. Further, no missile flight testing will be conducted until both Houses of Congress have approved a permanent basing mode.

The conferees note that the MX research and development program includes the acquisition of missiles. When both the House and the Senate have approved a permanent basing mode, missiles which have been acquired under the research and development program may be deployed in the approved permanent basing mode. The conferees intend by this action to emphasize their firm commitment to modernization of our strategic nuclear forces.

SPACE DEFENSE SYSTEMS

The conferees agree to provide $211,764,000 for Space Defense Systems as proposed by the House, instead of $231,764,000 as proposed by the Senate. The conferees agree that any additional funding which may be required for the Air Force space laser program office should be obtained from within available funds.

ENGINE MODEL DERIVATIVE PROGRAM

The conferees agree to provide $38,254,000 for the Engine Model Derivative Program, instead of $8,254,000 as proposed by the House, or $64,254,000 as proposed by the Senate. The conferees agree that the $30,000,000 provided above the amount proposed by the House shall be for development of increased thrust capability for the existing F-100 fighter engine. It is the sense of the Conferees that fighter engine competition will result in a significant overall savings. The Air Force plan to hold such a competition is fully supported by the Conference.

F-16 SQUADRONS

The conferees agree to provide $73,642,000 for F-16 Squadrons, instead of $66,142,000 as proposed by the Senate, or $76,142,000 as proposed by the House. The conferees agree that $5,000,000 of the amount provided shall be restored to the emergency backup pump system project, and $2,500,000 of the amount provided shall be restored to the multinational staged improvement program (MSIP). The conferees agree that the Appropriations Committees will entertain a reprogramming request for additional MSIP funds, if that request is accompanied by adequate justification material.

CONVENTIONAL STANDOFF WEAPON

The conferees endorse the language concerning Conventional Standoff Weapon appearing on page 207 of House Report 97-943.

PRECISION LOCATION STRIKE SYSTEM

The conferees agree to provide $78,859,000 for Precision Location Strike System (PLSS) as proposed by the House, instead of $98,859,000 as proposed by the Senate. The conferees endorse the language concerning PLSS appearing on pages 207 and 208 of House Report 97-943.

JOINT TACTICAL COMMUNICATIONS PROGRAM

The conferees agree to provide $47,875,000 for Joint Tactical Communications Program, instead of $42,875,000 as proposed by the Senate, or $52,875,000 as proposed by the House. The conferees direct that $5,000,000 of the amount provided shall be restored to the communications systems control project.

C-17

The conferees agree to provide $60,000,000 for C-17, instead of $1,000,000 as proposed by the House, or $200,000,000 as proposed by the Senate. Of the $60,000,000, only $1,000,000 has been authorized. Therefore, the conferees direct the Air Force to submit a reprogramming in the amount of $59,000,000 to the Committees on Armed Services and Appropriations of the House and the Senate, to provide a vehicle for consideration of authorization.

CONSOLIDATED SPACE OPERATIONS CENTER

The conferees agree to provide $28,000,000 for Consolidated Space Operations Center, instead of $23,400,000 as proposed by the Senate, or $32,116,000 as proposed by the House. The conferees note, and share, the concerns expressed by the Senate that the hardware and software chosen for this project be capable of future growth without the need for expensive backfitting. The Air Force is directed to submit a report on the computer architecture to be used in CSOC and the capacity of that architecture for future growth. The conferees agree that, following submission of such a report, the Appropriations Committees will entertain a reprograming request for additional funds.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Defense Agencies:

(In thousands of dollars)

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST & EVAL,DEF AGENCIES				
TECHNOLOGY BASE				
DEFENSE RESEARCH SCIENCES	112,100	101,000	101,000	101,000
IN-HOUSE LAB INDEPENDENT RESEARCH	1,800	1,800	1,800	1,800
TECHNICAL STUDIES	3,300	1,000	1,000	1,000
STRATEGIC TECHNOLOGY	151,900	151,900	171,900	161,900
TACTICAL TECHNOLOGY	93,900	93,900	93,900	93,900
PARTICLE BEAM TECHOLOGY	31,000	31,000	33,000	33,000
INTEGRATED COMD/CONTROL TECH	55,300	45,300	55,300	45,300
EXPERIMENTAL EVAL MAJ INNOVATIVE TECH	268,500	258,500	253,500	253,500
MATERIALS PROCESSING TECH	15,400	15,400	15,400	15,400
NUCLEAR MONITORING	17,300	17,300	17,300	17,300
DEFENSE NUCLEAR AGENCY	326,600	315,500	315,500	315,500
TOTAL, TECHNOLOGY BASE	1,077,100	1,032,600	1,059,600	1,039,600
STRATEGIC PROGRAMS				
WWMCCS ARCHITECTURE	1,262	1,262	1,262	1,262
NMCS-WIDE SUPPORT	7,906	7,906	7,906	7,906
WWMCCS ADP-JTSA	23,355	23,355	23,355	23,355
WWMCCS SYSTEM ENGINEER	43,732	43,732	43,732	43,732
MINIMUM ESSENTIAL EMER COMM NETWORK	9,845	9,845	9,845	9,845
TOTAL, STRATEGIC PROGRAMS	86,100	86,100	86,100	86,100
INTELLIGENCE & COMMUNICATIONS				
CINC C2 INITIATIVES	700	700	700	700
MAP/CHART/GEODESY INV/PROTOTYPE DEV	17,863	17,863	17,863	17,863
MAP/CHART/GEODESY ENGR DEV/TEST	10,082	10,082	10,082	10,082
LONG-HAUL COMMUNICATIONS (DCS)	18,935	18,935	18,935	18,935
SUPPORT OF THE NCS	1,990	1,990	1,990	1,990
CLASSIFIED PROGRAMS	982,830	915,850	903,430	931,430
TOTAL, INTELLIGENCE & COMMUNICATIONS	1,032,400	965,420	953,000	981,000
DEFENSEWIDE MISSION SUPPORT				
TECHNICAL SUPPORT TO USDR/E	16,649	12,000	12,000	12,000
GENERAL SUPPORT FOR PA/E	3,712	2,000	2,000	2,000
SUPPORT TO POLICY	4,419	4,419	3,589	3,589
GENERAL SUPPORT FOR NET ASSESSMENT	4,006	3,500	3,500	3,500
GENERAL SUPPORT FOR NRA/L	3,014	2,000	2,000	2,000
DEFENSE TECHNICAL INFO CENTER	17,560	16,000	16,000	16,000
INFORMATION ANALYSIS CENTERS	5,140	4,000	4,000	4,000
MGT HQ (RESEARCH/DEVELOPMENT)	8,100	8,100	8,100	8,100
TECH TRANSFER CONTROL UNIT	---	2,000	2,000	2,000
TOTAL, DEFENSEWIDE MISSION SUPPORT	62,600	54,019	53,189	53,189
SPECIAL FOREIGN CURRENCY	---	---	784	---
PAY RAISE ABSORPTION	1,463	---	---	---
CONSULTANTS, STUDIES & ANALYSES	---	-12,000	---	-6,000
PERSONNEL SECURITY CLEARANCE PROCESSING	---	-700	---	-700
TOTAL, RDT&E, DEFENSE AGENCIES	2,259,663	2,125,439	2,152,673	2,153,189
DIRECTOR OF TEST & EVALUATION, DEFENSE				
FOREIGN WEAPONS EVALUATION	11,600	11,600	11,600	11,600
TEST AND EVALUATION	48,400	43,400	43,400	43,400
TOTAL, DIRECTOR OF TEST & EVALUATION, DEFENSE	60,000	55,000	55,000	55,000

The conferees agree to the following language:

STRATEGIC TECHNOLOGY

The conferees agree to provide $161,900,000 for Strategic Technology, instead of $151,900,000 as proposed by the House, or $171,900,000 as proposed by the Senate. The conferees agree that $10,000,000 of the amount provided shall be specifically for development efforts on short wavelength lasers.

TITLE VII—GENERAL PROVISIONS

The conferees agree to the following language in the General Provisions:

Industrially funded activities personnel ceiling.—The conferees agree to prohibit funds to impose civilian personnel ceilings on Department of Defense industrially funded activities. However, any increase in civilian personnel of such industrial funds in excess of the number employed on September 30, 1982, should not be counted for the purposes of any statutory or administratively imposed civilian personnel ceiling otherwise applicable during fiscal year 1983.

Leasing of aircraft and vehicles to non-Federal agencies.—The conferees agree to Senate language with an amendment permitting such leasing when specifically authorized.

Military bonuses.—The conferees agree to language which changes the expiration date of the enlistment bonus and reenlistement bonus programs from December 17, 1982, to March 31, 1983.

Defense Production Act purchases.—The conferees agree to language to utilize $50,000,000 of funds available to the DOD for purchases or purchase commitment of metals, minerals, or materials under title III of the Defense Production Act of 1950.

Troops in Europe.—The conferees agree to language which establishes a limitation on active U.S. military personnel stationed on shore in Europe at the level planned for fiscal year 1982, except that the President may waive this limitation if he declares to Congress that overriding national security requirements make such action necessary.

National defense stockpiles.—The conferees agree to language which states sales by the Government shall not exceed, within any 12 month period, 10 percent of the domestic production of silver in the preceding 12 month period.

TITLE VIII—RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

The conferees agree to $15,856,000 for the Intelligence Community Staff.

Amendment No. 10: Deletes language proposed by the Senate which would have set expenditure limitations for specific programs, set obligation and expenditure limitations for specific appropriation accounts, and provided $29,000,000 from available funds for continued operation of five LSD-28 class ships. This issue is addressed under amendment number 9 dealing with the overall Defense Department appropriations.

Amendment No. 11: Deletes language proposed by the Senate which would have required certain actions by Congress and the President before obligation or expenditure of funds for procurement of the MX missile or for institution of a permanent basing mode. This issue is addressed under amendment number 9 dealing with the overall Defense Department appropriation.

Amendment No. 12: Deletes language proposed by the Senate which would have allowed the purchase of specialty metals used in the production of defense items or parts or components of defense items and chemical warfare protective clothing produced outside the United States to the extent necessary to comply with agreements with foreign governments.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

Amendment No. 13: Provides funding for programs, projects, and activities provided in, and under the terms and conditions of S. 2956, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act for 1983, reported on September 24, 1982, with certain exceptions, until the termination date of the continuing resolution as specified in section 102(c). The House bill had proposed funding as provided in H.R. 6957 with certain exceptions, subject to the termination date of the continuing resolution. The Senate bill proposed funding as provided in S. 2956, with certain exceptions, for the fiscal year 1983.

The following table summarizes the conference agreement for these departments and agencies:

FY 1982 Appropriations	$8,811,489,000
FY 1983 Budget Estimates	8,866,070,000
FY 1983 House allocation under Budget Resolution	9,070,000,000
New Budget requests since allocation	+195,276,000
Allocation plus new budget requests	9,265,276,000
House Continuing Resolution (H.R. 6957 as passed House)	[1] 9,004,628,000
Senate Continuing Resolution (S. 2956 as reported and amended)	9,256,120,000
Conference Agreement	9,264,172,000
Conference Agreement Compared with:	
Allocation and new budget requests	−1,104,000
House Continuing Resolution	[1] +259,544,000
Senate Continuing Resolution	+8,052,000

[1] House Continuing Resolution did not include the following items (totalling $233,016,000) funded in the conference agreement:

$63,638,000 for the Federal Trade Commission;

$169,378,000 in new budget requests not considered by the House for: Organized crime drug enforcement ($127,500,000); FBI law enforcement ($18,351,000); DEA equipment ($975,000); Justice Department General Administration ($1,846,000); U.S. Attorneys and Marshals ($14,139,000); U.S. Prisoners ($3,550,000); Fees and expenses of witnesses ($300,000); and Federal Prison System ($2,717,000).

The conferees have agreed on the following exceptions from S. 2956, as reported to the Senate:

TITLE I—DEPARTMENT OF COMMERCE

General Administration, "Salaries and Expenses", $31,613,000.

Bureau of the Census, "Periodic Censuses and Programs", $97,294,000, including the following: local, state and regional population estimates ($2,000,000); Household Survey Redesign ($550,000); National Travel Survey ($1,000,000); and Monthly Survey of Apparel ($150,000).

Economic and Statistical Analysis, "Salaries and Expenses", $36,832,000, including the following: National Economic Accounts ($200,000); Center for Utilization of Federal Technology ($500,000); and Industrial Technology Partnerships ($1,500,000).

Economic Development Administration: "Economic Development Assistance Programs", not to exceed $150,000,000 of contingent liability for loan principal. "Economic Development Revolving Fund", total commitments to guarantee loans to steel companies shall not exceed $20,000,000 of contingent liability for loan principal.

International Trade Administration, $166,426,000, including $3,000,000 for research and engineering in preparation for U.S. participation in a 1985 International Trade Fair in Beijing, China.

Minority Business Development Agency, "Minority Business Development", including language limiting changes in the Department's use of the fund established by 15 U.S.C. 1521 without the prior approval of the Appropriations Committees of the House and Senate.

United States Travel and Tourism Administration, "Salaries and Expenses", $8,100,000, of which $500,000 is for the State of Hawaii. Language has been deleted from the bill relating to the level of overseas operations and activities. However, to the extent practicable, USTTA is expected to maintain the level of FY 1983 overseas activities and personnel at FY 1982 levels.

National Oceanic and Atmospheric Administration, "Operations, Research, and Facilities", $650,127,000 including the following transfers:

Transfer from "promote and develop" fund—$22,600,000;

Transfer from "Coastal Energy Impact Fund"—$4,140,000;

And, in addition, including the following program restorations and changes in assumptions from the level of the budget request:

Marine boundary survey program	+$537,000
National geodetic control network	+1,000,000
Ship operations and maintenance	+6,620,000
Resource survey methods and Salmon smolt research	+1,078,000
Improving analysis used for stock abundnace and distribution, and investigating United States-Canadian salmon interception	+1,971,000
Studies concerning the impact of variable atmospheric and oceanic conditions on fishery habitats	+402,000
Application of advanced technology in data gathering	+520,000
Fisheries habitat investigations (excludes Oxford, Md. laboratory listed below)	+1,428,000
Environmental impact analysis	+1,424,000
Endangered species enforcement activities and sea turtle research	+760,000
Federal support to the Pribilof Islands	+1,182,000
Federal support to the Columbia River Hatcheries.	+4,543,000

Anadromous fisheries grants	+3,000,000
Aquaculture Research and Development (excludes Newport, Oregon and Stuttgart, Arkansas labs)	+4,886,000
Maintain steelhead enhancement planning and salmon vessel buy-back activities at the 1982 level	+3,500,000
Regional Fishery Management Councils for operations and administrative support services	+3,300,000
Fisheries grants to states	+4,000,000
Market News program and data collection activities	+3,633,000
Maintain laboratories at the 1982 level:	
Oxford, Maryland	+759,000
Tiburon, California	(1)
Charleston, South Carolina	(1)
Galveston, Texas	(1)
Gloucester, Massachusetts	+1,180,000
Newport, Oregon	+300,000
Stuttgart, Arkansas	+157,000
Fisheries development research and services	+4,180,000
Regional ocean pollution projects (including $750,000 for the Great Lakes Research Office)	+6,833,000
Ocean technology and engineering services	+2,000,000
NOAA undersea research program	+3,755,000
Sea Grant Program	+33,247,000
Maintain weather stations proposed for closing (no weather stations will be closed)	+927,000
Adjustments related to restoring weather stations	+1,062,000
Maintain fire weather services at 1982 levels	+825,000
Maintain fruit frost program at 1982 level	+209,000
Maintain four weather service forecast offices proposed for downgrading	+836,000
Maintain agriculture weather services at 1982 levels (no closures or reduction in offices; no decrease in services)	+1,260,000
Maintain NWS southern region headquarters, Fort Worth, Texas	+1,200,000
Upper atmosphere and space research (Maintain Space Environment Laboratory at Boulder, Colorado at FY 1982 level	+3,100,000
Aviation weather forecast preparation	+350,000
Maintain Great Lakes Environmental Research Laboratory at 1982 level	+3,644,000
North Dakota-Utah-Nevada weather modification matching grant program	+900,000
Maintain two polar orbiting satellite systems	+18,000,000
Climate data base	+478,000
Maintain Environmental Science Information Center	+1,046,000
Maintain global atmosphere research program	+2,221,000
Maintain administrative services commensurate with program restorations	+7,474,000
Maintain NACOA	+90,000
Atlantic salmon research and tagging	+100,000
Long Island Sound study	+250,000
Chesapeake Bay study	+250,000
Legislation for chart user fees not enacted	−26,100,000
Landsat [2]	−13,555,000
Adjustments for transfers:	
Promote and develop fund	+4,000,000
Coastal energy impact funds	+12,170,000
NOAA Weather Wire Service (eliminate per mile charge)	+525,000
Total Change	+117,457,000

[1] Included in program restorations listed above.

[2] Full year funding provided for this item in Sec. 148, P.L. 97-276, Continuing Appropriations for fiscal year 1983.

The fiscal year 1983 Budget assumed that $26,700,000 would be transferred to the "Operations, Research, and Facilities" account from the Federal Aviation Administration's Airport and Airway Trust Fund as a reimbursement for weather forecasts provided by the National Weather Service (NWS). The Managers direct NWS to continue to provide these services to the FAA at the budgeted level of activity. The Managers also expect the Department of Commerce to submit, and the Office of Management and Budget to approve the funding of this level of activities on a deficiency apportionment basis, assuming the full reimbursement will be transferred, or otherwise provided, in the fiscal year 1983 Supplemental Appropriation Act. Such a transfer is pending the results of the study to be conducted jointly by the Departments of Commerce and Transportation concerning the implementation and manner of such a transfer.

"Fisheries Loan Fund," $10,000,000.

Science and Technical Research, "Scientific and Technical Research and Services", $117,861,000, with certain limitations pertaining to authorized program activities. This level includes $350,000 for continued research on toxicity of combustion products. This research is in no way intended to delay or discourage states or localities from developing and adopting regulations to reduce the risks of deaths and injuries due to toxic inhalation in fires. NBS officials are expected to seek the advice and expertise of industry in coordinating and conducting this important research, but the Managers agree there is no intent to direct the selection by NBS of any particular organization to perform the proposed research.

National Telecommunications and Information Administration, "Salaries and Expenses", $12,667,000, of which $503,000 of prior year unobligated balances in the appropriation "Public telecommunications facilities, planning and construction" shall be transferred to this appropriation.

General provisions—Department of Commerce; includes language prohibiting, without the consent of the borrower, the sale or contract with private interests to sell any loans made under the Public Works and Economic Development Act of 1965 and any loans made under section 254 of the Trade Act of 1974.

RELATED AGENCIES

Department of Transportation: Maritime Administration "Operations and Training", $78,113,000, including $7,100,000 for the replacement or repair of the Massachusetts Maritime Academy training ship, the *Bay State.*

Federal Trade Commission, "Salaries and Expenses", $63,638,000. In addition, the conference agreement extends, until the termination of H.J. Res. 631, certain provisions of the Federal Trade Commission Improvements Act of 1980 that expired on September 30, 1982. These provisions are: public participation funding, regulation of commercial advertising, trademarks, agricultural cooperatives and marketing orders, and legislative veto.

SMALL BUSINESS ADMINISTRATION

"Salaries and Expenses": $202,029,000 for necessary expenses; $16,000,000 for Small Business Development Centers; $25,600,000 by transfer from the "Disaster Loan Fund" disaster loan making activities including loan servicing.

The conferees are agreed that $3,000,000 of the amount provided for necessary expenses of the Small Business Administration is for an outreach program for disabled and Vietnam era veterans in accordance with the provisions of P.L. 93-237; $1,000,000 is for continuation of the effort to establish a small business external economic data base; $1,000,000 is for enhancement of SBA's technology assistance program.

"Business Loan and Investment Fund": $128,700,000 for additional capital $185,000,000 for new direct loan obligations; and $25,000,000 for business loans to disabled and Vietnam era veterans in accordance with title III of Public Law 97-72. The following table shows the amount in the budget request, the House and Senate bills, and the conference agreement for each of the direct loan and loan guarantee programs:

[Amounts in Millions]

Program	Budget request	House	Senate	Conference agreement
General business:				
Direct		$85	$80	$85
Guaranteed	$1,938	2,010	2,510	2,510
Handicapped:				
Direct		15	15	15
Guaranteed	5	5	5	5
Economic opportunity:				
Direct		45	45	45
Guaranteed	167	60	60	60
Energy:				
Direct		5	5	5
Guaranteed	15	15	15	15
Development company				
Direct				
Guaranteed	150	250	250	250
Investment company				
Direct	41	35	35	35
Guaranteed	125	160	160	160
Vietnam and disabled veterans:				
Direct			25	25
Guaranteed				
Total business loans:				
Direct	41	185	205	210
Guaranteed	2,400	2,500	3,000	3,000

TITLE II—DEPARTMENT OF JUSTICE

General Administration, "Salaries and Expenses", $54,873,000, including $350,000 for the Federal justice research program and $9,400,000 for the State and local drug grants program.

"Salaries and Expenses, General Legal Activities". The conferees are agreed that of the $136,128,000 provided, not to exceed $2,291,000 may be used for continuation of

the project to automate litigation support activities.

"Salaries and Expenses, Antitrust Division", $43,389,000.

"Salaries and Expenses, United States Attorneys and Marshals", $330,981,000 which includes $7,500,000 for the United States Bankruptcy Trustees.

"Support of United States Prisoners", $34,254,000, of which not to exceed $4,050,000 is for renovating, constructing, and equipping State and local jail facilities under the Cooperative Agreement Program. In addition, the conference agreement includes language to control construction costs of local jail facilities built under the Cooperative Agreement Program and to ensure availability of space for housing Federal prisoners in such facilities.

"Fees and Expenses of Witnesses", $35,700,000.

"Salaries and Expenses, Community Relations Service", $5,764,000. The conferees are agreed that the 12 positions proposed for elimination in the FY 1983 budget are to be maintained and funded through reimbusements from other agencies within the Department of Justice.

Interagency Law Enforcement: "Organized Crime Drug Enforcement", $127,500,000. The conference agreement includes the full amount requested for positions and special enforcement equipment requirements for the 12 Regional Organized Crime Drug Task Forces; construction, renovation, and repair of Federal, State and local facilities to house Federal prisoners; a 50-state organized crime control project; and an annual report to Congress.

The conferees are agreed that an annual report should be delivered to the President, the Appropriations Committees and Judiciary Committees of the Senate and the House of Representatives starting no later than March 31, 1984, which indicates by comparison to similar statistics, information or other appropriate measures from previous years, whether this program has made contributions toward:

(1) Reducing the supply of available heroin, cocaine, marijuana, hashish and dangerous drugs in each of the task force regions and the United States in total using such measures as estimated importation or production, estimated number of abusers, treatment admission statistics, overdose death figures, price and purity of drug sales at the consumer or "street" level.

(2) Increased seizure and forfeiture of assets of drug traffickers, including a breakdown of the types of assets seized and/or forfeited;

(3) Arrests and convictions of drug traffickers by violator type;

(4) Volume of drugs seized or confiscated by type;

(5) Estimates on the number of organized drug trafficking organizations that are dismanteled and/or the extent to which their organizational structure has been damaged by this program; and

(6) Other indicators deemed appropriate by the Attorney General to analyze the level of success of these task forces.

This report should also include an explanation of the guidelines established and examples of task force jurisdictions that exemplified successful law enforcement and prosecution efforts based on information exchange, allocation of resources, coordination between agencies (federal state, and local) and other indicators that may serve as a model for improved task force programs.

Federal Bureau of Investigation: "Salaries and Expenses", $825,154,000, including language which permits the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for FY 1983.

Immigration and Naturalization Service: "Salaries and Expenses", $484,431,000 The conferees are agreed that $5,000,000 above the budget request for the Inspections Program is to be allocated to the Inspections Program for an additional 100 inspectors along the Southwest Border in Texas. The conferees are further agreed that these resources are to be allocated from funds requested for the refugee processing program, which are in excess of current requirements.

Drug Enforcement Administration: "Salaries and Expenses", $248,162,000.

General Provisions: Sec. 203 extends authorities contained in the Department of Justice Appropriation Authorization Act for FY 1980 until the termination date in section 102 of the resolution.

RELATED AGENCIES

Commission on Civil Rights: "Salaries and Expenses", $11,626,000.

Equal Employment Opportunity Commission: "Salaries and Expenses", $142,771,000, of which not to exceed $18,500,000 is for grants to State and local enforcement agencies.

Legal Services Corporation: "Payment to the Legal Services Corporation". The conference agreement provides for restrictions on the activities of the Legal Services Corporation as follows:

1. Restrictions on use of funds for aliens, as provided in Sec. 14(a)(6) and (b) of H.R. 3480 as passed the House of Representatives on June 18, 1981.

2. Restrictions on qualifications of recipients and local board composition as provided in Public Law 97-276 of October 2, 1982. The conferees note that the Legal Services Corporation provides funds for a number of recipients with multi-state service responsibilities. The conferees are concerned that requiring those programs to have the attorney members of their governing bodies appointed by bar associations of several states would be unduly cumbersome. Accordingly, the conferees are agreed that such recipients may comply with this provision by having the state, county or local bar association in which a recipient maintains its principal office perform the attorney appointment function.

3. Restrictions on use of funds for lobbying activities as provided in S. 2956 as reported to the Senate.

4. Restrictions on use of fund for class actions which prohibit such suits against the Federal Government or any State or local government unless (1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient; (2) the class relief sought is for the primary benefit of individuals who are eligible for legal assistance; and (3) that prior to the filing of such an action, the project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to affect eligible clients adversely, that the recipient has given notice of its intention to seek class relief, and that reasonable efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interests of the clients.

5. Allocation of funding (minimum access) as provided in Sec. 11 of H.R. 3480 as passed the House of Representatives on June 18, 1981. The conferees intend that the Fiscal Year 1983 Legal Services Corporation appropriation be allocated so as to insure continued minimum access funding to legal services programs covering all counties in the country in the same way that this geographical distribution was acomplished in 1982. However, it is not the intent of the conferees to mandate a redistribution of grant allocations to all recipients.

6. Refunding of current grantees as proposed by the Senate in H.J. Res. 631. This language provides for continued funding of current grantees and contractors until action is taken by directors of the Corporation who have been confirmed in accordance with the provisions of the Legal Services Corporation Act. Funding is to be maintained at the same annualized level as in 1982, or at a proportionally higher or lower amount tied to the ratio which the total 1983 appropriation for the Corporation bears to the appropriation for 1982. The conferees intend that such funding shall be provided under grants an contracts containing the same terms and conditions now in effect for each said grantee or contractor but that nothing herein shall be construed as preventing the Corporation from ensuring that all grantees and contractors comply with the requirements of the Legal Services Corporation Act, as amended, and other Federal statutes.

7. Restrictions on compensation of the Board and officers and employees of the Legal Services Corporation and recipient programs, as proposed by the Senate in H.J. Res. 631. This language prohibits the Board of Directors of the Corporation from being compensated for services to the Corporation except for payment of an attendance fee at Board meetings at a rate not to exceed the highest daily rate for a GS-15 and necessary travel expenses in accordance with Government travel regulations. In addition, the language prohibits an officer or employee of the Corporation or a recipient program from being reimbursed for membership in a private club or from being paid severance pay in excess of what would be paid a Federal employee for comparable service.

TITLE III—DEPARTMENT OF STATE

Administration of Foreign Affairs: "Salaries and Expenses", $995,000,000. The conferees are agreed that within the total amount provided, funds are available for replacement of two mainframe computers, purchase of minicomputers and word processors, and temporary duty communications activities as proposed by the House.

"Reopening Consulates," $1,000,000. The conferees are agreed that this separate appropriation is for reopening and operating certain United States consulates as specified in the Department of State Authorization Act, Fiscal Years 1982 and 1983.

International Organizations and Conferences: "Contributions to International Organizations", $444,315,000, of which $12,506,-000 shall be for payment of the full 1983 assessed contribution to the inter-American Institute for Cooperation on Agriculture (IICA). The conference agreement also includes language prohibiting the use of this appropriation for payment of the United States' share of any interest costs made known to the United States Government by an international organization for loans incurred by such organization on or after October 1, 1982 through external borrowings.

"The Asia Foundation", $4,100,000.

RELATED AGENCIES

Commission on Wartime Relocation and Internment of Civilians: "Salaries and Expenses", $300,000 to be available only until June 30, 1983.

United States Information Agency: "Salaries and Expenses", $492,122,000 of which $500,000 is for representation expenses and $84,292,000 is for certain exchange programs.

The following table shows the levels for FY 1982, those in the House and Senate bills for FY 1983 and the conference agreement for certain exchange programs:

[In thousands]

Program	FY 1982	FY 1983 House	FY 1983 Senate	Conference agreement
1. Fulbright and international vistors	$60,415	$67,301	$83,161	$73,965
2. Humphrey fellowship	2,620	2,620	3,206	3,206
3. Private sector	7,087	7,121	8,790	7,121
Total	$70,122	$77,042	$95,157	$84,292

Of the funds appropriated for the Private Sector programs, the conferees are agreed that $4,121,000 shall be for the core programs, such as Crossroads Africa, that have been traditionally funded in this account. The remaining $3,000,000 shall be used to fund the International Youth Exchange program recently initiated by the agency.

TITLE IV—THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services: "Bankruptcy Courts, Salaries and Expenses", $89,000,000.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATION ACT

Amendments Nos. 14, 15, and 16: Deletes language proposed by the House and Senate and inserts new language relating to the rate for operations for projects or activities provided for in the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1983.

Section 101(e)(1) of H.J. Res. 631 provides appropriations for projects or activities provided in H.R. 7205, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1983. The House version of H.J. Res. 631 provides for these projects or activities at a rate for operations and to the extent and in the manner provided for in House Report 97-894 and in H.R. 7205 as passed the House of Representatives on December 1, 1982, with certain exceptions. The Senate version of H.J. Res. 631 provides for these projects and activities at the rate provided in H.R. 7205 as reported to the Senate on December 8, 1982.

The conference agreement on H.J. Res. 631 incorporates the provisions of H.R. 7205 in accordance with the following agreements:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Appropriates $219,921,000 for national grants or contracts, instead of $223,704,000 as proposed by the Senate and $216,138,000 as proposed by the House.

Appropriates $62,029,000 for grants to States, instead of $63,096,000 as proposed by the Senate and $60,962,000 as proposed by the House.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

Appropriates $230,000,000, instead of $280,000,000 as proposed by the Senate and $35,000,000 as proposed by the House.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

Authorizes the expenditure of $2,454,300,000 from the Unemployment Trust Fund for State administrative expenses, as proposed by the Senate, instead of $2,378,900,000, as proposed by the House.

Earmarks $627,176,000 for the contingency fund as proposed by the Senate, instead of $551,776,000 as proposed by the House.

The conferees recognize that, in all probability, additional funds will be required later in this fiscal year for the processing of unemployment insurance claims. The conferees agree to reassess this situation in connection with a supplemental appropriations bill in the next session of Congress.

The conferees also agree to consider in a supplemental bill the need for additional permanent Unemployment Insurance Service State staff, instead of relying solely on additional temporary staff, in order to more efficiently and accurately process the workload.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

Appropriates $5,411,000,000 as proposed by the Senate, instead of $3,798,000,000 as proposed by the House.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $58,077,000, instead of $60,153,000 as proposed by the Senate, and $56,002,000 as proposed by the House.

The conference agreement provides an additional 75 positions over the House bill.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Appropriates $205,256,000, instead of $204,256,000 as proposed by the Senate, and $206,256,000 as proposed by the House.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

Appropriates $120,143,000 as proposed by the Senate, instead of $122,643,000 as proposed by the House.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

Appropriates $91,864,000 as proposed by the Senate, instead of $91,705,000 as proposed by the House.

OFFICE OF THE INSPECTOR GENERAL

Changes account heading as proposed by the Senate.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES

Appropriates $1,018,563,000 instead of $1,002,997,000 as proposed by the House and $1,027,846,000 as proposed by the Senate. The conference agreement includes the following changes to the amounts recommended by the House:

Community health centers	+$13,783,000
Black lung services	+120,000
Migrant health	+104,000
Family planning	+88,000
Program support (BCHS)	+722,000
National Health Service Corps	+391,000
Health professions student loans	−1,000,000
HPSL loan repayment	+25,000
Exceptional financial need scholarships	−900,000
Nursing loans	+860,000
Nursing loan repayments	+750,000
Program support (BHPES)	+323,000
Program management (HSA)	+300,000
	+15,566,000

The conferees have provided $295,000,000 to ensure that the fiscal year 1982 level for community health centers be maintained in fiscal 1983, and that the program is permitted to expand its activities to high priority medical service areas, restore supplemental service delivery capacity where restoration of such services could not be made during fiscal 1982 and continue to expand its special prevention initiative which was begun with the fiscal 1982 supplemental.

CENTERS FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

Appropriates $290,701,000, instead of $290,368,000 as proposed by the Senate and $321,039,000 as proposed by the House. The conference agreement includes the following amounts:

Preventive health block grant	$86,300,000
Veneral disease: Direct operations	7,335,000
Chronic diseases	19,503,000
Environmental hazards	4,279,000
Tuberculosis grants	5,000,000
Acquired immune deficiency syndrome (AIDS)	2,000,000
Program management	2,605,000

NATIONAL INSTITUTES OF HEALTH

Appropriates $4,001,980,000 instead of $4,004,075,000 as proposed by the House, and $3,999,887,000 as proposed by the Senate.

The conferees continue to believe that basic research and stable funding for investigator-initiated research project grants are of the highest priority. With the funds provided NIH should support as close to 5,000 new and competing research project grants as possible. In addition NIH should pay full indirect cost reimbursements on research grants. A portion could be used to restore part of the proposed 4 percent reduction in noncompeting research project grants, mitigate the problems of higher average costs of new and competing grants, support additional research trainees, high priority clinical trials and other important activities the Committees have identified. The Director of NIH should assure optimum use of the additional funds provided to support these high priority areas.

NATIONAL CANCER INSTITUTE

Appropriates $983,576,000 instead of $981,441,000 as proposed by the House, and $985,711,000 as proposed by the Senate.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Appropriates $622,745,000 instead of $620,947,000 as proposed by the House, and $624,542,000 as proposed by the Senate.

NATIONAL INSTITUTE OF DENTAL RESEARCH

Appropriates $78,860,000 instead of $80,304,000 as proposed by the House, and $77,416,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

Appropriates $412,182,000 instead of $408,508,000 as proposed by the House, and $415,856,000 as proposed by the Senate.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Appropriates $295,719,000 instead of $294,361,000 as proposed by the House, and $297,077,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Appropriates $273,581,000 instead of $276,367,000 as proposed by the House, and $270,795,000 as proposed by the Senate.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

Appropriates $369,561,000 instead of $367,009,000 as proposed by the House, and $372,114,000 as proposed by the Senate.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Appropriates $253,655,000 instead of $251,561,000 as proposed by the House, and $255,749,000 as proposed by the Senate.

NATIONAL EYE INSTITUTE

Appropriates $141,561,000 instead of $138,763,000 as proposed by the House, and $144,360,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Appropriates $164,367,000 instead of $162,695,000 as proposed by the House, and $166,040,000 as proposed by the Senate.

NATIONAL INSTITUTE ON AGING

Appropriates $93,996,000 instead of $96,104,000 as proposed by the House, and $91,887,000 as proposed by the Senate.

RESEARCH RESOURCES

Appropriates $213,804,000 instead of $227,642,000 as proposed by the House, and $199,967,000 as proposed by the Senate.

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

Appropriates $777,556,000 instead of $768,106,000 as proposed by the House and $782,056,000 as proposed by the Senate. The conference agreement includes the following changes to the amounts recommended by the House:

Alcohol, drug abuse and mental health block grant	+$7,000,000
Mental health:	
Service demonstrations (CSP)	−2,000,000
Research training	+950,000
Clinical training	+3,500,000
Advanced nurse training	+1,740,000
Nurse practitioners	+240,000
Nursing special projects	+666,000
Nursing research ($5,000,000 provided in P.L. 97-276)	−3,400,000

The conferees are disturbed about continuing reports that ADAMHA is proceeding to develop plans to fund clinical training grants for only one or two of the four core disciplines. The conferees reiterate strongly the intent of both the House and the Senate that all 4 core disciplines be eligible for funds and that the funds be distributed in a reasonable balance among all four core disciplines.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

Appropriates $188,531,000 instead of $213,573,000 as proposed by the House, and $194,338,000 as proposed by the Senate.

The conference agreement provides the following changes from the amounts in the House bill:

Health facilities program support	−$568,000
Family medicine residencies ($34,000,000 provided in P.L. 97-276	−26,880,000
Family medicine departments	+1,160,000
Special health professions initiatives	+2,000,000

ASSISTANT SECRETARY FOR HEALTH

HEALTH SERVICES MANAGEMENT

Appropriates $96,694,000, instead of $94,713,000 as proposed by the Senate and $98,676,000 as proposed by the House. The conference agreement includes $1,826,000 for health promotion and $13,518,000 for adolescent family life.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

Appropriates $19,361,845,000 for FY 1983 instead of $17,895,162,000 as proposed by the House, and $19,652,750,000 as proposed by the Senate. The amount agreed to by the conferees is based on revised State estimates submitted by the Department of Health and Human Services subsequent to Senate Committee action on the bill.

Appropriates $5,105,600,000 as an advance payment for fiscal year 1984 as proposed by the Senate. The House bill included $4,470,000,000 for this purpose.

PAYMENTS TO HEALTH CARE TRUST FUNDS

Appropriates $15,347,000,000 instead of $15,576,000,000 as proposed by the House and $15,743,000,000 as proposed by the Senate. The amount agreed to by the conferees is based on revised estimates submitted by the Department of Health and Human Services subsequent to Senate Committee action on the bill. The revised estimate includes $25,000,000 for the "federal uninsured payment" authorized by P.L. 97-248.

PROGRAM MANAGEMENT

Provides authority to transfer $959,671,000 from the health care trust funds for administrative expenses related to the Medicare program. This is $10,000,000 less than provided by the Senate but $35,000,000 more than provided by the House. The conference agreement includes an additional $20,000,000 for medicare claims processing costs over the $800,000,000 previously agreed to in P.L. 97-276. The additional funds are in a contingency reserve.

The conference agreement also includes $15,000,000 for the Professional Standards Review Organization (PSRO) program instead of the $25,000,000 proposed by the Senate. The House bill did not include funding for this program. The Tax Equity and Fiscal Responsibility Act repealed the existing program and authorized a new program of utilization review for Federally insured patients. This new program is not expected to be operational during fiscal year 1983 but Section 150 of the new law provides for the maintenance of existing PSRO organizations until the new structure is approved and operational. The amount agreed to by the conferees represents the minimum level necessary to continue efficient and effective organizations including preservation of records and files, completion of on-going studies and maintenance of a minimum staff. The conferees have included language requested by the President to allow for the termination of PSRO's which the Secretary of Health and Human Services finds to be either inefficient of ineffecive.

SOCIAL SECURITY ADMINISTRATION

SPECIAL BENEFITS FOR DISABLED COAL MINERS

Appropriates $1,093,000,000 as proposed by the Senate, instead of $1,102,000,000 as proposed by the House.

SUPPLEMENTAL SECURITY INCOME

Appropriates $8,543,616,000 as proposed by the Senate, instead of $8,571,749,000 as proposed by the House.

Deletes language proposed by the House but omitted by the Senate related to hold harmless payments. Language phasing out these hold harmless payments has been included in P.L. 97-248.

ASSISTANCE PAYMENTS

Appropriates $6,684,207,000 for fiscal year 1983 as proposed by the Senate, instead of $5,284,635,000 as proposed by the House. Appropriates $1,718,000,000 for the first quarter of fiscal year 1984 as proposed by the Senate, instead of $1,327,203,000 as proposed by the House.

CHILD SUPPORT ENFORCEMENT

Appropriates $347,500,000 for fiscal year 1983 as proposed by the Senate, instead of $284,877,000 as proposed by the House. Appropriates $118,000,000 for the first quarter of fiscal year 1984 as proposed by the Senate, instead of $112,500,000 as proposed by the House.

REFUGEE AND ENTRANT ASSISTANCE

Appropriates $585,000,000 for refugee and entrant assistance activities administered by the Department of Health and Human Services. Both the House and Senate deferred consideration of this appropriation in their deliberation on H.R. 7205 and instead included funding in separate sections of H.J. Res. 631, the Continuing Resolution. House included $532,152,000 for these activities while the Senate resolution provided for these activities at the level of $670,670,000. The conference agreement inserts this appropriation into the bill and provides a total of $585,000,000 distributed as follows:

$390.5 million for reimbursement of 100% of eligible cash and medical assistance costs for both refugees and entrants;

$80 million for refugee and entrant social services;

$75.0 million for targeted assistance for both refugees and entrants of which $5 million shall be to continue grants to school districts heavily impacted by entrant students;

$5.9 million for Federal administrative costs;

$6.0 million for preventive health programs;

$11.0 million for voluntary agency grants.

The conferees have agreed to include language requested by the President, included by the House but not included by the Senate. This language allows reimbursement for costs related to legally excludable entrants recently released by Federal courts into U.S. communities.

The conferees have further agreed that the allocations of $75 million for targeted assistance and $80 million for social services have been agreed to notwithstanding any limitation on such funding included in section 412(c) of the Immigration and Nationality Act.

LIMITATION ON ADMINISTRATIVE EXPENSES

Earmarks $47,026,000 for construction activities as proposed by the Senate, instead of $56,026,000 as proposed by the House. Also earmarks $151,625,000 for data processing activities as proposed by the Senate, instead of $142,625,000 as proposed by the House.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANTS

Appropriates $2,450,000,000, as proposed by the Senate, instead of $1,974,126,000, as proposed by the House.

HUMAN DEVELOPMENT SERVICES

Appropriates $1,753,514,000 instead of $1,762,211,000, as proposed by the House and $1,754,194,000, as proposed by the Senate; earmarks $43,180,000 for part C and $7,320,000 for section 113 of the Developmental Disabilities Assistance and Bill of Rights Act. The conferees note the deletion of $10,514,000 and the legal citation for the Runaway Youth Act, as proposed by the Senate due to the fact that annual funding for this program has been provided by the First Continuing Resolution for 1983 (Public Law 97-276).

CHILD WELFARE SERVICES

Appropriates $572,669,000, as proposed by the Senate, instead of $410,920,000, as proposed by the House.

WORK INCENTIVES

Appropriates $270,760,000, instead of $260,760,000 as proposed by the Senate, and $280,760,000 as proposed by the House.

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

Inserts language as proposed by the Senate providing for waiving the requirements, under certain limited circumstances, of section 138 of P.L. 97-276 dealing with the 90% pass-through to local community action agencies. Section 138 provides for a mandatory 90% pass-through to local community action agencies; the House bill includes the same language.

DEPARTMENTAL MANAGEMENT

POLICY RESEARCH

Appropriates $14,718,000, as proposed by the Senate instead of $13,440,000, as proposed by the House, and earmarks $1,500,000 to continue research on poverty conducted by the Institute for Research on Poverty, as proposed by the Senate.

GENERAL PROVISION—SECTION 208

Deletes House language relating to the location of the Headquarters of the National Institute of Occupational Safety and Health, as proposed by the Senate.

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

Appropriates $3,160,394,000 for Chapter 1 of the Education Consolidation and Improvement Act, instead of $3,033,969,000, as proposed by the House and $3,200,000,000, as proposed by the Senate; and earmarks $4,746,000 for evaluation and studies, as proposed by the Senate, instead of $5,760,000, as proposed by the House. The conference agreement provides $2,687,754,000 for grants to local educational agencies and $33,014,000 for State administration.

Appropriates $7,500,000 for section 418 of the Higher Education Act, as proposed by the Senate, instead of $7,011,000, as proposed by the House.

SPECIAL PROGRAMS

Appropriates $534,500,000 instead of $538,920,000, as proposed by the House and $530,080,000, as proposed by the Senate; earmarks $450,655,000 for the State block grant program authorized under Chapter 2 of the Education Consolidation and Improvement Act; and earmarks $28,765,000 for the Secretary's discretionary fund instead of $29,030,000 as proposed by the House and $28,500,000 as proposed by the Senate. The conferees intend that within the discretionary fund the Secretary use $1,000,000 for law related education projects, similar to those previously authorized by title III-G of the Elementary and Secondary Education Act.

BILINGUAL EDUCATION

The conferees are agreed that the appropriation of $138,057,000 includes $84,126,000 for grants to local school districts, $31,288,000 for training grants, $16,557,000 for support services, and $2,400,000 for bilingual education desegregation grants.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

The conference agreement provides that payment to any local educational agency under section 3(a) shall be 90 percent of such payment for fiscal year 1981 unless such agency is eligible under section 3(d)(2)(B), except that payment under section 3(a) shall be 95 percent for any local educational agency in which the number of children eligible under section 3(a) is at least 20 percent of the total number of children in average daily attendance at such agency.

The conference agreement provides that payment to any local educational agency under section 3(b) shall not exceed the amount of such payment for fiscal year 1982 unless such agency is determined eligible under section 3(d)(2)(B).

The conference agreement restores language proposed by the House authorizing payments to newly eligible local educational agencies.

The conference agreement limits the aggregate amount for payments under section 3(d)(2)(B) to $15,000,000, as proposed by the Senate instead of $10,000,000 as proposed by the House.

The conference agreement appropriates an additional $5,000,000 for payments of entitlements under section 2 to all local educational agencies, thus appropriating a total of $15,000,000 for such payments during fiscal year 1983. The conferees intend that the section 2 payment to the Douglas School District in South Dakota impacted as a result of Ellsworth Air Force Base shall be at 100 percent of entitlement under section 2.

EDUCATION FOR THE HANDICAPPED

Appropriates $1,110,252,000 as proposed by the Senate instead of $1,103,680,000 as proposed by the House. The conference agreement provides $970,000,000 for the basic State grant program, $25,000,000 for preschool incentive grants, and $12,000,000 for media services and captioned films.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Appropriates $1,036,727,000 as proposed by the Senate, instead of $1,035,227,000 as proposed by the House. The conference agreement includes all of the earmarkings, and the language provisions relating to centers for independent living and projects with industry, as proposed by the Senate.

VOCATIONAL AND ADULT EDUCATION

Appropriates $816,500,000 instead of $829,500,000 as proposed by the House and $803,500,000 as proposed by the Senate; and earmarks $7,678,000 for programs of national significance, and $99,590,000 for program improvement and supportive services. The conferees are agreed that the amount appropriated includes $31,633,000 for consumer and homemaking education.

STUDENT FINANCIAL ASSISTANCE

Appropriates $3,567,800,000, as proposed by the Senate, instead of $3,569,480,000, as proposed by the House. The conference agreement provides $540,000,000 for college work study grants and $60,000,000 for State student incentive grants, and includes language proposed by the Senate authorizing the Secretary of Education to make ratable reductions in the distribution of the amount appropriated for State student incentive grants.

GUARANTEED STUDENT LOANS

Appropriates $3,100,500,000 as proposed by the Senate, instead of $2,484,631,000 as proposed by the House.

HIGHER AND CONTINUING EDUCATION

Appropriates $385,525,000 instead of $400,990,000 as proposed by the House and $374,940,000 as proposed by the Senate.

The conference agreement provides the following:

Special programs for the disadvantaged	$154,740,000
Veterans cost of instruction	3,000,000
International education (Domestic Programs)	21,000,000
Public service fellowships	1,920,000
Law school clinical experience	605,000
Fund for improvement of postsecondary education	11,710,000
Carl Albert research center	2,000,000

The conference agreement inserts citation for title VI, parts A and B of the Higher Education Act as proposed by the Senate.

The conference agreement deletes appropriation of $9,000,000 for the General Daniel James Memorial Education Center as proposed by the Senate because the funds for this purpose are included in the first continuing resolution for 1983 (Public Law 97-276).

The conference agreement provides that the funding limitation of section 922(e) of the Higher Education Act shall not apply to funds in this Act, as proposed by the Senate.

EDUCATIONAL RESEARCH AND STATISTICS

Appropriates $64,203,000 as proposed by the Senate instead of $61,978,000 as proposed by the House.

For the National Institute of Education, the conferees have agreed to a level of $55,614,000, the full authorization. Of that amount, $30,000,000 will support the 8 regional educational laboratories and 9 regional centers. To avoid possible disruption in funding these laboratories and centers, the Secretary is directed to provide sufficient funds to assure that these institutions be continued at the 1982 funding level. Also, within the $30,000,000 provided for laboratories and centers, sufficient funds should be used to establish and maintain, through a competitive process, a new central midwestern regional laboratory. In addition, of the amount provided for labs and centers, funds should be used to establish a New England regional laboratory or center; and either a new laboratory or center in the southeast, or an equivalent amount to support the Southeast Educational Research Consortium.

LIBRARIES

Appropriates $80,320,000 as proposed by the Senate instead of $80,080,000 as proposed by the House.

DEPARTMENTAL MANAGEMENT

Deletes language proposed by the House authorizing the transfer of $576,000 from the Social Security Trust funds.

OFFICE OF THE INSPECTOR GENERAL

Amends appropriation heading as proposed by the Senate.

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

Appropriates $129,321,000 instead of $125,490,000 as proposed by the Senate and $129,073,000 as proposed by the House. The conference agreement includes the following amounts:

VISTA	$11,831,000
Service learning	1,830,000
Citizen participation and volunteer demonstration	1,984,000

The conferees direct that appropriations for VISTA be used to recruit, train, and place new VISTA volunteers at projects evenly throughout fiscal year 1983. The conferees further direct that VISTA volunteers in service be maintained at a level of not less than 1,800 volunteers throughout fiscal year 1983. The conferees have included these directives in order to give the authorizing committees an opportunity to act on reauthorization or sunset.

The conference agreement also includes bill language proposed by the House which earmarks $11,831,000 for the VISTA program and language as proposed by the Senate providing that no funds may be used to close State field offices of the agency or to reduce the number of personnel in those offices.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

Appropriates $21,321,000 as proposed by the Senate, instead of $21,721,000 as proposed by the House.

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Appropriates $840,000, as proposed by the Senate, instead of $345,000, as proposed by the House.

GENERAL PROVISION—SECTION 510

Inserts language proposed by the Senate authorizing the Chairman of the National Mediation Board to make available not to exceed $2,500 for official reception and representation expenses.

GENERAL PROVISION—SECTION 512

Deletes language proposed by the House relating to job opportunities and inserts language proposed by the Senate relating to amounts appropriated in P.L. 97-276.

The conferees agree that instructions and guidance contained in House Report 97-894 and in Senate Report 97-680 should be followed to the fullest extent consistent with the agreements reached in the conference.

REFUGEE AND ENTRANT ASSISTANCE

Amendment No. 17: Deletes provision included by the House which provided $532,152,000 for refugees and entrants. The agreement on Amendment No. 14 includes $585 million in lieu of the amounts which would have been made available by this section.

DEPARTMENT OF LABOR

Amendment No. 18: Deletes language proposed by the House which would have appropriated "such amounts as may be necessary, not to exceed $5,411,000,000" for "Advances to the Unemployment Trust Fund and other funds". This account is provided for elsewhere in the joint resolution.

Amendment No. 19: Changes paragraph number as proposed by the Senate.

Amendment No. 20: Inserts language proposed by the Senate which makes the provision effective during fiscal year 1983 notwithstanding section 102 of the joint resolution.

UTILIZATION AND QUALITY CONTROL REVIEW (PSRO)

Amendment No. 21: Deletes section included by the House which would have provided for utilization and quality control review activities at the current rate. The agreement on Amendment No. 14 includes a specific appropriation of $15,000,000 for this activity.

REFUGEE AND ENTRANT ASSISTANCE

Amendment No. 22: Deletes provision included by the Senate which provided $670,670,000 for refugees and entrants. The agreement on Amendment No. 14 includes $585 million in lieu of the amounts which would have been made available by this section.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Amendment No. 23: Changes paragraph number and restores language proposed by the House concerning staffing levels in those States that operate their own occupational safety and health programs under section 18 of the Occupational Safety and Health Act. The House language overrides language on this subject contained in the Supplemental Appropriations Act, 1982 (P.L. 97-257) and in the House and Senate versions of the regular Labor-HHS appropriations bill for 1983 (H.R. 7205).

Because of the complexity of this issue, the conferees agree to reexamine it in the next session of Congress. The conferees believe that the authorizing committees should carefully examine the issue as well.

ENERGY AND WATER DEVELOPMENT

Pending enactment of the regular appropriations act for fiscal year 1983, energy and water development activities are continued at the current rate of operations under the authority and conditions provided in applicable appropriation acts for fiscal year 1982. In order to provide greater program direction, agencies under the jurisdiction of the Energy and Water Development Subcommittee are directed to use House Report 97-850 and Senate Report 97-673 which accompany the fiscal year 1983 appropriations bills in implementing the provisions of this resolution.

The conference agreement provides sufficient funding to continue and complete by July 31, 1983 the safeguards evaluation and demonstration at the Barnwell facility. No federal funding is provided for any activities at the Barnwell plant beyond July 31, 1983.

The continuing resolution provides funding for the second stage of the Sacramento Municipal Utility District's 100 megawatt photovoltaic project at the $6.8 million level. The Department is to make these funds available to the SMUD in a manner and at a rate that enables SMUD to meet the two-step process for implementing the second stage the utility has recently proposed.

Within available funds, the Corps of Engineers is directed to proceed with the necessary planning and engineering of the Town Brook, Quincy, Massachusetts project.

The conferees are aware of the serious flooding problems which occurred in Clinton and Jacksonport, Arkansas, during December 1982. The Corps is directed within available funds to expedite construction of these projects under the Small Flood Control Projects Program to alleviate occurrences of future flood damages.

Within funds available, the Corps of Engineers is directed to proceed with the Tualatin channel improvement project and to continue construction on the Siuslaw River and Bar project in Oregon.

In light of recent severe flooding in the Meramec River Basin in Missouri, the conferees direct that, within available funds provided by this joint resolution, $800,000 be made available to initiate action to provide flood control measures along the Meramec River Basin authorized by Section 2(h) of P.L. 97-128.

Within available funds, the Bureau of Reclamation is directed to proceed with the WEB project in South Dakota.

Within available funds provided by this joint resolution, $16,400,000 shall be available for the Tug and Levisa Fork of the Big Sandy and Cumberland Rivers, West Virginia and Kentucky projects authorized by section 202 of Public Law 96-367. Further, the provisions included in Senate Report 97-673 with respect to section 202 shall be in force during the term of this joint resolution.

Amendment No. 24: Adds Senate language providing that no funds shall be used for further study or construction or in any fashion for a Federally funded waterway which extends the Tennessee-Tombigbee project south from the City of Demopolis, Alabama.

Amendment No. 25: The Conference agreement includes $1,000,000 to correct an existing navigation hazard at the Franklin Ferry Bridge, Jefferson County, Alabama, as proposed by the Senate.

Amendment No. 26: Inserts language proposed by the Senate for funding of Department of Energy, Atomic Energy Defense Activities, modified to specify the total amounts available for operating expenses and plant and capital equipment.

The managers agree with the allowances and conditions for Atomic Energy Defense Activities Contained in Senate Report 97-673 except for the Inertial Confinement Fusion program, security investigations and decommissioning activities at the Mound facility, which shall be at the levels provided in House Report 97-850. The special isotope separation program is to be funded at $66,200,000. Within operating expenses, the funding for these changes is available as a result of buildup constraints during the period of the first continuing resolution and the continuing reduction in inflation expectations in other program activities. The conference agreement reflects the following specific project allowances in plant and capital equipment:

Project:	*Conference allowance*
82-D-15	$5,000,000
82-D-124	2,000,000
82-D-107	154,400,000
82-D-111	6,000,000
Inflation estimates	−16,100,000

From within the available ICF funding, $4,250,000 shall be available for the pulsed power project. For the W-82, the conferees have provided no funding for Project 82-D-109. This action does not preclude continuation of research and development.

Amendment No. 27: Deletes House language relating to the Clinch River Breeder Reactor project.

The House voted on December 14 to delete additional funding for the Clinch River project, except for contract termination costs, during the period December 17, 1982, through March 15, 1983. The Senate voted on December 17, 1982, to continue Clinch River funding at FY 1982 levels through September 30, 1983.

The conferees agree as follows:

1. The Department will not initiate construction of any permanent facility structures or place any additional major equipment orders during the period of this resolution.

2. Ongoing activities related to the NRC licensing process should be continued.

3. The current rate of Federal funding for the Clinch River project shall be determined so as to take into account the anticipated $19,000,000 available from non-Federal contributions in 1983.

4. Up to $1,000,000 shall be available to vigorously explore proposals including a reconsideration of the original cost-sharing arrangement, that would reduce Federal budget requirements for the Clinch River project or project alternative, and secure greater participation from the private sector. The Department is to submit its findings to the cognizant congressional committees for consideration by not later than March 15, 1983.

The conferees strongly urge the cognizant authorizing committees in the House and the Senate to consider this issue early in the 98th Congress.

Amendment No. 28: Deletes House language relating to the O'Neill Irrigation Unit, Nebraska.

Amendment No. 29: Deletes House language relating to the Garrison Diversion Unit, N.D.

No appropriation, fund or authority made available by this joint resolution shall be used for construction of features of the Garrison Diversion Unit in North Dakota affecting waters flowing into Canada.

Department of Housing and Urban Development

Amendment No. 30: Restores language proposed by the House and stricken by the Senate and deletes language proposed by the Senate, amended to appropriate $8,651,475,689 in budget authority and $519,711,198 in annual contract authority for annual contributions for assisted housing, instead of $9,186,630,000 and $485,114,257 as proposed by the House and $5,732,355,689 and $313,477,865 as proposed by the Senate. This is $535,154,311 less than the comparable level of $9,186,630,000 provided by the House and $2,919,120,000 more than the Senate recommendation of $5,732,355,689.

The conferees have agreed to fund 2,000 Indian housing units; 14,000 Section 202 new and substantially rehabilitated units; 65,000 rent supplement and Section 23/Section 8 conversion units; and 10,000 property disposition units from within the $8.7 billion of new budget authority recommended. In addition, a total of 67,146 Section 8 existing units and 15,000 Section 8 moderate rehabilitation units are funded from the anticipated recapture of $4,600,000,000 in 1983. It is agreed that for the purposes of allocating units to the field, the Department should make such initial allocation on the assumption that the full $4.6 billion of estimated recaptured funds will materialize and be utilized. The conferees further agree that Section 8 existing and moderate rehabilitation units should be funded on an eighty percent/twenty percent split from every dollar recaptured.

The resolution also includes $2,500,000,000 from new authority for public housing modernization. This is a significant increase above the 1982 level of $1,800,000,000, and it is anticipated that approximately 100,000 public housing units can be modernized with these funds.

The most critical decision made by the conferees was not to include any monies for new and substantial rehabilitation of low-rent public housing projects. This action was taken with the understanding that it is essential to "clean out" the existing public housing new construction pipeline of approximately $9 billion. The Committee of conference believes that an effort must be made to at least begin to clear the pipeline before additional development authority is provided. The conferees expect that budget authority for public housing new construction will be provided in 1984 and future years if progress is made on clearing the pipeline.

In that connection, the conferees want to make clear that both bill and report language are constructed so as to direct HUD to permit every reasonably viable new public housing project—regardless of how long it has been in the pipeline—to go to construction as soon as possible. It is recognized that in many areas new public housing construction faces local resistance, site acquisition problems, interest rate difficulties—all of which combine to impede the construction of public housing units.

By the same token, the Committee of Conference also recognizes that within the current public housing pipeline there are a substantial number of units reserved in previous years that will never go to construction regardless of how much time is made available. Therefore, the Department is directed to implement an emergency effort to bring to the construction stage those public housing projects currently reserved for new construction. The conferees also direct that no artificial limits be placed on the time allowable from reservation to start of construction for individual projects. Rather, it is the intent of the conferees to permit those projects in the public housing pipeline to go to construction that have a reasonable chance of doing so in the coming months.

In this connection, the conferees direct the Department to report on the total universe of public housing reservations now within the pipeline. This report should include, by project, the Department's and the local public housing authority's expectations of each project's potential in reaching the construction stage. The Committee of Conference expects the receipt of this report within ninety days of the date of enactment of this joint resolution.

The conferees have included legislative language that would prohibit the Department from implementing the final rule concerning total housing development costs published in the September 8, 1982 Federal Register. The Congressional Budget Office has indicated that these new limits on public housing significantly constrain the development of same because they do not take into account the higher land and site development costs of public housing. Although the conferees are in agreement with the Department's intent to reduce the cost of public housing, the new rule may go beyond this intent and result in stopping the production of otherwise feasible housing projects through the establishment of an arbitrary limitation on total development costs. A separate legislative provision provides that if the Department wishes to submit an analysis of the expected impact of the rule, the Appropriations Committees may waive the restriction on implementing the rule.

The following table reflects the conference agreement.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING—GROSS RESERVATIONS, FISCAL YEAR 1983

	Units	Cost	Contract authority	Term	Budget authority
Authority available:					
New authority	NA	NA	519,711,198	NA	8,651,475,689
Carryover	NA	NA	137,067,234	NA	1,590,358,901
Deferral	NA	NA	24,503,015	NA	750,041,632
Recaptures	NA	NA	215,617,264	NA	4,600,000,000
Permanent authority	NA	NA	24,665,665	NA	24,665,665
Total, available	NA	NA	921,564,376	NA	15,616,541,887
Use of authority:					
Public housing:					
Indian	2,000	6,460	12,920,000	28	361,760,000
Amendments	NA	NA	17,000,000	NA	532,000,000
Interest rate adjustment	NA	NA	19,652,200	NA	655,000,000
Lease adjustments	NA	NA	23,800,000	1	23,800,000
Modernization: From new authority	NA	NA	125,000,000	20	2,500,000,000
Sub. Rehabilitation set-aside	NA	NA	4,466,086	20	89,321,727
Subtotal, public housing	2,000	NA	202,838,286	NA	4,161,881,727
Section 8:					
New/Sub. Rehabilitation: Section 202	14,000	6,550	91,700,000	20	1,834,000,000
Property disposition	10,000	4,560	45,600,000	15	684,000,000

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING—GROSS RESERVATIONS, FISCAL YEAR 1983—Continued

	Units	Cost	Contract authority	Term	Budget authority
Conversions:					
Section 23	5,000	2,820	14,100,000	15	211,500,000
Rent supplement	60,000	2,730	163,800,000	15	2,457,000,000
Subtotal, conversions	65,000	NA	177,900,000	NA	2,668,500,000
Existing	67,146	3,755	252,133,230	15	3,782,000,000
Moderate rehabilitation	15,000	4,800	72,000,000	15	1,080,000,000
Amendments:					
New/Rehabilitation	NA	NA	43,600,000	23	1,048,000,000
Existing	NA	NA	20,792,860	10	208,160,160
Loan management	NA	NA	15,000,000	10	150,000,000
Subtotal, amendments	NA	NA	79,392,860	NA	1,406,160,160
Subtotal, section 8	171,146	NA	718,726,090	NA	11,454,660,160
Total, all programs	173,146	NA	921,564,376	NA	15,616,541,887

Amendment No. 31: Inserts language proposed by the Senate increasing the housing for the elderly and handicapped fund loan limitation by $271,800,000 and providing that loans made in fiscal year 1983 shall bear an interest rate of 9.25 percent, amended to increase the loan limitation by $181,200,000.

Amendment No. 32: Inserts language proposed by the Senate increasing the Federal Housing Administration Fund limitation on guaranteed loans by $6,100,000,000 and permitting multifamily mortgages in highest cost areas to exceed the Federal Housing Administration limit by 140 percent.

Amendment No. 33: Restores language proposed by the House and stricken by the Senate providing $500,000,000 in mortgage purchase authority for the Government National Mortgage Association's Special Assistance Functions Fund.

Of the total amount provided the Committee of Conference agrees that $250,000,000 shall be made available to the Targeted Tandem program, to be distributed on the basis of the chronological firm commitment date. The remaining $250,000,000 shall be made available for partially assisted Section 8 projects.

Amendment No. 34: The managers have amended the amendment in order to reflect the latest action on the Interior Appropriation Act. This provides that that bill will be continued at the level provided in the conference agreement (H. Rept. 97-978) which was agreed to in the House on December 18, 1982 and in the Senate on December 19, 1982. There is also an additional appropriation of $2,000,000 for fossil energy research and development to conform the appropriation to the agreements reached by the conference committee.

Amendment No. 35: Deletes Senate language specifying that activities provided for in the Agriculture, Rural Development and Related Agencies Appropriation Act, 1983 would be at the conference rate.

DISTRICT OF COLUMBIA

Amendment No. 36: Adds language proposed by the Senate which provides that funding for programs and activities in the District of Columbia Appropriation Act, 1983 (H.R. 7144) shall be to the extent and in the manner provided for in the Conference Report and Joint Explanatory Statement of the Committee of Conference (House Report No. 97-972) filed in the House of Representatives on December 15, 1982. The conference action as agreed to by the conferees was adopted by the House on December 17, 1982, and by the Senate on December 18, 1982, and is presently awaiting the President's signature.

Amendment No. 37: Deletes language proposed by the Senate which provides for funding projects and activities in the Department of Transportation and Related Agencies Appropriation Act at the conference agreement rate.

Amendment No. 38: Inserts expiration date of September 30, 1983 for the joint resolution as proposed by the Senate instead of March 15, 1983 as proposed by the House.

PREVAILING RATE SUPERVISORS

Amendment No. 39: Inserts language proposed by the Senate which exempts certain prevailing rate supervisors from the pay increase limitation.

VETERANS ADMINISTRATION

Amendment No. 40: Restores language proposed by the House and stricken by the Senate repealing the $35,000,000 limitation on the Veterans Administration's medical automatic data processing services, directing the VA to cease further development of the computerized medical information support system, and shifting resources to support the installation of the decentralized hospital computer program.

The Committee of Conference does not intend that such specific actions as those taken in this joint resolution become common practice. However, the Committees on Appropriations have for years been encouraging the Veterans Administration to resolve the issue of the proper medical computer system. The VA has struggled with the problem without any discernible progress. Any further delay in proceeding with the decentralized (MUMPS) system is not justified and will only result in the VA's medical computer system falling further behind the private health care industry. The conferees are concerned that the VA continue with all deliberate speed to develop plans to use the automated output of the decentralized systems in order to provide system-wide data to the Administrator.

Amendments No. 41, 42 and 43: Change section numbers.

U.S. POSTAL SERVICE

Amendment No. 44: Inserts language proposed by the Senate which appropriates sufficient amounts so that postal rates for all preferred rate mailers covered by section 3262 of 39 U.S.C. can be maintained at step 14 rates.

Amendment No. 45: Deletes House language limiting certain activities related to minerals exploration or development in wilderness or wilderness study areas.

Similar language has been agreed to in the conference agreement on the Interior and Related Agencies Appropriations Act, 1983 (House Report 97-978).

Amendment No. 46: Changes section number.

Amendment No. 47: Strikes language concerning the International Financial Institutions proposed by the House and is no longer required.

Amendment No. 48: Changes section number.

Amendment No. 49: Inserts language proposed by the Senate to make expenditures from the Bonneville Power Administration Fund available for construction of the Boundary Integration and Colville Valley Support project and to provide additional borrowing authority, not to exceed $276,000,000 in fiscal year 1983, as authorized by P.L. 96-501.

Amendment No. 50: Restores section number.

INTERNAL REVENUE SERVICE

Amendments Nos. 51, 52, and 53: Appropriates $170,510,000 for Salaries and Expenses, $1,009,409,000 for Examinations and Appeals and $1,000,778,000 for Taxpayer Services and Returns Processing as proposed by the Senate.

U.S. CUSTOMS SERVICE

Amendment No. 54: Inserts language prohibiting the closing or relocating of certain Customs officers as proposed by the Senate.

It is the intention of the conferees that present restrictions on the Customs Service with respect to effecting a reduction of Customs Service regions below nine, and for effecting Customs office closings or consolidations, or reductions in personnel, programs or functions, remain in place for now. The conferees intend, however, that the House and Senate Committees on Appropriations review these restrictions in the fiscal year 1984 appropriations hearings, and explore with the Customs Service, ways in which genuine cost savings through consolidations and reductions can be achieved without posing economic loss or hardship on areas and localities affected by cost savings initiatives.

U.S. SECRET SERVICE

Amendment No. 55: Inserts language allowing the Secret Service to hire an additional 200 new special agents as proposed by the Senate. It is the intention of the managers on the part of both the Senate and House of Representatives, that in appropriating $235,000,000 to the Department of the Treasury for "Salaries and expenses," United States Secret Service, that these funds will be expended in accordance with the direction of the Senate Report 97-547 and subject to the "Salaries and expenses" provisions of the associated Senate bill (S. 2916). This includes designation of the Training Facility in Beltsville, Maryland as the James J. Rowley Secret Service Training Center. This position is adopted in view of the fact that the Senate bill and report

contemplate and address expenditures at this level.

INTERNAL REVENUE RULING

Amendment No. 56: Inserts language proposed by the Senate which exempts North Dakota from certain Internal Revenue Service rulings.

Amendment No. 57: Deletes House proposed language in Section 118 which would have required that off-budget oil acquisition funding for the Strategic Petroleum Reserve be continued at the current rate. This provision is unnecessary because requirements for acquisition and transportation for the SPR have been established in the Conference Report on the Department of the Interior and Related Agencies Appropriation Act, 1983 (House Report 97-978) as provided for in Section 101(h) of this joint resolution.

Amendment No. 58: Deletes language proposed by the Senate relating to programs for the handicapped and disabled.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

Amendment No. 59: Makes available $770,000,000 within the Federal Buildings Fund for rental of space as proposed by the Senate. The conferees are agreed that the total limitation on expenditures in the Fund will be raised to accommodate this increase for rental of space.

Amendment No. 60: Deletes House language prohibiting leasing and related activities in designated areas off the northern and central California coast.

Similar language has been agreed to in the conference agreement on the Department of the Interior and Related Agencies Appropriation Act, 1983 (House Report 97-978).

CONTRACTING OUT

Amendment No. 61: Deletes language proposed by the Senate and restores language proposed by the House which limits contracting out of federal jobs performed by veterans.

FEDERAL BUILDINGS FUND—CONSTRUCTION AND OTHER PROJECTS

Amendment No. 62: Inserts language which permits projects listed in the Senate reported Treasury, Postal Service Appropriations bill for 1983 (S. 2916) to be initiated, as proposed by the Senate.

Amendment No. 63: Inserts language proposed by the Senate that amends Reorganization Plan Numbered 3 of 1979 by establishing in the International Trade Administration of the Department of Commerce, a Director General of the United States and Foreign Commercial Services who shall be appointed by the President and approved by the Senate. This section elevates the currently authorized position, established at an Executive Level V, to an Executive Level IV.

PROPERTY REVIEW BOARD

Amendment No. 64: Inserts language proposed by the Senate which establishes the position of the Executive Director of the Property Review Board at the rate of pay of Executive Schedule Level III.

Amendments No. 65 and 66: Change section numbers.

Amendment No. 67: Retains House language, which was stricken by the Senate, transferring $200,000 from the Department of Defense to the Department of Education for a grant to the Highland Falls-Fort Montgomery, New York, central school district.

Amendment No. 68: Changes section number.

Amendment No. 69: Deletes the House provision regarding outside income.

INCOME DISREGARDS

Amendment No. 70: Restores House language stricken by the Senate amended to read as follows:

No funds provided under this joint resolution shall be used to deny or reduce Supplemental Security Income or Aid to Families with Dependent Children benefits because of home energy assistance provided by a private nonprofit organization, or any entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal govenmental body, if the appropriate State agency has certified that such assistance was based on need as determined by such organization or entity.

The language agreed to prohibits the counting of privately financed home energy assistance payments as income under either the Supplemental Security Income or Aid to Families with Dependent Children program. This language is only effective during the period covered by this Continuing Resolution.

Amendment No. 71: Restores language proposed by the House concerning cost-of-living adjustments, modified with respect to members of the Senate and Senate staff. At the request of the Senate conferees, the conference agreement excludes Senators from the cost-of-living adjustment and provides clarification of the intent of the House language regarding Senate staff. The conferees note that section 141(c) of P.L. 97-92 provides that to the maximum extent practicable, the salary of employees whose pay is disbursed by the Clerk of the House may not be less than the salary of employees whose pay is disbursed by the Secretary of the Senate, for equivalent positions. Similarly, it is the intent of the conferees that Senate staff salary maximums should not be less than those maximums payable to House staff, for comparable positions.

The conferees have dropped the House provision regarding federal judges. Therefore, section 140 of P.L. 97-92 would not prevent the October 1982 cost-of-living adjustment from being paid to federal judges or Justices of the Supreme Court since the conference agreement provides a specific authorization by Act of Congress for salary increases for senior-level personnel, which includes those judges and Justices. The conferees note that the retirement program of federal Judges is far more generous than that of all other federal employees. Moreover, Judges make no contributions to their retirement program, unlike most other federal employees. The Conferees believe that the committees of jurisdiction should look into this matter and correct the situation so that the Judges at least make some contribution comparable to other federal employee retirement program participants.

FEDERAL LABOR RELATIONS AUTHORITY

Amendment No. 72: Appropriates $15,500,000 for Salaries and Expenses as proposed by the Senate.

Amendment No. 73: Strikes language proposed by the Senate which dealt with the timing of obligation and disbursement authority.

Amendment No. 74: Provides language proposed by the Senate designed to protect United States commodity producers.

Amendment No. 75: Provides language proposed by the Senate which prohibits certain transfers by the Agency for International Development and also provides $8 million for operating expenses to be obtained from deferral numbered D83-1.

Amendment No. 76: Provides language proposed by the Senate which deals with countries that do not cooperate with the United States in preventing narcotics and other dangerous drugs from entering the United States.

Amendment No. 77: Provides language proposed by the Senate which updates per capita gross national product figures regularly carried in the Foreign Assistance Appropriations Bill.

Amendment No. 78: Inserts language proposed by the Senate regarding a Senate housekeeping item concerning health insurance payments.

Amendment No. 79: Inserts language proposed by the Senate requiring that commuter service authorities which operate commuter service transferred from Conrail under part 2 of the Northeast Rail Service Act of 1981 be subject to applicable laws with respect to such service. The language proposed by the Senate referencing particular Acts was deleted.

The conferees agree that commuter agencies operating service after December 31, 1982, pursuant to part 2 of NERSA, shall be subject to applicable laws. Because of their desire not to influence potential court decisions, the conferees have agreed not to enumerate even a partial list of applicable laws on the basis that the appropriate authorizing committees of Congress are in a better position to clarify any ambiguity which may exist in present law.

Amendment No. 80: Inserts language proposed by the Senate providing that Conrail employees who are deprived of employment or adversely affected by assumption (or discontinuance) of service by Amtrak shall be eligible for employee protection payments exclusively under section 701 of NERSA. The House bill contained no comparable provision.

DEBT COLLECTION

Amendment No. 81: Deletes language proposed by the Senate which would have amended the Debt Collection Act of 1982.

The conferees have not received adequate information as to the manner and extent to which debt collection activities will be conducted pursuant to the Debt Collection Act. The conferees direct that the Administration provide Congress with more information as to the total cost and scope of this activity.

Amendment No. 82: Deletes language proposed by the Senate which would have provided that Department of Defense civilian air traffic controllers receive various pay and allowances at the same rates as Federal Aviation Administration controllers.

Amendment No. 83: Deletes language proposed by the Senate relating to the authorization for the capital construction fund for fishery facilities.

Amendment No. 84: Deletes language proposed by the Senate which would have prohibited the Federal Trade Commission from exercising its antitrust and rulemaking authority to invalidate State laws that establish licensure of professionals and permissable tasks and duties.

FEDERAL EMPLOYEE HEALTH PLANS

Amendment No. 85: Inserts language proposed by the Senate which deletes the provision which prohibits the inclusion of abortion coverage in federal employee health plans.

Amendment No. 86: Deletes language proposed by the Senate which would have prohibited funds from being used to develop or procure the Viper light anti-tank weapon.

This issue is addressed under amendment number 9 dealing with the overall Defense Department appropriations.

Amendment No. 87: Deletes language proposed by the Senate which would have changed the expiration date of the enlistment bonus and reenlistment bonus programs from December 17, 1982 to September 30, 1983. This issue is addressed under amendment number 9 dealing with the overall Defense Department appropriations

Amendment No. 88: Deletes language proposed by the Senate which would have allowed the utilization of $50,000,000 of funds available to the Defense Department for purchases or commitments to purchase metals, minerals or other materials under section 303 of the Defense Production Act of 1950, as amended. This issue is addressed under amendment number 9 dealing with the overall Defense Department appropriations.

FORT DERUSSY

Amendment No. 89: Inserts language proposed by the Senate which prohibits the sale, lease or rental of Fort DeRussy, Honolulu, Hawaii.

Amendment No. 90: Deletes language proposed by the Senate which would have placed a limitation on active United States military personnel stationed in Europe at the level planned for fiscal year 1982, allowing a Presidential waiver if national security requirements dictate. This issue is addressed under amendment number 9 dealing with the overall Defense Department appropriations.

Amendment No. 91: Deletes language proposed by the Senate which would have provided that $422,100,000 be available for the purchase of the Multiple Launch Rocket System under a multiyear contract. This issue is addressed under amendment number 9 dealing with the overall Defense Department appropriations.

Amendment No. 92: Inserts Senate language deauthorizing the Bradley Lake, Alaska project. Language is also included providing for continuation of construction of vital distribution systems and drains on the San Luis Unit, Central Valley project; $4,000,000 for construction of the Yatesville Lake project in order to avoid further disastrous flooding in the area, and language to provide for construction of urgently needed bank erosion control works along the banks of the Sacramento River.

Amendment No. 93: Appropriates an additional $3,500,000 for carrying out the Runaway and Homeless Youth Act, instead of $7,000,000 as proposed by the Senate. The conferees note that $18,000,000 was appropriated for this purpose in the first continuing resolution for 1983 (Public Law 97-276); therefore the total appropriation for fiscal year 1983 is $21,500,000 for this program.

Amendment No. 94: Inserts language proposed by the Senate appropriating $7,600,000 for payments to the Alaska Railroad revolving fund as proposed by the Senate and adds language appropriating $23,200,000 for the Dodge Island Bridge Projects, Miami, Florida.

Amendment No. 95: Amends language proposed by the Senate regarding the payment of cable system rates. The Senate provision was based upon a concern over the impact of the Copyright Royalty Tribunal's October 20, 1982 decision on the development of a distant signal marketplace and would have stayed the effective date of the decision until the completion of all judicial appeals. The conference agreement delays the effective date of the Tribunal's October 20, 1982 decision with respect to rates charged to cable system operators for certain broadcast signals until the United States Court of Appeals for the District of Columbia renders a final decision or until March 15, 1983, whichever occurs first. The accrual of liability for copyright royalty fees is similarly delayed. The conference agreement also includes a proviso to ensure that in the meantime the Copyright Office and the Library of Congress may continue to perform routine business except as solely and specifically related to the subject decision.

Amendment No. 96: Inserts language proposed by the Senate amended to read as follows:

Notwithstanding any provision of this joint resolution or any other law or regulations, payments for local educational agencies under the Act of September 30, 1950 (Public Law 874, 81st Congress) in Montana for fiscal year 1983 shall be computed from corrected 1981 financial data. The provisions of this section shall not apply unless the following conditions are met:

(1) No such payments shall be made until an audit is conducted. (2) No such payments shall be made prior to March 30, 1983. (3) The total amount of the increase in payments made by reason of this section shall not exceed $3,000,000. (4) No such payments shall be made prior to the submission of the audit report to the Committee on Appropriations of the Senate and of the House of Representatives.

Amendment No. 97: Deletes proposal of the Senate to extend the authorities contained in the Department of Justice Appropriation Authorization Act for fiscal year 1980 for the remainder of fiscal year 1983. Similar language is included in Amendment No. 13.

TRANSPORTATION OF FEDERAL WORKERS

Amendment No. 98: Deletes language proposed by the Senate which would have restricted the transportation of federal employees from home to work.

The General Accounting Office is hereby directed to conduct a study of the various federal departments' and agencies' use of government automobiles and chauffeurs for transportation of federal employees between their domiciles and places of employment. This study is to be provided to the Congress not later than June 1, 1983.

Amendment No. 99: Inserts language proposed by the Senate making certain personnel at the FAA Academy eligible for premium pay awarded with several technical modifications.

The conferees have agreed to this provision in order to correct an inequity which arose upon the enactment of legislation to increase the compensation of air traffic controllers and related personnel in October. Under that legislation, instructors at the FAA Academy in Oklahoma City who train individuals to perform air traffic control, airway facilities, and flight inspection functions which would qualify for premium pay, would not themselves be entitled to premium pay. This section permits these instructors and their immediate supervisors to receive this premium pay.

Without this expansion of coverage, recruitment of instructors for the Academy could be hampered, because people in operational positions covered by premium pay would not want to accept a position at the Academy which would require giving up those benefits. The new provision requires that, in order to be eligible for premium pay, a person must have occupied a position in the field which would have been covered by premium pay immediately prior to accepting a position as an instructor in the Academy.

The conferees expect the Administrator to make the necessary coverage determinations as soon as practicable in order that these pay raises may become available as soon as possible.

BEAVERTAIL POINT

Amendment No. 100: Inserts language proposed by the Senate which prohibits the sale or disposal of property known as the Naval and Marine Corps Reserve Center at Beavertail Point, Jamestown, Rhode Island.

SSI PASS ALONG

Amendment No. 101: Inserts language proposed by the Senate amending Section 1618 of the Social Security Act to waive certain penalties under the Supplemental Security Income program. No similar provision was included by the House.

LOW INCOME ENERGY

Amendment No. 102: Appropriates an additional $25 million for low income energy assistance as provided by the Senate. The agreement on Amendment No. 14 provides $1,850 million for this program.

Amendment No. 103: Inserts language proposed by the Senate directing the Secretary to withdraw from the Interstate Highway System certain planned highway segments in New Jersey and to designate portions of the New Jersey Turnpike as part of the Interstate System. The House bill contained no comparable provision.

The conferees are concerned that restrictive administrative interpretations of the Federal-Aid Highway Act of 1981 may result in exclusion from the Interstate cost estimate of certain eligible projects contrary to Congressional intent. For example, the approved 1981 Interstate cost estimate included construction work on Interstate 95 in Dade County, Florida, associated with high-occupancy vehicle lanes, connectors from I-95 to two rapid transit terminals and parking facilities for the terminals. This project was approved by the Federal Highway Administration on October 8, 1980, and its cost was included in the Interstate cost estimate associated with the Federal-Aid Highway Act of 1981. It is the intent of the conferees that this project remain eligible for Interstate construction funding.

Amendment No. 104: Inserts Senate language requiring the Secretary of the Interior to make reclamation grants to States within 60 days of receipt of a complete abandoned mine reclamation grant application under the provisions of the Surface Mining Control and Reclamation Act. The managers agree that all aspects of such grant application must be approved, as under applicable law, by the Secretary before appropriated funds are withdrawn from the Abandoned Mine Reclamation Fund for transfer to the States.

Amendment No. 105: Inserts language proposed by the Senate providing that notwithstanding Public Law 97-622, funds made available to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research under Public Law 97-216 shall remain available until March 31, 1983.

The conferees have agreed to a 3 month extension of the life of the Commission so that it can file its final report no later than March 31, 1983. The conferees are in agreement that no further extensions will be granted the Commission.

Amendment No. 106: Inserts language proposed by the Senate exempting the "transportation of broken, crushed, or powdered glass" from ICC jurisdiction. The House bill contained no comparable provision.

Amendment No. 107: Inserts language proposed by the Senate regarding a Senate housekeeping item placing a limitation on the planning or design of any new Senate office buildings.

Amendment No. 108: Provides language proposed by the Senate which limits the use of U.S. funds in international programs if such programs aid the P.L.O., SWAPO, or Cuba.

Amendment No. 109: Deletes language proposed by the Senate extending the authorization for certain provisions of the Federal Trade Commission Improvements Act of 1980. The Managers have agreed to incorporate the extension of the expiring provisions within Amendment No. 13.

Amendment No. 110: The managers have amended the amendment of the Senate in order to establish a one-time distribution of $200,000,000 to states from escrow settlement accounts based upon a formula which considers the amount of refined petroleum consumption within each state. No funds may be used by DOE or the states for administrative purposes but shall be used by states for federally authorized energy conservation programs.

Amendment No. 111: Inserts Senate language which provides benefits payments to surviving spouses and dependent children of certain members of the Armed Forces who died on active duty before August 13, 1981, or who died later as a result of a service-connected disability incurred or aggravated before such date.

Amendment No. 112: Deletes language proposed by the Senate which would authorize deployment of POMCUS sets 5 and 6 and provides $49,300,000 for equipment and unit training costs of West German Reservists.

Amendment No. 113: Deletes language proposed by the Senate which would have prohibited initial flight testing of MX missiles until both the House and the Senate agreed to a concurrent resolution approving the MX basing mode. This issue is addressed under amendment number 9 dealing with the overall Defense Department appropriations.

Amendment No. 114: Strikes languages proposed by the Senate which reduces the International Development Assistance from $800,000,000 to $700,000,000. This reduction is carried in another section of the Conference Report.

Amendment No. 115: Deletes language proposed by the Senate which would have allowed appropriated funds to be used by the Defense Department to establish or operate the Rapid Deployment Joint Task Force as a unified command.

Amendment No. 116: Deletes language proposed by the Senate which would have earmarked no less than $6,500,000 of the amounts available for programs of the National Institute on Aging for research on Alzheimer's disease.

Amendment No. 117: Inserts language proposed by the Senate that authorizes the Secretary of Commerce to permit, upon request from the City of Tacoma, Washington, the sale or lease of the Pantages Centre for the Performing Arts building.

Amendment No. 118: Inserts language proposed by the Senate that provides $1,500,000 for recently authorized White House Conference on Productivity, to be funded within the Department of Commerce.

Amendment No. 119: Provides language proposed by the Senate which contains requirements to ensure the participation of Israel in the International Atomic Energy Agency.

Amendment No. 120: Deletes language proposed by the Senate to elevate the level for the position, Counsel of the Department of State, from Executive Level IV to Executive Level III.

LOW INCOME ENERGY ASSISTANCE

Amendment No. 121: Appropriates an additional $100,000,000 for low income energy assistance instead of $200,000,000 as proposed by the Senate. No similar provision was included in the House resolution. This increases the total fiscal year 1983 appropriation for energy assistance to $1,975,000,000 (See Amendment Nos. 14 and 102).

Amendment No. 122: Deletes language proposed by the Senate which would have made funds available to provide for conversions of Army and Air National Guard civilian technician positions to full-time military positions.

WEATHERIZATION

Amendment No. 123: Deletes language proposed by the Senate which would have increased the portion of a State's energy assistance grant which could be used for weatherization activities. No similar provision was included in the House resolution.

Amendment No. 124: Inserts language proposed by the Senate expressing the Sense of Congress that the Federal Reserve and the Federal Open Market Committee should continue to take such actions as are necessary to achieve and maintain a level of interest rates low enough to generate significant economic growth and thereby reduce the current intolerable level of unemployment

DEPARTMENT OF LABOR

Amendment No. 125: Appropriates $25,000,000 for the dislocated worker program authorized by title III of the Job Training Partnership Act, instead of $50,000,000 as proposed by the Senate.

Amendment No. 126: Inserts language proposed by the Senate dealing with transfer of United States defense equipment, materials or technology to foreign countries.

Amendment No. 127: Appropriates $94,000 for United States Fish and Wildlife Service, "Resource management" instead of $243,000 as proposed by the Senate. This additional amount, together with the $149,000 closedown costs in the regular appropriation act will permit the Ennis NFH, Montana to remain open in fiscal year 1983. The total amount available for that hatchery, $243,000, also includes $71,000 for necessary cyclic maintenance.

Amendment No. 128: Deletes proposal of the Senate to amend the authorization for the Public Safety Officers Benefits Program to include beneficiaries of volunteer firemen, Federal Protective Officers, and law enforcement personnel dealing with juvenile delinquency.

.22 CALIBRE RIMFIRE AMMUNITION

Amendment No. 129: Inserts language proposed by the Senate which prohibits record keeping requirements regarding the sale of .22 calibre rimfire ammunition.

COLLECTOR'S FIREARMS

Amendment No. 130: Deletes language proposed by the Senate which would have amended the criminal code to allow the Secretary of the Treasury to classify certain firearms and ammunition for importation purposes.

Amendment No. 131: The managers have amended the Senate proposed language to make $2,000,000 available to the Secretary of Labor for social science and historical studies of international labor issues, rather than to the Chairman of the National Endowment for the Humanities.

Amendment No. 132: Appropriates $3,000,000 for National Park Service, "Construction" as proposed by the Senate. This will permit the Service to continue construction of bridges on Grandfather Mountain in North Carolina.

ESSENTIAL PRODUCTIVE JOBS

Amendment No. 133: Deletes Title II of the resolution as proposed by the House and modified by the Senate, due to the public announcement that the jobs title would be vetoed. The action of the Conferees is followed by a request that the facts which supported Title II be submitted to the President with the request that they be included in his budget recommendation for the coming year.

The House passed resolution contained approximately $5.4 billion to address some of the unmet needs currently facing the country and thereby generate essential productive jobs. The Senate version included approximately $1.2 billion for similar programs.

The House included the funding recommended in Title II because of the continued economic crisis in the nation. Unemployment has increased to 10.8 per centum on a national basis, reaching a national high of 17.2 per centum in the State of Michigan. Actual filings of business related bankruptcies for the year ending June 30, 1982 reached a total of 77,503 as compared with a prior year figure of 66,332 and business failures, as reported by Dunn and Bradstreet are up 49 per centum as compared to one year ago. Only 35.7 per centum of the raw domestic steel industry's capacity is currently being utilized which represents the lowest capacity since 1932.

The American farmer is more than $200 billion in debt, financed at rates ranging between 15 and 20 per centum, with higher costs and lower prices. The Trade Adjustment Assistance Administration of the Department of Labor has certified that 510,000 are unemployed as a result of foreign automobile imports. During the 1975 rescession approximately 76 per centum of unemployed workers we covered by some form of unemployment benefit and today only 49 per centum are currently covered. Long-term economic stability can only be achieved through the private sector when existing Federal domestic and foreign policies are inadequate to provide means for the recovery of major and minor industries, of large and small businesses, or of United States Agricultural production, which is being held off world markets by refusing to sell at competitive prices. Today every possible means must be made to increase American production and to sell American, instead of continuing to make competitors out of customers. The current unacceptable level of unemployment which has not existed since the Great Depression prior to World War II creates an economic and humanitarian problem too serious to ignore. A strong and viable economy is an essential ingredient of our national security and the efforts to increase our military capability and readiness. Unemployment compensation has

reached an annual rate of over $20 billion, and now hundreds of thousands of workers have exhausted the period of time for which they are entitled to draw unemployment compensation. At a time when the material wealth of the nation is being allowed to deteriorate in the watersheds, rivers and harbors, in the interest of the nation immediate steps should be taken to retain and restore our physical wealth. It is essential that interest rates, which have been reduced following a GAO investigation of the Federal Reserve System at the request of the House Appropriations Committee, continue at present or lower rates for industrial and agricultural recovery.

It is believed that the Board of Governors of the Federal Reserve and the Federal Open Market Committee should take such actions as are necessary to achieve and maintain a level of interest rates low enough to generate significant economic growth and thereby reduce the current intolerable level of unemployment.

The country is in a state of economic emergency reminiscent of the darkest days of the Great Depression. We have been in a severe recession for about a year. Real gross national product showed a cumulative decline of nearly 2.5 percent. This process of decline proceeded at its fastest pace in the fourth quarter of 1981 and the first quarter of 1982 with output falling at about a 4 percent annual rate.

For all these reasons the conferees believe that the Federal Government must take positive action to restore the financial health of industry, business and agriculture. However, the Committee of Conference realizes that government cannot solve these problems unilaterally. Business and industry must share the responsibility.

COOPERATION WITH THE PRIVATE SECTOR

In the past the Federal government has come to the assistance of the private sector when help was needed to avoid bankruptcies and foreclosures, and to maintain productive capacity and employment levels. Recent assistance to the Chrysler Corporation, the Lockheed Aircraft Corporation and the City of New York are examples of necessary and wise federal investments in both the short-term and future.

PRECEDENT FOR CONGRESSIONAL ACTION

Twice before in our history the Congress has created a temporary Federal corporation to restore economic stability to the country. In 1918 the Congress created the War Finance Corporation to strengthen the private investment markets and to make loans to industries engaged in wartime production. During the depression of 1920 to 1922, Congress transformed the War Finance Corporation into an Emergency Finance Corporation. As the economy of the country improved throughout the 1920s and prosperity returned, the War Finance Corporation was phased out.

As the country moved out of the 1920's and into the Great Depression of the 1930's, many leaders of the country pushed for the reestablishment of the War Finance Corporation.

To meet the need to restore economic stability to the country, the 72nd Congress passed H.R. 7360 creating the Reconstruction Finance Corporation. The act was signed into law by President Hoover on January 22, 1932, as Public Law No. 2.

The Corporation's major functions at first were the extension of credit to agriculture, commerce, and industry through loans to banks and other financial institutions, insurance companies, agricultural credit agencies, and railroads. The lending authority of the Corporation was subsequently broadened to include authority to purchase the capital stock of banks, insurance companies, agricultural credit corporation and national mortgage associations. Authority was also given the Corporation to make loans to business enterprises, mining interests, disaster victims and public school authorities, and to assist in financing the construction of public works. It was also authorized and directed to allocate funds to, to make loans and advances to, and to purchase the securities of various U.S. Government corporations and agencies.

In the postwar period as the economy returned to normal, programs of the RFC were one-by-one spun off to other Government agencies and the Corporation was finally abolished by Reorganization Plan No. 1 of 1957.

During its 25-year history, the RFC was among the largest and most complex of all Federal lending agencies. It possessed unlimited authority to borrow funds from the U.S. Treasury, disbursing over $40 billion and guaranteeing private loans and investments for many more billions. Although the RFC did not have the purpose of making a profit, accounting records show that for its activities taken as a whole, its revenues and interest income exceeded its losses and expenses, even though many individual programs were undertaken with little hope of recovery of the funds.

Although Title II did not provide any legislative language creating a federal corporation similar to the RFC, the conferees believe that the appropriate legislative committees of the House should examine the current need for private sector/government cooperation and report legislation to the House floor as soon as possible at the beginning of the 98th Congress.

JAMIE L. WHITTEN
(except amendment 71),
EDWARD P. BOLAND
(except amendments 71, 85, 27, 28 and 29),
WILLIAM H. NATCHER
(except amendment 71),
NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES
(except amendments 27, 28, 29, 71 and 9),
EDWARD R. ROYBAL,
TOM BEVILL
(except amendment 71),
NORMAN D. DICKS
(except amendment 133),
BO GINN,
MARTIN O. SABO,
JULIAN C. DIXON,
VIC FAZIO,
SILVIO O. CONTE
(except amendments 85, 27, 28, and 29),
JOSEPH M. McDADE
(except amendments 85 and 27),
JACK EDWARDS,
JOHN T. MYERS,
J. KENNETH ROBINSON,
LAWRENCE COUGHLIN,
JERRY LEWIS,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER,
JAMES A. McCLURE,
HARRISON SCHMITT,
THAD COCHRAN,
MARK ANDREWS,
ROBERT KASTEN,
ALFONSE M. D'AMATO,
MACK MATTINGLY,
WARREN RUDMAN,
ARLEN SPECTER,
WILLIAM PROXMIRE,
JOHN C. STENNIS,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DeCONCINI,
DALE BUMPERS,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. SHUSTER (at the request of Mr. MICHEL), for today and the balance of week, on account of recuperation necessitated by several major surgeries due to an auto accident in Ninth District on October 11, 1982.

Mr. TAYLOR (at the request of Mr. MICHEL), from 1:30 p.m. today and balance of week on account of illness in family.

Mr. RUDD (at the request of Mr. MICHEL), for today until further notice, on account of dental surgery.

Mr. LUKEN (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. DOWDY, for today, on account of attending funeral services.

Mr. HUTTO (at the request of Mr. WRIGHT), after 4:30 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 20 minutes, today.

Mr. DORNAN of California, for 20 minutes, today.

Mr. WALKER, for 5 minutes, today.

Mr. McCLOSKEY, for 60 minutes, today.

(The following Members (at the request of Mr. MICA) to revise and extend their remarks and include extraneous material:)

Mr. PHILLIP BURTON, for 60 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. GONZALEZ, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. WEAVER, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SMITH of New Jersey, immediately prior to the vote on House Joint Resolution 631, today.

Mr. PEASE, and to include extraneous matter in the body of the RECORD notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,261.00.

Mr. SEIBERLING, to extend his remarks and to include extraneous material.

(The following Members (at the request of Mr. SOLOMON), and to include extraneous matter:)

Mr. PETRI.
Mr. DANNEMEYER.
Mr. CONTE.
Mr. HYDE.
Mr. DORNAN of California in two instances.
Mr. CONABLE.
Mr. HUNTER.
Mr. BROOMFIELD in two instances.
Mr. JEFFORDS in two instances.
Mr. MICHEL in two instances.
Mr. HOPKINS.
Mr. HANSEN of Idaho in nine instances.
Mr. YOUNG of Florida.
Mr. SAWYER.
Mr. EVANS of Iowa.
Mr. REGULA.

(The following Members (at the request of Mr. MICA), and to include extraneous matter:)

Mr. LANTOS.
Mr. RODINO in two instances.
Mr. HAMILTON.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. BARNES in 10 minutes.
Mr. OTTINGER.
Mr. ZABLOCKI.
Mr. HUBBARD.
Mr. WON PAT.
Mr. MCDONALD in five instances.
Mr. FOWLER.
Ms. MIKULSKI in five instances.
Mr. BARNARD.
Mr. STOKES in two instances.
Mr. DYSON.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1735. An act to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims.

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ENROLLED JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 631. Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year ending September 30, 1983, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that committee did on December 17, 1982, present to the President, for his approval, bills of the House of the following title:

H.R. 6204. An act to provide for appointment and authority of the Supreme Court Police, and for other purposes.

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

H.R. 7072. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

RECESS

The SPEAKER pro tempore. The House will stand in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 14 minutes p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[December 20 (legislative day, December 19), 1982]

5314. A letter from the Auditor of the District of Columbia, transmitting a report entitled, "Review of Mayoral Request to Borrow $150 Million in Repayable Advances From the U.S. Treasury", pursuant to section 455(d) of Public Law 93-198; to the Committee on the District of Columbia.

5315. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

5316. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting certification that waiver of the congressional review period of export licenses for petroleum products to Mexico for the period of December 1982 through June 1983 is vital to the national interest, pursuant to section 7(e) of the Export Administration Act of 1979; to the Committee on Foreign Affairs.

5317. A letter from the Attorney General of the United States, transmitting the Department's report on a further stay of the Supreme Court's judgment in *Northern Pipeline Construction Co.* v. *Marathon Pipeline Co.*, 102 S. Ct. 2858 (1982); to the Committee on the Judiciary.

5318. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report covering certain property transferred to the Republic of Panama in accordance with the Panama Canal Treaty of 1977 and related agreements, pursuant to section 1504(d) of the Public Law 96-70 and section 1-402 of Executive Order 12215; jointly, to the Committees on Merchant Marine and Fisheries and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[December 20 (legislative day, December 19), 1982]

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 631 (Rept. No. 97-980). Ordered to be printed.

Mr. BREAUX: Committee of conference. Conference report on H.R. 5002 (Rept. No. 97-982). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 636. A resolution providing for the consideration of H.R. 3809, a bill to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes, and the Senate amendment thereto (Rept. No. 97-983). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[December 20 (legislative day, December 19), 1982]

By Mr. BAILEY of Pennsylvania:

H.R. 7449. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the expense of altering or improving the principal residence of a taxpayer to remove or mitigate the effect of any architectural or other feature which limits the mobility

of the taxpayer or a member of his family because such taxpayer or family member is disabled; to the Committee on Ways and Means.

By Mr. EVANS of Iowa:

H.R. 7450. A bill to amend the Internal Revenue Code of 1954 to provide that the normalization rules of the investment tax credit shall apply to natural gas pipelines without regard to the additional restriction imposed where there is a Federal determination that natural gas is in short supply; to the Committee on Ways and Means.

By Mr. HANSEN of Idaho (for himself, Mr. MARLENEE, and Mr. PASHAYAN):

H.R. 7451. A bill to establish fees for recreation residence on National Forest System Lands; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. PANETTA:

H.R. 7452. A bill to amend titles II and XVIII of the Social Security Act and the Internal Revenue Code of 1954 to require that disbursements and receipts in the old-age and survivors insurance program be set out as separate functional categories in the budget, to provide for financing from general revenues for the disability and hospital insurance programs and to consolidate the trust funds established for such programs, to adjust accordingly the employment and self-employment taxes and to provide for an income surtax to supplement such taxes, and to institute certain other reforms in such programs; to the Committee on Ways and Means.

By Mr. STANGELAND:

H.R. 7453. A bill to amend the Agricultural Act of 1949 with respect to the determination of acreage bases to be used under acreage reduction programs for the 1983 crop of wheat and feed grains; to the Committee on Agriculture.

By Mr. WRIGHT:

H.J. Res. 635. Joint resolution establishing the dates for submission of the budget and economic report; considered and passed.

By Mr. BAILEY of Pennsylvania (for himself and Mr. HUNTER):

H.J. Res. 636. Joint resolution directing the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia; considered and passed.

By Mr. BAILEY of Pennsylvania (for himself and Mr. HUNTER):

H. Con. Res. 437. Concurrent resolution resolution expressing the sense of Congress concerning the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia; considered and agreed to.

By Mr. FOLEY:

H. Con. Res. 438. Concurrent resolution that the House of Representatives shall adjourn Monday, December 20, 1982, or on Tuesday, December 21, 1982, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, and that when it adjourns on said day, it stand adjourned sine die; considered and agreed to.

By Mr. JEFFORDS (or himself, Mrs. SCHNEIDER, MR. SHANNON, Mr. RATCHFORD, Mr. EDGAR, Mr. BOLAND, Mrs. FRAMES, Mr. AUCOIN, Mr. Hughes, Mr. GREEN, Mr. ALBOSTA, Mr. DAVIS, Mr. BEDELL, Mrs. SNOWE, Mr. GEJDENSON, Mr. WYDEN, Mr. FLORIO, Mr. CONTE, Mr. MARKEY, Mr. MAVROULES, Mr. D'AMOURS, Mr. NOWAK, Mrs. FENWICK, Mr. SPENCE, Mr. FINDLEY, Mr. CLINGER, Mr. PETRI, Mr. WORTLEY, Mr. ERDAHL, Mr. JAMES K. COYNE, and Mr. LENT):

H. Res. 634. Resolution expressing the sense of the House of Representatives with respect to the dispositon of oil company overcharges and other amounts collected by the Department of Energy in connection with violations of the Emergency Petroleum Allocation Act of 1973; to the Committee on Energy and Commerce.

By Ms. OAKAR:

H. Res. 635. Resolution expressing the sense of the House of Representatives with respect to the administration's proposal to tax employees' health benefits; to the Committee on Ways and Means.

By Mr. GUARINI:

H. Res.637. Resolution expressing the sense of the House of Representatives that the President should award the Presidential Medal of Freedom to Dr. Barney Clark; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[December 20 (legislative day, December 19), 1982]

H.R. 3298: Mr. FISH.

H.R. 5507: Mr. CROCKETT, Mr. RUSSO, and Mr. THOMAS.

H.R. 6751: Mr. MOLINARI, Mr. HARTNETT, Mr. BONIOR of Michigan, Mr. ENGLISH, Mr. MCHUGH, Mr. COLEMAN, Mr. EMERY, and Mr. MORRISON.

H.R. 6971: Mr. GRAY.

H.R. 7188: Mr. APPLEGATE, Mr. BADHAM, Mr. BEREUTER, Mr. BIAGGI, Mr. FIELDS, Mr. MCEWEN, Mr. SEIBERLING, Mr. STANGELAND, Mr. WEAVER, and Mr. WOLF.

H.R. 7200: Mr. BLILEY.

H.R. 7309: Mr. EDWARDS of California.

H.R. 7320: Mr. HANSEN of Utah.

H.R. 7337: Mr. ROE, Mr. STOKES, and Mr. MITCHELL of Maryland.

H.R. 7358: Mr. MITCHELL of Maryland.

H.R. 7371: Mr. WON PAT, Mr. BEVILL, Mr. DREIER, Mr. BLILEY, Mr. LUKEN, Mr. English, Mr. Frenzel, Mr. Corcoran, Mr. SAWYER, Mr. ROE, and Mr. STENHOLM.

H.R. 7379: Mr. CONYERS, Mr. DANNEMEYER, Mr. HARKIN, and Mr. LEACH OF IOWA.

H.R. 7393: Mr. MINISH.

H.R. 7411: Mr. MORRISON, Mr. MINETA, Mr. BEVILL, and Mr. SUNIA.

H.R. 7437: Mr. MITCHELL of Maryland and Mr. EDWARDS of California.

H.J. Res. 467: Mr. COLEMAN.

H.J. Res. 558: Mr. SOLARZ.

H.J. Res. 591: Mr. GILMAN.

H.J. Res. 607: Mr. ROE and Mr. OBERSTAR.

H.J. Res. 628: Mr. MITCHELL of Maryland, Mr. SEIBERLING, Mr. RUSSO, and Mr. LUNDINE.

H. Con. Res. 427: Mr. DREIER.

H. Res. 406: Mr. HERTEL.

H. Res. 624: Mr. TAUKE and Mr. MITCHELL of Maryland.

EXTENSIONS OF REMARKS

AN ADDRESS BY WALTER B. WRISTON

HON. TIMOTHY E. WIRTH
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. WIRTH. Mr. Speaker, international communications are of enormous importance to all of us. As our economy grows more and more interdependent, and as the speed of telecommunications and information transfer continues to accelerate, access to reliable and affordable international telecommunications becomes more important.

The Subcommittee on Telecommunications, Consumer Protection, and Finance has held extensive hearings on the applications of telecommunications and information products and services, both domestically and internationally. Recently, Mr. Walter B. Wriston, the chairman of Citibank/Citicorp, addressed many of these same issues in a very cogent and well-reasoned address.

Restrictions on the flow of data across national boundaries can have enormous economic consequences, as Mr. Wriston points out in his speech. I hope my colleagues will take the time to read through his remarks, as they familiarize themselves with the changes that are taking place in our economy.

Mr. Speaker, I ask that Mr. Wriston's speech be printed at this point in the RECORD.

Text of speech attached:

AN ADDRESS BY WALTER B. WRISTON, CHAIRMAN, CITIBANK/CITICORP

Much has been written and said about the Information Society and its effect upon all of us. Like many catch phrases, the Information Society is both descriptive and deceptive. It is descriptive because it accurately captures the concept of the vast flow of data which now innundates us all. It is deceptive because to some extent all civilization has been built upon the foundation of information passed on from one person to another and from one generation to the next.

The technique employed in passing on information remained basically unchanged for more than a thousand years until Johann Gutenberg brought the marvel of movable type to the European scene in the 15th Century. The great innovation which changed the world was not at first a commercial success. The money Gutenberg borrowed was not repaid and he lost both his press and his type; doubtless the bankers of the time were castigated for making "risky" loans.

However the world's information is assembled and reproduced, the effort to transmit it on a timely basis from one place to another is older than history. And the technique does not change in a predictable manner.

Technologies have ranged from the signal fires that carried the news of the fall of Troy, to the beat of African drums that carried the news to sub-Sahara Africa of the Battle of Tobruk in World War II. The halting efforts of mankind to design and maintain some standard way to communicate data has been far slower than the generation of the data itself. Probably one of the first breakthroughs was at sea where the fate of vessels and their passengers often depended upon swift, accurate signals. The international code of signals was compiled by the British government in 1857, and about half-a-century later in 1901 was amended to its present form by an international agreement. Even today, however, the dots and dashes of the morse code are not standard worldwide. The international morse code differs from the American on eleven letters and almost all numerals.

Against that background, our progress in S.W.I.F.T. does not seem too unsatisfactory. We might remind ourselves that in some parts of the world, the gauge of railway tracks still changes when one comes to a political border. Some say that this was a deliberate effort to halt invading armies, but perhaps in some cases the reason for a failure to agree to something so simple as the width of a railroad track came after the fact and should be called a rationalization. We have one gauge of track across the American continent today because the railway tycoons of the past felt the practical necessity to move goods across this nation. Today, no doubt, their acts of standardization would violate antitrust laws and we would have instead a government commission holding hearings to determine the "proper" gauge of railroad track.

S.W.I.F.T. was born of a similar practical necessity, but in an age of far more stringent regulations.

As the flow of information became more and more important to all of us in the financial business, it became clear we needed some kind of a standard format for financial transfers. While our progress has been slow, today S.W.I.F.T. has moved a long way toward its goals.

Today, as in the past, technology continues to move faster than the political processes. As small earth stations sprout from the roofs of suburban homes and fiber optics becomes a reality, it is easy to get lost in the scientific details and to lose sight of the fundamentals.

Sound banking business is and always has been based on good information received in a timely fashion. The explosion of technology which made the rubricated ledger go the way of the buggy whip did not change the need to record valid numbers in a clear, usable way—and the need for liberty to communicate those numbers to others. There has always been a balance, sometimes something which could be described as an uneasy truce, between the government censor and people who need information to run their own affairs.

Today, following an old tradition, the government censor is reaching for new tools to stop, slow down, or tax the flow of electrons which carries information across political borders. But whether the method employed is burning books in the village square or stopping the flow of data across borders by taxes or other administrative procedures, the result is the same: The nervous system of civilization is slowed down and made more costly.

If we honestly assess the forces at work today, none of us can be sanguine that the future of the information revolution will automatically work toward efficiency and progress.

The impulse to regulate is as old as government itself, and in the area of communications it has usually succeeded. Nor has business always resisted.

Samuel Morse and his partners waged an intensive campaign to sell their telegraph patents to the U.S. government. They were encouraged by the American Postmaster General, who observed that "It becomes . . . a question of great importance, how far the government will allow individuals to divide with it the business of transmitting intelligence. . . . The use of an instrument so powerful for good or evil cannot with safety to the people be left in the hands of private individuals uncontrolled by law."

Fortunately, neither the patentees not the postmaster general could arouse enough interest in Congress to obtain an appropriation for the purchase of telegraph rights—so Morse and his friends had to go the private enterprise route.

The initial British telegraph industry was also based on private initiative. In fact, the Cooke-Wheatstone telegraph patent application was filed in December 1837, four months before the Morse application was filed in the U.S. But in 1868 a bill was passed in England authorizing the government to take over the telegraphs and make them part of the Post Office. Similar stories could be told for most other countries.

The quantum leap in technology which has brought about our present information revolution did not happen by accident. The increasing integration of the world's financial system demanded more accurate information at a faster pace then ever before, and thus members of the financial community became the best customers of the communications engineers.

This process has fed upon itself. Satellites gave us the ability to communicate information around the world at the speed of light by bouncing data off transponders miles in space even as the events are taking place. But the rapid transmission of masses of data has attracted increasing government attention, just as the telegraph did 150 years ago. The rights of individuals to privacy, the rights of the sovereign to protect national security, the rights of the people to know, and the ability of markets to function are but a few of the issues which present themselves. None of these issues is either trival or new, but all of them are attaining higher visibility as technology advances with unprecedented velocity.

There are a few things that we do know based upon past experience. One of these certainties was described more than 40 years ago by Jacob Viner, in his classic work on the gold exchange standard. He wrote that state intervention in private international

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

markets leads "with a certain degree of inevitability to the injection of a political element into all international transactions." The presence of this political element necessarily implies a "marked increase in the potentiality of economic disputes to generate international frictions." This principle is as old as time and as new as the Soviet pipeline controversy. History is replete with evidence to prove his point again and again. Indeed it was not until the world moved away from mercantilism and toward a freer market system that the developing countries had any hope of bettering the lot of their people. It was, in fact, the Euromarket that arose, unbidden by government and untouched by regulation, knowing neither color nor country, that gave access to the credits which permitted some poor countries to double their standard of living in a decade. This was a feat without parallel in history but somehow it never gets favorable mention. It was this market which took the initial financial impact of the oil shock and transferred, with only minor casualties and in a short time frame, the most massive amounts of financial assets in history. It turned a crisis which could not be managed by anybody into a market adjustment process that let the world survive, albeit with scars.

Markets function only through the transmission of information—both good and bad. It used to be that the fast horse, the clipper ship, or Mister Reuter's land telegraph brought the news by which fortunes were made and lost. Today it is the electron. The speed with which the data travels is in order of magnitude different from any time in history, but the information is unchanged and two and two still make four at any speed.

The principles of sound banking are unchanged. If the world is to advance, the flow of data must move across borders unimpeded. This conclusion about the freedom of transborder data flow is merely an extension of what we have learned as a world society about trade in goods.

The postwar boom that rebuilt all our economies was based on the enlightened proposition that goods should be permitted to cross national boundaries with as few restrictions as possible. This concept was institutionalized in such international bodies as the General Agreement on Tariffs and Trade, as well as in many national groupings.

Free trade, while regularly sabotaged and seldom fully realized, is usually given lip service as A Good Thing because it's based on the generally acceptable economic theory of comparative advantage. But when world economic conditions begin to deteriorate, protectionism rears its familiar head and nation after nation begins to raise tariff and nontariff barriers to international trade.

This is an old and recurring phenomenon. Today I would suggest we are seeing an equally dangerous trend that could destroy the premise upon which S.W.I.F.T. is based. I refer to the growing efforts to control the flow of data across national borders.

To us, the idea of setting up a toll-gate or customs post to restrict the entry of a stream of electrons may seem ludicrous. There are others who see it differently.

The beneficent results of low-cost, instantaneous international financial transactions, which we regard as a free market in ideas and information, are by no means appreciated in every quarter. We have seen laws passed to control transborder data flows, and more are over the horizon. Some have laudible purposes—such as protecting the privacy of individuals and businesses. Some have internal political motives, such as job protection or the desire to make full use of, and derive revenues from, the publicly owned postal-telegraph services. Some are viewed as preservation of national self-sufficiency, designed to avoid economic dependence on entities based in other countries. And some, whatever the stated motive, are based on free-floating anxiety about what information carried on the international electron stream might produce.

As governments intervene more actively to control the international flow of data and capital, we may be sure that another fruitful source of political conflict amont governments will be opened up.

Government—and all of us—must live with the fact that modern techology has welded us into an integrated economic and financial markeplace. The clock cannot be turned back. Perhaps we in the financial community have been remiss in not making this clearer to the world's opinionmakers.

The immense Euro-market would never have gotten off the ground if it hadn't been born free—and stayed free. The electronic information revolution which helped make it possible has now soared far beyond that market. But it will surely falter if it becomes subjected to ever-increasing national regulatory wing-clipping. And the market will suffer along with it.

If it is true, as some schools of economics teach, that people act efficiently in their own interests, a good case can be made for the increase in the general welfare that results from the free flow of data. The case has three elements: price, security, and liability.

The chief attraction of the new technology beyond its speed, is is low cost to customers. But when a government insists that we use its publicly owned network, we may be forced into an uncompetitivie situation subject to arbitrary pricing policies not based on cost. The fundamental building block of the commercial international network is the private line. Only through the private leased line can we get a handle on our costs and plan for the expansion of future services.

Again, history offers instructive lessons. In England, the telephone like the telegraph was also developed privately. But only under restrictive licenses from the post office, which already owned the telegraph system. Rates were set very high, no long distance lines were built, and other restrictions were imposed to keep the telephone from becoming competitive with the Post Office's telegraph system.

The Post Office won in its efforts to slow down the new competitor. The number of telegraph messages almost tripled in Great Britain between 1885 and 1900, while the number in the U.S. increased only 50% during the same period, because Americans were using their new telephones.

The telephone should have replaced the telegraph earlier in Britain than the U.S. because Britain's compact size made it technologically feasible to communicate anywhere in the country by telephone much earlier than in the United States. But at the critical moment, the British postmaster succeeded where the American postmaster failed.

The French did even better: in 1889 the government took possession of the telephone company by force, and in its early years gave the world a telephone system which became the astonishment of anyone who every tried to use it.

The topology of networks in Europe today is dictated not by such issues as distance and volume of traffic, but by international Telex rates, national prohibition of private lines, and restrictions on the ability to access foreign data bases in real time from remote locations. The problems are not limited to financial transactions, but more and more to other sectors of society. The London Financial Times, for example, is printed in Germany and then flown to London by air freight because of restrictions on the transmission of foreign data bases and typesetting files. Nor can the Financial Times use the quiet hours on other people's leased lines because of the British Post Office's restrictions on sharing private leased lines. There are, unfortunately, many other examples to suggest that in communications we may be traveling in a political direction that is the fundamental equivalent of high tariffs on merchandise.

The second element, that of security, is fundamental to any international financial network but that, too, deteriorates when we are forced to use PTT or common carrier services. The cost of making security double-checks becomes prohibitive especially when charged on a per-message basis rather than on a flat-rate lease. There are also government efforts to forbid private operators to use encryption techniques superior to those used by the government regulators. Sovereigns have a legitimate worry about encrypted traffic moving across their borders although this has been done by foreign embassies since codes were invented. The end result is a system that costs more, loses value and timeliness—and customers.

Such a system can also increase a corporation's liability for any error in a transmission of data or a transfer of payments, and this also can needlessly complicate legal contracts for certain types of automated services.

Since we have a common stake in the free flow of information, our common strategy should be to seek some reasonable limitations on the scope of PTT monopolies. And we can do this very effectively by stressing the security of private-leased networks and their flexibility of pricing—areas in which the PTTs in the past have demonstrated little inclination to compete. Our task is to make the public—and our customers—understand what is at stake.

There is reason for hope in some recent events. The agreement between Canada and the United States a month or so ago to permit the use of domestic satellites for transborder data services is a step in the right direction. Another encouraging sign is the increasing competition taking place in Britain between its own PTT and private domestic services. Moreover, as the number of regional satellites—like the one linking the Arab world—increases, the opportunities multiply for the expansion of competing services.

As the air becomes more and more crowded with electronic transmissions, governmental agreements are essential in allocating frequencies and setting public policy. We are never going to be able to roar down an open highway as the only car on the road. But as part of a huge user population, we have a duty and a vital interest to see that the global electronic highway we have already built, and which makes possible the functioning of the global marketplace, remains as efficient, as cost effective, and as free as possible.

The legitimate competing concerns of society make this no easy task, but it is one

that is worthy of our best efforts because the global marketplace has become such an essential part of the future of the world. The ability to move capital to where it is needed and wanted is fundamental to the continual effort of mankind to live a better life. In today's world, information about this market and the transfers themselves travel on our networks at the speed of light—which Einstein tells us is as fast as it is possible to go. Keeping that data moving with speed and efficiency, while balancing competing interests, is our particular challenge—and the greatest contribution we can make to the world that emerges from the information explosion.

Thank you.●

THE GIFT OF LIFE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. YOUNG of Florida. Mr. Speaker, Christmas is the season of giving, and in the spirit of the season I would like to pay tribute to an organization in Pinellas County, Fla., that gives to the community year round.

The Community Blood Bank of St. Petersburg, Fla., is celebrating this year its 30th anniversary of supplying blood to 12 county medical facilities. The blood bank relies on voluntary donors to supply all of its blood. To commemorate the anniversary, St. Petersburg Mayor Corinne Freeman has initiated a special campaign within the community to call attention to the outstanding service the blood bank provides and the ever-increasing need for more blood donors.

As we exchange gifts of all shapes and sizes during the next few days, I hope my colleagues will find time to follow the lead of my friends and neighbors in Florida by giving blood—which provides the most precious gift of all, the gift of life.●

LEGISLATION TO REPEAL PREFERENTIAL TAX TREATMENT FOR NATURAL GAS PIPELINES

HON. COOPER EVANS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. EVANS of Iowa. Mr. Speaker, today I am introducing legislation which would repeal a provision in the Revenue Act of 1971 which contributes to higher natural gas prices for the American consumer. The provision I am referring to allowed the old Federal Power Commission (FPC), now the Federal Energy Regulatory Commission (FERC), to provide preferential ratemaking treatment of the investment tax credit to natural gas pipelines. Congress allowed the FPC to provide such a preference if the FPC "determines that the natural domestic supply of the product furnished by the taxpayer in the course of such trade or business is insufficient to meet the present and future requirements of the domestic economy." In January of 1972, the FPC issued an order granting gas pipelines this treatment. This order is still in effect today, despite the fact that there currently exists no shortage in the domestic supply of natural gas.

This matter could be handled internally by FERC, through a recission of its 1972 ruling. The Iowa State Commerce Commission has petitioned FERC to make this change. FERC has not as yet responded and now Iowa has been joined in this effort by the National Association of Regulatory Utility Commissioners (NARUC) and several other State regulatory agencies.

NARUC, in a statement in support of the Iowa Commerce Commission's petition, explains the significance of this preferential treatment:

Current FERC policy requires that natural gas pipeline rates be set without regard to the tax forgiveness. In other words, the Federal income tax component of the firm's cost of service is not adjusted to reflect the credit thus creating a permanent rate overcharge. The firm is also permitted to collect from ratepayers, as an element of its cost of service, depreciation charges based upon the original cost of the asset without regard to the zero cost capital subsidy created by the investment tax credit. Similarly, consumers must pay a rate of return on an inflated rate base which has not been adjusted to reflect the capital subsidy.

This clearly results in a substantial direct subsidy from ratepayers to stockholders which in turn causes natural gas rates to exceed those which would be in effect if conventional normalization ratemaking treatment were employed or if the natural gas pipeline industry simply did not qualify for the investment tax credit. Thus current FERC policy regarding the ITC has appropriately been termed "reverse flow through."

At a time when natural gas rates and gas pipeline profits are increasing substantially, the industry is generating record investment tax credits which result in considerable rate overcharges due to current FERC ratemaking policies. The magnitude and direction of this inequity begs for prompt resolution.

Mr. Speaker, at a time when many Americans are having trouble paying their heating bills and when surpluses of natural gas exist, it makes no sense at all to allow any preferential tax treatment to be given to gas pipelines, especially when it means higher consumer prices. My legislation would correct this situation and I intend to reintroduce it in the 98th Congress and push for prompt consideration.●

EASTERN KENTUCKY UNIVERSITY WINS NATIONAL CHAMPIONSHIP DECEMBER 18

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HOPKINS. Mr. Speaker, I am pleased to bring to the attention of my colleagues the outstanding achievement of the Eastern Kentucky University football team and its coach, Roy Kidd.

Working with a team some people said was short on experience but long on heart and enthusiasm, Mr. Kidd led the Eastern Kentucky Colonels to an undefeated 13-to-0 season, setting the stage for the NCAA division 1-AA football championship. In the finals of the national championship game, Eastern was victorious with a 17-to-14 victory over the University of Delaware.

The Eastern Kentucky University football team and its coaches deserve our special attention and congratulations. Each athlete performed magnificently and each made that all-important extra effort to insure victory.

In his first season as starting quarterback, senior Tuck Woolum was the field general marching his team to victory after victory until achieving the ultimate—a national championship.

The most valuable player on the Eastern team was Terence Thompson. Another player deserving special recognition is Ed Hairston who was unfortunately injured in Saturday's game. These three men deserve our special recognition and congratulations for their unselfish efforts and outstanding performance.

Mr. Speaker, I know that the Members of the House of Representatives join me in saluting the championship athletes of Eastern Kentucky University and its outstanding coach, Roy Kidd on a well-deserved accomplishment.●

THE NO-COST, NO-SUBSIDY HOUSING BILL

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. WYDEN. Mr. Speaker, in July of this year, Congressmen DICK GEPHARDT, BARBER CONABLE, and I introduced H.R. 6781, the Residential Mortgage Investment Act.

Since its introduction, H.R. 6781—which we are calling the no-cost, no-subsidy housing bill—has been cosponsored on a bipartisan basis by 265 of our colleagues in the House. A similar

bill was introduced with bipartisan support in the Senate in September.

This legislation would remove some of the arbitrary and unnecessary regulations that have been developed, in interpreting the ERISA statute, that discourage private pension funds from investing in mortgages and mortgage-backed securities. It would not, however, eliminate a single essential safeguard now in the law that protects the assets of pension plan recipients.

The sponsors of this legislation have spent a considerable amount of time over the past 6 months working for its enactment. And for good reason.

Mr. Speaker, millions of young people have been denied the American dream of homeownership because of a severe shortage of affordable mortgage capital.

The cure is clear: Find new sources of mortgage capital. And pension funds, both public and private, represent the largest potential new source of mortgage capital—more than $600 billion.

At the present time, only about 3 percent of this vast pool of funds is invested in housing and real estate. There is no reason why that percentage should not and cannot be higher—without endangering the prudent investment of pension funds.

What is needed is legislation that prevents Government agencies from dictating to pension fund trustees how to choose from among sound investments. It is wrong to classify mortgages as second-class investments. Mortgages are not second-class investments and Congress did not intend for agencies to make that kind of judgment.

Mortgages and mortgage-backed securities are sound, safe, and profitable investments. A recent Salomon Brothers survey showed that, over a 10-year period, mortgage securities outperformed investments such as corporate bonds and long-term U.S. Treasury notes.

The Gephardt-Conable-Wyden bill involves no subsidies and no cost to the taxpayers. It would not require pension funds to invest in mortgages. It would merely encourage them to do so by allowing mortgages to compete for the attention of fund managers on an equal footing with other types of investment.

I would like to take this opportunity to thank the 265 Members who have become cosponsors of H.R. 6781 over the past 5 months. I would especially like to thank several Members who have worked very hard for this legislation—including DICK GEPHARDT, TOM FOLEY, GILLIS LONG, JIM WRIGHT, and BARBER CONABLE.

It is now clear that there will not be enough time to enact H.R. 6781 before the 97th Congress adjourns. The severe shortage of mortgage capital and sky-high mortgage interest rates will not expire with the 97th Congress, however, and I would like my colleagues to know that this important legislation will be reintroduced in the next Congress.●

HOMER FERGUSON

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BROOMFIELD. Mr. Speaker, last Friday our Nation lost a great American with the death of the former Senator from Michigan, the Honorable Homer Ferguson.

Senator Ferguson's life epitomizes the best in public service. Besides the 12 years from 1942 to 1954 that he served as a U.S. Senator, Homer Ferguson also served as Ambassador to the Philippines, and as a judge on the court of Military Appeals. In 1976, he retired from the court to his home in Grosse Pointe, Mich.

Mr. Speaker, I did not have the privilege of serving in Washington with Senator Ferguson. However, I was in the Michigan State Legislature for part of those years, and I was impressed with his great skill and dedication.

As a Senator, he sponsored the legislation which added the words "under God" to the "Pledge of Allegiance," and he was an ardent supporter of a strong America.

Mr. Speaker, I wish to express my deepest sympathies to Senator Ferguson's family, and our profound appreciation for his lifetime of service to our country.●

BE GENEROUS, BUT WITH YOUR OWN MONEY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. McDONALD. Mr. Speaker, on numerous occasions I have spoken on the House floor and I have voted against the ever-increasing size and expenditures of the Federal Government. This has included many votes against various social and welfare programs. When these programs are enacted and later allowed to geometrically increase, Members of Congress who oppose such programs are generally labeled as "cold hearted" or "insensitive to the needy."

However, nothing could be further from the truth. The most feared enemy of our Nation's elderly, impoverished, and those living on fixed incomes is skyrocketing inflation and the economic havoc that inflation wreaks on those who are least able to cope with it. If we are truly compassionate toward those in need, we should redouble our efforts to work and vote for a blanced Federal budget and to end the massive Federal deficits which have fueled inflation and have left us with a national debt in excess of $1 trillion. It is a sad paradox that many of the programs and expenditures that are proposed and passed only serve to exacerbate the difficulties of those whom the program is designed to help.

Likewise, a vote in favor of social and welfare programs should not be regarded as evidence of compassion and charity. Simply stated, there is nothing compassionate or charitable about voting to spend someone else's money.

In that vein, what follows is an excellent column written by syndicated business columnist Louis Rukeyser as it appeared in the Atlanta Constitution on December 20, 1982:

BE GENEROUS, BUT WITH YOUR OWN MONEY

'Tis the season to be giving, and as anyone lucky enough to be a human being should know, that's not all bad.

But it might also be appropriate, in this holiday season, to think for a moment about the rightful place of such seasonally heralded virtues as compassion and generosity in our year-round pursuit of a happier U.S. economy.

Much of the arguing now going on concerning economic policy for 1983 tends toward easy oversimplifications of these issues. That deep thinker Tip O'Neill, for example, recently accused President Reagan of having "a stone heart," and the question of sensitivity toward the needs of others dominates much of the current Washington rhetoric.

It would be nice if it were all that simple: If the argument were truly between kindness and cruelty, we would not need to read the papers to decide where we stood. Which of us, indeed, would choose consciously to stand with Ebenezer Scrooge?

But life is not so neat. In the real world, the heroes and villains are blurred and amnbiguous, and practically every man thinks he is one of the good guys. None of our recent presidents failed intentionally, and no curent politician goes to bed at night gleefully contimplating the foreclosing of the nation's mortgages.

LOOK AT RESULTS

So we must look beyond the professions of compassion and generosity to the actual results achieved in their noble names. Take that question of who does, or does not, have "a stone heart." Politicians who talk that way might well be referred to the "Eleventh Commandment" once promulgated by Noble laureate Milton Friedman: everyone should be free to do as much good as he wants to—with his own money.

And, indeed, since when is it the sign of a kind and generous heart to perform great benefactions with other people's cash? A predilection for raising taxes on somebody else is scarcely acknowledged route to personal beatification. Self-righteousness it may well fortify, but sthat is a different (and less lovely) quality entirely.

The notion that any program that increases government social spending is compassionate and generous, and anything that resists such expansion is Scroogelike, falls

down twice: once for the giver and once for the recipient. It is unmistakably clear that many once-generous folks now tend to figure that they already gave, involuntarily, to the Internal Revenue Service; it is hardly surprising that the great flowering of American private charities came in the Nineteenth Century, when taxes were negligible.

THE EASY ASSUMPTION

The easy assumption in Washington is that coercive politicians can decide better than you and me to which causes our dollars should be directed. But when government squeezes the productive turnip so tightly, there is inevitably less left for individual generosity—toward possibly more meritorious recipients.

The link between geometrically increasing social spending and any authentic concept of compassion is weakened further by results suggesting that such programs tend overwhelmingly not to work. All around us is evidence that, far from helping the helpless onto the ladder of success, we are enticing successive generations onto a treadmill of dependence.

So my guess, at this holiday season, is that we ought not to confuse our private generosity with any public notion of programmatic largesse. Of course, we must adequately succor the economically wounded of this recession, but our greatest long-term gift will be not endless government aid but a new birth of noinflationary growth—and jobs. Being generous with other people's money is the route not to heaven but to hypocrisy.●

AMERICAN TECHNOLOGICAL DEVELOPMENT AND ECONOMIC POSITION

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HUNTER. Mr. Speaker, as you know, America's international economic position is in large part determined by the level of technological development in our Nation. Small business has always been a prime source of major new ideas in industrial research. I am pleased to have in the 45th Congressional District an enterprise which has recently been recognized for its outstanding contributions to civil engineering research.

The Hess Geotechnical Corp. & Structual Behavior Engineering Laboratories, Inc., of El Centro, Calif., John D. Hess, president, and the civil engineering facility of the Technological Institute of Northwestern University have been awarded the coveted IR-100 award. This award is given by Industrial Research Magazine for the 100 most significant technical products produced anywhere in the world during the past year.

The award to the Hess Corp. was for the design and development of a high-temperature triaxial torsional testing machine for concrete and rock. This chamber allows for the testing of concrete properties during nuclear meltdown. In addition, the chamber can be used to study fluid transfer in sediments in connection with geothermal research.

The achievement of Mr. Hess' Corp. in receiving the IR-100 award is testimony to the vitality of small business in our country. With a dedication to quality and innovation that is exemplified by the Hess Corp., American business will remain on the leading edge of technological advancement.●

ONLY CONGRESS CAN REDUCE THE DEFICIT

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. REGULA. Mr. Speaker, in an otherwise accurate and sensible editorial today, the Washington Post stated that "the Reagan administration has to start bringing down, forcefully, the budget deficits of 1984 and beyond."

The implication here is that control of the deficit is the sole responsibility of this administration, or any administration for that matter. This is simply untrue. Only Congress can—and should—make fiscal policy.

It is the constitutional prerogative of the legislative branch, not the executive branch, to do so.

This is not to say that the President has no role in fiscal policy. However, the budget—and, hence, the deficit—is solely the result of the fiscal policy which emerges from laws passed by Congress and signed by the President.

The adage "the President proposes and the Congress disposes" is how the system ought to work.

Scapegoats are nice to have, but it is time for Congress to recognize its responsibilities in this regard. It should do what is necessary to reduce the deficits, which threaten to stifle economic recovery.●

SOCIAL SECURITY: AN END TO FANTASY

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. CONABLE. Mr. Speaker, we must not forget that the issue of social security financing is still before us. An excellent commentary by George Will on this subject appeared in the December 19 edition of the Washington Post. I hope that all my colleagues will take the time to read it.

SOCIAL SECURITY: AN END TO FANTASY

(By George F. Will)

At last, Democrats are allowing their sense of probability to inhibit their enjoyment of fantasy. Hitherto, many Democrats have said that Social Security has just two negligible difficulties: an immediate "cash-flow" problem solvable with judicious borrowing, and another difficulty due to arrive around the year 2010 but which may not arrive—at least, assuming fortuitous mortality, fertility and productivity developments.

A fable: a politician and an economist fall into a deep pit with steep sides. The politician exclaims: "How will we escape?" The economist replies: "Easily. First, we'll assume a ladder." For frightened legislators, politics is the art of imaginative assuming.

But the balloon of fantasy has been punctured by two needle-sharp articles—the most important journalism of 1982—written for the New York Review of Books by Peter G. Peterson. In the 1960s, the Review tried to shock the bourgeoisie by printing on its cover a diagram for making Molotov cocktails. Now it has managed to publish something really hair-curling and—such is the irrelevance of the political left—the author is a Republican, the board chairman of the Wall Street investment firm of Lehman Brothers, and a former secretary of commerce.

Peterson refutes the hypothesis that domographics—the coming-of-age as wage earners of the postwar "baby boom"; the retirement of the relatively few Depression babies—will soon make the system solvent. That projection depends on assuming, among other things, "an unbelievable rate of sustained growth in productivity—about 3.1 to 3.3 percent per year from 1985 to 2005. That would far surpass any comparable period in U.S history, even the boom years of the 1960s." Here are some productivity growth rates: 1948-67: 2.5 percent; 1967-73: 1.6 percent; 1973-81: 0.1 percent.

Assuming productivity grows at even a rate of 1.9 percent—higher than in the 1970s (1.2 percent)—the annual deficit in the retirement and disability trust funds would exceed $100 billion by 2005, after which it would "explode," detonated by the retirement of the "baby boom." Add the hospital insurance trust fund, and the 2005 deficit exceeds $700 billion.

A 65-year-old retiring in 1982 who paid Social Security taxes throughout his career and was an average wage earner with a nonworking spouse contributed a total of just $7,209 in payroll taxes during his working life. Given conservative assumptions about longevity and moderate assumptions about inflation, this retiree and/or his spouse will live to receive $520,000—75 times the dollar amount he contributed. If he began receiving benefits in January 1982, he received $803 a month, and got back the dollar amount of his lifetime contributions by September. Even adding interest (say, the Treasury rate, compounded) to the worker's payments, it would take him just three years and seven months to get back the amount he contributed.

Peterson notes that were it not for the growth of Social Security, federal revenues as a percent of Gross National Product would actually have declined between 1955 and 1980. Social Security spends more annually than all corporations invest in plant, equipment and research and development. Since 1949, average wages have increased 470 percent, average income taxes have increased 570 percent, average Social Security taxes have increased 6,480 percent. The maximum annual contribution made in the years 1937-49 was just $30.

This year, employers' share of payroll taxes will amount to a sum equal to about 50 percent of corporate profits. As a result, there is less investment, slower productivity growth and job creation—and an accelerat-

ing Social Security crisis generating pressure for accelerated Social Security tax increases that are part of the problem. Already, 25 percent of American workers pay more in Social Security taxes than in income taxes. Fifty-eight percent of the electorate is under age 45, and those voters are in the expensive family-forming, house-buying years. Sharply increased payroll taxes could depress the economy, deepen despair and ignite generational conflict.

Social Security's unfunded liability—the gap between the actuarially predicted costs of benefits and the taxes the beneficiaries are scheduled to pay—is $6 trillion. By the year 2030, America will be Florida writ large: the percentage of elderly in the population will be that in today's foremost retirement state. Of course, if Americans suddenly return to having five children, and life expectancy stops increasing. Social Security's crisis will moderate. But must biomedical advances against degenerative diseases may be considered bad news because they undermine "optimistic" Social Security assumptions?

The Social Security crisis is evidence that the American government's heart is generally in the right place and that its head is frequently in the sand. But the sheer scale of the crisis should end, at least for now, the politics of imaginative assuming.●

REBUILDING OUR ROADS: A MOST INNOVATIVE PROPOSAL

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. GEJDENSON. Mr. Speaker, I would like to bring to my colleagues' attention a most innovative and cost-effective amendment that my friend RON WYDEN successfully offered as an amendment to the gasoline tax bill.

The amendment earmarks $55 million over the next 3 fiscal years from the portion of the trust fund derived from the tax imposed on tires for States that undertake road rebuilding projects using asphalt mixed with rubber recovered from old, discarded tires.

Experience suggests that rubber/asphalt mixtures are more durable and longer lived than conventional asphalt alone. At the same time, this amendment makes a bold attempt at ridding our Nation of the most pressing solid waste disposal problem facing our cities and counties, namely, the disposal of the some 240 million tires this Nation must dispose of each year. Finally, the amendment furthers our Nation along its road to energy independence. By mixing in rubber with asphalt we save crude oil, the principal ingredient of asphalt.

For the benefit of those who might have missed the amendment in the hectic activities of the last few weeks, I am including an article from the New York Times describing the amendment offered by Congressman WYDEN.

[From the New York Times, Dec. 13, 1982]

STATES COULD GET U.S. FUNDS BY USING NEW ROAD MIXTURE

WASHINGTON, December 12.—The House has voted to alleviate the national solid waste problem, reduce foreign dependence on oil and increase the life expectancy of the nation's roads, all by persuading states to add old, shredded tires to conventional black asphalt when mixing pavement.

Representative Ron Wyden, Democrat of Oregon, proposed an amendment to the surface transportation bill that would provide $55 million over the next three fiscal years to states that paved their roads with the asphalt and tire combination.

Eight years of studies by the Federal Highway Administration seem to indicate that roads paved by this process last longer than roads paved with asphalt alone.

Representatives of the tire and solid waste industries are cautious, however, warning that the tire-asphalt combination may not be the cure to the nation's problem of deteriorating roads because it is too expensive.

PROCESS CALLED A SIMPLE ONE

The process for creating the paving material is relatively simple, according to John E. Huffman, vice president of marketing for the Sahuaro Petroleum and Asphalt Company, an Arizona-based concern that is one of a handful in the country using the procedure.

Discarded truck, bus or automobile tires, both rubber and synthetic, are ground to the consistency of a coarse powder and mixed with hot asphalt in a ratio of 25 percent tire to 75 percent asphalt. The mixture is spread on the road like regular asphalt and is allowed to set.

The normal life of a road surface, Mr. Wyden said, is six to eight years, but a surface paved with the tire-asphalt mixture can be expected to last 10 to 12 years.

"It makes sense" Mr. Wyden said. "You get more for your money."

Another attraction of the material is environmental. According to Environmental Protection Agency estimates, 240 million used tires are discarded annually. The cost of burying those tires in landfills, says Mr. Wyden, costs cities and counties more then $100 million each year.

ASPHALT USES PETROLEUM

Similarly, proponents argue that the hybrid material could potentially help reduce America's dependence on foreign oil, since most asphalt products are made from petroleum.

Not everyone familiar with the material agrees it is a cure-all. "It's a technology, it works, it's commercially available," said Richard Hanneman of the National Association of Waste Management Officials, "but it doesn't always make economic sense. It's more a symbolic gesture to conservationists than anything."

Mr. Huffman of the Sahuaro company said that the mixture could cost "as little as 20 percent or as much as 50 percent" more to use than plain asphalt.

The Wyden amendment, which was passed by a voice vote, allocates $5 million for the fiscal year 1983 and $25 million for the fiscal years 1984 and 1985 to states that develop programs using the tire-asphalt paving mixture.

The money would come from revenue produced by the 5-cent-a-gallon increase in the Federal gasoline tax that was approved by the House on Tuesday.●

PERFECTING THE EXPORT TRADING COMPANY ACT

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BARNARD. Mr. Speaker, when Congress passed the Export Trading Company Act in October, we made a major step toward allowing small and mid-sized firms get into exporting. We intended to allow them to deal with export trading companies set up by or doing business with their own local banks.

However, due to a mischance, the provisions of section 23A of the Federal Reserve Act does apply to transactions between a bank and its trading company affiliate. This will cause severe problems for smaller and regional banks that decide to set up such an export trading company. On Friday, I introduced legislation that will correct this problem and make it possible for regional and small banks to participate in an export trading company.

At this point, I would like to insert an explanation of the problem:

THE EFFECT OF COLLATERALIZING BANK EXTENSIONS OF CREDIT TO EXPORT TRADING COMPANY AFFILIATES UNDER THE EXPORT TRADING COMPANY ACT OF 1982

The Export Trading Company Act represents a clear expression of Congressional initiative to allow bank holding companies to move directly into the exporting business. Congress limited bank holding company investment in ETCs to 5 percent of consolidated capital and surplus, and provided that a further 10 percent could be extended in credit to the ETC subsidiary.

It seems apparent that Congress intended to exempt extensions of credit from the collateral requirements of Section 23A of the Federal Reserve Act. However, because the language in the Export Trading Company Act states that the exemption applies to requirements of Section 23A "in effect on October 1, 1982," a technical problem has arisen. Congress in effect replaced those requirements with new requirements upon the passage of the Depository Institutions Act of 1982 on October 13, 1982. The collateral requirements in Section 23(a) will remain essentially as they were on October 1, but the wording of the Export Trading Company statute now leaves open the interpretation that the subsequently enacted Section 23A does apply to Export Trading Company extensions of Credit.

The report of the House Committee, the Conference Report, and the attached article by a Treasury Official all state that the collateral requirements are not applicable. It therefore appears that a technical correction is required in order to mesh Congressional intent with the actual wording of the statute. Failure to correct this problem would result in the Export Trading Company legislation being unable to fulfill Congressional expectations of its role in promoting foreign trade expansion for the following reasons:

(1) ETCs in a start-up or growth phase will, most likely, have inadequate collateral

against which to borrow; hence, growth will be thwarted. The dynamics of growth are such that working capital is generally strained since increased sales create a larger working capital requirement. Collateralized borrowing generally can't support the larger requirement. The result is a forestalling of sales growth which is clearly opposite to the purposes of the ETC Act.

(2) World trade in *services* exceeds $600 billion per year, and global competition for the business is fierce. It would therefore appear imprudent and contrary to the objectives of the ETC Act to make lending difficult for either the export of trade services or the providing of trade services. Financing export trade services on a collateralized basis is either not possible or difficult in practice for several reasons:

Financing services establishes no transaction-related physical inventory available as collateral; hence, financing is made difficult if not impossible on a collateralized basis.

Providing initial or expanded trade services will involve significant "beefing-up" and operating costs. The inability to borrow may forestall the process.

Secured lending in the export of trade services area is difficult in practice as perfecting a security interest in a service contract is virtually impossible.

(3) ETCs of small or regional bank holding companies would be at a competitive disadvantage. They are generally unable to downstream credit to an ETC affiliate on an unsecured basis and not have easy access to the commercial paper and other short term liability markets.

(4) A collateral requirement would unnecessarily restrict and hinder the flexibility of export trade financing, contrary to the stated intentions of Congress in enacting the ETC bill. For example, a frequent requirement for an ETA in completing a transaction is the requirement to bridge financing to cover the flow of goods from one point to another in the trade process. Frequently, an ETC must pay a supplier of goods purchased prior to goods being loaded on a ship. A typical letter of credit sale transaction is necessary before drawing can be made, and gap created must be financed, hence, the term "bridge". It would be most difficult to finance this transaction on a secured basis and would have an adverse effect on the need for flexibility.

(5) Collateralized lending is more costly and labor intensive than unsecured lending. Administrative costs for collateralized lending are great due to monitoring and manpower expense. Additionally, it may be necessary to have duplicate staffs in the bank and ETC affiliate monitor or comply with collateral requirements. This being so, an ETC would be at a competitive disadvantage and less attractive to management.

(6) Normal bank lending standards and regulatory supervision should be perfectly adequate in making a proper lending decision to an ETC affiliate. Secured lending should be a management decision depending upon individual circumstances, including factors such as capital base, leverage, and quality and size of receivables.●

INSIDE ANDROPOV'S MIND

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. McDONALD. Mr. Speaker, William Safire wrote a very perceptive column on December 6, 1982, in which he outlined how Yuri Andropov must be viewing the world situation. In my view, it is a realist assessment, and in particular, I would like to call the attention of my colleagues to Andropov's supposed thoughts on Mexico. The column follows:

[From the New York Times, December 6, 1982]

INSIDE ANDROPOV'S MIND

(By William Safire)

A couple of months ago, when last I shared my innermost thoughts with you in this space, I explained how I—Yuri Andropov—was going to gain control in the Kremlin after Brezhnev's death. Events have proceeded according to the plan I laid out then: Chernenko and the Brezhnev clique have been rebuffed, and Viktor Grishin has been told by Marshal Ustinov that he would have to wait his turn.

Why do I expose my most intimate plotting in an internationally syndicated column? Simple: 15 years at the head of the K.G.B. taught me the lesson of Edgar Allan Poe's "Purloined Letter"—the best hiding-place is in the open. No better way exists to conceal my purposes than to continue to publish them here from time to time—everybody will think these are the products of some pundit's fevered imagination.

And now to work. In Brezhnev's time, we caught up with and surpassed the Americans in nuclear striking power; in my time, we will consolidate our strategic position in some sort of SALT treaty, and fix our economic mess with the active aid of the West.

However, this curing of our internal weakness, relying as it will on détente and increased trade, will infuriate Comrade Grishin and trouble Marshal Ustinov. If it is not accompanied by concerted action to improve our strategic position and weaken the Americans, I could wind up as the Malenkov of this generation.

The answer is oil. On our side of the world, control of Persian Gulf oil—and the ability to bring Europe to its knees—lies through Afghanistan.

We are currently bleeding in Afghanistan, with 105,000 Soviet troops unable to control the area and obliterate all opposition. Increasing chemical warfare would be effective on guerrillas, but using more poison gas might make it easier for the Americans to avoid a SALT agreement.

We must either get out of that country, using our withdrawal as the quid pro quo for a rapprochement with the Chinese, or go in with the 250,000 more troops Ustinov says he needs to exterminate opposition. If I thought pulling out of Afghanistan would bring Peking back into our orbit, it would be worth the embarrassment—but after the way Huang Hua was fired for shaking my hand, I doubt that is in the works.

The alternative is attractive: to crush the Afghans and to put 500 Soviet tanks in the southwest corner of that country, just over 200 miles from the Straits of Hormuz. Unlike most of that miserable, mountainous country, the south is flatland—tank country. We would then be in position to close off the Persian Gulf when Khomeini dies and Iran comes apart. I have 2,000 men in Iran today who know what to do.

We might never have to choke off Europe's lifeline, of course, but in power balances, the ability to do so is what counts. The American rapid deployment force would be a joke, with Soviet tanks and troops in place at the jugular of Middle East oil. Would we pay in terms of world public opinion? Our firm action in Poland, and the world's handwringing response, is the answer to that.

On their side of the world, our strategic target is Mexico. That is the West's great oil supply of the future, and with relatively little effort we could create much mischief there. Guatemala and Honduras are the places of entry, but we must combine external pressure with internal revolution.

If any country is ripe for revolution, Mexico is. For three generations, the ruling circles have been pretending to the peasants that the revolution has already happened. The corruption is worse in Mexico City than it is in Moscow, and that's saying plenty. My agents tell me that one former President may have a billion dollars in assets abroad. The new President has been serving as finance minister, which makes him appear either blind or venal.

A few months ago, the Government threatened to make public the names of the businessmen who sent money abroad; that plan was dropped when someone else found records of the Government and Pemex officials who enriched themselves. Now nothing is published, but such wholesale corruption fills the room with gas and only a revolutionary spark is needed. We should be able to provide that at no great expense.

Major trouble on the southern border of the United States is the last thing Mr. Reagan and his succesors will need. It would keep them off balance, in strategic terms, for a decade, at no cost to the Soviet economy. It might force them to concentrate on their southern oil problem as we deal with our southern oil problem, and offers the possibility of an agreement on spheres of influence.

I do not have the length of time of a Brezhnev or a Stalin, but I have enough time to make a difference. Maybe if I took the 250,000 troops from the Chinese border and put them in Afghanistan, I could accommodate Peking and prepare to take advantage of the Iranian opportunity at the same time.

That would outfox Viktor Grishin. He headed off my bid to be head of state as well as head of party, and I must avert a Grishin-Chernenko appeal to the Army. The ruler of the Russias must not allow his own back to become a target of opportunity.●

THE SYMBOLS OF SOLIDARITY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Ms. MIKULSKI. Mr. Speaker, my uncle, Mr. Edward Blazucki, brought the following article to my attention. The article, "The Symbols of Solidarity," by Eugene Kusielewicz, appeared

in the November/December issue of Perspectives, a Polish-American educational and cultural bimonthly newsletter. At a time when the Polish people cautiously look forward to better times, their symbols of solidarity and faith are particularly important for all of us during this holiday season.

THE SYMBOLS OF SOLIDARITY

(By Eugene Kusielewicz)

Every major movement has its symbols. The French Revolution had its tricolor and its Marseillaise. The Russian Revolution has its red star and its hammer and sickle. Occupied Poland had its "Polska Walczaca," its "Fighting Poland," the letter "W" meaning fighting, with the letter "P" rising from the center of the letter "W" representing Poland rising from its struggle. We are familiar with the Soidarity logo, "Solidarnosc" with the Polish flag rising from the end of the letter "n". It created the impression of a number of people, determined people, marching forward under the Polish standard. But how many are aware of another Solidarity symbol, the Christian Cross?

It is said that the beginning of this symbol occurred during the visit of Pope John Paul II to Poland. The highpoint of his visit to Warsaw was his appearance in Victory Square, beneath a huge Christian Cross, beautifully proportioned to blend in with the dimensions of the square. After the ceremony, which was attended by hundreds of thousands of Poles, the cross was removed. It appeared again, pointing to the heavens on the death of Cardinal Stefan Wyszynski, the primate of Poland. Again, after the mournful Polish nation paid its last respects to their beloved leader, the cross was again removed. It is believed that it now rests in storage in one of Warsaw's many churches.

Following the events of December 13, 1981, when General Wojchiech Jaruzelski launched his virtuosic—though most Poles would call it diabolical—attack upon the leadership of the Solidarity movement, the Christian Cross reappeared in Victory Square, this time in the form of hundreds upon hundreds of flowers, not pointing in triumph to the heavens, but laid out flat on the stones that formed the surface of the square. Each night, after curfew, the police would remove the flowers that made the cross. Each morning the flowers would appear again. Each day the cross would take on a new shape or form. Each day it grew. One day the "V" for victory would appear at the base of the cross. The next day it would be the symbol for "Polska Walczacza." And the day after that there would be a number of smaller crosses surrounding the larger cross. In the beginning some people brought pictures of John Paul II, Cardinal Wyszynski or Lech Walesa. Later others brought candles. While still later, others brought banners stating that "Solidarity Lives," "Free Walesa," or "Return Poland to the Poles." Who started the cross, nobody knows, though some think that it was begun by members of the various orders of nuns that abound in and around Warsaw. Who publicized it among the people of Warsaw? Nobody knows. Yet everybody knew. Every day, week in, week out, hundreds, no thousands if not tens of thousands of the ordinary men and women of Warsaw came with their offerings. Though it was the heart of winter, they came every day with their fresh flowers, their candles or their banners. They knelt and they prayed and then they left. It was as if the Polish nation shared a common knowledge and a common need, a need they found in the Christian Cross.

After the murder of a number of miners at the Wujek mine, the cross reappeared in Victory Square, this time made of coal. At night the coal was removed. In the morning the coal reappeared again. One day some Poles replaced one of the stones that made up the floor of the square with a plaque bearing the names of those who were killed at the mine. That night the names were covered with a layer of cement. The following morning the cement was covered with a forest of candles and the cross reappeared again, causing no end of frustration for the martial law authorities. The police watched. From the roof of the Hotel Victoria at the edge of the square they filmed those who brought the flowers, the candles, the banners and the coal. But they did not interfere. One day, though, the square was surrounded with high fences. No one could enter it. People wondered why. The official version noted that the floor of the square was badly in need of repair—and indeed it was. The square would therefore be closed until the repairs were completed. But to the ordinary inhabitants of Warsaw the explanation became clear. The government was embarrassed by the constant reappearance of the Christian Cross.

If the martial law authorities thought they had solved their problem, they were sadly mistaken, for the following day two Christian Crosses appeared in the heart of Warsaw, one in front of the Church of the Visitation Sisters, the other in the small courtyard between the belfry and the Church of St. Ann. These crosses were not removed at night. Apparently the military authorities do not wish to alienate the leadership of the Catholic Church, even a note appeared at the foot of the cross in the courtyard of the Church of St. Ann calling for a general strike on November 10th. The Cross has become part of the Polish underground vocabulary. It has become a symbol of the unity of the Polish people, a symbol of their hope and their belief that someday the people will overcome.

The official logo of the movement, "Solidarnosc," was extremely popular in the first months of the movement. But in time, as Solidarity became more and more popular eventually embracing the greater part of the Polish nation, many opportunists began wearing the pin. The symbol began losing its popularity. Yet every people and every movement needs its symbols. Now the people of Poland have turned to Our Lady of Czestochowa, the patron of Poland's most sacred shrine. Lech Walesa usually wore a small square representation of Our Lady of Czestochowa in his lapel. Now, more and more of the people of Poland are following his example. Some do so because of the religious connotation. But most do so for another reason, as a demonstration of protest against unbearable, unreasonable and unconstitutional conditions. They cannot wear their Solidarity logos. They cannot wear their "resistors." But the government is still too uncertain and unstable to challenge the Church by preventing the people of Poland from wearing a representation of Our Lady of Czestochowa, especially during this, her six hundredth anniversary.●

A SALUTE TO JOE PATERNO

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. WOLF. Mr. Speaker, "Stop the rain, Joe! Stop the rain, Joe! Stop the rain, Joe!" chanted a stadium of football fans one drizzly Saturday afternoon in 1975. Penn State students and alumni alike have come to expect such miracles from our coach, Joe Paterno.

The scene was the Penn State-Stanford game, the second home contest of the season. By the second quarter, the rain had stopped, the clouds cleared, and Coach Paterno went on to lead the team to an outstanding 34 to 14 victory.

Joe Paterno's 16-year career as coach of one of America's finest college football teams includes many such feats. His amazing record shows 161 victories, 34 losses and 1 tie—representing a total winning percentage of 82.4. That fine record ranks Coach Paterno third among active coaches in career victories and eighth among coaches through college football history.

This season alone he has ushered the team to 10 victories, with consistently high scores—including our 54 to 0 victory over North Carolina State and a 49 to 14 win against Rutgers. The season's highlights include an impressive win over Notre Dame, 24 to 14, and a spectacular victory over Nebraska won by a 2-yard touchdown pass in the closing seconds of the game. But the team's crowning glory was a 19 to 10 sweep over arch rival, the University of Pittsburgh.

Such exciting seasons are hardly uncommon. Our coach has led 12 consecutive Penn State teams to bowl games. This year my alma mater challenges the Georgia Bulldogs in the Sugar Bowl—our fourth Sugar Bowl bid in the last decade.

I salute Joe Paterno and the Penn State Nittany Lions! This is one victory that will indeed be sweet!●

MILITARY SPENDING, DISARMAMENT AND NUCLEAR WEAPONS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HUBBARD. Mr. Speaker, I received an excellent letter from one of my constituents, Gary Bush, of Olmstead, Ky. Mr. Bush has written to me with regard to his concerns about military spending, disarmament, nuclear weapons and the "Ground Zero" movement. I believe that my col-

leagues will be interested in his comments, particularly as the 97th Congress continues to address these important matters as it prepares to adjourn. The letter follows:

OLMSTEAD, KY.,
September 20, 1982.

To: Congressman CARROLL HUBBARD.
From: Mr. Gary Bush.
Subject: Military Spending vs. Disarmament.

This new "Ban the Bomb" movement called "Ground Zero" follows the pattern of a much used and highly refined Communist tactic to soften up the United States by appealing to warm hearted and soft headed Americans. Today both the United States and Russia are armed with nuclear weapons and the "Ground Zero Movement" is using our own citizens to try to shame or scare us into throwing our weapons away by putting a freeze on our nuclear arsenal. The Russians can and will continue their buildup of both nuclear and conventional weapons, not to mention poison and nerve gases.

These proposals are not the road to world peace, they are tantamount to surrender. The aim of the USSR is to rule the world and the only thing blocking their conquest is the free world's stockpile of nuclear weapons. They can destroy us, but at the present time, we can also destroy them. But now, they want us to throw away the equalizer.

I love life and want peace, but not peace at any price, not at the price of freedom. Daniel Webster once said "God grants liberty only to those who love it and are always ready to guard and defend it."

I have no easy solution to offer. The risks of nuclear war can only be eliminated completely by our surrender, but they can be reduced by making the free world so strong that Russia cannot afford to annihilate us. We must accept guns instead of butter on a scale required to make us too strong for anyone to risk attacking us.

I once read that "The one chink in the armor of any democracy is that when the Plebs discover that they can vote themselves Bread and Circuses, they usually do . . . right up to the point that there is neither bread or circuses." We need to cut Federal spending and growth but not at the expense of national security.

KLAN'S IMPORTANCE BOTH MINIMIZED, EXAGGERATED

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. FOWLER. Mr. Speaker, I would like to take this opportunity to share with my colleagues an article about the Ku Klux Klan that appeared in the Atlanta Constitution. This article, written by Charles F. Wittenstein, southern civil rights director for B'nai B'rith's Anti-Defamation League, is a fine piece of analysis which places the Klan in its true context as a small but potentially dangerous terrorist organization. Mr. Wittenstein convincingly demonstrates why we cannot afford to ignore the Klan and similar hate groups. As he says in conclusion:

A democratic society cannot tolerate groups that use violence and intimidation to settle public issues. Either democracy or terrorism will survive, but not both.

The article follows:

KLAN'S IMPORTANCE BOTH MINIMIZED, EXAGGERATED

(By Charles F. Wittenstein)

The Ku Klux Klan must be taken seriously as a terrorist organization, but not as a mass movement representative of any substantial influence in America. The pointy-headed Kluxer may look riduculous in his bedsheet and hood, but he is menacing when he points his shotgun or semiautomatic rifle.

The new "Confederation of Klans," formed Labor Day weekend at Stone Mountain, must be viewed in this context. For a variety of reasons, the importance of the Klan as an organization has been both exaggerated and minimized. The extent to which it's genuine threat, and the nature of that threat, have been obscured by the passions the subject arouses, by Klan secrecy and by both Klan and some anti-Klan elements who are blowing smoke.

It's obvious that grand dragons and imperial wizards have a state in overestimating the KKK. One of the reasons they got into the Klan in the first place was because the costume and the myth made them feel important. Some Klansmen owe more to P. T. Barnum than to Nathan Bedford Forrest; you know, there's a sucker born every minute. For some, Klan leadership is a livelihood, and it beats working.

The communications media, particularly television, seem to love Klan stories. They are picturesque, a photo opportunity, a change of pace and an oddity—like a two-headed snake. As a result, the Klan seems to receive more publicity than its numbers warrant.

Then there are those on the radical left who would have you believe that Klansmen are proxies for the police, and are supported by the establishment (a.k.a. "the capitalist oppressors") to keep blacks in their place and divert poor whites from class conflict to racial conflict. Consistent with this scenario is the view of the Klan as the tip of the iceberg, as truly representative of racist America (sometimes spelled Amerika).

Underestimating the KKK may be a device used by those who believe that if we pretend it isn't there, it will go away; or by those who would simply prefer to avoid the ugly reality and not confront the problem.

The Anti-Defamation League of B'nai B'rith has been monitoring the Klan for almost 70 years now. ADL estimates the Klan's current national membership in the range of 10,000 to 12,000, an infinitesimal percentage in a population of 230 million. It cannot, therefore, be considered a significant national movement, whether united or fragmented. Rather, it should be seen as a fringe element in American society—and a lunatic fringe at that.

While Klan membership is slightly larger now than it was three years ago, in a recession it should have done better. It still has only about 20 percent of the numbers it had in the 1960s, and is far below its peak of several million members in the 1920s. In those days, it had real political influence through control of many public officials and law-enforcement agencies.

That's gone now, except for a few isolated rural areas where it retains some influence. The small number of card-carrying Klansmen contrasted with the large majority of white Christian Americans who abhor the KKK explodes the pretentions of the leadership who claim to represent whites. Such a claim is nothing but a fraudulent pitch for respectability.

Even with its new-found unity, the Confederation of Klans includes no more than half the national KKK membership, maybe less. Nevertheless, the Confederation appears to be an achievement that may enable it to mobilize more manpower and resources for major events and, by putting on a big show, enhance its status.

But it could just as easily turn out to be a paper tiger, a loose alliance rather than a genuine merger. Klan leaders are notoriously reluctant to share dues. And the Confederation could collapse completely if and when Don Black, the newly elected grand wizard, who's also a convicted felon, goes to a federal penitentiary. He's out on bail pending appeal of his conviction of conspiracy to overthrow the government of the Caribbean island nation of Dominica.

Why, then, the KKK seriously? Take it seriously because it's teaching hatred—racial, religious and ethnic bigotry. It's teaching white supremacy and anti-Semitism, which is un-American, and, according to my Christian friends, anti-Christian. If ours is to be a decent and just society, fit for good people, it will be built on mutual respect among racial, religious and ethnic groups, on equality before the law, and equality of opportunity.

Add to the element of hatred the fact that the Klan is well-armed and engaged in paramilitary training, and that it has a history of violence and intimidation, and it adds up to a terrorist threat. And violence is by no means a thing of the past—in recent years numerous Klansmen have been convicted of crimes of violence and attempted bombings.

"The race war is coming. Be prepared," shouts the Klan leader in what he hopes will be a self-fulfilling prophecy. "These guns ain't for killing rabbits," he continues, "they're to waste people." Better believe it.

While Klan membership is small, the Klan mentality is much more widespread. But ignorance and bigotry may be counteracted by education, hate overcome by love. Terrorism, however, must be counteracted by vigorous and effective law enforcement on the local, state and federal level.

The Georgia Bureau of Investigation and the federal Bureau of Alcohol, Tobacco and Firearms are doing a fine job, but the Federal Bureau of Investigation should devote more of its resources to Klan surveillance in order to avert tragedy. This can be done with respect for civil liberties.

It's about time we understood what terrorists have always known: A democratic society cannot tolerate groups that use violence and intimidation to settle public issues. Either democracy or terrorism will survive, but not both.●

JOHN STEINBRUCK

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. LANTOS. Mr. Speaker, I would like to bring to my colleagues attention an article that appeared in the Washington Post Sunday Magazine of December 19 concerning Pastor John Steinbruck of the Luther Place Memorial Church here in Washington. I

became acquainted with Reverend Steinbruck through his work to establish Raoul Wallenberg House as a home for poor families of Washington. His dedication to the needs of the poor, the homeless and the less fortunate is a model for all of us during this season of the year. I consider myself a much better person simply by my association with John Steinbruck.

It is my pleasure to submit the following article for my colleagues:

JOHN STEINBRUCK

Luther Place Memorial Church is a neo-Gothic edifice of magnificent browstone; it is on Thomas Circle, an area bustling with prostitutes and pimps, drug pushers and vagrants. Pastor John Steinbruck calls the neighborhood "the right place for Christian ministry," and he views his church as "an oasis in the asphalt desert of Washington." He cites the hospitality biblical Abraham and Sarah gave to the strangers who turned out to be angels; he says that in every instance one helps strangers, they are angels.

"Jesus was homeless, an itinerant," Steinbruck says. "His companions were exiles, the sick and the hungry." In the 13 years of Steinbruck's ministry, Luther Place has become what officials call "a safety net" for people who have nowhere else to go. On any night, up to 40 homeless women sleep on mattresses placed on the chapel's floor. On N Street, the church sponsors a "village" of townhouses: the Day Center for women to sew, do their laundry, talk to counselors or just rest; Sarah House, for up to 20 homeless or mentally disturbed women; Raoul Wallenberg House, for families evicted; Deborah House, for helping women to return to an independent life; Zaccheus Medical Clinic, for providing health care for 5,000 indigents a year; and a free store that distributes food and clothing.

"We care for the urban nomads, the refugees of the street," he says. "This church is a secure place for them." Walking around the block, he trades greetings with prostitutes. (They are allowed to use the church's bathrooms, but the prostitutes do not want Steinbruck on their turf: his clerical collar discourages clients.)

He chats with a bag lady named Michelle. "In the winter we give her a hat and a pair of gloves, but she returns without them," he says. "She gives them away to people she thinks need them more."

He chides a derelict for drinking. "Robert is intelligent, a lovely human being," he says. "He comes from a fine family, with a brother who has a PhD. But he can't pull himself together."

"The worst crime is not to care," Steinbruck says. "We presume to be the hosts, but we become the guests, as these people bring us into the Kingdom of God. God always acts in solidarity with the weak and the poor. This church would be long gone without the homeless it helps."●

VISITING RIGHTS FOR GRANDPARENTS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BROOMFIELD. Mr. Speaker, last week my constituent, Mr. Richard S. Victor, testified before the House Aging Committee's Subcommittee on Human Services regarding a growing national problem. This problem which affects many of our Nation's elderly concerns their inability to see their grandchildren when the grandchilden's parents are no longer together.

As this Nation's postwar baby boom ages and with the continued high divorce rates, the number of grandparents who are being denied visiting rights with their grandchildren will also grow enormously, however, there is more to this problem than the heartrending trauma that the grandparents face in this situation. The grandparents also suffer for they are being denied the contact, the communications with, and the mutually supportive love that is part of the grandparent/grandchild relationship.

Mr. Victor, as an attorney in private practice in Oak Park, Mich., has developed considerable expertise in this area of grandparent visiting rights because Michigan is one of the few States that have State legislation in this area.

Mr. Speaker, while there may be legitimate questions of proper Federal jurisdiction in this area that still must be addressed, I am including portions of Mr. Victor's testimony to better acquaint our colleagues in the Congress with this growing area of concern for this Nation's elderly.

The testimony referred to follows:

TESTIMONY TO THE HUMAN SERVICES SUBCOMMITTEE OF THE SELECT COMMITTEE ON AGING—GRANDPARENTS' RIGHTS TO VISITATION

As a result of continued population growth, especially our "baby boom of the 40's," the 1980's and 1990's will provide our society with a greater number of grandparents than we have known in our recent past. Add to this fact that the divorce rate in our country is staggering with estimates of almost one divorce for every two marriages, and in addition, these divorces are occurring between young parents who have young children, we can see that this trend in our society can create conflicts which were unimaginable in past decades.

Some of these conflicts need legislative involvement in order to cure injustices which might occur. Whether the legislative involvement which is necessary should be on a state-to-state basis, strictly Federal, or a combination of both, is a question which needs to be answered at this time.

Grandparents across our nation have been standing up and speaking out when they have been denied the opportunity to visit with their grandchildren for no apparent reasons. This has taken place in the form of the formation of various support groups on a state and national level, as well as numerous court cases which have been pursued to enforce inherent rights of grandparents to be able to visit with their grandchildren. The title of this subject "grandparents' rights to visitation" is only one-half of the subject. The converse deals with the rights of grandhchildren to be able to visit with, communicate, and maintain contact with their grandparents. This, I believe, should be the crux of our investigation. This should be of significance to the legislative bodies which pass laws to protect segments of our population who are not able to protect themselves as well as to pass laws which provide remedies where injustices have occurred. To quote Arthur Kornhaver, M.D. and Kenneth L. Woodward: "The grandparent and grandchild relationship is a vital connection."

Through my work as an attorney in private practice in the State of Michigan, I have had numerous dealings with grandparents who have been denied the right to visit with their grandchildren. Because of these denials, these grandparents were forced to seek court intervention to enforce rights which these grandparents felt were their rights inherently. Unfortunately, the rights which they have, if any, are statutory in nature. Therefore, my clients have been limited to what was set forth by state statute in the State of Michigan and the appellate decisions which interpret those statutes, and have only been able to be successful in receiving court intervention when legislation was provided by the state recognizing this issue.

Through our extensive research we have found various state statutes which deal with this topic and which will be discussed later in this testimony. Several of these state statutes have conflicts within the statutes themselves which has caused a great deal of confusion when they are interpreted by the courts. In all of these cases, grandparents, whether maternal or paternal, were involved and wanted contact with their grandchildren. In very few cases have we dealt with grandparents fighting for custody of their grandchildren over a natural parent. The cases that we have primarily dealt with are of such a nature that grandparents only wanted to continue a relationship with their grandchildren that had been established and they wished to continue, but had been terminated arbitrarily by the legal custodian (usually the parent or parents) of the child.

Public attention has been drawn to this issue because of the deep emotions and the equities that are involved. In no case do I believe that grandparental visitation is an absolute. Not all grandparents should be able to visit with their grandchildren. There may be many instances where in fact it would be detrimental to a child to be subjected to visitation with his or her grandparents given the proper factual setting. However, these decisions must be made on a case by case basis with one underlying theme or factor; and that is, that the best interests of the child shall control.

States' attempts to define best interests somehow seem more logical when put in the setting of legal proceedings involving disputes as to custody of minor children. Questions if visitation have usually been left to the discretion of trial court judges to determine what visitation should be granted and to whom. Most cases have dealt with questions of visitation concerning non-custodial parents of minor children. We do not have concrete legislation that specifically sets forth criteria to be utilized in making determinations regarding visitation of minor children with their grandparents.

4. THE PROBLEM WITH STATE LAWS AS THEY CURRENTLY STAND (MICHIGAN AS A PRIME EXAMPLE)

The history of grandparents' rights to visitation in Michigan, can be traced as recently as a little over one decade ago. In 1971 a state law was passed.

This state statute limited the rights of grandparents to seek visitation to situations where there had been a death of their own child leaving a minor grandchild. It would have created a remedy to our client, except for the fact that a stepparent adoption occurred in those factual situations. This was the problem that Michigan faced when a 1979 Court of Appeals decision (*Bikos* v. *Nobliski*, 88 Mich App 157 (1979) was asked to interpret conflicting statutes dealing with this grandparent visitation statute and the Michigan Adoption Statute.

The Michigan Court of Appeals in the *Bikos, supra,* case held that the Order of Adoption Statute took precedence over the Grandparent Visitation Statute which effectively made the natural grandparents of a minor child who was adopted by a stepparent following the death of the natural parent, no longer the legal grandparent of that child. Obviously, this conflict created harsh results and in my opinion a tremendously unjust dilemma for grandparents throughout the State of Michigan. In 1980, following the efforts of many groups and individuals, the Michigan Adoption Statute was amended to read: ". . . after entry of the order of adoption, the adopted person shall no longer be an heir-at-law of a *parent whose rights have been terminated or the lineal or collateral kindred of that parent* . . . . ." (MCLA 710.60 as amended)

The effect of that amendment, was that the adopted child would no longer be an heir to its natural family line once the child's parents' parental rights had been terminated. But, if there had been no termination of parental rights, the child's natural blood line would not be destroyed. This would then not take away from natural grandparents their standing as legal grandparents of a minor child who was adopted unless said adoption followed termination of parental rights.

In addition, in 1980, the Michigan Child Custody Sttute (MCLA 722.27) was amended to provide:

"Upon petition consider the reasonable visitation of maternal or paternal grandparents and, if denied, shall make a record of such denial."

On its face, one would think this amendment to the Michigan Child Custody Statute would solve the problems that grandparents would have when being denied visitation with their grandchildren. However, albeit the intent of the legislature was good, they placed this amended statute under a section of the Michigan laws which had a preamble. The preamble, or prerequisite to utilization of this amended statute, provided as follows:

"If a *child custody dispute* has been submitted to a circuit court as an original action under this act or has arisen incidently from another action in a circuit court or a judgment of a circuit court, for the best interests of the child the court may: . . ."

Therefore, in order for a grandparent to attempt to utilize the statute which allows them to petition for consideration regarding visitation, there must either have been, or presently have, a child custody dispute involved. In the cases I have litigated, very rarely does a grandparent seek custody of their grandchild. They merely want visitation and, therefore, cannot avail themselves to the remedy which Michigan has provided.

A brief research into how other states handle this dilemma finds that over twenty states have passed legislation dealing with this problem. Within these twenty states there are tremendous conflicts, especially once a stepparent adoption occurs. Other conflicts arise in the interpretation of these statutes and whether or not they are to be construed to intend that grandparents have standing to intervene in divorce proceedings to assert their rights to visitation while their own children's divorce matter is pending. Oklahoma (Oklahoma Statute Annotated Title 10, § 60.16) has a unique enactment which appears to set forth that grandparents have visitation rights with their grandchildren unless they are terminated by court order, and such is true even though the child may be adopted by his stepparent. Because of the frequency of stepparent adoptions and what affect the stepparent adoptions have on the grandparents of the child, specifically with respect to visitation rights, we need some cohesive legislation on a Federal level to help our states draw together into a unified position with respect to this problem.

5. THE NEED FOR UNIFORM GRANDPARENTAL VISITATION RIGHTS ACT

Other than the need for a clear and concise understanding of this problem from a national perspective, and Federal legislation appropriate thereto, there is another reason why there is a need for Federal legislation dealing with this problem. In several cases wherein I represented grandparents who were forced to seek court enforcement of their visitation rights, we have been threatened by the parent or legal custodian of the minor grandchild involved, that if we were to pursue our court action they, the parent or legal custodian, would remove the child from the State of Michigan. Considering the fact that the City of Toledo, Ohio is approximately the same distance from Detroit, as the capitol of our state, Lansing, Michigan, this threat of removing children from the state is very real. What remedy would a grandparent have when faced with this threat? If we had Federal legislation, along with state legislation, dealing with this problem, such as we have with our civil rights legislation, the threat of moving from one state to another to avoid enforcement of court orders would be a mere "puff of wind."

Our society today is a "transient society." We are little more than three hours away by air from one coast to another. People move from one state to another as easily now as we used to move from one city to another. The problem of grandparents' rights to visitation is no longer a local issue. We need state statutes to protect people within the boundaries of our states. However, when the people involved live in different states or move from one state to another, then we need Federal legislation available for the same reason that we need state legislation when the parties are confined to one single state. Again, court enforcement of this legislation is a last resort! It is the motivating incentive for parties to reconcile their differences. It is the motivating incentive for parties to voluntarily seek counseling in hopes of reconciling their family traumas. But it does provide a last resort for injustices which may occur.

6. SPECIFIC RECOMMENDATIONS

The most obvious recommendation that I can make, but one which is not part of these hearings is that each state adopt some form of legislation recognizing the problem of grandparents' rights to visitation and providing some remedy which would be available to enforce these rights. I would also suggest that state legislation set forth a scheme of mandatory counseling through the use of professionals in the behavioral sciences to help provide direction for families who are in dispute and are suffering from the emotional traumas which are usually present when an issue of denial of grandparental visitation is involved. The court should be able to consider the willingness to cooperate in attempting to reconcile these problems and not allow one party to control the proceedings by blatant avoidance of attempts to reconcile the dispute.

Further, the court should be able to inquire into reasons for any alleged animosity (or why denial of visitation was made in the first place) and then consider only reasons where proper justification is presented. Obviously, if proper justification is presented, then this is to be considered when determining what is in the best interests of the child with respect to this visitation question.

There is no question in my mind that the problems relating to the rights of grandparents to visit with their grandchildren is a real concern to a great number of people in our country. This concern is one which shall surely grow because of the amount of divorce in our country. We must concern ourselves with the concept of the "extended family" which includes grandparents, stepparents, and other third parties from the traditional family unit. Further, grandparents "as seniors" of our society shall have a greater impact as their numbers increase. The concept of "grandma" and "grandpa" sitting in a corner unable to stand up for themselves and speak, no longer exists. "Grandma" and "grandpa," just as grandson and granddaugher, have inherent rights in our family unit. They are necessary to pass on the heritage of the past. They are a link in the long chain of continued growth and expansion of our society. They should no longer be ignored.

Psychiatrists, phychologists, and social workers can tell us of the importance that grandparents can have on grandchildren. As a former history major, it is interesting to note how different civilizations treat their older generations. It would seem logical that "seniors" can help us learn from our mistakes and teach us traditions and cultures which can be utilized and passed on in the future. Lastly, and it is something that I remind the litigants who are involved in cases where I fight in court for grandparent visitation, and that the parents who are standing in the way of allowing their children to contact, communicate, and share with their grandparents, will one day be grandparents themselves. How do they want their child to remember their own actions. We teach our children not by what we say, but by what we do. It is now time to do what must be done and to recognize the rights and responsibilities that we all face in the most basic structure that God ever created—the family. This is not a concern isolated to the local community, or even to a state as a whole. This is a concern, and a responsibility, of all citizens in our nation. I urge you to strongly consider adopting legislation, on a Federal level, in support of the rights of grandparents, and the rights of grandchildren in this regard. Thank you for your consideration.●

CHILD CARE: A BUSINESS RESPONSIBILITY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Ms. MIKULSKI. Mr. Speaker, the care of this Nation's children deserves our special attention. The number of child care providers is decreasing at a time when the number of children needing care is increasing. One of the provisions of the 1981 Tax Act created employer-assisted child care programs. But so far, the business community has not made an overwhelming response. That is why I was encouraged to read about Mr. Arnold Hiatt's commitment to corporate child care programs in a recent issue of Industry Week. As president of Stride Rite Corp., Mr. Hiatt discusses a need for a cooperative relationship between business and the community. I call this excellent article to the attention of my colleagues.

[From Industry Week, Nov. 29, 1982]

CHILD CARE: A BUSINESS RESPONSIBILITY

(By Arnold Hiatt)

While there is no Hippocratic oath for businessmen, there is, nevertheless, a compelling responsibility that all of us share, one way or another, in meeting the needs of society. Business has become a social leader, and business people must elevate their vision of the bottom line to embrace social as well as economic goals.

It is only good sense for corporations to be involved in the community. The health of a society determines the health of its economy—as the Japanese have so effectively demonstrated. Corporations cannot separate work and family life, for their success ultimately depends on the well-being of the community. Battered wives, abused and abandoned children, broken homes, destitute families—all make limited customers.

Among the more critical needs that business must address are those of children, for they have no voice and they have no vote. There are currently six million youngsters under the age of 6, and 13 million under the age of 13, with mothers in the workforce. Many of these mothers are single parents who, without some kind of daycare asssistance, could not find the dignity of work or achieve any kind of financial independence.

Yet, there are now available only one million places in pre-school child-care facilities—public and private—and the need is escalating rapidly. By 1990, it is estimated, two out of every three mothers will be working, with 55% of them having at least one child under the age of 6.

While strong initiatives must come from corporate leadership, as well as all of us as individuals, radically shifting the burden of social programs from government to the private sector is simply not feasible. Let me explain.

The total of all corporate giving last year amounted to $2.7 billion. The total of all grants from foundations came to $2.4 billion.

In contrast, the proposed cuts in programs designed only for children amount to a staggering $8 billion. The cuts are for 1983 alone and do not reflect those already made in 1982 and those proposed for 1984.

If for no other reason than to protect what remains of our nation's commitment to the young, we have no choice but to become more politicized and more vigorously involved in the electoral process. How our tax dollars are spent becomes the key issue. We can influence the choice of people who move into the vital decision-making roles in government and whose values and priorities could more nearly reflect our own.

Can we afford people in office who decide to eliminate funding for 100,000 children in day-care centers and thereby force some of these parents out of the workforce and back into welfare? Do we save resources by reducing nutrition programs for children by 44%, or health programs by 30%? Do we necessarily better serve national security by adding to our military stockpile rather than investing in an informed and educated, a motivated and healthy younger generation that would have the imagination and the energy, the confidence, and the competitiveness to reverse the downturn in productivity that increasingly hobbles our industrial machine?

In the final analysis, this may prove to be the true test of world leadership in the economic race against Japan and Germany.

A reasonable balance has to be struck between the imperatives of national security and the requirement in a just and free society that our children have the opportunity to develop their potential. Government monies allocated to meet the needs of children should be among the last, not the first, to be scrutinized by the budget slashers.

Mounting evidence suggests that in the future, corporate America, willfully or not, will be playing an expanded role in meeting day-care needs. A recent Harris Poll indicates that corporate-sponsored child care could emerge as a major labor-management issue before the end of the present decade. Certainly, it is an issue that should hold powerful appeal for many women's organizations which, in the wake of the ERA's loss and in light of the rapid growth of the number of two-paycheck families and single-parent families, are setting new priorities.

Today, unhappily, the child-care situation nationally, in terms of broad-based corporate support, is where health benefits were a half-century ago—virtually nonexistent. It is hard to imagine anyone who would accept a job these days that did not provide some kind of medical-insurance plan as part of an employee-benefits package. Child-care advocates see company-funded day care as a comparable "given" by 1990.

The approximately 50 firms across the country—big and small—that have already launched on-site day-care programs have reaped significant rewards. Improved worker morale; a competitive edge in recruiting and holding skilled employees; and improved job performance and significant productivity gains from lowered turnover, absenteeism, and lateness—these are some of the more immediate, visible benefits. The 1981 Economic Recovery Tax Act, which now provides complex tax writeoffs for all child-care outlays, makes the up front dollars-and-cents investment much less burdensome.

Taking the longer view, however, it seems to me that even the most pragmatic executive must be aware that whatever strengthens the bond between the workplace and the family very directly buttresses those special and economic institutions that are the foundation of our system of democratic free enterprise.●

JOSE LOPEZ PORTILLO PRACTICES "POLITICAL GIMMICKERY"

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. McDONALD. Mr. Speaker, Prof. Marvin Alisky, of Arizona State University, is quite an astute observer of the Central American scene. From time to time he publishes a column on events in that part of the world. A column of his on Mexico, which appeared in the San Antonio Light, was recently brought to my attention. While this column appeared on October 3, 1982, much of what it says is still true, only the situation in Mexico has gotten worse, and the peso is even weaker, now, in spite of American aid. As Professor Alisky points out, Lopez Portillo has to bear much of the blame for the present situation in Mexico. He and his friends got Mexico into its present condition. The private banks of Mexico did not bring on the present situation. Nationalizing the banks is merely playing to the coliseum crowd.

The column follows:

[From the San Antonio Light, Oct. 3, 1982]

JOSE LOPEZ PORTILLO PRACTICES "POLITICAL GIMMICKERY"

(By Marvin Alisky)

In his annual "State of the Union" address Sept. 1, Mexican President Jose Lopez Portillo announced the expropriation of all privately owned banks, supposedly in an effort to stem the flow of dollars from Mexico.

Yet, his government, in fact already had stemmed that flow when it instituted currency controls without warning on that day symbolic of bad luck, Friday the 13th of August.

So the action of Sept. 1 was actually intended not to stop dollars from leaving Mexico, but to salvage some political support for Lopez Portillo.

Slated to be succeeded in office on Dec. 1 by Migueal de la Madrid, his former minister of planning and budget, Lopez Portillo has steadily lost popularity since the peso was significantly devalued early this year. Its further devaluation (from 49 down to 70 to the dollar) in August served to undermine still more that president's standing with his people.

In his State of the Union address, Lopez Portillo blamed his country's fiscal plight on international interest rates, foreign investors and "exploitation" of his country by more developed nations.

He did not choose to put any blame on his advisers, who had worked with him in compounding the public debt of Mexico.

Mexico's foreign debt of $80 billion—$60 billion of which is owed by the government itself and $20 billion by the private sector—is the largest of any nation in the Third World. The total debt has grown so much that, for 1982 alone, interest payments plus amortization payments on debt maturing will reach almost $20 billion. That amounts to 60 percent of Mexico's earnings from exports of goods and services.

It was not the privately owned banks of Mexico—Banco de Comercio, Serafin, Banamex, Longoria—which caused Mexico to approach near-bankruptcy, but instead the government's own unabated borrowing—its living beyond its income in order to fund economic expansion and diversification.

And the president knew that. His nationalization of the banks was not an economic move but rather a political one. Government-run banks likely will not help the Mexican economy any more than have deficit-ridden government-run railroads, airlines, mines and the telephone company.

Lopez Portillo's political objective in acting against the banks became apparent immediately. Or. cable from Mexico City on Sept. 6 we could see video coverage of 500 government supporters parading past an expropriated bank. As Lopez Portillo presided over a ceremony transferring the bank to government control, the crowd cheered and waved Mexican flags.

The Federation of Unions of Government Employees (the FSTSE in Spanish) got its 31 unions to muster a cross-section of bureaucrats for the demonstrations.

There was also spontaneous public support for the move, for in the political lexicon of Mexico since its Constitution was promulgated in 1917, bankers are villains. The president knows this and hurled accusations at the private bankers in his Sept. 1 address, implying the private bankers were unpatriotic to have allowed depositors to transfer money abroad.

Mexico spent several years building up its foreign debt through deficit spending and will need, several years to recover from that binge. Now in order to get new loans from the International Monetary Fund and other foreign sources, the government must cut budget deficits. And to do that, it must cut subsidies for food and fuel going to Mexican consumers.

Such actions would have been unthinkable to the country's profligate leaders previously. The economic crisis, then, may prove a boon to the country in the long run, if it prods Mexico's leaders to follow sounder domestic policies.

With the adoption of such policies, Mexico can recover, for it has enormous natural resources.

Our neighboring republic has a skilled, industrious labor force and the good fortune to be close to a vast market in the United States.

And Mexico remains the world's fourth largest producer and exporter of oil. In 1982 alone, Mexico will earn more than $14 billion from petroleum exports.

Back in the 1940s and 1950s, Mexico suffered sudden economic slumps, and recovered within two years each time. And that was before oil reserves had been discovered giving Mexico the extra income as a major seller of petroleum.

Recovery this time, however, will not be advanced by political gimmickery such as the nationalization of the banks represents.

A joke currently popular in Mexico contends: "Our country has arrived at the edge of a great abyss and so our government naturally took a giant step forward." Only if Mexico's government steps back to the firm ground of fiscal responsibility can the country achieve economic stability.●

BAILEY OUTLINES SUPREME COURT GUIDES ON CHRISTIAN NEUTRALITY NOT SEPARATION

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BAILEY of Missouri. Mr. Speaker, one of the most misunderstood concepts in Government today is the separation of religious principles from Government. In fact, Christian neutrality should be the rule. To this end, I offer the following summary of key U.S. Supreme Court decisions (and would note the grateful guidance and assistance of Mrs. Anne Neamon, National Coordinator of Citizens for God and Country).

CHRISTIAN NEUTRALITY—NOT SEPARATION

Jefferson Walls of Separation did not separate the nation's legal structure from religious principles. "And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded the influence of refined education on minds of peculiar structure, reason and experience forbid us to expect the national morality can prevail in exclusion of religious principles." George Washington, Farewell Address, Abington V. Schempp, US 203, (1963). Lib. of Congress, copy 57, n. Administering in 1977 to the Laws of England, Justice Matthew Hale thundered, "blasphemy not only is an offense to God and Religion, but a crime against law, State and Government, because Christianity is a parcel of the laws of England." Similarly, the United States is legally structured, as all free nations upon religious principles, ours being Christian Ethics. Thus the Constitution, based on Biblical morality, serves the General Welfare, Justice, Tranquility, and Blessings of Freedom, not VICES.

Everson v. Board of Education 330, US 1 (1947) 35, 40, 52, 53, 54, n; p. 65. Jefferson's Walls of Separation were defined in his Caveat to the Virginia Assembly. Bill of Assessments, tithes, for Christian Sectarian Schools. Through Walls of Separation Jefferson resisted Christian SECTARIANISM, to "abolish all distinctions by government of preeminence amongst the different societies of communities of Christians . . . a tendency to usurp on one side or another, or to a corrupting coalition or alliance between them, will be best guarded against by . . . abstinence of Government interference in any way beyond necessity of preserving public order, and protecting each sect against trespasses on its legal rights by others". Jefferson advocated General Christianity for moral order, good government and happiness of mankind, but opposed Christian SECTARIANISM, relating his Walls of Separation to Neutrality, "Within the Christian Community", not to Secularism.

According to Justice Rutledge, ". . . authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects." Thus, the Jeffersonian Walls of Separation, by means of Neutrality "Within the Christian Community" prevented the State of Virginia from departing from our founding principles as propounded by the US Supreme Court in—

Holy Trinity V U.S. 143 pp 480-471, "We are a Christian nation . . . nothing be done to hurt Christianity . . . legislate, propragate and secure the Christian faith. Not Christianity with established church and tithes and spiritual courts; but Christianity with liberty of conscience to all. General Christianity is and always has been a part of common law . . . to revile with malicious and blasphemous contempt, the religion professed . . . is an abuse of that right. We are a Christian people, and morality of the country is deeply ingrated upon Christianity not the worship of or doctrines of impostors. Passing into view of American life. In law, business customs and society, the same truth is recognized. This and many other matters which might be noticed add a volume of unofficial declarations to the mass of organic utterances that this is a Christian nation!"

The timely success of Jefferson's neutrality "within the Christian community" found outreach into the—

First amendment U.S. Constitution—"Congress shall make no law respecting the establishment of religion, nor prohibit free exercise thereof." This Establishment clause neutrality to secure religious freedom effected the ratification of the Constitution which had been intercepted until the inclusion of this clause. Religion was not defined, because Christianity was it! In this amendment the nation professed its belief in God, recognizing His supremacy and acknowledging the right of man to communicate with God with Constitutional protection as a right God-given and unalienable.

Thus, the first amendment asserts neutrality forbidding prohibition of free exercise by government "making law" to establish religion. Freedom of religion is protected by neutrality. Separation does not protect thus it is unconstitutional!

The First Amendment "prohibition" by neutrality is defined in great detail in—

Abington v. Schempp. p. 22, 71, 1973—"Secularism is unconstitutional . . . preferring those who do not believe over those who do believe—. . . It is the duty of government to deter no-belief religions . . . facilities of government cannot offend religious principles . . . Official encouragement of love of country and belief in God . . . untutored devotion to the concept of Neutrality can lead to non-interference and non-neutrality but also brooding and pervasive devotion to the secular passive and even active hostility to religion. Such results are prohibited by the Constitution . . . the fullest realization of true religious liberty requires that government neither engage in nor compel religious (Sectarian) practices; that it effect no favoritism among, Sects and that it work deterrence of no-belief religions." Throughout the case, Neutrality confines government and forbids Secularism by "making laws". The obvious error of Separation is revealed as totally unrelated to General Christianity which "is and always has been a part of common law, deeply engrafted . . . in law, business, customs, and society".

Engle v. Vitale, U.S. 469 U.S. 11, 14n, (1962) distinguishes that the case related to "making laws" with attorney admission "to promote religion", without any compelling interest to justify. The footnote clarifies, "This case has nothing to do with official encouragement of love of country . . . and belief in God" (administrative prayers for moral order). "The Pledge of Allegiance . . . has nothing to do with establishment of religion. It relates to belief in God, in whom

we sincerely repose our trust. We know that America cannot be defended by guns, planes, and ships alone. Appropriations and expenditures for defense will be of value if the God under whom we live believes that we are in the right. We should at all times recognize God's province over the lives of our people and over this great Nation." 100 Cong. Rec. 7757. House Debate, Abington.

Roemer 74-730 U.S. 7, 1976 reasserted Court Neutrality as "Separation Never Intended".

Bakke, 76-811 U.S. 1976, "We do not cater to shifting political party whims of the times, for they are contrary to the stability of the Constitution".

State constitutions compel Godly living for the quality of life, public conscience for moral order, for liberties for all. Thus, again, Separation falsehoods are exposed.

Kevin Walder v. First Orthodox Presbyterian Church, San Fran. California State Supreme Court, 760-028. 9, (1980) "Freedom of religion is so fundamental to American history that it must be preserved even at the expense of other rights which have become institutionalized by the Democratic process."

Sydell Stone, 1980. ". . . The Ten Commandments . . . and Bible can be in curriculum for . . . ethics."●

PRESIDENT'S PROMISES OF ECONOMIC RECOVERY STILL NOT A REALITY IN FLINT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. KILDEE. Mr. Speaker, I am angered and frustrated at the incredible insensitivity and the empty promises of President Reagan toward the millions of unemployed workers in America today. His veto threat caused the House and Senate conferees to drop desperately needed jobs programs from consideration this year, and that is a tragedy. I can well remember the President campaigning in my hometown of Flint, Mich., more than 2 years ago decrying the unemployment problem and blaming President Carter for a poorly performing economy. Now, after 2 years of this administration's policies, the economy is worse, unemployment is higher, and there is no end in sight because this administration apparently believes the crisis will go away by itself if we just wait longer.

We cannot afford to keep waiting for the President's promises to fulfill themselves. Action is needed. The President must come to realize that immediate relief is needed for those jobless who are suffering, a program is needed to put the people of Flint and the rest of the Nation back to work.

Many people in my district have been unemployed now for 2 to 3 years. Flint's unemployment is the highest in the Nation. The jobless benefits of many are exhausted, and they are finding it ever more difficult to qualify for public assistance under the tightening program restrictions advocated by this administration. The callousness of the present policies and the havoc they are having on the victims of those policies, the poor and the jobless, are described in an article in today's Detroit Free Press. I would like to share that article with my colleagues. It is a revealing portrait of the difficulties facing the unemployed in Flint and in many other industrial cities across the Nation.

The article follows:

[From the Detroit Free Press]

HARD TIMES IN FLINT—RECOVERY STILL JUST A PROMISE

(Republican Ronald Reagan brought his campaign Wednesday night to the city with the nation's highest unemployment rate and declared he is holding "the Carter administration flatly responsible for the dismal state of today's economy.")—From an Oct. 16, 1980, Free Press story about Reagan's campaign trip to Flint.

(By Helen Fogel)

FLINT—After eight months of layoff, Gerald Ballard was getting back to work at the Coldwater Road Fisher Body plant about the time Reagan hit town with his economic analysis and promise of better times to come if he were elected.

Ballard, now 27, a production worker with a wife, two sons and nearly five years' seniority, worked until October 1981. Then he was laid off again.

Now it's been more than a year since he worked the line. His unemployment pay is gone.

His welfare status is uncertain because he received some welfare payments while also collecting unemployment, and he's running a little thin on just about everything it takes to live, except hope.

Friday, he wondered whether Reagan was dissatisfied with the 300,000-vote margin by which he carried Michigan in 1980.

"Maybe he thinks not enough people voted for him. Maybe he's holding a grudge and he's overlooking us some," Ballard said. "It does seem to me some of the other states are doing all right."

During the campaign, Reagan, along with President Jimmy Carter and both vice-presidential candidates, made eloquent speeches here about the area's dismal economy. With more than 20 percent unemployment, Flint was the political symbol of the nation's economic woes.

Two years later, with the first rustles of the next presidential campaign already sounding in Washington, nothing much has changed economically to improve lives of those who live in Flint.

The latest Department of Labor Statistics issued last week confirm that the Flint area still leads the nation with nearly 21 percent unemployment.

People who live in Flint, including the four out of five who are still working, have paid a price for three years of depression, Mayor James Rutherford said last week.

For instance, Rutherford said, resident have had to decide which city services they value most and which should be curtailed as income tax receipts plummeted to pre-1979 levels.

Last winter, they gave up weekly trash collection. It's now picked up every other week. This winter, because city residents qualified for extra federal revenue sharing by voting to tax themselves more, the city will be able to return to weekly trash pickups, Rutherford said.

But like other cities, Flint felt the loss of Comprehensive Employment and Training Act money sharply—with the end of the CETA program, Flint lost more than 300 municipal jobs, Rutherford said.

And the nearly 21 percent unemployment rate doesn't tell the whole story, Rutherford said. Among some groups, unemployment is much higher. For black people between 18 and 25, the rate exceeds 60 percent, Rutherford said.

Where the city has been able to add new jobs like the 350 at the newly built Hyatt Regency, pay scales tend to be lower, sometimes the minimum wage. This has lowered the median salary in this town which has long been accustomed to the auto workers' wage and benefit scale. Lower salaries mean smaller tax collections even when people are working.

Clyde Huddleston, 26 a road construction worker for the Genessee County Road Commission, has been laid off since February 1980.

"I'd worked ever since I was 14," he said last week. "I didn't know what layoff was."

Now he and his wife, Kathy, 25, who is laid off from General Motors Corp.'s AC Sparkplug Division, are facing a bleak benefit-less future.

Kathy was one of the GM workers eligible for an $300 bonus check last week, but she said it would not buy their two daughters Christmas presents. The money was already promised to creditors.

General Motors with its 11 manufacturing and warehousing facilities is still the lifeblood of Flint.

On Friday alone, $2.6 million in special $300 payments to unemployed GM workers went out to about 8,800 Flint-area unemployed. Many of them. like Kathy, had the check spent before they received it.

Although business is bad, GM expects that figures will show workers at its Flint-area plants spent more than $4 billion during 1982, a spokeswoman said.

With a 56,422-person work force in Flint—down from 76,933 in 1978—GM continues to sustain Flint.

But the figures tell the story. As of Dec. 13, there were 16,533 GM workers on indefinite layoff.

Some of them have been off since 1979.

"Things are critical here and getting worse," said Jack Wagner, assistant UAW regional director.

"We have people who were laid off in the summer of 1979. Some of them are desperate," he said.

People are losing their homes. Some have resorted to suicide, Wagner said.

In a telephone interview, Wagner angrily charged that the president had defaulted on his 1980 promise to put people back to work.

"(Reagan) still doesn't understand that one out of every six people (in this country) is employed in the auto industry. I guess he still can't get that through his head," Wagner said.

It isn't that people in Flint are just sitting around waiting for jobs to come to them.

Huddleston has considered leaving Michigan and looking for work in the south or the west, but he worries about the uncertainty of moving from the area where both he and his wife have family and resources.

Both Clyde and Kathy Huddleston have applied repeatedly for other jobs—he as a janitor, she as a retail clerk. Both have experience in other jobs, but so far neither has been successful in finding work. Hud-

dleston confessed in embarrassment last week that he has been too proud to seek welfare benefits for himself although, except for odd jobs, he has been out of work for almost two years.

Former Fisher Body worker Ballard tries to fill his days with odd jobs for his family and neighbors. He has filled out applications for a job as a grounds keeper for various companies, but the longest job he's had since his last layoff lasted four days.

Like his southern rural forebears, Ballard hunts and fishes for food as much as sport.

The family will eat the deer he bagged during the firearms season, and he expects to get another when the bow hunting season begins. He fishes regularly.

And his family's freezers are full of vegetables he and his wife grew in a "good-size garden" last summer.

Whatever else happens, the family should be able to eat through the winter.

He expects to wait here until spring, Ballard said, hoping for a possible opening when more than 350 retirees leave Fisher Body in February.

But if he doesn't find work in the spring he'll head south searching for a lesser-paying job, perhaps in Alabama where he's heard the road commission is looking for workers.

Many unemployed workers in this hard-times union town are skeptical when Washington economists predict a recovery anytime soon.

"People around here have been told things are going to turn up many times," said Wagner. "They just don't believe anyone anymore."●

STUDY MISSION TO THE MIDDLE EAST

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent summary written by our colleague, Congressman LARRY COUGHLIN of a study mission we both participated in to the Middle East in November 1982.

It is clear that the United States confronts both enormous challenges in the Middle East and also a unique opportunity in the months ahead to try to help move the Middle East peace process forward and help the parties negotiate an agreement for the removal of all foreign troops from Lebanon.

Congressman COUGHLIN'S report summarizes well the issues we confront. The report follows:

CONGRESSMAN LARRY COUGHLIN'S REPORT ON MIDEAST MISSION, NOVEMBER 1982

On November 20th I returned from an almost two week mission to the Middle East to discuss the Middle East peace process, to examine negotiations aimed at solving the Lebanese crisis and to indicate to foreign leaders substantial bipartisan support in Congress for the Reagan initiatives in that area.

The operative countries visited were Israel, Egypt, Jordan, Saudia Arabia, Syria and Lebanon. We met with Prime Minister Begin, President Mubarak, King Hussein, King Fahd, President Assad and President Gemayyel. In almost every country we also met separately with the Foreign Minister and Defense Minister as well as other leaders. In Israel and Lebanon, we met with the opposition leadership and Palestinians.

The mission had the approval and support of Secretary of State Shultz. It was the first official Congressional mission to the Mideast since the Lebanese crisis and was led by Congressman Lee Hamilton, D-Ind, Chairman of the House Foreign Affairs Subcommittee on Europe and the Middle East.

I returned optimistic about prospects for removal of American and other foreign troops from Lebanon in a way that substantially meets Israel's security requirements, and that this can take place in a relatively short period of time. The ingredients are there.

Israel is anxious to withdraw having accomplished its initial objectives. Contrary to the belief of some Arab leaders, there is no evidence of Israeli expansionist desires in Lebanon. The Syrians are anxious to have Israel withdrawn because Israeli troops in the Shouf Mountains are almost within artillery range of Damascus.

The price of Israeli withdrawl is Syrian withdrawal. Without the support of Syrian troops and heavy weapons, the 3,000 to 4,000 lightly armed PLO in Northern Lebanon are not a significant force and are likely to leave or can be coped with by Lebanon's army. The government of President Amin Gemayyel is working hard at building that army and at national reconciliation. It has the support of both Muslim and Christian factions.

Parenthetically, I might say that I am convinced that the Judicial Investigating Commission in Israel is doing a thorough, painstaking and fair job of investigating the massacres at Sabra and Shatila. There is no evidence of either a whitewash or a witch hunt. In the words of opposition leader, Shimon Peres, "the Commission is superb."

Permanent settlement of the Palestinian problem along the lines proposed by President Reagan is more difficult because the complexities are immense. On the Israeli side, the Begin government has rejected the Reagan initiative because Begin appears determined to retain some form of sovereignty or control over all of the West Bank and Gaza. The Israeli people are deeply divided over this and the settlement issue.

It is a paradox that some temporary freeze in the settlements is a key ingredient to commencing negotiations. At the same time, it is the threat of more and more settlements that is the impetus to bring the Arabs to the bargaining table.

On the Arab side, there appears to be an unprecedented desire for peace with Israel in the moderate Arab world. There is a window of opportunity. King Hussein is very anxious to negotiate but does not have the strength to do so alone. Other moderate Arab States are urging the PLO to move toward recognition of Israel and formal support of United Nations Resolution 242 so as to work with Hussein. There is a question, however, as to whether Syria can block this because of Syria's own territorial interests in the Golan Heights and support by the Soviet Union.

Let me first go into detail on the situation in Lebanon. Not since I visited Hamburg, Germany, as a student after World War II have I seen destruction as in West Beirut. Particularly in PLO controlled areas along the so called green-line, every building is damaged, every fourth building is down. The damage is indiscriminate as to apartments, businesses or Mosques. It is important, however, to note that much of the damage was not a result of Israeli action, but the result of the civil or regional war that has been going on in West Beirut since 1976.

There are still isolated incidents of violence around the airport where we landed. In the Shouf Mountains, controlled by the Israelis, there is still fighting between the Maronite and Druze factions. The situation in the Bekaa Valley is exacerbated by the presence of Shiite Muslim revolutionary guards from Iran.

At the same time, there is a certain sense of euphoria among the Lebanese people at the prospect of having their country back again, free of PLO, Syrians and internal strife. Street vendors sell shoes and flowers among the rubble. Traffic jams the streets. Although utilities are uncertain, there is enormous vitality and little sense of crushing poverty. Our Marines are very much in evidence and morale is high.

President Gemayyel and Foreign Minister Elie Salim, both of the Christian faction, recognize that only Israel could have gotten the PLO out of Beirut. They are determined to move quickly to establish authority. At least as of now, they have an almost unanimous mandate from Christians, Muslims and Druze.

They believe they can increase the Lebanese army from 4,000 to 25,000 men quickly—more quickly than our observers feel is possible. They are prepared to have a safe border with Israel and to give all non-aggressive assurances, yet they believe they cannot recognize Israel formally at this time and survive because of their own Arab population and the need for cooperation of other moderate Arab countries.

Gemayyel and Salim indicated they have the promise of Assad to withdraw Syrian forces. Internally, they are moving toward national reconciliation but are not yet strong enough to disband the Phalange or other private Christian militias, to say nothing of holding an impartial investigation of the massacres at Sabra and Shatila.

Lebanon's Prime Minister al-Wazzan, a Muslim, was less sanguine about Israel. He expressed resentment over the destruction and envisioned an expansionist Israeli hegemony from the Euphrates to the Nile. He also saw Israel as attempting to partition Lebanon among the various religious interests. At the same time al-Wazzan recognized that withdrawal of foreign forces had to be simultaneous and the President Gemayyel had been unanimously elected to seek national reconciliation.

Walid Jumblatt, leader of the Druze faction in Lebanon, also expressed his belief that reconciliation was possible under President Gemayyel. He believed, however, that things were not moving fast enough to eliminate the Phalange and to extend Lebanese authority outside of Beirut.

Despite differences in detail, such as whether negotiations would occur in Jerusalem, the basic framework for a settlement could involve the following:

1. Simultaneous withdrawal of all foreign forces from Lebanon.

2. A security zone in Southern Lebanon which would be demilitarized as to heavy equipment and patrolled by a multi-national force until the Lebanese Army reached strength.

3. Multi-national control of the Bekaa Valley and the Beirut to Damascus highway until the Lebanese Army reached strength.

Lebanon, after all, existed for many years as an independent nation with democratric institutions that coped successfully with its various minorities. It should be able to do so again.

Turning to Israel, as on my previous visits, it was a warm, lovely, challenging country. Through my daughter, who worked on a kibbutz there, through my wife who spent time at Kibbutz Nezzer Serini, as well as through my own experience, I share an immense affection and admiration for the Israeli people. Tough and hard working, yet loving, they have made the desert bloom both physically and culturally.

Today, however, they are intellectually a very disturbed and divided people. The debate is both between Israelis and within each Israeli.

On one side Prime Minister Begin cited the inalienable right of the Jewish people to settle in Judea and Samaria which, he said, were erroneously called the West Bank. He said Judea and Samaria were an integral part of Israel's national security for protection from incursions. Questioned on settlements Begin said: "We only settle on rocky lands."

I asked the question: "Granted Israel has the military and political power to assimilate the West Bank, is it in Israeli's interest from a security, moral and cultural standpoint? Begin's answer: "We can live together in peace."

Foreign Minister Shamir confirmed that Israel could not relinquish control of the West Bank with its 1.2 million Arabs for security reasons. Defense Minister Sharon said the same. At a round table discussion at Hebrew University Professor Reuven Yaron said a truncated Western Palestine would not work, and it would not produce security.

On the other side Shimon Peres, opposition Labor chairman, said it would be a tragic mistake to incorporate inside Israel 1.2 million Arabs against their will.

Meron Benvenisti, former deputy Mayor of Jersusalem with a doctorate from Harvard, said in a late night meeting at his home, that a dual system would be disastrous for both societies and lead to a polarized society.

Benvenisti's controversial recent study indicated that one-third of the West Bank has already been taken by Israel and that two-thirds could be taken under existing procedures because it is not subject to formal Arab land deeds. The "rocky lands" Prime Minister Begin refers to are principally untitled Arab shepherd grazing lands. Benvenisti points out that 75 Israeli settlements exist on these lands, 25 are under construction and 55 are planned.

At the current rates of 3,000 to 4,000 units per year, Benvenisti estimates that the critical mass of 100,000 settlers, that would make the process of annexation irreversable, would be reached by 1986. We visited many of these settlements around Jerusalem, and I might say they are indeed completely planned small cities.

Professor Dalia Golan at Hebrew University indicated the settlements policy was radicalizing the position of the Arabs. Jerusalem Mayor Teddy Kolleck objected to the settlements because they created a drain of young people from Jerusalem. He suggested that they were not being successful despite heavy subsidies on rents and mortgages to encourage people to move.

Our meeting with West Bank Palestinians, Bethlehem Mayor Freij, former Gaza Mayor Shawa and Arab educator Masri indicated an almost frantic concern about the settlement problem, as well as the so-called loyalty oath being required of Arab educators. In addition they spoke confidentally about the PLO making some major conciliatory statement in the near future.

Despite this internal questioning, Prime Minister Begin is still popular, and Israel is in a state of suspended animation awaiting the decision of the Judicial Commission.

Turning to the Arab world, I have mentioned that there appears to be an unprecedented desire for peace and a solution to the Palestinian problem. The Reagan initiative is welcomed cautiously. As King Hussein said: "It is indeed five minutes to midnight."

In Egypt, President Mubarak took pride in the fact that Egypt had started the peace process and said they would not deviate from it. He indicated he was calling on all Arabs to seek a peaceful solution. Mubarak said he had to take some action in response to the Israeli operation in Lebanon but did the minimum. With respect to Sabra and Shatila, he said it was nothing compared to what the Syrians had done over the years.

Significantly, Minister of Defense Abu Ghazala said Egypt regarded as its major threats: First, the Soviet Union and its surrogates in Libya, Ethiopia, South Yemen and Syria, and Second, terrorist activity, particularly if the Palestinian problem is not resolved. When questioned about any threat from Israel, Abu Ghazala responded that Israel was no threat—that peace was a permanent thing.

Meetings with Egypt's Prime Minister Fuad Mohieddin and Minister of Economy Mostafa El Said confirmed these attitudes. It is significant that Egypt receives 10 percent of its total budget from United States aid yet remains a dusty, over-populated, traffic jammed, poverty stricken but exciting country.

In Jordan, King Hussein, as I have said, is very anxious to proceed with the Reagan initiative. The concept of two states, he says, was part of the original partition plan. He indicated that the Arab side was not negative, but that we must move quickly as conditions are changing and this might be a last chance.

Hussein feels bound, however, by the Rabat Conference declaration that the PLO is the sole representative of the Palestinian people and seeks to remove obstacles from PLO contrat. His concern is that Syria may be negative to any solution and prefer to let the problem continue.

Jordan's Crown Prince Hassan echoed these sentiments. Commander in Chief of the Jordan Armed Forces General Bin Shakir indicated as threats: First, Israel which viewed Jordan as home of the PLO and Second, Syria. He perceived, however, no immediate threat from Israel. In common with other Arabs, Bin Shakir resented Israel Defense Minister Sharon's statement that it made no difference is the PLO ruled Jordan with its implication that West Bank Palestinians should be sent to Jordan.

Jordan appears clean, prosperous and safe. It received subsidies of approximately $1.2 billion a year from other Arab countries as well as remittances of about $1.5 billion a year from Jordanians working in other Arab countries. It was here, too, that we first began to learn of the overwhelming concern about the Iran-Iraq war and Iran's attempt to export Shiite Islamic fundamentalism.

In Saudia Arabia, King Fahd indicated his pleasure over the Presiden't plan. He said the most important thing was peace and justice—that the Saudis did not expect 100 percent. With respect to existence of the State of Israel the King said: "It exists."

Minister of Foreign Affairs, Prince Saud, said his country was active in pursuing peace. He saw the major threats as the Soviet Union and Islamic fundamentalism. He sought rapproachment with Egypt and felt the United States should help Israel but guarantee the security of the Arab world.

The Iran-Iraq war and the associated issue of Islamic fundamentalism is predominant among Saudi concerns. Perhaps because of its leadership's concern to stay on the right side of the clergy and avoid an Islamic fundamentalist clash, Saudi Arabia is the most conservative country I have ever visited. This is particularly in its attitude towards women. Black veils are still prevelant. American women must wear long dresses and sleeves. Women cannot drive, jog or swim.

In Saudi Arabia, there are no alcholic beverages, theatres or night clubs. The only pastime is driving your car. A gallon of gasoline, however, is cheaper than a gallon of pure water.

In Syria, we received a lecture from President Assad on our support for Israel. He indicated the 1967 boundaries were not the subject for bargaining, probably because of Syria's territorial interest.

Assad repeatedly emphasized the difficulty of attempting peace between unequal powers, stating that peace would probably come when there were more equal powers. In the end, however, he indicated with regard to Lebanon that Syrian forces would be withdrawn when the Israeli occupation was removed. Assad also said that Syria wanted peace and that it was within Israel's power to obtain peace, implicitly recognizing Israel.

Contrary to warnings that Syria was a dangerous and unfriendly place, we felt safe and that the Syrian people were friendly to the Americans. Outside of refugee camps, it appears to be a prosperous country.

Repeatedly throughout the mission we urged Arab leaders to seek to deal with realities as they have unfolded and to forget recriminations. When it was suggested that we exercise our leverage or cut off aid, we indicated we have leverage on and aid to almost all sides which we would hesitate to use as a tool. We emphasized that the momentum of the peace process should be the pressure and that a solution imposed by aid cut offs or other U.S. leverage would not work.

There is, unfortunately, no agreement about who can do what to unlock the present impasse in efforts to promote the peace process. You hear a lot of theories:

Jordan is the key and we have to persuade the King to join the peace process; but Jordan cannot go it alone.

Israel can break the logjam if only it will freeze settlements; but the settlements are producing the impetus to bargain.

Saudia Arabia is the key because it provides the funds which enable Syria and the PLO to pursue their policies; but the wealthy Saudis see the first move as U.S. pressure on Israel.

Syria can frustrate any move in the peace process and therefore has to be neutralized or isolated; but how?

The PLO could unlock the present situation if only if it would meet U.S. conditions for a dialogue; but the PLO does not know what Israeli reaction would be.

There is probably some truth in each of these theories and it may take movement on all these fronts to put the process together.

Clearly, as of now, the United States is the leader.●

ON WAR

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HYDE. Mr. Speaker, the subject of war—especially the most difficult questions of the morality of nuclear weapons—is receiving a great deal of attention these days.

Among the churchmen writing on this issue, none is more informed nor more thoughtful than Father James V. Schall, S.J., of Georgetown University. Father Schall quotes then-President Jimmy Carter on this subject in an article published October 23, 1980, in the San Francisco Monitor, which provides another perspective on this dilemma. I trust my colleagues will read this article carefully.

[From the Monitor, Oct. 23, 1980]

ON WAR

(By Father James V. Schall, S.J.)

When I saw my sister, Norma Jeanne, last month in Fort Dodge, she asked me, curiously, "Why do you never write anything about the problem of war, which everyone seems to be talking about?"

Well, of all people, my sister knows she cannot ask her brother a question like that without getting an answer, though, as all the world knows, sisters are happily immune from their brother's musings, even when they bring up the subject in the first place.

Anyhow, she asked for it, besides I just saw "The Big Red One" here in Washington with Father John Connery, while The Economist (August 16) had a good discussion on the subject, as did President Carter himself at a Press Conference. (September 18, 1980)

"The Big Red One" is a particularly good place to begin—a sort of anti-anti-war movie for a change.

It was a good statement of the classic just war practice—namely, that some wars have to be fought, that within any war, men die, but there remain within battles moral rules ever operative, even midst the killing, which is not murder.

The soldier cannot be naive about what is at stake for people if the war is lost, as the soldiers in "The Big Red One" who broke into the Nazi Concentration Camp in Czechoslovakia vividly realized.

But what about nuclear war? Isn't that a special case? No doubt, this has been an area in which contemporary religious thinking has been particularly obscure and even dangerous.

My colleague, Professor William O'Brien, one of the very few men in this country who has really thought deeply on this subject, feels that we need, particularly the bishops, a more realistic commission to deal with this topic.

We are so used to hearing from religious spokesmen that nuclear war is "immoral," that we have left our politicians with no practical guidance. Indeed, I think we leave them with the feeling that religion is positively against them in what they must do.

Politicians, some of them at least, and soldiers often recognize what is at stake, not merely if the bombs are dropped, but if they are not. The politician must know the political consequences of not fighting, of losing.

The recent Directive #59 about flexible retaliation against Soviet missiles gave The Economist occasion to write:

"The whole subject of preventing nuclear war combines the obscurity of higher mathematics with the ugliness of horror fiction. This leads many people to say that the best way of avoiding the unthinkable is not to think about it.

"They are wrong. It is the unthinkable we must think about, and then act intelligently on the thinking."

And at his Press Conference, President Carter was asked precisely how he thought about this subject—what if the Soviets did first strike and kill 20-50 million people, what would he do?

Mr. Carter said—as any president would:

"It's crucial for our potential adversaries to know that if necessary atomic weapons would be used to defend our nation . . . I cannot tell you what would happen if an exchange should take place.

"I would try to defend my nation's security and its integrity, and the integrity and security of allies without resort to atomic weapons. But if necessary to defend the freedom and security of western Europe and this country, then I would use atomic weapons.

"I pray to God that that time will never come, but it's important for our people, our allies and the Soviet Union to know that, if necessary, those weapons would be used." (New York Times, September 19, 1980).

This is a very clear, measured statement, designed to make sure such weapons be not used by forcefully spelling out to the Soviets that they cannot think of using their first or second strike forces and hope to survive.

Churchmen often feel they must, no doubt, call a pox on both of your houses, though they must be quite careful of seeming irrelevant here. Often too, it is said that if we just stop the arms race, we can solve man's problems.

Yet, if there is any arms "race" in the world, the West seems bent on losing it. Mr. Carter's strong words may have been made necessary by his own appearance of weakness and by his belated recognition that we are in fact becoming relatively weaker, which in turn may well increase the danger.

Solzhenitsyn, in fact, thinks the West is becoming so progressively weaker that when the Soviet missile superiority reaches about 5-1, they will simply demand and probably get surrender, so that World War III is already lost.

Thus, it is not at all clear that a lessening in nuclear power or the will to use it would be a step in the direction of peace, granted the operative Soviet ideology.

But churchmen are not politicians responsible for public safety. There has been a relative silence in church writings about the politician's responsibility.

At times, it even seems that everything about nuclear weapons, from thinking about them to using them, is wrong.

At a recent Press Conference in Rome, it was asked if the Holy Father's remarks on peace meant that there was no legitimate use of force.

These reflections seem pertinent:

"If the Pope thought that he would want to condemn any recourse to armed force for the future—which was not done by any of his predecessors nor by the Council which maintained, despite certain pressures, the principle of legitimacy of armed defense against aggression—he would surely not do this 'as an aside' or 'ex obliquo' under the pain of being misunderstood.

"• • • In the present climate, to call attention to the fact, even in passing attention to the fact, even in passing with all the necessary nuances, that a certain kind of deployment of armed force and therefore a certain kind of armament can possibly be justified in the life of a nation or in the international sphere is to expose oneself at one blow to being misunderstood • • •.

"The Pope need not speak out on everything that happens."

In other words, politicians must judge. They are not going to find, for the most part, a clear advice from religion, especially in an area wherein religion itself admits proper political responsibility to the politician.

This does not mean that there is not any religious principle involved. In the context, the President said, "I will use atomic weapons if necessary." It is difficult to say that this is not a responsible and moral position.

I wonder if my sister will ask me any more questions.●

CONGRATULATIONS TO THE BANK OF GUAM ON ITS 10TH ANNIVERSARY

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. WON PAT. Mr. Speaker, this month marks the 10th anniversary of the Bank of Guam. The bank opened its doors to the public on December 11, 1972. The history of this business is nothing short of remarkable and today I want to offer my colleagues some insight into how two men began a bank which 10 years later has assets of over $120 million and branches which are spreading and helping fill the needs throughout Micronesia.

The Bank of Guam is a direct reflection of the drive, energy, and professionalism of its two cofounders, Jesus S. Leon Guerrero, president, and Jose L. G. Untalan, vice president, of the bank. These two men devoted their working lives to the banking industry and they are tried and proven leaders in every sense of the word. Ten years ago, they combined their remarkable talents into a team which would bring to Guam its first bank ever chartered in the territory. While we on Guam have long enjoyed the services of banks from California, New York, and Hawaii, it is always nice to know that the bank you do business with is of the homegrown variety, staffed by people who know and care about the community they serve. This is certainly the case with my good friends Messrs. Jess Leon Guerrero and Joe Untalan. They were born and raised on Guam, and know our island and its financial needs as well as anyone in the banking business.

The Pacific Daily News recently did an excellent special feature marking the 10th anniversary of the Bank of Guam and I would like to place in the RECORD today parts of that feature story. I am deeply proud of the Bank of Guam and want my colleagues here today to see that we on Guam are working hard to develop our own institutions that reflect our needs and our way of life.

At this time I insert the following articles in the RECORD:

TEN YEARS OF SERVICE—BANK STILL GROWING

(By Lorie Eichner)

"We weren't thinking of anything this large. We were thinking of a modest sized bank with about $25 to $30 million in assets," said Jesus S. Leon Guerrero, president of the Bank of Guam.

Leon Guerrero was speaking of what he and co-founder Jose L. G. Untalan had in mind when they chartered the bank a decade ago.

Today, as the founders and employees of the bank celebrate their tenth anniversary they can boast of assets in excess of $120 million.

"I guess it just grew and we had underestimated its potential," Leon Guerrero added.

Leon Guerrero said that such tremendous growth has been due to the support of the people on Guam. "There has never been a public corporation in this community with as many shareholders as the Bank of Guam," he said. "It demonstrates the faith they have in our island and our country."

Leon Guerrero and Untalan initially raised $1.5 million in subscriptions from a total of 900 shareholders who are both citizens of the United States and residents of Guam to start the bank. By 1974 assets had climbed to $30 million. Over 1600 persons are now shareholders in the bank.

Additionally, 30,000 shares are now being offered to Trust Territory citizens residing in the Marshall Islands, the Federated States of Micronesia and the Commonwealth of the Northern Marianas to enable those people to own a share of the bank which has been serving their islands for two years.

"What we had in mind when we established this institution was to have a bank that would help the people of Guam," Leon Guerrero said. "There had never been a bank chartered on Guam. We wanted to do something to establish pride an identity in the community and this was a way to do it."

Both Leon Guerrero and Untalan brought with them years of banking experience with the Bank of America when they established their own bank.

"We knew we could give service to the community. Because of our reputation in the banking community and because we were experienced and knew banking people had faith in us," Leon Guerrero said.

" We did the right thing for the people at the right time," he laughed.

He said that because the administrators of the bank are headquartered on Guam service at the bank can be quick and flexible. "We have the ability to make decisions locally. We don't have to check with headquarters somewhere else. We can personalize our service," he said.

Untalan, vice-chairman of the board of directors and executive vice-president/cashier, added that it is important to know the community one serves. "We know our customers. We're part of the community because we were born and raised here," he said.

The bank has grown in other ways as well. From an initial staff of 13 the number of employees has grown to over 200. And from its humble beginnings in a quonset hut the facilities have now grown to include six locations in Guam, Saipan, Truk and Majuro. The Federal Deposit Insurance Corporation recently approved the opening of a branch in Ebeye in the Marshalls.

When the Bank of Guam acquired branches on Truk, Majuro and Saipan from the Bank of America in November 1980 it marked the bank's entry into international banking circles. "Banking is a business that can grow anywhere in the world if you can provide the service and have the right people to manage it," Leon Guerrero said.

He said there are other plans for expansion on the drawing boards.

The Bank of Guam has also filed an application with the Federal Deposit Insurance Corporation for a permit to establish a branch in San Francisco, California.

"The future for our bank is very bright. It's going to grow. There's no question in our minds about that," Leon Guerrero said.

Leon Guerrero said that Guam is already the financial center of the western Pacific and that the only thing holding back further growth are U.S. federal government restrictions.

He said that once the Bank of Guam has the trained people and the necessary capital it, too, will enter the world of international banking to a greater extent. "But first we have to take care of our home base," he said.

The men said that the average age of their staff is 30 and that among their employees are a number of good, well educated officers that are being trained to take up managerial positions. An officer training program provides a means for improvement and the salary to go with it. Many other incentives and benefits are also provided employees.

"We are developing our staff so we can have a core of capable people to run our branches as we expand," Untalan explained. "You can not grow without a good staff."

CO-FOUNDERS PROVIDE LEADERSHIP

Jesus S. Leon Guerrero is the chairman of the board of directors and president of the Bank of Guam.

Leon Guerrero began his banking career in 1947 when he was still in high school as a part-time bookkeeper at the Bank of Guam (Navy). Upon graduation he assumed a full-time position with the bank.

In 1950 the Bank of Guam America purchased the Bank (Navy) and Leon Guerrero remained in their employ, eventually working his way up to assistant vice-president in the Guam-Trust Territory regional office and manager of all seven branches of the bank in Guam and the Trust Territory. As part of his training the Bank of America sent him to their headquarters for six months. He has also taken other banking courses to increase his knowledge.

He resigned in 1972 to organize the Bank of Guam with his co-founder, Jose L. G. Leon Guerrero.

Leon Guerrero has always been very active in civic and community affairs. He is a former chairman of the Guam Economic Authority and the Guam Economic Incentive Commission. In 1964 Governor Manual Guerrero appointed him as delegate member of an economic goodwill commission to Taiwan.

He is a former president of the Medical Center of the Marianas and has participated in Red Cross fund drives. He is a former treasurer of the Guam Rotary Club and a former director of the Guam Chamber of Commerce. Additionally, he has served on various church and school committees and is presently a member of the Air Force Civilian Advisory Council and the Guam Chamber of Commerce.

Jose L. G. Untalan is vice-chairman of the board of directors and the executive vice-president/cashier of the Bank of Guam.

Untalan began working for the Bank of Guam (Navy) April 1941 and was transferred to the Bank of America when it purchased the Bank of Guam (Navy) in 1950.

He started as a teller/bookkeeper and worked his way up to the position of auditor while with the Bank of Guam (Navy).

He began as an assistant cashier with the Bank of America and rose to the position of assistant vice-president, senior public relations and business development officer. He opened the three branches in Tamuning, Guam, Majuro and Truk for the Bank of America and was in charge of operations of all branches in Guam and the Trust Territory.

During his employment with the Bank of America he attended various training programs, classes and seminars relating to the banking field. He resigned in 1972 to become a cofounder of the Bank of Guam with Jesus S. Leon Guerrero.

Untalan has been a chairman of the Guam Bankers Association, a member of the Selective Service system and the Guam Housing and Urban Renewal Association. He has also served the American Red Cross, the Guam Tuberculosis and Health Association and on various school and church committees.

He is also a former member of the Governor's Commission for the Aging, the Pre-Organic Act bi-cameral Legislature and the Government of Guam Retirement Board.

Presently he is a member of the Board of Commissioners of the Guam Housing and Urban Renewal Authority and the Guam Chamber of Commerce.

BOARD OF DIRECTORS ESTABLISHES POLICY

Pedro P. Ada is president of Nanbo Ada's Trust and Investment, Inc. and President of Ada's Inc. He is also chairman of Nanbo Insurance Underwriter's Ltd.

He was formerly the Chairman of the Board of Regents of the University of Guam and is presently a director of Capital Investment of Hawaii.

He attended St. Thomas Military Academy High School and pursued his B.A. degree at the College of St. Thomas.

Felino B. Amistad is the treasurer and chairman of the audit committee of the Bank of Guam.

He attended Far Eastern University, Manila, and majored in accounting. He took advanced accounting courses from La Salle University, extension division, as well as a course in administration from the U.S. Armed Forces Administrative School.

From 1945 to 1946 he was the paymaster and chief payroll clerk for military and civilians at CONCOR, AFWESPAC, Manila. He was a cost accountant in 1948 for Pollock Stockton Shipbuilding Co., Samar, Marianas Bonins Command in 1949, and the fiscal accountant in 1950 for Bureau of Yards and Docks, Navy auditing office, Guam.

From 1951 to 1964 he was the advertising manager for the Guam Daily News. He is now the owner and manager of Metropolitan Press.

Amistad is a member of the Knights of Columbus, International Toastmasters Club, the Muscular Dystrophy Association of America, the Filipino Community of Guam and Treasurer of the American Lung Association of Guam.

John L. Kerr is the secretary and a director of the Bank of Guam. He attended the Massachusetts Institute of Technology, Cambridge, Massachusetts and holds a BSIE from Northwestern University, Boston, Massachusetts. He is a registered professional engineer.

He was in the U.S. Army during the Korean War and spent twelve years with Standard Oil Company in New Jersey.

Kerr is the president of Guam Dry Cleaners, International Linen Supply and Guam Fast Food, Inc.

He is a former director of the Guam Chamber of Commerce and the Guam Visitor's Bureau. He was also the Chairman of the Board of Directors of the Guam Power Authority.

Francisco Leon Guerrero began his career in the Apprentice Training School, Navy Public Works Machine Shop, Piti Navy Yard, Guam.

He attended the School of Medical Practitioners, Naval Medical Center, Guam and was a medical intern at the Guam Memorial Hospital from 1949 to 1950. Later he transferred to the Department of Public Health Sanitarian section in 1950. He continued his public health career by attending several schools and training programs and is presently with the NINCDS Research Center, Guam. In 1950 he was in charge of the Rota General Hospital.

Leon Guerrero is a registered sanitarian with the National Association of Sanitarians.

He is a past president of the Guam Tuberculosis Association and the San Vicente PTA.

Dr. Ralph G. Sablan is a certified dermatologist and retired Captain in the U.S. Navy medical corps. He is a Diplomat of the American Board of Dermatology, a Fellow of the American Academy of Dermatology, member of the Association of Military Dermatologists, International Society of Tropical Dermatology and the American Medical Association.

He attended Father Duenas Memorial High School and graduated from Woodrow Wilson High School in Long Beach, California. He attended the University of California in Los Angeles and graduated from the Oklahoma School of Medicine in 1959 with an M.D. degree. He served his internship in the U.S. Naval Hospital, Camp Pendleton, California and the University of Southern California in Los Angeles.

Joe T. San Agustin obtained a B.A. degree in Government and M.A. in Public Administration from George Washington University in Washington, D.C.

He is the chairman of the board of directors of the Guam Greyhound, Inc., Guam Concessions, Inc. and the Guam Aqua Research, Inc. He is a former president of the Guam Finance and Investment Corporation, a former member of the Government of Guam Federal Credit Union board of directors and a former director of Bureau of Management Office, Government of Guam. He is also a former management analyst for the U.S. Naval Supply Depot.

He is a senator in the 16th Guam Legislature and was re-elected to serve in the 17th Guam Legislature.

Frank F. Taitano is a successful businessman and has been a farmer all his life. During the 1940s he worked for the American Red Cross and the U.S. Post Office.

Dr. Luis G. Camacho graduated from George Washington High School after which he matriculated in the school of liberal arts at Tampa University in Tampa, Florida. After a year there he transferred to Marquette University in Milwaukee, Wisconsin and graduated with a B.S. degree in 1953.

He studies dentistry at Marquette University of Dentistry where the degree of Doctor of Dental Surgery was conferred upon him in 1957.

After receiving his degree he returned to Guam and was in private practice for seven years. In 1964 he enrolled in the Graduate School, Department of Orthodonics, at St. Louis University where the M.S. in Dentistry was conferred upon him in 1967.

He is president of Dr. Luis G. Camacho, D.D.S. M.S., Inc., a director of Pacific International Corporation, vice-president of Pacific Financial Corporation and president of Camacho Inc.

Dr. Camacho is a member on the Commission of Licensure, American Dental Association, American Association of Orthodontists and a life member of the Delta Sigma Delta dental fraternity.

Dr. Raymond Chan holds a Ph. D. from Harvard University and received an Honorary Doctorate from the China Academy. He has been a full professor and the chairman of the Political Science department at the University of Guam since 1966.

He is a member of Phi Delta Kappa and Chi Omicron Gamma honorary societies. He was the first president of the United Chinese Association of Guam and was a member of the Board of Governor's Committee on Problems of Aging. He was the chairman of the Seventh World Chinese Banking Amity Conference.

His biography has appeared in the Dictionary of International Biography, Outstanding Educators of America, American Men of Science, Men of Achievements and Marquis Who's Who in the West.

JOB LEADS TO CAREER

When Lolita H. Rosario first started working for the Bank of Guam when it opened its doors in December 1972 it was just a job for her. Now it is a career.

When she started out it was as a teller. Now she is the assistant vice-president/operations manager.

"When I first walked in it was just a job. I didn't want to stay home. I had tried that for a month and didn't like it," she said.

"After that I started to expose myself to the different departments and it just got more and more interesting. There has never been a dull moment."

Rosario knew the people she was going to work for because she had worked under Jesus Leon Guerrero and Jose Untalan at the Bank of America. She said she decided to change her place of employment because the Bank of Guam was something entirely new and presented a challenge.

It did not take her long to move up to the position of head teller and in 1975 she was given the task of supervising the food stamp operation phase of the bank's business. The next year saw her being promoted to pro-assistant cashier, a first level officer position.

Another step made her the assistant cashier and in July 1978 she was promoted to assistant manager/operations manager. The following year she got her present position.

"I guess it's my aggressive approach," she said of her success. "I think I've contributed. And I know what I want and I keep going for it."

As manager of operations she has officers under her in the new accounts, note, accounting and cast departments. They in turn oversee their subordinates. She also oversees the mobile and food stamp divisions.

"Each department has to function effectively." she explained. "I have to make certain every department is staffed with qualified employees and make certain that they get their jobs done and the customers are satisfied."

In addition to on-the-job training she has attended seminars and courses related to banking and reads a lot about the banking business. She also takes courses at the University of Guam, although she has found that she can not fit them in every semester due to the demands her job place on her. She will be enrolling again for the second semester of this school year.

When she is not working Rosario devotes her time to her sons. "Because I spend so much time at the bank, when I'm not working I try to spend time with my two boys—read with them and help them with their homework," she explained.

Rosario has come a long way in the past ten years but she is not satisfied to remain stagnant. The same drive that got her to where she is now is driving her on to aim for a higher position. "I'd like to make it to the administrative sector of this bank," she said.

RECONCILIATOR HANDLES ACCOUNTS

Remy Nicholas started with the Bank of Guam ten years ago as a general ledger bookkeeper. She said she went to work for the fledgling bank after having worked for the Bank of America under Jesus Leon Guerrero and Jose Untalan.

From that position she went to that of a utility clerk, which means that she was utilized wherever she was needed. "I became a troubleshooter," she said. She also worked in the audit department.

She interrupted her service with the bank in order to become a fulltime mother and a fulltime student, but after receiving a certificate of accounting at a local business college she returned to the Bank of Guam in an accounting position.

Her present position is that of reconciliator of Bank of Guam accounts with other banks. It includes keeping records, sending telexes and handling correspondence.

"It's a lot of responsibility," she stated.

"I've been with the bank for a long time now. I like the people here and I like the administration," she said.

As far as amibitions for the future, she said, she would like to be successful in her banking career.

Nicholas said she thought the bank has succeeded as well as it has because it is considerate of people and because a lot of businessmen support it.

Her community involement includes being the secretary of the Guam Ritenans association, an organization made up of persons originating from Santa Rita, Pampanga, Philippines.●

COMMENDING THE PHILADELPHIA NAVAL SHIPYARD

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. FOGLIETTA. Mr. Speaker, I would like to take a few moments today to recognize the superior job that has been done by the Philadelphia Naval Shipyard in reconditioning the aircraft carrier *Saratoga.*

Aircraft carriers are the heart of our Navy. American naval defense strategy centers on the carrier battle group. Our national security depends on the quality of maintenance and modernization done on these carriers during the service life extension program, or SLEP.

The U.S.S. *Saratoga* is undergoing the SLEP at the Philadelphia navy yard and will be rejoining the fleet shortly. The ship that sails from Philadelphia next month will be at the cutting edge of modern technology. It is the work that has been done by the men and women of the navy yard that puts her on that cutting edge.

Mr. Speaker, there is every possibility that the *Saratoga* will leave Philadelphia ahead of schedule. This is a remarkable achievement, and one deserving of our praise. At a time when delays are commonplace, the ability to get the job done on time, or ahead of time, should make us proud.

I offer my commendation to the people of the Philadelphia Naval Shipyard for their work on the U.S.S. *Saratoga.* It is a job well done.●

HIGH TECHNOLOGY INDUSTRIES—THE FUTURE

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mrs. HECKLER. Mr. Speaker, there are, of course, many things that have been going through my mind concerning my retirement from the House after 16 years of service. Too many to elaborate on, naturally; but there is one subject I feel strong enough about to comment on today. The high technology industry, including everything from electronics to medicine, is quickly becoming the most important social and economic force in America. Having worked closely with the industry and the Science and Technology Committee, I wanted to share some thoughts on the industry with my colleagues.

"High technology." The name itself is awe inspiring. One can picture the newest apparatus, neatly placed on a polished stainless steel pedistal—too "high," ironically, for most Americans to understand, let alone operate. But high tech is more than complexity and state-of-the-art hardware.

The latest definition, from an article in Industrial Economics Review, states that high technology firms are those with above average concentrations of scientific and engineering talent and that exhibit uncommonly high rates of technological change in terms of product and production process innovation. Even with this definition, the lines are not clearly drawn.

Whatever the definition we know that the future, both in terms of how and how well we live, lies within the effective utilization of technology. Be it a product or a process, the Nation's ability to embrace technology and make it work for the national good is the keystone to America's future.

These truly are the industries of the future. Here is where we enjoy a substantial trade surplus—shaving $7 billion off a $35 billion deficit in 1981. Here is where eight jobs are created to support every one job found in high technology. Here is where the investment in R&D is increasing, despite the recession. Here is where 5 of the top 12 fastest job titles can be found according to the Department of Labor. Here are the industries the Wall Street Journal predicts will be second only to petroleum by the year 2000. It could, in fact, happen well before then.

For two decades, analysts have predicted a new industrial revolution based on the processing of information. Although the computer has been the symbol of this transformation, the semiconductor has in great measure been responsible for it. Advances in semiconductor technology have helped create markets in data processing, automated production, and robotics; and it has fundamentally altered instrumentation, communications, consumer goods, transportation, and military systems. The semiconductor industry in understandably vital to the future growth of high technology firms. From this day forward, the economic strength of advanced industrial—and some developing—economies will rest in part on their capacity to develop and apply technology to product design and production processes.

A strong, high technology industry is, simply stated, a strong America. A prosperous high technology industry is a prosperous America—a country with an increasing standard of living, high employment—high tech is labor intensive—and secure borders.

The prosperity of the industry will depend on the dynamic relationship of private sector industrial policy, the world marketplace, national education and retraining capabilities, and government policy. Effective policies in one area can be adversely affected by poor policies in another. Naturally the world marketplace will continue to operate with a certain autonomy. Nevertheless, coordinated efforts within, and in some cases among, all levels of government and the private sector will assure America's preeminent position in world markets.

INDUSTRIAL POLICY—PRIVATE SECTOR RESPONSIBILITIES

The strength of the strongest tree begins with the roots, and herein is why the industrial policies of the private sector are so important to its own continued growth.

There is a great deal the private sector can do to improve its own operating environment. Lower rates of innovation and productivity are not the sole province of government regulation, although bad and too numerous regulations can claim much of the credit. At least part of the problem rests on a less efficient utilization of capacity and management attitudes and behavior, among others.

One of the most important factors in any industrial policy is a long-term commitment to R&D. We have already witnessed a shrinking of the "technology gap" between the United States and our trading partners. A strong R&D effort is critical to insure continued innovation and product development.

A long-term perspective with respect to markets and profits is also necessary. Shortsighted, quick profit schemes leave American products wide open for errosion by the more market-share oriented Japanese.

Basic science is fundamentally a Federal responsibility, and my familiarity with the work of the National Science Foundation as the ranking Republican on the Science, Research and Technology Subcommittee has shown me how effective federally sponsored basic research can be. It is also true however, that the interface of Federal basic research with private sector commercialization is extremely poor. A wealth of completed and ongoing research is available to the private sector; the willingness of industry to access this data and Federal efforts to make it more accessible leave much to be desired.

One last point. There is an enormous amount of duplication in private sector basic research. This duplication of effort is a waste of valuable scientific talent and financial resources. Much needs to be done in this regard in the area of antitrust, which I will bring up later.

THE WORLD MARKETPLACE—NEW GAME RULES

Nothing has changed more quickly than world markets; and nothing challenges our ability to respond quite so much. The fact is, the world marketplace has changed more quickly than either industry or the Federal Government have been able to acclimate to. Some industries, like high technology, have done fairly well. One of the best

ways to improve the current record would be to get the Federal Government as far out of the way as possible.

The new marketplace is a land marked by targeted industrial strategies, rapid product change, and increasingly scarce resources. The most damaging to American market position has been the targeted strategies of the Japanese in the electronics field. This is a serious threat demanding immediate attention, primarily from the Federal Government.

For over 25 years after its inception in the late 1940's the U.S. electronics industry enjoyed a position of unchallenged technological preeminence and international market dominance. In the mid-1970's however, that leadership was challenged for the first time by large multidivisional Japanese electronics firms. The share of the world market for integrated circuits held by U.S. firms declined between 1974 and 1978, while the Japanese share grew. As the U.S. International Trade Commission concluded, "much of the increase in Japanese market share was gained at the expense of U.S. producers."

These events signify much more than a loss of profits for U.S. firms in particular product categories in a single industry. They indicate the potential for an irreversible loss of world leadership by U.S. firms in the innovation and diffusion of semiconductor technology. Because the products of this industry are the crucial intermediate inputs to all final electronics systems, competition in the semiconductor industry will be at the center of competition in all industries which incorporate electronics in their products and production processes. The loss of leadership in this one industry would mean the loss of international competitiveness in many of the advanced technology sectors that have been the basis of a U.S. advantage since the Second World War.

Japanese entry into the U.S. market is part of a conscious national strategy of establishing comparative advantage of the knowledge-intensive and technology-intensive industries. State policies helped to protect, promote, rationalize the industry, and prevented U.S. firms from consolidating their position in the Japanese market. By bringing their high-volume production strengths to bear in competition for large shares of semiconductor markets in commodity products, Japanese firms could come to dominate U.S. component commodity markets; they could deny U.S. firms the margins that have historically underwritten their capacities to create new products and make new markets.

The United States has a clear strategic interest in retaining leadership in the semiconductor industry and in maintaining an industrial structure that has facilitated the diffusion and innovation of this technology. If U.S.-based firms require U.S. policies that ease constraints and open foreign markets, then failure to adopt such policies could generate serious long-run costs to the U.S. economy. This may seem obvious, yet the industry has yet to convince any administration to make the necessary major policy changes.

Events in the high-technology industry provide the Federal Government with a timely opportunity to reconsider U.S. policy alternatives. In an industry like semiconductors where the United States leads, quick Government action will be much less costly than the significantly more intrusive intervention that would be required later were the United States to lose its leadership. Whether the high-technology firms can adequately present their case to Federal policymakers remains to be seen.

EDUCATION AND RETRAINING—THE RUBICON

America is in trouble. Not simply because of the enormous and targeted competition from abroad, but also because of the broader strains a society hurtling into the 20th century will place on its educational system. Unless some fairly drastic changes are made in education policy, and the way all levels of government support that policy, America may be brought to its knees by the process of modernization itself. We are fast approaching what I call the "human capital fix"—a point beyond which a society cannot efficiently use new innovations to meet human needs, increase production, assist our national security, and fuel new increases in our standard of living.

This may not be a new concept. There certainly are particular fields or industries including high technology, that experience personnel shortages of one type of another. In short, we know shortages can and do occur, but the system appears to adapt and survive, if carefully watched.

I would like to make two observations that I think jeopardize our continued prosperity.

My first observation may be obvious; change is now occurring so rapidly in scientific and technological fields that we have no experience by which to judge the results of that rate of change. We have an idea of what can happen in the private sector; institutions are pushed to their limits as they expand to embrace new discoveries, tangents of research, and product development possibilities. The fact is, there will be more "change" in the coming two decades than in the last 10,000 years.

Can our institutions effectively respond to the requirements of increasing complexity in the workplace when, for example, one in five American adults is functionally illiterate—unable to read, write, or understand basic concepts?

Will America be able to compete with our industrialized partners when their science and math education requirements and per capita graduates far exceed our own? These are critical questions.

My second observation, and the two have to be considered together, is that the inexorable demographic changes underway in this country exacerbate the problem and point to some very serious consequences if we do not respond.

The offspring of the post-World War baby boom have reached maturity, resulting in a dramatic reduction in the work force growth rate. The expected consequences are that in 1990 over 90 percent of the workers will come from the ranks of those working today. By 2000, the figure only drops to 75 percent. This means that the growing employment needs of an increasingly complex work environment will be met, not by a new cadre of science and math qualified graduates—which we already know is inadequately prepared—but rather from the ranks of those currently in the work force.

This might not seem so threatening if it were not for the hundreds of thousands of workers that will be displaced every year as a result of automation, domestic and international competition, robotization, and the continuing shift to a service-based economy. Peter Druckers estimates 20 to 30 million workers will be displaced by these factors in the next decade.

Do we have public or private institutions capable of meeting this demand?

Let me complicate the situation a bit more. Over 65 percent of the new entrants into the work force in the next decade will be women, up from 37 percent in 1960 and 50 percent in 1981. Many people do not realize 1978 marked the first year the number of women enrolling in college exceeded men. In additon, the emerging work force will also be composed of a growing percentage of minorities.

The combination of these two observations would seem to indicate that the sheer size of the reeducation necessary will exceed the current capabilities of both public and private institutions. I might also note that the more prosperous the economy, the bigger the problem, as more people need to be retrained.

I see some great opportunities here, however. New linkages can be forged between higher education and industry as the universities move into the reeducation field to augment a decline in the traditional student population while at the same time meeting a national need.

There is a significant role that can be played by the Congress and other branches of Government. Legislation

to assist industry in retraining, using tax credits for example, will be important. I have authored legislation that seeks to upgrade secondary science and math teachers through summer institutes, and aids postsecondary research and development by providing research grants to hundreds of researchers throughout the country. This legislation has already passed the Science and Technology Committee, and will hopefully be used as a model in the next Congress.

GOVERNMENT POLICY—THE UNFINISHED AGENDA

The agenda for possible actions by the Federal Government is long. So long in fact that unless the industry pulls together to set priorities, it is doubtful that any great inroads will be made in the 98th Congress.

Tax policy is a very critical area, both in terms of providing incentives and removing disincentives. I worked with the White House in the early stages of the formulation of the Economic Recovery Act, and the President favorably responded to my request that the 25-percent tax credit be broadened to include more than wages; that is, R&D expenditures.

Treasury regulation 1.861-8 was put on hold for 2 years in the Economic Recovery Act, and deserves more attention. The regulation is a mechanism for allocating deductions between the United States and foreign source income in order to compute foreign tax credits. It has the effect of pushing R&D overseas at the expense of domestic R&D or not at all. Opponents of the regulation feel that the regulation has caused a net loss of jobs in the United States. In addition to reducing the availability of foreign tax credits. An extension of the 2-year moratorium is in order, but will be difficult since it is the equivalent to a new tax cut.

The extraordinary dependence of high-tech firms on R&D becomes somewhat of a problem due to the high costs associated with basic research. The financial and technical resources necessary to undertake fundamental research, in semiconductor technology for example, is beyond the capability of most firms if forced to act alone.

American manufacturers are simply going to have to be allowed to pool their resources for common research endeavors if they are expected to prosper. The entire structure of trade law and agreements has been unable to prevent our slipping market share in steel, automobiles, office machines, consumer electronics, and most recently, the 64-K semiconductor chip.

Considerable progress could be made in clarifying antitrust policy. The major problem to date is that there has been no clear policy, and the resulting uncertainty is as damaging as the rules themselves. The differences between domestic antitrust policies and international/export policies need to be resolved, along with other inconsistencies.

The Joint Research Act (H.R. 6262), which I support, represents one of the most significant proposals to date. It will allow our firms to compete with Japanese subsidies by pooling research efforts. The increased efficiency of American R&D dollars will help prevent an even greater decline in our collective high-technology market share. The removal of treble damages, also accomplished in this bill, would be a significant improvement.

Considerable progress needs to be made in patent policy as well. I am a strong supporter of legislation that would restore any time lost—up to 7 years—due to Government regulatory review to the 17-year term of a patent. The exclusive licensing of Government-owned patents resulting from federally funded research is also in order. In addition, the deliberate diffusion of technology among firms must be made easier.

The final area of Government policy I would like to address is foreign policy export controls. This will, undoubtedly, generate considerable interest in the 98th Congress—which it should. The high-technology industry will have to keep an eye on even tighter, and expanding, national security controls; that is, into energy equipment. The issue of proper compensation needs to be addressed, and current contracts should be exempt from new policy directives.

Let me conclude by congratulating the industry for settling on what it considers to be the major policy questions facing the Federal Government. The list will, I think, follow most of the issues covered here. Developing the laundry list is only the first step, however. What remains to be seen, and on this rests must of the industry's opportunities for success, is how well the issues are articulated in Washington. Strategy is as important as substance in an effective approach to changing public policy, and this is where the industry is experiencing its greatest growth pains. How these issues are presented may carry the most influence in their eventual implementation. In any case, the industry will undoubtedly be dealing extensively with these issues in the coming 2 years; it is to America's benefit that success is achieved.●

BESS TRUMAN

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

● Mr. PERKINS. Mr. Speaker, Harry Truman's widow, Bess, never shouted from the grandstand, never purveyed an image to the media, but seemed somehow to still be an inspirational figure. She was inspirational to millions of women all over America because she exemplified the wise and good companion, which was just what President Truman needed as the country emerged into the post-World War II era, with all of its complications. We regret her passing, and know that her daughter and family understand the great affection we had for her, and our feeling that we all have suffered a loss.●

TRIBUTE TO CLARENCE BROWN AND BILL STANTON

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. ERLENBORN. Mr. Speaker, I join in paying tribute to two of our colleagues from Ohio who will not be returning for the 98th Congress: Mr. BROWN and Mr. STANTON.

Their departure from this House is a personal loss to me. We were all first elected to the 89th Congress, 18 years ago and, since then, have met almost weekly when the Congress was in session as members of the 89th Club. You cannot meet that often for that long a time without becoming good friends.

Our friendship, of course, will not end with the 97th Congress. What will come to an end is the healthy exchanges we had about the issues and the work of each of our committees. They provided a valuable insight into the progress, pros and cons, and intricacies of legislation outside of our own responsibilities.

During all those years, I also worked side by side with BUD BROWN on the Government Operations Committee. We were a team, and a good team, on scores of bills and amendments.

Both BUD and BILL are men of integrity, men of good will, and legislators par excellence. I am proud to number them among my friends and hope that, as they take leave, they feel as gratified by their service in this House as I feel in having served 18 years with them. They are both jolly good fellows, that nobody can deny.●

TRIBUTE TO BOB McCLORY, TOM RAILSBACK, AND CALDWELL BUTLER

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. SAWYER. Mr. Speaker, although we are all eager to return home to our respective holiday festivities, I attach a sense of regret to the

close of the 97th Congress for three reasons: BOB MCCLORY, TOM RAILSBACK, and CALDWELL BUTLER. Each of these Members is leaving this body at the close of the day, and they will be sorely missed.

Each of these men has contributed his ideas, guidance, and friendship to all on the Judiciary Committee and the Congress. They have shaped the work and progress of the Judiciary Committee in a positive and productive fashion.

Under the leadership of our ranking member, ROBERT MCCLORY, the Republican members on the committee have worked together in a successful, congenial atmosphere. I wish BOB every happiness in his retirement, and I look forward to seeing him and Doris about Washington.

TOM RAILSBACK, the chairman of my Subcommittee on Courts, has provided good leadership and friendship throughout the consideration of many very difficult issues faced by the subcommittee. We have not agreed on all issues, such as the recent cable—copyright bill, and I look forward to showing TOM the error of his ways as we continue to discuss this particular issue. TOM has my best wishes as he begins his work on behalf of the Motion Picture Association of America.

I will truly miss the sharp intellect and wit of my friend, CALDWELL BUTLER. It has indeed been an enjoyable privilege to work with this prime example of a good legislator. While I have worked closely with CALDWELL on the Courts Subcommittee issues, I have deferred to his expertise in the bankruptcy area on many occasions. I express my faith in the great success of the continued, distinguished career of one of Roanoke's finest attorneys.

Each of these Members has contributed many fine years of service to this body and the Judiciary Committee. I would like to serve notice to these men that they are not fully escaping the difficult issues addressed by each in this Congress. I believe that many of us will seek the counsel of each of these honorable and distinguished men in the coming years, for they will be sorely missed by the members of the Judiciary Committee and this Congress.●

FINANCIAL REPORTS OF THE CONGRESSIONAL STEEL CAUCUS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Ms. MIKULSKI. Mr. Speaker, in accordance with Executive Committee Order No. 1, I am respectfully submitting herewith the second- and third-quarter financial reports of the Congressional Steel Caucus for insertion in the RECORD.

The report is as follows:

Quarterly report—Fund balance statement 1982, Congressional Steel Caucus

Balance remaining as of June 30, 1982	$9,409.05
Total revenues (clerk hire, donations, membership dues)	13,586.51
Subtotal	22,995.56
Less expenses:	
July 1982	4,630.58
August 1982	3,425.61
September 1982	6,585.69
Subtotal	14,641.88
Total unexpended revenues (Sept. 30, 1982	8,353.68

Quarterly report—Cumulative statement of expenses, Congressional Steel Caucus

Salaries	$12,979.43
Travel	.....
Stationery	207.08
Postage	20.00
Telephone	182.27
Publications	250.00
Equipment	[1] 870.00
Printing	.....
Miscellaneous	133.10
Total expenses as of Sept. 30, 1982	14,641.88

[1] Third quarter equipment expenses include a bill adjustment in the amount of $360 for November-December 1981.

Quarterly report—Fund balance statement 1982, Congressional Steel Caucus

Balance remaining as of Mar. 31, 1982	$23,941.49
Total revenues (clerk hire, donations, membership dues)	11,271.26
Subtotal	35,212.86
Less expenses:	
April 1982	2,573.06
May 1982	4,045.05
June 1982	19,185.70
Subtotal	25,803.81
Total unexpended revenues as of June 30, 1982	9,409.05

Quarterly report—Cumulative statement of expenses, Congressional Steel Caucus

Salaries	$9,335.26
Travel	.....
Stationery	136.11
Postage	140.00
Telephone	349.80
Publications	27.00
Equipment	510.00
Printing	300.00
Miscellaneous	15,005.64
Total expenses as of June 30, 1982	25,803.81

97TH CONGRESS—CONGRESSIONAL STEEL CAUCUS MEMBERSHIP

NOTE.—Asterisk indicates a Member of the Caucus Executive Committee.

Joseph Addabbo, Frank Annunzio, Douglas Applegate,* Eugene Atkinson, Don Bailey,* Tom Bevill,* William Brodhead, Clarence Brown, George Brown,* James Broyhill, Don Clausen,* William Clay, William Clinger, E. Thomas Coleman, Cardiss Collins, John Conyers.

Baltasar Corrada, Lawrence Coughlin, James K. Coyne, William J. Coyne, Dan Daniel, Robert Davis, Edward Derwinski, John Dingell, Dennis E. Eckart, Robert Edgar, Allen Ertel, David Evans, John G. Fary, Vic Fazio, Paul Findley, Jack Fields.

Floyd Fithian, Ronnie Flippo, William Ford, L. H. Fountain, Joseph Gaydos,* Sam Gejdenson, Benjamin Gilman, William Goodling, Willis Gradison, Sam Hall, Jr., James V. Hansen, John Hiler, Elwood Hillis, Ken Holland, Jerry Huckaby, James Jones.

Thomas Kindness, Ray Kogovsek, John LaFalce, Tom Lantos, John LeBoutillier, Jerry Lewis, Clarence Long, Thomas Luken, Stanley Lundine, Robert McClory, Joseph McDade, Bob McEwen, Marc Marks, Dan Marriott, James Martin, Robert Michel.

Clarence Miller, George Miller, Barbara Mikulski,* Robert Mollohan,* G. V. Montgomery, Ronald Mottl, Austin Murphy, John Murtha,* John Myers, John Napier, William Natcher, James Nelligan, Bill Nichols, Henry Nowak,* Mary Rose Oakar, James Oberstar.*

George O'Brien,* Thomas P. O'Neill, Donald Pease, Carl Perkins, Melvin Price, Carl Pursell, James Quillen, Nick Joe Rahall, Tom Railsback, Ralph Regula,* Don Ritter,* Robert Roe, Charles Rose, Dan Rostenkowski, Marty Russo, Jim Santini.

Gus Savage, James Scheuer, Richard Schulze, John Seiberling, Philip Sharp, Richard Shelby, Bud Shuster, Mark Siljander, Paul Simon, Albert Lee Smith, Joseph Smith, J. William Stanton, David M. Staton, Gene Taylor.

Morris Udall, Bruce Vento, Doug Walgren, Robert Walker, James Weaver, Richard White, Jamie L. Whitten, Lyle Williams,* Charles Wilson, Ron Wyden, Gus Yatron, C. W. Young, Clement Zablocki, Leo Zeferetti.●

CHALLENGING THE CONSTITUTIONALITY OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. SHANNON. Mr. Speaker, even before the House had passed and the President signed the $99 billion Tax Equity and Fiscal Responsibility Act of 1982 a group of 19 Members of Congress sued the Speaker and Clerk of the House, and the House of Representatives itself challenging the constitutionality of the act. Specifically, the plaintiff Members alleged that the tax bill was enacted under procedures which violated the "origination clause," article I, section 7, clause 1 of the Constitution, because it was a revenue-raising measure which originated in the Senate, not the House.

The plaintiffs engaged eminent counsel, Philip Kurland, to assist in prosecution of their case. The Speaker and other House defendants, through the general counsel to the House, Stan Brand, moved to dismiss the suit on a number of grounds: First, the plaintiffs lacked standing to bring the

action because they had been deprived of neither the opportunity to vote on the origination clause issue nor had their vote on the issue been "nullified"—the two requirements which the courts have held must be present to sustain legislator standing; second, that the recently articulated doctrine of judicial "equitable discretion" prevented courts from interfering in a dispute among legislators; and third, that the action was barred by the speech or debate clause, which protects Members from being sued for performance of their legislative acts.

On December 16, 1982, Judge Joyce Hens Green granted the defendants motion to dismiss on the precise first two grounds advanced by the general counsel. The court held that the plaintiff Members had no standing because they suffered no injury in fact: They had not been denied a right to vote or had that right impaired, but rather simply sought as a "frustrated minority" to overturn the majority will and that the courts could not intrude into Congress internal functioning.

I wish to commend the able counsel, Mr. Brand, for his representation of the House in this important and historic case and insert the decision of the district court in the RECORD.

The district court decision follows:

[U.S. District Court for the District of Columbia]

(Civil Action No. 82-2318)

W. HENSON MOORE, ET AL., PLAINTIFFS, *v.* THE UNITED STATES HOUSE OF REPRESENTATIVES, ET AL., DEFENDANTS

(Civil Action No. 82-2352)

RON PAUL, PLAINTIFF, *v.* THE UNITED STATES OF AMERICA, ET AL., DEFENDANTS

MEMORANDUM OPINION AND ORDER

These consolidated cases, before the Court on plaintiffs' motion for summary judgment and defendants' motions to dismiss, present the threshold question whether plaintiffs, 19 members of Congress, have standing to challenge the constitutionality of the "Tax Equity and Fiscal Responsibility Act of 1982," Pub. L. No. 97-248 ("TEFRA"), which the President signed into law on September 3, 1982. Upon consideration of the supporting documentation, the record as a whole and oral arguments presented by the parties, it is determined that plaintiffs lack standing[1] to maintain these actions and that the actions therefore must be dismissed.

Plaintiffs brought their complaints against the United States,[2] the United States House of Representatives, the United States Senate, and officials of those two bodies, seeking a declaratory judgment that the actions of Congress in enacting TEFRA infringed upon the prerogatives of the House in contravention of the "origination clause" of the United States Constitution, U.S. Const. art. I, § 7, cl. 1. The origination clause provides: "All Bills for raising revenue shall originate in the House of Representatives; but the Senate may propose and concur with Amendments as on other Bills."

On November 13, 1981, H.R. 4961, denominated "Miscellaneous Revenue Act of 1981," was introduced in the House of Representatives. After certain amendments, the bill was reported out of the House Ways and Means Committee on December 14, 1981. The House Report estimated that the net effect of the tax provisions of the bill would reduce revenues by 976 million dollars over five years. H.R. Rep. No. 404, 97th Cong., 1st Sess. 9 (1981). The bill was passed by the House on December 15, 1981. 127 Cong. Rec. H9607-10 (daily ed., December 15, 1981).

Thereafter, the bill was referred to the Senate Finance Committee, which reported it out on July 12, 1982 under the new name, "Tax Equity and Fiscal Responsibility Act of 1982" (TEFRA). S. Rep. No. 494, 97th Cong., 2d Sess. (1982). Although carrying the House number, the bill that left the Senate Committee, unlike the bill passed by the House, was designed to raise revenues in the amount of 99 billion dollars over three years. The Senate passed this bill on July 19, 1982. 128 Cong. Rec. S8577-8644 (daily ed., July 19, 1982). The difference between the bill as passed by the Senate and as passed by the House prompted the Senate to seek a conference with the House. 128 Cong. Rec. S9307 (daily ed., July 28, 1982).

In response to the Senate's request, plaintiff Rousselot offered this privileged resolution: *"Resolved*, That the Senate Amendments to the bill, H.R. 4961, in the opinion of the House, contravene the first clause of the seventh section of the first article of the Constitution of the United States, and are an infringement of the privileges of this House and that the said bill, with amendments be respectfully returned to the Senate with a message communicating this resolution." 128 Cong. Rec. H4776 (daily ed., July 28, 1982).

Representative Dan Rostenkowski, Chairman of the Committee on Ways and Means, immediately moved to table the resolution, with 229 members voting yea, 169 voting nay and 36 not voting. Each of the plaintiffs voted against the motion to table. *Id.* at H4776-77. At the direction of this committee, Representative Rostenkowski then moved to send the bill to conference with the Senate. *Id.* at H4777. This motion passed after debate, which included plaintiffs, on the constitutionality of the Senate amended bill. 128 Cong. Rec. H4777-88 (daily ed., July 28, 1982). Each of the plaintiffs voted against the motion to go to conference. *Id.* at H4786-87.

During the following two weeks the constitutional issue was addressed by several Representatives. *See* Statements of Representative Bereuter, 128 Cong. Rec. E3636-37, E3652 (daily ed., Aug. 3, 1982); Representative Dreier, 128 Cong. Rec. E3807 (daily ed., August 11, 1982); Representative Porter, 128 Cong. Rec. E3888 (daily ed., Aug. 13, 1982). On August 17, 1982, a conference bill was reported, substantially similar to the Senate version but including two tax provisions of the House version which the Senate had deleted. *Conference Report to Accompany H.R. 4961*, H.R. Rep. No. 760, 97th Cong., 2d Sess. 267-68 (1982). Plaintiffs in *Moore* promptly filed suit on August 18, 1982.

The next day the constitutional issue was debated further on the House floor. 128 Cong. Rec. H6555 (daily ed., Aug. 19, 1982). Plaintiff Rousselot introduced a second resolution to have the bill returned to the Senate. 128 Cong. Rec. H6555 (daily ed., Aug. 19, 1982). This resolution was also rejected, with 268 members voting yea, 144 voting nay and 22 not voting, in favor of a motion to table. Each of the plaintiffs voted against this motion. 128 Cong. Rec. H6555-6636 (daily ed., Aug. 19, 1982). The bill was passed by both Houses on August 19, 1982, 128 Cong. Rec. S10946, H6635-36 (daily ed., Aug. 19, 1982), with each of the plaintiffs exercising their voting rights on this legislation. Plaintiff Williams voted in favor of passage. All other plaintiffs voted against passage. *Id.* at H6635-36. Plaintiff Paul filed his action on August 20, 1982. On September 3, 1982, President Reagan signed the bill into law.

When voting on a motion to dismiss for want of standing the court "must accept as true all material allegations of the complaint, and must construe the complaint in favor of the complaining party." *Warth v. Seldin*, 422 U.S. 490, 501 (1975). However, even assuming the legal conclusion[3] that TEFRA was enacted in violation of the origination clause of the Constitution, plaintiffs have not demonstrated the injury-in-fact required by Art. III to invoke the judicial power. At a minimum, a plaintiff must show that he personally has suffered an actual or threatened injury which reasonably can be traced to the challenged conduct of the defendant and would likely be redressed by a favorable decision. *Valley Forge Christian College v. Americans United for Separation of Church and State*, 459 U.S. , 102 S. Ct. 752, 758 (1982). "In this manner does Art. III limit the federal judicial power 'to those disputes which confine federal courts to a role consistent with a system of separated powers and which are traditionally thought to be capable of resolution through the judicial process.'" *Id.* (quoting *Flast v. Cohen*, 392 U.S. 83, 97 (1968)). Thus, a court should refrain from adjudicating the constitutionality of an act of a co-equal branch of government unless the claimant has suffered a cognizable injury. *Id.* at 759.

The separation of powers concerns which underlie the concept of standing are particularly acute when plaintiffs are members of Congress. Although "there are no special standards for determining Congressional standing questions," *Harrington v. Bush*, 553 F.2d 190, 204 (D.C. Cir. 1977) (emphasis deleted), injury-in-fact for a congressional plaintiff "must amount to a disenfranchisement, a complete nullification or withdrawal of a voting opportunity." *Goldwater v. Carter*, 617 F.2d 697, 702 (D.C. Cir. 1979) (*en banc*), *vacated on other grounds*, 444 U.S. 996 (1979) (*mem.*). *Riegle v. Federal Open Market Committee*, 656 F.2d 873 (D.C. cir. 1981), *cert. denied*, 102 S. Ct. 636 (1982); *Reuss v. Balles*, 584 F.2d 461, 467 (D.C. Cir.), *cert. denied*, 439 U.S. 997 (1978); *see also Kennedy v. Sampson*, 511 F.2d 430 (D.C. Cir. 1974).

As the legislative history plainly reflects, plaintiffs had ample opportunity to exercise their voting rights and in fact, save for plaintiff Williams, voted their disapproval of TEFRA at every turn. Plaintiffs fully participated in the legislative process which culminated in the passage of the act they now challenge. They were simply outvoted. The argument that plaintiffs' votes were ef-

[1] For this reason other grounds for dismissal advanced by defendants need not be addressed.

[2] Only plaintiff *Paul* named the United States as a defendant. However, the United States successfully moved to intervene as a defendant in *Moore*.

[3] In its response to plaintiffs' opposition to defendants' motion to dismiss, the United States rightly points out that "standing in no way depends on the merits of plaintiffs' contention that particular conduct is illegal." *Warth v. Seldin*, 422 U.S. 490, 500 (1975).

fectively nullified by the Senate's usurpation of their right to originate revenue raising bills, and the House acquiescence therein, is unpersuasive. To support this contention, plaintiffs rely on *Kennedy v. Sampson.* In that case, however, the plaintiff had standing because his successful vote had been nullified by the allegedly illegal pocket veto of the President. But where, as in this case, "Congress itself, and not the Executive, renders any individual legislator's vote ineffective, the courts have no role." *Goldwater v. Carter,* 617 F.2d at 712. *See also Korioth v. Briscoe,* 523 F.2d 1271, 1278 (5th Cir. 1975) (state legislator denied standing to challenge the validity of a statute passed over his objecting vote); *McClure v. Carter,* 513 F. Supp. 265, 270 (D. Idaho), *aff'd mem. sub nom., McClure v. Reagan,* 102 S. Ct. 559 (1981) ("Certainly no one would contend . . . that the losing senators in any vote should automatically have the right to appeal to a federal court for a determination of the correctness of the result approved by a majority of their colleagues").

In short, plaintiffs speak as a frustrated minority. Unless the institution of Congress itself has suffered injury-in-fact at the hand of the Executive, an individual legislator has no standing to complain of impairment to the effectiveness of his vote. "His injury can only be derivative." *Goldwater v. Carter,* 617 F.2d at 712. Here, Congress specifically considered and rejected the suggestion of any constitutional infirmities in the enactment of TEFRA, and in fact opposes this lawsuit. Judicial interference into this intra-legislative dispute is constitutionally precluded.

Even if plaintiffs' claim of injury to their rights as members of Congress to originate bills for raising revenue could be deemed constitutionally sufficient to confer standing, the doctrine of equitable discretion announced by this Circuit in *Riegle v. Federal Open Market Committee* squarely governs this action and mandates dismissal.

In *Riegle* an individual senator challenged the constitutionality of the section[4] of the Federal Reserve Act which provides for the election of five representatives to the Federal Open Market Committee by the Board of Directors of the Federal Reserve Banks, claiming that the selection of these individuals without submission of their nominations to the Senate deprived him of his constitutional right[5] to advise and consent regarding the appointment of these United States officers. Declining to distinguish between Congressional and private plaintiffs,[6] the court determined that Senator Riegle had standing. Nevertheless, the fundamental constitutional principle of separation of powers required that his action be dismissed. Because suits by Congressmen present "the possibility of thwarting Congress' will by allowing a plaintiff to circumvent the process of democratic decisionmaking," a court should, as a matter of equitable discretion, dismiss a Congressman's action where he "could obtain substantial relief from his fellow legislators through the enactment, repeal, or amendment of a statute." *Riegle v. Federal Open Market Committee,* 656 F.2d at 881. Application of the *Riegle* doctrine is especially appropriate where a plaintiff's dispute is not with the executive branch but with his fellow legislators. *See Reuss v. Balles,* 584 F.2d 468. In this way a court may avoid intrusion into the internal functioning of the legislative branch.

In the instant case, plaintiffs must be relegated to their legislative remedies, despite their previous failures to convince their colleagues of the rightness of their views, and no matter how remote their chances for success in the future. "It would be unwise to permit the federal courts to become a higher legislature where a congressman who has failed to persuade his colleagues can always renew the battle." *Riegle v. Federal Open Market Committee,* 656 F.2d at 882.

Before dismissing an action under the *Riegle* doctrine a court must also inquire whether "a similar action could be brought by a private plaintiff." *Id.* Although the *Moore* plaintiffs refuse to discuss this part of the analysis, and refer to it as "baggage", *Moore* plaintiffs' memorandum in opposition to defendants' motions to dismiss at 26, plaintiff Paul argues that "[i]n this instance a private plaintiff has no immediate redress." Plaintiff Paul's opposition to defendants' motions to dismiss at 5. Yet, Representative Paul acknowledges that a taxpayer could challenge the constitutionality of TEFRA by filing for a refund after January 1, 1983. *Id.* Private taxpayer plaintiffs have asserted claims under the origination clause before. *See Rainey v. United States,* 232 U.S. 310 (1914); *Flint v. Stone Tracy Co.,* 220 U.S. 107 (1911); *Miller v. Roberts,* 202 U.S. 429 (1906); *Twin City Bank v. Nebeker,* 167 U.S. 196 (1897); *Bertelson v. White,* 65 F.2d 719 (1st Cir. 1933); *Hubbard v. Lowe,* 226 F. 135 (S.D.N.Y. 1915), *appeal dismissed,* 242 U.S. 654 (1916).

It is, accordingly, this 16th day of December, 1982

Ordered, that plaintiffs' motion for summary judgment be and it hereby is denied; and it is

Further ordered that defendants' motions to dismiss be, and they hereby are, granted, and that these actions stand dismissed.

JOYCE HENS GREEN,
United States District Judge.●

[4] 12 U.S.C. § 263(a)(1976).
[5] U.S. Const. art. II, § 2 ("appointments clause").
[6] *See generally,* McGowan, *Congressmen in Court: The New Plaintiffs,* 15 Ga. L. Rev. 241 (1981).

WILSON RILES

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday December 16, 1982

● Mr. FAZIO. Mr. Speaker, I wish to add my reflections and pay tribute to a great American and a great educator.

In the 12 years that Wilson Riles has been California State superintendent of public instruction, he has been this Nation's outstanding educational reformer and innovator—a bona fide pioneer in making education programs better and in providing programs where none have existed before.

In 1971, during his first year as State superintendent, Wilson Riles established an early childhood education task force. Under Riles' direction this group planned the early childhood education program. Without doubt, the early childhood strategy has been the most successful innovation in educating young children that this country has witnessed in the past 25 years.

In 1972 Wilson Riles announced the creation of the California Office of Child Development to coordinate publicly supported child care and preschool programs for the children of low-income families. Since that time more than 1 million children have been served in child development programs, and hundreds of thousands of young adults have been given the chance to go to school or join the work force and thus improve their own and their families' lives.

In 1974 Wilson Riles launched the California master plan for special education. This plan has revolutionized education programs for people with physical, emotional, and learning disabilities. The California example became a model for mainstreaming programs throughout the country. Today, in California alone, more than 350,000 youngsters are beneficiaries of Riles' vision. Indeed, it is no exaggeration to say that millions of youngsters throughout the land now face the future with confidence and hope because of this man's deep concern for all children.

In the late 1960's, in 1972, and again in 1977, Wilson Riles led the California Legislature to expand the education programs and services for the children of families suffering from economic hardship and other educational disadvantages. As a result, California was one of the first States in the Nation to provide a broad spectrum of compensatory services to economically and educationally disadvantaged youngsters. Once again the model provided by Riles and California provided the inspiration for our national title I and chapter 1 programs throughout the land.

In 1977, drawing upon the success and the popularity of the early childhood education model, Wilson Riles expanded this program to include all elementary and secondary schools in a program that he called school improvement. This trail-blazing program benefits the schools and the community by enabling all citizens—parents, teachers, administrators, community leaders, business leaders, even the students themselves—to play a role in each school's future by deciding how to improve educational programs and services for all the school's students.

In introducing these farsighted education programs into the schools of California, Wilson Riles has always been guided by one vision. That vision is to make the ideal of equal educational opportunity a reality for each and every student. In pursuing his vision, Wilson Riles has labored tirelessly for all the children of California, so that through education they might be free to realize the dreams of their lives as he has so magnificently realized his own.

On behalf of the people of California, the children of this Nation, and this Congress, I say, with deepest sincerity and appreciation, Thank you Wilson.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 21, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 10

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on the effects of current economic problems on international affairs.
4221 Dirksen Building

2:00 p.m.
Foreign Relations
International Economic Policy Subcommittee
To continue hearings on the effects of current economic problems on international affairs.
4221 Dirksen Building

JANUARY 12

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review Federal programs which create certain job opportunities.
4232 Dirksen Building

JANUARY 19

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on the current international debt situation.
4221 Dirksen Building

JANUARY 25

9:30 a.m.
Finance
To hold hearings on the administration's assessment of the meeting of ministers to the General Agreement on Tariffs and Trade (GATT).
2221 Dirksen Building

Rules and Administration
To hold an organizational meeting, to consider its rules of procedure for the 98th Congress, membership assignments for the Joint Committee on Printing and the Joint Committee on the Library of Congress, an original resolution requesting funds for operating expenses of the committee for 1983, to authorize tests of computer equipment in Senators' offices, and to consider other pending business.
301 Russell Building

JANUARY 26

9:30 a.m.
Rules and Administration
To hold hearings on Presidential and congressional campaign finance Laws.
301 Russell Building

JANUARY 27

9:30 a.m.
Rules and Administration
To continue hearings on Presidential and congressional campaign finance laws.
301 Russell Building

FEBRUARY 1

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on proposed solutions to global economic problems.
4221 Dirksen Building

FEBRUARY 2

9:30 a.m.
Rules and Administration
To hold hearings on mass mailings and the use of postal patron mail.
301 Russell Building

FEBRUARY 15

9:30 a.m.
Rules and Administration
To hold hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

FEBRUARY 16

9:30 a.m.
Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

FEBRUARY 17

9:30 a.m.
Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

FEBRUARY 22

9:30 a.m.
Rules and Administration
Business meeting, to consider committee resolutions requesting funds for operating expenses for 1983, and proposed legislation relating to Senate mass mailing.
301 Russell Building

FEBRUARY 27

10:00 a.m.
Foreign Relations
To hold hearings on the prospective nomination of Edward J. Derwinski, of Illinois, to be Counselor, Department of State.
4221 Dirksen Building

SENATE—*Tuesday, December 21, 1982*

(Legislative day of Monday, December 20, 1982)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Gracious, patient God, merciful Heavenly Father, we thank Thee for Thy forgiving love. We have worked hard, under great tension of controversy and pressure of time. We have done some things that ought not to have been done and we have failed to do some things we ought to have done, but they cannot be changed now. We have felt some things and said some things about each other that have been less than loving and we pray that they may not be a source of alienation.

In the spirit of this holiday which celebrates love and peace, may we be forgiven and may we forgive and forget, as we anticipate a new Congress, with fresh opportunity to fulfill our promises to the people and the responsibilities mandated by our positions.

We pray for our families who have already suffered more disappointment than they should. Help each of us to give them priority and grant dear God, that the frustrations of these last weeks will have no effect on a joyous family experience. We pray this in the name of Him whose birth brought God's promise of peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

ORDER DESIGNATING A PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order there be a period for the transaction of routine morning business of not longer than 1 hour in length in which Senators may speak for not more than 10 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

[Later the following occurred:]

Mr. BAKER. Mr. President, let me change the unanimous-consent order on morning business for a moment.

I ask unanimous consent that the time for the transaction of routine morning business commence after the time allocated the two leaders under the standing order and extend not past the hour of 1:30 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

[Conclusion of later proceedings.]

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there may be items that are cleared for action by unanimous consent. I have not checked our folders. We will do those as and when they are cleared for action. There are conference committees that are meeting. It is possible that we will have conference reports during the course of the day.

The remainder of the day I cannot describe with any more particularity. I do not anticipate at this moment that the day will be an extraordinarily long day. I do not anticipate that.

I will try to have further advice for the Senate as we proceed during the course of the day.

Mr. President, I have no need for the remainder of my time under the standing order. Could I inquire if the assistant majority leader has need for time?

Mr. STEVENS. Mr. President, I will seek recognition during morning business.

Mr. BAKER. Mr. President, I see no Senator seeking recognition during the standing order time.

Does the minority leader have any requirement for additional time?

Mr. ROBERT C. BYRD. Mr. President, I do not think I will need the remainder of the majority leader's time. I thank the majority leader for his offer.

Mr. BAKER, Mr. President, I yield back the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. ARMSTRONG). The minority leader is recognized.

EIGHT THOUSAND CONSECUTIVE VOTES CAST BY SENATOR PROXMIRE

Mr. ROBERT C. BYRD. Mr. President, I would like to announce that last week, on Wednesday evening, Senator PROXMIRE cast his 8,000th consecutive vote. I do not think that is a matter that should go unnoticed here or in the country. It is a remarkable record. I know of no other Senator who has ever achieved such an outstandingly extraordinary record of casting consecutive votes. In the other body that may very well be the case but not here.

I congratulate Senator PROXMIRE for his spartan dedication to duty. I frankly do not see how he has been able to do it.

I like to pride myself on the fact that I have cast nearly 10,000 votes in my 30 years in the Congress, only to be exceeded by my senior colleagues, Senator RANDOLPH and Senator JACKSON, insofar as I know.

I am proud of the fact that I have a 100-percent rollcall attendance record during this year which was a campaign year for me, and a 98-percent rollcall attendance record for the 24 years I have spent in the Senate. But those achievements pale by comparison with the record that has been achieved by the Senator from Wisconsin—8,000 consecutive rollcall votes without missing a single vote in that time.

Mr. PROXMIRE. Will the leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. Mr. President, I want to thank my leader. I appreciate so much his calling attention to this fact that I have not missed a vote in 16 years, 8,000 consecutive votes. But in the last campaign, to put it in the perspective of my opposition, one of my critics said we would have a lot better country if I had missed them all. [Laughter.]

Mr. ROBERT C. BYRD. What happened to your opponent?

Mr. President, I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would like to join in commending the Senator from Wisconsin. To have cast 8,000 consecutive votes is an unbelievable record. Sometimes I wonder how he does it, particularly when I know that some of us have been on the floor and have occasionally forgotten to vote even though we were here. It has taken a great deal of attentiveness on his part, indeed.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

But to me, there is something else that ought to be added. That is that the Senator from Wisconsin, in those 8,000 votes, has always concerned himself, to the best of my knowledge, as to the public need, and he has not hesitated to speak out on issues of concern, though he was a lone voice in the wilderness. He has been a very unusual Member of this body, in that not only has he been diligent and has seen to it that he voted 8,000 times in a row, but he has also been very diligent in being concerned about the people of this country.

The Senator is one of those who I feel, day in and day out, has recognized the difference between legislation for special interests and legislation for the people's interests.

I commend the Senator for his record of 8,000 consecutive votes, but also for his concern for his constituents as well as the people of this country.

Mr. PROXMIRE. Mr. President, if the Senator from Ohio will yield, there is no one from who I would rather receive that kind of accolade than the Senator from Ohio, the unchallenged champion of the public interest. We had a session one year in the past that became known as the John Williams session. John Williams was the Delaware Senator who stood up again and again to protest and successfully expose waste and extravagance. That particular year was a banner year for him. I think this 1982 session, because of the great job the Senator from Ohio has done in stopping special interest legislation, should become known as the Howard Metzenbaum session, no question about it.

Mr. ROBERT C. BYRD. Mr. President, I have 1 more minute remaining. I yield that time to my colleague (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, how much time is remaining?

The PRESIDING OFFICER. There are 5 minutes remaining.

Mr. ROBERT C. BYRD. I yield that time to the distinguished Senator.

Mr. RANDOLPH. I thank my able leader.

Mr. President, there are times in the Senate when we do things that are not absolutely world shaking, or sometimes even necessary. Oftentimes, it turns out that there are things we do that should not have been done. However, this colloquy about the diligent Senator from Wisconsin (Mr. PROXMIRE) is a deserved tribute. Our colleague has achieved a remarkable record.

I saw a motion picture, "Chariots of Fire." When I left the theater, I realized that the hero of the film was determined to do something extraordinary, through the discipline of his body and his mind, and he did it. It is a tremendous picture. It made me want to do a little more, even at my age.

In the case of our colleague from Wisconsin, I often wonder why does he sit there by that center door? You know, people are coming in and out constantly. They are talking, there is disturbance. But I realized that he is a man who wants to be near and with people. Over and over again, I have looked at him and ask myself why he is not upset at the disturbance that occurs as Members come in and out and staff members move around and our guests from the House come over to check on us. But there he is, ready to discuss the issues with Senators, vote yes or no on the issues. The unparalleled record he has compiled is an inspiration to all of us.

I recall the reports of money spent in election races throughout the country, as of last November, for Senate seats. I ask my friend if he would tell us how much he spent in his reelection to the Senate?

Mr. PROXMIRE. I thank my friend. I spent $145.10.

Let me say to my friend from West Virginia, because I cannot tell him how deeply I appreciate his words. I have only been here 25 or 26 years and have known my good friend from West Virginia. He has not changed a bit. The remarkable thing is that I think he is the greatest example of all these crazy food faddists who say you have to be slim and trim to be in good shape. They should see how gloriously the not-exactly-sylphlike JENNINGS RANDOLPH has thrived.

You look the same, you have the same marvelous verve and humor. JENNINGS, bless your heart, and thank you.

Mr. RANDOLPH. Mr. President, the Senator from Wisconsin (Mr. PROXMIRE) is very kind. I am indeed grateful.

He makes reference to being slim and trim. Whether or not I am portly, I try to be friendly. That is natural with me. There was one Member of this body, Chauncey Depew, of New York, who had a fine career in the Senate. He was a brilliant man, but a very large man. His friends said, "Chauncey, if you don't lose weight or take exercise, you are going to die." He would respond, "I am over 80. I feel fine." They would argue, "But you must exercise." He replied, "I take exercise. Yes, I exercise." They asked, "Tell us how you exercise?" He said, "I serve as a pallbearer for my friends who do."

There is no formula for everyone. You know, there is no formula for an ALAN CRANSTON, a METZENBAUM or a PROXMIRE or anyone in this body.

I conclude with part of a poem quoted from memory.

There is a way and ways;
Some choose the high way, some the low.
And in between the misty flats,
The crowds drift to and fro.
But to every man is opened the way his life shall go.

You have chosen your life and it is a shining example. Bless you for your service to our Nation and the Senate.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, has the leader's time expired?

The PRESIDING OFFICER. The leader's time has expired. It is time for morning business under the previous order.

Does the Senator from Alaska seek recognition?

Mr. STEVENS. I do seek recognition in morning business, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

WHEN SENATORS DIFFER

Mr. STEVENS. Mr. President, last evening, I held the floor for a few minutes in an effort to help resolve the problems related to the highway bill. During that time, I moved to take the House-passed railroad bill, which contains the Alaska Railroad bill, from the desk and place it on the calendar—admittedly, that action was done facetiously, since it was obvious that an objection would be made. This bill was held at the desk on a routine request from the Commerce Committee because a companion measure is on the calendar.

The Senator from Ohio has repeatedly objected to the unanimous-consent request to take the railroad bill from the desk. My motion was not to take up the railroad bill; that would not have been in order since were in postcloture on the highway bill. If the House-passed railroad bill could be moved to the calendar, a debatable motion could be made to take it up.

During the time we were in session after that episode, my good friend from Louisiana (Mr. LONG) tried to mediate our dispute on the railroad bill. Senator LONG has told me that I have not realized the depth of resentment the Senator from Ohio feels because of my previous remarks.

I know the Senator from Ohio realizes how deeply I feel about this and other bills which he has blocked this year.

Mr. President, the record will show that in 14 years, this Senator has never blocked another Senator's bill by a parliamentary procedure. As long as we are talking about records around here, I think that is a record. I have never once held a hold so as to prevent a passage of a bill of another Senator.

But, Mr. President, despite these differences, as the Senator's remarks last evening disclose, our differences have been professional, and we have even made light of our differences—such as when he offered to trade the Alaska

Railroad bill for my daughter Lily and I replied that offer shows that he overstates the value of the railroad.

But, Senator LONG'S comments caused me last evening, and early this morning, to review my past comments. I have often said that the Senate is like a family—and I remember so well what my grandmother, who raised our family, said about our family: We could argue as much as we wanted at home, but when we were in public we should do our best to not criticize one another because there were too few of us to take on the rest of the community if we were divided.

I want to apologize to the Senator from Ohio for the remarks I have made which have caused this resentment. In this position which we each hold—that of a U.S. Senator—we get many insults. Even this past few days, I have been the recipient of remarks, made in anger, which have offended me—remarks which should not have been made, but at least they were not made publicly in a manner to cause permanent resentment. And I do not hold permanent resentment for them. The remarks I did make to the Senator were made in public, but they were not made, and I believe had not been interpreted by him, to indicate any personal malice or offense to him.

The Senator from Ohio and I have been in many battles, almost daily, for several years. I think it was 6 or 7 years we battled over the Alaska lands legislation. For months we battled over the waiver package on the Alaska natural gas pipeline. We have had arguments over the timber bill, without which the timber operations of Alaska will soon cease. There is one mill operating still. Our mills are completely dependent upon timber from Federal forests, and that situation does not exist in any other State. And over the shipping bill, which the Senator has blocked. Alaska has half the coastline of the United states. We are completely dependent upon ocean shipping for our survival. We are more affected by this shipping bill than Hawaii because years ago Congress made exceptions for Hawaii.

We have had many other bills, and I could recite them, where we have had our disagreements, and many of those are still blocked. But even during all these arguments—and there have been many more acrimonious, in my opinion, than those of recent date—the Senator from Ohio and I did not get into the situation in which I felt either of us held a personal resentment for what had been said or what had transpired. And as I said, I regret if Senator METZENBAUM feels that resentment, and I again apologize for what I have said or done to cause that.

He will note that last night after others had left, as a matter of fact after everybody had left, I re-read my remarks again and deleted those that I thought might add to that resentment because of the statement that was made to me by the Senator from Louisiana. I hope he will take that as an indication that the conversation I had with the Senator from Ohio and others led me to believe that he had some doubt about my respect for him as a Senator. And I want him to know that my respect for him and this institution is sincere.

May I add that the Senator from Louisiana has demonstrated again, I think, his great devotion to the Senate, which we all know comes from his and his family's long tradition of public service. He obviously had the best interests of the Senate in his heart when he sought me out last night, and he has shown once again I think that he is a true friend of this Senator.

I yield the floor.

Mr. METZENBAUM. Mr. President, is there some matter from which I may obtain some time? May I be recognized in my own right?

The PRESIDING OFFICER. The Senate is considered in morning business, and under the rules the Senator may be recognized for 10 minutes.

Mr. METZENBAUM. Mr. President, let me say that I very much appreciate the apology of the Senator from Alaska. I accept it, and I bear him no ill will. I understand that oftentimes in the heat of debate, in the heat of a particular moment, one does let loose with language that sometimes we all might wish we could put back in our mouth. And so I accept his apology. I think that he does a superb job of fighting for those issues of concern to him. I try to do a good job on issues of concern to me.

I want the Senator to understand that I am very pleased to put our relationship back to what I consider to be a proper one, and that is each of us dedicated to our own concerns, each of us trying to do that which we think is right for our own constituency.

On a matter of personal privilege—and I do want the Senator from Alaska to pay particular attention to these words—I say to the Senator from Alaska that I exercise my right of personal privilege of behalf of Lily. I think saying that Lily is not worth as much as the Alaska Railroad is very offensive to the daughter of the Senator and my friend, and therefore I raise that point of privilege only to say I think she is worth far more than the Alaska Railroad.

Having said that, let me say that there are matters pending here in disagreement on which I have had a hold. I did that which I thought I should do, and I have no apologies to make for that, but I also want to point out that while the Senator from Alaska was on the floor speaking about the Alaska Railroad last evening, his staff, according to my information was on the way to the floor with an agreed upon amendment that would have resolved this matter.

I am not certain that it had been finalized, but the fact is that my own staff had spent about 3 days in connection with that subject and certainly not a matter of major moment to my own constituency in Ohio. But we have been trying to work out a resolution of the matter and had been working with the representative of the Governor of Alaska, the junior Senator from Alaska, and the senior Senator from Alaska.

I think that that matter is still pending, and I am not at all certain whether or not it can be or will be resolved, but I certainly am not unwilling to——

Mr. STEVENS. Will the Senator yield there?

Mr. METZENBAUM. Certainly.

Mr. STEVENS. I thank the Senator for his remarks.

I want to assure the Senator that the remarks I made were not directed toward the possibility that the Senator would withdraw his hold. As a matter of fact, the latest draft of the bill as drawn by our mutual staffs is not acceptable to our Governor, it is not acceptable to my colleague, and it is not acceptable to me. So I did not make those remarks on the basis that I thought it would clear up the differences, but I do thank the Senator for his remarks.

Mr. METZENBAUM. I appreciate the comments of the Senator from Alaska, and I do hope he appreciates the fact that at least an effort was made, although perhaps it was not satisfactorily resolved.

I want to point out one other matter in connection with the Alaska railroad bill and the shipping bill, and in this connection I do not wish to identify the Senator from Alaska with that which has transpired because, as far as I know, he has not been involved.

Mr. STEVENS. Will the Senator yield again?

Mr. METZENBAUM. Surely.

Mr. STEVENS. Before remarks are made that might be misinterpreted, again I want the Senator to be assured I was involved, although I was not to be a conferee, with the action to try to return the railroad and shipping bills to this body in a manner that would not require a unanimous-consent request to take the bill from the desk.

Those bills are back here now as a result of an amendment passed in the House. I knew they were coming back. I think all those working on the bill knew they were coming back. It is an effort to get around the unanimous-consent request that is required to take those bills from the desk. It would not have eliminated debate. As a matter of fact, it would not have eliminated the ability of the Senator to block the bills, but it would have allowed us to raise the bills to the level of debate by virtue of the fact it would

have been a privileged motion to take up the message from the House, either the conference report or the House-passed bill. As a matter of fact, the House-passed bill is at the desk and it, too, is a privileged matter to take it up. It is debatable. So that the point of order that I was trying to avoid yesterday no longer is effective against this bill because it is now a House-passed bill along with the shipping bill. It is on the desk and it is, as I understand it—the Parliamentarian can correct me if I am wrong—it does not take the unanimous consent to take that House-passed bill from the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. So that the maneuver that I facetiously mentioned last night is no longer necessary because the bill is not subject to a point of order now. A motion to take it up—as a matter of fact, I think it can be called up without debate, although the motion would be voted upon. Am I correct? What would be the procedure to call up that House-passed bill now, Mr. President?

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that a motion is not required. The Chair may simply lay before the Senate a message from the House.

Mr. STEVENS. In any case, the result of what has transpired is to eliminate one level of potential filibuster against those two bills. And I would say to my good friend that those who are involved in those bills knew about it and participated in it.

I do not think it is unethical or in any way violates the Rules of the Senate to arrange for the House to send us back these bills in a form that would eliminate the first level of objection the Senator from Ohio may raise in the event it is cleared by the majority leadership for us to attempt to raise those bills to the level of debate before the Senate.

But I wanted the Senator to understand, before he said that he knew I was not involved, that I was not going to be a conferee but I was fully advised of what was going on.

Mr. METZENBAUM. So that Senators may understand what the Senator from Alaska and I have been talking about, about 1 a.m. last night, actually after the Senator from Alaska had addressed himself to the Alaska railroad bill, there came to my attention, not officially but unofficially, by someone who had picked it up, that in a bill (H.R. 3420), the Natural Gas Pipeline Safety Act, and the Hazardous Liquid Pipeline Safety Act of 1979, Congressman FLORIO, as I understand it, had seen fit to attach to that bill two amendments, one of which is the Alaska railroad bill and the other one of which is the exemption from the antitrust laws for the shipping industry of this country.

I am frank to say that no one told me about it. No one told my staff about it. And had someone not brought the subject to my attention it is reasonable to conclude that H.R. 3420 and the appointment of conferees would have gone through this body and we would have, in effect, passed the Alaska railroad bill and the exemption from the Shipping Act in all probability without any Member of this body knowing about it.

I must say I really do not believe that that is the way that legislation should be handled, that it comes through in the dead of night without any prior notice, that the House attaches extremely controversial measures to a measure having not at all to do with the two measures that are being attached.

I always thought that Monday night football usually concluded by about 11 p.m., but apparently in this instance there was one sneak play that was still available around 1 a.m. in the morning.

I believe that I was entitled to be notified. I believe that any other Member who would have had an interest in a controversial matter of this kind would have been entitled to be notified.

I am not at all certain that I would have been notified.

Suffice it to say that when and if the matter comes to the floor, I certainly intend to exercise my right to discuss the subject and intend to continue my efforts to defeat those two measures.

I think it highly inappropriate that they were attached to a bill having nothing at all to do with the prime subject. I think it is highly unusual for them to be attached without notice being given to those who have a concern about the two matters at issue.

Mr. STEVENS. Mr. President, will the Senator yield there?

Mr. METZENBAUM. I yield to the Senator from Alaska.

Mr. STEVENS. I hope we are not going to get back in another dispute. If the Senator is going to use the rules to prevent those bills from coming off the desk, those of us who want the bills to come before the Senate are entitled to get them in a position where they cannot be prevented from coming off the desk by the Senator's objection to the unanimous request.

I see nothing wrong—again I say I have not participated in anything illegal or unethical or contrary to the rules in insisting that the bills come back to the Senate so the Senate can debate them. They are here now. If the session prolongs I hope they will be debated.

I think if the Senate ever addressed those bills there would be a different conclusion by a lot of people who now think there is something wrong with them; they are very much in the national interest.

The Senator is entitled to his position; I am entitled to mine.

I do want the RECORD to indicate there are many other people involved in insisting to get those back so the point of order will not lie against taking the bills off the desk.

To my knowledge I have never known in 14 years for anyone to hold a bill at the desk, to kill a bill, by objecting to the unanimous-consent request to take it off the desk.

There are other ways to prevent a bill from coming up. Even the highway bill that came over here was held at the desk. And the Senators who have just gone through this extensive debate did not object to taking it off the desk.

I wish the RECORD to show that is is an extraordinary movement to block the procedural request to take a bill off the desk which does require unanimous consent.

I have used my time. I do not want to get back into another acrimonious discussion. But there are many people working to try to find a way that we can get these bills up to debate.

I shall continue to try to get them up to debate.

Mr. METZENBAUM. Mr. President, will the Senator from Alaska yield for one simple question?

Mr. STEVENS. I yield.

Mr. METZENBAUM. Will the Senator from Alaska agree the Senator from Ohio was entitled to some notice of the status of this matter at the desk knowing the opposition of the Senator from Ohio to these measures? Does the Senator not think that fair play?

Mr. STEVENS. Mr. President, if the Senator from Ohio cared to inquire, he would find out that I left word that they were not to be called up in a manner that would not give the Senator his right to exercise his rights under the rules.

I agree the Senator had a right, that if we called them up to have it disclosed that they were in the conference report. But he has no right to perceive his position to prevent debate.

He has no right to prevent me or anyone else from using the rules to get the bills into position where he cannot exercise his objection to a unanimous-consent request that puts him in the position as one Senator in blocking a series of bills because of an antiquated rule that I hope the Senate will repeal, or at least limit starting next session.

I intend to do my best to try to raise that question in interpreting the rules at the beginning of next session because as it is, in fact, a single Senator may object to taking the bill off the desk and once it is held there by unanimous consent, the Parliamentarian can correct me again, but as I understand it takes unanimous consent to take it off the desk if it is held there by unanimous consent.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. So one Senator controls taking the bill off the desk, although it was held there for the convenience of all Senators because there is a companion measure for each one of these bills on the Senate Calendar. It means we can do all we want to act on the Senate Calendar bills but when we finish them we still have to ask unanimous consent to take the House passed bill off the desk in order to delete all but the enacting clause and put the Senate version in the House-passed bills so we can have a conference.

I do believe there are other people who say that they need routine morning business. I do not want to belabor this, I do not apologize to anyone for having helped to bring those bills back so they may be called up without objection to a unanimous-consent request.

Again I state, and the Senator can check with my staff, I told them that we would notify the Senator from Ohio before attempting to move that bill across the floor in a manner that would prevent him from using his other rights to debate under the rules.

DR. MARTIN LUTHER KING, JR.

Mr. MATHIAS. Mr. President, this is the season of reconciliation, a season in which we reflect upon some of the positive and enduring values of the human spirit.

I am glad to say that there is good news in that realm of reconciliation and positive spirit, and that good news comes from the unlikely source of the U.S. Senate because we have just agreed to a resolution which will honor the memory of Dr. Martin Luther King, Jr., a man who did so much to reconcile differences and divisions that had existed in American society and that are now less serious strains on our society than they were before he gave his work, his example, and indeed his life.

It has been an arduous job to finally pass the resolution which would authorize the establishment of a memorial to Dr. King within the U.S. Capitol, the placing of a bust or a statue of Dr. King in the Halls of Congress.

That job has been accomplished as the work of many hands, and I particularly salute the junior Senator from Virginia, Mr. WARNER, a member of the Rules Committee, who has taken a particular interest and particularly active part in the resolution that was agreed to by the Senate.

I salute in the other body Representative BINGHAM, who over period of years has taken an active part.

I salute all those who contributed to the resolution that was agreed to by the Senate which will finally provide a fitting memorial for Dr. King in the Capitol.

I first met Dr. King in Selma, Ala., at the time that he was in jail exercising his leadership and paying the penalty for civil disobedience in jail. He came out of jail in Selma and went on to the great ministry in which he led the American people, black and white, to a Nation that conformed more nearly to the dream that he expressed, a Nation that is not perfect in its acceptance of differences among ourselves but a Nation that is more nearly conforming to the ideal of the American dream.

I would like to yield at this point to the Senator from Virginia, who has played such an important role in bringing us to this moment.

Mr. WARNER. I thank my distinguished colleague.

Mr. President, the Senator from Maryland has indeed provided the leadership. While we participated, we more or less have been the followers of his leadership.

Mr. President, House Concurrent Resolution 153, a resolution authorizing a bust or statue of the late Reverend Dr. Martin Luther King, Jr., to be placed in the U.S. Capitol has been agreed to by the Senate.

I support this resolution which will be engrossed today, and believe that such action is most appropriate.

Dr. King was a man who, indeed, was a catalyst of consciousness in America, a man with vision whose dream opened all Americans' eyes to a dichotomy in this Nation. His adult life was dedicated to the noble principles of freedom and equality for all men and women regardless of race, creed, or color.

These principles, the very foundation upon which our Nation was built, are basic. They were and are the law of the land but not always followed.

Dr. King's peaceful efforts to bring about change continue to serve as an example to all. The Nobel Peace Prize stands as recognition from the world. His life and death will always serve as a reminder to all that it is not enough to have laws enacted if these laws are not practiced.

His bust in the Nation's Capitol, together with the other Americans who are regarded as American heroes, will recognize Dr. King's courage and great personal sacrifice.

As a former member of the governing board for the Washington Cathedral, on which my distinguished colleague from Maryland served with me, I was strongly supportive of Dean Sayre's invitation to Dr. King to deliver a sermon from the pulpit in the great shrine in the Nation's Capital, which I attended.

This week I telephoned the former dean of the Washington Cathedral, Francis Sayre, to corroborate my recollections regarding the circumstances leading up to the historic last sermon in a church given by Dr. King before his untimely death. Dean Sayre recollected the events very clearly and added that Dr. King visited the dean and his family in the dean's home before and after his sermon. Further, at Dean Sayre's recommendation, the governing board of the cathedral approved the placing of a statue in one of the Gothic enclaves in the cathedral. The work on this statue has not been completed, but I received assurances from the cathedral that it is still a goal and, when achieved, it will represent the only contemporary statue of an individual who once preached in the Washington Cathedral.

It is my hope and prayer that a statue of Dr. King in the U.S. Capitol will be a national reminder that the pursuit of our constitutionally guaranteed freedoms can be fulfilled through peaceful actions.

I again thank my distinguished colleague from Maryland.

Mr. MATHIAS. I thank the Senator from Virginia. I think the recollection he brings to us today of that last great sermon of Dr. King at the Washington Cathedral is an important one.

As this final action is taken by Congress, I think we can all say we have acted in the spirit in which Martin Luther King addressed the American people.

He said, "I have a dream." Now I think it is proper to say that we have a dream, that same dream that black and white in America can live together in complete harmony, complete equality, and in a positive relationship which will never again be scarred by the kind of problems we have experienced in the past.

I yield to the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from Maryland.

I want to commend him publicly for his leadership. At one point there was some question raised about putting the statue of Martin Luther King in the capitol. Through his diligent efforts and leadership, and the support of many of us, including myself, it is now an accomplished fact.

I had the privilege of marching in Selma with Dr. Martin Luther King, and it certainly was a historic day for me and unquestionably a historic day for this Nation. It was a day in which a lady, Viola Liuzzo was shot for no reason at all, except that she had come down from Detroit to also indicate her support for that march.

I think that historians will undoubtedly note that Martin Luther King was probably one of the five most outstanding figures of the 20th century in the world. I am pleased that this Congress has now seen fit to honor that memory by his statue in the Capitol, the bust that is to be erected in the Capitol.

Mr. MATHIAS. I thank the Senator from Ohio not only for his assistance

in passing this measure, gaining for Dr. King the recognition for which his lifework served, but also because I witnessed the Senator from Ohio's devotion and steadfast position on civil rights throughout the years.

Mr. METZENBAUM. I thank the Senator.

Mr. GRASSLEY. Mr. President, under the rules of morning business how much time can I have?

The PRESIDING OFFICER. The Senator will be recognized for 10 minutes.

RESHAPING ECONOMIC POLICIES AND STRATEGIES: ECONOMIC DUNKIRK II

Mr. GRASSLEY. Mr. President, this lameduck was called and urged by the President so that Congress could do what it should have done last summer—pass appropriations bills and what should have occurred was an all-out assault on this Nation's economic ills.

Instead, we have passed a budget-busting continuing resolution, achieving only 75 percent of targeted savings, according to the Budget Committee.

We could have accomplished those savings and more, if we had implemented the across-the-board budget freeze I proposed last spring. I want to announce today my intention to reintroduce such a spending freeze in the next Congress.

The economy is undergoing dramatic structural changes. Heavy industry is giving way to less labor-intensive high-tech industries. That, combined with a disinflating economy, is causing unemployment to rise significantly.

This is an indication, Mr. President, that the present high rate of unemployment is by no means merely a cyclical phenomenon. Yet we are doing nothing to address the problem.

The reason why we are still engaged in the current recession is that we are caught in a structural transition zone. We are not quite out of the old economy, and not yet into the new.

The delay has been caused by the Federal Government's misinterpretation of how the economy is changing.

As a result, monetary and fiscal policies have been inappropriate for the economy, and have been incompatible with each other. The economy has been denied the flexibility it needs to cope with the changes it is undergoing.

We have yet to deal with this problem effectively, Mr. President. And time is running out.

It is time to declare an economic offensive, an all-out assault on the ills of the economy. And the place to start this assault is on the Federal budget.

With deficits approaching $200 billion a year for the foreseeable future, the economy can tolerate nothing less than an across-the-board spending freeze.

There is no other alternative.

We spend nearly half a billion dollars a day more than we take in. If deficits continue to expand at such a rate, the national debt—already a breathtaking $1.2 trillion—will double in just 6 years.

During this recession, Mr. President, businesses and households learned to cut costs and debt, and to become more competitive and creative. It was necessary for their survival.

The problems facing the Federal Government are similar, but on a national scale.

Yet Congress is still spending money as if we were still in an inflationary environment. Inflation this year has been running about 5 percent. But the budget will grow this year by about 7 percent. Meanwhile, the economy is producing no new wealth.

A budget freeze, Mr. President, would force the Congress and Federal agencies to do what businesses, family households, and State and local governments have had to do.

It would force us to be more responsible and creative in managing taxpayer dollars. By implementing a dollar-ceiling on what the Government can spend, we would be getting more "bang for the buck." That is precisely what it will take to survive in a disinflationary environment.

It is a necessary step, Mr. President. It is part of the solution for a successful transition to tomorrow's economy.

It seems to me, Mr. President, that the seriousness and the extent of our budget and economic problems were miscalculated by this Congress. The fact is that we are on the brink of global disaster, and we are teetering over the edge.

Our own economy reflects that predicament. Take a look at our budget and our balance of payments. We are facing record budget deficits of up to $200 billion, and a record balance-of-payments deficit this year of about $45 billion.

Next year's payments deficit could double. Taken together, these deficits could total between $250 and $300 billion.

That is the amount of capital that would be denied an already weak U.S. economy. With so little capital available, how are we going to produce our way out of this recession? And producing our way out of the recession is the only way to have a viable economy in the decade of the eighties.

Last year, I proposed a 2-year, across-the-board freeze on Federal spending, showing how Congress could balance the budget by 1985. Congress did not buy the idea of a freeze, but millions of commonsense Americans did.

This year, I predict that Congress will realize the necessity of this approach. Mr. President, there is simply no other alternative.

If we had frozen spending last year, we could have narrowed the deficit this year by $50 billion. We could save roughly the same amount next year by freezing the 1984 budget at the 1983 level. And in the process, we would continue to provide for the needs of all our citizens.

On the other side of the budget equation, we are faced with a contracting revenue base, which also contributes to the size of the deficits. There are three reasons for this contraction:

First, the economy is simply not producing.

Second, there are too many preferences and loopholes in the Tax Code.

And third, there is a growing number of refugees seeking asylum in the underground economy avoiding paying taxes on their income.

Congress must find ways to reverse these symptoms. The Nation's taxable base must be strengthened and expanded, and the rates of taxation on the base lowered.

The Tax Code has been used, over the last 40 years or more, to build up the economy as it is presently structured. But now the structure is changing. Under such changing conditions, asset values tend to be altered, sometimes drastically. Industries also tend to be altered, some downsizing, other exploding.

An equilibrium of changing values and industries cannot be established unless the changes are allowed to take place unrestricted. Otherwise, distortions will persist.

Our present Tax Code has built into it biases against income sources, business activities, and individual financial decisions. It is not tax neutral, in other words, and will therefore cause continued distortions in the economy unless reformed.

Mr. President, the new Congress in January must address our entire economic policy. We should use the next 5 weeks to contemplate the changes needed before we reconvene for serious business on January 25.

Those changes must be bold, decisive, and purposeful. We can wait no longer to freeze Federal spending, or to expand our revenue-producing economic base.

We must implement flexible budget and tax policies.

We must devise training and retraining programs to assist in the transition to tomorrow's economy.

We need a modern international trade policy.

And we need a monetary policy that will accommodate the changing faces of finance and technology.

These are big steps, Mr. President. But we cannot avoid taking them if we are to advance our economy to meet

the challenges ahead. We must tilt the odds in our favor in the war against global recession.

This is a crucial time in our history, and in the history of the world. A successful transition will depend on the courage and wisdom of our political leaders, those of us in this body included.

Mr. President, I hope we can make enormous strides toward these goals when the new Congress convenes next month. Our future depends on it.

"SOPHIE'S CHOICE": A TRAGIC TALE OF GENOCIDE

Mr. PROXMIRE. Mr. President, almost every day when the Senate has been in session for the last 13 years I have come before this body to call for the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide. I have employed legal, political, economic, and, of course, moral arguments to support the convention and its final passage through the Senate. We alone have to ratify it; the other House does not. Each President since President Truman has called upon us to ratify this convention.

The proponents of this historic document have brought witness after witness to discuss its merits and to alleviate whatever concerns may have been raised on the floor. We have defended the document on both philosophic and pragamatic grounds, yet obviously, some 33 years later, some doubt still persists as to the real need and meaning of the Genocide Convention. Nevertheless, I do not wish to draw your attention today to any new testimony or study in support of the convention, which has been before us so long. No, today I would like to draw your attention to a cinematic rather than an academic work that approaches the subject of genocide in a most interesting and provocative way. It is hard to get the attention of the country through a speech or what happened in the United Nations, but sometimes a movie can do it.

"Sophie's Choice," a recent Universal release, which is very popular is based on the best-selling novel that tells the story of a young Polish woman who is attempting to piece her life back together after being released from the infamous Nazi death camp Auschwitz. Sophie acts almost as a microcosm of the age itself; filled with curious paradoxes and unanswered questions. She wrestles with her own identity which seems inextricably linked to Auschwitz and attempts to explain to her young friend, Stingo, the source of her deep, overpowering sadness. It is precisely this sadness that compels her to fall in love with Nathan, a schizophrenic whose colorful, offbeat disposition seems to give her a temporary escape from the horrors locked away in her mind.

This picture is not a documentary on genocide or a historical drama. If it were, it probably would not be as powerful a work as it has turned out to be. "Sophie's Choice" is a story of one woman's view of Auschwitz and the trauma that such places leave within a surviver that is all but undiscernible for the rest of us. Toward the end of the movie, the viewer realizes that Sophie had not survived Auschwitz at all but was simply dying at a different rate; by a more painful process. Her experience continued to spot and kill whatever she touched until the only person compatible for her was Nathan, a mental patient who, like her, existed outside the normal realm of thought. The bitter reality she once had to face was lost in Nathan's existence of pure fantasy and delusion. Together they lived their perverse lives that seemed to give them continuity with the excesses of their past lives.

For Sophie, the greatest injury that the Nazis inflicted upon her was their forcing her to be a part of the machine that destroyed her life. Serving as a secretary to her father—a pro-Nazi professor of law, who was later gassed in the chambers he helped construct—and then in the same capacity for the commandant of Auschwitz, she worked for a machine that claimed her father, husband, and two children. Even the decision to chose which of her two children was to be gassed was left up to her, so that her hate for the Nazis inevitably became self-hate and a sense of shared guilt. The Nazis had deprived her of her identity as a victim by making her a partner in her own destruction and that of others.

"Sophie's Choice" is a remarkable film that explores the tortured lives that many survivers of the death camps must live and the sort of metaphysical wounds that make the physical injuries look almost trivial by comparison. This moving account illustrates in the most personal terms just what the costs of genocide are and how impossible it is to erase even the residue of the act once it has been committed.

This film takes us from the general, theoretical treatment of genocide and places us on the individual level of a victim. This is the true argument of the Genocide Convention as only a surviver can tell it. As the Genocide Convention moves into its 33d year of waiting for this body's advise and consent, I hope that my colleagues who remain anbivalent on this issue will take the time to see "Sophie's Choice." It is important that genocide be considered out of the abstract and in terms that we can all understand and identify with. Perhaps then the Senate will see the urgent need for ratification of the Genocide Convention, a convention that has been accepted by virtually every developed country on the face of the Earth; a convention where only we, as a matter of fact, who proposed at the United Nations, are virtually the sole holdout. The convention has been reported to the floor of the Senate by the Foreign Relations Committee four times. It is a convention that certainly should be ratified at long last.

Mr. METZENBAUM. Will the Senator from Wisconsin yield for a moment?

Mr. PROXMIRE. I am delighted to yield.

Mr. METZENBAUM. Mr. President, I know that for years the Senator from Wisconsin has continually attempted to bring this matter to the floor. Could the Senator from Wisconsin apprise the Senator from Ohio as to why this matter cannot be brought forward for a vote on the floor of the Senate? I am aware of parliamentary procedures, and so forth, which are available. Has the Foreign Relations Committee refused to act or have they acted?

Mr. PROXMIRE. Let me say to the Senator that over the 33 years the resolution has been pending it has been brought to the floor four times. Filibusters were threatened. There was a fear on the part of the leadership that it could not be passed and it was not actually called up for a vote on the floor of the Senate.

For years the American Bar Association opposed it. They reversed that position. Now they are enthusiastic supporters of the Genocide Convention.

The opponents, in the public frankly are a small group of rightwing zealots, including the Liberty Lobby, the John Birch Society, and a few other far out groups.

It is supported overwhelmingly, as I say, by the American Bar Association, by every labor group, by religious groups, the Protestant, Catholic, Jewish groups. There is no significant opposition on the outside.

The Carter administration was about to push this treaty through but they were afraid that it would be used as a vehicle for blocking the SALT II ratification. When they finally decided to go ahead in spite of that, because SALT II was dead because of the invasion of Afghanistan, it was just too late in the year.

Now the Reagan administration is considering it. The position the Foreign Relations Committee takes now is that they will report it when the Reagan administration recommends it.

Alexander Haig, when he appeared before the committee, after he was nominated and before he was confirmed, indicated that this was a terrible embarrassment to us, that we had not ratified it. He indicated clearly his own personal support for it, but the administration itself has not told the Foreign Relations Committee to go ahead.

I understand they are considering it now. There is a chance, I think a pretty good chance, that it may be recommended by the administration next year. If that is the case, I think we will be able to ratify it quite quickly.

Mr. METZENBAUM. I do hope the administration puts its support behind the ratification of the Genocide Convention. It seems to me that if they do not—and, as I say, I hope they will—under any circumstances, I hope the Senator from Wisconsin will force the issue to the floor and let those who would be in support of genocide let this record be made.

I think thee are so many of us who feel so strongly about this subject that, if it has been to the floor four times in the past, I think it ought to come back again and hopefully they may be able to see the light.

In the 7 years I have been here I have not had an opportunity to vote on the issue, or I do not recollect that I did. I hope we will have the opportunity to vote on it. Let us smoke out the opposition. It would be far more preferable if we can get the administration to provide its backing for the ratification.

Mr. PROXMIRE. I thank the Senator. He is absolutely right. This new administration would be in the strongest possible position to win confirmation on the floor of the Senate.

Mr. LEVIN. Will the Senator yield for a moment?

Mr. PROXMIRE. I yield.

Mr. LEVIN. I commend the Senator from Wisconsin for his dogged determination, his constancy. I have been here now for 4 years and I do not know how many times I have personally heard the Senator speak on the subject of genocide. I know he does just about every time he comes to the floor, one way or another. Today, he made reference to a movie about it, "Sophie's Choice." I commend the Senator. I know that some day that convention is going to be ratified by the Senate. When it does, I know that the Senator from Wisconsin will be on the floor. I believe in my heart that the resolution of confirmation will have his very strong support continuously.

Mr. PROXMIRE. I thank the Senator.

I might say that perhaps the most brilliant Senator who served here in the years I have been here was a real champion. He will certainly deserve whatever credit there is in ratifying the convention. That is Jake Javits. He urged the ratification of the treaty for many, many years. It is tragic that he is not here to carry on because he was such a tremendous supporter of the treaty.

NUCLEAR WEAPONS-FREE ZONES WHAT PRECEDENTS?

Mr. PROXMIRE. Mr. President, recently the Prime Minister of Sweden reopened the issue of nuclear free zones. In addition, the State Department has indicated an interest in a nuclear free zone in the Middle East.

This combination of renewed activity is a most promising sign of vitality in a concept that has laid dormant for far too long.

Nuclear free zones are not a pipe dream or exercise in intellectual curiosity. The concept is contained in at least four major international treaties—the Outer Space Treaty of 1967; the Antarctic Treaty of 1979; the Sea Bed Treaty of 1971; and the Treaty of Tlatelolco of 1967.

The latter in some ways is the most interesting of the four since it covers populated areas. In fact, it is the only such treaty in existence.

The treaty prohibits the development, production, testing, or deployment of nuclear weapons in the territory of any signatory and it requires that all parties to the treaty submit existing and planned nuclear facilities to the International Atomic Energy Agency inspection.

While this is all well and good, the effectiveness of the treaty has been greatly diminished by the decision of four nations not to sign—Argentina, Brazil, Chile, and Cuba. Perhaps it is no coincidence that these four nations are estimated to have the greatest potential for developing nuclear devices or, as in the case of Cuba, have a special relationship with a foreign nuclear power.

On the plus side, the five nuclear powers—United States, U.S.S.R., Great Britain, France, and Peoples Republic of China—have agreed to respect the decision of the 22 Latin signatories and thereby keep nuclear weapons out of that region.

The value of the Treaty of Tlatelolco rests with its example. The Director of the Arms Control and Disarmament Agency, Eugene V. Rostow, last August indicated that his agency had "started preliminary diplomatic talks on a Middle East nuclear free zone" based on the Treaty of Tlatelolco.

Undoubtedly this will be a substantial task given the strong possibility of Israel development of nuclear weapons and the interest expressed by Iraq and Pakistan in nuclear technology.

Over the years there have been proposals for a nuclear free zone in Africa, in Europe, around the Mediterranean, in the Indian Ocean area, and in the South Pacific. Each region poses its own distinct set of problems and issues.

Mr. President, I urge the Arms Control and Disarmament Agency to redouble its efforts—not only in the Middle East but also with regard to the other regions I just mentioned. Even small nuclear free zones would be a step forward—areas that could be expended over time. Without such a worldwide effort, time will slip by and the emerging nuclear nations will make the use of this concept difficult if not impossible to achieve.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COCHRAN). The clerk will call the roll.

The legislative clerk preceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONTINUING APPROPRIATIONS RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, I will ask the distinguished majority leader a question. I know that he can only answer this question to the very best of his understanding and based on conversations that he is in a position to have with the White House and with the President and the President's assistants.

But on yesterday, some of us raised the concern borne of having read in the media that the President was holding the conference report on the continuing resolution hostage to the passage of the gas tax bill. That question was raised on the floor, and I participated in raising that question. At that time the distinguished majority leader said the following. I do not want to misquote him.

He said:

Madam President, the conference report is now on its way to the President. I expect the President will act on that, I hope tonight, I expect tonight. In any event, I expect him to act on it promptly.

May I say I have seen wire service reports that he might wait "a day or two." I have talked to the President. That is not the case. He did not say that. He expects to act on it promptly and I hope—I want everybody to know that I have personally talked to the President. I make that representation on my own authority, based on my own conversation, which was less than 30 minutes ago.

The rest of what the majority leader said pertained to other matters.

Now, there are reports I hear that have come through the media that the President is still holding up signing the conference report on the continuing resolution until he sees what happens on the gas tax. And I read in this morning's Washington Post an excerpt from a story which is subheaded as follows: "Reagan Ready To Sign Measure."

President Reagan will sign the stopgap spending measure sent to him early today even though he has deep reservations about restrictions imposed by Congress on development of the MX missile, high administration officials said.

But then another excerpt reads as follows:

But the president withheld any announcement of his decision yesterday in order to keep pressure on the Senate to complete approval of two measures that he regards as high priority—the 5-cents-a-gallon gasoline tax increase and legislation allowing duty-

free imports that is part of his Caribbean Basin Initiative.

Now, I have had conversations with the distinguished majority leader, whom I trust without any question, and I know that the majority leader would never knowingly misrepresent anything to the Senate. But I would like to know whether or not the President, in the opinion of the majority leader, is going to sign that continuing resolution, whether he is going to sign it promptly or is he going to hold that continuing resolution hostage to the gas tax or the Caribbean Basin Initiative or anything else. If the President is going to do that, I think we ought to know it. And I trust the majority leader to tell us to the best of his knowledge what his up-to-the-minute information is on that matter.

Mr. BAKER. I thank the minority leader.

Mr. President, I want to guard my words now because I do not want to offend my friends in the press, but I honestly believe I know more about this than they do. I do not believe the President ever intended to hold the CR hostage to anything. Indeed, he has represented to me that he does not and did not, and that he intends to sign the bill. I had expected it to be signed last night.

I just now talked to Mr. James Baker, the President's chief of staff, and I urged him to go ahead and get that signed. He once again assured me there were no conditions, there were no restrictions, except one, and the restriction was he was standing outside the State dining room with the document in hand waiting for the President to conclude a State luncheon with King Hussein of Jordan; that as soon as the President was out of that luncheon, which should be in the next few minutes, he would hand that document to the President, and that the President would sign it. They have notified the press office that the signing statement will be available at 2:30. He is going to call me the moment the President's pen leaves the paper, after inscribing his signature.

But, once again, I assure the Senator there is no condition. It is not being held hostage to anything; it has got to be signed, but I believe that Jim Baker is correct that he is not going to interrupt that luncheon with King Hussein in order to get it done.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader. The only thing I can say is that I wish he were the President of the United States right at this moment.

Mr. BAKER. Mr. President, if I make any remark at all there is some danger that both the minority leader and I might be indicted for treason.

Mr. METZENBAUM. Will the majority leader yield for a comment that I would like to make at this point to him?

Mr. BAKER. Yes.

Mr. METZENBAUM. I say to the majority leader that we have been here until 2:30 in the morning 3 nights this week. We stayed 1 night overnight. I have remained on the floor through all of that period. It seems to me that we stayed in session over the weekend for the purpose of dealing with two matters. One was the continuing resolution and the other was the 5-cents-a-gallon tax. the majority leader knows that I have supported him on every cloture vote and, although I voted against him with respect to the 5-cents-a-gallon tax, I have not used any parliamentary procedures to frustrate the effort to move forward in connection with that matter. At the very same time, I continue to be concerned that in some manner some of the measures that I have spent my time attempting to defeat are coming in through the back door, one of which is H.R. 3420, which contains within it two amendments, one of which contains the antitrust exemption for the shipping industry, and the other one of which contains a matter that I am sure is unknown to the majority leader but it is sometimes referred to as the Alaska Railroad.

It is necessary because I was not apprised that that would be in there, and I only learned it by happenstance. That being the case, I do not think any Member should be taken by surprise at this time at this point in the session. I know that many Members have left for home. I wish to be very open and above board with the majority leader. I would not care if the 5-cent-a-gallon tax went down to defeat.

But I will use parliamentary procedures, including a quorum call and requiring it to go live, unless I can get some assurance that the majority leader is not going to press forward with H.R. 3420 or any other Member is going to be accorded the opportunity to bring up a controversial piece of legislation in the dead of the morning or afternoon or whatever it is, when this body is, obviously, not here and not on the floor.

We are all aware of the fact that any one Member can stand up and ask unanimous consent. If the floor is not protected, he can pass a bill within 20 seconds, as I saw happen the other evening. It was a noncontroversial measure. There was no reason for it not to pass. But I feel it is time now for the majority leader to give us assurances that we are going to deal with the 5-cents-a-gallon tax, assuming he can get that matter to a vote with respect to some of those on his side who have created the problem, or with respect to any other Member in this body who has concerns about it, but I am not saying that it should or should not come up. I saw the minority leader starting to rise.

What I am saying is that I think only that measure should be before this body and we should have some assurance that nothing else unless it be unanimously agreed to will be brought onto the floor.

I feel that we are entitled to that assurance and I do not desire to put this body into a parliamentary snag but I have no reservations about doing so if that be the only way that I can protect my own concerns.

Mr. BAKER. Mr. President, I do not recall a single time, if I could have the attention of the Senator from Ohio——

Mr. PRYOR. Mr. President, while waiting may I just ask would the majority leader advise us say at 2:30 or 3 p.m. if the President is afflicted possibly with writer's cramps?

Mr. BAKER. I intend to advise the Senate in any event.

Mr. PRYOR. The majority leader has always been honest with us and forthright. I hope he will advise us as to that condition.

Mr. BAKER. I will indeed.

Mr. President, I cannot remember a single time when I have done anything that took the Senator from Ohio by surprise. I really cannot think of a single time that I have ever done that.

Mr. METZENBAUM. I totally agree. My point is that sometimes the majority leader is not on the floor and when he is not on the floor the floor is under the control of others, and I cannot say that I have quite that same comfort or confidence.

As a matter of fact, last night I was not on the floor. We were aware of what occurred, and I do not wish to rehash that situation. But the fact is that had two Members on this side, no one on that side, two Members on this side not objected unanimous consent would have been granted.

Mr. BAKER. No, it would not have been granted. I do not mean to dispute with the Senator, but I accept at face value the remarks that were made by the Senator from Alaska were not made seriously. They would not have gone through. Had I known about it I would have stopped it.

I was off the floor trying to make an arrangement on another bill.

There is no way I can give the assurance the Senator asks because I am one Senator. The one assurance I have always given Senators is that I will try in my capacity as leader to deal forthrightly and directly and never by subterfuge or by surprise. I believe I have performed on that. I have tried to, and that assurance I freely make to the Senator from Ohio.

Mr. METZENBAUM. I have full confidence in the leader.

Mr. BAKER. But, Mr. President, surely in these waning moments the Senator is not going to put me to a restrictive request of that sort. I simply cannot make it.

But I will make the assurance that I always make, that I am not going to do anything in my capacity as leader nor willingly permit anyone to do anything that is going to take the Senate by surprise.

We treat with measures directly and fairly and all Senators who have indicated an interest in those things are going to be apprised of it, and I am not trying to say anything to the Senator except what I have said—my words have no meaning beyond their obvious import.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield to me?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, the majority leader and I deal with each other as friends, not enemies. We obviously have to disagree at times. But I have no better friend in this body than HOWARD BAKER.

Mr. METZENBAUM. Mr. President, I cannot hear the Senator.

Mr. ROBERT C. BYRD. I know of no better friend that I have than HOWARD BAKER. We deal with each as friends and not enemies and he lays it right on the table. I try to do the same.

He cannot commit himself at this moment, but before he proceeds he will consult with me and others, and I assure the distinguished Senator from Ohio that there were not only two objections ready to be made last night. I was sitting in the chair right there. There were two others who objected so why should I object?

Mr. METZENBAUM. I agree.

Mr. ROBERT C. BYRD. I was right here. I would have objected.

So there was plenty of protection.

Mr. METZENBAUM. The Senator from Virginia has constantly protected the Senator from Ohio.

Mr. ROBERT C. BYRD. He need not be concerned. I will do everything I can to protect my colleagues on this side of the aisle as the majority leader protects those on his side of the aisle and as he consults and tries to be protective, fair, and generous to Members on this side.

I merely wanted to be sure that the President was not playing games. I cannot be indicted for treason for anything I say on this floor. If that is reasonable then I am guilty. And the best way I knew to get that assurance was to ask the majority leader and he has given that assurance.

I do not know of anything more I can say or he can say, but I assure the distinguished Senator from Ohio that he can count on me as the leader of his party to do everything I can to protect all our Democrats, and I do not think I will have to protect them against surprises from the majority leader, but I will do everything I can to protect them, to put them on adequate notice of any vote that is going to arise.

We are in a difficult point in this session right now. Some of our Members have gone home, although we have a good many Members left. But I hope that we could let the matter rest at that point.

Mr. METZENBAUM. As I understand the majority leader indicated that he or his representative will provide adequate notice. Is that a fair interpretation.

Mr. BAKER. That is fair.

Mr. President, what I will do as a practical matter is advise the minority leader if there is some measure that I intend to move to as I always do.

Let me say, by the way, that I wish to reciprocate absolutely in the remarks the minority leader has made. We deal every day in the course of a week on hundreds, maybe some weeks even on thousands of matters, and some of them very sensitive, and we have a clearance process set up on our respective staffs that functions magnificently. In my judgment, they are the most dedicated staff people I have ever known on both sides, and they, too, handle hundreds of items, carefully collating and noting the desires and wishes of Senators on both sides of the aisle.

Those two staffs working together forthrightly and directly confer constantly in the course of the day on the floor and off the floor. We have set up a system here, the minority leader and I, that works, and the system is I never clear anything until I go to my calendar staff and say, "Senator so and so wants to do so and so. Is it cleared on our side?" If I get past that I say, "Would you please see if the Democrats have cleared it." If it is I go to Senator BYRD and I say, "This is a matter I want to take up." Sometimes he says, "No," but more often he says, "Yes," because the calendar people have already gone through it and worked out the details.

It is a monumental undertaking to make sure we deal directly and forthrightly with each other, but there is nothing more important to the Senate, in my view, than that we have the absolute confidence of each other on both sides of the aisle. I can say without any reservation I have never failed to have less than absolute confidence in the representations of the minority leader to me, and I have never failed to have absolute certainty he was going to protect the interests on his side. I will add to that I will not do anything nor have I ever done it knowingly that is going to catch the minority leader by surprise.

Mr. ROBERT C. BYRD. May I say one more thing, then I will yield to the Senator from Ohio.

Mr. METZENBAUM. Go ahead.

Mr. ROBERT C. BYRD. I am satisfied with the answers the majority leader gave to me anent the signing of that conference report. But if that is not signed—at what time was it?

Mr. BAKER. It will be in the press room at 2:30.

Mr. ROBERT C. BYRD. 2:30 I will be back on the floor asking the majority leader what has happened.

Mr. BAKER. I will tell you what. If that is not by 2:30, I will be well in advance of your inquiry finding out what happened.

Mr. ROBERT C. BYRD. Because I think if the President is holding the conference report on the continuing resolution hostage, the other House is entitled to know that.

Mr. BAKER. The President is not.

Mr. ROBERT C. BYRD. We are entitled to know that. I am perfectly satisfied by the assurance the majority leader has given. But if the pen is not off that paper by that given hour, I am going to be back here asking again.

Mr. BAKER. I yield to my friend from Maryland.

Mr. SARBANES. I thank the majority leader.

Mr. President, I was on my way to the floor and missed the majority leader's response to the minority leader's inquiry about when the President would sign the continuing resolution. I understand it, the majority leader has informed the Senate that the President does indeed intend to sign the continuing resolution and will do so by 2:30 this afternoon?

Mr. BAKER. That is quite right. What I said was the President has announced his intention to sign the bill; that the documentation has been completed, including the signing statement; that James Baker, the President's chief of staff, advised me on the phone a moment ago that he will physically deliver that document to the President for his signature as soon as the State Luncheon for the King of Jordan is concluded. He has estimated it will be at 2 o'clock. The 2:30 number comes about because he also told me that they will have copies of the signed statement and, of course, the bill itself in the press room.

Mr. SARBANES. I thank the majority leader for that statement and for his repeated efforts with respect to this matter for quite a period of time. I think the majority leader has done his best to move the continuing resolution forward, and I am very appreciative of that.

Mr. President, I want to point out that a crisis with respect to the continuing operation of the Government was provided by the administration in November 1981, when we were also considering a continuing resolution. The GAO did a study of the much-publicized shutdown of the Government which marked that crisis and concluded that the shutdown which the executive branch instituted at that time cost the taxpayer in wasted money over $50 million.

This time, we have gone a day and a half into the regular work week—actually the continuing resolution expired on midnight of last Friday—however, in this instance, because apparently it suited the executive branch's pur-

poses, the Government continued to work and the administration did not provoke a comparable crisis to the one which occurred last November, although apparently some of the President's advisers were considering doing so.

There is a story in the morning paper indicating that—and let me just quote it—

As the bill made its way through Congress yesterday, Federal workers received confusing and sometimes contradictory instructions on what they should do today. If the President had vetoed the spending bill by this morning, employees in agencies and departments where budgets have not already been approved were instructed to stay home. But earlier in the day the Office of Personnel Management told Federal employees to come to work today—

meaning Tuesday—

No matter what and wait for any official word about possible furloughs.

OMB countered that decision late yesterday despite OPM's contention that employees should get the word, whatever it is, in an organized fashion and not run the risk of further confusion about what to do.

Although many Federal agencies and departments technically ran out of money at midnight last Friday, Government employees worked through the day yesterday while waiting to see what Congress and Reagan would do with the funding measure. The last time a partial shutdown resulted from a spending bill veto the costs of shutting the Government down were more than $50 million, according to the General Accounting Office.

I did not think what transpired the last time was necessary. I am very frank to say it was a staged extravaganza on the part of the executive branch.

What is occurring now helps to prove that point. We have gone much longer now without a continuing resolution and yet no comparable crisis. Even if the President had vetoed the continuing resolution either late last night or the first thing this morning, given the assurances of prompt action on a new measure by the Congress, he would now have a stripped-down version before him; in other words, we could have acted on a new continuing resolution before the President signed the resolution that was sent to him since he has simply been holding it down there.

I hope the lesson is very clearly understood—what the Government went through on that previous occasion was not necessary. You will recall that the President appeared on the morning television programs vetoing the continuing resolution. Then the Government came to a halt. People were given furlough notices, pandemonium reigned across the country. Regional offices were closing down, people could not get the services which they were entitled to receive from their Government. Everything was supposed to come to a screeching halt. I quote from a Congressional Quarterly description of the shutdown:

The stop-payment shutdown—the second ever of a federal agency, the first of such broad scope—made an impressive show: Thousands of federal workers were sent home on furlough. The Statue of Liberty and Washington Monument were closed. The Constitution and Declaration of Independence were lowered into vaults below their public display cases in the National Archives. Trips, speeches and congressional testimony were canceled. A tape-recorded message at the White House told callers that "the White House is involved in an orderly phasedown * * * No one is here to answer your call."

That has not happened this time, and obviously it has not happened because it suits the purposes of the executive branch to proceed in the manner in which they have been proceeding.

I do not think we should have had that shutdown a year ago. It was part of a staged event; a political melodrama at the expense of the proper functioning of the Government and at a cost to the American people, as estimated by the General Accounting Office, of in excess of $50 million. That was money just wasted, lost. Furthermore, dedicated and able Federal employees were treated without any regard for their professionalism and their commitment.

I hope in light of how the current situation has been handled, that it is apparent to all that last November's melodrama was a staged event—unnecessary and harmful to the effective operation of our Government.

I thank the majority leader for yielding.

Mr. BAKER. Mr. President, I was reluctant to interrupt the Senator from Maryland, but I was emboldened to do so, had he not stopped at this point, to tell him I was called to the telephone just now by the President of the United States who, no doubt, was aware of the concerns of the Senator from Maryland and others, to say that he had at that moment finished signing the continuing resolution and that it is signed.

He also pointed out that it was the first cut-and-paste bill to be signed by any President of the United States since 1895, and I accept part of the responsibility for that in urging him to do so as promptly as possible, and he did it, and I am grateful and I wish to express my appreciation to the President for taking account of the concerns of the Senate in that respect.

He also wished me to point out, of course, that obviously that meant everyone in the Senate now will vote for everything he wanted for the remainder of this session. I expressed some doubt about that, but I promised to convey the message.

Now, Mr. President, the continuing resolution is signed. It is the law of the land.

ORDER THAT TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS BE EXTENDED UNTIL 3 P.M. TODAY

Mr. BAKER. Mr. President, I think we might profit the Senate by having additional time for the transaction of routine morning business. I ask unanimous consent that it be extended until no later than 3 p.m. today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader for his announcement, which certainly relieves the concerns of myself and several other Senators that that matter has been put to rest.

How long would the majority leader like to proceed before he takes up any business?

Mr. BAKER. Mr. President, I am prepared to take up any business available. I will check with our clearance staff.

Mr. RIEGLE. Will the Senator yield?

Mr. BAKER. I will yield to the Senator in a moment. I would like to ask the minority leader if there are some items, such as the agriculture PIK bill or the Montana wilderness bill, which have been called to my attention, that we might see if we can clear for action.

Mr. ROBERT C. BYRD. Neither of those matters is cleared for action at this point. May I say to the distinguished majority leader, we will continue to explore the possibility here. My only reason for asking the question that I asked was that I have a speech which I can make now or I can make next year, but I would only want to make it when the Senate does not have business ready to transact. I think the Senator from Michigan does have a statement to be made in morning business.

Mr. RIEGLE. If the Senator will yield, I do, and I would like to be recognized at an appropriate point for that purpose.

Mr. BAKER. Mr. President, I yield the floor so the Senator may be recognized.

Mr. RIEGLE. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Michigan.

THE GAS TAX INCREASE

Mr. RIEGLE. Mr. President, I wish to now at this time express my thoughts as to why I voted last night against the gas tax increase. That decision was based on the following factors:

First, the 5-cents-a-gallon tax is a regressive tax that will be a new cost burden for rank and file citizens who are under increasing financial strain with shrinking disposable income. Working families will feel this added cost not only at the gas pumps—but in the increasing cost of products they consume that will carry the higher

transportation costs in the form of higher product prices.

I find it profoundly unfair and unwise, that the Government will be extracting the gas tax with one hand from low- and middle-income people, senior citizens, and others of modest circumstance, while, in mid-1983, the Government will be distributing a large tax cut to individuals at high-income levels who neither deserve nor need this large personal tax cut.

The net effect of these two tax actions will be to accelerate the redistribution of money from the people of modest means to those of great wealth. Taken together, this 5-cents-a-gallon gas tax increase and the third year of the Reagan income tax cut is a clear case of taking from the poor to give to the rich.

There is no justification for this tax redistribution. It is hurtful national economic policy and it is grossly unfair. I will not be a party to it.

I cosponsored an amendment to this bill that would have financed the road bill by deferring the third year of the income tax cut for those above $65,000 in annual income, and with a reduced tax cut for those with incomes from $50,000 to $65,000. That amendment was defeated at the instruction of the Reagan White House. Had that amendment passed, I would have supported this measure despite its other defects.

Also, I do not think we should be imposing across-the-board tax increases at a point of such serious national economic recession. I think it will deepen and prolong the downturn.

Second, I do not believe this bill will have a significant job-creating impact either in overall amount or immediacy. We have 12,000,000 officially unemployed Americans today—and another 8,000,000 who are discouraged workers or persons substantially underemployed. Various independent studies, including one by the Wharton School, forecast that this legislation will actually cost jobs in 1983—and add an estimated 119,000 over the entire life of the program. Other estimates range as high as 300,000 over a period of years. While any job stimulus is welcome, this amount is so small as to be relatively meaningless when measured against the need for some 20,000,000 jobs at this time. And while I strongly support the need to rebuild our roads, highways, and bridges, this package is insufficient to the task and flawed in its focus and priorities.

Moreover, I am concerned that passage of this measure will give the false impression that the Reagan administration and the Congress have now dealt with the jobs problem by passing this legislation. Its passage will lessen the sense of urgency about the unemployment crisis—and will diminish pressure for stronger action by creating a false hope that many people will be employed by this program.

It is largely due to the flawed lame-duck legislative process—that too little time is given to urgent problems—and a proposal can be hurriedly constructed in an attempt to show some sign of action, when the actual legislative produce is poorly crafted and inadequate in meeting our true needs.

In terms of developing an overall national economic policy response that can put people back to work, I think this now requires an immediate top-priority effort by the new Congress that will convene January 3. The gas tax bill is a hurried piecemeal proposition that is the product of hasty consideration and undue political pressure in the rush to enact it hours before the Christmas holidays.

In 2 weeks time we will have a new Congress convene with some 85 newly elected Members who could, with proper deliberation, put together the comprehensive economic package the Nation needs. Were these matters taken up in January, I believe we would do a much better job of tailoring the gas tax/roads bill as an integral part of that overall package.

Third, the State of Michigan historically has done poorly under the distribution formulas of these programs—contributing far more dollars into the national pot than we receive in return on any fair-share basis. While Michigan is to be guaranteed an 85 cent return on each dollar contributed, that still is expected to drain $60 million from Michigan workers and the Michigan economy at a time when we desperately need that money. And while some provisions of the legislation were designed to meet the problem of Michigan lacking the necessary money to provide the State matching share—the remedy is inadequate and will severely strain Michigan's ailing economy.

Fourth, I joined with others to try to insert a "buy American" provision in the bill that would have insured that American steel, cement, and other materials would be used in these road construction projects. I am sad to report that amendment was defeated—and now many of the jobs to be created will go to workers in Japan, Korea, and other foreign lands. I think that is wrong.

Fifth, along with Senator BRADLEY of New Jersey, I offered an amendment to rebate the annual gas tax to those working families earning less than $10,000 a year in the form of an offsetting increase in the earned income tax credit. While I received 42 votes in favor, when the opponents moved to table the amendment—this vital improvement in the legislation was rejected. The working poor cannot and should not be asked to bear this new tax.

Sixth, I am also greatly concerned about the impact of these new tax burdens on the trucking industry at this time. Intense competition brought on by trucking deregulation, plus ever higher costs for trucks, tires, and other operating expenses have pushed many truckers to the brink of bankruptcy. No adequate assessment was made of the economic impact on truckers of these new costs due to the extreme haste with which this legislation was initiated. While higher fees from truckers may be justified, it is essential that these costs be considered in terms of the industry's ability to pay.

Seventh. I was deeply distressed during recent days to observe the fate of the continuing resolution, the other major legislative package of the lame-duck session.

While both the Senate and House passed a jobs section in their respective versions of the continuing resolution, the Senate/House Conference Committee surrendered to President Reagan's veto threat, and completely dropped the jobs section of the bill. Thus, not $1 was provided for jobs, despite the mounting unemployment crisis in our country. When that section was abandoned—it removed as well a $50 million program to provide emergency funding to soup kitchens and emergency feeding programs across America which are desperately short of money as they try to feed the increasing number of homeless and hungry people. The elimination of that part of the bill was cruel and unwarranted.

At the same time, in the same continuing resolution, the House of Representatives increased its own pay and the amount of outside income that could be earned by House Members, and the Senate removed completely a cap on outside earnings, despite my opposition and vote to the contrary.

I am deeply troubled by the appearance and the fact of a double standard when one views the roads bill and the continuing resolution as companion measures passing back to back in the lameduck session.

Taken as a whole, we see the Congress and the Reagan administration failing to deal with the jobs crisis—and yet moving ahead with a pay increase for Members of Congress while simultaneously imposing a new 5-cents-a-gallon gasoline tax which will fall hardest on working families, the working poor, unemployed persons, and senior citizens.

When we take these legislative initiatives together, they show an appalling insensitivity and lack of equity that I find shameful. I find the sum total of it all to be bad national policy—and miserably unfair to boot. We are widening the disparities in America—and I find that unjustified and an increasing danger to people's faith in Government and even our ability to preserve civil order. Tremendous economic damage is being done to America and

to our people. These two companion measures mock these problems and put the Federal Government, as the guardian of the national interest, in the poorest possible light.

I regret these actions and, having fought hard in a losing cause to change them, I want to clearly disassociate myself from them.

Finally, it should also be noted that the legislative package had one key redeeming feature that will provide a further period of extended unemployment benefits to jobless persons. Senator LEVIN sponsored the amendment, and I and others were cosponsors. We all fought hard for its approval and we won that fight. I am proud of that success in an otherwise inadequate legislative package, and I withheld my vote against the entire package, in deference to this single amendment, until it was clear the votes for passage were clearly achieved before finally casting my vote against the entire package.

Assurances had also been given by the Senate Finance Committee Chairman Senator DOLE and others that another legislative vehicle would be found where passage in the lameduck session could be assured, even if the gas tax bill were defeated. These assurances were part of the reason why an effort was not made to attach the unemployment compensation extension to the continuing resolution.

The lameduck session has done very little to help the country—and that responsibility must be shared by a visionless Reagan administration and a self-interested Congress that gave every appearance of feathering its own nest while the Nation's urgent problems were pushed to the back burner.

It is for these reasons that I could not in good conscience support the gas tax increase.

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

PAYMENT IN KIND

Mr. ZORINSKY. Mr. President, I support the general concept of payment in kind as beneficial in the effort to reduce our excessive stocks of wheat, corn, rice, and cotton. However, I am concerned that the bill gives no assurance that market prices will be strengthened in 1983.

I feel it will be another alternative available upon the volition of a farmer to choose whether it will benefit his operation or whether he feels or she feels that it will do absolutely nothing.

There is an urgent need to give Nebraska wheat and feed grain producers something to take to the bank as they plan financing in 1983. Many are strapped with indebtedness they cannot repay on schedule and more farmers cannot give assurance to their creditors that they can repay loans made for operating expenses for the 1983 crops. I hope that any PIK program will help insure survival of farmers the next 12 months.

The Secretary's presentation to the Senate Agriculture Committee on December 9 left much to be desired in explaining how the program would be administered. The administration apparently views the program as a means to entice farmers to cut production without new budget outlays. Legitimate questions are being raised as to whether the Government or producers benefit the most. It is becoming apparent that the administration is transferring its inability to export surplus grain onto the backs of the farmers. The payment-in-kind program, for example, would result in responsibility for costs of storage, interest, transportation, and other costs being shifted from the Government to farmers. There is only the vague hope that the grain would somehow find a use that would remove it from the open market. The administration's endorsement of the program is a tacit admission of the failure to regain our export markets lost through embargoes and other repressive trade measures which have had the same effect as outright embargoes.

The PIK concept in buying land out of production is not new. Such a program was in effect in the early sixties. Before that time, such a program was authorized for cotton in the Agricultural Adjustment Act of 1983. These earlier programs generally had farmer support with incentive for participation which resulted in sharp reductions in supplies at end of harvest. For example, in the 1961 feed grain PIK program, 25.2 million acres were taken out of production with 40 percent of farm participation in the program.

But the other parts of the program were vastly different. Most farmers in the 1961 program asked CCC to market their certificates helping to cushion the impact of freeing stocks from a market-insulating position. In sharp contrast to the present, price support loans were pegged at no lower than 65 percent of parity. This was not considered high in 1961. However, consider the fact that the national average November 15 market price for corn was 44 percent of parity.

But the most that can be hoped for without a higher price support loan rate is more grain loaded onto the farmer's backs uninsulated from the reserve program and the price support loan program.

Questions over how the program will impact on the rural business community are for the most part unanswered. As I understand the administration's intent in this regard, no more than 50 percent of the commodity base acreage would be diverted within a county. This would provide some protection for agribusinesses that depend on farmers for their survival. The caution note is clearly that of awareness of the need to structure a program that will not undermine the farm-rural economy.

The tradeoff initially asked for by the Secretary of Agriculture that would freeze target prices at the 1983 level is unacceptable to me. Other members of the committee also rejected the Secretary's recommendation. There is little enough for farmers faced with continued increases in the cost of fuel, chemicals, fertilizer, and other production items in the target price increases Congress approved in the 1981 farm bill.

But at least there is recognition of the inflationary pressures on farmers in the target price increases. The 1983 target price is adjusted upward in the 1981 Farm Act to $3.03 per bushel in 1984 and $3.18 per bushel in 1985—very modest increases which the Secretary would deny farmers.

I am also concerned by the proposal that would permit the Secretary to sell stocks marketed for producers out of CCC inventory at prices below levels established in present law. CCC can sell corn currently at no less than 110 percent of the loan—$2.55 per bushel. This is an established provision which protects farmers from CCC dumping feed grains.

It would break precedent with traditional and historic actions of the Congress to prevent farmers from having to compete with the Commodity Credit Corporation.

In summary, with the existing weak market situation, there is cause for further concern in the shifting of stocks insulated from the market under the reserve program and in CCC inventory. There is a strong possibility that present low prices would be further depressed. At the earliest, price depressing stocks will not be reduced until after the next harvest. They will not go away by a change in ownership with producers becoming liable for storage and other costs.

The statement of the Senate Agriculture Committee accompanying this bill to the floor clearly indicates the support of the committee for continuing CCC storage payments on commodities received by producers until the commodity is sold or through the end of the marketing year, whichever occurs first.

Staggering the issuance of certificates to coincide with harvest periods, also supported by the Committee statement, would also be in the interest of orderly marketing.

Mr. President, there is urgent need as this program is developed to give attention to questions such as:

First. What could be the market impact if farmers receiving certificates were to sell them within a short time?

Second. What are essential measures to protect farm-related businesses who depend on farmers for their livelihood?

Third. What will be necessary in payment per bushel to get farmers to participate? And what percent of the acreage base will be covered?

Fourth. What is the administration's objective for reduced bushel carryover in 1983, and in 1984?

Fifth. What specific changes in existing law are required for authorizing a PIK program?

Sixth. Over and above the cost to the CCC of the stocks to be made available in payment for acreage reduction, what is the projected budget outlay for each of the commodities involved?

Seventh. If the program is to be designed to help farmers obtain operating credit, is an increase in price supports anticipated? If so, at what level?

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A SUBSIDY FOR AMERICAN SHIPBUILDERS

Mr. METZENBAUM. Mr. President, regardless of the hour, regardless of the day, there are forces in this arena who are ever persistent extremely stubborn. There is a conference report at the desk that would provide for American ships to be built overseas in various and sundry countries—Taiwan, Korea, Japan, and a number of other places. It would provide that the American subsidy that is paid for operating those ships would continue to be paid.

Think of it, Mr. President; we are going to provide a subsidy to American shipowners who have their ships built overseas.

There are 1,200 workers normally employed at Lorain, Ohio, in the American Shipbuilding Co. There are about 66 working at the present time. I believe that the American shipbuilding industry is a very vital part of our entire defense effort, but the American shipbuilding industry cannot continue operable, cannot keep its doors open, if we are going to permit indirectly with American dollars, ships to be built overseas. What kind of absurdity is this?

I do not rise to speak against this bill because I just want to make a speech. I rise to speak against this bill because the conference committee report is one of those matters that I have been holding at the desk. It is one of those that I have made it clear I am prepared to oppose and continue opposing, because I do not believe that we ought to have American shipowners build their ship overseas and then give then a subsidy for the purpose of operating.

Now there is a new development. The new development is that I just got word that one of the Senators is proposing in the conference committee report on 6211 that they add a provision. And, lo and behold, what is the provision? The same language that is provided in the conference report that is sitting at the desk.

Mr. President, I want it understood that I am opposed to this measure, have been opposed to it. I do not believe that we ought to be spending American taxpayers' dollars to build ships overseas. And so I want one and all to know that if that provision is included in the bill when it comes back, then I am prepared to fight the passage of the bill. I do not believe that is the way to legislate, to do indirectly what you cannot do directly. I tell those Members of the Senate who are meeting in conference at the moment that if the measure comes back with the maritime provisions in it, then be prepared to discuss the subject so the American people will understand that we are doing several things at the same time: We are raising their taxes a nickel a gallon; we refuse to put a "Buy American" provision in the bill with respect to the steel and the cement used for the highways and the infrastructure that is to be built with the nickel-a-gallon; we are increasing jobs 300,000 or more, according to Martin Feldstein, and then to cap off this glorious piece of legislation we are going to put something in to provide for buying ships overseas. No way. No way. I say to those who are at the Longworth Building meeting now that I hope my words carry loud enough and clear enough to them—do not bring back the maritime subsidy for foreign built ships or be prepared to see this Senator make every effort to defeat the total piece of legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, in order that my colleagues may be fully apprised with respect to this subject, let me put in the RECORD at this point the details of these ships that are to be built overseas. These are maritime newly approved section 615 applications:

Aeron Marine Shipping Co., for the construction or acquisition of one or two new bulk vessels of about 63,000 deadweight tons each. I am frank to say I am not certain where that company is located;

Delta Steamship Lines, Inc., in conjunction with Crowley Maritime Corp., for the construction of up to 10 self-sustaining containerships, each with some break-bulk capacity. They would be built in Japan or another foreign country, and at a cost of about $35 million each;

Equity Maritime, Inc., for the construction of six Panamax-type ore/bulk/oil carriers of approximately 80,000 deadweight tons each. Three vessels are to be built at Hitachi Zosen, Japan, and three at Hyundai Corp., Korea. The total cost of the project is $168 million;

First American Bulk Carrier Corp., for the construction of two 40,000 deadweight tons bulk/container cargo vessels. Samsung Shipbuilding Co., Ltd., Korea, was named as the builder, at a total cost of $69.1 million;

Moore McCormack Bulk Transport, Inc., for the reconstruction of three tankers—the Mormacstar, Mormacsun, and Mormacky—including retrofitting to meet requirements of the 1978 Port and Tanker Safety Act. A/S Nye Fredriskstad Mek. Verksted, Norway, was named as the prime turnkey contractor, with a total cost of approximately $7,350,000;

Phoenix Bulkship II, Inc., in conjuction with El Paso Columbia Tanker Co., to reconstruct the liquefied natural gas (LNG) carrier *El Paso Columbia* as a combination dry-bulk/oil carrier. Hyundai Mipo Dockyard Co., Ltd., Korea, was named as the shipyard to perform the work, at a cost of $23 million. The Board had approved the project along with the reconstruction of the LNG carriers *El Paso Savannah* and *El Paso Cover Point* last February. However, no contract had been signed for the work on the *El Paso Columbia.*

United States Lines, Inc., for the reconstruction of the *Astral Moon* from a barge-carrying vessel to a containership. Hyundai Mipo Dockyard Co., Ltd., and Hyundai Corp., South Korea, were named as the shipyards, at a cost of $4.2 million.

Previously announced section 615 approvals included permission for American President Lines, Ltd., to reconstruct three containerships—*The Presidents Grant, Hoover,* and *Tyler*—in Japan; for Margate Shipping Co. to retrofit three tankers—*Cherry Valley, Chelsea,* and *Coronado*—in Portugal to meet provisions of the Port and Tanker Safety Act; for Ogden Marine, Inc., to build two dry-bulk carriers in Japan; for United States Lines to build 14 jumbo econship container vessels in South Korea; and for the Phoenix LNG conversion project noted above.

In addition, permission which had been granted to Delta Steamship

Lines, Inc., to reconstruct six *Santa Lucia*-type vessels in the United Kingdom was withdrawn by Delta on September 2.

Section 615 permits recipients of or applicants for operating-differential subsidy to build, reconstruct, or acquire vessels in foreign shipyards upon certification from the Maritime Administration that funds are not available in the agency's construction-differential subsidy account and approval of an application to "build foreign."

This provision became law as part of the Omnibus Budget Reconciliation Act of 1981, enacted August 13, 1981, which I might say, rather significantly, Mr. President, is a good indication of how we do legislating on the budget legislation.

I might also point out that if they include this language in the bill, it would be subject to a point of order as being beyond the scope of the conference because it certainly does not reflect a matter in disagreement between the House and Senate. Suffice it to say, the bottom line is this Senator does not want any American-owned ships built overseas if we are going to provide an operating subsidy for those same ships. Those ships should be built in this country with American workers who are presently unemployed, and I hope that the Senate conferees on 6211 will not see fit to put into that bill part of a measure that is presently pending at the desk in a conference report. If the conference report cannot fly, and I certainly will make every attempt to keep it from passing, then I do not believe it ought to be put into H.R. 6211.

I yield the floor.

RECENT EVENTS IN CENTRAL AMERICA

Mr. DODD. Mr. President, two events have occurred in the last several days affecting Central America which on their face might seem contradictory.

One was a report of a day ago that Nicaraguan forces and insurgent groups operating from the Honduran border had been engaged in sporadic combat over the past 4 or 5 days and at least, according to a Washington Post article, the Nicaraguan military forces had repulsed those insurgents from the northwestern part of Nicaragua. That is the first event.

The second event, of course, was the decision of yesterday by the Nicaraguan Ambassador resigning his post because of what he had described as a very seriously deteriorating condition in Nicaragua and the threat that the directorate there poses in terms of the leftist dictatorship which could be taken over in Nicaragua.

Mr. President, last Saturday I offered an amendment in the Chamber calling for a curtailment of financial support for paramilitary groups operating in Central America.

I wish for a few moments this morning to discuss that amendment again in light of these two events that have occurred in the last 72 hours.

I realize that raising this issue at this hour I raise the question that some have regarded as frivolous material, but I must return once again to the question posed on Saturday morning.

Obviously, I realize as well the hour is late. I realize there is a growing impatience with matters of an extraneous nature, and I realize that nothing I am going to say here this afternoon is going to change much if anything at all.

But the fact of the matter is this: The situation in Central America is rapidly deteriorating and I believe it is rapidly deteriorating because of our efforts to support paramilitary groups which are hellbent on overthrowing the Government of Nicaragua. And in the meantime, this body refuses to deal, I think, with the issue in a seious fashion.

It is a sad day indeed when "the world's greatest deliberative body" decided it does not have time to focus on questions of war and peace, and I fear that is what we are facing in Central America. That is what I believe is at stake today, and the role of the United States is a decisive one.

How does this body respond? Unfortunately, because of time constraints we only devoted a total of 30 minutes to the brief discussion and at the end of that brief discussion we delivered a decision which I think provides this administration and others with a green light to do whatever it pleases in Central America.

At the risk of sounding like an alarmist or what Lyndon Johnson used to refer to as the "nervous Nelly" I wish to make my position as clear as possible.

The decision rendered on Saturday by this body, first, may well do for Central America what the Tonkin Gulf decison did for Southeast Asia. And that decision will not be undone by accepting the Boland language as part of the continuing resolution.

Of course, the stated purpose of our policy in Central America is not to overthrow the Government of Nicaragua. And, of course, the stated purpose of our policy in Central America is not to provoke a conflict between Honduras and Nicaragua. And if we are honest about this matter, we will recognize that the Boland language does nothing more than states the obvious. In many respects it is the legislative equivalent of "blue smoke and mirrors," and we should not have any illusions about it.

Mr. President, as I tried to explain on Saturday, my concern about U.S. policy toward Central America has nothing to do with defending the Government of Nicaragua. I will not defend that government. And I have the greatest respect for Ambassador Fiallos in reaching what must have been an extremely difficult decision for him to resign his post in light of the evidence that is overwhelming that the Directorate in that country is leading that country to a Marxist state. In fact, I join with Ambassador Fiallos, or former Ambassador Fiallos, as the case may be now, in sharing his concerns about the actions and direction of the Managua-based government. But I know that the courageous action he has taken will be interpreted by some to suggest that he agrees with U.S. policy, that he believes the Sandinistas must be driven from power, in one way or another and particularly in the way that we seem to be supporting at the present time.

I spent about an hour and a half with Ambassador Fiallos yesterday, and he could not be more clear to me. He was clear as well in the press conference he held about his deep concern for the present administration policies in supporting the Somoza forces along the Honduran border, and just as concerned as he is about the direction that the Sandinista government is going, he is just as equally concerned about our support for the old guardia forces, the Somoza forces. There is a growing number of people in Nicaragua who are deeply disappointed and opposed to the policies of the Sandinistas. But it would be a serious mistake to assume that they are readily going to return to the very forces that they helped overthrow only a few short years ago.

In fact, if we want to contribute to what the Sandinistas are trying to do to the detriment of those forces inside Nicaragua who are trying to change policy in that country, then we are handing the Sandinistas a vehicle and giving them the tools which they would not otherwise be able to achieve on their own, in effect, by supporting the very forces that these people who are opposed to the Sandinistas fear even more, the Somozistas.

I know, also, however, from my conversations that the Ambassador is deeply distressed with the present policy that would encourage these Somoza guardia forces on the Honduran border. It would be a serious mistake to believe that those disagreements constitute an endorsement of U.S. policy, let alone support for the Somozista paramilitary groups operating along the border.

Mr. President, when it comes to the issue of U.S. support for paramilitary groups along the Honduran-Nicaraguan border, Ambassador Fiallos and I

are in total agreement. Both of us understand that gunboat diplomacy is no more popular in Central America today than it was at the turn of the century.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from yesterday morning's Washington Post entitled "Nicaragua Says It Repulsed Rebel Incursion In North," along with a New York Times article of today which is entitled "Nicaragua's Ex-Envoy Called Leftist Dictatorship A Threat."

There being no objection, the articles were ordered to be printed in the RECORD, as follow:

[From the Washington Post, Dec. 20, 1982]

NICARAGUA SAYS IT REPULSED REBEL INCURSION IN NORTH

(By Edward Cody)

JALAPA, NICARAGUA.—The Nicaraguan Army, in five days of sporadic combat ending last week, has broken up what it describes as a major attempt by U.S.-backed counterrevolutionary guerrillas to occupy part of Nicaragua and declare it a liberated zone.

The fighting 135 miles north of Managua involved mortar exchanges, artillery fire from Army gunners and the first open deployment of Managua's Soviet-made T55 tanks and BTR60 armored personnel carriers since the guerrillas stepped-up attacks against the three-year-old Sandinista government last summer, Army officers said.

It came in response to what Sandinista commanders here portrayed as coordinated approaches by three counterrevolutionary units totaling 900 men. This would be an unusually large force in what heretofore has been a series of harassment raids and sabotage by commando teams from hideaways inside Nicaragua and across the border in Honduras.

The State Department has refused to comment on widespread reports that the Reagan administration is providing direct and indirect assistance to the anti-Sandinista forces, saying that is it against policy to comment on intelligence matters.

The Jalapa regional commander, Capt. Rodrigo Gonzalez Garcia, said one group of about 250 men was discovered moving in from the east near the Arenal de Yali River. A second group was encountered moving west in the rugged border hills of Jesus, he said, and a third of 150 was found farther south, well inside Nicaragua, with the apparent mission of cutting off the region's only all-weather road linking Jalapa with the rest of the country.

Their aim, Gonzalez said, was to take Jalapa and make it the capital of a liberated zone in this northern-most salient of Nueva Segovia province. Although Jalapa has only 9,000 inhabitants and the area comprises mostly hillside coffee farms, occupying even a small piece of Nicaraguan territory would be a major advance for the anti-Sandinista guerrillas.

Gonzalez declared that all but a few dispersed bands were driven back into Honduras in five days of fighting that ended Tuesday, proving, in his eyes, that they are unable to remain inside Nicaragua. But he acknowledged that part of one unit came as close as two miles from Jalapa before being discovered and forced back in three days of shooting at the village of Santa Fe.

This means the guerrillas were able to advance four miles from the border hills undetected. A Sandinista officer said his men discovered more than 1,500 yards of trenches in the hills near Cerro el Aguila, suggesting the counterrevolutionaries had been inside Nicaragua some time before making their move.

A half dozen mules and ponies were seen wandering around mountain trails just under Cerro el Aguila, left behind by the retreating guerrillas. Sandinista officers said the pack animals had been used to bring guerrilla supplies across the steep slopes from Honduras, including 60 mm mortars, M60 machine guns, ammunition and food.

The counterrevolutionary units lost more than 30 men in the clashes that led to the dispersal, Gonzalez said. His own forces suffered seven killed, including two officers, and twice that many wounded, he added.

The Sandinista Army used artillery and 81 mm mortars to dislodge some guerrilla positions, an officer said. Although a few T55 tanks and BTR60 armored vehicles were deployed around Jalapa to protect it from attack, they were not used in combat, according to the Army spokesman, Capt. Roberto Sanchez.

Their deployment marked a change in Sandinista policy, however, since previously the tanks and APCs had been kept hidden from view at sites near Managua. One BTR60 seen parked at Army headquarters here was missing two of its eight wheels, apparently disabled in the rough terrain.

Foreign Minister Miguel D'Escoto dispatched two protest notes to the Honduran government Thursday, charging that the guerrillas had come from and retreated back to Honduran territory dispite pledges from President Roberto Suazo Cordova's government that they would be controlled. D'Escoto named what he said were several guerrilla camps inside Honduras and added that the Sandinista leadership "is running out of patience."

Some counterrevolutionary camps along the border were shut down about six weeks ago by the Honduran Army. Honduran military sources and Nicaraguans involved with the guerrillas said some of the units had gone to new bases inside Nicaragua while others had been taken to sites within Honduras for more training.

The latest fighting suggests the Honduran Army's decision to relocate camps amounted to an effort to gain more control and keep guerrilla activities out of public view rather than a move to halt cross-border movements.

[From the New York Times, Dec. 21, 1982]

NICARAGUA'S EX-ENVOY CALLS "LEFTIST DICTATORSHIP" A THREAT

(By Bernard Weinraub)

WASHINGTON, December 20.—Francisco Fiallos Navarro, who was removed over the weekend as Nicaraguan Ambassador to the United States, said today that his nation was threathened by a "leftist dictatorship" that censored the press and limited political freedoms.

At the same time, Mr. Fiallos said that the policy of the Reagan Administration in Central America was wrong and that the United States should stop supporting covert military activities against Nicaragua.

At times as the 36-year-old diplomat spoke at a news conference at the Ambassador's official residence, his eyes grew moist. "The love for my people, the reverence for my country and the most elemental sentiment of personal dignity could not allow me to go on representing a Government that has forbidden me to express my ideas and my feelings to the Nicaraguan people," he said quietly.

Mr. Fiallos was removed by the Sandanista Government after an interview with La Prensa, an opposition newspaper in Managua, in which the envoy called for a "dramatic change" in the direction of the Nicaraguan Government and urged "free, just and honest elections." The interview was censored out of the Dec. 10 issue of the newspaper, and Mr. Fiallos said he offered his resignation soon afterward.

Calling reporters to his residence before moving out, Mr. Fiallos said the Nicaraguan revolution was irreversible but added, "We have to avoid going from a rightist dictatorship to a leftist dictatorship.

"To overthrow a rightist dictatorship does not give us the right to repress our people, to forbid the press to publish anything they want," Mr. Fiallos, a Harvard-trained lawyer and economist, said. "We must preserve the liberties, the freedoms of the people."

Asked about the Reagan Administration's policies, which seek to encourage anti-Sandanist forces, including some aligned with the old Somoza dynasty, Mr. Fiallos said: "I think the policy of the Reagan Administration toward Nicaragua is wrong. The worst thing they can do is help the Somozins. The Nicaraguan problem should be solved between Nicaraguans and between Sandanistas. It has to be democratic. It has to be pluralistic. The problem of Nicaragua should be solved by Nicaraguans." Mr. Fiallos urged the Reagan Administration "to accept the Nicaraguan revolution as irreversible."

HE OPPOSES FOREIGN TROOPS

He added that all foreign forces had to leave the entire Central American region. "We have to get out the Cubans, the Soviets, the Americans, the Bulgarians, anybody," he said.

Mr. Fiallos, who has served here less than a year, indicated that he was unsure about returning to Nicaragua with his wife, Elsie, who stood silent several feet away as he spoke.

"For the moment I want to rest and think and then I will decide what course to take," he said. At another point Mr. Fiallos said, "I hope I will be going to Nicaragua."

Mr. Fiallos is the second Nicaraguan envoy to the United States to leave his post in disagreement with the leftist leaders in Managua. His predecessor, Arturo Cruz, resigned in late 1981 and remained in the United States.

A spokesman at the Nicaraguan Embassy said there would be no comment on Mr. Fiallo's statements but noted that his removal came as the Nicaraguan Government announced changes in diplomatic assignments to the Dominican Republic, Belgium, Ecuador, Algeria and El Salvador as well as the United States. Mr. Fiallo's successor has not been named.

TALKS WITH EXILES PROPOSED

In his comments today, Mr. Fiallos urged Nicaragua's leaders "to have a dialogue with the opposition and the Sandanistas who are not in agreement with some measures that the revolution has taken."

Many Sandanistas who fought the Somazo Government that was toppled in July 1979 have left Nicaragua, disillusioned with the revolution.

Mr. Fiallos urged Nicaragua's leaders to meet with Edén Pastora Gómez, a hero of the Nicaraguan revolution and now a leading opponent who lives in exile in Costa Rica. "I feel he should be part of the political process, the Government should have a conversation with him," Mr. Fiallos said. The envoy said there was a possibility he would see Mr. Pastora.

"I think he is a Sandanista," Mr. Fiallos said. "He is a patriotic man. He should be part of the process within the revolutionary movement."

Besides seeking an end to press censorship, Mr. Fiallos said he and a majority of Nicaraguans wanted free elections and a nonaligned foreign policy. "We are trying to save the revolution, to make it better," the diplomat said.

The envoy said he was a moderate, and added that "some elements" of the Nicaraguan leadership leaned toward the Soviet bloc.

Mr. DODD. Mr. President, I conclude by saying that it is my sincere hope that we will not find during our recess period that begins today and extends pretty much to the end of next month that kind of expanded conflict in Central America. We hope it does not occur. I hope that is not the case.

I am deeply distressed, however, by these most recent events.

Ambassador Fiallos is deeply distressed that events are moving very, very quickly and before the month is out we may find an expanded conflict in Central America far beyond the turmoil and terror that we see raging in El Salvador and Guatemala today.

I hope I am incorrect in that. I hope the administration will convey to the people involved in Honduras and to others who have been I think goading the insurgent paramilitary forces along the Honduran border to cease that activity.

We are not doing ourselves, the region, or the issue of peace or dealing with the legitimate threats that I believe we now face in Nicaragua in the most intelligent way. In fact, we may end up serving the Sandinistas all too well in their cause to achieve something other than a democratic pluralistic society in their own country.

I yield back the floor.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LUGAR). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PAYMENT-IN-KIND PROGRAM

Mr. EXON. Mr. President, we are, hopefully, in the waning hours of this session of Congress. We all know that there is a great deal going on at the present time, much of it centered around whether or not the gas tax increase is going to be passed, and tied in with that is the push by the administration additionally to pass the so-called Caribbean Initiative.

Now, as important as those two programs are, and with the strongly held views on both sides of those questions, I am very fearful that we are going to lose sight of one of the real problems in America today and that is the ever-increasing disaster that is facing the agricultural sector and the agribusiness sector of our economy.

If I understand the situation correctly, as of now H.R. 7439, as passed by the House of Representatives, is at the desk, and if it were the will of the Senate and if we would not become bogged down in filibusters on this issue, we could indeed pass H.R. 7439 as sent over by the House of Representatives.

I am afraid there are conflicting opinions as to what H.R. 7439 has done as sent over to us from the House. The first correction I would like to make, and I have checked this with Members of the House whom I consider to be experts in agriculture, H.R. 7439 was not, as advertised in the news media, an endorsement of the PIK program as advanced by the President and the Secretary of Agriculture. To the contrary, and the discussion that took place on the House floor, before H.R. 7439 was passed and sent over here, was that it was not an endorsement of the PIK program for several reasons: many of us who are very much concerned about and involved in the agricultural sector have questions about the PIK program. What are the details? How will it work? The Secretary of Agriculture, in testimony before the appropriate committees, was unable to spell that out at the present time.

It seems to me, Mr. President, that in addition to the other things that are of paramount interest today, we should be cautious indeed in the U.S. Senate by allowing adjournment of the Congress without at least taking some action on the PIK program.

Again I would emphasize that this Senator is not totally sold on PIK, but certainly it is something, with the crisis that is facing family-sized farmers today, we should give some attention to, and we should not by action or inaction, in the opinion of this Senator, simply lay back and do nothing.

It seems to me one way out of the dilemma that presently confronts us—and that dilemma is that with all of the arrangements and back room discussions that are taking place we might indeed adjourn this session of Congress without doing anything at all on PIK by allowing nothing to happen on the floor of the United States Senate—is not to allow H.R. 7439, which is presently at the desk, to die.

It seems to me that those of us who have reservations on PIK should heed the advice that has been given to us by our colleagues in the House of Representatives. H.R. 7439, as it was dispatched to the Senate, does not under any circumstance endorse the PIK program. In fact, the extended discussions that took place on this on the floor of the House of Representatives indicate there was grave concern expressed as to how the program might work, what the details would be, as the Secretary of Agriculture and the administration proceed with the development of the program.

It was very clear that the House of Representatives, in passing this bill, reserved the right to come back in the new Congress and to make or approve any changes that they feel are necessary to make that program workable and fair as it affects the farm producers of this Nation.

Mr. President, it seems to me that the House Members have adequately expressed the fears and the concerns and have not endorsed the PIK program with H.R. 7439. I am suggesting to my colleagues that, while many people are sidetracked on the other important issues that face the Congress before adjournment, at least a recognition of the despair, the economic despair that affects American farmers today, should receive some attention.

Therefore, while I endorse and believe that the alterations through amendments that were suggested to the PIK program by the Senate Agriculture Committee are in order, I think the Agriculture Committee of the U.S. Senate had made some good suggestions for appropriate amendments to the PIK program. I also understand that there are forces at work that will prevent all of the amendments suggested by the Senate Agriculture Committee from passing, indeed, probably not even coming to a vote in these closing hours.

Therefore, I would throw out the suggestion to my colleagues who are listening to me on the floor of the U.S. Senate right now and those who hopefully are listening over our communications system to the offices and the Senate buildings and their staffs, that the Senator from Nebraska is calling for at least consideration of the passage of H.R. 7439 as it presently rests at the desk as the minimum that we should do with regard to the PIK program.

It would seem to me that we could develop some type of a consensus on this. It certainly does not address any of the fears of most of us with regard to PIK, but certainly if we give the authority that the administration has requested—and I would simply outline that, as I understand H.R. 7439, and I

believe I am correct, it does not endorse PIK, it simply waives the $50,000 limit that is presently in the agriculture bill and it does one other thing. Second, it would allow the administration the authority to plan a program and not have to deal with the present 110-percent limit with regard to the storage of certain grains in the reserve program.

I would simply say to my colleagues that if the administration comes forth with a program now and before the beginning of the next Congress or during that Congress, if we believe that the program they have advanced is not workable, is not reasonable and would further harm the agriculture sector of our economy, then I would suggest that we have the ample means to deal with that at that particular time. If we could simply pass H.R. 7439, then we are not endorsing PIK and we are not signing off that the administration has the right to go ahead and promulgate any rules and regulations and bureaucratic red tape that they want.

We are simply saying, "We give you, the administration and the Secretary of Agriculture, the right to proceed as you have requested." And, if I understand what the administration has requested, they say that all that they need to do now in legislation is for us to enact H.R. 7439 that contains the two provisions that I have outlined.

Therefore, it seems to me that with all of the other difficulties that we have, and if we are not successful in getting the Senate to accept the worthy amendments that have been offered by the Senate Agriculture Committee, as a minimum, if we cannot do anything else, we should pass H.R. 7439, with the clear understanding of the reservations that this Senator has expressed.

Mr. President, I yield the floor.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislation clerk proceeded to call the roll.

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF BARTHOLOMEW HLAPANE

Mr. DENTON. Mr. President, I am saddened and shocked to learn of the death of Mr. Bartholomew Hlapane, a former member of the African National Congress (ANC) and the South African Communist Party, who was murdered in his home on December 16, 1982, in Soweto by assassins with AK-47 assault rifles. Based on the modus operandi and the choice of the weapon, it appears that these people were ANC terrorists. I am also informed that his wife, who was critically wounded, passed away in a hospital the following morning.

On March 25, 1982, Mr. Hlapane courageously testified before the U.S. Senate Subcommittee on Security and Terrorism about the clandestine role of the South African Communist Party in the ANC and in the formation of the ANC's terrorist wing, Umkonto We Sizwe, "The Spear of the Nation." Prior to giving that testimony, Mr. Hlapane met with the other witnesses, former members of the ANC and the South West Africa People's Organization (SWAPO), to discuss the possible consequences of their testimony. Mr. Hlapane and the other witnesses, knowing they would be marked for assassination, each made an individual decision to tell his story and to expose the role of the Soviet Union and other Communist countries in subverting and exploiting the ANC and SWAPO to accomplish their own foreign policy objectives. Those brave witnesses believed that someone had to tell the world the truth about what is really happening in Southern Africa. They said that if they did not do it, the real story would probably never be told.

Mr. Hlapane told his story. He has now paid the supreme price for his courage and truthfulness. It is my fervent hope that the tragic death of Mr. Hlapane and his wife will not pass unnoticed, but will serve to strip away from the ANC any vestige of legitimacy and expose its brutally terroristic nature for all the world to see. As another witness testified at the hearing, one does not resign from the organization—there is only one way out.

Mr. President, every member of this body should express his or her revulsion at the cruel and unwarranted act of vengeance against a Senate witness and his wife. If we make the mistake of ignoring this incident, we will indirectly sanction the killing of an important witness. We will signal others who may be inclined to testify that, once they have testified, our Government will not attempt to prevent those who are offended by the testimony from exacting the full measure of retribution.

Mr. President, the brutal murders are not only heinous offenses against two innocent people, but are in all out effort by a terrorist gang to intimidate the Senate itself.

I ask unanimous consent that the testimony given by Mr. Hlapane before the Subcommittee on Security and Terrorism on March 25, 1982, be placed in the RECORD immediately following my statement.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF BARTHOLOMEW HLAPANE

Mr. HLAPANE. I was born on August 24, 1918, in the Ficksburg District of the Orange Free State, South Africa. I became interested in politics in 1948 and joined the African National Congress (ANC) as an ordinary branch member. In 1952, I was appointed the branch secretary of the Jabavu Branch of the African National Congress, and in 1955 I was elected an ordinary member of Transvaal Executive Committee, at the same time being appointed an organizer of the Eastern Transvaal and East Rand regions of the African National Congress. I served in this position until 1959.

The African National Congress' aims and objects were to achieve democratic rights for the African people through peaceful means, and the organization's structure is as follows.

The lowest organ of the African National Congress is a branch, above which are regional committees, provincial committees and, at the top, control is exercised by the National Executive Committee.

The National Executive decided on matters of policy and instructed its organs to carry them out. Members of the African National Congress were recruited and given membership cards, and any African who wanted to join the African National Congress was allowed to do so.

During 1960, the African National Congress was banned and a state of emergency was declared by the South African Government. Almost all the members of the National Executive of the ANC were detained. The only exception was Moses Kotane. I was not detained.

I was then appointed to the National Executive of the African National Congress together with Moses Kotane, Ruth Matswane, Gordon Magote, and a woman by the name of Sebeko. Moses Kotane, Ruth Matswane, and myself also constituted the National Secretariat of the African National Congress.

The above-mentioned committee functioned only up to the end of the emergency. When the emergency ended, the old National Executive took over. A formal meeting of the National Executive was held and the new committee handed over to the old committee.

Moses Kotane, J. B. Marks, Duma Nokwe, Dan Tloome, and Walter Sisulu were all members of the old committee which took over from us and who had to decide whether the African National Congress had to go underground and if the activities had to continue or not. Subsequently, it was decided that the African National Congress would continue its activities underground.

I was then appointed to the Johannesburg Regional Committee of the African National Congress. A meeting consisting of delegates of the African National Congress, the Communist Party, Congress of Democrats, and the Indian Congress was held in Johannesburg during the first part of 1961 to discuss the formation of Umkonto We Sizwe, the military wing of the African National Congress.

Mr. Chairman, here I would say, if you would permit me, Umkonto We Sizwe, in English, was understood to be the "Spear of the Nation."

Senator DENTON. The "Spear of the Nation?"

Mr. HLAPANE. This is correct.

Senator DENTON. Thank you.

Mr. HLAPANE. I did not attend this meeting, but learned after the meeting that there was serious disagreement amongst the delegates and that no decision had been taken. Shortly after this meeting, Umkonto We Sizwe was formed, at the sole decision of

the African National Congress and the Communist Party.

In 1955, I was recruited by Joe Slovo, Mr. Chairman, again, if you would allow me, before I get to that, I think I should explain how the membership of the Communist Party was recruited. I have dealt with the membership of the African National Congress and how it was recruited, but I did not explain how the Communist Party recruited its membership.

Being a Communist, Mr. Chairman, we did not take anybody who wanted to join the Communist Party; its membership was strictly selective. It was a standing rule of the Communist Party that all its memberships go out to all mass organizations or even community organizations to find out about people who are influential, who are clever, and who could be recruited as members of the party, first of all getting these people interested in the party by giving them pamphlets and some literature concerning the party, and later on getting them into some discussions, and then if we are satisfied that they have interest, get them into some lecture rooms.

I will say now what Joe Slovo did with me. In 1955, I was recruited by Joe Slovo and became a member of the South African Communist Party. Slovo was my tutor and taught me the principles of communism, and later I was placed in a cell of the Jabavu Branch of the South African Communist Party, which at that time had already been proscribed and was operating illegally.

The structure of the South African Communist Party was as follows. The lowest organ of the organization was a cell, then a branch, a district committee, and eventually the central committee. A cell is an organ functioning in an area and composed of not less than three or more than five members. Its main purpose was to work amongst members of national organizations, trade unions and community organizations in order to influence their members to advance the aims and objects of the Communist Party.

The functions of a branch of the Communist Party were to coordinate the functions of the various cells and report to the district committee, which in turn was in charge of the province.

At the beginning, I was only an ordinary member of a cell consisting of five members, one of these being our contact with the branch committee, through whom we got instructions on how to organize and direct the African National Congress, and to recruit members for the Communist Party.

It is a standing rule that members of the South African Communist Party must along belong to a mass organization, such as the African National Congress or the South African Congress of Trade Unions. The idea was to get members to infiltrate any organization described as reactionary, to undermine the leadership and ultimately gain control of such organizations.

Between 1955 and early in 1960, I belonged to various cells of the South African Communist Party because of reorganization within the party, and during this period I was co-opted into the branch committee of the Communist Party. In October 1961, I was co-opted into the Johannesburg District Committee of the Communist Party, and at the same time was appointed a full-time functionary—that is, organizing secretary—with a fixed salary and given a car. All the organs of the South African Communist Party falling under the Johannesburg District Committee were under my control.

The main functions of the district committee were: (A) to carry out the instructions of the central committee and, in turn, to convey them to the lower organs of the South African Communist Party; (B) to receive reports from lower organs, discuss them, make decisions, and instruct the lower organs as to what action to take; (C) to supervise the branch committees and cells.

At this stage, Joe Slovo was a member of the central committee of the South African Communist Party and was our contact with the central committee.

After being co-opted into the Johannesburg District Committee of the South African Communist Party, I became a link between the National Executive of the African National Congress and the Transvaal Executive of the ANC.

I was also placed in charge of the African Area Committee of the South African Communist Party Johannesburg District Committee. Andrew Kumene and John Motsabi served with me on this area committee. The various area committees were: the African Area Committee, Trades Unions Area Committee, the Indian Area Committee, and the European Area Committee.

The above area committees, in turn, were responsible to the district committee of the South African Communist Party, and they were similarly directed by the said district committee.

The functions of these area committees were mainly the following: (A) to carry out the instructions of the district committee; (B) to supervise the cells or units; (C) other organizational matters.

I was in charge of the African Area Committee. Joe Slovo was representing the district committee on the central committee of the South African Communist Party.

At this stage, 1961, Ben Turok handled the party's finances. The finances for party purposes were derived from the following sources: (A) advances by the Soviet Union; (B) advances by Communist China; (C) by way of subscriptions by ordinary members of the party; (D) advances by the Communist Party of England.

Finances were mainly used for the following purposes: (A) paying of salaries to all organizers and other paid officials; (B) printing and propaganda matters; (C) purchasing of literature from overseas; (D) transport; (E) to assist other organizations, such as the African National Congress, the South African Congress of Trade Unions, Congress of Democrats and the Indian Congress, and also for the Federation of South African Women; (F) to pay for the defense of persons arrested for offenses under the Suppression of Communism Act and like offenses.

The Defense and Aid Fund, which at this juncture already existed, was extensively used for the purposes of the South African Communist Party. In turn, cash advances toward the fund were made by the South African Communist Party.

I was co-opted onto the central committee of the South African Communist Party toward the end of 1962 at a national conference of the South African Communist Party. All the Africans were members of the African National Congress, and most of them were members of the National Executive Committee of the African National Congress. And in this way, the South African Communist Party was able to influence and control the African National Congress.

Two resolutions were passed at this national conference concerning: (A) the program of action of the South African Communist Party—this was distributed in pamphlet form; (B) plans to organize and step up the activities of Umkonto We Sizwe. It was emphasized that we were embarking on the second phase. Joe Slovo represented Umkonto We Sizwe at this national conference.

Shortly after the national conference, I attended my first meeting of the central committee of the South African Communist Party. Not long after this meeting, Moses Kotane was placed under house arrest by the South African police, and we decided that he ought to leave the country. He went first to Bechuanaland, then on to Dar-es-Salaam.

During May 1963, Joe Slovo and J. B. Marks also left South Africa on the advice of the central committee. We decided that they would be based in London, from where they would contact organizations sympathetic to the African National Congress cause, give prominence to the activities of the African National Congress and Umkonto We Sizwe, and thus further the objectives of the freedom cause.

I was detained for questioning by the South African police on June 24, 1963, and released on December 13, 1963. During my detention on July 11, 1963, the police raided Lilliesleaf, a small holding at Rivonia, and arrested the members of the high command of Umkonto We Sizwe. These arrests led to the so-called Rivonia trial.

After my release by the police, I was suspended from both the ANC and South African Communist Party until April 1964. This was standard practice in both movements to ascertain whether or not a person who had been detained had not perhaps decided to become an informer while in detention.

Shortly before Christmas in 1963, I was, however, told by Dan Tloome to meet Hilda Bernstein at the offices of the Defense and Aid Fund in Kerk Street, Johannesburg. I kept this appointment and met Hilda Bernstein. She grilled me for abut 2 hours on the questions put to me by the police while under detention and the answers I gave to them. She did not intimate to me whether she was satisfied with the answers I gave her or not.

I am convinced that there was suspicion against me for having disclosed the whereabouts or existence of Rivonia, and I attribute my long suspension to this.

During March 1964, I was approached by Gabula Mahlasela. He informed me that due to other duties which had been imposed upon him, he could no longer carry out his duties on the regional committee of the African National Congress, and he nominated me to replace him on this committee.

Before Mahlasela could, however, introduce me to the regional committee, he was detained and I was once again left very much in the dark.

Early in April 1964, I was approached by Mike Dingaka. He informed me that I was to act on the regional committee of the African National Congress, as informed by Mahlasela prior to his arrest. He instructed me to report at the house of Letooane in Westcliff Extension on a given evening to meet the members of this Committee. Soon thereafter, I went to Letooane's house, as instructed.

I acted on this regional committee in a supervisory capacity and did not represent an area. At these and subsequent meetings of the regional committee, we discussed the program of the African National Congress

in an attempt to find means of effectively reorganizing it.

Soon thereafter, as part of the reorganization, I was co-opted onto the national secretariat of the African National Congress, where I served with Mike Dingaka, Levy Soloro, Nkonyana, and Mike Ngobeni.

At this stage, Dan Tloome and Alfred Nzo had left the Republic. Dan Tloome had been sent to Northern Rhodesia—Northern Rhodesia is today Zambia—in an effort to organize the establishment of a new headquarters for the African National Congress.

The Lukasa prospect of new headquarters was abandoned. Alfred Nzo was a member of the National Executive of the African National Congress, but because of hardships which he had suffered, it was felt that he had taken much punishment and that he should leave South Africa.

Bri Bri (Wilton Makwai) was solely responsible for their departures, as he was handling all such matters because he had the necessary pilots and contacts which minimized the risks pertaining to the organizing of escapes to Bechuanaland. Both Dan Tloome and Alfred Nzo are still outside of South Africa, and I understand that Nzo is now secretary-general of the African National Congress and Tloome deputy secretary-general.

I was detained by the police again on September 2, 1964, not long after my co-option onto the National Executive Committee of the African National Congress, on which I served with Bri-Bri (Wilton Makwai), Mike Dingaka, and Gabula Mahlasela.

During the 5 months between April 1964 and my detention on September 2, 1964, I was also brought back into the South African Communist Party. In April, I was approached by Mike Dingaka and informed that the district committee of the Communist Party had decided that I should serve on the African Area Committee of the party. I was subsequently introduced by Mike to the members of the African Area Committee.

We discussed various matters concerned with the African National Congress and the Communist Party. It was decided that I would also be drafted into an African cell of the Communist Party.

We held the first meeting of the cell at the house of Beauty Magote. We discussed the African National Congress and the Communist Party. The main program was the reorganization of the party and the African National Congress.

Toward the end of May 1964 and about a week before Dan Tloome left the country, I was summoned to his office. Dan Tloome informed me that I had been co-oped to the central committee of the Communist Party, as he was about to flee the country.

Dan told me that I would have to take over the finances in his absence. He told me also who my contacts were. He said I would be informed as to the origin of such funds by the central committee.

During June 1964, I was approached by Mike Dingaka, who said that I would be met by an Indian called Mack. I would find Mack seated on a certain day in the Kapitan Cafe in Kort Street, Johannesburg. I was to approach this Indian by saying, "Are you Mack?" And when he said "yes," I would introduce myself as Arthur.

I carried out instructions as outlined above on the prearranged day, and there I met Mack for the first time. Mack informed me that a meeting of the Communist Party would take place on a Saturday soon thereafter. Mack said that he would pick me up in his car for this meeting.

On the Saturday morning in question, Mack collected me and took me to a block of flats in Berea. In the flat which Mack indicated, I found Hilda Bernstein and Ivan Schermbrucker. Mack then joined us. Later in the morning, Abraham Fischer joined us and took the chair.

Among other matters, we discussed my position as treasurer. I was told that Mack was to be my contact and that wherever I needed cash, Mack would obtain it from Piet Beyleveld and Ivan Schermbrucker. Mack and I were to meet once a week to check up and to find out if there were any emergencies.

Second, we discussed the position of the African National Congress. I was not in possession of all the facts and the issue was left over for the next meeting.

Next, we discussed the position of Mack. He was asked whether he had severed all his connections with all other committees, including the Umkonto. This, however, included the district committee of the South African Communist Party, of which Mack was a member. Mack reported that he had not as yet finalized his association with such other committees and was still tied up to the Umkonto group. He was instructed to finalize these issues.

Next, we discussed the code system which would be handled by Hilda Bernstein. She explained that she had written to an address in London. All correspondence for any other center beyond the borders of the Republic were sent directly to London, from where it was readdressed to the persons and places intended. This London address——

Senator DENTON. Mr. Hlapane, excuse me, sir. You are the most experienced witness we have in the ANC and in the South African Communist Party.

Since we have your full prepared statement, which has been distributed, and since we are short on time, I would ask your permission to proceed to the questions, with the understanding that your entire statement will be included in the record.

Would you agree to that, sir?

Mr. HLAPANE. I have no objection, sir.

Senator DENTON. Thank you, sir.

You have presented us with remarkable narrative of your involvement in politics, of your experience and participation in the African National Congress, and of your experience and membership in the South African Communist Party.

You were a high official; you were involved as an individual in some of the most important events in the modern history of South Africa, indeed of Africa and, to a degree, of the entire world. So. I would like to ask you some questions in order to draw further from that valuable experience.

Would you please tell us why you decided to leave the ANC and the South African Communist Party?

Mr. HLAPANE. I decided to part with the African National Congress and the Communist Party, first, as result of their treatment of my family. Every time I got locked up, promises that were made to my family were never fulfilled; promises that were made to all the people that were locked up in jail were never fulfilled.

Many men were locked up; women and children were starving. All the promises that had been made that they would provide food for them were never fulfilled. And those who had been arrested, we promised to pay for them in jail or even to defend them. Those promises were never fulfilled.

I personally found that the Communists were dishonest and most of them had run out of the country and left us in this mess. And the families of many people who were never released came to my house and demanded now to get food and help from me. I was left with this baby in my hands and I did not know where to turn to.

I discovered that the African National Congress policy had now been changed. Now, the Umkonto We Sizwe was brought into the picture; that was not the original policy of the African National Congress. I joined this organization under the understanding that whatever we are doing, we are going to achieve democratic rights by peaceful means, but we were now changing to violence and we intended now overthrowing the state of the Republic of South Africa: That was not the original aim.

And when people like Chief Luthuli pulled out in 1961 and said, "Now that you are entering in violence"—1961 was when Umkonto We Sizwe was formed—I felt that we no longer followed, really, what we told the people of South Africa.

And I started thinking about all the presidents of the African National Congress. I can name them: Reverend Tansi, Dr. Moroka, and Chief Luthuli; none of them ever supported a policy of violence.

And these are the matters that come to me strongly when I kept on going into jail and finding that the Communists were dishonest and they misled us. And to come to the rescue of many people, I decided to pull out and openly cooperate with the police, because innocent people were being arrested and did not know that the Communist Party had, in fact, captured the leadership of the African National Congress. And the African National Congress could not do what they wanted, except to get permission from the Communist Party.

Those are some of the things that influenced me to pull out of it.

Senator DENTON. That is not only an informative answer but, if I may say so, sir, a very statesman-like answer. I am very happy for the free world that you are no longer on the side of those who would undo it.

You have been given a list of the members of the National Executive Committee of ANC. Please look at that list and tell us if you see any names of people whom you know or who you believe to be members of the South African Communist Party.[1]

Mr. HLAPANE. May I understand the question clearly, sir?

Senator DENTON. Yes.

Mr. HLAPANE. Would you like me to mention names of people I know here, or only those of the Communist Party.

Senator DENTON. Those whom you know to be members.

Mr. HLAPANE. For instance, we have Oliver Tambo there right on top. I know him, but I do not know him as a Communist.

Senator DENTON. Yes; those whom you know to be members of the Communist Party.

Mr. HLAPANE. Dan Tloome.

Senator DENTON. Dan Tloome.

Mr. HLAPANE. Josiah Jele, Joe Slovo, Reginald September, Thabo Mbeki, Stephen Dlamini, John Nkadimeng. I think that is all, sir.

Senator DENTON. Who was the one sir, after John Nkadimeng? Did you mention another name after him?

Mr. HLAPANE. I beg your pardon?

[1] The chart Mr. Hlapane was given appears on p. 34 of the March 22, 1982, hearing record.

Senator DENTON. John Nkadimeng is the last one you mentioned as a Communist, or did you mention one more?

Mr. HLAPANE. John Nkadimeng.

Senator DENTON. That is the last one you mentioned?

Mr. HLAPANE. Yes, that is the last one I mentioned.

Senator DENTON. All right, sir; thank you. Seven out of 22; one-third of the National Executive Committee are known Communists.

As you have pointed out, the aims of the African National Congress were originally peaceful. As you stated, the aims were to achieve democratic rights for the African people through peaceful means.

What were the aims and objectives of the South African Communist Party?

Mr. HLAPANE. The short-term policy of the South African Communist Party was to achieve democratic rights for the African people, like all other organizations, which was the first step. The second step was to go forward and establish a socialist state; that is the long-term policy.

Senator DENTON. All right, sir. That is consistent with all of the testimony we have previously received. The short-term stage is liberalization in the sense that the ANC wanted it, but by violent means; then, the second stage is clearly the establishment of a socialist state.

In your opinion, does the ANC, as it is presently composed and operating, represent the will of the people of South Africa?

Mr. HLAPANE. I would not say so at the present moment. There was a stage when the African National Congress represented the feelings of the people of South Africa, the blacks.

Senator DENTON. Yes.

Mr. HLAPANE. That was before it was banned; that was before it embarked on the policy of violence. That was at the stage when the people even in the countryside, some of them—the chiefs, and so on—supported the policy of the African National Congress.

For instance, the coming of Chief Luthuli to become the president of the African National Congress does show the interest that the people in the countryside had in the policy of the African National Congress.

But I think a parting of the ways started when the Communist Party applied pressure on the leadership of the African National Congress to embark on a violent policy. We can now go further and say their position in South Africa is now different from what is used to be.

You have what we call these separate developments. That was the intention of the South African government, though I do not really say I agree with that. But they have done something, and whether we like it or not, the situation is there.

They have got this separate development, you know; they have got each tribal group in a position. For example, you take the Transkei, you take Bophuthatswana, you take Zululand, and you take other tribal groups—Basotho, and so on. They placed them in their own areas where they say, "Well, you can make laws to govern yourselves and you can do this for yourselves, and your own people control you," and so on. "We have the whites out of you," and so on.

And the chiefs have taken this up, and I can assure you, you will find it difficult if you go to South Africa today to try and say that the Prime Minister of South Africa is wrong by so doing. Some people may find it, you know, wrong to divide South Africa into portions and call them states.

I agree with them to some extent, but it is there. What do you do? These people now support the government of South Africa. In fact, if I may call upon my friend, Mr. Tambo, to go back to South Africa and try and say that he is a member of the African National Congress and he will be sending the ANC and doing away with all these legal things—say, for instance, "Now, Matanzima (phonetic), you do away with this nonsense; we want you to fall under the African National Congress." He would be killed on the spot.

I think that is the situation we are facing in South Africa, and, as a result, one would definitely say that the African National Congress today has not much support amongst the black people of South Africa.

Senator DENTON. Thank you, sir. I will ask you a question now from Senator EAST, who is another member of this subcommittee.

You have mentioned Joe Slovo as one of those who is a communist. Did you know Joe Slovo's wife?

Mr. HLAPANE. I know his wife, Ruth Slovo, her maiden name being Ruth First.

Senator DENTON. Her maiden name is Ruth what?

Mr. HLAPANE. First, F-i-r-s-t.

Senator DENTON. Ruth First?

Mr. HLAPANE. That is right. She is the daughter of Mr. First, who owned a carpentry factory in an area called Industria in Johannesburg; that is what her father owned.

Senator DENTON. Would you describe what you know of her activities in the South African Communist Party?

Mr. HLAPANE. I know her to have been a member of the Communist Party, and she was a reporter for a newspaper of the Communist Party, called Advance, and I think it was called New Age later when it was finally banned.

Senator DENTON. Under the original constitution of the ANC, were the members permitted to resign?

Mr. HLAPANE. You were allowed to resign as you wished.

Senator DENTON. Why and how was Umkonto We Sizwe formed?

Mr. HLAPANE. I do not follow you.

Senator DENTON. The organization Umkonto We Sizwe—I think you have already established that that was formed by the ANC and SACP only. Is that correct?

Mr. HLAPANE. That is correct.

Senator DENTON. Did all funds for that organization—"the Spear for the Nation," in English—did all funds for it reach the movement through the South African Communist Party? Did they receive all their funds from the South African Communist Party?

Mr. HLAPANE. They received all their funds from the Communist Party of South Africa.

Senator DENTON. Is there anything that you have not stated about the purposes of Umkonto We Sizwe that you would like to express now?

Mr. HLAPANE. I do not have anything at the moment.

Senator DENTON. What was the Freedom Charter, and what role did Joe Slovo play in its creation?

Mr. HLAPANE. The Freedom Charter is a document adopted at a conference held in Kliptown by the Congress Alliance. Let me go further to explain that it consisted of organizations such as the African National Congress, the Congress of Democrats, the South African Congress of Trade Unions, Colored People's Organization, and the Indian Congress.

It is a document that I came to know about just having been drafted by Joe Slovo at the request of the central committee, and finally approved by the central committee of the Communist Party and sent down as a document that embodied all the demands of the people, as they were collected from all areas. It was placed before them for adoption, and finally it was adopted there.

Senator DENTON. In your written statement, which has been submitted for the record but which you did not reach in your verbal testimony, you say that when you were treasurer of the South African Communist Party, you had to pay large sums of money each month to Bri-Bri, Tiny Nokew and Mike Dingaka. What were these funds for?

Mr. HLAPANE. I think it would be correct to say these were sort of departments that I dealt with. Bri-Bri was responsible for Umkonto We Sizwe, and to carry out his work he needed money for all the activities of Umkonto We Sizwe—for transporting, paying out functionaries, and other matters. The same applies to the others.

Senator DENTON. Thank you, sir. Have any threats or promises been made to you by anyone with respect to your testimony before this subcommittee?

Mr. HLAPANE. I had no promises made to me.

Senator DENTON. How about threats?

Mr. HLAPANE. I beg your pardon?

Senator DENTON. Any threats made to you?

Mr. HLAPANE. No threats at all. I am doing this freely.

Senator DENTON. Yes, sir. We have a series of documents supporting your testimony which we will include in the record—the consititution of the ANC adopted in January 1958 and chapter 15 of the book "An African Explains Apartheid," by Jordan K. Kgubane, which is entitled "African Nationalism Sabotaged." Mr. Ngubane explains clearly, as you did, how the SACP gained control of the ANC. The final document is the "Constitution and Rules" of the SACP which was originally adopted in 1921.

I thank you again. You could give me lessons in the English language, as well as in international relations and many other fi 's. I express my admiration for you, Mr. Hlapane, and I wish you a long, healthful and successful life.

Mr. HLAPANE. Thank you, sir.

[The prepared statement of Mr. Hlapane follows: [2]

PREPARED STATEMENT OF BARTHOLOMEW HLAPANE

I was born on the 24th of August, 1918 in the Ficksburg District of the Orange Free State, South Africa. I completed ten years of schooling and received my Standard Eight certificate.

I became interested in politics in 1948, and joined the African National Congress (ANC) as an ordinary branch member. In 1952 I was appointed the branch secretary of the Jabavu Branch of the ANC and in 1955 I was elected an ordinary member of the Transvaal Executive Committee, at the same time being appointed as organizer of the Eastern Transvaal and East Rand regions of the ANC. I served in this position until 1959.

The ANC's aims and objects were to achieve democratic rights for the African people through peaceful means, and the organisation's structure is as follows:

The lowest organ of the organization is a branch, above which are regional commit-

[2] The chart Mr. Hlapane was given appears on p. 34 of the March 22, 1982, hearing record.

tees, provincial committees and at the top control is exercised by the National Executive Committee.

The National Executive decided on matters of policy and instructed its organs to carry them out. Members of the ANC were recruited and given membership cards and any African who wanted to join the ANC was allowed to do so.

During 1960 the A.N.C. was banned and a State of Emergency was declared by the S.A. Government. Almost all the members of the National Executive of the A.N.C. were detained. The only exception was MOSES KOTANE.

I was not detained.

I was then appointed to the National Executive of the A.N.C. together with Moses Kotane, Ruth Matswane, Gordon Magote and a woman by the name of SEBEKO.

Moses Kotane, Ruth Matswane and myself also constituted the National Secretariat of the A.N.C.

The above mentioned committee functioned only up to the end of the emergency.

When the emergency ended the old National Executive took over. A formal meeting of the National Executive was held and the new committee handed over to the old committee.

Moses, Kotane, J. B. Marks, Duma Nokwe, Dan Tloome and Walter Sisulu were all members of the old committee which took over from us and who had to decide whether the A.N.C. had to go underground and if the activities had to continue or not.

Subsequently it was decided that the A.N.C. would continue its activities underground.

I was then appointed to the Johannesburg Regional Committee of the A.N.C. together with Andrew Mlangene, Philcemon Matole, Abel Mtembu, John Motshabi, Tom Nkobi, Alfred Nzo, Stephen Segale and David Mahopo.

A meeting consisting of delegates of the A.N.C., the Communist Party, Congress of Democrats and the Indian Congress was held in Johannesburg during the first part of 1961 to discuss the formation of Umkonto We Sizwe, the military wing of the ANC.

I did not attend this meeting but learnt after the meeting that there was serious disagreement amongst the delegates and that no decision had been taken.

Shortly after this meeting Umkonto We Sizwe was formed, at the sole decision of the A.N.C. and the S.A. Communist Party.

In 1955 I was recruited by Joe Slovo and became a member of the SA Communist Party. Slovo was my tutor and taught me the principles of Communism, and later I was placed in a cell of the Jabavu branch of the SACP, which at that time had already been proscribed and was operating illegally.

The structure of the SACP was as follows:

The lowest organ of the organization was a Cell, then a Branch a District Committee and eventually the Central Committee. A Cell is an organ functioning in an area and composed of not less than three or more than five members. Its main purpose was to work amongst members of national organizations, trade unions and community organizations in order to influence their members to advance the aims and objects of the Communist Party.

The functions of a Branch of the Communist Party were to co-ordinate the functions of various cells and report to the District Committee which in turn was in charge of the province.

At the beginning I was only an ordinary member of a Cell consisting of 5 members, one of these being our contact with the Branch committee, through whom we got instructions on how to organize and direct the ANC and to recruit members for the Communist Party. It is a standing rule that members of the SACP must also belong to a mass organisation, such as the ANC or the SA Congress of Trade Unions. The idea was to get members to infiltrate any organisation described as reactionary, to undermine the leadership and ultimate gain control of such organisations.

Between 1955, and early in 1960 I belonged to various Cells of the SACP because of reorganization within the party, and during this period I was co-opted into the branch committee of the Communist Party. In October 1961 I was co-opted into the Johannesburg District Committee of the SACP, and at the same time was appointed a full-time functionary, i.e. Organizing Secretary, with a fixed salary and given a car. All the organs of the SACP falling under the Johannesburg District Committee were under my control.

The following persons served with me on the District Committee:

Bov Hepple, Ben Turok, Esther Barsel, Andrew Kunene, Ahmed Kathrada, and Joe Slovo.

The main functions of the District Committee were:

(a) To carry out the instructions of the Central Committee and in turn to convey them to the lower organs of the SACP.

(b) To receive reports from lower organs, discuss them, make decisions, and instruct the lower organs as to what action to take.

(c) To supervise the branch committees and cells. At this stage Joe Slovo was a member of the Central Committee of the SACP and was our contact with the Central Committee. The ANC was proscribed during 1960 and it decided to go underground. We then found it difficult to operate as an organization on its own, and had difficulty in getting people who could be employed as full-time organizers and have offices that were not known to the police. Most of the leading members had also gone underground and found it difficult to make contact with the ordinary ANC members.

After being co-opted into the Johannesburg District of the SACP I became a link between the National Executive of the ANC and the Transvaal Executive of the ANC.

I was also placed in charge of the African Area Committee of the SACP Johannesburg District Committee. Andrew Kumene and John Motsabi served with me on this Area Committee. The various Area Committee were:

The African Area Committee.

The Trade Unions Area Committee.

The Indian Area Committee.

The European Area Committee.

The above area committees were in turn responsible to the District Committee of the S.A. Communist Party and they were similarly directed by the said District Committee.

The functions of these area committees were mainly the following:

(A) To carry out the instructions of the District Committee.

(B) To supervise the cells or units.

(C) Other organizational matters.

At the same time I served in the Secretariat of the District Committee, with Bob Hepple, Ben Turok, and Ahmed Kathrada.

Kathrada was in charge of the Indian Area Committee, Bob Hepple was in charge of the Trade Unions Area Committee, Ben Turok was in charge of the European Area Committee.

I was in charge of the African Area Committee.

Joe Slovo was representing the District Committee on the Central Committee of the S.S. Communist Party.

At this stage, 1961, Ben Turok handled the Party's finances. The finances for Party purposes were derived from the following sources:

(A) Advances by the Soviet Union.

(B) Advances by Communist China.

(C) By way of subscriptions by ordinary members of the Party.

(D) Advances by the Communist Party of England.

Finances were mainly used for the following purposes:

(A) Paying of salaries to all organizers and other paid officials.

(B) Printing and propaganda matters.

(C) Purchasing of literature from overseas.

(D) Transport.

(E) To assist other organisations, such as A.N.C., S.A.C.T.U., Congress of Democrats and the Indian Congress and also for the Federation of South African Women.

(F) To pay for the defence of persons arrested for offences under the Suppression of Communism Act and the like offences.

The Defence and Aif Fund which at this junction already existed, was extensively used for the purposes of the S.A. Communist Party. In turn, cash advances towards the fund were made by the S.A. Communist Party.

I was co-opted onto the Central Committee of the SACP towards the end of 1962, at a National Conference of the SACP attended by the following members, among others:

Moses Kotane, M. P. Naiker, Joe Matthews, Ruth Slovo, J. B. Marks, Fred Carneson, Ahmed Kathrada, Govan Mbeki, Michael Harmel, Duma Nokwe, Bob Hepple, Billy Nair, Walter Sisulu, Joe Slovo, Dan Tloome, Rusty and Hilda Bernstein, Stephen Dlamini and Mark Shope.

All the Africans were members of the ANC and most of them were members of the National Executive Committee of the ANC and in this way the S.A. Communist Party was able to influence and control the ANC.

Two resolutions were passed at this National Conference concerning:

(A) The Programme of Action of the S.A. Communist Party. This was distributed in pamphlet form.

(B) Plans to organise and step up the activities of Umkonto We Sizwe. It was emphasised that we were embarking on the second phase. Joe Slovo represented Umkonto We Sizwe at this National Conference.

Shortly after the National Conference, I attended my first meeting of the Central Committee of the S.A. Communist Party. The following members were present:

Moses Kotane, Duma Nokwe, J. S. Marks, Walter Sisulu, Joe Slovo, Rusty Bernstein, Bob Hepple, Michael Harmel, Abrahm Fischer, Ruth Slovo, and Bartholomew Hlapane.

Not long after this meeting, Moses Kotane was placed under house arrest by the South African police and we decided that he ought to leave the country. He went first to Bechuanaland, then on to Dar-es-Salaam.

During May 1963 Joe Slovo and J. B. Marks also left South Africa on the advice of the Central Committee. We decided that they would be based in London from where they would contact organizations sympa-

thetic to the ANC cause, give prominence to the activities of the ANC and Umkonto We Sizwe and thus further the objectives of the Freedom Cause.

I was detained for questioning by the South African Police on 24 June 1963 and released on 13 December 1963. During my detention on 11 July 1963 the police raided "Lilliesleaf", a smallholding at Rivonia, and arrested the members of the High Command of Umkonto We Sizwe. These arrests led to the so-called "Rivonia trial". After my release by the police I was suspended from both the ANC and the S.A. Communist Party until April 1964. This was standard practice in both movements to ascertain whether or not a person who had been detained had not perhaps decided to become an informer while in detention.

Shortly before Christmas in 1963 I was, however, told by Dan Tloome to meet Hilda Bernstein at the offices of the Defence and Aid Fund in Kerk Street, Johannesburg.

I kept this appointment and met Hilda Bernstein. She grilled me for about two hours on the questions put to me by the police, while under detention and the answers I gave to them. She did not intimate to me whether she was satisfied with the answers I gave her or not.

I am convinced that there was suspicion against me for having disclosed the whereabouts or existence of Rivonia and I attribute by long suspension to this.

During March, 1964, I was approached by Gabula Mahlasela. He informed me that due to other duties which had been imposed upon him, he could no longer carry out his duties on the Regional Committee of the A.N.C. and he nominated me to replace him on this Committee.

Before Mahlasela could however introduce me to the Regional Committee, he was detained and I was once again left very much in the dark.

Early in April, 1964, I was approached by Mike Dingaka. He informed me that I was to act on the Regional Committee of the A.N.C. as informed by Mahlasela, prior to his arrest. He instructed me to report at the house of Letooane in Westcliff Extension on a given evening to meet the members of this Committee. Soon thereafter I went to Letooane's house as instructed.

There I met the members of the Regional Committee, who were the following:

Letooane, Jerry Joe, Molefe, Nkosi Bovu, Shumo, and Mohale.

At this meeting, only organisational matters were discussed.

I acted on this Regional Committee in a supervisory capacity and did not represent an area.

At these and subsequent meetings of the Regional Committee we discussed the programme of the ANC in an attempt to find means of effectively reorganizing it. Soon thereafter as part of the reorganisation, I was co-opted into the National Secretariat of the ANC where I served with Mike Dingaka, Levy Soloro, Nkonyana, and Mike Ngobeni.

At this stage Dan Tloome and Alfred Nzo had left the Republic. Dan Tloome had been sent to Northern Rhodesia in an effort to organise the establishment of a new Headquarters for the A.N.C.

As it was felt that the time had arrived to move the organisation Headquarters to a friendly neighbour State. When this scheme became known beyond the borders of our country, it was criticised and turned down as impractical and undesirable, as it was felt to be creating the impression of a Government in exile.

This issue was finalised by way of correspondence from overseas and the Lusaka prospect of new Headquarters was abandoned.

Alfred Nzo was a member of the National Executive of the ANC but because of hardships which he had suffered, it was felt that he had taken much punishment and that he should leave South Africa.

BRI-BRI (Wilson Makwai) was solely responsible for their departures, as he was handling all such matters, because he had the necessary Pilots and contacts which minimized the risks pertaining to the organizing of escapes to Bechuanaland. Both Dan Tloome and Alfred Nzo are still outside of South Africa and I understand that Nzo is now Secretary-General of the A.N.C. and Tloome Deputy Secretary-General.

Since the Rivonia trial the National Executive of the A.N.C. had given BRI-BRI a free hand in all matters concerning Umkonto We Sizwe which had by then become a fully independent organisation. This decision, to my mind, was taken because the National Executive could not meet as a unit, for the detention of members and in some cases the freeing of others. Since Rivonia, the National Executive had given no directives as to what targets to be attacked by Umkonto We Sizwe.

I was detained by the police again on 2 September 1964, not long after my cooption onto the National Executive Committee of the A.N.C. on which I served with BRI-BRI (Wilton Makwai) Mike Dingaka, Gabula Mahlasela.

During the five months between April 1964 and my detention on 2 September 1964, I was also brought back into the S.A. Communist Party.

In April I was approached by Mike Dingaka and informed that the District Committee of the Communist Party had decided that I should serve on the Africa Area Committee of the Party. I was subsequently introduced by Mike to the members of the African Area Committee, which consisted of the following persons: myself, Mike Dingaka, Josiah Jele, and Rasmetsi.

We discussed various matters concerned with the A.N.C. and the Communist Party. It was decided that I would also be drafted into an African cell of the Communist Party. The names of the other cell members were: Levy Seloro, Beauty Magote, Gordon Magote, Euphimia Hlapane, and Loabile.

We held the first meeting of the cell at the house of Beauty Magote. We discussed the A.N.C. and the Communist Party. The main programme was the reorganization of the Party and the ANC.

Towards the end of May, 1964, and about a week before Dan Tloome left the country, I was summoned to his office.

Dan Tloome informed me that I had been co-opted to the Central Committee of the Communist Party, as he was about to flee the country.

Dan told me that I would have to take over the finances in his absence. He told me also who my contacts were. He said I would be informed as to the origin of such funds by the Central Committee. I had to pay R1,270,000 to BRI-BRI monthly, R600.00 to Tiny Nokwe (wife of Duma Nokwe), R400.00 to Mike Dingaka, R160.00 to myself, which included salary and travelling expenses and a balance for emergency uses. Should further monies be required I would be told at the meeting of the Central Committee how it would be made available. Dan Tloome gave me R600.00 as part deposit to purchase a car for use by me. He then arranged for me to meet him on the corner of Kerk and Rissik Streets, Johannesburg on a certain afternoon at 3 p.m. from where he would take me to the place where the Central Committee meeting would be held.

Dan Tloome however failed to keep the appointment and when I saw him later he explained that the proposed place was tipped off. Dan Tloome told me that I would be approached for the next meeting of the Central Committee. No name of any contact in this connection was mentioned.

During June, 1964, I was approached by Mike Dingaka, who said that I would be met by an Indian called Mack. He described Mack to me as a person with a tiny face, chin beard, similar to that worn by General Smuts. I would find Mack seated on a certain day in the Kapitan Cafe in Kort Street, Johannesburg. I was to approach this Indian by saying: "Are you Mack", and when he says, "Yes", I would introduce myself as Arthur.

I carried out instructions as outlined above, on the pre-arranged day and there I met Mack for the first time. Mack informed me that a meeting of the Communist Party would take place on a Saturday soon thereafter. Mack said that he would pick me up in his car for this meeting.

On the Saturday morning in question Mack collected me and took me to a block of flats in Berea. In the flat which Mack indicated I found Hilda Bernstein and Ivan Schermbrucker. Mack then joined us. Later in the morning Abraham Fischer joined us and took the chair.

Among other matters we discussed:

(1) My position as Treasurer. They wanted to know whether Dan Tloome had given me the necessary information on the distribution of funds and whether I had the necessary contacts with the Africans concerned. After the Committee was satisfied I was told that Mack was to be my contact and that whenever I needed cash, Mack would obtain it from Piet Beyleveld and Ivan Schermbrucker. Mack and I were to meet once a week to check up and to find out if there were any emergencies.

(2) The position of the A.N.C. I was not in possession of all the facts and the issue was left over for the next meeting.

(3) The position of Mack. He was asked whether he had severed all his connections with all other committees including the Umkonto. This however included the District Committee of the S.A. Communist Party of which Mack was a member. Mack reported that he had not as yet finalised his association with such other committees and was still tied up to the Umkonto group. He was instructed to finalise these issues.

(4) The Code System which would be handled by Hilda Bernstein. She explained that she had written to an address in London. All correspondence for any other centre beyond the borders of the Republic were sent directly to London, from where it was re-addressed to the persons and places intended. This London address was however not mentioned and was never disclosed.

New Code books were thus awaited from London and in fact a letter had already been received, which could not be de-coded, because it appears to have been written on a new code book. As soon as the new code book arrived it would be passed onto Mack together with a letter to decode. Later on I received a letter from Mack for the A.N.C. This came from Dar-Es-Salaam, via London. This letter was in fact already de-coded by Mack. Mack gave me to understand that the

new code book had now been received and it was clear to me that there were two code books. One for the A.N.C. and one for use by the Communist Party. I myself am not in a position to explain the code system.

5. Propaganda. It was decided that no pamphlets were to come out under the name of the Communist Party as the Freedom Fighter which is in fact a covert Communist bulletin, appears to be serving the desired purpose and Mack had to see that this bulletin was to appear regularly once a month. Propaganda discussions did not cover a field beyond the Freedom Fighter.

6. Finances. Funds were running low and Hilda Bernstein was instructed to write to London to appeal for funds.

Abraham Fischer reported that some R36,000.00 was with Joe Matthews in Basutoland. I was given to understand that this was in fact funds sent for the Party to him and that he thus far failed to pay over anything. Fischer said that all attempts so far made to get this money had failed. He later on admitted that R8,000.00 had been received from Joe Matthews. It was said that the late Mrs. Molly Fischer had made various trips to Bloemfontein in an effort to obtain this money.

Towards the end of July, 1964, I was informed that I must meet Abraham Fischer at the same address in Berea, at 4 p.m. I kept the appointment and met Abraham Fischer and Eli Weinberg.

Discussions centred around the present position of the A.N.C. At this stage Rusty Bernstein and Hilda Bernstein had left South Africa. I was in a position to give a detailed report on the A.N.C. covering the following fields:

(A) The weaknesses in the National Secretariat, which obviously was no longer in touch with other centres except Johannesburg.

(B) The Regional Committees which were quite unable to assist in re-organising the organisation.

(C) The set-up of the entire organisation, which covered the National Secretariat, the Regional Committees and Area Committees. These Committees in my opinion were uselessly inadequate and nothing could seem to be done about the situation. My report on the A.N.C. no doubt, was a disturbing revelation. They were clearly shocked and it was evident that Dan Tloome had concealed this deteriorating position from them. Fischer and Weinberg could offer no solution, but suggested that I should make every endeavour to pull the position straight.

This meeting which lasted one hour was the last meeting of the Central Committee of the Communist Party which I attended.

After Mack was detained in June 1964, I was called upon to handle the finances due to the A.N.C. section. Towards the end of July, 1964, I obtained from Abraham Fischer R4,900.00 in cash, which was for wages, transport expenses and for the Umkonto movement. This money was to cover all such expenses for July and August, 1964.

Fischer asked me to request Tiny Nokwe to compile a list of names and addresses of all persons she paid and to make same available to Fischer. This action seemed proper as we knew that Tiny Nokwe was to leave South Africa by the end of July. She actually did leave the Republic at the end of July, 1964 in the company of Regina Nzo, the wife of Alfred Nzo and Mike Dingaka.

Fischer was going to arrange that all the persons who were normally paid by Tiny Nokwe would be paid directly from London. This again was a security measure, as it was felt that I was not to be used in this connection, whereby my position might become known to the police to the detriment of the A.N.C. and other organisations with which I was associated.

Issy Hayman also passed R2 450,000 to me at this time which he said was from Ivan Schermbrocker. This was for wages and transport for the various officials of the A.N.C. and Umkonto We Sizwe and Communist Party. He subsequently passed on to me R1,600.00 also from Ivan Schermbrucker. This was for BRI-BRI and his Umkonto We Sizwe commitments. Later Issy Hayman gave me a message to meet Ivan Schermbrucker at the Johannesburg Municipal Market. I kept this appointment and was met by Ivan Schermbrucker, who handed me R400.00. This was cash advanced to me for emergency uses.

During the period that I served in the ANC and the S.A. Communist Party, no major decision could be taken by the ANC without the concurrence and approval of the Central Committee of the S.A. Communist Party. Most major developments were in fact initiated by the Central Committee. Among examples of this, I would cite the following:

(A) At a mass meeting of the people at Kliptown in June 1955 the Freedom Charter was officially adopted as the Charter of the Congress Alliance. The Congress Alliance consisted of the ANC, SA Congress of Trade Unions, Coloured Peoples Organization, Congress of Democrats and the SA Indian Congress. The Freedom Charter was however, drawn up by Joe Slovo on instructions from the Central Committee of the SACP, and approved by the SA Communist Party before it was submitted to the ANC and the other members of the Congress Alliance.

(B) The military wing of the ANC, also known as Umkonto We Sizwe, was the brainchild of the SACP and after the decision to create it had been taken, Joe Slovo and J. B. Marks were sent by the Central Committee of the SACP to Moscow to organize arms and ammunition and to raise funds for Umkonto We Sizwe.

(c) Joe Slovo was the representive of the Central Committee of the SACP in the High Command of Umkonto We Sizwe, and was in fact originally the Commander-in-Chief of Umkonto We Sizwe.

The South African Communist Party acted independently of Moscow on the operations level, while I was a member I.E. it made its own decisions and did not need to get approval from Moscow on each decision. When the split between Moscow and Peking occurred, the SACP decided to follow the Moscow line. Although the SACP was operationally independent, it was, of course, influenced by Moscow and also supported financially, materially and ideologically by the Communist Party of the Soviet Union.

NUCLEAR FREEZE MOVEMENT

Mr. DENTON. Mr. President, Tuesday, December 7, 1982, was the 41st anniversary of the attack on Pearl Harbor. Its commemoration sharply reminds us of our responsibility to insure that the United States will never again so weaken its defense as to invite a major, devastating attack. The Japanese miscalculated, and attacked in a considered but erroneous belief that we would not be able to react with the speed, determination, and effectiveness to render their attack disastrous to them.

Today, in spite of the stark reminder, there is afoot in our Nation a mood, expressed in political activities such as the so-called nuclear freeze movement, that is spreading rapidly toward the point of inviting the Soviet Union to deliver another surprise attack on us. Only this time, the devastation and loss of life would look miniscule the losses inflicted at Pearl Harbor and, indeed, all of the losses of World War II or of any other war.

I am opposed to the nuclear freeze because it is not "liberal" and "antiwar" enough. Our goal should be the reduction, not the freezing, of nuclear arms, and a significant relaxation in the tensions which might spark a nuclear war.

The "movements" that sponsor and promote that freeze mood are well organized and already effective enough to have prompted articles and editorials in the New York Times and the Washington Post crying out, in agreement with some in this body, "shame on you," not only in reference to me but also in reference to the President of the United States, for opposing them. Indeed, that label of "shame" would, by extrapolation, apply to all of our ex-Presidents since World War II, who have, without exception, opposed the erroneous assumptions and simplistic means the movement promotes to achieve perfectly legitimate aims that those Presidents and this Senator share with them.

Further to illustrate their progress, recently a benefit was held in the Kennedy Center, where the crowd laughed and applauded when the so-called peace play being presented had an American child tell our President that he was playing games to destroy our planet, that the United States is equally guilty with the Soviet Union, and that if our President and his friends want to play games they should find less dangerous ones.

I have recently publicly announced my current and enduring intention to oppose those movements, to support this and previous Presidents. My efforts will not be praised in Moscow, but they are designed to respond to the interests and the sentiments of the people of the United States.

I will not emphasize that the number one goal of the Soviet "actives measures" KGB campaign is the development of the nuclear freeze movement in Western Europe and the United States.

I do not want to establish or imply guilt by association for those involved in the move toward exemplary unilateral disarmament, nuclear freeze, or similar measures.

I do want to suggest well-meant error through innocence. It is the issues, and the errors in identifying and analyzing them, that I will emphasize.

One critical issue that patriotic innocence has failed to identify is that the Soviet Union now possesses the capability to attack and destroy 90 percent of our land-based missile force with only one-quarter of its currently available ICBM force.

Another issue which is insufficiently understood is one that may not have been clearly enough communicated by the "Great Communicator" in his speech of November 22, 1982, on this subject. On television, in an effort to clarify the critical problem we face, our courageous President showed red columns (U.S.S.R.) and blue columns (U.S.) to illustrate the shifting balance of ballistic missile power. In his last visual aid, he showed the current situation in which the red—Soviet—column was substantially higher than the blue—American—column.

The President was right as far as he went, but he did not stress the vital point that the missile force that could counterattack the U.S.S.R. is not the blue column, our peacetime missile arsenal, but the small part of it that would be left after this Nation absorbed an all-out preemptive attack, and the effective delivery of even that small portion of our missiles might be further reduced because of damage to launch, guidance, or other systems—damage inflicted preflight or en route.

During the past 20 years, while we have allowed our defense to decline, our sworn and active adversaries have carefully and relentlessly built their offensive strength toward the point where they may be tempted into delivering a preemptive nuclear attack to cripple and defeat the United States. The Soviet Union has also greatly increased its conventional forces to directly threaten the security of our allies and friends in Europe, the Middle East, and Asia.

Unlike U.S. defensive deployments, Soviet nuclear forces are deployed in an offensive posture principally directed at the United States. They are supported by an extensive civil defense organization and structure designed not to protect against a first attack upon the Soviet Union but to shield key leaders, military forces, and industry from a retaliatory attack.

Additionally, massive Soviet conventional forces are in offensive dispositions directed against their satellite nations in Eastern Europe, against our Western European Allies, and toward the Middle East and Asia. We have seen that offensive orientation and capability effectively employed in Hungary, Poland, Czechoslovakia, and Afghanistan.

Our nuclear and conventional forces are deployed defensively. Our walls of defense are to resist attack. Their walls point inward to contain the oppressed of Eastern Europe, Central Asia and Siberia, and Southeast Asia. They hold people and territory by force and terrorism. They expand their influence and control by the same means.

A day-by-day growing Soviet bloc military superiority has gained Moscow territory and enslaved peoples to build the capacity to gulp up more of both. They are developing toward a capacity to overwhelm the United States by increasing intimidation, threats, and blackmail in successive crises, or by the ultimate horror—a preemptiive nuclear strike. It is the prospect of this last eventuality, surprise nuclear attack, that we simply must address effectively to earn, even to deserve, survival.

Our goal is not to fight a nuclear war; it is to prevent one. We can do that only by having retaliatory power strong enough to deter the Soviet Union from attacking us. That means the Soviet leaders must be aware that we possess and sustain a truly operable capacity to inflict unacceptable damage to the Soviet Union if they choose to deliver a preemptive first strike upon us.

Our goal is not only to survive our individual collective mortal lives but to survive our freedoms, and to survive our potential for supporting and extending freedom and justice for the benefit of all humankind.

Our goal is not to freeze ourselves into a disadvantage but to bring about a reduction in nuclear weapons by both sides. That has been the goal of many successive administrations. It has been the goal of President Reagan and his administration from their first day in office.

The vast majority of those who support the so-called nuclear freeze movement are well meaning, patriotic, and legitimately concerned. They, in my opinion, are justifiably alarmed because they may have been persuaded that the Unites States has adopted the goal of fighting and "winning" a nuclear war. Perhaps the statements that gave rise to that misperception stem from some official spokesman's poor choice of rhetoric, or more likely those statements were taken out of context. No responsible person could believe that fighting an all out nuclear war is desirable or that such a war would be truly "winnable."

Even so, many of the people who support a "freeze" cannot sincerely and soundly conclude that a freeze would effectively diminish the chance of war, or serve to promote the goals I mentioned earlier, or serve to advance mankind's most important interests.

Even if the Soviet Union's leaders say they would agree to a balanced and mutual freeze, we would lock ourselves into the current position of dangerous inferiority and vulnerability. We would also certainly invite deceitful widening of the gap of disadvantage because of delayed or doubtful verification, while making it even more difficult to negotiate an effective agreement for an actual and truly verifiable reduction in nuclear weapons.

The fact of deceit, explicit and demonstrable in our adversary's dealings, simply cannot be over-emphasized to those extremely earnest but, I must say, naive advocates of a freeze as the answer to difficult problems. "A day that will live in infamy" is the way President Roosevelt referred to the "sneak attack" on Pearl Harbor. At the very moment when Japanese forces were deploying to attack, Japanese representatives in Washington were maintaining their desire to negotiate and find a peaceful resolution of the differences between the two nations.

Similarly, we recently marked the 20th anniverary of the greatest crisis of the nuclear age, the Cuban missile crisis of October 1962. That crisis came about because our adversary clandestinely introduced weapons with an offensive nuclear capability into Cuba. It came about because the Soviet leaders and their representatives in Washington lied to us about what they had done. They said they had no missiles in Cuba.

The record of our adversary is replete with instances of duplicity and deceit. But even with such a deceitful adversary, mutual and truly verifiable nuclear arms reductions are not wholly impossible. Such a result is more difficult to achieve than deterrence, but it is theoretically possible.

The only way, however, to achieve mutual and truly verifiable arms reduction is to render that kind of arms reduction agreement advantageous from the point of view of the Soviet leaders. The only means by which to instill that essential perception is for the United States to pursue a considered and measured program of continuously strengthening as necessary our defense position, while striving with clear sincerity to negotiate toward mutually reducing arms and defense expenditures.

Anyone, any group, who believes that we can achieve an arms control agreement that will truly reduce the risk of nuclear war and also preserve our security and our freedoms, without showing that staunch resolve, is what Lenin comfortably referred to as a "useful idiot."

Today we face a fundamental test of will, of determination, of our ability to assess reality. We must continually communicate to the American people the truth about the strategic balance, about the policy of the President and our country, about the nature of our adversary, and about the things that are really required if we are to preserve and insure our national security.

Today we must manifest that we have the requisite understanding and will to pay the price for security. If we continue to pay that price and render

pointless the increasing Soviet expenditures on offensive weapons, there is a rational hope that the leaders of the Soviet Union will decide it is better for them to desist and agree to the kind of sincere and forthcoming negotiations and reductions that will really work.

I believe that our people, given the facts and allowed to evaluate the realities of the world, will recognize the essentials for preserving peace and security. Although many of our citizens endorse the concept of a nuclear weapons freeze as a way to reduce the prospect of a horrible nuclear war, polls consistently show that an overwhelming majority of Americans oppose any freeze that would leave the United States at a disadvantage. Indeed, all things considered, a freeze now would leave the United States at a disadvantage and render nuclear war more likely.

We can change that situation, increase our security, diminish the possibility of war, and make productive negotiations more likely. Our people, and the Congress, continually face specific decisions on the development, production, and deployment of new strategic weapons systems. Those include the MX missile, the B–1 bomber, Cruise missiles, the Trident submarine, and intermediate range weapons to support our forces and those of our allies in Europe. There has been healthy discussion and debate about all those programs, and many misperceptions remain.

For example, many Americans think that the production of new weapons systems will increase the numbers of missiles and bombers the United States has deployed. In fact, however, the new weapons are not additive to our forces, but replace old and obsolete weapons that no longer serve adequately as part of our deterrent.

Few Americans realize that we have frozen the number of our ICBM's since 1967. We have frozen the number of our submarine-launched missiles since 1973. We have greatly reduced the size of our strategic bomber force. We have reduced the number of our nuclear missile submarines. We are now deactivating obsolete Titan missiles.

We have, it is true, upgraded many of our existing weapons as much as we can. But even with new seat covers an old car is still an old car. By contrast, while we have frozen or decreased the size of our forces, the Soviet Union has vastly increased its own forces, improved their quality, and introduced many entirely new weapons systems.

Few Americans understand that the replacement of old weapons systems with new ones is vital to the stability that maintains the peace. I am in full sympathy with many of the goals advocated by those bishops of the Catholic Church who strongly support the draft pastoral letter that has been so much in the news of late. Yet, in their commendable desire to insure peace, many bishops advocate policies that would, in some cases, have the opposite effect.

I believe it is correct to oppose a policy of strategic nuclear deterrence that relies on what is called "mutual assured destruction," the capability to destroy civilian populations to deter an attack. most of the bishops consider immoral a policy that relies upon the ability to kill millions of civilians, and I agree with them.

At the same time, however, many bishops oppose the development of new weapons systems such as MX. They do not realize that the failure to deploy new weapons will leave us with little alternative to "mutual assured destruction." Our older weapons are so inaccurate that they cannot be used to attack the specific military targets that should be our real concern. They can be used only to attack large general targets like cities.

Certainly, bishops of the Catholic Church, indeed all clergymen, are more than most people entitled, indeed obligated, to address questions involving great cost of human life. I emphasize this point because I have recently been misquoted or quoted out of context on public statements I made about the bishops' deliberations. Though entitled, like any citizens, to study and comment on this issue, religious leaders should, like any citizens, become knowledgeable in all aspects of the issue before resorting to a defiant judgment of the successive Presidents of the Nation that permits and encourages their free practice of religion and of free speech. Until they do this, one would hope that they will study further and meditate on what Jesus said about rendering unto Caesar what is Caesar's.

In an era when the willingness to possess deterrent power requires courage as well as enlightened humanity, the proponents of a freeze fail to see that this is not the time to emphasize an undermining of the courage required to adhere to a policy consistently followed by many administrations. When we have a half million of our young men who have failed to fulfill their minimum obligations as citizens by registering for the possibility of national service, it is inconsistent to attack the alleged "immorality" of our leaders who continue to implement nationally responsible policies.

If we wish to do away with mutual assured destruction, to move, now that we can, away from a policy that relies for its effectiveness on the ability to destroy millions of civilians, then we must have the new, refined, accurate weapons that present a threat to the weapons of our adversary, not just to the great mass of his citizens.

One such new weapon is the MX missile, an excellent missile that the President proposes to deploy in the so-called Dense Pack. The defensive nature of the President's proposal is shown by the fact that the emphasis is on deploying a weapon that is designed not for a first attack upon an enemy but to survive an attack upon us. It will contribute to deterrence in the most effective way, by making it impossible for an enemy to attack us without the certainty that we will retain the capability to inflict unacceptable damage upon him.

The Dense Pack concept is appealing, and it deserves a great deal of study and analysis. While we do that, however, we must insure that we have developed and will preserve the options to shift to other even more effective, deployment modes should our research and development effort identify them, or even to shift to other weapons systems altogether.

In my view, it is unfortunate that the MX decision has been interpreted so starkly as "Dense Pack or nothing." It is vitally important that we realize that we are simply proceeding with a long-overdue but essential program of upgrading and modernizing our forces, not just for its own sake but so that the Soviet Union will recognize that the American people, and their elected officials, have the collective will and determination to preserve their own security. Only when the Soviet leaders perceive that our country is truly dedicatd to that course will there be any real prospect of successful negotiations to reduce nuclear arms.

We are really talking about whether we can and will ante up enough to insure our survival. At a time when our economy is stagnant and when the expectations for a continued high level of social spending and entitlement programs condition our political and practical alternatives, the perceived competition between the requirments of national security and those of the domestic welfare puts us in a difficult situtation. Yet our first obligation is to insure the security of our country. That is the essential prereq-uisite to promoting the economic and social welfare of our citizens.

We will not solve our economic problems, the demands of our poor and disadvantaged, or our alarming budget deficits by cutting our defense. There simply is not enough money there to do it. And defense means jobs to, many jobs, as every Congressman or Senator finds out when there is a proposal to reduce or eliminate a program in his district or State.

We can, as many argue, save money by cutting nonessential or overly generous social programs. We can also save money in our defense establishment, and it is that upon which I want to dwell for a moment.

I am convinced that we can save a great deal of money without cutting

into the bone and muscle of our military strength.

We can save money by recognizing and addressing the waste that occurs perforce in any large program. We in Congress and the administration have talked a lot about that, but I am not sure that our actions measure up to our rhetoric.

We can save money by identifying and addressing the waste that is imposed by "the system" as it now exists.

We need to see whether the large bureaucracy in the Department of Defense is really essential.

We need to look at how our military services are organized.

We need to insure that our contracting system minimizes rather than maximizes costs.

We need the Congress to recognize that its reluctance to commit itself to long-term programs and its propensity to review and change every program every year are expensive luxuries that we can no longer afford.

National defense and national security are not partisan matters. They are vital to the survival of our country and the political system that makes partisanship possible. It does a great disservice to portray the vital issue of survival in partisan terms. Those who believe that President Reagan and the Republicans have unreasonably increased defense expenditures should recall that the amount of money we are likely to appropriate for defense in fiscal year 1983 will be no greater, and may be less, than that projected for the same year by the Democratic administration of President Carter. Nor does all this exclude my acknowledgement that with careful study we can still find ways to save a great deal of Defense Department expenditures without cutting the essential of our military strength.

It will be critical in the decisions we will make in the days ahead that we, in public positions, assist all Americans by clearly presenting the facts and by stimulating our citizens to consider carefully what we should and must do. Only when we all are able to make our policy decisions on the basis of reality, not emotion or wishful thinking, will our country, our lives, and our salvation be assured.

Mr. President, I suggest the absence of a quorum.

Mr. RUDMAN. Mr. President, will the Senator withhold?

Mr. DENTON. I do.

GERALD CARMEN, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION

Mr. RUDMAN. Mr. President, I rise to acknowledge the outstanding work Gerald Carmen has performed as Administrator of the General Services Administration. In these austere budgetary times, it is refreshing indeed to observe a superior administrator such as Mr. Carmen be able to take control of his agency, drag it out from under a cloud of scandal, and mold it into a streamlined model of efficiency and productivity. He is to be saluted for his efforts. I ask unanimous consent that the text of an article which appeared in today's Wall Street Journal reflecting his fine work at the GSA be entered into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REAGAN'S HEAD OF THE GSA IMPRESSES MANY BY STREAMLINING AND CLEANING UP AGENCY

(By Timothy D. Schellhardt)

WASHINGTON.—Can a former auto-parts dealer from New Hampshire get a bureaucratic behemoth under control?

White House recruiters didn't think so in early 1981 when they opposed naming Gerald Carmen, a Reagan loyalist from Manchester, to head the scandal-marred General Services Administration. The $5 billion-a-year agency is Uncle Sam's landlord, housekeeper and supply sergeant. "We felt we needed a big corporate exec. not a small businessman, at GSA," says a former presidential headhunter.

But Mr. Carmen's political ties helped him land the job, and he has turned many of the skeptics around. "Jerry has erased our doubts," says the recruiter. Ralph Nader, never an easy man to please, calls the GSA chief "the most impressive" of President Reagan's appointees.

And some observers have been downright surprised by his performance, as his credentials were mainly political. Mr. Carmen managed the Reagan campaign in New Hampshire. A Reagan backer long before that, he had served as the state Republican chairman and as a delegate to national GOP conventions. He operated as a wholesale distributor of auto parts for 20 years before selling the business in 1979 and starting work on the Reagan campaign. He once was chairman of the New Hampshire Housing Authority, and he served on the Reagan transition team after the election. But until now he never headed any organization even remotely approaching the GSA in size.

TAINT OF CORRUPTION FADES

Mr. Carmen, a wiry, intense worker, can point to several early achievements at GSA, although it's too soon to gauge just how close he will get to his goal of transforming the agency into the government's "business manager instead of its janitor."

Gone are the headlines about pervasive fraud and corruption among some of the GSA's 30,000 employees. In the decade before Mr. Carmen took charge, more than 140 GSA employees and contractors had been convicted of bribery and other wrongdoing. From 1977 through last year, the GSA was under steady investigation by the Inernal Revenue Service and the Justice Department. But Mr. Carmen has laid down a strict code of ethics, and the taint of corruption has faded.

The GSA chief is winning praise, too, for cutting costs and improving management. In the past two years, the agency's work force has shrunk by more than 7,000 employees, or roughly 20%, through a hiring freeze and attrition rather than through layoffs. Officials calculate the saving at $150 million a year.

During the same period, the GSA has reduced government office space by 22%, exceeding Mr. Carmen's goal of a 20% cut. The agency has consolidated offices and squeezed more people into the same space. Mr. Carmen aims to shrink the space allotted to a typical federal worker to 135 square feet from the current 170 to 175 square feet; congressional experts say that would save about $100 million a year. Mr. Carmen himself shuns the cavernous administrator's office at GSA headquarters here, using instead a smaller office nearby.

Furthermore, the GSA chief has cut the average time for delivering supplies to customer agencies to less than seven days from the previous average of 41 days. To streamline the system for moving supplies, he has closed four distribution depots. And he has reduced the average time needed to negotiate building leases to about 200 days from 366 days.

At the White House, they're calling Mr. Carmen President Reagan's "Cousin Cheap," a nickname given to Hugh Carter, who was President Carter's cousin and a penny-pincher in that administration. The GSA chief does seem equally frugal. He has frozen purchases of new carpets, draperies and office equipment for his agency. He has opened a workshop to renovate old office equipment. He aims to cut the GSA's expenditures for magazine subscriptions and travel by 50%. "If you take care of the pennies, the dollars take care of themselves," he says.

His efforts are attracting attention outside government. Robert Scott, vice president of administration at Harvard University, says Mr. Carmen has a "knack for applying common sense business practices to complex government organizations." George Waters, a senior adviser at American Express Co., who has served for a number of years on an outside advisory group to the GSA, calls him "a rare individual who can pull people together and get results." He adds: "You certainly wouldn't expect that, looking at his resume with his limited business experience."

President Reagan has noticed, too, and he singles out the GSA chief for praise. Appointees like Mr. Carmen, he says, "are going to make a difference in the cost of government and the kind of government." He has asked Mr. Carmen to head an interagency group examining ways to cut costs all through the federal establishment.

But Mr. Carmen has his critics. Some of them spoke up earlier this year when it was disclosed that he had received a $425,000 Small Business Administration loan and hadn't reported it to a Senate committee considering his nomination. He called the omission an oversight and quickly sold the property for which he had obtained the loan. The GSA chief also has drawn fire for giving several choice GSA posts to Republican friends, including an aide to presidential counselor Edwin Meese.

Moreover, James Jones, a labor-relations specialist at the American Federation of Government Employees, complains that Mr. Carmen is bent on contracting with private companies whenever possible for such jobs as guarding and maintaining government buildings. The GSA chief replies that the practice saves money.

Rep. Patricia Schroeder (D., Colo.), a frequent GSA critic, favors abolishing the agency. "I don't think there's a need for GSA. Let every department and agency pick out its own buildings, buy its own supplies

and equipment. Remember, the whole world went to electric typewriters before GSA did," she says.

POLITICAL AMBITIONS

Mr. Carmen, and outspoken Reagan supporter, often disarms his critics. When he recently appeared before a Senate panel that oversees the GSA, he brought along two dozen officials, filling the hearing room; committee members called the officials "Carmen's army." But their attendance seemed to help the GSA chief, and committee members conceded that they were impressed by Mr. Carmen's grasp of the GSA's manifold activities.

What's still unclear is how effectively Mr. Carmen has attacked some long-standing GSA problems. Congressional investigators say that the GSA has been bled by private landlords from whom it rents space, and that it is years behind the times with its computer technology. Mr. Carmen has complained to his business advisory council that it has been difficult to control every part of the huge agency.

The GSA chief makes it clear that he prefers the political arena. "I enjoy politics very much and I think I'm very good at it," he says. He's had his eye on the New Hampshire governorship for a long time, but the recent election of Republican John Sununu dims his chances for landing that post any time soon.

American Express's Mr. Waters thinks Mr. Carmen would be a good governor. "I think running a small state would be easier than the job he has now," he says.

PRESIDENTIAL PARADOXES

Mr. RUDMAN. Mr. President, in the New York Times of December 19, 1982, this past Sunday, there appeared an article entitled, "Presidential Paradoxes," authored by our colleague, Senator WILLIAM S. COHEN, of Maine.

It is an unusual article but not unusual for BILL COHEN. It contains the kind of intellectual, thought-provoking series of logical conclusions that we have come to expect from BILL COHEN.

I ask unanimous consent that this article from the New York Times of Suday, December 19, 1982, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 19, 1982]

PRESIDENTIAL PARADOXES

(By William S. Cohen)

WASHINGTON.—A majority of voters in 1980 supported the proposition that the United States had to modernize its strategic and conventional forces if we were to avoid having to choose one day between conflict or capitulation. But something happened on the road to redemption.

Perhaps it was all the loose talk of firing a nuclear shot across the Soviet bow, confining a nuclear war to European soil, preparing for and surviving a long nuclear conflict, or throwing a shovel full of dirt on an underground shelter for every household in America. Maybe it was a sense of betrayal that we experienced in discovering we had elected a President who was putting into practice the very things he promised as a candidate.

Whatever the reason, it is clear that a new consensus evolved during 1982 that said significant defense cuts could and should be made. It was not that the world had become less dangerous, that the Soviet Union was not still butchering innocent people in Afghanistan, that Gen. Wojciech Jaruzelski was cutting the pressure of his water cannons in Poland, that the skies of Cambodia were not quite so yellow with poison, that the Middle East was any less volatile or Persian Gulf oil more secure. Rather, we concluded that President Reagan's military program was no longer affordable or desirable—that we must reduce our deficits and rebuild our domestic economy before our military capability, and should refuse to build systems that the Soviet Union would see as threatening and destablizing.

By noting the radical shift in public opinion within a two-year time span, I do not seek to denigrate the perceptions or wishes of the electorate. Nor do I suggest that the defense budget should be sacrosanct or immune from a surgeon's knife. Defense cuts can be made, although they should not be so substantial as to move us immediately within field-goal range of a balanced budget.

The shift in public opinion represents a political phenomenon more deeply rooted than fear or fickleness. It suggests that conservative Republican Presidents (moderates or liberals need not apply) may be able to open doors to China and secure support for arms control treaties yet be unable to sustain a significant or even stable growth in military spending.

By contrast, liberal or moderate Democratic Presidents may be able to secure support for strategic and conventional modernization (few questioned the need for the MX, Stealth aircraft, Trident submarine, or a Rapid Deployment Force under Jimmy Carter) but will be less able to obtain ratification of arms control treaties.

Ronald Reagan is viewed by many as being overly aggressive in word and deed—too likely to produce war rather than preserve peace. By contrast, if Jimmy Carter had proposed an MX "dense pack" or hardened silos reinforced by ballistic-missile defense, he would have stood a better chance of achieving Congressional approval. Mr. Carter was a self-proclaimed peace candidate who wanted to abolish nuclear weapons from the face of the earth. He was a religious man who prayed daily and publicly. Paradoxically, the perception of his weakness in the face of Soviet aggression would have provided the basis of bipartisan Congressional support for arms modernization. With Ronald Reagan, just the opposite appears to be the case—rearmament is seen by an increasing number of people as being unnecessary, unaffordable or dangerous.

Shortly before the November elections, the Kremlin revealed that it would welcome a new Congress that would be more moderate in character. It would be logical to conclude that it would also welcome a change in the occupant of the White House in 1984. But Yuri V. Andropov may possess a subtler turn of mind. He may prefer President Reagan to run as a peace candidate in 1984 with a ratified arms control treaty in hand. In the long run, Mr. Andropov may see the wisdom of having a Republican President with a treaty and without an arms buildup rather than a Democratic President with an arms buildup but without an arms control treaty.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SYMMS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to 3:30 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

A WORD OF CAUTION

Mr. ARMSTRONG. Mr. President, as the lameduck session careens to its conclusion, I cannot help drawing the attention of anyone who may read the RECORD of this proceeding to the fact that, as we have rushed past many, many pieces of legislation, we have also considered numerous committee reports and numerous statements of floor managers. I want to note again today, as I have periodically, that for the most part, these are not valid expressions of the intent of Congress; that by and large, they are never read by Members of the Senate; that by and large, they are not written by Members of the Senate; that they are generally written by some anonymous person who is a member of the staff of the committee in the Senate or the House.

I am distressed to note periodically that agencies of the executive branch and courts will rely upon such statements as valid expressions of the intent of Congress in enacting legislation.

This is a particularly timely word of caution just now because, during the last several days, we have considered literally hundreds of pieces of legislation, many of which have had lengthy statements of this type appended to them.

I just want to reflect, as one Senator, that these statements for the most part have never been considered by the Senate and they are not subject to amendment by the Senate. Therefore, I urge utmost caution to anyone using them as a basis for interpretation.

I thank the Chair.

Mr. President, unless anyone seeks recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, I have a number of items that may be dealt with by unanimous consent, I believe, and I should like to go through this list for the consideration of the minority leader and other Senators.

PUBLIC EMPLOYEES' APPRECIATION DAY

Mr. BAKER. Mr. President, I propose to move to discharge the Committee on the Judiciary so that the Senate may proceed to the immediate consideration of House Joint Resolution 619, if the minority leader has no objection.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the matter and the Chair lay it before the Senate for immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A resolution (H. J. Res. 681) designating January 19, 1983 as "Public Employees' Appreciation Day."

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

Mr. ROBERT C. BYRD. There is no objection.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BAKER. Mr. President, I yield to the Senator from Virginia on this measure.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, as one of the sponsors of this resolution, I am pleased that it is acted on on this day by the Senate. In view of the stress and strain to which we put so many of our faithful Government employees during the course of the deliberation of the countinuing resolution, I think it is most fitting that the Congress of the United States now recognize their services and designate this day as a day set aside in appreciation. I would like to thank G. Jerry Shaw, president of the Senior Executive Service, for this guidance and assistance regarding this legislation.

I thank the majority leader.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 691) was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REINSTATEMENT AND VALIDATION OF U.S. OIL AND GAS LEASE

Mr. BAKER. Mr. President, I would propose to ask the Chair to lay before the Senate H.R. 5826, if that is cleared on the other side.

Mr. ROBERT C. BYRD. That bill is cleared on this side.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Chair lay before the Senate Calendar Order No. 954, H.R. 5826.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5826) to provide for the reinstatement and validation of U.S. oil and gas lease numbered W-24153.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on third reading and passage of the bill.

The bill (H.R. 5826) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL PARK SYSTEM VISITOR FACILITIES FUND ACT

Mr. BAKER. Mr. President, next I propose to call up H.R. 7316, if the minority leader will agree.

Mr. ROBERT C. BYRD. Mr. President, I have no objection on this side.

Mr. BAKER. Then, Mr. President, I ask unanimous consent that the Chair lay before the Senate Calendar Order No. 1009, H.R. 7316, for the consideration of the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7316) to establish the National Park System Visitor Facilities Fund.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7316) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF ARTHUR J. GRAUF

Mr. BAKER. Mr. President, H.R. 4350 is cleared on this side. May I inquire of the minority leader if he is prepared to proceed to its consideration?

Mr. ROBERT C. BYRD. Mr. President, the measure is cleared for passage by unanimous consent on this side.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Chair lay before the Senate H.R. 4350, Calendar Order 1026.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4350) for the relief of Arthur J. Grauf.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4350) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SERVICE OF PROCESS BY MAIL

Mr. BAKER. Mr. President, I now ask that the Chair lay before the Senate a message from the House on H.R. 7154, an act to amend the Federal Rules of Civil Procedure.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 7154 entitled "An act to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes," with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

SEC. 6. Section 951 of title 18, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$75,000".

Mr. BAKER. I move that the Senate concur in the House amendment.

The motion was agreed to.

COLLECTION OF FEDERAL ROYALTIES AND LEASE PAYMENTS

Mr. BAKER. I have another message from the House, Mr. President, if the minority leader is prepared to consider it. That is a message on H.R. 5121.

Mr. ROBERT C. BYRD. Yes, Mr. President, this side is ready to proceed.

Mr. BAKER. I thank the minority leader.

I ask the Chair to lay before the Senate a message from the House on H.R. 5121, the Federal Oil and Gas Royalty Management Act of 1982.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 5121) entitled "An Act to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

SEC. 114. (a) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended by inserting the words "not less than" after the words "payment by the lessee of a royalty of" and by inserting the words "nor more than 16⅔ per centum" after the word "per centum".

(b) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended by changing the period to a colon and adding the following: *"Provided,* That the royalty rate shall be not more than 12½ per centum unless the Secretary finds that an increase in the royalty rate will not adversely affect the exploration, development or production of oil or gas or the overall revenue to the Federal Government generated by such activity.".

(c) The amendments made by subsections (a) and (b) shall take effect one year after completion and submission to Congress by the Secretary of a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 (1) on the exploration, development, or production of oil or gas and (2) on the overall revenues generated by such change. Such study shall be completed and submitted to Congress on the date one year after the date of enactment of this Act.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments.

The motion was agreed to.

ORDER DISCHARGING THE COMMITTEE ON THE JUDICIARY FROM FURTHER CONSIDERATION OF SENATE JOINT RESOLUTION 265

Mr. BAKER. Mr. President, I would next propose to discharge the Committee on the Judiciary from further consideration of Senate Joint Resolution 265 so that the Senate may proceed to its consideration.

May I inquire of the minority leader if he is prepared to agree to that?

Mr. ROBERT C. BYRD. Yes, Mr. President, I will not object. I am a little concerned by the great numbers of bills that are being discharged from committees at the last minute. This is not a thing unheard of, that some bills be discharged from committees, but it seems to me that committees ought to do their work on these pieces of legislation so that we would not have to take this extraordinary procedure of discharging committees. There is nothing in this request that there is any objection to.

Mr. BAKER. Mr. President, I agree with the minority leader. I have noted that of late it seems to me the unanimous-consent calendar is loaded with requests for the discharge of committees and the immediate consideration of measures, and I am prepared to do that. I inquired of our calendar staff how we go about the clearance process on that, and it appears satisfactory, that is, the chairman of the committee and the executive director are both involved in that process and, presumably, that covers all members of the committee who have an interest in that measure. But I do continue to view it as an extraordinary way of proceeding and urge committees to act in the manner prescribed by the rules to the extent that it is feasible.

Having said that, Mr. President, and based on the statement of the minority leader that he will not interpose an objection to this measure, I do then ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 265, which is a resolution to authorize and request the President to proclaim 1983 as National Year of Voluntarism.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

NATIONAL YEAR OF VOLUNTARISM

Mr. BAKER. Mr. President, I ask that the Senate proceed to the immediate consideration of Senate Joint Resolution 265.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S.J. Res. 265) to proclaim 1983 as the National Year of Voluntarism.

The Senate proceeded to consider the joint resolution.

Mr. DENTON. Mr. President, I rise to move the adoption of Senate Joint Resolution 265, designating 1983 as the National Year of Voluntarism. I introduced this resolution along with my distinguished colleagues, Senators HARRY F. BYRD, JR., HELMS, JEPSEN, MATTINGLY, and NICKLES. In addition, the resolution is now cosponsored by Senators BOSCHWITZ, CANNON, CHAFEE, DOMENICI, DOLE, EAST, GARN, HAWKINS, HAYAKAWA, HEFLIN, HUDDLESTON, INOUYE, LAXALT, LEVIN, LUGAR, NUNN, REIGLE, SPECTER, STENNIS, SYMMS, THURMOND, TOWER, and WARNER.

The generosity of the American people has been a noted characteristic of our Nation since its very inception. From its founding days, our Nation was known as one in which neighbor lent a hand to neighbor and families banded together to help one another in times of adversity. Alexis de Toqueville remarked, in his 1831 book, "Democracy in America," on the fascinating way in which Americans solved problems without the intrusion of Government. De Toqueville wrote:

I must say that I have often seen Americans make great and real sacrifices to the public welfare; and I have noticed a hundred instances in which they hardly ever failed to lend faithful support to one another.

It is that kind of generosity and service that built our country and provided our prosperity. I believe that the time has come to encourage and promote the inclination of our citizens to turn to one another in time of need and to help each other.

The designation of a National Year of Voluntarism will support and encourage efforts of Americans. In even the best of times we cannot rely solely on Government to provide remedies to all of our national ills. The solution lies, to a large degree, in the involvement of private individuals and businesses. We must learn to see ourselves, as individuals and as groups, as essential parts of the solution. President Reagan has called for an increase in citizen participation in all areas. Likewise, we in the Senate have a responsibility to urge more active cooperation and mutual support from individuals. It is the stark reality, in this time of such great need, that our social service delivery system is changing dramatically. More private initiative in this area will insure that community and individual needs continue to be met when Government dollars are not available.

Our country has more than adequate human potential to accomplish the challenge that lies before us. A 1979 Gallup poll estimated that 70 percent of Americans are willing to volunteer their time for worthy causes and projects, but it is estimated that only a fourth of those people actually perform voluntary activity. It is clear that, if they understand that their time and skills are needed, more people will contribute and participate.

I urge my colleagues to join me in proclaiming 1983 as the National Year of Voluntarism. To quote the February 1981 report of the National Steering Committee on Voluntarism:

If citizen participation and voluntary initiative are important to our effectiveness as a society, then the Federal Government, as the ultimate representative of the people, has a responsibility to be certain everything possible is done to encourage just such participation and initiative.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and to be read a third time. The joint resolution was read the third time and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 265) together with its preamble is as follows:

S.J. RES. 265

Whereas voluntarism is the cornerstone of the American way of life and a fundamental characteristic of our American heritage;

Whereas voluntary service, a proud American tradition dating to colonial times, can and should be utilized throughout the United States today, as it was utilized then, to address local community needs; and

Whereas there is a need for greater emphasis on developing more volunteer community leaders to encourage voluntary service in organizational activities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating 1983 as the "National Year of Voluntarism" and calling upon the people of the United States and interested groups and organizations to observe the National Year of Voluntarism with appropriate activities of voluntary service.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LANDS HELD IN TRUST FOR RAMAH BAND OF NAVAJO INDIANS

Mr. BAKER. Mr. President, I have another discharge request, I say to the minority leader. I propose now to discharge and I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of H.R. 5916, the Ramah Band of Navajo Indians, and I ask, further, upon discharge that the Senate proceed to the immediate consideration of that measure.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. Mr. President, there will be no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5916) to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians.

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, I am most pleased that we are finally able to consider a piece of legislation that is necessary to complete actions that were started in the 1930's and 1940's. At that time lands were acquired for the Ramah Band of Navajo Indians in what is now Cibola County, N. Mex. The bill before us today, H.R. 5916, will transfer 4,807 acres of land to the Ramah Band of Navajos. This land and all the underlying minerals will be held in trust for this tribe. The estimated fair market value, according to testimony by the Deputy Assistant Secretary for Indian Affairs of the Department of the Interior, is $480,000. The area in question is completely surrounded by existing reservation lands of Ramah Band.

I believe, Mr. Chairman, that the record is complete. The administration has expressed its support. We are, in effect, removing the doubts about the status of this land that have clouded previous improvements and future plans. By endorsement of this bill, we are completing the intent of the Federal Government to make this land available to the Ramah Band of Navajo Indians. The field solicitor states in his report that the land in question should have been published in the Federal Register on Friday, March 31, 1950, along with the other parcels that were declared to be held in trust on that date. He calls the omission an oversight and finds nothing "in the records to evidence an intent to omit the lands conveyed by the two warranty deeds or other lands that may have been acquired under the authorities of the emergency relief appropriation acts for needy Ramah Navajo Indians."

The facts have not changed, Mr. Chairman, since my bill was introduced in the 96th Congress (S. 1730) to achieve the same goals. Therefore, I am pleased that we now have the full record available to substantiate our contention that we are simply correcting an oversight that is limiting the ability of the Ramah Navajo Indians to have full use of land that has been intended for their use. I thank the Chair and my colleagues for their support, and I urge immediate passage of H.R. 5916.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5916) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote for which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE DON H. CLAUSEN FISH HATCHERY

Mr. BAKER. Mr. President, I now ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 7420, a bill to designate the Warm Springs Dam component of the Russian River, Dry Creek, in California, as the "Don H. Clausen Fish Hatchery," and upon discharge I ask the Senate to proceed to the immediate consideration of that measure.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. Mr. President, there is no objection being interposed on this side as far as I know.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

The bill (H.R. 7420) to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, California project as the Don H. Clausen Fish Hatchery.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7420) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TENNYSON GUYER FEDERAL BUILDING

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from another measure, and that is H.R. 6538, a bill to designate the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building," and upon discharge I ask that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee.

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6538) to designate the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building."

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6538) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

B. F. SISK FEDERAL BUILDING

Mr. BAKER. Mr. President, I now ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 5029, a bill to designate the Federal building at 1130 O Street, Fresno. Calif., as the "B. F. Sisk Federal Building." and upon discharge I ask the Senate to turn to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5029) to designate the Federal Building in Fresno, California, as the "B. F. Sisk Federal Building".

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open amendment. If there be no amendment to be offered, the question is on third reading and passage of the bill.

The bill (H.R. 5029) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FISHERIES MANAGEMENT—CONFERENCE REPORT

Mr. BAKER. Mr. President, there is a conference report which will accompany H.R. 5002 that is here and available. If the minority leader is prepared to do so, I am prepared to ask the Senate to proceed to the consideration of that measure.

Mr. METZENBAUM. Mr. President, reserving the right to object.

Mr. BAKER. I have not made the request yet.

Mr. METZENBAUM. Would the majority leader be good enough to tell us what that is?

Mr. BAKER. Yes, Mr. President, I am happy to. The notation I have here is that it is the conference report to accompany H.R. 5002, the fisheries consultation bill.

Mr. METZENBAUM. I have no objection.

I thank the majority leader.

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. I thank the minority leader and the Senator from Ohio.

Mr. President, I submit a report of the committee of conference on H.R. 5002 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5002) to improve fishery conservation and management, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1982.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are certain items of Executive Calendar business that can be considered according to my marked calendar, and I ask the minority leader if he is prepared to agree that the Senate may go into executive session for the purpose of considering nominations on today's calendar and also the WARC Treaty.

I may say before the minority leader replies that it is not my intention to ask for a record vote on the nominations. I have been advised by the distinguished Senator from New Hampshire (Mr. HUMPHREY) that while he previously had indicated a wish for a rollcall vote on one nomination he no longer has a requirement for a rollcall vote. He wishes to insert a statement on this subject in the RECORD.

I believe the Senators from New Mexico are here in the Chamber and ready to proceed.

Other than that, I believe the nominations will be routine.

Mr. President, on the treaty, if the minority leader thinks well of the idea, I am agreeable to considering the treaty by division vote instead of by rollcall vote.

Mr. ROBERT C. BYRD. Mr. President, I have no objection on this side.

Mr. BAKER. I thank the minority leader.

Mr. ROBERT C. BYRD. I understand that there is one nomination and one treaty to which the distinguished majority leader refers.

Mr. BAKER. Only one treaty, that the requirement for a division vote is only for the treaty.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. There is no longer a requirement for a rollcall or a division on the nomination.

Mr. ROBERT C. BYRD. On the one nomination?

Mr. BAKER. Yes.

Mr. President, let me advise the minority leader, then, that I am about to propound a request which would begin that would go into executive session for the purpose of considering nominations beginning with Calendar Order No. 1014 on page 3 under Department of State, continuing through the nominations on the remainder of that page, all of the nominations on pages 4, 5, 6, and on 7 with the exception of the first nomination, which is Calendar Order No. 1129, on page 8, on page 9, on page 10, on page 11, on page 12, on page 13, and the nominations placed on the Secretary's desk in the Marine Corps, the Navy, and the Public Health Service on page 15.

Those are the items that I propose to consider at this time, and before I propound the unanimous-consent request could I inquire of the minority leader if he is prepared to agree to that?

Mr. ROBERT C. BYRD. Mr. President, in response to the inquiry by the distinguished majority leader, the minority is ready to proceed with the following Calendar Order No. 1013 on page 3 and No. 1071 on page 3 and beginning with 1125, Department of Defense, on page 3, and going through the remainder of the calendar through page 15.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I thank the minority leader for sharing with me the information on his position with respect to approval for consideration of these nominees by unanimous consent.

Let me see if I can put together a request now that will embody those nominations that he can clear and that I can clear; that is, that have been cleared on both sides.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. On page 3, Calendar Order Nos. 1071, 1125, and 1126, three nominations on page 3, all the nominations on page 4, all of the nominations on page 5, all of the nominations on page 6, the nominations appearing on page 7 beginning with Calendar Order No. 1130, which would except and exclude Calendar Order No. 1129 on page 7, all of the nominations on page 8, all of the nominations on page 9, all of the nominations on pages 10 and 11, all of the nominations on page 12.

Mr. President, I ask unanimous consent that when item Calendar Order No. 1167 is reached that the distinguished Senator from New Hampshire

(Mr. HUMPHREY) may place a statement in the RECORD in connection with the consideration of this nomination, and that the distinguished Senators from New Mexico (Mr. DOMENICI and Mr. SCHMITT) may be recognized to speak.

Mr. DOMENICI. Mr. Leader, we do not intend to speak unless somebody is here to speak in opposition.

Mr. BAKER. Very well. The right will be preserved in any event.

All nominations on page 13, and all of the nominations placed on the Secretary's desk in the Marine Corps, Navy, and Public Health Service on page 15.

Mr. ROBERT C. BYRD. Mr. President, there is no objection on this side to proceeding with the nominations which have just been enumerated by the distinguished majority leader.

On the treaty we would want a division vote.

Mr. BAKER. Yes, Mr. President. I include in my request then on the treaty considered in executive session that there be a division vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominees just identified be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The nominees are considered and confirmed en bloc.

The nominees considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Daniel F. Lopez Romo, of Puerto Rico, to be U.S. attorney for the district of Puerto Rico for the term of 4 years, vice Raymond L. Acosta.

DEPARTMENT OF DEFENSE

Thomas Edward Cooper, of Virginia, to be an Assistant Secretary of the Air Force, vice Alton Gold Keel, Jr., resigned.

IN THE AIR FORCE

The following officers for appointment in the U.S. Air Force to the grade of brigadier general, under the provisions of chapter 36, title 10 of the United States Code:

To be brigadier general

Col. Marcus A. Anderson, xxx-xx-xxxx FR, Regular Air Force.

Col. Charle W. Bartholomew, xxx-xx-xxxx xxx-... FR, Regular Air Force.

Col. Philippe O. Bouchard, xxx-xx-xxxx xxx-... FR, Regular Air Force.

Col. Charles P. Cabell, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. James S. Cassity, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Larry D. Church xxx-xx-xxxx FR, Regular Air Force.

Col. Gaylord W. Clark, xxx-xx-xxxx FR, Regular Air Force.

Col. John A. Corder, xxx-xx-xxxx FR, Regular Air Force.

Col. Donald R. Delauter, xxx-xx-xxxx FR, Regular Air Force.

Col. Robert F. Durkin xxx-xx-xxxx FR, Regular Air Force.

Col. Anthony J. Farrington, Jr., xxx-xx-xxxx xxx-... FR, Regular Air Force.

Col. Edsel R. Field, xxx-xx-xxxx FR, Regular Air Force.

Col. Richard F. Gillis xxx-xx-xxxx FR, Regular Air Force.

Col. David M. Goodrich, xxx-xx-xxxx FR, Regular Air Force.

Col. Samuel J. Greene xxx-xx-xxxx FR, Regular Air Force.

Col. William J. Grove, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Michael D. Hall, xxx-xx-xxxx FR, Regular Air Force.

Col. Trevor A. Hammond, xxx-xx-) xxx-... FR, Regular Air Force.

Col. Paul A. Harvey, xxx-xx-xxxx FR, Regular Air Force.

Col. Richard G. Head xxx-xx-xxxx FR, Regular Air Force.

Col. William K. James, xxx-xx-xxxx FR, Regular Air Force.

Col. James D. Kellim xxx-xx-xxxx FR, Regular Air Force.

Col. Peter T. Kempf, xxx-xx-xxxx FR, Regular Air Force.

Col. Michael C. Kerby, xxx-xx-xxxx FR, Regular Air Force.

Col. Albert L. Logan, xxx-xx-xxxx FR, Regular Air Force.

Col. Donald A. Logeais, xxx-xx-xxxx FR, Regular Air Force.

Col. John M. Loh, xxx-xx-xxxx FR, Regular Air Force.

Col. Alan P. Lurie, xxx-xx-xxxx FR, Regular Air Force.

Col. Donald L. Marks xxx-xx-xxxx FR, Regular Air Force.

Col. Charles A. May, Jr., xxx-xx-xxxx FR, Regular Air Force.

Col. Robert P. McCoy xxx-xx-xxxx FR, Regular Air Force.

Col. Charles C. McDonald, xxx-xx-xxxx xxx-... FR, Regular Air Force.

Col. Willard L. Meader, xxx-xx-xxxx FR, Regular Air Force, Medical.

Col. Charles D. Metcalf, xxx-xx-xxxx FR, Regular Air Force.

Col. Donald C. Metz, xxx-xx-xxxx FR, Regular Air Force.

Col. Fred R. Nelson, xxx-xx-xxxx FR, Regular Air Force.

Col. Thomas R. Olsen xxx-xx-xxxx FR, Regular Air Force.

Col. Cecil W. Powell, xxx-xx-xxxx FR, Regular Air Force.

Col. Robert R. Rankine, Jr., xxx-xx-xxxx xxx-... FR, Regular Air Force.

Col. Billy J. Rhoten, xxx-xx-xxxx FR, Regular Air Force.

Col. Horace L. Russell, xxx-xx-xxxx FR, Regular Air Force.

Col. Richard L. Stoner xxx-xx-xxxx FR, Regular Air Force.

Col. Luther E. Thweatt xxx-xx-xxxx FR, Regular Air Force.

Col. Norman R. Thorpe, xxx-xx-xxxx FR, Regular Air Force, Judge Advocate.

Col. Richard J. Toner xxx-xx-xxxx FR, Regular Air Force.

Col. Richard J. Trzaskoma, xxx-xx-xxxx xxx-... FR, Regular Air Force.

Col. David S. Watrous, xxx-xx-xxxx FR, Regular Air Force.

Col. Charles N. Wood, xxx-xx-xxxx FR, Regular Air Force.

Col. Larry D. Wright xxx-xx-xxxx FR, Regular Air Force.

Col. Ronald W. Yates xxx-xx-xxxx FR, Regular Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert Charles Kingston, xxx-xx-x... xxx-... U.S. Army.

IN THE NAVY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Kenneth M. Carr, xxx-xx-xxxx /1120, U.S. Navy.

Donald Barr, of Connecticut, to be a member of the National Council on Educational Research for the reminder of the term expiring September 30, 1982, vice Helen S. Astin.

Carl W. Salser, of Oregon, to be a member of the National Council on Educational Research for the remainder of the term expiring September 30, 1983, vice Maria B. Cerda.

J. Floyd Hall, of South Carolina, to be a member of the National Council on Educational Research for a term expiring September 30, 1983, vice Alonzo A. Crim, term expired.

Donna Helene Hearne, of Missouri, to be a member of the National Council on Educational Research for a term expiring September 30, 1983, vice Catharine C. Stimpson, term expired.

George Charles Roche III, of Michigan, to be a member of the National Council on Educational Research for a term expiring September 30, 1983, vice Harold Howe II, term expired.

M. Blouke Carus, of Illinois, to be a member of the National Council on Educational Research for a term expiring September 30, 1984, vice Barbara S. Uehling, term expired.

Onalee McGraw, of Virginia, to be a member of the National Council on Educational Research for a term expiring September 30, 1984, vice Jon L. Harkness, term expired.

Penny Pullen, of Illinois, to be a member of the National Council on Educational Research for a term expiring September 30, 1984, vice Tomas A. Arciniega, term expired.

Elaine Y. Schadler, of Pennsylvania, to be a member of the National Council on Educational Research for a term expiring September 30, 1984, vice Harold L. Enarson, term expired.

Donald Barr, of Connecticut, to be a member of the National Council on Educational Research for a term expiring September 30, 1985. (Reappointment.)

Paul Copperman, of California, to be a member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982, vice Joseph J. Davis, Jr.

James Harvey Harrison, Jr., of Virginia, to be a member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982, vice Timothy S. Healy.

Wallie Cooper Simpson, of New York, to be a member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982, vice John S. Shipp, Jr.

Paul Copperman, of California, to be a member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985. (Reappointment.)

James Harvey Harrison, Jr., of Virginia, to be a member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985. (Reappointment.)

Wallie Cooper Simpson, of New York, to be a member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985. (Reappointment.)

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

John E. Juergensmeyer, of Illinois, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1987, vice Frances Healy Naftalin.

Jerald Conway Newman, of New York, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1987, vice Joan Helene Gross.

Julia Li Wu, of California, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1987, vice Clara Stanton Jones.

Byron Leeds, of New Jersey, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1986, vice Horace E. Tate, term expired.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Richard J. Fitzgerald, of Illinois, to be a member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1985, vice Elliott D. Marshall, term expired.

Truman McGill Hobbs, of Alabama, to be a member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1985, vice Walter E. Craig, term expired.

Margaret Truman Daniel, of New York, to be a member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1987. (Reappointment.)

Gloria Ann Hay, of Alaska, to be a member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1987, vice John Portner Humes, term expired.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Richard V. Backley, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 1988 (reappointment), to which position he was appointed during the last recess of the Senate.

L. Clair Nelson, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 1988, vice Marian Pearlman Nease, resigned, to which position she was appointed during the last recess of the Senate.

NATIONAL SCIENCE FOUNDATION

Charles E. Hess, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988, vice William F. Hueg, Jr., term expired.

John H. Moore, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988, vice Raymond L. Bisplinghoff, term expired.

Norman C. Rasmussen, of Massachusetts, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988, vice Alexander Rich, term expired.

Roland W. Schmitt, of New York, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988, vice Lloyd Miller Cooke, term expired.

Robert F. Gilkeson, of Pennsylvania, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988, vice Herbert D. Doan, term expired.

William F. Miller, of California, to be member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988, vice John R. Hogness, term expired.

William A. Nierenberg, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988, vice Joseph Mayo Pettit, term expired.

FEDERAL COUNCIL ON THE AGING

Edmund T. Dombrowski, of California, to be a member of the Federal Council on the Aging for a term expiring June 5, 1985, vice Aaron E. Henry, term expired.

NATIONAL COUNCIL ON THE HANDICAPPED

Nanette Fabray MacDougall, of California, to be a member of the National Council on the Handicapped for a term expiring September 17, 1984. (Reappointment.)

ACTION AGENCY

Betty H. Brake, of Oklahoma, to be Deputy Director of the ACTION Agency, vice Winifred Ann Pizzano.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

David L. Slate, of California, to be General Counsel of the Equal Employment Opportunity Commission for a term of 4 years, vice Michael Joseph Connolly, resigned.

NATIONAL INSTITUTE OF EDUCATION

Manuel J. Justiz, of New Mexico, to be Director of the National Institute of Education, vice Edward A. Curran, resigned.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Allen Drury, of California, to be a member of the National Council on the Arts for the term expiring September 3, 1988, vice Willard L. Boyd, term expired.

Celeste Holm, of New York, to be a member of the National Council on the Arts for the term expiring September 3, 1988, vice Theodore Bikel, term expired.

Raymond J. Learsy, of New York, to be a member of the National Council on the Arts for the term expiring September 3, 1988, vice William H. Eells, term expired.

Samuel Lipman, of New York, to be a member of the National Council on the Arts for the term expiring September 3, 1988, vice Martina Arroyo, term expired.

George L. Schaefer, of California, to be a member of the National Council on the Arts for the term expiring September 3, 1988, vice Harold Prince, term expired.

Robert Stack, of California, to be a member of the National Council on the Arts for the term expiring September 3, 1988, vice J. C. Dickinson, Jr., term expired.

C. Douglas Dillon, of New Jersey, to be a member of the National Council on the Arts for a term expiring September 3, 1988, vice Franklin J. Schaffner, term expired.

William Laurens Van Alen, of Pennsylvania, to be a member of the National Council on the Arts for a term expiring September 3, 1988, vice Geraldine Stutz, term expired.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE MARINE CORPS, NAVY, PUBLIC HEALTH SERVICE

Marine Corps nominations beginning Stephen P. Freiherr, and ending Donald L. Hairston, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 10, 1982.

Navy nominations beginning Anthony P. Battaglia, and ending Henryk Bronislaw Zaleski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 15, 1982.

Public Health Service nominations beginning David W. Anderson, and ending Kevin S. Yesky, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 14, 1982.

NOMINATION OF MANUEL J. JUSTIZ, OF NEW MEXICO, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF EDUCATION

Mr. BAKER. Mr. President, I ask the distinguished Senators from New Mexico if they wish to speak at this point to the nomination.

Mr. DOMENICI. Mr. Leader, I do not intend to speak.

Mr. SCHMITT. Mr. Leader, it is not necessary to speak other than to say that I am very pleased, as I know my distinguished colleague is, to see that this distinguished Hispanic, Mr. Justiz, and whose origins are other than those of his country of choice, has reached such a high position. I thank the leader for his courtesy.

Mr. BAKER. I thank the Senator.

Mr. DOMENICI. Mr. President, I am convinced Dr. Manuel Justiz is one of the most capable young men in the State of New Mexico. He knew at an early age what he wanted. He wanted to teach at a university, and in particular, he wanted to teach at our university—the University of New Mexico. To accomplish his goal he attended and succeeded at universities in Kansas and Illinois. Manuel is a doctor of philosophy in higher education administration from the Southern Illinois University in Carbondale, Ill. At the University of New Mexico in Albuquerque, Dr. Justiz is director of Latin American programs in education and associated professor in the college of education.

He has become the pride of many in the State of New Mexico. His reputation as an educational researcher is sterling. His credentials are superb.

We are very proud of him as a leader, as an educator.

Frankly, as I look at our country, there is no doubt that the role of our national government in education is changing, but the one role that continues to remain in the minds of almost everyone is that of educational research. And I am convinced that he will do a superb job.

I highly recommend him. I think we must get on with filling this position. I would not be here if I did not think Dr. Justiz is the man for the job.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

RADIO REGULATIONS (GENEVA, 1979) AND FINAL PROTOCOL

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive Treaty

Document No. 97-21, the Treaty on International Radio Frequencies (WARC-79).

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Treaty Document No. 97-21, Radio Regulations (Geneva, 1979) and Final Protocol, which was read the second time.

Mr. BAKER. Mr. President, I ask unanimous consent that the treaty be advanced through its various parliamentary stages up to and including the presentation of the resolution of ratification, and that the resolution shall be deemed to include the reported reservations and the condition from the committee, as specified in Executive Report No. 97-61, and that no other reservation, understanding, condition, proviso, declaration, or statements be in order, with the exception of the following proviso which I send to the desk on behalf of Senator SCHMITT.

The PRESIDING OFFICER. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state:

The assistant legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Radio Regulations (Geneva, 1979) and a Final Protocol signed on behalf of the United States at Geneva, December 6, 1979, with several reservations; provided that in the implementation of this treaty for the United States, the introduction of a Direct Broadcasting Satellite Service into the 12.2-12.7 GHz band shall be carried out in a manner which minimizes unreasonable disruptions to existing uses in that band.

Mr. BAKER. I send the proposed text of the resolution of ratification, as amended by paragraph 2, and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Resolved (two thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Radio Regulations (Geneva, 1979) and a Final Protocol signed on behalf of the United States at Geneva, December 6, 1979, with several reservations, provided:

(1) that in the implementation of this treaty for the United States, the introduction of a Direct Broadcasting Satellite Service into the 12.2-12.7 GHz band shall be carried out in a manner which minimizes unreasonable disruptions to exisiting uses in that band; and

(2) that the Secretary of State shall take expeditious action to strengthen and improve the coordination of United States international communications and information policy, including consideration of appropriate changes in the organization of the Department of State for this purpose.

Mr. SCHMITT. Mr. President, the Final Acts of the General World Administrative Radio Conference (WARC-79), which are now before the Senate for advice and consent to ratification, reflect growing world tensions over the effective use of spectrum and orbit resources. A study done for the Committee on Commerce, Science, and Transportation by the Congressional Office of Technology Assessment concluded:

Many of the important consequences of WARC-79 were derived from resolutions and recommendations approved by the conference and from reservations and declarations by individual countries, indicating a refusal to be bound by a particular decision of the conference or agreeing to undertake certain actions in order to conform to a decision.

The study pointed out that 87 resolutions and 90 recommendations were adopted by WARC-79, many of which can have far-reaching consequences for the United States. These resolutions and recommendations will be referred to specialized world or regional administrative radio conference.

The United States found it necessary to take formal protocol exception and not to be bound by certain decisions in the Final Acts through six reservations covering several issues, service, and frequency bands. Also, the United States entered a formal declaration of intent regarding designation of certain frequency bands for fixed satellite service which are now used by the United States for military radars and radiolocation services. Other nations entered additional reservations on a variety of subjects. Moreover, the table of frequency allocations set by WARC-79 has almost 500 footnotes in which countries took exception to the table and proposed to operate different or additional services.

The basic objective of WARC-79 was to provide uniformity and certainty in the table of allocations so that countries may effectively plan for their telecommunications needs. Clearly, that objective was not accomplished. Nor did WARC-79 resolve the major issues that face the United States and the other 157 member countries of the International Telecommunication Union (ITU) regarding the future use of the spectrum and geostationary satellite orbit. Resolution of these issues was postponed until later ITU conferences.

Recent events indicate that the developing countries, through the exercise of their numerical majority, could force decisions in those conferences which will be inimical to U.S. interests. For example, decisions made at the ITU Plenipotentiary Conference held in Nairobi, Kenya, this fall were frequently based on political considerations. Although the U.S. delegation worked closely with the delegations of other developed countries to defeat politically motivated proposals to radically restructure the ITU, our appeals were disregarded and, when votes were counted, we ended up on the losing side. One particularly unfortunate example of this departure from traditional procedures was the plenipotentiary's decision to elect the directors of the international consultative committees at plenipotentiary conferences. In the past, these committees have been concerned with technical, not political, matters, and, before the Nairobi meeting, their directors were elected at the plenary meetings of the consultative committees. This change in the ITU Convention will inevitably draw these technical committees into the highly charged political environment of the plenipotentiary conferences.

The specialized conferences scheduled throughout the decade are likely to reach decisions that will make it difficult, if not impossible, for the United States to meet its future telecommunications needs.

In June 1983, a conference of Western Hemisphere nations will meet in Geneva to determine the future of broadcast satellite services in this hemisphere. If the results of broadcast satellite conferences in the other ITU regions are any precedent, this Western Hemisphere conference could inhibit the growth of U.S. broadcast satellite services by limiting the radio frequency and orbital slots needed for our purposes.

A World Administrative Conference on high frequency broadcasting is scheduled for January 1984. Principles will be agreed to and decisions will be made at that conference which could adversely affect the ability of the Voice of America, Radio Free Europe, and Radio Liberty to continue their operations.

The Space World Administrative Radio Conference, scheduled to convene in 1985, will be important to the future of satellite communications. Adoption of the principle of a rigid a priori allotment scheme, similar to the model agreed to at the 1977 broadcast satellite conference, would inhibit the United States and other countries from utilizing new technologies to satisfy national needs.

My fear is that the United States will not be able to effectively advocate and protect our Nation's future telecommunications needs at these conferences.

We must recognize that competing national interests are leading to growing differences over the allocation of frequencies and satellite orbits. Nations traditionally allied with the United States on other matters may join developing nations to protect their own communications interests. As a result, there will be definite winners and losers at these conferences. To place continued reliance on achieving consensus decisions would be misplaced.

Thus, I propose that the Senate place a declaration in the treaty, mandating expeditious and thorough review of executive branch coordination of international communications and information policy. For several years, I have sought to focus attention on the need to develop a systematic

mechanism that will further U.S. interests. Little has been accomplished. In my judgment, it is absolutely necessary that the President revise Executive Order No. 12046. That order established the National Telecommunications and Information Administration (NTIA) and assigned certain responsibilities to the Department of State.

In doing so, the Executive order confused the roles of the State Department, NTIA, and the FCC, and resulted in ad hoc coordination planning and representation. Without a clear line of authority, there is no individual in the executive branch who can exercise leadership and act as the spokesman on international communications and information policy. This situation is puzzling to the private sector, which does not know where to turn for assistance and information; to foreign governments, who already are perplexed by the division of responsibility among executive branch agencies and the FCC; and to the Congress, which is concerned with the maintenance of U.S. leadership in international telecommunications matters. No progress can be made to bolster the U.S position until we clarify the respective roles of those agencies, and reorganize the Department of State.

The United States must develop long-range communications and information goals that will protect and promote our national interests and must formulate the strategies that will insure that we successfully achieve those goals. As part of this overall effort, Congress has directed NTIA to conduct a comprehensive study of the goals, policies and strategies necessary to promote U.S. interests in international communications and information forums.

We cannot continue to rely on a disjointed ad hoc approach to international telecommunications policy development. Ratification of this treaty containing clear instructions to the Secretary of State to strengthen and improve U.S. coordination of international communications and information policy is another important step in acheiving our long-term national objectives.

Mr. PERCY. Mr. President, I urge the Senate to give its advice and consent to ratification of treaty document 97-21, an international agreement which embodies the results of the World Administrative Radio Conference (WARC) of 1979. The Committee on Foreign Relations conducted a public hearing on May 18 and approved this treaty unanimously on September 21 with a report that is available to all Members.

Mr. President, the Committee on Foreign Relations is not aware of any opposition to the ratification of this treaty by the United States from any individuals, groups, or companies. On the contrary, it has been widely supported by Government and industry, as well as thousands of amateur radio operators who wish to make use of the additional radio spectrum allocations made available under this treaty.

The WARC Treaty represents the successful outcome of the enormous and highly complex World Administrative Radio Conference held in Geneva in 1979. Despite fears that this conference would become an ideological battleground between developed and developing countries, it proved to be a highly professional and pragmatic negotiation resulting in a reasonable accommodation on most issues which protects or advances important interests of the United States. Much of that success is a tribute to the preparation and skill of the U.S. delegation to the WARC Conference, headed by Glen O. Robinson, former Commissioner of the Federal Communications Commission and now a professor of law at the University of Virginia. I commend Ambassador Robinson for his able leadership. The success of the 1979 conference is also a credit, however, to the businesslike attitude of the other delegations in Geneva. I would hope that this atmosphere, and not the more political tone of the recent conference of the International Telecommunications Union in Nairobi, will characterize future negotiations on these issues.

Members of the Senate will note that the report of the Foreign Relations Committee includes the text, on pages 4 to 6, of a series of reservations entered by the United States to the agreement at the time of signature. It is not necessary in this case for the Senate to include such reservations in the resolution of ratification since they have already been entered by the United States, but in approving this treaty we take note of the reservations and proceed on the assumption that they will continue to condition U.S. ratification and participation in this treaty.

In addition, the Committee on Foreign Relations proposes one further condition relating to the implementation of the treaty within the United States. That condition is a proviso to the effect that "the introduction of a Direct Broadcasting Satellite Service into the 12.2-12.7 GHz band shall be carried out in a manner which minimizes unreasonable disruptions to existing uses in that band." It is my understanding that the Federal Communications Commission has already taken initial steps to alleviate the concerns which prompted this proviso, so it is not expected to create any difficulties.

I do wish to note, however, that we are not suggesting by this provisio that the 12 GHz band should be entirely devoted to the direct broadcast satellite service (DBS). I understand that this part of the band may also be usable in part terrestrially to transmit high definition television, which offers a dramatic technical improvement in picture quality. The FCC will certainly want to consider this and other potential uses of the band in question as it proceeds with its allocation decisions.

While I am on the subject of provisos, let me explain to my colleagues what this term means for those who are not familiar with it. The Senate can place a range of different kinds of conditions on a treaty to which it gives its advice and consent. It can require amendments to the language of a treaty prior to its entry into force, it can insist upon reservations which otherwise change obligations assumed under a treaty, it can insist upon understandings which control the interpretation of certain parts of a treaty, it can make declarations with respect to the position of the United States on collateral matters, or it can place conditions on ratification which relate to the domestic implementation of the treaty or concern other matters affecting the relationship of the Senate and the executive branch with respect to matters raised by the treaty. All of these conditions are binding upon the President, in the sense that he may proceed with the ratification of the treaty only if he accepts the conditions included by the Senate in its resolution of ratification. However, the final category of conditions to which I alluded, those with domestic or interbranch implications, are what we have recently come to call provisos. They do not involve the international obligations or diplomacy of the United States and, therefore, are not matters of direct concern to the other government or governments who are parties to the treaty in question. For that reason, they need not be included in the instruments of ratification which are formally deposited or exchanged with other governments in the act of bringing the treaty into force. But, as I said earlier, they are nevertheless fully binding upon the President and the executive branch if he chooses to go forward with ratification.

With this description in mind, I would note the second proviso included in the resolution of ratification at the initiative of Senator HARRISON SCHMITT. Senator SCHMITT has repeatedly expressed his concern that the Department of State is not effectively organized to deal with the long-range policy questions raised by this treaty. Initially, he requested that the Senate take no action until after the meeting of the International Telecommunications Union in October. We have clearly complied with that request. The Senator has also asked that we include language reflecting his concern in the resolution of ratification, and that is the purpose of the second proviso.

I think the Senator's point is well taken. The importance of these issues has grown enormously during the past several years in both economic and political terms. Telecommunications has become one of our leading growth industries and a major source of export

earnings and jobs. It will also be a subject of major international negotiations during the next decade. I can assure Senator SCHMITT that the Foreign Relations Committee will continue to take a particular interest in this field and that we will follow closely the efforts of the Department of State—as called for in this resolution of ratification—and the executive branch in general to strengthen our capabilities in this area. I know we can look forward to close cooperation with the Commerce Committee on these matters.

Mr. President, the WARC treaty is an important and valuable agreement. I urge my colleagues to join me in giving it their advice and consent.

Mr. HOLLINGS. Mr. President, although I support ratification of the World Administrative Radio Conference treaty of 1979, I am extremely concerned about our ability to succeed in future meetings before the International Telecommunications Union (ITU) and other international telecommunications bodies. We have gone from a dominating force in international telecommunications to a Nation always on the defensive. We cannot afford to muddle through here when our telecommunications and information needs are so great.

Prior to the boom in telecommunications, the meetings of the ITU were primarily technically oriented. In such an atmosphere, our engineering skill served us well, and we were successful in obtaining what we needed. However, in the past few years, the entire tenor of this and other international telecommunications bodies has changed: A premium is now placed on political matters. In a one-country-one vote situation, our problems are obvious.

This, of course, does not mean these problems are insuperable. It does mean that we will have to work much harder to be successful. Unfortunately, our Government has not reoriented itself fully to operate in this new environment.

Proof of our lack of sufficient commitment in these international arenas is not difficult to find. One only has to look at how we fared at the just completed ITU Plenipotentiary in Nairobi. Our delegation, while certainly technically talented, was far too new to international telecommunications diplomacy. In addition, the time given to prepare for this meeting was woefully short. Despite the hard work of this delegation, we lost several key votes, defeats that could likely have been prevented.

It is all too evident that a change is required. We in the Senate and my colleagues in the House have indicated time and time again that a further commitment by the Federal Government to protecting our telecommunications and information interests overseas is essential. The executive branch should take the resolution by Senator SCHMITT as a strong signal that something must be done.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on treaty document No. 97-21, Radio regulations (Geneva, 1979), and final protocol, as amended. (Putting the question.)

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification, as amended, is agreed to.

LEGISLATIVE SESSION

Mr. BAKER. Now, Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until no later than 4:30 p.m. under the same terms and conditions as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Mr. (HAYAKAWA). Without objection, it is so ordered.

MEASURES ON THE CALENDAR

Mr. BAKER. Mr. President, there are two measures that are cleared on this side for action by unanimous consent. May I inquire of the minority leader if he is ready to consider them on that basis? One is a House message on Senate Joint Resolution 271, making technical corrections in banking statutes which the chairman of the Banking Committee and the ranking member have no objection to. The other is establishing dates for submission of the Budget and Economics Report.

Mr. ROBERT C. BYRD. There is no objection on this side.

Mr. BAKER. I thank the Senator.

TECHNICAL CORRECTIONS IN BANKING STATUTES

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 271.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 271) entitled "Joint resolution to make technical corrections in certain banking and related statutes," do pass with the following amendments:

(1) Page 2, line 13, strike out "[(a)]".

(2) Page 2, strike out lines 18 through 28, inclusive.

(3) Page 15, strike out lines 6 through 32, inclusive, and insert:

SEC. 18. The last proviso of section 5136 Seventh of the Revised Statutes (12 U.S.C. 24 Seventh), as amended by section 404(b) of Public Law 97-320, is amended by striking out "10 per centum of its" and inserting in lieu thereof "10 per centum of the association's".

(4) Page 19, strike out all after line 31 over to and including line 18 on page 20.

(5) Page 20, line 19, strike out "[34.]", and insert: "33".

Mr. PROXMIRE. Mr. President, I would like to address a question to the distinguished manager of the bill and the chairman of our committee. It is my understanding that the House of Representatives, for some inexplicable reason, has deleted a provision authorizing so-called banker's banks chartered by the Federal Government to provide services to bank-holding companies as well as to depository institutions. This deletion is most unfortunate and will place needless restrictions in banker's banks in at least six States where they have been chartered including Wisconsin, Colorado, Texas, Nebraska, Ohio, and Minnesota. I would like to ask the chairman what action he foresees we might take on this matter.

Mr. GARN. I share the Senator's disappointment, and that of Senators TOWER and ARMSTRONG and other colleagues, that this provision was deleted from the bill. To my knowledge, there is no controversy with regard to this provision, nor is there any opposition. I simply cannot understand why the House deleted it. Unfortunately, because we will be adjourning within the next few hours, there is little we can do but to accept the House action. However, it would be my intention to attach this provision to the first available vehicle reported by the Banking Committee next year.

Mr. PROXMIRE. Mr. President, I thank the Senator for his concern and support.

Mr. GARN. Mr. President, I regret that these changes were made in the House version, but at this late date, we have no alternative but to accept them.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

ESTABLISHMENT OF DATES FOR SUBMISSION OF BUDGET AND ECONOMIC REPORT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of House Joint Resolution 635, establishing the dates for submission of the budget and accounting report.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A House joint resolution (H.J. Res. 635) establishing the dates for submission of the Budget and Economic Report.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time by title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 635) was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. I move to reconsider the vote by which the resolution was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended not past the hour of 5:30 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED CUTBACKS IN NUTRITION PROGRAMS

Mr. LEAHY. Mr. President, I was dismayed, although not surprised, to read in the Washington Post last week that the Department of Agriculture has submitted proposals for deep, new reductions in the food stamp and child nutrition programs to the Office of Management and Budget as part of its fiscal year 1984 budget plan. While these proposals do not represent the last word on the President's budget for fiscal year 1984, it is unlikely they will improve once OMB completes its review of them. Thus, I think we can safely expect that the President's fiscal year 1984 budget will once again propose food and nutrition reductions well in excess of $1 billion.

I cannot condemn these proposals in strong enough terms. At a time when reports of human hunger and suffering across the country are reaching epidemic proportions, the Reagan administration appears ready to again take from those who can afford it the least. Even as Congress now adds additional funding into the continuing resolution to meet emergency food and shelter needs, the Reagan administration is preparing legislation to slash benefits for these same people a few months hence. Such proposals show an incredible insensitivity to the real needs of recession plagued Americans.

Food and nutrition programs have already been hard hit by the budget cutbacks of the past 2 years. In 1981, the food stamp program was cut $2.3 billion or about 20 percent. Child nutrition was cut $1.5 billion or 30 percent. In 1982, food stamp reductions of $1.9 billion over a 3-year period were enacted on top of the 1981 changes.

The administration's proposals are nothing new. Virtually all, or a variation thereof, have been rejected by the Congress in the past 2 years. These are tired, misdirected proposals that do not improve with repetition.

In food stamps, USDA's major cutback proposal is to cut benefits across the board for a savings of about $650 million. Virtually all households, including those with incomes well below the poverty line, would be hurt. No doubt many persons now waiting in soup lines around the Nation because their food stamp benefits do not go far enough would lose several dollars more a month under this proposal.

Another food stamp proposal in the USDA plan is elimination of the $10 minimum benefit. This proposal was flatly rejected by Congress this year. Of the roughly 200,000 households that would have their benefits eliminated under this proposal, about 80 percent include an elderly or disabled member. Many have gross incomes well below the poverty line.

In the child nutrition area, the administration hopes to achieve several hundred million dollars in savings by putting the child care food, summer food service, and school breakfast programs in a block grant at sharply reduced funding. These are the very child nutrition programs with the highest concentration of low income participants. These programs were already cut sharply in the 1981 legislation, and it is highly inappropriate to slash them further now.

In the coming weeks, we will learn more of the details of the President's budget. As ranking minority member of the nutrition subcommittee, I hope to keep my colleagues informed about what is being proposed and what its impact will be. It is my own view that nutrition programs have been given sufficient scrutiny in the 97th Congress that they would benefit from benign neglect in the next year or two. Other than to perhaps meet the burgeoning demand for assistance spawned by the deepening recession, I would hope to avoid major legislative changes in the current Federal nutrition programs during the 98th Congress.

I ask unanimous consent that a copy of the December 15 article in the Washington Post describing USDA's budget proposals be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 15, 1982]

BLOCK SAID TO PROPOSE $1 BILLION CUT IN FISCAL 1984 FOOD STAMP PROGRAM

(By Spencer Rich)

Agriculture Secretary John R. Block has proposed cutting the food stamp program by another $1 billion in fiscal 1984, sources said yesterday.

In a Sept. 17 letter to the Office of Management and Budget, Block also proposed folding a number of child-feeding programs, including school breakfasts, the summer feeding program and the Child Care Food Program, into a single block grant.

In addition, Block suggested eliminating food aid to day care facilities in private homes, as well as canceling his department's funding of school nutrition programs operated by the Defense Department and the Interior Department's Bureau of Indian Affairs.

These cuts could reduce outlays for child nutrition programs by several hundred million dollars, unless they are made up by other agencies, according to program experts.

The new food stamp cuts would be on top of substantial reductions that Congress has approved in the program over the past three years. Congress has tentatively approved a fiscal 1983 budget for the program of $10.8 billion, or about 20 percent below the level before President Reagan took office, according to one expert.

The OMB refused to discuss any details of the Block proposal, but one source said, "There has been an awful lot of discussion since Sept. 17," and Block's proposals may have been altered substantially since then.

The biggest cut proposed by Block would increase the "benefit reduction rate" from 30 percent of a recipient's net income to 33.3 percent. Under this proposal, a family's current annual benefits would drop by an amount equal to 3.3 percent of its net income, after certain deductions are made.

A family of three with an annual gross income of $6,100 would see their monthly allotment of $99 worth of stamps cut to $88; an elderly couple with $475 a month in Social Security income, now getting $264 a year in stamps, could be cut to $120 a year.

Although Block did not cite any savings figure, one expert estimated that the proposal would reduce benefits by at least $650 million.

A second proposal would simplify and combine certain deductions from income now allowed in the program, and, according to Block, provide "some benefit reductions."

A third would give states a fixed block grant for administering the program at the local level, thus saving the federal government added expenditures if state administrative costs exceeded the grant.

A fourth suggestion would eliminate any benefit under $10 a month, a proposal that the Reagan administration made last year but Congress has failed to approve. Block said this would affect only households at the upper end of the eligibility scale. However, experts said that under certain conditions, it could mean a person with income as low as $285 a month could lose all his benefits and it could hit elderly and disabled persons heavily.

A fifth proposal would give persons on Supplemental Security Income cash in lieu of food stamps.

FEDERAL NUTRITION PROGRAMS

Mr. LEAHY. Mr. President, before the Senate adjourns, I would like to briefly comment on Senate Concurrent Resolution 121. Basically, this resolution expresses the sense of Congress that the current array of Federal nutrition programs should be maintained at their current levels of sup-

port. I am both pleased and gratified that 54 Senators have joined Senator DOLE and myself as cosponsors of this resolution.

I think that this resounding display of support for Senate Concurrent Resolution 121 indicates how strongly Members of the Senate believe that there should be no turnback of child nutrition programs to the States. Only the lack of time and our hectic schedule prevented the Senate from officially ratifying this resolution in the closing days of this session.

I should point out that the Senate expressed approval of the thrust of Senate Concurrent Resolution 121 when it passed the conference report on the Agriculture appropriations bill, H.R. 7072. The statement of managers to that conference report adopted language very similar to Senate Concurrent Resolution 121:

The conferees feel that: (1) national efforts to reduce hunger and malnutrition should continue; (2) a national commitment to vital nutrition programs should continue; (3) the Federal Government should retain primary responsibility for child nutrition programs; and (4) State and local governments should be given increased responsibility for formulation and implementation of regulations governing such child nutrition programs.

Similarly, the House has approved House Concurrent Resolution 384, which states in even stronger terms that current Federal nutrition programs should be neither turned back to the States nor converted to block grants. Thus, both Houses of Congress have clearly and unequivocally expressed their positions on this issue.

I might add, for those concerned about this issue, that support for retention of Federal nutrition programs is not inconsistent with a belief that States and localities should gain increased control over education programs. While programs like school lunch and breakfast do greatly enhance the educational process in our schools, they really are not educational programs per se. When the Department of Education was established several years ago, the child nutrition programs remained within USDA jurisdiction. State and local educators and parents are not clamoring for greater control over school lunch. It is not the same issue as controlling the local school curriculum. There already is a great deal of flexibility at the local level as to how to organize feeding programs and what menus to serve. The real issue in child nutrition programs is a stable source of resources to operate effective programs.

I sincerely hope that the President, the Governors, and other State and local officials concerned with developing New Federalism proposals will take note of Congress position on these programs. The inclusion of child nutrition programs in any turnback proposal would be pointless and could be counterproductive to the passage of any New Federalism initiative. I respectfully suggest that those involved in formulating such a package make a realistic assessment of congressional will on child nutrition programs and revise their plans accordingly.

FREE THE SENATE 100

Mr. LEAHY. Mr. President, the meeting of the Free the Senate 100 Committee this afternoon will be delayed until right after the Free the Press Corps 195 Committee meets this afternoon.

Mr. BAKER. The Senate should know, however, Mr. President, that the Sergeant at Arms has been alerted to the possibility of a jail break.

Mr. LEAHY. It was reported that there was a rope of knotted sheets hanging out of the caucus room window. The Segeant at Arms should go up there because some of us are thinking very seriously of escaping. He should be alerted to that, too.

Mr. BAKER. I thank the Senator for his warning.

JUNTA PATRIOTICA CUBANA STATEMENT TO THE ORGANIZATION OF AMERICAN STATES

Mr. SYMMS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement presented to the Organization of American States by the Junta Patriotica Cubana regarding OAS policy toward Cuba, the Symms amendment, and Radio Marti.

There being no objection, the statment was ordered to be printed in the RECORD, as follows:

JUNTA PATRIOTICA CUBANA,
(CUBAN PATRIOTIC BOARD),
Washington, D.C., November 15, 1982.

HONORABLE CHAIRMAN OF THE TWELFTH SESSION PERIOD OF THE GENERAL ASSEMBLY OF THE ORGANIZATION OF AMERICAN STATES (OAS),

HONORABLE MINISTERS FOR FOREIGN AFFAIRS, HONORABLE AMBASSADORS, REPRESENTATIVES OF THE AMERICAN STATES.

DISTINGUISHED REPRESENTATIVES OF THE AMERICAS: We take pleasure in addressing you, in the exercise of a legitimate right, and in your capacities of Representatives of Member States, in this Twelfth Session Period of the General Assembly, and through your mediation we address the governments and peoples of the Americas, in our condition as representatives of the Cuban Patriotic Board, an entity that encompasses the majority of Cuban organizations, which guarantees its representative capacity, and we respectfully state to you:

That the Cuban State, from which we proceed, is a part of the Inter-American System and a member of the Organization of American States (OAS), which in turn is an organization made up by States, not by governments. What is excluded, in accordance with the stipulations in the Reciprocal Assistance Treaty (also known as "Treaty of Rio") and by the Resolution passed by the Eighth Consultation Meeting of Ministers of Foreign Affairs, assembled at Punta del Este, Uruguay, in 1962, is the present Marxist-Leninist government of Cuba, because of it having been declared incompatible with the Inter-American System.

The Cuban State has signed, together with the American States that you represent, the treaties, covenants, agreements and resolutions presently in force within the Inter-American System. You and we have "freely agreed, but become bound by the agreement"—Pacta Sunt Servanda—as stated by the Father of International Law, P. Francisco de Vittoria. We, in the name of the Cuban State, come to request the compliance with those obligations. "We are the Voice for Those Who Have No Voice".

You, gentlemen who are the Representatives of the Americas, so zealous for the application of the Treaty of Rio to the case of the Malvinas, are expected to be as zealous for the application of same Treaty of Rio to the case of Cuba, in order to be consistent with the history and tradition of the Americas and faithful to its national heroes.

The extra-continental power that threatens the peace and security of the Americas is the Soviet Union, that has subjugated and enslaved the people of Cuba, through the action of a surrogate government and the use of armaments and terror.

The Cuban State is one and indivisible, and its rights must be protected by the other Member States of the Organization of American States (OAS), according to stipulations in the treaties, covenants, agreements and resolutions presently in force.

The following was stated at the Seventh Consultative Meeting of the Ministers for Foreign Affairs of the Americas, assembled in accordance with the Treaty of Rio, at San José, Costa Rica:

"1. The intervention or threat of intervention, including the conditional ones, on the part of an extra-continental power, in the internal affairs of any American Republic, is hereby condemned by us, and we underline that acceptance of a threat of intervention by an extra-continental power, on the part of any American State, endangers the solidarity and security of the Americas, which forces the Organization of American States (OAS) to condemn it and to reject it with a similar energetic posture."

Nobody doubts that Castro's satellite government has "accepted the threat of intervention by an extra-continental power" (the Soviet Union) and that it has "endangered the solidarity and security of the Americas." That "acceptance", that "threat" and the intervention by an extra-continental power (the Soviet Union) are now greater, more militant and much more serious than at the time when that agreement was taken.

The above situation, that is certain regarding Cuba, is happening in an accelerated manner regarding Nicaragua, which proceeds in the direction of a Marxist-Leninist totalitarian regime, subservient to that of the Soviet Union. Both countries serve as bases for the ideological, political and military subversion, for terrorism and for the destabilization of other American States, such as El Salvador, Guatemala, Honduras, Costa Rica, Colombia and Peru, among others.

The Eighth Consultative Meeting of Ministers for Foreign Affairs, assembled in Uruguay in accordance with the Treaty of Rio, passed Resolution VI, which declared that "Marxist Doctrine is Incompatible With the Inter-American System." And that stated incompatibility has not been revoked, it is presently in force. If we wish to be respected throughout the world, we must enforce our treaties and Resolutions.

At the Ninth Consultative Meeting of Ministers for Foreign Affairs, convoked in accordance with the Treaty of Rio and assembled in Washington, in 1964, the following was agreed upon:

"1, That the present government of Cuba, since its installation in 1959, has developed, supported and conducted in several manners a policy of intervention in the Continent of the America, with methods, propaganda,

provision of funds, training for sabotage and guerrilla operations, supply of armaments and aiding those movements tending to the subversion of national institutions, through the use of force, in order to install communist regimes. . ."

"That the assistance to subversion generally adopts the form of a political aggression. . ."

The Ninth Consultative Meeting agreed upon the following:

"a. To condemn the present government of Cuba as an aggressor and because of its intervention in the internal affairs of other States, violating their territories and their sovereignty. . ."

That condemnation against the present government of Cuba is still in force, and is now even more obvious than it was then the necessity of its compliance, because the satellite regime of Cuba has ridiculed the American States and has continued intervening in the internal affairs of other States of America and violating their sovereignty. To the sanctions that were applied then—among others the economic embargo, that must be maintained—there must be added the extreme measures contemplated in the Treaty of Rio: "The use of armed force", if we want to be consistent with our own destinies.

Cuba is presently a Soviet arsenal, a base for subversion, a satellite of the Soviet Union, which unabashedly attacks and threatens the American States. It exports communist subjugation, because the very nature of its regime and its goals, that it has not hidden, are those of enslaving the peoples of this Hemisphere, submitting them to the Soviet imperialism.

The Soviet Union has delivered to Cuba, during the past year, over 64,000 tons of armaments, which not only have served to arm one million of Cuban militiamen, but for export to Nicaragua, Grenada and the communist guerrillas in El Salvador, Guatemala, Honduras and Colombia, as well as other countries in the Americas.

Cuba has a base for nuclear submarines at Cienfuegos Bay, where Soviet submarines have already been repaired. It also has over 200 Mig-23 & Mig-27 warplanes, submarines and warships of other kinds, and modern combat stations, staffed by Soviet personnel, to interfere and detect communications in the Americas.

Thousands of Soviet military personnel are stationed in Cuba, in an organized brigade made up by elite Soviet military forces.

Cuba utilizes its naval facilities for drug trafficking and uses contraband vessels to transport armaments for Colombian and other guerrillas in the Hemisphere, as it has already been proven.

The objective of the Soviet Union, an extra-continental power, through its satellites in Cuba and Nicaragua, is seizing power in each of the American nations. And this is an objective that is not negotiable or susceptible for settlement. Because of tactical conveniences, it might agree upon "peace" in Central America, in the same fashion that Hitler did at Munich, and American Chamberlains will not be lacking, ready to let themselves be deceived, thus betraying the destinies of their peoples and the future of the Americas.

José Martí, the Apostle of Cuban independence, said: "Witnessing a crime in silence is equivalent to committing it."

Human rights are universal values, indivisible in their force, maintenance and defense, and no discrimination can be committed in denouncing violations of same.

Human rights violations in Cuba have been institutionalized; they are consecrated in its constitution and its laws, and are daily practice throughout the country, but most especially in the communist dungeons, where a "cruel, inhuman and degrading" treatment is applied, which has been stated by the Inter-American Commission on Human Rights, that has been and still is competent to continue dealing with violations of human rights in Cuba.

The present political imprisonment in Cuba is the longest and most cruel that has been recorded in the Americas. Those political prisoners who are called "Plantados" (those who have stood up to the government by not submitting to communist indoctrination) are submitted to physical and psychic tortures. A majority of them is kept in walled-up cells, at the section termed "the End of the World", at the prison of Boniato, province of Oriente. Thirty-three of them have declared a hunger strike and their lives are endangered, if appropriate measures are not taken to prevent their deaths. We hope that this Assembly will listen to the outcry from those men and women of America who are fighting for mankind's dignity & freedom, in our hemisphere and throughout the world.

Cuba is nothing but a prison, and there are thousands of Cuban men and women in prisons and concentration camps, at forced labor. There is one million Cubans in exile. All of them expect from their American brethren the indispensable cooperation in order to return independence and freedom to Cuba.

We finally state:

That the Tenth Inter-American Conference, held at Caracas, Venezuela, in 1954, agreed upon Resolution XCIII, reading as follows:

"The domination or control of political institutions in any American State by the International Communist Movement, extending into this Hemisphere the political system of the extra-continental power, shall constitute a threat to the sovereignty and political independence of American States; it endangers peace in the Americas and would force us to convoke a Consultative Meeting in order to consider the adoption of an appropriate action, in accordance with the existing treaties."

That the Charter of the Organization of American States, passed in Bogota, Colombia, on May 2, 1948, Article 19, reads thus:

"Those measures taken for the maintenance of peace & security, in accordance with treaties in force, are not constitutive of violations of the principles stated on Articles 15 and 17." (That is, these measures do not infringe upon the principle of non-intervention).

And we request:

1. The convocation of a Consultative Meeting of Ministers for Foreign Affairs of the Americas, in accordance with the Treaty of Rio, in order for said Treaty to be applied to Cuba, most especially its Article 8, that authorizes "the use of armed force."

2. That the incompatibility of Marxism-Leninsim with the Inter-American System be maintained. "Communism is not negotiable in this Hemisphere."

3. That this organization, the Cuban Patriotic Board (Junta Patriotica Cubana) be recognized and accepted as the legitimate representative of the Cuban State, since the present government of Cuba is excluded from the Inter-American System and the Organization of American States.

4. That the Institutional and Factual violations of human rights in Cuba be denounced, in accordance with the American Declaration of Rights and Duties of Man.

5. That the satellite regime of Cuba be declared as a participant and culprit in the trafficking of narcotics in America.

6. That the year 1983 be declared as the Year of the Fight in the Americas Against Communism, and for Freedom and Democracy.

7. That the economic embargo against Cuba be maintained and enforced by all American Nations, as it was accorded for he compliance with the Treaty of Rio.

8. That the Organization of American States designates from within itself a Committee for Decolonization of Cuba, in order to free the island from Soviet colonialism.

9. That the Soviet Union be forced to withdraw its occupation troops from the territory of an American State (Cuba), and that it also withdraw all armaments introduced in Cuba, Nicaragua & other American countries.

10. That the Organization of American States designates a Commissioner for Political Refugees, since this problem affects already millions of persons in the Americas.

11. That the Organization of American States declares that there cannot be freedom for the whole (the Americas) while freedom does not exist in each one of its components, such as Cuba, submitted to the colonialism of an extra-continental power (the Soviet Union).

12. That the Organization of American States declares that there cannot be independence for the whole (the Americas), unless there will be independence in each one of its components, such as Cuba.

13. That it be declared by the Organization of American States, that there is no freedom of the press, nor religious, nor that for the organization of labor unions, nor for expression, nor for travel, and that liberty, integrity and life of persons are not respected in Cuba.

14. That it be declared by the Organization of American States that coexistence with the satellite regime of Cuba is contrary to the principles and values of the Inter-American System.

15. That it be declared by the Organization of American States that Cuba is a country aligned with the Soviet Union and a satellite of same.

16. That it be declared by the Organization of American States that Cuba is not a signatory to the Treaty of Tlatelolco against proliferation of nuclear armaments, because it maintains its territory open to Soviet nuclear arms, as it did publicly in 1962 during the so-called Nuclear Missile Crisis, in which opportunity it endangered the peoples of Cuba and the Americas.

17. That it be declared by the Organization of American States that the communist government of Cuba continues to execute its political opponents. On October 1st, 1982, Armando Hernandez, 35, and Ramon Toledo, 41, as well as 27 other political prisoners, were executed at the execution wall in the Fortress of La Cabaña, La Habana, and executions are going on unabated. We demand from this General Assembly to ask the Castro regime to stop executing its political adversaries.

18. That the Organization of American States cooperate to the compliance with the Joint Resolution of the United States Congress (the Symms Resolution) in which it is expressed that "the United States is committed to fight, together with the Organization of American States and with freedom-loving Cubans, to attain self-determination for the Cuban people."

19. That the Organization of American States cooperate and welcome to the installation of "Radio Martí", to convey the truth to the Cuban People.

We place our demands in your hands, distinguished Ministers for Foreign Affairs of the Americas, Ambassadors and other representatives. We have fulfilled and shall con-

tinue to fulfill our duties, and we expect of you to fulfill yours, in keeping with the tradition and history of the Americas, for the peace and security of the Americas and the liberation of Cuba.

We sign in representation of the Cuban Patriotic Board.

DR. MANUEL A. DE VARONA,
President.
DR. EMILIO A. BROUWER,
MANUAL ALONSO,
DR. CLAUDIO F. BENEDI,
Washington, D.C., Area Representative.
LUIS PAGES,
FEDERICO MORALES,
DR. EDILBERTO REYNALDO.

GOODBY AGAIN—AND SOMEHOW WE ARE OLDER

Mr. SYMMS. Mr. President, I have often been an outspoken critic of the media, because I do believe that many members of the Fourth Estate are sometimes out of touch with reality and the mood of the country, permitting their own biases to interfere with the objective reporting of the news. But I also have great respect and admiration for members of the media who observe the high standards of their profession, always striving to be accurate and fair.

Steve Ahrens, political editor and columnist for the Idaho Statesman in Boise, is one of the best journalists I have ever known and dealt with. Over the last 15 years he has covered every major political story in my State, always enlightening and entertaining his readers, sharing the information and knowledge he has acquired without slanting the story or twisting the facts.

I have not enjoyed all of the stories Steve has written, but he has never been guilty of a distortion or a cheap shot. I am going to miss his byline in the Statesman as he moves on to a new career in corporate public affairs. I join his friends and colleagues in wishing him well, and I ask that the following article—a "goodby" tribute by Tim Woodward of the Statesman—be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Idaho Statesman, Dec. 2, 1982]

GOODBYE AGAIN—AND SOMEHOW WE ARE OLDER

(By Tim Woodward)

A chapter is closing here at The Statesman. Soon, for the first time in most of our memories, there won't be a Steve Ahrens aboard this train.

For those of you who missed the announcement in Tuesday's paper, Ahrens is leaving journalism for corporate politics. He was the political editor and columnist here for seven years. Before that he was the news editor, and before that he was the city editor, and before that he was the state editor, and before that I don't know. He was state editor when I came aboard, 11 years ago.

Ahrens did many things during his 15 years here, but one accomplishment towers above the rest. It was the focal point of his career at The Statesman, the surpassing glory of his years in the Fourth Estate, and the thing for which history will honor him above all else he did or will do in his years on this Earth. He hired me.

Aside from this achievement, which speaks for itself, I will refrain from mentioning his professional abilities. We haven't worked together in a decade. When I was a rookie in the Canyon County bureau, though, Ahrens was my boss. On my first day, he drove me to Nampa and Caldwell and personally introduced me to the government officials whose offices I would be infesting. Each week he meticulously critiqued my stories. If a story pleased him, he put a note of approval on the wire. If it didn't, we discussed it privately.

When he learned that I needed a protective case for my camera, he bought one and wouldn't let me pay him back. I had been on the job only a short time when he, the boss, invited me and my wife to dinner. In the months ahead he invited us to picnics, sports events, parties. he got me my first promotion, fought for my early pay raises.

A funny thing happened during that time in Canyon County, a thing I still like to kid him about. One day he sent a wire directing the bureau reporters to be on the lookout for weather pictures. (Bureau reporters doubled as photographers.) That afternoon I noticed two elderly men playing golf in a blizzard. The snowflakes were the size of half dollars. I took the pictures, shipped the film to Boise, and confidently waited to see the results in the morning paper. A week passed without a sign of them. Then I got the negatives back in the mail. Attached to the negatives was a note:

"Tim: These are nice pictures of these golfers, but we can't use them. There are black spots all over the negatives."

He had mistaken my prodigious snowflakes for defects in the film. I mention this primarily for the benefit of his future employers, so they will have something in reserve in the event that his exalted new position makes him uppity.

In looking back on those days, it is difficult in one way to believe that they were as long as they were. In one way the memories seem only a few years old—five or six at most. In another way, they seem to belong to another century.

In the computer age, the machine Ahrens used to send his wires is but a moldering dinosaur. The old bureau has long since been converted to an insurance office. Its successor was destroyed by fire, and even that calamity seems part of the distant past. Most of the people we worked with and caroused with and called our friends are gone. A few are in their graves.

In the 11 years since Ahrens risked his reputation for sanity on the new man in Canyon County, we have watched more than a hundred people go out the door for the last time. Of these, four have retired and four are dead. Of the remainder, four have unequivocally improved their situations, in my opinion. Mindy Cameron is an editor at the Seattle Times. Bill Burnett is an editor at the San Francisco Examiner. Two others are editors at the Chicago Tribune. Many have left journalism for better-paying jobs in related fields. For some this has constituted an improved situation. For others it has constituted a slow death.

A hundred people gone! Where are they now, those gray heads we turned to with our youthful questions? Where are the John Corletts, the Walter Johnsons, the Bob Lorimers? Of the crew that grappled with the news in my rookie days, only eight are left. Of 57 people on the current roster, I am senior to all but seven. It's odd; I don't feel senior at all.

And now Steve Ahrens, who gave me my start and would always be around, is saying his goodbyes. Somehow it makes the rest of us seem older. Not senior, just older.

Enough. I'll hobble home now, to my rocker and my warm milk.

HOUSE CONCURRENT RESOLUTION 153, AUTHORIZING A BUST OR STATUE OF DR. MARTIN LUTHER KING, JR., TO BE PLACED IN THE CAPITOL

Mr. KENNEDY. Mr. President, I commend my colleagues on the adoption of the concurrent resolution authorizing a bust of Dr. Martin Luther King, Jr., to be placed in the Capitol.

This tribute to Dr. King is especially timely now, when fundamental rights, such as the right to open housing and the right to intergrated schools—issues for which Dr. King literally gave his life—are threatened more seriously than at any time in the recent history of this land. In the struggle of this time, let us recall the words of Dr. King himself:

> However difficult the moment, however frustrating the hour, it will not be long, because truth pressed to Earth will rise again.

In Dr. King's last address, the day before his death, he said that he had been "to the mountain top." He spoke of his vision that true equality for all people in America could be achieved.

In commemorating Dr. King with a place of honor in the Capitol, we bring his vision a little closer to fulfillment. This recognition of Dr. King will foster a greater national awareness of his life and a greater national commitment to the achievement of his dream. He belongs to the ages, and his bust belongs in the Capitol, beside the other giants of our history.

CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS ACT AMENDMENT OF 1981

Mr. KENNEDY. Mr. President, the enactment of H.R. 3963 is a significant step forward in the continuing war against crime. The act contains the Justice Assistance Act, which is an important demonstration of Congress commitment to assist States and localities in their struggle against the rising tide of violent crime.

The magnitude of the crime problem in the neighborhoods of our Nation is staggering. In Massachusetts, the epidemic of violent street crimes in some neighborhoods is so serious that law-abiding residents are prisoners in their own homes, paralyzed with fear. I recently received an impassioned plea from the residents of Dorchester and Roxbury, who are being victimized by the activities of a sophisticated drug ring in their neighborhoods. The reduced budgets of the local police and the effective organization of a well-financed drug trafficking operation have combined to create a sharp in-

crease in violent crime in these neighborhoods.

Mothers are afraid to leave their homes to buy groceries for their families. Older residents are reluctant to answer the doorbell, for fear of being shot and killed, as one of their neighbors was recently. Young pesons are corrupted by drug dealers who will pay $200-400 per week to any youth who will act as a lookout and warn the pushers of approaching police.

Between January 1981 and October 10, 1982, a single street in Roxbury was the scene of 4 murders, 15 assaults, 12 burglaries, 20 street robberies, 21 thefts from cars, and 27 stolen cars.

This act authorizes much-needed Federal financial assistance to develop effective anticrime programs to deal with crime outbreaks such as those in Dorchester and Roxbury. It is an essential part of a war on crime, and I urge the administration to assure that the funds authorized by the act are appropriated.

The act also strengthens the sanction of criminal forfeiture as a penalty for drug trafficking and racketeering, and establishes a "drug czar" to develop policy and coordinate Federal drug enforcement. Also included are provisions of the Armed Career Criminal Act, which expands Federal jurisdiction to cover robberies and burglaries which violate State law. We should be cautious about expanding Federal crime jurisdiction, because of the enormous responsibilities placed upon Federal law enforcement by current law and the charges of interference with local law enforcement. However, the problem of violent crime in America is so serious and the evidence of the high percentage of violent crime perpetrated by career criminals is so compelling that I support these armed career criminal provisions, which include the amendment I offered to require that Federal jurisdiction can be exercised only upon the request or concurrence of the local prosecutor.

Finally, the bill responds to the recent horrifying episodes involving contamination of Tylenol by creating a new Federal antitampering offense.

This act contains several important law enforcement tools. But the act is also significant for the needed law enforcement tools which it does not contain. Foremost among these are bail reform and sentencing reform. On September 30, 1982, the Senate passed S. 2572, the Violent Crime and Drug Enforcement Improvements Act of 1982, by a vote of 95 to 1. This bill contains reforms of Federal bail and sentencing laws which I have worked on for several years with my colleagues on the Judiciary Committee.

In my view, the sentencing reform contained in S. 2572 is the most important reform we can make in Federal criminal law. It would replace the existing nonsystem of sentencing with a rational scheme including certainty of sentencing, guidelines to eliminate disparate sentences, abolition of parole, and appellate review of sentences.

With respect to bail, S. 2572 also contained essential reforms. For the first time, judges would be permitted to consider the dangerousness of the defendant in establishing conditions of bail release, and to detain a defendant who poses a threat to the safety of the community. At the same time, S. 2572 prohibits the common practice of detaining a defendant by setting money bail at a level which the defendant cannot meet.

Bail and sentencing laws have been debated by Congress for years. As the Senate has demonstrated again this year, the needed reforms are not too complicated to legislate. I have received assurances from the distinguished chairman of the House Judiciary Committee, Mr. RODINO, that the House Committee will act early next year to resolve these pressing criminal law reform issues. With those assurances, I look forward to enactment of long overdue reforms in the Federal law of bail and sentencing in the next Congress.

LABOR RACKETEERING ACT OF 1982

Mr. HATCH. Mr. President, the fight to protect thousands of honest union members and the general public from union corruption and racketeering has been lost for this year. Unfortunately, one of the most important pieces of labor legislation before Congress this year, the Labor Racketeering Act of 1982, has been buried in the House of Representatives.

Initially, there was every indication that this much-needed bill would pass through Congress quickly. It was unanimously approved by the Senate Labor and Human Resources Committee following months of negotiation among Senators KENNEDY, NUNN, NICKLES, and me. Each of its provisions was checked with representatives from AFL-CIO, and the bill was endorsed by the federation's president, Lane Kirkland. It even passed the full Senate, unanimously, on two separate occasions.

The bill's provisions were designed to provide better protection for union members and their health and welfare plans. They would have strengthened the prohibitions against racketeering and increased the penalties found in the principal labor laws that regulate labor relations and employee benefit plans—the Taft-Hartley Act, the Landrum-Griffin Act, and ERISA.

The underlying need for such legislation is unmistakable. For example, Alan Dorfman was convicted last week of defrauding the Central States Teamsters pension fund. Since S. 1785 did not pass, he will be able to continue to collect, through his company, Amalgamated Insurance Agencies Services, Inc., $900,000 a month in fees from the fund as long as he appeals his conviction, because of a loophole in current law. Since the appellate process can take 2 to 3 years, this sum might ultimatley exceed $30 million. Under the proposed bill, this money would have been paid into an escrow account until the appellate process is resolved, in order to protect the interests of both the convicted official and the members of the pension plan.

In 1975 the Department of Justice launched an investigation of racketeering on our east and gulf coasts, culminating in the conviction of over 100 top officials in the International Longshoremen's Union as well as shipping company officials. The Senate's Permanent Subcommittee on Investigations held hearings 6 years later in 1981, and found that racketeering and the presence of organized crime was still as prevalent as before. Today, payoffs are considered an expected cost of business in many ports—an expense that is routinely passed on to consumers.

During hearings I conducted before the Senate Labor and Human Resources Committee, it was also revealed that Federal enforcement of existing labor laws has been lacking. For example, witnesses testified that local officials of the International Boilermakers Union had been selling union membership cards or books, that unqualified welders were able to buy these books, and that these unqualified welders who had bought their way into the union have been working on boilers for nuclear powerplants in Pennsylvania and Ohio. Despite possession of this startling information, Government agencies have yet to bring suit to stop these practices.

The Labor Racketeering Act of 1982 could have stopped these and other abuses of our Federal labor laws and strengthened Federal enforcement. Undoubtedly, its effectiveness is what its opponents feared most, for it is clear that only corrupt union and management officials will benefit from Congress failure to pass this legislation.

By enacting the Labor Racketeering Act of 1982, Congress could have demonstrated once again its commitment to honest and equitable collective bargaining and a union movement dedicated to serving its members. By failing to do so, however, it sends a different and very distressing signal to American workers—that so far as this Congress is concerned, union corruption and racketeering are conscionable and unalterable facts of life in the American work force. This failure must be rectified next year.

FURTHER CONTINUING APPROPRIATIONS

Mr. MATTINGLY. Mr. President, I want to congratulate the majority and minority leaders as well as the distinguished chairman and ranking member of the Appropriations Committee for their efforts in obtaining passage of House Joint Resolution

6211, the bill which will provide continuing appropriations for Federal activities through fiscal year 1983.

Without the depth and degree of commitment by these leaders and by Members on both sides of the aisle, this resolution would not have passed; or if it had, it would probably not have been in a form which would have merited the President's signature and avoided the crises and further ado that would have been precipitated by a veto. The American people would not have benefited from a further, protracted fight over this resolution and I am pleased that we have been able to resolve the many differences that existed over the content of this bill.

The total spending figures in the resolution compare well with the targets that Congress agreed to when it passed the budget resolution. I am pleased that we were able to exercise the self-control needed to come close to staying within these spending ceilings.

More importantly, the resolution will fund the activities covered under its provisions for the entire fiscal 1983 cycle. This will allow the Congress, when it reconvenes in January, to concentrate on specific policy and spending decisions.

We will not have to waste time in constant wrangling over another continuing resolution. The increasing use of the continuing resolution has become, and properly so, a matter of growing concern to me and, I know, to many of my colleagues as well.

The use of such a vehicle does a disservice to the traditional authorization/appropriations process. It provides a convenient opportunity for Congress to avoid casting many of the difficult but vitally important votes that are necessary when the traditional appropriations process is adhered to.

When it returns, Congress should take a look at the budget process. Originally created to bring a sense of order and restraint to the appropriations process, it has become so unruly that it threatens to worsen the very problems that it was set up to correct.

We should continue to strive to meet the goals of the Budget Act but the mechanism needs to be fine tuned. Such reform measures should emphasize the need to return to the use of appropriation bills and discard the use of the continuing resolution except in times of true emergency.

The totals in the bill for defense spending will result in an approximate 6 percent increase in defense spending after inflation. This is needed. Despite the fervent hopes and prayers for peace of people around the world, our Earth continues to hold much danger and uncertainty. The peace we seek can best be achieved through a strength that is second to none.

The most controversial item in the defense section, and the most important in the bill, is funding for the MX missile. I am not pleased with the decision of the conferees to eliminate all production money and place even greater limitations than the Senate had approved on research and development funds.

However, given the troubled history of this system, the result does not surprise me. Certainly, it is significant that there has been such a lengthy and involved debate over the appropriate basing mode for this weapon.

I believe that Congress should seize the enforced delay and use it as an opportunity to take a close look at the possibility of deploying the so-called common missile.

This resolution directs the President to conduct technical assessments of alternatives to the MX and among these should be a review of the advanced D-5 missile that is now being developed for deployment in late 1980's on the *Ohio* class Trident submarines.

The time may be upon us when we can resolve the problem of the MX with a renewed look at the common missile approach.

Finally, Mr. President, while I yield to no one in my concern for and in my desire to assist those who enter this holiday season without a job, I believe it was best that title II was deleted from both versions of the continuing resolution.

Passage of this so-called jobs section would have done absolutely nothing to assist those who most need our help. Such legislation, in fact, would have been counterproductive because its passage would have enabled Congress to point to such action as evidence that it was addressing this most serious of problems when in fact, this type of legislation activity would be meaningless.

Most importantly, passage of a jobs title drawn attention from the need to address the root causes of unemployment and make the difficult decisions that will be required to actually bring relief to those who are suffering.

So, Mr. President, while I supported the resolution as the best that could be done under the circumstances, I am looking forward to the next Congress when we will hopefully be able to reform some of our current legislative procedures and do even better in our efforts to resolve the problems faced by our Nation.

PRODUCT TAMPERING

Mr. LEAHY. Mr. President, I am glad that the 97th Congress has adopted legislation to respond to the rash of product tampering that followed the tragic adulteration incidents in Chicago earlier in the year. It was essential that we should deal firmly with this most insidious threat, and we have acted.

The original Senate version of this legislation dealt not only with actual tampering but with false information that is maliciously spread about tampering. Tampering is an offense that harms people and our society through fear as well as deed, and I felt that the false information section was a vital one.

I did have some reservations about the language in the first Senate draft, and I proposed amendments which were adopted by the Senate to narrow the false information section. I wanted to prevent excessive penalties where no tampering was actually committed and the false information caused no harm. It was my hope that as amended, the bill would be favorably received by the House.

But the bill adopted by the House and approved by the Senate today does not contain any section dealing with malicious false information, even where the result of that event is a product recall causing the loss of millions of dollars. Members of the House concerned with this legislation have assured me that the false information provision was not included because it was felt that hearings were needed to determine scope and extent of that problem. Hearings on a bill including a false information section are promised for early in the next session, and I hope that this body will act with similar speed on a comprehensive bill.

While we have passed a statute that takes a very good first step, we need to proceed with permanent and effective legislation in the next Congress, and I intend to start early and work very hard toward that end.

COL. ERNIE COLEMAN

Mr. SYMMS. Mr. President, 2 months ago, my good friend Air Force Col. Ernie Coleman, suffered crippling injuries in an F-111 accident. Ernie, who was wing commander of Mountain Home Air Force Base, may never walk again, and because of his injuries he has prematurely retired from the service.

But when I visited him recently in the hospital, he was as cheerful as ever, determined to overcome his new handicaps and to live a full and active life. There was not a trace of self-pity or pessimism in his voice. He could only see the challenges and opportunities ahead.

Colonel Coleman and his story of "True Grit" is an inspiration I want to share with my colleagues. I ask unanimous consent that the following article, "Crippled F-111 Pilot Fights Back," published recently in the Idaho Statesman, be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Idaho Statesman, November 25, 1982]

CRIPPLED F-111 PILOT FIGHTS BACK

(By Ken Burrows)

Ernie Coleman isn't one to smother himself in self-pity when tragedy strikes.

On the contrary, the 44-year-old Air Force colonel seems to have a huge helping of "the right stuff," the combination of cour-

age, talent, destiny and determination described by Tom Wolfe in his best selling book about test pilots and astronauts, The Right Stuff.

Coleman, who suffered crippling injuries in an F-111 accident last month, is at home with his family this Thanksgiving counting his blessings and looking forward to what is perhaps the greatest challenge of his life.

Coleman's chances for complete recovery seem slim. He has had little or no feeling from the chest down since an escape capsule jettisoned him and another flier from the disabled jet which smashed into the Elmore County desert on Oct. 8.

"They (doctors) won't give me any hope," Coleman said in an interview this week at the Elks Rehabilitation Hospital, where he is undergoing treatment. "The prognosis is that I will probably be paralyzed."

Yet, Coleman talks about making a comeback; about someday walking again; about skiing and bird hunting; and, perhaps most important, about climbing into a cockpit and flying again.

Wrapped in a plastic brace extending from the top of his head to his waist and dressed in a T-shirt with the wording, "I got this way from playing basketball," Coleman was in good spirits as he recounted the events leading up to the aircraft accident.

"I got the aircraft airborne and quickly developed flight control problems," he said.

Realizing his dilemma, Coleman yelled to the weapons systems operator in the seat next to him that "it was hopeless to eject at this low altitude."

Coleman knew he had to gain altitude in order for the two men to eject safely.

"The aircraft was in a 50- or 55-degree nose-high position and it had stalled (no longer flying) when we punched out," he said.

The escape capsule "separated nicely from the airplane," he recalled. Then something went wrong.

A failure in the ejection system's impact bags caused the escape capsule to slam into the ground, inflicting severe injuries on Coleman's back. Weapons systems officer Scott Springer suffered less severe back injuries.

"I was conscious through the "entire thing," Coleman added. "I knew I was really hurt bad. I didn't have any feeling in either leg."

Still seated in his cockpit seat inside the capsule, Coleman took one hand off his knee to release his harness and "the whole upper half of my body just fell over."

It took 90 minutes for a rescue crew to remove him from the capsule.

He was transported by helicopter to the St. Alphonsus Regional Medical Center in Boise, where he underwent surgery to prevent further damage to the spine.

Later, Coleman was transferred to a medical center in Texas, but decided to return to Idaho to continue therapy.

Although the Air Force is still studying his case, Coleman said he's sure he will be retired. Wing commander of the base at the time of the accident, he was replaced on Oct. 26 by Col. Loren Eastburn.

Asked if he would hold any bitterness or antagonism toward the military if he was placed on the inactive list, Coleman said, "If a guy wears a blue suit, he's got to be able to go to war. They can't have one rule for the Air Force and another for Ernie Coleman."

Military discipline probably has had a lot to do with Coleman's attitude. The odds against suffering such a disabling injury after ejection are high but the fighter-pilot fraternity is well prepared for such an eventuality.

"I've never had a bad airplane in 22 years of military service," said Coleman, who has logged 3,300 flying hours in F-100s, F-4s, and F-111s.

Coleman's wife, Ann, and three children, Lee Ann, 22, Scott, 21, and Todd 17, are still living at their air base home. He said the accident has "pulled his family together. It has strengthened their love for one another and their love for God."

Coleman's immediate goal is to strive for independence. "I'm learning to get in and out of bed by myself, to dress myself, to drive a car," and, on the lighter side, he said, "I'm learning to control this wheel chair so that I can do wheelies."

"The hardest part is trying to move your legs. They weigh at least a 1,000 pounds a piece," he said.

But "I'm a real determined fellow," Coleman said. "When I blink my eyes or twitch, I feel some internal feeling to the tailbone."

Coleman, an avid outdoorsman until the accident, said he hopes someday to resume such activities as hunting.

"I've thought about constructing a swivel seat on the front of a four-wheel drive so that I can hunt birds," he said.

But Coleman knows he probably will never fly another fighter plane.

"Sure, I won't fly again for the Air Force, though there are numerous success stories about paraplegics, and my love for flying will drive me back to that," he said.

"I have every intention of walking again," he added. "But right now, I'm taking one day at a time."

TRIBUTE TO HARRISON SCHMITT

Mr. MOYNIHAN. Mr. President, Senator HARRISON SCHMITT entered the Senate in 1977 on the same day as did I, so there is a certain kinship that I feel for him as he departs this institution.

Much has been written—indeed some of the best of that writing has been done by JACK SCHMITT, himself—about the Apollo 17 mission to the Taurus-Littrow Valley on the Moon. The enormity of the scientific information we gained, as a people, from that mission and others of the space program would have qualified JACK SCHMITT for a special place in our history. He was, after all, the only geologist ever to bring the training of his discipline to the U.S. space program so his contribution was, at the outset, special.

Yet it is a mark of the man that this singular achievement would not satisfy him entirely. He desired a place in public service and we have been better for it. His understanding of technology, of scientific inquiry, and of devotion to detail is something we need more of in the Senate. And JACK SCHMITT's assets in those regards will be difficult to replace.

I have come to know him as a fellow member of the Select Committee on Intelligence, where his conscientiousness and expertise were valued as highly as his sensitivity to the complex questions of national security we considered.

He is a man with a now considerable range of experiences and as he leaves the Senate, we say—simply—that we hope these talents will serve him well in the years ahead.

TRIBUTE TO SENATOR HAYAKAWA

Mr. President, the Senate class of 1976 contained many Members of distinction, none more illustrious in intellectual achievement than SAM HAYAKAWA. I have spent many years in academia, and know well the enormous dedication and talent required to secure the respect of academic colleagues across the globe. SAM HAYAKAWA entered the U.S. Senate, simply stated, as a semanticist of world renown.

At its best, the U.S. Senate is a body devoted to the careful examination of public ideas through free debate. No one is better qualified to contribute to this examination and shape this debate than SAM HAYAKAWA. He also brought with him the insights and skills developed through managing a large institution, for he came as president of San Francisco State University. These insights and skills informed all his many contributions to our debate on the operations of Government, and surely helped direct his splendid work as chairman of the Subcommittee on Advocacy and the Future of Small Business of the Small Business Committee.

While most of SAM HAYAKAWA's academic work has focused on the use and misuse of language, his work in two other fields has also made itself felt in his tenure in the Senate. As an editor of a collection of Oliver Wendell Holmes' prose and poetry, SAM HAYAKAWA brought a profound sense of justice and reflection to the Senate. And as the author of many articles on the history of the American musical form, jazz, and a collector of old jazz recordings, he informed our deliberations with an improvisational and puckish wit which will be sorely missed.

It is my privilege to have served with him in the Senate, and we will all await his future contributions to the academic and political debates of our time.

TRIBUTE TO HARRY F. BYRD, JR.

Mr. President, there are but four Senators in this Chamber who represent a family tradition in the Senate, which is to say that they can claim a parent who served here in years past; though we can, indeed, expand the definition to in-laws to include our distinguished majority leader, Mr. BAKER.

Yet no family tradition has been quite so lasting or indelible as that of the Byrds of Virginia. When our distinguished colleague HARRY F. BYRD, JR., departs us in but a few short days, it will be the first time since March 4, 1933, that the Senate has not been favored by the presence of a Virginia Byrd—our colleague having succeeded his father, Harry F. Byrd. Fifty years of continuous service in the Senate is something worth boasting about and well it is that the Senate should take note.

Mr. President, Senator BYRD's 17 years in this Chamber has given him insights and judgment that we shall sorely miss. Charles McDowell, that careful and astute observer of this Capital, took note of Senator BYRD's acumen in a column he wrote for the Richmond Times-Dispatch, reprinted in the Journal newspapers of northern Virginia on November 30, 1982:

* * * Even the most admiring supporters of Byrd might wonder what he knows about presidential politics. And it would be fair to ask how a man so conservative could be credibly objective about the subject. Well, Harry Byrd, Jr. has followed national politics since he was a boy, as some people follow major league baseball. He is a fan with a good eye, a good ear, a good memory and much pride in not letting his conservative rooting interest in events do much to his view of the events themselves. He is one of the three or four best political predictors I know.

Mr. President, that is uncommon praise in a town that thrives, indeed exists, on political wisdom. And it is a mark of the man that he should be so regarded not only by the press, but by his colleagues here in this Chamber.

It is customary on these occasions, Mr. President, to recount the achievements of a departing Senator and wish him well as he or she leaves. That I would be honored to do, but others have cataloged the service of HARRY F. BYRD, JR., better than would I. I would say, simply, that as a colleague, and as a fellow member of the Senate Finance Committee, Senator BYRD has always been the most courteous of Senators—giving justice to the word that best describes him: "gentleman."

But I would wish to share with my colleagues the following: Senator BYRD's own poignant farewell to the citizens of Virginia. His final newsletter to the people he has so ably represented is touching in its sincerity yet useful to all Senators who desire a better understanding of this place, which Senator BYRD has clearly come to know so well.

Mr. President, I ask unanimous consent that excerpts from Senator BYRD's farewell newsletter to Virginia, volume XVI, No. 2, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM FINAL NEWSLETTER OF HON. HARRY F. BYRD, JR., VOLUME XVI, NO. 2, DECEMBER 1982

As I noted earlier, I was in a philosophical minority when I first took my seat in the Senate. But as a Democrat, I was at the same time in the party majority. That situation has reversed itself to some extent. While I now find myself in a philosophical majority on many issues, I am only the second independent in nearly 200 years to be elected to the Senate—and the only Senator twice elected as an independent.

I have found the designation, which I have held since 1970, to be desirable. I can work closely with both Democrats and Republicans; both know I am not seeking to harass either political party, or to advance the cause of one to the disadvantage of the other * * *

I am asked frequently, as one of the few three-term senators, if the Senate has changed dramatically during my years in Washington. My response must be that it has changed in some ways and in other ways remained the same.

The workload has mushroomed along with federal programs, as evidence by this figure: In 1965, there were 259 recorded votes in the Senate; in 1980, there were 546, more than double the earlier count.

(In 1981 and 1982, the total of roll-call votes declined somewhat, but this resulted largely from a trend toward packaging many measures in omnibus bills. Legislative activity did not actually drop off significantly.)

The complexity of the work has grown to a comparable degree; larger staffs both for the legislative committees and for individual senators have become commonplace. Larger staffs lead to more legislation; I feel we already have too much legislation.

The pattern has been that the executive branch grows enormously—and then the legislative branch follows suit. Soon afterwards, growth comes to the judicial branch. Indeed, in 1977 Congress doubled the number of federal judges almost overnight. Thus, the cost of government balloons * * *

Trusting as I do in the collective judgment of the American people, I feel the people will lead the politicians—not the other way around—to the philosophy that has guided Virginia from Thomas Jefferson's day to our own and has been the beacon I have followed throughout my career.

I end, my dear fellow Virginian, by again expressing to the people of Virginia my deep and lasting appreciation for the opportunity, the honor and the responsibility of representing you in the United States Senate.

These thoughts, Mr. President, are part of the Byrd legacy to the Senate. They are instructive, compelling. And they will be for those who study this Senate and its process for years to come. And above all, they represent what is noble and grand about public service.

TRIBUTE TO SENATOR BRADY

Mr. President, it is not the case that the Senator among us with the least amount of time in this Chamber is a Senator with a short list of achievements as a Member of this body.

Senator NICHOLAS F. BRADY has, among other things well served the dignified process that makes this an orderly institution, an institution of deliberation and of procedure. He came to us from New Jersey after a difficult experience. Yet he came, in part, because he understood the meaning of continuity in the Senate, the need for effective and uninterrupted representation in the Senate. In doing so, he has done a splendid service to the people of New Jersey, the people of the Nation, and the Senate itself.

Mr. President, I have had an opportunity to make use of Senator BRADY's knowledge of the private sector on several occasions and his counsel and wisdom both as a business executive and as a personable colleague has been invaluable. I should say, too, that we were once trapped on an airplane bound for New York and, of a sudden, found ourselves "deplaning," as the airline folks would say, in Baltimore—an experience that would have been far more frustrating than it turned out to be, largely because Senator BRADY's genial company made the time pass quickly.

In but a short time, Mr. President, Senator BRADY has proven a diligent and thoughtful spokesperson for New Jersey, a compliment borne out by the measures and causes he has advanced as a member of the Committee on Banking, Housing, and Urban Affairs, a committee, I should note, of incalculable importance to States like his New Jersey and my New York. And he has been a reflective member of the Committee on Armed Services at a time when we should well reflect on the role of defense in the Nation's security and economy.

Moreover, Mr. President, it would not be overly partisan for me to note that he has done our colleagues on the other side of the aisle an extraordinary, if unrecognized, service through his advise and personal relationship with the President of the Senate, Vice President BUSH. We are fond of saying that the Vice President's duties are secondary to his role as the President of the Senate; Senator BRADY's assistance to the Vice President and the insights he has provided has no doubt lent some credence to the case.

Finally, Mr. President, I should say that Senator BRADY has recognized that the citizens of the Northeast share certain common concerns and face certain common dilemmas. In this respect, he has been a valuable ally, a good neighbor, and a colleague that I, for one, shall miss.

Mr. President, if we associate with the American West the qualities of determination, perseverance, and toughness, then there are few Senators who are more singularly representative of their region than HOWARD W. CANNON.

Senator CANNON, through 24 years of service with us here in this Chamber, has exemplified that which is perhaps the most important talent one can bring to this institution: A thorough understanding of from whence he came, and an ability to translate that understanding into legislation for an entire nation.

His service with us, his chairmanship of one of our most vital committees, his considerable legislative record, is the mark of a Senator who knows how things here are done and knows how to do them.

He began his career in local government, working for the Utah State Senate, and subsequently, as a county attorney. His military record during our Second World War is the sort of story that inspires; a story that is worth repeating to anyone who doubts that there are heros, still, who serve this Nation.

His return to Nevada following the war, and his successful law practice, led to his first campaign for Senate in 1958 and—in a class distinguished by names like Ed Muskie, Phillip Hart,

ROBERT BYRD, and Frank Moss—Senator CANNON gained a role of responsibility and leadership in the Senate that few could match. In his roles as chairman and then ranking member of the Commerce Committee and a senior member of the Armed Services Committee, Senator CANNON became a principal spokesman for deregulation in the Senate and contributed more to legislation passed by Congress on that subject than perhaps any other Member. His understanding of tactical air warfare has made him the Senator, with the possible exception of the senior Senator from Arizona, with the greatest expertise in that crucial area of military strategy.

But finally, Mr. President, Senator CANNON's earnest manner, his candor, and his frank explanations of his views makes him a colleague who will be sorely missed. We wish him well as he departs the Senate.

DR. MARTIN LUTHER KING, JR. BUST OR STATUE

Mr. MATTINGLY. Mr. President, I want to commend my colleagues for the unanimous adoption earlier today of House Concurrent Resolution 153 that provides for the placing of the bust or statue of Martin Luther King Jr., in the U.S. Capitol.

This is an honor rarely bestowed on those who have never served in the U.S. Government. But in the case of Dr. King, it is an honor and a tribute that is appropriate and deserved.

The contributions of Dr. King on behalf of justice and freedom are well known. I do not have to remind my colleagues that the efforts of this man almost singlehandedly brought a new era of social justice, hope, and promise to all Americans.

A native of Atlanta, Ga., Dr. King courageously confronted established injustice; not in a spirit of acrimony and violence, but in the Christian spirit of charity and nonviolence. His legacy is one that will be etched in the history of the last half of this century and will stand as a beacon to all people seeking to further the cause of human dignity and social justice.

Mr. President, I also want to mention that portion of the 1983 Interior appropriations bill now on President Reagan's desk that will set aside $1.5 million for the acquisition and restoration of Dr. King's home and the church where he served as pastor in Atlanta. I am proud to say I was a part of the effort to preserve this great heritage, not only for Georgia, but for all Americans. The recognition of Dr. King's rightful place in our history is the long culmination of the efforts of many people in my State and around the country who seek to carry on the work that Dr. King began.

Again, I commend my colleagues for this honoring of a truly great American. Thank you.

THE PAYMENT-IN-KIND PROGRAM

Mr. EXON. Mr. President, a couple of hours ago this Senator from Nebraska suggested a possible workable compromise on H.R. 7439, which is at the desk, in regard to the PIK program. Since that time I have talked with several Members of the Senate and several Members in the House of Representatives in whom I have great confidence with regard to agricultural matters.

Unfortunately, for a number of reasons, we seem to be at a total impasse. There are holds on the bill. The extended filibuster debate on the gas proposal has so tied up the U.S. Senate that we are nearing that bewitching hour once again, or maybe we are already past it, where compromise and understanding have been almost eliminated with regard to trying to bring about something that I think is potentially good for the Farm Belt of America.

Mr. President, I just want to echo and emphasize once again that I have grave reservations about the PIK program for the reasons that none of the details have been spelled out. But it seems to me, with the extreme difficulties that are facing the American family-sized farmer today, the agricultural sector of our economy in toto and in particular, and the agribusiness part of our society that is closely alined therewith, the devastating effect that this is having on the individual entrepreneur up and down Main Street, U.S.A., that we should at least go along with H.R. 7439 as it came over to us from the House of Representatives, with the clear understanding that this does not mean an enforcement of PIK and with the understanding that the Agriculture Committee of the Senate would hold appropriate oversight hearings on the rules, regulations, and direction that the program is supposed to take when they are spelled out by the administration.

Mr. President, it seems to me that we are making a mistake in not taking up H.R. 7439, but it also seems very clear to this Senator that because of the filibuster on the gas tax bill, which has sharpened the debate here beyond a point where we can have a chance to get together, that, unfortunately, H.R. 7439 will likely die on the Senate desk as a result thereof. I am not sure that this is proper. I am not sure that it is in the best interest of the American farmer. But at this late hour, because of the interruptions that we have had to the normal flow of business as I have outlined, it seems that we will have to at least set this over until the 98th Congress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PIK PLAN STILL A BAREBONES PROPOSAL

Mr. MELCHER. Mr. President, the opportunity to use payment in kind (PIK) as a method for cutting down on surplus grain, cotton, and rice stocks in Government ownership is a proposal that deserves wide consideration by agricultural producers, agribusiness, and Congress.

Secretary of Agriculture John Block's announcement of his intention to proceed vigorously with securing adequate legislation to implement the program is encouraging, but it is essential to recognize that consideration of it entails more than just a barebones formula leaving gaps to be filled in by the Secretary's broad authority under existing law.

Commodity producers and particularly wheat producers need to evaluate what the effects of PIK with the use of warehouse receipts will mean on market prices for this coming crop. There has not been a clear statement by the Secretary of Agriculture as to his intentions for reserve stocks of grain owned by farmers which under present law would be held off the market until the price received by the farmer equaled a specified trigger price. That trigger or release price is well above current levels. In other words, what wheat and grain farmers must ponder now is "Would the PIK plan force large supplies of grain on the market to further depress prices for the 1983 crop?"

With net agricultural income at the lowest levels since the worst times of the Depression, this is not the time for taking lightly the risk of a new agricultural program that could further aggravate farm cash receipts to even a lower point. It is a question of survival for a good share of grain farmers. During this current marketing year, the prices received by grain farmers on the cash market have only been 60 to 65 percent of the cost of production and some forced sales for lack of storage were even lower.

As a result, grain farmers have taken advantage of the current farm program of "farmer-owned reserves." Secretary of Agriculture John Block has made it known that if that reserve

program is continued for the 1983 crops the price will be reduced considerably.

For example, farmers for the 1982 crop can receive a Government loan of $4 per bushel on wheat placed under the reserve program. Secretary Block now proposed that those reserves be made available for the PIK program as payment in kind for farmers who will take a corresponding amount of their land out of production. Those farmers that do so would receive a payment in kind or a warehouse receipt which could be readily cashed at the rate of about $2.68 per bushel to equal the amount of their average production. That means, as an example, for every acre the wheat farmer takes out of production that has an average yield of 30 bushels, the PIK payment would be 30 times $2.68 or $80.40 payment for each acre set aside or soil banked.

That in itself provides an opportunity for grain farmers to retire part of their land over the next 2 or 3 years and to receive a portion of their needed income in order to survive. What about the price on the crop they do produce? Will there be a continuation of the farmer-owned reserve program to permit some of the wheat farmers' crop to be eligible for the $4 per bushel loan? The answer is apparently "No." The Secretary does not say what he will do. It is his discretion. That leaves a big doubt. The farmer, under law, will have the opportunity to receive a Government guaranteed loan based on the rate of $3.65 per bushel in the regular longstanding loan rate program.

The PIK plan as recommended by Secretary Block clearly indicates a lower market for the 1983 crop. The fear that readily occurs to wheat farmers is that the cash market may be even lower than what it currently is under the PIK program unless there are safeguards to cushion the probable effect of wheat farmers who enter the program and receive warehouse receipts which they will need to cash in for income which will bunch grain on the market causing a drop in price. That is the fear that seems very real to a great number of wheat growers.

I believe some cushion should be incorporated into the bill either by raising the loan rates to at least $3.85 per bushel or mandating the farmer-owned reserves for the 1983 crop at or near the $4 per bushel, like the 1982 program, $4 is nowhere near the cost of production and those costs in 1983 are likely to be 5 percent or more higher than in 1982.

A second shortcoming that is obvious in the PIK plan is a lack of direction for conservation of the vast acreage taken out of production.

Leaving the land idle with no conservation practices would be shortsighted.

For more than 10 years we have been shortsighted in good, sound conservation practices. The cost-sharing programs that have proven very effective during the fifties and sixties have been shortchanged during the seventies and into these first years of the eighties. PIK should be made available to finance conservation practices. Cost sharing on conservation practices in programs where the Federal Government pays an incentive for the farmer to practice sound and acceptable conservation on idle land benefits all of us now and all generations to come. Our land base is our greatest national asset.

The PIK plan as proposed lacks specific safeguards for the farm operator who either rents, leases or share-crops. In days past, agricultural programs have required specific regulations which are still available and in place and any PIK plan that is adopted should incorporate those same regulations as requirements to safeguard farmers who operate but do not own the land. We have faced this problem earlier in the soil bank program and prevented by these regulations a landlord making a determination to set aside his land and receive Government payments and disregard the effects that that decision has on the farmer who is renting or share-cropping the land. I believe the Secretary of Agriculture would want to implement those regulations on the basis of equity.

The problem that arises when the poorest land is taken out of production and receives Government payments must be alleviated by making the payment only on the basis of what the crop yields would be if it were farmed. The average yield for the entire farm would be higher than on the poorest land on that farm. The payment on the poorer land on a farm must be adjusted to the actual rate of the production from the land that is idled.

PIK can be used to subsidize foreign sales in agricultural products. Actual stocks of grain or other agricultural products produced in this country and owned by the Government in the Commodity Credit Corporation could be a method of encouraging and expediting foreign sales.

Bonus payments to exporters of U.S. grain or other commodities could be made available free to make U.S. products at prices competitive in the world market with countries who are already subsidizing their agricultural exports.

This is a policy that must be determined by Congress itself. It is a policy that deviates from the present U.S. practice and it deserves adequate and thorough consideration by all of the people and then action by Congress if we implement such a policy.

On these points that I raise, there has not been sufficient attention allowed for this quickly-conceived legislation. There certainly has not been evidence of general agreement here in the Senate on all of these points and perhaps some will never receive a majority vote in the Senate or in the House, but they are certainly legitimate considerations in the legislative process of enacting the PIK bill. They are certainly legitimate considerations for the agricultural community and for the public at large. I hope that we can have prompt action over the next 6 to 8 weeks with input, with advice, and with suggestions from the millions of Americans who are affected directly by a major shift in U.S. agricultural policies. Beyond that, all Americans are impacted by success or failure of our agricultural economy.

The recession has been aggravated by the decline in agricultural prices followed by the decline in purchasing power by agricultural producers. If the Department of Agriculture and the administration can quickly formulate their proposals to fill the gaps that I have mentioned or other gaps that others find in the PIK proposal, I believe we can act promptly next year for passage of the program into law and make it available for farmers for their 1983 crops.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum called be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSION OF APPRECIATION TO THOSE WHO WORK ON CAPITOL HILL

Mr. WARNER. Mr. President, there is a strong likelihood that the Congress will recess sine die before the close of this day, and each year it is my privilege to say a few words as one Member of the Senate in heartfelt appreciation to all of those who work on Capitol Hill and make our life more comfortable and more safe. That ranges from the guards, to the cafeteria workers, to the elevator operators, and, of course, the Senate staffs, plus many others.

I wish to express my heartfelt appreciation to these many people and wish them a Merry Christmas and a Happy New Year. I look forward to resuming

our activities the beginning of the new year.

RECESS UNTIL 6:30 P.M.

Mr. BAKER. Mr. President, it does not appear that there is any business that can be transacted at this time that has been cleared on both sides. The conferees on the highway bill are still in conference. As long as that is so, I think we should wait and find the result of that effort.

I ask unanimous consent, therefore, that the Senate now stand in recess until the hour of 6:30 p.m., this evening.

There being no objection, the Senate, at 5:28 p.m., recessed until 6:30 p.m., whereupon the Senate reconvened when called to order by the Presiding Officer (Mr. RUDMAN).

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WARNER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADY). Without objection, it is so ordered.

DR. MARTIN LUTHER KING, JR.

Mr. NUNN. Mr. President, I am pleased that the Senate has approved legislation providing for the placement of a bust or statue of the late Dr. Martin Luther King, Jr., in the Capitol Building.

Dr. King's lifelong devotion to the civil rights movement made an indelible imprint upon our Nation and the world. This Georgian's courageous leadership broke down legal barriers which separated our Nation's citizens. His principles of nonviolence set a clear example for all those who wish to bring about change through nonviolent means and earned for Dr. King a Nobel Prize for Peace.

I hope that the placement of a bust or statue in the Capitol will recall for all Americans Dr. King's dreams for an equal, just and peaceful society.

When the history of this century is written, Dr. King will be recorded as a great leader of our people. It is fitting that his image stand in our Capitol along with other great Americans who, throughout history, have shared this man's courage, wisdom, and commitment to equal justice for all.

PIPELINE SAFETY ACT

Mr. BAKER. Mr. President, I have a stunning announcement to make. I do not believe my colleagues will believe it on first reading, so I may have to repeat it. I wish to say that it gives me a great deal of pleasure to say—and it gives me a great deal of pleasure to say it—that apparently, the differences between my friend, the assistant majority leader, TED STEVENS, and my friend, the Senator from Ohio, HOWARD METZENBAUM, with respect to the Alaskan railroad have been worked out. I have to confess that I shall believe that when I see it. But hoping that that will be the case——

Mr. ROBERT C. BYRD. Will the Senator pause for a moment?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, so do we take a deep, deep breath.

Mr. BAKER. Now, Mr. President, before anything else happens, I ask that the Chair lay before the Senate a message from the House on H.R. 3420, the Pipeline Safety Authorization Act of 1982.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 3420) entitled "An Act to authorize appropriations for fiscal year 1982 for carrying out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes", with an amendment; it insists upon its amendments to the amendments of the Senate to the bill (H.R. 3420) entitled "An Act to authorize appropriations for fiscal year 1982 for carrying out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes", asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference.

Ordered, That Mr. JONES of North Carolina, Mr. BIAGGI, Mr. RODINO, Mr. SNYDER, and Mr. MCCLOSKEY be the managers of the conference on the part of the House for title I of the amendment of the House to the text of the bill.

Ordered, That Mr. DINGELL, Mr. FLORIO, and Mr. LENT be the managers of the conference on the part of the House for titles II through VIII of the amendment of the House to the text of the bill and modifications committed to conference.

(The amendment of the House is printed in part II of the RECORD of December 20, 1982.)

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment with the further Senate amendment.

I yield to the Senator from Ohio that he may offer that amendment.

Mr. METZENBAUM. Mr. President, the amendment that I send to the desk is the result of untold number of hours of work on behalf of the Senator from Alaska, as well as the junior Senator from Alaska, and my own staff.

UP AMENDMENT NO. 1586

Mr. President, I send an amendment to the desk in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1586.

Mr. METZENBAUM. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the Senate engrossed amendment to the text of H.R. 3420, insert the following: That titles II through VII of this Act may be cited as the "Rail Safety and Service Improvement Act of 1982".

Mr. METZENBAUM. The issue has had to do with the question of the State of Alaska purchasing the Alaska Railroad and the question of what price would be paid for it. The amendment that I sent to the desk will provide a means of determining what that value is, based on fair market value. Thereafter, the parties in the State of Alaska and the Federal Government would be in a position to conclude a transaction on the basis of that price.

The determination of the value would be made by the U.S. Railway Association and I think that it is a move that satisfies the concerns of the Senator from Ohio and, I believe, satisfies the concerns of the Senator from Alaska.

I should further point out that this is the same measure that was pending at the desk. That language having to do with the exemption of the shipping industry from the Antitrust Act would be deleted in its entirety.

There are a number of other provisions in the measure having to do with benefits for approximately 10,000 railroaders. Without this legislation, those 10,000 railroaders would be unemployed, and this will preserve their rights. Therefore, I am pleased to join with the Senator from Alaska, whose staff has worked zealously in an effort to bring this about, in offering this amendment, and I think that the Senator from Alaska and I are in accord on it.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I want to thank the Senator, and I know that he has returned from dinner, once our respective staffs and the staff of the Commerce Committee worked this bill out, in order that the matter could be handled expeditiously and sent to the House in time for action prior to sine die adjournment.

The Senator is correct that the Northeast corridor improvement project is included in the bill and affects some 10,000 people in New Jersey. It has been in the railroad bill all along, and it is quite important that it be passed before the end of the year.

I think that we are indebted to the people who have kept pressing us on all sides of that project in order to reach this point.

I am grateful to the Senator and his staff. I want to thank Doug Lowenstein, David Springer, Peter Harris, and Marge Baker, for working with our staff; the Commerce Committee staff: Kevin Curtin, Pamela Garvey, Linda Morgan, and Mary McAuliff, who have now been working for 2 years on this bill.

They have been working around the clock this last week with my staff: Bill Phillips, and Mark Schneider. In addition, Lynn Sutcliffe has added his able assistance to the State of Alaska along with a young man that many people have just gotten to know, Dave Walsh. He has been a friend of mine for years and he has had a distinguished record as a member of the Anchorage City Council. Dave has been here representing our new Governor, Bill Sheffield, and has been here working with the staff, in an attempt to insure passage of this legislation.

I have to say to the Senator that this is a matter of faith. Neither one of us has had time to make certain that the understandings that he and I expressed are in this document. I have absolute confidence in the staff that has worked on it, though, and I believe the statements made by the Senator are correct. The shipping act is not in this bill. It is in the position of a privileged matter when it returns to the House, so by virtue of the action that has been taken I am confident that we should be able, if the House stays in session long enough, to take care of the problem of the Northeast corridor improvement project, after this appraisal making the railroad available to my State on what seems to be a reasonable proposition. They will have no obligation to take it, of course, but, assuming the price is right, we may be in the railroad business soon.

Since this bill was reported by the committee, the committee has modified it in a number of important respects relating to the procedure used to convey the real property of the Alaska Railroad to the State and the nature of the interest the State is to receive in the Denali National Park and Preserve. In the committee-reported bill, the State received, on the date of transfer, all right, title and interest to the rail properties of the Alaska Railroad, including the real property. Adjudication of pending claims of valid existing rights would follow with the State being required to reconvey interests adjudicated in favor of other parties. The substitute provides a different process which involves withholding fee title to lands subject to unresolved claims of valid existing rights pending expedited adjudication. On the date of the transfer, the State would be granted fee title to lands not subject to such claims and, with respect to lands so subject, an operating license to insure that operations of the railroad are not affected in any way by the new process.

The concept of an exclusive use easement also is introduced in the substitute. This defined interest represents the minimal interest the State is to receive in the Alaska Railroad right-of-way following completion of the expedited adjudication process. Of course, completion of the process may also result in the conveyance of more than just the easement. It also is the interest the State will receive through the Denali National Park and Preserve. In other areas, where the right-of-way crosses land owned in fee by the Federal Government, the full fee title to the right-of-way will be transferred to the State.

Because the exclusive use interest is a new concept, further description of its characteristics seems warranted. Essentially, it is defined to insure that the State-owned railroad will receive exclusive and complete control over land traversed by the right-of-way. Except as specifically qualified in provisions regarding the easement through the Denali Park, the exclusive use easement, at minimum, vests in the State-owned railroad the following rights:

First. To have complete freedom to add to or delete from the land any structures, roadbeds, adjacent rocks, or gravel or to recontour the land as necessary;

Second. To move track within the right-of-way or to add or delete track;

Third. To provide loading and unloading facilities for railroad customers or for railroad purposes;

Fourth. To add structures as may be necessary for operation;

Fifth. To remove any vegetation which may be required to operate or expand the railroad's services;

Sixth. To fence the right-of-way;

Seventh. To operate any and all trains over the right-of-way;

Eighth. To restrict or grant access to persons or vehicles as it sees fit;

Ninth. To construct and maintain any drainage facilities necessary to preserve the right-of-way;

Tenth. To make any provisions necessary to protect the operational capability of the right-of-way even if this requires access to and control of lands beyond the normal right-of-way limits (for example, avalanche, flood control);

Eleventh. To take such action as may be necessary to safely operate in situations where conflicts with other transport modes may exist; and

Twelfth. To place all necessary communications and signal devices within the right-of-way or to maintain separate rights-of-way for these items where necessary.

Where appropriate the State may also use its police power to regulate activities on the right-of-way and other rail properties.

Other related changes have been made in the substitute which are self-explanatory. I note that a definition of right-of-way has been included to insure that the State receives at least the minimum width necessary to continue to operate the railroad. Modifications have been made in the future rights-of-way section to clarify that current law governs processing of applications for future rights-of-way subject to a description of the interest the State is to receive which is based on the act of March 12, 1914, the Alaska Railroad's organic statute and conforms, that a minimum, to the new definition of an exclusive use easement contained in this bill. As I mentioned, the rail properties within the Denali Park have been treated differently and although the State now receives an exclusive use easement rather than title, this interest is defined to be sufficient to sustain unimpaired, continued operation of the State-owned railroad through the park.

The reversion section also has been changed to provide for reversion in the event the State discontinues use of the railroad for a continuous 18-year period. "Use" is carefully described in the section to include any purpose authorized under the transfer legislation. In addition to special treatment of lands within the Denali Park, the substitute reversion section also specifically deals with lands in the Chugach National Forest. Another provision has been added to provide for Federal recapture of "profits" from the sale of all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State. The proceeds of any such sale are to be reduced by liabilities and obligations assumed in the transfer of the railroad

to the State and subsequent State investment in the railroad.

Mr. President, I ask unanimous consent to have printed in the RECORD, a pertinent table.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Alaska Railroad—Estimated deferred maintenance and delayed capital projects

	Millions[1]
Roadbed and track:	
Tie replacement (assuming 37 yr life cycle)	$12.0
Ballast	10.8
Subgrade	1.3
Bank widening	8.0
Turnout renewal	3.8
Rail replacement, repair	24.0
Block work	.5
Subtotal, roadbed and track	60.4
Structures:	
Tunnels	2.7
Bridges, culverts	6.8
Yards	7.9
Healy Canyon reroute	50.4
Subtotal, structures	67.8
Total	128.2

[1] 1982 dollars.
Source: ARR general manager.

Mr. STEVENS. I would like to clarify the basic intent of the new provision requiring a value determination of the Alaska Railroad by the United States Railway Association that my staff has worked out with the Senator from Ohio.

It is my understanding that the USPA will perform an independent determination of the fair market value of the Alaska Railroad as an operating railroad, including full consideration of the terms and conditions of the transfer legislation. The relevant standard is a determination of what a prospective buyer would compensate the United States, if at all, were they to acquire the Alaska Railroad for purposes of continuing operations.

This provision specifically requires the USPA to include consideration of all obligations imposed by this title and other applicable law upon the operation and ownership of the Alaska Railroad. The outstanding claims against railroad, including those land entitlement selections filed by Alaskan Native Corporations, should very definitely be factored into any determination of fair market value. It is conceivable that a significant portion of the railroad's more valuable undeveloped holdings could be lost to these groups. Furthermore, the specific provisions contained in the reversion clause should be considered in any land appraisal since they greatly restrict the State's options with respect to using rail properties for nonrailroad related purposes.

It is my understanding this includes a complete accounting of all deferred maintenance, delayed capital reinvestment requirements, employment protection obligations, passenger service subsidies, OSHA compliance requirements, real value of fixed assets, and potential cash flows. There should also be some consideration of intangibles such as the railroad coming under full jurisdiction of the Interstate Commerce Commission, Federal antitrust statutes, and potential tax liabilities. The USRA should work closely with the Alaska Railroad, the Federal Railroad Administration, and the State in order to utilize the most accurate financial information on the railroad, much of which is to be generated during the concurrent 9-month period for preparation of the closing report. I would further point out that this latter point is reflected within the amendment language.

I thank the Senator from Ohio, and I thank the leadership.

Mr. METZENBAUM. I should point out, Mr. President—and I think the Senator from Alaska has stated it well—neither of us has had a chance to read the language that our staffs have been working on. We both have an understanding that should there be in error in draftsmanship, we know the intent of what we are trying to do.

If it is necessary to provide some clarification or provide some correction in the next session, we will work together on that action.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (UP No. 1586) was agreed to.

The PRESIDING OFFICER. The question is on the motion to concur in the amendment of the House with a further amendment.

The motion was agreed to.

Mr. BAKER. I move to reconsider the vote by which the motion was agreed to, Mr. President.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Withclerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I am very pleased, as is I am sure, the distinguished Senator who is presiding in the chair, with the resolution of the Alaskan railway issue, because, as the Senator knows, there is also in that provision a rail link between Philadelphia and Atlantic City. So on this eve of Christmas and in the depths of a recession, that railway offers hope to thousands who will travel to that mecca of the East, Atlantic City, expecting they will return across that causeway to the mainland of New Jersey a wealthy and successful tourist.

I appreciate the resolution of this issue. I thank the Senator from Ohio and the Senator from Alaska for opening the horizons again to thousands who in recent history had to leave the country or travel west to seek their fortune and who now have that opportunity just a short train ride away from Philadelphia. We all know what W. C. Fields said about Philadelphia.

Mr. President, let me again express appreciation to my colleagues and the Chair for presiding over this historic act for the Senate as an institution and for the State of New Jersey.

Mr. D'AMATO. Mr. President, I am very pleased that my very good friend from Alaska has been able to reach an accomodation with the Senator from Ohio, and I am hopeful that this accord will result in viable rail service in Alaska.

Let me only add that this measure also contains some funds—$2 million—for the rehabilitation or relocation of the present Amtrak rail passenger station at Syracuse, N.Y. The Syracuse station served over 79,000 passengers in the first 9 months of fiscal year 1982 and in fiscal year 1983, Syracuse expects a 9.3-percent increase over the previous year. The funds in this bill will be used to improve this station, which serves as a vital link in the upper New York State Empire Service.

Mr. President, I commend the Senate Commerce Committee members and staff who have worked so tirelessly on this measure.

Mr. WEICKER. Mr. President, included in this bill is $75 million in new authorization for Conrail Commuter Transition Assistance. I commend Senator PACKWOOD and the Commerce Committee staff for their efforts on this important matter. This new authority will provide the necessary funding to effect a smooth and effective transition of Conrail's Commuter Rail obligations to the Northeastern Commuter Rail Authorities. This provision is particularly appropriate in light of recent action by the Senate Appropriations Committee to provide $75 million in fiscal year 1983 Transportation Appropriations for the Con-

rail Commuter Transition. This additional funding, which I had requested, has been approved by the committee and the administration and is now included in H.R. 7019, a bill making appropriations for the Department of Transportation and Related Agencies for fiscal year 1983.

In an effort to make Conrail an efficient rail freight system, Congress in the Northeast Rail Service Act (NERSA) directed that Conrail be relieved of its commuter rail operations by January 1, 1983. Congress provided assistance to insure that either commuter agencies or the Northeast Commuter Services Corporation (NCSC), formerly Amtrak Commuter Services Corporation, could take over existing operations without disrupting service to the many communties and cities in the Northeast that depend on commuter operations. To effect this transition, Congress authorized $50 million in transition assistance for costs incurred by either the commuter agencies or NCSC. However, earlier this year, the Connecticut Department of Transportation (ConnDOT) and the Metropolitan Transportation Authority (MTA) as well as other authorities expressed their grave concern that funding made available under the Northeast Rail Service Act would be insufficient to meet the many administrative costs of the transition. MTA and ConnDOT also have a unique contract agreement under which ConnDOT and MTA currently lease service from Conrail. Congress made special recognition of this contract with Conrail in stating under section 1139(b) of NERSA.

> In providing for the distribution of such funds, the Secretary shall consider any particular adverse financial impact upon any commuter authority that results from the termination of any lease or agreement between such commuter authority and Conrail.

In addition to costs associated with Connecticut's contract with Conrail, commuter agencies must also purchase inventories, supplies, equipment, and certain facilities currently owned by Conrail, as well as computer systems to handle payroll, materials, and service contracts. Total costs alone for Connecticut and MTA's takeover of service from Conrail is about $70 million. The Federal Government should provide the $75 million in addition to $50 million already made available thus far to insure that these mandated costs to Connecticut and New York, as well as the other three States, will be adequately met.

Mr. President, insuring a smooth transition of Conrail's commuter activities to the respective commuter agencies is vitally important to my State of Connecticut; 40,000 commuters daily rely on commuter rail service on the New Haven line between New Haven, Conn., and New York City. This translates into an annual ridership of 23 million—more than the entire Amtrak System! Although no disruption in service is anticipated during the transition process, this continual shifting of rail service in this country between the private and public sector cannot help but create uncertainty in the minds of commuters. For the last two decades Connecticut commuters have seen commuter service vacillate between Penn Central, Conrail, and now the authorities themselves. ConnDOT Commissioner William Burns, in testimony before the House Energy and Commerce Committee, summarized the instability of commuter rail operations in saying:

> During the late 1960's, the Connecticut Department of Transportation worked very closely with the Metropolitan Transportation Authority (MTA) to develop a plan to save the Commuter Rail Service on the New Haven, Harlem, and Hudson lines. The service agreement was developed with the Trustees of the Penn Central Corporation to assure the viability of the service for the long term. Not only was the right-of-way in Connecticut leased by the Department for 60 years, but a service agreement was developed which was renewable each five years for the 60 year term. This assured the stability of this vital commuter service in the long term. When the Penn Central properties were merged with other Northeastern Railroads to form Conrail in 1976, a smooth transition occurred because the railroads were being merged. Today we see that organization being torn apart requiring new relationships to be developed.

Establishing new relationships does not happen overnight. ConnDOT and MTA have chosen to take over this service, but must complete labor negotiations, administrative transitions, and implementing operations, like computer systems by January 1, 1983. All of this is supposed to happen on top of daily frustrations which commuters in Connecticut and New York currently experience: Equipment that does not always work, an antiquated generating power source, and other uncertainties that prevail in the commuter rail business. Therefore I will not accept any additional uncertainty placed on the backs of the commuters of my State. I hope this transfer of operations will be the beginning of dependable rail service provided by a stable authority.

Since Congress and the Federal Government are responsible for initiating this transfer of commuter rail's obligations, the Congress and the Federal Government are responsible for providing adequate funding to cover the costs of the transition. Therefore, I urge my colleagues to approve this essential authority for commuter rail transition costs, and I thank my colleagues on the Commerce Committee for addressing this important issue.

Mr. BRADLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair thanks the Senator from New Jersey for his kind words.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(During the quorum call Mr. BRADY occupied the chair.)

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. MATTINGLY). Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that Randy Nuckolls of my staff be accorded the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION, SUSPENSION, AND EXTENSION OF CERTAIN DUTIES

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4566.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 4566) entitled "An Act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.
>
> *Ordered*, That Mr. Rostenkowski, Mr. Gibbons, and Mr. Frenzel be the managers of the conference on the part of the House.

Mr. DOLE. Mr. President, I move that the Senate disagree to the House amendment to the Senate amendment and agree to the request for a conference with the House and that the Chair be authorized to appoint conferees on the part of the Senate.

Before the Chair makes the appointment, I want to respond to a question of the distinguished Senator from Mississippi.

Mr. COCHRAN. Mr. President, I appreciate the consideration of the chairman of the Finance Committee of a request for a conclusion of this legislation on a tariff relating to surgical gowns and drapes. It is very important in my State and I know the Senator from Georgia (Mr. NUNN) has a very keen interest in this matter as well.

We understand that, at this point, if this is correct, the tariff relating to those items is not included in this measure.

Mr. NUNN. Mr. President, could we have order? I am trying to listen to this. I cannot hear the Senator from Mississippi and this is a very important matter in my State and in the Senator's State.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. COCHRAN. Mr. President, I wonder if the chairman of the committee can assure us that in spite of the fact that this item may not be included in the report of the conferees and may not be acted upon in the Senate tonight, this could be the subject of early hearings and some action be the Senate Finance Committee or the House Ways and Means Committee so we do have this before the two bodies early next year.

Mr. DOLE. In response to the question of the Senator from Mississippi, I might say to both the Senator from Mississippi and the Senator from Georgia that we have had an informal meeting on this because there was an objection to appointment of Senate conferees. That particular amendment was discussed. Senator ROTH, who is on the other side of the issue, indicated that he would be willing to try to work out something early next year.

Representative GIBBONS, who is chairman of that subcommittee of the Ways and Means Committee, promised it will be the first order of business in his subcommittee. It will come to the Senate, will come to the Finance Committee where it will be in the International Trade Subcommittee. I am going to do the best I can to promise that we will have hearings.

The tariff bill has about 49 provisions in it, affecting about 25 of our colleagues favorably. I know it affects two unfavorably, and also the Senator from Hawaii will want to ask questions when the conference report comes back concerning the tuna provision. I can give that assurance.

Mr. COCHRAN. Mr. President. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to and the Chair appointed Mr. DOLE, Mr. ROTH, Mr. DANFORTH, Mr. LONG, and Mr. BENTSEN conferees on the part of the Senate.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAUL FINDLEY BUILDING

Mr. BAKER. Mr. President, the request I am about to make appears to have been cleared for action by unanimous consent. I will put a request now for consideration of the minority leader and other Members.

Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from the further consideration of H.R. 7406, a bill to designate the Federal building located at 600 East Monroe in Springfield, Ill., as the Paul Findley Building, and I ask for the immediate consideration of that measure upon discharge.

The PRESIDING OFFICER. Is there objection to the discharge?

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7406) to designate a certain Federal building in Springfield, Illinois, the Paul Findley Building.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

Mr. ROBERT C. BYRD. There is no objection.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7406) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there are two measures here that I believe have been cleared on both sides and should be disposed of by unanimous consent.

JAPANESE-MANUFACTURED, NUMERICALLY-CONTROLLED MACHINE TOOLS

Mr. BAKER. Mr. President, I send a resolution to the desk on behalf of the distinguished Senator from Idaho (Mr. GRASSLEY) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 525) to express the sense of the Senate urging Presidential action pursuant to Section 103 of the Revenue Act of 1971, 26 U.S.C. Section 48(a)(7)(D) to disqualify certain Japanese-manufactured, numerically-controlled machine tools from the United States investment tax credit.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. ROBERT C. BYRD. There is no objection.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, this is a sense-of-the-Senate resolution. I send to the desk a list of cosponsors to the resolution.

The cosponsors are as follows:

Mr. D'AMATO, Mr. CHILES, Mr. JEPSEN, Mr. DIXON, Mr. HEINZ, Mrs. HAWKINS, Mr. DOLE, Mr. HUDDLESTON, Mr. GARN, Mr. HOLLINGS, Mr. PERCY, Mr. TSONGAS, Mr. KASTEN, Mr. DANFORTH, Mr. BENTSEN, Mr. BOSCHWITZ, and Mr. MATTINGLY.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 525) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 525

Whereas the Government of Japan has selected the United States high-technology industry in numerically-controlled machine

tools for domination through unfair trade practices; and

Whereas the Petition to the President submitted by Houdaille Industries, Inc., on May 3, 1982, thoroughly documents continuing anticompetitive cartel policies and practices, including the financing of a machine-tool cartel with multi-billion dollar off-budget subsidies earned from bicycle- and motorcycle-race wagering, employed by the Government of Japan to further its industry-targeting goals, and

Whereas as a consequence of the discriminatory acts and policies of the Government of Japan, including its tolerance of an international machine-tool cartel, the Government of Japan has unjustifiably restricted United States commerce in numerically-controlled machining centers and punching machines: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States should exercise immediately his authority under Section 103 of the Revenue Act of 1971, 26 U.S.C. 48(a)(7)(D), to issue an Executive Order disqualifying Japanese-manufactured, numerically-controlled machining centers and punching machines from the United States investment tax credit until the Government of Japan provides persuasive evidence to the President of the United States that these and other unfair and discriminatory acts and policies unjustifiably restricting United States commerce have ceased.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HARRY S TRUMAN NATIONAL HISTORIC SITE IN THE STATE OF MISSOURI

Mr. BAKER. Mr. President, I yield to the distinguished Senator from Missouri so that he may ask for the discharge of a particular measure from a committee.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 3077, to establish the Harry S Truman National Historic Site in the State of Missouri, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the discharge? Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3077) to establish the Harry S Truman National Historic Site in the State of Missouri and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1587

Mr. BAKER. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Idaho (Mr. McCLURE) and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to its consideration?

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) on behalf of Mr. McCLURE, proposes unprinted amendment numbered 1587.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert:

SECTION 1. (a) In order to preserve and interpret for the inspiration and benefit of present and future generations the former home of Harry S Truman, thirty-third President of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from another Federal agency, or otherwise, the residence and real property known as 219 North Delaware Street in the city of Independence, Missouri, together with such property adjacent thereto as passed to Bess Wallace Truman upon the death of her husband. The Secretary may also acquire, by any of the above means, fixtures, and personal property for use in connection with the residence.

(b) The property acquired pursuant to subsection (a) is designated as the Harry S Truman National Historic Site and shall be administered by the Secretary in accordance with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4) and the Act of August 21, 1935 (49 Stat. 666, 16 U.S.C. 461–467). The Secretary is further authorized, in the administration of the site, to make available certain portions thereof for the use of Margaret Truman Daniel subject to reasonable terms and conditions which he may impose.

(c) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1587) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 3077) was passed, as follows:

S. 3077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 7. (a) In order to preserve and interpret for the inspiration and benefit of present and future generations the former home of Harry S Truman, thirty-third President of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from another Federal agency, or otherwise, the residence and real property known as 219 North Delaware Street in the city of Independence, Missouri, together with such property adjacent thereto as passed to Bess Wallace Truman upon the death of her husband. The Secretary may also acquire, by any of the above means, fixtures, and personal property for use in connection with the residence.

(b) The property acquired pursuant to subsection (a) is designated as the Harry S Truman National Historic Site and shall be administered by the Secretary in accordance with the provisions of law generally applicable to limits of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4) and the Act of August 21, 1935 (49 Stat. 668; 16 U.S.C. 461–467. The Secretary is further authorized, in the administration of the site, to make available certain portions thereof for the use of Margaret Truman Daniel subject to reasonable terms and conditions which he may impose.

(c) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

The conference report on H.R. 6211, the Surface Transportation Act of 1982, and other matters received from the House of Representatives at that time are listed in the message of 9:58 p.m. under "Messages From the House."

Mr. BAKER. Now, Mr. President, this is the conference report on the highway bill which has been adopted by the House of Representatives. I feel a little like a basketball referee throwing the ball up in the air waiting for the tipoff.

Mr. INOUYE. Let us vote.

Mr. BAKER. My friend from Hawaii suggests we vote. I have never been more supportive of such a suggestion.

Mr. President, I ask that the Chair lay before the Senate a message on S. 6211.

The PRESIDING OFFICER. The Senate papers are not at the desk.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIRGIN ISLANDS SOURCE INCOME—CONFERENCE REPORT

Mr. BAKER. Mr. President, it has been brought to my attention that there is a conference report which is cleared on both sides and has been acted on, I believe, in the House of Representatives. I would like to take that up now briefly, in advance of the time we begin debate on the conference report on the highway bill. If there is no objection to that, Mr. President, I would like to proceed in that manner.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 7093.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 7093 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate numbered 2, 3, and 4, to the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands or Virgin Islands source income, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1982.)

Mr. ARMSTRONG. Mr. President, I am delighted Congress today is passing this legislation providing emergency benefits for the disabled. For me, this ends a 4-month effort to enact corrective legislation to end abrupt and unfair termination of benefits to many of our disabled.

This is, indeed, the best Christmas present Congress could provide to those wrongfully terminated from disability rolls.

This legislation is simple. It authorizes the continuation of benefits during appeal for disabled recipients declared, upon initial review, to be ineligible. The legislation also authorizes the Secretary of the Department of Health and Human Services to slow down case reviews by States unable to handle their caseload of reviews.

This legislation is in response to a 1980 law signed by President Carter mandating the review of all social security disability cases by 1983. Of cases thus far reviewed nationally, about 46 percent have had benefits terminated. On appeal to administrative law judges, however, benefits have been restored in about 60 percent of the cases. While cases are appealed, benefits—the financial lifetime to many disabled—were terminated, meaning that many disabled lost all income for the 6 to 9 months their cases were appealed—only to have the benefits restored retroactively.

Much of the credit for passage of this legislation belongs to Mrs. May Reser, founder of the Colorado Disabled Americans Workers Security, for alerting me to this horrible catch 22 situation, and the need for corrective legislation. In August 30 disabled Coloradans accompanied Mrs. Reser and gave me conclusive evidence that benefits were being wrongfully terminated. In fact, one Coloradan had medical opinions from five doctors verifying his total and permanent disability. Yet benefits were terminated, and with only 60 days' notice.

This bill will stop wrongful termination of benefits.

In Colorado, 17,106 persons receive social security disability benefits. Since 1979, about 8,700 cases have reviewed with some 40 percent of those being declared ineligible. Many of these cases are now under appeal. Continuing benefits during appeal goes a long way toward halting unfair disruptions in the lives of our legitimately disabled.

I also support a provision included in the bill that was developed in consultation with Senator RUSSELL LONG and Representative JAKE PICKLE, House Social Security Subcommittee chairman. This provision delays for 6 months the implementation of a rule reducing social security benefits to spouses of social security retirees. In effect this provision assists low-income women who otherwise would have their social security benefits reduced, beginning this month, by the amount of Government pension they earn. This provision will give Congress time to address this social security pension offset issue next year as part of the overall effort to make social security solvent.

The final passage of this bill is the capstone of the effort to make 1982 the National Year of the Disabled. Congress earlier this year adopted a resolution proclaiming 1982 as a year in which Americans dedicate themselves to bring the disabled more into the mainstream of life.

Mr. President, like most bills that finally get enacted, there are a number of persons to whom proper credit should be accorded. I commend Senators COHEN, LEVIN, DOLE, and LONG, Representative JAKE PICKLE and congressional staffers Dr. Carolyn Weaver, Mike Stern, Joe Humphries, Susan Collins, Linda Gustitus, Janice Gregory, Erwin Hytner, Brian Weidmann, Howard Propst and Dick Wadhams for their contributions to this legislation.

Mr. President, I want to express my sense of accomplishment and approval at the passage of this legislation. I especially want to pay tribute to my colleague from Maine (Mr. COHEN) and my colleague from Michigan (Mr. LEVIN) for the tremendous sense of urgency which they brought to this task, which has resulted in the passage of this legislation. I make the observation again that this is about the finest Christmas present that a group of people who have been wrongfully thrown off the disability rolls could possibly receive.

Mr. MITCHELL. Mr. President, I would like to clarify the effective date of the bill and its application to existing law. Is it the Senator from Hawaii's understanding that the bill is intended to be prospective only, and that no inference is intended from the bill regarding the meaning of existing law?

Mr. MATSUNAGA. The Senator from Maine is correct. I understand that there are controversies now pending between taxpayers and the Government of the Virgin Islands concerning existing law. Among the matters at issue is whether under existing law the Virgin Islands can tax U.S. recipients who are nonresident in the Virgin Islands on passive income from Virgin Island sources. No inference is intended from the bill about the status of existing law. As author and introducer of the companion Senate bill, I assure the Senator from Maine that the bill is intended to have no effect whatsoever on these pending tax controversies. As the effective date provision of the bill makes clear, the 10-percent rate is intended to apply prospectively only.

Mr. MITCHELL. I thank the gentleman.

Mr. DOLE. Mr. President, we are ready to consider the conference report on H.R. 7093, a bill concerning the rate of tax on Virgin Islands source income and the payment of benefits under social security disability insurance. The House approved this conference agreement earlier this evening, and I hope the Senate will now give final approval to this legislation and send it to the President for signature. Considerable effort has

been put into arriving at this agreement, and I believe the result meets with the satisfaction of the interested parties.

DISABILITY BENEFITS

Mr. President, the bill before us deals with several issues regarding disability benefits that have been of concern to several Members of the Senate, including Senators COHEN, LEVIN, HEINZ, ARMSTRONG, and others. Under the conference agreement, both disability benefits and medicare coverage would continue to be paid after eligibility is determined to have ceased, in cases where that determination is appealed to an administrative law judge. Benefits would continue up to the month before the decision of the administrative law judge. If the termination decision is upheld, these payments would be recoverable as overpayments. This provision should insure that no one's rights to disability payments would be suspended prematurely pending appeal, which can cause hardship in many cases.

The conference agreement on H.R. 7093 also provides authority for the Secretary of the Department of Health and Human Services to alter the pace of State reviews of disability cases. Specifically, the number of cases sent to the States for review can be reduced below the rate specified in the 1980 amendments. Such a decision by the Secretary will be based on consideration of the extent of any backlogs, expected number of new applicants, and projected State agency staff levels. Further, the Secretary is required to report to the tax-writing committees of each House twice each year on the number of continuing eligibility reviews, termination decisions, reconsideration requests, and termination decisions overturned at the reconsideration or hearing level.

Mr. President, this bill also changes the rules governing evidentiary hearings in reconsiderations of disability benefit terminations. No later than January 1, 1984, the Secretary must provide opportunity for a face-to-face evidentiary hearing before reconsidering decisions to terminate benefits for disability beneficiaries. This requirement is in addition to existing requirements for hearings before an administrative law judge. This is a step in the right direction. It should improve the quality of the reconsideration decision and help reduce the number of people who must go on to request an appeal before an administrative law judge. With the heavy backlog of cases at the administrative law judge stage (about 150,000 cases), hearings can take 6 to 9 months or even longer.

PUBLIC PENSION OFFSET

Further, the conference agreement includes a provision which modifies the social security public pension offset that was enacted in 1977. Presently, social security dependents' benefits (wives, husbands, widows, and widowers) are to be reduced dollar-for-dollar on account of any public pension which the individual receives as a result of his or her own employment in Federal, State, or local government. This provision recently became fully operative—for dependents becoming eligible for a public pension and filing for social security benefits after November 1982.

The conference agreement modifies the offset provision in the following way: For men and women becoming eligible for a public pension in the next 6 months (prior to July 1983), no offset will be applied if the individual is dependent upon his or her spouse for one-half support. In my view, this is a fair solution, albeit temporary, to the problem of the impact of the pension offset on low-income retirees. This provision will provide full protection to dependent spouses so that they may draw both their social security dependents' benefit and their public pension, should they become eligible for that pension in the next 6 months. Likewise, the expiration date on this provision will allow Congress to consider alternative permanent solutions to the pension offset in the context of a comprehensive social security financing bill next year.

TAX RATE ON VIRGIN ISLANDS SOURCE INCOME

Finally, Mr. President, as I indicated at the outset this bill does resolve the matter of the rate of tax applied to payments of passive investment income from Virgin Islands persons to U.S. persons. Under the agreement, the rate of tax will not exceed 10 percent, and such treatment would apply to dividend payments out of earnings and profits accumulated in taxable years beginning on or after date of enactment. The Virgin Islands Government could reduce the maximum rate in its discretion, and can impose and require withholding of a tax up to the maximum 10 percent rate on payments of passive income to U.S. persons.

Mr. President, the matters dealt with by H.R. 7093 have been the subject of considerable interest and hard work in this session, and I am glad that they have been satisfactorily resolved. I urge adoption of the conference report on H.R. 7093 so that we may speed it to the President for signature.

Mr. LEVIN. Mr. President, by the adoption of this conference report, we are not taking action to relieve the injustice which has been suffered by literally hundreds of thousands of disabled Americans. This Congress in its lameduck session is finally taking action which is worthy of our approach to disabled people.

A few months ago, Senator COHEN, chairman of the Governmental Affairs Subcommittee, and I, as the ranking minority member, held hearings on the question of the removal of disabled Americans from the social security disability rolls. We had eloquent testimony of needless suffering, of literally 200,000-plus people who are being removed from those rolls improperly and who would be reinstated to those rolls about a year later by actions of administrative law judges. But during that year there would be needless suffering, excruciating suffering by those people through the loss of those benefits and the loss of medicare benefits as well.

We discovered that we should take at least one action on a temporary basis, and that would be to continue those benefits through the appeals stage, because we found 600,000 persons in the disability program will be subject to review. Of that number, some 45 percent will be terminated and 50 percent of those terminated will appeal. It will take 9 to 12 and in some cases even 18 months for the appeal process to be completed. Without this legislation, severely disabled people who appeal would be without any benefits and any medical coverage. This is indeed a horrible prospect in light of the prospect that two-thirds of the people appealing will be reinstated. This legislation saves us from that injustice. Although there are still many problems within the review process itself, at least the beneficiaries subject to that review will continue to receive their disability benefits.

Those of us who have studied the disability program are committed to substantive major reform in the next Congress. I look forward to joining those efforts next year to grapple with some very difficult and controversial issues involving fundamental problems in the program. In the meantime, it is satisfying to know that we will not be continuing the tragedies we have experienced in the past.

I want to commend my friend from Maine for his leadership in this matter.

As the Senator from Colorado said, it is a well deserved Christmas gift. I want to commend, in addition to my friend from Maine, Senator DOLE for his great help, Senator LONG, Senator ARMSTRONG, Senator SASSER, Senator METZENBAUM, Senator RIEGLE, Senator DOMENICI, Senator HEINZ, Senator DURENBERGER, Senator BOREN, and so many others whose help made it possible for us to finally to do justice to hundreds of thousands of people who have suffered needless injustice.

I also would like to thank Congressman PICKLE in the House whose willingness to modify his own approach in this matter made it possible for us to act in time, barely in time but in time.

I yield the floor and I thank the Chair.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, let me just take a few moments to express my thanks and commendation to the Senator from Michigan, who really performed a unique service on the Governmental Affairs Subcommittee in the oversight of Government management, and I particularly thank him for the statement that he has made this evening and the way which he has conducted himself throughout his term of office in the Senate.

I should note that it stands in rather stark contrast to some of the other statements that were made in the other body this evening whereupon one of the Members of the leadership of the opposite party took to the floor to denounce the current administration, the Reagan administration, for being cruel and heartless and throwing people out in the streets unnecessarily.

I simply point out that the Senator from Michigan has never conducted himself on the committee or, to my knowledge, in this body in any way but in the most bipartisan and certainly nonpartisan spirit.

Contrary to the assertions made in the other body, this was not a Reagan administration proposal. In fact, it originated with the Carter administration and was voted upon by a previous Congress.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Maine.

Mr. COHEN. The problem is not one of partisanship but one of lack of guideline of having conflicting standards, of having this review process rushed through with inadequate staff and case officers being prepared to handle the caseload. The problems are multitudinous in nature, and they are also not unique to any one administration.

I should like to say by virtue of the statement made by the Senator from Michigan, we will have to take a similar approach to resolving the social security dilemma as well, not in a spirit of partisanship of one party seeking to exploit the vulnerabilities of disadvantages of the other to the great detriment of the people of this country but, rather, in a true spirit of bipartisanship that effects the payment of social security benefits to millions of people throughout the country.

Mr. President, Congress can delay no longer in providing relief to the thousands of individuals whose disability benefits are being erroneously terminated only to be reinstated after a lengthy appeals process has run its course.

Last May, Senator LEVIN and I held a hearing in our Oversight of Government Management Subcommittee to investigate numerous reports from all over the country that truly disabled people are having their benefits terminated as a result of the new reviews.

What we found was most disturbing. Benefits are being discontinued in more than 40 percent of the cases reviewed—far above the 20-percent rate predicted by the General Accounting Office. In the State of Maine alone, benefits for more than 1,200 people have been ended since the reviews began, despite the fact that in a number of cases the claimants still appeal to be severely disabled and unable to work. And about two-thirds of the claimants who appear are eventually reinstated to the program after a hearing before an administrative law judge.

The situation is both absurd and cruel. It makes no sense to inflict pain, uncertainty, and financial hardship on disabled workers and then tell them, "sorry, we made a mistake." It makes no sense to overburden the State agencies and further clog the appeals process with cases where the individuals clearly remain disabled.

The tragedy is that, in waiting for reinstatement, these severely disabled persons and their families must go without benefits for months—or even a year or more—due to the tremendous backlog of appeals. One of my constituents, who was reinstated to the program last August, has been without his disability checks for 16 months. Lacking any income and too proud to accept welfare, this desperate man recently attempted to take his own life.

This is not an isolated example. Witnesses at our hearing recounted case after case in which truly disabled individuals lost their benefits and suffered financial hardship and emotional trauma because of an unjust system.

We identified several flaws in the continuing disability investigations:

First. The SSA does not provide the claimants with an adequate notice explaining the gravity of the review and the beneficiaries' responsibilities. Instead, a misleading notice is provided which simply informs the claimant that his case is "under review" to determine if he" continues to meet" the requirements.

Second. No face-to-face interview is held with the claimant until the hearing before an administrative law judge. This absence of personal contact gives the claims examiner an incomplete picture of the claimant's condition and reinforces the beneficiary's feeling of bureaucratic indifference.

Third. Decisionmakers use different and, at times, conflicting standards to determine disability. For example, there is confusion on the proper evaluation of a claimant's pain.

Fourth. In a number of cases, the medical files which the claims examiners rely on are incomplete and lack current medical evidence from the treating physician.

Fifth. No presumption of validity is accorded the initial decision which entitled the claimant to receive benefits. Instead, as the General Accounting Office has said, a system of "zero-based eligibility" is used, in which the claimant must prove all over again that he is entitled to benefits.

Sixth. In a number of cases, individuals whose medical conditions have actually deteriorated since they started receiving benefits many years ago are having their benefits ended.

In short, our hearing revealed a disturbing pattern of misinformation, incomplete medical examinations, inadequately documented reviews, bureaucratic indifference, erroneous decisions, financial and emotional hardships, and an overburdened system.

The Social Security Administration has taken some steps, such as improving the notice, to remedy these problems. But rectifying such fundamantal deficiencies will require comprehensive legislation, I applaud Senator DOLE for his willingness to thoroughly review the disability program next year. Since it will take time for Congress to consider reforms in the disability program, we must act now to provide short-term relief to disabled individuals whose benefits are being terminated and then reinstated.

Slowing down the number of cases reviewed would help both claimants and the State agencies which conduct the investigations. Currently, case files are literally overflowing out of boxes, and unreasonable burdens have been placed on many State agencies, particularly in those States where personnel freezes have prevented the hiring of needed staff. By directing the Secretary to proceed with the reviews at a pace which recognizes the necessity for careful evaluations and a more even workload, this legislation would improve the quality of the decisions and lessen the huge backlog of cases. It provides the Secretary with the flexibility that he needs to make adjustments in the State's workload after consulting with the State administrators.

In addition, by continuing benefits pending appeal, this legislation would eliminate the needless financial burden now imposed on disabled people who are mistakenly removed from the program, despite being unable to resume work. Currently, claimants who are successful in appealing their termination decisions receive back benefits, but only after months of disruption and delay. Our proposal would prevent the interruption of benefits which these individuals eventually would receive anyway.

To control the coast of this proposal and to discourage frivolous appeals, the legislation would require individuals whose terminations are upheld by an administrative law judge to repay the benefits paid pending appeal unless repayment would cause a severe financial hardship.

Again, I emphasize that fundamental reforms in the SSA review proce-

dures are absolutely essential, Senator LEVIN and I, along with several other Senators, have proposed comprehensive legislation to make the system more equitable and efficient. Congress would, however, be remiss in waiting for comprehensive legislation to solve these urgent problems. While we should continue to seek long-term reforms, including a medical improvement standard, we should act immediately to provide protection for the disabled Americans who are the victims of a faulty and unfair system.

Disability benefits are not welfare. A worker earns this insurance through the social security taxes that are deducted each week from his paycheck, and he must have worked a minimum amount of time in order to qualify for those payments. He must also be so disabled that he not only cannot perform the work that had been doing but cannot engage in any kind of substantial gainful activity which exists anywhere in the country.

Surely when we are dealing with the most disabled workers in our society, we should enact every safeguard to insure that the Government does not add another burden to the ones they already must bear.

I thank Senator DOLE for working with us in fashioning a solution to this problem, and I commend Senator LEVIN for his distinguished leadership and hard work on this issue.

Mr. LEVIN. Mr. President, I thank my friend from Maine for his very flattering remarks.

I agree with his comments about the importance of bipartisanship if we are going to solve the numbers of problems which face us in this country, including the social security problem. I look forward to a long continuing association with him on that subcommittee.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISABILITY CHANGES—H.R. 7093

Mr. SASSER. Mr. President, the need for modification of the existing disability review process in unequivocal. The existing disability determination system is seriously flawed and in need of repair. The erroneous termination of benefits, which occurs with an unacceptable frequency, not only undermines the fundamental concepts of social justice and equity, but adversely impacts upon thousands of disabled Americans who rightfully enjoy a legitimate claim to such benefits by virtue of their contribution of payroll taxes in their working years. This situation is simply intolerable and must be changed.

Today, I stand before this Senate and urge my colleagues to join me in supporting this much-needed corrective legislation. To the more than 4½ million disabled beneficiaries in this Nation, this legislation is crucial. We owe it not only to them, but to ourselves to reinforce the basic notion of fairness which underscores our Democratic process.

The problem of disability terminations has attracted considerable bipartisan attention for the better part of the past year. There have been no fewer than 13 pieces of legislation to deal with this problem introduced in the Senate alone during the current session. Indeed I offered a bill in June which subsantially incorporates several of the provisions which appear in the legislation we are considering today.

Over the past 6 months, I have worked with several of my colleagues, Senators COHEN, LEVIN, METZENBAUM, HEINZ, RIEGLE, in an attempt to fashion an effective compromise solution to the problem. The measure which stands before this Senate today adequately represents such a bipartisan compromise and should be adopted.

Very briefly, I would like to outline the current problem. In 1980, Congress passed disability amendments which were ostensibly designed to curb the dramatic increase in the social security disability program during the 1970's. A key provision of those amendments called for continuing disability reviews of those currently on the rolls in an attempt to weed out those currently on the rolls in an attempt to weed out those who were not eligible for disability benefits. I supported these changes then, and I continue to support them now. If people do not belong on the disability rolls, then they should be removed. This provision was never intended, however, to justify wholesale terminations of benefits.

By accelerating the implementation of these continuing disability investigations some 9 months ahead of time, the Reagan administration has done precisely that. The desperation and despair faced by many disabled beneficiaries, who in numerous cases lose their only source of income, has resulted in heart attacks and in a number of instances suicide. In my home State of Tennessee, it is estimated that as many as 2,500 beneficiaries have lost their benefits due to erroneous decisions on the part of the State determining agencies. Nationwide, it is estimated by the Social Security Administration that between 60 and 70 percent of all individuals who appeal these decisions are reinstated at the administrative law judge level. This rate of error is totally unacceptable.

This legislation makes the following changes: First, it would provide for the continuation of benefit payments until the administrative law judge level of appeal whereas currently benefits are not available through the appeals process; second, it would allow the Secretary of HHS to slow down the number of cases sent to the State agencies (current caseloads and backlogs are contributing to pressure to review cases and this is resulting in errorenous decisions); third, it would institute a face-to-face evidentiary hearing at the reconsideration level of appeal, currently face-to-face contact does not occur until the administrative law judge; fourth, it would provide for semi-annual reports to Congress on the status of the disability review process.

These changes would provide muchneeded temporary improvements in the current system. They are reasonable and should be adopted. During the past week I have talked with Chairman PICKLE of the Social Security Subcommittee and he has indicated that this legislation is acceptable.

During recent conversations with my colleagues, there is one overriding concern which punctuates the need for this legislation, that is the urgency with which this legislation must be dispatched. As we all know, time is running short. Thus it is absolutely essential that we act on this matter now. It must also be realized that this legislation will merely act ot provide temporary relief to those facing termination of their disability benefits. It will be necessary to address major structural problems in a comprehensive manner in the near future. But we must rectify current inadequacies now. The problem has gone on too long and improvements are long overdue.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. There is no pending business.

Mr. BAKER. Mr. President, I believe we did not yet lay before the Senate the conference report on the highway bill. Is that correct?

The PRESIDING OFFICER. That is because we do not have the Senate papers on the conference report.

Mr. BAKER. Because we do not have the Senate papers, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. BAKER. Yes, Mr. President.

Mr. STENNIS. Mr. President, recently on the floor, we had reference to agricultural legislation for future years. I intended to participate in that

debate and have a prepared statement on what was obtained on other urgent matters. I did not reach the floor in time. As a substitute, I ask unanimous consent that my remarks be printed in the RECORD at this place.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PLIGHT OF OUR FARMERS

Mr. STENNIS. Mr. President, from time to time, throughout the history of this Nation, our farmers have experienced difficulties which have caused them a temporary setback. At each of these times, the farmers have hitched up their belts and pulled to get back on the road to profitably providing this Nation and others with the agricultural goods they needed to survive.

Several years ago, it began to look like we experiencing one of those temporary setbacks. However, as the situation has become alarmingly worse, it has become apparent that this time of difficulty is not temporary. In February of this year, I spoke about farm problems and asked this body to work toward some solutions. We have seen some efforts made but no real solutions have evolved.

The American farmer today faces serious and critical economic problems of unprecedented proportions. Many farmers have already been forced to liquidate their assets. Others face the prospect of financial ruin. If we do not act soon to relieve some of the economic pressures on our farmers, we may find ourselves in the middle of the worst disaster ever to hit the farming industry, that is, the wholesale bankruptcies of even more farmers than are failing at this time.

The difficulties our farmers are now experiencing have come about as a result of several happenings over the past few years. In 1980 there was a severe drought which ruined most crops. Also that year the administration imposed an embargo of certain agricultural goods to the Soviet Union and we have had trouble with our export market ever since. In 1981 farmers produced record crops in almost every commodity, causing an oversupply and bringing prices way down. Inflation has been especially burdensome on farmers in light of the fact that while the cost of production has soared tremendously, the prices of goods have risen very little. Because farmers are almost completely dependent upon the availability of affordable credit, the evil of high interest rates has perhaps been harder on farmers than any other group.

These difficulties are especially hard on a nation that so many other nations depend on. Even if it would, the United States cannot escape its destiny of being the breadbasket of the world. In 1980 the Earth's population was 4 billion. This is projected to rise to 6.2 billion by the year 2000. Future demands on the American farmers for the production of foodstuffs will increase tremendously. Of the world's 173 nations, only eight are net exporters of agricultural products. The U.S. exports more than the other seven combined.

American farmers are without question the most efficient in the entire world. They have shown that they can outproduce the farmers of any other country. In fact, a part of the farm problem arises from the very efficiency of our farmers. Record crops in 1981, and now in 1982 have left storage facilities filled with unsold stocks and have depressed prices.

The importance of our agricultural exports cannot be overemphasized. Since 1970 the value of U.S. agricultural exports has increased more than sixfold. In 1981 our total agricultural exports were $43.8 billion, and our net agricultural trade balance was $26.5 billion. This surplus went a long way in off-setting our chronic nonagricultural trade deficit. Nevertheless, this year, for the first time since 1969, the value of farm exports is expected to fall. The Department of Agriculture has predicted that because of lower prices for most major products the export value will probably decline from the 1981 level of $43.8 billion to around $42.5 billion.

I have already mentioned that the 1981 bumper farm crop depressed prices severely. In 1980, Mississippi farmers received an average price of $7.75 per bushel for their soybeans. In November, they were receiving only $5.60 per bushel. Cotton farmers in Mississippi received almost $.77 per pound in 1980, as compared to less than $.50 per pound now.

While the prices for soybeans, cotton and almost every other commodity have been dropping, the cost of producing the commodities has continued to rise. The price of fertilizer is up 7.4 percent in 2 years and the price of fuel has doubled in that time. The price of diesel fuel alone has risen over 370 percent since 1975.

Dramatic increases in interest rates have placed extra stress upon the farmers. The cost of credit obtained at commercial lending institutions has risen as much for farmers as any other business, making it almost impossible for farmers to borrow commercially. Those who can borrow commercially are paying interest rates of 14 percent or more. As recently as 1978, Farmers Home Administration, "the lender of last resort," was charging a mere 8 percent on their standard operating and annual production loans to farmers. Currently, this figure is 11.5 percent, and this is down from the 14¼ and 16 percent respectively that was being charged on these loans. The Commodity Credit Corporation has increased the interest on its crop loans from 6 percent in 1970, to a current rate of over 9 percent and this is down from the 14⅛ percent that was being charged earlier this year.

Farm debt has increased from $136 billion in 1979 to an estimated $195 billion in 1982. Farm debt rose 11 percent in 1981 alone. At the same time, the real value of farm assets has declined.

Because of the factors that I have mentioned, net farm income dwindled from $32.3 billion in 1979 to an estimated $19 billion in 1982. In terms of real income (that is, measured in 1967 dollars), the net farm income was less in 1980 and 1981 than in any year since the depression year of 1933. Net farm income in 1982 is not expected to rise above the severely depressed 1981 level. Some experts have predicted that the net farm income in 1982 in real terms (1967 dollars) will be less than in 1933, the lowest on record.

The combination of these factors has caused net farm income in Mississippi to be at its lowest level in 18 years. At the same time, the total farm debt of our Nation's farmers has more than doubled in just the last 6 years.

Unfortunately, many of our farmers have reached the conclusion that now is the time to get out of farming. Many who can afford to, are selling their farming operations for what little they can get out of it and many who cannot sell are just quitting and getting anything they can out of what they have. This situation is causing our agricultural land to be sold to the highest bidder, who in many cases is someone with foreign interests or someone who knows nothing about farming and the land is being used for purposes other than the production of agricultural goods.

I believe that agricultural land is an institution that must be protected for the production of agricultural goods and should be managed by farmers who know what to do with it. I would be in favor of a special category for this land which would insure that, down through the ages, no matter what happens, this land will be used for the production of food and fiber for our people.

This thought is a long-term idea I have, but the most prevailing thing before us is what to do to solve the dilemma facing farmers now.

The situation cries out for decisive and positive action. The Congress has already provided the Secretary of Agriculture with some of the tools that he needs. Urgent and more aggressive actions are needed to balance supply with demand and to remove burdensome surpluses.

The Secretary of Agriculture has responded to the surplus problem by invoking provisions of the law to reduce planting of some commodities on a vol-

untary basis for the 1983 crop. Acreage reduction programs for other crops are in the works. This is a good first step but strong followup action is essential.

The Congress has also authorized the Secretary of Agriculture to use cropland diversion payments to make the needed supply adjustments as rapidly as possible, and the Secretary has, at least partially, implemented this program.

The proposed payment-in-kind program is certainly worthy of some very serious consideration. The use of Commodity Credit Corporation stocks and farmer-owned reserves as payments to farmers who reduce their acreage would serve several useful purposes. It would reduce the ever-increasing carryover of commodities that are depressing farm prices, it would reduce the amount of acreage in production, offsetting the past 2 years of record-breaking production which have also depressed prices, and it would reduce the amount of deficiency payments and crop purchases the Department of Agriculture would have to make.

In addition, an all-out effort should be made to increase consumption, especially in export markets. There should be more effective use of Commodity Credit Corporation credit, the food for peace program under Public Law 480, the Export-Import Bank loans. I also favor proposals to authorize the Secretary to offer bonuses from Commodity Credit Corporation stocks to foreign purchasers who have a good record of trade, as long as these bonuses do not interfere with possible sales.

The embargo which we imposed on the sale of grain to Russia contributed to depressed farm prices. It also damaged the reputation of the United States as a reliable exporter. We must remove the uncertainty among our foreign customers and reestablish our reputation as a reliable trading partner. History has shown that the practice of singling out farm exports as a foreign policy tool has had very adverse results.

We cannot, of course, overlook the vital importance of bringing the current excessively high interest rates down to an affordable level. This is an absolute must if our farmers are ever to get on a sound financial level.

Over the years, I have discussed the agricultural problem with many farmers from Mississippi and other States. I have concluded that most, if not all, of them would prefer to farm without reliance on the Federal Government but that this is impossible to do with the current fiscal and financial situation.

There is, of course, disagreement over the extent to which the Federal Government should be involved in agriculture. However, most people believe that because of the unique conditions of the agricultural economy and its importance to the Nation some Government support is absolutely necessary. The weather, interest rates, production costs, and domestic and foreign market conditions, as well as the inherent unpredictability of farming itself, combine to make farmers vulnerable and Government intervention necessary.

Although some farmers were dissatisfied, in view of the serious differences of opinion about Federal Government involvement in agriculture, I believe that the Agricultural Act of 1981 was about as good as could be passed under the circumstances. However, due to circumstances beyond the control of farmers, this act has failed to provide the proper support for the agricultural community.

Now is the time to look in other directions for some relief. S. 3074, as reported by the Committee on Agriculture, Nutrition, and Forestry, goes a long way toward providing some of this relief and I hope that the Senate can support it and see that it is sent to the President before this Congress adjourns. Ordinarily, I do not favor quick action on a matter of this importance, but because our farmers are in such terrible shape, we cannot wait any longer.

The American farmer must not be allowed to become a vanishing breed. The farm population in the United States in 1933 was 32.3 million, or 26 percent of the entire population. By 1981 the farm production had dwindled to 5.8 million, or 2.5 percent of the population.

We cannot allow this remaining 2.5 percent to go bankrupt and get out of the farming business. Too many people are depending on their productivity for us to allow this to happen. We must help them by providing the proper incentives to farm with the reasonable expectation of a fair profit and without unreasonable intervention by the Government. I pledge myself to do everything I can to bring this about.

METCALF WILDERNESS AND MANAGEMENT AREA

Mr. BAKER. Mr. President, I yield to the distinguished Senator from North Carolina (Mr. HELMS).

Mr. HELMS. Mr. President, yesterday, for the entire day, efforts were made to have the Senate consider the so-called PIK bill, the payment-in-kind farm bill. One Senator, exercising his rights properly, placed a hold on that piece of legislation notwithstanding the fact that it is vital to the farmers of this country. In an effort to encourage the Senator to let the Senate consider the farm bill, a hold was placed on Calendar Order 1004, S. 2110. This bill is to establish the Lee Metcalf Wilderness and Management Area in the State of Montana and for other purposes.

We all remember the late distinguished Senator Metcalf. I certainly would not want to do anything to inhibit, let alone prevent, enactment of a bill intended to honor him. Therefore, I advise the distinguished majority leader that insofar as this Senator is concerned, Calendar Order No. 1004 is available for Senate consideration.

Mr. MELCHER. Will the Senator yield?

Mr. HELMS. Certainly, Mr. President.

Mr. MELCHER. The Senator has delayed too long. Perhaps the Senator does not realize that the House has adjourned sine die and that there is now no longer any opportunity to consider the Lee Metcalf Wilderness bill. It is too late. The House has already gone out of session for this Congress.

THE LEE METCALF WILDERNESS AREA

Mr. BAUCUS. Mr. President, for several days, legislation to establish the Lee Metcalf Wilderness Area has been caught in a procedural tug of war. I am most disappointed that this vital legislation has not been considered by the Congress. I certainly hope that the 98th Congress will be able to deal with this legislation in a more expeditious manner.

Mr. President, I strongly support passage of S. 2110 creating the Lee Metcalf Wilderness Area in southwestern Montana.

Fifteen years ago, Senator Lee Metcalf wrote to the U.S. Forest Service's Region I forester to express his support for wilderness designation of the Spanish Peaks Primitive Area. Senator Metcalf stated:

> Wilderness serves the recreational, scientific, educational, conservation and historical needs of the people. Wilderness has become a rare and precious resource in this country. Many states have little, if any, of it left. Montana is more fortunate—and I want to assure that it will always be that way.

Throughout his renowned career of service to Montana, Senator Metcalf treasured the concept of protection of Montana's wildlands. Where possible without causing hardship to other diverse interests in our public lands, Lee Metcalf sought to preserve a portion of Montana as it was before civilization. Due in large part to his efforts, Montanans today can take pride in a living heritage of pristine lands that include the Great Bear, Absaroka-Beartooth, and Welcome Creek Wilderness areas.

The year 1982 represents a considerably different public landscape than that which existed in 1952 when Lee Metcalf was first elected to the U.S. Congress. Today, we are at the conclusion of the much debated RARE I and RARE II wilderness inventory process.

The study of three of the areas mandated for special attention under the

Montana Wilderness Study Act (S. 393) is also nearing completion. Simultaneously, pressures are mounting for the release of hundreds of thousands of acres of roadless forest lands to multiple use. Given this scenario and my personal assessment that vast additions to the wilderness system are unlikely, I endorse the establishment of the Lee Metcalf Wilderness.

Naming any wilderness for Senator Metcalf would, of course, be a fitting and appropriate tribute to this giant in America's conservation movement. More important, however, this particular designation will write the final chapter in one of the conservation efforts which Lee Metcalf advocated throughout his distinguished career. In fact, only Senator Metcalf's untimely death, January 12, 1978, was able to draw the curtain on this own efforts to designate a wilderness area in the Madison and Gallatin Ranges.

This legislation is the result of long, complex negotiations involving literally hundreds of interested individuals, groups, government agencies and businesses. While the bill cannot satisfy all of the diverse and occasionally conflicting desires of these parties, I am convinced that it does signal very real progress in resolving difficult questions about the designation of Federal wilderness areas.

The bill is the product of a series of meetings held by the Montana congressional delegation over the past year. A wilderness area consisting of nearly 240,000 acres will be added to our national wilderness preservation system. In addition, a 40,000-acre wildlife management area for the protection of grizzly bear habitat will be designated.

The area has features that conjure images as remarkable as the land itself. Bear Trap Canyon, the Spanish Peaks, the Taylor-Hilgards, and Monument Mountain will all be included in this wilderness area that stretches from the high prairie along the banks of the Madison River to the boundary of Yellowstone National Park.

Wildlife as diverse as the land share this vast area with recreationalists from throughout the Nation who come to hike, ride horseback, fish, hunt, and enjoy the serenity.

Furthermore I am pleased that we have been able to craft this bill so that snowmobile enthusiasts will continue to use the popular Big Sky Snowmobile Trail unimpeded. In addition, recognition was given to the needs of the timber industry, a vital aspect of the Montana economy. Wherever possible, this bill attempts to minimize those resource conflicts.

Untold hours of dedicated labor have gone into the proposal. In particular, I salute the efforts of Senator MELCHER, Congressman PAT WILLIAMS and Congressman RON MARLENEE. Dozens of other Montanans deserve recognition for their tireless efforts. There being too many to list individually, I would like to commend two people: Dr. Richard Tenney, the president of the Madison-Gallatin Alliance, and Mrs. Donna Metcalf, Senator Metcalf's widow. The advice and counsel which they have provided in this process represents well the contributions of so many others.

Given these considerations, I hope the 98th Congress will quickly consider, and enact, this important piece of conservation legislation and this tribute to Senator Lee Metcalf.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have two matters I wish to address, one in connection with the conference report and another on the Executive Calendar.

There was one item on the Executive Calendar which was not considered today because of a notation by one Senator which has now been cleared, and if it is agreeable to the minority leader I wish to go forward with the confirmation of Calendar Order No. 1129 at this time.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purposes of considering Calendar Order No. 1129, Message No. 1510, Sam H. Bell, of Ohio, to be U.S. district judge for the northern district of Ohio.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of Sam H. Bell, of Ohio, to be U.S. district judge for the northern district of Ohio.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, one of the many and manifold blessings of the last indeterminable moments of a session is sometimes you cannot figure out what happened to the documents, and there are literally thousands of pages of documents, and we find ourselves in that situation at this time.

While the House documents on the conference report on the highway bill are here and delivered by the messenger, no one can find the Senate documents.

The Senate documents and the House documents are identical, and we have two choices. We can Xerox the House documents and prepare a set of Senate documents, or we can treat the House documents as the Senate documents for the purpose of proceeding.

At 10:25 p.m. at night that has a great appeal for me.

So I wish now, Mr. President, if I may, to propound a unanimous consent request.

HOUSE CONFERENCE REPORT CONSIDERED TO BE SENATE CONFERENCE REPORT

I ask unanimous consent that the conference report received from the House of Representatives be considered to be the conference report for the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION ACT OF 1982—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee on conference on H.R. 6211 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6211) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

The question is on agreeing to the conference report.

Mr. BAKER. No. Mr. President.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. I would fondly wish for that, but I am afraid we are not ready for it.

Mr. President, I not only lost the conference documents I lost the conference managers, too.

Mr. DOMENICI. They are coming.

Mr. McCLURE. They have the documents.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BAKER. Maybe they are all together.

Yes, I yield to the Senator from North Carolina.

Mr. HELMS. I thank the able majority leader.

Mr. President, it occurred to me that this may be providential. Maybe the Lord is sending us a message and saying lose the whole thing. [Laughter.]

If so, my prayer would be answered.

In all seriousness, could I inquire of the majority leader's plans for this evening? I understand that it is his intention to file a cloture motion sometime this evening.

Mr. BAKER. Mr. President, I must say to my friend from North Carolina that I have considered a number of options including that one, but I do not plan to do that right away. I think we should go ahead with the debate on the measure and see how things develop so while I do not rule out that possibility I frankly do not plan to do that at this point.

Mr. HELMS. I wish the Senator would do it as quickly as he makes up his mind to do it. There is no point in our staying around here this evening. I want to find out what is in the bill after it has been mutilated or whatever by the conference committee, and there is no earthly way to tell. I would hope the managers of the bill would take some time and tell us what is in it because I do not know what is in it.

Mr. BAKER. Mr. President, I think the request of the Senator from North Carolina is not only logical and entirely within his rights but highly desirable for every Member of the Senate.

But let me respond with another question. I am not sure when or if I will file cloture, and I want to get out of here just as much as the Senator from North Carolina does, believe me. But would the Senator from North Carolina give us some idea of when we might reach a vote on this measure?

Mr. HELMS. You mean which year? [Laughter.]

Mr. BAKER. If that is the Senator's wish.

Mr. HELMS. I would say, Mr. Leader, that I am still convinced that the wise thing for the Senate to do is to reject this measure one way or another and, as I suggested early on to the majority leader, in a new year start afresh with a new piece of legislation, which would not take all that much time to have hearings on and then report to the Senate.

It would not be my purpose to engage in extended debate on it. I would hope that somewhere along the line the Senate would agree to do that. This bill is not one I can support. I wish I could, because I have four grandchildren and three children at home like everybody else, and I would like to go home for Christmas. But if need be I will stay here—I never spent Christmas in Washington, D.C., but I am willing to do it if I have to.

If the majority leader is going to file a cloture motion, I wish that he would file it. Let us go home this evening after he has set a time certain for us to come back after Christmas or whenever he in his wisdom decides.

Mr. BAKER. Mr. President, I appreciate the remarks of the Senator from North Carolina. But let me make another proposal. Why not spend the next hour and a half, that would get us to about 12 o'clock, hearing the explanation of the managers on both sides and then whatever time the Senator from North Carolina wishes, and yet tonight let us vote on this measure up or down one way or the other or on a tabling motion if you prefer, and get it out of the way?

Mr. HELMS. Well, of course, the majority leader knows I would not be willing to do that. I wish I could accede to his suggestion, just as I wish that he could accede to mine. But why not just start in on the consideration of the conference report and see where we go from here?

Mr. DOMENICI. Mr. President, might I ask the Senator from North Carolina a question?

Mr. BAKER. I yield.

Mr. DOMENICI. As I understand, the Senator does not want an explanation. We can have an explanation of a bill of this type, if not within this next hour or the next couple of hours. The Senator just does not want us to vote on this bill.

Mr. HELMS. Well, that is reasonably correct.

Mr. DOMENICI. I do not think it is reasonable. Does the Senator want us to vote on this bill or not? I am your dear friend, but I think everybody ought to know. You asked "Have we had an explanation?" There have been conferences like this many times before. We have had 15 minutes. It seems to me the Senate is willing to take 1 hour, 1½ hours 2 hours of explaining it. The Senator would have every bit of explanation from distinguished Senators, such as DOLE, the distinguished Senator STAFFORD, and myself, I have been on the conference. There are 10 or 12 of the Senator's friends on both sides, and we will explain it in depth.

My question to the Senator is if we have done that, does the Senator from North Carolina intend to let us vote on it or not?

Mr. HELMS. The answer is "No."

Mr. DOMENICI. I thank the Senator.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. KASTEN). The Senator from Kansas.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Kansas yield? There have been many times when I have called bills up that I opposed when I was majority leader. I have been successful in breaking a filibuster, as in the case of the natural gas bill, which I was opposed to. I had to do some rather high-handed actions at that time, but, nevertheless, it was the only way to break the filibuster, and I was responsible for setting some precedents when I was majority leader, with the help of Mr. BAKER who was then the minority leader, and Mr. STEPHENS who was the minority whip, and the then Vice President of the United States, which certainly have been very useful to the present majority leader in his efforts to bring this measure to passage.

We on this side of the aisle offered to have a vote on this measure some days ago without any further action. The majority leader called a caucus and the result was that that offer could not be accepted for reasons I am sure were perfectly justifiable in the eyes of the other side.

I have not had a chance to caucus with my colleagues on this side, but I have a feeling that there are those who will be willing to vote up or down on the conference report within 30 minutes after a reasonable time for explanation of the conference report. I would vote against it, as I voted against the gas tax bill last night. But I would not, in my position, stand in the way of a vote on the conference report tonight. I do not know how my colleagues feel about it. Perhaps a time could be set for a vote on the conference report tomorrow. That would give us an opportunity to alert those colleagues of ours who are absent, who have gone to their homes, and at least give them a chance to come back and vote on the conference report. But, first, without hearing from my colleagues, I would feel that there would be a good chance on this side that we could agree to vote up or down on the conference report at 2 o'clock tomorrow afternoon or 5 o'clock or at some point tomorrow.

I may run into a lot of objections. I have not had a chance to discuss it. But I want it known that we on this side are ready to vote on the conference report up or down. Let the managers make their statements, let every man vote for himself. The opposition to a vote up or down on this conference report does not come from this side of the aisle.

Mr. BAKER. Mr. President, I like the suggestion the minority leader has made, and it is extremely well-taken.

I would point out it is now 10:40 at night and, as far as I am concerned, we can spend as much as such part or all of this night and morning engaging in a discussion of this measure and debate it if that is the desire of the Senate. But I think to set a time tomorrow, the 22d of December, to vote on this thing makes eminent good sense. There is enough time between now and then to satisfy any reasonable time for debate.

Mr. President, I say before I put the request, I have not had a caucus on this side either.

Mr. ROBERT C. BYRD. If I can make one qualification, that the majority leader not keep us in all night.

Mr. BAKER. Mr. President, I ask unanimous consent to do that and the request will be in three parts: I ask unanimous consent that a vote occur on or in relation to this conference report at 12 o'clock tomorrow. I further ask unanimous consent, Mr. President, that the Senate stand in recess at the hour of 12 midnight tonight.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I revise the request so that we go out at 12 midnight tonight and vote tomorrow on or in relation to the conference report at 2 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I object.

Mr. BAKER. Mr. President, I want to put one more request at this time. I may put another later, but I want to bend over backward to try to make it clear that the leadership, I believe on both sides, want to provide an ample opportunity for any reasonable discussion of this measure.

Mr. President, I ask unanimous consent that the Senate conclude its activities tonight at 1 a.m. and stand in recess until the hour of 12 noon tomorrow and that at the hour of 4 p.m. that a vote occur on or in relation to this conference report.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. At 12 midnight.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I could go on this way, and I am tempted to, but I think it is clear that the Senator from North Carolina does not intend to agree to any time certain for disposition of this conference report.

Mr. HELMS. The majority leader is correct.

Mr. BAKER. I must say, Mr. President, it is my intention to try to go forward with this matter. I do not intend to file cloture. I do not insist and urge that every Member stay here and listen, but I do expect that we will have further debate on this measure tonight.

Mr. ROBERT C. BYRD. Mr. President, I hope the majority leader will let us all know what his plans are. I have been listening carefully, but are we going to be here all night tonight or, if he is not going to file a cloture motion, are we going to be here maybe all day the following day? I say this with the utmost good faith, Mr. President. We are entitled to know what the majority leader's plans are if he can tell us at this time.

Mr. BAKER. Mr. President, the minority leader knows, I am sure, because he served in this difficult position, as I now serve, and longer than I have served. So I am sure he understands that, on the one hand, I have an obligation to advise Members of the schedule of the Senate so they can make their plans, but, on the other hand, I have the obligation to try to move legislation and not circumscribe myself in that effort unduly.

It is not my intention to punish the Senate nor to punish the Senator from North Carolina. But we have only a brief time left, from a practical standpoint, to try to deal with this matter. I am convinced that we can do it better by simply debating the issue than we can by going the cloture route and coming back after Christmas.

I was attracted to that idea to begin with, because I, frankly, am tired, and I think everybody else in here is tired. But the more I think about it, the more I am convinced that the rules of the Senate relating to debate may yield us a more prompt result on this than going a cloture route and deferring consideration.

So I would hope that the Senate would agree to remain in and to discuss this matter. I hope further that at some point the Senator from North Carolina would recognize that the Senate is entitled, in my opinion, to face up to this issue and to vote it up or down. It is by no means certain this measure is going to pass. I can say there are a number of Senators on this side of the aisle who have supported cloture, and I thank them for it, as there are a great number on the other side of the aisle—and I will be eternally grateful to those who supported cloture—but who will vote against this bill. I know that. I do not like that. I am disappointed, but it is true.

And I do not have any head count that tells me what the final result will be. I do not know what the result of a tabling motion would be. But I do know, Mr. President, that it is my duty and responsibility, as I see it, to try to get this matter concluded.

So I wish I could tell the minority leader with greater exactitude what those plans are, but, at this time, I would suggest that we proceed with the debate. I will consult with the minority leader, I will share with him more thoroughly my thoughts, and perhaps we can have another colloquy at a later time.

Mr. ROBERT C. BYRD. If the majority leader will indulge me just this much. We have been here now 125 hours since Monday a week ago, and here it is on Tuesday of the week of Christmas. We have had very little time with our families. We are all tired. I know the distinguished majority leader is tired. I can understand his problem in the situation and his desire to get on with the legislation and his feeling of responsibility to do that.

But, there comes a time, Mr. President—and I say this most respectfully to the majority leader—when we ought to either have a showdown on this measure or we ought to go home, because it is only going to be a short time until we are back here.

We were asked by the President to come here and pass appropriations bills and a continuing resolution. We have done that. I just think that it is about time—and I am willing to work with the majority leader for a while yet in an effort to bring an end to this bill—but I think we ought to bring an end to the agonizing of this Congress over a matter which was not asked for by the President when he requested us in September to come back and on a matter which could wait until the Senate is back in session and the House is back in session within 2 weeks, virtually. It just does not seem to me—it is an important matter, but it is not so imperative, I would say—that it be enacted by continuing to run the clock, continuing to keep the Senate in session for hour after hour and day after day when we would like to be with our families. The Congress is not looking very well as long as we continue to stay here and wrangle.

I just say this in the utmost kindness to the majority leader, knowing what his problems are and knowing what his sense of duty is. But we all feel we all have a sense of duty to our families, as well. And we have worked with the majority leader. We have offered to pass the bill several days ago. The offer was rejected. We have assisted with cloture; we delivered the cloture votes. And we have waited all day long now for this conference report.

I would just hope that we would not have to continue this agony for too much longer until we know what the plans are as to whether or not we are going to be asked to come back for cloture or whether or not we are going to have a vote on this conference report up or down, or whether or not we are going to quit and go home and come back in January and start all over again, when our patience has not been strained to the limit, our tempers are not frayed, and our ability to exercise the kind of careful and thoughtful judgment that the people expect of

their elective representatives is not impaired.

It has gotten to the point where we pass bills, and we do not know what is in the bills. We do not know what is in the conference reports. And, if one has listened to the television reports tonight and yesterday this is the way the country is viewing the Congress.

We have already accomplished what the President asked us to do. Now we are still here, we are still tied up in knots, we are still agonizing. It has about gotten to the point where clear minds are difficult to find in this body. I think when we legislate we ought to legislate in an atmosphere that is devoid of emotion and strained patience and frayed tempers.

So I would just say to the majority leader, do not run us through this mill too much longer.

Mr. BAKER. Mr. President, I hear some of myself in the remarks of the minority leader, because I can remember other occasions when I have made similar pleas when the distinguished minority leader was the majority leader. I can even remember times when I complained, sometimes in a very vociferous way, about the necessity to stay late. I can remember at least one occasion, I believe two occasions, when I was here on Christmas Eve. I did not like it, but I was. And I can remember when I was here, I believe, in the week after Christmas and up to noon on January 3, as I recall. I did not like that, either. But I then knew deep down in my heart that the then majority leader had an obligation to do this.

The minority leader has stood with me in every step of the effort to get this matter to a vote. I hope he will continue to do that. I hope he will not abandon that fight at this time. And I do not believe he will.

I hope that we will continue to work together to try to get this matter to a vote, because I feel, having come through the fire storm so far, it profits us little to abandon that effort at this time. As I said earlier, I will confer with the minority leader and we will try to see where we stand.

Mr. President, let me make one other request. The distinguished Senator from North Carolina mentioned cloture a moment ago and inquired, I believe, twice on whether I intended to file cloture or not. I indicated then I did not plan to for the moment.

I wonder how the Senator from North Carolina would feel about a unanimous-consent request to have a cloture vote now. Would the Senator be willing to do that?

I understood the Senator to say that he was not.

I am open to any other suggestions, but I respectfully suggest, Mr. President, that we have no alternative at this point except to go forward.

I will consult with the minority leader further as to the next step.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I would be happy to yield to the Senator from Vermont. I did not want to yield the floor since I want to explain the bill. I wanted to ask the distinguished Senator from North Carolina some questions about the bill, to find out what his problems are about the bill.

Mr. LEAHY. I do not want to use the time of the Senator from Kansas. I wonder if he would give me a minute and a half to associate myself with the remarks of the minority leader. Will the Senator yield?

Mr. DOLE. I think we will have plenty of time. [Laughter.]

Mr. LEAHY. I thank my good friend from Kansas.

Mr. President, I would like to associate myself with the comments of the Senator from West Virginia. I wish we could prevail on the distinguished majority leader to free the Senate 100, as I said earlier this evening, and the press corps, 290, and go out. I say this partly from a personal point of view. This will be the second time in my lifetime that I will not spend Christmas in Vermont. That is a result of the extension of the Senate schedule.

But well beyond any personal time or personal concern, let us admit that we are not dealing with a matter which demands an immediate solution. Perhaps these extraordinary steps are not necessary. We are dealing with a 5-cent gas tax which can be brought up again in January and worked on in February. I wonder if it is necessary to strain the extraordinary rules of the Senate for a matter which is not of historic moment.

The rules of the Senate are of historic moment. The rules are of enormous significance and should be maintained for matters of enormous significance. I would leave only one thought in the minds of my colleagues: If we strain the rule on a matter such as this, I wonder if we may end with the pendulum swinging back in such a way that we do irreparable damage to rules that are designed to protect not only the rights of the minority, but to allow the Senate to be the deliberative body that it should be.

This body should act as the conscience of the Nation. We should not allow two or three Senators to dictate the will of this body, but I think we are fast reaching the point where tempers may be strained to the point that we will no longer recognize the reason for our rules and we may end up making some changes we may later regret. Future day historians will say, "And they did it over a nickle gas tax." What they will not realize is that we did it over sheer frustration with the extraordinary delaying tactics of a tiny handful who feel they alone have been ordained to speak for the Nation.

I yield back to my friend from Kansas and I thank him for his courtesy.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I do not want to cut anyone off but I do want to explain the conference report.

The Senator from Wyoming was seeking recognition.

Mr. SIMPSON. Will the Senator yield for 2 minutes.

Mr. DOLE. I yield.

Mr. SIMPSON. I commend the majority leader's patience and good humor. His demeanor is far better than I could produce as one who served as a majority leader in the Kitty League in the State of Wyoming.

But something very good will come from all this. This will be a time for the revision of our rules. We will go back to two-thirds vote to exercise cloture and then the gate will clang shut—because those rules were never drafted or crafted to protect a minority within a minority within a minority within a minority—like three. They were created to protect a minority of 20, 30, or 15. "Comity" I have heard described. Go look it up in the dictionary and see if you find any of it here. I have heard that word referred to.

Seldom have I seen in my legislative experience of 17 years or more, a more obdurate and obnoxious performance. I guess it is called hardball. In my neck of the woods we call it stickball. Children play it.

It seems the whole issue of the Senator's tenure, as I have observed it in my short term, seems to be "How is it playing in North Carolina as to peanuts, tobacco, and family farms?" I think, then, let them know in North Carolina that the next time those issues come before this body and are presented to us, there will likely be a veritable phalanx of opposition which will likely be most demeaning and disturbing to the Senator's constituency and to that of his colleague.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the distinguished chairman of the Committee on Finance who has taken such an active role in the consideration of this measure.

I would say to this Chamber that something much larger than the substance of the measure before us is at issue. What is at issue is the capacity of the Senate to work its will in a matter where there is a clear majority in favor of a measure of importance and a clearly willful minority determined to thwart that majority.

The rules of the Senate that allow a minority to test the intensity of feel-

ing by a certain prolongation of debate are legitimate, prudent rules which have proven their use over two centuries. But they do no more than test the intensity of conviction. If they were to be allowed to thwart the majority, then they would defeat the purpose of a democratic body, which, after all, is what we are. I would hope we would stay here as long as necessary to work the will of the majority. This can and will be done. It only requires that we recognize how much is at issue. What is at issue is the character and the purpose of this body.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. DOLE. I am going to explain the bill before this body misunderstands why we are here.

Let me say at the outset that I certainly want to complete Senate action on the bill.

Could I explain the bill and then I will be happy to yield. We have had enough finger pointing and accusations. I would like to finish consideration of the bill.

I am interested in the bill itself. I would hope that we could focus on the legislation. I am willing to answer questions from either Senator from North Carolina about the bill itself. I cannot stand here and tell you whether President Reagan made a mistake or not. That is a judgment that Members will have to make and that I will have to make. I cannot tell you that we are all wrong and you are right. But I can explain the bill or at least the title of the bill that refers to the tax action.

We have had a lot of work on this legislation. That does not mean that somebody cannot frustrate a lot of work. We all have frustrating experiences in our lifetime. This is probably going to be another one that many of us are going to remember for some time. That is all right, but I wonder if we really have focused on the legislation.

I want to discuss the actual details of the legislation. If we want to filibuster, let us filibuster the legislation.

It happens, in my view, to be a very good piece of legislation. I want to summarize as quickly as I can what has happened in the tax title. I think the Senator from Vermont (Mr. STAFFORD) and others would like to go through their titles. Then, if there are questions from Senators on the floor about the different provisions of the bill, I shall be happy to respond.

Let me say at the outset that I still hope that, after we have fully discussed the bill, we can vote on the bill, and maybe avoid some of the other discussion that will not contribute much until next year or the year following.

Let me first go through the conference report.

Mr. EAST. Will the Senator from Kansas yield for a question?

Mr. DOLE. Yes, I shall be happy to yield.

Mr. EAST. Is a copy, a full and complete copy, of the conference report available?

Mr. DOLE. We have a full and complete copy of the conference report.

Mr. EAST. At this point, I have been unable to acquire one.

Mr. DOLE. I can give the Senator a copy of the revenue title.

Mr. EAST. Is it possible to get a full and complete copy of the conference report? I think the implication that at this point there is no comity is not warranted or fair. Certainly, at a minimum, a Senator is entitled to see a full copy of the conference report. If that is an unreasonable and unfair request, then I happily stand publicly corrected. If it is a fair and reasonable request, I would appreciate its being honored. That is the only proposition I put to the Senator.

Mr. DOLE. Mr. President, I can give the Senator the first 100 pages to give him something to start on.

Mr. EAST. I know the Senator makes light of the problem.

Mr. DOLE. I do not make light of it. I think the Senator ought to read it. If he has questions, he ought to ask me questions.

Mr. EAST. Well, I am certainly asking for the availability of the report.

Mr. DOLE. We have a statement of managers which has been filed. I think there is exactly one copy of the report itself—is that correct?—of all the different titles. That is all the conference report. I furnished a copy of the tax title. I think Senator STAFFORD has copies of the other titles. We have the statement of managers. We shall be glad to furnish them as they become available. Right now, we are on the tax title. I furnished the distinguished Senator a copy of that title.

Let us furnish him the statement of managers and the titles——

Mr. EAST. The way I am putting it, it is a slight bit of frustration, as I showed last night with the amendments we finally acquiesced in, not knowing the content or the import of them. I do not quite follow the reasoning or the rationale not to have available a full copy of something we are asked to enact. If I am in error on that, I shall have to stand corrected.

Last night, I acquiesced in the amendments, indicating I had reservations about one or two, because we have not seen any of them in full.

Mr. DOLE. I say to the Senator from North Carolina that only one of those amendments survived, so he will save a lot of time not studying them.

I want to get on with the report itself. There is a lot of frustration in this Chamber. Before it breaks out in more places, I would like to talk about the bill.

We are all frustrated. We all want to go home. But I want to pass this bill. If it takes all night tonight, all day tomorrow, all day the next and all day the next day, we ought to pass it. We should not have to come back, in my view. We are here, in town now, and we ought to stay here.

I am here prepared to hear others discuss the bill. It seems to me that is our obligation. The President has asked us to do this. We have spent day after day on the legislation.

As the distinguished majority leader said, there comes a time to complete action on this legislation. It seems to me it is our responsibility—the 98 or 97 or 96 who want to move on—not that there will be that many who will vote for the bill. But we ought to have an opportunity to vote for or against the bill. It will probably be a very close vote.

It seems to me once the bill is explained Members will vote in favor of it. We shall be happy to furnish all the information we have. We will be happy to secure information for any Senator, whether it is the Senator from North Carolina or the Senator from West Virginia. Secretary Lewis is available to discuss details of the bill with any interested Member. We have members of our staff and members of the joint committee staff available to answer questions. I am sure other Members who have covered other titles have the same expertise available.

No one is trying to push something through the Congress quickly. This is a very expensive bill. It ought to be discussed carefully and it could take 2 or 3 hours to explain, but it ought not to take 2 or 3 days.

But if it takes 2 or 3 days, I think some of us, particularly those who managed the bill, ought to stay here and see that happen.

I thank those who have worked with us and supported us for their patience, and they ought to stay and hear us out.

Mr. RANDOLPH. Will the Senator yield?

Mr. DOLE. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am grateful for the manager of such an important bill speaking as he is. One does not have to be here too many years to understand the length of time those who filibuster can slow the action of the Senate. I remember in 1960, it lasted for 121 days—121 days. I do not think that was a good record, but in reverse to the idea that the Senate should debate, then after adequate decision, make decisions by a vote up or down on amendment, a bill or a conference report.

I want the record to indicate, even as we talk tonight, because there will be

those who read the record, that not too long ago, perhaps an hour or more the House of Representatives of the United States came to grips with the subject of highway gas tax legislation.

They do not have, in the other body—I am not trying to draw a difference between the House and the Senate—the opportunity under the rules to do what I think is bad legislative practice. That is to filibuster to the point where, after adequate discussion, a vote cannot be taken.

Let us remember that the House of Representatives is just as representative of the States as we are. They do not have, of course, the State as a whole—North Carolina, West Virginia, or any other of the 50 States. But they are representative of the people and they serve here in the Congress of the United States, whether it is in the House of Representatives or the district or the State from which they come, having represented a part of that State.

What was the vote tonight in the House of Representatives? The vote was more than 2 to 1 in favor of this measure that is pending in the Senate. I am not going to say that we should vote as the House votes. Certainly, I am not saying that, or even indicating it. I am saying to those who have constantly spoken about the flakiness of this measure that it is one of the most important pieces of legislation that we have considered in this body in many, many weeks.

I repeat, when, by a vote of over 2 to 1 in the other body under this Capitol dome, there was an expression, a decision was made.

If you have a vote and you do not use it, it ceases to exist absolutely, the power and the strength of decision itself. We speak of Napoleon as an emperor or a leader of armies, but he said, "The most powerful instrument we hold in our hands is the power of decision. You either strike or fall back." And Napoleon, of course, at the Battle of Sagunto, when it looked as if he was wavering, said to the little drummer boy, "Beat a retreat." And the drummer boy, with tears in his eyes, according to legend or history, said, "General Bonaparte, I have never been taught to beat a retreat. I only know how to charge."

Well, the story has no reference, of course, except to indicate that there are many of us who are not long-suffering. I do not mean that. But we are very patient people in this body. We work within the rules, of course, of the Senate in our subcommittee, in our committees, and in this hallowed Chamber. But there are times when really I sit here and I wonder what is happening, because the power of decision is not to keep the decision from being made.

Mr. President, the time has come for the Senate to again consider a change in its rules. We must bring forth a mechanism to limit debate so that the will of the overwhelming majority of Senators may be done.

Mr. DOLE. I thank the Senator from West Virginia.

It has been a long week, and I would like to thank every Senator for his and her patience during the time this bill has been on the Senate floor. We have gone through many hours of deliberations and negotiations. As we all know, there were many provisions in the Senate passed version which were not in the House passed version. Although myself and the other conferees insisted on all of the Senate amendments it was simply impossible to keep everything intact. We accommodated as many Senators as possible and we think we have a good package to report back to the Senate.

The existing taxes going into the highway trust fund are insufficient to meet the current maintenance and repair needs of our Nation's vast highway system. The increased highway user taxes are designed to adequately fund the Federal share of the investment needed to complete the construction of the interstate system and proceed with the much needed rehabilitation of the Nation's highways and bridges. By acting immediately on legislation which addresses the lower costs funding needs of resurfacing and rehabilitation, we will avoid the higher future costs of replacement or reconstruction of many miles of highways and bridges.

Although not everyone will be satisfied with each individual item in this package, I assure each Senator here that the conference report is a good and equitable package. Furthermore, I hope that each Senator will look at these revenue provisions as a total package, instead of item by item. When we conferenced these items we did it as a package. Although some excise taxes may be higher than when passed by the Senate, I encourage everyone to also consider the number of taxes that we eliminated for that same taxpayer, such as the tax on parts and accessories, the retread rubber tax and the lubricating oil tax.

I really believe this is a fair package. We spent about 9 hours today in conference with the House. We had our differences. We tried to work out those differences, and we did. We agreed on a good package.

Let me just suggest some of the highlights of that package, and then I am going to yield the floor for other speakers who would like to discuss the bill.

GASOLINE TAX AND OTHER FUELS TAXES

The bill increases the gasoline tax from 4 to 9 cents per gallon, effective April 1, 1983. Similar increases are provided for the taxes on diesel fuel, special motor fuels, and motorboat fuels. The present law exemptions from these taxes are continued for buses, State and local governments, nonprofit educational institutions, and farming use. The exemption for off-highway business use, which is currently 2 cents, is extended to the full tax. A new exemption from the tax is provided for 85 percent or more alcohol fuels from sources other than petroleum or natural gas. Taxicabs are provided a 4-cent exemption through September 30, 1984, and the conditions under which the exemption is provided are expanded, through 1983, to include jurisdictions where ride sharing is prohibited by local law.

Gasohol is exempt from 5 cents of the 9-cent tax. The 40-cent-per-gallon income tax credit for alcohol fuels and the 40-cent tariff on imported alcohol fuels are both increased to 50 cents. The gasohol rules apply through 1992.

The time for payment of the gasoline tax is increased by 5 days for independent refiners and for persons other than those who produce more than 1,000 barrels of crude oil per day.

Ground fertilizer applicators are given the same treatment as aerial applicators.

TIRES, TREAD RUBBER, AND INNER TUBES

The tax on highway tires, currently 9.75 cents per pound, is converted to a graduated tax based on weight. Tires 40 pounds or less, which include ordinary passenger car tires, are exempt. The tax will be 15 cents for each pound over 40 pounds, 30 cents for each pound between 70 and 90 pounds, and 50 cents for each pound over 90 pounds. The taxes on nonhighway tires, laminated tires, tread rubber, and inner tubes are repealed. These changes are effective January 1, 1984.

LUBRICATING OIL

The present law tax on lubricating oil is repealed, effective on the day after enactment.

TRUCK-RELATED TAXES

The 10-percent tax on trucks and trailers whose gross vehicle weight exceeds 10,000 pounds is increased to 12 percent, and the weight thresholds are increased to 33,000 pounds for trucks and 26,000 pounds for trailers. The tax is converted from a manufacturer into a retail tax. Roadrailer trailers are exempt from the tax. The present law tax on truck parts is repealed. These provisions are effective on April 1, 1983, for tax increases and on December 2, 1982, for tax reductions.

HEAVY VEHICLE USE TAX

The heavy vehicle use tax, currently $3 per 1,000 pounds for vehicles whose gross vehicle weight exceeds 26,000 pounds—a tax of $240 for an 80,000-pound vehicle—is converted to a graduated tax, effective July 1, 1984. The maximum tax is increased to $1,600 on July 1, 1984, $1,700 on July 1, 1986, $1,800 on July 1, 1987, and $1,900 on

July 1, 1988. There is a 1-year delay of this phase-in for fleets with five or fewer trucks. If a truck is retired from service during the year because of accident or theft, the use tax will be refunded on a pro rata basis. There is also an exemption for trucks used on highways for 5,000 miles or less.

MOTOR CARRIER OPERATING RIGHTS

The basis adjustment for motor carrier operating rights where stock is acquired by a corporate purchaser is extended to individual purchasers.

TRUST FUND PROVISIONS

The highway trust fund is extended from September 30, 1984, through September 30, 1988. The trust fund is transferred to the Internal Revenue Code. If unfunded authorizations exceed 2 years of trust fund receipts, trust fund apportionments are to be reduced proportionately.

The caps on the amount transferred to the boating safety fund are increased from $20 million to $45 million, both with respect to the annual cap and the cap on the amount that can be accumulated in the fund.

An amount equivalent to a 1-cent-per-gallon gasoline tax is transferred to a Transit Account in the highway trust fund, money from which can be used for transit capital projects.

There are other miscellaneous provisions which I will just touch on briefly.

ENERGY CREDIT

The 10-percent business energy credit is extended to chloralkali electrolytic cells, effective for 1981 and 1982.

INCOME TAX FILING REQUIREMENT

The income tax filing requirement is modified to prevent the filing of unnecessary tax returns by persons receiving payments made by a State government to its residents.

This is the amendment that was of deep concern to the Senator from Alaska (Mr. MURKOWSKI).

CRUISE SHIP DEDUCTIONS

Deductions are allowed for conventions and similar meetings held on cruise ships under certain conditions, limited to $2,000 per individual per year.

That was an amendment offered by the distinguished Senator from Hawaii (Mr. MATSUNAGA).

TAX-EXEMPT DIVIDENDS OF MUTUAL FUNDS

All tax-exempt bonds are made eligible investments for mutual funds by adding provisions for tax exemption to the Internal Revenue Code.

That was an amendment by the distinguished Senator from Pennsylvania (Mr. HEINZ) and the distinguished Senator from Illinois (Mr. PERCY).

NORMALIZATION METHOD FOR PUBLIC UTILITY PROPERTY

The bill makes more specific the rules under which public utilities lose the investment credit and accelerated depreciation when these tax benefits are flowed through too rapidly to consumers. A special transitional rule is provided for certain companies which may have violated these rules.

That is the amendment by the distinguished Senators from California, Senator CRANSTON and Senator HAYAKAWA. Senator BAKER was very interested in that, as was this Senator, Senator PACKWOOD, and a number of other Senators.

SPENDING PROVISIONS: SOCIAL SECURITY ACT PROVISIONS

The bill adds certain types of energy assistance provided to AFDC and SSI recipients to items of income not counted as income for purposes of determining benefits under these programs.

The bill also provides from 2 to 6 weeks of supplemental unemployment compensation, a provision added on the floor, a substitute amendment of the distinguished Senator from Michigan (Mr. LEVIN) which was adopted by an overwhelming margin at a cost of, as I recall, around $540 million.

Let me conclude by highlighting that the conference report repealed the following taxes:

The 8-percent tax on truck parts. That is an approximately $300 million a year tax reduction.

Passenger tires. That is approximately a $500 million a year tax reduction. That is a proconsumer change in the bill. Many people who buy passenger tires never notice the excise tax, a very substantial tax. It amounts to $500 million a year. It would be repealed.

Tread rubber. That tax will be repealed. It is now a $22 million a year tax.

Innertubes. The excise tax on innertubes amounts to another $22 million a year.

Lubricating oil. The tax on lubricating oil amounts to $80 million per year. We were told by Treasury that it cost as much to administer that tax as it did to collect it.

Nonhighway tires and laminated tires. The taxes on these tires amount to more than $35 million per year.

Now, with reference to what happened as far as the House bill, and the Senate bill in the conference, let me suggest that, to give Senators a couple of examples, for fiscal year 1983 the House bill was $240 increase in use tax, the Senate bill is $240 and the conference is $240.

In 1984 the House bill was $2,000, the Senate bill was $560, and the conference agreement was $920.

In 1985 the House bill was $2,000, the Senate bill $880, and the conference $1,600.

And I must say at that point it was our belief that we should have adopted the Senate bill. The Senate bill itself provided much lower use tax in the out years, but I would say in all candor that the House of Representatives felt, the chairman of the Ways and Means Committee felt, along with the ranking Republican Congressman CONABLE, that the House of Representatives had been asked to support the administration position, they had dealt fairly with the administration, they had compromised, taking into consideration the administration's views, and they felt somewhat that the Senate had not followed the administration proposal. But we were still able to compromise. I think, fairly well, and I think it is a good, balanced approach.

Let me suggest, not that figures will tell us everything, but some are concerned about what the administration wanted and what it ended up with. We are told by the Department of Transportation that, for the following 5 years, the total amount paid on the heaviest trucks under the various proposals would be, under the administration proposal, $13,500 over a 5-year period, under the House proposal, $10,000, under the Senate Finance Committee action, $6,600, under the Senate amendment offered by the distinguished Senators from Minnesota, Senator BOSCHWITZ, and Senator DURENBERGER, the presiding officer, and others, would have been $4,280. The conference compromise was $7,770, which may not have been as low as some of us felt it should be, but it is about half the original administration proposal. I would think those who are concerned about the trucking industry, should review these figures very carefully. In my view we have struck a good balance. In addition, we have repeated a lot of taxes that affect the consumers such as the tax on passenger car tires. We are trying to spread the burden evenly. We want to make certain that heavy trucks pay their fair share, that medium-sized trucks pay their fair share, that passenger cars pay their fair share, and I believe that we have done well in an effort to achieve a result.

I would, however, emphasize this: There is no increase at all until July 1, 1984. Those who are concerned that we have gone too far in any direction, we have from now until July 1, 1984 to make modifications to the user fee if the Congress may wish to do so.

Mr. President, I have summarized the revenue-impact of the various proposals.

Mr. DOLE. Mr. President, so we might have an orderly procedure, I will be happy to yield to the Senator from New York, and I will also yield to the Senator from Vermont who might tend to discuss the title of the legislation under his jurisdiction. Perhaps we could review titles 1, 2, 3, and 4, and then come back and address the entire bill for those who have questions on any specific provision.

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But I think for the sake of clarity for someone reading the RECORD, if I can now conclude my explanation of the revenue title. I will yield to the Senator from Vermont to explain the title under his committee's jurisdiction.

Mr. MOYNIHAN. Mr. President, will the Senator yield to me for a question?

Mr. DOLE. I yield.

Mr. MOYNIHAN. With respect to title I, as he would be the first to agree the most salient tax feature is that of the tax on gasoline. I just simply wish to ask is it not his understanding that the price of gasoline at the pump at this moment in the United States is declining.

Mr. DOLE. Yes. In fact in this area it has declined about 3 cents in the past few weeks.

Mr. MOYNIHAN. I believe that is the national figure.

Mr. DOLE. And 7 cents over the past year I am advised.

Mr. MOYNIHAN. Such that the actual cost at the pump to the consumer is for the moment at least not likely to be raised with this tax with the prices decreasing.

Mr. DOLE. That is correct.

I say to those concerned about the tax and believe me no one likes to increase taxes. But everyone likes safer highways, safer streets, better mass transit—1 cent of this goes to mass transit. I have never counted this as a jobs bill, but it will create jobs. It will do I think a great deal to improve our highways and the so-called infrastructure. In my view on balance, it is a good proposal.

I yield to the Senator from Minnesota and thank him in advance for spending several hours with us today as an observer in the conference between the Ways and Means Committee conferees and the Senate Finance Committee conferees, and I appreciate not only his presence but his assistance in contacting a number of Senators and giving us his helpful advice and counsel as we try to work out a fair package.

Mr. BOSCHWITZ. I thank the distinguished chairman of the Finance Committee for yielding.

As he knows I introduced here in the Senate an amendment to the Finance Committee bill that substantially lowered the taxes, the use taxes that would be assessed against trucks. The distinguished Senator from Kansas agrees with me that the use taxes in a sense are unfair inasmuch as they are paid whether or not the truck leaves the garage, whether or not it rides 1,000 miles a day or none at all, and it has no relationship to you.

But I know that the Senator from Kansas pointed out the procedure that we have gone through and the figures that we have arrived at in coming to this compromise.

I must tell the Senator I do not think the compromise is as good as it should be. It would have suited me much better if the administration had decided to enact the 5-cent gas tax, 6-cent, 7-cent gas tax and not found this moment to assess truckers who are reeling from the effects of the recession, but that is not the choice we have before us unfortunately because we do have the distinguished Senator from Kansas who does not consider this to be a jobs bill. I consider it to be a jobs bill, and I consider it to be a bill, also, that I hope will take some steps in restoring consumer confidence which in turn will help to restore the economy to the vigor that we have known in years past.

There are some advantages that this bill has for truckers. I am not sure that the Senator mentioned it with respect to the barrier stakes, with respect to width, length, and weight, with respect to the capacity at the barrier stakes.

Did the Senator talk about that?

Mr. DOLE. I might say that is in other titles that will be discussed by the Senator from Vermont. There are various significant changes and very significant benefits.

I hope to make clear and maybe I did not make it clear, I do not suggest this will not create jobs. But I suggest that I have not addressed it simply as a jobs bill. It will create jobs. There is a great deal of interest in it for that one reason. But, beyond that, I think it is good legislation.

We have not addressed the user fee for trucks for 20 years. It was time for a change. We have tried to phase it in in such a way that we could take a look at it in the future.

I share the view expressed by the Senator from Minnesota. As he knows we have felt that the user fee should have been imposed at a lower level. The compromise should have been between the Senate and the House bills, rather than between the Finance Committee action and the House bill.

I also correct a mistake I made earlier when the Senate bill, the tax title, was title I. But as it comes back to us it is now title V. So if Senators are looking for title I and they cannot find any taxes in it, look to title V.

I am happy now to yield to the Senator from Minnesota or to yield to the Senator from Vermont.

Mr. BOSCHWITZ. Mr. President, did the Senator from Kansas also mention that truckers with five trucks or less will be exempted for an additional year of phase-in. The phase-in will be a year slower.

Mr. DOLE. We increased that from three to five trucks in the conference. The phase-in is actually a little better also.

That was an amendment originally initiated by the distinguished Senator from Iowa (Mr. GRASSLEY) as a second-degree amendment to the amendment of the Senator from Minnesota, and we appreciate the combined efforts of those two Senators.

Mr. BOSCHWITZ. So, Mr. Chairman, you continue with the explanation, and it is a shame that the Senator from North Carolina who wishes to have this bill explained is not here and, perhaps, we should move and go to the question of agreeing to the conference report.

Mr. DOLE. That is all right with me. I would like to adopt the conference report right now, but it would not be fair.

Mr. STENNIS. Mr. President, will the Senator yield to me? I thank him for the explanation of this bill. That is what we have been saying around here. We want a good, forceful explanation of this bill from the Senator, and the Senator is not a timid man, and I hope he will just keep pushing hard here and let us bring this thing to a head on the issue and whoever wins is whoever has the votes.

Mr. DOLE. I share that view, and I am prepared, I say in the spirit of all good will and fair play, to push ahead. We should not give up. We are very close to getting a significant piece of legislation passed.

I yield the floor to the Senator from Vermont.

Mr. STAFFORD. Mr. President, title II of the tax and highway bill was the responsibility of the Committee on Environment and Public Works.

I could say to my colleagues that last May, if they will recall, the Senate unanimously passed a highway bill which is the forerunner of this title II in the present piece of legislation.

Since that bill passed unanimously and is quite similar to title II today, I can say to all of my colleagues that in essence you have already voted once, in fact twice, for title II of this bill because within the last 24 hours title II essentially as it is in the bill at the present time passed this body.

Title II of the conference report, as I have been saying, is very similar to the basic provisions of the bill passed by the Senate within the last 24 hours.

The Senate conferees on this title to a very great extent preserved the allocation formulas in current law for Federal aid to highway systems.

The retention of current law means the formulas recognize factors such as road mileage and area in allocating money to States to construct and upgrade their highway systems.

The House version of the bill had moved quite dramatically to population or population-based formulas, that is, formulas that did not take into account the needs of larger, less densely populated States.

I am happy to say that the conference report continues to reflect the needs of States as well as the amounts

that States contribute to the Highway Trust Fund.

The conference report does contain provisions to guarantee that no State will receive less than 85 cents for each dollar it puts into the Trust Fund, provisions contained in slightly different form in both the House and Senate bills. With these measures, a desirable degree of equity has been incorporated permanently into the Federal program.

The bill reported by the conference provides $4 billion a year for 4 years for interstate construction. Each State is guaranteed at least one-half of 1 percent of the total authorization after $300 million is deducted for a discretionary fund for high-cost interstate projects.

The bill authorizes over $10 billion over the 4-year period 1983–86 for the so-called interstate 4–R program, that is the program to reconstruct, rehabilitate, and repair the interstate system. The distribution of funds for this program remains as in existing law, including the guaranteed one-half percent minimum for each State.

The conference report bases the distribution of primary funds on the higher figure in either the House or Senate bill, reduced by the percentage needed to bring total distributions to the level authorized in the bill.

This is a difficult formula to describe precisely but the effect is a distribution that gives all States substantially more funds than under existing law and, I believe, equitably distributes the increased funds that become available as a result of the increase in highway user taxes. Each State continues to be guaranteed at least one-half percent of the total.

Mr. President, we do have tables that show the allocation of funds under each of the formulas in the conference report for each of the 4 years of the bill.

Mr. MOYNIHAN. Mr. President, will the distinguished chairman have the goodness to repeat the amounts allocated for the repair, resurfacing and rehabilitation program?

Mr. STAFFORD. The Senator would be delighted to, I say to my friend from New York.

The bill authorizes over $10 billion over the 4-year period 1983–86 for the so-called interstate 4–R program.

Mr. MOYNIHAN. So such might be a measure of the need to maintain the system, and the costs that would be incurred by the use of it, if it is not maintained?

Mr. STAFFORD. The Senator is quite right. There is a rapidly growing need for reconstruction, rehabilitation, resurfacing, and refurbishing of the Interstate System because much of it has now reached or exceeded its design travel surface life. Some of it was dedicated as long ago as 26 years ago.

Mr. MOYNIHAN. The Senator will not too much surely object if I point out that the first segment of the Interstate System was built in New York as the New York Thruway and opened in the fifties as a great civil engineer Bertram Tallamy was asked by President Eisenhower to come down and begin the construction of the rest of the system which began in 1957, and that was 30 years ago.

Mr. STAFFORD. That proves the point that much of the Interstate System is in need today of the 4–R program, and if we do not get about the business promptly, it is far more expensive after surface areas have deteriorated must beyond their present condition to fix them again than it is to do it now.

Mr. President, as I was saying, funds available for the 4–R program increased dramatically from current levels. The authorization in current law is $800 million. This increases to $1.9 billion in fiscal 1983 and to over $3 billion in fiscal 1986.

Funds for the bridge replacement and rehabilitation program also greatly increase, from a current level of $900 million per year over $1.3 billion in 1983 and $1.8 billion in 1986.

Resolving the question of how to distribute funds for the primary system was one of the most difficult issues the conferees had to address.

A compromise proposed by the Senate conferees provided a solution for the 4-year duration of the bill without changing the underlying formula contained in the highway title of the United States Code.

If memory serves me correctly, there are over 200,000 bridges in this country that are currently in need of rehabilitation, reconstruction, and repair, and in need of repairs.

The Senator from Vermont notes that his friend and exceptionally able colleague on the committee, Senator DOMENICI of New Mexico, was here in the Chamber, and since he was the principal author of the provisions which deal with this part of the bill, I would ask the distinguished Senator if he would discuss it for the moment, and I yield to him for that purpose.

Mr. DOMENICI. I thank the chairman, the distinguished Senator from Vermont. I will take only a few moments, but I would say to any Senator that desires to know the effect of this bill with reference to the primary system that we have charts that we would be delighted to share with you.

I ask unanimous consent that our estimate for fiscal year 1984 with reference to the State-by-State allocation of primary funds, along with a comparison of what each State would have received under the House bill and what each State would have received under the Senate bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED APPORTIONMENT UNDER THE CONFERENCE AGREEMENT FOR FISCAL YEAR 1984 PRIMARY PROGRAM

[In thousands of dollars]

State	Senate bill	House bill	Conference agreement
Alabama	38,092	39,583	38,092
Alaska	75,894	4,011	67,000
Arizona	30,523	21,910	26,946
Arkansas	29,159	25,447	25,742
California	140,444	169,898	150,742
Colorado	32,962	23,782	29,099
Connecticut	19,079	25,664	22,770
Delaware	10,239	5,427	10,239
District of Columbia	10,239	4,011	10,239
Florida	63,337	76,508	67,882
Georgia	49,798	54,257	49,798
Hawaii	10,239	7,562	10,239
Idaho	18,896	10,393	16,682
Illinois	78,173	91,252	80,964
Indiana	45,988	53,416	47,394
Iowa	37,144	30,489	32,791
Kansas	34,207	23,076	30,198
Kentucky	35,702	40,160	35,702
Louisiana	34,542	39,459	35,011
Maine	14,067	12,994	13,059
Maryland	26,450	34,529	30,635
Massachusetts	32,884	45,328	40,217
Michigan	68,643	83,954	74,488
Minnesota	45,729	39,116	40,370
Mississippi	29,769	28,576	28,719
Missouri	50,137	46,482	46,715
Montana	27,118	8,635	23,940
Nebraska	26,393	15,536	23,300
Nevada	18,879	6,336	16,667
New Hampshire	10,239	9,933	10,239
New Jersey	38,634	54,334	48,209
New Mexico	25,372	11,876	22,399
New York	102,312	136,950	121,509
North Carolina	53,524	65,773	58,358
North Dakota	18,666	9,048	16,479
Ohio	74,431	95,348	84,597
Oklahoma	35,251	29,174	31,120
Oregon	30,494	25,010	26,921
Pennsylvania	84,367	109,558	97,205
Rhode Island	10,239	5,211	10,239
South Carolina	28,022	33,492	29,716
South Dakota	19,983	8,010	17,641
Tennessee	42,436	46,125	42,436
Texas	129,582	119,156	119,755
Utah	19,327	11,647	17,062
Vermont	10,239	6,330	10,239
Virginia	44,605	50,686	44,971
Washington	35,416	36,716	35,416
West Virginia	20,455	24,094	21,377
Wisconsin	44,398	46,073	44,398
Wyoming	17,469	4,678	15,422
Puerto Rico	17,528	30,457	27,023
Total	2,047,715	2,037,470	2,078,371

Mr. DOMENICI. Mr. President, Members of the Senate, we found ourselves, as we went to conference, in a very unique position. While we were putting on a new 5-cent gasoline tax and the other user fees, the House bill made a rather extraordinary leap from the historic formulas for the primary system, that considered primaries to be national in scope and thus had formulas that emphasized rural population, urban population, postal route miles and the size of the State. Not only did the House bill ask that we put on a new tax, but attempted to create a brandnew formula which abandoned the historic consideration of the size of the State and route miles and attempted to inject the very stringent dimension of population only.

Now the Senator from New Mexico understands that this has been a historic fight, argument, and disagreement. But it seemed to me, as I studied how we might resolve this issue, that

it was asking a great deal of those States that had been accustomed to that kind of formula to impose a new tax and then to go home and say we have also, at the same time, attempted to agree, with those who have large populations and high density cities, to right the wrongs of 25 years.

Mr. President, that being the case, what I did was to harken back to the days of revenue sharing when the Senate and the House passed a revenue-sharing bill with basically the same amount of total dollars but had adopted different criteria for cities, States, and counties in each of the two bills. Thus, if you examined the two bills, we were going to spend the same amount of money, but because they took different ingredients in their formula, there appeared to be no solution. My recollection was that that issue was resolved by taking both formulas, putting them together and saying, "Each entity gets the highest figure in either of the two. Add them up, and the extent by which that total exceeds the amount you want to spend, go back through and reduce each of the entity's share by that percent."

I think we were fortunate. In this case, we added to that approach a hold harmless provision and a guaranteed half of 1 percent. It turned out with this modified approach, we gave every State the highest amount provided in either of the two bills, with a hold harmless so no State got lower than the lowest, and the half of 1 percent. It turned out that we had to reduce every one of those high amounts by approximately 10 percent.

Fortunately, that seemed to work a miracle. When coupled with the mass transit funding in this bill and with the way we solved the interstate and the other formulas, it seems that we were able to solve, at least for the next 4 years, the primary formula such that rural America and urban America get a fair shake. Each gets far more than they would have before, each gets slightly less than they would have under the formula that favored them and, much to our amazement, the U.S. House of Representatives accepted that.

Now I cannot believe that anyone could have any disagreement with that, could vote against this bill based on that formula, unless they expected us to do one of two things: If the House bill happened to be slightly better for them, then they can vote against the conference agreement because they would have expected the Senate to capitulate to the House. For those Senators that were terribly well satisfied with the Senate bill because it was indeed what they wanted, then they would have had to expect the conferees, I say to my good friend from New York who joined us there, to the House and say, "Sorry, you have nothing to do with this. We have to accept the Senate in its entirety precisely as is." I do not think anyone expects that if they understand the two institutions.

For those States with large urban centers that take slightly less here than they would have under the House bill, I remind them, before they quickly add up the primary formula and say that we should have done better, to remember that this bill is historic, because mass transit now has a $1 billion user financed fund. It is an entitlement, or, shall I say, it is vested with contract authority like the highway program. Before they look at just the primary formula, they should look at their States and see what they get from mass transit.

In addition, a significant step forward has taken place in this bill in that we found in the Interstate completion program that there were five or six States that had pieces of the Interstate that go through extremely populated areas, such as the area in New York, of which the Senator from New York is aware.

My recollection is that the President visited that area during his campaign and has pledged to complete it since then. That State and a few others were faced with a problem of using up their interstate funding to an extraordinary degree for a very little piece of freeway that is completed on both ends so they cannot abandon it.

So this bill sets up a $300 million fund for that kind of "superexpensive" piece of the freeway. Before those States look at this and say, "We would have done better"—and I say only slightly—"under the House bill"; before they jump to conclusions, in addition to the mass transit, which I just described, they ought to look at that $300 million. That is the first time we have recognized that, and that is in addition to their annual formula apportionment for the Interstate.

Now when you add all of that up, it seems to me that I agree with the distinguished chairman of the House committee, who, after the passage of this bill, came to this body to ask when we might vote on this and said to the Senator from New Mexico, "I sure hope we pass it, because, by coincidence, we now have a bill that is good for the urban centers and good for rural America."

And I urge that, with reference to the next 4 years, we have conceded no new formula. We are now on a percentage basis during that transition. We will wait until that 4 years is up and then we will have ample opportunity to decide whether we want to give the ingredients that go into the formula a new emphasis.

For now, anyone can claim whatever they like, but there has been no concession by the Senate other than the numbers reflected in the bill.

I thank the distinguished Senator from Vermont for yielding.

Mr. STAFFORD. Mr. President, we do have tables that show the allocation of funds under each of the formulas in the conference report for each of the years of the bill for each of the States. They are available here. If any Member wishes one, we will supply him with it.

I ask unanimous consent that a copy of the table showing the allocation of each program for each State for each year be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE C101–1983 (REVISED DEC. 21, 1982) ESTIMATED APPORTIONMENTS FOR FISCAL YEAR 1983 NONINTERSTATE AND FISCAL YEAR 1984 INTERSTATE PROGRAMS

[Dollars in thousands]

State	Interstate construction	I–4R	Primary	Secondary	Urban	Bridge	Hazard elimination	Railroad highway crossings	Total apportionment	Percent	85 percent floor	Grand total
Alabama	92,868	32,647	33,557	13,540	10,096	27,054	3,491	3,670	216,923	2.07	.....	216,923
Alaska	18,200	15,866	66,859	34,895	3,900	3,295	980	2,893	146,888	1.40	.....	146,888
Arizona	51,231	41,330	26,890	10,024	10,076	3,295	2,641	1,786	147,273	1.41	.....	147,273
Arkansas	18,200	21,857	25,687	11,599	4,762	26,500	2,361	2,873	113,839	1.09	.....	113,839
California	382,418	182,166	123,724	24,320	98,778	33,799	16,860	11,583	873,648	8.35	24,491	898,139
Colorado	59,441	37,328	29,038	11,003	10,455	14,304	2,726	2,479	166,774	1.59	.....	166,774
Connecticut	108,456	18,097	16,807	4,229	11,193	20,276	2,167	1,208	182,433	1.74	.....	182,433
Delaware	18,200	9,507	9,020	3,169	3,900	3,295	980	580	48,651	.47	.....	48,651
District of Columbia	26,707	9,507	9,020	.....	3,900	13,513	980	257	63,884	.61	.....	63,884
Florida	183,380	60,246	55,797	14,019	37,213	25,764	7,244	5,729	389,392	3.72	12,360	401,752
Georgia	154,353	63,947	43,870	17,018	14,842	26,868	4,675	5,149	330,722	3.16	.....	330,722
Hawaii	69,001	9,507	9,020	3,169	3,900	3,295	980	468	99,340	.95	.....	99,340
Idaho	18,200	18,249	16,646	7,957	3,900	4,654	1,417	1,743	72,766	.70	.....	72,766
Illinois	45,862	72,513	68,866	18,601	42,806	47,901	8,737	9,704	314,990	3.01	70,554	385,544
Indiana	18,200	50,154	40,513	14,969	15,503	36,987	4,536	6,412	187,274	1.79	49,155	236,429
Iowa	18,200	26,781	32,722	14,347	7,095	35,948	3,188	5,259	143,540	1.37	.....	143,540

TABLE C101–1983 (REVISED DEC. 21, 1982) ESTIMATED APPORTIONMENTS FOR FISCAL YEAR 1983 NONINTERSTATE AND FISCAL YEAR 1984 INTERSTATE PROGRAMS—Continued

[Dollars in thousands]

State	Interstate construction	I–4R	Primary	Secondary	Urban	Bridge	Hazard elimination	Railroad highway crossings	Total apportionment	Percent	85 percent floor	Grand total
Kansas	26,845	22,041	30,135	13,172	6,632	41,925	3,097	5,520	149,367	1.43		149,367
Kentucky	92,314	36,514	31,451	13,327	7,933	27,212	3,115	3,046	214,912	2.06		214,912
Louisiana	164,155	32,467	30,430	10,825	12,650	32,317	3,308	3,656	289,808	2.77		289,808
Maine	18,200	9,507	12,392	5,682	3,900	6,663	980	1,127	58,451	.56		58,451
Maryland	232,776	29,238	23,301	5,935	15,347	22,760	2,949	1,797	334,103	3.20		334,103
Massachusetts	103,398	24,574	28,969	6,268	21,750	23,961	3,975	2,283	215,178	2.06		215,178
Michigan	57,328	64,905	60,472	19,734	29,413	15,243	7,193	6,787	261,075	2.50	75,531	336,606
Minnesota	64,083	34,934	40,285	16,390	11,795	23,393	4,058	5,037	199,975	1.91		199,975
Mississippi	18,200	23,918	26,225	11,795	4,974	36,736	2,432	2,725	127,005	1.21		127,005
Missouri	31,245	54,324	44,168	17,277	14,600	65,014	4,510	4,951	236,089	2.26		236,089
Montana	18,200	30,269	23,890	11,921	3,900	9,899	1,372	2,052	101,503	.97		101,503
Nebraska	18,200	17,293	23,251	10,506	4,294	22,700	2,106	3,408	101,758	.97		101,758
Nevada	18,200	15,945	16,631	7,532	3,900	3,295	1,032	942	67,477	.65		67,477
New Hampshire	18,200	9,507	9,020	3,169	3,900	7,952	980	752	53,480	.51		53,480
New Jersey	103,329	24,811	34,034	5,530	29,961	51,626	4,981	3,156	257,428	2.46		257,428
New Mexico	18,200	31,941	22,351	10,110	4,103	3,295	1,471	1,355	92,826	.89		92,826
New York	172,261	69,454	90,132	19,569	67,505	131,800	12,244	7,396	570,361	5.45		570,361
North Carolina	52,167	33,904	47,152	19,900	12,086	56,457	4,790	4,578	231,034	2.21	16,898	247,932
North Dakota	18,200	16,406	16,444	8,106	3,900	6,941	1,464	3,322	74,783	.72		74,783
Ohio	56,739	81,115	65,571	19,846	35,625	37,719	8,077	7,914	312,606	2.99	96,152	408,758
Oklahoma	29,443	28,838	31,054	12,807	8,680	27,460	3,233	3,937	145,452	1.39	16,943	162,395
Oregon	37,618	29,796	26,864	10,975	7,757	15,035	3,130	2,521	133,696	1.28		133,696
Pennsylvania	173,404	55,663	74,324	24,065	36,606	78,313	8,804	6,851	458,030	4.38		458,030
Rhode Island	65,884	9,507	9,020	3,169	3,900	4,347	980	527	97,334	.93		97,334
South Carolina	51,474	28,874	24,686	10,070	7,165	12,256	2,710	3,086	140,321	1.34		140,321
South Dakota	18,200	19,751	17,604	8,779	3,900	5,273	1,329	2,258	77,094	.74		77,094
Tennessee	40,632	50,946	37,384	14,691	12,194	47,280	3,878	3,622	210,627	2.01		210,627
Texas	180,124	148,248	114,155	39,391	50,383	58,682	12,136	12,241	615,360	5.88	135,233	750,593
Utah	46,798	28,345	17,026	6,720	5,484	3,295	1,446	1,419	110,533	1.06		110,533
Vermont	18,200	9,723	9,020	3,169	3,900	6,220	980	724	51,936	.50		51,936
Virginia	124,597	49,440	39,295	14,199	15,804	17,457	4,114	3,223	268,129	2.56		268,129
Washington	149,919	41,006	31,199	10,873	13,513	26,515	3,591	3,488	280,099	2.68		280,099
West Virginia	80,086	14,772	18,020	8,365	3,900	29,003	1,641	1,900	157,687	1.51		157,687
Wisconsin	20,264	27,676	39,113	15,213	13,135	26,617	4,253	4,852	151,123	1.45	23,820	174,943
Wyoming	18,200	26,092	15,389	7,608	3,900	3,295	980	1,064	76,528	.73		76,528
Puerto Rico			15,441	4,267	9,366	3,295	2,081	896	35,346	.34		35,346
Total	3,640,000	1,901,446	1,803,934	633,814	780,074	1,317,999	193,383	186,201	10,456,851	100.00	521,137	10,977,988

TABLE C102–1984 (REVISED DEC. 21, 1982) ESTIMATED APPORTIONMENTS FOR FISCAL YEAR 1984 NONINTERSTATE AND FISCAL YEAR 1985 INTERSTATE PROGRAMS

[Dollars in thousands]

State	Interstate construction	I–4R	Primary	Secondary	Urban	Bridge	Hazard elimination	Railroad highway crossings	Sub total	Interstate highway transfers	Total apportionment	Percent	85 percent floor	Grand total
Alabama	92,868	40,180	38,092	13,540	10,096	29,086	3,491	3,670	231,023		231,023	1.95		231,023
Alaska	18,200	19,528	67,000	34,895	3,900	3,543	980	2,893	150,939		150,939	1.27		150,939
Arizona	51,231	50,868	26,946	10,024	10,076	3,543	2,641	1,786	157,115	5,800	162,915	1.37		162,915
Arkansas	18,200	26,901	25,742	11,599	4,762	28,491	2,361	2,873	120,929		120,929	1.02	3,619	124,548
California	382,418	224,204	150,742	24,320	98,778	36,337	16,860	11,583	945,242	9,000	954,242	8.05	63,538	1,017,830
Colorado	59,441	45,943	29,099	11,003	10,455	15,379	2,726	2,479	176,525	31,600	208,125	1.76		208,125
Connecticut	108,456	22,273	22,770	4,229	11,193	21,800	2,167	1,208	194,096	70,300	264,396	2.23		264,396
Delaware	18,200	11,701	10,239	3,169	3,900	3,543	980	580	52,312		52,312	.44		52,312
District of Columbia	26,707	11,701	10,239		3,900	14,528	980	257	68,312		68,312	.58		68,312
Florida	183,380	74,149	67,882	14,019	37,213	27,699	7,244	5,729	417,315		417,315	3.52	37,977	455,292
Georgia	154,353	78,704	49,798	17,018	14,842	28,886	4,675	5,149	353,425		353,425	2.98		353,425
Hawaii	69,001	11,701	10,239	3,169	3,900	3,543	980	468	103,001		103,001	.87		103,001
Idaho	18,200	22,460	16,682	7,957	3,900	5,004	1,417	1,743	77,363		77,363	.65		77,363
Illinois	45,862	89,246	80,964	18,601	42,806	51,499	8,737	9,704	347,419	156,700	504,119	4.25		504,119
Indiana	18,200	61,728	47,394	14,969	15,503	39,765	4,536	6,412	208,507	9,700	218,207	1.84	49,730	267,937
Iowa	18,200	32,961	32,791	14,347	7,095	38,649	3,188	5,259	152,490	63,400	215,890	1.82		215,890
Kansas	26,845	27,127	30,198	13,172	6,632	45,074	3,097	5,520	157,665		157,665	1.33		157,665
Kentucky	92,314	44,941	35,702	13,327	7,933	29,256	3,115	3,046	229,634		229,634	1.94		229,634
Louisiana	164,155	39,960	35,011	10,825	12,650	34,745	3,308	3,656	304,310		304,310	2.57		304,310
Maine	18,200	11,701	13,059	5,682	3,900	7,163	980	1,127	61,812		61,812	.52		61,812
Maryland	232,776	35,985	30,635	5,935	15,347	24,470	2,949	1,797	349,894	18,000	367,894	3.10		367,894
Massachusetts	103,398	30,245	40,217	6,268	21,750	25,760	3,975	2,283	233,896	2,600	236,496	2.00		236,496
Michigan	57,328	79,883	74,488	19,734	29,413	16,388	7,193	6,787	291,214		291,214	2.46	90,250	381,464
Minnesota	64,083	42,996	40,370	16,390	11,795	25,150	4,058	5,037	209,879	15,900	225,779	1.91		225,779
Mississippi	18,200	29,437	28,719	11,795	4,974	39,496	2,432	2,725	137,778		137,778	1.16		137,778
Missouri	31,245	66,860	46,715	17,277	14,600	69,898	4,510	4,951	256,056		256,056	2.16		256,056
Montana	18,200	37,254	23,940	11,921	3,900	10,643	1,372	2,052	109,282		109,282	.92		109,282
Nebraska	18,200	21,284	23,300	10,506	4,294	24,405	2,106	3,408	107,503	6,600	114,103	.96		114,103
Nevada	18,200	19,625	16,667	7,532	3,900	3,543	1,032	942	71,441		71,441	.06		71,441
New Hampshire	18,200	11,701	10,239	3,169	3,900	8,549	980	752	57,490		57,490	.49		57,490
New Jersey	103,329	30,536	48,209	5,530	29,961	55,504	4,981	3,156	281,206	8,400	289,606	2.44		289,606
New Mexico	18,200	39,312	22,399	10,110	4,103	3,543	1,471	1,355	100,493		100,493	.85		100,493
New York	172,261	85,482	121,509	19,569	67,505	141,700	12,244	7,396	627,666	21,300	648,966	5.48		648,966
North Carolina	52,167	41,728	58,358	19,900	12,086	60,698	4,790	4,578	254,305		254,305	2.15	26,668	280,973
North Dakota	18,200	20,192	16,479	8,106	3,900	7,462	1,464	3,322	79,125		79,125	.67		79,125
Ohio	56,739	99,833	84,597	19,846	35,625	40,553	8,077	7,914	353,184	28,900	382,084	3.22	81,148	463,232
Oklahoma	29,443	35,493	31,120	12,807	8,680	29,522	3,233	3,937	154,235		154,235	1.30		154,235
Oregon	37,618	36,672	26,921	10,975	7,757	16,164	3,130	2,521	141,758	19,400	161,158	1.36		161,158
Pennsylvania	173,404	68,508	97,205	24,065	36,606	84,195	8,804	6,851	499,638	17,200	516,838	4.36		516,838
Rhode Island	65,884	11,701	10,239	3,169	3,900	4,674	980	527	101,074	55,000	156,074	1.32		156,074
South Carolina	51,474	35,537	29,716	10,070	7,165	13,176	2,710	3,086	152,934		152,934	1.29		152,934
South Dakota	18,200	24,309	17,641	8,779	3,900	5,669	1,329	2,258	82,085		82,085	.69		82,085
Tennessee	40,632	62,703	42,436	14,691	12,194	50,831	3,878	3,622	230,987	41,500	272,487	2.30		272,487
Texas	180,124	182,460	119,755	39,391	50,383	63,090	12,136	12,241	659,580		659,580	5.57	191,041	850,621
Utah	46,793	34,886	17,062	6,720	5,484	3,543	1,446	1,419	117,358		117,358	.99		117,358
Vermont	18,200	11,966	10,239	3,169	3,900	6,687	980	724	55,865		55,865	.47		55,865
Virginia	124,597	60,849	44,971	14,199	15,804	18,768	4,114	3,223	286,525		286,525	2.42		286,525
Washington	149,919	50,469	35,416	10,873	13,513	28,507	3,591	3,483	295,771		295,771	2.50		295,771
West Virginia	30,036	18,180	21,377	8,365	3,900	31,181	1,641	1,900	166,630		166,630	1.41		166,630
Wisconsin	20,264	34,063	44,398	15,213	13,135	28,616	4,253	4,852	164,794		164,794	1.39	33,463	198,257
Wyoming	18,200	32,113	15,422	7,608	3,900	3,543	980	1,064	82,830		82,830	.70		82,830
Puerto Rico			27,023	4,267	9,366	3,543	2,081	896	47,176		47,176	.40		47,176
Total	3,640,000	2,340,239	2,078,371	633,814	780,074	1,417,004	193,383	186,201	11,269,086	581,300	11,850,386	100.00	577,484	12,427,870

TABLE C103—1985 (REVISED DEC. 21, 1982) ESTIMATED APPORTIONMENTS FOR FISCAL YEAR 1985 NONINTERSTATE AND FISCAL YEAR 1986 INTERSTATE PROGRAMS

[Dollars in thousands]

State	Interstate construction	I–4R	Primary	Secondary	Urban	Bridge	Hazard elimination	Railroad highway crossings	Subtotal	Interstate highway transfers	Total apportionment	Percent	85 percent floor	Grand total
Alabama	92,368	46,877	38,092	13,540	10,096	35,203	3,491	3,670	243,837		243,837	2.06		243,837
Alaska	18,200	22,782	67,000	34,895	3,900	4,288	980	2,893	154,938		154,938	1.31		154,938
Arizona	51,231	59,346	26,946	10,024	10,076	4,288	2,641	1,786	166,338	5,800	172,138	1.45		172,138
Arkansas	18,200	31,384	25,742	11,599	4,762	34,483	2,361	2,873	131,404		131,404	1.11	375	131,779
California	382,418	261,571	150,742	24,320	98,778	43,979	16,860	11,583	990,251	9,000	999,251	8.43	77,674	1,076,925
Colorado	59,441	53,600	29,099	11,003	10,455	18,613	2,726	2,479	187,416	31,600	219,016	1.85		219,016
Connecticut	108,456	25,935	22,770	4,229	11,193	26,384	2,167	1,208	202,392	70,300	272,692	2.30		272,692
Delaware	18,200	13,651	10,239	3,169	3,900	4,288	980	580	55,007		55,007	.46		55,007
District of Columbia	26,707	13,651	10,239		3,900	17,583	980	257	73,317		73,317	.62		73,317
Florida	183,380	86,507	67,882	14,019	37,213	33,524	7,244	5,729	435,498		435,498	3.67	46,228	481,726
Georgia	154,353	91,821	49,793	17,018	14,342	34,961	4,675	5,149	372,617		372,617	3.14		372,617
Hawaii	69,001	13,651	10,239	3,169	3,900	4,288	980	468	105,696		105,696	.89		105,696
Idaho	13,200	26,203	16,682	7,957	3,900	6,056	1,417	1,743	82,158		82,158	.69		82,158
Illinois	45,862	104,121	80,964	18,601	42,806	62,329	8,737	9,704	373,124	156,700	529,824	4.47		529,824
Indiana	18,200	72,015	47,394	14,969	15,503	48,128	4,536	6,412	227,157	9,700	236,857	2.00	46,637	283,494
Iowa	18,200	38,454	32,791	14,347	7,095	46,776	3,188	5,259	166,110	63,400	229,510	1.94		229,510
Kansas	26,345	31,648	30,198	13,172	6,632	54,554	3,097	5,520	171,666		171,666	1.45		171,666
Kentucky	92,314	52,431	35,702	13,327	7,933	35,409	3,115	3,046	243,277		243,277	2.05		243,277
Louisiana	164,155	46,619	35,011	10,825	12,650	42,052	3,308	3,656	318,276		318,276	2.69		318,276
Maine	18,200	13,651	13,059	5,682	3,900	8,670	980	1,127	65,269		65,269	.55		65,269
Maryland	232,776	41,982	30,635	5,935	15,347	29,616	2,949	1,797	361,037	18,000	379,037	3.20		379,037
Massachusetts	103,398	35,286	40,217	6,268	21,750	31,178	3,975	2,283	244,355	2,600	246,955	2.08		246,955
Michigan	57,323	93,197	74,488	19,734	29,413	19,834	7,193	6,787	307,974		307,974	2.60	95,638	403,612
Minnesota	64,083	50,162	40,370	16,390	11,795	30,439	4,058	5,037	222,334	15,900	238,234	2.01		238,234
Mississippi	18,200	34,343	28,719	11,795	4,974	47,802	2,432	2,725	150,990		150,990	1.27		150,990
Missouri	31,245	78,003	46,715	17,277	14,600	84,598	4,510	4,951	281,899		281,899	2.38		281,899
Montana	18,200	43,463	23,940	11,921	3,900	12,881	1,372	2,052	117,729		117,729	.99		117,729
Nebraska	18,200	24,831	23,300	10,506	4,294	29,537	2,106	3,408	116,182	6,600	122,782	1.04		122,782
Nevada	18,200	22,395	16,667	7,532	3,900	4,288	1,032	942	75,456		75,456	.64		75,456
New Hampshire	18,200	13,651	10,239	3,169	3,900	10,347	980	752	61,238		61,238	.52		61,238
New Jersey	103,329	35,626	48,209	5,530	29,961	67,177	4,981	3,156	297,969	8,400	306,369	2.59		306,369
New Mexico	18,200	45,864	22,399	10,110	4,103	4,288	1,471	1,355	107,790		107,790	.91		107,790
New York	172,261	99,729	121,509	19,569	67,505	171,500	12,244	7,396	671,713	21,300	693,013	5.85		693,013
North Carolina	52,167	48,683	58,358	19,900	12,086	73,463	4,790	4,578	274,025		274,025	2.31	23,261	297,286
North Dakota	18,200	23,558	16,479	8,106	3,900	9,031	1,464	3,322	84,060		84,060	.71		84,060
Ohio	56,739	116,472	84,579	19,846	35,625	49,081	8,077	7,914	378,351	28,900	407,251	3.44	82,876	490,127
Oklahoma	29,443	41,409	31,120	12,807	8,680	35,731	3,233	3,937	166,360		166,360	1.40	28,362	194,722
Oregon	37,618	42,784	26,921	10,975	7,757	19,563	3,130	2,521	151,269	19,400	170,669	1.44		170,669
Pennsylvania	173,404	79,926	97,205	24,065	36,606	101,902	8,804	6,851	528,763	17,200	545,963	4.61		545,963
Rhode Island	65,884	13,651	10,239	3,169	3,900	5,656	980	527	104,006	55,000	159,006	1.34		159,006
South Carolina	51,474	41,460	29,716	10,070	7,165	15,947	2,710	3,086	161,623		161,628	1.36		161,628
South Dakota	18,200	28,361	17,641	8,779	3,900	6,862	1,329	2,258	87,330		87,330	.74		87,330
Tennessee	40,632	73,153	42,436	14,691	12,194	61,521	3,878	3,622	252,127	41,500	293,627	2.48		293,627
Texas	180,124	212,870	119,755	39,391	50,383	76,358	12,136	12,241	703,258		703,258	5.93	196,750	900,008
Utah	46,798	40,700	17,062	6,720	5,484	4,288	1,446	1,419	123,917		123,917	1.05		123,917
Vermont	18,200	13,961	10,239	3,169	3,900	8,093	980	724	59,266		59,266	.50		59,266
Virginia	124,597	70,991	44,971	14,199	15,804	22,715	4,114	3,223	300,614		300,614	2.54		300,614
Washington	149,919	58,881	35,416	10,873	13,513	34,502	3,591	3,483	310,178		310,178	2.62		310,178
West Virginia	80,086	21,210	21,377	8,365	3,900	37,739	1,641	1,900	176,218		176,218	1.49		176,218
Wisconsin	20,264	39,740	44,398	15,213	13,135	34,634	4,253	4,852	176,489		176,489	1.49	33,279	209,768
Wyoming	18,200	37,465	15,422	7,608	3,900	4,288	980	1,064	88,927		88,927	.75		88,927
Puerto Rico			27,023	4,267	9,366	4,288	2,081	896	47,921		47,921	.40		47,921
Total	3,640,000	2,730,275	2,078,371	633,814	780,074	1,715,003	193,383	186,201	11,957,121	581,300	12,538,421	105.81	631,080	13,169,501

TABLE C104—1986 (REVISED DEC. 12, 1982) ESTIMATED APPORTIONMENTS FOR FISCAL YEAR 1986 NONINTERSTATE AND FISCAL YEAR 1987 INTERSTATE PROGRAMS

[Dollars in thousands]

State	Interstate construction	I–4R	Primary	Secondary	Urban	Bridge	Hazard elimination	Railroad highway crossings	Subtotal	Interstate highway transfers	Total apportionment	Percent	85 percent floor	Grand total
Alabama	92,868	52,737	43,040	13,540	10,096	37,133	3,491	3,670	256,575		256,575	1.94		256,575
Alaska	18,200	25,630	76,767	34,895	3,900	4,523	980	2,898	167,788		167,788	1.27		167,788
Arizona	51,231	66,764	30,038	10,024	10,076	4,523	2,641	1,786	177,083	5,800	182,883	1.38		182,883
Arkansas	18,200	35,307	28,632	11,599	4,762	36,373	2,361	2,878	140,107		140,107	1.06		140,107
California	382,418	294,268	174,466	24,320	98,778	46,390	16,860	11,583	1,049,083	9,000	1,053,083	7.98	80,450	1,138,533
Colorado	59,441	60,300	32,550	11,003	10,455	19,633	2,726	2,479	198,587	31,600	230,187	1.74		230,187
Connecticut	108,456	29,233	25,166	4,229	11,193	27,830	2,167	1,208	209,482	70,300	279,732	2.11		279,782
Delaware	18,200	15,358	11,945	3,169	3,900	4,523	980	580	58,655		58,655	.44		58,655
District of Columbia	26,707	15,358	11,945		3,900	18,546	980	257	77,693		77,693	.59		77,693
Florida	183,380	97,321	77,796	14,019	37,213	35,362	7,244	5,729	458,064		458,064	3.46	51,221	509,285
Georgia	154,353	103,299	56,698	17,018	14,842	36,878	4,675	5,149	392,912		392,912	2.96		392,912
Hawaii	69,001	15,358	11,945	3,169	3,900	4,523	980	468	109,344		109,344	.82		109,344
Idaho	18,200	29,479	18,062	7,957	3,900	6,388	1,417	1,743	87,146		87,146	.66		87,146
Illinois	45,862	117,136	93,058	18,601	42,806	65,745	8,737	9,704	401,649	156,700	558,349	4.21		558,349
Indiana	18,200	81,017	53,893	14,969	15,503	50,766	4,536	6,412	245,296	9,700	254,996	1.92	44,716	299,712
Iowa	18,200	43,261	36,857	14,347	7,095	49,340	3,188	5,259	177,547	63,400	240,947	1.82		240,947
Kansas	26,845	35,604	33,831	13,172	6,632	57,544	3,097	5,520	182,245		182,245	1.37		182,245
Kentucky	92,314	58,985	40,252	13,327	7,933	37,349	3,115	3,046	256,321		256,321	1.93		256,321
Louisiana	164,155	52,447	39,445	10,825	12,650	44,356	3,308	3,656	330,842		330,842	2.50		330,842
Maine	18,200	15,358	13,835	5,682	3,900	9,145	980	1,127	68,227		68,227	.51		68,227
Maryland	232,776	47,230	34,342	5,935	15,347	31,239	2,949	1,797	371,615	18,000	389,615	2.94		389,615
Massachusetts	103,398	39,697	45,520	6,268	21,750	32,887	3,975	2,283	255,778	2,600	258,378	1.95		258,378
Michigan	57,328	104,847	85,504	19,734	29,413	20,922	7,193	6,787	331,728		331,728	2.50	94,973	426,701
Minnesota	64,083	56,432	45,698	16,390	11,795	32,108	4,058	5,037	235,601	15,900	251,501	1.90		251,501
Mississippi	18,200	38,636	32,106	11,795	4,974	50,422	2,432	2,725	161,290		161,290	1.22		161,290
Missouri	31,245	87,754	53,101	17,277	14,600	89,235	4,510	4,951	302,673		302,673	2.28		302,673
Montana	18,200	48,896	26,531	11,921	3,900	13,587	1,372	2,052	126,459		126,459	.95		126,459
Nebraska	18,200	27,935	25,784	10,506	4,294	31,156	2,106	3,408	123,389	6,600	129,989	.98		129,989
Nevada	18,200	25,757	18,044	7,532	3,900	4,523	1,032	942	79,930		79,930	.60		79,930
New Hampshire	18,200	15,358	11,945	3,169	3,900	10,914	980	752	65,218		65,218	.49		65,218
New Jersey	103,329	40,079	54,843	5,530	29,961	70,859	4,981	3,156	312,733	8,400	321,138	2.42		321,138
New Mexico	18,200	51,597	24,731	10,110	4,103	4,523	1,471	1,355	116,090		116,090	.88		116,090
New York	172,261	112,195	140,361	19,569	67,505	180,900	12,244	7,396	712,431	21,300	733,731	5.54		733,731

TABLE C104—1986 (REVISED DEC. 12, 1982) ESTIMATED APPORTIONMENTS FOR FISCAL YEAR 1986 NONINTERSTATE AND FISCAL YEAR 1987 INTERSTATE PROGRAMS—Continued

[Dollars in thousands]

State	Interstate construction	I-4R	Primary	Secondary	Urban	Bridge	Hazard elimination	Railroad highway crossings	Subtotal	Interstate highway transfers	Total apportionment	Percent	85 percent floor	Grand total
North Carolina	52,167	54,769	66,684	19,900	12,086	77,490	4,790	4,578	292,464		292,464	2.21	21,829	314,293
North Dakota	18,200	26,502	17,825	8,106	3,900	9,526	1,464	3,322	88,845		88,845	.67		88,845
Ohio	56,739	131,031	97,298	19,846	35,625	51,771	8,077	7,914	408,301	28,900	437,201	3.30	80,965	518,166
Oklahoma	29,443	46,585	34,907	12,807	8,680	37,689	3,233	3,937	177,281		177,281	1.34	28,580	205,861
Oregon	37,618	48,132	30,008	10,975	7,757	20,636	3,130	2,521	160,777	19,400	180,177	1.36		180,177
Pennsylvania	173,404	89,916	112,007	24,065	36,606	107,487	8,804	6,851	559,140	17,200	576,340	4.35		576,340
Rhode Island	65,884	15,358	11,945	3,169	3,900	5,967	980	527	107,730	55,000	162,730	1.23		162,730
South Carolina	51,474	46,642	33,268	10,070	7,165	16,821	2,710	3,086	171,236		171,236	1.29		171,236
South Dakota	18,200	31,906	19,181	8,779	3,900	7,238	1,329	2,258	92,791		92,791	.70		92,791
Tennessee	40,632	82,297	48,108	14,691	12,194	64,893	3,878	3,622	270,315	41,500	311,815	2.35		311,815
Texas	180,124	239,478	138,314	39,391	50,383	80,543	12,136	12,241	752,610		752,610	5.68	198,885	951,495
Utah	46,798	45,788	18,506	6,720	5,484	4,523	1,446	1,419	130,684		130,684	.99		130,684
Vermont	18,200	15,706	11,945	3,169	3,900	8,537	980	724	63,161		63,161	.48		63,161
Virginia	124,597	79,865	51,067	14,199	15,804	23,961	4,114	3,223	316,830		316,830	2.39		316,830
Washington	149,919	66,241	39,918	10,873	13,513	36,393	3,591	3,483	323,931		323,931	2.44		323,931
West Virginia	80,086	23,862	23,540	8,365	3,900	39,807	1,641	1,900	183,101		183,101	1.38		183,101
Wisconsin	20,264	44,707	50,398	15,213	13,135	36,533	4,253	4,852	189,355		189,355	1.43	32,413	221,768
Wyoming	18,200	42,143	16,593	7,608	3,900	4,523	980	1,064	95,016		95,016	.72		95,016
Puerto Rico			30,127	4,267	9,366	4,523	2,081	896	51,260		51,260	.39		51,260
Total	3,640,000	3,071,566	2,360,370	633,814	780,074	1,809,006	193,383	186,201	12,674,414	581,300	13,255,714	100.00	634,032	13,889,746

Mr. STAFFORD. Mr. President, at this late hour I will not attempt to lay out in great detail the contents of the conference report that relate to the highway program. I would like you to know that the bill does contain a provision to permit States temporarily to forgo matching Federal funds where State matching funds are not available. This provision will permit more projects to be undertaken quickly and will give States time to rise additional funds if they are needed to match the increased Federal funds available under the legislation.

I also want to point out the emphasis on rehabilitation and repair contained in this bill which requires that at least 40 percent of primary, secondary, and urban system funds be spent on repair, resurfacing, and rehabilitation.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk proceeded to read the cloture motion.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that on the cloture motion which is at the desk I be included as a signatory.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cloture motion reads as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report on H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard H. Baker, Jr., Mack Mattingly, Warren Rudman, Rudy Boschwitz, Bob Packwood, John Tower, Jake Garn, Pete V. Domenici, Nancy Kassebaum, Ted Stevens, Robert T. Stafford, Nicholas F. Brady, William S. Cohen, Robert Dole, Strom Thurmond, James A. McClure, Slade Gorton, Jennings Randolph.

SURFACE TRANSPORTATION ACT OF 1980—CONFERENCE REPORT

Mr. BAKER. Mr. President, I have a unanimous-consent request that I have cleared with the distinguished minority leader who indicates that he finds no objection to this request and that he need not be on the floor, he indicates, at the time the request is made. I will state the request for the distinguished acting minority leader and all Senators.

I ask unanimous consent that when the Senate completes its business today it stand in recess until 1 p.m. on Wednesday, December 22, and immediately stand in recess until 12 noon, December 23.

Mr. HELMS. Reserving the right to object, if the Chair will indulge me.

Mr. BAKER. Mr. President, I have not cleared this with the minority leader but I am sure there will be no objection to it. If there is, I include in the request that it may be vitiated on his motion.

Mr. President, I amend the request so that when the Senate completes its business today it stand in recess until 1 p.m. on Wednesday, December 22, and that when the Senate completes its business on Wednesday, December 22, it stand in recess until 12 noon on Thursday. The effect of that is to provide an opportunity for the transaction of business if that seems indicated. However, it is not my intention to offer any business for the Senate unless it becomes a matter of importance which is mutually agreeable on the basis of unanimous consent. If the acting minority leader would like me to withhold this request on that basis until he can consult further, I would be glad to.

Mr. MOYNIHAN. Will the distinguished majority leader allow me that privilege?

Mr. BAKER. Yes. Mr. President, I withdraw the request. I ask that it be vitiated. I will consult with the acting minority leader.

Mr. STENNIS. On Thursday it is a matter of 2 p.m., with not much time to transact business and catch planes in the afternoon.

Mr. BAKER. We would be in at 12 o'clock on Thursday and absent any other arrangements the cloture vote would come sometime shortly after 1 o'clock on Thursday. Does the Senator from Mississippi care to have that adjusted?

Mr. STENNIS. I am thinking about the planes. You would have the debate that would follow, assuming cloture. You would have to have debate time. That would carry over until Friday, maybe.

Mr. BAKER. Perhaps. But there are other variations on that that might be undertaken. If the Senator from Mississippi will permit me, I will confer with him privately and see what we can do in that respect.

Mr. President, I will yield the floor unless some other Senator has a question. I believe the Senator from Vermont has the floor in any event.

Mr. BRADY. Can I ask the majority leader since we might be coming in on Thursday, if we could come in at 10 o'clock?

Mr. BAKER. I would be happy to adjust the request to that time when I make it. I have withdrawn the request. I will ask the representatives of the minority leader to examine the revised request. If the Senator wants 9 or 10 o'clock Thursday, it is perfectly all right with me.

I do not want to take a poll here, but let me see if 10 o'clock Thursday would be more agreeable than 12 o'clock.

There seems to be a general sentiment. That would put the vote at 11:30 or thereabouts. There has to be a quorum call 1 hour after the convening time under the rule.

Mr. McCLURE. Will the Senator yield?

Mr. BAKER. I yield.

Mr. McCLURE. I thank the Senator for yielding. If it is our intention to get to cloture for whatever reason, whether it is to vote cloture and then leave or vote cloture and then conclude our business, in either event committees are not meeting. We are not conducting other business of the Senate during the morning hours. Why could we not come in at 8 or 9 o'clock and get at the business of the day?

If we conclude it in a day, there might be some people who could catch planes or otherwise would have to wait another day.

Mr. BAKER. I might say to the Senator there might be Senators coming back the other direction on Thursday who may leave on Wednesday or yet today.

Mr. McCLURE. Will the Senator yield further?

Mr. BAKER. Yes.

Mr. McCLURE. Part of the problem of those of us who come from farther west is we cannot leave there and conduct business the same day. Conversely, when we leave here, we get in there very late that same day if we leave late.

Mr. BAKER. Do I understand the Senator to suggest 9 o'clock for a convening hour on Thursday?

Mr. McCLURE. I do.

Mr. BAKER. I yield to the Senator from Vermont.

Mr. STAFFORD. Might I inquire of the majority leader how late we might be up tonight?

Mr. BAKER. We are not going to be up very many more minutes if I have my way tonight. Then we are going to be in tomorrow. I had thought pro forma, but at the suggestion of a Senator we will change that so there will be an opportunity to transact business if that requirement presents itself. It would be my intention not to transact business unless there was some reason to do so. We would not be in late on Wednesday. Then we would be in Thursday at 9 or 10 as the group may indicate.

Mr. President, I will ask the representative of the minority leader to suggest that we change the convening time on Thursday to 9 o'clock and that the session on Wednesday would not be a pro forma session but with the announced intention to be the briefest of sessions, unless there is some reason to do otherwise.

[The following proceedings occurred after midnight:]

Mr. STEVENS. I wonder if it would be possible to explore the question precisely when we would have the cloture vote on Thursday? Those of us from the far West—and I am from the far Northwest—have 10 hours to fly after we leave here. Assuming that we do have a cloture vote and are successful in obtaining it, we have a post-cloture period before the vote. We have to leave here no later than 4 p.m. or we cannot make the last plane.

Mr. BAKER. Mr. President, I say to my friend, the assistant majority leader, that I fully appreciate that. If cloture is invoked on Thursday, it will be my present intention to try to accommodate debate in postcloture time so that Members could catch an airplane at that time that afternoon. I do not know exactly what time that would be, but it surely would mean that the 100-hours postcloture would not be utilized before Christmas. We would have to come back after Christmas to utilize that time.

Mr. President, the request has gone forward to the minority leader for his consideration of this request that I shall not now make. I yield the floor so the Senator from Vermont may continue.

Mr. STAFFORD. I thank the majority leader for yielding so that I may conclude the explanation I was offering of title II.

I believe that the Federal-aid highway program of the future will increasingly be directed at keeping our existing highway network in a safe, efficient state and that the period of major construction of new superhighways is over.

Mr. President, let me close by saying that we are very close to enacting into law a very significant program to insure that our deteriorating roads and bridges are repaired and rehabilitated, and that we will not allow the essential transportation network of this country to reach such a state of disrepair that economy and safety are jeopardized.

I would urge the Senate to pass this very important legislation which provides much needed funding, not only for highways, but for mass transit.

I repeat, I conclude that the provisions of title II are essentially those of the Highway Act that the Senate passed unanimously back last May. They are essentially the same provisions that are contained in the Senate version of this legislation which passed this body before going into conference within the last 24 hours.

Mr. President, I yield the floor.

Mr. RANDOLPH. Mr. President, I join with other members of the Committee on Environment and Public Works in strongly urging the Senate to adopt the conference report on H.R. 6211, the Surface Transportation Assistance Act of 1982.

This is important legislation, for it addresses a number of urgent issues affecting our national transportation system. It establishes a mechanism to provide increased financial support for highways and mass transit, and it authorizes expenditures of funds for the next 4 years. The conference report also includes modifications in the way in which the program is carried out. These changes are required to respond to contemporary conditions and to accommodate the increase in revenues for the highway trust fund.

Mr. President, this measure is significant in several respects. Perhaps the most important of these is the substantial increase in user fees to supplement the resources of the highway trust fund. This is the first such addition to revenues since 1959. The trust fund was established in 1956, and since that time its principal income has been through the tax on gasoline.

The tax of 4 cents per gallon has been in effect since 1959, and during that time construction costs have increased substantially, meaning that we receive decreasing returns for every public dollar invested in highways and bridges. In the past 5 years alone, highway construction costs have grown by more than 40 percent, and income of the highway trust fund has not kept pace. The additional 5-cents-per-gallon gasoline tax, plus other enhanced revenue for the trust fund, will enable our States and cities to begin meeting the accumulated backlog of highway and transit needs.

Mr. President, for several years we have known that the Interstate Highway System is approaching completion. Our attention and our resources must be focused increasingly on the repair and reconstruction of older highways and the protection of our multibillion dollar investment in the Interstate System, some of which is now 25 years old. This legislation enlarges upon a policy established in 1978 to provide Federal assistance for these purposes. The bill provides additional funds for the 4-R program and, in fact, for all aspects of the federally supported highway construction effort.

We continue to move toward completion of the interstate construction program. This progress should be accelerated by the provisions of this bill. Concurrently, additional funds are provided for primary, secondary, and urban roads, safety construction and the important and vitally needed replacement and rehabilitation of our country's thousands of deficient bridges.

Mr. President, this measure also revises the formulas for the allocation of Federal-aid highway funds to the States. This is part of our overall effort to redress inequities that have developed in the program over the years.

A major feature of this effort are the provisions related to the growing concern of States which have historically provided substantially larger payments to the trust fund than they have received for construction activities. In 1956 it was recognized that development of the Interstate System was truly a national project, one in which all States should participate. As a result, there have been for the past 26 years States which were net donors to the fund and other States which have been classified as donees. No other approach would have been effective in building the 42,500-mile Interstate System which when completed will carry 20 percent of our Nation's motor vehicle traffic.

The legislation before us provides that every State will receive at least 85 percent of its contributions to the highway trust fund. With initial construction of the Interstate System becoming less of a burden on the trust fund, States will have more opportunity to address other urgent highway needs. This provision assuring a minimum of 85-percent return also is designed so that no State is penalized by having its allocation reduced below previous years. Without this safeguard a few States could actually have received fewer funds despite the substantial increase in trust fund revenues.

In West Virginia we will receive substantial increases in Federal funds to help meet its backlog of highway needs. For the current fiscal year, West Virginia will receive a total of $157.6 million. In 1984 its portion will be $166.6 million; in 1985 it will be $176.2 million; and in 1986 it will be $183.1 million available for use.

Mr. President, the Federal-aid highway program was established in 1916. It is the oldest grant-in-aid program of the Federal Government. During the past 66 years it has served us well and has facilitated the development of an integrated national transportation system. From time to time it has been necessary to make revisions in the program in order to maintain its ability to respond to the needs and wishes of a diverse, growing and increasingly mobile society. The legislation before the Senate today continues this process of modification.

The Committee on Environment and Public Works, the House Committee on Public Works and Transportation and finally the committee of conference which produced the final version of this legislation have carefully considered and recommended to the Congress a number of changes to maintain the efficiency and responsiveness of the Federal-aid program. These will be discussed in detail by other Members who participated in this project.

Mr. President, I call attention to two provisions which I sponsored during committee consideration of this legislation and which I recommended be included in the conference report. One of these emphasizes the necessity to give greater attention to the improvement of roads impacted by the development and production of energy resources. This is a particular problem in West Virginia and other States where there is extensive production of coal and other energy-related resources. Such activities place unusual burdens on the highway system, and we recognize that States should receive special assistance for them.

The bill increases the Federal share to 85 percent for 3-R projects on Federal-aid routes which the Secretary of Transportation determines are energy-impacted. This provision allows the States to give priority to such projects in their annual programs for Federal-aid funds and allows the Secretary to give priority to such projects in approving the State program of projects for a fiscal year.

The other provision which I sponsored represents a continuation of my belief that Federal programs should encourage the development and implementation of innovative and alternative techniques and materials. I have sponsored such provisions in other statutes, notably the Clean Water Act, and I believe that such emphasis must be placed in our highway program.

It came to my attention that several new techniques and U.S. patented products are now available which will improve both the energy efficiency and strength of pavement materials and prolong the life of such pavements. Some incentive appears to be necessary to get the States to use these commercial products in the resurfacing or construction of our highways because of some additional capital costs which are more than offset by longer pavement life cycles and lower maintenance costs. The amendment which I offered raises the Federal share for projects which use these recycled materials or innovative pavement additives. This provision raises the Federal share by 5 percent on any projects on which such products are used.

Mr. President, this conference report on H.R. 6211 is not the product of hasty and ill-considered deliberate either by the Senate or the House of Representatives. Eariler this year the appropriate committees in both bodies began work on this subject matter. There were extensive hearings, and the House of Representatives passed its bill several months ago. Similarly, hearings were conducted in the Senate Committee on Environment and public works.

Further progress on the legislation was delayed pending a decision on whether there would be an effort to secure congressional approval of additional revenues for the highway trust fund. Once that decision was made this autumn, we were in a position in the Senate to expedite final action on a bill, bring it to the floor and secure a successful conference.

During Senate consideration of the bill in recent days, several issues proved to be controversial; and there was extensive debate. The issues were resolved, however, and there is before us what I believe to be a fair, workable and effective bill.

I stress, Mr. President, that this has been a bipartisan effort in our committee, in the Senate and in the House of Representatives. In final passage by the Senate only last night, the vote was 56-34. Twenty-one Democrats and 35 Republicans supported the bill, while the opposition consisted of 19 Democrats and 15 Republicans. This vote reflects not only the bipartisan nature of the support for the bill, but also the fact that the legitimate concerns of Senators of diverse viewpoints were accommodated.

Mr. President, many individuals were responsible for bringing us to this point of enactment of the Surface Transportation Assistance Act of 1982. I commend especially the leadership of our chairman, Senator STAFFORD, who has ably and successfully managed a wide variety of difficult and complex issues during the 97th Congress. Senator SYMMS and Senator BENTSEN, the chairman and ranking minority member respectively of our Subcommittee on Transportation, brought their experience and their expertise to bear on the development of the bill's provisions. Senator DOMENICI, who also serves as the able chairman of the Budget Committee, is an imaginative and articulate spokesman and contributed greatly to this legislation. I also commend for their contri-

butions and their participation the other members of the committee, the majority leader of the Senate (Senator BAKER); Senator CHAFEE; Senator SIMPSON; Senator ABDNOR; Senator GORTON; Senator MURKOWSKI; Senator BURDICK; Senator HART; Senator MOYNIHAN; Senator MITCHELL; and Senator BAUCUS.

As always, our staff has assisted us with excellence and dedication. I join Members in expressing appreciation to the following members of the minority staff for their work on this bill: John W. Yago, Richard M. Harris, Robert Peck, Debbie Knopman, Lee Fuller, Mary Jo Vrem, Ann Garrabrant, Helen Kalbaugh, Ann Underwood, Tanya Hart; Margie Wright, and Elizabeth Thompson.

Mr. President, this legislation is vitally needed by our country, and I urge its adoption by the Senate.

Mr. BOSCHWITZ. Mr. President, while both the Senators from North Carolina are here, I wanted to direct their attention to some of the problems as I hear talk about Thursday and late Thursday afternoon that we are beginning to have. My scheduler has become so familiar to the airlines people because we have been changing so much, that they should be very aware that travel is becoming very difficult. Reservations are almost unobtainable. We luckily obtained reservations tomorrow to go back to Minnesota.

Minnesota is not very far away, but I hope we are able to establish a time certain with respect to a vote on this matter, not only with respect to cloture, which is more easily ascertained, but even a time certain so that we may go about the business, once and for all, of making such reservations as are necessary.

The Senator—I shall wait for the Senator from North Carolina.

The Senator from North Carolina (Mr. HELMS) is aware that my family and I do not celebrate the holiday of Christmas. Nevertheless, it has for many years been the time when we all could be together. That is, of course, the occasion, I am sure, of all of my colleagues around me. That is fast becoming a matter that is academic, simply because we are unable to obtain reservations.

As I see us moving closer and closer to Christmas Eve, it is becoming more difficult. I think we got the last reservations that were available to go to Minneapolis tomorrow. I am not sure that we are going to be able to change our reservations at all.

The Senator from North Carolina is a man of great conviction and I understand that these things may not move him. Nevertheless, on behalf of myself and my family, and I am sure I speak on behalf of many Members of the Senate, it is time that we fix a time certain that we know we can go forward and make arrangements that do not have to be remade and remade because we are now coming to the time when we simply cannot remake them.

I thank the Senator. I yield the floor.

Mr. HELMS. Mr. President——

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the Senator from Minnesota, my dear friend, knows that I understand his problem. I wish we could be home right now. That is not my judgment call. That judgment was made sometime back.

Did the Senator say to me he cannot go home Thursday, that he does not have a plane reservation for Thursday?

Mr. BOSCHWITZ. Mr. President, we are able to make a series of plane reservations and tell the airlines we are going to take one of them. We have been advancing them a day or 2 days at a time. My family is not all together any more. We felt that we got the last reservation. We were told that Thursday is going to be an extremely busy day, that there would be no reservations available. I do not know about Friday. I am sure it is probably busy.

Mr. HELMS. I say to the Senator that I shall do the best I can and I wish him bon voyage.

Mr. President, I am concerned that there is not a copy of this piece of legislation available for me to take home tonight. I candidly told the distinguished Senator from New Mexico (Mr. DOMENICI) that it is not my intention to vote for the bill. But I frankly do not see how any Senator can vote for it if he does not know what he is voting on.

That has been precisely the problem from the beginning. I think if we used a polygraph on all 100 Senators, I doubt that we would have 10 who would pass the test of saying he or she had read the bill and understood it.

Here is the problem about this bill, Mr. President. Believe me, it gives me no pleasure to be in the fix I am in, being made the heavy in a matter in which I have tried to operate in perfectly good faith. But look at the spectacle of this Congress, if you will. The House of Representatives, in a 10-day period, gave itself a big fat raise. The Senate of the United States took the lid off of outside income from speechmaking.

Also in that 10-day period, the House and the Senate are slapping a tax, a regressive tax, on the people of this country. The ones to be hit the hardest are the people least able to afford it.

Now, it has been suggested here that I have irritated my good friend from Wyoming. He used some adjectives that I would never use about him or any other Senator. He made threats. I know he is tired. I hope he will dismiss those thoughts from his mind later.

I want all Senators to know that I love them dearly, but this Senator did not come to Washington to win a popularity contest among the Members of the U.S. Senate, I hope that I can regain some popularity if I have lost it. But I came here to do what I think is right.

One Senator—I do not recall who it was—professed to state that the rules of the Senate were never intended to allow two or three or four Senators to hold up legislation in the Senate. I say, Senator, you are dead wrong. Those rules were designed for one Senator. And indeed, individual Senators have used those rules this week to block legislation they oppose. An example occurred with respect to the PIK bill.

This is the only tribunal in the world originally designed to protect the rights of the tiniest of minorities. Now, Senator SIMPSON can afford the 5-cents-a-gallon tax increase. Any Senator in this Chamber can. But who is going to speak for the little fellow out there?

Then we get on down to things like the Davis-Bacon Act. What an outrageous proposition when you stop to think about it.

The President called me the other day. He was very gentle in his stroking, urging me to support this measure. And I said, "Mr. President, I think I have the credentials to demonstrate I have been your friend and supporter for about as long as anybody else in the Senate, but I disagree with you on this." I said, "You are the one who said some months back it would take a palace coup for you to propose a measure of this type." I said jokingly, "Mr. President, when did the coup occur?"

Then I began to list the things I found wrong in this legislation, and I said, "Mr. President, do you like that?" He said, "No." I said, "Do you like this?" And he said, "No." We went down the list. And finally, I said, "What do you like about it?" So I think maybe the cart is before the horse in some of the criticisms.

And it may be, I say to Senators, that one of these days you will feel strongly about a piece of legislation,

and I will say this to you. If you feel strongly and do not defend it until the last gasp, you are not doing your duty as a Senator. So have at me; I can take it. I do not like it because I like you, I am honored to serve in the Senate with you, but I think something is amiss when even in frustration and weariness there begins this syndrome of carping. Now, I invite any Senator to check the RECORD and find one instance in which I made comments such as have been made in the last 2 or 3 days. I have not done it. There have been times when I felt like it, but I love this body too much. I respect this institution too much to engage in that sort of thing.

Each Senator is entitled to his own assessment of this piece of legislation. I think it is very bad legislation, and if we want to look at the political aspects of it, speaking as a Republican, I think it is a disaster. We have been exhorted to support this bill because we are Republicans. We have been exhorted to support this bill because of our leadership. But I am telling Senators that the Republican Party is shooting itself in the foot. The tax increase in July and now this one and next year social security. And you better believe the political professionals are going to hang that one around the Republican Party's neck as well.

So that is what prompts me to push aside the political aspects, to peel off the veneer of this legislation, and to look at it fundamentally for what it is. It is bad legislation at the wrong time presented in the wrong manner. I say again that we would not be here tonight if my suggestion had been heeded, even considered, to drop this bill, introduce another one on the first day of the session of Congress in January, have full and adequate hearings and report it out.

I made the commitment then, and I will restate it tonight, that this Senator will not engage in extended debate on this bill next year

So that is about it. I would like to be home. I would like for RUDY BOSCHWITZ to have been on that plane yesterday with his family. But I submit that we have a duty as Senators, when we are genuinely committed to the proposition that a piece of legislation is bad legislation, that we should resist it with all the vigor and energy that we possess.

Mr. STEVENS. Will the Senator yield?

Mr. HELMS. Let me make one more statement and I will yield the floor.

I apologize to Senators for the inconvenience, but I say to them that I do not think I am the one who should be apologizing. I think those who thrust this measure upon the Congress, I think those who went beyond the presentation of the continuing resolution and the appropriations bills, really are the ones who owe you the apology. But, in any case, let me express my affection and respect for each of you, and we will move this thing along.

Mr. STEVENS. Will the Senator yield?

Mr. EAST addressed the Chair.

Mr. HELMS. I yield to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I do not want to be one that beleaguers my friend from North Carolina, but I checked the situation for those of us going west. It is as the Senator from Minnesota says, most unhappily. My reservations are tomorrow night, as a matter of fact. I wonder if it might be possible for the Senators from North Carolina to consider one small concession to the Senate as a whole, and that is taking 1 day off the waiting period on the cloture vote?

We are going to go out and just come in here tomorrow on a pro forma basis. A lot of us are going to find we are not going to be home for Christmas because of that 1 day. If we came in tomorrow and had the vote tomorrow, it really is not abusing the rules or the rights of the Senators from North Carolina at all, and it might make a considerable difference to those of us that are going west if we could leave tomorrow night or start leaving tomorrow night, assuming that is the decision the Senate makes, and we will have to take that risk.

But it seems to me that the idea of waiting with that pro forma tomorrow and just sitting here in the city—and I do not want to get started on this city again, but we have 16 feet of good powdered snow in Alaska, and my kids are all waiting up there. I have told the Senator before I have a granddaughter I have not yet seen. And she has an aunt she has not yet seen who is just about a year older than she is, so I think it is going to be a nice Christmas if we can make it home. But will the Senator consider knocking off this 1-day waiting period? I think that is about the nicest Christmas present the Senator could give to us because we would not have to sit around and wait the 48 hours to vote; we would just wait 24 hours to vote.

Mr. HELMS. If the Senator noticed, it was I who suggested to the majority leader that he amend his unanimous-consent request.

Mr. STEVENS. That is what gave me great hope. I just realized that.

Mr. HELMS. This is not a decision that I can make alone.

Mr. STEVENS. I realize that. I suggest we take it absent a quorum. The last time I talked last night I got myself in a little trouble so I think I better quit while I am ahead.

Mr. HELMS. Let me suggest that we have either a brief quorum call or somebody can do a little talking. Maybe PETE DOMENICI wants to fuss at me a little more.

Mr. BAKER. Mr. President, I tried talking last night. Let me suggest the absence of a quorum tonight.

Mr. HELMS. Very well.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. D'AMATO). The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. I have three conference reports which have been cleared all the way around.

Mr. BAKER. Mr. President, may I have recognition for a moment?

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Could we have order in the Senate?

The PRESIDING OFFICER. Will Senators please take their seats and clear the aisles, and cease conversations, please.

SURFACE TRANSPORTATION ACT OF 1982—CONFERENCE REPORT

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I would like to propound a unanimous-consent agreement for the consideration of the minority leader and all Senators. The distinguished Senator from North Carolina, the senior Senator from North Carolina, has indicated to me that he would like to find a way to conclude this debate, and I thank him for that. I believe what I am about to put next is acceptable on this side of the aisle.

Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 1 p.m. tomorrow and that immediately thereafter the Senate recess over until the hour of 8 a.m. on Thursday.

I further ask unanimous consent that at the hour of 9:30 a.m. the Senate proceed to vote on cloture against the bill pursuant to a motion filed under the provisions of rule XXII.

I further ask unanimous consent, Mr. President, that no business except general debate on this measure be in order from 8 a.m. on Thursday until 9:30 a.m. when the vote occurs.

I ask unanimous consent, Mr. President, that if cloture is invoked on Thursday, with the vote at 9:30 a.m., that a vote occur on the conference report up or down not later than 2 hours thereafter. Mr. President, that is the request.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I have one clarification and possibly two suggestions. The clarification is I want to make sure that the meeting tomorrow will be a pro forma session, no business.

Mr. BAKER. No business. It will be pro forma. The language put in the request is that we meet at 1 p.m. and immediately recess until Thursday at 8 a.m.

May I inquire of the Chair does that constitute a pro forma session with no possibility of business to be transacted?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. My second request comes in the form of a suggestion to say that we vote no later than——

Mr. BAKER. Two hours after the vote on cloture ends.

Mr. ROBERT C. BYRD. No later than that. It could come at 10 o'clock. I think we ought to be in position to tell our Senators exactly what time the vote will be.

Mr. BAKER. Mr. President, I think that is a good suggestion. I amend the request: In the event cloture would be invoked, the vote would occur at 11:30 a.m.

Mr. HELMS. Mr. President, if the Senator will yield——

Mr. BAKER. Yes.

Mr. HELMS. That is longer than I desire. If you want to make it 9:30——

Mr. BAKER. Yes; 9:30 on the cloture vote, and then if cloture is invoked, not more than 2 hours of debate, and then the vote will occur.

Mr. HELMS. I see, that is fine.

Mr. BAKER. I am changing it now so that it would occur at 11:30 a.m.; the vote up or down in the event cloture is invoked at 11:30 a.m.

Mr. HELMS. That part of it is fine. Will the Senator state again or restate the limitation on business?

Mr. BAKER. Yes, Mr. President. Between 8 a.m. on Thursday, when the Senate convenes, until 9:30 a.m. when the vote on cloture will occur, no business will be in order except general debate on the pending conference report. I am talking about Thursday now, not Wednesday.

Mr. HELMS. I understand.

The point, Mr. Leader, is I still want a copy of this conference report. I hope to be able to spend tomorrow looking at it.

The Senator would not preclude any point of order? I know that the legislation is perfectly drafted, but I just want to take a look at it.

Mr. BAKER. The Senator certainly will be able to do so. I have asked the Secretary of the Senate to make sure our service department provides 100 copies of the conference report overnight. That will be available, I assume, early in the morning; 9 o'clock in the morning, I am told. I will make sure the Senator receives a copy of that conference report the moment it is available from our service department.

Mr. HELMS. I appreciate that.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. If we are going to agree to a vote on Thursday, why not vote today (Wednesday)—we are here—and make it a one-shot deal? One cloture vote today, and if cloture carries, fine, vote 2 hours afterward. If it fails, that is the end of the ball game and we will be out of town.

Mr. BAKER. Mr. President, I am willing to do it on Wednesday. But my understanding was the Senator from North Carolina, perhaps both Senators from North Carolina were not agreeable to Wednesday but were agreeable to Thursday.

As far as the one shot is concerned, I will make the representation that if we get our vote on cloture, that it is my expectation that we will win that vote, but that will be the last effort that I will make to try to conclude this measure this session.

Mr. ROBERT C. BYRD. And the vote would be today or Thursday?

Mr. BAKER. Yes, it would be Thursday in the order that I had requested.

Mr. ROBERT C. BYRD. I think we ought to take that.

The majority leader earlier referred to my keeping the Senate in overnight a few times, and I never responded to that, because I did do it. But I thought we had something that was imperative before us to act upon. I do not think this is imperative, right now. I think it could wait until next year, which is only 2 or 3 weeks away.

But I am willing to do what I can to help the majority leader one more time to get cloture. We Democrats have done it time after time. But I think we ought to have an understanding that this is a one-shot deal—it is up or down win or lose, and that is the end of it, so we can get home.

Mr. BAKER. Mr. President, in the words of West Virginia and Tennessee, "You got a deal."

Mr. MITCHELL. Mr. President, reserving the right to object. Will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. MITCHELL. Mr. President, I wonder if the Senator from North Carolina would explain to this Senator why, if it is agreeable to set a time for a vote on Thursday morning it is not agreeable to set a time for a vote on Wednesday?

Mr. BAKER. Mr. President, I have had the priviledge, I say to my friend from Maine, of talking to the senior Senator from North Carolina, and I believe I can answer that, and I believe he alluded to it.

It is, indeed, true that it has not been possible to have a printed copy of the conference report. Indeed, as you will recall, I am sure, I could not even find the Senate papers after the House acted on this measure and we to qualify the House papers by unanimous consent. I am told that we subsequently did find the Senate papers. I am glad of that.

But the Senator made the point that he had not yet seen a copy of that conference report. And that is a reasonable request. It is not a small document.

I have asked the Secretary of the Senate, as I indicated earlier, to use our service department, rather than the Government Printing Office, to provide 100 copies of that conference report overnight. The Senator from North Carolina indicated to me that he was not prepared to do this tomorrow because he wanted to spend the day reading that conference report. I think that is a fair request.

I hope Senators would not object to the request that I put.

Mr. MITCHELL. Mr. President, this is a bill that has been pending before the Senate for some time. The Senate has acted; the House has acted. Is it not possible for the Senator from North Carolina, in the goodness of his heart, with the Christmas season approaching—and there are many Members who have been away from their families for a long time—to consider moving that vote up to late on Wednesday? If we are going to agree on a time certain, what conceivable purpose would be served by compelling the Members of the Senate to remain here overnight on Wednesday until Thursday and then get home, in some cases, less than 24 hours before Christmas? What conceivable purpose could be served by that? Is not one full day sufficient time to study the conference report, considering that the matter has been before the Senate before?

Mr. HELMS. Mr. President, let me answer the Senator's question by asking a question. Do you know what is in the conference report?

Mr. MITCHELL. I have here on my desk the summary of the provisions of it, I say to the Senator. I will be happy to make them available to you if you want to review it. I have not read the entire report.

Mr. HELMS. Senator, if we are going to engage in sarcasm, this colloquy is over.

Mr. MITCHELL. I did not intend it as sarcasm. I meant it seriously.

Mr. HELMS. If the Senator is going to go by a summary on every piece of legislation or any piece of legislation, I think he ought to review his process.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BAKER. Mr. President, I have no desire to cut off any Member, but I really would like to put the request and I hope Senators will permit us to do this.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. I thank the Chair and I thank all Senators. I especially thank the two Senators from North Carolina.

Mr. President, there will be no more record votes tonight.

MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 1 a.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

TARIFF SCHEDULE REUNION—CONFERENCE REPORT

Mr. DOLE. Mr. President, I submit a report of the committee of conference on H.R. 4566 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4566) to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1982.)

Mr. DOLE. Mr. President, H.R. 4566 contains more than 50 miscellaneous tariff provisions which either reduce or temporarily suspend the duties on various articles. While these provisions will reduce customs duties by about $60 million, they will benefit a number of small businesses in the United States. For example, one of these provisions will reduce duties by only $6,400, but it will enable the business concerned to obtain parts and raw materials more cheaply. All of these provisions have been the subject of hearings in either the House or the Senate and most are entirely noncontroversial.

The bill also contains four provisions implementing international agreements of the United States. These agreements include the International Coffee and Sugar Agreements. They require the United States to control imports of these commodities and without this bill the Customs Service lacks the authority to do so. The bill also contains provisions implementing the convention on stolen cultural property and an agreement that facilitates the duty-free importation of articles for the handicapped and scientific, cultural, and educational articles.

Mr. President, the bill as amended contains provisions which both the administration and our businessmen need. I urge my colleagues to approve the bill as the conferees agreed.

Mr. President, I yield to the distinguished Senator from Hawaii who has a concern with reference to one of the provisions in this conference report.

Mr. INOUYE. Mr. President, before voting upon this report, I would like to ask a few questions of my distinguished friend from Kansas. Does this conference report include a provision that will change the schedule of tariffs or duties on tuna canned in water?

Mr. DOLE. My answer to the question from the distinguished Senator is yes for over-quota tuna.

Mr. INOUYE. Mr. President, in the South Pacific, there are several small islands and we call these islands American Samoa. On these islands we find canneries and these canneries provide employment for approximately 35 percent of the work force.

I have been advised by some of my friends in Samoa, including the Governor, the Honorable Peter Coleman, that the acceptance of this provision will cause extreme hardship and havoc with their economy. They are fearful that the jobs of thousands of Samoans will be affected.

I have no way of knowing whether this will happen. I have been assured by the U.S. Trade Representative, Mr. Bill Brock, that there should be no fear of such havoc being caused to the economy.

In order to truly assure our friends in Samoa who are deeply concerned, will the chairman of the Finance Committee convene a special committee to investigate the possible effects these provisions may have on the economy of Samoa?

Mr. DOLE. Mr. President, let me say to my distinguished colleague from Hawaii, and I can understand this concern, that I can assure the Senator from Hawaii that if we can go ahead on this conference report the Finance Committee will request the International Trade Commission to conduct an investigation of the entire tuna industry, both domestically and internationally, regarding this provision.

Mr. INOUYE. Will the Senator also include the canneries in California and the rest of the west coast with Hawaii? I am sure the chairman is aware that just a few months ago two canneries closed on the west coast and another one will close in Hawaii.

Mr. DOLE. That will be done. The ranking minority member is on the floor and I am sure he will agree with that.

Mr. MATSUNAGA. Mr. President, while I have the floor, I want to express my deepest appreciation to the chairman of the Finance Committee, the senior Senator from Kansas (Mr. DOLE) and the ranking committee member, the distinguished senior Senator from Louisiana (Mr. LONG) for their all-out effort to win a conference agreement on H.R. 4566, the miscellaneous tariff bill.

Among the bill's meritorious provisions are the measures extending the International Sugar Agreement and the International Coffee Agreement as well as the measure implementing after 10 years the UNESCO Convention to protect cultural property.

However, I must join my colleague from Hawaii to express strong reservations to a questionable provision included by the conferees at the insistance of the House Members. This provision increases the amount of low-duty foreign tuna that may be imported into the United States; this is achieved by excluding from the established tuna quota, tuna shipped into the United States from American Samoa.

As the distinguished chairman of the committee knows, the quota was established to protect a hardpressed domestic industry. The quota for foreign tuna is 20 percent of the previous year's domestic production. Imports within the quota are assessed a duty of 6 percent. Imports over and above the quota are assessed a duty of 12.5 percent.

Although foreign imports have grown, they have not exceeded the quota until this year. The quota this year is 109.7 million pounds and was filled by the third quarter of the year.

Now, tuna packed in American Samoa and brought into the United States counts against this quota. Practically all Samoan packed tuna is foreign caught and landed in Samoa to supply the Soman canneries. Once packed in Samoa, that tuna can is permitted into the U.S. domestic market duty free, in an effort to help the Samoan economy. Although that tuna enters the United States duty free, it stills counts against the quota. Last year 31 million pounds of Samoan packed tuna entered the United States.

Unfortunately, the domestic tuna industry is already suffering from the impact of a worldwide and domestic oversupply. Canneries have shut down in San Diego and San Pedro, Calif. Cannery workers and fishermen are out of work. We cannot afford to make the situation worse by allowing more foreign tuna to enter the United States at a favorable tariff rate.

Various unions oppose the provision in H.R. 4566 to increase the low-duty imports of canned tuna. The International Longshoremen and Warehousemen Union, the Seafarers Union, the Fishermen Union, oppose this measure. Governor Coleman of American Samoa opposes this measure, because of its adverse impact on Samoa where tuna canneries employ 20 percent of the labor force. For these reasons, I strongly question the widom of this provision.

Mr. President, I was prepared to interpose an objection to the consideration of the conference report, but with the assurance just given to the Senator from Hawaii by the distinguished chairman of the committee I will not interpose any objection or in any way delay consideration of the conference report. Instead, I shall look forward to an early and expeditious study which hopefully would show that our domestic tuna industry will not be injured by this House-included provision in the final bill.

Mr. DOLE. I thank the Senator from Hawaii. The study requested by the senior Senator from Hawaii will include a study of the California and Hawaii canneries as well as those in Puerto Rico, as suggested by the distinguished Presiding Officer, Senator D'AMATO.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAX CORRECTIONS ACT—CONFERENCE REPORT

Mr. DOLE. Mr. President, I submit a report of the committee of conference on H.R. 6056 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6056) to make technical corrections relating to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1982.)

Mr. DOLE. Mr. President, the technical corrections conference report makes only technical corrections to the internal revenue laws.

THE PROCESS

The principal provisions have been approved by this House this fall. Hearings were held in the House this spring. Full comments were received by the Finance Committee. All of these comments were reflected in the Senate's bill. Further technical improvements were made by the House and in the conference. The bill is not perfect. At least one technical correction which is important to the State of Kansas and this Senator was struck out by the House conferees. But the bill is overall, a very good bill.

MANY CHANGES ARE CLERICAL

I will not delay the Senate by describing every clerical and typographical change made by this measure. But I do want to highlight the importance of several of the technical changes made by this bill.

CORRECTIONS TO AID TAXPAYERS

Three principal provisions prevent serious hardship for taxpayers. For example, the bill prevents an unintended hardship for certain taxpayers who are seeking to roll over the gain from the sale of their principal residence. That problem is eliminated by this bill. Second, TEFRA included a House-originated provision which required registration of municipal bonds after January 1. Legal problems and technical problems have shown that effective date to be too ambitious. Mandatory registration has been deferred 6 months. That deferral does not signal, however, any withdrawal from our strong support for improved taxpayer compliance. Indeed, the 6-month deferral was granted in part because of assurances from bond lawyers, issuers and others that no effort would be made to repeal the bond registration requirement. Third, the bill also clarifies the rules governing the treatment of certain corporate acquisitions with rules which are as fair as they are clear. The complete list goes on and on.

CORRECTIONS TO PROTECT THE GOVERNMENT

The bill also prevents a large number of abuses that can arise be-

cause of errors in prior legislation. The Senator from Ohio has referred to the subchapter S loophole. It is blocked by this bill, but taxpayers are permitted to unwind transactions previously entered into. The bill also prevents a celebrated debt financing abuse highlighted in recent months by two large industrial corporations. A technical amendment to the original issue discount provisions will prevent the mismatching of interest income and deductions in the future. Thus, this bill is important not only because it protects taxpayers but also because it protects the Government from unintended results of technical errors made in recent tax legislation.

THE IMPORTANCE OF THIS LEGISLATION

It is important that we pass this bill in this Congress, before adjournment, in order that taxpayers may know with certainty the law when they prepare and file their tax returns this spring. I do not want to exaggerate the importance of this bill, but it is a good bill and a fair bill. It is not likely to be made any better in the 98th Congress. It should be passed.

Mr. President, I know of no objection to this provision. I know of no questions. It has been approved by the distinguished Senator from Louisiana, Senator LONG.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PERIODIC PAYMENTS TAX ACT—CONFERENCE REPORT

Mr. DOLE. Mr. President, I submit a report of the committee of conference on H.R. 5470 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5470) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1982.)

Mr. DOLE. Mr. President, I urge adoption of the conference report on H.R. 5470, The Periodic Payment Settlement Act of 1982. The conference report contains five minor tax provisions relating to the tax treatment of periodic damage payments, the tax treatment of certain foster care payments, the taxation of Indian tribal governments, the waiver of preemption by ERISA in certain circumstances covered by the Hawaiian Prepaid Health Care Act, and the waiver of preemption in the case of multiple employer welfare arrangements.

Section 101 of the conference report excludes from gross income damage payments for injuries or sickness, whether paid as lump sums or as periodic payments. In addition, under certain circumstances, it excludes amounts received for agreeing to undertake an assignment of a liability to make periodic payments of personal injury damages.

Section 102 excludes from the gross income of a foster parent amounts paid to reimburse the foster parent for the expense of caring for a foster child, under the age of 19, in the foster parent's home. It also excludes difficulty of care payments, which are compensation for providing the additional care that is required because of the foster child's physical, mental, or emotional handicap.

Section 201 provides that, for a series of specified purposes under the Internal Revenue Code, Indian tribal governments generally will be treated the same as State governments.

Section 301 generally exempts the Hawaii Prepaid Health Care Act from preemption by ERISA.

Finally, section 302 generally exempts certain multiple employer welfare arrangements from the ERISA preemption provision. This Senator might add that no provision of H.R. 5470 is intended either to overturn or endorse the decision reached by the U.S. Court of Appeals for the First Circuit in Wadsworth, et al. against Whaland. That case held that a State insurance law regulating the content of group insurance policies sold to employee welfare plans covered by ERISA was not preempted by ERISA.

Mr. President, I urge adoption of the conference report on H.R. 5470.

Mr. MATSUNAGA. Mr. President, I thank the Senator for yielding. I have a question for the distinguished floor manager: Does the conference report contain a provision in the form of an amendment which I offered in the Finance Committee, providing for the exemption of the Hawaiian Prepaid Health Insurance Act from preemption by ERISA?

Mr. DOLE. Mr. President, the answer is "Yes," with certain modifications of a technical nature.

Mr. MATSUNAGA. I thank the Senator, because, as the distinguished chairman is well aware, this is a provision we have been attempting to enact for the past two Congresses.

Mr. DOLE. I recall it well. I appreciate the diligence of the Senator from Hawaii.

Mr. MATSUNAGA. I thank the Senator, and let me say that I appreciate deeply the great help he has given me to get this special Hawaiian amendment adopted. I wish also to thank the ranking minority member, and former chairman of the Finance Committee, Mr. LONG, for his unfailing assistance.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF APPROPRIATIONS FOR U.S. CUSTOMS SERVICE, INTERNATIONAL TRADE COMMISSION, AND OFFICE OF TRADE REPRESENTATIVE—CONFERENCE REPORT

Mr. DOLE. Mr. President, I submit a report of the committee of conference on H.R. 6094 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6094) to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 21, 1982.)

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. DOLE. Mr President, this is simply an authorization for the U.S. International Trade Commission, the U.S. Trade Representative, and the Customs Service. There is no amendment in disagreement. No conference is necessary.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY COURT CRISIS

Mr. SPECTER. Mr. President, on June 28, 1982, the Supreme Court ruled that the delegation of jurisdiction granted the bankruptcy courts in the Bankruptcy Reform Act of 1978 was unconstitutional because it "impermissably removed most, if not all, of 'the essential attributes of the judicial power' from the article III district courts, and has vested those attributes in a nonarticle III adjunct."

The Court, in recognition of the havoc raised by the sudden invalidation of the bankruptcy courts, ruled that its decision would only be applied prospectively to avoid imposing "substantial injustice and hardship upon those litigants who relied upon the act's vesting jurisdiction in the bankruptcy courts."

The Court stayed its judgment until October 4, 1982, and stated: "This limited stay will afford Congress an opportunity to reconstitute the bankruptcy courts or to adopt other valid means of adjudication without impairing the interim administration of the bankruptcy laws."

When Congress failed to act by October 4, the Court, at the Government's request, extended the stay to allow Congress one more opportunity to act. That stay expires in 3 days.

Press accounts have suggested that if Congress fails to act to provide a bankruptcy court system constitutionally capable of directing and resolving thousands of pending chapter 11 business reorganizations, financing will become unavailable to those companies struggling to survive by utilizing chapter 11. As a result, millions of dollars and thousands of jobs may be lost.

Knowledgeable members of the bankruptcy bar similarly suggest that significant hardship will result from our failure to reach a timely solution to this problem.

By our failure to respond to the Supreme Court's invitation that we exercise our judgment to restructure the bankruptcy court system, we neglect our constitutionally mandated responsibilities. I find this unacceptable.

Our problem raised by the Marathon Pipeline case is not simple; nor is its solution. But the fact that a problem is complicated is no excuse for a failure to address it. Nor does the pending of other important bankruptcy and court reform matters excuse our refusal to respond to the crisis created by the Supreme Court's decision.

VOTING RECORD OF SENATOR WILLIAM PROXMIRE

Mr. THURMOND. Mr. President, I commend Senator WILLIAM PROXMIRE, the distinguished senior Senator from the State of Wisconsin, on his outstanding voting record here in the Senate. Senator PROXMIRE holds the record for the most consecutive votes in the Senate, both in terms of the number of rollcall votes cast, and in terms of the number of years this represents. Over the span of 16 years since 1966, Senator PROXMIRE has cast 8,000 consecutive rollcall votes. This record is merely a reflection of the high priority Senator PROXMIRE has given to Senate floor action and deliberation in order to best serve the people of Wisconsin and this country.

In establishing this new record, Senator PROXMIRE has eclipsed the old record of 2,900 consecutive votes set by former Senator Margaret Chase Smith of Maine and 7 years of perfect voting attendance set by former Senator Sheppard of Texas. In this endeavor, Senator PROXMIRE has achieved a milestone in which he, his family, and friends can take great pride. Through his continued dedicated service in the Senate, as exemplified by his continued attention to his legislative responsibilities, WILLIAM PROXMIRE has been an outstanding example of a legislator in our representative democracy.

Mr. President, it is also worth noting that while we have taken a moment to acknowledge his accomplishment, every additional consecutive rollcall vote by Senator PROXMIRE extends this fine record. Certainly, this performance has been, and continues to be, worthy of emulation.

MESSAGE FROM THE HOUSE

At 2:05 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. BRODHEAD, Mr. CONABLE, Mr. DUNCAN, and Mr. ARCHER (for consideration of title I of the Senate amendment and modifications committed to conference as well as on matters within the jurisdiction of the Committee on Ways and Means); and Mr. HOWARD, Mr. ANDERSON, Mr. BREAUX, Mr. MINETA, Mr. LEVITAS, Mr. CLAUSEN, Mr. SHUSTER, and Mr. SNYDER (for consideration of the remainder of the Senate amendment and modifications submitted to conference).

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4496) to grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes.

At 3:44 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following joint resolutions, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 261. Joint resolution to make technical corrections in certain banking and related statutes.

ENROLLED BILLS SIGNED

At 8:31 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 625. An act to revise the boundary of Voyageurs National Park in the State of Minnesota;

S. 717. An act for the relief of Carole Joy Maxfield-Raynor and Bruce Sherlock Maxfield-Raynor, wife and husband, and their children Charlton Bruce Maxfield-Raynor and Maxine Anne Maxfield-Raynor;

S. 835. An act for the relief of Jerry L. Crow and Ralph D. and Connie V. Hubbell;

S. 1364. An act for the relief of Jose Ramon Beltron Aivenda Ostler;

S. 1838. An act for the relief of Cesar Noel Jump;

S. 1965. An act to designate certain lands in the Mark Twain National Forest in Missouri, which compromise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area" as a component of the national wilderness preservation system;

S. 1986. An act to provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of Fort Belknap Indian Community in certain dockets of the U.S. Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets No. 345 and 102 of the Indian Claims Commission, and for other purposes;

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes;

S. 2355. An act to amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities;

S. 2636. An act to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes;

S. 2955. An act to establish the Cheaha Wilderness in Talladega National Forest, Ala.; and

S.J. Res. 270. Joint resolution to designate 1983 as the "Bicentennial of Air and Space Flight."

The enrolled bills were subsequently signed by the President pro tempore. (Mr. THURMOND).

At 9:58 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6056) to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5470) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4566) to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6094) to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes.

The message further announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 29. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week of June 6 through June 12, 1982, as "National Garden Week."

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the amendments of the Senate to the bill (H.R. 3420) to authorize appropriations for fiscal year 1982 for carrying out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

The message further announced that the House recedes from its amendment to the amendment of the Senate to the amendment of the House to the amendments of the Senate to the bill (H.R. 5121) to improve the collection of Federal royalties and lease payments derived rom certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes, and concurs therein.

The message also announced that the House has passed the following bills and joint resolutions, without amendment:

S. 705. An act to authorize the Secretary of Agriculture to convey certain national forest system lands, and for other purposes;

S. 2863. An act to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail;

S.J. Res. 240. Joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week"; and

S.J. Res. 264. Joint resolution to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week."

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 236. Concurrent resolution to declare March 1, 1983, as "National Day of the Seal"; and

H. Con. Res. 439. Concurrent resolution correcting the enrollment of H.R. 5470.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1501. An act entitled the "Educational Mining Act of 1982"; and

S. 3103. An act to amend section 1304(e) of title 5, United States Code.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS PRESENTED

The Secretary reported that on today, December 21, 1982, he had presented to the President of the United States the following enrolled bills:

S. 187. An act to authorize the Secretary of the Interior to convey certain lands near Miles City, Mont., and to remove certain reservations from prior conveyances;

S. 1735. An act to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in docket Nos. 113, 191, 221, and 246 of the Court of Claims; and

S. 3113. An act to make certain minor and technical amendments to the Job Training Partnership Act.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAKER (for Mr. Goldwater), from the Select Committee on Intelligence:

Special Report entitled "Implementation of the Foreign Intelligence Surveillance Act of 1978—1981-82" (Rept. No. 97-691).

By Mr. DOLE, from the Committee on Finance, with amendments:

H.R. 7397. An act to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region.

CARIBBEAN BASIN INITIATIVE

Mr. DOLE. Mr. President, I am pleased to report to the Senate from the Committee on Finance H.R. 7397, legislation to implement the President's Caribbean Basin Initiative. Members will recall voting in September to approve another part of the plan, the supplemental aid funds requested by the President.

H.R. 7397 would provide two incentives to development of the beneficiary countries. These are: First, to authorize the President to proclaim for 12 years duty-free treatment for products from the Caribbean Basin countries, with certain exceptions; and second, to extend the availability of the business-expense tax deduction for expenses incurred while attending conventions in these countries, subject to their signing an exchange-of-information agreement to prevent tax abuse. These incentives will foster growth in

the countries based on free enterprise principles and their own self-help measures.

To be eligible for these benefits, a country must not be Communist and it must be abiding by international law in the settlement of investment disputes. It further must not be pirating U.S. copyrighted material and it must have an agreement allowing extradition of U.S. citizens. Finally, after becoming eligible, it must agree on a food production plan that will preclude the possibility of an imbalance arising between food crop and cash crop production. There are also a number of guidelines on eligibility relating to the countries' willingness to follow free enterprise development principles.

Several products are exempt from the duty-free provisions. These are: Textiles and apparel products subject to the multifiber arrangement; petroleum and petroleum products; tuna; and footwear, handbags, luggage, flat goods, work gloves and leather wearing apparel that are ineligible for designation under the generalized system of preferences. Eligible products must contain at least 35 percent value-added sourced in the beneficiary countries. Fifteen percent of this total may be of U.S. origin. However, the articles must be imported directly from one of the countries; the value must be calculated from the direct costs of production; and the articles must be the growth, product, or manufacture of the beneficiary countries. Normal safeguard relief under section 201 of the 1974 Trade Act, and a special emergency procedure established by this bill for perishable products, will protect U.S. industries from any adverse effects of new competition.

As I noted earlier, Mr. President, title II of the bill will extend to U.S. taxpayers the benefit of a deduction for necessary business expenses incurred while attending conventions in the beneficiary countries and Bermuda. This benefit already extends to conventions in Jamaica, Canada, and Mexico. As a precondition to the availability of this deduction, however, countries must sign an agreement that will provide for exchanges of information to assist in enforcing the tax laws. It is estimated that this tax measure will mean a revenue loss of only $5 million, but will be a significant spur to the tourism industries in the countries. I include as an appendix to this statement a detailed explanation of the tax provisions of this bill.

Finally, H.R. 7397 contains several provisions that will benefit Puerto Rico and the Virgin Islands and protect them from any adverse effects of the CBI. These measures include: first, allowing an additional liter of alcoholic beverages to be brought into this country duty-free by a resident returning from them; second, rebating to them all Federal excise taxes collected on rum sold in the United States, third, inclusion of producers in Puerto Rico and the Virgin Islands within those entitled to protection under U.S. import relief law; and (4) liberalization of the rule of origin for products arriving from the insular possessions. I am convinced not only that these measures will substantially protect Puerto Rico and the Virgin Islands, but the measures further insure that they will reap significant benefits from the growth of their Caribbean neighbors.

Mr. President, I urge passage of this important legislation. The beneficiary nations of the CBI are widely divergent in cultures, histories, languages, economies, and governments. But they share some common characteristics: Most are failing economically; they are increasingly oriented economically, politically, and socially to the United States—and together they form our southern border. Too long this country has failed adequately to comprehend our national interests in this integrated region, and to take full advantage of the mutual opportunities greater cooperation offers. These interests are profoundly important.

In a region suffering a history of conflict, the nations of the Caribbean Basin offer in their nascent states a tempting target for Soviet trouble-making. The announcement last summer of a Soviet aid package to Grenada, the express purpose of which is to abrogate the historic Western ties of that island nation, provides a timely example of a real concern for our borders, our sealanes, and the Panama Canal.

The United States has great economic ties to the region. Despite their colonial past, the CBI countries import more from the United States than any other country. Last year this amounted to over $6 billion—half again as much as what we imported from them, excluding petroleum. U.S. direct investment reached nearly $10 billion in 1981. We import over 90 percent of our industrial requirements of bauxite and alumina from the Caribbean countries, and rely on them to a significant degree for nickel. The region clearly offers a vast new market for American products, if only greater economic and political stability can be brought about there.

Besides economic and security interests, the United States is bound by an increasing web of social ties with the Caribbean Basin countries. Some estimate that, excluding Mexicans, over 250,000 illegal immigrants now enter the United States yearly from the countries of the Caribbean Sea and Central America. Their desperate desire to seek political or economic emancipation in this country is perhaps matched only in magnitude by the strain on the services our National and State Governments provide them once they are here. I note that for the entire region in fiscal year 1982 the United States targeted about $475 million in developmental aid; the Federal Government and the State of Florida have spent over twice that on Cuban and Haitian refugees since the Mariel boatlift.

The ability of the United States to exploit these increasingly strong ties to the Caribbean Basin countries rests on their own stability. As the nations of Central America struggle to end armed conflict among themselves and with Communist guerrillas, as the Caribbean nations attempt to restructure their economies away from centuries of dependency on transfers from their former colonial sovereigns, an historic opportunity presents itself to the United States to aid in placing them on a firm, permanent path to growth and stability. The President's Caribbean Basin Initiative embodied in H.R. 7397, embodies a sound plan to that end.

Mr. President, I ask unanimous consent that an appendix to the bill be printed in the RECORD.

There being no objection, the appendix was ordered to be printed in the RECORD, as follows:

APPENDIX TO THE STATEMENT OF SENATOR DOLE—CARIBBEAN BASIN INITIATIVE—H.R. 7397—TAX PROVISIONS

Mr. President, as passed by the House, and reported by the Finance Committee, the CBI has two tax provisions: A rum excise tax rebate provision and a provision permitting business deductions for attendance at conventions in Caribbean countries.

RUM EXCISE TAX

Under present law the United States imposes an excise tax of $10.50 per proof gallon on all distilled spirits, including rum, manufactured in or brought into the United States. The excise taxes paid on rum made in Puerto Rico and the U.S. Virgin Islands and brought into the United States are transferred to the Treasury of Puerto Rico or the Virgin Islands.

This bill would require that all excise taxes collected on foreign rum brought into the United States (whether or not from Caribbean countries) would be transferred to the Treasuries of Puerto Rico and the Virgin Islands. The Secretary of the Treasury would prescribe a formula for allocating these taxes between Puerto Rico and the Virgin Islands.

Effective Date: The substitute would apply to rum imported into the United States after December 31, 1982.

Revenue Effect: It is estimated that this provision would reduce fiscal year receipts by $13 million in 1983, $20 million in 1984, $24 million in 1985, $27 million in 1986, and $33 million in 1987. This estimate does not take into account behavorial change that may result because of enactment of the proposal. Consequently, it should be regarded as a minimum estimate.

CONVENTIONS

Since the enactment of Public Law 96-608 in 1980, the Internal Revenue Code disallows deductions for business expenses incurred while attending a convention held outside the North American area (the

United States, the U.S. possessions, the trust Territory of the Pacific Islands, Canada and Mexico) unless the taxpayer can show that it was as reasonable to hold the convention outside the North American area as within it. The income tax treaty with Jamaica allows deductions for attending conventions held in Jamaica.

The United States has significant problems obtaining from some Caribbean countries information needed to enforce U.S. tax laws.

This bill would allow business deductions for attending conventions held in Caribbean countries if certain conditions are met:

First, the country would have to be a "beneficiary country" as defined in the trade portion (title I) of the bill. That is, it would have to be among the 28 Caribbean Basin countries listed in section 102(b) of the bill and it would have to be designated by the President as a beneficiary country. In addition, a deduction would be provided for conventions held in Bermuda provided that Bermuda met the other critieria.

Second, the country would have to enter into an executive agreement with the United States providing for the exchange of tax information. The agreement would be negotiated by the Secretary of the Treasury. It would provide, on a reciprocal basis, for information relating to U.S. tax matters to be made available to U.S. tax officials. The agreement would have to apply to both civil and criminal tax matters. It would have to override any local rules requiring secrecy about the ownership of bank accounts or bearer shares. The agreement would impose on the officials of each country a duty not to disclose this information other than to those involved in its tax administration.

Third, no deduction would be available for attending a convention in a country found by the Secretary of the Treasury to discriminate in its tax laws against conventions held in the United States.

Effective Date: This provision would apply to conventions beginning after December 31, 1982, but only if an exchange of information agreement were in effect on the day the convention began.

Revenue Effect: It is estimated that this provision would reduce fiscal year receipts by less than $5 million per year.

By Mr. DOLE, from the committee of conference:

Conference report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6211) to authorize appropriations for the construction of certain highways under title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes (Rept. No. 97-692).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ARMSTRONG (for himself, Mr. LONG, and Mr. DURENBERGER):

S. 3124. A bill to amend the Internal Revenue Code of 1954 to permit qualified pension funds and certain educational organizations to invest in working interests in oil and gas properties without incurring unrelated business taxable income; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER (for Mr. GRASSLEY) (for himself, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. MATTINGLY, Mr. D'AMATO, Mr. CHILES, Mr. JEPSEN, Mr. DIXON, Mr. HEINZ, Mrs. HAWKINS, Mr. DOLE, Mr. HUDDLESTON, Mr. GARN, Mr. HOLLINGS, Mr. PERCY, Mr. TSONGAS, Mr. KASTEN, and Mr. DANFORTH):

S. Res. 525. To express the sense of the Senate urging Presidential action pursuant to section 103 of the Revenue Act of 1971, 26 U.S.C. sec. 48(a)(7)(D) to disqualify certain Japanese manufactured, numerically controlled machine tools from the United States investment tax credit; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ARMSTRONG (for himself, Mr. LONG, and Mr. DURENBERGER):

S. 3124. A bill to amend the Internal Revenue Code of 1954 to permit qualified pension funds and certain educational organizations to invest in working interests in oil and gas properties without incurring unrelated business taxable income; to the Committee on Finance.

WORKING INVESTMENTS IN OIL AND GAS PROPERTIES

Mr. ARMSTRONG. Mr. President, legislation I am introducing today with Senators DURENBERGER and LONG could, once enacted, increase profits earned by pension plans and college endowments and, at the same time, infuse new and badly needed capital in domestic oil production.

This legislation is nearly identical to H.R. 7217, a House bill introduced by Representatives JENKINS, MATSUI, GEPHARDT, and FRENZEL, and is simple in concept. It permits pension plans and college endowments to treat, for tax purposes, income from oil and gas production exactly like income earned from stocks, bonds, and royalties. Once enacted, an additional investment pool of more than $500 billion would be available for investment in oil and gas production, and at the same time give pensions and endowments possibly higher rates of return on their holdings.

Some background on current tax law will explain the need for this legislation. Most college endowments and private pension plans are granted tax exempt status. Even if they are tax exempt, some sources of income received by pensions and endowments can, under current law be taxable. For Federal tax purposes, there are two sources of income—passive and unrelated business—for pensions and endowments. Passive income—not taxed—usually is interest and dividends earned on stocks, bonds, and royalties. Unrelated business is income taxed at corporate rates because, in theory, the income is derived from a business or investment not related to the purpose of the pension or endowment for which it received its tax exempt status.

This tax theory is 30 years old, and it makes sense. It seeks to eliminate unfair competition to taxpaying businesses by taxing their competitors controlled by tax organizations on the same basis. For example, an endowment owning controlling interest in a manufacturing plant should be taxed on the same basis as the manufacturer's competitor.

Generally, endowment and pension income that is exempted from the unrelated business income—or UBTI—will not be taxed. The problem is that in the past 30 years there has been precious little updating of UBTI. The result is not surprising. Changing economic conditions and new investment opportunities have somewhat outdated the unrelated business income tax. For example, it used to be that stocks and bonds enjoyed high rates of return and tax exempt organizations invested in them heavily. But the past 10 years have found the traditional equities—stocks and bonds—have been hard pressed to maintain an economic rate of return.

Simultaneously, however, direct investments in oil and gas producing properties have proved to be low risk, consistently performing assets that have brought yields outpacing inflation rates. Solomon Bros. reports that annual rates of return for oil assets have outpaced return rates on real estate, stocks, gold, and silver.

But the problem is that the current UBTI taxes earnings from most oil and gas production holdings of pension plans and private investments. The inevitable result is that pension and endowment trustees do not invest in oil and gas production and are foreclosed from higher investment returns than are available from stocks and bonds. Concurrently, oil and gas producers lose access from a large investment pool, estimated to be about $500 billion.

The bill I am introducing today is the solution to this problem. This bill permits pension and college endowments to invest through limited partnerships in working interests in oil and gas properties without being subject to the unrelated business income tax. This legislation is consistent with the underlying theory of the UBTI because it permits these funds to only passively invest in oil and gas production * * * meaning that the pension and endowment trustees cannot take part in the control of the business of producing oil and gas.

The bill has important safeguards that should make this bill noncontroversial:

First. Pension plans and endowments can only invest as a passive owner in a limited partnership, meaning they cannot exercise control in business decisions. In fact, limited partners exercise even less control over business decisions than stockholders do.

Second. Only qualified pension funds and educational organizations, as already defined in current tax laws, are covered under this legislation.

Third. These funds can only invest in working interests in oil and gas properties, meaning they must pay a share of the development and operating costs to receive a share of income. The definition of working interest is the same now used in current law.

Fourth. Pension plans and endowments will receive no benefit from income tax credits and deductions available to taxable limited partners. The bill also precludes allocations of these deductions and credits to taxable partners.

Fifth. Pensions and endowments will not receive exempt income from working interests held by a limited partnership if either organization is related to the general partner.

There are a number of reasons why this bill should pass, and soon. First, the bill has no revenue loss since investments in oil and gas production will only augment investments otherwise made in currently tax-exempt investments.

Second, the bill encourages portfolio diversification by pension plans and endowments that control nearly $500 billion.

Third, this bill offers the promise of higher rates of return than these pensions and endowments now presently receive.

Fourth, it will infuse new and badly needed capital in oil and gas production without raising energy prices. In fact, capital expenditures this year in oil and gas activity has decreased 35 percent this year.

Fifth, the legislation is consistent with the underlying theory governing unrelated business taxable income.

Sixth, this legislation corrects an anomaly in the current UBTI law. Currently, pensions and endowments can receive tax free income from oil royalties—simply investments in oil and gas activities where the investor pays none of the development costs—but cannot receive tax free income from working interests in oil producing properties. In both types of oil investments—royalty and working interest programs—investors are passive * * * exercising no control over business decisions. Thus, partnerships owning working interests should be subject to the same tax rules as are applied to oil royalties.

For these and other reasons, I urge quick enactment of this legislation. I ask unanimous consent that a more technical and detailed summary of this bill, as well as recent articles summarizing rates of return in stocks and bonds as compared to oil and gas production and an article summarizing rates of return in stocks and bonds as compared to oil and gas production and an article summarizing the desperate need for new capital in the oil and gas production program be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL EXPLANATION

The attached Draft Amendment ("the Bill") amends Section 512 of the Internal Revenue Code of 1954 (relating to the unrelated business taxable income of exempt organizations). The Bill would permit qualified pension funds and certain educational organizations to invest in working interests in oil and gas properties without incurring unrelated business taxable income, if such interests are held by such trust or organization as a passive investor (i.e., a limited partner) in a qualifying limited partnership. The amendment applies to pension funds that are qualified trusts under IRC Section 401 and exempt organizations ("qualified exempt organizations") described in Section 170(b)(1)(A)(ii) (generally, schools, colleges and universities) and in Section 170(b)(1)(A)(iv) (generally, exempt organizations created by public educational institutions with the purpose of holding an investment property for their benefit).

The definition of a working interest incorporates that which is contained in the regulations of the Internal Revenue Service, that is, an interest where the owner "is not relieved of its share of the development costs by the terms of any agreement with an operator." Treas. Reg. § 1.512(b)-1. The amendment is limited to investments in domestic oil and gas wells and is intended to employ the same description for those wells as is used in IRC § 613A, subject to application of IRC § 638.

To assure that partnership income is received by a qualified trust or qualified exempt organization as a passive investor, the Bill requires that the income must be allocated to such trust or organization in its capacity as a limited partner, which means a limited partner for tax purposes.

A limited partnership described in the amendment is one subject to a statute corresponding to the Uniform Limited Partnership Act, both as originally adopted in 1916 and as revised by the National Conference of Commissioners on Uniform State Laws in 1976 (and, in the case of Louisiana, to equivalent partnerships subject to the *In Commendam* law, as amended). A common aspect of the status of a limited partner under such laws is that such partner cannot take part in the control of the business of the partnership without becoming liable as a general partner. It is intended that the Bill will not apply to any pension fund or qualified exempt organization that falls to maintain its status under state law as a limited partner by virtue of having taken part in the control of the business of the partnership.

Income from a working interest held by a partnership may carry with it certain deductions—such as the partnership's administrative costs and the deduction for intangible drilling costs and the investment tax credit—that are allocated to all partners, including limited partners, under the partnership agreement. The amendment provides that all such deductions and credits, and any item thereof, will be excluded or disallowed in the case of any qualified trust or qualified exempt organization to which such item is allocated. Therefore, no such item would be available as a deduction or credit with respect to other taxable income of any such trust or organization.

The Bill precludes potential abuse through use of certain special partnership allocations. Allocations of larger amounts of deductions, losses or credits, relative to allocations of income or gain, would not be permitted to be made to taxable partners instead of exempt limited partners. The Bill provides three conditions that must be met by the limited partnership with respect to the allocation of income, gain, losses, deductions and credits among partners. First, under the partnership agreement, the partnership cannot allocate a lesser share of any item of deduction, loss or credit to the limited partners than their share of each item of income or gain. This requirement is intended to prevent the partnership agreement from allocating larger deductions, losses, or credits in relation to income or gain from the limited partners as a whole (who may consist in part or entirely of qualified trusts or qualified exempt organizations) to a general partner or partners; it is not intended to prevent special allocations under Section 704(b) that may have substantial economic effect from being allocated from the general partner or partners to the limited partners as a whole or to prevent the allocation of revenues to a general partner for services rendered to the partnership. Also, the Bill is not intended to prohibit the shift of sharing arrangements between the general partner and the limited partners, as is customary in the oil and gas industry, within a taxable year, so long as before and after such shift the conditions of the Bill are met.

Second, the Bill requires that, as between limited partners, there can exist no different allocation of any item of deduction, loss or credit. This is to assure that it will not be possible to allocate deductions that are available to the limited partners as a whole to taxable instead of exempt limited partners. However, this limitation does not apply to disproportionate deductions between partners arising as a consequence of the partners having different bases in their partnership interests or in their partnership properties, as, for example, resulting from a Section 754 election.

Third, cash distributions must be made in no different manner from the allocation of income or gain.

The Bill further provides that disproportionately lesser allocations of deductions, losses or credits to exempt limited partners cannot, subject to regulations to be prescribed by the Secretary, be effectuated indirectly, by use of multi-tier partnerships or other entities, such as trusts or Subchapter S corporations. This limitation is intended to apply only to situations in which a partnership or other entity is used as a purposeful device primarily to achieve a material misallocation of tax benefits from exempt to taxable investors. It is not, for example, intended to prevent a limited partnership that otherwise meets the conditions of the Bill from entering, directly or indirectly, into a general partnership, joint venture, operating agreement or "farm out" arrange-

ment for the acquisition, exploration or development of oil and gas properties under the terms of which the other partner, venturer or operator bears the economic burden of paying all or part of the costs of such acquisition, exploration or development and is allocated or assigned the deductions or credits associated with the costs borne by it.

The Bill further provides that pension funds and qualified exempt organizations will not receive exempt income from working interests held by a limited partnership if either organization is related to any general partner. The purpose of the related party provision is to assure that a pension trust or qualified exempt organization (or a group of such trusts or organizations) cannot control, directly or indirectly, the activities of a limited partnership by means of a related entity without becoming subject to tax on income from such activities. Under the Bill, income from a limited partnership interest would not be excluded from unrelated business taxable income if the combined holdings of all such trusts and organizations in a general partner were to represent 35 percent or more of the total interest in the general partner. For purposes of making this determination, the holding of certain related persons are aggregated with the holdings of the exempt pension trusts and qualified exempt organizations.

Many limited partnership drilling programs often, for administrative reasons, employ more than one tier of partnerships to effect investment in operating properties. For example, the investors may invest in an upper tier partnership (which may be either a general or a limited partnership) which in turn invests all its assets as a limited partner in a lower-tier partnership. It is intended that the amendment will apply to investors in such "two tier" partnerships, if the income is distributed to them either as a limited partner or as a partner in a partnership that is itself a limited partner (subject to the limitations of the losses, deductions and credits).

The bill also contains a conforming amendment to Section 514(c) (relating to unrelated debt-financed income) which provides that acquision indebtedness in the case of a qualified trust or a qualified exempt organization includes neither indebtedness incurred by the limited partnership to acquire or improve oil and gas properties or that incurred by such trust or organization in acquiring its limited partnership interest. This amendment provides that the objectives of the Bill in exempting income from working interests, will not fail to be achieved because the partnership has incurred debt for purposes of acquiring or developing its properties, as is customary in the oil and gas industry, or in exempting gain in the sale of a partnership interest because the trust or organization has incurred debt which might be deemed attributable to the acquisition of such interest.

It is not believed that the Bill will result in any material revenue loss, since, to the extent qualified trusts or qualified exempt organizations choose to invest in oil and gas drilling programs as a consequence of it, they will forego other investments producing dividend, interest and other passive income that would also be exempt in their hands. In addition, deductions, losses and credits allocated to an exempt limited partner will not be available to reduce the taxable income of that partner or any other partner. The Bill will take effect with respect to partnership taxable years beginning after December 31, 1982.

PENSION FUNDS EYE OIL, GAS VENTURES

Despite the doldrums of the U.S. drilling industry, pension funds are easing their ways into direct investments in oil and gas.

They are part of a move by institutional investors into ventures of this type (OGJ, Feb. 16, 1981, p. 62). Because they are tax-exempt organizations, pension funds have faced special legal hurdles that other institutions, mainly insurance firms, didn't encounter when they began to consider direct participation in oil and gas work.

The trend could help the oil and gas industry meet its huge future capital needs. But pension funds are moving cautiously.

One of their major motives is the lackluster performance of the stocks and bonds that make up the biggest share of traditional fund portfolios.

And as pension fund managers shed their characteristic wariness toward direct oil and gas investments, many oil firms are studying the special technicalities of working with pension fund capital.

One of these is the complex Employee Retirement Income Security Act (ERISA) of 1974, which regulates pension funds. And there are proposals to change the federal laws that restrict pension fund investments. Further, Congress is considering new regulations on public employee pension funds.

WHO'S INVOLVED

So far only a handful of oil and gas drillers, including ENI Exploration Co., of Seattle and Apache Corp., of Minneapolis, have entered deals involving pension funds.

Arranging the deals are a host of financial firms that include Heafitz, Widmann, McMahon & Gardner Ltd., and Chase Investors Management Corp., New York; Security Pacific Investment Management Corp. (SPIM), Los Angeles; and Bank of America, San Francisco.

The country's economic ailments, weakened oil prices, and drilling slump have dampened enthusiasm for pension fund investments in oil and gas. But oilmen, pension fund managers, and bankers say other factors are spurring a growing number of creative financing plans tailored to pension funds.

Among pension funds that already have made direct oil and gas investments are those of Atlantic Richfield Co., AT&T/Bell System, Ford Motor Co., General Electric Co., Hughes Aircraft, International Business Machines, Minnesota State Board, and National Rural Electric Co-op.

Although there are no reliable numbers on how much pension fund money is currently invested in oil and gas, specialists agree it will be an increasingly important source of oil and gas financing during the 1980s.

"It's an embryonic industry that could have enormous significance for the oil and gas industry," says Stephen M. Youts, a vice-president of Merrill Lynch White Weld Capital Markets Group, New York, who specializes in oil and gas financing.

ENI partner Barry Shulman says interest on the part of pension fund is "staggering, but it's also staggering how pension fund managers have classically stayed with stocks and bonds." He said the key to the future growth of fund investments in oil and gas is awareness and education.

Both are growing as the investment community becomes more familiar with oil and gas and the petroleum industry becomes more comfortable with pension fund investment options. Shulman said he expects funds will put 10–25% of their fund assets into nontraditional investment during the 1980s.

"Oil will be a leader, and the industry sure needs the transfusion," he adds.

WHY INTEREST SURGED

There are two main reasons why pension funds and the oil industry are studying a mutually satisfying arrangement.

As one Wall Street investment banker puts it, "The environment is right for creative financing." Oil companies need funds for costly exploration, development, and production programs. High interest rates are choking off traditional financing. As a result, there is a real push for new capital sources.

Meanwhile, pension funds are looking for inflation hedges and diversification opportunities. Their assets are expected to soar during the decade, and so will the oil industry's capital needs.

Pension fund interest in direct oil and gas investments "was not a love affair with oil and gas," says Victor Romely of Chase Investors Management. "It was sparked by a need for attractive return/risk investments that provide inflation protection because they ar tied to tangible assets. And it wasn't totally breaking new ground because royalties have for years been included in fund portfolios."

He said Chase began to feel earlier this year that there was a lot of untapped potential in oil and gas investments. So it asked some clients to earmark a portion of already committed funds being managed by Chase to oil and gas ventures.

Some clients gave Chase the green light, and as word spread other private and public pension funds and oil companies began inquiring about how they could participate in similar deals.

Chase's experience has been repeated by others in the field. But so far, few new dollars—money not previously committed—have flowed into oil and gas investments. That too is changing gradually, and at least two firms are putting the finishing touches on deals that will involve previously uncommitted dollars.

OBSTACLES AHEAD

Before pension fund dollars can flow unimpeded into direct oil and gas investments, a number of obstacles will have to be eliminated.

Much effort is going into educational presentations for pension fund managers, oil companies, and investors. Many finance specialists believe that education is the first hurdle and that misconceptions on both sides of the fence have to be cleared up.

Second, the Labor Department has long promised—but hasn't produced—proposed revisions of Erisa that deal with plan assets of private corporate and union pension funds. Some pension fund managers and companies who want to participate or structure these deals are reluctant to do so for fear they won't comply.

A Labor Department attorney says the regulations are still being worked out and may be ready by early fall.

Private and union pension funds are tax exempt and must comply with Erisa law. Under current law, these funds are barred from "active" investments such as joint venture participation or working interest ownership.

The funds can own royalties and make loans. Typically, the deals have been private placement of debt leading to earned equity interests. Money is used for everything from

acquiring royalties and leases to paying for drilling and completion.

Interest in these deals is also diluted somewhat by the fact that in most cases it is too early to tell whether the first deals will have solid returns on investment. Just as good results will encourage more deals in the future, the inability to assess the earlier deals is holding back interest.

And some fund managers are wary of direct oil and gas investments because of the recent sluggish performances of oil company stocks in their portfolios.

THE DEALS

Among the first companies to enter deals with pension funds was Apache Corp. with the help of Bank of America's Trust Department.

In 1980, four unidentified pension funds bought Apache limited recourse notes totaling $65 million, which the company used to pay obligations in seven 1979-80 drilling programs (OGJ, Oct. 13, 1980, p. 79).

This year, four pension funds will lend Apache as much as $180 million to finance the oil company's share of an oil and gas exploration and development joint venture with Shell Oil Co. in the Gulf of Mexico.

Apache will pay back the principal along with 10%/year interest, and an amount equal to 3% of the gross oil and gas revenues Apache receives from its share of the leases involved through 2031. Apache's share of the leases is securing the pension fund loans.

Heafitz, Widman is working on American Gas & Oil Investors II, which will be similar to its 1981, $145 million limited partnerships with diversified oil and gas investments. Ten pension funds participated in the deal. Money was used mainly for field development and production purchases.

Until recently, the huge amounts needed for syndication investments kept only the largest pension funds from investing directly in oil and gas. But with the advent of oil and gas commingled funds, at least three firms join Bank of America in trying to lure smaller and medium sized pension funds. SPIM and the Prudential Insurance Co. both offer such programs. Investments are limited mainly to development drilling to lessen the risk.

Prudential's Mat Chanin said the insurance company was flooded with calls from oil companies and fund managers when they introduced the program. A series of closed-end commingled funds is planned with a minimum size of $50 million/fund. Investments will primarily be in proven developed and undeveloped properties, not exploratory drilling programs.

Damson Oil Corp. also recently announced its Damson Institutional Oil & Gas Income Funds, structured for institutional investors, including pension funds. The fund allows tax-exempt institutions to invest in oil and gas through a two-tier structure that doesn't generate unrelated business taxable income.

ENI was involved in four deals last year with four pension funds that supplied about $23 million. Chase made a private placement with ENI on behalf of an unidentified pension fund in the form of a $10 million loan with an equity kicker, and ARCO made a similar $5 million placement with ENI.

The other two deals involved $5 million from the pension fund of a large insurance company and $2 million from an unidentified privately held firm. Shulman said this year's deal "dwarfs" the total amount that was pledged last year.

Pension funds overseas are also showing an interest in participating in programs that invest in oil and gas exploration in the U.S.

One incentive is that foreign pension funds may own working interests in oil and gas properties, unlike American funds.

Last year, J. Henry Schroder Wagg & Co. Ltd. of London assembled London American Energy NV, a group of British investors, mostly pension funds. They purchased 90% of a $100 million private placement to invest in U.S. oil and gas exploration/development drilling via joint ventures with Adobe Oil & Gas Corp. of Midland, privately held Colonial Energy Partners Inc., Moran Energy Inc. of Houston, and Southland Royalty Co. of Fort Worth.

About 150-200 wildcats will be drilled, plus any development wells associated with successful wildcats.

OUTLOOK

Pension funds aren't expected to earmark big chunks of their assets for oil and gas investments during the 1980s. But the consensus is that there will be steady, gradual growth of such investments during the decade.

"We'll see more continued modest beginnings," said Edward Gardner, managing director of Heafitz, Widmann. "We won't see a flood of pension fund dollars. They will come in pooled sources, begrudgingly at first. But the oil industry will win over the source of capital the old fashioned way—with results."

GAO: INDUSTRY DILIGENT ON FEDERAL LEASES

The General Accounting Office has found no fault with U.S. operators' exploration of federal leases.

GAO said, "Concerns that diligent efforts by industry are lacking and that speculators are a significant problem stem largely from a lack of data and understanding of how industry and the leasing system works.

"There is no one factor that seems to be having a major impact on development, and most only delay rather than prevent such development."

The study pointed out that industry is devoting considerable effort to non-federal acreage and some federal land in areas of significant oil production, much federal leasing takes place in wildcat areas, and most of the things the federal government could do to spur activity would reduce industry's flexibility.

The congressional agency said lease speculators don't appear to delay oil development materially, yet they provide substantial revenues to the federal government.

The study recommended that the Interior Department continue to eliminate unnecessary delays in assigning leases and processing drilling permits.

GAO surveyed drilling activity on sample federal leases issued between 1964 and 1979 in Wyoming, Utah, New Mexico, and Colorado.

Of the 783,626 leases checked only 5,984, or 8.13%, were drilled. Nearly 51% of those were drilled in less than 5 years, 35% in 5-10 years, and 14% in 10 or more years. One reason so few federal leases are drilled, GAO observed, is that individual leases are assembled in blocks on which only a few holes will be drilled.

"It is a practice of many oil and gas companies to acquire more leases than they can drill," GAO pointed out. "This affords an inventory and choices of drillsites in a rapidly changing situation. No one factor is apparently impeding exploration in a major way, other than the fact that much of the land is seen by industry as having little potential."

ROUGH PATCH.—OIL INDEPENDENTS ARE HURTING FINANCIALLY

(By Rhonda Brammer)

Despite declining interest rates, troubles in the oil patch—especailly among the smaller producers—may be far from over. "Companies were spending like drunken sailors in expectation of higher prices and increasing volume," says Oppenheimer & Co.'s Arthur L. Smith.: "Now you've had an unprecedented reversal in industry fundamentals. The interest expense from the spending spree is becoming an onerous burden."

Smith studied the liquidity of 261 oil and oil service companies and concluded some 100 appear to be in financial difficulty. (See table for a sampler.) He tiptoes around the word "bankruptcy," refusing to point the finger at specific companies. But he, and others in the industry, suggest that he collapse of Penn Square, the bankruptcy filings of oil-service outfits like Dreco and NuCorp. and widely-published difficulties of Saxon Oil and American Resources are indicative of things to come.

"I would say there are going to be a few more bankruptcies, says Kirby Exploration President George Peterkin. And Rotan Mosle's Geoffrey Hertel agrees: "Certainly, look at the number of independent operators who've overextended themselves."

In the days of skyrocketing energy prices, oil companies—abetted by willing bankers—took on enormous amounts of debt. "Everybody was carried away with reserve estimates," says one executive, "and sometimes there was inadequate investigation of those reserves."

These days, he notes bankers are taking a second look, and finding they don't have quite the collateral they thought. At the same time, falling prices and soft demand—especially for natural gas—are imperiling companies' ability to make interest payments. Top it off with the collapse of Penn Square, and you have bankers who are understandably antsy—who are putting even more pressure on corporate borrowers, urging them to pare down debt and insisting on tough requirements for new loans.

Companies in the meanest straits appear to be those that borrowed heavily to drill for deep gas. They decided to go ahead with deep wells—costing around $10 million a shot—because they could sell the gas for $8, $9, even $10 per thousand cubic feet. Currently, though, they'd be lucky to land a contract for $5 an mcf, industry sources say. And that's if they are able to come up with a buyer at all.

The demand for gas has weakened with the economy; some 40% is used in industry. And specialists like First Boston's Thomas Petrie are predicting the glut in the U.S. "is likely to worsen"—at least in the near-term, as new supplies from the Overthrust Belt come on stream, and Canada and Mexico come under increasing pressure to reduce their export prices.

So what do highly-leveraged companies do in the meantime? "You just try to stay alive," says Denton Howard, spokesman for the Oklahoma-based Amarex, a company that's made big bets on deep drilling in the Anadarko basin. "We have 40 wells," reports Howard. "They cost between $9 million and $14 million to drill, so you can imagine the capital commitment."

Indeed, Amarex has virtually doubled its long-term debt each year for the past three years. And that borrowing spree is costing it dearly. In fiscal 1983's first quarter, ended July, Amarex sank into the red. Why? Interest payments were more than three times operating income. Or looking at it another way-interest expense was 140 percent of operating cash flow. The company's long-term debt now stands at some 80 percent of capitalization.

And it's far from clear how Amarex can crawl out of its fix. The banks probably won't help. As a rule of thumb, they won't lend more than 50 percent of asset value. But according to oil analyst Kurt Wulff at Donaldson, Lufkin & Jenrette, Amarex's long-term debt is already 71 percent of its breakup value.

Other producers in Anadarko—Inexco, Dyco and Universal Resources—are showing financial strains from supporting expensive drilling programs. But the most notable woes have befallen Saxon Oil, which is huddling with creditors to avoid bankruptcy. Sources say Texas International, another deep-gas producer, is also seriously strapped.

Fed up with the worries inherent in such leveraged companies, some investors are pushing toward quality. "It used to be investors looked for exploration potential," says Mosle's Hertel. "Now the most important thing is financial position." And why not? "I'd much rather buy an exploration company that hadn't loaded up on debt, argues Robert Garrison of Houston-based Underwood, Neuhaus. "It has unique opportunity to buy reserves cheaply. And drilling's cheaper. The tubular goods, the mud, the leases—everything's cheaper."

So how does an investor zero in on quality and avoid tomorrow's bankruptcy? Smith insist his study is a good starting point. Consider pre-tax cash flow. Based on year-end numbers, General American Oil's cash flow was almost 123 times its interest expense. Compare that with troubled American Resources, a company that couldn't muster the cash flow to cover its interest costs. If cash flow isn't at least 2.5 times interest costs, it could spell trouble, says Smith.

His debt payback period tells how long it would take a company to pay off its debt if it spent every penny of cash flow for debt repayment. General American could do it in less than two months, while it would take Amarex a dozen years. For Saxon to whittle away its debt, based on 1981 cashflow, would take 14 years. As Smith sees it, anything over three years should give investors pause.

The sales-to-debt ratio shouldn't be under 1, Smith figures. If sales equal debt, that means the company must have an operating margin equal to the interest rate on the debt just to break even. Yet according to Smith's numbers, both American Resources' and Chaparral Resources' sales amount to less than 10 percent of total debt.

Some oil people contend that Smith should use 1980, instead of 1981, debt to compare with 1981 sales. That's because as one executive points out, "the debt is presumably incurred to bring on production during the [ensuing] year." Smith argues that given the environment, 1982 sales are likely to be below, not above, the 1981 levels.

One of the most interesting ratios, according to Smith, is capital spending as a percent of after-tax cash flow from operations. "Anything above 100 percent means the company needed outside financing to fund the outlays," he says, "Virtually every company made capital expenditures in 1981 that were well in excess of internal cash flow, and some spent 20 and 30 times cash flow." Smith's numbers, however, may overstate capital spending, since he hasn't always made adjustments for joint ventures.

Still, there's no denying that oil producers made heavy capital outlays last year. No denying, either, they assumed huge gobs of debt in the process. Now the debt remains and so, of course, does the burdensome cost of carrying it. Everything else in the oil patch seems to be vanishing into thin air.

TALLYING UP THE OIL DEBTS

	Pretax cash flow coverage	Sales to total debt	Debt payback period (years)	Capital spending as percent of after-tax cash flow
Independents:				
Adobe Oil & Gas	4.50	1.56	2.48	213
Allied Corp.	13.11	6.69	1.38	88
Amarex Inc.	2.10	.23	12.03	840
Am. Quasar	2.43	.56	2.66	187
Am. Res. Mgmt.	.75	.05	[1]N/M	−902
Apache Corp.	5.41	.63	3.75	259
Argo Pete.	2.37	.46	7.43	501
Callon Pete.	12.49	1.06	1.61	254
Chaparral Res. Inc.	2.30	.08	19.44	3,206
Cons. Oil & Gas	1.78	.42	9.68	234
Damson Oil	2.62	.50	5.20	230
Diamond Shamrock	6.52	3.84	3.01	178
Dyco Pete.	3.31	.45	5.21	123
Energy Res. Grp.	1.84	.78	N/M	248
Felmont Oil	15.39	4.54	.43	132
Forest Oil	2.24	.45	5.59	179
Freeport McMoran	9.18	2.21	1.22	166
Galaxy Oil	2.09	.33	10.84	956
General Amer Oil	122.86	23.09	.11	95
Hadson Pete.	4.38	.29	3.31	488
Hamilton Bros. Pete.	5.52	1.96	1.88	129
Hershey Oil	127.38	14.52	.15	274
Howell Pete.	N/M	18.45	.30	121
Inexco Oil	4.16	.65	3.52	257
Kirby Expl.	5.24	1.10	3.12	341
Lear Pete.	3.13	.85	5.94	581
Louisiana Land Expl.	26.13	3.46	.92	165
May Pete.	7.76	1.13	1.88	175
McCormick Oil	7.85	1.40	1.41	.84
Mesa Pete Co.	3.84	.41	4.18	239
Mitchell Energy	3.60	1.33	3.80	213
Natomas Co.	8.80	1.56	2.02	225
Norris Oil Co.	1.29	.96	7.40	1,823
North Am. Rlty.	52.59	18.93	.25	116
Oxoco	2.52	.38	6.08	531
Park Ohio Inds.	5.55	4.05	2.48	144
Petro Lewis	3.29	.66	4.28	325
Pogo Producing	7.24	.94	1.85	170
Ranger Oil	6.90	2.09	1.96	266
Sabine Corp.	8.63	1.69	1.31	200
Saxon Oil	1.51	.27	14.65	1,410
Southland Rlty.	3.30	.90	4.41	133
Superior Oil	9.24	1.60	1.84	147
Texas Intl.	2.56	.52	6.33	475
Towner Pete.	1.87	1.58	12.82	1,038
Triton Energy	5.10	.75	3.92	206
Universal Res.	29.68	5.91	.34	224
Wainoco Oil	1.55	.32	N/M	418
Wiser Oil	N/M	N/M	.00	94
Woods Pete.	40.61	4.80	.40	158
Drilling company:				
Anglo Energy	5.21	2.55	2.88	185
Atwood Oceanics	5.35	1.26	1.73	113
Brown, Tom	4.52	1.63	2.99	217
Butts Gas & Oil	1.60	.49	N/M	955
Delta Drilling	6.31	1.94	N/M	367
Global Marine	4.56	.86	3.01	292
Helmerich & Payne	16.60	2.35	1.01	104
Kaneb Svcs.	4.20	1.49	3.91	167
MGF Oil	2.67	.65	5.60	563
Moran Energy	8.18	1.21	2.07	220
Nicklos Oil	165.58	18.82	.15	262
Noble Affiliates	21.01	3.07	.79	154
Ocean Drilling & Expl.	42.65	5.41	.48	115
Parker Drilling	6.00	2.21	1.96	162
Reading & Bates	8.46	1.49	2.42	253
Rowan Cos.	11.51	3.58	.71	118
Sage Energy	9.06	1.22	2.18	203
Sedco Inc.	4.71	.99	3.16	162
Verna Corp.	6.96	2.32	1.99	261
Zapata Corp.	4.38	1.07	3.61	163

[1] N/M—Not meaningful.

Source: Oppenheimer & Co.

ADDITIONAL COSPONSORS

S. 2123

At the request of Mr. SYMMS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2123, a bill to amend title 18, chapter 44, United States Code, to provide clarification of limitations on controls of the interstate movement of firearms, and to prohibit the use of Federal funds to political subdivisions which implement certain gun control ordinances.

S. 2928

At the request of Mr. HATFIELD, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2928, a bill to provide for equal access to public secondary schools.

SENATE RESOLUTION 406

At the request of Mr. KENNEDY, the name of the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of Senate Resolution 406, a resolution to assure Israel's security, to oppose advanced arms sales to Jordan, and to further peace in the Middle East.

SENATE RESOLUTION 516

At the request of Mr. GRASSLEY, the names of the Senator from Michigan (Mr. RIEGLE), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of Senate Resolution 516, a resolution expressing the sense of the Senate on urging Presidential action pursuant to section 103 of the Revenue Act of 1971, 26 U.S.C., section 48(a)(7)(D) to disqualify certain Japanese manufactured, numerically controlled machine tools from the U.S. investment tax credit.

NOTICE OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President on February 3, 1983, the Senate Committee on Small Business will continue its oversight hearing on the Small Business Investment Company program. The hearing will begin at 9:30 a.m. in room 424 of the Russell Building. Senator WEICKER will chair.

On January 21, 1983, the Senate Committee on Small Business will hold an oversight hearing on the Small Business Development Center program. The hearing will commence at 9 a.m. in the Lou Strom Auditorium of the Federal Building, 275 Peachtree Street NE., in Atlanta, Ga.

ADDITIONAL STATEMENTS

SURFACE TRANSPORTATION ACT OF 1982

● Mr. BIDEN. Mr. President, we are less than a week away from Christmas. To many people this holiday season is anything but joyful. At no time in my

years in the U.S. Senate have I been more concerned over our Nation's economic well-being. My overriding concern, of course, lies with the 12 million men and women who are officially counted as being unemployed. Another 3 million people, it is estimated, are unemployed but statistically uncounted. Countless others are underemployed. All these people, along with their families, know the real meaning of an "economic downturn" to use the phrase so many policymakers prefer to use. I have never seen worse times.

November's unemployment rate of 10.8 percent is the highest since the spring of 1941. Overall production in our factories sank to a postwar low of 68.4 percent in October. Through the end of November 23,015 businesses have failed this year—an increase of 49 percent compared to last year. While many people are truly having difficulty putting food on their tables, we have record surpluses of agricultural products which have held farm prices well below their cost of production. Net farm income, adjusted for inflation, is lower today than it was in 1932, the worst year of the depression.

It is in this environment that the Congress has been considering the pending highway/gas tax legislation. Many have urged its passage because of the 320,000 jobs the Department of Transportation has estimated it will create. Others argue for its enactment because it begins to address the problem of our deteriorating highways and bridges. Both are compelling reasons to support the bill.

But, Mr. President, I cannot support this legislation for other more compelling reasons. My objections, simply stated, are that the bill imposes unfair tax increases during the severest recession in our history without any information of its impact upon the economy available. Let me explore my concerns in greater depth.

This legislation raises the Federal tax on gasoline and diesel fuels from 4 to 9 cents a gallon. It is estimated that this hike will take $6.7 billion out of the pockets of motorists during the next year and a half. The tax applies evenly to all. It does not matter whether a person earns $60,000 a year or $10,000, or is unemployed. The same nickel a gallon tax increase will occur.

Now there are those who argue that a nickel more a gallon is insignificant—that it is fair. But to those with lower incomes and to those who live in rural areas who are more dependent on their automobiles, this tax increase is anything but fair. That is why I supported an amendment which would have provided an increase in the earned income tax credit to offset these higher gasoline taxes. The earned income tax credit applies only to the working poor—those who earn $10,000 a year or less. The amendment would only have applied to individuals earning less than $10,000 annually and who have children. Unfortunately, the amendment failed by a vote of 42 to 50.

I supported another amendment that sought to make the financing of these needed highway repairs more equitable. It would have also provided another 411,000 jobs while not increasing our bulging Federal deficit. It would have accomplished this by delaying the third year of the 1981 individual tax cuts for those making more than $65,000 and by partially delaying it for those making between $50,000 and $65,000. Capping the third year of the tax cut would have raised $23.8 billion over the next 3 years. Instead of raising the gasoline tax for all, rich and poor alike, it would have placed a greater share of the burden on those who can most afford to bear it.

This amendment, offered by several Democrats including myself, also would have provided 5 additional weeks of Federal unemployment benefits to many of Delaware's 22,000 unemployed people.

This amendment also proposed a one-time supplement of $2 billion for this year's community development block grant program. These funds would have been used to match up the existing pool of those able to work and who are actively seeking work with an existing backlog of useful community projects which city and county governments already have planned for which they lack available funding.

To insure that these funds would have benefited the unemployed, the amendment stipulated that 80 percent of those hired had to have been unemployed for 15 of the previous 26 weeks and so certified by the local U.S. Employment Service office.

The amendment also provided funds to retrain up to 60,000 skilled workers who have been permanently laid off. Another 20,000 part-time jobs would have been provided low-income persons over the age of 55 through an existing program which successfully employs 50,000 senior citizens who need supplemental income in order to pay their rising bills.

While the amendment included funding for a variety of other programs, I want to mention only one other here. I have already mentioned the serious situation facing our Nation's farmers. The Democratic alternative provided $750 million to implement the agricultural export revolving fund which was authorized by last year's farm bill but which is still unfunded. While the decline in net farm income is not solely attributed to weakened exports, exports do play a major role in strengthening farm income. Overall, one-fourth of farm income is attributed to exports. But the value of farm exports have slipped recently. Much of this decline can be blamed by the dollar's overvaluation.

Our farm products have become to costly to finance overseas. To export, we must have credit available on a continuing basis. Thus the need for the self-supporting revolving fund to allow the Commodity Credit Corporation to finance short-term commercial export sales of agricultural commodities including poultry. These loans will be repaid with interest and then reloaned. Why, some might ask, should we include funding for this program in a jobs package. The answer has been provided by the Department of Agriculture which estimates 35,000 jobs are created for each $1 billion in exports.

In my opinion, the Democratic alternative was not only fair but would have provided significantly more jobs than the administration's package. Unfortunately, this amendment lost 44 to 53.

Another problem created by the pending bill which concerns me is the excessive increases in fees and taxes which the Nation's truckers will have to pay. Currently, the owner of a 80,000-pound truck pays $240 annually. As reported by the Finance Committee, this fee will rise to $1,600 annually. The Finance Committee estimated that the trucking industry will have to pay an additional $885 million in total taxes during the next 18 months. This is over and above the $5.6 billion which they are already projected to be paying under existing tax rates. In 1982, the trucking industry made only $120 million in net profits on $44 billion in sales—a profit of less than one-half of 1 percent. While it may be true as the Department of Transportation contends that heavy trucks do not pay their fair share under existing taxation levels, such an increase in a time of deep recession is questionable economic policy at best. Truckers—especially small independents—are struggling as much as everyone else. While larger firms undoubtedly will be able to weather the increases, many independents may not. Given their existing profit margins, these higher taxes will have to be passed through to the consumer. Once again, the public will have to bear the costs of this bill. More importantly, what impact will these higher taxes have on the economy. No one has had the time during the 3 weeks this bill has been under consideration to estimate this bill's impact.

While I supported the Boschwitz amendment which was adopted and which lowers the annual heavy use fee to $1,200 as well as stretching its phasein period to 3 years, I am still concerned that now is not the time for a 500-percent tax increase.

In conclusion, Mr. President, while I support rebuilding our Nation's high-

ways, bridges, and mass transit systems I cannot support financing this program using the regressive tax increase contained in this bill given our current economic distress. Not only does it not make good economic sense, it simply is not fair. While the Surface Transportation Act of 1982 contains provisions which I do support, I must oppose its passage tonight. We simply do not know the impact it will have on the economy and I am not willing to gamble it will work. The price is simply too high.●

REMARKS OF SENATOR HATCH AT FOOD AND DRUG LAW INSTITUTE ANNUAL MEETING

● Mrs. HAWKINS. Mr. President, recently Senator ORRIN HATCH, the distinguished chairman of the Senate Labor and Human Resources Committee, spoke to the Food and Drug Law Institute's annual meeting in Washington, D.C., on the subject of food and drug legislation, specifically on possible areas for change in our Nation's food and drug laws.

I think my colleagues would benefit by reviewing his analyses of possible legislative initiatives in this area and I ask unanimous consent that the text of Senator HATCH's speech be printed in the CONGRESSIONAL RECORD in full.

The speech follows:

REMARKS PREPARED BY SENATOR ORRIN HATCH OF UTAH

I am honored to be with you this morning. As chairman of the Senate Labor and Human Resources Committee, I have substantial responsibilities for the oversight of the Food and Drug Administration and the laws under which it operates.

As most of you know, I am a strong supporter of Commissioner Hayes. I have confidence in the job he and the agency are doing. However, they are often unnecessarily constrained by antiquated and unrealistic provisions of law. So I particularly welcome this opportunity to discuss with you possible areas for change in our nation's food and drug laws.

Certainly, the area of food and drug law that received the most attention during the 97th Congress, and that I predict will continue to be the focus of attention during the 98th, is food safety reform. Today, let's take this opportunity to examine together what we have accomplished during the last two years and what I hope we will accomplish in the upcoming two years.

In July of 1981, I introduced S. 1442, the Food and Safety Amendments of 1982. As I said when I introduced S. 1442, it was not intended to serve as an end product, but rather as merely the beginning of revising the food safety laws. And in that respect, S. 1442 has been a tremendous success. It was responsible for stimulating the development of nearly half a dozen other proposals. It also stimulated a spirited debate—a debate absolutely essential to ensuring that we ultimately arrive at the best possible new law.

In rereading S. 1442 during this past week, I am convinced that some of its provisions continue to represent sound public policy and effectively correct deficiencies in the prevailing law. But, I can also understand why certain individuals consider S. 1442 to be overly ambitious and too complex.

Nonetheless, the criteria that guided me in drafting that bill still represent to me the basic principles that we should follow in drafting a final bill for passage during the next Congress. Let me reiterate them today:

First, we should not attempt to wholly restructure the existing statutes nor substantially overrule existing judicial case law on food safety. Rather, we need to retain the basic integrity of the current law, which has ensured American consumers that their food supply is the safest, most wholesome and abundant in the world.

Second, the law should continue to provide incentives for the development of safe additives.

Third, all relevant scientific data and information should be analyzed in making determinations about food safety, especially in distinguishing significant from insignificant risks. Otherwise, we may not be focusing our resources on protecting against those risks most significant to human health.

Fourth, we must make available the best outside scientific judgment to assist the agency in assessing risks.

Fifth, the law should allow flexibility of regulatory response. We must be able to respond rationally in those special cases where a risk, though real, is, or may be, broadly acceptable to the general public because of the importance of the substance.

These principles represent the thinking and anlaysis of many diverse scientific and legal experts, including the National Academy of Sciences, the Congressional Office of Technology Assessment, the Food Safety Council, and former FDA commissioners and general counsels. Upon such a firm foundation the law can be changed without altering the safety of our food supply.

After I became convinced that these basic principles for changing the law were attainable, and I had succeeded in rekindling the debate, I set out on what I considered an enormously difficult, yet critically important, task—to develop a bipartisan consensus on the best way to correct the deficiencies in the prevailing law. I am able to report to you now that such a consensus is not only possible, but I believe it may even be very clsoe to being reached.

Mind you, I am not talking about satisfying those on either extreme of the policy spectrum. Those who advocate a hardline position on either side of the debate may serve an honorable purpose, but they are limited in their ability to affect policy. Let me emphasize that this Senator is not going to carry the banner of any group which fails to acknowledge that the key to developing a new, effective law lies with careful analysis and a willingness to compromise rather than with decade-old rhetoric.

I believe that most members of this and the next Congress will willingly work together toward a bipartisan resolution of this important issue. There is a lot of common ground already in place.

Soon after I introduced S. 1442, Representative Gore intorduced his own bill to improve the food safety laws of our nation. I was even a little flattered when certain consumer groups dubbed it a "re-Hatched" version of my original bill. And I must say that, on the whole, the Gore bill is a bill I could have lived with.

Meanwhile, my staff sat down with Senator Kennedy's staff and Secretary Schweiker's staff to reach the widest possible consensus. They reached agreement on a new Senate staff draft that is not all that dissimilar from the Gore bill.

Recently, the administration provided us with some timely support. The Food Safety Working Group also came forward with a staff draft. The group's chairman, Bill McMilan from USDA, has said that their draft, "now adheres to many of the principles in the latest Senate staff working draft."

Now, don't get me wrong, our work is far from over. Even after being intensely involved in this debate for more than two years, I believe that there is still much for all of us to learn. Only after further discussion and analysis will I become convinced which of the proposals currently on the table, or combination of them, or even any new proposal yet to be developed, deservess my support.

I believe the time is now right for us to proceed to formal Senate hearings and I hope to hold such hearings early in the new Congress. And let me even suggest that those of you who wish to testify should write to my committee office. I've held off until now because I strongly believe that the hearing process is most useful when it is established upon a solid foundation. With a half-dozen workable proposals currently available for discussion, each one representing considerable thought on the part of the individuals who drafted them, a thorough hearing process can be used to highlight the strengths and weaknesses of each proposal.

Thorough hearings, if they are to be productive, need to be carefully focused. So let me suggest today what I believe is the most important question that we need to ask over and over at the upcoming hearings. You will hear me repeatedly ask: Does the proposal under consideration improve or impede the ability of the FDA and the Department of Agriculture to do a good job, both for the present and the future, in ensuring that the American food supply is the safest in the world.

This question is the heart of the debate. We could get side-tracked by the more abstract questions, such as "How safe is safe?" But I don't think these questions are likely to be as productive, for the answers end up being more philosophical than practical.

We, the members of Congress, must establish a framework to improve the process by which the FDA and the Department of Agriculture reach their decisions. There are zealots who charge that any change in our food laws will inevitably result in a less safe food supply. I say: Hogwash! There is not a person in the food safety area who wouldn't admit that the decision-making process can be improved. It's a clear signal that the law needs reexamination when both consumer groups and industry lawyers spend half of their time in court trying to change agency decisions.

And it's an even clearer signal that that law needs to be reexamined when decisions are thrown back into the lap of Congress. For the third time in six years, the saccharin moratorium will expire in August of next year. As Ted Kennedy said in 1979, "The Congress should not be asked to intervene in the regulatory process on a product-by-product basis, as is currently the case. if current regulatory statutes do not permit issues to be resolved fairly, then those statutes should be reexamined. It does no good to have a law which Congress overrules each time its provisions are involved." I agree. And I am committed to work as diligently as I can during the 98th Congress for passage of a new law which endures a regulatory process that makes sense and that guarantees the safety of our food supply.

Let me now turn to another area of food and drug law that also has received and will continue to receive the attention of Congress. This is the area of sodium labeling. I think there's a strong consensus in Congress for backing Commissioner Hayes on a voluntary program. Hypertension is a major disease posing serious problems and we know that salt is a prime contributor. It is important for the Congress to ask industry to listen to Hayes, because if they don't, both the House and Senate are going to need to take action. While I am strongly, vehemently opposed to over-regulation, I think that in a few years we're going to have turn around and look at the salt problem and ask: How much cooperation are we getting from industry?

I don't think any of us know all the answers on how the salt problem should be addressed. For the moment, we should support the commissioner. We should support the voluntary program. And if it works, I see no need for legislation.

I would like to turn briefly and discuss what I see as some of the important issues facing the pharmaceutical industry in the Congress in the next year.

I believe that the strength of our nation and our ability as a people to solve problems are based on our scientific and technological preeminence. However, our role as a leader in innovation and technological development can no longer be taken for granted. A possible weakening of the status of innovation in the United States has been a concern of President Reagan since the beginning of his administration. The policies of the federal government and the Congress must address this important national concern. The government must maintain an environment conducive to efforts by the research and industrial communities to make better use of the knowledge, technologies and problem-solving techniques already available and, through innovation, to find new ways to provide for our national needs.

We are already making great strides in this area. Perhaps the most important step we have taken that affects the pharmaceutical industry needs a sufficient incentive to conduct research and development. This incentive has in the past been reduced by regulatory delay at the Food and Drug Administration and, over the years, investment for innovation has been adversely affected. Because of this regulatory delay, industry has found other uses for its research dollars, uses which may not be as productive for society. In my view, the Patent Term Restoration Act would restore the proper balance. I am disappointed that the bill will probably not pass the Congress this year, but I am committed to its passage next year.

In a similar vein, we must encourage longer periods of exclusive licensing for drugs which received some government funding in the research stage. Currently, even though the patents to these drugs are privately held, the government controls the length of the license. In the past, HHS has been reluctant to extend exclusive licenses beyond a minimal period. As is the case with the Patent Term Restoration Act, this reduced exclusivity period has in some cases resulted in reduced research and development.

The Universities and Small Business Patent Act, which recently passed the Congress, will allow small businesses to obtain exclusive licenses to market drugs developed with government funds for the full term of the patent. This is an important incentive in encouraging those businesses to develop the full potential of the orginal discovery. I see no reason why that incentive should not be extended to larger companies as well. It is my view that the industry should not be penalized, nor the public deprived of significant new therapies simply because a product initially had some government funding, especially when we are talking about curing important diseases. Senator Schmitt had legislation on this subject before the Congress this year, and I would hope that similar legislation could be enacted in the next Congress.

I sincerely believe that the orphan drug bill which passed the Senate this year will also encourage innovation of a most important kind. This bill will provide industry with financial incentives to develop treatment for diseases that are so rare that the market itself does not provide enough incentive to develop a cure. I believe that the bill which passed the Senate this year is the best possible bill that we can get, and that next year will not produce any better legislation. Therefore, I am working very hard to reach a compromise agreement with Congressman Waxman and Senators Dole and Long, in order to enact this bill before the end of the post-election session. I think that the possibilities for doing so look quite good.

I also would like to take this opportunity to focus attention on the question of drug export policy. The administration is currently considering this issue as part of an overall U.S. review of export policy. In the context of that review, serious questions must be considered concerning the export of pharmaceuticals from this more country. Our current policy is to prohibit the export of any drug which is not approved for use in the U.S. It seems to me, particularly at a time when we are worried about creating jobs and encouraging industrial growth, that it does not make any sense to have an arbitrary rule, applicable in all cases, that prevents a significant sector of our economy from exporting its products. As the people in this room are well aware, there are drugs available which serve important purposes in other countries and are greatly desired by those countries for which there is no reason to obtain U.S. approval or for which U.S. approval is in the process of being obtained. The industry is now forced to manufacture those products abroad.

We are the only nation with a requirement like this. The relocation of manufacturing operations overseas caused by this policy results in a significant loss to the U.S., in capital investment, business and jobs. Further, by reducing the potential for increased exports, this policy aggravates the U.S. balance of trade problem. Of course, we should not have indiscriminate dumping of dangerous or banned drugs on foreign markets; but with proper controls, there is no reason to deny consumers in foreign countries the benefits of products that could be manufactured here but for the operation of this arbitrary rule. Surely if another country has requested a particular drug, it is needlessly paternalistic for the United States government to deny it that drug.

As you know, one of my basic principles is that government and industry should not be adversaries, but rather should work together to solve society's problem. I think that we have made great strides in the last two years towards accomplishing this goal, while at the same time reducing needless government regulatory burdens. Under the leadership of Commissioner Hayes, the Food and Drug Administration has acted responsibly in working with industry to solve a number of critical problems. In 1981, FDA approved 27 new chemical entities, the highest number since 1962 and double the number of approvals for 1980. The recently published New Drug Application (NDA) rewrite should speed up approvals further and reduce paperwork even more. Dr. Hayes has improved the dialogue between the agency and drug sponsors. He has withdrawn cumbersome regulations, such as the patient package insert regulation, and has worked for a much more effective and less costly alternative, the National Council on Patient Information Education, which is model of government/industry cooperation. FDA has reduced the bureaucratic overlap between its different bureaus and streamlined its administrative process to assure quicker action on drug and device approvals and increased accountability. Further, Commissioner Hayes has eliminated the antibiotic certification program, which is a prime example of a regulatory program that has long outlived its usefulness and costs the consumer money without providing any protection.

Perhaps the leading example of industry/government cooperation occurred this fall in the unfortunate product tampering episode. In a time of crisis, the industry and the agency developed a program which is now being put in place to assure that similar episodes do not occur in the future. We on Capitol Hill are carefully monitoring developments in this area and sincerely hope that the actions taken by the agency and the industry will put this problem behind us.

In a similar spirit of cooperation, the FDA has begun to approve switching prescription drugs to OTC status. I believe there are a number of drugs currently on the market which we have sufficient experience to know they are safe and effective for use without a doctor's care. Removal of prescription status is bound to save the consumer substantial amounts of money and I encourage a carefully measured continuation of this trend.

Finally, I would like to say a word about an issue that has achieved a great deal of prominence and notoriety in the last several years, and that is the question of testing of drugs and cosmetics on animals. I am very well aware that there are those that take the understandable position that animal testing is cruel and inhumane and should be stopped. Surely, we must be sensitive to those concerns. On the other hand, however, the developments of important new treatment therapies simply cannot occur without animal testing, for the alternative is testing in humans, and that is unthinkable. We must seek a proper balance that provides for humane treatment of test animals but permits such testing to go forward where no other reasonable option exists.

These are exciting times for the pharmaceutical industry. We are cutting needless regulation, we are encouraging innovation and the industry is on the verge of several important new breakthroughs. I hope to take an active role in encouraging the continuation of these trends and would like to work with you to foster innovation and strengthen drug development. My door is always open to you and I hope that you will feel free to call on me as we progress further in the vital area of food and drug legislation.●

RIGHTS OF ANIMALS

● Mr. GRASSLEY. Mr. President, many of my colleagues are aware of the growing movement underway in this country that marches under the banner of "animal rights." The primary forces behind these efforts are animal welfare groups and humane organizations which have been traditionally concerned about the humane care and treatment of wild and domestic animals. The emerging focus is the rights of animals, particularly those raised on farms for food production.

As a life-long farmer, born and raised in a rural environment, exposed to all types of animal husbandry practices throughout my hometown area, as well as throughout the State of Iowa, I have a difficult time relating to the concerns of the animal rights activists. I have seen firsthand the excellent care that my neighbors provide their poultry and livestock. There are two basic reasons for the time and effort farmers expend to make certain that their farm animals are given the best treatment: First, it is imperative that farm animals receive the optimal care in order to assure maximum efficiency and productivity, and second, farmers, invariably, care deeply for the welfare of their animals. Consequently, it is surprising to me to see this criticism directed at a key segment of our agriculture sector that has done such an excellent job of feeding this country as well as a good part of the world.

I have spent considerable time talking with representatives of the animal rights movement, and although I do not agree with them, the ones that I spoke to seemed to hold sincere beliefs that our animal husbandry practices were troublesome and that changes should be made. These people also disassociated themselves from the radicals who would like to eliminate animal husbandry altogether in order to end the use of animals for food.

Frankly, I have no reason to question this sincerity. Moreover, with the proper discussion and education, I think many of these people will come to understand and accept the farmer's point of view. I fear, however, that the fringe interests may be able to take control of this movement and commandeer drastic, counterproductive alterations through legislative action. As innocently as these initial efforts may appear, they may snowball into a major disaster for agriculture. The situation in England represents a prime example.

During the early 1960's, a book detailing the alleged abuses in animal husbandry practices raised such a public outcry in Britain, that the Government was forced to institute a committee of inquiry. The committee was asked to advise whether standards ought to be set in the interests of the welfare of livestock. The product of this committee, called the Brambell report, recommended the following:

First. The enactment of a new law incorporating a fuller definition of animal suffering than existed in prior law;

Second. The formation of a standing committee to advise the Government on animal welfare; and

Third. The establishment of standards in formal regulations for the housing and management of livestock.

The first step in the implementation of the Brambell report was the appointment of a Farm Animal Welfare Advisory Committee. This committee's responsibility was to draft codes of practice concerning the main species of farm animals.

Later, additional recommendations from the Brambell report were incorporated in the Agriculture (Miscellaneous Provisions) Act, 1968, ch. 34, section 1(1) of the act states:

> Any person who causes unnecessary pain or unnecessary distress to any livestock for the time being situated on agricultural land and under his control or permits any such livestock to suffer any such pain or distress of which he knows or may reasonably be expected to know shall be guilty of an offense under this section.

Section 2 authorizes the issuance of regulations concerning the following matters:

> (a) The dimensions layout of accommodation, the construction materials to be used and the facilities to be provided for lighting, heating, cooling, ventilation, and drainage, etc.;
>
> (b) The provision of balanced diets, and
>
> (c) The prohibition of bleeding, mutilating, marking, restraining, or interference with the exercise of any faculty of the livestock.

The following regulations have been made under section 2:

> (1) The Welfare of Livestock (Docking of Pigs) Regulations, which prohibit the docking of pigs more than seven days old except on health grounds or to prevent injury from tail biting.
>
> (2) The Welfare of Livestock (Cattle and Poultry) Regulations, which prevent tail-docking of cattle, and the castration, dewinging, and blinkering of poultry.
>
> (3) The Welfare of Livestock (Intensive Units) Regulations, which require that livestock and automatic equipment be thoroughly inspected at least once a day.

If these regulations seems troubling, the penalties will shock you. Offenses under section 1, or noncompliance with the regulations under section 2 are liable on summary conviction to imprisonment for up to 3 months or a fine up to 500 pounds (over $800 in U.S. currency) or both.

The act also gives statutory backing for the codes of practice which were already being prepared by the Farm Animal Welfare Advisory Committee. The codes are required to be approved by both Houses of Parliament but are not binding in law. A failure to observe the codes does not make a person liable for prosecution under the act. However, where a person is charged with causing unnecessary pain or distress to livestock, the fact that he failed to comply with the recommendations in a code may be used in order to establish guilt.

Soon after enactment in 1968, four codes dealing with cattle, swine, domestic fowls, and turkey were approved by Parliament. After 1 year, the State Veterinary Service reexamined the effectiveness of the codes. On-site inspections found that in most instances, the animal husbandry practices were sound. Notwithstanding the finding of sufficiency, several modifications were offered and amended versions of the codes were issued in August, 1971.

Each code sets out the basic requirements of a husbandry system deemed appropriate to the health and behavioral needs of the particular animal. Also detailed is the housing space allowances, ventilation, temperature control, and the feeding and general management of the animal.

The development of the animal welfare laws and regulations was recently reviewed in Parliament by the House of Commons Agriculture Committee. In its report, the Agriculture Committee noted that the subject has not ceased to arouse public concern "and that the question of animal welfare engenders not only disquiet but in some quarters considerable emotion." The revisions place more emphasis on the behavioral needs of the animals. In its report, the Agricultural Committee recommended the following additional changes:

> Veal Calves—The code should strongly discourage the housing of calves in crates. Pens must allow enough freedom of movement for calves to groom themselves and turn around, and provide comfortable leg room when laying down; young calves should never have to lie on unbedded floors. (the code already precludes the feeding of iron-deficient diets.)
>
> Pigs—The code should recommend that steps be taken to relieve frustration and boredom where sows are tethered or kept in stalls; animals housed indoors should have access to a bedded area; animals should never be kept in total darkness.
>
> Poultry—beak trimming should be forbidden by regulation.

Upon review of the status of the British laws and new proposals, an English expert commented that—"It is probably true to say that, on paper at least, our domestic animal legislation is as good as any in the world. What we need now is not so much further legislation but better enforcement of that which we already have."

Recently, I found an article in the November 20, 1982, edition of the Times from London. This article covered Parliament's debate of one of the Agriculture Committee's recommendations dealing with veal calves.

The article follows:

[From the London Times, Nov. 20, 1982]

REVISED WELFARE CODES FOR PIGS AND CATTLE

The use of crates for calf rearing, which has already declined to the point when about 90 percent was now raised by other systems, would be effectively excluded by new animal welfare code provisions, Mrs. Peggy Fenner, Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food said in the Commons when she replied to a debate on the report of the Select Committee on animal Welfare in Poultry, Pig and Veal Calf Production.

Mrs. Fenner also announced an increase in the total to be spent on research into animal welfare and said that discussions were going on about taking further account of welfare of animals in the training courses for stockmen. Further revised welfare codes for pigs and cattle were to be issued.

The farm Animal Welfare Council was examining voluntary codes to see if any provisions needed the force of compulsory regulation.

Opening the debate, Sir William Elliott, chairman of the select committee (Newcastle upon Tyne, North, C) said that any changes to be made in factory farming would have to be on a Community basis. It would be unfair to put producers in the United Kingdom at a disadvantage to competitors abroad.

He hoped changes would be introduced, though they would have to be gradual for economic reasons. There was much public concern that the welfare of animals was being sacrificed in the name of financial saving.

On veal production, he said the committee had been unanimous in their dislike of the crate method. It was possible to produce veal economically by the more humane loose house system. Small groups of pigs in more spacious surrounding was a more humane method than the single stall system.

The committee looked forward to the time when the EEC accepted the phasing out of battery hen cages. It would not be possible, to replace the system with the open range system but the battery method ought to be curtailed and the committee was pressing for a Community decision with the introduction of getaway cages as an alternative production method.

Mr. Thomas Torney (Bradford, South, Lab) said. It was balderdash for the Government to talk about consumer resistance to castration of pigs. He doubted if consumers would know the difference between the meat of a pig which had been castrated and that of one which had not.

Sir Paul Hawkins (South West Norfolk, C) said he had been on the agriculture committee of the Council of Europe which had studied a report on transport of horses from eastern Europe to slaughter houses in Belgium, France and Italy.

He had never seen such a horrifying report. His blood had run cold at the horrors inflicted. He wanted British action in the Council of Agricultural Ministers to have the matter raised.

Miss Joan Maynard (Sheffield, Brightside, Lab) said the Labour Party was pledged to extend the scope, membership and responsibilities of the Farm Animal Welfare Council and to transform it into a standing commission on animal protection with a better balance of interests.

Labour was committed to phasing out extreme systems such as battery cages. More money should be spent on finding alternative systems. The aim must be to have basically sound systems of livestock production and a high standard of stockmanship.

Miss Janet Fookes (Plymouth, Drake, C) said an extra statutory tax concession was given by the Inland Revenue so that intensive systems of farming benefitted in a way they otherwise would not. This was particularly so in relations to capital allowances and capital transfer tax. As an opponent of many forms of intensive systems as at present worked, she found this regrettable and she would like to see the concession taken away.

The Government should accept the minimum recommended 17 years ago by the Brambell Committee. "An animal should at least have sufficient freedom of movement to be able without difficulty to turn round, groom itself, get up, lie down and stretch its limbs" (cheers).

Britain should give a strong lead to Europe and the more other countries could be better for animal welfare generally.

It should not be permitted for veal calves to be exported to be rasied in systems found abhorrent in Britain and Britain should not import food produced in that way.

I find the caging of between three to five hens in a very small cage wholly objectionable (she said). I do not care how good the system of light and air. Nothing reconciles me to a system of unnatural confinement.

There should be a time limit on the legality of battery cages, or the system would drag on for too long, but she was prepared to accept a little longer than the five years suggested by the select committee if that would mean the end of an objectionable and cruel system.

Mr. Geraint Howells (Cardigan, L) said he hoped the Government would not dismiss anything on grounds of cost. It should take account of the growing awareness in Britain on all aspects of animal welfare and remember that a substantial section of public opinion was being mobilized against unreasonable treatment of animals raised for food.

Sir Frederick Burden (Gillingham, C) said whatever the EEC might say Britain should stop exporting veal calves to Holland where they were reared in unacceptable conditions.

Mr. Stanley Newers (Harlow, Lab) said to argue that battery hens did not suffer from cold, rain or predators was like arguing that inmates of Belsen had not suffered from obesity and were protected from the possibility of being killed in road accidents.

The battery system should be phased out within five years.

Sir Peter Mills (West Devon, C) said that he totally rejected some of the criticism of the farming community. It was a disgrace and it needed to be said loud and clear that 99 percent of farmers not only cared for but loved their stock and were concerned. MPs should have a little more interest in the care of children. He did not have figures but believed that there was more unkindness towards children than towards animals.

There was much double talk by the Opposition. They wanted cheap food but wanted to change the methods which brought cheap and reasonable prices for food.

Mr. Mark Hughes, an Opposition spokesman on agriculture, fisheries and food (Durham, Lab) for the Opposition, said the overwhelming will of the House corresponded with that of the committee that the sooner they got rid of the system of keeping hens in batteries to produce eggs, the better. But the Government should put money into research and the dissemination of the results into alternative methods. Otherwise, egg producers would not be able to supply the needs at a reasonable price.

Mrs. Peggy Fenner, in her reply, said that when the Government came to power in 1979 it had a manifesto commitment to update the Brambell report and the welfare codes on recommendations for farm animals. It was well on the way to fulfilling this obligation.

The Government set up the Farm Animal Welfare Council which had been a valuable source of independent advice to ministers. The Government had made and laid this week two of the statutory instruments which implemented part of the councils report on certain mutilations of farm animals.

It was hoped to lay soon two further instruments which would complete the implementation of the report on mutilations. The Government also hoped to lay soon draft revisions of the welfare codes for pigs and cattle which would incorporate many of the agriculture committee's own recommendations.

The Government endorsed the committee's view that judgments about animal welfare should be based on as much scientific, knowledge as possible, on full consideration of all the available evidence and on the need for the Government to take into account the economic consequences both for producers and consumers before imposing on producers new welfare requirements.

When Mr. Newens asked if she did not think that a term should be put to the continuance of the battery system, Mrs. Fenner replied: It is the Government's view that there should be research into alternative systems, and research over the whole of Europe. In the research being carried out in Europe she said, the European Commission had called for a report at the end of 1983.

It would be unwise to suggest that there should be compensation for producers if systems changed, the answer was likely to be "No".

The Government agreed with many comments on veal production. The use of crates for calf rearing had rapidly declined in favour of loose house systems and it was estimated that about 90 percent was raised now by systems other than crates. The new code would say that the width of the pen for a single penned animal should not be less than the height of the animal at the withers. That effectively ruled out crates.

The proposed revision of the codes also reflected the view of the importance of good stockmanship. Officials had opened discussion with the organizations responsible for training courses in stockmanship to consider whether, and if so, how training could take further account of the needs of welfare.

In spite of the problems about overall research resources, the Government was increasing the money spent on animal welfare research within the total.

The Farm Animal Welfare Council was looking at points in the codes to see whether they would recommend them for regulations.

We regard their advice (she said) as good advice. I hope that will be an assurance to MPs who believe that codes are not wholly satisfactory. The minimum value of horses for export was examined and updated when necessary, an arrangement which effectively prevented export of horses for slaughter.

The debate concluded.

Mr. President, I do not know about my colleagues, but I find all this very

sobering. I have to ask, "How in the world did the people of England let themselves go so far in implementing such unwarranted sanctions on their farm community? How could they let misinformation spread so widely that uncontrolled emotion dominated the deliberations of an apparent knowledgeable, rational body as Parliament is perceived?

The question that haunts me most, however, is whether this November 19 debate in Parliament might be repeated one day soon in the halls of the U.S. Congress? It is too easy for me to summarily dismiss this potential, for I simply cannot believe that the American people could fail for this. On the other hand, I have to face the realities of recent events, and the impact the animal rights activists have already had.

During the 1970's, books began to appear in the United States detailing alleged abuses associated with animal husbandry. Publications such as "Animal Liberation," "Animal Factories," and "Factory Farming" generated increased interest among our citizens in the issue of animal rights. This was followed by a "20/20" ABC-TV program on the alleged mistreatment of farm animals. This program was shown first in 1980 and again in 1981. This sensational presentation of farm practices generated outrage among viewers who in turn mounted a letter campaign on Congress. In response, Congressman RON MOTTL of Ohio introduced House Joint Resolution 305, the Animal Husbandry Act, which would establish a Farm Animal Husbandry Committee.

Does this chain of events sound familiar? Well, it is. It is exactly how England got where it is today; we are only about 10 to 20 years behind.

But the United States does not have to fall into this same trap. Frankly, at this point, I doubt that many of my colleagues will stand for this, I know that I will not. The American public will not buy it either. But it will require vigilance on our part to make certain that people receive accurate information and are educated with the true facts that underscore the exceptional care that our farmers provide their animals. They must understand that modern husbandry practices are far superior in providing better nutrition, more affective control of diseases and parasites, and superior protection against the elements and predators. These new management practices far surpass old methods in areas of growth, feed efficiency, mortality and disease—criteria accepted by scientists and producers alike.

The problem is that animal rights activists know this, so they are now turning to a far more subjective measure—animal stress. Scientists have a difficult enough time determining what creates stress in humans, let alone animals. And since animals cannot talk to us we cannot ask them whether it stresses them more to be hunted down by wolves, frozen in the winter, or starved for lack of food, than it does to have plenty of food, live in a warm, clean environment, but be restricted in appropriate social interaction and companionship.

Various facets of this whole debate reminds me of an old Byzantine proverb which states:

He who has bread may have many troubles;

He who lacks it has only one.

Since animal rights activists would like to attribute human characteristics, values, and rights to animals, then this proverb should logically apply to animals as well. If our farmers provide the basic needs of food and shelter, should we be overly concerned if the animal has the resulting luxuries of additional troubles?

I am afraid that a lot of these activists are so removed from the realities not only of farm husbandry, but also of the vast human suffering and starvation that exists in the world today, that they have found themselves wrapped up in a misguided adventure in some alien, fantasy world. If they knew better the struggles for bread, perhaps they would be more selective in their efforts to remedy the innumerable troubles of today.

Our Nation and the world faces too many pressing troubles to divert our energies, time, and money to figure out whether a well-fed farm animal is suffering from undue stress. Assuredly, if Congress ever finds itself in a meaningless debate similar to that which recently occurred in Parliament, if I am unable to dissuade my colleagues from such a frivolous endeavor, I should move back to my farm so I can take care of my animals—where I know that I will be appreciated.●

SUBSTANCE ABUSE PREVENTION

● Mr. JEPSEN. Mr. President, recently I received a letter from an Iowa constituent that I wish to bring to the attention of readers of the RECORD.

Charles Cacek, executive director of the Northeast Council on Substance Abuse, has suggested a positive, nongovernmental method to help prevent substance abuse. It focuses on a way of bringing the family unit closer together.

I ask that the letter from Mr. Cacek be printed in the RECORD.

The letter follows:

NORTHEAST COUNCIL ON SUBSTANCE ABUSE,
Waterloo, Iowa, November 22, 1982.

Hon. Senator ROGER JEPSEN,
213 East Main, Waterloo, Iowa

DEAR SENATOR JEPSEN: I am writing you about a substance abuse prevention effort which combines some unusual benefits with still more unusual by-product development of importance of Iowa.

This program is an effort to prevent substance abuse through preserving family health by revitalizing interaction among family members. Much of the focus of this increase in time spent face to face involves family breakfast.

Extensive research tells us the ritual of family breakfast is sound prevention. The nutritional benefits are great, the therapeutic benefits greater.

We at Northeast Council on Substance Abuse believe we can use the catalyst of concern about substance abuse problems to motivate thousand of families to restore this family practice to its proper place. We believe the soundest kind of prevention will result and we believe we can measure this effectiveness.

A main reason I am writing to you about this plan is that this effort can be a tremendous impact on milk consumption. Expanded nationwide this emphasis on family breakfast could be a real force in stemming ever increasing milk surpluses. When people skip breakfast or fastfood breakfast, they typically omit milk, the opposite is true of family breakfast in the home.

We have written some of the national dairy organizations and our proposals have not merited replies. We write you with the hope that your office may help us find ears that will hear us as we know you have great interest not only in coping with substance abuse but also in the problem of dairy surpluses.

We will appreciate any help you can give us.

Sincerely,

CHARLES CACEK,
Executive Director.●

PAYMENT IN KIND

● Mr. HELMS. Mr. President, the Congress has been talking about a "payment in kind" (PIK) program for quite awhile, but the time for talking is past. American farmers need such a program, and they need to know about it now. I urge the Secretary of Agriculture to use his existing authority to implement a PIK program for 1983 crops, and to announce it without delay.

Clearly, there is strong support in Congress for a PIK program. The House of Representatives has passed legislation relating to PIK by unanimous consent. In the Senate, Senators COCHRAN and HUDDLESTON introduced S. 3074 as bipartisan legislation dealing with the PIK program.

The Senate Agriculture Committee conducted hearings and markup at the subcommittee and full committee level, and approved S. 3074, as amended, without objection. In fact, when it was proposed on December 19 to bring S. 3074 before the full Senate for consideration, only one Senator was heard to object.

The obvious reason for such strong support for PIK is the widespread distress in the farm economy. American agriculture has been severely burdened by low prices caused by overproduction and weak demand.

The PIK program will provide farmers assistance while utilizing and reducing our market-depressing surpluses. These surpluses will be used as incentives to restrain additional overproduction. PIK will reduce farm program costs and set the stage for higher prices and profits in the marketplace.

These are profits which the American farmer and the U.S. economy sorely need.

I commend Secretary Brock for proposing the idea of payment in kind, and I encourage the Secretary to implement such a program. At the hearing on farm program alternatives conducted by Senator COCHRAN's subcommittee, Secretary Block testified that the program could largely, if not totally, be carried out under existing authorities. There were two areas, however, where the Secretary stated that a clarification would be helpful. Specifically, the impact on a PIK program of the payment limitation and Commodity Credit Corporation resale provisions in sections 110 and 407 of the Agricultural Act of 1949 and section 1101 of the Agriculture and Food Act of 1981 is unclear.

Mr. President, as Chairman of the Senate Agriculture Committee, I hope that I can clarify those matters. I believe that the payment limitation and CCC resale provisions in current law were never intended by Congress to apply to a program which provides in-kind compensation.

At our hearing on December 9, the Honorable PAUL FINDLEY of Illinois, a senior member of the House Agriculture Committee, testified that commodities used as incentives for land diversion:

> Are not sales for the purposes of sections 110 and 407, and they certainly should not be construed as payments for purposes of section 1101. I can claim some parentage of sectioin 1101, which is a limitation on payments to individual farmers. It was never my thought that this limitation would apply to any payment-in-kind program.

The Congressman is entirely correct. Congress never intended that these restrictions apply to an in-kind program. Accordingly, I believe the Secretary should proceed to implement the program for the 1983 crops as soon as possible. I pledge that as soon as the new Congress convenes, we will look at this matter and provide any clarification or additional authority that may be necessary.

At the same time, however, I hope that the Secretary will implement the program in a way that is consistent with S. 3074, the PIK bill that was reported from committee. The Secretary has assured me that the program will be implemented carefully with certain important protections.

For example, the rights of farmers who rent land, as well as own land, should be protected. In no case should more than 50 percent of the acreage base in a county be removed from production, so as to protect farm suppliers and other businesses in a local community.

Commodities should be provided to farmers in a way that is consistent with normal harvest patterns. USDA may wish to pay some storage costs for commodities, so that local markets will not be disrupted.

In addition, the program should take into account such States as North Carolina which produce large volumes of corn, but use it for poultry and pork production. Secretary Block has assured me that a PIK program will be equitable to all sectors of the agricultural community, and I intend for the Agriculture Committee to monitor the program carefully.

In fact, if further legislative action is needed on the PIK program in 1983, I intend that the committee move forward on such action expeditiously.

Mr. President, I should also note that S. 3074 provides a number of authorities for expanding agricultural markets. I strongly support these provisions. Here again, however, there are already several authorities available to the Secretary of Agriculture. I urge the Secretary to use his current authority aggressively to expand farm exports.

In doing so, he must assure that we do not place domestic manufacturers at a disadvantage relative to foreign users. This is essential for a commodity such as cotton, so that American textile workers are protected from a two-price system where foreign textile mills receive U.S. cotton for a cheaper price than domestic mills. It is imperative that we protect the jobs of American textile workers from two-price cotton.

President Reagan has personally expressed his support for the PIK program, as have many farm leaders and organizations. We have received endorsements of the PIK concept from the American Farm Bureau Federation, the American Agricultural Movement, the National Cotton Council of America, the American Seed Trade Association, the United Egg Producers, and the National Grange.

Mr. President, I have been impressed with the great enthusiasm among Senators for this program. The distinguished Senator from Iowa (Mr. JEPSEN), for example, has been constantly in contact with me, urging enactment of this program.

It is time to get going, Mr. President, and I urge the Secretary of Agriculture to implement the PIK program as soon as possible covering 1983.●

THE WRONG ROAD IN NICARAGUA

● Mr. KENNEDY. Mr. President, I am deeply saddened by the course of events in Nicaragua which has caused first one, then another of their respected Ambassadors to this country to resign.

Ambassador Francisco Fiallos' resignation comes after increasing unwillingness by the Sandinista Junta to recognize that their interest lies in promoting democracy, freedom, pluralism and the active participation of the church and the private sector in the life of that country.

Nicaragua cannot afford, and its friends cannot ignore, the restrictions of freedom, and violations of human rights, such as the forced removal of Miskito Indians from their traditional communities, the frequent suspension and censorship of the respected newspaper La Prensa and the political clashes with the church.

The Nicaraguan Government's appropriate course of action is to maintain its domestic focus on reversing the injustices of 50 years of Somoza rule. For example, its education and health program have won deserving acclaim. But those benefits are increasingly overwhelmed by the frustration and anger of leaders such as Ambassador Fiallos, who oppose the recent restrictions on press freedoms and the rejection of dissent.

At the same time, the Reagan administration must understand that its own policies of confrontation, isolation, and destabilization of Nicaragua are fundamentally wrong. The United States must not repeat the mistakes committed in Chile in the seventies. Instead of handing the ideologues among the Nicaraguan leadership and excuse for further restrictions and greater dictatorship, the United States should encourage moderate elements to pursue a process of negotiation of the serious differences and problems which exist. Other nations, such as Mexico, Venezuela, Columbia, can be willing partners in this effort to negotiate a peaceful settlement.

Both Ambassador Fiallos and former Ambassador Arturo Cruz were defenders of the Sandinista revolution and critics of the Reagan administration's policies; they refused to support the "Somocistas" who were engaged in military attacks on Nicaraguan villages. But now they have found it necessary to protest their Government's course by resigning from their positions of service to the increasingly isolated core of Government leaders. The Nicaraguan people owe a lasting debt to these brave men, and I request that an article by Karen De Young be printed in the RECORD.

The article follows:

[From the Washington Post, Dec. 21, 1982]

ENVOY CALLS NICARAGUA A "TYRANNY"

(By Karen DeYoung)

Nicaragua's ambassador to the United States said yesterday that he has resigned from his government, and from the Sandinista National Liberation Front that runs it,

because "radical" Sandinistas are turning the leftist government into a "tyranny" that no longer listens to its own people.

Francisco Fiallos, 36, said he made his decision after failing at numerous attempts to persuade the Sandinistas that they are "losing public support" because of their increasing authoritarianism under "state of emergency" regulations imposed in March.

"There is growing discontent" in the country, he said. "Production is bad, and there is no feeling among the people that they are living under a system of law and judicial protections. Decisions are made by ever fewer people, with ever less consultation." At first, he said, "they listened to me. But then they lost interest in listening. Now, the hear, but they do not listen."

Fiallos is one of a growing number of high-level Nicaragua officials, and the second ambassador to Washington in little more than a year, to resign because of political differences with the Sandinista government. His predecessor at the Nicaraguan Embassy here, banker Arturo Cruz, has since joined a group of Nicaraguan exiles opposing the Sandinistas on grounds that Sandinista Marxists and their Cuban and East Bloc allies have perverted the democratic goals of the Nicarguan revolution.

Fiallos, a Harvard-trained attorney who joined the Sandinista Front in 1977 as an underground supporter in its struggle to overthrow dictator Anastasio Somoza, said in an interview yesterday, "For the moment, what I want to do is rest and think." But he acknowledged that he has been in touch with Cruz and others of his group, led by former Sandinista guerrilla hero Eden Pastora, and sees joining them as "an option."

The Nicaraguan government, in a brief announcement Saturday, said that Fiallos was being reassigned along with a number of diplomats. But Fiallos said that he had informed Foreign Minister Miguel D'Escoto of his decision to resign on Dec. 12, two days after the government prohibited publication of remarks calling for political pluralism and free elections he had made to La Prensa, the country's only wide-circulation opposition newspaper.

Fiallos' resignation is likely to weaken further the Sandinistas' credibility among a diminishing group of supporters in the West who see them as increasingly authoritarian and unwilling to allow political freedoms.

Much of what remains of their support among Socialist governments in western Europe and among some Latin American countries, according to officials of those governments, is more a reflection of those countries' opposition to Reagan administration hostility to Nicaragua than active support for the Sandinista Front. The Europeans, who support some aspects of Sandinista policy, argue that there is no possibility of tempering the Nicaragua government's militarism as long as it is threatened by armed opposition groups supported by outside powers.

Like Cruz, Fiallos coupled his criticism of the Sandinistas with a denunciation of Reagan administration economic and political pressure against them, as well as covert support for exile groups led by defeated Somoza soldiers trying to overthrow them militarily.

"I stand by everything I ever said about U.S. policy," Fiallos said. The Sandinista "radicals," he said, "have Ronald Reagan and this administration on their side" because Reagan support for the hated Somocistas strengthens the radicals' hand.

"This is the most important point," he said. "The Reagan policy has to change, and let Nicaragua alone to solve its own problems. It is a Nicaraguan problem, a Sandinista problem." The Sandinista government repeatedly has charged that its increasing militarization and centralized control is a response to what they see as a security threat from the Reagan administration.

As have other Sandinista dissidents and defectors, Fiallos also said he was disturbed by the strong presence of Cuban and other East Bloc advisers in Nicaragua. These include what other informed Nicaraguan sources have said are as many as two dozen Bulgarians.

The Bulgarians, according to these sources, work as advisers in the planning and economy ministries. Presumably sent by the Soviet Union, their task is believed to be as much to watch the Cubans, whose independent intentions in Latin America the Soviets sometimes mistrust, as the Nicaraguans.

But Fiallos also said that while direct Cuban contribution in high-level government decisions was often talked about, especially in the United States, he had not seen it. He gave some credence to reports that Cuban President Fidel Castro at times has sought to be a moderating influence among the Sandinistas.

In describing the current internal political balance within the Sandinista Front and its nine-man directorate, Fiallos said he believed there is a division between what he called the "radicals" and the "pragmatists."

He declined to comment "at this time" on which Sandinista leaders he would put in each category. Other Nicaraguan dissidents have listed Planning Minister Henry Ruiz and legislative leader Bayardo Arce, as well as Interior Minister Tomas Borge, as "radicals," and have named Agriculture Minister Jaime Wheelock as the chief "pragmatist" among the nine.

But, according to Fiallos, "they all have the same line" while seeing different ways of achieving the same goal. "Some of them are more pragmatic, but none has the power to act alone. They are prisoners of themselves."

When confronted in private meetings with their apparent loss of domestic and international support, he said, "They make excuses. Some of them deceive themselves, others have a scenario in mind but refuse to see that reality is different than what they believe.

"No revolutionary process is perfect," he added. But beginning with the postponement of promised elections until at least 1985, and "problems with the emergency law" that prohibits activity by non-Sandinista political parties—decreed after a series of exile raids—"things got worse."

Fiallos arrived in Washington last February after serving as deputy foreign minister following the July 1979 Sandinista victory and later as Nicaraguan ambassador to Canada. In June, he returned to Nicaragua for a visit, he said, and was shocked by increasing press censorship and an incident in which a Managua priest was beaten by "revolutionary" youths and his church closed.

There were always more doubts about elections, and the political system was ever more closed. There were confrontations everywhere and like little boys, [the Sandinista leadership] kept falling into traps set for them by the Reagan administration.

Last month, Fiallos said, he visited his home town of Matagalpa, in north central Nicaragua, and found the peasants afraid and anxious over "the increasing arbitrariness" of local government representatives. He decided to answer a request from La Prensa for a written interview, which he sent from Washington. "I decided that if they wouldn't let them print it, I would resign."

Fiallos said he had planned to return to Nicaragua last Saturday, but was advised by friends of "some dangers" including what he said was the arrest for "counterrevolutionary activities" of a deputy justice minister who resigned several weeks ago.

"What is important for Nicaragua," Fiallos said, "is that everyone leave us alone. The Cubans, the Soviets, the Bulgarians, the Americans. Everyone should get out and leave us alone."●

SEC CHAIRMAN JOHN SHAD

● Mr. GARN. Mr. President, I would like to cite an exceptional public official who is doing an outstanding job.

The Banking Committee, which I chair, has oversight authority over the Secruities and Exchange Commission. When I presided at the Senate confirmation hearings of John Shad last year, I said the President had made an excellent choice to head the SEC. We all expected a great deal from an individual who brought a wealth of experience to the SEC. Less than 2 years later, Mr. Shad's energetic leadership of the SEC has confirmed our expectations.

John Shad's background has provided unique insights for his role as Chairman of the SEC. Born in Brigham City, Utah, he has been guided by strong moral principles and an appetite for hard work. His long time aspiration has been to devote his life to "learning, earning, and serving."

During his first 2 years of college, he attended classes during the day, and worked as a riveter in an aircraft plant from midnight until 8, 7 days a week. After service in the Pacific and China as a naval officer in World War II, he graduated with honors from the University of Southern California in 1947, earned a master's degree from the Harvard Business School in 1949 and went to work in New York City as a securities analyst. In 1955, when he concluded that he needed a more intimate knowledge of the legal and tax aspects of corporate financings and mergers, he decided to attend New York University Law School at night. His job required considerable travel, so Shad and his wife, Pat, enrolled together. Shad studied Pat's notes for the classes he missed. They both did well and graduated in 1959.

At E. F. Hutton & Co., Shad helped build the firm into one of the Nation's major managing underwriters of corporate financings. He resigned last year from his position as vice chairman of the E. F. Hutton Group and from directorships of several New York Stock Exchange listed companies

to accept his present position and commence the serving phase of his life.

His years as a highly successful securities analyst, account executive, investment banker, and corporate director have afforded him an intimate understanding of the securities world. He has personally assisted scores of companies in consummating billions of dollars of financings, mergers, and acquisitions. Shad's nuts and bolts knowledge is complemented by his broad professional experince, which has included teaching investment banking at the NYU Graduate School of Business Administration, frequently addressing business and professional groups, writing articles for business and law reviews, and serving on the boards of 17 domestic and multinational, publicly owned corporations in a wide variety of industries.

Under Shad's leadership, the SEC has focused its efforts on protecting and promoting the interests of the investing public by effectively and vigorously enforcing the securities laws and simplifying and improving regulations that impose unnecessary costs ultimately borne by the investing public. His efforts have helped to enhance investor confidence in the fairness and integrity of our markets and facilitate capital formation.

EFFECTIVE ENFORCEMENT

By far the largest portion of the Commission's resources, about a third, is being devoted to enforcement programs. Approximately 45 percent of the enforcement effort is devoted to corporate fraud and disclosure cases; a third to market manipulation cases; and the balance to insider trading and other cases.

While only requiring a small portion of the Commission's resources, the insider trading cases have received great visibility because of the record number of successful cases. In addition, the Commission recently concluded an historic accord with the Swiss that permits the Commission, for the first time, to penetrate the Swiss secrecy laws. The SEC has also proposed legislation to increase criminal fines for securities law violations and impose civil fines in insider trading cases.

REGULATORY SIMPLICATION

Under Chairman Shad, the SEC has initiated measures to reduce the annual costs of securities regulation by many millions of dollars; has freed-up hundreds of millions of securities industry capital from regulatory restrictions; and has conferred other major benefits on the investing public. These benefits include:

REGULATORY SIMPLIFICATION AND IMPROVEMENT

In February 1982, the Commission integrated the registration and reporting requirements of the Securities Act of 1933 and the Securities Exchange Act of 1934. The integrated disclosure system streamlines corporations' paperwork and affords them greater flexibility in structuring and timing financings, without compromising the full disclosure of material information to the public. The integration program, which Chairman Shad brought to fruition, is one of the most important developments in securities regulation since the securities laws were enacted, nearly half a century ago.

The Commission has also simplified and improved the prospectuses for exchange-listed options, and commenced a review of proxy statements in order to improve their clarity and effectiveness.

MORE EFFICIENT USE OF SECURITIES INDUSTRY CAPITAL

In January 1982 the Commission freed-up an estimated $500 million of excess securities industry reserves for more productive uses, and, by authorizing the use of letters of credit for clearing fund and stock loan purposes, saved the industry an additional $200 million.

SMALL BUSINESS CAPITAL FORMATION

The Commission in September 1982 conducted the first annual Business-Government Forum on Small Business Capital Formation, and earlier this year:

Exempted from registration securities offering up to $5 million, to other than the general public. Most States are expected to adopt similar exemptions, which will be the first joint State and Federal registration exemptions.

Extended short form registration privileges on offerings up to $5 million to mining, oil and gas firms, and noncorporate issuers.

INCREASED RELIANCE ON SELF-REGULATION

Major strides have also been made in private-sector self regulation under the Commission's oversight. In the last fiscal year, the accounting profession conducted over 200 peer reviews—up from 80 last year. The profession is now on a 3-year review cycle. It is far beyond the Commission's capacity to conduct such reviews, which are monitored by the SEC's Office of the Chief Accountant. The stock exchanges are also upgrading their electronic surveillance and audit trails of securities transactions, under the Commission's oversight.

The results of these and other Commission efforts are better and, more timely regulation, reduced Commission expenses and greater investor protections.

LEGISLATIVE INITIATIVES

Within months after taking office, John Shad and Phil Johnson, the Chairman of the Commodities Futures Trading Commission, worked out an accord, which resolved a 7 year turf battle between the SEC and the CFTC, which had prevented both agencies from approving new financial instruments for which there is great public demand. Certain of these instruments will facilitate Government and mortgage financings and permit investors to hedge the risks of fluctuating interest rates and securities prices. Both Commissions have unanimously approved the accord, and it has now been enacted. As a result, trading in several new products subject to SEC jurisdication has already begun.

Shad's fellow Commissioners have also unanimously supported his proposal to form a 1-year bipartisan task force to help simplify and rationalize the regulatory structures of the securities, banking, movings and loan, and insurance industries and enhance public protection.

OUTSIDE INPUT

Through various conferences and forum, the Commission is obtaining greater input from outside sources in order to better serve investors and the capital formation process. The Small Business Forum is one example. At the SEC's Major Issues Conference—the first in 5 years, distinguished members of business and Government addressed the problems that confront financial institutions and markets. And in November, leading securities analysts met with the Commissioners and senior staff to discuss the Commission's disclosure and rulemaking requirements and procedures from the perspective of users of the information required by the disclosure system.

In short, under Chairman Shad, with the support of the other distinguished Commissioners and an outstanding staff, the SEC has initiated major regulatory improvements and legislation, and has adopted innovative approaches to protecting and serving the investing public. These achievements are a tribute to the Commission, and to John Shad's energy, experience and leadership.●

SPOKANE COMMUNITY MENTAL HEALTH CENTER CONFERRED HIGH HONOR

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. JACKSON. Mr. President, many of my colleagues may have read the recent front-page article in the Washington Post entitled "Depression Often Masquerades as Dementia" which detailed the interplay of physical and mental disorders in the elderly, a situation compounded by the frequent physical isolation of the elderly from family, friends, and community, and the similarly unfortunate fact that only recently have physicians begun to recognize the role severe depression can play in the illnesses of older Americans.

In my home State of Washington, the Spokane Community Mental

Health Center has been involved actively in helping to locate, assess, and provide treatment for at-risk, multiply impaired elderly in Spokane County. Indeed, the fruits of their labors have been realized not only in improved medical, social and mental health services for many elderly in the community, but recognized nationally.

In October 1982, the Spokane Community Mental Health Center, its executive director, Mary Higgins, and elderly services coordinator, Ray Raschko, were conferred a Certificate of Significant Achievement from the American Psychiatric Association, the Nation's oldest medical specialty society, and one which represents over 27,000 psychiatrists nationwide.

The award was conferred by the Association at the recommendation of the Hospital and Community Psychiatry Achievement Awards Board, a panel of leading psychiatrists in the Nation including: Pete Palasota, M.D., of Texas; Harold Eist, M.D., of Washington, D.C.; Hugh Hendrie, M.D., of Indiana; and APA deputy medical director, Henry H. Work, M.D.

The rigorous competition to choose exemplars of outstanding programs for the mentally ill and retarded included not only a detailed application, but interviews and a lengthy site-visit by, a local APA member, in this case J. Pierre Loebel, M.D., of the Harborview Medical Center in Seattle.

Our Spokane CMHC was selected from among 177 applicants for this high honor, and their work can serve as a model of outreach, referral, and community-based health care for the emotionally troubled elderly throughout the Nation.

The program was recognized specifically for its outreach system that helped insure that isolated, multiply impaired elderly in the county receive necessary medical and social support services. Working closely with businesses and public officials who have contact with such persons, the center identifies persons in need of care, evaluates those needs, and assures that adequate medical, social, and mental health services are delivered to them.

In addition, the program has increased the number of elderly persons who receive care from the center. Moreover, the program appears to have led to a significant decrease in the number of nursing home admissions—ending the prior severe shortage of beds in the county—and involuntary hospital commitments, down 25 percent since 1979, among the elderly in the county.

The Spokane CMHC entered into a unique agreement with the Eastern Washington Area Agency on Aging—a relationship which has since been strongly encouraged under title IV of the Older Americans Act. The two organizations agreed that those elderly living in the community who were at risk for premature or unnecessary institutionalization would be the target group for a network of interdependent mental health and other aging services designed to maintain them in their own homes and improve their quality of life. The area agency on aging needed a core agency around which this network or system of community-based services could be built.

Since 1978, this core agency has been developed by the Spokane CMHC with funding and technical assistance from the Eastern Washington Area Agency on Aging. The network includes telephone information and referral, and multidisciplinary, inhome case management. Over 14 organizations in the Spokane area have entered into written agreements with the CMHC and EWAAA to provide further resources, ranging from a newspaper for senior citizens through day treatment and health screening.

Mr. President, I commend the Spokane Community Mental Health Center, not only for its selection by the APA as an award-winning program, but as a model of what can be done for the at-risk emotionally ill elderly of this Nation. I also commend the article in the Post to my colleagues attention and ask that it be printed in the RECORD.

The article follows:

[From the Washington Post, Nov. 29, 1982]

DEPRESSION OFTEN MASQUERADES AS DEMENTIA

By the time Dr. Valery Portnoi first met the patient, the 81-year-old man knew his name, but not his age. The man did not know he was in a hospital, Portnoi recalled later. He knew he was married, but could not give his wife's name. He was strapped to the bed and incontinent.

The man had run a real estate business before his condition deteriorated, and his disorder had been diagnosed as Alzheimer's disease, an incurable deterioration of the brain that is also known as presenile dementia. If the diagnosis was right, not much could be done for him.

But Portnoi, a director of geriatric medicine at George Washington University Medical Center, disagreed with the diagnosis. He concluded after interviewing the patient, his wife and a friend, also a physician, that the man was not suffering from Alzhemier's at all but depression—a treatable, curable illness. Within a matter of months after treatment began, the patient was able to resume living a normal, active life.

Although unusually dramatic, this case is not exceptional. Increasingly, physicians treating older persons are finding that what appear to be organic mental deterioration or physical problems that defy treatment turn out on closer examination to result from depression.

In some instances, the depression may result from a significant event in the person's life. In other cases, however, the depression may result from drugs the patient is taking or from biological changes that occur in the brain.

Portnoi and other doctors say that most physicians have only recently begun to recognize the role severe depression can play in the illnesses of older patients. The particular phenomenon of depression masquerading as dementia has not been widely studied, but a 1979 British study found that 31 percent of ailments diagnosed as dementia in that country were misdiagnosed.

Portnoi wrote a year ago in a medical journal that "there is reliable evidence to support the idea that "there is reliable evidence to support the idea that dementia is even more overdiagnosed in the United States," where 2.5 million to 3 million persons 65 or older are currently thought to be suffering from some form of that disease, than in Britain.

According to another estimate in an American Journal of Psychiatry article this year, between 8 and 15 percent of cases diagnosed as dementia turn out to be depression that can be completely reversed.

Portnoi said he became aware of depression as a problem of the elderly when he encountered numerous aged patients who complained of ailments even though he and other physicians could find no apparent physical cause for these symptoms.

He estimates that 30 to 40 percent of the 500 elderly patients he has seen in the last three years were suffering from depression. However, he notes that his patients are not typical because many are referred to him after other doctors have failed to discover a cause for their problems.

Depression is a common psychological malady. Everyone suffers from at least mild depression at one point or another. In most instances, it is self-correcting: the depressed person "snaps out of it" without professional help. In some cases, when the depression is extended or severe, medical and psychological intervention may be necessary.

Left untreated, depression can be severe and permanent. Misdiagnosed, the symptoms can become worse.

The symptoms of serious depression, as they appear among elderly persons, include long-lasting difficulty sleeping, loss of appetite, loss of energy, sluggishness, slowed thinking and loss of interest in usually pleasurable events. In addition, depressed persons may show signs of inappropriate guilt and have recurrent thoughts of suicide. Complaints about physical problems for which a physician can find no clear cause-described as "phantom symptoms" by Portnoi—are not uncommon.

Dr. Neal Cutler, a psychiatrist and chief of the section of brain aging and dementia at the National Institute on Aging, recalled being asked to see a woman in her 60s who had been described as "dying" by her physician. The woman was emaciated, suffering, among other things, from anorexia. Cutler diagnosed the woman's problem as depression and prescribed antidepressant medication.

Within a week to 10 days, he said, the woman's condition began improving, her weight picked up and she became responsive to her surroundings. After years of living in a nursing home, she was able to return to her family several months later.

Depression is overlooked as a problem among the elderly, Cutler said, because the symptoms can be explained away. "The notion is that as you get older, you get slower."

Until recently, the conventional wisdom viewed depression as a hallmark of old age. Dr. Frederick K. Goodwin, a psychiatrist and scientific director of the National Institutes of Mental Health, takes the opposite view. Depression, Goodwin said, is an aberration in the elderly.

"There's no reason to assume that being old brings depression. That isn't so," he said. "We shouldn't write them off by saying that of course you're depressed when you're old. That's an insult to old people. Not only is it an insult, it isn't true."

In fact Goodwin and his brother, James, who is chief of gerontology at the University of New Mexico School of Medicine, point out that depression in the elderly often turns out to result from drugs taken to deal with physical problems.

Part of the difficulty is that older persons do not necessarily react to drugs in the same way as younger adults. "For many years pediatricians have been taught in medical schools that children are not small adults," James Goodwin said. "The point that geriatricians are trying to make is that old people are not old adults, and they react as differently to drugs compared to young adults as children do."

It may take four times as long for a drug to metabolize in a 70-year-old as in a 20-year-old, according to James Goodwin. If the physician prescribing drugs fails to take these slower metabolism rates for older persons into account, the result can be sluggishness, lethargy, disorientation and depression, he said.

Certain drugs prescribed for arthritis, a common enough problem among the elderly, are known to produce symptoms of dementia, James Goodwin said. "This was something that wasn't picked up for some time." Drugs that can cause depression include reserpine, methyl-dopa and others prescribed for high blood pressure.

Misdiagnosis may lead the physician to prescribe the wrong drugs, aggravating the problem. If, for example, a depressed patient is having trouble sleeping—a symptom of depression—a physician may improperly prescribe a tranquilizer to aid sleep. Tranquilizers may allow the patient to sleep, but may deepen the depression.

Elderly persons with a variety of problems may also be treated by a number of physicians, each of whom could be prescribing medication without any one of them looking to see how the drugs may interact with one another. In some instances, little or nothing is known about drug interaction.

"Often what's needed," according to Frederick Goodwin, "is for someone to stop and say, 'Wait a minute. Let's take a complete look here.' "

Both Frederick Goodwin and Portnoi agreed that in most cases of elderly depression some combination of drug and psychotherapy will probably benefit the patient. Portnoi said that in many cases latent psychological problems that an elderly person has been able to keep under control may appear when a physical infirmity develops. In such cases, Portnoi and Goodwin agreed, drug therapy may be needed to break the downward spiral, but then psychotherapy is indicated to help the patient confront the underlying problem.

Older persons often find it difficult, however, to find psychiatrists willing to take them on as patients. Older psychiatrists, Goodwin said, who are not familiar with new drug developments may not feel comfortable treating older patients, especially since these older patients may have other medical problems.

A "more subtle psychological bias," Goodwin said, is that older persons are seen as becoming more rigid in their behavior and less amenable to change. "I think there's some truth in it. If you state as your goal fundamental changes in a person's personality, then it is more difficult to change older people." But if coping is the goal, "old people respond as well to a focused program as young people do."

According to Dr. Frederick K. Goodwin, scientific director of the National Institutes of Mental Health, the following is a list of dos and don'ts for older persons to keep in mind to avoid depression:

Prevent isolation, which "becomes a self-fulfilling prophecy." Make vigorous attempts to stay active and socially involved. Have active as well as passive sources of stimulation.

Excercise regularly. Many old people give up on exercise because they think they're too old for it. "That's a major mistake," Goodwin said. One reason why orchestra conductors live long, he said, is because they are getting stimulation and lots of physical exercise.

Pay careful attention to medical conditions that can produce depressions, such as hypothyrodism, postmenopausal low estrogen function in women, changes in metabolic functioning. Neurological changes—especially Parkinson's disease—may mask depression.

Routine is important for the elderly—eating meals at the same time daily, going to bed more or less at the same time—generally having a pattern to one's daily life.

Don't avoid controversy and arguments. A certain amount of stress is good. Coddling an older person, "surrounding him or her with a cotton candy kind of existence is not only demeaning" but increases the chance of depression.

Think twice about early retirement. As a society, Goodwin said, "We need more flexibility about this. There's too much all-or-nothing. A person is either 100 percent active, or he's nothing."●

CABLE TELEVISION COPYRIGHT ACT AMENDMENTS

● Mr. MATHIAS. Mr. President, I should like to comment on H.R. 5949, which was the subject of a great deal of controversy in the Senate. That bill died because the Senate was unable to conclude its hearings and come to any final judgment. There is, however, one section that deserves particular mention at this time. It is section 101a, which amends the 1976 copyright law so as to exempt resale carriers from copyright liability. This section would have altered the present law and would have preempted the final decision of the courts in the case of EMI against Doubleday. Of course, with the death of the bill, the 1976 copyright law with its contrary provisions remains in force.

Any proposal to exempt resale carriers from liability raises serious questions of copyright policy—issues which the substantive Senate committees simply were unable to address in this Congress. Section 101a is seemingly inconsistent with the principle of the copyright law, which provides generally that each separate use of a copyrighted product—including a sports owner's televised transmissions of its games—requires compensation to the copyright owner. The 1976 act included a very narrow exception to this liability for a traditional "passive" common carrier, such as AT&T, which merely acts as a conduit between the sender and receiver of a signal. The amendment would change the present law to exempt a whole new group of resale carriers. One of the major justifications for this amendment is the claim that it is essential to preserve the compulsory license for cable systems set forth in section 111 of the act. However, both the administration and the Copyright Office disagree.

The Register of Copyrights pointed out in testimony in 1979 that even if local cable systems might not be able to negotiate individually with program rights holders, satellite resale carriers are in position to act as a "central agent in obtaining retransmission rights and to relay programing." The National Telecommunications and Information Administration of the Department of Commerce also concurs. A report issued by that agency last year concluded that "satellite carriers could broker rights" and that "a flexible and efficient private bargaining agreement among industry segments is a workable alternative to the present government-administered cable copyright system.

This amendment would be a major change in the present copyright law and represents a sharp departure from prior policy. Certainly, the categorical views contained in the House committee report, that there was "no doubt" under the 1976 act that resale carriers had no liability, are supported neither by the express language nor the legislative history of that act. As a sponsor of the 1976 copyright revision effort, I can attest to that view.

Certainly, any statute dealing with such a fluid and dynamic field as cable television requires review from time to time, and it is possible that the Congress could be convinced that there is some public benefit in eliminating copyright liability for resale carriers which are not now exempted by the 1976 act. However, this is such a significant reversal both of policy and of the law's explicit provisions that any change should be made thoughtfully and only after the most persuasive hearing.●

LEGAL SERVICES CORPORATION RESOLUTION OF THE MINNESOTA STATE BAR ASSOCIATION BOARD OF GOVERNORS

● Mr. DURENBERGER. Mr. President, several weeks ago the board of governors of the Minnesota State Bar Association placed its views on the Legal Service Corporation on the record. The resolution approved by the board reaffirms the commitment of the Minnesota Bar to a viable and responsible corporation. It also reemphasizes the need for final congres-

sional action on pending LSC Board nominations.

Since the resolution is intended both as a statement of position and as counsel to those of us in Congress who are about to deal with these issues, I ask that the resolutions be printed in the RECORD.

The resolutions follow:

RESOLUTION

Whereas, by resolution dated March 28, 1981, the Board of Governors of the Minnesota State Bar Association recommended that:

1. The Congress of the United States pass legislation reauthorizing the Legal Services Corporation without restriction on the free exercise of independent professional judgment of legal services lawyers in their representation of low-income persons, and without restriction on the ability of legal services lawyers to pursue on behalf of their clients the same full range of legal remedies that an attorney in private practice would be able to seek on behalf of more affluent clients;

2. The Congress oppose any change to the current form of organization of legal services, or to the current method of funding legal services programs, which would subject programs to control by persons or governmental entities whose interests might be or become in conflict with independent, effective representation of clients by legal services attorneys; and

Whereas, the Congress has found, at P.L. 93-355 Section 1001(5), that "to preserve its strength, the legal services program must be kept free from the influence or use by it of political pressures"; and

Whereas, fair and open hearings, based on evidence and previously established criteria, are an essential tool to reduce the danger of politically motivated, arbitrary decisions to defund programs; and

Whereas, sudden or frequent substitutions of the designated organizations serving a geographical area hinder the development of necessary staff expertise, private bar involvement, and the administration of a program; cause uncertainty in the client community; and create additional costs; and

Whereas, the power of the Senate to consent to Legal Services Corporation Board nominations exists so that Congress may examine and pass judgment on the qualifications and experience of each person who will exercise authority under the Act; and

Whereas, the Senate has not taken action to confirm the nominees to the Legal Services Corporation Board of Directors and these nominations will lapse with the close of the 97th Congress: Now, therefore, be it

Resolved, That the Board of Governors of the Minnesota State Bar Association hereby reaffirms its support for these principles, and in order to preserve the professional independence mandated by these principles, recommends further that:

1. No statute or regulation affecting the operations of the Legal Services Corporation or local legal services programs or attorneys be passed by the Congress, or implemented by the Legal Services Corporation, unless it conforms with the above stated principles insuring the independence of legal services programs and their attorneys;

2. Statute and regulations governing the Legal Services Corporation should continue to provide that refunding of currently funded local programs will not be denied except in case of substantial non-compliance with the provisions of the Legal Services Corporation Act or regulations, or the failure to provide economical and effective legal services; and shall not be denied without adequate notice, an opportunity to correct and an opportunity to be heard in an evidentiary hearing with an independent hearing officer;

3. The longstanding principle (and regulation) guaranteeing local operation and control of legal services programs by private and other attorneys not employed by legal services programs and eligible clients continue to be applied, and that no statute or regulation which would impose any particular system or method of delivery of services on local programs be passed or promulgated by or for the Legal Services Corporation;

4. Until a permanent Board of Directors meeting the requirements of the Legal Services Corporation Act has been confirmed by the United States Senate, no further action should be taken to implement any new rules and regulations or otherwise change policy for the Legal Services Corporation or local legal services programs;

5. During the remainder of the 97th Congress, the United States Senate act on the pending matter of the confirmation of nominees to the Legal Services Corporation Board of Directors; and that the Senate vote on each of the current nominees individually, to determine whether each is qualified to be a director in conformity with the principles stated above and the requirements set forth in the Legal Services Corporation Act;

6. This resolution be forwarded to the Senators and Repersentatives from Minnesota;

7. Consistent with the above stated principles the Legal Assistance to the Disadvantaged Committee of the Minnesota State Bar Association should prepare and forward to the Legal Services Corporation specific comments on any proposed regulations.

RESOLUTION OF THE BOARD OF GOVERNORS, MINNESOTA STATE BAR ASSOCIATION

Whereas, equal justice under law is a fundamental concept of a free society, and accessibility to legal representation for all people is essential to effectuate that principle; and

Whereas, there is a continuing need for low-income residents of Minnesota to receive legal advice and representation in civil matters for which they cannot afford private counsel; and

Whereas, the National Legal Services Corporation pursuant to P.L. 93-355 as amended by P.L. 95-222 provides funding to legal service programs in Minnesota in order that they may provide such services to low-income Minnesotans; and

Whereas, the Congress has found, at Public Law 93-355 Section 1001 (5), that "to preserve its strength, the legal services program must be kept free from the influence or use by it of political pressures"; and

Whereas, the American Bar Association and the Minnesota State Bar Association support the funding of the National Legal Services Corporation and oppose restrictions of the free exercise of independent professional judgment of legal services lawyers in representing low-income persons; and

Whereas, the Reagan administration has announced that it will seek the abolition of the Legal Services Corporation, and an end to budget appropriations for legal services programs, in legislation in the United States Congress: Now, therefore, be it

Resolved, That the Board of Governors of the Minnesota State Bar Association recommends that:

(1) The Congress of the United States pass legislation reauthorizing the Legal Services Corporation without restriction on the free exercise of independent professional judgment of legal services lawyers in their representation of low-income persons, and without restriction on the ability of legal services lawyers to pursue on behalf of their clients the same full range of legal remedies that an attorney in private practice would be able to seek on behalf of more affluent clients.

(2) The Congress oppose any change to the current form of organization of legal services, or to the current method of funding legal services programs, which would subject programs to control by persons or governmental entities whose interests might be or become in conflict with independent, effective representation of clients by legal services attorneys.

(3) The Congress appropriate a sufficient level of funding to the National Legal Services Corporation to enable it to continue the same level of service which it now provides.

(4) This resolution be forwarded to the Senators and Representatives from Minnesota.●

AMICI CURIAE BRIEF IN LUBBOCK CASE

● Mr. HATFIELD. Mr. President, on December 14, 1982, 24 Members of the U.S. Senate filed an amici curiae brief with the Supreme Court in Lubbock Civil Liberties Union against Lubbock Independent School District. The brief asks the Court to grant a hearing and reverse the decision.

The brief makes these basic arguments:

First there is confusion as to the proper policy for student initiated religious activities in public schools that merits Supreme Court review.

Second, the Lubbock decision violates the principle of neutrality and requires the State to become the adversary of students who wish to engage in religious speech.

Third, the Lubbock decision violates the free speech rights of students and discriminates against religious speech.

Mr. President, I wish to thank the Senators who joined me in this effort for thier contribution. I believe much of the confusion which has followed the Court's decision of the 1960's would be cleared up if the issue of student-initiated religious speech in public high schools is addressed by the Supreme Court.

Mr. President, I ask that the brief be printed in the RECORD.

The brief follows:

[In the Supreme Court of the United States, October Term, 1982—No. 82-805]

LUBBOCK INDEPENDENT SCHOOL DISTRICT, *et al., Petitioners,* VERSUS LUBBOCK CIVIL LIBERTIES UNION, *Respondent*

Brief Amici Curiae of Senator Mark O. Hatfield, Senator Paul Laxalt, Senator Jennings Randolph, Senator Jake Garn, Senator Pete V. Domenici, Senator Jeremiah Denton, Senator Donald L. Nickles, Senator Slade Gorton, Senator Jesse A. Helms, Senator S. I. Hayakawa, Senator James Abdnor, Senator David L. Boren, Senator Dennis DeConcini, Senator William Proxmire, Senator Alan K. Simpson, Senator Orrin G. Hatch, Senator Roger W. Jepsen, Senator Paula Hawkins, Senator William L. Armstrong, Senator Sam Nunn, Senator Robert J. Dole, Senator Max S. Baucus, Senator Howell Heflin, and Senator J. Bennett Johnston, Members of the U.S. Congress, in support of the Petition for a Writ of Certiorari to the U.S. Court of Appeals for the Fifth Circuit

INTEREST OF THE AMICI CURIAE

The amici curiae are elected members of the United States Senate. Each has taken an oath to support and defend the Constitution of the United States. Each serves at the will of and as the representative of the citizens of one of the several States. Each bears the responsibility of voting upon legislation designed to preserve and protect rights guaranteed by the Constitution of the United States.

Amici do not lightly seek leave to appear before this Court. However, the decision below would require a school board to discriminate against students who wish to use school facilities outside school hours for discussion the school board considers to have religious content. We submit that the decision violates fundamental principles of the First Amendment. The decision treats one of the most devisive social issues of our day. It is an issue involving the deepest convictions and most cherished liberties of the American people.

The issue presented is one that we have been asked to address officially on several recent occasions and one which we will have to address again. The United States Senate has before it constitutional amendments to permit prayer in public schools,[1] legislation to permit prayer in public schools to some degree,[2] and legislation to remove voluntary school prayer cases arising under state law from the jurisdiction of the federal courts.[3]

The proposals before the Senate are responsive to the widespread perception that the courts are interpreting the Constitution in a way that is hostile to religion. We are of the firm conviction that the decision below is just such a decision and that, if allowed to stand, it will place the judiciary at odds with the people it serves and the Constitution it interprets. The Constitution is not hostile to religion and the prior decisions of this Court do not compel the holding below that it is. Rather, the overwhelming weight of this Court's prior decisions establishes that the Constitution requires the government to maintain neutrality toward religion in a way that recognizes and protects the liberties of our students. The holding below improperly requires state hostility to religion and infringes student rights.

This case presents the Court with the opportunity to resolve an issue of unusual importance that is causing widespread confusion and confrontation. Numerous school boards throughout the country are uncertain as to the applicable law on the subject of equal access to school facilities by voluntary student groups.[4] Some, relying on this Court's recent decision in *Widmar* v. *Vincent*, 454 U.S. 263, 102 S. Ct. 269, 70 L. Ed. 2d 440 (1981), applicable to colleges, believe they must permit voluntary religious activities that are initiated and run by students when they take their facilities available for nonreligious activities. Others, relying on the decision below,[5] believe they are prohibited from doing so. Still others believe that the discretion whether to permit such activities rests with the school boards. A clear rule on this issue is urgently needed. This case squarely presents the Court with the opportunity to announce such a rule.

Amici believe that neither legislation nor a constitutional amendment is required to permit a school to open its facilities for all appropriate student-initiated and student-managed activities including, if the students wish, religious activities. The Constitution already so provides. The Establishment, Free Exercise and Free Speech Clauses of the First Amendment require treatment of such activities in a neutral manner. Consequently, public schools properly may allow students equal access to school facilities for voluntary, extracurricular, religious speech and assembly.

Supreme Court reaffirmation of this neutrality principle will assist amici in acquitting their responsibilities as elected officials when acting upon pending legislation and constitutional amendments and when providing guidance to constituents who operate or attend public schools. These amici curiae have a substantial official interest in the issue presented in this case, and urge the court to grant the petition for certiorari and to reverse the decision of the Fifth Circuit.

STATEMENT OF THE CASE

On August 26, 1980, the Lubbock Independent School District adopted a policy concerning the use of school facilities during non-instructional periods that provided equal access to voluntary, supervised, student groups for any "educational, moral, religious or ethical purposes."[6] It is neutral on its face. Paragraph four of the policy states:

"The School Board permits students to gather at the school with supervision either before or after regular school hours on the same basis as other groups as determined by the school administration to meet for any educational, moral, religious or ethical purposes so long as attendance at such meetings is voluntary."

The Lubbock Civil Liberties Union challenged this policy under the Establishment Clause of the First Amendment as unconstitutional on its face and as applied.[7]

The District Court held that the equal access policy was not facially unconstitutional. Rather, it "strikes the correct balance between the First Amendment's mandate against governmental establishment of a religion and its protection of the free exercise of religion."[8] The District Court also found that there was no evidence that the policy had been unconstitutionally applied.[9]

The Fifth Circuit Court of Appeals reversed this decison, finding that the School Board's equal-access-to-facilities policy was an unconstitutional establishment of religion. *Lubbock Civil Liberties Union* v. *Lubbock Independent School District*, 669 F.2d 1038 (5th Cir. 1982). The Circuit Court held that the policy was constitutionally objectionable because it "appear[ed] in the middle of a policy concerned with religious activities in the schools,"[10] because it authorized student meetings "at a time closely associated with the school day"[11] thereby demonstrating "implicit support and approval of the religious meetings,"[12] and because the School District, in connection with its statutory responsibilities concerning school property, intended to provide personnel to ensure the protection of school property during the student meetings.[13]

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[1] S.J Res. 199, 97th Cong., 2d Sess. (1982), a constitutional amendment proposed by President Ronald Reagan and sponsored by Senators Thurmond and Hatch declares that "Nothing in the Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer." An alternative constitutional amendment proposed by Senator Byrd is similar in nature. S.J Res. 247, 97th Cong., 2d Sess. (1982).

[2] Title IV of S. 1378, 97th Cong., 1st (1981) and S. 1577, 97th Cong., 1st Sess (1981), introduced by Senator Jepsen, would grant every individual the right to participate in voluntary prayer or religious meditation in any public building and would forbid the State from abridging that right. S. 2928, 97th Cong., 2d Sess. (1982), introduced by Senator Hatfield, would require public secondary schools that receive federal aid and which generally allow students to meet during non-instructional periods also to permit use of school facilities on an equal basis by students meeting voluntarily for the purpose of religious discussion or prayer.

[3] S. 481, 97th Cong., 1st Sess. (1981), and S. 1742, 97th Cong., 1st Sess. (1981), introduced by Senator Helms, would eliminate Supreme Court and federal district court jurisdiction to review and hear any case arising under state law relating to voluntary prayer in public buildings and schools.

[4] *See, e.g.* 128 Cong. Rec. S11780-86 (daily ed. Sept. 17, 1982). The present confusion is discussed in more detail, *infra*, at 9.

[5] The Fifth Circuit decision, reported at 669 F.2d 1038 (5th Cir. 1982), is reprinted as Appendix A to the Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit filed November 12, 1982 ("Petition for Certiorari").

[6] Since this case clearly involves the question whether public school facilities already available to other student groups may be made available on an equal basis to voluntary student groups seeking to engage in religious discussion or prayer, it differs from *Brandon* v. *Board of Education*, 635 F.2d 971 (2d Cir. 1980), *cert. denied*, 454 U.S. 1123 (1981), as that case was presented to this Court.

At the time the decision was rendered in *Widmar* v. *Vincent, supra*, 102 S. Ct. 269, and thus at the time of the denial of *certiorari* in *Brandon*, the court described *Brandon* as a case "in which religious groups claim that the denial of facilities *not* available to other groups deprives them of their rights under the Free Exercise Clause." 102 S. Ct. at 276 n.13 (emphasis in original). The Court subsequently eliminated the reference to *Brandon* in footnote 13 of the *Widmar* decision, *see Widmar* v. *Vincent*, 454 U.S. 263, 273 n.13 (1981).

[7] At trial, however, the president of the Lubbock Civil Liberties Union, a professor of constitutional law, testified that the policy was not facially unconstitutional (Tr., at 28) and that despite widespread publicity concerning the litigation respondent had received no complaints concerning the policy as applied. (Tr. at 27-28.)

[8] The District Court's unpublished opinion is reprinted as Appendix B to the Petition for Certiorari. The quoted statement is found at page 31a of the Appendix.

[9] Petition for Certiorari, Appendix B, at 33a.

[10] Petition for Certiorari, Appendix A, at 13a.

[11] *Id.*, at 16a.

[12] *Id.*, at 17a.

[13] *Id.*, at 18a-20a.

Rehearing *en banc* was denied, with four judges dissenting.[14] The dissenting judges asked: "Is neutrality still the objective or is it the fashion now to make the state the adversary of religious belief?" [15] This Court should resolve that question in favor of neutrality, by granting petitioner's writ, and by reversing the Fifth Circuit decision.

SUMMARY OF ARGUMENT

The question of whether a school board may open public school facilities to a broad range of student-initiated activities including religious activities or whether the school board must discriminate against activities it considers religious is one which the Supreme Court should resolve now. The Court left this question open in *Widmar* v. *Vincent, supra,* 454 U.S. at 274 n.14. The holding in Widmar and the neutrality principle it espouses point powerfully in one direction. The holding below points in the other. School boards do not know what the law is on a question of great importance to their communities. The Court should eliminate this confusion by announcing a clear equal access rule that can be applied by school authorities nationwide.

This case presents the issue clearly. The policy of the School Board is set forth in writing and has been struck down as unconstitutional on its face. Certiorari should be granted because the Fifth Circuit decision conflicts with the settled principle that neutral State policies concerning religion are not unconstitutional, and because the Fifth Circuit decision requires a deviation from such neutral policies that deprives students of their rights of Free Speech and Assembly.

ARGUMENT

Reasons for Granting the Writ

I. This Court should grant the writ to reduce the nationwide confusion concerning proper policies for religious activities in public schools

Many school boards across the country, genuinely wishing to comply with this Court's rulings, have struggled to resolve the issue of whether students may meet voluntarily for religious purposes. Some school authorities have concluded that such meetings cannot be permitted while others, interpreting the same conflicting legal precedents, have reached the opposite conclusion. For example:

In Sonoma, California, a group of high school students who had been meeting to discuss religious topics was recently disbanded by the school's principal after nearly ten years as a recognized student group. The school district's legal counsel, after reviewing this Court's decision in Widmar and the Fifth Circuit's decision in the instant case, advised the principal that Lubbock controlled in the high school setting and thus prohibited the group's activities.

In Anderson County, South Carolina, students have been meeting weekly in school facilities for the past two years before school buses arrived for prayer, Bible study and religious discussions. The students have met on school premises pursuant to a written policy applying to non-student groups allowing use of the school facilities "to promote the general cultural, civic, religious, educational and social welfare of the community." The policy was clarified in November 1982 to make explicit that religious activity is not permitted during the school day. The group may continue to meet under this policy. The local affiliate of the American Civil Liberties Union has threatened to sue the school board if the religious activities continue.

In Williamsport, Pennsylvania, high school students have sought recognition as a school club for prayer, Bible study, and discussion, and have asked permission to meet on the school premises during the early morning student activity period. Other student groups regularly meet during this activity period. The students' request has been denied based on the opinion of the school district's attorney that recognition of the group would violate the First Amendment. On June 2, 1982, the students filed a complaint against the school board in federal court seeking a declaration that the refusal to permit the students to meet violates their First Amendment rights.

In Saddleback, California, a written school policy permitted student groups to meet to discuss issues without regard to content and subject matter. The policy distinguished between sponsored clubs, which received financial support and supervision from the school, and student-initiated groups, which received no such support. A student-initiated group met during the school lunch period to discuss topical issues and read passages from the Bible. The American Civil Liberties Union filed suit against the school board, asking that the policy, as applied, be declared unconsititutional. The suit was dropped when a newly elected school board promulgated a new policy that allows only sponsored clubs.

These examples illustrate the prevailing confusion as local authorities attempt to operate the schools in the face of conflicts between the cases decided by this Court and the lower federal courts. The Court should grant petitioners' writ to resolve this issue by announcing a clear rule for the nation permitting equal access to school facilities.

II. This Court should grant the writ to uphold the principle of neutrality

The Lubbock School Board has formulated a neutral, non-preferential policy that allows equal access to school facilities for all types of student groups wishing to meet. The policy "neither advances nor inhibits religion." See *Abington School District* v. *Schempp,* 374 U.S. 203, 222 (1963). Merely allowing students to meet for prayer and religious discussions, pursuant to a policy allowing students to meet for a broad variety of purposes, is consistent with this Court's long-established requirement that States act in a manner neutral toward religious and non-religious activities. This principle was first articulated by this Court, through Mr. Justice Black, in *Everson* v. *Board of Education,* 330 U.S. 1, 18 (1947):

"[The First] Amendment requires the state to be a neutral in its relations with groups of religious believers and non-believers; it does not require the state to be their adversary. State power is no more to be used so as to handicap religions than it is to favor them."

In fact, this Court has consistently required governmental neutrality toward religion. See *Roemer* v. *Board of Public Works,* 426 U.S. 736, 745-46 (1976) ("The Court has enforced a scrupulous neutrality by the State, as among religions, and also as between religious and other activities, but a hermetic separation of the two is an impossibility it has never required." [footnote omitted]); *Lemon* v. *Kurtzman,* 403 U.S. 602, 616 (1971) ("Our decisions from *Everson* to *Allen* have permitted the States to provide church-related schools with secular, neutral, or nonideological services, facilities, or materials.");[16] *Walz* v. *Tax Commission,* 397 U.S. 664, 669 (1970) ("Short of those expressly proscribed governmental acts [governmentally established religion or governmental interference with religion] there is room for play in the joints productive of a benevolent neutrality which will permit religious exercise to exist without sponsorship and without interference."); *Board of Education* v. *Allen,* 392 U.S. 236, 249 (1968) (Harlan, J., concurring) ("The attitude of government toward religion must, as this Court has frequently observed, be one of neutrality."); *Abington School District* v. *Schempp,* 374 U.S. 203, 215, 218, 222, 225, 299, 306 (1963); *Engel* v. *Vitale,* 370 U.S. 421, 443 (1962) (Douglas, J., concurring) ("The First Amendment leaves the Government in a position not of hostility to religion but of neutrality.").

The equal access policy instituted by the Lubbock School District satisfies the requirement of neutrality. As this Court stated in *Widmar,* a non-preferential policy permitting all student groups to have equal access to university facilities reflects a secular purpose, 454 U.S. at 271-72, and "[t]he provision of benefits to [a] broad . . . spectrum of groups is an important index of secular effect," *id.* at 274. By contrast, the Fifth Circuit's decision in *Lubbock* violates the neutrality principle by requiring the State to become the adversary of public school students who wish to engage in religious activities. Under *Lubbock,* school boards would be required to screen all voluntary groups that are meeting or desire to meet and deny equal access to school facilities when religious content is discovered. Such State involvement is precisely the sort of entanglement that this Court's rulings under the Establishment Clause have sought to prevent. *Widmar* v. *Vincent, supra,* 454 U.S. at 269, n.6.

III. This Court should grant the writ to protect students' rights of free speech and assembly

This Court has emphatically stated that public school students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker* v. *Des Moines Independent Community School District,* 393 U.S. 503, 506 (1969). Religious discussion and worship are "forms of speech and association protected by the First Amendment." *Widmar* v. *Vincent, supra,* 454 U.S. at 269. Consequently, students must be permitted to exercise their Free Speech and Association rights, including the right to engage in speech with religious content, unless the conduct "would 'materially and substantially interfere with the requirements of appropriate discipline in the operation of the school . . . .'" *Tinker, supra,* 393 U.S. at 509, *citing Burnside* v. *Byars,* 363 F.2d 744, 749 (5th Cir. 1966). In the instant case there is no indication whatsoever that voluntary meetings outside school hours would disrupt discipline in the school.

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[14] *See* Petition for Certiorari, Appendix D.

[15] *Id.,* at 41a.

[16] The Court in *Lemon* described the types of neutral facilities and services that school districts can provide: "Bus transportation, school lunches, public health services, and secular textbooks supplied in common to all students were not thought to offend the Establishment Clause." 403 U.S. at 616-17. See also *Board of Education* v. *Allen,* 392 U.S. 236 (1968). The classrooms made available in the present case on an equal basis to all student groups are also neutral facilities.

Furthermore, this Court has held that where the facilities of a public university are made generally available to students for the exercise of their rights of speech and assembly, they cannot be denied to other students who wish to engage in religious speech and assembly. *Widmar* v. *Vincent*, supra, 454 U.S. 263. The Lubbock School District permits other voluntary student groups to use school facilities. It should also be permitted to allow religious-oriented groups to meet. Indeed, as held in *Tinker*, "the prohibition of expression of *one particular opinion*, at least without evidence that it is necessary to avoid material and substantial interference with school-work or discipline, is not constitutionally permissible." 393 U.S. at 511 (emphasis added). Since students may discuss the inquiry of Jean-Paul Sartre whether there is a God, they should also be permitted to discuss the conviction of Saul of Tarsus, that there is. See *Widmar* v. *Vincent*, supra, 454 U.S. at 277 (Stevens, J., concurring).

Under Supreme Court precedent the Lubbock School District's Board of Trustees must allow student expressions of opinion. The Fifth Circuit decision would require the Board to prohibit student expressions about religion. Such content-based regulation of speech deprives students of their Free Speech rights.

CONCLUSION

Amici curiae respectfully request that the petition of the Lubbock Independent School District be granted to reaffirm governmental neutrality toward religion. *Lubbock* should be reviewed and reversed to assure nondiscriminatory access to public school facilities for voluntary student meetings.

Respectfully submitted,

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December 14, 1982.●

THE TRICKLE UP PROGRAM

● Mr. KENNEDY. Mr. President, I wish to draw to the Senate's attention a little known but promising program which provides small starting grants to applicants from the lowest income levels in developing countries who can offer viable plans for self-employment, and in the process, encourages the use of local resources and produce.

Established 3 years ago by Glen and Mildred Robbins Leet of New York City, the trickle up program offers a sensible grassroots approach to development aid, which is already being tested in 37 different countries. In an age of increasingly cumbersome bureaucracies, it is heartening to learn of such small-scale projects in which benefits, however modest, are immediate and real. The laudable efforts of Mr. and Mrs. Leets and others involved in this pioneer effort deserve our recognition and support, and I request that the article on their efforts, appearing in the New York Times, appear at this point in the RECORD.

The article follows:

[From the New York Times, Sept. 12, 1982]

COUPLE USING $100 GRANTS TO FOSTER SELF-HELP

(By Kathleen Teltsch)

A check for $100 seems small capital to start a business. But an American couple have used that amount to help poor women on the Caribbean island of Dominica market their home-brewed ginger wine and to help another group in the Solomon Islands sell their pineapple and mango jams, which are delivered to customers by canoe.

The couple, Glen and Mildred Robbins Leet, call their undertaking to help the poor the Trickle Up Program. While scarcely a household name in the United States, its reputation has spread and the organization now operates in 37 countries.

"We're not exactly the World Bank," said Mr. Leet of the three-year-old aid program, which so far has laid out a total of $36,700. But then he also observed that pouring millions of dollars into poor countries did not always trickle down to help the truly impoverished.

The Trickle Up Program was born, the Leets explained in their Riverside Drive office-apartment, because they were convinced that a "bottom up" approach would succeed if carefully planned to motivate people at the lowest income levels to help themselves.

Their conviction was strengthened by their own career experiences. Mr. Leet had worked for three decades at improving community development in more than 60 countries, much of the time as a United Nations specialist. Mrs. Leet had also spent years at the United Nations, as an observer for the National Council of Women, and attended conferences devoted to third-world assistance.

They selected Dominica, an undeveloped island in the West Indies, to test their self-help model, which basically provides two $50 grants to applicants that offer a viable, income-raising plan for self-employment. The first check is issued when a group's application is accepted. The second check arrives when the group has demonstrated its progress.

The criteria are few. The applicants must be willing to devote 1,000 hours of time to work. They are encouraged to utilize local and readily available products—fruits, native woods for handicrafts, home-grown vegetables and spices that can be turned into sauces. They do not encourage export enterprises, partly because, the Leets explain, a quick return from sales has immediate, psychological benefits.

A key element in the undertaking involves unpaid "coordinators" who help the local groups get started. A number have been Peace Corps members who learn about the program and volunteer their time. In some instances, government workers act as coordinators.

Except for a newsletter that goes to organizations active in the development field, the Leets have not attempted to draw attention to their undertaking. In addition to using their personal funds, they have had some financial help from foundations, individuals and a few civic organizations.●

THE SOVIETS AND THE NUCLEAR FREEZE

● Mr. GARN. Mr. President, it is well known that I support President Reagan's arms reduction policy and oppose the call for a nuclear freeze. I have spoken before this body in the past concerning my specific objections to the nuclear freeze proposal, and will not take the time to reiterate those points here today. Nonetheless, I would like to address an important aspect of the nuclear freeze debate, namely, the subject of Soviet involvement in America's peace movement.

Let me say that I recognize the political sensitivity of this issue; it is a question that has tended to generate much emotion on both sides of the debate. I also want to make it very clear at the beginning of my remarks that I do not question the patriotism or motivations of Americans who support a nuclear freeze or have participated in public demonstrations of its behalf. The simple fact of the matter is, however, that the Soviet Union has historically conducted an active campaign to divide the countries of the free world and weaken our resolve to meet the challenge of Soviet foreign policy adventurism and military aggression. In testimony before the House Committee on Intelligence, Mr. Edward J. O'Malley, Assistant Director for Intelligence, Federal Bureau of Investigation, noted that Soviet efforts have recently focused on arms control issues:

> Recent KGB active measures operations in the United States have focused on arms control and disarmament matters and the peace movement. Specific Soviet objectives are to promote Soviet views on intermediate-range nuclear force (INF) negotiations and strategic arms reduction talks (START) and to support and reinforce domestic opposition to Reagan administration defense policies and budget, as well as the production and/or deployment of Pershing II and Cruise Missiles in Western Europe, enhanced radiation weapons or "neutron bomb," MX missile, and the B-1 Bomber.

Soviet active measures are operations that are intended to influence the policies of other nations. The Soviets use a wide variety of active measures including: forgeries, disinformation, the use of front groups, political influence operations, and media manipulation. The CIA estimates that the Soviet Union spends approximately $3 billion annually on covert action and propaganda. Those who are interested in reviewing a firsthand account of Soviet activities in this regard should read the statement of Stanislav Levchenko, a former major in the KGB, and a key actor in Soviet active measures operations in Japan who testified before the House Intelligence Committee on July 14, 1982.

Let me emphasize that to recognize the simple truth of Mr. O'Malley's observation is not a call to initiate a McCarthy-like witch hunt or to question the commitment of nuclear freeze advocates to the cause of reducing the risk of nuclear war. It is, however, a word of caution that we would be dere-

lict in ignoring. As the Wall Street Journal recently pointed out:

None of this means for a moment that the great bulk of the freeze movement is anything but sincere, or that the movement would not exist without Communist initiative. But there is a Communist Party and there are Communist fronts even in the U.S., and they are promoting not peace but Soviet interests. The American labor movement learned long ago that it had to purge Communsts to protect its own interests, and American liberals originally formed the Americans for Democratic Action for the same reasons. It is anything but demagogic to ask the peace/freeze movement to do the same thing today; indeed, any political movement that does not throws a dark shadow over the cause it hopes to advance.

Mr. President, I am disturbed by the remarks of Representative EDWARD BOLAND, chairman of the House Intelligence Committee, as reported in the Washington Post to the effect that Soviet efforts in the peace movement have failed to influence significantly U.S. policymakers in the area of nuclear arms control. In my view, Representative BOLAND has set up a strawman in order to knock it down. While it is indeed important for us to determine the extent of Soviet success in influencing U.S. policy through their active measures campaign, it is also important for us simply to understand and recognize the extent to which the Soviets participate in such activities in an effort to influence U.S. policy. Representative BOLAND's remarks could easily leave the impression that this latter aspect of the issue is of little or no consequence and should elicit no concern or caution on our part. I believe that this is a mistaken approach which fails to recognize the dangers of these Soviet activities for the security of the United States and its allies.

The reasoning used by Representative BOLAND, and others, is something akin to claiming that Soviet military aggression against Afghanistan is of minimal consequence because it has proved less successful than Soviet leaders had previously hoped. I cannot imagine my colleagues soft selling CIA efforts to influence by covert means the policies of other countries simply because they were not successful, and I do not think Soviet efforts should be swept under the rug or ignored for similar reasons.

The legitimate concern that this administration has expressed on this issue should, in my opinion, be reinforced by the succession of Yuri Andropov as General Secretary of the Communist Party of the Soviet Union. Mr. Andropov served as the chairman of the Committee for State Security (the KGB) beginning in 1967. This position made him a central figure in Soviet active measures operations. As was noted by Mr. O'Malley, Soviet active measures are approved at the highest levels of the Soviet Government and implemented by the KGB, the International Department, and the International Information Department of the Soviet Central Committee. Can there be any doubt that Mr. Andropov will build on his experience in these matters in formulating his country's policies and attempting to exploit the internal divisions within the West?

Yet, let us remember that the pressure of the peace movement will not be felt in the Soviet Union itself. Even the New York Times admits that the political effect of the nuclear freeze "is to put relatively greater pressure on the United States than the Soviet Union, which suppressed its own freeze movements." The U.S. Deputy Permanent Representative to the United Nations, Ambassador Kenneth Adelman, also addressed this same dilemma when he stated in a recent speech that:

It is particularly ironic that the Soviet Union's domestic actions contrast so sharply with its rhetorical support for peace movements in free countries. While it cynically seeks to exploit the noble aspirations of the peace movement in other states, the Soviet Union simultaneously inveighs against pacifism and arrests those who take part in unauthorized peace actitivies in its own country. The message is clear: For the Soviet Union, peace and disarmament are issues for propagandistic exploitation abroad but not for free discussion at home.

In this regard, I must confess that I am deeply disappointed that the peace movements in the West so rarely direct their outrage and protest against the Soviet military buildup and policies. It is the Soviet Union that is using outlawed biological/chemical weapons against defenseless people in Laos, Cambodia, and Afghanistan; it is the Soviet Union that continues to deploy SS-20 missiles against Western Europe while the NATO allies hold desperately to their agreement to begin deployment of comparable weapon systems in December 1983, if we are unsuccessful at negotiating the total elimination of these weapons on both sides in the INF negotiations; it is the Soviet Union that has deployed destabilizing, first-strike weapon systems such as some 600 SS-19 and SS-18 missiles, while the United States still languishes over the issue of basing for 100 MX's. Maybe the freeze advocates simply recognize that their voices will never be heard in the Soviet Union, will never have a serious impact on the arms policies of that country. Maybe they have resigned themselves to waging a one-sided campaign that is likely to contribute little to the reduction of the risk of nuclear war, but may result in unilateral constraints on the defense efforts of the West.

If that is the dilemma that faces the freeze advocates, then another challenge faces this administration and those of us who oppose the freeze and believe that force modernization must be an integral part of a responsible arms reduction policy. That challenge is to preserve the freedoms of our society which make the debate over the issue of a nuclear freeze possible and to double our efforts to explain to the American people the basis upon which nuclear deterrence and our Nation's security can be maintained. The American people should be made aware of Soviet efforts to exploit our domestic debate over national defense, but if we fail to rally this country in behalf of a strong defense then it will be our failure, more so than the success of Soviet propaganda, that will be our undoing.

Mr. President, I ask that the following material be printed in the RECORD: the Washington Post article, "Soviet Effort in Nuclear Freeze Rally Cited," a speech of Ambassador Kenneth Adelman, "World Disarmament Campaign," and an editorial from the Wall Street Journal, "Peace, Comrade."

The material follows:

[From the Washington Post]

SOVIET EFFORT IN NUCLEAR FREEZE RALLY CITED

(By Joanne Omang)

The Soviet Union is "trying to capitalize" on the worldwide nuclear freeze movement and its agents "were actively involved" in planning a major New York demonstration last spring, U.S. intelligence officials told Congress in classified testimony released yesterday.

However, both the CIA and the FBI officers said their agencies could find no evidence that the efforts had significantly influenced either U.S. policy makers or the turnout for the rally.

The July testimony before the House Intelligence Committee was among documents President Reagan cited last month as support for his charge that the Soviet Union is manipulating the U.S. freeze movement.

Committee members immediately clashed over the impact of the hearings, which looked into the Soviets' campaign of "active measures" to promote their views worldwide.

"The bottom line is that the hearings provided no evidence that the Soviets direct, manage or manipulate the nuclear freeze movement," said committee Chairman Edward P. Boland (D-Mass.).

Although testimony showed the Soviets spent vast amounts of time and money on forged documents, planted agents and other active measures to try to influence events, Boland said, the FBI had testified that the efforts "have had, at best, minimal impact on U.S. decision makers."

Rep. C. W. (Bill) Young (R-Fla.), a conservative committee member, told a news conference he did not agree that the hearings produced no evidence of Soviet involvement.

He said he had "provoked, pushed and irritated" the committee into holding the hearings because the Soviet active-measures campaign "is growing and it's essential that the American people know about it."

All sides agreed that the Soviet Union, through its KGB intelligence agency, tries to infiltrate many groups worldwide and to influence their growth and direction. They differed over the success of those efforts and over the way U.S. citizens should respond.

"We were well aware that the peace movement in Europe did have a very native and genuine spawning," testified John McMahon, deputy CIA intelligence director, on July 13. "Yet the Soviets were able to capitalize on that and drive it much further than what the Europeans expected."

Edward J. O'Malley, assistant director of intelligence for the FBI, testified that the U.S. Communist Party, the U.S. Peace Council and the World Peace Council, which he called Soviet front groups, "were actively involved in the planning and implementation of the June 12 demonstration" in New York, which drew 500,000 people. But, he added, "I would not attribute the large turnout at this demonstration to the efforts" of those groups.

Jerry G. Berman, legislative counsel of the American Civil Liberties Union, said it was "irresponsible" of Reagan to charge Soviet manipulation of the freeze movement "when his own FBI could have told him there was no evidence to substantiate those charges."

Appearing with Young was former KGB major Stanislav Levchenko, who defected to the United States in 1979 after years of work in Japan.

The hearing testimony, much of it from Levchenko, revealed "absolutely incredible" things about KGB work, he said, and "if the people know about it, it will prevent the Soviets from infiltrating quite healthy organizations."

World Disarmament Campaign

(Following is a statement by Ambassador Kenneth L. Adelman, U.S. Deputy Permanent Representative to the United Nations, in Committee I of the U.N. General Assembly, New York, November 4, 1982.)

I speak today to agenda item 22d concerning the world disarmament campaign, The United States supports the achievement of a truly universal, comprehensive, and objective worldwide discussion of disarmament.

Over and over again in this century wars have been started by governments opposed to the principle of free expression or which deny their people a true voice in their governance and instead purport to speak on their behalf. Free nations do not want or choose war. Free speech leads them toward justice; freedom of opportunity offers progress without recourse to violence; and political freedom insures that governments reflect the views and concerns of their people.

Throughout this troubled century, the United States has never been at war with another country committed to democracy and the free expansion of ideas, whatever, their content. Indeed, it has supported the process of democratic change from its inception as a nation, and it champions peaceful change today. In the contemporary world, it has always been, and remains today, the least free and most repressive countries which are the main instigators of international tension and conflict. It is Soviet troops which are in Afghanistan, Vietnamese troops which are in Laos and Kampuchea, and Cuban Troops which are in Angola and Ethiopia. And it is Soviet weaponry, introduced through Cuba and Nicaragua, which is playing so active a destabilizing role in Latin America and fuels the ambitions of such irresponsible dictatorships as Libya.

The Second Special Session on Disarmament working group last summer produced a consensus document for a truly universal and effective world disarmament campaign. The language of this document is clear and unequivocal. It stipulates that:

The campaign "should be carried out in all regions of the world in a balanced, factual and objective manner."

Its universality should be "guaranteed by the cooperation and participation of all states and by the widest possible dissemination of information and opinions on questions of arms limitation and disarmament and the damages relating to all aspects of the arms race and war, in particular nuclear war."

And it should provide an "opportunity for discussion and debate in all countries on all points of view relating to disarmament issues, objectives and conditions."

These are admirable goals. Now it is up to all governments of the world to put these clear principles into practice, to realize in concrete deeds and in their day-by-day actions what all member states of the United Nations have already endorsed in words.

In the United States and in all open, democratic societies, the workings of a free, multisided media insure that essential information about security and disarmament is readily available to the public. Scores of public and private institutions are working actively to propagate their views on arms control and security issues. No censors or commissars impede the flow of public information. Demonstrations are not staged, nor is participation in them restricted to those invited by the government.

The Soviet and Eastern-Bloc Record

Unfortunately, this is not the case everywhere. In the Soviet Union, and in other countries following similar domestic repressive policies, only that information which supports official government positions can circulate freely and be openly and publicly discussed, even when it affects the most profound issues for mankind. And those who do demonstrate for peace and disarmament without permission run the risk of prison or internal exile.

It is particularly ironic that the Soviet Union's domestic actions contrast so sharply with its rhetorical support for peace movements in free countries. While it cynically seeks to exploit the noble aspirations of the peace movement in other states, the Soviet Union simultaneously inveighs against pacifism and arrests those who take part in unauthorized peace activities in its own country. The message is clear: For the Soviet Union, peace and disarmament are issues for propagandistic exploitation abroad but not for free discussion at home.

And if the Soviet delegate speaks, as he did yesterday, of 20,000 demonstrations with over 60 million participants, the question is not one of peace but only whether these persons had the option of not participating or of expressing their views freely. They had no such choice, because freedom of expression—much less spontaneous demonstration—does not exist in the Soviet Union.

Let me cite a few examples—all recent, some continuing—from a dismal Soviet and Eastern European record in the treatment of their own incipient, authentic peace movements.

In contravention to the Helsinki accords, the Soviet Union regularly jams Western radio broadcasts and strictly limits the circulation of foreign books and newspapers to keep its citizens from hearing about or discussing disarmament as well as other topics with foreigners. Ordinary Soviet citizens are admonished not to be in contact with foreigners, and KGB surveillance of foreigners generally intimidates Soviet citizens from contacting outsiders.

In the German Democratic Republic, we even witness the remarkable spectacle of government repression of peace movements which use symbolic arm patches showing the beating of swords into plowshares—a symbol reflecting the most basic ideals of the U.N. Charter itself and a symbol similar to the monument that the Soviet Union presented as a gift to the United Nations. These patches were denounced by a frightened East German regime that considered such a pacifist image "the expression of a mentality hostile to the state and proof of membership in an illegal political association." Students and workers wearing "swords into plowshares" patches faced expulsion from school or their jobs.

In Czechoslovakia, members of Charter 77, a reformist group dedicated to the upholding of the letter and spirit of the Helsinki accords and the U.N. Charter, have been harassed, arrested, and told not to discuss disarmament as well as other topics.

During August, the Polish authorities cynically sought to manipulate the Pugwash Conference in Warsaw to legitimize the Jaruzelski regime. To their credit, the American contingent voted beforehand at Boston not to participate as an official group, and many individual European scientists chose to boycott the conference. An open letter to the conference from Nobel Peace Prize laureate Andrey Sakharov, dealing with issues of the arms race and condemning the closed nature of the U.S.S.R. and other "Socialist" countries, was never put on the agenda—nor was the destabilizing and repressive situation outside the halls of the Pugwash Conference in Poland itself.

In regard to the arms race, the Sakharov letter reads: In the last decade there has been a very substantial increase in the Soviet army, navy, missile arsenal and air force, while the countries of the West, Europe especially, have weakened their defense efforts. The SS-20 missiles have changed the strategic equilibrium in Europe, although those who take part in pacifist demonstrations seem not to notice this fact.

Sakharov concludes his letter by urging that: "There must be international efforts, efforts made by all honest people, to defend human rights, to overcome the closed nature of the USSR and other socialist countries." It is incumbent upon all countries in the United Nations to heed Sakharov's plea.

In January, the official Soviet newspaper Pravda carried an enthusiastic editorial hailing the antiwar movement in Western Europe as "the vital cause of the peoples." The same paper had earlier declared that Soviet internal "propaganda must decisively rid itself of the traces of pacifism that are occasionally to be found in some instructional or propaganda materials." And, in February, on the occasion of Soviet Army-Navy day, the Soviet Chief of Staff, Marshal Ogarkov, published a booklet deploring "elements of pacifism" among citizens of the Soviet Union.

Last spring, seven people attempted to unfurl a little hand-lettered banner in Red Square in Moscow with the Russian words for "Bread, Life, and Disarmament." They were immediately arrested by the Soviet state security police. One wonders which of these three words was considered so dangerous that it had to be hidden from the people of Moscow.

In early summer, an international group of peace advocates was towed out from Leningrad harbor after releasing 2,000 balloons carrying messages which read: "U.S.S.R. Stop Nuclear Testing Now." The Soviet explanation: "The peace advocates' vessel 'Greenpeace' was polluting the harbor." In reality, it seems clear that the Soviet authorities regard spontaneous peace movements as the most dangerous pollutant of them all.

In July, a group of several hundred Scandinavians who visited several Soviet cities on a peace march—billed in the Soviet press as the counterpart of similar marches in the West—learned that their marches had to be done the Soviet way. Soviet speakers, ignoring previous agreements, introduced Soviet political themes and disarmament proposals; marching was cut to a minimum, and, where permitted, was tightly controlled; an effort was made to exploit the group by setting up a rally at Katyn, the site of the infamous Soviet execution of 4,000 Polish officers during World War II; discussions were orchestrated and translations of speeches falsified; and two members of an independent Soviet peace group seeking contract with the marchers were sentenced to 15 days detention to keep them away from the marchers. So much for the international walks for peace, cited yesterday by the Soviet delegate.

Also this past summer, just after one of the largest peaceful disarmament rallies in American history took place in New York, Soviet police moved against 11 Soviet citizens who had announced the formation of a fledgling, indpendent disarmament group called the "Group To Establish Trust Between the U.S.A. and the U.S.S.R." The group appealed—very much in the spirit of the Second Special Session on disarmament working group that same month—for the widest possible access to information on questions relating to disarmament and arms limitation. They called on my government—as the Soviet Government has called—to ratify the SALT II Treaty. They called for a "four-sided dialogue" to include the Soviet and American publics along with their governments on the issue of peace. They asked for permission to hold a real demonstration—one not planned, sponsored, and orchestrated by the Soviet Government—in Moscow in support of disarmament.

As a result of these activities, several members of the group were arrested and charged with "hooliganism." And on August 6, the spokesman of the group, 25-year-old Sergei Batovrin, the son of a Soviet diplomat attached to the Soviet U.N. Mission for 1965 to 1970, was confined for a month in a psychiatric institute, where he was forcibly treated with powerful debilitating drugs. His main sin seems to have been that, in a country where suspicion is all pervasive, he was notable for this openness and lack of suspicion. Perhaps, like anyone who had grown up in the United States, he had taken freedom for granted.

Just this week—on Monday, November 1—Soviet authorities once again prevented a new conference by Batovrin's battered group of peace advocates, barring both members and Western reporters from the building where the meeting was to take place. Batovrin, who would have been making his first public appearance since his release from detention, was prevented by Soviet security agents from even leaving his apartment. The meeting was to have dealt with Oleg Radzinsky, a young linguist arrested last week for anti-Soviet agitation. Before his arrest, Radzinsky has had the temerity to call for an international observance of 10 minutes of peace during which all work would be stopped in the name of disarmament.

The very virulence with which these peace advocates have been harrassed and suppressed illustrates the utter intolerence of the Soviet and Eastern-bloc authorities to any challenge to the official Soviet policy of "peace" or to its carefully nurtured official image of a nation totally supportive of the ruling Communist Party's peace initiatives and policies. The Soviet Union yesterday pledged 1.5 million rubles to the disarmament campaign, a gesture of rich irony from a country where no true disarmament movements are allowed.

The governments of the free world cannot and do not persecute or stifle their critics, whether we like them or not. We know that much of the progress of mankind—in the arts and sciences; in the mastery of disease or the conquest of space; in the persistent assertion of human dignity and the rights of man—is due to the work of courageous individuals who challenge falsehood in the name of truth, who speak for justice in the face of repression. We know better than to condemn critics to psychiatric wards, and we will not recoil if the passion for truth leads people to question our weaknessess or expose our wrongs.

We have welcomed dissidents from the inception of the American Republic, beginning, in fact, with those who landed at Plymouth Rock in 1620. Nor have these dissidents come only from Western Europe. Russians, Poles, Hungarians, Czechs, and people subjected to totalitarian governments elsewhere have flocked to these shores in search of self-expression and the right of individuals to shape their own lives. Those seeking freedom of intellectual and artistic expression have not threatened but vastly enriched the quality of thought and fabric of our culture. Each—whether Solzhenitsyn, Rostropovich, Baryshnikov, General Grigorenko, or lesser known figures—has made a unique impact.

In early September, 20 American leaders of the movement to freeze Soviet and American nuclear arsenals—including among them a Nobel Prize winner, the chairman for the Council for a Livable World and one of the few American members of the Soviet Union's Academy of Sciences—sent a letter to President Leonid I. Brezhnev protesting the Soviet efforts to "harrass and persecute" their Soviet counterparts. A portion of that letter reads: "The double standards by which the Soviet Government abides—applauding widespread debate in the West, while crushing the most benign form of free expression at home—only strengthens the complex of forces that impel the nuclear arms race."

The U.S. Government fully subscribes to that sentiment. That is why the United States would welcome a truly universal disarmament campaign allowed by all governments of the world, a campaign that meets the criteria established and agreed to by all member states at the Second Special Session on Disarmament.

RECENT U.S. INITIATIVES

For our part, we are giving concrete expression to our commitment to increased freedom and openness, not only at home but in the international arena as well. Let me review briefly some of the recent initiatives which the United States has undertaken in this regard.

The United States has engaged in an extensive, active dialogue with the Soviet Union on important world issues. As one element of this, President Reagan offered recently in Berlin to provide President Brezhnev with an opportunity to speak on world issues directly to the American people on U.S. television, if the Soviet leader provided a reciprocal opportunity. He also proposed that Soviet and American journalists exchange views in their respective media.

President Reagan also proposed, then and there, a number of new strategic confidence-building measures to foster greater openness and greater understanding. These include reciprocal U.S.-U.S.S.R. exchanges on advanced notification of major strategic exercises and on launches of intercontinental ballistic missiles within as well as beyond national borders and expanded exchange of strategic force data.

The United States also has supported and respected arrangements promoting greater openness in military matters as an outgrowth of the Conference on Security and Cooperation in Europe.

At the Second Special Session on Disarmament this summer, President Reagan proposed the convening of an International Conference on Military Expenditures to give a much needed stimulus to reporting of military budgets by countries, some of which continue to shroud their real military spending in secrecy and mask it behind patently false statistics.

In yet another effort to shed light on an important matter of world concern, the United States has strongly supported the efforts to induce the Governments of the Soviet Union, Laos, and Vietnam to facilitate access to areas where chemical weapon attacks have taken place over the last several years, so that the U.N. Group of Experts can conduct an impartial and complete investigation of these profoundly disturbing illegal and inhumane practices.

And in arms control negotiations, we have pressed for acceptance, on a mutual basis, of appropriate verification measures to enhance mutual confidence, credibility, and trust.

All of these proposals represent concrete and practical steps to increase freedom, openness, understanding, and confidence; to flood light into areas heretofore shrouded by excessive obsession with secrecy and control; and to lessen the dangers of international miscalculation and misunderstanding. We would welcome the free flow of information on disarmament among citizens of all countries. Two days ago, Americans in nine states exercised their right to vote in referenda on various disarmament issues. We regret that supporters of peace elsewhere still lack these basic rights. But we urge all other countries to undertake—in deeds, not only in words; at home as well as abroad—concrete efforts to promote an unhindered flow of information to all peoples of the world and to permit the widest possible freedom of public expression and assembly on the crucial issues of world peace and disarmament.

PEACE, COMRADE

When the House Select Committee on Intelligence recently released FBI and CIA testimony on "active measures" by the Soviets to influence public policy in the West, Rep. Edward P. Boland fixed the press and popular reaction with a press release saying "The bottom line is that hearings provide no evidence that the Soviets direct, manage

or manipulate the nuclear freeze movement." We have now read the actual 337-page report, and suggest that Rep. Boland might want to try the same exercise himself.

Item A in Rep. Boland's interpretation of the hearings is a statment by Edward J. O'Malley, assistant director of the FBI's intelligence division. Mr. O'Malley testified that some 500,000 people participated in the June 12 freeze demonstration in New York City, and that "I would not attribute the large turnout at this demonstration to the efforts" of Communist or Communist-dominated groups—the Communist Party U.S.A., the U.S. Peace Council or the World Peace Council.

This denies what no one, not even the freeze movement's most severe critic, has alleged. The concern, rather, has been that the freeze theme parallels Communist propaganda efforts, that Communists are active in the Western European peace movement and the related U.S. freeze movement, and that the sincere protesters who undeniably provide most of the power behind the movements are recklessly cavalier about Communist connections. The same Mr. O'Malley had some other interesting things to say in this regard.

For example, "The U.S. Peace Council and the World Peace Council, as well as CPUSA members, were actively involved in the planning and implementation of the June 12 demonstration." By way of definition, he added that the U.S. Peace Council is an affiliate of the World Peace Council, which he further described as "the largest and most active Soviet international front organization."

"In the last few years, the Communist Party Soviet Union instructed the CPUSA to place high priority on issues of arms control and disarmament and the peace movement," Mr. O'Malley continued. "The Soviets have used the Communist Party U.S.A. to mount campaigns against the neutron bomb, NATO theater nuclear force modernization and administration defense policies. Furthermore, the Soviets have requested the CPUSA to reinforce and mobilize the peace movement in this country."

According to an FBI report, the World Peace Council "was deeply engaged, almost to the exclusion of other projects," in preparations for the U.N.'s Second Special Session on Disarmament last spring. Meanwhile, the FBI added that the U.S. Peace Council was involved in organizing the 500,000-person rally, and that the U.S. Communist Party, "was a member of the June 12 coalition, which was responsible for actually coordinating and planning the rally."

The FBI's position is, then, that the Communist Party and Communist fronts were indeed active in the demonstration, but not crucial to its success. The logical question is whether Communist participation mattered, and on this the FBI also has an opinion. In participating in planning the demonstration, "The USPC reportedly attempted to channel the theme of the protest away from the Soviet Union and against the U.S."

Any eye-witness to the march past the U.N. must have been struck, as we certainly were, that there weren't any signs, banners or chants against, say, the Soviet occupation of Afghanistan or the use of "yellow rain." The U.S. administration, though, was certainly given a lot of grief. There is reason to suspect, in short, that Communist efforts within the freeze movement have been successful in shifting attention away from the Soviet Union's massive military buildup and toward the Reagan administration's defense programs. Perhaps this does not meet Rep. Boland's definition of "manipulating" the freeze movement, but it certainly meets ours.

Indeed, Rep. Boland's hear-no-evil, see-no-evil attitude perfectly exemplifies what we find objectionable about the leaders of the freeze movement. By now the Europeans, who have watched their own peace movement longer than we have watched the freeze, have lost any such naivete. Both Denmark and Norway, for example, has expelled Soviet diplomats for trying to influence their peace movements. West German groups have fought Communist takeovers. And Bruno Kreisky, chancellor of neutralist Austria, says "the Soviets have spent millions on the peace campaign."

None of this means for a moment that the great bulk of the freeze movement is anything but sincere, or that the movement would not exist without Communist initiative. But there is a Communist Party and there are Communist fronts even in the U.S., and they are promoting not peace but Soviet interests. The American labor movement learned long ago that it had to purge Communists to protect its own interests, and American liberals originally formed the Americans for Democratic Action for the same reasons. It is anything but demagogic to ask the peace/freeze movement to do the same thing today; indeed, any political movement that does not throws a dark shadow over the cause it hopes to advance.●

ENTITLEMENT REFORM

● Mr. DURENBERGER. Mr. President, we will confront very few issues over the next 2 years that match the importance of the fight to control the growth of the Federal deficit.

That deficit touches our lives in many ways—through higher interest rates that slow the economy and take away jobs; by squeezing out small investors as Government consumes an ever greater share of private savings; by saddling future generations with immense debt repayment obligations. Perhaps most important, it shatters the basic faith of the American people in the will of this Government to control its own financial destiny.

Regaining control of the Federal budget cannot be handled as a political issue. It will require each of us to display a high degree of objectivity and political courage. In a recent article in the Atlantic magazine, James Fallows showed that objectivity and courage in discussing the impact that one of Government's great "untouchables"—the entitlement segment of the budget—is having on the growth of the deficit. This is an article that all of us should read and ponder before we reconvene for the next Congress. The entitlement issue is not an easy one to deal with, either politically or on its substance. But it is an issue that cannot be evaded, and I believe that everyone who reviews this article will be impressed as I was with the precision and sensitivity that the author brought to his analysis of the various aspects of entitlement reform.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

ENTITLEMENTS

(By James Fallows)

Early last spring, Hastings Keith tried to return some money to the federal government. For fourteen years, Keith was a Republican congressman from the Massachusetts district that includes Cape Cod. After leaving the Congress in 1972, he worked for a few months in the Nixon Administration and then went into business. Together with the five years and ten months he had spent in the military before, during, and after World War II, Keith had put in twenty years on the federal payroll; and so, in 1973, at the age of fifty-eight, he was eligible for the early retirement benefits the government provides.

His combined congressional/civil-service pension provided him initially with $1,560 a month, or $18,720 a year. He also received retirement pay, $551 a month, for service on active military duty and in the reserves, which be began getting in 1975. And in 1980, when he turned sixty-five, Keith drew a third government benefit, his monthly Social Security check.

Like other federal benefits, Keith's were fully "indexed" against inflation, which meant that they were increased once, and in some cases twice, a year, in step with changes in the Consumer Price Index (CPI). Because of these increases, Keith, whose highest salary as a congressman had been $42,500, found himself by 1982 taking in nearly $61,000 a year in federal pensions. His congressional pension had more than doubled since 1973, to $3,419 a month. His military pension had risen to $903 a month, and his Social Security payment was 691 a month. Another round of cost-of-living adjustments made this summer raised Keith's federal pensions yet again, to a total of more than $65,000.

And that was not the end of federal benefits for the Keith household. Keith's wife had retired from the federal government during a "reduction in force," or RIF, when she was forty-six years old. Since she had put in twenty-five years of federal service, she was as a victim of a RIF, entitled to a pension, which started at $550 a month in 1976. By this year, it had nearly doubled, to some $1,000 a month. All told, then, the Keith family's federal pensions came to more than $77,000 as of last summer—and all of it was fully indexed to future increases in inflation.

To Hastings Keith, this seemed excessive. He wrote a letter to the secretary of the Treasury, Donald Regan, explaining why he wanted to turn over three checks, totaling $3,107, each representing a portion of his monthly allotments that he considered unwarranted.

Keith's hope had been to present his checks in a public ceremony, where he would register his complaint about the system that depleted the Treasury to finance windfalls such as his. The government shared little of his enthusiasm for the plan. Instead, he was granted an audience with an assistant secretary of the Treasury, who listened politely to his case, but did nothing.

His rebuff at the Treasury did not stop Hastings Keith, who has been telling his story to congressional committees and devoting his extra money to the effort to change the federal retirement system. But

the government's lack of interest in his cause helps explain some of the current agonies over the federal budget and federal deficits.

Although the generosity of congressional pensions makes the sums in this example extreme, they illustrate a basic fact of modern government. Benefits that are indiscriminately awarded, and then ceaselessly increased, add more to the federal budget than do those more familiar evils "cost overrun" and "welfare fraud." Yet politicians of every camp have found it perilous to tackle, or even to acknowledge, this problem.

Since early this year, both friends and foes of the Reagan Administration have understood that the next four years might well produce the largest sustained budget deficits in American history. When the administration released its budget proposals for fiscal year 1983 last spring, it did what no other adminstration had ever done: for the years ahead it predicted a smooth, robust return to national prosperity, yet it still foresaw budget deficits that would hover in the vicinity of $100 billion a year.

Last year's reductions in tax rates are part of the reason for the deficits, as are the administration's plans for a sustained military buildup. But while these two policies have been debated to death, neither the administration nor its critics have yet wrestled with the largest single force behind the deficits. Neither liberals nor conservatives have yet devised a confident approach to that portion of federal spending known as "entitlements."

Entitlements, sometimes called "payments to individuals," are technically defined as benefits for which people qualify automatically, by virtue of their age or income or occupation. Social Security is such an entitlement, by far the largest. So are medical programs such as Medicare and Medicaid, civil-service and military pensions, unemployment insurance and price-support payments for farmers, and (with certain technical quibbles over definitions) subsidized housing and food stamps.

From a budgetary point of view, the significance of such programs is that, at least in the short run, their costs cannot be controlled. If the Congress appropriates $2 billion to build a dam or a highway, it can be confident that no more than $2 billion may legally be spent. But when it authorizes extended unemployment benefits, or a different reimbursement formula under Medicare, it can set no limit on the money that will ultimately flow from the Treasury, since the government is legally obligated to provide benefits to anyone who can prove that he is eligible.

The Reagan Administration took office committed to a fundamental redefinition of federal responsibilities, but it will almost certainly depart having made no dent in entitlements. From the less than one third of federal spending in 1970, entitlements rose to represent nearly half (of a much larger total) in 1980. Even if the Reagan Administration should continue to be granted its every wish for more military spending, and even if Congress were to concur in all its proposed cuts in the rest of the budget, entitlements would still make up nearly half of the budget in 1983 and 1984.

The two national parties have virtually raced each other to distance themselves from this dangerous issue. Old-style liberals to "neo-liberals," the Democrats have attacked almost every other part of the administration's economic plan, without volunteering their ideas about this half of the budget. In its top-to-bottom re-examination of government spending, the administration exempted from Budget Director David Stockman's scrutiny not only the military but also the largest and fastest-growing entitlements.

The "entitlement problem" is often thought of as a "welfare problem." To a trivial extent, it is: most federal programs for the needy, including the classic welfare program, AFDC (Air to Families with Dependent Children), do fall within the entitlement budget. But they make up a small part of the whole. Only a sixth of all the money spent on entitlements is for programs that are "means-tested," or aimed at the poor, and those programs are the slowest growing part of the entitlements budget. For example, AFDC, at $7 billion, costs one third as much as civil-service pensions, and it shrinks while the pensions grow. Rather than a "welfare problem," the growth of the entitlements is actually a "retirement problem."

October 1 marks the beginning of the government's fiscal year, and in fiscal year 1983, just begun, the federal government will, according to the latest congressional budget resolutions, spend some $770 billion for all its varied activities. Of that total, $362 billion will go toward entitlements; of the $362 billion, $264 billion will be for retirement programs. In other words, one out of every three dollars the federal government spends this year will be spent on pensions or on medical care for those over the age of sixty-five.

Social Security, of course, heads the list of retirement programs; it will cost about $170 billion in 1983. Medicare, the medical-care program for people over the age of sixty-five, is second largest, at $49 billion. Together, these two programs account for more than half of the entitlement budget and more than a quarter of all federal spending. Two other major retirement items are civil-service pensions, $21.2 billion in 1983, and military retirement pay, $16.2 billion. By way of comparison, the largest means-tested program, Medicaid (Medicare's counterpart for the needy) is expected to cost $18.5 billion in 1983, and food stamps will be about $12 billion.

Retirement programs not only dominate the federal budget, they also represent its largest area of growth. The basic reason for this growth is demographic: over the past generation, more people have been surviving to retirement age, and the birthrate has declined. In 1950, roughly one American out of every forty-three drew benefits from the main Social Security account, known as Old Age and Survivors Insurance. Now about one in seven receives payments (including those who draw from the newer Disability Insurance account). In 1959, every 100 working Americans had to provide, through their Social Security taxes, the support for six retired people. Now each worker's obligation is five times as great (thirty-one retirees per 100 workers). That ratio should remain steady for the next twenty-five years, while the children of the postwar baby boom remain in the workforce. But early in the next century, the ratio should shift again. Fifty years from now, each person in the office or on the assembly line may be responsible not only for his own livelihood but also for half the support of a retired countryman.

The average single man who retired in 1960 received six and a half times as much money in benefits as he ever paid in. (These comparisons are adjusted for inflation, and for the interest that the taxpayer could have been earning on his contributions.) The man who retired in 1970 got back more than three times as much as he contributed, and the man who retired in 1980 should eventually receive two and a quarter times as much money as he paid in. But by the time one of today's teenagers retires, in the year 2030, he will have paid more into the system than he will ever get back.

Moreover, while life-spans were increasing, the retirement age was being lowered. The average man who turned twenty in 1940 could expect to live six months past his sixty-eighth birthday. Since the retirement age was then sixty-five, he could expect to spend three and a half years receiving the retirement benefits toward which he had contributed during his forty-five years of work. In 1956, the Social Security retirement age for women was lowered to sixty-two; it was lowered for men in 1961. (Retiring at sixty-two instead of sixty-five means a maximum reduction of 20 percent in Social Security benefits, but most of those eligible choose to take their benefits as soon as possible.

The average man who turned twenty in 1977 could expect to live to the age of seventy-five, or thirteen years past his retirement age. Consider how this young man's expectations would differ from his older counterpart's. The thirteen years he would spend in retirement would be nearly one third as long as his forty-two-year working career. Forty years ago, the average retirement was only one twelfth as long as the average working career.

Demographic trends, powerful as they are, do not fully explain the growth of the retirement programs; political maneuvering deserves much of the credit. The explosion in retirement benefits derives in large part from a reform gone awry.

The reform in question was an attempt to take the "politics" out of federal benefits. In 1962, Congress undertook a reform of civil-service pensions. Until that time, Congress had to approve each pension increase, in rituals very much like its regular votes to raise the ceiling on the national debt. Good-government spokesmen argued that this sapped the Congress's energies and debased its deliberations, by enticing congressmen to play politics with pension adjustments. It would be far better, they said, to delegate adjustments to the automatic workings of a formula.

The reformers also recommended an improvement over the military's system of raising pensions whenever active duty pay went up. In those days when federal salaries were considered to be "low," it was argued that the government might need to increase its pay selectively to attract the right talent; there was no logical reason to pass this on as a windfall to retirees. Pensions should rise only in accordance with the cost of living.

Starting in 1962, therefore, pensions for civil servants were to be adjusted once a year, in proportion to the rise in the CPI. Indeed, starting in 1969, the adjustment was one percent more than the CPI increase. This one percent "kicker" was supposed to make up for the lag between the rise in prices and the annual adjustment in the checks.

The other major step came in 1972, when Congress voted to index Social Security benefits to the CPI (but with no "kicker"). Until then, Social Security benefit levels had also been adjusted by the Congress. Switching to the index plan was, once again,

supposed to shield the system from political demagoguery. The logic seemed so compelling that by the end of the 1970s, 30 percent of all federal spending was directly indexed to the CPI, and another 14 percent was indexed to other measures.

The architects of indexing failed to foresee what would happen next, and understandably so: through most of the fifties and sixties, inflation had averaged less than 2 percent a year. But at just the moment when so large a share of federal spending was being tied to the CPI, the historic American inflation of the 1970s began. As prices increased by 8, 10, 12 percent each year, exactly in pace rose federal payments.

No, not exactly in pace. In fact, the payments rose faster, because of peculiarities in the design of the indexing formulas. The kicker for federal pensions, for one thing, put federal retirees far ahead of the game, until it was removed in 1976. Civil-service retirement pay cost $2.8 billion in 1970; after ten years of sustained inflation, it reached $14.7 billion in 1980, an increase of 525 percent. Perversely, indexing meant that it could be more profitable to retire than to work. Eric Heimel wrote in the Journal of Contemporary Studies that a four-star general who retired in 1971 would have seen his retirement pay increase, through indexing, to $64,000 in 1981, while a four-star general still on active duty in 1981 would be earning $54,000.

In principal, indexed increases did nothing more radical than enable federal pensioners to keep even with inflation. But in practice, their effect was quite different. During the inflation of the 1970s, few prices rose faster than those of energy and housing; but the increases in those prices, dramatic enough in reality, were exaggerated by the formulas used to calculate the Consumer Price Index. The costs of home ownership, which made up one quarter of the "market basket" of goods whose prices determined the CPI, were calculated in a way that made the index extremely sensitive to changes in the mortgage rates. For example, if the mortgage rate were to rise by one point in a month, from 10 percent to 11, that change would, all by itself, raise the CPI for that month by almost one full point, which could be "annualized" into an inflation rate of 12 percent. The Congressional Budget Office has estimated that this and other quirks in the CPI's treatment of housing costs exaggerated the real rise in consumer prices by as much as 5.1 points between 1978 and 1980, with each of those points triggering an extra $2 billion in federal spending each year. As for the cost of energy, the CPI market basket assumed that families would keep buying the same amounts of gas and oil and electricity, no matter how much prices might rise or fall. The real market basket of American consumers has of course changed markedly from that of 1972. The era of cheap fuel ended, and consumers cut back, but the CPI ignores such adjustments totally.

Beyond these technical defects in the index was a larger question of fairness, for "full indexation" led to very different fates for different segments of the American public. It created a class that had nothing to fear from the inflation that was the scourge of the rest of the populace. Those who retired from private companies were, if anything, more vulnerable to inflation than their working counterparts, since more than 90 percent of private pension plans offer no cost-of-living protection. (Hastings Keith's pension from the private firm where he spent twenty years started out at $150 a month and dropped to $100 when he began receiving Social Security.) But because of the technical oddities of the CPI, those who received federal pensions and Social Security could come out ahead when prices rose. For one class of beneficiaries, indexation all but shattered the connection between the nation's productivity and their economic welfare.

There is one further engine of growth at work within the retirement accounts: medical insurance. In financial terms, the medical programs are potentially the most explosive of all; they also present the most intractable of the entitlement dilemmas.

Through the past decade, no major program run by the federal government has grown more quickly than medical care for the aged. Between 1970 and 1980, federal payments for medical entitlements, of which Medicare makes up three quarters (Medicaid accounts for nearly all of the rest), rose by 133 percent in real dollars (i.e., adjusted to remove the effects of inflation). Medicare now costs less than one third as much as Social Security, but it is increasing at a much faster rate. According to projections based on the 1981 Social Security Trustees' report, Medicare could, by the year 2005, surpass Social Security to become the largest single item in the federal budget.

That Medicare should be outstripping Social Security suggests that it is subject to pressures other than demographics, since the clientele of the two programs is almost the same. The pressures driving Medicare costs ever higher are built into the medical system.

American doctors, researchers, and hospitals have proven far more brilliant in combating the ravages of age than in figuring out how to do so at a controllable cost. This imbalance presents choices that are inescapably cruel: who shall be denied kidney dialysis if the cost of serving everyone is too high? Who shall pay the cost if no one is to be denied? These are precisely the sorts of choices that democratic governments find most awkward to make, and medical-entitlement plans reflect that uneasiness. Under Medicare and Medicaid, the choices finally do get made, but only in a backhanded fashion that does not pretend to be rational and does not succeed in being economical.

The choices fall to the doctors: if your physician authorizes a trip to the hospital and elaborate tests, Medicare will pick up the costs of the next sixty days (after you pay the first $260). In principle, the brake on expenditures is the cumulative effect of a half-a-million doctors' prudent decisions. In practice, the limit is often set by local availability of hospital beds, of specialists, and of machines.

After years of bitter struggle, Congress enacted the Medicare program in 1965. Organized medicine, led by the American Medical Association, represented the principal opposition; as part of the political bargaining that ensured congressional passage, Medicare took on features that guaranteed that doctors and hospitals would not suffer financially under the plan. Doctors would be reimbursed according to a schedule of permissible fees—but the schedule would be based on rates set by the doctors themselves. Moreover, the doctors were free to bill their patients for supplements on top of the charge to Medicare. Hospitals, unlike doctors, agreed to accept Medicare's reimbursement as payment in full for a patient's bill. But that reimbursement would be based on the hospital's rendering of "reasonable costs" of care. Hospitalization insurance was automatic under Medicare. To get the extra coverage for doctors' bills, each person had to pay a premium, now $12.20 a month. Nearly everyone chooses the additional coverage, and so is effectively shielded from rising medical costs—which was, of course, one of the fundamental purposes of the plan.

The result of these arrangements was another of the "cost-plus" schemes so common in government contracting. No party to the transaction had both the incentive and the ability to economize on care. A hospital-building boom left new beds waiting to be filled. Filled they soon were, and the charges were passed on to Medicare or to private insurers. These "third-party reimbursers" watched their payments shoot through the roof—hospital charges have typically risen by 15 to 20 percent each year.

This general quandary for American medicine has created a particular challenge for Medicare, because expensive new medical techniques are most often used to treat older patients. Nearly a quarter of all Medicare payments are made in the last year of a recipient's life. While Medicare has been a resounding success in enabling retired Americans to meet their routine medical needs without financial terror, its budget is tremendously skewed by the costly last efforts to fend off death.

Political arguments about medical care have simmered down in the past half-dozen years, because of the near-universal assumption that the time has not been right to create another expensive new entitlement, in the form of a national health system. Yet the very difficulty of balancing our public accounts may soon refocus political attention on the basic questions of who gets what kind of medical care, and how we can pay for it.

As it drew up its proposals for the 1983 budget, the administration decided not to recommend any reductions in Social Security, and only minor adjustments in Medicare and federal pension plans. In so doing, it started out by declaring one-third of the budget off-limits for spending cuts. Another quarter of the budget belonged to the military, and its share was supposed to increase to one-third over the next few years. A further 15 percent of the 1983 budget was committed to repaying interest on the national debt.

Together, these three areas account for nearly three-fourths of all federal spending, without even counting the other entitlements. If they could not be cut, an administration pledged to frugality and embarrassed by mammoth deficits had little choice but to slash everything else. The administration proposed "zeroing out" most job-training programs, cutting research-and-development funds, and taking other difficult steps. There was one final possibility for savings: the "other" entitlements, those aimed at the poor. This possibility the administration seized.

Between Jimmy Carter's budget for fiscal year 1981 and Ronald Reagan's proposals for 1983, the major pension programs increased by 20 percent and Medicare increased by 30 percent. But in that same period, AFDC was cut by 25 percent, the low-income energy-assistance program by 30 percent, and a variety of nutrition programs, including food stamps, by 15 percent.

The unequal sharing of the sacrifice became one of the administration's central political problems; it led even conservative

pillars such as Senator ROBERT DOLE to complain about shoving the burden onto the poor. Even so, the cuts were not enough to solve the budget problems. No matter how deeply it might probe elsewhere, an administration that chose not to confront the biggest entitlements (to say nothing of the military) was left with the prospect of deficits so stupendous that they could double the national debt within five years.

In the middle sixties, it took the simultaneous pursuit of a war on poverty and a war in Vietnam to throw the federal budget into chronic deficit. Now it might require nothing more ambitious than meeting our routine obligations.

Can the entitlements explosion be contained? The ultimate answer demands a reconsideration of basic political premises that we have found comforting since the New Deal. Yet certain technical changes, primarily involving pensions for public employees, provide a place to start.

The single most important technical change is to begin dismantling preferential federal pensions and bring new federal employees into the Social Security system.

Federal employees now enjoy the nation's most generous pension plan. Most private pensions aim at replacing 20 to 25 percent of a worker's previous earnings. Social Security reduced living expenses, and, yes, savings are supposed to make up the rest. A federal employee with thirty years' service will typically receive 56 percent of the average salary for his last three years on the job, congressmen 80 percent. All of it is fully indexed, of course (although the Congress did, this summer, limit indexing for retirees under the age of sixty-two, on the theory that most of them were holding other jobs). Federal retirees receive more in pensions than retirees from all private businesses combined.

The pension plans of private businesses usually require the worker and his firm to invest, in varying proportions, the resources that will pay dividends during retirement. Federal pension plans don't come close to doing so. The largest contributions come neither from the workers nor from the agencies that employ them but from general federal funds. Patrick Owens reported in *Newsday* that in 1980, federal workers and their agencies contributed a total of $3.6 billion toward their retirement funds. The Treasury contributed an extra $11.9 billion. The unfunded liabilities of the federal retirement systems—the commitments made to workers but backed by no investment or trust fund—now amount to some $1 trillion, roughly as much as the entire national debt. According to Hastings Keith, unfunded liabilities average $149,000 *per person* in the military, $173,000 in the civil service, and $530,000 in the foreign service.

The generosity of federal pensions is a legacy of the 1920s, when federal pay was poor. For the past twenty years, the federal government has embraced the principle of "comparability," offering salaries comparable to those in business. Why should the principle not extend to pensions as well?

"Integrating" federal employees into Social Security would ultimately mean more generous benefits for low-paid federal employees, especially those who do not work for the government long enough to earn pension rights, since they would be able to count their years in government service toward their Social Security benefits. At the other end of the scale, it would mean an end to the windfalls now available to "double-dippers": government employees who, having qualified for pensions while still in their late forties or fifties, take private jobs and become eligible for Social Security as well. Robert Myers, a former chief actuary for Social Security who now directs a presidential commission on Social Security, which will recommend reforms for the system this winter, contends that three quarters of all retired government workers are either receiving a second pension or are working in a job that will qualify them to do so.

A few groups of federal employees have already set an example that might be widely emulated. The retirement plan for the Tennessee Valley Authority has since the 1950s been integrated with Social Security, like most private pension plans; it does not count military service toward its pensions; it applies its disability standards more strictly than does the civil-service retirement system; and it discourages early retirement. Except for the provisions for early retirement, it offers benefits comparable to those of other civil servants; yet, unlike most other systems, it is actuarially sound. The Federal Reserve pension plan and a few others operate on similar principles.

The logic of comparability also suggests a change in military pensions. Career soldiers can now retire on half pay after twenty years of service, or three-quarters pay if they serve for thirty years. (Members of the military are also eligible for Social Security.)

The demands of military duty obviously differ from those of any other work. But the twenty-year career costs a great deal while adding very little to our national defense. Gradually converting the military to a thirty-year career might mean increasing active-duty pay, especially for the sergeants and petty officers who are now the services' scarcest resource. In the long run, this would probably cost less than adding to the mountain of unfunded pension liabilities; and by reducing many officers' sense that their military duty can be only a "first career," it might well enhance the services' integrity.

Yet all such reforms take us only so far. No matter how we might crack down on the retired colonels and GS–15s, it will not make much more difference in the entitlements budget than cracking down on welfare mothers would. Our national accounts will remain out of balance until we wrestle with the IOUs that middle-class America has issued to itself, through Social Security and Medicare. The two awesome challenges of the entitlements are to control medical costs and to re-examine our notion of who "needs" public help.

The budgets for Medicare and Medicaid, in their leaps to the sky, reflect the same pressures that are driving Blue Cross premiums and personal medical bills up and up. Tinkering with the government programs is the minor solution to this problem; the major one is changing incentives in the medical system. In forcing this issue to the center of political attention, the entitlements mess may indirectly do some good.

One political camp, exemplified by Senator Edward Kennedy, contends that the government can never contain medical costs unless it controls the medical system. To that end, Kennedy has tirelessly pushed for a nationwide, largely publicly financed, centrally planned approach to health care. The opposite view, espoused by David Stockman in his days in the Congress, holds that rising medical costs reflect imperfections in the medical market. The answer, therefore, is to unleash market forces through more competition.

Of the two views, Stockman's seems more in harmony with the politics of the time. The Reagan Administration plans to unveil a new medical-reform scheme, emphasizing "market force," about the time of the President's State of the Union address next January.

The logic of the market means encouraging the pre-paid medical plans known as health-maintenance organizations. It also means—though this may or may not be a feature of the President's plan—removing some of the padding that now protects the typical patient from his medical bills. Economists lament "third-party" payment schemes, whether run by Blue Cross or by the U.S. government, because they blunt the instinct for frugality that is so powerful when one's own money is at stake. When the patient can pass the bill to someone else, why should he worry about unnecessary tests? Why should he wait two weeks for an appointment at the doctor's office when he can use the hospital emergency room as a clinic? He will ultimately pay the bill, of course, through higher taxes or insurance premiums; but the market functions poorly when its messages are so long delayed and so weak.

One government economist, who chooses to remain unnamed, has taken reliance on the market a radical step further. Medicare's biggest economic problem, the economist argues, is the last-resort measures taken before an elderly patient's death, which dwarf the costs of previous care. When patients and their families decide how hard the doctors should fight, and with what machines, finances do not color the deliberations, because Medicare covers nearly all hospital fees. The economist argues that when such a patient dies, his estate should be tithed to recover a share of his "Medicare profit"—the difference between the premiums he has put into the system and the benefits paid on his behalf. This, the argument continues, would repair the social contract between the generations. It would also build into individual decisions the same realities that the nation faces, as high-priced medical possibilities grow more rapidly than resources.

This may seem a ghoulish suggestion, as its author is aware, but when public leaders dismiss out of hand, the possibility of questioning the rules, even though those rules lead straight to bankruptcy, are a few ghoulish thoughts so much more dangerous then the conventional wisdom? Whether or not this specific proposal is workable, the spirit behind it is constructive, because it demonstrates a willingness to think of new ways out of a predicament.

The main idea waiting to be spoken is that people have different claims on public support. Yes, there are cases in which the state bestows its benefits equally on all. The children of rich and poor alike should be entitled to schooling at public expense. But to extend that logic to pensions and subsidies leads to commitments beyond our national means. The people who really need help need more than they are now getting. If they are to have it, other people must have less.

In the case of medical care, there are certain obligations that the state should assume on everyone's behalf. Any burn victim, to choose one example, should be entitled to the best care that is available, regardless of the cost. But there are other obligations that the nation cannot assume,

simply because there would never be enough money to pay for them. Medical technology now offers answers to many of mankind's universal complaints. Corneal surgery can eliminate much of the need for eyeglasses. Joints can be rebuilt, arteries reamed, gums surgically lifted and the underlying bone scraped to remove plaque. We all "need" such services, but if all these innumerable repairs to all parts of all bodies were carried out, the cost would rival the gross national product.

How, then, can we decide where to draw the line? One way is to ask each patient to share more of the cost, giving him a stake in the decision about costly care. But if that is done without recognizing the differences in economic need, it will deny some people a more basic level of medical care.

A twenty-dollar physician's fee, or a $500 deductible for hospitalization, would mean quite different things to a retired couple with pensions and dividends of $30,000 and a widow surviving on $4,000 from Social Security. For the one, it would mean some sacrifice; for the other, denial of care. Yet our retirement plans, in their magnificent evenhandedness, treat the poor widow and the well-off couple the same. When we provide for some, we must provide for all. If we change the rules so as to balance the budget, we revoke the widow's right to treatment. But if we do not, we lose control of our financial future.

The original genius of Social Security was precisely that it did treat everyone the same. No one need feel humiliated by accepting its benefits, because it was not welfare. Everyone was included in the plan. As a political ideal, this is most attractive; but, in Social Security as in Medicare, it may simply have become too costly to sustain.

Consider two of the major proposals for bringing Social Security's commitments into line with its resources. One is to raise the retirement age, in recognition of medical improvements and demographic shifts. Raising the retirement age to sixty-eight by the end of this century would keep the average time in retirement one quarter as long as the average adult life-span—the same balance that has prevailed for the past few years. Another proposal is to hold down the automatic increases in Social Security and other benefits, perhaps by gearing them to the Consumer Price Index or the average increase in wages, whichever was less in a given year. If wages rose faster than prices, the buying power of the pension would be fully protected. If the reverse, people of all ages would share in the sacrifice of a less productive economy. (The CPI will, in any case, soon be revised to eliminate the housing-cost bias.)

But if changes like these were applied "fairly," with equal effect on all, the results would be unfair. Some people need the payments; others do not.

To speak of "the aged," or "Social Security recipients," as one homogeneous group no longer makes sense. As recently as twenty years ago, it did. Those above sixty-five were then an economically distinct group. Like black Americans or single women heading households, they were on the whole poorer than other people. The economic differences within the group were less important than the gap between them and the American norm. To air a program at all retired people not only made political sense, in avoiding the taint of welfare; it also made economic sense, for it transferred money to people in need.

That has changed. Older Americans are now economically very much like their children's generation, and their grandchildren's. Michael Hurd and John B. Shoven, of the National Bureau of Economic Research, have reported that the per capita income of people over sixty-five is now higher than for the population as a whole. In 1978, it was 121 percent of the national norm. Two thirds of all people over sixty-five own at least one home.

As the differences between the generations have diminished, the differences among older people have grown more acute. On average, those above sixty-five enjoy parity with those below; but the average conceals many retired people who are desperately poor. About a fifth of all retired couples have incomes above $24,000; but of the 5.8 million single women sixty-five or older, fully half have incomes below $5,000. As the world works, the wealthiest couples generally receive the highest Social Security benefits (because they earned more when working) but depend on them least. For the couples making more than $24,000, the comparatively large Social Security check represents about one sixth of their income. For the poorest elderly women, their smaller check is more than 80 percent of their total support.

Can it be fair to treat these people "equally," to hold the widow's $300 a month and the couple's $900 a month to an "even" 5 percent increase? Only a perverted sense of fairness is thereby honored; yet it is this kind of equity that our evenhanded entitlement policy now serves.

In practical terms, the solution might be to provide a full cost-of-living adjustment for only a certain portion of Social Security benefits—say, the first $500 a month. A more significant step might be to make Social Security benefits subject to federal income tax. The automatic workings of the IRS are administratively far simpler than any other means for concentrating scarce resources on people in need. Social Security is already subject to a tax of sorts—the "earnings test," which reduces benefits by $1 for each $2 a recipient earns above $6,000 per year. (The limit is $4,400 for those under the age of sixty-five.) But the test does not apply to people above the age of seventy-two, and next year the age will fall to seventy. More important, it applies only to earnings, from jobs, and not to investment income or other pensions, which are the major source of income for the most affluent older people.

Yet to tax Social Security would be heresy: that attitude is nearly universal, its emotional and political power a legacy of the era when we could effortlessly afford to treat everyone "equally." As I have tried to suggest, that era has ended, but adjusting our assumptions takes time. The only political proposition more challenging than taxing Social Security would be carrying the logic to its next step, and asking why there should be extra exemptions on Form 1040 for everyone over the age of sixty-five. Since older Americans are, on the whole, economically even with everyone else, why are the exemptions necessary? And since they transfer money to the wealthiest members of the group (those who pay taxes) and do little or nothing for the poorer 50 percent, how can they be defended?

We are understandably reluctant to face seemingly mean-spirited questions such as these. Yet our reluctance helps explain why the entitlements have grown so large, and why we seem so powerless to control them. We are also hindered by a widespread misunderstanding of where most people stand on the economic pyramid, and who should therefore be "entitled" to help. A family whose income is in the mid-$30,000s is part of the richest 20 percent of all Americans. A family in the mid-$50,000s is in the upper 5 percent. Yet most such people would be horrified to think that they were anything but "middle class," entitled to public help in financing their homes or sending their children to school and to the rewards of a lifetime of work in the form of monthly Social Security checks. As individuals, they undoubtedly deserve help; but if all of us are entitled, where will the money come from?

The entitlements problem has forced such questions upon us. The cost of ignoring them is not simply the obvious—the automatic growth of federal spending—but also the subtle destruction of other public goals. This effect transcends ideology. It matters little whether you want to improve education for all children, or build more aircraft carriers, or lift the burden of taxation from the shoulders of America's entrepreneurs—all causes are in jeopardy as long as more and more of us are "entitled" to support from everyone else.●

TWO-YEAR BUDGET AND APPROPRIATION PROCESS

● Mr. FORD. Mr. President, for the sixth consecutive time, we have reached the end of a fiscal year without having completed all of the annual appropriation measures we should have enacted. Unless we soon decide to adopt a 2-year budget and appropriation cycle, it appears we are doomed to Government by continuing resolution. This is a most shoddy, inefficient, and expensive means of operation.

As the Senator from Arkansas (Mr. PRYOR) said on the Senate floor, "the continuing resolution concept is an abdication." He pointed out that 85 percent of all the appropriations bills for the past 20 years have been passed after the start of the succeeding fiscal year.

During the discussion of Mr. PRYOR's amendment to the continuing resolution, I observed that our current difficulties with the continuing resolution are largely attributable to our 1-year appropriation cycle. For these reasons I suggest we change to a biennial system. Today I would like to speak in more detail about why I believe we must go to a 2-year budget and appropriation cycle.

While avoiding hastily passed continuing resolutions and enlarging the timespan for consideration of regular budget resolutions and appropriations bills are compelling justifications for switching to a 2-year budget cycle, there are other equally worthy reasons to change.

The uncertainties concerning budgetary decisions which confront State and local government officials each year can be substantially reduced if not totally eliminated. Today, as in most recent years, it has become impossible for State and local governments to know what part Federal

funds will play in their spending plans until long after the fiscal year has begun.

If the Federal Government goes to a 2-year budget, not only will there be more time for analysis and decisionmaking on the important spending issues, there will also be more time for the authorizing committees of Congress and the executive branch to conduct meaningful and constructive oversight of ongoing programs. The time available for consideration of new policies and programs will lengthen, with predictably good results.

Taking the frenetic haste out of the budget process will not only make for better spending decisions, but the longer budget cycle should bring some stability and discipline to our economy and contribute to achieving the goals of balanced budgets and reduced inflation.

Mr. President, the 2-year budget idea is attracting more and more supporters. I believe the time has come for calm in the eye of the storm.

It is certainly not for lack of effort that the appropriations bills and the second budget resolution have not been passed. It is certainly not for lack of interest. Indeed, the interest and the effort are so intense and so all consuming that little is ever accomplished in the annual budget process.

To what purpose do we continue this frenzy? Do we think that the spectacle of furious action and the excitement of round-the-clock sessions are satisfactory substitutes for insuring the orderly operation of the Government of this great Republic?

Mr. President, it has taken us a long time to recognize the need for a 2-year budget. The annual appropriation process was not working well before 1974, and the additional requirements of the Congressional Budget Act in that year only made matters worse. I believe we need more time to meet the requirements of the Congressional Budget Act and enact the 13 regular appropriations bills.

At the first opportunity in the new Congress, I shall reintroduce legislation to establish a 2-year appropriation cycle. A 2-year cycle will enable us to logically consider appropriations bills, insure better fiscal and spending decisions, allow a more realistic time period for our legislative oversight duties, provide more certainty and security to the financial planners in the 50 States and generally improve the overall operations of the Federal Government. I hope to have the support of my colleagues on this measure. I believe the 2-year budget is a vital time-saving step.●

COMBINED FEDERAL CAMPAIGN ANNUAL FUND DRIVE

● Mr. DENTON. Mr. President, I rise today in support of the Combined Federal Campaign's annual fund drive. The 1982 season extends throughout the months of October, November, and December. The Senate's fund drive, held November 15–19, is estimated to have collected approximately $65,000, an increase of $13,300 over last year's contribution. I must point out, however, that only 12 percent of the employees of the Senate participated in this year's campaign. Although I am pleased with this display of voluntarism by my colleagues and their staffs, I hope that next year there will be a substantial increase in the number of persons contributing.

The CFC was established in 1956 to consolidate the collection of contributions from Federal and military employees. Its formal inception was in 1961 with Executive Order 10927 signed by President John F. Kennedy. During the past 15 years, contributions to the CFC have increased by nearly 600 percent. It is projected that, when total receipts are counted, the 1981 drive will have collected approximately $93 million.

In my own State of Alabama, Federal military employees contributed $1,369,490 during the 1980 season. It is projected that the 1981 total will be over $1.5 million. I am confident that, even at a time when so many Americans are out of work, my fellow Alabamians will maintain the spirit of voluntarism and concern for our fellow man that sets our country apart from all others.

As we in the Senate attempt to meet unlimited needs with limited means, we must come to the understanding that voluntarism is not merely a great tradition within our society, but that contributing to the voluntary health and welfare agencies of our country serves to compliment the efforts of the Goverment to help all of our people meet basic human needs. The best way that the needs of every American can be adequatly met is through sharing in a spirit of charity and love.

I hope that the CFC's annual fund drive of 1982 will provide increased funding to support the efforts of private health and welfare organizations to meet the needs of the people of this country.●

CLINCH RIVER—OUT OF FUEL

● Mr. HUMPHREY. Mr. President, on November 30, and December 6 and 7, I entered into the RECORD material concerning the high costs of constructing and operating the Clinch River breeder reactor project. Today I would like to examine a new difficulty with the project—by the Department of Energy's (DOE) own accounts there is not enough plutonium available to fuel it.

The first indication that there would be difficulty fueling the project came last year in March in testimony Dr. Charles Gilbert, Acting Deputy Assistant Secretary for Nuclear Materials gave before a House Armed Services Committee hearing. At that time Dr. Gilbert stated that DOE probably would run short of fuel-grade plutonium by the late 1980's.

Rather than use all of this lower purity plutonium to fuel Clinch River and other breeder work, DOE is now blending it with very pure supergrade plutonium to produce materials suitable for modernizing our aging nuclear weapons force. If Clinch River is to stay on track and stay within current cost estimates, though, DOE must begin fueling the reactor in 1987 with an immense amount of plutonium. Indeed through 1986 when the reactor is supposed to be sold, the project will require 10,296 kilograms of plutonium. This amount, if blended with supergrade plutonium could produce from between 2,500 to 5,000 warheads and would go a long way to relieve the current pressure to build a new military production reactor under a crash deadline, as recently reported in the Washington Post.

Clinch River's supporters, however, insist that the plutonium is readily available. In its latest report on Clinch River, the General Accounting Office [GAO] concluded otherwise. The GAO examined four possibilities—taking the plutonium from the military stockpile and trying to return it from material bred in Clinch River, reprocessing light water reactor spent fuel in a commercial facility, reprocessing light water reactor fuel at military facilities, and buying foreign plutonium. None of these options, according to GAO, will be able to provide plutonium early enough to meet DOE's Clinch River fueling schedule. Indeed, Ken Davis, former Deputy Secretary of Energy said as much on September 9, 1982, when he testified before the Senate Subcommittee on Energy, Nuclear Proliferation, and Governmental Processes. He emphasized that we do not have enough plutonium stockpiled to run Clinch River if it is built.

DOE's Assistant Secretary for Nuclear Energy and Deputy Assistant Secretary for breeder reactor programs, though, gloss over this point. In their latest breeder publication, National Breeder Reactor Program Rationale and Clinch River Project Facts, they talk about returning plutonium to the military stockpile even though this cannot be done without breeder reprocessing plant, the completion of which is at least another decade away.

This omission is disturbing. Dr. Gilbert's testimony, the pertinent sections of GAO's latest report on Clinch River and DOE's National Breeder Reactor Program Rationale and Clinch River Project Facts, and the Washington Post article on the need for an additional military production reactor

make it clear that a serious fueling problem exists. Mr. President, I ask that the texts of these materials be entered into the RECORD.

The material follows:

Statement of Dr. F. Charles Gilbert, Acting Deputy Assistant Secretary for Nuclear Materials, Department of Energy, made before Hearings on H.R. 2969, Department of Energy Authorization Legislation (National Security Programs) for Fiscal Year 1982 before the Procurement and Military Nuclear Systems Subcommittee of the Committee on Arms Service, House of Representatives, Ninety-Seventh Congress, First Session, March 2, 4, 5, and 9, 1981 (H.A.S. No. 97-2), p. 156.

". . . Fuel-grade plutonium is required for blending with higher purity plutonium to produce more weapon-grade material, for the breeder program including the Clinch River Breeder Reactor (CRBR), and for basic research and development programs, primarily the Fast Flux Test Facility. A potential fuel-grade plutonium shortage may occur in the late 1980s based on the current projected supply and demand situation. As indicated in the chart, even with the Purex plant processing of plutonium from N Reactor fuel, DOE would not have sufficient supplies of fuel-grade plutonium required to support all these programs. The CRBR requirements shown in the chart are based on startup of the reactor in 1988. If that schedule is to be maintained, it will be necessary either to decrease requirements for the other two noted programs or to attempt to find an alternative source of plutonium."

ANALYSIS OF THE DEPARTMENT OF ENERGY'S CLINCH RIVER BREEDER REACTOR COST ESTIMATE

COST AND SOURCE OF PLUTONIUM UNCERTAIN

DOE's Office of Nuclear Material Production, which is under the Assistant Secretary for Defense Programs, is responsible for meeting the Government's plutonium requirements. Defense program officials are unable at this time to identify the specific source or cost of plutonium needed to fuel the CRBR's demonstration operations. Instead, these officials believe that, based on the current CRBR schedule with initial criticality in September 1989, a decision on the source of plutonium for the CRBR will not be required until 1986. At that time, they expect to have definitive plutonium cost estimates.

DOE's defense programs officials said that the plutonium needed for the CRBR can be provided from a number of different sources, including defense programs activities, reprocessed light-water reactor spent fuel, and/or foreign sources. According to these officials, the costs associated with each of these sources not only vary widely, but also in some cases, are highly speculative.

Currently, the only domestic source of plutonium is from DOE's defense programs activities—either existing plutonium inventories, future production, or a combination of both. Depending on whether the plutonium is taken from existing inventories or from production, the value of the plutonium needed for the 5-year CRBR demonstration could range from $143 million to $1.2 billion.

Defense program officials point out, however, that they expect the quantity of plutonium supplied the CRBR will eventually be returned to the defense program. In their view, the only cost to the Government and CRBR would be the cost associated with reprocessing the spent fuel assemblies as the necessary step in recovering the plutonium. Based on defense programs officials' estimates, such reprocessing would cost from $196 million to $261 million for the 5-year demonstration period.

This approach does not recognize that a provision in the NRC Authorization Bill for fiscal year 1982 and 1983 (H.R. 2330), now under consideration by the House-Senate Joint Conference Committee, might have a substantial impact on the planned transfer of plutonium produced by the CRBR to defense program uses. This bill would prohibit the use of plutonium from NRC-licensed facilities in the manufacture of nuclear explosives. CRBR will be an NRC-licensed facility. Defense program officials feel, however, that this provision will have little impact on the return of defense-supplied plutonium. They believe that if the fuel supplied to CRBR was produced at a defense facility, the fuel returned from CRBR still should be considered as plutonium produced at a defense facility. We have not, as part of this review, analyzed the legality of DOE's position concerning the return of CRBR plutonium for defense purposes.

According to defense program officials, the plutonium for CRBR could also be obtained from reprocessed light-water reactor spent fuel assemblies. These officials estimate that plutonium obtained this way could range in cost from $15 per gram to $35 per gram. That cost range, however, is extremely speculative. It is based on DOE 's preliminary estimates of prices they think could be negotiated for domestic reprocessing services.

In this regard, a commercial capability to reprocess light-water reactor spent fuel does not now exist in this country. Although several reprocessing facilities are being considered, no decision has been made, and it is unclear whether those facilities could be available to meet the CRBR project schedule and plutonium requirements. DOE's existing defense program reprocessing facilities cannot recover plutonium from breeder fuel assemblies because of physical and chemical process limitations. DOE has requested $5.6 million for conceptual design efforts to modify one of its reprocessing facilities to enable it to reprocess spent fuel from light water reactors, the Fast Flux Test Facility[1] and the CRBR. DOE's preliminary estimates indicate the modification could be operational by fiscal year 1989 if the project is authorized by the Congress.

Another option under consideration includes a demonstration size fuel reprocessing facility. DOE's Consolidated Fuel Reprocessing Program is a comprehensive, centrally managed program for all U.S. fuel reprocessing research and development. According to DOE's Director of Nuclear Research and Development, Oak Ridge Operations Office, since 1976, the focal project for reprocessing research and development has been DOE's "Hot Experimental Facility." In June 1981, a conceptual design study for the Hot Experimental Facility was completed. This facility, however, does not have congressional authorization nor has it received construction funding. The Director estimates it would require about 10 years from start of construction to achieve normal operations.

[1] The Fast Flux Test Facility is the LMFBR test reactor built for testing fuels, materials, and components. It has no capability of generating electricity nor is it intended to demonstrate the breeding of plutonium fuel.

[From the Washington Post, Nov. 20, 1982]

NEW ATOM PLANT FOR WEAPONS MATERIAL URGED

(By Milton R. Benjamin)

A Department of Energy advisory panel has recommended construction of a $4 billion nuclear reactor at the Savannah River Plant in South Carolina to produce the tritum needed to increase the nation's stockpile of hydrogen warheads, it was learned yesterday.

The proposed government plant—a larger, higher-powered version of existing reactors at Savannah River that produce all the plutonium and tritum used in America's nuclear weapons—would be the first new reactor built for the U.S. military program in more than two decades.

The advisory panel, which submitted its classified report Monday to Energy Secretary Donald P. Hodel, said that after evaluating the adequacy of future supplies of tritium and plutonium, it agreed with earlier studies that concluded a new production reactor is needed "to assure an adequate supply of strategic nuclear materials in the 1990s and beyond."

The increased need for tritium, a radioactive gas used in thermonuclear weapons, stems in part from U.S. plans to build thousands of new warheads for the MX, Trident and cruise missiles. It also is needed for the neutron warheads that will replace older tactical atomic warheads. In addition, because the isotope decays, the tritium in existing warheads periodically must be replenished.

Hodel, whose department is in charge of all of the facilities that produce materials for nuclear weapons, is expected to act on the panel's recommendation by March 1, an Energy Department spokesman said yesterday.

If Hodel approves the recommendation, funds for initial planning would be added to the Energy Department's fiscal 1984 budget request, a source said. If funds are approved, construction of the reactor would begin in 1985.

In recommending construction of the ZEPHWR (zero electric power heavy-water reactor) at the Savannah River Plant, the special advisory panel headed by former atomic energy commissioner T. Keith Glennan passed over all six reactor types and three alternative sites that had been proposed by the Energy Department.

These included a proposal that the Energy Department take over a partially completed commercial atomic power plant in Washington, where the utility spent $804 million before terminating construction, and convert this reactor to the production of plutonium and tritium.

The panel said it decided this proposal involving the Washington Public Power Supply System (WPPSS) reactor was the least desirable because of "the potential for adverse public perception of converting a plant designed for commercial production of electricity to production of weapons material."

The advisory group also cited concern "over use of commercial technology to produce weapons material" in strongly advising against construction of a pressurized light-water reactor that would be virtually identical to many of the atomic powerplants operating in this country and overseas.

The panel also rejected the option of constructing the new tritium production reactor at the Nevada nuclear weapons test site,

noting that the underground test conducted there raised "safety questions" involving earthquakes.

Glennan said in a telephone interview yesterday the panel felt constructing a new reactor similar to those that have been operating at the Savannah River Plant since the 1950s was the best way to meet the objective of producing needed materials on a timely basis.

"Essentially, you have a reactor that has been proven over many, many years, and the Savannah River Plant is operated by an enormously reliable contractor, Du Pont," Glennan said. "Those factors played a major part in our decision."

Of the five production reactors built by Du Pont at the Savannah River Plant in the 1950s, three produce plutonium and tritium for the weapons program, and a fourth—which was shut down in 1968—is being refurbished and is scheduled to be put back into operation next September. The fifth was shut down in 1964, and there are no plans to reactivate it.

The panel said if the administration decided it was essential that the new production reactor generate as a byproduct electricity that could be sold to a local utility, it still would recommend that such a plant be built at the Savannah River Plant site and that it be similar to the reactors already operating there.

The group said if the administration felt it was "essential" that the nation's entire production of tritium for hydrogen warheads not be concentrated at one location, it would recommend that a replacement for the aging N-reactor be built at Hanford, Wash.

The Hanford Reservation was the site of all the plutonium production for America's atomic weapons program during the 1940s. At one point, nine production reactors were operating there. But all have been shut down for over a decade except for the N-reactor, which in recent years has been largely used to produce fuel-grade plutonium for the Energy Department's breeder research program.

NATIONAL BREEDER REACTOR PROGRAM RATIONALE AND CLINCH RIVER PROJECT FACTS

CLINCH RIVER FUEL

The Clinch River fuel is a mixture of the oxides of uranium and plutonium. The uranium and plutonium required for fuel for the Clinch River project is to be supplied by the Department of Energy (DOE).

The uranium will come from the depleted uranium in DOE's stockpiles. This depleted uranium is the waste from the enrichment process: natural uranium contains 0.7 percent uranium-235, which is enriched leaving the depleted uranium. DOE currently has 24,000 cylinders, each containing 10 to 14 tons of depleted uranium, in storage at various locations.

DOE's Defense Programs is responsible for meeting the Government plutonium requirements. That office has traditionally provided plutonium at no charge to DOE's breeder program. The CRBRP currently plans to obtain plutonium from DOE's stockpiles. The amount of plutonium that will be used as fuel in Clinch River during the 5-year demonstration period is about 5.2 million grams of plutonium. This plutonium will be drawn from DOE's stockpile between 1987 and 1993. Because there will not be any net loss of plutonium and because DOE will retain possession of the plutonium, it is inappropriate to include plutonium as an element of the cost estimate.

The Clinch River powerplant will produce about 430 kilograms of plutonium more than it uses during the 5-year demonstration period. However, DOE has not elected to take credit for the value of this plutonium in the Clinch River cost estimate.

There are no firm plans at this time with respect to reprocessing Clinch River fuel assemblies. A number of alternative possibilities are being considered including the Demonstration Reprocessing Plant.●

PERIODIC PAYMENTS SETTLEMENT ACT

● Mr. DURENBERGER. Mr. President, the conference committee report on H.R. 5470, the Periodic Payments Settlement Act, has been cleared for action and deserves our immediate consideration. A provision of this bill that I added in the Finance Committee is especially important to me and to the many families who, every day of the year, open their hearts and homes to special children.

My provision excludes from gross income the difficulty of care payments foster parents receive for handicapped children. These payments are over and above the reimbursement for expenses paid to foster parents. While the expense reimbursements are not subject to taxation, the additional difficulty of care payments coud be includable in taxable income.

These payments average about $4 per day, although some run as high as $20 per day. The difficulty of care payments recognize the additional expenses incurred in caring for a handicapped child—extra laundry, transportation, special equipment, specially trained babysitters, just to name a few.

This provision is nothing more than commonsense. Yet, at every step in the legislative process it has faced a roadblock that has threatened to end its chances for passage. All the while, in Minnesota the Internal Revenue Service has on hold a number of audits of foster parents and other families are left uncertain as to whether their kindness and love will result in a tax burden that is unbearable for many.

Maybe it is only because I care so deeply about this bill that I feel so frustrated. I feel like I have pulled the difficulty of care provision back from the brink so many times that it has become like the proverbial cat who has lived through eight of nine lives.

The first opportunity to introduce my provision in the Finance committee did not come until late September. When it passed there, we were only days away from the October recess. Fortunately, my request to waive the usual layover period was granted and the Senate passed the bill on October 1—the very last day before going into recess.

In the House, the process has been equally laborious. Thanks to Representative BILL FRENZEL in particular, the provision was passed by the House earlier this month.

Unfortunately, that was not the end of this provision's struggle. Even though both the House and the Senate conferees on H.R. 5470 agreed to the difficulty of care provision, an unrelated disagreement threatened the entire legislation.

BILL FRENZEL and I worked hard to reach a compromise on the dispute and, with the understanding and help of many of our colleagues, succeeded.

Now, we are in the closing hours of the 97th Congress. Despite the hours of work by myself, people like BILL FRENZEL, the foster care families and several organizations, we still have not rescued this provision from yet another brink.

Mr. President, we in Congress know that most issues are not black and white; rather, they are shades of gray. The difficulty of care provision, though, is one issue that is a matter of simple justice. Anyone who knows anything about the foster care parents who are carrying the burden of our inaction understands how important it is that we favorably consider this provision and do it today.

I urge my colleagues—I plead with my colleagues—that we act favorably and immediately on this conference report. That is the right thing to do; it is the fair thing to do.●

ECONOMIC REALISM IN EAST-WEST TRADE

● Mr. GARN. Mr. President, the dean of the Rand Corp.'s graduate school, Dr. Charles Wolf, Jr., recently gave a presentation that deserves the attention of all who must deal with questions of East-West trade, which would include all of my colleagues in the Senate and House of Representatives. For too long, Western trade with the Soviet bloc has been conducted on an economically irrational basis. Real Western subsidies to the Soviet bloc through trade alone have totaled between $1 billion and $2 billion annually.

Dr. Wolf presents three rules that should govern our economic relations with the Soviets and their allies, principles which I also have often advocated. They are as follows:

1. No loan guarantees or export insurance should be available to Western lenders or investors engaged in transactions with the East unless these guarantees are extended without direct or indirect government underwriting (of the types provided by government and quasi-government agencies in West Germany, France, the U.K., and the U.S., in the past).

2. No concessionary interest terms should be available to either government or commercial borrowers in Eastern Europe or the Soviet Union. The minimum criterion for implementation of this rule should be that interest rates applying to loans to Eastern

Europe and the Soviet Union should not be less than the highest rates charged to domestic or other foreign borrowers on loans of equivalent duration.

3. No preferential tax treatment should be accorded to either individual or corporate income derived from transactions with Eastern Europe or the Soviet Union. (For example, the preferential tax treatment extended under the Domestic International Sales Corporation Program in the U.S. would have to be modified to comply with this rule.)

Mr. President, these are rules that we can begin applying in our relations with the Soviet bloc today while at the same time encouraging our allies to follow suit. They are no more than sound economics. That is our strength. By pursuing sound economics in East-West trade, the Soviets will eventually be faced with the choice of making reforms in their system or being left far behind. As Dr. Wolf indicates:

Such a policy will shrink the possibilities open to the Soviet Union for reconciling continued expansion of its military capabilities with the competing demands of consumption, investment, and economic growth at home, and of its expanded empire abroad.

Mr. President, I ask that the statement by Dr. Charles Wolf of the Rand Corp. be included in the RECORD at this point, and I urge my colleagues to give it close study.

The statement follows:

STATEMENT OF CHARLES WOLF, JR.[1] BEFORE THE WORKSHOP ON EAST-WEST ECONOMIC RELATIONS

Mr. Chairman, members of the Committee and of the Congressional Research Service of the Library of Congress, I want to express my appreciation for this opportunity to discuss further with you some of the matters on which I testified before the Committee in August, 1982.

At the outset, I would like simply to note that sensitive and controversial policy issues, such as the one we are addressing in this workshop, often elicit from putative experts a mixture of genuine expertise—that is, facts, analysis, and knowledge—combined with opinions, personal preferences, and political sympathies. Moreover, the proportions of these ingredients are sometimes not evident to the audience, and occasionally not even to the experts themselves. Part of the reason, I think, is that the "bottom line" on the issue of East-West economic relations relates to beliefs about Soviet behavioral responses that really have quite fragile analytical underpinnings. None of us is truly expert on Soviet behavioral responses, and I think it is fair to say that genuine expertise on the Soviet economy, or on international trade and finance, provides very little basis for prescience in judging prospective Soviet behavior. Instead, in judging Soviet behavioral responses, what we tend to fall back on are our own tacit premises about the nature of the Soviet system and the Soviet decisionmaking process, and the connection between decison-making with respect to Soviet domestic policies on the one hand, and Soviet foreign and defense policies, on the other.

My own views on these fundamental, but elusive matters will, I hope, become clearer as I proceed, and clearer still in the discussion which follows.

The following remarks will cover four separate points: First, European perceptions of the period of detente, and of its relationship to East-West commercial transactions.

Second, a set of specific "rules of the game" for conducting East-West economic relations in a manner that reduces or removes the pervasive subsidies that have supported those transactions in the past.

Third, I will consider and rebut two arguments that are often made against imposing rules and restrictions of the sort I have proposed: (1) the argument that this would constitute "economic warfare," and hence should be eschewed; and (2) that unilateral observance of these restrictions by the U.S. would be ineffectual, and multilateral observance by our allies is implausible.

And, finally, I will conclude with a few comments about the probably limited, but not negligible, effectiveness of the sorts of restrictions I have in mind.

I. EUROPEAN AND AMERICAN PERCEPTIONS

It is a mistake to think that our European allies are of one mind, or that they speak with one voice on these matters, any more than Americans do. Nevertheless, there are, by and large, sharp differences between the median or average views of our European allies, and most of us in the United States, in our respective evaluation of the results of détente, and of the role of expanded East-West economic relations in contributing to détente. Our European allies look at the world through lenses that focus on quite different experiences from those that occupy the center of our field of vision. For example, the Europeans see and commend the emergence of Solidarity in Poland *prior* to December 13, 1981, the development of decentralized, market decisionmaking in the Hungarian economy, and the seeming independence of Rumania's foreign policy. Our allies, especially the Federal Republic of Germany, also see the humanitarian as well as the political benefit of reuniting 200,000 German families previously separated by the barriers between the FRG and East Germany.

Moreover, our European allies see this as having come about while they have conducted only a relatively modest volume of trade with Eastern Europe and the Soviet Union, amounting to less than five per cent of Western Europe's total external trade. They also see the clear signs of weakness and the declining prospects of the Soviet economy, reflected in its low and decreasing rate of growth, declining productivity, increasing capital-output ratios, repressed inflation, and labor shortages. Finally, from this evidence our European friends infer, perhaps wishfully, that the Soviet Union is likely to be preoccupied with its own problems, and may not really be such a serious threat and adversary, after all.

By contrast, I think most of us in the United States see a different set of consequences of détente. We see instead a tremendous buildup of Soviet military power, both nuclear and conventional, and naval, air and ground forces; a rate of growth in Soviet defense spending throughout the past decade somewhat greater than the rate of growth in Soviet GNP; and a level of Soviet military investment many times larger than our own.

We also see the Soviet invasion of Afghanistan in 1979, the imposition of martial law and the repression of Solidarity in Poland *after* December 13, 1981, the continued expansion of the Soviet empire in Angola, Ethiopia, South Yemen, Laos, Cambodia, and Nicaragua, and the adroit deployment of proxy forces with very substantial Soviet military and other support to accomplish this expansion. We also note the tremendous growth of debt owed to the West by Eastern Europe and the Soviet Union, amounting to over $80 billion, of which three-quarters is owed by the Eastern European countries. And we worry that this debt makes our European allies hostage to Soviet influence and pressure. Moreover, we see the limited, as well as short-lived, reactions of our European friends to the Soviet invasion of Afghanistan, and to repression in Poland, as confirmation of precisely the sort of hostage behavior we have been concerned about.

In sum, the countries of Western Europe—by and large, and with some differences among and within them—look favorably upon détente and its fundamental, underlying premise concerning the salutary effects to be expected from expanded economic relationships. They conclude that this premise was valid and useful in the 1970's, and remains applicable in the 1980's.

By contrast, we in the United States—by and large, and also with some differences among us—have concluded that détente and its premise "has been weighed in the balance and found seriously wanting." We have concluded that we should envisage major changes in our relations with the Soviet Union in general, and in our economic relations in particular. We have concluded that the policy of seeking to influence and moderate Soviet behavior by encouraging expanded economic relationship has failed badly—so badly that its underlying premise should be discarded.

II. RULES OF THE GAME

Mr. Chairman, in my statement to the Foreign Relations Committee on August 12, I distinguished three different policy orientations toward East-West economic relations: (1) embargoes or sanctions, representing a policy of selective economic warfare; (2) subsidization to encourage East-West transactions beyond what strict market considerations would warrant; and (3) reducing or removing the pervasive network of subsidies on such transactions that have developed over time, while letting the market function to facilitate or restrict commercial transactions in accord with the differing economic conditions and prospects prevailing in the Eastern European and Soviet economies.

As I indicated at that time, I strongly favor the third policy. What I would like to propose at this time are some specific measures for implementation, for "putting teeth" into such a general policy orientation.

The following are several specific examples of what I would suggest as "rules of the game" for East-West economic transactions:

1. No loan guarantees or export insurance should be available to Western lenders or investors engaged in transactions with the East unless these guarantees are extended without direct or indirect government underwriting (of the types provided by government and quasi-government agencies in West Germany, France, the U.K., and the U.S., in the past).

[1] Charles Wolf, Jr. is dean of the Rand Corporation's Graduate School, and director of Rand's research program on international economic policy. Comments in this statement are the author's views, and not necessarily those of The Rand Corporation or any of its research sponsors.

2. No concessionary interest terms should be available to either government or commercial borrowers in Eastern Europe or the Soviet Union. The minimum criterion for implementation of this rule should be that interest rates applying to loans to Eastern Europe and the Soviet Union should not be less than the highest rates charged to domestic or other foreign borrowers on loans of equivalent duration.

3. No preferential tax treatment should be accorded to either individual or corporate income derived from transactions with Eastern Europe or the Soviet Union. (For example, the preferential tax treatment extended under the Domestic International Sales Corporation Program in the U.S. would have to be modified to comply with this rule).

What is the purpose of these proposed rules? It is fundamentally to reduce and remove the subsidies that have undergirded economic transactions with the Soviet Union and the other CMEA countries over the past decade, and have thereby contributed to the huge expansion of net resource flows from West to East. The intended result is to restrict such resource flows in the future to no more than an unsubsidized market will allow. Such restrictions can help, albeit only modestly, to constrain Soviet allocation decisions, to impede the management and expansion of the Soviet empire and, hopefully rather than assuredly, to bring resource pressures to bear in the longer run that will help reduce the Soviet military buildup.

For reasons I will discuss in more detail later, one should have no illusions that a policy of this sort will have short-run or dramatic effects on Soviet behavior. But at least such a policy will shrink the possibilities open to the Soviet Union for reconciling continued expansion of its military capabilities, with the competing demands of consumption, investment, and economic growth at home, and of its expanded empire abroad.

III. ARGUMENTS AGAINST RESTRICTIONS

Two arguments are usually raised against such attempts to put teeth into the "rules of the game" of East-West commerce. One argument is that such measures would amount to "economic warfare," and would, therefore, be politically undesirable, especially from the viewpoint of our European allies. The second argument is that, while such "rules of the game" might have some effect if they were applied collectively by the West and Japan, this is unlikely to ensue and unilateral application will have negligible effects. I will comment briefly on each of these arguments.

The term "economic warfare" does not have a very precise technical meaning, and the loose and diverse ways in which it has been used in the media and elsewhere have not contributed to resolving these ambiguities.

The official "Dictionary of Military and Associated Terms of the Joint Chiefs of Staff" defines "economic warfare" as "aggressive use of economic means to achieve national objectives."

Another definition, in Elsevier's "Economics Dictionary," defines "economic warfare" as "non-violent activities aimed at making one nation's economy dominant over that of another nation."

Probably the best and most comprehensive definition is presented in "The Encyclopedia of the Social Sciences," which defines economic warfare as "state interference in international economic relations for the purpose of improving the relative economic, military, or political position of a country." "Interference" is further described as having two components: "coercion," through denial of trade or resources, or the threat to do so; and "persuasion," through conferral of economic "favors * * * [by which] a country may expect in return reciprocal favors in the form of political support, or alliance, or perhaps neutrality." [2]

I have three comments to make about "economic warfare."

First, I suggest that the "rules of the game" I am proposing should be termed "economic realism," and should be sharply distinguished from the more "aggressive use of economic measures" constituting "economic warfare."

Second, it is worth noting that, as I've previously noted, one of the two components of economic warfare, as elaborated in "The Encyclopedia of the Social Sciences," consists in the use of "persuasion," through the conferral of economic "favors." According to this view, it would seem that the West itself has, ironically, already been engaging in economic warfare by the very fact of extending the "economic favors," that is to say, the subsidies in the past decade that I have referred to earlier. If provision of subsidies is itself a form of economic warfare, then their reduction or removal can hardly be said to constitute economic warfare! (Incidentally, it's worth noting, as the Encyclopedia article by Robert Loring Allen does note, and as our European allies usually overlook, that the very act of attempting to use persuasion may "render the initiator vulnerable . . . If the trade is large for the recipient, it is also large for the initiator, and the recipient under some circumstances may subject the initiator to pressure through the same relations that the initiator is employing.")

Finally, the discussion of economic warfare in the Encyclopedia, observes that any "nation which practices [state trading] is necessarily and automatically engaged in economic warfare . . . [because] the concentration of all external transactions in the hands of the government implies that trade no longer is solely a means of increasing the income of a country. Economic decisions in which costs are balanced against benefits in all aspects of national life.[3] In other words, it is the Soviet Union which, by virtue of its state trading, is inherently and regularly engaged in economic warfare! This suggests that some forms of state action on the part of the West to offset the economic warfare normally practiced by the Soviet Union is justifiable.

Mr. Chairman, I am sure you will recall Lenin's maxim that "When we are ready, the West will sell us the rope with which to hang them." I would submit that while refusing to *sell* the rope may be economic warfare, refusing to give it away, or to subsidize its sale, is certainly not; even placing a tax on its sale would not necessarily be economic warfare.

The other argument that I want to rebut concerns the effectiveness of applying the "rules of the game" unilaterally, if they are not acceptable multilaterally.

There is no question that multilateral action in concert with our Western European allies and Japan is far preferable to unilateral action by the U.S. alone, both in terms of the effectiveness of these proposed rules in achieving the objectives I've described earlier, and in terms of improving cohesion within the alliance. Nevertheless, I believe that announcing and observing these rules unilaterally would be worthwhile, even if our allies did *not* follow suit.

One reason is simply that the U.S. has tremendous influence in the international financial community. If U.S. banks and exporters were to follow these rules, several consequences would ensue:

1. Other members of the international financial community would simply feel less confident and more reluctant to "go-it-alone" without U.S. financial participation in financial consortium arrangements. While European exporters might realize some one-sided gains, these would probably be short-lived.

2. American banks would extend more credit domestically, and in other parts of the world outside of Eastern Europe and the Soviet Union, relative to what would be the case if the subsidies on transactions with the CMEA countries were continued; in othe words, U.S. credit would be redirected with some beneficial consequences that we may wish to consider in the later discussion.

3. Even if the European banks were to go ahead with the credit extensions that are sustained by the continuation of subsidies by their governments, I conjecture that the asset portfolios of such lending institutions would, over time, be compromised by the accumulation of these questionable debt instruments acquired from the CMEA countries. Conseqently, these institutions would become less attractive to depositors and investors than would their American counterparts. Anticipation of this outcome would very likely lead the European institutions to follow a more prudent course of action.

It is true that the Soviet Union itself is conventionally viewed as a good credit risk: its net outstanding debt is modest, unlike that of most of the countries of Eastern Europe; its debt service ratio is reasonably low, although higher than it has been in the past; its ratio of hard currency reserves to monthly import costs is relatively high. These are the ratios that bankers typically look at, so one might argue that credit extended to the Soviet Union would not appear to be a too-risky asset for European banks to acquire even without participation by U.S. lenders.

On the other hand, it's less well-recognized that the creditworthiness of the Soviet Union is really quite precarious. Several adverse, but by no means "worst case," contingencies can sharply reverse Soviet credit prospects. Such contingencies would include, for example, reductions in Soviet oil exports and continued soft world fuel prices, continued poor Soviet agricultural performance together with large Soviet grain imports and high world grain prices, continued softness in the international gold market, a diminution in the international market for weapons (which has been an important hard currency earner for the Soviet Union in recent years), and other plausible circumstances.

I conclude this portion of my remarks with one slightly whimsical observation. Even if the "rules of the game" I've been advocating are not adopted multilaterally, and even if they're applied less rigorously by the U.S. than I would like, the "invisible hand" of international financial markets may accomplish a good measure of what the visible hands of government do not. In the 1980's, international capital markets are likely to be severely supply-limited, so that the Soviet Union and Eastern Europe will find their access to foreign capital sharply

[2] *The Encyclopedia of the Social Sciences*, p. 471.
[3] Ibid.

reduced compared to the 1970's, even apart from the governmental policies I've been proposing.

IV. EFFECTS ON SOVIET BEHAVIOR

How would Soviet behavior be affected by the sort of policy I have been proposing?

It may be worthwhile, first of all, to decompose "Soviet behavior" into the component parts we wish to affect: (a) Soviet military efforts and buildup, both conventional and nuclear; (b) direct and indirect use of Soviet military power in various parts of the world, such as Afghanistan; (c) persistent efforts to expand the Soviet empire and Soviet influence abroad; and (d) the repressiveness of the Soviet system, both at home and in Eastern Europe.

Three hypotheses can be formulated concerning the likely Soviet response. The first hypothesis is that such a policy may be so provocative that the Soviets might actually devote even more effort to military spending and external mischief, notwithstanding diminution of their aggregate resource base.

The second hypothesis is that they might, instead, adopt a more accommodating and conciliatory stance, if they became convinced of the firmness and the credibility of Western and U.S. intentions.

The third hypothesis is, to use slightly technical terminology, the "null" hypothesis: Soviet behavior and Soviet preferences may not be discernibly affected by this policy, at all. In general, where the evidence in support of either of the other hypotheses is inconclusive, one should not reject the (null) hypothesis that says, in effect, Soviet behavior will not change appreciably from what it would otherwise be.

Instead, Soviet behavior may be impelled by internal pressures, forces, and factions, and the relative strength of these is unlikely to be influenced by Western economic policy.

I have heard plausible arguments advanced in support of the first two, mutually inconsistent hypotheses. I expect there are members of the Committee, as well as others in this room, who are inclined to favor each of them. My own inclination runs strongly toward supporting the null hypothesis until there is much stronger evidence than anyone has thus far produced in favor of another hypotheses. Soviet priorities and Soviet behavior are likely to be governed by factors inherent in the Soviet system, rather than by changes in Western economic policy, and these factors aren't very different for Andropov from what they were for Brezhnev.

This conclusion seems to me to argue very strongly in favor of the policy direction that I have been proposing to you. At the least, a policy of restricting resource flows, by removing the subsidies that have lubricated such flows in the past, would place greater pressure on the Soviet economy in the middle and longer run. Such a policy would thereby tend to expose the inherent economic, political, and social contradictions within the Communist system. This is simply a policy of economic realism; it is not a policy for bringing the Soviet Union "to its knees," or bringing about the "collapse of the Soviet system," as some of the media's caricatures of the policy have occasionally portrayed it.

Indeed, the effects on Soviet behavior of such a policy of resource restriction will be modest and gradual, and will be felt only over the long run. This argues for moving our policy on East-West economic relations in this direction now, rather than later. We should certainly not try to outdo Lenin's forecast by subsidizing the rope with which to hang ourselves!●

THE ATTACKS OF PAC

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. GOLDWATER. Mr. President, about the only advantage of growing older is watching the ball go around and around and around as history has proven it does. This time what interests me, as one who has been there before, are the determined attacks being made by Members of the Congress concerning PAC's. Not one word was ever spoken by these same people in the days when unlimited spending was practiced by the labor unions, the spending of dues money without any consultation of the members, without any approval of the members.

Now PAC happens to be a voluntary setup and, thank goodness, as I understand it, so now are direct union contributions; but the question in my mind is why all the furor about PAC today when 20 years ago, with the unions contributing millions and even hundreds of millions of dollars if you counted all the work they force their members to do, we did not hear one word about it?

And now we come into another little interesting repetition along the same lines. The General Accounting Office, bless their little souls, has decided that the Pentagon has been lobbying and that is a no-no. The question I want to ask is, has the General Accounting Office ever stood out in the hall by the elevators in front of the Senate Chambers and counted the number of labor union lobbyists lined up there stopping every Member of Congress, every AA, every secretary, besieging and even demanding that their Senator vote the right way? I would imagine this goes on over in the House, although I have never witnessed it.

Now what in the world is the difference between a labor union or associations of automobile dealers, lumber dealers, and you name it, what is the difference between those groups lobbying for their interest and the Pentagon defending what they feel is in the best interest of their services and the best interest of the United States?

You take the argument that General Accounting got its little self into relative to the C-5 cargo plane versus the 747. Anyone, I say, anyone who understands which end of the airplane goes down on the runway first could have told any Member of Congress that the 747 was a bad, a real bad buy, compared to buying the C-5A when you consider the purpose. The purpose in that case was heavy outsized airlift; the Pentagon knew that, and that is why the Pentagon did not go for the 747. Now that is not saying the 747 is not a good cargo airplane; it is, but it would not do and never will do the job of the C-5. So can you blame those people who were charged with the responsibility of moving all our armies, our air forces, all the heavy equipment to theaters of war preferring an airplane that will do it over an airplane that would not do it? Yet this seems to be a real no-no, not only in the eyes of the General Accounting Office, but now in the eyes of everyone who dislikes the Pentagon.

I just wish that someday I could see some continuity, some sense, and some reason in the arguments constantly being made against doing this or doing that. If it is good for the labor unions, then it is good for the manufacturer; if it is good for the United States, it is good for the Pentagon, and vice versa. Let us get off this kick; we have been on it too long.●

TENNESSEE TOMBIGBEE WATERWAY

● Mr. DENTON. Mr. President, in the midst of a severe recession, questions about funding for controversial water projects is understandable. But it would be a serious error nonetheless for Congress to slash funding for the Tennessee-Tombigbee Waterway, which will open an important link between America's inland waterways.

The Tenn-Tom is more than 82 percent completed. To disrupt funding now would only delay construction and add to the costs of completing the project. To cut off funding would in the long run be more costly than to finish the project.

The Federal Government already has made a major commitment to finishing the TTW. It would be pennywise and pound foolish to stop the project or severely restrict funding. The costs for restoring this land to its natural conditions would be more than twice the cost of finishing the project.

The TTW is a 234-mile navigation project that will begin at the Tennessee River on the Tennessee-Mississippi border, wind south through Mississippi and Alabama, and end at the Demopolis lock and dam in Alabama. An existing waterway flows from that point to the Port of Mobile on the gulf coast.

The project was originally authorized by Congress in 1946 but was not funded until much later. Construction began in 1972 and will be completed in 1985. The project has been consistently ahead of schedule in spite of numerous court battles and environmental concerns.

As an important addition to the transportation system linking America's heartland with important shipping ports on the gulf coast, the Tenn-Tom will improve our ability to export

coal, grains, and other mineral, agricultural, and industrial products.

The Tenn-Tom will provide valuable shipping lanes for Ohio coalfields and enhance our ability to reduce our dependence on Middle East oil. It will also ease the way for an expected jump in coal exports, which are expected to double in the next 18 years.

Great care has been taken throughout the project to protect the environment. The TTW was the first major water project built under the National Environmental Policy Act. Construction has been monitored by a three-member Board of Environmental Consultants, which includes distinguished experts in environmental concerns.

The Tenn-Tom has stirred considerable controversy throughout the life of the project. Much of this was prompted by environmental concerns, economic fears, and vested railroad interests that feared increased competition from the Tenn-Tom.

But those fights should be behind us. The project has been funded every year since 1968. Regardless of the original debates, the basic issue now is whether we want to continue our Federal commitment to the Tenn-Tom or abandon it and miss an opportunity to realize more than $127 million in benefits annually for the next 50 years.

The total cost of the project, according to official figures compiled by the Government, will be $1.830 billion. Already, $1.3 billion has been spent and $1.5 billion has been committed.

Eight of the ten locks and dams are completed; the other two are under construction. More than 154 miles of channel have been completed and the waterway is open to traffic below Columbus, Miss., the halfway point. The Corps of Engineers estimates that about $350 million will complete the project. With so much invested already, it would be economically unsound to abandon the project.

The past 6 Presidents and 14 consecutive Congresses have supported funding for the Tenn-Tom. In one court case after another, Federal judges have ruled in favor of continuing this project. The surrounding States of Mississippi, Alabama, Tennessee, Kentucky, Florida, Georgia, and Louisiana have strongly invested State and local funds in this waterway.

Based on the long-term promise of Federal dollars to finish the project, the States in the region have invested more than $159 million in new bridges, highway and utility relocations, and other costs. These States made these investments in good faith and would be unable to recover those costs if the full waterway is not opened.

Opponents of the project have claimed recently that the ultimate costs of the project will exceed $3 billion, an estimate that includes the cost of improvements below Demopolis, Ala., and in the Port of Mobile. Such improvements have not been authorized by Congress. The Levin amendment passed in 1981 limits the funding to $1.83 billion. The benefit-to-cost ratio from this investment is conservatively estimated to be 3 to 1—an excellent return ratio.●

NEW YORK'S FINE WINE TRADITION

● Mr. MOYNIHAN. Mr. President, I should like to share with my colleagues a proclamation which salutes New York's wine industry. Governor Carey of New York State recently declared November to be "Wine Month." Indeed, New York, our Nation's second-largest wine producing State, may be proud of its wine and grape industries every day of the year.

James Trezise, the executive director of the New York State Wine Grape Growers, recently informed me that New York State's world class white wines were chosen for their superior quality at a wine tasting at the International Wine Center in New York City. The results of the tasting were dramatic: All seven New York Riesling entries, grown in New York State's Finger Lakes region, were rated superior to comparably priced French and German "benchmark" wines.

Let me add that New York State's expanding wine industries—its wineries—provide thousands of jobs for New Yorkers. I find this greatly encouraging and hope the tradition is carried on.

I hope the entire Senate will join me in marking this special occasion for New York State. I also ask to include in the RECORD Governor Carey's proclamation of October 26, 1982, concerning New York's fine wine tradition.

The proclamation follows:

PROCLAMATION

New York State has a long and proud tradition of producing fine wines. That tradition continues today.

More and more people are discovering the excellence of New York State wines. More and more wineries are being estabished in response to their demand.

In the last ten years, the number of wineries in New York State has increased by four times. Today, there are almost 60 wineries—and the potential exists for more.

These new wineries are continuing the tradition of quality and are being watched worldwide for their innovations.

The grape-growing and wine-making industries provide thousands of jobs for New Yorkers, and the industries are expanding.

Because of their contributions, it is fitting that all New Yorkers acknowledge their pride in the wine and grape industries.

Now, Therefore, I, Hugh L. Carey, Governor of the State of New York, do hereby proclaim the month of November, 1982, as "Wine Month" in New York State.●

THE NATURE OF MONEY

● Mr. GRASSLEY. Mr. President, it is always encouraging for Members of the Senate to receive letters of encouragement and it is doubly encouraging when those letters stimulate one's thinking on a variety of important subjects. I wish to have printed in the RECORD a letter from Mr. Sylvester H. Cain, a former Iowan now residing in Mechanicsville, Md. In it Mr. Cain draws together a series of fascinating historic interactions between participants at the Federal Convention of 1787 which shed light on the nature of money as a mechanism of exchange and the pitfalls of poorly designed systems.

The material follows:

MECHANICSVILLE, MD.,
December 16, 1982.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRASSLEY: Thank you for the fine job you are doing as Senator and for the expressed interest you have in today's economy. I have had numerous occasions to contact your office and have always been served by you through Mrs. Berger very aptly and very faithfully. My previous contacts have been limited to my interests, but this time I contact you with a point in everyone's interest. This interest is in the economy and I have studied about our system only to find the same problems existed around the time the U.S. Constitution was being framed. I take this opportunity to pass some of my findings on to you.

At the outset, let me recommend a very resourceful set of books (on which I depend heavily for this letter) to both you and Mrs. Berger. I would like to give them as a Christmas present but I simply do not have the necessary thirteen dollars of Federal Reserve Notes.

"The Miracle on Main Street," F. Tupper Saussy; Spencer Judd Publishers, Sewanee, Tennessee 37375.

"A Caveat Against Injustice: Or An Enquiry Into the Evil Consequences of a Fluctuating Medium of Exchange," Roger Sherman (signed the Constitution); Spencer Judd Publishers, Sewanee, Tennessee 37375.

It is a common misconception that our country in its early days (1780's) took many years to settle down to using the new money (gold and silver). It was quite the contrary according to statements I have discovered that were written about the time the Constitution was being signed.

Starting with a sad state of affairs less than nine months before the Constitution was signed, George Washington wrote to General Knox:

"Good God! who could have foreseen, or predicted the disorders which have arisen in these states."

To a better state of affairs about two years later writing to Marquis de La Fayette, June 3, 1790 he stated:

"You have doubtless been informed, from time to time, of the happy progress of our affairs. The principal difficulties seem in a great measure to have been surmounted. Our revenues have been considerably more productive than it was *imagined* they would be. I mention this to show the *spirit of enterprise* that prevails. (Emphasis mine)

This was written within one year after going to gold and silver coin. Imagine that!

Again to LaFayette March 19, 1791, Washington wrote: "Our country, my dear sir, is fast progressing in its political importance and social happiness."

To Catherine Macaulay Graham he wrote: "The United States enjoys a sense of prosperity and tranquillity under the new government that could hardly have been hoped for."

And, to David Humphreys: "Tranquillity reigns among the people with that disposition toward the general government which is likely to preserve it. Our public credit stands on that high ground which *three years ago* it would have been considered as a species of madness to have foretold." (Emphasis mine)

So it can hardly be said that "it took many years for the new nation to settle down to using the new money".

I sincerely believe that President Reagan got his mandate from the people because in the campaign he referred frequently to the Constitution. The people are interested in preserving the U.S. Constitution. All of it! I only pass this on to you because I know that you are diligent servants in President Reagan's administration which is desperately trying to kill inflation. Our fore fathers have shown the way. Please use their experience to our advantage.

Let me point out that the Congress was not empowered by the Constitution to emit paper money. Those who were involved at the time can give the best testimony to this, let me refer you to: James Madison, Notes of Debates in the Federal Convention of 1787, Ohio University Press, Athens, Ohio 1966.

Specifically, Article 1 Section 8 was proposed: "The Legislature of the United States shall have the power to * * * coin money * * * and emit bills on the credit of the United States" (Such as Federal Reserve notes).

Here is Madison's description of the debate so you will understand how diligently our fore fathers tried to keep paper money out of our country's monetary and legal systems:

Mr. G. Morris moved to strike out "and emit bills of credit." If the United States had credit such bills would be unnecessary; if they had not, unjust and useless.

"MADISON. Will it not be sufficient to prohibit the making them a tender? This will remove the temptation to emit them with unjust views. And promissory notes in that shape may in some emergencies be best.

"MORRIS. Striking out the words will leave room still for notes of a responsible minister which will do all the good without the mischief. The Monied interest will oppose the plan of Government, if paper emissions be not prohibited.

"Colonel MASON. Though he had a mortal hatred to paper money, yet as he could not foresee all emergencies, he was unwilling to tie the hands of the Legislature. [Legislature—Congress]

"Mr. MERCER. (A friend to paper money) It was impolitic . . . to excite the opposition of all those who were friends to paper money.

"Mr. Elseworth thought this was a favorable moment to shut and bar the door against paper money. The mischiefs of the various experiments which had been made, were now fresh in the public mind and had excited the disgust of all the respectable part of America. By withholding the power from the the new Government more friends of influence would be gained to it than by almost anything else . . . Give the Government credit, and other resources will offer. The power may do harm, never good.

"Mr. WILSON. It will have a salutary influence on the credit of the United States to remove the possibility of paper money. This expedient can never succeed whilst its mischiefs are remembered, and as long as it can be resorted to, it will be a bar to other resources.

"Mr. Read, thought the words, if not struck out, would be as alarming as the mark of the Beast in Revelation.

"Mr. Langdon had rather reject the whole plan than retain the three words "and emit bills."

George Bancroft—History of the United States of America, Vol. VI. New York: D. Appleton and Company, 1886, Page 303 states it this way:

"James Madison left his testimony that "the pretext for a paper currency, and particularly for making the bills a tender, either for public or private debts, was cut off." This is the interpretation of the clause, made at the time of its adoption alike by its authors and by its opponents, accepted by all the statesmen of that age, not open to dispute because too clear for argument, and never disputed so long as any one man who took part in framing the constitution remained alive."

When Article 1, Section 10 was debated it was first worded: "No state shall coin money; nor grant letters of marque and reprisal; nor enter into any Treaty, alliance, or confederation; nor grant any title of Nobility."

Madison's account of the debate: "Mr. Wilson & Mr. Sherman (Roger, author of book cited above) moved to insert after the words 'coin money' the words 'nor emit bills of credit, nor make any thing but gold and silver coin a tender *in payment of* debts' making these prohibitions absolute, instead of making the measures allowable with the consent of the Legislature of the United States." (Emphasis mine)

"Mr. Sherman thought this a favourable crisis for crushing paper money. If the consent of the Legislature could authorize emissions of it, the friends of paper money would make every exertion to get into the Legislature in order to license it."

Paper money was thus absolutely prohibited by the Constitution. That cannot be changed without amendment to the Constitution. 31 U.S.C. 371 prohibits the courts from keeping their proceedings in anything but the money of account of the United States, which is clearly intended by the Constitution to be gold and silver coin.

Let me cite jurisprudence on behalf of this administration because I sincerely believe that Mr. Reagan desperately wants to solve the inflationary problem—as I sincerely want him to. That is why I offer this information to you—so you can sincerely help the President solve not only the problem of inflation, but the myriad of problems caused by inflation.

Now 16—American Jurisprudence 2nd—§ 155:

"Since the constitution is intended for the observance of the judiciary as well as *the other departments of government* and the judges are sworn to support its provisions, the courts are not at liberty to overlook or disregard its commands, or countenance evasions thereof. It is their duty in authorized proceedings to give effect to the existing constitution and to obey all constitutional provisions, irrespective of their opinion as to the wisdom or desirability of such provisions, and irrespective of the consequences.

"If the constitution prescribes one rule and the statute another and a different rule, it is the duty of the courts to declare that the constitution, and not the statute, governs in cases before them for judgment." (Emphasis mine)

Therefore, since Article 1 Section 10 of the United States Constitution has not been amended, it is quite clear that we are happily obliged to gold and silver in the United States. Please ask Congress to return to gold and silver and do away with the Federal Reserve system. The law that took us off the gold standard was "10 years temporary". Therefore in 1943 we should have returned to gold, why haven't we? Because the friends of paper money were content with eroding the U.S. Constitution and everything in the United States.

Further simplifying the problem, let me quote the United States Attorney General's published opinion, attached to 31 U.S.C. 311 in the federal statutes.

"The President has authority to proclaim and put into effect a plan for the unlimited coinage * * * of domestic silver produced after the effective date * * *"—1933, 37 Op. Aty. Gen. 344, at 31 U.S.C. 311.

Still further clarification are the words of Bruce A. Budlong, Acting Director, Special Financing Staff, Department of the Treasury, Fiscal Service—"The same monetary system that was established on April 2, 1792, is in effect today." This is true, but it seems to not be enforced by all of our leaders.

So, it seems just returning to gold and silver would solve inflation, and it would help the President and all people in the United States.

The President has taken the first steps toward this goal which is to back off inflationary interest rates. This would be solved naturally by returning to gold and silver. "Federal Reserve notes are legal tender for all debts." Notice that the word "for" is used rather than "in payment of". Now it is well known that lawmakers are presumed to have selected each word, that makes up a statute carefully and deliberately, lest the statute be considered void for vagueness. Therefore, it is for sure that Congress chose not to use the phrase "in payment of"—the reason being that no debt can be paid in the eyes of American jurisprudence unless paid in gold and silver coined and regulated in value by Congress. (Refer to: "The U.S. Monetary System" Page 148)

The advocates of irredeemable "paper money" (Federal Reserve Notes) use the supreme court citation of Juilliard versus Greenman. This was a March 1884 decision where it stated Congress had the power to impose a standard of paper currency upon the citizens of the United States.

But only two months later May 5, 1884 the United States Supreme Court ruled in Hagar V. Land Reclamation District No. 108, 111 U.S. 701, that "the acts of congress making the notes of the United States a legal tender do not apply to involuntary contributions in the nature of taxes or assessments (fines)." The reason is clear of course in Article 1 Section 10 of the U.S. Constitution, and 31 U.S.C. 371.

Further, Olmstead versus United States 277 US 438, 48 S.Ct. 564 (1928): "In a government of laws, existence of the Government will be imperiled if it fails to observe the law scrupulously. Crime is contagious. If the Government becomes a law breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

Also in this connection *Simmons* vs. *United States*, 390 US 394 "It is intolerable that one constitutional right should be surrendered in order to assert another." In this

context should I have to surrender any constitutional right at Article 1 Section 10?

Thus, is it possible that the break down of law and order plaguing our land orginates not in the streets, as the media would have us believe, but in our public offices?

Bronson vs *Rhodes*, 74 US 229 defines lawful money. "Lawful money of the United States could only be gold and silver coin, or that which by law is made its equivalent, so as to be exchangeable therefore at par on demand, and does not include a currency which, though nominally exchangeable for coin at its face value, is not redeemable on demand." (Emphasis mine)

There are so many citations available that its seems like every citizen is required to go all the way to the Supreme Court before he or she can get a ruling in favor of gold and silver. The citizens would not have to go to this expense if they were not hood winked by previous administrations.

It is quite clear from the earlier quote from American jurisprudence that the Constitution prevails over conflicting court orders, conflicting Presidential orders, or even conflicting laws from Congress.

Of course it belabors the point to suggest that any lesser office, or any lesser law can supercede the supreme law of the land.

If I can be of assistance to you in this matter please feel free to enlist my services.

Thank you for your endurance.

Sincerely yours,

SYLVESTER H. CAIN.●

AN ACID RAIN STUDY

● Mr. EAGLETON. Mr. President, every summer thousands of college students come to Washington to intern in our Senate office. It is a great experience for these young people to witness first hand the political and legislative process. It should also be a learning experience for us, as well. The optimism and original thinking these students give in addressing major problems is most refreshing. Sometimes new eyes looking into old problems can be quite revealing.

Last summer, Katy Green, a senior at Wesleyan University in Middletown, Conn., spent several months in my office. Katy is the daughter of Mr. and Mrs. Louis Green of St. Louis, Mo. Lew Green has been an active voice in the environmental movement in Missouri for years. So, Katy came to my office with a solid background and interest in Missouri's environmental problems.

Ms. Green studied the effects of the acid rain regulations on Missouri. With the multitude of material available, there was little attention being given to individual States needs and problems. While Katy and I do not agree on every aspect of acid rain, I feel her report is an excellent study of the questions posed by the acid rain legislation for a Midwestern State like Missouri.

Mr. President, I ask that the text of Katy Green's report be printed in the RECORD. I hope it will provide "food for thought" for next year's Congress in addressing the acid rain problem.

The report follows:

MISSOURI ACID RAIN ANALYSIS

(By Katy Green)

Missouri, which is receiving most attention as a leading contributor to the problem, might soon have to join allegiances with those states suffering from the contributions. In 1979, the Kingdom Daily News ran an article publicizing the death of a creek in the Ozarks due to acid rain. The St. Francois River and County have foreseeable problems due to acid rain, as do the New Madrid Range and Madison County. Missouri is fortunate in that most of its land is made up largely of limestone, which acts as an excellent buffer. It is obvious that the lands which have no limestone are the ones suffering already.

It is becoming increasingly obvious that Missouri's crops will soon show damage due to a high level of acidity in the soil. Studies completed by the University of Minnesota directly link crop damage to unusually high levels of acidity; and, although no studies of this kind have been done in Missouri, there is significant potential for damage to Missouri's vegetation also. A large portion of Missouri's crops are soybeans, which are susceptible to the same damage as was found in Minnesota. A study done by Gene Likens, in which he determined the pH of the rainfall in selected areas across the country, during the period from 1955 to 1965, and again from 1975 to 1979, found that the rainfall has become increasingly acidic in an area steadily expanding from the Northeast to the Midwest and West. Missouri is included in the later charts showing rainfall with pH significantly lower than normal. This trend has been increasing steadily over the last two decades and there is no reason to think that it will stop unless action is taken soon.

Missouri is located in the center of the country and is therefore subject to blame from the East, as well as waste from the West. In states as far west as Texas and Arizona, there are huge coal companies as well as smelters, which pose an even more grave threat than some companies in the East. The emissions from the West travel in the winds just as do the emissions from the Midwest, and fall in areas as close as to the Midwest. Missouri will soon be paying to prevent damage as well as to repair it. This should make it painfully clear to all that an immediate compromise is needed involving the entire nation. Once again, acid rain is a national, not a regional, problem that must be dealt with effectively. If we, as a nation, are going to consume such quantities of energy, then we must be prepared to pay for it, at the least expense to the health of the public as possible. Any preventative actions taken now will obviously prove "cost-effective", for we cannot guess the amount of the damage to occur in the future, but we can see the cost already.

The Missouri consumer would necessarily share a larger part of the rate increase than the Northeastern consumer, who already pays more for utilities than the Midwestern consumer.

The Missouri utility companies are avidly watching the progress that any regulatory bill might make in Congress because of the tremendous cost to its users. Union Electric, Missouri's largest emitter of sulfur dioxide, estimates an annual increase of up to 25 per cent in utility rates to its Missouri consumers.

Union Electric operates four plants in Missouri, one of which is already operating under variance for failure to meet the existing sulfuric dioxide regulations, another of which is the second largest emitter of SO_2 in the state, emitting some 123,000 tons of SO_2 per year, more than the state of Connecticut emits in one year. Associated Electric Company, second to Union Electric in total number of SO_2 emissions, estimates an increase ranging from 20 to 30 per cent to its customers. Kansas City Power and Light Company, the third largest company, estimates only a 3 to 4 per cent increase in its utility rates; for it has no room for scrubbers, but must switch to low sulfur fuel.

The Missouri Department of Natural Resources, Air Pollution Control in Missouri, conducted its own study of the UE and Associated Electric companies, and arrived at a figure of a 15.5 per cent increase to those customers. ICF projects an increase of 7 per cent to the Missouri consumer. Other, smaller companies in Missouri do not expect such large increases in rates: St. Joseph Power and Light Company estimates only a 5 per cent increase to its customers; the Citizens Electric Corporation expects no effects, as it is just a distributing company; and the Missouri Public Service Company has conducted no studies.

A study of Missouri's utility companies should make it obvious what the problems inherent in the Committee bill are. By requiring the State of Missouri to limit its SO_2 emissions by whatever tonnage the governors should decide, the bill gives the state freedom to decide by itself from where to make the reductions. However, it would be a serious folly if the State of Missouri should decide not to require controls be put on tall stacks, which are the principal source of acid rain. (The EPA has previously placed controls on the SO_2 output from tall stacks but has proved ineffective at enforcing the controls.) If Union Electric should do nothing about its enormous power plants while a much smaller plant such as UMC, which has no tall stakes, is made to curb its emissions to contribute to the total reduction figure, what benefit is gained? This should make it apparent that there need be a "Tall Stack" Provision, that will be enforced, added to the Acid Rain Amendment, calling for strict controls to be placed on every stack of over 200 feet. * * * This rule should not apply to just the 31 states in the ARMS region, but to all 50 states of the nation, for the tall stacks everywhere emit sulfur high into the sky which will form acid rain. Acid rain is not a regional problem.

In the freedom granted by the Committee bill the bill makes no specifications as to what age the plant must be to either qualify or disqualify for controls be placed on it. Clearly, a state would waste a lot of money if it were to retrofit an aging plant slated for retirement, rather than controlling a new but poorly controlled powerplant. The bill provides that if a plant is closed, the reduced amount of SO_2 can count toward compliance; however, the bill should insist that any plant that will be retired within 10 to 15 years need not comply with the Committee bill, while plants under construction or scheduled to begin operation must comply with the existing Clean Air standards. (For example, in 1974 and 1975, Gavin Power Plant, the largest single source of electricity in the United States, located in Ohio, was put on line without controls with a stack 1,100 feet high. Its total emissions are 400,000 tons of SO_2. The stupidity of constructing plants such as this one, while spending thousands of dollars to reduce emissions of other ones, is quite evident here.) Thus, this second provision is necessary.

Another provision that should be added is that, in an attempt to ward off a Civil War (the Northeastern states seem to be becoming increasingly angered by the Midwestern states' unwillingness to take responsibility for reform). All 50 states be required to reduce their emissions by ridding the coal of at least 85 per cent of its sulfur. This could be done by scrubbing, retrofitting, or washing. A company could also "switch-fuels" to lower its emissions by the 85 per cent. The immediate response to this is that Western coal is already cleaner then Eastern; however, sulfates coming from the Western states have already caused damage in Los Angeles, Colorado, Missouri, and Minnesota. The New Source Performance Standards (NSPS) passed by Congress in 1977 call for a reduction to 1.2 lb SO_2 per million Btu, and a 70 per cent removal of SO_2 from low sulfur coal and a 90 per cent removal from high sulfur coal. (A newly built plant in Colorado achieves .15 lb SO_2 per million Btu.) EPA did not enforce either these nor the tall stack regulations by Congress: in 1982, there were reduced emissions in only seven stacks. This provision, calling for reductions from all 50 states, would effectively eliminate the 31-States ARMS region, and instead, reallocate the costs. Perhaps eventually the federal government would be able to partially subsidize the programs in the states.

The existing Committee bill allows for a two year period for governors to meet to decide upon each state's share of the reduction, a four and one half year period for the state to plan its reductions, and another year and one half for the utilities to plan their reductions. Thus, no direct action that would reduce the SO_2 emissions, or the amount of acid rain in this country, is required for a least eight years. Although eight years is not a long time for such a major requirement, Sweden, Canada, and the Northeastern United States expect extensive damage to occur within a decade, and eight years might be too long to wait.

In addition, if a utility plant should see the eight year deadline and decide to wait until the seventh year before taking action, then it will be an additional several years before the controls are implemented and significant reductions occur. This delaying could postpone any improvements for several years or perhaps decades after the bill has been passed. Therefore, a "Time-Log" Provision must be added to the Committee bill, requiring actions taken within five years that would reduce in some portion the amount of SO_2 released into the air. This is necessary if we are to avoid only a little bit of the predicted damage. There must also be penalties provided for by the bill, and enforceable by the EPA should a plant fail to comply. The costs of equipment will have escalated in eight years, and the reduction process will look even grimmer to utility companies. Time-charted controls should be implemented with the bill.

The acid rain problem is real and must be dealt with quickly and effectively by Congress. The health of our people and the fate of our ecosystems must not be ignored. The Committee bill with the four additional provisions is only a start to a solution and must be implemented immediately. Acid rain is not a state problem. It concerns every state of this nation, as well as Europe and Canada. It is imperative that we act as a nation, and act NOW, to reduce the amount of global acid rain.●

SAINT PAUL AT THE CROSSROADS

● Mr. DURENBERGER. Mr. President, on October 21, 1982, Mayor George Latimer of St. Paul, Minn., delivered an extraordinary "State of the City" address. It outlines a bold, sweeping program of municipal reform and economic revitalization aimed at improving St. Paul's standing as a "Self-Reliant City."

Mayor Latimer's administration has impressive plans for St. Paul: revamping the city's personnel system to make it more efficient, accountable, and flexible; developing alternative methods of financing and delivering public services; stimulating the local business climate. It is a cooperative effort involving the city, the corporate community, foundations, and other nonprofit groups, academics, and the Federal Government in the form of a $100,000 grant from the Department of Housing and Urban Development.

The goal is to produce a city where people know they can get the quality services they need. A city that encourages and nurtures small and growing businesses and creative entrepreneurs to strengthen the economic base. A city with a strong sense of community. A city that can stand on its own two feet.

In many ways, Mr. President, St. Paul is already that city. Its effective work in revitalization, alternative service delivery and neighborhood initiatives have already established it as a vibrant, involved, progressive city. Mayor Latimer's latest plans can only reinforce that image, promising further improvements in the quality of life in St. Paul and in other cities that may look to its example.

I ask that the text of Mayor Latimer's speech be printed in the RECORD.

The speech follows:

SAINT PAUL AT THE CROSSROADS

(By Mayor George Latimer)

The state of the city is good. As a community we have accomplished more in the last few years than any one of us would have dared dream. Together we have created housing, jobs, businesses, a new downtown and a start on our hot water district heating system. In addition, we now have a Job Corps to provide training for our unemployed young people, we have made progess on affirmative action and we have welcomed thousands of Hmong refugees into our community.

But we are also part of a larger world which is staggering under the forces of inflation, unemployment and economic distress. It is becoming harder and harder for people to provide the necessities of life for themselves and their families.

The effect of these economic forces is obvious as you struggle to pay your bills at home. They have been just as evident to us in City Hall as we strained in the last months to balance yet another difficult budget. We cannot continue year after year, to raise taxes and cut services. We must now take steps to reverse this trend.

Let us remind ourselves that we are a city 270,000 strong—a healthy and robust people who can take effective action here and now in our homes, neighborhoods, businesses and city government, to make certain that Saint Paul continues to be a community in which we can live and believe.

In these time, it is important to remember that cities and local governments have not been thrust upon us by some alien force. They are simply a reflection of what we have freely and rightfuly chosen as a way of life. People gather together to acknowledge the joys of community, and also to face the sorrows and challenges that come when we commit ourselves to living and working together.

In recent years, our sense of community and local initiative has helped Saint Paul reverse the pattern of deterioration that has plagued many older American cities. We have pooled the talents and resources of all our people and our city employees, and we have been willing to depend on each other when the need arises. If we are to remain a healthy city, we must continue to strengthen this sense of community and self-reliance.

Indeed, the essential commitment of this address is that we do become a more self-reliant city: a city with a strong sense of local community, a financially stable government, and an independent, growing local economy.

In order to accomplish these goals we must:

1. Change the way we finance and deliver services.

2. Pay closer attention to employee needs and personnel system problems.

3. Spend more time on stimulating Saint Paul's business climate.

1. FINANCES AND SERVICE DELIVERY

There is no question in my mind that the fiscal pressures we feel now are going to continue. They may even worsen in the years to come. Saint Paul's operating budget will be stretched to the limit. Likewise, financial demands on the city's infrastructure will increase significantly in the years ahead, as is true for any older city.

To respond to this challenge, we must develop greater expertise in long-range financial planning. We must be more aggressive in generating new revenues. With foresight and innovation, the city can create a sound financial base to complement our efforts at increasing community and citizen self-reliance.

Next month the Rand Corporation will begin the research and design phases of a "pay-as-you-go" program for some city services. While our tax base will continue to cover essential or critical services, we must take pressure off the general tax levy. To maintain acceptable service levels in all areas, new forms of financing such as user fees, revenue centers, non-resident charges and special assessments must be adopted, wherever appropriate. This is a strategy already in use to a limited extent for programs funded by fees and special assessments.

I want to emphasize that, given the hard economic times we live in, decisions regarding funding for specific municipal services and improvements raise tough public policy issues. Rand will not solve this problem for us. The Mayor, the City Council, city employees and Saint Paul's taxpayers will, in the end, have to come up with answers. I predict a great deal of debate and disagreement on these issues. But, not facing up to such financing issues in 1983 would do a

grave disservice to the future health of our community.

This proposal suggests a need to let market forces play a larger role in defining the range of services the city provides. At the same time, we must protect equity standards in providing services, and we must find ways to ensure that all citizens have reasonable access to all city services, be they essential or non-essential.

The Ford Foundation and several local foundations have expressed a strong interest in providing the funds necessary to undertake this project. In addition, Secretary Samuel R. Pierce, Jr. of the U.S. Department of Housing and Urban Development and Dr. E. S. Savas, Assistant Secretary, have agreed to provide $100,000 to cover part of the cost of this demonstration. HUD has been a strong supporter of innovations such as this which encourages local self-reliance and alternative approaches for municipal service delivery. The President's National Urban Policy strongly needs such innovative approaches. We are among the first to take this challenge seriously and make it work. Our innovative approach to maintaining services through changing service delivery options will serve as a powerful example to other cities.

For this program of increasing revenues and modernizing government operations to make a significant difference, we must find ways to develop new and deeper partnerships between City Hall and Saint Paul residents. Saint Paul has a rich tradition of volunteer involvement through civic, church and other groups. The neighborhood district councils make a great contribution to our successful citizen participation process. It is time to build on this solid base and to encourage an even broader range of inventive, neighborhood-based efforts.

In return, I want all of our departments and offices to be more than service providers. I want City Hall to become a reservoir of resources and skills for the whole community, to be called upon by residents who want to work at building self-reliance in partnership with their local government.

2. PERSONNEL ISSUES

We have 2,900 dedicated and talented city employees. They now work within a personnel system designed in a different era for different reasons. We often penalize good employees, tolerate poor ones, and structure our workloads inefficiently. Our personnel system needs to be more flexible and it needs built-in incentives to assure quality and accountability in the jobs people perform.

I will be appointing a task force to review the present personnel system and identify the necessary changes. David Lilly, Dean of the School of Management at the University of Minnesota, has consented to chair the task force. At the same time we will continue to work to protect employees' rights and to respect union contracts.

Employees should have an opportunity to participate more fully in the affairs of government. If employees themselves can play a key role in economically distressed industries, then surely our employees can play the same key role in changing the way local government does business.

To succeed in this venture, we need to mobilize city government and reduce internal fragmentation. Recently, I consolidated the central administration's management, finance, budget and employee relations functions. We must play to our strengths and put these functions to work in assisting the departments, city employees and citizens to promote self-reliance throughout the entire community.

3. SAINT PAUL'S BUSINESS CLIMATE

The third element in my program to increase local self-reliance focuses on the condition and direction of our local economy. We will work this fall, with the Institute for Local Self-Reliance, on a small business enterprise program to encourage the establishment and growth of more local businesses and industries.

Saint Paul has a relatively healthy economic base. In these troubling economic times, we have not suffered as much as other cities. Yet, the unpleasant reality remains that we are very dependent on economic forces outside of our direct control.

We import many of the goods used here in Saint Paul from other parts of the country. To improve the local economy, we must develop the capacity to produce more goods, both for our own consumption here at home, and for export to other areas.

Saint Paul will continue to aggressively support established firms in the future, as we have in the past. This principle applies equally whether we are talking about Burlington Northern, or the gas station on Payne Avenue.

Nonetheless, the evidence from across the nation is clear. Our capacity to nurture small-scale and growing businesses is, in large part, the key to our future in developing jobs, maintaining our commercial tax base, and ensuring overall economic stability. We need not recklessly compete with other cities for established businesses when it is our own local firms that create jobs, pay local taxes, and generate local profits.

Every time a ma-and-pa operation falters, or every time a local entrepreneur with vision is left out in the cold for lack of support, Saint Paul loses a piece of its future and further mortgages its local economic life.

An ongoing success in this area has been the city's aggressive loan program for Saint Paul's neighborhood commercial strips. More recently, Energy Park and the renovated Farmers' Market in downtown Saint Paul have demonstrated the returns possible on this kind of investment. The Farmers' Market provides a visible showcase for an energy-conserving, small-scale, labor-intensive industry.

IN CONCLUSION

We have a proud record of community accomplishments in Saint Paul. But as impressive as these accomplishments are, I believe that we have been far too timid in recent years. Our personnel system needs to be updated, the financial and service structure of city government has to be reshaped to meet the pressing demands of the 1980's and Saint Paul's local economy now requires an aggressive shot in the arm.

We are at a point in our history when we must build on our past successes and take larger risks. The new programs that I have outlined will put Saint Paul on the map as the first in a new generation of self-reliant cities.

Success will require a large dose of courage, creativity and commitment. We have succeeded before. I know that we can do it again. Together, as a community, we have the will, the resources and the strength to make Saint Paul one of the great, older cities in this nation.●

SURFACE TRANSPORTATION ASSISTANCE ACT

(By request of Mr. RIEGLE, the following statement was ordered to be printed in the RECORD:)

● Mr. CRANSTON. Mr. President, I am most grateful to the distinguished Senator from Michigan (Mr. RIEGLE), who serves as the ranking minority member of the Banking Committee, for offering amendment No. 5011 on my behalf during my necessary absence. I wish to describe briefly the compromise on this provision that is contained in the House amendment.

First, as to the discretionary earmarking of funds under section 16(b) of UMTA for the provision of financial assistance to States and local public agencies and private nonprofit corporations for the specific purpose of helping meet the transportation needs of handicapped and elderly persons, the agreement retains the basic thrust of the Senate amendment that the new moneys provided as a result of the new gas tax, as well as the full $1.6 billion appropriation already made for fiscal year 1983 for discretionary mass transit capital assistance under UMTA, will be subject to the Secretary's authority to set aside up to 3.5 percent for the provision of section 16(b) assistance for handicapped and elderly individuals' transportation.

Second, the provision in the compromise version is faithful to the purposes of the Senate-passed amendment—to make clear the fundamental Federal responsibility to make provision for the transportation needs of handicapped and elderly individuals. It requires the Secretary of Transportation to establish national minimum criteria for the provision of transportation services to handicapped and elderly persons: Thus, the compromise rejects as unsatisfactory the Department of Transportation's July 1981 interim final rule, which fails to establish any such criteria.

The compromise version also requires that the Secretary's regulations establish procedures for monitoring transit system activities in order to insure compliance with the newly established criteria and include provisions for insuring that handicapped and elderly persons are provided, through groups representing them, with a meaningful role in the planning of services meeting their needs by requiring that they be afforded adequate notice of and opportunity to comment on proposed activities of recipients to achieve compliance with the new criteria.

I wish to note that the provisions of the compromise in no way restrict transit systems in providing handicapped and elderly individuals with transportation services that exceed the minimum criteria set forth in the Department of Transportation's regu-

lations or in affording these individuals with opportunities to comment and be fully consulted on such services.

Finally, Mr. President, the parenthetical reference in the compromise provision to any applicable Government-wide standards which might exist with respect to the implementation of section 504 of the Rehabilitation Act of 1973 was added to make clear that the Secretary's obligation to promulgate regulations under this provision is not intended, insofar as section 504 is concerned, to supersede any obligation he may have to conform such regulations to any applicable Government-wide standards for implementation of section 504 that are validly prescribed within the executive branch. Such standards are currently set forth in the so-called lead-agency regulations which, pursuant to Executive Order 11914, were originally issued by the Department of Health, Education, and Welfare, and are now, under Executive Order 12250, the responsibility of the Department of Justice. If such regulations were revised in such a way as to be declared unlawful in court or were withdrawn by the Department of Justice, the Secretary of Transportation would in no way be relieved of his responsibility to promulgate the regulations required under this provision. I wish to emphasize that this parenthetical is inapplicable to the Secretary of Transportation's responsibilities under the compromise version for the promulgation of the regulations to the extent that those regulations implement section 16(a) of UMTA or section 165(b) of the Federal-Aid Highway Act of 1973.

Before closing, I want to express my thanks to staff who provided Senator RIEGLE and me with such excellent assistance on these issues—David Yudin of the Banking Committee staff, David Krawitz of Senator RIEGLE's staff, and Ed Scott and Jon Steinberg, who represented me in this matter.

For the reasons I have stated, Mr. President, I believe that the provisions of the compromise have set the stage for the Federal Government once again to begin to discharge its responsibilities for insuring that the rights of handicapped and elderly persons to transportation services will be met and that these persons will not be discriminated against in the provision of federally assisted transportation.●

"ALL EVENTS TEST"

● Mr. LAXALT. Mr. President, today I would like to discuss a vital matter with my colleague from Nevada and the chairman of the Senate Finance Committee. With the short time left in this session, I know it is impossible to push through corrective legislation, but I want to alert the Senate of the existence of the problem and serve notice that this Senator will do all he can to see that it is resolved early next year.

Mr. President, the problem arose when the U.S. district court in Nevada overturned 50 years of tax policy and a tax court case and reinterpreted the "all events test" for accrual taxpayers. In that case, *Flamingo Resort Inc.* v. *United States"* 485 F. Supp. 926 (1980), the taxpayer was ordered to declare as income gambling "markers," or debts, held at the end of the tax year. The complication is that in Nevada, gambling debts are legally void—not voidable—and cannot be enforced or collected through the courts. Thus, the court ruled that accrual taxpayers must include as income legally unenforceable debts.

Mr. President, I believe this result is as unfair as it sounds. Under the new law, the taxpayer would be forced to pay taxes on income he may never see and cannot legally collect.

Mr. CANNON. Mr. President, I totally agree with the remarks of my friend, the junior Senator from Nevada. I share his alarm about the implications of the court's decision in the Flamingo case.

The time-honored "all events test" is at issue in this case, which was upheld by the ninth circuit. This legal principle states that income should not be accrued for tax purposes until "all events" have occurred which fix the taxpayer's right to receive the income. If we apply this longstanding doctrine to Nevada it would mean the point at which the money for markers is actually collected. Before that time there is no right to receive the income because the debtor can walk into any court and have the debt declared legally void.

In a case before the U.S. Tax Court, the court ruled that, in Nevada, because markers are not legally enforceable "all events" had not occurred, giving rise to the "right" of that income. On the other hand, the ninth circuit in the Flamingo case ruled that the "all events test" in this situation did not require legal enforceability as a prerequisite. In essence, the court scrapped the "all events test" for the gaming industry in Nevada. Keep in mind that this ruling was made in spite of the fact that the "all events test" has been applied to many other businesses for several years. Here is a case where the legal gaming industry is being singled out for different treatment.

Mr. LAXALT. I thank my good friend for his astute analysis of the legal situation. As he is an acknowledged expert on the subject of legalized gaming in this country, I would like to ask him a question. Will this ruling have an impact on the legalized gaming industry in Nevada?

Mr. CANNON. Absolutely. This ruling would have a significant impact on Nevada's economy—an economy which depends on its legal gaming industry for over 81 percent of its revenue and 61 percent of its jobs. If the ninth circuit ruling is allowed to stand, Nevada's hotels/casinos will be forced to utilize working capital to pay the IRS assessments. The tab will run into the hundreds of millions.

This will force the taxpayers to cut back and will cost jobs. I think everyone can agree that this is not the time to be eliminating jobs. Despite popular myths, the gaming industry is not recession proof. The industry has been seriously hurt by the present recession and unemployment levels are growing in Nevada.

The ultimate irony is that the economy of Nevada will be devastated in order to pay taxes on income which does not legally exist and may never be seen by the taxpayers.

Mr. LAXALT. I appreciate my colleague's remarks. Also, beyond its impact on the State of Nevada, the ruling of the ninth circuit will have far ranging results. The "all events test" is weakened so that legal enforceability is no longer a requirement, billions of dollars of deductions will be taken. The drain on the Treasury will be tremendous. At a minimum, the decision will tie up the courts in knots as every accrual basis taxpayer tests the new ruling.

For all these reasons, Senator CANNON and I introduced S. 2985. S. 2985 is designed to correct this problem and protect both the taxpayers and the Treasury. The chairman of the Finance Committee called for and held hearings on S. 2985 on Wednesday, December 16. I thank him for all his consideration, particularly at this late date.

Mr. DOLE. Mr. President, I appreciate the comments from the two Senators from Nevada. As the junior Senator from Nevada pointed out, the Finance Committee held hearings on S. 2985 last Wednesday. Then, as today, they outlined a serious problem. The Treasury Department has some objections to S. 2985 as originally drafted, but I am hopeful and confident that we can reach an agreeable compromise. Unfortunately, there is not enough time left this session to do so. I understand that the bill will be reintroduced next year. At that time the Finance Committee will work with its sponsors and the Treasury in an attempt to fashion suitable legislation.

Mr. LAXALT. Mr. President, I am very pleased by the commitment made by the chairman of the Senate Finance Committee. I look forward to working with him next year and resolving this problem quickly.●

CLARK EQUIPMENT CO.'S COMPLAINT AGAINST ARMY SOLE SOURCE CONTRACT

● Mr. LEVIN. Mr. President, in March 1981, representatives of the Clark Equipment Co. of Benton Harbor, Mich., met with members of my staff to register their complaints about a recent announcement of a sole source contract by the Army. The award was being made to Caterpillar Tractor Co. for the purchase of a fleet of six commercial construction equipment items for use by the Rapid Deployment Force. Officers of Clark argued that there was no reasonable basis for the decision by the Army that only Caterpillar was able to perform the contract.

I asked the Government Accounting Office to investigate the allegation of Clark Equipment. The GAO, after conducting what appears to be a very thorough investigation into the matter concluded in a letter to me that although the Army justified its use of a sole source procurement on the defense acquisition regulation which allows competition to be waived when the supplies can be obtained from only one person or firm, that GAO found "that several other suppliers could have furnished the equipment and that the Army had ample opportunities to solicit this procurement competitively." The GAO went on to say that the Army's decision to secure all the equipment through a "fleet buy" concept—where all pieces are obtained from one manufacturer—was unnecessary and eliminated several potential suppliers.

I asked the Army to respond to GAO's report. They did so in a letter to me dated December 9, 1981. While defending their position on the one hand, they also stated that since the Army is "strongly committed to competition in its procurements," they had reviewed this procurement and determined that some competition was feasible; they would compete one of the six pieces of equipment; namely, the T-3 tractor.

Well, Mr. President, I was curious to see just what would happen as a result of that decision—to use this as a test to confirm what I have always believed to be true—that competition saves money, substantial sums of money, and that we should be everything in our power to use competition in Federal procurements.

I asked the GAO to report to me on the results of the competitive procurement for the T-3 tractor. In a letter to me dated November 26, 1982, Donald Horan, the Director of the Procurement, Logistics and Readiness Division of the GAO reported that what was to cost $1,078,000 under the sole source contract, was now, pursuant to an award to the lowest bidder, going to cost $609,923—a savings of 43 percent.

Mr. President, a 43-percent savings is a profound amount. What was going to cost over $1 million is now costing us just over $600,000 solely because the contract was competed. This is a classic example of what many of us in this body have been saying for so long—competition saves money and must be used to every extent practicable and possible.

Mr. President as an ardent advocate for competition in Federal procurement, I rest my case on a 43-percent savings.

I ask that the three letters exchanged between myself, GAO, and the Department of Army be included in the RECORD at this time.

The letters follow:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., October 15, 1981.

Subject: Allegations of an Inappropriate Army Sole-Source Award for Commercial Construction Equipment (PLRD-82-13)

Hon. CARL LEVIN,
Ranking Minority Member, Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, U.S. Senate.

DEAR SENATOR LEVIN: On April 24, 1981, you asked us to assess the Department of the Army's decision to buy commercial construction equipment from Caterpillar Tractor Company on a sole-source basis.

The Army's justification for this sole-source procurement is based on Defense Acquisition Regulation (DAR) 3-210-2(i) which allows competition to be waived when "supplies or service can be obtained from only one person or firm (sole source of supply)." However, we found that several other suppliers could have furnished the equipment and that the Army had ample opportunities to solicit this procurement competitively. By using a "fleet-buy" concept (restricting consideration only to those firms that could manufacture all of the desired pieces of equipment), the Army eliminated several potential suppliers.

Also, because the award had not yet been made to Caterpillar at the time of our review, we discussed our findings with U.S. Army Tank-Automotive Command (TACOM) officials and suggested they resolicit the procurement on a competitive basis. They declined to do so because the equipment is urgently needed for the Army's rapid deployment force and because, in their view, a delay of up to a year for a resolicitation, negotiation, and award would seriously jeopardize the Army's mission.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to assess the appropriateness of and justification for the Army's decision to buy construction equipment from Caterpiller Tractor Company on a sole-source basis. To accomplish our objective, we reviewed (1) Army procurement regulations and policy concerning sole-source procurements, (2) the proposed contract and support files at TACOM and the industry correspondence files maintained by the Military Equipment Research and Development Command (MERADCOM) at Fort Belvoir, Virginia, and (3) cost data, parts commonality information, and industry worldwide support capabilities. In addition, we interviewed TACOM, MERADCOM, and construction equipment industry officials.

BACKGROUND

The XVIII Airborne Corps, consisting of the 82d and 101st Airborne Divisions, will use the commercial construction equipment. Because it is the only large airborne organization within the Army, the Corps is the Army's primary rapid deployment force and, as such, must quickly respond to aggression directed against the United States.

The Corps must be self sufficient in the field because it could be conducting land operations in undeveloped areas or in areas where quick defensive construction is needed. These types of construction would include building airstrips and roads so that other ground combat units could be brought quickly into the troubled area. Other defensive earth-moving construction would include building artillery positions and antitank ditches. The nature of these missions requires that the earth-moving equipment be both air-mobile and air-droppable.

The proposed procurement is designed to replace outdated earth-moving equipment within the XVIII Airborne Corps. The present equipment, which the Army bought between 1962 and 1969, had an expected machine life of from 8 to 10 years. The Army stated that because of the age of this equipment, maintenance is hampered due to the shortage of spare parts, and thus, the rapid deployment mission is or could be adversely affected.

The types of construction equipment required to replace the existing inventory and to improve the mission capabilities of the XVIII Corps are as follows:

T-3 and T-5 size bulldozer tractors—level ground, spread dirt, and dig out ditches.

Scoop loader—loads dump trucks and stockpiles dirt.

Scraper—scrapes ground surfaces and levels roadbeds.

Road grader—maintains roads and spreads and levels fill dirt over uneven terrain.

Water distributor—hauls and distributes water over construction sites.

Because Army medium lift helicopters must transport this equipment, some of it will require sectionalization. Sectionalization is a process by which a machine can be broken into two or more major components, each of which is within the weight limitations for helicopter airlift.

In addition to helicopter airlift, all the equipment must conform to both weight and dimensional restrictions for air-transport or air-drop from the C-130 and C-141 Air Force cargo aircraft.

The specific number of equipment to be procured follows:

Item	Number of	
	Nonsectionalized equipment	Sectionalized equipment
T-3 bulldozer tractor	8	0
T-5 bulldozer	26	8
Scoop loader	20	6
Scraper	12	7
Road grader	20	11
Water distributor	9	3

Army officials told us they intend to buy loaders, graders, and the bulldozer tractors with fiscal year 1981 funds and the scrapers and water distributors with fiscal year 1982 funds. Also, the Army intends to exercise a future contract option to buy 53 additional

items to meet war reserves and maintenance float requirements.

FLEET-BUY CONCEPT

To meet its rapid deployment mission, the XVIII Airborne Corps requested that the equipment be procured under a fleet-buy concept. Under this concept, it was envisioned that all of the desired pieces of equipment would be obtained from one manufacturer rather than from various manufacturers as was done in the past. The Corps believed that its mission capability would be increased if only one supplier was responsible for parts supply, training, and equipment maintenance. The following factors were among those cited as advantages of the fleet concept:

A high degree of parts commonality provides for a greater number of interchangeable spare parts, thereby reducing the requirements for parts in stock.

A single supply source enhances the mission capability of the military unit, allowing uniform maintenance procedures and a common supply source.

A family of vehicles with common parts reduces training time for operators and mechanics as well as simplifying maintenance procedures.

Although TACOM procurement officials initially expressed some concern over the possible impropriety of purchasing the entire fleet from a single source, they decided to support the fleet-buy concept. In reaching this decision, they considered a precedent set by the U.S. Air Force Bare Base Program of 1970-73. Under that program, the Air Force, using the fleet-buy concept, successfully bought similar equipment from a single supplier following competitive bidding procedures.

SOLE-SOURCE PROCUREMENT DECISION NOT JUSTIFIED

The Army could not show us evidence from its records or industry analyses to support its decision to purchase construction equipment on a sole-source basis from Caterpillar Tractor Company.

In May 1980, the Army surveyed the construction equipment industry to determine the availability of the types of equipment needed and the extent of competition that could be obtained under its fleet-buy concept. The industry surveys prepared by the Army indicated three companies—Caterpillar, John Deere and Company, and International Harvester Company—could provide five of the six pieces of equipment. Two other companies—Clark Equipment Company and J.I. Case—could produce three pieces of equipment. Further, several other construction equipment manfacturers could produce one or two pieces of equipment. Although these Army surveys are not meant to the be all-inclusive as to industry's capabilities and potential suppliers, they did demonstrate competition could be obtained.

After preparing industry survey and equipment specifications and considering industry correspondence and comments regarding these equipment specifications, the Army decided to buy the equipment sole source from Caterpillar. This decision was based on the Army's judgement that Caterpillar was the only company expressing interest in the fleet-buy concept, and other equipment manufacturers either did not produce the necessary equipment or could not meet equipment specifications because of the increased engineering, redesign, and cost involved.

Mainly, this decision was directly attributable to the restrictive interpretation of the fleet-buy concept adopted by the Army for this procurement. Unlike the fleet-buy definition used by the Air Force in its precedent setting Bare Base Program, the Army's definition required that a successful bidder must have manufactured or marketed all of the vehicles in the fleet. In contrast, under the Air Force's definition, bidders were free to supply equipment manufactured by other companies, as well as their own.

Even under the Army's definition, TACOM found it necessary to make an exception in the case of the water distributor because none of the potential sources of supply surveyed for the fleet buy manufactured this piece of equipment. This exception, as well as TACOM's interpretation of the fleet-buy concept and its intention to buy the remaining equipment on a sole-source basis from Caterpillar, was clearly stated in its Request For Proposal, dated February 3, 1981: "We are proposing to negotiate on a sole source basis for the entire fleet with Caterpillar Tractor Company * * *. 'Fleet Approach' requires that the offeror submit a proposal for the entire fleet and have manufactured or marketed all of the vehicles in the fleet except the water distributor * * *."

In response to the Request For Proposal, TACOM received one proposal from Caterpillar. Although none of the other manufacturers responded, several of them questioned the Army's justification for its sole-source decision.

In reply to these inquiries, the Army reiterated the desirable benefits of obtaining the entire fleet of vehicles from one source. While we do not dispute the benefits to be derived from obtaining the equipment from one source under the fleet-buy concept, we did not find sufficient justification supporting the sole-source selection of Caterpillar for the fleet buy.

Our review of Army files disclosed no significant advantages in limiting this procurement to Caterpillar. Parts commonality, one of the claimed benefits for a fleet buy, did not appear to be any greater for Caterpillar equipment than for others. For example, our analysis and comparison of available file data disclosed the commonality of Caterpillar equipment to be no greater than for equipment manufactured by John Deere and Company. Moreover, we found that the Army made no attempt to determine the relative commonality of the equipment manufactured by the potential suppliers.

Concerning other benefits of the fleet concept, that is, common supply source, uniform maintenance, and training procedures, it also appears that the other potential suppliers could have satisfied the Army's needs. For example, we found that all of the other major manufacturers (Case, International Harvester, Deere, and Clark), as well as Caterpillar, possess worldwide parts distribution and most already supply spare parts for Army equipment throughout the world. Again, as in the parts commonality example, we found that the Army had not analyzed the relative capabilities of the potential suppliers.

Finally, we uncovered no evidence which supports the Army's claim that other potential suppliers expressed an unwillingness to bid on this procurement. Our review of Army files disclosed that most of the correspondence from these companies related to equipment specifications. Although some industry responses state problems in meeting various specification requirements because of the increased engineering, redesign, and costs involved, these letters and correspondence do not support the Army's contention that only Caterpillar expressed a willingness to supply this equipment.

Rather, we believe that these files substantiate the problems which would be experienced by the entire construction equipment industry in complying with the specification requiring that the equipment be air-transportable and air-droppable. We believe this is evidenced by the fact Caterpillar is having difficulty meeting air transportability requirements for the scraper and only until recently did Caterpillar indicate that it could comply with the specifications for the grader, loader, and two tractors. The specification problems Caterpillar experienced and is currently trying to solve were specifically cited in Army-industry correspondence files.

In our view, competition would be encouraged if the Army were to revise its definition of the fleet-buy concept to permit a given company to bid under the concept without requiring that the prospective bidder manufacture each piece of equipment. Therefore, companies which manufacture some but not all of the equipment would have an opportunity to bid, as long as they were able and willing to provide worldwide support for all the equipment.

If this were to occur, the fleet-buy concept would feature a family of vehicles, increased competition, a possibly lower unit price, and viable options to those manufacturers otherwise restricted from bidding, without abandoning the concept and all its merits applicable to rapid deployment.

The Army has not yet awarded a contract to Caterpillar, since negotiations continue regarding price, delivery dates, and specification requirements. Current estimates are that the contract will be awarded in October 1981. The current value of the proposed contract is $22 million, an almost 50-percent increase from the original Army estimate of $14 million. In view of the pending award, we discussed our findings with TACOM officials on September 22, 1981, and recommended they consider terminating the ongoing negotiations with Caterpillar and resoliciting the procurement on a competitive basis.

In reply, TACOM officials informed us that it is necessary to proceed with the contract award because the XVIII Airborne Corps is in dire need of the equipment and its rapid deployment mission would be seriously jeopardized as a result of any further delay in obtaining the needed equipment. TACOM officials estimated that resoliciting for competitive proposals, negotiating with a contractor, and awarding a contract would result in an additional 1-year delay in supplying equipment to the Corps.

CONCLUSIONS

The Army's decision to negotiate a sole-source contract with Caterpillar Tractor Company is not adequately justified and lacks sufficient support documenting Caterpillar as the only capable and willing manufacturer and/or supplier of the construction equipment in question. By restricting consideration only to those firms that could manufacture all the equipment to be purchased, the Army eliminated several potential suppliers who do not manufacture all the pieces of equipment or could not meet vehicle specifications with their own equipment. In the future, this procurement, as well as others of a similar nature, should be procured competitively.

As directed by your Office, we did not obtain written comments for Defense or Army officials. However, we did discuss the

results of our review with Army officials and considered their comments in preparing this report.

As arranged with your Office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of the report. Then, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

DONALD J. HORAN,
Director.

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., December 9, 1981.

Hon. CARL LEVIN,
Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR LEVIN: Attached for your information is the Army's response to the United States General Accounting Office (GAO) report dated 15 October 1981, Subject: Allegations of an Inappropriate Army Sole-Source Award for Commercial Construction Equipment.

As indicated in that response, the Army continues to believe that the commonality of construction equipment provided by a fleet buy will provide significant advantages. We believe the proper and efficent equipping of the airborne engineer elements of the Rapid Deployment Force (RDF) is critical to the performance of their mission. Thus, the Army believes it has a logical and sufficient rationale for contracting this requirement with a single manufacturer. Further, the equipment is quickly needed as part of our efforts to build an effective and supportable Rapid Deployment Force.

However, the Army is strongly committed to competition in its procurements. Accordingly, we have again reviewed this program for ways to introduce competition where feasible. We have determined that one of the six pieces of equipment, the T-3 tractor lends itself to competition among several manufacturers with minimal impact on the XVIII Airborne Corps. Accordingly the Army intends to procure this item on a competitive basis.

The decision to award the major portion of this requirement to Caterpillar Tractor Company was based on the unique and urgent requirements of the XVIII Airborne Corps. It was made only after a lengthy review of industry capabilities and interest which was conducted with the objective of obtaining meaningful competition. It should be noted that this procurement represents only about 2 percent of construction equipment planned in Fiscal Years 1982 through 1987. Generally speaking, the balance of the construction equipment procurement is planned for competitive solicitation utilizing multi-year contracts.

I appreciate your interest in this matter and look forward to your support for Army programs in the future.

Sincerely,

J. R. SCULLEY.

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., December 9, 1981.

Hon. CHARLES BOWSHER,
Comptroller General, United States, Washington, D.C.

DEAR MR. BOWSHER: On 15 October 1981, the Honorable Carl Levin, United States Senate, was provided with an assessment by the United States General Accounting Office (GAO) of the Army's decision to procure "a fleet" of six (6) commercial construction equipment items from Caterpillar Tractor Company on a sole-source basis. The GAO's fundamental finding was that the Army's requirement to procure these items from one manufacturer was unnecessarily restrictive and, therefore, eliminated potential competitors.

The Army requirement for this low density procurement from a single manufacturer is based on the unique and vital missions of the XVIII Airborne Corps in support of the Rapid Deployment Force (RDF). This procurement will restore the capability of the XVIII Airborne Corps Engineer Units to support one of the most difficult missions of modern warfare: air landing or air dropping a large force in a distant and possibly hostile area and sustaining that force by air for an extended period.

Current on-hand engineer equipment is so diverse, old, and unreliable that it causes a serious shortfall in its ability to accomplish RDF missions. Tactical exercises have shown the operational capability of current equipment is reduced to approximately 40 percent of that necessary to construct and maintain the airfields, roads, and defensive positions which are axiomatic to the success of the RDF.

The major reasons to procure from a single manufacturer are the significant benefits gained through "commonality". Commonality is categorized through the following attributes:

a. Increased Interchangeability: This includes parts, assemblies/subassemblies, manuals, operator instructions and maintenance/repair procedures, inherent in a single manufacturer's equipment.

b. Increased Cannibalization: The benefits derived by the units' ability to immediately fix a needed item of equipment using parts from other damaged/inoperable equipment, when stocks of repair parts are not available.

c. Increased Sustainability: Increases "days of repair parts supply" for combat operations within weight/cube constraints. Efficiency achieved because fewer different items are required to be stocked for a fleet manufactured by a single source and, therefore, more of each can be airlifted.

d. Increased Human Efficiencies: These are the human factors associated with repetitive operations due to the soldier's exposure to the same or similar pieces of equipment and the similar manuals and method of maintenance required for equipment produced by a single manufacturer.

In the combat scenarios portrayed utilizing the RDF, time, efficiency, sustainability and mission fulfillment are of the essence. The abuse that this engineer equipment will receive in performing its combat mission is substantial and will require the unit's ability to fix, maintain, and operate the equipment to maximum efficiency.

The factors of increased interchangeability, increased cannibalization, increased sustainability, and increased human efficiency, provide the commander the ability to increase his chances of meeting these demands. For example, an engineer operator's Military Occupational Specialty (MOS) requires him to operate all six types of equipment although he normally concentrates on operating only one type. Due to probable casualties in both personnel and equipment which will be experienced during the initial air drop, it is quite likely that operators will be required to efficiently operate and maintain equipment other than the type they normally operate. This example, plus the requirement for the unit to be able to fix a given piece of equipment using parts on-hand or cannibalization, may be the key to mission success.

The GAO's assessment also cited 50% "cost growth" on this program. It must be noted that the planned program for Fiscal Year 1981 and Fiscal Year 1982 originally included a total of 130 items of construction equipment necessary to fill the Initial Issue Quantities (IIQ) of the XVIII Airborne Corps. The cost of this equipment was originally estimated at $15.4 million. Prior to any determination of contract award, the Army identified an additional quantity of 53 items estimated at $7.6 million necessary to support war reserve, maintenance float and potential loss requirements, bringing the total program to 183 pieces of equipment at $23.0 million. The $5.0 million required to fully fund this program now that firm estimates are available is primarily associated with underestimating the cost of sectionalization and other modifications associated with military transportation requirements.

The Army did not originally intend to procure this fleet on a sole source basis. The Army conducted a market survey which indicated that three companies (Caterpillar, IHC, John Deere) could probably manufacture all six items. There were, however, differences in the degree each company's equipment would require modification in order to meet the demanding specifications necessitated by the air transport and air drop requirements; and each company would have to subcontract the towed portion of the two-piece water distributor. Inclosed matrix depicts the results of the market survey conducted by the U.S. Army Tank Automotive Command (TACOM). As discussions progressed during the solicitation planning stage, both John Deer and IHC advised that they would not bid on a "family" or fleet buy type of procurement. In view of these discussions with possible suppliers, it was determined that competition was not available for the XVIII Airborne Corps' requirement for a fleet buy from a single manufacturer. Accordingly, a noncompetitive, sole-source solicitation was issued to the only willing supplier who would meet the requirement, Caterpillar Tractor Company. However, to ensure that we had not drawn an incorrect conclusion from the survey and discussions with contractors, a letter inquiring as to interest in bidding on the requirement and the solicitation were mailed to four prospective suppliers. No firm other than Caterpillar expressed a desire to bid on our requirements for fleet buy.

The Army has reviewed each and every piece of equipment in our proposed procurement and although we remain committed to commonality when appropriate, we have found that the T-3 Tractor can be procured separately from the other items. Three major factors support this conclusion: First, the T-3 Tractor will not have to be procured in both a sectionalized/non-sectionalized version. This means that several manufacturers could competitively bid commercial tractors with minimal modifications, thus assuring competition. Second, the small number of T-3 Tractors to be purchased will mitigate any loss of commonality which might result from a competitive award to a firm other than the fleet supplier. Third, the market survey indicates this item has the shortest production/delivery leadtime, thus, minimizing the effect of a resolicitation.

Therefore, the Army has determined that the contract award for five of the six construction equipment items to Caterpillar Tractor Company is appropriate. The Army will resolicit the T-3 Tractor program on a competitive basis. The solicitation is expected to be released in January 1982 with anticipated award by mid 1982.

Sincerely,

J. R. SCULLEY.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., November 26, 1982.

Subject: Request that GAO review Army comments on prior report, "Allegations of an Inappropriate Sole-Source Award for Commercial Construction Equipment" (PLRD-82-13, October 15, 1981.

Hon. CARL LEVIN,
Ranking Minority Member, Subcommittee on Oversight of Government Management, Committee on Government Affairs, U.S. Senate.

DEAR SENATOR LEVIN: On January 27, 1982, you asked us to evaluate Army comments received in response to the subject report. Specifically, you asked us to:

Obtain comments from International Harvester and Deere & company on the accuracy and validity of the points raised by the Army in their responses, including the Army's stipulation that both companies would not bid on a "family" or fleet buy type of procurement;

Determine the accuracy and relevance of the Army's contention that the equipment performance requirements (including airdroppability) for this procurement differ from the equipment requirements under the Air Force's "Bare Base Program;"

Determine the degree of commonality which exists among the Caterpillar construction equipment in this procurement; and

Determine how much of the Army's recent construction equipment procurement has been sole source.

FAILURE OF OTHER COMPANIES TO BID ON A FAMILY OF VEHICLES

We agree with the Army's contention that other companies would not bid, but it does not mean they were not interested in bidding. Discussions with officials of major construction equipment firms, including International Harvester and Deere & Company, indicated they were willing to bid but unable to do so due to the restrictions the Army placed in its request for proposal. Some suppliers indicated they were interested in bidding on those items in the proposed buy that they manufacture. An official of one firm said that if the scraper was eliminated from the fleet buy, it would have bid to supply the remaining equipment. In general, the suppliers were of the opinion that the Army had already decided upon Caterpillar as its source and bidding on the fleet buy would not be in their best interests.

EQUIPMENT PERFORMANCE REQUIREMENTS

We agree with the contention that the equipment performance requirements for the Army's fleet of vehicles differ from the equipment requirements under the Air Force's "Bare Base Program." However, this point is not relevant. Our point is that the Army, in implementing its fleet buy, restricted competition while the Air Force, under its Bare Base Program, encouraged competition. The Army required that a successful bidder must have manufactured or marketed all of the equipment needed. In contrast, the Air Force competitively purchases—from single suppliers—equipment similar to that desired by the Army by allowing bidders to supply equipment manufactured by other companies, as well as their own.

COMMONALITY OF EQUIPMENT

As noted in our prior report, parts commonality, one of the claimed benefits for a fleet buy, did not appear to be any greater for Caterpillar equipment than for other suppliers. Also as reported, the Army did not determine the relative commonality of the equipment manufactured by the potential suppliers. However, two of these suppliers—Deere & Company and Caterpillar—provided the Army a limited amount of information on the relative commonality of their equipment. In its submittal, Deere & Company informed the Army that "the diversity of these machines does not lend itself to accomplishing any significant degree of common parts." Nevertheless, this supplier indicated, for the five items it manufactures, that 1 percent of the parts were common. The highest degree of commonality between two of the five items was 10 percent. In contrast, parts lists submitted by Caterpillar for five of its items indicated less than .06 percent of the parts were common to all items. However, 12 percent of the parts were common to two items, slightly better than Deere & Company's 10 percent.

RECENT SOLE-SOURCE PROCUREMENTS OF CONSTRUCTION EQUIPMENT

The extent of recent Army sole-source procurement of construction equipment is shown in the following comparison of purchases made during the last two fiscal years.

	Fiscal year	
	1981	1982
Sole-source purchases:		
Number	19	39
Dollar value (in millions)	$7.2	[1] $31.5
All purchases:		
Number	66	91
Dollar value (in millions)	$41.2	$68.5
Sole-source purchases as a percentage of all purchases:		
Number	29	43
Dollar value	$17	$46

[1] Includes awards totaling $29 million to Caterpillar for the fleet buy.

EVENTS SINCE OUR OCTOBER 1981 REPORT

As you recall, the Army declined our suggestion to resolicit the planned fleet purchase on a competitive basis because a delay of up to a year could have resulted and the equipment was urgently needed to build an effective and supportable Rapid Deployment Force. However, in response to our report, the Army indicated it had reevaluated the purchase and determined that one of the pieces of equipment—the T-3 tractor—could be procured separately on a competitive basis with minimum impact. With this exception, the Army did award four sole-source contracts to Caterpillar in December 1981 and July 1982 totaling $29 million for furnishing and modifying the remainder of the fleet buy.

With respect to the competitive resolicitation of the T-3 tractor, two suppliers—Caterpillar and Deere & Company—submitted bids. On July 23, 1982, a contract for $609,923 was awarded to Deere & Company, the lowest bidder. The price, thus obtained, compared to Caterpillar's original sole-source price of $1,078,000 resulted in an estimated savings of about $468,000 or 43 percent.

Also in response to our report, the Army stated that, in the future, it plans to competitively purchase almost all of its fiscal year 1982-1987 requirements for construction equipment. As part of these plans, the Army recently submitted separate invitations for bids to major construction equipment suppliers for multiyear purchases of over 7,000 graders, loaders, compressors, and scrapers at an estimated cost of $1 billion.

We trust these additional comments will assist you in your monitoring of Defense sole-source procurements.

Sincerely yours,

DONALD J. HORAN,
Director.

NUCLEAR WASTE POLICY ACT

● Mr. HART. Mr. President, I commend the distinguished Senator from Idaho (Mr. MCCLURE) for his efforts to have this Congress enact comprehensive nuclear waste legislation. We have been wrestling with this issue in the Congress for the last decade. Two years ago, again in a lameduck session, a conference committee of House and Senate Members failed to agree on a nuclear waste bill—and we had to begin the process all over again this Congress.

Once again, we find ourselves trying to craft a comprehensive nuclear waste bill—one that will be acceptable not only to the Senate but also to the House—in the 11th hour of the Congress. The difficulty in resolving differences among Members and between Houses, attests to the large degree of controversy that necessarily surrounds nuclear waste legislation. For, a bill such as this, has profound implications both for the environment and for the health and safety of the public. Indeed, this bill may well be the most important environmental legislation the Congress will consider this session.

In general, this nuclear waste bill, as proposed to be amended by the Senator from Idaho, represents a significant improvement over the bill passed by the Senate last spring and the House last fall. Of course, there are some provisions that still cause me concern: I think we need the increased scrutiny an environmental impact statement could provide at the point the Secretary recommends sites to the President for characterization, although I would expect the environmental assessment under section 112(b) should include as much as possible. I think we should remove restrictions on environmental impact statements on, and NRC licensing of any monitored retrievable storage facility the Congress might authorize. And I think the Congress should first receive a proposal for a test and evaluation facility before authorizing its construction. But these provisions in the McClure amendment apparently reflect an agreement with the House Members most active on this legislation. It would not be appropriate to undo that agreement here.

Mr. President, I note for the record that this bill, as proposed to be amended by the Senator from Idaho, does not contain a provision included in the bill passed last spring that caused me particular concern. Described as a technical amendment, it stated that enactment of this Nuclear Waste Policy Act demonstrates the existence of a technology to safely dispose of nuclear waste. This provision, as I understand it, sought to undermine laws in various States requiring that a demonstrated waste disposal technology exist before additional nuclear powerplants could be built within that State.

Of course, enactment of a law hardly guarantees that the technology contemplated under the law will work as promised. We all hope that we can dispose of nuclear waste safely, but we do not know for sure. That is why we are establishing a program, including licensing by the Nuclear Regulatory Commission, that will lead to construction and operation of a geologic repository for nuclear waste.

Mr. President, I am pleased that this latest compromise proposal for a nuclear waste bill does not contain the technical amendment that many States found offensive.●

RECESS UNTIL 1 P.M. TODAY

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. I move, in accordance with the previous order, that the Senate stand in recess until the hour of 1 p.m. today.

The motion was agreed to and, at 1:04 a.m., the Senate recessed until 1 p.m., Wednesday, December 22, 1982.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 21, 1982:

National Council on Educational Research

Donald Barr, of Connecticut, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982.

Carl W. Salser, of Oregon, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1983.

J. Floyd Hall, of South Carolina, to be a Member of the National Council on Educational Research for a term expiring September 30, 1983.

Donna Helene Hearne, of Missouri, to be a Member of the National Council on Educational Research for a term expiring September 30, 1983.

George Charles Roche III, of Michigan, to be a Member of the National Council on Educational Research for a term expiring September 30, 1983.

M. Blouke Carus, of Illinois, to be a Member of the National Council on Educational Research for a term expiring September 30, 1984.

Onalee McGraw, of Virginia, to be a Member of the National Council on Educational Research for a term expiring September 30, 1984.

Penny Pullen, of Illinois, to be a Member of the National Council on Educational Research for a term expiring September 30, 1984.

Elaine Y. Schadler, of Pennsylvania, to be a Member of the National Council on Educational Research for a term expiring September 30, 1984.

Donald Barr, of Connecticut, to be a Member of the National Council on Educational Research for a term expiring September 30, 1985.

Paul Copperman, of California, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982.

James Harvey Harrison, Jr., of Virginia, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982.

Wallie Cooper Simpson, of New York, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982.

Paul Copperman, of California, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985.

James Harvey Harrison, Jr., of Virginia, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985.

Wallie Cooper Simpson, of New York, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985.

National Commission on Libraries and Information Science

John E. Juergensmeyer, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1987.

Jerald Conway Newman, of New York, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1987.

Julia Li Wu, of California, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1987.

Byron Leeds, of New Jersey, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1986.

Harry S Truman Scholarship Foundation

Richard J. Fitzgerald, of Illinois, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1985.

Truman McGill Hobbs, of Alabama, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1985.

Margaret Truman Daniel, of New York, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1987.

Gloria Ann Hay, of Alaska, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1987.

Federal Mine Safety and Health Review Commission

Richard V. Backley, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 1988.

L. Clair Nelson, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 1988.

National Science Foundation

Charles E. Hess, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988.

John H. Moore, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988.

Norman C. Rasmussen, of Massachusetts, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988.

Roland W. Schmitt, of New York, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988.

Robert F. Gilkeson, of Pennsylvania, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988.

William F. Miller, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988.

William A. Nierenberg, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988.

Federal Council on the Aging

Edmund T. Dombrowski, of California, to be a Member of the Federal Council on the Aging for a term expiring June 5, 1985.

National Council on the Handicapped

Nanette Fabray MacDougall, of California, to be a Member of the National Council on the Handicapped for a term expiring September 17, 1984.

ACTION Agency

Betty H. Brake, of Oklahoma, to be Deputy Director of the ACTION Agency.

Equal Employment Opportunity Commission

David L. Slate, of California, to be General Counsel of the Equal Employment Opportunity Commission for a term of 4 years.

National Institute of Education

Manuel J. Justiz, of New Mexico, to be Director of the National Institute of Education.

National Foundation on the Arts and the Humanities

Allen Drury, of California, to be a Member of the National Council on the Arts for the term expiring September 3, 1988.

Celeste Holm, of New York, to be a Member of the National Council on the Arts for the term expiring September 3, 1988.

Raymond J. Learsy, of New York, to be a Member of the National Council on the Arts for the term expiring September 3, 1988.

Samuel Lipman, of New York, to be a Member of the National Council on the Arts for the term expiring September 3, 1988.

George L. Schaefer, of California, to be a Member of the National Council on the Arts for the term expiring September 3, 1988.

Robert Stack, of California, to be a Member of the National Council on the Arts for the term expiring September 3, 1988.

C. Douglas Dillon, of New Jersey, to be a Member of the National Council on the Arts for the term expiring September 3, 1988.

William Laurens Van Alen, of Pennsylvania, to be a Member of the National Council on the Arts for the term expiring September 3, 1988.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify

before any duly constituted committee of the Senate.

DEPARTMENT OF DEFENSE

Thomas Edward Cooper, of Virginia, to be an Assistant Secretary of the Air Force.

IN THE AIR FORCE

The following officers for appointment in the U.S. Air Force to the grade of brigadier general, under the provisions of chapter 36, title 10 of the United States Code:

To be brigadier general

Col. Marcus A. Anderson, [redacted] FR, Regular Air Force.
Col. Charle W. Bartholomew, [redacted] FR, Regular Air Force.
Col. Philippe O. Bouchard, [redacted] FR, Regular Air Force.
Col. Charles P. Cabell, Jr., [redacted] FR, Regular Air Force.
Col. James S. Cassity, Jr., [redacted] FR, Regular Air Force.
Col. Larry D. Church, [redacted] FR, Regular Air Force.
Col. Gaylord W. Clark, [redacted] FR, Regular Air Force.
Col. John A. Corder, [redacted] FR, Regular Air Force.
Col. Donald R. Delauter, [redacted] FR, Regular Air Force.
Col. Robert F. Durkin, [redacted] FR, Regular Air Force.
Col. Anthony J. Farrington, Jr., [redacted] FR, Regular Air Force.
Col. Edsel R. Field, [redacted] FR, Regular Air Force.
Col. Richard F. Gillis, [redacted] FR, Regular Air Force.
Col. David M. Goodrich, [redacted] FR, Regular Air Force.
Col. Samuel J. Greene, [redacted] FR, Regular Air Force.
Col. William J. Grove, Jr., [redacted] FR, Regular Air Force.
Col. Michael D. Hall, [redacted] FR, Regular Air Force.
Col. Trevor A. Hammond, [redacted] FR, Regular Air Force.
Col. Paul A. Harvey, [redacted] FR, Regular Air Force.
Col. Richard G. Head, [redacted] FR, Regular Air Force.
Col. William K. James, [redacted] FR, Regular Air Force.
Col. James D. Kellim, [redacted] FR, Regular Air Force.
Col. Peter T. Kempf, [redacted] FR, Regular Air Force.
Col. Michael C. Kerby, [redacted] FR, Regular Air Force.
Col. Albert L. Logan, [redacted] FR, Regular Air Force.
Col. Donald A. Logeais, [redacted] FR, Regular Air Force.
Col. John M. Loh, [redacted] FR, Regular Air Force.
Col. Alan P. Lurie, [redacted] FR, Regular Air Force.
Col. Donald L. Marks, [redacted] FR, Regular Air Force.
Col. Charles A. May, Jr., [redacted] FR, Regular Air Force.
Col. Robert P. McCoy, [redacted] FR, Regular Air Force.
Col. Charles C. McDonald, [redacted] FR, Regular Air Force.
Col. Willard L. Meader, [redacted] FR, Regular Air Force, Medical.
Col. Charles D. Metcalf, [redacted] FR, Regular Air Force.
Col. Donald C. Metz, [redacted] FR, Regular Air Force.
Col. Fred R. Nelson, [redacted] FR, Regular Air Force.
Col. Thomas R. Olsen, [redacted] FR, Regular Air Force.
Col. Cecil W. Powell, [redacted] FR, Regular Air Force.
Col. Robert R. Rankine, Jr., [redacted] FR, Regular Air Force.
Col. Billy J. Rhoten, [redacted] FR, Regular Air Force.
Col. Horace L. Russell, [redacted] FR, Regular Air Force.
Col. Richard L. Stoner, [redacted] FR, Regular Air Force.
Col. Luther E. Thweatt, [redacted] FR, Regular Air Force.
Col. Norman R. Thorpe, [redacted] FR, Regular Air Force, judge advocate.
Col. Richard J. Toner, [redacted] FR, Regular Air Force.
Col. Richard J. Trzaskoma, [redacted] FR, Regular Air Force.
Col. David S. Watrous, [redacted] FR, Regular Air Force.
Col. Charles N. Wood, [redacted] FR, Regular Air Force.
Col. Larry D. Wright, [redacted] FR, Regular Air Force.
Col. Ronald W. Yates, [redacted] FR, Regular Air Force.

IN THE ARMY

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be reassigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Lt. Gen. Robert Charles Kingston, [redacted] United States Army.

IN THE NAVY

The following named officer, under the provisions of Title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under Title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Kenneth M. Carr, [redacted] 1120, U.S. Navy.

THE JUDICIARY

Sam H. Bell, of Ohio, to be U.S. district judge for the northern district of Ohio.

DEPARTMENT OF JUSTICE

Daniel F. Lopez Romo, of Puerto Rico, to be U.S. attorney for the District of Puerto Rico for the term of 4 years.

IN THE MARINE CORPS

Marine Corps nominations beginning Stephen P. Freiherr, and ending Donald L. Hairston, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 10, 1982.

IN THE NAVY

Navy nominations beginning Anthony P. Battaglia, and ending Henryk Bronislaw Zaleski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 15, 1982.

PUBLIC HEALTH SERVICE

Public Health Service nominations beginning David W. Anderson, and ending Kevin S. Yesky, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 14, 1982.

HOUSE OF REPRESENTATIVES—*Tuesday, December 21, 1982*

(Legislative day of Sunday, December 19, 1982)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker, at 12 o'clock noon on Tuesday, December 21, 1982.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Make a joyful noise to the Lord, all the lands! Serve the Lord with gladness! Come into His presence with singing!—Psalm 100: 1.

PRAYER

We are thankful, O God, for the brightness and joy of this holy season and for the promises of peace on Earth and good will toward all people. As we see the needs of the day, may we be encouraged to share with others the gifts that we have received. Enable us so to understand Your word and will that we will help all people celebrate the meaning and purpose of Your love that is our inheritance and joy.

May Your spirit and presence be with all those who labor in this place and may Your heavenly benediction remain with them all the days. Amen.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions and concurrent resolutions of the House of the following title:

H.R. 2481. An act for the relief of Cynthia Gambon Rabena;

H.R. 4491. An act to exempt the U.S. Capitol Historical Society from certain taxes;

H.R. 4746. An act for the relief of Kin Chi Eng Sims;

H.R. 5456. An act to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements;

H.R. 5633. An act for the relief of Dana Braford Baretto;

H.R. 6243. An act to provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes;

H.R. 6679. An act to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain Acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such Acts, and for other purposes;

H.R. 7005. An act to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes;

H.R. 7143. An act to amend the Foreign Assistance Act of 1961 to extend for an additional year the Agricultural and Productive Credit and Self-Help Community Development Programs;

H.R. 7336. An act to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981;

H.J. Res. 459. Joint resolution authorizing the President to proclaim May 13, 1983, as "American Indian Day";

H. Con. Res. 153. Concurrent resolution authorizing a bust or statue of Dr. Martin Luther King, Jr., to be placed in the Capitol;

H. Con. Res. 330. Concurrent resolution expressing the sense of the Congress with respect to the Soviet Union's obligations under international law to allow Ida Nudel to emigrate to Israel, and for other purposes; and

H. Con. Res. 438. Concurrent resolution providing for the sine die adjournment of the 97th Congress.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1540. An act to revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 3963) entitled "An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 5161) entitled "An act to designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4365. An act to provide that per capita payments to Indians may be made by tribal governments, and for other purposes;

H.R. 4496. An act to grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes; and

H.R. 6211. An act to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6094) entitled "An act to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes," disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. ROTH, Mr. DANFORTH, Mr. LONG, and Mr. BENTSEN, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6211) entitled "An act to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DURENBERGER, Mr. LONG, Mr. HARRY F. BYRD, JR., and Mr. MATSUNAGA for title I; Mr. STAFFORD, Mr. DOMENICI, Mr. CHAFEE, Mr. ABDNOR, Mr. SYMMS, Mr. BENTSEN, Mr. RANDOLPH, Mr. BURDICK, and Mr. MOYNIHAN for title II; Mr. GARN, Mr. TOWER, Mr. LUGAR, Mr. PROXMIRE, and Mr. RIEGLE for title III; and Mr. PACKWOOD, Mr. DANFORTH, and Mr. CANNON for title IV; to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1867. An act to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes;

S. 1939. An act to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal and Skin Diseases;

S. 1999. An act to authorize the Secretary of the Interior to install pump casings in the southern Nevada water project;

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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S. 2863. An act to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail; and

S. Con. Res. 46. Concurrent resolution expressing the sense of the Congress with regard to the mutual security efforts of the United States and Japan.

REQUEST TO MAKE IN ORDER CONSIDERATION OF H.R. 6094, AUTHORIZING APPROPRIATIONS FOR U.S. INTERNATIONAL TRADE COMMISSION, U.S. CUSTOMS SERVICE, AND OFFICE OF U.S. TRADE REPRESENTATIVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that it shall be in order, any rule of the House to the contrary notwithstanding, to consider without intervening motion a motion to take from the Speaker's table or from conference, as may be appropriate, the bill (H.R. 6094) to authorize appropriations for the United States International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes, as passed by the Senate, with Senate amendments thereto, and to concur with the Senate amendment or amendments with an amendment or amendments thereto to the bill; all points of order against said amendment or amendments are hereby waived; all amendments shall be considered as read, and the previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. MICHEL. Mr. Speaker, I reserve the right to object.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield.

Mr. GIBBONS. Mr. Speaker, the purpose of this is to try to take the bill, H.R. 6094, which is a relatively noncontroversial House bill that was amended in the Senate, which is an authorization bill for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative, a noncontroversial bill, and use it as a vehicle by which we can unravel this problem we are in today.

I would say to the minority leader that we would not try to do this unless I get the consent of Mr. CONABLE.

Mr. MICHEL. Is the gentleman asking unanimous consent to bring this up for immediate consideration?

Mr. GIBBONS. No, sometime today; not immediate consideration.

Mr. MICHEL. Is this a measure that was reported out of the Ways and Means Committee?

Mr. GIBBONS. It is, but the bill H.R. 6094 has been passed by the House. It has been passed by the Senate with some very minor amendments on it. It has been sent to conference, and it is in conference. I am asking unanimous consent to either take it from the Speaker's table or from conference, as may be appropriate, in hopes that it may be a vehicle by which we can unravel the problem we have here.

I give the minority leader my word of honor that I will not do this unless it is cleared by Mr. CONABLE. It has to be cleared by Mr. CONABLE or I would not try to move it.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield.

Mr. WALKER. Could we find out whether there is anything in this bill with respect to the Arthritis Foundation?

Mr. GIBBONS. No, it has nothing to do with that. What is holding us up are two bills, the CBI and the vehicles bill. Unless we can put them together I do not see how we are ever going to get out of here.

Mr. MICHEL. I will say to the gentleman that last night the gentleman from Illinois was talking with the chairman of the Ways and Means Committee about several measures that, frankly, are noncontroversial, that might very well have to be pulled out from under the cover as a vehicle to get something here. I would just like to tell the gentleman from Florida that I know he is up to no chicanery.

Mr. GIBBONS. The gentleman has my solemn understanding that unless we can work it out with Mr. CONABLE, it will not move.

Mr. WALKER. I guess what concerns me is the fact that the gentleman is waiving all rules, all points of order and all that, and then when we are told that this is being used as a vehicle for various things I think we would like to nail down specifically what it may be a vehicle for.

Mr. MICHEL. The gentleman from Illinois would also like to know at the appropriate time.

Mr. GIBBONS. We will give the gentleman an hour's notice on that. It will include the things that are tying us up, just those matters that are within the jurisdiction of the Ways and Means Committee, the highway tax bill and the highway authorization bill that has been passed by the House, passed by the Senate.

It is hopelessly bogged down in filibusters and everything else. That is all I am trying to do, is to provide one vehicle by which we may finally get some solution to this problem.

The SPEAKER. The Chair would like to ask the gentleman from Florida if some of these bills have been kicking around since a year ago February.

Mr. GIBBONS. These are not those bills, Mr. Speaker. Those bills are entirely different.

The SPEAKER. They will not be in this package?

Mr. GIBBONS. No, they will not be. That is a different package entirely.

The SPEAKER. The Chair wants to make sure that the gentleman has arranged for complete cooperation from the minority side and we have no confrontation on any of the legislation that he is going to bring up. If there is confrontation, the Chair will request him not to bring it up.

Mr. GIBBONS. I do not think there will be, Mr. Speaker. We are going to have to find something to work out this thing. What I am trying to do is use this vehicle of this little bill that deals with the authorization for H.R. 6094 as a vehicle to get at two bills that have tied the Senate in hopeless knots and threatens to tie the Senate in hopeless knots for the rest of this session.

Mr. MICHEL. I would like to say to the gentleman before making up my mind, Mr. Speaker, that we wanted to see that highway tax bill riding on its own here if that is possible. Does the gentleman view this as a vehicle for moving the tax bill on the highways?

Mr. GIBBONS. Yes, it could be.

Mr. MICHEL. That is what I have a reservation about, because we would like to see that on its own.

Mr. GIBBONS. I have no objection to seeing it on its own, but I would tell the minority leader that it would be my purpose to try to do that, but I am afraid we are bogged down.

□ 1210

Mr. MICHEL. Mr. Speaker, let me out of an abundance of caution, object for the moment, with the understanding that there are no recriminations against the gentleman from Florida (Mr. GIBBONS).

The SPEAKER. The Chair will ask, will the gentleman from Florida (Mr. GIBBONS) withhold his request at this particular time?

Mr. MICHEL. Mr. Speaker, I suggest he withhold at least for a few minutes so we can check this out.

Mr. GIBBONS. I will withhold my request, Mr. Speaker.

The SPEAKER. The gentleman from Florida (Mr. GIBBONS) withdraws his request.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 6211, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1932

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report on the bill, H.R. 6211, at any time after it is filed in the House, that all points of order against the conference report be waived, and that the conference report be considered as having been read when called up for consideration.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. GIBBONS. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from Florida reserves the right to object.

Mr. MICHEL. Mr. Speaker, I think we have a sufficient number of objectors over here for the moment.

The SPEAKER. The Chair will ask the gentleman, is the gentleman objecting or is he reserving the right to object?

Mr. MICHEL. Mr. Speaker, I will reserve the right to object and yield to the gentleman from Pennsylvania (Mr. WALKER).

The SPEAKER. The Members had better look into this. This may be the only method by which we can get out of the House today. That is what the Members on the gentleman's side are interested in.

Mr. MICHEL. Let me suggest, Mr. Speaker, that the gentleman from Pennsylvania go ahead.

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to allow the gentleman to explain what it is we are doing. Is this the gas tax bill we are wishing to get consideration on?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Washington.

Mr. FOLEY. Yes, it is.

Mr. WALKER. Mr. Speaker, do I understand correctly that all points of order against the bill would be waived?

Mr. FOLEY. Yes.

Mr. WALKER. And that under this procedure we would not have to go to the Rules Committee with regard to all of the amendments, some of them nongermane, that have been attached in the Senate?

Mr. FOLEY. The gentleman is correct.

Mr. WALKER. So that we would be in a position of considering a bill on the floor with a lot of nongermane amendments in it that we have reason to believe might be cleaned up in conference, but again it might not be?

Mr. FOLEY. Mr. Speaker, I cannot advise the gentleman whether there will be any nongermane amendments attached to the bill when it returns, but to answer his quesiton, this waives any points of order against the conference report.

If the gentleman will permit me to say this: Last night the House agreed to a unanimous-consent request of a similar nature when offered by the distinguished chairman of the Committee on Ways and Means in terms of an amendment to the Senate amendment, and at that time all points were waived by the House, all reading of the bill was waived, the previous question was considered as ordered, and very similar expediting language was agreed to by the House, the gentleman being in the House at the time.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I remember it well, and at that time the gentleman from Illinois had assured us that we would be making every effort to clean up the bill with regard to those amendments.

The problem this gentleman has is that the consideration of the gas tax bill under these circumstances could also become the consideration of a major tax package. Under the procedures that we are talking about adopting, we could end up with a major tax package out here on the floor with no ability whatsoever to make changes in it.

Mr. FOLEY. Mr. Speaker, I think I can assure the gentleman that no such likelihood exists.

Mr. WALKER. Mr. Speaker, do we have any idea at this point what we are talking about?

Mr. FOLEY. Mr. Speaker, I assume the gentleman is talking about a major tax package, being other than the 5-cent gasoline tax.

Mr. WALKER. Well, I am, and, further, what I am talking about is the fact that if we tack on a number of other things, we could end up with considerably more in the way of taxes in it.

But my point is that I would like to get some kind of an idea as to what we could expect to be in the package on which we are going to get unanimous consent to consider without a rule. Do we have any idea what is in the package other than the gas tax?

Mr. FOLEY. Again, I cannot predict for the gentleman what might be included in the conference report when it comes back. I am not able to tell him because I do not know. But I would say to the gentleman that the only difference is that last night the procedure was envisaged that the chairman of the committee might be bringing back, instead of a conference report, an amendment to a Senate amendment, and the same kind of authority was given him to do that that is attached to this which is being considered as a conference report.

I am sure the gentleman realizes that if features were added which the House would not want to agree to, the House would not have to agree to them, but I cannot predict every aspect of the conference report, I will tell the gentleman, simply because I do not know all the matters that might be brought into consideration.

Mr. WALKER. Further reserving the right to object, I understand, for instance, that there is a major unemployment compensation measure in it that is likely to come over. Is that the gentleman's understanding?

Mr. FOLEY. Yes, that is my understanding, that there might be some unemployment compensation provision in it.

Mr. WALKER. It is also my understanding that there is a tax break for utilities in California in the bill that is likely to come over; is that correct?

Mr. FOLEY. I am not advised on that. We have, however, passed in the House a provision which does provide some relief for utilities, which includes some California utilities and covers rate payers in the area. I can tell the gentleman that. That bill has already passed the House.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Washington (Mr. FOLEY).

Based upon the understanding that we had with the gentleman from Illinois last night that the House is making every effort to stick with its position and not bring us back a bill that has a lot of nongermane amendments and additional material in it, I will withdraw my reservation, but I will say that I am going to object to other kinds of requests that serve as vehicles for further action.

I understand we are limiting this particular request to H.R. 6211 alone; is that correct?

Mr. FOLEY. The gentleman is precisely correct. This unanimous-consent request refers exclusively and singularly to the conference report on the bill, H.R. 6211.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, perhaps the gentleman from Washington can shed some light on the concern that some of us have heard expressed on this bill that there may be a conflict relative to the Clean Air Act, which requires attainment for certain pollutants by December 31, 1982, and certan things happen when those areas of the country are not in attainment.

We may be in the position of imposing a gas tax increase of 5 cents a gallon on the citizens of our communities and then find to our chagrin that our areas will not be eligible to get the money to build projects because we have, in case the Members are interested, 472 counties in the United States which are not in attainment today and will not be in attainment by the end of this month. And because they are not in attainment they cannot get the money that the citizens pay taxes for.

Mr. Speaker, can the gentleman shed some light on that?

Mr. FOLEY. Mr. Speaker, insofar as the Environmental Protection Agency is concerned, I have heard the gentleman say many times that under the new administration the Agency is going to provide a more flexible and balanced administration of these requirements than the gentleman felt had been followed in the previous administration.

I do not know whether the actions of the Environmental Protection Agency during the first 2 years of the administration have given the gentleman any confidence in it. I do not know whether that is the case or not, but I personally believe there will be a sense of

balance and fairness in meeting any of these requirements of the act during such time as Congress has under consideration the Clean Air Act. Obviously I cannot go beyond that in making any assurance to the gentleman on the enforcement of the law because that is a matter that is in the hands of the executive branch and, in particular, the Environmental Protection Agency.

Mr. DANNEMEYER. Mr. Speaker, further reserving the right to object, I can respond to the gentleman's observation by saying that it is not the actions of the current Administrator of the EPA that causes me to make these comments, but it is the law that was developed prior to the time this Administrator took over the job that causes these comments to be addressed, and I am very concerned about it.

I would appreciate it if the gentleman could elaborate on what is going to happen.

Mr. FOLEY. Most laws are self-enforcing, and it is the responsibility of the executive branch to enforce the laws passed by the Congress.

□ 1220

That also requires some judgment and decision as to the character of the statute involved and the circumstances under which it is to be implemented.

So all I can tell the gentleman is that I believe personally that the agency that is involved in responsibility, the EPA in this case, particularly during any consideration of the Clean Air Act amemdments, will be responsible and balanced, and if I can use the word, employ commonsense in the administration of the law previously enacted.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE PRESIDENT LACKS HEART

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, Saturday a spokesman for the President said that they were against any expenditure of funds for job programs and would veto the continuing resolution if it had job programs in it.

At the same time they said they were concerned about the unemployment and they were in favor of extending unemployment insurance for 13 months.

As Ronald W. Reagan always said, what the people of this country want is a hand up and not a handout.

I would suggest that the President stop by the butcher shop and get himself a heart for these holidays.

PARLIAMENTARY INQUIRY

Mr. DORNAN of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. DORNAN of California. Mr. Speaker, yesterday I thought the Chair very graciously used, instead of a recess period and a break in official proceedings, the time to go through special orders. I wondered if I might request that today, that some of us, if we are kind and brief in our special orders, could do them at that time.

The SPEAKER. We can do that. I am delighted that the gentleman brought up the idea.

Mr. DORNAN of California. I thank the Speaker.

The SPEAKER. We will hold off on it momentarily because there are a couple of things we have to do.

Mr. DORNAN of California. I thank the Speaker and I appreciate it.

CONGRESS NEEDS TO REVIEW PROCEDURES

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, this last week in the House of Representatives and in the other body has raised a lot of serious questions in this country and even among those of us in the Congress as to whether our procedures really can stand the test of moving this country at a time that it has to be moved without delaying tactics, without uses of parliamentary procedures that end up in blocking the intent of Congress itself.

I would certainly hope, Mr. Speaker, that in the days and months ahead in the new Congress that a great deal of thought will be given as to how to prevent the situations that we are seeing taking place today on both our side in the House and in the other body.

This country really deserves better than what we have seen the past week or two.

I must say that the blame for the problem does not sit alone with the Congress. It also very strongly sits with the executive branch. I hope they, too, will look very carefully at what has happened and see if we cannot do better in the years ahead.

APPOINTMENT OF CONFEREES ON H.R. 6211, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Mr. HOWARD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes, with the Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and appoints the following conferees: Title I of the Senate amendment and modifications committed to conference as well as on matters within the jurisdiction of the Committee on Ways and Means, Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, BRODHEAD, CONABLE, DUNCAN, and ARCHER; for consideration of the remainder of the Senate amendment and modifications committed to conference, Messrs. HOWARD, ANDERSON, BREAUX, MINETA, LEVITAS, CLAUSEN, SHUSTER, and SNYDER.

TAX TREATMENT OF PERIODIC PAYMENTS

Mr. PICKLE submitted the following conference report and statement on the bill (H.R. 5470) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness:

CONFERENCE REPORT (H. REPT. No. 97-984)

The committee of conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the text of the bill (H.R. 5470) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment, insert the following:

SECTION 1. AMENDMENT OF 1954 CODE.

Whenever in title I or II an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—INCOME TAX PROVISIONS

SEC. 101 TREATMENT OF RECIPIENT OF SETTLEMENT PERIODIC PAYMENTS.

(a) TREATMENT OF RECIPIENT.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended by striking out "whether by suit or agreement" and inserting in lieu thereof "whether by suit or agreement and whether as lump sums or as periodic payments".

(b) TREATMENT OF ASSIGNEE-PAYOR.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 130 as section 131 and by inserting after section 129 the following new section:

"SEC. 130. CERTAIN PERSONAL INJURY LIABILITY ASSIGNMENTS.

"(a) IN GENERAL.—Any amount received for agreeing to a qualified assignment shall not be included in gross income to the extent that such amount does not exceed the aggregate cost of any qualified funding assets.

"(b) TREATMENT OF QUALIFIED FUNDING ASSET.—In the case of any qualified funding asset—

"(1) the basis of such asset shall be reduced by the amount excluded from gross income

under subsection (a) by reason of the purchase of such asset, and

"(2) any gain recognized on a disposition of such asset shall be treated as ordinary income.

"(c) QUALIFIED ASSIGNMENT.—For purposes of this section, the term 'qualified assignment' means any assignment of a liability to make periodic payments as damages (whether by suit or agreement) on account of personal injury or sickness—

"(1) if the assignee assumes such liability from a person who is a party to the suit or agreement, and

"(2) if—

"(A) such periodic payments are fixed and determinable as to amount and time of payment,

"(B) such periodic payments cannot be accelerated, deferred, increased, or decreased by the recipient of such payments,

"(C) the assignee does not provide to the recipient of such payments rights against the assignee which are greater than those of a general creditor,

"(D) the assignee's obligation on account of the personal injuries or sickness is no greater than the obligation of the person who assigned the liability, and

"(E) such periodic payments are excludable from the gross income of the recipient under section 104(a)(2).

"(d) QUALIFIED FUNDING ASSET.—For purposes of this section, the term 'qualified funding asset' means any annuity contract issued by a company licensed to do business as an insurance company under the laws of any State, or any obligation of the United States, if—

"(1) such annuity contract or obligation is used by the assignee to fund periodic payments under any qualified assignment,

"(2) the periods of the payments under the annuity contract or obligation are reasonably related to the periodic payments under the qualified assignment, and the amount of any such payment under the contract or obligation does not exceed the periodic payment to which it relates,

"(3) such annuity contract of obligation is designated by the taxpayer (in such manner as the Secretary shall by regulations prescribe) as being taken into account under this section with respect to such qualified assignment, and

"(4) such annuity contract or obligation is purchased by the taxpayer not more than 60 days before the date of the qualified assignment and not later than 60 days after the date of such assignment."

(2) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 130 and inserting in lieu thereof the following new items:

"Sec. 130. Certain personal injury liability assignments.

"Sec. 131. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1982.

SEC. 102. EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), as amended by section 101(b), is amended by redesignating section 131 as section 132 and by inserting after section 130 the following new section:

"SEC. 131. CERTAIN FOSTER CARE PAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include amounts received by a foster parent during the taxable year as qualified foster care payments.

"(b) QUALIFIED FOSTER CARE PAYMENT DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified foster care payments' means any amount—

"(A) which is paid by a State or political subdivision thereof or by a child-placing agency which is described in section 501(c)(3) and exempt from tax under section 501(a), and

"(B) which is—

"(i) paid to reimburse the foster parent for the expenses of caring for a qualified foster child in the foster parent's home, or

"(ii) a difficulty of care payment.

"(2) QUALIFIED FOSTER CHILD.—The term 'qualified foster child' means any individual who—

"(A) has not attained age 19, and

"(B) is living in a foster family home in which such individual was placed by—

"(i) an agency of a State or political subdivision thereof, or

"(ii) an organization which is licensed by a State (or political subdivision thereof) as a child-placing agency and which is described in section 501(c)(3) and exempt from tax under section 501(a).

"(c) DIFFICULTY OF CARE PAYMENTS.—For purposes of this section—

"(1) DIFFICULTY OF CARE PAYMENTS.—The term 'difficulty of care payments' means payments to individuals which are not described in subsection (b)(1)(B)(i), and which—

"(A) are compensation for providing the additional care of a qualified foster child which is—

"(i) required by reason of a physical, mental, or emotional handicap of such child with respect to which the State has determined that there is a need for additional compensation, and

"(ii) provided in the home of the foster parent, and

"(B) are designated by the payor as compensation described in subparagraph (A).

"(2) LIMITATION BASED ON NUMBER OF CHILDREN.—In the case of any foster home, difficulty of care payments for any period to which such payments relate shall not be excludable from gross income under subsection (a) to the extent such payments are made for more than 10 qualified foster children."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 131 and by inserting in lieu thereof the following items:

"Sec. 131. Certain foster care payments.

"Sec. 132. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

TITLE II—TAX STATUS OF INDIAN TRIBAL GOVERNMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Indian Tribal Governmental Tax Status Act of 1982".

SEC. 202. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Provisions Affecting More than One Subtitle

"Sec. 7871. Indian tribal governments treated as States for certain purposes.

"SEC. 7871. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES.

"(a) GENERAL RULE.—An Indian tribal government shall be treated as a State—

"(1) for purposes of determining whether and in what amount any contribution or transfer to or for the use of such government (or a political subdivision thereof) is deductible under—

"(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

"(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers of public, charitable, and religious uses), or

"(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

"(2) subject to subsection (b), for purposes of any exemption from, credit or refund of, or payment with respect to, an excise tax imposed by—

"(A) chapter 31 (relating to tax on special fuels),

"(B) chapter 32 (relating to manufacturers excise taxes),

"(C) subchapter B of chapter 33 (relating to communications excise tax), or

"(D) subchapter D of chapter 36 (relating to tax on use of certain highway vehicles);

"(3) for purposes of section 164 (relating to deduction for taxes);

"(4) subject to subsection (c), for purposes of section 103 (relating to interest on certain governmental obligations);

"(5) for purposes of section 511(a)(2)(B) (relating to the taxation of colleges and universities which are agencies or instrumentalities of governments or their political subdivisions);

"(6) for purposes of—

"(A) section 37(e)(9)(A) (relating to certain public retirement systems),

"(B) section 41(c)(4) (defining State for purposes of credit for contribution to candidates for public offices),

"(C) section 117(b)(2)(A) (relating to scholarships and fellowship grants), and

"(D) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities); and

"(7) for purposes of—

"(A) chapter 41 (relating to tax on excess expenditures to influence legislation), and

"(B) subchapter A of chapter 42 (relating to private foundations).

"(b) ADDITIONAL REQUIREMENTS FOR EXCISE TAX EXEMPTIONS.—Paragraph (2) of subsection (a) shall apply with respect to any transaction only if, in addition to any other requirement of this title applicable to similar transactions involving a State or political subdivision thereof, the transaction involves the exercise of an essential governmental function of the Indian tribal government.

"(c) ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT BONDS.—

"(1) IN GENERAL.—Subsection (a) of section 103 shall apply to any obligation (not described in paragraph (2)) issued by an Indian tribal government (or subdivision thereof) only if such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.

"(2) NO EXEMPTION FOR CERTAIN PRIVATE-ACTIVITY BONDS.—Subsection (a) of section 103 shall not apply to any of the following issued by an Indian tribal government (or subdivision thereof):

"(A) An industrial development bond (as defined in section 103(b)(2)).

"(B) An obligation described in section 103(l)(1)(A) (relating to scholarship bonds).

"(C) A mortgage subsidy bond (as defined in paragraph (1) of section 103A(b) without regard to paragraph (2) thereof).

"(d) TREATMENT OF SUBDIVISIONS OF INDIAN TRIBAL GOVERNMENTS AS POLITICAL SUBDIVISION.—For the purposes specified in subsection (a), a subdivision of an Indian tribal government shall be treated as a political subdivision of a State if (and only if) the Secretary determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to

exercise one or more of the substantial governmental functions of the Indian tribal government."

(b) CONFORMING AMENDMENTS RELATING TO CROSS REFERENCES.—

(1) Subsection (d) of section 41 is amended to read as follows:

"(d) CROSS REFERENCES.—

"(1) For disallowance of credits to estates and trusts, see section 642(a)(2).

"(2) For treatment of Indian tribal governments as States (and the political subdivisions of Indian tribal governments as political subdivisions of States), see section 7871."

(2) Subsection (m) of section 103 is amended to read as follows:

"(m) CROSS REFERENCES.—

"For provisions relating to the taxable status of—

"(1) Certain obligations issued by Indian tribal governments (or their subdivisions), see section 7871.

"(2) Exempt interest dividends of regulated investment companies, see section 852(b)(5)(B).

"(3) Puerto Rican bonds, see section 3 of the Act of March 2, 1917, as amended (48 U.S.C. 745).

"(4) Virgin Islands insular and municipal bonds, see section 1 of the Act of October 27, 1919 (48 U.S.C. 1403).

"(5) Certain obligations issued under title I of the Housing Act of 1949, see section 102(g) of title I of such Act (42 U.S.C. 1452(g))."

(3) Section 164(f) is amended by adding at the end thereof the following new paragraph:

"(3) For treatment of taxes imposed by Indian tribal governments (or their subdivisions), see section 7871."

Section 170(k) is amended by adding at the end thereof the following new paragraph:

"(8) For charitable contributions to or for the use of Indian tribal governments (or their subdivisions), see section 7871."

(5) Section 2055(f) is amended by adding at the end thereof the following new paragraph:

"(11) For treatment of gifts and bequests to or for the use of Indian tribal governments (or their subdivisions), see section 7871."

(6) Subparagraph (F) of section 2106(a)(2) is amended to read as follows:

"(F) Cross references.—

"(i) For option as to time for valuation for purposes of deduction under this section, see section 2032.

"(ii) For exemption of certain bequests for the benefit of the United States and for rules of construction for certain bequests, see section 2055(f).

"(iii) For treatment of gifts and bequests to or for the use of Indian tribal governments (or their subdivisions), see section 7871."

(7) Subsection (d) of section 2522 is amended to read as follows:

"(d) Cross References.—

"(1) For exemption of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain bequests, see section 2055(f).

"(2) For treatment of gifts to or for the use of Indian tribal governments (or their subdivisions), see section 7871."

(8) Section 4227 is amended to read as follows:

"SEC. 4227. CROSS REFERENCES.

"(1) For exemption for a sale to an Indian tribal government (or its subdivision) for the exclusive use of an Indian tribal government (or its subdivision), see section 7871.

"(2) For credit for taxes on tires and tubes, see section 6416(c)."

(9) The table of sections for subchapter G of chapter 32 is amended by striking out the item relating to section 4227 and inserting in lieu thereof the following new item:

"Sec. 4227. Cross references."

(10) Section 4484 is amended to read as follows:

"SEC. 4484. CROSS REFERENCES.

"(1) For penalties and administrative provisions applicable to this subchapter, see subtitle F.

"(2) For exemption for uses by Indian tribal governments (or their subdivisions), see section 7871."

(11) The table of sections for subchapter D of chapter 36 is amended by striking out the item relating to section 4484 and inserting in lieu thereof the following new item:

"Sec. 4484. Cross references."

(12) Sections 6420(h) and 6421(j) are each amended by adding at the end thereof the following new paragraph:

"(4) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871."

(13) Sections 6424(g) and 6427(k) are each amended by adding at the end thereof the following new paragraph:

"(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter C. Provisions affecting more than one subtitle."

SEC. 203. DEFINITION OF INDIAN TRIBAL GOVERNMENT.

Subsection (a) of Section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(40) INDIAN TRIBAL GOVERNMENT.—The term 'Indian tribal government' means the governing body of any tribe, band, community, village, or group of Indians which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise substantial governmental functions and in Alaska shall include only the Metlakatla Indian Community."

SEC. 204. EFFECTIVE DATES.

The amendments made by this title—

(1) insofar as they relate to chapter 1 of the Internal Revenue Code of 1954 (other than section 103 thereof), shall apply to taxable years beginning after December 31, 1982, and before January 1, 1985,

(2) insofar as they relate to section 103 of such Code, shall apply to obligations issued after December 31, 1982, and before January 1, 1985,

(3) insofar as they relate to chapter 11 of such Code, shall apply to estates of decedents dying after December 31, 1982, and before January 1, 1985,

(4) insofar as they relate to chapter 12 of such Code, shall apply to gifts made after December 31, 1982, and before January 1, 1985, and

(5) insofar as they relate to taxes imposed by subtitle D of such Code, shall take effect on January 1, 1983, and shall cease to apply at the close of December 31, 1984.

TITLE III—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. TREATMENT OF HAWAII PREPAID HEALTH CARE ACT UNDER EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) EXEMPTION FROM PREEMPTION.—Section 514(b) of the Employee Retirement Income Security act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-51).

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a)—

"(i) any State tax law relating to employee benefit plans, or

"(ii) any amendment of the Hawaii Prepaid Health Care Act enacted after September 2, 1974, to the extent it provides for more than the effective administration of such Act as in effect on such date.

"(C) Notwithstanding subparagraph (A), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after the date of the enactment of this paragraph), but the Secretary may enter into cooperative arrangements under paragraph and section 506 with officials of the State of Hawaii to assist them in effectuating the policies of provisions of such Act which are superseded by such parts."

(b) TREATMENT OF OTHER STATE LAWS.—The amendment made by this section shall not be considered a precedent with respect to extending such amendment to any other State law.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. TREATMENT OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS UNDER EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) DEFINITION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), relating to definitions, is amended by adding at the end thereof the following new paragraph:

"(40)(A) The term 'multiple employer welfare arrangement' means an employee welfare benefit plan, or any other arrangement (other than an employee welfare benefit plan), which is established or maintained for the purpose of offering or providing any benefit described in paragraph (1) to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that such term does not include any such plan or other arrangement which established or maintained—

"(i) under or pursuant to one or more agreements which the Secretary finds to be collective bargaining agreements, or

"(ii) by a rural electric cooperative.

"(B) For purposes of this paragraph—

"(i) two or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group,

"(ii) the term 'control group' means a group of trades or businesses under common control,

"(iii) the determination of whether a trade or business is under 'common control' with another trade or business shall be determined under regulations of the Secretary applying principles similar to the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, common control shall not be based on an interest of less than 25 percent, and

"(iv) the term 'rural electric cooperative' means—

"(I) any organization which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954 and which is engaged primarily in providing electric service on a mutual or cooperative basis, and

"(II) any organization described in paragraph (4) or (6) of section 501(c) of the Internal Revenue Code of 1954 which is exempt

from tax under section 501(a) of such Code and at least 80 percent of the members of which are organizations described in subclause (I)."

(b) LIMITATION ON PREEMPTION OF STATE LAW WITH REGARD TO WELFARE PLANS WHICH ARE MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)), as amended by section 301 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provision of this section—

"(i) in the case of an employee welfare benefit plan which is a multiple employer welfare arrangement and is fully insured (or which is a multiple employer welfare arrangement subject to an exemption under subparagraph (B)), any law of any State which regulates insurance may apply to such arrangement to the extent that such law provides—

"(I) standards, requiring the maintenance of specified levels of reserves and specified levels of contributions, which any such plan, or any trust established under such a plan, must meet in order to be considered under such law able to pay benefits in full when due, and

"(II) provisions to enforce such standards, and

"(ii) in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement, in addition to this title, any law of any State which regulates insurance may apply to the extent not inconsistent with the preceding sections of this title.

"(B) The Secretary may, under regulations which may be prescribed by the Secretary, exempt from subparagraph (A)(ii), individually or by class, multiple employer welfare arrangements which are not fully insured. Any such exemption may be granted with respect to any arrangement or class of arrangements only if such arrangement or each arrangement which is a member of such class meets the requirements of section 3(1) and section 4 necessary to be considered an employee welfare benefit plan to which this title applies.

"(C) Nothing in subparagraph (A) shall affect the manner or extent to which the provisions of this title apply to an employee welfare benefit plan which is not a multiple employer welfare arrangement and which is a plan, fund, or program participating in, subscribing to, or otherwise using a multiple employer welfare arrangement to fund or administer benefits to such plan's participants and beneficiaries.

"(D) For purposes of this paragraph, a multiple employer welfare arrangement shall be considered fully insured only if the terms of the arrangement provide for benefits the amount of all of which the Secretary determines are guaranteed under a contract, or policy of insurance, issued by an insurance company, insurance service, or insurance organization, qualified to conduct business in a State.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

And the House agree to the same.

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
JOHN J. DUNCAN,
BILL FRENZEL,
Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
MALCOLM WALLOP,
RUSSELL B. LONG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 5470) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment to the Senate amendment struck out all of the Senate amendment and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the House amendment, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Periodic Payment Settlement Act of 1982

1. Exclusion for Periodic Damage Payments

Present law

Present law generally excludes from gross income damages received by an individual on account of personal injuries or sickness. Furthermore, the IRS has ruled that damages for personal injuries are excludible from gross income whether paid as a lump sum, or paid in periodic payments out of a fund invested and owned by the tortfeasor or an insurer.

House bill

The House bill excludes from gross income damage payments for injuries or sickness whether paid as lump sums or as periodic payments.

Furthermore, under certain circumstances, an amount received for agreeing to undertake an assignment of a liability to make periodic payments of personal injury damages is not included in gross income. Specifically, any amount so received will not be included in gross income to the extent it is used to purchase an annuity contract issued by a company licensed to do business as an insurance company under the laws of any State or an obligation of the United States. It is intended that the definition of a "qualified funding asset," meaning an annuity contract designed to satisfy a "qualified assignment," encompass an annuity policy the payments from which end upon the death of a measuring life, i.e., an annuity with a life contingency.

The provision is effective for taxable years ending after 1982.

Senate amendment

The Senate amendment is similar to the House bill except that if an annuity contract is used to fund periodic payments, it must be issued by a life insurance company.

Conference agreement

The conference agreement follows the House bill.

The conferees wish to emphasize that, as a result of this legislation, no negative inference should be drawn as to the appropriate tax treatment of such transactions under present law and administrative rulings.

2. Exclusion From Gross Income for Certain Foster Care Payments

Present law

Except as otherwise provided by law, gross income means all income from whatever source derived.

The IRS has set forth guidelines regarding the tax treatment of amounts received and amounts expended by individuals providing foster care to children. If foster parents are rendering gratuitous services to child-placing agencies in feeding, clothing, and caring for foster children, then paymens received from the child-placing agency for the support of a foster child are excludible from gross income to the extent that the payments do not exceed the expenses incurred by the foster parents in supporting the child. If foster parents have a profit motive, then a portion of each payment from the child-placing agency for the support of a foster child is excludible from gross income to the extent that the payments do not exceed the expenses incurred by the foster parents in supporting the child. If foster parents have a profit motive, then a portion of each payment from the child-placing agencies represents reimbursement or advancement for expenses incurred on behalf of the agency by the foster parents, and the remainder is compensation for their services.

House bill

The House bill excludes from the gross income of a foster parent amounts paid to reimburse the foster parent for the expense of caring for a foster child (under the age of 19) in the foster parent's home and difficulty of care payments. This exclusion, in the case of difficulty of care payments, is available with respect to payments for the care of up to ten children.

Difficulty of care payments are payments that are compensation for providing the additional care of a foster child which is required by reason of a physical, mental, or emotional handicap with respect to which the State has determined that there is a need for additional compensation and which is provided in the home of the foster parent.

In order for payments to be excludible, the foster child with respect to whom payments are made must be placed by an agency of a State or political subdivision thereof, or by a State-licensed, private, tax-exempt agency.

The provision applies to taxale years beginning after December 31, 1978.

Senate amendment

The Senate amendment is similar to the House bill, with two exceptions. first, the Senate amendment excludes only difficulty of care payments, not reimbursements. Second, the amendment does not require private child-placing agencies to be licensed by the State.

Conference agreement

The conference agreement follows the House bill.

3. Taxation of Indian Tribal Governments

Present law

States (including the District of Columbia) and their political subdivisions generally are exempt from Federal tax. In addition, numerous transactions by private parties with State governments and their political subdivisions result in favorable Federal tax treatment (e.g., exclusion from income, tax deductions, or tax credits) for the private parties involved.

Under present law, Indian tribal governments are not treated as State governments. The Internal Revenue Service has ruled that tribal government income is tax

exempt until the income is received, or constructively received, by tribe members (Rev. Rul. 67-284, 1967-2 C.B. 55).

House bill

No provision.

Senate amendment

Overview

The Senate amendment provides that, for a series of specified purposes under the Internal Revenue Code, Indian tribal governments are to be treated the same as States or similar to States. The term Indian tribal government is defined to include in Alaska only the Metlakatla Indian Community. The provisions will not apply to any Indian tribal government unless it is recognized by the Treasury Department (after consultation with the Interior Department) as exercising sovereign powers. Sovereign powers include the power to tax, the power of eminent domain, and police powers (such as control over zoning, police protection, and fire protection).

Present law generally provides that political subdivisions of States are to be treated essentially the same as the States themselves. Therefore, a subdivision of an Indian tribal government will be treated as a political subdivision of a State for the purposes specified in the amendment if the Treasury Department determines (after consultation with the Interior Department) that the subdivision of the Indian tribal government has been delegated the right to exercise one or more of the sovereign powers of the Indian tribal government.

Taxation of Indian tribal governments

Under the amendment, most Federal excise taxes will not apply to articles sold for the exclusive use of Indian tribal governments. Specifically, exemption will be provided from the following taxes:

Diesel and special motor fuels.
Gasoline.
Tires, innertubes, and tread rubber.
Lubricating oil.
Highway use tax.
Bows and arrows.
Firearms.
Telephones.

The amendment does not change the present income tax treatment of Indian tribal governments specified in Rev. Rul. 67-284, supra.

Special treatment of certain transactions involving Indian tribal governments

GENERAL RULE.—Indian tribal governments will be treated as States in the following transactions involving private parties—

(1) The exclusion from income of interest on certain obligations of State governments (except as set forth below);

(2) The income tax deduction for taxes paid to State and local governments;

(3) The income, estate, and gift tax deductions for charitable contributions;

(4) The tax on unrelated business income of certain types of organizations;

(5) The taxes imposed on certain prohibited transactions by pubic charities and private foundations;

(6) The income tax credit for individuals who receive retirement income from public retirement systems;

(7) Eligibility for certain tax-deferred annuities;

(8) The income tax credit for political campaign contributions; and

(9) The exclusion of certain scholarships and fellowships awarded to students who are not candidates for a degree.

SPECIAL RULES FOR TAX-EXEMPT BONDS.—The amendment permits Indian tribal governments to issue tax-exempt industrial development bonds only where the primary activities of the businesses benefitting from the bonds take place on the reservation and where substantially all of the off-reservation activities are purchasing, marketing, and similar related activities. Additionally, interest on bonds other than IDBs is exempt from tax only if substantially all of the proceeds of the obligations are used in the exercise of essentially governmental functions or for a public utility. These requirements are in addition to any other requirements imposed under the Code for tax-exempt bonds.

In general, the amendment applies to taxable years beginning after 1982.

The provisions related to tax-exempt bonds will apply to obligations of Indian tribal governments issued after the date of enactment in taxable years ending after that date.

The provisions amending the estate or gift taxes will apply to estates of individuals dying, or gifts made, after 1982.

The excise tax provisions are effective on January 1, 1983.

Conference agreement

The conference agreement follows the Senate amendment, with modifications and clarifications. First, Indian tribal governments are permitted only to issue public activity bonds, the proceeds of which are used in an essential governmental function (such as schools, streets, and sewers). Therefore, tribal governments are not permitted to issue private activity bonds (i.e., industrial development bonds, scholarship bonds, and mortgage subsidy bonds). Second, all of the provisions will terminate after December 31, 1984. Third, the provision permitting issuance of tax-exempt bonds is effective for obligations issued after December 31, 1982, and before January 1, 1985.

Finally, the conferees wish to clarify two points. The present-law requirement that an excise tax exempt article be sold for the exclusive use of a State or local government will apply in the case of articles sold to Indian tribal governments. The tax-exempt articles must be for the Indian tribal government's exclusive use in carrying out an essential governmental function. Additionally, the requirement of consultation between the Secretary of the Treasury and the Secretary of the Interior is not to be construed as requiring the consent of the Secretary of the Interior before adoption of any regulation, ruling, or other determination made by the Secretary of the Treasury.

4. Waiver of Preemption in Case of Hawaiian Prepaid Health Care Act

Present law

The Employee Retirement Income Security Act of 1974 (ERISA) provides comprehensive rules relating to employee benefit plans, including plans providing health benefits to employees. The Act (sec. 514(a)) generally supersedes State laws insofar as they relate to employee benefit plans.

The Hawaii Act (Haw. Rev. Stat. 393-1 through 51), provides for a program of health insurance for employees. As a result of litigation, it was determined that the Hawaiian Act was preempted by ERISA (*Standard Oil Company of California* v. *Agsalud*, 633 F. 2d 760 (9th Cir. 1980), aff'd, 454 U.S. 801 (1981)).

House bill

The provision generally exempts the Hawaii Prepaid Health Care Act from preemption by ERISA. Under the provision, however, preemption is continued with respect to (1) any State tax law relating to employee benefit plans, or (2) any amendment of the Hawaii Act enacted after September 2, 1974, to the extent the amendment provides for more than the effective administration of that Act as in effect on September 2, 1974. The provision continues Federal preemption of State law with respect to matters governed by the reporting and disclosure and the fiduciary responsibility provisions of ERISA, as well as certain of the provisions of the administration and enforcement rules of ERISA (Title I, part 1, part 4, and secs. 501 through sec. 514(b)). The provision also permits the Secretary of Labor to enter into cooperative arrangements with the officials of the State of Hawaii to assist them in effectuating the policies of the provisions of the Hawaii Act that are superseded by ERISA.

The provision states that it is not to be considered a precedent for extending nonpreemption to any other State law.

The provision is effective on the date of enactment.

Senate amendment

The Senate amendment generally follows the House bill except that the exemption from the ERISA preemption provision applies to the Hawaii Prepaid Health Care Act, as in effect on January 1, 1976. Additionally, the amendment requires that the Secretary of Labor conduct a study of the feasibility of extending the exemption to include other State laws which establish health care plans and report to the Congress on his findings within two years.

Conference agreement

The conference agreements follows the House bill.

5. Waiver of Preemption in Case of Multiple Employer Welfare Arrangements

Present law

The Employee Retirement Income Security Act of 1974 (ERISA) provides comprehensive rules relating to employee benefit plans, including plans providing health benefits to employees. The Act (sec. 514(a)) generally supersedes State laws insofar as they relate to employee benefit plans.

House bill

The provision generally exempts certain multiple employer welfare arrangements from the ERISA preemption provision. Under the provision, a multiple employer welfare arrangement is any plan or other arrangement established to offer welfare benefits, such as health insurance, to the employees of two or more employers. However, it continues preemption with respect to State law applying to any plan maintained pursuant to a collective bargaining agreement or maintained by a tax exempt rural electric cooperative.

In the case of a fully insured multiple employer welfare arrangement, the provision exempts from ERISA preemption any State laws that require the maintenance of specified levels of reserves and contributions in order for such an arrangement to be considered adequately funded.

In the case of a multiple employer welfare arrangement that is not fully insured, the provision exempts from ERISA preemption any State laws that regulate insurance. Notwithstanding this provision, the Secretary is authorized to determine the extent to which the ERISA preemption provision will be applied to a multiple employer welfare arrangement that is not fully insured. The Secretary's determination may be made on a case-by-case basis or a class basis.

The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

6. Reduction in Income Tax Rate on Virgin Islands Source Income

Present law

The Treasury and the Government of the Virgin Islands take the position that present law imposes a 30-percent tax on the U.S. recipient of certain Virgin Islands source passive investment income, and that present law also imposes withholding at the source by the V.I. payor of such income. Certain taxpayers contend there is no such tax or withholding obligation.

House bill

No provision.

Senate amendment

The Senate amendment provides for a 10-percent rate of tax by the Virgin Islands when the recipient is a U.S. citizen, resident alien, or corporation and provides for a corresponding withholding obligation on the V.I. payor of such income. The amendment makes clear the Virgin Islands' right prospectively both to impose the tax and to collect it by requiring withholding. The amendment is not intended to affect disputes now pending with respect to prior years between various taxpayers and the V.I. Government as to whether under existing law the Virgin Islands can tax U.S. recipients non-resident in the Virgin Islands on passive income from Virgin Islands sources. The amendment will allow the V.I. Government to reduce this 10-percent rate in its discretion. Payments will continue to be subject to the tax at a 30-percent rate.

The new tax rates generally will apply to amounts received after the date of enactment. The corresponding withholding obligation will apply to payments made after the date of enactment.

Conference agreement

The conference agreement follows the House bill.

7. One-Year Extension of Highway Trust Fund Taxes

Present Law

Highway Trust Fund taxes are scheduled to expire or revert to lower tax rates after September 30, 1984. Receipts from those highway taxes that would continue after expiration of the trust fund would be deposited in the general fund of the Treasury. The exemption from the fuels tax (4 cents a gallon) for qualified taxicabs expires after December 31, 1982.

Expenditures may be made from the trust fund for authorized highway purposes through September 30, 1984.

House bill

No provision.

Senate amendment

The Highway Trust Fund is extended for one-year, through September 30, 1985. Receipts from excise taxes designated for deposit to the trust fund also is extended for one-year, through September 30, 1985. Expenditures from the trust fund for authorized purposes is extended for two years, through September 30, 1986.

Transfer of recreational motor boat fuels taxes to the Land and Water Conservation Fund also is extended for one additional year.

In addition, the refund of the taxes on motor fuels used in qualified taxicabs is extended for one-year, through December 31, 1983.

Conference agreement

The conference agreement follows the House bill.

ESTIMATED REVENUE EFFECTS OF PROVISIONS OF H.R. 5470 AS AGREED TO BY THE CONFERENCE COMMITTEE—FISCAL YEARS 1983–87

[In millions of dollars]

Provision	1983	1984	1985	1986	1987
1. Exclusion for periodic damage payments	(1)	(1)	(1)	(1)	(1)
2. Exclusion from gross income for certain foster care payments	(2)	(2)	(2)	(2)	(2)
3. Taxation of Indian tribal governments	(2)	(2)	(1)	(1)	(1)
4. Waiver of preemption in case of Hawaiian prepaid health care act	(2)	(2)	(2)	(2)	(2)
5. Waiver of preemption of ERISA in case of multiple employer welfare arrangements	(1)	(1)	(1)	(1)	(1)

(1) Negligible revenue impact.
(2) Loss of less than $5 million.

And the House agree to the same.

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
JOHN J. DUNCAN,
BILL FRENZEL,
Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
MALCOLM WALLOP,
RUSSELL B. LONG,
Managers on the Part of the Senate.

TAXES ON VIRGIN ISLAND SOURCE INCOME; DISABILITY BENEFITS

Mr. PICKLE submitted the following conference report and statement on the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income:

CONFERENCE REPORT (H. REPT. No. 985)

The committee of conference on the disagreeing votes of the two Houses on the Senate amendments numbered 2, 3, and 4 to the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes, and on the disagreeing votes of the two Houses on the House amendment to the Senate amendment numbered 1 to such bill, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, and 4.

That the Senate recede from its disagreement to the House amendment to the Senate amendment numbered 1 and agree to the same with an amendment as follows:

In lieu to the matter proposed to be inserted by the House amendment to the Senate amendment, insert the following:

SECTION 1. INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

(a) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to possessions) is amended by inserting after section 934 the following new section:

"SEC. 934A. INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

"(a) GENERAL RULE.—For purposes of determining the tax liability incurred by citizens and resident alien individuals of the United States, and corporations organized in the United States, to the Virgin Islands pursuant to this title with respect to amounts received from sources within the Virgin Islands—

"(1) the taxes imposed by sections 871(a)(1) and 881 (as made applicable to the Virgin Islands) shall apply except that '10 percent' shall be substituted for '30 percent', and

"(2) subsection (a) of section 934 shall not apply to such taxes.

"(b) Subsection (a) RATES NOT TO APPLY TO PRE-EFFECTIVE DATE EARNINGS.—

"(1) IN GENERAL.—Any change under subsection (a)(1), and any reduction under section 934 pursuant to subsection (a)(2), in a rate of tax imposed by section 871(a)(1) or 881 shall not apply to dividends paid out of earnings and profits accumulated for taxable years beginning before the effective date of the change or reduction.

"(2) ORDERING RULE.—For purposes of paragraph (1), dividends shall be treated as first being paid out of earnings and profits accumulated for taxable years beginning before the effective date of the change or reduction (to the extent thereof)."

(b) WITHHOLDING.—Subchapter A of chapter 3 of such code (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1444. WITHHOLDING ON VIRGIN ISLANDS SOURCE INCOME

"For purposes of determining the withholding tax liability incurred in the Virgin Islands pursuant to this title (as made applicable to the Virgin Islands) with respect to amounts received from sources within the Virgin Islands by citizens and resident alien individuals of the United States, and corporations organized in the United States, the rate of withholding tax under sections 1441 and 1442 on income subject to tax under section 871(a)(1) or 881 (as modified by section 934A) shall not exceed the rate of tax on such income under section 871(a)(1) or 881, as the case may be."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 934 of such Code is amended by inserting before the period at the end thereof "or in section 934A".

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part III of subchapter N of chapter 1 of such Code is amended by inserting after the item relating to section 934 the following new item:

"Sec. 934A. Income tax rate on Virgin Islands source income."

(2) The table of sections for subchapter A of chapter 3 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1444. Withholding on Virgin Islands source income."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

(2) WITHHOLDING.—The amendment made by subsection (b) shall apply to payments made after the date of the enactment of this Act.

SEC. 2. CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL.

Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's,

widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, is pending with respect to the determination that he is not so entitled,

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month beginning after the date of the enactment of this subsection for which (under such determination) such benefits are no longer otherwise payable, and ending with the earlier of (i) the month preceding the month in which a decision is made after such a hearing, (ii) the month preceding the month in which no such request for a hearing or an administrative review is pending, or (iii) June 1984.

"(2)(A) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1), and the final decision of the Secretary affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title, except as otherwise provided in subparagraph (B).

"(B) If the Secretary determines that the individual's appeal of his termination of benefits was made in good faith, all of the benefits paid pursuant to such individual's election under paragraph (1) shall be subject to waiver consideration under the provisions of section 204.

"(3) The provisions of paragraphs (1) and (2) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made—

"(A) on or after the date of the enactment of this subsection, or prior to such date but only on the basis of a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, and

"(B) prior to October 1, 1983.".

SEC. 3. PERIODIC REVIEWS OF DISABILITY CASES.

Section 221(i) of the Social Security Act is amended—

(1) by inserting "(1)" after "(i)";

(2) by inserting ", subject to paragraph (2)" after "at least every 3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The requirement of paragraph (1) that cases be reviewed at least every 3 years shall not apply to the extent that the Secretary determines, on a State-by-State basis, that such requirement should be waived to insure that only the appropriate number of such cases are reviewed. The Secretary shall determine the appropriate number of cases to be reviewed in each State after consultation with the State agency performing such reviews, based upon the backlog of pending reviews, the projected number of new applications for disability insurance benefits, and the current and projected staffing levels of the State agency, but the Secretary shall provide for a waiver of such requirement only in the case of a State which makes a good faith effort to meet proper staffing requirements for the State agency and to process case reviews in a timely fashion. The Secretary shall report annually to the Committee on Finance of the Senate and the Committee on the Ways and Means of the House of Representatives with respect to the determinations made by the Secretary under the preceding sentence.".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 4. EVIDENTIARY HEARINGS IN RECONSIDERATIONS OF DISABILITY BENEFIT TERMINATIONS.

(a) IN GENERAL.—Section 205(b) of the Social Security Act is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and

"(C) as a consequence of the finding described in subparagraph (B), such individual is determined by the Secretary not to be entitled to such benefits,

any reconsideration of the finding described in subparagraph (B), in connection with a reconsideration by the Secretary (before any hearing under paragraph (1) on the issue of such entitlement) of his determination described in subparagraph (C), shall be made only after opportunity for an evidentiary hearing, with regard to the finding described in subparagraph (B), which is reasonably accessible to such individual. Any reconsideration of a finding described in subparagraph (B) may be made either by the State agency or the Secretary where the finding was originally made by the State agency, and shall be made by the Secretary where the finding was originally made by the Secretary. In the case of a reconsideration by a State agency of a finding described in subparagraph (B) which was originally made by such State agency, the evidentiary hearing shall be held by an adjudicatory unit of the State agency other than the unit that made the finding described in subparagraph (B). In the case of a reconsideration by the Secretary of a finding described in subparagraph (B) which was originally made by the Secretary, the evidentiary hearing shall be held by a person other than the person or persons who made the finding described in subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to reconsiderations (of findings described in section 205(b)(2)(B) of the Social Security Act) which are requested on or after such date as the Secretary of Health and Human Services may specify, but in any event not later than January 1, 1984.

SEC. 5. CONDUCT OF FACE-TO-FACE RECONSIDERATIONS IN DISABILITY CASES.

The Secretary of Health and Human Services shall take such steps as may be necessary or appropriate to assure public understanding of the importance the Congress attaches to the face-to-face reconsiderations provided for in section 205(b)(2) of the Social Security Act (as added by section 4 of this Act). For this purpose the Secretary shall—

(1) provide for the establishment and implementation of procedures for the conduct of such reconsiderations in a manner which assures that beneficiaries will receive reasonable notice and information with respect to the time and place of reconsideration and the opportunities afforded to introduce evidence and be represented by counsel; and

(2) advise beneficiaries who request or are entitled to request such reconsiderations of the procedures so established, of their opportunities to introduce evidence and be represented by counsel at such reconsiderations, and of the importance of submitting all evidence that relates to the question before the Secretary or the State agency at such reconsiderations.

SEC. 6. REPORT BY SECRETARY.

Section 221(i) of the Social Security Act (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall report semiannually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the number of reviews of continuing disability carried out under paragraph (1), the number of such reviews which result in an initial termination of benefits, the number of requests for reconsideration of such initial termination or for a hearing with respect to such termination under subsection (d), or both, and the number of such initial terminations which are overturned as the result of a reconsideration or hearing.".

SEC. 7. OFFSET AGAINST SPOUSES' BENEFITS ON ACCOUNT OF PUBLIC PENSIONS.

(a) ADDITIONAL EXEMPTION.—

(1) Section 334 of the Social Security Amendments of 1977 (Public Law 95-216) is amended by adding at the end thereof the following new subsection:

"(h) In addition, the amendments made by the preceding provisions of this section shall not apply with respect to any monthly insurance benefit payable, under subsection (b), (c), (e), (f), or (g) (as the case may be) of section 202 of the Social Security Act, to an individual—

"(1) to whom there is payable for any month prior to July 1983 (or who is eligible in any such month for) a monthly periodic benefit (within the meaning of such provisions) based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2) of the Social Security Act); and

"(2) who at the time of application for or initial entitlement to such monthly insurance benefit under such subsection (b), (c), (e), (f), or (g)—

"(A) meets the dependency test of one-half support set forth in paragraph (1)(C) of such subsection (c) as it read prior to the enactment of the amendments made by this section, or an equivalent dependency test (if the individual is a woman), in the case of an individual applying for or becoming entitled to benefits under such subsection (b) or (c), or

"(B) meets the dependency test of one-half support set forth in paragraph (1)(D) of such subsection (f) as it read prior to the enactment of the amendments made by this section, or an equivalent dependency test (if the individual is a woman), in the case of an individual applying for or becoming entitled to benefits under such subsection (e), (f), or (g).".

(2) Section 334(f) of such Act is amended by striking out "The amendments" and inserting in lieu thereof "Subject to subsections (g) and (h), the amendments".

(b) REPORT BY SECRETARY.—The Secretary of Health and Human Services shall conduct a study of the provisions of title II of the Social Security Act which require an offset against spouses' and surviving spouses' benefits on account of public pensions, as added by section 334 of the Social Security Amendments of 1977 (taking into account

the amendment made by subsection (a) of this section as well as the provisions of such section 334), and shall report to the Congress, no later than May 15, 1983, his recommendations for any permanent legislative changes in such provisions (or in the applicability of such provisions) which he may consider appropriate.

(c) TECHNICAL AMENDMENTS.—Subsections (b)(4)(A), (c)(2)(A), (e)(8)(A), (f)(2)(A) and (g)(4)(A) of section 202 of the Social Security Act are each amended by inserting "for purposes of this title" after "as defined in section 210".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) of this section shall be effective with respect to monthly insurance benefits for months after November 1982.

And the House agree to the same.

DAN ROSTENKOWSKI,
J. J. PICKLE,
ANDREW JACOBS, Jr.,
RICHARD GEPHARDT,
JAMES SHANNON,
BILL ARCHER,
JIM MARTIN,
Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
WILLIAM L. ARMSTRONG,
RUSSELL B. LONG,
HARRY F. BYRD, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the Senate amendments numbered 2, 3, and 4 to the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes, and on the disagreeing votes of the two Houses on the House amendment to the Senate amendment numbered 1 to such bill, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME

Present law.—The Virgin Islands Government contends that payments of passive investment income by V.I. persons to U.S. persons are subject to a 30-percent tax (on the gross amount of the payment) and a corresponding withholding obligation. Certain U.S. recipients of such income contend that such payments are subject to neither tax nor withholding. (Similar payments to foreign persons are clearly subject to the tax and the withholding obligation.)

Senate position.—The Senate language (which is identical to the original House language) provides that the rate of V.I. tax on payments of passive investment income from V.I. persons to U.S. persons shall not exceed 10 percent. This treatment would apply to dividend payments out of earnings and profits accumulated in taxable years beginning on or after the date of enactment. The Government of the Virgin Islands would be able to reduce this 10 percent maximum rate in its discretion. The withholding obligation of the payer would in every case correspond to the substantive tax liability of the recipient. Payments to foreign persons would continue to be subject to the 30-percent tax and corresponding withholding.

House amendment.—The House amendment follows the Senate position, but makes two technical changes.

First, the House amendment makes it clear that Congress is taking neither side in the current dispute between U.S. persons and the V.I. Government by striking references to "reductions" in tax.

Second, the House amendment makes it clear that the Virgin Islands will be able to impose and require withholding of a tax of up to 10 percent on payments of passive income to U.S. persons.

Conference agreement.—The conference agreement follows the House amendment with the two technical changes.

CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL

Present law.—A social security disability insurance (DI) beneficiary who is found to be no longer disabled under the provisions of the Social Security Act continues to receive benefits for two months after the month in which his eligibility is determined to have ceased. (As an administrative practice, individuals are now generally found to be "no longer disabled" no earlier than the month in which the individual is notified of the termination decision.)

The individual may request a reconsideration of the decision, and if the termination is upheld, he may appeal the decision to an Administrative Law Judge (ALJ). The individual is not presently eligible for benefits during the appeals process. However, if the initial termination decision is reversed, benefits are paid retroactively.

House bill.—Upon request of the beneficiary, DI benefits and Medicare coverage would continue to be paid through the month preceding the month of the decision pursuant to a hearing before an Administrative Law Judge. These additional DI benefits would be subject to recovery as overpayments, subject to the same waiver provisions now in current law, if the initial termination decision is upheld.

The provision is effective for benefit payments beginning with the first month after the date of enactment for cases where a termination decision has been made before October 1, 1983. In all cases such benefit payments would cease no later than June 1984. For cases where a termination decision was made before the date of enactment and a timely appeal is pending or is filed, benefits could be paid under this provision, but no lump sum back payments would be authorized.

Senate amendment.—Identical to House provision.

Cost effect.—According to the Congressional Budget Office this provision will increase outlays by $75 million in fiscal years 1983-85. There are no costs beyond those years.

Conference agreement.—The conference agreement follows the House provision.

PERIODIC REVIEWS OF DISABILITY CASES

Present law.—The Social Security Disability Amendments of 1980 required the Secretary of Health and Human Services to review the cases of current disability beneficiaries at least once every three years, beginning in January, 1982, to determine whether they are still disabled. Beneficiaries judged to be permanently disabled were to be excluded from this review.

House bill.—The House bill authorizes the Secretary to slow down the number of cases sent to the State disability agencies for reexamination below the rate required by the 1980 amendments. The Secretary's determination of the appropriate numbers of cases to be reviewed in each State shall be based on consideration of the backlogs of such pending reviews, projected numbers of new applicants for disability benefits, and projected staffing levels of State agencies. The State agency must demonstrate a good faith effort to meet appropriate staffing requirements and to process reviews in a timely fashion. The Secretary is to report annually to the House Committee on Ways and Means and the Senate Finance Committee on the determinations made under this section.

Senate amendment.—Same as House bill.

Cost effect.—Negligible.

Conference agreement.—The conference agreement follows the House provision.

REPORT BY SECRETARY

Present law.—There is no requirement for periodic reports to the Congress by the Secretary of Health and Human Services with respect to continuing disability investigations.

House bill.—Requires the Secretary of HHS to report to the Senate Finance Committee and the House Committee on Ways and Means semiannually on the number of: continuing eligibility reviews, termination decisions, reconsideration requests, and termination decisions which are overturned at the reconsideration or hearing level.

The provision is effective upon enactment.

Senate amendment.—Identical to House provision.

Cost effect.—None.

Conference agreement.—The conference agreement follows the House provision.

EVIDENTIARY HEARINGS IN RECONSIDERATIONS OF DISABILITY BENEFIT TERMINATIONS

Current Law.—The Social Security Act provides for initial determinations of disability by the State agencies authorized by the Secretary to make disability decisions, and for continuing reviews of disability by the Secretary or the State agency. The law also provides for a hearing by the Secretary, and subsequent judicial review, for any individual dissatisfied with determinations made by the State agencies or the Secretary.

House bill.—The House bill requires the Secretary to provide, beginning no later than January 1, 1984, opportunity for a face-to-face, evidentiary hearing prior to reconsideration of decisions to terminate benefits for disability beneficiaries. This requirement does not supplant or affect in any way the requirement of existing law for a hearing by an Administrative Law Judge. The provision applies only to reconsiderations of determinations that the beneficiary is not disabled because the physical or mental impairment on which his eligibility is based is found to have ceases, not to have existed or to no longer be disabling.

Senate amendment.—No provision.

Cost effect.—Negligible.

Conference agreement.—The conference agreement follows the House provison.

CONDUCT OF FACE-TO-FACE RECONSIDERATIONS IN DISABILITY CASES

Present law.—The Social Security Act provides for initial determinations to be made by the State agency or the Secretary, and for hearings conducted by the Secretary and judicial review after such hearings for those individuals dissatisfied with the earlier decisions.

House bill.—The House bill requires the Secretary to take all steps necessary to insure public understanding of the importance Congress attaches to the face-to-face reconsideration hearings provided in Section 4. The Secretary is required to assure that beneficiaries will receive reasonable notice and information as to the time and place of the reconsideration, of the opportunities to be represented by counsel and to

introduce evidence at the reconsideration, and of the importance of submitting all available evidence concerning the case at the reconsideration.

Senate bill.—No provision.

Cost effect.—None.

Conference agreement.—The conference agreement follows the House provision.

MEDICAL EVIDENCE

Present law.—Although current law does not specify a time period for the collection of medical evidence, current procedures, detailed in guidelines used by State agencies, require the Secretary to seek to obtain all medical evidence from all persons or institutions which have diagnosed or treated the individual within the 12-month period preceding the review of an individual's continuing eligibility.

Under both the regulations and the guidelines used by State agencies, an individual must meet the prevailing requirements for eligibility and no medical improvement needs to be shown to find an individual no longer eligible for disability benefits.

House bill.—No provision.

Senate amendment.—Requires the Secretary to make every reasonable effort to seek and obtain all relevant medical evidence from all persons or institutions which have diagnosed or treated such individuals with respect to his impairment or impairments within the preceding 12-month period. Requires the Secretary to consider all evidence available in the individual's case file relating to such impairment or impairments in making a determination on the case. States that nothing in the preceding sentence shall preclude the Secretary from finding an individual to be ineligible under the terms of the Social Security Act even if such individual's medical condition has not improved or otherwise changed since any prior determination of his disability.

Cost effect.—No estimate made.

Conference agreement.—The conference agreement does not include the Senate provision.

PUBLIC PENSION OFFSET

Present law.—Prior to 1977 social security spouse's benefits were available only to men who could meet a dependency test and to women, all of whom were presumed to be dependent. These provisions were declared in March 1977 (*Califano v. Goldfarb*) unconstitutional since they applied differently to men and women.

The Social Security Amendments of 1977 responded to the Goldfarb decision by providing, except for beneficiaries who are covered by the public pension offset exception clause, that social security dependents' benefits which are paid to spouses of retired, disabled, or deceased workers are reduced dollar-for-dollar by an amount equal to any public pension which the spouse receives as a result of his or her own employment by a Federal, state or local government which is not covered by social security. (Non-covered government employment is defined as employment not covered under section 210 of the Social Security Act on the last day the spouse was employed by the government.)

Under the exception clause (which expired December 1, 1982), the offset would not apply if: (1) a beneficiary is either receiving or eligible to receive a government pension based on non-covered employment for any month in the period December 1977 through November 1982, and (2) the beneficiary, at the time of filing for social security dependents' benefits, meets all the requirements for entitlement as they were in effect and being administered in January 1977. The law in January 1977 required men, but not women, to prove they were dependent on their spouses for at least one-half of their support in order to qualify for the spouses benefit.

House bill.—The House bill provides that during the 60 month period beginning with December 1982, the amount of the public pension used for purposes of the public offset shall be an amount equal to one-third of the public pension.

Senate amendment.—No provision.

Cost effect.—According to unofficial estimates of the Congressional Budget Office, the House bill would increase outlays by the following amounts (by fiscal years, in millions of dollars):

1983	15
1984	40
1985	65
1986	85
1987	108
1988	30

Conference agreement.—The Conferees agreed that, in lieu of a modification of the public pension offset clause, the public pension offset would not apply to an individual who becomes eligible for a public pension prior to July 1983 if that individual is dependent upon his or her spouse for one-half support. The one-half support test would be applied according to the pre-1977 law, except that it would apply to both men and women.

The amendment would also require the Secretary of Health and Human Services to study the pension offset provisions and to report his recommendation for any permanent legislation that may be appropriate by May 15, 1983.

In addition, the Conferees agreed to specify the definition of non-covered government employment as government employment which on the last day the spouse was employed, was not covered employment for purposes of title II of the Social Security Act.

DAN ROSTENKOWSKI,
J. J. PICKLE,
ANDREW JACOBS, JR.,
RICHARD GEPHARDT,
JAMES SHANNON,
BILL ARCHER,
JIM MARTIN,
Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
WILLIAM L. ARMSTRONG,
RUSSELL B. LONG,
HARRY F. BYRD, JR.,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, for the information of the House, it is our intention to bring up the conference report on H.R. 5470, tax treatment of periodic payments, and H.R. 7093, taxes on Virgin Island source income, disability benefits, in approximately an hour, or at a time when we ask permision to consider the gasoline tax. The conferees are in session and we are just simply hoping we can get quick action.

□ 1230

TEXAS BAND OF KICKAPOO ACT

Mr. KAZEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4496) to grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Texas Band of Kickapoo Act".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) Congress finds that the Texas Band of Kickapoo Indians is a subgroup of the Kickapoo Tribe of Oklahoma; that many years ago, the Band was forced to migrate from its ancestral lands to what is now the State of Texas and the nation of Mexico; that, although many members of the band meet the requirements for United States citizenship, some of them cannot prove that they are United States citizens; that, although the Band resides in the State of Texas, it owns no land there; that, because the Band owns no land in Texas, members of the Band are considered ineligible for services which the United States provides to other Indians who are members of federally recognized tribes because of their status as Indians except when the members of the Band are on or near the reservation of the Kickapoo Tribe of Oklahoma; that members of the Band live under conditions that pose serious threats to their health; and that, because their culture is derived from three different cultures, they have unique needs including, especially, educational needs.

(b) Congress therefore declares that the Band should be recognized by the United States; that the right of the members of the Band to pass and repass the borders of the United States should be clarified; that services which the United States provides to Indians because of their status as Indians should be provided to members of the Band in Maverick County, Texas; and, that land in the State of Texas should be taken in trust by the United States for the benefit of the Band.

DEFINITIONS

SEC. 3. For purposes of this Act—

(a) "Band" means the Texas Band of Kickapoo Indians, a subgroup of the Kickapoo Tribe of Oklahoma;

(b) "Tribe" means the Kickapoo Tribe of Oklahoma; and

(c) "Secretary" means the Secretary of the Interior.

ESTABLISHMENT OF BAND ROLL; CLARIFICATION OF UNITED STATES CITIZENSHIP

SEC. 4. (a) Within one year of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a roll of those members of the Tribe who posses Kickapoo blood and who are also members of the Band. When said roll is complete, the Secretary shall immediately publish notice in the Federal Register stating that the roll has been completed. The Secretary shall ensure that the roll, once completed, is maintained and that it is current.

(b) If the Secretary does not compile the roll within the period prescribed in subsection 4(a), he shall submit a report to Congress setting forth the reasons he did not do so.

(c) For a period of five years after the publication of the Federal Register notice required under subsection 4(a), any member of the Band whose name appears on the roll compiled by the Secretary, may, at his option, apply for United States citizenship. Such application shall be made to the Immigration and Naturalization Service and, upon receipt of the application, citizenship shall promptly be granted to the applicant.

(d) Notwithstanding the Immigration and Nationality Act, all members of the Band shall be entitled to freely pass and repass the borders of the United States and to live and work in the United States.

LAND ACQUISITION; APPLICABILITY OF THE INDIAN REORGANIZATION ACT

SEC. 5. (a) The Act of June 18, 1934 (48 Stat. 984), is hereby made applicable to the Band: *Provided*, however, That the Secretary is only authorized to exercise his authority under section 5 of that Act (25 U.S.C. 465) with respect to lands located in Maverick County, Texas.

(b) The Secretary is authorized and directed to accept no more than one hundred acres of land in Maverick County, Texas which shall be offered for the benefit of the Band with the approval of the Tribe. Nothing in this subsection shall be construed as limiting the authority of the Secretary under section 5 of the Act of June 18, 1934 (48 Stat. 985).

JURISDICTION

SEC. 6. The State of Texas shall exercise jurisdiction over civil causes of action and criminal offenses arising on the Band's trust lands in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code, as if it had assumed jurisdiction pursuant to sections 401 and 402 of the Act of April 11, 1968 (82 Stat. 78, 79). The provisions of section 403 of the Act of April 11, 1968 (82 Stat. 79), shall be applicable and available to the State of Texas.

PROVISION OF FEDERAL INDIAN SERVICES

SEC. 7. (a) Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, the Band and its members in Maverick County, Texas shall be eligible for such programs and services without regard to the existence of a reservation, the residence of members of the Band on or near a reservation, or the compilation of the roll pursuant to subsection 4(a) of this Act.

(b) In providing services pursuant to subsection (a), the Secretary and the head of each department and agency shall consult and cooperate with appropriate officials or agencies of the Mexican Government to the greatest extent possible to ensure that such services meet the special tricultural needs of the Band and its members. Such consultation and cooperation may include, whenever practicable, joint funding agreements between such agency or department of the United States and the appropriate agencies and officials of the Mexican Government.

Mr. KAZEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so to ask the gentleman to give us a little more information on the legislation.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield, H.R. 4496 is a bill to grant Federal recognition to the Texas Band of Kickapoo Indians and to allow members of the band to acquire U.S. citizenship.

The bill was reported out of the committee and passed the House by consent with the support of the administration. The Senate passed the bill with some technical changes. The bill as passed by the Senate is supported by all concerned parties. It is a much needed bill that does not contain any authorization for any appropriation of funds and I am asking the House to concur in the Senate amendment to H.R. 4496.

Mr. Speaker, after reading the Senate rewrite of the bill, it is the opinion of the committee that this rewrite only brings technical changes to the bill as passed by the House.

It is therefore the view of this committee that section 5 as rewritten by the Senate still mandates the Secretary of the Interior to accept 100 acres in trust for the benefit of the Texas Band of Kickapoo Indians. Furthermore this committee interprets the second sentence of section 5(b) as allowing the Secretary at his discretion to accept in trust for the benefit of the band any additional lands over and above the 100 acres he is directed to accept under the first sentence of this subsection.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. There is no money in the bill at all?

Mr. LUJAN. Absolutely no money. It authorizes no Federal spending at all.

Mr. WALKER. I thank the gentleman.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas that the Senate amendment be considered as read?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING TECHNICAL CORRECTIONS IN BANKING AND RELATED STATUTES

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 271) to make technical corrections in certain banking and related statutes, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I do so in order that the chairman might give us an explanation of this.

Mr. Speaker, there is a technical amendment which will be considered, but may I say that the minority has examined this now and what the chairman of the full Committee on Banking, Finance and Urban Affairs is attempting to do here is to offer some strictly technical amendments which do not have any substantive effect at all, and there is no money involved.

I simply reserve the right to object so that the chairman might include a statement in the RECORD at this point in explanation.

Mr. ST GERMAIN. If the gentleman will yield, I want to assure the gentleman that the action that would be taken definitely concerns technical amendments, typos, correction of erroneous references in the legislation that we adopted prior to the November elections, and where there are substantive changes there will be an amendment offered to eliminate the substantive legislative changes. They can be dealt with in the next Congress in the ordinary legislative process.

Mr. WYLIE. So-called bankers' bank language will be deleted by the amendment which the chairman intends to offer?

Mr. ST GERMAIN. That will be deleted, yes.

Mr. WYLIE. Mr. Speaker, I rise in support of Chairman ST GERMAIN'S unanimous consent request on this so-called technical corrections package, Senate Joint Resolution 271.

The Garn-St Germain Act is already being implemented by the depository institutions and the agencies which regulate them. There is no question in my mind that it will be remembered as a highly significant piece of legislation which will do much to restore confidence in the Nation's insured depository institutions. Nevertheless, there are some technical and conforming changes which need to be made.

From my perspective as the ranking Republican member of the Subcommittee on Financial Institutions, I can truly say that the provisions of Senate Joint Resolution 271 are technical and conforming and do, in fact, correct a number of provisions in the Garn-St Germain Depository Institutions Act of 1982 which the House passed without objection on October 1 of this year. The minority staff of our committee has worked closely with Chairman ST GERMAIN'S staff, as well as with the staff of the Senate Banking Committee, to develop what should be

viewed as consensus and perfecting legislation.

This resolution makes numerous grammatical corrections, corrects some improper cross references, and clarifies congressional intent. I will comment briefly on the two provisions which I believe are most significant in this technical package, sections 13 and 30.

Section 13 provides that the new money market instrument, which was made available for the first time on December 14, shall not be subject to the transitional adjustments under the Monetary Control Act of 1980. This provision is necessary to insure that depository institutions and their customers receive the benefit of a fully competitive instrument, as Congress intended, and will not be subject to the 1-percent reserve on personal accounts which had been imposed by the Federal Reserve.

Section 30 confirms that the limitation on life insurance activities contained in title VI of Public Law 97-320 applies to small bank holding companies. The apparent enpowerment of small bank holding companies to sell life insurance and annuities not withstanding title VI was inadvertent, and this correction merely preserves the original intent of Congress.

While I am sure that there are some interested parties who would like to see other items considered at this time, I am confident that this perfecting resolution is acceptable to all segments of the financial industry. To the best of my knowledge, I know of no real objections to Senate Joint Resolution 271.

For those who are interested, I encourage Members to review a sectional analysis to see for yourselves that this is purely a technical corrections resolution. Despite the fact that we are rapidly nearing the holiday season, this is not an example of Christmas tree legislation which our committee brings to the floor today.

In closing, Mr. Speaker, I urge all of my colleagues to support the unanimous consent request of my friend from Rhode Island, just as we passed the Garn-St Germain Act unanimously a few short months ago.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

S.J. RES. 271

SECTION 1. (a) Section 13(c)(5)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(5)(A)), as added by section 111 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 2. Section 5(o)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(o)(1)), as added by section 112 of Public Law 97-320, is amended by inserting "examination," after "operation,".

SEC. 3. The last sentence of section 26(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831c(a)), as added by section 113(p) of Public Law 97-320, is amended by striking out "Depository Institutions Amendments" and inserting in lieu thereof "Garn-St Germain Depository Institutions Act".

SEC. 4. (a) Section 13(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(1)), as added by section 116 of Public Law 97-320, is amended by striking out "paragraphs" both places it appears and inserting in lieu thereof "paragraph".

(b) Section 13(f)(6) of such Act (12 U.S.C. 1823(f)(6)), as added by section 116 of Public Law 97-320, is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following:

"(C) In the case of a minority-controlled institution, the Corporation shall seek an offer from other minority-controlled institutions before proceeding with the sequence set forth in the preceding subparagraph.".

SEC. 5. Section 406(c)(3) of the National Housing Act (12 U.S.C. 1729(c)(3)), as amended by section 122(f) of Public Law 97-320, is amended by striking out "paragraphs (1) or (2)" and inserting in lieu thereof "paragraph (1) or (2)".

SEC. 6. Section 408(l) of the National Housing Act (12 U.S.C. 1730a(l)) is amended by striking out "mergers or acquisitions approved under subsection (e)(2)" and inserting in lieu thereof "any transaction approved under subsection (e)(2) or (m)".

SEC. 7. (a) Section 408(m)(1)(A)(i) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)(i)), as added by section 123 of Public Law 97-320, is amended by striking out "subsections (e)(2) and (l)" and inserting in lieu thereof "subsections (e)(2) and (l)".

(b) Section 408(m)(1)(B)(iii) of such Act is amended by striking out "Board of Directors" each place it appears and inserting in lieu thereof "Federal Home Loan Bank Board".

SEC. 8. The second sentence of section 17 (a) of the Federal Home Loan Bank Act (12 U.S.C. 1437(a)), as amended by section 127 of Public Law 97-320, is amended—

(1) by striking out "the Administrative Procedure Act" and inserting in lieu thereof "section 553 of title 5, United States Code"; and

(2) by striking out "such Act" and inserting in lieu thereof "section 554 of such title".

SEC. 9. (a) Section 406(f)(5)(C)(ii) of the National Housing Act (12 U.S.C. 1729(f)(5)(C)(ii)), as added by section 202 of Public Law 97-320, is amended by striking out "if" the second place it appears.

(b) (1) Section 406(f)(5)(1) of such Act (12 U.S.C. 1729(f)(5)(I)), as added by section 202 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

(2) The amendment made by paragraph (1) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 10. (a) Section 13(i)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(9)), as added by section 203 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 11. Section 206 of Public Law 97-320 is amended to read as follows:

"SUNSET PROVISION

"SEC. 206. (a) Upon the expiration of three years after the date of enactment of this Act, section 406(f)(5) of the National Housing Act and section 13(i) of the Federal Deposit Insurance Act are repealed.

"(b) The repeal by subsection (a) shall have no effect on any action taken or authorized pursuant to the amendments made by this title by or for a qualified institution while such amendments were in effect and while net worth certificates issued pursuant to these amendments are outstanding.".

SEC. 12. The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)(B)), as amended by section 312 of Public Law 97-320, is amended by inserting "may accept a demand account from itself and" after "An association".

SEC. 13. Section 204 of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503), as amended by section 327 of Public Law 97-320, is amended by adding at the end thereof the following:

"(4) The transitional adjustment provisions in section 19(b)(8) of the Federal Reserve Act, providing for the phase-in of reserve requirements, shall not apply to an account or accounts established pursuant to this subsection.".

SEC. 14. (a)(1) Section 5(c)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(3)) is amended by adding at the end thereof the following:

"(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Investments not exceeding the greater of (i) the sum of its surplus, undivided profits, and reserves, or (ii) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (I) the association relies substantially for repayment on the borrower's general credit standing and forecast of income without other security, or (II) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party. Investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection.".

(2) The amendment made by paragraph (1) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

(b) Section 5(r)(2)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(r)(2)(B), as added by section 334 of Public Law 97-320, is amended by striking out "Depository Institutions Amendments" and inserting in lieu thereof "Garn-St Germain Depository Institutions Act".

SEC. 15. Section 352 of Public Law 97-320, is amended by inserting "Home" after "Federal" the first place it appears.

SEC. 16. Section 6(m) of the Federal Home Loan Bank Act (12 U.S.C. 1426(m)), as added by section 355(b) of Public Law 97-320, is amended by striking out "Banks" and inserting in lieu thereof "banks or in connection with obtaining a charter from the Federal Home Loan Bank Board".

SEC. 17. (a) Section 5200(b)(1) of the Revised Statutes (12 U.S.C. 84), as amended by section 401 of Public Law 97-320, is amended by inserting a comma before "to the extent specified by the Comptroller of the Currency".

(b) Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking out in the first sentence "under paragraph (8) of section 5200 of the Revised Statues, as amended (U.S.C., Supp. VII, title 12, sec. 84)" and inserting in lieu thereof

"under section 5200(c)(4) of the Revised Statutes".

SEC. 18. (a) Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)), as amended by section 404(a) of Public Law 27-320, is amended—

(1) by inserting "(except to the extent otherwise provided by law)" after "engage exclusively"; and

(2) by striking out "depository institutions" the second place it appears and inserting in lieu thereof "depository organizations, subsidiaries thereof,".

(b) The last proviso of section 5136 Seventh of the Revised Statutes (12 U.S.C. 24 Seventh), as amended by section 404(b) of Public Law 97-320, is amended—

(1) by inserting "(except to the extent otherwise provided by law)" after "engages exclusively";

(2) by striking out "depository institutions" the second place it appears and inserting in lieu thereof "depository organizations, subsidiaries thereof,"; and

(3) by striking out "10 per centum of its" and inserting in lieu thereof "10 per centum of the association's".

(c) The last sentence of section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), as amended by section 404(d) of Public Law 97-320, is amended—

(1) by inserting "(except to the extent otherwise provided by law)" after "engage exclusively"; and

(2) by striking out "depository institutions" the third place it appears and inserting in lieu thereof "depository organizations, subsidiaries thereof,".

SEC. 19. (a) Section 2 (b) of the Act of May 1, 1886 (12 U.S.C. 30(b)), as amended by section 405 (a) of Public Law 97-320, is amended by inserting "for a relocation outside such limits" after "stock of such association".

(b) The first sentence of section 5154 of the Revised Statutes (12 U.S.C. 35) is amended by striking out "with any name approved by the Comptroller of the Currency" and inserting in lieu thereof "with a name that contains the word 'national' ".

SEC. 20. (a) Section 406 of Public Law 97-320 is amended to read as follows:

"VENUE PROVISIONS

"SEC. 406. The last sentence of section 5198 of the Revised Statutes (12 U.S.C. 94) is amended to read as follows: 'Any action or proceeding against a national banking association for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over such an action or proceeding, in such court in the county or city in which that association's principal place of business is located.'.".

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 21. Section 4(b)(1) of the Act of March 9, 1933 (12 U.S.C. 95(b)(1)), as amended by section 407 of Public Law 97-320, is amended by inserting "a State or" before "a State official".

SEC. 22. Section 23A(d) of the Federal Reserve Act (12 U.S.C. 371c(d)), as amended by section 410(b) of Public Law 97-320, is amended—

(1) by striking out "except for the purchase of a low-quality asset which is prohibited" in paragraph (1) and inserting in lieu thereof "subject to the prohibition contained in subsection (a)(3)"; and

(2) by striking out "purchasing loans on a non-recourse basis from affiliated banks" in paragraph (6) and inserting in lieu thereof ", subject to the prohibition contained in subsection (a)(3), purchasing loans on a non-recourse basis from affiliated banks".

SEC. 23. (a) Section 412 of Public Law 97-320 is amended to read as follows:

"VISITORIAL POWERS

"SEC. 412. The fifth paragraph of section 5240 of the Revised Statutes (12 U.S.C. 484) is amended to read as follows:

" '(A) No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

" '(B) Notwithstanding subparagraph (A), lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with such laws.'.".

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 24. Section 424(g) of Public Law 97-320 is amended by striking out "688" and inserting in lieu thereof "668".

SEC. 25. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)), as amended by section 507 of Public Law 97-320, is amended by striking out "Association" and inserting in lieu thereof "Administration".

SEC. 25. Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)), as amended by section 514 of Public Law 97-320, is amended—

(1) by striking out "and" before "(J)";

(2) by striking out "(L)" and inserting in lieu thereof "(K)"; and

(3) by striking out "; and" at the end thereof and inserting in lieu thereof a period.

SEC. 27. The next to the last sentence of section 124 of the Federal Credit Union Act (12 U.S.C. 1770), as amended by section 515 of Public Law 97-320, is amended by inserting "of" after "installation".

SEC. 28. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b), as amended by section 522 of Public Law 97-320, is amended—

(1) by striking out "directions" and inserting in lieu thereof "direction";

(2) by striking out "unions" in paragraph (2) and inserting in lieu thereof "union";

(3) by inserting "by" after "interest paid" in paragraph (9); and

(4) by striking out "meetings" in paragraph (15) and inserting in lieu thereof "meeting".

SEC. 29. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)), as amended by section 529 of Public Law 97-320, is amended by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting in lieu thereof "paragraph (2)".

SEC. 30. The first sentence of section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)), as amended by section 601 of Public Law 97-320, is amended—

(1) by inserting "*: Provided, however,* That such a bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C)," before "; or (G)"; and

(2) by striking out the proviso at the end thereof.

SEC. 31. Section 701(c) of Public Law 97-320 is amended—

(1) by striking out "both"; and

(2) by inserting ", on," after "prior to".

SEC. 32. (a) Section 1(b)(4) of the Bank Service Corporation Act (12 U.S.C. 1861(b)(4)), as amended by section 709 of Public Law 97-320, is amended—

(1) by striking out "or another" after "insured bank," and inserting in lieu thereof "a"; and

(2) by inserting before the final semicolon the following: ", or a financial institution the accounts or deposits of which are insured or guaranteed under State law and are eligible to be insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board".

(b) The Bank Service Corporation Act, as amended by section 709 of Public Law 97-320, is amended—

(1) by striking out "the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et seq.)" in section 7(b) and inserting in lieu thereof the following: "section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818)"; and

(2) by striking out "under this Act" in subsections (d) and (e) of section 4 and inserting in lieu thereof "under the law of the United States".

SEC. 33. Section 4(c)(14)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(F)), as amended by section 203 of Public Law 97-290, is amended—

(1) by striking out the semicolon at the end of subparagraph (ii) and inserting in lieu thereof a period;

(2) by striking out "solely to do business with other banks and their officers, directors, or employees; (II) is owned primarily by the banks with which it does business; and (III) does not do business with the general public" in subparagraph (iii) and inserting in lieu thereof "to engage exclusively (except to the extent otherwise provided by law) in providing services for other depository organizations, subsidiaries thereof, and their officers, directors, and employees; and (II) is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions";

(3) by striking the semicolon and the word "and" at the end of subparagraph (iii) and inserting in lieu thereof a period; and

(4) by striking out subparagraph (iv).

SEC. 34. Section 414 (a) of the National Housing Act (12 U.S.C. 1730c) is amended by inserting "(which, for the purpose of this section, shall include a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation)" after "insured institution" the first place it appears.

AMENDMENT OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ST GERMAIN: Senate Joint Resolution 271 is amended in section 4 by striking out "(a)" immediately before "section 13(f)(1) of the Federal Deposit Insurance Act", and by striking out subsection (b); by striking out section 18 and inserting in lieu thereof the following:

"SEC. 18. The last proviso of section 5136 Seventh of the Revised Statutes (12 U.S.C. 24 Seventh), as amended by section 404(b) of Public Law 97-320, is amended by striking out "10 per centum of its" and inserting in lieu thereof "10 per centum of the association's";

By striking out section 33; and,

By renumbering section 34 as section 33.

The SPEAKER. The question is on the amendment offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

OUR YOUNG AIRCREWS DESERVE THE VERY BEST, THE B-1 "PEACEMAKER"

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 20 minutes.

Mr. DORNAN of California. Mr. Speaker, thank you for your consideration in calling up my special order in defense of the B-1 at this time. This is my last speech to my colleagues in the House and I have chosen a subject of utmost importance to my brother active duty U.S. Air Force colleagues.

I implore my 354 colleagues who are returning to serve in the 98th Congress, 142 Republicans and 212 Democrats, and the 81 new Members not to undo the years and years of hard work that has finally brought the B-1 into production. Senator JOHN GLENN, a strong B-1 supporter, told me this week he believes this superb aircraft may again be in jeopardy of cancellation during the next Congress. May commonsense forbid that.

I have been on the phone all week with our key intelligence services, both the CIA and the DIA, trying to get the very best and latest intelligence estimates on what the Soviets are doing with their B-1, and their B-2.

In other words how they are expanding their air-breathing strategic bombing forces, the air leg of their triad. I have brought to the well today a perfectly scaled model of the Soviet Tupolev 122 Backfire bomber. You recall, Mr. Speaker, I brought it to the well of the House on February 22, 1979, George Washington's Birthday, when you changed your support and the B-1 was canceled by this House finally caving in to President Carter's worst defense mistake. That horrendous decision has cost the United States precisely to the month, 5 years delay in delivery of the first B-1 to our Strategic Air Command.

This is what the Soviet Backfire bomber looks like. Notice how similar it is in size to the B-1. This large model of the B-1 sitting next to the Backfire model here on the recording clerk's table is made to the identical scale. The comparison graphically demonstrates that the Backfire is almost exactly the same size as the B-1. Although it has only two engines, compared to the B-1's four engines, the Tupolev's Kuznetsoy NK-144 engines are the most powerful jet turbofan afterburning engines in the world, 48,500 pounds of thrust. That is more power than the two engines on our Mach III capable Blackbird intelligence aircraft, the SR-71. This Backfire bomber has been discussed in Geneva for the last 10 years as a tactical weapon system, during the rare times when it has been discussed at all. What a farce.

The variable geometry swept-wing Backfire bomber is simply not a tactical weapon only; it is a strategic bomber, a cruise missile carrier, a naval power projection weapon or if an aggressor chooses a tactical blitzkrieg battlefield tactical bomber. It was used within the last few months to make simulated cruise missile runs on two of our superaircraft carriers.

It is capable of reaching the United States without refueling, and then after attack on the way out, it could easily recover in Cuba or on the island of Grenada, at the end of the Antilles chain, where the Soviets are now building two parallel 13,000-foot runways. It could recover in a South American country and claiming emergency, as for example, a British Vulcan bomber did on a long-range bombing mission to the Falkland Islands from Ascension Island. The Soviets also have the capability of staging an airborne paratrooper strike on any far northern Canadian airfield and then recover their Backfire bombers there.

Now, understand this: Since we had our raging debates trying to put the B-1 into production in 1977 and 1978, the Soviet Union moved ahead with a B-2, and began a research and development program, flying a bomber so classified that I could not discuss it at all before this House in 1979 or 1980 or last year, or even earlier this year, not until this fall. In those excellent John T. Hughes intelligence briefings that the Committee on Armed Services receives at the beginning of each year this new bomber was referred to as the RAM-P. And this new Blackjack bomber is larger than our B-1. It is designed to carry cruise missiles. And while the Soviet Backfire reaches a production rate of almost four per month, which by the way is the maximum rate we were planning to produce our B-1 or will be producing the improved B-1B.

Their B-1 strategic airplane, the Tupelov-122, Backfire, in Soviet use for years, has now come into service in impressive numbers: 100 in the Soviet long-range bombing forces, that is their Strategic Air Command, by the end of next summer, and 100 in the bombardment wings of the Soviet Navy, with particular emphasis on their East Siberian Pacific Forces.

□ 1240

Our Navy no longer has a long-range bomber with conventional or nuclear capability. Our Navy gave up that mission almost 20 years ago. But the Soviet Navy has always had its own Strategic Air Command. That means at the end of this year there will be 200 new supersonic intercontinental bombers, with the Blackjack (RAM-P) on the way.

Now, about that "Blackjack," that name is its new NATO designation. Let us call it their B-2, for clarity and comparison. The Soviets expect to have 50 to 75 of these monsters flying by 1990. It, like the Backfire, has a conventional and a nuclear capability. And also a cruise missile capability. They expect the first deliveries of the Blackjack, the Soviet B-2, to be received in their long-range forces by 1987.

We will not pick up our first B-1's until just 2½ years before that, February 1985. And we will not have our 100th and final B-1 Peacemaker until July 1988. Hopefully not late. We could have had 240 by June 1986 had it not been for President Carter lack of vision.

I hope to God our B-1's are not too late to keep the peace. Mr. Speaker, Douglas MacArthur once said that all failures in war can be traced really to those two words—too late.

Here is General MacArthur's exact remarks:

> The history of failure in war can be summed up in those two words, too late—too late in comprehending the deadly purposes of a potential enemy, too late in realizing the mortal danger, too late in preparedness, too late in uniting the possible forces for resistance, and too late in standing with one's friends.

Mr. Speaker, when Carter cancelled the B-1 it was looked at by the Soviets as another act of weakness by the American Government. Another manifestation of no resolve. Perceived by the Politburo as the continuing decline of the West.

And what about our aging B-52 Stratofortresses. In my State of California, we have seen three B-52's crash and burn in just in the last year and 2 months.

One went down at dawn, on October 30, 1981. It was a B-52D, one of the earlier models of this 450,000-pound former Queen of the Skies that has been our first line of defense since the mid-fifties. At the end of a long night mission, this March AFB B-52, struck the ground near La Junta, Calif., killing all officers and the sergeant tailgunner. A fraternity brother of one of

my staffers, Lt. Kendall Wallace, was killed in that crash. Some of my colleagues may recall the tribute, on April 21, that I paid to him and all of our SAC crewmen who fly these difficult ground-hugging mission.

On November 29 last, just 22 days ago, another B-52 crashed on landing in the district of our distinguished colleague, (Mr. MATSUI), and burned on the ground, completely destroying the aircraft. Thank God, all the crewmen were able to safely evacuate the aircraft. That was November 29, then last Wednesday, December 16, another B-52G from the same 93d Bombardment Wing out of Castle Air Force Base, Merced, Calif., crashed on takeoff with total loss of life, all nine crewmembers killed on impact. Castle AFB became the first B-52 wing in the Unites States of America, receiving its first bomber No. 0156 in the spring of 1955.

That B-52G tragedy near Sacramento showed again how young our new combat crews are. Literally younger than the planes they fly in defense of the free world.

I have here a good article that shows how dedicated our young men are and how they are milking the very maximum capabilities out of the B-52's. There is a cockpit crew photograph on the front section of this South Bay Daily Breeze, September 27, 1981, feature story. I wish you could see this photograph and how young the crewmen are. The aircraft commander is a young captain, Scott Martin and his copilot is 1st Lt. Gaetano Degioia. Now these two pilots look like for all the world like senior pages here in the House of Representatives. They are in their early twenties.

I repeat our crews literally are younger than the B-52's they are flying. Here is the list of our Air Force men who died Wednesday, five 2d lieutenant trainees and four seasoned Vietnam veterans with thousands of hours of invaluable flight experience. Civilian eyewitnesses maintain the pilot Maj. Jim York turned, banked, the B-52 at the moment before impact to avoid houses. Typical of our superb military pilots.

Mr. Speaker, here are the names, crew positions, family status and hometowns of these fine Americans:

(1) 2nd Lt. Scott A. Semmel, twenty three, Student Co-pilot, newly married, Philadelphia, Pa.

(2) 2nd Lt. Peter M. Riley, twenty three, Student Co-pilot, newly married, Woonsocket, R.I.

(3) 2nd Lt. Richard P. Robeson, Jr., twenty seven, Student Navigator, married, Bolling Green, Ohio

(4) 2nd Lt. Benjamin C. Berndt, twenty four, Student Navigator, newly married, Norwalk, Conn.

(5) 2nd Lt. Daniel N. Bader, twenty five, Student Navigator, bachelor, Salt Lake City, Utah

(6) Major James H. York, 43, Aircraft Commander/Instructor Pilot, 3 children, Pendleton, Ore.

(7) Captain Lyle A. Brunner, 42, Bombadier Instructor, 2 children, Missoula, Mont.

(8) Captain Dennis E. Davis, 44, Navigator Instructor, 1 son, Hillsboro, Oregon

(9) Master Sgt. Jere E. Lefever, 42, Aircraft Gunner, 3 children, Concord, Penn.

Notice the ages of the new SAC crewmen, 23, 23, 27, 24, 25. Four of them are newly married as I was within months of receiving my Air Force wings of silver on Febuary 7, 1955.

Notice that the four senior instructor crew members are leaving widows and nine children to grieve during this Christmas season. We are so fortunate as a Nation to have these heroic families who give so much in their service to us.

Mr. Speaker, let me use the course of my own life as a striking example of how long our B-52's have been in service. My wife Sallie and I were married in April 1955 when the first B-52's arrived in numbers on active duty at Castle Air Force Base, Calif., I repeat, that same 93d Bombardment Wing that has lost two airplanes in the last few weeks. I have now been married to my lovely lady for 28 years this coming April, we have five grown children, all in their twenties, two sons and three daughters. My older daughter is beautifully pregnant with our third grandchild which is due next May. My middle daughter has already given us a grandson and a granddaughter. From 22-year-old bridegroom, USAF second lieutenant to grandfather three times over, a lifetime, and throughout all that time our Nations' No. 1 strategic bomber has been the same aircraft, the B-52.

When you go back to the last time the Republicans were in the majority in this House, it was 4 months before the delivery of B-52 No. 0156 out of Boeing, Seattle, to Castle Air Force Base. A long, long drought for Republicans. Not a single sitting Republican will be in the 98th House of Representatives who goes back before January 1957, and only BARRY GOLDWATER was in the Senate then. My colleagues, this B-52 is history. Those planes were built to replace the B-36 Peacemaker I which served for a little over a decade, and the 52's were supposed to serve for a little over a decade. They were not supposed to serve for three decades.

It is a betrayal of trust to make our young men in SAC fly these aging aircraft that were once the Queens of the Skies, and not give them this excellent new B-1B.

We only have two choices, and our major disarmament exponent in this House, the gentleman from California (Mr. DELLUMS) agreed with me on this. Do away with all our bombers in SAC or give our men a decent new aircraft to fly. And that is really the decision facing the 98th Congress. To betray our men and keep our crews flying what they described to me as a kamikazie or suicide mission if called to combat. Or upgrade the equipment. We either dump the whole Strategic Air Command flying men—side of our deterrence—or give our crews what they are entitled to as American citizens, technology worthy of our advanced society.

We cannot go back to that harrowing period before World War II when our pilots were flying obsolete airplanes, 10 to 15 years behind of the state of the art, while we witnessed the Luftwaffe and the Air Forces of the Japanese Imperial war lords flying the finest fighter and bomber aircraft in existence.

Mr. Speaker, I found in my B-1 files as I was closing down my office yesterday an article written in February 1976 by the then SAC Commander in Chief Russell E. Dougherty on the strategic mission profile of the B-1 and why we desparately needed that aircraft to defend the free world. In re-reading General Dougherty's article, I found that word for word it could have been written yesterday. And the Soviets are much stronger now. Because of improving the B-1A to a B-1B model, with Stealth technology incorporated into the B model, there is not a single word in General Dougherty's article about maintaining a credible deterrent, keeping the peace, that is not apropos today. After all the motto of the Strategic Air Command is "Peace is our profession," then and now.

Here is how General Dougherty concluded his article. He said:

> In sum, I see no real alternative to the B-1 from among the suggestions that have been advanced. If we are denied timely production of this aircraft, and rapid introduction of the B-1 into our operational inventory, it is my opinion that the nation's deterrent force mix soon will be seriously deficient in its ability to maintain an essential balance, real or perceived, with the strategic forces of the Soviet Union.

Now, that word "perceived" is one of the most important aspects in maintaining peace in this fragile world of ours. It is the Soviet perception of the United States of America and our ability to defend ourselves that is every bit as important as the reality of our military preparedness whatever it may be at any given period of history.

True, the Soviet Union does not have the blood lust for warfare that, for example, the war lords of Japan and their Bushido Knights had, or the Nazi Third Reich and its thugs had, military forces spoiling to get into a slaughter. But the Soviet Union is expansionist and agressive. One, the Soviet Union believes that their military superiority will give them whatever victories they want in foreign policy without a war. Two, they believe that we are so rotten internally with an epidemic of violent crime, alcoholism problems, narcotic addiction problems, child pornography sickness, consumerism to a fault, hedonism at its peak, that Lenin was correct, they

will pluck us off the vine like rotting fruit.

But if push comes to shove, as they say, to implement their foreign policy and gain hegemony over the world, they will shove. The slave system of communism cannot live side by side with our free system for all of its shortcomings. That was seen in Czechoslovakia when they opened the border and the Czech people freely journeyed down to Vienna, Austria, and looked in the store windows. They said, "How is it that these people in Austria can buy a pair of shoes with a week's labor, and it takes us 8 months' wages to buy shoes not even as good?" All this under a liberal, Dubcek, a man who would be described in this House as a flaming liberal. The Soviets realized that they again had to send in the tanks and kill their liberal because they cannot suffer this side-by-side, window-to-window comparison with the free world.

□ 1250

But make no mistake about it, my colleagues, or anyone who hears my voice or reads these words, the Soviet Union under that command economy of theirs has reached a military-industrial capability equal to the United States of America. They are keeping open four intercontinental ballistic missile production lines, we have none; they keep in production at this moment nine different classes of submarines, build a cruiser, the *Kirov* class, better than any cruiser in the American Navy. And if they can maintain a production line of four Soviet Tupelov Backfire bombers a month, and still move into production of the Blackjack, a second intercontinental bomber—their B-2, bigger than our B-1—then it shows you what can be accomplished in a command system. It shows you how Napoleon was able to arm for one war after another.

How Hitler was able to arm for war, for his first 5 years sneakily under the provisions of even the oppressive Versailles Treaty. I can tell you that the United States of America is going to have to go back to adhering to the words of the Father of our Country, after whom our Capital City is named.

George Washington said over and over that the way to keep peace in a hostile world is to be prepared for war.

There is not a Member in this Chamber that would not do everything in his or her power to avoid a Satanic holocaust across this world with an exchange of nuclear weapons or horrific powerful modern conventional weapons, but turning the other cheek as some bishops advise us to do has never, never, ever worked in the international arena. Expansionist powers only respect strength and resolve. And would it not be ironic if we achieved a pluperfect nuclear stalemate similar to what we had with battlefield poison gas in World War II, and then had the Soviet Union overwhelm Western Europe, because of some conflict over foreign policy, with biochemical warfare. The Soviets at this moment are testing seven types of poison gas agents against innocent people in contravention of Geneva treaties against poison gas in 1925 and 1972. Those poisons are being used now, as I speak to you, in Afghanistan, Ethiopia, Laos, and Cambodia. If they use in an immoral, arrogant manner, biochemical warfare against Afghanistan, who can claim they would not use it against Europe? They keep their consumers at absolutely a poverty level so that they can keep their massive space, military, and chemical warfare programs going at full speed. And we respond by telling our young aircrews in the Strategic Air Command that they cannot have the best equipment that we are capable of producing in our modern industrial society. We order them to fly these old, reworked, reengined, planes that should be in air museums.

I called the Strategic Command Headquarters and I asked them to give me the average pay of a new aircraft commander on a B-52. Some young men actually become commanders of these huge eight-engine aircraft during their first 4-year tour of duty as junior captains just 3 years out of pilot training. A young captain like that would make $98 a month for basic subsistance—groceries—and there are some in this House who would like to take commissary and PX privileges away from our military people. Shame on you.

Then he would make $406.50 for housing allowance. You cannot get a decent apartment for that money here or in Sacramento if you are married and most of the young bachelors forfeit that allowance to live on base so that in the early part of their careers they can be closer to their training units and their squadron operations, learning better their profession of keeping the peace.

Their basic pay is $1,990.70 a month, their flight pay $206. Think of that. The men who left mom and dads, eight widows, and nine young children without their daddies on Christmas in that plane crash outside of Sacramento, received flight pay—hazard pay—of a lousy $206 a month. That is the maximum our submarine crews get. Airborne paratroopers even less.

Now, what is the yearly total of that pay? It is only a little over $31,000 a year. Since the Members here will now be making almost $70,000 a year, with the possibility of speech honoraria at 30 percent of $70,000, that is, $21,000, I ask you to be fair to those men and women who make far less serving our country. When they risk their lives for us they deserve at least the finest equipment. Do not take back the money to build 100 B-1's.

We must give the best to our men who land on the pitching decks of aircraft carriers, to our A-10 Thunderbolt pilots flying tank support 10 feet off the ground, our F-14, F-15, and F-16 pilots who are pushing their aircraft and themselves to the very razor's edge of performance to defend our country.

I think that Congressmen on both sides of the aisle must understand that it is a moral issue if we ask our pilots to fly in obsolete aircraft. I hope you will consider your own pay raise when you budget for men and women in our military services across the world. They are putting up with much privation and brutally long hours and sometimes violent death to give us this peace that we so cherish, particularly at this lovely family season of Christmas.

Mr. Speaker, I commend the gentleman from Pennsylvania (Mr. DON BAILEY) for his efforts to bring the deserved honor to our Vietnam vets that he has fought for over 4 years in this House. That honor was never absent from the battlefields and skies of Vietnam where our men, including B-52 crews, served for over a decade, crippled by political decisions, trying desperately to bring freedom to that part of the world. Well done, DON.

In closing, Mr. Speaker, I ask unanimous consent at this point in the RECORD to resubmit my remarks of November 18, 1981, defending the B-1 bomber. Every word is just as relevant today, 13 months later.

[From the CONGRESSIONAL RECORD, Nov. 18, 1981]

B-1 PROJECT

Mr. DORNAN of California. Mr. Chairman, I join with my colleagues here today in support of President Reagan's efforts to restore funding for the B-1 bomber project which President Carter had terminated. Now that we have a President more committed to maintaining the delicate strategic balance between the United States and the U.S.S.R. In pursuit of that balance, President Reagan has announced his intention to build the long-delayed B-1 bomber. This aircraft is acknowledged by the majority of aviation experts to be the best bomber ever developed by man. It is capable of penetrating Soviet air space undetected and may continue to have that ability until the 1990's or later. Only after the Soviets spend massive funds on improved radar systems will they be even able to detect the B-1.

The citizens of my 27th Congressional District can be particularly proud of the B-1 bomber project; much of the research/development and manufacture is the work of local citizens. The Reagan decision to recommend funding for the construction of the B-1 based upon some logically accepted assumptions. The United States must depend heavily on bombers—and seabased forces—while we take steps to strengthen our land-based missiles. We cannot afford the luxury

to wait for the Stealth bomber, which presently exists only on paper. There are currently technical uncertainties about the Stealth bomber. It is expected that these uncertainties will be resolved during development and the advanced technology bomber will be a very effective aircraft when ultimately deployed. Without the B-1, there would be pressures to accelerate the Stealth bomber, which would increase program risks and possibly result in a less capable aircraft being deployed. Building two bombers will stimulate competition and give the Defense Department the flexibility to adjust bomber production in accordance with any changes in estimates of the cost and effectiveness of the two aircraft, as well as any changes in the Soviet military capabilities.

President Reagan has proposed building 100 of the variant bombers. The term variant is used because research and development has continued on the B-1 since the Carter cancellation. Innovations and efficiencies developed in the 5 years since its cancellation will be incorporated in the new variant model. The first B-1 squadron is expected to be operational in 1988.

Mr. John W. R. Taylor, editor of Janes All the World's Aircraft, is universally recognized as one of the foremost experts on every type of military and civilian aircraft. Mr. Taylor warns.

"It is therefore vital for all people to understand that the fragile co-existence maintained for generations by balanced East-West military power is being allowed to slip inch by inch from our grasp."

When Mr. Taylor was asked about his thoughts on the opposition that has been raised to the B-1, he replied:

"Most of that has been due to the high cost. But really, I do not think that the cost is the main consideration. It is a question of what it does for you. Does it keep you alive? If there is anything else that will do the job less expensively, by all means build it. But, in this case, there just isn't anything else."

The decision to build the B-1 is a clear move away from the previous administration's policy of unilateral arms restraint. The Reagan administration wants to be sure that any weapon system forgone by the U.S. Government is reciprocated by the Soviet Union. The new policy direction will increase the Soviet incentive to seriously discuss arms limitation agreements. In turn, assisting our Nation in achieving its most important foreign policy goals: Preservation of peace and valid arms limitation agreements with verifiable provisions in any treaty that is agreed upon.

The B-1 bomber will have advantages that no other leg of our triad of strategic nuclear forces possesses. Some of these are:

Bombers are the only element that can be launched prior to a decision to employ these weapons, and permits a trained crew to take actions and accept responsibilities that cannot be anticipated or preprogramed in missile systems.

Weapons-carrying bombers can be launched to insure their survivability, or to signal national resolve during times of crisis with the confidence that the crew can be redirected or recalled as the situation develops. Bombers can be put on increased ground alert, dispersed to remote airfields, flown on airborne alert, or dispatched to trouble spots throughout the world without a final commitment to use their weapons. In a time when the availability of foreign bases and ports is uncertain, the B-1 will provide the quickest, and in some cases probably the only, means to mount a rapid show of force.

Bombers provide the only capability to engage unanticipated or mobile targets by using the crew and aircraft sensors to determine target location at the times of delivery.

In assisting maritime roles, bombers have the inherent capability to provide an important supplement to U.S. Naval Forces. They can provide collateral maritime support in long range sea surveillance and interdiction, mine laying and, potentially, in antisubmarine warfare.

As a reusable strategic weapons system, bombers have the capability to accurately deliver large nuclear or conventional payloads throughout the course of the conflict, regardless of the level.

The B-1 is going to enter into the defense of our Nation's borders much later then it could have or should have. It will nevertheless play a vital role on our strategic defense until the year 2000, and perhaps beyond. First as a penetrating bomber, later as a bomber capable of standing off the coast of an adversary nation and launching cruise missiles. Its manufacture sends a strong signal to the Soviets that we are as serious about our defense as we are about pursuing arms agreements.

I thank the Speaker and wish him a holy and a merry Christmas. It was an honor to serve under the leadership of the gentleman from Massachusetts and I consider him one of the finest figures of history serving his country today.

I wish all of my distinguished colleagues a holy holiday season and merry Christmas and wish them God's protection and guidance in the performance of their duties in the turbulent years before us.

VIETNAM VETERANS MEMORIAL COMPLETION

(Mr. BAILEY of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAILEY of Pennsylvania. Mr. Speaker, yesterday the House passed House Joint Resolution 636 and House Concurrent Resolution 437 without any dissenting votes. The support was unanimous—a very rare occurrence—for the placement of an American flag with inscription and a statue of three American servicemen as part of the integral and basic design of the Vietnam Veterans Memorial.

This Member cannot adequately express, from a personal point of view, his heartfelt gratitude for the help my colleagues gave on this issue. Virtually all veterans groups and the Vietnam Veterans Memorial Fund had agreed on the placement of the flag and statue as described in the resolutions. But a small group in the Fine Arts Commission were holding up final placement. This very strong and unanimous expression by our colleagues here in the House will obviously make it very clear what the Congress wants.

Most importantly the vote took place during a time when the floor of the House was full, and with the support of the House Majority Leader JIM WRIGHT, and the House Minority Leader BOB MICHEL. I particularly want to thank the gentleman from Arizona, Mr. UDALL, chairman of the Interior and Insular Affairs Committee. Without his help and support we would not have been able to call up the bills. I also want to express my thanks to the gentleman from Ohio, Mr. JOHN SEIBERLING, whose enthusiastic support along with the strong support of the gentleman from Alaska, DON YOUNG, also made the passage of these important bills possible.

To the veterans of the Vietnam war, who gave so much, then faced further opposition at home, the passage of these bills which will insure that the memorial carry a message not only of honor and respect, but also convey a message concerning the very proper reasons why we fought in that war,

This action in many ways helps ease the hurt of our original unwelcome homecoming. More importantly, it clearly indicates that the memorial is to carry a political message, a good and strong and positive political message that the fundamental values of the United States are sound, and do offer help for mankind; and that in fighting the Vietnam war, regardless of one's opinion of how it was fought, the men and women who sacrificed there did so for the freedom and liberty of their fellow men, in the finest tradition of what the United States of America has stood for, stands for now, and we pray to God will continue to stand for, on behalf of the human rights of all individuals everywhere.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, due to unavoidable circumstances, I was not present on rollcall votes No. 467, No. 479, No. 480, No. 481, and No. 482.

Had I been present, I would have voted "yes" on passage of H.R. 3191 relating to the taxation of cruise ships (rollcall 467); "yes" on passage of House Resolution 621 creating an office of the Bicentenial of the House of Representatives, (rollcall 479); "yes" on resolving into the Committee of the Whole (rollcall 480); "yes" on resolving into the Committee of the Whole (rollcall 481); and "no" on the Education and Labor Committee amendment to the immigration bill (rollcall 482).●

SOCIAL SECURITY REFORM ACT OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I think we are all well aware of the crisis the social security system is facing. Indeed, between use of social security as a political issue in this fall's campaigns and anticipation of the long-awaited report of the President's Commission on Social Security Reform, it has been impossible to forget about social security for long. There is certainly no doubt that the fiscal crisis which has been predicted so many times is actually upon us; as you know, the retirement fund has had to borrow from the disability and medicare trust funds in order to send out its November and December benefit checks on time. Interfund borrowing is giving us the time we need to search for a solution, but it is no substitute for comprehensive reform.

The newspapers have also told us that many young people are losing faith in the ability of the system to pay out benefits into the long-term future. I believe this demonstrates a lack of confidence not just in social security, but in the ability and the willingness of Congress and the administration to deal with this issue in any substantive, meaningful way. It is essential, not only for financial reasons but also to restore public faith, that Congress demonstrate the political courage to deal with this difficult problem.

We have heard a good many suggestions in recent months as to how best to solve social security's problems, but most of the proposals have this in common: They are short-term remedial measures, designed to make up the system's immediate shortfall but to do little else. Most would place heavy burdens on workers or retirees or both. We must protect the current and future retirees who have paid into the system for many years; cuts in benefits would cause especially severe hardships for the two-thirds of recipients whose social security benefits are their sole or primary source of income. Likewise, proposals to accelerate the scheduled increases in the payroll tax would have a severe impact on the young workers of today, without guaranteeing that the system would still be available when they retire.

Mr. Speaker, I believe we should view the current situation not only as a crisis to be solved, but as an opportunity for major structural reform which will secure the retirement fund well into the future. The social security system was established originally to pay pensions to retired workers and their dependents, and to provide for their families in case of death. Americans now count on social security for many different kinds of assistance, but I think most would agree that its primary purpose should remain the payment of retirement and related benefits. If social security is to survive its current crisis, and if the American people are to continue to believe in its future, the system must be returned to this original conception.

I am today introducing legislation which will not only remedy social security's short-term financial difficulties, but will also reform the system to insure its long-term fiscal integrity. The basic thrust of this legislation is to provide for a gradual transition to do the following: Stabilize the retirement insurance program in its current form through the payroll tax; and separate out the other major components of the social security system—disability insurance and hospital insurance—by taking them off the payroll tax and onto a permanent trust fund supported by the general fund.

Specifically, this bill maintains the old-age and survivors insurance trust fund for the payment of retirement, survivors, and dependents benefits. OASI will still be funded by the payroll tax, but will have a separate account in the Federal budget. Disability and medicare will be consolidated into one trust fund which will draw revenues out of the general fund. OASI will be credited with whatever surplus remains in the disability and hospital trust funds, and the amounts already transferred under the interfund borrowing program will not need to be repaid.

Over a transition period covering the years 1983-90, the OASI trust fund will receive an amount of the payroll tax decreasing from 5.275 percent in 1983 to 5.2 percent in 1984, and 5.1 percent from 1985 on. Even under worst-case economic assumptions, this tax schedule will build up a sufficient level of reserves to insure continued payment of retirement and retirement-related benefits through the 1980's. Demographic trends in the 1990's are expected to favor social security, meaning that the retirement program will be stabilized well into the 21st century.

Immediate payment of disability and medicare benefits out of the general fund would obviously place a tremendous strain on an already overloaded Federal budget. Next year's budget deficit is projected to reach $200 billion, and I do not think we can sanction any measure which would add substantial amounts to that staggering figure. My legislation includes several provisions which will insure that during the transition period, the Federal budget deficit will not be adversely affected by the addition of disability and medicare benefits:

First. Over the 1983-90 transition period, a specified amount of the payroll tax will be paid into the consolidated disability and health insurance trust fund to be used toward the payment of disability and medicare benefits. This amount will increase from 1.425 percent in 1983 to 1.5 percent in 1984, 1.95 percent in 1985-86, and 2.05 percent in 1987-90. Under this system, the total payroll tax will rise from its current 6.7 to 7.05 percent in 1985 and 7.15 percent in 1987-90. However, the payroll tax is scheduled under current law to reach 7.05 percent in 1985, 7.15 percent in 1986, and 7.65 percent in 1990—greater increases than those contained in this legislation.

Second. In addition, the projected 10-percent tax cut due to be implemented on July 1, 1983, would be reduced to 5 percent with the remaining 5-percent set-aside during the period 1983-90 into the consolidated trust fund. I think it is important to point out here that the payroll tax is a regressive tax because it is a flat percentage taking a proportionately greater share out of the low- or middle-income worker's paycheck. The income tax system, on the other hand, is designed to be progressive: The higher one's income, the greater the tax rate. Use of an income tax base instead of the payroll tax thus spreads the burden of disability and medicare costs more fairly.

While the combined revenues from the special payroll tax and the income tax set-aside will result in an increase in Federal outlays in some years and a surplus in others, the overall effects of revenues and outlays over the transition period will more or less offset each other. Current figures indicate that by 1990, this proposal will actually result in a net addition to the Federal budget of $1.5 billion.

Finally, this bill includes two additional reforms which I feel are important in the effort to insure long-term stability:

First. Social security coverage will be extended to employees of nonprofit organizations, Federal employees who do not already have vested pension rights in the civil service or other Federal retirement system, and new Federal hires. This approach meets two considerations. It moves the system toward the universal coverage which was intended by its founders. And, it protects those Federal employees who have paid into their own retirement systems in good faith, and are already receiving or can expect to receive returns on those contributions.

Second. Cost-of-living adjustments will be indexed to the annual increase

in wages minus 1½ percentage points—the average annual increase in productivity—rather than to the Consumer Price Index. Use of the wage index will stabilize the system by subjecting its beneficiaries to the same economic conditions as its working contributors.

The advantages of this legislation over other proposals currently under consideration are significant. It does not cut benefits to current retirees or significantly restructure the benefits to be paid to future retirees. It does not accelerate payroll tax increases; indeed, it scales those increases back. And from 1991 on, the new retirement fund is projected to remain stable with a 5.1-percent tax rate.

With regard to medicare and disability, I have long felt that these programs are better suited for general revenue financing than for funding through the payroll tax. These are both extremely valuable and worthwhile programs, and I certainly do not intend the Federal Government's commitment to the ill and the disabled to be weakened in any way. However, it is difficult to reconcile these programs with the "earned wage benefit" conception on which the retirement program was founded, because unlike retirement, these programs do not pay benefits to everyone who pays social security taxes. Use of a flat percentage payroll tax on all workers is appropriate for a retirement insurance program which pays benefits to all workers, but insurance against disability and illness is best funded from other sources. It simply is not equitable to ask low- and middle-income workers who may never receive benefits from these programs to bear a greater share of their costs through a regressive payroll tax.

Mr. Speaker, the measures currently under consideration by the Commission constitute band-aid approaches to the social security system's problems. They may succeed in patching up the short-term financial crisis, but they cannot be presented to the American people as a comprehensive solution. I believe Americans are willing to sacrifice in order to help insure the system's stability, but at the same time they expect and deserve a responsible and humane approach to the system's problems. This proposal provides such an approach. It stabilizes the retirement program for all workers without asking any one sector to bear too heavy a share of the burden of change, and it transfers the components of the system which are not available to all workers to general revenue financing. I urge my colleagues to use this opportunity to institute this comprehensive and much-needed reform.●

THE SERVICE SECTOR—AN IMPORTANT PART OF OUR ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, there is a little disagreement among the closest of observers that the recent November GATT meetings held in Geneva produced very little encouragement for the further liberalization of international trade. A major objective of the United States involved opening negotiations on services trade at these meetings. Our intention was to see if a system of agreements comparable to those that cover the movement of merchandise trade across national borders might also be established as well for services trade.

Such moves were defeated, and thus it is that a wide spectrum of economic activities embracing such as consultancies, transportation, banking, insurance, advertising, information transmission, and the like will be without a basis for general agreement. The resolution of trade difficulties, if at all achievable, will in all probability have to rely on bilateral agreements. Given the number of such arrangements that must be sought in this regard, it is not difficult to understand the obvious dismay and disappointment of our representatives upon their return from the GATT meetings.

Mr. Speaker, the service sector is very important to our economy. For those of us from the New England region, the measure of its importance is noted in the fact that it constitutes over 60 percent of the region's total employment and provides at least 4 million jobs within the six-State area. In a recent study, the New England Congressional Institute noted that expansion in services had provided 140,000 new jobs in the region between 1975 and 1980.

The significance of trade in services is, however, even more obvious when you weigh the fact that it is estimated that 7 out of 10 Americans are employed in service industries. The United States is, at last report, the biggest worldwide exporter in this growing field.

Mr. Speaker, so that my colleagues may note further the increasing prominence of foreign business for the U.S. service industries, I ask that the following table of information noting growth in this field between 1977 and 1981 be made a part of the RECORD. These estimates were prepared by the U.S. Department of Commerce and document an extraordinary degree of expansion and growth in these areas over this most recent 5-year period. The table follows:

ESTIMATED FOREIGN BUSINESS OF U.S. SERVICE INDUSTRIES: EXPORTS FROM THE U.S. INCOME OF OVERSEAS AFFILIATES[1]

[In millions of dollars]

	1977	1981
Total receipts for exports	23,295	40,520
Travel	6,150	12,168
Passenger fares	1,366	2,991
Other transportation	7,264	12,168
Fees and royalities from affiliated foreigners	3,793	5,867
Fees and royalities from unaffiliated foreigners	920	1,386
Other private services	3,802	5,940
Total income of foreign affiliates	69,220	99,953
Oil and gas field services	3,251	6,454
Petoleum tanker operations	8,249	9,576
Pipeline transmission, oil gas	1,570	1,823
Finance (except banking), insurance and real estate	14,884	20,703
Banking	2,205	4,290
Construction	10,141	20,889
Wholesale and retail trade	2,290	5,196
Transportation and communication	13,412	1,570
Hotels and lodging	1,550	1,799
Advertising	1,448	1,583
Motion pictures and TV tape and film	1,063	1,234
Engineering, architecuture, surveying	3,207	4,695
Accounting	433	503
Other personal and business services	4,857	5,638
Total, exports plus affiliates' income	92,515	140,473

[1] Source: U.S. Department of Commerce.

TUSCALOOSA COUNTY CIRCUIT JUDGE FRED W. NICOL RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. SHELBY) is recognized for 5 minutes.

● Mr. SHELBY. Mr. Speaker, a very outstanding citizen in my hometown of Tuscaloosa, Ala., has decided to retire from his duties as Tuscaloosa County circuit judge.

I would like to share with my colleagues in the House of Representatives an article written by Doris Flora of the Tuscaloosa News staff, about Judge Nicol and his service to the people of Tuscaloosa County.

TUSCALOOSA COUNTY CIRCUIT JUDGE FRED W. NICOL RETIRES

The senior elected official in the Tuscaloosa County Courthouse retired Thursday, closing a public service career that covered nearly four decades.

Tuscaloosa County Circuit Judge Fred W. Nicol officially became a supernumerary judge after more than 30 years as a judge, circuit solicitor and assistant state prosecutor in the county courthouse and nearly 10 additional years as an agent with the FBI and in military intelligence.

Nicol—known as a whistling and singing judge—said he used to play tennis and golf but for the "past 30 years at least, my life has revolved around getting up and going to the courthouse, coming home and starting all over again."

Starting today, all that has changed. And Nicol and his wife, Rachel, will head to the beach Monday to savor their new free time.

Nicol, who has held the circuit judge Place 2 slot in the 6th Judicial Circuit composed exclusively of Tuscaloosa County

since Nov. 20, 1964, did not seek re-election this year.

District Judge John M. Karrh defeated Public Defender Ralph Burroughs for the judgeship in the Democratic primary in early September. Following the election, Nicol asked for and received early retirement from the position effective today.

Looking back on his service in the courthouse, Nicol said he has "seen a lot of changes in court proceedings" not only during his time on the bench, but also since he was circuit solicitor—now the district attorney—or an assistant in the solicitor's office.

At the time he started, he said, "when the grand jury reported, we didn't even have arraignments. About half of them pleaded guilty and in a matter of a short while were on a prison bus going to Kilby Prison."

The law didn't provide for free lawyers and free appeals then, he said. Sometimes in a murder case, the court appointed a lawyer.

"Nowadays everybody gets a lawyer and free appeal," he said, something the "liberals rejoice over" as the "conservatives bemoan the procedures to protect criminals."

He cited the petit juries as another major change. "When I first started out, the juries were all men. Now we have got women, too, and it is a big improvement.

"I have worked with them all and by and large have been most favorably impressed by the lady jurors. They think things out on the evidence," he said.

Although he has handled countless cases, he said one of his most memorable came while he was state prosecutor. It involved the murder of a woman whose body was burned.

"They found a green stamp near her body and were able to trace it back to where she came from," Nicol said. Her body was identified and a young man was charged.

The case attracted attention from all over the country, he said. "Every true detective magazine in the country wrote about it."

The defense attorney had offered to settle for a life sentence but the woman's family wanted the death sentence.

Instead, when the jury came back in, he said, they "gave him five years and the people in the courtroom stood up and cheered. The presiding judge had to call for order."

Another notable case in which he was involved was University of Alabama head football coach Paul "Bear" Bryant's libel suit over a story published in the Saturday Evening Post.

Since he used to lecture annually at the Polygraph Institute in Chicago, Nicol said Bryant's lawyer asked him to administer the lie detector test to the coach.

"Of course, he passed the lie detection test with flying colors," Nicol said, adding that he was given a "good grilling" by attorneys for the other side.

Nicol said he "came to the courthouse hoping someday I might get to be a judge." But he said, "You don't just step into things like that, you have to work to earn it."

"Being a judge involves you in many controversies," he said. "You are not engaged in a popularity contest when you serve as a circuit judge.

"I think the people respect you if you try to do what is right," he said. A judge doesn't necessarily have to be a "brilliant legal scholar, but he does have to have a lot of common sense," said Nicol.

And he added, "Any judge is going to make mistakes. That is what the Supreme Court is down there for."

Nicol is a Tuscaloosa native who was "born right where I am living today—in the old Monnish home."

Before returning here and settling down, he traveled extensively. After graduating from the University of Alabama Law School, he served as a special agent with the FBI for four years.

During the war years, he was in military intelligence and served throughout China, Burma and India where he "saw a lot of deprivation and hardship."

He returned to Tuscaloosa in 1946 and went into private practice for several years before moving to the courthouse as an assistant circuit solicitor under the late Monroe Ward.

Describing himself as "always ambitious," he ran for and was elected circuit solicitor for two terms. He ran against Judge W. C. Warren, but was defeated.

He was later appointed to fill the unexpired term left by the death of Judge Reuben H. Wright, and was elected without opposition for three terms.

Nicol is widely known throughout the county for his love of gospel singing which he said developed because of his friendship which started "about 20 years ago with W. G. Snider and the Rainbow Quartet."

Although he insists he is "not what would be termed a singer, I have had to do some singing" as he traveled all over Tuscaloosa County and West Alabama to all-day church singings and dinner on the ground.

Scattered in churches throughout this area are hundreds of songbooks stamped with "Best Wishes from Judge Fred Nicol" which he has donated in the name of gospel singing.

Mr. Speaker, not many people achieve the measure of admiration and respect that Judge Nicol has enjoyed. He earned that admiration and respect because he genuinely cared about the people and about the welfare of his community.

Judge Nicol is a rarity for he is a man who has the vitality and know-how to be extremely effective in getting things done, yet warmth and sensitivity has made him a beloved leader.

It is indeed an honor for me to share this tribute with my colleagues in the House of Representatives. Judge Nicol has devoted his life to serving other people and I wish him the very best as he sits back and let others serve him. His wisdom and knowledge and great deeds for Tuscaloosa and the State of Alabama will be with us for many, many years.●

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of December 17, 1982, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 59 minutes p.m.) the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 o'clock and 30 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 4350. An act for the relief of Arthur J. Grauf;

H.R. 5029. An act to designate the Federal Building in Fresno, Calif., as the "B. F. Sisk Federal Building";

H.R. 5826. An act to provide for the reinstatement and validation of United States oil and gas lease numbered W-24153;

H.R. 5916. An act to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians;

H.R. 6538. An act to designate the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building";

H.R. 7316. An act to establish the National Park System Visitor Facilities Fund, and for other purposes;

H.R. 7420. An act to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, Calif., project as the Don H. Clausen Fish Hatchery;

H.J. Res. 619. Joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day"; and

H.J. Res. 635. Joint resolution establishing the dates for submission of the Budget and Economic Report.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5002) entitled "An act to improve fishery conservation and management."

The message also announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 271) entitled "Joint resolution to make technical corrections on certain banking and related statutes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 7154) entitled "An act to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 265. Joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the amendment of the House to the amendments of the Senate to the bill (H.R. 5121) entitled "An act to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes."

REQUEST FOR CONSIDERATION OF S. 1939, PUBLIC HEALTH SERVICE ACT AMENDMENT

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1939) to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal and Skin Diseases, with an amendment which is at the desk, that the amendment be considered as agreed to, and that the Speaker put the question on final passage of the Senate bill, as amended, without intervening motion.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the question of the gentleman from Michigan?

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

□ 1830

AUTHORIZING SECRETARY OF AGRICULTURE TO CONVEY CERTAIN NATIONAL FOREST SYSTEM LANDS

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs and the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 705) to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Speaker, reserving the right to object, we on this side know nothing about this particular bill and therefore I would object.

Mr. SEIBERLING. Would the gentleman kindly reserve his objection to permit an explanation and yield to me?

Mr. WALKER. Further reserving the right to object, certainly I extend that courtesy to the gentleman and I will be glad to yield to the gentleman.

Mr. SEIBERLING. This is a bill that has been cleared with Congressman DON YOUNG, the ranking minority member on the Public Lands Subcommittee. I received a call again from him today confirming that clearance.

It is a bill which passed the House without any dissenting vote. It is known as the small tract bill. It is a bill to give the Secretary of Agriculture certain flexibility in dealing with small land claims so that we do not have to pass innumerable private bills. It did pass the House in the last Congress, but was vetoed simply because the other body put an extraneous amendment on it.

It is sought by the administration. I believe it is entirely noncontroversial and I would strongly urge the House not to object to it at this time.

However, if the gentleman wishes the time to confirm, after all of that, with the ranking minority member and any other on his side I would be glad to try to bring it up again. But I assure the gentleman that this has been cleared with all of the concerned parties.

Mr. WALKER. I thank the gentleman for his explanation. I would simply tell the gentleman that there is at least one member of the leadership on this side who has indicated that he does in fact have an objection to this request. So, therefore, I would hope the gentleman, further reserving the right to object, would withdraw his request.

Mr. SEIBERLING. Before the gentleman reserves further, would the gentleman yield?

Mr. WALKER. I will be glad to further reserve the right to object and yield to the gentleman from Ohio.

Mr. SEIBERLING. A couple of days ago I was planning to try to attach an additional bill, the American Conservation Corps bill, and send it back to the other body. At that time Congressman DON YOUNG indicated that if that happened he would have to object because the other body would not then approve it.

I have since talked with Senator MCCLURE and told him and Congressman DON YOUNG that I will not attempt to do that. This is the original Senate-passed bill without any amendment, and, therefore, I am aware of no objections. If there is some Member objecting, I would like to confer with him and see what I can do to alleviate his concerns.

Mr. WALKER. Reserving the right to object, let me suggest to the gentleman that he do withdraw his request because those kinds of consultations need to take place, and if the gentleman persists in his unanimous-consent request I will be constrained to object.

Mr. SEIBERLING. Mr. Speaker, I withdraw my unanimous-consent request, for the time being.

AUTHORIZING PRINTING OF REPORTS OF COMPTROLLER GENERAL OF THE UNITED STATES AS HOUSE DOCUMENTS NOTWITHSTANDING SINE DIE ADJOURNMENT OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 638), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 638

Resolved, That, notwithstanding the sine die adjournment of the House, reports of the Comptroller General of the United States made to the Congress pursuant to the Government Corporation Control Act (31 U.S.C. 841 et seq.) shall be printed during such adjournment as House documents of the second session of the Ninety-seventh Congress.

The resoluton was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF REVISED EDITION OF RULES AND MANUAL OF HOUSE OF REPRESENTATIVES FOR 98TH CONGRESS AS HOUSE DOCUMENT

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 639), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 639

Resolved, That a revised edition of the Rules and Manual of the House of Representatives for the Ninety-eighth Congress be printed as a House document, and that two thousand additional copies shall be printed and bound for the use of the House of Representatives, of which seven hundred copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House for distribution to officers and Members of Congress.

Mr. WALKER. Mr. Speaker, reserving the right to object, are we going ahead and continue to print these rules while there is still some question as to whether or not some of the rules are advisable, and while we are going to have a discussion of those rules on the opening day of the next Congress?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. WRIGHT. Of course, the rules would not be printed until the rules of the 98th Congress would be adopted. This is standard procedure. It simply is to permit the printing of the rules of the 98th Congress when the rules of the 98th Congress have been adopted.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING SINE DIE ADJOURNMENT OF HOUSE

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding the sine die adjournment of the House, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING FILING OF REPORTS WITH CLERK AND PRINTING AS REPORTS OF 97TH CONGRESS

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that reports may be filed with the Clerk following the sine die adjournment by committees authorized by the House to conduct investigations, and on committee activities pursuant to clause 1(d), rule XI, and may be printed by the Clerk as reports of the 97th Congress.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, the minority does not have a copy of this particular resolution the gentleman is proposing and therefore could not follow this. Is this one of the standard resolutions at the end of the session?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. WRIGHT. This is one of the standard resolutions, I would say to the gentleman. It simply is an unanimous-consent request which normally is made to the effect that committee reports which may be filed subsequent to the adjournment, and yet are committee reports of committees of the 97th Congress, pursuant to the rules, may be printed.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING MEMBERS TO REVISE AND EXTEND THEIR REMARKS PRIOR TO LAST EDITION OF CONGRESSIONAL RECORD

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such Extensions of Remarks; but this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CHAIRMAN AND RANKING MINORITY MEMBER OF COMMITTEES AND SUBCOMMITTEES TO REVISE AND EXTEND THEIR REMARKS AND TO INCLUDE SUMMARY OF WORK

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each subcommittee thereof be permitted to extend their remarks in the RECORD, up to and including the last publication thereof, and to include therewith a summary of the work of that committee or subcommittee.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1840

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5121) to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes; with a Senate amendment to the House amendment thereto, recede from the House amendment, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Resolved, That the Senate disagree to the amendment of the House of Representatives to the amendment of the Senate to the amendment of the House of Representatives to the amendments of the Senate to the bill (H.R. 5121) entitled "An Act to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes."

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. CHENEY. Mr. Speaker, reserving the right to object, and I shall not object, but I would be happy to yield to the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL), to explain the bill.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, this measure has been before the House a couple to times in the last few days. We have worked out all the difficulties. This is the bill that is going to bring glad tidings of joy to every taxpayer in America because the Federal Government is going to probably collect an additional $100 million to one-half billion dollars annually in royalty payments owed to the Federal Government because of its enactment.

We have been hung up on a bill that essentially everyone supported. We give the tools to the administration to collect the royalties. We have been hung up on an extraneous provision which involved providing the Secretary of the Interior with discretionary authority to increase the royalty rate for noncompetitive oil and gas leases. That provision has now been dropped. The Senate would not agree to it.

Rather than lose all of the benefits of this important bipartisan legislation, we take the Senate amendment which eliminates this controversial provision and agree with that amendment to eliminate the provision.

Mr. Speaker, the bill that is before us tonight, H.R. 5121, the Federal Oil and Gas Royalty Management Act of 1982, is the product of a great deal of effort on both sides of the aisle. It has been the focus of considerable effort, in fact, between the House and the Senate in recent weeks and especially the past few days. I am very glad that we have arrived at a point tonight where the House can send to the President a good government piece of legislation.

In brief the bill will help correct many of the problems which have plagued the Federal royalty management system for a number of years. It should help generate additional income to the U.S. Treasury and to States and Indian tribes. It is expected that overall it may help generate between $100 and $500 million a year.

Great effort has been made to insure that the bill will be effective, and will be fair to Indian tribes, the States, and the agency of the Federal Government which has the responsibility for implementing this act.

I would like to pay special tribute to Chairman ED MARKEY of the Oversight and Investigations Subcommittee whose drive and determination were essential to bringing this bill to fruition. Also, a great deal of this credit is shared by Chairman SANTINI of the Mines and Mining Subcommittee, Representative MARRIOTT, Representative CHENEY, and Representative LUJAN, and Representative KOGOVSEK.

Some of the key provisions of the bill are as follows:

Requires that site security plans be developed for all onshore oil and gas lease sites to help protect against oil and gas theft;

Requires notice of the start of oil or gas production not later than the fifth business day after such production began, this would help curtail illegal diversion of such oil or gas;

Requires that lessees and operators maintain records to properly account for the production of oil and gas from the Federal lands, Indian lands, and the Outer Continental Shelf;

Establishes strict civil penalties and criminal penalties for violations of the act;

Provides authority to pay rewards to informants who provide information to the Government which leads to the recovery of oil or gas or additional royalties;

Provides authority to the Secretary of the Interior to enter into cooperative agreements and contracts with States and Indian tribes to carry out inspection, auditing, and enforcement activities under the act;

Speeds up payments to the States of their share under the Mineral Leasing Act of 1920 oil and gas royalty receipts form once every 6 months to once a month;

Requires an explanation of what such payments were based upon so that the State or Indian tribes could cross check such explanation with their own records to see if the royalty management system is properly accounting for all oil and gas produced for Federal or Indian lands;

Requires more frequent inspections of lease sites by experienced personnel to determine whether oil or gas has been diverted or stolen;

Provides the States with the authority to sue under Federal law in Federal court to recover royalties, interest, or civil penalties with respect to oil and gas leases on Federal lands located within States under certain conditions;

Provides the Secretary with the authority to delegate his authority to conduct inspections, audits, and investigations to any State with respect to Federal or Indian lands within that State; and

It would also authorize the Secretary of the Interior to reinstate terminated oil and gas leases at a higher royalty and rental rate.

Mr. Speaker, I strongly urge my colleagues to support this legislation.

Mr. CHENEY. Mr. Speaker, further reserving the right to object, I would simply like to add to what the chairman has said.

This is an excellent piece of legislation, strongly supported by the administration. We have worked out a solution between both parties at both ends of the building. I urge my colleague to approve it.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Speaker, I would just like to note that this bill was only made possible through the bipartisan cooperation of the gentleman from Wyoming and several other Members over there, and through the leadership and cooperation of the gentleman from Arizona.

I believe as the two previous speakers do this is a good, solid measure which is going to mean additional hundreds of millions of dollars a year coming into the Federal Treasury to be used for States, Indian tribes, and Federal Government purposes.

Mr. WILLIAMS of Montana. Mr. Speaker, will the gentleman yield?

Mr. CHENEY. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman for yielding.

Mr. Speaker, I would ask the chairman of the committee if the royalty is now at 12 or 16 percent.

Mr. UDALL. If the gentleman will yield to me, it is now at 12½ percent.

Mr. WILLIAMS of Montana. Twelve and one-half with the study?

Mr. UDALL. We leave the royalty as it is under existing law, which is 12½ percent for noncompetitive oil and gas leases, and there is a 6-months study provision.

Mr. WILLIAMS of Montana. I thank the gentleman.

Mr. CHENEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AUTHORIZING SECRETARY OF AGRICULTURE TO CONVEY CERTAIN NATIONAL FOREST SYSTEM LANDS

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs and the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 705), to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is the objection to the request of the gentleman from Ohio?

Mr. CHENEY. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, this bill is sometimes referred to as the small tracts bill. It passed the Senate on August 19. It would authorize the Secretary of Agriculture to resolve a number of management problems by making conveyances or exchanges of certain specified types of small tracts of land within the National Forest System.

It is an entirely noncontroversial bill. It is sought by the administration. I have talked to the ranking minority member on the Public Lands Subcommittee. I have talked to the gentleman from Wyoming. I believe there are no objections to this bill on any side. I would hope that we can dispose of it expeditiously at this point.

The bill is similar to legislation which passed the 96th Congress but was pocket vetoed by President Carter because of objections to a nonrelated Senate amendment which is not included in this version. The bill is carefully drawn and, while limited in its scope, would enable an efficient resolution of many genuine problems. I urge its passage and include my remarks at this point in the RECORD:

PURPOSE

The purpose of S. 705 is to enable the Secretary of Agriculture to more efficiently and flexibly manage the National Forests by providing additional authority for the transfer out of federal ownership of certain limited and specific categories of national forests lands, without case-by-case authorizations from the Congress.

BACKGROUND AND NEED

There are an estimated 200,000 tracts of Federal land the size, shape, or location of which makes them impracticable to administer efficiently as units of the national forest system. They are often isolated or too small to justify the expense and time required in land management activities. They may be occupied in trespass by adjoining landowners. These tracts can generally be grouped into one of three readily defined categories: (1) irregularly shaped tracts of 40 acres or less that are interspersed with or adjacent to mineral claims, (2) tracts of 10 acres or less that are encroached upon by private parties because of surveying, titling, or land description errors, or (3) road rights-of-way that are owned by the United States but are no longer needed. Each type of tract is more specifically described below.

Mineral Tracts.—The mineral fractions were created 75 to 100 years ago through patenting of mining claims on the Western public lands. Because of the way the claiming occurred, the residual tracts owned by the Federal Government are of an infinite variety of sizes and shapes. Some may be as small as 0.2 acre. Many of the intermingled, unpatented public lands came under the administrative responsibility of the Forest Service upon creation of the national forests but are of such small size or are located in such a way as to be of little practical use for National Forest System purposes.

Most of the adjoining mineral patents are no longer held for their mineral values. They may support ranching, industrial plants, irrigation sites and water power facilities, utility lines, roads, and intensive recreation sites. Recently, some of the patented lands have been subdivided into vacation homesites.

Encroachment.—Innocent occupancy, or encroachment, upon national forest system lands occurs when improvements are constructed or are being used on a parcel of land acquired in good faith by a private party which is later found to overlap Federal land. This usually happens as a result of an improper property line survey, by either private or public surveyors, or an error in the title or land description. While there are a few known instances where Federal survey errors are the cause of such encroachments, the great bulk of the title claim cases existing on national forest system lands involves problems resulting from private surveys. The error giving rise to the encroachment is frequently not discovered until the public land is later surveyed and marked. The resulting trespass is considered to be in good

faith if the private party had no knowledge that the improvements would encroach upon the Federal lands. The claims generally involve parcels of small size, frequently less than one acre, but constitute a major portion of the estimated 50,000 title claim cases existing on national forest system lands throughout the United States. There would be a distinct advantage to the Government to have the possibility of litigation removed from these potential title claim cases.

Road Right-Of-Way.—These are narrow strips of Federal lands that pass through private land. Most were created as exceptions to homestead patents in order to provide access to the homesteaded area or to remaining Federal lands. Some were purchased by the Government in conjunction with the work of the Civilian Conservation Corps. Many of the roads no longer exist or were never built, and the rights-of-way are no longer needed for national forest system purposes. The average size of these rights-of-way is two acres. They occur in the West, especially in Montana, Wyoming, Idaho, and Arizona.

These three types of small irregularly shaped tracts of national forest system land create problems for both the Federal land manager and adjacent private party owners. Administrative remedies, while generally applicable are not in most cases a desirable solution. A special use permit may be granted. The permit acknowledges the occupancy and allows it to continue for a specified period. This period is usually sufficient to amortize any improvements to the property. The permit is then cancelled and the improvements must be removed. A land exchange may also be made under which the Secretary may accept lands in exchange for the small tracts of the type described above. However, individual exchanges under current authority are lengthy and expensive. They are not usually satisfactory in the case of small acreages and irregularly shaped tracts.

Private legislation has not been successful in only a small number of cases. It is a difficult, time-consuming and costly process with uncertain results. A general legislative solution is thus considered preferable and appears to be the only realistic solution to the massive backlog of these types of title claim cases. S. 705 would provide the Forest Service with authority to administer an efficient system for resolving these claims in a manner consistent with protecting the public interest.

The proposed legislation would also address a different, but related, matter involving national forest system lands. The act of December 4, 1967, authorizes exchanges of national forest system lands with public school districts where the lands offered in exchange do not equal the value of the Federal lands. In such cases, the act authorizes the Secretary to accept cash from the public school district to equalize the value of the exchange. Broadening this cash equalization feature to include States, county, and municipal governments would recognize that these entities may have the same difficulty in making equivalent land exchanges as do public school districts and would allow for the completion of desirable land exchanges where sufficient suitable land is not available. In addition to specifically identified land exchanges, there are approximately 10,000 cases where these governmental units occupy a tract of national forest system land under a special use permit in order to carry out a specific function, such as highway maintenance facilities or forest fire lookout towers. Many of these could appropriately be transferred to the local governmental unit under a cash equalization exchange program.

SECTION-BY-SECTION ANALYSIS

Section 1 defines the terms "person", "interchange", and "Secretary". The term "person" includes States or any political subdivisions or entities thereof, such as county and municipal governments, independent school districts and similar entities. The term "interchange" means a land transfer involving the change of titles to or interests in lands between the Secretary and another person under such regulations as the Secretary may prescribe.

Section 2 authorizes the Secretary of Agriculture, when in the public interest, to sell, exchange, or interchange by quitclaim deed, all right, title, and interest, including the mineral estate, of the United States in the national forest system lands described in section 3. As consideration for such lands the Secretary is authorized to accept other lands, interest in lands, or cash, or any combination thereof, which in the case of a sale or exchange is at least equal in value to the lands being conveyed by the Secretary. In the case of conveyance by interchange the consideration must be of approximate value to the lands being conveyed by the Secretary.

Section 3 identifies the lands which may be sold, exchanged, or interchanged by the Secretary under section 2 as those the sale or exchange of which is not practicable under any other authority of the Secretary, which the Secretary has determined to have a value of not more than $150,000, and which are (1) parcels of 40 acres or less interspersed with or adjacent to mineral patents and which the Secretary has determined, because of size and location, are not subject to efficient administration; (2) parcels of 10 acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description indicating that there was no such encroachment; or (3) road rights-of-way reserved or acquired which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States subject to the first right of abutting landowners to acquire the rights-of-way.

Section 4 requires that persons to whom land is conveyed must bear all reasonable costs, as determined by the Secretary, of administration, survey, and appraisal incidental to the conveyance. In addition, any person to whom a right-of-way is conveyed is required to reimburse the United States for the value of any improvements to the right-of-way made by the United States. In cases where the Secretary determines it would be consistent with the public interest to do so, the Secretary is authorized to waive payment of such incidental costs or reimbursement for such improvements to rights-of-way. This section also provides that, in determining the value of any lands or interest in lands to be conveyed, the Secretary may exclude from such determination the value of any improvements to the lands made by persons other than the Government, when the Secretary determines that such exclusion would be consistent with the public interest.

Section 5 provides that conveyance of any road rights-of-way shall not be construed as permitting any designation, maintenance, or use of the rights-of-way for road or other purposes except to the extent permitted by State or local law.

Section 6 directs the Secretary to issue regulations to carry out the provisions of the bill, including specification of: (1) the criteria to be used in determining what constitutes the public interest; (2) the definition of and the procedure for determining "approximate value"; and (3) factors relating to location or size to be considered in determining the lands interspersed with mineral patents that are eligible to be conveyed under the bill. With regard to this section, the framers of the bill intend that the Secretary take care to promulgate regulations which will confine the new authority provided by this bill to its intended limits. In particular, it is essential that the authority provided to dispose of "mineral fractions", those tracts of Federal land remaining after the patenting of public domain lands under the mining laws, not be interpreted too broadly. This authority is not intended to allow the disposal of National Forest System land except for reasons specifically related to location, size or efficient administration. Therefore, in the regulations the Secretary must adopt stringent criteria to guide the disposal of mineral fractions. The following criteria are suggested to guide the Department of Agriculture in this regard:

1. Fractions qualifying for disposal be only those surrounded by lands patented under the mining laws.

2. To qualify, there must be good evidence that the Federal lands being considered for disposal are or would be occupied or used by adjoining private parties.

3. The combined acreage of fractions sold in any one sale (whether the fractions are sold separately or aggregated for purposes of sale) should generally not exceed 40 acres.

Furthermore, it is our intent that the regulations in general make sure that the authority provided by this legislation is not to be construed to enable private parties, singly or acting together, to block or unduly restrict public access to National Forest Lands, to monopolize or unduly restrict access to water supplies or other resources of the National Forests now open to use by the public, or to establish new, extensive inholdings which would present management problems for the U.S. Forest Service.

It is the clear understanding of those of us in the House who are familiar with the purposes of the bill that the regulations will assure that the discretionary authority provided by this bill (including the authority to waive the payment of various costs) will be exercised only in those de *minimis* cases (which must be evaluated individually) for which it has been designed, and not as a means for a general disposal of National Forest lands for purposes not directly related to improved management or resolution of specific problems or for the enhancement of federal revenues.

Section 7 provides that nothing in the bill shall authorize conveyance of Federal lands within the National Wilderness Preservation System, the National Wild and Scenic Rivers System, the National Trails System, National Monuments, or National Recreation Areas.

Section 8 amends the act of December 4, 1967, to authorize the Secretary to accept cash equalization payments, in connection with exchanges of national forest system lands, by State, county, or municipal governments where the lands offered in exchange do not equal the value of the Federal lands. Presently, that act only authorizes cash equalization payments in connection with exchanges with public school districts.

COST AND BUDGET ACT COMPLIANCE

S. 705 authorizes no appropriations, and should have no discernible impact on the Federal budget; any likely impact would probably be in the form of reduced costs.

LEGISLATIVE HISTORY

Legislation similar to S. 705 was passed by both the House and Senate in the 96th Congress, but was subjected to a pocket veto because of Administration objections to a nongermane Senate amendment. S. 705 passed the Senate on August 19, 1982. The Subcommitee on Public Lands and National Parks held a hearing on the bill on December 2, 1982.

Mr. CHENEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio (Mr. SEIBERLING)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 705

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That for the purposes of this Act—

(1) the term "person" includes any State or any political subdivision or entity thereof;

(2) the term "interchange" means a land transfer in which the Secretary and another person exchange titles to lands or interests in lands of approximately equal value where the Secretary finds that such a value determination can be made without a formal appraisal and under such regulations as the Secretary may prescribe; and

(3) the term "Secretary" means the Secretary of Agriculture of the United States.

SEC. 2. The Secretary is authorized, when the Secretary determines it to be in the public interest—

(1) to sell, exchange, or interchange by quitclaim deed, all right, title, and interest, including the mineral estate, of the United States in and to National Forest System lands described in section 3; and

(2) to accept as consideration for the lands sold, exchanged, or interchanged other lands, interests in lands, or cash payment, or any combination of such forms of consideration, which, in the case of conveyance by sale or exchange, is at least equal in value, including the mineral estate, or, in the case of conveyance by interchange, is of approximately equal value, including the mineral estate, to the lands being conveyed by the Secretary. The Secretary shall insert in any such quitclaim deed such terms, convenants, conditions, and reservations as the Secretary deems necessary to ensure protection of the public interest, including protection of the scenic, wildlife, and recreation values of the National Forest System and provision for appropriate public access to and use of lands within the System. The preceding sentence shall not be applicable to deeds issued by the Secretary to lands outside the boundary of units of the National Forest System.

SEC. 3. The National Forest System lands which may be sold, exchanged, or interchanged under this Act are those the sale or exchange of which is not practicable under any other authority of the Secretary, which have a value as determined by the Secretary of not more than $150,000, and which are—

(1) parcels of forty acres or less which are interspersed with or adjacent to lands which have been transferred out of Federal ownership under the mining laws and which are determined by the Secretary, because of location or size, not to be subject to efficient administration;

(2) parcels of ten acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description indicating that there was no such encroachment; or

(3) road rights-of-way, reserved or acquired, which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States, subject to the first right of abutting landowners to acquire such rights-of-way.

SEC. 4. Any person to whom lands are conveyed under this Act shall bear all reasonable costs of administration, survey, and appraisal incidental to such conveyance, as determined by the Secretary. In determining the value of any lands or interest in lands to be conveyed under this Act, the Secretary may, in those cases in which the Secretary determines it would be in the public interest, exclude from such determination the value of any improvements to the lands made by any person other than the Government. In the case of road rights-of-way conveyed under this Act, the person to whom the right-of-way is conveyed shall reimburse the United States for the value of any improvements to such right-of-way which may have been made by the United States. The Secretary may, in those cases in which the Secretary determines that it would be in the public interest waive payment by any person of costs incidental to any conveyance authorized by this Act or reimbursement by any person for the value of improvements to rights-of-way otherwise required by this section.

SEC. 5. Conveyance of any road rights-of-way under this Act shall not be construed as permitting any designation, maintenance, or use of such rights-of-way for road or other purpose except to the extent permitted by State or local law and under conditions imposed by such law.

SEC. 6. The Secretary shall issue regulations to carry out the provisions of this Act, including specification of—

(1) criteria which shall be used in making the determination as to what constitutes the public interest;

(2) the definition of and the procedure for determining "approximately equal value" and

(3) factors relating to location or size which shall be considered in connection with determining the lands to be sold, exchanged, or interchanged under clause (1) of section 3.

SEC. 7. Nothing in this Act shall authorize conveyance of Federal lands within the National Wilderness Preservation System, National Wild and Scenic Rivers System, National Trails System, or National Monuments. Nothing in this Act shall authorize sale of Federal lands, within National Recreation Areas.

SEC. 8. (a) The Act of December 4, 1967 (81 Stat. 531), is amended by inserting before the phrase "public school district" wherever it appears, and before the phrase "public school authority" the second time it appears, the words "State, county, or municipal government or".

(b) The Act of December 4, 1967 (81 Stat. 531), is further amended by adding the following at the end thereof: "Lands may be conveyed to any State, county, or municipal government pursuant to this Act only if the lands were being utilized by such entities on the date of enactment of this sentence. Lands so conveyed may be used only for the purposes for which they were being used prior to conveyance.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 705.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MASHANTUCKET PEQUOT INDIAN CLAIMS SETTLEMENT ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6612), to provide for the settlement of land claims of the Mashantucket Pequot Indian Tribe of Connecticut, and for other purpose, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Mashantucket Pequot Indian Claims Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(a) there is pending before the United States District Court for the District of Connecticut a civil action entitled Western Pequot Tribe of Indians against Holdridge Enterprises Incorporated, et al., Civil Action Numbered H76-193 (D. Conn.), which involves Indian claims to certain public and private lands within the town of Ledyard, Connecticut;

(b) the pendency of this lawsuit has placed a cloud on the titles to much of the land in the town of Ledyard, including lands not involved in the lawsuit, which has resulted in severe economic hardships for the residents of the town;

(c) the Congress shares with the State of Connecticut and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claims;

(d) the parties to the lawsuit and others interested in the settlement of Indian land claims within the State of Connecticut have reached an agreement which requires implementing legislation by the Congress of the United States and the Legislature of the State of Connecticut;

(e) the Western Pequot Tribe, as represented as of the time of the passage of this Act by the Mashantucket Pequot Tribal Council, is the sole successor in interest to the aboriginal entity generally known as the Western Pequot Tribe which years ago claimed aboriginal title to certain lands in the State of Connecticut; and

(f) The State of Connecticut is contributing twenty acres of land owned by the State of Connecticut to fulfill this Act. The State of Connecticut has provided special services to the members of the Western Pequot Tribe residing within its borders. The United

States has provided few, if any, special services to the Western Pequot Tribe and has denied that it had jurisdiction over or responsibility for said Tribe. In view of the provision of land by the State of Connecticut and the provision of special services by the State of Connecticut without being required to do so by Federal law, it is the intent of Congress that the State of Connecticut not be required to further contribute directly to this claims settlement.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) the term "Tribe" means the Mashantucket Pequot Tribe (also known as the Western Pequot Tribe) as identified by chapter 832 of the Connecticut General Statutes and all its predecessors and successors in interest. The Mashantucket Pequot Tribe is represented, as of the date of the enactment of this Act, by the Mashantucket Pequot Tribal Council;

(b) the term "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(c) the term "private settlement lands" means (1) the eight hundred acres, more or less, of privately held land which are identified by a red outline on a map filed with the Secretary of the State of Connecticut in accordance with the agreement referred to in section 2(d) of this Act, and (2) the lands known as the Cedar Swamp which are adjacent to the Mashantucket Pequot Reservation as it exists on the date of the enactment of this Act. Within thirty days of the enactment of this Act, the Secretary of the State of Connecticut shall transmit to the Secretary a certified copy of said map;

(d) the term "settlement lands" means

(1) the lands described in sections 2(a) and 3 of the Act to Implement the Settlement of the Mashantucket Pequot Indian Land Claims as enacted by the State of Connecticut and approved on June 9, 1982, and

(2) the private settlement lands.

(e) the term "Secretary" means the Secretary of the Interior;

(f) the term "transfer" means any transaction involving, or any transaction the purpose of which was to effect, a change in title to or control of any land or natural resources, and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources, including any sale, grant, lease, allotment, partition, or conveyance, whether pursuant to a treaty, compact or statute of a State or otherwise; and

(g) the term "reservation" means the existing reservation of the Tribe as defined by chapter 824 of the Connecticut General Statutes and any settlement lands taken in trust by the United States for the Tribe.

APPROVAL OF PRIOR TRANSFERS; EXTINGUISHMENT OF ABORIGINAL TITLES AND INDIAN CLAIMS

SEC. 4. (a) Any transfer before the date of enactment of this Act from, by, or on behalf of the Tribe or any of its members of land or natural resources located anywhere within the United States, and any transfer before the date of enactment of this Act from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians of land or natural resources located anywhere within the town of Ledyard, Connecticut, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: Provided, however, That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(b) By virtue of the approval and ratification of a transfer of land or natural resources effected by subsection (a), any aboriginal title held by the Tribe or any member of the Tribe, or any other Indian, Indian nation, or tribe or band of Indians, to any land or natural resources the transfer of which was approved and ratified by subsection (a) shall be regarded as extinguished as of the date of such tranfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, any claim (including any claim for damages for trespass or for use and occupancy) by, or on behalf of, the Tribe or any member of the Tribe or by any other Indian, Indian nation, or tribe or band of Indians, against the United States, any State or subdivision thereof or any other person which is based on—

(1) any interest in or right involving any land or natural resources the transfer of which was approved and ratified by subsection (a), or

(2) any aboriginal title to land or natural resources the extinguishment of which was effected by subsection (b),

shall be regarded as extinguished as of the date of any such transfer.

(d)(1) This section shall take effect upon the appropriation of $900,000 as authorized under subsection 5(e) of this Act.

(2) The Secretary shall publish notice of such appropriation in the Federal Register when the funds are deposited in the fund established under subsection 5(a) of this Act.

MASHANTUCKET PEQUOT SETTLEMENT FUND

SEC. 5. (a) There is hereby established in the United States Treasury a fund to be known as the Mashantucket Pequot Settlement Fund. This fund shall be held in trust by the Secretary for the benefit of the Tribe and administered in accordance with this Act.

(b)(1) The Secretary is authorized and directed to expend, at the request of the Tribe, the fund together with any and all income accruing to such fund in accordance with this subsection.

(2) Not less than $600,000 of the fund shall be available until January 1, 1985, for the acquisition by the Secretary of private settlement lands. Subsequent to January 1, 1985, the Secretary shall determine whether and to what extent an amount less than $600,000 has been expended to acquire private settlement lands and shall make that amount available to the Tribe to be used in accordance with the economic development plan approved pursuant to subsection 5(b)(3).

(3) The Secretary shall disburse all or part of the fund together with any and all income accruing to such fund excepting the amount reserved in subsection 5(b)(2) according to a plan to promote the economic development of the Tribe. (A) The Tribe shall submit an economic development plan to the Secretary and the Secretary shall approve such plan within sixty days of its submission if he finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, he shall, at the time of his decision, set forth in writing and with particularity, the reasons for his disapproval. (B) The Secretary may not agree to terms which provide for the investment of the fund in a manner not in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037), unless the Tribe first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment. (C) The Tribe may, with the approval of the Secretary, alter the economic development plan subject to the conditions set forth in subsection 5(b)(3)(A).

(4) Under no circumstances shall any part of the fund be distributed to any member of the Tribe unless pursuant to the economic development plan approved by the Secretary under subsection 5(b)(3).

(5) As the fund or any portion thereof is disbursed by the Secretary in accordance with this section, the United States shall have no further trust responsibility to the Tribe or its members with respect to the sums paid, any subsequent expenditures of these sums, or any property other than private settlement lands or services purchased with these sums.

(6) Until the Tribe has submitted and the Secretary has approved the terms of the use of the fund, the Secretary shall fix the terms for the administration of the portion of the fund as to which there is no agreement.

(7) Lands or natural resources acquired under subsection (5)(b) which are located within the settlement lands shall be held in trust by the United States for the benefit of the Tribe.

(8) Land or natural resources acquired under subsection (b) which are located outside of the settlement lands shall be held in fee by the Mashantucket Pequot Tribe, and the United States shall have no further trust responsibility with respect to such land and natural resources. Such lands or natural resources shall not be subject to any restriction against alienation under the laws of the United States.

(9) Notwithstanding the provisions of section 1 of the Act of August 1, 1888 (25 Stat. 357), as amended, and section 1 of the Act of February 26, 1931 (46 Stat. 1421), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner.

(c) For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer of private settlement lands to which subsection (b) applies shall be deemed to be an involuntary conversion within the meaning of section 1033 of such Code.

(d) The Secretary may not expend on behalf of the Tribe any sums deposited in the fund established pursuant to subsection (a) of this section unless and until he finds that authorized officials of the Tribe have executed appropriate documents relinquishing all claims to the extent provided by sections 4 and 10 of this Act, including stipulations to the final judicial dismissal with prejudice of its claims.

(e) There is authorized to be appropriated $900,000 to be deposited in the fund.

JURISDICTION OVER RESERVATION

SEC. 6. Notwithstanding the provision relating to a special election in section 406 of

the Act of April 11, 1968 (25 U.S.C. 1326), the reservation of the Tribe is declared to be Indian country subject to State jurisdiction to the maximum extent provided in title IV of such Act.

LIMITATION OF ACTIONS: FEDERAL COURT JURISDICTION

SEC. 7. (a) Notwithstanding any other provision of law, the constitutionality of this Act may not be drawn into question in any action unless such question has been raised in—

(1) a pleading contained in a complaint filed before the end of the one-hundred-and-eighty-day period beginning on the date of the enactment of this Act, or

(2) an answer contained in a reply to a complaint before the end of such period.

(b) Notwithstanding any other provision of law, exclusive jurisdiction of any action in which the constitutionality of this Act is drawn into question is vested in the United States District Court for the District of Connecticut.

(c) Any action to which subsection (a) applies and which is brought in the court of any State may be removed by the defendant to the United States District Court for the District of Connecticut.

(d) Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

RESTRICTION AGAINST ALIENATION

SEC. 8. (a) Subject to subsection (b), lands within the reservation which are held in trust by the Secretary for the benefit of the Tribe or which are subject to a Federal restraint against alienation at any time after the date of the enactment of this Act shall be subject to the laws of the United States relating to Indian lands, including section 2116 of the Revised Statutes (25 U.S.C. 177).

(b) Notwithstanding subsection (a), the Tribe may lease lands for any term of years to the Mashantucket Pequot Housing Authority, or any successor in interest to such Authority.

EXTENSION OF FEDERAL RECOGNITION AND PRIVILEGES

SEC. 9. (a) Notwithstanding any other provision of law, Federal recognition is extended to the Tribe. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians or Indian nations, tribes or bands of Indians which are not inconsistent with any specific provision of this Act shall be applicable to the Tribe.

(b) The Tribe shall file with the Secretary a copy of its organic governing document and any amendment thereto. Such instrument must be consistent with the terms of this Act and the Act to Implement the Settlement of the Mashantucket Pequot Indian Land Claim as enacted by the State of Connecticut and approved June 9, 1982.

(c) Notwithstanding any other provision of law, the Tribe and members of the Tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes as of the date of enactment of this Act.

OTHER CLAIMS DISCHARGED BY THIS ACT

SEC. 10. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Connecticut and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of the Tribe or the United States as trustee therefor.

INSEPARABILITY

SEC. 11. In the event that any provision of section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. WALKER. Mr. Speaker, reserving the right to object, does this bill still have the $900,000 in it that does not fit into the budget?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, it still authorizes $900,000, but it is subject to appropriations in the future.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding.

What the authorization additionally does and what we have done, we have checked with both the Senate Budget Committee which has given approval to this to the Senators on their side and checked with the House Budget Committee which says there is no necessity for waiver since the number is under $1 million.

As the procedures go through we feel confident if we can go through this this year, in future years we can get the funding. But the proper procedure has been followed all the way through. We have contacted the Budget Committees in both the House and Senate.

Mr. WALKER. Further reserving the right to object, I agree with the gentleman it is something which should go ahead. We are going to go through a budget cycle when the new Congress proceeds. This is certainly something where the authorization could take place early in the Congress. I do not see any need to exceed the budget by $900,000 at the end of the Congress.

Mr. GEJDENSON. If the gentleman will yield further, it does not exceed the budget because it does not call for an appropriation. What it would do is it would clear the titles of those homes around the settlement area and would take those homes out of dispute, thereby relieving considerable burden to a handful of homeowners and really provide no jeopardy to the budget.

Mr. WALKER. Further reserving the right to object, the only way that can happen is to obligate the United States—the U.S. Government—to $900,000. It is that obligation that this gentleman is taking exception to, because it is not included in the budget. That is the reason for my objection, and why I continue to object.

Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REREFERRAL OF EXECUTIVE COMMUNICATION NO. 5141 TO COMMITTEE ON ENERGY AND COMMERCE AND COMMITTEE ON WAYS AND MEANS

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that executive communication No. 5141 which was referred to the Committee on Energy and Commerce be rereferred jointly to the Committee on Energy and Commerce and the Committee on Ways and Means.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I would like to direct a question to my colleague from California (Mr. WAXMAN).

Is there anything else, not that there is, but is there anything else in this proposal than what the gentleman from California has described, such as a reference, even collaterally to S. 1939 or the subject matter thereof?

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Speaker, what the gentleman heard is what he gets. This is a request to refer a report that was done by the Department of Health and Human Services both the Committee on Energy and Commerce and the Committee on Ways and Means, because we share jurisdiction over medicare.

It is only for the purposes of referring the report to both committees.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR METHOD OF SERVING JURY SUMMONS, AWARDING FEES FOR COURT APPOINTED ATTORNEYS, AND EXTENDING COMPENSATION BENEFITS TO FEDERAL JURORS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2863), to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the serv-

ice of jury summonses by ordinary mail and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

□ 1850

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin (Mr. KASTENMEIER)?

Mr. HYDE. Mr. Speaker, reserving the right to object and I shall not object, this legislation passed the House Judiciary Committee and the House without objection. This legislation was title II of H.R. 6872, a bill drafted and introduced by my good friend and colleague from Illinois, TOM RAILSBACK. This bill relates to Federal jurors and it has three subparts. The first portion of the bill provides that attorneys' fees may be provided to persons whose claims for compensation are handled by a court appointed attorney. Under current law, the award of attorneys' fees can only be made to retained attorneys. The claims involved in these cases are suits against employers who have discriminated against persons because of jury service.

The second change made by this bill is to authorize the use of regular mail to notify prospective jurors of jury service. Adoption of this technique will save hundreds of thousands of dollars. In addition, it is likely that the response rate to regular mail will be greater than with registered or certified mail.

The third portion of the bill provides that persons who are serving as Federal jurors are eligible for workers' compensation for jury-related injuries. Under current law, only Federal employees on jury service are eligible for such compensation.

The primary question about this provision during the hearing concerned the cost of such a proposal. In sum, while there are no accurate statistics available—because such claims are not allowed under current Federal law—it appears that jury injuries are rare and that the amount of any claims is very small. The administrative office estimates a yearly cost of $25,000, for this particular provision. But the overall bill will save the Federal Government $300,000 to $500,000. Therefore there will be no additional cost to the taxpayer.

Mr. Speaker, further under my reservation of objection, I yield to the gentleman from Wisconsin (Mr. KASTENMEIER) to explain the bill.

Mr. KASTENMEIER. Mr. Speaker, this is what remains of a bill that was passed by the House, the Railsback bill, as a matter of fact, and is relatively technical, has no controversial material in it.

As was indicated by the title, it deals with two elements involving jurors; one is to permit the use of regular mail to notify persons of their eligibility for jury service. It is estimated by the Congressional Budget Office that it will save the U.S. Government from $300,000 to $500,000.

The second part permits the Federal Government to recoup fees paid by the court in certain jury discrimination cases.

The third change is to permit equitable treatment of non-Federal employees who are injured, improbably injured, I might say, during the course of service on a Federal jury.

This was sent back by the Senate in almost indentical form as passed by us. They removed two of the major titles of the bill and this is what remains of it, but I still think it worthy of passage by this body.

Mr. HYDE. Mr. Speaker, further reserving the right to object, would it be fair to say that the overall bill will save the Federal Government from $300,000 to $500,000 a year?

Mr. KASTENMEIER. That is correct. That was the assessment made by the Congressional Budget Office. We indicated that at the time we presented the bill to the floor earlier in the session and that remains true today.

Mr. HYDE. Mr. Speaker, I urge passage of this bill, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin (Mr. KASTENMEIER)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1875(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" immediately after "(d)"; and

(2) by amending paragraph (2) to read as follows:

"(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney's fee as part of the costs. The court may tax a defendant employer, as costs payable to the court, the attorney fees and expenses incurred on behalf of a prevailing employee, where such costs were expended by the court pursuant to paragraph (1) of this subsection. The court may award a prevailing employer a reasonable attorney's fee as part of the costs only if the court finds that the action is frivolous, vexatious, or brought in bad faith.".

SEC. 2. (a) The second paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"Each person drawn for jury service may be served personally, or by registered, certified, or first-class mail addressed to such person at his usual residence or business address.".

(b) The fourth paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"If such service is made by mail, the summons may be served by the marshall or by the clerk, the jury commission or their duly designated deputies, who shall make affidavit of service and shall attach thereto any receipt from the addressee for a registered or certified summons.".

SEC. 3. Chapter 131 of title 28, United States Code, is amended—

(1) by adding at the end thereof the following:

"§ 1877. Protection of jurors

"(a) Subject to the provisions of this section and title 5 of the United States Code, subchapter 1 of chapter 81, title 5, United States code, applies to a Federal grand or petit juror, except that entitlement to disability compensation payments does not commence until the day after the date of termination of service as a juror.

"(b) In administering this section with respect to a juror covered by this section—

"(1) a juror is deemed to receive monthly pay at the minimum rate for grade GS-2 of the General Schedule unless his actual pay as a Government employee while serving on court leave is higher, in which case monthly pay is determined in accordance with section 8114 of title 5, United States Code, and

"(2) performance of duty as a juror includes that time when a juror is (A) in attendance at court pursuant to a summons, (B) in deliberation, (C) sequestered by order of a judge, or (D) at a site, by order of the court, for the taking of a view."; and

(2) by amending the table of sections for such chapter by adding after the item relating to section 1876, the following:

"1877. Protection of jurors.".

SEC. 4. Section 8101 of title 5, United States Code, is amended in paragraph (F) of subsection (1) by striking out "juror" through the end of such paragraph and inserting in lieu thereof "juror;".

The Senate bill was ordered to be read the third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. For what purposes does the gentleman from Michigan rise?

Mr. DINGELL. Reserving the right to object, Mr. Speaker——

The SPEAKER. On what?

Mr. DINGELL. On the unanimous consent request of the gentleman from Wisconsin.

The SPEAKER. The gentleman is too late.

CONFERENCE REPORT ON H.R. 5470, PERIODIC PAYMENT SETTLEMENT ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I call up the conference report on the bill, H.R. 5470, to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the order of the House of December 17, 1982, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Tuesday, December 21, 1982.)

The SPEAKER. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House and Senate conferees have reached agreement on the Periodic Payment Settlement Tax Act, as passed by the House and amended in the Senate.

As passed by the House, H.R. 5470 clarifies the tax treatment of periodic payments of certain types of compensation for personal injuries which are excluded from gross income. The legislation has negligible revenue impact and is supported by the administration.

There were few items in disagreement between the House and the Senate. The conference report generally follows the Senate amendments which make technical modifications to the periodic payments provisions. The Senate has receded from its amendment involving withholding by Virgin Islands payors as this matter is the subject of a separate conference on H.R. 7093. The Senate also has receded from its amendment extending the highway trust fund taxes and expenditure authority, in view of the separate action in both Houses on H.R. 6211, the Surface Transportation Assistance Act of 1982.

The conference report follows the Senate amendment on Indian tribal governments with several modifications. Under the conference agreement certain tax provisions are extended to American Indian tribal governments on a similar basis as those which apply to the States. The conference agreement permits tribal governments to issue bonds for public purposes and exempts tribal governments from certain Federal excise taxes in limited circumstances. These tax provisions will sunset after 1984.

The conference agreement follows the Senate amendment on the tax treatment of certain foster care payments, with clarifying and technical language proposed by the House. Under the conference report, payments received by foster parents as "difficulty of care" payments for handicapped foster children would be excluded from income. The conference report also codifies the practice under present law that excludes from income basic foster care payments for the expenses of caring for foster children.

The conference report generally follows the Senate amendment with regard to the exception from ERISA preemption for the Hawaii Prepaid Health Care Act. In addition, the conference report includes a House amendment clarifying preemption in the case of certain multiple employer insurance trusts providing group health insurance.

Mr. Speaker, the conference report on H.R. 5470 improves current Federal tax and pension law through clarification and technical refinements. It will assist both taxpayers and the Government in the administration of the law. I urge its adoption by the House.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 5470, the Periodic Payment Settlement Act.

As the Members may recall, the House recently passed H.R. 5470. As passed by the House, H.R. 5470 established specific statutory rules governing the taxation of payments received on account of personel injuries.

The Senate added several amendments to the bill. The conferees have reached a reasonable compromise of our differences and I urge adoption of the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7093, REDUCING RATE OF CERTAIN TAXES PAID TO VIRGIN ISLANDS

Mr. ROSTENKOWSKI. Mr. Speaker, I call up the conference report on the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the order of the House of December 17, 1982, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Tuesday, December 21, 1982.)

The SPEAKER. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 30 minutes, and the gentleman from Texas (Mr. ARCHER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I submit for the approval of the House the report of the conferees on H.R. 7093. This bill makes changes in three areas: First, it makes it clear that only a 10-percent tax will be imposed on passive income from the Virgin Islands when the recipient is a U.S. individual or corporation; second, it provides for a short-term solution to the problems that have arisen in the course of reexamination of disability beneficiaries; and third, it delays for 7 months full implementation of the spouses' public pension offset provision which took effect December 1, 1982, by exempting from the offset those who can demonstrate dependence on their spouse for at least half of their support.

This bill was originally devoted only to the Virgin Islands tax measure. The House had accepted most of the original Senate amendments to this bill dealing with the social security disability program, the most important of which were the extension of payments to the ALJ hearing level for those appealing termination of their benefits, and slowdown of the rate of reviews of disability beneficiaries. In the conference, the House position prevailed with respect to the addition of two House amendments, including requirement of a face-to-face hearing at the reconsideration level, and with respect to rejection of a Senate amendment concerning review of evidence in the file. The cost of the disability provisions of the bill is estimated by CBO to be $75 million over the 1983–88 period.

The House conferees also managed to win a compromise from the Senate on the Government pension offset provision. The House had originally proposed a new offset provision that would have used only one-third of the Government pension in computing the offset against the social security spouses' pension. The Senate wished to delete this section altogether. The compromise that was finally struck is only temporary: it provides that the offset will not apply to those who become eligible for a Government pension between December 1, 1982—when the current law offset took effect—and July 1, 1983, and who can prove they are dependent on their spouses for at least one-half of their support. This provision is not a permanent solution, but it does aid those women most harshly affected by the current offset provision. The cost of this provision is estimated at $50 million over the five years.

In short, the House prevailed on the amendments that were of critical importance to Members of the House; namely, the extension of benefits for disability beneficiaries, and managed to win a compromise on the Government pension offset provision that will give 7 more months of exemption from the offset for the neediest women affected by it, giving Congress time to devise a permanent, equitable solution next year. I urge acceptance of this report.

□ 1900

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the conference report on this legislation.

The primary bill was relatively noncontroversial when it passed the House and remains so as it emerges from the conference committee. It has

to do with a reduction in certain taxes paid to the Virgin Islands, on income from the Virgin Islands, and has not, as far as I know, been protested by an interested parties. It has, according to the Treasury Department and others, no significant revenue impact.

The rest of the measure deals with changes in the disability insurance program and the so-called pension offset, which was enacted as section 334 of Public Law 95-216.

The disability insurance changes are aimed at adjusting to problems arising from continuing disability investigations (CDI's). In various parts of the United States, there have been reports that CDI's have resulted in beneficiaries being removed from the disability rolls improperly and/or without due process. The conference report would, among other things, respond to these reports by providing for payment of benefits to claimants in such cases until their claims have been reviewed by administrative law judges (ALJ's).

The conference report also would provide for a short extension of a grace period offered to those eligible for social security spouse's benefits who also are eligible for governmental retirement benefits based on their own work. The 1977 Social Security Amendments provided that spouse's benefits would be reduced, dollar for dollar, by the amounts of those other governmental pensions. A 5-year grace period was added to exclude from this offset both women and dependant husbands who had reason to plan for such benefits under prior law. That grace period ended November 30 of this year.

The conference report would provide for an extension of this grace period for 7 months, during which time exempted beneficiaries, both men and women, would have to show that they had been dependent upon the primary beneficiaries.

These are not perfect answers to perplexing problems. But they do represent responses which appear to be acceptable to a majority of the conferees and to a number of affected social security beneficaries. The conferees have been assured that the net additional cost to the social security system would be relatively slight.

Against this background, Mr. Speaker, I recommend that my colleagues approve the conference decision. But I would repeat some cautionary words I offered on this subject earlier this week, when H.R. 7093 was amended and sent to the other body. At that time, I pointd out that we are dealing with extremely complicated provisions of law in a very short period of time. When we attempt to respond to crisis, real or imagined, in the closing days of any session, we tend to make mistakes, usually unwittingly. Although I am not disposed to stand in the way of this legislation, I do deplore the process which has brought us to this point.

I also would like to reiterate my strong feeling that the disability insurance program, especially the hearings and appeals process, warrants further detailed review, and very likely, more far-reaching reform. The legislation we are acting upon today should, therefore, not be viewed as any kind of an obstacle to real reform, and it is with that understanding, Mr. Speaker, that I support the conference action on H.R. 7093.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. CONABLE) the ranking Republican on the Committee on Ways and Means.

Mr. CONABLE. Mr. Speaker, I support this conference report for one overriding reason. It addresses severe problems resulting from continuing disability investigations (CDI's) which were mandated under the Disability Insurance Amendments of 1980. That legislation required periodic review of all disability cases which held some hope of recovery. The aim was to make certain that only those who were entitled to such benefits were continuing to receive them. There was no congressional intent to penalize, or treat unfairly, anyone then on the rolls.

Unfortunately, after the congressional mandate had been implemented—and I should note that this occurred earlier than was ordered—there were many reports throughout the United States of persons being removed from disabiity rolls summarily and, in some instances, unjustly. In response to such reports, I asked the Committee on Ways and Means' Subcommittee on Social Security to investigate and recommend corrections in law where necessary.

The conference report represents, I believe, an adequate interim response to this request. Among other things, it woud provide that beneficiaries who appeal their removal from the rolls will continue to receive benefits until their cases have been reviewed by administrative law judges.

The conference report does not represent a definitive answer either to CDI problems or to structural problems of the hearings and appeals process. It does represent the best response obtainable now. It also carries with it the understanding, at least on this side of the aisle, that we will make every effort in this next Congress to seek more lasting and much needed reform of the entire system.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I ask for approval of this conference report on H.R. 7093.

This bill give much needed short-term relief, on a temporary basis until June 1984, for disabled beneficiaries who are appealing the decision to terminate their benefits. It provides for a face-to-face interview for claimants appealing the termination of their benefits at the reconsideration level. This is an important improvement over the present procedure that gives them no chance for a personal hearing in the review process until their ALJ hearing.

The bill also give the Secretary of HHS the authority to slow down the rate at which reviews of beneficiaries must be done, to make sure State agencies can handle the review workloads.

This bill is a temporary stopgap provison. I firmly believe, and I have been supported in this by most concerned, that the disability program must be looked at again next year in order to address the basic administrative problems the system faces. But for now, this bill gives relief where it is needed, and gives some basis for further reform in the near future.

The bill contains as well a very limited solution to the Government spouse's pension offset problem. The House approved what I think was a good, sound approach to making the offset equitable and fair for both men and women, by using one-third of their public pension in the offset against their social security spouse's benefit. The Senate did not feel they could agree to this, and proposed instead that the offset would not apply for those becoming eligible for public pensions within the next 7 months if they can prove they are dependent on their spouses for at least one-half of their support. The House finally agreed to the Senate's proposal, but I think all of us look at this provision as only a temporary solution to the pension offset problem. This area will have to be looked at again next year.

All in all, we have a good bill, one that gets the relief of benefits during appeal to those who need it now and cannot wait until next year for a solution. In the meantime, we can examine the disability program, and the pension offset provision, to devise permanent, long-lasting answers to the problems we have temporarily addressed in this bill.

I would like to acknowledge the persistent support of the many Members of the House who have urged action on both of these provisions and the Members of the other body who have worked with us to come to an acceptable compromise. It is good to know that an agreement can be reached in the social security area. All Members of the conference have agreed to this bill as have the many other Members interested in these issues. I urge adoption of this report.

SUMMARY OF H.R. 7093

H.R. 7093 passed the Senate by a vote of 70-4, December 3, 1982, and the House by unanimous consent December 16, 1982. The Conference agreement includes provisions which:

1. Clarify of the rate of certain taxes paid to the Virgin Islands on Virgin Island source income.

2. Continue payment of benefits through the ALJ decision (on cases terminated by October 1983, with no benefits payable past June 1984).

3. Give the Secretary authority to slow down the number of continuing disability cases sent to State agencies.

4. Require by January 1, 1984, a face to face evidentiary hearing at the reconsideration level for termination cases.

5. Order the Secretary to take necessary steps to assure public understanding of the importance Congress attaches to the face to face reconsiderations and of the importance of submitting all evidence at that level.

6. Require semi-annual reports to Congress.

7. Extend for seven months, until July 1983, the exemption in current law from the public pension offset provided the individual can prove dependency on his or her spouse.

EXAMPLES

Extension of benefits to ALJ decision.—

1. Individual's benefits were terminated in October 1982. Beginning January 1983, he could again receive benefits if he has a timely request in for an appeal and an ALJ has not ruled on the case.

2. Individual's benefits are terminated in August of 1983. He could continue to receive benefits through June of 1984 or until an ALJ rules on the case, if he appeals.

3. Individual's benefits are terminated October 1983. He could not receive any extension of benefits beyond the two months after the month of termination which is provided in present law.

Examples of public pension offset.—

1. Woman becomes eligible for $300 public pension from uncovered employment sometime between December 1982 and July 1983. Her husband receives a social security benefit of $500 (potential spouse benefit of $250). At the time he retired, died or became disabled, her husband provided more than half of her support. She will receive spouse benefit of $250 (or a widow's benefit of $500) in addition to her public pension of $300.

2. Same example, except at the time he retired, died or became disabled, her husband did not provide more than half of her support. She will receive no spouse benefit (the $250 is entirely offset by the $300 public pension). She could receive $200 in a widow's benefit ($500 widow's benefit minus $300 in public pension).

3. Man becomes eligible for $500 public pensions from uncovered employment sometime between December 1982 and July 1983. His wife receives social security benefit of $400. At the time she retired, died or became disabled she provided more than half of his support. He will receive public pension of $500 and spouse benefit of $200 (or a widower's benefit of $400).

4. Same example, except at the time she retired, died or became disabled his wife did not provide more than half of his support. He will receive no spouse benefit (the $200 spouse benefit is entirely offset by the $500 public pension). Also he would receive no widower's benefit (the $400 widower's benefit is offset by the $500 public pension).

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

Mr. Speaker, I think what he is discussing is one of the most important things the Congress could do. All the Members need to be aware of what our conferees have agreed to in connection with disability benefits.

It will be of some help to slow down this headlong dash by which the administration has seemed intent upon just arbitrarily determining that disabled people are no longer disabled, without any hearing, without any personal face-to-face confrontation, without any opportunity for those people to have an interview. I am told that some 200,000 of our disabled Americans have been arbitrarily made ineligible even though earlier and officially adjudged as disabled.

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. No. I am asking the gentleman from Texas (Mr. PICKLE) to yield for a question and I am propounding the question.

Now, is it true that what you are doing is making it more difficult for some overzealous administrator to go in without a hearing and arbitrarily advise some disabled person by mail that for some reason or some whim, that person is no longer considered disabled?

Mr. PICKLE. No, I cannot say that I would agree with the gentleman entirely. I would agree with him in his appraisal of our intent.

What the gentleman should realize is that we need a uniformity of standards at both the local and State levels, and at the administrative law judge level, so that we are judging the cases by the same rule book.

Now, the administration is attempting to establish those standards. That way you can eliminate many of the very harsh decisions that have been made because one group at the State level has been operating from the State operating procedures while the administrative law judges are operating on the basis of a different set of standards. We are trying to say, and the Social Security Administration has agreed, that we ought to have uniformity at all levels.

First, they are tying to establish that if we can agree to that and put it in force by regulation or rules, we will have cured many of our problems because we cannot explain some of the very harsh decisions that have been made.

But second, let me say to the gentleman, the Social Security Administration has had a very difficult problem. This Congress mandated a review once every 3 years of all the disability cases.

Mr. WRIGHT. What was the legislation in which it was mandated, if I may ask the gentleman to yield further?

Mr. PICKLE. This was passed in 1980, as part of the social security disability amendments. At that time the Congress mandated a review once every 3 years of everyone on the disability rolls.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, did it mandate that arbitrary decisions would be made among those who would be disabled and they would be rendered ineligible without hearings?

Mr. PICKLE. No. I agree with the gentleman totally that the facts ought to apply. I cannot explain some of these unimaginable decisions that were made by Social Security.

Mr. WRIGHT. Is it not true that a very substantial majority of those arbitrarily ruled out of their eligibility, once they were able to get into a court or an official administrative hearing, have reestablished their eligibility?

Mr. PICKLE. Yes. It is true, we must keep in mind that a person may be handicapped but he still can work, and that is what the average individual wants to do. All we want to do, and all the Congress wants to do, is say that those people who receive disability benefits are entitled to them. We do not want to take benefits away from anyone who is entitled to them, but we have to make certain they are entitled to them.

Mr. WRIGHT. I agree. I think what the gentleman's legislation achieves is worthy and useful. I am trying to help the gentleman make his case. I am not trying to give the gentleman any difficulties.

□ 1910

Let me ask the gentleman this question: In the future, in the case of an individual who has been officially adjudged to be permanently and totally disabled, if some person in the bureaucracy who has never seen this individual should decide that he does not believe that individual is any longer disabled, will that individual continue to draw disability benefits until the hearing has been held to which the individual is entitled?

Mr. PICKLE. Let me respond to the gentleman by saying what the procedure should be. Congress mandated a review of these cases and said that those people who are eligible and possibly could work should be reviewed. There was no intent to review those who are permanently disabled. Some people were called in who were permanently disabled. They should not have been called in in the first place, and I think that has been corrected. So, I do not think that is a problem any more.

Mr. WRIGHT. I thank the gentleman.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, contained in the Virgin Island tax bill is a provision which can ultimately affect 5,000 female public pensioners, who are eligible for social security spouse bene-

fits. We all realize that conferees of the Ways and Means Committee and the Senate Finance Committee have spent many hours discussing the implications of the Government pension offset law currently in effect.

As all of you know, if the law is not amended, 5,000 women will lose their eligibility for social security spouse benefits this year, alone. By 1987, as many as 25,000 women will experience reductions in their benefit payments. The loss adds up to approximately $2,000 in retirement revenue per individual, as a result of a dollar-for-dollar reduction of social security by the amount of the local, State, or Federal pension. What Chairman ROSTENKOWSKI and Social Security Subcommittee Chairman PICKLE have presented today will change that for a select group of needy women.

By extending an exemption from a total offset for 7 months to both male and female public pensioners who pass dependency tests, we are enabling almost 20 percent of the eligibility class, those who would have lost social security benefits, to receive the monetary payments they are due.

The 20-percent figure is low. For those of us who have been following this issue closely this is a disappointment because nearly 4,000 women will not pass dependency requirements, but need the income provided through social security payments. If the Senate had receded to the House, accepting the original Pickle language, more women would be able to receive the benefits that they have anticipated receiving.

Yet, the measure is indicative of continued interest in this subject. As chair of the Select Committee on Aging's task force on social security and women, I realize that we need to work hard next Congress to reach a solid, fair compromise that will give these deserving women just benefits.

I commend Chairman PICKLE for his diligence and commitment to the cause of improving the financial conditions of thousands of poor, elderly women in this country. I am hopeful that we will resolve this issue in the next Congress and urge that my colleagues, here today, support the conference report before us.

Thank you, Mr. Speaker.

Mr. SHANNON. Mr. Speaker, will the gentlman yield?

Mr. PICKLE. I yield to the gentleman from Massachusetts.

Mr. SHANNON. Mr. Speaker, I thank the gentleman for yielding. Let me say at the outset that I agree with what has been said by all three of our colleagues from Texas who have spoken on this issue tonight. This is a problem that was recognized on both sides of the aisle, that needed to be dealt with, and I am glad that we were able to come together in a bipartisan way and deal with it through stop-gap legislation at this late hour.

Nobody believes that the problems of the disabled are solved by this legislation. We all know that we are going to have to revisit this process perhaps sometime next year, maybe in the context of a bigger social security bill. We all know that there are still problems in the appeals process that need to be addressed, but at least we have said to the disabled people of America that we are going to try to straighten out what part of the process that we can; we are going to try to extend benefits a little longer through the appeals process. We institute the face-to-face evidentiary hearing, which I think is a very good thing to do.

We deal with the offset provisions a little more, but most importantly, I think we have dealt with this issue together, acknowledged the problems together. Democrats and Republicans alike have come together and said that we are going to work on this problem. I think that is a very healthy thing to do.

I do want to say that I think that all of the people have an interest in this legislation, and all of the disabled people of America owe a great debt to Mr. PICKLE, chairman of the subcommittee, for his efforts on their behalf. I certainly look forward to working with him in the next Congress to make sure that we straighten out continuing problems.

Mr. PICKLE. The gentleman is very kind.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding. I will not take as long as I normally do. I want to compliment the chairman of the Subcommittee on Social Security for facing this problem we had in the disability portion of the act that needed improvement. The chairman of our committee has done an excellent job in trying to bring to the House and improvement in the law, and I know that all Members of the House cannot fully appreciate the time and effort that was spent not only by the chairman of the subcommittee, but by other members of the subcommittee, to make sure that this change in the law is put in place, and that it allows the Social Security Commission to try to deal with this problem of the disabled individual who needs more attention, and face to face.

So, I wish to compliment my colleague for bringing this to the floor and making sure that we do improve it, and not let it lapse.

Mr. PICKLE. If the gentleman will let me add to that statement, the gentleman from California, Mr. ROUSSELOT, has been one of the most diligent and helpful members of our Social Security Subcommittee that we have had this year. I regret seeing him leave this body. He has made a real contribution to our subcommittee, and I commend him for his work and dedication.

Mr. ROUSSELOT. I thank the gentleman.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Speaker, I want to say, first of all, that I am delighted that this bill concerning social security disability has passed the House and the Senate, and that the conference report is now before us for final approval. If we accomplish nothing more in this lameduck session, with the final passage of this legislation we will have done the Nation a laudable service.

The legislation concerning disability involved in this conference report is almost identical to a bill which I introduced in January of this year. I was compelled to do so when I became aware, through the treatment being accorded many of my constituents, of the cruelest, most inhumane acts I have ever encountered on the part of our Government.

We will remember, Mr. Speaker, that in the Social Security Amendments of 1980, the Congress recommended that all social security disability cases be reviewed at least once every 3 years to determine whether the recipient remains disabled, under the law, and is entitled, therefore, to a continuation of the benefits. The purpose of this legislation was to weed out of the rolls all those recipients who, for whatever reason, were no longer entitled to receive them. It was clear that such abuses existed, and the Congress in a most responsible way sought to eliminate abuse and fraud from the system.

The Congress did not intend, however, that suffering and hardship be inflicted upon a single individual who was entitled to the benefits he or she was receiving. Rather, it intended an orderly, deliberate, humane process of review.

Enter the Reagan administration, which came into office in January 1981. It speeded up the review process; reduced the personnel needed for the review process, and began arbitrarily cutting people from the disability rolls.

Mr. Speaker, the results in my district were shameful. We were contacted by people desperately ill with cancer, with heart problems, people who had lost limbs, who had major back operations and other crippling conditions. Each of them said they had been cut off the disability rolls, were desperate, and had nowhere to turn. They feared losing their homes, if they still owned them. They feared they would not be able to feed their families, or educate their children. They were, on the whole and in num-

bers, the most desperate people I have encountered in all my years of office.

Most of these people, Mr. Speaker, had been terminated from disability benefits after only the most cursory of examinations. It reminded me of the jokes about draft examinations during World War II—if you had a pulse, they took you. In this case, a tap or two on the knee and the recipient might be told he or she would no longer receive disability benefits. In some cases, they were notified that the removal was retroactive, and they would have to reimburse the Government for benefits already received. The appeals process was open to them, but it was long and arduous. In the meantime, the disabled persons were left to shift for themselves.

So, Mr. Speaker, the bill I introduced in January said essentially that we would give these people the same consideration in reviewing their disability status that was given to putting them on the rolls in the first place. It is not now, and never has been, easy to get on the disability rolls. It requires a very thorough physical examination, a complicated work history, and so forth. We said in our bill that disability benefits would be extended until the review, if unfavorable to the recipient, had gone through an appeals process to make sure the recipient had not been terminated without just cause.

For all intents and purposes, the language of H.R. 7093 concerning disability and the accompanying conference report fulfills that intention. It continues social security disability benefits and medicare until, on appeal, an adverse determination has been made by an administrative law judge. My bill, H.R. 5325, would have extended this provision beyond the October 1983, cutoff date.

The conference report also guarantees face-to-face evidentiary hearings at the reconsideration level; increases the HHW Secretary's authority to reduce the number of CDI reviews, and directs the Secretary to assume public understanding of the reconsideration process. These clarifications of what the Congress intended, in the first place, will do much, Mr. Speaker, to prevent future suffering and anguish. It cannot, however, assauge the hurt that already has been inflicted upon tens of thousands of people, many of whom were later found to indeed be eligible for the benefits which were terminated. My experience has been that about 90 percent of the appeals my office has been involved in have been upheld at the administrative judge level.

Mr. Speaker, there has been a callousness—implicit and explicit—in the way these reviews have been handled. It begins with the fact that many people were deprived, without due cause, of benefits for which they had paid and to which they were entitled. Disability benefits are paid from the social security trust fund established for that purpose, and into which every American worker under social security pays. Most people believe, and have believed over the years since the program was founded, that if they become truly disabled and no longer employable, these benefits would be there to help sustain them. This has been the case, with modest amounts of abuse, until the Reagan administration got hold of the program. It seems quite evident now that they are handling this law in the same way they handle environmental laws, toxic waste laws, and other laws pertaining to the public health and safety; that is, in defiance of the intent of Congress. In the case of social security disability, the gun has been leveled at the people least able to defend themselves against the encroachment of policies which cater to the wealthiest and most powerful in our society.

I would also mention, in closing Mr. Speaker, that this bill will not entirely make up for the loss that many of these poor people have sustained. It would not make the restoration of their benefits retroactive to the date of termination, in cases terminated before enactment of the bill, but would restore them at that point.

Finally, Mr. Speaker, I commend this conference report to my colleagues and urge its approval. I also ask unanimous consent that a statement which I gave before the Subcommittee on Social Security, Ways and Means Committee, on March 17, 1982, concerning my bill be included in the RECORD at this point.

STATEMENT OF HON. STEPHEN L. NEAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to submit testimony before this subcommittee on a most tragic situation.

The situation involves the Social Security Administration (SSA) and its administration of the disability insurance program. Let me share some of the incidents which have occurred in my congressional district:

A middle aged man with a very severe back ailment and who for the past ten years has received social security disability payments, was terminated from the program without ever having a current physical examination.

A leg amputee, who is currently receiving treatment for pain in his limb, was informed by the Social Security Administration that his benefits were being terminated and that he was able to work. His body, however, has been unable to accept the artificial limb because of pain.

A young father of four with heart problems was told by a personal physician he would be risking a possible heart attack if he engages in strenuous work. The Social Security Administration informed him that his benefits were being terminated on the grounds that he could work two to four hours a day at a parking garage. Yet, no such employment opportunities exist in the area.

A mental patient found her only source of income abruptly halted in August, 1981. It took the Social Security Administration over five months to make a decision on her appeal. It will be another three to four months before the case comes before an Administrative Law Judge.

A gentleman, upon arriving for a physical examination at a state agency assigned doctor's office, was told by the receptionist that his benefits were being terminated and the examination results would not matter in the decision. She was correct. After receiving a cursory examination, he received a termination notice a few weeks later.

These are not just isolated incidents. My office has received over 100 similar complaints from disability recipients questioning the manner in which their disability review was handled. I am sure many other horrifying stories have been brought to the subcommittee's attention. Reports of mass benefit terminations, administrative blunders and harassment are occurring throughout the country. I also understand the subcommittee has become aware of individuals commiting suicide after learning their disability benefits have been terminated.

Mr. Chairman, the source of this upheaval is not difficult to explain. It can be traced back to March, 1981, when the Reagan Administration more than doubled the cases for the state agencies to review under the Continuing Disability Review process. Under the Social Security Amendments of 1980, the Social Security Administration (SSA) was required to review all disability cases at least once every three years. This was in response to the lack of follow-up of a beneficiary's medical improvement and possible work activity. The Congress, recognizing the need for providing state agencies with enough leadtime to hire and train the additional staff, established January 1982 as the effective date for implementing the three-year review process.

In March of last year, as a result of an Administrative action, the number of cases referred to the state agencies ballooned from about 160,000 in 1980 to over 356,000 in 1981. As you can imagine, Mr. Chairman, the state agencies were not prepared to take on this caseload. The Administrator of my state's Disability Determination Service reported to me that the decision to escalate the CDI procedure has taxed "to the limit our staff and medical community." There is no doubt that the Administration's decision to accelerate the review process has resulted in many deserving people being deprived of benefits.

Of course, Mr. Chairman, a person can appeal a cessation decision, but the process can take up to twelve months to complete. In the meantime, benefits are terminated within a short time after the findings of the state agency are sent to the Social Security Administration. This poses a serious economic hardship for those who have been wrongfully terminated and stand a good chance of being reinstated.

I am sure that there are some people still on the disability rolls who no longer qualify for these benefits. The CDI three-day review is designed to remove these people from the program. But, according to SSA's own data, over 70 percent of those who have lost disability benefits are being reinstated, indicating a serious flaw in the review and termination program, which I hope this subcommittee will correct.

Seeing the need to correct this problem, on January 25, 1982, I introduced H.R. 5325, which could prevent disability benefits from being terminated prior to the exhaustion of the administrative appeals procedure. The only exception would be in cases in which current medical evidence substantiates the termination of benefits and is made available to the beneficiary. The proposal parallels the procedures already afforded SSI Disability recipients. It also provides an in-

centive for insuring that the same care and quality which went into the intitial screening for eligibility in the program is given to an individual whose case is under a CDI review.

Mr. Chairman, you are to be commended for conducting this investigation into the disability program. Thousands of people are being hurt by the CDI procedure and therefore it is important that we act now. I respectfully request that you and the members of the subcommittee give careful and thorough consideration to the provisions outlined in H.R. 5325 and develop a workable solution to this problem.

Of course, H.R. 5325 is not a cure-all. I hope the subcommittee can persuade the SSA to return fairness and compassion to the CDI process. The inclusion of my provisions or similar language would, however, relieve a great deal of anxiety for those who are truly disabled.

Thank you again, Mr. Chairman, for allowing me to address this issue.

Mr. Speaker, I want to thank the chairman also, because in my experience over the last year I have encountered nothing that has seemed to me as cruel as the treatment that has been afforded to the people who come to us. We have talked to people who had incurable cancer, limbs destroyed, multiple back operations, heart attacks, people with young families, told they cannot work and cut off with the most cursory of examinations, and in many cases their only source of income. I have never seen anything crueler done on the part of our Government than this. It is even tougher than for those people who are unemployed and cannot find work. They are in good health, and so there is hope for them.

But, in many of the cases we have seen there is almost no hope. What the gentleman has done is extend the benefits of these people until they run through the full review process. In the case of the nationwide figures, about 70 percent of the people who have appealed and followed the process through to its conclusion, they have won. Is that not correct, about 70 percent?

Mr. PICKLE. A large number of cases have been reversed for various reasons. Also a very large number of people have probably been removed from the rolls because they could go to work. When we consider the number of cases that have been reversed on appeal, we must bear in mind that many of those reversals were based on the fact that different sets of rules were applied at the State agency and ALJ levels. Once we put uniform standards in place, the system should work as it was intended to. Let me also say to the gentleman and to the State people who run our State disability agencies that we have confidence in them. They have had to operate under different sets of standards, and the Social Security Administration will admit that many decisions that cannot be explained have happened within each district. There have been errors and mistakes, but I think SSA and the States have corrected a great many of them and have been more cautious about how the decisions are made. They have recommended the changes that we are making here, so each of us feels that this is the crucial time for beginning to put the right procedure in place.

We must change the disability adjudicative process. Does the gentleman know how many disability cases are stacked up now waiting for the administrative law judge hearing? Over 155,000 cases.

□ 1920

These cases cannot be handled in a timely manner, so we must change our procedures in order to give claimants a timely hearing. Next year that is one of the challenges we will face.

Mr. NEAL. And they are short of staff, as I understand it, and there are 150,000 people under current law, without this change, who are going to be without income from the social security disability program until they complete the review process.

Mr. PICKLE. If those cases are appealed, they will go to the administrative law judge, and this bill says——

Mr. NEAL. No, under this bill you have corrected that, but under the law as it is now interpreted, before your bill, they would be without income.

Mr. PICKLE. Yes. Their benefits are cut off within, say, 30 to 60 days after the decision under the present law, but they can appeal to the reconsideration level, and to the administrative law judge. Our bill provides that their benefits will continue until the ALJ level. So we are giving them relief, and that is the reason for this bill.

Mr. NEAL. Mr. Speaker, I commend the gentleman for that, and I thank him very much.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I want to commend the chairman of the subcommittee for handling this bill as he has done.

As the gentleman knows, we have had a very extensive problem, particularly in my area. The gentleman will recall that when I testified before the subcommittee, I testified about those who were cut off in cases where the doctor would say, "You are disabled," and the social security people would say, "No, you are not." Consequently, they were in a terrible dilemma.

After I testified, on that very same day, after I walked out the door, a gentleman followed me and introduced himself to me as an administrative law judge, and he said, "Congressman, you are right on the mark in what you say. I compliment you in addressing this very serious problem."

I might point out the fact that we have had this problem in which these people who are cut off had nothing on which to live. In my district we had a situation just in recent weeks where someone was found initially to be disabled. The social security people said, "You are able to work," and the doctor said, "No, you cannot walk." Before his appeal was held before the administrative law judge, he died of the very same complaint of which he was initially found to be disabled, although later the social security said he was not.

So, Mr. Speaker, I compliment the gentleman for addressing this problem. I realize this is only a stop gap, but I look forward to working with the gentleman for a complete resolution of this very serious problem.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I want to commend the gentleman from Texas (Mr. PICKLE).

I was an original cosponsor of this bill, and I have worked with the gentleman on it. I just want to say to you that "you have been a gentleman all the way."

Mr. PICKLE. Mr. Speaker, the gentleman from Massachusetts has been most persistent in our efforts to develop this legislation. I thank the gentleman for his cooperation.

Mr. CONTE. Mr. Speaker, I will not be speaking to my colleagues long today; I merely want to rise and associate myself with the remarks of the gentleman from Illinois (Mr. ROSTENKOWSKI) and the gentleman from Texas (Mr. PICKLE), and thank them once again for bringing this bill to the floor of the House today. Last week, before the conference, I spoke in favor of the changes made in the disability program as a result of this legislation. Today, with the prospect of passage imminent, I want to again say that I strongly support this legislation.

As my colleagues know, it contains several important provisions. First, it provides the Secretary of the Department of Health and Human Services wide discretion to slow down the disability reviews process that has caused untold harm to thousands of Americans. Second, it provides benefit payments through a hearing by an administrative law judge for persons terminated before October 1 of next year. It also makes changes in the pension offset for spouses of Government employees, extending for 7 months the effective date of the offset.

Overall, this is good, balanced legislation, and no one should have trouble supporting it. All of us are aware of the problems that have come about because of the reviews process, and this bill goes a long way toward a short-term solution to that problem. Next year, in a new Congress, we will be able to work toward a bipartisan solution for once and for all. I look forward to working with my friends on

the Ways and Means Committee at that time.

Thank you, Mr. Speaker.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Speaker, the able gentleman from Texas (Mr. PICKLE) has been dealing with a very, very serious problem in the country. I am sure that most of the Members of the House have had complaints about the tragedy of how so many disabled people have been treated under the present law.

What I propose to do is to commend the able gentleman from Texas on what he has done. He has restored hope and perhaps life to many of these disabled people, and I just want to commend him for that and hope that he will continue his good efforts until this whole system is very much improved and there will be justice for the disabled people of the country.

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Florida (Mr. PEPPER). That is a very kind thing to say.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I want to commend the gentleman from Texas (Mr. PICKLE) on the tremendous work he has done both in correcting the disability inequities, as he has done in this legislation, and especially on the spouse offset. I know that this was not all the gentleman hoped to accomplish, but it was far more than what he could have expected to achieve at the outset of bringing this legislation to the floor. I am delighted at what the gentleman has done.

Mr. PICKLE. Mr. Speaker, the gentleman from Minnesota (Mr. OBERSTAR) made a definite contribution to this legislation. He made a suggestion that we initially passed in this House. We went to a different alternative because that was all we could get from the other body, but if the gentleman had not made his suggestion in the first instance, we might not have achieved this improvement at all.

So I commend the gentleman for that.

● Mr. CORRADA. Mr. Speaker, I commend the gentleman from Texas (Mr. PICKLE) for his diligence in working with the matter addressed in H.R. 7093. This is certainly a step in the right direction in providing some relief to disabled individuals under the Social Security Act whose disability payments are terminated at times arbitrarily. The changes in procedure provided in this bill, as agreed to by the conferees, are fair and needed and will allow many of the beneficiaries of disability payments to retain their benefits while their cases are appealed. I urge passage of the conference report.●

● Mr. JEFFORDS. Mr. Speaker, I would like to once again thank the gentleman from Texas for working so diligently on the issue of disability.

In the State of Vermont we have had a number of instances where people who wanted to work—but could not—were removed from the disability roles because the Social Security Administration decided that they could work. In many of these cases the result of being dropped from the disability roles was tragic, and contributed to the death of disability recipients in a few instances. I can see no justification for this, and commend my colleague for the apparent strong support we have for this measure.

In all likelihood we will have to address the disability issue again this coming spring. I hope that we respond to the greater challenge then as well as we will on this night.

When this measure came up a few days ago, I said my piece on why it should be supported. I will not discuss it in detail again tonight. I would, however, like to point out that the provisions in this bill look toward solving all of the major problems we have in the continued review of disability cases.

Again, I commend the gentleman from Texas, and all of the other Members who have worked on this measure.●

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 259, not voting 174, as follows:

[Roll No. 487]

YEAS—259

Akaka	Boggs	Conte
Alexander	Bowen	Conyers
Anderson	Breaux	Coughlin
Anthony	Brinkley	Coyne, James
Applegate	Brodhead	Coyne, William
Archer	Brooks	Craig
Ashbrook	Brown (CA)	Crane, Philip
Aspin	Brown (CO)	Crockett
Atkinson	Byron	D'Amours
AuCoin	Campbell	Dannemeyer
Bailey (MO)	Carney	Daub
Bailey (PA)	Cheney	Davis
Barnes	Clausen	Deckard
Bedell	Clay	Dellums
Beilenson	Clinger	Derrick
Bennett	Coats	Derwinski
Bereuter	Coelho	Dicks
Bevill	Coleman	Dingell
Bliley	Conable	Dixon
Donnelly	Kildee	Rostenkowski
Dorgan	Kindness	Roth
Dornan	Kogovsek	Roukema
Dougherty	Kramer	Rousselot
Downey	LaFalce	Roybal
Duncan	Lagomarsino	Sabo
Dyson	Leach	Savage
Eckart	Leath	Schneider
Edgar	Leland	Schroeder
Edwards (OK)	Lent	Schulze
Emerson	Loeffler	Schumer
English	Long (MD)	Seiberling
Erdahl	Lowery (CA)	Sensenbrenner
Erlenborn	Lowry (WA)	Shannon
Evans (IA)	Lujan	Sharp
Fary	Lundine	Shaw
Fenwick	Madigan	Shumway
Fiedler	Markey	Shuster
Fields	Marks	Skeen
Findley	Martin (IL)	Skelton
Florio	Matsui	Smith (AL)
Foglietta	Mavroules	Smith (NE)
Foley	Mazzoli	Smith (NJ)
Ford (MI)	McCloskey	Snowe
Fountain	McCollum	Snyder
Fowler	McDonald	Solarz
Frenzel	McHugh	Solomon
Garcia	McKinney	Spence
Gaydos	Michel	St Germain
Gejdenson	Mikulski	Staton
Gephardt	Miller (CA)	Stenholm
Gibbons	Miller (OH)	Stokes
Gilman	Mineta	Stratton
Gingrich	Mitchell (MD)	Studds
Glickman	Moakley	Stump
Gonzalez	Molinari	Swift
Goodling	Montgomery	Tauke
Gramm	Moore	Tauzin
Green	Moorhead	Thomas
Guarini	Murtha	Trible
Gunderson	Myers	Udall
Hagedorn	Napier	Vander Jagt
Hall (IN)	Natcher	Vento
Hall, Ralph	Neal	Volkmer
Hamilton	Nowak	Walker
Hammerschmidt	O'Brien	Wampler
Hance	Oakar	Waxman
Hansen (ID)	Oberstar	Weber (MN)
Heckler	Obey	Weiss
Hefner	Parris	White
Hendon	Pashayan	Whitley
Hiler	Patman	Whittaker
Hollenbeck	Pease	Whitten
Holt	Pepper	Williams (MT)
Horton	Petri	Wilson
Howard	Pickle	Wirth
Hoyer	Porter	Wolf
Hubbard	Rangel	Wolpe
Huckaby	Ratchford	Wortley
Hughes	Regula	Wright
Hutto	Reuss	Wyden
Jacobs	Rinaldo	Wylie
Jeffords	Ritter	Yates
Jones (OK)	Roberts (KS)	Young (FL)
Kastenmeier	Robinson	Young (MO)
Kazen	Rodino	Zablocki
Kemp	Roe	
Kennelly	Roemer	

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Addabbo	Chisholm	Fithian
Albosta	Collins (IL)	Flippo
Andrews	Collins (TX)	Ford (TN)
Annunzio	Corcoran	Forsythe
Badham	Courter	Frank
Bafalis	Crane, Daniel	Frost
Barnard	Daniel, Dan	Fuqua
Beard	Daniel, R. W.	Ginn
Benedict	Daschle	Goldwater
Bethune	de la Garza	Gore
Biaggi	DeNardis	Gradison
Bingham	Dickinson	Gray
Blanchard	Dowdy	Gregg
Boland	Dreier	Grisham
Bolling	Dunn	Hall (OH)
Boner	Dwyer	Hall, Sam
Bonior	Dymally	Hansen (UT)
Bonker	Early	Harkin
Bouquard	Edwards (AL)	Hartnett
Broomfield	Edwards (CA)	Hatcher
Brown (OH)	Emery	Hawkins
Broyhill	Ertel	Heftel
Burgener	Evans (DE)	Hertel
Burton, John	Evans (GA)	Hightower
Burton, Phillip	Evans (IN)	Hillis
Butler	Fascell	Holland
Carman	Fazio	Hopkins
Chappell	Ferraro	Hunter
Chappie	Fish	Hyde

Ireland	Mica	Rudd
Jeffries	Minish	Russo
Jenkins	Mitchell (NY)	Santini
Johnston	Moffett	Sawyer
Jones (NC)	Mollohan	Scheuer
Jones (TN)	Morrison	Shamansky
Lantos	Mottl	Shelby
Latta	Murphy	Siljander
LeBoutillier	Nelligan	Simon
Lee	Nelson	Smith (IA)
Lehman	Nichols	Smith (OR)
Levitas	Ottinger	Smith (PA)
Lewis	Oxley	Stangeland
Livingston	Panetta	Stanton
Long (LA)	Patterson	Stark
Lott	Paul	Synar
Luken	Perkins	Taylor
Lungren	Peyser	Traxler
Marlenee	Price	Walgren
Marriott	Pritchard	Washington
Martin (NC)	Pursell	Watkins
Martin (NY)	Quillen	Weaver
Martinez	Rahall	Weber (OH)
Mattox	Railsback	Whitehurst
McClory	Rhodes	Williams (OH)
McCurdy	Roberts (SD)	Winn
McDade	Rogers	Yatron
McEwen	Rose	Young (AK)
McGrath	Rosenthal	Zeferetti

□ 1940

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the amendments of the Senate with amendments to a bill of the House of the following title:

H.R. 3420. An act to authorize appropriations for fiscal year 1982 for carrying out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

PIPELINE SAFETY AUTHORIZATION ACT OF 1981

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3420), to authorize appropriations for fiscal year 1982 for carrying out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes, with Senate amendments to the House amendment to the Senate amendments and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the Senate engrossed amendment to the text of H.R. 3420, insert the following:

That titles II through VII of this Act may be cited as the "Rail Safety and Service Improvement Act of 1982".

TITLE I—NATURAL GAS PIPELINE SAFETY

SEC. 101. Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1673(b)) and section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) are each amended by striking "once every 6 months." and substituting "twice each calendar year.".

SEC. 102. Section 8(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1675(a)) is amended by striking "sixtieth day" and substituting "90th day".

SEC. 103. Section 206(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2005(a)) is amended by striking "60th day" and substituting "90th day".

SEC. 104. Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674(a)) is amended by striking "(other than subsection (a)(3) thereof)" and substituting "(other than subsection (a)(2) thereof)".

TITLE II—BANKRUPT RAILROADS

SHORT TITLE

SEC. 201. This title may be referred to as the "Bankrupt Railroad Service Preservation and Employee Protection Act of 1982".

Subtitle A—Service Preservation

PURPOSE

SEC. 211. It is the purpose of this subtitle to continue the effort by Congress to assure service over the lines of rail carriers subject to liquidation in instances where rail carriers are willing to provide service over such lines and financially responsible persons are willing to purchase the lines for continued rail operations.

FINDINGS

SEC. 212. The Congress finds that—

(1) it is necessary to establish procedures to facilitate and expedite the acquisition of rail lines of carriers subject to liquidation by financially responsible persons in instances where service is not being provided over the line by the carrier and where the financially responsible person seeks to provide rail service over the line;

(2) procedures set forth in the amendments made by this title represent an exercise of the powers of the Congress under the Constitution of regulate commerce among the several States which will provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which such carriers subject to liquidation have operated service, and for facilitating interstate commerce, while at the same time providing safeguards to protect the interest of the estates of such carriers by requiring compensation which is not less than the constitutionally required minimum; and

(3) it is in the public interest that the Interstate Commerce Commission's authority to issue orders involving temporary authority to operate service over lines of carriers subject to liquidation be clarified.

AMENDMENTS TO THE MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 213. Section 17(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) If a person has made or makes an offer to acquire from a carrier subject to liquidation a rail line or lines over which no service is provided by that carrier, and that offer has been or is rejected by the trustee in bankruptcy of such carrier, such person may submit an application to the Commission seeking approval of such person's acquisition of such line or lines. A copy of any such application shall be filed simultaneously with the court.

"(B) The Commission shall, within 15 days after the filing of an application under subparagraph (A) of this paragraph, determine whether the applicant—

"(i) is a financially responsible person; and

"(ii) has made a bona fide offer to acquire the line or lines under reasonable terms.

"(C)(i) If the Commission's determination under subparagraph (B) of this paragraph is affirmative with respect to the matters referred to in clauses (i) and (ii) of such subparagraph, the applicant and the trustee in bankruptcy (hereafter in this paragraph referred to collectively as the 'parties') shall enter into negotiations with respect to terms for the acquisition of the line or lines applied for. If the parties at any time agree on such terms, a request for approval of the acquisition shall be filed with the Commission and the court. If the parties are unable to agree to such terms within 30 days after the date of the Commission's determination under subparagraph (B) of this paragraph, either party may, within 60 days after the expiration of such 30-day period, request the Commission to prescribe terms for such acquisition, including compensation for the line or lines to be acquired. The Commission shall prescribe such terms within 60 days after any such request is made. The terms prescribed by the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (D) of this paragraph, except that the applicant may withdraw its offer within 10 days after the Commission prescribes such terms.

"(ii) If more than one applicant has requested under this subparagraph that the Commission prescribe the terms of acquisition for the same or overlapping lines or portions of such lines, the Commission shall prescribe terms for such acquisition which it determines best serve the public interest.

"(D)(i) Within 15 days after the Commission prescribes terms under subparagraph (C) of this paragraph, the Commission shall transmit such terms to the court, unless the offer is withdrawn under such subparagraph. Notwithstanding any other provision of law, the court shall, within 60 days after such transmittal, approve the acquisition under terms prescribed by the Commission if the compensation for the line or lines is not less than that required as a constitutional minimum.

"(ii) Except as provided in this subparagraph, no action shall be taken by the court which would prejudice the acquisition which is the subject of an application under this paragraph.

"(E) The Commission shall require that any person acquiring a line or lines under this paragraph use, to the maximum extent practicable, employees or former employees of the carrier subject to liquidation in the operation of service on such line or lines.

"(F) No person acquiring a line under this paragraph may transfer or discontinue service on such line prior to the expiration of 4 years after such acquisition.

"(G) The Commission shall, within 45 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, prescribe such regulations and procedures as are necessary to carry out the provisions of this paragraph.

"(H) As used in this paragraph, the term—

"(i) 'carrier subject to liquidation' means a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code, and which has been ordered by the court to liquidate its properties;

"(ii) 'the court' means the court having bankruptcy jurisdiction over the carrier subject to liquidation; and

"(iii) 'financially responsible person' means a person capable of compensating the carrier subject to liquidation for the acquisition of the line or lines proposed to be acquired and able to cover expenses associated with providing service over such line or lines for a period of not less than 4 years.".

INTERSTATE COMMERCE COMMISSION AUTHORITY

SEC. 214. (a) Section 122(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(a)) is amended—

(1) by striking "the Rock Island Railroad or the Milwaukee Railroad" and inserting in lieu thereof the following: "a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code";

(2) by striking the last sentence of such section; and

(3) by adding at the end thereof the following: "The Commission shall have authority to authorize continued rail service under this section over the lines of any such carrier which has been ordered by the court having jurisdiction over such a carrier to liquidate its properties until the disposition of the properties of the estate of such carrier.".

(b) Section 122(c) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(c)) is repealed.

Subtitle B—Employee Protection

EMPLOYEE PROTECTION AGREEMENT

SEC. 231. Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows:

"EMPLOYEE PROTECTION AGREEMENT

"SEC. 106. (a) The Secretary and the representatives of the various classes and crafts of employees of the Rock Island Railroad shall, not later than 90 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, enter into an agreement providing protection for employees of the Rock Island Railroad who are adversely affected as a result of a reduction in service by such Railroad. Such agreement may provide for the use of funds described in subsection (c) of this section for the following purposes:

"(1) Subsistence allowances to employees.

"(2) Moving expenses for employees who must make a change in residence.

"(3) Retraining expenses for employees who are seeking employment in new areas.

"(4) Separation allowances for employees.

"(5) Health and welfare insurance premiums.

"(6) Such other purposes as may be agreed upon by the parties.

"(b) If the parties are unable to reach agreement within the time period specified in subsection (a) of this section, the Secretary shall, within 30 days after the expiration of such time period, prescribe a schedule of benefits for employee protection not inconsistent with the provisions of this Act.

"(c) Any agreement entered into under subsection (a) of this section, and any benefit schedule prescribed under subsection (b) of this section, shall not require the expenditure of funds in excess of amounts authorized to be appropriated under section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973, nor shall any individual employee receive benefits in excess of $20,000 under such agreement or benefit schedule. No benefits or assistance may be provided under any agreement entered into or benefit schedule prescribed under this section after April 1, 1984.

"(d) The Board shall, in such manner as it shall prescribe by regulation, administer the distribution of funds under any agreement entered into or benefit schedule prescribed under this section, and shall determine the amount for which each employee is eligible under such agreement or benefit schedule. Such regulation shall include procedures to resolve by final and binding arbitration any dispute over an employee's eligibility or claim.".

ELECTION

SEC. 232. Section 108 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007) is amended—

(1) in subsections (a) and (d), by striking "or arrangement entered into" and inserting in lieu thereof "entered into or benefit schedule prescribed"; and

(2) in subsection (b), by striking "April 1, 1981" and inserting in lieu thereof "120 days after the effective date of any agreement entered into under section 106(a) of this title or of any benefit schedule prescribed under section 106(b) of this title, as the case may be".

NEW CAREER TRAINING ASSISTANCE

SEC. 233. Section 119(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1014(a)) is amended by striking "from the Rock Island Railroad under an employee protection agreement or arrangement entered into under section 106 of this title may" and inserting in lieu thereof "under an employee protection agreement entered into or a benefit schedule prescribed under section 106 of this title may, if so provided under such agreement or benefit schedule,".

REPEALS

SEC. 234. (a) Section 110 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008) is repealed.

(b) The second sentence of section 14(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(b)) is repealed.

DISPUTE RESOLUTION

SEC. 235. (a) Section 704(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(c)) is amended by striking "3-year" and inserting in lieu thereof "4-year".

(b) Section 704(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(g)) is amended by striking "this section or section 703 of this Act" wherever it appears and inserting in lieu thereof "this section, section 703 of this Act, section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907), or section 105 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004)".

RAILROAD HIRING

SEC. 236. (a) Section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907) is amended by striking "April 1, 1981," and inserting in lieu thereof "April 1, 1984,".

(b) Section 105(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004(a)) is amended by striking "January 1, 1981," and inserting in lieu thereof "January 1, 1984,".

TITLE III—NORTHEAST CORRIDOR

AMENDMENTS

SEC. 301. Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended as follows:

(1) Section 703(1)(A)(ii) is amended by striking "and Albany, New York" and inserting in lieu thereof "Albany, New York, and Atlantic City, New Jersey".

(2) Section 704(a)(1) is amended to read as follows:

"(1) $2,313,000,000 to remain available until expended (A) in order to effectuate the goals of section 703(1)(A)(i) of this title, of which not less than $27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast Corridor pursuant to this title; (B) of which, if the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from the State of New Jersey that such State has approved a plan, developed in consultation with the National Railroad Passenger Corporation, for the operation of rail passenger service between the main line of the Northeast Corridor and Atlantic City, New Jersey, and if such Corporation determines that such plan is feasible, $30,000,000 shall be made available by the Secretary to the National Railroad Passenger Corporation for rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between such points, consistent with the plan for operation approved by the State, in order to ensure that such track will be of sufficient quality to permit safe rail passenger service at a minimum of 79 miles per hour not later than September 30, 1985, and to promote rail passenger use of such track; and (C) of which such sums as may be required shall be available for the following projects with respect to the main line of the Northeast Corridor: development of the Union Station in Washington, District of Columbia; installation of 189 track miles of concrete ties with continuously welded rail between Washington, District of Columbia, and New York, New York; renewal of 133 track miles of existing continuously welded rail on concrete tie track between Washington, District of Columbia, and New York, New York; installation of reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 tracks; restoration of ditch drainage in concrete tie locations between Washington, District of Columbia, and New York, New York; undercutting of 83 track miles between Washington, District of Columbia, and New York, New York; rehabilitation of bridges between Washington, District of Columbia, and New York, New York (including Hi line); development of a maintenance-of-way equipment repair facility between Washington, District of Columbia, and New York, New York; roadbed stabilization at various locations between Washington, District of Columbia, and New York, New York; automation of Bush River Drawbridge at milepost 72.14; improvements to the New York Service Facility to develop rolling stock repair capability; construction of maintenance-of-way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut; installation of rail car washer facility at Philadelphia, Pennsylvania; restoration of storage tracks and buildings at the Washington Service Facility; installation of centralized traffic control from Landlith, Delaware, to Philadelphia, Pennsylvania; track improvements including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution; rehabilitation of interlockings between Washington, District of Columbia, and New York, New York; painting of Connecticut River, Groton, and Pelham Bay bridges; additional catenary renewal and

power supply upgrading between Washington, District of Columbia, and New York, New York; rehabilitation of structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania; and installation of evacuation and fire protection facilities in tunnels at New York, New York;".

(3) Section 704(a) is amended by adding at the end thereof the following new sentences: "Funds are authorized to be appropriated under this section in excess of limitations imposed under the preceding sentence with respect to a fiscal year, or for fiscal years after the fiscal year ending September 30, 1983, to the extent that the amount appropriated under the authority of this section for any previous fiscal year is less than the limitation under such sentence with respect to such previous fiscal year. The Secretary shall expend or reserve for expenditure funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, first (A) if the National Railroad Passenger Corporation receives the notification referred to in paragraph (1)(B) of this subsection, for the purposes under such paragraph; and (B) in the amount of $62,000,000 for track improvements with respect to the Southwest corridor project in Boston, Massachusetts, less any amounts obligated for such purpose from yearly appropriations for any fiscal year ending before October 1, 1982. The amount so expended or reserved for expenditure for the purposes of paragraph (1)(B) of this subsection for the fiscal year ending September 30, 1983 shall be $10,000,000.".

(4) Section 704(b) is amended—

(A) by striking "LIMITATION.—" and inserting in lieu thereof "LIMITATIONS.—(1)"; and

(B) by adding at the end thereof the following:

"(2)(A) The projects for which funds are authorized to be appropriated under subsection (a)(1)(C) of this section shall be a part of the Northeast Corridor improvement project, and the goals of this title shall not be considered to be fulfilled until such projects are completed. Such projects shall not be undertaken or viewed as a substitute for any improvements specified in the document entitled Corridor Master Plan II, NECIP Restructured Program, dated January 1982, prepared for the United States Department of Transportation, Federal Railroad Administration, Northeast Corridor Improvement Project, in cooperation with the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), by DeLeuw, Cather/Parsons, NECIP architect/engineer.

"(B) For purposes of implementing the improvements and rehabilitation described in subsection (a)(1)(3) of this section, the Secretary may defer projects identified in the document referred to in subparagraph (A) of this paragraph. The aggregate cost of such projects as the Secretary may so defer shall not be substantially greater than the amount the Secretary is required to expend or reserve for expenditure for purposes of subsection (a)(1)(3) of this section.".

(5) Section 705 is amended—

(A) in subsection (a), by striking "the" after "reallocation to" and inserting in lieu thereof "such"; and

(B) in subsection (b), by inserting "National Railroad Passenger" immediately before "Corporation".

NEW SERVICE

SEC. 302. (a) If the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from the State of New York that such State has approved a plan, developed in consultation with such Corporation, for the acquisition and rehabilitation of a line and construction necessary to facilitate improved rail passenger service between Spuyten Duyvil, New York, and the main line of the Northeast Corridor, and has approved a plan, developed in consultation with such Corporation and appropriate local governmental officials, for the rehabilitation of the Amtrak station at Syracuse, New York, such Corporation shall, by September 30, 1985, expend funds, not in excess of $30,000,000, authorized to be appropriated under section 601 of the Rail Passenger Service Act (45 U.S.C. 601) for such purposes.

(b) Notwithstanding the provisions of section 403 of the Rail Passenger Service Act (45 U.S.C. 563), the National Railroad Passenger Corporation may operate the service described in secion 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976.

(c) Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(e) Funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985 shall, if the Corporation receives the notification referred to in section 302(a) of the Rail Safety and Service Improvement Act of 1982, be first expended or reserved for expenditure by the Corporation for the purposes under such section 302(a). The amount expended or reserved for expenditure for such purposes for the fiscal year ending September 30, 1983 shall be $10,000,000.".

TITLE IV—RAILROAD FINANCING

EXTENSION

SEC. 401. Sections 505(e), 507(a), 507(d), and 509(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829(a)) are amended by striking "September 30, 1982" wherever it appears and inserting in lieu thereof "September 30, 1985".

TRANSACTION ASSISTANCE

SEC. 402. Notwithstanding any other provision of law, any financially responsible person (including any government authority), except for a class I rail carrier, shall upon application be eligible for financial assistance made available in section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) for the purchase, lease, or rehabilitation of rail lines of the Consolidated Rail Corporation which are to be used for common carrier rail service and with respect to which an application for a certificate of abandonment has been filed with the Interstate Commerce Commission under section 308(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748(a)), or a notice of insufficient revenues has been filed with the Commission under section 308(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748(c)).

AUTHORIZATION FOR RAIL FUND

SEC. 403. (a) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)) is amended—

(1) in paragraph (2), by striking "Not less than" and inserting in lieu thereof "Not more than";

(2) by striking paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3);

(4) in paragraph (3), as redesignated by paragraph (3) of this section—

(A) by striking ", (2) and (3)" and inserting in lieu thereof "and (2)"; and

(B) by inserting ", and not more than $55,000,000 are authorized to be appropriated for fiscal years 1983, 1984 and 1985" immediately before the period; and

(5) by adding at the end thereof the following new paragraphs:

"(4) $40,000,000 of the funds received by the Secretary of the Treasury from amounts appropriated under subsection (a) of this section shall be reserved and made available for meritorious applications regarding that restructuring of rail freight facilities and systems specified in section 505(b)(2)(ii) of this title.

"(5) $15,000,000 of the funds appropriated under subsection (a) of this section shall be available for the purchase, or for the refinancing of the purchase, of the rail line of the Chicago, Rock Island and Pacific Railroad Company between Fort Worth and Dallas, Texas, or of interests in such rail line, by a State or one or more political subdivisions thereof. To the extent that funds are made available for such purposes through appropriations for any Administration of the Department of Transportation, other than the Federal Railroad Administration, the amount of funds authorized under this section shall be reduced accordingly.".

(b) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting "(i) immediately after "priorities"; and

(2) by inserting "(ii) immediately after "in the private sector and".

TITLE V—MISCELLANEOUS PROVISIONS

LOCAL RAIL SERVICE

SEC. 501. Section 5(h)(2)(A) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)(A)) is amended to read as follows:

"(A) two-thirds of the available funds, multiplied by a fraction the numerator of which is the sum of (i) total rail mileage in the State, other than rail mileage of the Consolidated Rail Corporation, which, in accordance with section 10904(e) of title 49, United States Code, either is 'potentially subject to abandonment' or with respect to which a carrier plans to file, or has filed, an application for a certificate under subsection (a) of such section, and (ii) the total rail mileage of the Consolidated Rail Corporation in the State which such Corporation has certified to be in a situation comparable to 'potentially subject to abandonment' within the meaning of such term under such section 10904 or with respect to which the Consolidated Rail Corporation plans to file, or has filed, an application for a certificate under section 308 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748) or under section 10904(a) of title 49, United States Code, and the denominator of which is the total of the rail mileage described in clauses (i) and (ii) in all the States; and".

CONTRACT RATES

SEC. 502. Section 10713(k)(1) of title 49, United States Code, is amended by striking "and paper)" and inserting in lieu thereof ", but not including wood pulp, wood chips, pulpwood or paper)'.

BURNHAM CANAL

SEC. 503. The portion of the Burnham Canal, in Milwaukee, Wisconsin, which is underneath and west of a point one hundred feet east of South Eleventh Street is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States. The right to alter, amend, or repeal this section is hereby expressly reserved.

COMMUTER TRANSITION FUNDING

SEC. 504. (a) Section 1139(b) of the Northeast Rail Service Act of 1981 is amended—

(1) by inserting "(1)"immediately after "(b)";

(2) by striking "in the fiscal year ending September 30, 1982,";

(3) by striking "contracting with Amtrak Commuter"; and

(4) by adding at the end thereof the following new paragraph:

"(2) Any funds appropriated under the authority of this subsection shall be distributed by the Secretary to Amtrak Commuter and commuter authorities according to the statutory provisions of paragraph (1) of this subsection within 60 days after receipt of an application by Amtrak Commuter or such commuter authorities or within 60 days after the date of enactment of the Rail Safety and Service Improvement Act of 1982, whichever is later.".

(b) Section 216(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(g)) is amended—

(1) by inserting "(1)" immediately after "APPROPRIATION.—"; and

(2) by adding at the end thereof the following new paragraph:

"(2) To the extent provided in appropriation Acts, any funds appropriated under the authority of paragraph (1) of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 may be reappropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981.".

(c)(1) Section 217(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(a)) is amended by striking "$262,000,000" and inserting in lieu thereof "$137,000,000".

(2) Section 217(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated not to exceed $262,000,000—

"(A) of which not to exceed $137,000,000 shall be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section, such sums to remain available until the Secretary transfers the Corporation under title IV of this Act;

"(B) of which not to exceed $75,000,000 shall be appropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981;

"(C) of which not to exceed $35,000,000 shall be appropriated to the Secretary to be allocated for employee protection under section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005); and

"(D) of which not to exceed $15,000,000 shall be appropriated to the Secretary to facilitate the transfer of rail commuter services from railroads that entered reorganization after calendar year 1974 to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.

"(2) All sums received on account of the holding or disposition of any securities or accounts receivable referred to in paragraph (1)(A) of this subsection shall be deposited in the general fund of the Treasury.

"(3) The amount authorized to be appropriated under paragraph (1)(B) of this subsection shall be reduced, in an amount equal to any amounts reappropriated under the authority of section 216(g)(2) of this Act, upon the date of enactment of any Act which reappropriates such amounts.".

INTERCITY PASSENGER SERVICE EMPLOYEE PROTECTION

SEC. 505. (a) Section 1165 of the Northeast Rail Service Act of 1981 is amended—

(1) by inserting "(a)" immediately after "Sec. 1165."; and

(2) by adding at the end thereof the following new subsection:

"(b) Conrail employees who are deprived of employment by an assumption or discontinuance of intercity passenger service by Amtrak shall be eligible for employee protection benefits under section 701 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797), notwithstanding any other provision of law, agreement, or arrangement, and notwithstanding the inability of such employees otherwise to meet the eligibility requirements of such section. Such protection shall be the exclusive protection applicable to Conrail employees deprived of employment or adversely affected by any such assumption or discontinuance.".

RAILROAD DEVELOPMENT CRITERIA

SEC. 506. (a) Section 10910(b)(1)(A)(ii) of title 49, United States Code, is amended by striking "has been placed" and inserting in lieu thereof "is", and by inserting "before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section" immediately after "10903 and 10904 of this title".

(b) The amendment made by subsection (a) of this section shall be effective with respect to any application or preliminary filing with respect to which the Commission has made no final decision before May 1, 1982, except that such amendment shall not affect any line which has been removed from the carrier's system diagram map before the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 507. There is authorized to be appropriated to the Secretary of Transportation $15,600,000 for the fiscal year ending September 30, 1983, for the Office of the Administrator of the Federal Railroad Administration, of which not to exceed $9,200,000 shall be used for executive direction and administration and not to exceed $6,400,000 shall be used for policy support.

NORTHEAST CORRIDOR COORDINATION

SEC. 508. Section 505 of the Rail Passenger Service Act (45 U.S.C. 585) is amended—

(1) by striking "Board of Directors of Amtrak Commuter" both places it appears and inserting in lieu thereof "Northeast Corridor Coordination Board"; and

(2) by adding at the end thereof the following new subsection:

"(c) The Northeast Corridor Coordination Board shall consist of (1) one member from each commuter authority, within the meaning of such term under section 1135(a)(3) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)(3)), which operates or contracts for the operation of rail commuter service over the main line of the Northeast Corridor; (2) two members to be named by Amtrak; and (3) one member to be named by the Consolidated Rail Corporation.".

APPLICABILITY OF LAWS

SEC. 509. Title V of the Rail Passenger Service Act (45 U.S.C. 581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 511. APPLICABILITY OF LAWS.

"Any commuter authority operating commuter service under this title shall be subject to applicable laws with respect to such service, including, but not limited to, the Railway Labor Act (45 U.S.C. 151 et seq.), the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).".

COMMISSION PROCEEDINGS

SEC. 510. Section 1164(c) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1112(c)) is amended—

(1) in paragraph (1)—

(A) by striking "bankruptcy, substantial sale," and inserting in lieu thereof "bankruptcy or substantial sale"; and

(B) by amending the last sentence to read as follows: "The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary deems appropriate and which conform to the terms set forth in this subsection."; (2) by amending paragraph (2) to read as follows:

"(2) If the interest of the United States is limited under paragraph (1), any new debt issued by such a railroad subsequent to the issuance of the debt described in paragraph (1) may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such paragraph as the Secretary and the railroad may agree."; and

(3) by adding at the end thereof the following new paragraph:

"(3) In carrying out the duties under this subsection, the Secretary may (A) enter into such agreements, (B) in accordance with any such agreements, cancel or cause to be cancelled or amend or cause to be amended any notes or securities currently held by agencies or instrumentalities of the United States, and (C) accept in exchange as substitution therefor such instruments evidencing the indebtedness owed to such agencies or instrumentalities as, in the Secretary's judgment, will effectuate the purposes of this subsection.".

FEEDER LINE TRANSFER

SEC. 511. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall provide Federal financial assistance, in accordance with the provisions of this section, for the acquisition and rehabilitation (including related new construction of sidings and connecting tracks) of the feeder line which the Illinois Central Gulf Railroad has abandoned extending between Milepost 72 near Herscher, Illinois and Milepost 135 near Barnes, Illinois (known as the "Bloomer Line").

(b) In carrying out this section, the Secretary shall provide assistance to a qualified applicant in an amount not to exceed 90 percent of the acquisition costs and 80 percent of the rehabilitation costs associated with the redevelopment of the feeder line. Any qualified applicant may provide the non-Federal share of the costs of such project.

(c) If an application is filed with the Secretary which is supported by a preponderance of the rail service users on the feeder line or segment of such line for which such an application is filed, the Secretary shall act expeditiously on such application. If the Secretary denies an application filed under this section, the Secretary must provide to the applicant a contemporaneous statement of reasons for the denial and a list of the specific amendments to the application which, if made, would cause the Secretary to approve such application.

(d) If the entity purchasing the line described in subsection (a) of this section petitions the Interstate Commerce Commission for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practically participate, the Commission shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of title 49, United States Code, require the establishment of reasonable joint rates and divisions over such route.

(e) There is authorized to be appropriated $3,000,000 to carry out this section.

(f) As used in this section, the term "qualified applicant" means—

(1) a State or local governmental entity;

(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

TITLE VI—ALASKA RAILROAD TRANSFER

SHORT TITLE

SEC. 601. This title may be cited as the "Alaska Railroad Transfer Act of 1982".

FINDINGS

SEC. 602. The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

DEFINITIONS

SEC. 603. As used in this title, the term—

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)), or, as the context requires, the railroad operated by that agency;

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law;

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 604(b)(1) of this title;

(5) "employees" means all permanent personnel employed by the Alaska Railroad on the date of transfer, including the officers of the Alaska Railroad, unless otherwise indicated in this title;

(6) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and assocated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager; Assistant General Manager; Assistant to the General Manager; Chief of Administration; and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, goodwill, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality thereof as of the date of enactment of this Act, but excluding any auch properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive-use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

(A) the unexercised reservation to the United States for future rights-of-way required in all patents for land taken up, entered, or located in Alaska, as provided by the Act of March 12, 1914 (43 U.S.C. 975 et seq.);

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title to, be necessary to carry out functions of the United States after the date of transfer; and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State-owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operates or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity; and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

TRANSFER AUTHORIZATION

SEC. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the Senate a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all

rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 610 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding, referred to in section 606(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 605(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, 5,000 square feet of land at Talkeetna, Alaska, as described in ARR Lease Numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than $2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

(ii) all claims that resulted in a judgment or award against the Alaska Railroad before the date of transfer.

(C) For purposes of subparagraph (B) of this paragraph, the term "accrue" shall have the meaning contained in section 2401 of title 28, United States Code.

(3)(A) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the 2-year period commencing on the date of transfer. These arrangements shall include provisions—

(i) which ensure that the State-owned railroad will adopt collective bargaining agreements in accordance with the provisions of subparagraph (B) of this paragraph;

(ii) for the retention of all employees, other than officers of the Alaska Railroad, who elect to transfer to the State-owned railroad in their same positions for the 2-year period commencing on the date of transfer, except in cases of reassignment, separation for cause, resignation, retirement, or lack of work;

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (E) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for 2 years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that 2-year period;

(iv) for priority of reemployment at the State-owned railroad during the 2-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the 2-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transfered employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the 2-year period commencing on the date of transfer, including for one year officers retrained or separated under subparagraph (E) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the 2-year period commencing on the date of transfer, substantially equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the 2-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that 2-year period. Such agreements shall be renegotiated during the 2-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

(C) Federal service shall be included in the computation of seniority for transferred employees with priority for reemployment, as provided in subparagraph (A)(iv) of this paragraph.

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a

cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salaries for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

SEC. 605. (a) Within six months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the Legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to section 604(b)(1)(A), (B) and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 604(b)(1)(C) of this title; and (3) the easements to be reserved pursuant to section 604(c)(2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 606(b)(3) of this title—

(1) make or incur any obligation to make any individual capital expenditure of money from the Alaska Railroad Revolving Fund in excess of $300,000;

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

(3) lease any rail property of the Alaska Railroad for a term in excess of 5 years.

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(d)(1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the state pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the state-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the closing report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting in lieu thereof"; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982.".

LANDS TO BE TRANSFERRED

SEC. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section:

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Eklutna, Inc., Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Toghotthele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, D.C., and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title

status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 604(b)(1)(3) or (2) of this title shall grant not less than an exclusive-use easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to subsection (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)";

(B) by striking "12(b)(7)(ii)" and inserting in lieu thereof "12(b)(7)(iv)";

(C) by by striking "crediting" and inserting in lieu thereof "using";

(D) by striking "this subsection 12(b)(7)(i)(b)" and inserting in lieu thereof "these subsections 12(b)(7) (i)(b) or (ii)";

(E) by striking "State" in the last sentence and inserting in lieu thereof "state"; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(3) by inserting immediately after subsection (i) the following:

"(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under sections 12(b) (5) and (6) are otherwise fulfilled:

"(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fufill the obligations established under sections 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property;

"(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

"(C) as used in this subsection, 'real property' means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

"(iii) If the Region accepts any conveyance under section 12(b)(7)(i) or (ii), it shall be in exchange for acreas or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(C)(2)(g) of that document has been fulfilled, the acre-equivalents under subparagraph I(C)(2)(e)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall confrom substantially to the 'Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)', dated September 10, 1092, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute.".

(3) Section 12(b)(7)(iv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended—

(A) by striking "surplus" the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: "or paying for the conveyance of property pursuant to subsections (i) or (ii)";

(C) by inserting immediately after "account shall be" the following: "the sum of (1)";

(D) by striking "I(C)(2)(e)" and inserting in lieu thereof "I(C)(2)(e)(iii)(A)";

(E) by striking "the effective date of this subsection", and inserting in lieu thereof "December 2, 1980";

(F) by striking "and shall be adjusted" and inserting in lieu thereof "and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(C)(2)(e)(iii)(A) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(C)(1) of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii)"; and

(G) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b)(5) and (6)".

(4) Section 12(b)(7)(v) of such Act, as so redesignated by paragraph (2) of this subsection, is amended by striking "subsection (ii)" and inserting in lieu thereof "subsection (iv)".

(5) Section 12(b)(8) of such Act is amended to read as follows:

"12(b)(8). Subject to the exceptions stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

"(i) The deadlines in subparagraphs I(C)(2)(a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b) (5) and (6) are fulfilled: *Provided,* That:

"(A) the obligation of the Secretary under subparagraph I(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document: *Provided,* That the obligation of the Secretary under subparagraph I(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 138,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs I(C)(2)(b) and I(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph I(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph I(C)(2) (g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs I(C)(2)(a)(vi) and I(C)(2)(c) of the document referred to in this section shall be deemed not required

after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act, the Secretary shall not place any lands in the selection pool referred to in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

"(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(8)(i)(C) herein: *Provided,* That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: *And provided further,* That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

"(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph I(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: *Provided,* That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further,* That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D).

"(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph I(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

"(iv) The deadlines in subparagraph I(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947).

"(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

"(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies, to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

"(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

"(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

"(D) such other remedial legislation or administrative action as may be needed; and

"(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed.".

(6) Section 12(b) of such Act is amended by adding at the end thereof the following:

"12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph I(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(h) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act: *Provided, however,* That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

"12(b)(10). For the purpose of its incorporation into this section, paragraph I(C)(1) of the document referred to in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph I(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.'.

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339):

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section: *Provided,* That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1975 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section, and the number of townships to be nominated, pooled struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).".

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 604(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license.

EMPLOYEES OF THE ALASKA RAILROAD

SEC. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service

shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability Fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement Law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the 2-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits, reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within 5 years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within 5 years after the date of transfer and who elect to remain participants in the Federal retirement program); and

(B) all of the accrued employee and employer contributions and accured interest on such contributions made by and on behalf of the transferred employees during their prior Federal service (other than amounts for employees who will meet the age and service requirements for retirement under section 5336(a), (b), (c) or (f) of title 5, United States Code, within 5 years after the date of transfer and who elect to remain participants in the Federal retirement program) shall be withdrawn from the Federal Civil Service Retirement and Disability Fund and shall be paid onto the retirement fund utilized by the State-owned railroad for the transferred employees, in accordance with the provisions of paragraph (2) of this subsection. Upon such payment, credit for prior Federal service under the Federal civil service retirement system shall be forever barred, notwithstanding the provisons of section 8334 of title 5, United States Code.

(b) Employees of the Alaska Railroad who do not transfer to the State-owned railroad shall be entitled to all of the rights and benefits available to them under Federal law for discontinued employees.

(c) Transferred employees whose employment with the State-owned railroad is terminated during the 2-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued empoyees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(d)(3)(E) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

SEC. 608. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209-236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 202(c) of the Federal Railroad Safety Act of 970 (45 U.S.C. 431(c)).

(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(6)(A) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 13(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

FUTURE RIGHTS-OF-WAY

SEC. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit,

lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 603(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

REVERSION

SEC. 610. (a) If, within ten years after the date of transfer to the State authorized by section 604 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvements to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad.

(b) If, after the date of transfer pursuant to section 604 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto; or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

OTHER DISPOSITION

SEC. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(8) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

DENALI NATIONAL PARK AND PRESERVE LANDS

SEC. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

APPLICABILITY OF OTHER LAWS

SEC. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. Appx. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title.

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. Appx. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 8906(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

CONFLICT WITH OTHER LAWS

SEC. 614. The provisions of this title shall govern if there is any conflict between this title and any other law.

REPEAL AND AMENDMENT OF EXISTING STATUTES

SEC. 615 (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

(1) The Act of March 12, 1914 (43 U.S.C. 975 et seq.).

(The act of June 24, 1946, to authorize certain expenditures by the Alaska Railroad (60 Stat. 304).

(3) The Act of July 19, 1932, concerning mining of coal adjacent to the Alaska Railroad (30 U.S.C. 208a).

(4) Section 6(i) of the Department of Transportation act (49 U.S.C. 1655(i)).

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)-(8) as paragraphs (3)-(7), respectively;

(B) in section 3401(1), by striking clause (iii), and by redesignating clauses (iv)-(viii) as clauses (iii)-(vii), respectively;

(C) in section 5102(a)(1), by striking clause (iii), and by redesignating clauses (iv)-(ix) as clauses (iii)-(viii), respectively;

(D) in section 5342(a)(1), by striking subparagraph (C), and by redesignating subpar-

agraphs (D)-(J) as subparagraphs (C)-(I), respectively; and

(E) in section 7327, by striking subsection (a), and by striking the subsection designation "(b)".

(2) Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended by striking "and the Alaska Railroad".

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting "or" at the end of paragraph (1)(B);

"((B) by striking "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

(4) Section 324(a)(1) of the Public Health Service Act (42 U.S.C. 251(a)(1)) is amended by striking "employees of the Alaska Railroad and".

(5) Section 202(3)(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh-1(3)(a)) is amended by striking the third sentence.

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after "National Transportation Safety Board," the following: "the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982), so long as it is an instrumentality of the State of Alaska,".

SEPARABILITY

SEC. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE VII—RAIL SAFETY

SHORT TITLE

SEC. 701. This title may be referred to as the "Federal Railroad Safety Authorization Act of 1982".

REGULATORY AUTHORITY

SEC. 702. (a) Section 202(h)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(h)(1)) is amended to read as follows:

"(h)(1)(A) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue such initial rules, regulations, orders, and standards as may be necessary to insure that the construction, maintenance, and operation of railroad passenger equipment maximize safety to rail passengers. The Secretary shall, as a part of any such rulemaking, consider comparable Federal regulations and procedure which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall also consider relevant differences between commuter and intercity passenger service. The Secretary shall periodically review any such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in any such rules, regulations, orders, and standards as may be necessary.

"(B) The Secretary shall submit to the Congress a report within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under subparagraph (A) of this paragraph which describes any rules, regulations, orders, and standards issued or to be issued under this subsection, explains the reasons for their issuance, and compares them to comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration.".

(b) The Secretary of Transportation shall, before March 1, 1983, conduct a study of the training of onboard operating and service railroad personnel in evacuation procedures and the use of emergency equipment. The Secretary shall consider, as part of such study, Federal regulations and procedures applicable to other modes of transportation. The Secretary shall submit the results of such study to the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives.

(c) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subsections:

"(i) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue rules, regulations, orders, and standards to apply appropriate safety principles to track used for commuter or other short-haul rail passenger service in a metropolitan or suburban area.

"(j) The Secretary shall, within 60 days after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, report to the Congress on whether to issue rules, regulations, orders, and standards to require that the leading car of any railroad train in operation after July 1, 1983, be equipped with an acceptable form of mounted oscillating light.

"(k) As used in this section, the term 'all areas of railroad safety' includes the safety of commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 703. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended—

"(1) by redesignating subsection (c) as subsection (d); and

"(2) by adding immediately after subsection (b) the following new subsection:

"(C)(1) There are authorized to be appropriated to carry out the provisions of this Act, except section 206(d) of this title and paragraph (3) of this subsection, not to exceed $29,300,000 for the fiscal year ending September 30, 1983, and not to exceed $31,400,000 for the fiscal year ending September 30, 1984.

"(2) To carry out the provisions of section 206(d) of this title relating to State safety programs, there are authorized to be appropriated not to exceed $2,700,000 for the fiscal year ending September 30, 1983, and not to exceed $2,900,000 for the fiscal year ending September 30, 1984.

"(3) For the purpose of conducting safety research and development activities under this Act, there are authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending September 30, 1983, and not to exceed $21,000,000 for the fiscal year ending September 30, 1984, including funds for assisting in the treatment of alcohol and drug abuse problems of railroad employees.".

MOVEMENT FOR REPAIR

SEC. 704. Section 4 of the Act of April 14, 1910 (45 U.S.C. 13) is amended by striking "where such car can be repaired" and all that follows through "at the sole risk of the carrier," and inserting in lieu thereof the following: "on the line of railroad on which the car was discovered to be defective or insecure where such car can be repaired, or, at the option of a connecting carrier, such car may be hauled to the nearest available point on the line of such connecting carrier where such car can be repaired if such point is no farther than the nearest available point on the line on which the car was discovered defective or insecure, without liability for the penalties imposed by this section or section 6 of this title, if any such movement is necessary to make such repairs and such repairs cannot be made except at any such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier doing the moving or hauling,".

ASH PAN ACT

SEC. 705. The Act of May 30, 1908 (45 U.S.C. 17 through 21), commonly referred to as the Ash Pan Act, is repealed.

RESPONSIBILITY FOR COMPLIANCE

SEC. 706. Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended to read as follows:

"(a) It shall be unlawful for any railroad to fail to comply with any rule, regulation, order, or standard prescribed by the Secretary under this title.".

Amend the title of H.R. 3420 so as to read: "A bill making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes".

Mr. FLORIO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. LENT. Reserving the right to object, Mr. Speaker, and I will not object, I do so solely for the purpose of asking my colleague, the chairman of the Subcommittee on Commerce, Transportation, and Tourism, if he would explain briefly the Senate amendment.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Speaker, I thank the gentleman for the opportunity to explain what it is that has been done. This bill is identical to that bill that was passed by the House yesterday with the following modifications. The Shipping Act provisions have been stricken from the bill, and on the Alaska railroad provision there has been a compromise effectuated whereby the compensation to be paid by the State of Alaska in the event that the Alaska railroad were to be transferred to the State would be fixed by the U.S. Railway Association and there would be no transfer until such compensation were paid.

It is important to note that the rail provisions of this legislation are derived from H.R. 6308. Accordingly, to the extent applicable, the legislative history of H.R. 6308 shall be part of the legislative history of H.R. 3420.

Title III of H.R. 3420 deals with the Northeast corridor improvement project. Basically, it clarifies the scope of the overall project and the availability of funds to complete the project. It also makes funds available to implement improvements and rehabilitation of the rail lines between the main line

of the Northeast corridor and Atlantic City, N.J., so that safe passenger rail service can be operated over this line at a mimimum speed of 79 miles per hour not later than September 30, 1985.

The bill requires the Secretary of Transportation to expend or reserve for expenditure, first, a total of $30 million out of the yearly appropriations for the Northeast corridor improvement project in fiscal years 1983, 1984, and 1985 for improvements to the rail line between the main line of the Northeast corridor and Atlantic City, N.J. This provision is intended simply to make sure that sufficient resources will be made available in a timely manner so that the September 30, 1985, deadline for completing rehabilitation and improvement to the Atlantic City rail line can be met.

The term "expend or reserve for expenditure" is included so that if circumstances over which the Secretary has no control make it impossible for him to actually expend funds out of a particular fiscal year's appropriation for the Northeast corridor improvement project first for the Atlantic City rail improvements, then other corridor improvements can go forward as long as the Secretary first "reserves for expenditure" during that fiscal year funds out of the yearly appropriations for the Northeast corridor improvement project sufficient to permit required improvements and rehabilitation of the Atlantic City rail line to be accomplished by the end of fiscal year 1985.

Of the $30 million provided for improvements to the Atlantic City rail line, the bill directs the Secretary to expend or reserve for expenditure, first, $10 million out of the fiscal year 1983 appropriations for the Northeast corridor improvement project so that actual improvement and rehabilitation of the rail line can begin in fiscal year 1983.

Under the bill it should be noted that the Secretary of Transportation is required to expend or reserve for expenditure funds for the Atlantic City rail improvements. However, the Secretary is required by the bill to turn these funds over to Amtrak, and Amtrak, not the Secretary, has exclusive responsibility for implementing the required improvements.

In addition, the bill provides that the State of New Jersey shall consult with Amtrak in the development of the plan for the operation of improved passenger rail service between the mainline of the Northeast corridor and Atlantic City, N.J.

As the only U.S. operator of a national system of intercity rail passenger service, Amtrak has a great deal of expertise that will be valuable to the State of New Jersey in developing and insuring the feasibility of a plan for the operation of service over the Atlantic City rail line. Furthermore, the bill provides that the improvements and rehabilitation implemented by Amtrak pursuant to this legislation on the Atlantic City rail line must be consistent with the plan approved by the State of New Jersey for the operation of the service. For example, if an operator other than Amtrak is selected to provide service on the Atlantic rail line, it may be necessary for Amtrak to enter into agreements with other parties to insure that the improvements and rehabilitation of the line are consistent with the plan for operation of the service selected by the State.

Mr. LENT. It is my understanding this amendment has the support of the Department of Transportation; is that correct?

In addition it is my understanding that title III of the Senate amendment makes funds available to consolidate railroad passenger service at Pennsylvania Station in New York City. These funds would be used for the rehabilitation of a rail line required to facilitate rail passenger service between Spuyten Duyvl on the Hudson line and the main line of the Northeast corridor. This proposal, referred to as the west side connection, would allow the Empire Service trains from upstate New York to connect directly with the Northeast corridor at Penn Station. The connection is expected to yield benefits of approximately $10 million a year. Is my understanding correct as to the inclusion within the Senate amendment of this provision?

Mr. FLORIO. The gentleman is correct in both regards.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Does the gentleman mean we are finally going to get rid of the Alaskan Railroad?

Mr. LENT. That is correct.

Mr. ROUSSELOT. Fantastic.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, and I will not object, I would just like to ask the gentleman, it is my understanding that this contains the provisions with respect to the land transactions and native rights that were worked out with the representatives of the House Committee on Interior and Insular Affairs, and that the Senate worked out the compromise on the acquisition cost.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

That is exactly correct.

Mr. SEIBERLING. Mr. Speaker, I strongly support this remarkable achievement, and I commend the gentleman from New Jersey for his role in achieving it.

Mr. Speaker, in addition to the concerns for pipeline and rail safety and the other aspects of this bill which I share with all of our colleagues, I have a particular concern for the portion of the bill dealing with the transfer of the Alaska Railroad to the State of Alaska. This concern arises from my responsibilities as chairman of the Subcommittee on Public Lands and National Parks of the Committee on Interior and Insular Affairs.

In conjunction with the distinguished chairman of our full committee, Mr. UDALL, I have carefully reviewed the Alaska Railroad provisions of the bill now before us. I am glad to be able to inform the House that those provisions, which are in title VI of the bill, are in accord with the positions taken by our committee and by the House as a whole after this legislation was reported from our committee and from the Committee on Energy and Commerce.

Therefore, I support the motion to concur in the amendment of the Senate, and I ask unanimous consent to revise and extend my remarks at this point in the RECORD.

When legislation to transfer the Alaska Railroad was proposed originally in the House, the Committee on Interior and Insular Affairs, through our chairman, Mr. UDALL, noted that we had a distinct interest because such a transfer inevitably involved matters within our committee's jurisdiction under the Rules of the House. Accordingly, the bill reported by the Committee on Energy and Commerce (H.R. 6308) was also referred to our committee, and we added a number of provisions relating to the procedures, terms, and conditions of the transfer. Thanks to the generous cooperation of the Committee on Energy and Commerce, and especially of the chairman of the subcommittee involved, Mr. FLORIO, those provisions were included within the bill that was brought to the floor and which the House passed on August 12, 1982.

Since that time, our committee has continued to play an active role with regard to the proposals to transfer the railroad, insofar as those proposals have involved matters within our jurisdiction.

By way of background, I should explain that the Alaska Railroad was authorized to be built by an act of Congress in 1914, and has been in operation since 1923. It is currently administered by the Department of Transportation. The railroad extends from the port town of Seward, at the southern end of the Kenai Peninsula, to Fairbanks. Between Anchorage and Fairbanks, its route passes through a portion of the Denali National Park and Preserve. Between Anchorage and Seward, the route crosses the Chugach National Forest.

Under the rules of the House, the Committee on Interior and Insular Affairs has jurisdiction over both the national park system and the national forests which were created by reservations from the public domain; the Chugach National Forest is in that category.

A number of Native corporations have asserted claims to land held by the railroad, under the provisions of the Alaska Native Claims Settlement Act. Generally, these claims are premised on section 3(e) of that act, which defines "public lands" for purposes of that act. Only public lands were to be made available for Native selections under the act. That section, in pertinent part, defines "public lands" as "all Federal lands and interests therein except: First, the smallest practicable tract, as determined by the Secretary of the Interior enclosing land actually used in connection with the administration of any Federal installations * * *". To date, there has been no final determination of what is the smallest practicable tract of land actually used by the Alaska Railroad; thus there has been no final determination of the validity of the several selections of railroad-held properties by the Native corporations.

The Committee on Interior and Insular Affairs, of course, has exclusive jurisdiction, under the rules of the House, over all matters involving Indians, including the Alaska Native Claims Settlement Act.

The 1914 act providing for establishment of the Alaska Railroad requires (43 U.S.C. 975d) that "all patents for lands taken up, entered, or located in Alaska after March 12, 1914" must include a reservation for rights-of-way for the construction of railroads, telegraph, and telephone lines. The significance of this requirement and its relationship to subsequent provisions of laws such as the Alaska Statehood Act, the Alaska Native Claims Settlement Act, and the Alaska National Interest Lands Conservation Act, which includes a title, title XI, dealing with rights-of-way across certain Federal lands, is unclear. It is also unclear whether such a reserved right would be held to be transferred to the State in the event of transfer of the Alaska Railroad, without clear provisions in any transfer legislation.

These also are matters within the special responsibilities and concerns of the Committee on Interior and Insular Affairs.

Let me briefly address myself to each of these matters and the postion on each which was taken by the Committee on Interior and Insular Affairs, positions which were reflected in the House bill, H.R. 6308, which dealt with the transfer of the railroad.

First, with regard to the portions of the railroad which cross Denali National Park and Preserve and the Chugach National Forest: The Committee on Interior and Insular Affairs concluded, as our committee's report (97-571, part II) explained, that "the exact status of the Railroad's present holdings" within those areas "is not to be viewed as determinative of the question of the extent to which those holdings should be transferred to the State." It was our view, and the view endorsed by the House through passage of H.R. 6308, that the State should be granted a railroad easement through Denali National Park and Preserve and the Chugach National Forest so as to allow continued operation of the railroad without creating new administrative and management problems arising from the creation of new non-Federal inholdings.

As it comes back to us from the Senate, the bill now before us meets our committee's concerns about the relationship between the railroad and the national park and national forest system, once the railroad is no longer in Federal ownership. Under section 604(b)(1)(D), on the date of transfer of the railroad the State will be granted an exclusive use easement for the portion of the railroad within Denali National Park and Preserve. This easement may be used only for railroad purposes and for such other transportation, transmission, or communication purposes for which the park lands subject to the easement were used on the date of enactment of the bill. And while under the bill the State will receive outright title to the portion of the railroad within the boundaries of the Chugach National Forest, that part of the railroad will be subject to all the laws and regulations for the protection of the resources and values of the national forest, pursuant to section 608(d) of the bill. Similarly, section 608(d) provides that the railroad-easement lands within the boundaries of the national park will be subject to all the laws and regulations for protection of the resources and values of the park, and also explicitly states that the Secretary of the Interior must concur before the State may be permitted to fence any of the lands within the national park affected by the railroad easement.

The bill is also acceptable with regard to the treatment of the various Native claims affecting railroad holdings. On this topic, I believe that it would be helpful to provide Members with some background information and a detailed discussion.

Since the enactment of the Alaska Native Claims Settlement Act (ANCSA) in 1971 there has been considerable controversy between village corporations representing Alaska Native villages located proximate to the Alaska Railroad (ARR) and the Federal Railroad Administration (FRA) regarding the validity of land selections filed by the corporations for lands which were reserved or withdrawn prior to the date of enactment of ANCSA for the use of the ARR.

If village corporation selections of ARR lands are valid they represent a solemn commitment of the United States to the Alaska Native people. However, ARR lands essential to the continued operation of the railroad by the State of Alaska should remain a part of the rail properties of the Alaska Railroad. The bill now before us reconciles these two competing policy goals in the following manner.

After enactment, and even on the date of transfer of the Railroad to the State, ARR lands, which are subject to claims of valid existing rights, including but not limited to land selection applications filed by village corporations pursuant to ANCSA, will remain in Federal ownership until such time as the validity of such claims is determined.

With respect to village corporation land selections, during the 10-month period following the date of enactment, the Secretary of the Interior, the State, and the village corporations with pending claims will make a good faith effort to agree whether ARR lands which have been selected by a village corporation should be conveyed to the corporation or the State. If the parties agree that a particular parcel of land which is the subject of a village corporation land selection application should be conveyed to the corporation, the parcel shall be immediately conveyed to the village corporation and the regional corporation representing the region within which the village is located, pursuant to the terms and conditions of ANCSA, and the acreage of the parcel will be deducted from the acreage entitlement of the village corporation under that act.

With respect to the village of Cantwell, its village corporation has been merged into Ahtna, Inc., a regional corporation; for purposes of this bill then, Ahtna, Inc. is the village corporation for Cantwell.

The conveyance of a parcel of land to Native corporations as the result of an agreement between the parties shall not give rise to a presumption as to whether the parcel is or is not public land. Consequently, if a native corporation which has received a conveyance desires to compel the Federal Railroad Administration to pay the corporation any of the proceeds derived from the parcel subsequent to its selection by a village corporation, the corporation must file a civil action and obtain declaratory relief that the parcel is in fact public land within the meaning of the relevant provisions of ANCSA.

If the parties agree that a particular parcel of land which is the subject of a village corporation land selection application should remain part of the rail properties of the Alaska Railroad, the parcel shall be conveyed to the State pursuant to section 604(b)(2).

If at the end of the 10-month negotiation period the parties have not

agreed that a particular parcel of land which is the subject of a selection application filed by a village corporation should be conveyed to either the corporation or the State, the Secretary of the Interior shall adjudicate whether the parcel is public land available for selection by and conveyance to the corporation pursuant to ANCSA. The Secretary shall make his determination based on the standards set forth in the regulations implementing section 3(e) of ANCSA which he promulgated on October 22, 1980 (43 C.F.R. subpart 2655). The Secretary of the Interior shall complete his final administrative adjudication with respect to each parcel of land which is the subject of a village corporation land selection application within 2 years from the date of enactment of this act. However, the Secretary of the Interior shall not adjudicate the validity of a village corporation's selection of a parcel of land which is the subject of an agreement between the parties. "Final administrative adjudication" means the administrative procedure which the Bureau of Land Management, the Interior Board of Land Appeals, and the Secretary of the Interior employ to determine the availability of lands subject to a land selection application filed by a Native corporation for selection by and conveyance to Native corporations pursuant to ANCSA.

If the Secretary of the Interior determines that a parcel of land is public land available for selection by and conveyance to Native corporations, he shall immediately convey such parcel to the appropriate corporations, pursuant to the terms and conditions of ANCSA and shall deduct the acreage of the parcel from the acreage entitlement of the village corporation which filed the selection application. If the Secretary of the Interior determines that the parcel is not public land he shall immediately convey the parcel to the State pursuant to section 604(b)(2).

A decision by the Secretary of the Interior as the result of a final administrative adjudication that a parcel of land is or is not public land available for selection by and conveyance to Native corporations may be the subject of judicial review, in the U.S. District Court for the District of Alaska and by the appellate courts. The party seeking judicial review may request the district court and the appellate courts, as appropriate, to enjoin the conveyance of the parcel to the opposing party and for other appropriate injunctive relief. Similarly, injuctive relief is also available with respect to judicial review of any other administrative action undertaken pursuant to this act. However, neither the district court nor the appellate courts may enjoin or otherwise delay the transfer of the railroad to the State or grant injunctive relief which will substantially impair or impede the operation of the railroad.

Prior to a decision by the State not to accept the transfer of the railroad, the State shall have standing to participate in both the administrative proceedings of the Secretary of the Interior relating to his final administrative adjudication of a village corporation's selection of lands among the rail properties of the Alaska Railroad and the proceedings of the district and appellate courts relating to judicial review of the final administrative adjudication. However, the State's standing shall cease at any time it determines not to accept the transfer of the Alaska Railroad and it shall not participate further in any administrative or judicial proceedings to which it was a party prior to the date of such determination. The State's standing to participate in any other administrative proceedings or judicial review pursuant to this act also shall cease at any time it determines not to accept the transfer of the Alaska Railroad.

Because of the importance of lands within the right-of-way to the continued operation of the State-owned railroad, if a village corporation land selection application includes lands within a portion of the right-of-way, the village corporation may relinquish its claim to the lands within the right-of-way at any time prior to a final administrative adjudication of the validity of its selection of the lands described in the application. In lieu of the lands within the right-of-way claims to which are so relinquished, the village corporation shall be conveyed lands from among its other selections or, if its other selections are insufficient to insure that the corporation will receive conveyance of its full acreage entitlement, from lands withdrawn for selection by and conveyance to the corporation pursuant to section 22(j)(2) of ANCSA, as amended. Under no circumstances shall relinquishments of lands within the right-of-way, relinquishments of lands as the result of an agreement between a village corporation and the State pursuant to section 606(b)(1)(A), or any other agreement, or administrative or judicial action undertaken as a result of this act result in a diminishment of the acreage entitlement of any Native Corporation pursuant to ANCSA. However, if lands within a portion of the right-of-way should revert to the Federal Government pursuant to section 610, Native corporations whose property abutts the portion of the right-of-way which is the subject of the reversion shall, like all other landowners whose property abutts the right-of-way, receive conveyance of the right-of-way pursuant to section 610(c), and lands within the right-of-way conveyed pursuant to section 610(c) shall not be deemed to have been conveyed pursuant to ANCSA and shall not be charged against the acreage entitlement of any Native corporation.

If a village corporation does not relinquish lands within the right-of-way which are described in a land selection application, the availability for selection and conveyance of the lands described in the application shall be adjudicated by the Secretary of the Interior pursuant to the standards set forth in the regulations implementing section 3(e) of ANCSA which were promulgated on October 22, 1980. If the lands described in the application are determined by the Secretary of the Interior to be available for selection by and conveyance to the corporation pursuant to those regulations, the Secretary of the Interior must then determine whether to retain the lands within the right-of-way in fee and convey such lands to the State pursuant to section 604(b)(2) of this act or to convey the lands within the right-of-way to the appropriate Native corporations reserving an easement for railroad purposes pursuant to section 17(b) of ANCSA. In this regard section 606(b)(4)(A)(ii) of the bill makes it clear that the Congress has determined that reserving an easement rather than retaining the lands within the right-of-way in fee will not afford the State sufficient protection or safe and economic operation of the railroad. Consequently, under this bill, the Secretary of the Interior shall not convey to the appropriate Native corporations the lands within the right-of-way; instead the Secretary of Transportation shall convey such lands to the State, pursuant to section 604(b)(2).

It should be emphasized that the above-described procedures for settling claims of valid existing rights filed by village corporations apply only to the settlement of claims to lands which have been validly claimed by the Alaska Railroad prior to the date of enactment of ANCSA under a public land order, executive order, statute, or similar color of law.

Between the date of enactment of the bill now before us and the conveyance of a parcel of land to the appropriate Native corporations pursuant to the above-described procedures, the Federal Railroad Administration shall administer each parcel of land which is the subject of a land selection application files by a village corporation pursuant to applicable law and the terms and conditions of the memorandum of understanding described in section 607(b)(3) regardless of whether a particular village corporation has signed the memorandum. Similarly, between the date of transfer and the conveyance of a parcel of land to the appropriate Native corporations, the State shall conform its occupation and use of the parcel to the terms and conditions of the memorandum regardless of whether the village corporation which selected the parcel has signed the memorandum.

It should be emphasized that with the exception of first, the 10-month negotiation period set forth in section 606(b)(1)(A); second, the authority of

a village corporation to relinquish lands within a portion of the right-of-way without having to relinquish all of the other lands which are the subject of the same land selection application as set forth in section 607(b)(4)(A)(i); third, the occupancy, use, and administration of lands by the Federal Railroad Administration and the State pursuant to the terms and conditions of the memorandum of understanding described in section 606(b)(3); fourth, the State's standing to participate in administrative and judicial proceedings pursuant to section 606(c)(3); and fifth, section 606(a) and 606(d), nothing in this bill is intended to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right or other interest of any Native corporation under ANCSA or the Alaska National Interest Lands Conservation Act. This is made clear by the terms of section 613(e).

Similarly, it should be emphasized that nothing in this act is intended to enlarge, diminish, or in any way alter the responsibility of the Federal Railroad Administration, and after the date of transfer the State, to deposit the proceeds derived from lands selected by Native corporations into the escrow account established by section 2 of Public Law 94-204, as amended. If lands which have been administered by the Federal Railroad Administration and selected by Native corporations are public lands which will be conveyed to Native corporations pursuant to ANCSA or as a result of the enactment of this act, then the Native corporations which receive conveyance of the lands are entitled to the proceeds which have been derived from those lands subsequent to the filing of their land selection applications. If such lands are adjudicated not to be public lands available for Native corporation selection and conveyance, then the proceeds derived from such lands remain the property of the Federal Railroad Administration, or after the date of transfer, the State.

Unfortunately, since 1976 the Federal Railroad Administration has failed to deposit any proceeds from lands subject to Native corporation land selection applications into the escrow account. However, pursuant to section 604(d)(2)(B) the United States remains responsible for all claims against the Alaska Railroad, including but not limited to claims against the Federal Railroad Administration for failure to deposit proceeds in the escrow account. Similarly, although the State is authorized pursuant to section 604 (b)(1)(C) and (b)(4) to receive all benefits of lands which are the subject of the exclusive license, pursuant to section 604(d)(2)(A) the State also is responsible for the obligations of the Alaska Railroad after the date of transfer. And such obligations may include the obligation to deposit the proceeds derived from lands which are the subject of land selection applications filed by Native corporations into the escrow account until such time as the lands are conveyed to either the Native corporations or the State.

Finally, Mr. Speaker, there are the remaining matters of concern to the Committee on Interior and Insular Affairs which are touched on in this bill.

Section 615(a)(1) provides that, on the date of transfer of the Railroad or other disposal of the Railroad pursuant to section 611, the original act of March 12, 1914, pursuant to which the railroad came into being, will be repealed. The reference to "other disposition" reflects the fact that section 611 gives the State 1 year after enactment of the bill to fulfill the conditions imposed for the State's receipt of the railroad and that if the State does not meet those conditions within that period, the Secretary of Transportation then will be authorized to dispose of the railroad. Such disposal would apparently be by sale, lease, or similar transaction. In any event, section 612 makes it clear that should the Secretary, under the authority of section 611, dispose of the railroad to any party other than the State, such party will receive no greater rights within the Denali National Park and Preserve than the State would receive under the other provisions of the bill. Similarly, it is our understanding that the portion of the Railroad within the Chugach National Forest would, under section 608(d), remain subject to the laws and regulations for protection of the values and resources of the national forest, regardless of the transfer of the title of those railroad lands.

As to future rights-of-way, section 609(a) provides that such rights-of-way for additions to or expansions of the railroad will be granted only in accordance with the provisions of applicable existing law, including but not limited to the Federal Land Policy and Management Act of 1976, the Alaska National Interest Lands Conservation Act, or the National Environmental Policy Act. Applicable existing law will also govern the granting of future leases, permits, or conveyances for terminal and station grounds and material sites which may be sought in connection with future rights-of-way.

In this connection, I should point out that the phrase "right-of-way" is used in different ways in different parts of title VI. Except with regard to section 609, the section dealing with future rights-of-way that may be applied for, for extending the railroad, the term refers to an area extending for certain specified distances on each side of the centerline of the railroad's main or branch lines—that is, those lines where railroad tracks are now in place. I believe that it is generally understood and agreed that there are places along the railroad's route where the railroad in fact has control over slightly different areas besides its tracks than the general area addressed in the definition section, whether because of ownership patterns, prior Federal actions, or for other reasons.

I should also point out, Mr. Speaker, that the Committee on Interior and Insular Affairs has not been involved in the debate over whether the United States should receive monetary or other compensation for the transfer of the railroad. That matter, in the House, is within the jurisdiction of the Committee on Energy and Commerce.

Mr. Speaker, let me conclude by pointing out that the Committee on Interior and Insular Affairs has attempted to act in an expeditious and cooperative manner with regard to this important legislation, while at the same time fulfilling our responsibilities under the rules of the House for a careful review of those aspects of this bill which are within our jurisdiction. I want to express my appreciation for the courtesy and consideration of the members of the Committee on Energy and Commerce, and in particular Mr. FLORIO, the chairman of the Subcommittee on Commerce, Transportation, and Tourism. So far as concerns the provisions of title VI, relating to the Alaska Railroad, the bill that they have brought before the House today is sound and I believe that it deserves the approval of the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. FLORIO)?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three conference reports on H.R. 5470, H.R. 7093, and H.R. 6056.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 6056, TECHNICAL CORRECTIONS ACT OF 1982

Mr. ROSTENKOWSKI submitted the following conference and statement on the bill (H.R. 6056) to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980:

CONFERENCE REPORT

[To accompany H.R. 6056]

The committee of conference on the disagreeing votes of the two Houses on the Senate amendments numbered 9, 15, 18, 24, and 27 to the bill (H.R. 6056) to make technical corrections related to the Economic Recovery Tax Act of 1980, and the Installment Sales Revision Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revenues Act of 1980, and on the disagreeing votes of the two Houses on the House amendments to the Senate amendments numbered 1, 10, 14, 16, 17, 26, 30, 31, 33, 34, 36, and 37 to such bill, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 9 and 15.

That the House recede from its disagreement to the amendments of the Senate numbered 24 and 27; and agree to the same.

That the Senate recede from its disagreement to the House amendments to the Senate amendments numbered 1, 10, 14, 17, 26, 33, 34, 36, and 37; and agree to the same.

That the Senate recede from its disagreement to the House amendment to the Senate amendment numbered 16 and agree to the same with an amendment as follows:

In lieu of striking out the matter proposed to be stricken out by the House amendment, strike out line 24 on page 7 of the Senate amendments and all that follows down through line 23 on page 8 of the Senate amendments and, in lieu of inserting the matter proposed to be inserted by the House amendment, insert the following:

(ii) ELECTION BY TAXPAYER OF RETROACTIVE APPLICATION.—

(I) RETROACTIVE APPLICATION.—If the taxpayer so elects, the amendments made by subparagraphs (B) and (C) shall apply as if included within the amendments made by title V of the Economic Recovery Tax Act of 1981.

(II) ADDITIONAL CHOICES WITH RESPECT TO 1981.—If the taxpayer held a foreign currency contract after December 31, 1980, and before June 24, 1981, and such taxpayer makes an election under subclause (I), such taxpayer may revoke any election made under section 508(c) or 509(a) of such Act, and may make an election under section 508(c) or 509(a) of such Act.

(III) ADDITIONAL CHOICES APPLY TO ALL REGULATED FUTURES CONTRACTS.—Except as provided in subclause (IV), in the case of any taxpayer who makes an election under subclause (I), any election under section 508(c) or 509(a) of such Act or any revocation of such an election shall apply to all regulated futures contracts (including foreign currency contracts).

(IV) SECTION 509(a) (3) AND (4) NOT TO APPLY TO FOREIGN CURRENCY CONTRACTS.—Paragraphs (3) and (4) of section 509(a) of such Act shall not apply to any foreign currency contract.

(V) TIME FOR MAKING ELECTION OR REVOCATION.—Any election under subclause (I) and any election or revocation under subclause (II) may be made only within the 90-day period beginning on the date of the enactment of this Act. Any such action, once taken, shall be irrevocable.

(VI) DEFINITIONS.—For purposes of this clause, the terms "regulated futures on contract" and "foreign currency contract" have the same respective meanings as when used in section 1256 of the Internal Revenue Code of 1954 (as amended by this Act).

(iii) ELECTION BY TAXPAYER WITH RESPECT TO POSITIONS HELD DURING TAXABLE YEARS ENDING AFTER MAY 11, 1982.—In lieu of the election under clause (ii), a taxpayer may elect to have the amendments made by subparagraphs (B) and (C) applied to all positions held in taxable years ending after May 11, 1982, except that the provisions of section 509(a) (3) and (4) of the Economic Recovery Tax Act of 1981 shall not apply.

And the House agree to the same.

That the House recede from its disagreement to the Senate amendment numbered 18 and agree to the same with an amendment as follows:

In lieu of inserting the matter proposed to be inserted by the Senate amendment numbered 18, insert the following:

(4) CREDIT OR REFUND FOR BENEFICIARIES OF TRUST OWNING ROYALTY INTERESTS.—

(A) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by adding at the end thereof the following new section:

"SEC. 6430. CREDITOR REFUND OF WINDFALL PROFIT TAXES TO CERTAIN TRUST BENEFICIARIES.

"(a) GENERAL RULE.—That portion of the tax imposed by section 4986 (relating to crude oil windfall profit tax) which is paid by any trust with respect to any qualified beneficiary's allocable trust production shall be treated as an overpayment of such tax by such qualified beneficiary. Any such overpayment shall be credited against the tax imposed by section 4986 or refunded to such qualified beneficiary.

"(b) COORDINATION WITH ROYALTY EXEMPTION.—

"(1) IN GENERAL.—If the aggregate amount of the allocable trust production of any qualified beneficiary for any calendar year exceeds such beneficiary's unused exempt royalty limit for such calendar year, then the amount treated as an overpayment under subsection (a) with respect to such qualified beneficiary shall be reduced by an amount which bears the same ratio to the amount which (but for this paragraph) would be so treated as—

"(A) the amount of such excess, bears to

"(B) the aggregate amount of such allocable trust production.

"(2) UNUSED EXEMPT ROYALTY LIMIT.—The unused exempt royalty limit of any qualified beneficiary for any calendar year is the excess of—

"(A) the number of days in such calendar year, multiplied by the limitation in barrels determined under the table contained in section 4994(f)(2)(A)(ii), over

"(B) the amount of exempt royalty oil (within the meaning of section 4994(f))—

"(i) with respect to which such qualified beneficiary is the producer, and

"(ii) which is removed from the premises during such calendar year.

"(3) ALLOCATION.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 6429(c) shall apply to the amount determined under paragraph (2)(A).

"(c) ALLOCABLE TRUST PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'allocable trust production' means, with respect to any qualified beneficiary, the qualified royalty production of any trust which—

"(A) is removed from the premises during the calendar year, and

"(B) is allocated to such qualified beneficiary under paragraph (2).

"(2) ALLOCATION OF PRODUCTION.—

"(A) IN GENERAL.—The qualified royalty production of a trust for any calendar year shall be allocated between the trust and its income beneficiaries as follows:

"(i) there shall be allocated to the trust an amount of production based on the amount of any reserve for depletion for the calendar year with respect to qualified royalty production, and

"(ii) production not allocated under clause (i) shall be allocated between the trust and the income beneficiaries in accordance with their respective shares of the adjusted distributable net income for the calendar year.

"(B) DEFINITION AND SPECIAL RULE.—For purposes of this paragraph—

"(i) ADJUSTED DISTRIBUTABLE NET INCOME.—The term 'adjusted distributable net income' means distributable net income (as defined in section 643) for the calendar year reduced by the excess (if any) of—

"(I) any reserve for depletion for such year with respect to qualified royalty production, over

"(II) the amount allowable as deduction for depletion to the trust for such year with respect to qualified royalty production.

"(ii) ALLOCATION PRO RATA FROM EACH UNIT OF PRODUCTION.—Allocations under subparagraph (A) shall be treated as made pro rata from each unit of the qualified royalty production.

"(3) PRODUCTION FROM TRANSFERRED PROPERTY.—

"(A) IN GENERAL.—The allocable trust production of any qualified beneficiary shall not include any production attributable to an interest in property which has been transferred after June 9, 1981, in a transfer which—

"(i) is described in section 613A(c)(9)(A), and

"(ii) is not described in section 613A(c)(9)(B).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply in the case of any transfer so long as the transferor and the qualified beneficiary are required by subsection (b)(3) to share the amount determined under subsection (b)(2)(A). The preceding sentence shall apply to the transfer of any property only if the production attributable to the property was allocable trust production or qualified royalty production of the transferor.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED BENEFICIARY.—The term 'qualified beneficiary' means any individual or estate which is a beneficiary of any trust which is a producer.

"(2) QUALIFIED ROYALTY PRODUCTION.—The term 'qualified royalty production' means, with respect to any person, taxable crude oil (within the meaning of section 4991(a)) which is attributable to an economic interest of such person other than an operating mineral interest (within the meaning of section 614(d)). Such term does not include taxable crude oil attributable to any overriding royalty interest, production payment, net profits interest, or similar interest of the person which—

"(A) is created after June 9, 1981, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

"(B) is not created pursuant to a binding contract entered into before June 10, 1981.

"(3) PRODUCER.—The term 'producer' has the meaning given to such term by section 4996(a)(1).

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(B) ALLOCATION OF LIMITATION BETWEEN EXEMPT ROYALTY OIL AND ALLOCABLE TRUST PRODUCTION.—Paragraph (2) of section 4994(f) (relating to royalty limit) is amended—

(i) by striking out "A qualified" in subparagraph (A) and inserting in lieu thereof "Except as provided in subparagraph (C), a qualified", and

(ii) by adding at the end thereof the following new subparagraph:

"(C) ELECTION TO INCREASE SECTION 6430 ROYALTY CREDIT BY REDUCING EXEMPTION UNDER THIS SUBSECTION.—Any qualified royalty owner who is a qualified beneficiary (within the meaning of section 6430(d)(1)) for any quarter may elect (at such time and in such manner as the Secretary may prescribe by regulations) to reduce by any amount the qualified royalty owner's royalty limit determined under subparagraph (A) for such quarter (after the application of paragraph (3)(B))."

(C) TECHNICAL AMENDMENT.—Subparagraph (B) of section 6654(g)(3) (relating to estimated tax computed after application of credits against tax) is amended by inserting "or 6430" after "section 6429".

(D) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6430. Credit or refund of windfall profit taxes to certain trust beneficiaries."

(E) EFFECTIVE DATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by this paragraph shall apply with respect to calendar years beginning after December 31, 1981.

"(ii) ESTIMATED TAX.—The amendment made by subparagraph (C) shall take effect on January 1, 1982.

And the Senate agree to the same.

That the Senate recede from its disagreement to the House amendment to the Senate amendment numbered 30 and agree to the same with an amendment as follows:

In the subsection (d)(1)(B)(i) proposed to be inserted by the House amendment, strike out "October 19, 1982" and insert in lieu thereof "September 30, 1982".

And the House agree to the same.

That the Senate recede from its disagreement to the House amendments to the Senate amendment numbered 31 and agree to the same with an amendment as follows:

In lieu of inserting the section 306 proposed to be inserted by the first of the House amendments to the Senate amendment numbered 31, insert the following:

SEC. 306. TECHNICAL AMENDMENTS TO THE REVENUE PROVISIONS OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.

(a) AMENDMENTS RELATED TO TITLE II.—

(1) AMENDMENTS RELATED TO SECTION 201.—

(A) Section 201 of the Tax Equity and Fiscal Responsibility Act of 1982 is Amended—

(i) by redesignating the second subsection (c) as subsection (d), and

(ii) by striking out "subsection (c)(1)" in subsection (e)(2) and inserting in lieu thereof "subsection (d)(1)".

(B) Clause (ii) of section 55(e)(5)(B) (defining qualified investment income) is amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

(C) Subparagraph (B) of section 55(d)(2) (relating to adjustments to net operating loss computation) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "paragraph (1)".

(2) AMENDMENT RELATED TO SECTION 204.—Paragraph (1) of section 291(a) (relating to 15-percent reduction for certain preference items is amended by adding at the end thereof the following new sentence: "Under regulations prescribed by the Secretary, the provisions of this paragraph shall not apply to the disposition of any property to the extent section 1250(a) does not apply to such disposition by reason of section 1250(d)."

(3) AMENDMENT RELATED TO SECTION 205.—paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d)".

(4) AMENDMENTS RELATED TO SECTION 208.—

(A) Subsection (d) of section 208 of such Act is amended—

(i) by striking out "described in section 1381(a)" in paragraph (3)(E)(i) and inserting in lieu thereof "engaged in the furnishing of electric energy to persons in rural areas", and

(ii) by inserting ", or section 168(f)(8)(J) of such Code, as added by subsection (b)(4)" after "as added by subsection (a)(1)" in paragraph (5) thereof.

(B) Subsection (d) of section 208 of such Act (relating to effective dates) is amended by adding at the end thereof the following new paragraph:

"(7) COORDINATION WITH AT RISK RULES.—Subparagraph (J) of section 168(f)(8) of the Internal Revenue Code of 1954 (as added by subsection (b)(4)) shall take effect as provided in such subparagraph (J)."

(C) Subparagraph (C) of section 208(d)(3) of such Act (defining transitional safe harbor lease property) is amended to read as follows:

"(C) AUTOMOTIVE MANUFACTURING PROPERTY.—

"(i) IN GENERAL.—Property is described in this subparagraph if—

"(I) such property is used principally by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture of automobiles or light-duty trucks,

"(II) such property is automotive manufacturing property, and

"(III) such property would be described in subparagraph (A) if 'October 1' were substituted for 'January 1'.

"(ii) LIGHT-DUTY TRUCK.—For purposes of this subparagraph, the term 'light-duty truck' means any truck with a gross vehicle weight of 13,000 pounds or less. Such term shall not include any truck tractor.

"(iii) AUTOMOTIVE MANUFACTURING PROPERTY.—For purposes of this subparagraph, the term 'automotive manufacturing property' means machinery, equipment, and special tools of the type included in the former asset depreciation range guideline classes 37.11 and 37.12.

"(iv) SPECIAL TOOLS USED BY CERTAIN VENDORS.—For purposes of this subparagraph, any special tools owned by a taxpayer described in subclause (I) of clause (i) which are used by a vendor solely for the production of component parts for sale to the taxpayer shall be treated as automotive manufacturing property used directly by such taxpayer."

(5) AMENDMENT RELATED TO SECTION 211.—Paragraph (2) of section 211(e) of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for foreign tax credit for taxes on oil and gas income) is amended to read as follows:

"(2) Retention of old sections 907(b) and 904(f)(4) where taxpayer had separate basket foreign loss.—

"(A) IN GENERAL.—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a separate basket foreign loss, such loss shall not be recaptured from income of a kind not taken into account in computing the amount of such separate basket foreign loss more rapidly than ratably over the 8-year period beginning with the first taxable year beginning after December 31, 1982.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) The term 'separate basket foreign loss' means any foreign loss attributable to activities taken into account (or not taken into account) in determining foreign oil related income (as defined in old section 907(c)(2)).

"(ii) An 'old' section is such section as in effect on the day before the date of the enactment of this Act."

(6) AMENDMENTS RELATED TO SECTION 222.—

(A) The last sentence of paragraph (2) of section 222(f) of such Act is amended by inserting ", except that in applying such section both direct and indirect ownership of stock shall be taken into account" before the period at the end thereof.

(B)(i) Paragraph (3) of section 312(j) (relating to earnings and profits of foreign investment companies) is amended by striking out "in partial liquidation or".

(ii) The heading for paragraph (3) of section 312(j) is amended to read as follows.". "(3) REDEMPTIONS.—".

(7) AMENDMENT RELATED TO SECTION 223.—Subparagraph (B) of section 223(b)(2) of such Act (relating to effective date for changes in tax treatment of distributions of appreciated property in redemption of stock) is amended to read as follows:

"(B) either before October 21, 1982, or within 90 days after the date of such ruling."

(8) AMENDMENTS RELATED TO SECTION 224.—

(A)(i) Subsection (h) of section 338 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

"(8) TARGET NOT TREATED AS MEMBER OF AFFILIATED GROUP.—Except as otherwise provided in paragraph (9) or in regulations prescribed under this paragraph, the target corporation shall not be treated as a member of an affiliated group with respect to the sale described in subsection (a)(1).

"(9) Elective recognition of gain or loss by target corporation, together with nonrecognition of gain or loss on stock sold by selling consolidated group.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, an election may be made under which if—

"(i) the target corporation was, before the transaction, a member of the selling consolidated group, and

"(ii) the target corporation recognizes gain or loss with respect to the transaction as if it sold all of its assets in a single transaction,

then the target corporation shall be treated as a member of the selling consolidated group with respect to such sale, and (to the extent provided in regulations) no gain or loss will be recognized on stock sold or exchanged in the transaction by members of the selling consolidated group.

"(B) SELLING CONSOLIDATED GROUP.—For purposes of subparagraph (A), the term 'selling consolidated group' means any group of corporations which (for the taxable period which includes the transaction)—

"(i) includes the target corporation, and

"(ii) files a consolidated return.

(ii) If—

(I) any portion of a qualified stock purchase is pursuant to a binding contract entered into on or after the date of the enactment of the Tax Equity and Fiscal Responsi-

bility Act of 1982, and on or before the date of the enactment of this Act, and

(II) the purchasing corporation establishes by clear and convincing evidence that such contract was negotiated on the contemplation that, with respect to the deemed sale under section 338 of the Internal Revenue Code of 1954, the target corporation would be treated as a member of the affiliated group which includes the selling corporation.

then the amendment made by clause (i) shall not apply to such qualified stock purchase.

(B)(i) Subsection (d) of section 224 of such Act is amended by adding at the end thereof the following new paragraphs:

"(4) EXTENSION OF TIME FOR MAKING ELECTIONS; REVOCATION OF ELECTIONS.—

"(A) EXTENSION.—The time for making an election under section 338 of such Code shall not expire before the close of February 28, 1983.

"(B) REVOCATION.—Any election made under section 338 of such Code may be revoked by the purchasing corporation if revoked before March 1, 1983.

"(5) RULES FOR ACQUISITIONS DESCRIBED IN PARAGRAPH (2).—

"(A) IN GENERAL.—For purposes of applying section 338 of such Code with respect to any acquisition described in paragraph (2)—

"(i) the date selected under subparagraph (B) of this paragraph shall be treated as the acquisition date,

"(ii) a rule similar to the last sentence of section 334(b)(2) of such Code (as in effect on August 31, 1982) shall apply, and

"(iii) subsections (e), (f), and (i) of such section 338, and paragraphs (4), (6), (8), and (9) of subsection (h) of such section 338, shall not apply.

"(B) SELECTION OF ACQUISITION DATE BY PURCHASING CORPORATION.—The purchasing corporation may select any date for purposes of subparagraph (A)(i) if such date—

"(i) is after the later of June 30, 1982, or the acquisition date (within the meaning of section 338 of such Code without regard to this paragraph), and

"(ii) is on or before the date on which the election described in paragraph (2)(C) is made."

(ii) Subparagraph (A) of section 224(d)(2) of such Act is amended by striking out "under paragraph (1)" and inserting in lieu thereof "(within the meaning of section 338 of such Code without regard to paragraph (5) of this subsection)".

(9) AMENDMENTS RELATED TO SECTION 231.—

(A) Clause (ii) of section 263(g)(2)(B) (defining interest and carrying charges) is amended by striking out "section 1232(a)(4)(A)" and inserting in lieu thereof "section 1232(a)(3)(A)".

(B) Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (c).

(C)(i) The next to the last sentence of section 1232(b)(2) (defining issue price) is amended by striking out "(other than a bond or other evidence of indebtedness or an investment unit issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or an insolvency reorganization within the meaning of section 371 or 374)".

(ii) Subsection (b) of section 1232 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR EXCHANGE OF BONDS IN REORGANIZATIONS.—

"(A) IN GENERAL.—If—

"(i) any bond is issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) for another bond (hereinafter in this paragraph referred to as the 'old bond'), and

"(ii) the fair market value of the old bond is less than its adjusted issue price,

then, for purposes of the next to the last sentence of paragraph (2), the fair market value of the old bond shall be treated as equal to its adjusted issue price.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) BOND.—The term 'bond' includes any other evidence of indebtedness and an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—

"(I) IN GENERAL.—The adjusted issue price of the old bond is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1232A (or the corresponding provisions of prior law)).

"(II) SPECIAL RULE FOR APPLYING SECTION 163(e).—For purposes of section 163(e), the adjusted issue price of the old bond is its issue price, increased by any original issue discount previously allowed as a deduction."

(iii) For purposes of paragraph (4) of section 1232(b) of the Internal Revenue Code of 1954 (as added by clause (ii)), any insolvency reorganization within the meaning of section 371 or 374 of such Code shall be treated as a reorganization within the meaning of section 368(a)(1) of such Code.

(iv) The amendments made by this subparagraph shall apply to evidences of indebtedness issued after December 13, 1982; except that such amendments shall not apply to any evidence of indebtedness issued after such date pursuant to a written commitment which was binding on such date and at all times thereafter.

(10) AMENDMENT RELATED TO SECTION 235.—Section 235(g)(5) of such Act is amended by striking out "section 253" and inserting in lieu thereof "section 242".

(11) AMENDMENT RELATED TO SECTION 236.—Subsection (c) of section 236 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by adding at the end thereof the following new paragraph:

"(3) Treatment of certain renegotiations.—If—

"(A) the taxpayer after August 13, 1982, and before September 4, 1982, borrows money from a government plan (as defined in section 219(e)(4) of the Internal Revenue Code of 1954),

"(B) under the applicable State law, such loan requires the renegotiation of all outstanding prior loans made to the taxpayer under such plan, and

"(C) the renegotiation described in subparagraph (B) does not change the interest rate on, or extend the duration of, any such outstanding prior loan,

then the renegotiation described in subparagraph (B) shall not be treated as a renegotiation, extension, renewal, or revision for purposes of paragraph (1). If the renegotiation described in subparagraph (B) does not meet the requirements of subparagraph (C) solely because it extends the duration of any such outstanding prior loan, the requirements of subparagraph (C) shall be treated as met with respect to such renegotiation if, before April 1, 1983, such extension is eliminated."

(12) AMENDMENT RELATED TO SECTION 237.—Paragraph (2) of section 401(d) (as redesignated by section 237 of the Tax Equity and Fiscal Responsibility Act of 1982) is amended by striking out "paragraph (9)(B)" and inserting in lieu thereof "paragraph (1)(B)".

(13) AMENDMENT RELATED TO SECTION 266.—Section 266(c)(3) of such Act is amended by striking out "section 103(f)(2)(C)" and inserting in lieu thereof "section 101(f)(2)(C)".

(14) AMENDMENT RELATED TO SECTION 283.—Section 283(b)(2)(B) of such Act (relating to liability for tax and method of payment) is amended by striking out "January 18" and inserting in lieu thereof "February 17".

(b) AMENDMENTS RELATED TO TITLE III.—

(1) AMENDMENTS RELATED TO SECTION 302.—

(A) Subsection (d) of section 31 (relating to year for which credit allowed) is amended to read as follows:

"(d) YEAR FOR WHICH CREDIT ALLOWED.—

"(1) WAGES.—Any credit allowed—

"(A) by subsection (a) shall be allowed for the taxable year beginning in the calendar year in which the amount is withheld, or

"(B) by subsection (c) shall be allowed for the taxable year beginning in the calendar year in which the wages are received.

For purposes of this paragraph, if more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

"(2) INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—Any credit allowed by subsection (b) shall be allowed for the taxable year of the recipient of the income in which the amount is received."

(B) Paragraph (4) of section 3(i) of the Subchapter S Revision Act of 1982 is hereby repealed.

(2) AMENDMENT RELATED TO SECTION 310.—Subsection (d) of section 310 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for requirement that obligations be registered) is amended by adding at the end thereof the following new paragraph:

"(4) EFFECTIVE DATE FOR TAX-EXEMPT OBLIGATIONS.—In the case of obligations the interest on which is exempt from tax (determined without regard to the amendments made by this section)—

"(A) under section 103 of the Internal Revenue Code of 1954, or

"(B) under any other provision of law (without regard to the identity of the holder),

the amendments made by this section shall apply only to obligations issued after June 30, 1983. The preceding sentence shall not apply in the case of any obligation which under the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) was required to be in registered form."

(3) AMENDMENT RELATED TO SECTION 336.—Section 7701(a) (relating to definitions) is amended by redesignating paragraph (38) (as added by section 336(a) of the Tax Equity and Fiscal Responsibility Act of 1982) as paragraph (39).

(4) AMENDMENT RELATED TO SECTION 339.—Subparagraph (B) of section 6038A(c)(2) (defining controlled group) is amended by inserting ", (b)(2)(C)," after "(a)(4)".

(5) AMENDMENT RELATED TO SECTION 354.—Paragraph (23) of section 501(c) (relating to exempt organizations) is amended by striking out "25 percent" and inserting in lieu thereof "75 percent".

(c) AMENDMENTS RELATED TO TITLE IV.—

(1) AMENDMENTS RELATED TO SECTION 402.—

(A) The second sentence of section 6226(g) (relating to determination of court reviewable) is amended by striking out "Only" and inserting in lieu thereof "With respect to the partnership, only".

(B) The second sentence of section 622(a)(6) (relating to determination of court reviewable) is amended by striking out "Only" and inserting in lieu thereof "With respect to the partnership, only".

(2) AMENDMENTS RELATED TO SECTION 405.—

(A) Subsection (b) of section 405 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(b) PENALTY.—Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign corporations and acquisition of their stock), as amended by section 340(b)(1), is amended by striking out 'section 6035 or 6046' and inserting in lieu thereof 'section 6035, 6046, or 6046A'."

(B) Paragraphs (2) and (3) of section 405(c) of such Act are amended to read as follows:

"(2) The section heading of section 6679, as amended by section 340(b)(2), is amended to read as follows:

"'SEC. 6679. FAILURE TO FILE RETURNED, ETC., WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS.'"

"(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

" 'Sec. 6679. Failure to file returns, etc., with respect to foreign corporations or foreign parnerships.'"

And the House agree to the same.

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
FORTNEY H. (PETE) STARK,
BARBER B. CONABLE,
JOHN J. DUNCAN,
BILL ARCHER,
Managers on the Part of the House.

ROBERT DOLE,
BOB PACKWOOD,
WILLIAM V. ROTH, JR.,
RUSSELL B. LONG,
HARRY F. BYRD, JR.,
Managers on the Part of the Senate.

EXPLANATION OF DIFFERING PROVISIONS

1. TRANSITIONAL RULE FOR REHABILITATION TAX CREDITS

Present law.—Prior to ERTA, there was a 10-percent credit for rehabilitation of both historic and nonhistoric buildings. However, a certified historic structure could qualify only if the rehabilitation was certified by the Interior Department as being consistent with the historic character of the property or the district in which the property is located. To avoid having to obtain approval of the rehabilitation, taxpayers with buildings in registered historic districts could choose not to seek a designation of the building as a certified historic structure.

ERTA made a number of changes to the rehabilitation tax credit provisions. The 10-percent credit was replaced with a three-tier credit: (1) a 15-percent credit for 30-year-old buildings, (2) a 20-percent credit for 40-year-old buildings, and (3) a 25-percent credit for certified historic structures.

As under prior law, no credit is allowed for an uncertified rehabilitation of a certified historic structure. Contrary to prior law, no credit is allowed for an uncertified rehabilitation of a building in a registered historic district that is not a certified historic structure, unless the taxpayer obtains a certificate from the Interior Department that the property is not of historic significance to the district (decertification). The purpose of the rule is to ensure that a taxpayer with a building of historic significance cannot avoid having to obtain approval of the rehabilitation by choosing not to obtain a designation of the building as a certified historic structure. If the building is decertified, either the 15- or 20-percent, but not the 25-percent credit applies.

Under a transitional rule, a rehabilitation begun before 1982 that does not qualify under ERTA for the new credits is entitled to the 10-percent credit if the rehabilitation qualifies under the pre-ERTA rules. For example, if before 1982 a taxpayer commences rehabilitation of a building in a registered historic district that is not a certified historic structure and that has not received a decertification, no credit is allowed under ERTA. However, under the transitional rule, the 10-percent credit would apply if the pre-ERTA requirements were met.

If a rehabilitation began before 1982 and did not meet either the ERTA requirements or the pre-ERTA requirements, no credit would be allowed. For example, if the taxpayer had done an uncertified rehabilitation of a certified historic structure, neither the ERTA credits nor the 10-percent credit would apply. Both the ERTA rules and the pre-ERTA rules deny credit for uncertified rehabilitations of certified historic structures.

House bill.—No provision.

Senate amendment.—Under the Senate amendment, certain uncertified rehabilitations of a certified historic structure begun before 1982 would qualify for the 10-percent credit under the pre-ERTA rules if the pre-ERTA requirements, other than the requirement that the rehabilitation of a certified historic structure must be certified, are met. Designation of the structure as a certified structure must have occurred as a result of a request filed by the taxpayer with the Interior Department after December 31, 1981, and before September 27, 1982, for a determination of whether the building is of historic significance to the district.

Conference agreement.—The conference agreement follows the House bill.

2. DEFINITION OF INDEPENDENT PRODUCER

Present Law.—An independent producer for depletion and windfall profit tax purposes is any person who is not a "refiner" or "retailer. In general, a "retailer" is any person who directly or through a related person retails in excess of $5 million of oil or natural gas (excluding bulk sales of oil or natural gas to commercial or industrial users), or oil or gas products, in any taxable year.

House bill.—No provision.

Senate amendment.—The Senate amendment provides that, in determining the value of oil or gas products sold in any year for purposes of determining whether a taxpayer is a "retailer" (for depletion and windfall profit tax purposes), excluded. The provision will apply to bulk sales after September 18, 1982.

Conference agreement.—The conference agreement follows the Senate amendment.

Revenue effect.—The provision will reduce budget receipts by less than $5 million annually.

3. QUALIFIED ROYALTY PRODUCTION OF TRUSTS

Present law.—Under present law, qualified royalty owners are exempt from the windfall profit tax on up to two barrels a day (three barrels a day after 1984) of production of qualified royalty oil. Only individuals, estates, and qualified family farm corporations are included in the definition of qualified royalty owners. Under this rule, neither a trust nor its beneficiaries are entitled to any royalty owner exemption with respect to the production of the trust.

House bill.—No provision.

Senate amendment.—Under the Senate amendment, each qualified beneficiary of a trust that has qualified royalty production ("allocable trust production") will be entitled to a refund of windfall porfit tax paid on his or her allocable share of that production. There is a limit of two barrels a day (three barrels after 1984) on the total amount of qualified royalty production with respect to which any beneficiary may claim either a royalty oil exemption (under sec. 4991(b)(5)) or a refund under the new provision.

A beneficiary's allocable share of the tax paid with respect to allocable trust production is the portion of that production which bears the same ratio to all such production as the beneficiary's allocable depletion deduction bears to the entire depletion deduction allocable to the trust and its beneficiaries. All depletion deductions are taken into account for this purpose including depletion on hard mineral, gas, and crude oil that is not royalty production.

Conference agreement.—In general, the Conference agreement follows the Senate amendment, except with respect to the method of allocating qualified trust royalty production (and any associated refund or credit) between and among the trust and its beneficiaries and for certain technical and clarifying amendments. As under the Senate amendment, each income beneficiary of a trust will be entitled to a credit for or refund of windfall profit tax paid by the trust on his or her allocable share of the qualified royalty production of the trust. No credit or refund is available with respect to production allocated to the trust.

Under the Senate amendment, this allocation was made on the basis of all the depletion deductions available with respect to oil, gas, and mineral production of the trust. Thus, under trusts requiring allocation of the depletion deduction to the trust, beneficiaries would have been unable to take advantage of the exemption even though they received a substantial portion of the income from the trust's qualified royalty production. Under the Conference agreement, allocable trust production is allocated between and among the trust and its beneficiaries according to each person's interest in total trust qualified royalty production.

Trust qualified royalty production is first allocated to the trust in an amount based on the amount of any trust reserve for depletion for the calendar year with respect to qualified royalty production. To the extent qualified royalty production remains unallocated, such production is allocated between and among the trust and its income beneficiaries according to each person's share, as a percent, of adjusted distributable net income (adjusted DNI) for the calendar year. Adjusted DNI is the distributable net income of the trust for the calendar year (regardless of the trust's taxable year) reduced by the amount of any excess in the trust depletion reserve with respect to trust qualified royalty production for the calendar year over the depletion deduction allocated to the trust under the Internal Revenue Code with respect to trust royalty production for the calendar year. Each person's allocable share of trust production is deemed to be a pro rata share of each unit (i.e., type and category, including each base price and removal price category) of oil.

The total benefit available to any qualified beneficiary of a trust through this new provision and the royalty owner's exemption provisions of the windfall profit tax may not exceed an overall limitation based on 2-barrels a day in 1981 through 1984 and 3-barrels a day in 1985 and thereafter. The amount available with respect to aggregate allocable trust production is determined by reducing the applicable limitation by the amount of any oil that is subject to the exemption for oil held directly by individuals. A beneficiary may elect, under regulations, to reduce his or her exemption amount on production owned outside of trusts so that a

greater benefit is available with respect to trust production.

The Conference agreement applies the same anti-transfer rules to this new provision as apply with respect to the royalty owner exemption for oil production owned directly by individuals. Under these rules, transfers generally result in a loss of eligibility for the refund or credit unless they are made at death or between persons who share a single limitation on the credit or refund.

The Conferees also understand that with respect to the amendments made by the bill concerning the definition of crude oil and the treatment of condensates, the appropriate source for legislative history is the report of the Committee on Finance, which last reported the provision.

The conference agreement also contains a technical amendment permitting the Secretary to reduce the estimated tax payment liability of an individual by the amount of the refund or credit provided under the amendment for purposes of the estimated tax penalty.

This provision applies with respect to calendar years beginning after December 31, 1981, except that the amendment with respect to estimated taxes is effective on January 1, 1982.

Revenue effect.—The provision will reduce budget receipts by $42 million in fiscal year 1983, $51 million in 1984, $49 million in 1985, $49 million in 1986, and $48 million in 1987.

4. Effect of Sale in Bankruptcy of Aircraft Subject to Safe-Harbor Lease

Present law.—In general, the regular investment credit applies to tangible personal property and other tangible property (generally not including a building or structural component) used in connection with manufacturing, production, or certain other activities. Property used predominantly outside the United States generally is not eligible.

Recapture of investment credit is required if the property either is disposed of or ceases to be used for a qualifying purpose prior to the end of the recovery period used for computing ACRS deductions. For example, recapture is required if 5-year recovery property is used predominantly outside the United States before the end of the 5-year recovery period.

The general rule requiring recapture upon sale of property does not apply when property subject to a safe-harbor lease is sold as a result of the bankruptcy of the lessee, if certain requirements are met (bankruptcy rule). Among the requirements that must be met is a requirement that the person who purchases the property use the property predominantly within the United States.

The safe-harbor lease rules were modified by the Tax Equity and Fiscal Responsibility Act of 1982. Those modifications do not affect either the general recapture rule or the special bankruptcy rule. The modifications do not apply to transitional safe-harbor lease property, including certain aircraft.

House bill.—No provision.

Senate amendment.—For aircraft covered by the safe-harbor lease transitional rules, the Senate amendment provides that no recapture will be required upon sale of the aircraft in bankruptcy to a person who uses the property predominantly outside the United States if the other requirements of the bankruptcy rule (other than the prohibition against foreign use) are met.

Conference agreement.—The conference agreement follows the House bill.

5. Effective Date for Registration of Tax-Exempt Obligations

Present law.—The Tax Equity and Fiscal Responsibility Act of 1982 provides that certain obligations of the United States can be issued only in registered (or book-entry) form. A similar requirement is imposed through the imposition of tax-related sanctions on State, local, foreign and private obligations to a type offered to the U.S. public which are issued after December 31, 1982.

House bill.—The original House bill contained no provision.

Senate amendment.—No provision.

House amendment.—The amendment delays for one year, to December 31, 1983, the effective date of the registration provisions of TEFRA as they apply to obligations the interest on which is exempt from Federal income tax.

Conference agreement.—The conference agreement follows the House amendment but provides for a 6-month rather than a one-year delay of the effective date. The conference agreement clarifies that the postponement of the registration requirement of TEFRA does not affect any requirements of law prior to TEFRA requiring certain bonds (e.g., housing bonds and energy bonds) to be in registered form in order to be tax exempt.

6. Transitional Safe-Harbor Lease Rule for Auto Manufacturing Property

Present law.—The safe harbor lease modifications made by the Tax Equity and Fiscal Responsibility Act of 1982 do not apply to transitional safe harbor lease property. In general, eligible property must be placed in service by January 1, 1983. However, manufacturers that produce a class of products in an industry dominated by 4 or fewer persons have until October 1, 1983, to place their property in service. This provision was intended to apply only to automobile manufacturing.

House bill.—The original House bill contained no provision.

Senate amendment.—No provision.

House amendment.—The transitional safe harbor lease rule designed for automobile manufacturers was considered unclear in that it might be read to apply in some instances to property other than automobile manufacturing property. The amendment replaces the existing definition of eligible property with a definition that clarifies the intended scope and meaning of the provision.

The amendment makes it clear that only manufacturers of finished automobiles and trucks qualify and that the property must be used directly in the taxpayers' trade or business of manufacturing automobiles or trucks. At least half of the motor vehicles produced by the taxpayer in 1981 must have been passenger cars and light-duty trucks.

The amendment clarifies the type of property eligible under the provision by referring to equipment, machinery and tools of the type included in the former ADR classification for motor vehicles. In addition to property described under that classification, eligible property includes property owned by an automobile manufacturer and used by a vendor solely for the production of component parts to be sold to such manufacturer for inclusion in the finished automobiles or trucks.

Conference agreement.—The conference agreement follows the House amendment with the following modifications. The Conference agreement eliminates the requirement that at least half of the motor vehicles produced by the taxpayer in 1981 must have been passenger cars and light-duty trucks. The conference agreement limits eligibility to property used principally by the taxpayer directly in connection with the trade or business of manufacturing automobiles or light-duty trucks. Property used principally to manufacture heavy-duty trucks or truck-tractors is ineligible. For this purpose, a light-duty truck is a truck with a gross vehicle weight of 13,000 pounds or less. This definition of gross vehicle weight follows the provisions in section 4061 of the Internal Revenue Code and the regulations thereunder.

7. Discount Obligations Issued in a Reorganization

Present law.—When obligations are issued at a discount, with two principal exceptions the discount must be included in income by the holder and is deductible by the issuer over the life of the bond. If corporate obligations are issued for securities, original issue discount arises only if either the obligations or the securities are traded on an established securities market, and the original issue discount is the excess of the redemption price of the obligations over the value of the securities. Second, original issue discount does not arise with respect to bonds issued in recapitalizations and other corporate reorganizations, whether or not publicly traded. The Tax Equity and Fiscal Responsibility Act of 1982 amended the rules applicable to original issue discount to require the income inclusion and deduction in a manner that reflects the compounding of interest. Prior to TEFRA, discount was allocated on a pro rata basis to each month in the life of the bond, resulting in an overstatement of the portion allocable to the early months and a corresponding deduction understatement in later months.

New obligations exchanged for a corporation's outstanding obligations in a recapitalization may provide for the deferral until maturity of payments exceeding both the issue price of the outstanding obligations and their fair market value at the time of the exchange. Such deferred payments are not within the definition of original issue discount and are not taxable to a holder under the original issue discount rules of section 1232A. Some issuers have claimed entitlement to deductions prior to payment and without regard to the limitations that would apply if such deferred amounts were original issue discount. The claimed treatment would produce a substantial mismatching between the timing of the issuer's deduction and the holder's income inclusion, producing a substantial revenue loss to the Treasury. Present law is unclear as to the proper treatment of such amounts.

House bill.—The original House bill contained no provision.

Senate amendment.—No provision.

House amendment.—The amendment removes the exclusion for obligations issued in a reorganization from the definition of original issue discount. Under the amendment, original issue discount will be limited to the excess of the redemption price of the obligations, when they are exchanged for outstanding obligations, over the issue price of such outstanding obligations increased for previously deducted discount. This limitation will apply where the issue price of the outstanding obligations so adjusted exceeds their fair market value. The amendment makes no change to the exception to the definition of original issue discount for obligations that are not publicly traded and are not issued in exchange for publicly traded stock or securities. The amendment applies to obligations issued after December 13, 1982, other than obligations issued pursuant to a written commitment binding on that date.

Conference agreements.—The conference agreement follows the House amendment with a modification under which the adjusted issue price of an old bond exchanged in the transaction, for purposes of determining the limitation on original issue discount to the holder, is the issue price of such bond increased by the portion of original issue discount previously includible in the income of any holder. The conferees do not intend to create any inference as to the timing of deductions for deferred interest payments allowable to an issuer of an obligation that is not considered as issued at a discount under section 1232(b)(2). The conferees understand that the Treasury Department is currently studying the question of whether deductions for deferred interest payments under obligations that are not considered as issued at a discount to the inclusion of the deferred interest in gross income by the holders of such obligations. In the event that the mismatching of conference agreement cannot be satisfactorily resolved under present law, further corrective legislation may be appropriate in the near future to prevent such mismatching.

8. SUBCHAPTER S

Present law.—The Subchapter S Revision Act of 1982 provides that a corporation making a subchapter S election must have either a taxable year ending on December 31 or other accounting period for which it establishes a business purpose. That Act generally applies to taxable years beginning after December 31, 1982. Under the analagous rule relating to partnerships, the Internal Revenue Service generally permits adoption of, or change to, a fiscal year that does not result in a deferral of income to the partners in excess of 3 months. Rev. Proc. 72-51, 1972-2 CB 832.

The Act also revised the distribution rules to allow tax-free distributions of subchapter S income.

House bill.—The original House bill contained no provision.

Senate amendment.—No provision.

House amendment.—The House amendment provides that the taxable year requirements of the Subchapter S Act will apply to any Subchapter S election made after October 19, 1982. Thus, the corporation's year must end on December 31, or at the end of any period for which it establishes a business purpose.

The House amendment provides that stock or securities transferred to a small business corporation after October 19, 1982, and before the enactment of this bill, will not trigger shareholder gain where the corporation is liquidated under section 333 before March 1, 1983.

The House amendment also allows subchapter S corporations to elect to treat distributions as dividends. This will allow a corporation to distribute its earnings and profits to avoid the passive income restrictions, or to obtain a dividends paid deduction for the accumulated earnings tax or personal holding company tax for the year prior to becoming a subchapter S corporation. It will thus not be necessary to distribute the entire amount in the accumulated adjustment account at the end of the taxable year in order to pay a dividend. The procedures for electing dividend treatment will generally be similar to the procedures of prior law (Treas. Reg. sec. 1.1375-4(c)) allowing distributions out of earnings and profits to be made prior to distributions of previously taxed income.

Conference agreement.—The conference agreement generally follows the House bill. The conferees intend that the Internal Revenue Service, in determining whether a Subchapter S corporation may have a taxable year other than a calendar year, generally will apply rules similar to the rules applicable to partnerships. Thus, based on current administrative practice, the conferees generally understand that the Service will deem the business purpose test of section 1378 to be satisfied when the corporation's fiscal year would result in deferral of income to all shareholders of three months or less. However, if a corporation which was in existence on January 1, 1982, and which has a fiscal year ending on or after September 30, 1982 and on or before December 31, 1982, is eligible to make an S election after September 30, 1982, and does so within 75 days of the close of its fiscal year that ends in 1982, then the conferees intend that retention of the same fiscal year by the S corporation will satisfy the business purpose requirement. The agreement also provides that the special liquidation relief applies with respect to stock or securities transferred to the Subchapter S corporation after September 30, 1982.

9. TREATMENT OF CERTAIN CORPORATE STOCK PURCHASES

a. Seller's consolidated return treatment

Present law.—The Tax Equity and Fiscal Responsibility Act of 1982 provided that certain stock purchases by a corporation could be treated as if the target corporation sold all its assets on the purchase date. If prior to the stock purchase the target corporation was a member of an affiliated group of corporations filing a consolidated return, it is unclear whether recapture and other tax liability of the target corporation from the deemed sale of its assets was a consolidated return liability of the selling group or a separate liability of the target corporation.

House bill.—No provision.

Senate amendment.—No provision.

House amendment.—The amendment provides that such liability will normally be a separate return liability of the target corporation. However, authority is provided pursuant to which it is contemplated that regulations will provide otherwise when consolidated return treatment achieves the appropriate result. With respect to purchase contracts entered into after TEFRA was enacted and prior to enactment of this bill, if the purchasing corporation establishes to the satisfaction of the Secretary of the Treasury that the contract was entered into on the assumption that recapture taxes would be a liability on the seller's consolidated return, the transaction will be so treated under the bill.

Because of uncertainty as to the application of the TEFRA rule, the amendment extends the period during which asset sale treatment may be elected for prior stock purchases through February 28, 1983 and permits any election already made to be revoked by that date.

Conference agreement.—The conference agreement generally follows the House amendment. However, it provides more explicit rules for the inclusion under regulations of recapture and other tax liability of the target corporation in a selling corporation's consolidated return. Under the conference agreement, regulations will provide an election if the target corporation was a member of an affiliated group which files a consolidated return for the taxable year within which the transaction takes place. Under the election, the transaction will be treated as a sale by the target corporation of all its assets in a single transaction in which gain or loss is recognized to the same extent as in an actual sale and the target corporation will be a member of the selling consolidated return group with respect to the sale. Gain or loss to any member of such selling group from the sale or exchange of the target corporation's stock is not be recognized to the extent the regulations so provide. Except as expressly provided by the regulations, this election may not be made for a transaction entered into before such regulations are promulgated.

The conference agreement also requires the purchaser to establish by clear and convincing evidence, rather than to the satisfaction of the Secretary of the Treasury, that the purchase contract was entered into with the assumption that recapture taxes would be a liability on the seller's consolidated return in order for the transaction to be so treated, as to contracts entered into prior to enactment of the bill.

b. Retroactive application

Present law.—As enacted by TEFRA, a transitional rule provided that the deemed asset sale treatment could be elected not later than November 15, 1982, with respect to stock purchases after August 31, 1980, and before September 1, 1982.

House bill.—The original House bill contained no provision.

Senate amendment.—The Senate amendment provides that the date the taxpayer makes the election, rather than the date of the stock purchase, will be the date of the deemed sale of assets for transactions qualifying under this transitional rule. Adjustments must be made for distributions and other items attributable to operations of the target corporation between the stock purchase date and the date of election. Certain rules requiring consistency of treatment when several acquisitions are made from the same affiliated group of corporations would not apply. Under the Senate amendment, an election made before September 28, 1982, under this transition rule could be revoked not later than November 15, 1982.

House amendment.—The House provision modifies the Senate amendment to provide that the deemed asset sale with respect to these stock purchases will be effective for a date selected by the taxpayer which is after the later of June 30, 1982, or the stock purchase date and on or before the date of the election. The rule that would allow an election or revocation of an election to be made by February 28, 1983, would apply to these transitional rule elections under the House amendment. Any election made on or before November 15, 1982, may be revoked for the purpose of making a new election that selects another date for the deemed asset sale as provided above.

The House amendment also clarifies that certain tax-free transfers of the target corporation's stock or assets within the purchasing corporation's affiliated group will not result in disqualification of a transitional rule election.

Conference agreement.—The Conference agreement generally follows the Senate amendment as modified by the House amendment.

10. REGULATED FUTURES CONTRACTS

a. Bank forward contracts

Present law.—Contracts providing for the future delivery of foreign currency may be entered into with certain commercial banks comprising an informal interbank market or as regulated futures contracts which are taxed under the mark-to-market rules. Contracts traded in the interbank market are not assignable without the consent of the bank, and therefore, as in the case of regulated futures contracts, are not includible in inventory.

House bill.—The House bill would place foreign currency contracts traded through the interbank market under the mark-to-market rules applicable to regulated futures

contracts. This treatment would apply only to contracts involving those currencies which are also the subject of trading on regulated futures exchanges. The Secretary of the Treasury would be authorized to prescribe rules to determine the value of contracts and to disregard the terms of a contract which preclude the determination of readily ascertainable value. The bill would apply to contracts entered into after May 11, 1982.

Senate amendment.—The Senate amendment is the same as the House bill with modifications to permit certain taxpayer elections. Taxpayers may elect to have the amendment apply to positions held on and after May 11, 1982. In addition, the amendment provides that taxpayers may elect to extend the amendment to positions held in 1981. Taxpayers so electing would have 90 days after the date of enactment of this bill to have certain ERTA elections apply to 1981 positions.

House amendment.—The amendment revises and clarifies the rules applicable in determining whether a position will be treated as a foreign currency contract subject to mark-to-market treatment. The amendment provides that these contracts must be entered into at arm's length at a price determined by reference to the price in the interbank market and authorizes the issuance of regulations necessary or appropriate to carry out the purpose of the amendment, including regulations which would exclude from mark-to-market treatment contracts, or types of contracts, which are inconsistent with the purpose of the amendment.

Thus, for example, terms which attempt to make the contracts transferable in such a way to allow them to be held as inventory (which would make them unlike futures contracts) could cause them to be ineligible for mark-to-market treatment.

Contracts traded in the interbank market generally include not only contracts between a commercial bank and another person but also contracts entered into with a futures commission merchant who is a participant in the interbank market. A contract between two persons neither of whom is a futures commission merchant or other similar participant in the interbank market is not a foreign currency contract under the provision. If there is a change in the parties to a foreign currency contract under the relevant non-tax law, the transaction resulting in such change will be treated as a termination of the contract with respect to the original parties and the entering into of a new contract which, in order to be treated as a foreign currency contract subject to mark-to-market treatment, must independently qualify as such under the rules.

It is contemplated that, under the regulatory authority provided in the bill, the Internal Revenue Service may publish periodic rulings or similar statements (i) that provide guidance as to whether a price is determined by reference to the interbank market and (ii) that specify a type of contract or identify specific contracts that are excluded from the definition of foreign currency contract. In general, a price is determined by reference to the price in the interbank market if it is a price that would be obtainable from a bank that is a substantial participant in the interbank market. In making this determination, proper adjustments may be made for differences attributable to variations in the contracts customary in the interbank market, such as provisions relating to reasonable and customary commissions, the amount of currency under the contract, and the credit worthiness of the parties.

Significant price fluctuations may occur rapidly, frequently within a period of several hours, in the commodities markets and similar markets, including the interbank market. Present law provides generally that a dealer in securities must identify a security as held for investment by the close of the day on which it is acquired and a similar identification requirement applies to positions constituting hedges excluded from mark-to-market rules and other limitations on commodities straddles. Identification does not establish a taxpayer's purpose in holding a position but merely provides a statutory condition in addition to satisfying, as a matter of fact, that such position is held for investment, as inventory, or as a hedge. A taxpayer's purpose with respect to a position generally is formed quickly, frequently before the position is acquired. Thus, characterization of a position on a taxpayer's books several hours after the position was acquired may have little or no probative value in supporting the taxpayer's claim that such characterization is the correct one.

The amendment modifies the 1982 election to permit a taxpayer to apply the amendment to positions held at any time during their 1982 taxable year.

Conference agreement.—The conference agreement generally follows the House bill and the House amendment with a clarifying modification. Under the modification, a taxpayer who held a foreign currency contract during 1981 and before June 24, 1981, who elects to have the amendment apply to foreign currency contracts held in 1981, may make a new election under either section 508(c) or section 509(a) of ERTA. For an electing taxpayer, and election under section 508(c) or 509(a) of ERTA must be applied to all regulated futures contracts, including foreign currency contracts.

Revenue effect.—This provision will reduce fiscal year budget receipts by $18 million in 1983.

b. Cash settlement contracts

Present law.—Regulated futures contracts taxed under the mark-to-market rules are defined to include only contracts that require the delivery of personal property. Since the enactment of ERTA, trading has commenced in a number of mark-to-market futures contracts calling only for cash settlement. Some contracts provide for cash settlement as an alternative to the delivery of personal property.

Settlement or other termination of a contract results in capital gain or loss notwithstanding the absence of a sale or exchange only if the contract is with respect to personal property that would be a capital asset in the hands of the taxpayer.

House bill.—The House bill deletes the provision that a contract must require the delivery of personal property to be treated as a regulated futures contract subject to mark-to-market treatment.

Senate amendment.—The Senate amendment retains the present law definition of a regulated futures contract but provides that cash settlement contracts requiring the delivery of an amount of cash determined by reference to the value of any property or index based on that value will meet the delivery of personal property requirement.

House amendment.—The House amendment retains the original House provision and adds an amendment providing that capital gain or loss will result from termination of a contract which does not require delivery of personal property even though there is no sale or exchange, if the contract itself is a capital asset in the hands of the taxpayer.

Conference agreement.—The conference agreement follows the House bill amendment.

11. AT-RISK RULE FOR SAFE-HARBOR LESSORS

Present law.—The Tax Equity and Fiscal Responsibility Act of 1982 provides that the at-risk limitations on losses and credits do not apply to closely held corporations that buy tax benefits as a lessor in a safe-harbor lease. In general, the safe-harbor lease changes are effective for property placed in service or leases entered into after July 1, 1982 (general effective date). Two special effective date rules apply for the at-risk change. The at-risk change generally applies to property placed in service after September 3, 1982, the date of enactment of TEFRA (prospective rule). Subject to the general effective date rule, the change also applies to property placed in service before date of enactment where the lessor first becomes a closely held corporation after that date (retroactive rule).

House bill.—The original House bill contained no provision.

Senate amendment.—No provision.

House amendment.—House amendment adds language to clarify that the TEFRA at-risk change under the retroactive rule may apply where the property is placed in service before July 1, 1982, the general effective date for the safe-harbor leasing changes.

Conference agreement.—The conference agreement follows the House amendment.

12. RECAPTURE OF EXPENSING DEDUCTIONS WHERE PROPERTY USED FOR NONBUSINESS PURPOSES

Present law.—The Economic Recovery Tax Act of 1981 allowed taxpayers to elect to expense the cost of certain property acquired for use in a trade or business. For 1982, the maximum amount that may be expensed is $5,000.

Under present law, all or a portion of investment credit is recaptured (i.e., there is an increase in tax) when property is disposed of or otherwise ceases to be qualifying property before the end of the recovery period used to compute the credit. For example, if property ceases to be used for business purposes, recapture is required. Recapture of ACRS or expensing deductions is required (i.e., a portion of gain is treated as ordinary income rather than capital gain) at the time of a sale or exchange of the depreciable property. Unlike the investment credit, no recapture of ACRS or expensing deductions is required if the property ceases to be depreciable.

House bill.—No provision.

Senate amendment.—No provision.

House amendment.—The House amendment provides that, under regulations prescribed by the Secretary, the taxpayer must recapture the expensing deduction where the property is not predominantly used in a trade or business at any time before the close of the second taxable year following the year in which it is placed in service by the taxpayer. For this purpose, recapture means that, in the taxable year it is determined that the property is not used predominantly in a trade or business, the taxpayer must include in income the tax benefit derived from the expensing deduction.

The amendment does not alter the present law rule under which no expensing deduction is allowed if the property is not acquired for use in a trade or business.

Conference agreement.—The conference agreement follows the House amendment.

13. CREDIT FOR TAX WITHHELD FROM INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS

Present law.—The Tax Equity and Fiscal Responsibility Act of 1982 provides for withholding on interest, dividends and patronage dividends. Under the Act, any amount of tax withheld on the payment or credit of interest, dividends or patronage dividends is

treated as a credit against the income tax of the recipient of the payment or credit for the recipient's taxable year beginning in the calendar year of the payment or credit.

House bill.—No provision.

Senate amendment.—No provision.

House amendment.—House amendment provides that the withholding credit is allowed in the same taxable year as the income is received. In the case of pass-through entities, such as partnerships, the ultimate taxpayers (i.e., partners) will thus receive the credit in the same taxable year the interest or dividends are included in their income.

Conference agreement.—The conference agreement follows the House amendment.

14. FOREIGN OIL LOSS RECHARACTERIZATION TRANSITION RULE

Present law.—The Tax Equity and Fiscal Responsibility Act of 1982 changed the tax rules for U.S. taxpayers with foreign oil operations. Before the Act, the foreign tax credit was computed separately for oil income and non-oil income. These separate computations or "baskets" were eliminated by TEFRA. Both before and after the Act, taxpayers with an overall foreign loss in one year must recapture that loss in later years through an adjustment to the foreign tax credit. Eliminating the separate baskets for the foreign tax credit (including the recapture provision) for oil and non-oil income created an unintended problem for some taxpayers. Absent a special rule in TEFRA, a taxpayer with a pre-TEFRA non-oil overall foreign loss and post-TEFRA foreign oil income would have had to recapture that loss, possibly in the first post-TEFRA year. TEFRA alleviated this problem for pre-TEFRA foreign non-oil losses by spreading the recapture over an eight year period. However, a taxpayer with a pre-TEFRA overall foreign oil loss and post-TEFRA foreign non-oil income will have to recapture that loss, possibly in the first post-TEFRA year.

House bill.—No provison.

Senate amendment.—No provision.

House amendment.—The House amendment conforms the treatment of pre-TEFRA foreign oil losses to the treatment of pre-TEFRA foreign non-oil losses. Thus, it provides that a pre-TEFRA foreign loss from either of the two separate baskets (the foreign oil basket and the foreign non-oil basket) will be recaptured from post-TEFRA income from the other basket not more rapidly than ratably over the eight-year period beginning with the first taxable year beginning after December 31, 1982. Such recapture of losses against income from the other basket will be in addition to (and not in lieu of) recapture of losses against income from the same basket.

Conference agreement.—The conference agreement follows the House amendment.

15. ALTERNATIVE MINIMUM TAX

Present law.—Prior to amendments made by the Tax Equity and Fiscal Responsibility Act of 1982, an alternative minumum tax was imposed on the tax preference for capital gains and adjusted itemized deductions. The minimum tax rules were extensively revised by that Act.

House bill.—No provision.

Senate amendment.—No provision.

House amendment.—Amendment provides that in computing the adjusted itemized deduction preference, any itemized deduction which is not allowed against the alternative minimum tax base in the current year because it is carried over to another year shall also be excluded from the computation of the adjusted itemized deduction preference in the current year. This amendment applies to taxable years beginning after 1978 and before 1983.

The House amendment also provides that in computing the alternative minimum tax for 1981, the special 20-percent capital gain maximum rate made applicable by ERTA to post-June 9 gains will be applied in certain cases by reducing the qualified net capital gain by losses for the taxable year. In these cases, the special tax base subject to the 20-percent rate will equal the taxpayer's alternate minimum taxable income.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House amendment.

16. REQUIRED RENEGOTIATIONS OF OUTSTANDING LOANS FROM GOVERNMENT PENSION PLANS

Present law.—Under income tax rules (sec. 72(p)) added by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), a loan made to an employee under an employer's tax qualified pension, profit-sharing, or stock bonus plan, or tax sheltered annuity program, generally is treated as a distribution from the plan unless certain requirements are met. All or a portion of the amount treated as distributed may be includible in gross income. Under the Act, a loan to an employee which is required to be repaid within 5 years generally is not treated as a taxable distribution when made if that loan, when added to the employee's outstanding loan balance under all plans of the employer, does not exceed the lesser of (1) one-half of the employee's vested plan benefits, or (2) $50,000 but in no event less than $10,000.

The income tax provisions relating to plan loans generally apply to loans made from tax-qualified plans of private employers or from government plans after August 13, 1982. Amounts borrowed by an employee on or before that date generally are not treated as taxable distributions. However, if a loan outstanding on August 13, 1982, is thereafter renegotiated, those amounts subject to the renegotiation are treated as if borrowed on the date of the renegotiation and may be treated as taxable distributions.

House bill.—No provision.

Senate amendment.—No provision.

House amendment.—Under the amendment if (1) a taxpayer borrows from a governmental plan after August 13, 1982, and before January 1, 1983, and (2) under the applicable State law the loan requires the renegotiation of all outstanding prior loans made to the taxpayer from the plan, then the required renegotiation will not be considered a renegotiation under the income tax rules for plan loans. Thus, the amount of the prior outstanding loan balance of the employee under the plan will not be treated as a taxable distribution on account of the required renegotiation. The amendment will apply, however, only if the required renegotiation does not extend the duration of, or change the interest rate on, any outstanding prior loan from the plan.

The additional amount which is borrowed by the taxpayer after August 13, 1982, and before January 1, 1983, is taken into account under the income tax rules as a loan made on the date on which the amount is borrowed. The additional amount that is borrowed may, thereofore, be treated as a distribution at the time it is borrowed.

Conference agreement.—The conference agreement generally follows the House amendment except that it provides that the special rule concerning renegotiations only applies to renegotiations made between August 13, 1982, and September 3, 1982 (the date of enactment of TEFRA). Additionally, the agreement provides that, in the case of a renegotiation which extends the duration of the loan, the special rule only applies if this extension is eliminated by April 1, 1983. For example, if a renegotiation on August 20, 1982, extended the duration of the loan, the special rule would be available if, as a result of a further renegotiation, the duration of the outstanding balance of the loan on August 13, 1982 was reduced to the period applicable on August 13, 1982. Of course, a further renegotiation which is limited to reducing the duration of the loan would not be treated as a new loan under the Code.

The agreement does not change the income tax treatment of a loan that would be treated as a distribution notwithstanding the special rule concerning renegotiations.

17. CLERICAL AND CONFORMING AMENDMENTS

House bill.—The House bill contains a number of typographical, clerical and conforming amendments.

Senate amendment.—No provision.

House amendment.—The amendment contains additional typographical, clerical, and conforming amendments.

Conference agreement.—The conference agreement follows the House bill and the House amendment. One of the clerical amendments relates to a provision of the House bill and Senate amendment which for purposes of the targeted job credit provides that a period for determining an individual's eligibility as a member of an economically disadvantaged family generally is the 6 months immediately preceding the earlier of the month in which the eligibility determination occurs or the month in which the individual is hired. This provision applies with respect to certifications issued after the date of enactment for individuals beginning work after May 11, 1982. This change should in no way disturb certifications already issued for individuals who have been determined by the designated local agency as economically disadvantaged. However, certifications are subject to revocation if they are incorrect because of false information provided by the employee.

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
FORTNEY H. (PETE) STARK,
BARBER B. CONABLE,
JOHN J. DUNCAN,
BILL ARCHER,
Managers on the Part of the House.

ROBERT DOLE,
BOB PACKWOOD,
WILLIAM V. ROTH, JR.,
RUSSELL B. LONG,
HARRY F. BYRD, JR.,
Managers on the Part of the Senate.

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 6056) to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980, and ask that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. CONABLE. Reserving the right to object, Mr. Speaker, I do so for the purpose of asking the distinguished chairman if he will explain the conference report on this measure.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, the House and Senate conferees have reached agreement on the Technical Corrections Act of 1982 which makes technical, clarifying, and conforming amendments to provisions of the Tax Equity and Fiscal Responsibility Act of 1982, the Economic Recovery Act of 1981, the Installment Sales Revision Act of 1980, the Bankruptcy Tax Act of 1980, and certain other tax legislation enacted in 1980.

There were few items in disagreement between the House and Senate bills. As the conference report reflects, the Senate has agreed, with a few modifications, to a number of House-initiated amendments making corrections to the Tax Equity and Fiscal Responsibility Act of 1982 which had come to our attention after Senate action on the bill and which required expeditious treatment.

The conferees have agreed to modifications in two House amendments. As agreed, the delay in the effective date for the registration of State and local tax-exempt bonds will be for 6 months, rather than 1 year. The conferees have also agreed that the application of certain safe-harbor leasing transitional rules for automobile manufacturers will be clarified so that equipment used principally to manufacture light duty trucks will also qualify. The Senate has also agreed to other technical and clarifying amendments suggested by the House.

The conferees have also reached agreement on several amendments which were added by the Senate. Conference agreement includes the Senate provisions with regard to allowing certain bulk sales of petroleum products by independent producers and permitting certain trust beneficiaries to receive a refund under the windfall profit tax. The Senate has agreed to recede on its amendments with regard to the application of the safe-harbor leasing rules to bankrupt airlines and a provision which grandfathers certain rehabilitations under the 10-percent rehabilitation tax credit of prior law.

Mr. Speaker, the conference report on H.R. 6056 contains many necessary technical corrections and clarifications of recently enacted tax legislation. I urge its adoption.

Mr. CONABLE. Further reserving the right to object, Mr. Speaker, I would like to say that we all know that complexities of legislation frequently require modification and clarification to insure the original intent of the Congress is achieved. That is the purpose of this particular measure. The chairman described the various acts that are modified by the Technical Corrections Act.

I think it is important to say, Mr. Speaker, that this represents many hours of work of all committee tax staffs, including our committee, and the Joint Committee on Taxation.

Having mentioned the Joint Committee on Taxation, I would like to note briefly that the chief of staff of the Joint Committee on Taxation, Mark McConaghy, is leaving after many years of service on that staff. He is a highly competent and qualified tax man and technician of considerable acuity. And it is my impression that this body will have a great deal of difficulty replacing Mr. McConaghy and the work he has performed under other chiefs of staff previously as chief of staff himself.

I would like to express my appreciation to him for his many years of service and wish him the best of luck in whatever his further pursuits are.

Mr. Speaker, I rise in support of the conference report on H.R. 6056, the Technical Corrections Act of 1982. As I have indicated in the past, the complexities involved in tax legislation necessarily mean that the original legislation will sometimes require clarification and modfication to insure that the original intent of the Congress is achieved. This piece of legislation makes important changes with respect to the following pieces of legislation: The Installment Sales Revision Act of 1980, the Crude Oil Windfall Profit Tax Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Equity and Fiscal Responsibility Act of 1982. In many instances, these changes are of importance to taxpayers affected by these pieces of tax legislation, who need clarification of congressional intent and certainly about technically defective drafting.

In addition, the act represents many hours of work of all committee tax staffs, incuding our committee and the Joint Committee on Taxation.

On a slightly unrelated note, I would like to briefly note the fine job of the Joint Committee of Taxation on this project and many others under the leadership of Mark McConaghy, the chief of staff. Mark will be leaving at the end of this Congress to pursue other endeavors after many years of tireless service to the Congress. This Member would personally like to express his appreciation to Mark for his many years of service and wish him the best of luck in whatever he pursues.

Returning to the matter at hand, I urge the immediate adoption of the conference report of H.R. 6056.

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Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the chairman.

Mr. ROSTENKOWSKI. Mr. Speaker, I, too, want to make the observation that in the 2 years that I have been chairman of the Committee on Ways and Means, Mark McConaghy who is leaving has been of invaluable service. I think of no one who is as committed to responsible government and as dedicated to serving not only the House of Representatives, but his country.

I think certainly we are going to miss him. In any endeavor that he will take on in the future, I am sure he will be a success.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield for a question?

Mr. CONABLE. Yes; I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I notice mention of safe harbor leasing. Does this bill reinstitute or further correct the safe harbor leasing?

Mr. CONABLE. Mr. Speaker, I yield to the chairman for an explanation.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, what happened is that we have objected to a Senate amendment and, if anything, we have restricted whatever happens in the safe harbor leasing under the provisions of this legislation.

Mr. CONABLE. The provision would have extended the transition rules to certain airlines. It did not do so. The Senate provision to do that was dropped from the conference report.

Mrs. FENWICK. I thank the chairman and the ranking member.

Mr. CONABLE. Mr. Speaker, further reserving the right to object and returning to the matter at hand, I must urge immediate adoption of the conference report in view of the lucid explanation of the chairman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois (Mr. ROSTENKOWSKI)?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House of today, Tuesday, December 21, 1982.)

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

NATIONAL CHILDREN AND TELEVISION WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 264) to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I reserve the right to object to tell the gentleman that no one on the minority side seems to know about this resolution coming up.

One of the questions we have is how many signatures were on this bill that we are bringing to the floor?

I am glad to yield to the gentleman.

Mr. GARCIA. Mr. Speaker, let me answer the second part first. There are over 218 signatures which were required; but coupled with that, this was OK'd last week, but in the confusion of all that has happened in the last I guess 7 days, we laid this aside because there were other matters to take up; but I can assure the gentleman that this is one of those items that has been approved by the minority side.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, does the gentleman have additional requests of this kind that he is going to bring before us this evening?

Mr. GARCIA. I have several more, yes.

Mr. WALKER. Well, it would be very helpful to us on this dies, I might say to the gentleman, if we could have a list of those bills and have some knowledge as to what is coming before us, because if we do not have some knowledge as to what we are going to be taking up, this gentleman is going to feel constrained to object and I do not want to further burden the House with those kinds of objections.

So does the gentleman have a list of these bills available?

Mr. GARCIA. Yes, and we will make it available to the gentleman.

I just would like the House to know that the resolutions that I have I think are evenly divided on both sides of the aisle by requests for Members on the minority side, as well as Members on ours. We will give the gentleman the list.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I think we have a lot of Members who would like to see us finish up the session and get to the gas tax bill, get to the sine die adjournment and go home, rather than take up endless streams of unanimous-consent requests.

I would appreciate so we can expedite the procedures of the House getting a list of what it is we are going to be considering here.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman.

Mr. GARCIA. Mr. Speaker, most of these resolutions that we are now dealing with are resolutions that have come over from the Senate and what we are trying to do is accommodate the Senators' requests that we pass these in the House; so this is basically what we are trying to do.

● Mr. WIRTH. Mr. Speaker, it is almost impossible to measure the impact that television has upon our lives—in everything from the way we wear our hair to the way we conduct our lives. Nowhere is that influence stronger than with our children, for what they watch on television today will affect their approach to the future—of their lives, of their communities, and, in fact the quality of life in our society.

The resolution, which I introduced, designating the week of March 13, 1983, as Children's Television Week is an important one. Children's Television Week will serve to call attention to the best that television has to offer our young citizens, and to applaud those who have sought quality, imagination, and sound educational values in developing and presenting children's television programing.

The first amendment guarantees that all Americans have access to the greatest diversity of information sources possible. That includes our children. As the most widely available mass medium, television has both the opportunity and responsibility to provide that diverse information to the largest number of children.

Television should educate, it should establish role models, it should provide examples of the kinds of standards and ethics we would like to see reflected in our society in the future. To that end, we must continue to encourage efforts on behalf of better television programing for children.

This resolution, already passed by the Senate, is proof that the cooperation among the industry, public interest groups and the Government that is necessary if excellence in children's programing is to flourish, already exists. I would like to take this opportunity to salute the efforts of the National Council on Children and Television, the National Parent-Teachers Association, the National Broadcasting Co., the National Coalition on Television Violence, and the congressional sponsors of this legislation in both Houses of Congress particularly Senator JOHN HEINZ and Congressman ROBERT GARCIA, for their cooperative efforts.

In the next Congress, the Subcommittee on Telecommunications, Consumer Protection and Finance will closely consider the issue of children's television. And Children's Television Week will help to spotlight our quest for excellence in children's programing. I hope it will become a reality today through your support.

Consideration of this resolution also gives me the opportunity to applaud the efforts of Peggy Charren and Action for Children's Television, and Joan Ganz Cooney and the Children's Television Workshop, who have done an extraordinary job in enriching the lives of our children through their involvement in this vital area. The Children's Television Workshop's shows—"Sesame Street," "The Electric Company," and "3-2-1 Contact," are good entertaining television shows that also guide and teach over 10 million young Americans every week. What we need is more children's TV along the lines of Ms. Cooney's contributions. In a recent article in USA Today, Ms. Cooney put forth some provocative views on children's television. They are printed below:

[From the USA Today, Nov. 22, 1982]

COONEY AND KIDS STICK TOGETHER

(By Roberta Plutzik)

Back in 1969, Joan Ganz Cooney was on the road "selling, selling, selling. Wherever three people were gathered who had anything to do with education, that's where I was."

What was she hawking? A new kids show called "Sesame Street," different in form and content from anything adults or children ever had seen on television.

Today, Joan Cooney, who originally wrote and produced "Sesame Street," works out of a spacious office overlooking New York City's Lincoln Center arts complex, and presides over the Children's Televison Workshop. CTW produces "Sesame Street" and operates one of the most successful nonprofit businesses in the nation.

As "Sesame Street's" 14th season begins—130 new shows begin airing today—Cooney no longer has to sell the concept to anybody. It is seen in more than 60 countries on six continents; its profit-making products division licenses the manufacture of some 1,600 toys, games, dolls, gym sets, eating implements, clothes, books and other child-related items that sell very well.

So well that in 1982, The Children's Television Workshop is self-supporting. Even as it goes after and wins grants for production of new shows such as "3-2-1 Contract's" current $7 million from federal and private

sources, CTW is able to stand firmly on its own feet.

Ad sales from CTW's inhouse record division and receipts from its newest and boldest venture, theme parks built jointly with Anheuser-Busch (two already are in action in Langhorne, Pa., and in the Dallas-Fort Worth area). Children's Television Workshop's position is enviable.

But security and acceptance hasn't slowed Cooney's effort to educate adults on the state—more dire than ever—of television programming for children. She calls the United States "virtually immoral toward its children in every way—TV is just the tip of the iceberg. We are the only country in the world, not just the advanced Western democracies but the world, that doesn't regulate television for children."

CTW's international associated find it "inconceivable," she says, "that all this air time that belongs to the people has been taken over entirely for commercial purposes and profit without the slightest regard for the youngest people in this country in whom it has had and continues to have enormous impact."

A few seasons back, when the Federal Communications Commission announced plans to mandate one half-hour a day of programming for preschoolers and another for older children, Cooney, 52, recalls that "the networks were prepared to fall into line without a squawk. (She knows this because they all phoned CTW to ask about preparing some quality programs to fill the slot.)

But the FCC decided against the guidelines and, in Cooney's opinion, "the trend is much worse now. Stations have a longer license period, so there's less fear. We have removed every obstacle in this country to putting on all adult programming and as many commercials as the law allows. The last obstacle was fear. There's not much of that left."

Cooney lashes out at the "commercialization of children—selling products to people who have no money" and defends CTW's licensing program by pointing out that it prohibits advertising to children or by children for any product under its umbrella.

Of the general quality of television today, Cooney terms it "bad news. I watch my own stepchild and his fine brain being rotted away by television."

Once divorced, Cooney married a Wall Street investment banker two years ago and became an instant mother to five children, ages 9 to 25.

In the '80s, while "Sesame Street" continues its efforts to prepare preschoolers with basic skills necessary for success in first grade, CTW also will be expanding its computer software and video game line and building six to eight more theme parks in the USA and abroad. Cable may enter the picture if sufficient funds for production and a suitable partnership can be arranted. But Cooney is wary of jumping too quickly into "one of the most potentially divisive and fractionated communications systems imaginable."

"I worry about a culture which could become so factionated, with people viewing events at different times. One of the ties that binds us together is collective television experiences like watching Archie Bunker, "Sesame Street," walks on the moon, Sadat going to Jerusalem, the Yankee World Series of 1978. One billion people saw the 1982 World Cup competition simultaneously. No cable company could do that, now or in 10 years."

An audience of more than 9 million children tune in "Sesame Street" seven days a week. About twice as many as watch "Mr. Rogers' Neighborhood," whom Cooney describes as "wonderful . . . but he's an acquired taste." Though some 30 million preschoolers have cut their teeth on "Sesame Street" during the last 13 seasons, Cooney recognizes the efforts of the Children's Television Workshop, which includes "Electric Company," are a drop in the bucket as far as programming goes for America's kids. "We're so huge a landmass that not to have united this country with regulations on what television is doing to and for children is a grave error we will pay for forever," Cooney says with regret. "It's too late now."

The text of the children's television week resolution follows:

H.J. RES. 623

Whereas television can create an intellectual and emotional environment which can play a decisive role in shaping individual development and perception;

Whereas parents and other adults should be able to look to television to provide children with true pictures of the world and positive models for behavior;

Whereas many dedicated groups and individuals strive to improve the quality of television programming viewed by children and their families; and

Whereas the Nation has a continuing responsibility to provide appropriate, stimulating programming for children and adolescents: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 13, 1983, is hereby designated as "National Children and Television Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the elected officials and people of the United States to observe such week through activities supporting television programs which are attentive to the needs and interests of children and those who care for them.●

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. GARCIA)?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 264

Whereas television can create an intellectual and emotional environment which can play a decisive role in shaping individual development and perception;

Whereas parents and other adults should be able to look to television to provide children with true pictures of the world and positive models for behavior;

Whereas many dedicated groups and individuals strive to improve the quality of television programing viewed by children and their families; and

Whereas this Nation has a continuing responsibility to provide appropriate, stimulating programing for children and adolescents: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 13, 1983, through March 19, 1983, is designated as "National Children and Television Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the week with appropriate activities supporting television programs which are attentive to the needs and interest of children.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL GARDEN WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 29) to authorize and request the President to issue a proclamation designating the calendar week of June 6 though June 12, 1982, as "National Garden Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. KINDNESS. Reserving the right to object, Mr. Speaker, is there something about this resolution that is different from the title?

I yield to the gentleman.

Mr. GARCIA. The answer is no.

Mr. KINDNESS. So we are talking about at a date that is past?

Mr. GARCIA. No. There is an amendment at the desk which we will be offering.

Mr. KINDNESS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. GARCIA)?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 29

Whereas the gardeners of this country produce a multitude of foods for our people and enable us to export foods to other countries which are in desperate need; and

Whereas our gardeners help to preserve and foster our traditional spirit of independence and individual initiative; and

Whereas gardening instills in our people, both young and old, a greater appreciation for nature, in general, and for our beautiful land, in particular; and

Whereas such appreciation naturally leads to a greater respect and care for our environment; and

Whereas gardening, in addition to being most beneficial for our country, furnishes a pleasant and productive full- or parttime activity for a large number of our citizens; and

Whereas our gardens also yield flowers of great variety and breathtaking beauty; and

Whereas these flowers bring beauty into our lives and satisfy our esthetic needs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America

in Congress assembled, That the President is authorized and requested to issue a proclamation—

(1) designating the calendar week of June 6 through June 12, 1982, as "National Garden Week"; and

(2) urging Federal, State, and local government agencies, as well as citizens and private organizations, to observe that week with educational efforts, ceremonies, and other appropriate activities which shall include the wearing of garden flowers as a symbol of our appreciation for the efforts and contributions of our gardeners.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: On page 2, lines 5 and 6, after the words "week of" strike "June 6 through June 12, 1982" and insert in lieu thereof, "June 5 through June 11, 1983".

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. GARCIA: Amend the title so as to read: "To authorize and request the President to issue a proclamation designating the calendar week of June 5 through June 11, 1983, as 'National Garden Week.'"

The title amendment was agreed to.

A motion to reconsider was laid on the table.

COMMEMORATING 25TH ANNIVERSARY OF BEGINNING OF INTERNATIONAL GEOPHYSICAL YEAR

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the resolution (H. Res. 514) commemorating July 1, 1982, which is the 25th anniversary of the beginning of the International Geophysical Year and reaffirming the commitment of the House of Representatives to international cooperation in the sciences, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 514

Whereas July 1, 1982, is the twenty-fifth anniversary of the beginning of the International Geophysical Year, and further, the year of 1982 is the fiftieth anniversary of the Second International Polar Year and the one-hundredth anniversary of the First International Polar Year;

Whereas the First and Second International Polar Years established the precedent for the International Geophysical Year, by organizing scientists from as many as forty countries in a series of studies covering the fields of aerology, astronomy, biology, geology, glaciology, hydrography, meteorology, and oceanography, and involving studies of auroral physics, cosmic rays, aurora borealis, atmospheric electricity, earth currents, geomagnetism, ionospheric physics, latitude and longitude, nacreous clouds, noctilucent clouds, ozone, and radiation, all of which produced a wealth of new data in these areas;

Whereas the International Geophysical Year involved scientists from sixty-seven countries, and brought together the world's most respected scientists with the most modern technological equipment of that time to study aurora and airglow, cosmic rays, geomagnetism, glaciology, gravity, ionospheric physics, longitudes and latitudes, meteorology, nuclear radiation, oceangraphy, seismology, solar activity, and upper atmospheric studies utilizing rockets and satellite vehicles;

Whereas the the studies conducted during the International Geophysical Year produced unprecedented and invaluable information that included many discoveries of major importance;

Whereas the Internatonal Geophysical Year advanced the sharing of data and the cooperation of all governments through the creation of the World Data Centers;

Whereas the International Geophysical Year was the largest, most comprehensive, and most successful cooperative program in science ever undertaken;

Whereas the the International Geophysical Year brought a new space age to the planet Earth, and launched individual governments into the search of the solar system;

Whereas the International Geophysical Year has had a lasting beneficial impact on cooperative scientific programs, as is evidenced by the creation of cooperative bodies such as the Special Committee on Oceanic Reserach, the Scientific Committee on Antarctic Research, the International Geophysical Cooperation, the Inter-Union Committee on Contamination by Extraterrestrial Exploration, the Committee on Space Reserach, Scientific Committee of Solar Terrestrial Physics, and the International World Days Service;

Whereas the International Geophysical Year has had an immeasurable positive impact on the scientific community and the public's understanding of scientific advancements and their importance to society; and

Whereas the efforts of the individual scientists participating in the International Geophysical Year extended beyond their own work and into the international environment, fostering cooperation among nations and a sense of good will and achievement: Now, therefore, be it

Resolved, That the House of Representatives commemorates July 1, 1982, which is the twenty-fifth anniversary of the beginning of International Gerophysical Year, and reaffirms the commitment of the House of Representatives to a new, vigorous era of international cooperation in all the sciences.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: On page 3, line 2, after the word "commemorates" strike the words "July 1, 1982, which is . . ."

The amendment was agreed to.

● Mr. WIRTH. Mr. Speaker, thank you for considering at this late minute House Resolution 514, a resolution that commemorates the 25th anniversary of the International Geophysical Year (IGY).

House Resolution 514 mentions just a fraction of the scientific advancements achieved during the 18-month period of IGY. Aside from the marvel of launching artificial space satellites and the intensive exploration of our planet, IGY brought a continuing flow of important scientific knowledge to our society. IGY's remarkable accomplishments have led to societal improvements we now take for granted, such as refined methods of weather prediction and space exploration. In addition, IGY has had a lasting beneficial impact on cooperative scientific programs—a global network of the world's finest scientists know each other and continue to work together.

Not only does House Resolution 514 commemorate IGY's 25th anniversary, but it reaffirms our commitment to a new era of international cooperation in all the sciences.

This spirit is evident in the writings of Lloyd Berkner, the originator of the original IGY proposal:

> But most encouraging in all has been the genuine enthusiasm with which the scientists of Earth, and the nations that support them, have embraced this program. Tired of war and dissension, men of all nations have turned to "Mother Earth" for a common effort on which all find it easy to agree.

That IGY filled the need for cooperation is beyond dispute. As Wallace Atwood, one of IGY's participants, has noted:

> I think it is fair to say that the international significance of the program, as its name bears out, has been of greater significance than even the very important discoveries which have been made. At a time when we are torn asunder by ideological differences and by selfish national attacks upon the freedom we stand for, it is heartening to find that there are some things that people can do together with common amity.

The words I have quoted apply today as well. In the last few months we have watched an escalation of war around the world, and the fear of a nuclear holocaust become the consuming interest of many. Yet, as a result of IGY, coexisting with these tensions are functioning organizations of international scientific cooperation. The legacy of IGY lives.

The participants in IGY wish to have it remembered. House Resolution 514 does that. Yet, we owe the scientists responsible for IGY more than a mere remembrance. We need to reaffirm our commitment to a new era of peaceful international cooperation in the sciences. My resolution reaffirms our commitment despite signals from the Reagan administration that it is willing to diminish our participation in international science programs. Our

nation cannot afford such a retreat, and I fear our world cannot long survive in an atmosphere of conflict instead of cooperation.

Thank you for allowing me to speak in behalf of House Resolution 514.●

The resolution was agreed to.

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. GARCIA: Amend the title so as to read: "Commemorating the twenty-fifth anniversary of the beginning of the International Geophysical Year and reaffirming the commitment of the House of Representatives to international cooperation in the sciences."

The title amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment to the preamble.

The Clerk read as follows:

Amend the preamble by striking out the eighth clause of the preamble.

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

NATIONAL JAYCEE WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 240) to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. CARNEY. Reserving the right to object, Mr. Speaker, I reserve the right to object, and I do not intend to object, I just would like to commend my colleague, the gentleman from New York, for a fine job at this late hour. I want to put my full support behind the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. GARCIA)?

□ 2000

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, I do not want to object to the request of my colleague from New York but there are Members who need to catch planes tonight. I am not one of them.

My inquiry is: Is the gas tax bill ready, and if it is, why do we not take it up and then we can always take up these bills after we have finished that.

Is there anyone here who can answer that question?

The SPEAKER pro tempore. The Chair is not able to answer that question for the gentleman.

Mr. SOLOMON. Is there anyone in the leadership on that side of the aisle who can answer that question?

Mr. GARCIA. Mr. Speaker, if the gentleman would yield to me, I agree wholeheartedly with the gentleman. I have a roomful of guests at my home and I would like to get the party started but cannot do a thing until we finish here.

Mr. SOLOMON. Mr. Speaker, I withdraw my objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 240

Whereas the Jaycee idea began with a handful of young men in Saint Louis, Missouri, sixty-three years ago;

Whereas the Jaycee idea embraces today approximately three hundred thousand members in seven thousand five hundred American communities that have chapters in the United States Jaycees;

Whereas the Jaycee idea enriches the lives of communities around the world through affiliation in Jaycees International;

Whereas the Jaycees organization retains a youthful outlook, even in its maturity, and continues to build on the individual member, even with its global scope—first, helping him be the best man he can be, then helping him help his fellow man in need, one to one;

Whereas a Jaycee cares about people, and he shows it;

Whereas a Jaycee cares about progress and he does something about it;

Whereas a Jaycee lives by the creed that "service to humanity is the best work of life", and throws himself into that work both in his vocation and avocation;

Whereas a Jaycee is the kind of young man this country will need in great numbers to help meet the challenges of our times and the coming century; and

Whereas it is fitting that we should give special recognition and encouragement to the Jaycee and his organization: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week", and calling upon all Government agencies and people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DAY OF THE SEAL

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the concurrent resolution (H. Con. Res. 236) to declare March 1, 1982, as "National Day of the Seal," and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WALKER. Mr. Speaker, reserving the right to object, I see that the seal has been waiting for his day since December 11, 1981. Do we have some idea as to how many signatures were on this one?

Mr. GARCIA. Over 200.

My colleague, the gentleman from Vermont (Mr. JEFFORDS), if he is here, I am sure would be able to respond to that question.

Mr. WALKER. It was over 218, did I understand the gentleman to say?

Mr. GARCIA. I am told.

Mr. WALKER. Very well. This is also another resolution where the seal has been waiting for his day to be declared for so long that we are going to have to amend it to make sure it gets declared next year?

Mr. GARCIA. We will amend it right now, if the gentleman will yield further.

● Mr. JEFFORDS. Mr. Speaker, I realize that this is not the most momentous piece of legislation awaiting the consideration of this body. Were it not for an important event this past week in the sight of many people to end the slaughter of baby harp seals in March, I would not have asked to bring it up.

On December 15 a telex was sent by 218 Members of this body urging the Council of Ministers of the European Community to ban the importation of furs from baby harp and hooded seals.

Mr. Speaker, last Friday, December 17, 1982, the Council of Ministers of the European Community adopted a resolution asking each member country to impose a ban on the import of pelts from young harp and hooded seals. This ban will last until March of 1983, at which time the Council will again consider the issue.

Although this ban is not permanent and it is, in effect, voluntary, it should be viewed as progress toward the goal of ending the much-publicized seal clubbing on the ice floes off Newfoundland each spring. Several years ago, we in the United States recognized that if we cut off demand for the seal pelts, we remove the incentive for this brutal seal hunt. That was the motivation behind section 101(a) of the Marine Mammal Protection Act.

Mr. Speaker, I want to take this opportunity to thank the 218 Members of this House who joined me in sending a telex to the President of the European Commission, urging adoption of this ban. I am informed by leaders of this movement in Europe that this type of input is appreciated and very influential.

And, on behalf of all Americans who have expressed concern and outrage about the seal hunt, I wish to commend the Council of Ministers for its wise action on this matter. We will all watch the next vote on a permanent ban very closely.

Mr. Speaker, a similar resolution has already been adopted by the Senate. This resolution is meant to celebrate the birth of the seal rather than its often brutal death, which has frequently been noted in the past. March 1 has been proclaimed the "International Day of the Seal" in many nations. In the United States, the focus of the festivities last year was New York City, where the Paul Winter Consort gave two benefit concerts in the Cathedral of St. John the Divine to help focus attention on the beauty of this natural event.

March 1 is a particularly significant day in the eternal cycle of the harp seal. Each year around this time, about 400,000 harp seal pups are born off the coast of Newfoundland and in the Gulf of St. Lawrence. In the first 2 months of their lives, approximately 180,000 of them will be killed before their bright white coat begins to molt and turns to the gray adult coat.

Much has been made of the often brutal and inhumane method of killing these animals. The hunt is conducted by Canadian and Norwegian nationals under the supervision of the Canadian Government, which justifies the harvest on the grounds of herd management techniques that are supposed to allow the herd to increase. However, a recent study by two population dynamics experts concluded that the methods used to determine quotas contained biases that led to underestimations of both the decline of the stock and the natural mortality rate. Nevertheless, the quotas remain unchanged and will be filled in the next 2 months.

Many U.S. citizens have expressed outrage over the clubbing that is used to kill the seal pups. On March 1, however, we can project a more positive, upbeat feeling about the seal by celebrating its birth. I urge my colleagues to support this resolution and observe the International Day of the Seal in any manner they see fit.

Further, I wish to take this time to commend the Ministers of the European Community for their actions. I am hopeful that their action may result in a loss of the last viable market for these furs, and thus lead to the end of this horrible afront to one of nature's most beautiful events, the birth of the baby harp seal.

I cannot close without mentioning the role that our late heroic member Leo Ryan played in trying to bring an end to this slaughter. I traveled off the coast of Newfoundland with Leo in 1978 to protest this kill. In a way that only Leo could do, he helped focus world attention on this tragic event. This was only one of Leo's many similar efforts to demonstrate inequities in this world. As you know, Leo was killed in Jonestown.

Also present at that time was Pamela Sue Martin, more widely known as Nancy Drew, and now appearing as Fallon on the TV series "Dynasty." Her sincere disgust and protest on behalf of our children assisted greatly in helping Leo focus attention on the senselessness of this event.

Friends of Leo should take heart that this crusade in which he played a leading part is nearing victory.●

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 236

Whereas the seal is an essential and inseparable part of the marine ecosystem; and

Whereas the seal, of which there are some thirty-three species, is a land mammal that returned to the oceans twenty to thirty million years ago; and

Whereas the presence of the seal helps maintain the health and balance of this environment; and

Whereas the presence of the seal is an indication of a whole and healthy ecosystem; and

Whereas the seal is a social creature with a highly evolved nervous system and physiology especially adapted to its marine environment; and

Whereas the seal epitomizes the freedom and the mystique of the oceans and in many cultures is revered as a spiritual embodiment of the mind in the waters; and

Whereas March is the month of the year when the Harp seals pup, renewing their eternal cycle; and

Whereas the growing worldwide awareness of the ecological and esthetic value of the seal has led to a desire to designate a special day of recognition: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress proclaims March 1, 1983, as the "National Day of the Seal" and urges all citizens to join in this celebration of life with appropriate activity.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: On page 2, line 2, strike "March 1, 1982" and insert in lieu thereof, "March 1, 1983".

The amendment was agreed to.

The concurrent resolution was agreed to.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amend the title so as to read: To declare March 1, 1983, as "National Day of the Seal".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The Chair understands that the conference papers on the highway bill, the gas tax bill, are on their way to this Chamber and will be here momentarily. Until they arrive, the Chair will recognize for unanimous-consent requests.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that we balance the budget.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Hearing none, the request is granted.

RECESS

The SPEAKER. The House will stand in recess until 8:15 p.m.

Accordingly (at 8 o'clock and 6 minutes p.m.), the House stood in recess until 8:15.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 15 minutes p.m.

□ 2020

CONFERENCE REPORT ON H.R. 6211, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Mr. ROSTENKOWSKI submitted a conference report and statement on the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

The SPEAKER. The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the earlier agreement, I call up the conference report on the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes, and ask for its immediate consideration.

The SPEAKER. Pursuant to the previous order of the House, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of today, December 21, 1982.)

The SPEAKER. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 15 minutes to the gentleman from New Jersey (Mr. HOWARD).

Mr. CONABLE. Mr. Speaker, I yield half of my time to the gentleman from Pennsylvania (Mr. SHUSTER).

The SPEAKER. A half hour has been yielded to the Committee on Public Works and Transportation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself 6 minutes.

The SPEAKER. The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, House and Senate conferees have reached an agreement on the revenue title to the Surface Transportation Assistance Act of 1982 (H.R. 6211). This title finances the increased levels of highway and mass transit spending by increasing net tax receipts from highway user taxes and extending the highway trust fund through 1988.

Both Houses agreed to increase the present gasoline tax by 5 cents, with 1 cent earmarked for mass transit. The gasohol exemption is increased by 1 cent, bringing the total tax on gasohol to 4 cents.

The Senate conferees have agreed to many of the House-passed provisions. A number of miscellaneous taxes, like those on lubricating oil, inner tubes and truck parts, were repealed. In addition, the conferees agreed to repeal the tax on tread rubber and to impose a graduated rate schedule on tires, completely exempting passenger tires. The tax on trucks and trailers would be imposed at 12 percent at the retail level on trucks weighing more than 33,000 pounds.

The conferees also reached a compromise on the tax rate schedule for heavy trucks which is near that approved by the House. Beginning in July 1984, the maximum tax on the heaviest trucks would be increased to $1,600. In subsequent years, the tax would rise to a maximum of $1,700 in 1986, $1,800 in 1987, and $1,900 in 1988. The House conferees also agreed to the Senate provisions allowing a 5,000-mile exemption and permitting refunds of the tax under certain circumstances.

The House conferees also agreed to a number of other Senate amendments exempting from fuel taxes qualified taxicabs and alcohol fuels. They further agreed to an extended period for payment of fuel taxes by certain oil jobbers. The Senate receded on the remainder of its amendments in the highway title.

The revenue impact of this compromise generally falls within the original parameters of the House bill. In short, the compromise more than adquately funds the highway provisions of this bill.

Mr. Speaker, this is a fair compromise that reflects the original House objectives of reallocating the burden of the tax to the heaviest users—those who impose the heaviest cost on the system—and eliminating a number of existing nuisance taxes on private automobiles and lightweight trucks.

Finally, the conferees agreed to strike other nongermane Senate amendments with the following exceptions:

An increase of $1 in the return filing level for dependents.

Allowing certain mutual funds to pass through tax-exempt interest under certain circumstances.

Providing an energy credit for 1982 only for a chlor-alkalai electrolytic cells.

The House accepted with modifications provisions it had passed earlier on deductions for conventions held on U.S. cruise ships. Also accepted were provisions regarding the normalization method for public utility property similar to those continued in H.R. 1524.

The House conferees accepted a Senate provision that adds additional weeks of unemployment compensation in States with extremely high unemployment rates.

The Committee on Ways and Means may hold hearings next year to review and evaluate the affirmative commitment rules for the energy tax credits applicable to synthetic fuels.

As my colleagues remember, the Congress adopted a special Federal supplemental compensation program (FSC) in the tax bill last August. This program gives workers who exhaust their State unemployment benefits, or Federal/State extended compensation up to an additional 10 weeks of benefits depending upon the insured unemployment rate in their State. Let me add that a State-by-State breakdown of additional weeks is available at the table. This program is fully financed by the Federal Government and is a direct congressional initiative to help unemployed workers.

Unfortunately, many workers under this existing program have exhausted or will exhaust in the very near future their FSC benefits. Given the state of the economy, it is unlikely that many will find employment in months ahead.

This new provision adds additional weeks under the Federal supplemental compensation program. Depending on the level of unemployment in your State, workers will receive either 6, 4, or 2 weeks of additional unemployment compensation benefits.

This new extension of benefits will cost $550 million.

The conference report also includes a Senate amendment that will allow SSI and AFDC recipients to receive assistance in meeting their home energy costs from private organizations, such as a special fund established by a utility company, without having their monthly grant reduced. A similar provision was included in the continuing resolution we just approved.

Mr. Speaker, this legislation has not been easily accomplished. Raising revenues is never a happy enterprise. But we have done what was necessary, and in the process we have better rationalized the taxes we impose on the users of our national highway system.

No one worked harder, or more effectively, for this landmark law than the Secretary of Transportation, Mr. Lewis. His perseverance and understanding carried this measure through some perilous times, and I applaud him.

Finally, I applaud the courage and wisdom of the majority on both sides of the aisle. I urge the entire House to support this conference report.

Mr. KAZEN. Mr. Speaker, will the gentleman yield for a question?

Mr. ROSTENKOWSKI. Mr. Speaker, I will yield time to the gentleman later.

I reserve the balance of my time.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the revenue title of the conference report on H.R. 6211, which in part is the result of extensive and persistent work by the Secretary of Transportation and his admiring associates in the Congress.

It should be emphasized, Mr. Speaker, that under the leadership of the chairman of our committee, the gentleman from Illinois, House conferees were able to maintain substantially the key aspects of the original House-passed bill. The most significant change in current law under the conference agreement, the increase in the gasoline and diesel fuel excise tax from 4 cents per gallon to 9 cents per gallon, is consistent with both the original House-passed bill and the version approved by the other body. The gasohol subsidy goes from 4 cents a gallon to 5 cents a gallon.

The legislation does have a negative aspect in that it imposes a tax on work. Many Americans, who must drive personal cars to and from their jobs, will pay out more because of this measure. But this "downside" effect is offset by the measure's very positive benefits—an improved and safer highway and bridge network, plus several hundred thousand jobs in a basic in-

dustry now suffering a 23-percent unemployment rate.

On the issue of cost allocation—the extent to which users of any one type of vehicle pay a share of excise taxes commensurate with their use of those vehicles on the Nation's highways—the original House-passed bill made significant positive adjustments. The result was a fairer allocation than under existing law.

A controversial consequence of these changes was a substantial increase in the use taxes to be paid by heavy trucks. The bill passed by the other body substantially reduced this emphasis of the House bill, lowering sharply the top levy on the heaviest vehicles.

The conference agreement more closely follows the use tax schedule approved by the House originally, and thus achieves a fairer cost allocation than that existing under either current law or the version passed by the other body. To ameliorate any negative impact on the trucking industry, the conference agreement phases in these changes over a 5-year period. On balance, I think this is a reasonable method of achieving a more equitable cost allocation without imposing a substantial and immediate increase in user fees for the trucking industry.

In summary, Mr. Speaker, the conference agreement is a desirable piece of legislation, especially in view of the difficulty encountered by the other body in approving its version. I urge the immediate adoption of the report.

□ 2030

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. I thank the chairman for yielding.

I would like to enter into a colloquy, if I may.

As you know, when the Senate considered the Tax Reform Act this past summer, they included a provision in the legislation that increased the funds for the Dingell-Johnston sport fish restoration program by placing a tax on boats designed for recreational fishing and on fishing tackle items not taxed under the current program. In response to the controversy that arose out of this proposal, the leadership of the Merchant Marine and Fisheries Committee developed a compromise which replaced the tax on boats with a reallocation of the tax on motorboat fuels. Our compromise was supported by almost all of the boating and fishing groups and the boating manufacturers. It was deleted by the conference committee on the tax bill for the legitimate reason that Ways and Means Committee had not had a chance to properly scrutinize the measure.

As the chairman of the Ways and Means Committee knows, a number of members have suggested that the proposal we developed be included in this bill, but it has not been so included. The leadership of the Merchant Marine and Fisheries Committee still supports this proposal and intends to move the nontax provisions early in the next session of Congress.

I would ask the chairman of the Ways and Means Committee if he will schedule a hearing on the tax provisions of our proposal at the earliest possible date in the next session and help to expedite its progress through his committee.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. I recognize the intense nature and the concern the gentleman from Louisiana (Mr. BREAUX) shows in this area, and this has been discussed. It is my every intention because of the concerns of the gentleman from Louisiana that I will conduct some hearings, and I am sure that we will be looking forward to the gentleman's participation.

Mr. BREAUX. I thank the chairman for his comments.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. CONABLE. Mr. Speaker, I yield back the balance of my time.

Mr. HOWARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pride that we bring to the House the Surface Transportation Assistance Act of 1982. Through an enormous amount of effort and determination on the part of the Committee on Public Works and Transportation, the committee was able to reach agreement with the Senate committees on this legislation.

On December 6, the House overwhelmingly passed H.R. 6211, a 4-year bill combining authorizations for highways, highway safety, and public transportation. The authorization levels are consistent with those advocated by Secretary Lewis as part of his proposal to increase revenues in amounts equivalent to a 5-cent increase in the motor fuels tax.

In light of the remaining time in this session of the 97th Congress, the conferees propose to have considered in the House a compromise worked out with the Senate committees. The provisions of the conference report contain many of the same provisions that the House agreed to on December 6.

Mr. Speaker, the conferees expect that Route 609 in Essex County, N.J., known as Eisenhower Parkway, will be funded by the State of New Jersey from its allocation of interstate transfer highway funds. The conferees have provided that $1.8 million in fiscal year 1984 discretionary funds and $48 million in fiscal year 1985 discretionary funds be allocated for this purpose. In addition, the conferees also anticipate that $150 million of the additional $257 million in highway interstate transfer funds for fiscal year 1983 will be made available for projects in the Chicago area.

In addition, the conferees direct the Secretary to complete a study, within 9 months after enactment of this legislation, of alternative approaches for the allocation of rail funds other than route miles and rail revenue miles, and make recommendations which provide incentives for efficiency of performance. The study should address the issue of allocating funds in an equitable and fair manner, while increasing incentives to improve the operating efficiency of fixed guideway systems. Furthermore, the study should explore approaches which would not reduce an area's apportionment of needed block grant funds if an area modifies its service to increase its effectiveness. Factors to be analyzed should include, but not be limited to, age and condition of rolling stock facilities and structures—capital needs, operating costs, farebox and local and State funds as a percentage of total operating costs, route miles, rail revenue miles, passenger trips, revenue labor hours, percentage of trips made by rail as compared to total commuter trips by all modes of transportation to major centers and rail route miles weighted by costs to operate.

Further, the conferees expect that the administrative definition of revenue vehicle miles would include, to the extent feasible and appropriate, all scheduled route mass transportation service and special or flexible route mass transportation service operated by or under contract to a public body as well as all scheduled route mass transportation service provided by private bus carriers which receive either capital or operating assistance from a public body as part of an overall public transportation program. Capital assistance includes direct grants or the least, at no cost, of buses owned by a public body.

Mr. Speaker, I ask that this legislation be enacted for the interest of the country, the people, and the communities served by the highway and transit systems of this country.

The conferees agree that the buy American requirements of subsection (a) shall not apply if the Secretary determines that "their application would be inconsistent with the national interest."

The conferees believe that the Congress must exercise its oversight responsibilities as to what is in the national interest. Therefore, before the provision of subsection (b)(2) can

become effective, the Secretary shall take the following actions:

Not less than 30 days prior to the date he wishes to have the provision of subsection (b)(2) become effective, he shall publish a notice in the Federal Register giving all details pertaining thereto; including, but not limited to, the date on which his determination will become effective, the project involved, the cost of the project, and an explanation as to why it is not in the national interest to apply the buy American requirements of subsection (a).

For the purposes of implementing this section of the act the buy American provision applies to the purchase of and/or the leasing of all equipment.

I think the members of the committee of conference did a marvelous job and the staffs certainly have been working on this for weeks.

I would just like to point out once more the cooperation, the coordination, and the efforts to compromise of our ranking member. This is his last legislative act here this evening because he will not be with us and we will all lose from that. I speak of the gentleman from California (Mr. CLAUSEN) who deserves a great deal of credit for this legislation.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Texas.

Mr. WHITE. I have a question. I thank the distinguished chairman for yielding.

What did the conference do relating to the tandem and to the width of trucks?

Mr. HOWARD. On the tandem what we have in our legislation, as the gentleman knows, if they were, they pay the additional money and coming out of the Ways and Means Committee, which they did, there would have been the 102-inch width. That was taken care of because that was passed. That was passed in the appropriations of the Department of Transportation just a few days ago, so that was out there.

What we passed on the tandem, the links, which would permit the tandems, is in this conference report with the additional funds.

Mr. WHITE. Is there anything relating to the weight in the conference report?

Mr. HOWARD. Yes. This is the 80,000 weight which 47 of the 50 States have now, so it only affects three States.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I am happy to yield.

Ms. OAKAR. First, I want to commend the gentleman and all the others involved.

Second, I want to ask what is the State's contribution. On the House side, as I recall, the State did not have to contribute match for a year.

Mr. HOWARD. The gentlewoman is right. As she knows, with the States not being ready to handle this money, that was another thing. I thank the gentlewoman for bringing that up. What we had was this: We had a provision where the first year's money would be available to the States without a match, that we would expect it to be paid back by the second year. Whatever would not be paid back by the second year would be deducted from their allocations for the third and the fourth year, so the fund would be whole at the end of the fourth year.

We have made an additional provision for these States which would not cost the fund anything in permitting to have the first 2 years, if they should need it, and pay it back the third and fourth.

However, an additional amount of money that would be deducted because they have to borrow the money those first 2 years, a small amount truly, that money would not just stay in the fund; that would be available to the Secretary so that he would be able to permit that to go to other States which were not borrowing the money.

What we do not want to happen here is just willy-nilly every single State to take all of the money the first 2 years.

□ 2040

So that amount will be sort of an inducement if they cannot afford—I believe this is an improvement that the States wanted in the bill from what we originally passed.

Ms. OAKAR. Can I assume also that the priority list of projects that was in the report language is the same?

Mr. HOWARD. The same.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Would this bill make any changes in the environmental laws like in EPA or other environmental laws?

Mr. HOWARD. As far as I know, there is no dimunition of requirements environmentally in this law. I would have to check on every segment with the gentleman. But certainly we did not go in there talking about any reduction.

Mr. SEIBERLING. There is some provision in here for the Secretary to develop an expediting procedure, a fast track.

Mr. HOWARD. We have had things like that, that do not, as we say, do not jeopardize any environmental considerations, as this committee has not done that in the past, since we established the Council on Environmental Quality, and a lot of other environmental legislation.

Mr. SEIBERLING. One other question. Do I understand there is a domestic content requirement in this bill?

Mr. HOWARD. Yes, there is, which was brought down I believe to 25 percent. I am sure the gentleman from Minnesota (Mr. OBERSTAR), or the gentleman from Ohio (Mr. APPLEGATE) can speak to that. That was one of the final considerations that we did make.

Mr. SEIBERLING. Is someone going to address that, so the House will know what was done?

Mr. HOWARD. We will provide some time for the gentleman from Minnesota or the gentleman from Ohio to do that before we finish.

Mr. SEIBERLING. I thank the gentleman.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

On the length and weight provision for uniformity, is it mandated in the bill or do the legislators of the States have to act?

Mr. HOWARD. I believe they have to act. We mandate the act.

Mr. VOLKMER. Or else lose their highway funds.

Mr. HOWARD. A certain percentage. Maybe 10 percent. I think this is going to work out all right. But there is a percentage in there.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, first I would like to second the accolade presented to our distinguished colleague from California (Mr. CLAUSEN), who has served this Congress and this Nation ably for 20 years, who has made enormous contributions to the present and to the future of the United States of America in the field of not only transportation, but in the field of clean water and economic development.

And I would like secondly to yield 3 minutes to that distinguished gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I do not believe that I will take the 3 minutes.

Mr. Speaker, I rise in support of the conference report on H.R. 6211, one of the most impressive legislative accomplishments of the 97th Congress.

The issues have been controversial, the debate has been long and hard, and prospects for the bill have often seemed in doubt. And Members have devoted an enormous amount of time and effort to bringing this bill to the floor.

Yet enactment of H.R. 6211 will stand as the major improvement in our highway program since the highway trust fund was established in 1956. Thus, its passage will reward our efforts many times over in terms of benefit to the Nation.

The hour is late and the dimensions of this bill are well known to Members. I, therefore, will not impose on the time and patience of my colleagues to recite its provisions.

Instead, I want to emphasize the great compromises that went into this final package, its highway, safety, transit, and revenue provisions. There is a great deal of credit to go around.

My regard and respect for my colleagues on the Public Works Committee need no restatement here. And I want to pay particular tribute to the leadership of the President, his truly great Secretary of Transportation, Drew Lewis, our own chairmen, JIM HOWARD, GLENN ANDERSON, BUD SHUSTER, and our House conferees, and of HOWARD BAKER and TIP O'NEILL.

This is a once-in-a-lifetime opportunity to do what must be done for highways and transit, an opportunity which we simply cannot let pass.

I strongly urge my friends and colleagues to adopt this package and move this critically needed bill on to the Senate and downtown for signature.

With that, Mr. Speaker, I thank my colleagues for the privilege of this kind of service over the years.

Mr. SHUSTER. Mr. Speaker, the gentleman from New Jersey has quite accurately described this bill, so I do not intend to get into that. I simply would make the single point in conclusion that this is a historic act on the part of the Congress. What we are doing here by increasing America's commitment to transportation to the tune of about 50 percent increase on the average over the next 4 years—what we are doing is not only creating jobs, creating better highways and mass transit, but by creating better roads, we are creating safe roads.

A conservative estimate is that we will save 1,000 lives and 100,000 accidents annually as these old antiquated roads are improved.

And so I believe we should note with pride the historic action which this House, I hope, shall take in the next few moments, because what we are doing is not only for present-day America, but it is for our children and for our children's children.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, we bring before you this afternoon a compromise surface transportation authorization. The operative word here is compromise, and a difficult one at that.

The highway funding formulas have been adjusted to address the concerns of the various regions of the country. The authorization levels fall between the House and Senate provisions. An 85-percent minimum allocation of highway funds was adopted. And we extended the temporary waiver of the local match for highway programs for a second fiscal year to give the States needed fiscal relief.

Our agreement provides some $53 billion over the next 4 years to finance an expanded highway program. The interstate rehabilitation and bridge restoration programs are doubled. The interstate construction, primary, and secondary programs are substantially expanded. Also expanded is the interstate discretionary program, targeted to completion of high-cost gaps. Another addition of significance to the Federal-aid highway program are several provisions increasing the flexibility of the States in using Federal highway dollars. This, and the increased funding, should enable the States to get on with the job of rebuilding our highways just as soon as the weather breaks.

With respect to transit, we provide approximately $14 billion over the 4-year authorization. Much of this will be provided through a new, consolidated block grant program designed to reduce the administrative burdens—and planning uncertainties—of grant recipients. Capital assistance, designed to encourage the rehabilitation of deteriorated transit systems while permitting a limited number of cost-effective new starts, is provided through a dedicated transit account of the highway trust fund financed by one cent of the gas tax increase.

Operating assistance is reduced slightly in fiscal year 1984, remaining level thereafter. To help communities adjust to the reduced operating aid, greater flexibility in the use of urban mass transportation administration funds is permitted for 2 years. By this mechanism we hope to encourage the cities to control runaway operating costs without unduly adding to their financial burdens.

As I said, Mr. Speaker, the bill before us is a compromise. We are not happy with each and every one of its provisions. But it addresses the differences between the two bodies in a reasonable manner, and provides a sound and expanded highway, highway safety, and transit program. It will enable us to get on with the massive task of rebuilding our surface transportation network. And, importantly, it will provide some 320,000 jobs in an industry suffering an unemployment rate twice the national average.

For all of these reasons, I urge a yea vote.

Mr. KRAMER. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Speaker, I thank the gentleman for yielding.

I appreciate the fine work of the committee and the members, many distinguished members of the committee who labored so hard over the bill. I would like to invite my colleague from Pennsylvania's attention to section 107 of the conference report, if I could, and pose an inquiry.

It is my understanding that under the language of section 107, $257 million has been made available out of the highway trust fund for expenditure at the discretion of the Secretary and for the fiscal years ending in September 1984; September 1985; and September 1986; $700 million, and $725 million have been available for expenditure out of the highway trust fund, and of those 3 years, and for those 3 years, the Secretary has 25-percent funding discretion out of the fund to allocate among those projects that qualify as substitute highway projects as he may see fit.

Is my understanding of the action that has been taken in the conference and as presently contained in the bill correct?

Mr. SHUSTER. The gentleman is absolutely correct.

Mr. KRAMER. I thank the gentleman.

Mr. HOWARD. Mr. Speaker, I yield 5 minutes to the chairman of the Subcommittee on Surface Transportation, the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. Mr. Speaker, this conference report is the logical conclusion of consultations between House and Senate conferees. There were major differences between the bills which passed the two Chambers, and this report attempts to reconcile those differences. We have, for example, generally split funding for the various highway programs down the middle. An exception is in the important interstate construction, which is maintained at the annual $4 billion level in the House bill.

Because it is so important that we complete the Interstate System, in a prompt manner, a new interstate discretionary program is established, funded at $300 million a year. The Secretary is instructed, in distributing these funds, to place highest priority on those States with high-cost projects.

At the same time, the Interstate 4-R program, for the resurfacing, restoration, rehabilitation, and reconstruction of the interstate, is increased from the present $800 million to $1.95 billion and gradually in the outyears to $3.15 billion.

New logic is instilled in the interstate transfer program as much of the money for both highway and transit projects will now go out on a "fair share" basis. The program's cost-escalator clause is abolished.

The highway beautification program, from our original House bill, which I felt was quite reasonable, is dropped.

Turning to transit, a major feature of this bill is to reduce significantly UMTA funds delivered through the section 3 discretionary program and to increase dramatically those delivered by formula. This represents a major restructuring of existing law under which the ratio of discretionary capital to formula assistance has been approximately 60/40.

Nonetheless, the conferees fixed the discretionary program at a level higher than that recommended by the administration for the explicit purpose of providing for a limited number of cost-effective new starts (including some new starts not currently covered by letters of intent) along with other uses which continue to be eligible under section 3.

It is important to note that the American Public Transit Association estimates a need for $50 billion for transit capital projects over the next decade. Of this amount, more than $20 billion (40 percent) of these needs represents the construction of new systems or extensions to new systems.

The Secretary will certainly need to take into account an area's apportionment under the section 9 formula program when determining the allocation of section 3 funds needed for major capital expansion projects. The conferees do not expect that those new start communities—which have demonstrated their commitment to transit by establishing a source of revenue dedicated to transit—be placed at a disadvantage in seeking capital funds under section 3 on the baseless assumption that their needs for Federal assistance are less by virtue of their having done so.

The Federal match on new starts and all projects funded under section 3 shall be at 75 percent.

Cities will still be able to use their section 9 funds for operating assistance, although the largest among them will face a 20-percent reduction, while medium-sized cities will be capped at a 10-percent reduction in operating assistance and the smallest 5 percent. While I do not personally consider these reductions desirable, I am pleased that we have not had to dig deeper into this important program.

Mr. Speaker, 2 weeks ago when this bill was before the House, I said we had the opportunity to pass historic legislation improving our Nation's transportation infrastructure program. Our bill was passed at the time by a vote of 262 to 143.

I know of no reason why the support for that bill this evening should be any less than at that time. Those supporting our bill 2 weeks ago should support our conference report this evening.

I do know that the need for this legislation remains great.

We have the opportunity to pass legislation this country needs. I urge adoption of this conference report.

OCEAN DISPOSAL OF RADIOACTIVE WASTE MATERIAL

Mr. Speaker, in recent years the Committee on Merchant Marine and Fisheries has conducted hearings on past activities pertaining to the ocean disposal of low-level radioactive waste.

Therefore, we have included provisions in section 424 of this bill to safeguard and provide for more research into the effects of such activities.

The committee is concerned that radioactive waste disposal might occur before the completion of additional research into the possible impacts associated with waste disposal. The uncertainties associated with radioactive waste disposal remain a major concern, and we regard additional research as necessary. Therefore, in the Ocean Dumping Act amendments as passed by the House on September 30 by a unanimous voice vote we included a 2-year moratorium on the issuance of low-level radioactive waste permits.

The act as passed the House also contained a section dealing with the disposal of radioactive materials in the ocean after the 2-year moratorium expires. The provision requires a site specific radioactive material disposal impact assessment to be completed by the applicant and approved by the Administrator. The assessment shall be transmitted to the Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works. This provision allows for a congressional veto by requiring the Administrator to receive authorization to issue a permit to dump the radioactive materials in the ocean through the passage of a joint resolution by the House and the Senate.

The assessment shall include the following:

First, a listing of all radioactive materials in each container, the number of containers, structural diagrams, the number of curies of radioactive material in each container, and the exposure levels on the interior and exterior of each container;

Second, an analysis of the environmental impact this proposed action would have upon human health and welfare and marine life;

Third, any and all adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

Fourth, an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive material when initially deposited at this specific site.

This is intended to be a worst-cast study which would assess the impact should the containers be broken open or corrode;

Fifth, a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes. In the monitoring plan to be conducted under this section the state of the containers will be examined. If they are leaking or corroding so as to indicate they will not contain the radioactive materials until it becomes harmless then the permit applicant must have a plan for safely removing or reencasing the containers;

Sixth, if the information gathered in this assessment indicates that the proposed action may impact upon a States coastal resources, then a determination must be made by each affected State whether the proposed action is consistent with its federally approved coastal zone management program (16 U.S.C. 1451);

Seventh, an analysis of the economic impact the disposal of the radioactive material may have upon other users of marine resources. This impact may be due to a real threat, as detailed in this assessment, or a perceived threat which may result in lower fish sales or other marine activities in this region;

Eighth, alternatives to disposing of the radioactive material at this ocean site must be detailed;

Ninth, comments and results of consultation with State and local officials and public hearings held in the Coastal States that are nearest to the affected areas;

Tenth, a comprehensive plan for the regular monitoring of the disposal site to determine the full effect of the disposal on the marine environment, living resources, or human health. This includes an examination of the containers to determine whether they will continue to contain the radioactive material until it becomes harmless;

Eleventh, any other information which the Administrator may require in order to determine the full effects of the proposed disposal.

This subsection is not intended to apply to materials containing only background levels of radioactive contamination.

It is not my intention to put in place a permanent ban on the ocean disposal of radioactive waste materials. And I do not believe this proposal to be a permanent moratorium. But through this mechanism we can make certain that what we put into the ocean will not have an adverse impact which we could result for generations to come. I therefore urge my colleagues to include it in this legislation.

CONTRACT AUTHORITY FOR RECREATIONAL BOATING FUND

Mr. Speaker, section 421 of the Senate substitute to H.R. 6122 contains an amendment to the Federal Boat Safety Act. This act allocates funds collected from the current highway tax on gasoline which are paid by

recreational boaters. The Secretary of Transportation has determined that approximately 1½ percent of the highway trust fund is contributed by recreational boaters.

This language, inserted by the distinguished Senator from Oregon, Senator PACKWOOD, simply converts the authority of the Secretary to spend this money for recreational boating safety and facilities to contract authority. Such authority is currently used by the Secretary in the administration of the highway trust fund and the airport and airway development trust fund. It is identical to a provision in H.R. 6813, which a majority of my colleagues have already supported.

Mr. Speaker, this provision will help develop recreational boating safety programs. This is becoming increasingly important as more and more of our constituents are taking to the lakes, rivers, and oceans for recreational purposes. Quite simply, Mr. Speaker, this provision will save lives on these waters, and I therefore urge its inclusion in this bill.

SALTONSTALL-KENNEDY ACT AMENDMENT

Mr. Speaker, section 423 of the Senate substitute to H.R. 6122 amends the Saltonstall-Kennedy Act. The funds in this act are derived from taxes on imported fish products into the United States. It is the intent of this act that the funds be used to develop fisheries and fishing technology to aid the ailing U.S. fishing industry.

The distinguished Senator from Oregon, Mr. PACKWOOD, inserted this provision to make sure that the funds collected are used to meet the intent of Congress.

This provision states that no less than 60 percent of the fund shall be used to make direct industry assistance grants and to expand domestic and foreign markets for U.S. fishery products, Mr. Chairman, this means jobs for our fishermen, fish processing industry, and fishing equipment industry.

Currently, too much of this money is being used to buy paperclips and staples for the National Marine Fisheries Service. This provision states that the Secretary may not use more than 40 percent of the funds to finance the operations of the National Marine Fisheries Service.

Mr. Speaker, this provision is vitally important if we are to maintain, and build up a viable U.S. fishing industry, capable of competing with foreign fishing. It is an excellent example of using money collected from a foreign industry impacting upon a domestic industry to aid that U.S. industry—at little or no expense to the Federal Government.

Therefore, Mr. Speaker, I urge its inclusion in this bill.

VESSEL CONSTRUCTION GUARANTEES

Mr. Speaker, section 425 of this act contains a provision inserted by Senator PACKWOOD, and which was included in the House-passed version of this year's maritime authorization, and approved by the conference committee on that legislation.

Unfortunately, it appears the MARAD authorization will be another victim of this lameduck. Therefore, a most important provision relating to title 11 construction loan guarantees has been included in this legislation.

This proposal will prevent a ceiling from being placed on the amount of loans guaranteed—other than a ceiling set in the annual authorization. It also prevents discrimination against a vessel because of its type.

One of the principle reasons for this provision is to promote construction of fishing vessels to help that beleaguered. Traditionally, the fishermen have been faithful in paying back their loans, and their default ration is less than 1 percent. In fact, the Federal Government makes more money than it spends on their guarantees because of the loan guarantee origination fee.

Mr. Speaker, this provision is needed to help rebuild our ailing fishing industry so it can better compete with foreign fishermen. This section means jobs—for the fishermen, the ship construction industry, and the fishing supply industry. I therefore urge its inclusion in this act.

Mr. NOWAK. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from New York.

Mr. NOWAK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to engage the floor manager in a colloquy regarding the section relating to resurfacing standards.

Mr. ANDERSON. This is the provision that requires projects to be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.

Mr. NOWAK. It is recognized that full geometric design standards may not be appropriate in all 3R projects and that applicable standards and procedures for improvement projects should be allowed, provided that highway safety is enhanced.

Mr. ANDERSON. The gentleman from New York is correct.

Mr. NOWAK. Is it the intent of Congress that resurfacing, restoration, and rehabilitation work continue to be carried out without disruption or delay using the standards and procedures now in effect and being utilized by the States, so long as they meet the requirements you just described.

Mr. ANDERSON. Yes, that is correct. Pending completion of the study and submittal and consideration of the recommendations called for under this section, work can continue to be carried out using procedures now in effect, so long as they enhance highway safety and extend the service life of the highway.

Mr. NOWAK. I thank the gentleman very much for this clarification.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the minority concurs in the colloquy and exchange that just took place.

Mr. WYDEN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Oregon.

Mr. WYDEN. Mr. Speaker, I have taken a great interest in the use of recycled materials in the construction and repair of our roads, and I would like to tell my colleagues that the Senate language now in the conference report improves on what the House enacted earlier on the use of recycled materials.

The recycling language, now in the conference report before us, actually directs the Secretary to establish a procedure for implementing the recycling section within 90 days of this conference report's enactment and in fact authorizes more funds for those States that use recycled materials in their programs than the legislation adopted earlier by the House.

The bill before us now stipulates that by early next year the Secretary of Transportation must have a program in place for accepting applications from States and procedures for authorizing an additional 5-percent Federal assistance to States that utilize recycled materials in their paving program.

I am gratified that the Senate has made it clear both in the report and in a colloquy between Senator RANDOLPH, the author of the Senate provision on recycling, and Senator DECONCINI that rubber recycled from discarded tires is a recycled material under section 147. Moreover, the colloquy makes clear that the recycling of old, used tires should get priority treatment from the Secretary in granting applications because tires pay almost $700 million a year in taxes into the highway trust fund.

Mr. WILLIAMS of Montana. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I oppose this Christmas toy despite the attractiveness of its wrapping. What a beautiful package, but how disappointed Americans will be when they discover what is contained within.

This is a Christmas toy which is supposed to bring joy to the users of America's highways. Where is the joy in paying $1 more every time drivers fill it up? Where is the joy for drivers in struggling to pass a huge double bottomed truck unit on a dark rainy night. This bill allows mammoth units on America's highway systems.

This Christmas toy will bring no joy to modest income Americans whom, already pinched by this prolonged and cruel recession, are now hit by this regressive gasoline tax which falls far more heavily upon them than upon rich Americans.

Our small truckers cannot afford this Christmas toy. Several years of hard times have many truckers running on the slim margin between profit and loss. This toy will cost some of those business people a tax increase of more than 150 percent within the next several months.

Those Americans looking for jobs will find little joy in this toy. The President, who apparently does not believe in jobs bills, says this is not that kind of effort. He is right. His economists and most economists who have examined the effects of this legislation have concluded that, on the balance, it will cause a net loss of American jobs.

It must be the Christmas spirit that causes support in this House for this legislation. It cannot be because of the merits. This Christmas toy, once the wrapping is off, will not do what is expected.

Do you remember the words to the song about the wonderous toy? "It went zip when it moved, bop when it stopped, and whir when it stood still. I never knew just what it was, and I guess I never will."

After Christmas with the wrapping off, we will be disappointed in this wondrous, expensive toy.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, is the gentleman going to discuss the domestic content provisions in this bill?

Mr. ANDERSON. We have the experts here that will, yes.

Mr. KAZEN. I thank the gentleman.

Mr. HOWARD. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the chairman for yielding. I will be delighted to explain the buy-America provision of the highway bill, for myself and for the gentleman from Ohio (Mr. APPLEGATE), with whom I have worked as cosponsor of this amendment—and may I say that the gentleman has done an outstanding service to the unemployed steelworkers in his district, in helping to construct this amendment, which will help put many of those jobless people back to work, making American steel for the $12 billion worth of American bridges and highways that will be built annually under the provisions of this bill.

Mr. Speaker, the provision dealing with domestic content was arrived at on the basis of the investigation conducted by the International Trade Commission of the Department of Commerce which found eight European steelmakers in violation on a wide range of products, selling those products by an average of 26 percent below the domestic price in this country, subsidizing their steel to the amount of a range from 18 to 40 percent.

The conference agreed on a 25-percent domestic content; that is, on a bid where a European steelmaker would bid a hundred dollars, if the American steelmaker bid $125, the bid would go to American steel. That is on the basis of the amount of the subsidy that the European steelmakers have been giving to their steel, dumping it in this country, based on an 18-month investigation conducted by the Commerce Department and finalized in June of this year.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to the gentleman from Texas.

Mr. KAZEN. Does that pertain only to raw steel being brought into this country or to all products made of steel coming into this country?

Mr. OBERSTAR. To products as specified in the language, such as steel, cement manufactured products, used in such projects, such highway or bridge projects.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks following the expiration of my time.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

● Mr. BROYHILL. Mr. Speaker, everyone today is talking about jobs. As unemployment climbs, efforts naturally intensify to create jobs, by any means at any cost.

We are asked today to approve the conference report on a bill which is supposed to create jobs. By placing additional excise taxes on motor fuels and other items and greatly increasing the tax burden on heavy duty trucks. Jobs for some 300,000 workers are claimed to be created.

Although I feel this new job figure is inflated, I think it would be wonderful if we could put 300,000 people to work. That still leaves 12 million out of work. To help them, we need to get the business and industrial community back on its feet. As we in Congress debate long and hard on how to create new jobs we are doing nothing to stop the elimination of job opportunities through onerous Government regulation.

The Energy and Commerce Committee, on which I serve, has been grappling for almost 2 years over the Clean Air Act, a classic case in point. The Clean Air Act was originally passed in 1970 to address the serious problem of air quality degradation in this country. The results of our national air quality management effort have been impressive, but at a high cost. Now that the mechanism is in place and our air is getting cleaner and cleaner, it is time to pause and look at which programs need to be continued or even strengthened, and which ones have never worked efficiently, or are no longer necessary. I have tried in these past 2 years to push needed reforms in this act which would encourage the development of new, clean industrial sources and stop the diversion of massive amounts of capital to satisfy nonproductive regulatory requirements.

As the Wall Street Journal pointed out in a December 15, 1982, editorial, the ultimate irony of this call for job creation could come next year when the Federal Government may be forced to throw thousands of people out of work because Congress has refused to address the weaknesses of the Clean Air Act.

As of the last day of this month, all areas of this country are required to be in compliance with Federal Air Quality Standards. Over 600 counties in 49 States will not make it. The law requires EPA to begin imposing Federal sanctions against these areas. Congress in its wisdom is debating various make-work projects and proposals, but refuses to even address the fact that this totally arbitrary deadline, less than 2 weeks away, may result in massive economic disruption in the very areas of this country that are feeling the pains of a recession.

There is much debate over the automatic nature of the clean air sanctions, and the timeframe needed to implement them, but the fact remains that they are the law of the land.

First, after December 31, EPA cannot allow the construction of new stationary sources in any noncomplying area, if the source emits the pollutant for which that area is in noncompliance. Not only does this have the economic effect of stunting industrial growth and destroying job opportunities, it prevents new, clean-burning plants from replacing old, dirty ones.

Second, many facilities are not in compliance with the State-adopted, federally enforcement limits on their emissions. These plants face immediate requirements to cut back emissions, which quite likely will mean production cutbacks resulting in layoffs, and in some cases, plant shutdowns. Again, this would happen because

Congress did not face the urgency of addressing this totally arbitrary deadline.

A third sanction facing many areas of this country is also directly related to the bill we are now considering. Under certain conditions, Federal highway funds must be withheld from areas in violation of the standards for two of the regualted pollutants after December 31. Areas cannot be awarded highway funds if they are in noncompliance for ozone or carbon monoxide are not covered by an adequate State air quality plan, or if the State has not made reasonable efforts to submit such a plan. Only mass transit and safety projects would be exempted.

These State plans were required to demonstrate compliance by the end of this year; if compliance is not attained, then they must be inadequate. Therefore, EPA need only find that reasonable efforts were not made to compile an adequate plan and funds will be cut off. In many cases the effort has been quite poor.

The stark reality is that passage of this bill into law will create over $5 million in additional revenues to improve roads and create jobs, and many of the areas that need these opportunities most may not get them because Congress has ignored the stringent provisons of an outmoded Clean Air Act. I hope that we will wake up soon and see the need to address this issue before further economic disruption results.

CLEAN AIR FARCE

While Congress dithers around trying to create new jobs, it's doing nothing about trying to stop destroying them with onerous regulation. A classic case is the Clean Air Act, which has since 1970 diverted massive amounts of scarce capital into nonproductive scrubbing equipment and the like. The ultimate irony could come next year when the federal government may be forced to throw thousands of people out of work owing to the anti-pollution laws.

As of midnight Dec. 31, the Environmental Protection Agency is required by law to begin the process of imposing sanctions against regions that are not in compliance with federal air quality standards. EPA lists around 600 counties—one-fifth of all the nation's counties and in every state except North Dakota—that are not in compliance with the standard for at least one polutant. The sanctions, which would probably take months to impose, would range from construction bans to plant shutdowns to cutoffs of federal highway funds. While it debates various make-work projects, Congress is not able to deal with proposals to relax these artificial deadlines and thus preserve jobs.

Congress has already debated the legislation for more than 19 months and had to pass a continuing resolution to keep the Clean Air Act from expiring Sept. 31, 1981. Now, with only a few days to go before adjournment and with the economy in a serious recession, it's uncertain whether even an amendment will be passed to extend the Dec. 31 compliance deadline.

The Senate Republican leadership has been reluctant to bring up for a floor vote a bill produced by the Environment and Public Works Committee, chaired by Sen. Robert T. Stafford. That proposal doesn't provide any of the regulatory relief requested by the administration and would make the law more onerous and more difficult to administer.

Moreover, the Stafford proposal would expand the EPA's mandate to control many additional "hazardous air pollutants" without providing enough time for scientific review to determine if these substances really are health risks. For instance, EPA would have only 60 days after enactment of the legislation to pick 20 potentially hazardous pollutants from a list of 40 and then to determine in two years if these are not dangerous; if EPA cannot make a determination in that time, those substances would automatically come under control. Similarly, the Senate proposal undertakes for the first time to deal with "acid rain." A massive 31-state program would be established to control sulfur emissions at the cost of billions of dollars, even though some new scientific evidence casts doubt on the theory that "dying" lakes in the Northeast are caused by emissions from coal-fired plants in the Midwest.

The House, meanwhile, is even in more of a tangle because of a feud between Reps. Henry A. Waxman and Thomas A. Luken which has prevented a bill from even getting out of the environmental subcommittee. Mr. Waxman has proposed revisions similar to Sen. Stafford's. Mr. Luken's proposals are along the lines of President Reagan's 11-point request, which he made last year, calling for less stringent standards and a "more reasoned pace" for compliance and enforcement.

Sen. Stafford, Rep. Waxman and others on Capitol Hill are continuing to look at the 1970 Clean Air Act through 1960s glasses. Their demands for even more stringent controls ignore the substantial improvements in air quality of the last decade. They don't seem to see the sizable investment that has already been made in air-pollution-control equipment and don't recognize the fact that as new plant and equipment come on stream, air quality will continue to benefit. Given their pleas for even tougher standards, you would think that the Clean Air Act was a failure. If Congress were really serious about creating jobs, it ought now to be asking about the costs of trying to extract that last bit of pollution from the air, and whether this economy can afford them. The Clean Air Act is one of many jobless bills created by Congress over the last 15 years. By consuming our scarce economic resources for whatever social purposes, we have lost opportunities to invest in productive, jobs-creating ventures. Removing some of these regulatory obstacles would be the biggest thing Congress could do to create jobs.●

● Mr. PICKLE. Mr. Speaker, H.R. 6211, the Surface Transportation Assistance Act of 1982, contains a provision relating to the time period for payment of the gasoline tax. The Senate added a provision extending the remittance schedule for small business jobbers which was focused on alleviating the extreme cash flow burdens that these small businessmen are encountering. In determining which groups would be eligible for the additional remittance period, the Senate elected to use a volumetric threshold. It was my feeling that a volumetric measure was not appropriate. As a result, I joined with my colleague from Tennessee, Congressman JOHN DUNCAN, in offering in the conference committee what we felt was a better approach.

Our proposal dropped the volumetric approach and replaced it with the definition of independent refiners and the definition of wholesale distributors to determine eligibility. In addition, we expanded the Internal Revenue Code definition of wholesale distributor to include a chain retailer. This proposal was based on the rationale that chain retailers are performing the same marketing functions as jobbers and therefore should be afforded the same relief available under the Senate extension of the remittance schedule.

It was our intent to give relief to these small businesses undergoing a severe cash flow crisis, and in doing so, we clearly intended to expand the code definition of a wholesale distributor to include the chain retailer. Historically, Congress has differentiated between large and small businesses when assessing the impact of a particular legislative provision. This has been true in the case of tax remittance schedules and should be true in the specific case of the gasoline excise tax. Thus, jobbers, chain retailers, and independent refiners—all small businessmen—should be given the relief extended by the Senate provision regarding the gasoline tax remittance schedule. It was my understanding that the conferees on H.R. 6211 agreed and accepted the proposal offered by Congressman DUNCAN and myself.

Mr. Speaker, it is obvious that the intent of Congressman DUNCAN and myself—and I believe the Conference Committee—was not followed when the final language was drafted. We did not know this until the bill was already presented to the House, with no amendments permitted. Therefore, we must seek relief by asking that this technical correction be made. We will immediately ask Treasury for a redefinition which will include chain retailers as wholesale distributors.●

● Ms. FERRARO. Mr. Speaker, since 1969 the Metropolitan Transportation Authority of New York has provided an efficient and effective discount fare program for elderly and handicapped citizens. The authority administers the program by providing eligible passengers with free return-trip coupons.

In 1974, a Federal law was enacted which required transit authorities that receive Federal transit operating assistance to allow handicapped and elderly passengers to pay half-fares. While the net result of the New York and Federal programs is the same, this particular form of the Federal regulation would have lead to severe admin-

istrative difficulties for New York's transit system.

Congress recognized these difficulties and has explicitly noted in every annual transportation appropriation measure since 1974 that the city's existing program satisfies the Federal discount fare requirement. Most recently, section 308 of the fiscal year 1983 appropriations legislation, Public Law 97-369, reaffirmed Congress desire that New York City be permitted to continue its current discount fare program without jeopardizing any Federal funding.

The severe time constraints that Congress is now working under to complete the Surface Transportation Assistance Act of 1982 have precluded the inclusion of language similar to section 308 in this act. However, I have been assured by House Public Works and Transportation Chairman James Howard that it is his understanding that nothing in this act contradicts the language in section 308 of Public Law 97-369 and the intent of Congress is that the New York Metropolitan Transportation Authority can continue its existing elderly and handicapped fare program without loss of Federal funds.●

● Ms. OAKAR. Mr. Speaker, I congratulate the conference committee for retaining the priority listing for bridge replacement and rehabilitation projects to be funded by the $200 million set-aside of discretionary funds. The Greater Cleveland area is particulary grateful to the chairman of the Public Works and Transportation Committee, Mr. HOWARD, for reconfirming the priority status of three projects in our area. The three projects have been mentioned in previous legislative history. Their priority status was confirmed by the Public Works and Transportation Subcommittee Chairman, Mr. ANDERSON, on the House floor on December 6, 1982, when this important legislation was discussed. Transportation Secretary Drew Lewis also offered his assurances regarding the priority of the three bridge projects.

The projects are the Brooklyn-Brighton Bridge and the Main Avenue Bridge in Cleveland, as well as the Tinkers Creek Bridge on SR-8 in Ohio. The three projects, whose estimated cost is in excess of $54 million are vitally needed by the Greater Cleveland area. The bridges serve not only the city, but the surrounding suburbs as well. Work on the bridges will also provide much-needed employment in an area that has been particularly hard hit by the recession.

I commend conference committee, chairmen HOWARD and ANDERSON and Secretary Lewis for supporting these three projects and for adding them to the Secretary of Transportation's list of priority projects to be funded by the $200 million descretionary fund. I thank them for their support.

● Mr. LAFALCE. Mr. Speaker, it is never easy for a Member of this body to vote to increase user fees, particularly in the face of a recession. However, I believe that the proposal before us today is necessary to make much needed repairs and improvements in our highway and mass transit systems, while creating construction jobs for thousands of unemployed Americans.

It has been clear for several years that massive amount of money must be spent to revitalize our Nation's infrastructure. Even the relatively new interstate highway system is in need of substantial repairs and rehabilitation; and thousands of bridges throughout the country have so deteriorated as to raise serious questions about their safety. Of the Nation's 524,966 bridges, 40 percent require major repair or replacement, according to the Federal Highway Administration.

The conference report also includes additional funding for urban mass transportation programs. One cent of the new tax, approximately $1.1 billion annually, will be used to establish a new mass transit trust fund. This fund, which will be allocated on a nonformula, discretionary basis, can be used for a limited number of new, cost-effective, mass transit systems. The fund will also be available for major capital projects, the costs of which exceed funds available under the formula block grant program also established by the bill.

Of particular note is the administration's reversal of its position prohibiting mass transit funds for new construction—so called "new starts." When the administration proposed an increase in the gasoline tax, it did so with a prohibition against the use of mass transit funds for new starts. After intense pressure, that policy was changed; the conference report before the House today would allow new revenues raised to be expended on new starts. This is particularly good news for western New Yorkers, for it clears the way for the Niagara Frontier Transportation Authority (NFTA) to submit proposals to UMTA to fund extensions of the Buffalo Light Rail Rapid Transit System—including those to Tonawanda and Amherst.

The conference report also amends the highway trust fund allocation formula to insure that States get a fair return on the money they contribute to the fund.

The new formula block grant program will give the States greater flexibility on the use of funds, since funding would be provided on a year-by-year rather than a project-by-project basis. State and local communities can assess their mass transportation needs and allocate available Federal funds to top priority projects.

But the heart of the issue before us today, Mr. Speaker, is the gasoline tax increase to be paid by the users of America's highways. Tomorrow's headlines will not read "Congress approves new mass transit program." The single issue that will capture the attention of the public is the nickel that will be added to the price of a gallon of gasoline.

The Federal gasoline tax, which is dedicated to the Federal Highway Trust Fund, has not been increased since 1959 when an extra penny was added to raise the tax to 4 cents per gallon. Since 1959, the consumer price index has increased a whopping 237 percent. Had the Federal gasoline tax kept pace with consumer price increases, the American motorists would be paying 13.5 cents per gallon today, enough, perhaps, to have avoided the damage and disrepair that has befallen our transportation system.

An increase in the Federal gasoline tax has been the subject of debate for several years. President Ford proposed an increase of 3 cents per gallon in 1975 to conserve fuel. In 1977, President Carter called for a 5-cent increase to conserve energy and improve our Nation's highways. The conference report, which has the bipartisan backing of the majority and minority leadership in the House, and has been endorsed by the President, will achieve both these ends—conservation and improvements in our Nation's transportation systems—and create 320,000 jobs.

We must be careful not to delude ourselves or the American public into believing that the creation of 320,000 new jobs will make any more than a small dent in our Nation's unemployment problem. Twelve million Americans are "officially" unemployed while millions of others have simply given up all hope of finding employment and are no longer counted among the Nation's jobseekers. Less than 3 percent of those seeking work will be employed as a result of the additional construction activity generated by the $5.5 billion raised annually by the 5-cent-per-gallon increase in the gasoline tax.

As noted in a recent editorial that appeared in the Rochester Times Union, "A gasoline tax is a good way to rebuild aging roads, shore up crumbling bridges, and replace decrepit buses and mass transit. But it is not repeat not, a panacea for unemployment." At best, Mr. Speaker, the gasoline tax is simply necessary. Other mechanisms will have to be found to attack the unemployment problem, and repair and replace aging infrastructure—sewers, ports, libraries, canals, and industrial capacity—not aided by the highway trust fund and the public transportation trust fund.

Mr. Speaker, the legislation before us today grew out of a concern about the Nation's rapidly deteriorating highways and bridges and the highest unemployment since the Great Depression. We cannot stand idly by as our Nation's bridges and roadways crumble and as the ranks of the unemployed continue to reach record levels. The conference report afforts us an opportunity to take a much-needed step in the right direction. It will not cure our infrasture problems nor will it cause a significant decline in unemployment. What this bill will do is make our highways safer, repair crumbling bridges, improve urban mass transportation systems, and remove 320,000 Americans from the unemployment rolls. It is a small response to problems that must be the center of our attention in the 98th Congress which convenes in January.

Thank you.●

The SPEAKER. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the years and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 180, nays 87, answered "present" 1, not voting 165, as follows:

[Roll No. 488]

YEAS—180

Alexander	Daub	Hance
Anderson	Derrick	Heckler
Anthony	Derwinski	Hendon
Applegate	Dicks	Hiler
Aspin	Dingell	Hollenbeck
Atkinson	Dixon	Howard
Badham	Donnelly	Hoyer
Bailey (MO)	Dorgan	Hutto
Bailey (PA)	Dougherty	Jacobs
Barnes	Downey	Jeffords
Bedell	Dyson	Kastenmeier
Beilenson	Eckart	Kennelly
Bennett	Edgar	Kildee
Bereuter	Erdahl	Kogovsek
Bliley	Erlenborn	Kramer
Boggs	Evans (IA)	Leach
Bonker	Fary	Leland
Bowen	Fenwick	Lent
Breaux	Findley	Long (MD)
Brinkley	Foglietta	Lowery (CA)
Brodhead	Foley	Lowry (WA)
Brooks	Ford (MI)	Lujan
Brown (CA)	Fowler	Madigan
Brown (CO)	Frenzel	Markey
Carney	Garcia	Marks
Clausen	Gejdenson	Matsui
Clay	Gephardt	Mavroules
Clinger	Gibbons	McCloskey
Coats	Gilman	McCollum
Coelho	Goodling	McHugh
Collins (IL)	Gradison	McKinney
Conable	Green	Michel
Corcoran	Guarini	Mikulski
Coughlin	Gunderson	Mineta
Coyne, James	Hagedorn	Mitchell (MD)
Coyne, William	Hall (IN)	Moakley
Crockett	Hamilton	Molinari
D'Amours	Hammerschmidt	Montgomery
Murtha	Roukema	Stokes
Napier	Rousselot	Stratton
Natcher	Roybal	Swift
Nowak	Sabo	Tauke
O'Brien	Savage	Thomas
Oakar	Schneider	Trible
Oberstar	Schulze	Udall
Obey	Schumer	Vander Jagt
Pashayan	Seiberling	Vento
Patman	Shannon	Waxman
Pease	Sharp	Weber (OH)
Pepper	Shaw	Weiss
Petri	Shuster	Wilson
Pickle	Skeen	Wirth
Porter	Skelton	Wolf
Rangel	Smith (NE)	Wolpe
Ratchford	Smith (NJ)	Wortley
Regula	Snyder	Wright
Rodino	Solarz	Wylie
Roe	St Germain	Yates
Roemer	Stanton	Young (MO)
Rostenkowski	Staton	Zablocki

NAYS—87

Akaka	Glickman	Reuss
Archer	Gonzalez	Rinaldo
Ashbrook	Gramm	Ritter
AuCoin	Hall, Ralph	Roberts (KS)
Bevill	Hansen (ID)	Robinson
Bonior	Hefner	Roth
Broyhill	Holt	Schroeder
Byron	Horton	Sensenbrenner
Cheney	Hubbard	Shelby
Coleman	Huckaby	Shumway
Conyers	Hughes	Smith (AL)
Craig	Jones (OK)	Snowe
Crane, Philip	Kazen	Solomon
Dannemeyer	Kemp	Spence
Daschle	Kindness	Stenholm
Davis	Lagomarsino	Studds
Dellums	Leath	Stump
Dornan	Loeffler	Tauzin
Duncan	Lundine	Volkmer
Edwards (OK)	Lungren	Walker
Emerson	Martin (NC)	Wampler
Emery	Mazzoli	Weber (MN)
English	McCurdy	White
Fiedler	McDonald	Whitley
Fields	Miller (OH)	Whittaker
Florio	Moore	Whitten
Fountain	Moorhead	Williams (MT)
Gaydos	Neal	Wyden
Gingrich	Parris	Young (FL)

ANSWERED "PRESENT"—1

Myers

NOT VOTING—165

Addabbo	Dowdy	Hertel
Albosta	Dreier	Hightower
Andrews	Dunn	Hillis
Annunzio	Dwyer	Holland
Bafalis	Dymally	Hopkins
Barnard	Early	Hunter
Beard	Edwards (AL)	Hyde
Benedict	Edwards (CA)	Ireland
Bethune	Ertel	Jeffries
Biaggi	Evans (DE)	Jenkins
Bingham	Evans (GA)	Johnston
Blanchard	Evans (IN)	Jones (NC)
Boland	Fascell	Jones (TN)
Bolling	Fazio	LaFalce
Boner	Ferraro	Lantos
Bouquard	Fish	Latta
Broomfield	Fithian	LeBoutillier
Brown (OH)	Flippo	Lee
Burgener	Ford (TN)	Lehman
Burton, John	Forsythe	Levitas
Burton, Phillip	Frank	Lewis
Butler	Frost	Livingston
Campbell	Fuqua	Long (LA)
Carman	Ginn	Lott
Chappell	Goldwater	Luken
Chappie	Gore	Marlenee
Chisholm	Gray	Marriott
Collins (TX)	Gregg	Martin (IL)
Conte	Grisham	Martin (NY)
Courter	Hall (OH)	Martinez
Crane, Daniel	Hall, Sam	Mattox
Daniel, Dan	Hansen (UT)	McClory
Daniel, R. W.	Harkin	McDade
de la Garza	Hartnett	McEwen
Deckard	Hatcher	McGrath
DeNardis	Hawkins	Mica
Dickinson	Heftel	Miller (CA)
Minish	Pritchard	Smith (IA)
Mitchell (NY)	Pursell	Smith (OR)
Moffett	Quillen	Smith (PA)
Mollohan	Rahall	Stangeland
Morrison	Railsback	Stark
Mottl	Rhodes	Synar
Murphy	Roberts (SD)	Taylor
Nelligan	Rogers	Traxler
Nelson	Rose	Walgren
Nichols	Rosenthal	Washington
Ottinger	Rudd	Watkins
Oxley	Russo	Weaver
Panetta	Santini	Whitehurst
Patterson	Sawyer	Williams (OH)
Paul	Scheuer	Winn
Perkins	Shamansky	Yatron
Peyser	Siljander	Young (AK)
Price	Simon	Zeferetti

□ 2100

The Clerk announced the following pairs:

On this vote:

Mr. Rahall for, with Mr. Mottl against.

Mr. Simon for, with Nichols against.

Mr. Gray for, with Mr. Panetta against.

Mr. Fazio for, with Mrs. Bouquard against.

Mr. Conte for, with Mr. Myers against.

Mr. Campbell for, with Mr. Hartnett against.

Mr. PETRI changed his vote from "nay" to "yea."

Mr. MYERS. Mr. Speaker, I have a live pair with the gentleman from Massachusetts (Mr. CONTE). If he were present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes everyone a Merry Christmas.

CLARIFICATION OF INDIAN TRIBAL GOVERNMENT IN THE CASE OF ALASKA NATIVES

Mr. ROSTENKOWSKI. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 439) providing for clarification of Indian tribal government in the case of Alaska Natives, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Illinois?

□ 2110

Mr. CONABLE. Mr. Speaker, reserving the right to object, I do so for the purpose of clarification. It is my understanding, and I ask the chairman to confirm this, that the bill passed earlier relating to Indian tribal government had an unnecessarily limited provision in it with respect to native Americans living in Alaska. The pur-

pose of this concurrent resolution is to make a correction in that so that the law will apply to all the tribes in Alaska with the same effect as those Indian tribes in the lower 48. The purpose is only to correct an error in the earlier measure. It does not in any way change the substance of the earlier measure, but extends its scope to Alaska Natives.

Mr. ROSTENKOWSKI. Mr. Speaker, the gentleman's observation is correct.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield.

Mr. SEIBERLING. Will the gentleman tell me—this sounds like something within the jurisdiction of the Committee on Interior and Insular Affairs, dealing with Alaskan Native affairs. Is this a tax matter?

Mr. ROSTENKOWSKI. This is a tax measure that was considered by the Ways and Means Committee and passed earlier this evening.

Mr. SEIBERLING. So this is not dealing with the normal exercise of power——

Mr. ROSTENKOWSKI. Not at all.

Mr. CONABLE. Further reserving the right to object, I would like to tell the gentleman that the earlier measure had to do only with the taxing powers of Indian tribes.

Mr. SEIBERLING. I thank the gentleman.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 439

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives, in enrolling H.R.5470, shall substitute for paragraph (40) of section 7701(a) of the Internal Revenue Code of 1954 (as added by section 203 of the bill) the following new paragraph:

"(40) INDIAN TRIBAL GOVERNMENT.—

"(A) IN GENERAL.—The term 'Indian tribal government' means the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.

"(B) SPECIAL RULE FOR ALASKA NATIVES.—No determination under subparagraph (A) with respect to Alaska Natives shall grant or defer any status or powers other than those enumerated in section 7871. Nothing in the Indian Tribal Governmental Tax Status Act of 1982, or in the amendments made thereby, shall validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people."

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF COMMITTEE TO INFORM PRESIDENT OF THE UNITED STATES THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS AND ARE READY TO ADJOURN

Mr. WRIGHT. Mr. Speaker, I call up House Resolution 640 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 640

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

The SPEAKER. The Chair appoints as Members on the part of the House of the Committee to Inform the President the gentleman from Texas (Mr. WRIGHT) and the gentleman from Illinois (Mr. MICHEL).

TRIBUTE TO DEPARTING AGRICULTURAL LEADERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 30 minutes.

● Mr. JEFFORDS. Mr. Speaker, there is little question that agriculture is our country's most basic and largest industry. It is the continuing goal of Republican members of the House Committee on Agriculture to insure that we maintain a sound, market-oriented farm and food policy so that America's farm families may pursue their unparalleled production with the opportunity for profit.

Unfortunately, five of my fellow Republicans on the Agriculture Committee will not be serving in the 98th Congress just ahead. They have accomplished so such that I wish to pay tribute to the leadership they have exhibited and the yeoman service they have performed on behalf of agriculture. Enthusiastically joining me in these remarks gentleman from Missouri (Mr. COLEMAN), are the gentleman from Montana (Mr. MARLENEE), the gentleman from Kentucky (Mr. HOPKINS), the gentleman from Idaho (Mr. HANSEN), the gentleman from Minnesota (Mr. STANGELAND), the gentleman from Kansas (Mr. ROBERTS), the gentleman from Missouri (Mr. EMERSON), the gentleman from New Mexico (Mr. SKEEN), the gentleman from Washington (Mr. MORRISON), the gentleman from Wisconsin (Mr. GUNDERSON), the gentleman from Iowa (Mr. EVANS), and the gentleman from California (Mr. CHAPPIE).

I refer, of course, to my colleagues: WILLIAM C. WAMPLER of Virginia, PAUL FINDLEY of Illinois, TOM HAGEDORN of Minnesota, JOHN NAPIER of South Carolina, and CLINT ROBERTS of South Dakota.

I particularly want to commend BILL WAMPLER not only for his effective leadership of his fellow Republican members but for his demonstrated diplomacy in working with the Agriculture Committee's majority in advancing the cause of farm families.

In the "Fighting Ninth" District of southwestern Virginia, where politics is a way of life, Congressman WAMPLER has earned the distinctive and effectionate nickname, "The Bald Eagle of the Cumberlands." His unflagging work on behalf of sound farm policies and constant vigilance against deficit spending has earned him national esteem.

The relationship between farm policy and sound fiscal policy was the keystone of BILL WAMPLER's legislative work in agriculture. The gentleman from Virginia correctly reflected farmers' feelings when he said on more than one occasion that bringing inflation and high-interest rates under control would be the best farm program that the Congress and the administration could provide.

Time and space will not permit me to recount the many fine legislative efforts of BILL WAMPLER, so let me just touch on a few as indicative of the effective efforts he has made in the course of his 18 years in the Congress.

BILL WAMPLER has long been known on Capitol Hill as "Mr. Agriculture Research" because of his constant work in championing the cause of agricultural research, extension, and teaching in the United States.

BILL was the author and prime mover of title XIV of the 1977 Farm Act which sought to reverse a decade or more of decline in research, extension, and teaching in the food and agricultural sciences by authorizing a dramatic, 5-year increase in funds of existing programs in those sciences at the Federal, regional, and State levels.

That act also initiated new research, extension, and education programs in the hope that these new initiatives would enhance food and agricultural productivity geared to this Nation's future needs.

In 1981, displeased with the lack of enough progress in carrying out the initiatives authorized in the 1977 Farm Act, BILL WAMPLER again took the leadership introducing amendments to make clear the original intent of the Congress in establishing the National Agricultural Research, Extension, and Teaching Policy Act (title XIV)—this time to make it perfectly clear that the Congress expects the executive branch to reinforce the historic State-Federal partnership in the research, extension, and teaching programs in the food and agricultural sciences.

One of the first results of this revitalized effort, enacted as a new title XIV of the Agriculture and Food Act of 1981, was the appointment of a new and added Assistant Secretary of Agriculture to maintain a continuing oversight of the objectives of title XIV.

In the pesticides area, BILL WAMPLER worked actively in support of H.R. 5203 which provided for a 2-year extension of the Federal Insecticide, Fungicide, and Rodenticide act (FIFRA) and, more importantly, containing amendments which responded to many problems identified since FIFRA was last amended in 1978.

Mr. WAMPLER long has been recognized as one of the members most familiar with FIFRA and one of the authors of the amendment included in FIFRA which established the Scientific Advisory Panel and the amendment to provide peer review of the scientific decisions emanating from the Environmental Protection Agency with regard to pesticide registrations and regulations. BILL WAMPLER supported and fought for strengthening amendments to our pesticide legislation to maintain the needed balance to enable EPA to continue to protect the health and safety of the public and pesticide users while allowing farmers and producers to benefit from modern, cost-effective chemical pest control technologies.

The gentleman from Virginia long has been an ardent advocate of sound scientifically based food safety policy. In June 1981, he cosponsored legislation to consider a number of changes in present food safety policies. Among other provisions of the bill was a requirement that the banning of a food additive be based on a scientific finding of significant risk to human health, rather than the absolute "zero risk" principal required under the present law's so-called Delaney clause.

BILL WAMPLER has always had a strong interest in food and nutrition issues. He has said on many occasions that he supports the food stamp program and that the program, when it helps the elderly and the disabled and those low-income people who are in need, is a very humanitarian program. However, BILL has expressed his concern about the growth and the cost of the food stamp program and thus has supported those actions that eliminate fraud, abuse, and mismanagement.

There is no question in my mind that BILL WAMPLER's wise and compassionate leadership will be sorely missed.

Another of our colleagues who will be missed is PAUL FINDLEY of Illinois, an intelligent, articulate legislator who has championed the cause of market-oriented agriculture since he was first elected to Congress in 1960.

In the 97th Congress, PAUL FINDLEY was a leader in the administration's fight to reduce Government involvement in agriculture, first introducing the administration's farm bill, and then working hard with his Agriculture Committee colleagues to assure that the final bill would provide farm income protection without breaking the U.S. Treasury.

PAUL is a man of strong convictions, not to be deterred because his position may not always be the most popular. He has not been afraid to take on the tough issues. I remember well how he led the fight to introduce flexibility into the dairy price support program, maintaining that the long-term interests of dairy farm families would be better served by keeping dairy program costs under control rather than run the risk of burdensome costs which could cause the program to be eliminated..

PAUL FINDLEY has constantly contended that farm economic problems cannot be solved by inflationary Treasury outlays; that throwing money at these problems often makes them worse instead.

PAUL FINDLEY's market orientation philosophy does not stop at home. He believes that you cannot have a market-oriented domestic policy if you do not have a market-oriented foreign policy. That is why he was out front in convincing President Reagan to lift the Carter embargo on U.S. grain sales to the Soviet Union.

Through his position as a senior member of both the Agriculture Committee and the Foreign Affairs Committee, Congressman FINDLEY has been a leader in U.S. efforts to eliminate nontariff trade barriers and unfair export subsidies of foreign competitors. He led successful U.S. efforts to head off European Economic Community restrictions on imports of U.S. corn gluten feed. He strongly supported President Reagan's efforts to test the General Agreement on Tariffs and Trade (GATT) to see whether it can be relied on to assure fair market access for U.S. farm products.

PAUL has supported the expansion of Public Law 480, the food for peace program, believing that this Nation's aid policies, in addition to serving humanitarian needs, should be coordinated with two-way trade objectives to build markets for U.S. products.

While a strong supporter of Government efforts to assure adequate nutrition for poor people in this country and overseas, PAUL FINDLEY recognizes the value and diginity of American principles regarding work. For this reason, he might be called the Mr. Workfare of the Congress. Under workfare, able-bodied people work for their food stamps. As a result of FINDLEY's workfare initiatives in the food stamp program, Congress adopted a Findley amendment to expand the workfare program to any community that wants to participate in it.

As the fourth ranking minority member of the Agriculture Committee, TOM HAGEDORN was one of the most effective leaders in defending the needs of American agriculture.

TOM was the ranking Republican on the Livestock, Dairy, and Poultry Subcommittee, in the 97th Congress. In that position, he was instrumental in dealing with the major problems confronting these vital sectors of agriculture.

He was very active in working to preserve the integrity of the dairy price support program, a program that has been beset with a huge supply-demand imbalance resulting in record levels of Government price support purchases of dairy products. Mr. HAGEDORN worked closely with the administration and with representatives of producer, industry, and consumer groups to develop effective legislation to make equitable adjustments and bring Government costs under control.

TOM has introduced and cosponsored legislation in the areas of meat and poultry inspection, improvement of food safety laws, animal disease control, easing of import duties on animal drugs necessary for U.S. herds, and humane treatment of horses during the course of transportation.

TOM HAGEDORN was an ardent supporter of movement toward free trade and improving our status as a reliable supplier of agricultural products in world markets. He strongly opposed the 1980 grain embargo and introduced recently passed legislation that preserves the integrity of our agricultural export contracts in the event of a trade embargo.

He believed that Congress should uphold the philosophy of reliance on the market place to sustain farm income and not place the burden on the Federal Government. To that end, he pressed for better utilization of existing export credit programs. In addition, he introduced bills that have since become law to expand of agricultural commodities, particularly dairy products.

TOM was particularly concerned with the specific trade problems that the United States has encountered in exporting farm commodities. He introduced legislation to establish the concept of reciprocity of market access as a key principle of U.S. agricultural trade policy and trade law.

Those who know TOM HAGEDORN know that he has been a tireless legislator on Agriculture's behalf. He has made a significant contribution to the work of the Agriculture and the Congress.

JOHN NAPIER of South Carolina has proven to be another hard worker among the freshmen members of the Agriculture Committee. Believing in the need for vitality in the tobacco price support program, he was a leading element in congressional strategy designed during the 97th Congress to

prevent antitobacco legislation and insuring the continuation of a program to better serve tobacco farmers and the tobacco industry. Through his efforts to forge a bipartisan coalition, he was instrumental in the continuation of the tobacco price support program.

Representative NAPIER was a staunch defender of the rural telephone bank and rural electrification programs. He worked hard to see to it that these programs were maintained at adequate funding levels and their administrators allowed access to the Federal Financing Bank.

Additionally, JOHN supported legislation to provide the Secretary of Agriculture the authority to implement set-aside programs and urged him to do so to reduce supplies and raise prices. He also supported efforts to expand commodity exports.

The FmHA emergency loan program was supported by Mr. NAPIER in an effort to insure that adequate financial support exists for small, undercapitalized farms. JOHN also worked to promote efforts to tailor Farmers Home Administration programs to FmHA's original purpose: to develop farm and small community basic services.

Another very active freshman member of the Agriculture Committee during the 97th Congress is CLINT ROBERTS of South Dakota.

Mr. ROBERTS introduced legislation on family enterprise estate and gift taxes geared primarily to protecting family farms. Many provisions of his bill were incorporated into the Tax Reform Act of 1981.

Like others whose farm constituents were adversely impacted, Mr. ROBERTS was a strong proponent of lifting the Soviet grain embargo, working with key Agriculture Committee members to urge the President to end the embargo, an effort that was singularly successful.

On the homefront, CLINT cosponsored legislation with Mr. FINDLEY to establish the workfare system in the food stamp program.

Congressman ROBERTS was the prime sponsor of H.R. 4347, a bill to reauthorize the WEB rural water project which will affect his home State of South Dakota and to authorize other water development studies. The Agriculture Committee, along with the Interior Committee, reported the legislation to the House where it was passed by unanimous consent. Following favorable Senate action, the bill was signed into law by the President in an Oval Office ceremony with CLINT ROBERTS in attendance.

CLINT was active in other areas of concern to the farm sector, as well, during the 97th Congress, cosponsoring legislation on animal damage control, suspension of export sales, bankruptcy reform with regard to farm produce storage facilities, as well as other legislation to aid farm families and rural communities.

If a common thread runs through the fabric of these five gentlemen's congressional experience, it could be called justifiable pride in service—service to their constituents and, through that service, an even greater service to their country. Their colleagues in the Congress wish them Godspeed and every success in their future endeavors.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, due to unavoidable circumstances, I was not present and was, therefore, unable to cast my vote on House Resolution 636 (rollcall No. 486), which provided for the consideration of H.R. 3809 relating to the disposal of nuclear wastes. Had I been present, I would have voted for House Resolution 636.●

SAFETY PROBLEMS IN THE AIR TRAFFIC CONTROL SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, yesterday the National Transportation Safety Board (NTSB) confirmed what many of us have feared would happen with the Federal Aviation Administration's (FAA) program to rebuild the air traffic control system. The NTSB confirmed that the FAA is cutting corners in its training program, a practice which can only adversely affect aviation safety.

The NTSB investigation revealed that as far back as May of this year, the FAA waived its own requirement that a controller assigned to conduct on-the-job training for a trainee must first receive FAA-approved instructor training. In a "Class I Urgent Action" recommendation, the Board recommended this waiver be canceled immediately. The Board expressed its concern that many controllers providing on-the-job training did not have sufficient experience or seasoning. According to the Board—

> In some instances, developmental (trainee) controllers were certified on a position in the morning and were conducting on-the-job training at that same control position for another developmental controller in the afternoon of the same day.

The Board further found that those few experienced controllers available are being overworked, noting:

> Many senior controllers are conducting on-the-job training for 5 to 7 hours per shift which the Safety Board has determined to be very stressful for the instructors and trainees in heavy workload situations.

Members will recall that this is not the first time the FAA has cut corners in its training program. A year ago a Post Office and Civil Service Committee investigation determined that grades had been falsified at the FAA training academy to increase the number of students passing.

I am sure the Members share my concern over the Safety Board's most recent findings. I must point out, however, that the pay package which the administration rammed through the Congress earlier this year does not appear to have alleviated the problems the FAA is facing in rebuilding the system. I want to assure the Members that the Committee on Post Office and Civil Service will continue to closely monitor this situation during the next Congress.

I would like to include the Safety Board's report:

NATIONAL TRANSPORTATION SAFETY BOARD,
Washington, D.C. December 20, 1982.

Re Safety recommendation(s), A-82-146 through -149.

Hon. J. LYNN HELMS,
Administrator, Federal Aviation Administration, Washington, D.C.

The National Transportation Safety Board began a followup special investigation[1] of the Air Traffic Control (ATC) system of the United States on October 1, 1982. The purpose of this investigation is to evaluate the safety of the ATC system at a later point in its rebuilding phase following the controller's strike of August 3, 1981. The investigation has involved surveying 50 ATC facilities, including 16 air route traffic control centers (ARTCC'S) and 34 terminal radar and non-radar facilities, and interviewing about 350 facility managers, staff, controllers, controller trainees, and military controllers temporarily assigned to the Federal Aviation Administration (FAA). Safety Board investigators have observed ATC operations at the facilities, while riding in the cockpits of commercial airlines, and while flying airplanes within the system.

The Safety Board has not yet completed its analysis of all the information gathered during the field phase of its followup investigation. Once the analysis is completed, the Safety Board will issue a final report of the special investigation. However, the investigation has revealed some specific safety problems which the Board believes require immediate, corrective action by the FAA. The safety problems relate to the manner in which on-the-job training (OJT) is being administered and regulated by ATC facility management.

Before May 7, 1982, a controller assigned to conduct OJT for a trainee (developmental) controller was required first to receive FAA-approved instructor training in accordance with Chapter 3, Section 2, Paragraph 100.C(3) of FAA Handbook 3120.4F, "Air Traffic Training." However, on May 7, 1982, the FAA issued a general notice (GENOT), which waived this requirement for ATC facilities "where resources prohibit adminis-

[1] For additional information, read: Special Investigation Report—"Air Traffic Control System" (NTSB-SIR-81-7) issued Dec. 8, 1981, which was based on investigative data spanning the period Aug. 3, 1981, to Oct. 9, 1981.

tering appropriate training courses" until May 1, 1983. The Safety Board believes that the FAA should reconsider its decision on this matter for several reasons.

During its investigation of the ATC system, the Safety Board learned that many facilities are using newly certified controllers to provide OJT on both radar and nonradar control positions immediately after the newly certified controllers have been "signed-off" on a control position, but before they have had time to develop either sufficient experience or "seasoning" at that position or receive FAA-approved instructor training. ATC facility personnel, including experienced controllers, newly certified controllers, and facility staff have expressed concern to the Board's investigators about the prudence and reasonableness of this practice. In some instances, developmental controllers were certified on a position in the morning and were conducting OJT at that same control position for another developmental controller in the afternoon of the same day. It was also learned that one developmental controller, certified on a radar position, gave OJT to another developmental controller during a part of the shift and, later in the same shift, they reversed their roles at another radar control position. since the waiver to the standards on May 7, 1982, there presently are no ATC system-wide standards in effect governing the amount of experience at a control position or the amount of classroom training in instructor techniques a controller should have before he/she is assigned as an OJT instructor.

During the Safety Board's initial investigation of the ATC system in the fall of 1981, the FAA stated that no significant modifications of facility training programs to quality controllers were being undertaken on planned. Further, Chapter 3, Section 2, Paragraph C(1) (not waived) of FAA Handbook 3120.4F, requires that an OJT instructor, "Be proficient on the position at which the training is being conducted." "Proficient" is defined as being "highly skilled." Based on the foregoing information, the Safety Board believes that the existing implementation of OJT at many facilities is not in keeping with the intent of this important criterion and may have a deleterious effect on the proficiency and capabilities of the newly trained controller workforce. Therefore, the Satety Board believes that the FAA should immediately cancel the waiver governing instructor training requirements and the FAA should immediately reexamine its use of newly certified developmental controllers at OJT instructors.

Experienced OJT instructors now have a double incentive to spend considerable extra time conducting OJT. The first incentive is the newly enacted ATC pay package which includes extra pay for conducting OJT. The second incentive is the desire of senior controllers' to qualify trainees rapidly so they can return to a normal workweek and vacation schedule. Additionally, these personal incentives are reinforced by the manager's desires to meet training goals. As a result, OJT instructors are often scheduled by management for extensive training periods and because they feel obligated to train new controllers to rebuild the workforce, the instructors willingly comply with management's instructions and undertake the assignment. As a result, many senior controllers are conducting OJT for 5 to 7 hours per shift which the Safety Board has determined to be very stressful for the instructors and trainees in heavy workload situations. Additionally, the extended hours of OJT do not provide for a meaningful learning situation for the trainees.

The Board's investigators learned that this situation became so serious at one facility surveyed by the Safety Board that the Facility Advisory Board members brought it to the attention of facility management. Additionally, the Board's investigators learned that, at an "all hands" meeting at this facility, senior controllers complained about the exceedingly stressful effects of the existing OJT workload to facility management. As a result of those complaints, actions were taken to allow full performance controllers at the facility to schedule certain days during which they would not conduct OJT. The OJT Instructors expressed relief to the Safety Board's investigators at the easing of the excess stress of conducting continued OJT. It is the responsibility of managers to recognize the adverse consequences of conducting protracted OJT and to develop realistic methods of keeping the amount of OJT required to be provided by controllers at an acceptable level. Therefore, the Safety Board believes that the FAA should consider adopting and formalizing this particular measure of controlling the amount of OJT systemwide to relieve undue controller stress at other facilities with heavy OJT workloads.

Safety Board investigators also studied a procedure developed at LaGuardia Tower, a level-four terminal facility, to control and monitor the controller training process during the rebuilding of the ATC workforce. The facility manager pooled the two Evaluation, Proficiency and Development Specialists (EPDS) and the one Planning and Procedures Specialist (PPS), who was also performing as an EPDS at the time, and assigned one of them to each of the three facility controller teams, shortly after the strike began in August 1981. The specialists' responsibilities include oversight of OJT and classroom and administrative training requirements for their respective team members. They are also responsible for coordination of all training activities with the respective team manager. Although this practice was originally set up on a temporary basis, the positive experience and results of the arrangement have caused the facility manager to continue the practice, and to recommend it to FAA ATC regional and headquarters staff as a permanent team position entitled Evaluation, Proficiency, and Procedures Specialist (EPPS). The proposed EPPS position would perform the combined functions of an EPDS and PPS, and thereby satisfy the needs of each team in training, administration, evaluation, proficiency development, program development, and program planning.

The Safety Board's investigators were impressed by both the quality and quantity of training conducted by and directed by the team-assigned EPDS's (EPPS), and their ability to monitor and control first-hand the training of their respective team members. Therefore, the Safety Board believes that this concept should be analyzed and considered by the FAA for adoption at other ATC facilities. The implementation of a team-assigned "EPPS" or a similar procedure could enhance the ATC system controller workforce recovery process and could assist in the resolution of many of the shortcomings of the existing OJT program, which are of concern to the Safety Board.

In view of the above, the National Transportation Safety Board recommends that the Federal Aviation Administration:

Cancel immediately the waiver of the FAA Handbook "Air Traffic Training," 3120.4F, Chapter 3, Section 2, Paragraph 100.C(3), which requires instructor techniques training prior to being assigned to conduct on-the-job training. (Class I, Urgent Action) (A-82-146)

Provide air traffic control facility managers with guidance and criteria to govern the use of newly certified developmental controllers as on-the-job instructors to ensure that the instructors are experienced, proficient and trained in instructor techniques before being assigned to conduct training. (Class II, Priority Action) (A-82-147)

Provide air traffic control facility managers with guidance and procedures to place a more measured control on the amount of on-the-job training that controllers are assigned to conduct commensurate with workload and the complexity of the traffic being handled at the control position. (Class II, Priority Action) (A-82-148)

Develop and adopt the team-assigned Evaluations, Proficiency and Procedures Specialist concept, based on that in use at the LaGuardia Tower, or a similar concept, in place of the existing staff-assigned. Evaluations, Proficiency and Development Specialist-Planning and Procedures Specialist concept in use at appropriate air traffic control facilities. (Class II, Priority Action) (A-82-149)

Burnett, Chairman, Goldman, Vice Chairman, McAdams, Bursley, and Engen, Members, concurred in these recommendations.

PATRICIA A. GOLDMAN,
(For Jim Burnett, Chairman).●

THE GLOBAL ECONOMIC CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 60 minutes.

● Mr. LAFALCE. Mr. Speaker, as the 97th Congress draws to an end, many issues remain for the new Congress to address. Among those is a little understood crisis that is dominating the time and energy of the world's financial and political leaders, including our President. We are facing an overwhelming problem in the world economy that could result in the collapse of the world financial structure. That problem is seen in closest detail in the crises that have faced Mexico, Argentina, and Brazil. When the picture is painted more broadly, we are shown in frightening perspective the possibility of worldwide economic disruption with disastrous consequences for an already imperiled American economy.

The problem of global economic crisis is one that cannot be ignored in this Chamber. Today, Mr. Speaker, the House Banking Committee held an important hearing on this momentous issue. Members of the committee heard Secretary of the Treasury Donald Regan testify on the importance of a strong American response to the financial crisis abroad, and on the importance of that response to the American economy. That testimony corroborated my judgments regarding the urgency of this problem. The tidal wave of international insolvency will

not wait for us to pause. The threat is to the vital lifeline of world trade, and we must respond immediately.

I would like to briefly outline the genesis of this crisis, what consequences are falling on the shoulders of our neighbors across the world, and the stake that America has in this situation. I will then outline some potential avenues for resolving the current crisis and providing for stable economic expansion in the future. Mr. Speaker, I do not hesitate to say that the issue here is perhaps more important to America's future prosperity than any we have had before us in my tenure in Congress. Our colleagues must address these problems with all of the intellectual ability and vision we can muster, and we must address them soon.

THE GENESIS OF THE CURRENT CRISIS

As we know, the whole of the industrialized world is in recession, and the situation in developing countries is even worse. Growth in the industrial nations is flat, world trade is off, and developing countries stagger under an enormous burden of short-term debt. The world financial system has been shaken by political events in Poland, war in the Falklands, and the recent debt problems of Argentina, Mexico, and Brazil. We are in the midst of a difficult situation in which we worry about the risks of international lending by banks and yet grow concerned that these institutions will cease their lending. Many very worthy borrowers have been transformed into international credit risks. Several developing countries teeter on the edge of default and, in fact, the situation in certain industrial countries is also precarious.

The stage for this turn of events was set when commercial banks assumed the responsibility for recycling the flood of OPEC dollars that became available in the international market in the 1970's. The price hikes that created these petro-dollars found non-oil, less developed countries (LDC's) strapped for funds to finance oil purchases and in need of capital inflows to support development. International banks undertook aggressive loan making activities in LDC's where borrowers, experiencing enormous needs for external financing, amassed huge quantities of short-term debt. From 1973 to 1982, debt carried by these countries surged from about $100 billion to about $500 billion. Half of the increase in the debt of LDC's between 1974 and 1978 was to private financial institutions. By 1982, commercial banks in the West held 65 percent of total East bloc and LDC debt. Much of the growth in debt reflected rising oil prices, and much of it was contracted for the short term at floating interest rates.

As Secretary Regan pointed out, quite rightly, this morning, heavy borrowing was not the "appropriate economic response." Instead of instituting policies of restraint, many countries financed continuing domestic outlays with external debt. After the oil price increase of 1979–80, Third World borrowers saw the burden of this loan-making grow tremendously with changes in the world economy as the United States and all of the major industrial nations undertook a series of efforts to combat inflation. The result has been a world situation that has economies throughout the world suffering from high unemployment and the effects of recordbreaking interest rates over the last 2 years.

LDC borrowers saw the price of debt in international markets reach unbelievable highs. The London Interbank Offer Rate (LIBOR) and the New York prime, on which private international debt is based, increased dramatically. The average rate for country borrowing, including spread and fees, rose from 8 percent in 1972 to 18 percent in 1981. The costs associated with these increases were enormous. Each percentage point rise in the LIBOR rate was estimated to increase the debt servicing costs for developing countries by $3 billion per year.

Further complicating the picture, the price and volume of commodity exports from developing countries fell as the global recession dampened demand. Prices for commodities declined precipitously, reaching a 30-year low. The effect of such a price tumble can be illustrated by a recent report in the Financial Times that Tanzania must now produce more than 13 tons of tea to buy a tractor which, in 1972, could be traded for only 5 tons. Earnings from commodity trade have obviously not been able to keep up with increases in financing costs. Morgan Guaranty's "World Financial Markets" has estimated that in 1982 total debt servicing will amount to 179 percent of Argentina's exports, 129 percent of Mexico's, 122 percent of Brazil's, 116 percent Chile's, and 95 percent of Venezuela's

The result of these difficulties have been payments crises in a number of developing countries. Mexico faced an $80 billion debt problem. Brazil and Argentina have required, like Mexico, large loans from the International Monetary Fund (IMF) and a massive rescheduling of private debt. Bolivia may request $300 million from the IMF in February, and the Philippines may be forced to ask commercial banks to reschedule as much as $500 million of its foreign debt.

The crisis is moving into the industrial nations also, where external borrowing has been used to finance massive social programs. France may be requesting IMF funds before long, and Denmark has been placed on Standard and Poor's watch list. There are many others. As Secretary Regan said, "Internationally, rescheduling has become a growth industry."

As developing borrowers, in particular, began to experience difficulties, the availability of bank credit has been reduced as lenders shied away from their previous commitment to LDC's. This only exacerbates the problems for those borrowers who face debt crises, and in fact threatens those which have made a strong effort to finance their obligations by clamping down on internal growth.

Brazil, which was last week saved from default by a hastily executed package of loans from the industrial countries, has had sound financial management and a strong economy, burdened only by the cost of oil. Financing that cost through private loans—foreign assistance has slowed to a trickle because of the country's economic progress—Brazil amassed $85 billion in foreign debt. Financial collapse has been avoided at large cost: In 1981, real income per person fell by over 5 percent, after increasing for two decades.

THE EFFECT OF THE CRISIS ON THE WORLD ECONOMY

Mr. Speaker, there has been a great deal of press coverage in recent months of international efforts to avoid defaults by some of the largest borrowers. Mexico has instituted an austerity program in accordance with its agreement with the International Monetary Fund. Argentina is negotiating with the IMF and international bankers, and Brazil has signed a letter of intent with the IMF for a $4.5 billion loan. To some it may seem that the crisis is over. That perception is gravely mistaken.

Treasury Secretary Regan expressed this morning the strain placed on the international system by the problems of large debtor countries. He noted particularly the fact that the demands being placed on the IMF are unprecedented. The difficulty has not past.

Commentator Hobart Rowen said in the Washington Post of December 16 that:

> The hard reality is that the global economy could be teetering on the brink of a major disaster that can be averted * * * only by signs of courageous leadership by the United States.

On the same day, the Brandt Commission proclaimed that:

> The global economy has slid into a recession which has begun to resemble the Great Depression of the 1930's.

The effects of the world situation are being felt here as well as in the strained economies of the developing world. The inter-relatedness of world markets insures that the pains of payments problems are felt in the industrial world, and we have to very carefully assess the impact of those problems. The risk, Mr. Speaker, is not only to those countries on the verge of

insolvency, and it is not only to lenders who face massive loan losses. The risk is borne by this economy and by the economies of the industrialized world.

This risk takes several distinct and very important characteristics and should be of important consequence to our decisionmaking here in Congress. First, we are experiencing the risk of an international financial crisis. Our banking system, in particular, is exposed to potentially threatening losses in the world economy. By the end of 1981, the nine largest American banks had loans outstanding to Argentina, Brazil, and Mexico of 20, 42, and 45 percent of their capital. One recent report says that the 10 U.S. banks with the largest Mexican exposure hold loans totaling $13.5 billion. While rescheduling of debt decreases the risk of such great exposure, we should be aware that a reaction of fear in the international market could cause a major crisis in our domestic monetary system.

Another facet of the risk we face in the international market is exacerbating economic contraction. Mr. Speaker, default or near-default causes economic contraction in problem-ridden economies. As individual nations restrict economic activity, the world economy becomes static. World trade is slowed and the pressure for protection of available markets grows. Mr. Speaker, when developing countries are unable to sell their exports, they are not going to be able to buy our imports. And when the engine that drove economic growth in the 1970's—international trade—is shut off, the world financial system is threatened. Worldwide depression becomes a reality.

Self-interest alone demands that we react to the immediate crisis. Foreign trade is a major factor in U.S. business and employment. In 1970, exports and imports combined accounted for 8.6 percent of GNP; today they account for 18 percent. Much of that growth reflects growth in trade with developing countries. Currently the U.S. sends one-third of its exports to non-oil developing countries. More of our products and services are purchased in those countries than in all countries of the European Community.

The importance of trade to our economy was recently emphasized by Fred Bergsten, former Assistant Secretary of the Treasury and current Director of the Institute for International Economics, who observed that 60 percent of our growth from 1978 to 1980 was attributable to improvements in our external balance. Further, he added, "from 1981 through mid-1982, the deterioration in our external balance was the largest single factor—larger than the slumps in the housing or auto industries—pushing our economy into recession."

Mr. Speaker, the importance of trade, and growth in trade, cannot be overemphasized. One recent study said that a gain in growth of 1 percent in the developing world is worth $1.5 billion in new exports from the industrial West. I shudder to think what might happen in the loss of a large proportion of those markets. Contractions in the debtor countries will at the very least threaten recovery in the industrial nations. It could do much worse. As Federal Reserve Chairman Volcker has warned, "Should we fail to understand the full extent of these difficulties or respond inappropriately, no country will escape the consequences."

A NEW INTERNATIONAL PERSPECTIVE

The belief that our Nation can live in isolation from world economic woes must die. We rely on trade for jobs and profits as well as goods and services. In the midst of crisis, then, we must enact a program to promote global health. If we do anything less, we risk setting in motion a chain of events that could undermine the political and economic stability of crucial allies in the less-developed countries, and ultimately result in economic disaster within the industrial nations. I repeat what Volcker said, "no country will escape the consequences."

The problems of debt service in Bolivia, Ecuador, and Costa Rica are our problems. Belt tightening in South Korea, Chile, and the Philippines means difficulties in the United States. The human costs of slowing development in countries where people pay through disease and poverty must be tallied to our account. And, Mr. Speaker, debt problems in the developing world are going to lead to problems in the world of our important Western Allies.

A PROPER RESPONSE

In order to address the crisis of our international financial system we must take immediate action. Fortunately, Mr. Speaker, the President and his cabinet have finally come to see the need for a U.S. commitment to the solution of this issue. As the Washington Post noted editorially on December 14, the administration is "tuning down the accusatory bombast and talking pragmatically about cooperation." Three months ago I was dismayed over the stubborn resistance of the administration to taking much needed steps to assist countries in distress. I now praise the efforts of Treasury Secretary Regan in bringing the issue to the forefront in conjunction with last week's Frankfurt meetings, and I strongly support the President's resolve to request congressional action. I am also very pleased that the chairman of the House Banking Committee has convened hearings this week on these problems.

Mr. Speaker, we must assist troubled countries appropriately, rapidly, and effectively. The response of many of our colleagues, however, might be that we are "bailing out the banks who created the problem origially." Robert Solomon, former adviser to the Board of the Federal Reserve System and currently a guest scholar at the Brookings Institution, has said, and I agree, that "It cannot be overemphasized that the recession and high interest rates in the industrial countries are at the heart of the debt servicing difficulties of the developing nations." High interest rates increase the cost of funds; recession means that countries cannot finance the increased costs by selling exports. If we want to describe the efforts as a bailout Mr. Speaker, we should describe them as a bailout of the world economy.

The point must be reinforced that we are not shoring up faulty economies by seeking a short-term answer to the impending crisis. Most of the countries that are experiencing payments problems are fundamentally sound. In time, they can pay their debts. The problem is one of liquidity, and it is the same problem faced by corporations or individuals in the United States whose earnings have decreased in the recession. In the case of these debtor countries, however, failure to provide temporary assistance may seriously impair the world economy.

The form of this temporary assistance has been tentatively agreed to by officials of the 10 largest industrial nations. There is general agreement that the obvious bridge to be constructed is that of allowing the International Monetary Fund to engage in its proper role as stabilizer of the international monetary system. When the IMF was chartered in 1944, it was designed to work in cooperation with the World Bank in promoting financial stability and growth throughout the world. It was engineered to work with countries with balance-of-payments difficulties, and subscriber nations pledged resources to make available loans to countries with high deficits. While the World Bank has worked to promote economic strength within developing countries, the IMF has worked to promote payments strength. The IMF has two distinct advantages in the world economy that make it a very obvious place to begin in this crisis. First, it is a multilateral institution. This problem is one for the world economy to solve, not just the economy of the United States. The IMF provides a forum for full participation by western countries.

Second, and most importantly, the IMF, through conditionality agreements, can demand that loan recipients institute corrective actions to shore up national economies in the long term. Mr. Speaker, the IMF is perhaps the only existing institution that can accommodate the adjustment

process as countries move into an era of slower growth. Conditionality can insure that credit is allocated properly, and it can promote strengthening of the world economy. In Mexico, for example, the conditions of an IMF loan require that in 1 year the Mexican Government reduce a deficit that currently equals 16 percent of gross domestic product to a deficit of 8 percent. Such an effort requires a complete reversal of Mexican fiscal policies, and it will ultimately help to salvage the Mexican economy.

The IMF has met the needs of Mexico and of Brazil, and is struggling to aid developing countries around the world. Unfortunately, current IMF resources are not equal to meeting the credit needs of the LDC's. It has committed most of its $65.9 billion fund, and it is expected to face a shortfall by the end of next year. The fund needs an infusion of capital, and it needs it immediately.

The U.S. Congress has an obligation to the world economy and to our domestic economy to support the IMF. Next year we will be called on to submit further resources to the Fund. It is imperative that we do so. I realize that in this period of concern about budget difficulties there may be opposition to an IMF quota increase. I want to underscore the fact, however, that any borrowing against our quota by the IMF is replaced in our budget accounts by a credit at the IMF and will be repaid. We will not be supplying "foreign aid"—we will be making a very sound investment in the economies of LDC's. It is a sound investment that will be repaid many times over in the growth of world trade.

Mr. Speaker, an agreement with the IMF should result in available resources by the end of next year. In order to complement this capital infusion, and in order to provide emergency funds in the short term, it has been proposed that the United States commit its support to an expansion of a temporary fund within the IMF. There currently exists a fund within the IMF which can be activated only to "forestall and cope with an impairment of the international monetary system." That fund is described under the General Arrangements to Borrow (GAB), which was established by 10 industrial countries in 1962. The IMF is empowered to borrow from the GAB for lending only to GAB countries, and such action can only be taken in consultation with lenders. Interest is paid on GAB borrowing, and a participant may request that a loan be repaid if its own balance-of-payments condition deteriorates.

Expansion of the GAB would be a logical immediate step to address emergency situations in the LDCs. It is a matter to be discussed by the industrial countries early in the new year, and it is a matter worthy of full exploration by the Congress.

We in Congress need to explore other opportunities for multinational cooperation. The Bank for International Settlement (BIS) has been very helpful in arranging private credits for Mexico. The BIS, which was created in 1930 to facilitate the payment of war debts among the allied countries, has evolved into a useful medium for promoting the cooperation of central banks and acting as a trustee for international settlements. We are not currently members of the BIS, although the Federal Reserve acts as an observer, and the BIS does have relationships with several private U.S. banks. The work of the BIS, and our participation, should be of continuing interest in Congress.

THE ROLE OF THE ADMINISTRATION

The current administration must assume a position of leadership as we address this complex problem. The President must educate the President and the public and the Congress on the importance of shoring up the world economy; the Congress must respond appropriately. This effort will require the greatest possible bipartisanship.

Mr. Speaker, our colleagues should take the opportunity of our holiday recess to think heavily about the ramifications of congressional action on this matter. I ask that the full text of Secretary Regan's testimony be published in the CONGRESSIONAL RECORD because it is of the utmost importance that we carefully study the full extent of the international crisis. We need to act in a bipartisan manner, and we need to do it early in the new Congress.

Jacques de Larosiere, Managing Director of the IMF, has said that "A lasting recovery of the world economy requires sound domestic policies, but growth can only be achieved in the context of an international monetary system that functions in a stable and smooth way." We have an obligation to promote monetary stability and, quite frankly, we have no other choice.

Secretary Regan's testimony follows:

STATEMENT OF HON. DONALD T. REGAN, SECRETARY OF THE TREASURY

INTERNATIONAL DEBT SITUATION AND INCREASE IN IMF RESOURCES

Mr. Chairman and members of the Committee:

I am pleased to meet with you today to discuss the international debt situation and current negotiations on an increase in the resources of the International Monetary Fund. The world faces extremely difficult economic and financial problems, essentially without precedent in the postwar period. Mismanagement of these problems would have serious adverse effects on the United States economy—on our recovery and on our ability to create needed new jobs. Orderly resolution will minimize the potential risks for our citizens. I would like to review the situation, the broad strategy for dealing with current problems and, given the critical role for the IMF in this approach, the status of international discussions on increasing IMF resources. Answers to the specific questions in your letter of invitation are appended to my statement.

INTERNATIONAL FINANCIAL DEVELOPMENT

The present troubled state of the world economy has its roots in emerging inflation pressures in the late 1960's, the twin oil shocks of the 1970's and policy responses that attempted to avoid adjustment to new economic realities.

The appropriate economic response to emerging problems and the oil price increases was monetary and fiscal restraint to counter inflationary pressure, and for real adjustment and resource reallocation to reflect new competitive conditions and the reduced real consumption possibilities implied by the large transfer of income and wealth to OPEC. Instead, many governments tried to maintain real incomes at levels prevailing prior to the price increases and preserve employment in uncompetitive industries by transfers. Reluctance to pay for these transfers and subsidies by increased taxation led to debt-financed increases in government outlays, with monetization of the resulting deficits producing faster monetary growth in turn. The results were higher inflation, slower real growth, and rising government sector deficits relative to GNP (primarily from enlarged transfer payments). In addition—and of central importance in today's debt situation—oil importing countries experienced unprecedented current account deficits and external borrowing requirements.

Most of the needed current account financing was provided through private markets, largely by commercial banks. Commercial banks served as the risk-taking intermediaries between OPEC and borrowing countries. The growth of lending was considerably larger, and the financing smoother, than many observers had thought possible; but the corollary has been the rapid growth of international debt.

In addition, the liquidity provided by the growth of international lending tended to postpone adjustment of domestic economies and helped maintain consumption at inflated levels. Continued borrowing and postponement of adjustment was encouraged by the belief on the part of debtors that inflation would erode their debt burden.

The increase in international lending—both private and official—was heavily concentrated on the non-OPEC developing countries. By the end of 1981, total non-OPEC LDC debt was about $500 billion—5 times the level of their debt in 1973. Net new borrowing by these countries from banks in the major industrialized countries reached a cyclical low of $11 billion in 1977, rose to $22 billion in 1978 (of which $13 billion went to Latin America) and $42 billion in 1981 (of which $33 billion went to Latin America). By June 1982, the stock of debt owed to the private Western banks by non-OPEC developing countries totaled around $265 billion, of which $168 billion was owed by countries in Latin America.

In recent months, financial markets have begun to recognize that the inflationary environment of the 1970's is changing fundamentally. Markets are beginning to believe that the world economy is in a disinflationary period that will continue for some time. Inflation expectations are undergoing dramatic change. Lenders are re-evaluating loan portfolios that were established under

quite different expectations about future inflation. Levels of debt previously expected to decline in real terms—and therefore to remain manageable relative to growing nominal export receipts under conditions of high inflation—are now seen to be high in real terms and large in the face of weak export prices and slow world economic growth. Interest rates—though down recently in nominal terms—are seen to be high and more burdensome in real terms because of lower expected inflation. On the other hand, the strong possibility that real interest rates will eventually be reduced is a positive factor in the outlook.

The re-evaluation that is going on is an inevitable result of the collision between ongoing inflationary behavior and monetary policy that no longer provides sufficient money to finance continued high inflation. In general, national monetary authorities are demonstrating that anti-inflationary policies will not be reversed at the first signs of slow growth or higher unemployment. The world economy is in the midst of an unavoidable adjustment period which will continue until inflationary expectations abate and the public's behavior ceases to be based on the presumption that inflation will persist into the future as it has in the past.

In this atmosphere of shifting expectations, the overall tone in bank lending is cautious. The problems with major sovereign and corporate borrowers did not develop overnight. Many of them were foreseen in 1981, but did not reach the stage of individual liquidity or solvency crises until this year. Previously strong and well-known private companies in North America and Europe now require debt restructuring and rationalization. Major sovereign borrowers, beginning with Argentina, then Mexico and Brazil have faced liquidity problems and foreign exchange shortages: and a host of other countries—including Yugoslavia, Poland, Zaire, the Sudan—also have problems servicing debt. Internationally, rescheduling has become a growth industry.

Accordingly, banks are taking a harder look at lending, country exposure and transfer risk, and the strength of the other banks they deal with. They are increasing their loan loss provisions, and expect to be involved in debt restructurings with many of their sovereign borrowers.

The major international banks tend to view the basic LDC debt problem as one of liquidity rather than solvency. They see the key causes to be faulty domestic policies and the weak performance of the world economy. Most would assume there is a negligible risk of permanent default by major sovereign borrowers, and that corrective domestic policies, coupled with world economic recovery, will restore credit-worthiness of the LDC's over the longer term. The major uncertainities are in the delays in reestablishment of confidence and credit-worthiness, and questions about the adequacy and continued availability of new credits from the banking community to provide support as adjustments take place.

With the decline in inflation and interest rates, and the establishment of economic adjustment programs in key borrowing countries, the rate of increase in demand for new bank lending is not expected to be as high as in previous years. But some net new lending will be required. The essence of the problem is to assure that conditions are established that will reconcile the necessary prudence in lending with the need for continued financing while these adjustments take effect.

UNITED STATES INTERESTS

The world economy has become highly—and often uncomfortably—interdependent since World War II, with a strong growth in international trade and an extraordinary increase in international financing. International trade was the single most dynamic part of the world economy in the decade of the 1970s. Our own stake in the health of the world economy has grown rapidly as well. U.S. exports in the latter part of the decade grew twice as fast as the growth of world trade. Merchandise exports as a share of U.S. gross national product doubled between 1970 and 1979 and now account for 8 percent of U.S. GNP. By the end of the decade, exports accounted for one in three acres of U.S. agricultural production—or roughly 40 percent of our total agricultural production. One out of every eight jobs in the manufacturing sector produced for export; and nearly 20 percent of our total production of goods was exported. Imports have also risen rapidly, to the point that something like 20 percent of our consumption is supplied by imports, and imports form an integral part of the U.S. production process.

In the financial area, U.S.-owned banks account for about one-third of total international bank lending to final borrowers. International bank claims outstanding, after eliminating double counting from interbank transactions, total about $1 trillion, while U.S. banks' claims on foreign borrowers were around $349 billion as of mid 1982. Most U.S. bank lending involves customers in the developed country area, but about one-fourth goes to Latin America. These figures are indicative of the share of risk borne by U.S. banks, and are roughly proportional to the U.S. share of GNP in the OECD area.

The links between trade and banking are obvious. Moreover, U.S. banks' ability to finance domestic activity clearly benefits from a sound, profitable international lending business.

Mr. Chairman, as this discussion has indicated, the United States economy is strongly tied to developments abroad. We have very solid self-interests in assuring that the debt and financial situation is smoothly handled. In order to identify specific U.S. interests, I would like to discuss briefly a hypothetical case where the United States and major foreign governments follow a "hands-off" approach to debt problems, effectively allowing them to follow their course without official support.

From what we've seen in the last few months, private lenders have become extremely hesitant to extend new loans to LDCs saddled with sizable debts. Private lenders are holding back until borrowers—encouraged by the IMF—undertake new domestic policies aimed at reducing borrowing needs. For the sake of discussion, a "hands-off" attitude by the U.S. and other would most likely result in a cessation of new private lending to LDCs in general. What would that mean for the borrowers, for the world economy, for the United States, and for our citizens.

LDC borrowers received about $45 billion in new bank loans in 1981. We expect this year they will borrow something like $20-25 billion. Next year, if lenders pulled back sharply in the absence of any interest or action on the part of the major industrial countries, this lending could decline towards zero. Assuming that there is some new private lending next year, say $5-10 billion, LDCs would face a decline of $35-40 billion in loans over the 1981-83 period. Trade and current account deficits would have to be reduced accordingly to match the new lower level of external financing.

What would such a reduction in lending to LDCs imply for the world as a whole? First, the adjustment would come largely against industrial countries. As a consequence of unavoidable cuts in LDC imports, industrial country exports would be directly reduced by $35-40 billion. This would represent a direct loss of 0.3 to 0.5 percent of GNP in the industrial countries; secondary effects could double that loss to some 0.6 to 1.0 percent of their GNP. At the early stage of global recovery we're likely to be in next year, a drop of this magnitude from lost exports could abort the gradual rebuilding of consumer and investor confidence needed for a sustained recovery.

For the United States, the effects would be broadly similar. Growth would be about 1 percent less than we're expecting, and our trade deficit would grow very rapidly due to the loss of $12 billion or so in exports to LDCs. Lost jobs in vital export sectors would compound our recovery efforts.

The American citizen has the right to ask why he and his government need to be concerned with debt problems abroad. With high unemployment at home, why should we be assisting other countries, rather than, say, reducing taxes or increasing spending domestically? Why should he care what happens to the international financial system?

One way to look at this question is to ask what the implications are for workers in Providence, Pascoag or Woonsocket if foreign borrowers do not receive sufficient assistance to adjust in an orderly way. What if they are late in making interest payments to banks, or can't pay principal, and loans become non-performing or are written off as a loss?

If interest payments are more than 90 days late, the banks stop accruing them on their books, they suffer reduced profits and bear the costs of continued funding of the loan. Provisions may have to be made for loss, and as loans are actually written off, the capital of the bank is reduced.

This in turn reduces the banks capital/asset ratio, which forces banks to curtail lending to individual borrowers and lowers the overall total they can lend. The reduction in the amounts banks can lend will impact on the economy. So will the banks' reduced ability to make investments, which in everyday language includes the purchase of municipal bonds which help to finance the operations of the communities where individual Americans work and live. Reduced ability to lend could also raise interest rates.

I want to make very clear, Mr. Chairman, that we are not talking here just about the big money center banks and the multinational corporations. Well over 1,500 U.S. banks, or more than 10 percent of the total number of U.S. banks, have loaned money to Latin America alone. They range in size from over $100 billion in assets to about $100 million. Those banks are located in virtually every state, in virtually every Congressional district, and in virtually every community of any size in the country. Those loans, among other things, financed exports, exports that resulted in jobs, housing and investment being maintained or created throughout the United States.

If the foreign borrowers are not able to service those loans, not only will U.S. banks not be able to continue lending abroad, they will have to severely curtail their lending in the United States. Let me illustrate this

point as graphically as I can. A sound, well-run U.S. bank of $10 billion in assets—not all that large today—might have capital of $600 million. It is required by the regulators to maintain the ratio of at least $6 in capital to every $100 in assets. What happens if 10 percent, or $60 million, of its capital is eroded through foreign loan losses? It must contract its lending by $1 billion. Now realistically, the regulators will not force it to contract immediately, but they will force it to restrict its growth until its capital can be rebuilt.

The net result in either event is $1 billion in loans that can't be made in that community—20,000 home mortgages at $50,000 each that can't be financed, or 10,000 lines of credit to local businesses at $100,000 each that can't be extended.

And of course, this reduction in lending also will have negative effects on financing of exports, imports, domestic investment and production in individual cities and states around the United States, be it in shipping, tourist facilities, farming, or manufacturing. The impact will not only be on the banks—it will negatively affect the individual as well as the economic system as a whole. Higher unemployment and a reduction in economic activity, with all they entail for city, state and Federal budgets would be a further result. None of this is in the interest of the U.S. citizen.

The answer to the question why the United States should participate in efforts to manage and resolve current international financial problems is that our efforts are primarily in defense of the average American and his own economic interests. The purpose is to protect his job and his income. If the U.S. is to prosper, if unemployment is to be reduced and new jobs created, if the strength of the companies we work for and in which our pension funds and insurance companies invest is to be maintained, it is vitally important that our large and growing customers overseas should remain healthy and, when in economic difficulty, be helped to adjust and recover.

U.S. STRATEGY AND THE ROLE OF THE IMF

U.S. strategy to deal with current strains on the international financial system contains five key elements. If these operate as they should, there is no need for a potential crisis to be unmanageable. Indeed, there is good probability for a steady and sustained, albeit gradual, improvement, both in the basic, underlying situation as well as in the reestablishment of confidence.

These key elements are not new, nor are they hastily constructed palliatives. Rather, they go to the foundations of the international monetary and financial system.

First, the crux of any lasting effort to remedy the debt problems of less-developed countries must be orderly, but effective, domestic adjustment efforts by each country concerned. The necessary adjustments will vary from country to country since the causes of a country's external payments difficulties usually differ between countries. But experience shows that some combination of the following is likely to be found in a country experiencing debt problems: uncontrolled government expenditures, large fiscal deficits, inflationary money growth, inefficient state enterprises, subsidized or protected private enterprises, distorted prices, rigid exchange rates, and interest rate restrictions which discourage private savings and contribute to a misallocation of investment expenditures.

Not surprisingly, the economic adjustments necessary to restore a country's foreign borrowing capacity are also necessary to restore the conditions for stable and strong domestic economic growth. However, I do not want to underestimate the short-run economic and political difficulties of making the necessary adjustments.

The second key element is readiness to provide official financing on a transitional basis where that is needed to permit orderly adjustment to take place. The international institution best able to provide official support within the context of domestic economic adjustment is the IMF. In this connection, the IMF plays a number of key roles. The staff of the IMF works closely with member governments in order to help identify the causes of their economic problems and to identify the appropriate economic policy adjustments. The IMF also stands ready to provide temporary financial support to those countries willing and able to undertake the necessary economic policy measures to get out of their external financial problems. The IMF cannot force a member country to adopt an economic program. However, when committing its resources, the IMF has a special responsibility to assure itself that the economic adjustment program a country is following will restore domestic and external health, and that the economic adjustment program will lead to fewer restrictions on international trade and financial transactions.

Other forms of official financing can also provide increased direct assistance that can make a significant remedial contribution to troubled LDC debtors, as well as serving the commercial and financial interests of the lending country.

However, neither IMF nor other officials credit, in themselves, will be sufficient to provide the required finance and liquidity to support the adjustment necessary to redress the economy of a major industrializing debtor country. Additional liquidity and trade finance must be forthcoming.

Thus, a third key element is commercial bank financing. The role of the commercial banks overshadows that of all other lenders combined. At the end of 1981, total non-OPEC LDC debt totaled about $500 billion, of which $255 billion (51 percent) was to private banks. During the first half of 1982, the proportion of debt to the commercial banking system increased further.

In the second half of 1982, U.S. regional and some foreign banks have sought to limit or reduce exposure. To the extent they are successful, they place a greater and disproportionate strain on the resources of the larger banks and official lenders that are committed to the international financial system, and on the borrowing countries, already faced with a severe adjustment burden. This increases the risk of precipitate, restrictive, and potentially politically destabilizing adjustment, rather than a more gradual, albeit still painful, process that we consider essential.

A cessation of commercial bank lending is not in the interest of the lending banks themselves. In some cases, it could push weak, but otherwise still viable, borrowers into a rescheduling. All those commercial banking institutions—large and small—that have played a part in the international lending that enabled LDC borrowers to run up debt, some of it non-productive and non-foreign exchange earning, must be aware of the dangers should they attempt to reduce exposure during the adjustment process that is underway.

Thus continued—though reduced—flows of new financing by the banks are a necessary component of the overall financing package required to support ordered economic adjustment.

A fourth element is the official will and capacity to act in potential emergencies. As demonstrated in some recent cases, in limited instances when the stability of the system is at stake, there may be a need for immediate and sufficient *ad hoc* liquidity support which can be made available to countries while they negotiate with the IMF, formulate adjustment programs, work out orderly financing programs with their creditors, and begin the process of program implementation.

Central banks, working cooperatively among themselves and with the Bank for International Settlements, at times supplemented by U.S. Treasury resources, can provide short-term financial assistance, under appropriate conditions and with adequate assurance of repayment, until the borrower can work out an IMF adjustment program.

Let me mention the role of the Treasury's Exchange Stabilization Fund in the contest of the current international economic situation. The ESF was established in 1934, to enable the Treasury to act when necessary to stabilize international exchange markets. The ESF has been used many times over the years, both to finance U.S. operations in the exchange markets and to provide short-term financing to other countries. Its provisions have been modified by the Congress from time to time to reflect the evolution of the international monetary system, including recognition of the shift to floating exchange rates and the central role of the IMF in providing official balance of payments financing.

In the present context, a need for short-term liquidity support has arisen where commercial banks have become concerned about their exposure in key borrowing countries and have acted to precipitously curtail lending. The immediate consequence is to make the borrowers' financing problems worse. For the longer-term, the economic adjustments undertaken in connection with the IMF program will strengthen the countries' ability to service debt, and such adjustment programs are a major factor in restoring banks' confidence and willingness to continue lending. But there is inevitably a lag between the time major liquidity problems arise, domestic programs are formulated, agreement is reached with the IMF, and implementation begins. It is during this period that uncertainty and risk of disruptive actions are perhaps greatest.

The ESF—in conjunction with the Federal Reserve and the monetary authorities of other major countries—is available to play a supporting role during this critical period, to help maintain stability while medium-term adjustment and financing programs are developed and put in place. These credit operations by the ESF are short-term in nature, well-secured, interest-earning and supportive of the IMF's central role, and are an entirely appropriate U.S. contribution to maintenance of international financial stability.

By their nature, these are short-term *ad hoc* solutions, but the major Central Banks and Finance Ministries must be capable of providing the necessary "bridge" finance needed in these situations. I think there is room for review of whether our data and mechanisms for identifying emerging problem cases are adequate and whether our arrangements for providing emergency financing work as smoothly as they should or could. I have raised these questions during a

recent meeting of the Finance Ministers and Central Bank Governors of major countries, and we will be doing more work in this area.

The fifth key element is a set of economic policies in the major industrialized countries that will produce economic growth and a counter to the risks of inward-looking protectionism. What is currently missing in the world economy is business and consumer confidence. Investment spending is being postponed as capacity utilization remains low, and gloom and doom predictions about the global economy become commonplace. This lack of confidence spreads to consumers who, fearing the possibility of unemployment, postpone consumption in favor of rebuilding savings. At the curent juncture, many economic players have adopted a "wait and see" approach—a decision which collectively can lead to an immobilized world economy.

The world economy is fundamentally poised for a sustained recovery: inflation rates in most major countries have receded; nominal interest rates have fallen sharply; inventory rundowns are largely complete. But most international observers do not foresee the source of growth that will reignite investment and consumption decisions.

Solid, observable U.S. recovery is one critical ingredient missing for world economic expansion. A second ingredient to establishing credible growth in the industrial economies is in the hands of European and Japanese policy officials. What the United States, Europe, and Japan can do to help promote credible growth in their domestic economies will be of major importance to each other and to the developing countries, whose current adjustment problems can be eased by an expansion of exports to the industrialized economies.

There are dangers in the current situation that must be borne in mind. Governments may succumb too quickly to political pressures to stimulate their economies further via excessive monetary or fiscal expansion. A major shift at this stage could place upward pressure on interest rates, discourage the downward movement in real interest rates critical to investment-led growth, and suggest a return to the stop-go policies of the seventies. If such an expansion were attempted via increased government spending, it would reverse important gains in reducing the involvement of governments in domestic economies.

In addition, rising protectionist pressures in the United States and elsewhere pose a real threat to global recovery. Signs already exist that other governments are turning to protectionist trade measures in an attempt to preserve jobs in noncompetitive industries and to reduce imports and/or increase exports; there is a real danger of spreading protectionist measures over the next year. Far too quickly, governments could react to trade measures by imposing their own restrictions, in a futile attempt to offset the efforts of other countries' trade policies.

The only solution is a strong endorsement of anti-protectionist policies. As the world's largest trader, the United States carries a major responsibility to lead the world away from a possible trade war. The clearest and strongest signal for other countries would be for the United States to renounce protectionist pressures at home and to preserve its essentially free trade policies.

THE IMF'S ROLE AND RESOURCES

The IMF was founded to promote a sound financial framework for the world economy and is at the center of international efforts to deal with current economic and financial problems. The resources of the IMF are available to provide temporary balance of payments financing in support of the efforts of members to implement the sound economic adjustment programs needed to restore their external positions to a sustainable basis. The economic policy conditions associated with use of IMF resources are designed to ensure that the adjustments are internationally responsible and effective and to assure repayment to the IMF over the medium term.

The IMF is a unique institution, and differs fundamentally from the multilateral development banks or other foreign aid agencies. There is no set class or group of lenders or borrowers in the IMF, no concept of "donor" or "recipient." Each member is obligated to provide its currency to the IMF to finance drawings by other countries facing balance of payments needs; and each country in turn has a right to draw upon the IMF in case of balance of payments need. The U.S. subscription to IMF resources has been used many times over the years. In turn the United States has drawn upon IMF resources frequently, most recently in 1978, for a total equivalent to about $6.5 billion, the second largest use of the entire membership.

The re-emergence of large balance of payments financing needs and growing debt problems has led to a sharp resurgence in requests for IMF financing. Since 1980, the use of IMF credit has doubled and the amount of outstanding drawings on the IMF now totals about $18 billion. Some 33 countries, nearly a quarter of the membership, now have IMF programs in place.

Any assessment of the adequacy of IMF resources over the medium term is bound to be imprecise. The demand for IMF financing depends importantly on members' balance of payments financing needs, the availability of alternative sources of funds, and the willingness and ability of members to implement IMF policy conditions. Moreover, the amount of resources effectively available to the IMF to finance drawings at any time—the "liquidity" of the IMF—depends not only on the size of quotas and borrowing arrangements, but also on the composition of the IMF's currency holdings, whether the issuers of those currencies are in a strong enough position to allow their currencies to be used to provide credit to others, and the likelihood that liquid claims on the IMF will be utilized. All of these factors, and thus the ability of the IMF to meet official financing needs, are subject to rapid change.

Subject to this caveat, we estimate that the IMF at present has on the order of $33 billion in resources effectively available for lending, including $19 billion in usable currency and SDR holdings and $14 billion in existing credit lines. A portion of these funds, about $10 billion, is already committed under existing IMF programs. Thus, only about $23 billion at most is available for commitment to new programs, and even this amount is uncertain for the reasons I just mentioned. Some $14 billion is virtually certain to be committed in the new future, including commitments for major programs in Mexico, Argentina, and Brazil. Given the scope of today's financing problems, requests for IMF programs by many more countries must be anticipated over the next year, and it is quite possible that the IMF's ability to commit resources to adjustment programs could be exhausted during the course of 1983.

It is therefore clear that the IMF's liquidity position will be under serious strain in the near future. Although the IMF has sufficient resources to meet immediate cash needs, since actual drawings are placed and tied to performance under agreed programs, there is very little margin of safety. In particular, the Fund's ability to continue to commit financing, and permit its current holdings to be drawn down to low levels, depends importantly on assurances that further resources will be forthcoming soon.

The IMF must have adequate resources if it is to effectively fulfill its responsibilities for maintaining the sound financial system essential for U.S. and global economic recovery. The discussions that are currently underway have been focusing on two main elements of the IMF's resources:

An increase in quotas, the IMF's traditional permanent resource base; and

At U.S. initiative, establishment of a special borrowing arrangement, to be available for use by the IMF in situations posing a serious threat to the international monetary system.

The adequacy of IMF quotas is reviewed periodically in relation to the growth of international transactions, the size of payments imbalances and financing needs, and world economic prospects. The objective of such reviews is to ensure that the IMF has sufficient resources to meet the official financing needs of members in normal circumstances. The last increase in IMF quotas became effective in 1980, following several years of negotiations and legislative consideration, and raised quotas by about 50 percent to the equivalent of about $67 billion. During the present review, which began in 1981, the U.S. has been seeking an increase that should be sufficient to meet demands for IMF resources under normal circumstances over the next few years. Some countries have advocated very major increases—a doubling or in some cases even a tripling—which we consider excessive and unrealistic.

In addition to meeting normal requirements for official balance of payments financing, the IMF also serves as the financial backstop for the system. It must have, and be seen to have, the means to deal with the extraordinary financing demands that do arise from time to time. Consequently, the United States proposed earlier this year that consideration be given to creation of contingency borrowing arrangements to supplement quotas, which could be called upon by the IMF in case of need to deal with very serious balance of payments financing needs that threaten the stability of the system. We believe that such arrangements would have important attractions.

Since credit lines would be established only with countries with relatively strong reserve and balance of payments positions, they could be expected to provide more effectively usable resources than a quota increase of comparable size. Consequently, such credit lines would be a more effective and efficient means of strengthening the IMF's ability to deal with extraordinary financial difficulties than a comparable increase in quotas.

Second, by demonstrating that the IMF is positioned to deal with severe threats, such borrowing arrangements could provide the confidence to the private markets that is needed to ensure that capital continues to flow, thus reducing the risk that problems of one country will affect others.

Finally, creditors under the arrangement would have an important voice in decisions on its activation and thus would be assured that the financing would be used only in cases of systemic need and in support of ef-

fective adjustment efforts by borrowing countries.

Our discussions with other countries in the past several months have indicated very considerable interest in this concept, and specifically in adapting and expanding the IMF's existing General Arrangements to Borrow for this purpose.

WHERE WE STAND TODAY

The Committee is well aware of the major country cases that have hit the headlines in recent months, particularly the Latin American cases of Mexico, Argentina and Brazil and some countries in Eastern Europe. Together, the three Latin American Countries have external debts outstanding totaling some $195 billion, of which about $137 billion represents debts to commercial banks in the industrial countries. The debt of these three countries alone represents some 40 percent of the total estimated for all of the developing country area. Clearly, major financing and debt servicing problems in these countries mean major potential problems for the international financial system as a whole, with adverse consequences for the United States and prospects for recovery. By the same token, progress toward resolution of problems in these three cases can provide both an example and a basis for confidence that the problems confronting the system as a whole can be managed. Let me describe briefly the recent events in each of these three countries.

Mexico was confronted with an extreme liquidity bind over the summer, and requested immediate liquidity support from the U.S. while it initiated discussions with other countries, with its commercial banks on a restructuring of its debts, and with the International Monetary Fund on development of a comprehensive economic adjustment program. The United States responded positively, first through activation of the existing Federal Reserve swap line with Mexico; by arranging for the advance payment, on commercial terms, for increased oil deliveries for the Strategic Petroleum Reserve; and, a few days later, by joining other industrial countries under the aegis of the Bank for International Settlements in arrangements to provide $1.85 billion in short-term credit to Mexico.

Mexico has now completed its negotiations with the IMF and has announced a series of strong adjustment measures at home. The economic adjustment program Mexico has formulated will be presented to the IMF Executive Board for formal approval on December 23. Mexico is also nearing completion of discussions with commercial banks on a program to restructure its public sector debt maturities coming due through the end of 1984, and to provide some $5 billion—tied to continued performance under its IMF program—in net new commercial bank financing in 1983.

Argentina's financing problems began to emerge around the time of the Falklands conflict, which drained the country's foreign exchange holdings and caused serious complications for domestic economic management. With the end to the Falklands conflict and steps toward normalization of its international financial relations. Argentina also initiated discussions with the commerical banks and with the IMF on an adjustment program. As in the Mexican case, both of these discussions are now nearing completion. Argentina and the IMF Management have completed negotiations on an IMF adjustment program; this will be brought to the Executive Board for action shortly. Argentina is also in the final stages of discussions with the commercial banks on a package involving debt restructuring, short-term bridge financing and provision of net new commercial bank financing totaling $1.5 billion in 1983, again dependent on compliance with the terms of the IMF program.

Finally, Brazil's difficulties in obtaining needed financing in the markets have received considerable press attention in recent days. As Brazil's liquidity problems began to emerge, the United States has extended short-term liquidity support to help provide breathing space while Brazil formulated an economic adjustment program and initiated negotiations with the IMF. It has just been announced that Brazil and the IMF have reached agreement on a program, and we expect that this will be brought to the Executive Board early next year. Brazil has also initiated discussions with the commercial banks on its financing requirements and plans for next year.

In sum, very substantial progress has been made in each of these cases in developing a cooperative and constructive approach to acute financing problems of significance to the international financial system as a whole. The countries concerned have acted responsibly and courageously to develop, with the help of the IMF, difficult but necessary economic adjustment programs. Collectively, these programs are intended to reduce these countries' current account deficits and net financing requirements from an estimated $22 billion in 1982 to $12 billion in 1983, with further reductions planned for 1984. The United States and other monetary authorities have provided short-term liquidity assistance where necessary to permit longer range financing and adjustment programs to be worked out. The IMF has been the central actor in each case, in developing the specifics of the adjustment programs of the country concerned, and will be charged both with monitoring the implementation of those programs and providing transitional financial support as the programs take hold. And, of crucial importance, the commercial banks are demonstrating their preparedness to provide continued new financing as these countries work to reduce their deficits and external financing requirements in a deliberate, nondisruptive way.

The demands that are being placed on the IMF's financial resources by these and other countries are unprecedented. It is critically important that we move promptly toward agreement on an expansion of the IMF's resources, so that it can make commitments during the course of the next year in the firm knowledge that its resources will be increased in the reasonably near future.

The negotiations—negotiations, I might add, involving some 146 member countries—are proceeding reasonably well. Although there are still differences of view, substantial in some cases, the parameters of the negotiation have become fairly clear: the bulk of IMF member countries now appear to support a quota increase in the range of 40 to 60 percent, to a new level of SDR 85 to SDR 100 billion, and an expansion of the General Arrangements to Borrow to a total in the range of SDR 15 to 20 billion. In dollar terms, these ranges amount to about $93-100 billion for total new quotas and about $17-$22 bilion for the expanded GAB. The exact size of these arrangements, and the shares of U.S. participation in each, remain to be negotiated. Whatever the amounts finally agreed, it is important to emphasize that U.S. participation will not affect net U.S. budget outlays or the Federal deficit.

Detailed discussions on these and related questions are being held in the IMF Executive Board this week. We are hopeful that on the basis of these discussions and consultations with other countries, it will be possible to aim for completion of the negotiations early next year, after which we would promptly submit specific legislative proposals for your consideration.

CONCLUSION

In conclusion, Mr. Chairman, the world is faced with extraordinarily difficult but manageable international financial problems. But they will not manage themselves. It is crucially important to U.S. economic interests—to U.S. economic activity, jobs, production and investment—that those problems be dealt with in a constructive and orderly way, and the United States cannot escape playing a leading rule in that effort. An effective strategy is in place, and welcome progress is being made. The strategy will not succeed unattended. The IMF is a central element of the solution, and it is essential that we and others act to assure that it has adequate resources to perform that central role.

I appreciate this opportunity to consult with your Committee as we conduct the negotiations on IMF resources, and hope that we will be able to have specific legislative proposals for your consideration shortly. This Committee will, of course, have a decisive role in the disposition of this legislation, and I urge your strong support now for our negotiating approach and later for the legislation we will submit to you.●

EFFORT TO ESTABLISH NEW NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL DISEASES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 10 minutes.

● Mr. PEPPER. Mr. Speaker, in the closing moments of the 97th Congress, I regret to have to report to some 37 million Americans—including a quarter of a million children—that despite our persistent efforts we have not been able to see Congress enact legislation that could bring new hope for the alleviation of their suffering. I refer, of course, to the goal we shared—establishment of a new and distinct National Institute of Arthritis and Musculoskeletal Diseases.

Unfortunately, despite strong bipartisan support in both the House and Senate, and despite the many hours of work invested in the enactment of the legislation we developed, events have put our goal beyond our reach for the moment.

The fact that we came so close, even at this late hour, is a tribute to the support and invaluable assistance of a number of my colleagues including, in the House, the distinguished chairman of the Subcommittee on Health and the Environment, HENRY WAXMAN, RON WYDEN, an important member of that subcommittee and my valued

friend and colleague on the Select Committee on Aging, and, in the Senate, Senators CRANSTON and GOLDWATER, cosponsors of the Senate companion measure to my bill and Senator HATCH, chairman of the Committee on Labor and Human Resources.

As many of my colleagues are aware, I have long supported research on arthritis, which is one of the cruelest and most prominent robbers of the health and well-being of the elderly.

As author of the legislation which created the original Arthritis Institute in 1950, I cherished the hope that by now we would have discovered the causes of arthritis and brought about a cure or, at the very least, learned to treat it effectively. While there has been considerable progress in areas such as joint replacement, we are nowhere near the goals we established over three decades ago.

Last year, I conducted a hearing of my Subcommittee on Health and Long-Term Care to examine the state-of-the-art in arthritis research and the adequacy of Federal support for this endeavor. We heard compelling testimony from victims of arthritis and nationally prominent physician researchers. From this hearing grew my determination that we establish a new and more direct focus on arthritis.

I strongly believe that can only be accomplished by the creation of a separate Institute.

Over the years the purpose of the original Arthritis Institute has been obscured as the Institute has profliferated to become the Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, bringing 10 different categories of unrelated diseases under 1 umbrella. And in recent years, arthritis has slipped further and further down the totem pole in visibility and support. Only 19 percent of the current Institute's budget is devoted to arthritis and related diseases—and 1 percent of the overall NIH budget is spent for this purpose.

One look at the extent of arthritis as a national health and economic burden should be enough to convince any who are skeptical of the need for a new Institute. Some 37 million Americans suffer from some form of musculoskeletal disease or 1 of the 100 forms of arthritis. That estimate ranks these diseases second in prevalence only to cardiopulmonary diseases.

The economic cost of these diseases—in health expenditures, disability payments, lost wages, lost homemaker services, and lost tax revenues—is an astounding $30 billion, second only to the cost of circulatory diseases.

While especially critical to the elderly, these diseases are by no means restricted to them: Some 250,000 children suffer from juvenile arthritis. That means that arthritis is more common now among children than polio was during even the most severe epidemics of the past.

Our subcommittee hearing examined new laboratory findings and recently developed techniques that have suddenly brought promising new leads, which must be explored, in the areas of genetics, viruses, immunology, and joint replacement. Yet despite these thrilling advances, millions upon millions of Americans are still told to take aspirin. One witness before our committee testified that she had taken 12 aspirins a day for 30 days.

So many arthritis victims lack hope that they spend about $1 billion on quack remedies every year. Yet the Federal response to this overwhelming problem is a research commitment on the order of $43 million annually. About $1.50 per patient is spent for research.

Taken another way, the Nation spends about $32 per patient on quackery, while the Federal Government spends less than $2 for research to find real cures and, hopefully, causes. We spend about 5 percent of the amount spent on quackery to fund legitimate research.

Aware of the problems associated with support for arthritis research, Congress in 1975 renewed its commitment with enactment of the National Arthritis Act, which established a National Commission on Arthritis. The Commission developed a long-range arthritis plan with specific recommendations for the use of our national resources to combat arthritis. Unfortunately, neither the Arthritis Act nor the plan the law mandated has even come close to being implemented.

It is long since time that we return to the purity of purpose a separate institute would represent to the millions of Americans who suffer the intolerable pain of arthritis. A new institute with higher visibility and a sharper focus will attract more established and experienced scientists to the field and entice young researchers who perceive that there is promise and opportunity in this area of research. I am convinced this step is critical to attainment of the goals established by Congress so many years ago.●

A TRIBUTE TO JOHN L. BURTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 60 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, this will be the last day that my brother, JOHN, serves as a Member of the House of Representatives. I am pleased JOHN will be returning to the city he loves, but I also have a special sense of loss at JOHN's departure.

JOHN is leaving public service after 18 years in elective office. I know Californians will be hearing from him and will find, while he is leaving Congress, he will not be leaving those issues which he has championed so well.

JOHN was a leader in the long fight to wrest this Nation from its disastrous involvement in Vietnam. As Congress labored long into the night in the closing days and weeks of that war, JOHN was often on the House floor urging his tired colleagues on to act to end that national tragedy.

As chair of the Government Activities and Transportation Subcommittee, JOHN was the "barnyard dog" type of watchdog that President Reagan is so fond of calling his inspector generals. His subcommittee has been a vigilant overseer of the FAA and other agencies, always concerned with the safety of airline passengers and the well-being of those who fly and service aircraft.

Now that the Burton brothers act has split up here in Washington—we still have another brother in elective office in San Francisco—I suppose I will have to redouble my efforts to champion those causes that JOHN and I have worked for in Congress. I, of course, wish him well and look forward to seeing him back in San Francisco.

Mr. Speaker, I would like to bring to the attention of my colleagues a letter from Charles Manatt, chairman of the Democratic National Committee. Chuck has been a good friend of the Burton brothers and I am pleased he asked to have this letter placed in the RECORD.

The letter follows:

DEAR PHIL: I deeply appreciate the opportunity to join with your many colleagues in honoring John Burton upon the completion of his outstanding term of service in the U.S. House of Representatives.

John will be sorely missed in the Congress. He will be missed because of his contributions to the legislative process; he will be missed because of the outstanding representation he gave his nation, his state, and his city; and John will be missed for his style, his unique openness and candor that bothered some and delighted most.

But never let it be said that John Burton didn't give his all to his job. He will be a tough act to follow—in any job.

I am sure that there will be days when John does miss Washington and the Congress. I can only remind him of the words of Norman Cousins: "Life somehow finds a way of transcending politics."

CHARLES T. MANATT.●

● Mr. STOKES. Mr. Speaker, I would like to thank the gentleman from California (Mr. PHILLIP BURTON) for taking this special order so that Members can salute Congressman JOHN BURTON. Mr. Speaker, this special order serves two purposes.

First, this special order affords us an opportunity to send 50th birthday greetings to my good friend, JOHN BURTON. I and many of my colleagues had the pleasure of attending a birthday celebration for him last week. To one of the greatest Members of this

body, I extend my hearty best wishes on this special occasion.

The second purpose of this special order, Mr. Speaker, is to honor JOHN on his numerous achievements during his 8 years of service in the House of Representatives. As we all know, JOHN will be retiring at the end of the 97th Congress. It is only appropriate that we pause to salute one of this body's most dedicated and hard-working Members.

Mr. Speaker, JOHN has served the people of California's Fifth Congressional District well during his tenure in the House of Representatives. He has been a tireless legislator and a friend of the poor and the workers of this Nation. From this perspective, JOHN has made an indelible mark on the work of the House of Representatives.

Mr. Speaker, JOHN's positive contributions to the work of the House of Representatives probably shows most clearly through his service on the House Government Operations Committee. As the chairman of the Government Activities and Transportation Subcommittee, JOHN has diligently and thoroughly conducted investigations on the safety standards at the Federal Aviation Administration and the purchasing practices of the General Accounting Office.

JOHN has also been an active and vocal member of the House Administration Committee. During my tenure as the chairman of the House Select Committee on Assassinations, I was in contact with the members of the House Administration Committee on several occasions. JOHN shared my view that the committee must be afforded enough resources to effectively conduct an investigation into the assassinations of President Kennedy and Dr. Martin Luther King, Jr. From his position on the committee, JOHN proved to be extremely supportive of the work of the House Select Committee on Assassinations. I take this opportunity to thank JOHN for that support.

Mr. Speaker, in closing I would just like to say that because of JOHN BURTON, this House has taken a giant step closer to meeting the needs of the American citizens. It has been an honor for me to serve in the Congress with a man of high integrity and compassion of JOHN BURTON. I shall miss him as he retires from the Congress.●

● Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying a very special tribute to a very special Member of this body, JOHN BURTON. Over the past 6 years, it has been a distinct pleasure and a memorable experience having the opportunity to work with JOHN. His unique sense of humor and his blunt honesty have livened this House as well as activities within the California delegation.

I think JOHN leaves behind him not only the friendship of his colleagues but also a fine record of legislative accomplishment. In his chairmanship of the Transportation Subcommittee of the Government Operations Committee, he has been instrumental in highlighting the need for safety and integrity in our Nation's transportation programs. In addition, he has made a special contribution to efforts to protect our Nation's environment from those who would ignore the need to look to the future and the quality of the lives of our descendants in this country.

Mr. Speaker, I know it had to be an extremely difficult decision for JOHN to retire at the end of this Congress. He had a promising future in this body. But I fully understand his need to look to his personal life and to get out of the public eye for the time being. It is difficult and, frankly, it is unfair for Members of Congress to be required to live their lives—both inside and outside the Congress—in the public eye. It forces us to lose some of our best colleagues. I know we all join in wishing JOHN the best of luck in the years ahead. It has truly been an honor to know him, and I hope he will be visiting us frequently in the future.●

● Mr. ANDERSON. Mr. Speaker, I would like to join with my colleagues in saying a few words on behalf of our friend from San Francisco, JOHN BURTON.

JOHN, who is today celebrating his 50th birthday, will be missed by many of us when the 98th Congress officially convenes next month. More importantly, however, his constituents in the "Golden Gate District" will truly miss his able services. As a Member of Congress for 8 years, JOHN has made numerous contributions to the city of San Francisco, the State of California, and the entire country.

As some of you are aware, I have known JOHN for quite a long time. As a matter of fact, when he was first elected to the California State Legislature, I was serving as Lieutenant Governor. Besides being a former member of the State assembly myself, JOHN and I have both had the distinct privilege to chair the California Democratic Party.

Because of his committee assignments on Government Operations, where he chairs the Subcommittee on Transportation and Government Activities, House Administration, and the Select Committee on Aging, where he chairs the Subcommittee on Retirement Income and Employment, JOHN has been in the unique position to accomplish much in the way of economic and social justice for all Americans. He has prided himself, deservedly so, on his strong views for the need to provide equality to all people—particularly those less fortunate than us. I urge him to continue to advocate this important cause.

Because of JOHN's assignment as chairman of the Subcommittee on Transportation and Government Activities, and because of my past and present assignments as chairman of the Aviation and Surface Transportation Subcommittees, I have seen him, firsthand, aggressively tackle the many problems which confront us in the field of transportation. He has proven himself to be a hard worker and certainly not one to shy away from potentially controversial subjects. I am sure even his critics will admit that he has been most colorful, and his flamboyant style, both in committee and on the House floor, will be noticeably absent next year.

JOHN has been in the political arena for over 15 years now and is deserving of a welcomed rest. I hope that he will continue to play an active role in the betterment and development of our country.

Again, I wish JOHN all the best on this his golden birthday. My wife, Lee, joins me in saying farewell to JOHN and wish him and his daughter, Kimiko, the best of everything in all their future endeavors.●

● Mr. DELLUMS. Mr. Speaker, I join with my colleagues today in honoring my friend, JOHN BURTON, of the Fifth Congressional District of California. This occasion certainly evokes mixed emotions.

I enthusiastically wish JOHN a happy birthday. And certainly I wish JOHN the very best as he returns to the bay area. But I will not only miss him greatly as a friend but also as a valued and trusted colleague.

Congressman JOHN BURTON has been a powerful voice for the less powerful during his entire public career. Unfaltering, he has struggled for a just society—committed to political and social equity, economic democracy, and equal justice under law.

JOHN has brought to our debate and to our thinking a high level of intelligence, integrity, and, of course, a great deal of wit. These qualities are to be admired in the public person.

As the challenges increase, it seems that we still have too few who are willing to commit themselves to an effort which would shape the realities of America to the design of highly valued ideals. We need, and will therefore greatly miss, JOHN BURTON.●

● Mr. STARK. Mr. Speaker, I join the California delegation and the rest of the House in wishing our colleague, JOHN BURTON, the best in the years to come, and to congratulate him on an outstanding career of service to the people of his State and Nation.

But this is also a sad occasion for me. JOHN is one of my closest friends in the Congress. He is a neighbor, a companion, and an adviser.

One reason he is such a good friend is that he has a great sense of humor. His wit and humor and outlook on the world have made him one of the few Members able to put into perspective some of the more absurd aspects of the many silly things Congress gets itself into. His humor and his ability to deflate the unnecessarily pompous situation will be missed. The House will be a much less interesting place without him.

JOHN's record of service is one of compassion for the poor and the oppressed of the Nation and the world. Most bios in the "Congressional Directory" are just a string of phrases on schools attended, awards received, elections won. But JOHN's is different in that it includes in the middle of his many commendable achievements the phrase: "dedicated to achieving social and economic justice for all peoples." For JOHN, this is not a phrase—it is something he has lived his entire life. His service in the State legislature, in the State Democratic Party, and here in Congress has been a living testament to the dedication expressed in his bio.

The wealthy and those who are members of powerful organizations can and do take care of themselves. It is the poor and the unorganized who are all too frequently unrepresented and unsupported in the halls of Government. JOHN has been one of the few who has represented those who most need representation. That is his honor and his badge and his contribution.

He will be sorely missed. His leaving places a heavier burden on the rest of us to work for a government of compassion.●

● Mr. MATSUI. Mr. Speaker, one thing is certain about the new Congress that will convene next month: House floor debate will not be as interesting because of the departure of one of our most unique colleagues, JOHN BURTON of California.

JOHN's wit and humor have helped to lift the spirits in this Chamber at times when we have taken ourselves too seriously. That contribution will be greatly missed by all of us.

But there is another more important certainty about his retirement from the House of Representatives. Those Americans who suffer from social and economic injustice are losing a great champion with JOHN BURTON's departure from Congress.

In a State and Federal legislative career that has spanned most of the past two decades, Assemblyman and Congressman JOHN BURTON has stood up and spoken out for those without power or influence. The poor, the aged, the blind, the disabled, the elderly—all have benefited from the efforts of the gentleman we honor here today.

JOHN BURTON, together with his devoted brother PHIL, has never failed to voice the concerns of those millions of needy Americans even when it has been politically unpopular to pursue their causes.

I am going to personally miss the presence of JOHN BURTON, for whom I have great affection. And I am sure my colleagues, even those who have disagreed with JOHN on the issues over the years, will feel a substantial loss when he is no longer here to lighten the mood and to remind us when we fail to focus on the problems of those who most need the help of government.

But for now, I want to join my colleagues in wishing JOHN the best of health and happiness in the coming years and to wish him a very happy 50th birthday.●

● Mr. WEISS. Mr. Speaker, I want to join in saluting the distinguished gentleman from California, Mr. JOHN BURTON, as he prepares to retire from a long and impressive career of public service. Since his election to the California State Assembly in 1965, he has proven himself a leader on an array of issues, particularly those which affect the truly needy in our society.

For close to two decades, JOHN BURTON has consistently spoken for what he and his constituents believe, even when it might be unpopular to do so. His was a prominent voice against the House Un-American Activities Committee in the late 1950's and early 1960's. And to this day he remains no less committed to protection of fundamental civil rights and civil liberties for all Americans regardless of ideology or belief.

For many years he has been an advocate for arms control and nuclear disarmament, and I know that he plans to maintain his commitment to ending the senseless nuclear arms race when he leaves this body. I have had the honor of serving with him on the Subcommittee on Government Activities and Transportation, where he has been a responsive and effective chairman.

His Subcommittee on Retirement Income and Employment of the Select Committee on Aging has made significant contributions to the income security of our Nation's senior citizens.

I regret that the gentleman has chosen to retire from this body. His participation will be sorely missed. At the same time I know that his personal involvement in the issues he has worked so hard for will not end. Congress and the Nation will miss his presence.●

● Mr. DELUGO. Mr. Speaker, I rise with my colleagues to say just a few words about a friend whose intellectual and political courage and creative brilliance have made immeasurable contributions to this House for over 8 years.

Representative JOHN L. BURTON has chosen not be be with us in the 98th Congress. Our deliberations will be poorer for his decision to retire from Congress. The process of legislating will certainly suffer because of it.

JOHN has been dedicated to the continuing effort to achieve social and economic justice for all peoples. His commitment and compassion have added mightily to the effort.

In the fields of human rights, aviation safety, protection of the environment, income security for the elderly, and efficient Federal procurement, JOHN has been a leader. He has effectively advanced these causes and others.

We who have come to know JOHN by working with him appreciate his convictions, his minimal regard for conventions, his positive approach, his civility, and his humor.

The Nation will miss JOHN L. BURTON in Congress but, I am sure, benefit from his future involvements.●

● Mr. WAXMAN. Mr. Speaker, it is with mixed emotions that I address my remarks of good wishes to my esteemed friend and colleague, Representative JOHN L. BURTON. I join with his friends and family in celebrating his 50th birthday and saluting him on this milestone occasion.

I am, however, saddened that JOHN has decided to retire from Congress. Next month the House of Representatives will be poorer for his departure.

JOHN BURTON and I have been friends, compatriots, and colleagues for nearly a quarter of a century. We were audacious red hots in the California Federation of Young Democrats. We worked side by side in the California State Assembly and, later, in Congress. Both JOHN and I are among the few people who can claim to have fought Mr. Reagan from one end of the country to the other.

JOHN BURTON's finest quality is his determined unwillingness to be realistic. In California during the Reagan years, each time the indigent elderly received a social security increase, Mr. Reagan reduced their supplementary State payments—as a result, they were singled out to receive zero compensation for inflation.

Each year, Democrats in the legislature made futile attempts to override Mr. Reagan's veto of our measure for increase payments to the aged poor. Many Members considered it more a gesture than a political act. JOHN BURTON did not see windmills—he saw a legislative battle to be won. He finally brought us a miracle—a successful override of the veto of popular Gov. Ronald Reagan.

JOHN brought to Congress the same colorful personal style and the same focus on issues he showed in California.

JOHN BURTON is one of the few legislators I have ever known who always sees and feels the real-life human

beings hidden behind statistics, bills, strategic maneuvers, and political legerdemain. He has never been impressed with his own power—or anyone else's power. He has been preoccupied with the powerless and voiceless Americans he has championed.

I wish JOHN a very happy birthday and I urge him to maintain an involvement in public affairs. Much as I wish him well in his future endeavors, I cannot but hope he will continue to be a visible, vocal, and active force for the goals he has pursued during his years in public office.●

● Mr. MAZZOLI. Mr. Speaker, I would like to add my tribute to JOHN BURTON as he prepares to retire from the House and as he celebrates his 50th birthday—an event which came my way on election day, November 2.

JOHN has marched to his own drum while a Member of the House from California's Fifth District. I hope JOHN can continue to do his own unimitatable thing in the years ahead as he walks through the Frisco fog whistling for Toto.●

● Mr. OBERSTAR. Mr. Speaker, JOHN BURTON has been a dedicated, compassionate legislator to humane domestic economic policies and to rational, sane foreign, and defense policies.

He has been, throughout his service in this House, an eloquent and passionate spokesman for equality in the United States and throughout the world.

JOHN BURTON has used his well-developed sense of humor, an occasionally biting sense of humor, to deflate pretention, cast light on the darkness of policies based on greed, and to mock the absurdity of such unfortunate U.S. policy as military support for repressive governments in Central America.

JOHN BURTON leaves a position in this House which no Member will fill. I will miss his unique participation in the debates of this House.●

● Mr. BEVILL. Mr. Speaker, for the past 8 years, our colleague JOHN BURTON has ably represented the Golden Gate district of California. During those 8 years this body has come to know and respect JOHN for his unique abilities and his deep dedication to the well-being of all people in this country.

Men like JOHN BURTON have been prodding the conscience of this country since its inception. Men like JOHN BURTON have been leading the fight to care for the poor, the handicapped, the mentally ill, and the mentally retarded. Men like JOHN BURTON have been standing strong on principle, refusing to sacrifice those least able to defend themselves against expedient budget cuts in programs without articulate constituencies.

I know that JOHN BURTON will be missed in Congress. I personally will feel a great loss when JOHN BURTON retires. But I know that he will not remain silent. He will find other arenas in which to express his heartfelt convictions about the rights of every person in this Nation to the privileges guaranteed by our Constitution.●

● Mr. WON PAT. Mr. Speaker, I am very pleased to join in this special salute to a very special Member of this body, Congressman JOHN BURTON of California. As you know, JOHN is celebrating his birthday today and I can think of no more appropriate opportunity to salute the many accomplishments of this outstanding and highly devoted public servant.

I have long been privileged to work closely with Congressman BURTON's brother, PHILLIP, and thus have had ample opportunity to see first hand the political ability which has been instilled in the BURTON brothers. Like his brother, JOHN is charged with a desire to see that justice is done for the little man in this country and he has pursued this goal with a vigor and talent that many have admired.

A good example of this desire to get to the heart of matters was the outstanding hearings Congressman BURTON held several years ago on the safety of the DC-10 aircraft following the tragic crash in Chicago. I saw some of those hearings and came away pursuaded that JOHN BURTON was pursuing the real reason why that plane crashed killing so many with all of the conviction and energy anyone could ask.

JOHN wanted to make certain that the victims did not die in vain and he accomplished this goal by forcing as much as anyone an exhaustive examination of the wings and engines of the doomed craft which led to changes being ordered in the servicing of the remaining planes.

I was also pleased to work with JOHN when my office successfully sought to obtain title from the U.S. Government of over 900 acres of land in Guam's port area. Congressman JOHN BURTON was a tough man to pursuade but he was also a wonderful friend whose support was crucial to the final passage of that legislation.

We need dynamic leaders of Congress like JOHN BURTON now, more than ever before. His decision to leave Congress for other pursuits can be readily understood by all of us who have worked the long hours this job demands. Yet, I hope that he will turn his energies to again find some means of working for those whom he has spoken so well for here in the House. We need champions to help offset the policies of the current administration and the absence of JOHN BURTON will sorely be felt in the 98th Congress.

JOHN, thank you for all you have done for my own constituents in Guam. They deeply appreciate your many fine qualities and on their behalf I wish you and your family a most happy and productive future. You have left behind you a legacy of dedication and outstanding public service and countless friends. Few of us could ask more and my prayers and best wishes go with you in the future. Thank you.●

● Mr. PATTERSON. Mr. Speaker, I want to join my colleagues today in paying tribute to one of this body's most colorful and interesting Members, JOHN BURTON of California, who will be missed by all of us who have had the pleasure of knowing him.

As fellow members of the class of 1974, JOHN BURTON and I have seen this Nation go through a number of significant and dramatic changes. Throughout these tumultuous and trying years, JOHN BURTON has never faltered in his commitment to serving the needs of the American people, and most particularly the elderly, the young, the handicapped, and the disadvantaged; all who are the most underrepresented classes of people in our society today.

Even amidst the most arduous debate and weighty discussions in this Chamber, JOHN BURTON has always injected humor and commonsense to rekindle our spirits and our sense of hope and commitment.

It somehow seems fitting that our colleague, JOHN BURTON, is redirecting his energies on the threshold of his second 50 years. I wish him the very best in his new pursuits and hope that his next 50 years will be filled with much happiness and will be personally rewarding and professionally challenging.●

● Ms. FERRARO. Mr Speaker, I would like to take this opportunity to pay tribute to the Honorable JOHN BURTON. JOHN's presence in this House will be missed in the coming Congress.

I have had the pleasure of serving with JOHN BURTON on the House Select Committee on Aging. In particular, I am honored to be a member of the Retirement Income and Employment Subcommittee which he chairs.

He will not only be missed by the Members of this body. He will be missed by the senior citizens of this Nation. In 1975, JOHN BURTON became an original member of the House Select Committee on Aging. In 1979, he became the chairman of the Retirement Income and Employment Subcommittee. Under his leadership, this subcommittee convened the first congressional hearing to study the problems of midlife women—problems which very often lead to poverty and illness.

JOHN BURTON, together with Chairman PEPPER, created a special Task Force on Social Security and Women. This task force, of which I am a member, became the first group to

hold hearings on reforms in social security to meet the changing needs of women in the work force.

Most recently, Mr. Speaker, Mr. BURTON fought very hard to save the title V program which the administration wanted to eliminate. This program means jobs for over 54,000 older Americans.

These are just a few of JOHN BURTON's many accomplishments during his five terms in the House of Representatives. He will be missed and I wish the best of luck in all his future endeavors.●

● Mr. EDWARDS of California. Mr. Speaker, if it is possible for one word to sum up JOHN BURTON's 8 years as a Member of Congress, that word would have to be passion.

When it comes to issues concerning the needs of poor people, or the development of a just and humane foreign policy, or a reordering of our national priorities, no Member of this body speaks with more passion and commitment than JOHN BURTON.

In this regard, I am reminded of JOHN's forceful remarks before the House last week during our consideration of funding for the MX missile. It was JOHN who pointed out the incongruity—indeed, the absurdity—of calling the MX a peacekeeper. The speech had all the hallmarks of JOHN's special style—humor, insight, passion, and truth.

His contribution to the debate on the MX made us think about this issue from a new angle. So it is with JOHN's viewpoints on so many of the issues which come before the House. Often amusing, generally insightful, his remarks compel us to think and to reevaluate our positions. I think its fair to say that when JOHN BURTON talks, everybody listens.

His colleagues in the California Democratic delegation will miss him greatly. The House of Representatives will be diminished by his absence. I hope and trust we can count on JOHN to continue to speak out with passion on the vital issues of peace and justice which confront our country and the world.

Good luck to you, JOHN in your future work. And happy birthday.●

● Mr. MOFFETT. Mr. Speaker, the House is losing one of its most unique, original, creative, honest, and courageous Members. JOHN BURTON, who came to the House with the class of 1974, has chosen to retire.

When our class came to the House, we were all characterized as reform-minded, antiwar, favoring social service spending, and a new, closer look at the Pentagon budget. We were appalled by Watergate, determined to stop the continuing tragedy in Vietnam, and were convinced that America was best served by being a friend, rather than an enemy, of Third World countries.

Some of us have retired, were beaten, moved on, or became more enmeshed in the House leadership which we, frankly, tried to challenge. Most of us retained the important views and values I described; but, really, we became more moderate. As we accumulated seniority, the tone we used changed.

But JOHN BURTON has been different. He served as a subcommittee chairman on both the Government Operations Committee and Select Committee on Aging without losing his edge, without losing his sense of outrage.

He was persistent in following his conviction that our fiscal priorities were unbalanced. Year after year, he forced the House to focus on this issue by offering transfer amendments.

He was persistent in following his conviction that the Central Intelligence Agency was acting like a rogue elephant in foreign affairs. He acted, offering amendments to prevent destabilizing activities, covert operations, and outright murder by our intelligence collectors.

As a Government Operations chairman, JOHN BURTON was a careful practitioner of congressional oversight, monitoring Amtrak and Conrail, investigating the activities of the FAA with respect to the tragic crashes which, from time to time, have plagued our air carrier industry. I was grateful for his assistance in dealing with problems that plagued the Northeast corridor, the rail link that connects our Northeastern communities served by Amtrak.

His subcommittee has paid careful attention to the FAA's proposed "regulation by objective," a comical codeword for extending airline deregulation to the area of safety. His hearings resulted in the FAA's decision to delay a final rulemaking on this issue. He was the first chairman to conduct hearings on the Bush task force's recommendations to relax auto safety standards.

We always like to think that our "class" was different. The class of 1974 was different than some of the succeeding groups elected to Congress in the succeeding 8 years. If you walk from committee to committee, you hear a lot about "can't do" government. Surprisingly, much of this rhetoric comes from former State legislators who were anxious to come to Washington. They talk a lot about bringing government down to size. Some of what they say has merit.

But JOHN BURTON has been different. He understands that there are roles for the Government to play which cannot be executed by State government, local government, or the private sector. He understands that Washington must play a role in protecting the environment, providing subsistence for the poor, and protecting the safety of all of us. His activism and commitment will be missed.●

● Mr. BROOKS. Mr. Speaker, quite often when a Member leaves Congress, we rise to say that he is unique, that he cannot be replaced, that we will not see his like again, and so on. In no case is this more accurate than in the case of JOHN BURTON. I am not referring solely to the fact that with JOHN's retirement we will be losing our only Member who is also a dues paying member of Bartenders Union, Local 41, although this certainly sets him apart from the rest of us.

JOHN BURTON has brought to the House a sense of humor and a perspective that has made a singular contribution to the diversity of this institution. And, significantly, he has combined this with a dedication to legislative issues that has made him an effective Congressman and a fine representative of his constituents' interests. I have been privileged to serve with him on the Government Operations Committee and I have admired the skill that he has brought to his role as chairman of our Subcommittee on Government Activities and Transportation. JOHN has led the subcommittee in important investigations into various areas of air transportation and the Government's procurement and management of property and services. This work will stand as a monument to JOHN's service in the House.

We will miss JOHN BURTON in this House next year.●

● Mr. DIXON. Mr. Speaker, on the occasion of his 50th birthday, there is no better time to express the sense of privilege I feel for having had the opportunity to work with JOHN BURTON, our distinguished colleague from the Fifth District of California. As we bid him farewell, I am honored to participate in this special tribute and to provide added recognition for his dedication to the work of Congress.

My relationship with JOHN dates back a better part of a decade. I came to admire his political skill while working with him in the California State Assembly. In that capacity, he worked diligently to preserve the State's valuable environmental resources and to protect consumer rights, among many other important issues he confronted during his tenure in the assembly.

After leaving the assembly to become a Member of Congress, he used his role as a member of the Government Operations Committee to oversee Government purchasing practices. He also spearheaded the thorough investigation into the causes of the tragic D-10 crash at O'Hare Airport. Despite outside pressure, he persevered in his efforts to assure that no compromises were made to public safety in air travel regulations.

JOHN's colorful style and personality will be sorely missed here in the Con-

gress. I know, however, that we can all appreciate his desire to move on and face new challenges. I am certain, that in whatever direction his career takes him, his dedication to public service will not cease. Best wishes and happy birthday, JOHN.●

● Mr. RAHALL. Mr. Speaker, I would like to thank the distinguished gentleman from California (Mr. BURTON) for taking out this special order today so that we in this body can wish a happy 50th birthday to Representative JOHN BURTON. I am also pleased to take this time to congratulate JOHN on his 8 years of dedicated service in the House of Representatives.

Many of us have our own personal views about JOHN's way of doing things, but no one can say that JOHN BURTON was never himself. He spoke frankly and right to the point.

Most importantly, has been his leadership on the Government Operations Subcommittee on Government Activities and Transportation. From this post, JOHN has been in the forefront on important issues concerning safety standards of the Federal Aviation Administration and purchasing practices of the GSA.

In the 96th Congress, JOHN BURTON dug deep into the tragic DC-10 plane crash that killed 273 people in Chicago, and pressured the FAA into finding the causes of the crash. He was tough, and he was concerned about the quality of the aircraft millions of people were flying in.

JOHN BURTON is a man who will be missed in this House, and I extend to him the very best of luck in the years to come.●

● Mr. RUSSO. Mr. Speaker, I think we may mark this occasion as one of those times in life that contain elements of joy as well as sorrow. I am certainly sad to have to say goodby today to JOHN BURTON as a Member of Congress. But on the other hand, I am delighted to extend best wishes of the day for this milestone birthday.

JOHN will be missed here. He is one of the Members you can count on to be straightforward. He has served with integrity and I always have enjoyed his refreshing candor as well as his capacity for friendship. Whatever we do here in Congress, while we deal with the impersonal law, it is the personal impact of the people chosen to represent that shapes our actions. The people of California chose well when they sent JOHN BURTON here and he has served them ably and his presence has been a positive one for them as well as the country. A good mind and a realistic perspective coupled with individual courage and commitment are the qualities of a good Congressman, and that JOHN BURTON has been.

Now that JOHN has obtained the half-century mark and has already accumulated enviable accomplishments, I know we can look forward to continued success for him. We all count on him to continue his involvement and his concern because as Henry Ford said:

> You take all the experience and judgment of men over fifty out of the world and there wouldn't be enough left to run it.

Happy birthday and keep up the good work, JOHN.●

● Mr. ANNUNZIO. Mr. Speaker, it is a pleasure for me to join with my colleagues in paying tribute to the Honorable JOHN L. BURTON, who is retiring after providing dedicated service and representation to the people of the Fifth District of California in the U.S. House of Representatives for the last 8 years. His tireless efforts to insure the social and economic justice of all Americans is most worthy of recognition.

Before coming to the Congress, JOHN served in the U.S. Army from 1954 to 1956. He compiled a record of outstanding achievement as a member of the California State Assembly from 1965 to 1975, and as the chairman of the assembly's Rules Committee from 1971 to 1974. Also, he ably served the Democratic Party in the capacity of chairman of the California Democratic Party from 1973 to 1974.

Elected to the House of Representatives in a special election on June 4, 1974, JOHN BURTON has distinguished himself as the chairman of the Subcommittee on Government Activities and Transportation, as a member of the Subcommittee on Government Information and Individual Rights of the House Government Operations Committee, as a member of the Subcommittee on Office Systems, and as a member of the Policy Group on Information and Computers of the House Administration Committee, a committee where I have worked with him and have come to know him. JOHN also has served in Congress with diligence as the chairman of the Subcommittee on Retirement Income and Employment of the House Select Committee on Aging.

JOHN is a Congressman of deep conviction, compassion, and courage, who has provided dedicated service to his constituency and to all people in this Nation, and he will be missed in the House of Representatives.

I extend to JOHN BURTON my best wishes for continued success in all of his future endeavors in devotion to the highest principles.●

● Mr. DE LA GARZA. Mr. Speaker, it seems that my friend and colleague, JOHN BURTON, has found two birds in one bush, retiring from Congress on the occasion of his birthday. You cannot beat that.

And it calls for a double congratulations. JOHN very capably represented the "Golden Gate District" of California in his four terms in the House. It goes without saying that he served us all well on the House Administration Committee, and the Select Committee on Aging, and Committee on Government Operations. I will remember JOHN as the man who always had a helping hand to lend to those who needed it, and he never looked sideways at any chance to assist his colleagues and friends. In my district, he had many friends who valued the understanding he provided to the Spanish surname.

Good luck, JOHN, in whatever you pursue back home in San Francisco. I know you will be successful.●

● Mr. BIAGGI. Mr. Speaker, it is with a sense of great feeling that I take this occasion to pay tribute to my good friend and colleague, JOHN BURTON, who is leaving the House at the end of this session. Let me also congratulate JOHN as he begins his fifth decade on this Earth. It has been said that life begins at 50, JOHN.

I have had the particular pleasure of serving with JOHN on the House Select Committee on Aging. JOHN has served with special distinction and effectiveness as the chairman of the Subcommittee on Retirement Income and Employment and while in this capacity has conducted a number of important hearings focusing on the major issues of the day for senior citizens such as the future of social security and issues related to pension reform.

JOHN played an important role in the successful effort which produced an override of President Reagan's veto of the supplemental appropriations bill and saved the title V older workers program. Older Americans in this Nation owe a debt of gratitude to JOHN BURTON for all he has done on their behalf.

JOHN will be fondly remembered as being one of the most colorful of all House Members. He is a man who has distinguished himself on a number of occasions because of his outspoken views on the important topics of the day. His voice was always one listened to and respected by his colleagues. It was a voice of influence because those of us who know JOHN realize he speaks from the deep rooted sense of conviction and commitment to causes. JOHN will be remembered as a man of courage and honesty, and his absence will be felt. In fact it is a shame that the incoming group of Members will not have the JOHN BURTON experience that I and others have so enjoyed.

JOHN BURTON leaves this House by his own choice. Because of that—I know I speak for many others—when I wish JOHN happiness, success and peace of mind in any and all future endeavors, and I thank him for the honor of being his friend.●

● Mr. FORD of Michigan. Mr. Speaker, I am pleased to have the opportunity to pay tribute to one of our colleagues on his birthday—JOHN BURTON. During his 8 years in the

House, JOHN has proved to be one of the most witty and intelligent Members of Congress. After a long career in California politics, JOHN was elected to this body in a special election in 1974. He has long been a leading advocate against unfairness in our Government and our society, and has exhibited a deep concern for the underprivileged.

As chairman of the Government Operations Subcommittee on Government Activities and Transportation, JOHN BURTON held extensive hearings into the Government regulations of the DC-10 after the tragic crash in Chicago. In his capacity as chairman of the Select Aging Subcommittee on Retirement Income and Employment, JOHN has been instrumental in attempts to insure that older Americans are not discriminated against in employment opportunities. Both the Congress and the people of the Fifth District are losing a very able Representative in JOHN BURTON.●

● Mr. REUSS. Mr. Speaker, I am pleased to join in this tribute to my friend JOHN BURTON for his 8 productive years of congressional service, and to wish him a happy 50th birthday.

In his Second Inaugural Address, Franklin D. Roosevelt said:

> The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.

In JOHN BURTON's many years in government, first in the California State Assembly and then in the Congress, he has worked unceasingly to better the lot of those who have too little. He has fought to insure that the mentally ill and mentally retarded receive their rights as full and equal members of our society. He has fought to protect and increase benefits for the aged, blind, and disabled. He has helped preserve for future generations the beauty of our natural resources. He has forcefully opposed the increased militarization of our Nation, accomplished to the detriment of the poor and working people who must bear a disproportionate share of its cost. He has worked for peace, through both international cooperation and the pursuit of social and economic justice.

While effectively advocating these great goals, JOHN had delighted friends and disarmed foes with his keen wit and intelligence. His refreshing floor remarks have endeared him to colleagues on both sides of the aisle.

JOHN's decision to retire from Congress caught many of us by surprise. Never lacking the courage of his convictions, he simply decided that it is time to seek new challenges. His colleagues and constituents will miss his unique presence.

When you open your bar, JOHN, I will be there to run the kitchen.●

● Mr. DWYER. Mr. Speaker, I join my other distinguished colleagues today in honoring a fine Congressman and good friend, JOHN BURTON.

It has been a privilege for me to have served with JOHN BURTON these past 2 years. In his 8 years representing California's Fifth District, JOHN has raised a steady, solid voice in behalf of his constituents and has been a vanguard for justice and fair play for all people.

His commitment to those less fortunate—the disadvantaged, the handicapped and the aged—has been translated into an excellent record of achievement both in California and nationwide. In Congress, JOHN BURTON has been a most able and dedicated chairman of the Select Committee on Aging's Subcommittee on Retirement Income and Employment.

In sum, JOHN BURTON is a man of principle and compassion whose dedication to equity and fairness has been a credit to this institution.

On his 50th birthday, as he prepares for another chapter in his accomplished career, I extend to JOHN my profound respect and sincere best wishes.●

● Mr. AKAKA. Mr. Speaker, I rise today to join my colleagues in paying tribute to the gentleman from California (Mr. JOHN BURTON) on the occasion of his retirement from this body.

JOHN began his career in politics in 1964 when he won election to the California State Assembly. His efforts there led to his winning two significant chairmanships: chairman of the assembly rules committee and chairman of the California State Democratic Party. He sought and won election to the House of Representatives in 1974.

Both in California and here in Washington, JOHN has been a voice for social and economic equity, particularly for the aged. He is as concerned about the poor as any Member of this House, repeatedly trying to redirect national priorities so that those in need are adequately provided for.

During the 96th Congress, as chairman of the Government Operations Subcommittee on Government Activities and Transportation, JOHN held much needed hearings into the causes of the tragic Chicago airplane crash. These hearings, however, represent only part of his continuing efforts regarding airline safety standards. Many people travel more safely and with increased confidence because of JOHN BURTON. As one who represents a State with significant tourism, I for one greatly appreciate his efforts. In addition, as chairman of the Select Aging Subcommittee on Retirement and Income, JOHN has continued his efforts on behalf of the aging with skill and diligence.

JOHN BURTON is a maverick, in the best sense of that word. He is an individual who follows his own counsel and trusts his own judgment, tempered only by discussions with those of his colleagues whose opinions and expertise he respects. The House will be made a more somber and less stimulating place by his retirement.●

● Mr. MONTGOMERY. Mr. Speaker, I want to join my colleagues today in this special order honoring the gentleman from California, (Mr. JOHN BURTON).

JOHN has always gone his own way here in the Congress, standing up and speaking out for the issues in which he believed strongly. He always made his point in a very articulate, and in many cases, a very witty manner. We have had our differences over the issues, but JOHN and I have become good friends over the years.

He has served the people of the "Golden Gate District" of California well and I know they will miss his experience and his voice here on Capitol Hill.

JOHN has served diligently on the Committee on Government Operations, where he was chairman of the Subcommittee on Transportation and Government Activities. He also worked hard on the House Administration Committee and on the Select Committee on Aging.

JOHN was very active in the Democratic Party in California before coming to the House of Representatives 8 years ago. I am sure he will return to California and continue to make a contribution on the California political scene.

He can be proud of the service and his accomplishments for the Fifth District as well as for the entire State while serving here in this Chamber. I know he will be missed by a great many of his colleagues when the 98th Congress convenes in January.●

● Mr. JONES of North Carolina. Mr. Speaker, when I heard that the younger brother, JOHN, of my good friend, PHIL BURTON, was going to run for Congress, I wondered if the U.S. House could afford to have two BURTONS at the same time. I should have had no fears for when JOHN arrived here some 8 years ago he was certainly a welcomed addition, and has added much to the legislative process as well as the enjoyment of his warm personality.

So, today, December 15, I want to express a warm, happy birthday to JOHN BURTON, and wish him many, many more. To put it mildly, JOHN will be missed, for as I have previously stated, he brought a welcomed style of conduct to the Congress that few, if any, others have exhibited. I hope for his sake that his 8 years have been enjoyable and rewarding, and that he has found at least a part of the happiness that he has brought to others.

And so, to JOHN and his family, I wish much success and happiness in the years ahead.●

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from California (Mr. PHILLIP BURTON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ACHIEVING A BALANCED BUDGET

(Without objection, Mr. ROUSSELOT was given permission to address the House for 1 minute.)

Mr. ROUSSELOT. Mr. Speaker, I would merely like to say to my colleagues that I still am anxious to find a way to achieve a balanced budget, and would like to do so if we can.

My colleague from New York (Mr. KEMP) has some additional comments that he wishes to make on additional tax cuts, and I will yield to him.

Mr. KEMP. Mr. Speaker, I would just like to say how much this body is going to miss the gentleman from California. His efforts to balance the budget through all the years, his efforts to restore a sound and responsible fiscal policy, his courage and determination on behalf of not only the people of his district but on behalf of the country, are well known and deeply appreciated and something that I think all Members, liberal, conservative, on both sides of the aisle, owe the gentleman from California a large amount of appreciation.

I personally want to thank him for his friendship and his dedication to this country. He has served his party best by serving his country first, and that is in the highest tradition of this body.

Mr. ROUSSELOT. I thank my colleague. I was really trying to fill time, but I certainly did not expect that.

Mr. MYERS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I now yield to my colleague from Indiana.

Mr. MYERS. Mr. Speaker, I certainly support and join my colleague from New York in thanking the gentleman from California for his contribution through the years. You know, we often disagree on little things, but the gentleman from California has been truly supporting what is great for our country. We are going to miss the gentleman from California, and we hope it will not be too long before he comes back. I know the gentleman and I have conversed about this, and he has not said that he was going to come back or even try to come back, but we hope he will because the gentleman from California has been a genuine supporter of what is good for our country and what is needed for our country. We are going to miss that kind of contribution.

Mr. ROUSSELOT. I thank my colleague from Indiana. I hope his basketball team wins.

□ 2120

Mr. MYERS. We hope that, too. I suppose the gentleman means as long as UCLA and Indiana do not meet.

Mr. ROUSSELOT. I think that will be a great contest when it finally arrives.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to my colleague, the gentleman from Florida. I understand he is waiting for a bill.

Mr. GIBBONS. As the gentleman said, I am waiting for a couple of bills that are floating around somewhere in the corridor out there. I hope we will be able to find them. Perhaps a messenger was waylaid or lost his way. These are not momentous bills.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, will the gentleman tell us what he expects to float by here later on this evening?

Mr. GIBBONS. Well, it will be Santa Claus a little later on really.

Mr. WALKER. Does the gentleman mean we can expect Santa Claus?

Mr. GIBBONS. One of the bills deals with the authorization bill, if the Members would believe it, for the International Trade Commission, the USTR office. As the Members know, the International Trade Commission is an arm of the Congress, and it submits its budget directly to the Congress.

The other bill pertains to the U.S. Trade Representative's office, and everyone, I think, has agreed that our present U.S. Trade Representative is about to work himself to death with all the matters that are moving around here. On both the House side and the Senate side, we thought he needed the opportunity to have an assistant. That is one of the bills we are looking for. The other bill is a bill that involves probably 150 Members of the total Congress. They are what we call minor tariff bills. We got rid of all the controversies. The only trouble was that the Senate conferees' papers got lost. We are out looking for them. That is the problem we have. There is no controversy about these bills. We just need some papers, as the gentleman understands it.

TRIBUTES TO THE HONORABLE JOHN ROUSSELOT AND THE HONORABLE WILLIAM BRODHEAD ON THEIR DEPARTURE FROM THE HOUSE

(Without objection, Mr. GIBBONS was given permission to address the House for 1 minute.)

Mr. GIBBONS. Mr. Speaker, I really rose to say some nice words about the gentleman from California (Mr. ROUSSELOT). I remember when the gentleman came here. He had a reputation of being a fiery individualist, and he turned out to be a fiery individualist. But he is also not only a fiery individualist, he is an excellent legislator. he asks penetrating questions, and he works hard and is conscientious about his work. I will certainly miss him.

We have had the opportunity to travel together and to work together on our jobs in trade, and I found him to be one who contributed, always carrying his share of the load, and he was willing to carry other people's share of the load.

So, Mr. Speaker, as the gentleman goes back to his native State of California and takes on some other activities, we wish him well. He is a fine gentleman.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield, I thank the gentleman from Florida (Mr. GIBBONS) for those kind words.

Mr. MATSUI. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from California.

Mr. MATSUI. Mr. Speaker, in view of the comments of the subcommittee chairman, I would also like to lend my comments, as probably the only Californian here in this room, to the discussion about my friend, JOHN ROUSSELOT. JOHN and I probably agree on philosophy about 180 degrees apart, but I want the subcommittee chairman to know and I certainly want JOHN to know that I believe he is probably one of the finest legislators I have ever met. I shall certainly miss him personally, and this institution will miss him.

He is one individual Member who knows how to work and compromise and ultimately come up with positive decisions. I just want to commend the gentleman for expressing these comments about JOHN ROUSSELOT.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I would just like to say a few words about our colleague JOHN ROUSSELOT.

When I first came to this body longer ago than I would like to think about, I thought, boy, there is one guy I will never see eye to eye with; he and I come from about as far apart politi-

cally as we can and still be loyal Americans.

But I will say this: I have learned to like, respect, and admire JOHN ROUSSELOT. He is a person who has principles. He believes, and he acts on his beliefs. He is not two-faced. He is a clear thinker, he is a clear speaker, and he has added tremendously to the deliberative qualities of this institution.

While we have not always agreed on certain issues, I certainly admire JOHN and, more importantly, I like JOHN. This reminds me of the famous lines from one of Kipling's poems, with which I am sure we are all familiar:

But there is neither East nor West, Border, nor Breed, nor Birth,
When two strong men stand face to face, though they come from the ends of the earth!

JOHN, Godspeed to you.

Mr. GIBBONS. I thank the gentleman.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I cannot resist the temptation to say that the gentleman from California has spoken so often from the other side of the well that he obviously has had some tremendous impact over there, and I think maybe that is something we will all have to take up in the future to get those kinds of praiseworthy comments. But for JOHN ROUSSELOT they are well deserved.

I have sat on the floor here for many hours and have seen him work hard hour after hour. The words expressed by his colleagues on the other side are well deserved praise. I think that only those of us who have worked so closely with him know how much he will be missed.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, I think the gentleman from Florida now has the time.

Mr. GIBBONS. I am glad to yield to the gentleman from Ohio.

Mr. SIEBERLING. Mr. Speaker, JOHN and I both believe in one thing. We both believe in a balanced budget; we just disagree on how we are going to get there.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I, too, would like to say a few words about JOHN ROUSSELOT. I don't know if I dare put them in the RECORD, but I, nonetheless, would like to say a few words about him.

I do not think that JOHN and I would agree but about twice in a century, but I do respect one thing about you, JOHN, and that is that you have got guts and you have the courage of your convictions, and on occasion you even exhibit that with a sense of humor, which is not all that often present in this body. For that, I am very grateful.

Mr. GIBBONS. Mr. Speaker, I agree very much.

The gentleman from California (Mr. ROUSSELOT) has a great sense of humor, and he uses it in a friendly manner and quite effectively.

Mr. Speaker, I want to say a few words about the gentleman from Michigan (Mr. BRODHEAD). The gentleman from Michigan has served on the Committee on Ways and Means now for 6 or 7 years. He is a very effective member of the Ways and Means Committee.

I happened to be walking through the west door on that fateful morning when he stood in the well here and said he was not going to seek reelection. I walked to the well as soon as he departed from the microphone and said that I hoped that he would change his mind.

I hope that when the gentleman returns to the State of Michigan and to his home in Detroit, he will find peace and tranquillity there so that he and his family can get reacquainted with each other and so he can successfully practice law and become a very fine contributing member of the community.

Mr. Speaker, it is with a great deal of sadness that I want to say that we are going to have to say goodbye to the gentleman from Michigan (Mr. BRODHEAD).

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

Since everyone else was nice enough to express all those thoughts—and I appreciate it; I do not want to be unappreciative—I do not want to rise to say something about my good friend and colleague, the gentleman from Michigan (Mr. BRODHEAD), who has, I think, served with great excellence on the Committee on Ways and Means.

I have known him in other ways, and I have had a chance firsthand to see him put his talents to work on our Social Security Subcommittee and on the Public Assistance and Unemployment Compensation Committee. There are few Members of the Congress that approach these very, very difficult problems that we have on those two subcommittees of the Ways and Means Committee with greater thought, with greater precision, and with greater care than our colleague, the gentleman from Michigan (Mr. BRODHEAD). He has made major contributions to legislation in the Committee on Ways and Means, and he has done it many times without broadcasting it or trying to gain a lot of publicity; he was just doing the job and helping to protect the people who are affected by that legislation.

□ 2130

I know that he will be very much missed by the Ways and Means Committee because he has served so well and so thoughtfully. I cannot emphasize enough the thought and time that this gentleman gave to the Ways and Means Committee in this area.

Besides that, he is a gentleman and a person that is so easy to work with, expecially after you have had a chance to be with him on a committee.

So I am most grateful that the gentleman from Florida (Mr. GIBBONS) has taken this time to give us a chance to express our thanks to the gentlemen from Michigan (Mr. BRODHEAD) for all that he has done. I know as he goes back into private practice that maybe, as he said in his own release when he decided not to run for reelection, he can spend more time with his family. I know he will be greatly missed by the House of Representatives because he does perform in a very positive and constructive way.

I thank my colleague from Florida from taking this time.

Mr. GIBBONS. Mr. Speaker, I now yield to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. I thank the gentleman for recognizing me.

I just want to thank the gentleman from Florida (Mr. GIBBONS) and the gentleman from California (Mr. ROUSSELOT) for the very kind words about me. I have enjoyed serving with both Members and greatly appreciate their willingness to take the floor and say some words on my behalf.

This is my last statement before the House of Representatives and I just want to say very briefly that the people of the United States of America make very wise choices in the people that they select to serve in this body. The people that I have served with in this body have been the finest group of people that it has ever been my privilege to know. I just hope that as the years go by that those of us who are going to be outside of this institution and those of us who are privileged to be in this institution can work together to develop a greater public understanding and public support for the Members of this institution and for the marvelous work that they do.

I am deeply grateful to all of you for everything, all of your kindness to me, and I am deeply grateful to the people of my district for having given me the opportunity to serve here.

Mr. GIBBONS. Mr. Speaker, I want to say some very nice things about the gentleman in the chair. The gentleman in the chair, the distinguished Member of Congress from Washington, Mr. FOLEY, has attained a stature not only within the Democratic Party but within this country that is truly outstanding.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Mr. GIBBONS. And I want to say that it has been a pleasure working with him.

Mr. MYERS. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Indiana.

Mr. MYERS. The gentleman in the chair filled a very, very difficut role when he followed the gentleman from Texas, Mr. Pogue. I served on the Committee on Agriculture with the gentleman from Texas and I remember when the Chair sat in the second chair behind the previous Chair, the gentleman from Texas, Mr. Pogue, who probably knew agriculture better than anyone that I know of.

I remember riding back in the bus league when we were in the bus league and we used to get out some place in the United States riding a bus along the highways and the gentleman's predecessor, Mr. Pogue, would ride up in the jump seat and say, "Now, at the next crossroads George Smith bought this farm back in 1938." He knew all about that farm.

Now the gentleman in the chair assumed that role but next to the gentleman from Texas, Mr. Pogue, Mr. FOLEY knew more about agriculture than anybody I know of.

□ 2140

Really it was a difficult role.

But he had a good tutor. He knew all about those farms also. The gentleman in the chair sacrificed all that experience to assume a new responsibility when he gave up the chairmanship of the Committee on Agriculture to our good friend, the gentleman from Texas (Mr. DE LA GARZA), who was a great agriculturalist. But the gentleman in the chair certainly has a great background in agriculture. It was not an easy role and an easy decision that the gentleman in the chair made to give up that role in agriculture.

So the gentleman from Florida who speaks about the sacrifice that our friend has made, the gentleman from Washington (Mr. FOLEY), to give up that responsibility, but he gave it up to a very, very competent and able gentleman from Texas (Mr. DE LA GARZA). So I certainly join my colleague from Florida in congratulating the gentleman from Washington (Mr. FOLEY) for the role he has played in the history of agriculture in the country as well.

Mr. GIBBONS. I certainly concur with the gentleman.

REPORT OF COMMITTEE TO INFORM THE PRESIDENT

The SPEAKER pro tempore. The Chair will receive a report from the committee.

Mr. WRIGHT. Mr. Speaker, your committee appointed to inform the President that we are ready to adjourn and to ask him if he has any further communications to make to the Congress has performed that duty.

The President has directed us to say that he has no further communications to make to the Congress except to wish each of its Members a very Merry Christmas and a very happy New Year.

Mr. MICHEL. And we would like to do the same to all of the Members.

The SPEAKER pro tempore. The Chair wishes to express our thanks to the committee for its report.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 4566) entitled "An act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. ROTH, Mr. DANFORTH, Mr. LONG, and Mr. BENTSEN to be the conferees on the part of the Senate.

CONFERENCE REPORT ON H.R. 6094, FISCAL YEAR 1983 AUTHORIZATION OF APPROPRIATIONS FOR THE U.S. CUSTOMS SERVICE, INTERNATIONAL TRADE COMMISSION, AND TRADE REPRESENTATIVE

Mr. GIBBONS submitted the following conference report and statement on the bill (H.R. 6094) to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-988)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6094) to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate.

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
BILL FRENZEL,
Managers on the Part of the House.

BILL DOLE,
BILL ROTH,
JOHN C. DANFORTH,
RUSSELL LONG,
LLOYD BENTSEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6094), to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate.

EXPLANATION OF THE CONFERENCE AGREEMENT

Section 2: United States Customs Service

House bill—The House bill authorizes $568,801,000 in appropriations for the U.S. Customs Service. This amount includes $31,464,000 to fund the possible transfer of BATF activities to Customs.

Senate amendment—The Senate amendment provides for an authorization level of $564,224,000 for the Customs Service. As in the House bill, the authorization includes $31,464,000 for BATF transfer.

Conference agreement—The Conferees agreed to the Senate amendment.

Section 3: Office of the United States Trade Representatives

House bill—The House bill authorizes an appropriation of $10,100,000 to the Office of the U.S. Trade Representative for fiscal year 1983.

Senate amendment—The Senate amendment authorizes an appropriation of $11,100,000 for fiscal year 1983. The Senate amendment also amends Section 141(b) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) to provide for one additional Deputy United States Trade Representative. Present law authorizes only two such Deputies.

Conference agreement—The Conferees agreed to the Senate amendments.

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
BILL FRENZEL,
Managers on the Part of the House.

BILL DOLE,
BILL ROTH,
JOHN C. DANFORTH,
RUSSELL LONG,
LLOYD BENTSEN,
Managers on the Part of the Senate.

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that it may be in order to consider immediately the conference report on the bill H.R. 6094, to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the title of the bill.

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that the statement

of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House of today, Tuesday, December 21, 1982.

Mr. GIBBONS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. GIBBONS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no intention of taking that much time. This is the conference report that I referred to a while ago that refers to the U.S. Trade Representative's Office and the Office of the International Trade Commission and the U.S. Customs Service.

This is completely noncontroversial. It went from the House to the other body.

We are accepting the Senate amendments. The Senate amendments in effect allow for the appointment of an additional assistant U.S. Trade Representative.

It is the hope of the conferees that the President will appoint one and that he will have the rank of Ambassador and will be generally covering all branches of the Cabinet that we have, everything from agriculture on the one side to labor on the other.

The U.S. Trade Representative's Office is badly overworked now because of the high volume of trade representative work that must be done not only here in the Congress but throughout the world. The current occupant of that office needs some assistance.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield.

Mr. WALKER. These are the only two items that are in this bill? There is nothing else down in the bill?

Earlier today we had a request from the gentleman for a bill similar to this with other purposes in it and I just want to be sure.

Mr. GIBBONS. No, there are no big surprises in this one. This is all germane.

Mr. WALKER. These are the only two items covered in it?

Mr. GIBBONS. The gentleman is correct.

Mr. WALKER. I thank the gentleman.

Mr. GIBBONS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4566, TARIFF AND CUSTOMS AMENDMENTS

Mr. GIBBONS submitted the following conference report on the bill (H.R. 4566), to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-989)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 4566) to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—TARIFF PROVISIONS

SUBTITLE A—IN GENERAL

SEC. 101. AMENDMENT OF TARIFF SCHEDULES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, an item or other provision, the reference shall be considered to be made to an item or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

SEC. 102. CANNED TUNA.

Item 112.30 is amended—

(1) by inserting "and not the product of any insular possession of the United States," immediately after "15 pounds each,"; and

(2) by striking out "United States Fish and Wildlife Service" and inserting in lieu thereof "National Marine Fisheries Service".

SEC. 103. FURS FROM CHINA.

Headnote 4 to subpart B of part 5 of schedule 1 is amended by striking out "or of the People's Republic of China".

SEC. 104. LIMITATION OF IMPORTS OF SEED POTATOES.

The superior heading to items 137.20 and 137.21 is amended by inserting ", and imported for use as seed" after "tags".

SEC. 105. CLASSIFICATION OF CERTAIN FABRICS.

Subpart A of part 4 of schedule 3 is amended—

(1) by amending the superior heading to items 346.05 through 346.65 to read as follows:

	"Fabrics of pile construction, in which pile threads were inserted or knotted during the weaving or knitting, whether or not the pile threads cover the entire surface and whether the pile threads are wholly or partly cut or are not cut:			":

(2) by amending the superior heading for items 346.05 and 346.10 to read as follows:

	"Fabric of corduroy construction, whether or not the filling floats are cut:			"; and

(3) by amending the superior heading for items 346.15 through 346.24 to read as follows:

	"Fabric of velveteen construction, whether or not the filling floats are cut:":			

SEC. 106. REDUCTION OF DUTY ON CERTAIN FOURDRINIER WIRE

(a) IN GENERAL.—Subpart B of part 3 of schedule 5 is amended by striking out item 642.30 and inserting in lieu thereof the following:

	Fourdrinier wires, seamed or not seamed, suitable for use in papermaking machines, whether or not parts of, are fitted or attached to, such machines):			
642.31	Of plastics	9.4% ad val.	10% ad val.	75% ad val
	Other:			
642.33	With 24P or more wires to the linear inch.	Free		75% ad val
642.34	Other	19.4% ad val.	12% ad val.	75% as val

(b) APPLICATION WITH OTHER PROVISIONS.—

(1) The rate of duty in column numbered 1 for items 642.31 and 642.34 (as added by subsection (a)) shall be subject to any staged rate reductions for item 642.30 which were proclaimed by the President before the 15th day after the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 642.31 or 642.34 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 107. REDUCTION OF DUTY ON CERTAIN CERAMIC INSULATORS.

(a) IN GENERAL.—Subpart D of part 2 of schedule 5 is amended by inserting immediately after item 535.12 the following new item:

"535.13	Ceramic insulators to be used in the production of spark plugs for natural gas-fueled, stationary, internal combustion engines.	3.6%	60% ad val."

(b) REPEAL.—Item 909.20 of the Appendix is repealed.

(c) PHASE-DOWN OF TEMPORARY RATE.—Effective with respect to articles entered after December 31, 1983, item 535.13 (as added by subsection (a)) is amended by striking out "3.6% ad val." and inserting in lieu thereof "3.5% ad val.".

SEC. 108. PERMANENT DUTY—FREE TREATMENT OF YANKEE DRYER CYLINDERS.

(a) IN GENERAL.—Subpart D of part 4 of schedule 6 is amended by inserting immediately after item 668.04 the following new item:

"668.06 Yankee dryer cylinders .... Free ..... 85% ad val."

(b) REPEAL.—Item 912.06 of the Appendix is repealed.

SEC. 109. CERTAIN AIRCRAFT COMPONENTS AND MATERIALS.

In the case of any aircraft which—

(1) was previously exported from the United States,

(2) was composed, at the time of such exportation in part of components and materials which are products of the United States and which were installed—

(A) while such aircraft was within the United States, and

(B) after such aircraft was operational,

(3) is returned to the United States after being so exported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, and

(4) was entered for consumption before 1970,

the rate of duty provided for in item 694.40 on the date of such entry shall, notwithstanding any other provision of law, be assessed upon the full value of such aircraft less the value of such components and materials; and such entry shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be reliquidated on the basis of such assessment. For the purposes of this section, the value of any such component or material is the cost of such component or material at the time of installation in the aircraft plus the cost of such installation.

SEC. 110 WATCHES.

(a) PRODUCTS OF INSULAR POSSESSIONS DEFINED.—Paragraph (a)(i) of headnote 3 of the General Headnotes and Rules of Interpretation is amended by striking out "(or more than 70 percent of the total value with respect to watches and watch movements)".

(b) RATE OF DUTY ON WATCHES.—Headnote 6 of schedule 7, part 2, subpart E is amended—

(1) by striking out "paragraph (b)" in paragraph (a) and inserting in lieu thereof "paragraphs (b) through (h)"; and

(2) by striking out "an insular possession of the United States outside the customs territory of the United States" in paragraph (a), and inserting in lieu thereof "the Virgin Islands, Guam, and American Samoa (hereinafter referred to as the 'insular possession')"; and

(3) by striking our paragraphs (b) through (d) and inserting in lieu thereof the following new paragraphs:

"(b) Watches and watch movements produced or manufactured in a United States insular possession which contain any foreign component may be admitted free of duty without regard to the value of the foreign materials such watches contain if they conform with the provisions of this headnote, but the total quantity of such articles entered free of duty shall not exceed the amounts established by or pursuant to paragraph (c) of this headnote.

"(c) Notwithstanding the provisions of paragraph (b) of this headnote, the provisions of this headnote and the benefits thereunder shall not apply to any article containing any material which is the product of any country with respect to which column 2 rates of duty apply.

"(d)(i) In calendar year 1983 the total quantity of such articles which may be entered free of duty shall not exceed 4,800,000 units.

"(ii) In subsequent calendar years, the Secretary of Commerce and the Secretary of the Interior (hereinafter referred to as the "Secretaries"), acting jointly, shall establish a limit on the quantity which may be entered free of duty during the calendar year, and shall consider whether such limit is in the best interest of the insular possessions and not inconsistent with domestic or international trade policy considerations. The quantity the Secretaries establish in any calendar year under this paragraph shall not—

"(I) exceed 10,000,000 units, or one-ninth of apparent domestic consumption (as determined by the International Trade Commission pursuant to paragraph (d) of this headnote), whichever is greater;

"(II) be decreased by more than 10 percent of the quantity established for the immediately preceding calendar year; and

"(III) be increased to more than 7,000,000 units, or by more than 20 percent of the quantity established for the immediately preceding calendar year, whichever is greater.

"(e) On or before April 1 of each calendar year (beginning with the first year in which watch imports from the United States insular possessions exceed 9,000,000 units), the International Trade Commission shall determine the apparent United States consumption of watches and watch movements (including solid state timepieces) during the preceding calendar year, shall report such determination to the Secretaries, and shall publish such determination in the Federal Register.

"(f)(i) In calendar year 1983, not more than 3,000,000 units of the total quantity of articles described in paragraph (d) which may be entered free of duty shall be the product of the Virgin Islands, not more than 1,200,000 units shall be the product of Guam, and not more than 600,000 units shall be the product of American Samoa.

"(ii) For calendar year 1984 and thereafter, the Secretaries may establish new territorial shares of the total amount which may be entered free of duty, taking into account the capacity of each territory to produce and ship its assigned amounts. A territory's share in any year shall not be reduced—

"(I) by more than 200,000 units in calendar year 1984 or 1985, and

"(II) by more than 500,000 units in calendar year 1986 or thereafter, except that no territorial share shall be established at less than 500,000 units.

"(g) The Secretaries, acting jointly, shall allocate the calendar year duty exemptions provided by paragraphs (b), (d), and (f) of this headnote on a fair and equitable basis among producers located in the insular possessions, and shall issue appropriate licenses therefor. Allocations made by the Secretaries shall be final. In making the allocations, the Secretaries shall consider the potential impact of territorial production on domestic production of like articles and shall establish allocation criteria (including minimum assembly requirements) that will reasonably maximize the net amount of direct economic benefits to the insular possessions.

"(h)(i) In the case of each calendar year beginning after December 31, 1982, and before January 1, 1995, the Secretaries, acting jointly, shall—

"(I) verify the wages paid by each producer to permanent residents of the insular possessions during the preceding calendar year, and

"(II) issue to each producer (not later than March 1 of such year) a certificate for the applicable amount.

"(ii) For purposes of subparagraph (i), except as provided in subparagraphs (iii) and (iv), the term 'applicable amount' means an amount equal to the sum of—

"(I) 90 percent of the producer's creditable wages on the assembly during the preceding calendar year of the first 300,000 units, plus

"(II) the applicable graduated declining percentage (determined each year by the Secretaries) of the producer's creditable wages on the assembly during the preceding calendar year of units in excess of 300,000 but not in excess of 750,000.

"(iii) The aggregate amount of all certificates which are issued during any calendar year shall not exceed an amount which bear the same ratio to $5,000,000 as—

"(I) the gross national product of the United States (as determined by the Secretary of Commerce) for the preceding calendar year, bears to—

"(II) the gross national product of the United States (as so determined) for 1982.

"(iv) (I) Subject to the provision of clause (II), if the amount of the certificates issued under subparagraph (i) would exceed the limit under subparagraph (iii), the applicable amount of each producer's certificate shall be reduced proportionately by the amount of such excess.

"(II) The applicable amount of any producer's certificate shall not be reduced below the amount determined under subparagraph (ii)(I), except that if the application of this clause would result in the aggregate amount of the certificates exceeding the limit under subparagraph (iii), the applicable amount of each producer's certificate shall again be reduced proportionately by the amount of the excee determined after application of this clause.

"(v) Any certificate issued under subparagraph (i) shall entitle the certificate holder to secure the refund of duties equal to the face value of the certificate on watches, watch movements (including solid state timepiece) and, with the exception of discrete cases, parts therefor imported into the customs territory of the United States by the certificate holder. Such refunds shall be made under regulations issued by the Treasury Department. Not more than 5 percent of such refunds may be retained as a reimbursement to the Customs Service for the administrative costs of making the refunds.

"(vi) Any certificate issued under subparagraph (i) or any portion thereof, shall be negotiable.

"(vii) Any certificate issued under subparagraph (i) shall expire 1 year from the date of issuance and may be applied against duties on imports of watches and watch movements the entry of which were made within 2 years prior to the date of issuance of the certificate.

"(viii) For purposes of determining the applicable amount of any producer's certificate to be issued during calendar year 1983, the greater of—

"(I) the producer's creditable wages for calendar year 1982, or

"(II) 60 percent of the producer's creditable wages for calendar year 1981,

shall be considered the creditable wages for calendar year 1982.

"(i) The Secretaries are authorized to issue such regulations, not inconsistent with the provisions of this headnote, as they deter-

mine necessary to carry out their respective duties under this headnote. Such regulations shall include minimum assembly requirements. Any duty-free entry determined not to have been made in accordance with applicable regulation shall be subject to the applicable civil remedies and criminal sanctions, and, in addition, the Secretaries may cancel or restrict the license or certificate of any manufacturer found in willful violation of the regulations.".

SEC. 111. PIPE ORGAN PARTS.

Items 726.60 and 726.62 are amended to read as follows:

"726.60	Player actions and parts thereof.	Free	60% ad val.
726.62	Other	Free	63% ad val.".

SEC. 112. ELIMINATION OF DUTY ON TOY TEA SETS.

Subpart E of part 5 of schedule 7 is amended by inserting immediately after item 737.70 the following new item:

"737.73	Toy tea sets of ceramic were made to the approximate scale of 1 to 10 or larger.	Free	70% ad val.".

SEC. 113. CLASSIFICATION OF DOLLS AND TOY FIGURES

(a) IN GENERAL.—Subpart E of part 5 of schedule 7 is amended—

(1) by adding at the end of the headnotes thereto the following new headnotes:

"3. For the purposes of the superior heading to items 737.47 and 737.49 and of item 737.51, 'toy figures of inanimate objects' are only imagnary creatures that either—

"(i) do not possess features of human or other earthly creatures;

"(ii) possess both earthly and non-earthly features but are predominantly non-earthly in nature; or

"(iii) possess features which are a hybrid of features of more then one animate object.

This definition does not cover toy figures of objects which are readily recognizable as vegetables, minerals, robots, or machines, whether or not such figures possess humanoid or earthly features.

"4. Items 737.23, 737.28, 737.30, and 737.47 do not include any doll or toy that either—

"(i) will maintain the three dimensional shape of its torso if the stuffing or filler is removed, or

"(ii) is constructed such that the 'filler' material consists of one piece (such as one piece of foam rubber) or more than one piece that achieves the same affect as one piece.

"5. For the purposes of items 737.26 and 737.51, 'skins' are the outer coverings or shells of those dolls or toy figures which, if imported stuffed or filled, would be classified in items 737.23, 737.28, 737.30, and 737.47, but do not contain stuffing or filling in the torso when imported.

"6. For the purposes of item 737.47, the term 'filled' includes toy figures which are not completely filled or are filled with materials such as plastic beads or crushed nutshells but which otherwise possess the characteristics of toy figures classifiable as 'stuffed'.";

(2) by redesignating items, 737.45 and 737.50 as 737.42 and 737.43, respectively; and

(3) by adding in numerical sequence the following new items:

.....	Toy figures of intimate objects, not having a spring mechanism:.	.....	.....	.....
737.47	.....	.....	.....	.....
737.49	Stuffed or filled.....	13.65 ad val.	75. ad val...	106 ad val.
737	Other 13.65 ad val	75. ad val...	106106 ad val..	
737.51	Skins for toy figures of animate or unanimated objects.	13.65 ad val.	75 ad val....	75 ad val.".

(b) APPLICATION WITH OTHER PROVISIONS.—

(1) The rates of duty in column numbered 1 for items 737.47, 737.49, and 737.51 (as added by subsection (a)(3) shall be subject to any staged rate reductions for item 737.95 which are proclaimed by the President before the 15th day after the date of the enactment of this Act.

(2) Whenver the rate of duty specified in column numbered 1 for each of such items 737.47, 737.49, and 737.51 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower rate, the rate of duty in such "LDDC" column shall be deleted.

SEC. 114. ELIMINATION OF DUTY ON CASEIN BLANKS.

(a) IN GENERAL.—Subpart A of part 7 of schedule 7 is amended—

(1) by striking out "(item 745.40)" in headnote 2(b) of such subpart and inserting in lieu thereof "in the superior heading to items 745.41 and 745.42"; and

(2) by striking out item 745.40 and inserting in lieu thereof the following:

	"Button blanks and molds, and parts of buttons:.			
745.41	Button blanks of casein ..	Free		45% ad val
745.42	Other	22.1% ad val.	11.4% ad val.	45% ad val"."

(b) APPLICATION WITH OTHER PROVISIONS.—

(1) The rate of duty in column numbered 1 for item 745.42 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by subsection (a)(2)) shall be subject to any staged rate reductions for items 745.40 which were proclaimed by the President before the 15th day after the date of the enactment of this Act.

(2) Whenever the rate of duty specified in the column numbered 1 for such item 745.42 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in the column entitled "LDDC" shall be deleted from such Schedules.

(3) For purposes of the Trade Act of 1974, the amendments made by this section (not including the rates of duty in column numbered 2 of such Schedules shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 115. INCREASE IN VALUE LIMITATIONS FOR DUTY-FREE IMPORTATIONS OF PERSONAL ARTICLES BY RETURNING UNITED STATES RESIDENTS.

(a) IN GENERAL.—Subpart A of part 2 of schedule 8 is amended—

(1) by striking out "$300" in item 813.30 and inserting in lieu thereof "$400"; and

(2) by striking out "$600" and "$300" in item 813.31 and inserting in lieu thereof "$800" and "$400", respectively.

(b) AMENDMENTS TO TARIFF ACT OF 1930.—Section 321(a)(2)(A) of the Tariff Act of 1980 (19 U.S.C. 1321(a)(2)(A)) is amended by striking out "$25" and "$40" and inserting in lieu thereof "$50" and "$100", respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returning residents of the United States who arrive in the United States on or after the 15th day after the date of the enactment of this Act.

SEC. 116. MATERIALS CERTIFIED BY NASA.

(a) IN GENERAL.—Subpart A of part 3 of schedule 8 is amended—

(1) by inserting immediately after "Subpart A—United States Government" the following headnote:

"Subpart A headnote:

"1. With respect to item 837.00, the return of materials from space by the National Aeronautics and Space Administration shall not be considered an importation, and an entry of such materials shall not be required."; and

(2) by adding immediately after item 836.00 the following new item:

	"Articles for the National Aeronautics and Space Administration and articles imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:		
337.00	Materials certified by it to the Commissioner of Customs to be imported to be launched into space, spare parts, or necessary and uniquely associated support equipment for use in connection with a launch into space.	Free	Free ".

(b) TERMINATION.—Item 837.00 (as added by subsection (a)) shall not apply to articles entered, or withdrawn from warehouse for consumption, after December 31, 1994.

SEC. 117. PRAYER SHAWLS.

Part 4 schedule 8 is amended—

(1) by striking out "and 854.20," in headnote 1 to such part and inserting in lieu thereof "854.20, and 854.30,"; and

(2) by inserting after item, 854.20 the following new item:

"854.30	Pray shawls, bags for the keeping of prayer shawls, and headwear of a kind used for public or private religious observances, whether or not any of the foregoing is imported for the use of a religious institution.	Free	Free ".

SEC. 118. INCREASE IN VALUE LIMITATIONS APPLICABLE TO INFORMAL ENTRIES OF IMPORTED MERCHANDISE.

The article description immediately preceding item 869.00 is amended by striking out "$600" and inserting in lieu thereof "$1,000".

SEC. 119. CERTAIN METAL WASTE AND SCRAP.

(a) IN GENERAL.—Part 7 of schedule 8 is amended—

(1) by inserting the following new headnote immediately after headnote 2 to such part:

"3. (a) Items 870.50 and 870.55 shall not apply when the market price of copper is under 51 cents per pound.

"(b) For purposes of subparagraph (a), the market price of copper has the meaning assigned to it by headnote 5(b) of the headnotes to schedule 6, part 2, subpart C.

"(c) For purposes of subparagraph (a), the market price of copper shall be considered to be under 51 cents per pound only on and after the seventh day after the date of a report by the United States International Trade Commission to the Secretary of the

Treasury that it has determined that the market price has been under 51 cents per pound for one calendar month. After any such report, the market price shall be considered as not being under 51 cents per pound only on and after the twentieth day after the date of a report by the Commission to the Secretary that it has determined that the market price has been 51 cents or more per pound for one calendar month.

"(d) Determinations by the Commission under this headnote shall be made in the manner prescribed by headnote 5(c) to schedule 6, part 2, subpart C."; and

(2) by inserting immediately after item 870.45 the following:

		Rates of Duty		
		1-a	1-b	2
"Metal waste and scrap (provided for in part 2, schedule (6), except lead, zinc, and tungsten waste and scrap; unwrought metal including remelt scrap ingot (except copper, lead, zinc, and tungsten) in the form of pigs, ingots, or billets (a) which are defective or damaged, or have been produced from melted down metal waste and scrap for convenience in handling and transportation without sweetening, alloying, fluxing, or deliberate purifying, and (b) which cannot be commercially used without remanufacture; relaying or rerolling rails; and articles of metal (except articles of lead, of zinc, or of tungsten, and not including metal-bearing materials provided for in schedule 4 or in part 1 of schedule 6 and not including unwrought metal provided for in part 2 of schedule 6) to be used in remanufacture by melting or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content:				
870.50	Copper waste and scrap	Free	The column 1-b rate applicable in the absence of this item.	The column 2 rate applicable in the absence of this item.
870.55	Articles of copper	Free	The column 1-b rate applicable in the absence of this item.	The column 2 rate applicable in the absence of this item.

		Rates of Duty		
		1	2	
870.60	Other	Free	Free	".

(b) CONFORMING AMENDMENT.—Headnote 5(a) to subpart C of part 2 of schedule 6 is amended by inserting "and for items 870.50 and 870.55," immediately after "In this subpart,".

(c) REPEALS.—Subpart B of part 1 of the Appendix is amended—

(1) by striking out "911.10, 911.11," in headnote 3(a) to such subpart; and

(2) by striking items 911.10, 911.11, and 911.12 and the superior heading to such items.

SEC. 120. TEMPORARY SUSPENSION OF DUTY ON CERTAIN BULK FRESH CARROTS

Subpart B of part 1 of the Appendix is amended—

(1) by striking out headnote 2 and inserting in lieu thereof the following:

"2. For purposes of item 903.25—

"(a) the term 'culled carrots' refers to those carrots which fail to meet the requirements of the United States Department of Agriculture for carrots of grades 'U.S. No. 1' or 'U.S. No. 2' (See 7 CFR sections 2851.4141 and 2851.4142); and

"(b) the total quantity of carrots which may be entered under item 903.25 during the period specified in that term shall not exceed 20,000 tons."; and

(2) by inserting in numerical sequence the following new item:

"203.25	Culled carrots, fresh or chilled in immediate containers each holding more than 100 pounds (provided for in item 135.42, part 8d. schedule 1) if entered for consumption during the period from August 15 in any year, to the 15th day of the following February inclusive.	Free	No change	On or before 12/31/84".

SEC. 121. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON CERTAIN RED PEPPERS.

Item 903.60 of subpart B of part 1 of the Appendix is amended by striking out "6/30/81" and inserting in lieu thereof "6/30/85".

SEC. 122. TEMPORARY SUSPENSION OF DUTY ON CANTALOPES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.65	Cantaloupes, fresh, if entered during the period from January 1 to May 15, inclusive of any year (provided for in items 148.12 and 145.17 part 9B, schedule 1).	Free	No change	On or before 5/15/85".

SEC. 123. TEMPORARY SUSPENSION OF DUTY ON CAROB FLOUR.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.69	Carob flour (provided for in item 152.05 part 9C schedule 1).	Free	No change	On or before 12/31/84."

SEC. 124. TEMPORARY SUSPENSION OF DUTY ON HATTERS' FUR.

Subpart B of part 1 if the Appendix is amended by inserting in numerical sequence the following new item:

"903.55	Fur not on the skin prepared for hatters' use (provided for in item 156.20).	Free	No change	On or before 12/31/85".

SEC. 125. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON WOOD EXCELSIOR.

Item 904.00 of the Appendix is amended by striking out "6/30/81" and inserting in lieu thereof "6/30/83"

SEC. 126. TEMPORARY SUSPENSION OF DUTY ON NEEDLECRAFT DISPLAY MODELS.

Subpart B of part 1 of the Appendix is amended as follows:

(1) The headnotes to such subpart are amended by adding at the end thereof the following new headnote:

"5. For the purposes of the superior heading to items 906.10 and 906.12, the term 'mass-produced kits' includes only those which are designed to be sold in the customs territory of the United States exclusively in kit form.".

(2) The following new superior heading and new items are inserted in numerical sequence:

"906.10	Needle-craft display models, Primarily hand stitched of completed mass-produced ties. Articles provided for in items 356.15, 360.70, 360.75, 364.15, 364.23, 364.30, 365.78, 365.84 365.56, 366.79, 367.84, 367.56, 367.60, 366.04, 356.06, 386.09, 388.50, 388.40, and 389.60 of schedule 3 (except shoe uppers and tents).	Free	No change	On or before 6/30/85
906.10	Aprons and baby bibs (provided for in items 383.03, 383.08, 383.20, and 383.50 of schedule 3).	Free	No change	On or before 6/30/85.".

SEC. 127. TEMPORARY SUSPENSION OF DUTY ON P-HYDROXYBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.00	P-Hydroxybenzoic Acid (provided for in item 404.44, part 1, schedule 4).	Free	No change	On or before 9/30/85.".

SEC. 128. TEMPORARY SUSPENSION OF DUTY ON TRIPHENYL PHOSPHATE

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.01	Triphenyl phosphate (provided for in item 404.48, part 18, schedule 4).	Free	No change	On or before 9/30/85.".

SEC. 129. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON BIS (4-AMINOBENZOATE)-1,3 PROPANEDIOL (TRIMETHYLENE GLYCOL DI-P-AMINOBENZOATE).

Item 907.05 of the Appendix is amended—

(1) by striking out "however provided for in items 402.36 through 406.63" and inserting in lieu thereof "provided for in item 405.07"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/84".

SEC. 130. TEMPORARY SUSPENSION OF DUTY ON 4-METHYLPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.08	+chioro-3-methyipaenoi 50–60–7) (provided for in item 403.66. part 1B. schedule 4).	Free	No change	On or before 6/30-84. "

SEC. 131. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON CERTAIN PHOTOGRAPHIC COUPLERS.

Items 907.10 and 907.12 of the Appendix are amended by striking out "6/30/82" and inserting in lieu thereof "9/30/85".

SEC. 132 TEMPORARTY SUSPENSION OF DUTY ON ETHYLBIPHENYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"901.4	Mixtures of 3-ethylbiphenyl (methyibiphenyl) and 4-ethyibiphenyl (P-ethyibiphenyl) (provided for in item 407.16 per 1B, schedule 4).	Free	no change	on or before 6/30/85.".

SEC. 133. TEMPORARY REDUCTION OF DUTY ON DICOFOL.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.15	1,1-Bis (4-Chlorophenyl)-2,2,2-trichloroethanol (Dcofol) (provided for in item 408.28, part 1C, schedule 4).	10.3% ad val.	7¢ per lb.— 41% ad val.	On or before 9/30/85.".

(b) PHASE-DOWN OF TEMPORARY RATE.—Effective with respect to articles provided for in item 907.15 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on and after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	*Rate of duty*
January 1, 1984	*9.5% ad val.*
January 1, 1985	*8.6% ad val.*

(c) SPECIAL RATE FOR LEAST DEVELOPED DEVELOPING COUNTRIES.—The rate of duty on an article provided for in such item 907.15 that is—

(1) entered, or withdrawn from warehouse for consumption on or after the effective date of the amendment made by subsection (a) and before October 1, 1985; and

(2) a product of a least developed developing country;

shall be 6.9 percent ad valorem.

(d) RADIOACTIVE PROVISION.—In the case of the application of the amendments made by this section to any full measure entry—

(1) which was made before the 15th day after the date of the enactment of this Act;

(2) which was unliquidated, or the liquidation of which was not final, on such day; and

(3) with respect to which there would have been less duty if the amendments made by this section applied to such entry;

such entry shall be liquidated as though such entry had been made on such 15th day.

SEC. 134. TEMPORARY SUSPENSION OF DUTY ON UNCOMPOUNDED ALLYL RESINS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.16	Allyi resins, uncompounded (provided for in item 408.96, per IC schedule 4).	Free	No charge	On or before 9/30/84.".

SEC. 135. TEMPORARY SUSPENSION OF DUTY ON SULFAPYRIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.17	Sulfapyridine (provided for in item 411.28, part 1C, schedule 4).	Free	Free	On or before 12/31/85.".

SEC. 136. TEMPORARY REDUCTION OF DUTY ON SULFATHIAZOLE.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.19	Sulfathiazole (provided for in item 411.80.	13.3% ad val.	7¢ per lb. + 80% ad val.	On or before 12/31/83.

(b) During such time as item 907.22 (as added by subsection (a)) is in effect, the rate of duty on sulfathiazole that is a product of a least developed developing country shall be 8 percent ad valorem.

(c) (1) With respect to articles entered after December 31, 1983, and before January 1, 1985, item 907.22 is amended by striking out "13.3% ad val." and inserting in lieu thereof "11.9% ad val.", and by striking out "12/31/83" and inserting in lieu thereof "12/31/84".

(2) With respect to articles entered after December 31, 1984, and before January 1, 1986, item 907.22 is amended by striking out "11.9% ad val." and inserting in lieu thereof "10.6% ad val.", and by striking out "12/31/84" and inserting in lieu thereof "12/31/85".

SEC. 137. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON DOXORUBICIN HYDROCHLORIDE.

Item 907.20 of the Appendix is amended by striking out "6/30/82" and inserting in lieu thereof "6/30/88".

SEC. 138. TEMPORARY REDUCTION OF DUTY OF CAFFEINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.22	Caffeine (provided for in item 437.02, part 38, schedule 4).	6% ad val.	No change	On or before 12/31/83.

SEC. 139. TEMPORARY SUSPENSION OF DUTY ON TARTARIC ACID AND CERTAIN TARTARIC CHEMICALS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following items:

"907.68	Tararic acid (provided for in item 425.94, par. 2D, schedule 4).	Free	No change	On or before 6/30/84.
907.68	Potassium salts: Antimony narrate (tartar emetic) (provided for in item 426.72, par. 2D, schedule 4).	Free	No change	On or before 6/30/84.
907.68	Cream of tartar (provided for in item 428.78, part 2D, schedule 4).	Free	No change	On or before 6/30/84.
907.69	Sodium tartmate (Rochelle salts) (provided for in item 426.52, part 2D, schedule 4).	Free	No change	On or before 6/30/84.".

SEC. 140. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON NATURAL GRAPHITE.

Item 909.01 of the Appendix is amended by striking out "6/30/81" and inserting in lieu thereof "12/31/84".

SEC. 141. TEMPORARY SUSPENSION OF DUTY ON COPPER SCALE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"911.05	Copper scale (provided for in item 603.70, part 1, schedule 6).	Free	No change	On or before 12/31/85.".

SEC. 142. CHIPPER KNIFE STEEL.

Item 911.29 is amended—

(1) effective with respect to articles entered on or after October 1, 1982, and before January 1, 1983, by striking out "4.6% ad val." and inserting in lieu thereof "4.4% ad val.", and by striking out "9/30/82" and inserting in lieu thereof "12/31/82";

(2) effective with respect to articles entered after December 31, 1982, and before January 1, 1984, by striking out "4.4% ad val." and inserting in lieu thereof "4.2% ad val.", and by striking out "12/31/82" and inserting in lieu thereof "12/31/82";

(3) effective with respect to articles entered after December 31, 1983, and before January 1, 1985, by striking out "4.2% ad val." and inserting in lieu thereof "4.0% ad val.", and by striking out "12/31/83" and inserting in lieu thereof "12/31/84"; and

(4) effective with respect to articles entered after December 31, 1984, and before April 1, 1985, by striking out "4.0% ad val." and inserting in lieu thereof "3.9% ad val.", and by striking out "12/31/84" and inserting in lieu thereof "3/31/85";

SEC. 143. TEMPORARY SUSPENSION OF DUTY ON CERTAIN FREIGHT CONTAINERS.

Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new item:

"911.80	Frieght containers specially designed and equipped to facilitate the carriage of goods by one or more modes of transport without intermediate reloading, each having a gross mass range of at least 40,000 pounds provided for in item 640.80, part 3A schedule 6).	Free	No change	On or before 12/31/86.".

SEC. 144. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON COBALT.

Item 911.90 of the Appendix is amended by striking out "6/30/82" and inserting in lieu thereof "6/30/83".

SEC. 145. TEMPORARY SUSPENSION OF DUTY ON CERTAIN CLOCK RADIOS.

Subpart B of part 1 of the Appendix is amended—

(1) by adding at the end of the headnotes to such subpart the following new headnote:

"6. For the purposes of item 911.95, the term 'entertainment broadcast band receivers' means receivers designed principally to receive signals in the AM (530-1710 KHz) and FM (88-108 MHz) entertainment broadcast bands, whether or not capable of receiving signals on other bands such as aviation, television, marine, public safety, industrial, and citizens bands."; and

(2) by inserting in numerical sequence the following new item:

"911.95	Entertainment broadcast band receivers valued not over $40 each (however provided for in schedule 6), incorporating timekeeping or time display devices, not in combination with any other article, and not designed for motor vehicle installation.	Free	No change	On or before 9/30/84.".

SEC. 146. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON BICYCLE PARTS.

(a) Generator lighting sets: Item 912.05 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

(b) Other parts.—Item 912.10 of the Appendix is amended—

(1) by deleting "click stick levers," and inserting in lieu thereof "trigger and twist grip controls for three-speed hubs,";

(2) by inserting "including cable or inner wire for caliper brakes and casing therefor, whether or not cut to length," immediately after "parts of all the foregoing,"; and

(3) by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 147. TEMPORARY SUSPENSION OF DUTY ON HEAT-SET, STRETCH TEXTURING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.07	Machines designed for heat-set, stretch texturing of continuous man-made fibers (provided for in item 670.06, part 4E, schedule 6).	Free	No change	On or before 12/31/85."

SEC. 148. TEMPORARY SUSPENSION OF DUTY ON HOSIERY KNITTING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.08	Single cylinder fine gauge hosiery knitting machines and double cylinder jacquard hosiery knitting machines (provided for in items 670.16 and 670.18, part 4E, schedule 6).	Free	No change	On or before 9/30/85."

SEC. 149. TEMPORARY SUSPENSION OF DUTY ON DOUBLE-HEADED LATCH NEEDLES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.09	Double-headed latch needles (provided for in item 670.58, part 4E, schedule 6).	Free	No change	On or before 6/30/85."

SEC. 150. TEMPORARY SUSPENSION OF DUTY ON PROSTHESES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.15	Externally-powered electric prosthetic devices for amputees (provided for in item 709.57, part 2B, schedule 7), and parts thereof.	Free	No change	On or before 9/30/84."

SEC. 151. TEMPORARY SUSPENSION OF DUTY ON SMALL TOYS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.20	Articles provided for in parts 6D and 6E of schedule 7 (except ballons, marbels, dice, and diecast vehicles), valued not over five cents per unit; and jewelry provided for in part 8A of schedule 7 (except parts), valued not over 1.5 cents per piece.	Free	No change	On or before 12/31/86.".

SEC. 152. TEMPORARY SUSPENSION OF DUTY ON CERTAIN DOLLS AND TOY FIGURES.

Subpart B of part 1 of the Appendix is amended by inserting at the end thereof the following new items:

"912.30	Stuffed dolls (with or without clothing) and doll skins for stuffed dolls (provided for respectively in items 737.21, 737.23 and 737.26, part 6E, schedule 7).	Free	No change	On or before 12/31/86
"912.34	Stuffed or filled toy figures of inanimate objects not having a spring mechanism (provided for in item 737.47, part 6E, schedule 7).	Free	No change	On or before 12/31/86
"912.36	Skins for stuffed toy figures of animate and inanimate objects (provided for in item 737.61, part 6E, schedule 7).	Free	No change	On or before 12/31/86.".

SEC. 153. 2-YEAR EXTENSION OF THE INTERNATIONAL SUGAR AGREEMENT.

Section 2 of the Act entitled "An Act providing for the implementation of the International Sugar Agreement, 1977, and for other purposes" (Public Law 96-236; 7 U.S.C. 3602) is amended by striking out "1983" and inserting in lieu thereof "1985".

SEC. 154. 1-YEAR EXTENSION OF THE INTERNATIONAL COFFEE AGREEMENT.

Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "the expiration of this joint resolution" and inserting in lieu thereof "October 1, 1983",

SEC. 551. UPLAND COTTON.

Section 103(f)(3) of the Agriculture Act of 1949 (7 U.S.C. 1444(f)(3)) shall be effective for the 1982 through 1985 crops of upland cotton amended to read as follows:

"(3) Notwithstanding any other provision of law, any upland cotton described in items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) imported into the United States during the period of time when a special quota established under this subsection is in effect shall be deemed to be an import under such special quota until the special quota is filled and any such cotton shall be free of duty.".

SEC. 156. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b) and sections 109, 115, and 133. The amendments made by this subtitle shall apply to articles entered on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE APPLICATION.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the application of the amendments made by this Act to the entry of any article described in paragraph (2) shall be treated as provided in such paragraph.

(2) APPLICABLE SECTIONS.—In the case of the application of the amendment made by section 102, 107, 108, 119, 121, 125, 131, 137, 139, 140, 142, or 144 to any entry—

(A) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(B) with respect which there would have been do duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(3) APPLICABLE DATE.—For purposes of paragraph (2), the term "applicable date" means—

(A) in the case of section 139, June 30, 1980;

(B) in the case of section 102, March 31, 1981;

(C) in the case of sections 107, 119, 121, 125, and 140, June 30, 1981;

(D) in the case of section 108, December 31, 1981;

(E) in the case of sections 131, 137, and 144, June 30, 1982; and

(F) in the case of section 142, September 30, 1982.

Definitions. For purposes of this subtitle—

(1) the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States; and

(2) the term "entry" includes any withdrawal from warehouse for consumption.

SUBTITLE B—IMPLEMENTATION OF NAIROBI PROTOCOL

SEC. 161. SHORT TITLE, ETC.

(a) SHORT TITLE.—This subtitle may be cited as the "Educational, Scientific, and Cultural Materials Importation Act of 1982".

(b) PURPOSE.—The purpose of this subtitle is to enable the United States to give effect to the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials (opened for signature on March 1, 1977) with a view to contributing to the cause of peace through freer exchange of ideas and knowledge across national boundaries.

SEC. 162. BOOKS, PUBLICATIONS, AND DOCUMENTS.

Part 5 of schedule 2 is amended—

(1) by inserting, in numerical sequence, the following new item:

"270.90	Catalogs of films, recordings or other visual and auditory material of an educational, scientific, or cultural character.	Free	Free.".

(2) by striking out items 273.45 through 273.55, and the superior heading thereto, and inserting in lieu thereof the following:

"273.52	Architectural, engineering, industrial, or commercial drawings of plans, whether originals or reproductions.	Free	Free.".

and

(3) by inserting immediately below the phrase "Printed not over 20 years at time of importation:" and above (and at the same hierarchical level as) "Lithographs on paper:" the following new item:

"274.55	Loose illustrations, reproduction proofs or reproduction films used for the production of books.	Free	Free.".

SEC. 163. VISUAL AND AUDITORY MATERIALS.

(a) PHOTOGRAPHIC FILM.—Part 5 of schedule 2 is amended—

(1) by inserting the phrase "(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles)" immediately after "Photographs" in the superior heading to items 274.50 through 274.70, and

(2) by adding, in numerical sequence, the following new item:

"274.57	Developed photographic film; photograph slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles.	Free	Free."

(b) MOTION PICTURE FILMS.—Subpart G of part 2 of schedule 7 is amended—

(1) by striking out "724.05 and 724.10" in headnote 1 and inserting in lieu thereof "724.07 and 724.22",

(2) by striking out headnote 2,

(3) by striking out items 724.05 and 724.10, and the superior heading thereto, and inserting in lieu thereof the following:

"724.07	Motion-picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed.	Free	Free."

(4) by striking out items 724.15 through 724.40 and inserting in lieu thereof the following new item:

"724.22	Sound recordings, combination sound and visual recordings, and magnetic recordings, not provided for in the foregoing provisons of ths subpart.	Free	Free".

and

(5) by striking out the rates of duty appearing in rate columns 1, LDDC, and 2 for item 724.12 and inserting "Free" in rate columns numberd 1 and 2.

(c) PATTERNS, MODELS, ETC.—Part 7 of schedule 8 is amended—

(1) by striking out headnote 1 and redesignation headnote 2 as headnote 1,

(2) by striking out item 870.30, and

(3) by inserting, in numerical sequence, the following new item:

"870.35	Patterns models (except toy models) and wall charts of an educational, scientific or cultural character, mock-up or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programed instruction; and kits containing printed material, and audio materials and visual materials or any combination of two or more of the foregoing.	Free	Free.

SEC. 164. TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS

Part 4 of schedule 8 is amended by adding in numercal sequence, the following new item:

"851.67	Tools specially designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus.	Free	Free"

SEC. 165. ARTICLES FOR THE BLIND OR OTHER HANDCAPPED PERSONS.

(a) ELIMINATION OF DUTY.—Subpart D of part 2 of schedule 8 is amended by striking out items 825.00, 826.10 and 826.20.

(b) SPECIALLY DESIGNED ARTICLES.—Part 7 of schedule 8 is amended—

(1) by inserting, in numerical sequence, the following new items:

	Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons:.		
	Articles for the blind:		
870.50	Books, music, and pamphlets, in raised print, used exclusively by or for them.	Free	Free
870.55	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively.	Free	Free
870.60	Other	Free	Free";

and

(2) by adding the following new headnote:

"2. For the purposes of items 870.50, 870.55, and 870.60—

"(a) The term 'physically or mentally handicapped persons' includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"(b) These items do not cover—

"(i) articles for acute or transient disability;

"(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

"(iii) therapeutic and diagnostic articles; or

"(iv) medicine or drugs.".

(c) STATISTICAL INFORMATION.—The Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which the amendments made by this section apply.

SEC. 166. AUTHORITY TO LIMIT CERTAIN DUTY-FREE TREATMENT ACCORDED UNDER THIS ACT.

(a) AUTHORITY TO LIMIT.—

(1) IN GENERAL.—In addition to any authority under section 201 of the Trade Act of 1974 (19 U.S.C. 2251), the President may proclaim changes in the Tariff Schedules of the United States (19 U.S.C. 1202) to narrow the scope of, or place conditions upon, the duty-free treatment accorded under section 164, section 165, or section 167(b) (insofar as section 167(b) relates to temporary duty-free treatment of articles covered by sections 164 and 165) with respect to any type of article the duty-free treatment of which—

(A) has significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article, and

(B) is not provided for in the Florence Agreement or the Nairobi Protocol.

"(2) RATES WHICH ARE TO TAKE EFFECT IF DUTY-FREE TREATMENT ELIMINATED.—If the President eliminates any duty-free treatment under paragraph (1), the rate of duty thereafter applicable to any article which is—

(A) affected by such action, and

(B) imported from any source,

shall be the rate proclaimed by the President as the rate applicable to such article from such source (determined without regard to this subtitle).

(b) RESTORATION OF TREATMENT.—If the President determines that any duty-free treatment which is no longer in effect because of action taken under subsection (a) could be restored in whole or in part without a resumption of significant adverse impact on a domestic industry or portion thereof, the President may proclaim changes to the Appendix to the Tariff Schedules of the United States to resume such duty-free treatment.

(c) OPPORTUNITY TO PRESENT VIEWS.—Before taking an action authorized by subsection (a) or (b), the President shall afford an opportunity for interested Government agencies and private persons to present their views concerning the proposed action.

SEC. 167. EFFECTIVE DATE; TEMPORARY DUTY-FREE TREATMENT.

(a) IN GENERAL.—The amendments made by sections 162, 163, 164, and 165 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date which the President proclaims as the date on which he ratifies the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials.

(b) TEMPORARY DUTY-FREE TREATMENT.—

(1) ARTICLES FOR THE BLIND OR OTHER HANDICAPPED PERSONS.—Subject to the provisions of paragraph (3) and section 166, the President shall proclaim changes to the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) to implement the provisions of section 165 with respect to articles entered, or withdrawn from warehouse for consumption, during the two and one-half-year period beginning on the thirtieth day following the date of the enactment of this subtitle.

(2) OTHER ARTICLES.—Subject to the provisions of paragraph (3) and section 166, the President, if he deems such action to be in the interest of the United States, may proclaim further changes to the Appendix to the Tariff Schedules of the United States to implement any provision of section 162, 163; or 164 with respect to articles entered, or withdrawn from warehouse for consumption, during any period beginning on or after the thirtieth day following the date of the enactment of this subtitle and ending not later than two and one-half years after such beginning date.

(3) TIME PROVISIONS CEASE TO HAVE EFFECT.—If any temporary duty-free treatment accorded under paragraph (1) or (2) has not yet expired, such treatment shall cease to be effective on and after the date proclaimed by the President pursuant to subsection (a).

TITLE II—MISCELLANEOUS CUSTOMS PROVISIONS

SEC. 201. INTERNATIONAL TRANSMISSION OF BUSINESS DOCUMENTS; IMPORTERS OF RECORD.

(a) General headnote 5 is amended—

(1) by striking out "and" at the end of subdivisin (d);

(2) by redesignating subdivision (e) as subdivision (f); and

(3) by adding immediately after subdivision (d) the following:

"(e) records, diagrams, and other data with regard to any business, engineering, or exploration operation whether on paper, cards, photographs, blueprints, tapes, or other media; and".

(b) Item 870.10 is repealed.

(c) Section 483 of the Tariff Act of 1930 (19 U.S.C. 1483) is repealed.

(d) Section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) is amended—

(1) by amending subsection (a)—

(A) by amending that part of paragraph (1) thereof which precedes subparagraph (A) to read as follows: "Except as provided in sections 490, 498, 552, 553, and 336(j) of this Act and in subsections (h) and (i) of this section, one of the parties qualifying as 'importer of record' under paragraph (2)(C) of this subsection, either in person or by an agent authorized by him in writing—",

(B) by redesignating paragraph (2)(C) as paragraph (2)(D), and by inserting immediately after paragraph (2)(B) the following:

"(C) When an entry of merchandise is made under this section, the required documentation shall be filed either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under section 641 of this Act. When a consignee declares on entry that he is the owner or purchaser of merchandise, the appropriate customs officer may, without liability, accept the declaration. For the purposes of this title, the importer of record must be one of the parties who is eligible to file the documentation required by this section.", and

(C) by striking out "consignees" in paragraph (2)(D) (as redesignated by subparagraph (B)) and inserting in lieu thereof "importers of record";

(2) by striking out "consignee" in subsections (c) and (d) and inserting in lieu thereof "importer of record"; and

(3) by amending subsections (h) and (i) to read as follows:

"(h) The carrier bringing the merchandise into the port at which entry is to be made may certify any person to be the owner, purchaser, or consignee of the merchandise, and that person may be accepted as such by the appropriate customs officer. A carrier shall not certify a person pursuant to this subsection unless it has actual knowledge of or reason to believe in the accuracy of such certification.

"(i) For the purposes of this section, the appropriate customs officer may accept a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made.".

(e) Sections 485, 487, 494, and 505(a) of the Tariff Act of 1930 (19 U.S.C. 1485, 1487, 1494, and 1505(a)) are each amended by striking out "consignee" wherever it appears and inserting in lieu thereof "importer of record".

(f) Section 557 of the Tariff Act of 1930 (19 U.S.C. 1557) is amended—

(1) by inserting "purchaser" immediately after "owner" in the first sentence of subection (a); and

(2) by striking out "consignee" in subsection (d) and substituting in lieu thereof "importer of record".

(g) The amendments made by this section shall apply with respect to merchandise entered on and after the 30th day after the date of the enactment of this Act.

SEC. 202. DELIVERY INTO SUCCESSIVE BONDED WAREHOUSES REGARDLESS OF LOCATION.

The first sentence of the eighth paragraph of section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) is amended by striking out "at an exterior port" and "immediate".

TITLE III—IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

SEC. 301. SHORT TITLE.

This title may be cited as the "Convention on Cultural Property Implementation Act".

SEC. 302. DEFINITIONS.

For purposes of this title—

(1) The term "agreement" includes any amendment to, or extension of, any agreement under this title that enters into force with respect to the United States.

(2) The term "archaeological or ethnological material of the State Party" means—

(A) any object of archaeological interest;

(B) any object of ethnological interest; or

(C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State Party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaeological interest unless such object—

(I) is of cultural significance;

(II) is at least two hundred and fifty years old, and

(III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

(I) the product of a tribal or nonindustrial society, and

(II) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

(3) The term "Committee" means the Cultural Property Advisory Committee established under section 206.

(4) The term "consignee" means a consignee as defined in section 488 of the Tariff Act of 1930 (19 U.S.C. 1488).

(5) The term "Convention" means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its sixteenth session.

(6) The term "cultural property" includes articles described in article 1(c) through (k) of the Convention whether or not any such article is specifically designated as such by any State Party for the purposes of such article.

(7) The term "designated archaeological or ethnological material" means any archaeological or ethnological material of the State Party which—

(A) is—

(i) covered by an agreement under this title that enters into force with respect to the United States, or

(ii) subject to emergency action under section 304, and

(B) is listed by regulation under section 305.

(8) The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) The term "State Party" means any nation which has ratified, accepted, or acceded to the Convention.

(10) The term "United States" includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of the United States or any State; or

(C) any department, agency, or entity of the Federal Government or of any government of any State.

SEC. 303. AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION

(a) AGREEMENT AUTHORITY.—

(1) IN GENERAL.—If the President determines, after request is made to the United States under article 9 of the Convention by any State Party—

(A) that the cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party;

(B) that the State Party has taken measures consistent with the Convention to protect its cultural patrimony;

(C) that—

(i) the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party, if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by those nations (whether or not State Parties) individually having a significant import trade in such material, would be of substantial benefit in deterring a serious situation of pillage, and

(ii) remedies less drastic than the application of the restrictions set forth in such section are not available; and

(D) that the application of the import restrictions set forth in section 307 in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scentific, cultural, and educational purposes;

The President may, subject to the provisions of this title, take the actions described in paragraph (2).

(2) AUTHORITY OF PRESIDENT.—For purposes of paragraph (1), the President may enter into—

(A) a bilateral agreement with the State Party to apply the import restrictions set forth in section 307 to the archaeological or ethnological material of the State Party the pillage of which is creating the jeopardy to the cultural patrimony of the State Party found to exist under paragraph (1)(A); or

(B) a multilateral agreement with the State Party and with one or more other nations (whether or not a State Party) under which the United States will apply such restrictions, and the other nations will apply similar restrictions, with respect to such material.

(3) REQUESTS.—A request made to the United States under article 9 of the Convention by a State Party must be accompanied by a written statement of the facts known to the State Party that relate to those matters with respect to which determinations must be made under subparagraphs (A) through (D) of paragraph (1).

(4) IMPLEMETATION.—In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exhange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) EFFECTIVE PERIOD.—The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the five-year period beginning on the date on which such agreement enters into force with respect to the United States.

(c) RESTRICTIONS ON ENTERING INTO AGREEMENTS.—

(1) IN GENERAL.—The President may not enter into a bilateral or multilateral agreement authorized by subsection (a) unless the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party making a request to the United States under article 9 of the Convention will be applied in concert with similar restrictions implemented; or to be implemented, by those nations (whether or not State Parties) individually having a significant import trade in such material.

(2) EXCEPTION TO RESTRICTIONS.—Notwithstanding paragraph (1), the President may enter into an agreement if he determines that a nation individually having a significant import trade in such material is not implementing, or is not likely to implement, similar restrictions, but—

(A) such restrictions are not essential to deter a serious situation of pillage, and

(B) the application of the import restrictions set forth in section 307 in concert with similar restrictions implemented, or to be implemented, by other nations (whether or not State Parties) individually having a significant import trade in such material would be of substantial benefit in determining a serious situation of pillage.

(d) SUSPENSION OF IMPORT RESTRICTIONS UNDER AGREEMENTS.—If, after an agreement enters into force with respect to the United States, the President determines that a number of parties to the agreement (other than parties described in subsection (c)(2)) having significant import trade in the archaeological and ethnological material covered by the agreement—

(1) have not implemented within a reasonable period of time import restrictions that are similar to those set forth in section 307, or

(2) are not implementing such restrictions satisfactorily with the result that no substantial benefit in deterring a serious situation of pillage in the State Party concerned is being obtained,

the President shall suspend the implementation of the import restrictions under section 307 until such time as the nations take appropriate corrective action.

(e) EXTENSION OF AGREEMENTS.—The President may extend any agreement that enters into force with respect to the United States for additional periods of not more than five years each if the President determines that—

(1) the factors referred to in subsection (a)(1) which justified the entering into of the agreement still pertain, and

(2) no cause for suspension under subsection (d) exists.

(f) PROCEDURES.—If any request described in subsection (a) is made by a State Party, or if the President proposes to extend any agreement under subsection (e), the President shall—

(1) publish notification of the request or proposal in the Federal Register;

(2) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 304) as is appropriate to enable the Committee to carry out its duties under section 306(f); and

(3) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

(A) required under section 306(j) (1) or (2), and

(B) submitted to the President before the close of the one-hundred-and-fifty-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(g) INFORMATION ON PRESIDENTIAL ACTION—

(1) IN GENERAL.—In any case in which the President—

(A) enters into or extends an agreement pursuant to subsection (a) or (e), or

((B) applies import restrictions under section 204,

the President shall, promptly after taking such action, submit a report to the Congress.

(2) REPORT.—The report under paragraph (1) shall contain—

(A) a description of such action (including the text of any agreement entered into),

(B) the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and

(C) the reasons for any such difference.

(3) INFORMATION RELATING TO COMMITTEE RECOMMENDATIONS.—If any Committee report required to be considered by the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a report which contains the reasons why such agreement was not entered into.

SEC. 304. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) EMERGENCY CONDITION DEFINED.—For purposes of this section, the term "emergency condition" means, with respect to any archaeological or ethnological material of any State Party, that such material is—

(1) a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, dispersal, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular culture or civilization, the record of which is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be of crisis proportions;

and application of the import restrictions set forth in section 307 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, dispersal or fragmentation.

(b) PRESIDENTIAL ACTION.—Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in section 307 with respect to such material.

(c) LIMITATIONS.—

(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State Party unless the State Party has made a request described in section 303(a) to the United States and had supplied information which supports a determination that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 306(f)(3) if the report is submitted to the President before the close of the ninety-day period beginning on the day on which the President submitted information to the Committee under section 303(f)(2) on the request of the State Party under section 303(a).

(3) No import restrictions set forth in section 307 may be applied under this section to the archaeological or ethnological materials of any State Party for more than five years after the date on which the request of a State Party under section 303(a) is made to the United States. This period may be extended by the President for three more years if the President determines that the emergency condition continues to apply with respect to the archaeological or ethnological material. However, before taking such action, the President shall request and consider, if received within ninety days, a report of the Committee setting forth its recommendations, together with the reasons therefor, as to whether such import restrictions shall be extended.

(4) The import restrictions under this section may continue to apply in whole or in part, if before their expiration under paragraph (3), there has entered into force with respect to the archaeological or ethnological materials an agreement under section 203 or an agreement with a State Party to which the Senate has given its advice and consent to ratification. Such import restrictions may continue to apply for the duration of the agreement.

SEC. 305. DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.

After any agreement enters into force under section 303, or emergency action is taken under section 304, the Secretary, after consultation with the Director of the United States Information Agency, shall by regulation promulgate (and when appropriate shall revise) a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 307 are applied only to the archeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

SEC. 306. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the Cultural Property Advisory Committee.

(b) MEMBERSHIP.—

(1) The Committee shall be composed of eleven members appointed by the President as follows:

(A) Two members representing the interests of museums.

(B) Three members who shall be experts in the fields of archaeology, anthropology, ethnology, or related areas.

(C) Three members who shall be experts in the international sale of archaeological, ethnological, and other cultural property.

(D) Three members who shall represent the interest of the general public.

(2) Appointments made under paragraph (1) shall be made in such a manner so as to insure—

(A) fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and

(B) that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A) Members of the Committee shall be appointed for terms of two years and may be reappointed for 1 or more terms.

(B) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) EXPENSES.—The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) TRANSACTION OF BUSINESS.—Six of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(e) STAFF AND ADMINISTRATION.—

(1) The Director of the United States Information Agency shall make available to the Committee such administrative and technical support services and assistance as it may reasonably require to carry out its activities. Upon the request of the Committee, the head of any other Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions, and provide such information and assistance as the Committee may reasonably require to carry out its activities.

(2) The Committee shall meet at the call of the Director of the United States Information Agency, or when a majority of its members request a meeting in writing.

(f) REPORTS BY COMMITTEE.—

(1) The Commitee shall, with respect to each request of a State Party referred to in section 303(a), undertake an investigation and review with respect to matters referred to in section 303(a)(1) as they relate to the State Party or the request and shall prepare a report setting forth—

(A) the results of such investigation and review;

(B) its findings as to the nations individually having a significant import trade in the relevant material; and

(C) its recommendation, together with the reasons therefor, as to whether an agreement should be entered into under section 303(a) with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 303(e), prepare a report setting forth its recommendations together with the reasons therefor, as to whether or not the agreement should be extended.

(3) The Committee shall in each case in which the Committee finds that an emergency condition under section 304 exists prepare a report setting forth its recommendations, together with the reasons therefor, as to whether emergency action under section 304 should be implemented. If any State Party indicates in its request under section 303(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 303 or the implementation of emergency action under section 304 shall set forth—

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State Party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6) The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g) COMMITTEE REVIEW.—

(1) IN GENERAL.—The Committee shall undertake a continuing review of the effectiveness of agreements under section 303 that have entered into force with respect to the United States, and of emergency action implemented under section 304.

(2) ACTION BY COMMITTEE.—If the Committee finds, as a result of such review, that—

(A) cause exists for suspending, under section 303(d), the import restrictions imposed under an agreement;

(B) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(C) changes are required to this title in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

(h) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. Appendix I) shall apply to the Committee except that the requirements of subsections (a) and (b) of section 10 and section 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiating objectives or bargaining positions on the negotiations of any agreement authorized by this title.

(i) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—Any information (including trade secrets and commercial or financial information which is privileged or confidential) submitted in confidence by the private sector to officers or employees of the United States or to the Committee in connection with the responsibilities of the Committee shall not be disclosed to any person other than to—

(A) officers and employees of the United States designated by the Director of the United States Information Agency;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated by the chairman of either such Committee and members of the staff of either such Committee designated by the chairman for use in connection with negotiation of agreements or other activities authorized by this title; and

(C) the Committee established under this title.

(2) GOVERNMENTAL INFORMATION.—Information submitted in confidence by officers or employees of the United States to the Committee shall not be disclosed other than in accordance with rules issued by the Director of the United States Information Agency, after consultation with the Committee. Such rules shall define the categories of information which require restricted or confidential handling by such Committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the interests of the United States. Such rules shall, to the maximum extent feasible, permit meaningful consultations by Committee members with persons affected by proposed agreements authorized by this title.

(j) NO AUTHORITY TO NEGOTIATE—Nothing contained in this section shall be construed to authorize or to permit any individual (not otherwise authorized or permitted) to participate directly in any negotiation of any agreement authorized by this title.

SEC. 307 IMPORT RESTRICTIONS.

(a) DOCUMENTATION OF LAWFUL EXPORTATION—No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State Party after the designation of such material under section 305 may be imported into the United States unless the State Party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

(b) CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.—If the consignee of any designated archaeological or ethnological material is unable to present to the customs officer concerned at the time of making entry of such material—

(1) the certificate or other documentation of the State Party required under subsection (a); or

(2) satisfactory evidence that such material was exported from the State Party—

(A) not less than ten years before the date of such entry and that neither the person for whose account the material is imported (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before that of entry, or

(B) on or before the date on which such material was designated under section 305,

the customs officer concerned shall refuse to release the material from customs custody and send it to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such documentation or evidence is not presented within ninety days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and forfeiture. The presentation of such documentation or evidence shall not bar subsequent action under section 310.

DEFINITION OF SATISFACTORY EVIDENCE. The term "satisfactory evidence" means—

(1) for purposes of subsection (b)(2)(A)—

(A) one or more declarations under oath by the importer, or the person for whose account the material is imported, stating that, to the best of his knowledge—

(i) the material was exported from the State Party not less than ten years before the date of entry into the United States, and

(ii) neither such importer or person (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before the date of entry of the material; and

(B) a statement provided by the consignor, or person who sold the material to the importer, which states the date, or, if not known, his belief, that the material was exported from the State Party not less than ten years before the date of entry into the United States, and the reasons on which the statement is based; and

(2) for purposes of subsection (b)(2)(B)—

(A) one of more declarations under oath by the importer or the person for whose account the material is to be imported, stating that, to the best of his knowledge, the material was exported from the State Party on or before the date such material was designated under section 305, and

(B) a statement by the consignor or person who sold the material to the importer which states the date, or if not known, his belief, that the material was exported from the State Party on or before the date such material was designated under section 305, and the reasons on which the statement is based.

(d) RELATED PERSONS.—For purposes of subsections (b) and (c), a person shall be treated as a related person to an importer, or to a person for whose account material is imported, if such person—

(1) is a member of the same family as the importer or person of account, including, but not limited to, membership as a brother or sister (whether by whole or half blood), spouse, ancestor, or lineal descendant;

(2) is a partner or associate with the importer or person of account in any partnership, association, or other venture; or

(3) is a corporation or other legal entity in which the importer or person of account directly or indirectly owns, controls, or holds power to vote 20 percent or more of the outstanding voting stock or shares in the entity.

SEC. 308. STOLEN CULTURAL PROPERTY.

No article of cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which is stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

SEC. 309. TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO TITLE.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property has been imported into the United States in violation of section 307 or section 308, the Secretary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if he finds that—

(1) sufficient safeguards will be taken by the institution for the protection of such material or article; and

(2) sufficient bond is posted by the institution to ensure its return to the Secretary.

SEC. 310. SEIZURE AND FORFEITURE.

(a) IN GENERAL.—Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 307 or section 308 shall be subject to seizure and forfeiture. All provisions of law relating to seizure, forfeiture, and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this title, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this title.

(b) ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL.—Any designated archaeological and ethnological material which is imported into the United States in violation of section 307 and which is forfeited to the United States under this title shall—

(1) first be offered for return to the State Party;

(2) if not returned to the State Party, be returned to a claimant with respect to whom the material was forfeited if that claimant establishes—

(A) valid title to the material,

(B) that the claimant is a bona fide purchaser for value of the material; or

(3) if not returned to the State Party under paragraph (1) or to a claimant under paragraph (2), be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

No return of material may be made under paragraph (1) or (2) unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and delivery, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(c) ARTICLES OF CULTURAL PROPERTY.—

(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 308, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article of cultural property which is imported into the United States in violation of section 308 and which is forfeited to the United States under this title shall—

(A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 308 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 311. EVIDENTIARY REQUIREMENTS.

Notwithstanding the provisions of section 615 of the Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture proceeding brought under this title in which the material or article, as the case may be, is claimed by any person, the United states shall establish—

(1) in the case of any material subject to the provisions of section 307, that the material has been listed by the Secretary in accordance with section 305; and

(2) in the case of any article subject to section 308, that the article—

(A) is documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

(B) was stolen from such institution after the effetive date of this title, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

SEC. 312. CERTAIN MATERIAL AND ARTICLES EXEMPT FROM TITLE.

The provisions of this title shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes", October 19, 1965 (22 U.S.C. 2459); or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been held in the United States for a period of not less than three consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of this title, but only if—

(i) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least fifty thousand, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from this title,

(ii) such material or article has been exhibited to the public for a period or periods aggregating at least one year during such three-year period, or

(iii) such article or material has been cataloged and the catalog material made available upon request to the public for at least two years during such three-year period;

(B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument or similar institution in the Unites States open to the public; or

(C) if subparagraphs (A) and (B) do not apply, has been within the United States for a period of not less than ten consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States; and

(D) if none of the preceding subparagraphs apply, has been within the United States for a period of not less than twenty consecutive years and the claimant establishes that it puchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

SEC. 313. REGULATIONS.

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisons of this title.

SEC 314. ENFORCEMENT.

In the customs territory of the United States, and in the Virgin Islands, the provisions of this title shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

SEC. 315. EFFECTIVE DATE.

(a) IN GENERAL.—This title shall take effect on the ninetieth day after the date of the enactment of this Act or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

(1) before such ninetieth day and after such date of enactment; and

(2) after the initial membership of the Committee is appointed.

(b) EXCEPTION.—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 306 at any time after the date of the enactment of this Act.

And the House agree to the same.

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
BILL FRENZEL,
Managers on the Part of the House.

BOB DOLE,
BILL ROTH,
JOHN C. DANFORTH,
RUSSELL LONG,
LLOYD BENTSEN,
Managers on the Part of the Senate.

STATEMENT OF MANAGERS

EXPLANATION OF THE CONFERENCE AGREEMENT

Section 102: Canned tuna

House bill—Amends the TSUS item 112.30 description: (a) to indicate clearly that shipments from the U.S. insular possessions are not to be included in determining the extent to which the tariff quota on canned tuna not packed in oil has been filled, and (b) to reflect that the agency responsible for the administration of the quota is the National Marine Fisheries Service, formerly the U.S. Fish and Wildlife Service. These amendments would apply to articles entered after March 31, 1981.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 107: Certain ceramic insulators

House bill—Phased-down permanent reduction of column 1 (MFN) rate of duty on ceramic insulators used in the production of spark plugs from 11.6% to 3.6% as of January 1, 1983, and 3.5% as of January 1, 1984. Previous temporary reduction of duty expired June 30, 1981.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 142: Chipper knife steel

House bill—Phased-down permanent reduction of column 1 (MFN) rate of duty on chipper knife steel under TSUS item 606.93 to 4.4% as of September 30, 1982, 4.2% as of January 1, 1983, 4.0% as of January 1, 1984, 3.9% as of January 1, 1985, 3.7% as of January 1, 1986, 3.6% as of January 1, 1987. Previous temporary duty reduction expired September 30, 1982.

Senate amendment—No provision.

Conference agreement—The conferees agreed to a 2½-year reduction as follows: 4.4% retroactive to October 1, 1982, until December 31, 1982, 4.2% from January 1, 1983, until December 31, 1983, 4.0% from January 1, 1984, until December 31, 1984, and 3.9% from January 1, 1985, until March 31, 1985.

Section 108: Yankee dryer cylinders

House bill—Eliminates the column 1 (MFN) rate of duty on Yankee dryer cylinders under TSUS item 668.04. The previous temporary suspension of duty expired on December 31, 1981.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 109: Certain aircraft components and materials

House bill—Exempts from duty certain U.S.-made avionics systems and other equipment that had been installed in an aircraft exported from the United States and then assessed duties when the aircraft was reimported into the United States before 1970.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 111: Pipe organ parts

House bill—Eliminates the column 1 (MFN) rates of duty on pipe organ parts under TSUS items 726.60 and 762.62.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 112: Toy tea sets

House bill—Eliminates the column 1 (MFN) rate of duty on toy tea sets of ceramic ware.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 115: Increase in value limitations for duty-free importations of personal articles by returning U.S. residents

House bill—

(1) A returning U.S. resident may import duty-free up to $600 (increase from current $300) of articles accompanying such person, acquired for personal or household use.

(2) A returning U.S. resident may import duty-free up to $800 (increase from current $600) of articles, whether or not accompanying such person, if such person arrives directly or indirectly from an insular possession, and not more than $400 (increase from current $300) of which shall have been acquired elsewhere than in such insular possession.

(3) The Secretary of Treasury may administratively exempt from duty up to $50 (increase from current $25) in bona fide gifts sent from persons in foreign countries to persons in the United States.

(4) The Secretary of Treasury may administratively exempt from duty up to $50 (increase from current $40) in articles for household use accompanying persons arriving in the U.S. who are not entitled to exemption under any other provision of TSUS Schedule 8.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 117: Prayer shawls

House bill—Eliminates column 1 (MFN) and column 2 rates of duty on prayer shawls, and headwear used in religious observances.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 118: Increase in value limitations applicable to informal entries of imported merchandise

House bill—Increases value from $600 to $1,000 of noncommercial articles for personal or household use accompanying a person arriving in the United States (other than duty-free articles or articles acquired in U.S. insular possessions) which are subject to a flat duty of 10 percent of the fair retail value in the country of acquisition.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 123: Carob flour

House bill—Temporarily suspends column 1 (MFN) rate of duty on carob flour under TSUS item 152.05 until December 31, 1984.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 125: Wood excelsior

House bill—Temporarily suspends the column 1 (MFN) rate of duty on wood excelsior until June 30, 1983. Previous temporary suspension expired June 30, 1981.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 146: Bicycle parts

House amendment to Senate amendment—Extends the existing suspension of column 1 (MFN) duties on certain bicycle parts to June 30, 1986. "Click stick levers" would not be included in the suspension, while cables and casings for caliper brakes and trigger on twist grip controls for 3-speed hubs would be added to the suspension.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 148: Hosiery knitting machines

House amendment to Senate amendment—Temporary suspension until September 30, 1985, of column 1 (MFN) rate of duty on single cylinder fine gauge hosiery knitting machines and double cylinder jacquard hosiery knitting machines. Current rates of duty are 5.7% and 6.9% ad valorem.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 149: Double-headed latch needles

House amendment to Senate amendment—Temporary suspension on doubleheaded latch needles of column 1 (MFN) rate of duty, currently $.41 per 1000 plus 14.2% ad valorem, until June 30, 1985.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 150: Protheses

House amendment to Senate amendment—Temporary suspension of column 1 (MFN) rate of duty, currently 8.4% ad valorem, on externally-powered electric prosthetic devices and their parts until September 30, 1984.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 152: Certain dolls and toy figures

House amendment to Senate amendment—Temporary suspension of column 1 (MFN) rates of duty until December 31, 1985, on (1) stuffed dolls, with or without clothing; (2) stuffed toy figures of inanimate objects; (3) inanimate objects not stuffed, but not wholly or mostly metal, rubber, or plastic; and (4) skins of dolls, toy figures of animate and inanimate objects. Current rates of duty range from 13.9% ad valorem to 17.1% ad valorem.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section

House amendment to Senate amendment—Would allow business documents to enter the U.S. in a no-entry required status as "intangibles" instead of entering duty-free under item 807.10 as is the present primary method. In addition would prohibit nominal consigness from conducting customs business on behalf of any other person, unless the consignee is a licensed customshouse broker.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 202—Bonded warehouses

House amendment to Senate amendment—Would allow articles to be delivered into successive bonded storage warehouses as long as the ultimate purpose remained that of export, be amending section 311 of the Tariff Act of 1930. Currently articles withdrawn from a bonded manufacturing warehouse may be delivered into any bonded storage warehouse at an exterior port for the sole purpose of immediate export.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 130: 4-Chloro-3-methylphenol

House bill—Temporary suspension of column 1 (MFN) rate of duty on 4-chloro-3-methylphenol under TSUS item 403.56 until June 30, 1984.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 137: Doxorubicin hydrochloride

House bill—Extends temporary suspension of column 1 (MFN) rate of duty on doxorubicin hydrochloride until June 30, 1984, retroactive to June 30, 1982, when the previous suspension expired.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 139: Tartaric acid and certain tartaric chemicals

House bill—Temporary suspension of column 1 (MFN) rates of duty on tartaric acid, potassium salts, cream of tartar, and sodium tartarate until June 30, 1984. Retroactive application to June 30, 1980, if request filed with Customs within 90 days after date of enactment.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 119: Certain metal waste and scrap

House bill—Provides permanent column 1 (MFN) duty-free treatment on copper waste and scrap, articles of copper, and other metal waste and scrap articles. Current column 1b rate would apply to copper waste and scrap and articles of copper if the market price of copper falls below $.51 per pound.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 103: Furs from China

House amendment to Senate amendment—Repeals the embargo on furskins with respect to the People's Republic of China (PRC) imposed under headnote 4 to subpart 5 of schedule 1 of the TSUS.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 113: Classification of dolls and toy figures

House amendment to Senate amendment—Provides for realignment of TSUS items and new definitions for certain stuffed dolls and other toy figures classified under TSUS items 737.25 through 737.50.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 122: Cantaloupes

House amendment to Senate amendment—Suspends until May 15, 1985, the column 1 (MFN) rate of duty of 35% on fresh cantaloupes entered between January 1 and May 15 of each year provided for in TSUS item 148.17.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 124: Hatters' fur

House amendment to Senate amendment—Suspends until December 31, 1985, the column 1 (MFN) rate of duty of 15% on hatters' fur.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 127: Surgical drapes and sterile gowns

House amendment to Senate amendment—Reduces until January 1, 1988, the Column 1 (MFN) and column 2 rates of duty on disposable hospital gowns and drapes of fiber fabric to 5.6% and 26.5% respectively. The present column 1 (MFN) rates are $.20 per pound plus 14% for drapes. The column 2 rates are 76% for both items.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the Senate amendment.

Section 127: P-hydroxybenzoic acid

House amendment to Senate amendment—Suspends until September 30, 1985, the column 1 (MFN) rate of duty of 11.3% for P-hydroxybenzoic acid under TSUS item 404.44

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 128: Triphenyl phosphate

House amendment to Senate amendment—Suspends until September 30, 1985, the column 1 (MFN) rate of duty of 12.1% of triphenyl phosphate under TSUS item 404.84.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 129: Bis(4-Aminobenzoate)-1,3 propanediol (trimenthelyne glycol di-P-aminobenzoate)

House amendment to Senate amendment—Extends until June 30, 1984, the existing temporary suspension of the column 1 (MFN) rate of duty on TSUS item 405.08.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 132: Ethylbiphenyl

House amendment to Senate amendment—Suspends until June 30, 1985, the column 1 (MFN) rate of duty of 20.1% of ethylbiphenyl under TSUS items 402.52 and 407.16.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 134: Uncompounded allyl resins

House amendment to Senate amendment—Suspends until September 30, 1984, the column 1 (MFN) rate of duty of 8.4% on uncompounded allyl resins under TSUS item 407.16.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 133: Dicofol

House amendment to Senate amendment—Phased-down temporary reductions in duties until September 30, 1985, on dicofol under TSUS item 408.28: column 1 (MFN) rate of duty 10.3% as of January 1, 1983, 9.5% as of January 1, 1984, 8.6% as of January 1, 1985; LDDC rate 6.9% during entire period; column 2 rate 7 cents per pound plus 41%. Effective 15 days after date of enactment.

Senate amendment—Permanent duty reduction reclassified under item 408.24: initial column 1 (MFN) rate of duty 11.2%, reduced annually to 6.9% as of January 1, 1987. Retroactive application on non-liquidated entries if request filed with Customs within 90 days after enactment.

Conference agreement—The conferees agreed to the House provision for a temporary duty reduction and the Senate provisions on the effective date.

Section 143: Certain Freight Containers

House bill—Temporary suspension of column 1 (MFN) rate of duty until December 31, 1986, on freight containers used in international trade with gross mass rating of at least 40,000 pounds and manufactured at least 5 years prior to date of entry.

Senate amendment—Same, except 5-year age requirement not included.

Conference agreement—The conferees agreed to the Senate provision.

Section 155: Upland Cotton

House bill—Suspends duty on imports entered during a period of time when a special quota is proclaimed to section 103(f) of the Agriculture Act of 1949.

Section 103(f) of the Agriculture Act of 1949 as amended permits special quotas, in addition to the permanent annual quota, to be proclaimed for a 90-day period if cotton prices exceed certain specified levels. Such imports are subject to existing rates—ranging from duty-free to $.02 per pound.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision.

Section 105: Classification of certain fabrics

House bill and amendment to Senate amendment—No provision.

Senate amendment—Reclassifies all fabrics of pile construction, under TSUS items 346.05 through 346.65, resulting in column 1 (MFN) duty increases to 22.1% through 35.5%, and column 2 rates of 31.25% through 50% for the primary fabrics, i.e., unfinished cotton corduroy, and cotton velveteen. Current column 1 (MFN) rates for those fabrics are 7.4% ad valorem and 9.2% ad valorem; column 2 rates are 13.5% ad valorem and 18.5% ad valorem.

Conference agreement—The conferees agreed to the Senate amendment.

Section 144: Cobalt

House bill and amendment to Senate amendment—No provision.

Senate amendment—Extends temporary suspension of column 1 (MFN) rate of duty on cobalt from June 30, 1982, to June 30, 1983.

Conference agreement—The conferees agreed to the Senate amendment.

Section 141: Copper scale

House amendment to Senate amendment—Suspends until September 30, 1985, the

column 1 (MFN) rate of duty of 6.6% for copper scale under TSUS item 603.70.

Senate amendment—Identical provision except for a termination date of December 31, 1985.

Conference agreement—Conferees agreed to Senate provision.

Section : Seed potatoes

House bill and amendment to Senate amendment—No provision.

Senate amendment—Adds an "actual use" provision to permit the Customs Service to verify use of potatoes entered into the United States as seed stock rather than table stock.

Conference agreement—The conferees agreed to the Senate amendment.

Section 147: Certain texturing machines

House amendment to Senate amendment—Suspends until September 30, 1985, the column 1 (MFN) rate of duty of 5.3% on certain texturing machines under TSUS item 670.06.

Senate amendment—Eliminates column 1 (MFN) duty on certain texturing machines specially designed for stretch or heat-set texturing of continuous manmade fibers. The duty elimination would be retroactive to March 1, 1982, if a request were filed with Customs within 90 days of enactment.

Conference Agreement—The conferees agreed to the House provision.

Section 136: Sulfathiazole

House bill and amendment to Senate amendment—No provision.

Senate amendment—Temporary reductions of duty on sulfathiazole: Column 1 (MFN) from 29.4% to 13.3% from January 1, 1983, to January 1, 1984, 11.9% from January 1, 1984, to January 1, 1985, and 10.6% from January 1, 1985, to January 1, 1986; LDDC rate 8.0% during entire period; column 2 rate 7 cents per pound plus 80%.

Conference agreement—The conferees agreed to the Senate provision.

Section 120: Carrots

House-passed bill and amendment to Senate amendment—No provision.

Senate amendment—Temporary suspension of Column 1 (MFN) rate of duty until June 30, 1985, on culled carrots imported in bulk containers of 100 pounds of more, during the period August 15 to February 15 under a quota of 20,000 tons.

Conference agreement—The conferees agreed to a two-year suspension of duty.

Section 135: Sulfapyridine

House-passed bill and amendment to Senate amendment—No provision.

Senate amendment—Temporary suspension of column 1 (MFN) and column 2 rates of duty on sulfapyridine until December 31, 1985.

Conference agreement—The conferees agreed to the Senate provision.

Section 131: Color Couplers

House amendment to the Senate amendment—Extends existing temporary suspension of column 1 (MFN) rates of duty on color couplers and color intermediates from June 30, 1982, to September 30, 1985.

Senate amendment—Same provision, except request for retroactive application must be filed with a customs officer within 90 days after the date of enactment.

Conference agreement—The conferees agreed to the Senate provision.

Section 114

House-passed bill—Eliminates column 1 (MFN) rate of duty, currently 22.1%, and LDDC duty, currently 11.4% for casein button blanks.

Senate amendment—Identical provision, except treats amendments in column 1 rates as trade agreement obligations.

Conference agreement—The conferees accepted the Senate amendment.

Section 121

House-passed bill—No provision.

House amendment to Senate amendment—No provision.

Senate amendment—Continues temporary suspension of column 1 (MFN) rate of duty on red peppers, currently 12.0%, from June 30, 1981, to June 30, 1985. Previous temporary column 1 (MFN) suspension expired June 30, 1981. Provision for a retroactive application of suspension, to June 30, 1981, if request filed with Customs within 90 days after enactment.

Conference agreement.—The conferees agreed to the Senate amendment.

Section 153

House-passed bill—No provision.

House amendment to Senate amendment—No provision.

Senate amendment—Extends implementing legislation for the International Sugar Agreement, which expires January 1, 1983, until January 1, 1985.

Conference agreement—The conferees agreed to the Senate amendment.

Section 154

House-passed bill—No provision.

House amendment to Senate amendment—No provision.

Senate amendment—Extends the implementing legislation for the International Coffee Agreement, which expired with the joint resolution, until October 1, 1985.

Conference agreement—The conferees agreed to the Senate provision.

Section 106: Fourdrinier wire

House amendment to Senate amendment—Eliminates column 1 (MFN) rate of duty on Fourdrinier wire for use in papermaking machines.

Senate amendment—Identical provisions except retains current duties on plastic wire.

Conference agreement—Conferees agreed to Senate amendment.

Section 110: Insular possession

House amendment to Senate amendment—(1) Eliminate 70% foreign content limit for duty-free entry of watches from insular possessions under general headnote 3(a);

(2) Establish new 7 million unit annual limit on duty-free entry with adjustment flexibility downward by no more than 10% or upward by no more than 20% in any one year;

(3) Continue country allocation authority for the Secretaries of Commerce and Interior;

(4) Provide a duty rebate for the industry on a by-company basis which reflects the amount of local labor content in the watches.

Senate amendment—No provision.

Conference agreement—The conferees agreed to the House provision with an amendment and the following intent.

In developing the regulations dealing with minimum assembly requirements (under Sections 115 (f) and (h)) the Secretary shall ensure that the activities and work performed on the watches in the Virgin Islands, Guam, and American Samoa will be meaningful and add significantly to the value of the product. The Committee is aware of past instances where watches have been assembled with only minimal work in our insular possessions and then allowed to enter this country duty-free. The intent of the conferees, therefore, is to ensure that substantial and meaningful work be performed, or duty-free treatment should not be allowed.

Conference agreement—The conferees agreed to the Senate provision.

Fish Nets and Netting

House bill—

(1) Phased down permanent reduction of col. 1 rate to 17.0%: $.15 per lb. + 26.7% as of 1/1/83; $.09 per lb. + 22.8% as of 1/1/84; $.03 per lb. plus 18.9% as of 1/1/85 and 17.0% as of 1/1/86.

(2) Effective as of 1/1/83.

Senate amendment—Tariff-rate quota with col. 1 rate of 17.0% on the amount entering during any 12-month period beginning April 1 which is the greater of 1,750,000 lbs. or 28.5% of U.S. consumption during the preceding such calendar year. Tariff quota expires 7/1/89. No change in col. 2 rate. Provisions apply to articles entered after 3/31/83.

Conference Agreement—Conferees deleted the provision.

SUBTITLE B

Sections 161-168—Implementation of the Nairobi protocol

House bill—No provision.

Senate amendment—Sections 161-167 implement the Nairobi Protocol to the Florence Agreement. The protocol provides for duty-free treatment for a broader range of educational, scientific, and cultural materials and articles for the handicapped than is currently provided in U.S. law implementing the Florence Agreement.

Conference agreement—The Conferees agreed to the Senate Amendment.

Title II, sections 201-215—implementation of the cultural property convention

House bill—No provision.

Senate amendment—Sections 201-215 implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property. These provisions authorize the President to enter into agreements to restrict imports of illicitly-traded artifacts when the major importing nations are implementing similar controls. The provisions also authorize the President to impose import controls unilaterally in an emergency, and they bar the importation of certain items identified as having been stolen from museums or similar institutions abroad.

Conference agreement—The Conferees agreed to the Senate Amendment.

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
BILL FRENZEL,
Managers on the Part of the House.

BOB DOLE,
BILL ROTH,
JOHN C. DANFORTH,
RUSSELL LONG,
LLOYD BENTSEN,
Managers on the Part of the Senate.

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 4566) to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes. And that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the chairman of the subcommittee tell us what happened to section 2 of this bill as it relates to tuna?

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. GIBBONS. The House provision was agreed to.

Mr. ROUSSELOT. So the gentleman did not recede to the Senate on section 2.

Mr. GIBBONS. That is correct.

Mr. ROUSSELOT. Am I correct in my understanding that the tuna industry is not very excited about that?

Mr. GIBBONS. Well, they did not tell the House Members they were not excited. They apparently told one or two Senators. But this bill still has to go through the Senate. And they are operating under unanimous-consent requests over there.

Yes, this bill has to go to the Senate. We act first on the conference report.

Mr. ROUSSELOT. Further reserving the right to object, if I wanted to be a hero with the tuna industry and object, this would be the time to do it, or should I wait for it to go to the Senate?

Mr. GIBBONS. I do not think so.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I now yield to my colleague, the gentleman from Minnesota (Mr. FRENZEL.)

Mr. FRENZEL. I thank the gentleman for yielding.

I would say that the gentleman has already become a hero on the gas tax bill with the California public utilities section. I hope the gentleman will resist the urge to become a hero twice, because that bill is not through the Senate yet itself.

Mr. ROUSSELOT. Well, are the gentlemen telling me that this bill has a hard road to go, swim upstream with the tuna over there in the Senate?

Mr. GIBBONS. That is just one of the many, many items in here. In fact, most of the items in this bill, the trouble was we found Senators fighting with each other over the bill. Some were for the provisions and some were against them. I do not know what is going to happen to this bill in the Senate.

Mr. ROUSSELOT. Are we going to have a full discussion of this bill?

Mr. GIBBONS. All the gentleman wants, and maybe more.

Mr. ROUSSELOT. All right. I guess I will be a neat guy.

Mr. FRENZEL. The gentleman has always been a neat guy.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House today, Tuesday, December 21, 1982.)

Mr. GIBBONS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. GIBBONS) is recognized for 30 minutes.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

This bill is what we call one of the small item tariff bills. It is a real cross to bear.

History left us with a code, a Tariff Code, that has 6,000 major classifications in it. You must remember that the tariff laws are the oldest laws of the United States. And we have 6,000 classifications in that Tariff Code, major classifications, and Lord knows how many minor classifications we have in this tariff bill.

From time to time businessmen come here and ask their Member of Congress to see if they cannot get some adjustments in the Code. Sometimes they are changing tariffs, sometimes they are changing classifications, sometimes the tariffs go up, sometimes they go down, sometimes they are temporarily suspended.

Essentially the philosophy that guides the committee is to be very cautious.

We take testimony from all the members of the executive branch. We advertise. And we take testimony from all the proponents. If there are any opponents, we usually never take the matter up. And we try to work all the controversy our of these matters.

These matters are important, though, for American business and American jobs.

There are some products, some esoteric chemicals and things like that that this country does not make, never has made, and perhaps does not hold the patent to make. And we have to import those, to add them and to be component parts. And the same as far as knitting needles and knitting machines. We do lot of knitting in the United States but we do not make the needles and machines, or we do not make them as well as other people do, and the people in the textile industry come in and say will we suspend or remove the duty on those.

We normally start off, Mr. Speaker, if there is any controversy, we usually do nothing. If it is new and it is a first time exposure to us, we temporarily suspend the duty to see if other American manufacturers or producers want to get into the field. And after a length of time, we hear nothing from anyone, we come along and maybe remove the tariff.

These tariff things go up and down. They are very small in nature, and they have little or no impact upon the budget.

I will be glad to yield half of my time to the gentleman from Minnesota, the minority member of the committee, or to anyone who wants to ask any questions.

Mr. ROUSSELOT. Will the gentleman yield briefly?

Mr. GIBBONS. I will be glad to yield to the gentleman.

Mr. ROUSSELOT. Could the gentleman explain to us, since I understand he was the author of what is known as section 2 in this bill, could he now explain what that does to the tuna industry as it relates to Samoa?

Mr. GIBBONS. It really takes the law back to where it was before somebody down in the bureaucracy tried to change it by executive fiat. It is a question of whether you count Samoa in or out of the quotas.

Mr. ROUSSELOT. What does that mean in the American tuna industry when you have Samoa exempted or not exempted? What does that mean?

Mr. GIBBONS. It means that the quota is slightly larger. By not counting Samoa, tuna is imported tuna. Now, what is the way we have always done it in the past. Somebody down in the executive branch changed the system of counting.

Mr. ROUSSELOT. In other words, the change was made by executive order or something.

Mr. GIBBONS. Yes, sir.

Mr. ROUSSELOT. From what it previously was.

Mr. GIBBONS. Correct.

Mr. ROUSSELOT. Why is the American tuna industry or some of them concerned about that change back to what it was?

Mr. GIBBONS. You know, I do not know, because they have never told me. As I say, this bill is almost 2 years old. In fact, it passed our committee, it passed the House over a year ago. It has been lounging around in the other body for over a year and a half. I guess probably the CBI debate stirred up everybody, and maybe, you know, we adopted an amendment here on the floor to take tuna completely out of the CBI.

Mr. ROUSSELOT. In the Caribbean Basin Initiative bill we exempted the tuna industry from the potential that they considered that that would be as a threat. But what you are saying is does the gentleman believe that going back to what the law was before this Executive fiat action is somehow not that damaging to the tuna industry?

Mr. GIBBONS. I do not believe it is that damaging .

Mr. ROUSSELOT. And you have no testimony to the effect it is.

Mr. GIBBONS. Correct. And nobody from the tuna industry has ever come to see me or as far as I know any member of our committee about it. They may have come to see the gentleman from California.

Mr. ROUSSELOT. No. I frankly have had phone calls and other concerns. But I must tell the gentleman until we have had this discussion, I did not fully understand what had happened in the past, that what you are doing under section 2 is merely trying to return the situation to what it was, and it really is not a drastic change.

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Mr. GIBBONS. The status quo ante is what they say, or something like that.

Mr. ROUSSELOT. Well, I thank the gentleman for the explanation.

I hope that in this portion of his remarks he will add any additional information that is needed to clarify what the gentleman is doing with section 2 of this act.

Mr. GIBBONS. All right, I will be glad to.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I am going over the list of things that are covered in the bill and I am trying to figure out where there might be some things that would raise some questions.

I remember when the bill was on the floor there was some concern about the China fur tariff elimination.

Am I correct that all of that has been worked out and that the Minnesota fur people or the Wisconsin fur people and all those who are worried are no longer concerned about this particular provision?

Mr. GIBBONS. It is my impression they are not concerned, because I have not received any comments from them or from any of their representatives of those areas.

They were really worried about Russian fur. When I talked to them last and when we told them this only included Chinese fur, the last time I talked to them, they had no further objection.

Mr. WALKER. What about the casein blanks that is in there?

Mr. GIBBONS. That is casein blanks, that is button blanks is what it is. There is nothing in here having to do with casein. I am very familiar with that issue. This bill would never have gotten that far had there been any casein language in there. All the members of the Agriculture Committee are aware of that problem.

Mr. WALKER. Cantaloup duty suspension, do we not raise plenty of cantaloups in this country that they might be concerned about the competition?

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. Yes; I would be glad to yield.

Mr. FRENZEL. That was the bill that was requested by the chairman of the Agriculture Committee who comes from cantaloup area and I think from time to time seasonally they need to do some importation.

Mr. GIBBONS. The problem, I say to the gentleman from Pennsylvania (Mr. WALKER) is that the only thing a grocer really has got to sell is shelf space and growers in this country, even though they may have competitive vegetables or whatever—a melon, that is what a cantaloup is—they do not like to lose their shelf space. Sometimes a grower in this country will import in order to keep the supply going to the grocery stores, into the chains, so that they do not lose their shelf space.

As I say, the gentleman from Texas (Mr. DE LA GARZA), the chairman of the Agriculture Committee, was the chief sponsor of that particular proposal.

I have had nobody express to me any objection to the cantaloups. It does help the consumer at a time when the American producers are not able to produce cantaloups because of the weather. These cantaloup come in, they are seasoned slightly different than ours and it keeps the prices down and it keeps the shelf space in the grocery stores.

Mr. WALKER. Mr. Speaker, if the gentleman would yield further, I would simply say that I do not intend to object to the bill. It appears as though they are items that are not a problem; but I would hope that in the future these kinds of bills would not come up under this kind of process.

I was concerned when we were assembling papers at the desk just before we came out with the bill and I would hope that this kind of bill would not come before us in the waning hours of the session in the future.

Mr. GIBBONS. Let me assure the gentleman from Pennsylvania that the gentleman from Florida feels that way. We are not only going to change the procedure in the Ways and Means Committee, as far as I am concerned, but I want to tell the gentleman from Pennsylvania that we sent these bills to the Senate, some of them over a year ago and, as I say, they languished and aged over there and picked up, some of them picked up opposition. They were dropped along the way. Some of them we dropped in conference today because opposition was expressed.

These are not controversial matters and I appreciate the courtesy of the gentleman from Pennsylvania and his diligence.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, the gentleman from Florida has yielded me half of his time.

I hope the bill will be speedily passed. I think it is a good bill. It takes into account the wishes of nearly half the Members of this House. It is a shame that the Senate did not respond with our bills soon enough so that we could make a more orderly presentation to the House. I hope we will be able to do so in the future.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two conference reports just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there any additional business to come before the House?

The Chair recognizes the majority leader, the gentleman from Texas (Mr. WRIGHT).

THE AMERICAN FARMER NEEDS HELP NOW

(Mr. WHITTEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WHITTEN. Mr. Speaker, one of the most serious situations facing the country today is the plight of the American farmer. I think that by January or February the situation is going to be such that many of the farmers will default because they have no way of paying on the $200 billion they now owe.

The farmers need help now if we are to avoid bankruptcies on a tremendous scale.

PAYMENT IN KIND

Mr. Speaker, we have pending a bill which provides for payment in kind. It has passed the House and is now awaiting action in the other body. That bill would allow the Secretary of Agriculture to exempt payments in kind from requirements in the law which prevent the competitive sale of

U.S. farm products overseas and which limit the amount a farmer may receive in land diversion payments.

Mr. Speaker, we need more than that. We need to repeal all restrictions on the Commodity Credit Corporation. Those engaged in agriculture are so desperately in need of any help that this may help increase their collateral so that they can borrow the money they need to farm in this coming year. I would point out, however, the minute you start a pay-in-kind program, you had better not continue it, for soon there will be a year when farmers will not have to farm and then all of agriculture will go broke for farm production will be reduced to only that for domestic consumption.

It must be remembered that payment in kind reduces all the gross spending that would normally go on in the farm community—chemicals, seed, farm equipment—everything connected with agriculture. If this reduction is kept over a period of years, we will not only feel the effects in all our communities, but it will lead to a breakdown in the overall economy which I describe later in my remarks.

WE NEED ACTION NOW

Mr. Speaker, we need to act now to save farmers from bankruptcies. We need to stop holding off world markets the huge amounts of commodities that are surplus to our domestic needs.

We should direct the Secretary of Agriculture to offer commodities for sale for export to the highest bidder in such amounts and quantities as are necessary to meet world needs.

The deduction of 50 cents per hundredweight from the proceeds of the sale of milk should not be in effect at any time unless surplus Commodity Credit Corporation-owned stocks of dairy products are regularly offered for sale for export to the highest bidder, as authorized by the Commodity Credit Corporation charter. The dairy farmer should not bear the cost of our failure to offer surplus dairy products for sale.

And land diversion payment limitations should be removed in order to restore agricultural income at this time when farm costs of production are excessive and prices received by farmers are below such costs.

Furthermore, if the officers and directors of the Commodity Credit Corporation fail to protect the assets of the Corporation by regular sale of farm commodities in world trade at competitive prices, they should be disqualified and other officials, who can and will properly discharge their responsibilities as officers of the Corporation, should be appointed.

Also, all laws which restrict the authorities and obligations contained in the charter of the Commodity Credit Corporation to sell commodities surplus to domestic need should be repealed.

WORLD NEEDS OUR FOOD

Mr. Speaker, the hungry people of the world are crying for food at the same time that we are holding huge amounts of surplus commodities off world markets. This food is surplus to American needs—but it is not surplus to world needs.

This food is also the biggest advantage that we have over Russia, for they can in no way compete with us in the production of food. Unfortunately, we are failing to use that advantage. Instead of using our advantage, we hold our farm commodities off world markets, and store them instead of making them available to the needy people of the world.

Mr. Speaker, once again I must call attention to the fact that the basis for all our prosperity, the basis for our economy, goes back to the wonderful job that those engaged in agriculture do for the rest of us. I do not believe there is any nation in history other than the United States where 4 percent of the people provide food, clothing, and shelter for the other 96 percent of the people so that they can do something else. That 4 percent of our people also supply food to our neighbors abroad, to people abroad who are so badly in need of food.

REVOLVING FUND

Years ago, the Congress established the Commodity Credit Corporation for the purpose of supporting farm prices, and for buying and selling commodities.

CCC was originally incorporated under the laws of Delaware and is now a wholly owned Government corporation. CCC operates as a fully funded revolving fund of $25 billion with authority to support prices, to buy commodities, and to sell competitively in world trade. The proceeds are returned to the fund for further use. CCC is the biggest revolving fund that I know of in history. CCC is the only organization of our Government that has the authority under its charter to buy and sell, the same way as our competitors. But for several years, we have not used this $25 billion for that purpose. We must return to using it.

To hold U.S. commodities off world markets is to hold an umbrella over world prices at the expense of U.S. farmers. Our customers can then take delivery from our competitors at just under our price.

WORLD MARKETS

For agricultural commodities, the world price is the only real price. The rest of the world sells to their domestic market at the world price, but then taxes their people. We, however, choose not to add a user's tax to food, but rather maintain a cheap food policy for our domestic market, and make up the difference between domestic price and world price by direct payments in order to keep our farmers in business. This policy results in Government-owned inventories at artificially inflated prices.

Yet, when we try to sell in world trade at competitive prices—the rest of the world calls it "dumping." By doing so, they try to conceal their own domestic policies.

As a result, we do not sell our commodities, we store them. By storing our commodities and offering only at an artificial inflated price, we hold our umbrella over the world price and let the rest of the world make the sales.

Refusing to sell surplus products and then making the farmer pay the cost of that policy is unacceptable. These products are surplus to domestic needs—they are not surplus to world needs. It is unconscionable to refuse to sell food when millions of people throughout the world go to bed hungry every night, and then make the farmer bear the cost of that policy. Not only is this policy unconscionable, it also will not work. The history of our efforts at production controls clearly demonstrates that such controls are not a satisfactory substitute for competitive sales abroad.

CCC'S AUTHORITY TO SELL

The Commodity Credit Corporation Charter Act provides unlimited authority to sell competitively in world markets. Like most exporting nations of the world, we should sell what we produce and do not need for what it will bring in the world markets. Past experience has shown that, when buyers have the opportunity to support world prices by their bids, markets throughout the world are strengthened and commodities flow freely through the normal channels of trade. Loss of markets to our competitors has proved the dangers of an artificial price umbrella over world markets fixed by a governmental policy.

Mr. Speaker, I would point out that it is the obligation of the officers of any corporation to protect the assets of their corporation. So it is with the officers of the Commodity Credit Corporation. Failure to sell is a failure to protect the assets of the Corporation. The present Directors and officers of the Corporation, including the general sales manager, are all employees of the Department of Agriculture and are also subject to policies from outside the Department which, at times, clearly are not in the interest of U.S. agricultural producers. If, by being Federal employees, they are unable to operate freely in carrying out their duties, then they should step aside and allow their positions to be filled by non-Federal employees, who have had experience in world trade and who can and will properly discharge their responsibilities as officers or Directors of the Corporation. This change would give the Corporation the independence of action that Congress intended and

would free the Corporation from restrictive sales policies.

Only in this way can American agriculture be protected and enabled to retain its export business.

Mr. Speaker, I am very much concerned that many who are setting agriculture policy today are unaware of the errors of the past.

Mr. Speaker, today many are calling for less volume to get price, but a higher price offset by a lower volume does not help, just as greater volume for less price does not help either. The error is that as a Government policy, we are giving away foreign markets, when the production of 2 acres out of every 5 must be exported for a healthy U.S. agriculture here at home.

It is absolutely essential that we work to keep the supply of and demand for agricultural commodities in balance, if we are to avoid the choice between going hungry and going broke. We must sell it for what it will bring—not to break a competitor but to protect our own economy. Likewise, we must relate the farmer's prices to his cost—see that volume and price exceed cost—and that he maintain foreign markets.

We must remove restrictions on the Commodity Credit Corporation so it can use its existing authority to make loans and to sell or barter competitively in world markets.

Mr. Speaker, an increase in export sales in essential if we are to avoid farm bankruptcies on a tremendous scale. And, we must remember that if the farmer goes down, the rest of us—whatever our business—go down, too.

With the United States pleading for world support, we need to supply food to a hungry world for what it can pay—instead of paying our farmers not to produce. If we produce beyond domestic needs, we must not hold such productin off world markets and away from those in need. Too often we provide guns when we should provide food.

What we really need is to have the history of the last Depression required reading by all Government officials, and certainly by those who deal with agriculture, so that we prevent a recurrence of what happened before. Truly this is a case of an ounce of prevention being worth a pound of cure.

LESSONS OF HISTORY

I repeat again that the Great Depression, if we study history, started out with a fall in the income of those engaged in agriculture. If the Members will read the history of the Great Depression, and I hope they will, they will find that the farm programs were first passed in an effort to restore the purchasing power of the farmer. In my area, Mr. Speaker, we have had three short crops. Over 60 percent of our people are borrowing money from Farmers Home Administration to stay in business. I have urged the Secretary of Agriculture, the Director of the Office of Management and Budget, and the President to study each of those cases. In those cases where they can stretch out the time of payment, I have asked them to do everything they can to help the borrower to work his way out of his present situation because once you start foreclosing, it will spread like wildfire.

Many Members wonder why I feel so strongly about this. It is because I came to Congress right after the Great Depression, which lasted 10 years. Many economists can tell you why we had the Great Depression, but I have never heard of one who can explain why it lasted 10 years. You could drive 100 miles from my hometown in any direction and be lucky to find one man who owned his land. As a youngster of 21 I voted to extend from 1 to 3 years the time to redeem land sold to the State for taxes. You could not buy a bag of flour on the credit of the State of Mississippi.

May I say to the Members that the course we are following today is exactly the course that was followed preceding the Depression, first by Mr. Hoover and then by Mr. Roosevelt. When Mr. Roosevelt found it did not work, he turned the other way.

Mr. Speaker, we must sell. And, in a hungry world, this country should not hold back on food for people, while sending them guns and weapons of war, which the people do not want but their leaders do—as status symbols. Our records show we have sold or provided such weapons of war to 78 countries—many of them tiny countries you never heard of—and we are always surprised when they use them.

We need again to use the Commodity Credit Corporation like it was intended. We need to offer what we have in surplus and not keep it from the rest of the world. We need to make some friends again. We need, above all, to keep the farmer in business so be can provide food for the rest of us.

$26 BILLION DISASTER THREATENS NATION'S BOND MARKET

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANSEN of Idaho. Mr. Speaker, the following letters and news clippings tell a startling story which needs immediate congressional investigation:

AUGUST 5, 1982.

Special attention: Mr. Michael P. Flaherty, General Counsel.

Hon. FERNARD J. ST GERMAIN,
Chairman, Banking, Finance and Urban Affairs Committee, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to our discussion, I am enclosing the GAO audit and other information regarding the Washington Public Power Supply System (WPPSS) situation. My key concerns here are that the financial burdens created for the construction of the five plants called WPPSS 1 through 5 are of such monstrous size as to be the dominant factor in the whole economy of the area.

During the current investigation, which I initiated several months ago on April 1, I continue to come upon very disturbing allegations.

The small cooperatives and municipal users of BPA power have had literally no say in the terms or amount of bond underwritings against their credit.

After the entire project began to come apart (WPPSS 4, 5 and 1 having been terminated), the single most lucrative bond issue in the history of Merrill Lynch, Pierce, Fenner and Smith was floated.

There is currently no way to monitor whether the proceeds of the bond issue are, or have in the past been used for the purposes for which they were issued.

WPPSS has been accused of comingling funds for all projects. It is possible that the small cooperatives and municipals (the 88) are being charged with debts that do not relate in any way to their intended purpose.

In one instance, a small cooperative has, as its share of the total obligation to date, a sum equal to almost $40,000 dollars per subscriber.

It is alleged that the bond underwriters had a significant part in drafting the contracts under which the 88 joined in supporting the construction of 4 or 5. In that drafting, the rights of the 88 on termination of 4 and 5 were removed from the final contract offered to the individual users in the 88.

The 88 were brought in, not because of intrinsic power considerations, but because of an adverse Internal Revenue Ruling on expense write-off on WPPSS 1, 2 and 3. Only then were the small users (the 88) brought in, as a substitute inducement to investors for the loss of the tax shelter.

Some of these allegations have been supported by the interim GAO study just completed, which was done at my request and dated July 30, 1982. For others, there are varying degrees of evidence. I am pursuing as much verification as possible, due to the involvement of federal entities in what seems to be the tailoring of a power project to the needs of the bond investment community, and for no other apparent purpose.

There is now only one of the plants slated for completion, and one other which may be salvaged. But after years of expense, there is not a single guaranteed kilowatt of generating power. There is, however, a public debt which some estimates put as high as 25.8 billion dollars, a sum exceeded only by the United States national debt in the public obligation area.

One of the foremost problems here is, even if the members of the 88 agree to pay, the size of the obligatioin is clearly beyond their capacity to pay and creates the likelihood of a default of an unprecedented size in the investment market. For comparison I only remind you the Chrysler guarantee was less than 8 percent the size of this problem.

For these reasons I respectfully request your review of this situation and look forward to cooperating with you and the Banking Committee in investigating and in finding appropriate solutions to this massive problem.

In addition to the enclosed information and additional files which I am pleased to make available to you, you may wish to con-

tact Mr. John Brown at the General Accounting Office, at 275-8545.

Sincerely,

GEORGE HANSEN,
Member of Congress.

AUGUST 10, 1982.

Special attention: Mr. Michael P. Flaherty, General Counsel.

Hon. FERNAND J. ST GERMAIN,
Chairman, Banking, Finance and Urban Affairs Committee, Washington, D.C.

DEAR MR. CHAIRMAN: As Members from the Northwest, we are deeply concerned on behalf of our constituents with the growing financial crisis arising out of the WPPSS nuclear power construction program. There is increasing evidence that the small users of Bonneville Power Administration electric supply will be driven into financial collapse and perhaps even bankruptcy if forced to pay in accordance with the written terms of their contracts on the failed project. But even more frightening is the prospect that whether they pay or not, the economic vitality of the Northwest has been seriously impaired and financial stability of the bond-market in the Region and perhaps in the entire United States has been prejudiced.

There is now a body of indications that the economic disaster to the small electric utilities is in no small measure attributable to the involvement of the financial community. These underwriters participated in drafting the contracts which are so dangerous to the survival of the 88 small utilities and which favored the salability of the bonds. The Rural Electrification Administration openly acknowledges that the advantage to the bond market is more of interest to it than the survival of the 88.

We have now been apprised that the PNGC newsletter, Status Report, (July 30, 1982, Volume VI, No. 7) makes the following incredible statement: "The U.S. General Accounting Office (GAO) recently decided that BPA made the correct recommendation to WPPSS this spring when the federal power marketing agency recommended that WPPSS nuclear Plant 1 be mothballed. Although construction on another plant was not as far along, the GAO said, that plant's partially private ownership would have led to lawsuits had WPPSS tried to mothball it."

There could not be any clearer signal that something is radically wrong. BPA, a federal agency charged with distributing power makes a decision involving hundreds of millions of dollars of financial liability against certain public power users to favor private power users. This is even more shocking when it is realized that the public power users are already under control of BPA and REA. In essence this decision alone requires Congressional review.

The picture shows BPA offloading liability on the 88 small power users in WPPSS on the basis of who is likely to sue and then REA attempts to further foreclose lawsuits by telling those same users that if they sue on the WPPSS contracts they will be denied future credit. The facts show that BPA induced the 88 into the contract with WPPSS on representations of power shortages which were grossly overstated. They arranged the elections within WPPSS to put maximum financial burden on the 88 and then together with REA they tried to coerce the 88 not to pursue legal or other remedies on pain of a credit cut off—all this to pay for a power system which will never produce a kilowatt of electrical energy.

It would not overstate the matter to conclude that these federal agencies charged by Congress with bringing technological advancement to the less developed areas of the country, have been the servants of the interests of the financial movers of the Wall Street bond underwriting group to the damage and perhaps the destruction of the small electric users of the Pacific Northwest.

BPA, REA, the Department of Justice, and even the GAO have all acted or approved certain acts in concert which have the combined effect of creating or approving an economic calamity for public power in the Pacific Northwest—a twenty-six billion dollar debt and no power. In any case, there appears to be no federal agency free of involvement in the disaster of WPPSS to give an unbiased report to Congress on the problem in general and the causal relationship between the needs or desires of the financial community and the imminent collapse of the small utilities of the Northwest.

As if to confirm this view, GAO recently took the position that default by the 88 on the WPPSS bonds would adversely affect the economy of the region. Based upon interviews with Wall Street financial interests, they added that default could affect the ability of the region itself to raise capital in the bond market. Conveniently, GAO ignored the fact that, even if compelled to pay, many of the 88 would collapse and never make the payments anyway.

Under such circumstances, it is our view that only an investigation through hearings by the Banking Committee can provide the responsible overview necessary to guarantee a proper resolution of a problem which could indeed adversely affect the region and many other regions of the country already plagued by problems of many financial institutions in a failing credit market. It appears that in the WPPSS situation and others like it, the influence of the sources of the capital is disproportionate to their proper role.

If the financial powers in this country have become so arrogant that they can decide which areas of the country will prosper and which will decay, we think that it is time for a thorough review by Congress of where they got this power and how we can limit it. Your immediate attention to this critical matter is strongly encouraged.

Sincerely,

GEORGE HANSEN.
LARRY E. CRAIG.

P.S.—Several of our colleagues from other states have expressed their concern to us over the issue of the financing of the WPPSS projects. We are advised that they will also be in direct communication with you either jointly or severally. We hope that you will be able to give this matter as prompt attention as is possible under the circumstances.

AUGUST 18, 1982.

Special attention: Mr. Michael P. Flaherty, General Counsel.

Hon. FERNAND J. ST GERMAIN,
Chairman, Banking, Finance and Urban Affairs Committee, Washington, D.C.

DEAR MR. CHAIRMAN: It is becoming increasingly obvious, as I pointed out in earlier correspondence, that the problem of the disintegration of the five nuclear projects of WPPSS is not merely one of the abuse of federal authority to trap small utilities into a plan of dubious feasibility. Included in the problem is the economic viability of the Pacific Northwest in the foreseeable future as well as the role played by the financial community and the possibility of huge default in bonds.

Last Friday's announcement in the attached Wall Street Journal article of August 16, 1982 that the rate increase to Kaiser Aluminum alone put in jeopardy the investment of $600 million into the economy of the area. When the President of Kaiser says that he has "extreme concern about how reliable the industrial future is in the Northwest", the dimensions of the disastrer caused by the combination of factors involving BPA and WPPSS in concert with the financial interests who helped shape the calamity begin to appear.

Untold numbers of jobs, not to speak of the crippling financial damage to the average ratepayer, are part of the price of this fiasco. In size alone, this is too mammoth to be treated as a mere regional problem. When the GAO can report that the New York financial powers are threatening to shut off credit not merely to the power users but to the entire area, and even power interests across the country, we are faced with a national problem.

The basis on which the astronomical costs of mismanagement can be mitigated is only one of the problems we face. The pressure of the WPPSS collapse has given even the private power companies an opening to raise their rates, even without direct involvement in WPPSS. We are witnessing the pressures of the almost incomprehensible size of the WPPSS debt begin to twist and warp the very fabric of the area's economic life.

At this moment, the WPPSS disaster threatens to end the proposed modernization of a major area industry; create a major agricultural crisis; throw more than half of the area public power utilities into bankruptcies; triple the cost of users of electricity; and dry up the area's sources of credit. Hard as it is to visualize the size of a $25.8 billion debt, it is easy to see the consequences as they begin to emerge.

I doubt that anyone yet knows the solution to the problem, but I do know that it cannot be allowed to drift along until the entire area is a wasteland. Since it is now beyond contest that the federal government was the prime engine in creating the fertile ground for the tragedy, it is vital that we in Congress move immediately to get all the available facts and seek how to limit the damage of what is fast becoming the worst tragedy in the history of the Northwest, if not the entire nation.

What appears to be a coverup of governmental negligence or mismanagement has now reached the proportion where individual small investors may lose heavily on the collapse of bond obligations.

Sincerely,

GEORGE HANSEN,
Member of Congress.

P.S.—Mr. Chairman, the immensity of the WPPSS bond liability exposure cannot be exaggerated when one compares the $26 billion involved to the trauma generated by (1) the Chrysler bailout ($1.5 billion government guarantee); (2) the New York City bond bailout (some $4 billion); (3) the Franklin National Bank failure (total asets less than $4 billion); (4) the current Penn Square failure (losses anticipated not to exceed $200 million); and (5) Drysdale Securities losses, absorbed by Chase Manhattan whose securities are now being shied away from as a result (involved some $160 million loss).

Apart from the human cost of the Vietnam war, the Congress yearly endured highly emotional debate on the economic toll for more than a decade. But the liability of WPPSS is more than 60 percent of the

total cost ($40 billion) of that war—a cost which was spread over 200 million people—as opposed to a narrow band of 7 million who must bear the $26 billion cost of this domestic nuclear disaster.

AUGUST 10, 1982.

Hon. JAKE GARN,
Chairman, Senate Banking, Housing, and Urban Affairs Committee, Washington, D.C.

DEAR MR. CHAIRMAN: I am sure you share my deep concern in behalf of constituents with the growing financial crisis arising out of the WPPSS nuclear power construction program. There is increasing evidence that the small users of Bonneville Power Administration electric supply will be driven into financial collapse and perhaps even bankruptcy if forced to pay in accordance with the written terms of their contracts on the failed project. But even more frightening is the prospect that whether they pay or not, the economic vitality of the Northwest has been seriously impaired and financial stability of the bond market in the Region and perhaps in the entire United States has been prejudiced.

I am certain your own constituents in northern Utah have expressed their concern to you during these past few months since the huge proportions of the problem have become evident.

There is now a body of indications that the economic disaster to the small electric utilities is in no small measure attributable to the involvement of the financial community. These underwriters participated in drafting the contracts which are so dangerous to the survival of the 88 small utilities and which favored the salability of the bonds. The Rural Electrification Administration openly acknowledges that the advantage to the bond market is more of interest to it than the survival of the 88.

I have now been apprised that the PNGC newsletter, Status Report, (July 30, 1982, Volume VI, No. 7) makes the following incredible statement: "The U.S. General Accounting Office (GAO) recently decided that BPA made the correct recommendation to WPPSS this spring when the federal power marketing agency recommended that WPPSS Nuclear Plant 1 be mothballed. Although construction on another plant was not as far along, the GAO said, that plant's partially private ownership would have led to lawsuits had WPPSS tried to mothball it."

There could not be any clearer signal that something is radically wrong. BPA, a federal agency charged with distributing power makes a decision involving hundreds of millions of dollars of financial liability against certain public power users to favor private power users. This is even more shocking when it is realized that the public power users are already under control of BPA and REA. In essence this decision alone requires Congressional review.

The picture shows BPA offloading liability on the 88 small power users in WPPSS on the basis of who is likely to sue and then REA attempts to further foreclose lawsuits by telling those same users that if they sue on the WPPSS contracts they will be denied future credit. The facts show that BPA induced the 88 into the contract with WPPSS on representations of power shortages which were grossly overstated. They arranged the elections within WPPSS to put maximum financial burden on the 88 and then together with REA they tried to coerce the 88 not to pursue legal or other remedies on pain of a credit cut off—all this to pay for a power system which will never produce a kilowatt of electrical energy.

It would not overstate the matter to conclude that these federal agencies charged by Congress with bringing technological advancements to the less developed areas of the country, have been the servants of the interests of the financial movers of the Wall Street bond underwriting group to the damage and perhaps the destruction of the small electric users of the Pacific Northwest.

BPA, REA, the Department of Justice, and even the GAO have all acted or approved certain acts in concert which have the combined effect of creating or approving an economic calamity for public power in the Pacific Northwest—a twenty-six billion dollar debt and no power. In any case, there appears to be no federal agency free of involvement in the disaster of WPPSS to give an unbiased report to Congress on the problem in general and the causal relationship between the needs or desires of the financial community and the imminent collapse of the small utilities of the Northwest.

As if to confirm this view, GAO recently took the position that default by the 88 on the WPPSS bonds would adversely affect the economy of the region. Based upon interviews with Wall Street financial interests, they added that default could affect the ability of the region itself to raise capital in the bond market. Conveniently, GAO ignored the fact that, even if compelled to pay, many of the 88 would collapse and never make the payments anyway.

Under such circumstances, it is my view that only an investigation through hearings by the Banking Committee can provide the responsible overview necessary to guarantee a proper resolution of a problem which could indeed adversely affect the region and many other regions of the country already plagued by problems of many financial institutions in a failing credit market. It appears that in the WPPSS situation and others like it, the influence of the sources of the capital is disproportionate to their proper role.

If the financial powers in this country have become so arrogant that they can decide which areas of the country will prosper and which will decay, I think that it is time for a thorough review by Congress of where they got this power and how we can limit it. I am enclosing a copy of my letter further outlining the problem to Chairman Fernand St Germain of the House Banking Committee of which I am a member. Your immediate attention to this critical matter is strongly encouraged, particularly due to the direct interest it holds for you and all of us in the area affected.

Sincerely,

GEORGE HANSEN,
Member of Congress.

AUGUST 18, 1982.

Hon. JAKE GARN,
Chairman, Senate Banking, Housing, and Urban Affairs Committee, Washington, D.C.

DEAR MR. CHAIRMAN: It is becoming increasingly obvious, as I pointed out in earlier correspondence, that the problem of the disintegration of the five nuclear projects of WPPSS is not merely one of the abuse of federal authority to trap small utilities into a plan of dubious feasibility. Included in the problem is the economic viability of the Pacific Northwest in the foreseeable future as well as the role played by the financial community and the possibility of huge default in bonds.

Last Friday's announcement in the attached Wall Street Journal article of August 16, 1982 that the rate increase to Kaiser Aluminum alone put in jeopardy the investment of $600 million into the economy of the area. When the President of Kaiser says that he has "extreme concern about how reliable the industrial future is in the Northwest", the dimensions of the disaster caused by the combination of factors involving BPA and WPPSS in concert with the financial interests who helped shape the calamity begin to appear.

Untold numbers of jobs, not to speak of the crippling financial damage to the average ratepayer, are part of the price of this fiasco. In size alone, this is too mammoth to be treated as a mere regional problem. When the GAO can report that the New York financial powers are threatening to shut off credit, not merely to the power users but to the entire area, and even power interests across the country, we are faced with a national problem.

The basis on which the astronomical costs of mismanagement can be mitigated is only one of the problems we face. The pressure of the WPPSS collapse has given even the private power companies as opening to raise their rates, even without direct involvement in WPPSS. We are witnessing the pressures of the almost incomprehensible size of the WPPSS debt begin to twist and warp the very fabric of the area's economic life.

At this moment, the WPPSS disaster threatens to end the proposed modernization of a major area industry; create a major agricultural crisis; throw more than half of the area public power utilities into bankruptcies; triple the cost to users of electricity; and dry up the area's sources of credit. Hard as it is to visualize the size of a $25.8 billion dollar debt, it is easy to see the consequences as they begin to emerge.

The immensity of the WPPSS bond liability exposure cannot be exaggerated when one compares the $26 billion involved to the trauma generated by (1) the Chrysler bailout (1.5 billion government guarantee; (2) the New York City bond bailout (some $4 billion); (3) the Franklin National Bank failure (total assets less than $4 billion); (4) the current Penn Square failure (losses anticipated not to exceed $200 million); and (5) Drysdale Securities losses, absorbed by Chase Manhattan whose securities are now being shied away from as a result (involved some $160 million loss.

Apart from the human cost of the Vietnam war, the Congress yearly endured highly emotional debate on the economic toll for more than a decade. But the liability of WPPSS is more than 60 percent of the total cost ($40 billion) of that war—a cost which was spread over 200 million people—as opposed to a narrow band of 7 million who must bear the $26 billion cost of this domestic nuclear disaster.

Mr. Chairman, I doubt that anyone yet knows the solution to the problem, but I do know that it cannot be allowed to drift along until the entire area is a wasteland. Since it is now beyond contest that the federal government was the prime engine in creating the fertile ground for the tragedy, it is vital that we in Congress move immediately to get all the available facts and seek how to limit the damage of what is fast becoming the worst tragedy in the history of the Northwest, if not the entire nation.

What appears to be a coverup of governmental negligence or mismanagement has

now reached the proportion where individual small investors may lose heavily on the collapse of bond obligations.

Sincerely,

GEORGE HANSEN,
Member of Congress.

[From the Wall Street Journal, Aug. 16, 1982]

KAISER ALUMINUM SAYS ELECTRIC RATES BOOST IMPERILS BIG PROJECT

OAKLAND, CALIF.—Kaiser Aluminum & Chemical Corp. is reconsidering previously announced plans for a $600 million modernization of two aluminum plants in Washington state, because of new industrial electricity rates announced Friday by the Bonneville Power Administration.

Kaiser said the rates are higher than earlier estimates it received from Bonneville. The company said the rate boost would result in a $52 million increase in production cost next fiscal year, instead of the $28 million increase it anticipated.

Kaiser's president, A. S. Hutchcraft, said the increase "has given me cause for extreme concern about how reliable the industrial future is in the Northwest." He added that company lawyers are examining certain aspects of the decision for a possible appeal to the Federal Energy Regulatory Commission.

A Kaiser spokesman said a deadline hasn't been set for its reexamination of plans.

A spokesman for Bonneville Power Administration, which sells power to Washington, Oregon, Idaho and western Montana, said, "No promises were made or intended" to Kaiser regarding the rates. "There's no question that the increase is hurting the aluminum industry in the Northwest," he said, adding: "We understand that. We believe the rates are necessary, although hurtful."●

GAO CONFIRMS BPA AND REA RESPONSIBILITY IN WPPSS DISASTER

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANSEN of Idaho. Mr. Speaker, a July 30, 1982 General Accounting Office investigation has clearly identified Bonneville Power Administration and Rural Electrification Administration actions and activities affecting utility participation in Washington Public Power Supply System Plants 4 and 5. The report follows:

REPORT BY THE U.S. GENERAL ACCOUNTING OFFICE; BONNEVILLE POWER ADMINISTRATION AND RURAL ELECTRIFICATION ADMINISTRATION ACTIONS AND ACTIVITIES AFFECTING UTILITY PARTICIPATION IN WASHINGTON PUBLIC POWER SUPPLY SYSTEM PLANTS 4 AND 5

Congressman George Hansen asked GAO to examine the roles of the Bonneville Power Administration and the Rural Electrification Administration in development and termination of Washington Public Power Supply System Plants 4 and 5.

GAO found: BPA provided electric demand forecasting help to small regional utilities, endorsed the need for additional generating units, supported utility participation in the plants, and acted to indirectly facilitate termination of the plants.

REA directed its borrowers to pay their debts to the Washington Public Power Supply System and implied their financial standing with REA could be affected if their obligations on plants 4 and 5 are not met.

U.S. GENERAL ACCOUNTING OFFICE,
ENERGY AND MINERALS DIVISION,
July 30, 1982, Washington, D.C.

Hon. GEORGE HANSEN,
House of Representatives,
Washington, D.C.

DEAR MR. HANSEN: In your April 1 and 8, 1982, letters and in subsequent discussions with the General Accounting Office, you requested that we determine how activities of the Bonneville Power Administration (BPA) and the Rural Electrification Administration (REA) affected two uncomplete nuclear powerplants (WNP-4 and 5) recently terminated by the Washington Public Power Supply System (Supply System). You expressed concern that BPA may have encouraged regional utilities to participate in these projects and that REA may be coercing rural cooperatives not to challenge the cooperatives' financial and legal responsibilities to the Supply System.

In an April 20, 1982, letter to you, we identified five concerns we would specifically examine in addressing your concerns. These areas are:

BPA's involvement in regional demand forecasting.

BPA's representation of the region's need for additional generating capacity to its customers during this timeframe.

BPA's involvement, if any, in its customers' decisions to participate in plants 4 and 5, and the respective levels of their participation.

Recent BPA actions which directly or indirectly relate to termination of plants 4 and 5.

Recent REA actions directed toward BPA customers which could affect the customers' approach to terminating plants 4 and 5.

We found that BPA: Played a role in providing electric demand forecast assistance to small customers and provided input to the region's forecast, endorsed the need for additional generating units to meet regional power needs by defending the validity of the regional forecast, supported the participation of its preference customers [1] in plants 4 and 5, and took several actions indirectly facilitating attempts to mothball and then terminate plants 4 and 5.

We found that REA directed its borrowers to meet their Supply System obligations, and implied that their present and future financial standing with REA could be affected if they do not honor their obligations on plants 4 and 5.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to ascertain the facts and circumstances surrounding the five issues agreed to in our April 20, 1982, letter. To obtain information with respect to BPA's involvement in forecasting, representations on need for additional generating capacity, and involvement in customers' decisions to participate in the Supply System's nuclear plants 4 and 5, we reviewed BPA files and records pertaining to the subjects from the mid-1960s to the present. This included correspondence with various Pacific Northwest utility organizations, the Supply System, BPA studies and reports on the region's power supply and demand outlook, and regional forecasts.

To supplement this information and obtain a clear perspective of BPA's role, we identified and interviewed key BPA officials having major roles in the evolution and development of the region's power program. We specifically discussed with BPA's former Administrator, Deputy Administrator, Power Manager, and an Area Office Manager what role BPA played in forecasting the region's power needs, what pronouncements it made on the need for additional generating capacity, and whether the agency influenced its customers in deciding to participate in the construction of the Supply System plants. We also discussed the issues with present BPA officials including the Administrator and Deputy Administrator. In addition, we met and discussed these issues with representatives from the region's Public Power Council, public utility districts, municipalities, and REA cooperatives to obtain their views on the events and circumstances regarding BPA's involvement and role. The utilities we met with included those you identified, others identified by another member of the Northwest congressional delegation, and others selected outside this group to provide a broader based sample.

In examining recent BPA actions related to termination of plants 4 and 5, we reviewed recent BPA files and correspondence and discussed with key BPA officials the role BPA played in the termination.

Time constraints required that we limit our review to BPA's role. Consequently, we were unable to examine the roles of other organizations in the decision to pursue and eventually terminate these plants. These include the Supply System, the Public Power Council, Pacific Northwest Utilities Conference Committee, and large industry. In evaluating BPA's activities, it is important to keep in perspective their status as one of many key organizations.

With respect to recent REA actions, we met with REA headquarters officials in Washington, D.C., and interviewed REA field representatives in the Pacific Northwest to determine their interest and role in the termination of plants 4 and 5. We also discussed REA actions with cooperatives who are participants in plants 4 and 5 as well as with representatives of the National Utilities Cooperative Financial Corporation to obtain their comments and views. In addition, we reviewed REA's files and records including field activity reports, cooperatives' financial records, participant and loan agreement, and correspondence.

We performed our review in accordance with GAO's current "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." Information on the five concerns and our findings follow. To understand the nature of these concerns and the history of electricity development in the Pacific Northwest, a detailed background is provided in appendix I.

BPA INVOLVEMENT IN REGIONAL DEMAND FORECASTING

Although BPA was not the primary organization for regional forecasting, it played a role in providing assistance to its small preference customers, and provided input for the region's forecasting. The official regional forecast, as recognized by the utilities, is published annually by the Pacific Northwest Utilities Conference Committee (PNUCC). This is a regional power planning organization with representation from BPA and the public and private utilities in the Pacific Northwest. The PNUCC regional

[1] Under statute, BPA must give preference in selling Federal power to publicly owned systems e.g., the public utilities which purchase power from BPA have traditionally been labeled BPA preference customers.

forecast which is used for planning additional generation facilities is compiled from the individual utility forecasts of which BPA's input represented about 40 percent of the demand projections. During the 1970s, BPA's involvement in forecasting regional demand focused on providing technical assistance to its customers.

This assistance varied from providing minor help on technical issues in some instances to fully preparing the demand forecasts for smaller customers. BPA's forecasting assistance is provided by five economists or public utility specialists assigned to its Area and District offices who work with its customers in the preparation of their demand forecasts. The forecasts are then sent to BPA's headquarters office for review. Final approval of the forecast rests with the utility. However, BPA officials told us that many of their preference customers were small utilities with limited staffs and technical expertise in demand forecasting. Accordingly, BPA officials acknowledged that they relied on BPA's expertise for assistance in such areas and accepted the forecast prepared by BPA.

Generally, the degree of BPA involvement was inversely proportional to the size of the customer utility—the smaller the customer the greater BPA's involvement. The approximately 100 utilities receiving assistance from BPA made up approximately 20 percent of the 1974 regional demand projections. BPA also did demand estimates for the Federal agencies and industries it serves directly. For the most part, these demands were set contractually and involved little forecasting per se. The Federal agencies and industries made up an additional 20 percent of the region's 1974 demand projections. The remaining 60 percent of projected demand was from the private utilities and large public utilities which developed their forecasts independently.

BPA'S REPRESENTATION OF THE REGION'S NEED FOR ADDITIONAL GENERATING CAPACITY TO ITS CUSTOMERS

BPA and utility officials as well as documents obtained from their files agree that BPA endorsed the need for additional generating units to meet regional power needs. BPA published an annual summary of the regional forecast during the mid-1970s entitled "Power Outlook." In these documents, BPA repeatedly cited the energy deficits which were being forecast and stated that additional delays in starting construction on new thermal plants would exacerbate an already serious energy supply situation.

Additionally, in May, 2 months following publication of its 1976 "Power Outlook" BPA published a special report entitled "The Electric Energy Picture in the Pacific Northwest." This report emphasized that greater deficits were projected in the 1976 forecast than in previous years. The following chart taken from BPA's special report demonstrates the increase of projected deficits. These deficits were projected through 1987 with Supply System plant 4 anticipated to come on line in 1983 and plant 5 in 1985.

BPA not only endorsed the forecast calling for additional generating units but also publicly defended the forecast against critics. In response to a critique from the Washington State Thermal Power Plant Site Evaluation Council, BPA stated that the forecast was the "best available tool for projecting the future demand for electricity in the Pacific Northwest." BPA also expressed concern that the regional forecast might, in fact, be too low.

Although BPA endorsed the regional forecast and thereby the power deficits it projected, we found no indication that BPA made an independent evaluation of the methodology or assumptions used in the total forecast. A possible reason for this was that the demand growth predicted for the Pacific Northwest of about 6 to 7 percent was similar to projections for the rest of the Nation. To meet projected demand, utilities across the country were planning to start construction on new thermal plants to avoid deficits. For example, in 1978 the Tennessee Valley Authority had 17 nuclear units under construction to meet projected demand growth. Eight of those units are currently deferred because the forecasted demand growth did not materialize and TVA is now considering whether to cancel four units.

BPA'S INVOLVEMENT IN CUSTOMERS' DECISIONS TO PARTICIPATE IN PLANTS 4 AND 5

According to BPA's Administrator during the mid-1970s, BPA "actively supported" the participation of its preference customers in plants 4 and 5. This is further supported by BPA correspondence from the time period and by statements made by public utility officials we interviewed. A November 8, 1974, letter from the BPA Administrator to BPA's preference customers discussed the need for plants 4 and 5 and another nuclear plant. That letter stated in part:

"These projects are scheduled * * * to meet Northwest utilities' load growth during the mid-1980s. Major financing will be needed in 1975 to maintain the construction schedules for these essential projects * * *.

"Any utility which needs additional power resources in the mid-1980s will need to enter the Participant's Agreements with WPPSS at this time. Only by utilities signing these agreements can these generating projects be constructed on the schedule required to meet loads of Northwest utilities after July 1, 1983."

Another letter on June 11, 1975, from the BPA Power Manager to REA who was reviewing the option agreements for plants 4 and 5 on behalf of REA cooperatives stated:

"Resources available to meet the estimated loads of BPA's preference customers, including REA borrowers, after July 1, 1983, would be inadequate without the capability of the projects. We know of no other projects, under construction or planned, available to the customers which would fulfill the need in the time frame that the projected need exists. While we cannot verify each utility's load estimate, our participation in load estimating procedures of the REA borrowers indicates that the estimates generally conform with current BPA load estimating standards.* * * Finally, a major strength of the proposed projects is that they have been planned to meet the region's preference agencies' load growth as a whole. These agencies through their participation in the Public Power Council have acted together to plan for their future power supply. By participating in the projects, the cooperatives have been given the opportunity to buy capability from the project at cost."

Later, at a March 17, 1976, BPA Regional Advisory Council meeting, the BPA Administrator made the following comments:

"The first one that came to mind * * * was that we wanted to provide some certainty in the planning process for those who have a responsibility to their own local customers. The second objective we listed was that we wanted to meet the regional power requirements. In that regard we thought it was important, if possible, to find a way to keep the WPPSS plants 4 and 5 on schedule.

* * * * *

"All of this boils down to the fact, * * * it would be desirable for public power to continue to try to keep plants 4 and 5 on schedule."

BPA continued to support its customers participation in plants 4 and 5. In April 1976, BPA met with its preference customers to inform them that BPA would not be able to meet all their future power requirements, and that they would soon be receiving the "notice of insufficiency." As a result of uncertainty created by the lack of a BPA power allocation policy, the preference customers were reluctant to sign up for plants 4 and 5, fearing that if they did so they would be later penalized by BPA in the allocation process. The Administrator told them he would be sending them a letter, which he later did, assuring them that they would not be penalized in any future BPA policy on power allocation for participating in the plants.

Information distributed at the BPA April 1976 Preference Customer Meeting showed that the estimated cost of Supply System plants 4 and 5 was about $2.4 billion. During the afternoon session of this meeting, representatives from the Supply System discussed the participants and ownership agreements for the two nuclear plants. A week after this meeting, the Supply System mailed participants agreements and related documents to prospective participants giving them 90 days to execute the agreements.

Further actions by BPA include meeting with preferance customers in late May 1976 to discuss the deteriorating power supply picture and the importance of the region having adequate resources to meet projected demand requirements and participating in plants 4 and 5. Supply System representatives also attended the meeting to discuss the plants and answer questions of prospective participants. Also, BPA told its preference customers in the June 1976 notice of insufficiency that it would be unable to meet their future power requirements. Subsequently, in July 1976, 88 public utilities and 1 investor-owned utility signed agreements for plants 4 and 5.

Although it is not possible to quantify the impact BPA's statement had on the utilities' decision to participate, the notice of insufficiency, according to a number of participants, was a strong factor in their decision to participate in plants 4 and 5.

In addition to encouraging customer participation in the plants, BPA helped its customers determine their respective level of participation. According to a BPA official, a utility's percentage of participation in plants 4 and 5 was determined by using a formula developed by the Supply System. Each participant's share was aimed at 80 to 90 percent of their demand growth between 1983 and the late 1980s. In November 1974, BPA scheduled customers' meetings in each of its five service areas to explain the need for, and purpose of the proposed participant agreements. The BPA letter scheduling the meeting stated that its area power managers were to work with each utility to help determine the need for and amount of participation by each utility in projects 4 and 5.

BPA ACTIONS RELATED TO TERMINATION OF PLANTS 4 AND 5

Although it had no direct financial interest in plants 4 and 5, BPA management was

concerned that an uncontrolled termination of the plants could impact on the three net billed plants. BPA, therefore, took several actions indirectly affecting attempts to mothball and terminate plants 4 and 5. In July 1981, as cash for the plants was running out, BPA reached an agreement with the Supply System to sell $100 million of nuclear fuel contracts and spare parts from plants 4 and 5 to one of BPA's net billed plants. The $100 million transferred to plants 4 and 5 allowed the Supply System to keep these plants financially alive until October 1981, an extension of 2 months, and provided additional time to find future funds for the plants. Between October 1981 and January 1982, BPA also assisted in attempts to develop a mothballing plan. At this time BPA was working with the Supply System and other regional power entities on alternatives to termination and encouraged the participation of various groups in the mothballing proposals including private utilities and large industry. For example, BPA agreed to act as an escrow agent for the participants during this period to collect the loan funds.

In October 1981, regional utilities and large industry agreed to loan the Supply System $60 million to fund plants 4 and 5 while attempts were being made to develop a mothballing plan.[2] Between October 1981 and January 1982, the Supply System worked to obtain short-term loans from the 88 project participants. However, sufficient funds were not obtained, and the Supply System adopted a resolution terminating plants 4 and 5 on January 22, 1982.

REA ACTIONS DIRECTED TOWARDS BPA CUSTOMERS

Subsequent to the Supply System's decision to terminate plants 4 and 5, REA has directed its borrowers (that are both customers of BPA and participants in the plants) to meet their Supply System obligations, and implied that their present and future financial standing with REA could be affected if they do not honor their obligations on plants 4 and 5. For example, after the Supply System's decision to cancel the plants, REA in a January 29, 1982, letter to its borrowers endorsing an orderly termination of the project stated: Each system is expected to honor Supply System obligations, steps should be taken to implement rate increases to meet Supply System obligations, and defaults by the Supply System could trigger actions and litigations accelerating the financial obligations of the participants.

REA also asked its borrowers to establish and submit plans for meeting Supply System obligations and requested that their boards pass a resolution agreeing to advance money for the termination costs of the plants.

On February 10 and March 22 and 23, 1982, REA and the National Rural Utilities Cooperative Financing Corporation[3] held joint meetings with the participants to discuss their obligations and formulate a unified approach in addressing some issues raised about termination. Several REA borrowers who attended the meetings alleged that although REA did not prohibit borrowers from legally challenging their obligations to the Supply System, REA implied they would have difficulty obtaining REA financing if they did. REA officials, however, said they told the participants they appreciated their problems but still expected them to honor their commitments whether or not they were involved in lawsuits challenging the payments. Further, REA officials maintain that at the March meetings they assured borrowers they would "work with those" that were unable to meet their Supply System debts. REA, however, kept no minutes of the meetings or elaborated on how it would work with its borrowers.

According to REA's files, their field staff warned several borrowers to honor their Supply System debts. For example, in a March 25, 1982, field report, an REA representative wrote in reference to one borrower and its questions on paying its Supply System obligation: "As the system is way past due to come in for a new loan application I felt it was only right to notify their manager as to the obligations of the system well before this goes any further." Another document in REA's files indicated that some borrowers may have been led to believe that the agency would not process future loan applications unless they agreed to pay the obligations. Further, the manager of one cooperative told us that an REA field representative had warned him that REA would replace him and the board if the cooperative challenged its Supply System commitments. The REA representative maintained that he did not make such a warning but only pointed out that REA has the authority to appoint a supervisor to conduct the cooperative's affairs if the borrower has difficulty meeting its obligations.

In an April 21, 1982, letter, REA also requested each borrower to develop and submit a financial forecast by June 30, 1982, indicating how it planned to meet its Supply System obligations, and stated that new loans and advances on previously approved loans would be withheld pending the receipt and review of the forecasts. REA stated that it could not continue approving loans or loan advances until it was assured that satisfactory plans to cover Supply System debts were developed. REA, however, did not specify what constitutes an acceptable financial forecast and advised us that they have no set criteria for reviewing the forecasts or determining whether they are satisfactory. With respect to advances on approved loans, REA advised us that they would continue to make advances if so required despite the letter.

In a May 1982 letter responding to an inquiry from one cooperative regarding the Supply System obligations, REA ignored the borrower's basic question. The cooperative wanted to determine if REA borrowers involved in legal action could withhold payment to the Supply System without objection or penalty from REA, provided that the utility had generated sufficient income to pay the obligation should the legal challenge be unsuccessful. REA's response did not directly answer the question, but stated only that the borrowers were expected to honor their obligations to the Supply System under the 1976 agreement. REA did not advise the cooperative whether or not it would be penalized if it chose to enter a lawsuit. An REA official in a May 1982 congressional hearing did, however, testify to the effect that REA would not penalize borrowers if they participated in lawsuits challenging the obligations.

In discussing the rationale for their recent actions, REA officials told us that they expect the borrowers to begin making their debt service payment to the Supply System beginning in January 1983 as required by contract. We were told that in REA's view, the cooperatives entered an agreement with the Supply System and have an obligation to honor this agreement although many of the borrowers may be faced with serious financial problems in meeting these payments. REA officials acknowledged that default on some of its direct loans to borrowers could increase if these borrowers are required to meet their Supply System obligations.[4] REA, however, has not reached any conclusions on possible defaults because it has not completed its review of borrower financial plans.

Further, these officials maintained that nonpayment of the Supply System debts could have even more serious consequences for REA. REA has taken this position because it is concerned that failure of its borrowers to pay their Supply System obligations could adversely affect REA's $26 billion loan guarantee program and the ability of its rural electric cooperatives to obtain funds in the private capital markets. REA maintains that its loan guarantee program would be adversely impacted if the "take or pay" provision of the Supply System agreement (see appendix I) is not upheld by the courts in the pending lawsuit and the borrowers are not required to pay the debt. Currently, REA guarantees loans to finance construction of power plants from the Federal Financing Bank to generating and transmission cooperatives all over the Nation. To protect REA's interest, generating and transmission cooperatives are required to have similar "take or pay" contract provisions with their distribution cooperatives for selling the power. This assures that the generating and transmission cooperatives will be paid even if power is never delivered, thus assuring that they would have funds to repay the loans.

REA is also concerned that the situation could make it difficult for its rural electric cooperatives to obtain funds from private markets. REA officials expressed concern that failure of its borrowers to honor the Supply System obligations would be viewed negatively by the entire financial community. Such a development, REA officials contend, would affect the credibility of the entire rural electric cooperative sector because the financial markets would perceive more risks in funding cooperative activities.

The National Utilities Cooperative Finance Corporation is a case in point. It borrows money from private capital markets for relending to rural electric cooperatives. Because of the Corporation's financial structure, its creditworthiness is directly tied to that of its member cooperatives. An adverse development with respect to the Supply System could make borrowing more difficult or costly for the National Utilities Cooperative Finance Corporation. Consequently, this could result in less private financing and lead to the necessity for more REA assistance.

AGENCY COMMENTS

A draft copy of this report was provided to BPA and REA for comment. Their detailed comments are included in appendixes II and III. BPA said the information regarding its activities was accurately stated. REA did

[2] The loans to the Supply System by 66 participants, 3 investor-owned utilities, and 12 direct service industry customers were made in equal amounts in Nov. and Dec. of 1981. The effective rate of interest on these loans is 15 percent, and the loans are due on July 1, 1984.

[3] The National Rural Utilities Cooperative Finance Corporation is a private lending organization which provides financing to rural electric utilities and has made loans to 34 of the participants.

[4] These loans amount to about $319 million.

not have any major objections to the report but did offer a number of specific comments expanding on REA's activities. We have evaluated REA's comments and incorporated them into the report where appropriate except for the following comment.

REA stated it has criteria for determining an acceptable financial forecast in REA Bulletin 105-5. We do not agree. The bulletin states that its purpose is "to provide electronic distribution borrowers with suggested forms and techniques for preparing a financial forecast." It does not state what REA's policy is or what criteria must be met to qualify for a loan. In contrast to REA, the National Rural Utilities Cooperative Finance Corporation has an official statement "Policy and Procedures Memorandum-Loans-1" setting forth its specific loan policy and has a supplemental memorandum establishing additional loan conditions for Supply System participants.

We trust this material answers your questions. As arranged with your office, we will not release this report to other interested parties for 7 days unless you publicly announce its contents earlier. At that time, copies will be sent to interested parties and will be made available to others on request. If we can be of any further assistance, please let us know.

Sincerely yours,

J. DEXTER PEACH,
Director.

APPENDIX I

BACKGROUND ON ELECTRIC POWER IN THE PACIFIC NORTHWEST

The diverse nature of regional power development in the Pacific Northwest [1] has given rise to a myriad of regional power supply and power planning institutions consisting of a public, private, and Federal mix. BPA, the major power supplier in the Northwest, currently wholesales approximately 50 percent of the region's power. The remaining 50 percent is generated by a number of private and public utilities and publicly owned utility groups. About 100 public utilities are distributors only, buying their power requirements from BPA.

The Supply System and the Pacific Northwest Generating Company (PNGC) are two utility groups involved with generating power for the regional system. Formed in 1957 under the laws of the State of Washington, the Supply System (made up of 23 utility members) has the authority to acquire, construct, and operate generating plants and other related facilities. The Supply System was formed by the public utilities to enhance their ability to successfully undertake these activities. Formed in 1975, PNGC is currently a consortium of 20 rural electric cooperatives. PNGC activities to date have been primarily limited to purchase of shares in generating facilities owned and constructed by other utilities.

Until the 1960s, nearly all the region's electric energy needs were met by hydroelectric projects built on the Columbia River system. In the mid-1960s, projected future demand exceeded the projected baseload capability of the region's hydropower system. In response, in October 1966, BPA and the region's public and private utilities formed the Joint Power Planning Council, with the BPA Administrator as chairman, to study the region's future need for electric power and to develop a plan to meet that need.

As a result of this effort, the Hydro Thermal Power Program was developed in 1969 to meet forecasted electrical demand by incorporating new coal-fired and nuclear generating plants into the existing hydroelectric system. The initial activities of the program involved constructing seven large thermal plants, expansion of the generating capacity at hydroelectric projects, and further development of the Federal transmission system. The seven generating plants included the Supply System's nuclear units 1, 2, and 3; Portland General Electric's Trojan Nuclear Plant, and Boardman Coal Plant; and Pacific Power and Light's Centralia and Jim Bridger Coal Plants.

BPA agreed to participate in financing the Supply System's units 1, 2 and 3 construction through an arrangement with its preference customers called net billing. Under net-billing, BPA acquires its preference customers' share of the electric power generated by the new non-federally financed thermal plants. This thermal power is integrated into BPA's hydroelectric system and sold to BPA's customers at BPA's rates. In return for the power acquired, BPA assumes the preference customers' share of the construction, operation, and maintenance costs of these plants. BPA pays for these costs by offsetting them against the amounts due BPA for the sale and/or transmission of power or sale of services to the preference customers.

In 1972, BPA's ability to assist in the net-billing financing of additional generating units was halted by two developments. First, due to increases in the projected costs associated with the net-billed plants, the annual cost to BPA was projected to exceed the revenues received from power sales and other services to preference customers. Second, the Internal Revenue Service issued a tax ruling revoking the tax exempt status of municipal bonds sold to finance powerplants if more than 25 percent of the capability is assigned to a Federal agency. These events, coupled with delays in the construction of the net-billed plants, led Northwest power planners to believe they would not have adequate resources to meet projected regional demand growth beyond the early 1980s.

Under these circumstances, the Secretary of the Interior instructed BPA in March 1973 to informally notify its customers that it would be unable to meet their full power requirements beginning in 1982 unless the utilities and BPA could develop another plan. These "notices of insufficiency" were intended to allow time for the utilities to obtain additional resources outside of the Federal system and for BPA to develop a policy for allocating the Federal power available. In December 1973, BPA and regional utilities agreed to a "phase II" of the Hydro Thermal Power Program.

Under phase II, the utilities would continue to construct thermal generating units but without BPA participation in financing of the plants. Additional generation took on a new importance to the region after 1973 when energy shortages caused by low water in the region's reservoirs prompted pleas from utilities that their customers conserve energy. Large industry loads were interrupted and at least one State adopted an emergency power curtailment plan. Due to the oil embargo, the Nation's energy policies were also focused on alleviating energy shortages.

By 1974, the Supply System, with support of the Public Power Council, was pursuing the development of plants 4 and 5 as part of phase II. The Supply System financed the initial development of the two plants with a $17.5-million note issue. These funds began to run out in 1975, and 93 regional utilities interested in purchasing shares of the plants' capability signed option agreements. The option agreements were then used to back the issuance of additional debt. Under the option agreements, utilities gained the right to execute a future agreement to purchase a share of the project capability.

Problems developed, however, with finalizing the formal participants agreements. Utilities were hesitant to sign the agreements unless BPA agreed their participation in plants 4 and 5 would not cause them to lose access to or be penalized in Federal power allocations. In early 1976, BPA alleviated this concern by assuring their preference customers that their participation in the plants would not place them "in a less favorable position than non-participating customers with respect to future allocations of BPA power." Also in June 1976, BPA formally notified their preference customers it would be unable to meet their full requirements after 1983.

Subsequently, 88 preference customers and 1 investor-owned utility agreed to participate in plants 4 and 5. REA also became indirectly involved in the construction of plants 4 and 5 even, though no Federal funding was involved because 41 of the participants were REA borrowers and could not participate in the projects without REA approval.[1] In September 1976, REA authorized its borrowers to participate in the construction financing of the two plants.

Between 1976 and 1981, the Supply System continued the construction of plants 4 and 5. However, construction delays and dramatically increased projected costs ($2.4 to $7.8 billion) began to cause regional concern over the two units. A January 1981 report by the Energy and Utilities Committee of the Washington State Senate raised "serious questions" about whether the plants would be completed. The report questioned whether the Supply System could continue to find buyers for bonds to finance the plants. In March the committee recommended the Supply System consider a "temporary pause" in construction.

In June 1981, the Supply System board, on the recommendation of its managing director, voted to slow down construction of the plants. As the year progressed, financing for the plants appeared in jeopardy, and the Supply System worked on plans to "mothball" the units to avoid terminating them. However, the participants were unable to come to an agreement on mothballing, and on January 22, 1982, the Supply System decided to terminate the two plants. The amount borrowed for these two plants was $2.25 billion and by the time this debt is retired, the principal and interest will amount to about $7.2 billion.

Because of the large financial costs to the participants and the fact that they will never receive power, several REA cooperatives have brought suit.[3] They are arguing

[1] The term Pacific Northwest as used here means the States of Washington, Oregon, Idaho, and Montana west of the Continental Divide.

[1] The Rural Electrification Act as amended (7 U.S.C. 902) authorizes REA to make and guarantee loans to rural electric cooperatives for financing the construction of electric generating, transmission, and distribution facilities. Under REA loan agreements, borrowers may not undertake any new financial obligations unless they are approved by the REA.

[3] Twelve REA borrowers filed a lawsuit on April 23, 1982, challenging the Supply System take or pay contracts.

that the "take or pay" provision of their contract is invalid, and that they do not have to honor their obligation to the Supply System. The Supply System contends that under the "take or pay" provision of the agreement, the participants are required to make payments whether or not the plants are completed or operable.

APPENDIX II

DEPARTMENT OF ENERGY,
BONNEVILLE POWER ADMINISTRATION,
July 22, 1982, Portland, Oreg.

Mr. J. DEXTER PEACH,
Director, Energy and Mineral Division, U.S. General Accounting Office, Washington, D.C.

DEAR MR. PEACH: We appreciate the opportunity afforded us by the General Accounting Office to comment on your draft report regarding the roles of the Bonneville Power Administration (BPA) and the Rural Electrification Administration (REA) in the construction of Washington Public Power Supply System projects WNP-4 and WNP-5. We have reviewed the draft report and find the facts reported regarding BPA activities are accurately stated.

We do not feel competent to comment on those matters relating to REA activities.

I believe you and your staff are to be commended on the objectivity and evenhanded manner in which you approached this complex assignment.

Sincerely,

PETER T. JOHNSON,
Administrator.

APPENDIX III

U.S. DEPARTMENT OF AGRICULTURE,
RURAL ELECTRIFICATION ADMINISTRATION,
July 20, 1982, Washington, D.C.

Mr. HENRY ESCHWEGE,
Director, Community and Economic Development Division, U.S. General Accounting Office, Washington, D.C.

DEAR MR. ESCHWEGE: This is in reply to your letter of July 13, 1982, to Mr. Harold V. Hunter, Administrator, Rural Electrification Administration (REA) for comments on the draft of the proposed report to Congressman George Hansen, entitled "Bonneville Power Administration and the Rural Electrification Administration Actions and Activities Affecting Utility Participation in Washington Public Power Supply System Plants 4 and 5 (GAO/EMD—82-105)." We appreciate the opportunity to review the draft and offer the following comments:

Page 9, first paragraph:

The letter written to all REA borrower/participants on January 29, 1982, was after the Washington Public Power Supply System (Supply System) had adopted a resolution to terminate Plants 4 and 5. Once the decision had been made by the Supply System to terminate, the participants' options were a "controlled" or "uncontrolled" termination of these plants. The earlier efforts to mothball the plants, which REA supported, had failed. It was REA's concern that possible actions arising from uncontrolled termination, including the possible acceleration of the debt of the outstanding bonds, would have an adverse effect on all participants. The acceleration of debt would seriously jeopardize the REA borrower/participants' ability to meet their obligations, including those to REA. Controlled termination, on the other hand, under which the participants were requested to advance funds to the Supply System as needed to provide the resources for an orderly termination of the plants, would forestall such acceleration and provide for repayment of outstanding debt over a much longer period of time. For this reason REA was of the opinion that support of the controlled termination program was the only viable alternative available to its borrowers.

Page 8, second paragraph:

The meetings on February 10 and March 22-23 were not only to discuss REA's position regarding controlled termination but were also an effort to improve communications and formulate a unified approach in addressing some of the issues raised about the controlled termination plan. Basic to both of these meetings were REA concerns over its own security interests in the borrower/participants and that refusal to honor contractual obligations under the 1976 agreement could have an adverse impact on the rural electrification program.

Page 9, bottom of page

Page 10, top of page:

REA's position is that our borrower/participants should honor all commitments made under the 1976 agreement unless otherwise determined by a court of law. REA's concern is that the actions of the borrower/participants who have undertaken legal efforts to resolve any areas of ambiguity which they feel might exist in the 1976 agreement not place in jeopardy REA's first mortgage lien upon the assets of the borrowers. Any claim on the borrowers' assets which could result from these legal efforts would create problems in continuing to advance existing loan funds and in obtaining additional loans from REA by imposing a threat to REA's existing security interests.

At the March 22-23 meeting, REA requested that each borrower/participant prepare a financial forecast on how they would meet their obligations. REA indicated to the group that it shares the borrowers' concern over the impact on rates and would work with the borrowers in developing their financial plans.

Page 10, first paragraph:

REA has certain rights reserved to it under the loan and mortgage documents executed by its borrowers which provide, among other things, that REA may take possession of and manage, control and operate a borrower's system under certain specified conditions of default. A borrower's financial difficulties in itself is not an event of default.

Page 10, second paragraph:

REA does have established criteria for determining an acceptable financial forecast. The criteria is outlined in REA Bulletin 105-5, and is basically the same as that used in connection with preparation and review of forecasts prepared by all of its borrowers on a regular basis. REA field personnel have conducted workshops and worked individually with borrower/participants to develop the financial plans requested by REA. An interpretation of the proper accounting for the Supply System costs and obligations has also been sent to each borrower/participant. REA has agreed to extend the deadline for submission of the financial forecasts as may be needed and to date has received 19 of the expected 41 forecasts.

Page 10, third paragraph:

REA's May 17, 1982, response to an inquiry from Orcas Power & Light Co. states that the "board of Orcas is certainly free to follow the advice of its legal counsel in an effort to resolve those areas of ambiguity which counsel and the board might find to exist in the WPPSS 4 and 5 agreements, providing that in doing so the first security interest in the assets of Orcas held by REA will not be placed in jeopardy." Whether any legal action undertaken by Orcas will be a threat to REA's security interest or not, cannot be judged at this time.

Page 11, first paragraph:

Although some borrower/participants have stated that rate increase sufficient to meet the Supply System obligations, in addition to their other operating costs, would be impossible to implement. REA has not yet completed its review of the financial plans to reach any such conclusion. Depending upon the economic conditions of the borrower's area and the rate increases necessary for the borrower to meet its obligations, the possibility of future defaults will be considered in REA's evaluation of the borrowers' financial plans.

Page 11, second paragraph:

Although it could have an adverse effect on REA's guaranteed loan program, if the "take or pay" provisions of the supply System agreement are not upheld, REA is not of the opinion that the program would be "destroyed".

REA would be happy to discuss any of the above comments with you or your staff.

Sincerely,

JOE S. ZOLLER,
Acting Administrator.

GAO note: Page numbers of the draft report were changed to correspond with those in this final report.●

DO REA AND BPA KNUCKLE UNDER TO BIG MONEY INTERESTS?

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANSEN of Idaho. Mr. Speaker, just how much power do the Wall Street bond underwriters have over agencies of this U.S. Government to force collection of bond issues? The following letters, regarding this scandalous Washington Public Power Supply System (WPPSS) and an expected default affecting billions of dollars in bonds, speak for themselves:

DECEMBER 9, 1982.

Hon. JOHN R. BLOCK,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: Several electric cooperatives in my state have advised me that the Rural Electrification Administration has been urging those cooperatives among the 88 participants in the WPPSS 4 and 5 project to be prepared to make payment on assessments by WPPSS which will come due in January, 1983. The REA position is tantamount to coercion, since it is coupled with allegations that REA will refuse credit to those coops which do not make the payment; will accelerate existing debts and will call all loans between REA and any nonpaying coop.

This stance of REA is unconscionable in the face of the massive litigation now proceeding in several cases contesting the validity of the contract under which these coops are alleged to be responsible for the WPPSS bonds, principal and interest. REA seems to be trying to force the coops involved into a position which would make the result of the litigation meaningless. It is not my understanding that the act of doing business with

the REA requires the waiver of the ordinary rights of parties, including that of a judicial determination of the meaning of so complex a contract as the participation agreement in WPPSS.

There is now an even more compelling reason to refuse payment under the WPPSS contract. The concomitant rate increase to coop customers has been contested in court and at least one coop is bound by a stipulation made to the court in a ratepayer case that it would make no payment under the WPPSS contract until ordered to do so by a court of competent jurisdiction. REA's position seems to be that the coop must go into contempt of court in order to service whatever priorities motivate REA.

I am advised that the Department of Agriculture has already mobilized a task force to move in and displace directors and management personnel of any coop which refuses or fails to pay these WPPSS demands by the alleged due date in January. Aside from the obvious fact that this procedure will result in yet another embarassing litigation, the mere act of planning such a course of action tends to confirm my growing conviction that the only really unforgiveable crime today is to offend the financial power structure. It appears that the WPPSS disaster is having the salutary effect of exposing to public scrutiny the immense power of these financial institutions and the lengths to which even government agencies will go to protect that power.

I strongly urge you to reconsider the attempts to coerce the small coops in the name of maintaining the integrity of the court system and for the basic reason that elemental fairness requires it.

Sincerely,

GEORGE HANSEN,
Member of Congress.

DECEMBER 14, 1982.

MR. HAROLD HUNTER,
Administrator, Rural Electrification Administration, Administrator's Office, Washington, D.C.

DEAR MR. HUNTER: I was pleased to have you come by my office today and renew our long acquaintance. It is particularly gratifying to have so prompt a response to my inquiry to you and Secretary Block. I also appreciate your willingness on Monday to meet and work with co-op delegations from the Northwest to address specific problems. Both your Agency and I are rightly concerned about the effect of the WPPSS situation on the continued operation of those electric cooperatives which look to REA for financial advice and assistance.

As we discussed, my concern is that REA not be or not be perceived as coercing the cooperatives to make payments to WPPSS before the legal liability of the group is determined by a court of competent jurisdiction. I have urged all parties through BPA Administrator Johnson and Secretaries Hodel and Watt that such a court decision may not be as desirable as a negotiated arrangement among the entities involved in WPPSS, including the federal government, the bond underwriters and the participants.

My concern remains that the solution not be arrived at by improper pressure on the participants from a federal agency. I am particularly gratified that you are prepared to enlist the resources of your agency in determining how the contracts were prepared and executed and how the financing history of the project developed. I look to your early follow-through on getting needed answers and pledge my cooperation in arriving at an equitable resolution of a most complex situation.

You can understand that these cooperatives are apprehensive that the REA will use its loan authority as a means of applying pressure on them. It is my understanding that REA has issued directives to participants which they perceive as requiring them to pass resolutions and make payments which would seriously jeopardize their legal positions in court actions; which would require them to take actions contrary to member mandates; which in some cases, would force them to violate orders of regulatory commission. Therefore, it is my hope that our conversation will induce REA to treat approved loans as outside the issue here and process them normally.

One serious question is the manner in which the bonds financing the WPPSS project were structured. As you know, I have asked key government people and the underwriters themselves to publicly reveal who now owns the bonds, how the rate of return was set and why the final nine issues were let on a negotiated rather than a competitive basis.

So that you will understand my concern about the potential for government agencies working for the financial community rather than for those for whom they are mandated to assist, I call your attention to comments by one Edward Kresky, a financial adviser to BPA. He says that the financial community feels that the 88 utilities are "able to pay but won't". Assuming that to be true, how does it bear on the mandate of REA and BPA to service and protect the legal rights of these entities and not the Wall Street community?

This same man says that participants who refuse to pay will be banished from the credit markets. Since he is speaking as a consultant to BPA, is he enunciating the government position even as to government financial credit? I think that it is past time for BPA and REA to come forward and make it clear whose interests they are protecting in this scandalous matter. It is further incumbent on both organizations, which, it appears, collaborated to induce the 88 to enter a participation agreement which both agencies had approved in advance, to make a full disclosure of all facts in their possession bearing on Agency decisions and activities, and obligations of the various parties. Such disclosure should also require the financial institutions to reveal fully the economic history of the project, including who holds the bearer bonds issued by WPPSS.

Another prime question is how were the ratings for the bonds arranged so at variance with the known facts regarding the condition of the project. I do not need to remind you that at this point only one of the five plants has any immediate prospects of being completed.

As we discussed, I am disturbed that the two principal government agencies involved, BPA and REA, have demonstrated more interest in forcing the participants to pay than in determining whether, given all the unusual circumstances surrounding the financial arrangements in WPPSS, there was any impropriety involved? The participants will, to the extent they have the capacity, pay what they owe on the WPPSS projects. Of this I am confident and I support that position. The overriding questions remain, what do they owe? Is the contract binding? Was the underwriting above reproach? Were the participants induced to enter the arrangement for the reasons given publicly, or were they brought in to bail out an already deteriorating situation?

I look forward to your prompt assistance in obtaining answers to the questions I have stated and others. I am also reassured by your report that, although a task force had been considered, at present no such move is contemplated over the issue of WPPSS payments.

I will continue to give close attention to the WPPSS matter and the relationship between the REA, BPA and the participants. I expect that your administration and this office can cooperate in that endeavor and hope you will keep me current on developments within REA in those matters concerning any co-ops which are participants as they are affected by the WPPSS situation.

Again, I look forward to working with the Administration in solving the situation with the minimum of damage to all the parties.

Sincerely,

GEORGE HANSEN,
Member of Congress.

STATEMENT BY CONGRESSMAN GEORGE HANSEN
RE: GAO WPPSS 4 AND 5 REPORT

The General Accounting Office (GAO) report I have now received regarding WPPSS 4 and 5 confirms a government induced financial disaster for public power users of the Pacific Northwest, a disaster which could well bleed the area into an agricultural depression and severe general economic hardship.

The Bonneville Power Administration scared the small city and cooperative power companies into signing on with the Washington Public Power Supply System (WPPSS) or they would probably loose their low rates and guaranteed supply.

In the meantime, the big public power empire builders, including BPA, were issuing incredible demand forecasts calling for construction of twenty 1,000 megawatt nuclear plants, five to be built by or through the federal government.

Incredibly, none of the 15 proposed private nuclear plants moved ahead, but all 5 of the proposed public plants did to disastrous consequences. And even last year's 1981 WPPSS annual report was still reflecting a need beyond the 5 huge plants under construction.

The Federal Government through BPA continued to encourage this mammoth bonding and building program until the public power users of the Northwest were into debt some $25 billion dollars for huge unfinished nuclear plants now being junked one by one with no real guarantee that any of them will ever deliver electricity.

Now the cost is scandalous enough, but, when the 88 small municipal and cooperative power companies found that construction on WPPSS 4 and 5 was being terminated and they would be directed to pay massive assessments with no power supplied, they were stunned.

It didn't seem fair but there they were with BPA and many federal officials telling them that they were bound by contract and that it must be honored. The hammer came down even harder when the REA told the cooperatives that their government financing would be jeopardized if they didn't get on schedule and pay up.

The REA, the BPA, and the U.S. Department of Justice lined up with coercion, with legal fees, and with law suits to insulate and protect the big money interests of Wall Street from the mismanagement, damaging forecasts, cost overruns and questionable practices to assure the continued smooth

flow of billions of dollars from the Northwest to New York.

The Iran hostage crises, the Panama Canal giveaway, the journeys to the moon—none of these billion dollar affairs comes close to the cost of the WPPSS fiasco, all to be borne by the 7 million people of the Northwest.

Certainly there is a case for defense; certainly there is a cause to fight for justice and survival.

AUGUST 2, 1982.

Open letter to: Northwest cities and public utilities.

Re: General Accounting Office (GAO) report to Congressman George Hansen of July 30, 1982 (GAO/EMD-82-105).

GENTLEMEN: Around the turn of the year, some of your member groups brought the problem of the termination of the two projects known as WPPSS 4 and 5 to my attention. I told you then that I was not sure what legal recourse might be available or what could be done at the federal level about the enormous economic disaster posed by these terminations to the small consumers in Idaho and the Northwest. However, we agreed that I would investigate the matter and that we would work together to limit and, with any luck, to eliminate the damage to the cooperatives, municipals and their consumers in the area.

After initially exploring several legal possibilities and any legislative potential, I asked the General Accounting Office for an investigation to obtain necessary answers to several key questions. Those questions, posed to GAO on April, 1982, boiled down to three. First, did the federal government have a part in inducing the preferred clients of BPA to participate in WPPSS 4 and 5? Second, did the federal government take part in the decision-making to terminate 4 and 5, thereby leaving its preferred customers in the position of buying energy they would not get and paying for the construction of generating capacity which would never generate? Finally, and most important, did the federal government use its power to coerce these entities not to contest the contracts under which they are constrained to pay for the incompetence of others, the so-called take-or-pay provisions?

On Friday, July 30, 1982, the GAO delivered its report to me. With out exception, the conclusions are that the federal government through its agencies, the BPA and REA, was the moving force at every step of the way in the process which that same government now contends leaves the small users with no recourse but to pay up. GAO found: (1) "BPA provided electric demand forecasting help to small regional utilities, endorsed the need for additional generating units, supported utility participation in the plants, and acted to indirectly facilitate termination of the plants." (2) "REA directed its borrowers to pay their debts to the Washington Public Power Supply System and implied their financial standing with REA could be affected if their obligations on plants 4 and 5 are not met."

You are much more familiar than I am with the multiple law suits which are now in court and with others which undoubtedly will yet be filed over this issue. You are at least as aware as I am of the continuing pressure on your groups to back away from defending yourselves and your customers. Also, I have noted that you are the object of advice from federal officials which ranges from the suggestion that you individually go bankrupt to protect your credit, no less, to the argument that you entered the contracts with you eyes open and that you should willingly take you medicine and not disturb the government with your complaints.

However, the clear indication I now bring to you from the GAO that your allegations to me were absolutely correct, along with the suits now filed, signify that we are not at the end of the matter, but only the beginning. I am no lawyer and claim no command over the technicalities of jurisdiction and contract clauses. But I do know the distinction between right and wrong; fair and unfair. It is clear after months of probing, that you are right and are being treated unfairly. I do not know if this fight can be won, but I want to assure you that if you don't quit and want to press on, I am in it with you to the finish.

There are many more questions which now need to be answered. Was the entire plan to include WPPSS 4 and 5 hatched for the purpose of widening the financial base of support for the issuance of public bonds on the project? That seems to be the very bludgeon which REA holds over the heads of the "preferred customers." I have seen no satisfactory answer to the question of why REA, whose purpose was to bring the benefits of the technological revolution to the rural areas of America, is so concerned about the ratings of bond issues on Wall Street.

We all understand the financial benefits of a good bond rating, but the fever in the REA's reaction to this case indicates that there could be a good deal more here than meets the eye. A look at the record of WPPSS financial affairs tends to confirm that the financial stability of a doomed project in the Northwest is only a minor part of what is really at issue.

It is no secret that the actual cost of building these huge nuclear plants is only a fraction of what the finance costs will be. Tens of billions of dollars are involved making WPPSS, according to a recent magazine article, the world's largest debtor after the United States Government. The middle men of Wall Street, the bond underwriters and salesmen and attorneys have already made a killing and will make yet millions more before the mess is over. Make no mistake. They have risked nothing. They get paid to underwrite the bonds and they get paid again to sell them. And since, when they flip their own wall switches, the power comes from Consolidated Edison of New York, they have no personal stake in the economic problems of the Northwest.

WPPSS has gotten most of its legal and financial advice from New York. The principal underwriters of the bonds are New York investment houses. Is the REA so concerned about the rural electrification of New York City? As we all know, it is the buyers of the bonds who take any ultimate risk. The financiers of Wall Street with their three-piece suits are only middle men taking a cut from the little consumer on one side and the small investor on the other. Is it any wonder that they don't want the 88 to rock their comfortable boat which is siphoning billions of dollars from the Pacific Northwest to the bond markets of New York.

In order to pin down more accurately exactly the relationship between the bond market and decisions on the survival of 4 and 5, I have written Peter Johnson, the manager of BPA, a letter requesting a time sequence laying out the dates of key decisions on the construction of WPPSS 1 through 5 and the dates of key decisions on putting more bonds into circulation. Perhaps we can find out for whose benefit the entire project was conceived and ultimately cancelled since there is not a single plant in the WPPSS complex which is totally guaranteed to become operational ever.

If everything that the preferred customers of BPA told me did not raise questions, the strange story of Proposition 394 in the State of Washington would, by itself, be sufficient to warrant inquiry. 394 was an initiative offered to the voters of Washington requiring voter approval of future bond sales by WPPSS. As you all know, it passed overwhelmingly.

There is nothing odd about that, given the track record of WPPSS. What is odd is what has happened since. BPA, a federal entity, is funding a suit to void the initiative brought by three private Seattle banks. More startling still, the U.S. Department of Justice has joined in the same cause against the right of the taxpayers of Washington to limit the power of WPPSS to borrow in the future.

Should we be surprised that the Department of Justice would take such a position? At the very highest levels, the managers of its policies are from the very financial interests on Wall Street which would be hurt if the people took control of the use of their own finances. In the same regard, I am reminded that another agency of the Federal Government, the Internal Revenue Service, had a large part in distorting the natural economic decisions of the victims of the Teton flood disaster, who ironically, because of IRS pressure, become investors in the WPPSS tax exempts. You will remember that in that case the IRS doggedly clung to the position that the reimbursement for flood damage paid by the federal government to these victims was a captial gain.

In a nut shell, this is why no one can guarantee that the 88 and their customers, the little people, can win. The banks, the bond underwriters and the federal government are lined up together defending their time-honored right to shear the people and they seem prepared to tolerate no opposition to that right. Nonetheless the fight is worth waging, and, in my opinion, must be waged if many of the 88 as well as the customers you serve are to survive.

We may be able to win for ourselves and for the rate payers who will be paying off this bonded debt into the 21st century. But of almost equal importance, we will alert others that the fleecing we took in the Northwest came from blind reliance on the federal government and on Wall Street. We at least will have alerted other victims in other parts of the country not to follow our example, and the concurrent example of the people in the Tennessee Valley.

Lest anyone think that my skepticism is born out of the current disaster, let me quote what I said before the situation had been revealed when the Northwest Power Bill was before Congress on November 17, 1980. "However, my support is given with a serious warning as to the pitfalls I envision. We must be prepared to deal with any resultant problems quickly and effectively as they arise and at whatever level of government necessary. Not to do so may be disastrous for a single state like Idaho or even all the states involved in any conflict with powerful special interests or if an attempt to submerge states rights by expedient or unwise federalization begins to materialize." Unfortunately that day has arrived.

The bottom line of the GAO report has to be that any course of action to protect the

ratepayers is the responsibility of the managers of the utilities involved in WPPSS 4 and 5. I am satisfied that, based on the investigative findings, there are reasonable grounds for protest. My principle purpose for involvement has been and continues to be to assist you in pursuing any viable course of action designed to protect the economic interest of the citizens of Idaho and the Northwest region.

Your past cooperation is deeply appreciated and I welcome and encourage your studied reaction at the earliest time so that further initiatives can be pursued.

Sincerely,

GEORGE HANSEN,
Member of Congress.

AUGUST 2, 1982.

Mr. J. DEXTER PEACH,
Director, U.S. General Accounting Office, Washington, D.C.

DEAR MR. PEACH: Thank you for your report on the federal involvement affecting participation by the small distributors in the WPPSS project. I am sure that it will be most helpful in clarifying the relationships among the parties.

Both from the contents of your report and from other sources investigating the WPPSS matter, it now appears that BPA had a major role in all phases of the WPPSS history, including financing and terminating the various elements of the overall project. In view of the original perception that BPA was a bystander in the decisions, it is my intention to further request that your office secure answers to some questions which derive from BPA involvement.

In general, my concern is in the area of the obligation of entities which borrow on the bond market and goes in two directions. As soon as possible, I will direct specific questions to you with regard to (1) the nature of the legal limits on the borrower to use the proceeds of such borrowing for the specific purpose for which it was borrowed. And (2) a different but related question has arisen concerning the consequences to the borrower of an allegation as to the nature of the assets against which the borrower sells his bonds.

Since you have direct experience in the BPA/WPPSS situation, it is my hope that your inquiry will shed much needed light on the area of the financial rights and liabilities of the various entities involved.

The specific questions will be directed to you shortly.

Sincerely,

GEORGE HANSEN,
Member of Congress.

AUGUST 2, 1982.

Mr. PETER JOHNSON,
Administrator, Bonneville Power Administration, Portland, Oreg.

DEAR PETER: As you are aware from our conversation in my office and other visits I have had with you and members of your staff regarding the Washington Public Power Supply System (WPPSS) matter and involvement of Bonneville Power Administration (BPA) in the disaster which it has become, I am greatly concerned about the adverse consequences on the small power distributors and consumers of the Northwest of the plant terminations which your Agency had a large part in ordering.

So that I might get a clearer perspective on the events and forces which operated to produce the unfortunate current situation, I ask you to provide me with background information on the decisions which led to the situation as it now exists. Please reconstruct for me a chronology of the decisions to build and then to terminate those plants which are now certain not to be built.

In addition, will you please provide me with the dates on which final determinations were made to issue bonds against the project and specify as to each issue, the asset against which that issue was to be made. In this way, it may be possible for me to fully understand the relationship between the construction decisions and the financial forces which were part of the decision making process.

I understand the magnitude of the problem you have inherited and am grateful for your offer of cooperation in getting to the facts and solutions necessary to properly deal with it.

Sincerely,

GEORGE HANSEN,
Member of Congress.●

PUBLIC WARNED CONCERNING BOND PURCHASE

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANSEN of Idaho. Mr. Speaker, there is good reason to alert the general public regarding any purchase of bonds on this Washington Public Power Supply System (WPPSS) and demand an immediate congressional investigation based on the facts presented in this following letters and documents:

DECEMBER 8, 1982.

OPEN LETTER TO PEOPLE OF THE STATE OF IDAHO AND THE PACIFIC NORTHWEST—WARNING TO GENERAL PUBLIC CONCERING PURCHASE OF WPPSS BONDS

For several months, I have been attempting to ascertain the owners of the various issues of the bonds of the Washington Public Power Supply System (WPPSS). These bonds were issued to defray the costs of construction of five nuclear power plants to provide energy to the public power systems of the entire Northwest, including sixteen organizations in the state of Idaho.

My concern has been two-fold. First, to protect the ratepaying customers of the municipal and cooperative power suppliers from having to pay improper and exorbitant rates to cover the interest and principal of these bonds. Second, to protect innocent purchasers of the bonds from the consequences of the failure of the WPPSS system to provide the promised energy and therefore, to generate the revenues necessary to pay out on the bonds.

As you are by now aware, there is substantial legal opinion that these bonds are revenue bonds. That is, that they are payable exclusively from the proceeds of the sale of the energy produced by the plants. It is also now common knowledge that at least two and possibly four of the projected five nuclear plants will never produce any electrical energy.

You might think that it is an easy matter to find out who owns the bonds. It isn't. The reason that there is so much difficulty in finding out such a simple fact seems to be that the bonds may be held by the very underwriters who issued them. So far they refuse to say how much of this financing they own. Their unwillingness makes it appear that they are afraid someone might think that their retention of the bonds is improper.

Whatever the reason, all the indications are that there is a serious problem with the issuance and pricing of these bonds. Until this matter is cleared up, prudent investors will be well-advised to consider carefully before purchasing these securities. The value of the bonds themselves is at issue as is the value in the hands of persons or entities who acquired them as the end product of improper conduct.

I have made a direct request of the financial institutions concerned for the amount of bonds they hold and have also called for a Congressional investigation to determine these and other answers to the WPPSS calamity. In the meantime, forwarned is forearmed. It is in that spirit that I make these observations known to you.

Sincerely,

GEORGE HANSEN,
Member of Congress.

DECEMBER 3, 1982.

HANSEN CONTINUES DEMAND FOR INVESTIGATION OF BANK MANIPULATION IN WPPSS SCANDAL

WASHINGTON, D.C.—Congressman George Hansen is joining with other Northwest Congressmen in a Congressional Resolution calling for the appointment of special counsel to investigate the scandalous Washington Public Power Supply System (WPPSS) operations which threaten Idaho and the Pacific Northwest with financial disaster.

Hansen, whose previous investigation by the General Accounting Office proved the intimate involvement of the federal government in the financial collapse of the multibillion dollar project said, "We have now established the need to get complete facts on WPPSS history from the beginning, including the manner of financing and how and by whom it was arranged."

"It has taken us a long time to get any official attention for the injustice done to the ratepayers of the Northwest and we do not intend to stop until they are treated fairly," Hansen stated.

Hansen said that the reluctance of Congressional Committees to take on powerful investment banking interests on Wall Street was emphasized this week when he was advised by the Chairman of the House Banking Committee that after four months of consideration the Committee declined to investigate on the grounds they lacked jurisdiction.

"At the suggestion of Banking Committee Chairman Fernard J. St Germain," Hansen continued, "I am requesting Chairman John D. Dingell of the House Energy and Commerce Committee to proceed immediately with that investigation." "To avoid further footdragging, however, we are also pursuing the special investigator resolution," Hansen pointed out.

"I knew that challenging the banking bosses would be tough," said the Idaho lawmaker, "so it comes as no surprise that my pressing for a thorough investigation is being treated as a hot potato."

Several months ago Hansen charged that the entire project had begun to look like it was put together for the profit of the Wall street investment community. He pointed out that there is reason to believe that the underwriters who issued the bonds for WPPSS put them out without competitive bidding "and that means they set their own

rate of return," the Congressman noted. "The most damning fact of all," he continued, "is that there is substantial reason to believe that these same underwriters retained the bonds in their own portfolios."

Hansen said that that course of conduct looked to him like a violation of the antitrust laws at minimum and an outright theft at the worst. "You have to remember that it is the rate payers of Idaho and other Northwest states who will pay for these manipulations—and the amount now stands at some 26 billion."

DECEMBER 3, 1982.

Hon. JOHN D. DINGELL,
Chairman, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I wrote to you on November 24th concerning the misfortune of the nuclear energy problem in the Pacific Northwest. That letter asked you to undertake an investigation of the multibillion dollar disaster caused by the collapse of the Washington Public Power Supply System (WPPSS) operation and the complaints of improper and illegal actions involved.

In a letter dated November 30, Chairman St Germain of the House Banking Committee has advised me that that Committee lacks jurisdiction to undertake the investigation necessary to determine the facts surrounding the WPPSS collapse. He suggests that the House Energy and Commerce Committee has the appropriate authority "including jurisdiction over the Securities and Exchange Commission or securities underwriting." This hopefully resolves any jurisdictional concern and should open the way for your Committee to act without delay.

I therefore renew my urgent request to you to have your Committee on Energy and Commerce commence as soon as possible a thorough investigation of the entire problem-ridden history of the WPPSS project. Time is of the essence since we are within a few short months of a perhaps irreversible default in bond payments which could conceivably trigger a financial crisis seriously damaging to the future of the Northwest as an industrial and farming area and to the entire financial under-pinning of the nation's public utilities.

Sincerely,

GEORGE HANSEN,
Member of Congress.

DECEMBER 8, 1982.

Hon. JOHN D. DINGELL,
Chairman, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is more information for you investigation of WPPSS.

The copy of the letter to the CEO of a major financial institution is typical of similar requests to other firms involved.

Sincerely,

GEORGE HANSEN,
Member of Congress.

DECEMBER 9, 1982.

Hon. JAMES T. BROYHILL,
Ranking Republican, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, D.C.

DEAR MR. BROYHILL: Enclosed is more information for your investigation of WPPSS. The copy of the letter to the CEO of a major financial institution is typical of similar requests to other firms involved.

It is difficult to keep track of all the apparent anomolies in this matter. Both Standard and Poor's and Moody's give these bonds very high ratings, even after there was public knowledge that there were terminations in the offing for WPPSS 4 and 5. But, in addition, even after all but WPPSS 2 were put in the doubtful category, the bonds still rated as though they were prime investments. On what basis could such ratings conceivably be compiled?

As a further example, it is almost impossible to find an investor in WPPSS bonds. Who now owns almost $7 billion in bonds? Why was the form of bond changed from registered to bearer at just about the time that the rates of return began to climb so rapidly? Was such change designed to disguise ownership? Was it to make undisclosed transfer easier?

And why were the last 10 WPPSS issues let on a negotiated basis? How were these exorbitant rates of return set? How, after WPPSS 4 and 5 went down, was the same management able to float the largest single bond issue to that time in the history of the United States, and on a AAA rating? And these are just a few of the unanswered questions.

I will contact you further personally as we discussed.

Sincerely,

GEORGE HANSEN,
Member of Congress.

DECEMBER 8, 1982.

Hon. FERNAND J. ST GERMAIN,
Chairman, Banking, Finance and Urban Affairs Committee, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of November 30, 1982. The enclosed may be of interest in how the need for House investigation is developing.

The copy of the letter to the CEO of a major financial institution is typical of similar requests to other firms involved.

Sincerely,

GEORGE HANSEN,
Member of Congress.

Enclosure.

DECEMBER 8, 1982.

Hon. JAKE GARN,
Chairman, Senate Banking, Housing, and Urban Affairs Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is more information for your investigation of WPPSS.

The copy of the letter to the CEO of a major financial institution is typical of similar requests to other firms involved.

Sincerely,

GEORGE HANSEN,
Member of Congress.

DECEMBER 8, 1982.

Mr. ROGER E. BIRK,
Chairman and Chief Executive Officer, Merrill Lynch & Co., Inc., New York, N.Y.

DEAR MR. BIRK: The name of your firm has been provided to me as one of the underwriters of a series of bond issues on the WPPSS project in the Pacific Northwest. You may be aware that I have asked for a Congressional investigation of the entities involved in WPPSS and their parts in the economic calamity which it represents to the people of the Northwest. Among the many reasons for conducting a thorough investigation of the factors which led to the disruption of the WPPSS project is the intimate involvement of the underwriting community in the terms of contracts, the cost of credit and the distribution of liability on such a disastrous affair.

Members of the group which has underwritten the WPPSS bonds have informed us that the current ownership of the bonds in question is in a very few entities, principal among which are the underwriters who procured the issuance of the bonds. I would appreciate your cooperation in determing who owns the WPPSS bonds and accordingly ask you to advise me which of the enclosed list of bonds your firm holds and in what amounts.

As you are no doubt aware, members of your financial community have raised the concern that investigation of the facts surrounding the issuance of the WPPSS bonds will undermine the confidence of the investment community. However, that confidence has already been dealt a devastating blow and I believe that your assistance to the Congress in acquiring the necessary information can expedite a solution to the current problems and also make a recurrance of the WPPSS matter less likely. On the other hand, resistance to the uncovering of the facts can, rightly or wrongly, leave the impression that the underwriters have something to hide and that further loss of investor confidence will be more a result of the actions of those who created and used WPPSS than of those who are seeking to know how and why it happened in order to expedite a solution.

There is reason to believe that, with the cooperation of all the interested parties, the damage done by the WPPSS failure can be contained and distributed among those responsible in some reasonably just proportion. The Shearson suggestion was a step in this direction and I currently have more comprehensive proposals for a cooperative effort before BPA and Cabinet officials.

I am sure that you are aware that dates are fast approaching, beyond which negotiated arrangements will be much more difficult, if not impossible. I therefore urge your prompt consideration and response to the request outlined in paragraph two.

Sincerely,

GEORGE HANSEN,
Member of Congress.

CHRONOLOGY OF SUPPLY SYSTEM—FINANCINGS FOR PROJECT NOS. 1, 2, 3, 4, and 5.

[Dollars in millions]

Project	Sale date	Par value	Successful bidder	Interest cost (percent)
I. Project notes:				
WNP–2	Jan. 1, 1971	$15	Seattle Trust	3.05
WNP–1	Aug. 24, 1972	1.5	Rainer Bank	2.45
WNP–2	Dec. 15, 1972	40	Halsey Stuart	3.50
WNP–1	Feb. 8, 1973	25	Halsey Stuart	4.25
WNP–3	May 15, 1973	2	Old National Bank	4.40
WNP–3	Oct. 1, 1973	29	Smith Barney	4.37
WNP–4/5	Mar. 1, 1974	2.5	Rainer Bank	4.70
WNP–1	May 22, 1974	77	Salomon	6.05
WNP–4/5	Aug. 1, 1974	15	Smith Barney	8.01

[Dollars in Millions]

Project	Rating	Sale Date	Par Value	Successful bidder	Interest cost, percent
II. Project bonds:					
WNP–2	A1:AA	June 26, 1973	$150	Salomon Brothers	5.65
WNP–2	A1:AA	July 23, 1974	80	Bache Halsey	7.21
WNP–2	Aa:AA	Nov. 26, 1974	125	Smith Barney	7.67
WNP–2	Aaa:AAA	Mar. 6, 1975	125	Salomon Brothers	6.71
WNP–4/5	A1:A	July 24, 1975	100	Merrill Lynch	7.04
WNP–1	Aaa:AAA	Sept. 18, 1975	175	Bache Halsey	7.73
WNP–3	Aaa:AAA	Dec. 3, 1975	150	Smith Barney	7.87
WNP–1	Aaa:AAA	Feb. 4, 1976	180	Merrill Lynch	6.84
WNP–3	Aaa:AAA	Apr. 13, 1976	100	Weeden & Company	6.48
WNP–2	Aaa:AAA	June 3, 1976	120	Salomon Brothers	6.64
WNP–1	Aaa:AAA	Aug. 31, 1976	180	Merrill Lynch	6.37
WNP–2	Aaa:AAA	Nov.18, 1976	200	Bache Halsey	5.87
WNP–4/5	A1:A+	Feb. 23, 1977	145	Smith Barney	5.93
WNP–4/5	A1:A+	May. 24, 1977	90	Bache Halsey	6.32
WNP–3	Aaa:AAA	July 12, 1977	230	Salomon Brothers	5.71
WNP–4/4	A1:A+	Sept. 13, 1977	130	Bache Halsey	5.96
WNP–4/5	A1:A+	Jan. 31, 1978	150	Salomon Brothers	6.07
WNP–1	Aaa:AAA	Mar. 21, 1978	180	Merrill Lynch	5.69
WNP–4/5	A1:A+	May 23, 1978	150	Smith Barney	6.86
WNP–2	Aaa:AAA	July 11, 1978	180	Salomon Brothers	6.71
WNP–3	Aaa:AAA	Sept. 12, 1978	200	Merrill Lynch	6.27
WNP–4/5	A1:A+	Oct. 12, 1978	170	Bache Halsey	6.81
WNP–1	Aaa:AAA	Dec. 5, 1978	180	Salomon Brothers	6.61
WNP–4/5	A1:A+	Feb. 14, 1979	175	Merrill Lynch	7.16
WNP–2	Aaa:AAA	Mar. 13, 1979	180	Smith Barney	6.49
WNP–1	Aaa:AAA	June 19, 1979	150	First Boston	6.64
WNP–4/5	A1:A+	Aug. 28, 1979	150	Smith Barney	7.69
WNP–2	Aaa:AAA	Oct. 17, 1979	125	Merrill Lynch	7.69
WNP–4/5	A1:A+	Dec. 11, 1979	200	Smith Barney	8.30
WNP–4/5	A1:A+	May 9, 1980	130	Merrill Lynch [1]	9.23
WNP–4/5	A1:A+	July 15, 1980	180	Salomon Brothers	9.50
WNP–1	Aaa:AAA	Aug. 5, 1980	210	Salomon Brothers	8.87
WNP–4/5	A1:A+	Sept. 23, 1980	180	Merrill Lynch	10.69
WNP–2	Aaa:AAA	Oct. 21, 1980	200	First Boston	9.36
WNP–4/5	A1:A+	Dec. 9, 1980	150	Salomon Brothers	12.44
WNP–4/5	A1:A+	Dec. 9, 1980	50	Salomon Brothers	11.83
WNP–3	Aaa:AAA	Feb. 11, 1981	225	Salomon Brothers	10.80
WNP–4/5	A1:A+	May 17, 1981	170	Merrill Lynch	11.77
WNP–4/5	A1:A+	Mar. 17, 1981	30	Merrill Lynch	11.06
WNP–1	Aaa:AAA	Apr. 13, 1981	160	Merrill Lynch	11.30
WNP–1	Aaa:AAA	Apr. 13, 1981	40	Smith Barney	10.29
WNP–1	Aaa:AAA	Sept. 4, 1981	315	Merrill Lynch [2]	14.78
WNP–2	Aaa:AAA	Sept. 4, 1981	210	Merrill Lynch [2]	12.45
WNP–3	Aa:AAA	Sept. 4, 1981	225	Merrill Lynch [2]	14.80
WNP–1	Aa:AAA	Feb. 11, 1982	385	Salomon Brothers [2]	14.79
WNP–2	Aa:AAA	Feb. 11, 1982	300	Salomon Brothers [2]	14.76
WNP–3	Aa:AAA	Feb. 11, 1982	165	Salomon Brothers [2]	14.83
WNP–2	A1:AAA	May 20, 1982	178.72	Goldman Sachs [2]	13.82
WNP–2	A1:AAA	May 20, 1982	196.28	Goldman Sachs [2]	13.89
WNP–3	A1:AAA	May 20, 1982	290.12	Goldman Sachs [2]	13.95
WNP–3	A1:AAA	May 20, 1982	14.88	Goldman Sachs [2]	13.63

[1] Negotiated Sale-Senior Manager. Competitive bid price was deemed too high by Supply System board, and a negotiated sale was commenced with results shown above.
[2] Negotiated Sale (Senior Lead Manager indicated).

Note: All outstanding bonds for Projects Nos. 1, 2, and 3 are rated "AAA" by Standard & Poor's; and "Al" by Moody's. All outstanding bonds for Projects Nos. 4/5 are rated "BBB+" by Standard & Poor's; ratings have been suspended by Moody's.●

NEGOTIATIONS DEMAND TO PREVENT MULTIMILLION-DOLLAR DEFAULT

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANSEN of Idaho. Mr. Speaker, the Nation's bond market is dangerously close to a $26 billion default as attested by the following news article, a default which can yet be prevented through swift and decisive action by key officials of the U.S. Government as outlined in the letters and article following:

[From the Wall Street Journal, Friday, Dec. 17, 1982]

WASHINGTON PUBLIC POWER IS THWARTED IN BID TO PAY OFF DEBT

SEATTLE.—A Washington State court judge dealt another blow to the ability of Washington Public Power Supply System to pay off $2.25 billion in bonds issued to finance two of the system's nuclear power plants.

Superior Court Judge H. Joseph Coleman ruled that Washington State utilities don't have to assume the debt of utilities in other states for the Washington Public Power bonds.

The judge said that the so-called "step up" provisions in the contracts between Washington Public Power and the 88 utilities sponsoring the power plants weren't valid.

The provisions called for the utilities to increase their share of debt payments if

other utilities in the system were unable to pay.

A Washington Public Power spokesman said the system will appeal the ruling on the step-up provision.

The decision was made in the case of Chemical Bank of New York, trustee for the bondholders, against the power supply system and the 88 participants over the contracts requiring the utilities to pay. A trial is scheduled for Jan. 10. The decision on the step-up provision was made in a pre-trial hearing.

The bonds are backed by "take or pay" contracts signed by the 88 utilities. Under the contracts, the utilities are committed to paying off the debt incurred for the two power plants, regardless of whether the plants ever generated power. Courts in Oregon and Idaho have ruled that utilities in those states lacked the authority to sign contracts with Washington Public Power and therefore don't have to pay the debt.

The two abandoned, partly finished plants are among five originally planned by Washington Public Power. They were abandoned because of an unexpected decline in energy demand in the region.

As reported, Standard & Poor's Corp. downgraded the bonds on Washington Public Power's nuclear projects Nos. 4 and 5 to a speculative single-B from triple-B-plus, saying the system's ability to pay debt service on the bonds after July 1 is "uncertain."

Washington Public Power must make debt payments of $94 million in January and July.

Washington Public Power currently pays interest on the bonds out of a fund that is expected to run out in February.

After that, the termination plan for the plants calls for the participating utilities to be billed to pay off the bonds.

Eileen Titmuss, municipal bond analyst at Drexel Burnham Lambert Inc., believes the ruling means that "default is even more imminent."

The judge's ruling also said that the trial will consider whether contracts between Washington Public Power and the utilities are valid. He said that court records indicate that Washington Public Power misrepresented some facts when seeking the participation of utilities in the two nuclear plants.

NOVEMBER 24, 1982.

Mr. DONALD HODEL,
Acting Secretary,
U.S. Department of Energy,
Washington, D.C.

DEAR DON: As you know, I have communicated extensively with your office recently regarding the difficulties and controversy surrounding the disastrous failure of nuclear projects of the Washington Public Power Supply System (WPPSS).

Although the recent General Accounting Office investigation I requested has confirmed my concern that the small electric distributors know as the 88 were not receiving fair treatment in the allocation of liability for the WPPSS failure, I have taken the position that it is of primary importance for all the involved parties to settle the areas of responsibility among themselves and reach a negotiated settlement. Certainly the "billion dollar crap-shoot" going on in the courts gives little comfort to any of the concerned parties or to the future of the nation's energy needs, and the financing of public utilities.

The current multiplicity of court actions with conflicting results only serves to convince me that the negotiation of these differences with an apportionment of the financial obligations is imperative. I am enclosing a letter to that effect which I recently wrote to Peter Johnson, who currently holds your old position as BPA Administrator.

With the future of the nation's energy program hanging in the balance, it is my hope that you, as one who best knows the situation and who now holds the key position involving the nation's energy policy, will endorse my proposal for an early negotiated settlement and use your good offices to urge Mr. Johnson and others to cooperate in such action. I am reliably informed some of the other parties at interest will be receptive to such a suggestion.

Sincerely,

GEORGE HANSEN,
Member of Congress.

P.S.—I appreciated our conversation today concerning the WPPSS situation and this proposal. Hopefully positive steps can soon be taken to effectively work toward an early and acceptably (equitable) solution.

NOVEMBER 24, 1982.

Hon. JAMES G. WATT,
Secretary,
U.S. Department of the Interior,
Washington, D.C.

DEAR JIM: As you know, I have communicated extensively with your office regarding the difficulties and controversy surrounding the disastrous failure of nuclear projects of the Washington Public Power Supply System (WPPSS).

Although the recent General Accounting Office investigation I requested has confirmed my concern that the small electric distributors known as the 88 were not receiving fair treatment in the allocation of liability for the WPPSS failure, I have taken the position that it is of primary importance for all the involved parties to settle the areas of responsibility among themselves and reach a negotiated settlement. Certainly the "billion dollar crap-shoot" going on in the courts gives little comfort to any of the concerned parties or to the future of the nation's energy needs, and the financing of public utilities.

The current multiplicity of court actions with conflicting results only serves to convince me that the negotiation of these differences with an apportionment of the financial obligations is imperative. I am enclosing a letter to that effect which I recently wrote to BPA Administrator Peter Johnson.

With the future of the nation's energy program hanging in the balance, it is my hope that you, as one who is most familiar with the problem and who holds a key position involving the situation, will endorse my proposal for an early negotiated settlement and use your good offices to urge Mr. Johnson and others to cooperate in such action. I am reliably informed that some of the other parties at interest will be receptive to such a suggestion.

Sincerely,

GEORGE HANSEN,
Member of Congress.

P.S.—This letter comes to you as Chairman pro-tem of the Cabinet Council on Natural Resources and the Environment of which the Department of Energy is a part. Similar correspondence has been sent to Secretary-designate Hodel. Your assistance is sincerely needed. Many thanks. GEO.

[From the Idaho State Journal, Sept. 24, 1982]

HANSEN PUSHES BPA CHIEF ON WPPSS SETTLEMENT

BOISE, IDAHO.—Rep. George Hansen, R-Idaho, said Thursday he has sent Bonneville Power Administration chief Peter Johnson a letter urging him to call a conference to settle the many disputes over the ill-fated Washington Public Power Supply System.

Without some effort to resolve legal action involving WPPSS, bond underwriters and purchasers and the 88 Pacific Northwest utilities involved, Hansen said, the disputes could drag on for years and run up enormous legal bills.

Hansen has been pushing for federal investigations into the WPPSS project. It originally was to involve the construction of five nuclear power plants in the state of Washington, but plants 4 and 5 have been abandoned and work suspended on plant 1.

The projects were halted because of cost overruns and declining forecasts of Pacific Northwest power needs.

Hansen said there "is no longer any serious question about the intimate involvement of the federal government" in the WPPSS projects, from "inducing participants to coercing payment."

In the letter to Johnson, Hansen said various investigations leave "the clear indication" that BPA was involved in decisions made by WPPSS on issuing bonds to pay for the project.

"Whatever the motivation of any of the parties in so complex a project as the failed Washington nuclear plants 1 thru 5, it becomes increasingly clear that no particpant is without some responsibility for the outcome," Hansen said.

He said lawsuits appear to be the least-satisfactory way of resolving the many questions about the project.

SEPTEMBER 23, 1982.

Mr. PETER T. JOHNSON,
Administrator,
Bonneville Power Administration,
Portland, Oreg.

DEAR PETER: Recognizing your concern for the ultimate well-being of public power in the Northwest, I am writing to review with you recent developments in the WPPSS controversy and, as a result of that review, to propose some modest steps which should contribute to a solution of the situation with as little damage as possible to the involved entities.

That the best hope for resolution must start with limiting the damage to the smaller preferred customers of your Agency is a sad commentary on the entire misadventure. These smaller users (the so-called 88) have already suffered substantial damage since they were induced to lend themselves to the WPPSS 4 and 5 projects.

When I first took an interest in the WPPSS scandal, I warned the Idaho cooperatives and municipalities that I would not and could not support a federal "bailout" of these groups merely because they had made a bad deal. The focus of my endeavors has been to determine whether the Federal Government, directly or through one or

more of its agencies, had acted improperly to induce or coerce the 88 into the WPPSS project in a way to create a moral and/or legal duty on the part of the government to make restitution to the damaged parties.

Based on GAO reports, publications by the BPA and the REA, statements and pleadings in cases arising out of the WPPSS matter like the I 394 litigation, and the very terms of the participants' contracts, there is no longer any serious question about the intimate involvement of the federal government in every phase of the entire project from inducing participation to coercing payment. Even more disturbing is the clear indication that BPA was involved in decisions made by or on behalf of WPPSS on issuing securities against the project.

Whatever the motivation of any of the parties in so complex a project as the failed WNP plants 1 through 5, it becomes increasingly clear that no participant is without some responsibility for the outcome. In the case of WNP 4 and 5, it is now beyond dispute that the federal government bears a major share of the responsibility for the eventual outcome. In addition, it is now apparent that the bond underwriters also have a substantial liability for both the provisions of the participant's contracts and for representations made to purchasers of the securities issued on the WPPSS project.

Now that the facts are beginning to demonstrate that responsibility is distributed among a large number of entities, the original position of the 88 becomes more important. Despite serious question as to the validity of some, if not all of the 88 contracts, these distributors have consistently taken the reasonable position that they were not opposed to accepting a fair share of the actual cost of construction and termination of the WNP 4 and 5 plants.

Litigation now seems to be the least satisfactory device for resolution of the differences among the parties and claimed beneficiaries of 4 and 5. Leaving aside the questions of commingling of WPPSS assets and the questionable enforceability of the bonds against the 88 or perhaps even WPPSS, the other complexities would appear to be better handled by a negotiated agreement among the groups involved on sharing the loss on 4 and 5.

While I do not speak for any of the participants, I am convinced that an initiative by the Administrator of BPA seeking a conference toward negotiated settlement would be well received. BPA, as the prime mover of WPPSS, should probably chair such a meeting and the 88, the bond underwriters, bond trustees, involved federal agencies, and perhaps even official representatives of the states of the Northwest should be participants. I fear that without such a conciliation, the holders of many of the bonds will be left without recourse, except possibly against the underwriters.

I urge you to give such a conference serious consideration and I pledge my cooperation in any way possible to assist in the fair resolution of the matter. The opportunity to preserve public and nuclear power in the Northwest and perhaps in a much wider area should be, from your own standpoint, worth the effort in itself. Any early conference could save enormous litigation expense, materially shorten the time necessary to resolve the matter, and provide a balanced solution to all parties concerned.

I shall be contacting you further regarding this proposal and look forward to your response.

Sincerely,

GEORGE HANSEN,
Member of Congress.

HANSEN COMMENDS EFFORT TO HELP IDAHO RATEPAYERS IN WPPSS LOSS

WASHINGTON, D.C.—Congressman George Hansen met early today with representatives of the Participant's Committee of the WPPSS 88 and of interested financial groups at their request to discuss a proposal to spread the liability for the cost of construction, termination and financing of the disastrous and abandoned WPN 4 and 5 plants.

Hansen, who has been a critic of BPA's handling of the entire WPPSS matter, in a letter this week suggested to Peter Johnson, the current Administrator of BPA, that he call and participate in a conference to negotiate a settlement among the interested and responsible parties to the WPPSS matter as a desirable alternative to the prohibitively costly and perhaps unsatisfactory results of the multiplicity of law suits now pending in the matter.

"Although I am not in a position to endorse the proposal previewed today, which is to be presented to the 88 next Monday, until I have had the chance to study the details," said the 2nd District Congressman, "I am gratified that at least steps are finally being considered to alleviate the burden imposed on the small utilities by an operation which has become a nightmare of mismanagement and soaring finance costs and in which they had no control or responsibility."

Hansen pointed out that when he became aware of the unconscionable burdens on the 88 and their ratepayers, literally all of the entities with control and responsibility for the scandal were merely telling the 88 to pay up and shut up. "As the facts began to become clearer, it was apparent that the 88 were the vicitms, and that there should be proper recourse to the BPA, the bond underwriters and the other groups who used the 88 of their own purposes," said the Idaho Congressman. "I am pleased that the investigations which I initiated through GAO and privately have borne fruit in this attempt to relieve the burden to the 88 and electric ratepayers in Idaho and the Northwest."

"As I wrote to Mr. Johnson, I remain ready to assist in reaching a reasonable solution among all the parties," Hansen pointed out, "and it appears that there is now interest in this approach."

Hansen noted that he was convinced that no matter how the negotiations or suits were ultimately resolved, that a thorough investigation of the manner in which these projects were underwritten was indispensible. He has also requested such an investigation within his own Banking Committee and is hopeful that Committee Chairman, Fernand St Germain will undertake such an investigation in the near future.

Hansen, long a critic of the careless practices of big banks and financiers which result in losses to the taxpayers, said that he is not convinced that all the groups which share the responsibility for the losses in WPPSS have as yet been identified and made to bear their fair share of the burden of repayment.●

THE TAVOULAREAS CASE

(Mr. LENT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. LENT. Mr. Speaker, in August 1982 a Federal Court jury in Washington, D.C., reached a verdict that the Washington Post newspaper had committed a libelous act in printing an untrue story which defamed William P. Tavoulareas, the president of Mobil Corp. Testimony at that trial showed, as Mr. Tavoulareas and Mobil had alleged earlier, that the Washington Post article, for which it was ordered to pay $2 million in damages, grew out of a secret scheme between the Post reporters and employees of the House of Representatives designed to create a media event beneficial to both of them. These actions, and others, raise serious questions as to the propriety of the way in which this matter has been handled by the House subcommittee on which I sit, and by the staff of that subcommittee.

Our Subcommittee on Oversight and Investigations held a public hearing on February 8, 1982, at which remarks critical of Mr. Tavoulareas and Mobil were made by selected witnesses. The subcommittee staff subsequently agreed to receive into the record a written statement from Mobil explaining its position. However, Mobil's statement was not included in the subcommittee's published record of these proceedings. On three occasions in 1982, I have written to the subcommittee chairman, raising questions about our procedures and requesting that the hearing record be made complete, but this has not been done.

These events have achieved great public notoriety, but the public does not have the full story. I think it essential that the missing pieces of our subcommittee's record be made available to the public. I am therefore inserting into these remarks copies of my three letters to the subcommittee chairman, together with the statement of Mobil Corp., dated February 25, 1982, which was submitted by Mobil for the record, but heretofore has not been made public by our subcommittee or its staff:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 16, 1982.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, Washington, D.C.

DEAR JOHN: In connection with the hearing of our Subcommittee on Oversight and Investigations, held on February 8, 1982, information as to certain activities of our Subcommittee staff became available, which came as a considerable surprise to me, and I assume also to the other members.

According to material introduced in the record of that hearing, it appears that three members of our staff may have engaged in secret dealings with the Washington Post, involving dissemination of confidential sub-

committee information and other activities which appear to raise questions in terms of the standards of conduct expected of our staff employees. You confirmed at the hearing (transcript, pages 14-15) that the giving of sworn testimony on these matters by our Subcommittee staff employees, in pending civil litigation, has been limited on the basis of congressional immunity. As you know, I expressed concern that members of our Subcommittee staff would be pleading congressional immunity in a court action and noted that as a member of the Subcommittee, I had not been consulted on whether that position should be taken. Indeed, I had only learned of these developments over the weekend preceding the hearing of February 8.

Moreover, I understand one of these staff members, Mr. Peter Stockton, has testified in the civil libel action brought by Mr. Tavoulareas against the Washington Post, that he has been employed by CBS and ABC during the same time he was on the congressional payroll. An article in the New York Times of January 4, 1982, says Mr. Stockton was paid by the ABC news program "20/20" and by the CBS news program "60 Minutes" for news reporting services while employed by our Subcommittee, and that it is "unusual" for a government employee to be concurrently retained for "news reporting".

When I undertook on February 8 to address questions on these matters to our staff members, you offered that if I so desired, "or if it appears to be necessary, we will depose the staff under oath in the appropriate fashion" (transcript, page 121).

After reflecting on this matter since the date of that hearing, I conclude that it would be appropriate to obtain sworn statements from our three Subcommittee staff members so the record will be complete on these matters.

Despite your offer of sworn depositions, it seems to me that it would be simpler and conserve time if we just obtain sworn answers in writing to the questions of interest. Accordingly, I am enclosing a list of the questions which seem to me to be necessary and pertinent, and request that the Subcommittee require answers be provided in writing, under oath, to each of those questions by each of the following: Mr. Peter Stockton, Mr. David Schooler and Mr. Michael Barrett.

I further request that a copy of their sworn answers be provided promptly to each member of the Subcommittee, and that these answers, together with the questions and this letter, be included in the record of these hearings.

Sincerely yours,

NORMAN F. LENT,
Member of Congress.

QUESTIONS TO BE ANSWERED UNDER OATH, INDIVIDUALLY, BY MESSRS. PETER STOCKTON, DAVID SCHOOLER, AND MICHAEL BARRETT

A. Refer to the Memorandum, February 4, 1982, Subcommittee Staff to John Dingell, Chairman, subject: Adequacy of SEC Rules Dealing with Conflict of Interest: The Mobil/Tavoulareas/Atlas Relationship.

1. What individual or individuals authored this memorandum?

2. Was it based on any sources of information, other than documents provided by the SEC? If so, identify those sources.

3. Was it reviewed with, discussed with, or disclosed to any person not a member of the Subcommittee or its staff prior to the hearing on Monday, February 8, 1982. If so, identify those persons.

4. Who authorized its distribution to the press on Monday, February 8, 1982? Was its release discussed with any member or members of the Subcommittee and, if so, who?

5. Why was it not distributed to Minority Counsel, Jim Christy, and to all members of the Subcommittee prior to the February 8 hearings?

B. With respect to the employment of Mr. Peter Stockton by CBS and ABC while working as a congressional employee:

1. Describe the time period during which Mr. Stockton was employed by or informally worked with CBS and ABC, the nature of his activities, the amount of compensation received by him from each of the networks, and the amount of time devoted by him to such outside activities.

2. Describe all information or documents offered to representatives of the "60 Minutes" show, relating to Atlas/Samarco/Mobil or any other matter before the Subcommittee, and describe all communications with that show regarding the possibility of giving coverage to that subject or subjects.

3. Identify the congressional committee or subcommittee which was informed of Mr. Stockton's arrangements with CBS and ABC, the text of any communication to such committee or subcommittee describing those arrangements, and the date and nature of any action taken by each such committee or subcommittee regarding this matter.

4. Was Mr. Stockton's arrangement with CBS or ABC ever mentioned to, authorized or approved by, the Subcommittee on Oversight and Investigations or by any member of such Subcommittee. If so, describe the dates, circumstances and individuals involved.

C. Each of the three Subcommittee employees has asserted congressional immunity as a basis to limit his sworn testimony in the civil litigation pending between William Tavoulareas and the Washington Post. In this connection:

1. Identify any member or members of the Subcommittee whose approval was sought for this assertion of congressional immunity.

2. State the basis of the claim of immunity.

3. State what facts were sought to be concealed by the claim of immunity.

D. In 1979, the Securities and Exchange Commission furnished to the staff of the Energy and Power Subcommittee certain documents and transcripts from the SEC's files regarding Atlas/Samarco/Mobil. With respect to any such documents or transcripts:

1. Was any such document or transcript furnished by you or another Subcommittee employee to Sandy Golden, Partick Tyler or anyone else associated with the Washington Post? If so, identify the paper given and state the date or approximate date of such event.

2. Was the furnishing of any such documents or transcripts authorized, approved or known in advance by any member or the House of Representatives. If so, identify such individual and describe the nature of such authorization, approval or knowledge.

E. In the pending civil litigation between William Tavoulareas and the Washington Post, testimony and documents establish that there were frequent contacts between Subcommittee employees and members of the media, particularly representatives of the Washington Post regarding Atlas/Samarco/Mobil before the matter came to the public's attention by virtue of the Washington Post articles of November 30, and December 1, 1979. In this connection:

1. Describe and date as specifically as possible, any meeting, telephone conversation or other communication between you and/or any other Subcommittee employee on the one hand, and any reporter or media representative on the other, during the year 1979 regarding the subject of Atlas/Samarco/Mobil, identifying each individual involved, the subject matter, and any documents transmitted to or from Subcommittee employees.

2. Describe any contacts of which you are aware between members of the SEC staff and Washington Post reporters during 1979 regarding this subject matter, identifying each individual involved in any such contacts or communications, the subject matter and the specifics of any discussions or other communications.

F. Peter Stockton and David Schooler are shown as authors of a memorandum stating they interviewed one George Comnas in Osterville, Massachusetts, on November 17, 1979. In this connection:

1. When and in what manner did you first become aware of Mr. Comnas' existence and involvement in the subject matter of the November 17 interview? Was any person connected with the media the source of such information? If so, identify such source or sources.

2. Identify each individual present during any part of the November 17 interview, (and if from the media, so indicate), describe the duration of the interview. Are there records or notes of such interview other than the memorandum dated November 19, 1979, entitled, "Summary of Interview with George Comnas on November 17, 1979? If so, identify such notes or records and state whether any of them have been given to the media.

3. Did any reporter or anyone else other than Peter Stockton and David Schooler travel to Osterville, Massachusetts or vicinity in connection with the Comnas interview? If so, identify each such individual and state whether or not he actually attended the interview.

4. Did any one or more members of the House of Representatives, on behalf of the subcommittee on energy and Power or otherwise, authorize, approve, or have advance knowledge of the Comnas interview? If so, identify each such member. If not, identify the individual or individuals on whose authority or initiative such interview was initiated and conducted.

5. Why, on November 17, 1970, was sworn testimony not taken from Mr. Comnas? Describe any offers, promises or assurances of immunity or protection from prosecution extended to Mr. Comnas with respect to statements made or to be made by him.

6. Was the Energy and Power Subcommittee conducting an investigation regarding Atlas/Samarco/Mobil matters in November, 1979? If so, when did that investigation begin, on whose authority was it initiated, and what events had occurred in connection with that investigation prior to the Comnas interview.

G. With respect to dissemination of Subcommittee materials to reporters for the Washington Post in 1979:

1. State when (the date) Chairman Dingell first became aware of the fact that the memorandum regarding the Comnas interview of November 17, 1979, had been furnished to reporters for the Washington Post. How did Chairman Dingell become aware of that event? Identify the person or

persons who advised him of such dissemination.

2. Describe Chairman Dingell's reaction upon learning of that event, including any action taken by him to reprimand any Subcommittee employee in connection therewith.

H. In connection with the investigation conducted by the SEC, beginning in December, 1980, SEC representatives have furnished to the Subcommittee staff various documents and transcripts. In this connection:

1. Describe each document (if any) furnished by individual employees of the SEC, as distinct from documents furnished officially by the SEC, identifying such individual employees.

2. Describe the security procedures employed by the Subcommittee staff to implement the SEC's advice that these materials from a private investigation should remain confidential, identifying by name each Subcommittee employee allowed to have access to such documents.

3. Describe each document received from the SEC which has been made available to members of the press, identifying the Subcommittee employee or employees who made such document available, and the reporter or other press representative to whom it was furnished.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 21, 1982.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations, Washington, D.C.

DEAR JOHN: I have received the printed record of the hearing of the subcommittee on Oversight & Investigations in connection with the hearing of Februry 8, 1982, entitled "Securities Laws and Corporate Disclosure Regulations."

I am deeply concerned that the printed Record does not include certain material that was agreed to be included, and contains certain material for which there was no agreement.

Specifically, on page 68, I asked that "Mobil's letter to you dated January 28, 1982, with the attachments be included, by unanimous consent" in the Record. Although the Mobil letter of January 28, explaining the reasons for the declinations of Mr. Rawleigh Warner, Jr. and Mr. William P. Tavoulareas, to the Subcommittee's invitation to testify appears in the printed record, the attachments were omitted.

You may have concluded that the unanimous consent request was to have been limited to the Mobil letter of January 28, 1982. If that is true, I do not believe that the Subcommittee was afforded the opportunity to determine, as stated by you on page 71 of the printed record, that the proffering of Mobil's testimony be deferred:

"Until such time as we have concluded today's hearing, at which time we will, I think, make some judgment as to whether we wish to receive Mobil's proffer of testimony or whether we desire to have Mr. Tavoulareas and/or others appearing either in their individual capacity or in their capacity as officers of Mobil under process of the committee and under oath, so that we might examine more fully into this matter."

I am also attaching a copy of a letter dated March 11, 1982, received by our colleague, Marc L. Marks, as Ranking Minority Member of the Subcommittee, attaching a copy of a Statement dated February 25, 1982, submitted by Mobil following the February 8, 1982, hearing. It would appear that Mobil had some basis for believing that its February 25, 1982, statement would be included in the printed Record.

On page 298, the last page of the hearing record, it is stated:

"(The following documents were submitted for the record. Depositions of over 25 witnesses taken by the SEC staff and other relevant Mobil, Fairfield-Maxwell, Atlas and Samarco documents may be found in Subcommittee files.)"

This text appears after, as the transcript reflects, the Subcommittee adjourned.

Who submitted the documents reproduced from pages 299-390? I recall no unanimous consent request asking that these materials be made a part of the hearing record. It would appear that majority staff has selectively placed in the record certain documents while excluding others, without any authority granted to it by the Subcommittee membership.

I was particularly surprised by the inclusion on page 345 of a letter to the Attorney General dated December 28, 1981, requesting an inquiry by the Department of Justice into "whether the private investigation of Subcommittee witnesses and potential witnesses may have constituted a violation of Section 1505 of Title 18, United States Code." No reference to this letter was at any time made during this hearing, nor was any Minority Member or minority counsel advised before or after the hearing that such an inquiry to the Attorney General had been made. Yet is appears in the hearing record with the apparent imprimatur of the full Subcommittee. Even more curiously, no Department of Justice response is included in the record.

I am also appalled by the insertion in the hearing record of certain newspaper articles designed to show that majority staff member Peter Stockton was somehow the victim of an attempted personal smear by either Mobil Oil or Mr. Tavoulareas. The articles describe Mr. Stockton as a "dedicated Congressional investigator" whose "credentials are extraordinary". With all due respect, this seems entirely self-serving to Mr. Stockton and of no relevance to the issues identified as the subject matter of the February 8 hearing. Its inclusion in the hearing record is, to my knowledge, without authority from the Subcommittee membership.

John, I am concerned that this hearing record is flawed and/or faulty and does not accurately reflect the materials and documents which should appear in the Subcommittee record pursuant to the long-standing Committee and Subcommittee treatment. Accordingly, I request the hearing record be recalled and corrected.

Sincerely,

NORMAN F. LENT,
Member of Congress.

MOBIL OIL CORPORATION,
March 11, 1982.

Hon. MARC L. MARKS,
House of Representatives, Washington, D.C.

DEAR MR. MARKS: Enclosed for your information is a copy of the statement which Mobil has submitted for enclosure in the record of the hearings held on February 8 by the House Energy and Commerce Subcommittee on Oversight and Investigations.

Sincerely,

PAUL F. PETRUS.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 11, 1982.

Hon. JOHN D. DINGELL,
Washington, D.C.

DEAR JOHN: On July 21, I wrote you regarding the printed record of the hearing of the Subcommittee on Oversight & Investigations, held on February 8, 1982, entitled "Securities Laws and Corporate Disclosure Regulations". To date, I have not received a response to that letter although, in my opinion, a number of glaring omissions were outlined.

Since writing that letter, additional information has come to my attention which makes it even more clear that either a republication or a supplement to the printed record of our Subcommittee's proceedings is required in order to accurately portray what has in fact transpired.

It seems that one of the reasons, perhaps the principal reason, why the printed record exhibits the deficiencies pointed out in my earlier letter, lies in the timing and purpose of the printing and release of that record. After the passage of many months from the February 8, 1982, hearing, and before any Subcommittee report had been prepared, the hearing record was hurriedly printed and distributed on July 17, 1982. This, by a remarkable coincidence, was the very same day on which Messrs. Michael Barrett and Peter Stockton of the Subcommittee staff were scheduled to testify in the libel action brought by William Tavoulareas against the Washington Post in the Federal District Court in Washington, D.C. During cross-examination of Mr. Barrett by counsel for the Washington Post, he was asked whether a transcript of the hearing had been published and Mr. Barrett answered that it had just been published that very day, and had been brought to the courthouse (Tr. pp. 2763-64). Counsel for the Washington Post sought to introduce the printed hearing record into evidence, but the Judge sustained an objection to such introduction of the document (Tr. p. 2765). The timing of this exercise strikes me as most peculiar, especially since neither I nor any other member of the subcommittee had received a printed copy of the hearing transcript as of that date.

In my letter to you of March 16, 1982, you will recall I suggested it would be appropriate to obtain sworn statements from our Subcommittee staff members as to the circumstances surrounding the dissemination, in November 1979, of confidential Subcommittee information and of their secret dealings with the Washington Post. In large measure that request has been fulfilled by reason of their testimony, under subpoena, in the libel action. On July 17, both Messrs. Barrett and Stockton testified, and I enclose a copy of the trial transcript containing that testimony, together with pertinent portions of their earlier depositions.

That testimony illuminates several matters directly pertinent to the Subcommittee's activities relative to Mobil Corporation and Mr. William Tavoulareas. First, you will recall that your letter of March 5, 1980, to Mr. Tavoulareas stated that any dissemination of Subcommittee materials to the Washington Post in November 1979 was done by someone "not associated with our inquiry", and in your letter of December 18, 1981, you expanded this to mean a person "not associated with the Subcommittee". However, as you also know, in a sworn deposition Mr. Stockton testified that he was the one who gave the documents to the Post, and that he informed you virtually contem-

poraneously, probably on the very day in December, 1979 that Mr. Tavoulareas first met with you about this situation. (Deposition of 11/16/81, pp. 71-75.) Mr. Stockton has now repeated these statements again under oath, in the public trial, stating that in November 1979 he had repeated contacts with Pat Tyler of the Post (Tr. p. 2794), and that during the week ending November 23, 1979, he called Pat Tyler and delivered the Subcommittee documents to Mr. Tyler (Tr. pp. 2801-04). Further, Mr. Stockton admitted that at the December 4; 1979, meeting attended by yourself and Mr. Tavoulareas, although questions were asked about who released the documents to Mr. Tyler, he remained silent and did not identify himself as the person who had leaked those materials to Tyler (Tr. p. 2810).

Perhaps even more startling, Mr. Stockton testified under oath that the purpose of leaking the documents was to "obtain publicity" about the topic of possible Subcommittee "hearings"; however, no hearings had been scheduled and in fact no hearings on this matter were held in 1979, 1980 or 1981 (Tr. pp. 2802-06). Instead of making a general release of information to the press, Mr. Stockton admitted that this was a "narrow, singular release of information to one reporter and one newspaper", saying "that is often the case, that is not unusual" and that he did that "quite often" (Tr. pp. 2807-08).

Among the materials leaked to the Post reporter in 1979 were SEC materials from a "private investigation", which were subject to confidentiality restrictions, including the release of the SEC transcript of its 1977 interview with Mr. Tavoulareas, and a subsequent letter directed to the SEC by Mobil General Counsel; George Birrell. I do think it is a matter of real concern that our Subcommittee staff would obtain such materials from a federal agency for the apparent purpose of the selective dissemination to the media, a purpose which has been documented by Mr. Stockton's testimony (Tr. p. 2787) and by the unrelated testimony of Post reporter Patrick Tyler (Tyler testimony at p. 525, 540, 549-552, 553, 557, and 562-567). This conduct is made further reprehensible by the fact that the Subcommittee did not at the time contemplate any related hearings or other legislative activity on the matter.

Mr. Barrett's testimony further confirms the repeated contacts between Pat Tyler and Mr. Stockton, prior to publication of the Washington Post articles of November 30 and December 1, 1979 (Tr. p. 2743), and states that at the December 4, 1979, meeting between you and Mr. Tavoulareas, you denied that the Subcommittee materials had been leaked and said "if somebody leaks documents he gets fired" (Tr. p. 2749). Of course, as Mr. Barrett testified, Mr. Stockton is still employed by the Subcommittee (Tr. p. 2749).

I still do not understand why you and our Subcommittee continue to tolerate this admitted misconduct by our Subcommittee staff members, especially in view of your earlier commitment to take appropriate action.

My letter of July 21 noted that the printed record not only failed to include the attachments to Mobil's letter of January 28, 1982, but also omitted the Statement of Mobil Corporation, dated February 25, 1982, submitted by Mobil following the February 8, 1982, hearing. I have since learned that Mr. Michael Barrett had agreed that such a Statement would be included in the printed record. Copies of pertinent correspondence to this effect are enclosed.

Accordingly, it seems to me essential to print and republish the hearing record, or at least a supplement to the printed record, which would include the attachments to the Mobil letter of January 28, 1982, the Statement of Mobil Corporation dated February 25, 1982, and my letters to you of March 16, and July 21, 1982, and this letter. Copies of each of these items are enclosed, and I trust this can be accomplished in the near future so that the substance of this hearing can be accurately conveyed.

Sincerely,

NORMAN F. LENT,
Member of Congress.

STATEMENT OF MOBIL CORP., BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON ENERGY AND POWER, FEBRUARY 25,1982

A. INTRODUCTION

We note preliminarily that the hearing conducted on February 8, 1982 by the Subcommittee on Oversight and Investigations did include testimony and colloquy on the matters ostensibly under investigation by the Subcommitteee, namely, the adequacy of the Securities and Exchange Commission's rules and regulations pertaining to disclosure of transactions involving so-called "related persons" and of the process by which the SEC investigates and enforces its regulations. Differing theories for interpreting the existing SEC rules were advanced by past and present SEC staff members who testified. The colloquy made it clear that the rules in question are extraordinarily complex and ambiguous, with aberrational and anomalous impact on companies' disclosure obligations in some instances. Suggestions were made for administrative clarification of ambiguities as well as possible legislative change.

Mobil obviously has no quarrel with the Subcommittee's review of the above subject, it being a matter which lies between the Congress and the SEC.

We do think it strange, however, that as a method to explore this broad subject the Chairman and majority staff selected a Mobil matter which is seven or eight years old and has been fully investigated and disposed of by the SEC which found there was no violation of law, no dishonesty and no misuse of corporate assets. As a consequence, the hearing was largely reduced to examining a variety of statements contained in a preliminary draft memorandum of certain SEC staff members, whose conclusions were rejected by their superiors who then made different recommendations to the full Commission which agreed there was no violation of law.

Mobil questions the legitimacy of the process and suggests the integrity of the Congress is impugned when such hearings, ostensibly convened for the above-mentioned legislative purpose, in fact not only exhibit such a different focus but also involve conduct of government employees which is shocking in its irresponsibility, as follows:

The central purpose of the "hearing" clearly was to stage a media event as a self-serving, defensive maneuver on the part of the Subcommittee's Chairman and certain majority staff members by resurrecting and republishing unfounded charges against Mobil and its President, William P. Travoulareas, originally made by them over two years ago and, in this way, to divert attention from their continuing efforts to rationalize and preclude testimony in pending litigation as to their complicity with the Washington Post and untrue statements previously made in that connection. The press was apparently given to believe that new revelations would be forthcoming at the hearing regarding those charges. In fact, the event featured only a rehash of allegations which have long since been established to have no foundation in fact or in law.

The Chairman called the hearing on short notice, after he was advised that he would be subpoenaed to give sworn testimony in the libel action brought by Mr. Tavoulareas and his son, Peter, in connection with two articles on this subject published by the Washington Post in late 1979. Chairman Dingell has asserted Congressional immunity to avoid giving such testimony under oath, and has supported efforts to limit the testimony of his Subcommittee staff members on the basis of Congressional immunity. We understand the other members of the Subcommittee were not advised of this in advance of the hearing.

Chairman Dingell at the hearing made much of the fact that Mr. Tavoulareas and Mobil's Chairman, Rawleigh Warner, Jr., had declined an invitation to appear and testify. It was only when another Subcommittee member, Congressman Lent, raised the question, that it developed that Mobil had offered the testimony of Mr. George A. Birrell, its Vice President and General Counsel, as the Mobil official most familiar with the stated subject matter of the Subcommittee's hearing. Mr. Birrell had written a letter to Chairman Dingell on January 28, 1982 (Attachment A), making this offer on behalf of Mobil and explaining that he had advised Messrs. Warner and Tavoulareas that it would be inappropriate for them to appear at the hearing because the same matter is pending before a Federal District Court, and Mr. Tavoulareas' deposition was scheduled to be taken in that court action two days after the Subcommittee hearing date. Mr. Birrell's letter enclosed a copy of a letter dated January 11, 1982 from Mr. Tavoulareas to Chairman Dingell, reviewing in detail the complicity of the Subcommittee staff in furnishing confidential government information to the Washington Post for use in the Post's articles, the fact of false and libelous statements having been made by Chairman Dingell, and the desirability of sworn testimony being given by Chairman Dingell in the pending litigation without claim of immunity. Prior to the hearing, a member of Chairman Dingell's staff advised that a copy of Mr. Birrell's letter and the enclosure would be given advance distribution to the other Subcommittee members. We understand this was not done, so apparently no one on the Subcommittee other than Chairman Dingell and no one on the Subcommittee's staff except certain majority staff members had advance notice of this information pertinent to the hearing suddently scheduled for February 8, 1982.

As a further diversionary tactic, the Chairman's remarks at the hearing and a memorandum, dated February 4, 1982, to him from the Subcommittee staff, wrongly give an impression that after the SEC's lengthy investigation the SEC staff had concluded Mobil was in violation of SEC disclosure rules, and that Mobil had somehow induced the SEC to compromise that conclusion through a negotiated settlement. There was, in fact, no such legal conclusion by the responsible SEC staff officials or the Commission, and there was no negotiated compromise of any such conclusions.

At the hearing, someone for the Subcommittee staff placed on the press table a 41-page document, dated February 4, 1982, labeled "memorandum", authored anonymously by the "Subcommittee Staff" and addressed to Chairman Dingell. In our view, that memorandum is so irresponsible and inaccurate as to be an embarrassment to the Congress. The document is replete with demonstrably misleading and untrue statements about Mobil and Mr. Tavoulareas and matters pertaining to the investigation by the SEC. Apparently produced on a cut-and-paste basis to meet the schedule of the hurriedly called hearing, the memorandum exhibits innumerable errors apparent on its face, many quotations which are inaccurate when compared with their source, endless distortions and wildly speculative conclusions. In our view, the misleading and untrue statements contained in that memorandum are so egregious as to suggest the need for Congressional investigation of the conduct of the Subcommittee Chairman and his staff in connection, among other things, with the possibility that someone has acted in violation of Federal statues which prohibit the furnishing of false and fictitious statements to the United States Government and actions which corruptly influence congressional proceedings.These disturbing features of the so-called "hearing" and of the related conduct of Chairman Dingell and the Subcommittee majority staff members are reviewed below.

B. BACKGROUND OF THE HEARING AND CHAIRMAN DINGELL'S REFUSAL TO TESTIFY AS TO THE TRUTH

As detailed in a letter from Mr. Tavoulareas to Chairman Dingell dated November 20, 1981 (Attachment B), the genesis of this affair dates back to a 1979 effort by a reporter to develop a story for the Washington Post critical of Mobil. The reporter interviewed one George Comnas, who it developed was a most unreliable witness, and realized Comnas' off-the-record statements would not support a front-page story. The matter was brought to the attention of the Subcommittee staff who interviewed the same unreliable witness on an unsworn basis and prepared a "report" of the interview which they then furnished to the reporter. The reporter then wrote two articles purportedly in reliance on the congressional "report" and referring to a so-called "investigation" allegedly being conducted by Chairman Dingell's Subcommittee. In this fashion, "non-facts" became headline facts in the sense that a Congressional "investigation" pertaining to them was deemed a newsworthy event.

The SEC investigation was prompted by a letter (based on the same "report" of the unsworn interview with Comnas) which Chairman Dingell sent to the SEC Chairman on November 20, 1979, making a number of very serious charges against Mobil and Mr. Tavoulareas. That letter was sent only three days after the Subcommittee staff members had interviewed George Comnas, the apparent source of the basic allegations, and without any effort to clarify the facts with Mobil. Mr. Comnas was interviewed on a Saturday. The "report" based on that unsworn interview was written Sunday and Monday. The Chairman's letter to the SEC was sent Tuesday. The questions raised by such precipitous action based on information from one unverified source are obvious, especially when one considers the added feature of the Subcommittee staff's secret dealings with the Washington Post.

Mobil is advised that Subcommittee staffers' sworn testimony in the libel action brought by Mr. Tavoulareas and his son has now confirmed certain details of this complicity, which is even more shocking than we had previously thought, as set forth in Mr. Tavoulareas' letters to Chairman Dingell. That testimony establishes that a letter from Chairman Dingell dated March 5, 1980 was untrue in claiming that the 1979 Subcommittee staff "report" had not been provided to the Washington Post by members of the Subcommittee staff, and most significantly, that Chairman Dingell knew the facts were to the contrary well before the time he wrote that letter. Moreover, Chairman Dingell and the Subcommittee staff knowingly allowed counsel to the House Representatives to make a similar untrue statement to a Federal District Court Judge in connection with efforts to quash deposition subpoenas, on the basis of Congressional immunity, for the taking of testimony by the Subcommittee staff members on the subject.

In January 1982, Chairman Dingell was served with a subpoena to testify in the libel action pending in the United States District Court for the District of Columbia. He promptly sought to avoid testifying, seeking the assistance of the Speaker of the House of Representatives on the basis of "serious questions concerning the rights and privileges of the House."

At the hearing on February 8, 1982, Congressman Lent noted that as a member of the Subcommittee he had not been advised that Subcommittee staff members were claiming immunity from testifying in the civil litigation, saying:

"I am really shocked, Mr. Chairman, that people who are on the staff, who have been working on this case, who are in possession of the facts, would plead Congressional immunity in a civil court of this land. . . . I was not asked whether we ought to assert Congressional immunity in a civil case. I am shocked to learn just over the weekend that our staffers have been put in that position." (Tr. 16)[1]

Mobil agrees that the position taken by Chairman Dingell and by the Subcommittee staff members, resisting efforts to obtain their truthful testimony under oath, is a shocking circumstance. Their posture on the matter suggests much, we believe, as to the reasons for the February 8 hearing and the apparent continuing vendetta being conducted by them against Mobil and Mr. Tavoulareas.

C. THE DIVERSIONARY EFFORT TO REVIVE THE DISCREDITED CHARGES AGAINST MOBIL AND MR. TAVOULAREAS

Having leveled very serious charges in 1979 against Mobil and Mr. Tavoulareas, which he referred to the SEC for investigation, Chairman Dingell and the Subcommittee staff now find it expedient to disregard the results of that very extensive investigation, which were favorable to Mobil and its President, and to initiate yet another "investigation" of the same charges. We submit this is an unprincipled, wasteful and disgraceful abuse of the legislative process. (It is pertinent to note a statement by Representative Collins in the Washington Report of February 15, 1982, that over recent years the staff of the Energy and Commerce Committee has expanded to the extent of requiring a budget increase from $1.5 million in 1971 to $7.5 million in 1980. We make the obvious point that especially in an era of budgetary constraints, legitimate questions are raised as to the continued expenditure of funds on this matter which has been fully reviewed by the SEC, as requested two years ago by Chairman Dingell, and found to be without substance.)

1. The disproven charge of "misappropriation of corporate assets"

The principal charge made by Chairman Dingell in his letter of November 20, 1979 to the SEC Chairman was that William Tavoulareas "misused corporate assets to buy out George Comnas and enrich his son," that there was a "misappropriation of corporate assets". No reasonable person could doubt that on the evidence this charge was false when made, and has been completely put to rest. Yet, the Subcommittee staff memorandum of February 4, 1982 claims the SEC staff found the Chairman's "concerns" expressed in his 1979 letter to the SEC were "valid" (p. 5) and that the SEC staff found that George Comnas, the apparent source of the charge of misuse of corporate assets, was a "credible witness".

Nowhere in the SEC staff writings can either of such asserted findings be identified, and it was established at the February 8, 1982 hearing that on at least one central issue (and there are many other instances in the record), Mr. Comnas was not a credible witness. The basis of the "misappropriation of assets" charge was a consulting fee paid to Mr. Comnas by Mobil after he left Atlas in 1975. Yet, Mr. Ryan of the SEC staff confirmed that Atlas reimbursed Mobil the $83,000 paid by Mobil to Mr. Comnas for consulting fees, saying that "ultimately it was Atlas' money." (Tr. 84) And a document signed by Mr. Comnas, dated April 15, 1976, shows that he acknowledged then that Atlas had agreed to reimburse Mobil. (Tr. 85) Thus, Mr. Comnas had to know, at least three years before he furnished information to the Subcommittee staff, that such a misappropriation of corporate assets charge would be untrue.

Mr. Stanley Sporkin, who headed the SEC's Division of Enforcement during the investigation, repeatedly confirmed there was no evidence to support that charge. He stated "I do not want anybody to think I am talking about dishonesty here." (Tr. 42) Further:

"There was no finding that there was a misappropriation of funds. We looked at this very carefully. . . . I don't think it is fair to say, Mr. Chairman, that Mr. Tavoulareas was found to have misappropriated any funds. I don't think I could have made that statement in good conscience. . . . I don't think there is anything we found that would indicate a misappropriation [by] Mr. Tavoulareas of Mobil's money. That record ought to be clear because I think it would be unfair to indicate otherwise." (Tr. 87-89)

2. The disproven charge of misleading Mobil's management and directors

In 1979 Chairman Dingell alleged that "William Tavoulareas may have also misled Mobil's management and directors concerning his involvement in these activities". All the evidence is to the contrary, yet this same allegation is again featured in Chairman Dingell's statement at the recent hearing and in the February 4 Subcommittee staff memorandum.

The official Report of Investigation attached to the 1981 Action Memorandum of the Division of Enforcement, forwarded to the Commission, exhibits no support what-

[1] "Tr." references are to the as yet uncorrected stenographic transcript of the hearing held on February 8, 1982.

ever for this charge. Instead, it details the thorough and continuous disclosures by William Tavoulareas to Mobil's senior management and its directors of all pertinent details, from the very inception of the Mobil/Atlas/Samarco relationships. At the February 8, 1982 hearing, Mr. Ryan of the SEC staff confirmed "the factual statement is correct" that William Tavoulareas apprised Mobil's Conflict of Interest Committee Chairman of Peter Tavoulareas' possible involvement with Atlas "right from beginning", that the full Mobil board of directors received annual reports describing all transactions involving Atlas, and that there was no "failure to disclose material information by William Tavoulareas to Mobil's management and their directors". (Tr. 81-82)

3. The disproven charge of a securities law violation

Chairman Dingell, in 1979, alleged that the Atlas/Samarco transactions "may violate Federal securities laws, including those applying to failure to disclose material information to stockholders" and that Mobil's letter to stockholders in November 1976 "was incomplete and may have been false and misleading." In view of the record which is conclusively to the contrary, we think it astonishing, to say the least, that these same charges were repeated in Chairman Dingell's opening statement on February 8, 1982, and in the Subcommittee staff memorandum of February 4, 1982.

The truth is that the exhaustive SEC investigation yielded an "absence of sufficient evidence and legal basis to find securities laws violations", as stated at the hearing by Commissioner Philip A. Loomis. (Tr. 55-56) To be sure, there was a debate at the hearing as to the possible desirability of changing the securities laws or rules of the Commission regarding transactions in which a relative of a corporate officer or director may have an interest. But neither the Division of Enforcement's Report of Investigation, nor its official Action Memorandum to the Commission, or the action taken by the Commission itself lends support to Chairman Dingell's charge of a securities law violation.

The Director of the SEC's Division of Corporation Finance testified that there was "probably not a violation of law. That is probably the critical point". (Tr. 34) Whether Mobil's 1976 letter to shareholders, voluntarily issued without legal requirement to do so, could have been more extensive in its details is a matter for discussion. But, as Mr. Spencer of the SEC staff stated, "The question would be whether or not it is materially incomplete and in violation of our laws." (Tr. 34-35)

Commissioner Loomis emphasized that "* * * I don't want to assume that there were any violations of law here, that * * * [it] was material, or would have given rise to an action, because no action was recommended." (Tr. 35-36) He noted that the Division of Enforcement "did not recommend the finding of any violation of the federal securities laws", and therefore "the Commission determined to take no action which would appear to be a sanction on persons involved." (Tr. 55-56) In the absence of violations, the Commission did not feel they had authority to order Mobil to publish the Report of Investigation. (Tr. 64-65)

The discussion about what might have been the case under different circumstances centered on two novel and quite speculative theories of interpreting the SEC's disclosure rules. While these theories may be of interest to others in the future, the hearing made it clear such theories were not applicable during the time of the Mobil/Atlas/Samarco transactions. One speculative theory mentioned was that a contractual or economic relationship between companies (as distinct from equity ownership) may render one of them a "de facto subsidiary" of the other, requiring Proxy Rule information that would not otherwise be called for. Such an interpretation was not then, and is not presently, the law, and the Director of the SEC's Division of Corporation Finance noted that to find Atlas was a "de facto subsidiary" of Mobil would have been a "novel interpretation" of the SEC's rules. (Tr. 38, 42-43) The other speculative theory was that Proxy Rule information requirements that pertain only to a relative who lives in the "home" of a director might be expanded to include an adult relative who lives elsewhere but enjoys some measure of financial support from the director. As to this theory, too, the Director of the Division of Corporation Finance confirmed the obvious: ". . . to be fair we would have read home as meaning home . . . ." (Tr. 95) He noted, moreover, that past SEC interpretations have applied that language as it is written; "The disclosure required only attaches where the offspring lives at home." (Tr. 97)

Speculative theories for novel interpretation of the SEC's rules, or suggestions for change in the SEC rules, do not add up to an ex post facto securities law violation by Mobil, and there was none.

4. The disproven charge of "misleading" testimony in 1977

Finally, in 1979 Chairman Dingell charged that the 1977 testimony of William Tavoulareas to SEC staff members "may substantially have mislead the Commission concerning these transactions and his involvement." This allegation, too, has been shown to be without substance and the official Report of investigation of the SEC's Division of Enforcement contains no such suggestion.

In his 1977 sworn testimony, Mr. Tavoulareas answered every question put to him. Mobil is condident those answers were truthful and complete, and they were precise. It ill behooves the Chairman now to say that such testimony was "vague" (Tr. 3), and we find it disturbing in the extreme that the Subcommittee staff memorandum (p. 5), despite all the evidence to the contrary, suggests that the "SEC staff" found "substantial evidence" that this allegation, one of Chairman Dingell's 1979 charges, was "valid".

The most that can be said for this now discredited charge is that one of the SEC investigators is himself quite vague as to what Mr. Tavoulareas stated in 1977, despite the ready availability of the written transcript. Mr. Ryan claimed at the hearing that he received an "impression" in 1977 that Mr. Tavoulareas "completely recused himself from Atlas-Samarco matters. He had absolutely no discussions or nothing else." (Tr. 89) Mr. Ryan says he was under the impression that "in the first transcript he said he did not get involved in discussions in any way with Samarco and Atlas." (Tr. 91) These "impression" do not coincide with the 1977 transcript, which contains no such statements by Mr. Tavoulareas. He testified that he was not involved in "decision making between Atlas and Samarco" after his son joined Atlas (p. 42), and his earlier role in the selection of George Comnas to head Atlas is fully displayed in the 1977 transcript.

At the February 8 hearing, reference was made to one phrase, quoted out of context, from Mr. Tavoulareas' 1977 testimony that "I never got into negotiations of any kind at all between Atlas and Samarco . . ." (Tr. 91)[2] The two pages of questions and answers in the 1977 transcript leading up to that statement, however, make it clear that reference was to the ship charter agreements between Mobil and Samarco, not management agreement matters between Samarco and Atlas. The question to which Mr. Tavoulareas was responding was, "Have you ever discussed with your son the terms of the agreements [i.e., the charter agreements between Mobil and Samarco]?" (p. 36) His answer was as quoted above. Mr. Tavoulareas was simply stating that as President of Mobil, he did not get involved in the details of individual ship charters to and from Samarco, which were handled down the line by Mobil's Marine Department.

The fact that Mr. Tavoulareas did become involved in certain discussions and made recommendations from time to time, as he testified in 1980, in no way suggests Mr. Tavoulareas "misled" the SEC staff, either "substantially" (as alleged) or insubstantially, in 1977, when he indicated that Mobil "decisionmaking" and "negotiations" regarding Atlas/Samarco were handled by others.

D. THE ALLEGED NEGOTIATIONS OF A COMPROMISE OF THE SEC'S INVESTIGATIVE RESULTS

By artful sleight-of-hand techniques, the Subcommittee staff memorandum of February 4, 1982 and Chairman Dingell's opening statement at the February 8 hearing would have one believe that in December 1980 the SEC "staff" (i.e., the Division of Enforcement and Division of Corporation Finance) had concluded that Mobil violated the securities laws and were prepared to recommend an enforcement action; and that "staff" conclusions and recommendations to this effect were changed by reason of negotiations with Mobil, who reviewed the "staff" document and obtained changes not only in the conclusions and recommendations but in the statement of facts itself. These innuendos are distressing, and they are untrue.

First, who is the "SEC staff" to whom so many "findings" are attributed? In the Subcommittee staff memorandum, much reference is made to a so-called "staff report" of December 1980. That document, however, was only a preliminary draft memorandum, for discussion by the staff investigators with their superiors within the Division of Enforcement. On the face of the document, it is apparent that the recipients raised a number of questions. The December 1980 preliminary draft memorandum was in no sense a "staff report", a misleading label assigned to that document repeatedly in the Subcommittee staff's memorandum of February 4, 1982.

Moreover, that 1980 draft memorandum was unknown to Mobil and Mr. Tavoulareas and their counsel until the day of the hearing, February 8, 1982. Mobil and Mr. Tavoulareas were unaware of, and could not have negotiated a compromise of any of the conclusory material in, that draft memorandum.

The reason for this became apparent at the February 8 hearing, when it developed that the novel legal interpretations reflected in that preliminary draft memorandum were not supported by senior members of the Commission staff. (Tr. 38-41, 43-44, 93-97) Mr. Sporkin, then Director of the Divi-

[2] It should be noted that the SEC never requested a corrected transcript of that testimony.

sion of Enforcement, himself testified that he was "not prepared to recommend to the Commission that an injunctive action be brought." (Tr. 27)

What the SEC staff did review with Mobil was a simple recital of facts, based on documents and testimony furnished to the SEC, which was prepared later by the SEC staff and constituted the "Report of Investigation" attached to the official Action Memorandum of July 7, 1981 which was submitted to the Commission. That process involved no compromise as to the legal views of the SEC's Division of Enforcement. It was only a good faith, responsible effort by Mobil to assure that, if it was to issue that document under its own name, the statements attributed to witnesses and documents would in fact be accurate portrayals of what had been said and written.

Mobil's counsel only agreed to recommend to their client that Mobil issue the statement, and then only if they had prior access to the transcripts of testimony provided by non-Mobil witnesses so the accuracy of factual statements attributed to those sources could be verified. Those transcripts were not in fact made available to Mobil. It was therefore inaccurate for Chairman Dingell to say, as he did in his opening statement, that the Commission "overturned" an "agreement" between the SEC staff and Mobil.

Under the circumstances just described, Mobil certainly cannot be described as having agreed to file the statement and it is misleading for the Subcommittee staff to write in their memorandum (p. 8):

"While Mobil had indicated a willingness, finally, to disclose more information, once the Commission acted, Mobil refused to do so."

In any case, as Commissioner Loomis testified on February 8, the Commission determined that in the absence of evidence of a securities law violation or of any recommendation or finding of a securities law violation, it should not take action which "would appear to be a sanction on persons involved", and that in that circumstance the Commission did not have the authority to order Mobil to publish the Report of Investigation. (Tr. 55-56, 64-66)

E. THE FALSE AND MISLEADING SUBCOMMITTEE STAFF MEMORANDUM

Even a casual reader unacquainted with the facts would note that the Subcommittee Staff's memorandum of February 4, 1982 evidences an extraordinarily hasty and careless job of composition. It is filled with typographical mistakes, sentences which are obviously garbled and, on verification of quoted material, numerous mistakes of transcription. The over zealous authors attribute statements to people who did not make them, engage in hyperbole of a non-professional character, avoid phrasing serious unfounded allegations as such by portraying them as unanswered questions, and use successive qualifiers and adjectives to hedge outrageous statements. (Many examples of this latter practice could be cited, but just one will do. At page 22: "However, the SEC report of Warner's testimony, mentioned earlier, indicates that Warner may have been seriously confused about the creation of Atlas." The "SEC report" mentioned is apparently the preliminary discussion draft of December 1980. Whether it "indicates" that Mr. Warner "may" have been confused is irrelevant, but the outrageous innuendo is not. Mr. Warner's testimony, in fact, makes it abundantly clear that he was fully knowledgeable about the "creation of Atlas.")

It is tempting, but would make this statement unduly long, to review the innumerable other misstatements, exaggerations and misleading innuendos contained in the Subcommittee staff memorandum. However, a short illustrative list deserves comment in the context of section 1001 of Title 18 of the United States Code which makes it illegal knowingly and willfully to make any false or fictitious statement or representation to any department or agency of the United States, which includes the legislative branch of the government, and of Section 1505 of Title 18 which makes it illegal corrutly to influence the due and proper exercise of the power of inquiry of a Congressional committee.

1. At page 6 the memorandum asserts that "Mobil failed to produce important documents subpoenaed by the SEC; . . . and William Tavoulareas refused to provide requested personal financial records." Each of these statements is false.

As to the first, at page 32 a caption reads: "Mobil Withholds Critical Document on Japan Line Deal", and below it is stated that "Mobil . . . had failed to produce a critical document that was covered by the SEC subpoena." The fact is, the agreed interpretation of the subpoena did not call for documents relating to proposed transactions never consummated, such as the Japan Line proposal. At the hearing Mr. Ryan of the SEC was asked, "Did Mobil produce all the documents subpoenaed by the SEC?" Mr. Ryan answered, "I would say basically yes". (Tr. 48) Questioned specifically on the so-called "critical document", Mr. Ryan stated, "Going back early in the negotiations with Mobil on subpoena compliance, there is a letter in there which I agreed to that I was not looking for records of proposed transactions. Apparantly Mobil interpreted those transactions to fall within the Japan Lines deal and fall in line with the proposed transaction." (Tr. 48) Asked if he had any "quarrel with Mobil in that respect", Mr. Ryan said "no". (Tr. 48) In any case, Mr. Ryan also noted that the same document had been submitted to the SEC by Peter Tavoulareas as well as Fairfield International, which contrasts with the Subcommittee staff memorandum's reference to a mysterious other "source" of the document (p. 32). There is no basis whatever for the conclusion (p. 6) by the Subcommittee staff that "the SEC investigation was hampered" in this connection.

It is also false and misleading to say that "Peter Tavoulareas refused to turn over subpoenaed documents. . . ." At the hearing the SEC staff representatives noted that Atlas, Peter Tavoulareas and his partner Ares Emmanuel are outside the country and not subject to SEC jurisdiction. There never was any subpoena addressed to Peter Tavoulareas. He therefore would not have "refused to turn over subpoenaed documents", although an SEC representative noted that numerous records were produced by him on a voluntary basis. (Tr. 50-51)

It is false and misleading to say that "William Tavoulareas refused to provide requested personal and financial recprds." At the hearing, Mr. Ryan of the SEC staff noted that ". . . we explored what means were given to Peter Tavoulareas after he left his father's home. I believe the testimony was to the effect that William Tavoulareas did substantially assist his son while living in London, being employed by Costos Lemos. The testimony further went on he did not receive money supplementing his income after he joined Atlas. I do not recall seeing any schedule. I don't recall pushing the matter with Mobil." (Tr. 119-120) Further, Mr. Ryan testified that he could not recall whether "personal financial records" had been requested of Mr. Tavoulareas. (Tr. 52) Mr. Spencer, Director of the Division of Corporation Finance, testified that Mr. Tavoulareas "turned over every record that was subpoenaed . . ." (Tr. 52)

Thus, sworn testimony at the hearing and the SEC record prove that the Subcommittee staff made a false and misleading statement in saying that SEC investigation was "hampered" by a failure or refusal of Mobil or Peter Tavoulareas to produce "subpoenaed" documents or of William Tavoulareas to provide "requested personal financial records."

2. It is false and misleading for the Subcommittee staff to state: "Enforcement action was recommended to the Commission by the staff. . . ." (p. 5)

The only recommendation made to the Commission by "the staff" of which Mobil is aware, was that set forth in the official Action Memorandum of the Division of Enforcement dated July 7, 1981. That document states (p. 4):

"The staff however does not recommend enforcement action in this matter if Mobil Corporation makes additional clarifying disclosure to its stockholders."

And of course Commissioner Loomis confirmed "the staff did not recommend the finding of any violation of the federal securities laws." (Tr. 55)

3. The Subcommittee staff memorandum repeatedly misrepresents the preliminary discussion draft of December 1980 as being a "staff report" embracing "staff" findings and recommendations when, in fact, that document shows on its face that it raised questions in the minds of the authors' superiors and, in any case, was never approved by the SEC staff official having authority to make "findings" and recommendations to the Commission, namely, the director of the Division of Enforcement. These mischaracterizations of variuos statements made in the preliminary discussion draft of December 1980 would prompt the unwary reader to think they were official "findings" of the Division of Enforcement. They were not.

Worse yet, even where a position is directly ascribed to the Division of Enforcement, the Subcommittee staff memorandum grossly misstates the situation. That memorandum claims (p. 9):

"The division in its enforcement recommendations also expressed the view that the proxy rules had been violated."

Nowhere in the Enforcement Division's official Action Memorandum, or even in the earlier draft memorandum on which the Subcommittee staff places so much reliance, did anyone on the SEC staff express the view that the proxy rules "had been violated." In fact, the 1980 draft memorandum does not even mention the proxy rules. The official Action Memorandum of the Division of Enforcement to the Commission expresses no view to that effect. To the contrary, it states that the pertinent proxy rules provision are "in certain respects ambiguous", reviews the speculative theory having to do with so-called "de facto" subsidiaries, and indicates in a footnote that the proxy rules would "appear" to apply if Atlas (in which Mobil owns no stock) could be considered a "subsidiary" of Mobil. This contrasts sharply with the misleading impression given by the above-quoted sentence from the Subcommittee staff memorandum.

4. Under the heading, "William Tavoulareas' First Major Involvement in Aiding Atlas/Peter Tavoulareas" (pp. 19-22), the Subcommittee staff untruthfully postulates that William Tavoulareas knew his son, Peter Tavoulareas, "was part of the deal", and that this is the reason he supported George Comnas' company (Atlas) as marine manager for Samarco. The Subcommittee memo states that "William Tavoulareas personally selected George Comnas to create a ship management company" (p. 22) and suggests that Fairfield-Maxwell, Mobil and a number of other ship management firms would have been better suited for the job then George Comnas' Atlas. However, as the SEC official Report of Investigation points out (p. 3-4), "the joint ventures (i.e., the four shareholders of Samarco) agreed to retain a certain George Comnas, or a company associated with him, to be the independent manager for Samarco". The decision by the Samarco partners to retain the Comnas company, as independent manager, was to avoid conflicts of interest for Mobil and Fairfield-Maxwell, which had their own shipping operations (Report of Investigation, p. 5). That joint decision to retain an outside management firm, headed by Comnas, was set forth in a Memorandum of Understanding signed by all Samarco shareholders some three months before Peter Tavoulareas joined George Comnas in Atlas. The record further establishes that the Mobil internal decision, as a Samarco shareholder, was made jointly by several Mobil senior management officers, including Mobil's Chairman, and that Mr. Tavoulareas had advised Mobil's Chairman and its Conflicts of Interest Committee Chairman, at the very beginning, of his son's possible participation with Mr. Comnas.

5. Another matter untruthfully characterized by the Subcommittee memo involves the rationale for Mobil's participating in Samarco. Suggesting at pages 25 through 29 that Samarco was activated only to justify hiring Atlas so that Peter Tavoulareas could get started in business, the Subcommittee staff concludes that the only valid reason for Samarco's existence would be a Saudi flag preference system. The memo states, "Certainly William Tavoulareas, Harmon Hoffmann and Wally Mac Donald were savvy enough to know that flag preference was not forthcoming." (p. 26) The Subcommittee memo goes on to ask, "why did Mobil devote their resources to this venture? In 1982—eight years later—there is still no Saudi flag preference law."

Yet the SEC record and official Report of Investigation suggest no doubt as to the reality of a soundly-based expectation in 1974 that a preference system would be promulgated (see Report of Investigation, p. 3). And in fact, Saudi flag preference, though not in the form of a "law", has existed and does exist today for substantial volumes of Saudi crude oil. Pursuant to Government requirements shippers of incentive crude oil and Petromin direct sale crude oil are required to give preference to tankers of Saudi Arabian shipping companies. The Subcommittee statement (p. 27) that the "the whole arrangement is economically suspect" because there is no preference system is belied by the facts that a preference system was genuinely anticipated by all concerned and that there is a preference system and as a result Samarco is making a profit.

6. Under the heading, "William Tavoulareas Negotiates the Atlas Contract, November 1974" (pp. 30-32), there is perhaps the most egregious misrepresentation of facts. In suggesting that William Tavoulareas negotiated the Atlas contract, the Subcommittee staff has entirely disregarded the evidence and the official SEC staff findings. The Subcommitte staff centers on a single incident in which William Tavoulareas "was inadvertently drawn into a conversation" (see Report of Investigation, p. 6) at a social gathering in Saudi Arabia. The conversation related to only one aspect of the then pending Atlas/Samarco Agreement. (William Tavoulareas promptly advised Mobile senior management of having been drawn into this conversation (see SEC Report of Investigation, p. 6)).

The record shows that Mr. Tavoulareas persuaded Atlas to withdraw its demand for a 6 percent equity in Samarco vessels (not a share of Samarco, as the Subcommittee staff memo wrongly states) and to accept the Alirezas' position, a result considered less desirable by Atlas. It is manifestly false and misleading to say he "obtained a 4 percent profit sharing arrangement on behalf of Atlas".

In addition, the official Report of Investigation states: "From April 1974 through December 1974, negotiations continued between Samarco and Atlas concerning the terms of a contract between the two parties. The negotiations on behalf of Atlas with Samarco were handled by George Comnas. Negotiations on behalf of Samarco were primarily handled by Samarco's Saudi partners."

It is clear beyond doubt that Mr. Tavoulareas did not negotiate "the Atlas contract".

F. CONCLUSIONS

Based on all of the foregoing, Mobil respectively suggests to the full membership of the Subcommittee that they might wish to consider taking the following actions:

1. Call for an investigation by the Subcommittee, the parent Committee or the House Committee on Standards of Official Conduct, or other appropriate body of the House, as to all the facts regarding:

(a) the 1979 and later involvement of the Subcommittee staff with the Washington Post;

(b) the sworn and unsworn statements made in that connection;

(c) the positions taken to refuse giving and/or to limit sworn testimony as to the foregoing, on the basis of congressional immunity;

(d) the authorship of and authorization for the preparation and dissemination of the 41-page Subcommittee staff memorandum of February 4, 1982 (in relation to the facts of record known to such authors and the related misleading and untrue statements in that memorandum); and

(e) all outside employment contracts or other arrangements whereby members of the Subcommittee staff work with or for the media, including details of Mr. Peter Stockton's work for CBS and ABC reported in the New York Times of January 4, 1982, allegedly involving compensation payable to him in exchange for his providing confidential congressional information.

2. In connection with such review, require sworn testimony by the Subcommittee staff members and any member of the Subcommittee involved in the matters referred to above.

3. Furnish the results of the foregoing review to the parent Committee, the Speaker and/or the House Committee on Standards of Official Conduct or other appropriate body of the House, for the taking of such action as may be necessary and desirable to insure compliance with congressional standards and the integrity of the Subcommittee and its proceedings.

4. With regard to all the foregoing, consider referring the results of such review to the Department of Justice for further investigation in relation to possible violation of Sections 1001 and 1505 of Title 18 of the United States Code, or such other Federal statutes as may be applicable.

ATTACHMENT A

MOBIL CORP.,
New York, N.Y., January 28, 1982.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Please refer to two letters of January 19, 1982, addressed to Rawleigh Warner, Jr., Chairman of the Board of Mobil Oil Corporation and William P. Tavoulareas, President of Mobil Oil Corporation, inviting them to appear and testify on February 9, 1982, at a hearing of the Subcommittee on Oversight and Investigations relating to the "adequacy of the SEC's required disclosure of related party transactions" and dealing specifically with "an examination of the Mobil/Tavoulareas/Atlas relationship." It is my understanding from conversations I have had with two members of the Subcommittee staff that these hearings in fact relate solely to the Mobil/Tavoulareas/Atlas relationships. I am writing to inform you that Messrs. Warner and Tavoulareas respectfully decline the invitation which you have extended to them. The reasons for that action are set forth below.

As you are aware, this whole matter is the subject of litigation in a private libel action brought by Mr. Tavoulareas and his son against the Washington Post arising out of two articles which appeared in that publication in the latter part of 1979. The subject matter of one of those articles was a letter dated November 20, 1979, addressed by you in your then capacity as Chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, to the Chairman of the Securities Exchange Commission demanding an investigation of this matter.

The libel action was commenced in the fall of 1980, has been in the discovery stage and is now scheduled to go to trial this summer. Deposition testimony of certain of your subcommittee staff members has been taken and, pursuant to a discovery program outlined some time ago to Federal District Judge Gasch before whom the case is pending, your deposition has been noticed. At the same time, a deposition of Mr. Tavoulareas is now scheduled for Thursday, February 11, two days after the Subcommittee's hearing date.

Against this background, I have advised Messrs. Warner and Tavoulareas that it would be inappropriate for them to appear voluntarily at this time in a public forum as witnesses regarding this subject because this whole matter in all its detail is now pending before a Federal District Court in the District of Columbia.

As you know, your role and that of the Subcommittee staff in this matter has been the subject of lengthy correspondence between you and Mr. Tavoulareas. Attached is a copy of a letter dated January 11, 1982, from Mr. Tavoulareas to you, which summarizes the substance of this correspondence and the matters in dispute. This letter was

mailed to you on January 12, and Mr. Warner and Mr. Tavoulareas were informed of these proposed hearings late on the afternoon of January 15.

For the foregoing reasons, Mr. Warner and Mr. Tavoulareas respectfully decline the Subcommittee's invitation to appear and testify at this time.

As a matter of fact, one could ask whether it is necessary to hold any hearings on this matter. You will recall that in a meeting with Mr. Tavoulareas, Mr. Schmertz and me, you told us that you had sent your letter to the SEC, asking them to initiate an investigation because you did not feel that your committee should take this matter up; that it was a matter which was better left to the SEC to investigate.

You should be aware that the SEC spent eighteen months on this matter, took testimony from more than a score of witnesses, examined voluminous documents, and caused the government, Mobil Mr. Tavoulareas and others to make substantial expenditures.

The result of the SEC investigation was a detailed report which disclosed no impropriety on the part of either Mobil or Mr. Tavoulareas and a decision by the SEC that no disclosure or other action of any kind should be required of either Mobil or Mr. Tavoulareas.

While we recognize that Congress exercises legislative oversight over such such agencies as the SEC, it is difficult in the light of the extent of the SEC's investigation and its conclusions to perceive the public interest in a further investigation of the matter by the Subcommittee. This is particularly so in view of your recent statements regarding the vast number of important national issues which the Committee is going to have to address in the next several months.

If the hearings are nevertheless held, I request (1) that copies of this letter and its attachment be distributed to the members of your Subcommittee and that it be included in the record of the hearings; and (2) that Mobil be permitted to file a written statement for inclusion in the record of the hearings addressing the question of the adequacy of the related party transaction rules of the SEC as they apply to the Mobil/Tavoulareas/Atlas relationship. Furthermore, if the Committee wishes a live witness from Mobil, let me reiterate that I would be available and pleased to appear as the most knowledgeable person at Mobil both on the subject of the related party transaction rules and the SEC's investigation of this matter.

Very truly yours,

GEORGE A. BIRRELL.

MOBIL OIL CORP.,
New York, N.Y., January 11, 1982.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: After the first reading of your letter of December 18, I was confused beyond words. But after rereading your letter, I can see that its purpose must be more devious. You go out of your way to avoid addressing the essential points raised in my November 20, 1981 letter, or seem to be attempting to rewrite history. In fact, the letter appears to have been written to confuse third parties who may read it, but do not have all the facts available. (In this regard, you mention reporters from the Times and the Wall Street Journal having made inquiries—perhaps it was written with such an audience in mind.) In any event, my attorneys will have a chance to find out what you were trying to say when they depose you in the near future as a witness in my case. I can only hope that you will not use all possible legal subterfuges, such as congressional immunity, to avoid testifying fully as to the facts—as has been the case when the members of your staff were deposed.

As you well know, these difficulties began when you made charges against me in a letter to the SEC on November 20, 1979. The SEC has now investigated all those charges and, as you know, has taken no action. However, in the process I have learned a great deal; and it is relevant to restate the charges which I have not made against you, and which you have still not answered:

1. You know that in November 1979 your Mr. Stockton leaked to Pat Tyler of the Washington Post the material you sent to the Securities Exchange Commission.

2. You knew this well before sending your letter of March 5, 1980. Yet, that letter claimed any disclosure to the Post was not by any of your staff members.

3. You knowingly allowed Mr. Brand, Counsel to the House of Representatives, to present false information to a Federal Judge, or made no attempt to correct Mr. Brand's false representation when you learned of it after the fact.

4. You made false and libelous statements in your letter of November 20, 1979, to Harold M. Williams, then Chairman of the Securities Exchange Commission, and you continue to claim your statements in that letter to be true, even though you and the SEC have evidence to the contrary.

5. You have allowed, if not encouraged, a staff member to provide confidential government information to the Washington Post for purpose of gaining, according to the New York Times, "publicity for a potential subcommittee inquiry into the Tavoulareases' business relationships."

6. You have knowingly allowed, if not encouraged, a member of your staff to engage in potential conflicts of interest by working for your Committee and, at the same time, working for two television networks. The purpose of his television work, according to the individual, was to redress his outrage "* * * about a bunch of issues here in Washington."

Mr. Dingell, let us be clear on one thing. You and your staff are now the accused. These are serious charges which your position requires you to answer. I challenge you to waive your congressional immunity and answer each one of these issues. Let me discuss each of these issues more fully:

1 and 2. Your letter of March 5 contends that your investigation shows that dissemination of the material to the Washington Post was done by someone "not associated with our inquiry." In your letter of December 18, 1981, you expand this to mean a person "not associated with the Subcommittee." Yet, Mr. Stockton was undeniably associated with both the 1979 "inquiry" and the Subcommittee, if there is any difference between those references. If he was not "associated" with either your "inquiry" or the Subcommittee, then how could he possible in good faith claim congressional immunity during his deposition? And Mr. Stockton testified under oath that he was the one who gave the documents to the Post and that he informed you virtually contemporaneously, probably on the very day in December 1979 I first met with you about this situation. Either you are incorrect, or Mr. Stockton has made false statements under oath and claimed congressional immunity to which he is not entitled.

3. If Mr. Stockton was truthful in his testimony that he informed you that he had provided the material to the Washington Post, then you either knowingly allowed Mr. Brand to base an argument on false information to a Federal Judge when he appeared on behalf of the subpoened Congressional aides and claimed congressional immunity for the four of you as a basis for blocking testimony in my libel suit against the Washington Post, or you have failed to correct Mr. Brand's false representation when you learned of it after the fact.

4. In your letter of November 20, 1979, you make the following statement:

"Comnas received nothing from the remaining partners for his share of Atlas, but did receive $90,000 over three years from Mobil under a consulting contract, for which he performed virtually no services for Mobil. * * * It also appears that William misused corporate assets to buy out George Comnas and enrich his son."

This statement is false and libelous, as I have shown to you and the Securities Exchange Commission through an abundance of evidence. Even the Washington Post "corrected" that charge on December 7, 1979. Yet, you persist as you did in your letter of December 18, 1981, saying the SEC investigation "did not show any of my information to be inaccurate." Mr. Dingell, I challenge you to make this statement without congressional immunity. I can assure you that I will prove in a lawsuit that that statement is false and libelous.

5 and 6. It is clear from Mr. Stockton's testimony, from your December 18 letter, and subsequent information contained in Jonathan Friendly's article of January 4, 1982, in the New York Times that you helped make it possible for one of your staff members to gain remuneration from CBS and ABC in exchange for congressional information by working in a dual capacity as an investigator for your committee and as an investigator for the two networks.

You have made a big issue about disclosure of potential conflicts of interest in connection with my and Mobil's activities. The public would, I believe, be shocked to find that a full-time government employee can work as an investigator for a congressional subcommittee and, at the same time, as a paid investigator for the top two television journalist shows.

For the record, I would like to further comment on some points in your latest letter:

In paragraph one and two, you dispute my charge that you "allowed a misleading, if not false, document to be presented to a U.S. Federal Judge to influence that Judge's decision." You "assume" from the context of my letter that the document I was referring to was your March 5, 1980 letter to me. You are wrong. The false and misleading document you allowed to be presented to a Federal Judge was the Congressional Deponents' Reply memorandum in support of their motion to quash deposition subpenas. In answer to my lawyers' assertions that your March 5 letter was evidence that a subcommittee staffer gave the Washington Post your November 20, 1979 letter to the SEC with attachments, your lawyers argued (at pages 5a and 5b) that:

Perhaps Plaintiff's [sic] most remarkable leap of evidentiary faith is the assertion that a March 5, 1980 letter written to Plain-

tiff provides "conclusive evidence" that Congressional deponents are a source. In reponse to apparent complaints by Plaintiff charging leaks, Chairman Dingell informed Plaintiff that "steps" has been taken to insure against unauthorized disclosures. In that context, the Chairman stated that "[a]pparently, discussions within our staff resulted in someone not associated with our inquiry divulging information." Exhibit 11 to Oppositiion Memorandum. It simply defies logic and the plain meaning of words to assert that a statement specifically disclaiming disclosures [of your November 20, 1979 letter with attachments] by the committee staff can be construed as "conclusive evidence" that they were the source.

In sum, Plaintiff's evidentiary showing is nothing short of fantastic—a montage of unrelated facts, only some of which have been adduced in this litigation—with a gloss of imaginative hypothesis conjointed with assertions that the investigation was "non-official." It fails to establish any predicate for discovery.

As you know, and as you knew then, the "fantasy" which your lawyers argued against turns out to be reality. Under pressure of a Court order and an oath, Stockton has admitted he gave the Post the materials. It was this misleading Reply Memorandum to which I referred. Thus, it was not my counsel which misled the judge. It was yours.

You also state that your March 5 letter referred only to "continued dissemination" by your subcommittee after our December 4, 1979 meeting and not to the dissemination of your November 20, 1979 letter with attachments to Tyler. Again, you are mistaken. At our meeting on December 4, I made clear to you my concern about dissemination of your November 20, 1979 letter with attachments to the Washington Post in November 1979. It was that dissemination which concerned me then and concerns me now. It was that dissemination to which your March 5 letter refers, since it specifically mentions "documents" being "released." And it was that dissemination which caused us to seek to depose your aides, which you and they resisted by moving to quash. That was the subject of your Reply Memorandum and of Mr. Brand's statement in Court again disclaiming any dissemination. Your after-the-fact argument that your March 5 letter referred only to post December 4, 1979 dissemination is a transparent invention.

Paragraph three of your letter complains about dissemination of my November 20, 1981 letter. Your statement about the Times' reporter is inaccurate. And your presumption that my attorneys gave The Wall Street Journal reporter my November 20, 1981 letter, is equally inaccurate. But what does that matter since after your attorneys unsuccessfully tried to put that letter on the record (which would then make it public), your attorneys immediately gave it to the attorneys for The Washington Post. Once again, you are trying to confuse the issue. In any case, I had no reason not to have the letter made public once you ignored its confidential status.

In my previous letter, I stated an oil company source "suggested that I drop my lawsuit, otherwise Mr. Barrett will renew the investigation." In reply, you state Mr. Barrett denies making such a suggestion. If Mr. Barrett continues to deny under oath discussing my lawsuit with this source, I will be glad to elaborate on the facts I have on hand.

Now with respect to your last paragraph and your invitation for me to attend a "hearing" on February 1 to present my evidence, let us see what you are suggesting. We have had an 18-month SEC investigation—which you initiated—costing the government, Mobil and me many hundreds of thousands of dollars. Every facet of the charges made against me by you and your sources was examined in exhausting detail. That investigation has been terminated with a finding that no enforcement proceeding is warranted. It should be obvious to anyone that the SEC investigation failed to substantiate the untruths in your November 20, 1979 letter to the SEC.

You will recall you promised that if the SEC found no evidence to substantiate your charges, you would apologize. After the SEC investigation ended, I wrote to you on August 3, 1981 and asked you to come forth and admit that you were wrong in the original charges. You have failed to reply to that letter.

Subsequently, in the depositions of your staff, we confirmed what we always believed—that is, your staff worked hand in glove with an ambitious Post reporter in an attempt to make newsworthy an old, discredited story of alleged conflict of interest, spiced up with new and totally unsupported charges of currency or tax law violations circulated by persons obviously motivated by malice against me and my son. Mr. Stockton's admission that he used Congressional power and authority to gain publicity for "hearings" by your subcommittee is damning and revealing at one and the same time. Damning, because it is evident there never was to be a hearing. Revealing—and frightening—because such enormous power can be used to advance careers of Congressmen, aides and reporters no matter what the cost to the reputations and careers of those who become the objects of their alleged "investigations." I seriously doubt that the Post would have published its articles based on the words of Comnas alone. The touchstone to publication was the apparent ability to use documents from a "leaked" Congressional "investigation" as a source—even though those documents did nothing but repeat the unsworn, unverified charges of a maliciously motivated person. What Stockton did is, therefore, key to why I and my son must incur enormous expense to clear our reputations.

We now have testimony that you knew about Stockton's actions as early as December 4, 1979. You knew my state of mind then. Why didn't you come forward to reveal at least that much? Instead, you and your staff have stonewalled all efforts to establish how you got your information and your staff's questionable relationships with the press. You and your staff now stand accused. Yet, your suggestion is that the accused conduct a "hearing", and that the accused be judge and jury. What a strange method of jurisprudence. It sounds like something from a Russian novel.

I have a better suggestion. A Federal Judge is reviewing my allegations—and the jury will decide. You will have your chance to explain the conduct of you and your staff as a witness—or even as a defendant if you feel confident enough about your position to step out from behind your immunity so that we can both have an equal position before the Court.

Let's have justice prevail, Mr. Dingell. Forget your immunity and we have the forum—the Federal Court—that's the American way.

Sincerely,

W. P. TAVOULAREAS.

ATTACHMENT B

MOBIL OIL CORP.,
New York, N.Y., November 20, 1981.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: After nearly two years involving meetings and letters between us, the most recent being my letter to you of August 3, 1981, I have reluctantly come to the following conclusions:

That in your capacity as a member of the House of Representatives, you have deliberately misled a citizen who was rightfully trying to defend his reputation;

That you also allowed a misleading, if not false, document to be presented to a U.S. Federal judge to influence that judge's decision;

That you have retained on the government payroll an individual who claims he is at the same time a reporter for CBS and ABC;

With the result of undue grief to me and my family and large expenditures for me and my son and unnecessary and improper expenditures for the government.

These are strong charges, but they can now be supported by sworn testimony.

As you know, in 1979 the Washington Post published two articles which suggested that I had diverted Mobil assets and had used my position as Mobil president to enrich my son. The articles were based, in large part, on a letter written by you on November 20, 1979, and upon your staff's report, which was attached to that letter.

Some background is in order. Earlier in 1979, I testified before your committee. Although my testimony was probably not what your staff wanted to hear, you, nevertheless, personally thanked me for being willing to testify and later wrote me a note repeating your appreciation. Yet, in November—without calling me or any of the many other people who would have known that the staff report contained false information—you wrote to the SEC and asked that Mobil and I be investigated. It now develops that this action apparently was based upon a memo prepared by your staff only the day before (November 19); that memo was based upon an interview in Massachusetts with a disgruntled former associate of mine two days earler (November 17). Why the rush?

The result was predictable: Hang me in the press before I even knew what the charges were, or before I had a chance to reply. There was no concern for the damage to my family, my reputation, my company and its employees—and if someone complained, the Post and your staff could always invoke the First Amendment and Congressional Immunity.

You will recall that on December 4, 1979, I visited our office, together with two of my associates; Messrs. Barrett, Stockton, and Schooler of your staff were also there. At that time, I objected to your letter, told it was libelous, and requested a copy of both the letter and its attachment, since the Post already had both. You were about to give me copies when Mr. Barrett, et al, objected strenuously. Although you admitted you had authorized release of your letter to the Post, you insisted that the attachment (which was featured in the Post article) was not given to the Post by your staff. You said

it was confidential and had only been sent to the SEC; and for that reason, you could not give it to me. You then added that you would fire any member of your staff who gave out a copy of the report. Your staff seemed greatly relieved; from what I have since learned, I can understand why.

In our meeting, I told you that the Post had strongly implied that they received the letter and the report from your staff, and I asked for your cooperation. In a private meeting between the two of us, you suggested that your staff had gone too far, and you said that you had had no prior knowledge of the matter (i.e., before the November 1979 events), that you know of no investigation.

On March 5, 1980, you wrote me about the "unauthorized disclosures" of the staff report and stated, ". . . apparently discussions within our staff resulted in someone not associated with our inquiry divulging information."

Since that letter was written, I have filed suit against the Washington Post, in what has become a very expensive effort to obtain satisfaction for the injuries to my reputation. The true story is beginning to emerge, although your staff has used every legal device available to try to avoid testifying about their involvement in the preparation of the Washington Post's article. In fact, in May 1981, the House's attorneys used your letter of May 5, 1980, in court on a motion to quash subpoenas as a basis for trying to get your staff relieved from testifying about the report and their involvement in the libelous December 1 Post article. They argued that your letter disclaims any dissemination by Stockton, Schooler or Barrett.

The Post's reporter has now admitted, under oath, that he received your November 20, 1979, letter and report in November 1979.

On November 16, 1981, your Mr. Stockton, under oath, admitted he gave the Post the letter and the report in November 1979 (Mr. Schooler confirmed this), and that you were informed directly by him about that shortly after the meeting I had with you and the staff in early December 1979. (Despite this, you wrote your March 5, 1980, letter.) Stockton admitted that he had an "arrangement" with Post's Tyler to leak it to him alone, in order to get a big headline story. These sworn admissions expose the sordid nature of your March 5, 1980, letter.

[There is another sordid tale to tell. A number of well-known reporters (including Mr. Woodward) had previously looked into these matters and decided there was no story. Yet, the following sequence surfaces:

A reporter interviews an unreliable witness, realizes he doesn't have enough for a story, and talks to Congressional staff.

The staff threatens the unreliable witness with a subpoena, gets the same story the reporter had, prepares a report, secretly gives the report to the reporter, and the reporter writes an article about the "report" and the so-called "investigation."

The Congressman gets a headline, and the reporter gets an exclusive.]

In what I regard as one of the most shocking things I have heard, Mr. Stockton has now testified that in 1980 (presumably while your "investigation" of me and Mobil continued) he was also employed by CBS ("60 Minutes") and ABC ("20/20") while continuing to work on your office staff—and has declined to answer questions about the subjects involved in his work. So now we have a Congressional witness who pleads both legislative immunities and press immunities, presumably under the First Amendment. Although Stockton claims he didn't give information about me or the Mobil-Samarco transaction to "60 Minutes" or "20/20", the unreliable witnesss Stockton interviewed testified he was contacted by "60 Minutes" on this very subject matter.

Finally, you said to me that you would admit being wrong if I were cleared by the SEC. This has now occured, as you know, but I have had no word from you. Yet, I read Mr. Barrett's comment to newspapers that he does not agree with the SEC and that your committee will investigate. In that regard, I have recently heard from an oil company source, who says he recently spoke to Mr. Barrett. That source "suggested" I drop my lawsuit—otherwise Barrett would renew the investigation. This source also had a memo with him repeating the same type of libel reflected in your staff's report. The source refused to tell me where he got the document. I guess I'm supposed to be frightened by what I can only characterize as Gestapo tactics—you should know by now that I am not.

I have given you every chance to live up to your promises and cooperate in the judicial process. Up to this point, I had assumed that your staff might have been acting without your knowledge, but Mr. Schooler's and Mr. Stockton's testimony have now eliminated that possibility.

Nor does it appear that these abuses of power are ended. On November 14, 1981, the New York Times quotes sources close to your committee to the effect that I met with Mr. Campbell of the FTC regarding Mobil's proposed acquisition of Marathon and proposed a plan which was rejected by the FTC staff. Actually, the only accurate statement is that I was present at a meeting. The important thing is that your staff continues to harass me any my company.

These revelations are so shocking that I must call for a full investigation of the entire matter by the appropriate authorities.

Sincerely,

W. P. TAVOULARES.●

CONFERENCE REPORT ON H.R. 6211

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-987)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Surface Transportation Assistance Act of 1982".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Highway Improvement Act of 1982".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,225,000,000 for the fiscal year ending September 30, 1984," and all that follows down through the period at the end of the sentence and by inserting in lieu thereof the following: "the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1990.".

MINIMUM APPORTIONMENT

SEC. 103. (a) For each of the fiscal years 1984, 1985, 1986, and 1987, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5)(A) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code.

(b) Section 4(b) of the Federal-Aid Highway Act of 1982 is repealed.

OBLIGATION CEILING

SEC. 104. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and higway safety construction programs shall not exceed—

(1) $12,100,000,000 for fiscal year 1983;

(2) $12,750,000,000 for fiscal year 1984;

(3) $13,550,000,000 for fiscal year 1985; and

(4) $14,450,000,000 for fiscal year 1986.

These limitations shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, or projects covered under section 147 of the Surface Transportation Assistance Act of 1978, or section 9 of the Federal-Aid Highway Act of 1981 or section 118 of the National Visitor Center Facilities Act of 1968. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978.

(b) For each of the fiscal years 1983, 1984, 1985, and 1986, the Secretary of Tranportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio

which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(c) During the period October 1 through December 31, 1982, State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b) for fiscal year 1983, and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection for such fiscal year.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of the fiscal years 1983, 1984, 1985, and 1986, revise a distribution of the funds made available under subsection (b) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by this Act and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

(e)(1) Section 1106(b) of the Omnibus Budget Reconciliation Act of 1981 is repealed.

(2) Section 1106(c) of the Omnibus Budget Reconciliation Act of 1981 is amended to read as follows:

"(c) For the fiscal year 1982, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to all the States for such fiscal year.".

(3) Section 1106(d) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "periods" and inserting in lieu thereof "period" and by striking out "and October 1 through December 31, 1982,".

(4) Section 1106(e)(2) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "and after August 1, 1983,".

AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, $1,850,000,000 (reduced by the amount authorized by the first sentence of section 4(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $2,100,000,000 for the fiscal year ending September 30, 1984, $2,300,000,000 for the fiscal year ending September 30, 1985, and $2,450,000,000 for the fiscal year ending September 30, 1986. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $650,000,000 (reduced by the amount authorized by the second sentence of section 4(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $650,000,000 for the fiscal year ending September 30, 1984, $650,000,000 for the fiscal year ending September 30, 1985, and $650,000,000 for the fiscal year ending September 30, 1986.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 (reduced by the amount authorized by section 4(a)(2) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and $800,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(3) For Indian reservation roads, out of the Highway Trust Fund, $75,000,000 for the fiscal year ending September 30, 1983, and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(4) For the Virgin Islands, all such sums as may be required for the continued presence and operation of the office of the territorial representative of the Federal Highway Administration in St. Thomas, Virgin Islands.

(5) For parkways and park highways, out of the Highway Trust Fund, $75,000,000 for the fiscal year ending September 30, 1983 and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(6) For the forest highways, out of the Highway Trust Fund $50,000,000 (reduced by the amount authorized by section 4(a)(3) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(7) For public lands highways, out of the Highway Trust Fund, $50,000,000 (reduced by the amount authorized by section 4(a)(4) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(b) Section 151 of the Federal-Aid Highway Act of 1978 is repealed.

(c) In the case of fiscal years 1983 and 1984, each State shall, with respect to any Federal funds available to such State for expenditure on the Federal-aid primary system in excess of the amount apportioned to such State under section 104(b)(1) of title 23, United States Code, for such expenditure in fiscal year 1982, give priority consideration to those priority primary routes designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives.

(d) Of the sums apportioned to each State under subsections (a)(1) and (a)(2) of this section for each fiscal year, beginning with fiscal year 1984, not less than 40 per centum of such program funds shall be expended by such State on projects for resurfacing, restoring, rehabilitating, and reconstructing existing highways unless the State certifies to the Secretary that such percentage of funds is in excess of the resurfacing, restoring, rehabilitating, and reconstructing needs of existing highways in the State and the Secretary accepts such certification. The requirement of the preceding sentence shall apply only to that portion of a State's apportionment not used for reimbursing such State for bond retirement under section 122 of title 23, United States Code, or for advance construction funding under section 115 of title 23, United States Code.

(e) Section 4(a) of the Federal-Aid Highway Act of 1982 is amended by striking out "a joint resolution making continuing appropriations for such fiscal year," and inserting in lieu thereof "Public Law 97-276,".

(f) Except to the extent that the Secretary determines otherwise, not less than 10 per centum of the amounts authorized to be appropriated under this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act (15 U.S.C. section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

INTERSTATE RESURFACING

SEC. 106. Section 105 of the Surface Transportation Assistance Act of 1978 is amended by strking out "and not to exceed $800,000,000 for the fiscal year ending September 30, 1984." and inserting in lieu thereof "not to exceed $1,950,000,000 for the fiscal year ending September 30, 1984, not to exceed $2,400,000,000 for the fiscal year ending September 30, 1985, not to exceed $2,800,000,000 for the fiscal year ending September 30, 1986, and not to exceed $3,150,000,000 for the fiscal year ending September 30, 1987.".

INTERSTATE TRANSFERS

SEC. 107. (a)(1) Section 103(e)(4) of title 23, United States Code, is amended by striking out the eighth sentence and inserting in lieu thereof the following: "For the fiscal year ending September 30, 1983, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. For the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, sums obligated for projects under highway assistance programs shall be paid out of the Highway Trust Fund, and $700,000,000 shall be available for expenditure during each of the fiscal years ending September 30, 1984, and September 30, 1985, and $725,000,000 shall be available for expenditure during the fiscal year ending September 30, 1986. Twenty-five per centum of the funds available from the Highway Trust Fund for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects

for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal years ending September 30, 1985, and September 30, 1986. There are authorized to be appropriated for liquidation of obligations incurred under this pararaph the sums provided in section 4(g) of the Urban Mass Transportation Act of 1964. Fifty per centum of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragrah shall be distributed at the discretion of the Secretary. The remaining 50 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985, and September 30, 1986.".

(2) Section 103(e)(4) of title 23, United States Code, is amended by striking out the sixth sentence and inserting in lieu thereof the following: "The sums apportioned under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. The sums available for obligation under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. Any sums which are apportioned to a State for a fiscal year and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of such fiscal year shall be apportioned among those States which have obligated all sums (other than such an amount) apportioned to them for such fiscal year, in accordance with the latest approved estimate of the cost of completing the appropriate substitute projects in such States.".

(b) Section 103(e)(4) of title 23, United States Code, is amended by adding at the end thereof the following: "Any route or segment thereof which was statutorily designed after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.".

(c)(1) Section 103(e)(4) of title 23, United States Code, is further amended by—

(A) inserting in the second sentence after the words "approved by Congress," the following: "or up to and including the 1983 interstate cost estimate, whichever is earlier,";

(B) striking out in the second sentence "the date of enactment of the Federal-Aid Highway Act of 1976 or" and "whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate";

(C) inserting in the second sentence after "approval of each substitute project under this paragraph," the following: "or the date of approval of the 1983 interstate cost estimate, whichever is earlier.".

(2) Notwithstanding any other provision of law, with respect to any route or portion thereof on the Interstate System approval of which is or has been withdrawn under section 103(e)(4) of title 23 United States Code, in any case where the sum determined under the second sentence of such section is less than the cost to complete the withdrawn route or portion (in accordance with the design of such route or portion on the date of such withdrawal) as of June 30, 1980, as a result of decreases in construction costs, the sum which shall be available to the Secretary under such sentence shall be an amount equal to such cost of completion as of June 30, 1980.

(d) The third sentence of section 103(e)(4) of title 23, United States Code, is amended by striking out the period and inserting in lieu thereof the following: ", and except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction the Secretary may approve substitute projects and withdrawals on such route until September 30, 1985.".

(e)(1) The first sentence of section 103(e)(4) of title 23, United States Code is amended by striking "which is within an urbanized area or which passes through and connects urbanized areas within a State and".

(2) The second sentence of section 103(e)(4) of title 23, United States Code is amended by striking "which will serve the urbanized area and the connecting nonurbanized area corridor from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located." and inserting in lieu thereof, "which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located.".

(f) The first sentence of section 122 of title 23, United States Code, is amended to read as follows: "Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate system, or extensions of any of the Federal-aid highway systems in urban areas, or for substitute highway projects approved under section 103(e)(4) of this title, may claim payment of any portion of the sums apportioned to it for expenditure on such system or on highway projects approved under section 103(e)(4) of this title to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects.".

(g) Section 107(e) of the Federal-Aid Highway Act of 1978 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'construction' has the meaning such term has under section 101(a) of title 23, United States Code."

FEDERAL-AID PRIMARY FORMULA

SEC. 108. (a) Notwithstanding section 104(b)(1) of title 23, United States Code, and any other provision of law, amounts authorized for fiscal years 1983, 1984, 1985, and 1986 for the Federal-aid primary system (including extensions in urban areas and priority primary routes) shall be apportioned in accordance with this section. The Secretary of Transportation shall determine for each State the higher of (1) the amount which would be apportioned to such State under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be apportioned to such State under the following formula:

One-half in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census and one-half in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

(b) The Secretary of Transportation shall, for each of the fiscal years 1983, 1984, 1985, and 1986, determine the total of the amounts determined for each State under subsection (a) and shall determine the ratio which the total amount authorized for such fiscal year for the Federal-aid primary system bears to the total of such amounts determined under subsection (a) for such fiscal year.

(c) The amount which shall be apportioned to each State for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for each of the fiscal years 1983, 1984, 1985, and 1986 shall be the amount determined for such State under subsection (a), multiplied by the ratio determined under subsection (b).

(d) Notwithstanding any other provision of law, no State shall receive an apportionment under this section for any fiscal year which is less than the lower of (1) the amount which the State would be apportioned for such fiscal year under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be determined under the formula set forth in subsection (a). Notwithstanding any other provision of law, no State shall receive for any such fiscal year less than one-half of 1 per centum of the total apportionment under this section for such fiscal year. For purposes of this paragraph and subsection (b) of section 103 of this title, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered together as one State. The State consisting of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Mariana Islands shall not receive less than one-half of 1 per centum of each year's apportionment. There are authorized to be appro-

priated such sums as may be necessary out of the Highway Trust Fund to carry out this subsection. Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

(e) Amounts apportioned under this section shall be deemed to be amounts apportioned under section 104(b)(1) of title 23, United States Code, for purposes of such title and all other provisions of law. Terms used in this section shall have the same meaning such terms have in chapter 1 of title 23, United States Code.

(f) Section 103(b)(1) of title 23, United States Code, is amended by striking out "or Puerto Rico" and inserting in lieu thereof "Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands."

ENERGY IMPACTED ROADS

SEC. 109. (a) Section 105 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments may give priority to projects for the reconstruction, resurfacing, restoration, or rehabilitation of highways which are incurring a substantial use as a result of transportation activities to meet national energy requirements and which will continue to incur such use, and in approving such programs the Secretary may give priority to such projects.".

(b) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

(k) Nothwithstanding any other provision of this section, the Federal share payable on account of any project under this title to reconstruct, resurface, restore, and rehabilitate any highway which the Secretary determines, at the request of any State, is incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use is 85 per centum of the cost of such project.".

RESURFACING STANDARDS

SEC. 110. (a) Section 109 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway access to which is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.".

(b) The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences (1) to conduct a study of the safety cost-effectiveness of geometric design criteria of standards currently in effect for construction and reconstruction of highways, other than highways access to which is fully controlled, to determine the most appropriate minimum standards to apply to resurfacing, restoration, and rehabilitation projects on such highways, which study shall include a study of the cost effectiveness of the hot dip galvanizing process for the installation, repair, or replacement of exposed structural and miscellaneous steel, and (2) to propose standards to preserve and extend the service life of such highways and enhance highway safety. The National Academy of Sciences shall conduct such study in cooperation with the National Transportation Safety Board, the Congressional Budget Office, and the American Association of State Highway and Transportation Officials. Upon completion of such study, the National Academy of Sciences shall submit such study and its proposed standards to the Secretary of Transportation for review. Within ninety days after submission of such standards to the Secretary of Transportation, the Secretary shall submit such study and the proposed standards of the National Academy of Sciences, together with the recommendations of the Secretary, to Congress for approval.

(c)(1) The Secretary of Transportation is directed to coordinate a study with the National Bureau of Standards, the American Society for Testing and Materials, and other organizations as deemed appropriate, (A) to determine the existing quality of design, construction, products, use, and systems for highways and bridges; (B) to determine the need for uniform standards and criteria for design, processing, products, and applications, including personnel training and implementation of enforcement techniques; and (C) to determine the manpower needs and costs of developing a national system for the evaluation and accreditation of testing and inspection agencies.

(2) The Secretary shall submit such study to the Congress not later than one year after the date of enactment of this section.

VENDING MACHINES

SEC. 111. Notwithstanding section 111 of title 23, United States Code, before October 1, 1983, any State may permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of the National System of Interstate and Defense Highways in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway department determines are appropriate and desirable. Such vending machines may ony be operated by the State. In permitting the placement of vending machines under this Section, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)). The cost of installation, operation, and maintenance of vending machines under this section shall not be eligible for Federal assistance under title 23, United States Code.

LETTING OF CONTRACTS

SEC. 112. Section 112 of title 23, United States Code, is amended—

(1) in subsection (b) by striking out "unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest" and inserting in lieu thereof "unless the State highway department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective"; and

(2) in subsection (e) by striking out the period at the end and, inserting in lieu thereof the following: "except where employees of a political subdivision of a State are working on a project outside such political subdivision.".

CONSTRUCTION IN ADVANCE OF APPORTIONMENT

SEC. 113. (a) Section 115(b)(2) of title 23, United States Code, is amended by striking out "1978" each place it appears and inserting in lieu thereof "1983".

(b) Section 115(b) of title 23, United States Code, is amended by adding at the end thereof the following:

"(3) Subject to the provisions of this paragraph, the cost of construction of a project, the Federal share of which the Secretary is authorized to pay under this subsection, shall include the amount of any interest earned and payable on bonds issued by the State to the extent that the proceeds of such bonds have actually expended in the construction of such project. In no event shall the amount of interest considered as a cost of construction of a project under the preceding sentence be greater than the excess of (A) the amount which would be the estimated cost of construction of the project if the project were to be constructed at the time the project is converted to a regularly funded, project, over (B) the actual cost of construction of such project (not including such interest). The Secretary shall consider changes in construction cost indices in determining the amount under clause (A) of this paragraph.".

(c) Section 115(a) of title 23, United States Code, is amended to read as follows:

"(a)(1) When a State has obligated all funds apportioned or allocated to it under section 103(e)(4), 104, or 144 of this title, other than Interstate funds, and proceeds to construct any highway substitute, Federal-aid system, or bridge project, respectively, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 103(e)(4), 104, or 144, respectively, of this title if—

"(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

"(B) the project conforms to the applicable standards adopted under section 109 of this title.

"(2) The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, or 144 of the title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations.".

(d) Section 115(c) of title 23, United States Code, is amended by striking "104" and inserting in lieu thereof "103(e)(4), 104, or 144".

MAINTENANCE

SEC. 114. The second sentence of subsection (c) of section 116 of title 23, United States Code, is amended to read as follows: "If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate, until such project

shall have been put in proper condition of maintenance.".

INTERSTATE DISCRETIONARY FUNDS

SEC. 115. (a) Section 118(b) of title 23, United States Code, is amended to read as follows:

"(b)(1) Sums apportioned to each Federal-aid system (other than the Interstate System) shall continue available for expenditure in that State for the appropriate Federal-aid system or part thereof (other than the Interstate System) for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse.

"(2) Except as otherwise provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects on the Interstate System (other than projects for which sums are apportioned under section 104(b)(5)(B)) in accordance with the following priorities: First, for high cost projects which directly contribute to the completion of an Interstate segment which is not open to traffic; and second, for projects of high cost in relation to a State's apportionment. Sums may only be made available under this paragraph in any State if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) apply the funds to a ready-to-commence project; and (B) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

"(3) Any amount apportioned to the States for the Interstate System under subsection (b)(5)(B) of section 104 of this title shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System to any other State applying for such funds, if the Secretary determines that the State has obligated all of its apportionments under such subsection other than an amount which, by itself, is insufficient to pay the Federal share of the cost of such a project which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) obligate the funds within one year of the date the funds are made available; (B) apply them to a ready-to-commence project; and (C) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

"(4) Sums apportioned to a Federal-aid system for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is obligated. Any Federal-aid highway funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds, primary, secondary, urban, or interstate, previously apportioned to the State and be immediately available for expenditure."

"(b) Section 118 of title 23 United States Code is amended by relettering subsections (c) and (d) as subsections (e) and (f), respectively, and by adding after subsection (b) thereof the following new subsections:

"(c) Before any apportionment is made under section 104(b)(5)(A) of this title for a fiscal year beginning after September 30, 1983, the Secretary shall set aside $300,000,000. Such amount shall be available only for obligation by the Secretary in accordance with subsection (b)(2) of this section.

"(d) In addition to amounts otherwise available to carry out this section, an amount equal to the amount by which the unobligated apportionment for the Interstate System in any State is reduced under section 103(e)(4) of this title on account of the withdrawal of a route or portion thereof on the Interstate System, which withdrawal is approved after the date of enactment of this subsection, shall be available to the Secretary for obligation in accordance with subsection (b)(2) of this section.".

INTERSTATE SYSTEM RESURFACING TRANSFERS

SEC. 116. (a)(1) Section 119(a) of title 23, United States Code, is amended by inserting after the first sentence the following: "In addition to projects approved under the preceding sentence, beginning with funds apportioned for fiscal year 1984, the Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing those routes or portions thereof on the Interstate System designated before the date of enactment of this sentence under section 139(a) of this title (other than routes on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) which routes or portions were so designated in conjunction with the withdrawal of approval of another route or portion thereof on the Interstate System under section 103(e)(4) of this title.".

(2) The last sentence of section 119(a) of title 23, United States Code, is amended by striking out "designated under sections 103 and 139(c) of this title" and inserting in lieu thereof "under this subsection".

(3) The last sentence of section 139(a) of title 23, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", except that any State may use funds available to it under section 104(b)(1) of this title and, beginning with funds apportioned for fiscal year 1984, under section 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any route or portion thereof on the Interstate System on which a project may be approved under the second sentence of section 119(a) of this title.".

(b) The last subsection of section 119 of title 23, United States Code, is relettered as subsection (c).

(c) Section 119 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Upon application by a State and approval by the Secretary, the Secretary may authorize the transfer of so much of the amount apportioned to such State for any fiscal year under paragraph (5)(A) of subsection (b) of section 104 of this title, as does not exceed the Federal share of the cost of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes), in the most recent cost estimate, to the apportionment under paragraph (5)(B) of subsection (b) of section 104 of this title, except that not more than 50 per centum of the total apportionment under such paragraph (5)(A) for a fiscal year shall be transferred under this subsection for such fiscal year. The next cost estimate submitted to Congress under paragraph (5)(A) of subsection (b) of such section 104 of the cost of completing segments of the Interstate System open to traffic in that State (other than high occupancy vehicle lanes) shall be reduced for such State in an amount equal to the amount transferred under this subsection.".

FEDERAL SHARE

SEC. 117. (a) Section 120(c) of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding subsection (a) of this section, the Federal share payable on account of any project financed with primary funds on the Interstate System for resurfacing, restoring, rehabilitating, and reconstructing shall be the percentage provided in this subsection.".

(b) Section 120(d) of title 23, United States Code, is amended by inserting "or for pavement marking" after "signalization" and by adding at the end thereof the following: "The Federal share payable on account of any project for traffic control signalization under section 103(e)(4) of this title may amount to 100 per centum of the cost of construction of such project.".

(c) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) Nothwithstanding any other provision of this section (other than subsection (i)), of this title, or of any other law, in any case where a State elects to use funds apportioned to it for any Federal-aid system for any project under sections 143, 148, and 155, of this title and for those priority primary routes under section 147 of this title designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives, the Federal share payable on account of such project shall be 95 per centum of the cost thereof, unless—

"(1) such project is on land owned by the United States in which case the Federal share shall be 100 per centum of the cost of such project, or

"(2) a Federal share of the cost of the project greater than 95 per centum is specifically authorized by law.".

FRINGE AND CORRIDOR PARKING

SEC. 118. Section 137 of title 23, United States Code, is amended by inserting the following new subsection (f):

"(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(5)(B) of this title, projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, for use as preferential parking for carpools, provided that such facilities (A) are located outside of a central business district and within an interstate highway corridor, and (B) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

"(2) Nothing in this subsection, or in any rule or regulation issued under this subsection, or in any agreement required by this subsection, shall prohibit (A) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility designated or constructed under this subsection,

or (B) any such person from so operating such facility. Any fees charged for the use of any such facility in connection with the purpose of this subsection shall not be in excess of the amount required for operation and maintenance, including compensation to any person for operating the facility.

"(3) For the purposes of this subsection, the terms 'facilities' and 'parking facilities' are synonymous and shall have the same meaning given 'parking facilities' in subsection (c) of this section.".

NONDISCRIMINATION

SEC. 119. (a) The first and third sentences of subsection (a) of section of 140 title 23, United States Code, are amended by striking the words "or national origin" and inserting in lieu thereof the words ", national origin, or sex".

(b) Section 140 of title 23, United States Code, is amended by adding new subsection (c) as follows:

"(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. Whenever apportionments are made under subsection 104(a) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of section 302(c) of the Federal Property and Administrative Service Act of 1949 (41 U.S.C. 252(e)).".

(c) The title of section 140 of title 23, United States Code, is amended to read as follows:

"§ 140. Nondiscrimination"

and the analysis of chapter 1 of title 23, United States Code, is amended by striking out

"140. Equal employment opportunity."

and inserting in lieu thereof

"140. Nondiscrimination.".

PUBLIC TRANSPORTATION

SEC. 120. (a) The last sentence of section 142(a)(1) of title 23, United States Code, is amended by inserting "and the cost of providing shuttle service to and from the facility" after "of the facility" and by inserting "and for providing such shuttle service" after "operating the facility".

(b) Section 142 of title 23, United States Code, is amended as follows:

(1) In subsection (a)(1) in the first sentence the words "bus lanes" and insert in lieu thereof "high occupancy vehicle lanes" and delete the words "bus and other" and insert in lieu thereof "high occupancy vehicle and".

(2) In subsection (b) delete the word "bus" and insert in lieu thereof "high occupancy vehicle".

(3) In subsection (f) delete the words "public mass transportation systems" and insert in lieu thereof "high occupancy vehicles".

BRIDGE PROGRAM APPORTIONMENT

SEC. 121. (a) Subsection (e) of section 144 of title 23, United States Code, is amended to read as follows:

"(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient bridge shall be placed into one of the following categories: (1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges for replacement, and (4) off-system bridges for rehabilitation. The square footage of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually.".

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1982, and shall apply with respect to each fiscal year beginning on or after such date. Notwithstanding subsection (e) of section 144 of title 23, United States Code, as soon as practical after the date of enactment of this Act, the Secretary of Transportation shall apportion under such subsection (e), as amended by subsection (a) of this section, sums authorized to be appropriated to carry out such section 144 for the fiscal year ending September 30, 1983.

HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION

SEC. 122. (a) Subsection (g) of section 144 of title 23, United States Code, is amended by inserting after "(g)" the following: "(1)". Such subsection is further amended by striking out the fourth and fifth sentences and by adding at the end thereof the following:

"(2) Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, by section 5(a)(1) of the Federal-Aid Highway Act of 1982 and section 202(1) of the Highway Safety Act of 1982, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Not less than 15 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal-aid system. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal-aid system when he determines that such State has inadequate needs to justify such expenditure.".

(b) Notwithstanding section 144 of title 23, United States Code, and any other provision of law, the Secretary of Transportation may approve under such section 144 (including subsection (g)) a project to relocate and replace (1) any bridge across a river located on a two-lane Federal-aid highway which is in a slide area, in a flood plain, and in the vicinity of and north of Cloverdale, California, together with (2) all highways and approaches required as a result of such relocation and replacement.

(c) Notwithstanding section 144 of title 23, United States Code, and any other provision of law, the Secretary of Transportation may approve under such section 144 (including subsection (g)) a project to replace the LaSalle Peru Bridge which is part of a complete replacement of United States 51 in a new location.

CARPOOL AND VANPOOL PROJECTS

SEC. 123. (a) Section 120(d) of title 23, United States Code, is amended by inserting before ", may amount to 100 per centum" the following: " or for commuter carpooling and vanpooling".

(b) The Secretary of Transportation is authorized and directed to expend such sums as are necessary out of the administrative funds authorized by subsection (a) of section 104, title 23, United States Code, to carry out the provisions of subsection (d) of section 126 of the Federal-Aid Highway Act of 1978.

ALLOCATION OF URBAN FUNDS

SEC. 124. Section 150 of title 23, United States Code, is amended by adding the following sentence at the end thereof: "Funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of the appropriate local officials of the area and the Secretary, be transferred to the allocation of another such area in the State or to the State for use in any urban area.".

HAZARD ELIMINATION PROGRAM EXTENSION

SEC. 125. Subsection (c) of section 152 of title 23, United States Code, is amended to read as follows:

"(c) Funds authorized to carry out this section shall be available for expenditure on any public road (other than a highway on the Interstate System).".

FEDERAL LANDS HIGHWAYS PROGRAM

SEC. 126. (a) Section 202 of title 23, United States Code, is amended to read as follows:

"§ 202. Allocations

"(a) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways according to the relative needs of the various elements of the national forest system as determined by the Secretary, taking into consideraiton the need for access as identified by the Secretary of Agriculture through renewable resource and land use planning, and the impact of such planning on existing transportation facilities.

"(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest development roads and trails accord-

ing to the relative needs of the various national forests. Such allocation shall be consistent with the renewable resource and land use planning for the various national forests.

"(c) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the respective States. The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities.

"(d) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for park roads and parkways each according to the relative needs of the various elements of the national park system, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation facilities.

"(e) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.".

(b) Section 204 of title 23, United States Code, is amended to read as follows:

"§ 204. Federal Lands Highways Program

"(a) Recognizing the need for all Federal roads which are public roads to be treated under the same uniform policies as roads which are on the Federal-aid systems, there is established a coordinated Federal lands highways program which shall consist of the forest highways, public lands highways, park roads, parkways, and Indian reservation roads as defined in section 101 of this title.

"(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof. Funds available for park roads, parkways, and Indian reservation roads shall be used by the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State or civil subdivision thereof or Indian tribe as deemed advisable. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior. No ceiling on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(c) Before approving as a project on an Indian reservation road any project on a Federal-aid system in a State, the Secretary must determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads of a fair and equitable share of funds apportioned to such State under section 104 of this title.

"(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

"(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the Interior shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the "Buy Indian" Act of June 25, 1910 (36 Stat. 891), and the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior which are appropriated for the construction and improvement of Indian reservation roads.

"(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

"(g) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

"(h) Funds available for each class of Federal lands highways shall be available for adjacent vehicular parking areas and scenic easements."

(c)(1) The twelfth undesignated paragraph of section 101(a) of title 23, United States Code, defining the term "park roads and trails", is amended to read as follows:

"The term 'park road' means a public road that is located within or provides access to an area in the national park system.".

(2) The tenth undesignated paragraph of section 101(a) of title 23, United States Code, defining the term "Indian reservation roads and bridges" is amended by striking out "The term 'Indian reservation roads and bridges' means roads and bridges, including roads and bridges" and inserting in lieu thereof "The term 'Indian reservation roads' means public roads, including roads".

(3) Section 101(a) of title 23, United States Code, is amended by adding after the third undesignated paragraph, defining the term "county", the following:

"The term 'Federal lands highways' means forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads.".

(d) Sections 206, 207, 208, 209, and 214(c) of title 23, United States Code, are repealed.

(e) The analysis of chapter 2 of title 23, United States Code, is amended—

(1) by striking out

"202. Apportionment for allocation."

and inserting in lieu thereof

"202. Allocations.";

(2) by striking out

"204. Forest highways."

and inserting in lieu thereof

"204. Federal lands highways program.";

and

(3) by striking out

"206. Park roads and trails.
"207. Parkways.
"208. Indian reservation roads.
"209. Public lands highways."

and inserting in lieu thereof

"206. Repealed.
"207. Repealed.
"208. Repealed.
"209. Repealed.".

(f) Sections 201 and 203 of title 23, United States Code, are amended by striking out "park roads and trails" wherever it appears and inserting in lieu thereof "park road".

BICYCLE TRANSPORTATION

SEC. 126. Section 217 of title 23, United States Code, is amended to read as follows:

"§ 217. Bicycle transportation and pedestrian walkway

"(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(b)(1) To encourage energy conservation, including the development, improvement, and use of bicycle transportation, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles, and carry out nonconstruction projects related to safe bicycle use. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(2) In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

"(3) No bicycle project shall be authorized by this section unless the Secretary shall have determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

"(c) For all purposes of this title, a pedestrian walkway project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such pedestrian walkway project shall be 100 per centum.

"(d) For all purposes of this title, a bicycle project authorized by subsection (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such bicycle project shall be 100 per centum.

"(e) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways in conjunction with such trails, roads, highways, and parkways.

"(f) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of bicycle routes.

"(g) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

"(h) Not more than $45,000,000 of funds authorized to be appropriated in any fiscal year may be obligated for projects authorized by subsections (a), (b), (e), and (f) of this section. No State shall obligate more than $4,500,000 for such projects in any fiscal year, except that the Secretary may, upon application, waive this limitation for a State for any fiscal year.".

PARKING RAMPS AND FRONTAGE ROADS

SEC. 127. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is further amended by adding before the last sentence thereof a new sentence as follows: "Notwithstanding any other provision of law, including any other provision of this subsection, where a project is to be constructed (1) to provide parking garage ramps in conjunction with high occupancy vehicle lanes which flow into a distributor system emptying directly into ramps for off-street parking with preferential parking for carpools, vanpools, and buses and the ramps are part of an environmental mitigation effort and are designed to feed into an aerial walkway system, or (2) to provide a parking lot near the terminus of an Interstate System spur route which radiates from an Interstate System beltway which will be used as an intermodal transfer facility for a light rail transit project to be constructed in the median of the spur route and the parking lot is part of an environmental mitigation effort, or (3) to provide a parking garage and associated facilities as part of an intermodal transfer facility with a transit system near or within an Interstate System route right-of-way which will have direct and indirect access to the facility by way of local streets and the parking garage and associated facilities are part of an environmental mitigation effort, or (4) to provide for the comprehensive upgrading of existing high occupancy vehicle lanes, new ramps and parking facilities at mass transit intermodal transfer points on an existing Interstate System route which has temporary high occupancy vehicle lanes in the median and the parking facilities and ramps are part of an environmental mitigation effort, the costs of such parking garage ramps, parking lots, parking garages, associated interchange ramps, high occupancy vehicle lanes, and other associated work eligible under title 23, United States Code, shall be eligible for funds authorized by this subsection as if the costs for these projects were included in the 1981 interstate cost estimated and shall be included as eligible projects in any future interstate cost estimate.".

(b) Notwithstanding the provisions of section 108(b) of the Federal-Aid Highway Act of 1956, as amended, the Secretary of Transportation may approve the expenditure of funds authorized under such section for the construction of a previously approved project which provides for improvements to and reconstruction of ramps and service roads which are being developed as part of a roadway system to relieve a severely congested segment on an Interstate route. Such expenditures shall be limited (1) to work necessary to provide more effective and safe operation of such Interstate route, and (2) to a section of an Interstate route which proceeded to construction contract prior to the date of enactment of such Act and which Interstate route, together with service roads, was constructed without the expenditure of any funds authorized by such section.

PROJECT ELIGIBILITY

SEC. 128. In any case where a project involving a Federal-aid primary route not on the Interstate System, and a route on the Interstate System which was originally constructed without the expenditure of any funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956, as amended, and was subsequently added to the Interstate System, both occupying a common alignment and having elements which have been approved in concept by the Secretary of Transportation as part of a project providing for the upgrading of an interchange on such Interstate route, the cost of improvements in the vicinity of the interchange necessary to upgrade the safety of that part of such Federal-aid primary route not on a common alignment with such Interstate route in an environmentally acceptable manner shall be eligible for the expenditure of funds authorized by such section 108(b).

ACCELERATION OF PROJECTS

SEC. 129. The Secretary of Transportation shall by rule or regulation establish, as soon as practicable, alternative methods for processing projects under title 23, United States Code, so as to reduce the time required from the request for project approval through the completion of construction. In carrying out this section the Secretary shall utilize the knowledge and experience resulting from the demonstration project authorized by and carried out under section 141 of the Federal-Aid Highway Act of 1976.

FOUR-LANE BRIDGES

SEC. 130 Whenever any law of the United States, enacted after January 1, 1970, and before the date of enactment of this Act, authorizes payment, in financing the relocation of an existing road, for the cost of construction of a two-lane bridge with a substructure and deck truss capable of supporting a four-lane bridge, payment for the cost of completing the construction of such bridge as a four-lane bridge is authorized upon the completion of such substructure and deck truss.

DEMONSTRATION PROJECTS

SEC. 131. (a)(1) The Secretary of Transportation is authorized to carry out a demonstration project in Los Angeles County, California, for the purpose of demonstrating methods of improving the motor vehicle transportation of freight to and from areas for the transshipment of waterborne commerce.

(2) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed $19,000,000 for the fiscal year ending September 30, 1983, not to exceed $19,000,000 for the fiscal year ending September 30, 1984, and not to exceed $20,000,000 for the fiscal year ending September 30, 1985.

(3) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(b)(1) The Secretary of Transportation shall carry out a highway project to demonstrate state of the art technology which can be applied to a section of highway the construction of which will close a gap of not more than 10 miles in a multi-lane limited access approach road through hilly terrain connecting a city (not directly connected to the Interstate System by such an approach road) with a route on such System on which tolls are charged. For comparison purposes, the highway section shall connect both highway construction using current technology and older completed highway construction. The project shall demonstrate the latest high-type geometric design features and new advances in highway traffic control and safety hardware. All design elements, including the highway pavement, shall be designed to provide the best life-cycle costs, thereby minimizing future maintenance costs. The Secretary of Transportation shall provide necessary technical assistance in the design and construction of the project. Upon completion of the project, the highway shall be added to the Federal-aid primary system.

(2) Not later than one year, six years and eleven years after the completion of the state of the art technology project, the Secretary of Transportation shall submit reports to the Congress, including but not limited to the results of such project, the effects of using the best available technology on safety and other considerations, recommendations for applying the results to other highway projects, and any changes that may be necessary by law to permit further use of such features.

(3) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed $5,000,000 for the fiscal year ending September 30, 1983, $10,000,000 for the fiscal year ending September 30, 1984, and $62,000,000 for the fiscal year ending September 30, 1985. Such funds shall be available until expended, shall be available for obligation in the same manner and to the same extent as if apportioned under chapter 1 of title 23, United States Code, and shall not be subject to any obligation limitation. The Federal share payable for the state of the art technology project shall be 100 per centum.

(c)(1) The Secretary of Transportation shall conduct a project to demonstrate state of the art methods of repairing damaged highways, and preventing damage to highways, resulting from shoreline erosion. Such project shall be carried out in the vicinity of Buhne Point, Humboldt Bay, California, at a cost not to exceed $9,000,000 for fiscal years beginning after September 30, 1982, out of the Highway Trust Fund.

(2) The Secretary of Transportation may enter with the heads of other departments, agencies, and instrumentalities of the Federal Government into such arrangements as may be necessary to carry out the provisions of this subsection.

(3) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than 180 days after completion of such project.

(4) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(d)(1) The Secretary of Transportation is authorized to carry out a demonstration project in the vicinity of East Baton Rouge, Louisiana, for the purpose of demonstrating the efficacy of reducing traffic congestion in the immediate vicinity of a partial-diamond, partial-cloverleaf interchange which connects an east-west highway on the Interstate System and a four lane highway not on such system by providing a direct access ramp to, and a travel lane on, the Interstate highway and by eliminating a crossover which is used for access to the Interstate highway.

(2) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed $5,000,000 for the fiscal years beginning after September 30, 1982.

(3) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(e)(1) The Secretary of Transportation is authorized to carry out a demonstration project in the vicinity of Louisville, Kentucky, for the purpose of demonstrating methods of accelerating construction of high traffic sections of highways on the Federal-aid primary system which are directly connected to the Interstate System.

(2) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project carried out under this subsection not later than 180 days after completion of such project.

(3) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed $25,000,000 for the fiscal year ending September 30, 1983, and not to exceed $27,000,000 for the fiscal year ending September 30, 1984; Any amount obligated after December 1, 1982, and before the date of enactment of this Act for a project described in paragraph (1) of this subsection from funds apportioned under section 104 of title 23, United States Code, may be deobligated and funds authorized by this subsection may be obligated for such project in place of such deobligated amounts. Any amounts deobligated under the preceding sentence shall be recredited to the State's apportionment from which such amount were obligated.

(4) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

VEHICLE WEIGHT, LENGTH, AND WIDTH LIMITATIONS

SEC. 133. (a) Section 127 of title 23 of the United States Code is amended to read:

(f)(1) The Secretary of Transportation, in cooperation with the State of Vermont, shall carry out a project to demonstrate the feasibility of reducing the time and the cost required to complete highway projects, other than projects on the Interstate System, in areas that require improved access between rapidly growing suburban areas and established urban core areas, by extending the coverage of State certifications under section 117(a) of title 23 of the United States Code, to any Federal law, regulation, or policy that applies to such projects.

(2) In implementing this subsection, the Secretary shall review applications for projects submitted by the State of Vermont with respect to which the State agrees to assume the responsibility of the Secretary with regard to any such Federal law, regulation, or policy. The Secretary shall be deemed to have fulfilled his responsibility under such law, regulation, or policy, provided that—

(A) the Secretary finds that the State has procedures which are sufficient to assure that the project will be carried out in accordance with the provisions of such law, regulation, or policy;

(B) the State highway department is authorized and consents to accept the jurisdiction of the Federal courts in any suit brought to enforce any such Federal law or regulation; and

(C) the State highway department certifies that the project has been carried out in accordance with the procedures specified under subparagraph (A) of this paragraph.

(3) In carrying out the demonstration project authorized under this subsection, the Secretary may continue to discharge his responsibilities directly with respect to those laws, regulations, and policies for which he finds State procedures are not sufficient.

(4) In implementing this subsection, the Secretary shall consider the procedures developed pursuant to section 141 of the Federal-Aid Highway Act of 1976, as amended, and shall encourage the State to carry out its responsibilities in cooperation with appropriate political subdivisions of the State.

(5) There is authorized to be appropriated out of the Highway Trust Fund to carry out the project authorized under this subsection a sum not to exceed $50,000,000.

(6) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(7) Not later than six months after the completion of such project, the Secretary shall submit a report to Congress which includes, but is not limited to, a description of the methods used to accomplish the project and the changes, if any, required to adopt expanded certification. The report should also contain recommendations for applying the methods to other highway projects, and any changes to existing law which may be necessary to permit more widespread use of expanded certification acceptance.

(g)(1) The Secretary of Transportation is authorized to carry out demonstration projects in and around Devils Lake, North Dakota, for the purpose of demonstrating construction techniques to prevent wave erosion on closed basin lakes with grade level highway crossings.

(2) The Secretary is authorized to reimburse from funds authorized by paragraph (3) the State of North Dakota for funds previously expended on projects described in paragraph (1).

(3) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out this subsection not to exceed $4,500,000 for the fiscal year ending September 30, 1983.

(4) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall not exceed 75 per centum of the total cost thereof and such fund shall remain available until expended.

(h)(1) The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid urban system for the construction of a high level bridge over a high volume intercoastal waterway segment. The project shall demonstrate the reduced congestion resulting in the downtown area from the construction of such bridge which serves a major port. Such project shall be subject to the provisions of chapter 1 of title 23, United States Code, applicable to highway projects on the Federal-aid system.

(2) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed $23,000,000 for the fiscal year ending September 30, 1983. Such sums shall remain available until expended.

(3) In carrying out this subsection, the Secretary shall consult with the Secretary of the Army and the Commandant of the Coast Guard concerning permit procedures which will expedite completion of this bridge.

(4) The Secretary shall report to Congress upon completion of this project the result of this demonstration project, together with any recommendations the Secretary deems necessary.

(i)(1) The Secretary of Transportation, in cooperation with the State of Idaho, shall conduct a demonstration project on a primary segment of highway experiencing a high incidence of truck accidents and a project to demonstrate cooperation between two railroads and a small urban area. The highway project shall include an analysis of factors contributing to truck accidents such as weather conditions, sight distance, road curvature, roadway width, and gradient and shall also include an analysis of the benefit-cost ratio of certain safety improvements implemented to correct hazards contributing to truck accidents. The railroad crossing project shall demonstrate the benefits of having no railroad through the center of a small urban community.

(2) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out this subsection not to exceed $8,500,000.

(3) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(4) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than 180 days after completion of such project.

(j)(1) The Secretary of Transportation shall conduct a demonstration project in the State of Illinois for the purpose of demonstrating the benefits of constructing usable segments of high-volume facilities, developing methods to achieve the effective implementation of massive capital investments made under Federal programs being discontinued.

(2) There are authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, $25,000,000 for each fiscal year beginning after September 30, 1982, and ending before October 1, 1986. Such sums shall be available until expended, shall be available for obligation in the same manner and to the same extent as if appor-

tioned under chapter 1 of title 23, United States Code, and shall not be subject to any obligation limitation. The Federal share of the cost of any project under this subsection shall be 50 per centum of the total thereof.

FEDERAL SHARE OF BRIDGE PROJECTS

SEC. 132. Notwithstanding any other provision of law, during the two-year period beginning on the date of enactment of this section, with respect to any project in the State of Tennessee for the replacement or rehabilitation of a bridge which is wholly funded from state and local sources, is eligible for Federal funds under section 144 of title 23, United States Code, is certified by the State to have been carried out in accordance with all standards applicable to such projects under such section 144, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after July 1, 1982, from such State and local sources for such project in excess of 20 per centum of the cost construction thereof may be credited to the non-Federal share of the cost of other projects in such State which are eligible for Federal funds under such section 144, in accordance with procedures established by the Secretary.

"§ 127. Vehicle weight, limitations—Interstate System

"(a) No funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be appointed to any State which does not permit the use of the National System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enfocement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using the National System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: Provided, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

"(b) No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.".

MARTIN LUTHER KING BRIDGE

SEC. 134. The Martin Luther King Bridge which crosses the Mississippi River between St. Louis, Missouri, and East St. Louis, Illinois, and is not on a Federal-aid system shall be eligible for assistance under section 144 of title 23, United States Code, to the same extent that any other bridge which is not on a Federal-aid system is eligible for assistance under such section, except that no such assistance shall be made available with respect to such bridge until such bridge—

(1) has been transferred to one or both of the States of Missouri and Illinois;

(2) is freed from tolls; and

(3) otherwise meets the eligibility requirements of such section, and the rules and regulations promulgated thereunder.

MANPOWER STUDY

SEC. 135. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences' Transportation Research Board to conduct a comprehensive study and investigation of future transportation professional manpower needs, including but not limited to prevailing methods of recruitment, training, and financial and other incentives and disincentives which encourage or discourage retention in service of such professional manpower by Federal, State, and local governments. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than two years after the enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to the Academy at its request any information which the Academy deems necessary for the purpose of conducting the study and investigation authorized by this section.

FERRYBOAT STUDY

SEC. 136. The Office of Technology Assessment shall conduct a comprehensive investigation and study of the feasibility of a high speed ferryboat operation over the waters of the Caribbean Sea between Saint Croix and Saint Thomas in the Virgin Islands in accordance with this section. The Department of Transportation, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, and all other agencies, offices, and instrumentalities of the United States shall assist the Office in conducting an objective investigation and study of such projected operation. The Office shall evaluate this projected operation for its feasibility under various degrees of commercial and government sponsorship. The Office shall complete and transmit a report on such investigation and study to the Congress no later than January 1, 1984.

STUDY OF FACTORS IN APPORTIONMENT FORMULAS

SEC. 137. (a) The Secretary of Transportation shall study and determine the need for including weather-related factors, particularly the effects of freezing and thawing, in the apportionment formulas for Federal-aid highways under section 104 of title 23, United States Code. The Secretary shall report to Congress not later than four months after the date of enactment of this Act on the results of such study and shall include in such report specific recommendations for changing such apportionment formulas to take into account weather-related factors.

(b)(1) The Secretary of Transportation shall make a full and complete study regarding the procedures for distributing Federal financial assistance for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System in order to maintain a high level of transportation service. The study shall analyze current conditions and factors including, but not limited to, volume and mix of traffic, weight and size of vehicles, environmental, geographical, and meteorological conditions in various States, and other pertinent factors that can be utilized to determine the most equitable and efficient method of apportioning such Federal financial assistance to the several States. In conducting the study the Secretary shall consider such criteria as need, national importance, impact on individual State highway programs, structural and operational integrity, and any other relevant criteria, to determine the most equitable method of distribution.

(2) In conducting this study the Secretary shall consult with other agencies of the Federal Government, the States and their political subdivisions, and other interested private organizations, groups, and individuals.

(3) The Secretary shall report to Congress not later than four months after the date of enactment of this section the results of such study together with recommendations for necessary legislation.

REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

SEC. 138. (a) Within one year after the date of enactment of this Act, the Secretary of Transportation, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs, if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a national intercity truck route network for the operation of a special class of longer combination commercial motor vehicles.

(b) For the purposes of this section—

(1) the term "longer combination commercial motor vehicles" means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer full trailer combinations with an overall length not in excess of one hundred and ten feet; and

(2) the term "national intercity truck route network" means a network consisting of a number of controlled-access, interconnecting segments of the National System of Interstate and Defense Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this Act.

(c) The detailed report mandated by this section shall include, but need not be limited to, the following:

(1) a specific plan for the establishment of a national intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul intercity freight service; except that the Secretary of Transportation shall not include in the plan any highway segment which, because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the national intercity truck route network if such network is established by Congress;

(3) an analysis of the fuel savings that reasonably can be anticpated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicles;

(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this Act; and

(7) an analysis of the effect of the size and weight limitations, as in effect after the date of enactment of this Act.

(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary of Transportation shall assume that the longer combination commercial motor vehicles operating on the national intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary of Transportation shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

(e) In making the detailed report to Congress required by this section, the Secretary of Transportation shall assume that longer combination commercial motor vehicles operating on the national intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operations of such vehicles.

(f) Nothing in this section shall be construed to establish Federal policy with regard to highway vehicle weight and size standards, nor shall anything in this section be construed to preempt or to affect any State law establishing highway vehicle weight or size standards. The provisions of this section require an investigation and study on the feasibility and propriety of making changes in vehicle weight and size standards which the Congress may choose to consider in the future.

CHANGE IN LOCATION OF INTERSTATE SEGMENTS

SEC. 139. (a) Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981, the Secretary of Transportation may approve a change in location of any Interstate route or segment and approve, in lieu thereof, the construction of such Interstate route or segment on a new location if the original location of such route or segment meets the following criteria: (1) it has been designated under section 103(e) of title 23, United States Code; (2) it is serving Interstate travel as of the date of enactment of this section; (3) it requires improvements which are eligible under the Federal-Aid Highway Act of 1981, and which would either involve major modifications in order to meet acceptable standards or result in severe environmental impacts and such major modifications or mitigation measures relating to the environmental impacts are not cost effective. The cost of the construction of such Interstate route or segment on new location with funds available under section 108(b) of the Federal Aid Highway Act of 1956, as amended, shall not exceed the estimated cost of the eligible improvements on the original location as eligible under the Federal-Aid Highway Act of 1981 and included in the 1983 interstate cost estimate as approved by the Congress. Such cost shall be increased or decreased, as determined by the Secretary, based on changes in construction costs of the original location of the route or segment as of the date of approval of each project on the new location. Upon approval of a new location, and funds apportioned under section 104(b)(5)(A) of title 23, United States Code, which were expended on the route or segment in the original location shall be refunded to the Highway Trust Fund and credited to the unobligated balance of the State's apportionment made under section 104(b)(5)(A) of title 23, United States Code, and other eligible Federal-aid highway funds may be submitted in lieu thereof at the appropriate Federal share.

(b) Where the Secretary of Transportation approves a relocation of an Interstate route or segment under the provisions of subsection (a) of this section, such route or segment shall not be eligible for withdrawal under the provisions of section 103(e)(4) of title 23, United States Code, and shall be subject to the Interstate System completion deadlines provided in subsections (d) and (e) of section 107 of the Surface Transportation Assistance Act of 1978 or subject to Interstate System completion deadlines as may be determined by Congress.

ACCESS CONTROL DEMONSTRATION PROJECTS

SEC. 140. Section 150(b) of the Federal-Aid Highway Act of 1978 is amended by striking out "1983" and inserting in lieu thereof "1985".

REVISION OF PROJECT AGREEMENT

SEC. 141. Notwithstanding any other provision of law, as a condition of reimbursement of the Federal share of the cost of Federal-aid project 23-D-U-54 (100) in New Jersey, the Secretary of Transportation and the New Jersey Department of Transportation shall revise the project agreement for such project to make available financial assistance not to exceed $1,000,000 for the purpose of compensating businesses in the general vicinity of such project that have suffered monetary losses as a result of the temporary bypass established to accommodate the construction of the project.

INNOVATIVE TECHNOLOGIES

SEC. 142. (a) The Congress hereby finds and declares that it is in the national interest to encourage and promote utilization by the States of highway and bridge surfacing, resurfacing, or restoration materials which are produced from recycled materials or which contain asphalt additives to strengthen the materials. Such materials conserve energy and reduce the cost of resurfacing or restoring our highways.

(b) The Secretary of Transportation is hereby authorized for each of the fiscal years through September 30, 1985, to increase the Federal share as provided in sections 119, 120, and 144 of title 23, United States Code, by 5 per centum of any project submitted by the State highway departments which contains in the plans, specifications, and estimates submitted pursuant to section 106, of title 23, United States Code, the use of the materials described in subsection (a). To be eligible for such supplemental Federal assistance, significant amounts of asphalt additives or recycled materials must be used in each project approved by the Secretary.

(c) The Secretary shall establish a procedure within 90 days of the date of enactment of this Act for increasing the Federal share under this section.

ENFORCEMENT OF HEAVY VEHICLE USE TAX

SEC. 143. (a) Section 141 of title 23, United States Code, is amended by adding subsection (d) as follows:

"(d) The Secretary shall reduce the State's apportionment of Federal-aid highway funds under section 104(b)(5) of this title in an amount up to 25 per centum of the amount to be apportioned in any fiscal year beginning after September 30, 1984, during which heavy vehicles, subject to the use tax imposed by section 4481 of the Internal Revenue Code of 1954, may be lawfully registered in the State without having presented proof of payment, in such form as may be prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of such Code. Amounts withheld from apportionment to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section 104(b)(5) of this title and shall be available in the same manner and to the same extent as other Interstate funds apportioned at the same time to other States.".

MONITORING OF EFFECT OF DOUBLE BOTTOM TRUCKS

SEC. 144. (a) The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to monitor the effects on the National System of Interstate and Defense Highways of the use of trucks with two trailing units, in light of the amendments made by this Act providing that no State shall prohibit the use of such vehicle combinations. Such monitoring shall include, but need not be limited to, determining the effects of the use of such vehicle combinations on highways and highway safety in urban and rural areas and in different regions of the coun-

try, taking into account differences in age and design features of highways on the Interstate System.

(b) The Secretary of Transportation shall request the National Academy of Sciences to submit a report to the Secretary and the Congress of such monitoring, not later than two years after appropriate arrangements are entered into under subsection (a). The Secretary shall furnish to the Academy, at its request, any information which the Academy deems necessary for the purpose of conducting such monitoring.

TEMPORARY MATCHING FUND WAIVER

SEC. 145. (a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a), and of any qualifying project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this Act and ending September 30, 1984, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

(b) For purposes of this section, the term "qualifying project" means a project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of—

(1) the sum of the amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act, plus the amount, if any, available to such State under section 155 of this Act, pertaining to minimum allocation, over

(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981.

(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the appropriate apportionment accounts of such State.

(e) If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to such State under section 104(b) of title 23, United States Code, except for paragraph (5)(A), in each of the fiscal years ending September 30, 1985, and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 percentum of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for the fiscal years 1985 and 1986 in accordance with section 104(b)(1) of title 23, United States Code, to those states which have not received a higher Federal share under this section and to those states which have made the repayment required by subsection (d).

LANE RESTRICTIONS

SEC. 146. The State of California shall not restrict or require the restriction of the use of any lane on any Federal-aid highway in the unincorporated areas of Alameda County, California, to high occupancy vehicles, exclusive of approaches to controlled access highways, toll roads, or bridges.

UPGRADING CERTAIN INTERCHANGES

SEC. 147. Notwithstanding any other provision of law, in the case of any portion of a route on the Interstate System in the State of California which is open to traffic and which has less than two through lanes in either direction in the area where such route connects with a limited access highway on the Federal-aid primary system, a project to improve the portion of the Interstate route to a design of six lanes and to upgrade the interchange between such Interstate route and primary route to accommodate such design shall be eligible for funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, as if the costs of such project were included in the 1981 interstate cost estimate and shall be included as an eligible project in the 1983 interstate cost estimate and any later interstate cost estimate.

CONVICT LABOR

SEC. 148. Section 114(b) of title 23, United States Code, is amended by inserting after "Convict labor" the following: "or materials produced by convict labor".

PREVAILING RATE OF WAGE

SEC. 149. Section 113(a) of title 23, United States Code, is amended by striking out "initial".

MINIMUM ALLOCATION

SEC. 150. (a) Chapter 1 of title 23, United States Code is amended by adding at the end thereof the following new section:

"§ 157. Minimum allocation

"(a) In the fiscal year ending September 30, 1983, as soon as practicable after the date of enactment of this Act, and in each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year of Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings funds under sections 103(e)(4), 104(b), 144, and 152 of this title and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.

"(b) Amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the year authorized plus the three succeeding fiscal years, shall be subject to the provisions of this title 23 and may be obligated for Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings projects. Obligation limitations for Federal-aid highways and highway safety construction programs established by this Act or any subsequent Act shall not apply to obligations made under this section, except where the provision of law establishing such limitation specifically amends or limits the applicability of this sentence. Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 104(b) of the Highway Improvement Act of 1982.

"(c) In order to carry out this section there is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, such sums as may be necessary for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.".

(b) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"157. Minimum allocation.".

DEMONSTRATION PROJECTS-RAIL HIGHWAY CROSSINGS

SEC. 151. Section 163(p) of the Federal-Aid Highway Act of 1973, as amended, is amended by inserting after "1982," the following: "and $50,000,000 for the fiscal year ending September 30, 1983, and $50,000,000 for the fiscal year ending September 30, 1984, and $50,000,000 for the fiscal year ending September 30, 1985, and $50,000,000 for the fiscal year ending September 30, 1986," and by adding at the end thereof the following: "Notwithstanding any other provision of this section, any project which is not under construction, according to the Secretary of Transportation, by September 30, 1985, shall not be eligible for additional funds under this authorization.".

STUDY OF METHANE CONVERSION FOR HIGHWAY FUEL USE

SEC. 152. The Secretary of Transportation shall study, out of any funds available to the Secretary of Transportation for research purposes, the potential for recovering methane which is released in the process of offshore oil drilling and converting such methane on a floating conversion plant located at the drilling site into methanol for use as a fuel for highway vehicles. Such study shall include, but need not be limited to, a determination of the quality and quantity of the methane which is released at offshore drilling sites at various locations and the costs involved in recovering such methane and converting it in the manner described in the preceding sentence. The Secretary shall also determine the permitting requirements which would apply to such floating conversion plants and the most effective way to implement those permitting requirements. The Secretary shall report to the Congress the results of the study under this section not later than one year after the date of enactment of this Act.

EMERGENCY RELIEF

SEC. 153. (a)(1) The first sentence of subsection (a) of section 125 of title 23, United States Code, is amended by striking the first sentence thereof and inserting in lieu thereof the following: "An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for the repair or reconstruction of highways, roads, and trails which the Secretary shall find have suffered serious damage as the result of (1) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (2) catastrophic failures from any external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local offical because of imminent danger of

collapse due to structural deficiencies or physical deterioration.".

(2) Subsection (a) of section 125 of title 23, United States Code, is further amended by inserting in the second sentence, as that sentence read prior to the amendments made by paragraph (1) of this subsection, after the word "appropriated" the words "from the Highway Trust Fund".

(b) Notwithstanding any other provision of law, all expenditures made under section 125 of title 23, United States Code, prior to the fiscal year ending September 30, 1978, are authorized to have been appropriated from the Highway Trust Fund.

(c) Subsection (a) of section 125 of title 23, United States Code, is amended by inserting in the second sentence after the words "after September 30, 1976," the words "and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980,".

(d) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the period at the end of the first sentence, inserting a colon in lieu thereof, and by adding the following: "Provided, That obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure shall not exceed $30,000,000 in any State.".

(e) The amendments made by subsection (d) of this section shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency relief subsequent to the date of enactment of this section.

(f) Subsection (f) of section 120 of title 23, United States Code, is amended to read as follows:

"(f) the Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 100 per centum of the cost thereof: Provided, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, 'a comparable facility' shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.".

(g) All obligations for projects resulting from a natural disaster or catastrophic failure which the Secretary finds to be eligible for emergency relief subsequent to the date of enactment of this subsection shall provide for the Federal share required by subsection (f) of section 120 of title 23, United States Code, as amended by this section.

(h)(1) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the words "the Federal-aid highway systems, including the Interstate System" and by inserting in lieu thereof the words "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," in the two places the stricken words appear.

(2) Subsection (c) of section 125 of title 23, United States Code, is amended by striking the works "on any of the Federal-aid highway systems" and inserting in lieu thereof the words "routes functionally classified as arterials or major collectors".

HIGHLAND SCENIC HIGHWAY

SEC. 154. Section 161(f) of the Federal-Aid Highway Act of 1973 is amended to read as follows:

"(f) The Highland Scenic Highway as authorized by subsection (a) of this section and all associated lands and rights-of-way shall be managed as part of the Monongahela National Forest for scenic and recreational purposes. Vehicle use shall be confined to passenger cars, recreational vehicles, and limited truck traffic to the extent such use is compatible with the purpose for which the highway was constructed. Commercial use by trucks shall be limited and controlled by permit.".

DEFENSE ACCESS ROAD

SEC. 155. Section 210(c) of title 23, United States Code, is amended by striking "Not exceeding $5,000,000 of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422)", and inserting in lieu thereof "Funds appropriated for defense maneuvers and exercises".

RESEARCH AND PLANNING

SEC. 156. (a) Subsection (c) of section 307, title 23, United States Code, is amended by adding paragraph (5) as follows:

"(5) The sums provided pursuant to paragraph (2) of this subsection shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section 104(b)(1) of this title.".

(b) Subsection (c)(2) of section 307, title 23, United States Code, is amended by striking "1964" and inserting in lieu thereof "1983", and by striking "section 104" and inserting in lieu thereof "sections 104 and 144".

(c) Section 120 of title 23, United States Code, is amended by adding a subsection (i) as follows:

"(i) The Federal share payable on account of any project financed under section 307(c) of this title shall be 85 per centum, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of any such project.".

(d) Section 307(c)(1) of title 23, United States Code, is amended by adding in the last sentence after "highways and highway systems" the words "and for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing,".

ALASKA HIGHWAY

SEC. 158. Subsection (a) of section 218 of title 23, United States Code, is amended by adding after the second sentence the following: "Notwithstanding any other provision of law, in addition to such funds, upon agreement with the State of Alaska, the Secretary is authorized to expend on such highway any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 percent. Notwithstanding any other provision of law, any obligation limitation enacted for fiscal year 1983 or for any other fiscal year thereafter shall not apply to projects authorized by the preceding sentence.".

DEFINITION

SEC. 159. The definition of the term "construction" in section 101(a), title 23, United States Code, is amended by striking the period at the end thereof and inserting in lieu thereof the following: "and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program."

REPORTS

SEC. 160. (a) Section 307 of title 23, United States Code, is amended by adding a new subsection (e) as follows:

"(e) The Secretary shall report to the Congress in January 1983, and in January of every second year thereafter, estimates of the future highway needs of the Nation."

(b) Section 3 of Public Law 89-139, 79 Stat. 578, August 28, 1965, and section 17 of the Federal-Aid Highway Act of 1968 are hereby repealed.

DISCRETIONARY BRIDGE CRITERIA

SEC. 161. The Secretary of Transportation shall develop a selection process for discretionary bridges authorized to be funded under section 144(g) of title 23, United States Code, and shall propose and issue a final regulation no later than six months after the date of enactment of this Act including a formula resulting in a rating factor based on the following criteria for such process. Such criteria shall give funding priority to those discretionary bridges already eligible under section 144(g) of title 23, United States Code. Eligible bridges after the issuance of a final regulation shall only include those with a rating factor of one hundred or less, based on a scale of zero to infinity. The criteria for such additional bridges which the Secretary shall consider are:

(1) sufficiency rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges USDOT/FHWA (latest edition);

(2) average daily traffic using the most current value from the national bridge inventory data.

(3) average daily truck traffic;

(4) defense highway system status;

(5) the State's unobligated balance of funds received under section 144 of title 23, United States Code, and the total funds received under section 144 of title 23, United States Code;

(6) total project cost; and

(7) special consideration should be given to bridges closed to all traffic or restricted to loads less than ten tons. Other unique consideration and the need to administer the program from a balanced national perspective should also be considered.

WITHDRAWAL AND DESIGNATION OF CERTAIN INTERSTATE ROUTES

SEC. 166. (a) Notwithstanding the first sentence of section 103(e)(4) of title 23, United States Code, the Secretary of Transportation shall, upon application of the State of New Jersey, withdraw under such section 103(e)(4) his approval of the designation on the National System of Interstate and Defense Highways of the portion of Interstate Route 95 and Interstate Route 695 from the intersection with Interstate Route 295 in Hopewell Township, Mercer County, New Jersey, to the proposed intersection with

Interstate Route 287 in Franklin Township, Somerset County, New Jersey.

(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized and directed, pursuant to section 103 of such title, to designate as part of the Interstate Highway System the New Jersey Turnpike from exit 10 to the interchange with the Pennsylvania Turnpike and the Pennsylvania Turnpike from such interchange to and including the proposed interchange with Interstate Route 95 in Bucks County, Pennsylvania.

(c) The Secretary of Transportation is further authorized and directed to designate the highways described in subsection (b) as Interstate Route 95 and assure through proper sign designations the orderly connection of Interstate Route 95 pursuant to this section.

USE OF HIGH OCCUPANCY LANES

SEC. 167. Notwithstanding any provision of this Act or any other law, no funds shall be appropriated for the construction or resurfacing of Federal aid highways which have lanes designated as carpool lanes unless the use of such lanes includes use by motorcycles. Upon certification by the State to the Secretary of Transportation, the State may restrict such use by motorcycles if such use would create a safety hazard.

INFRASTRUCTURE STUDY

SEC. 168. (a) The Committee on Public Works and Transportation is authorized to contract for the design and preparation of a National Public Works Inventory and Assessment and a preliminary analysis of relevant, existing data.

(b) The Committee on House Administration shall make available not more than $3,000,000 for the purpose specified in subsection (a).

BUY AMERICA

SEC. 169. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, unless steel, cement, and manufactured products used in such project are produced in the United States.

(b) The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(3) in the case of the procurement of bus and other rolling stock (including train control, communication, and traction power equipment) under the Urban Mass Transportation Act of 1964, that (A) the cost of components which are produced in the United States is more than 50 per centum of the cost of all components of the vehicle or equipment, and (B) final assembly of the vehicle described in this paragraph has taken place in the United States;

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum in the case of projects for the acquisition of rolling, stock, and 25 per centum in the care of all other projects.

(c) For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under this Act, the Urban Mass Transportation Act of 1964, the Surface Transportation Assistance Act of 1978, or title 23, United States Code, which restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

(e) Section 401 of the Surface Transportation Assistance Act of 1978 is repealed.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1982".

HIGHWAY SAFETY AUTHORIZATIONS

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For bridge replacement and rehabilitation under section 144 of title 23, United States Code, out of the Highway Trust Fund, $1,600,000,000 (reduced by the amount authorized by section 5(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $1,650,000,000 for the fiscal year ending September 30, 1984, $1,750,000,000 for the fiscal year ending September 30, 1985, $2,050,000,000 for the fiscal year ending September 30, 1986.

(2) for projects for elimination of hazards under section 152 of title 23, United States Code, out of the Highway Trust Fund, $200,000,000 (reduced by the amount authorized by section 5(a)(2) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $200,000,000 for the fiscal year ending September 30, 1984, $200,000,000 for the fiscal year ending September 30, 1985, and $200,000,000 for the fiscal year ending September 30, 1986.

HIGHWAY SAFETY

SEC. 203. (a)(1) There is hereby authorized to be appropriated for carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986.

(2) Out of the funds authorized to be appropriated under paragraph (1) of this subsection for each of the fiscal years ending September 30, 1985, and September 30, 1986, not less than $20,000,000 per fiscal year shall be obligated under section 402 of title 23, United States Code, for the purpose of enforcing the fifty-five-miles-per-hour speed limit established by section 154 of such title.

(3) Each State shall expend each fiscal year not less than 2 per centum of the amount apportioned to it for such fiscal year of the sums authorized by paragraph (1) of this subsection, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

(b) Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the National Highway Traffic Safety Administration under section 402 of title 23, United States Code, shall not exceed $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986, and the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000, per fiscal year for each of such fiscal years.

(c) Section 202 of the Highway Safety Act of 1978 is amended as follows:

(1) Paragraph (2) is amended by striking out "and September 30, 1984," and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986.".

(2) Paragraph (3) is amended by striking out "and September 30, 1984." and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986.".

(3) Paragraph (5) is amended by striking out "and September 30, 1984." and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986.".

(d) Of the funds authorized to be appropriated by section 202(3) of the Highway Safety Act of 1978 for any fiscal year ending before October 1, 1982, which have not been obligated for expenditure before the date of enactment of this Act, $9,600,000 shall not be available for obligation, and shall no longer be authorized, on and after such date of enactment.

55 M.P.H. BENEFITS STUDY

SEC. 204. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of (1) the benefits, both human and economic, of lowered speeds due to the enactment of the 55 mile per hour National Maximum Speed Limit, with particular attention to savings to the taxpayers, and (2) whether the laws of each State constitute a substantial deterrent to violations of the maximum speed limit on public highways within such State. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than twelve months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by this section.

RAIL-HIGHWAY CROSSINGS

SEC. 205. The first sentence of subsection (b) of section 203 of the Highway Safety Act of 1973 (Public Law 93-87), as amended, is amended by inserting "and" after "1979," and by striking out "and September 30, 1982" and all that follows through the period at the end of such sentence and inserting in lieu thereof "September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.".

PUBLIC INFORMATION

SEC. 206. Section 209 of the Highway Safety Act of 1978 is amended by striking out ", acting through the Administrator of the Federal Highway administration," each place it appears, in subsection (g) by striking out "Federal Highway Administration to" and inserting in lieu thereof "Secretary of Transportation to", and by adding at the end of such section the following new subsection:

"(i) All provisions of chapter 1 of title 23, United States Code, that are applicable to

Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section.".

SAFETY PERFORMANCE REPORTS

SEC. 207. The Secretary of Transportation shall prepare, publish, and submit to Congress not later than December 31 of each calendar year beginning after December 31, 1982, a report on the highway safety performance of each State in the preceding calendar year. Such report shall provide data on highway fatalities and injuries and motor vehicle accidents involving fatalities and injuries and travel in urban areas of each State for each system of highways and in rural areas of such State for each system of highways. Such report shall be in such form and contain such other information on highway accidents as will permit an evaluation and comparison of highway safety performance of the States. For purposes of this section (1) the systems of highways in a State are the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and the Interstate System (as such terms are defined in section 101 of title 23, United States Code) and the other highways in such State which are not on the Federal-aid system, and (2) the terms "State", "rural areas", and "urban area" have the meaning such terms have under such section 101.

ANNUAL APPORTIONMENT FORMULA

SEC. 208. The sixth sentence of section 402(c) of title 23, United States Code, is amended by striking out ", except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-third of 1 per centum of the total apportionment".

MINIMUM DRINKING AGE

SEC. 209. The Congress strongly encourages each State to prohibit the sale of alcoholic beverages to persons who are less than 21 years of age.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Federal Public Transportation Act of 1982".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 302. (a) The Urban Mass Transportation Act of 1964 is amended by striking out sections 21 and 22 and inserting in lieu thereof the following new section:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 21. (a)(1) There is hereby authorized to be appropriated to carry out the provisions of sections 9 and 18 of this Act not to exceed $2,750,000,000 for the fiscal year ending September 30, 1984, $2,950,000,000 for the fiscal year ending September 30, 1985, and $3,050,000,000 for the fiscal year ending September 30, 1986, and funds appropriated under the subsection shall remain available until expended.

"(2)(A) There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9A and 18 of this Act $779,000,000 for fiscal year 1983.

"(B) There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 3, 4(i), 8, and 16(b) of this Act $1,250,000,000 for fiscal year 1984, $1,100,000,000 for fiscal year 1985, and $1,100,000,000 for fiscal year 1986.

"(C) Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under subparagraphs (A) and (B) of this paragraph shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

"(3) In fiscal year 1983, 2.93 per centum of the amount made available from the Mass Transit Account of the Highway Trust Fund under paragraph (2) of this subsection shall be available to carry out section 18 of the this Act.

"(4) In each of fiscal years 1984, 1985, and 1986, 2.93 per centum of the amount appropriated from the general fund of the Treasury under paragraph (1) of this subsection shall be available to carry out section 18 of this Act and shall remain available until expended.

"(5) Of the funds available for obligation under paragraph (2)(B), $50,000,000 shall be used in each of fiscal years 1984, 1985, and 1986 for the purposes of section 8 of this Act. Nothing herein shall prevent the use of additional funds available under this subsection for planning purposes.

"(b) There is hereby authorized to be appropriated to carry out sections 6, 10, 11(a), 12(a), and 20 of this Act not to exceed $86,250,000 for the fiscal year ending September 30, 1983, $86,000,000 for the fiscal year ending September 30, 1984, and $90,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986. Sums appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended.".

"(b) The second sentence of section 4(a) of such Act is amended by striking out "80 per centum" and inserting in lieu thereof "75 per centum".

"(c) Section 4(C)(3)(A) of such Act is amended by inserting "and" after "September 30, 1931;" and by striking out "; and $1,580,000,000 for the fiscal year ending September 30, 1983".

"(d) Section 4(f) of such Act is amended by striking out "18, 21, and 22," and inserting in lieu thereof "and 18,".

"(e) Section 4(g) of such Act is amended by striking out "such sums as may be necessary" and inserting in lieu thereof "not to exceed $365,000,000 for the fiscal year ending September 30, 1983, $380,000,000 for the fiscal year ending September 30, 1984, $390,000,000 for the fiscal year ending September 30, 1985, and $400,000,000 for the fiscal year ending September 30, 1986,".

BLOCK GRANTS

SEC. 303. (a) The Urban Mass Transportation Act of 1964 is amended by inserting immediately after section 8 the following new sections:

"BLOCK GRANTS

"SEC. 9. (a)(1) Of the amount appropriated from the general fund of the Treasury under section 21(a) of this Act, 8.64 per centum shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of less than 200,000.

"(2) Of the amount appropriated from the general fund of the Treasury under section 21(a) of this Act, 88.43 per centum shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of 200,000 or more.

"(b)(1) Of the funds available under subsection (a)(2) of this section, 33.29 per centum shall be available for expenditure in urbanized areas of 200,000 population or more in accordance with this subsection.

"(2) 95.61 per centum of the amount made available under paragraph (1) of this subsection shall be apportioned as follows:

"(A) 60 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway revenue vehicle miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway revenue vehicle miles attributable to all such urbanized areas; and

"(B) 40 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway route miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway route miles attributable to all such urbanized areas.

No urbanized area in which commuter rail service is provided and which has a population of 750,000 or more shall receive less than 0.75 per centum of the sums made available under this paragraph. Under this paragraph, fixed guideway revenue vehicle or route miles provided, and passengers served thereby, in an urbanized area of less than 200,000 population, where such revenue vehicle miles or route miles and passengers served would otherwise be attributable to an urbanized area with a population of 1,000,000 or more in an adjacent State, shall be attributable to the public body in the State in which such urbanized area of less than 200,000 population is located as if the public body were an urbanized area of 200,000 or more so long as such public body contracts, directly or indirectly, for such service. For the purpose of this subsection, the terms 'fixed guideway revenue vehicle miles' and 'fixed guideway route miles' shall include ferry boat operations directly or under contract by the designated recipient.

"(3) 4.39 per centum of the amount made available for expenditure among urbanized areas of 200,000 population or more under paragraph (1) of this section shall be apportioned as follows: in the ratio that the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in each such urbanized area bears to the sum of the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all such urbanized areas. No urbanized area in which commuter rail service is provided and which has a population of 750,000 or more shall receive less than 0.75 per centum of the sums made available under this paragraph.

"(c)(1) Of the funds available under subsection (a)(2) of this section, 66.71 per centum shall be available for expenditure in urbanized areas with a population of 200,000 or more in accordance with this subsection.

"(2) 90.8 per centum of the amount made available under paragraph (1) of this subsection shall be apportioned as follows:

"(A) 73.39 per centum shall be made available for expenditure in only those urbanized areas with a population of 1,000,000 or more, and on the basis of a formula under which such urbanized area will be entitled to receive an amount equal to the sum of—

"(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

"(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest Federal census; and

"(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

"(B) 26.61 per centum shall be made available for expenditure in only those urbanized areas with a population of less than 1,000,000 and on the basis of a formula under which such urbanized areas will be entitled to receive an amount equal to the sum of—

"(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

"(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

"(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

"(3) 9.2 per centum of the amount made available under paragraph (1) of this subsection shall be apportioned among urbanized areas of 200,000 population or more as follows: in the ratio that the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in each such urbanized area bears to the sum of the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in all such urbanized areas.

"(d) Funds available under subsection (a)(1) of this section shall be apportioned on the basis of a formula under which urbanized areas of less than 200,000 population shall be entitled to receive an amount equal to the sum of—

"(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

"(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term 'density' means the number of inhabitants per square mile.

"(e)(1) The provisions of sections 3(e), 3(f), 3(g), 5(k)(3), 12(c), 13, and 19 shall apply to this section and to every grant made under this section. No other condition, limitation, or other provision of this Act, other than as provided in this section, shall be applicable to this section and to grants for programs of projects made under this section.

"(2) To receive a grant under this section for any fiscal year, a recipient shall, within the time specified by the Secretary, submit a final program of projects prepared pursuant to subsection (f) and the certifications required by paragraph (3).

"(3) Each recipient (including any person receiving funds from a Governor under this section) shall submit to the Secretary annually a certification that such recipient—

"(A) has or will have the legal, financial, and technical capacity to carry out the proposed program of projects;

"(B) has or will have satisfactory continuing control, through operation of lease or otherwise, over the use of the facilities and equipment, and will maintain such facilities and equipment;

"(C) will comply with requirements of section 5(m) of this Act;

"(D) will give the rate required by section 5(m) of this Act to any person presenting a medicare card duly issued to that person pursuant to title II or title XVIII of the Social Security Act;

"(E) in carrying out procurements under this subsection, will use competitive procurements (as defined or approved by the Secretary), will not use procurements utilizing exclusionary or discriminatory specifications, and will carry out procurements in compliance with applicable By America provisions;

"(F) has complied with the requirements of subsection (f);

"(G) has available and will provide the required amount of funds in accordance with subsection (k)(i) of this section and will comply with the requirements of sections 8 and 16 of this Act; and

"(H) has a locally developed process to solicit and consider public comment prior to raising fares or implementing a major reduction of transit service.

"(f) Each recipient shall—

"(1) make available to the public information concerning the amount of funds available under this subsection and the program of projects that the recipient proposes to undertake with such funds;

"(2) develop a proposed program of projects concerning activities to be funded in consultation with interested parties, including private transportation providers;

"(3) publish a proposed program of projects in such a manner to afford affected citizens, private transportation providers, and as appropriate, local elected officials an opportunity to examine its content and to submit comments on the proposed program of projects and on the performance of the recipient; and

"(4) afford an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects.

In preparing the final program of projects to be submitted to the Secretary, the recipient shall consider any such comments and views, particularly those of private transportation providers, and shall, if deemed appropriate by the recipient, modify the proposed program of projects. The final program of projects shall be made available to the public.

"(g)(1) The Secretary shall, at least on an annual basis, conduct, or require the recipient to have independently conducted, reviews and audits as may be deemed necessary or appropriate by the Secretary to determine whether—

"(A) the recipient has carried out its activities submitted in accordance with subsection (e)(2) in a timely and effective manner and has a continuing capacity to carry out those activities in a timely and effective manner; and

"(B) the recipient has carried out those activities and its certifications and has used its Federal funds in a manner which is consistent with the applicable requirements of this Act and other applicable laws.

Audits of the use of Federal funds shall be conducted in accordance with the auditing procedures of the General Accounting Office.

"(2) In addition to the reviews and audits described in paragraph (1), the Secretary shall, not less than once every three years, perform a full review and evaluation of the performance of a recipient in carrying out the recipient's program, with specific reference to compliance with statutory and administrative requirements, and consistency of actual program activities with the proposed program of projects required under subsection (e)(2) of this section and the planning process required under section 8.

"(3) The Secretary may make appropriate adjustments in the amount of annual grants in accordance with the Secretary's findings under this subsection, and may reduce or withdraw such assistance or take other action as appropriate in accordance with the Secretary's review, evaluation, and audits under this subsection.

"(4) No grant shall be made under this section to any recipient in any fiscal year unless the Secretary has accepted a certification for such fiscal year submitted by such person pursuant to subsection (e) of this section.

"(h) The provisions of section 1001 of title 18, United States Code, apply to any certification or submission under this section. In addition, if any false or fraudulent statement or related act within the meaning of section 1001 of title 18, United States Code, is made in connection with a certification of submission under this subsection, the Secretary may terminate and seek appropriate reimbursement of the affected grant or grants directly or by offsetting funds available under this subsection.

"(i) A recipient may request the Secretary to approve its procurement system. If, after consultation with the Office of Federal Procurement Policy, the Secretary finds that such system provides for competitive procurement, the Secretary shall approve such system for use for all procurements financed under this section. Such approval shall be binding until withdrawn. A certification from the recipient under subsection (e)(3)(E) is still required.

"(j) Grants under this section shall be available to finance the planning, acquisition, construction, improvement, and operating costs of facilities, equipment, and associated capital maintenance items for use, by operation or lease or otherwise, in mass transportation service, including the renovation and improvement of a historic transportation facility with related private investment. As used in this section, the term 'associated capital maintenance items' means any equipment and materials each of which costs no less than 1 per centum of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and materials are to be used.

"(k)(1) The Federal grant for any construction project (including capital maintenance items) under this section shall not exceed 80 per centum of the net project cost of such project. The Federal grant for any project for operating expenses shall not exceed 50 per centum of the net project cost of such project. The remainder shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

"(2) The amount of funds apportioned under this section which may be used for operating assistance shall not exceed 80 per

centum of the amount of funds apportioned in fiscal year 1982 under paragraphs (1)(A), (2)(A), and (3)(A) of section 5(a) of this Act to an urbanized area with a population of 1,000,000 or more, 90 per centum of funds so apportioned to an urbanized area with a population of 200,000 or more and less than 1,000,000 population; and 95 per centum of funds so apportioned to an urbanized area of less than 200,000 population. Notwithstanding the preceding sentence, an urbanized area that became an urbanized area for the first time under the 1980 census may use not to exceed 40 per centum of its apportionment under this section for operating assistance.

"(3) Notwithstanding any other provision of law, the amount of funds apportioned under section 5 of this Act and available for operating assistance in fiscal year 1983 in an urbanized area shall be subject to the limitations set forth in paragraph (2) of this subsection. Subject to the limitation in the preceding sentence, funds apportioned under section 5(a)(4) of this Act in fiscal year 1983 may be used for operating assistance.

"(l)(1) (A) Notwithstanding the provsions of subsection (k)(l), any recipient may, in fiscal years 1983 and 1984, transfer, for use for operating assistance, a portion of its apportionment under this section that otherwise is available only for capital assistance, except that the recipient's total operating assistance under this section (including any amounts transferred from its capital apportionment) for the fiscal year in which the transfer occurs shall not exceed the amount of Federal funds such recipient was apportioned under sections 5(a)(1)(A), 5(a)(2)(A), and 5(a)(3)(A) of this Act for the fiscal year ending September 30, 1982. The total operating assistance under this section (including any amounts transferred from its capital apportionment) for a recipient in an urbanized area that became an urbanized area for the first time under the 1980 census may not exceed 50 per centum of its apportionment under this section.

"(B) Notwithstanding any other provision of law, a recipient may use its capital apportionment under section 5(a)(4) of this Act in fiscal year 1983 for purposes of carrying out a transfer under this subsection. No source of capital assistance under this Act (other than under section 5(a)(4)) may be used for such a transfer in such fiscal year.

"(2) Any recipient that intends to carry out a transfer under this subsection shall, at the time it submits a proposed program of projects to the Secretary under subsection (e)(2)—

"(A) certify that it has provided public notice of its intent to transfer its capital apportionment (including notice of the funding reductions resulting from utilization of this subsection and other requirements of this subsection) and provided an opportunity for public comment; and

"(B) certify that it has developed a three-year plan to assure that in the fiscal year ending September 30, 1985, it will not need to use and will not use its capital apportionment for operating assistance.

"(3) Whenever any recipient transfers its capital apportionment for operating assistance in accordance with the requirements of this subsection, two-thirds of the amount transferred shall be available to the recipient for operating assistance and the remaining one-third amount shall be available to the Secretary to make discretionary grants under this section. In making such discretionary grants, first priority shall be given to anly urbanized area that is apportioned an amount under this section in fiscal year 1983 which is less than the amount such urbanized area was apportioned under section 5 of this Act for the fiscal year ending September 30, 1982. Any amounts remaining shall be available for discretionary construction grants under this section subject to the second and third sentences of section 40a).

"(4) The authority of recipients to use the provisions of this paragraph shall terminate on September 30, 1984.

"(m)(1) The Governor, responsible local officials, and publicly owned operators of mass transportation services in accordance with the planning process required under section 8 of this Act shall designate a recipient or recipients to receive and dispense the funds appropriated under this section that are attributable to urbanized areas of 200,000 or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract, or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. As used in this section, the term 'designated recipient' shall refer to a recipient selected according to the procedures required by this section or to a recipient designated in accordance with section 5(b)(1) of this Act prior to the date of enactment of this section.

"(2) Sums apportioned under this subsection not made available for expenditure by designated recipients in accordance with the terms of paragraph (1) shall be made available to the Governor for expenditure in urbanized areas with populations of less than 200,000.

"(n)(1) The Governor may transfer an amount of the State's apportionment under subsection (d) to supplement funds apportioned to the State under section 18(a) of this Act, or to supplement funds apportioned to urbanized areas with populations of 300,000 or less under this subsection. The Governor may make such transfers only after consultation with responsible local officials and publicly owned operators of mass transportation services in each area to which the funding was originally apportioned pursuant to subsection (d). The Governor may transfer an amount of the State's apportionment under section 18(a) to supplement funds apportioned to the State under subsection (d). Amounts transferred shall be subject to the capital and operating assistance limitations applicable to the original apportionments of such amounts.

"(2) A designated recipient for an urbanized area of 200,000 or more population may transfer its apportionment under this section, or a portion thereof, to the Governor. The Governor shall distribute any such apportionment to urbanized areas in the State, including areas of 200,000 or more population, in accordance with this section. Amounts transferred shall be subject to the capital and operating assistance limitations applicable to the original apportionment of such amounts.

"(o) Sums apportioned under this section shall be available for obligation by the recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year.

"MASS TRANSIT ACCOUNT DISTRIBUTION

"SEC. 9A. (a)(1) Of the amount made available from the Mass Transit Account of the Highway Trust Fund under section 21(a) of this Act in fiscal year 1983, 8.64 per centum shall be available for expenditure under this section in such fiscal year only in urbanized areas with a population of less than 200,000.

"(2) Of the amount made available from the Mass Transit Account of the Highway Trust Fund under section 21(a) of this Act in fiscal year 1983, 88.43 per centum shall be available for expenditure under this section in such fiscal year only in urbanized areas with 200,000 population or more.

"(b)(1) Of the funds available under subsection (a)(2) of this section, 66.71 per centum shall be apportioned among urbanized areas with 200,000 population or more as follows:

"(A) 73.39 per centum shall be made available for expenditure in only those urbanized areas with a population of 1,000,000 or more, and on the basis of a formula under which such urbanized area will be entitled to receive an amount equal to the sum of—

"(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas:

"(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest Federal census; and

"(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

"(B) 26.61 per centum shall be made available for expenditure in only those urbanized areas with a population of less than 1,000,000 and on the basis of a formula under which such urbanized area will be entitled to receive an amount equal to the sum of—

"(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

"(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

"(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

"(2) Of the funds available under subsection (a)(2) of this section, 33.29 per centum shall be apportioned among urbanized areas of 200,000 population or more as follows:

"(A) 60 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway revenue vehicle miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway revenue vehicle miles attributable to all such urbanized areas; and

"(B) 40 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway route miles attributable to the urbanized area, as determined

by the Secretary, bears to the total number of all fixed guideway route miles attributable to all such urbanized areas.

No urbanized in which commuter rail service is prescribed and which has a population of 750,000 or more shall receive less than 0.75 per centum of the sums made available under this paragraph. Under this paragraph, fixed guideway revenue vehicle or route miles provided, and passengers served thereby, in an urbanized area of less than 200,000 population, where such revenue vehicle miles or route miles and passengers served would otherwise be attributable to an urbanized area with a population of 1,000,000 or more in an adjacent State, shall be attributable to the public body in the State in which such urbanized area of less than 200,000 population is located as if the public body were an urbanized area of 200,000 or more so long as such public body contracts, directly or indirectly, for such service. For the purpose of this paragraph, the terms 'fixed guideway revenue vehicle miles' and 'fixed guideway route miles' shall include ferry boat operations directly or under contract by the designated recipient.

"(c) Funds available under subsection (a)(1) of this section shall be apportioned on the basis of a formula under which urbanized areas of less than 200,000 population shall be entitled to receive an amount equal to the sum of—

"(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term 'density' means the number of inhabitants per square mile.

"(d)(1) The provisions of subsections (e), (f), (g), (h), (i), (m), and (n) of section 9 of this Act shall apply to grants made under this section.

"(2)(A) Grants under this section shall be made for the purposes described in subsection (j) of section 9 of this Act, except that such grants may not be used for payment of operating expenses.

"(B) The Federal grant for any project under this section shall not exceed 80 per centum of the net project cost of such project.

"(3) The provisions of subsection (o) of section 9 shall apply to grants made under this section, except that amounts remaining unobligated at the end of the 3-year period shall be added to the amount available under section 3 for the succeeding fiscal year.".

EXISTING CAPITAL GRANT PROGRAM

SEC. 304. (a) Section 3(a)(2)(A) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(iii) sufficient capability to maintain the facilities and equipment.".

(b) Section 3(a) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(5) The Secretary shall take into account the adverse effect of decreased commuter rail service in considering applications for assistance under this section for the acquisition of rail lines and all related facilities used in providing commuter rail service which are owned by a railroad subject to reorganization under title 11, United States Code.

"(6) In making grants under this section in fiscal year 1983, the Secretary shall, to the extent practicable, emphasize projects that are labor intensive and that can begin construction or manufacturing within the shortest possible time.".

(c) Section 15(b) of the Urban Mass Transportation Act of 1964 is amended by striking out "section 5" and inserting in lieu thereof "section 5 or 9".

SEC. 305. Section 3(a)(4) of the Urban Mass Transportation Act of 1964 is amended—

(1) by inserting after the first sentence thereof the following: "At least thirty days prior to the issuance of a letter of intent under this paragraph, the Secretary shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, of the proposed issuance of such letter of intent.";

(2) by striking out "in section 4(c)" and inserting in lieu thereof the following "to carry out section 3"; and

(3) by adding at the end thereof the following: "Funding for projects covered by letters of intent or letters of commitment issued, and full funding contracts executed, prior to the date of enactment of the Federal Public Transportation Act of 1982 should be funded under this section while not precluding the funding of a portion of such projects using section 9 capital funds unless such funding would impair the recipient's ability to fund routine capital projects under such section. Notwithstanding the provisions of section 4(a), the Federal share of the total project cost of any project under this section covered by a full funding contract, letter of intent, or letter of commitment in effect on the date of enactment of the Federal Public Transportation Act of 1982, or those projects within the federally agreed upon scope for the Washington, District of Columbia, metropolitan area transit system (as of such date), shall not be altered.".

RESEARCH AND TRAINING GRANTS

SEC. 306. (a) Section 4(d) of the Urban Mass Transportation Act of 1964 is amended by striking out "September 30, 1981, and September 30, 1982" and inserting in lieu thereof "and September 30, 1981, $5,000,000 for the fiscal year ending September 30, 1984, and $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986".

(b) Section 11(b)(5) of such Act is amended to read as follows:

"(5) As a condition to project approval, the amount of the Federal grant must be equally matched from other than Federal funds.".

(c) The first sentence of section 11(b)(7) of such Act is amended by inserting ", which include bona fide research and training in urban transportation" before the period.

AVAILABILITY OF FUNDS—URBAN MASS TRANSIT PROGRAM

SEC. 307. Section 5 of the Urban Mass Transportation Act of 1964 is amended—

(1) by adding immediately after subsection (c)(4) the following:

"(5) Apportionments under this section for fiscal year 1975 shall be deemed to have lapsed on September 30, 1977, and apportionments under this section for fiscal year 1976 shall be deemed to have lapsed on September 30, 1978."; and

(2) by adding at the end thereof the following new subsection:

"(o) Notwithstanding any other provision of this section, any sums apportioned under this section before October 1, 1982, and available for expenditure in any urbanized area or part thereof on such date shall remain available for expenditure in such area or part in accordance with the provisions of this section until September 30, 1985. Any sums so apportioned remaining unobligated on October 1, 1985, shall be added to amounts available for apportionment under section 9 of this Act for the fiscal year ending September 30, 1986.".

COMPETITIVE PROCUREMENT

SEC. 308. Paragraph (2) of subsection (b) of section 12 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(2) In lieu of requiring that contracts for the acquisition of rolling stock be awarded based on consideration of performance, standardization, life-cycle costs and other factors, or on the basis of lowest initial capital cost, such contracts may be awarded based on a competitive procurement process. The Secretary shall report to Congress within a year of enactment of the Federal Public Transportation Act of 1982 on any legislative or administrative revisions required to ensure that procurement procedures are fair and competitive.".

DEFINITIONS

SEC. 309. (a) Section 12(c)(1) of the Uran Mass Transportation Act of 1964 is amended by inserting before the semicolon at the end thereof the following: ", and such term also means any bus rehabilitation project which extends the economic life of a bus five years or more".

(b) Section 12(c)(2) of the Urban Mass Transportation Act of 1964 is amended by inserting "or rails" immediately after "separate right-of-way" and by striking out the semicolon at the end of such section and inserting in lieu thereof a comma and the following: "and also means a public transportation facility which uses a fixed catenary system and utilizes a right-of-way usable by other forms of transportation;".

PERFORMANCE REPORTS

SEC. 310. (a) The Secretary of Transportation shall report to Congress in January of 1984 and in January of every second year thereafter his estimates of the current performance and conditions of public mass transportation systems together with recommendations for any necessary administrative or legislative revisions.

(b) In reporting to Congress pursuant to this section, the Secretary shall prepare a comprehensive assessment of public transportation facilities in the United States. The Secretary shall also assess future needs for such facilities and estimate future capital requirements and operation and maintenance requirements for one-, five-, and ten-year periods at specified levels of service.

CONSTRUCTION CONDITION

SEC. 311. The Secretary of Transportation shall only make available Federal financial assistance to the Metropolitan Atlantic Rapid Transit Authority for the construction of the proposed fixed rail line from Doraville, Georgia, to the Atlanta Hartsfield International Airport on the condition that the portion of such line extending north

from Lenos Station to Doraville and the portion of such line extending south from Lakewood Station to the Atlanta Hartsfield International Airport will be constructed simultaneously in usable segments so that revenue passenger service to Doraville and such airport shall commence at approximately the same time. This section shall apply until priorities different from those set forth in the preceding sentence are adopted after September 30, 1983, by a vaild act of the Georgia General Assembly and by a valid resolution of the Board of the Metropolitan Atlanta Rapid Transit Authority.

LOAN REPAYMENT

SEC. 312. (a) The Massachusetts Bay Transportation Authority shall have no obligation to repay the United States 80 per centum of the principal and the interest owed on the following loans entered into with the Secretary of Transporation under the Urban Mass Transportation Act of 1964 for the acquisition of rights-of-way: the loan numbered MA03-9001 entered into on January 26, 1973, and the loan numbered MA23-9010 entered into on December 20, 1976.

(b)(1) The Secretary of Transportation may convert the remaining 20 per centum of the principal and interest owed on the loans described in subsection (a) to grants under the conditions set forth in paragraph (2).

(2) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to public transportation projects in the urbanized area, on a schedule acceptable to the Secretary of Transportation, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven under subsection (a) been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for capital projects eligible for funding under section 3(a) of the Urban Mass Transportation Act of 1964 and may not be used to satisfy the local matching requirements for any other grant project.

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

SEC. 313. Section 3(a)(1)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "and" the second place it appears and by inserting immediately before the semicolon at the end thereof the following: ", and the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in advanced stages of any such detailed alternatives analyses or preliminary engineering".

FEASIBILITY STUDY

SEC. 314. (a) The Secretary of Transportation shall make a grant to the Massachusetts Bay Transportation Authority to conduct a feasibility study to examine the possibility of replacing either any or all three of the existing electric trolley bus lines (and thereby eliminating the overhead power lines) in Cambridge, Massachusetts, with the more advanced and equally environmentally sound electric bus technology that is being developed in the State of California for the Santa Barbara transit system.

(b) Notwithstanding section 21(a)(2) of the Urban Mass Transportation Act of 1964, of the amount made available by such section 21(a)(2) for the fiscal year ending September 30, 1983, $500,000 shall be available only to carry out this section and such amount shall remain available until expended.

STUDY OF LONG-TERM LEVERAGE FINANCING

SEC. 315. The Secretary of Transportation shall conduct a study on the feasibility of providing an assured flow of Federal funds under long-term contracts with local or State transit authorities for use in leveraging further capital assistance from State or local government or private sector sources. Within six months of the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House a report of such study.

FORMULA GRANTS FOR NONURBANIZED AREAS

SEC. 316. (a) Section 18(a) of the Urban Mass Transportation Act of 1964 is amended by striking out "appropriated pursuant to section 4(e) of this Act" and inserting in lieu thereof "made available under section 21(a) of this Act to carry out this section".

(b) Section 18(c) of the Urban Mass Transportation Act of 1964 is amended by striking out "three years" in the first sentence and inserting in lieu thereof "two years".

ASSISTANCE TO MEET SPECIAL NEEDS OF ELDERLY AND HANDICAPPED PERSONS

SEC. 317. (a) Section 16(b) of the Urban Mass Transportation Act of 1964 is amended by striking out "section 4(c)(3) of this Act, 2 per centum" and inserting in lieu thereof "section 21(a)(2) of this Act, 3.5 per centum".

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1983.

(c) Section 16 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(c) In carrying out subsection (a) of this section, section 165(b) of the Federal-Aid Highway Act of 1973, and section 504 of the Rehabilitation Act of 1973 (consistent with any applicable Government-wide standards for the implementation of such section 504), the Secretary shall, not later than 90 days after the date of the enactment of this subsection, publish in the Federal Register for public comment, proposed regulation and, not later than 180 days after the date of such enactment, promulgate final regulations, establishing (1) minimum criteria for the provision of transportation services to handicapped and elderly individuals by recipients of Federal financial assistance under this Act or under any provision of law referred to in section 165(b) of the Federal-Aid Highway Act of 1973, and (2) procedures for the Secretary to monitor recipients' compliance with such criteria. Such regulations shall include provisions for ensuring that organizations and groups representing such individuals are given adequate notice of and opportunity to comment on the proposed activities of recipients for the purpose of achieving compliance with such regulations.".

REPEAL OF SAFETY AUTHORITY

SEC. 318. (a) Section 107 of the National Mass Transportation Assistance Act of 1974 (Public Law 93-503) is repealed.

(b) The Urban Mass Transportation Act of 1964 is amended by adding at the end therof the following section:

"SAFETY AUTHORITY

SEC. 22. The Secretary may investigate conditions in any facility, equipment, or manner of operation financed under this Act which the Secretary believes creates a serious hazard of death or injury. The investigation should determine the nature and extent of such conditions and the means which might test be employed to correct or eliminate them. If the Secretary determines that such conditions do create such hazard, he shall require the local public body which has received funds under this Act to submit a plan for correcting or eliminating such conditions. The Secretary may withhold further financial assistance under this Act from the local public body until he approves such plan and the local public body implements such plan.".

TITLE IV

PART A—COMMERCIAL MOTOR VEHICLE SAFETY

DEFINITIONS

SEC. 401. For purposes of this part, unless the context otherwise requires, the term—

(1) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of ten thousand or more pounds;

(B) if such vehicle is designed to transport more than ten passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

(2) "employee" means—

(A) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer;

who is employed by a commercial motor carrier and who in the course of his employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such employment, nor does such term include an individual employed by a commercial motor carrier engaged in the transportation of passengers;

(3) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States, any State, or a political subdivision of a State;

(4) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(5) "Secretary" means the Secretary of Transportation; and

(6) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

GRANTS TO STATES

SEC. 402. (a) Under the terms and conditions of this section, subject to the availability of funds, the Secretary is authorized to make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders.

(b)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing Federal rules,

regulations, standards, and orders applicable to commercial motor vehicle safety, or compatible State rules, regulations, standards, and orders. Such plan shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;

(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;

(D) provides a right of entry and inspection sufficient to enforce such rules, regulations, standards, and orders;

(E) provides that all reports required pursuant to this section be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports;

(F) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary; and

(G) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and orders.

(2) If a plan submitted under paragraph (1) of this subsection is rejected, the Secretary shall provide the State a written explanation of the Secretary's action and shall permit the State to modify and resubmit its proposed plan for approval, in accordance with the procedures formulated in such paragraph.

(c) The Secretary shall, on the basis of reports submitted by the State agency, and on the Secretary's own inspections, make a continuing evaluation of the manner in which each State with a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for comment, that a State plan previously approved is not being followed or that it has become inadequate to assure the enforcement of Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or compatible State rules, regulations, standards, or orders, he shall notify the State of withdrawal of approval of such plan. Upon receipt of such notice such plan shall cease to be in effect. Any State aggrieved by a determination of the Secretary pursuant to this subsection may seek judicial review pursuant to chapter 7 of title 5, United States Code. The State may, however, retain jurisdiction in any administrative or judicial enforcement proceeding commenced before the withdrawal of the plan whenever the issues involved do not directly relate to the reasons for the withdrawal of approval of the plan.

(d) The Secretary shall not approve any plan under this section which does not provide that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for its last two full fiscal years preceding the date of enactment of this section.

FEDERAL SHARE OF COSTS

SEC. 403. By grants authorized under this part, the Secretary shall reimburse any State an amount not to exceed 80 per centum of the costs incurred by that State in that fiscal year in the development and implementation of programs to enforce commercial motor vehicle rules, regulations, standards, or orders adopted pursuant to this title. The funds of the State and political subdivisions thereof which are required to be expended under section 402(d) of this title shall not be considered to be part of the non-Federal share. The Secretary is authorized to allocate, among the States whose applications for grants have been approved, those amounts appropriated for grants to support such programs, pursuant to such criteria as may be established.

AUTHORIZATIONS

SEC. 404. To carry out the purposes of section 402 of this title, there is authorized to be appropriated out of the Highway Trust Fund not to exceed $10,000,000 in the fiscal year ending September 30, 1984, not to exceed $20,000,000 in the fiscal year ending September 30, 1985, not to exceed $30,000,000 in the fiscal year ending September 30, 1986, not to exceed $40,000,000 in the fiscal year ending September 30, 1987, and not to exceed $50,000,000 in the fiscal year ending September 30, 1988. Appropriated funds authorized by this section shall be used to reimburse States pro rata for the Federal share of costs incurred. Grants made pursuant to the authority of this part shall be for periods not to exceed one fiscal year, ending at the end of a fiscal year.

PROTECTION OF EMPLOYEES

SEC. 405. (a) No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or instituted or caused to be instituted any proceeding relating to a violation of a commercial motor vehicle safety rule, regulation, standard, or order, or has testified or is about to testify in any such proceeding.

(b) No person shall discharge, discipline, or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions, or privileges of employment for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, resulting from the unsafe condition. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the unsafe condition.

(c)(1) Any employee who believes he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) of this section may, within one hundred and eighty days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Within sixty days of receipt of a complaint filed under paragraph (1) of this subsection, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of this section of his findings. Where the Secretary of Labor has concluded that there is reasonable cause to believe that a violation has occurred, he shall accompany his findings with a preliminary order providing the relief prescribed by subparagraph (B) of this paragraph. Thereafter, either the person alleged to have committed the violation or the complainant may, within thrity days, file objections to the findings or preliminary order, or both, and request a hearing on the record, except that the filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the preliminary order shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Secretary of Labor shall issue a final order within one hundred and twenty days. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) If, in response to a complaint filed under paragraph (1) of this subsection, the Secretary of Labor determines that a violation of subsection (a) or (b) of this section has occurred, the Secretary of Labor shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, and (iii) compensatory damages. If such an order is issued, the Secretary of Labor, at the request of the complainant may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(d)(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within sixty days from the issuance of the Secretary of Labor's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

(2) An order of the Secretary of Labor, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.

(e) Whenever a person has failed to comply with an order issued under subsection (c)(2) of this section, the Secretary of Labor shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement, and compensatory damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

SEC. 406. (a) Section 30 of the Motor Carrier Act of 1980 is amended in subsections (a) and (b) by striking out "two-year" period each place it appears and inserting in lieu thereof "three and one-half year period".

(b) Section 30(c) of the Motor Carrier Act of 1980 is amended by striking out "(c) Financial" and inserting in lieu thereof "(c)(1) Subject to paragraph (2) of this subsection, financial" and by adding at the end thereof the following new paragraph:

"(2)(A) Any person domiciled in any contiguous foreign country who provides transportation by motor vehicle to which any of the minimal levels of financial responsibility established under this section apply shall have evidence of such financial responsibility in such motor vehicle at any time such person is providing such transportation.

"(B) The Secretary of Transportation and the Secretary of the Treasury shall deny entry into the United States of any motor vehicle in which there is not evidence of financial responsibility required to be in such vehicle under subparagraph (A) of this paragraph.".

(c) Section 30(g) of the Motor Carrier Act of 1980 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) 'Interstate commerce' includes transportation between a place in a State and a place outside the United States, to the extent such transportation is in the United States;".

(d) Section 30(f) of the Motor Carrier Act of 1980 is amended to read as follows:

"(f) This section shall not apply to any motor vehicle having a gross vehicle weight rating of less than ten thousand pounds, if such vehicle is not used to transport any quantity of class A or B explosives, any quantity of poison gas, or a large quantity of radioactive materials in interstate or foreign commerce.".

PART B—COMMERCIAL MOTOR VEHICLE LENGTH LIMITATION

LENGTH LIMITATION ON FEDERALLY ASSISTED HIGHWAYS

SEC. 411. (a) No State shall establish, maintain, or enforce any regulation of commerce which imposes a vehicle length limitation of less than forty-eight feet on the length of the semitrailer unit operating in a truck tractor-semitrailer combination, and of less than twenty-eight feet on the length of any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, pursuant to subsection (e) of this section.

(b) Length limitations established, maintained, or enforced by the States under subsection (a) of this section shall apply solely to the semitrailer or trailer or trailers and not to a truck tractor. No State shall establish, maintain, or enforce any regulation of commerce which imposes an overall length limitation on commercial motor vehicles operating in truck-tractor semitrailer or truck tractor semitrailer, trailer combinations. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on December 1, 1982. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of existing trailers or semitrailers, of up to twenty-eight and one-half feet in length, in a truck tractor-semitrailer-trailer combination if those trailers or semitrailers were actually and lawfully operating on December 1, 1982, within a sixty-five-foot overall length limit in any State.

(c) No State shall prohibit commercial motor vehicle combinations consisting of a truck tractor and two trailing units on any segment of the National System of Interstate and Defense Highways, and those classes for qualifying Federal-aid Primary System highways as designated by the Secretary pursuant to subsection (e) of this section.

(d) The Secretary is authorized to establish rules to implement the provisions of this section, and to make such determinations as are necessary to accommodate specialized equipment (including, but not limited to, automobile transporters) subject to subsections (a) and (b) of this section.

(e)(1) The Secretary shall designate as qualifying Federal-aid Primary System highways subject to the provisions of subsections (a) and (c) those Primary System highways that are capable of safely accommodating the vehicle lengths set forth therein.

(2) The Secretary shall make an initial determination of which classes of highways shall be designated pursuant to paragraph (1) within 90 days of the date of enactment of this section.

(3) The Secretary shall enact final rules pursuant to paragraph (1) no later than 270 days from the date of enactment of this section and may revise such rules from time to time thereafter.

(f) For the purposes of this section, "truck tractor" shall be defined as the noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

(g) The provisions of this section shall take effect ninety days after the date of enactment of this title.

(h) The length limitations described in this section shall be exclusive of safety and energy conservation devices, such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors and other devices, which the Secretary may interpret as necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded under this subsection from the limitations of this section shall have by its design or use the capability to carry cargo.

ACCESS TO THE INTERSTATE SYSTEM

SEC. 412. No State may enact or enforce any law denying reasonable access to commercial motor vehicles subject to this title between (1) the Interstate and Defense Highway System and any other qualifying Federal-aid Primary System highways, as designated by the Secretary, and (2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers.

ENFORCEMENT

SEC. 413. The Secretary, or, on the request of the Secretary, the Attorney General of the United States, is authorized and directed to institute any civil action for injunctive relief as may be appropriate to assure compliance with the provisions of this title. Such action may be instituted in any district court of the United States in any State where such relief is required to assure compliance with the terms of this title. In any action under this section, the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction. In any such action, the court may also issue a mandatory injunction commanding any State or person to comply with any applicable provision of this title, or any rule issued under authority of this title.

SPLASH AND SPRAY SUPPRESSANT DEVICES

SEC. 414. (a) The Congress declares that visibility on wet roadways on the Interstate System should be improved by reducing, by a practicable and reliable means, splash and spray from truck tractors, semitrailers, and trailers.

(b) The Secretary shall be regulation—

(1) within one year after the date of the enactment of this title, establish minimum standards with respect to the performance and installation of splash and spray suppression devices for use on truck tractors, semitrailers, or trailers;

(2) within two years after the date of the enactment of this title, require that all new truck tractors, semitrailers, and trailers operated on the Interstate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection; and

(3) within five years after the date of the enactment of this title, require that all truck trailers, semitrailers, and trailers operated on the Interstate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection.

(c) For the purposes of this section, the term—

(1) "truck tractor" means the noncargo carrying power unit that operates in combination with a semitrailer or trailer(s);

(2) "semitrailer" and "trailer" mean any semitrailer or trailer, respectively, with respect to which section 411 of this title applies; and

(3) "Interstate System" has the same meaning provided in section 101 of title 23, United States Code.

REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

SEC. 415. (a) Within 18 months after the date of enactment of this title, the Secretary, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a National inter-

city truck route network for the operation of a special class of longer combination commercial motor vehicles.

(b) For the purposes of this section, the term—

(1) "longer combination commercial motor vehicles" means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer-full trailer combinations with an overall length not in excess of one hundred and ten feet; and

(2) "national intercity truck route network" means a network consisting of a number of controlled-access, interconnecting segments of the National System of Interstate and Defense Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this section.

(c) The detailed report mandated by this section shall include, but need not be limited to, the following—

(1) a specific plan of the establishment of a national intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul intercity freight service, except that the Secretary shall not include in the plan any highway segment which, because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the national intercity truck route network if such network is established by Congress;

(3) an analysis of the fuel savings that reasonably can be anticipated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicles; and

(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this section.

(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary shall assume that the longer combination commercial motor vehicles operating on the national intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

(e) In making the detailed report to Congress required by this section, the Secretary shall assume that longer combination commercial motor vehicles operating on the national intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operations of such vehicles.

PART C—OTHER PROVISIONS

STATE RECREATIONAL BOATING

SEC. 421. (a) The Federal Boat Safety Act of 1971 (Public Law 92-75; 85 Stat. 213) is amended as follows:

(1) By inserting "contract with, and" immediately after "The Secretary may" in the second sentence of section 25(a) (46 U.S.C. 1474(a)) and in section 26(a) (46 U.S.C. 1475(a)) immediately after "promulgate, may".

(2) In section 26 (b) and (c) (46 U.S.C. 1475 (b) and (c))—

(A) by striking "appropriated" and inserting "authorized to be expended"; and

(B) by adding at the end thereof the following: "His action in doing so shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing the program.".

(3) In section 26(d) (46 U.S.C. 1475(d))—

(A) by striking "appropriated" in the third and fourth sentences and inserting in lieu thereof "authorized to be expended";

(B) by inserting immediately after the third sentence the following: "Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating safety programs pursuant to this Act."; and

(C) by adding at the end thereof the following: "Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating facilities programs pursuant to this Act.".

(4) In section 30 (46 U.S.C. 1479) by striking the section heading and all that follows thereafter and inserting in lieu thereof the following:

"AUTHORIZATION OF CONTRACT SPENDING AUTHORITY FOR STATE RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT PROGRAMS

"SEC. 30. For the purposes of providing financial assistance for State recreational boating safety and facilities improvement programs, the Secretary is authorized to expend, subject to such amounts as are provided in appropriations Acts for liquidation of contract authority, an amount equal to the revenues accruing each fiscal year from the taxes under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel in motor boats and under section 4081 of such Code with respect to gasoline used as fuel in motor boats. Of the funds available for allocations and distribution for recreational boating safety and facilities improvement programs, one-third shall be allocated for recreational boating safety programs and two-thirds shall be allocated for recreational boating facilities improvement programs beginning with fiscal year 1983. any funds authorized to be expended for State recreational and boating safety improvement programs shall remain available until expended and shall be deemed to have been expended only if a sum equal to the total amounts authorized to be expended under this section for the fiscal year in question and all previous fiscal years have been obligated. Any funds that were previously obligated but are released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated funds and shall be immediately available for expenditure.".

REFORESTATION

SEC. 422. (a) Sections 303 (d) and (e) of the Act of October 14, 1980 (P.L. 96-451, 16 U.S.C. 160a(d) and (e)), are amended to read as follows:

"(d) During each of the fiscal years 1983, 1984, and 1985, the Secretary of Agriculture shall expend all amounts available in the Trust Fund (including any amounts not expended in previous fiscal years) for—

"(1) reforestation and timber stand improvement as set forth in the Congressional policy in section 3(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(d)); and

"(2) administrative costs of the Federal Government properly allocatable to the activities described in paragraph (1).

In no event may the Secretary expend less than $104,000,000 out of the Trust Fund in fiscal year 1983 for the purposes of this subsection.

"(e) It is the intent of Congress that the Secretary shall expend all of the funds available in the Trust Fund in each fiscal year. Any such funds which are not expended in a given fiscal year shall remain available for expenditure without fiscal year limitation; except that any funds not expended prior to October 1, 1985, shall, no later than April 30, 1986, be distributed to the States for use in State forestry programs pursuant to the formula set forth in the Act of May 23, 1908 (16 U.S.C. 500, Public Law 136, Sixtieth Congress)."

(b) In section 303(b)(1) of such Act, strike out "and before October 1, 1985,".

SALTONSTALL-KENNEDY ACT AMENDMENT

SEC. 423. (a) Section 2(e) of the Act of August 11, 1939, commonly referred to as the Saltonstall-Kennedy Act (15 U.S.C. 713c-3 (e)), is amended to read as follows:

"(e) Allocation of Fund Moneys.—(1) Notwithstanding any other provision of law, all moneys in the fund shall be used exclusively for the purpose of promoting United States fisheries in accordance with the provisions of this section, and no such moneys shall be transferred from the fund for any other purpose. With respect to any fiscal year, all moneys in the fund, including the sum of all unexpended moneys carried over into that fiscal year and all moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year, shall be allocated as follows:

"(A) the Secretary shall use no less than 60 percent of such moneys to make direct industry assistance grants to develop the United States fisheries and to expand domestic and foreign markets for United States fishery products pursuant to subsection (c) of this section; and

"(B) the Secretary shall use the balance of the moneys in the fund to finance those activities of the National Marine Fisheries Service which are directly related to development of the United States fisheries pursuant to subsection (d) of this section.

"(2) The Secretary shall, consistent with the number of meritorious applications received with respect to any fiscal year, obligate or expend all of the moneys in the fund described in paragraph (1). Any such moneys which are not expended in a given fiscal year shall remain available for expenditure in accordance with this section

without fiscal year limitation, except that the Secretary shall not obligate such moneys at a rate less than that necessary to prevent the balance of moneys in the fund from exceeding $3,000,000 at the end of any fiscal year.".

(b) The amendment made by subsection (a) of this section shall take effect on October 1, 1983.

OCEAN DUMPING

SEC. 424. (a) Section 104 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1431(b)) is amended by adding the following new subsections at the end thereof:

"(h) Notwithstanding any provision of title I of the Marine Protection, Research, and Sanctuaries Act of 1972 to the contrary, during the two-year period beginning on the date of enactment of this subsection, no permit may be issued under such title I that authorizes the dumping of any low-level radioactive waste unless the Administrator of the Environmental Protection Agency determines—

"(1) that the proposed dumping is necessary to conduct research—

"(A) on new technology related to ocean dumping, or

"(B) to determine the degree to which the dumping of such substance will degrade the marine environment;

"(2) that the scale of the proposed dumping is limited to the smallest amount of such material and the shortest duration of time that is necessary to fulfill the purposes of the research, such that the dumping will have minimal adverse impact upon human health, welfare, and amenities, and the marine environment, ecological systems, economic potentialities, and other legitimate uses;

"(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact; and

"(4) that the proposed dumping will be preceded by appropriate baseline monitoring studies of the proposed dump site and its surrounding environment.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impact of such dumping.

"(i)(1) Two years after the date of enactment of this subsection, the Administrator may not issue a permit under this title for the disposal of radioactive waste material until the applicant, in addition to complying with all other requirements of this title, prepares, with respect to the site at which the disposal is proposed, a Radioactive Material Disposal Impact Assessment which shall include—

"(A) a listing of all radioactive materials in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies of each material in each container, and the exposure levels in rems at the inside and outside of each container;

"(B) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the material, upon human health and welfare and marine life;

"(C) any adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

"(D) an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive waste material when initially deposited at the specific site;

"(E) a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes;

"(F) a determination by each affected State whether the proposed action is consistent with its approved Coastal Zone Management Program;

"(G) an analysis of the economic impact upon other users of marine resources;

"(H) alternatives to the proposed action;

"(I) comments and results of consultation with State officials and public hearings held in the coastal States that are nearest to the affected areas;

"(J) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sediment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Administrator may require; and

"(K) such other information which the Administrator may require in order to determine the full effects of such disposal.

"(2) The Administrator shall include, in any permit to which paragraph (1) applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph (1)(J) is fully implemented, including the analysis by the Administrator of the samples required to be taken under the plan.

"(3) The Administrator shall submit a copy of the assessment prepared under paragraph (1) with respect to any permit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

"(4) (A) Upon a determination by the Administrator that a permit to which this subsection applies should be issued, the Administrator shall transmit such a recommendation to the House of Representatives and the Senate.

"(B) No permit may be issued by the Administrator under this act for the disposal of radioactive materials in the ocean unless the Congresss, by approval of a resolution described in paragraph (D) within 90 days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and the House of Representatives of such recommendation, authorizes the Administrator to grant a permit to dispose of radioactive material under this Act.

"(C) For purposes of this subsection—

"(1) continuity of session of the Congress is broken only by an adjournment sine die;

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90 day calendar period.

"(D) For the purposes of this subsection, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and the Senate approve and authorize the Administrator of the Environmental Protection Agency to grant a permit to under the Marine Protection, Research, and Sanctuaries Act of 1972 to dispose of radioactive materials in the ocean as recommended by the Administrator to the Congress on ——, 19—."; the first blank space therein to be filled with the appropriate applicant to dispose of nuclear material and the second blank therein to be filled with the date on which the Administrator submits the recommendation to the House of Representatives and the Senate."

THE MERCHANT MARINE ACT, 1936

SEC. 425. Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)), is amended by adding at the end thereof the following new sentence: "No additional limitations may be imposed on new commitments to guarantee loans for any fiscal year, except in such amounts as established in advance in annual authorization Acts. No vessel eligible for guarantees under this title shall be denied eligibility because of its type.".

AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

SEC. 426. (a) Section 507(a) of the Airport and Airway Improvement Act of 1982 (title V, P.L. 97-248, 96 Stat. 679) is amended by redesignating paragraph (3) as paragraph (3)(A) and adding immediately thereafter a new subparagraph (B) as follows:

"(B) There is hereby established a supplementary discretionary fund consisting of those amounts to be credited to such fund pursuant to section 505(a) of this title. Amounts in the supplementary discretionary fund shall be distributed by the Secretary in the same manner and for the same purposes as funds distributed pursuant to subparagraph (A) except that (i) such amounts may only be distributed for projects involving construction, reconstruction, or repair begun after the date of enactment of this subparagraph and not to pay for any such work begun before such date, and (ii) the Secretary shall give preference to those projects that increase the safety or capacity of the airport receiving such funds. If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505, the Secretary shall implement such limitation or reduction by deferring the distribution of a corresponding amount of supplementary discretionary funds until a subsequent fiscal year. In no event may the Secretary reduce any other apportionment or distribution under this section in order to comply with any such Congressional limitation or reduction unless all of the supplementary discretionary funds available for distribution in such year have been deferred until a subsequent fiscal year.".

(b) Section 505(a) of such Act is amended by—

(1) striking out "$1,050,000,000" and inserting in lieu thereof $1,250,000,000 of which $200,000,000 shall be credited to the supplementary discretionary fund established by paragraph (3)(B) of section 507(a) of this title";

(2) striking out "$1,843,500,000" and inserting in lieu thereof "$2,243,500,000, of which $400,000,000 shall be credited to such fund";

(3) striking out $2,755,500,000" and inserting in lieu thereof "$3,230,500,000, of which $475,000,000 shall be credited to such fund";

(4) striking out $3,772,500,000" and inserting in lieu thereof "$4,247,500,000, of which $475,000,000 shall be credited to such fund";

(5) striking out "$4,789,700,000" and inserting in lieu thereof "$5,264,700,000 of which $475,000,000 shall be credited to such fund"; and

(6) adding at the end thereof the following new sentence: "Those amounts credited to the supplementary discretionary fund pursuant to this subsection shall not be subject

to any of the apportionments or distributions set forth in sections 507(a) (1), (2), (3)(A), or 508(d) of this title.".

(c) The first sentence of section 506(c)(2) of such Act is amended by striking out everything after "section 505" and inserting in lieu thereof "for that fiscal year multiplied by a factor equal to 1.83 in the case of fiscal year 1983; 1.25 in the case of fiscal year 1984; 1.28 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; and 1.34 in the case of fiscal year 1987.".

(d) The second sentence of section 507(a)(1)(E) of such Act is amended by inserting ", after complying with the provisions of paragraph (3)(B) of this subsection," immediately after "the Secretary".

(e) Section 9502(d)(1)(A) of the Internal Revenue Code of 1954 is amended by striking out "the Airport and Airway Improvement Act of 1982", the second time it appears therein, and inserting in lieu thereof "the Surface Transportation Assistance Act of 1982".

CODIFICATION CORRECTIONS

SEC. 427. Section 11909(b) of title 49, United States Code, is amended by inserting after "chapter 105 of this title" the following: ", or subject to the jurisdiction of the Commission prior to enactment of the Department of Transportation Act,".

(b) Section 11914(b) of title 49, United States Code, is amended by inserting after "chapter 105 of this title," the following: "or subject to the jurisdiction of the Commission prior to enactment of the Department of Transportation Act,".

TITLE V—HIGHWAY REVENUE ACT OF 1982

Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

SEC. 501. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Highway Revenue Act of 1982".

(b) TABLE OF CONTENTS.—

TITLE V—HIGHWAY REVENUE ACT OF 1982

Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

Sec. 501. Short title; table of contents.
Sec. 502. Amendment of 1954 Code.

Subtitle B—Tax Changes

Sec. 511. Motor fuel taxes.
Sec. 512. Excise tax on heavy trucks.
Sec. 513. Heavy truck use tax.
Sec. 514. Taxes on heavy truck tires.
Sec. 515. Repeal of tax on lubricating oil.
Sec. 516. Period taxes and exemptions in effect.
Sec. 517. Treatment of certain motor carrier operating authorities acquired by taxpayers other than corporations.

Subtitle C—Floor Stocks Provisions

Sec. 521. Floor stocks taxes.
Sec. 522. Floor stocks refunds.
Sec. 523. Definitions and special rules.

Subtitle D—Highway Trust Fund; Mass Transit Account

Sec. 531. 4-year extension of Highway Trust Fund; codification of Trust Fund in Internal Revenue Code of 1954; establishment of Mass Transit Account.

Subtitle E—Miscellaneous Provisions

Sec. 541. Tax treatment of public utility property.
Sec. 542. No return required of individual whose only gross income is grant of $1,000 from State.
Sec. 543. Deduction for conventions on cruise ships.
Sec. 544. Additional weeks of Federal supplemental compensation.
Sec. 545. Exclusion of certain home energy assistance from income under SSI and AFDC.
Sec. 546. Modifications to chlor-alkali electrolytic cells.
Sec. 547. Interest exempt other than under the Internal Revenue Code of 1954.

SEC. 502. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided therein, whenever in subtitle B an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle B—Tax Changes

SEC. 511. MOTOR FUEL TAXES.

(a) TAXES ON GASOLINE, DIESEL FUEL, AND SPECIAL MOTOR FUELS INCREASED FROM 4 CENTS A GALLON TO 9 CENTS A GALLON.

(1) GASOLINE TAX.—Subsection (a) of section 4081 (relating to tax on gasoline) is amended by striking out "4 cents a gallon" and inserting in lieu thereof "9 cents a gallon".

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 (relating to tax on diesel fuel and special motor fuels) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) DIESEL FUEL AND SPECIAL MOTOR FUELS.—

"(1) DIESEL FUEL.—There is hereby imposed a tax of 9 cents a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such vehicle, or

"(B) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (A).

"(2) SPECIAL MOTOR FUELS.—There is hereby imposed a tax of 9 cents a gallon on benzol, benzene, naphtha, liquified petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or paragraph (1) of this subsection)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A)."

(b) EXEMPTION FOR METHANOL AND ETHANOL FUELS.—

(1) IN GENERAL.—Section 4041 is amended by adding at the end of the subsection (b) inserted by subsection (c) of this section the following new paragraph:

"(2) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(A) In general.—No tax shall be imposed by subsection (a) on any qualified methanol or ethanol fuel.

"(B) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(C) TERMINATION.—On and after October 1, 1988, subparagraph (A) shall not apply."

(2) COORDINATION WITH CREDIT.—Subsection (c) of section 44E (relating to coordination of credit for alcohol used as a fuel with exemption from excise tax) is amended by striking out "section 4041(k) or 4081(c)" and inserting in lieu thereof "subsection (b)(2) or (k) of section 4041 or section 4081(c)".

(c) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

(1) GASOLINE.—Subsection (a) of section 6421 (relating to nonhighway use of gasoline) is amended by striking out the first sentence and inserting in lieu thereof the following: "Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081."

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 is amended by inserting after subsection (a) the following new subsection:

"(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE; EXEMPTION FOR QUALIFIED METHANOL AND ETHANOL FUEL.—

"(1) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

"(A) IN GENERAL.—No tax shall be imposed by subsection (a) on liquids sold for use or used in an off-highway business use.

"(B) TAX WHERE OTHER USE.— If a liquid on which no tax was imposed by reason of subparagraph (A) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B) or (2)(B) of subsection (a) (whichever is appropriate).

"(C) OFF-HIGHWAY BUSINESS USE DEFINED.—For purposes of this subsection, the term 'off-highway business use' has the meaning given to such term by section 6421(d)(2)."

(3) CLERICAL AMENDMENTS.—

(A) Subparagraphs (A) and (B) of section 6421(d)(2) are each amended by striking out "qualified business use" and inserting in lieu thereof "off-highway business use".

(B) The heading for paragraph (2) of section 6421(d) is amended by striking out "QUALIFIED" and inserting in lieu thereof "OFF-HIGHWAY".

(d) RATES OF TAX FOR GASOHOL.—

(1) AMENDMENTS OF SECTION 4081.—

(A) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol) is amended by striking out "no tax shall be imposed by this section on the sale of any gasoline" and inserting in lieu thereof "subsection (a) shall be applied by substituting '4 cents' for '9 cents' in the case of the sale of any gasoline".

(B) TREATMENT OF LATER SEPARATION.—

(i) Paragraph (2) of section 4081(c) is amended by striking out "tax was not imposed by reason of this subsection" and inserting in lieu thereof "tax was imposed under subsection (a) at the rate of 4 cents a gallon by reason of this subsection".

(ii) Paragraph (2) of section 4081(c) is amended by adding at the end thereof the following new sentence: "The amount of tax imposed on any sale of such gasoline by such person shall be 5 cents a gallon."

(2) AMENDMENT OF SECTION 4041.—Subsection (k) of section 4041 (relating to fuels containing alcohol) is amended to read as follows:

"(k) FUELS CONTAINING ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

"(A) subsection (a) shall be applied by substituting '4 cents' for '9 cents' each place it appears, and

"(B) no tax shall be imposed by subsection (c).

"(2) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which paragraph (1) applied, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1992."

(3) CREDIT FOR ALCOHOL USED AS A FUEL.—Section 44E (relating to alcohol used as a fuel) is amended—

(A) by striking out "40 cents" each place it appears and inserting in lieu thereof "50 cents", and

(B) by striking out "30 cents" each place it appears and inserting in lieu thereof "37.5 cents".

(4) AMENDMENTS OF SECTION 6427.—Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE USED TO PRODUCE CERTAIN ALOCHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (i), if any gasoline on which a tax is imposed by section 4081 at the rate of 9 cents a gallon is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the amount determined at the rate of 5 cents a gallon. The preceding sentence shall not apply with respect to any mixture sold or used after December 31, 1992.

"(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline with respect to which an amount is payable under subsection (d) or (e) of this section or under section 6420 or 6421."

(5) Tariff on alcohol imported for use as a fuel.—Item 901.50 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "40¢ per gal." each place it appears and inserting in lieu thereof "50¢ per gal."

(e) USE IN CERTAIN TAXICABS.—

(1) IN GENERAL.—Paragraph (1) of section 6427(e) (relating to use in certain taxicabs) is amended by striking out "an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel" and inserting in lieu thereof "an amount determined at the rate of 4 cents a gallon".

(2) EXTENSION OF REPAYMENT.—Paragraph (3) of section 6427(e) (relating to termination) is amended by striking out December 31, 1982" and inserting in lieu thereof "September 30, 1984".

(3) SUSPENSION OF SHARED TRANSPORTATION REQUIREMENT.—Clause (ii) of section 6427(e)(2)(A) (relating to qualified taxicab services) is amended to read as follows:

"(ii) is not prohibited by company policy from furnishing (with the consent of the passengers) shared transportation."

(4) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the reduced rate of fuels taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code of 1954. Not later than January 1, 1984, the Secretary shall transmit a report on the study conducted under the preceding sentence to the Congress, together with such recommendations as he may deem advisable.

(f) REFUND OR MOTOR FUEL TAXES TO AERIAL AND OTHER APPLICATORS OF AGRICULTURAL SUBSTANCES.— Paragraph (4) of section 6420(c) (defining use on a farm for farming purposes) is amended to read as follows:

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

"(B) if—

"(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

"(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline,

then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes."

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Paragraph (3) of section 4041(c) (relating to noncommercial aviation) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) on any gasoline is the excess of 12 cents a gallon over the rate at which tax was imposed on such gasoline under section 4081."

(2) COMFORMING AMENDMENTS.—

(A) Paragraph (2) of section 6416(b) is amended by striking out "section 4041(a)(1) or (b)(1)" and inserting in lieu thereof "paragraph (1)(A) or (2)(A) of section 4041(a)".

(B) Subsection (a) of section 6427 is amended by striking out "section 4041 (a), (b), or (c)" and inserting in lieu thereof "section 4041 (a) or (c)".

(C) Paragraph (1) of section 6427(b) is amended by striking out "subsection (a) or (b) of section 4041" each place it appears and inserting in lieu thereof "subsection (a) of section 4041".

(D) Subsection (c) of section 6427 is amended by striking out "section 4041 (a), (b) or (c)" and inserting in lieu thereof "section 4041 (a) or (c)".

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on April 1, 1983.

(2) TARIFF ON IMPORTED ALCOHOL.—The amendment made by subsection (d)(5) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after March 31, 1983.

(3) FOR SUBSECTION (E)(2).—The amendment made by subsection (e)(2) shall take effect on January 1, 1983.

(4) SHARED TRANSPORTATION REQUIREMENT.—The amendment made by subsection (e)(3) shall apply with respect to fuel purchased after December 31, 1982, and before January 1, 1984.

SEC. 512. EXCISE TAX ON HEAVY TRUCKS.

(a) CHANGES IN EXISTING MANUFACTURERS EXCISE TAX.—

(1) INCREASE IN THRESHOLD WEIGHTS.—Paragraph (2) of section 4061(a) (relating to exclusion for light-duty trucks, etc.) is amended to read as follows:

"(2) EXCLUSION FOR TRUCKS WITH GROSS VEHICLE WEIGHT OF 33,000 POUNDS OR LESS, AND CERTAIN TRAILERS.—

"(A) The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(B) The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary)."

(2) REPEAL OF TAX ON PARTS AND ACCESSORIES, TERMINATION OF TAX IMPOSED AT MANUFACTURES LEVEL.—Section 4061 is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION.—

"(1) TAX ON PARTS AND ACCESSORIES.—On and after the day after the date of the enactment of this subsection, the tax imposed by subsection (b) shall not apply.

"(2) TAX ON TRUCKS.—On and after April 1, 1983, the tax imposed by subsection (a) shall not apply."

(3) EXEMPTION OF CERTAIN RAIL TRAILERS AND VANS.—Subsection (a) of section 4063 (relating to exemptions for specified articles) is amended by adding at the end thereof the following new paragraph:

"(8) RAIL TRAILERS AND RAIL VANS.—The tax imposed under section 4061 shall not apply in the case of—

"(A) any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car, and

"(B) any parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

For purposes of this paragraph, a piggy-back trailer or semitrailer shall not be treated as designed for use as a railroad car."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) IMPOSITION OF RETAIL TAX ON SALE OF HEAVY TRUCKS AND TRAILERS.—

(1) IN GENERAL.—Chapter 31 is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Heavy Trucks and Trailers

"Sec. 4051. Imposition of tax on heavy trucks and trailers sold at retail.

"Sec. 4052. Definitions and special rules.

"Sec. 4053. Exemptions.

"SEC. 4051. IMPOSITION OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection therewith or with the sale thereof) a tax of 12 percent of the amount for which the article is so sold:

"(A) Automobile truck chassis.

"(B) Automobile truck bodies.

"(C) Truck trailer and semitrailer chassis

"(D) Truck trailer and semitrailer bodies.

"(E) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

"(2) EXCLUSION FOR TRUCKS WEIGHING 33,000 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a

gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(3) EXCLUSION FOR TRAILERS WEIGHING 26,000 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary.

"(4) SALE OF TRUCKS, ETC., TREATED AS SALE OF CHASSIS AND BODY.—For purposes of this subsection, a sale of an automobile truck or truck trailer or semitrailer shall be considered to be a sale of a chassis and of a body described in paragraph (1).

"(b) SEPARATE PURCHASE OF TRUCK OR TRAILER AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—If—

"(A) the owner, lessee, or operator of any vehicle which contains an article taxable under subsection (a) installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date such vehicle (as it contains such article) was first placed in service,

then there is hereby imposed on such installation a tax equal to 12 percent of the price of such part or accessory and its installation.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to any vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulations prescribe).

"(3) INSTALLERS SECONDARILY LIABLE FOR TAX.—In addition to the owner, lessee, or operator of the vehicle, the owner of the trade or business installing the part or accessory shall be liable for the tax imposed by paragraph (1).

"(c) TERMINATION.—On and after October 1, 1988, the taxes imposed by this section shall not apply.

"(d) TRANSITIONAL RULE.—In the case of any article taxable under subsection (a) on which tax was imposed under section 4061(a), subsection (a) shall be applied by substituting '2 percent' for '12 percent'.

"SEC. 4052. DEFINITIONS AND SPECIAL RULES.

"(a) FIRST RETAIL SALE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'first retail sale' means the first sale, for a purpose other than for resale, after manufacture, production, or importation.

"(2) LEASES CONSIDERED AS SALES.—Rules similar to the rules of section 4217 shall apply.

"(3) USE TREATED AS SALE.—

"(A) IN GENERAL.—If any person uses an article taxable under section 4051 before the first retail sale of such article, then such person shall be liable for tax under section 4051 in the same manner as if such article were sold at retail by him.

"(B) EXEMPTION FOR USE IN FURTHER MANUFACTURE.—Subparagraph (A) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article to be manufactured or produced by him.

"(C) COMPUTATION OF TAX.—In the case of any person made liable for tax by subparagraph (A), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(b) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the fair market value (including any tax imposed by section 4071) at retail of any tires (not including any metal rim or rim base), and

"(C) the price shall be determined without regard to any trade-in.

"(2) SALES NOT AT ARM'S LENGTH.—In the case of any article sold (otherwise than through an arm's-length transaction) at less than the fair market price, the tax under this subchapter shall be computed on the price for which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE.—For purposes of this subchapter (other than subsection (a)(3)(B)), a person shall not be treated as engaged in the manufacture of any article by reason of merely combining such article with any equipment or other item listed in section 4063(d).

"(d) CERTAIN OTHER RULES MADE APPLICABLE.—Under regulations prescribed by the Secretary, rules similar to the rules of—

"(1) subsections (c) and (d) of section 4216 (relating to partial payments), and

"(2) section 4222 (relating to registration), shall apply for purposes of this subchapter.

SEC. 4053. EXEMPTIONS.

"(a) EXEMPTION OF SPECIFIED ARTICLES.—No tax shall be imposed under section 4051 on any article specified in subsection (a) of section 4063.

"(b) CERTAIN EXEMPTIONS MADE APPLICABLE.—The exemptions provided by section 4221(a) are hereby extended to the tax imposed by section 4051."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Chapter 31 is amended by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 31—RETAIL EXCISE TAXES

"Subchapter A. Special fuels.

"Subchapter B. Heavy trucks and trailers.

"Subchapter A—Special Fuels".

(B) The table of chapters for subtitle D is amended by striking out the item relating to chapter 31 and inserting in lieu thereof the following new item:

"Chapter 31. Retail excise taxes."

(C) Paragraph (2) of section 6416(b), as amended by this Act, is amended by inserting "or under section 4051" after "section 4041(a)".

(D) Paragraph (1) of section 6416(a) is amended by striking out "chapter 31 (special fuels")" and inserting in lieu thereof "chapter 31 (relating to retail excise taxes)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 1983.

SEC. 513. HEAVY TRUCK USE TAX.

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 4481 (relating to imposition of tax) is amended to read as follows:

(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds at the rate specified in the following table:

"(1) IN GENERAL.—

"Taxable gross weight		
At least	But less than	Rate of tax
33,000 pounds.....	55,000 pounds.....	$50 a year, plus $25 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds.....	80,000 pounds.....	$600 a year, plus the applicable rate for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds or more.	.....	The maximum tax a year"

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"In the case of the taxable period beginning on July 1 of:	The applicable rate is:.	The maximum tax is:
1984.....	$40.....	$1,600
1985.....	40.....	1,600
1986.....	44.....	1,700
1987.....	48.....	1,800
1988 or thereafter.	52.....	1,900

(b) EXEMPTION WHERE TRUCK USED FOR LESS THAN 5,000 MILES ON PUBLIC HIGHWAYS.—Section 4483 (relating to exemption from highway use tax) is amended by adding after subsection (c) thereof the following new subsection:

"(d) EXEMPTION FOR TRUCKS USED FOR LESS THAN 5,000 MILES ON PUBLIC HIGHWAYS.—

"(1) SUSPENSION OF TAX.—

"(A) IN GENERAL.—If—

"(i) it is reasonable to expect that the use of highway motor vehicle on public highways during any taxable period will be less than 5,000 miles, and

"(ii) the owner of such vehicle furnishes such information as the Secretary may by forms or regulations require with respect to the expected use of such vehicle,

then the collection of the tax imposed by section 4481 with respect to the use of such vehicle shall be suspended during the taxable period.

"(B) SUSPENSION CEASES TO APPLY WHERE USE EXCEEDS 5,000 MILES.—Subparagraph (A) shall cease to apply with respect to any highway motor vehicle whenever the use of such vehicle on public highways during the taxable period exceeds 5,000 miles.

"(2) EXEMPTION.—If—

"(A) the collection of the tax imposed by section 4481 with respect to any highway motor vehicle is suspended under paragraph (1),

"(B) such vehicle is not used during the taxable period of public highways for more than 5,000 miles, and

"(C) except as otherwise provided in regulations, the owner of such vehicle furnishes such information as the Secretary may require with respect to the use of such vehicle during the taxable period,

then no tax shall be imposed by section 4481 on the use of such vehicle for the taxable period.

"(3) REFUND WHERE TAX PAID AND VEHICLE NOT USED FOR MORE THAN 5,000 MILES.—If—

"(A) the tax imposed by section 4481 is paid with respect to any highway motor vehicle for any taxable period, and

"(B) the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to such taxable period,

the amount of such tax shall be credited or refunded (without interest) to the person who paid such tax.

"RELIEF FROM LIABILITY FOR TAX UNDER CERTAIN CIRCUMSTANCES WHERE TRUCKS IS TRANSFERRED.—Under regulations prescribed by the Secretary, the owner of a highway motor vehicle with respect to which the collection of the tax imposed by section 4481 is suspended under paragraph (1) shall not be liable for the tax imposed by section 4481 (and the new owner shall be liable for such tax) with respect to such vehicle if—

"(A) such vehicle is transferred to a new owner,

"(B) such suspension is in effect at the time of such transfer, and

"(C) the old owner furnishes such information as the Secretary by forms and regulations requires with respect to the transfer of such vehicle.

"(5) OWNER DEFINED.—For purposes of this subsection, the term 'owner' means, with respect to any highway motor vehicle, the person described in section 4481(b)."

(c) CLARIFICATION OF TRAILERS CUSTOMARILY USED IN CONNECTION WITH HIGHWAY MOTOR VEHICLES.—

"(1) Subsection (c) of section 4482 is amended by adding at the end thereof the following new paragraph:

"(5) CUSTOMARY USE.—A semitralier or trailer shall be treated as customarily used in connection with a highway motor vehicle if such vehicle is equipped to tow such semitrailer or trailer."

"(2) The heading for subsection (c) of section 4482 is amended by inserting "AND SPECIAL RULE" after "DEFINITIONS".

(d) PRORATION OF TAX WHERE VEHICLE DESTROYED.—Subsection (c) of section 4481 (relating to proration of tax) is amended to read as follows:

"(c) PRORATION OF TAX.—

"(1) WHERE FIRST USE OCCURS AFTER FIRST MONTH.—If in any taxable period the first use of the highway motor vehicle is after the first month in such period, the tax shall be reckoned proportionately from the first day of the month in which such use occurs to and including the last day in such taxable period.

"(2) WHERE VEHICLE DESTROYED OR STOLEN.—

"(A) IN GENERAL.—If in any taxable period a highway motor vehicle is destroyed or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was destroyed or stolen.

"(B) DESTROYED.—For purposes of subparagraph (A), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild."

(e) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—Section 4482 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—In the case of the taxable period which ends on September 30, 1988, the amount of the tax imposed by section 4481 with respect to any highway motor vehicle shall be determined by reducing each dollar amount in the table contained in section 4481(a) by 75 percent."

(f) EFFECTIVE DATE—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on July 1, 1984.

(2) SPECIAL RULE IN THE CASE OF CERTAIN OWNER-OPERATORS.—

(A) IN GENERAL.—In the case of a small owner-operator, paragraph (1) of this subsection and paragraph (2) of section 4481(a) of the Internal Revenue Code of 1954 (as added by this section) shall be applied by substituting for each date contained in such paragraphs a date which is 1 year after the date so contained.

(B) SMALL OWNER OPERATOR.—For purposes of this paragraph, the term "small owner-operator" means any person who owns and operates at any time during the taxable period no more than 5 highway motor vehicles with respect to which a tax is imposed by section 4481 of such Code for such taxable period.

(D) AGGREGATION OF VEHICLE OWNERSHIPS.—For purposes of subparagraph (B), all highway motor vehicles with respect to which a tax is imposed by section 4481 of such Code which are owned by—

(i) any trade or business (whether or not incorporated) which is under common control with the taxpayer (within the meaning of section 52 (b)), or

(ii) any member of any controlled groups of corporations of which the taxpayer is a member, for any taxable period shall be treated as being owned by the taxpayer during such period. The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who own highway motor vehicles through partnerships, joint ventures, and corporations.

(E) CONTROLLED GROUPS OF CORPORATIONS.—For purposes of this paragraph, the term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(i) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(F) HIGHWAY MOTOR VEHICLES.—For purposes of this paragraph, the term "highway motor vehicle" has the meaning given to such term by section 4482(a) of such Code.

(g) STUDY OF ALTERNATIVES TO TAX ON USE OF HEAVY TRUCKS.—

(1) IN GENERAL.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study of—

(A) alternatives to the tax on heavy vehicles imposed by section 4481(a) of the Internal Revenue Code of 1954, and

(B) plans for improving the collecting and enforcement of such tax and alternatives to such tax.

(2) ALTERNATIVES INCLUDED.—The alternatives studied under paragraph (1) shall include taxes based either singly or in suitable combinations on vehicle size or configuration; vehicle weight, both registered and actual operating weight; and distance traveled. Plans for improving tax collection and enforcement shall, to the extent practical, provide for Federal and State co-operation in such activities.

(3) CONSULTATION WITH STATE OFFICIALS AND OTHER AFFECTED PARTIES.—The study required under subsection (a) shall be conducted in consultation with State officials, motor carriers, and other affected parties.

(4) REPORT.—Not later than January 1, 1985, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1) together with such recommendations as he may deem advisable.

SEC.514. TAXES ON HEAVY TRUCK TIRES.

(a) GENERAL RULES.—Subsection (a) of section 4071 (relating to imposition and rate of tax on tires and tubes) is amended to read as follows:

"(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on tires of the type used on highway vehicles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer a tax at the following rates:

"If the tire weighs:	The rate of tax is:
Not more than 40 lbs.	No tax.
More than 40 lbs. but not more than 70 lbs.	15 cents per lb. in excess of 40 lbs.
More than 70 lbs. but not more than 90 lbs.	$4.50 plus 30 cents per lb. in excess of 70 lbs.
More than 90 lbs.	$10.50 plus 50 cents per lb. in excess of 90 lbs."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to articles sold on or after January 1, 1984.

SEC. 515. REPEAL OF TAX ON LUBRICATING OIL.

(a) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 32 (relating to tax on lubricating oil) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking out "4083, or 4093" and inserting in lieu thereof "or 4083".

(2) Subsection (d) of section 4222 is amended by striking out "4093,".

(3)(A) Section 6206 is amended by striking out "4091 (with respect to payments under section 6424)," and by striking out "6424," each place it appears in the heading and the text.

(B) The table of sections for subchapter A of chapter 63 is amended by striking out "6424," in the item relating to section 6206.

(4) Paragraph (2) of section 6416(b) is amended—

(A) by striking out subparagraph (N),

(B) by striking out the next to the last sentence,

(C) by inserting "or" at the end of subparagraph (L), and

(D) by striking out "; or" at the end of subparagraph (M) and inserting in lieu thereof a period.

(5) Section 6424 (relating to lubricating oil used for certain nontaxable purposes) is hereby repealed.

(6)(A) Subsection (a) of section 39 is amended by striking out paragraph (3), by redesignating paragraph (4) as paragraph (3), and by inserting "and" at the end of paragraph (2).

(B) Subsection (b) of section 39 is amended—

(i) by striking out "section 6421, 6424, or 6427" and inserting in lieu thereof "section 6421 or 6427", and

(ii) by striking out "section 6421(i), 6424(f), or 6427(i)" and inserting in lieu thereof "section 6421(i) or 6427(i)".

(C) The heading for section 39 is amended by striking out ", SPECIAL FUELS, AND LUBRICATING OIL" and inserting in lieu thereof "AND SPECIAL FUELS".

(D) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out ", special fuels, and lubricating oil" in the item relating to section 39 and inserting in lieu thereof "and special fuels".

(E) Sections 874(a) and 6201(a)(4) are each amended by striking out ", special fuels, and lubricating oil" and inserting in lieu thereof "and special fuels".

(F) Paragraph (2) of section 882(c) is amended by striking out "and lubricating oil".

(7) Subparagraph (C) of section 642(d)(2) is amended by striking out ", special motor fuels, and lubricating oil" and inserting in lieu thereof "and special motor fuels".

(8) Section 4101 is amended by striking out "or section 4091".

(9) Section 4102 is amended by striking out "or lubricating oils".

(10) Paragraph (9) of section 6504 is amended by striking out "6424 (relating to lubricating oil used for certain nontaxable purposes)," and by striking out "6424,".

(11)(A) Subsection (a) of section 6675 is amended by striking out "6424 (relating to lubricating oil used for certain nontaxable purposes),".

(B) Paragraph (1) of section 6675 is amended by striking out "6424".

(C) The heading for section 6675(b) is amended by striking out "OR LUBRICATING OIL".

(D) The table of sections for subchapter B of chapter 68 is amended by striking out "or lubricating oil" in the item relating to section 6675.

(12) Sections 7210, 7603, 7604, 7605, 7699(c)(1), and 7610(c) are each amended by striking out "6424(d)(2)," each place it appears.

(13) The table of subparts for part III of subchapter A of chapter 32 is amended by striking out the item relating to subpart B.

(14) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6424.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold after the date of the enactment of this Act.

SEC. 516. PERIOD TAXES AND EXEMPTIONS IN EFFECT.

(a) PERIOD TAXES IN EFFECT.—

(1) SPECIAL FUELS TAX.—

(A) Subsection (a) of section 4041 (as amended by this Act) is amended by adding at the end thereof the following new paragraph:

"(3) TERMINATION.—On and after October 1, 1988, the taxes imposed by this subsection shall not apply."

(B) Subsection (e) of section 4041 is hereby repealed.

(2) TIRES AND TREAD RUBBER.—Subsection (d) of section 4071 is amended to read as follows:

"(d) TERMINATION.—On and after October 1, 1988, the taxes imposed by subsection (a) shall not apply."

(3) GASOLINE.—Subsection (b) of section 4081 is amended to read as follows:

"(b) TERMINATION.—On and after October 1 1988, the taxes imposed by this section shall not apply."

(4) HIGHWAY USE TAX.—Sections 4481(e) and 4482(c)(4) are each amended by striking out "1984" each place it appears and inserting in lieu thereof "1988".

(5) FLOOR STOCKS TAXES.—Paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended—

(A) by striking out "1985" each place it appears and inserting in lieu thereof "1989", and

(B) by striking out "1984" each place it appears and inserting in lieu thereof "1988".

(6) OTHER PROVISIONS.—Paragraph (2) of section 6156(e) (relating to installment payments of tax on use of highway motor vehicles) and subsection (h) of section 6421 (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems) are each amended by striking out "1984" and inserting in lieu thereof "1988".

(b) TERMINATION OF EXEMPTIONS.—

(1)(A) Subsection (f) of section 4041 is amended by adding at the end thereof the following new paragraph:

"(3) TERMINATION.—On and after October 1, 1988, paragraph (1) shall not apply."

(B) Subsection (g) of section 4041 is amended by adding at the end thereof the following new sentence: "Paragraphs (2) and (4) shall not apply on and after October 1, 1988."

(2) Subsection (a) of section 4221 (relating to certain tax resales) is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by section 4051, 4071, or 4081, paragraphs (4) and (5) shall not apply on and after October 1, 1988."

(3) Section 4483 (relating to exemption for highway use tax) is amended by adding after subsection (d) thereof the following new subsection:

"(e) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, 1988."

(4) Section 6420 (relating to gasoline used on farms) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) TERMINATION.—This section shall apply only with respect to gasoline purchased before October 1, 1988."

(5) Section 6427 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) TERMINATION OF SUBSECTIONS (a), (b), (c), AND (d).—Subsections (a), (b), (c), and (d) shall only apply with respect to fuels purchased before October 1, 1988."

SEC. 517. TREATMENT OF CERTAIN MOTOR CARRIER OPERATING AUTHORITIES ACQUIRED BY TAXPAYERS OTHER THAN CORPORATIONS.

(a) GENERAL RULE.—Paragraph (2) of section 266(c) of the Economic Recovery Tax Act of 1981 (relating to stock acquisitions of motor carrier operating authorities) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) TREATMENT OF CERTAIN NONCORPORATE TAXPAYERS.—Under regulations prescribed by the Secretary of the Treasury of his delegate, and at the election of the holder of the authority, in any case in which—

"(i) a noncorporate taxpayer or group of noncorporate taxpayers on or before July 1, 1980, acquired in one purchase stock in a corporation which held, directly or indirectly, any motor carrier operating authority at the time of such acquisition, and

"(ii) the acquisition referred to in clause (i) would have satisfied the requirements of subparagraph (A) if the stock had been acquired by a corporation,

the, for purposes of subparagraphs (A) and (C), the noncorporate taxpayer or group of noncorporate taxpayers referred to in clause (i) shall be treated as a corporation. The preceding sentence shall apply only if such noncorporate taxpayer (or group of noncorporate taxpayers) on July 1, 1980, held stock constituting control (within the meaning of section 368(c) of the Internal Revenue Code of 1954) of the corporation holding (directly or indirectly) the motor carrier operating authority."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after July 30, 1980.

SEC. 518. EXTENSION OF PAYMENT DUE DATE FOR CERTAIN FUEL TAXES.

(a) 14-DAY EXTENSION.—The Secretary shall prescribe regulations which permit any qualified person whose liability for tax under section 4081 of the Internal Revenue Code of 1954 is payable with respect to semimonthly periods to pay such tax on or before the day which is 14 days after the close of such semi-monthly period if such payment is made by wire transfer to any government depository authorized under section 6302 of such Code.

(b) QUALIFIED PERSON DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "qualified person" means—

(A) any person other than any person whose average daily production of crude oil for the preceding calendar quarter exceeds 1,000 barrels, and

(B) any independent refiner (within the meaning of section 4995(b)(4) of such Code).

(2) AGGREGATION RULES.—For purposes of paragraph (1), in determining whether any person's production exceeds 1,000 barrels per day, rules similar to the rules of section 4992(3) of the Internal Revenue Code of 1954 shall apply.

(c) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this subsection, the due date under subsection (a) would fall on a Saturday, Sunday, or a holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.

Subtitle C—Floor Stock Provisions

SEC. 521. FLOOR STOCKS TAXES.

(a) 1983 TAX ON GASOLINE.—On gasoline subject to tax under section 4081 which, on April 1, 1983, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 5 cents a gallon.

(b) 1984 TAX ON TIRES.—On any article which would be subject to tax under section 4071(a) if sold by the manufacturer, producer, or importer on or after January 1, 1984, which on January 1, 1984, is held by a dealer and has not been used and is intended for sale, there shall be imposed a floor stocks tax equal to the excess of the amount of tax which would be imposed on such article if it were sold by the manufacturer, producer, or importer after January 1, 1984, over the amount of tax imposed under section 4071(a) on the sale of such article by the manufacturer, producer, or importer.

(c) OVERPAYMENT OF FLOOR STOCKS TAXES.—Section 6416 shall apply in respect of the floor stocks taxes imposed by this section, so as to entitle, subject to all provi-

sions of section 6416, any person paying such floor stocks taxes to a credit or refund thereof for any of the reasons specified in section 6416.

(d) DUE DATE OF TAXES.—The taxes imposed by this section shall be paid at such time after—

(1) May 15, 1983, in the case of the tax imposed by subsection (a), or

(2) February 15, 1984, in the case of the tax imposed by subsection (b),

as may be prescribed by the Secretary of the Treasury or his delegate.

(e) TRANSFER OF FLOOR STOCKS TAXES TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund for any period, the taxes imposed by this section shall be treated as if they were imposed by section 4081 or 4071 of the Internal Revenue Code of 1954, whichever is appropriate.

SEC. 522. FLOOR STOCKS REFUNDS.

(a) GENERAL RULE.—

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any tax-repealed article has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before October 1, 1983, based on a request submitted to the manufacturer, producer, or importer before July 1, 1983, by the dealer who held the article in respect of which the credit or refund is claimed, and

(B) on or before October 1, 1983, reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061, 4071, or 4091 (whichever is appropriate) shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(b) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES OF TRUCKS AND TRAILERS.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where after December 2, 1982, and before the day after the date of the enactment of this Act, a tax-repealed article on which tax was imposed by section 406(a) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION OF ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(B) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before October 1, 1983, based on information submitted to the manufacturer, producer, or importer before July 1, 1983, by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser, and

(C) on or before October 1, 1983, reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) CERTAIN USES BY MANUFACTURER, ETC.—In the case of any article which was subject to the tax imposed by section 4061(a) (as in effect on the day before the date of the enactment of this Act), any tax paid by reason of section 4218(a) (relating to use by manufacturer or importer considered sale) with respect to a tax-repealed article shall be deemed to be an overpayment of such tax if tax was imposed on such article after December 2, 1982, by reason of section 4218(a).

(d) TRANSFER OF FLOOR STOCKS REFUNDS FROM HIGHWAY TRUST FUND.—The Secretary of the Treasury shall pay for time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made under this section.

SEC. 523. DEFINITIONS AND SPECIAL RULE.

(a) IN GENERAL.—For purposes of this subtitle—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means any article on which a tax was imposed by section 4061(a), 4061(b), or section 4091 as in effect on the day before the date of the enactment of this Act, and which will not be subject to tax under section 4061(a), 4061(b) or 4091 as in effect on the day after the date of the enactment of this Act.

(4) Except as otherwise expressly provided herein, any reference in this subtitle to a section or other provision shall be treated as a reference to a section or other provision of the Internal Revenue Code of 1954.

(b) 1984 EXTENSION OF FLOOR STOCKS REFUND TO TIRES.—

(1) IN GENERAL.—In the case of an article on which a tax was imposed by section 4071(a) as in effect on December 31, 1983, and which will not be subject to tax under such section as in effect on January 1, 1984, such article shall be treated as a tax-repealed article for purposes of subsection (a) of section 522.

(2) ALLOWANCE OF REFUND.—In the case of a tax-repealed article to which paragraph (1) applies, subsection (a) of section 522 shall be applied—

(A) by treating January 1, 1984, as the day after the date of the enactment of this Act, and

(B) by substituting "1984" for "1983" each place it appears in paragraph (1) of such subsection (a).

Subtitle D—Highway Trust Fund; Mass Transit Account

SEC. 531. 4-YEAR EXTENSION OF HIGHWAY TRUST FUND; CODIFICATION OF TRUST FUND IN INTERNAL REVENUE CODE OF 1954; ESTABLISHMENT OF MASS TRANSIT ACCOUNT.

(a) GENERAL RULE.—Subchapter A of chapter 98 of the Internal Revenue Code (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9503. HIGHWAY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Highway Trust Fund', consisting of such amounts as may be appropriated or credited to the Highway Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO HIGHWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes received in the Treasury before October 1, 1988, under the following provisions—

"(A) section 4041 (relating to taxes on diesel fuels and special motor fuels),

"(B) section 4051 (relating to retail tax on heavy trucks and trailers),

"(C) section 4061 (relating to tax on trucks and truck parts),

"(D) section 4071 (relating to tax on tires and tread rubber),

"(E) section 4081 (relating to tax on gasoline),

"(F) section 4091 (relating to tax on lubricating oil), and

"(G) section 4481 (relating to tax on use of certain vehicles).

"(2) LIABILITIES INCURRED BEFORE OCTOBER 1, 1988.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes which are received in the Treasury after September 30, 1988, and before July 1, 1989, and which are attributable to liability for tax incurred before October 1, 1988, under the provisions described in paragraph (1).

"(3) ADJUSTMENTS FOR AVIATION USES.—The amounts described in paragraphs (1) and (2) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 9502(b) with respect to such period.

"(c) EXPENDITURES FROM HIGHWAY TRUST FUND.—

"(1) FEDERAL-AID HIGHWAY PROGRAM.—Each as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1988, to meet those obligations of the United States heretofore or hereafter incurred which are—

"(A) authorized by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956,

"(B) authorized to be paid out of the Highway Trust Fund under title I or II of the Surface Transportation Assistance Act of 1982, or

"(C) hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A) or (B) as in effect on December 31, 1982.

"(2) TRANSFERS FROM HIGHWAY TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) the amounts paid before July 1, 1989, under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems),

"(III) section 6424 (relating to amounts paid in respect of lubricating oil used for certain nontaxable purposes), and

"(IV) section 6427 (relating to fuels not used for taxable purposes),

on the basis of claims filed for periods ending before October 1, 1988, and

"(ii) the credits allowed under section 39 (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) with respect to gasoline, special fuels, and lubricating oil used before October 1, 1988.

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

"(C) EXCEPTION FOR USE IN AIRCRAFT AND MOTORBOATS.—This paragraph shall not apply to amounts estimated by the Secretary as attributable to use of gasoline and special fuels in motorboats or in aircraft.

"(3) 1988 FLOOR STOCKS REFUNDS.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made before July 1, 1989, under section 6412(a).

"(4) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—

"(A) TRANSFERS TO NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—

"(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1988.

"(ii) LIMITATIONS.—

"(I) LIMIT ON TRANSFERS DURING ANY FISCAL YEAR.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $45,000,000.

"(II) LIMIT ON AMOUNT IN FUND.—No amount shall be transferred under this subparagraph if the Secretary determines that such transfer would result in increasing the amount in the National Recreational Boating Safety and Facilities Improvement Fund to a sum in excess of $45,000,000.

"(B) EXCESS FUNDS TRANSFERRED TO LAND AND WATER CONSERVATION FUND.—Any amount received in the Highway Trust Fund which is attributable to motorboat fuel taxes and which is not transferred from the Highway Trust Fund under subparagraph (A) shall be transferred by the Secretary from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

"(C) MOTORBOAT FUEL TAXES.—For purposes of this paragraph, the term 'motorboat fuel taxes' means the taxes under section 4041(a)(2) with respect to special motor fuels used as fuel in motorboats and under section 4081 with respect to gasoline used as fuel in motorboats.

"(d) ADJUSTMENTS OF APPORTIONMENTS.—

"(1) ESTIMATES OF UNFUNDED HIGHWAY AUTHORIZATIONS AND NET HIGHWAY RECEIPTS.—The Secretary of the Treasury, not less frequently than once in each calendar quarter, after consultation with the Secretary of Transportation, shall estimate—

"(A) the amount which would (but for this subsection) be the unfunded highway authorizations at the close of the next fiscal year, and

"(B) the net highway receipts for the 24-month period beginning at the close of such fiscal year.

"(2) PROCEDURE WHERE THERE IS EXCESS UNFUNDED HIGHWAY AUTHORIZATIONS.—If the Secretary of the Treasury determines for any fiscal year that the amount described in paragraph (1)(A) exceeds the amount described in paragraph (1)(B)—

"(A) he shall so advise the Secretary of Transportation, and

"(B) he shall further advise the Secretary of Transportation as to the amount of such excess.

"(3) ADJUSTMENT OF APPORTIONMENTS WHERE UNFUNDED AUTHORIZATIONS EXCEED 2 YEARS' RECEIPTS.—

"(A) DETERMINATION OF PERCENTAGE.—If, before any apportionment to the States is made, in the most recent estimate made by the Secretary of the Treasury there is an excess referred to in paragraph (2)(B), the Secretary of Transportation shall determine the percentage which—

"(i) the excess referred to in paragraph (2)(B), is of

"(ii) the amount authorized to be appropriated from the Trust Fund for the fiscal year for apportionment to the States.

If, but for this sentence, the most recent estimate would be one which was made on a date which will be more than 3 months before the date of the apportionment, the Secretary of the Treasury shall make a new estimate under paragraph (1) for the appropriate fiscal year.

"(B) ADJUSTMENT OF APPORTIONMENTS.—If the Secretary of Transportation determines a percentage under subparagraph (A) for purposes of any apportionment, notwithstanding any other provision of law, the Secretary of Transportation shall apportion to the States (in lieu of the amount which, but for the provisions of this subsection, would be so apportioned) the amount obtained by reducing the amount authorized to be so apportioned by such percentage.

"(4) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—If, after funds have been withheld from apportionment under paragraph (3)(B), the Secretary of the Treasury determines that the amount described in paragraph (1)(A) does not exceed the amount described in paragraph (1)(B) or that the excess described in paragraph (1)(B) is less than the amount previously determined, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing the amount described in paragraph (1)(A) to exceed the amount described in paragraph (1)(B). Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED HIGHWAY AUTHORIZATIONS.—The term 'unfunded highway authorizations' means, at any time, the excess (if any) of—

"(i) the total potential unpaid commitments at such time as a result of the apportionment to the States of the amounts authorized to be appropriated from the Highway Trust Fund, over

"(ii) the amount available in the Highway Trust Fund at such time to defray such commitments (after all other unpaid commitments at such time which are payable from the Highway Trust Fund have been defrayed).

"(B) NET HIGHWAY RECEIPTS.—The term 'net highway receipts' means, with respect to any period, the excess of—

"(i) the receipts (including interest) of the Highway Trust Fund during such period, over

"(ii) the amounts to be transferred during such period from such Fund under subsection (c) (other than paragraph (1) thereof).

"(6) REPORTS.—Any estimate under paragraph (1) and any determination under paragraph (2) shall be reported by the Secretary of the Treasury to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committees on the Budget of both Houses, the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

"(e) ESTABLISHMENT OF MASS TRANSIT ACCOUNT.—

"(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Mass Transit Account' consisting of such amounts as may be transferred or credited to the Mass Transit Account as provided in this subsection or section 9602(b).

"(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account one-ninth of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983.

"(3) EXPENDITURES FROM ACCOUNTS.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital expenditures before October 1, 1988 (including capital expenditures for new projects) in accordance with section 21(a)(2) of the Urban Mass Transportation Act of 1964.

"(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account except that subsection (d)(1) shall be applied by substituting '12-month' for '24-month'."

(b) REPEAL OF SECTION 209 OF THE HIGHWAY REVENUES ACT OF 1956.—Section 209 of the Highway Revenue Act of 1956 (other than subsection (b) thereof) is hereby repealed.

(c) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(1) by striking out "1985" each place it appears and inserting in lieu thereof "1989"; and

(2) by striking out "1984" and inserting in lieu thereof "1988".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9503. Highway Trust Fund."

(e) EFFECTIVE DATE; SAVING PROVISIONS.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1983.

(2) NEW HIGHWAY TRUST FUND TREATED AS CONTINUATION OF OLD.—The Highway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956. Any reference in any law to the Highway Trust Fund established by such section 209 shall be deemed to include (wherever appropriate) a reference to the Highway Trust Fund established by the amendments made by this section.

Subtitle E—Miscellaneous Provisions

SEC. 541. TAX TREATMENT OF PUBLIC UTILITY PROPERTY.

(a) NORMALIZATION METHOD FOR PURPOSES OF DEPRECIATION.—

(1) IN GENERAL.—Paragraph (3) of section 168(e) (relating to special rule for certain public utility property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC.—

"(i) IN GENERAL.—One way in which the requirements of subparagraph (B) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (B).

"(ii) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (1) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (B)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).".

(2) AMENDMENT OF SECTION 167 (l).—Subparagraph (G) of section 167(l)(3) (defining normalization method of accounting) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, rules similar to the rules of section 168(e)(3)(C) shall apply."

(b) COMPUTATIONS FOR PURPOSES OF INVESTMENT CREDIT.—Subsection (f) of section 46 (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following new paragraph:

"(10) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC., FOR PURPOSES OF PARAGRAPHS (1) AND (2).—

"(A) IN GENERAL.—One way in which the requirements of paragraph (1) or (2) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of paragraph (1) or paragraph (2), as the case may be.

"(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of subparagraph (A) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's qualified investment for purposes of the credit allowable by section 38 unless such estimate or projection is consistent with the estimates and projections of property which are used, for ratemaking purposes, with respect to the taxpayer's depreciation expense and rate base.

"(C) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in subparagraph (B)) which are to be treated as inconsistent for purposes of subparagraph (A)."

(c) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1979.

(2) SPECIAL RULE FOR PERIODS BEGINNING BEFORE MARCH 1980.—

(A) IN GENERAL.—Subject to the provisions of paragraphs (3) and (4), notwithstanding the provisions of sections 167(l) and 46(f) of the Internal Revenue Code of 1954 and of any regulations prescribed by the Secretary of the Treasury (or his delegate) under such sections, the use for ratemaking purposes or for reflecting operating results in the taxpayer's regulated books of account, for any period before March 1, 1980, of—

(i) any estimates or projections relating to the amounts of the taxpayer's tax expense, depreciation expense, deferred tax reserve, credit allowable under section 38 of such code, or rate base, or

(ii) any adjustments to the taxpayer's rate of return.

shall not be treated as inconsistent with the requirements of subparagraph (G) of such section 167(l)(3) nor inconsistent with the requirements of paragraph (1) or (2) of such section 46(f), where such estimates or projections, or such rate of return adjustments, were included in a qualified order.

(B) QUALIFIED ORDER DEFINED.—For purposes of this subsection, the term "qualified order" means an order—

(i) by a public utility commission which was entered before March 13, 1980,

(ii) which used the estimates, projections, or rate of return adjustments referred to in subparagraph (A) to determine the amount of the rates to be collected by the taxpayer or the amount of a refund with respect to rates previously collected, and

(iii) which ordered such rates to be collected or refunds to be made (whether or not such order actually was implemented or enforced).

(3) LIMITATIONS ON APPLICATION OF PARAGRAPH (2).—

(A) PARAGRAPH (2) NOT TO APPLY TO AMOUNTS ACTUALLY FLOWED THROUGH.—Paragraph (2) shall not apply to the amount of any—

(i) rate reduction, or

(ii) refund,

which was actually made pursuant to a qualified order.

(B) TAXPAYER MUST ENTER INTO CLOSING AGREEMENT BEFORE PARAGRAPH (2) APPLIES.—Paragraph (2) shall not apply to any taxpayer unless, before the later of—

(i) July 1, 1983, or

(ii) 6 months after the refunds or rate reductions are actually made pursuant to a qualified order;

the taxpayer enters into a closing agreement (within the meaning of section 7121 of the Internal Revenue Code of 1954) which provides for the payment by the taxpayer of the amount of which paragraph (2) does not apply by reason of subparagraph (A).

(4) SPECIAL RULES RELATING TO PAYMENT OF REFUNDS OR INTEREST BY THE UNITED STATES OR THE TAXPAYER.—

(A) REFUNDS DEFINED.—For purposes of this subsection, the term "refund" shall include any credit allowed by the taxpayer under a qualified order but shall not include interest payable with respect to any refund (or credit) under such order.

(B) NO INTEREST PAYABLE BY UNITED STATES.—No interest shall be payable under section 6611 of the Internal Revenue Code of 1954 on any overpayment of tax which is attributable to the application of paragraph (2).

(C) PAYMENTS MAY BE MADE IN TWO EQUAL INSTALLMENTS.—

(i) IN GENERAL.—The taxpayer may make any payment required by reason of paragraph (3) in 2 equal installments, the first installment being due on the last date on which a taxpayer may enter into a closing agreement under paragraph (3)(B), and the second payment being due 1 year after the last date for the first payment.

(ii) INTEREST PAYMENT.—For purposes of section 6601 of such Code, the last date prescribed for payment with respect to any payment required by reason of paragraph (3) shall be the last date on which such payment is due under clause (i).

(5) NO INFERENCE.—The application of subparagraph (G) of section 167(1)(3) of the Internal Revenue Code of 1954, and the application of paragraphs (1) and (2) of section 46(f) of such Code, to taxable years beginning before January 1, 1980, shall be determined without any inference drawn from the amendments made by subsections (a) and (b) of this section or from the rules contained in paragraphs (2), (3), and (4). Nothing in the preceding sentence shall be construed to limit the relief provided by paragraphs (2), (3), and (4).

SEC. 542. NO RETURN REQUIRED OF INDIVIDUAL WHOSE ONLY GROSS INCOME IS GRANT OF $1,000 FROM STATE.

(a) IN GENERAL.—Nothing in section 6012(a) of the Internal Revenue Code of 1954 shall be construed to require the filing of a return with respect to income taxes under subtitle A of such code by an individual whose only gross income for the taxable year is a grant of $1,000 received from a State which made such grants generally to residents of such State.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years beginning after December 31, 1981.

SEC. 543. DEDUCTION FOR CONVENTIONS ON CRUISE SHIPS.

(a) IN GENERAL.—Subsection (h) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended—

(d) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the following: "unless the taxpayer meets the requirements of paragraph (5) and establishes that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212 and that—

"(A) the cruise ship is a vessel registered in the United States; and

"(B) all ports of call of such cruise ship are located in the United States or in possessions of the United States.

With respect to cruises beginning in any calendar year, not more than $2,000 of the expenses attributable to an individual attending one or more meetings may be taken into account under section 162 or 212 by reason of the preceding sentence.", and

(2) by adding at the end thereof the following new paragraph:

"(5) REPORTING REQUIREMENTS.—No deduction shall be allowed under section 162 or 212 for expenses allocable to attendance at a convention, seminar, or similar meeting on any cruise ship unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

"(A) a written statement signed by the individual attending the meeting which includes—

"(i) information with respect to the total days of the trip, excluding the days of transportation to and from the cruise ship port, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,

"(ii) a program of the scheduled business activities of the meeting, and

"(iii) such other information as may be required in regulations prescribed by the Secretary; and

"(B) a written statement signed by an officer of the organization or group sponsoring the meeting which includes—

"(i) a schedule of the business activities of each day of the meeting,

"(ii) the number of hours which the individual attending the meeting attended such scheduled business activities, and

"(iii) such other information as may be required in regulations prescribed by the Secretary."

(b) The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 544. ADDITIONAL WEEKS OF FEDERAL SUPPLEMENTAL COMPENSATION.

(a) Section 602(e) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(1) in paragraph (2)(A)(i), by striking out "50" and inserting in lieu thereof "65";

(2) in paragraph (2)(A)(ii), by striking out "6" and inserting in lieu thereof "8"; and

(3) by striking out subparagraphs (B) and (C) of paragraph (2) and inserting in lieu thereof the following:

"(B) In the case of any State, subparagraph (A) shall be applied—

"(i) with respect to weeks during a higher unemployment period, by substituting '16' and '8' in clause (ii) thereof;

"(ii) with respect to weeks which are not during a higher unemployment period and which are weeks beginning on or after the first week of an extended benefit period (which was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 for any week beginning on or after June 1, 1982, on or before the date of the enactment of the Highway Revenue Act of 1982, and before the week for which the compensation is paid), by substituting '14' for '8' in clause (ii) thereof;

"(iii) with respect to weeks during a high unemployment period, or which would be weeks described in clause (ii) except that the extended benefit period began after the date of enactment of the Highway Revenue Act of 1982, by substituting '12' for '8' in clause (ii) thereof; and

"(iv) with respect to weeks during an intermediate unemployment period, by substituting '10' for '8'.

"(C) For purposes of subparagraph (B), the term 'higher unemployment period' means, with respect to any State, the period—

"(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 6.0 percent, and

"(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 6.0 percent;

except that no higher unemployment period shall last for a period of less than 4 weeks.

"(D) For purposes of subparagraph (B), the term 'high unemployment period' means, with respect to any State, the period—

"(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 4.5 percent but is less than 6.0 percent, and

"(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 4.5 percent or equals or exceeds 6.0 percent;

except that no high unemployment period shall last for a period of less than 4 weeks unless such State enters a higher unemployment period or a period described in subparagraph (B)(ii).

"(E) For purposes of subparagraph (B), the term 'intermediate unemployment period' means with respect to any State, the period—

"(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent but is less than 4.5 percent, and

"(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent or equals or exeeds 4.5 percent;

Except that no intermediate unemployment period shall last for a period of less that 4 weeks unless such State enters a high unemployment period, a higher unemployment period, or a period described in subparagraph (B)(ii) or (iii).

"(F) For purposes of this subsection, the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

"(3) The amount of Federal supplemental compensation payable to an eligible individual shall not exceed the amount in such individual's account established under this subsection."

(b) The amendments made by subsection (a) shall apply to Federal supplemental compensation payable for weeks beginning on or after the date of the enactment of this Act. In the case of any eligible individual to whom any Federal supplemental compensation was payable for any week beginning prior to such date of enactment and who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) prior to the first week beginning on or after such date of enactment, such individual's eligibility for additional weeks of compensation by reason of the amendments made by this section shall not be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and prior to the date of the enactment of this Act (and such weeks shall not be counted for purposes of determining the expiration of the two years following the end of his benefits year for purposes of section 602(b) of the Tax Equity and Fiscal Responsibility Act of 1982).

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 602 of the Tax Equity and Fiscal Responsibility Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this Act. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before such three-week period.

(d) Paragraph (3) of section 602(d) of the Tax Equity and Fiscal Responsibility Act of 1982 (as added by section 310 of the Technical Corrections Act of 1982) is amended by striking out "the number '6', '8', or '10', whichever is applicable" and inserting in lieu thereof "the number applicable".

SEC. 545. EXCLUSION OF CERTAIN HOME ENERGY ASSISTANCE FROM INCOME UNDER SSI AND AFDC.

(a) Section 1612 (b) of the Social Security Act amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(13) any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) (A) is based on need for such assistance, and (B) is (i) assistance furnished in kind by a private nonprofit agency, or (ii) assistance furnished by a supplier of home heating oil or gas, by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy."

(b) Section 402(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (34);

(2) by striking out the period at the end of paragraph (35) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(36) provide, at the option of the State, that in making the determination for any month under paragraph (7) the State agency shall not include as income any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State

may designate) (A) is based on need for such assistance, and (B) is (i) assistance furnished in kind by a private nonprofit agency, or (ii) assistance furnished by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.".

(c) The amendments made by subsections (a) and (b) shall be effective with respect to home energy assistance received in months beginning on or after the date of the enactment of this Act and prior to July 1, 1985.

(d) The Secretary of Health and Human Services shall submit a report to the Congress, prior to April 1, 1985, on the implementation and results of the provisions of sections 1612(b)(13) and 402(a)(36) of the Social Security Act, including any recommendations with respect to whether such provisions should be extended in the same or modified form or allowed to expire.

SEC. 546. MODIFICATIONS TO CHLOR-ALKALI ELECTROLYTIC CELLS.

(a) Paragraph (5) of section 48(l) (defining specially defined energy property) is amended—

(1) by striking out "or" at the end of subparagraph (L), and

(2) by redesignating subparagraph (M) as subparagraph (N) and by inserting after subparagraph (L) the following new subparagraph:

"(M) modifications to chlor-alkali electrolytic cells, or"; and

(3) by striking out "(M)" in the second sentence and inserting in lieu thereof "(N)".

(b) The table contained in clause (i) of section 46(a)(2)(C) (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

"VII. Chlor-Alkali Electrolytic Cells—Property described in section 48(l)(5)(M).	10 percent	Jan. 1, 1980.	Dec. 31, 1982."

SEC. 547. INTEREST EXEMPT OTHER THAN UNDER THE INTERNAL REVENUE CODE OF 1954.

(a) IN GENERAL.—Section 153 (relating to interest on certain governmental obligations) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) OBLIGATIONS EXEMPT OTHER THAN UNDER THIS TITLE.—

"(1) PRIOR EXEMPTIONS.—For purposes of this title, notwithstanding any provisions of this section or section 103A any obligation the interest on which is exempt from taxation under this title under any provision of law which is in effect on the date of the enactment of this subsection (other than a provision of this title) shall be treated as an obligation described in subsection (a).

"(2) NO OTHER INTEREST TO BE EXEMPT EXCEPT AS PROVIDED BY THIS TITLE.—Notwithstanding any other provision of law, no interest on any obligation shall be exempt from taxation under this title unless such interest—

"(A) is on an obligation described in paragraph (1), or

"(B) is exempt from taxation under any provision of this title.".

(b) CONFORMING AMENDMENTS.—

(1) Section 851(b) (relating to definition of regulated investment company) is amended by striking out "103(a)(1)" and inserting in lieu thereof "103(a)".

(2) Section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by striking out "103(a)(1)" each place it appears and inserting in lieu thereof "103(a)".

(3) Section 3454(a)(2)(B) (relating to definitions of interest, dividend, and patronage dividends) is amended by striking out "law" and inserting in lieu thereof "this title".

(4) Section 6049(b)(2)(B) (relating to returns regarding payments of interest) is amended by striking out "law" and inserting in lieu thereof "this title".

(5) Section 6362(b)(4)(A) (relating to qualified State individual income taxes) is amended by striking out "103(a)(1)" and inserting in lieu thereof "103(a)".

And the Senate agree to the same.

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
W. M. BRODHEAD,
BARBER CONABLE,
JOHN J. DUNCAN,
BILL ARCHER,
JAMES J. HOWARD,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
ELLIOTT H. LEVITAS,
JOHN BREAUX,
DON CLAUSEN,
GENE SNYDER,
BUD SHUSTER,

Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
DAVE DURENBERGER,
RUSSELL LONG,
HARRY BYRD, JR.,
SPARK MATSUNAGA,

For title II:
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
JAMES ABDNOR,
LLOYD BENTSEN,
JENNINGS RANDOLPH,

For title III:
JOHN TOWER,
RICHARD G. LUGAR,
DON RIEGLE,

For title IV:
BOB PACKWOOD,
J. C. DANFORTH,
HOWARD CANNON,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE OF BILL

House bill

Provides that the Act may be cited as the "Surface Transportation Assistance Act of 1982".

Senate amendment

Provides that the Act may be cited as the "Surface Transportation Act of 1982".

SHORT TITLE OF TITLE I

House bill

Provides that the first title may be cited as the "Highway Improvement Act of 1982".

Senate amendment

Provides that the title may be cited as the "Federal-Aid Highway Improvement Act of 1982".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

House bill

Revises authorizations for interstate construction for each of the fiscal years 1984 through 1990 to $4,000,000,000 per fiscal year.

Senate amendment

Authorizes $3,625 billion for fiscal year 1984, $3.8 billion for fiscal years 1985 and 1986, and $4.0 billion for each of fiscal years 1987 through 1990 for the Interstate Highway System construction program.

APPROVAL OF INTERSTATE COST ESTIMATE

House bill

Approves the use of the apportionment factors contained in revised table 5 of the Committee Print numbered 97-53 of the House Committee on Public Works and Transportation to apportion the Interstate construction funds for fiscal year 1984 and provides that for such fiscal year no State shall be apportioned for Interstate construction less than ½ of 1 per centum of the amount authorized for such State immediately before the date of enactment. In addition if any State's apportionment exceeds the established cost of completing that State's portion of the Interstate System and the 4R program in such State, such excess amount shall be available for expenditure on the Federal-aid primary, secondary, and urban systems.

Senate amendment

No comparable provision.

OBLIGATION CEILING

House bill

Provides a limitation of $12.2 billion for fiscal year 1983, $12.7 billion for fiscal year 1984, $13.5 billion for fiscal year 1985, and $14.4 billion for fiscal year 1986 on obligations for Federal-aid highways and highway safety construction programs, excluding obligations for emergency relief, for the U.S. Grant Bridge and the East Huntington Bridge in Ohio and West Virginia, and for the Woodrow Wilson Bridge located in the District of Columbia, Maryland, and Virginia.

Specifies a formula to distribute available obligational authority in fiscal year 1983, 1984, 1985, and 1986, based upon funds apportioned by legislative or administrative formula and upon funds allocated without a formula.

Provides that, during the fiscal year 1983, 1984, 1985, and 1986, no State may obligate more than 35 percent of its annual obligational authority allocation during the first quarter of the fiscal year for which the authority was allocated. No more than 25 percent of the total amount allocated to all the

States may be obligated during the first quarter of the fiscal year for which the authority was allocated.

Provides that sufficient authority be provided by the Secretary to all States to prevent lapse of funds except to the extent States indicate an intention to lapse Interstate construction funds. After August 1 of each of the fiscal years 1983 through 1986, obligational authority shall be withdrawn from any State not able to obligate its share and redistributed to States which are able to obligate, with priority given to States having large balances of unobligated apportioned funds. The Secretary shall not allocate amounts authorized for administrative expenses and forest highways.

Conforms the Omnibus Budget Reconciliation Act of 1981 to the provisions of this section.

Senate amendment

Establishes an obligation limitation of $12 billion for fiscal year 1983, $12.8 billion for fiscal year 1984, $13.6 billion for fiscal year 1985, $14.5 billion for fiscal year 1986, and $14.9 billion for fiscal year 1987, excluding emergency relief projects, rehabilitation of a federally-owned bridge, and a highway construction project at Union Station. The obligational authority for each year would be allocated to the States in the same ratio in which sums to be appropriated to the States for Federal-aid highways and highway safety construction are apportioned or allocated. Collectively, the States can obligate no more than 25 percent during the first quarter of fiscal year 1983.

In revising the redistribution each year, the Secretary shall give priority to those States which have experienced substantial proportional reductions in their apportionments and allocations because of statutory changes under this Act and under P.L 97-134.

AUTHORIZATIONS

House bill

Provides authorizations for each of the fiscal years 1983 through 1986 to carry out the provisions of title 23, United States Code, as follows:

(1)(A) For the Federal-aid primary system, out of the Highway Trust Fund, $2,000,000,000 reduced by the amount authorized for such system by the Federal-Aid Highway Act of 1982 for fiscal year 1983, $2.1 billion for fiscal year 1984, $2.2 billion for fiscal year 1985, and $2.5 billion for fiscal year 1986.

(B) For the Federal-aid secondary system, out of the Highway Trust Fund, $600,000,000 reduced by the amount authorized for such system under the Federal-Aid Highway Act of 1982 for fiscal year 1983 and $600,000,000 per fiscal year for fiscal years 1984 through 1986.

(2) For the Federal-aid urban system, out of the Highway Trust Fund $800,000,000 per fiscal year for fiscal years 1983 through 1986, except that the authorization for fiscal year 1983 is reduced by amounts authorized for such systems under the Federal-Aid Highway Act of 1982.

(3) For Indian reservation roads and bridges, $83,000,000 per fiscal year for fiscal year 1983 through 1986.

(4) For the Virgin Islands, such sums as may be necessary to continue the presence and operation of the territorial representatives of the FHA in the Virgin Islands.

(5) For the Commonwealth of the Northern Mariana Islands, $1,000,000 per fiscal year for fiscal years 1983 through 1986.

(6) For the forest highways, out of the Highway Trust Fund, $33,000,000 per fiscal year for fiscal years 1983 through 1986, except for the reduction of amounts authorized by the Federal-Aid Highway Act of 1982 for such highways.

(7) For public lands highways, out of the Highway Trust Fund, $16,000,000 per fiscal year for fiscal years 1983 through 1986, except for the reduction of amounts authorized by the Federal-Aid Highway Act of 1982 for such highways.

Repeals of section 151 of the Federal-Aid Highway Act of 1978 which provides connector primary demonstration projects to upgrade roads on the primary system between Las Cruces, New Mexico, and Amarillo, Texas, and between Lubbock, Texas and Interstate route 10.

Provides that in fiscal years 1983 and 1984 each State with funds available for obligation on the primary system in excess of the amount apportioned to such State for fiscal year 1982 shall give priority consideration to those priority primary routes designated in Committee Print 97-61 of the House Committee on Public Works and Transportation.

Provides that in fiscal years 1983 and 1984 each State with funds available for obligation on the primary, secondary, or urban systems in excess of the amount of primary, secondary, and urban funds respectively apportioned to such State for fiscal year 1982 shall give priority consideration to railroad-in-highway crossings demonstrations authorized by section 163 of the Federal-Aid Highway Act of 1973 on such respective system.

Provides that not less than 10 percent of amounts authorized to be appropriated under the bill shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

Senate amendment

Authorizes the appropriation, out of the Highway Trust Fund, of the following sums for fiscal years, 1983, 1984, 1985, 1986, and 1987.

For the Federal-aid primary program, $1.7 billion for fiscal year 1983, $2.1 billion for fiscal year 1984, $2.4 billion for each of fiscal years 1985 and 1986, and $2.6 billion for fiscal year 1987; for the Federal-aid rural program, $0.7 billion for each of fiscal years 1983 through 1987; for the Federal-aid urban program, $0.8 billion for each of fiscal years 1983 through 1987; for forest highways, $50 million for each of fiscal years 1983 through 1987; for public lands highways, $50 million for each of fiscal years 1983 through 1987; for parkways and park highways, $75 million for fiscal year 1983 and $100 million for each of fiscal years 1984 through 1987; for Indian Reservation roads, $75 million for fiscal year 1983 and $100 million for each of fiscal years 1984 through 1987; for bridge replacement and rehabilitation (23 U.S.C. 144), $1.7 billion for each of fiscal years 1983 and 1984, and $1.8 billion for fiscal year 1985, and $2.0 billion for each of fiscal years 1986 and 1987; and for the highway safety improvement program, $0.4 billion for each of fiscal years 1983 through 1987.

Subsection (b) rescinds the unapportioned or unallocated balance of sums authorized by sections 4 and 5 of the Federal-Aid Highway Act of 1982.

Subsection (c)(1) provides a minimum apportionment of one-half of one percent of Interstate construction funds to each State, including Alaska. Whenever this amount exceeds a State's need for Interstate construction and Interstate resurfacing, restoration, rehabilitation, and reconstruction, the State may transfer the excess amount of the Primary System, the Rural Program, or the Urban Program.

Subsection (d) requires that 60 percent of the funds expended by the States on the primary system and on the urban and rural program must be for resurfacing, restoring, rehabilitating and reconstructing roads including upgrading of existing facilities. If these sums are in excess of the States resurfacing, restoring, rehabilitation and reconstruction needs on existing facilities, the State may so certify to the Secretary.

INTERSTATE RESURFACING

House bill

Revises the authorization for Interstate resurfacing (Interstate 4R) from $800 million to $2.1 billion for the fiscal year 1984 and provides new authorizations for Interstate 4R of $2.4 billion for the fiscal year 1985, $2.8 billion for the fiscal year 1986, and $3.1 billion for the fiscal year 1987.

Senate amendment

Provides authorizations for Interstate resurfacing, restoring, rehabilitation and reconstructing (4R), out of the Highway Trust Fund, of $1.8 billion for fiscal year 1984, $2.4 billion for fiscal year 1985, $2.8 billion for fiscal year 1986, $3.2 billion for fiscal year 1987, and $3.4 billion for fiscal year 1988. The requirement that Interstate 4R funds be used only on lanes in use for more than five years is discontinued. The transfer of 4R funds to primary apportionments is permitted when the 4R funds are excess to resurfacing and reconstruction needs.

INTERSTATE TRANSFERS

House bill

Strikes the eighth sentence of 23 U.S.C. 103(e)(4), which provides that "there are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the treasury." For FY 1983, $257 million is made available out of the Highway Trust Fund for substitute highway projects approved at the discretion of the Secretary. Additional provisions would be inserted in lieu of the eighth sentence which would make available $775 million per fiscal year for each of the fiscal years 1984, 1985, and 1986 out of the Highway Trust Fund (HTF) for substitute highway projects. The availability of HTF financing would restore contract authority to substitute highway projects. Twenty-five percent of the funds available in a fiscal year for substitute highway projects would be allocated at the discretion of the Secretary of Transportion. The remaining 75 percent would be apportioned on the basis of estimates of the cost to complete substitute highway projects prepared by the Secretary of Transportation and approved by the Congress. The first cost estimate would be submitted to the Congress as soon as practicable after enactment of paragraph (a)(1) and when approved by the Congress would be the basis for apportionments for the fiscal year 1984. A revised cost estimate would be submitted to the Congress within ten days subsequent to January 2, 1984, and when approved by the Congress would be the basis for apportionments for the fiscal years 1985 and 1986.

Authorizes such sums as may be necessary from the general funds of the Treasury for substitute transit projects. Funds appropriated for substitute transit projects would be distributed in a manner like that proposed for funds authorized for substitute highway projects. Twenty-five percent of the funds

would be allocated at the discretion of the Secretary of Transportion and 75 percent would be apportioned based upon estimates of the cost to complete substitute transit projects prepared by the Secretary and approved by the Congress.

Section 103(e)(4) of title 23, United States Code, is amended to provide a one-year period of availability for substitute and transit apportioned funds. Apportioned sums not obligated, except for an unusable amount, shall be reapportioned among other States having substitute projects.

Section 103(e)(4) is further amended to provide that no Interstate route or segment statutorily designated after March 7, 1978, shall be eligible for withdrawal or substitution.

Existing provisions are limited to provide that the base cost of a withdrawal is as shown in the latest approved Interstate Cost Estimate. The 1983 cost estimate is used to establish the base cost for all withdrawals approved after the approval of the 1983 cost estimate. Inflation adjustments in base costs are made until the date of approval of the 1983 cost estimate or the date of project approval of a substitute project, whichever is earlier.

The Secretary of Transportation is allowed to make an exception from the September 30, 1983, deadline for concept approval of Interstate route withdrawals where a judicial injunction in effect on May 12, 1982, is prohibiting the construction of that route. The Secretary may extend such date for a reasonable period of time.

The advance construction procedures of 23 U.S.C. 115 now applicable to the Interstate system are extended to substitute highway projects approved under 23 U.S.C. 103(e)(4).

The bond retirement provisions of 23 U.S.C. 122 now applicable to the Interstate System are extended to substitute highway projects approved under 23 U.S.C. 103(e)(4).

Section 107(e) of the Federal-Aid Highway Act of 1975 is amended to give the term "construction" the meaning such term has under title 23 for purposes of determining whether a portion of the Interstate System will be completed.

Senate amendment

Authorizes in addition to any funds authorized to be appropriated out of the General Fund, $500 million for fiscal year 1983, $600 million for each of fiscal years 1984 and 1985, and $650 million for each of fiscal years 1986 and 1987, out of the Highway Trust Fund, for substitute highway projects under 23 U.S.C. 103(e)(4). The effect of this authorization is to grant contract authority for substitute highway projects. Funds for mass transit substitute projects will continue to come from the General Fund of the Treasury.

Amends 23 U.S.C. 103(e)(4) to allow withdrawal of, and to include as eligible for the benefits of withdrawal and substitution any Interstate routes including those in rural areas, except those routes or segments of routes added to the Interstate System by specific legislation after March 7, 1978.

Provide that the inflation adjustment will be based on charges in construction costs as of June 30, 1980.

Prohibits withdrawal and substitution for routes or segments of routes added to the Interstate System by specific legislation after March 7, 1978.

Clarifies that 100 percent Federal share shall also apply to traffic control signalization projects which might be included as part of an Interstate substitution project under 23 U.S.C. 103(e)(4). Present law now permits 100 percent Federal share for projects for traffic control signalization funded from all other Federal-aid categories.

Clarifies that "concept programs" for substitution projects may not be approved after September 30, 1983.

PRIMARY SYSTEM

House bill

Amends 23 U.S.C. 104(b)(1) to change the formula to apportion Federal-aid primary authorizations. The new formula would be based one-half on rural population and one-half on urban population. The present formula is based upon area, rural population, mileage of postal routes, and urban population.

The Virgin Islands, Guam, and American Samoa are made one State for purposes of the Federal-aid primary system. Such State is guaranteed one-half of 1 per centum of each year's primary system apportionment. The territorial highway program under section 215 of title 23 is not reauthorized.

Senate amendment

Eliminates the priority primary program (23 U.S.C. 147). Any unobligated authority for the priority primary program, effective the date of enactment of this section, would be apportioned by the Secretary of Transportation in the same manner as primary funds and would therafter remain available for obligation for the same period as if the funds were apportioned like primary funds. Pertinent sections of title 23, United States Code, would be amended to reflect the elimination of the priority primary program. This section would also permit the District of Columbia to receive a minimum one-half of 1 percent of each year's primary apportionment.

INTERSTATE SYSTEM REHABILITATION AND RECONSTRUCTION

House bill

Provides for a change in the Interstate 4R apportionment formula. For resurfacing, restoration, rehabilitation, and reconstruction (Interstate 4R) funds apportioned in accordance with 23 U.S.C. 104(b)(5)(B), beginning with fiscal year 1984 to be apportioned on October 1, 1982, the distribution formula will be based one-third on vehicle miles traveled, one-third on gasoline used, and one-third on diesel fuel used in the individual States.

Senate amendment

Establishes a new interstate 4R apportionment formula. The new formula is based 60 percent on the ratio of the number of lane miles on Interstate routes (other than those on toll roads not subject to a Secretarial agreement) each State has of the total lane miles in all States, and 40 percent on the ratio each State has of the total vehicle miles traveled on those lanes on Interstate routes (other than those on toll roads not subject to a Secretarial agreement). This section also establishes a minimum one-half of one percent guarantee of Interstate 4R apportionments for each State.

The Secretary is directed to study the procedures for distributing Interstate 4R funds to the States. The purpose of the study is to analyze current conditions and factors including volume and mix of traffic, weight and size of vehicles, environmental, geographical, and meteorological conditions in various States, and any other factors that may contribute to the deterioration of the Interstate system. The Secretary shall consider such criteria as need, national importance, impact on individual State highway programs, structural and operational integrity, and any other relevant criteria, to determine the most equitable method of distribution. The Secretary is directed to report the results of the study together with recommendations for legislation not later than 2 years after the date of enactment of this section.

FEDERAL-AID URBAN PROGRAM

House bill

No provision.

Senate amendment

Establishes the Federal-aid urban program. The existing Federal-aid urban system would be abolished, allowing for a wider range of transportation programs in urban areas. The changes will facilitate the achievement of goals relating to equity of programs, energy conservation, center-city revitalization, economic development, and reindustrialization.

All public roads in urban areas would be eligible, except those on the primary system and Interstate System. Transit capital projects and transportation system management (TSM) projects would also be eligible as would projects previously categorized as safer-off-system. Consolidated safety programs incorporated by section 112 of this bill, the Highway Safety Improvement Program, are eligible for funding as part of the urban program.

The Certification Acceptance Procedures as provided by section 117(a) and the Secondary Road Plan procedures as provided by section 117(f) of title 23, United States Code, may be utilized by the States for projects under this program.

FEDERAL-AID RURAL PROGRAM

House bill

No provision.

Senate amendment

Amends section 103 of title 23, United States Code. It combines the secondary program and eligible projects now under the nonsafety portion of the safer-off-system program, the Great River Road program, the access to lakes program, the bridges on Federal dams program and the economic growth center program. This would result in a consolidated rural program and end the secondary system designation, thus making funds available for all rural and nonurban roads, other than primary and Interstate System roads. Projects eligible for funding would be expanded to include nonurban public transportation and projects previously categorized as safer-off-system roads. Consolidated safety programs incorporated by section 112 of the bill, the Highway Safety Improvement Program, are eligible for funding as part of the Rural Program. Consolidating the funds for the above mentioned programs and terminating the secondary system designation would increase the flexibility for use of the funds as well as simplify grant and project administration and management.

The Certification Acceptance procedures as provided by section 117(a) and the Secondary Road Plan procedures as provided by section 117(f) of title 23, United States Code, may be utilized by the State for projects under this program.

ENERGY-INSPECTED ROADS

House bill

The Federal share increased to 85 per centum for 4R projects on roads which the Secretary has determined, at a State's re-

quest, are energy-impacted roads. The provision also allows the States to give priority to such projects in their annual program to utilize title 23 funds and allows the Secretary to give priority to such projects when approving programs.

Senate amendment

Essentially the same as the House provision.

COST REDUCTION

House bill

Directs the Secretary of Transportation to require that every project on any Federal-aid system which will have construction costs of $2 million or above be subjected to value engineering design review.

Senate amendment

No comparable provision.

RESURFACING STANDARDS

House bill

Section 109 of title 23, United States Code, is amended to express the Congressional intent that resurfacing, restoring, and rehabilitating standards for highways, other than fully controlled access highways, shall be for the purpose of preserving and extending the service life of highways and enhancing highway safety.

The National Academy of Sciences is (1) to conduct a study of the safety cost-effectiveness of geometric design criteria of standards for construction and reconstruction of highways to determine the most appropriate minimum standards to apply to resurfacing, restoration, and rehabilitation projects, including a study of the cost-effectiveness of the hot dip galvanizing process for installation, repair, or replacement of exposed structural steel, and (2) to propose standards to preserve and extend highway service life and enhance highway safety. Such study and proposed standards are to be submitted to the Secretary of Transportation for review and submitted to Congress for approval.

Senate amendment

No comparable provision.

VENDING MACHINES

House bill

Amends section 111 of title 23, United States Code, by inserting a new subsection (b) therein. This new provision allows States to permit the placement of vending machines in rest and recreation areas and in safety rest areas on the Interstate System.

The vending machines which States may permit to be placed in these areas are limited to those which dispense such food, drink, and other articles as the State highway department determines appropriate and desirable. The machines are to be operated by a State agency authorized to issue licenses for the operation of concessions located on Federal property and operated by the blind, and the costs of installation, operation, and maintenance are not eligible for Federal reimbursement.

Senate amendment

Permits vending machines on Interstate rights-of-way for the benefit of the traveling public without cost to the Federal Government. The facilities at which vending machines would be permitted include rest areas, weigh stations and visitor information areas. First priority is given under this section to Randolph/Sheppard Act agencies to operate such facilities.

LETTING OF CONTRACTS

House bill

Changes the exception to the general requirements of competitive bidding (23 U.S.C. section 112) from a finding by the Secretary that some other method is in the public interest to a demonstration by the State highway department to the satisfaction of the Secretary that some other method is more cost-effective and also repeals the exemption from competitive bidding requirements for Federal-aid secondary projects advanced under certification acceptance.

Senate amendment

No comparable provision.

CONSTRUCTION BY STATES IN ADVANCE OF APPORTIONMENT

House bill

Amends 23 U.S.C. 115 by changing from January 1, 1978, to January 1, 1983, the date governing the payment of bond interest as an eligible cost of construction for advance construction of Interstate projects which are under construction on, and converted to regular funding after, the governing date.

Authorizes the Secretary to pay interest on bonds issued after the date of enactment of this Act to the extent that the proceeds from the sale of bonds are expended for the construction of projects on the Interstate System.

If the rate of inflation in construction (over the life of the project) exceeds the rate of interest on the bonds, the entire amount of the interest is eligible for reimbursement from future apportionments. If the rate of inflation in construction is less than the rate of interest on the bonds, only the amount of interest calculated at the rate of inflation may be reimbursed.

Senate amendment

No comparable provision.

ADVANCE CONSTRUCTION FOR BRIDGE AND HIGHWAY SUBSTITUTE PROJECTS

House bill

Extends the availability of advance construction provisions to bridge projects under the Highway Bridge Replacement and Rehabilitation Program (23 U.S.C. 144). The approval of a bridge project under this provision is conditioned on the availability of an authorization which is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State and that the approval will not exceed the State's expected apportionment of such authorization.

Another provision of the bill extends the availability of advance construction provisions to substitute highway projects under section 103(e)(4).

Senate amendment

Amends the existing advance construction provision to permit construction by States of highway substitute and bridge projects in advance of apportionment of highway substitute and bridge funds apportioned under 23 U.S.C. 103(e)(4) and 144.

MAINTENANCE

House bill

Amends subsection 116(c) of title 23, United States Code, to permit the Secretary to withhold project approval on the Federal-aid system involved for projects in specific areas within a State, or for the entire State, where the Secretary finds that a project is not being properly maintained.

Senate amendment

Subsection 116(b) of title 23, United States Code, requires maintenance agreements between a State without authority to maintain a project constructed "on the Federal-aid secondary system, or within a municipality," and the appropriate county or municipal officials. This section would amend subsection (b) to require maintenance agreements when a State does not have authority to maintain any project.

This section would amend subsection 116(c) of title 23, United States Code, to permit the Secretary to withhold project approval for projects in specific areas on one or more of the Federal-aid systems or programs within a State, or for the entire State, where the Secretary finds that a project is not being properly maintained. Under present law, the Secretary must withhold project approval for the entire State for all projects when a single project is not being properly maintained.

INTERSTATE DISCRETIONARY FUNDS

House bill

The Interstate Discretionary Fund is made discretionary rather than providing the funding on a first-come first-served basis. In addition, the Secretary is permitted to prioritize the allocation of funds in the fund, first, for high-cost projects which are on segments not open to traffic and, second, for projects which are high cost in relation to a State's apportionment. In addition to lapsed funds, $300,000,000 is set aside from Interstate construction funds for deposit into the fund and the reduction to a State's unobligated balance associated with 23 U.S.C. 103(e)(4) withdrawals will also be deposited into the fund.

In addition, an Interstate 4R discretionary fund is created.

Senate amendment

No comparable provision.

INTERSTATE SYSTEM RESURFACING TRANSFERS

House bill

Sections 119(a) and 139(a) of title 23, United States Code, are amended, beginning with funds apportioned for fiscal year 1984, to allow the Secretary of Transportation to approve 4R projects on the Interstate System designated, before the date of enactment of the Act, under section 139(a) of title 23 in conjunction with the withdrawal of approval of another route on the Interstate System under section 103(e)(4) of title 23.

Section 119 of title 23 is amended to permit the transfer of Interstate construction apportionments that do not exceed the Federal share of the cost of the Interstate segments open to traffic (other than high-occupancy vehicle lanes) in the most recent cost estimate to Interstate 4R apportionments. Not more than one-half of a State's Interstate construction apportionment for a fiscal year may be transferred in that fiscal year. Subsequent Interstate cost estimates shall be reduced in an amount equal to the amount transferred.

Senate amendment

Permits the transfer of up to 50 percent of a State's Interstate construction apportionment for a fiscal year to the State's Interstate 4R apportionment. The transfers are limited to the amounts expected to be apportioned to the State for Interstate 4R for the next two fiscal years. The State is required to restore the amounts transferred within the next two fiscal years, and it fails to do so the cost of completion of the Inter-

state System in that State, as reflected in the next Interstate cost estimate, shall be reduced in an amount equal to the amount transferred.

TRANSFERABILITY

House bill

No comparable provision.

Senate amendment

This section amends 23 U.S.C. 104 to permit transfers between primary system and rural program apportionments and between primary system and urban program apportionments of up to 100 percent. Current law now permits 50 percent transfers between primary and secondary systems and between primary and urban systems.

FEDERAL SHARE

House bill

Section 120(c) of title 23 is amended to establish a Federal share for Interstate Resurfacing (4R) projects financed with primary funds as if the projects were financed with Interstate 4R funds.

Section 120(d) of title 23 is amended to permit a Federal share of 100 percent for certain pavement marking and traffic control signalization projects.

Provide a Federal share of at least 95 percent for economic growth center development highways projects, carpool and vanpool projects, Great River Road projects, projects for access highways to public recreation areas on certain lakes, bicycle projects, certain railroad-highway crossing demonstration projects, and certain priority primary projects which the House Committee on Public Works and Transportation has identified as eligible routes.

Senate amendment

Same as the House regarding traffic control signalization projects under section 103(e)(4).

HIGHWAY BEAUTIFICATION

House bill

The House bill restructures the current outdoor advertising control program in a number of ways. It removes the Federal Government from the day-to-day oversight of State programs and leaves the details of those programs to the States. The bill essentially retains current controls along the Interstate and primary systems, including the requirement to remove signs with compensation. The costs of acquiring signs are transferred to the States. Federal authorizations are required only to meet obligations under the 1958 bonus program, applicable in 23 States.

The States are encouraged to maintain certain specified minimum regulatory control through the incentive of a ten percent reduction of Federal-aid highway funds. The minimum controls are not mandatory and the States are not coerced in this regard since they may unilaterally determine not to comply and forego these additional funds.

The essentials of effective control are set forth as follows:

(1) Signs must be limited to commercial and industrial areas or to unzoned commercial and industrial areas as the State may deem appropriate. The existing exemptions found in section 131(c) are also retained.

(2) Signs may not be erected in areas where funds have been expended to cause their removal.

(3) The compensation provisions of the current law are expanded to protect sign owners from the impairment of the customary use or maintenance of signs. States would be required to pay compensation to cover these situations. The bill also makes clear that traditional concepts of eminent domain and condemnation proceedings also apply to sign acquisitions.

(4) The States are encouraged to provide for scenic areas where signs would not be permitted.

The Governor of each State must certify the State's program to the Secretary. The Secretary's oversight would be limited to assuring that the State makes a proper certification and controls signs in accord with that certification. The penalty provision of the current law is retained to permit the Secretary to enforce the law.

The bill makes no changes in the 1958 bonus program, the junkyard control program, the specific information signing (logo) program, and the information center program.

No specific authorizations are made.

Senate amendment

No comparable provision.

APPROACHES

House bill

Existing law authorizes the expenditure of Federal-air funds on projects approaching toll roads, bridges, and tunnels only to a point that such projects would have some use other than simply feeding traffic directly onto the toll facility. This restriction is eliminated and authorize the use of Federal-aid funds for projects which feed all traffic directly onto the toll facility, provided the Secretary is given the authority to define the extent of such projects.

Senate amendment.

No comparable provision.

PARKING FACILITIES

House bill

Expands the authority to acquire land and construct fringe and corridor parking facilities on the Interstate System. Provided the facilities are for the exclusive use of carpools and vanpools, they do not have to be located and designed in conjunction with existing or planned public transportation facilities. Funds apportioned for resurfacing, restoring, rehabilitating and reconstructing the Interstate System shall be used to pay the Federal share of the cost of these projects.

Senate amendment

This section amends section 137 of title 23, United States Code, by adding a new subsection (f) which allows Interstate 4R funds to be used for projects providing preferential parking for carpools. It incorporates the same restrictions as other fringe parking facilities with respect to being outside the central business district and within an Interstate corridor, and the primary purpose of reducing vehicular traffic on the Interstate highway. Other standard features concerning contracting and fees charged are also included.

EQUAL OPPORTUNITY

House bill

Section 140 of title 23 is amended to authorize training and assistance programs for minority contractors and authorizes the use of an additional $10 million per fiscal year to conduct and finance such programs. The $10 million set-aside from annual apportionments is continued for construction training and supportive services programs.

23 U.S.C. 140 is also amended to assure that equal employment opportunity must be provided without regard to sex.

Senate amendment

This section amends 140 of title 23, United States Code, to assure that equal employment opportunity must be provided without regard to sex; to authorize the Secretary of Transportation to conduct and finance minority business enterprise training programs and assistance programs; and to authorize the use of $10 million per fiscal year from the sums apportioned under 23 U.S.C. 104(b) to conduct and finance minority business enterprise training programs and assistance programs. These training and assistance programs are specifically provided for the benefit of women and minorities.

PUBLIC TRANSPORTATION

House bill

Permits the cost of providing shuttle service to and from fringe and corridor parking facilities constructed with Federal-aid funds to be included in the eligible fees that may be charged for the use of the parking facilities.

Senate amendment

This section amends section 142(a)(1), (b) and (f) of title 23, United States Code, by substituting "high occupancy vehicle passengers" for "bus lanes," "high occupancy vehicle passengers", and "high occupancy vehicles" for "public mass transportation systems". The overall effect is to expand the scope of the projects eligible for funding under section 142 to include carpool and vanpool vehicles and passengers. Also, it allows such projects to include eligible facilities for carpools and vanpools only, without the presence of buses or rail transit.

BRIDGE PROGRAM APPORTIONMENT

House bill

Procedures are established for determining the bridge program apportionment factors annually for each State using the latest available Federal-aid and off-system bridge inventory data.

The maximum share of apportioned bridge funds a State may receive is raised from eight percent to ten percent.

Senate amendment

This section provides for an annual apportionment starting in fiscal year 1983 based upon the following formula; All deficient bridges will be divided into four categories: (1) Federal-aid system bridges and bridges on public roads functionally classified as arterials or major collectors eligible for replacement, (2) Federal-aid system bridges and bridges on public roads functionally classified as arterials or major collectors eligible for rehabilitations, (3) Off-system bridges and bridges on public roads not functionally classified as arterials or major collectors eligible for replacement, and (4) Off-system bridges and bridges on public roads not functionally classified as arterials or major collectors eligible for rehabilitation. The square footage of deficient Federal-aid system bridges, and bridges on public roads functionally classified as arterials or major collectors, both those eligible for replacement and those eligible for rehabilitation, shall be multiplied by a factor of two. The square footage of deficient bridges in each category shall be multiplied by a national average unit cost on a State-by-State basis and the total cost in each divided by the total cost of the Nation's deficient bridges to yield the apportionment factors, except that no State shall receive less than one-quarter of one percent nor more than 9.25 percent of the annual apportionment. These funds are available for 4 years.

HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION

House bill

Provides a $200 million set-aside from authorizations for highway bridge replacement and rehabilitation for each of the fiscal years, 1983, 1984, 1985, and 1986 for the bridge discretionary program. Conditions for allocating bridge discretionary funds are unchanged from existing law except for language making the La Salle Peru (Illinois) Bridge replacement project and replacement the Russian River Bridge and Preston Overhead north of Cloverdale, California, necessitated by the unstable soil conditions which are causing the structure to shift, including such relocation of the highway approaches as is occasioned by the replacement of the structures on a site outside the slide area where soil conditions are stable, eligible for discretionary bridge funding.

Senate amendment

Subsection (c)(2) provides for a Discretionary Bridge Fund of $300 million for each of fiscal years 1983 through 1987. Funds are available for a period of 4 years. Projects eligible for the funds are those costing more than $10 million or those costing at least twice a State's annual bridge fund apportionment. A technical amendment is also made to 23 U.S.C. 144(g) to change the requirement of expenditures on bridges off the Federal-aid systems to a requirement of at least 15 per centum of expenditures on bridges on public roads not functionally classified as arterials or major collectors. The provision also deletes the provision of 23 U.S.C. 144(g) which prohibits the expenditure of more than 35 per centum of a State's bridge apportionments off the Federal-aid systems.

Another provision of the Senate amendment directs the Secretary to develop a selection process for discretionary bridges authorized under section 144(g). This selection process is to include a formula resulting in a rating factor which is based on criteria including the sufficiency rating, average daily traffic, average daily truck traffic, defense highway system status and the State's unobligated balance of funds received under section 144. In addition, the Secretary is directed to give consideration to bridges that are closed to all traffic or that have a load restriction of 10 tons or less. Those bridges already eligible for discretionary bridge funds will remain eligible. After the issuance of a final regulation, eligible bridges will be limited to those with a rating factor of 100 or less, based on a scale of 0 to infinity. Makes eligible under section 144(g) of title 23 a project to replace the La Salle-Peru Bridge in Illinois.

CARPOOL AND VANPOOL PROJECTS

House bill

Conforms section 146 of title 23 to the increase in the Federal-aid participation level in carpool and vanpool projects from 75 percent to 95 percent.

Senate amendment

Amends section 120(d) of title 23, United States Code, to allow up to 100 percent Federal share on projects for the acquisition of vehicles for carpooling and vanpooling.

Subsection (b) authorizes and directs the Secretary of Transportation to expend such sums as are necessary out of Federal Highway Administration administrative funds to carry out the national policy of promoting commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion.

ALLOCATION OF URBAN FUNDS

House bill

23 U.S.C. 150 is revised to permit Federal-aid urban system funds that are allocated to urbanized areas of 200,000 or more population to be used in other urbanized areas within the State or any urban areas within the State. The additional flexibility in use of the funds for urban projects would be subject to the approval of the local officials, the governor, and the Secretary.

Senate amendment

Permits the transfer of funds attributable to an urbanized area of 200,000 or more population to the allocation of another urbanized area in the State or to any other urban area in the State. A transfer, requested by the State, would be subject to the approval of the Secretary and the local officials of the urbanized area from which the funds are to be transferred.

HAZARD ELIMINATION PROGRAM EXTENSION

House bill

Section 152 of title 23, United States Code, is amended to extend the eligibility of hazard elimination funds to highway safety improvement projects off the Federal-aid systems.

Senate amendment

Repeals section 152 of title 23 as the hazard elimination program is incorporated in the highway safety improvement program.

FEDERAL LAND HIGHWAYS

House bill

The separate provisions of chapter 2 of title 23, United States Code, which provide for forest highways (section 204), park roads (section 206), parkways (section 207), Indian reservation roads and bridges (section 208), and public lands highways (section 209) are eliminated and in lieu thereof a coordinated Federal lands highways program is established and the classes of Federal lands highways are continued. The Secretary of Transportation is made responsible for oversight and coordinating the Federal lands highways in order to ensure that such highways are treated under the same uniform policies.

Jurisdiction of the Federal lands highways is not transferred from the agencies that currently manage the respective Federal lands. The Department of the Interior is involved in coordination with the land managing agency in the planning studies and program development of public Federal lands highways. The Department of the Interior would also provide design and construction assistance to the Federal land managing agencies.

The allocation criteria relative to forest highways and public lands highways are revised in order to reflect the policies and directions mandated by renewable resource and land use planning legislation. Similarly, allocation criteria are established for park roads, parkways, and Indian reservation roads and bridges.

One and one-half percent of funds appropriated for Federal lands highways will be available for planning and research purposes.

Senate amendment

Establishes a Federal Lands Highway Program which would include forest highway, park roads, parkways, Indian reservation roads, and public lands highways.

Allocation criteria are modified for forest highways and forest development roads and trails and allocation criteria are established for park roads, parkways, and Indian reservation roads. For public lands highways, the criteria are the same as in existing law, but a new provision would provide that preference be given to those highway projects which are significantly impacted by Federal land and resource management activities.

The new section authorizing the Federal Lands Highways Program places on the Secretary of Transportation the oversight and coordinating responsibility for Federal Lands Highways in order to ensure that such highways are treated under the same uniform policies as roads which are on the Federal-aid systems.

This proposal would not transfer jurisdiction of the Federal roads from the agencies that currently manage the respective Federal lands. Rather, it would involve DOT in coordination with the land managing agency, in the planning studies and program development of public Federal lands highways roads. The DOT would also provide design and construction assistance to the land managing agencies.

The Secretary must continue to determine that the Indian roads funds are spent in addition to, and not in lieu of, the States Regular Federal-aid funds.

This section would also add to title 23, United States Code, a definition of the term Federal Lands Highways, amend the definitions of the terms Indian reservation roads and park roads to include public roads only, and make technical changes to conform affected sections of title 23, United States Code, with the new Federal Lands Highways Program.

BICYCLE TRANSPORTATION

House bill

The Federal share payable for bicycle facilities changed to 95 percent rather than the share applicable to the category of Federal-aid system from which funds for such projects are made available. The types of projects that can be funded with Federal-aid highways funds (except Interstate) is expanded to include projects not on or adjacent to a Federal-aid highway project and nonconstruction projects related to safe bicycle use.

Projects funded under this provision must be principally for transportation, as determined by the Secretary as part of the normal review process, rather than recreational purposes. On highways without full control of access where a bridge deck is being replaced or rehabilitated, the bridge shall be made accessible for the safe accommodation of bicycles when it can be done at reasonable cost and where bicycles are permitted at either end.

Senate amendment

Broadens current authority to allow Federal-aid highway funds to participate in a greater variety of projects to encourage bicycle transportation and to provide pedestrian facilities. It would allow States greater flexibility in developing federally assisted bicycle and pedestrian projects by (1) eliminating the requirement that bicycle or pedestrian projects be "on or in conjunction with highway rights-of-way"; (2) eliminating the limitation on the expediture of Federal-aid highway funds for bicycle or pedestrain projects; and (3) specifically allowing Federal-aid highway funds to participate in nonconstruction projects that are expected to enhance bicycle safety and use. The Federal share for bicycle projects would be increased to 100 percent.

PARKING RAMPS AND FRONTAGE ROADS

House bill

Assures that certain parking facilities in the State of Minnesota will be added to the 1981 Interstate cost estimate. The parking ramps, which will include spaces for interstate construction funds in connection with the I-394 project in Minneapolis.

The Secretary of Transportation is authorizes to approve the expenditure of funds under section 108(b) of the Federal-Aid Highway Act of 1956 for construction of a previously approved project providing improvements to and reconstruction of ramps and service roads which are developed as part of a roadway system to relieve congestion on a segment of the Interstate System.

Senate amendment

Clarifies the eligibility for interstate funding for four projects for fringe parking facilities along Interstate routes.

PROJECT ELIGIBILITY

House bill

The cost of improvements in the vicinity of an interchange on an Interstate route in the State of Massachusetts which interchange has been approved in concept by the Secretary of Transportation is made eligible for Interstate construction funds if such improvements are necessary to upgrade the safety of a Federal aid primary route not on a common alignment with such Interstate route.

Senate amendment

No comparable provision.

ACCELERATION OF PROJECTS

House bill

The Secretary of Transportation is directed to establish accelerated methods for processing projects under title 23 of the United States Code.

Senate amendment

No comparable provision.

FOUR-LANE BRIDGES

House bill

Payments for additional construction of a specifice type of bridge when initial authorization for payments was between January 1, 1970, and the date of the enactment of this Act are authorized. Only two-lane bridges with a substructure and deck trust capable of supporting four-lane bridges are eligible.

Senate amendment

No comparable provision.

DEMONSTRATION PROJECTS

House bill

The following demonstration projects are authorized:

(1) In Los Angeles County, California, a project demonstrating methods of improving the motor vehicle transportation of freight to and from areas for the transshipment of water borne commerce at a cost not to exceed $19,000,000 per fiscal year for fiscal years 1983 and 1984 and $20,000,000 for fiscal year 1985.

(2) A project in the State of Pennsylvania in the vicinity of Altoona on Route 220 to demonstrate state of the art technology enclosing a gap of a multi-lane limited access approach road at a cost not to exceed $5,000,000 for fiscal year 1983, $10,000,000 for fiscal year 1984, and $62,000,000 for fiscal year 1985.

(3) A project in the vicinity of Buhne Point, Humboldt Bay, California, to demonstrate state of the art methods of repairing damaged highways resulting from shoreline erosion at a cost not to exceed $9,000,000.

(4) A project in the vicinity of East Baton Rouge, Louisiana, to demonstrate the efficacy of reducing traffic congestion in the immediate vicinity of a partial-diamond, partial-cloverleaf interchange at not to exceed $5,000,000.

(5) A project in the vicinity of Louisville, Kentucky, to demonstrate methods of accelerating construction of high traffic sections of highways on the primary system directly connected to the Interstate System at a cost not to exceed $25,000,000 for fiscal year 1983 and $27,000,000 for fiscal year 1984.

Senate amendment

The following demonstration projects are authorized:

(1) Projects in and around Devils Lake, North Dakota which demonstrate the use of construction techniques which will prevent wave erosion on roadways which cross closed basin lakes at grade level.

(2) A project in cooperation with the State of Idaho to determine what factors contribute to a high incidence of truck accidents.

(3) A project on the Federal-aid urban system to show how downtown congestion can be relieved by the construction of a high-level bridge over a segment of intercoastal waterway. $23 million is authorized in contract authority to carry out this provision.

(4) A demonstration project for East Baton Rouge, Louisiana.

(5) A project in cooperation with the State of Vermont, which will demonstrate the feasibility of extending the coverage of State certifications under section 117(a) of title 23, United States Code. The purpose of the demonstration project is to determine to what extent States are able to carry out the requirements of Federal law, both title 23 and nontitle 23 requirements, and to determine what kinds of problems may be encountered under such procedures. The project shall also document those areas where savings can be made in time and paperwork without adverse impacts on public participtionor the environment.

MANPOWER NEEDS STUDY

House bill

Directs the Secretary to enter into an agreement with the National Academy of Science's Transportation Research Board to conduct a study of future transportation professional manpower needs. The study is to include, among other things, prevailing methods of recruitment, training and financial, and other incentives and disincentives which encourage or discourage retention in service of transportation manpower by Federal, State, and local governments. The report is to be submitted to Congress in two years, and the Secretary is to furnish the Academy information deemed necessary by the Academy for the study.

Senate amendment

No comparable provision.

VEHICLE WEIGHT, LENGTH, AND WIDTH LIMITATIONS

House bill

Section 127 of title 23, United States Code, is amended to provide for national uniform vehicle axle and gross weight limits for the Interstate System. These limits are set at 20,000 pounds for a single axle and 34,000 pounds on a tandem axle. The overall gross vehicle weight is to be limited by operation of the bridge formula to a maximum of 80,000 pounds, except for nondivisible loads for which special permits have been issued by States in accordance with applicable State laws. No funds authorized to be appropriated under the 1956 Highway Act may be apportioned to a State which does not permit the operation of such vehicles at such maximum weights on the Interstate System within that State. Amounts so withheld will lapse.

The new section also provides, however, that apportionments shall not be denied to States which allow the operation of vehicles which that State determines, in consultation with the Secretary, could have legally operated in the State on July 1, 1956, or in the case of overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Act of 1974. For the State of Hawaii, the applicable date is February 1, 1960, rather than July 1, 1956. For the State of Michigan, laws or regulations in effect on May 1, 1982, are applicable for the purposes of this subsection of title 23.

Subsection (b) of section 127 of title 23 provides that funds under the 1956 Highway Act may not be apportioned to a State with (1) a vehicle length limitation of less than 48 feet on the length of a semitrailer in a truck tractor-semitrailer combination, (2) a vehicle length limitation of less than 28 feet on the length of any semitrailer or trailer in a "double" combination, or (3) a vehicle width limitation other than 102 inches on the Interstate System.

Subsection (c) of section 127 of title 23 provides that the length limitations of (b) above do not apply to a truck tractor. States are further precluded from prohibiting the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on the date of enactment of this Act.

While the bill establishes 28 feet as the uniform standard trailer length applicable to doubles, it also provides that no State shall prohibit or restrict the use of existing doubles trailers of up to 28½ feet for the life of those traiers.

Subsection (d) of section 127 of title 23 provides that "doubles" shall not be prohibited from operating nationwide on the Interstate System.

Subsection (e) of section 127 of title 23 provides the Secretary with general authority to implement this section by regulation and specifically authorizes the Secretary to make determinations necessary to accommodate specialized equipment such as automobile transporters.

Subsection (f) of section 127 of title 23 defines "truck tractor" as the noncargo carrying power unit in a combination vehicle.

Subsection (g) of section 127 of title 23 excludes such safety and energy conservation devices as shall be designated by the Secretary from the limits described in subsection (b) and (c) of section 127 of title 23. This would allow the use of the devices set forth in the bill and similar devices without increasing the cargo-carrying capacity of a vehicle. However, any device capable of carrying cargo would be included in the length and width of a vehicle for the purposes of subsections (b) and (c).

Subsection (h) of section 127 of title 23 provides that States must permit vehicles subject to this section reasonable access to and from the Interstate System, terminals, and facilities for food, fuel, and rest. This provision is not intended to preempt a State's reasonable exercise of its police powers with respect to safeguarding public safety on roads within the area of its jurisdiction.

The amendment to section 127 takes effect only upon enactment of a more equitable tax structure for highway users.

Senate amendment

SEC. 246. This provision amends section 126 of title 23, United States Code, to establish a national uniform maximum weight per axle and by gross weight. The limits are set at 20,000 pounds for single axles, 34,000 pounds on a tandem axle and an overall gross weight of 80,000 pounds as limited by the bridge formula contained in section 127.

The provision also clarifies the application of the "grandfather clauses" authorized by the Federal-Aid Highway Act of 1956 and the Federal-Aid Highway Amendments of 1975. Under this provision States will determine the weight of vehicles and classes of vehicles eligible under the grandfather provision as it applies to their State, concerning length limitations, the Senate amendment prohibits States from imposing trailer limitations if less than 48 feet for trailers in a "single" combination or 28 feet for "double" combinations on any segment of the interstate system or Federal-aid highways except with respect to certain qualifying Federal-aid highways. Assures that State regulation may not apply to the length of truck tractors or the overall length of singles and doubles. (The bill is neutral with respect to State regulation of "triples" or straight trucks involving no combinations.) States are prohibited from imposing regulations that have the effect of being more restrictive than those in force on December 1, 1982. Existing trailers or semitrailers of up to twenty eight and a half feet in length, in a truck tractor-semitrailer-trailer combination are allowed to continue to operate in Commerce if actually operating on December 1, 1982 within a 65 foot overall length limit in any State.

Prohibits States from precluding "double" combination units from the interstate and federal-aid highway system—except with respect to such qualifying Federal-aid highways designated pursuant to subsection (e) of this section.

Gives the Secretary of Transportation the authority to establish our guidelines for the implementation of the provisions of the section and to make such determinations as are necessary to accommodate specialized equipment.

Authorizes the Secretary of Transportation and the States to restrict the application of the federal standards for length on Federal-aid highways if the application of such standards to specific Federal-aid highways would adversely affect the public safety.

Defines "truck tractor" as the non-cargo carrying power unit that operates in combination with a semi-trailer or trailer(s).

Provides that the provisions of the section take effect six months after the enactment of the bill.

Concerning commercial motor vehicle width regulations, States are required to allow commercial motor vehicles to operate on highways at a width of 102 inches provided the traffic laws are designed to be a width of 12 feet or more.

The length and width limitations are exclusive of a number of fuel conservation and safety devices listed.

No State may deny reasonable access to and from the interstate and federal aid system and terminals and facilities for food, fuel, repairs, and rest.

MARTIN LUTHER KING BRIDGE

House bill

Establishes specific criteria under which the Martin Luther King Bridge, which crosses the Mississippi River between St. Louis, Missouri, and East St. Louis, Illinois, would be eligible for assistance under section 144, Highway Bridge Replacement and Rehabilitation Program, of title 23, United States Code.

Senate amendment

No comparable provision.

FERRY BOAT STUDY

House bill

Directs the Office of Technology Assessment (OTA) to study the feasibility of a high speed ferry boat operation from St. Croix and St. Thomas in the Virgin Islands. Other agencies of the Federal Government are directed to assist the OTA, and a report is due to the Congress no later than January 1, 1984.

Senate amendment

No comparable provision.

STUDY OF WEATHER-RELATED FACTORS IN APPORTIONMENT FORMULAS

House bill

Requires the Secretary to conduct a study and report to Congress within one year with specific recommendations for changing apportionment formulas to take into account weather-related factors.

Senate amendment

No comparable provision.

REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

House bill

Requires the Secretary to make a report to the Congress on the potential benefits and costs associated with the establishment of a national intercity truck route network for the operation of longer combination vehicles.

Provides that the Secretary shall make a report within one year after consultation with the States and opportunity for public comment. The report is to consider the potential benefits and costs for such a network for shippers receivers, operators of commercial motor vehicles, and the general public.

"Longer combination commercial motor vehicles" as defined as multiple trailer combinations consisting of (1) truck tractor-semitrailer-full trailer or (2) truck tractor-semitrailer-full trailer-full trailer. The overall length, however, would not exceed 110 feet. "National intercity truck route network" as defined as consisting of a number of controlled access, interconnecting segments of the Interstate System and other highways of comparable design and traffic capacity including, but not limited to, all highways where longer combination vehicles are authorized on the date of enactment of this Act.

The report is to include a specific plan for the establishment of the network including the designation of the specific segments involved and analyses of the freight volume which might be transported in such longer vehicles, the projected fuel savings, anticipated productivity gains, the fuel conservation and productivity gains historically achieved by the use of longer vehicles, and the safety record of longer vehicles. This subsection also requires an analysis of the impacts of the size and weight limitations in effect after enactment of this Act, including the effect on intermodel competition.

The Secretary shall assume, for purposes of the report, that the axle weight limits are as established in section 127 of title 23, United States Code, and the overall gross weight limit would be determined by the bridge formula alone.

The Secretary is required to further assume that reasonable access to terminals, combination breakup areas, and food and fuel facilities will be provided.

The provision makes clear that this section intends only that a study of the issue of longer vehicles be made at this time with final Congressional action to follow.

Senate amendment

The Secretary of Transportation is required to study and report on the potential benefits and costs that may result from the establishment of a National intercity truck route network for the operation of a special class of longer-combination commercial motor vehicles.

CHANGE IN LOCATION OF INTERSTATE SEGMENTS

House bill

The Secretary of Transportation may approve a change in location of an Interstate route if construction of the Interstate route at the new location does not exceed the estimated costs of eligible improvements at the original location, if the original location of such route is open to traffic before the date of enactment of this Act, and if the eligible improvements at the original location involve major modifications in order to meet acceptable standards or result in severe environmental impacts or mitigation measures relating to the environmental impact are not cost effective.

Senate amendment

Essentially the same as the House bill. The Senate amendment does not include a provision in the House bill which would allow an increase or decrease in the cost of construction on the new location based on changes in construction costs.

ACCESS CONTROL DEMONSTRATION PROJECTS

House bill

The deadline for the report on results of access control demonstration projects carried out under section 150 of the Federal-Aid Highway Act of 1978 is extended from September 30, 1983, to September 30, 1985.

Senate amendment

No comparable provision.

REVISION OF PROJECT AGREEMENT

House bill

The Secretary of Transportation and the New Jersey Department of Transportation are directed to revise the agreement for the Federal-aid project 23-D-U-54 (100) in New Jersey to make available financial assistance not to exceed $1,000,000 for relocation of businesses that have suffered monetary losses as a result of such project.

Senate amendment

No comparable provision.

USE OF SUBSTANCES FROM RECYCLED TIRES IN PAVING MATERIALS

House bill

Authorizes the Secretary to make grants to each State which adopts and implements a program that requires utilization of significant volumes of substances or materials produced in substantial part from rubber recovered from recycled tires on projects on Federal-aid highways. The grants may only be used to implement and enforce such programs. There is authorized out of the Highway Trust Fund $5 million for FY 1983 and $25 million for each of FYs 1984 and 1985.

Senate amendment

No comparable provision.

ENFORCEMENT OF HEAVY VEHICLE USE TAX

House bill

Amends section 141 of title 23, United States Code, to provide that no funds for Interstate construction or 4R shall be apportioned to a State for any fiscal year during which heavy vehicles which are subject to the use tax imposed under section 4481 of the Internal Revenue Code of 1954 may be lawfully registered in the State without having presented proof of payment of such tax. Withheld amounts are reapportioned to other States.

Senate amendment

MONITORING OF EFFECT OF DOUBLE BOTTOM TRUCKS

House bill

Provides that the Secretary shall enter into arrangements with the National Academy of Sciences to monitor the effect on Interstate highways of the use of trucks with two trailing units. Another amendment in the bill provides that no State shall prohibit the use of such vehicle combinations. The Academy is to report to the Secretary and Congress within two years.

Senate amendment

No comparable provision.

ADVANCEMENT OF NON-FEDERAL SHARE

House bill

Provides a Federal share up to 100 percent through FY 1983 for a highway project if the Governor of the State submitting the project certifies, in accordance with regulations established by the Secretary, that sufficient State funds are not available to pay the non-Federal share of the project. The total which may be obligated for these projects shall not be greater than the amount of the excess of (1) the sum of the obligational authority distributed to the State for FY 1983 plus any amounts received by the State under the minimum apportionment provision, over (2) the amount of obligational authority distributed to the State for FY 1982.

The State is required to repay the amount of any increases in Federal share received under this provision by the end of FY 1984. The repayments shall be deposited in the Highway Trust Fund and credited to the appropriate apportionment accounts of the State.

If the State does not fully repay by the end of FY 1984, the amount not repaid shall be deducted on a pro rata basis from the States apportionments under section 104(b) of title 23 (other than the apportionment for Interstate construction), 50 percent from FY 1985 apportionments and 50 percent from FY 1986 apportionments.

Senate amendment

Same as the House bill except for technical differences.

LANE RESTRICTIONS

House bill

Prohibits the State of California from restricting the use of certain lanes in Alameda County, California, to high occupancy vehicles.

Senate amendment

No comparable provision.

UPGRADING CERTAIN INTERCHANGES

House bill

This section permits the use of Interstate construction funds for upgrading certain interchanges in the State of California.

Senate amendment

No comparable provision.

CONVICT LABOR

House bill

Section 114(b) of title 23, United States Code, which prohibits the use of convict labor on highway construction projects, is amended to also prohibit the use of materials produced by convict labor.

Senate amendment

No comparable provision.

PREVAILING RATE OF WAGE

House bill

This section amends section 113(a) of title 23, United States Code, relating to the application of the Davis-Bacon Act. The provision currently applies to "initial construction work performed on highway projects on the Federal-aid systems". This amendment deletes the word "initial".

Senate amendment

Same as House bill.

MINIMUM ALLOCATION

House bill

Provides that the Secretary shall allocate sufficient amounts to States to insure that each State's percentage of the total apportionments in each fiscal year of funds for Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination and rail-highway crossings under sections 103(e)(4), 104(b), 144, and 152 of title 23 and section 203 of the Highway Safety Act of 1973 shall not be less than 85 percent of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.

Amounts so allocated are available for four fiscal years, are subject to the provisions of title 23, and are available for Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination and rail-highway crossings projects. Obligation ceilings shall not apply to these amounts.

$420,000,000 is authorized out of the Highway Trust Fund for fiscal year 1983, and such sums as may be necessary are authorized for fiscal years 1984, 1985, and 1986.

Senate amendment

Same as House bill except that Interstate highway substitute apportionments are not included in the 85 percent computation and the amount authorized for fiscal year 1983 is $526,000,000.

STUDY OF METHANE CONVERSION FOR HIGHWAY FUEL USE

House bill

Provides that the Secretary, using research funds, shall study the potential for recovering methane released in the process of offshore oil drilling and converting it into methanol on floating conversion plants for use as fuel in highway vehicles. The Secretary shall report to Congress the results of the study within one year.

Senate amendment

No comparable provision.

DEMONSTRATION PROJECTS—RAIL-HIGHWAY CROSSINGS

House bill

Extends the authorization for rail-highway crossing demonstration projects at $50 million per fiscal year for fiscal years 1983 through 1986, and adds a provision that any project not under construction by September 30, 1985, shall not be eligible for additional funds.

Senate amendment

No comparable provision.

FEASIBILITY STUDY

House bill

The Secretary of Transportation is directed to study the feasibility, and determine the costs, of designating and constructing a highway in the State of South Carolina connecting I-95 with United States Route 17 in Myrtle Beach, South Carolina, as a part of the Interstate System or primary system. $500,000 is authorized out of the Highway Trust Fund to carry out such study for fiscal year 1983.

HIGHLAND SCENIC HIGHWAY

House bill

No comparable provision.

Senate amendment

Amends section 161(f) of the Federal-Aid Highway Act of 1973 to remove a technical problem presently preventing the State of West Virginia from maintaining the Highland Scenic Highway, located partially within and adjacent to the Monogahela National Forest in the State. It would also allow local light truck traffic and limited commercial truck traffic on a permit basis only.

EMERGENCY RELIEF

House bill

No comparable provision.

Senate amendment

Amends subsection (a) of section 125, title 23, United States Code, to make clear that the term "catastrophic failure" means failures which are sudden, unexpected, and result from external forces, natural catastrophies in narrow or limited areas such as localized hurricane force winds, earthquakes, landslides, and the like. "Catastrophic failure", for purposes of this section, does not mean failure which is the result of structural deficiencies or physical deterioration.

Provides that all expenditures for emergency relief under 23 U.S.C. 125, whether past or future, shall come from the Highway Trust Fund and not from the General Fund of the Treasury.

Deletes the reference to bridges which have been closed to traffic between December 31, 1967 and December 31, 1970.

Authorizes, from the Highway Trust Fund, $100 million per year for emergency relief projects.

Amends 23 U.S.C. 125(b) to provide that expenditures for projects resulting from a single natural disaster or a single catastrophic failure shall not exceed $30 million in a State.

Applies the amendment made by subsection (d) to natural disasters or catastrophic failures which the Secretary finds to be eligible for emergency relief subsequent to the enactment of this section.

Amends 23 United States Code 120(f), which pertains to the Federal share for highway emergency relief projects. Under current law, the Secretary can increase the Federal share to 100 percent. Under this subsection, the Federal share would be limited to 75 percent, except for forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails and Indian reservation

roads, which would still receive 100 percent Federal funding.

Applies to provisions of 23 United States Code 120(f), as amended by the bill, to all natural disasters or catastrophic failures which the Secretary finds to be eligible for emergency relief subsequent to the enactment of the bill.

DEFENSE ACCESS ROADS

House bill

No comparable provision.

Senate amendment

Amends section 210(c) of title 23, United States Code, to permit funds appropriated for defense maneuvers and exercises to be used for work on highways which have been or may be used for training of the Armed Forces.

CONSTRUCTION

House bill

No comparable provision.

Senate amendment

Section 114 of title 23, United States Code, now requires that the Secretary inspect each highway construction project. This amendment would remove that requirement. The Secretary would establish procedures for inspecting and approving construction but would not have to inspect each project.

RESEARCH AND PLANNING

House bill

No comparable provision.

Senate amendment

Amends 23 U.S.C. 307 to confirm the legal basis for pooling 1½ percent highway planning and research (HPR) funds into a single fund and to establish a uniform period of availability, and a standard Federal matching share. This section also clarifies that the States may use these funds for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing.

PROGRAM CONSOLIDATION

House bill

No comparable provision.

Senate amendment

Repeals the Economic Growth Center Development program, National Scenic and Recreational Highway program, Access Highways to Public Recreation Areas on Certain Lakes program, Highway Crossing Federal Projects program, and the Railroad Highway Crossings Demonstration Project.

Provides that any unobligated balance of contract authority or unexpended balance of sums appropriated prior to enactment will remain available for these programs under the conditions applicable prior to such enactment. The unappropriated balance of sums authorized prior to enactment for the National Scenic and Recreational Highway program, Access Highways to Public Recreation Areas on Certain Lakes, and Highways Crossing Other Federal Projects is rescinded.

INTERAGENCY AGREEMENTS

House bill

No comparable provision.

Senate amendment

Adds a new section to title 23, United States Code, under which the Secretary of Transportation would be required to enter into memoranda of understanding with other Federal agencies to coordinate the various environmental compliance reviews that apply to Federal and Federal-aid highway projects. The purpose of such memoranda is to minimize, to the maximum extent practicable, duplication, needless paper work, and delays in approval of projects under title 23, United States Code.

CERTIFICATION ACCEPTANCE

House bill

No comparable provision

Senate Amendment

Amends 23 U.S.C. 117 to provide for (1) the application of certification acceptance to the physical construction phase of Interstate 4R projects; (2) the elimination of the requirement to make a final inspection on every project under both the certification acceptance and secondary road plan programs; and (3) the extension of coverage under the secondary road plan program to: "projects, as defined by the Secretary and which are not on the Interstate System." These changes in no way would relieve the State highway departments from the requirement of entering into formal project agreements with the Secretary pursuant to section 110 of title 23. Certification acceptance would be available to Interstate restoration projects once they reach the construction phase; thus it would apply only to those work areas such as time extensions, construction contract change orders, assessment of liquidated damages, etc., which take place subsequent to the actual construction project being authorized.

HIGHWAY SAFETY IMPROVEMENT PROGRAM

House bill

No comparable provision.

Senate amendment

Establishes a single highway safety improvement program by combining all safety categories—Hazard Elimination, Rail Highway Crossings, Rail Relocation Projects, Safer-Off-System Roads, and highway related safety activities under section 402.

Each State must develop and implement a continuous highway safety improvement program which includes procedures for planning, implementation and evaluation of highway safety improvement projects. As part of this program, each State must have a process for inventorying and analyzing accident, traffic, and highway data, for conducting engineering surveys of hazardous locations, sections, and elements; and for maintaining and implementing a prioritized schedule of projects for the improvement of the hazards identified. Any highway safety improvement project on a public road, except the Interstate, may be funded under this section. The Federal share under this section is 90 percent except for rail-highway crossing projects, in which case the Federal share is that provided in section 120(d) of title 23, United States Code. Any remaining unobligated balance of contract authority for carrying out section 402 with respect to highway-related safety programs will remain available for obligation, and will lapse not later than September 30, 1984. Highway safety funds are apportioned to the States according to a formula based on population and road mileage.

This section also provides that each State shall expend 35 percent of the funds apportioned to it for highway safety improvements for rail grade crossing projects authorized by section 203 of the 1973 Highway Safety Act. This minimum percentage of use of such funds may be waived by the Secretary of Transportation upon application of the State if the Secretary finds that the State has demonstrated that it has other safety projects of a higher priority.

One-half of one percent of the highway safety funds is made available to the Secretary of the Interior of carrying out section 151 safety activities on Indian reservations. The section 151 funds are available as if they were primary funds except where inconsistent with the purposes of this section. In addition, primary system, urban program and rural program funds may be used for all consolidated safety projects.

The States are required to evaluate the results of the highway safety improvement program and to report annually to the Secretary. The Secretary is required to report annually to the Congress. The State's existing safety reports to the Secretary of Transportation under section 203 of the Highway Safety Act of 1973 for rail-highway crossings, the section 151 report on pavement markings and the section 152 report on hazard eliminations are repealed, as the comparable reports are now included under the one consolidated report provided by subsection (a), which contains a new section 151(h) on highway safety improvement program reports.

INNOVATIVE TECHNOLOGIES

House bill

No comparable provision.

Senate amendment

Authorizes an increase in the Federal share when a State uses innovative technologies in constructing a road or in an overlay is placed on an existing roadway. Regardless of which highway category a project is proposed for, the Federal share would be increased by 5 percent when recycled materials or commercially available additives are used in pavements.

RELOCATION OF UTILITY FACILITIES

House bill

No comparable provision.

Senate amendment

Amends the definition of "construction" to make clear that the relocation of utilities for safety purposes is eligible work for Federal reimbursement under title 23 of the United States Code.

Amends 23 U.S.C. 123, Relocation of Utility Facilities, to permit payment for utility relocations on any Federal-aid system or under any Federal-aid program and to provide that the Secretary may waive certain provisions of 23 U.S.C. 123(a) to allow Federal participation in costs incurred by the State in relocating utilities for purposes of eliminating hazards, then he determines that such a waiver facilities the State's safety improvement program.

REPORTS

House bill

No comparable provision.

Senate amendment

Codifies the highway needs report submitted to the Congress every 2 years pursuant to section 3 of Public Law 89-139 and section 17 of the Federal-Aid Highway Act of 1968.

DEFINITION

House bill

No comparable provision.

Senate amendment

Changes the definition of "construction" to permit Federal participation in State highway agency audit costs incurred in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.

DESIGN AND CONSTRUCTION QUALITY ASSURANCE STUDY

House bill

No comparable provision.

Senate amendment

Requests the Secretary of Transportation, the National Bureau of Standards, the American Society for Testing and Materials, and any other appropriate organizations to provide information on training and accreditation needs of testing facilities.

ACCELERATION OF BRIDGE PROJECTS

House bill

No comparable provision.

Senate amendment

Repeals the acceleration of bridge project programs which provides special funding for the U.S. Grant Bridge in Kentucky and the East Huntington Bridge in West Virgina. Funds authorized for this program would remain available for obligation for two years under the same conditions which existed prior to the repeal of this section.

TERRITORIAL HIGHWAY PROGRAM

House bill

Does not contain separate authorizations for the territorial highways, but does include the Virgin Islands, Guam, and American Samoa as one State in the primary system apportionment and provides a minimum of ½ percent of the total apportionment to those territories collectively.

Senate amendment

Repeals section 215 (Territorial Highway Program) of title 23, United States Code.

Provides that outstanding funds authorized or appropriated for carrying out repealed section 215 shall remain available for obligation under the conditions applicable prior to such repeal.

ALASKA HIGHWAY

House bill

No comparable provision.

Senate amendment

Amends section 218(a) of title 23, United States Code, to allow the State of Alaska to use its apportioned Federal-aid highway funds on the continued construction of the portions of the Alaska highway located in Canada.

RESOLUTION ON HIGHWAY TRUST FUND OBLIGATIONS

House bill

No comparable provision.

Senate amendment

States the sense of the Congress that the administrators of the Federal Highway Trust Fund shall act to expedite highway program obligations, to the maximum extent that such can be accelerated under law.

WITHDRAWAL AND DESIGNATION AT CERTAIN ROUTES ON THE INTERSTATE SYSTEM

House bill

No comparable provision.

Senate amendment

Requires the Secretary of Transportation to approve the withdrawal from the Interstate System of a portion of Interstate Routes 95 and 695 in New Jersey. The Secretary is further authorized and directed to designate a portion of the New Jersey and Pennsylvania Turnpikes as part of the Interstate System.

TITLE II—HIGHWAY SAFETY ACT OF 1982

SHORT TITLE

House bill

This section provides that this title may be cited as the "Highway Safety Act of 1982."

Senate amendment

No comparable provision.

HIGHWAY SAFETY AUTHORIZATIONS

House bill

This section provides authorizations for bridge replacement and rehabilitation of $1.5 billion (minus the amount authorized by the Federal-Aid Highway Act of 1982) for FY 1983, $1.6 billion for FY 1984, $1.7 billion for FY 1985, and $2.1 billion for FY 1986. Projects for the elimination of hazards under section 152 of title 23, U.S. Code, are authorized at $200 million annually (reduced in FY 1985 by the amount authorized by the Federal-Aid Highway Act of 1982).

Senate amendment

Provides authorizations for bridge replacement and rehabilitation of $1.7 billion for each of FY 1983 and FY 1984, $1.8 billion for FY 1985, and $2 billion for each of FY 1986 and FY 1987. The hazard elimination program is repealed, but is covered by the new highway safety improvement program.

HIGHWAY SAFETY

House bill

This section provides authorizations for appropriations and limitations on the obligation of highway safety funds. Subsection (a)(1) provides authorizations for appropriations out of the Highway Trust Fund for carrying out the highway safety programs under section 402, title 23, U.S. Code, by the National Highway Traffic Safety Administration in the amount of $100 million per fiscal year for each of fiscal years 1985 and 1986.

Subsection (a)(2) provides that, out of the funds authorized to be appropriated under subsection (a)(1) for each of fiscal years 1985 and 1986, not less than $20 million per fiscal year shall be obligated under section 402 of title 23, U.S. Code, for enforcing the national maximum speed limit established by section 154 of title 23.

Subsection (a)(3) requires that each State shall expend in each fiscal year not less than two percent of the amount apportioned to it for the fiscal year of the sums authorized by subsection (a)(1) for highway safety programs which encourage the use of safety belts by drivers and passengers of motor vehicles.

Subsection (b)(1) provides that, notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the National Highway Traffic Safety Administration under section 402 of title 23, U.S. Code, shall not exceed $100,000,000 for each of fiscal years 1983 through 1986. The total of all obligations for the highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, U.S. Code, shall not exceed $10 million per fiscal year for each of fiscal years 1983 through 1986.

Subsection (b)(2) amends section 1107(b) of the Omnibus Budget Reconciliation Act of 1981 to strike obligational amounts which do not conform to those provided by subsection (b)(1).

Subsection (c) amends section 202 of the Highway Safety Act of 1978 to extend: (1) the $31 million authorization per fiscal year for section 403 of title 23, U.S. Code, relating to highway safety research and development through fiscal years 1985 and 1986; (2) the $10 million authorization per fiscal year for carrying out section 402 of title 23, U.S. Code, highway safety programs by the Federal Highway Administration, through fiscal years 1985 and 1986; and (3) the $13 million authorization per fiscal year for carrying out sections 307(a) and 403 of title 23, U.S. Code, relating to highway safety research and development by the Federal Highway Administration through fiscal year 1985 and 1986.

Subsection (d) rescinds $9.6 million of obligational authority for carrying out highway safety programs under section 402 by the Federal Highway Administration.

Senate amendment

Extends the authorization of $13 million per fiscal year for carrying out sections 307(a) and 403 of title 23 by the Federal Highway Administration through FY 1988. Extends the authorization of $100 million per fiscal year for carrying out section 402 of title 23 by the National Highway Traffic Safety Administration through FY 1988. Extends the authorization of $31 million per fiscal year for carrying out section 403 of title 23 by NHTSA through FY 1988.

MAXIMUM SPEED LIMIT

House bill

This section amends section 154(a) of title 23, U.S. Code, to prohibit the Secretary from approving any project under section 106 of the title in any State whose laws do not constitute a substantial deferrent to violations of the national maximum speed limit of its highways.

Senate amendment

No comparable provision.

RAIL-HIGHWAY CROSSINGS

House bill

This section provides annual authorizations of $190 million to carry out projects for the elimination of hazards at rail-highway crossings under section 203 of the Federal-Aid Highway Act of 1973.

Senate amendment

Does not provide a separate authorization for projects under section 203 of the Federal-Aid-Highway Act of 1973, but requires that each State spend 35 percent of its apportionment of funds under the highway safety improvement program for these projects unless the State request a waiver and the Secretary finds that other safety projects are of a higher priority.

PUBLIC INFORMATION

House bill

This section provides contract authority for funds authorized for highway safety and information under section 209 of the Highway Safety Act of 1978.

Senate amendment

No comparable provision.

SAFETY PERFORMANCE REPORTS

House bill

This section requires the Secretary to prepare, publish, and submit to Congress a report on the highway safety performance of each state in the preceding calendar year. This report is to be submitted to Congress not later than December 31 of each year beginning after December 31, 1982. This report is to provide data on highway fatalities and injuries and motor vehicle accidents involving fatalities and injuries and travel in urban areas of each state for each system of

highways and in rural areas of such state for each system of highways.

Senate amendment

No comparable provision.

ANNUAL APPORTIONMENT FORMULA

House bill

This section provides that the Virgin Islands, Guam, and American Samoa shall be treated the same as the States for purposes of the apportionment formula under the section 402 State and Community Highway Safety Program, guaranteeing each a minimum apportionment of one-half of one percent.

Senate amendment

Eliminates the definition of "State" which includes the Virgin Islands, Guam, and American Samoa for purposes of chapter 4 of title 23, United States Code.

MINIMUM DRINKING AGE

House bill

Under this section, the Congress strongly encourages each State to prohibit the sale of alcoholic beverages to persons who are less than 21 years of age.

Senate amendment

No comparable provision.

TITLE III—FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

SHORT TITLE

House bill

This section provides that this title may be cited as the "Federal Public Transportation Act of 1982."

Senate amendment

Same as the House bill.

AUTHORIZATIONS

House bill

This section sets forth a new section 21 of the Urban Mass Transportation Act. Section 21 revises and extends the funding authorizations to carry out the section 3 discretionary capital grant program, the section 4(i) innovative methods and techniques grant program, the section 6 research and development program, the section 8 planning program, the section 10 training grant program, the section 11(a) university research grant program, the section 16(b) program to meet the special needs of the elderly and handicapped, the section 18 formula grant program for other than urbanized areas, the section 20 human resource grant program, and for administrative expenses. Section 21 also provides funding authorizations for a newly created section 9 block grant program.

Section 21(a)(1) creates a unitary authorization for fiscal years 1983 to 1986, inclusive, to carry out the provisions of sections 3, 4(i), 8, 9, 16(b) and 18 of the Urban Mass Transportation Act. These authorizations total $16.1 billion for fiscal years 1983 to 1986, inclusive.

Section 21(a)(2) provides that an amount equal to 25 percent of the amount authorized to be appropriated pursuant to section 21(a)(1) shall be available from the transit account of the Highway Trust Fund to fund programs under sections 3, 4(i), 8 and 16(b) of the Urban Mass Transportation Act.

Sums provided from the transit account of the Highway Trust Fund would be expended on the basis of contract authority. The remaining 75 percent of the unitary authorization is subject to the regular appropriations process and is to be apportioned by formula as provided in new sections 21(a)(3) and 9(a).

Section 21(a)(3) stipulates that, of the amounts appropriated out of the general fund under section 21(a) for each fiscal year, 2.93 percent shall be available for the section 18 formula grant program for other than urbanized areas.

Section 21(b) sets forth authorizations of $90,000,000 for highways for the various research and development programs authorized under sections 6, 10, 11(a) and 20 of the Urban Mass Transportation Act and for administrative expenses. Funds appropriated pursuant to section 21(b) for the section 6 research and development program shall remain available until expended. All other funds appropriated pursuant to section 21(b) shall remain available during the fiscal year for which appropriated.

This section 302(a) also repeals the existing sections 21 and 22 of the Urban Mass Transportation Act. Section 21 currently authorizes grants for the terminal development program. The existing section 22 authorizes grants for intercity bus service.

Senate amendment

A three year comprehensive authorization for the mass transit program is established at $3.13 billion per year for fiscal year 1983, 1984, 1985 which includes funding for all programs except interstate transfer. From the funds appropriated under this authorization up to seventy-five million dollars is authorized for appropriations for research, development, and administrative expenses. From the remainder of the total amount appropriated:

(a) 24 percent of the funds must be made available for discretionary grants under Section 3 (until 1985 when it shall be 10 percent).

(b) 67.25 percent of the funds must be made available for formula grants for urbanized areas with populations greater than 200,000 (until 1985 when it shall be 79.63 percent).

(c) 6.5 percent of the funds must be made available for formula grants for urbanized areas with populations of less than 200,000 but greater than 50,000 (until 1985 when it shall be 7.7 percent).

(d) 2.25 percent of the funds must be made available for grants to urbanized areas of less than 50,000 in population (until 1985 when it shall be 2.67 percent).

Fifty million dollars will be available for planning grants made under the authority of Section 8. These grants will be funded from the funds available for Section 3. Furthermore, urbanized areas are allowed to decide to use block grant funds for additional planning activities.

An overall authorization of $3.495 billion will cap total appropriations for all transit programs including all titles of this Act, the Interstate Transfer program, and the so-called Stark-Harris funding for the Washington, D.C. Metro System.

BLOCK GRANTS

House bill

This section creates a block grant program for projects in urbanized areas. Recipients of these funds would be provided funds through an annual grant agreement instead of through project-by-project grants.

The program created by this section would be authorized in section 9 of the Urban Mass Transportation Act. Section 9(a) stipulates that 88.34 percent of the amounts appropriated pursuant to the section 21(a)(1) unitary authorization from the general fund of the Treasury shall be available to urbanized areas with populations of 200,000 or more and that 8.73 percent shall be available to urbanized areas with populations of less than 200,000.

As provided in section 9(b)(1), the block grant assistance for urbanized areas with populations less than 200,000 would be delivered half on the basis of the ratio which the population of each such urbanized area bears to the total population of all such urbanized areas and half on the basis of a ratio for each such urbanized area determined by population weighted by a factor of density. The latest available periodic Federal census would be used as the source for these calculations.

Section 9(b)(2) sets forth a series of factors upon which the 8.34 percent authorized for urbanized areas with populations of 200,000 or more would be delivered.

50.64 percent of the funds appropriated pursuant to the unitary authorization and from the general fund of the Treasury shall be made available to the larger urbanized areas on the basis of one-fourth population, one-fourth population weighted by a factor of density, one-half bus revenue vehicle mile formula.

28.6 percent of the funds appropriated pursuant to the unitary authorization and from the general fund of the Treasury shall be made available to the larger urbanized areas, 70 percent on the basis of fixed guideway revenue vehicle miles and 30 percent on the basis of fixed guideway route miles.

6.5 percent of the funds appropriated pursuant to the unitary authorization and from the general fund of the Treasury shall be made available to the larger urbanized areas on the basis of an incentive formula based on the operating efficiency of the bus systems in larger urbanized areas.

The remaining 2.6 percent appropriated pursuant to the unitary authorization and from the general fund of the Treasury shall be made available to the larger urbanized areas on the basis of an incentive formula based on the operating efficiency of the rail systems in larger urbanized areas.

The concept of vehicles directly serving a large urbanized area has been clarified so that service outside of an urbanized area which brings passengers into the urbanized area and is not otherwise included in the formula apportionment would be included in that urbanized area's apportionment.

Section 9(c) provides that the governor shall receive and distributes fairly and equitably block grant funds for urbanized areas of less than 200,000. It also provides for the selection of designated recipients to receive and dispense funds for urbanized areas of 200,000 or more.

Section 9(d) sets forth a maximum 80 percent Federal share for capital projects and a maximum 50 percent Federal share of operating deficits for the payment of operating expenses. However, the Federal share for capital projects may increase to as much as 95 percent under the provisions of an incentive mechanism provided in section 9(h).

Section 9(e)(1) requires block grant recipients to comply with the section 3(e) private enterprise participation provision, the section 3(f) charter bus provision, the section 3(g) school bus provision, section 8 planning provisions, section 13 labor protection and standards provisions, the section 16 provisions to meet special needs of the elderly and the handicapped, and section 19 nondiscrimination provisions of the Urban Mass Transportation Act.

Section 9(e)(1) also applies the definitions set forth in section 12(c) of the Urban Mass Transportation Act to all section 9 block grants and authorizes the Secretary to

make advance or progress payments on account of any grant or contract made pursuant to section 9. Furthermore, section 9(e)(1) would ensure that no requirements under the Urban Mass Transportation Act, except for those requirements expressly specified in section 9, would be applicable to the section 9 program. Cross-cutting Federal requirements, such as title VI of the Civil Rights Act of 1964, the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, the National Flood Insurance Act of 1968, and the National Environmental Policy Act of 1969, would not be changed by the section 9 program.

In addition to the section 9(e)(1) requirements and as a precondition to receiving section 9 assistance, each block grant recipient must, in compliance with section 9(e)(2), certify annually: (A) legal, financial, and technical capacity to carry out the proposed program; (B) continuing control over the use of facilities and equipment and maintenance of those facilities and equipment in operational order; (C) a competitive procurement process; (D) compliance with the Buy America provision of the Surface Transportation Act of 1978; (e) compliance with specific public hearing requirements; (F) compliance with the half-fare requirements for elderly and handicapped persons in accordance with section 5(m) of the Urban Mass Transportation Act; and (G) inclusion of medicare cardholder among the persons protected by the section 5(m) half-fare requirements.

Section 9(f) stipulates that the Secretary must accept a recipient's section 9(a)(2) certification before he can award a section 9 grant to that recipient. Section (9(f) also permits the Secretary to rescind his acceptance of a section 9(e)(2) certification if he finds it necessary to do so.

Section 9(g)(1) extends the reporting requirements of section 15 of the Urban Mass Transportation Act to the recipients of grants under section 9. Section 15 currently requires recipients of section 5 urban formula grants to provide UMTA with certain public mass transportation financial and operating information using a uniform system.

Section 9(g)(2) sets forth the audit requirements for block grant recipients. The provision would require each recipient to submit to the Secretary an annual, independently conducted audit. This audit would indicate to the Secretary whether the recipient has carried out and can continue to carry out its activities in a timely manner and in compliance with the grant agreement and the applicable provisions of the Urban Mass Transportation Act, including the requirement to maintain facilities and equipment purchased with Federal funds. Section 9(g)(2) authorizes the Secretary to make adjustments in existing or future section 9 grants if he determines on the basis of the audit that such an adjustment is justified.

Section 9(h)(1) stipulates that section 9 grant recipients may use those grants to meet either capital or operating expenses. However, section 9(h)(2)A) limits the amounts of section 9 funds that a recipient may use as operating assistance the lesser of either the amount of funds apportioned to it under the first three tiers of section 5 of the Urban Mass Transportation Act for operating assistance in fiscal year 1982 or the amount allocated from those tiers for operating assistance in fiscal year 1982. Furthermore, any recipient located in an urbanized area which was an urbanized area based upon 1970 census data and which had total maintenance expenditures in fiscal year 1982 of more than twice its section 5 operating assistance apportionment or allocation from fiscal year 1982, is required by section 9(h)(2)(A) to expend that portion of its section 9 apportionment or allocation which it expends for other than capital purposes on maintenance expenses. If maintenance expenditures for the recipient in such urbanized areas were less than twice its section 5 operating assistance apportionment or allocation, any such recipient who elects to expend funds for other than construction purposes is required by section 9(h)(2)(A) to expend such funds only for maintenance until the expenditures equal an amount equal to at least half of the total expenditure by such recipient for maintenance in fiscal year 1982. Any recipient in an urbanized area which became an urbanized area based upon the 1980 census is required to give priority to its maintenance expenses.

Section 9(h)(2)(B) creates an incentive mechanism to encourage recipients to use section 9 operating funds for capital expenses. This provision raises the Federal share for any construction project or parts thereof paid for with funds available for operating and maintenance assistance from the 80 percent share specified in section 9(d) to 95 percent of the cost of the project or part thereof. In addition, if in any given fiscal year, a recipient uses all of its operating and maintenance funds on construction projects, the Federal share paid for with section 9 funds available for capital only or with section 3 funds shall be raised from the 80 percent share specified in section 9(d) to 90 percent. Finally, if in any given fiscal year, a recipient uses more than half but less than all of the funds available for operating and maintenance assistance on construction projects, the Federal share paid for with section 9 funds available for capital only or with section 3 funds shall be raised to 85 percent.

Section 9(i) provides that section 9 funds will be available to the urbanized areas for a period of four years.

The House bill amends section 3(a)(1)B) of the Urban Mass Transportation Act to ensure that routine bus and bus-related needs are met out of the section 9 block grant.

A technical amendment is made to section 4(a) of the Urban Mass Transportation Act to conform with the section 9(h)(B) incentive mechanism.

The House bill amends the section 3 discretionary capital grant program to require that recipients of capital grants have the technical and financial capability to maintain facilities and equipment that are purchased with Federal funds.

The House bill provides that no urbanized area shall receive less in FY 1983 under the new section 9 than it received under section 5 for FY 1982 and authorized $2 million for each of fiscal years 1983 through 1986 to carry out this section.

A final provision requires the Secretary to apportion the full amount of funds authorized for operating assistance for FY 1983 within 30 days of enactment.

Senate amendment

The legislation authorizes a new block grant program to replace the formula grants now made under section 5 of the Urban Mass Transportation of 1964. The new section 9 of the Urban Mass Transportation of 1964 provides funds to urbanized areas to finance the planning, acquisition, construction, improvement, and operating costs of facilities, equipment, and associated maintenance activities in mass transportation services. The inclusion of associated maintenance activities is the only change in eligible expenses from the current section 5 program. For purposes of this section, associated maintenance activities means equipment and materials each of which costs at least one percent of the fair market value of the bus or rail car for which the equipment is to be used.

Grants made to urbanized areas of greater than 200,000 population under section 9 will be made on the basis of a formula that divides 68 percent of the available funds on the basis of each area's total bus revenue miles, each area's population, and each area's population weighed by a factor of density. The bus revenue mile factor will be used to distribute 50 percent of the funds. The population factor and the density factor will each be used to distribute 25 percent of the funds. Of this 68 percent distributed by bus related factors, three fourths of the funds are for urbanized areas over 1 million population and one fourth is reserved for areas of less than 1 million population.

The remaining 32 percent of the available funds will be distributed to areas that operate fixed guideway rail service. The funds will be distributed on the basis of 60 percent of a an area's fixed guideway vehicle miles and 40 percent of an area's fixed guideway route miles. Each urbanized area with at least 750,000 population which provides commuter rail service is guranteed at least 0.75 percent of the rail funds. Service and route miles provided in a state adjacent to the state or state in which the urbanized area is located and passengers served shall be attributed to the public body which contracts for the service as if the public body was an urbanized area of 200,000 or more. In addition ferry boat operations are included in fixed guideway vehicle miles and route miles.

For urbanized areas of less than 200,000 population that receive a section 9 grant, the formula will distribute funds on the basis of population and population weighted by density. Each factor will count equally.

The federal share of the cost of any project furded under section 9 is limited to 80% of the cost of the project for capital projects. The federal share of operating costs is limited to 50% of the cost.

With regard to operating subsidies, an area may in general not spend more than 80% of its 1982 operating apportionment if it has a population of more than 1 million, 90% of its 1982 operating apportionment if it has a population of more than 200,000 but less than 1 million, 95% of its 1982 operating apportionment if it has a population of less than 200,000. Where an area first became eligible for an apportionment in 1980, that area cannot use more than 40% of its apportionment for operating costs.

An area may however, transfer funds for operating expenses up to its 1982 operating apportionment if the area:

(a) certifies that it has provided public notice of its intent to use additional operating funds and that it will lose some funds as described in (c) below.

(b) certifies that it has a three year plan which demonstrates how the area will operate its transit system without transferring capital funds in fiscal year 1986.

(c) agrees to forfeit one dollar for every two dollars transferred to operating expense use. (These forfeited amounts are used for discretionary grants made by the Secretary.)

The Secretary of Transportation is prohibited from permitting an area to use the transfer option after September 30, 1984.

Funds available for discretionary grants due to a forfeiture under the transfer option shall be made available on a priority basis to areas that did not receive as large a block grant under section 9 as was received under section 5 in 1982. Discretionary grants will be available to recipients under the same local matching share requirements for section 3 grants.

Sums apportioned under section 9 for areas of less than 200,000 in population are made available to the Governor for expenditure in accordance with the planning process required under section 8.

Funds made available to the Governor may be transferred to areas eligible under section 18 of the Act or to areas with populations of less than 300,000 in population. The Governor may make such transfers only after consulting with local officials.

Funds apportioned under this section shall remain available for three years. Funds which remain unobligated at the end of that period will be reapportioned the following year.

To receive a grant under section 9 a recipient must comply with title VI of the Civil Rights Act, subsections (e), (f), and (g) of section 3 of this Act, as well as sections 8, 13, 16, and 19 of this Act. The recipient must also submit a statement of activities to be funded and the certifications required by the Act.

The recipient must certify that it has the legal, financial and technical capacity to carry out the proposed projects; has the authority to apply for the grant; will conform to the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 and section 7 of this Act; will have continuing control over the equipment purchased and will maintain the facilities and equipment; will use competitive procurement procedures complying with section 401 of PL 95-599; will comply with National Flood Insurance Act of 1968; has complied with section 12; will meet the local match requirements of section 4; and that it has a locally developed process for soliciting and considering public comment prior to raising fares or reducing services.

Each recipient must solicit public comment by making public the amount of funds available, the activities the recipient proposes to undertake with such funds, and publish a proposed statement in a manner which will provide citizens and elected officials an opportunity to comment on the proposed program. The program must be developed in consultation with all interested parties including private transportation providers. Recipients will also hold at least one public hearing to receive comment on the proposed program.

The Secretary may issue regulations which permit recipients to assume the responsibilities of compliance with the National Environmental Policy Act. However, these regulations must be developed in consultation with the Council on Environmental Quality. To release funds under this section, the recipient must submit the environmental certification 15 days in advance and the Secretary must accept the certification. The environmental certification by the recipient must be in a form acceptable to the Secretary, be executed by the chief executive officer, specify that the recipient has carried out its responsibilities, and that the certifying officer consents to assume the status of a responsible federal official under NEPA and he consent to accept the jurisdiction of federal courts for the purposes of enforcement of his responsibiities as such an official.

The Secretary shall not approve a grant unless he finds that the project is part of an approved program of projects required by the section 8 planning process.

The Secretary shall enter into an annual projects agreement with the Governor or the designated recipient of each urbanized area as soon as practicable after the application is submitted.

Each recipient shall submit to the Secretary an annual report concerning the use of the funds and how such use compares to the statement submitted in the original application. The Secretary shall require annual independent reviews and audits as deemed appropriate by the Secretary.

The Secretary shall determine whether the recipients' activities have been carried out in a timely and effective manner and that the recipient has a continuing capacity to carry out those activities. The Secretary shall also determine whether the recipient has carried out its activities and certifications in accordance with this Act and applicable laws.

Not less than every three years the Secretary shall preform a full review and evaluation of the performance of the recipient in carrying out its program. The Secretary shall determine if the local recipient's program has been in compliance with statutory and administrative requirements and the extent to which the actual program was consistent with the proposed statement and the section 8 planning process.

The Secretary may make adjustments in annual grants on the basis of his findings and may reduce or withdraw such assistance or take other appropriate action in accordance with the required reviews and audits.

Section 1001 of title 18 of the United States Code applies to any submission under this section. If any false or fraudulent statements are made in connection with a submission, the Secretary may terminate and seek reimbursement of the affected grant or grants.

A recipient may request the Secretary to approve its procurement system. If the Secretary approves the local procurement system as consistent with the Act, the Secretary shall approve the use of that system for all procurements financed under this Act.

In making discretionary grants, the Secretary is required to take into account the adverse effects of decreased commuter rail service resulting from railroad bankruptcy.

The current section 15 of UMTA reporting requirements are amended to also include grants under the new section 9.

Sections 21 and 22 of the Act are repealed.

LETTER OF INTENT

House bill

This section requires the Secretary to notify, in writing, the House Committee on Public Works and Transportation and the Senate Committee on Banking, Housing, and Urban Affairs at least thirty days prior to the issuance of a letter of intent to obligate future Appropriation Act funds for a project. Section 304(b) is a technical amendment to conform with the change in the funding source for the section 3 discretionary capital grant program.

Senate amendment

A requirement is added that the Secretary must inform the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate 30 days prior to the issuance a letter of intent.

The Secretary shall give priority to grant requests to fund programs included in letters of intent or full funding contracts issued prior to the enactment of this Act. Terms and conditions of such letters of intent and full funding contracts may not be altered unless agreed to by all parties. The Secretary is also prohibited from taking any direct or indirect action regarding future available budget authority except by the letter of intent procedure in the statute. This prevents for example any further use of so-called letters of commitment.

RESEARCH AND TRAINING GRANT

House bill

Extends the funding authorizations to carry out the section 11(b) university operating grants. The House bill authorizes $10 million in each fiscal year from 1983 to 1986, inclusive.

Removes a restriction in the existing Urban Mass Transportation Act that required the 50 percent local match for university operating projects to come from State funds. This amendment permits the local share to consist of any non-Federal funds.

Senate amendment

Strikes out section 4(d) the Urban Mass Transportation Act of 1964 which authorizes funding for university operating grants.

PROCUREMENT FACTORS

House bill

Amends section 12(b)(2) of the Urban Mass Transportation Act to permit contracts for the purchase of rolling stock to be awarded based on a competitive procurement process insted of performance, standardization, life-cycle costs, and other factors as is presently permitted by section 12(b)(2). The Secretary is required to report to Congress within a year on revisions required to ensure fair and competitive procurement procedures.

Senate amendment

No comparable provision.

DEFINITION OF FIXED GUIDEWAY

House bill

Revises the definition of "fixed guideway" in section 12(c)(2) of the Urban Mass Transportation Act of 1964 to clarify that rails that are used exclusively by transit vehicles operating in mixed traffic and electric catenary systems for trolley buses are to be included in the section 9(a)(2) formula apportionments.

Senate amendment

The definition of fixed guideway systems is amended to include public transportation facilities which utilize a right-of-way rail usable by other forms of transportation and the definition of construction is expanded to include bus rehabilitation projects which extend the economic life of a bus 5 years or more.

Conference substitute

Uses House definition of fixed guideway and Senate definition of construction.

ADVERTISING FOR BIDS

House bill

Repeals the current bus seat specification provision in section 12 of the Urban Mass Transportation Act.

Senate amendment

No comparable provision.

PERFORMANCE REPORTS

House bill

Requires the Secretary to report to Congress every two years on the ability of the nation's transit systems to provide transportation and on the general condition of these transit systems.

Senate amendment

No comparable provision.

Conference substitute

CONSTRUCTION CONDITION

House bill

Provides that any new grants or grant amendments to the Metropolitan Atlanta Rapid Transit Authority (MARTA) must meet a legislative requirement that the north and south lines of the MARTA system will be constructed in equivalent segment lengths that are open to operations at approximately the same time. This section shall apply until priorities different from those set forth in the provision are adopted after September 30, 1983, by a valid act of the Georgia General Assembly and by a valid resolution of the Board of the Metropolitan Atlanta Rapid Transit Authority.

Senate amendment

No comparable provision.

Conference substitute

LOAN REPAYMENT

House bill

Would excuse the Massachusetts Bay Transportation Authority from repaying the Federal Government for 80 percent of the balance of transit funds that were borrowed to acquire certain rights-of-way.

The Secretary may convert the remaining 20 percent of the loans to a grant. The Secretary would have the further discretion to waive the local share requirement for this grant if the Authority agreed to complete transit projects worth a certain amount without using Federal funds. These State or local funds would have to be used for section 3 capital projects on a schedule acceptable to the Secretary.

Senate amendment

No comparable provision.

Conference substitute

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

House bill

This section amends section 3 of the Urban Mass Transportation Act to authorize financial assistance for the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in advanced stages of detailed alternatives analysis or preliminary engineering.

Senate amendment

No comparable provision.

Conference substitute

FEASIBILITY STUDY

House bill

Authorizes the Secretary to make a grant to the Massachusetts Bay Transportation Authority for a feasibility study of the possibility of replacing any or all of the three electric trolley bus lines in Cambridge, Massachusetts, with the electric bus technology being developed in Santa Barbara, California. $500,000 is authorized from the amount made available by section 21(a)(2) of the Urban Mass Transportation Act for this study.

Senate amendment

No comparable provision.

Conference substitute

STUDY OF LONG-TERM LEVERAGE FINANCING

House bill

Provides that the Secretary shall study leverage financing mechanisms under which the United States would assure a flow of Federal funds under long-term contracts with local or State transit authorities for use in raising further capital assistance from State or local government or private sector sources.

Senate amendment

No comparable provision.

Conference substitute

CHANGES TO SECTION 3 CAPITAL GRANT PROGRAM

House bill

No comparable provision.

Senate amendment

Section 4(a) of the Urban Mass Transportation Act of 1964 is amended to require a 40 percent local match for new fixed guideway projects or for extensions to an existing system funded with discretionary grant. Other discretionary projects funded by section 3 will require a 30 percent local match. These higher local matching requirements will allow the more limited Federal discretionary funds to support those projects which have high local priority. However, these changes will not affect previous commitments made prior to this Act including those to the Washington, D.C. system.

URBAN MASS TRANSIT PROGRAM

House bill

No comparable provision.

Senate amendment

The bill clarifies that apportionments made pursuant to section 5 for fiscal year 1975 shall be deemed to have lapsed on September 30, 1977 and apportionments for fiscal year 1976 shall be deemed to have lapsed on September 30, 1978. This clarification will avoid any confusion created by the transition quarter. Moreover, sums apportioned pursuant to section 5 shall remain available as initially apportioned to the urbanized areas for expenditure in accordance with the provisions of this section until September 30, 1985.

AMENDMENTS TO FORMULA GRANTS FOR NONURBANIZED AREAS

House bill

No comparable provision.

Section 18 of UMTA is amended to conform with the balance of the bill with lapsed funds remaining unobligated after September 30, 1982 reallocated under the requirements of this Act.

SPECIAL NEEDS OF THE ELDERLY AND HANDICAPPED

House bill

No comparable provision.

Senate amendment

The authorization for planning and designing of mass transportation facilities to meet the special needs of the elderly and the handicapped is increased from 2 percent to 3.5 percent of the funds available for discretionary grants under section 3.

Conference substitute

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

House bill

No comparable provision.

Senate amendment

The authorization for Waterborne Transportation Demonstration Act is de-authorized as of September 30, 1982.

Conference substitute

TRANSIT CAPITAL INFRASTRUCTURE PROGRAM

House bill

No comparable provision.

Senate amendment

A new capital infrastructure program is authorized to be financed by revenues allocated to transit by an additional tax on gasoline. Authorized at a level of $550 million for 1983 and $1.1 billion for 1984 and 1985, the program is a discretionary fund administered by the Secretary of Transportation within the requirements of the section 3 program.

In addition to the requirements of section 3, grants under this program will be limited to: The acquisition, rehabilitation, and replacement of rolling stock, the construction, rehabilitation, and modernization of commuter rail and fixed guideway systems, the construction, rehabilitation, modernization, and replacement of bus facilities and related equipment, and other projects.

Although this program is primarily a transit program, if a state will not receive at least .5 percent of the funds available under this title, the Secretary is authorized to make grants for highway projects eligible under Title 23 of the United States Code in that state, including the acquisition of railroad rights of way. The Secretary shall not approve grants for highway projects in a state to the extent that grants used for such projects and for transit related projects in such state would exceed one half of one percent of the funds available under this section.

The new infrastructure program will expire on September 30, 1984. After that date the proceeds of the gas tax will be used to fund section 3 of the UMTA Act.

Conference substitute

TITLE IV.—BUY AMERICA

House bill

The House bill provides that the Secretary shall not obligate funds authorized by this Act or any Act amended by this Act or funds authorized to carry out this Act, title 23, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978, and administered by DOT unless steel, cement, and manufactured products used in the project are produced in the United States. This provision shall not apply where the Secretary determines that the products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

Another exception to the provision is made for the procurement of buses, other rolling stock, and certain support equipment, in which the manufactured products may be of foreign origin to the extent of 50 percent of the cost of all components. Final assembly of the vehicles must take place in the United States.

In calculating component costs, labor costs involved in final assembly shall not be included.

The Secretary shall not impose limitations or conditions on assistance under any of the Acts cited above, which restricts any State from imposing more stringent requirements than are imposed by this section or restricts any recipient from complying with such State requirements.

COMMERCIAL MOTOR VEHICLE SAFETY DEFINITIONS

House bill

No comparable provision.

Senate amendment

This section defines certain terms used in Title IV (except where the context otherwise requires).

One of the definitions is "commerce". At present, the Secretary of Transportation is empowered to regulate commercial motor vehicle safety primarily with regard to vehicles that cross State lines or national boundaries or perform the intrastate portion of a continuous interstate movement. This class of vehicles is operated primarily by the approximately 17,000 carriers who must obtain operating authority from the Interstate Commerce Commission (ICC) plus the approximately 140,000 private and exempt interstate carriers. This definition would authorize the Secretary to promulgate regulations regarding the safety of commercial motor vehicle operations both in and affecting interstate and foreign commerce.

The definition of "commercial motor vehicle" includes vehicles used on the highways in commerce which are (1) 10,000 pounds gross vehicle weight rating or more or (2) designed to transport more than 10 passengers, including the driver, or (3) used in the transportation of hazardous materials (found to be hazardous by the Secretary for purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.). All vehicles designed to transport 10 or more persons would also be covered to assure the highest levels of safety in this particularly important transportation area. Also vehicles transporting hazardous materials would be covered because of the potentially greater safety dangers in this area.

The definition of "employee includes any individual other than an employer who is employed by a commercial motor carrier and directly affects commercial motor vehicle safety, such as (a) a driver of a commercial motor vehicle (including for purposes of this title any independent contractor while in the course of personally operating a commercial motor vehicle); (b) a mechanic; or (c) a freight handler.

An employer is defined as any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce.

The definition of employee includes mechanics and freight handlers who are employed by a commercial motor carrier and in the course of their employment directly affect commercial motor vehicle safety. For example, in loading a truck it is important for highway safety that the load be balanced.

An independent owner-operator who has the primary responsibility for the maintenance and operation of his commercial motor vehicle or vehicles be an employer and be subject to the penalty provisions for employers.

This section also defines the terms "person", "Secretary", and "State".

DUTIES

House bill

No comparable provision.

Senate amendment

This section requires each employee and employer to comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title.

REGULATORY AUTHORITY AND STANDARDS

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Secretary of Transportation to establish and revise rules, regulations, standards, and orders as may be necessary to further the purpose of this title and to provide that they shall be directed to assuring that (1) commercial motor vehicles are safely maintained, equipped, loaded, and operated; (2) the responsibilities imposed on a driver do not impair his ability to operate the vehicle safely; (3) the physical condition of drivers is adequate to enable them to drive safely; and (4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

The Secretary is required to consider, where practicable, costs and benefits of such rules, regulations, standards, and orders.

The Senate amendment requires the Secretary of Transportation to promulgate rules or regulations within 1 year after commencing a proceeding. If this is not possible, the Secretary is required to keep the Congress informed of the reasons for the delay and the efforts and progress being made to complete the proceeding.

The Senate amendment also requires that all rules, regulations, standards, and orders issued under this section be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of that title), except that the time periods specified in the preceding paragraph apply to such promulgation.

The Senate amendment allows the Secretary to waive the application of any rule, regulation, standard, or order if such waiver is in the public interest and is consistent with the safe operation of commercial motor vehicles. This provision should be used with extreme care and this waiver provision should only be used if the Secretary has developed sufficient information to provide adequate assurance that such waiver will not adversely affect the safe operation of commercial motor vehicles. It should not be enough to exempt a group merely because it is a small part of the commercial motor vehicle industry.

The Senate amendment directs the Secretary of Transportation and Director of the National Institute for Occupational Safety and Health (NIOSH), in consultation with the Secretary of Labor, to conduct a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed and to develop recommendations regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. This section authorizes an appropriation of $1.5 million out of the Highway Trust Fund for fiscal 1984 to conduct this study.

The Senate amendment requires the Secretary of Transportation, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor to coordinate their activities to ensure adequate protection of the safety and health of operators of commercial motor vehicles.

DUTIES

House bill

No comparable provision.

Senate amendment

This section requires each employee and employer to comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title.

Conference substitute

The Senate amendment does not provide additional or new regulatory authority to the Secretary of Labor or the Director of the National Institute for Occupational Safety and Health. The DOT Secretary is mandated under this act the authority to assure the protection of safety and health of operators while operating commercial motor vehicles. This section requires the Secretaries and the Director to make every attempt to avoid overlap or duplication of activities and to coordinate their efforts. The Committee intends, in the exercise of its regular oversight authority, to follow further developments in this area of concern.

GENERAL POWERS

House bill

No comparable provision.

Senate amendment

This section provides the Secretary of Transportation with broad administrative powers to assist in the implementation of this title. This section includes provision for the Secretary to delegate enforcement functions, as he determines appropriate, under this title to a State with a plan approved under this title.

INSPECTIONS AND WARRANTS

House bill

No comparable provision.

Senate amendment

The Senate amendment authorizes the conditions under which the Secretary of Transportation can carry out inspections or searches. Employers and employees and their duly designated representatives shall be offered a right of accompaniment.

Specifically, the amendment provides that an administrative warrant shall be required for any entry or administrative inspection unless the entry of inspection is: (1) with the consent of the employer, employee, or agent of the employer in charge of the business, establishment, or premises; (2) in situations where there is reasonable cause to believe that the mobility of the motor vehicle makes it impractical to obtain a warrant; (3) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; (4) for access to and examination of books, records, and any other documentary evidence which can be easily altered, manufactured, or falsified; or (5) in any other situations where a warrant is not constitutionally required.

The amendment provides for the issuance and execution of adminstrative inspection warrants. Any judge of the United States or of a State court of record, or any United States magistrate, may within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants to conduct administrative inspections and to impound motor vehicles or their equipment. This section also sets forth in detail the circumstances under which a warrant shall be issued and the contents of the warrant. Details of the execution and return are also set forth in detail.

DUTY TO INVESTIGATE COMPLAINTS, PROTECTION OF COMPLAINANTS

House bill

No comparable provision.

Senate amendment

This section requires the Secretary of Transportation to investigate nonfrivolous written complaints alleging a material violation of the title. The Secretary is also re-

quired to take steps to protect the identity of persons complaining of safety violations.

PENALTIES

House bill

No comparable provision.

Senate amendment

This section sets forth the penalties available to the Secretary of Transportation in enforcing violations of this title. The section provides for both civil and criminal penalties, subsections (b) and (e), injunctive relief, subsection (h), and imminent hazard authority, subsection (d).

Subsection (a) sets out the procedure for the Secretary to follow if he finds that a violation under this title has occurred.

Subsection (b) provides for a civil penalty of up to $500 for a recordkeeping violation. The total of all recordkeeping offenses relating to any single recordkeeping violation shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to or has resulted in serious personal injury or death, he may assess a civil penalty of up to $10,000 for each offense. However, no civil penalty, except recordkeeping penalties, may be assessed against an employee unless the employee is the operator of a commercial motor vehicle and the Secretary of Transportation determines that the employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty up to $1,000. In assessing civil penalties the Secretary is to take into account the nature, circumstances, extent, and gravity of the violation and the degree of culpability, history of prior offenses, ability to pay, and effect on ability to continue to do business of the violator. The assessment is to be calculated to induce further compliance.

For the purposes of this title only an owner-operator while in the course of personally operating a commercial motor vehicle for a commercial motor carrier is considered an employee for penalty purposes. When the owner-operator is not acting in such capacity, for purposes of this title he shall be treated as an employer. However, the Secretary, in assessing a civil penalty, is directed to take into account, among other criteria, the ability to pay and effect on ability to do business.

Subsection (c) authorizes the Secretary to require a violator to post a copy of a notice of violation or a statement thereof.

Subsection (d) authorizes the Secretary to place a vehicle out of operation or to order an employer to cease all or part of his commercial motor vehicle operations if the Secretary determines that an imminent hazard to safety exists.

Subsection (e) provides for criminal penalties for employers and employees who are operating a commercial motor vehicle who knowingly or willfully violate the act. Penalties for an employer are a fine of up to $25,000 and or imprisonment not to exceed 1 year. An employee is subject to a $2,500 fine.

Subsection (f) requires the Secretary to promulgate regulations establishing penalty schedules designed to induce timely compliance for those failing to comply promptly with the requirements set forth in notices and orders.

Subsection (g) establishes a procedure whereby any aggrieved person who, after a hearing is adversely affected by a final order issued by the Secretary, may petition for review of the order in the U.S. Court of Appeals.

Subsection (h) authorizes the Secretary to obtain enforcement of any penalty or order issued under this section by applying to the United States District Court. In addition, to granting enforcement, the District Court may assess a penalty for noncompliance.

Subsection (i) provides that penalties and fines imposed shall be deposited into the Treasury as miscellaneous receipts.

Subsection (j) provides that subpenas for witnesses who are required to attend a District Court may run into any District.

Subsection (k) provides procedures for proceedings for criminal contempt in accordance with the Federal Rules of Criminal Procedure.

House bill

No comparable provision.

Senate amendment

The section authorizes the General Counsel of the Department of Transportation to appear for and represent the Secretary in all proceedings and in any civil litigation brought under this title, except as otherwise provided.

PROTECTION OF EMPLOYEES

House bill

No comparable provision.

Senate amendment

Subsection (a) prohibits any person from disciplining, discriminating against, or discharging an employee for filing a complaint or exercising a right afforded by this title or other authorities of the Secretary of transportation concerning commercial motor vehicle safety.

Subsection (b) provides for protection of an employee who refuses to operate an unsafe vehicle. In order to qualify for protection under this subsection, the employee must have sought from his employer and have been unable to obtain, correction of the unsafe condition. The employee's refusal to operate the vehicle must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury or serious impairment of health, resulting from the unsafe condition.

Subsection (c) provides the procedure an employee may follow if the employee believes he has been discriminated against, disciplined or discharged in violation of subsection (a) or (b). An employee may file a complaint, within 180 days after the alleged violation occurs with the Secretary of Labor. The Secretary of Labor is then required to conduct an investigation within 60 days of receipt of a complaint and report his findings and conclusions to the affected parties. If the Secretary of Labor determines that there is reasonable cause to believe that the complaint has merit, he shall notify the complainant and the person alleged to have committed the violation. Thereafter, either the person alleged to have committed the violation or the complainant may, within 30 days file objections to the proposed order and request a hearing on the record. Where a hearing is not timely requested, the Secretary shall issue a final order not subject to judicial review. Where a hearing is requested, it is to be expeditiously conducted with a final order issued within 120 days after conclusion of the hearing. If, in response to a complaint, the Secretary of Labor determines that a violation of subsection (a) or (b) has occurred, he shall order (1) the person who committed such violation to take affirmative action to abate the violation, (2) such person to reinstate the complainant to the complainant's former position, (3) compensatory damages, and (4) where appropriate, exemplary damages. If such an order is issued, the Secretary of Labor may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses reasonably incurred by the complainant for, or in connection with, the bringing of the complaint.

Subsection (d) allows any person adversely affected by a subsection (c) order to obtain review of the order in the United States Court of Appeals.

Subsection (e) authorizes the Secretary of Labor to obtain enforcement of its order in the United District Courts.

GRANT TO STATES

House bill

No comparable provision.

Senate amendment

This section authorizes the Secretary to make grants to the States for the development or implementation of programs to enforce commercial motor vehicle safety laws and regulations.

STATE ENFORCEMENT

House bill

No comparable provision.

Senate amendment

Subsection (a) requires the Secretary of Transportation to formulate procedures for a State to submit a plan whereby the State agrees to adopt and assume responsibility for enforcing rules, regulations, standards, and orders in compliance with this title.

Subsection (b) requires the Secretary to make a continuing evaluation of the manner in which each State with an approved plan is carrying out the plan or enforcing the rules, regulations, standards, or orders under this title. A State whose approved plan is withdrawn by the Secretary may seek judicial review.

Subsection (c) provides that no State plan shall be approved which does not provide for funding for commerical motor vehicle safety programs at a level which does not fall below the average level of such expenditures by the State for the last 2 fiscal years preceding the date of enactment of this Act.

STATE REGULATIONS

House bill

No comparable provision.

Senate amendment

Generally, subsection (a) allows a State to adopt additional or more stringent commercial motor vehicle safety rules if the rules do not create a burden on commerce or are not inconsistent with the Federal rules, regulations, standards, or orders issued under this title.

Subsection (b) states that this act shall not affect existing State hours-of-service regulations applying to commercial motor vehicles operations occurring wholly within the State unless the Secretary of Transportation finds upon review of a State's hours-of-service regulations that such State regulation materially diminishes commercial motor vehicle safety or health, is not required by compelling local conditions, or unduly burdens interstate commerce.

FEDERAL SHARE OF COSTS

House bill

No comparable provision.

Senate amendment

This section authorizes the Secretary to reimburse a State for up to 80 percent of

costs incurred by the State in the development and implementation of programs to enforce commercial motor vehicle safety laws and regulations.

AUTHORIZATIONS

House bill

No comparable provision.

Senate amendment

This section authorizes appropriations out of the Highway Trust Fund not to exceed $10 million in fiscal 1984, $20 million in fiscal 1985, $30 million in fiscal 1986, $40 million in fiscal 1987, and $50 million in fiscal 1988 to reimburse to States the Federal pro rata share of costs incurred the grant program and the State enforcement program.

ANNUAL REPORT

House bill

No comparable provision.

Senate amendment

Requires the Secretary of Transportation to annually report to Congress concerning his efforts and plans to upgrade the safety and health of operators of commercial motor vehicles.

APPLICABILITY

House bill

No comparable provision.

Senate amendment

This section exempts from commercial motor vehicle regulation . . . the Senate amendment of the operation of any vehicles engaged in farming activities and logging operations as defined by the Secretary.

COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE

House bill

No comparable provision.

Senate amendment

This section establishes a Commercial Motor Vehicle Safety Advisory Committee with the Secretary of Transportation and 15 members appointed by the Secretary. The Advisory Committee is to advise, consult with and make recommendations to the Secretary on matters relating to the activities and functions of the Department of Transportation in the field of commercial motor vehicle safety. An appropriation of not to exceed $125,000 for each of fiscal years 1984, 1985, and 1986 is authorized for carrying out this section.

NATIONAL UNIFORM STATE REGULATION

House bill

No comparable provision.

Senate amendment

This section provides that a working group be established to review the various State licensing and State taxing requirements of interstate motor carriers by highway. This working group will recommend standards to the Secretary of Transportation. The Secretary may then initiate a rulemaking action to adopt or otherwise implement these standards. As a minimum such standards are to include: (1) standardized procedures and forms; (2) base State certification; (3) a single State unit for filings, applications, and permits; (4) payment of fees and taxes to the base State; (5) equitable distribution of revenues; (6) a common basis for taxation in each area of requirements; and (7) reasonable limits on fees paid for identification stickers, plates or other indicia.

Subsection (a) establishes a working group.

Subsection (b) defines the responsibilities of the working group. The working group is to develop uniform State procedural standards for vehicle registration, fuel tax, and third structural tax requirements.

Subsection (c) provides for the expenses to be paid to the members of the working group.

Subsection (d) provides that after the working group has completed its work, it must submit recommended standards to the Secretary, Department of Transportation, within 18 months of the date of enactment of this Act.

Subsection (c) provides that the Secretary may initiate rulemaking to implement the recommended standards found acceptable.

Subsection (f) provides that, if the working group fails to act, the Secretary may develop such standards and initiate rulemaking. The Secretary may act in any area or on any subject on which the working group fails to act after 18 months.

This section authorizes Federal preemption of certain State procedures, e.g., the manner in which States collect fuel taxes; administer vehicle registration.

Conference substitute

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

House bill

No comparable provision.

Senate amendment

This section amends the financial responsibility requirements contained in section 30 of the Motor Carrier Act of 1980 for motor carriers of property.

Subsection (a) would remove the limitation on the levels of financial responsibility for motor carriers of property established by the Secretary and allow the Secretary to determine appropriate levels through public rulemaking action.

Subsection (c) would do three things: (1) complement the proposed amendment to section 30(b)(1) and subject motor vehicles transporting certain specified hazardous materials, substances, or wastes in foreign commerce to the financial responsibility provisions of section 30; (2) change the language of subsection (c) to be consistent with the Department's hazardous materials regulations; and (3) remove the limitations on the levels of financial responsibility established by the Secretary, and allow the Secretary to determine future appropriate levels through public rulemaking action.

Subsection (d) would also do three things: (1) complement the proposed amendment to section 30(b)(1) and subject motor vehicles transporting other hazardous materials, substances, or wastes in foreign commerce to the financial responsibility of section 30; (2) remove the limitations on the levels of financial responsibility established by the Secretary and allow the Secretary to determine future appropriate levels required through public rulemaking action; and (3) effectively exempt many more small businesses from the financial responsibility requirements of section 30 without compromising highway safety.

Subsection (e) would also do two things: (1) complement the proposed amendment to section 30(b)(1) and subject motor vehicles transporting any hazardous materials, substances, and wastes in foreign commerce to the financial responsibility provisions of section 30; and (2) remove the limitation on the limits established by the Secretary and allow the Secretary to determine future appropriate levels required through public rulemaking action.

Subsection (f) amends the 10,000 pound GVWR exemption to section 30. It would exclude from the 10,000 pound GVWR exemption those vehicles transporting any quantity of Class A or B explosives, poison gas, or large quantity radioactive materials in interstate foreign commerce.

Conference substitute

ENFORCEMENT

House bill

No comparable provision.

Senate amendment

This provision allows the Secretary of Transportation to seek injunctive relief to require compliance with the provisions of the Act.

SPLASH AND SPRAY SUPPRESSANT DEVICES

House bill

No comparable provision.

Senate amendment

The Secretary of Transportation is required to set standards for the use of splash and spray suppressant devices for tractors, semi-trailers, and trailers.

AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

House bill

No comparable provision.

Senate amendment

This section increases airport development spending $475 million over the next 3 years, 1983–1985. This is accomplished by shifting $112.5 million from both 1986 and 1987 and distributing the funds in 1983, 1984 and 1985. Also an additional $250 million is drawn from the Aviation Trust Fund surplus and is allocated in 1983, 1984 and 1985. The result of this is to increase the authorized level in 1983 by $200 million; 1984 by $200 million and 1985 by $75 million.

The additional funds shall be discretionary funds and they shall be spent for new construction.

The Secretary may, in no event, reduce any other apportionment or entitlement of the Airport and Airway Improvement Act of 1982.

RECREATIONAL BOATING AND REFORESTATION TRUST FUND AMENDMENT

House bill

No comparable provision.

Senate amendment

Subsection (a) amends Public Law 96–451 to provide the Secretary of Transportation authority to contract with the States to implement and administer a national recreational boating safety and facilities improvement program. A contractual obligation of the United States to distribute motorboat gasoline fuel tax revenues to the States is created when the Secretary of Transportation approves specified elements of the State program.

The formula for distribution is unchanged from current law. The current limitation on amounts which may be held in the Trust Fund is removed, so that all motorboat gasoline fuel tax revenues are transferred into the Fund.

Subsection (b) would require the expenditure of funds collected in the Reforestation Trust Fund created by Public Law 96–451. This is accomplished by repealing the current legal prerequisites to expenditure of the funds by the Secretary of Agriculture. In no case may the Secretary spend, in fiscal year 1983, less than the $104,000,000 now held in the Trust Fund. Any funds remaining in the Trust Fund at the end of

fiscal year 1985 are to be distributed to the States for use in State forestry programs.

Conference substitute

AMENDMENT TO SALTONSTALL-KENNEDY BILL

House bill

No comparable provision.

Senate amendment

This section would require that all money in the Saltonstall-Kennedy Fund be used in support of the United States fishing industry. Specifically, up to 40 percent of the Fund could be used to support activities within the National Marine Fisheries Service as long as those activities were related to fisheries development.

At least 60 percent of the Fund would have to go directly for industry grants. Since the Fund is currently collecting approximately $28 million per year, at least $17 million would have to go for grants, and the rest could go to the National Marine Fisheries Service fisheries development programs.

Conference substitute

AMENDMENT TO MERCHANT MARINE ACT, 1936

House bill

No comparable provision.

Senate amendment

This section provides that no ceiling shall be placed on the title XI of the Merchant Marine Act, 1936 loan guarantee program other than a ceiling imposed by authorizing legislation.

Conference substitute

The conference substitute adopts many of the provisions of the House bill and Senate amendment. Other provisions included in the conference substitute are compromises of provisions of the House bill and Senate amendment.

I. HIGHWAY-RELATED REVENUE PROVISIONS

A. MOTOR FUELS TAXES

1. Taxes on gasoline, diesel fuel, and special motor fuels

Present law

Present law imposes a manufacturers excise tax of 4 cents per gallon on the sale of gasoline. A retailers excise tax of 4 cents per gallon is imposed on the sale of diesel fuel for use in a highway vehicle and on the sale of special motor fuels. These taxes are scheduled to decline to 1-½ cents per gallon on October 1, 1984.

House bill

The House bill increases the taxes on gasoline, diesel fuel, and special motor fuels from 4 cents per gallon to 9 cents per gallon, effective for sales after March 31, 1983, and before October 1, 1988.

Senate amendment

The Senate amendment is the same as the House bill except the increased tax rates apply through September 30, 1989.

Conference agreement

The conference agreement follows the House bill.

2. Taxes on motorboat fuels

Present law

The 4-cents-per-gallon taxes on gasoline and special fuels apply to such fuels used in motorboats (other than motorboats used in fisheries). For fiscal years 1981 through 1983, an amount equivalent to the revenues from these taxes, not exceeding $20 million per year, is transferred to the National Boating Safety and Facilities Improvement Fund.[1] The balance of these revenues is deposited in the Land and Water Conservation Fund.

House bill

The House bill increases the taxes on gasoline and special motor fuels used in motorboats to 9 cents per gallon, effective for sales after March 31, 1983, and before October 1, 1983. The maximum amount of these revenues that can be transferred to the Boating Safety Fund is increased to $45 million per year and the maximum allowable balance in that Fund is also increased to $45 million. The Fund is extended through September 30, 1988.

Senate amendment

The Senate amendment is the same as the House bill, except the Boating Safety Fund, and the transfers of revenue thereto, are extended through September 30, 1989.

Conference agreement

The conference agreement follows the House bill.

3. Exemptions from motor fuel taxes

Present law

Present law includes exemptions from the motor fuels taxes, equal to the 4-cents-per-gallon rate, for the following purposes: a fuels mixture (gasohol) which contains at least 10 percent alcohol of 190 proof (through 1992); use in intercity, local, or school buses; use in qualified taxicabs; use by State and local governments; use by nonprofit educational institutions; and farming use. An exemption of 2 cents per gallon is included for fuels used in a nonhighway qualified business use.

House bill

The House bill includes exemptions from the motor fuels taxes, as follows:

a. *Gasohol.*—An exemption of 4 cents per gallon through September 30, 1988.

b. *Intercity, school, and local buses.*—An exemption of 9 cents per gallon through September 30, 1988.

c. *Qualified taxicabs.*—An exemption of 4 cents per gallon through September 30, 1984. (Additionally, the Treasury Department is directed to conduct a study on the effectiveness of this exemption.)

d. *State and local government use.*—An exemption of 9 cents per gallon through September 30, 1988.

e. *Nonprofit educational institutions.*—An exemption of 9 cents per gallon through September 30, 1938.

f. *Farming use.*—An exemption of 9 cents per gallon through September 30, 1988.

g. *Nonhighway qualified business use.*—An exemption of 9 cents per gallon through September 30, 1988.

h. *Certain alcohol fuels.*—An exemption of 9 cents per gallon for alcohol fuels consisting of 85 percent or more methanol, ethanol, or other alcohols derived from sources other than petroleum, through September 30, 1988.

In addition, the House bill permits ground applicators of certain farm processes (e.g., fertilizer) to claim the fuels tax exemption directly for fuels used by them in farming purposes.

Senate amendment

The Senate amendment generally follows the House bill, with modifications. The exemptions terminated after September 30, 1988, under the House bill are terminated after September 30, 1989, by the Senate amendment. The Senate amendment also makes the following additional changes in the exemptions:

a. *Gasohol.*—An exemption of 9 cents per gallon, through December 31, 1992.

b. *Qualified taxicabs.*—An additional exemption of 4 cents per gallon for one year for certain taxicabs that do not qualify under present law because they are not permitted under local law to offer ridesharing, January 1, 1983 through December 31, 1983.

c. *Certain alcohol fuels.*—An exemption of 9 cents per gallon for alcohol fuels consisting of 85 percent or more methanol, ethanol, and other alcohols derived from sources other than petroleum or natural gas.

d. *Certain vanpool vehicles.*—An exemption of 9 cents per gallon for vehicles carrying 8 or more adults (not including the driver) if used more than 80 percent for commuting to and from work. The vehicle owner can be the employer, the operator, or a third party leasing to the employer or operator.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with modifications. Specifically, the conference agreement provides the following exemptions:

a. *Gasohol.*—The conference agreement provides an exemption equal to 5 cents per gallon effective through December 31, 1992.

b. *Intercity, school, and local buses.*—The conference agreement follows the House bill.

c. *Qualified taxicabs.*—The conference agreement follows the Senate amendment.

December 31, 1982.

House bill

No provision.

Senate amendment

The Senate amendment increases the tariff to 90 cents per gallon on imported alcohol fuels, effective on April 1, 1983 through December 31, 1992.

Conference agreement

The conference agreement increases the tariff to 50 cents per gallon effective after March 31, 1983 and before January 1, 1993.

6. Time for payment of gasoline tax

Present law

Under present law, the tax on gasoline generally is paid for a semimonthly period, with payments due 9 days after the close of the close of the taxable period. There is no requirement for payment by electronic wire transfer.

House bill

No provision.

Senate amendment

The Senate amendment provides an additional 6 days, for a total of 15 days, after the close of the semimonthly period for payment of the gasoline tax. The additional time is available only to oil jobbers who sell fewer than 2 million gallons of gasoline during the taxable period and who elect to pay the tax by electronic wire transfer. The provision is effective on April 1, 1983.

Conference agreement

The conference agreement follows the Senate amendment, with modifications. The agreeement provides an additional 5 days, for a total of 14 days, after the close of the semimonthly period for payment of the gasoline tax in the case of taxpayers who pay

[1] The Boating Safety Fund is also subject to the additional restriction that its balance cannot exceed $20 million at any given time. Thus, transfers to the Fund are less than the $20 million per year maximum if the Fund has an outstanding balance.

by electronic transfer. If the payment date falls on a Saturday, Sunday, or holiday, payment shall be due on the preceding Friday (or Thursday, in the case of a Friday holiday).

Under the conference agreement, the additional time is available to any person other than a refiner producing more than 1,000 barrels of oil per day.

d. *State and local government use.*—The conference agreement follows the House bill.

e. *Nonprofit educational institutions.*—The conference agreement follows the House bill.

f. *Farming use.*—The conference agreement follows the House bill.

g. *Nonhighway qualified business use.*—The conference agreement follows the House bill.

h. *Vanpool vehicles.*—The conference agreement follows the House bill.

i. *Certain alcohol fuels.*—The conference agreement follows the Senate amendment.

j. *Ground fertilizer applicators.*—The conference agreement follows the House bill and the Senate amendment.

4. Alcohol fuels income tax credit

Present law

Present law provides a 40-cents-per-gallon income tax credit for certain alcohol fuels. The credit is not allowable if an excise tax exemption is claimed for the same fuels. This credit is effective through December 31, 1992.

House bill

The income tax credit is terminated after September 30, 1986.

Senate amendment

The income tax credit is increased to 90 cents per gallon, effective on April 1, 1983. The present law termination date of December 31, 1992 is retained.

Conference agreement

The conference agreement increases the income tax credit to 50 cents per gallon effective through December 31, 1992.

5. Tariff on imported alcohol fuels

Present law

A tariff of 40 cents per gallon is imposed on imported alcohol fuels, effective after December 31, 1982, and before January 1, 1993. The tariff is 20 cents per gallon through * * *.

B. EXCISE TAXES ON SALES OF TRUCKS AND TRUCK PARTS

Present law

Trucks and truck trailers

A 10-percent manufacturers excise tax is imposed on the sale of truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and highway tractors used in combination with a trailer or semitrailer (including related parts and accessories). Truck chassis and bodies are taxable only if they are suitable for use with a vehicle whose gross vehicle weight is over 10,000 pounds. Truck trailer and semitrailer chassis and bodies are taxable only if they are suitable for use with a trailer or semitrailer whose gross vehicle weight is over 10,000 pounds. Certain articles (not including rail trailers or livestock carriers) are specifically exempt.

The rate of tax is scheduled to fall to 5 percent on October 1, 1984.

Truck parts and accessories

An 8-percent manufacturers excise tax is imposed on the sale of parts or accessories (other than tires or inner tubes) for truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and highway tractors used in combination with a trailer or semitrailer. Parts to be resold in connection with the first retail sale of a light-duty truck (10,000 pounds or less) are exempt. Parts for certain articles (not including rail trailers or livestock carriers) are specifically exempt.

The rate of tax is scheduled to fall to 5 percent on October 1, 1984.

House bill

Trucks and truck trailers

The threshold weights over which articles become taxable are raised to 33,000 pounds for truck chassis and bodies and 26,000 pounds for truck trailer and semitrailer chassis and bodies. A new exemption is provided for rail trailers and rail vans (not including piggy-back trailers or semitrailers) which are designed primarily for railroad use and include as an integral part at least one rail axle. These provisions are effective the day after enactment.

The House bill converts the current 10-percent manufacturers tax into a 12-percent retail tax on April 1, 1983. It provides a 2-percent retail tax for articles taxable under the retail tax and for which the 10-percent manufacturers tax has been paid. Current exemptions under the manufacturers tax and the exemption for rail trailers will apply under the retail tax. To deter tax avoidance, the 12-percent retail tax also applies to the installation of parts or accessories on a taxable vehicle, if it occurs within 6 months after the vehicle is first placed in service. However, an installation is not taxed if the vehicle is purchased fully equipped for service, the part is a replacement, or the aggregate price of installed parts does not exceed $200 (or another amount as the Secretary may prescribe by regulations).

The retail excise tax on trucks and trailers will expire on October 1, 1988.

Truck parts and accessories

The House bill repeals the manufacturers excise tax on truck parts and accessories, effective on the day after the date of enactment. However, as described above, certain installations of parts are taxable under the retail tax on trucks.

Senate amendment

Trucks and truck trailers

The Senate amendment is generally the same as the House bill. However, under the Senate amendment, the expemption for rail trailers and vans (not including piggy-backs) is for vehicles which are designed for use both as a highway vehicle and a railroad car. Also, the Senate amendment provides a new exemption for farm equipment uniquely designed to transport livestock to and on farms, effective the day after enactment. The retail tax will expire on October 1, 1989.

Truck parts and accessories

Under the Senate amendment, parts and accessories that are suitable for use (and ordinarily used) on a vehicle having a gross vehicle weight of 10,000 pounds or less are exempt from the manufacturers excise tax on parts and accessories, effective the day after enactments. Parts for the rail trailers and livestock carriers which are excluded from the excise tax on trucks by the Senate amendment are subject to the manufacturers excise tax as under present law.

The rate of tax increases to 10 percent on April 1, 1983. This tax will expire on October 1, 1989.

Conference agreement

The conference agreement follows the House bill and the Senate amendment on new trucks except that it follows the Senate amendment on rail trailers and the House bill on livestock carriers. The agreement follows the House bill with respect to the effective date and the expiration date. The conference agreement follows the House bill on the tax on parts and accessories.

C. HEAVY VEHICLE USE TAX

Present law

An excise tax is imposed on the use on the public highways of any highway motor vehicle which (together with semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as the vehicle) has a taxable gross weight of more than 26,000 pounds. The rate of tax is $3 a year for each 1,000 pounds or fraction thereof.

The taxable period for the use tax is generally the one-year period beginning on July 1. The amount of tax is prorated only when the first use of the vehicle occurs later than the first month of the taxable period; no refund of tax is made when the owner stops using the taxed vehicle during the taxable period. No de minimus exemption is provided for limited uses of the public highways.

The tax is scheduled to expire on October 1, 1984.

House bill

The House bill provides a new, graduated tax rate structure, as follows:

If the taxable gross weight is—		
At least:	But less than:	The rate of tax is:
33,000 pounds.....	55,000 pounds.....	$60 per year, plus $20 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds.....	80,00 pounds.....	$500 per year, plus $60 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds.....		$2,000 a year.

Note.—No tax is imposed on vehicles under 33,000 pounds.

The House bill provides a new de minimus exemption for vehicles which are used on the public highways for 2,500 miles or less during a taxable period. In addition, it directs the Secretary of Transportation (in consultation with the Secretary of the Treasury and other parties) to study alternative forms of the highway use tax and report findings and recommendations to the tax-writing commitees of Congress before January 2, 1985. Beginning January 1, 1985, a State must require proof of payment of the highway use tax before registering a vehicle in the State in order to qualify for its highway apportionment for the fiscal year.

These provisions are effective on January 1, 1984. To accommodate this effective date, two short taxable periods are provided in lieu of the one-year taxable period that would otherwise begin on July 1, 1983.

Under the House bill, the use tax expires on October 1, 1988.

Senate amendment

The Senate amendment is similar to the House bill, but provides a 5,000-mile de minimus exemption, a different (and phased-in) tax rate structure, and an October 1, 1989, expiration date. In addition, the Senate amendment allows a prorated credit or refund for tax paid, where there is a reasonable expectation that the owner will not use the vehicle for the remainder of the taxable period or the vehicle is transferred and the transferee certifies he has paid the correct amount of tax for the remainder of the taxable period. The Senate amendment does not provide for State enforcement of the use tax.

The graduated tax structure under the Senate amendment is as follows:

If the taxable gross weight is—		
At least:	But less than:	The rate of tax is:
33,000 pounds	55,000 pounds	$80 per year, plus $10 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds	70,000 pounds	$300 per year, plus $20 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
70,000 pounds	80,000 pounds	$600 per year, plus $60 for each 1,000 pounds or fraction thereof in excess of 70,000 pounds.
80,000 pounds		$1,200 a year.

Note.—No tax is imposed on vehicles under 33,000 pounds.

One-third of the tax rate change provided by the Senate amendment is effective of January 1, 1984, and two-thirds is effective on January 1, 1985. In general, the entire change is effective on January 1, 1986. However, the entire change is not effective until January 1, 1987, for persons who own and operate no more than 3 taxable vehicles. To accomodate this phase-in schedule, six (eight, in the case of small owner-operators) short taxable periods are provided in lieu of the one-year taxable periods are provided in lieu of one one-year taxable periods that would otherwise begin on July 1 of 1983, 1984, and 1985 (and 1986, in the case of small owner-operators).

Conference agreement

The conference agreement incorporates a graduated use tax schedule. In addition, the conference agreement follows the Senate amendment on the 5,000 mile *de minimus* exemption. The agreement follows the Senate amendment and allows a prorated credit and refund for tax paid but with an amendment generally limiting it to situations involving theft or destruction of the equipment. The conference agreement follows the House bill on State enforcement of the use tax. It follows the Senate amendment with an amendment allowing a one-year delay of the use tax increases for truck fleets of 5 or less vehicles.

The conference agreement provides the following rate of use tax:

Taxable gross weight		
At least:	But less than:	Rate of tax:
33,000 pounds	55,000 pounds	$50 per year, plus $25 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds	80,000 pounds	$600 per year, plus the applicable rate for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
70,000 pounds		The maximum amount.

The applicable rate and maximum amount are as follows:

Taxable period beginning on July 1 of—	Applicable rate	Maximum amount
1984	$40	$1,600
1985	$40	$1,600
1986	$44	$1,700
1987	$48	$1,800
1988 or thereafter	$52	$1,900

D. TAXES ON TIRES, TREAD RUBBER, AND INNER TUBES

1. Tires

Present law

There are excise taxes imposed on the sale by a manufacturer, producer or importer of tires, based upon weight: tires for highway vehicles are taxed at 9.75 cents per pound; nonhighway tires generally are taxed at 4.875 cents per pound; and laminated tires (tires not designed for highway use) are taxed at 1 cent per pound. On and after October 1, 1984, the tax on highway tires is scheduled to decrease to the non-highway rate of 4.875 cents per pound.

House bill

Under the House bill, the tax on highway tires weighing over 100 pounds is increased to 25 cents per pound, effective January 1, 1984. The tax on such tires of 100 pounds or less is repealed on that date, as are the taxes on non-highway tires and laminated tires. The tax on highway tires will terminate on October 1, 1988.

Senate amendment

Under the Senate amendment, there is a graduated tax on highway tires at the following rates and poundage brackets: 10 cents per pound for the first 50 pounds, 15 cents per pound for the next 50 pounds, and 25 cents per pound for tires over 100 pounds. The taxes on non-highway tires and laminated tires are repealed. These changes are effective on April 1, 1983, through September 30, 1989. The tax on highway tires will terminate on October 1, 1989.

Conference agreement

Under the conference agreement, there is a graduated tax on highway tires at the following rates and poundage brackets: no tax on tires under 40 pounds; 15 cents per pound for tires between 40 and 70 pounds; 30 cents per pound for tires between 70 and 90 pounds; and 50 cents per pound for tires of 90 pounds and over. These changes are effective on January 1, 1984, through September 30, 1988, after which time the tax terminates.

In addition, the taxes on nonhighway and laminated tires are repealed, effective on January 1, 1984.

2. Tread rubber

Present law

An excise tax of 5 cents per pound is imposed on the sale by a manufacturer, producer, or importer of tread rubber. The tax is imposed on tread rubber for use in recapping or retreading highway type tires. The tax on tread rubber is scheduled to expire on October 1, 1984.

House bill

Under the House bill, the tax on tread rubber is increased to 25 cents per pound, if for highway tires weighing over 100 pounds. The tax on tread rubber for other tires is repealed. These changes are effective on January 1, 1984, through September 30, 1988. The tax is terminated on October 1, 1984.

Senate Amendment

Under the Senate amendment, the tax on tread rubber is increased to 6 cents per pound. The tax terminates on October 1, 1989.

Conference agreement

Under the conference agreement, the tax on tread rubber is repealed, effective on January 1, 1984.

3. Inner tubes

Present law

Under present law, there is an excise tax imposed on the sale by a manufacturer, producer or importer of inner tubes for tires, based upon weight. The tax currently is 10 cents per pound, and is scheduled to decline to 9 cents per pound on October 1, 1984.

House bill

Under the House bill, the tax on inner tubes is repealed, effective on January 1, 1984.

Senate amendment

Under the Senate amendment, the tax on inner tubes is retained at 10 cents per pound through September 30, 1989, after which time the tax will terminate.

Conference agreement

The conference agreement follows the House bill.

E. TAX ON LUBRICATING OIL

Present law

The sale of lubricating oil is subject to a 6-cents per-gallon tax that is levied on the manufacturer or producer. Exemptions are provided for oil sold for use in cutting or machining operations on metals. An exemption also applies to sales of rerefined oil. Rerefined oil must be composed of at least 25 percent used or waste lubricating oil that has been cleaned and no more than 55 percent previously unused lubricating oil.

House bill

The House bill repeals the tax on lubricating oil, effective on date of enactment.

Senate amendment

The Senate amendment retains the present tax on lubricating oil, and extends the tax to synthetic lubricating oil effective on April 1, 1983.

Conference agreement

The conference agreement follows the House bill.

F. FLOOR STOCKS PROVISIONS

1. Floor stocks taxes

Present law

Present law imposes no floor stocks taxes with respect to the Highway Trust Fund taxes since these taxes have not been increased since 1959. Floor stocks taxes are one-time taxes imposed with respect to inventories when manufacturers excise tax rates are increased.

House bill

The House bill imposes floor stocks taxes with respect to gasoline, tires over 100 pounds and tread rubber used in recapping such tires, and trucks and trailers over the taxable weight thresholds provided by the bill. The floor stocks taxes are equal to the increase in the applicable tax rates and are due by return, on May 15, 1983. Revenues from the floor stocks taxes will be deposited in the Highway Trust Fund.

Senate amendment

The Senate amendment generally follows the House bill except the floor stocks taxes apply to additional items on which the manufacturers excise taxes are increased, i.e., synthetic lubricating oil and truck and trailer parts and accessories for trucks and trailers with a gross vehicle weight over 10,000 pounds.

Conference agreement

2. Floor stocks refunds

Present law

Floor stocks refunds are provided with respect to inventories when a manufacturers excise tax is repealed or reduced. Present law includes provisions for floor stocks refunds with respect to the Highway Trust Fund taxes that are scheduled to expire or be reduced on October 1, 1984.

House bill

The House bill provides for floor stocks refunds of tax paid on articles on which the manufactures excise taxes are repealed, if certain conditions are satisfied. Generally, the refunds are made with respect to articles held by dealers on the effective date of the repeal and are made to manufacturers upon proof of reimbursement to the dealer. Tax-repealed articles include trucks with taxable weight of 33,000 pounds or less, trailers with a like weight of 26,000 pounds or less, laminated tires and nonhighway tires, highway tires under 100 pounds, intertubes, and parts and accessories for trucks and trailers.

The House bill also includes a provision for floor stock refunds to manufacturers with respect to trucks and truck trailers below the increased taxable weight thresholds provided by the bill which are purchased by consumers between December 2, 1982 and the date of the bill's enactment (the date on which the tax on such trucks is repealed). One requirement for these refunds is proof that the consumer has been reimbursed for the amount of the previously paid tax.

Amounts equivalent to the amount of the floor stocks refunds will be transferred from the Highway Trust Fund to the general fund of the Treasury so the Trust Fund will bear the cost of these refunds.

Senate amendment

The Senate amendment generally follows the House bill, with modifications. The list of tax-repealed articles is changed to reflect the other provisions of the Senate amendment. Thus, under the Senate amendment, tax-repealed articles include trucks with a gross weight of 33,000 pounds or less, trailers with a like weight of 26,000 pounds or less, laminated tires, nonhighway tires, and parts and accessories for trucks and trailers weighing 10,000 pounds or less.

The beginning of the period during which refunds are permitted for consumer purchases to trucks and trailers is changed from December 2, 1982, to November 28, 1982.

Conference agreement

The Conference agreement follows the House bill, with modification to reflect the repeal of the tax on tires under 40 pounds and tread rubber.

G. HIGHWAY TRUST FUND PROVISIONS

Original enactment of the Highway Trust Fund

Present law

The Highway Trust Fund was established in 1956 to provide financing specifically earmarked for the new Interstate Highway System and continuation of other Federal-aid highway programs. The other highway-aid programs previously had been financed through the general fund.

The 1956 Act provided for a highway cost allocation study to determine the fair distribution of highway-related user taxes among the various users. In addition, the 1956 Act also contained the "Byrd Amendment" which was included to prevent the Trust Fund from reaching a deficit position. In general, this provision originally required a proportionate reduction of the Interstate Highway System apportionment, if trust fund balances and estimated future receipts would be inadequate to cover obligations as they become due.

Subsequent extensions of the Highway Trust Fund

The Highway Trust Fund and the related earmarked highway excise taxes transferred to the trust fund have been extended three times since 1961: the Federal-Aid Highway Act of 1970; the Federal-Aid Highway Act of 1976; and the Surface Transportation Assistance Act of 1978.

In the 1978 Act, the "Byrd Amendment" was modified to require that when anticipated revenues are insufficient to cover expenditures, reductions would be made on a pro rata basis to all apportioned highway funds, rather than to interstate apportionments only. Finally, two studies were required: a cost allocation study to be conducted by the Department of Transportation, which was submitted to Congress in May 1982; and a study of the highway excise tax structure to be conducted by the Department of Treasury, which was sent to Congress on December 15, 1982.

Highway Trust Fund expenditure purposes

Since its enactment in 1956 and through legislation since then, the Highway Trust Fund has been used to finance construction of the Interstate Highway System, other Federal-aid highways, and for other Federal highway-aid programs. The highway programs currently supported by expenditures from the trust fund are listed below:

(1) *Interstate highway system*—(a) Construction to close gaps in the nearly completed basic Interstate system; (b) Resurfacing, restoring, rehabilitating and reconstructing ("4Rs") previously completed sections.

(2) *Primary highway system*—(a) Construction and reconstruction and related planning; (b) Resurfacing, restoring, rehabilitating these highways.

(3) *Urban and rural areas transportation program*—Assistance in urban and rural areas in construction, rehabilitation and reconstruction of local roads, and related planning and research; public transportation capital expenditures; safety improvements and traffic system management. (Urban areas have more than 50,000 persons; rural areas less than that population.)

(4) *Bridge program*—Rehabilitating or replacing structurally deficient bridges.

(5) *Construction and other highway-related safety programs*—Establishment of safety programs and to build safety into highways during their construction, including such things as pavement marking, and elimination of roadside hazards and highway rail crossings.

(6) *Emergency highway relief programs*—Highway funds relating to disaster relief.

(7) *Administration and research through the federal highway administration*—Involving (a) coordination and direction of various public programs and requirements, (b) general program support affecting policy plans and projections and administrative support, and (c) engineering and financial assistance.

(8) *Additional programs*—The Highway Trust Fund contributes a share of costs of certain other programs, including the following: Forest and public lands highways; economic growth center highways; national scenic and recreational highways; railroad-highway crossing demonstration projects; rural highway public transportation demonstration projects; bicycle pathway programs; highway safety research and development; car and van pool projects; right-of-way revolving fund.

House bill

H.R. 6211, as passed by the House, would extend the Highway Trust Fund for four additional years and would make several other adjustments in present law.

Extension of the trust fund

The Highway Trust Fund would be extended for 4 years, from September 30, 1984, through September 30, 1988. To simplify codification of tax law, the trust fund would be transferred to the Internal Revenue Code (as a new section 9503) on January 1, 1983, and the present statutory provision for the trust fund in section 209 of the Highway Revenue Act of 1956 would be repealed simultaneously. For all purposes of law and any reference in any law, the Highway Trust Fund established in the Internal Revenue Code would be treated as a continuation of this trust fund in its earlier statutory provisions.

Revenues appropriated to the trust fund

There would be appropriated to the Highway Trust Fund amounts equivalent to the taxes received in the Treasury under the provisions relating to the taxes on gasoline and other motor fuels, heavy trucks and trailers, truck parts, tires and tread rubber, lubricating oil and use of certain vehicles. Taxes received after the expiration date of the trust fund and before July 1, 1989, that are attributable to liabilities incurred before October 1, 1988, also would be appropriated to the trust fund. Amounts appropriated to the Airport and Airway Trust Fund from the tax on aviation fuels would be deducted beforehand from the amounts deposited in the Highway Trust Fund.

Expenditures and transfers from the trust fund

Expenditures could be made before October 1, 1988, from the trust fund, as provided by appropriation Acts, to meet obligations incurred after authorization by law and to be paid out of the Highway Trust Fund es-

tablished by section 209 of the Highway Revenue Act of 1956, or authorized by law to be paid out of the Highway Trust Fund (in sec. 9503 of the code) under title I or II of the Surface Transportation Assistance Act of 1982. Expenditures also could be made from the trust fund to meet obligations that have been incurred after authorization by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered in the 1956 Act and the 1982 Act cited above, as in effect on December 31, 1982.

Expenditures from the Highway Trust Fund for highway purposes could not be made from the Mass Transit Account, described in section H, below.

Transfers of funds may be made from the trust fund to the general fund for amounts paid before July 1, 1989, for tax credits, other payments attributable to non-highway uses of motor fuels and lubricating oil, and for floor stock refunds on the basis of claims filed for periods ending before October 1, 1988.

Motorboat fuels taxes (or equivalent amounts) would be transferred to the National Recreational Boating Safety and Facilities Improvement Fund through September 30, 1988. The aggregate amount transferred in any fiscal year could not exceed $45 million, and no transfers of these amounts could be made if the accumulated balance in the Boating Safety Fund would be $45 million. Any other amounts of motorboat fuels taxes would be transferred to the Land and Water Conservation Fund.

Anti-deficit provision ("Byrd amendment")

The "Byrd amendment" assures that the Highway Trust Fund is maintained as a self financing entity and only would be revised to clarify certain ambiguities and to improve its operation.

As a result, at least once in each calendar quarter, the Secretary of Treasury—after consultation with the Secretary of Transportation—would estimate the unfunded highway authorizations at the close of the next fiscal year and the net receipts of the Highway Trust Fund for the 24-month period beginning at the close of such fiscal year. In the event the unfunded authorizations would exceed the estimated receipts, the Secretary of Transportation would reduce the apportionment to the States by the percentage of excess apportionment. If a subsequent quarterly estimate indicates that the excess unfunded authorizations would be a smaller amount, or there would be no such excess, the apportionments to the States would be adjusted accordingly.

The provision that authorizes repayable advances from the general fund to the Highway Trust Fund would be repealed.

These provisions would become effective on January 1, 1983.

Senate amendment

The changes made in the House bill by the Senate amendment were the following.

Extension of the trust fund

The Highway Trust Fund would be extended for 5 years, through September 30, 1989

Revenues appropriated to the trust fund

Amounts equivalent to the revenues received in the Treasury under the provisions relating to the highway excise taxes would continue to be appropriated to the Highway Trust Fund through September 30, 1989. Taxes received after September 30, 1989, and before July 1, 1990, that are attributable to liabilities incurred before October 1, 1989, also would be appropriated to the trust fund.

Expenditures and transfers from the trust fund

Expenditures would be made from the trust fund before October 1, 1990, as provided by appropriation Acts, to meet obligations which have been incurred after authorization by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956. Eligible obligations would be those incurred under the Federal-Aid Road Act of July 11, 1916, as amended and supplemented, including administrative expenses of the Federal Highway Administration.

Transfers could be made from the trust fund to the general fund through July 1, 1990, instead of through July 1, 1988, as in the House bill. The purposes for such transfers were unchanged from the House bill.

The Senate amendment extended the transfer of motorboat fuels taxes to the Boating Safety Fund and the Land and Water Conservation Fund through September 30, 1989, one year later than in the House. No other changes were made in the Senate amendment with respect to these provisions.

Expenditures for highway purposes could not be made from the Mass Transit Account.

Anti-deficit provision ("Byrd amendment")

The "Byrd Amendment" would be retained without change, including the authority for repayable advances.

The extension of the Highway Trust Fund provisions generally would be effective for October 1, 1985—September 30, 1989, except for the 9-month period (through June 30, 1990) for receipt of pre-October 1, 1989, highway excise tax liabilities and certain transfers from the trust fund.

Conference agreement

The conference agreement follows the House bill.

H. MASS TRANSIT ACCOUNT

Present law

The is no transit account in the Highway Trust Fund and no transit trust fund that receives tax receipts designated for deposit in such an account or fund.

House bill

A separate Mass Transit Account would be established in the Highway Trust Fund. It would consist of the revenue equivalent of 1 cent a gallon of the 9 cents a gallon excise taxes imposed on gasoline and diesel and special motorboat fuels. These amounts would be transferred to the Mass Transit Account with the same regularity and under the same conditions as amounts from these taxes would be are transferred to the Highway Trust Fund. Interest earned as a result of investment in United States securities on the portion of amounts in the Highway Trust Fund that would be attributable to the Mass Transit Account would be credited to the Mass Transit Account.

Amounts in the Mass Transit Account would be available, as provided by appropriation Acts, for making capital expenditures (including capital expenditures for new projects) before October 1, 1989, under section 3 of the Urban Mass Transportation Act of 1964. Expenditures from the Mass Transit Account could be made only for mass transit capital purposes, and no expenditures could be made from this account for highway purposes.

In approving capital expenditures for new transit systems, the House believed that preference should be given to projects which maximize the cost-effectiveness of the federal contribution including use of existing infrastructure, like existing track, or substantial non-federal capital contribution.

Unfunded authorizations also would be limited to the estimated net receipts for the Mass Transit Account. The procedure would be the same as that specified for unfunded highway authorizations to be paid from the Highway Trust Fund, except that for the Mass Transit Account, unfunded authorizations for any fiscal year could not exceed 12 months of estimated net receipts.

The provision establishing the Mass Transit Account shall take effect on January 1, 1983.

Senate amendment

The provisions of the Senate amendment were generally the same as in the House bill, except for four items.

(1) The Mass Transit Account would be authorized through September 30, 1989, one year longer than in the House bill.

(2) The Senate amendment refers to section 22 of the Urban Mass Transportation Act of 1964, including capital expenditures to new starts.

(3) The Senate amendment did not limit the amount of unfunded authorizations at the end of any fiscal year to any specified estimate of future net receipts.

(4) The Senate amendment would authorize the making of repayable advances from the general fund to the Mass Transit Account. Repayments would include the amount of the advance plus interest.

Conference agreement

The conference agreement follows the House bill.

The conferees intend that a fair share of the funds to be set aside for mass transit be allocated to rapidly growing cities to fund cost-effective new rail construction, bus fleet expansion and other related needs at local option. While recognizing the importance of rehabilitating existing transit facilities which may be in disrepair, the Committee believes it is equally important that pressing needs for new facilities in other areas of the country also receive due consideration. In this regard, the Committee notes the commitment of the Administration to permit new tax revenues to be directed toward cost-effective new rail construction.

In approving capital expenditures for new transit systems, it is the conferees belief that preference should be given to projects which maximize the cost-effectiveness of the federal contribution including use of existing infrastructure, like existing track, or substantial non-federal capital contribution.

I. TREATMENT OF MOTOR CARRIER OPERATING AUTHORITIES HELD BY CORPORATIONS ACQUIRED BY NONCORPORATE TAXPAYERS

Present law

The Economic Recovery Tax Act of 1981 provided that an ordinary deduction is allowed ratably over a 60-month period for taxpayers who held one or more motor carrier operating authorities on July 1, 1980. The amount of the deduction is the total adjusted bases of all motor carrier operating authorities either held by the taxpayer on July 1, 1980, or acquired after that date under a binding contract in effect on July 1, 1980. The 60-month period begins July 1, 1980 (or, at the taxpayer's election, with the first month of the taxpayer's first taxable year beginning after July 1, 1980).

Under the Act, adjustments are to be made to the basis of operating authorities held on July 1, 1980 (or acquired Thereafter under a binding contract in effect on July 1, 1980) to reflect amounts allowable as deductions.

Under regulations to be prescribed by the Treasury Department, an election may be made by the taxpayer holding an operating authority on July 1, 1980, to allocate to the operating authority a portion of the cost basis to the acquiring corporation of stock in an acquired corporation. The election is available only if the operating authority was held directly by the acquired corporation at the time its stock was acquired or was held indirectly through one or more other corporations. In either case, a portion of the stock basis may be allocated to the operating authority only if the acquiring corporation would have been able, if it had received the operating authority in one or more corporate liquidations immediately following the stock acquisition, to allocate such portion to the operating authority under section 334(b)(2). The election applies only if the stock was acquired on or before July 1, 1980 (or pursuant to a binding contract in effect on such date) and only if, on the date the stock was acquired, the acquired corporation held, directly or indirectly, the operating authority.

In all cases, adjustments are also to be made to the basis of the acquiring corporation in the stock of the acquired corporation to take into account any allocation of the basis in the stock to an operating authority. In addition, the Treasury regulations are in all cases to provide for an appropriate adjustment to the basis of other assets.

House bill

If one or more noncorporate taxpayers on or before July 1, 1980, acquired in one stock purchase the stock of a corporation which, at the time of acquisition, held directly or indirectly any motor carrier operating authority, the acquisition shall be treated, for purposes of the provisions of section 266(c)(2) of ERTA (relating to certain stock acquired), as having been acquired by a single corporation. Thus, the basis of the operating authority may be adjusted to reflect the stock acquisition price. In order to qualify for these adjustments, the purchasers must have held at least 80 percent of the corporate stock on July 1, 1980.

Rules similar to the rules applicable to authorities held by corporations acquired by a corporate purchaser are to apply to authorities of corporations acquired by noncorporate purchasers.

The provision is effective for taxable years ending after June 30, 1980.

Senate amendment

The Senate amendment is identical to the House bill provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

II. Other Revenue Provisions

A. Modification of Effective Date for Generation Skipping Tax

Present law

The Tax Reform Act of 1976 imposed a tranfer tax on generation skipping transfers. As amended, the tax generally was effective with respect to generation skipping transfers made after June 11, 1976. As originally enacted in the Tax Reform Act of 1976, the effective date of the generation skipping tax was transfers made after April 30, 1976. The April 30, 1976 date was changed to June 11, 1976, by the Revenue Act of 1973 (Pub. L. 95-600). However, under a transitional rule, the tax did not apply in the case of transfers under irrevocable trusts in existence on June 11, 1976, or, in the case of decedents dying before January 1, 1982, pursuant to a will (or revocable crust) which was in existence on June 11, 1976, and which was not amended (except in respects which did not result in the creation of, or increase the amount of, a generation-skipping transfer) at any time after June 11, 1976. In addition, the 1982 date was extended if the testator was incompetent until 2 years after the testator regained competency.

The Economic Recovery Tax Act of 1981 (ERTA) postponed the January 1, 1982, date one additional year until January 1, 1983.

House bill

No provision.

Senate amendment

The Senate amendment basically postpones the effective date of the generation skipping tax to generation skipping trusts created after December 31, 1983.

Conference agreement

The conference agreement does not include the Senate amendment.

B. Study on Tax Status of Certain Members of Religious Orders

Present law

Present law exempts from the term "employment", for FICA tax purposes, service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of the ministry or by a member of a religious order in the exercise of duties required by such order. Likewise, "wages", for purposes of income tax withholding, does not include remuneration paid from similar services.

The Internal Revenue Service generally takes the position that a member of a religious order who is instructed by the order's supervisors to obtain employment with a third party is a employee of the third party, not of the religious order, and must include the remuneration remitted to the order in gross income, whether or not the member has taken a vow of poverty. Under this position, the remuneration is subject to FICA and income tax withholding.

House bill

No provision.

Senate amendment

The Senate amendment orders the Treasury Department to conduct a study of the effects of treating members of the religious orders who perform certain services as the agents of the orders.

Conference agreement

The conference agreement does not include the Senate amendment. However, the Treasury Department has agreed to submit a report within 6 months.

C. Exclusive From Gross Income With Respect to Cancellation of Certain Student Loans

Present law

Under present law, gross income means all income, from whatever source derived, including income from discharge of indebtedness, unless otherwise provided by law. However, subject to certain limitations, gross income does not include any amount received as a scholarship or a fellowship grant (sec. 117(a)). With the exception of certain Federal grants for tuition, an amount paid to an individual to enable him or her to pursue studies or research does not qualify as a scholarship or fellowship grant if such amount represents compensation for past, present, or future employment services or if such studies or research are primarily for the benefit of the greater (Treas. Reg. sec. 1.117-4(c)).

Under certain student loan programs established by the United States and by State and local governments, all or a portion of the loan indebtedness may be discharged if the student performs certain services for a period of time in certain geographical areas pursuant to conditions in the loan agreements. In 1973, the Internal Revenue Service rules on a situation in which a State medical education loan scholarship program provided that portions of the loan indebtedness were discharged on the condition that the recipient practice medicine in a rural area of the State. The Service determined that amounts received from such a loan program were included in the gross income of the recipient to the extent that repayment of a portion of the loan was no longer required (Rev. Rul. 73-256, 1973-1 C.B. 56).

Section 2117 of the Tax Reform Act of 1976 (P.L. 94-455) provided that in the case of loans forgiven prior to January 1, 1979, no amount was to be included in gross income by reason of the discharge of all or part of the indebtedness of the individual under certain student loan programs. The exclusion applies to a discharge of indebtedness if the discharge was pursuant to a provision of the loan agreement under which all or part of the indebtedness would be discharged if the individual works for a certain period of time in certain professions in certain geographical areas or for certain classes of employers. The amendment made by the 1976 Act applies to student loans made to an individual to assist in attending an educational institution only if the loan was made by the United States or an instrumentality or agency thereof or by a State or local government either directly or pursuant to an agreement with an educational institution.

The Revenue Act of 1978 extended the student loan cancellation provisions to loans forgiven prior to January 1, 1983.

House bill

No provision.

Senate amendment

The Senate amendment extends, for one additional year, the exclusion from income provided by the Tax Reform Act of 1976 with respect to the cancellation of certain student loans. Thus, no amount will be included in gross income by reason of the discharge of all or part of a student loan of the type described in section 2117 of the 1976 Act if the loan is forgiven prior to January 1, 1984.

The provision is effective upon enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

D. Energy Credit for Chlor-Alkali Electrolytic Cells

Present law

An energy investment tax credit of 10 percent is allowed for specially defined energy property. Such property includes equipment used for heat transfer or heat conservation purposes, an automatic energy control system, a combustible gas recovery system, and modifications to alumina electrolytic cells.

In addition, the Secretary of the Treasury has the authority to add items to the list of

specially defined energy property that have as their principal purpose reducing the amount of energy consumed in an existing industrial or commercial process and that are installed in connection with an existing commercial or industrial facility. The Secretary, however, may not specify an item for the list unless the item meets several minimum energy conservation and efficiency standards (sec. 44(c)(9)). The Secretary has not yet added any items to the list under the administrative discretion provided to him in this section.

Under present law, the credit for specially defined energy property generally terminates on December 31, 1982. However, for projects that take more than 2 years to construct, the credits apply through 1990 if certain affirmative commitments are made (affirmative commitment rule).

House bill

No provision.

Senate amendment

The Senate amendment would modify the definition of specially defined energy property to include modifications to chlor-alkali electrolytic cells.

Qualifying modifications involve redesign of the use of electricity in the electrolytic process to achieve an energy savings, a modification closely resembling in function modifications to alumina electrolytic cells, which qualify under present law as specially defined energy property. The modifications must be a substitution or substantial change in technology and not periodic replacement, cleaning, or repairs of cell components. For example, qualifying modifications include energy-saving additions to, or substitutions of, components of the electrolytic reduction cell or pot, such as changes to annode or cathode configurations and the addition of thermal insulation.

The credit would apply for periods beginning after December 31, 1980, and ending before January 1, 1983 (January 1, 1991, if the affirmative commitment rule applies).

Conference agreement

The conference agreement follows the Senate amendment, except that under the conference agreement the affirmative commitment rule does not apply.

E. AFFIRMATIVE COMMITMENT RULE FOR CERTAIN ENERGY CREDITS

Present law

In general, the 10-percent business energy credits expire at the end of 1982. However, certain of those credits apply through 1990 for long-term projects (i.e., projects that take at least 2 years to construct) for which affirmative commitments are made.

To satisfy the affirmative commitment requirement, the taxpayer must (1) complete all studies and obtain all permits required under Federal, State, or local law in connection with commencement of construction of the project by January 1, 1983, and (2) enter into binding contracts for 50 project of the estimated cost of components specially designed for the project by January 1, 1986.

House bill

The House bill has no provision.

Senate amendment

The Senate amendment modifies the affirmative commitment rule by extending the January 1, 1983, date required for completion of permits and studies by two years to January 1, 1985. The amendment applies only for synthetic fuels production equipment, coal conversion equipment, shale oil equipment, and related pollution control and handling equipment.

Conference agreement

The conference agreement does not include the Senate amendment.

F. INCOME TAX RETURN FILING REQUIREMENT FOR DEPENDENTS

Present law

In general, under present law, individuals, including dependents who are children or students, must file income tax returns if they have gross income of the exemption amount (currently $1,000) or more during the year.

House bill

No provision.

Senate amendment

The amendment provides that children and students need file only if they have gross income *in excess* of the exemption amount. The amendment was intended to raise the filing requirement for all individuals. The amendment applies for taxable years beginning after December 31, 1981.

Conference agreement

The conference agreement provides that an individual whose only gross income for Federal income tax purposes is a grant of $1,000 received from a State government need not file in income tax return with the Internal Revenue Service.

Revenue effect

This provision will not affect budget receipts.

G. ALLOWANCE OF REGULATED INVESTMENT COMPANY STATUS TO CERTAIN SMALL BUSINESS DEVELOPMENT COMPANIES

Present law

Under present law, a regulated investment company (commonly called a "mutual fund" or "money market fund") is treated, in essence, as a conduit for tax purposes. This treatment is achieved by allowing a regulated investment company a deduction for dividends paid to its shareholders.

To qualify as a regulated investment company under the Code, several requirements must be satisfied. One of these requirements is that the company must either (1) be registered with the Securities and Exchange Commission at all times during the taxable year as a management company or unit investment trust under the Investment Company Act of 1940, or (2) be a common trust fund or similar fund which is not included in the term "common trust fund" under the Code and which is excluded by the Investment Company Act from the definition of investment company (Code sec. 851(a)). To register under the Investment Company Act of 1940, a corporation must have at least 100 stockholders or must be making or presently proposing to make a public offering (the "public offering requirement").

Under the Small Business Incentive Act of 1980 (P.L. 96-477), certain investment companies providing capital and management assistance to small businesses (called "business development companies") may elect an alternative form of regulation in lieu of registering under the Investment Company Act. Any business development company electing this alternative form of regulation is precluded from qualifying as a regulated investment company under the Code because the company did not register under the Investment Company Act.

House bill

No provision.

Senate amendment

The Senate amendment enables a business development company electing the alternative form of regulation under the Small Business Incentive Act of 1980 to qualify as a regulated investment company if the company could qualify for registration under the Investment Company Act of 1940. Thus, only companies that have at least 100 stockholders or which satisfy the public offering requirement can qualify as regulated investment companies. The amendment applies with respect to taxable years ending after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

H. QUALIFYING ROLLOVER DISTRIBUTIONS TO AN IRA

Present law

If a lump sum distribution is paid to an employee under a qualified pension, profitsharing, or stock bonus plan, tax is deferred on the portion of the distribution rolled over, within 60 days, to another qualified plan or to an IRA (an individual retirement account, annuity, or bond).

A distribution from a qualified plan is not a lump sum distribution unless it consists of the balance to the credit of the employee under the plan and is made within one taxable year of the recipient. Because of these rules, and because of then-existing uncertainty as to the application of certain rules relating to prohibited self-dealing, certain distributions made in 1976 and 1977 were not qualifying rollover contributions.

House bill

No provision.

Senate amendment

The amendment allows special relief for certain pension plan distributions received from a qualified terminated pension plan on December 6, 1976, and January 6 and 21, 1977, and subsequently rolled over to an IRA on January 21, 1977. Under the provision, the transfers would be treated as qualifying rollover contributions. Thus, to the extent the payments were, in fact, rolled over to an IRA within 60 days of receipt, the distributions would not be includible in income.

In addition, the amendment would extend the usual period of limitation for filing a claim for credit or refund of taxes paid (generally, three years after the later of (1) the date prescribed for filing the tax return, or (2) the date the return was actually filed). Under the amendment, the period of limitation would be extended to permit the filing of a claim for credit or refund, attributable to changes made by the amendment, within one year after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

I. DELAY OF WITHDRAWAL LIABILITY PAYMENTS UNDER MULTIEMPLOYER PENSION PLANS

Present law

Under the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), an employer who totally or partially withdraws from a multiemployer pension plan generally is liable for a portion of the plan's unfunded obligations determined before the withdrawal. The amount of liability allocated to a withdrawing employer is determined under one of several alternative formulas which may be adopted by a plan.

As soon as practicable after an employer's complete or partial withdrawal from a multiemployer plan, the plan sponsor must notify the employer of the amount of withdrawal liability and a payment schedule for paying off the liability. Payment of withdrawal liability must begin no later than 60 days after the date on which the plan sponsor demands payment. The withdrawing employer generally is required to make level annual payments to the plan (for up to 20 years) in equal quarterly installments. If any employer defaults in payment of its withdrawal liability, the plan sponsor may require immediate payment of the balance of the liability.

Although the provisions of MPPAA generally became effective on September 26, 1980 (the date of enactment), the withdrawal liability provisions generally apply to withdrawals after April 28, 1980 (the date of a markup by the Committee on Finance of the Senate on a bill extending prior law).

House bill

No provision.

Senate amendments

Effective upon enactment, the amendment delays until after December 31, 1983, the due date for making certain payments of withdrawal liability. Under the provision, an employer which incurred withdrawal liability on account of a complete or partial withdrawal from a multiemployer plan is not required to make payments of withdrawal liability to the plan before December 31, 1983, if certain requirements are met. The withdrawing employer must have announced on July 30, 1980, its intent to cease operations as of August 8, 1980. In addition, the employer must have begun the winding down of business by August 8, 1980, and completely terminated business by August 31, 1980.

Conference agreement

The conference agreement does not include the Senate amendment.

J. POLICE AND FIRE WORKER PENSION PLANS

Present law

The Employee Retirement Income Security Act of 1974 (ERISA) provided overall limits on contributions and benefits under qualified pension, etc., plans. The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) reduced the dollar limits on contributions and benefits under qualified plans.

Under the amendments made by TEFRA, the age below which the limit on the dollar amount of the annual benefit under a qualified defined benefit pension plan is reduced was changed from age 55 to age 62. Accordingly, benefits payable before age 62 are generally limited to the actuarial equivalent of $90,000 payable at age 62. The $90,000 limit is indexed for inflation beginning in 1986. Also, the Act provided a special floor on the limitation so that the dollar limit at age 55 and above is not less than $75,000 (no indexing is provided on the floor limit). Under the Act, the limit for ages below age 55 is determined on the basis of the usual $90,000 limit (with indexing) or the $75,000 limit, whichever is greater.

House bill

No provision.

Senate amendment

The amendment increases the dollar limit on annual benefits payable to certain police and fire workers to the equivalent of $90,000 beginning at age 55, adjusted for inflation under the same rules that apply to the $90,000 limit on benefits payable at age 62.

The amendment applies to the benefits provided under a defined benefit plan maintained by a State, or political subdivision thereof, for the benefit of all full-time employees of any police department or fire department. However, the amendment will only apply if the number of years the employee was employed on a full-time basis by the State or political subdivision in a police or fire department, when added to the number of years the employee served in the armed forces of the United States (to the extent considered in the plan), equals or exceeds 20.

The amendment will be effective as if it had been included in TEFRA.

Conference agreement

The conference agreement does not include the Senate amendment.

K. CRUISE SHIP CONVENTION DEDUCTIONS

Present law

Expenses of attending a business convention, seminar, or similar meeting that is held on a cruise ship are not deductible.

House bill

No provision. However, on December 16, the House passed H.R. 3191, as amended, which would allow deductions for conventions and similar meetings held on U.S. flag cruise ships, but only if (1) the cruise ship calls on ports only in the North American area (the United States, the U.S. possessions, the Trust Territory of the Pacific, Canada and Mexico), and (2) the taxpayer meets certain detailed substantiation requirements. The bill would apply to cruises beginning after December 31, 1982.

Senate amendment

The Senate amendment allows a business expense deduction for the cost of attending conventions, seminars, and similar meetings held on a U.S. flag cruise ship, but only in the amount of $2,000 per taxpayer per year ($1,000 in the case of a married individual filing separately), and only if two further requirements are met: (1) all ports of call on the cruise must be in the United States or the U.S. possessions, and (2) the taxpayer claiming the deduction must attach to his tax return for the year in question two written statements, described below.

One statement, signed by the individual attending the meeting, is to include information with respect to the total days of the trip (excluding the days of transportation to and from the cruise ship port) and the number of hours of each day of the trip that the individual devoted to scheduled business activity, a program of the scheduled business activity of the meeting, and such other information as the Secretary may require by regulations. The other statement must be signed by a representative of the sponsoring organization or group and must include a schedule of the business activity of each day of the meeting, the number of hours during which the individual attending the meeting attended such scheduled business activities, and such other information as the Secretary may require by regulations.

No deductions are available for cruises on foreign flag vessels, or for cruises calling on foreign ports.

The provision applies to taxable years beginning after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment with a technical amendment that specifies that the maximum deduction available per individual per year is $2,000, even in a case of a married individual filing separately. Thus, under the conference agreement, if two married individuals filing a joint return each attended otherwise deductible cruise ship conventions at a cost of $2,000 each during a taxable year, a total of $4,000 would be deductible by those persons on their return for that year. If a married individual attended an otherwise deductible cruise ship convention at a cost of $3,000 (while his spouse attended no such convention), however, only $2,000 would be deductible for that year, whether a joint return or a separate return was filed for that year.

L. DELAY IN INTEREST REPORTING EFFECTIVE DATE

Present law

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) expanded the interest reporting provisions with respect to amounts paid, or treated as paid, after December 31, 1982. Under these rules, every person making a payment of interest aggregating $10 or more in any calendar year, or making payments of interest subject to withholding (withholding is generally effective for payments made after June 30, 1983), must file an information return with the Secretary. In general, interest means interest on obligations issued in registered form or publicly offered obligations (other than short-term obligations held by corporations), interest paid on bank deposits, or deposits with other financial institutions, as well as such other amounts as the Secretary may designate as interest by regulations. Under TEFRA, original issue discount on any obligation generally is subject to reporting at the time includible in income without regard to subsequent purchaser's cost basis.

House bill

No provision.

Senate amendment

Under the Senate amendment, the interest reporting provisions of TEFRA generally would not apply to payments of interest, or amounts treated as paid, prior to July 1, 1983. However, the interest reporting requirements would continue to apply to any payment to the extent reporting was required under prior law and to any payment by a payor with respect to its own obligations.

Conference agreement

The conference agreement does not include the Senate amendment.

M. TAX EXEMPT DIVIDENDS OF REGULATED INVESTMENT COMPANIES

Present law

The Tax Reform Act of 1976 amended the rules applicable to the taxation of regulated investment companies (commonly referred to as "mutual funds") and their shareholders to allow the pass through or conduit treatment of tax exempt interest. Under those rules, if more than 50 percent of the assets of a regulated investment company are assets described in section 103(a)(1), then the portion of the dividends paid to its shareholders which are paid from interest which is exempt from tax under section 103(a)(1) is treated in the hands of the shareholder as income which is exempt from tax under section 103(a)(1). (See sec. 852(b)(5)).

In addition to the special treatment accorded obligations described in section 103(a)(1) under section 852(b)(5), there are a number of other provisions in the Internal Revenue Code where special treatment is accorded to obligations which are described

in section 103(a) or the income from those obligations.

Section 103(a)(1) provides that gross income does not include interest on the obligations of a State, a Territory, or a possession of the United States, or any political subdivision of those entities, or of the District of Columbia. In addition to obligations described in section 103(a)(1), present law also provides exemption for interest on a number of obligations which are not described in section 103(a)(1). For example, exemption is provided to certain qualified scholarship fundings bonds (under section 103(a)(2)), certain obligations of housing agencies (under section 11(b) of the Housing Act of 1949), and certain obligations of Puerto Rico and the Virgin Islands. Interest on these obligations which are not described in section 103(a)(1) does not qualify for the pass-through or conduit treatment of regulated investment companies.

House bill

No provision.

Senate amendment

The Senate amendment broadens the types of obligations described in section 103(a)(1) to include all obligations on which the interest is exempt from Federal income tax under all provisions of Federal law outside of the Internal Revenue Code (as those provisions of law were in effect on the date of enactment of this bill). Thus, obligations described in section 11(b) of the Housing Act of 1949 and obligations of Puerto Rico and the Virgin Islands would be included in the obligations described in section 103(a)(1). The interest on such obligations would be considered interest described in section 103(a)(1) for all purposes of the Internal Revenue Code, including the pass-through or conduit treatment accorded to tax exempt interest under section 103(a)(1) of regulated investment companies. Obligations described in these other provisions of law are not subject to the rules applicable to industrial development bonds or arbitrage bonds.

The Senate amendment also provides that only provisions in the Internal Revenue Code may provide for the exemption of interest on obligations. Thus, after enactment of this provision, interest on obligations described in section 11(b) of the Housing Act of 1949 or obligations of Puerto Rico or the Virgin Islands is exempt from tax under section 103(a)(1) of the Internal Revenue Code and not pursuant to laws describing those obligations under present law.

Conference agreement

The conference agreement follows the Senate amendment.

N. STUDY OF TRAVEL AND TRANSPORTATION EXPENSES OF CONSTRUCTION WORKERS

Present law

Under present law, a taxpayer is allowed a deduction for traveling expenses incurred while away from home in the pursuit of a trade or business. For purposes of this deduction, the taxpayer's employment at a location away from home must be temporary. The Internal Revenue Service has ruled that, if the anticipated and actual duration of employment at a particular location is less than a year, the employment will normally be considered to be temporary. However, the courts do not necessarily apply this mechanical test and instead, look to the facts and circumstances to determine whether the employment is temporary or permanent.

House bill

No provision.

Senate amendment

Under the Senate amendment, the Secretary of the Treasury is directed to submit, by July 1, 1983, to the House Committee on Ways and Means and the Senate Committee on Finance a study of the tax treatment of travel and transportation expenses of construction workers at job sites away from home.

Conference agreement

The conference agreement does not include the Senate amendment.

O. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY

Present law

A taxpayer may deduct in a taxable year the expenses incurred in removing a qualified architectural and transportation barrier to the handicapped and elderly. These deductions otherwise would be charged to the taxpayer's capital account.

A qualified deductin is an expenditure to make any facility or public transportation vehicle more accessible to, and usable by, handicapped and elderly individuals. To take a qualified deduction, the taxpayer must establish that the barrier removal meets standards set by the Secretary and the Architectural and Transporation Barriers Compliance Board as prescribed in regulations.

A handicapped individual means an individual who has a mental or physical disability (including blindness or deafness) which (1) constitutes a functional limitation to employment or (2) substantially limits one or more major life activities of the individual.

The deduction may not exceed $25,000 for any taxable year.

The provision expires after December 31, 1982.

House bill

No provision.

Senate amendment

The expiration date of the deduction for qualified architectural and transportation barrier removal expenses is extended for one year, through December 31, 1983.

Conference agreement

The conference agreement does not include the Senate amendment.

P. NORMALIZATION METHOD FOR PUBLIC UTILITY PROPERTY

Present law

Under present law, normalization generally requires that tax benefits attributable to the investment tax credit, accelerated depreciation and accelerated cost recovery be taken into account for ratemaking purposes over the service life of the asset that generates the tax benefits.

House bill

There is no provision under H.R. 6211. However, H.R. 1524 as passed by the House restates and makes more specific the normalization rules relating to the investment tax credit, accelerated depreciation and accelerated cost recovery. Under this bill, special transition rules are also provided to preclude the loss of eligibility for these investment incentives with respect to rate orders entered into prior to March 13, 1980 affecting three California utilities (Pacific Telephone and Telegraph Company, General Telephone Company of California, and Southern California Gas Company).

Senate amendment

The Senate amendment generally follows the provisions of H.R. 1524, but modifies the special transition rules.

First, to obtain relief under these transition rules, a portion of the tax benefits would have to be repaid to the Treasury over a 2-year period generally beginning June 30, 1983. The portion to be repaid would be limited to the tax benefits which were actually flowed through to consumers too rapidly. If timely paid during the 2-year period, no interest would be charged to the utilities with respect to the repayments. For Federal income tax purposes (including the treatment of property dispositions and the amount of depreciation deductions), so much of the taxpayer's investment in property as is necessary to produce the tax benefits required to be repaid shall be treated as not having satisfied the normalization requirements.

Second, the remaining portion of the tax benefits, which would otherwise have to be repaid as a result of a disqualifying rate order, will be eligible for protection under the transition rule only if the taxpayers enter into closing agreements with the Internal Revenue Service, generally before July 1, 1983.

Third, the Internal Revenue Service would pay no interest on refunds due to the utilities with respect to amounts previously repaid to the Treasury.

Conference agreement

The conference agreement follows the Senate amendment.

Q. EFFECT OF SALE IN BANKRUPTCY OF AIRCRAFT SUBJECT TO SAFE-HARBOR LEASE

Present law

In general, the regular investment credit applies to tangible personal property and other tangible property (generally not including a building or structural component) used in connection with manufacturing, production, or certain other activities. Property used predominantly outside the United States generally is not eligible.

Recapture of investment credit is required if the property either is disposed of or ceases to be used for a qualifying purpose prior to the end of the recovery period used for computing ACRS deductions. For example, recapture is required if 5-year recovery property is used predominantly outside the United States before the end of the 5-year recovery period.

The general rule requiring recapture upon sale of property does not apply when property subject to a safe-harbor lease is sold as a result of the bankruptcy of the lessee, if certain requirements are met (bankruptcy rule). Among the requirements that must be met is a requirement that the person who purchases the property use the property predominantly within the United States.

The safe-harbor lease rules were modified by the Tax Equity and Fiscal Responsibility Act of 1982. Those modifications do not affect either the general recapture rule or the special bankruptcy rule. The modifications do not apply to transitional safe-harbor lease property, including certain aircraft.

House bill

No provision.

Senate amendment

For aircraft covered by the safe-harbor lease transitional rules, the Senate amendment provides that no recapture will be required upon sale of the aircraft in bankrupt-

cy to a person who uses the property predominantly outside the United States if the other requirements of the bankruptcy rule (other than the prohibition against foreign use) are met.

Conference agreement

The conference agreement does not include the Senate amendment.

III. OTHER PROVISIONS

A. SOCIAL SECURITY ACT PROVISIONS: DISREGARD OF CERTAIN ENERGY ASSISTANCE IN SUPPLEMENTAL SECURITY INCOME (SSI) AND AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROGRAMS

Present law

In the welfare programs of SSI and AFDC, the monthly payment to each recipient is determined by subtracting that person's other income from a specified assistance standard. The AFDC and SSI statutes specify certain limited types of income which are not to be counted in making these determinations. Otherwise, all income serves to reduce the assistance payment. (In the case of SSI, in-kind income is explicitly included in the definition of income.)

House bill

No provision.

Senate amendment

The Senate amendment would add to the items which are not counted as income certain types of assistance provided to help AFDC and SSI recipients meet their energy needs. Any such assistance in cash or kind would be excluded from income if it is based on the need for assistance with home energy costs and is furnished by a home heating oil or gas supplier or by a utility company (including a municipal utility) which provides home energy. Assistance of this type provided by a non-profit organization would also be excluded from income but only if it is in-kind assistance. In the case of the AFDC program, the exclusion provided by the amendment would be optional with each State. The amendment would apply to assistance provided from the month after enactment through June 1985. Prior to April 1985, the Secretary of Health and Human Services would be required to report on the implementation of the amendment.

Conference agreement

The conference agreement follows the Senate amendment.

B. UNEMPLOYMENT COMPENSATION PROVISIONS: EXTENSION OF FEDERAL SUPPLEMENTAL COMPENSATION (FSC) BENEFITS

Present law

Most States provide up to a maximum of 26 weeks of State unemployment compensation benefits to unemployed individuals who meet the qualifying requirements of State law. Many claimants qualify for less than the maximum 26 weeks of State benefits. State benefits are financed out of State unemployment trust funds.

Under the permanent Federal-State extended benefits (EB) program, additional weeks of unemployment compensation are payable to individuals who exhaust their State benefits during periods of high unemployment. No one may receive more than 13 weeks of extended benefits, or more than 39 weeks of State plus extended benefits. Extended benefits are financed one-half out of State unemployment trust funds and one-half out of Federal unemployment trust funds.

Effective September 12, 1982 through March 31, 1983, up to 10 additional weeks of unemployment compensation benefits are available for unemployed workers in States in which extended benefits are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks of benefits are provided in States in which the extended benefit trigger rate equals or exceeds 3.5 percent. Up to 6 additional weeks of unemployment benefits are provided in all other States.

If at any time 10 additional weeks of benefits are or become payable in a State, qualified unemployed workers in the State will be able to receive up to 10 weeks of benefits throughout the duration of the program, regardless of changes in the extended benefit trigger rates in the State. These benefits are financed totally by the Federal Treasury.

The additional weeks of benefits are paid to unemployed workers whose entitlement to State benefits (i.e., benefit year) or extended benefits ended on or after June 1, 1982; and

(a) who have no rights to regular or other State benefits or Federal/State extended benefits;

(b) who have worked 20 or more weeks or have the equivalent in wages (i.e., 40 times the weekly benefit amount or one and one-half times high quarter wages, as specified in the extended benefits program) during the State defined base-period (generally a 12 month period prior to the time the person filed for State unemployment compensation); and,

(c) who continue to meet all other State and extended benefit requirements.

Except in States in which 10 additional weeks are or become payable, and individual's eligibility is determined on a week by week basis according to the situation prevailing in the State. For example, an individual who initially qualifies for 6 weeks of benefits under this program (because the State extended benefit trigger rate is under 3.5 percent) may receive an additional 2 or 4 weeks of benefits if the rate subsequently increases (even if this occurs some weeks after he exhausts his 6-week entitlement). Similarly, an individual who draws his first week of benefits under this program at a time when the State meets the 8-week criteria will not be eligible for a seventh or eighth week of benefits if the State extended benefit trigger rate drops below 3.5 percent before he receives the seventh and eighth week of benefits.

The determination of whether a State has a rate of 3.5 percent or more is determined in the same manner as the extended benefit triggers: that is, on the basis of the average of the rates prevailing during a 13-week period ending 3 weeks previously.

House bill

No provision.

Senate amendment

The Senate amendment modifies the number of weeks payable under the Federal Supplemental Compensation program as follows: 16 weeks are payable in States with an insured unemployment rate of 6 percent or more; 14 weeks are payable in States with less than 6 percent insured unemployment if the State was eligible for extended benefits at any time between June 1, 1982, and enactment; 12 weeks are payable in States where the insured unemployment rate is below 6 percent but at least 4.5 percent or if the State becomes eligible for extended benefits after enactment; 10 weeks are payable in States where the insured unemployment rate is below 4.5 percent but not below 3.5 percent; 8 weeks in all other States.

The program will still expire on March 31, 1983.

Conference agreement

The conference agreement follows the Senate amendment with a technical modification. This modifies a provision in H.R. 6056, The Technical Corrections Act of 1982, pertaining to the payment of interstate claims for FSC benefits, to conform this provision to the changes contained in this agreement.

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
W. M. BRODHEAD,
BARBER CONABLE,
JOHN J. DUNCAN,
BILL ARCHER,
JAMES J. HOWARD,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
ELLIOTT H. LEVITAS,
JOHN BREAUX,
DON CLAUSEN,
GENE SNYDER,
BUD SHUSTER,
Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
DAVE DURENBERGER,
RUSSELL LONG,
HARRY BYRD, JR.,
SPARK MATSUNAGA,
For title II:
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
JAMES ABDNOR,
LLOYD BENTSEN,
JENNINGS RANDOLPH,
For title III:
JOHN TOWER,
RICHARD G. LUGAR,
DON RIEGLE,
For title IV:
BOB PACKWOOD,
J. C. DANFORTH,
HOWARD CANNON,
Managers on the Part of the Senate.

SENATE BILLS AND JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills and joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1705. An act to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior; to the Committee on Interior and Insular Affairs;

S. 1867. An act to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes; to the Committee on Energy and Commerce and Public Works and Transportation;

S. 1999. An act to authorize the Secretary of the Interior to install pump casings in the southern Nevada water project; to the Committee on Interior and Insular Affairs;

S. 1963. An act to improve the internal security of the United States by clarifying the

notification requirements for foreign agents under section 951 of title 18, United States Code, and to increase the penalties for failure to notify; to the Committee on the Judiciary;

S. 1939. An act to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal and Skin Diseases; to the Committee on Energy and Commerce;

S. 2279. An act to designate the Alben Barkley National Historic Site; to the Committee on Interior and Insular Affairs;

S. 2308. An act to direct the Secretary of Agriculture to convey certain property to the city of Show Low, Arizona; to the Committee on Interior and Insular Affairs;

S.J. Res. 155. Joint resolution redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site"; to the Committee on Interior and Insular Affairs and Public Works and Transportation; and

S.J. Res. 265. Joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism"; to the Committee on Post Office and Civil Service;

S. Con. Res. 46. Concurrent resolution expressing the sense of the Congress with regard to the mutual security efforts of the United States and Japan; to the Committee on Foreign Affairs; and

S. Con. Res. 122. Concurrent resolution relating to the processed product share of U.S. agricultural exports; to the Committee on Agriculture, Banking, Finance and Urban Affairs, Foreign Affairs, and Ways and Means.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RUSSO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. LONG of Louisiana (at the request of Mr. WRIGHT), for December 20 and 21, on account of illness.

Mr. LUKEN (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. CAMPBELL (at the request of Mr. MICHEL), for today after 8 p.m., on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LOEFFLER) to revise and extend their remarks and include extraneous material:)

Mr. JEFFORDS, for 30 minutes, today.

(The following Members (at the request of Mr. KILDEE) to revise and extend their remarks and include extraneous material:)

Mr. WEISS, for 30 minutes, today.

Mr. SHELBY, for 5 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. FORD, OF MICHIGAN, for 5 minutes, today.

Mr. LAFALCE, for 60 minutes, today.

Mr. PEPPER, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HANSEN of Idaho and to include extraneous matter in five instances on official matters concerning the Washington Public Power Supply System, notwithstanding the fact that they exceed two pages of the RECORD and are estimated by the Public Printer to cost $2,023 in the first instance, $1,309 in the second instance, $1,190 in the third instance, $714 in the fourth instance, and $237.50 in the fifth instance.

Mr. LENT to revise and extend his remarks and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $4,046.

Mr. JEFFORDS to place remarks in the RECORD in favor of House Concurrent Resolution 236 after remarks of the gentleman from Virginia.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 625. An act to revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes;

S. 717. An act for the relief of Carole Joy Maxfield-Raynor and Bruce Sherlock Maxfield-Raynor, wife and husband, and their children Charlton Bruce Maxfield-Raynor and Maxine Anne Maxfield-Raynor;

S. 835. An act for the relief of Jerry L. Crow and Ralph D. and Connie V. Hubbell;

S. 1364. An act for the relief of Jose Ramon Beltron Aivenda Ostler;

S. 1501. An act entitled the "Educational Mining Act of 1982";

S. 1838. An act for the relief of Cesar Noel Jump;

S. 1965. An act to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System;

S. 1986. An act to provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of Fort Belknap Indian Community, in certain dockets of the United States Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, and for other purposes.

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes;

S. 2355. An act to amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities;

S. 2623. An act to amend the extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes.

S. 2955. An act to establish the Cheaha Wilderness in Talladega National Forest, Ala.

S. 3103. An act to amend section 1304(e) of title 5, United States Code; and

S.J. Res. 270. Joint resolution to designate 1983 as the "Bicentennial of Air and Space Flight."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

[Inadvertently omitted from record on December 20, 1982.]

S. 187. An act to authorize the Secretary of the Interior to convey certain lands near Miles City, Mont., and to remove certain reservations from prior conveyances; and

S. 3113. An act to make certain minor and technical amendments to the Job Training Partnership Act.

ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

[Inadvertantly omitted from Congressional Record of December 20, 1982.]

H.R. 1952. An act authorizing appropriations to carry out conservation programs on military, reservations and public lands during fiscal year 1983, 1984, and 1985, and for other purposes;

H.R. 5204. An act to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians;

H.R. 6588. An act to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal Services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes;

H.R. 6946. An act to amend title 18 of the United States Code to provide penalties for certain false identification related crimes;

H.R. 7144. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes;

H.R. 7155. An act to settle certain Indian land claims within the State of Florida, and for other purposes; and

H.R. 7377. An act to designate the Lakeview Lake project, Mountain Creek Texas, as the "Joe Pool Lake."

SINE DIE ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I move that the House do now adjourn sine die.

The motion was agreed to.

The SPEAKER pro tempore. In accordance with the provisions of House Concurrent Resolution 438, the Chair declares the 2d session of the 97th Congress adjourned sine die.

Thereupon (at 9 o'clock and 56 minutes p.m.), pursuant to House Concur-

rent Resolution 438, the House adjourned sine die.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[*December 21 (legislative day, December 19) 1982*]

5319. A letter from the Secretary of the Department of the Interior, transmitting notice of a detailed soil survey and land classification of additional lands to be served by the Central Arizona project, Arizona, have been completed by the Bureau of Reclamation, pursuant to Public Law 83-172; to the Committee on Appropriations.

5320. A letter from the Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness, transmitting a copy of the final Northeast regional environmental impact statement, pursuant to the Powerplant and Industrial Fuel Use Act of 1978, as amended; to the Committee on Energy and Commerce.

5321. A letter from the Director of Policy, Planning and Analysis, Department of Energy, transmitting the Secretary's fourth annual report to Congress, pursuant to section 18(d), Public Law 93-275; to the Committee on Energy and Commerce.

5322. A letter from the Secretary of Energy, transmitting the annual report on financing, supply, and installation activities of public utilities in connection with the residential conservation service, pursuant to section 216(g) of the National Energy Conservation Policy Act, as amended; to the Committee on Energy and Commerce.

5323. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual by the U.S. Government during fiscal year 1982, pursuant to section 515(b)(2) of Public Law 95-105; to the Committee on Foreign Affairs.

5324. A letter from the Secretary General, North Atlantic Assembly, transmitting texts of the recommendations and resolutions adopted at the Assembly's 28 Annual Session, held in London from November 14 to 19, 1982; to the Committee on Foreign Affairs.

5325. A letter from the Clerk, U.S. Court of Claims, transmitting a copy of the court's judgment order in Docket Nos. 212, 213, *Wyandotte Tribe and Nation* v. *The United States*; to the Committee on Interior and Insular Affairs.

5326. A letter from the Chairman, Administrative Conference of the United States, transmitting the first annual report on the agency's activities under the Equal Access to Justice Act, pursuant to 5 U.S.C. 504(e); to the Committee on the Judiciary.

5327. A letter from the Director, Federal Judicial Center, transmitting the 1982 annual report of the Federal Judicial Center, pursuant to 28 U.S.C. 623(b); to the Committee on the Judiciary.

5328. A letter from the Secretary of Energy, transmitting the fourth annual report on the automotive technology development program for fiscal year 1982, pursuant to sections 310(a) and 304(f) of Public Law 95-328; to the Committee on Science and Technology.

5329. A letter from the Comptroller General of the United States, transmitting a report on reducing data processing costs at Army and Air Force Exchange Service, (GAO/AFMD-83-17, December 21, 1982); jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*December 21 (legislative day, December 19) 1982*]

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.R. 5470 (Rept. No. 97-984). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.R. 7093 (Rept. No. 97-985). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.R. 6056 (Rept. No. 97-986). Order to be printed.

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.R. 6211 (Rept. No. 97-987). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.R. 6094 (Rept. No. 97-988). Ordered to be printed.

Mr. GIBBONS: Committee of conference. Conference report on H.R. 4566 (Rept. No. 97-989). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*December 21 (legislative day, December 19), 1982*]

By Mr. WHITTEN:

H.R. 7454. A bill making appropriations to provide for productive employment for the fiscal year 1983, and for other purposes; to the Committee on Appropriations;

H.R. 7455. A bill to restore the U.S. share of world trade, to provide for payment-in-kind, which shall be considered a payment to American farmers for their financial losses suffered by reason of the Government having held American farm commodities off world markets, and for other purposes; to the Committee on Agriculture.

By Mr. LOWRY of Washington (for himself, Mr. BONIOR of Michigan, Mr. EMERY, and Mr. FOGLIETTA):

H.R. 7456. A bill to give priority to conserving the biological integrity and genetic diversity of naturally spawning populations of anadromous fish; to the Committee on Merchant Marine and Fisheries.

By Mr. PICKLE:

H.R. 7457. A bill to amend title II of the Social Security Act to make miscellaneous and technical improvements relating to cash management, gender-based distinctions, coverage, and other matters under the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI:

H. Con. Res. 439. Concurrent resolution providing for clarification of Indian tribal government in the case of Alaska Natives; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follow:

[*December 21 (legislative day, December 19), 1982*]

520. By the Speaker. Memorial of the Legislature of the State of Indiana, relative to the Amtrak Cincinnati-Indianapolis rail line; to the Committee on Energy and Commerce.

521. Also, memorial of the Legislature of the State of Indiana, relative to authorization of a boat marina within the Indiana Dunes National Lakeshore to be named "The Adam Benjamin, Jr., Memorial Marina"; to the Committee on Interior and Insular Affairs.

522. Also, memorial of the voters of the State of New Jersey, relative to nuclear arms freeze; jointly, to the Committees on Armed Services and Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[*December 21 (legislative day, December 19) 1982*]

H.R. 3827: Mr. FOGLIETTA.

H.R. 4484: Mr. HUGHES, Mr. EMERY, Mr. FORD of Tennessee, Mr. BADHAM, Mr. QUILLEN, Mr. TAUZIN, Mr. MINETA, Mr. FOGLIETTA, Mr. DYMALLY, Mr. PEPPER, Mr. DE LA GARZA, and Mr. OXLEY.

H.R. 6916: Mr. DYSON.

H.R. 6928: Mr. OBERSTAR and Mr. RATCHFORD.

H.R. 7309: Mr. GRAY.

H.R. 7321: Mr. SENSENBRENNER and Mr. GILMAN.

H.R. 7362: Mr. SMITH of New Jersey, Mr. MATSUI, Mr. BLILEY, Mr. STOKES, Mr. WILLIAM J. COYNE, Mr. GONZALEZ, Mr. WYLIE, Mr. STARK, Mr. PEPPER, Mr. SHAMANSKY, Mr. ROSENTHAL, Mr. LOWRY of Washington, Mrs. MARTIN of Illinois, Mr. DANIEL B. CRANE, Mr. RANGEL, Mr. D'AMOURS, Mr. SCHEUER, Mr. WASHINGTON, Mr. GOODLING, Mr. RUSSO, Mr. ROE, Mr. FOGLIETTA, Mr. REGULA, and Mr. MINISH.

H.R. 7379: Mr. BEDELL and Mr. BEREUTER.

H.J. Res. 420: Mr. LONG of Maryland.

H.J. Res. 585: Mr. SIMON and Mr. WYLIE.

H. Res. 606: Mr. ROE.

PETITIONS, ETC.

Under clause 1 of rule XXII,

[*December 21 (legislative day, December 19), 1982*]

681. The SPEAKER presented a petition of the Western States Land Commissioners Association, relative to H.R. 5121 and S. 2305, natural resource royalties on Federal lands; which was referred to the Committee on Interior and Insular Affairs.

MESSAGES FROM THE SENATE

Pursuant to the permission granted in the Rules of the House of Representatives, the Clerk received the following messages from the Secretary of the Senate:

On December 22, 1982:

That the Senate agrees to the reports of the committees of conference on the disa-

greeing votes of the two Houses on the amendments of the Senate to the bills H.R. 4566, H.R. 5470, H.R. 6065, H.R. 6094, and H.R. 7093.

That the Senate passed without amendment H.R. 7406.

On December 23, 1982:

That the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 6211.

That the Senate passed without amendment H.R. 4568, H.R. 5027, H.R. 6519, H.R. 7410, House Joint Resolution 630, and House Concurrent Resolution 439.

ENROLLED BILLS SIGNED AFTER SINE DIE ADJOURNMENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

On December 22, 1982:

H.R. 2330. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes;

H.R. 2520. An act for the relief of Emanuel F. Lenkersdorf;

H.R. 5238. An act to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare disease and conditions, and for other purposes;

H.R. 5858. An act for the relief of Mocatta and Goldsmid, Ltd. Sharps, Pixley & Co., Ltd., and Primary Metal & Mineral Corp.;

H.R. 6120. An act to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984;

H.R. 6254. An act to amend title 3, United States Code, to clarify the function of the U.S. Secret Service Uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes;

H.R. 6804. An act to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes; and

H.R. 7356. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 503. An act to authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and for other purposes;

S. 705. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes;

S. 1540. An act to revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes;

S. 2273. An act to amend the Earthquake Hazards Reduction Act of 1977 to extend authorizations of appropriations, and for other purposes;

S. 2863. An act to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail;

S. 3105. An act to modify the judicial districts of West Virginia, and for other purposes;

S.J. Res. 101. Joint resolution designating "National High School Activities Week";

S.J. Res. 240. Joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week";

S.J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1982 as "National Closed-Captioned Television Month";

S.J. Res. 260. Joint resolution to designate the period commencing January 1, 1983, ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America";

S.J. Res. 264. Joint resolution to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week"; and

S.J. Res. 271. Joint resolution to make technical corrections in certain banking and related statutes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee has examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9. An act to designate components of the National Wilderness Preservation System in the State of Florida;

H.R. 2475. An act to modify a withdrawal of certain lands in Mono County, Calif., to facilitate an exchange for certain other lands in Mono County, Calif., and for other purposes;

H.R. 2481. An act for the relief of Cynthia Gambon Rabena;

H.R. 3420. An act making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes;

H.R. 3731. An act to amend the act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims;

H.R. 3809. An act to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes;

H.R. 3963. An act to amend the Contract Service for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated;

H.R. 4001. An act to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes;

H.R. 4350. An act for the relief of Arthur J. Grauf;

H.R. 4491. An act to exempt the U.S. Capitol Historical Society from certain taxes;

H.R. 4496. An act to grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes;

H.R. 4566. An act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes;

H.R. 4568. An act to direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, N. Mex. and for other purposes;

H.R. 4746. An act for the relief of Kin Chi Eng Sims;

H.R. 5002. An act to improve fishery conservation and management;

H.R. 5027. An act to designate the building known as the U.S. Post Office and Courthouse in Norfolk, Va., as the "Walter E. Hoffman U.S. Courthouse";

H.R. 5029. An act to designate the Federal building in Fresno, Calif., as the "B. F. Sisk Federal Building";

H.R. 5121. An act to insure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes;

H.R. 5161. An act to designate certain lands in the Monongahela National Forest, W. Va., as wilderness; and to designate management of certain lands for uses other than wilderness;

H.R. 5447. An act to extend the Commodity Exchange Act, and for other purposes;

H.R. 5456. An act to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements;

H.R. 5470. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, and for other purposes;

H.R. 5633. An act for the relief of Dana Braford Baretto;

H.R. 5826. An act to provide for the reinstatement and validation of U.S. oil and gas lease numbered W-24153;

H.R. 5916. An act to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the tribes of such Indians;

H.R. 6056. An act to make technical corrections in the Economic Recovery Tax Act of 1981 and certain other recent tax legislation;

H.R. 6094. An act to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes;

H.R. 6211. An act to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes;

H.R. 6243. An act to provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes;

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University;

H.R. 6519. An act to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties;

H.R. 6538. An act to designate the Federal building in Lima, Ohio, as the "Tennyson Guyer Federal Building";

H.R. 6679. An act to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such act, and for other purposes;

H.R. 6993. An act to revise codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation";

H.R. 7005. An act to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixture intended for lawn and turf purposes and prohibitions relating to importations of certain seeds, and for other purposes;

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes;

H.R. 7102. An act to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes;

H.R. 7143. An act to amend the Foreign Assistance Act of 1961 to extend for an additional year the agricultural and productive credit and self-help community development programs;

H.R. 7154. An act to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes;

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH;

H.R. 7316. An act to establish the national park system visitor facilities fund, and for other purposes;

H.R. 7336. An act to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981;

H.R. 7378. An act to codify without substantive change recent laws related to money and finance and to improve the United States Code;

H.R. 7406. An act to designate a certain Federal building in Springfield, Ill., the "Paul Findley Building";

H.R. 7410. An act to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes;

H.R. 7420. An act to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, Calif. project as the "Don H. Clausen Fish Hatchery";

H.R. 7423. An act to recognize the organization known as Former Members of Congress;

H.J. Res. 459. Joint resolution authorizing the President to proclaim May 13, 1983, as "American Indian Day";

H.J. Res. 619. Joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day";

H.J. Res. 630. Joint resolution to commemorate the 150th anniversary of the founding of Greene County, Mo.; and

H.J. Res. 635. Joint resolution establishing the dates for submission of the budget and economic report.

BILLS, JOINT AND CONCURRENT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills, joint and concurrent resolutions of the House of the following titles:

On December 20, 1982:

H.J. Res. 631. Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year ending September 30, 1983, and for other purposes.

On December 21, 1982:

H.R. 1952. An act authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1983, 1984, and 1985, and for other purposes;

H.R. 5204. An act to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians;

H.R. 6588. An act to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes;

H.R. 6946. An act to amend title 18 of the United States Code to provide penalties for certain false identification related crimes;

H.R. 7144. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes;

H.R. 7155. An act to settle certain Indian land claims within the State of Florida, and for other purposes;

H.R. 7377. An act to designate the Lakeview Lake project, Mountain Creek, Tex., as the "Joe Pool Lake."

JOINT AND CONCURRENT RESOLUTIONS BILLS PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills, joint and concurrent resolutions of the House of the following titles:

On December 23, 1982:

H.R. 2330. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes;

H.R. 2520. An act for the relief of Emanuel F. Lenkersdorf;

H.R. 5238. An act to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes;

H.R. 5858. An act for the relief of Mocatta & Goldsmid, Ltd., Sharps, Pixley & Co., Ltd., and Primary Metal and Mineral Corp.;

H.R. 6120. An act to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984;

H.R. 6254. An act to amend title 3, United States Code, to clarify the function of the U.S. Secret Service uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes;

H.R. 6804. An act to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes;

H.R. 7356. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes;

On January 3, 1983:

H.R. 9. An act to designate components of the National Wilderness Preservation System in the State of Florida;

H.R. 2475. An act to modify a withdrawal of certain lands in Mono County, California, to facilitate an exchange for certain other lands in Mono County, Calif., and for other purposes;

H.R. 2481. An act for the relief of Cynthia Gambon Rabena;

H.R. 3420. An act making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes;

H.R. 3731. An act to amend the act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims;

H.R. 3809. An act to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes;

H.R. 3963. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated;

H.R. 4001. An act to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes;

H.R. 4350. An act for the relief of Arthur J. Grauf;

H.R. 4491. An act to exempt the U.S. Capitol Historical Society from certain taxes;

H.R. 4496. An act to grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes;

H.R. 4566. An act to reduce certain duties, to suspend certain existing suspensions of duties, and for other purposes;

H.R. 4568. An act to direct the Secretary of the Interior to release on behalf of the

United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, N. Mex., and for other purposes;

H.R. 4746. An act for the relief of Kin Chi Eng Sims;

H.R. 5002. An act to improve fishery conservation and management;

H.R. 5027. An act to designate the building known as the U.S. Post Office and Courthouse in Norfolk, Va., as the "Walter E. Hoffman U. S. Courthouse";

H.R. 5029. An act to designate the Federal building in Fresno, Calif., as the "B. F. Sisk Federal Building";

H.R. 5121. An act to insure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes;

H.R. 5161. An act to designate certain lands in the Monongahela National Forest, W. Va., as wilderness; and to designate management of certain lands for uses other than wilderness;

H.R. 5447. An act to extend the Commodity Exchange Act, and for other purposes;

H.R. 5456. An act to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements;

H.R. 5470. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, and for other purposes;

H.R. 5633. An act for the relief of Dana Braford Baretto;

H.R. 5826. An act to provide for the reinstatement and validation of U.S. oil and gas lease numbered W-24153;

H.R. 5916. An act to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the tribes of such Indians;

H.R. 6056. An act to make technical corrections in the Economic Recovery Tax Act of 1981 and certain other recent tax legislation;

H.R. 6094. An act to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes;

H.R. 6211. An act to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes;

H.R. 6243. An act to provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes;

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University;

H.R. 6519. An act to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties;

H.R. 6538. An act to designate the federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building";

H.R. 6679. An act to authorize the Secretary of Agriculture to asses civil penalties with respect to violations of certain acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such act, and for other purposes;

H.R. 6993. An act to revise codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 48, United States Code, "Transportation";

H.R. 7005. An act to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes;

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes;

H.R. 7102. An act to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor, and for other purposes;

H.R. 7143. An act to amend the Foreign Assistance Act of 1961 to extend for an additional year the agricultural and productive credit and self-help community development programs;

H.R. 7154. An act to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes;

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH;

H.R. 7316. An act to establish the national park system visitor facilities fund, and for other purposes;

H.R. 7336. An act to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981;

H.R. 7378. An act to codify without substantive change recent laws related to money and finance and to improve the United States Code;

H.R. 7406. An act to designate a certain Federal building in Springfield, Ill., the "Paul Findley Building";

H.R. 7410. An act to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes;

H.R. 7420. An act to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, Calif., project as the "Don H. Clausen Fish Hatchery";

H.R. 7423. An act to recognize the organization known as Former Members of Congress;

H.J. Res. 459. Joint resolution authorizing the President to proclaim May 13, 1983, as "American Indian Day";

H.J. Res. 619. Joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day";

H.J. Res. 630. Joint resolution to commemorate the 150th anniversary of the founding of Greene County, Mo.;

H.J. Res. 635. Joint resolution establishing the dates for submission of the Budget and Economic Report; and

H. Con. Res. 330. Concurrent resolution expressing the sense of the Congress with respect to the Soviet Union's obligations under international law to allow Ida Nudel to emigrate to Israel, and for other purposes.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted December 29, 1982]

Mr. HAWKINS: Committee on House Administration. Report on the activities of the Committee on House Administration of the House of Representatives during the 97th Congress (Rept. No. 97-990). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. Report on the activities of the Committee on Agriculture during the 97th Congress (Rept. No. 97-991). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 30, 1982]

Mr. ZEFERETTI: Select Committee on Narcotics Abuse and Control. Annual Report for the year 1982 of the Select Committee on Narcotics Abuse and Control, 97th Congress, 2d session (Rept. No. 97-992). Referred to the Committee of the Whole House on the State of the Union.

Mr. MITCHELL of Maryland: Committee on Small Business. Report on the summary of activities of the Committee on Small Business during the 97th Congress (Rept. No. 97-993). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on activities of the House Committee on Government Operations, 97th Congress 1st and 2d sessions (Rept. No. 97-994). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Select Committee on Aging. Report on the activities of the Select Committee on Aging during the 97th Congress (Rept. No. 97-995). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. Report on legislative review activities of the Committee on Foreign Affairs, 97th Congress (Rept. No. 97-996). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. Report on the activities of the Committee on the Judiciary of the House of Representatives during the 97th Congress (Rept. No. 97-997). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. Activities report of the Committee on Veterans' Affairs for the 97th Congress (Rept. No. 97-998). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. Activities and summary report of the Committee on the District of Columbia for the 97th Congress (Rept. No. 97-999). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. Report on the activities of the Committee on Education and Labor during the 97th Congress (Rept. No. 97-1000). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee on Armed Services. Report of the activities of the Committee on Armed Services for the 97th Congress (Rept. No. 97-1001). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. Report of the activity of the Committee on Energy and Commerce, 97th Congress, 2d session (Rept. No. 97-1002). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. Report of the activities of the Merchant Marine and Fisheries Committee, 97th Congress (Rept. No. 97-1003). Referred to the Committee of the Whole House on the State of the Union.

Mr. STOKES: Committee on Standards of Official Conduct. Report on summary of activities of the Committee on Standards of Official Conduct, 97th Congress (Rept. No. 97-1004). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. Report on legislative review activity during the 97th Congress of the Committee on Ways and Means (Rept. No. 97-1005). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Apropriations. Report on activities of the Committee on Appropriations during the 97th Congress (Rept. No. 97-1006). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. Report on survey of activities of the House Committee on Rules, 97th Congress (Rept. No. 97-1007). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. Report on legislative and review activities of the Committee on Interior and Insular Affairs of the House of Representatives during the 97th Congress (Rept. No. 97-1008). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Oklahoma: Committee on the Budget. Report on activities and summary report of the Committee on the Budget, U.S. House of Representatives, 97th Congress (Rept. No. 97-1009). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. Report on summary of activities of the Committee on Science and Technolgy, 97th Congress (Rept. No. 97-1010). Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. Report on summary of activities of the Committee on Banking, Finance and Urban Affairs, 97th Congress (Rept. No. 97-1011). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. Report on legislative review by the Committee on Post Office and Civil Service, 97th Congress (Rept. No. 97-1012). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. Report on summary of activities of the Committee on Public Works and Transportation during the 97th Congress (Rept. No. 97-1013). Referred to the Committee of the Whole House on the State of the Union.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER SINE DIE ADJOURNMENT

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 503. An act to authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and for other purposes;

S. 705. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes;

S. 1540. An act to revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes;

S. 2273. An act to amend the Earthquake Hazards Reduction Act of 1977 to extend authorizations of appropriations, and for other purposes;

S. 2863. An act to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail;

S. 3105. An act to modify the judicial districts of West Virginia, and for other purposes;

S.J. Res. 101. Joint resolution designating "National High School Activities Week";

S.J. Res. 240. Joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week";

S.J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1982 as "National Closed-Captioned Television Month";

S.J. Res. 260. Joint resolution to designate the period commencing January 1, 1983, ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in American";

S.J. Res. 264. Joint resolution to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week"; and

S.J. Res. 271. Joint resolution to make technical corrections in certain banking and related statutes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER SINE DIE ADJOURNMENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9. An act to designate components of the National Wilderness Preservation System in the State of Florida;

H.R. 2475. An act to modify a withdrawal of certain lands in Mono County, Calif., to facilitate an exchange for certain other lands in Mono County, Calif., and for other purposes;

H.R. 2481. An act for the relief of Cynthia Gambon Rabena;

H.R. 3420. An act making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes;

H.R. 3731. An act to amend the act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims;

H.R. 3809. An act to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes;

H.R. 3963. An act to amend the Contract Service for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated;

H.R. 4001. An act to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes;

H.R. 4350. An act for the relief of Arthur J. Grauf;

H.R. 4491. An act to exempt the U.S. Capitol Historical Society from certain taxes;

H.R. 4496. An act to grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes;

H.R. 4566. An act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes;

H.R. 4568. An act to direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, N. Mex. and for other purposes;

H.R. 4746. An act for the relief of Kin Chi Eng Sims;

H.R. 5002. An act to improve fishery conservation and management;

H.R. 5027. An act to designate the building known as the U.S. Post Office and Courthouse in Norfolk, Va., as the "Walker E. Hoffman U.S. Courthouse";

H.R. 5029. An act to designate the Federal building in Fresno, Calif., as the "B. F. Sisk Federal Building";

H.R. 5121. An act to insure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes;

H.R. 5161. An act to designate certain lands in the Monongahela National Forest, W.Va., as wilderness; and to designate management of certain lands for uses other than wilderness;

H.R. 5447. An act to extend the Commodity Exchange Act, and for other purposes;

H.R. 5456. An act to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements;

H.R. 5470. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, and for other purposes;

H.R. 5633. An act for the relief of Dana Braford Baretto;

H.R. 5826. An act to provide for the reinstatement and validation of U.S. oil and gas lease numbered W-24153;

H.R. 5916. An act to declare certain Federal lands acquired for the benefit of Indians to be held in trust of the tribes of such Indians;

H.R. 6056. An act to make technical corrections in the Economic Recovery Tax Act of 1981 and certain other recent tax legislation;

H.R. 6094. An act to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes;

H.R. 6211. An act to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes;

H.R. 6243. An act to provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes;

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University;

H.R. 6519. An act to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties;

H.R. 6538. An act to designate the Federal building in Lima, Ohio, as the "Tennyson Guyer Federal Building";

H.R. 6679. An act to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such act, and for other purposes;

H.R. 6993. An act to revise codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation";

H.R. 7005. An act to amend the Federal seed Act with respect to prohibitions relating to interstate commerce in seed mixture intended for lawn and turf purposes and prohibitions relating to importations of certain seeds, and for other purposes;

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes;

H.R. 7102. An act to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes;

H.R. 7143. An act to amend the Foreign Assistance Act of 1961 to extend for an additional year the agricultural and productive credit and self-help community development programs;

H.R. 7154. An act to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes;

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH;

H.R. 7316. An act to establish the national park system visitor facilities fund, and for other purposes;

H.R. 7336. An act to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981;

H.R. 7378. An act to codify without substantive change recent laws related to money and finance and to improve the United States Code;

H.R. 7406. An act to designate a certain Federal building in Springfield, Ill., the "Paul Findley Building";

H.R. 7410. An act to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes;

H.R. 7420. An act to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, Calif. project at the "Don H. Clausen Fish Hatchery";

H.R. 7423. An act to recognize the organization known as Former Members of Congress;

H.J. Res. 459. Joint resolution authorizing the President to proclaim May 13, 1983, as "American Indian Day";

H.J. Res. 619. Joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day";

H.J. Res. 630. Joint resolution to commemorate the 150th anniversary of the founding of Greene County, Mo.; and

H.J. Res. 635. Joint resolution establishing the dates for submission of the budget and economic report.

BILLS AND JOINT RESOLUTIONS APPROVED AFTER SINE DIE ADJOURNMENT

The PRESIDENT, subsequent to the sine die adjournment of the Congress, notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the House of the following titles:

December 17, 1982:

H.J. Res. 595. Joint resolution designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day."

December 18, 1982:

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; and

H.R. 7072. An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

December 20, 1982:

H.R. 5795. An act to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and the docket 64-A by the U.S. Court of Claims, and for other purposes; and

H.R. 6403. An act to provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the U.S. Court of Claims, and for other purposes.

December 21, 1982:

H.R. 5553. An act to provide for the use and disposition of Miama Indians judgment funds in dockets 124-B and 254 before the U.S. Court of Claims, and for other purposes;

H.R. 6005. An act to discontinue or amend certain requirements for agency reports to Congress; and

H.J. Res. 631. Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

December 22, 1982:

H.R. 6417. An act to amend Public Law 96-432 relating to the U.S. Capitol Grounds;

H.R. 7144. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes;

December 23, 1982:

H.R. 2329. An act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma; and

H.R. 4364. An act to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain lands in Pima County, Ariz.

December 29, 1982:

H.R. 3942. An act to amend the Commercial Fisheries Research and Development Act of 1964;

H.R. 6204. An act to provide for appointment and authority of the Supreme Court Police, and for other purposes;

H.R. 6588. An act to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal Trust responsibility, and for other purposes; and

H.R. 6758. An act to authorize the sale of defense articles to U.S. companies for incorporation into end items to be sold to friendly foreign countries.

December 30, 1982:

H.R. 7356. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

December 31, 1982:

H.R. 1952. An act authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1983, 1984, and 1985, and for other purposes;

H.R. 5204. An act to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians;

H.R. 6946. An act to amend title 18 of the United States Code to provide penalties for certain false identification related crimes;

H.R. 7155. An act to settle certain Indian land claims within the State of Florida, and for other purposes; and

H.R. 7377. An act to designate the Lakeview Lake project, Mountain Creek, Tex., as the "Joe Pool Lake."

January 3, 1982:

H.R. 2520 An act for the relief of Emanuel F. Lenkersdorf.

January 4, 1983:

H.R. 2330. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes;

H.R. 2481. An act for the relief of Cynthia Gambon Rabena;

H.R. 5238. An act to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes;

H.R. 6120. An act to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984;

H.R. 6254. An act to amend title 3, United States Code, to clarify the function of the U.S. Secret Service Uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes;

H.R. 6804. An act to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes;

H.R. 7406. An act to designate a certain Federal building in Springfield, Ill., the "Paul Findley Building";

H.R. 7420. An act to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, California, project as the Don H. Clausen Fish Hatchery;

H.J. Res. 619. Joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day"; and

H.J. Res. 630. Joint resolution to commemorate the 150th anniversary of the funding of Greene County, Mo.

January 6, 1983:

H.R. 4746. An act for the relief of Kin Chi Eng Sims;

H.R. 5633. An act for the relief of Dana Braford Baretto; and

H.R. 6211. An act to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

January 7, 1983:

H.R. 3809. An act to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes.

January 8, 1983:

H.R. 2475. An act to modify a withdrawal of certain lands in Mono County, Calif., to facilitate an exchange for certain other lands in Mono County, Calif., and for other purposes;

H.R. 4001. An act to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes;

H.R. 4496. An act to grant Federal recognition to the Texas Band of Kickappo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes;

H.R. 4568. An act to direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, N. Mex., and for other purposes;

H.R. 5027. An act to designate the building known as the United States Post Office and Courthouse in Norfolk, Va., as the "Walter E. Hoffman U.S. Courthouse";

H.R. 5456. An act to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements;

H.R. 5826. An act to provide for the reinstatement and validation of United States oil and gas lease numbered W-24153;

H.R. 5916. An act to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians;

H.R. 6243. An act to provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes;

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University;

H.R. 6519. An act to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties;

H.R. 7005. An act to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes;

H.R. 7143. An act to amend the Foreign Assistance Act of 1961 to extend for an additional year the Agricultural and Productive Credit and Self-Help Community Development Programs;

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH;

H.R. 7316. An act to establish the National Park System Visitor Facilities Fund, and for other purposes; and

H.R. 7423. An act to recognize the organization known as Former Members of Congress.

Janurary 11, 1983:

H.R. 5447. An act to extend the Commodity Exchange Act, and for other purposes.

January 12, 1983:

H.R. 3731. An act to amend the act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims;

H.R. 4350. An act for the relief of Arthur J. Grauf;

H.R. 4491. An act to exempt the U.S. Capitol Historical Society from certain taxes;

H.R. 4566. An act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes;

H.R. 5002. An act to improve fishery conservation and management;

H.R. 5029. An act to designate the Federal Building in Fresno, Calif., as the "B. F. Sisk Federal Building";

H.R. 5121. An act to insure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes;

H.R. 6056. An act to make technical corrections in the Economic Recovery Tax Act, of 1981 and certain other recent tax legislation;

H.R. 6094. An act to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes;

H.R. 6679. An act to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such acts, and for other purposes;

H.R. 6693. An act to revise, codify and enact without substantive change, certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation";

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes;

H.R. 7154. An act to amend Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes;

H.R. 7378. An act to codify without substantive change recent laws related to money and finance and to improve the United States Code;

H.R. 7410. An act to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes; and

H.J. Res. 459. Joint resolution authorizing the President to proclaim May 13, 1983, as "American Indian Day."

January 13, 1983:

H.R. 5161. An act to designate certain lands in the Monongahela National Forest, W.Va., as wilderness; and to designate management of certain lands for uses other than wilderness.

January 14, 1983:

H.R. 3420. An act making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes;

H.R. 5470. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, and for other purposes;

H.R. 6548. An act to designate the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building";

H.R. 7102. An act to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes; and

H.J. Res. 635. Joint resolution establishing the dates for submission of the Budget and Economic Report.

BILLS DISAPPROVED AFTER SINE DIE ADJOURNMENT

The PRESIDENT announced his disapproval of the following bills with memorandums as follows:

H.R. 5858—MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 5858, a bill for the relief of three silver dealers who suffered business losses as a result of their short market positions resulting from a decision by the Department of the Treasury to terminate the sale of Government-owned silver on May 18, 1967, without honoring the dealers' telephonic requests made that day to purchase almost seven million ounces of silver.

These claims were the subject of very extensive proceedings before the former United States Court of Claims, which on May 18, 1967, held that no legally binding contracts to purchase the silver had been established by these claimants, because the claimants (1) were clearly on notice that the Treasury's involvement in the silver market was altogether inseparable from monetary policy, (2) had reason to expect that Treasury would abandon the marketplace just as soon as doing so would serve monetary policy, and (3) knew that Government silver sales would end soon in view of the published report that Treasury's supply of silver was being rapidly depleted. (*Primary Metal & Mineral Corp.* v. *United States*, 556 F.2d 507 (Ct.Cl. 1977).)

In parallel proceedings before a trial commissioner of the same court pursuant to a Congressional Reference proceeding under 28 U.S.C. Sections 1494 and 2509 (1970), the trial commissioner had earlier found that the same dealers had valid breach of contract claims, even though he, too, found that they were well aware of the potential for a sudden termination of the sales program. After the court had rejected his analysis, he nevertheless concluded that the claimants had "equitable" claims sufficient to justify private relief legislation merely because (in his opinion) the Court of Claims was wrong in disagreeing with his legal theory. In its report to the Congress, a review panel of three trial commissioners, without explaining its reasoning, stated that it agreed with this unprecedented rationale for the existence of an equitable claim against the Government.

To permit the silver dealers covered by H.R. 5858 to recover over $3.3 million without any findings that they received inequitable treatment from the Government, in the face of the unappealed holding of the Court of Claims that they had no legal claims against the Treasury, would establish an undesirable precedent for payment of a host of claims to claimants who may have encountered hardships due to business decisions made with full awareness of the risks that a change in a Government property disposal program might entail. No doubt many similarly situated individuals have had their expectations frustrated in the past by similar program changes. To single out these three claimants for special relief would be unjust to the others, while payment to all for frustrated expectations would result in an unacceptable interference with the Government's ability to decisively and expeditiously respond to developments affecting vital national policies. For these reasons I find the bill unacceptable.

RONALD REAGAN.

THE WHITE HOUSE, *January 4, 1983.*

S. 2623—MEMORANDUM OF DISAPPROVAL

I am withholding my approval of S. 2623, which would amend the Tribally Controlled Community Colleges Assistance Act of 1978 and extend its authorities through 1987.

I am taking this action with reluctance, because my Administration is deeply committed to providing educational opportunities for American Indians. Education is critical to economic betterment for all elements of our society. It is an equally important aspect of increasing self-determination for American Indians. I support fully the intent of S. 2623 to improve existing Indian community college programs. My Administration is dedicated to furthering this goal. The bill which is before me, however, includes a number of provisions that are unacceptable and that do not contribute to enhancement of Indian education.

Foremost among the unacceptable provisions of this bill is section 2, which would declare the Federal government's support of tribal community colleges to be a part of its trust responsibility toward Indian tribes. College level Indian education has never been characterized in law or treaty as a trust responsibility of the Federal government, and to do so now would potentially create legal obligations and entitlements that are not clearly intended or understood. Such a declaration is wholly unnecessary to the continuation of a successful program of Federal assistance to tribally controlled community colleges.

Although the conference report on S. 2623 suggests that "Federal policy (on Indian education) should be clear and unequivocal", the enrolled bill is highly ambiguous as to the nature and extent of this new policy of trust responsibility. S. 2623 imposes what the conference report itself admits is a "very general" trust responsibility. However, neither the bill nor the report makes any attempt to define the nature or extent of that responsibility, except to suggest—in nonbinding report language—some concepts that are *not* intended. This vague nonstatutory language could be interpreted by the courts in a variety of ways. It could be read as establishing a trust relationship that creates an absolute responsibility to provide assistance to tribal colleges and Indian students regardless of need, and it could establish a highly undesirable precedent for making all Indian social service programs a part of the Federal government's "very general" trust responsibility.

Finally, section 2 would also provide that grants could be used for the improvement and expansion of physical facilities. When the program of assistance to tribally controlled community colleges was originally conceived, the Congress contemplated use of existing community facilities. To begin a major new building program when there are so many other competing tribal needs would be duplicative, unwarranted, and ill-advised under current economic conditions. Funds provided through the Bureau of Indian Affairs for the tribally controlled community colleges assistance program are for program support only, and should remain so.

Another unacceptable provision is in section 14(b) of this bill, which would subject regulations issued by the Secretary of the Interior under the program to an unconstitutional legislative veto device presently found in section 431 of the General Education Provisions Act. The Attorney General has advised me, and I agree, that two Houses of Congress cannot bind the Executive Branch by passing a concurrent resolution that is not presented to me for approval or veto. Such a provision unconstitutionally encroaches on the principle of separation of powers that is at the foundation of our government.

In addition to these strong objections, I also have serious reservations about a number of other provisions of the bill, which could significantly increase Federal expenditures in a time that demands fiscal restraint. Those reservations have been explained in reports and testimony of the Department of the Interior on the bill.

The authorities in the Tribally Controlled Community Colleges Assistance Act are not scheduled to expire until September 30, 1984, under current law. Accordingly, there will be no interruption of our current successful program activities as a result of my disapproval of S. 2623. It is my hope that Congress will reconsider legislation extending the Act early in the next session and enact a bill which both advances the program's objectives and meets the Administration's objections to S. 2623.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1983.*

H.R. 7336—MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 7336, which would make certain amendments intended to improve the implementation of the Education Consolidation and Improvement Act of 1981.

I continue to support the objectives of both Chapter 1 and Chapter 2 of the Education Consolidation and Improvement Act. However, I cannot approve H.R. 7336 because the bill makes

substantive changes to the Education Consolidation and Improvement Act that are unacceptable, as well as amendments to the legislative veto provision of the General Education Provisions Act that I believe to be an unwarranted intrusion on the Executive branch's constitutional authority.

Among the unacceptable provisions is section 17(a)(1), which would declare the Federal government's assistance to disadvantaged Indian students under ECIA Chapter 1 to be a part of its trust responsibility toward Indian tribes. This provision is the same as one included in S. 2623, the Tribally Controlled Community College Assistance Act Amendments, from which I recently withheld my approval. The provision of Federal education assistance to Indian students is not characterized in law or treaty as a trust responsibility, and has not been held by the courts to be so. As I noted in my Memorandum of Disapproval on S. 2623, to declare the provision of education to Indian students a trust responsibility would potentially create legal obligations and entitlements that are not clearly intended or understood. This provision of H.R. 7336 is unnecessary to the administration of the Chapter 1 program.

Also unacceptable is section 16(b) of H.R. 7336, which would make certain amendments to a two-House legislative veto device presently contained in section 431 of the General Education Provisions Act. The Attorney General has advised me, and I agree, that two Houses of Congress cannot bind the Executive branch by passing a concurrent resolution that is not presented to me for approval or veto.

Another objectionable provision of H.R. 7336, section 1, would require continuation under Chapter 1 of the definition of a currently migratory child that was in use under the antecedent Title I program. This requirement would prevent the Administration from focusing the limited resources available for migrant services under Chapter 1 on those children whose education is actually interrupted as a result of their migrant status.

Other amendments in the bill relating to the Education Consolidation and Improvement Act could be construed to reinstate requirements and procedures contrary to the intent of the Act to provide greater authority and flexibility for State and local educational agencies.

My disapproval of H.R. 7336 in no way reflects upon the efforts of the author of this bill, Representative William Goodling, of Pennsylvania. Mr. Goodling worked closely with the Department of Education to clarify specific weaknesses in the Education Consolidation and Improvement Act and to reflect that effort in the House report language. Despite his efforts, there are substantive provisions in H.R. 7336 that do not eliminate the ambiguities in the language of the existing ECIA and seem to restore undesirable complexity to the administration of ECIA programs.

Although the bill would make several desirable changes to the Education Consolidation and Improvement Act, the objectionable provisions far outweigh any of its benefits.

For these reasons, I cannot approve the bill.

RONALD REAGAN.

THE WHITE HOUSE, *January 12, 1983.*

H.R. 9 MEMORANDUM OF DISAPPROVAL

After careful consideration, I have determined, for the reasons stated below, to withhold my approval of H.R. 9. I regret that this action is necessary, because I support the designation of additions to the National Wilderness Preservation System in the State of Florida, as recommended by the Administration and set forth in this bill. My Administration has proposed almost two million acres of land for designation as wilderness and the unique natural habitat designated in H.R. 9 would be particularly valuable additions to the national wilderness system.

Although H.R. 9 is intended to resolve an issue that has been in contention during three prior Administrations, it does so in a way that is unnecessarily costly to the Federal taxpayer. Because of administrative actions taken earlier this week by the Secretary of the Interior, my disapproval of this legislation will not have the effect of permitting phosphate mining to proceed in the Osceola National Forest. I do not object to legislative efforts to preclude phosphate mining in the Osceola National Forest. I do object, however, to the provisions of this bill that would vest previously contingent property rights in certain mining companies. This could require the Federal government to pay those mining companies as much as $200 million for those property rights—rights that, absent this legislation, might not otherwise have existed.

Specifically, this bill attempts to convey to several mining companies the rights to, and value from, 41 preference right lease applications for deposits of phosphates underlying the Osceola National Forest. Under present law, these mining companies are entitled to these mining leases only if the Secretary of the Interior determines that the phosphate deposits underlying this land are valuable deposits. H.R. 9 would establish property rights to the lease in specific companies by requiring the Secretary of the Interior, and ultimately the courts, to judge the lease applications without reference to the cost of compliance with current applicable statutory and regulatory requirements for environmental protection. Such requirements include those established under the National Environmental Policy Act, the Clean Water Act, and the Clean Air Act. Hence, under this legislation, the determination of whether these phosphate deposits are "valuable" would not take into consideration the cost of returning the Osceola National Forest lands to their natural state as required by current law.

This Administration is opposed to a policy of conveying interests in public resources by waiving applicable statutory requirements that are designed to protect the environment.

Moreover, having required the mineral rights to be conveyed to the companies by the Secretary of the Interior, this bill would then prohibit mining on the leases and require the Federal government to purchase the conveyed lease rights back from the companies. Thus, the bill would, in effect, force Federal purchase of rights that under current law would remain in Federal ownership in the first place.

Analyses available to the Department of the Interior indicate that no current technology is capable of returning the mined lands to the reclamation standards required by current Federal laws and regulations. The Department of the Interior is faced with an administrative record regarding restoration that demonstrates that the applicant mining companies cannot meet the valuable deposit test required by current law for lease issuance. Consequently, the Secretary of the Interior has advised me that, based on that administrative record, mining should not now take place in the Osceola National Forest, and that he has rejected the preference right lease applications.

However, because H.R. 9 specifies a less strenuous standard than current law, the lease applicants would most likely be found to have met the valuable deposit test were this measure to become law. The Department of the Interior would then have to determine the fair market value of the interests and extend monetary credits to the lease applicants. Further, though the bill provides that the fair market value is to be determined by taking into account all environmental laws, any Secretarial action valuing these leases in a way adverse to the applicants' expectations would likely result in costly litigation, and the possible recovery in the United States Claims Court of payments to these companies for loss of their "rights" in public resources to which they would not be entitled absent this legislation.

The administrative decision process, necessary under current law to resolve this issue, is being brought to conclusion under my Administration. To the extent that further litigation is entered into on this issue, it should be

decided under current law applicable to all similar cases.

RONALD REAGAN.

THE WHITE HOUSE, *January 14, 1983.*

H.R. 3963—MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 3963, a bill concerning criminal law matters, because its disadvantages far outweigh any intended benefits.

In late September 1982, the Senate overwhelmingly approved a major crime bill by a vote of 95 to 1. That measure, the Violent Crime and Drug Enforcement Improvements Act of 1982 (S. 2572), would have resulted in urgently needed reforms in Federal bail laws to put an end to our "revolving door" system of justice, comprehensive reforms in Federal forfeiture laws to strip away the enormous assets and profits of narcotics traffickers and organized crime syndicates, and sweeping sentencing reforms to insure more uniform, determinate prison sentences for those convicted of Federal crimes. That major crime bill also contained other criminal law reforms. I strongly supported the principal elements of the Violent Crime and Drug Enforcement Improvements Act, especially the bail, sentencing, and forfeiture provisions.

The House of Representatives failed to approve this measure. It adopted a miscellaneous assortment of criminal justice proposals, H.R. 3963, which was approved in the waning hours of the 97th Congress. Although some elements of the House-initiated bill are good, other provisions are misguided or seriously flawed, possibly even unconstitutional. While its provisions on forfeiture of criminal assets and profits fall short of what the Administration proposed, they are clearly desirable. Had they been presented to me as a separate measure, I would have been pleased to give my approval. But H.R. 3963 does not deal with bail reform, nor does it address sentencing reform. Both are subjects long overdue for congressional action.

In addition to its failure to address some of the most serious problems facing Federal law enforcement, this "mini-crime bill" would in several respects hamper existing enforcement activity. I am particularly concerned about its adverse impact on our efforts to combat drug abuse.

The Act would create a drug director and a new bureaucracy within the Executive Branch with the power to coordinate and direct all domestic and international Federal drug efforts, including law enforcement operations. The creation of another layer of bureaucracy within the Executive Branch would produce friction, disrupt effective law enforcement, and could threaten the integrity of criminal investigations and prosecutions—the very opposite of what its proponents apparently intend.

The seriousness of this threat is underscored by the overwhelming opposition to this provision by the Federal law enforcement community as well as by such groups as the International Association of Chiefs of Police and the National Association of Attorney's General. The so-called "drug Czar" provision was enacted hastily without thoughtful debate and without benefit of any hearings. Although its aim—with which I am in full agreement—is to promote coordination, this can be and is being achieved through existing administrative structures.

Upon taking office, I directed the Attorney General and other senior officials of the Administration to improve the coordination and efficiency of Federal law enforcement efforts, with particular emphasis on drug-related crime. This has been accomplished through the establishment of the Cabinet Council on Legal Policy, which is chaired by the Attorney General and whose membership includes all Cabinet officers with responsibility for narcotics law enforcement. Working through the Cabinet Council, the White House Office on Drug Policy is an integral part of the process by which a comprehensive and coordinated narcotics enforcement policy is carried out.

I am pleased with the results of this process, which last Fall led to the creation of a nationwide task force effort to combat organized crime and narcotics trafficking. The war on crime and drugs does not need more bureaucracy in Washington. It does need more action in the field, and that is where my Administration will focus its efforts.

H.R. 3963 would also authorize the Federal prosecution of an armed robber or burglar who has twice been convicted in State court. This provision includes an unworkable and possibly unconstitutional restraint upon Federal prosecutions in this area, by allowing a State or local prosecutor to veto any Federal prosecution under his or her authority, even if the Attorney General had approved the prosecution. Such a restraint on Federal prosecutorial discretion and the delegation of Executive responsibility it entails raise grave constitutional and practical concerns. It would, for example, surely increase friction among Federal, State, and local prosecutors at a time when we are doing so much to decrease it.

Other provisions of H.R. 3963 are also defective. For example, the provision that expands Federal jurisdiction whenever food, drugs, or other products are tampered with, an expansion that I strongly support, was drafted to include tampering that occurs in an injured consumer's own home. It also fails to distinguish between tampering that results in injury and tampering that results in death. These are, however, essentially technical matters which might have been overcome but for the press of time in the closing days of Congress. I share the widespread public desire for new legislation on tampering and will work with the new Congress to produce an acceptable bill on that subject.

My Administration has proposed significant legislation to strengthen law enforcement and restore the balance between the forces of law and the forces of crime. Changes in sentencing, bail laws, the exclusionary rule, the insanity defense, and other substantive reforms in criminal law were not passed by the 97th Congress. Such reforms, if enacted, could make a real difference in the quality of justice in this country.

It would have given me great pleasure to be able to approve substantive criminal justice legislation. I completely support some of the features of H.R. 3963, such as the Federal Intelligence Personnel Protection Act. Others I agree with in principle. But the disadvantages of this bill greatly outweigh its benefits. I look forward to approving legislation that does not contain the serious detriments of the present bill, and my Administration will work closely with Chairman THURMOND and Chairman RODINO to secure passage of substantive criminal justice reforms.

RONALD REAGAN.

THE WHITE HOUSE, *January 14, 1983.*

EXTENSIONS OF REMARKS

WILSON RILES

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. LEWIS. Mr. Speaker, it would seem difficult to add much to the accounts which my colleagues have already given. Wilson Riles is, however, a most remarkable man and no description of his achievements and life would be complete without some mention of the man and his vision.

Wilson Riles believes in a system of education that embraces all children and every child; a system that meets common and unique needs alike. Riles' programs are designed to accommodate the students rather than force fit students into an arbitrary structure. Equity, choice, and equality must be assured to all in Riles' view.

Wilson Riles believes that those closest to the learning child are in the best position to effect change and assess educational progress. Accordingly, Riles believes that as much discretion and authority as possible should be left to the school site and its primary participants—teachers, parents, site administrators, and even older students.

Wilson Riles believes that leadership is best realized through the building of consensus; through coalition. Educational leadership is exercised, and educational change brought about at school, district or State levels when all parties with an interest in education cooperate in pursuit of goals that are consensually set and mutually beneficial.

Finally, Wilson Riles believes that education is society's best investment in the future and, like any investment, Riles believes that handsome future returns can only be assured through appropriate current support and resources.

As we have heard, this extraordinary man has been uncommonly successful in bringing his dreams into reality. During his incumbency as California's educational leader, Wilson Riles has:

Proposed and obtained legislation that ensures each child in California Public Schools will achieve basic competency in reading, arithmetic and language by the third grade.

Led coalitions to obtain the passage of three major school finance bills.

Developed a plan in response to the Serrano decision that brought equity to all districts alike, rich or poor.

Formed a coalition that enabled school districts to deal in an orderly way with the 10 percent cuts imposed by proposition 13.

Built the finest schools in the country for deaf and blind students.

Created State management assistance teams to assist local school districts in improving their administrative practices.

Streamlined the textbook adoption process.

Advocated achievement standards that reflect specific competencies and skills, rather than numbers of courses and hours of attendance.

Established minimum competency requirements for all students graduating from all California public schools.

Strengthened admission requirements to state universities and colleges.

Someday I hope to ask Wilson Riles how he managed to do all of these things while maintaining a happy marriage for over 40 years to an equally remarkable lady, Louise Riles. Together, Wilson and Louise have raised four children who are now well established with families of their own.

I would like to close my comments with a quote from Wilson Riles that seems to me to reflect his personal philosophy very well. When asked whether American education had perhaps passed its zenith in recent years, Riles replied, "Excellence is a journey, not a destination."●

WILSON RILES

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday , December 16, 1982

● Mr. MINETA. Mr. Speaker, I would like to join my colleagues in paying tribute to Wilson Riles whose accomplishments have extended well beyond the traditional territory of educational policy as well as the borders of California.

During the course of his illustrious career, Wilson Riles has been appointed to the National Council of Educational Research by three Presidents. He has served on no less than 34 national and statewide boards. Commissions and task forces.

Most of his service has related to educational concerns, but Wilson Riles has also served with distinction in the effort to expand and extend human rights.

A long time member of the NAACP, Wilson Riles was afforded the association's highest honor in 1973 when he was awarded the Springarn Medal.

In 1978, Riles was awarded the Robert Maynard Hutchins Award by the Encyclopedia Britannica, and the Distinguished Service Award by the Harvard Club of San Francisco.

In the early stages of his career, Wilson Riles served as Southwest regional secretary for the Fellowship of Reconciliation (FOR), a Quaker organization tha worked with religious leaders and community groups for non-violent social change.

Riles has come to the attention of FOR leadership when, as head of the all black Dunbar School in Flagstaff after World War II he resurrected a defunct chapter of the NAACP that successfully desegregated local movie theaters. In 1952, he was a leader in the ultimately successful efforts to desegregate Arizona's schools.

Riles' FOR experience, based in Los Angeles, took him throughout the Southwest and brought him to the attention of the Rev. Dr. Martin Luther King, who offered him a top post in the Southern Christian Leadership Conference, Riles declined.

Instead, he took a California civil service test and placed among the top three contenders—the only black to do so. In 1958, he became the first black consultant—the entry-level professional position in the California Department of Education.

During his employment with the department of education, and of course, after his election to the chief position in that agency, Wilson Riles has repeatedly reached out to involve the larger community in educational matters while he participated in that community in a variety of ways.

Wilson Riles has been a prime advocate of teaching economics in the publics schools. He serves today on the board of the foundation for Teaching Economics, and he was instrumental in the establishment of basic proficiency requirements for California students which stress life skills in the world of work.

When certain major auto industry plants were recently forced to close their doors in California, Wilson Riles successfully brought industry, labor and schools together to provide retraining of the laid-off workers.

I think it worth noting that Riles' reputation for sound judgment and broad understanding has led to his appointment on the board of directors of three major corporations.

From virtually every perspective, Wilson Riles has made a positive contribution to his times. He is richly deserving of such honors as we can bestow upon him today.●

DR. WILSON RILES

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. PERKINS. Mr. Speaker, it is a pleasure for me to associate myself with the remarks of my California colleagues concerning that great American educator, Dr. Wilson Riles, who will retire shortly from the position of State superintendent of public instruction for California.

I first became acquainted with Wilson when he was the California State director of title I of the Elementary and Secondary Education Act. Beginning then, and throughout my years as chairman of the Education and Labor Committee, I have called on Wilson many times for advice and help, and he has never failed to respond fully, with intelligent and concise answers to some very difficult questions. He has also participated fully in our annual struggles to obtain more adequate funding for education programs.

I am sure that Wilson will be back here working with us and testifying before our committee, as he goes into what I am sure will be an active retirement. The welcome mat will always be out for him so long as I am chairman of the committee.

I am glad that you have honored him today. I join you in saluting a great American and a great educator, Wilson Riles. I wish him well in his future activities, which I know will involve continued service to the schoolchildren of America, and I extend to him the hand of friendship.●

DONALD G. BUTLER, FORMER MAYOR OF PITTSFIELD, MASS.

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. CONTE. Mr. Speaker, on December 12, Pittsfield, Mass., lost one of its most forward-thinking leaders of the century—Donald Butler, former mayor of Pittsfield, who died at the age of 66. He served the city of Pittsfield as a city councilor for 18 years before becoming mayor in 1967, where he served for 6 years.

Donald Butler was the consummate public servant. His service in city government was based on a deeply rooted sense of care and love for the city and its people. To him, people did not represent votes or margins of victory, but rather individuals with needs, hopes, and feelings who wanted community leaders who understood these needs. To that end, Donald Butler established a record of community service second to none. His work with local charitable organizations, hospitals, service groups, and educational institutions showed a solid commitment to the people of Pittsfield and Berkshire Counties.

At this time, I insert for the RECORD, the following obituary and editorial from the Pittsfield, Mass., Berkshire Eagle:

[From the Berkshire Eagle, Dec. 13, 1982]

DONALD BUTLER, DEAD AT 66, WAS 3-TERM PITTSFIELD MAYOR

(By Grier Horner)

Donald G. Butler, who as mayor presided over a six-year period of municipal accomplishment and efforts to improve the lot of the underprivileged, died early yesterday morning of a heart attack.

Stricken at home, he was taken to the Berkshire Medical Center by police ambulance but was dead on arrival. Br. Butler had sufferd another heart attack several years ago.

The day before his death the former three-term mayor, who was 66, had been ringing a bell at the Salvation Army collection booth on North Street. The act symbolized his long-standing concern for those less fortunate than himself.

A belief that all was well with the city made it difficult at first for him to understand the thrust of the antipoverty movement here or to believe the charges of racial inequality that sprung up locally after the assassination of Martin Luther King Jr. in 1968.

But shortly after King's death he said, "My eyes have been opened."

"Many think everyone on welfare is a freeloader or a deadbeat," Mr. Butler said. "I don't buy that. Unfortunately things happen . . . A marriage doesn't work and the kids are there. You just can't turn your backs on them."

After that he was instrumental in the formation of the city's Urban Coalition and appointed a special commission headed by Thomas M. Connolly and the Rev. Patrick A. Sullivan that, with his support, persuaded the City Council to approve construction of the Morningside and West Side Community schools to replace deteriorating grammar schools in those two lower-income neighborhoods.

"A lot of the projects were very difficult to get going and he was always in the background with the strong backbone to get things off the ground," Connolly recalled yesterday.

During this period, Butler made repeated trips into the depressed areas of the city to try to defuse tensions. He brought City Hall to the Christian Center on a regularly scheduled basis.

While plans for housing and community schools and the strategy for dealing with things like a City Hall "sit-in for housing" were swirling around him, he was not too busy to personally find a refrigerator for someone who needed one or to get the heat turned on for a shivering family. And he did those small things without telling reporters or issuing press releases about them.

Seldom an initiator, Butler gave his backing to a wide variety of projects that could not have gone forward without his support.

Among these were construction of the community schools, construction of a new library, construction of a major sewer plant expansion and setting up the Early Childhood Development Center, of which he was particularly proud.

THREE HOUSING PROJECTS

West-side rehabilitation, long overdue, began during his tenure. Three public housing projects—the first built here in years—were constructed. The old Bradford Block was renovated for apartments for the elderly. Brattlebrook Park and Onota Lake's water rights were purchased by the city. He initiated reconstruction of miles of potholed streets.

One of Butler's frustrations, like those of mayors before and after him, was trying to get downtown redevelopment started.

Although he retired in April 1971 from his job as assistant treasurer of the City Savings Bank, he was retained by the bank as a consultant and had continued to go to work daily. He had a desk on the main floor there and served as something of a major domo, talking to customers, guiding and assisting them.

He knew an incredible number of people, as one friend put it. One result was that he was constantly going to wakes. The last he attended was for Harold T. Grandshaw, the city's superintendent of public buildings, a man he held in great respect. Mr. Grandshaw died last week.

WALKED TO WORK

As mayor, Butler walked to work from his home on Boylston Street Extension and started the day at the Court Square restaurant. There he met with a group that consisted of Thomas Litwiler of General Electric, James O'Brien of Western Mass. Supply, then Police Chief John Killeen and others. The stock in trade there was the Don Rickles one-liner. If Bulter liked someone, he greeted him with an insult. The worse the insult, the deeper the friendship was likely to be. This proved disconcerting to people who weren't in on the practice.

Mr. Butler was married to the former Doreen M. Cooper for 37 years. Other survivors are a daughter, Mrs. Jeanne Vanasse of Pittsfield, and two grandsons, Matt and Jack Vanasse of Pittsfield. He is also survived by a sister, Mrs. Betty C. Biron of Pittsfield.

Butler, a Republican, had deep roots in the city. His family had settled here in the 1740s. His greatgrandfather was on the city's first common council in 1890 and his grandfather, John H. Butler, ran unsuccessfully for mayor in 1906 and was postmaster. His grandfather built the First Methodist Church, where Mayor Butler served on the board.

SCOOPING ICE CREAM

Born in Pittsfield, son of Ralph and Helen Slagar Butler, he graduated from Pittsfield High School during the Depression. The day after graduation, he began scooping 5-cent ice cream cones at the old Double Dip on First Street, a popular hangout for youths. In 1936 he went to work at General Electric as a punch-press operator in the distribution transformer department. He was promoted to assistant production supervisor in the chemical department, where he served eight years. In 1947, he was to be promoted, but the promotion meant transfer out of Pittsfield and he left GE rather than leave the city.

Butler managed the Berkshire News for four years, then joined Pioneer Credit Corp. He told colorful tales of the lengths he had to go to in repossessing cars and other equipment from people who failed to make their payments. He was the regional manager for Pioneer when he joined City Savings

in 1961. He holds the bank's Silver Bearer award for community service.

Before becoming mayor by defeating Remo Del Gallo in 1967, Butler had been a councilman for 18 years.

During his long public career, he had received recognition from a number of organizations and had served on the boards of numerous groups.

HONORARY CHAIRMAN

In 1980 he was the honorary chairman of the Berkshire County committee for the international year of disabled persons. In 1976 he was named the Child Advocate of the Year by the Council for Children. He was made an honorary alumnus of the Clark School for the Deaf. His interest in the deaf was aroused by his wife's deafness. A former president of Rotary, he received that group's Service above Self award twice. This year he received the Exchange Club's Golden Deeds award. The Red Cross gave him a pin for his donation of 16 gallons of blood over the years.

He had served on the board of Goodwill Industries, the Automobile Club of Berkshire County, the Berkshire County Association for Retarded Persons, the Urban Coalition, the Massachusetts Commission Against Discrimination, the Council on Aging, the Berkshire Athenaeum, the Free Care Committee at Berkshire Medical Center, Hillcrest Hospital, the Berkshire Rehabilitation Center, the Special Olympics and Berkshire Housing. He was past master of the Crescent Lodge of Masons.

DONALD G. BUTLER

Former Mayor Donald G. Butler, who died yesterday at the age of 66, was a native son with deep and distinguished roots in the community. He demonstrated his sense of place early in life when, as a young man of 31, he was offered a promotion by General Electric that would have taken him out of the city and instead elected to leave the company and stay in Pittsfield.

We can all be thankful for that decision. As a dedicated city councilor for 18 years, and as an exceptionally conscientious and popular mayor for six years thereafter, he set a high standard of public service. Plain-speaking integrity, accessibility to the public and a genuine concern for the less fortunate members of the community were the hallmarks of his career at City Hall.

But Don Butler's success in political office was only the most visible manifestation of his impact on Pittsfield. More important, and more characteristic, was his truly remarkable record of quiet service to a multitude of community organizations, large and small. The fact that he was honored not once but twice with the Rotary Club's "Service Above Self" Award reflected the community's awareness of its debt to him, but it didn't tell the whole story. Dozens of good causes and deserving individuals were beneficiaries of his concern in ways that were never publicized.

Indeed it would be safe to say that few citizens in Pittsfield's long history have demonstrated as deep and abiding an affection for the community as did Don Butler. He showed his faith by his works, and in doing so he enriched his fellow citizens.●

NICARAGUA'S AMBASSADOR RESIGNS OVER CENSORSHIP

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BARNES. Mr. Speaker, Nicaragua has lost another Ambassador. Francisco Fiallos, Nicaragua's Ambassador to Washington, has resigned in frustration over the direction his country is taking. This is not an isolated incident. Ambassador Fiallos' predecessor, Arturo Cruz, resigned for basically the same reason.

Fiallos' resignation was precipitated when he gave an interview to a Nicaraguan newspaper in which he had the temerity to suggest that the Sandinista regime could do itself a favor by revoking press censorship, calling "free, just, and honest elections," following a "genuinely nonalined" foreign policy, and treating the Nicaraguan church with a respect commensurate with the deeply held religious beliefs of the Nicaraguan people. When the government censored the interview, Ambassador Fiallos decided that he could no longer in good conscience represent that government. A copy of the interview was obtained by the New York Times and is described in an article which appears at the conclusion of my remarks.

Mr. Speaker, Francisco Fiallos and Arturo Cruz are among the most able ambassadors that the Sandinistas are ever likely to find. When people of their caliber, with their concern for the people of Nicaragua, find themselves unable to support the current direction of the Nicaraguan revolution, then I grieve for Nicaragua.

From the day that I became chairman of the Subcommittee on Inter-American Affairs, I have fought against the administration's covert action campaign to destabilize the Nicaraguan Government. I am the author of a bill to prohibit such activities, which was the basis for action recently taken by the House. I have fought against the use of Honduras as a staging area for U.S.-supported military actions against Nicaragua, including the improvement of airfields for that purpose. I have fought for a positive response by my Government to every responsible Central American peace initiative. I will continue to do these things.

In an attempt to be constructive, for 2 years I have practiced quite diplomacy, muting my criticisms of the direction of the Nicaraguan revolution out of fear that they would be used by Nicaragua's enemies. I have traveled to Nicaragua, received Nicaraguan officials in my office, and engaged in private correspondence with Nicaraguan leaders, all with the objective of making the same points in private to the Nicaraguan Government that Ambassador Fiallos sought to exercise his right as a Nicaraguan citizen to make publicly: That to maintain any understanding in the international community, Nicaragua must now, unequivocally, choose the path of freedom, democracy, nonalinement, and respect of basic freedoms for its people. Most recently, on September 29 I joined six other Members of the House in addressing a private letter stating these concerns to the Nicaraguan junta and directorate. That letter has not been answered.

Mr. Speaker, I must now say to the leaders of Nicaragua: What do we have to show for our efforts? What do we have to show for our forbearance? How much longer do you expect us to remain silent in the face of what seems to be the slow but inexorable destruction of the ideals of your revolution?

I make this statement with full knowledge that it will be used by those who wish Nicaragua ill. But the seriousness of the situation demands it. Nicaragua must change course, and it must do so now. If it does not, it will achieve by its own actions the very isolation, the very ostracism by the democratic world, that some outside of Nicaragua are now trying to impose on it.

[From the New York Times, Dec. 13, 1982]

DRAMATIC CHANGE IN NICARAGUA URGED BY ITS ENVOY TO U.S.

(By Alan Riding)

MANAGUA, NICARAGUA, Dec. 11.—Nicaragua's Ambassador to Washington has called for a "dramatic change" in the direction of the Sandinist Government, saying that it could ease its isolation by improving relations with neighboring governments and by increasing political freedom at home.

The Ambassador, Francisco Fiallos Navarro, made his comments in an interview that local authorities here banned from an opposition newspaper.

Circulation of photostatic copies of the interview among officials and opposition leaders here immediately stirred speculation that Mr. Fiallos had decided to leave his post after less than a year.

[Repeated efforts, both by telephone and through Nicaraguan officials, to reach Mr. Fiallos, who was believed to be in the United States, were unsuccessful this weekend. A spokesman for the Nicaraguan Embassy in Washington declined to comment on the interview.]

In the interview, which was censored out of Friday's issue of the daily La Prensa, the largest circulation newspaper in Nicaragua, Mr. Fiallos also sharply criticized "fanatical elements" in the Sandinist movement as well as the foreign policy of the Nicaraguan Government and its "dreadful handling" of relations with the Roman Catholic Church.

"SWING OF RUDDER" URGED

Referring to limitations on political freedom inside Nicaragua, he said, "I believe that a substantial improvement is necessary, even a dramatic change, a sharp swing of the rudder in the conduct of the revolutionary process."

Sources at La Prensa said that Mr. Fiallos had provided written answers for the interview, which was prepared six weeks ago with the understanding that it would be published after Dec. 8, a religious holiday in Nicaragua. Before the interview was banned, La Prensa editors provided the local censor with the original text, carrying Mr. Fiallos' signature on every page, to prove its authenticity.

La Prensa, which was a leading voice against the Somoza regime that was toppled by the Sandinist revolution, has been a source of irritation for the current Government, publishing complaints of business and political opposition groups. The paper, which has a circulation of around 70,000, has also adopted some pro-United States, anti-Soviet positions on international issues and campaigned openly on its editorial page against Marxism-Leninism and totalitarianism.

Mr. Fiallos's predecessor as Ambassador, Arturo Cruz, resigned late in 1981, expressing disillusionment with the Sandinists, who took power in Nicagarua in July 1979.

"DIFFICULT" RELATIONS WITH U.S.

Well-placed officials here said that while Mr. Fiallos was close to the Foreign Minister, the Rev. Miguel d'Escoto Brockman, he did not enjoy the confidence of the nine-member Sandinist National Directorate, the country's top ruling body. A 36-year-old lawyer, Mr. Fiallos joined the Government soon after the revolution, serving as Deputy Foreign Minister and Ambassador to Canada before being assigned to Washington.

In the interview, the Ambassador described Nicaragua's relations with the Reagan Administration as "difficult, extremely difficult, with little probability of improving in the foreseeable future." Referring to American support for anti-Sandinist rebels based in Honduras, he warned that the Reagan Administration was pushing other Central American countries toward a "confrontation" with Nicaragua.

But he said that "if the internal situation is one of division and confrontation" in Nicaragua, 'it will be very difficult to overcome the difficulties in the international field."

"I think a vicious circle exists," he went on. "On the one hand, it is said that a tough stance is necessary to neutralize the effects of the harassment. On the other hand, strong measures strengthen those who are harassing. It is necessary to break out of this circle. The Popular Sandinist Revolution is strong enough to do so. Contrary to what some radicals believe, some measures of relaxation and détente would strengthen the Government."

Most of the interview was dedicated to analyzing the domestic situation here and to urging the Sandinists to take "unavoidable and unpostponable" measures, among them:

To revoke the Emergency Law, "especially some measures that have caused great harm to the revolution, such as press censorship."

To call "free, just and honest elections" since "every attempt to suffocate or frustrate the will" of the people "disguises tyrannical intentions that should be combated directly and with decision."

To follow a "genuinely nonaligned" foreign policy instead of taking sides in the struggle of the superpowers.

To recognize the prominent role of the church in the "conscience" of the Nicaraguan people, even though "entrenched Marxist-Leninist ideologues and even less Stalinists" would find that impossible to understand.●

HON. JIM MATTOX

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. WHITE. Mr. Speaker, I wish to add my accolades to those of others who have extolled the excellence of my friend JIM MATTOX of Texas. JIM may be the only U.S. House Member to return directly to statewide office at the State level—achieved by a mixture of courage and determination, an indefatigable campaigning style that overcomes all obstacles. In this new high responsibility of attorney general of Texas, he will be heard, both statewide and nationally, and will be watched with pride by his many friends in the Texas delegation and in the House. We wish him the good fortune he deserves.●

EDWARD J. DERWINSKI

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. RODINO. Mr. Speaker, I want to take this opportunity to recognize a distinguished Member of this House who will be leaving Congress at the end of this term.

Congressman EDWARD DERWINSKI has served this institution with dignity and honor for the last 23 years. As a senior member of the Foreign Affairs Committee, ED DERWINSKI's leadership on foreign policy issues has been intelligent and fairminded. While we have not always agreed on issues, I have always appreciated his sincerity and honesty, and wit.

The people of Illinois and the American public have had a dedicated public servant in ED DERWINSKI, and I hope he continues his service when he leaves this House.

I wish ED all the best in the future.●

WILLIAM BRODHEAD

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. HEFTEL. Mr. Speaker, I am pleased to join my fellow colleagues in commending BILL BRODHEAD for his many accomplishments in the Congress.

Elected in the "Watergate class" of 1974, BILL's career has spanned a tumultuous era in American political life. Throughout this period, however, BILL has remained steadfast to the finest traditions of the Democratic Party.

Principle has always governed BILL's career in Congress, yet it is not blind allegiance but reasoned judgment that has given him direction. At a time when the policy direction of the Democratic Party is being reassessed from within the party, BILL's measured perspective has focused our attentions on the party's traditional social conscience.

Through his work as chairman of the Democratic Study Group, BILL has given leadership and guidance to his fellow Members on the entire spectrum of complicated issues we face in Congress. For this service, we all owe BILL a great debt.

BILL BRODHEAD has maintained his principles even at times when it was not vogue to do so. The perspective which he has provided the Congress will always be valuable and it is my sincere hope that he will continue to be in touch with us often in the coming years.●

TRIBUTE TO BILL BRODHEAD

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. DINGELL. Mr. Speaker, one of the finest Members of the House of Representatives with whom I have had the pleasure to serve is the Honorable WILLIAM BRODHEAD of our Michigan delegation.

BILL has been a conscientious and respected Member of this body, serving his constituency with conviction, integrity, and dedication to the public interest.

BILL first served with me on the Energy and Power Subcommittee where we worked together to mold and direct new and urgent national energy laws to protect the Nation and its consumers.

His subsequent assignment to the Ways and Means Committee further exemplified his guiding leadership on major national issues affecting the well-being of so many Americans.

We will miss BILL as will his constituency, but wish him well in his future endeavors.●

HON. TOBY MOFFETT

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. PERKINS. Mr. Speaker, I am happy to join my colleagues in honoring the contributions of TOBY MOFFETT, who will be leaving us—temporarily I hope—at the end of this Congress.

TOBY MOFFETT is, by almost any measurement, one of the outstanding young men to have served in this House in the past decade.

His energy, his keen understanding and his integrity were noted from his first weeks here back in 1974, and he has grown as fast in statesmanship as he has in the esteem with which he is held by his colleagues.

TOBY MOFFETT could always be found on the side of the people against the interests, and whether he won or lost, he pursued his beliefs with an energy and an ability that invited admiration.

Although he is only in his thirties today, he has already amassed a distinguished vita. Because we know him, we know that his recent loss in an election campaign will not put a period at the end of a still-burgeoning career.

We will hear more of TOBY MOFFETT in the future—and for this Member, that will be welcome news indeed.●

55: A LAW WE CAN LIVE WITH

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 20, 1982

● Mr. BARNES. Mr. Speaker, the No. 1 killer of people under the age of 35 years in the United States is perhaps the most violent, yet preventable, tragedy threatening the health and safety of our citizens—that is, the motor vehicle crash.

Every day more than 140 Americans die violently on our highways, and we know that over one-half are due to drunk driving. In the past few years, the Federal Government and numerous States and localities have taken some sorely needed first steps aimed at finally bringing under control the drunk driving epidemic.

Back in 1974, in response to the shortage crisis, the Congress enacted legislation, authored by our colleague JAMES HOWARD of New Jersey, setting the national speed limit at 55-miles per hour. In doing so, what resulted was the most effective highway safety tool put to use to date, which, according to the National Safety Council, has saved as many as 40,000 lives on the Nation's roads.

As a member of the Presidential Commission on Drunk Driving, I was honored last week to join my fellow commissioners at the White House to present to President Reagan our "Interim Report to the Nation," which advocates the critical need to continue enforcing the Federal 55-miles-per-hour standard.

Without question, keeping intoxicated persons from getting behind the wheel of a car and increasing safety-belt usage will reduce significantly the tragic daily deaths and crippling injuries. It is equally important at this juncture to remind ourselves of the great life saver—the 55-mile-per-hour speed limit. I strongly urge our colleagues to read the following article written by JAMES HOWARD which appeared recently in the New York Times:

[From the New York Times, Nov. 7, 1982]

KEEP THE 55-M.P.H. SPEED LIMIT

(By James J. Howard)

On Oct. 2, the New York Times carried an article by an advertising executive who opposes the Federal 55-miles-an-hour speed limit and who "relies heavily on a CB radio" to rescue him from radar traps and patrolling police officers.

He contends that most of today's limited-access highways are safe at 70 miles an hour or more and that we are "underusing" them at 55. Violation of the Federal law, he says, is merely a "political" or an "economic" offense and should not be prosecuted under the criminal-justice system.

As the sponsor of that Federal speed law, I am dismayed by this light-hearted, "Whose life is it, anyway?" approach to the daily slaughter on our streets and highways.

Perhaps the original intent of Congress when this law was enacted in 1974 was largely economic: The need to conserve fuel in response to the Arab oil embargo. And in that sense, it has most certainly achieved its purposes.

More than five billion gallons of gasoline have been saved since the law requiring the states to enforce the 55 m.p.h. speed limit, or lose a portion of their Federal highway funds, went into effect.

But events proved rather quickly that energy-saving was only a secondary benefit. The big reward has come in the saving of human life.

The National Safety Council estimates that 40,000 or more men, women and children who would otherwise have died on our highways are alive today because of this "economic and political" law. And many times that number have been spared crippling injuries.

What would happen if this law were to be repealed, if all those "it's-my-life" drivers were to have their way? Again, I defer to the professionals of the National Safety Council.

If the speed limit were raised to 65 or 70 m.p.h., the council experts say, the effect in any one state would be 20 percent to 30 percent more deaths on limited-access roads and 25 percent to 35 percent on state and county roads. Nationally, 5,300 to 8,000 more lives a year would be lost.

The tragic implications of repeal may have been lost on some heavy-footed motorists and even some misguised public officials, but not on the overwhelming majority of the American people—the law-abiding motorists who do not regard our streets and highways as some sort of Disneyland where collisions are part of the fun.

All the latest option polls—by Gallup, by the press and by Government agencies—show that 75 percent of the American people support the 55 m.p.h. law and want it enforced.

Most of the recent clamor for repeal comes from the West, where the twin banners of "States Rights" and "Get the Government Off Our Backs" are being raised by some political office-holders, who see a vote-getting potential in this issue.

Their argument, somewhat akin to that of our Eastern advertising executive, runs something like this: "We have lots of wide-open space, the Interstates were designed for speeds of 70 m.p.h. or more and it's a time-consuming bore to plod along at 55 over miles and miles of empty highway."

Certainly our limited-access highways were designed for high-speed driving, but today's cars and drivers were not. Today's smaller, lighter automobiles pose new problems for the driver, and greater risk of death or injury in the event of an accident, than the heavier vehicles that predominated in the United States when these highways were new.

The blunt truth is that if you are involved in a collison on an American highway today at 55 m.p.h., there's a 30 to 1 chance that you will survive. At 70 m.p.h. you have a 50-50 chance; it's an even-money bet that you will die.

And there is no assurance that an empty stretch of highway guarantees your safety at high speed. Statistics just in for 1981 show almost 2.9 million single-vehicle accidents on our streets and highways during that year; 32 percent of our 50,000-plus fatalities resulted from single-vehicle accidents.

I find it puzzling and disturbing that the loudest opposition to the 55 m.p.h. law comes from those areas where the highway death toll is proportionately the greatest. The nation's highest highway death rates per vehicle mile are in States like Arizona, Nevada, Montana and Wyoming, where there is no serious enforcement of the 55 m.p.h. law and, as yet, no serious crackdown by the responsible Federal authorities.

Those states record 4.8 to 5.2 deaths per 100 million vehicle miles a year, whereas my home state of New Jersey, where the law is enforced strictly, has one of the lowest death rates.

The 55 m.p.h. standard was not some arbitrary number picked at random when this law was approved by Congress. It was adopted as a result of long and careful research by public and private experts, including both automotive manufacturers and the operators of commercial truck fleets.

What a tragic folly it would be to abandon it now and repeal the only law on the Federal statute books that is a proven lifesaver.

Whose life is it, anyway?

It's yours and mine. It's the lives of our families, our friends and our neighbors, of all the millions and millions of our fellow citizens who travel the streets and highways of America.

Keep the 55 m.p.h.●

HUMAN RIGHTS AND THE NEED FOR ASYLUM REVIEW

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mrs. CHISHOLM. Mr. Speaker, the shortness of the lame-duck session did not permit the consideration of the Immigration Reform Act, H.R. 7357. While I had serious reservations about the bill in several areas. I believe that the asylum adjudication provisions in the House bill were a significant improvement over Senate provisions and would have gone a long way in removing the ideological bias which current-

ly permeates our asylum process. I would have hoped that additional amendments, in the area of judicial review and right to counsel, would have further improved these provisions. The need for reform, in this area, is all too evident. The administration has continued to reflect an ideological and racial bias in its conduct of U.S. refugee and asylum policy. I have enclosed for my colleagues' consideration a critique of "The Reagan Administration's Human Rights: A Mid-Term Review" prepared by Americas Watch, The Helsinki Watch, and the Lawyers' Committee for International Human Rights. I am hopeful that the Congress will address the concerns raised in this report by adopting the revised asylum procedures put forth in H.R. 7357 with a greater focus on the issue of judicial review and right to counsel.

U.S. REFUGEE AND ASYLUM POLICY

One aspect of the United States' domestic human rights performance warrants special consideration: the treatment of refugees and applicants for political asylum.

Historically, United States refugee policy has been an extension of foreign policy, permitting the admission of hundreds of thousands of people fleeing from communist countries while denying admission to those fleeing from right-wing dictatorships. Thus in the last twenty years the United States has accepted nearly a million Cubans, over 600,000 people from Indochina, and hundreds of thousands of refugees from the Soviet Union and Eastern Europe. Indeed, until 1980, United States law actually defined the term "refugee" to mean only those fleeing from "Communist or Communist dominated" countries. The Refugee Act of 1980 removed the ideological definition, which now includes anyone with a well-founded fear of persecution because of race, religion, nationality, membership in a particular social group, or political opinion. In practice, however, this change has had little effect on either overseas refugee admissions or on asylum cases in the United States.

REFUGEE PROGRAMS

For fiscal year 1981 the Carter Administration proposed, and Congress authorized, 217,000 overseas refugee admissions including 165,000 from Indochina and 37,500 from the Soviet Union and Eastern Europe. In contrast, only 4,000 admissions were designated for all of Latin America and only 3,000 for Africa. The number of refugees actually admitted from these regions was even smaller: 2,017 from Latin America and 2,119 from Africa. During 1981, moreover, the United States did not take a single refugee from Haiti, Guatemala or El Salvador under this overseas admission program.

For fiscal year 1982, the Reagan Administration proposed a total of 173,000 admissions including 120,000 from Asia and 42,500 from the Soviet Union and Eastern Europe. The number for Africa, (3,000), remained the same, while the number for Latin America was cut to 3,000. Again, not a single Haitian, Guatemalan or Salvadoran received refugee status. Of the 3,000 permitted entry from Latin America, only 579 were admitted, and of these 577 were from Cuba. For fiscal year 1983, the total refugee admission ceiling has dropped to 90,000.

ASYLUM POLICY

Aliens in the United States must prove refugee status by filing an application for political asylum. Like the quotas for refugee admissions, the asylum system still works in favor of those fleeing from communist persecution. In fiscal year 1981, only five Haitians were granted political asylum in the Unites States (out of more than 5,000 applications), while, in contrast, 201 cases were approved for applicants from Afghanistan (out of just over 1,000 applications). For the same period, only two Salvadorans were granted asylum in the United States (out of more than 6,000 applications), while 297 cases were approved for Nicaraguans (out of just over 9,000 applications).

The administration has extended its efforts to discourage asylum-seekers to the United States beyond denying refugee status to applicants from non-communist countries. In July of 1981, Attorney General William French Smith announced the Reagan Administration's three-point plan to stem increasing asylum applications: detention of undocumented aliens, including those seeking political asylum; interdiction of boats on the high seas; and a substantially expedited adjudication procedure for asylum claims. Almost immediately, all three procedures were applied to Haitians arriving in South Florida. Some 2,500 were apprehended and imprisoned at the Krome detention facility in the Everglades 25 miles from Miami. When the makeshift accommodations became overcrowded, many of these Haitians were transferred to a dozen facilities throughout the county, from Ponce, Puerto Rico to LaTuna, Texas, and Lake Placid, New York. After months of detention in these isolated facilities, often without access to legal counsel or to friends, some of the Haitians, abandoned their claims for asylum and agreed to accept "voluntary" return to Haiti. Most stayed, however, and, in June of 1982, a federal Judge in Miami ordered the class (then 1900) released—ruling that the detention had been effected in violation of statutory requirements. Those Haitians have now been released, pending the adjudication of their asylum claims. Ironically, challenges to the Haitian detention program prompted the Administration to promulgate federal regulations in October of 1982 which make the detention of arriving, undocumented aliens the rule, and make release the exception. As a result of this policy, asylum applicants from a number of countries including Afghanistan, Iran, Iraq, and Haiti have been detained, pending the adjudication of their cases, and many remain in detention.

The deterrence model implemented by the Reagan Administration has denied asylum applicants a fair opportunity to present and to develop their claims for political asylum. Immigration and Naturalization personnel have subjected Haitians and Salvadorans to coercion, which has discouraged some from asserting their asylum claims, and encouraged others to return to their countries of origin, where they may face persecution. Federal courts have intervened, particularly on behalf of Salvadorans, and required that arriving aliens be given notice of the right to apply for political asylum and of the right to counsel. These and similar expedited adjudication practices are the subject of proposed and contemplated legislation which is being advocated by the Reagan Administration.

In addition, the Reagan Administration has undertaken a long-term alien detention policy, particularly with respect to Cubans. The Cubans are being detained indefinitely in federal prisons after denial of their asylum claims, and following exhaustion of efforts to return them to Cuba.

One area where the Administration deserves credit is for its change of position concerning Ethiopians. In July 1982, reacting to strong congressional and public pressure, the Administration reversed an earlier decision to cancel a program that had provided temporary refuge to more than 15,000 Ethiopians in the U.S. Within the Administration, Assistant Secretary of State Elliott Abrams was credited with spearheading the move to change the policy back to the program of "extended voluntary departure," permitting Ethiopians to remain in the United States indefinitely without facing deportation hearings.●

MILLIONS OF AMERICANS ENTER HOLIDAYS WITHOUT JOBS

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. JONES of Oklahoma. Mr. Speaker, this Christmas season is one of the saddest in my lifetime. Millions of Americans enter holidays without jobs and without any bright hopes for the winter months ahead. It is very clear that the Reagan administration and the Congress must pull together in the next few months if we hope to avert continued hard times in the remainder of this century.

One shining example of teamwork and devotion to those who desperately need our help exists in Tulsa, Okla., Neighbor for Neighbor, a community-based organization devoted to the war on poverty, has worked harder than ever before this year to help every person in need of spiritual and material assistance. In the past fiscal year, Neighbor for Neighbor has provided services valued at $1.1 million to the disenfranchised in our community. In the past 18 months, NFN has distributed over 185,000 pounds of food to Oklahomans, and has delivered health services to over 4,700 persons.

I congratulate Dan Allen, director of Neighbor for Neighbor in Tulsa, and his devoted staff for their good work for our community this past year. They have been a vital part of our community for 15 years, and they continue to be a saving force for thousands of Oklahomans. I hope that this administration and this Congress will do their jobs next year so we can alleviate the burgeoning workload of Neighbor for Neighbor.●

JOB PARTNERSHIP TRAINING ACT OF 1982

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. CONTE. Mr. Speaker, the national jobless rate reached its highest point since 1940—10.8 percent. Unemployment is undisputably the No. 1 economic challenge facing the country today.

With this distressing statistic in mind, I was pleased that the President supported and signed into law on October 13, 1982 the Job Training Partnership Act. Some estimates conclude that the new program would train more than 1 million people annually in skills to be used in private sector jobs.

The important and innovative provision in this legislation, as opposed to CETA, is the role of the private sector. "The partnership" aspect of the program will encourage that cooperation of State and local government officials with the private sector—where the permanent jobs are created and maintained. The participants should be trained for jobs that actually exist in the private sector. The program is important and innovative for this reason: It tailors local employment programs to private sector labor needs.

As the recession continues and unemployment becomes more severe, another long term problem has developed: dislocated workers. For the first time, this program is aimed specifically at retraining workers who have lost their jobs as a result of structural economic changes.

Even though the transitional stage from CETA to new training programs will be in place during fiscal year 1983, preliminary estimates are available concerning the new law's impact on Massachusetts. According to the Massachusetts Department of Manpower Development, the State will recieve approximately 2.31 percent of the total funds allocated. Assuming that fiscal year 1984 appropriations will be somewhat similar to previous years ($3.7 billion total), $68 million will be available to Massachusetts. In the western part of the State—composing much of the First Congressional District—the prime sponsor in Pittsfield could recieve $1.6 million while the Springfield prime sponsor could receive almost $5 million. Ultimately, thousands of Massachusetts residents could be trained in this program.

Mr. Speaker, many Members of this House had reservation about various provisons of this legislation—myself included. However, during this period of extraordinary unemployment complicated by swiftly changing "international economy," employment training programs are necessary to keep America working.●

HON. BO GINN

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. ALEXANDER. Mr. Speaker, I welcome the opportunity to honor the record of service to our people that has been compiled by a talented and able colleague whose voluntary departure from our ranks will be sorely felt.

It has been my privilege to work with Bo GINN on both the Committee on Appropriations and on our Subcommittee on Military Construction Appropriations. During these years my respect for and appreciation of Bo GINN's abilities has grown.

But, even before our Appropriations experiences, I had learned of Bo GINN's dedication as we were brought in more frequent contacts by our shared interests in stimulating and supporting private business and private sector job development; in building, repairing of rehabilitating our transportation network; and in improving our national defense system to achieve peace through strength.

Bo GINN's knowledge of the way Government works and his willingness to understand the concerns and problems of the people of other congressional districts have served to benefit people in communities all across our Nation.●

INSURANCE FILM TARGETS TEENAGE DRUNK DRIVING

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BARNES. Mr. Speaker, one of our society's most serious problems today is drunk driving—particularly among teenagers. It is a stubborn problem which is killing off our young people—our future—at an alarming rate.

The No. 1 health problem of our teens is not disease, fire, dope, or handguns, but the family car driven by an alcohol-impaired youngster. When the final tally is in this year, about 8,000 teenagers will have died in alcohol-related crashes. Another 40,000 will be injured.

It is obvious we need innovative approaches to combat the strong peer pressures to drink and drive. One such approach, a film aimed at teenage audiences, produced by the National Association of Independent Insurers, is described in a recent column by Judy Mann of the Washington Post. The column very aptly zeroes in on the filmmaker's successful effort to bring the "don't drink and drive" message to teenagers without scolding, threatening, or preaching.

It will be made available on a free rotating loan basis to any high school that requests it early next year. I commend the NAII, the world's largest property casualty insurance trade association representing more than 500 companies, for such a worthwhile undertaking. I urge my colleagues to read this article. The article follows:

[From the Washington Post, Dec. 17, 1982]

TEEN DRINKING

(By Judy Mann)

Lowell R. Beck, president of the National Association of Independent Insurers, stood before an audience of about 100 people in a hotel meeting room Wednesday and warned them of what they were about to see. Noting that he was the parent of three teenagers, he said: "If you're not involved with kids, you're going to be a little uncomfortable with this film, because you're going to see them doing what they do."

The NAII then showed the audience of government officials, congressional staffers, insurance executives, educators and law enforcement officials a movie called "Just Along for the Ride." The film—part of an industry response to the enormous cost in lives, injuries and therefore premiums caused by drunken drivers—is aimed particularly at teen-agers, a group that is four times more likely to have an alcohol-related crash than any other group of drivers.

The film shows why.

It is the story of three likable youngsters, their friends, and how an ordinary day and a typical teen-agers' party degenerates into tragedy. There are no adults in the movie, except at the end. The homes are upscale, suburban, with long driveways and wooded grounds. The three main characters are shown doing chores and thinking about grades. One, Danny, talks about facing a trigonometry exam and refers to himself as "the future chief of surgery." His girlfriend, Lisa, nudges him about studying for a Spanish exam.

Most of the actors were professionals who spent a week making the film in Ohio. But the third main character, "D. J.," was played by John Mitchell, a sophomore theatre major at Northwestern University.

"It started out with a regular script," he said. "When we got ahold of it, we realized it was totally outdated in terms of language. It was really preachy. Through the whole process, we improvised off the script."

The result is a look into the social lives of teen-agers that will ring true to a teen-aged audience and any parent of teen-agers who has been paying attention.

These are not troubled or delinquent kids; they are happy, clowning, fun-loving, enamored of cars and bent on having a good time. "That's all there is," says D. J. at one point, "is having a good time. You sip some brew and have a good time."

The film shows the kids beginning to drink casually in the afternoon. Lisa is an exception. She doesn't drink much, and she cautions Danny to "lay off the stuff. If you start drinking at four, your party's going to be over at five." He resents it.

The film shows the peer pressure, the ready availability of liquor in parents' homes, the absence of the parents, and the ignorance that young people have about

how much they can handle. Mike, a college student who travels with a cooler of beer in his car trunk, declares at one point: "I don't care how wasted I get. I'm in control. I drive better wasted than most people do sober."

Three girls are seen sitting in a house, sipping wine, beer and tequila and making plans for the party. The boys show up in front of the picture window, holding cans of beer, clowning around and pretending to shoot each other. The scene, Mitchell said, just happened. But the symbolism is there.

The party is a parent's nightmare: beer and liquor abound. Nearly everyone is drinking, except Lisa. When the kids leave to get pizza, she wants to drive, but Danny, telling her she makes him feel like a baby, refuses. She goes with another boy who also has been drinking, but who tells his girlfriend to drive. Both cars leave, with Danny barely in control of D. J.'s car. He weaves and then misses a stop sign. D. J. yells "There's a car coming." They crash, and suddenly the screen is filled with Lisa's bloodied face and anguished expression.

It cost the NAII $200,000 to film a painfully realistic look into the beer-laced world of many American teen-agers. The organization is going to lend the movie to schools around the country. Fittingly, it was previewed here during the week that President Reagan has designated to focus national attention on drunken driving.

This is a film written, not by adults but by young people, with their feelings, their antics, and their jargon; it is the kind of film that may make others think twice before drinking and driving.

In a society that loses about 8,000 of its youths a year from alcohol-related accidents, that is surely one of the best investments the industry has made.●

HUMAN RIGHTS POLICY: A MIDTERM REVIEW

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. LELAND. Mr. Speaker, I am inserting the following report by Americas Watch, Helsinki Watch, and the Lawyers Committee for International Human Rights. The report presents a midterm review of the Reagan administration's human rights policy. I would urge the membership to read this report.

The report follows:

THE REAGAN ADMINISTRATION'S HUMAN RIGHTS POLICY: A MIDTERM REVIEW, DECEMBER 10, 1982

(Prepared by Americas Watch, Helsinki Watch, and Lawyers Committee for International Human Rights)

COLOMBIA

By 1980, the Carter Administration had virtually terminated military assistance to Colombia and, instead, was furnishing economic assistance. The Reagan Administration has reversed field, ending economic assistance and providing only military assistance. Though human rights considerations did not loom large in the policies toward Colombia by either the Carter or Reagan Administrations, the effect of giving only military aid is to identify the United States with the element of Colombian society that commits major human rights violations.

Colombia is a democracy with a newly elected government that appears dedicated to improving the country's human rights record. The crucial question for human rights in Colombia is whether the civilian government has the strength to stop serious abuses by its own armed forces. This makes U.S. identification with the Colombian armed forces particularly unfortunate.

HAITI

Domestic debate over the status of Haitians seeking asylum in the United States, rather a candid assessment of conditions under President-for-Life Jean Claude Duvalier, has dictated the Reagan Administration's reaction to human rights violations in Haiti. The Administration's unwillingness to grant political asylum to virtually any of the several thousand Haitians currently seeking asylum in the United States has led it to overlook Haiti's consistent pattern of human rights violations. The Administration's desire to support the Duvalier government because of its reliable opposition to Fidel Castro in Cuba causes it to give undeserved support to ineffective, cosmetic actions taken by the Haitian government in the name of improving human rights conditions.

To receive political asylum, the Haitians in the United States must prove that they are unable or unwilling to return to Haiti "because of persecution or well-founded fear of persecution." Because granting refugee status would be tantamount to admitting that the Duvalier government regularly practices persecution, the Reagan Administration has taken the line, along with the Haitian te Associate Attorney General Rudolph W. Giuliani in May, "have done so in search of economic betterment, and do not have a well-founded fear that they will be personally persecuted if they return." INS maintains this in face of evidence that Haitian security forces, including the Tonton Macoutes, continue to terrorize much of the rural and urban populations. Recent reports indicate that security forces continue to arbitrarily arrest, detain and torture perceived opponents of the government. The government continues to suppress any political activity, to curtail freedom of the press and association. In the last two years free trade unions have been seriously undermined, as has the Haitian League for Human Rights.

The Department of State has taken a similar stance in evaluating the domestic situation in Haiti. Section 721(b) of the International Security and Development Cooperation Act of 1981 required that the Administration report to Congress on human rights conditions in Haiti, as a condition for voting foreign assistance. Addressing this provision on April 5, 1981, Secretary of State Alexander Haig simply informed the Congress that "the Government of Haiti is not engaged in a consistent pattern of gross violations of internationally recognized human rights." In so doing the Administration and authorized the granting of direct foreign assistance to Haiti, as well as the extension of credits and guarantees under the Arms Export Control Act.

The Department's 1981 Country Report on Human Rights Practices also displayed selective treatment. It suffers from outright omissions, particularly in its analysis of the government's respect for civil and political liberties. It states, for example, that "there were no reports of torture in 1981," when there were, in fact, a number of such reports. Many of the cases involves prominent people, such as Sylvio Claude, leader of the Christian Democratic Party, cases that were well known to the State Department.

Ignoring such facts, the Reagan Administration focused instead on the formation in April 1982 of a Haitian government agency called the National Commission on Human Rights. In a speech announcing the formation of the Commission President Duvalier told the Legislative Assembly that the Commission was part of his "revolutionary vision." Creation of the National Commission is reminiscent of the establishment, in November 1979, of a Human Rights Division in the Ministry of Foreign Affairs. To date the Human Rights Division has never issued any substantive statements nor intervened publicly in any human rights matters.

HONDURAS

The Reagan Administration continued the Carter Administration's policy of aligning itself with the advocates of a return to democracy in Honduras. This policy was helpful in producing a democratic election in Honduras in November, 1981 and a civilian government that took over in January 1982.

Regrettably, this alignment with democracy was accompanied in 1982 with an enormous increase in U.S. military assistance to Honduras, making it second only to El Salvador as a beneficiary of this kind of assistance from the U.S. in the Western hemisphere. Partly as a consequence, the strength of the armed forces in Honduran society has grown precisely at a moment of ostensible civilianization and democratization of the government. Human rights abuses increased dramatically during 1982, with the armed forces of Honduras apparently to blame. During 1982 there were more than 80 disappearances.

The major human rights question in Honduras is whether the democratically elected civilian government has either the will or the strength to control abuses by the armed forces. By its very strong identification with the Honduran armed forces, the Reagan Administration has undone much of what it accomplished for human rights by aiding the return to democracy and has identified the United States with those responsible for increasingly serious abuses of human rights.

HUNGARY

Human rights abuses occur in Hungary particularly in the area of free expression. Intellectuals who speak out or sign petitions, such as those who protested the crackdown on Charter 77 in Czechoslovakia, have been fired from their jobs and denied passports.

Because Hungary enjoys most favored nation trading status with the U.S. and prizes its conomic relations with the U.S., the U.S. has more leverage with Hungary than with some other countries aligned with the Soviet Union. We are aware of at least one instance in which U.S. influence has been used in quiet diplomacy by the Reagan Administration to aid Hungarian intellectuals persecuted for expressing their views. We applaud this action.●

MARY BONINO JONES

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. PATTERSON. Mr. Speaker, I would like to share with my colleagues, the contributions of a most dynamic citizen who has a record of

voluntary and professional service that spans more than 33 years. It is important that the career of Mrs. Mary Bonino Jones be acknowledged before the Congress and thereby throughout the Nation. In doing so, I know that others will be inspired to make similar contributions to their community, and will seek to excel in their own career.

Those of us in the 38th Congressional District of California and all of Orange County already know Mary Jones to be a person who possesses many exemplary qualities. At a time when she has announced her retirement from her professional career, it is fitting to highlight her record of service from a seemingly endless list of activities.

To begin, Mrs. Jones has been a distinguished leader in the public relations field. For 20 years, she has held the prestigious and demanding position of community affairs manager for the Disneyland Division of Walt Disney Productions. This role encompassed the administration of the "Annual Disneyland Community Service Awards program." Under her direction, this celebrated program has been administered effectively and impartially as a means by which hundreds of philanthropic organizations are recognized for their humanitarian accomplishments.

In the area of civic and charitable affairs, Mrs. Jones' influence has been visible through her service as a Girl Scout troop leader of 15 years. She has also been a founder and vice president of the Anaheim Arts Council, and the founding chair of the Orange County Arts Alliance. The always friendly and vivacious Mary Jones has somehow found the time to serve as member of the Anaheim YWCA Board of Directors, the KOCE-TV Citizens Advisory Council, the Guardian Angels of Anaheim Memorial Hospital, the communications division of the Orange County United Way North/South, and two of the citizens capital improvement committees for the city of Anaheim. In essence, Mrs. Jones has shown continuous devotion to her family, her church, her employer, her city, and the county. Based upon this track record, I anticipate that despite her professional retirement, she will never leave the mainstream of our community.

Mary Jones has previously been honored by the Orange County Board of Supervisors, the Anaheim City Council, the Anaheim Chamber of Commerce, and the Orange County Chapter of the National Conference of Christians and Jews. I am now pleased to extend my own recognition as a Member of Congress, on behalf of myself, and many constituents whom I know to be equally appreciative of this remarkable woman. Mr. Speaker, it is with pride that I ask my colleagues to join me in saluting the fine career of Mary Bonino Jones.●

HARP AND HOODED SEALS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. JEFFORDS. Mr. Speaker, last Friday the Council of Ministers of the European Community adopted a resolution asking each member country to impose a ban on the import of pelts from young harp and hooded seals. This ban will last until March of 1983, at which time the Council will again consider the issue.

Although this ban is not permanent and it is, in effect, voluntary, it should be viewed as progress toward the goal of ending the much-publicized seal clubbing on the ice floes off Newfoundland each spring. Several years ago, we in the United States recognized that if we cut off demand for the seal pelts, we remove the incentive for this brutal seal hunt. That was the motivation behind section 101(a) of the Marine Mammal Protection Act.

Mr. Speaker, I want to take this opportunity to thank the 218 Members of this House who joined me in sending a Telex to the President of the European Commission, urging adoption of this ban. I am informed by leaders of this movement in Europe that this type of input is appreciated and very influential.

And, on behalf of all Americans who have expressed concern and outrage about the seal hunt, I wish to commend the Council of Ministers for its wise action on this matter. We will all watch the next vote on a permanent ban very closely.

For the information of the Members, I am having printed in the RECORD a factsheet by the Department of Commerce's National Marine Fisheries Service on harp seals and the harp seal hunt. I am also including an article by one of the leaders of the movement to ban seal imports in Europe.

HARP SEALS

The harvest of harp seals takes place each spring in the Gulf of St. Lawrence and in waters off Labrador and Newfoundland. The hunt is conducted by Canadian and Norwegian nationals over which the United States has no control. The management of these seals came under the sole authority of Canada upon extension of that country's fishing zone to 200 miles on January 1, 1977. Until that time, the management and protection of the harp seal was under the auspices of the International Commission for the Northwest Atlantic Fisheries (ICNAF). Effective December 31, 1976, the United States withdrew from membership in ICNAF as required by the Fishery Conservation and Management Act of 1976.

In 1971, Canada and Norway agreed to limit the number of harp seals allowed to be taken to about 245,000 in response to recommendations by a panel of ICNAF scientists. The quota was reduced to 150,000 in 1972 and remained at this level until 1976 when it was reduced to 127,000. For 1977 and 1978, it was determined that a total allowable take of 170,000 and 180,000 would permit the stock to increase to a size of 1,250,000 to 1,500,000 by 1983, if the kill rate is kept near this level in future years. The 1978 total allowable take of 180,000 remained the same for 1979. The harp seal is considered the second most abundant species of seal (the northern fur seal is first) in the world.

As far as we know, no U.S. nationals participate in this harvest. Further, the Marine Mammal Protection Act of 1972 provides that no marine mammal which is less than eight months old or nursing at the time of taking, whichever occurs later—or the product of such a mammal—may be imported in the United States except for scientific research. The Secretary of Commerce has not waived the moratorium on the importation of harp seals, and no such waiver is contemplated.

[From the Sunday Telegraph Magazine]

SUPPORT THE CALL AND HELP STOP THE CULL

(By Stanley Johnson)

Last March the European Parliament in Strasbourg voted overwhelmingly—by 160 votes to 10—in favour of a resolution which called upon the EEC Commission (which is the European's Community's executive arm) to prepare a draft regulation to ban the import into the EEC of products coming from young harp and hood seals, as well as products from seals whose stocks were being depleted, threatened or endangered.

As the author of the original motion, I was delighted by the result. It is probably fair to say that no issue excited such a degree of public interest in the Parliament since the first direct elections in June 1979. British MEPs alone received well over 30,000 letters from their constituents. I received over 2,000 letters from Canada (where the annual seal slaughter takes place) in support of the ban.

Some people say there would be less worldwide concern and indignation if seal pups were less "cuddly" and if the method of killing (the animals are clubbed to death in front of their mothers eyes) were less aesthetically objectionable. But this kind of argument misses the point.

Earlier this year I visited the seal herds as they were hauling themselves on to the pack ice in the Gulf of St Lawrence, after their long migration from the Arctic. It was one of the most spectacular sights I have ever seen, only equalled, perhaps, by the movement of vast herds of wildebeest and hartebeest across the Serengeti plains in Africa. For me, the fight against the Canadian seal hunt is part of the wider struggle to protect all forms of wildlife (fauna and flora) against the direct and indirect impact of the human race.

The harp seal population in the northwest Atlantic has probably declined from ten million at the beginning of the century to between one million and 1.5 million today. The hood seal population may be barely a tenth of that. Shall we do to the seals what we have done to the great whales?

And after the seals? The decline and extinction of earth's species at an ever-increasing rate (often through loss of habitat, but often, too, through direct injury inflicted by man) has the making of a tragedy of global proportions. So even if the Canadians an-

nounced tomorrow that they had found a new "humane" method of killing 200,000 seals (this year's quota) I should still object as passionately to the hunt as I do now.

Ten years ago the U.S. banned the import of seal products. Three-quarters of the trade is now directed to Europe. Bar-stools, cigar-cases, for trimmings for ladies coats, toy baby seals made out of real baby seals are the end-products.

Britain in particular bears a heavy responsibility. British companies are deeply implicated in the trade, with Britain the major entrepôt centre. Last year 40,000 skins were imported, almost all for immediate re-export to the luxury market in West Germany.

So far the government has been reluctant to act beyond imposing a labelling requirement. In theory, this means that any seal product should be marked showing the type of seal and the country where it was killed. In practice, because of the nature of the trade, the labelling approach is totally ineffective. With the initiative taken by the European Parliament, we now have the opportunity and the obligation to do better.

Not long ago Mr. Michael Heseltine, the Environment Secretary, earned the applause of conservationists throughout the world by taking the lead in pressing for a ban on the import of all whale products into the EEC. That ban has now taken effect. We must do the same for seals.

The Government must make it clear to the EEC Commission in Brussels that we expect it to respond quickly to the European Parliament's resolution. We must then urge our Common Market partners to support the call for a ban when it comes up before the EEC Council which will make the final decision. Let us hope we will be in time to prevent next year's slaughter.●

CONGRESS SHOULD INVESTIGATE NATURAL GAS IMPORTS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. CORCORAN. Mr. Speaker, as a member of the Committee on Energy and Commerce, I have participated in a wide range of activities and discussions related to U.S. natural gas policy. Questions related to natural gas are multifaceted. Some aspects affect domestic producers, pipelines, distribution companies, and consumers, while other parts of the natural gas question include significant foreign policy dimensions.

Such is the case with the importation of Algerian liquified natural gas (LNG) and Canadian and Mexican natural gas. For this reason, while we need to pursue a broad range of issues related to natural gas in the context of the Energy and Commerce Committee, I also believe it would be appropriate for the House Foreign Affairs and Senate Foreign Relations Committees to hold hearings on the foreign policy dimensions of natural gas importation. With this thought in mind, I have asked the chairman of these two committees to hold hearings on this important matter as soon as possible during the 98th Congress.

As an indication of the high level of interest that many Members of Congress have regarding this issue, several Members of the Illinois, Ohio, and Missouri congressional delegations today signed letters to the Federal Energy Regulatory Commission and the Economic Regulatory Administration. This letter urges these Federal agencies to use their power to help stop overpriced and unnecessary natural gas imports from Algeria. Additionally, this morning, I testified before the FERC administrative law judge presiding over the hearings regarding the Algerian LNG imports. I urged the judge to do whatever he could to prohibit these price increases from being passed on to consumers.

Mr. Speaker, particularly in view of the fact that more than half of our States are or will be on the receiving end of expensive natural gas imported from Algeria, Canada or Mexico, I strongly urge congressional attention to this matter.●

MISSION TO BERLIN—1982

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. PATTERSON. Mr. Speaker, the National Conference of Christians and Jews held its International Conference in West Berlin, Germany in August 1982. Accompanying the group of 20 delegates participating in this conference was Dr. Martin M. Weitz of Laguan Hills, Calif. A long time advocate for Judeo-Christian values, Dr. Weitz has willingly shared his experiences of Berlin during several visits over the years. At the International Conference, he spoke about the progress of "Berlin—Past and Present and Future."

Dr. Weitz considers his visits to Berlin a multifaceted "mission" which I would like to share with my colleagues in the House of Representatives. Dr. Weitz sees how much can be accomplished through international cooperation and common objectives. In his words, I submit for my colleagues, Dr. Weitz's perceptions of Germany in his visit to the Spandau sector of West Berlin. I know my House colleagues will be interested in this account of "Berlin—Past and Present and Future."

An exposure to the total Jewish Community of estimated 30,000 in the Federal Republic, in general and a cross-section survey of the Jewish "Gemeindes" of all cities we visited, with conferences with leaders and rabbis and visits to rebuilt synagogues, centers, libraries, hospitals, and homes for the aged.

We represented the World Union for Progressive Judaism and its president, Dr. Solomon B. Freehof of Pittsburgh, in our efforts to help some of the cities secure qualified Rabbis for their untended "Gemeindes."

A series of visits with "foster children" or "graduates" from the Ventnor Foundation, on organization directed by Dr. and Mrs. Hilton S. Read of Ventnor City, New Jersey, and chaired by Dr. I. S. Ravdin of Philadelphia, Pennsylvania, whereby 900 or more medical students from Germany, Holland, France, Poland, Israel and other countries were able to serve as interns in American hospitals one or two years, thus combining American know-how and technique and democracy with European training and culture for the benefit of doctor and patient and for the world community. We were able to have special conferences with many of these "graduates" in Cologne, Munich, Stuttgart and Berlin.

For the Jewish Chautauqua Society of New York City, interested in intergroup appreciation on college campuses, in summer camps, as well as in great libraries in American and increasingly around the world, we were able to have pilot-seminars with university graduate students in Bonn, Hamburg, Tubingen, Frankfurt, Munich and Berlin and conferences with leading university libraries so that select volumes of Biblica and Judaica in English would become gifts of goodwill from Jews of America to German students and professors interested in values beyond all barriers. Among the leading university libraries selected were: Universitas Bibliothek, Cologne; University of Bonn, Bonn, Germany; State and University Library, Hamburg; Library of Free University, Berlin; Library, University of Munich, Munich; Tubingen, Universitas Biobliothek, Wilhelmstrasse; Library of Frankfurt University.

Conferences with outstanding leaders in inter-group communication in every city we visited were held. These included distinguished priests, pastors, rabbis, and civic leaders—all engaged in dialogue at its best, in units similar to our National Conference of Christians and Jews, and its round tables, but ahead of our American experiment in many ways, probably due to the great need in Germany to make up for lost time and lost lives in the past.●

SPACE COMMERCE ACT

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. AKAKA. Mr. Speaker, I have introduced a bill which would streamline the current procedure by which a private company is granted permission to launch a vehicle into space. This bill, known as the Space Commerce Act, is of vital importance to the success of private sector involvement in our Nation's space effort. There can be no question that the commercial era of space has dawned with the arrival of the 1980's. As a Congress, we must do what we can to encourage the private sector to invest in space and space-related activities, for as history has shown, an investment in space is one of the soundest economic invest-

ments we can make in our Nation's future.

Under current practice, it is quite difficult for a private company to receive the necessary clearances to launch a vehicle into space. In fact, the process is not only complicated, but often requires a company to spend an inordinate amount of time and money in an effort to receive those clearances. One company which recently conducted a suborbital launch was required to obtain regulatory permissions, clearances, and approvals from five different Federal agencies or bodies: the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of State, the Federal Communications Commission, and the North American Defense Command. Furthermore, not only did the company have to register with the Internal Revenue Service, but incredible as it may seem, with the Bureau of Alcohol, Tobacco and Firearms as well. As a result of this ponderous procedure, this particular company was required to invest over 6 months and more than a quarter of a million dollars in legal fees to be cleared for launch.

The bill I have introduced simply streamlines the regulatory procedure by establishing a single point of contact within the Federal Government for applicants to obtain permission to launch a space vehicle. Under the terms of this bill, this single point of contact would be responsible for coordinating and facilitating all Federal actions pertinent to private sector space launches. In turn, this single point of contact would issue a comprehensive license for space vehicle launchings to private companies. This bill would in no way abrogate our national security interests, and would certainly result in an efficient and less costly procedure for regulating private space launches.

There can be no doubt that private sector involvement will shape the future of our Nation's space effort in the years ahead. Already, there are at least six companies which have publicly announced their intention to commercialize various aspects of space launch services.

By streamlining the regulatory procedure for companies involved in this activity, this bill encourages the development of new enterprises in the space field—not by subsidy or special treatment, but rather by opening up new opportunities for entrepreneurs. These new business opportunities can be exploited and developed by small and middle size businesses—businesses which form the backbone of our American economy. By streamlining the regulatory procedure, this bill also encourages the creation of new jobs, for as the industry grows, so does the number of people necessary to it.

Passage of this bill will kindle the spark of new investment in America and make clear our commitment to American leadership in new areas of technology and industry.

Passage of this bill will serve to encourage the kind of high productivity which we, as a nation, have long supported.

Passage of this bill, and others like it, can make a real contribution to the health of our economy.

We must not limit our effort in rebuilding America to fixing potholes and decaying bridges. We can, through passage of this legislation, create the conditions necessary for building a bridge to a whole new frontier.

I urge my colleagues to make a commitment to building the bridge to a whole new frontier by supporting this legislation now and in the next Congress.

H.R. 7411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Space Commerce Act".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) the peaceful uses of outer space continue to be of great value and to offer benefits to all mankind;

(2) civilian applications of space technology have achieved a significant level of commercial and economic activity, and offer the potential for growth in the future, particularly in the United States;

(3) new and innovative equipment and services are being sought, created, and offered by entrepreneurs in telecommunications, information services, and remote sensing technology;

(4) the private sector in the United States has the capability of developing and providing private satellite launching and associated services that would supplement the launching and associated services now available from the United States Government;

(5) cost savings could accrue from the private sector developing and providing launching services;

(6) the development of such services would enable the United States to better compete with the launching services now being developed by foreign countries, thereby contributing to the national interest and economic well-being of the United States;

(7) commercial provision of such services is not inconsistent with the national security interests of the United States; and

(8) the United States should encourage and, to the extent reasonably necessary, regulate private sector launching and associated services to provide for the national security and public safety and to carry out the obligations of the United States under international treaties affecting the use of space.

(b) PURPOSE.—It is the purpose of this Act to—

(1) encourage the development by the United States private sector of capabilities for providing launching and associated services;

(2) provide the necessary regulation by the Federal Government to ensure public safety and national security and to carry out obligations of the United States, such as liability for damage from space objects, under applicable international treaties and agreements affecting the use of space;

(3) stimulate private sector applications of Government-developed space technology; and

(4) promote further economic growth and entrepreneurial activity in utilizing the space environment for peaceful purposes.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "launch " means to place, or attempt to place, a space object in a suborbital trajectory, in Earth-orbit in outer space, or in nonearth orbit in outer space, by means of a launch vehicle;

(2) "launch site" is the area defined in the license from which the launch takes place;

(3) "launch vehicle" means any system or systems constructed for the purpose of launching a space object, but does not include the payload;

(4) "license" means a license to launch a space object issued under this Act;

(5) "payload" means an object which an applicant undertakes to launch, including subcomponents of the launch vehicle specifically designed or adapted for that particular payload, but excluding all other parts or components of the launch vehicle;

(6) "person" means an individual or entity, other than an agency or department of the United States Government and other than contractors and subcontractors acting on behalf of any such agency or department;

(7) "Secretary " means the Secretary of Commerce; and

(8) "space object" means any object constructed for launching or operating in space, and includes component parts of such object as well as its launch vehicle and parts thereof and the payload, if any, and parts thereof.

CENTRALIZED RESPONSIBILITY AND AUTHORITY

SEC. 4. (a) The Secretary shall be responsible for carrying out the provisions of this Act, unless otherwise specified.

(b) The Secretary shall designate within the Department of Commerce a primary point of contact for receiving, processing and validating applications for a license under this Act. Such primary point of contact shall coordinate and facilitate all Federal actions pertinent to private sector space launches.

LICENSING FOR LAUNCHING OF SPACE OBJECTS

SEC. 5. (a) IN GENERAL.—(1) Except as provided in section 9(b), no person may launch a space object from the territory of the United States, and no person who is a national of the United States may launch a space object from international waters or air space, except in accordance with a license issued under this section. Any person violating this subsection shall, upon conviction, be subject to a fine of up to $1,000,000 per violation and up to five years in prison or both.

(2) Except for licenses issued under this Act or under the Federal Communications Act of 1934, no license, approval, waiver, or exemption need be obtained from any Federal agency before launching a space object.

(b) AUTHORITY.—The Secretary shall, upon application and in accordance with the provisions of this Act, issue licenses for a launch or launches of space objects.

(c) CONDITIONS.—The Secretary shall issue a license under subsection (b) only if the Secretary—

(1) receives assurances from the applicant sufficient to convince the Secretary that the

applicant will meet the liability insurance requirements of section 6 of this Act;

(2) determines that the proposed space objects and launch sites provide reasonable assurance that there will be no undue risk to the safety of the public or to national security;

(3) determines, in consultation with appropriate Federal agencies, that the applicant would qualify for any license, approval, waiver, or exemption with respect to space object launches required to be obtained under Federal law in effect before the date of enactment of this Act, if such license, approval, waiver, or exemption were still required;

(4) approves the proposed payload, if any; and

(5) determines that there is reasonable assurance that the obligations of the United States under international treaties and agreements affecting outer space will continue to be met.

(d) PROCEDURE.—(1) Any person may file with the Secretary an application for a license to launch a space object. Such application shall be filed not later than one hundred and eighty days before the first proposed launch. The application shall contain the following information:

(A) The name and address of the owner or owners of the proposed space objects.

(B) The proposed launch site or sites.

(C) The proposed trajectories of the launches and proposed orbital parameters.

(D) A description of the space objects.

(E) The proposed and reasonable alternative launch dates and times.

(F) Potential safety and environmental hazards associated with any proposed launch.

(G) Procedures intended to be employed for protecting the public safety with respect to the proposed launches.

(H) A description of the payload, if any.

(I) Such additional information as may be reasonably required by the Secretary.

(2)(A) The applicant must notify the Secretary of any substantial changes of material fact with respect to an application when such changes are known and occur prior to the launch.

(B) Any information submitted by an applicant under this subsection which is labeled as proprietary by the applicant shall not be disclosed to the public.

(3) Within thirty days after receipt of an application under paragraph (1), if the Secretary determines that such application is a full and complete application conforming to the application requirements of this Act, the Secretary shall publish in the Federal Register notice of the receipt of a full and complete application for a license to conduct a launch or launches under this Act. Such notice shall invite public comment for a period of thirty days, and the Secretary shall consider any such comments in determining what action to take on such application.

(4) Within ninety days after the filing referred to in paragraph (1), the Secretary shall act either to issue, deny permanently, or deny temporarily a license to carry out the activities requested by the applicant. The Secretary shall furnish a written report setting forth the basis of such action, including, in the event of a license denial, a discussion of alternative arrangements which would mitigate the reasons for denial.

(5) Any applicant whose application is denied, or is approved with conditions unacceptable to such applicant, under paragraph (4) may file a petition with the Secretary within ten days after such action for reconsideration of such action. Within thirty days after the filing of any such petition for reconsideration, the Secretary shall hold a hearing on the record to consider the issues raised in the petition. Petitioners shall have a reasonable opportunity at such hearing to present their views, to present evidence, including documents, depositions and oral testimony, and to examine witnesses. Within thirty days after such hearing, the Secretary shall enter a final order granting or denying the license.

(6) Subsequent to a final order under paragraph (5), the petitioner may seek judicial review in the United States district court whose jurisdiction includes the location of the proposed launch site, or in the district in which the petitioner resides or may be found or is incorporated.

LIABILITY INSURANCE

SEC. 6. (a) Before launching any space object, the applicant must obtain liability insurance from a financially responsible source which is sufficient to cover the risks associated with such launch and subsequent space operations.

(b) In accordance with the provisions of section 9 of this Act, the Secretary shall issue regulations setting forth the levels of insurance coverage sufficient to satisfy the requirements of subsection (a).

SUSPENSION OR REVOCATION OF A LICENSE

SEC. 7. Whenever a licensee fails to comply with any applicable provision of this Act, or any applicable rule, regulation, restriction, or condition issued or imposed by the Secretary under this Act, the Secretary may suspend or, if the failure to comply is knowing and continues for a period of thirty days after the Secretary, by registered letter, mails notification of such failure to the licensee at its recorded post office address, revoke a license issued under this Act.

EXCLUSIONS

SEC. 8. The provisions of this Act shall not apply to any launch of a space object authorized under the National Aeronautics and Space Act of 1958 by or on behalf of the United States Government.

REGULATIONS

SEC. 9. (a) The Secretary shall, as soon as practicable but not later than one hundred and eighty days after the date of the enactment of this Act, issue regulations implementing the provisions of this Act.

(b) Pending the issuance of regulations under subsection (a), the Secretary shall make provisions to permit launches by private sector entities by granting interim permits to those entities that the Secretary determines will conform to the provisions of this Act.

COMMERCIAL SPACE STUDY COMMISSION

SEC. 10. (a) There is established the Commercial Space Study Commission (hereafter in this Act referred to as the "Commission").

(b) The Commission shall consist of nine members, six of whom shall be selected by the chairman of the Committee on Science and Technology of the House of Representatives and the chairman of the Committee on Commerce, Science, and Transportation of the Senate, in close consultation with the chairman of the House Subcommittee on Space Science and Applications and the Senate Subcommittee on Science, Technology, and Space, from among individuals qualified and expert in the development of commercial space activities. In appointing such members, an attempt shall be made to ensure that Government agencies, private companies contracting to do work for the Government, and private companies without Government contracts have equal voice on the Commission. The Federal Aviation Administration, the Federal Communications Commission, and the National Aeronautics and Space Administration shall be represented by one member each on the Commission.

(c) The Chairman and Vice Chairman of the Commission shall be designated from among the six appointed members of the Commission at the time of appointment.

(d) Vacancies in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission and shall be filled in the same manner in which the original appointments were made.

(e) The first meeting of the Commission shall be called not more than ninety days after the date of enactment of this Act.

(f) Five members of the Commission shall constitute a quorum, but a smaller number specified by the Commission may conduct hearings.

(g) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission (including members who are full-time officers of employees of the United States) shall be allowed travel expenses, including per diem, in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(h) Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of pay in effect from time to time for grade GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(i) Subject to section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(j) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

DUTIES OF THE COMMISSION

SEC. 11. (a) The Commission shall conduct a study of the direction of future Government involvement in, support of, and regulation of private sector commercial activity in outer space.

(b) The Commission shall conduct such hearings as it considers appropriate and shall provide notice of such hearings to the public, including information concerning the date, location and topic of each hearing.

The Commission shall take such other actions as it considers necessary to obtain full public participation in the study undertaken by the Commission. All meetings of the Commission shall be open to the public.

(c) Within one year after the date of its first meeting, the Commission shall publish a draft report of the findings of the study and shall distribute copies of the draft report to appropriate Federal agencies and, upon request, to members of the public. The Commission shall solicit written comments from the organizations and individuals to whom copies of the draft report are distributed.

(d) After taking into consideration any comments submitted to the Commission, the Commission shall issue a final report of the results of its study within nine months after the publication of its draft report. The Commission shall submit copies of the final report and copies of all written comments on the draft submitted to the Commission under paragraph (c) to the President, to the Committee on Science and Technology of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Senate, to appropriate Federal agencies, and upon request, to members of the public.

(e) The Commission shall make recommendations for appropriate legislative action to the Congress based on its findings and conclusions under subsection (a) of this section.

TERMINATION OF THE COMMISSION

SEC. 12. Upon the expiration of the sixty-day period following the submission of the report required by section 11(d), the Commission shall cease to exist.●

INTERNATIONAL SYMPOSIUM TAKES AIM AT DRUNK DRIVERS

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BARNES. Mr. Speaker, last month I participated in an International Symposium on Alcohol and Driving, sponsored by the American Insurance Association and the Insurance Information Institute. More than 600 persons active in the day-to-day battle to get drunk drivers off the Nation's highways attended the symposium here in Washington. They were representatives of Federal, State, county, and city governments, including legislators, the judiciary, and regulatory agencies; citizens' groups, academia, the clergy, a variety of business organizations, and the media.

Each of the 50 States was represented as were several foreign countries. Also, it is noteworthy that many of the participants attended the symposium through scholarships funded by individual companies in the insurance and alcoholic beverage industries.

The symposium featured 30 experts on the problems of drunk driving who examined what programs have been effective in curtailing the drinking drivers and how they could be adapted to different locales. One speaker described the symposium as a meeting she had been anticipating for 20 years.

The underlying message from the symposium is that the drinking driver is in trouble. Public outrage and public concern about deaths and injuries caused by the drinking driver is not going to fade. It will not disappear next year with the expiration of the Presidential Commission on Drunk Driving just as it did not subside with the passage of the Federal drunk driving bill so many of my colleagues joined with me in cosponsoring.

The diversity and dedication of the participants of this symposium give me encouragement that, what has been up to now an uncoordinated movement, can be brought together in a way that will lead to effective deterrence of drinking and driving. Prospects for a continuing coalition of public interest groups to address the problem are bright.

The insurance industry plans to use the symposium as a centerpiece in their communications efforts to keep this problem in the public eye as long as it takes to effect the attitude changes necessary to stop people from driving under the influence of alcohol and drugs.

I congratulate the American Insurance Association and the Insurance Information Institute and other groups that sponsored and participated in this highly successful symposium. It is this kind of dedicated action which insures that the American public will never again passively accept the tragedy of more than 25,000 alcohol-related traffic deaths a year.●

THE HONORABLE EDWARD J. DERWINSKI: A CLASS ACT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. WOLF. Mr. Speaker, the adjournment of the 97th Congress will mark the end of a distinguished career in Congress for our colleague from Illinois, ED DERWINSKI.

It has been a privilege and honor to have served with ED for the past 2 years on the Post Office and Civil Service Committee. His actions have reflected his dedication and commitment to the best interests of both active and retired Federal employees. He has served the Nation well and he will leave a void on the committee that will be impossible to fill.

It is with regret that I acknowledge his departure from the House, but we are fortunate that he will continue in public service at the State Department and I wish him continued success in his new position.

I would like to share with my colleagues an editorial in a recent edition of the Federal Times which aptly describes ED as "a class act."

[From the Federal Times, Dec. 20, 1982]

CLASS ACT

Republican members of Congress generally do not make it to the top of the popularity charts drawn by organizations representing postal and federal people. We believe Edward J. Derwinski, a 12-term member from the Chicago suburbs, is one of those rare GOP representatives who captured the affection and respect of most of the federal-postal union and management lobbyists who frequent Capitol Hill.

An example of the good will that Derwinski earned, especially in his capacity as ranking minority member of the House Post Office and Civil Service Committee, was clearly manifested at a farewell roast for him at the National Democratic Club a week or so ago.

To our knowledge Derwinski is the first Republican to be so honored at the NDC.

Among Ed's many well-wishers were the leaders of some of the largest unions and management organizations on the federal scene. From their number, George Gould, legislative honcho for the National Association of Letter Carriers, put Derwinski nicely on the griddle. And Representative Bill Ford, D-Mich., PO&CS chairman, also delivered some astute observations on Derwinski.

For our part, we regret Ed's departure from the House this month, an unhappy shift in fortune that was spurred by a bloody redistricting fight last March. *Federal Times* reporters and editors over the years have appreciated Derwinski's wit and wisdom. It was a pleasure to behold Derwinski's puckish sorties against his colleagues on the other side of the aisle and his ability to gently deflate some of the pompous fellows of both political parties who appeared before the committee.

Derwinski often rained on the parades of employee leaders who through the committee hoped to win such things as the right to strike, Hatch Act repeal, the union shop and other goodies near and dear to the hearts of dues-paying unionists. But to Derwinski's credit, we believe, he was a powerful ally of federal workers when it came to preserving their retirement system. And Derwinski probably had no peer when it came to protecting the U.S. Postal Service.

This newspaper respected Ed's integrity and we appreciated his tart sense of humor. We will miss him in the 98th Congress but believe the qualities that endeared him to his friends and ultimately his ideological foes when he was a congressman will lighten things a bit at the State Department, where Derwinski will be employed beginning in January.

Goodbye, Ed. You are a class act.●

TRIBUTE TO HON. DON CLAUSEN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. BIAGGI. Mr. Speaker, for the past 19 years, the people of the Second Congressional District of California have said with great pride that their Congressman is DON CLAUSEN. I

rise today to pay tribute to a fine man and colleague.

DON, a California native son, born and raised in Humboldt County will be best remembered by his colleagues for his many contributions as the ranking minority member on the House Public Works and Transportation Committee. DON has been especially effective in this position during this session of Congress and one hopes that some of the legislative initiatives to which he lent his name will find their way into becoming law soon.

DON was especially knowledgeable about aviation matters and was one of the main congressional authorities on the subject. This was evidenced by the fact that in his precongressional life DON was chairman of the California Aerospace-Aviation Education Task Force and later and today the current president of the Congressional Flying Club. DON is also the proud recipient of the Frank G. Brewer Trophy, the Nation's highest award for aerospace education.

DON has been a good friend to many in this House and will be missed. His counsel was sought by many and valued by all who received it. The House will miss DON CLAUSEN but is grateful for all he gave to this institution.●

WALL STREET GETS JITTERS FROM BANKRUPTCIES AND DEFAULTS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, Wall Street gets badly shaken by bankruptcies and defaults as described in the following articles, so how are they going to deal with the unbelievable pending $26 billion bond default of the Washington Public Power Supply System (WPPSS)?

The articles follow:

[From the Wall Street Journal, Aug. 17, 1982]

CHASE CDS ARE VIEWED WITH UNEASINESS AFTER LOMBARD FILINGS FOR BANKRUPTCY

(By Tim Carrington)

(Chase's certificates of deposit are being regarded cautiously by traders in the wake of the big bank's exposure to possible losses from the collapse of Lombard Wall Inc. and an allied government securities firm last week.)

NEW YORK—Chase Manhattan Bank's exposure to possible losses in the recent collapse of two affiliated government securities firms has spawned squeamishness among traders toward the bank's certificates of deposit.

The market jitters stem from the latest in a series of financial calamaties that have involved Chase—the bankruptcy filings of Lombard-Wall Inc., a government securities firm, and Lombard-Wall Money Markets Inc., an allied government securities firm. Chase has an unsecured-claim for $45 million against Lombard-Wall Inc., according to papers filed in federal bankruptcy court here by Lombard-Wall Inc.

Chase has said its exposure is considerably less than that, but traders and money managers are looking at the bank's short-term credit with caution. Some are shying away from the CDs entirely, while others are "buying them on the run," or for short periods, says the top trader with one major money manager.

Chase, like other banks, issues certificates of deposit continuously and depends on these short-term securities as a source of funds.

A Chase spokesman said that despite the reported turmoil in the secondary market for the CDs, the bank isn't increasing the interest it pays on newly issued certificates above what other money center banks are paying. Traders, however, say they expect that the bank may be pushed into paying higher interest on its CDs if the marketplace continues to treat the securities as more risky than those issued by the other large banks.

Some of the nervousness is cumulative. The Lombard-Wall bankruptices come on the heels of two other debacles that sent shudders through the financial community—the collapse in May of Dryside Government Securities Inc., which traded through Chase, and the failure in July of Penn Square Bank which sold loans to Chase, and to other large banks.

"It's a matter of the bank being unlucky." said one trader. "It would be nice if they missed something once in a while."

Some believe the market reaction is chiefly emotional. "I haven't changed my attitude toward the Chase at all," said Joseph Di Martino, executive vice president of Dreyfus Corp. But he added, "Whether it's reasonable or not, this is the way people are trading.".

Some market professionals say they're steering clear of Chase CDs not out of fears that the bank won't meet its obligations but out of a desire to avoid the appearance of making risky investments. Managers of money-market funds, for example, have to answer to thousands of shareholders. "When something gets controversial, people stay away from it, not for investment reasons, but because of a feeling of Who needs it?" said Mr. Di Martino.

The market treatment of Chase's certificate echoes the skittish reaction to CDs of Continental Illinois National Bank & Trust Co., although traders say the nervousness over the Chase securities is less intense. Anxiety over the Chicago bank's certificates forced the institution to remove itself last month from the dealers' run of 10 banks whose CDs are interchangeable in terms of price and yield.

Although the Chase CDs are currently receiving less favorable treatment than the remaining eight banks' CDs, traders don't expect that Chase will be forced to withdraw from the "top tier" as Continental did. Continental has been beset by loans it has bought from the failed Penn Square Bank and by other troubled loans it made in the energy area.

In the futures markets, some traders were expressing a reluctance to accept Chase CDs as delivery against CD futures contracts. Continental faced similar problems last month, and asked the Chicago Board of Trade to remove its name from the list of banks whose CDs are approved for delivery against futures contracts. Traders say they don't expect Chase will have to take similar steps.

Meanwhile, the slumping demand for Chase CDs has created trading opportunities for some participants. Edward Kantor, a senior executive vice president of Drexel Burnham Lambert Inc., said "I'm looking at the Chase as a very viable institution: it's an opportunity to buy the paper on a spread." But he said that Drexel's moneymarket fund is showing caution toward Chase CDs as a result of shareholder worries.

[From the Wall Street Journal, Aug. 17, 1982]

LOMBARD-WALL FAILURE MAY CAUSE LOSSES FOR DOZENS OF NEW YORK STATE INSTITUTIONS

(By Daniel Hertzberg)

ALBANY, N.Y.—Dozens of colleges, hospitals and other institutions in New York state face possible financial losses in the collapse of Lombard-Wall Inc., a government securities firm.

The institutions own $305 million in idle cash entrusted to Lombard-Wall by the New York State Dormitory Authority. State officials privately concede that some losses are likely from the Lombard-Wall investments, although William A. Sharkey, executive director of the dormitory authority, predicts that any losses will be "readily manageable." The authority says that $55 million of its loans to Lombard-Wall don't have government securities behind them as collateral.

In any event, some of the organizations could be caught in a cash squeeze, state officials here warned.

Lombard-Wall and an allied government securities firm, Lombard-Wall Money Markets Inc., filed bankruptcy petitions last Thursday that listed the dormitory authority as their largest unsecured creditor.

But dormitory authority officials said yesterday that the funds it lent to Lombard-Wall belong to more than 50 nonprofit institutions in the state that employed the dormitory authority as a financing tool.

"It's their money," Mr. Sharkey said. He asserts that the authority isn't responsible for making up any losses incurred by the various educational and medical institutions.

The dormitory authority has only $15 million of its own funds invested with Lombard-Wall.

The state authority, by selling tax-exempt bonds, is supposed to raise funds at a low cost for the construction of buildings by colleges, hospitals and other institutions in New York. The authority then distributes the money as each project progresses, meanwhile investing any idle funds to earn interest.

REPURCHASE AGREEMENTS

The institutions are ensnarled in the Lombard-Wall situation because of their involvement with the dormitory authority. The identities of most weren't known immediately when the two Lombard firms filed for bankruptcy last week. As previously reported, there also are more than 100 financial institutions that had cash and/or securities at the two firms, and thus also are enmeshed in the situation.

The college and hospital funds were entrusted to Lombard-Wall by the dormitory authority. Lombard-Wall sold the institutions government securities under repurchase agreements. Under those agreements, Lombard-Wall agreed to buy back the securities at a fixed price. In effect, the agree-

ments represented loans to Lombard-Wall, and the institutions were paid interest while the agreements were in effect.

Mr. Sharkey said that the funds invested in Lombard-Wall included about $162 million belonging to units of the City University of New York. A large part of the money eventually was earmarked for major construction programs for York College and Manhattan Community College. "I'm shocked," said Donal Farley, vice chancellor of facilities for City University. "We assumed that this was money that was really safe."

An additional $43.4 million invested with Lombard-Wall is construction money intended for New York Hospital, a private institution, state officials said. Lesser but still considerable sums belong to such institutions as Columbia University, New York University and Long Island Jewish Hillside Medical Center.

CASH SQUEEZE THREAT

Mr. Sharkey said that a more immediate threat is a cash squeeze for a handful of the institutions whose unspent construction funds are 100% invested at Lombard-Wall. It is possible that bankruptcy proceedings could tie up the money for months. Mr. Sharkey said that one such institution, Bronx Community College, will have to find $2.1 million in the next three months to continue its construction program.

However, Mr. Sharkey disclosed that a major bank and a large "investment house" last Friday offered to provide "interim financing" for the dormitory authority. He declined to name either possible lender. He said that the authority, in addition to borrowing, is prepared to sell other securities it holds in order to prevent the suspension of construction work at any of the projects it financed.

At least two other New York public agencies have extensive investments with Lombard-Wall. New York City Housing Development Corp. reports that it has $130 million in repurchase agreements with the securities firm, while the city's Health & Hospitals Corp. has $29.6 million.

Lawyers for the dormitory authority and housing agency asked the federal bankruptcy court in Manhattan yesterday for an order permitted them to sell government securities held under repurchase agreements with Lombard-Wall.

DEFAULTS POSSIBLE

Otherwise, they said, the authority might encounter construction delays. And the housing agency's executive director, Michael C. Smith, warned that the agency might be forced to default on its bond and note debt service, which he said "would have a catastrophic effect" on the agency's "ability to issue new bonds and notes and to continue its construction programs." That, he added, also would hurt note and bond issues of New York City and state, and the municipal bond market in general.

However, Mr. Sharkey cautioned that a gradual sell-off of the securities may be "more prudent" than an immediate sale to prevent losses. Some state officials claimed that if interest rates continue to fall, the resulting rise in securities prices could largely eliminate any losses to institutions that have money with Lombard-Wall.

Some money managers say that part of the current problems stem from the dormitory authority's insistence that the colleges and institutions leave unspent bond-sale funds with the authority for investment. Mr. Sharkey says most of the idle funds—$305 million out of a total of $498 million—were invested with Lombard-Wall in repurchase agreements lasting as long as three years.

Since the Lombard-Wall bankruptcy filing, the authority has altered its investment policy, he says. From now on idle funds will be invested in certificates of deposit of major banks or directly in government securities.●

MARCONI ANNIVERSARY NOTES FIRST TRANSMITTAL BY RADIO

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BIAGGI. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues the 80th anniversary of the first transmittal of radio across the Atlantic by the famed Italian inventor, Guglielmo Marconi.

Few of us appreciate the importance of this event. Yet, had it not been for Marconi's dedication and diligence—as well as intellect—we would not be able to reap the benefits of radio communication today. Thanks to the tireless dedication of Marconi's daughter, Gioia Marconi Braga, his memory as well as his achievements have been kept alive. I have had the distinct pleasure of working with Mrs. Braga, most recently in helping to coordinate an exhibition of Marconi's work at Columbia University in New York.

For the benefit of my colleagues, I wish to insert into the RECORD an article from the Sunday New York Times which details Marconi's life and work.

[From the New York Times, Dec. 19, 1982]

MARCONI HAILED ON 80TH ANNIVERSARY OF RADIO MESSAGE

(By Richard Severo)

To the Government in Rome, which had spent the better part of three millenniums trying to cope with a peninsula of individualists, Guglielmo Marconi seemed especially presumptuous.

He was not yet 20, expressed disdain at the prospect of going to college, seemed awash on an island of gentle aloofness nurtured by his own dreams, yet had the audacity to go to Rome and ask the Government for research money because of some curious experiments he had conducted in the attic of his parents' villa in Bologna. These, he said, convinced him he could achieve wireless telegraphy. The Italian Government sent him packing.

The 80th anniversary of the first use of Marconi's wireless to transmit messages across the Atlantic was marked Monday. Marconi's daughter, Gioia Marconi Braga, went to the fishing and coal mining town of Glace Bay, Nova Scotia, which was the North American point for the 1902 transmission to England.

COMMEMORATION VIA TELEVISION

Edward R. Schreyer, the Governor General of Canada, and Sandro Pertini, the President of Italy, exchanged messages via trans-Atlantic television, the technological progeny of Marconi's brainchild.

In 1901, a year before Marconi's trans-Atlantic transmission, he had succeeded in transmitting a single letter, "S," across the Atlantic in Morse Code. But it was in 1902 that actual messages were sent and his profound achievement became acknowledged by even skeptics. The result was that modern concepts of time, space, distance and communications became irrevocably altered.

Mrs. Braga, who has homes in New York City and New Jersey, is an elegant woman of much vitality. She reminisced about her father.

THOUGHTFUL FATHER RECALLED

"He was formal, reserved, thoughtful," she said. "Of course, by the time I was born, my father was already in his 40's. He was famous and he traveled a great deal. But when he was with us at home, he was very attentive. I was chubby in those days, and he called me 'Puffet.' And he insisted that we write to him in Italian when he wasn't at home. He was very affectionate and concerned about our studies."

Mrs. Braga also said her father loathed "small talk" at social functions, but became eloquent and "fascinating" if he found someone who wanted to talk about one of his interests, such as science or music.

Marconi himself, she said, was completely bilingual but clung tenaciously to his Italian language and culture. He derived most of his skills in English from his mother, Anne Jameson, an Irish woman of Scottish descent whose family had a distillery in Dublin.

ENCOURAGED BY MOTHER

It was Marconi's mother who encouraged his experiments at Bologna, while Marconi's father, Guiseppe, scowled and said that his son would be better advised to stop monkeying with strange-looking coils in the attic and instead go to the Italian Naval Academy at Leghorn.

Mrs. Braga says her father was very fond of opera and, consistent with his preference for self-instruction, taught himself to play his favorite arias on the piano. He also liked vaudeville, which helped him take his mind off his work.

After he became famous, he was befriended by Pietro Mascagni, Arturo Toscanini and Enrico Caruso, whose music he loved and whose fame his wireless spread to millions of people. Caruso, who loved to sketch, created a cartoon of Marconi in 1912. Mrs. Braga has copies of it, but says she does not know who has the original now.

A FAITH IN SUCCESS

She also recalls that despite his seriousness and his dedication to science's dispassionate pursuit of cosmic truth, Marconi had a kind of mystical faith that his radio waves would cross the Atlantic, without really knowing that the ionosphere would prevent them from straying into outer space.

He also differed from the 19th-century idea of what a scientist should look like, in that he was very careful about his clothes. He did not fit the image of a shaggy man in baggy clothes, forever locked in his laboratory. He liked suits that reflected his own restraint, made by his favorite English tailors in Savile Row.

Another daughter, Degna Marconi Paresce, who now lives in Rome, became his biographer.

Seven years ago, on the 100th anniversary of her father's birth, Mrs. Braga founded the Marconi International Fellowship, an award for researchers in the physical sciences who further telecommunications for

the common good. The prize of $35,000 is administered by the Polytechnic Institute of New York.●

A TRIBUTE TO JIM MATTOX

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to pay tribute to my colleague JIM MATTOX, who will be leaving us at the end of the 97th Congress.

JIM is a dedicated and hard-working legislator who has made many valuable contributions during his 6 years of service in the House. His hard work here has led to his being elected attorney general of the State of Texas. JIM's departure is unfortunate for the House, however, I am sure he will continue his good work for the people of Texas. I wish him the best of luck.●

PROSPECTS FOR PEACE IN THE MIDDLE EAST

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. LaFALCE. Mr. Speaker, during the recent congressional recess, I had the opportunity to join a number of my colleagues in a factfinding trip to the Middle East. I visited Jordan, Egypt, and Israel meeting and talking with King Hussein, President Hosni Mubarak, Prime Minister Menachem Begin, Defense Minister Ariel Sharon, Israeli Labor Party leader Shimon Peres, municipal officials of Jerusalem and the West Bank, professors at Hebrew University, and others. I had the opportunity to hear, personally, in private meetings, their views on the prospects for peace in the Middle East.

We discussed President Reagan's Peace Initiative; the effect of Israeli settlements on the West Bank on both the peace process and the character of Israel; the role of the PLO and of Jordan in continuing peace discussions after Camp David; the need for Israel to be recognized and to live within secure and protected borders; and a host of other issues.

I left for this trip supportive of President Reagan's peace proposal—supportive of his decision to seize the opportunity afforded by the war in Lebanon. The President declared to the Arab nations in his initiative: "The time has come for a new realism on the part of all peoples of the Middle East. The State of Israel is an accomplished fact." He was unwavering in his support for secure borders for Israel. "It deserves unchallenged legitimacy." He opposed a return to the pre-1967 borders. He rejected the establishment of a Palestinian state on the West Bank.

I was able during my discussions with Menachem Begin to feel even more strongly that the PLO, if it is to be a negotiating partner in any peace process, must become a changed PLO. Begin noted that the PLO Charter calls for the destruction of Israel. He said: "How can you deal with an organization that says it wants to destroy you?" Clearly you can't.

I was able to sense King Hussein's desire to be at that peace table. He said:" Time is running out, and running out fast; so we, the United States and everybody have to move fast if we are going to avoid a catastrophe in the Middle East and the world."

I found myself in agreement with Shimon Peres and the academics in Israel as they expressed their concern that Israel would either lose its identity as a Jewish state or as a democratic state, if it absorbed the 1.3 million Arabs on the West Bank against their will. Peres said: "We are coming to de facto annexation which would destroy the character of Israel. . . . It will force Israel to become a dominating nation," and no longer a Jewish nation.

I heard Mubarak talk proudly about Egypt's role in the peace process and its commitment to pursuing peace even further. "We started the peace process, we are committed to the peace process, and we will continue the peace process."

These personal conversations are to be treasured—both for the knowledge and insight gained as well as for the privilege to meet candid, devoted, intelligent leaders. It would be ideal if all of my colleagues, and indeed, all Americans, could have such an opportunity. Obviously, that is not possible. What is possible, however, is to read about the subject and to seek views from many individuals steeped in background and knowledge about the Mideast.

One such individual is Henry Kissinger. Mr. Kissinger talks about prospects for peace in the Middle East in an interview with the Economist of London. Anthony Lewis has highlighted Kissinger's views in a New York Times op-ed piece entitled, "Kissinger on the Mideast."

Kissinger expounds upon the issues I have briefly mentioned. On the question of Israeli de facto annexation of the West Bank, Kissinger begins: "It is not even in the interest of Israel, however narrowly conceived." On the issue of Arab recognition of Israel, Kissinger stresses that mere recognition, verbal formulae is insufficient. The Arabs must negotiate the hard questions of security.

Kissinger praises President Reagan's peace proposal and defines its elements. He calls King Hussein the key actor. He urges Israelis and Arabs to seize the moment. The Economist article begins with Kissinger's statement: "The circumstances for progress in the Middle East are the best I can remember."

I agree and urge my colleagues to read "Kissinger on the Mideast." The article follows:

KISSINGER ON THE MIDEAST

(By Anthony Lewis)

Israel has the undoubted military power now to proceed with the de facto annexation of the West Bank. That process has already gone very far, and it is accelerating. Is it conceivable, then, that there can still be negotiation about the future of the West Bank? That question was put to Henry Kissinger recently. He answered:

"It is not only conceivable; it is imperative. Annexation of the West Bank—overt or disguised—will sow the seeds of endless crises, one of which will inevitably erupt into conflagration. It is not even in the interest of Israel however narrowly conceived.

"The incorporation of Gaza and the West Bank into Israel will sooner or later produce an Arab majority that will destroy the essence of the Jewish state. And if Israel seeks to escape this dilemma by expelling all the Arabs it will lose the moral support of even its best friends. Over an historical period Israel would not be able to withstand the crisis that would result."

Mr. Kissinger talked about prospects for peace in the Middle East in an extended interview with The Economist of London. The interview is must reading for anyone concerned about the area. For it conveys with rare clarity the urgency of the situation for all the immediate parties: Israel, its Arab neighbors, the United States.

In the wake of the Lebanese war, many people see a new opportunity for a peaceful settlement of the Arab-Israeli conflict. Mr. Kissinger says "The circumstances for progress" are "the best I can remember." But he warns that the opportunity is limited, that things may get much worse if the parties let it slip away. And the danger is that both Israel and the Arabs will be immobilized by illusions.

The Israeli illusion, Mr. Kissinger suggests, is that "somehow or other they can maneuver events to a de facto annexation of the West Bank." Thus the Begin Government intends to go on taking land in the occupied territory, building vast suburban developments there and agreeing to negotiate only an "autonomy" for the Palestinian inhabitants so narrow that, as Mr. Kissinger says, it "deprives the word autonomy of its dictionary meaning."

The Arabs' illusion, as he sees it, is that American pressure will force Israeli withdrawal from occupied territory in return for only "verbal formulae"—that is, Arab recognition of Israel without effective protection for its security. Such a course would mean the demoralization of Israel, Mr. Kissinger warns, and the Arabs must not think it will be allowed to happen. They must negotiate the hard questions of security.

He praises President Reagan's peace proposal for the Middle East because it directly addresses those illusions and offers an alternative path of realism. Mr. Kissinger defines its essential elements as follows:

"(1) That the negotiating partners on the West Bank should be Jordan and Israel; (2) that the West Bank authority elected by Palestinians should be associated with Jordan; (3) that annexation of the West

Bank and Gaza by Israel will not be accepted by the United States or by any other country; (4) that there be a moratorium on new Israeli settlements on the West Bank during a peace process; (5) that the negotiation must deal with Israel's security as well as recognition."

If the crucial need for Israel is security undertakings, the Palestinians in the West Bank and Gaza must have "a decisive role, a political role, in determining their political future, within the framework of association with Jordan." As for the P.L.O., Mr. Kissinger says its role will depend on "a true turn towards the political option." It is here that the urgency of movement on the Reagan plan comes in. "Reagan's initiative must yield some tangible results," Mr. Kissinger says, "while the impact of the P.L.O.'s lost military option is still fresh in everybody's mind." If there are no results in 12 to 18 months, the region may slip toward radical visions—and instability as far away as the Persian Gulf.

King Hussein is the key actor now. "If Hussein steps forward and we stick to our course," Mr. Kissinger says, "many Israeli fears will be reduced. . . . In a serious, sustained negotiation with Hussein I do not believe that any Israeli government could maintain opposition in principle to the return of the overwhelming majority of the Arab populations to some form of genuine Arab control."

A month from now the Reagan plan will come to a critical test. King Hussein is to meet the President in Washington Dec. 21. He has spoken favorably of the plan but has not yet done the essential: said he is ready to negotiate with Israel. He needs some gesture of hope and assurance—which in Mr. Kissinger's analysis would be the moratorium on West Bank settlements.

Many of us who criticized Henry Kissinger when he was in office have not changed our view that on such issues as Vietnam and Chile he used power beyond the limits of decency. (We can expect to learn more about his role in Chile in a forthcoming Atlantic Monthly article by Seymour Hersh.) But on the Middle East he has consistently been both practical and far-sighted. Israelis and Arabs should listen to him now, and act before it is too late.●

WPPSS—WALL STREET GETS BILLIONS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, WPPSS, it is as large as the Polish debt, $26 billion, and as disastrous as a Polish joke. Five large nuclear reactors financed and put under construction in the Pacific Northwest by the Washington Public Power Supply System (WPPSS, pronounced WOOPS) in scandalous circumstances which may finally prevent any revenue-producing electrical production and have the Northwest in bondage to Wall Street for an unbelievable $26 billion. This amazing story is told in the following article of the July/August 1982 issue of Pacific Northwest:

WHO'S GETTING RICH OFF WPPSS—WASHINGTON'S NUCLEAR POWER FIASCO HASN'T BEEN A DISASTER FOR EVERYBODY

(By Barry Mitzman)

When God visited a plague of locusts upon the Egyptians, you can bet that the local exterminators made a lot of money. And back in 1889, after Seattle burned to the ground, carpenters could charge pretty much what they wanted, and did. Even when Mount St. Helens blew its top, some people celebrated, especially the makers of ash masks and novelty T-shirts. Let's face it: disasters can be good for business.

So it is with the ill wind that has come to be known as "Whoops," the Washington Public Power Supply System. On the surface, you might think WPPSS has been an unmitigated catastrophe. You might say its plans to build five nuclear plants are in disarray—three projects have been shelved and the one nearing completion may be unsafe to operate. Getting to this dead end, you might note, has so far cost some $8 billion in borrowed money, and may end up costing more than $100 billion, including interest, before the agony is over. You might say the future of the Pacific Northwest has been mortgaged away, and all for nothting.

But look on the bright side. Sure, WPPSS has squandered enough $1 bills to wrap around the earth's equator 30 times over. But that money has not disappeared. It is percolating through the economy. It is creating big profits for construction companies, some of the bond holders, bond underwriters, lawyers, banks, consultants, more lawyers, university professors, and even a few magazine writers. The money flows, often into the most surprising hands, like those of tennis star Bobby Riggs and Washington Post editor Ben Bradlee. The T-shirt people are only now beginning to cash in.

Of course, you may never have thought of WPPSS as an economic boon, because the media have been focusing on the many ratepayers wailing over the electric bills. Yet meanwhile, largely overlooked, thousands of WPPSS beneficiaries are crying all the way to their Caribbean vacations. What is their secret? Can you, too, profit from the runaway spending still to come? Here is how others have been enriched by the WPPSS debacle.

Perhaps the first people to realize the full potential for making money from WPPSS were the contractors, the many construction companies and engineering firms that have been trying to build the nuclear plants at Hanford and Satsop for nearly a decade now. Unlike the WPPSS projects, other nuclear plants have usually been built by one or only a few prime contractors who hire and supervise various specialized subcontractors. Thanks to a recently amended state law, which formerly required WPPSS to let contracts based on competitive bids, many different companies—more than 500 in all—have been able to win multimillion-dollar WPPSS contracts to do various portions of the construction work. Of course, having so many contractors—between 45 and 65 at each site—has caused some problems. They have gotten in one another's way, and they have gotten involved in jurisdictional disputes that cause delay. On plant number two, for example, the mechanical contractor tried to install the cooling system before the architect-engineer had designed it. The installation was wrong, and had to be redone, and some of it redone again, and again, up to 17 times, before the different contractors had a true meeting of the minds.

All this duplication and delay costs money, of course. Yet, paradoxically, contractors have reaped even larger profits than first expected, thanks to the way WPPSS originally wrote its contracts. The agreements guaranteed the contractors a certain profit, a fixed percentage of the total costs of their work. So as the costs ballooned, the contractors' profits ballooned, too. In fact, some cynics suspect that contractors may have deliberately dawdled along and goofed up, just to boost their costs and thus their margins. In any case, the five plants are now several years behind schedule. And their ultimate cost, originally estimated at $5 billion, has risen to $23.8 billion.

Some of the big winners in this high-stakes sweepstakes are well-known corporations: Westinghouse, which has built turbine generators for plant one, two and three; General Electric, responsible for a steam supply system at plant two and for transformers at plant three; and Boeing Construction, which has poured concrete and erected various buildings at plants one and three. New Jersey-based Burns and Roe, which designed the faulty control room at Three Mile Island, is working for WPPSS, as is Babcock and Wilcox, which built the Three Mile Island reactor. Many of the largest WPPSS contracts are held by several firms acting jointly, like the consortium headed by the Seattle construction concern Howard S. Wright. The Wright team took over for the mechanical contractor who made a mess of plant number two. Though the cost of this work was originally set at just under $60 million, the Wright consortium will take in more than $380 million by the time the plant is finished, supposedly next year.

Another contractor whose costs have risen dramatically is a company from Boise which has signed on to perform various construction tasks on plants three and five at Satsop. Before plant five was terminated earlier this year, one of Morrison-Knudsen's contracts had swollen from $40 million to $214 million. (The Boise builder may owe some of its good fortune to a WPPSS director from eastern Washington, Howard Prey, who was one of 23 directors to vote to approve a total of $340 million in new contracts and contract increases for Morrison-Knudsen. As it happens, Prey owns Morrison-Knudsen stock recently worth about $17,000, according to his public-disclosure statement.)

One way these contractors pump up the size of their contracts is by charging WPPSS for a portion of their overhead, or general administrative costs. Companies tend to be creative with these expenses, charging off the costs of executive jets, entertainment, and other "perks." Ebasco Services, chief architect-engineer for the Satsop plants, recently tried to charge WPPSS $11,840 for an executive hunting trip in Texas, according to the agency's records. In 1978, Ebasco charged $157,579 to pay for a convention at the luxurious Breakers Hotel in Palm Beach, Florida. Included in the bill were airfare and gifts for wives, a $5,500 speaking fee paid to Ben Bradlee, and a $2,500 speaking fee plus $1,064 in travel expenses for celebrity tennis player Bobby Riggs.

Though later disallowed by WPPSS auditors, these charges illustrate how generously contractors are willing to share their newfound WPPSS wealth. They do not just hold on to it, they spend it. Much of it goes for the hefty wages paid to construction

workers, like the pipe fitters at Hanford, who are paid $20 an hour to redo the unsafe work they did earlier, also for $20 an hour. Of course, WPPSS directly employs a lot of people too, more than 2,000 of them, most of them supervisory people who spend their days borrowing money and paying it out to contractors. Managing Director Robert Ferguson, for example, takes home $125,000 a year for overseeing the system.

Before plants three and five were terminated, more than 13,000 workers were bumping into one another at the Hanford WPPSS plants, and more than 4,000 were crowded into Satsop. This level of employment boosted the local economies. "A lot of our labor force is attributable to the Satsop project," said George Douglass, manager of the Grays Harbor Chamber of Commerce. Unfortunately, termination of plant five has added to the area's high unemployment rate, recently running in excess of 15 percent.

But if WPPSS is no longer the sugar daddy of Grays Harbor, it still is making a lot of people on Wall Street very rich. In fact, the direct payments for construction and payrolls appear puny when compared with the cash required to pay off WPPSS' current $8 billion debt. Combined principal and interest amount to more than $25 billion, making WPPSS the nation's largest debtor, aside from the federal government itself.

In order to sell bonds, WPPSS must work through Wall Street banks and brokerages. They underwrite the bonds—that is, they buy them from WPPSS and resell them to investors. Some 300 institutions are involved in selling WPPSS bonds, but the four principal underwriters are famous Wall Street names: Salomon Brothers, Goldman Sachs, Merrill Lynch, and Smith Barney. In exchange for their help, the underwriters skim off a small percentage of the bond sale—a small percentage, but a potent one.

When WPPSS sold $850 million worth of bonds last February, for example, the underwriters took 2.798 percent off the top. That may not sound like much, but in this instance it amounted to $23.8 million. WPPSS actually received only about $826 million from the sale, though it must pay off the full $850 million debt. A Merrill Lynch broker brags that WPPSS bond sales "have been the most profitable in our history."

WPPSS has no choice but to pay the underwriters' fees, for it must borrow money, not only to continue construction, but also to pay interest on bonds sold earlier. And there are other costs involved in issuing bonds. Underwriters will not handle them unless they are backed by credit ratings from Moody's and Standard & Poor's, two firms that evaluate whether borrowers are likely to be good for their debts. Both raters recently downgraded some of WPPSS' credit ratings, but WPPSS nevertheless has to pay them each about $25,000 every time it tries to borrow more money.

WPPSS also pays for the services of a financial advisor. Lazard Freres & Co., the firm that led New York City away from the edge of bankruptcy back in 1975, will receive $800,000 in fees for its advice to WPPSS this year, according to the agency's treasurer, James Perko. WPPSS also employs a prestigious New York law firm, Wood & Dawson, for advice on legal matters related to bond sales; the firm gets a retainer plus about $100,000 for every $500 million in bonds sold. A Seattle firm Houghton Cluck Coughlin & Riley, serves as "special counsel." A recent news story in The Seattle Times placed WPPSS' total legal bills from the past years at about $4,2 million.

Yet even all this is small potatoes compared with the really big money—more than $17 billion in interest payments alone—to be had from actually owning WPPSS bonds. As WPPSS has borrowed more and more money, it has had to offer higher and higher interest rates in order to attract investors. Recent issues have carried better than 15 percent annual return, tax free. Last February, if you had bought $10,000 worth of 20-year WPPSS bonds, you would be receiving $1,512 every year for the next 20 years (more than $30,000 in all), plus your original $10,000.

It is a highly attractive investment, made more so by a guarantee from the federal Bonneville Power Administration. Bonneville has agreed to raise the region's electric rates in order to help WPPSS repay its debts from nuclear plants one, two and three. Bonneville's promise does not apply to the $2.25 billion in bonds issued for plants four and five, which makes those bonds riskier, which is why underwriters will not sell any more of them, which is why the plants have been treminated. But bonds for the first three plants, backed by a federal agency and bearing such high interest, are snapped up by investors about as fast as they come on the market.

Among the buyers are many of the nation's largest banks and insurance companies, though no one knows exactly who owns what. Locally, Seafirst Corporation, the holding company for Seattle-First National Bank, owns $16,8 million in WPPSS bonds, while Safeco Insurance has $12 million, and Rainier Bancorporation $10.5 million, according to company executives. Perhaps surprisingly, Northwest institutions now seem reluctant to invest any further in WPPSS. Some say their portfolios are already "saturated" with the bonds, including many older issues carrying only 6 or 7 percent interest. On the used-bond market, these often sell for only about 40 cents on the dollar, their price depressed by the more attractive rates now available. Some investors also admit they are worried about WPPSS' ability to repay its debts on plants four and five. Some institutions have been quietly selling off their bonds for plants four and five, often at a considerable loss. Safeco, for example, once held $10 million in them, but sold all but $2 million two years ago, according to senior vice president Bruce Robb. For all WPPSS bonds, the buyers now are mostly individuals willing to take a risk for potentially large returns.

Even WPPSS headaches, like the threat of default and the ratepayer rebellion, redound to the benefit of some folks. Last fall, Washington voters, angry with WPPSS, enacted Initiative 394, which requires voter approval of the agency's future bond sales. Opponents of the measure, including a lot of contractors and bond underwriters, spent $1.3 million trying to defeat it. That money fattened the advertising revenues of television and radio stations all around the state. And now that three banks, representing WPPSS bondholders, are challenging the initiative in court, a great many lawyers will be kept busy. The Bonneville Power Administration will pay the challengers' legal fees, expected to run at least $750,000, while supporters scramble to raise $200,000 to buy the services of attorney Joseph Califano, late of the Carter administration cabinet.

Not to be left out, academics at Washington State University and the University of Washington have stepped into the WPPSS controversy, recently completing a state-financed study of the need for plants four and five. The study became obsolete when the two plants were terminated, but the couple of dozen professors and graduate students who worked on it cashed in anyway, their salaries making up most of the study's $1.5 million final cost.

And as if all this were not enough, little cottage industries are beginning to spring up around the WPPSS phenomenon. In Kennewick, CF Advertising and Marketing Co. is selling individually packaged "Official WPPSS Mothballs" at 84 cents each to more or less commemorate the shutdown of plant number one. According to owner Debbie Layman, the mothballs "give people something to laugh about, because I think if they don't laugh, they are going to cry." Another small industry was started by Don Meyring, owner of Edmonds Athletic Supply in the city north of Seattle. He is making and selling WPPSS T-shirts, bearing a picture of a boarded-up nuclear plant and the legend: "Whoops! There goes another million kilowatts." Meyring says he has sold about 12 dozen of the shirts at $4.95 each to raise money for his son's slow-pitch softball team. "It was just an idea that occurred to some guys over a pitcher of beer," he said modestly.

Maybe so, but from these humble beginnings may grow a whole new industry. Without stretching the imagination too far, it is possible to foresee a day when stores will be piled high with WPPSS joke books, calendars, ashtrays and cocktail napkins. Maybe there will even be a WPPSS doll. Wind it up and it spends money.

THE EIGHTH WONDER OF THE WORLD

The five nuclear power plants proposed by WPPSS are among the most expensive undertakings in history. Here is how they compare to some of the world's other man-made wonders:

Project and Cost in Current U.S. Dollars	
WPPSS construction estimate for completion of plants 1 through 5	23,800,000,000
Grand Coulee Dam	4,653,000,000
Golden Gate Bridge	555,400,000
Panama Canal	14,916,000,000
Alaska Pipeline	13,501,000,000
Hanging Gardens of Babylon	19,500,000
The Great Wall of China	21,233,000,000
The Taj Mahal	67,600,000
The Great Pyramid (Khufu)	4,317,000,000
Apollo 11 trip to moon (excluding previous flights)	867,000,000
The Vietnam War	40,175,000,000

The estimated cost of completing nuclear plants 1 through 5 was provided by the Washington Public Power Supply System. The final construction cost of the completed Grand Coulee Dam was provided by the U.S. Bureau of Reclamation/Grand Coulee Project. The cost of the original Golden Gate Bridge came from the San Francisco Almanac; the cost of the Panama Canal came from The World Book Encyclopedia; the Alaska Pipeline from the Atlantic Richfield Company; Apollo 11 from U.S. News and World Report; and the Vietnam War from the Congressional Quarterly. Construction costs for all those projects were converted to current dollars with an index provided by Engineering News Record. Cost estimates for the Hanging Gardens of Babylon, the Pyramid at Khufu, the Taj Mahal

and the Great Wall of China assume the use of modern equipmemt and union labor. They were calculated by Peter D. Ackroyd & Associates, a quantity surveying and construction-cost consulting firm based in Seattle.●

FAREWELL TO THREE OHIO COLLEAGUES

HON. LARRY WINN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. WINN. Mr. Speaker, it is with mixed emotions that I bid farewell to three Ohio colleagues of mine who are leaving Congress. The House will miss BUD BROWN, BILL STANTON, and ED WEBER when we reconvene in January. All three have contributed integrity and dedication to the House and have represented their constituents with distinction.

All of us are familiar with BUD BROWN'S well-known energy expertise. BUD was a great source of information for me as I was considering energy decisions affecting the future of this country. He was also an effective member of the Government Operations and Joint Economic Committee. The people of the Seventh District of Ohio apparently agreed and sent BUD back to Washington nine times in all.

BILL STANTON also served for 18 years. The people of the 11th District were fortunate to have such a well-respected man representing them in Washington. Whether BILL was working skillfully on the floor or attending his committee meetings, his work was always recognized as exemplary.

ED WEBER was not in Washington long, but in the short time he was here, he displayed a strong devotion to reduced spending and lower taxes. Again, the people of the ninth district should be proud of the accomplishments of ED WEBER, whether it be in committee or on the floor. I will always remember ED as a very principled person who held his fundamental beliefs in reverence.

I wish all three of these distinguished men the best of luck in the future. I hope all of them will stay close to the decisionmaking process in some way. They will be missed.●

PRESIDENT REAGAN'S HUMAN RIGHTS POLICY IN REVIEW

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. WEISS. Mr. Speaker, human rights has long been a cornerstone of American foreign policy. President Reagan actively sought to deemphasize human rights in our relations with both allies and enemies from the time he took office. His nomination of Ernest Lefever for the post of Assistant Secretary of State for Human Rights was appropriately met with strong opposition, and Lefever's name was withdrawn.

Many critics remain of the Reagan administration's policy and record on human rights policy. A report prepared by Americas Watch, Helsinki Watch, and the Lawyers Committee for International Human Rights documents problems created by this policy. I want to insert in the CONGRESSIONAL RECORD at this time a portion of that report, evaluating the President's record in Kampuchea, Nicaragua, Pakistan, Paraguay, and the Philippines. The findings presented below add further evidence to the neglect of human rights by this administration.

The work of the organizations who prepared this report and countless other groups around the globe is a vital step toward restoring and assuring fundamental rights for all people, regardless of race, sex, creed, sexual orientation, or ideological belief.

THE REAGAN ADMINISTRATION'S HUMAN RIGHTS POLICY: A MID-TERM REVIEW

KAMPUCHEA

The Reagan Administration has been outspoken in denouncing violations of human rights in Kampuchea. The emphasis has been on violations attributable to the Heng Samrin (Vietnamese sponsored) government. These criticisms are certainly warranted as the Heng Samrin government is totalitarian in character and has been imposed by conquest on the people of Kampuchea. The Administration has taken a strong public stand, as it should, against the detention of political prisoners, severe restrictions on freedom of speech, press and assembly and lack of adequate protections for those who are arrested.

Unfortunately, however, in the process the United States has identified itself with the prior government of Pol Pot, a regime guilty of crimes against humanity on a scale that has few precedents. The Reagan Administration has made it plain that it is far from enthusiastic about the Pol Pot forces. Yet in voting for Democratic Kampuchea to take Cambodia's seat at the United Nations—as the Carter Administration did before it—it places the United States in the awkward position of favoring restoration of a monstous regime to replace a government that engages in systematic violations of human rights. In such difficult circumstances, the only alternative that appears consistent with concern for human rights would be abstention or support for a vacant seat. From the standpoint of human rights, it is wrong for the United States to identify with either side.

NICARAGUA

The Reagan Administration has been more outspoken in criticizing abuses of human rights in Nicaragua than in connection with any other country in the world. Indeed, many serious abuses have been committed by the Nicaraguan government, though some charges by the Reagan Administration are not based on fact.

Unfortunately, the criticisms by the Reagan Administration cannot be said to have had a positive effect on the human rights situation. For one thing, those criticisms stand in marked contrast to the apologies by the Reagan Administration for the abuses in nearby countries. In consequence, the criticisms of Nicaragua do not appear to be rooted in a concern for human rights. Rather they seem to be motivated solely by the geopolitical alignment of the Sandinista government.

A second factor negating the usefulness of the Reagan Administration's criticisms of human rights abuses by Nicaragua has been the administration's support for guerrilla forces seeking to overthrow the Nicaraguan government. The activities of these guerrilla forces have provided the Nicaraguan government with the rationale, or pretext, for many abuses of rights. It is by no means certain that abuses of human rights by the Nicaraguan government would diminish drastically if U.S. support for guerrilla activity were to end. Even so, such support completely undoes any gains for human rights that might be obtained through outspoken U.S. criticism of human rights abuses by the Nicaraguan government.

PAKISTAN

In 1981 the Reagan Administration unveiled a six-year aid package to Pakistan totalling $3.2 billion. Included in that package were 40 F-16 aircraft. In a series of Congressional hearings related to this massive aid package, Administration witnesses carefully steered clear of any discussion of human rights. In one such hearing, before the House Foreign Affairs Committee, the Under-Secretary of State James Buckley described U.S. policy as being designed to help nations in Southwest Asia contribute to their own regional self-defense. Mr. Buckley concluded "we believe this approach is not only the one most likely to succeed but also the one most consistent with our own national principles of non-interference in other people's affairs."

By late 1981, the human rights situation in Pakistan had deteriorated further. The government had suppressed dissent by explicitly prohibiting political activity. It was and still is responsible for hundreds and perhaps thousands of arbitrary arrests, detentions without trial and trials by military tribunals that are not subject to judicial review. Reacting to this increasingly serious situation, Congress added an amendment to the Foreign Assistance Act, in December 1981, Section 620(E), which provides in part that "it is the intent of Congress to promote the expeditious restoration of full civil liberties and representative government in Pakistan." Five months later, in May 1982, the Senate Foreign Relations Committee noted that it was concerned about the "lack of progress" on these issues. The committee report concluded that "the failure to improve the human rights situation and to democratize could also jeopardize authorization and appropriations of assistance in future years."

Undaunted, the Reagan Administration continues to ignore the escalating pattern of human rights violations in Pakistan and to carry on "friendly" relations with the government of President Zia ul-Haq. On Tuesday, December 7, 1982 President Zia met with President Reagan in Washington to discuss mutual concerns. At a meeting characterized by Administration officials by its "openness and warmth" President Reagan did not raise the issue of human rights.

PARAGUAY

In the summer of 1981, the Reagan Administration reversed previous U.S. policy

and voted in favor of an Inter-American Development Bank loan of $7.8 million to Paraguay despite U.S. law forbidding such votes in favor of loans to gross and consistent abusers of human rights. In support of this vote, and similar votes on loans to Argentina, Chile and Uruguay, Secretary of State Alexander Haig said that these loans were justified by "dramatic, dramatic reductions" in human rights violations. The State Department's Country Reports for 1981 retroactively justified this vote on Paraguay by asserting that, "Major violations of the integrity of the individual have decreased over the past three years." These findings contrast with those of Amnesty International which noted in its annual report for the year immediately preceding the loan that "the positive trend noted in the previous AI report . . . was partly reversed." AI continued in the same vein in its report for the year during which the loan was made.

During the year in which the U.S. was portraying improvement, the state of siege—suspending constitutional guarantees—continued in effect in the capital as it has continued in effect since 1954; there was a wave of repression following the assassination in Paraguay of ex-Nicaragua dictator Anastasio Somoza; and an Indian tribe, the Toba-Maskoy, was virtually wiped out as a cultural entity when the government forced it to relocate from the tribe's traditional homeland.

PHILIPPINES

The Reagan Administration's approach to human rights in the Philippines was firmly established by Vice President George Bush during his June 1981 visit to Manila. After meeting with President Marcos, Mr. Bush told the Philippine leader "We love your adherence to democratic principles and the democratic process."

Fifteen months later, in September 1982, during his first visit to the United States in 16 years, President Marcos was warmly welcomed at the White House where President Reagan described him as "a respected voice for reason and moderation." While there was apparently no mention of human rights issues in their private discussions, President Reagan told reporters that the Philippines "had made good progress" on those issues.

In place of human rights interests, Administration policy continues to emphasize U.S. security and economic interests in the Philippines. Talks are scheduled to begin sometime in the spring of 1983 on the renewal of U.S. military base agreements for Subic Bay and Clark Air Force Base. A five year economic support fund program of $200 million is being made available to the Philippine Government as part of the security assistance package tied to the base negotiations. Part of this aid goes directly to the national Police force of the Philippines, called the Philippine Constabulary. This is done without regard for section 660 of the Foreign Assistance Act of 1961 which prohibits any direct assistance to police units or personnel with internal law enforcement responsibilities. In justifying this policy the administration has noted that the United States provides "limited assistance" to the Philippine Constabulary for use in connection with its "internal security responsibilities," as opposed to its "internal law enforcement responsibilities." It is unclear how these are separated.

The Reagan Administration has also reversed the existing United States position in international financial institutions, instructing U.S. Representatives to vote in support of loans to the Philippines; a policy that is clearly at odds with Section 701 of the International Financial Institutions Act. In the first three quarters of 1982, the U.S. voted in favor of 15 loans by multilateral development banks to the Philippines totalling over $107 million. It did not abstain on any proposed loan.

When Administration officials do address themselves to human rights questions in the Philippines, they stress a context of "quiet diplomacy." As one Administration witness told Congress: "We believe this issue (human rights) can best be approached on the basis of friendly relations and grounded in confidence in the United States and its commitments." One result of this approach has been negotiation of a bilateral extradition treaty, which is likely to compel the United States to process extradition requests against prominent Philippine exiles now living in the United States. This treaty was signed by both governments on November 27, 1981 and now awaits assent to ratification by the Senate.

The record of the last two years reveals little to suggest that this approach is working. Since the lifting of martial law in January 1981, there have been continuing reports of arbitrary arrests and detentions, torture, disappearances and extrajudicial executions by government security forces.●

U.S. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BARNES. Mr. Speaker, today Congress has reaffirmed the importance of strong U.S. participation in international organizations, especially those organizations that provide services to development activities, such as UNDP and UNICEF. Congress has approved a funding level of approximately $249,000,000 of the total International Operations and Programs account, an increase of $34 million over last year's funding level. This year's total includes $140,000,000 for UNDP and $42,500,000 for UNICEF. Congress has shown its willingness to make the financial commitment that these programs deserve, and our contributions for this fiscal year will show that we are serious about progress for development and a better life for the world's children.●

LESSONS LEARNED

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mrs. BOUQUARD. Mr. Speaker, there is a great deal of risk to congressional credibility in releasing confidentially obtained draft reports to the public, especially when the Member releasing such reports attempts to infer his interpretation of the "true" meaning behind the conclusions of the draft report. Although this is a frequent happening on the Hill these days with respect to certain draft GAO reports on nuclear topics, the resulting adverse publicity from such erroneous evaluations does not often reach the national press. When it does, it becomes a meaningful lesson for those of us prudent enough to learn from the mistakes of others. The attached article appeared in the January 1983 issue of Discover magazine and I recommend it strongly to my colleagues who are concerned about the question of such congressional "leaks."

[From Discover Magazine, January 1983]

A MATTER OF RISK

Massachusetts Congressman Edward Markey, chairman of a House interior subcommittee, was up for re-election in a few days, and he could not resist the temptation. He leaked to the Washington Post the results of a complex study on nuclear power plant safety conducted by the Sandia National Laboratories for the Nuclear Regulatory Commission. Rushing into print with the study on November 1, the Post distorted it—as did the UPI and most of the newspapers that repeated the Post story. The result was a spate of scare headlines and television and radio news reports that were wrong by a factor of 10,000.

The Post reported that the "worst case" scenarios—in which more than 100,000 "early" deaths and $300 billion in damages could result—are based on a "Group I" accident, that is, one involving severe core damage, melting of uranium fuel, failure of all safety systems, and the breaching of the containment vessel resulting in the release of massive amounts of radioactive material. The likelihood of such an accident, the Post story explained, was one in 100,000 per reactor-year, which (given the number of reactors operating or planned in the United States) meant a 2 per cent chance of such an accident occurring before the year 2000. That is scary, but woefully misleading.

What the Post obscured, and what most of the rest of the press ignored, is that the worst-case statistics included the worst imaginable weather conditions: no winds at the time of the accident, which would allow the radioactive plume to accumulate, then a wind that would blow it over the heart of a nearby metropolitan area, and finally a rainstorm over the city at the precise moment that the cloud was passing by. The odds against this weather combination, the Sandia study reported, were 10,000 to one—which meant that when all factors were considered the worst-case odds were really one in a billion reactor-years.

In other words, the probability of a worst-case accident in the United States before the year 2000 is not 2 percent, but .0002 percent. That hardly seemed to warrant shutting down nuclear plants. Says David Okrent of UCLA, who specializes in studying low risk, high consequence events, "If society were to stop all activities that have the potential of causing 100,000 deaths, I suspect that we would stop drinking water and eating most of the things we eat. For example, we can calculate that 200,000 people would die from the worst-case failure of a dam in California."

Still, few of the newspapers and television and radio stations that highlighted the original story bothered to correct the facts, and most of the people who learned about

the correction did so only by reading full-page advertisements by the nuclear industry, headlined "Most of the Stories Were Wrong." While the nuclear industry has committed many blunders, it was dead right about the way the Sandia study was reported.

Dade Moeller, chairman of environmental health sciences at the Harvard School of Public Health, says the press seems to think that "nuclear terror sells newspapers." He may be right. A recent study by Public Opinion magazine showed that even before Three Mile Island negative articles outnumbered positive articles two to one and that Ralph Nader was the "expert" most frequently quoted on the subject. Although the small but noisy Union of Concerned Scientists, which is opposed to nuclear power, is continually quoted by the press, the Public Opinion survey found that three out of four energy experts and 99 per cent of nuclear energy scientists believe that the risks of nuclear energy are acceptable. The survey concluded that while "ignorance may explain the superficiality of coverage, it does not explain its direction."

There is another risk that the press should consider. Both America and the Soviet Union will become even more dependent on the Middle East when global economic recovery wipes out the current oil glut. Without alternative sources of energy—like nuclear—the chance of a superpower confrontation, perhaps nuclear, over Middle East oil becomes even greater. The odds against that kind of nuclear catastrophe are much smaller than a billion to one.●

A TRIBUTE TO JIM MATTOX

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. STENHOLM. Mr. Speaker, it has been a special privilege to serve as a member of the Texas delegation with the Hon. JIM MATTOX and to be able to congratulate him for his recent election as attorney general for the State of Texas.

I know that JIM will do as capable a job as a State official as he has here in Washington and that his efforts will be of benefit to all residents of Texas.

JIM's service in Congress followed a distinguished career in the Texas House and as assistant district attorney for Dallas County. No doubt both of these offices will serve him well in his next endeavor as State attorney general.

He was elected to the House Budget Committee as a freshman Congressman, an unusual occurrence that signified the recognition of his fellow Democrats of his unique talents and abilities. He served with distinction on the Banking, Finance and Urban Affairs Committee as well and his experience in those areas will be missed by the entire delegation.

The Fifth District of Texas has been well served by JIM MATTOX and those of us who served with him in this body will miss his presence.●

THE DEATH OF ELMER F. RUARK

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. DYSON. Mr. Speaker, on December 19, Maryland lost one of its finest citizens. I am referring to Elmer F. Ruark, the former mayor of Salisbury, who died at the age of 77 at the Deers Head Hospice Center in Salisbury after a long bout with cancer.

Mr. Speaker, this man brought energy, dignity, and pride to Eastern Shore politics. He was both tough and gentle, humble and proud, courageous and stubborn. Above all, he was a man of great common sense. Salisbury could not have hoped for a more farsighted, dedicated advocate.

During his tenure as mayor of that Eastern Shore city, a period that began in 1974 and ended last spring, Salisbury experienced a rennaissance that changed its face forever. Under Mr. Ruark's guidance, Salisbury's central business district and its riverfront began to be revitalized. His administration also oversaw the creation of a new street, Eastern Shore Drive.

Mr. Speaker, Elmer Ruark was a man of strong conviction and great vision. He had an almost fundamentalist reverence for the Bible. God and church were the guiding forces in his life and he could see, as few others could, parallels between religion and politics. He proved to me that the two need never conflict and, in the process, made me a better Congressman.

The Salisbury Daily Times, in an editorial, recalled that, "Nobody was more devoted to his family and his city than Elmer F. Ruark. . . . Those of us who knew him can model ourselves after him."

Paul Martin, Salisbury's mayor since March, described Mr. Ruark as "a man who served his office with dignity and dedication. I can't speak to highly of him."

At the Allen Memorial Baptist Church he was a former chairman of the Board of Deacons and a former Sunday School teacher who taught a class on a local radio station. In addition, Mr. Ruark was a former moderator of the Eastern Baptist Association, which covers the Eastern Shore, and a former president of the Maryland Baptist Convention and of the State Mission Board.

Mr. Ruark's politics were simple—he loved serving people. He encouraged Salisbury's participation in grants from the Federal Department of Housing and Urban Development, which provided 37 units of housing for the elderly and rent subsidy for 62 households. Mr. Ruark and other city leaders also pushed for rehabilitation of houses owned by low-income families, using State and Federal funds.

Mr. Ruark was also an active supporter of the creation of the historic district in Salisbury, known as Newtown, where he and his wife lived.

Although his home was the Eastern Shore, his range of experience extended far beyond its boundaries. During World War II he served with Senator Harry Jackson and he also corresponded with President Harry Truman.

A native of the Salisbury area, he was a graduate of the Wicomico County public school system and the old Paynters Business College in Salisbury. After operating a family farm for a while, he became a mail carrier in Salisbury in 1930. He retired in 1960 as foreman of mails. He entered the insurance business that same year, operating a firm that bore his name until he sold it in 1973.

As Salisbury's mayor, the first public office for which he had campaigned. Mr. Ruark was well liked and well respected both for his accomplishments and his dignified bearing.

Active in Democratic policies and community affairs, he was a supporter of such economic development programs for Salisbury as the dredging of the Wicomico River and construction of the Eastern Shore's first multilevel parking garage outside Ocean City.

He was a former chairman of the Wicomico County Recreation Commission and a former president of the Salisbury Kiwanis Club, and the Wicomico County Historical Society.

He was a member of the Salisbury Chamber of Commerce, the Delmarva Advisory Council, and the Greater Salisbury Committee. Despite the energy and time required for those duties, he still found time to be active in fund drives for such groups as the American Cancer Society, the Heart Association of the Lower Eastern Shore, the United Fund, the Red Cross, and Peninsula General Hospital.

Mr. Speaker, I cannot stress enough how much of an impact this man had on the development of Salisbury and its citizens. This is also the time to express our gratitude to the mayor's wife, the former Eunice Hayes, for sharing a portion of his exciting life with us. Elmer and Eunice were an inspiring team and their contributions will never be forgotten.

I would also like to pay tribute to Mr. Ruark's children, Richard Ruark of Hebron and Davis Ruark of Salisbury. They can be proud to have been so close to a man that was so widely respected. To all of them I extend my deepest sympathy.●

DON BAILEY

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. HEFTEL. Mr. Speaker, I feel privileged today to participate in honoring our distinguished colleague from Pennsylvania, DON BAILEY. I approach this occasion with regret, however, as I feel that the departure of DON BAILEY is a great loss to Congress. Although his time in Congress has been brief, he has had the impact of a senior Member.

DON'S career has been a shining example of the highest ideals of public service. From his decorated heroism in Vietnam, to his determined leadership in the U.S. Congress, DON has always served the American people to the utmost of his ability.

As a colleague of DON'S on the Ways and Means Committee, I have come to recognize his dynamic influence. His advice is sought after and respected on the committee and his views never fail to be insightful. When our committee was deliberating last year's tax bill, I was especially impressed with DON'S unwavering commitment to assuring that the greatest degree of equity was present in the final product.

Whatever DON decides to pursue after his departure from Congress, I am confident that it will involve service to the American people. Our society is advanced by the dedication of men like DON BAILEY.

HON. JIM JEFFRIES

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

● Mr. PERKINS. Mr. Speaker, I join with my colleagues in commending our good friend, JIM JEFFRIES, on the occasion of his leaving us.

Although he served in the House only 4 years, anyone who observed him cannot fail to be impressed by his ability and integrity.

He was a fine spokesman for the people of the Second District of Kansas, and I know all his friends there take pride in the caliber of service which he has given them.

When he goes home to Atchison, Kans., I hope he will remember on occasion that that fine community has a Kentucky connection—being named as I understand for David Rice Atchison, a Senator of the United States from Missouri from 1843 to 1855, who was born at Frogtown, Scott County, Ky., not far from where my farm is located.

The unusual thing about David Rice Atchison is that he may be the forgotten President of the United States. He was President pro tem of the Senate when the terms of office of President James K. Polk and Vice President George M. Dallas expired on March 4, 1849. March 4 was on Sunday in that year, and President-elect Zachary Taylor and Vice-President-elect Millard Fillmore refused to take the oath of office on a holy day, so they put it off until March 5, 1849. That left the United States technically without a President for that 1 day, and to this day constitutional scholars still contend that the office devolved upon Atchison, the Senate President pro tem.

Perhaps our friend JIM JEFFRIES can research that subject when he gets home to Atchison, Kans.●

JIM MATTOX

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. JONES of Oklahoma. Mr. Speaker, JIM MATTOX, a senior member of the House Budget Committee, is leaving the House of Representatives to become the attorney general in the State of Texas. JIM won an impressive victory, garnering 59 percent of the vote.

I am certain that JIM MATTOX will be an outstanding attorney general and will approach the job with competence and dedication. My faith in JIM'S future success stems from his distinguished service as a loyal and effective member of the Budget Committee ever since he came to Congress 6 years ago. As chairman of the Budget Committee, I always knew I could count on JIM to support difficult and controversial measures even though they were often on the surface unpopular in his own district. JIM would stand up and be counted for those policies which addressed the national need.

Those of us who have served with JIM on the Budget Committee will miss him. I know, however, even in his new position, we can always count on JIM to provide us with wise counsel and advice.●

JIM DUNN

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BROOMFIELD. Mr. Speaker, with the close of the 97th Congress, this distinguished body will lose the services of one of its talented, young legislators, Congressman JIM DUNN of Michigan.

While JIM has been with us for an all too brief period, he has distinguished himself as a member of both the Science and Technology Committee and the Veterans' Affairs Committee. He has also been an active participant on the many other important issues that faced this Congress.

JIM'S accomplishments in the House of Representatives stem from the positive attitude of public service which he brought to Washington. He had a very successful construction business in Michigan, and had already made his wealth. Yet, instead of resting on his accomplishments or continuing his efforts in the private sector, JIM came forth to give his talents and energy to the people of Michigan and its Sixth Congressional District.

During his years in the House he served the people well and they could be justly proud of him for he was a public servant in the highest sense of the term.

Mr. Speaker, I am proud to have known and worked with Congressman JIM DUNN, and I am honored to have been among his friends. I wish him and his family good fortune as they go home to Michigan. We will surely miss him.●

CONGRESSIONAL INVESTIGATION OF NUCLEAR PROJECT COLLAPSE DEMANDED

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, the immense impact on this Nation of a threatened bond default involving a scandal-ridden multibillion dollar nuclear energy project demands immediate investigation by the Congress for reasons clearly outlined in the following documents:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 24, 1982.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am sure that you are aware of the collapse of the huge nuclear energy project in the Pacific Northwest known as Washington Public Power Supply System (WPPSS).

I am bringing the matter to your attention because of the immense impact a threatened bond default on a multi-billion dollar energy project is having on current and future financing of public utilities, and the dire consequences posed not only for the industrial and agricultural base of the Northwest, but to the entire national energy picture. To refresh your recollection, I am enclosing copies of letters on the situation which I sent earlier this year to Mr. Fernand St Germain, Chairman of the House Banking Committee, of which I am a member.

It is my conviction that an intensive investigation of this entire disaster must be made at the earliest possible time by the appropriate Committees of Congress to shore up the

people's confidence in public power and in the institutional financial base of the nation and the energy industry. I therefore urge you to initiate an immediate investigation, independently or in cooperation with Mr. St Germain, into all phases of the doomed project and its causes and results. Such an investigation can only serve the best interests of all concerned in this massive failure of a multi-billion dollar energy project seriously affecting people throughout the nation as investors, ratepayers and consumers.

Sincerely,

GEORGE HANSEN,
Member of Congress.

HOUSE OF REPRESENTATIVES
Washington, D.C., November 24, 1982.

Hon. FERNAND J. ST GERMAIN,
Chairman, Banking Committee, House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I have contacted you on several occasions during the past few months concerning my growing apprehension that the situation in the Pacific Northwest over the failure of the Washington Public Power Supply System (WPPSS) power project can produce a major disaster for the electric consumer, the small electric utilities, the northwest agricultural and industrial base, and the entire national financial community. The enclosed articles reaffirm this concern.

During the Congressional recess, I have asked the Committee staff to determine who holds the bonds issued to finance the ill-fated project. Due to staff changes, that information has not yet been provided. It is evident that the financial community, in particular the bond underwriting group, has had a major role in the cumulative disaster which WPPSS has become.

On that ground alone, I requested that the Committee undertake to ascertain the facts concerning the involvement of the investment banking community in the conception of the project, the inducement of unsuspecting municipalities into the matter and the ultimate financial beneficiaries of the windfall of interest and profits from the financing.

As this situation continues to move to even more serious circumstances, I urge you to act promptly before the matter reaches the state where no corrective action is possible.

Sincerely,

GEORGE HANSEN,
Member of Congress.

[From the Wall Street Journal, Nov. 22, 1982]

WASHINGTON POWER RATING ON SOME BONDS IS DOWNGRADED BY S&L

SEATTLE.—Standard & Poor's Corp. said it downgraded $2.25 billion in bonds issued to finance Washington Public Power Supply System's nuclear projects 4 and 5.

S&P cut its rating to a speculative single-B from triple-B-plus, saying the system's ability to pay debt service on the bonds after July 1 is "uncertain." In January, as reported, Moody's Investors Service Inc., suspended its Baa-1 rating on bonds issued for plants 4 and 5 just before the supply system decided to scrap the two partly built plants.

A system spokesman declined to comment.

The bonds are backed by "take or pay" contracts signed by 88 municipal utilities. Under the contracts, the 88 utilities committed themselves to pay off the debt incurred for the two power plants, regardless of whether the plants ever generated power.

But, as reported, several participants have challenged the contracts' validity, and courts in Idaho and Oregon apparently relieved participants of their obligations. "Legal challenges and concerns regarding participants' willingness to pay indicate that there may be insufficient revenues to make timely payment on Project 4 and 5 bonds at some future date," S&P said.

S&P let stand its rating on bonds issued to fund plants 1, 2 and 3. Those bonds are rated triple-A on the strength of backing from the federal Bonneville Power Administration. But Moody's rates those bonds single, A-1, and several analysts have questioned whether a default on plants 4 and 5 would impair the security of bonds issued for plants 1, 2 and 3. An S&P spokesman said the triple-A rating on bonds for plants 1, 2 and is "under review."

[From the New York Times, Nov. 23, 1982]

TREASURY BOND PRICES PLUNGE
WASHINGTON POWER RATING CUT

In the tax-exempt market, price quotations for bonds of the Washington Public Power Supply System's nuclear projects 4 and 5 fell by four points or more after the Standard & Poor's Corporation downgraded the issues to a speculative B rating from the investment grade rating of BBB+. Although the system has made all payments of interest and principal on the $2.25 billion of bonds outstanding issued to construct the two mothballed plants, S.&P. said that recent events "introduce serious questions over whether W.P.P.S.S. can meet its debt payments—particularly after July, 1983."

The recent events referred to by S.&P. are the legal challenges being mounted by various of the 88 different local utilities that earlier signed agreements that obligated them to pay for the cost of the plants, whether or not electricity was ever produced. Some of the utilities are now asserting that the agreements they signed years ago are not legal and not enforceable. Various court cases are under way in Oregon, Idaho and Washington to decide the validity of the agreements between the utilities and the power system, which were unquestioned by the utilities between 1977 and 1981.●

ON CONGRESSWOMAN CHISHOLM'S RETIREMENT

HON. STEPHEN J. SOLARZ

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. SOLARZ. Mr. Speaker, I wanted to take this opportunity to pay tribute to a remarkable woman from Brooklyn, Congresswoman SHIRLEY CHISHOLM who has decided to retire from the House after 12 years of illustrious service.

Mrs. CHISHOLM has been an active Member of this body, who has been deeply involved in a range of issues. She has been an advocate of greater Federal aid to education, and has passed legislation creating special programs to interest minority students in careers in science and medicine. During the past 2 years she has been a leader in the effort to obtain just and humane treatment for the thousands who have fled Haiti and sought refuge on our shores.

She has consistently supported efforts to make human rights an important component of our foreign policy, and to see that the needs of our citizens, particularly those most in need, are not forgotten in the effort to "balance the budget." Domestic workers are now covered under the minimum wage thanks to her efforts, and she has been a consistent supporter of legislation to protect consumers and preserve our natural resources.

Those of us who have had the opportunity to serve with her know the enormous energy and enthusiasm which she has shown in waging the good fight. We respect her decision to retire from the fray, but we are sure that we have not heard the last from her, not as the battle on Reaganomics, unemployment, and New Federalism continue, with the poor, minorities and women the principal victims.

I offer her my congratulations for all that she has accomplished in this House, and express my warmest wishes for her continued success and happiness in all her new undertakings.●

THE REAGAN ADMINISTRATION'S HUMAN RIGHTS POLICY

HON. TOM HARKIN

OF IOWA
IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HARKIN. Mr. Speaker, the human rights that Americans accept as part of their everyday lives are unfortunately not shared by our neighbors in all countries around the world. The record of human rights abuses in Latin America and in other countries, and the Reagan administration's stance on those abuses, has been the subject of debate on numerous occasions on the floor of the House of Representatives. The following documents, prepared by the Americas Watch, Helsinki Watch, and the Lawyers Committee for International Human Rights as part of a larger study "The Reagan Administration's Human Rights Policy, a Mid-Term Review," address the problem of human rights abuses in Chile, El Salvador, Guatemala, and Rumania. Now that the Reagan administration has been speaking of human rights improvements in Chile, Guatemala, and El Salvador and considering certifying those three countries for their human rights record, I believe that the following documents are more timely than ever, and thus submit them into the RECORD.

THE REAGAN ADMINISTRATION'S HUMAN RIGHTS POLICY: A MID-TERM REVIEW

CHILE

The Reagan Administration successfully sought the repeal of legislation prohibiting military assistance and arms sales to Chile. In response, in December, 1981, Congress substituted a requirement that military assistance and arms sales could resume but only after two conditions were met. The President was required to certify that there had been a "significant improvement" in human rights in Chile and progress in bringing to justice those indicted by a Washington, D.C. grand jury for the 1976 murders in Washington of Orlando Letelier and Ronni Moffitt. Because the government of Chile has not complied with either condition, the Reagan administration has not certified Chile. This is one of the strongest human rights stands by the Reagan administration, yet its effect has been partly nullified by other actions of the Reagan administration with respect to Chile.

In 1981 and again in 1982, the Reagan administration has opposed continuation of the work of the U.N. Human Rights Commission's Special Rapporteur on Chile.

In August, 1981, Ambassador Jeane Kirkpatrick visited Chile and publicly proclaimed the desire of the United States to "normalize" relations with Chile in a pleasant way. They had not been normal since Chile refused to permit the extradition of three officials of its secret police indicted in Washington, D.C. for the Letelier-Moffitt murders. No progress on that case had been made when Kirkpatrick made her announcement. In the course of that visit, Kirkpatrick declined to meet with President of the Chilean Commission on Human Rights, Jaime Castillo. Two days after Kirkpatrick left Chile, Castillo and three other prominent Chileans were seized by the secret police and summarily exiled. The U.S. Department of State issued a statement deploring the exiling, its first public statement criticizing human rights abuses by a right-wing government.

Also in 1981, the Reagan Administration reversed previous U.S. policy on multilateral development bank loans to chile and voted in favor of $126 million in such loans in July despite U.S. law forbidding such votes in favor of loans to gross and consistent abusers of human rights.

In 1982, State Department's Human Rights Bureau took the lead in opposing certification of Chile and prevailed over others in the administration who favored certification. The Inter-American Affairs Bureau of the State Department favored certification and, July 1982, one of its top officials, then Deputy Assistant Secretary of State (now, Ambassador to Venezuela) Everett Briggs visited Santiago and publicly praised Chile's "road to democracy." Actually, Chile has had a "political recess" since 1973 in which political parties are banned. Nothing that might be considerd a return to democracy will take place until 1997 according to a schedule fixed by the Pinochet regime.

Failure to certify Chile is a human rights stand for which the Reagan Administration deserves credit. Regrettably, those within the Reagan Administration who are eager that the United States normalize relations with Chile have tried and are still trying to undercut this strong human rights stand.

EL SALVADOR

In the last 2 years thousands and, perhaps tens of thousands of innocent civilians have been abducted, tortured, and killed by Salvadoran armed forces. No one has been criminally punished for these crimes. Yet the Reagan administration's commitment is so great to maintain the current government in power and to aid it in securing a military victory over rebel forces that human rights considerations are not permitted to stand in the way. Moreover, as Congress has required that the President must certify every 180 days that certain human rights conditions have been met if military assistance to El Salvador is to continue, the Reagan administration provides such certifications even though all the evidence makes it plain that they are wholly unwarranted. The consequence is that the Reagan administration not only provides enormous military support to an egregious human rights violator in the world; it also pretends that many human rights violations do not exist or are being brought under control. The Reagan administration's credibility suffers terribly, rendering suspect almost everything that it has to say on the subject of human rights. This does a disservice to the cause of human rights in those places where the Reagan administration speaks out firmly to condemn abuses.

A particularly offensive aspect of the Reagan administration's approach to the human rights situation in El Salvador has been its attempt to discredit those who provide the bad news about human rights: Journalists and human rights organizations.

An example involving journalists was the attempt by Assistant Secretary of State Thomas Enders to refute the reporting by The New York Times and The Washington Post about the December 1981 massacres at El Mozote. Reporters for those two papers had visited the area and reported that survivors had compiled lists of those killed in several villages. One of the lists had over 900 names. Mr. Enders told Congress that these reports couldn't be true because El Mozote only had some 300 residents, ignoring the fact that the massacre actually involved at least nine villages. Mr. Enders also told Congress that "We sent two Embassy officers to investigate . . . no evidence could be found to confirm that government forces systematically massacred civilians in the operation zone." This statement omitted the crucial information that the Embassy officers who were sent travelled by helicopter and the closest they got to El Mozote was an overflight at 2,000 feet. Though such dissembling by Enders became known later on, El Mozote was not longer in the headlines. At the time of initial attack on the reporting in The New York Times and The Washington Post it was highly effective.

If anything, the Reagan Administration's attempts to impugn independent human rights groups as guerrilla sympathizers has been even more pernicious. In the circumstances of El Salvador, human rights organizations operate at extreme risk to their staffs and their informants. There have been many raids on the offices of these groups by government security forces and a number of cases in which the security forces have kidnapped members of their staffs who have never reappeared. It is difficult to imagine anything more destructive to the cause of human rights than the barrage of attacks the Reagan Administration has launched against organizations in El Salvador that come up with different assessments of the human rights situation than that provided by the U.S. Embassy.

In November 1982, U.S. Ambassador to El Salvador Dean Hinton, previously an outspoken defender, or apologist, for the Salvadoran government, denounced the Salvadoran legal system as "rotten" and asked: "Is it any wonder that much of the world is predisposed to believe the worst of a system which almost never brings to justice either those who perpetrate these acts or those who order them?" Unfortunately, the utility of Ambassador Hinton's strong public statement was dissipated by a public disclosure from the White House that the Reagan Administration had ordered Ambassador Hinton to refrain from such statements. Regarding one case, the killing of four U.S. churchwomen in December 1980, the Administration had stated publicly that it believes no officers were involved in the killings or subsequent efforts to cover them up. In part because of this position the criminal investigation in El Salvador has been limited to five low-ranking national guardsmen, who are scheduled to be tried in the near future.

In December 1982, following a meeting with President Magana of El Salvador, President Reagan let it be known that he was inclined again to certify El Salvador in January 1983. This statement detracted from the value of the certification requirement in prodding El Salvador to better its human rights record.

GUATEMALA

Since 1977, Guatemala has not received military assistance or arms sales from the United States because of its abysmal record as a gross and consistent violator of internationally recognized human rights. In 1981, however, the Reagan administration circumvented this prohibition on aid by selling $3.2 million in trucks and jeeps to Guatemala. This was done on the pretext that trucks and jeeps did not constitute security assistance.

The Reagan Administration welcomed the March 23, 1982 coup that brought power to General Efrain Rios Montt. Since the advent of the Rios Montt government, the Reagan Administration has attempted to portray developments in Guatemala as producing a vast improvement in the human rights situation. Indeed, killings did decline in Guatemala City, though the massacres of Indians in the Guatemalan countryside continue unabated and vast numbers of Guatemalans have been forced to flee their homes. Amnesty International tabulated 2,600 killed in such massacres in a six month period in 1982 and it is generally estimated that more than one million Guatemalans have become refugees in their own country or in Mexico.

In accordance with its portrayal of human rights improvement, the Reagan Administration has let it be known that it will support an $18 million Inter-American Development Bank loan to Guatemala to construct a rural telecommunications system. In addition, the Reagan Administration has informed members of Congress that it is nearing a decision to resume arms sales to Guatemala.

An aspect of the Reagan Administration's effort to portray improvement in the human rights situation in Guatemala has been its attacks—as in the case of El Salvador—on independent human rights groups that report the bad news. The human rights situation in Guatemala is so bad that no above-ground group can even function there. Accordingly, the Department of State's attack has been focused on groups based elsewhere—such as Amnesty International—that report on Guatemala. Needless

to say, this endangers Amnesty's informants in Guatemala and makes it more difficult for Amnesty to gather information on the country.

As in the case of El Salvador, the State Department seems eager to monopolize human rights reporting so as to paint the picture as it would like it to be seen. We repeat here what we said in the section on El Salvador: it is difficult to imagine anything more destructive to the cause of human rights.

In December 1982, President Reagan met with President Rios Montt and subsequently informed the press that the Guatemalan leader was "getting a bad deal" or a "bum rap" when he was criticized on human rights grounds. President Reagan also endorsed the resumption of U.S. military aid to Guatemala. These statements identified the United States with a government that is massacring thousands of its Indian citizens.

ROMANIA

Romania enjoys most favored nation trading status with the U.S. and receives sizeable aid from the U.S. in the form of Ex-Im bank loans. Romania is also one of the most repressive countries in Eastern Europe with virtually no freedom of expression or belief, and excessive police surveillance of private citizens as well as foreigners. The Reagan Administration has attempted to use its influence with the government of Romania to try to promote human rights, particularly the right to emigrate in family reunification cases. The administration has worked quietly on behalf of a number of individuals in Romania and has publicly critized human rights abuses.

It remains to be seen, of course, how effective the U.S. will be, in persuading Romania to abandon its newly imposed extortionist education tax on emigres. The Reagan Administration has threatened to end MFN status for Romania if the tax is not ended, a strong and praiseworthy human rights stand. Generally its human rights policy towards Romania is a rare example of how quiet diplomacy and public criticism can be effectively combined to promote human rights.●

RECENT ARRESTS OF HUNGARIAN INTELLECTUALS IN ROMANIA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. DORNAN of California. Mr. Speaker, I am joining the distinguished Congresswoman from Maryland, MARJORIE HOLT, in expressing my sense of disgust and outrage about the new human rights violations of the Romanian Government against the leading intellectuals of the Hungarian minority in Transylvania where 2.5 million Hungarians have lived since the ninth century A.D.

The culture of Transylvania was for a millennium Hungarian and, now, expression of views that Hungarians should not be condemned to cultural extinction in Romania merits arrests, beatings by the secret police, and threatened charges of treason.

The main victim of the arrests is the nationally beloved Geza Szoecs, a writer and poet from Cluj-Napoca (Kolozsvar) whose whereabouts are not known and who is probably still being held by the secret police without formal charges. Prof. Karoly Toth and his wife and the renowned philosopher A. Ara Kovcas were released, but told not to leave town since charges of treason may be leveled against them.

It is hardly coincidental that, about the time of the arrest, a memorandum was smuggled out of Transylvania listing the 10 demands of the Hungarian minority which include self-administration of Hungarian-inhabited areas, opening of Hungarian kindergartens and special education classes, equal use of the Hungarian language in public and before the authorities, equal promotion in professional fields, an end to the forcible settling of Romanians into purely Hungarian regions, an end to continuous surveillance and harassment of Hungarian intellectuals "merely because they are Hungarian." Other demands included the end of confiscation of all Hungarian cultural goods imported from Hungary by visitors and free travel between the two countries.

Mr. Speaker, these moderate demands could be implemented under the Romanian Constitution; as a matter of fact, some of them are part of the language of the Constitution which is daily contravened by the Romanian authorities in order to deprive the Hungarian minority of their rights. They are certainly violations of the human and ethnic rights of the Hungarians in Romania under the Helsinki accords, the International Covenants of Political and Civic Rights. We are completely right legally if we press the Romanian Government to live up to their constitutional and international law promises and grant equal treatment of the Hungarian minority as well as end the arrest of Hungarian intellectuals who make use of the nonviolent expression of their opinion on political and cultural issues.●

H.R. 7357—A FIRST STEP FOR THE 98TH CONGRESS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. GARCIA. Mr. Speaker, I want to make it clear that I in no way consider the defeat of H.R. 7357, the Immigration Control and Reform Act of 1982, as a victory. Far from it.

I, instead, consider it to be a necessary step in the process of developing a sound immigration policy that reflects the needs and concerns of all America's communities. The debate over the bill was sincere and most arguments, no matter how diverse, were well considered. This debate was a testimony to our democratic system.

I want to express my admiration for my colleagues on the Judiciary Committee who labored so hard on this bill, and who accepted its defeat with dignity and understanding. They are a tribute to this House.

I also want to thank the following organizations for all the assistance they gave me on this issue throughout the 97th Congress, their help was invaluable. They are: The Mexican American Legal Defense and Education Fund, the League of United Latin American Citizens, the Lutheran Immigration and Refugee Services, the Church World Services, the American Civil Liberties Union, The United Farm Workers, and the National Coalition on Immigration.

One last word, I view the recent discussion of H.R. 7357 as a beginning for the 98th Congress. This is an important issue, and I hope that I am able to make a positive contribution in the next Congress to the development of a just and workable immigration policy.●

TRIBUTE TO HONORABLE TOM EVANS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BIAGGI. Mr. Speaker, the State of Delaware has been fortunate enough to have had THOMAS EVANS representing their interests in the House of Representatives these past 6 years. It is therefore my pleasure to pay tribute to our retiring colleague and friend TOM EVANS.

When I reflect on the many good things about TOM EVANS perhaps his best asset is his ability to work effectively in a bipartisan manner. TOM and I served together on the House Merchant Marine Committee and during these times together I often witnessed TOM's great ability to be a compromisor in matters of importance to our committee. The result was good legislation produced in a bipartisan atmosphere which assured easy passage ultimately by the House.

TOM EVANS leaves this House as one of its more popular and respected Members. TOM made it a point to be congenial to his colleagues in the House and when he gave you his word on something—you knew it was good.

I will remember TOM for his strong support of law enforcement officers which is especially important to me having been a police officer in New York for 23 years before coming to Congress. TOM was a cosponsor and leading advocate of many of the legis-

lative initiatives developed on behalf of law enforcement over the past 6 years.

I wish TOM the best of fortunes in whatever future endeavor he chooses. He has been an important Member of the House over the past 6 years and deserves to be commended for all he has accomplished.●

KNIGHTS OF COLUMBUS OF UNION, N.J.

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. RINALDO. Mr. Speaker, among the many fraternal organizations in America that have contributed to our national character and reputation for generosity and humanity few can surpass the Knights of Columbus, the well-known and respected international organization of Roman Catholic men. It was on March 29, 1882, that the General Assembly of the State of Connecticut first granted a charter to the Knights of Columbus; the organization has been an integral part of the American community ever since.

The Knights of Columbus maintains many chapters throughout our Nation. One of those is in Union, N.J., the home of Union Council 4504, which recently marked its 25th anniversary. The founding officers of Union Council were a distinguished group of Catholic men: The late Howard R. Leary, the first grand knight of the council; the late John Connell, deputy grand knight; John S. Zimmerman, chancellor; George N. Arnold, warden; Thomas Crimmins, recorder; James Valladares, financial secretary; James Mahon, treasurer; Louis Giacona, lecturer; Rev. Joseph Driscoll, chaplain; the late Weldon Arner, advocate; Dr. James Cappeto, inside guard; Alvin Dietlein, outside guard; and trustees William Darrow, Joseph Gaynor, and Charles Lynch.

The Knights of Columbus was founded to help Catholic families and widows in distress. There were no public welfare programs in those days and many new immigrants to America lacked insurance and other protection in the event the family breadwinner died or became handicapped. The Knights of Columbus filled that function with an insurance program that poor and middle-income families could afford. Gradually, the program developed into many areas of community service and religious and charitable activities, and the Knights of Columbus now boasts a membership of more than 1,350,000 members.

More important than the number of members is the benevolent work that the Knights of Columbus does. During its 25 years of existence, Union Council 4504, of Union, N.J., has raised funds for homeless families, for research and treatment of childhood diseases, and for various scholarships.

Under Grand Knight Henry Mey and his predecessors, Union Council also has been involved in a number of community service projects, including the annual Festival on the Green in Union that celebrates the contributions of the different ethnic groups to the varied culture of our town. Fellow Knights have also conducted blood drives and various other programs that benefit its members and the community-at-large. As anyone can see, these activities go far beyond the Catholic community; they encompass the concerns of all Americans and the entire township of Union.

I wish to compliment the members of Union Council who have undertaken the responsibility for many of these programs and for making Union Council a strong, stable, and vital community organization.

There is no question that our Nation has been a better place to live because of the work of the Knights of Columbus. Its membership has certainly lived up to the Knights of Columbus motto which is "Charity, Unity, Fraternity, Patriotism."

I am gratified that Union Council, No. 4504, Knights of Columbus, is so active, and, as a charter member, am proud of its accomplishments and congratulate the officers and my brother Knights on the 25th anniversary of its founding.●

REEXAMINATION OF ROMANIA'S MFN STATUS IS CALLED FOR

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

● Mr. RITTER. Mr. Speaker, I rise in support of the special order to call attention to the plight of a Hungarian poet-writer who is being held by the authorities in Romania without just cause. I commend the gentle lady from Maryland for calling this special order on Geza Szocs and my other colleagues who are participating here today.

The plight of Geza Szocs is not unlike millions of others who find themselves as a minority element under a repressive regime such as the Romanian Government. On November 6, the Romanian security forces arrested numerous Transylvanian Hungarian intellectuals, including Geza Szocs. Their homes were searched, and various writings and documents pertaining to political conditions in the Hungarian ethnic regions of Romania were confiscated. There were apparently about 10 other individuals arrested as well but all have been released and only Geza Szocs is still being confined by the authorities and no one is sure of his whereabouts. Reports indicate that some of those arrested along with Geza were physically beaten during detention and the condition of his health at this stage is unknown.

The arrest of these people is believed to be connected with the publication of an unofficial Hungarian-language Samizdat journal entitled "Ellenpontac" (counterpoint) in Romania. This periodical was to have listed a number of demands for the improvement of the conditions of the Hungarian minority in Romania and discussed the possibility of Hungarians in Romania being threatened with cultural extinction. It is assumed that Geza Szocs may have been arrested for the nonviolent exercise of his right to freedom of expression.

I, along with other Members of Congress are sending a letter to Romanian President Ceausescu requesting an immediate and detailed response as to the charges against Geza Szocs and the state of his present circumstances.

The letter—which I am enclosing a copy of for the RECORD—goes on to appeal on humanitarian grounds for the immediate release of Szocs and concludes by expressing concern over the increasing incidents of persecution and violations of the Helsinki accords which the Romanian Government signed in 1974. We appeal to the Romanian Government to adopt a better human rights policy and to improve the treatment of Hungarians and other minorities in Romania.

I would encourage my colleagues to join with us and add their names to this letter to strengthen our appeal to the Romanian Government and to send them a clear message in behalf of the Hungarians that are oppressed and persecuted in that country. This letter will be sent to President Ceausescu and a copy to Ambassador Mircea Malitza on Friday and I would appreciate my colleagues calling me or my office to indicate their support. Thank you.

DEAR PRESIDENT NICOLAE CEAUSESCU: We the undersigned Members of the United States Congress are writing this letter in behalf of Geza Szocs who is being held in detention by the Romanian government. We request an immediate response as to the charges against Mr. Szocs and the state of his present circumstances. We further appeal on humanitarian grounds for the immediate release of Geza Szocs and to allow him to return home to his family and friends.

We would also like to express our concern over increasing incidents of persecution and violations of the Helsinki Accords by the Romanian government against the Hungarian minority in Romania. We strongly appeal on humanitarian grounds for a better human rights policy and treatment with regard to all Hungarians and other minorities in Romania.

Again, we respectfully urge that if Geza Szocs is still in detention for the non-violent exercise of his right to freedom of expression, he be immediately released.

Sincerely,●

HON. TOBY MOFFETT

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. HARKIN. Mr. Speaker, I want to thank the gentleman from California for taking this special order to honor our colleague TOBY MOFFETT. TOBY was not only our colleague but was also our "classmate" from the class of 1974. I can still remember when our class came in, the editorialists and columnists were making their predictions on who from this class would exert forceful leadership in the House of Representatives. One name that continually came up was, of course, TONY MOFFETT. While the writers and pundits might have been wrong on some of the others, they certainly did not miss the mark on TOBY. TOBY soon became a very positive force and conscientious leader for progressive, fair, and humane legislation.

I came to know TOBY really well when he, Congressman GEORGE MILLER, and I traveled together to Chile in 1976. It was on this trip that my eyes were opened to the terrible calamity that had befallen that once proud democracy. The suffering, the tortures, the disappeared people—in short, the boot heel Fascist dictatorship that had taken over that country was brought home very vividly to the three of us. Not content to just wring his hands and bemoan what had happened. TOBY became very active in leading the fight to cuttoff military aid to the Pinochet dictatorship. Time and again TOBY took the lead in demanding for an accounting of the disappeared persons in Chile. I am proud of my association with TOBY in that effort and will always think of h m in the framework of his consiste support for human rights not on y in Chile but throughout the world.

I know, of course, there are many other things TOBY fought hard for here in the Congress, many of which were extremely successful. As chairman of House Subcommittee on the Environment, Energy and Natural Resources, TOBY led the fight for a sane and rational environmental policy. He also bought the powerful interests of "pork barrel" projects. I do not know if it can be correctly tabulated, but I would have to guess that hundreds of millions of dollars, if not billions, were saved to the taxpayers of this country by TOBY's actions.

I could continue on, but I suppose I could wrap up my thoughts and feelings about TOBY MOFFETT by simply stating that TOBY epitomizes what is best in an elected representative. He always fought for the underdog, spoke for the disenfrachised, took care to insure that our society was not only rich in monetary terms, but also was rich in fairness and justice. We will miss him from this House, but I am certain that far from this being the end of TOBY MOFFETT, it will be the beginning of a new phase of his life in fighting for the "little people." I will venture to guess that TOBY MOFFETT will be heard from again as one of our Nation's leaders.●

FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. OTTINGER. Mr. Chairman, as you know, H.R. 5133, the Fair Practices in Automotive Products Act, was passed by the House on December 15 by a vote of 215 to 188. Prior to passage, it was amended in the Committee of the Whole by a vote of 195 to 194—the amendment being offered by Congresswoman FENWICK of New Jersey.

The gentlelady's amendment reads as follows: "Notwithstanding any other provision of this act, nothing in this act shall be deemed to supersede the terms or conditions of any treaty, international convention, or agreement on tariffs and trade which is in existence on the date of enactment of this act and to which the United States is a party." I would like to take this opportunity to put some points concerning this amendment in the RECORD.

Basically, I view this amendment as a very broad and general provision covering many treaties, agreements, and the like. It is unclear what the meaning of this amendment is, or what the need for it can be.

H.R. 5133 establishes a content level for the sale of automobiles in interstate commerce and penalties for violation. To the extent that this amendment could be construed to, in effect, undo those provisions of the bill because it might impact on some treaty, et cetera, is dependent on interpretations placed on such agreements when considered in the light of this bill. I do not believe that the provisions of H.R. 5133 are inconsistent with such agreements.

It must be noted that if a conflict, in fact, exists, there are adequate procedures under these agreements, such as the General Agreement on Tariffs and Trade (GATT), and the courts to resolve the conflicts. In this light, it should be noted that the GATT is not a law of the United States, nor is it a treaty. GATT is an "understanding" that was born in 1947, to which the United States is a party. It is unclear, then, that the gentlelady's amendment even encompasses GATT under the term of "agreement." I would hold that it does not.

If H.R. 5133 does become law, the Japanese—or any nation for that matter—are free to bring a complaint before the GATT, file a petition at its headquarters in Geneva, and follow the procedures that are outlined for disagreements. If a GATT tribunal is called, the United States would be free to introduce as evidence the trade violations of other countries around the world—including Japan—and demand reciprocity. It is clear that such a suit is unlikely—such a move would be to cast stones from the porch of one's glass house.●

GRANDPARENT VISITATION RIGHTS—A KEY ISSUE FOR 1983

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. BIAGGI. Mr. Speaker, I would like to take this opportunity to advise my colleagues of a hearing which I conducted last week of the Subcommittee on Human Services, House Select Committee on Aging. The topic of the hearing was "Grandparents—The Other Victims of Divorce and Visitation Disputes."

At issue were the rights that grandparents have today to visit their grandchildren after a marital dissolution. Our hearing was called to determine what if any Federal role there should be in establishing these rights. Today 42 States in the Union have adopted statutes addressing this issue, but, as witnesses who testified at our hearing stated, these laws vary considerably and lead to great confusion.

Our hearing discussed this issue from social, psychological, and legal standpoints. We received testimony from a panel of grandparents who told the subcommittee of their particular problems in gaining visitation privileges. In one case, a couple from New York City indicated they had spent more than $60,000 simply filing petitions for visitation privileges only to have the New York order granting visitation fail to be reciprocated in the State where their grandchildren now reside. Another witness presented a bag containing 15 pounds of legal petitions he was forced to file to gain visitation privileges.

Today, approximately 70 percent of older people in the United States have grandchildren. Yet, we also know that 1 million children a year are the victims of divorce. My basic feeling after the hearing is that some Federal legis-

lation may in fact be needed to insure that grandparents have reasonable visitation rights when this is in the best interests of the child. Deprivation of visitation privileges because of the diversity of State laws needs to be examined. It is an issue which I urge my colleagues to give some thought to and hopefully join me in developing a legislative initiative that recognizes and respects both the rights of the grandparents and the best interests of the children.

At this point in the RECORD I wish to insert my opening statement which outlines the issues discussed at the hearing:

STATEMENT OF HON. MARIO BIAGGI

As Chairman of the Subcommittee on Human Services, I am pleased to convene this morning's hearing entitled, "Grandparents—The Other Victims of Divorce and Marital Dissolution." I also conduct this hearing as a grandfather with 6 grandchildren.

The House Select Committee on Aging is charged with the responsibility to "conduct continuing comprehensive study of the problems of the older American, including * * * participation in family and community life." Our Subcommittee is exploring the problem and issue of providing grandparents with the visitation rights under law after marital dissolution.

During the course of today's proceedings, we hope to address four basic questions—

What legal rights do grandparents have to visit their grandchildren after divorce and custody settlements and other forms of marital dissolution? What are the obstacles to enforcement?

Should a federal law be enacted to guarantee these rights in the 8 states which have no laws?

Is a federal law needed to help bring uniformity to the 42 largely different state laws which govern grandparent visitation rights?

Are grandparents being afforded equal protection under existing state laws which govern visitation rights?

Today in America, approximately seventy percent of older people in the United States have grandchildren. Statistics reveal that women become grandmothers at approximately 50 years of age, and men become grandfathers around age 52. Based on current life expectancy, this can leave as much as a 20 to 30 year period for the development of meaningful relations between grandparents and grandchildren. That is the positive side of the coin.

On the negative side, over one million children a year experience the divorce of their parents. * * * A startling 48 percent of those who married in 1970 will eventually divorce. Most people who get divorced will remarry in many instances within three years. These contemporary shifts in divorce and remarriage are radically changing the character and structure of the family as we know it. In 1978, 10 million children lived in a household with one natural parent and one step-parent. Today we have far more than the traditional grandparenting. We now have the step-grandparent and the multiple grandparent family. What we seek to address today is what rights will these grandparents as well as biological grandparents have to visit their grandchildren after marital dissolution.

Our hearing is structured so we may examine the issue from three perspectives—social, legal and psychological. Our first panel of witnesses could be best described as active advocates.

A testimonial to the degree of interest which this issue has generated has been the establishment of at least four national grandparents rights organizations. We are proud this morning to have the founders of three of them with us today. These witnesses, who themselves are grandparents, will address the problems associated with the 42 state statutes on this subject as well as the lack of judicial decisiveness. Some of our witnesses have incurred enormous personal expense—as much as $60,000 in one instance—simply to acquire basic visitation privileges with their grandchildren. An issue we must raise today—what does a grandparent without financial resources do—are they being denied equal protection under the law. Finally, this first group of witnesses will offer their views on what if any role the Federal government should have in this area.

Our second group of witnesses are noted psychiatrists in this field who will address the importance of grandparent and grandchildren relations as well as problems which can ensue from adversarial court battles. These witnesses will also discuss this issue from the standpoint of what is in the child's "best interest" in awarding grandparent visitation privileges.

Our third and final group of witnesses are lawyers who will try and tackle the complex legal issues before us today. The most fundamental of these is—is there a federal role in this area and if so what is it? Further, does the existing lack of uniformity among the 42 state laws on grandparent visitation impact adversely on the implementation of these rights by the affected grandparents? Is there a denial of equal protection under the law by virtue of excessive costs which certain states require in order for a grandparent to gain visitation privileges? Finally, when determining the legal status of grandparent visitation privileges—how is "best interest of the child" standard applied?

One of the most remarkable developments, that has occurred since this hearing was announced several weeks ago, has been an influx of calls and letters from across the nation from grandparents and others concerned with this issue we will raise today. These letters—which total more than 100—address themselves to the major issues we will discuss today.

Many of those grandparents who wrote shared similar problems. The diversity of state laws seemed to be a major problem. A dentist, from El Cajon, California, who has been involved in litigation for two and one half years to be granted the right visit his four year old grandson writes:

"I know the situation is not too unlike hundreds of others in a changing world. Families falling apart and little children losing contact with sometimes the only stable relationship in their lives. . . . There seems to be no coordination between our states regarding this seriously overlooked problem. We worry that the court order we have here in California would be worth a thing if our grandson were taken out of the state."

The costs involved in litigation was another common complaint. A letter from grandparents in Fullerton, California, who have been denied visitation privileges to visit their only granddaughter after their daughter died in 1981 wrote:

"We tried to get an attorney but he discouraged us by telling us it could cost up to $10,000 and we could not be assured of any results. We do not have this kind of money but whatever we have it will go to our granddaughter."

The son of a Lincoln Park, Michigan couple died in March, 1977; since then the daughter in law has remarried and adopted their grandson. They wrote:

"We have been in and out of the courts—and spent thousands of dollars on lawyers and still are not seeing our grandson."

The emotional strain of both the lack of uniform laws and the cost of litigation was evident in almost all of the letters. There was a notable concern about the effect it was having on the children. A grandmother from Lansing, Michigan wrote:

"Our grandson is probably unaware of all our attempts to get him back. Gifts, letters and cards have gone unacknowledged. To me, this is child abuse."

A grandmother from Wheeler, Wisconsin, writes:

"It took us 14 hard, long, and painful months to get to see our grandson after the divorce. We couldn't even stand to go into stores and look at children's clothes. It just hurt too much. Why should the grandchildren and grandparents pay for mistakes the parents make?"

As I have stated before—our purpose today is to focus national attention—if you will—launch a national debate on the issue of grandparents and their visitation privileges to see their grandchildren in the event of a marital dissolution.

Our other purpose is to listen carefully to testimony on recommendations of experts and others concerned with this topic on the delicate issue of which level of government should assume responsibility for the enactment and enforcement of laws on behalf of grandparent visitation. It is evident that state governments have assumed some responsibility with 75 percent of them having enacted statutes. However, if there is in fact a federal question involved we would like to know about it and then proceed in the usual bi-partisan manner which characterizes our Committee's work.

The only recommendation I do offer is, in order to bring a sense of uniformity to the 42 state laws which have been adopted, to have the diversity of state law issue be referred to the National Conference of Commissioners on Uniform State Laws for their evaluation and ultimate action. This non-federal government entity was established in 1892 and is vested with the responsibility "to promote uniformity in state laws on all subjects where uniformity is deemed desirable and practical."

Let me close my statement with a poem that was written about an 82 year old grandfather who has been denied the right to see his only granddaughter, Kim.

Grandpa, can I see you?
Could you take me to the fair
Would you read me a little story,
And tell me that you care
Grandpa, would you walk with me?
Or hold me on your knee?
I wish that I could talk to you,
Grandpa, why can't it be?
Grandpa, do you love me?
Yes, I love you too.
I dream of us together,
Do dreams ever come true?
Grandpa, I keep praying
We'll be laughing very soon
And someday we'll be singing
A simple little tune.

Grandpa, can I see you?
I know this isn't fair;
But things will soon be changing,
And we can be a pair.
Grandpa, we'll be together
Just wait a little while.
Grandpa, don't stop trying,
I want to see you smile.

By SUSAN VAUGHN.●

DANGEROUS IMMIGRATION BILL

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, the failure of H.R. 7357, the so-called Immigration Reform and Control Act of 1982, to pass was a great relief to many people.

This was extremely dangerous legislation, as this following letter points out, which should never be allowed so close to Congressional approval again.

DECEMBER 20, 1982.

DEAR FRIEND: We did it—just like I said we could four months ago. We defeated that dangerous immigration bill which would have put many American farmers out of business or in jail while recklessly granting wholesale amnesty and government benefits to untold millions of illegal aliens leaving our nation's borders open to virtually uncontrolled immigration.

As you'll recall, this legislative monstrosity, known as the Immigration Reform and Control Act of 1982, was being pushed hard by the U.S. Attorney General and had already passed the U.S. Senate by a vote of 80-19, so our fight had to be won in the House of Representatives.

The very thing that scared farmers and other employers was the same provision that also desperately disturbed Hispanics and other minority groups—the employer sanctions, which were the heart of the bill itself.

We formed that unusual coalition I predicted could be done because of the shocking abuse proposed by this legislation to the human and civil rights of both employers and minority groups, and even all Americans. Some members of this coalition also added tactical strength as House leaders and Committee Chairman. In my own case, as a senior member of the House Agriculture Committee and because of my active efforts on immigration problems, I was appointed as one of the six floor leaders to manage the debate of this legislation before Congress.

We secured a wide-open rule for debate and a huge number of amendments to the bill (at least 295) were proposed. This guaranteed that consideration of the legislation would consume many days which, for all practical purposes, amounted to a filibuster, something Congress could not get sidetracked with during the last pressure-packed hours before adjournment.

So we were able to avoid a vote, which we might have lost. We ran out the clock on this unacceptable bill in both the regular and special sessions and won a big victory for the basic human and civil rights of both citizens and non-citizens, and for farmers who are so economically vulnerable to the drastic restrictions and fines and jail sentences proposed.

But this fight is far from over. The same legislation will be reintroduced in the new Congress in January with much pressure on both Houses for early hearings and voting action. We will have to move quickly to meet this challenge and assure that reform of our immigration laws is not accomplished through abuse of basic civil, human and economic rights.

No honorable person should be treated like a criminal solely because he is willing to provide work for someone else. And certainly no one in America should have to show a national ID card or internal passport just to ask for a job—our memories of Hitler, Stalin and Yarozelski can't be that short.

Thank you for your continued interest and support in this vital issue.

Sincerely,

GEORGE HANSEN,
Member of Congress.●

A SALUTE TO THE TUSKEGEE AIRMEN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. STOKES. Mr. Speaker, recently, I had the pleasure of meeting Mr. Charles Hillinger, a staff writer for the Los Angeles Times. During our conversation, Mr. Hillinger informed me of a story he had written for the Los Angeles Times in 1979 about the world famous Tuskegee Airmen.

Mr. Speaker, as many of my colleagues know, the Tuskegee Airmen, were the World War II black fighter pilots for our country. These men were faced with the dual hardship of fighting segregation at home and a war overseas. Yet, Mr. Speaker, they succeeded.

The Tuskegee Airmen were not allowed to train or fight side by side with white pilots. However, they fought in the same war and for the same cause. They amassed victories and medals which are tremendously impressive by anyone's standards.

In actuality, Mr. Speaker, the Tuskegee Airmen served as a black Air Force unit for this Nation during World War II. At the end of the war, they had destroyed over 200 German planes, sank a destroyer, and demolished hundreds of German military vehicles. At the same time, these courageous men and women paved the way for other black Americans in the Armed Forces and even in the space program today.

It has taken many years for the Tuskegee Airmen to gain the recognition from the American people they so justly deserve. In many respects, they are the unsung heroes of the American effort in World War II.

At this time, I would like to insert in the RECORD, the excellent article written by Mr. Charles Hillinger on the Tuskegee Airmen.

BLACK WORLD WAR II PILOTS—THE TUSKEGEE AIRMEN: ALMOST UNKNOWN HEROES

(By Charles Hillinger)

CHICAGO.—They were called the "Lonely Eagles"—airmen destined to fly alone.

And this weekend 350 of the little-known World War II black fighter and bomber pilots and members of their ground crews held a reunion here.

They are heroes to the country's black population—heroic for their fighting spirit and ability and for doing more to eliminate segregation in the armed forces than any other group of individuals.

Yet, few white Americans have ever heard of the exploits of the black fighter pilots of World War II. Little has ever been printed about them except in black publications.

Segregation was so staunch in this country on the eve of World War II that black pilots were refused training at air bases throughout America.

An entire new airfield and a $4 million training complex was built at Tuskegee, Ala., so that whites "could be spared" being quartered or trained with blacks.

A separate "Black Air Force" was started—an air force that destroyed 260 German planes and damaged 148, sank a Nazi destroyer and blew apart hundreds of military vehicles when strafing convoys.

The black airmen came home with Distinguished Flying Crosses, Legions of Merit, Silver Stars, Purple Hearts, Bronze Stars—but they came home to an ungrateful nation.

"Ironically," said Freddie Hutchins, 58, of Atlanta, a retired lieutenant colonel, "we put our life on the line, yet when we came back home after the war we were still called 'nigger' or 'boy.' That was a hard pill to swallow."

Sixty-six of the pilots did not come back. They were killed in combat.

They were called the "Schwartze Vogelmenschen" (black birdmen) by the Germans, who both feared and respected them. White American pilots called the black fliers the Red Tailed Black Angels because the tail assemblies of their aircraft were painted red.

The men of the "Black Air Force" were awarded a presidential unit citation "for displaying outstanding courage, aggressiveness and superior combat techniques."

The fighter pilots were members of the 99th, 100th, 301st and 302nd squadrons, known collectively as the 302nd Fighter Group of the 12th and 15th Army Air Forces in Europe.

Nine hundred and ninety-two black cadets were trained as Army Air Corps pilots at the all-black Tuskegee Army air base during World War II.

Of that number, 450 flew combat missions overseas against the Germans and the rest became members of four B-25 bomber squadrons based in the United States.

For every black pilot there were 10 other black men and women on ground support duty.

Groups of Tuskegee airmen have been getting together in 15 cities as independent veterans' groups since World War II, but it was not until 1972 that the national organization, the Tuskegee Airmen, was formed.

This was the eighth convention of the group, and among those who have attended all of the conventions is Gen. Noel F. Parrish (ret.), 69, the white commanding officer of the Tuskegee Army Air Base from 1941 to 1946.

"This is the most patriotic, remarkable and loyal group of men I have ever met," Parrish said. "There are so many special things about them. They were determined to do well. The pressures they had to endure were enough to discourage the best of men, but they persevered.

"The Tuskegee Airmen taught a lesson to this country. . . ."

William (Wild Bill) Campbell, 62, today a professor at the Naval Postgraduate School in Monterey, Calif., flew the first mission ever by a black pilot. He is a veteran of 106 combat missions against the Germans. Campbell recalled:

"White Americans in 1941 had a lot of attitudes not based on fact. They thought blacks either could not or should not do this, that or the other. Blacks were not accepted in the Army Air Corps prior to 1941."

"'No Way these niggers ever gonna fly an airplane,' is what we heard all over the place," said Lowell Steward, 60, a Los Angeles real estate agent and president of the Los Angeles chapter of the Tuskegee Airmen.

"Well, we fooled them. We were the cream of the crop. Nearly all of us were college graduates, and we were determined we would prove ourselves to the world."

Yet, it was not a simple matter for young black men to get in the Army Air Corps 38 years ago.

William Melton, 58, a UCLA graduate who operates a center for mentally retarded adults in Los Angeles said:

"I went down to try to sign up for the Army Air Corps the day after Pearl Harbor. So did some of my white friends. They got in right away. They didn't take me until a year later because of the color of my skin."

Herman (Ace) Lawson, 61, a former Sacramento city councilman, told how he was the only black enrolled in a civilian pilot training program at Fresno State at the time:

"We were encouraged by the Army Air Corps to enlist as a unit, so we would all stay together as one fighting group. We were all for it.

"When the recruiters came to the school, we all lined up to sign up. When I got to the head of the line, a white major said: 'What the hell are you doing here?

"I proudly said, 'Here to join up with my buddies.' The major replied, 'Get the hell out of here. We're not taking night fighters.'"

Lawson did not enlist with his group from Fresno State, but he persisted and wound up several months later with the "Black Air Force."

Hugh White, 56, a St. Louis criminal lawyer, said he had the feeling that "if the other guys can do it, I can do it too. That's why I hung in there and did my best to become a pilot.

"At Tuskegee, many of our instructors were Southern whites. They never eased up in giving us a rough time. we heard 'nigger' more than we heard the word 'pilot' from our instructors."

"In our camps in Europe in our lighter moments we referred to one another as 'spooks,'" Alexander Jefferson, 57 a retired Detroit elementary school principal said. "But let a white call us spooks—bam, the battle was on.

"Well, we had an in-house nickname for our outfit, the Spook Waffle, and would talk about the Spook Waffle going out there and knocking the hell out of the Luftwaffle."

Jefferson was shot down by the Germans over the southern coast of France on his 26th mission when flying a P-51 Mustang. He was held prisoner for nine months, one of 32 of the black pilots to become Nazi prisoners of war.

"When I landed in my chute, I was surrounded by Germans," Jefferson said. "One of the Germans grabbed me and as he ran his hand over my face he said to his buddies: 'Ach! Schwartze (German word for black). Nigger.' I was the first black he had ever seen in person."

"All my life I wanted to be a pilot," Jefferson recalled. "Flying the P-51 Mustangs against the Nazis was the most exciting time of my life.

"There were exciting times like the day the Red Tail Black Angels shot down 13 Messerschmitts without a loss and followed that with 12 more kills the next day, also without losing any of their planes."

There were many moments of levity at the get-together at the Continental Plaza Hotel. John (Mr. Death) Whitehead, 56, of Sacramento, was the brunt of much kidding.

"They called me 'Mr. Death' then and they call me 'Mr. Death' now," Whitehead laughed, "because I have always been skin and bones. I weighed 110 then and haven't gained much since. I never did pass the physical, but they slid me in with the rest of them."

He had a skull and bones painted on this airplane. He was one of the legendary ones—one of five black pilots who flew fighter planes in World War II, the Korean conflict and Vietnam.

Giving the invocation at convention luncheons and banquets was the Rev. Robert Wing, 69, of Chicago. When Wing was told in 1939 that he would not be accepted for pilot training, he went to England, joined the Royal Air Force and flew British fighter planes for six years.

Lt. Col. Marvin Crews, 47, of Wurtsmith Air Force Base, Mich., was at the convention as an official representative of the Air Force. "The Air Force holds the Tuskegee Airmen in such high esteem they send a few of us to the convention each year to let the Lonely Eagles know we haven't forgotten their role in history," explained Crews, who added: "As a black kid growing up on the streets of San Francisco I heard all about these guys. I grew up hearing war stories about their exploits."

One of the luncheon speakers was Maj. Frederick D. Gregory, one of the three black astronauts scheduled to go into space aboard the space shuttle. Gregory told the group:

"Without the Tuskegee Airmen I wouldn't be doing what I am today. You paved the way for all black men and women in the armed services."

Another speaker, Dr. Vance H. Marchbanks, 74, of Hartford, Conn., was the first black American to be commissioned in the medical service of the U.S. Air Force.

Detroit Mayor Coleman Young, a Tuskegee Airman, was speaker at an awards banquet. He told the black veterans:

"We learned how to survive in the air, and when we hit the ground while white pilots rested we continued our struggle to preserve our dignity as human beings. All of us are better and stronger for the experience."

Recipients of the annual Tuskegee achievement awards included Cornelius R. Coffey, 76, "daddy of black aviation in Chicago," who gave 120 Tuskegee airmen flying lessons before they were accepted in the Army Air Corps.

Also honored was Willie (Suicide) Jones, 65, the first black to parachute (he jumped from his first plane at the age of 12 in 1926) and who made more than 5,000 jumps and holds the record for the highest jump ever made—28,688 feet.

Willa Brown Chappell, 70, one of the first black female pilots in this country, who gave many of the Tuskegee Airmen flying lessons before they entered military service, also received an award.

Elwood T. Driver, 58, who recently headed the investigation of the May 25 Chicago DC-10 crash as vice chairman of the National Transportation Safety Board and a World War II Tuskegee combat pilot with 123 mission, commented:

"These are the greatest bunch of guys ever to come down the pike."

Seated casually in a hotel room, a handful of the Tuskegee Airmen expressed their gut feelings about "this noble experience of their youth" and the way they felt about America:

"This is our country. We grew up here, were educated here, raised our families here. We love this country. All we wanted at that time was a piece of the action. That was our war, too, you know. If I'm needed again I will not hesitate to fight for my country," Bill Ellis, deputy Los Angeles assessor, said.

"You know we're as American as anyone else in this country," Herman said, "I was born here. My father and I go back over a hundred years in this country. I defy anyone to tell me I cannot enjoy the benefits and fruits of the United States."

"We had a saying in those days when America was so blind with segregation we were forced to have our own 'Black Air Force'," continued Lowell Steward of Los Angeles, "that went like this:

"'My country right or wrong, I will hold her hand when she's ill and fight for her to the bitter end.'"

"The Tuskegee Airmen," said Claybourne Lockett of Los Angeles with tears welling in his eyes," . . . They were men . . . damned good men."

AT BRONX GRADE SCHOOL, DÉTENTE COMES NATURALLY

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. UDALL. Mr. Speaker, for some time now I have been concerned about United States-Soviet relations. It has been my opinion that one of the greatest challenges facing the United States in the near future, is the challenges of improving our ties with the U.S.S.R. This is not easily done, and is not an accomplishment reached quickly. Good relations between countries are built on mutual trust and understanding. It is in this spirit that I introduced House Joint Resolution 489, the United States-Soviet exchange for peace bill. And it is also in this spirit that I submit the following article published in the December 10, 1982, edition of the New York Times.

AT BRONX GRADE SCHOOL, DÉTENTE COMES NATURALLY

(By Dena Kleiman)

It was all very simple really—no complicated negotiations or throngs of Secret

Service agents. It could, in fact, emerge as a new diplomatic style.

Ten American students, aged 10 through 13, went to the Soviet Government's compound in the Bronx yesterday to meet with Soviet youngsters and discuss their common hopes for peace.

While the theme was to have been nuclear disarmament, there were no formal discussions—and instead it came down to movies and mazurkas, the exchange of telephone numbers, the promise of romance.

"Nothing else makes a difference," said Marvin Sochet, an interior designer and West Side community activist who helped organize yesterday's get-together. "Perhaps kids will."

Yesterday's meeting grew out of the rally against nuclear weapons in New York City last June. At the time, Mr. Sochet—sidestepping routine diplomatic channels—contacted the Soviet Embassy in Washington to request a "dialogue" between Soviet and American children.

He said he had hoped to set up a conference telephone call between groups in Moscow and New York. Instead, he said, the Soviet Embassy directed him to the consulate in New York and the Government-run school at the Soviet compound in the Riverdale section. Groups of students met twice during the summer.

Yesterday's gathering was the first at the compound. Mr. Sochet said the American youngsters had been suggested by friends at Riverside Church.

Mr. Sochet and his wife, Mary, said they were acting on their own and not affiliated with a particular antinuclear organization. They expressed the hope such meetings could continue. The Russians seemed to approve.

"You see they are kids just like American kids," said Tatyana Voitsekhovich, a teacher at the Soviet School who issued yesterday's invitation. "It makes sense. Friendship. Acquaintances. For them to know how we live. How we study. Kids express thoughts like kids. They don't talk politics. It's good and useful and serves both our aims."

The American students, who attend public and private schools in Manhattan, arrived at the Soviet complex, which serves as the residence for Soviet diplomats and their families, at about 11 a.m.

They were ushered through the school and into a room where they met their Soviet counterparts—who were dressed in navy blue uniforms with bright orange kerchiefs around their necks. It did not take long for the few adults in the crowd to feel somewhat out of place.

TALK OF FAVORITE SUBJECT

"You're in eighth? I'm in seventh," 13-year-old Vlad Voitsekhovich said to Kenneth Richards, also 13. "Do you like school?"

"Fifty-fifty," Kenneth replied.

"Do you study physics in your school?" Vlad asked.

"No," Kenneth said. "We're not that advanced."

"Algebra here is very difficult." Vlad continued.

"What's your favorite subject?" Kenneth asked.

"Mathematics," said Vlad. "Can you get an A in mathematics?"

"I got a B in geometry," Kenneth replied.

"Our teacher doesn't want us to use a calculator, but I use one anyway," Vlad confided.

HEAR ABOUT LENIN

After receiving pins displaying side-by-side American and Soviet flags, the students were taken on a tour of the glass and stone school—which has about 240 students in first through eighth grades—and visited classes in mathematics and English and Russian literature. Several of the Americans asked their new friends who the man was whose picture hung at the front of every classroom. Some were then told for the first time about Lenin.

Other asked about the death of Leonid I. Brezhnev and were told about a special commemoration that was conducted at the school.

"How did you feel when Brezhnev died?" asked Joey Toon, who is 11 and in the sixth grade at P.S. 125.

"Sad," replied Boycho Kostadinov, a 12-year-old Bulgarian boy in the sixth grade at the Soviet school.

"He served the Russian people well, didn't he? Joey continued.

"Yes," Boycho said.

This, in fact, was how things went—big issues mixed with small. By the time the youngsters were invited to see a screening of a film about Moscow, they were walking arm in arm, giggling as they raced for the best seats.

"What do you do after school?" asked Winston Huang, who is 12 and in the seventh grade at the Calhoun School.

"I eat, I do my homework," replied Dmitri Reshetilov, who is also 12.

"Do you like Communism?" Winston continued.

"Yes," Dmitri replied. "There is no unemployment."

"So what time do you eat? Six o'clock?"

"I sometimes eat at 3," Dmitri said.

The day ended with a Russian snack of piroshki and pastries and a performance by the Soviet youngsters that included Georgian folk dancing, singing in Russian and English and a piano recital.

The high point for Winston appeared to be when Dmitri—whom Winston addressed affectionately as "Dima"—sang a solo in English of the Bob Dylan song "Blowin' in the Wind."

For Joey Toon, however, the high point clearly was a young lady. At this particular gathering, the boys seemed to have congregated on the right side of the room and the girls on the left. Joey stood amid Dmitri, Winston, Boycho and several other boys, exchanging their impressions of the girls.

"Dima, your girlfriend's over there," Joey announced, pointing to a slender girl with the name "Mary" written on the name tag attached to her blouse. Without further ado, Joey walked in her direction.

"Do you like Dima?" Joey asked.

"I can't answer such questions," Masha Vertogradova, who is 13, replied with conviction.

Speculation about Masha's feelings for Dmitri occupied much of the remainder of the afternoon for Joey and his pals. At some point, Joey apparently decided to propose marriage.

"Don't forget to tell her," Joey said as he boarded the bus to go home. Dmitri indicated thumbs up.

"I'll call you tonight," Winston shouted through the bus's closed window as it made a turn through the driveway and the cast iron gates on its journey to return the American youngsters home.●

RECENT ARRESTS OF HUNGARIAN INTELLECTUALS IN ROMANIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

● Mr. LANTOS. Mr. Speaker, on November 6, 1982, the Romanian secret police arrested Geza Szoecs, a nationally renowned poet-writer in Romania who is a member of the 2.5 million Hungarian minority in Transylvania.

Mr. Szoecs was not the only one to be arrested. An estimated 17 additional noted philosophers, professors and other intellectuals have also been arrested.

Some of them have been released but warned not to leave town because they would be charged with treason. The action by the secret police was based upon Mr. Szoecs's editorship of the Samiszdat publication Ellenpontok (Counterpoints) in Cluj-Napoca (Kolozsvar) published semiclandestinely since November 1981. The periodical dealt with problems of artistic, literary, and sociological nature, and devoted some of its contents to the conditions under which the Hungarians in Transylvania are forced to live under the present regime. It was not, however, an inflammatory paper, rather a literary one.

It is generally believed that the arbitrary crackdown and the physical violence against those arrested, as reported by the Paris Le Monde, on November 20 and 21, 1982, was only partially the result of Mr. Szoecs and associates publishing the Samizdat paper.

Romanian authorities have a constant suspicion of Hungarian intellectuals in Romania because they can and do serve as the leadership for the 2.5 million Hungarians whom the present regime would like to gradually denationalize and deethnize. In addition, during the early part of November a memorandum was smuggled out from Transylvania on the demands of the Hungarians of Transylvania which was presented to Austrian Chancellor Bruno Kresisky on November 29.

This memorandum should serve as testimony that despite discrimination and persecution, the Hungarian intellectuals would like to work for peace and cooperation with the Romanian people. But it is also clear evidence of the unbearable cultural, economic, and sociographic conditions under which the Hungarians must live in Romania.

The memorandum only requests steps in accordance with the Romanian Constitution, like Hungarian kindergartens and special education classes, equal use of the language in pubic and before the authorities and equal advancement in the professions for

Hungarians. The memorandum also asks for freer travel and exchange with Hungary and a ban upon the confiscation of Hungarian cultural goods from travelers returning from Hungary. All these relate to the preservation of the 1,000-year-old ethnic heritage of Transylvanian Hungarians who for a millennium were the rulers of the province.

In addition however, the memorandum points to the forcible settlement of Romanians in purely Hungarian villages, towns, and cities. The demographic, ethnic map of Transylvania underwent changes in the last three decades which were not only the result of industrialization, but of systematic planning to Romanize the cities and now also to break up the largest Hungarian ethnic bloc, the Szeklers, by official settlement policies.

It is my hope that our reaction to these events will be the strongest possible protest and a reexamination of the MFN status of Romania. Last July, I voted for it with the warning that unless changes take place in emigration and minority policies, I will not do so in 1983. It is my sincere hope that the Romanian Government will take our protests seriously and undertake immediate remedial actions.●

A RETURN TO THE JUNGLE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. McDONALD. Mr. Speaker, Mr. Roy M. Cohn is not only an able attorney, but has excelled in past years, in the successful prosecution of many who both overtly and covertly were dedicated to the violent overthrow of the U.S. Government.

As most know, we now have a new Governor of New York, and I would like to share with my colleagues, Roy Cohn's assessment of what soon may be taking place in New York. New York City is already a jungle of sorts, and Mr. Cohn points out what might cause the entire State to become a jungle. This same type of story is being repeated in many corners of the Nation. Go to the wall for the perpetrators of the most heinous crimes against mankind, and forget the just punishment and removal from society of these animals.

In any event, food for thought may be found in an article on this situation by Roy M. Cohn from the December 8, 1982, edition of the New York Post. Article follows:

[From the New York Post, Dec. 8, 1982]

IS "RIGHTS" ACTIVIST CUOMO'S RIGHT CHOICE?

(By Roy M. Cohn)

Crime continues to be a dominant factor in the lives of New Yorkers. And so must it be what with daily muggings of senior citizens, assaults on law enforcement officers, and acts of violence to steal anything from ten cents on up.

The situation is exacerbated by the lack of money to hire and train sufficient police to cope with the situation, and the chaos which seems to result in habitual offenders reappearing on the streets all too soon.

This is not a happy picture for the incoming Governor. His problem is enhanced by the public unpopularity of his opposition to capital punishment, which held down his margin of victory by many points. In this setting, his moves in this area will be carefully observed.

He has just appointed Alice Daniel to the key post of Counsel to the Governor, in which her duties include a major voice in the justice system and its criminal part, such as by participation in the selection of judges and passing on applications for pardons for those who have been convicted of violent crimes. Is this good or bad? Let's see.

Mrs. Daniel—obviously—is a lady. That's good. Governor-elect Cuomo is committed to the appointment of women to high posts in the legal system—and his commitment is now honored.

But thereafter come the danger signals. Mrs. Daniel's past history is more suggestive of a do-gooder, whose concern is for the "rights" of criminals and prisoners rather than for those of the unoffending public, who are the victims of the over-zealous concern for these prisoners' "rights."

Specifically, Mrs. Daniel's credentials include service as a Regional Director of the Prisoners' Rights Project of the National Assn. for the Advancement of Colored People Legal Defense Fund; a long-time activitist in the American Civil Liberties Union; Washington Counsel for the Legal Services Corp.—the parent organization of which has embarked upon such peculiar ventures as trying to enjoin the Florida Board of Education from giving literacy tests to candidates for high school graduation—and to top things off, she was a Deputy Legal Affairs Secretary to the politically late Jerry Brown of California.

The last of her many appearances was in Washington running the Civil Division in the Civiletti Justice Dept.

In addition to her heavy tilt to the "rights" movements, Mrs. Daniel hardly seems knowledgeable in the problems confronting the people of New York, which will be her responsibility. Indeed, she seems to have spent her public career just about every place but New York. She did attend Columbia in days of yore—but so what? So did I.

I am the last one to deprecate such things as attempts to rehabilitate prisoners. I chaired a group of liberals, conservatives and apoliticos which sponsored a program to furnish art materials to prisoners, and then create a market for the sale of their finished product. But rehabilitation is far different from an obsessive concern for "rights" of those fighting our system of justice.

At this particular juncture, the system needs strengthening—not weakening. Law enforcement officers are severely handicapped by a myriad of new "civil rights" regulations which make it difficult for them to do their job in protecting the streets, the subways, and the public.

And when violent offenders are all too occasionally charged with their violent criminal acts, they can often fall back on "exclusionary" rules—which in common parlance means the voiding of their own statements and actual confessions an setting them free if they invoke any one of an unfortunately large number of technicalities and loopholes.

The problem is not academic. Victims of muggers, and families of slain and wounded police officers, can bear witness to the fact it is with us every day and every hour.

As stated, the appointment of women to high legal and other governmental positions is all to the good. Few fault the excellent performance of our first woman Supreme Court Justice, Sandra Day O'Connor. And both our United Nations Ambassador, Jeane J. Kirkpatrick, and our UNESCO Ambassador, attorney Jean Gerard, are gems.

But is one with Mrs. Daniel's record and views the right person for this all-important position at this all-important period in the lives of New Yorkers?●

A PLEA FOR THE RELEASE OF LIN YI-HSIUNG

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. SOLARZ. Mr. Speaker, I would like to call to the attention of my colleagues an important statement by Dr. Trong R. Chai, the President of the Formosan Association for Public Affairs.

This organization is one of the major groups of Taiwanese Americans concerned about conditions in Taiwan, particularly the plight of political prisoners. While I do not agree with everything that this group advocates, I believe that this appeal for the release of Mr. Lin Yi-hsiung, one of the eight Taiwanese courtmartialed 3 years ago after the Kaohsiung incident, is a most meaningful one—particularly given the recent action by the Polish Government allowing Lech Walesa to leave his prison cell and rejoin his wife and children in Gdansk, and the Korean Government's decision to release Kim Dae Jung for medical treatment in Korea or in the United States.

It would be sad if the Taiwanese Government would not agree to release Lin Yi-hsiung who has suffered so much, and allow him to join his wife and surviving daughter in the United States.

Mr. Speaker, I ask that this statement be reprinted in today's RECORD.

FORMOSAN ASSOCIATION FOR PUBLIC AFFAIRS

(By Trong R. Chai)

Today marks the third anniversary of the Kaohsiung incident.

On December 10, 1979, riot police first blocked streets in an attempt to prevent the people of Kaohsiung, the second largest city in Taiwan, from attending a Human Rights Day rally. After failing to do so, the police spread tear gas in the crowd of tens of thousands—then refused to give the demonstrators a way out of their rally site. This touched off club fights in which, according to The New York Times of March 23, 1980,

"no more than five or six people on both sides were hurt."

Yet the Kuomintang (KMT) immediately arrested nearly one hundred political and religious leaders, whether or not they had attended the rally. Eight of these prisoners were arbitrarily selected for trial in a military court, and given sentences ranging from 12 years to life imprisonment.

Mr. Lin Yi-hsiung, a prominent politician, was one of the eight court-martialed. Three hours after his mother spoke over the telephone to a human rights worker in Japan telling him how her son was being tortured in prison, she and Mr. Lin's twin daughters, 7 years in age, were stabbed to death in his house, which was under surveillance.

The severe punishments these prisoners received were not for sedition, as said by the KMT, but merely for expressing their views on the future of Taiwan. They believed that the wishes of the people on Taiwan should be made the basis for any solution to the Taiwan problem and that Taiwanese wishes were for Taiwan's nationhood.

For example, in 1971 the Presbyterian Church in Taiwan, of which Rev. Kao Chunming, who was among those imprisoned for the incident, was the General Secretary, issued a statement to "oppose any powerful nation disregarding the rights and wishes of fifteen million people and making unilateral decisions to their own advantage, because God had ordained and the United Nations Charter has affirmed that every people has the right to determine its own destiny."

In 1977 the Presbyterian Church asserted Taiwanese wishes for nationhood by urging the KMT "to face reality and to take effective measures whereby Taiwan may become a new and independent country."

This year, a similar joint statement was issued by four leading politicians from their prison. They said: "For the past three hundred years, our courageous ancestors have come to settle in Taiwan, in order to gain freedom. With their new thinking and new way of life, they developed a spirit of self-reliance and laid the foundation for a democratic society. The long separation between Taiwan and mainland China has resulted in a significant difference between both sides in the nature of society." Consequently, the four leaders maintained that "in the long-term interest of Taiwan, to carry out democracy on the island is far more urgent and important than unification with China."

Is this calling for freedom seditious? Is this calling for right to self-determination seditious? The answer is no.

I, therefore, appeal to world opinion to press the Taipei authorities for an immediate release of all conscientious political prisoners of the Kaohsiung incident—especially Mr. Lin Yi-hsiung. He must be set free without any delay and allowed to be united with Mrs. Lin and their daughter here in the United States.●

ACTION NEEDED ON NATURAL GAS PRICING

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. DASCHLE. Mr. Speaker, I recently received a report from Mr. Dan Dienstbier, president of the Northern Natural Gas Co., on five regional meetings conducted by Northern Natural Gas on the issue of natural gas pricing. One participant in these meetings was Mr. E. C. Nessly, president, Gas Operations Division, Minnegasco, Inc. According to Mr. Nessly, the typical natural gas heating bill has increased from $234 in 1972 to $688 this heating season. The typical heating bill, which has increased nearly 200 percent, according to Mr. Nessly, represents the residential consumer who either invested in energy conservation measures or who has purchased a new home constructed to conserve energy. Many Americans have made energy-conserving investments in existing homes and many newly constructed homes have emphasized improved energy conservation, but for too many commercial and residential consumers of natural gas, the elderly and low-income in particular, the increased cost of home heating greatly exceeds 200 percent. "Unfortunately," Mr. Nessly commented, "there are many senior citizens and other low-income consumers who are living in homes that have not been reinsulated and still have high energy-consumption rates. A consumer who used 193 Mcf in 1972 with a gas bill of $234 would have a gas bill of $1,088 this winter." For the elderly and low-income, those who have been least able to invest in energy conservation and reduce energy consumption, the cost of home heating with natural gas has increased by 365 percent during the last decade.

In South Dakota, more than 101,000 households, or 42 percent of the households in South Dakota, use natural gas for home heating. In South Dakota, as in many other Midwestern States, home heating is not a luxury. It is a matter of necessity. It is a matter of survival.

Because of the dramatic increase in the price of natural gas, many South Dakota residents have abandoned the hope of a warm home this winter or even a comfortable home. Instead, a home which provides the barest protection against the harshest elements of winter is sought. Any society in which the elderly and low income are forced to seek mere survival must be judged in the harshest terms by future generations. Our society, I fear, is fast approaching that judgment.

Commercial and residential natural gas consumers are being held hostage by natural gas producers who are not motivated by a reasonable profit, but by wanton greed. Aided and abetted by the Federal Energy Regulatory Commission which has too often successfully sought to increase natural gas prices, natural gas producers are terrorizing commercial and residential natural gas consumers and particularly the elderly and low income.

For the administration and the newly confirmed Secretary of Energy, the response has been callous disregard and indifference at best. According to President Reagan, "My administration is strongly committed to the deregulation of the natural gas industry." This prescription is for a larger dose of the bitter medicine of dramatically increased prices which millions of Americans have already been forced to swallow. The American people simply cannot afford the greed demonstrated by the natural gas industry, greed which knows no bounds.

There is a natural gas pricing crisis in our Nation, Mr. Speaker. If the natural gas industry is unwilling or unable to act, Congress must act in the public interest. Between now and early January when the new Congress convenes, the natural gas industry can take action. I hope the industry makes wise and good use of this opportunity. If it fails to do so, there can be no higher priority for the new Congress than reestablishing affordable and reasonable natural gas prices for the American people. Any more suffering caused by unaffordable natural gas prices is too much more.●

ON MAKING SENSE OF SALT AND YOUR BLOOD PRESSURE

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. GORE. Mr. Speaker, the article that follows, taken from the Executive Health newsletter, demonstrates the clear link between excessive sodium consumption and hypertension. More than 60 million Americans suffer from this silent but deadly affliction. The evidence in this article should compel the Congress to enact H.R. 4031, the sodium labeling bill, at the earliest possible date in the next Congress.

ON MAKING SENSE OF SALT AND YOUR BLOOD PRESSURE

(By Lot B. Page, M.D.)

(PUBLISHER'S NOTE.—Chief of Medicine at the Newton-Wellesley Hospital and Professor of Medicine at Tufts University School of Medicine, Boston, Dr. Lot B. Page has been called "the preeminent scholar in this field (hypertension) in the United States; in fact, in the world." His studies of high blood pressure and what influences it have taken him on medical expeditions to many places abroad, including the Solomon Islands, to investigate pre-industrial populations. He has also studied nomads in the deserts of Iran. We have asked him to assess hypertension and its importance, the factors that influence it, the role of salt in elevating blood pressure, and how much you may gain by examining the salty side of your life.)

Unless you've been off somewhere remote for much of the last decade or so you couldn't have escaped becoming aware of a whole series of facts about hypertension or high blood pressure—and about salt as well.

About hypertension, it comes to this: The disease, silent though it is, is a killer—an almost incredibly powerful one. It's amaz-

ingly common. It's controllable and it's now clearly established that it pays—handsomely—to control it.

But isn't there any effective means of control other than drugs? Valuable as they are, drugs, for many, can be unpleasant.

More and more, attention is now focusing on salt in the diet—salt in excessive amounts—salt in obvious and not so obvious forms—as a factor in blood pressure elevation.

But just how involved is it? How much do we really know about the involvement? What's sensible for you to do about your salt intake if your blood pressure is elevated, perhaps even only mildly elevated, and perhaps, as well, if it isn't elevated—yet?

THE DISEASE AND ITS RISKS

According to some estimates, as many as 35 million Americans have moderate to severe high blood pressure and another 25 million have mild hypertension.

It doesn't make them feel sick. It doesn't hurt. Most of those with elevated pressures don't even know it. But they should. It can be extremely dangerous to health.

Blood pressure is simply the force exerted against the walls of arteries as blood flows through. Primarily produced by the heart's pumping action, the pressure is needed in order to push the body's five quarts of blood through more than 60,000 miles of blood vessels.

Measured with a relatively simple instrument—the sphygmomanometer, also known as a pressure cuff—a pressure reading consists of two figures. One, the higher, is the systolic pressure, the level when the heart beats and pumps out blood; the other, the lower number, indicates diastolic pressure, the level when the heart rests between beats.

Any reading up to 140 systolic and 90 diastolic—written as 140/90—is generally regarded as in the normal range.

Elevated pressure can harm vital organs. In response to pressure excess, the heart must work harder. It increases in size and, for a time, it does well. But eventually it may become unable to meet the demands placed on it. Congestive heart failure then results: the heart no longer pumps with full effectiveness, less blood circulates, and lungs, liver, and legs may become congested.

Hypertension also contributes to atherosclerosis, with its build-up of fatty deposits in the arterial walls. When this occurs in the coronary arteries, blood supply to the heart muscle diminishes, and there may be chest pain on effort (angina pectoris) or heart attack. When a brain artery is affected, stroke may follow.

Severely elevated pressure reduces kidney function by damaging vessels supplying blood to the kidneys. Eventually, kidney failure may result. Blood vessels in the eyes may be similarly affected, leading to vision loss.

THE PAYOFFS OF CONTROL

In a minority of patients, definite organic causes for hypertension can be found. They include such conditions, usually surgically correctable, as narrowing of the aorta, the body's main artery coming off the heart, and pheochromocytoma, a tumor, usually benign, of an adrenal gland atop a kidney.

But the vast majority of patients—90% or more—have what is called primary or essential hypertension, with no definitively established organic cause.

For primary hypertension, large-scale drug treatment trials began in the 1960s. A cooperative study in Veterans Administration hospitals was the first to show, conclusively, that lowering pressure reduces illness and death rates in middle-aged men with either severe hypertension (diastolic pressures of 115 to 129) or moderate hypertension (105-114). For mild elevations (90 to 104), no statistically significant benefit was shown. The VA study also failed to demonstrate any marked reduction in illness from coronary heart disease and, of course, did not answer the question of whether women as well as men could benefit.

After the VA study came others here and in Western Europe and Australia. The most important to date has been the Hypertension Detection and Follow-Up Program (HDFP), a 5-year trial involving 14 clinical centers across the country and sponsored by the National Heart, Lung and Blood Institute. It was designed to focus major attention on mild hypertension in both sexes.

Nearly 11,000 patients with diastolic pressures of 90 and above were randomized into two groups—referred care (RC) and stepped care (SC). The RC patients were referred for treatment to their own physicians and were seen by HDFP yearly. The others were treated at HDFP centers.

Definite goals were set for all patients. For those with 100 or greater diastolic pressures, the objective was to bring the pressure down below 90; for those will pressures of 90 to 99, to lower the pressure by 10 points.

For SC patients, a systematic, standardized drug program was used, with medications added or dosages adjusted as necessary in stepwise fashion to bring each patient to or below the blood pressure goal.

It was assumed that physicians caring for RC patients would treat those with mild elevations less vigorously than called for by the HDFP protocol in view of common medical practice and the results of the earlier VA study seeming to indicate no marked advantage of treatment for mild hypertension. The assumption was correct.

At the end of five years, there were marked differences in the blood pressure levels of the two groups. Nearly 65 percent of the SC patients were at or below their goal levels compared with only 44 percent of the RC patients.

And the more effective pressure control in the SC group was reflected in their 5-year death rates—nearly 17 percent lower than RC patients for all causes of death and 18 percent lower for death from heart and blood vessel disease.

Particularly noteworthy were the death rate reductions among SC patients with diastolic pressures of 90 to 104, the range for which the value of treatment had been considered controversial. Compared with RC patients with the same original pressures, the SC patients experienced a 20 percent lower death rate from all causes and 26 percent lower from cardiovascular disease.

DRUG PROBLEMS

If antihypertensive medications are clearly valuable, their use is not without problems.

In a 10-year U.S. Public Health Service Cooperative Study Group trial, a high ratio of such side effects of antihypertensive drugs as sexual difficulties, lethargy, and somnolence was noted. In 1981, the British Medical Research Council Working Party on Mild to Moderate Hypertension reported the occurrence of sexual problems in nearly 20 percent of men taking an often-used antihypertensive, a thiazide diuretic.

There have been other reports of some patients on thiazide diuretics developing higher blood cholesterol levels, diminished glucose tolerance (indicative of a tendency toward diabetes), lower potassium levels, and elevated uric acid levels (indicative of a tendency toward gout).

Cost and inconvenience are difficult to measure but Dr. Robert I. Levy, former director of the National Heart, Lung and Blood Institute and now vice-president for health and dean of the Tufts University School of Medicine, has reported recently that more than half of hypertensive patients discontinue their therapy within a year.

For all these reasons, attention is being directed today to the possibility of using nondrug means, especially, but not exclusively, in people with mild hypertension and in those at risk before blood pressure becomes elevated.

THE SALT CONNECTION

There has long been suspicion of a relationship between salt and hypertension. It's easy to demonstrate in animals. Although elevated pressure is strictly a human phenomenon and can't be found in animals in nature, if you feed animals excessive amounts of salt, their blood pressure will go up and they will develop all of the complications of hypertension.

We've gone beyond evidence from animal studies alone. In the last few years, we've obtained evidence from human population studies as well—many lines of evidence pointing to salt as an extremely important blood pressure determinant.

There's much to be learned from the animal studies—striking points of information—so let's look briefly at them first.

Years ago, at Brookhaven National Laboratory on Long Island, New York, the late Dr. Lewis K. Dahl and his colleagues showed that if you take a colony of rats and add large amounts of salt to their food ration, they develop hypertension.

And, they demonstrated, it is not the same kind of reaction you get when you give a drug and get an effect, and then the drug wears off and the effect is gone. Rather, with salt feeding, you get a slow development of hypertension, an insidious progression.

Moreover, Dahl demonstrated that individual animals vary greatly in susceptibility to the effect of salt. Some are highly sensitive, others completely resistant.

By inbreeding rats at the extremes, Dahl developed two strains, one genetically very sensitive and the other genetically very resistant to the effects of salt.

In his experiments, Dahl established clearly that there is an interaction between genetic susceptibility and an environmental agent, salt.

But even in the most salt-sensitive animals, the genetic factor is permissive rather than determinative. If never given excessive amounts of salt, their blood pressure stays normal throughout life. Given salt, hypertension developes slowly in the animals and continues to rise with age.

HUMAN HYPERTENSION

That there is a genetic factor in human hypertension—and that it is important—is clear. Many studies, including those of twins, have shown that.

Until recently, it was believed that high blood pressure came on suddenly in adult life, virtually out of the blue. Now, however, research has shown that an upward trend in blood pressure is detectable early in life, in children as young as two years of age. The children of hypertensive parents, even at

very early ages, show a greater increment and steeper rise in blood pressure than those of normotensive parents.

And in the adult with hypertension, pressure actually has been rising more steeply ever since early childhood than in the adult who does not become hypertensive. The hypertension may be recognized suddenly when the pressure exceeds a certain limit but the pressure-elevating process has been going on for many years.

The rise of blood pressure with age in adults has been shown repeatedly in many populations—in the U.S., England, Wales, Jamaica, and parts of Africa, Asia, and South America. In fact, because of the constant increase with the years, it used to be said that normal blood pressure is 100 plus your age.

But beyond genetic influences, which may be permissive, there are many determinants for hypertension, most of which are not well understood.

One determinant is obesity. Weight gain in the third and fourth decades of life seems to be more important than after that time. Once high blood pressure is established, subsequent weight loss tends to lower blood pressure. But holding weight down is even more effective in preventing hypertension, than is reducing weight after blood pressure has already gone up.

It's generally believed that stress factors are important in hypertension. While this is probably true, it has been hard to prove. Stress is notoriously difficult to measure.

High alcohol intake has been related to rising blood pressure. Socio-economic class appears to be a determinant, too, with blood pressure levels tending to be higher among lower socio-economic classes.

Even rural-urban influences have been noted. The more rural, the higher the blood pressure; the more urban, the lower. This has been studied particularly in Mississippi but also has been shown in other populations of the world.

These are all matters to be considered. However, let's focus on salt.

THE EXEMPT

It's remarkable—and phenomenon has been a major interest: There are entire populations of people in widely separated environments who have no high blood pressure. There is no rise in blood pressure with age and no hypertension. There are at least 20 such populations and the thing they all have in common is that they lie outside the major modern culture; that is, they are preindustrial populations. They have not yet been homogenized into western civilization. They represent many races, many diets, and many climates. They include Chinese, Eskimos, Melanesians, Polynesians, Australian Aborigines, Africans, Malaysians, and Amerindians of Brazil, Guatemala, and Mexico. Their habitat varies from jungle to desert to arctic. Their diets vary widely. Melanesians live manily on root crops, Polynesians on fish and cocomut, Hunter-gatherers such as the Kalahari bushmen live on berries, game, and insects, and Eskimos are (or were) almost wholly carnivorous.

When their freedom from hypertension was first discovered, it was thought that these people simply lacked genetic susceptibility—that, somehow, because of their isolation, the predilection for pressure elevation had been bred out. it is clear now that this is not the case. If these peoples become acculturated, if they adopt the ways of western civilization, if they migrate or move into towns, their blood pressure rapidly begins to rise and hypertension appears. So they have roughly the same genetic susceptibility characteristics as do people in cultures such as ours.

It's acculturation, or the adoption of western ways, which is in some way related to the development of hypertension. Using computer techniques and statistical analysis, the factors within the acculturation process can be checked out.

When such an analysis is done, diet emerges as very important. And when diet is broken down, *salt proves to be the critical factor.* The correlation of blood pressure trends with salt intake is substantially better than any of the other correlations.

We have found that in one unacculturated population after another when no salt is eaten, except what occurs naturally in food, blood pressure remains low throughout life.

LITTLE VERSUS MUCH

Salt is sodium chloride and it's the sodium with which we are presently most concerned. Sodium makes up about 40 percent of salt.

Actually, sodium is an essential for health. It helps regulate blood and other body fluids, and it has a role in nerve impulse transmission, heart action, and even the body's handling (metabolism) of protein and carbohydrates.

Nevertheless, the basic human requirement for sodium is very small—in the vicinity of 200 milligrams a day. In familiar terms, that amounts to about *one-tenth of a teaspoonful* of salt.

That's all the body needs under ordinary circumstances. And even the largest amount that may be needed under any conditions—and this is being generous—is about ten times that, some 2000 milligrams, or 2 grams. That would still be only a teaspoonful of salt from all sources and might be needed in some people sweating a lot. Years ago, fatigue laboratory studies showed that after a few days to let the body readjust, a healthy person can remain indefinitely in sodium balance on less than 2 grams of intake a day even while sweating as much as 9 quarts a day.

Yet Americans on average—and Europeans as well—get far more sodium than what is suitable for basic needs or even for needs under extreme conditions: somewhere between *6000 and 15000 milligrams in the standard diet, not taking into account snacks.*

In studies which my colleagues and I have undertaken—and in others as well—*all populations around the world without hypertension have been found to consume less than 2300 milligrams of sodium a day, with some consuming far less.*

Between 1966 and 1972, I was a member of a Harvard team of physicians and anthropologists that studied eight tribes in the Solomon Islands of the South Pacific. The three more acculturated tribes showed blood pressure rising with age. On the other hand, the five less acculturated groups showed blood pressure actually falling with age.

Sodium intake was substantially higher in the three tribes with rising blood pressure. Two of these, the Nasioi and Nagovisi, had sodium intakes of 1150 to 2990 milligrams a day, with modest frequencies of hypertension. The third group, the Lau, had the largest blood pressures and sodium intakes of from 3450 to 5290 milligrams a day.

In one study conducted by British scientists unacculturated men drafted into the army in Kenya were checked. Their diet changed from one predominantly composed of milk and meat with about 1150 milligrams of sodium to the army ration of posho, a maize meal containing 5½ times as much sodium. Blood pressures began to go up in the second year in the army and continued to rise through the sixth year of army service.

At the other extremes of very high sodium intake, several studies in Oriental populations have shown high prevalence of elevated blood pressure. For example, in Japan, surveys in rural Akita prefecture found sodium intake averaging as high as 9200 milligrams a day, with hypertension affecting more than 40 percent of the population. A lower prevalence of hypertension was found in Osaka where sodium intake averaged 5520 milligrams.

Colleagues and I have had occasion to study the Qash'qai of Iran, unacculturated nomads of Turkish origin who live on traditional foodstuffs that include 3450 to 4600 milligrams of sodium a day. Strikingly, the Qash'qai are lean, active, and show no tendency to gain weight with age—but they show a strongly rising blood pressure with age and a high frequency of hypertension. Even in the absence of both acculturation and weight gain, their relatively high sodium intake appears to be a very strong blood pressure determinant.

PREVENTION AND HYPERTENSION REDUCTION, TOO

Thus, the accumulating data from many studies—in human populations as well as animals—strongly suggest that excess sodium in the diet is a significant factor in raising blood pressure and producing hypertension.

It would appear, too, that if sodium intake is kept moderate—at some level below 2300 milligrams a day—people who are sensitive to sodium may escape developing hypertension. And since it is impossible, at present, to predict accurately who is and who is not sensitive, moderation for all makes good sense.

There have been studies, too, indicating that mild to moderate hypertension responds to moderate sodium restriction. In several investigations, here and in Europe and Australia, cutting sodium intake back to a level near 2300 milligrams a day has resulted in blood pressure reductions of approximately 10 points systolic and 5 points diastolic.

In one study over a three-year period of 1,500 men and women in three California communities, Dr. John Farquhar of Stanford University found that when subjects in two of the communities reduced their salt intake 30 percent, average blood pressure was 6.4 percent lower than among subjects in the third community where no dietary change was made.

In another study, 31 mild to moderate hypertensive patients were placed for a 2-year period on just moderate sodium restriction, cutting back their sodium intake on average from 4393 milligrams a day to 3611. They achieved a progressive drop in diastolic pressure averaging 7 points.

Such studies are interesting not because they resulted in any dramatic reduction in blood pressure but because of their demonstration that any significant reduction is achievable by so modest a degree of sodium restriction.

It's worth noting, too, that several other studies have demonstrated that better blood pressure control can be achieved with less medication when drug therapy is combined with moderate sodium restriction. That, at the very least, could mean better control of

hypertension with fewer side effects as drug dosage is reduced.

To sum up: Fully two millenia ago, the great Latin poet, Horace, wrote:

He that holds fast the golden mean,
And lives contentedly between
The little and the great,
Feels not the wants that pinch the poor,
Nor plagues that haunt the rich man's door.

Certainly, we are much too rich in overly salted provender and growing increasingly aware of the plagues to which it may contribute. And here, as in so much else, the golden mean—simple moderation—can do only good, never harm.

HOW TO AVOID TOO MUCH SODIUM

It's not entirely a simple matter since a lot of sodium in the American diet is not obvious. Yet there is much you can do to moderate your intake.

You can begin by not salting heavily—even, as so many do, automatically before tasting—at the table. Try halving your salt shaking and going on from there—and see if you don't come before long to enjoy the unsalted flavor of foods. And ask the meal preparer at home to go easy on salt in cooking, making more use of herbs and spices.

Minimize use of obviously salty snacks, such as salted nuts, pretzels, potato chips. Snack instead on raw vegetables or peanuts in the shell.

Become aware of the sodium content of many common foods such as the following. In each case, the sodium content in milligrams is shown for a 100-gram (approximately 3½ ounce) serving.

Fruits and vegetables

Beet greens	130
Celery	126
Dandelion greens	76
Kale	75
Spinach	71
Beets	60
Watercress	52
Turnips	49
Carrots	47
Artichokes	43
Collards	43
Mustard greens	32
Chinese cabbage	23
Cabbage	20
Radishes	18
Broccoli	15
Brussels sprouts	14
Cauliflower	13
Green pepper	13
Cantaloupe	12
Honeydew melon	12
Parsnips	12
Onions (dry)	10
Sweet potatoes	10

Note.—Most other fruits and vegetables not listed contain less than 10 milligrams per serving.

OTHER FOODS

Beef, ground	48
Beef liver	136
Pork chops	60
Ham, cured	860
Bacon	1,077
Bacon, Canadian	2,555
Sausage, link	958
Codfish	70
Cheese, blue	1,396
Cheese, brick	557
Cheese, cream	294
Cheese, Parmesan	1,848
Cheese, process	1,421
Milk, whole	50
Butter	224
Eggs	122
Olives, green	2,400
Peanuts	5
Peanuts, salted	418
Soda crackers	1,100
Ice cream	83
Sherbet	45
Pickle, dill	4–5,000
Pretzels	7,800
Soy sauce (mild)	3,569
Soy sauce (regular)	6,082

Urge the food shopper in the family to check labels not alone for salt (sodium chloride) but also for sodium-containing additives. The latter include monosodium glutamate (MSG); baking soda (sodium bicarbonate); brine (table salt and water); disodium phosphate; sodium hydroxide; sodium propionate; and sodium sulfite. It's a good idea to avoid products that list salt or a sodium-containing additive near the top of the ingredients' list.

Be aware that many canned soups and soup powders have large amounts of sodium as, commonly, do canned, smoked, pickled or cured meat and fish products, and preserved or pickled vegetables. For example, a typical serving of canned soup may contain in excess of 1,000 milligrams of sodium.

Be aware of the often-striking differences of sodium content in canned versus fresh varieties of foods. Eat 4 spears of fresh asparagus and you get 4 milligrams of sodium; the same amount canned gives you 296 milligrams. Where a cup of fresh lima beans contains 2 milligrams of sodium, the same amount canned has 456. An ear of fresh corn has just 1 milligram; 1 cup of canned corn, 384. Eat 3 ounces of fresh shrimp and you get 137 milligrams; in the same amount of canned shrimp, you get 1,955 milligrams.

Know, too, that there sometimes can be remarkable differences in sodium content from one brand to another of the same kind of product. For example, while a 6-ounce can of Del Monte tomato paste contains 112 milligrams, Hunt's contains 610.

And be aware that, with increasing awareness of the excessive sodium intake problem, low-salt cookbooks are being published in increasing numbers, low-salt recipes are appearing in newspapers and magazines, and food processors are beginning to offer low- or no-salt items, including canned corn, soups, cornflakes, sardines, tomato juice, and green beans.

DR. BARNEY CLARK

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. GUARINI. Mr. Speaker, I have introduced a resolution today which calls for the House to support the nomination of Dr. Barney Clark, who has made medical history by becoming the first human recipient of a permanent artificial heart, for the Presidential Medal of Freedom.

Dr. Clark has demonstrated tremendous bravery and tenacity in his fight for survival in one of the most outstanding medical achievements of our time. He wages a daily battle against such tangible threats as infection, pneumonia, and seizures, while staving off depression and the frustration that comes with the inevitable setbacks inherent in any new technology. We can only imagine what it must feel like to be Barney Clark, watching the machine his life depends on, hearing and feeling the clicking of the device within his chest, which has beat more than 2 million times since it began its work nearly 3 weeks ago.

Dr. Clark's courage in volunteering to assume the role which allows this phenomenal technology to be analyzed and perfected establishes him as a pioneer in the development of modern medical techniques. He symbolizes the culmination of the efforts of many, much as Neil Armstrong symbolized the efforts of thousands when he became the first human to walk on the Moon.

Our fervent prayers go out to Barney Clark and his family for the success of this medical adventure into the far reaches of science and technology. We salute this man's courage and tenacity. Barney Clark fully deserves the acclaim of the American people and the honor of the Presidential Medal of Freedom. This gesture of recognition would be most valuable in boosting Dr. Clark's morale with the message: "All America is rooting for you, Barney!"●

A TRIBUTE TO FLOYD FITHIAN

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I rise today to express my great admiration for my colleague from Indiana, FLOYD FITHIAN, who will be leaving us at the end of this session.

FLOYD's service to this body and his constituents in his 8 years here has been truly outstanding. From his position on the Agriculture and Government Operations Committees, he has fought diligently for the interests of his constituents and for those of our entire Nation. A legislator of his skill and integrity will be greatly missed.

I would like to extend my most sincere wishes for the future.●

MARGARET HECKLER

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. JEFFORDS. Mr. Speaker, the Congress is certainly going to miss the redhead from the 10th District of Massachusetts. For 16 years, she has represented an area stretching from suburban Boston to the textile and industrial region of Fall River capably and tirelessly.

I will long remember her fondly, and with great respect for her fine work on

behalf of veterans, and on the Science and Technology Committee and the Congressional Arts Caucus. For 7 years, she fought for and finally won passage of legislation providing psychiatric counseling for Vietnam veterans. As the senior—in terms of service only—female Member of Congress, she championed women's causes and led the charge for ratification of the Equal Rights Amendment, and I am sure that is one torch she will not put down. She has also been active on a host of consumer protection issues, including a drive to lower sugar retail prices.

PEG was born in Flushing, N.Y., and attended Albertus Magnus College, then Boston College Law School. She was admitted to the Massachusetts bar in 1956. During her distinguished career, she has amassed the following honorary degrees: Northeastern University, doctor of humane letters; Stonehill College, doctor of laws and letters; Emmanuel College, doctor of humane letters; Regis College, doctor of laws, honoris causa; Albertus Magnus College, doctor of laws; St. Bonaventure's University, doctor of literature.

And now, Mr. Speaker, I will turn to several lesser-known aspects of PEG's life in Washington.

Like all of us engaged in public service, PEG has kept a frenetic schedule, and during her stay in the Capital has often found herself running late for appointments and to catch flights back to her district out of National Airport. On one particular day, I am told by reliable sources, she set a record which still stands, and which you will (or should) find faithfully recorded in "The Guiness Book of World Records," for the greatest number of staff people involved in trying to get a tardy Member to a plane: Eight. One might imagine that she would have had to commission a makeshift litter to have required the services of so many people, but this was not the case. Nor did she requisition an eight harness rickshaw to make her dash down 395.

No. First, she needed someone to drive her to the airport at lightning speeds. Second, she needed someone else to drive out to National to help her carry her big, heavy bag which she determined she could not carry herself once she got there and the first staffer had already left, and someone to wait in this second car in front of the terminal when it turned out that PEG got on her plane before her bag could be loaded and the bag had to be checked onto another plane. Then she needed one person up in the district to pick her up, and another to pick up the bag when it arrived sometime later. Then she needed yet another staffer to drive her dog to the airport, sedate it and put it on a third plane to Massachusetts, and a seventh individual to gather up the pooch when it touched down. Finally, she had her administrative assistant supervise this entire operation to see that it ran smoothly in the fine tradition of all important congressional business.

Which brings me to the second subject of my dissertation: PEG's canine Limerick. This dog was one of the best kept secrets in Washington, ranking ahead of the true identity of Deep Throat.

Yes, PEG kept a dog named Limerick here in the District of Columbia and brought it to work with her every day. Because of the usual difficulties associated with dogs and some rather novel ones, PEG's staff was not overly enamored with Limerick. They had to feed it and take it for walks. And they had to retrieve it when it wandered across the hall into DEL LATTA's office, invariably when DEL was meeting with important associates or constituents.

And they had to keep this dog a secret. For reasons that only she knows, PEG did not want to be seen with Limerick at work, or going to or from the office. As a result, when she drove in to the Rayburn Building each morning with Limerick sitting in the shotgun seat, she would call up from the garage and have her receptionist come down from the office and pick up the dog. PEG would go up in the elevator alone, and the receptionist and the dog would follow later.

One day, PEG came up to her office, sent the receptionist down to the garage and then met with some constituents. She took them down several floors to the cafeteria for some coffee, then got back on the elevator to go back up to the office with them. Unfortunately, the receptionist, who had been unaccountably delayed in her mission, and the dog were on the lift. One of PEG's constituents took a long look at Limerick, who it must be said is not the best looking beagle in the world, and said to PEG, "You see some of the damndest things on Capitol Hill." With a quick, severe glance at her receptionist which indicated that great restraint was called for, and without another sign of recognition to her or to the dog which was furiously wagging its tail and straining on its leash toward her, PEG replied, "You sure do."

I am told that PEG's staff finally gave the dog away without PEG's knowing about it. (Not really.)

In all seriousness Mr. Speaker, I want to say how much I have enjoyed working with the gentlelady from the Bay State. I wish her the best of luck in her future endeavors. She truly is one of the most dedicated, most able, and most effective persons to have graced the Halls of Congress. I am going to miss her.●

TO FREE CHINA

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. DANNEMEYER. Mr. Speaker, the issue of U.S. relations with the Republic of China on Taiwan will continue to be an important one in our overall foreign policy strategy. This matter is currently being influenced by possible relaxation of tensions between the People's Republic of China and the Soviet Union. While we must monitor these developments relating to the two Communist giants, we must not let them overly impact upon our ties with the freedom-loving people on Taiwan.

In this connection, I would like to share with my colleagues two excerpts from a speech by that great patriot, Alexandr Solzhenitsyn, delivered at the Taipei City Auditorium, Taipei, Republic of China, on October 23, 1982. I am inserting them at this point in the RECORD as reprinted in the Christian Beacon of November 11, 1982:

DO NOT TRUST PEKING

What, then, does Communist China want from you? Certainly, it is eager to grab your blossoming economy, to plunder and devour it. After all that has happened in the 20th century, only shortsighted simpletons can trust Peking's promises that it will totally preserve your economic and social system, and even your armed forces along with some elements of freedom. But the main issue is not to take away your wealth, to steal the fruits of your hard work. The main thing is that the Communist system does not tolerate any deviation in anything or anywhere. Not even the wealth of your island is important. What matters is the deviation from their system. Communist China hates you for your economic and social superiority. For them it is not permissible that other Chinese should know that there can be a better life without Communism. The Communist ideology does not tolerate any islets of freedom. And so, with all their might, the Communists want to cut off the sale to you even of defensive arms, to try to weaken your defense capability, to disturb your balance of power in the Straits—and thus to bring closer the day of intrusion into your island.

ATTRACTIVE MYTH

For centuries the Western World has known very well the price of freedom. But with years passing and well-being achieved, it is less and less prepared to pay for it. The Western people value their state systems but are less and less inclined to defend them with their own bodies. From decade to decade, the West has become increasingly senile and unable to defend itself. The betrayal of one country after another had already begun before the Second World War. Afterward, no scruples were felt in abrogating the whole of Eastern Europe just for the sake of the West's own well-being. How easy it was to betray the government of Mikolaychik; how easy it was to withdraw support from one's ally Chiang Kai-shek. And soon we shall witness how one country will betray another for the price of surviving

just a little longer. Should it be surprising that the majority of the frightened Western countries are even afraid to sell you weapons for fear of angering Peking. That's how much their drive and concern for freedom is worth. Meanwhile, threatened Europe should understand your position better but is so cowardly that it fails to recognize that the Republic of China and other countries of Asia are themselves endangered. Just recently, the former premier of Japan declared that the arming of Free China would destablize the Far East! What more can be said?

They are all obsessed with the search for self-protection and the quest for a stand-in. So there emerged an attractive myth—that there are "bad" and "good" Communisms. And out of such a myth grew the image of Communist China as a good-natured peacemaker! But should that be surprising—when in South Korea, which herself survived a Communist assault, there exists a myth that actually the Soviet Union is not directly hostile to them, not so much an enemy, not like North Korea. The South Koreans have also been doing their utmost to curry favor with Peking. Now they are hesitating about whether to give a defecting Red China aircraft to Free China.

No, it is not out of shortsightedness, not out of stupidity, that such myths are believed, but out of despair, out of the loss of spirit.

In a particular relationship to you is the United States of America. Up to this day, the United States provides the only outside guaranty restraining the Communists from attacking your island. But how difficult it becomes for the United States to remain faithful to Taiwan, how much has already been lost on the way! The Americans have also succumbed to the general world trend to leave the Republic of China to its perils, to abandon it to its fate. America moved to abrogate its diplomatic relations with the R.O.C. For what? For what fault of hers? Only to follow the futile Western dream of gaining an ally in Communist China. America has restricted its connections with you, curtailed its military support and is denying you much of what you need.●

MRS. JOYCE CASEY—A PARENTS' TEACHER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. STOKES. Mr. Speaker, it is a signal honor and a privilege for me to bring to the attention of my colleagues the innovative work of Mrs. Joyce Casey, a dedicated mathematics teacher at the Kirk Middle School in East Cleveland, Ohio.

Mr. Speaker, Mrs. Casey is an extremely hard working and talented teacher. However, what sets her apart from many teachers is her unceasing dedication to teaching her students and the depth of her commitment to promoting their understanding of mathematics.

Mr. Speaker, Mrs. Casey's dedication to increasing the proficiency of her students has inspired her to develop an innovative technique. This technique is the instruction of the parents of her students. In attempting to aid her students, Mr. Speaker, Mrs. Casey has set up mathematics classes for her students' parents so they may better assist the pupils at home. I am pleased to report that this unique approach has been met with enthusiasm and success. Mrs. Casey should be applauded for her efforts and success.

At a time when there is increasing concern about the motivation of our young people, it is encouraging to note that there is a teacher like Mrs. Casey who is determined to motivate her students and give them the best education possible. She subscribes to the philosophy that when parents and teachers work together, the student has an improved chance of learning. Moreover, Mr. Speaker, Joyce Casey has decided that she will work to make that philosophy a reality.

I take great pride in bringing the resourceful ideas and success of Mrs. Joyce Casey to the attention of my colleagues. At this time, I would like to insert in the RECORD an article which appeared in the Cleveland Plain Dealer on Mrs. Casey and her new project:

[From the Cleveland (Ohio) Plain Dealer, Nov. 21, 1982]

SCHOOL'S IN SO PARENTS CAN STAY UP WITH PUPILS

(By Karen Farkas)

Parents of some East Cleveland eighth graders are returning to school to keep up with their youngsters.

Monthly courses for parents were organized this fall by mathematics teacher Joyce Casey, who decided to look to parents for help after more than a third of her pupils failed in June.

"I love teaching and the number of failures was more than I could be pleased with," she said.

She decided lack of motivation could be part of the problem and turned to parents for help.

Casey, who has taught school 15 years, planned to hold a meeting with parents to tell them what she planned to teach during the year. She felt the response was outstanding when at least one parent attended for more than half her 127 pupils.

"I told them I was available any time and my goals were to reduce failure and get students motivated," she said. "Many parents told me later that they would like to help, but were unfamiliar with math."

So she decided on the monthly classes where she goes over what she will cover in the upcoming month.

Early this month, about 20 parents nervously walked into the library at Kirk Middle School one evening to begin their back-to-school experience. They sat down and stared uneasily at the new sharpened pencil, sheets of paper and ruler on the table in front of them.

Casey said pupils were studying the metric system and after explaining the basics of conversion, put five problems on the board and called on eight pupil volunteers to help the parents.

"It's no shame if you don't know how to convert," she told the parents. "There's scratch paper and let us know if you have problems."

Many parents struggled with the problems and some were helped by their children. Stephen Adams' paper was covered with neat rows of multiplication as he computed the conversions. His daughter, Lerona, peered over his shoulder.

"I came to see what's she's doing in school and this is a good idea because she would bring homework home and I would end up scratching my head," he said.

"This is very helpful and it's the first time one of my children's teachers ever did this," said Thelma Smith. "It should continue because it helps the rapport between parent and teacher."

By the end of the session, parents were discussing their problems in converting while enjoying cookies and coffee which Casey provided.

Casey said she was not disturbed that only 20 parents came.

"Whether a child gets an 'A' or 'F,' he still needs the support of parents," she said. "And there were some there whose children weren't doing that well."

She said some parents who worked asked her to notify them earlier of future meetings so they could rearrange their schedules. And she said she would call parents whose children failed math to encourage them to come to the next session.

Parents and pupils will be encouraged to complete activity sheets she will send home.

"I want to be able to get a cohesion between parent and teacher and work together during the year to give the student motivation and drive," she said.

Already results have been seen. "I have seen a tremendous improvement with some students and the enthusiasm of the parents," she said. "I really feel that if students are motivated, it keeps me motivated."

Stephen Lloyd, principal of Kirk, said Casey's efforts might increase parents' interest in other subjects their children study.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. McDONALD. Mr. Speaker, some time ago, in my official capacity as a member of the House Committee on Armed Services, I was asked by the Honorable John Lehman, Secretary of the Navy, to preside over the launching of the U.S.S. *DeWert* at the Bath Iron Works in Bath, Maine on Saturday, December 18, 1982. Consequently, I was necessarily absent from the House floor Saturday afternoon during the consideration of the Education and Labor Committee amendment to H.R. 7357, the Immigration Reform Act. Had I been present during rollcall No. 483, I would have voted "no."●

PROSPECTS FOR PEACE IN THE MIDDLE EAST

HON. JOHN J. LaFALCE
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. LaFALCE. Mr. Speaker, Henry Kissinger was recently interviewed by the Economist of London. This interview is must reading for anyone concerned about the Middle East. I urge my colleagues to read "After Lebanon—A Conversation:" as reported in the Economist.

Selections from the article follow:

[From The Economist, Nov. 13, 1982]

MIDDLE EAST—AFTER LEBANON: A CONVERSATION

(We recorded this conversation with Henry Kissinger, a private citizen, in New York.)

Do you see still, after recent events, an opportunity for progress in the Middle East?

The circumstances for progress in the Middle East are the best I can remember.

Is the Reagan plan one component in that?

Let me define what I consider to be the essential elements of the Reagan plan: (1) That the negotiating partners on the West Bank should be Jordan and Israel; (2) that the West Bank authority elected by Palestinians should be associated with Jordan; (3) that annexation of the West Bank and Gaza by Israel will not be accepted by the United States or by any other country; (4) that there be a moratorium on new Israeli settlements on the West Bank during a peace process; (5) that the negotiation must deal with Israel's security as well as recognition.

There are other aspects in the plan that I think are not as essential.

Now, suddenly, one is able to talk in these terms whereas, say, a year ago it was difficult to see one's way ahead. Were the military events in Lebanon a useful beginning of this process?

Like it or not, they changed things—so that out of the rubble there came the chance of a fresh beginning. I do not believe it would have been possible to achieve the kind of Arab reaction evoked by the Reagan plan had these military operations not taken place. First of all Lebanon strengthened the moderates in the Arab world by weakening the radicals. Second, it revealed the hollowness, or the limits, of Soviet support for its clients in the Middle East; the Soviets can supply arms but give no impetus to diplomacy. Third, it expected the fact that the new generation of American weapons seems to be much superior to the new generation of Soviet weapons. . . .

American weapons with some Israeli frills. . . .

With some Israeli frills, yes, but at any rate making the military option for those using Soviet weapons in the region less and less promising—and in the process devaluing Russia's principal export.

Finally, the lack of effective support for the PLO [Palestine Liberation Organization] by the radical Arab states made it clear that the rejectionist front had rhetoric but no programme. All this eliminated to a large extent the military potential of the PLO. Therefore if the Palestinians are to participate in the peace process, it will have to be as a political and not as a military factor. These are the new objective conditions on the Arab side making for progress.

On the Israeli side the Lebanese action has removed, substantially, the argument that there was an imminent military threat to the existence of the Jewish state. It would have been unthinkable a few months ago that an Israeli prime minister would tell his parliament that for the first time in Israel's history all its frontiers were secure.

For all of these reasons conditions have never been better for negotiations—provided the Reagan plan is seen as a framework and not a blueprint, every last provision of which needs to be implemented as part of an agreement.

Which elements of it do you see, then, as being particularly encouraging as a framework?

Jordan as a negotiating partner; a decisive role, a political role, for the inhabitants of the West Bank and Gaza in determining their political future, within the framework of association with Jordan; the recognition of Israeli security concerns on the West Bank; and the clear statement by the United States, which will remove any illusions that may have existed in Israel, that annexation (overt or disguised) is not an option we will support.

Those are the potential strengths in the Reagan plan. What are the potential weaknesses and dangers in it?

Some of the language is perhaps necessarily ambiguous; some of it will be interpreted differently by the various parties and—I suspect—by different elements of our bureaucracy. This involves the risk of stalemate in the negotiations, tensions with friends on both sides and disagreement within our government.

The phraseology on Jerusalem in my view may well be only compatible with turning Jerusalem into a UN [United Nations] city, which is a non-starter. The phraseology that the location of the borders will depend on the degree of normalization that the countries are prepared to undertake meets only part of the problem. It obscures the peculiar difficulty of Arab-Israeli negotiation in which one side has attempted to achieve annexation by subterfuge and the other side tries to evade all its problems by trading its maximum demands in return for recognition. In other words the location of the West Bank borders must be related to security as well as to recognition. Israel—as President Reagan has also implied should not be asked to find security solely in recognition.

You talk of the "peculiar difficulty" of Arab-Israeli negotiations.

Two nostalgic illusions inhibit these negotiations. The Israeli nostalgia is that somehow or other they can manoeuvre events to a de facto annexation of the West Bank. The Arab nostalgia is that somehow or other, having lost the military option, they can manoeuvre us into accomplishing their maximum programme in return for verbal formulae, in the process demoralising Israel and with luck bringing about its collapse.

Another danger is that the Reagan plan will turn into a subterfuge for rehabilitating the PLO, establishing it with essentially unchanged composition and programme on the West Bank, threatening simultaneously Israel and Jordan.

The final danger is psychological. Having taken the unprecedented step of introducing a plan without consultation with Israel, we have to be careful not to turn an emergency measure into a regular procedure. Opposition to Israel must not become a congenital feature of our foreign policy lest we break Israel's back psychologically. This is not the case now; I am simply warning against turning what was a probably unavoidable first step into a permanent feature of our diplomacy

Is this argument between America and Israel different in nature from previous arguments?

I think the crisis in American-Israeli relations that resulted from the Reagan speech is unusual in the sense that, for the first time, a presidential plan was put forward without consultation with the Israelis, and for the first time a presidential proposal was totally rejected. We've had tactical disagreements within an agreed strategy before, but this time the dispute involved a fundamental issue of principle. There probably was no other choice: there was a boil that needed lancing in that the Israeli definition of Palestinian autonomy and the definition that the Americans or the Arabs could give to the term had been at fundamental variance from the beginning.

The Israeli proposal for autonomy foresaw a self-government authority arising out of some process of election. Because the arrière pensée of at least the key members of the Israeli government was, as is now apparent, that they would not give up sovereignty over any part of the West Bank, they were careful not to draw any terrritorial distinction. By implication the autonomy plan applied to the entire West Bank within the 1967 borders. Paradoxically the Begin government, against its preferences and ideology, was really proposing what all other nations were certain to treat as an embryo Palestinian state and, to compound the irony, within the 1967 border since none other was under discussion. Once there was an elected self-governing authority on the West Bank, an irreversible political fact would be created on the territory over which its authority was supposed to run. However limited this authority, it would soon turn into the nucleus of something like a Palestinian state, probably under PLO control. It would be so treated by almost all of the countries of the world except Israel.

Are you saying that since Camp David we have got stuck on an escalator, so to speak, on the use of the word autonomy which we now cannot get off?

No, I'm saying that so long as some form of Israeli sovereignty over the entire West Bank was the objective the autonomy negotiations could not be brought to a conclusion acceptable to all parties: even without Lebanon a point would have been reached at which either the United States would have had to put forward its own definitions of autonomy, or there would have been a blow-up of the negotiations.

Lebanon has now made it possible to involve other Arab states in the process and therefore to come up with a more comprehensive approach than would have been possible otherwise. That is the boil the Reagan plan has helped lance.

Because it got back to the idea of Perez and others that Jordan ought to be the negotiating partner?

That idea preceded Perez and should not be identified primarily with internal Israeli politics. It has been American policy since 1967 that Jordan should be the interlocutor for the West Bank.

Now, Jordan is talking with Arafat and the PLO. Does that not pose the danger that, by introducing Jordan into it, all we're doing is introducing the PLO on to the West Bank where it can be a threat either to Israel or to Jordan or both?

That is the key strategic question we must all be clear about. The Reagan plan must not turn into a device for introducing the PLO in its present form and with its present concepts on the West Bank. Jordan would thereby become not so much the principal negotiating partner as a cover for the PLO domination of the West Bank. By making the PLO part of Jordan it will also lay the basis for an eventual PLO takeover of all of Jordan, reversing the events of 1970. The creation of another radical state with irredentist aims towards both Jordan and Israel is irreconcilable with the stability of the Middle East.

Do you feel that point of view is solidly enough embedded in the Reagan plan and in the thinking behind it?

I suspect it is solidly in the mind of the secretary of state [George Shultz] and of the president. I am not sure it is equally solidly embedded in the minds of all of those who have to execute it. It is clearly contrary to the convictions of our European allies. A strategic decision has to be made whether the proposed negotiations seek to make Jordan the principal negotiating partner or whether they are used as a subterfuge for resurrecting the PLO after its defeat. If we are not clear about this, we will not be clear about whatever else to do. Our European allies, especially, must understand that for them to build up the PLO while we emphasize the role of Hussein is certain to lead to paralysis or worse.

But is the PLO—its military option apparently destroyed, and deserted as it was by its Arab friends when it needed to exercise it—really such a threat now?

That remains to be seen; the future evolution of the PLO is one of the key questions before us. I believe its military option has been substantially destroyed except perhaps for terrorism. I would also think that reasonable Palestinians, reflecting about their experience of the past 10 or 15 years. Should come to a Sadat-like insight that they must co-exist with Israel in some form: they more than any other people, despite—and perhaps because of—the common suffering Israel and the Palestinians have inflicted on each other, If that happens, a new Palestinian leadership may well emerge, perhaps even under the label of PLO. That would not represent such a threat; it could even turn into a major opportunity. The PLO in its present composition and with its present programme cannot make such a claim. If the PLO is now resurrected without fundamental structural and philosophical changes, it is likely to remain radical, seeking to upset the equilibrium on the West Bank and to destabilize moderate governments in the area—starting with Jordan. I think it should be given an opportunity to demonstrate a change of approach. But this requires more than ambiguous phrases hinting at recognition of Israel. It presupposes a true turn towards the political option reflected in the PLO's structure, programme and personalities.

Can Arafat, now that the PLO is dispersed and has its military teeth drawn, carry a suitably reformed organization in association with Jordan?

I do know and perhaps he does not either.

What specific measures should be negotiated on the West Bank for Israel's security?

There is no such thing as absolute security, but there is such a thing as absolute insecurity. As President Reagan pointed out, the narrow neck of Israel between Haifa and Tel Aviv, with a width of only nine miles in some places, cannot be considered a secure frontier whatever the degree of Arab recognition of Israel. The areas essential for an improvement in Israel's security on the West Bank are not heavily populated by Arabs. Thus it should be possible to return to the overwhelming majority of Arabs living on the West Bank and Gaza a controlling voice in facing their future. The precise location of these security frontiers will have to be settled by negotiation.

Is recognition of Israel a starting point for negotiation or the end-result?

In negotiations between Israel and Arabs the question of recognition plays a disproportionate and unprecedented role.

In all other negotiations mutual recognition is assumed at the outset. I know no other negotiation in which a country is asked to accept recognition of its existence as the principal quid pro quo. The Israelis sometimes give the impression that their sole objective is recognition and some Arabs, perhaps sensing the opportunity, seem to imagine that they can achieve their maximum programme in return for nothing more than simple recognition. So I would be much more interested in how the PLO in fact conducts itself towards the peace progress than in arcane formulae of recognition. However, the issue of recognition has become so symbolic that it cannot be avoided. Recognition of Israel is the beginning of a process, not the end; it does not meet—by itself—the needs of the situation. It is not, when all is said, much of a concession for the PLO to make. Many recognized states nevertheless wound up being destroyed even in our own time.

You talk of the conditions for Arabs getting "our support". Yet American support for Israel during the past 18 months has often been flouted, to the point that the Arabs must wonder what it is worth. Can America afford to see its wishes ignored so openly by a small, determined ally? And what, if it cannot, should it do about it?

The Israeli outrage at the unilateral procedures preceding the Reagan plan would have had more moral force had not Israel proceeded unilaterally on a whole series of issues and had it not made challenging our views, sometimes provocatively, almost a principle of policy. America must, as I have said, treat Israel compassionately and seriously. It must do its serious best to achieve prior agreement before taking initiatives affecting Israel's future. In the end we cannot abdicate the definition of our national interests to a small friendly country, however close. Responsible Israeli leaders will know that continual open challenges to our government, especially to the president, risk the public support for the sustained assistance on which their policy ultimately depends.

No sanctions?

I would hope such a point will never be reached.

It has been an American position and, indeed, almost a universal position since 1967 that the West Bank cannot and should not be annexed by Israel—yet, expressed in terms of concrete, it is being annexed or already has been. Is it now any longer conceivable to talk in terms of negotiation over the West Bank?

It is not only conceivable; it is imperative. Annexation of the West Bank—overt or disguised—will sow the seeds of endless crises, one of which will inevitably erupt into conflagration. It is not even in the interest of Israel however narrowly conceived. The incorporation of Gaza and the West Bank into Israel will sooner or later produce an Arab majority that will destroy the essence of the Jewish state. And if Israel seeks to escape this dilemma by expelling all the Arabs it will lose the moral support of even its best friends. Over an historical period Israel would not be able to withstand the crisis that would result.

Begin has called the idea of an association between Jordan and the West Bank "grotesque". Should he be required, or asked, in a negotiation to change his mind—and what form of pressure can be brought by the United States to help persuade him to change his mind?

This is the fundamental issue between the United States government and Begin, so it is unfair to make him the symbol of negotiating difficulties. With respect to Egypt, after all, he made more concessions than I would have expected on the basis of my experience with previous Israeli governments. Granted all this, the present positions of the American and Israeli governments are nearly irreconcilable. As for pressures in the immediate future, the most effective one is for King Hussein to step forward with whatever Arab acquiesence he needs as the Arab negotiator for the West Bank. This would pose for all Israelis the concrete necessity for decisions. So long as the Arab participation in the process remains only hypothetical, the debate will be sterile and bitter. In the meantime the best that America can do is to state a reasonable definition of what it has in mind with respect to both security and to political evolution. If Hussein steps forward and we stick to our course, many Israeli fears will be reduced and responsible opinion in Israel will shift towards such a programme. We need a serious discussion with the Israelis on what we understand to be the security frontiers on the West Bank and what territories we expect would have to be returned.

We need as well a serious dialogue with especially the moderate Arabs. Moderate Arabs must know that their views will be respectfully heard in America; they must not be encouraged to believe that their sole contribution to the negotiations is the willingness to accept Israel. They must avoid the temptation of building an Arab consensus on the prospect of a gradual demoralization of Israel by American pressure. They as well as Israel should work with us on the definitions of peace and security that are central to the peace process.

Why should Arafat agree that Hussein step forward?

Because this is the only way the Palestinians can achieve control over their future. The alternative to the course outlined here is not a PLO state but Israeli annexation of the West Bank and the loss of a historic opportunity.

Is there a similar danger—I think of Sadat's last years—of destabilizing Arab regimes that we would prefer not to destabilise, by having them associate themselves closely with compromises which are difficult for them to make and which associate them with the current state of affairs in Israel? I think, of course, obviously of Jordan, but also of Saudi Arabia.

Perhaps. In my view the Camp David process played a relatively small role in the destabilization of Sadat. The major cause was the growth of fundamentalism in the Arab world. And also the start of a feeling that perhaps we were shifting from Egypt to other Arab states that had dissociated from the peace process. The question arose in some Egyptian minds whether it had all been worth it since it seemed possible to

gain all the benefits of American friendship without having run the risks of Camp David.

That was true for Saui Arabia, was it true for Jordan?

No, it was true for Saudi Arabia and it was not true of Jordan only because Jordan was not convinced enough that we could deliver.

It is said that American officials are disappointed in the Saudi support of the Reagan plan. Should they be?

It has been a consistent error of some of our policymakers to expect Saudi Arabia to deliver and Arab consensus. Saudi Arabia is in no position to do so; it is wise not to let itself be tempted into the complex details of the West Bank negotiations. Were we to prevail we would weaken the kingdom without furthering the negotiation process.

It was interesting to see Syria's foreign minister in Washington last month visiting President Reagan along with more moderate Arabs. Do you think that Syria is going to play the same blocking role that it has appeared to play before?

I am struck by the presence of the Syrian foreign minister in Washington and also by the interview given by the information minister, Iskander, last month. Both of these events indicate a desire by Syria not to be left out of the negotiating process. If Syria plays a blocking role it may be more to achieve pre-eminence over the Palestinians than because of its objection to the concept of the settlement.

Syria usually wants a price, doesn't it, for participation, both from the Saudis in financial terms but also from others in political terms. Do you see the same pattern repeating itself?

Yes, but also Syria is now in a very difficult position because its military vulnerability has been clearly demonstrated and it cannot believe that it has a serious military option against Israel.

Is it conceivable to see Syria in any negotiation which still leaves the Golan Heights not its own? Strategically, if I were the Israelis, I would want the Golan Heights long before I would want Nablus.

It is not necessary for Syria to participate in West Bank negotiations. It is enough for it to acquiesce in them. In any event, the West Bank negotiations as I envisage them are unlikely to result in a peace treaty. They can at best lead to an interim agreement of a long duration—say 10 to 15 years. As for the Golan, I have always believed that in time it is possible to make another step there in return for something like nonbelligerency that would enable Syria to maintain its principles and still participate in the process.

And Israel its security?

And Israel maintain its security by keeping a foothold on the Heights.

Jerusalem: you said earlier that it was a non-starter that it should become a UN city. That could by implication suggest that you feel that it's a non-starter that Jerusalem become internationalized in some way that allows all sides their access and pride in it.

Israel will rather go to war than abandon a united Jerusalem as its capital. I think that as part of an interim agreement something like the Vaticanization of the holy places is conceivable and would be a wise Israeli move. Again, I have no illusions about the difficulty of achieving even this much; more than that is anyhow unattainable in the initial phase of negotiations. Any attempt to go beyond that would be to invite the collapse of negotiations and the building of an Israeli consensus that would make Israelis prefer isolation, even war, to any peace process.

Since neither Camp David nor the Reagan plan envisages a comprehensive peace at this stage the negotiations which are now in prospect cannot achieve a final settlement. The best that is attainable is a long interim agreement, say 10 to 15 years. Israel would agree to new lines on the West Bank in return for non-belligerency and precisely defined steps of normalization with at least the moderate Arab states.

Is it a footnote to ask you, or do you think it should be an essential part of American strategy, to conceive that, were there a favourable outcome to the kind of problems we've been discussing, greater avenues of cooperation would open up with Arab states in dealing with the threats in the Gulf?

The moderate Arab states of the Gulf must be looking now for opportunities for greater co-operation with the United States. Their self-interest is so intimately tied with American protection of both their internal structure and their borders against the danger developing from radicalism: either in the fundamentalist Iranian indigenous form or (which is not at all inconceivable to me) in the form of some domination of Iran by the Soviet Union is the Tudeh or some similar group were to succeed Khomeini. And they face a threat too from secular radical Arabia like South Yemen or even Iraq. I would look at the West Bank/Gaza negotiations not as producing a change of mind—I think the change of mind about the desirability of American co-operation has already occurred—but as making it domestically feasible for the Arabs of the Gulf to implement what they know to be necessary.

How do you publicize a military base, for example?

By not establishing it. I think what we need is installations into which we could move rapidly; a physical presence near the Gulf that is plausible; and a demonstration of how we could reinforce this presence. And we must generate a credible capability for rapid support against internal upheaval. The embrace must be real and serious, but as subtle and nonpublic as possible.

I much agree with you. You don't see the negotiation on the West Bank as a precondition for that?

No, but it would ease it greatly. I can conceive that Gulf governments, despite their very best judgment, might find themselves in a position where they have to court internal collapse because they simply cannot be associated with a total failure of the West Bank negotiations.●

SIX BUILDERS OF GOVERNMENT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. UDALL. Mr. Speaker, as the 97th Congress draws to a conclusion, I would like to make a few brief remarks about some of our distinguished colleagues who are retiring from this body. I know of few people who have served this body as well as people like JOHN RHODES, DICK BOLLING, HENRY REUSS, SHIRLEY CHISHOLM, and BILL BRODHEAD. And there are, of course, other retiring Members who have made their special contribution. Many of them are friends. All of them will be missed.

I am proud that these Members have chosen to serve this body rather than seeking election to the other body. I believe that the House is the people's house. No one has ever served here by appointment. The only ticket that will gain admission to this body is election by the people.

A similar sentiment was recently expressed in an article by David Broder in the December 15, Washington Post. At this point, I would like to insert the article in the record:

[From the Washington Post, Dec. 15, 1982]

SIX BUILDERS OF GOVERNMENT

(By David S. Broder)

It is retirement time for many of those holding public office. The end of the year will mark the end of careers in politics stretching back, in some cases, to the 1940s.

Of the many who are stepping down this year, six seem particularly significant for the contributions they have made. Three are members of the House: Rep. John J. Rhodes (R-Ariz.), a member since 1952 and, from 1973 through 1980, minority leader, Rep. Richard Bolling (D-Mo.), a member since 1948 and the chairman of the Rules Committee; and Rep. Henry S. Reuss (D-Wis.), a member since 1954 and chairman of the Joint Economic Committee. Three are governors, all past chairmen of the National Governors Association: Robert D. Ray (R) of Iowa, who has been governor since 1968; William G. Milliken (R) of Michigan, in office just a few months less than Ray; and George D. Busbee (D) of Georgia, completing eight years as that state's first two-term governor.

It is not just their longevity that makes them leaders, but that is part of it. In a time of overweening ambition, when so many of their colleagues viewed the possession of one public office simply as a springboard to another, these stayed at their work. All six of them passed up chances to run for the Senate, that showcase of egos.

They are, of course, distinctive personalities. Milliken and Rhodes, despite their Yale and Harvard educations, are models of humility who have led by self-effacement. On the other hand, Bolling, who once served on Gen. Douglas MacArthur's staff, suffers fools about as gladly as did his one-time boss.

Ray and Reuss are regarded in their communities and among their colleagues as examples of personal integrity, as much esteemed by opponents as by their fellow-partisans. Busbee, who moved from the legislative leadership into the governorship, has a genius for negotiation and consensus-building that is all the more striking when contrasted with the lack of those skills in his more famous predecessor, Jimmy Carter.

All of these men are first and foremost successful politicians. The understated line in their biographies, "Reelected in this and this and this year," speaks volumes. But they are much more than that.

They are what Bolling calls "institutional men," as much concerned with building the capacity of the governmental instruments of which they are a part as they are in advancing their careers.

Milliken, Ray and Busbee all have enlarged and redefined the role of governors in their states, and of the governors association in national policy-making. Bolling and

Rhodes, among other achievements, were major contributors to the design of the congressional budget process.

All six brought formidable intellectual abilities to their work, often in areas where there was little political reward for expertise. Not for them the one-page, boiled down summary of a staff member's research, what they thought it important to learn, they really learned. Reuss made himself an authority on the monetary system and the Federal Reserve Board long before most of his colleagues in Congress knew either had any importance.

But more than intelligence, they brought to their daily work an enlarging vision of their own responsibilities. They overcame the parochialism of politics and showed by example to both colleagues and constituents how they might take a larger view of the world. They have been teachers as well as leaders.

Bolling, a product of the University of the South, stood with Speaker Sam Rayburn of Bonham, Texas, in maneuvering the first civil rights bills in a century past the roadblocks erected by die-hard southern opponents in the House.

Rhodes, whose Republican partisanship is as deep as his family roots in Kansas, stood tall during the trauma of Watergate, and helped his fellow Republicans understand that their obligation to the Constitution overrode any claim of party loyalty.

Milliken, who grew up in a wealthy, privileged family in lovely and isolated northern Michigan's Traverse City, battled endlessly to put the resources of his state—and the concern of his party—behind the struggle for survival of the people of Detroit.

And Bob Ray, in Des Moines, somehow translated his concern for the refugees of America's war in Southeast Asia into what was probably the most successful emergency feeding and permanent resettlement program in the United States.

In a time when many view politicians with deep suspicion, the integrity, ability and durability of these men are a powerful rebuttal to cynicism.●

ADMINISTRATION DEFIES HUMAN RIGHTS LAWS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. PATTERSON. Mr. Speaker, today the Reagan administration voted in favor of an Inter-American Development Bank loan to Guatemala for the construction of a rural telecommunications system.

This vote was made despite congressional direction in section 701 of the International Financial Institutions Act which provides that U.S. Executive Directors at the multilateral development banks may not vote for loans to countries which are gross and consistent violators of internationally recognized human rights. According to a letter I received today from the Department of Treasury, Guatemala's human rights record is such that this section does not apply.

Mr. Speaker, I have read the cables. My subcommittee staff has visited Guatemala with a delegation from the Inter-American Development Bank. I have met with Guatemalan exiles, Guatemalan Government officials and former government officials, church people with long experience in Guatemala, and representatives of well-respected human rights monitoring organizations. My subcommittee has held repeated hearings on human rights in Guatemala as they relate to the administration's observance of the law on international financial institutions. My conclusion, Mr. Speaker, is that the administration today violated the law.

My subcommittee will again hold hearings when Congress reconvenes and will try to fashion a legislative means of avoiding this situation in the future. The administration's decision today, especially when seen in the context of the State Department's clumsy efforts to discredit Amnesty International for its reporting on Guatemala, cause me the greatest concern. I am afraid that the United States is being drawn into support for another military dictatorship with another martial law system by biased and incomplete State Department reporting. Now that the human rights barrier has been broken on multilateral aid, I would urge my colleagues to begin learning more about the situation in Guatemala because administration requests for funds cannot be far behind.

I urge interested Members to contact the Banking Committee's Subcommittee on International Development Institutions and Finance, which I chair, for copies of hearings held on human rights in Guatemala.●

CLEVELAND'S BEST DRESSED MAN—BREAUX VANDERWOOD PALMER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. STOKES. Mr. Speaker, it is a pleasure for me to formally introduce to my colleagues a gentleman, who by every indication that I have, is one of the best dressed and dapper men in Cleveland—Mr. Breaux Vanderwood Palmer. My good friend, Breaux, certainly is one of the more colorful attractions in the city of Cleveland.

Mr. Speaker, Breaux Palmer, armed with his infectious personality and snappy dress, has become a legend in his own time in the city of Cleveland.

Accordingly, he enjoys instant name recognition and is somewhat of a celebrity. This is partly due to his many years of service in the Cleveland Public School System highlighted by his service as the bodyguard for one of the school system's former superintendents. It is partially due to his reputation as a man around town in Cleveland. However, Mr. Speaker, his colorful and trendy dress have been the major reasons for his instant name recognition by people from the Cleveland metropolitan area. This has been a great source of pride and enjoyment for Breaux through the years.

Mr. Speaker, depending on who he is talking to, Breaux may cite his age as being anywhere from 64 to 81. However, regardless of the confusion about his age, there is no confusion that as far back as 1959 when Sepia magazine named him the "Best Dressed Negro Man in the World", until today, Breaux Palmer is a fashion trendsetter.

In addition to his beautiful wardrobe, Breaux has the kind of pleasing personality that makes him a lovely human being both inside and out.

At this time, Mr. Speaker, I would like to insert in the RECORD, an article which appeared in the Cleveland Plain Dealer on my good friend, Breaux Vanderwood Palmer.

BRIGGS' BODYGUARD

(By James Neff)

One of Cleveland's greatest untold stories is how the former superintendent, Paul Briggs, messed up our public schools.

One person who could write a chapter or two of this expose is Breaux Vanderwood Palmer, Briggs' flashy dressing, controversial bodyguard of 14 years.

Palmer's one-time boss, George J. Mazzaro, who resigned as schools business manager, said, "I'm sure Breaux knows a lot."

But Palmer still works for the school system, and he will not uncover the skeletons.

"He (Briggs) would talk to me, especially if he had something on his mind," Palmer said, "They're hard things to talk about. You could incriminate people. So you leave it alone. This is a whole new deal in here now.

Palmer, whose age is somewhere from 64 to 81, wants to end his colorful career on a quiet, dignified note.

However, he still carries a .38-caliber revolver, and he still wears the loud suits with the ascots and stickpins and flowing breast-pocket handkerchiefs that won him the 1959 title from Sepia magazine as "the best-dressed Negro man in the world."

Palmer has changed a little. He no longer sports wild-looking black wigs of Chinese hair. His 29-year-old daughter, model Marty LaBonta, threw them away, all 110 of them, when Palmer's wife died a year ago.

Palmer is a quiet-spoken, formal-mannered gentleman with perfect white teeth and the unlined face of a man 30 years his junior. With his foppish dress, sometimes absent-minded manner and ever-flowing tales of accomplishment, Palmer is an easy target for jibes and even ridicule.

But he's a self-made man who rose from humble beginnings and has lived his life fully and contentedly, which is more than many of us may be able to boast when we reach Palmer's age.

"I was an orphan," Palmer recalled. "I was found on a doorstep. I was partially raised by a white family."

He claims he doesn't know his age. The Oakwood Country Club, where he started

work as a maitre d' in 1945, lists his birthdate as Dec. 12, 1901. During an interview in 1957, he told a reporter he was 55.

But as Palmer gets older, his official age has become younger. When he reapplied as a Cuyahoga County special sheriff's deputy in 1977, he listed 1918 as his year of birth. The confusion is useful to Palmer because the school system, if it chose to, could enforce its mandatory retirement age of 70.

At 16, Palmer left home, Springfield, O., for Chicago, where he worked as a bootblack at a South Side late-night barbershop.

At a party one night, Palmer was ridiculed by his date for his shabby dress. He vowed he would never be shamed like that again.

"I stayed in for two years after that," he said. "When I came out, I was the sharpest dresser around.

Palmer likes to list his clothes collection: more than 100 suits, six fur coats, 10 coats with fur collars, so many dozens of shoes, and the list goes on.

But his flashy ways sometimes have landed him in trouble. In 1957, the Oakwood Country Club fired him. "I got a little too flashy," he said. "Every six months I got a new Cadillac. A lot of people resented that."

In the 1950s and early 1960s, he ran a drugstore at 3602 Central Ave. called Fair Trade. He knew nothing about minding such a store, lost money and sold half to Joseph Allen, the numbers figure. "It didn't bother me any," Palmer said.

When Allen's legal difficulties got the better of him, the store folded.

Palmer somehow landed a job as an investigator for the state attorney general's office in 1961, and he worked there until 1964 when he began guarding Paul Briggs. The school system was troubled by racial tension, and it was thought Palmer would be the best bodyguard for Paul Briggs.

Palmer loved the job, and he eventually oversaw a 155-person security force for the schools. The pay was lovely, too. In 1974, he earned $30,000, averaging 38 hours of overtime a week, for the fifth highest salary in the system.

Today, Palmer is stripped of his former duties. He inspects buildings that have been damaged by fire and vandals. He shows vacant buildings to potential buyers.

"There's a lot of jealousy at the school board," he says. "You get a guy as smart as I am in this business, you try to get him out of the way. He knows too much."●

GUERRILLA VIOLENCE IN GUATEMALA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. DERWINSKI. Mr. Speaker, as Guatemala faces increasing violence, an understanding of the situation in that unfortunate country is improved by information placing in perspective the forces contributing to the violence. The following unclassified telegram from the American Embassy in Guatemala City to the Department of State contributes significantly to that end. The relevant text of Guatemala City telegram number 09219, dated December 8, 1982, is printed below:

SUBJECT: SELF-PROCLAIMED GUERRILLA VIOLENCE IN GUATEMALA, MARCH 23-NOVEMBER 30, 1982

1. INTRODUCTION

Guatemala is in the midst of civil war initiated by the leftist insurgents now united as the URNG (Guatemalan National Revolutionary Union). The groups making up the URNG are the following: EGP, Guerrilla Army of the Poor; PGT, Guatemalan Communist Party; FAR, Rebel Armed Forces; and ORPA, Armed People's Revolutionary Organization.

As in any war, there are numerous combatant deaths from military clashes between the Guatemalan army and insurgent forces; as in any war, there are also, unfortunately, many noncombatant deaths as a result of these clashes. Such deaths are inevitable where almost every military action taken is proximate to the civilian population.

2. On November 24 of this year, Havana praised the URNG forces as the true Guatemalan army and as the heir to the guerrilla army first formed on November 13, 1960, which itself was an "outstanding example of active solidarity with the newly established Cuban revolution." The URNG proclaimed its formation in February 1982 as an "historic landmark in the mass revolutionary movement in Guatemala." After the March 23 accession of the present government, the URNG announced on March 24 that despite the coup, "the Guatemalan people will increase the revolutionary people's war to achieve the seizure of power and the installation of a revolutionary, patriotic, popular, and democratic government."

3. On June 15, 1982, President Rios Montt announced that the Guatemalan Government would seek to hold talks with guerrilla leaders who were in Mexico. Three days later (June 18) the FDCR (democratic front against repression) rejected President Rios's offer of dialogue with rebel forces. The leftist FDRC, which is the political front for the URNG, claimed that talks could not begin at the moment due to "lack of conditions that would allow broad and democratic discussions." The government offer of talks to end the war being rejected by the URNG leaders. The war has continued to this day. End introduction.

4. What follows is a compendium of human rights violations by the URNG. This list includes only acts acknowledged by the URNG groups, and naturally, therefore, does not include any mention of massacres of noncombatants they are known to have committed (but have not admitted), such as, for example, in Salacuin. Their four members groups have taken credit for these acts in their own bulletins and in one of their own magazines, Noticias de Guatemala, and have publicized them through Radio Havana and Managua Radio Broadcast. The URNG claims that, apart from informers, the casualties it has inflicted are on GOG personnel; undoubtedly, however, the figures which follow also include civilians, some of them probably members of the civil patrols. In March, the EGP published a bulletin in which they threatened those (Indians) who joined the civil patrols with swift revolutionary justice. The embassy can not vouch for the accuracy of the figures these groups provide: some are probably accurate; some, inaccurate. For instance, on October 26 ORPA downed an army helicopter and claimed it killed five soldiers; in fact, the casualty figure was two. The almost daily terror recounted here is a direct cause of economic dislocation in the highlands and is one of the reasons why thousands of Indians have fled from their homes and lands, and now are seeking army aid as internal refugees in such places as Choatalum and Chisec. We include attacks on property among these violations, since property is an extension of the person. Others of their human rights violations are, of course, physical violence against persons.

First, an ORPA list published by the slogan, six months since the coup, bathe the country in blood, deceive (sic), sing victory, to achieve again the overthrow":

Ranches and villages occupied	96
Departmental capital cities occupied.	26
Stretches of road occupied	4
Propaganda operations	59
Radio messages transmitted	29
Harrassment activities	11
Ambushes	23
Combat actions	21
Military transports destroyed	9
Military transports damaged	1
Airplanes destroyed	1
Airplanes damaged	1
Enemy installations destroyed	19
Enemy army dead and wounded	514
ORPA dead (4) and wounded (2)	6

March 26, 1982. Source: Radio Havana—Esquintla: Rebels dynamited an electric plant, leaving the area without electricity.

March 26. Source: Radio Havana—El Peten: Guerrillas torched a government camp.

March 26. Source: Radio Havana—Highway West of Guatemala City: Insurgents blocked traffic on highway leading to San Marcos. Department and distributed revolutionary propaganda.

March 27. Source: Noticias de Guatemala—Suchitepequez: Km. 167, Mazatenango. EGP sabotaged truck and gas station, destroyed the station and blocked a section of highway.

March 27. Source: Noticias de Guatemala—San Marcos: Esquipulas Palo Gordo. ORPA took over village, held meeting.

March 27. Source: EGP Bulletin—Quiche: Nebaj. EGP executed seven "informers."

March 28. Source: Noticias de Guatemala—Guatemala: Amatitlan. EGP sabotaged electric plant with explosives; electric service suspended for several hours.

March 28. Source: EGP Bulletin—Quiche: Nebaj. EGP attacked army unit; twelve army victims.

Note by OC/T: (#) Omission. Correction to follow.

March 28. Source: EGP Bulletin—Quiche: Nebaj. EGP damaged army helicopter and wounded one soldier.

March 29. Source: Noticias de Guatemala—El Quiche: Aldea Las Vigas, Chinique. EGP sabotaged transportation, burned three trucks, including one belonging to Department of Roads.

March 30. Source: Noticias de Guatemala—Suchitepequez: EGP took over village, held revolutionary meeting.

March 30. Source: Noticias de Guatemala—Guatemala City: EGP sabotaged a Shell gas station in Zone 4, a Chevron station in Zone 5, and a Texaco station in Zone 3. Distributed revolutionary propaganda.

March 30 Source: Noticias de Guatemala Chimaltenango: Highway between Chimaltenango and San Martin Jilotepeque. EGP ambushed a military transport with Claymore Mines, shot three soldiers dead and wounded several.

March 31 Source: Noticas De Guatemala Suchitpequez: Aldea Cheputul, Chajul.

EGP/Military armed clash; undetermined number of killed/wounded.

March 31 Source: Noticias De Guatemala Solola: Aldea Chumanza, EGP attacked National Police transport; wounded police chief and killed two agents.

March 31 Source: Noticias De Guatemala Guatemala City: Avenida La Reforma, zone 18. EGP attacked U.S. embassy with rockets and rifles, achieving material damage to the building and wide military and police-Mobilization according to Panama City Radio Broadcast on April 16 (Acan-EFE News Agency), the EGP took credit for the 31 March attack on the U.S. embassy, and accused the new Guatemalan government of continuing the previous government's policy after President Rios Montt had asked the guerrillas to lay down their arms.

April 1 Source: EGP Bulletin Quiche: Xecoco, Nebaj. EGP attacked Army Patrol; one Army victim. In a second attack on the same day, they killed/wounded three Army soldiers.

April 1 Source: EGP Bulletin Quiche: RIO AZUL, NEBAJ. EGP ambushed Army column; 27 Army victims and three EGP wounded.

April 2 Source: EGP Bulletin Quiche: Xajal, Nebaj. EGP attacked Army Patrol; two Army victims.

April 2 Source: EGP Bulletin Quiche: XIX, Chajul. EGP attacked Army column; five army dead and eight Army wounded.

April 3 Source: EGP Bulletin Quiche: Amachel, Nebaj. EGP attacked Army Column; seven Army victims.

April 3 Source: EGP Bulletin Quiche: Tzalbal, Nebaj. EGP attacked military Patrol; one Army victim.

April 4 Source: EGP bulletin Quiche: Xepiun, Nebaj. EGP made two attacks on Army Patrols; six Army victims.

April 4 Source: EGP bulletin Quiche: Jua, Nebaj. EGP attacked an Army Patrol with Claymore Mines; five Army victims.

April 4 Source: EGP bulletin Quiche: Xolore, Nebaj. EGP attacked Army column; four Army victims.

April 5 Source: EGP bulletin Quiche: Chajul. EGP attacked Army Patrol in reprisal for alleged Army attack on Finca Covadonga; six Army victims.

April 5 Source: EGP bulletin Quiche: Nebaj. EGP attacked Infantry column; unknown number of victims.

April 6 Source: EGP bulletin Quiche: Xecax, Nebaj. EGP attacked Army truck with Claymore Mine and also burned it; 20 Army victims.

April 7 Source: EGP bulletin Atlantic Highway. EGP attacked police station; two police dead and one wounded.

April 6, 7, 8 Source: EGP bulletin Sacatepequez: Aldea San Felipe, Jocotenango, Santa Ana, El Hato De Antigua, Ciuda Vieja. EGP distributed Propaganda, Painted revolutionary slogans, collected blankets.

April 11 Source: EGP bulletin Quiche: Santa Cruz (near Joyabaj). EGP attacked police station and annihilated garrison of five. They seized weapons and military equipment.

April 13 Source: EGP bulletin Huehuetenango: Highway North of Capital. EGP Sabotaged.

April 14 Source: EGP bulletin Suchitepequez: Capital city San Bernardino. EGP occupied the capital and annihilated the police garrison and blew up government buildings. Other units sabotaged Pacific highway.

April 14 Source: EGP bulletin Solola and Quiche: Highway from Los Encuentros, Solola to Santa Cruz, Quiche. EGP sabotaged great stretches of the highway to prevent troop movement.

April 14 Source: EGP bulletin Hueheutenango: Inter-American highway, kilometer 300-310. EGP sabotaged highway to prevent troop movement.

April 14 Source: EGP bulletin Baja Verapaz: Purulha. EGP occupied Finca Santa Rosa and sabotaged the machinery and the lumber mill.

April 17 Source: EGP bulletin Quiche: Aldea Xesic, San Antonio Ilotenango. EGP attacked military patrol; unknown number of victims.

April 17 Source: EGP bulletin Quiche: Santa Cruz. EGP attached army unit; four army dead and undetermined number wounded.

April 18 Source: EGP bulletin Quiche: San Pedro Jocopilas. EGP attacked paramilitary unit (civil patrol) with Claymore Mines; three civilian victims.

April 18 Source: Radio Havana Suchitepequez:: San Bernardino Municipality. On Friday, April 16, guerrillas took over the town, burned government papers, and seized a considerable amount of money.

April 18 Source: Radio Havana Guatemala City: "unidentified persons" killed the security chief of the Transnational Coca Cola Company. An April 16 broadcast from Panama City (Acan-EFE) said the PGT took credit for tnis killing.

April 19 Source: EGP bulletin Esquintla: Colonia Hunapu. EGP collected blankets and distributed propaganda.

April 20 Source: EGP bulletin Huehuetenango: Highways in Santa Cruz barillas, San Idelfonso Ixtahuacan, Chiantla. EGP sabotaged highway, burned trucks and blocked highway.

Note: For further April actions, Embassy does not have copy of noticias de Guatemala listing complete URNG acts for April.

May 4 Source: Noticias de Guatemala between Sacapulas and Aguacatan, El Quiche and Huehuetenango Depts. URNG group attacked army truck; seven victims.

May 6 Source: Noticias de Guatemala El Quiche: Bicalma, Nebaj. URNG group attacked army; unknown number of victims.

May 6 Source: Noticias de Guatemala El Quiche: Escuela de Tzalbal, Nebaj. URNG group attacked army troop; unknown number of victims.

May 6 Source: Noticias de Guatemala El Quiche: Salquil, Nebaj. URNG group attacked army column; four army victims.

May 7 Source: Noticias de Guatemala El Quiche: Ixtupil, Nebaj. URNG group attacked army unit; unknown number of victims.

May 8 Source: Noticias de Guatemala El Quiche: Tzalbal, Nebaj. URNG group clashed with army unit; three army victims.

May 8 Source: Noticias de Guatemala El Quiche: Bicalma, Nebaj. URNG group attacked army patrol; unknown number of victims.

May 13 Source: Noticias de Guatemala El Quiche: Bisan, Nebaj. URNG group attacked army column; eight army victims.

May 13 Source: Noticias de Guatemala El Quiche: Around Nebaj. URNG group attacked infantry column; unknown number of victims.

May 14 Source: Noticias de Guatemala El Quiche: Acul, Nebaj. URNG group attacked army column; unknown number of victims.

May 14 Source: Guatemala City United Broadcast Network, Guatemala City: CUC (Committee for Peasant Unity) activists who had held the Brazilian Embassy hostage for 30 hours (since May 12), left on a Guatemalan air force plane headed toward Mexico. The night before (May 13), the thirteen CUC activists had held the news conference they had demanded as a condition for releasing the Brazilian Embassy hostages, which included the Brazilian Ambassador.

May 15 Source: Managua Radio (text) in Mexico City, (Pablo Seto), leader of the Guatemalan Committee for Peasant Unity, CUC, said that the Brazilian Embassy in Guatemala was occupied to denounce to the people of the world the repression inflicted on the Indian communities by the troops of the military junta headed by General Rios Montt. In a news conference, (Seto) said: We want to make known that the junta of colonels and generals has not only continued the policy of massacres and repression implemented by the previous military governments, but the current junta's methods are now even more savage and cruel. As is known (Radio Managua continues), the military junta headed by General Rios Montt seized power through a coup d'etat on March 23 with the approval of the U.S. Government.

Note: CUC is the Communist Campesino Union movement in Guatemala.

May 15 Source: Noticias de Guatemala El Quiche: Xesucab, Nebaj. URNG group attacked army patrol; eight army victims.

May 15 Source: Noticias de Guatemala El Quiche: Xolcuay, Chajul. URNG group attacked army column; three army victims.

May 15 Source: Noticias de Guatemala El Quiche: Bajula, Nebaj. URNG group attacked army column; fifteen army victims.

May 16 Source: Noticias de Guatemala El Quiche: Military barracks, Nebaj. URNG group attacked barracks' sentries; unknown number of victims.

May 18 Source: Noticias de Guatemala El Quiche: Xecalbitz, Nebaj. URNG group attacked army column three times; unknown number of victims.

May 18 Source: Noticias de Guatemala Huehuetenango: Las Majadas, Aguacatan. URNG/army unit armed clash. Unknown number of army victims; two (guerrilla) combatants dead.

May 18 Source: Noticias de Guatemala El Quiche: Bixalbal, Nebaj. URNG group attacked infantry column; two army victims.

May 19 Source: Noticias de Guatemala El Quiche: Uspantan. URNG group attacked army convoy; four soldiers dead and unknown number of army wounded.

May 18, 19, and 20 Source: Noticias de Guatemala El Quiche: Xecalbitz. URNG group carried out three consecutive attacks on an army patrol; unknown number of victims.

May 20 Source: Noticias de Guatemala El Quiche: Aldea El Quetzal. URNG group sabotaged auxiliary town hall, destroyed the building completely; dug trenches and erected barricades on the highway to prevent army mobilization.

May 20 Source: Noticias de Guatemala El Quiche: Uspantan, Urng group attacked army column; killed eight soldiers and wounded unknown number.

May 20 Source: Noticias de Gautemala highways leading to Santa Cruz Barillas, Huehuetenango. URNG group sabotaged highways with trenches and barricades of poles and rocks, leaving the town partly cut off.

May 21 Source: Noticias de Guatemala El Quiche: San Pedro Jocopilas. URNG/army units armed clash; unknown number of victims.

May 22 Source: Noticias de Guatemala El Quiche: Xalbal, Nebaj. URNG group attacked army helicopter; helicopter lightly damaged.

May 22 Source: Noticias de Guatemala El Quiche: Xalbal, Nebaj. URNG group attacked enemy troop with rifles and explosives; 25 army killed and wounded.

May 22 Source: Noticias de Guatemala El Quiche: Xalbal, Nebaj. URNG group attacked army column; two army victims.

May 22 Source: Noticias de Guatemala El Quiche: Xalbal, Nebaj. URNG/army units armed clash; seven army victims, two combatants (guerrillas) dead and one wounded.

May 22 Source: Noticias de Guatemala El Quiche: Bipana, Nebaj. URNG group clashed with army patrol; unknown number of victims.

May 22 Source: Noticias de Guatemala Huehuetenbango: La Democracia, San Andres Cuilco, San Pedro Necta, and border posts of Mesilla. URNG group carried out acts of sabotage: destroyed electrical storage facility and sabotaged six kilometers of highway with trenches.

May 23 Source: Noticias de Guatemala El Quiche: Xolcuay, Chajul, URNG group attacked army patrol; killed 14 soldiers and wounded six; captured military equipment.

May 23 Source: Noticias de Guatemala El Quiche: Xalbal, Nebaj. URNG group attacked infantry patrol; unknown number of victims.

May 24 Source: Noticias de Guatemala El Quiche: Sal Quil Grande, Nebaj. URNG group attacked army column; four soldiers victims.

May 26 Source: Noticias de Guatemala El Quiche: Xetupil, Nebaj. URNG group attacked Army convoy; eight soldiers victims.

May 26 Source: Noticias de Guatemala El Quiche: Xecalbitz, Nebaj. URNG group attacked army column; unknown number of victims.

May 26 Source: Noticias de Guatemala El Quiche: Sal Quil Grande. URNG group attacked infantry column; unknown number of victims.

May 27 Source: Noticias de Guatemala El Quiche: XIX, Chajul. URNG group attacked infantry column; three soldiers victims.

May 28 Source: Noticias de Guatemala El Quiche: "El Desengano" Finca, Uspantan. URNG group attacked infantry column; unknown number of victims.

May 28 Source: Noticias de Guatemala El Quiche: "El Desengano" Finca, Uspantan. URNG group attacked and heavily damaged army helicopter.

May 29 Source: Noticias de Guatemala El Quiche: Airfield, Nebaj. URNG group attacked army, killed four soldiers and wounded two; one combatant (guerrilla) killed.

May 29 Source: Noticias de Guatemala El Quiche: Chajul, URNG group attacked army detachment; unknown number of victims.

May 29 Source: Noticias de Guatemala El Quiche: "El Desengano" Finca, Uspanian. URNG group attacked army patrol: unknown number of victims.

May 31 Source: EGP communique to Guatemalan media (broadcast Panama City from Acanefe News Agency) Guatemala City: EGP rejects as a "farce" the amnesty declared May 22 by Guatemalan government.

June 1 Source: Guatemala City TV 13 Guatemala City and environs: An unidentified clandestine group dynamited four high-voltage towers, affecting southern Guatemala City, San Miguel Petapa, Villa Nueva, Villa Canales, and Amatitlan. Attacks believed demonstration of rejection of amnesty offer. At the same time, several propaganda bombs exploded in Guatemala City, and the EGP distributed a statement to the media rejecting the amnesty, which it considers a farce. Terrorists destroyed two other high-voltage towers last night (May 31) in the same area. Four other dynamite charges on high-voltage towers in Amatitlan were found and deactivated; munitions experts said rain had wet the dynamite and spoiled terrorist plans to blow us these towers.

June 2 Source: Noticias de Guatemala El Quiche: Xecalbitz. URNG attacked infantry column; two soldiers victims.

June 2 Source: Noticias de Guatemala El Quiche: Near Nebaj barracks. URNG attacked infantry column; four soldiers dead and three wounded.

June 2 Source: Noticias de Guatemala El Quiche: Bitziabic, Nebaj. URNG group attacked army patrol; unknown number of victims.

June 2 Source: Noticias de Guatemala El Quiche: Jaboncillo, Chajul. URNG group attacked infantry column; three soldiers dead and several wounded.

June 3 Source: Noticias de Guatemala El Quiche: Bicotzol, Nebaj. URNG group attacked army column; five soldiers victims.

June 3 Source: Noticias de Guatemala El Quiche: Xecoj, Nebaj. URNG group made consecutive attacks on army patrols; unknown number of victims.

November Source: Publication by ORPA—ORPA's celebratory booklet, "The Third Anniversary of Operations," concludes with a summary list: "Political-Military Operations by ORPA in Three Years of Operations," as follows:

Ranches and villages occupied	292
Departmental capital cities occupied.	76
Roads and customs points occupied	27
Propaganda operations	449
Radio messages transmitted	61
Harassment activities	25
Ambushes	66
Combat actions	75
Military transports destroyed	52
Military transports damaged	2
Airplanes destroyed	4
Airplanes damaged	3
Reservoirs destroyed	2
Enemy installations destroyed	60
Enemy army dead and wounded	2,306
ORPA dead and wounded	69

5. It is fitting to conclude with the URNG assessment of the future of their self-proclaimed revolutionary aims, broadcast from Havana on October 23.

(Text of radio broadcast) Andrea Ramirez, a Guatemalan National Revolutionary Unity (URNG) representative in Havana, has declared the Guatemalan Revolutionaries' decision to continue their struggle until they obtain final victory. As the primary event of a campaign promoting solidarity with Guatemala, she said that her people are waging the greatest and most necessary war in their history, a war that has lasted almost 30 years. She said that in that time the U.S. Central Intelligence Agency has provided the various regimes with the most sophisticated methods of torture.

She also stressed that the people's revolutionary struggle has been extended to almost all of the nation's territory, with participation by the most diverse sectors, who will continue their struggle until they reach victories similar to those of the Nicaraguans.

Alfonso Guillen Zelaya, vice president of the Cuban Institute for Friendship With Peoples, said that Guatemala is suffering from one of the continent's most repressive regimes, which is kept in power by the support of U.S. imperialism. (End Radio Havana text). Chapin ●

CONGRESSMAN BINGHAM COMMENTS ON ISRAEL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. SOLARZ. Mr. Speaker, on October 1, B'nai B'rith International honored Congressman JONATHAN BINGHAM, one of the great statesman of this or any Congress, for his 18 years of service in this House and his outstanding record as an advocate and spokesman for important humanitarian causes, particularly the survival of the state of Israel.

Scores of JACK's friends from Washington attended the luncheon including Cy Kenner, Al Moses, Phil Kershner, Jess Fisher, Daniel Thurz, Warren Isenberg, Congressman Bob Drinan, and myself. Congressman BINGHAM delivered a moving address about his work on behalf of Soviet Jews, his longtime involvement in efforts to insure the survival of the state of Israel and his strong desire to see Israel develop a new long-range peace proposal.

Because of the unique role that JACK BINGHAM has played in the Congress, and even before at the United Nations and in the point four program, I wanted other Members to have the opportunity to read these remarks. If one were to draw up a list of the Members of Congress who over the course of the last 34 years have most aided Israel, JACK BINGHAM would be there. He is one of the most thoughtful, responsible, able and respected Members of this House, whose work has made an enormous difference. He will be greatly missed, particularly by myself and other members of the Foreign Affairs Committee.

Mr. Speaker, I ask that Congressman BINGHAM's remarks be reprinted in the RECORD.

CONGRESSMAN BINGHAM'S ADDRESS TO B'NAI B'RITH

Representative BINGHAM. I particularly appreciate this humanitarian award because I feel very close kinship to B'nai B'rith. One of the items I am proud of is that I am an honorary member of Redemption Lodge in Coop City. My first contact with B'nai B'rith International, occurred when I was at the United Nations. Bill Cory gave me a lot of information about the situation of Jews in the Soviet Union. This aroused my interest and intense sympathy, and I've been much involved in that problem ever since. Bill Cory couldn't be here today, but I do want to pay tribute to him and all that he has done over the years in that regard. As a result of his initiative and others, soon after I came to Congress in 1965, I initiated what

I think was the first round robin letter in the House of Representatives protesting the treatment of the Jewish Community in the Soviet Union. We obtained over 300 signatures in the House for that letter. It was the beginning of a great deal of activity on the part of members of the House.

Incidentally, while I'm referring to members of the House, I'd like to thank Bob Drinan and Steve Solarz for taking the trouble to be here today. We have worked together on so many matters and its a great pleasure to have them here; on this and other areas they have done so much.

In 1972 I had occasion to travel to Vienna and witnessed Soviet Jewish refugees arriving on the train. In Israel we saw them arriving at Lod Airport at night. The night we were there, the then very elderly Ben Gurion was out on the airport tarmac to meet them, which was in itself a thrill. And it was a thrilling experience to watch that process at its height and to see the enormous efforts that were being made by Israel to absorb these people coming from the Soviet Union; and the wonderful job being done in language training, providing housing, sometimes giving them preference over some Israeli young people. Out of that came the stimulus for me to introduce the legislation which became known as the Soviet Jewish Refugee Assistance Act which was enacted into law that year with the help of Senator Muskie in the Senate. It has been renewed each year ever since, and has provided over 200 million dollars to Israel over those ten years for refugee aid. It is something that I take a great deal of satisfaction in.

I'm very worried about the present situation of the Jews in the Soviet Union. I think we are at perhaps the lowest ebb in many, many years in terms of emigration. It is virtually down to a trickle. The crackdown has been so severe that the Helsinki monitoring group had to disband. There are very few left who are able to act effectively as dissidents. And one wonders what the prospects for improvements are. It's clear that the sanctions that were imposed on the Soviet Union following Afghanistan and following martial law in Poland have not had a good effect on the treatment of the Jews or on emigration. That's not to say that they were wrong. I supported those sanctions, particularly following Afghanistan, and I supported what was done following the events in Poland. The United States simply had to react.

I think we should distinguish when we think about sanctions, between those which are in the nature of some form of punishment, some form of reaction to show your total displeasure, and sanctions which perhaps can operate as leverage to accomplish something. In this case, I think it is quite clear that the sanctions that were imposed following Afganistan and following Poland are not accomplishing anything. They have perhaps served their purpose as an expression of the opinion in the United States, of our unwillingness to let these acts go unchallenged; if so, I think it is time that we should begin to re-examine them.

I am particularly opposed to the latest effort by this administration to impose our will on our friends in Western Europe on the question of exports for the Kamal Pipeline. This was a matter that we discussed and debated in the House just yesterday. We came very close to passing a bill that would reverse the actions the President took in imposing those sanctions. The bill wouldn't have become law because it obviously wasn't going to pass in the Senate, but at least we did get enough votes to show the tremendous sentiment in the House on the issue both because of the severe impact on employment on the United States, and because of the damage to our relationship with our Western European allies. Nothing we have done since World War II, in my opinion, has done greater harm to our relationship with our European allies than this effort to force them to comply with a decision which we made two years after they entered into contracts for the supply of this equipment (none of which is high technology and which can be bought elsewhere), to try to force them, as is they were children, to obey our will. I think that the Jewish Community, in particular, with its enormous interest in the treatment of the Jews in the Soviet Union, should look carefully at this question of sanctions and the total question of our relations with the Soviet Union. My own feeling is that the treatment of the Jews in the Soviet Union, both internally and with respect to emigration, is not going to improve until we improve our basic relations with the Soviet Union. I leave that thought with you.

Now turning to the Middle East, let me indulge in a little personal reminiscence if I may since I feel rather sentimental in view of my appreciation for this award and for the form in which it comes. The question was asked of me yesterday in an interview: Why did I get so interested in Israel? Well, I have to give you a little background.

I was brought up in a New England family, a WASP family, and, typically for such a family, anti-Semitism was rather pervasive, if not in a very virulent form. The fact of the matter is, my family knew no Jewish people. To me as I grew up, Zionism was just a word, it didn't really mean anything. Then through a stroke of the greatest good fortune, I fell in love with a Jewish girl, a member of the Lehman family in New York, and I married her. But the Lehmans, and they were part of "Our Crowd" (for those of you who read that book), were themselves not Zionists. I think very few of "Our Crowd" had any interest in Zionism and some were actively anti-Zionist.

It really wasn't until the advent of Hitler that some of these folks began to get interested in a place of refuge for the Jewish people. My father-in-law during the Hitler years was very active in getting Jews out of Europe, but I never heard of him trying to facilitate or be in any way interested in having some of these Jewish people go to Israel. It was not until the horrible, horrible revelations, coming at the end of the war in Europe, that my father-in-law and others in that group became interested in Zionism and in Israel. And curiously enough, my father-in-law, who was a very gentle soul, swung all the way in the opposite direction and became a contributor to the Irgun!

We all were exposed to the pitiful tales of emigrants being turned back at the shores of Israel. I was strongly reminded of the horror of this, watching the replay of the beautiful portrayal of Golda Meir by Ingrid Bergman, especially the heartrending scenes on Cyprus. All of these events brought to me and to my wife an enormous interest in, first, the idea of a homeland in Israel, and then of the state of Israel. We gave blood to the Haganah in those days.

Then over the years we had the opportunity to visit Israel many times, I think seven times. In 1952, the first trip I went on in an official capacity, was to help arrange one of the first assistance programs in the form of "Point Four" Technical Assistance. Teddy Kollek, then assistant to the Prime Minister (whom we had come to know in Washington, along with Abba Eban) undertook to show us around Israel. That in itself was a great experience. He drove the car himself, which was rather hair-raising, I can assure you. Of course, that is not uncharacteristic of Israelis. Teddy also took us out in a boat on Tiberias.

That was the beginning of a real love affair with the state of Israel. 1952 was a precarious time. It was a time when the Israelis didn't know how they were going to pay for the next shipload of wheat coming into Haifa Harbor. I don't know how they slept at night. And yet it was a time of marvelous spirit. A spirit which perhaps today is somewhat lacking, and that's one of the sad things about the present time.

During the intervening years I saw miracles of growth, creation of a new port in Ashdod out of nothing, the water carrier, the development of the desert, so many things. And each experience was unique and each was exhilarating.

But my impressions last Thanksgiving were somewhat different and somewhat depressing. I did have the tremendous thrill of attending the dedication of a home for older people called Beit Bingham, down on the shore of the Mediterranean in Ashkelon, which the United Israel Appeal had named in my honor. But in other respects, the trip was rather worrisome.

We arranged to talk to a group of young people representing various points of view, many of them seemed to be somewhat lost, somewhat at sea, not knowing where Israel was going; not knowing where they were going. And this is spite of the fact that Israel has grown strong economically and militarily; some people say Israel today is the forth military power in the world. Yet something is lacking and I think perhaps it is a lack of long-range hope, of long-range optimism. There is a feeling of, I won't say quite despair, but a feeling of gloom about the future. "What do we have to look forward to except endless hostility, endless wars, or near wars?"

Naturally, like all of you, I have been deeply disturbed by recent events in Lebanon. It has been a traumatic time for the Israelis and for those of us who love Israel. I did feel that the invasion of West Beirut was a mistake. I felt the Israelis were taking on a responsibility there that they couldn't possible carry out effectively, the complications of Lebanon begin what they are. And I think there were signs too, that the government of Lebanon was beginning to reassert itself. The great opportunity that had been opened up by the Israeli invasion of Lebanon to be able to recreate Lebanon as a nation, as a true state, standing on its own feet with no foreign forces there. This great opportunity seemed to me to be jeopardized by the notion that as soon as there was trouble in West Beirut the Israelis moved in. And then of course, came the massacre in the camps and we all felt horribly about that. I was even more dismayed by the initial reaction of the Israeli government. I didn't feel we were being told the truth. I didn't feel the Israeli people were being told the truth. There was a total rejection of any responsibility, when they had assumed the responsibility in West Beirut.

But now I think all that has changed, and it has changed because Israel and the Israelis have demonstrated once again, and this is the most heartening thing out of all this that has happened—they demonstrated

once again what a vibrant and wonderful democracy they have. What other country anywhere, let alone in the Middle East, would have had the internal integrity, through the action of the people, to demand of the government that they establish an independent investigation of the events in the two camps? It is an exciting demonstration of the fact that Israel is, after all, Israel as we have known it.

Let me comment briefly on the attitude of Congress on all of this. Obviously there has been dismay in the Congress. We have had reports from our colleagues coming back from their districts, that they've heard more anti-Israel comments from their constituents than ever before. And I've no doubt that's true. I didn't particularly encounter it in my district, but I am sure it was true of districts around the country and enough members have mentioned it, so that it is a matter of real concern. Believe me, members of Congress do tend to know their constituents feelings pretty well.

At the same time, there hasn't been any Congressional reaction that would call for sanctions against Israel or any kind of specific pressures from Israel. Indeed. Indeed in the midst of all this, both Houses approved a provision for continued aid to Israel—military and economic—at a somewhat higher level than would have been called for by the criteria applied to other programs in the continuing resolution being passed today to provide for the continued operations of the government. The standard for most programs is nothing higher than last year's figure or the President's budget request, whichever is lower. In the case of Israel, both Houses approved a somewhat more lenient standard than that, so that there is an increase over last year's assistance level.

I hope that, with the demonstration of Israel's wonderful, vibrant democracy and with the independent investigation that has now been set up, you will see a swing back toward a more normal feeling of warm support for Israel itself.

Now a number of American writers have called for the ouster or the resignation of Begin, or Sharon or both of them. It is remarkable that Bill Safire, who is noted for his solid support of Israel, the other day called for the resignation of General Sharon. As a member of Congress I do not feel that I should express an opinion on whether there should be a change in the top leadership in Israel. (I must say I am not so hesitant when it comes to calling for a change in the top leadership in this country!)

Yesterday, I was asked whether I have a plan for the Middle East and whether I was going to announce it today. My friends, I don't. And I don't know anybody that does. As for the Reagan plan, it was perhaps rejected too much out of hand by Begin, since there are some good things in it. But there are some flaws in it, and its probably academic anyway, as long as King Hussein isn't willing to play the role that is envisioned for him in that plan.

What is lacking, it seems to me, is a plan from the Israelis themselves. How long is it since any Israeli government has proposed a plan for long-range peace in the Middle East? The last I can remember was the Allon plan. And that didn't really have the support of the then government.

Surely the Israelis have the courage and the imagination, if they will set their minds to it, to decide how long-range peace in the Middle East is going to be achieved and then to pursue that objective. My own view is (and I'm very worried about it) that the present course, the present policy in Israel, isn't directed in that sense. They seem to be moving away from 242 and toward a position that they have to hold on permanently to the West Bank (Judea and Samiria). Surely that will not achieve true long-range peace. I don't see how anybody can argue that, as long as they pursue that course, they are going to have anything but the kind of continued tension, the kind of threats of war or actual war, that have characterized the last 25 or 30 years.

And so it seems to me we should be saying to the Israelis that they have a responsibility to themselves to think through how they are going to arrive at the goal of long-range peace, and then to come forward with such a plan and let us in the United States give our whole-hearted support for that dream. Thank you very much.●

NUCLEAR DETERRENCE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 19, 1982

● Mr. DORNAN of California. Mr. Speaker, the issue of nuclear deterrence is occupying some of the finest minds in our Nation.

The Catholic bishops are drafting a pastoral letter which will have great impact on Christians and members of other religious faiths as well.

In response to the bishop's request for comment on their second draft of their proposed pastoral letter, 25 Catholic Members of Congress, including myself, have expressed their views in a thoughtful letter to the National Conference of Catholic Bishops.

Those of us who joined in responding to the bishop's request for increased churchmen-laymen dialog in this supremely important issue, feel our letter adds significantly to the discussion.

Mr. Speaker, I commend our letter to all of my colleagues for their thoughtful consideration. This is my last official act as a U.S. Congressman, at least in my current 6-year run of service, and I cannot imagine a more important effort upon which to take my leave. Good fortune, my colleagues, and may God bless you in all your endeavors to make our fragile world a safer place for liberty and human dignity.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. December 15, 1982.

Most Reverend JOSEPH LOUIS BERNARDIN,
Archbishop of Chicago,
Chicago, Ill.

DEAR ARCHBISHOP BERNARDIN: As Catholic members of the United States Congress, we feel a profound responsibility for the direction of our nation's defense policy. As laymen, we are responsible for the concrete application of moral principles, and we are grateful for the spiritual guidance provided by our common faith. Naturally, then, we have a unique stake in the success of the National Conference of Catholic Bishops in its preparation of the Pastoral Letter on War and Peace.

However, from our perspective as legislators, we see a number of difficulties with the draft version of that Pastoral Letter which has been made public by the U.S. Catholic Conference. Precisely because we are so interested in the success of that endeavor, we hope that you will take into account our thoughts on this difficult issue.

We are ever mindful that lawmakers, sworn to uphold the public trust, have a sacred duty to protect the people they represent. Pope John XXIII emphasized this obligation in his great encyclical Pacem in Terris, echoing the words of Pope Leo XIII, "that the safety of the commonwealth is not only the first law, but is a government's whole reason for existence." The preamble to the Constitution we are sworn to uphold asserts as among its primary purposes to "provide for the common defense" and additionally, to "secure the blessings of liberty to ourselves and our posterity."

That special calling gives us a special perspective on the question of national defense, and prompts our reflections on the draft Pastoral Letter. We can divide our concerns into five categories, as follows:

1. The Nature of the Soviet Threat

Our national defense posture—especially insofar as it involves nuclear weapons—is poised to counter the very real threat of Soviet communism. The tensions generated by Soviet expansionism cause the greatest fears of war. Without a threat from the Soviet Union, there would be no arms race. But the policies of our adversary have made the arms race inevitable. In recent years, the Soviet government has undertaken the greatest arms build-up in history. And the historical record compiled by the Soviet leadership gives us every reason to suspect that, if we let our defenses lag, we will pay an enormous price in lost human liberties—not only for ourselves but for free people everywhere.

Pope Pius XII instructed us that "there are human goods of so high an order that immense sacrifices may have to be borne in their defense." Among those human goods are the rights to liberty and to freedom of conscience—rights that are crushed under communist regimes. The Connecticut Conference of Bishops has made the point succinctly: "In view of its proven record, Communism now actively threatens the existence of all religions and of all places of worship in the world." We cannot, in good conscience, allow the degradation of God-given human rights—in our own country or in the countries that depend upon our support for their liberty. We think it worth noting that after the communist coup in Afghanistan, the loyalty of Afghan officers was tested by the demand—under pain of death—that they walk on the Koran.

History also teaches us, quite clearly, that the Soviet government will take advantage of any lapses in the defense of the free world. In Hungary, in Czechoslovakia, and now in Afghanistan, the Soviets have demonstrated their aggressive intentions.

In short, our real threat is not embodied in weapons—however gruesome modern weaponry might become. Our real threat comes from an ideology that challenges our fundamental faith in human dignity. As Father John Courtney Murray pointed out:

"Only Soviet doctrine makes Soviet power a threat to the United States. Only Soviet doctrine explains the peculiar nature of Soviet imperialism and shows it to be unap-

peasable in its new dynamism. Only Soviet doctrine illuminates the intentions of the new messianism that has come out of the East, fitted with the armature of power, and organized implacably against the West."

2. The Nature of Contemporary Warfare

The threat of a full-scale nuclear war arouses the greatest possible fears in modern society, and secular commentators invoke an apocalyptic vision of modern warfare. But for most of the people in the world today, the greatest danger of war still involves conventional weapons. Since World War II there have been hundreds of conventional wars, local insurrections, border conflicts, and guerrilla attacks; the death toll from this warfare runs into the tens of millions.

To date, despite years of international tensions, none of those smaller battles has escalated into a world conflagration. Although we have never truly seen peace, we have at least seen limitations on wars. Those limitations are imposed largely by the strength of the U.S. defense posture, which denies aggressors the prospect of an easy victory. Our defenses deter conventional attacks, sparing untold human tragedy, by imposing risks on potential aggressors. Given the nature of our adversary, there is no other way to stave off violence. "But if there is no risk," Father Murray concluded, "or only a minimal risk, aggressive policies will be carried through, as they were in Hungary, where nothing was done to create a risk."

Particularly in Western Europe, where recent generations have seen so much bloodshed, the Soviet Union has an awesome preponderance of conventional weaponry. Only our nuclear deterrent force inhibits the Soviets from using that advantage to intimidate our allies on that continent.

In view of these strategic realities, our nuclear deterrent force should be seen not as a threat to peace, but as a guarantor of peace. A capable, flexible defense posture allows us to deter war and spare human lives in two different but related ways. First, we prevent the occurrence of some wars of aggression. Second, and equally important, when war does break out we limit it as much as possible to local, conventional conflict.

Since we cannot entirely eliminate the possibility of war, our goal as legislators is to create a national defense that could hold warfare in check. If war does break out we must bring the fighting quickly to a halt. To accomplish this objective, we must have weapons that can be used quickly, efficiently, and discrimately to halt aggression.

We do not wish to enter into a discussion of whether or not a limited nuclear war is possible, because the answer to this controversy is not essential to our general position. We do encourage, nevertheless, research and development of new and more discriminate weapons—whether nuclear or conventional—that can more precisely target military as opposed to civilian targets.

As the bishops judge the morality of nuclear weapons, we ask that they consider that conventional weapons can indeed impose levels of destruction that may be indistinguishable from nuclear weapons, as Dresden, Tokyo and Coventry bear witness. From the perspective of the survivors of Hiroshima or Dresden, the bombing strategy was at least as crucial as the type and number of weapons used.

Our nuclear deterrent is designed to preserve the peace by offsetting Soviet nuclear and massive conventional military forces. Thus should we dismantle our nuclear deterrent we actually increase the danger of war, whether conventional or nuclear.

True, as in the past, a European conventional war might spare the United States. But we recall the words of Stephen Spender, in his horror at the violence of the Spanish Civil War: "It came to me that unless I cared about every murdered child indiscriminately, I didn't really care about children being murdered at all." We cannot foresake our allies simply to allay our own fears.

3. Nuclear Strategy

The draft letter condemns any strategy that envisages the massive bombing of civilian population centers. This condemnation is clearly in line with Catholic teachings since the advent of nuclear weapons. We would only add that the documents of Vatican II are somewhat more precise when they condemn "modern scientific weapons" rather than nuclear weapons as such. Again, conventional weapons can carry out the same grisly mission.

The doctrine of Mutually Assured Destruction does indeed contemplate massive retaliatory bombing of Soviet cities, and we welcome the bishops' injunction against that policy. However, the N.C.C.B. should be aware that American defense policy in recent years has shifted dramatically away from the MAD doctine. Our strategic planners (under President Carter as well as President Reagan) have been moving toward a more rational nuclear posture, in which our own weapons are aimed not at Soviet cities, but at our adversary's own strategic forces. In our view, this new direction makes American policy both more effective and more moral.

However, the draft Pastoral Letter does not recognize the shift in American policy—a misunderstanding that Judge Clark has emphasized in his letter to the Bishops. Moreover, the draft Pastoral does not allow for a nuclear strategy that emphasizes "counter-force" rather than "counter-value" targeting. In fact, the draft condemns "the willingness to foster strategic planning which seeks a nuclear war fighting capability."

If the United States did not have a nuclear war-fighting capability, how could we preserve our deterrent? Deterrence depends entirely on the Soviets' perception of our ability to withstand attack. If our adversary knows that we cannot fight a nuclear war effectively, he has no reason to inhibit his own aggressive instincts. If we retain our nuclear weapons, but eliminate our strategic options for waging war, the only remaining possibility is a return to the MAD strategy—the strategy we have condemned as immoral.

Ambassador Rowny, our top negotiator in the present arms-control talks, has summarized this point quite well. Without a war-fighting capability, we would limit ourselves to only one response in case of Soviet aggression. And, Ambassador Rowny observes, "there would be only one feasible target for that response—Soviet cities and their civilian population. The moral condemnation of such targeting of cities is crystal clear in the documents of Vatican II and in post-conciliar papal statements."

We have seen, in recent weeks, a great deal of debate about the nature of the Vatican statements on nuclear weapons. We have heard many different interpretations of Pope John Paul's message to the United Nations, although the wording of that message seems clear enough to us: "In current conditions, deterrence based on balance, certainly not as an end in itself, but as a step toward progressive disarmament, may still be judged morally acceptable." We can concur, for that matter, with Cardinal Krol's amendment, substituting "tolerable" for "acceptable."

Whatever connotations different interpreters might place upon that statement, and similar statements by previous popes, we find Professor William O'Brien convincing in his explanation: "It should be clear, however, that given ample opportunity, neither the popes, including John Paul II, nor Vatican II have condemned the present deterrent and defense posture of the Free World, much less ordered the faithful to subvert or oppose them." We wholeheartedly concur without reservation in the message of our Holy Father to the United Nations, and we earnestly pray that our bishops do not reach an opposite conclusion.

4. Arms Control and the Arms Race

The history of arms-control negotiations is not a happy one. Successive talks and agreements have taken very little momentum out of the arms race, and it would be difficult to find anyone who feels safer today as a result of the agreements we have concluded with the Soviet Union in past years. Nevertheless, the draft letter gives very little credit to the United States for its efforts to introduce real restraints on nuclear weaponry.

Since the first atomic bomb was invented, there has been only one serious proposal for world disarmament: the Baruch Plan, which was introduced by the U.S. during a time when our nation enjoyed a nuclear monopoly. That plan, and every subsequent suggestion that included the vital element of effective verification, was rejected by the Soviet leadership. Still, the United States government has persisted in good-faith bargaining, and today President Reagan has offered a dramatic decrease in the nuclear armament of the unstable European theatre.

Even without a comprehensive agreement to curtail the arms race, in recent years the United States has reduced substantially the number of nuclear weapons in its arsenal. As part of the 1979 NATO decision on intermediate nuclear forces, we even withdrew, unilaterally, 1,000 nuclear warheads from Europe. But these and other similar self-imposed restraints by the United States have not been matched by the USSR, which has consistently expanded its nuclear arsenal and its capability for nuclear and conventional aggression. The final Pastoral Letter should, we respectfuly assert, give credit where it is due. Perhaps even move important, however, is the fact that in its present form, the draft letter does not seem to differentiate between the intent of the nuclear weapons systems deployed by the United States and the Soviet Union. As it now stands, in fact, we are condemned equally—if not more—than the Soviets for possessing huge weapons. Surely there is room for a more objective assessment of this point. The essence of our policy is, and always has been, to deter war, especially nuclear war. Our principal alliance relationship, NATO, is dedicated to preserving the values, tradition, and heritage of Western civilization—including the freedom of religious choice. It would be preposterous to characterize NATO as anything but a defensive organization which seeks to pervent an aggressor from starting a war.

Unfortunately, the Soviet Union does not share our world view. Its record on human rights and religious toleration is engraved

on the bloodstained streets of Eastern Europe and Afghanistan. Its military forces—including its burgeoning nuclear strike systems—are built around the concept of the offensive. The unprecedented size and scope of their aggressive capabilities should warn us against repeating the tragic mistakes of the 1930's, when the West, in attempting to project a policy of peace at all costs, actually emboldened the fascist dictators to embark upon the aggressive steps which resulted in the Second World War. We recall that following Pearl Harbor draftees were drilling in Grant Park, Chicago, with broom handles instead of rifles. The margin for error we once had no longer exists.

We are far from unanimous concerning the funding for production of the MX missile. Even so, we recognize that it is designed to correct an imbalance between our present defense posture and the Soviet's first-strike ICBM capability. All of us hope that should production of this weapon go forward, it will provide an incentive to the Soviets to negotiate significant strategic reductions.

How can we create that possibility, without increasing the risk of general warfare? New advances in technology have raised exciting possibilities for defensive systems that might take away the advantage of a nuclear first strike. Anti-missile defenses of varying description have been proposed, including some that promise a comprehensive cover against a first strike. If they are successfully developed, such defenses could help to eliminate the moral quandary of nuclear deterrence. We cannot yet be certain that such defensive systems will succeed, but we can at least be open to that possibility. In particular, in considering the Pastoral Letter on War and Peace, the bishops should contemplate the possibility that nuclear devices might be constructed for solely defensive purposes. Surely such devices could not fall under the condemnation of nuclear weapons in the draft letter.

5. The Road Toward Peace

As legislators operating in an imperfect world, we cannot hope to eliminate all conflicts among nations. As Christians, we look forward to the reconciliation of all men in Jesus, but we recognize that such reconciliation will not come about as a result of our inadequate efforts. Therefore, we join our spiritual leaders in calling for prayer for peace. We cannot, and should not, attempt to solve all our problems without invoking the Lord's help.

However, we can and should address the root causes of the tension that currently plagues the world. We can fight against violence without resorting to violence, by refusing to allow the degradation of human rights around the world. As representatives of the free world, we must emphasize the truth about human nature and human freedom—the "unalienable rights" on which our republic is founded. Aleksandr Solzhenitsyn has come to us as a spiritual witness to the corrupt ideology against which we must do battle. Lies cause violence, Solzhenitsyn tells us, and to avoid violence we must do homage to the truth. We are fighting a battle of ideas daily—a battle as important as any other that we might face.

As the N.C.C.B. continues its discussion on the Pastoral Letter, we urge all the bishops to keep this spiritual battle in mind. No true peace is possible unless human dignity is upheld. The crisis we face today does not involve two morally equal forces, but the contention of human freedom against totalitarianism. As Pope John Paul II wrote in *Redemptor Hominis*, "After all, peace comes down to respect for man's inviolable rights."

Forgive us if we speak too bluntly, but we do so because we take your Excellencies' efforts with the utmost gravity and respect. But we would expect the view that no values are worth defending if a nuclear war might ensue to be espoused by materialists—those who are at best agnostic about the existence of the immortal soul and the nature of good and evil. When we read such pessimism from some of our bishops who are dedicated to the propagation of the faith, we cannot but wonder, "What faith?"

In all the burgeoning literature of apocalypse surrounding this issue we have never encountered such a startling statement as the second draft contains, when it says: "Today the destructive potential of the nuclear powers threatens the sovereignty of God over the world He has brought into being. We could destroy His work." The notion that mere creatures could do anything to "threaten the sovereignty of God over the world" strikes us as one definition of Original Sin.

We would hope that those who would disarm us in the name of peace might dwell more deeply on their responsibility for the moral character of the peace that would follow our surrender. Peace without justice is moral violence. The boat people of Vietnam aren't fleeing a war, they are fleeing a peace without justice. We do not see capitulation to evil as an act of morality, nor do we believe that survival is the only value worth preserving. Of course we do not attribute a contrary view to you nor the Conference, but simply want to share with you the depth of our convictions.

We cannot accept the notion implicit in some interpretations of the morality of nuclear deterrence that our only Catholic President, John F. Kennedy, was less than moral in defending our freedom during the Cuban missile crisis of 1962. We recall his report to the American people on radio and television October 22nd, 1962, when he said:

"Our policy has been one of patience and restraint, as befits a peaceful and powerful nation, which leads a worldwide alliance . . . But now further action is required—and it is under way; and these actions may only be the beginning. We will not prematurely or unnecessarily risk the costs of worldwide nuclear war in which even the fruits of victory would be ashes in our mouth—but neither will we shrink from that risk at any time it must be faced."

We take a special pride in President Kennedy's ringing conclusion:

"The path we have chosen for the present is full of hazards, as all paths are—but it is the one most consistent with our character and courage as a nation and our commitments around the world. The cost of feedom is always high—but Americans have always paid it. and one path we shall never choose, and that is the path of surrender or submission.

"Our goal is not the victory of might, but the vindication of right—not peace at the expense of freedom, but both peace and freedom, here in this hemisphere, and, we hope, around the world. God willing, that goal will be achieved."

Once again, we hope that the bishops will consider these thoughts from laymen who, like themselves, are caught up in the horrible dilemmas posed by nuclear weaponry. Our hopes and prayers are with you as you enter the final phase of your debate.

Sincerely,

Robert K. Dornan, Charles F. Dougherty, James L. Nelligan, William Carney, Eldon Rudd, Henry J. Hyde, Daniel A. Lungren, E. Clay Shaw, Vin Weber, Ray McGrath, Joe Skeen, and G. C. Wortley.

Guy Molinari, Edward R. Madigan, Manuel Lujan, Jr., Bill Lowery, Billy Tauzin, John J. Erlenborn, Thomas F. Hartnett, Edward J. Derwinski, Tom Corcoran, John Hiler, Gene Chappie, and John Breaux.●

ARE WE GOING THE WAY OF ROME?—PERHAPS SOONER THAN WE THINK

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. McDONALD. Mr. Speaker, It is certainly revealing to see that there are some in our hallowed halls of learning, that have truly done their homework in history. This is particularly true today when we see so-called doctors of history, whose study of ancient history goes back no further than Woodrow Wilson; and yes, some even no further back than Franklin D. Roosevelt.

Now comes one Lawrence W. Reed, chairman of the Department of Economics at Northwood Institute in Midland, Mich. Just out with a new book and coauthored with Dr. Hale Haywood titled "When We Are Free," Mr. Reed has been prominent in other areas. He developed a unique 4-year dual major in economics and business management. As well he has taught in all areas of economics and business, but applied the lessons of history to economics and business, so that students receive a well-rounded education. For all his endeavors he has received numerous Faculty Excellence Awards from Northwood Institute.

As we move from the 97th to 98th Congress, it would be well for my colleagues to see where the trend of America is going. Do we realize the same trend that destroyed the Roman Republic is now taking place in our Republic? The next time the challenge to conscience gives us the choice to vote for more government and eventual totalitarian government or slavery, it would be well to remember the content of the following article by Lawence W. Reed.

The article follows:

ARE WE GOING THE WAY OF ROME?

(By Lawrence W. Reed)

There's an old story worth retelling about a band of wild hogs which lived along a river in a secluded area of Georgia. These hogs were a stubborn, ornery, independent bunch. They had survived floods, fires, freezes, droughts, hunters, dogs, and everything else. No one thought they could ever be captured.

One day a stranger came into town not far from where the hogs lived and went into the general store. He asked the storekeeper, "Where can I find the hogs? I want to cap-

ture them." The storekeeper laughed at such a claim but pointed in the general direction. The stranger left with his one-horse wagon, and axe, and a few sacks of corn.

Two months later he returned, went back to the store and asked for help to bring the hogs out. He said he had them all penned up in the woods. People were amazed and came from miles around to hear him tell the story of how he did it.

"The first thing I did," the stranger said, "was to clear a small area of the woods with my axe. Then I put some corn in the center of the clearing. At first, none of the hogs would take the corn. Then after a few days, some of the young ones would come out, snatch some corn, and then scamper back into the underbrush. Then the older ones began taking the corn, probably figuring that if they didn't get it, some of the other ones would. Soon they were all eating the corn. They stopped grubbing for acorns and roots on their own.

"About that time, I started building a fence around the clearing, a little higher each day. At the right moment, I built a trap door and sprung it. Naturally, they squealed and hollered when they knew I had them, but I can pen any animal on the face of the earth if I can first get him to depend on me for a free handout."

The moral to that story happens to be the connecting link between the course of ancient Rome and the path which America has been taking for much of this century.

Roman civilization began many centuries ago. In those early days, Roman society was basically agricultural, made up of small farmers and shepherds. By the second century B.C., large-scale businesses made their appearance. Italy became urbanized. Immigration accelerated as people from many lands were attracted by the vibrant growth and great opportunities the Roman economy offered. The growing prosperity was made possible by a general climate of free enterprise, limited government, and respect for private property. Merchants and entrepreneurs were admired and emulated. Commerce and trade flourished and large investments were commonplace.

It is certainly true that some slavery existed in Rome. That's deplorable from a libertarian standpoint, of course. But to be fair to the Romans, it must be said that slavery was far more common and far more brutal in the rest of the world in those days.

REMARKABLE ACHIEVEMENTS

Historians still talk today about the remarkable achievements Rome made in sanitation, public parks, banking, architecture, education, and administration. The city even had mass production of some consumer items and a stock market. With low taxes and low tariffs, free trade and private property, Rome became the center of the world's wealth.

At one time, the political and military power of Rome dominated Europe and the Mediterranean. Roman roads facilitated speed of travel and communication to a degree which would not be surpassed until the development of the railroad, the steamship, and the telegraph in the nineteenth century.

Roman law and justice enabled the traveler to journey throughout the empire with a considerable degree of safety.

All of this disappeared, however, by the fifth century A.D., and when it was gone, the world was plunged into darkness and despair, slavery and poverty. There are lessons to be learned from this course of Roman history.

Why did Rome decline and fall? The record is abundantly clear on this point. Rome fell because of a fundamental change in ideas on the part of the Roman people—ideas which relate primarily to personal responsibility and the source of personal income. In the early days of greatness, Romans regarded themselves as their chief source of income. Each individual looked to himself—what he could acquire voluntarily in the marketplace—as the source of his livelihood. Rome's decline began when the people discovered another source of income: the political process—the State.

When Romans abandoned self-responsibility and self-reliance and began to vote themselves benefits, to use government to rob Peter to pay Paul, to put their hands into other people's pockets, and to envy and covet the productive and their wealth, they set into motion Kershner's First Law: "When a self-governing people confer upon their government the power to take from some and give to others, the process will not stop until the last bone of the last taxpayer is picked bare."

The legalized plunder of the Roman Welfare State was undoubtedly sanctioned by people who wished to do good. But as Henry David Thoreau wrote, "If I knew for certain that a man was coming to my house to do me good, I would run for my life." Another person coined the phrase, "The road to hell is paved with good intentions." Nothing but evil can come from a society bent upon coercion, the confiscation of property, and the degradation of the productive.

Early in this process, a politician named Clodius ran for the office of tribune on a "free wheat for the masses" platform and won. Candidates for office began spending huge sums to win election and plundering the population afterwards to pay their campaign debts.

When Julius Caesar came to power in 48 B.C., he found 320,000 persons on government grain relief. Temporarily putting a dent in the Welfare State bandwagon, he ordered the rolls cut to 200,000. But forty-five years later, the rolls were back up to well over 300,000.

GOVERNMENT BREAD

A real landmark in the course of events came in the year 274 A.D. Emperor Aurelian wishing to provide cradle-to-grave care for the citizenry, declared the right to relief to be hereditary. Those whose parents received government benefits were entitled as a matter of right, to benefits as well. And Aurelian gave welfare recipients government-baked bread (instead of the old practice of giving them wheat and letting them bake their own bread) and added free salt, pork, and olive oil. Not surprisingly, the ranks of the unproductive grew fatter, and the ranks of the productive grew thinner.

Surely, many Romans opposed the Welfare State and held fast to the old virtues of work, thrift, and self-reliance. But just as surely some of these sturdy people gave in and began to feed at the public trough in the belief that if they didn't get it, somebody else would. That attitude only hastened the slide into bankruptcy.

The central government also assumed the responsibility of providing the people with entertainment. Elaborate circuses and gladiator duels were staged to keep the people happy. The equivalent of a hundred million dollars a year in the city of Rome alone is a moderate estimate of what was poured out on the games. It was, so to speak, a rough, ancient counterpart to the National Endowment for the Arts, administered and financed by the American government today.

Someone once remarked that the Welfare State is so named because in it, the politicians get well and you pay the fare! There is much truth in that statement. In Rome, the emperors were buying support with the people's money. After all, government can give only what it first takes. The emperors, in dishing out all these goodies, were in a position to manipulate public opinion. Alexander Hamilton observed, "Control of a man's subsistence is control of a man's will." Few people will bite the hand that feeds them!

By the second century A.D. many cities had spent themselves deeply into debt. Beginning with the emperor Hadrian, municipalities which got themselves into financial difficulties lost their independence as the central government placed them under the authority of imperial curators. The financial troubles of New York City and Cleveland of late are modern day echoes. More than half the budget of the city of Detroit is now provided (with strings attached) by the federal government.

HIGH TAXES

Civil wars and conflict of all sorts increased as faction fought against faction to get control of the huge State apparatus and all its public loot. Of twenty-seven emperors or would-be emperors between 180 and 285 A.D., all but two met violent deaths. High taxes and burdensome regulations were the order of the day. Business enterprise was called upon to support the growing body of public parasites.

By the time of Emperor Antoninus Pius, who ruled from 138 to 161 A.D., the Roman bureaucracy was as all-embracing as that of modern times. The historian Trever wrote that by the third century, "the relentless system of taxation, requisition, and compulsory labour was administered by an army of military bureaucrats. . . . Everywhere were the ubiquitous personal agents of the emperors to spy out any remotest case of attempted strikes or evasion of taxes."

Another writer W.G. Hardy, said several years ago that in later Rome, "what the soldiers or the barbarians spared, the emperors took in taxes." The crushing cost of the military, the top-heavy bureaucracy, and the public programs taxed the middle class out of existence.

Clearly, the State gradually became the prime source of income for an increasing number of Romans. The high taxes needed to finance this drove business into bankruptcy and then nationalization. Whole sectors of the economy came under government domination in this manner. The first industry in Rome to be taken over was transportation—shipping in particular. Interestingly, the first industry in America to suffer comprehensive control was also transportation—specifically, railroads.

Emperor Nero may have been the original architect of urban renewal legislation. In the tenth year of his reign (64 A.D.), a great fire left more than half of Rome in ashes. It was rumored then, and many historians now believe, that Nero had ordered the conflagration to be lighted in order to clear the ground for a rebuilding of the city.

Nero is said by Gaius Suetonius in De Vitae Caesarum to have once rubbed his hands together and declared, "Let us tax and tax again! Let us see to it that no one owns anything!" That reminds this author of Harry Hopkins' famous allusion to the Welfare State during the Roosevelt years,

"tax and tax, spend and spend, elect and elect."

In 91 A.D., the government became deeply involved in the business of agriculture. Emperor Domitian, to reduce the production and raise the price of wine, ordered the destruction of half the provincial vineyards.

As the old virtue of self-reliance gave way to political redistribution of income, priests, teachers, and intellectuals extolled the virtues of the almighty emperor, the Provider of all things. The interests of the individual were considered a distant second to the interests of the emperor and his legions. A spiritual vacuum ensued, which was filled partly by the rise of cults and oriental religions and partly by worship of the emperor. The latter reached its zenith under Emperor Diocletian in 285 A.D. No one could approach him without prostrating himself on the ground and kissing the hem of his garment. Formerly, the proud, free citizens of Rome had refused to render such servile adoration to any of their magistrates and rulers.

NATURAL DISASTERS

The Roman empire, amid this sickening spectacle of moral decay, fell victim to an unfortunate series of natural disasters and plagues. Earthquakes, volcanoes, and harsh storms caused great damage. By 200 A.D. at least one-fourth of the population of the whole empire, both civilian and military, had perished by a plague brought from the East. A later one, from 252 to 267 A.D., was nearly as bad. A morally righteous and strong people might have recovered and rebuilt, but these disasters only reinforced the growing despair of a desperate people. The fabric of Roman society was rotting away under the influence of government paternalism, bureaucracy, and spiritual malaise.

Rome also suffered from the bane of all Welfare States—inflation. The massive demands on the government to spend for this and that created pressures for the multiplication of money. The Roman coin, the denarius, was cheapened and debased by one emperor after another to help pay for the expensive programs. Once 94% silver, the denarius by 268 A.D. was little more than a piece of junk containing only .02% silver. (Sound familiar?)

Flooding the economy with all this new and cheapened money had predictable results: prices skyrocketed, savings were eroded, and the people became angry and frustrated. Businessmen were often blamed for the rising prices even as government continued its spendthrift ways.

The easy money policies produced periodic crises in the economy. The panic of 86 A.D. and a severe economic contraction of a few years later are examples. The government responded by imposing penalties for trading in gold, especially for exporting it, much as Franklin Roosevelt did in 1933.

Demanding relief from economic disorder, the people of Rome cried out for a strongman. They got him in the person of Diocletian who, in the year 301, imposed his famous "Edict of 301." This law established a system of comprehensive wage and price controls, to be enforced by a penalty of death. The chaos that followed inspired the contemporary historian Lactantius to write in 314: "After the many oppressions which he put into practice had brought a general dearth upon the empire, he then set himself to regulate the prices of all vendible things. There was much bloodshed upon very slight and trifing accounts: and the people brought provisions no more to market, since they could not get a reasonable price for them; and this increased the dearth so much that at last after many had died by it, the law itself was laid aside."

FROM WELFARISM TO DESPOTISM

Diocletian also ordered that all offices, trades, and professions, in so far as possible, were to be made hereditary. Young men were forced to carry on in the trade of their fathers. There was no escape from this regimentation. The Welfare State had become a despotism.

This tyrant left his mark on history in other ways too. It was during his reign that fully half the men of the Empire were on the government payroll. And not only did he impose across-the-board wage and price controls in relative peacetime, he also resigned from office, in the year 305. (Shades of Richard Nixon?)

All this robbery and tyranny by the State was a reflection of the breakdown of moral law in Roman society. The people had lost all respect for the sanctity of private property. This author is reminded of the New York City blackout of 1977, when all it took was the lights to go out for hundreds to go on a "shopping spree."

The Christians were the last to resist the tyranny of the Roman Welfare State. Until 313 A.D., they had been persecuted because of their faith and their unwillingness to worship the emperor. Under Diocletian, Christians were cast into dungeons, thrown to the wild beasts in the amphitheater, and put to death by every other mode of torture that ingenious cruelty could devise. In this year, Emperor Constantine granted them toleration in exchange for their acquiescence to his authority.

Constantine himself professed Christianity but his personal morality defied his word. Within three years of his announced conversion, he put a nephew to death, drowned his wife in a bath, and murdered his son.

Meanwhile, Constantine showered the Church with land, gifts, and patronage at taxpayers expense. Thus corrupted, the Church lost its old simplicity and high moral standards. It too had jumped aboard the gravy train.

In the year 380, a sadly-perverted Christianity became the official state religion under Emperor Theodosius. Rome's decline was like a falling rock from this point on.

FOREIGN POLICY

In another arena, the foreign policy of Rome in the third, fourth and fifth centuries had become one of weakness and appeasement. Politicians, too busy buying votes at home with pie-in-the-sky programs, ignored the empire's defense. Barbarian "converts," whose loyaltv was still suspect, were even permitted to hold important posts in the Roman military establishment.

In 410, Alaric the Goth and his primitive Germanic tribes-men assaulted the city and sacked its treasures. The once-proud Roman army, which had always repelled the barbarians before, now wilted in the face of opposition. Why risk life and limb to defend a corrupt and decaying society?

The end came, rather anti-climactically in 476, when the German chieftain, Odoacer, pushed aside the last Roman emperor and made himself the new authority.

Some might say that Rome fell because of the attack by these foreigners. Such a claim overlooks what the Romans had done to themselves. When the Vandals, Goths, Huns, and others reached Rome, many citizens actually welcomed them in the belief that anything was better than their own tax collectors and regulators. It is more accurate to say that Rome committed suicide. Like the wild hogs, Romans first lost their freedom, and only then did they lose their lives.

History does seem to have an uncanny knack of repeating itself now and then. America is surely making some of the same mistakes today that Rome made centuries ago. In a famous statement, paraphrased here. George Santayana warned, those who ignore history are condemned to repeat it.

No one reading this, however, should feel despair for the future. The decline of American influence and strength is not inevitable; it is not something beyond the control of the American people. It is, rather, the consequence of faulty ideas, which can change if only this message is carried forth by those who cherish liberty.

Most conservatives and libertarians oppose the Welfare State for moral, philosophical, and economic reasons. Now we must add another reason for our opposition: we understand the lessons of history! With such armaments, all we need now is a commitment to victory, and the will to win.

EPILOGUE

Is the "Reagan Revolution," which began in early 1981, a genuine reversal of the dangerous trends described here? Outwardly, it may appear so: the rhetoric from Washington often sounds anti-Welfare State and some federal programs and regulations and taxes have been cut back. But upon closer examination, the observer finds less and less to cheer about. The federal budget is still getting bigger every year—only the rate of its yearly increase has been pruned. President Reagan's popularity takes a nosedive each time he proposes to cut further. The opposition in Congress, still addicted to the "spend-like-a-drunken-sailor" mentality, is gaining ground. The voices heard most often in protest in the streets of America are those crying for more federal loot, not less.

Americans who are awake enough to know what is going on and dedicated enough to do something about it had better start speaking up—now! Time is running out. As we fight to restore and preserve those ideas and institutions which made our nation great, let's keep these words in mind:

"The penalty men pay for indifference to public affairs is to be ruled by evil men."—Plato.

"All that is necessary for evil to triumph is for good people to do nothing."—Edmund Burke.

"The hottest places in Hell are reserved for those who—in a period of moral crisis—maintain neutrality."—Dante.●

HON. PETER PEYSER

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 20, 1982

● Mr. ADDABBO. Mr. Speaker, I rise to join my colleagues in paying tribute to our departing colleague from New York, the Honorable PETER PEYSER.

PETER has been an excellent Congressman and is a delightful and outstanding personality in his own right. I have commended him now as a Representative of both parties in this House, and I do not necessarily rule

out the possibility of doing it again somewhere down the line. People in New York have learned the hard way not to underestimate the personal appeal of PETER PEYSER.

PETER is leaving this House because in New York State we tend to cannibalize our congressional delegation regularly by use of inept redistricting plans. In 1982, our New York State legislators put together two outstanding Members of this House and forced them to run together. PETER was the loser in that particular contest, but he has been a consistent winner in whatever challenges he has attempted throughout his life, and I am sure he will do well whichever way he turns his talents in the months to come.

The issues that have interested this intense and intellectual Member of this body are too numerous to count. Let it be sufficient to say that PETER has always fought hard for Government accountability to the American people, that he has been a strong advocate of the elderly and the needy. He has pushed administrations of both parties to do their work better and with more feeling toward the people they served. He has been an irritant, as we all ought to be, to those who would use the Government as a means of imposing regulations upon an unsuspecting public.

In short, the Nation's public has been well served by PETER PEYSER during the time he has served in this body. He has much to be proud of as he leaves this body. And we are justly proud of him, as well.●

JACK LAUTENSLAGER ENDS 33 YEARS OF SERVICE TO MARION CHAMBER OF COMMERCE

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. BROWN of Ohio. Mr. Speaker, on December 30, Jack E. Lautenslager, who has served the Marion, Ohio, area chamber of commerce for the past 33 years, first as assistant manager, and as manager since 1960, will retire from his post.

I have known Jack for many years and know few other persons who have devoted their time, energies, and love to more enthusiastic service to their communities than Jack Lautenslager. Jack is a lifelong native of Marion, and working for the chamber of commerce was never a job in his view. Instead, it was a constant opportunity to be of service to the entire community in enhancing the quality of life through better business and job opportunities, the schools, health care, housing, transportation, recreation, and all of the rest of the items that make a community whole and progressive.

Jack Lautenslager, undoubtedly, could have moved on from Marion to other chamber of commerce positions for more pay, personal prestige, and wider recognition in larger communities. But he preferred to stay in Marion, the community he loved, and to work to foster the long-term progress of the area and its citizens. This is a devotion to community and unselfishness that is too often missing in today's fast track world. I know that Jack Lautenslager has earned widespread community respect and appreciation for his service.

In addition, Jack and his wife, Thelma, have been selfless in their personal lives, to their family and friends, through their church and civic organizations, and their person-to-person relationships. I have personally enjoyed their company on numerous occasions in Marion and here in Washington, including their attendance 2 years ago as my guests at the National Prayer Breakfast. I look forward, as I know many others do, to their continuing friendship as they enjoy retirement but remain active in community affairs.

The Marion Star recently published an article featuring Jack Lautenslager's career. It is a pleasure for me to insert the article in the RECORD, Mr. Speaker, as a tribute to the years he has served the Marion area community:

The article follows:

[From the Marion Star, Dec. 10, 1982]

LAUTENSLAGER RETIRING: MARION'S CHAMBER HONORS "CATALYST"

(By Bob Gibson)

Every good idea needs a catalyst, a spark that brings everything together. Since 1949, Jack E. Lautenslager strove to be the spark that brought new business to Marion, and tried to keep industry already here happy.

First as an assistant manager of the Marion Area Chamber of Commerce, and for 22 years the manager, Lautenslager sold Marion to corporations and businessmen around the country.

There were successes, and failures along the way Whirlpool Corporation moved to Marion in 1955 and expanded during Lautenslager's tenure. Tecumseh Products expanded, and Boise Cascade built a plant here. Some got away, such as a General Motors plant.

But Lautenslager, in the manner of a true salesman, skims over the failures and concentrates on the positive.

Lautenslager served the chamber longer than any other person, and Thursday night, in recognition of his service, the chamber held a retirement dinner for him at the Marion Country Club. He received the title to a 1981 Ford LTD the chamber had been leasing for his use.

Participants also honored Lautenslager's wife, Thelma.

Lautenslager started work with the chamber as an assistant manager, and assumed the manager's post in 1960.

He officially will retire from the position Dec. 30. His replacement has not yet been named although a chamber search committee has narrowed its list of candidates down to two. Both men recently were in Marion to meet with chamber members.

During the past 33 years, Lautenslager has witnessed some tremendous changes in Marion. Shopping centers and a shopping mall sprang up and business left the downtown area. The streets became one-way and government crept into everyday business life.

Although the details of his job changed, Lautenslager said he kept one concept constant. Always, he said, he tried to bring people together, to help bring business to Marion and to help the business already here earn a profit.

An example of his efforts to bring people together was his work convincing Boise Cascade to locate a box plant here. When he first started talking with company officials, Lautenslager said, the firm indicated there were three possible sites: Houston, Atlanta and Ohio.

Lautenslager said he constantly kept in touch with Boise officials, and arranged meetings between local purchasing agents and company representatives. The two-year effort eventually paid off.

Another plant, Purex Corporation, almost fell into his lap. Lautenslager said he was leaving the office one night when the telephone rang. A Purex official, whom he had never met, wanted to know if building space was available in Marion. That started the process, with Lautenslager serving as a go-between, for the eventual location of Purex in the old Great Lakes Charcoal Company building on Marion-Agosta Road.

But new industry was not Lautenslager's only concern. He said he worked to keep businesses informed about legislation at the local, state and federal levels that might affect them. This service to existing industry, he said, was one of his primary concerns.

Keeping existing industry happy, he said, encouraged growth and expansion, which meant more jobs for the Marion area.

He counts his work with existing industry among the highlights of his career. That work was started by his predecessor, Lautenslager Hugh Webster, and said his successor, who has not been identified, probably will continue the tradition.

Two other accomplishments, which at first glance might appear outside the realm of a chamber of commerce, also stand out in Lautenslager's memory.

One was his work with a local committee to build a branch campus of The Ohio State University here. The other, in which he had a more prominent role, was passage of a levy to build Tri-Rivers Joint Vocational School.

Lautenslager directed a committee to support the levy. Previously, he said, four levies had been defeated.

The chamber members, however, believed Marion needed a vocational school to help train qualified people for industry, Lautenslager said.

The campaign succeeded, by a narrow margin, and today about 900 students per year attend the school. Lautenslager also directed a drive to pass an operating levy for the vocational school in the late 1970s.

Having trained people from the vocational school, Lautenslager said, helps Marion attract industry and helps the youths find jobs.

Although the recession has driven unemployment to high levels here, Lautenslager said overall he believes Marion has had more "ups than downs."

The poor state of the economy in Marion "hurts," he said, but he attributes the downturn to the national economy.

Although he is retiring from the chamber, Lautenslager said he intends to keep busy. He is considering consulting work and will stay active in the Ohio Development Association. He also is looking at a part-time job as a salesman. He informed the chamber of his decision to retire two years ago, he said.

A life-long resident of Marion, Lautenslager said he is not sure he could have accomplished his job as well in another city. Other chambers offered jobs he said, but he chose to remain at home.

"I have a deep appreciation for all the organizations and individuals that I've had the pleasure of working with over the years," he said, adding his work has left him "with a lot of fond memories."●

MARITIME AUTHORIZATION BILL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 18, 1982

● Mr. FLORIO. Mr. Speaker, I would like to state my opposition to the conference report on the maritime authorization bill. The conferees have unwisely agreed to a provision which would permit U.S.-flag ocean carriers to build foreign for another year.

America needs jobs. At a time when our country is faced with record levels of unemployment and bankruptcies, there is absolutely no justification for us to adopt this measure, which will inevitably lead to the transfer of jobs and tax dollars abroad.

It is not true, as the proponents of this measure would have us believe, that we need to permit the build-abroad program to continue for another year, in order to maintain our shipbuilding capability and to expand foreign trade. In fact, precisely the opposite will occur. According to industry sources, the dollar value of the work that will be exported, if this leigslation passes, will exceed $1.2 billion. During the trial year of the build-abroad program, the construction of 36 ships in foreign yards was approved.

The report that we have before us will close down U.S. shipyards and add to the unemployment in the shipbuilding industry. Merchant ship construction has declined over 80 percent since 1972 and shipyard order books are drying up. The employment of skilled workers in U.S. shipyards has already declined by 50,000 over the last 10 years. Employment on merchant ship construction will probably fall below 10,000 workers by the end of this year.

It is ironic that at a time when the administration and many of my colleagues in the House are pushing for a gasoline tax and a so-called jobs creation program, that there would be any support for a provision which will close down our shipyards and shift the construction and repair of U.S. vessels abroad. At a time when this Nation is building up its national defense to close windows of vulnerability, we must not open up huge new windows by increasing American reliance on foreign shipbuilders to supply our critical ocean vessel needs. I urge my colleagues to vote "no."●

HIGH LEVEL WASTE BILL

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. SKEEN. Mr. Speaker, I strongly support adoption of the nuclear waste bill. One cannot emphasize enough the importance of getting on with the job of constructing and operating a nuclear waste repository. The public is tired of waiting for resolution of the political hangups preventing fruition of a waste disposal program. This legislation will provide a complete regulatory structure and time schedule for this end. I believe that it is important that we adhere to this regime. Given the provision for comprehensive Federal regulation of the repository under the Atomic Energy Act and this legislation, and given the ample provision for State participation in the siting of the repository provided in this legislation, there is no question but that the public health and safety and the environment will be fully protected and that all legitimate State interest will responsibly taken into account in the process provided in this bill. There is no need for additional, duplicative, or conflicting regulations by yet more agencies or at some other level or under yet other statutes. There is no need for further equivocation and hand wringing. In short, the provision for Federal regulation in this bill fully and adequately occupy the field. Thankfully, the public can honestly be assured of no further unnecessary and frustrating delays. We will have safe and efficient nuclear waste facilities when they are needed.

I am including an attachment in the interest of time.

NUCLEAR WASTE BILL

Mr. Chairman, there is a widespread fear of any exposure to radiation associated with nuclear power activities. This fear has spawned widespread litigation against the Department of Energy and private companies. In these lawsuits, people assert that they have incurred an increased risk of cancer as a result of low levels of exposure. They ask for millions of dollars in damages from taxpayers and private industry. The fear of radiation has also resulted in the imposition of a myriad of legal obstacles to continued development of nuclear power in this country. Indeed, we have had no new reactor orders since 1978. Instead, there have been dozens of reactor cancellations. NRC has imposed more and more retrofit requirements, driving up the cost of, and delaying, other reactors. We have been unable to site or operate a nuclear waste repository. The fear, the litigation, and the legal obstacles are impeding our ability to carry out the basic purpose of the Atomic Energy Act to develop atomic energy technology in this country.

Mr. Chairman, the fear that has precipitated all this does not appear to be supported by the facts. Although high levels of radiation are unquestionably hazardous, the situation is far less clear with respect to exposures to low levels of radiation—exposures at the rate of one or two rem per year or lower. There is no evidence that demonstrates that exposures to radiation at these levels is hazardous at all. The hazard is purely hypothetical. Regulatory agencies assume that low levels of radiation are hazardous in proportion to the hazard at high levels. The assumption is solely based on policy; it is certainly not scientifically or logically compelled. The policy reason for the assumption is to be conservative for regulatory purposes. The fact that the assumption is made in no way means that low-level radiation is in fact hazardous.

This linear, non-threshold assumption is not intuitively obvious. Too much oxygen can blind or kill, but at least some oxygen is essential to life. Similarly, too much selenium, or too much of many other trace elements, will result in toxicity, but in smaller amounts these elements are essential to human health.[1] It is relatively common to find that small amounts of otherwise toxic material are biologically stimulatory, a phenomenon known as "hormesis."

Mr. Chairman, there is a considerable body of evidence that, contrary to the conventional wisdom, low levels of radiation may not be harmful and may in fact be beneficial. This is known as radiation hormesis.[2]

Epidemiological studies of populations exposed to elevated levels of natural background radiation fail to detect any adverse health effects and in fact correlate increased exposure to radiation with better health and lower cancer rates.[3] In a recent letter to the editor of the New England Journal of Medicine, two statisticians from The Wharton School explained that "there have been literally hundreds of reports over the past century demonstrating that ecologically realistic low levels of ionizing radiation are usually stimulatory and beneficial

[1] See, for example, *Selenium in the Heart of China*, The Lancet 889-90 (Oct. 27, 1979); Keshan Disease Research Group, *Observations on Effect of Sodium Selenite in Preventing Keshan Disease*, Chinese Med.J. 92(7):471 (1979); Keshan Disease Research Group, *Epidemiologic Studies on the Relationship of Selenium and Keshan Disease*, Chinese Med.J. 92(7):477 (1979); Collipp, et al., *Cardiomyopathy and Selenium Deficiency in a Two-Year-Old Girl*, N.Eng.J.Med. 304:1304 (1981). Ironically, EPA has adopted stringent regulations limiting selenium in water to very low levels on the theory that it might be carcinogenic. Instead, selenium appears to be anti-carcinogenic. Shamberger, *Relationship of Selenium to Cancer. I. Inhibitory Effect of Selenium in Carcinogenesis*, J.Nat'l Cancer Inst. 44:931 (1970). Given the unfortunate permanence of many regulatory standards, EPA may never catch up with science on this issue.

[2] See, for example, Luckey, Hormesis with Ionizing Radiation (CRC Press 1980); Luckey, *Hormesis*, Nuclear News 48 (Dec. 1981).

[3] See, for example, Hickey, et al., *Low Level Ionizing Radiation and Human Mortality: Multiregional Epidemiological Studies*, Health Physics 40:625-41 (1981); Frigerio, et al., The Argonne Radiological Impact Program (ARIP).I. Carcinogenic Hazard from Low-Level, Low-Rate Radiation (1973).

to a wide variety of life forms, including human life . . . . Studies on the population of U.S. states showed that mean background-radiation levels and mortality rates for several cancer categories were generally negatively correlated. . . . [T]he prevalence of mortality from cancer was lower, on average, in urban areas with higher background radiation than in areas with low background radiation." [4]

Evidence such as this not only totally undercuts the litigation against the nuclear power industry and refutes the misdirected fear of low-level radiation but also throws into serious doubt the basic assumptions on which regulatory agencies are basing their standards and requirements relating to the nuclear fuel cycle. In the words of The Wharton School statisticians,

"The extensive evidence in support of hormesis casts doubt on dose-response models that represent the health effects of low levels of ionizing radiation in terms of monotonically decreasing functions extrapolated from the observed effects of high levels." [5]

Clearly we would all do well to heed the warning by the National Council on Radiation Protection against overreaction to the purported hazards of low level radiation.[6] It may well be that there is absolutely no hazard at all, or that the beneficial affects outweigh the adverse ones. This point is especially important because essentially all the hypothesized adverse health effects from the nuclear fuel cycle, including those from nuclear reactors and high level waste, are based on assumed adverse effects from low levels of exposure.

Under the circumstances, it seems particularly ridiculous to shun nuclear power as a major source of our electrical energy. Indeed, the basis for any such action amounts of nothing more than a kind of Lysenkoism,[7] the net effect of which will be to erode our country's scientific and technological leadership and the welfare of our citizens. Nuclear power is a clean, cheap, and, for all practical purposes, risk-free source for our electrical energy needs.

The attack on nuclear power should be recognized for what it is: anti-environmental and fundamentally irrational and anti-scientific. To the extent that the nuclear waste legislation removes one of the obstacles to further use of nuclear energy, I strongly support it. We all should.●

A TRIBUTE TO ARLEN ERDAHL

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. COURTER. Mr. Speaker, I would like to offer a few words of praise for the accomplishments of a notable colleague and friend of mine, ARLEN ERDAHL from Minnesota's First District.

ARLEN entered Congress the same year I did, 1978, and brought with him a wealth of experience in Minnesota State government as a member of the legislature for 8 years and secretary of state for 4 years.

As a farmer, ARLEN had a close association with the needs and priorities of the heavily dominating agricultural counties which comprise the first district. Still, as a resident of the Twin Cities suburbs, he recognized the need to balance the representation for these more urban folks as well.

This apparent dichotomy in the makeup of his congressional district required ARLEN to make some difficult decisions on important legislation. But the needs of his constituents remained ARLEN's first priority. It is no wonder then that ARLEN was recognized early as being open minded and independent of judgment. He has always been his own man.

In his committee assignment on Education and Labor, ARLEN played a decisive role in the passage of legislation to create the Department of Education. He also successfully directed the course of his amendment for voluntary prayer in school.

This body is saddened at the loss of trustworthy and steadfast public servants as ARLEN ERDAHL. It has been a great privilege to have worked with him, and to have known him. I wish him well in his future endeavor, and can only hope that what personal satisfaction ARLEN has gained from his tenure in this body is equalled to what he has contributed.●

COLSON ON RELIGIOUS AND HUMAN LIBERTY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. BONKER. Mr. Speaker, the House last evening passed H.R. 434, a resolution identifying religious persecution as a human rights violation and calling on the President of the United States to seek efforts to end religious persecution in the world. As sponsor of the measure, I was pleased to see the House take expeditious action on a very serious human rights problem.

I would like to call the attention of my colleagues to an article by Chuck Colson on the subject of religious beliefs and human needs in today's world, contrasting the situation in the Soviet Union with the church's responsibility to human needs here. As Mr. Colson aptly notes, "Individual involvement and voluntary ministries are not only an expression of human freedom, they are a vital part of keeping it.".

The article follows:

CHARITY AND FREEDOM

(By Chuck Colson)

While rereading an essay by Georgi Vins, the Russian pastor imprisoned eight years in Siberia, I was struck by a chilling thought: what Soviet tyranny has failed to do through persecution, we American Christians may unwittingly do to ourselves through indifference. Let me explain.

Lenin and his disciples knew if their Marxist dream was to succeed, they would have to rout out all religious beliefs from their society. Communism is a jealous mistress which tolerates no competing affections. So, after disposing of their immediate enemies, the Soviets turned to their greatest foe: the Church.

Most in the West are aware of the consequent persecution of Christians and restrictions on worship. But few realize how deadly has been the assault against the Church's social activities. The 1928 legislation controlling "religious cults" expressly forbids the Church to collect funds for the poor, to feed the hungry or aid the old and infirm. Church sponsored education is also outlawed.

It's not hard to see why the communists viewed the demonstration of Christian compassion as a formidable threat. After all, individual involvement—people helping people—undermines the all-powerful pretenses of a central government. So totalitarian leaders have always repressed individuality, as was made painfully clear just last month when the Polish government ruthlessly abolished the Solidarity movement.

It is in the sinful nature of man—all men, by the way, not just the Stalins and Hitlers—to hunger for power. Since that appetite is insatiable, it is axiomatic that government without restraint inevitably leads to totalitarianism.

Our country's founding fathers understood that truth and wisely constructed a system of checks and balances to prevent excessive concentration of power. They also saw the corollary need for volunteer involvement to meet public need. De Tocqueville wrote that the American experiment in democracy depended on volunteer efforts to protect the individual against the natural tendency of government to grow ever more powerful.

The American Church must be reawakened to this truth. In the last half-century, government has mushroomed, its growth accelerated by the incredible computer and communications technology of these times. Coupled with this, polls and social analysts tell us Americans are becoming increasingly insensitive and isolated, absorbed only with self.

Against that backdrop, it is ironic that one of the strongest calls for volunteerism comes from the chief executive of the power-hungry central government. But President Reagan well understands, as did our nation's founders, how crucial individual involvement is to personal liberty.

To add to the irony, the Church, which should be the first to respond, seems to be resisting. At a White House meeting for religious leaders last spring (see June Jubilee), Mr. Reagan made an impassioned plea for the religious community to take a greater role in meeting human needs. Though many of us applauded him, some Church leaders argued that the government has no right to shrug its responsibilities off onto the Church.

We can only imagine how Russian Christians, for 50 years denied the freedom to

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[4] Hickey, et al., Letter to the Editor, N. Eng. J. Med. 307:1450 (1982).

[5] *Id.*

[6] NCRP, Report No. 43, at p. 4 (1975).

[7] Lysenkoism (after a Soviet agronomist who, on behalf of Stalin, propagated a now-repudiated theory of genetics which set Soviet genetics back a decade or more) stands broadly for any scientifically unsupported doctrine imposed on science and technology for political or moralistic reasons.

carry out biblical mandates, might have reacted to that scene: the head of state urging the Church to meet human needs, the Church leaders pushing those needs back towards the state. How our persecuted brothers and sisters would cherish our freedom to serve!

If we lose our freedom in this country it won't be because of heavy-handed laws like the Soviet statute of 1928. It will be because an apathetic Church has grown sluggish and uncaring, its very indifference fueling the steady growth of government—to the eventual loss of liberty.

This is why organizations like Prison Fellowship, working within the Church, are so crucial. Sometimes I'm asked why we bother to organize volunteers, help inmate families, work for criminal justice reform. Why we are not content to simply preach the Good News?

What has happened in the Soviet Union should serve as a good answer: for living out the Gospel, as well as preaching it, is what makes the Invisible Kingdom visible, against which no tyrant can stand. Perhaps the Soviet rulers understand better than we the power of what the Apostle James called "pure and underfiled religion—to visit orphans and widows in their distress . . ."

Most of you who support and work with Prison Fellowship probably do so because as Christians we are not only commanded to tithe and serve, we are constrained to do so by the love of Christ. We are to care for those "in distress" out of gratitude for what God has done for us.

But Georgi Vins and thousands like him who live today under vicious Soviet persecution remind us of yet another reason for caring. Individual involvement and voluntary ministries are not only an expression of human freedom, they are a vital part of keeping it.

WALGREN INTERN AWARDED RHODES SCHOLARSHIP

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. WALGREN. Mr. Speaker, I was very pleased to learn yesterday that David C. Frederick, a student at the University of Pittsburgh, was 1 of 32 students selected to be a Rhodes Scholar at Oxford University in England.

David interned in my Washington office this past summer and made a tremendous contribution. I want to congratulate him and his family on this great honor. We are very proud of him.

The following article in the Pittsburgh Press details the award:

[From the Pittsburgh Press, Dec. 20, 1982]

PITT UNDERGRAD SCHOOL'S FIRST RHODES SCHOLAR

(By Martin Smith)

David C. Frederick, a University of Pittsburgh senior majoring in political science and history, is one of 32 American students selected for the prestigious 1983 Rhodes Scholarship for study at Oxford University in England.

Frederick, son of Dr. John Howard and Marian Frederick of San Antonio, Texas, apparently is the first Pitt undergraduate so honored. A number of Rhodes Scholars have developed ties with Pitt since they returned from Oxford.

"I'm pretty happy about it, all," Frederick said today from his Texas home, where he is spending his Christmas break. "That's my first gut reaction. I'm very excited about the opportunity to go and very much looking forward to it."

The group of 32 scholars was announced Saturday by David Alexander, American Rhodes secretary and president of Pomona College in Claremont, Calif.

The scholarships were established in the will of British colonial statesman Cecil J. Rhodes, who died in 1902. About 75 scholarships are awarded worldwide annually to outstanding students who also are involved in athletics.

Frederick said he plays intramural football, basketball and volleyball at Pitt.

The nominees were chosen from 183 applicants. They still must be ratified by the Rhodes Trustees and accepted by one of the colleges at Oxford University.

According to Pitt spokeswoman Mary Ann Ang, Frederick attended Pitt on a debate scholarship and was a member of the backup squard to the team that won the 1981 National Debating Championships.

Frederick is in the Pitt honors program and is on the staffs of the Pittsburgh Undergraduate Review. The only professionally supervised journal in the country and the Journal of Public and International Affairs, which is published by Pitt's Graduate School of Public and International Affairs.

Barry Appleman coordinator of honors advising at Pitt, said Frederick has a 3.9 QPA and is scheduled to graduate in April.

He's won more than 26 awards in intercollegiate debate, including several top speaker awards and tournament championships.

In 1981, he won the Harry S Truman Scholarship Award, which is given by Congress to one student in each state and provides money for undergraduate and graduate study.

This year Frederick was awarded the Rotary International Graduate Scholarship for Study Abroad, which he said he will have to forgo in order to attend Oxford.

He worked for U.S. Rep. Doug Walgren in Washington this past summer as a staff aide.

On campus, he is a member of the Academic Affairs Committee of the Student Governement Board at Pitt, and is a member of the William Pitt Debating Union.

Frederick said he will leave for Oxford in early October.●

NUCLEAR REALITY

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. GRAY. Mr. Speaker, old-fashioned realpolitik does not apply in the nuclear age:

Major powers can no longer accept conflict as an inevitable means to pursue national interests. Rather, nations must recognize their fundamental mutual interest in avoiding the destruction of mankind.

The superpowers cannot today engage each other in limited conflict, proportionate to the stakes involved. Any such confrontation could escalate dangerously.

Calculations on when and how to go to war, and on diplomatic strategies for avoiding conflict, can no longer be left to the experts. In the United States and Western Europe, and, indeed, throughout the world, the civilian masses who are the potential victims of nuclear war have asserted their right to share in decisions on war and peace.

Policymakers can no longer dismiss ethical considerations by asserting the basic righteousness of "just wars." No cause could justify the annihilation of life on Earth. The church today is seized with this overriding moral question. Religious leaders and concerned laymen of all faiths, all denominations, are in the forefront of the effort to end the senseless nuclear arms race.

Maj. Gen. Kermit D. Johnson, retired chief of chaplains of the U.S. Army, has explored these consequences of today's nuclear reality in a thought-provoking article in the Cristian Century. I ask that the article be reprinted in full.

The article follows:

[From the Christian Century, Oct. 13, 1982]

THE NUCLEAR REALITY: BEYOND NIEBUHR AND THE JUST WAR

(By Kermit D. Johnson)

As a Commissioner to the 1980 General Assembly of the United Presbyterian Church, I was convinced that the church's new peacemaking efforts needed "a good dose of Niebuhr." I saw "The Call to Peacemaking" document as pacifistic and deficient in its failure to affirm the "just war." In a brief speech to the Peacemaking Committee, I closed this way:

"I dare say that if 'The Call to Peacemaking' were being written just after World War II, it would read differently. With the memory of Munich, it probably would include a statement something like this: 'There can be no security in a world whose obsession with peace leads to appeasement.'"

Then I quoted from Reinhold Niebuhr's letter to a pacifist who was reluctant to favor the Allied war effort against Hitler:

"Your difficulty is that you want to try to live in history without sinning . . . our effort to set up the Kingdom of God on earth ends in a perverse preference for tyranny, simply because the peace of tyranny means, at least, the absence of war" (*Love and Justice* [Westminster, 1957]).

This was the dose of realism I felt my Presbyterian brothers and sisters needed.

Now, two years later, I am in a different place. Although my background includes graduation from West Point, Command and General Staff College, the U.S. Army War College, overseas service in Okinawa, Germany and Vietnam, combat duty as a company commander in Korea and chaplain assignments at every level of the army, including the Pentagon, none of this experience has prevented a gradual but inexorable change in my viewpoint during the past two years. No, I did not become a pacifist. In fact, I will probably continue to bristle when the facile warmongering stereotype is unfairly and uncharitably applied to the

many fine leaders of our armed forces. Likewise, I will continue to defend those military chaplains whose self-identity and role definition is so clear that they lend no credence to Niebuhr's remark, "Kings use courtiers and chaplains to add grace to their enterprise."

What has changed is my view of nuclear warfare and nuclear weapons. The change is by no means unusual or unique. In the May 1982 chief of chaplain's newsletter, I referred to the people of Europe who feel they are "living on the battlefield." Then I shared my own feelings:

"I believe that statement can go further: We are all living on the battlefield. We are all vulnerable. For years I have put this out of my mind, knowing perhaps in some distant or subliminal way that it was true. But it never "grabbed" me. I just really did very little thinking about it. That is not true recently, however. This new awareness is happening to many people the world over. I believe this is of God, and I believe this is something God is doing in human history today. Doubtless it is striking fear into the hearts of many, leaders and policy-makers especially. This awareness of itself may not automatically determine immediate specific policy, but it is right that human beings be aware that it is wrong to be nonchalant, unthinking and indifferent about the real danger of the possible destruction of humankind. I welcome this widening awareness as a divine intervention, a warning and a signal, possibly a life-and-death "last chance" for human civilization. Life is a precious gift of God, willed by our Creator, but it cannot continue unless we also will that it does."

If I were to revisit the Peacemaking Committee now, I would say to them that the question is not whether we are to "live in history without sinning," but whether we are to live in history at all. If we were to apply Niebuhr's real politics, with its ready acceptance of the inevitability of conflict, to the present nuclear situation, it could well mean "a perverse preference for the war of mutual annihilation, simply because the war of mutual annihilation means, at least, that the other side doesn't win either." In speaking of plans for a protracted nuclear war, Secretary of Defense Caspar Weinberger said recently that nuclear war was not winnable but that "we certainly are planning not to be defeated" (New York times, August 9, 1982).

In view of continued presidential certification and support of the government of El Salvador, I would conclude, "There can be no peace in a world whose obsession with security leads to denying the claims of human rights and justice." Finally, I would still admit that under certain circumstances, weakness invites aggression. Peacekeeping has a place. The United States Army War College motto, "Not to promote war, but to preserve peace," is the idea behind the Armed Forces motto, "Peace through strength." But now I would have to ask, "When does 'peace through preparation for war' make war a more likely possibility?" Certainly I would say, "There can be no peace in a world whose obsession with security leads to a never-ending arms race."

Reinhold Niebuhr saw history as a "long tale of abortive efforts to establish peace," with failures due "either to the effort to eliminate the factor of force entirely or to an undue reliance upon it" (*Moral Man and Immoral Society* [Scribner's, 1932]). During the rise of Hitler and World War II, Niebuhr moved from his early pacifism to focus on the pacifist's unrealistic effort to eliminate the factor of force. But now it appears that Niebuhr's comment on "an undue reliance upon the factor of force" was more prophetic. The undue reliance on force by both the United States and the Soviet Union is characterized by nuclear overkill, indiscriminate arms peddling, and the wasting of precious human and national resources in an unending arms race.

Given these conditions and Niebuhr's ability to shift his thinking, I wonder if he were living today whether he would not sharply limit his application of real politics. He reminded us that realism, not moralism, guides the conduct of nations. Nations relate to one another simply on the basis of self-interest. It is unreasonable and moralistic to expect nations to reflect the virtues of individuals—hence his book title, *Moral Man and Immoral Society.* Niebuhr chided moralists for failing to understand "the brutal character of the behavior of all human collectives." The stark realities of power and conflict must be accepted as inevitable. Indeed, "to the end of history the peace of the world . . . must be gained by strife."

Such ideas from Niebuhr's real politics blunted moral attacks on war and helped provide an easy conscience to a generation of American policymakers. But now the case for realism appears to be moving beyond Niebuhr. Real politics, with its acceptance of the inevitability of conflict, is no longer realistic—not when two nations with a total of more than 50,000 nuclear weapons can essentially obliterate one another. We must go beyond real politics, from self-interest to shared interest. Despite their competing systems, the U.S. and the U.S.S.R. have a shared interest in survival Niebuhr states it clearly:

"The peril of nuclear war is so great that it may bridge the great ideological chasm between the two blocs and make them conscious of having one thing in common: preference for life over death" *(The Structure of Nations and Empires* [Scribner's, 1959]).

In order to realize this preference, we must go beyond Niebuhr's realistic observation that groups and nations relate predominately on a "political rather than ethical" basis. If we cannot, then we must face the likely doom of the human race. Ironically, a recently revealed memo which former president Harry Truman wrote in 1958 indicates that he feared precisely this failure.

The nuclear reality not only takes us beyond Niebuhr and real politics; it also takes us beyond the "just war" as a justification or rationalization for the use of nuclear weapons. Nuclear warfare is indicted, not vindicated, by the limiting categories of just-war criteria such as due proportion, just means, just intentions and reasonable possibility of success. The burden of proof is on those who would say otherwise. A limited nuclear "just" war can be theoretically conceived of in a textbook scenario, but is it possible in the real world? War is confusion, chaos and hell, not predictable sequences. Even if nuclear weapons were to be used as counterforce, and even assuming that noncombatants could be protected, the question of escalation would remain unanswered—not to mention long-term environmental or genetic damage. How can we know that any use of nuclear weapons will not result in catastrophic escalation?

In 1978, General Creighton Abrams was said to have interrupted a discussion about limited nuclear war "with an expletive, followed . . . by the statement, 'One mushroom cloud will be reported as one hundred, and that will probably be the end of the world.'" The technical discussions as to when or whether nuclear weapons can be used without violating just war criteria are irrelevant unless the question of escalation can be answered with certainty.

I suspect that a number of these conclusions are shared by many middle-of-the-roaders who have thought of themselves as just-war adherents. Our realization that the just war theory provides no justification for nuclear weapons or nuclear warfare has involved painful reappraisal, a "shaking of the foundations." However, some of us were prodded and assisted by the cavalier comments of leaders in the current administration. European nuclear protest has been accounted for as "Protestant angst" (Assistant Secretary of Defense for International Security Policy Richard N. Perle) which was "bought and paid for by the Soviet Union" (President Ronald Reagan). On this side of the ocean, Secretary of the Navy John Lehman blamed "a few uninformed and overly idealistic religious leaders."

This trivialization of nuclear concerns was a misreading of the across-the-board struggle taking place with issues of life and death, of the widespread sense that this may be the "last chance" for human civilization. Since our leaders did not have the sensitivity to feel the moral earnestness of literally millions of European and American people, it is legitimate to ask how sensitive they are to the moral issues themselves.

In good will we might patiently wait for signs of moral leadership, but the facts of history do not offer us this choice. We were the first and only nation to use atomic bombs in war. It was a presidential decision; the American people were not consulted. Furthermore, in our armed forces schools, military officers in tactical war gaming make the assumption that nuclear "release" will be forthcoming in any major war. Where did such an assumption come from?

All these factors heighten the importance of the present nuclear debate. If there is any hint from our political leaders that the use of nuclear weapons is regarded once again as one of the prerogatives of power in a "close hold," then at they very least the nuclear debate ought to serve the purpose of forcing openness, or what Jacques Ellul called "unmasking." Using nuclear weapons does not fit into the "If I felt the American people needed to know . . ." category. History, if there is to be a history at all, must not repeat itself.

But the only guarantors of this history are the American people themselves. As reported in the Washington Post, former secretary of defense Robert S. McNamara implicitly assigned this responsibility recently when he attempted to account for the tremendous nuclear buildup by the U.S. and the U.S.S.R. in the last 15 years. Robert Scheer asked, "But how did this happen?" McNamara's response: "Because the potential victims have not been brought into the debate yet, and it's about time we brought them in. I mean the average person."

In order for this participation to take place, "the average person" must overcome a passive feeling of inferiority which blindly blesses government policy, and is content to "leave it to the experts." The question is not whether we trust our leaders, but whether our leaders can be made to trust the American people and bring them into their confidence. Gatekeeping is a permanent feature of any bureaucracy.

At lunch with me one day in the Pentagon, a senior Defense Department official complained about Roman Catholic bishops who, in involving themselves in nuclear issues, were "tampering in geopolitical areas." I responded by defending the bishops' right to transgress the sacred soil of geopolitics; the possible killing of human beings is certainly a moral question. "Potential victims" have a right to be brought into the debate and the decision-making process concerning their fate.

"Potential victims" must also break through their sense of foreboding and inevitability—the prime ingredient which could bring us to a nuclear holocaust. In reflecting on the Truman-Churchill decision to use the atomic bomb, Niebuhr said, "The question is whether they were not driven by historic forces more powerful than any human decision." Will competitive forces "more powerful than any human decision" once again drive us toward use of nuclear weapons and ultimate disaster? Or will we decide that human decisions can and will control our destiny?

It now appears that the U.S.-U.S.S.R. arms race has taken on "a life of its own." Completely apart from the "Soviet threat," the reason this is so is that we have ascribed an idolatrous power and ultimacy to weapons, which has deepened our dependence on them and increased our feelings of inevitable disaster. Therefore our president "orders" another 17,000 nuclear weapons. And he proposes to sell $25 billion worth of arms in a single year to a waiting world. The familiar statement "If we don't, someone else will" is a sign of the paralysis of "inevitability" and lack of moral leadership—not a valid reason for arms peddling.

Last year Frank C. Carlucci, deputy secretary of defense, described what he believed to be an election mandate: "We are obliged to rearm our country." Then, in anti-gun-control language, he said, "A casual appreciation of history reveals that neither weapons nor armies start wars. People start wars." This, of course, is nonsense, even though it is true that people start wars. What is so tragic is this nonchalant approach to weapons, as if they were just another commodity such as wheat or silver. Admiral Hyman G. Rickover's sense of history in his "final blast" before retirement was more accurate:

"The lesson of history is: When a war starts, every nation will ultimately use whatever weapon has been available. That is the lesson learned time and again. Therefore, we must expect, if another war—a serious war—breaks out, we will use nuclear energy in some form. That's due to the imperfection of human beings" (*New York Times*, January 30, 1982).

Even though Rickover seems given over to the probability of nuclear extinction, he nevertheless seems to appreciate that weapons are not "neutral," that their presence introduces a compelling temptation for human beings to use them.

"People think that they have no right to judge a fact—all they have to do is to accept it. . . . A striking example of this religious authority of the fact is provided for us by the atomic bomb. Confronted by this discovery, by this instrument of death, it was quite possible for man to refuse to use it, to refuse to accept this fact. But this question was never even raised. Mankind was confronted by a fact, and it felt obliged to accept it. All the questions which were raised after that were secondary: 'Who will use this weapon? How shall we organize our economy with it in view?' But no one ever raised the question 'Is this line of action itself good or bad?' The reason is that 'the fact' itself as the present time seems to be something which is beyond good and evil" (The Presence of the Kingdom [Seabury, 1967]).

Actually, Ellul is not quite correct in stating that the question of refusing to use the atomic bomb "was never even raised." The matter was never considered in any public forum. However, the Committee on Social and Political Implications in its report to then-Secretary of War Henry Lewis Stimson stated prophetically:

"The use of nuclear bombs for an early unannounced attack against Japan is inadvisable. If the U.S were to be the first to release this new means of indiscriminate destruction upon mankind, she would sacrifice public support throughout the world, precipitate the race for armaments, and prejudice the possibility of reaching an international agreement on the future control of such weapons" (quoted in Alan Geyer, The Idea of Disarmanment [Brethren Press, 1982]).

This committee foretold the consequences of the nuclear "Fall." They underscored Ellul's contention that nuclear weapons command a religious authority over our lives.

We cannot reverse the fall, but what we can reverse is our continued complicity in nuclear idolatry. The time has come for the American people to overcome the religious authority of nuclear weapons by questioning their basis in "fact." Neither real politics nor the just war theory can provide a legitimate basis for their existence or use. The "fact" of nuclear weapons has been superseded by a more compelling fact: that human beings have a right to live free of the risk of mutual nuclear annihilation. This is the essence of European and American nuclear protest.

Paul Warnke's comment that the START talks were "conceived in sin" (as a result of grass-roots pressure) indicates the reluctance of the leaders of this administration to face the primary moral question of nuclear arms control and elimination. Having accepted nuclear weapons as "fact," these leaders have concentrated on secondary questions concerning nuclear capability and use. Now it is time for our leaders to exercise their considerable talents in the "politics of self-interest" by stopping the nuclear arms race instead of continuing to justify and stockpile the means of mutual suicide.

Albert Einstein once said, "We live in an age of perfect means and confused ends." Our politicians and the technicians of violence have shown great dedication to perfecting the means for human extinction. Now it is time for them to back off and ask, "to what end?" If they cannot exercise a commensurate moral leadership in addressing this question, then it is time for the leaders to be led.●

MR. RANGEL'S VOTE WAS MISRECORDED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. RANGEL. Mr. Speaker, yesterday we in the House had an opportunity to vote on H.R. 3963, regarding drug-dependent Federal offenders.

It was my intention to cast my vote in the affirmative, and it was only through an error that it was not recorded as such. I would like the RECORD to show that this piece of legislation has my firm support.●

CONSTITUTIONAL BANKRUPTCY COURT: H.R. 6978 BANKRUPTCY COURT ACT OF 1982

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. RODINO. Mr. Speaker, I have been speaking on the floor and inserting material in the RECORD for some time now about the pressing need to address the impending constitutional crisis in the Nation's bankruptcy court system. The judicial branch of Government has afforded this institution two opportunities to solve the constitutional infirmity in the bankruptcy court system. The second deadline imposed by the Supreme Court is rapidly approaching, and the Congress has still not acted.

I want to bring to the attention of my colleagues two articles appearing today in the New York Times emphasizing the importance of congressional action on this matter prior to December 24. I am inserting these articles in the RECORD in an extension of my remarks.

[From the New York Times, Monday, Dec. 20, 1982]

THE BANKRUPT CONGRESS

Six months ago the Supreme Court gave notice that the nation needed a new law to reconstitute the Federal bankruptcy courts. Yet the dying Congress has been unable to fashion one. Blame for the default, which will inevitably increase the suffering of failing individuals and businesses, must be shared by a prideful Federal judiciary, a Reagan Administration hungry for new judgeships and a greedy credit industry.

The Supreme Court ruled in June that any judge with all the powers of a bankruptcy court judge must have the life tenure and protection against pay cuts that the Constitution confers on all Federal judges. It is an essential guarantee of independence. But recognizing that bankruptcy court reform was no overnight matter, the justices stayed their mandate and gave Congress first until Oct. 4 and then until Dec. 24 to work out an acceptable plan.

In the absence of a plan, the judiciary must now revert to a clumsy system in which Federal district judges and bankruptcy referees shuttle cases from one court to another. It will be costly and painful; it is also likely to let avoidable financial disasters happen. A much better solution has been easily available: create a unified bankruptcy bench with the rank, but not the pay, of the Federal trial bench.

That did not sit well with the Federal judiciary and its lobby, the Judicial Conference of the United States, which is chaired

by Chief Justice Burger, a dissenter from the High Court's decision. The jurists are afraid that the prestige of 515 trial judges would be diminished by the addition of 227 new bankruptcy judges—even if they earn less.

The Administration saw the need to upgrade the bankruptcy bench but wanted the new judges to be interchangeable with trial judges so that they could handle other kinds of cases, even civil rights suits. But that would require screening every bankruptcy nominee for all the attributes of a regular judge, including philosophy and social attitude. It would be unwieldy if not unworkable.

Then came the crushing blow from the credit industry, which wanted to undo the legal benefits given to debtors by the 1978 Bankruptcy Reform Act. Senator Dole turned the bill to upgrade judgeships into a creditors' Christmas tree. Where the 1978 law gives debt-ridden wage earners a fresh start, he would have leveled them to the poverty line before excusing their debts. This counter-reform, which was going nowhere on its own, blocked a feasible remedy for the real problem.

Some now predict chaos. Perhaps even Congress will then see that judicial effectiveness is more important than judicial pride, that economic justice has priority over patronage and creditor power. A Congress that can't even give the country an efficient way to go broke is bankrupt.

[From the New York Times, Dec. 20, 1982]

FATE OF BANKRUPTCY SYSTEM IN DOUBT

(By Stuart Taylor Jr.)

WASHINGTON.—The nation's bankruptcy system will apparently slip into legal paralysis before year's end unless the Supreme Court gives Congress another extension of its Dec. 24 deadline for restructuring the bankruptcy courts.

Legislation to cure the constitutional defects that the court found in a June 28 ruling striking down the powers of bankruptcy judges appears all but dead as Congress staggers toward adjournment. And the Justice Department says that if the matter goes over to the new Congress meeting in January, legislation may be months away.

There was still talk today of bringing various proposals to the floor of Congress, but neither the House nor the Senate appears likely to pass a bill before going home, and any bill passed by one house would run into heavy opposition in the other.

House Speaker Thomas P. O'Neill Jr. has already pronounced all bankruptcy legislation dead for this session.

The paralysis would occur because the authority of the bankruptcy courts to take any action at all, such as approving the sale of assets, would be in doubt. How judges would interpret their shrunken mandate is unclear, but any actions that they might take could become subject to legal challenges later, yielding a second layer of jurisdictional litigation on top of the bankruptcy proceedings.

Experts said bankrupt companies in reorganization and their creditors would be plunged into disruption verging on chaos.

The Supreme Court could avert this by extending for a third time the effective date of the June 28 decision, but such an extension would be highly unusual. It would come, if at all, only at the last moment, according to those familiar with the problem.

Paralysis in the bankruptcy system could exert a substantial drag on the economy. Billions of dollars in assets and hundreds of thousands of jobs are riding on the fate of bankrupt companies. More than 700,000 bankruptcy estates are pending, with new petitions being filed at a rate of more than 10,000 a week.

"It's almost incalculable the damage the confusion will cause if the deadline isn't met," said Sanford C. Sigoloff, chairman and chief executive of the Wickes Companies, the nation's second-largest company in bankruptcy proceedings after the Manville Corporation.

MODEL RULE ON JURISDICTION

The Judicial Conference of the United States has proposed a model rule for the nation's 91 Federal district courts, which it hopes will enable bankruptcy proceedings to muddle through without collapsing.

The rule, which does not have force of law, provides vague guidelines for dividing jurisdiction over bankruptcy cases between the district courts and the bankruptcy courts.

But the Justice Department, a Harvard law professor, Vern Countryman, and most other leading bankruptcy law experts say this rule is unworkable and of doubtful constitutionality. Mr. Sigoloff wrote President Reagan that it "would result in the very delay and uncertainty that is anathema to a successful business reorganization."

Mr. Countryman predicted that efforts to keep bankrupt companies like Wickes in operation by selling assets and borrowing money would "come to a screeching halt," because no buyer or lender could safely assume that the required court approvals would prove to be valid.

"It's going to be a big problem for both debtors and creditors because things won't get done, particularly in cases where they're trying to reorganize companies; the assets will just be depreciating and some of these companies will be dead," he said. Some of their creditors, which would be stuck with bad debts, could also "start to topple," he added.

PARTS OF 1978 LAW DISCARDED

The Supreme Court's June 28 ruling struck down portions of a 1978 law that authorized bankruptcy judges to decide all disputes involving individuals and companies that file for bankruptcy, including such things as state law contract and tort suits.

The court said that only judges who enjoy the life tenure and other protections of Article III of the Constitution could constitutionally exercise such broad powers. Under the 1978 law, bankruptcy judges would be appointed for terms of 14 years and subject to removal, after a transitional period that was interrupted by the court's decision.

It is unclear what, if any, bankruptcy jurisdiction either the bankruptcy courts or the Federal district courts have left. The confusion results from differing rationales used by the two groups of Justices who made up the majority in the case.

These two groups of justices did agree that the 220 bankruptcy judges will have no jurisdiction at all when the decision becomes effective, because the unconstitutional portions of the statute defining their power were not "severable" from the constitutional portions.

Mr. Countryman and some other experts also interpret the decision as leaving even the Federal district courts with no bankruptcy jurisdiction until Congress acts.

But the Judicial Conference, chief policy-making body of the Federal courts, says that the district courts still have jurisdiction over all bankruptcy matters and can refer some issues to the bankruptcy judges under its model rule.

Experts predict a rash of new litigation as bankrupt companies and creditors challenge the Judicial Conference rule, leading ultimately to another Supreme Court decision.

There is widespread agreement among experts that even if upheld, the Judicial Conference approach would result in long and damaging delays and confusion.

The Supreme Court originally stayed its decision until Oct. 4 to avert disruption and give Congress time to pass new legislation. The court extended the deadline to Dec. 24 at the request of the Justice Department after Congress became stalemated. Late tonight, Congress was still deadlocked.●

A TRIBUTE TO JIM JEFFRIES

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

● Mr. COURTER. Mr. Speaker, there are few Members of this governmental body who have served their home district with as much dedication and conviction of principle as JIM JEFFRIES, of Kansas.

In his two terms in Congress, JIM has voiced his strong personal beliefs about many controversial issues, which the less committed of us skirted for fear of a head-on collision with adamant parties of the opposing position. JIM has always been clear on his opinions on the day's issues. Though many of us can disagree with this man's viewpoint and priorities, JIM must be admired for his straightforwardness and honesty—virtues, I might add, which are becoming increasingly scarce in today's society.

Although a consistent conservative on matters of both economic and social importance, he was also a man of compassion, a Representative who listened to his constitutents and their opinions.

JIM JEFFRIES has been diligent in his duty and responsive to the people who elected him as a Member of Congress. I will miss him and wish him all the best for a fulfilling future.●

ASSISTANCE NEEDED NOW TO HELP AMERICA'S INDUSTRIES

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. APPLEGATE. Mr. Speaker, as I have done previously, I want to share with my colleagues a very recent letter that pinpoints the true feeling of the people I represent and many of those that other Members represent, too. This should send a definite message to the White House and this Congress that assistance is needed now to help America's industries, and its workers.

The text of the letter follows:

STEUBENVILLE, OHIO,
December 15, 1982.

DEAR CONGRESSMAN APPLEGATE: First of all, I want to applaud you for the letter you wrote to President Reagan on imports. I feel as if more Congressmen-Senators-Representatives would have the intestinal fortitude to stand up to and demand something to be done—there must be something that can be done—to straighten this situation out.

I am unemployed, I've worked hard all my life, always provided for my family; now I've been unemployed for 14 months and it is getting hard or should I say desperate—no job, no unemployment, and no welfare benefits—Welcome to the Working Class Poor. The people of this country need help desperately!

Frankly, Doug, I'm scared. What is the near future holding for us? The only people that can help us is our elected officials, they are the only ones that can get the message of desperation through.

At this time, Wheeling-Pittsburgh Steel is holding negotiations with the USWA. It is rumored that W-Pgh wants a concessionary package worth more than $100 million! There is no doubt in my mind that Mr. Dennis Carney and W-Pgh Steel will get the concessions that they want. Myself, I would gladly give away as much as is needed, but I also need my job back. There is no guarantee with the agreement of this concession package that I will return to work.

I am a good worker, a hard worker, always have been. I have devoted 10 years of my life to the Corporation. I don't want welfare or aid, in spite of my weekly $72.00 unemployment benefit which I am totally grateful for, and which will soon be gone.

I want you to know that I back you, I voted for you and have faith in you and hope that your efforts help to find means to help my fellow brothers and sisters. We are the new poor, the Working Class Poor!

Thank you for your time, and once again, I applaud you!

Sincerely,

DAVID F. EDWARDS,
Member Local Union 1190.●

THE LAUNCH-ON-WARNING PROBLEM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. UDALL. Mr. Speaker, much of the current debate on the nuclear arms race has focused on the aggregate level and sophistication of United States-Soviet arms. As an advocate of the bilateral nuclear freeze, I am concerned that another round of quantitative and qualitative improvements in United States and Soviet nuclear arsenals could undermine diplomatic efforts aimed at a negotiated reduction in forces and destabilize the existing strategic balance. But at the same time I think we should look at other steps that could reduce the risks of nuclear war, particularly steps that could move defense planners away from any possible reliance upon a "launch-on-warning" posture.

At this point I would like to insert into the RECORD a recent article on this subject by Alton Frye, the Washington director of the Council on Foreign Relations. His conclusions are worth close study:

[From the Los Angeles Times, July 16, 1982]

SURPRISE-ATTACK PROBLEM RETURNS—CURBING THE DANGEROUS COMPULSION TO "LAUNCH ON WARNING"

(By Alton Frye)

The static level in Soviet-American communications remains high. It is not always easy for one side to make out what the other really means. An important example arose this week: Soviet Defense Minister Dmitri F. Ustinov seems to be saying that Moscow is moving to a "launch-on-warning policy"—a policy of triggering a nuclear attack on the basis of radar or satellite detection of an unfolding U.S. missile assault.

The message is hardly novel, but is important. Some observers are dismayed that the Soviets would adopt such a dangerous policy. Some doubt that they could. Some believe that they already have.

Soviet military planners have never placed as much emphasis as Americans do on having forces capable of riding out a possible nuclear strike. While they have sought to make their weapons survivable, Soviet military authorities have usually stressed the promptness and massiveness of the "rebuff" that they would deliver to any aggressor. Preparations for such a prompt response are, however, virtually indistinguishable from those for a possible preemptive strike, a fact that could become the crucial instability in a superpower crisis.

It is widely thought in Western intelligence circles that Soviet strategic forces have not maintained the high readiness and alert posture that have prevailed in U.S. nuclear forces. Ustinov's statements suggest that this may no longer be the case. It may even be that the Soviet leadership has had to quell internal opposition to its recent pledge not to use nuclear weapons first by moving its forces to a higher state of readiness and by making clear that the United States would have no chance to destroy Soviet forces by a surprise strike. These developments accelerate the erosion of mutual stability between the two countries.

Both the United States and the Soviet Union now find themselves subject to similar compulsions growing out of technological and doctrinal change. Westerners have long seen worrisome tendencies in Soviet military writings, which have repeatedly emphasized the advantages of pre-emptive strikes to disrupt an ememy's capacity to respond. As Soviet strategic forces grew more numerous and more capable during the 1970s, concern mounted that the Soviets might actually entertain the notion of fighting and winning a nuclear war. Most strategic analysts are skeptical, but that concern came to dominate American policy in the Reagan Administration.

One key technical change was the Soviets' deployment of missiles with storable liquid (unlike their earlier rockets, which had to be fueled immediately before launch). Whether for purposes of a preemptive strike or launch on warning, many Soviet missiles can now fire on short notice as American solid-fuel missiles have been able to do for two decades.

These trends obscured the altered tone of top-level Soviet pronouncements that have increasingly stressed the utter futility of nuclear war. In President Leonid I. Brezhnev's phrase, "Only he who has decided to commit suicide can start a nuclear war in the hope of emerging a victor from it." And the chief of the Soviet general staff, Marshal Nikolai V. Ogarkov, has been as wary of nuclear conflict as have Western officers, saying that "the very nature of modern weapons is such that, if they are put into play, the future of all mankind would be at stake."

In view of the Soviet Union's military buildup, it is tempting to scoff at professed Soviet worries about a U.S. first strike. Neither Ronald Reagan nor any other U.S. President has seen himself in the role of aggressor. Yet the new allusions to an incipient Soviet move to launch on warning should cause us to examine aspects of our behavior that may have contributed to such inclinations. Least important is the American refusal, rooted in alliance considerations, to join in a no-first-use pledge regarding nuclear weapons.

The Soviet defense minister's hints differ little in substance from those that U.S. officials have already dropped. Despite obvious reluctance to embrace the launch-on-warning concept, former Secretary of Defense Harold Brown pointed out that the Soviets could never be confident that the United States would not respond to an attack on our missile fields by emptying some or all of the silos at first warning. Similarly, while U.S. experts are becoming preoccupied with the threat of "nuclear decapitation" (destruction of command and control facilities essential to effective retaliation), Soviet planners have to contemplate the implications of Presidential Directive No. 59, which specifies the option of wiping out Moscow's political and military control centers. Presidential talk of limited nuclear war and the appointment of leading advocates of nuclear war-fighting doctrines to senior positions in the Reagan Administration must have fed the Soviets' apprehension. They could take no comfort from American claims that Washington was only reacting to a percieved Soviet belief that nuclear wars would be fought and won: it is a familiar Soviet gambit to justify their own actions by citing Western sources.

The mutual suspicion generated by this jostling is compounded by both governments' awareness that they are acquiring weapons that makes strikes against land-based targets more plausible. Soviet SS-20 and American Pershing 2 missiles could virtually eliminate warning times for targets in Europe. And new generations of ICBMs—Soviet SS-18s and -19s and U.S. Minuteman 3s today, MXs and Trident 2s tomorrow—jeopardize all fixed strategic targets in both nations.

Here is a point that deserves special emphasis. This theoretical Soviet ability to destroy U.S. land-based missiles—about 25% of our total strategic force—should give us some understanding of likely Soviet fears about the vulnerability of their land-based missiles—about 70% of their total force. It is true that the Soviets might eliminate all U.S. ICBMs and that the United States could not eliminated all Soviet ICBMs. But there is a more critical fact. Because of the concentration of Soviet warheads on a relatively small number of big missiles, the United States could probably destroy more than half the Soviet warheads by using its Munuteman 3 missiles alone. While the Soviets hold hostage all American ICBMs. they threaten only a fraction of American warheads: the United States holds hostage only a fraction of Soviet ICBMs, but it

threatens most of the Soviets' strategic warheads.

All the talk of hard-target-kill capabilities and time-urgent targets was sure to breed interest in the possible necessity of launch on warning. Beneath the jargon is the disturbing knowledge that both the Soviet Union and the United States must now take the danger of surprise attack more seriously than at any time since missiles succeeded bombers as the main instruments of strategic warfare. A quarter-century ago, that danger was the focus of extended discussions between experts dispatched from Moscow and Washington. The time has now come to restore it to a central place on the agenda of nuclear-arms negotiations.

In addition to his proposals for arms reductions, President Reagan has spoken of other measures to reduce the risk of nuclear war. Sen. Gary Hart (D-Colo.) has repeatedly pointed to the need for negotiated arrangements on nuclear war prevention (as distinct from arms reductions), since both sides will long retain vast inventories that must be strictly governed if stability is to endure.

Out of these concerns, one can devise a number of useful initiatives. Both sides have sometimes been imprudent in the way in which they have exercised their strategic forces. Last month's multiple-missile-launch demonstration by the Soviets was a needless provocation, just as the multiple launches and certain other operations conducted by the Strategic Air Command in the so-called Golbal Shield programs may have been unwise.

In order to diminish confidence in the feasibility of counterforce strikes, several provisions would be useful:

Prior notification of all missile and space launches.

A flat ban on multiple rocket firings.

A prohibition of tests of new, more accurate re-entry vehicles.

A strict annual ceiling on ballistic missile tests of any kind.

These and other ideas would not preclude further refinements in the two sides' forces, but they would degrade prompt-attack capabilities—the real source of pressure for launch on warning.

A more far-reaching notion also warrants discussion. Two decades ago, Nikita S. Khruschev said he thought that it was "appropriate" to establish ground observation posts on both sides of the Iron Curtain in order to reduce the danger of surprise attack. Perhaps that is an idea whose time has come. Reagan wants to beef up the "hot line" linking political leaders in the two capitals. It would be even more useful to establish launch monitors in the missile fields on both sides, suitably equipped and tied to their home countries by secure communications. While they would have no capacity to impede missile operations, such monitors could provide immediate warning of missile launches; any interference with their communications would be a valuable strategic indicator, alerting other surveillance and warning systems to observe the situation closely. These schemes illustrate a cluster of plans meriting urgent discussion, even if the goal of reductions remains elusive.

Ustinov himself has framed the matter well: "It is necessary that the factor of surprise be reduced to a minumum so that the aggressor should not be tempted to use with impunity its nuclear weapons first." That principle both nations should embrace.●

FCC RULEMAKING: CONCERNS OF LOW-INCOME AMERICA

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. GARCIA. Mr. Speaker, the Federal Communications Commission is currently considering the elimination of its financial and syndication rules governing the television industry. These changes are supported by many of us who represent low- and moderate-income areas which can contain many black and Hispanic Americans. The syndication and financial regulations currently pose the threat of increasing the isolation of poor America from information vital to our free society.

These regulations place the networks at a disadvantage in competing with pay television for quality programs. Increasingly, television's more important and popular programs are going to pay television, where only a fraction of the public can watch. Many low- and moderate-income areas have little hope of receiving pay or cable television in the immediate future. Pay television companies have, in some instances, been reluctant to provide delivery of their services to lower income areas. New York City has been engaged in a running battle with cable television companies over services to areas like the South Bronx. Thus, even low-income families who are willing to meet the additional costs of pay television may not be able to do so.

I am including a letter by Mr. Rene Enriquez, for the interest of my colleagues, which succinctly summarizes many of the concerns of the minority community. Mr. Enriquez, perhaps better known as Lt. Ray Calletano of "Hill Street Blues," is one of too few prominent Hispanic actors and is also the president of a small production company where he has experienced the other side of the production system. His letter is a rebuttal to a recent Washington Post article, presenting the case for retaining the financial interest and syndication rules now being reviewed. Mr. Enriquez' letter appeared in the December 18 issue of the Washington Post. The letter follows:

NATIONAL HISPANIC ARTS ENDOWMENT,
December 14, 1982.

EDITORIAL DEPARTMENT,
The Washington Post,
Washington, D.C.

To the EDITOR:

Policy makers in Washington are supposed to serve the public, not protect the bankrolls and privileged status of a handful of giant Hollywood production conglomerates.

In a recent Post column, Benjamin J. Stein, a comedy writer for these large production companies, presented their case for retaining the financial interest and syndication rules now being reviewed by the Federal Communications Commission.

From my personal experience as an Hispanic television actor and owner of a small production company, I want to strongly take issue with Mr. Stein's claims. Mr. Stein ignores the growing production oligopoly in Hollywood, the unfair threat these rules pose for free television, and the frustrations many minorities have experienced in trying to secure from Hollywood more prominent roles and greater opportunity for minority-owned production companies. These efforts have been strangled because of the increasing concentration of economic power in the hands of a few large Hollywood corporations since the rules were imposed in 1970.

I would like to respond directly to some of Mr. Stein's inaccuracies:

Mr. Stein speaks ominously of network "monopoly power", and that challenge to this power from pay TV is "far in the future." This is incorrect. The networks today are engaged in fierce competition with pay television. Pay television is expected to have some $3 billion more in revenue than all three networks combined by the end of this decade.

Many Hollywood production companies own major pay television companies. For years these companies argued in the interest of the public for an end to government regulations which stifled pay television. They got their way. Now, when these companies are faced with competition from a proposal to end unfair government regulations against free television, they insist it is against the public interest. They can't have it both ways.

The rules were imposed to create program diversity. But today, a handful of these Hollywood conglomerates produce the vast majority of America's television programming. CBS purchases over 97 percent of its prime time programs from just eight Hollywood production corporations, up from 54 percent when the rules were imposed in 1970. The price of syndicated programs has skyrocketed. In some cases, prices for the same program have increased over 300 percent in less than three years. These grim statistics hardly correspond with Mr. Stein's image of a "robust" industry.

Mr. Stein fears a network monopoly. But he ignores the fact that, even when the networks were unchallenged by pay television prior to the rules in 1970, all three networks combined were involved in less than 10 percent of the syndication industry.

Mr. Stein also ignores the frustrations of minorities. I feel that the major studios and production companies have simply not developed properties to feature Hispanics. I only know at present of four Hispanic actors in prominent roles, Ricardo Montalban, Eric Estrada, Rita Moreno, and myself. With 20 million Hispanic Americans looking for familiar faces on television, I consider this situation deplorable.

Precisely because the networks and their community stations are licensed by the government, they have been far more responsive to the aspirations of minority communities in the United States. I am convinced that, by again allowing the networks to participate in the syndication field, there will be greater diversity of programming and much greater opportunity for minority actors and minority production companies.

I am not alone in this concern for diversity in Hollywood and fairness for free television. In recent weeks groups representing millions of American senior citizens, minorities, working men and women and others,

have written to Congress and the FCC urging them to repeal the rules and erase the dangerous government bias against free television.

The financial interest and syndication rules do not serve the public interest. They protect the growing power of big Hollywood corporations; they unfairly damage free television; they limit minority opportunities in acting roles and the production industry; and they hurt poor and fixed-income Americans who can only depend on free television for news and entertainment.

In the public interest, these rules must be repealed.

Sincerely,

RENE ENRIQUEZ.●

HON. LEO ZEFERETTI

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 20, 1982

● Mr. ADDABBO. Mr. Speaker, I rise to wish my retiring colleague from New York, the Honorable LEO ZEFERETTI, the best of wishes for a successful career in the private sector. It is my own belief that he will do very well in private enterprise because, as we have seen here in this body over the last 8 years, he is not afraid of hard work and he is a sensitive and sensible man who is willing to go beyond the obvious in seeking the right answers to difficult problems.

I am distinctly sad about losing LEO in this body. His has been a moderate voice of reason, concerned with the working men and women of our country, with helping the handicapped and impoverished, with promoting health care and education and with insuring that our streets are safe. He has worked tirelessly to fight drug abuse and his performance as chairman of the Select Committee on Narcotics has been commendable by any standard. His work as a member of the House Rules Committee has been true to his beliefs and has been characterized by his determination to preserve the democratic process in this House while providing opportunities to the monority so that their right to make their case has never been denied.

While LEO's professional reputation has flourished during 8 years of service in this body, his personal reputation has grown as well. LEO is perceived to be a warm and easy-going man, distinctly approachable by those who seek his attention. His staff found him a joy to work for, his colleagues knew him to be a sympathetic and understanding friend, and those whose work brings them into the Nation's Capitol grew to learn they would get nothing but straight talk from this particular House Member. Those qualities might seem excessive for most Members of this body but I must point out that LEO is, after all, of Italian extraction.

So, as a political career closes, at least for the moment, I am pleased to say to my friend from Brooklyn that it has been delightful having him as a colleague, gratifying to have him as a special friend and inspiring to have his counsel and guidance in so many ways throughtout the years. I am pleased that LEO expects to remain in Washington and I know that he will do well in the private sector as he did in public life.●

BOB SHORT EULOGY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. OBERSTAR. Mr. Speaker, in November, Bob Short's courageous battle against cancer ended.

Bob Short had been a dynamic, successful business person who literally made his own fortune. He was a tireless Democratic Party official, deeply committed to the fundamental principles of the Democratic Party.

No professional, business, or political activity, however, took precedence over his deep devotion to his wife, Marion, and their seven children.

On November 24, the Reverend Monsignor Terrence J. Murphy, president of Bob's alma mater, the College of St. Thomas, delivered a most eloquent eulogy to Bob Short. I ask that Monsignor Murphy's eulogy be included in the RECORD in tribute to a man whom I considered a dear and treasured friend—he will be greatly missed.

HOMILY DELIVERED BY THE REVEREND MONSIGNOR TERRENCE J. MURPHY AT THE FUNERAL OF ROBERT E. SHORT ON NOVEMBER 24, 1982, AT THE CHURCH OF ST. OLAF, MINNEAPOLIS, MINN.

Robert Earl Short has left an indelible and proud mark on his family, friends, community, State, and Nation. His career was characterized by great ability, a sense of moral responsibility, and a sense of service to the public welfare, as well as by an energetic and intelligent approach to the challenges of contemporary life.

As an undergraduate at the college of st. Thomas, he excelled in debate, won championships, and honed the oratorical skills which led ultimately to his career in the law and his appointment as Assistant United States District Attorney, first in Washington, D.C. and later in Minneapolis.

His entrepreneurial spirit surfaced in 1950 when he resigned his position as United States district attorney to enter private business. His election as president of the Mueller Transportation Company signaled the beginning of ventures in the trucking industry which over the years brought him to national prominence in the motor carrier industry.

While most men would be fully occupied with the managing of such a major enterprise, he reached out vigorously to try his hand in various pursuits. He acquired several hotels and other real estate in both Minneapolis and St. Paul. He engaged actively in the political life of Minnesota. Most of our State's recent political leaders, particularly those of liberal persuasion, have benefited from his work on their behalf and from his generous support of their campaigns. Recognition of his leadership position in his party took many forms, among them election as delegate to State and national democratic conventions and as treasurer of the National Democratic Committee. He served the President of the United States as an adviser in the areas of manpower development and training and also in small business management.

While public service always had a high priority, he also devoted much of his time and talent to the governance and well-being of private institutions as well. He served on the board of trustees of the college of St. Thomas for the past eighteen years. He served also as a trustee of St. Mary's Hospital in this city and was a member of the law school advisory committee at the University of Notre Dame. He was a life member of the National Association for the Advancement of Colored People.

Surely, one of the most colorful aspects of his busy and varied life and career was his long association with professional sports. As owner of the Los Angeles professional basketball team and as president of the Texas Rangers baseball club of the American League, he brought sparkle, enthusiasm, and integrity to these sports.

This is the briefest recital of some of the areas of his public life. However, to know only these aspects of his life is to see only the tip of the iceberg. He was much more. There was depth of emotions which he often tried to hide. There was deep commitment to certain basic principles. There was abounding love and faith. Let me speak about two of these which, perhaps because his feelings ran so deep, he shielded somewhat from public view, namely, his love for his wife and family and his personal religious belief.

There was first of all his family—his wife, Marion, and their seven children. How he loved them and what a comfort they were to him! He wanted to be with them and made great sacrifices to do so. Night after night when a night baseball game was finished in Washington, D.C., whether it was 11:00 or 12:00, he would fly home to be with them, sometimes arriving in the early hours of the morning. But he wanted to be with them as they started their day.

He was enormously proud of them, so proud that it was evident even when he tried, as he so often did, to conceal his pride. Marion was truly the center of his life. Her support and steadying influence were a source of so much of his success. He was proud of his children and the fine men and women they have become. His influence on them was as enormous as his pride in them. Yet he would often deny that he was so influential in their lives. For example, he loved to speak of their educational achievements and of the fact that five of them have chosen law as careers. But then he would immediately deny that he had any influence by adding: "Of course I told them all to be doctors because that's a better career."

His home was truly his citadel. There he would retire at the end of the day, tired from an endless round of activities, competition, tensions, and pressures of every kind. His greatest comfort was his wife whose strength, love, and commitment provided him with healing, rest, courage, and strength. His pride in her, in his open and yet guarded way, was always evident. It was

as though he wanted all others to know of her marvelous qualities and yet to shield her and protect her privacy. He spoke of her strength and her insistence upon close adherence to the Christian life and her influence on him and their children.

The Scripture texts that we heard read at today's mass were selected by his family. They selected well because the texts struck the notes by which Bob Short lived and died. He was a man of deep religious faith, of a faith that quickly got to the core of Christian belief. We heard today Paul proclaim to the Thessalonians: "For if we believe, that Jesus died and rose, God will bring forth with Him from the dead those also who have fallen asleep believing in Him." This epistle and that to the Corinthians (chapter 15) are among the most important because they are among the earliest written statements on the resurrection of our Lord and Savior, Jesus Christ. St. Paul in his testimony to the resurrection states: "I delivered to you what I also received." What was delivered or handed on? Christ died for our sins. He was buried. He was raised up. The key words are "died" and "was raised." The burial is cited as evidence of his death. The appearances to Peter, the twelve apostles, the five hundred brethren, and to Paul himself establish the fact of the resurrection."

Quite clearly St. Paul employed a commonly used statement of belief, sort of an early form of the prayer we call the Apostles' Creed. He did so because he knew his readers would readily recognize the authoritative statement of their fundamental belief. For he concludes his statement by asserting: "This is what we preach and this you believed." Moreover, this credal statement can be checked by talking to the witnesses of the risen Christ, many of whom are still alive and giving witness to the truth of the resurrection. These witnesses are no less than Peter, the head of the whole Christian community, James, the leader of the Christian community in Jerusalem, all of the apostles and many disciples.,

All four of the Gospel as well as the Acts of the Apostles recount the fact of the resurrection, of the many appearances of Christ after the resurrection. I cite St. Paul's teaching because it is the earliest statement. It is so clearly the faith and teaching of the original followers of Christ and the first generation of believers.

The resurrection of Christ is our assurance of a future life and of our bodily resurrection. For Paul further reminds the Corinthians: "If our hopes in Christ are limited to this life only, we are the most pitiable of men. But as it is, Christ is now raised from the dead, the first fruits of those who have fallen asleep . . . just as in Adam all died, so in Christ all will come to life again . . . Christ, the first fruits and then, at his coming, all those who belong to Him."

Pious Jews offered to God the first and best of their harvest and flock. The gifts symbolized all of their possessions and even life itself, which was the dearest of possessions. By sacrificing the first of the harvest, they indicated that all the harvest that was to follow belonged to God. So, likewise, the risen Christ is the first to rise and all others who have been redeemed by Him, who are his harvest, his flocks, will rise to be presented by Him to the Heavenly Father.

To the Romans Paul wrote: "If we have been united with Him and in death like his, we shall certainly be united with Him in a resurrection like his" (Rom.6:5). "We believe that we shall live with Him" (Rom.6:8).

The Apostle is merely restating what was read in today's gospel. Our Lord said to Martha on the occasion of the death of her brother, Lazarus: "I am the resurrection and the life. He who believes in me, even if he die, shall live; and whoever lives and believes in me shall never die" (Jn.11:25).

This, then, is the rock bottom of our faith. On it is built a superstructure of religious life, faith, and devotion, but nothing is more fundamental, nothing earlier in christian writing than the doctrine that Jesus Christ, the eternal son of God made man, lived, died for our sins, and rose from the dead that we might live eternally with Him.

It is the faith of our fathers, the faith of the first believers, the faith of the Apostles. No religious truth is more certain nor more fundamental. None gives greater assurance of eternal salvation. It was this faith that our dear brother, Robert, perceived so clearly, believed so profoundly, and loved so dearly. His faith, because it was so genuine, was also realistic. It told him that the risen Christ lives on in the Holy Eucharist and that there is a special bond between belief in the resurrection and belief in, and love of, the Holy Eucharist. It was "in the breaking of the bread" that the two disciples at Emmaus had their eyes opened, their faith quickened, and recognized the risen Lord (Lk.24). Certainly the Eucharist in Mass and holy Communion was the central sustaining love of Bob Short.

On the Sunday before he died I brought Bob holy Communion. It was a beautiful day, fresh snow covered the ground and filled the trees and bushes in his yard. The sun was bright. He, Marion, and I sat in his living room and visited for a while. He spoke of his death and burial. He had faced his death calmly in the light of his Christian faith. He grasped clearly the centrality of belief in the resurrection of Christ and the special connection between that truth and the Holy Eucharist for he said: "I want to so fill my body with the body of Christ that the devil will have no claim on it." In his own way and in his own words he applied to himself the profound truth and promise of our Lord made in the sixth chapter of St. John's Gospel when he foretold he would give his body and blood as a pledge of future life: "he who eats my flesh and drinks my blood has everlasting life and I will raise him up on the last day" (Jn.6:55).

In every human relationship of love, the two lovers must leave their individuality to some extent, in order to enter into each other and live as one. So, too, when faced with God's invitation of love, man is forced to leave his self-centered world, his illusion of self-sufficiency, and come to God. He must embrace God in his life. This is precisely what faith does for a person. St. John beautifully describes faith as a coming of God. This is the experience that Bob had. Throughout his life, but especially in recent months, he experienced in faith a leaving behind the possessions of this world and a coming to Christ. And now he has gone to him.

If we believe that Jesus died and rose that we might live with him eternally, then we must believe that Bob, who believed in and loved the risen Lord and whose faith readily translated into worship and service, is now joined to Him in a beatific vision, in a union of person that flows with escstatic joy forever. In the passage from sacred scripture read today by Mr. Brian Short, we heard: "He shall wipe away every tear from their eyes, and there shall be no more death or mourning, crying out in pain, for the former world has passed away" (Rev. 21).

And now it is ended. But it is also beginning. The marvelous thing about human life is that it has no end. It goes on forever. And the truly astounding good news is that life with the risen Christ is offered, and even promised, to each of us, a life of happiness so great that "eye hath not seen, nor ear heard, nor has it even entered into the heart of man," how great this happiness is which God calls to us. We pray that Robert Short has gone to God in his infinite happiness. May he live with Him forevermore.●

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. SHANNON. Mr. Speaker, I would like to thank Representative CONTE for providing this opportunity to commend our colleague from Massachusetts, Representative MARGARET HECKLER.

During her 16 years in the U.S. Congress, MARGARET HECKLER has been an indefatigable spokesperson for her constituents. In addition, however, to her work for the people of the 10th Congressional District of Massachusetts, she has championed a wide variety of causes ranging from women's rights to veterans' services.

As one of the leaders in the efforts to pass the equal rights amendment in 1972, Representative HECKLER has continued to press for ratification. In 1977, with many of the other women in Congress, she founded the Congresswomen's Caucus and has served as cochair. The caucus and the Congress will miss her strong voice and active participation in women's issues.

During her years as a member of the Veterans' Affairs Committee, MARGARET HECKLER has championed the causes and pointed out the needs of our veterans. Her experience will, I am sure, be missed by the other members of the committee.

Mr. Speaker, I am confident that MARGARET HECKLER will continue to serve the people of our country and to speak out on the many issues that will be facing us in the years ahead. I join my colleagues in wishing her the best of luck in her future endeavors.●

THE RESCUE OPERATION

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. BEREUTER. Mr. Speaker, during the waning hours of the 97th Congress the Washington Post on December 20, 1982, printed the following editorial. While the Post's prescriptions of actions and cooperation among the developed nations of the free world necessary to halt and reverse a worldwide economic decline are too general to accept without further elaboration and scrutiny, this Member sincerely hopes that the individual

Members of the Congress will, before the 98th Congress convenes, give careful consideration to the list of signals and warnings provided in the editorial and to the further implications of recent occurrences in international trade and finance. Surely there are few, if any, matters that are more deserving of serious study and action in its beginning of 1983 by both the executive and legislative branches of the Government of the United States of America.

THE RESCUE OPERATION

The scale of worldwide economic decline now requires the governments of the rich industrial countries to pull together as never before. In economic policy, governments are accustomed to thinking mainly in terms of their own domestic necessities. Until a few years ago, the strong countries' separate recoveries were always enough to draw the others along. But it won't happen this time. The signals and warnings of recent days deserve careful reflection.

First item: The United States has just reported a record trade deficit in the third quarter of the year. That's the effect of an overvalued dollar, making U.S. products uncompetitive abroad. The overvalued dollar is, in turn, the result of the very high American interest rates, which are related to the prospect of huge deficits in the U.S. budget. The widening trade deficit over the coming year will exert a dangerous drag on recovery here.

Second item: The decline in foreign trade is not limited to the American economy. The International Monetary Fund reports that exports of all the industrial countries dropped in the third quarter, and the total decline was severe. That hasn't happened since World War II. Imports also fell in all of the industrial countries except the United States, and that downward spiral is having a devastating effect on the poor countries that live by selling to industrial markets.

Third item: The World Bank's job is to help poor countries raise their standards of living. A. W. Clausen, the president of the bank, observed in a speech that, as a group, the developing countries have suffered actual reductions in income per capita over the past two years. But, he added, the effects are not limited to the poor countries. When they cannot sell, they cannot buy—and the developing countries are an important customer of U.S. industry. "The slump in Third World development is also aggravating unemployment in the United States," Mr. Clausen accurately pointed out.

Fourth item: The IMF reported that the Third World's accumulation of debt accelerated this year. Most of the bank loans are concentrated in four countries—Mexico, Brazil, South Korea and Argentina—and most of those loans return interest that floats with current rates. This year, the rates averaged 17.5 percent, which helps explain the crisis in meeting payments. Each percentage point on the interest rate means well over half a billion dollars a year to Mexico and nearly as much to Brazil—money that might otherwise be spent on industrial imports.

Fifth item: The German government, struggling to reduce its deficit, enacted a budget with severe cuts in social spending. The Japanese seem about to do the same. That's wrong, and perverse. Both are countries with high savings rates and low inflation. They can afford classic stimulation to raise demand. Instead, they are sitting back cautiously and waiting for others—i.e., the Americans—to take the initiative. But it may be a long wait because . . .

Sixth item: In Washington, the House of Representatives responded to the unemployment rate by passing a bill to keep most foreign cars out of this country. If it were actually enacted, it would be the most savagely protectionist legislation since the Smoot-Hawley Tariff of 1930, which contributed greatly to the depth and duration of the Depression of the following years.

The reality is that the prosperity of all the rich countries, and most of the poor ones, now depends crucially on the international flows of trade and money. That's why not even the most powerful of them, the United States, can rescue itself without the active cooperation of the others.

The rescue has to begin with lower interest rates in the United States. To keep the rates moving down, the Reagan administration has to start bringing down, forcefully, the budget deficits for 1984 and beyond. President Reagan said in an interview published in this newspaper yesterday that he is counting on an economic recovery to reduce the deficit. He had it exactly backward. Without lower deficits, there won't be much of a recovery. Fears of inflation would keep interest too high.

In fact, a thoroughly sensible outline for the rescue operation has been published by the Institute for International Economics, outlining a natural division of labor in this rescue. While the operation has to begin in the United States with lower interest rates and budget deficits, it also requires important contributions elsewhere—especially in Tokyo, Bonn and London. The banks and the IMF have to keep lending. Currencies have to be realigned, with the dollar coming down a bit and the Japanese yen coming up quite a lot.

Countries foolish enough not to work together do not deserve to be rich. If the great industrial powers do not work together now, fast and hard, they are likely soon to find themselves much less rich than they are today.●

PERSONAL FAREWELL

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. EVANS of Delaware. Mr. Speaker, I would like to take this opportunity to commend all of the outstanding men and women who I have had the privilege of working with on my congressional staff. I would like to especially acknowledge Evelyn Kneisely, Bobbie Prein, Bonnie Bednarski, Darry Carmine, and Mark Bailey for their long years of particularly valuable support.

Without their strong, loyal, and professional support it would have been impossible to accomplish all that we did over these past 6 years. I am particularly proud of our accomplishments in bringing important Federal projects to Delaware, and passage of our legislative initiatives such as the Coastal Barrier Resources Act, anti-ocean dumping measures, the Evans amendment to the Export-Import Bank, increased Voice of America broadcasts to Afghanistan and maintaining important foreign assistance programs to name just a few. I am, however, most proud of all that we did to help people in Delaware—whether it was assisting senior Delawareans with social security questions or helping countless more Delawareans when they needed assistance. I am proud of the warm and caring response to their needs by my congressional staff.

I would also like to take this opportunity to acknowledge the many friends I have made on both sides of the aisle here in the House of Representatives. It has indeed been a privilege to serve in this great body, and I shall always fondly remember my close friends here in the Congress.●

A TRIBUTE TO DR. DON BENNING

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. DAUB. Mr. Speaker, I rise to pay tribute to Dr. Don Benning, who was recently inducted into the University of Nebraska at Omaha Athletic Hall of Fame.

Dr. Benning was instrumental in establishing the UNO wrestling program as a national power in the National Association of Intercollegiate Athletics, coaching the UNO wrestling team to the national NAIA championships in 1970. In the eight seasons he served as head coach, the UNO team record soared from 97-24-4.

A graduate of the Omaha University, Dr. Benning played both football and wrestled in college. His professonal career with UNO began with his appointment as assistant coach in the athletic department after earning his masters from OU in 1961, Under his leadership, the team produced 20 NAIA All-Americans, including 7 national individual championships. Two of his wrestlers, Mel and Roy Washington, won four of those titles and earned induction into the NAIA Wrestling Hall of Fame.

In addition, Dr. Benning was named national NAIA coach of the year in 1969, served as a member of the U.S. Olympic Committee for wrestling and was a president of the NAIA wrestling coaches association.

Dr. Benning left UNO in 1971 to become assistant principal at Omaha Central High School and in 1976 became director of the human-community relations department for the Omaha public schools. In 1979, he was named assistant superintendent for human-community relations.

Membership in the UNO Athletic Hall of Fame is a prestigious recognition for outstanding achievement in athletics, and I ask my colleagues to join me in saluting Dr. Don Benning for his important contribution in fostering excellence on the sport of wrestling.●

DRASTIC CUTBACKS IN LIBRARY SERVICES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. FLORIO. Mr. Speaker, New Jersey's public and research libraries are in a desperate situation. Declining State aid, inflation, and the State cap law that limits municipal spending increases to 5 percent a year, are responsible for drastic cutbacks in library services.

As I am sure my colleagues are aware, a vibrant library system is the cornerstone of a free democratic society. I pledge to work during the next session of Congress to insure that there is adequate funding for New Jersey's libraries.

I would like to share the following article with my colleagues:

[From the Sunday Star-Ledger, Dec. 19, 1982]

STATE'S LIBRARIES FACE CONTINUING FINANCIAL DIFFICULTY—CUTS AND CAPS FORCING SERVICE CURTAILMENTS

(By Al Frank)

The doors will be locked, the lights turned off and only a maintenance man will be wandering through the reading rooms and stacks of the eight branches of the Paterson Public Library tomorrow. Except for the lone custodian, all 20 people who run the system will be laid off until Jan. 3.

And librarians across the state view the situation in the Silk City grimly because many of the elements which led to Paterson's problem have been stalking them for years.

Despite community drives and a foiled attempt to sell some of its art collection, the Paterson system just could not raise the money to go on. Four branches closed two weeks ago. The main branch at 250 Broadway closed last Wednesday. The South Paterson branch closed yesterday.

Paterson's temporary closing for lack of money is not the first in the state.

Earlier this year, in Morris County, the Mount Olive Township Library had to close for three weeks because voters did not approve a referendum that would have allowed the municipal government to exceed the state spending limit. When it reopened it was on a shorter schedule and with fewer employes.

Meanwhile, Princeton University's library—one of the state's four official research libraries—has been charging a fee to outsiders who use its stacks to combat spiraling costs.

The Newark Public Library—another official research library—closed one branch and had to lay off 89 of its staff members when projected state aid fell short.

Other public libraries, squeezed by declining state aid, inflation and the state cap law that limits municipal spending increases to 5 per cent a year, have been coping in less dramatic fashion. Fewer books are being purchased and operating hours have been trimmed.

For example, John Livingstone, director of the Monmouth County Library, said book purchases there have been reduced from the $50,000 spent annually several years ago to $45,000. "The average person may not perceive this but we know," Livingstone said. Other libraries are no longer open on Sundays or they close early on Fridays to save money.

The crisis was forecast in a 1980 report by the County and Municipal Government Study Commission. It identified the cap law, higher operating costs and reduced state aid as the culprits that would put the squeeze on the state's public libraries.

As a result of the report, bills boosting public libraries were proposed in the state Legislature. The package includes revised aid formulas and a law allowing the establishment of a library network. It passed the Senate last year, but Assembly action could not be completed before adjournment.

The bills have been reintroduced and are in the Senate Education Committee. But, like other funding bills, they are stalled by the overall state budget crisis.

The situation in Paterson and Newark and the erosion of services in other communities have prompted an eight-member, ad hoc group of librarians and historian John Cunningham of Florham Park to organize. Their aim is to call attention to the plight of the state's public libraries.

Tentative plans call for the group, which Cunningham said is drawing support from established library, education and public interest organizations, to be a "gentle voice" in attracting the Legislature's attention. It will also attempt to rally public support and money for libraries by publicizing their services.

"It's getting to the point where we've tried to make do for a long time and now has come to the point where we can't do and need help from the people who use libraries," said State Librarian Barbara Weaver, another member of the group.

"In no way are we belligerent, we want to be totally cooperative," said Cunningham, a member of the New Jersey Historical Commission.

He said the group recognizes that the Legislature must also decide how to fund more than just libraries. But with the state's per capital income among the nation's highest, "We just think there's enough money in New Jersey to do both," he said,

As the group prepares for an organizational meeting Jan. 13 in Trenton, the state library staff is preparing a survey for the 315 public and nearly 2,700 private libraries around the state.

The survey will ask the libraries what their financial situations are and whether they've had to deal with budget cuts in the last two years. If any cuts are to be made next year, the survey will ask whether they will be made in staff, books or hours.

The survey also will ask for suggestions on private funding sources that might be tapped in a campaign for libraries and whether representatives would participate in such a drive. Weaver said she hoped the results would be known by mid-February.

Among the things the group plans to discuss is how any private money it attracts would be used. Most librarians agree it is essential that state aid to local libraries continue.

But Newark Library Director Thomas Alrutz, another member of the group, said it could be used to help particularly strapped libraries or fund special projects while leaving the larger pool of state money to be channeled directly to qualifying local branches.

Removing the state from the funding process is something Roger McDonough, former state librarian, and other librarians said would be counterproductive.

Henry Michniewski, who heads the state library's development bureau, said 1975 was the last year that the amount allocated by the Legislature was actually distributed. The sum was $10.2 million. For 1982 the Legislature called for $10.9 million in aid but actually provided only $7 million.

Among other factors, aid is allocated on how well local libraries meet state standards covering book buying, staffing and hours of operation.

Monmouth's Livingstone said, "It's getting to the point where it won't make much difference." At Monmouth County's library, state aid accounts for 8 percent of the budget, down from 12 percent last year.

"State aid, no doubt, has raised standards measurably, there's no doubt about that," said McDonough, who is a lobbyist for the New Jersey Library Association.

But what of its future? McDonough said the Legislature is "caught between the pinch-pennies and those who want to see services maintained" but that the projected recovery is cause for optimism.

Weaver too is optimistic. She said libraries were "accidentally caught up" in the movement to cut the cost of government several years ago. "People really didn't mean libraries but libraries got stuck in it too," she said.

There is cause for optimism in collecting money from the private sector. For example, a private endowment and gifts totaling more than $2 million have cushioned the Joint Free Public Library of Morristown-Morris Township from most service cuts, director Marian Gerhart said.

The library has such broad support that voters in both communities overwhelmingly approved a $2.7 million expansion plan last November. The referendum was nonbinding but officials on the governing bodies of both municipalities have said they interpret the vote as a mandate for bonding the project.

But librarians are adamant that a steady source of tax money—and not private funds—play the main role in keeping libraries both public and free. They are especially adamant against user fees.

Leo Fichtelberg, director of the Paterson library, said that 19th century state legislation allowing property taxes to be used to support libraries came about because private associations did not work. The basis of the law was that a larger public interest was at stake, he said.

"If we get into a user fee situation, then the public library is going to fight a much tougher battle because the responsibility of government to maintain the library is lessened," Fichtelberg said. "I think it's a very narrow and unproductive view."

The concept of the free public library was "to raise people up culturally, raise their level of understanding," he continued. But even those who can afford to buy their own books "cannot find the depths or scope found in the collection of the Paterson library unless they're billionaires."

"I would like to think that there would be nothing standing in the way of a little kid

and books," Historical Commission member Cunningham said.

"It may sound platitudinous, but I feel very strongly that the freedom of the library is such a tradition that it would act as a form of censorship by acting as a bar for those who couldn't pay."

Weaver also is against user fees, calling libraries "the last institution in the country where people can call for the information they want without having to show they can afford to get it."

And continuing that institution is what weighs heavily on librarians like Fichtelberg.

Closing a library is like closing the mind of a free society, he said.

I think it says a great deal about society and civilization and what it's willing to do to provide the wherewithal for people to think and grow and get the information they need in a democratic society. I think society is on its way out if it sells its libraries short."●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. CORCORAN. Mr. Speaker, due to official business in my district, I was unable to be present and voting during the proceedings of the House on Friday, December 10. Had I been present, I would have voted in the following way on the various matters before the House.

On rollcall, No. 433, on agreeing to the House Journal of Thursday, December 9, "yea."

On rollcall No. 434, on adopting an amendment to H.R. 5133 that sought to require the Secretary to examine after 6 months the extent to which the content ratios and schedules have affected foreign automobile manufacturers' investment in plants in the United States and to permit the Secretary to make changes in the ratios and schedules if necessary, "nay."

Furthermore, Mr. Speaker, I was absent today when the House voted on the conference report accompanying H.R. 7093, Taxes Paid to the Virgin Islands. I would have voted for this important bill, which contained an amendment dealing with disability payments and procedures.●

GOLFER WALTER W. SEZNA DIED

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. EVANS of Delaware. Mr. Speaker, several months ago one of my closest friends, Walter W. Sezna, died.

Wally Sezna as he was known by thousands throughout Delaware and the Nation contributed substantially to his fellow man. All of us are richer for having known him.

He was successful in business and one of the finest senior golfers in the world. However, his success in life should not be measured by his business or sporting accomplishments alone. Of infinitely greater and more lasting importance was his strength of character, and that is his wonderful legacy to his family, his friends, and all those whose lives were touched in such a positive manner by this remarkable gentleman.

A man of great wit, loyalty, courage, and ability. A man who always preferred helping others without fanfare. A man whom I was privileged to call my friend for many years. A man who will be remembered as long as there is anyone left to record history. I ask unanimous consent to include in the RECORD an article which appeared in the Wilmington News Journal on August 2, 1982.

[From the Wilmington News Journal, Aug. 2, 1982]

FRIENDS RIVALS REMEMBER SEZNA

(By Matt Zabitka)

The Delaware golfing fraternity was shocked and saddened Monday on learning of the death of Wally Sezna.

A veteran of national and international seniors golf tournaments for more than a decade, Sezna, 87, died of a massive heart attack while in Glens Falls, NY, for the christening of his sixth grandchild.

"He died instantaneously," said Ron Sezna, one of two surviving sons. Ron and his brother Davis, winner of the 1971 Delaware Junior Championship and 1973 Delaware open, had both participated with their father in numerous father-son tournaments over the years.

Friends and golfing foes remembered Wally in different ways, but all concurred that Wally Sezna was a scrapper on the golf course.

"He was probably the most competitive guy I ever knew," said Ed Richitelli, a friend of the deceased since 1956. "He'd play you a $2.00 Nassau and fight you tooth and nail and claw you all the way. That's how much he loved to win. But after the match he'd spring $200 for a dinner and think nothing of it.

"One year in Palm Beach, Florida, he beat me for six bucks and picked up a dinner tab for $200.00."

"He was one helluva scrapper. I really loved the guy, even though there were times I didn't know where he was coming from.

"He was a friend of some of the biggest names in golfing, I don't know of anybody in golfing who didn't know Wally. He was known all over the world," added Richitelli, president of the Brantwood Golf Club in Elkton, MD, and a member of the board and executive committee, as well as grounds chairman at Wilmington Country Club.

"He was one of my dear friends, I played golf with him in tournaments all over the U.S. His passing is a great loss to golf, not only on the state and national level, but internationally."

Saul Savitch, a veteran of more than 30 years on the state golfing scene, recalled playing against Wally in the 1952 Champion of Champions Tournament at Du Pont Country Club.

"I was wearing a khaki cap that he liked," said Savitch, "He kept admiring the cap, then said, I'll tell you what I'll do, If you beat me, dinner is on me. But if I beat you, you pay double for your dinner and give me the cap."

"I won the match—it was the first and last time I ever beat him in golf."

"As his contemporaries grew older and their game suffered, Wally kept getting better as he aged, getting to a point where nobody could touch him."

U.S. Representative Thomas B. Evans, Jr., Delaware's Republican congressman, said he had played golf with Wally "since I was 19 or 20."

"I may have won some of our early matches, but he won most of the time. He was a far more superior golfer than I was," recalled Evans, who captained the 1953 golf team at the University of Virginia, where he studied law.

"What I liked best about Wally," said Evans, "was that he always took an interest in all people, not only golfers. He especially catered to the young golfers. He did it without a whole lot of fanfare."

"He had a great flair about him. He did a lot for people very quietly. I travel quite a bit and there hasn't been any place I have visited that somebody didn't know Wally."

"He was one of a kind. Not only an excellent golfer, but a great story teller and a real man."

"I just can't believe he's gone," said Evans, his voice trailing off.

There aren't too many major golf courses in the U.S. that Wally Sezna hadn't tattooed with his drivers, irons, and putters. In addition to playing in tournaments at such places as Wheaton, Ill., Pinehurst, N.C., Palm Beach, Fla., Englewood, Colo., Bronxville, N.Y., Hot Springs, Va., Hilton Head Island, S.C., Norwalk, Conn., and Sea Isle, Ga., his thirst for golfing competition took him to Gleneagles, Scotland, in 1971 and to Mexico in 1974 and 1975 for International Seniors tournaments.

He was a quarter-finalist in National seniors seven times, was ranked among the top 10 senior golfers in the nation five times by Golf Digest and was the only Delawarean to represent the First State in International Seniors play.

One of his product achievements was in being one of four golfers selected for the U.S. team for the Francis H. I. Brown International Team that competed at the Broadmoor Golf Club in Colorado Springs, Colorado, in August 1973.

In the four-day tournament, it was neck and neck with the Australian team. The U.S. team won by a stroke when Wally birdied the last hole.

Probably the biggest thrill of his life occurred in 1975, playing with his sons, Davis (then 21) and Ron (then 18) in the National Father & Son Tournament at Atlantic C.C., Palm Beach, Fla.

Wally and son Ron, then a senior at Alexis I. du Pont High, carded 77-70—147, and Wally and son Davis came in with 76-71—147, in the two-day scratch event at the tough, par-72, 6,800-yard course. The father played separately with each son in the alternate shot, stroke play.

It was the first time in the history of the annual event that there had been such an occurrence—a father and two sons trying for the title.

Although known best for his golfing feats over a period of more than 30 years, Wally was a football scholarship quarterback at Syracuse University. He left school for a shot in pro football, but his lack of size worked against him.

Monday night, at the Sezna residence in Greenville, Congressman Evans and members of the Sezna family cried and laughed for two hours as they recalled events and stories about the man who gave so much of himself to the sport of golf.

"Wally drank from a full cup of life," said Evans.

No truer words were ever spoken.

COMMERCIALIZATION OF SPACE LAUNCHING

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. AKAKA. Mr. Speaker, according to a recent article in Business Week magazine, the Soviets have decided to provide commercial launch services to the nations of the world. Furthermore, two Frenchmen are in the process of trying to line up U.S. aerospace and communications companies to act as agents in finding commercial payloads which the Soviets would then launch into space. Although pricing has not yet been discussed in detail, it is clear that prices would be lower than those any competitor—including the United States—could now offer.

While this new development does not pose a significant threat to our Nation right now, I think it is certainly time that we, in this country, begin to take the issue of commericalization of space seriously. I call on my colleagues to raise this issue in the course of the next Congress. I also call on my colleagues to enact legislation in the 98th Congress which would encourage the commercialization of space launching and marketing services before we are left behind forever in the world of international space activities.

I ask that a copy of the article "Cargo Space on a Soviet Rocket, Anyone?" be inserted in the RECORD immediately following my statement.

The article follows:

[From Business Week, Dec. 20, 1982]

CARGO SPACE ON A SOVIET ROCKET, ANYONE?

It seems like a crazy idea. Two Frenchmen are trying to line up U.S. aerospace and communications companies to act as agents in finding commercial payloads that would be launched into space by, of all people, the Russians.

Sperry Corp., Rockwell International, AT&T, and others have been approached by J. Roda and P. Pamart of Paris "seeking to interest us in representing them in the American market for payloads that would be launched by Soviet rockets," says Richard R. Mau, Sperry vice-president for corporate and government relations. As evidence that the request was authentic, the French proposal included a copy of a letter dated Aug. 12, 1982, and signed by Boris E. Kurakin, director general of the Soviet foreign trade organization, Licensintorg. The Soviet launch service, the letter stated, would be provided by Licenstransmash, a division of Licensintorg. The letter, according to Sperry's Mau, did not discuss prices in detail but indicated they would be less than those of any competitor—including the U.S. National Aeronautics & Space Administration and the European Space Agency.

No thanks. Sperry has declined to act as a salesman for the French entrepreneurs. In fact, even the Soviets are surprised at the boldness of the Frenchmen's sales tactics. In Moscow, Igor D. Alexeyev, acting director of Licenstransmash, acknowledges that the Soviet Union has made "unofficial" contacts with Roda and Pamart regarding the sale of space on Soviet space rockets. But he says those communications have been through the State Committee for Science & Technology, which is not bureaucratically linked to his agency.

Although Alexeyev doubts that the Soviets will put much pressure on the marketing of launch services in the U.S., he makes clear that the Soviets do plan to drive hard to sell them in other parts of the world. A commerical agreement was signed last May between the Soviets and India to launch an Indian satellite in 1986. And the Soviets have offered to provide "backup" launch services for a European Space Agency satellite if Ariane proves unable to do the job.

In Paris, Roda, a real estate manager by profession and an economist by training, sees prospects somewhat differently. He has invited "about 20" U.S. companies to become agents for selling space on Soviet rockets and says he has has one reply so far, "from a company that told me they had sold their aerospace division." His agreement with Licenstransmash to find agents in the U.S. and elsewhere resulted from correspondence with Soviet officials in Moscow and from meetings with the Soviet commercial staff in Paris, he says. "I realized there was a telecommunications market," he explains. "I know the Soviets have roughly equivalent technology to the Americans in rockets. So I said, 'Why not?' "

Roda admits that his agent arrangements are still in the embryonic stage. But the Frenchmen should have something to sell. The Soviet launch price will be less than anyone else's; the Soviets are promising they will make the necessary financing arrangements; and customers will be invited to accompany their payloads until the moment of launch. Up until now, the Russians have rarely invited Western observers to their launch sites.

U.S. companies are treating the proffered French connection very delicately. Nor is anyone expected to pursue it. Quips one company official: "At least you must give the Frenchmen high marks on *chutzpah*. They want to open a store in our own front yard."●

TRIBUTE TO JUDGE ALEX C. ALAMPI SR.

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. FLORIO. Mr. Speaker, for the past 41 years, the citizens of the borough of Clayton have been fortunate to have the services of Municipal Judge Alex C. Alampi Sr. Since his election as justice of the peace in 1941, Judge Alampi has exercised great ability and fairness in the administration of justice for his home community of Clayton.

Judge Alampi and his fellow municipal jurists serve at a level of government that is sometimes referred to as "the point of delivery" where one man's contribution can determine the quality of government for an entire community. Judge Alampi accepted this challenge and devoted his career to the improvement and impartial administration of justice for his community. After five decades of service, Judge Alampi plans to hold his last court session on December 27th. I would like to take this opportunity to commend Judge Alampi's outstanding service to the residents of Clayton. His experience and devotion to the law will be missed.

Mr. Speaker, for the benefit of our colleagues, I submit the following article:

[From the Sentinel, Dec. 2, 1982]

JUDGE ALAMPI TO RETIRE AFTER 41 YEARS ON BENCH

After serving 41 continuous years in a judicial capacity in the Borough of Clayton, Alex C. Alampi Sr., has announced his retirement from the bench effective January 1, 1983. He said his retirement came because of recent ill health.

"It was a very difficult decision, because I enjoyed every aspect of the job and the many years I served in the judiciary," said Judge Alampi, 67. "But after an eight day stay in Underwood Memorial Hospital, Woodbury, recently, I took the advice of my doctors and my family who advised against the continuing stress of my judgeship," he said. Alampi recovered most successfully from triple bypass surgery in May of 1979.

His retirement letter presented on November 23rd to a surprised Borough Council, spoke briefly of the borough officials and residents.

The letter, in part read: "In reaching this most difficult decision, I have reflected with pride on my 41 years of service to the community of Clayton and to the fine residents of our Borough."

"I have particularly fond memories of my association with the sincere and dedicated past and present elected and appointed Borough officials with whom I have had the privilege to work and who always have been most respectful and supportive of our local court."

"In discharging my duties, I have steadfastly attempted to maintain the integrity and dignity of our Municipal Court, mindful at all times that compassion and understanding are of great importance in the administration of Justice."

The letter concluded, "To you, Mayor Sharp and members of Council, I should like to extend my sincere thanks and appreciation for your understanding and support of our need to maintain a quality Court system."

Judge Alampi was highly complimentary of the various community groups and organizations who were "always supportive of the job I was trying to do in the interest of Justice for our community." The Judge added, "Clayton has been good to me and it was this kind of support that instilled a greater determination to do a better job."

The Judge continued, "It is not easy being a judge in the community where you reside,

particularly knowing so many people with whom you have daily contacts.

"On the other hand, my superiors felt that being a Judge in your own community held many advantages since a local Judge knows the "pulse" of the town, the people, their problems, and was better prepared to handle the local problems when they appeared in Court."

Judge Alampi also praised members of the Clayton Police department whom he characterized as "performing a most difficult job in a most difficult era of disrespect for the law, the courts and the public in general."

Judge Alampi, who plans to conduct his last court session of his long career on December 27th, held high praise for his Court Clerk, Sallie L. Geist, for performing her duties in a skillful and highly professional manner. "She is an excellent Court Clerk," said the Judge. "Her loyalty, dedication and knowledge of the job commands the respect not only from me but from the many other judges and attorneys with whom she comes in contract."

Following his marriage in 1941 to Jenny Ladd, a Clayton girl, Judge Alampi was elected Justice of the Peace in Clayton and in 1944, while holding that position, he was also appointed Police Recorder for the Borough by the late Mayor Frank C. Myers.

In 1947, the voters of New Jersey approved a constitutional amendment which effected the minor judiciary, and which in effect would abolish the offices of the Justices of the Peace and Police Recorders and create the office of Municipal Judge effective January 1, 1949.●

NORTHERN PIPELINE: UNCONSTITUTIONAL BANKRUPTCY COURT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. RODINO. Mr. Speaker, I am disappointed that the Congress could not enact legislation to meet the December 24 deadline mandated by the Supreme Court to insure the continued efficient functioning of the Nation's bankruptcy system. A major disruption of this system in the present difficult economic period will be most unfortunate.

Some have pointed to the Judicial Conference's proposed interim rule for the handling of bankruptcy cases as an acceptable temporary fix until the Congress can enact a constitutional court system, but the legal validity of the suggested rule, as well as the practicality of the rule in operation, are subject to grave doubt.

It is, of course, contrary to the basics of jurisprudence for a court to create its own jurisdiction. That is a matter for the Congress. The authority to promulgate rules of practice and procedure is not the authority to establish jurisdiction. The proposed rule is also in conflict with bankruptcy statutes and other rules of practice and procedure. What a majority of the Supreme Court left to Congress to do cannot be done by a dissenting opinion, the Administrative Office of the U.S. Courts, the Judicial Conference, or a district court rule.

The proposed temporary rule will also result in massive duplication of effort by bankruptcy and district judges and magistrates. It will generate wasteful litigation over jurisdiction, productive only of needless expense and delay in bankruptcy cases. The proposal is even more inefficient than the pre-1978 bifurcated, summary plenary jurisdiction that the 1978 law was designed to eliminate.

Aside from its judicial inefficiency, the Judicial Conference's proposal would completely undermine the goals of successful rehabilitation of debtors in reorganization cases and prompt liquidation and distribution to creditors in asset liquidation cases. The proposal is unsound from both a judicial and bankruptcy policy standpoint and raises the same constitutional questions as the court system invalidated in Northern Pipeline. The Justice Department, as well as every scholar and practitioner who has analyzed the interim rule, concluded that it would be both unworkable and subject to serious legal challenge. As the Justice Department has observed, a legislative proposal that simply offers an opportunity for more litigation to test its validity is no solution at all.

Resolution of the constitutional problem in the bankruptcy court system will be the first legislative item on the agenda of the Judiciary Committee in the 98th Congress, and no other bankruptcy legislation will be considered until the constitutional issue created by the Northern Pipeline ruling is solved.●

THE COPYRIGHT CONTROVERSY

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. RAILSBACK. Mr. Speaker, people generally view the end of the year as a time for reflection and examination—a time for resolutions. With that thought in mind book critic Jonathan Yardley in the Washington Post of Monday, December 20, 1982, reviewed the recent suit filed against NYU, nine professors, and a copyshop and focused not on the legal merits but on the professional ethics and moral responsibility of an institution and its employees. Yardley raised several questions of far-reaching consequences that I would like to share with my colleagues.

The article follows:

[From the Washington Post, Dec. 20, 1982]

THE COPYRIGHT CONTROVERSY

(By Jonathan Yardley)

The specific charges and legel merits of the test case brought by nine major publishers against New York University on grounds of copyright infringement are the business of the courts, not columnists, and there will be no discussion of them here. But the suit also raises, or highlights, larger issues of professional ethics and what must be described as, for what of a less portentous term, moral responsibility.

Those issues were succinctly addressed by Carol Risher, director of the copyright division of the Association of American Publishers, who remarked when the suit was filed last week that "universities must recognize that they have a responsibility for what their employees and faculty members do, and faculty members must recognize their own individual responsibility." This, of course, is true of any institution and those who work for it; an insurance company must bear corporate responsibility for the professional actions of its agents, and those agents similarly must live up to their professional obligations as individuals.

But when the question is applied to higher education (or, for that matter, education at any level), it assumes different dimensions. Colleges and universities are not businesses or industries. They are charged with the preservation and promulgation of ideas and knowledge, a responsibility that cannot be satisfactorily discharged without the use of published material—which makes them automatically a primary "market" for the authors and distributors of such material. What is especially galling to many observers—many of them, it should be emphasized, themselves academicians—is that the copyright controversy reveals that some institutions of higher education are openly countenancing efforts by their faculty and students to evade the responsibility of paying for the privilege of using these published materials.

This widespread practice undermines the integrity of the academic community. Often out of the very best of motives—chiefly, no doubt, that of making information available to students speedily and at the lowest possible cost—teachers and the institutions that employ them engage in large-scale, unauthorized photocopying of material that is not in the public domain. Almost certainly, more often that not this is done in innocence; few people, when they go to a photocopying machine, trouble to reflect on the legal or ethical questions raised when material owned by others is copied—it would occur to few people, in fact, even to think of the process in those terms. But each time this happens, a potential customer for a book, periodical or scholarly journal is eliminated. The author is paid no royalties and the publisher receives no copyright fees.

Still, some who abuse the copying privilege are more innocent than others; there's sometimes a most unpleasant element of hypocrisy. Within the academic community it has long been standard practice for teachers who are authors and/or editors of textbooks to require the use of those books in their courses; if they are especially eminent professors, they may have sufficient standing to require the use of their texts not merely in their own courses but throughout entire departments. Textbook publishing is big business—much bigger than trade publishing—and the rewards to the authors can be generous indeed. Yet the interest these individuals take in the protection of their own work is not always extended to the work of others; a publishing executive makes note of those professors "who will defend their right to royalties from their own ideas, but

when they are stealing from someone else, they have no respect."

The operative word of course is "stealing," just as it is in the similar controversies over audio and video taping. And just as in those controversies, there seems no practical way to reconcile all the conflicting "rights," whether real or imagined, that are clashing so noisily against each other. Copying machines won't be wished or adjudicated away any more than will be tape recorders. So the fundamental question in all of these debates is how to live with the reality of technological advances without infringing on the clear right of writers and artists to a return on the use by others of the fruits of their labors.

A reasonable gesture in this direction on the part of the academic community seems to be the fundamental goal of the suit against NYU, a copying outfit and several teachers. The publishing industry has been trying for some time, as have various authors' organizations, to persuade higher education to comply voluntarily with the photocopying provisions of the Copyright Act of 1976; its hope has been to eliminate what is described by Townsend Hoopes president of the AAP, as "the indiscriminate and widespread copying of a range of copyrighted materials by the academic community, under circumstances going far beyond any uses permitted by the copyright law." That hope has not, to put it charitably, been realized; too many universities and professors seem unwilling to give up the freebies that the photocopiers make available to them. Again to quote Hoopes: ". . . publishers have sought to make colleges and universities aware of the unacceptability and illegality of these practices, but, in the absence of general observance, had been forced to court action."

What's truly frustrating about the obduracy of these elements of the academic community is that it is not necessary. The publishers are not utter fools. They realize that absolute enforcement of a law that is widely thought to be vague is beyond any reasonable hope. They are willing to compromise. They "recognize academic copying within reasonable, lawful limits." What they really want from the universities is good faith—an acknowledgment, if you will, that the guardians of knowledge are as bound to live by the law as any others who enjoy the freedoms and protections it affords.

There's good reason to believe that most publishers would be quite satisfied should colleges and universities generally adopt practices comparable to those of Johns Hopkins University, the legal office of which regularly sends out explicit reminders to faculty and staff of the photocopying provisions of the Copyright Act and urges that they and their students comply with them—a practice that, in the words of a ranking administrator at another institution, "probably is the high-water mark of compliance among universities around the country." More specific procedures that attempt to reconcile the conflicting interests of the copiers and the copied are available through the Copyright Clearance Center, including one-time payment of photocopying royalty fees; recent settlements of copying disputes between the AAP on one side and E.R. Squibb and American Cyanamid on the other could point the administrators of higher education toward an amicable settlement with the publishers.

In the end, though, this is the point: How can the community of higher education maintain the respect of the public—not to mention its self-respect—when it condones theft by its own faculty and students? For theft is what happens every time a copyrighted piece of writing is reproduced and distributed without payment to its author and publisher. That a small number of universities are attempting to address this problem—and it is, like it or not, a moral problem—is insufficient compensation for the greater number that are circumventing, or ignoring it, or deliberately violating the law. And then there is this: If the universities can't be trusted to safeguard the writers' rights, who on earth can?●

POLICE CHIEF HAROLD A. JOHNSON

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. MINETA. Mr. Speaker, with sincere pleasure, I rise today to honor Police Chief Harold A. Johnson.

As a highly regarded leader and as a dedicated public servant, Chief Johnson has helped keep the peace and build a community. For more than a quarter century, Harold Johnson labored at the risky, grueling, and often thankless tasks of police work, and he rose through the ranks to become one of the finest police chiefs in the State of California.

Yet Harold Johnson did even more than that. Both before and after Los Gatos welcomed him as the new chief of police in 1970, Johnson was vigorously active in the communities which surrounded him. Chief Johnson gave his time to the Boy Scouts, the Salvation Army, the United Way, and other charities, even though he was spending all of his business hours serving and protecting the people.

Harold Johnson was more than a super cop. He was a super citizen.

I had the pleasure of working with Chief Johnson on the regional criminal justice planning board, and like thousands of others, I enjoyed working with this witty, energetic, compassionate man.

Today, on the eve of Chief Johnson's retirement, I am proud to join all of those who thank Chief Johnson for his energy, his work, his kindness, and his courage.●

PHILADELPHIA NAVAL SHIPYARD EARNS HIGH MARKS ON "SARATOGA" OVERHAUL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. FLORIO. Mr. Speaker, several years ago it was recognized that overhauling our aging World War II aircraft carrier fleet was a cost-efficient way to increase our Nation's defenses. Thus the service life extension program (SLEP) was created for this purpose and the U.S.S. *Saratoga* selected for the program's first overhaul effort. The Navy in 1979 picked the Philadelphia Naval Shipyard to do the *Saratoga* renovation. When the Navy's selection of Philadelphia was challenged, many of my colleagues joined me to help pass legislation upholding the Navy's selection.

I am pleased to appear before this House 3 years later and report that the Congress and the Navy made the right decision. As the following articles indicate, the workers at the Philadelphia Naval Shipyard have done an outstanding job on the *Saratoga* renovation. Not only have the shipyard workers received excellent marks for their shipbuilding work, but the *Saratoga* will be returned to the fleet on or before schedule and within its budget contract.

I am proud of the work of the Philadelphia Naval Shipyard in restoring to service our older aircraft carrier fleet. The yard's outstanding completion of the *Saratoga* project has prompted the Navy to select Philadelphia as the worksite for the renovation of two additional carriers, the *Forrestal* and the *Independence.* Renovation of these carriers will keep shipyard employment at near capacity through this decade, and help promote additional job growth in south Jersey and throughout the Philadelphia area.

The articles follow:

[From the Philadelphia Inquirer]

A WELL DONE FOR "SARATOGA"

The aircraft carrier Saratoga has passed a crucial testing period with flying colors. "A very high degree of success" was how the Navy Board of Inspection and Survey put it in a report following sea trials. That is an important achievement not only for the Philadelphia Naval Shipyard, where the $500 million overhaul of the carrier was done, but for the economy of the entire region.

It means shipyard employment is likely to remain at approximately the 11,000 level, or higher, for many years—probably through the remainder of the 1980s and perhaps well into the 1990s. The next carrier to be overhauled—the Forrestal—is scheduled to arrive in Philadelphia on Jan. 21. That is 12 days before the scheduled departure of the Saratoga.

Beyond that, the shipyard has begun preparations, including purchase orders for steel, for a third carrier, the Independence, to be overhauled here beginning early in 1985. A fourth carrier, the Ranger, also is to be overhauled and, although it hasn't been assigned formally to the Philadelphia yard yet, it almost certainly will be.

If work on the Saratoga had failed to pass muster, the shipyard's future could have been bleak. Remaining carriers in the overhaul program might have been sent to other yards. Coming through on the Saratoga assignment preserves a strong prospect of success at the shipyard and numerous area companies providing equipment and supplies.

Moreover, the Service Life Extension Progam (SLEP), of which the overhauls of the four carriers is part, is expected to be extended to additional vessels after the four are finished. The Philadelphia yard, with its experience and if it continues to perform excellent work, should be in line for further SLEP assignments.

In retrospect, the regional coalition of members of the Congress and other public officials and business leaders who won the fight to bring the Saratoga here won a victory for the Philadelphia area that has turned out to be even more important than may have been first realized. The officers, crews and workers at the shipyard met the challenge of the Saratoga well. They have reason to be proud.

[From the Washington Post]

CARRIER PASSES SEA INSPECTION

PHILADELPHIA.—The USS Saratoga cruised into Philadelphia yesterday after a team of Navy inspectors declared the aging supercarrier in excellent condition following a 28-month, $525 million overhaul.

The 78,000-ton vessel sailed from the Philadelphia Naval Shipyard a week earlier in preparation for its seagoing inspection by the Navy's Board of Inspection and Survey.

Rear Adm. John D. Bulkeley, president of the board, and some 80 inspectors arrived by helicopter early Monday while the ship was cruising off the Virginia coast.

The Philadelphia Naval Base said the inspectors conducted a thorough review of all the work performed during a service life extension program by the shipyard and the ship's crew.

The inspections included tests of the carrier's full-power operation, aircraft support systems, radio communications, radar systems, weapons handling systems, self-defense equipment and fire protection gear.

All of the systems performed "extremely well," according to a statement from the naval base.

Yesterday, the Saratoga deck-launched and landed two C1 aircraft—the first time in more than two years that fixed-wing aircraft operated from the carrier's deck.

The Saratoga will remain in Philadelphia for about six weeks until the renovation is completed, the Navy said.●

FAREWELL

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. JOHN L. BURTON. Mr. Speaker, as I leave the people's House I want to say goodby to you and my friends of both parties.

I want to say a special goodby and thank you to all of the staff from both cloakrooms, the House floor, the pages, the desk, the restaurant, the officers of the House, the elevator operators, Capitol Police, the House reporters, and the committees of the House, specifically House Administration and Government Operations, for making me feel like I was a friend and an equal.

To my fellow Members let me say you do not have to take yourselves seriously in order to take the job seriously and always remember you can get more with a smile and a grin than you can get with a smile alone.

To the press corps I say beware for there will always be those amongst you who truly believe they have seen chickens with lips.

Peace and friendship.●

MR. JUNIUS GRIFFIN

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. CLAY. Mr. Speaker, I would like to share with my colleagues the story of Mr. Junius Griffin, a modern Horatio Alger and a leading power broker in today's record industry. Mr. Griffin's life is about inspiration, fulfillment and success and I believe he provides an outstanding role model for today's youth.

The articles follow:

[From the Kingsport Times-News, Dec. 10, 1982]

STONEGA NATIVE COVERED, CREATED CIVIL RIGHTS NEWS

(By Bill Lammers)

War correspondent Ernie Pyle's prose gave Wise County native Junius Griffin his first real thirst for journalism.

Finding his own byline in the military newspaper Stars & Stripes, atop Associated Press dispatches and even resting above his stories in The New York Times gave the reporter more thrills than most modern-day Woodward-and-Bernstein clones could ever imagine.

But seeing his name in the Knoxville News-Sentinel on an AP civil rights story inset with his own photo gave Griffin and his family their biggest thrill. It was, after all, where the young "Toby" Griffin had found Ernie Pyle years before.

"Boy, he could write," recalls the 53-year-old Griffin, now a vice president of Motown Industries, of his boyhood hero. "I could see the GIs. He had a power with words. As Art Everett said, he could make words sing. I thought that was just beautiful."

After serving in the U.S. Marine Corps and the Air Force and working for Pacific Stars & Stripes from 1958 to 1961, Griffin found himself in the midst of the "other" war of the '60s—the civil rights struggle being fought by blacks in the United States.

As a reporter for the New York bureau desk of the Associated Press from 1962 to 1964 and as a general assignment reporter for The New York Times from 1964 to 1964, the Appalachia Central High School graduate returned to the South to cover the efforts of Dr. Martin Luther King and his Southern Christian Leadership Conference.

Eventually, King convinced Griffin to become SCLC's public relations director, a post he held for two years before King was killed in 1967.

Mixing yarns about dictating stories during a racial riot ("The rewrite man kept saying, 'Be patient.' Be patient? Damn. They were about to burn the telephone booth down!") with his impressions of the civic leaders he has met during 25 years covering and helping make the news, Griffin recalls those days with all the nostalgia of, well, an old newspaperman.

He was hired at the Associated Press because of his work as Taiwan bureau chief for Stars & Stripes.

"I was one of only two reporters who had integrated journalism experience. The other was Alex Haley," Griffin said, referring to celebrated author of *Roots*, a former Coast Guardsman.

His work at the New York bureau of AP led to his writing of two of the 13 stories in AP's "The Deepening Crisis" series, which finished in second place for the Pulitzer in 1963. After joining the *Times* and being amazed at sometimes having a whole week to work on one story, he often received civil rights assignments.

"There were so many black reporters at that time who did not want to write about blacks because they said they weren't black reporters." Feeling successful just at getting out of the coalfields, Griffin didn't harbor that prejudice.

"I don't think I could have come from any other part of the country and been able to withstand the pressures of people wanting to push me one way or another.

"Until this day, I didn't realize the value I was then. I went because they doubled my salary. I certainly wasn't a hero in my hometown. They didn't read the paper (*The New York Times*). I was a success when I didn't have to go into the coal mines, like my father labored not to.

"Blacks didn't like me because they thought I should write everything sympathetic to the black cause. The whites didn't like me because I didn't rely on just the Urban League and Martin Luther King for comments. I went to the bars, the whorehouses, and talked to the people. I was touched by a woman who told me, 'I never thought I'd see my name in *The New York Times.*' I cried over that.

After joining King's staff, Griffin said it took about three months before he really understood King's goals.

"I'd spend all night listening to his speeches, trying to get the speech patterns down right. He needed the same number of words per sentence as they teach you in journalism school—22 words—to give him time to catch his breath," Griffin said.

"He could be poetically ungrammatical in Peach Tree, Ala., and then go to theological school in Chicago and dazzle them. Of all the other things he was, he was a southern preacher—he came out of that tradition.

"Martin Luther King was an institution by himself—not just the SCLC. The only thing that will be as near to an institution as Dr. King is the King Center (for Social Change)—that could draw us together."

After King's death, changes in the civil rights movement brought changes to the manner in which blacks viewed themselves.

"People have been mouthing Martin Luther King's goals. Martin had a dream and everybody else thought they had to go to sleep and have the same dream. The only one who has gone beyond his dream is his widow.

"The only other non-violent movement since then has been Solidarity, and that's a shame.

"I sometimes worry about my daughters because they have no idea what it is to be black," Griffin said. "They have never had to live like that.

"Conditions are better in the South today than they are pictured. The South has the poorest propaganda system. Atlanta is one of the most progressive cities in the world, not only in the nation."

In searching for a leader to replace King, some blacks have forgotten what King had been seeking.

"Some people misunderstand integration. They think it has to be black and white together, side by side, all the time. Integration to me is the shared control over the institutions that run this country.

"You know what a coal glump is? That's when the roof of a mine and the floor come together. You want to see true integration, you should see the women mourning their dead husbands outside the mine together and then when the bodies are brought out wetting their thumbs with spit and wiping it against the coal dust on their faces to see if its their husbands."

With the rise of the Moral Majority and other political groups in the '70s and '80s, attention is being focused less on the black American.

"We're losing it (influence) politically. We've abandoned the inner cities for the suburbs, and now the whites are coming back to the suburbs," he said.

"Economics will never destroy your convictions. It can dictate how well you'll survive, but not whether or not you'll survive."

As vice president for community relations at Motown Industries, Griffin is responsible for promoting the corporate image of the company synonymous with '60s black music that has diversified into films and publishing and grown to become the largest black-owned corporation in the country. That includes speaking, lobbying and other behind-the-scenes activities.

"Motown is a little United Nations. You have people of all colors, all hues, all nationalities. You won't get a job at Motown because you're black, and you won't get a job there because you're white. All that is required is excellence."

The commitment to excellence can be attributed to Motown founder Berry Gordy Jr., who started the record company in Detroit in 1959 on a tiny investment and built it into one of the biggest success stories of the modern business world.

"Berry built an institution—Motown is an institution. Sometimes I have to remind him it's not just a successful business, it's an institution. Motown has been wherever I've been—Algiers, behind the Iron Curtain," Griffin said. "Motown is more the voice of America than the Voice of America (radio network). But Berry is a private man, where Martin was a public man.

"As much as Berry Gordy is, he puts principle with an 'le' before principal with an 'al.'

Griffin has taken a leave of absence from Motown to write a book and two movie treatments. He recently has been visiting the home of his mother and stepfather, Emma Lou and Morris Humphrey, in Stonega and has been looking for a place in the hills to write.

"I've done everything except write a book. I guess every journalist wants to do it. It must be respected in the literary world. I'd rather be a reporter for the *Kingsport Times-News* or write editorials or review books than cash in on that experience (with King).

"There are times I've regretted not staying with newspapering, but if I'd have done that I would have missed working for Dr. King. Sometimes I felt so inadequate. I had no political sophistication. I just had a passion to report.

"You have to be good at gathering facts and then mold them into a believable truth. Some people were as good at gathering facts but molded them into a believable lie. I never had that constraint put on me."

A STROLL THROUGH STONEGA

(By Tom Matthews)

STONEGA.—Some things never change, but Central High School and the old baseball park are gone, replaced years ago by railroad tracks and a coal tipple.

For Junius Griffin—who left the communal hollows of Stonega to take his place in the military, the media, "the movement" and ultimately, the high-powered world of the music business—it's still home.

It's still his parents' home as well, he points out. Emma and Morris Humphrey, his mother and stepfather, tried retiring in Connecticut, but soon returned to their home in Stonega, about six miles from downtown Appalachia.

"We used to bring our ax down here and chop ice to make homemade ice cream," Griffin says with a touch of nostalgia, pointing to a jagged limestone wall on the roadside.

"If you told most of the people in these hills they had to go on welfare," he said proudly, "they'd die. There is a strong work ethic here."

Griffin likes to tell of his early urge to follow his father into a career of coal mining, and of the time when he applied for a job with Stonega Coke and Coal (Westmoreland now), only to learn much later that his father had told company officials not to hire him.

He overcame the apparently inherent limitations (in the early 1950s) of being black and from the coalfields, and it was fitting that Griffin would take his place for many years in a profession—newspaper writing—which fascinated him as a youth, and formed the background for his future plans.

"My inspiration was not from genius," he said. "It came from a lot of hard work."

One of a number of ironies surrounding areas such as this—where things frequently change only in appearance or not at all—is diet, he observes, more aware in his middle years of the importance of balance and moderation, and often reminded by the vista offered around his home near Muscle Beach, Calif.

"My mother still cooks for my father like he's working in the mines," he said. "The real tragedy for some of those who have survived a lifetime of working in the mines, is that they are slowly committing suicide with their diet."●

ON SOVIET JEWRY

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. LUNGREN. Mr. Speaker, I rise today to draw attention to the plight of the Jewish Refusenik movement in the Soviet Union. In bold disregard of past human rights treaties it has signed, the Soviet Union in recent years has increased its oppression of its citizens by denying their rights to practice religion and to emigrate. It saddens me that we in the U.S. Congress must again protest the Soviet Government's outrages against freedom and dignity. The Soviet Jews, or Refuseniks, as they have come to be called, are asking for the right to practice some basic freedoms. Being refused opportunity to freely practice their faith, they would like to be permitted to move to a country where they can live with dignity. They are not trying to subvert the Soviet political system; they are only asking to be let out.

The Soviet authorities are virtually closing the door on Jewish emigration, despite the fact that an estimated 500,000 Jews are actively seeking to leave Russia. Beginning in 1980, the number of Jews allowed to leave the Soviet Union began decreasing drastically. Whereas in 1979, 4,000 Jews were granted exit visas every month—for a total of 51,331 for that year, in 1980 only 21,472 visas were granted and in 1981, 9,448. This year, 1982 appears to be shaping up as by far the worst year for Soviet Jewish emigration since the beginning of the Refuseniks movement in the early 1970's. If the present trend continues, the Union of Councils for Soviet Jews estimate less than 3,000 Jews will leave the U.S.S.R. this year.

Harassment of those seeking emigration has also been mounting in the last few months. As an example, the Soviet Government is now stripping Jewish scientists of their doctorates and MA degrees. As quoted from testimony before the Subcommittee on Human Rights and International Organizations, "Jewish scientists who have requested visas are summoned to the administration of the institutions where they are employed and are advised to withdraw their requests for exit visas. Each person refusing to do so is discussed at a meeting of the scientific council at his or her respective place of employment and usually fired."

Mr. Speaker, I believe it is important to stress that repeated incidents of Soviet disregard of the rights of individuals to practice their religion and emigrate, as cited above, are in direct violation of the commitment to freedom of thought, conscience, expression, religion, and emigration made by the U.S.S.R. through its adoption and participation as a signatory to the U.N. International Covenant of Civil and Political Rights, the Final Act of Conference of Security and Cooperation in Europe at Helsinki, the U.N. Charter, and the Universal Declaration of Human Rights. Mr. Speaker, this is a matter of international concern and to remain silent invalidates these human rights pacts.

So as to bring the facts of this matter to the attention of my colleagues, I insert into the RECORD at this point the statistics compiled by the National Conference on Soviet Jewery showing the decline in Jewish emigration from the U.S.S.R.

The statistical table follows:

Soviet Jewry Research Bureau—Jewish Emigration from the U.S.S.R.: Statistics

1965 to June 1967	4,498	1971	13,022	1975	13,221
October 1968 to 1970	4,235	1972	31,681	1976	14,261
		1973	34,733	1977	16,736
		1974	20,628	1978	28,864

SOVIET JEWRY RESEARCH BUREAU—JEWISH EMIGRATION FROM THE USSR: STATISTICS

	1979		1980		1981		1982	
	Number	Percent [1]	Number	Percent [1]	Number	Percent [1]	Number	Percent [1]
January	3,722	39.4	2,803	39.6	850	24.9	290	26.9
February	3,837	35.9	3,023	42.1	1,407	15.8	283	21.9
March	4,418	34.7	3,049	40.9	1,249	14.3	289	27.3
April	4,296	29.9	2,469	37.3	1,155	15.5	288	29.5
May	4,163	35.4	1,976	37.3	1,141	15.8	205	27.8
June	4,358	35.7	1,767	31.8	866	14.5	182	27.5
July	4,068	30.0	1,205	23.8	779	22.2	186	23.1
August	4,711	32.3	770	28.1	430	22.3	238	20.2
September	4,663	29.1	1,307	24.3	405	28.6	246	20.7
October	4,746	33.8	1,424	22.0	368	24.2	168	34.5
November	4,193	34.7	789	26.4	363	25.0	137	38.0
December	4,145	34.3	889	23.1	434	22.8		
Total	51,320	33.7	21,471	34.4	9,447	18.6		

[1] Figures represent the percentage of those who proceeded to Israel.

Note.—From October 1968 to October 1982, 261,994 persons left the Soviet Union with Israeli visas. Approximately 162,361 of them went to Israel.●

HONORING RAYMOND MULLER

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. PASHAYAN. Mr. Speaker, next month will mark the retirement from public service of Mr. Raymond Muller, who for the past 30 years has been a valued Tulare County supervisor and part-time appraiser. Those last 16 years have been as an active member of the Board of Supervisors.

Ray was chairman of the Central California Criminal Justice Planning Board, drug abuse officer for the county, served on the board of directors of the Community Action Agency, president of the San Joaquin Valley Supervisor's Association, a member of the board of directors of the State association, on the State executive committee and chairman of the Tulare County Board of Supervisors for the years 1971-72 and 1981-82.

At the present time he is chairman of the area agency on aging for Tulare and Kings Counties, revenue and tax task force for the State association and a member of the commission to study the new federalism for the State association.

Ray has been a Democrat all his life. He was president of the Southeastern Democratic Club for 2 years, is a member of the Porterville Democratic Club, and served several years on the Tulare County Democratic Committee.

Ray served two terms as president of the Terra Bella Chamber of Commerce. He is a member of the Porterville Elks and the Knights of Columbus and has served the council as grand knight and district deputy. He is also a member of the Tulare County Century Club.

He was born in Ducor, Calif., July 9, 1917, and attended local schools. He was sophomore class president and student body president while attending Porterville High School.

Ray and his wife, Fanchon, have three children, two sons, one daughter, and six grandchildren. They live in Terra Bella.

Even in retirement from public life, Ray will remain a man of public consciousness.●

CONGRESSIONAL SALUTE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. ROE. Mr. Speaker, last month the residents of the city of Paterson, my congressional district and State of New Jersey joined together at a testimonial in commemoration of the 50th anniversary of the founding of the Society of Manufacturing Engineers and the presentation of its Gold Medallion Award to distinguished members of the manufacturing engineering industry whose dedication and devotion to improved productivity through manufacturing engineering techniques has truly enriched our community, State, and Nation.

Mr. Speaker, I am proud to boast that three of the recipients of this most highly coveted honor—the Gold Medalion 50th Anniversary Award of SME National Headquarters, Dearborn, Mich.—are from Paterson Chapter No. 102 which is located in my congressional district. I know that you and our colleagues here in the Congress will want to join with me in heartiest congratulations and best wishes to the honorees—distinguished citizens, community leaders, and good friends—as follows:

The honorable: Charles M. Bazaz of Paterson, N.J., Charles T. Dobbie of Pompton Lakes, N.J., and Paul Kaske of New Milford, N.J.

Mr. Speaker, the Society of Manufacturing Engineers since 1932, has been manufacturing's link to improved productivity through education. Their members stand at the forefront of rapidly advancing technologies in the most prestigious field of manufacturing engineering. SME affiliated organizations include:

Association of Finishing Processes, Computer & Automated Systems Association, North American Manufacturing Research Institution, Robot Institute of America, and Robotics International.

Charles M. Bazaz is a lifelong resident of Paterson and owner of the Charles M. Bazaz Machine & Tool Consultants Firm of Paterson, N.J. He organized SME's Northern New Jersey Chapter No. 14 in 1937 and is the only remaining charter member of the chapter. He volunteered and organized SME's New York City Chapter No. 34 with an initial membership of 25 enrollments which has since expanded into one of the largest chapters on the east coast.

Thirty years ago Charles Bazaz organized SME's Paterson Chapter No. 102 breaking a national, and still unbeaten, record in membership enrollment with 265 manufacturing engineers comprising the chapter.

Charles T. Dobbie, recently elected chairman of SME Paterson Chapter No. 102 is president and director of Karlo Manufacturing Co., Inc., of Wayne, N.J. His company designs/develops special manufacturing machinery, dies, jigs, fixtures, welded assemblies, component parts, stampings, precision sheet metal items, tube bending and general contract work. Products manufactured include photopolymer

processing machinery, add-on conventor fins and liquid level controls.

Paul Kaske is a leading and active participant in the business community of my district and his professional expertise as a cost estimator with the Kearfott Division of Singer Co. is applauded by all of us. As we all know, the Singer Co. is a prominent and highly respected manufacturing firm of national and international renown in the aerospace and marine systems industry.

Mr. Speaker, there is much that can be said about these gentlemen—the 50th anniversary honorees of SME, Paterson Chapter No. 102, but suffice it to say, as evidenced by the national recognition afforded them by our Nation's manufacturing engineers, they are in the vanguard in helping to improve our Nation's productivity during an era of rapidly advancing technologies. In this respect may I commend the following brief profile furnished me on the history of SME to you, as follows:

* * * Founded in 1932 by 33 Detroit tool engineers, SME's purpose has been "to advance scientific knowledge in the field of manufacturing engineering and to apply its resources to * * * disseminating information."

Originally the American Society of Tool Engineers, it was renamed the American Society of Tool and Manufacturing Engineers in 1960, and a decade later, to the Society of Manufacturing Engineers, reflecting manufacturing engineering's evolution.

These changes depict the growing sophistication of a technical society, now an international influence in the field, with over 60,000 members in 60 countries, most affiliated with SME's 220-plus senior chapters. The Society sponsors more than 90 university and college student chapters, as well.

In 1962 SME sponsored 32 Conferences and Expositons, plus Industrial Productivity Events, around the U.S. and abroad, in addition to some 100 clinics, workshops, and symposia. Numerous education courses were also offered.

SME's many publications include the monthly "Manufacturing Engineering," the bimonthly "Robotics Today," and the "Tool and Manufacturing Engineers Handbook."

Through mid-1982, SME's Manufacturing Engineering Education Foundation has distributed more than a half-million dollars in grants to over 70 universities and technical institutions. Since 1972, SME's Certification Institute has certified some 11,000 manufacturing engineers and technologists for their on-the-job expertise. * * *

Mr. Speaker, in reflecting upon the history of our great country and the good deeds of our people who have made our representative democracy second to none among all nations throughout the world, I appreciate the opportunity to call your attention to the golden anniversary celebration of the Society of Manufacturing Engineers and the outstanding achievements of the recipients of the SME 50th Anniversary Gold Medallion Award for distinguished service in the manufacturing engineering disciplines. We do indeed salute the Society of Manufacturing Engineers and their honorees: The Honorable Charles M. Bazaz, the Honorable Charles T. Dobbie, and the Honorable Paul Kaske of New Jersey.●

PLIGHT OF BLACK INSTITUTIONS IN THE 1980'S

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. CLAY. Mr. Speaker, just as our society has come to recognize the critical role black colleges have played in the development of our Nation, we see the future of these institutions in serious jeopardy. I would like to take this opportunity to commend to my colleagues an excellent report on this subject, "Plight of Black Institutions in the 80's," written by Dr. Willie J. Kimmons of Wayne County Community College in Detroit, Mich.

PLIGHT OF BLACK INSTITUTIONS IN THE 80'S

(By Dr. Willie J. Kimmons)

The historic role of Black colleges has been one of healing—healing through education one of the great injustices of history, and because such injustices persist, Black colleges still play a very significant role. Conditions show that Black colleges and universities are critical to higher education for Black and minority students, but at the same time, diverse forces are threatening to end their struggling but proud existence.

The Black college story is one of richness and depth, of poverty and service. The majority of these institutions were founded in the south before or shortly after 1900 for the newly freed Black Americans who had been forbidden education. For decades, these colleges were often the only source of higher education available to Blacks. Relationships with home communities ranged from good to downright hostile, even though the colleges worked hard to serve the community when they could. Budgets were lean, and their executives became expert managers of shortages. Their students often came to them underprepared by their high schools, and the faculty responded with dedication, accessibility and expertise.

Today, there are roughly 105 two- and four-year historically Black colleges and universities; about 40% are public and 60% are private. Of these, almost 20 are two-year colleges. About 85 are four-year institutions that offer a baccalaureate degree; some offer masters' and doctoral degrees as well. These figures are an estimate, since a college is considered historically Black if it was founded primarily for Black Americans and has been identified with serving Blacks for about two decades.

In spite of overwhelming odds, Black institutions of higher learning have exhibited a tenacious will to survive. Nevertheless, if these institutions are to survive meaningfully, they must make a realistic appraisal of their overall role and scope in light of the available resources to do the job. Only after such appraisal can these institutions get to the job at hand—the development of strategies for preparing Black people with the essential skills to govern and compete in the Black community and the American society at large. The Black college is involved in such appraisal now.

Historically, the Black educational institution has played a very vital role in the lives of Black and poor people in this country. Our institutions have developed some of the greatest minds this country has ever produced.

One of the reasons why we are able to do this is because a Black college provides a more comfortable, more agreeable setting for learning. One must bear in mind that what is learned is curriculum, and that curriculum, broadly defined, includes the whole set of collegiate activities, what has been termed "the total college experience." Many Blacks, particularly that type which prefers to attend Black colleges over white colleges, need these activities and that experience to reinforce their Black identity in a familiar environment.

Second, a Black college provides "special group-oriented transitional educational enclaves" which allow and foster personal and intellectual growth free of irritating or demeaning contact with whites. Some Black students need such an enclave more than others, of course, but the need in any event is genuine. As has been noted so perceptively, one of the uses of the university is to bring about a reconciliation of the past with the future. Then, for this type of student particularly, a Black institution of higher learning is best suited to build bridges from poverty and bitterness and failure to understanding and achievement.

Third, a Black college serves as insurance against a creeping recession of Black rights, as occurred in the post-Reconstruction period. Historically Black colleges help raise and/or maintain a high Black consciousness level.

Lastly, and perhaps most importantly, it has been asserted that a Black college provides creditable models for aspiring Black youth. Developing good, solid, honest, and positive role models has been one of the main reasons for our success and survival.

It is important that Blacks, particularly those from disadvantaged and oppressed backgrounds, see other Blacks managing important affairs, administering important enterprises.

The nation's historically black institutions of higher education have been producing leaders for their people and their nation for about a century, dating before the days of Booker T. Washington and W. E. B. DuBois, also graduates of Black institutions. Washington was educated at Hampton Institute; DuBois at Fisk University. These and other Black Americans who attended the Black colleges have become professionals and/or leaders in their communities.

Think of some of today's best known Black leaders. The honorable Thurgood Marshall, Julian Bond, Patricia Harris, Vernon Jordan, Jr., Reverend Jesse Jackson, Barbara Jordan, Andrew Young, Vice Admiral S. L. Gravely, Jr., Commander of the Third Fleet, U.S. Navy; William D. Bryant, Chief Judge, U.S. District Courts; Marion Barry, Mayor of Washington, D.C.; Dr. Jesse B. Barber, Jr., president of the National Medical Association; Ernest Morial, Mayor of New Orleans, Maynard Jackson, former mayor of Atlanta, Wade McCree, former solicitor general of the United States, and Dr. Lionel Newsome, Lincoln University, graduate, former national president of the Alpha PI Alpha Fraternity and he has been president of three (3) historically Black institutions.

Despite obstacles, the Black colleges have graduated men and women who have gone on to become leaders in America, to become doctors, judges, engineers, legislators and mayors. They have graduated people who have returned to their communities and enriched the lives of others.

Additionally, the attrition rate of Blacks in white institutions is higher than it is in the Black colleges. The historically Black colleges and universities still award a disproportionate percentage of the degrees earned by Blacks. Most physicians, dentists, lawyers and veterinarians who are Black received their degrees from historically Black institutions, although such Black professionals are severely underrepresented in the population. The Black colleges, then, remain a major national resource. They have been underfunded historically. They serve students who tend to come from poor families. They have learned how to care and how to help their students to care. They are a primary source of today's young professionals and tomorrow's leaders.

As the process of desegregation comes to some of the Black colleges, they ought to be able to proceed from a position of strength. Because of a variety of reasons, the number of white students is increasing every day. In order for Black institutions to survive the 80's, they will have to actively recruit more Black and minority students. Students that have not had relatives attending these institutions must be recruited as well as those who want to continue a family tradition. Despite the changing student population, the Black leadership must be maintained. We must maintain and increase the number of Black faculty administrative staff and members of the Board of Curators.

The challenge of the 80's is to preserve the institutions as one of the several avenues through which Black Americans can become educated. Other religious and racial groups have institutions of higher learning that reflect their culture, tradition, beliefs. Similarly Black colleges must be available for those who prefer it.●

IRA BELL

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. ROGERS. Mr. Speaker, there is a void on the horizon today where once stood a tall and mighty pine—Ira Bell, of Monticello in my native Wayne County, Ky., died on Sunday, December 19, 1982. Today, I rise to pay tribute to this man I revere, a true prioneer in education for rural Americans. Ira Bell was born and reared in my home county in Kentucky where he served as superintendent of schools for 38 years. As superintendent in the early days of universal education, he rode horseback for weeks, visiting the hundreds of one-room schools which formed the basis of rural education in remote sections of the county. He experienced firsthand the difficulties rural Americans must overcome in order to obtain a quality education. This experience led Mr. Bell to lead the Nation in school consolidations. He was lauded as one of Kentucky's outstanding public school administrators.

Although Mr. Bell's presence in the community will be missed, his contributions will endure. Along with his wife, Julia, and his son, Harold Morton, I join friends and neighbors in mourning the passing of this great man.●

MX MISTLETOE CHEER

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. JOHN L. BURTON. Mr. Speaker, the enclosed article embodies the best tradition of Reaganism, that is, let every individual take up the slack caused by cuts in Federal spending especially during the holidays.

President Ron Wilson Reagan suggested that the more fortunate of our people, that is the 87½ percent working, should help out the 12½ percent who are not.

Instead of Government help, we should provide food for the hungry and presents for needy children as well as homes for the MX.

If, we as citizens, can provide homes for the MX maybe President R. W. Reagan will do something to provide homes for the 2,500,000 Americans who find themselves homeless during this second Christmas during the reign of Ron Reagan.

MX MISTLETOE CHEER

(By Art Buchwald)

Under the title "100 Neediest Families,"we are asking everyone who can possibly do it to take in one MX missile this Christmas. A cruel and unyielding House of Representatives has made MX missiles homeless during the holiday season. Originally they were supposed to be sheltered in a dense pack 20 miles long and a mile wide near Cheyenne, Wyo., in concrete silos. But the plan was vetoed and now the MX missile has no place to go.

The MX missile will not give you any trouble if you take it in your home. You can put it in your attic and just visit it once a day to see if it needs any fuel or water. It has 10 nuclear warheads on it, but you don't have to touch them, because they've already been targeted for someplace in the Soviet Union.

You might ask, "Why should I take an MX missile into my home?"

The reason is that the MX is a deterrent against first-strike aggression, and President Reagan says we need it as a chip in the nuclear arms talks in Geneva. Those of us who are blessed with so much should show the MX missile family that they are not alone during the happiest season of the year. How can anyone in this country enjoy the Christmas holidays when they are aware that there are hundreds of missiles who have no place to celebrate and no one to turn to on what should be a festive occasion?

We took an MX into our home last week. At first there was apprehension in the family. My wife asked nervously, "Suppose it goes off while we're having Christmas dinner?"

I assured her the missile would not go off unless someone in the White House pushed a button.

"I'll feel uncomfortable having a stranger in the attic," she protested.

"It may be a stranger when it first arrives, but before long it will be part of the family. You'll learn to love it. Besides, how can you enjoy your Christmas when you know there is an MX missile with tiny nuclear warheads to feed somewhere out there in the cold?"

The kids were very excited when I told them we were taking in an MX for Christmas.

"Can we play with it?" my son wanted to know.

"No, it's not a toy. It's the real thing."

"Does it have a joy stick on it?" my daughter asked.

"I'm not sure," I told her. "But even if it does, I don't think you should fool with it until I read the instructions."

"How do we get one?"

"I'm going to call the U.S. Air Force now," I said.

I placed a call to the Pentagon and told a colonel, "We'd like to take in an MX missile for Christmas, as we understand you have many who have no homes."

"Bless you," the colonel said. "We've had a hard time placing them during the holidays. We were afraid we'd have to keep them on the base. We'll have one delivered to your house tomorrow morning."

The next morning a two-ton Air Force truck arrived and the service personnel gingerly carried our MX guest up to the attic and positioned it so it would be aimed toward Europe.

"We'll come back for it after the holidays," the colonel said, "as we still haven't tested it. If you know anyone else who wants one for Christmas just give us a call."

I assured him I would.

After they were gone we all went up into the attic.

My daughter put a quilt on it because she was afraid it would get cold. My other daughter petted its nose. My son put warm milk next to it "in case the 10 nuclear warheads got hungry." My wife got into the spirit of things and decorated its fins with holly leaves.

The MX didn't respond in any way and seemed to be contentedly sleeping.

My daughter asked me, "Do MX missiles dream?"

"I'm sure they do," I told her. "I wouldn't be surprised at this very moment that it was dreaming of blowing up Leningrad."

We all tiptoed quietly downstairs filled with the spirit of peace and good cheer. By taking in a homeless MX missile during this holiday season we all had learned the true lesson of what Christmas is really all about.●

NOVEMBER 7—A DAY OF SORROW AND IRRECONCILABILITY

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. LUNGREN. Mr. Speaker, it is important that we in the House of Representatives and this country take note that November 7, 1982, commemorated the 65th anniversary of the "October Revolution" when the

Bolshevik Communist Party deprived the people of Russia their liberty. Today, Soviet domination and influence has clearly grown to its largest proportions ever. As the oldest surviving democracy in the world, we can never forget those who have perished at the hands of communism nor can we forget those presently living under the yoke of communism. I share the concern of the Congress of Russian Americans and wish to insert into the CONGRESSIONAL RECORD the following statement written by the CRA Board of Directors.

A DAY OF SORROW

Since November 7, 1917 the Soviet government under the leadership of its Communist Party has continually perpetrated crimes that are an affront to humanity. Among them:

The creation of an Orwellian state founded on a basis of human fear and ignorance and maintained by a ruthless military police;

The "reedification" of the Russian peoples, a policy inaugurated by the heinous murder of the royal family and pursued in the hopes of stripping the Russian peoples of their heritage and thereby creating the ideal human cipher, Homo Sovieticus;

The desecration and destruction of over 50,000 churches and monasteries;

The forcible collectivization of peasants, an act which resulted in the death by starvation of seven million people;

The exploitation of workers and the reduction of peasants to the status of government serfs;

The abandonment of Soviet P.O.W.'s (branded "traitors" by the Soviet regime) in Nazi war camps, resulting in the death of 4,650,000 native sons by starvation and disease;

The forcible repatriation of Soviet citizens remaining in Western European countries after the war and the subsequent imprisonment of these citizens in concentration camps;

The extermination of tens of millions of people in concentration camps and prisons;

The mental and physical torture of countless millions without regard to human rights or dignities;

The military suppression of any popular uprisings within the Soviet Union or any of its satellite nations, particularly Hungary, Czechoslovakia, and Poland;

The creation, through the wanton exploitation of natural resources and environment, of an aggressive military machine which continues to grow at the expense of the people's needs and aspirations;

The suppression of the freedoms of religion, thought, speech and the press and the persecution of individuals for their religious convictions and their beliefs in basic human rights.

No document can enumerate the countless crimes perpetrated by the Soviet government against its peoples. Only the tears of an anguished and suffering people can serve to measure these atrocities. To these tears we direct our hopes, our prayers, and our actions.

The 7th of November, the day of pompous Soviet celebrations, parades and deceitful proclamations about the "struggle for peace" and about the "joyous life" of Soviet citizens, we designate as a Day of Sorrow and Irreconcilability.

This Day of Sorrow and Irreconcilability has been faithfully observed by Russian-Americans and by all Free Russians for the past six decades. Throughout all these years Russians free in mind and spirit have continually attempted to warn the Free World of the threatening Communist danger, but to no avail.●

COMPLETION OF THE VIETNAM VETERANS MEMORIAL

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, I would like to include the text of the two resolutions which I introduced and which were passed by the House yesterday. They are, specifically, House Joint Resolution 636 and House Concurrent Resolution 437, and their contents, which deal with completion of the Vietnam Veterans Memorial, are as follows:

H.J. RES. 636

Joint resolution directing the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia

Whereas many Vietnam veterans and veterans' organizations have expressed great concern that the design of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia as dedicated on November 13, 1982, honor and recognize appropriately the service and sacrifice of the men and women of the Armed Forces of the United States who served in Southeast Asia during the Vietnam war;

Whereas many individual veterans and veterans' organizations expressing such concern met with the Vietnam Veterans Memorial Fund, Inc. (the organization authorized by Public Law 96-297 to carry out the design and construction of the memorial), and reached an agreement in October 1982, concerning the memorial's final design;

Whereas the final design agreed upon and recommended by the Vietnam Veterans Memorial Fund, Inc. and the various veterans' organizations and other interested parties would provide for the placement of an American flag with an inscription at the point that is pointed at by the V-shape of the two intersecting walls of the memorial and is 40 feet from the apex of the walls on a line bisecting the apex and equidistant from the end of each wall and for the placement of a statue by Frederick Hart of three American servicemen of the Vietnam war on the same line at a point 170 feet from the apex of the walls of the memorial and facing into the V-shape formed by the walls; and

Whereas these two elements of the design complete the memorial as a fitting commemoration to the men and women of the Armed Forces of the United States who served in Southeast Asia during the Vietnam war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, the Commission of Fine Arts, the National Capital Planning Commission, and other pertinent parties shall follow the clear wishes of Vietnam-era veterans of the United States, veterans' service organizations, the Vietnam Veterans Memorial Fund, Inc., and other interested persons and parties and approve the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia to include the flag and inscription and the statue as agreed upon, submitted, and recommended in October 1982 by these organizations and interested persons and parties.

H. CON. RES. 437

Concurrent resolution expressing the sense of Congress concerning the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia

Whereas many Vietnam veterans and veterans' organizations have expressed great concern that the design of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia as dedicated on November 13, 1982, honor and recognize appropriately the service and sacrifice of the men and women of the Armed Forces of the United States who served in Southeast Asia during the Vietnam war;

Whereas many individual veterans and veterans' organizations expressing such concern met with the Vietnam Veterans Memorial Fund, Inc. (the organization authorized by Public Law 96-297 to carry out the design and construction of the memorial), and reached an agreement in October 1982, concerning the memorial's final design;

Whereas the final design agreed upon and recommended by the Vietnam Veterans Memorial Fund, Inc. and the various veterans' organizations and other interested parties would provide for the placement of an American flag with an inscription at the point that is pointed at by the V-shape of the two intersecting walls of the memorial and is 40 feet from the apex of the walls on a line bisecting the apex and equidistant from the end of each wall and for the placement of a statue by Frederick Hart of three American servicemen of the Vietnam war on the same line at a point 170 feet from the apex of the walls of the memorial and facing into the V-shape formed by the walls; and

Whereas these two elements of the design complete the memorial as a fitting commemoration to the men and women of the Armed Forces of the United States who served in Southeast Asia during the Vietnam war: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurrring), That it is the sense of Congress that the Secretary of the Interior, the Commission of Fine Arts, the National Capital Planning Commission, and other pertinent parties should follow the clear wishes of Vietnam veterans of the United States, veterans' service organizations, the Vietnam Veterans Memorial Fund, Inc., and other interested persons and parties and approve the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia to include the flag and inscription and the statue as agreed upon, submitted, and recommended in October 1982 by these organizations and interested persons and parties.●

VETERANS' REFLECTIONS ON THE DEDICATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. MILLER of California. Mr. Speaker, several weeks ago, millions of

citizens throughout this Nation shared a special experience—the dedication of the Vietnam Veterans Memorial in Washington. For many Americans, and especially for many of those who served their country in that war but who received no gratitude for their sacrifices, this ceremony marked the end of a tragic and controversial national experience.

Art McGowan is a good friend of mine who has worked with my Veterans' Advisory Committee and with whom I have consulted on veterans' matters over the last 8 years. Art is also a former captain in the Army, a Vietnam veteran, who has won many service decorations, including the Distinguished Service Cross. Art currently serves as senior vice president and director of egion 6 of the United Vietnam Vet..ans' Organization, which he helped to organize.

Art attended the recent dedication ceremonies for the Vietnam Memorial and has written a very personal and moving account of his feelings that day. I would like to share his article with Members of the U.S. Congress.

VETERANS' REFLECTIONS ON THE DEDICATION

(By Art McGovern)

The emotional highlights of the Vietnam Veterans Memorial Dedication replaced years of painful memories about the war.

Military heroism, valor and sacrifice in Vietnam are being honored today in America for the first time.

These ceremonies also marked the start of a new life for each of us, one dedicated to those who fell before this tribute. In the past our lives had not always matched the standard that they died for. Now we all have something to honor once again.

Each milestone of our dramatic week in the capital filled our hearts with bright, shining moments of joy, and the special kind of inner peace that most believed to be lost forever.

The warmth of our sentiments toward this historic experience reflects the intensity of our commitment to change our lives.

Veterans of that war may no longer use "Vietnam" to excuse personal failure; henceforth it must stand instead for a special source of strength, testing, and personal growth.

At the stirring grand opening of the DAR's annual patriotic concert in Constitution Hall, we surprised ourselves when the strong clear voices of our combat veterans chorus rang out over those of the Service academies, the audience and the great military bands of Washington.

Saturday's parade brought us the moving sight of thousands of tear-streaked faces, tightly clutched flags, and heartfelt greetings, showing the emotional costs of every war, and the residue of bitterness from the long tragedy in Vietnam. Still, the sheer joy shown toward our singing made us feel we expressed everyone's emotions.

Each of us began believing we had reached that moment not by luck, but by destiny. We all felt it, passing beneath the huge flag at the White House, singing "America, America . . ."

That enormous, glorious banner over Constitution Avenue seemed even larger as we approached.

Our final march together, the few hundred yards after we left the float, brought forth all our feelings, our prayers, and a vivid sense that we had finally made it home.

After the dramatic week of events leading up to the stirring parade down Constitution Avenue, the simple new Memorial might well have been overshadowed. It wasn't.

The "Wall" comes as a shock no matter how well you prepare for it. The 65 shining black panels, each displaying up to 1,200 names, roughly matches the months of big-unit U.S. combat during the war. The painfully long lists of names intensifies the sense of American sacrifice and loss in Vietnam. Americans seeing this may pause before blaming fighting men for the consequences of political expediency and a domestic failure of moral conviction.

I couldn't believe all the names. In some places whole units and battles appeared, showing the cost of the war in endless columns of faceless names of 19.4-year-old soldiers.

Looking warily at each of the ruler-sized names carved on the wall, as an infantryman who survived thanks to no special skill, I kept expecting to find my own name up there, 58,000 times.

But something good happened for these fallen comrades last week. Although they have been gone for a decade or more, all Americans now can see the impressive scale of their sacrifice for us.

Our moments at the Memorial constituted the most intense mourning of our lives. Despite the mud, the rain, the public and the media, that time stands out in all our memories.

Looking back at our strength and emotion, poured out at the monument, creates a deep sense of pride. We found the humility to mourn together and express our feelings under the most critical emotional circumstances.

This healing ritual in Washington made me proud to be an American, and helped me feel like one.

The men who spoke during our appearances deserve recognition for real moral courage. They delivered messages of love, pride, and humility when other words and feelings might have pleased some of the crowds even more.

Fred Gusman our VA program director, inspired us with his professionalism and sense of caring as he and his staff gently guided each of us through these emotional events.

We came to believe our role in these events had nothing to do with luck. I don't believe in it anymore; our lives mean more than that. No one of us ever thought he would represent his outfit and his buddies in such a heartwarming tribute to the living and the dead. Our experience came to feel like a matter of Providence that began the day that we survived when others were lost. Now, however, we can finally put these feelings to rest.

Each of us left pain and resentment behind in Washington. We did this not only to honor the fallen, but also as an offer of good faith, to help reunite all Americans. We hope our small act helps other Vietnam veterans put aside their painful memories and their isolation, to begin the healing process of coming home. Last week they became part of our national history. Now is the time to live for today and look toward tomorrow.●

A REMINDER OF GEORGE WASHINGTON'S FAREWELL ADDRESS AND HIS WARNING AGAINST "PASSIONATE ATTACHMENTS" TO PARTICULAR FOREIGN COUNTRIES

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. McCLOSKEY. Mr. Speaker, in leaving this treasured institution after 15 years, I thought my colleagues might permit me a farewell argument to urge, as George Washington did nearly two centuries ago, that the United States avoid "passionate attachments" to particular foreign governments.

Washington in his famous Farewell Address, at the end of a third of a century of public service, having served 8 years as commander of our Revolutionary Army and 8 years as our first President advised us against undue foreign entanglements.

The Father of our Country put it this way:

A passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation, of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained, and by exciting jealousy, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted or deluded citizens who devote themselves to the favorite nation, facility to betray or sacrifice the interest of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation . . .

Against the insidious wiles of foreign influence. (I conjure you to believe me fellow citizens,) the jealousy of a free people ought to be constantly awake; since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people, to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our com-

mercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith:—Here let us stop.

This advice of 1796 seems eminently sound today. Within our lifetimes we have seen countries who were our enemies become our friends, and vice versa. Witness Japan, China, the Soviet Union, for example.

As of yesterday, however, we in Congress seem to have forgotten Washington's admonition. Yesterday, overriding a foreign policy pursued by five Presidents, Congress has reflected a passionate attachment to a single foreign nation, the State of Israel.

Yesterday, in our omnibus continuing resolution, overriding President Reagan's objections, we voted more money in grants and loans to this small and powerful nation of 3½ million people than we have for any of the impoverished or underdeveloped nations of the rest of the world, a world where more than 3 billion people are estimated to live in poverty.

At a time of economic hardship and high domestic unemployment, we voted more money per capita to each Israeli than we allow to many of the poor and unemployed in our own country.

In our continuing resolution, nearly $2.5 billion is allocated to Israel, $785 million in economic aid and $1.7 in military assistance loans. Of these loans, we immediately forgive $750 million, a figure $250 million more than President Reagan requested.

We do this despite the fact that within the last 6 months, Israel has deliberately violated solemn agreements with the United States which prohibited Israel's use of U.S.-supplied weapons for offensive purposes and which prohibited Israel's use of cluster bombs in civilian areas such as West Beirut.

We voted these incredible sums of money despite the fact that the lives of U.S. marines are placed at risk in Lebanon today because Israel, in September, violated solemn assurances to the United States that it would assist in protecting the safety of Palestinian women, children, and noncombatants whose safety had been guaranteed by the United States as a condition of obtaining PLO withdrawal from West Beirut.

In voting this money, we demonstrated that Congress has a passionate attachment to Israel so great that we are willing to seriously weaken, if not destroy, the efforts of both President Carter and President Reagan to obtain autonomy for the Arabs residing in the Palestinian mandate territory called the West Bank, occupied by Israel since 1967. We turn our back on U.N. Resolution 242 requiring Israeli withdrawal from all or most of the West Bank, and upon the Camp David agreements which, in three separate places specifically require Israel to accept the withdrawal from occupied territories which was the very basis of Camp David.

It is less than 5 years ago, September 1978, that Israel signed the Camp David agreement.

That same year, the U.S. State Department formally advised Congress that the new Israeli settlements on the West Bank were illegal in that they violated the Geneva Convention prohibiting an occupying country from settling its citizens permanently in occupied territories.

Israel had signed the Geneva Convention just as she had signed Camp David. Yet in creating new settlements and in asserting a claim of sovereignty to the West Bank, Israel is violating both agreements. There is no legitimate way to argue that the Camp David agreement, specifying, as it does, that it is based upon "Resolution 242 in all of its parts," does not require ultimate Israeli withdrawal from most, if not all, of the West Bank.

Yet Israel now moves to both rapidly create new settlements and to claim absolute sovereignty over what earlier it conceded was "occupied territory."

In voting forgiveness of Israel's indebtedness in an amount $250 million more than President Reagan asked, we only strengthen Israel's resolve to defy the United States position on the West Bank.

We likewise violate George Washington's famous admonition.

One might well ask, under these circumstances, why Congress acts to overrule the President and actually increases aid to Israel.

The answer, of course, is quite simple.

Congress continues to respond to a special interest in this country which is so strong that, as Prime Minister Begin has said, "Washington quails before it."

That special interest is perhaps best recognized as the Conference of Presidents of Major Jewish Organizations, headquartered at 515 Park Avenue, New York, N.Y. The American Israel Public Affairs Committee, (AIPAC), is the conference's lobbying arm. AIPAC claims in its literature that the presidents of the major U.S. Jewish organizations are all on its governing board.

The conference's most recent position was stated in a letter from its chairman, Julius Berman, to the editor of the New York Times magazine published Sunday, December 12.

Mr. Berman stated that the consensus of the conference—which he believed was also the view of "most American Jews who are not affiliated with any Jewish organization" included:

The idea that Jews should be barred from living in Judea and Samaria (the "West Bank") is anathema;

Israel's settlements in these territories are neither illegal nor in violation of the Camp David peace process;

Israel's security depends in large part on a ring of civilian and military outposts in the West Bank to protect the country's narrow waist.

Mr. Berman closes:

I believe these are the views of the overwhelming number of Israelis as well as American Jews.

In taking this position, Mr. Berman and the 36 major national Jewish organizations in America make it clear that they are opposing the key element of President Reagan's Mideast peace initiative, the freeze on settlements, and are instead supporting the position of Begin. This is their right under our system of government. It is understandable that American Jews have the same passionate attachment to Israel that Washington warned that the United States, as a country, should not have. It is also understandable that AIPAC would lobby us, as it did earlier this year, to forgive Israel its indebtedness to the United States.

It is not so understandable, however, that Congress should accept the views of the organized American Jewish community and forgive Israel's indebtedness to the United States at this particular time in history.

Israel is no longer behaving like a friend of the United States.

Israel is a foreign country we have supported through thick and thin and through five wars since its founding in 1948. I do not suggest that we should withdraw that support, but I do suggest that it is time we draw some reasonable lines. We should not support any country which deliberately violates agreements. If Congress bows to a single pressure group on a serious matter of foreign policy of this kind, we ourselves open up what James MacGregor Burns called Democracy's Exposed Flank, the inability of Congress to resist special interest lobbying on crucial foreign policy issues.

This is no ordinary special interest lobby issue.

Israel has not signed the Nuclear Non-Proliferation Treaty. Israel possesses nuclear weapons, but claims and has exercised the right to destroy civilian nuclear powerplants of other countries merely because of the alleged danger that those plants might be used to create nuclear materials at some distant time. Israel is no longer a friend and ally upon whose word or agreement we can rely.

If our passionate attachment to Israel continues, we might well consider the possibility that Israel's current antagonism toward President Reagan's peace initiative could lead to a nuclear war in the Mideast, a nuclear war into which the United States and the Soviet Union could be drawn, a war which could end civilization as we know it.

For these reasons, it seems worthwhile, on this, hopefully the last day of the 97th Congress, to urge that the words of the Father of our Country, George Washington, be accepted as far wiser and sounder than the words of American Jewish leaders to the contrary.

Only a few months ago, the New York Times reported Israeli's Defense Minister, Ariel Sharon, as having gathered U.S. Jewish leaders together at a new West Bank settlement and exhorted them to back up Israel's position when they returned home. "We are counting on you," Sharon reportedly said.

Is not this "the insidious wiles of foreign influence" against which Washington warned?

Last week the members of one "major" Jewish organization voted to oppose the Begin administration's West Bank settlement policy. They were "overruled" by their chairman on the ground that the organization was "not entitled to oppose any policy of the State of Israel."

Should such organizations have weight in congressional decisionmaking?

Or should we not return to George Washington's principle?

A passionate attachment of one nation for another produces a variety of evils . . .

So far as we have already formed engagements, let them be fulfilled with perfect good faith:—Here let us stop.●

JOHN ROUSSELOT

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. WYLIE. Mr. Speaker, it is with regret that I contemplate the beginning of the 98th Congress without the presence of JOHN ROUSSELOT. I had the privilege of serving on the Banking Committee and the Joint Economic Committee with JOHN.

He is, without a doubt, one of the most tireless workers among all the Members of Congress. He is resourceful in the many ways he goes about getting his viewpoint across and is articulate and informed in debate. JOHN has, indeed, performed a valuable service for his party, his district, and his nation.

In addition to all these remarkable attributes, it can never be said that JOHN was one to hide his light under a bushel, which rendered him the more effective in seeing that the laws which were enacted were carefully considered.

Beginning in the 91st Congress, JOHN and I collaborated on trying to get a balanced budget law passed. He offered amendments which I supported, and I offered amendments which he supported. His dedication to less Government spending, less regulation, and a sound fiscal policy did contribute to the development of the process of bringing Government spending under control.

His presence will be missed by all of us. Marjorie joins me in wishing for JOHN and Vyonne much happiness, knowing that they will continue to contribute to the democratic process in a Republican way.●

CONTINUING APPROPRIATION

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. JEFFORDS. Mr. Speaker, I would like to bring to the attention of the Members a provision of the continuing appropriations resolution conference report that may have escaped their attention. In an extremely important action for States which consume a large amount of oil, the Congress agreed to a provision which states that the Department of Energy must make available up to $200 million to States from funds collected in oil overcharge cases for energy conservation activities and low income fuel assistance.

For the last several weeks, I have been adding cosponsors to a resolution I introduced urging this course of action. To date, 30 of my colleagues have cosponsored House Resolution 634. In my view, these funds should first be used for restitution, so that those who can be precisely identified as having been injured by overcharges can be compensated. However, this precise restitution is not possible in many cases, so a formula that approximates restitution is desirable for the rest of the funds.

The language of the continuing resolution states that the funds made available to the States shall be used for low-income fuel assistance, weatherization, the schools and hospitals program, the Energy Extension Service and State energy planning. None of the funds can be used for administrative costs or for providing State matches for Federal funds, These funds should be considered as a supplement to, not a replacement for, existing appropriations.

Distribution of the funds is to be made according to the amount of oil and gasoline consumed within a State between 1973 and 1980. From my preliminary discussions with the Department of Energy, it appears that the States should receive this money in the next few months.

I am very pleased that we have agreed to this approach. Energy prices continue to rise despite the recession, and it is important that we help those who cannot afford to pay their heating bills or make conservation improvements in their homes.●

TED HENSHAW

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 20, 1982

● Mr. MAZZOLI. Mr. Speaker, I would like to extend my appreciation and thanks to Ted Henshaw for the invaluable service he has given as Clerk of the House. Over the years Ted has served diligently and conscientiously in this position and has kept things running on course.

I wish him much success for the future and extend my thanks for a job well done.●

TRIBUTE TO THE HONORABLE MARGARET M. HECKLER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

● Mr. ANDERSON. Mr. Speaker, I am both pleased and sad to rise today in tribute to my good friend and colleague from Massachusetts, MARGARET HECKLER. I am sad because, I, and I am sure, all of us in the House will miss her presence here. I am pleased, however, to be able to take this opportunity to congratulate her on her 16 years of public service in the House; 16 years in which PEG brought to the House and everywhere she went beauty, grace, and dignity.

I have admired PEG HECKLER as a friend and as a professional for many years. PEG has been a very effective legislator throughout her years in the Congress. She has secured substantial benefits for this Nation's veterans. She has very effectively promoted women's rights. And, she has successfully represented her constituents in Massachusetts' 10th Congressional District with great energy and skill, as her eight terms in Congress attests. I am sure that I am not alone when I say that the gentlelady from Massachusetts has garnered great respect from her colleagues of both parties during her congressional career.

Mr. Speaker, I consider it a pleasure and a privilege to have been able to work with PEG. I would like to say that I believe the new Members who will be coming to the House in January when the 98th Congress convenes could do no better than to use PEG HECKLER'S work and distinguished record in Congress as a model for their efforts as Members of the House of Representatives in the 98th Congress.

Mr. Speaker, though I am saddened by the imminent departure of our dear

colleague, PEG HECKLER, I am quite confident, and I take a measure of comfort from knowing, that whatever she decides to pursue in the coming years, PEG will most certainly achieve the successes that she has in Congress. So, my wife Lee joins me in wishing PEG, her husband John, and her lovely children, John Jr., Belinda, and Alison good health and good fortune in the years ahead.●

THE COLTRANES IN AMERICAN AND WORLD MUSIC

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. CONYERS. Mr. Speaker, the Coltrane name is a very special one in the world of music. In the late 1940's, it first came into prominence with the emergence of John Coltrane, the extraordinary and unique jazz musician, composer, and saxophonist. After a tour with the Navy Band, Coltrane pursued a series of remarkable collaborations with Dizzy Gillespie, Earl Bostic, Johnny Hodges, Miles Davis, Thelonius Monk, Red Garland, and Donald Byrd.

In the biography, "Chasin' the Trane: The Music and Mystique of John Coltrane," J. C. Thomas writes:

> Just as Charlie Parker stood astride the jazz world of the late 40's and 50's, so did John Coltrane in the late 50's and the 60's. Trane was a giant of the saxophone * * *. There was a mystical quality, a profound melancholy that emanated from this quiet, self-contained man that moved listeners, some of whom knew little of music but heard something beyond music's boundaries from the sounds his saxophone created. Many even had their lives changed as a result.

John Coltrane was an architect of progressive jazz, whose musical genius exerted enormous influence on classical, spiritual, and rock music as well. He transformed the saxophone into a premier instrument of jazz and spellbound his audiences. A student of Eastern cultures and music, he welded together the harmonies of East and West. Among his great compositions are: Africa, After the Rain, Alabama, Bessie's Blues, My Favorite Things, Naima, Softly as in a Morning Sunrise, and Soul Eyes. Coltrane was the quintessential musician, always inventing new harmonies, probing sounds, exploring new motifs, and sharing his vision with enraptured audiences. Trane died in 1967, and left a precious legacy in his recordings.

John Coltrane's wife and musical collaborator, Alice McLeod, shared the remarkable gifts of composing and performing. As a young girl growing up in Detroit, Alice studied the piano and organ, and immersed herself in music theory. Later, she performed actively in churches and schools throughout the city, and became organist at the Mount Olive Baptist Church. The Coltranes together shared a deep involvement in Eastern religions and philosophies. They introduced many Eastern motifs in American music, performed together in concert halls throughout the world, and sponsored musical education.

Alice Coltrane's compositions reflect a deep involvement in religious and spiritual concerns, reflected in her inspirational music, recorded for ABC Records, and the devotional chanting and orchestral pieces recorded for Warner Brothers Records. Her music has evolved into a spiritual language of great influence.

The Coltranes raised three sons and a daughter: John, Jr., Ravi, Oranyon, and Michelle. All have engaged in musical life. Tragically, John, Jr., who was pursuing a remarkable musical career of his own on the bass, was killed this summer in an automobile accident near his home in Los Angeles. He and his mother had just performed a concert together at U.C.L.A.

John and Alice Coltrane have contributed enormously to the musical spirit in America and the world, setting a standard of artistry that few have excelled. Their music, indeed, changed and expanded our lives, and we are profoundly grateful.●

RICHARD WHITE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

● Mr. DERWINSKI. Mr. Speaker, I could not let this session close without saying a few words about the distinguished gentleman from Texas, RICHARD WHITE. DICK has represented the 16th Congressional District of Texas since 1965 and has been a great asset to this body.

Although we have been on opposite sides on the aisle, I have always considered DICK a friend, and a man who would leave partisan motives aside when considering the best interests of the country.

A man of integrity, dedication, and personal warmth, DICK has brought honor to this institution. I was privileged to have served with DICK on the House Post Office and Civil Service Committee, and his solid record of accomplishment in the areas of postal and civil service legislation were highly regarded by all of us on the committee.

DICK has always been one of those wonderful people who is easy to get to know and to work with, and his judgment and expertise have always been adhered to and valued by his colleagues.

I wish DICK the very best in the years ahead, and want him to know that his achievements will long be remembered. It was a privilege to have served with him.●

TOBY MOFFETT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. MINETA. Mr. Speaker, I am proud to honor my colleague, Representative TOBY MOFFETT. We entered Congress together 8 years ago, and since then, I have watched TOBY work as an outstanding legislator and public servant.

Consistently, TOBY has worked to improve our Government. When we entered Congress in 1972, TOBY played a crucial role in organizing our freshmen class of Representatives and in establishing orientation seminars. He then proceeded to operate effectively as an advocate of consumer interests, environmentalism, and peace.

TOBY's dedication and talent quickly earned him a leading role as chairman of the Energy, Environment and Natural Resources Subcommittee, and TOBY used the position to spur conservation and to check the abuses of power. TOBY instituted conservation policies and fought the administration when it sought to scar our environment for short-term gains.

At the same time, TOBY protected American citizens from several hazards. In international affairs, TOBY was an early supporter of legislation mandating a nuclear freeze, and in the domestic arena, TOBY was a champion of strict safety standards. Whether he was working to reduce the risk of nuclear holocaust or checking to see that our water remained uncontaminated, TOBY was a guardian of the public interest.

In a system where people are too often comforted by the tonics of mutual approval, consensus, and tradition, TOBY had nerve enough to criticize, dissent, and reform. Facing overwhelming odds, he often managed to effect change, and even where TOBY fell short of full success, ethical hindsight has reflected far better on him than on his opponents.

Today, I thank TOBY for his statesmanship, his courage, and his friendship, and I wish him the best of luck.●

BEST WISHES TO TED HENSHAW

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 20, 1982

● Mr. BROOKS. Mr. Speaker, Ted Henshaw has served the House long and well in a variety of positions. First with the Democratic Congressional Campaign Committee and then with the Clerk's office, he has performed his duties with skill and dedication. We in the House are fortunate to have such loyal, able officers as Ted Henshaw to help us carry out our responsibilities and he will be sorely missed in the next Congress.

We have all been sorry to see Ted slowed by illness recently and I hope he will recover his health in retirement and enjoy a full and active life for many years to come. My best wishes go with him.●

CAP HOLLENBECK

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. HUGHES. Mr. Speaker, I would like to take a few moments to pay tribute to my good friend, CAP HOLLENBECK, who unfortunately, will not be with us when we reconvene in January.

Since his election to Congress in 1976, CAP has represented New Jersey's Ninth District with the highest level of competence and legislative ability, distinguishing himself as one of the House's outstanding spokesmen for the advancement of the Northeastern States. Throughout his 6 years of dedicated service here, CAP has maintained the courage of his convictions, never hesitating to do what he truly believed to be best for his constituents and his country, regardless of partisan pressure or current public opinion.

I am honored to call CAP HOLLENBECK my friend, and deeply saddened by his departure. His genuine warmth and outgoing personality will be greatly missed by all who worked with him here and will, I feel certain, insure his success and happiness in future endeavors.●

HIGH LEVEL WASTE BILL

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. LUJAN. Mr. Speaker, I am pleased to support adoption of the pending legislation. I wish to comment briefly on section 121 of the bill, the section providing for EPA standards and NRC regulations pertaining to nuclear waste repositories. We clearly intend thorough and adequate Federal regulation of repositories to protect the public health and safety and the environment under this section. However, some further comment on how this should be accomplished is in order.

Mr. Speaker, there is no such thing as a zero-risk technology. This is especially true in the case of atomic energy technology, because radiation, which is toxic at high dosages, is usually assumed for regulatory purposes to be proportionately toxic even at minute dosages, despite a lack of affirmative evidence to establish that fact. Given the usual employment of this conservative "linear nonthreshold" assumption, the only means to guarantee zero-risk is to eliminate all radiation exposures, no matter how small. This exercise would be incredibly expensive not only in terms of the direct cost of accomplishment but also in terms of foregone benefits from allowing wider use of atomic energy technology on less restrictive terms.

Since zero-risk is simply not feasible, standards and regulations must be set through some kind of comparative analysis and balancing. Unless this is done, the regulatory requirements will be totally arbitrary. The three most useful tools for achieving supportable and nonarbitrary requirements are comparative risk analysis, balancing of costs and benefits, and cost-effectiveness analysis.

Comparative risk analysis basically entails placing risks in perspective. This has three dimensions. First, the risks should be compared to the risks which we commonly and ordinarily incur. For example, it makes no sense to concern ourselves with risks so remote that they will occur, if at all, only as frequently as the risk of being struck by lightning or of encountering other natural catastrophes. Many experts believe that risks in the neighborhood of 1 in 100,000 or even greater are essentially de minimis. Second, the risks should be compared to the risks which we incur from alternative technologies. Obviously it makes no sense to regulate one technology so stringently that people are forced to rely on an alternative but more risky technology. Any such action would be counterproductive and would increase rather than decrease overall societal risk. Third, in the case of radiation, which is always present in our environment, the risk should be evaluated against the risks atttributable to other sources of exposure, including natural background. It serves no purpose to further minimize a source of exposure if that source is a relatively minor increment against background or other sources. In short, regulatory agencies must employ comparative risk analysis in setting their standards and requirements in order to fashion supportable, nonarbitrary and meaningful regulations.

Balancing of costs and benefits has varying degrees of refinement, ranging from full-scale cost-benefit analysis and optimization to efforts to assure that the costs imposed by regulations bear a reasonable relationship to the benefits derived. Some form of balancing is clearly in order to prevent the imposition of requirements whose costs are so great in comparison to their expected benefits that they are totally arbitrary. For example, it makes no sense to require an expenditure of $10,000,000 to address a remote risk of, say, 1 in 100,000 per person. If we spent this amount on such remote risks, we would quickly run out of money and have nothing to show for it. Indeed, we would be worse off because of the lower standard of living caused by the unsupported diversion of funds. In sum, regulatory agencies must engage in some balancing in setting their requirements lest society wind up the loser. Ideally, the balancing in question should take the form of a rigorous cost-benefit approach. However, in some instances this may not be possible and, in such cases, a less stringent analysis designed to assure a reasonable relationship is appropriate.

Cost-effectiveness analysis is generally employed once basic regulatory goals have been set. Basically it is used to determine the least expensive means to attain a goal—a goal which should have been set on the basis of comparative risk and balancing of costs. Choosing the least expensive path to a particular goal makes obvious sense because it guards against a clear and needless waste of society's efforts and resources. I know of a no valid argument in opposition to general use of the cost-effectiveness approach.

It is worth emphasizing that balancing of costs and benefits and cost-effectiveness analysis should be distinguished from cost-feasibility analysis. A cost-feasibility analysis in essence asks only whether money is available to pay for a requirement without bankrupting the Government or an industry. Although clearly an agency bears a heavy and almost always insurmountable burden in justifying economically infeasible requirements, a determination of cost feasibility is no substitute for, and no excuse for failure to engage in, a proper analysis of costs and benefits and a proper determination of the least cost approach to attain a particular goal.

Mr. Speaker, comparative risk analysis, balancing, and cost-effectiveness analysis should all be used in the context of formulating regulations for the nuclear waste repositories authorized under this bill, just as they should be

for other Atomic Energy Act activities. Failure to employ these three tools will result in imposition of arbitrary regulations to the detriment of taxpayers, utility ratepayers and the health and safety of the public. In sum, EPA and NRC should employ these approaches in discharging their duties under this legislation and under the Atomic Energy Act. Such is my intent in sponsoring and in voting for this bill.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 15, 1982.

Hon. HERMAN E. ROSER,
Assistant Secretary for Defense Programs (DP-1), U.S. Department of Energy, Washington, D.C.

DEAR HERMAN: As you know, final action by Congress on the nuclear waste bill is expected in the next few days. The bill provides a framework for siting, constructing and operating nuclear waste repositories. As part of that framework, the bill provides for issuance of standards by the Environmental Protection Agency and more detailed requirements by the Nuclear Regulatory Commission. I would appreciate your personal views concerning the factors the agencies ought to consider or the approaches which they ought to employ in discharging their obligations in this regard.

Sincerely,

MANUEL LUJAN, JR.

DEPARTMENT OF ENERGY,
Washington, D.C., December 16, 1982.

Hon. MANUEL LUJAN, JR.,
House of Representatives, Washington, D.C.

DEAR MANUEL: Thank you for your letter of December 15, 1982, requesting my views concerning the factors which should be considered and the approaches which should be employed in devising standards and requirements for nuclear waste repositories.

As you know, the Department of Energy (DOE), the Nuclear Regulatory Commission (NRC), and the Environmental Protection Agency (EPA) all operate under the basic guidance of the Atomic Energy Act that atomic energy activities should be so conducted and so regulated to protect the public health and safety. We are operating our facilities safely and effectively under this authority. Future high-level waste repositories are subject to regulation as provided by law. Regulatory requirements should be directed to the basic goal: protection of public health and safety. We firmly believe that nuclear waste facilities can be sited, constructed, and operated in a fashion which is safe, efficient, and fully protects the public health and safety and the environment from all significant hazards, whether radiological or non-radiololgical.

It is useful, however, to briefly clarify the basic approaches which should be employed in arriving at standards and requirements. First, we believe that regulatory goals should be set through appropriate use of comparative risk analysis. As we stated to the General Accounting Office (GAO) with respect to the development of radiation standards for decommissioning activities, Federal standards and requirements should be "realistic and balanced with consideration of risks and costs accepted by society for non-nuclear activities." The GAO agreed with that assessment (GAO, Cleaning Up Nuclear Facilities—An Aggressive and Unified Federal Program Is Needed 65-66, 1982). We also believe that the risks associated with radiation from atomic energy activities should be evaluated against the risks associated with exposure to natural background radiation. It makes no sense to impose costly controls to minimize an incremental exposure which is trivial in comparison to natural background.

Second, we feel that EPA and NRC regulations should be cost justified. If the risk is slight, so should be the cost of complying with regulations addressing it. This is supported by the federally chartered National Council on Radiation Protection and Measurement (NCRP) which declared, in its Report No. 43, that:

". . . numerical estimates of radiation-related risks, even when realistic, are of little use in a vacuum, i.e., without comparable numerical estimates of associate benefits, and of risks and benefits for alternative means to achieve the desired end."

Finally, we believe that the agencies should select the most cost-effective alternative to attain particular goals in order to avoid unnecessary expenditure of taxpayers' money.

We also believe that regulatory risk assessments should be based on the best available scientific information and should be realistic. We take notice of NCRP's admonition in Report No. 43 in which NCRP stated that it

". . . wished to caution governmental policy-making agencies of the unreasonableness of interpreting or assuming 'upper limit' estimates of carcinogenic risks at low radiation levels, derived by linear extrapolation from data obtained at high doses and dose rates, as actual risks, and of basing unduly restrictive policies on such an interpretation or assumption. The NCRP has always endeavored to insure public awareness of the hazards of ionizing radiation, but it has been equally determined to insure that such hazards are not greatly overestimated. Undue concern, as well as carelessness with regard to radiation hazards, is considered detrimental to the public interest."

Again, we appreciate this opportunity to express our views.

Sincerely,

HERMAN E. ROSER,
Assistant Secretary for Defense Programs.●

FRED MANOCHERIAN'S CRUSADE FOR HIGHWAY SAFETY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. SOLARZ. Mr. Speaker, the automobile has been important to our Nation's development, but like many other technological advances, this tool can be dangerous—fatally dangerous—when misused. Over 50,000 Americans die each year on this Nation's highways. Many of these deaths are due to driver error, yet we do not have adequate driver education programs. The National Highway Traffic Safety Administration has done much to improve the safety of vehicles, but little to improve the safety consciousness of those who drive them.

Mr. Fraydun Manocherian, who operates the New York Health and Racquet Club in New York City, is one citizen who has tried for many years to do something about this problem. On December 6, for example, he placed a full-page advertisement in the New York Times asking that 2 percent of the money that we intend to raise under this bill—one-tenth of 1 cent per gallon of gas—be set aside for such safety education as dramatizing the importance of good driver judgment, teaching safe driving techniques, making certain that all drivers are aware of traffic safety laws, making the public aware of the major causes of accidents, and demonstrating the horrible results of accidents that each week kill over 1,000 persons and maim or injure another 7,000.

I regret that the tightness of our current budget and the speed with which this legislation has had to be considered have made it impossible to enact Mr. Manocherian's proposal this year. I think that it is a good idea and one that should receive full consideration by the Committee on Public Works and Transportation in the new Congress. I commend Mr. Manocherian for his public spirit and encourage him to continue his efforts.

Mr. Speaker, I insert the text of Mr. Manocherian's proposal at this point in the RECORD:

[From the New York Times, Dec. 6, 1982]

TO ALL LEGISLATORS: THIS 9 YEAR OLD IS JUST ONE OF 55,000 STATISTICS.

If we knew that an epidemic in 1983 would cause the death of 55,000 Americans, would we do all we can to prevent it? An unexpected auto accident can make a very healthy person quite unhealthy in one second. Aside from killing 55,000 Americans per year, auto accidents disable more of us than any other cause. Auto accidents also cause more facial and body disfigurements than any other cause. This problem can be alleviated. The answer lies in your action now.

Substantial efforts have been made toward the development of safer cars and roads. But, to reap the full benefits of these programs, we must have a national effort to develop better drivers—the kind of drivers who prevent accidents.

Most automobile safety experts agree that 90 percent of accidents are ultimately caused by the driver.

It seems most likely an additional five cents tax will be imposed on gasoline. We respectfully suggest that one tenth of one cent per gallon of this tax so collected be used toward safety on our highways that are built, and are to be built. This one mill per gallon would raise over $100,000,000 annually. It would be an average cost of approximately one dollar per car per year.

A former Secretary of Transportation, John Volpe and his Auto Safety Administrator, Douglas Toms, estimated that a 15% reduction in accidents would save us 6 billion dollars annually. Even if this 100 million dollar national effort were to be 1% effective it would save us $400,000,000 and increase our chances of reaching our destination safely.

The proposed funds can be used by the National Traffic Safety Administration to achieve the following:

1. Dramatize the importance of good judgement on the part of the driver.
2. Teach safe driving techniques, laws and regulations.
3. Make the public aware of the major causes of accidents.
4. Demonstrate the horrible results of accidents that kill over 1,000 persons a week and maim or injure over 70,000.
5. Correlate all related research findings and convey such facts to drivers.
6. To take any and all other steps necessary to reduce this continuing carnage.

This is an opportunity for the government of the people, for the people to act to reduce the number one killer of our citizens up to the age of 44, and the number one disabler of all ages in America. Please consider having this suggestion incorporated as an Amendment to the five cent tax legislation. And—please don't disregard this idea—you may someday regret you did not do all you could.●

HON. GEORGE GOODLING

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. PERKINS. Mr. Speaker, those of us who were privileged to serve in this House with George A. Goodling in the 1960's and 1970's were saddened by his passing on October 17 at the age of 86.

George Goodling served his Pennsylvania constituency well and honorably in his 12 years in Washington. He embodied the old virtues of steadfastness and integrity, and his political philosophy was rooted in the belief that the people's government ought to be honestly and efficiently run with a minimum of burden on the taxpayer.

While we differed on many issues in our voting, I could always talk to him as a friend, on a man-to-man basis, without rancor and with the reasonableness that characterized his service.

It has been a great pleasure for me to serve on the Committee on Education and Labor with George's successor—his able and distinguished son, Representative BILL GOODLING.

I know George was proud of BILL's contributions to the Congress during these past 8 years, and to be aware that the people of the 19th District of Pennsylvania continue to be represented by the high caliber of service.

All of us join BILL and the Goodling family in sadness at George Goodling's passing after a long and useful life.●

TRIBUTE TO GEORGE A. GOODLING

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. REGULA. Mr. Speaker, I would like to say just a few words today in tribute to the father of my friend and colleague, BILL GOODLING of Pennsylvania.

George A. Goodling came to Congress in 1960 after having compiled a distinguished record of service as a school administration and member of the Pennsylvania legislature.

He served effectively as a Member of this body, the Agriculture Committee and Merchant Marine and Fisheries Committee. Even after his retirement, in 1975, he continued to be active in political affairs until his death 2 months ago.

It was my privilege to serve with George Goodling during my early years in Congress and I remember him well as a legislator to be respected for his dedication to the service of the people he represented.

On a personal note: George was part of an informal Longworth breakfast group that I was privileged to share as a newcomer to this body. His trenchant insights over coffee were a great help to me as a new Member of the Congress.●

HON. GEORGE GOODLING

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. DERWINSKI. Mr. Speaker, it was my privilege to have served with the late Congressman, George A. Goodling, during his many productive years in the House of Representatives, and I join his friends in expressing my sorrow at his passing.

As a Member, George was a sincere, hard-working Representative for the people of Pennsylvania. I had great respect for George's judgment and counsel, and always found him to be a very warm, pleasant, and understanding individual.

George served with distinction on the Committee on Agriculture, where he became the second-ranking member, and on the Merchant Marine and Fisheries Committee. George was a man with great love for his country and great respect for his fellow citizens.

George served his country and his constituents in an outstanding manner. He was respected by all his colleagues on both sides of the aisle. The opportunity to have known and served with George Goodling during his years in Congress is a fond recollection I will long remember.

Like his father, BILL GOODLING has carried on the conscientious representation that was so well appreciated by the people of the 19th District of Pennsylvania. My deepest sympathy goes out to BILL and the entire Goodling family for their loss. We salute today a good friend, a distinguished Member of this body, and an honorable man who will be remembered.●

SECURITY FOR SOCIAL SECURITY

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. HOLLENBECK. Mr. Speaker, I submit the following article written by Tony Scoville, formerly a technical consultant to the House Committee on Science and Technology. This could not be a better time, as the task force on social security completes work on its study to explore the alternatives set forth by Mr. Scoville. I urge my colleagues consideration.

[From the New York Times, July 23, 1982]

SECURITY FOR SOCIAL SECURITY

(By Anthony Ellsworth Scoville)

WASHINGTON.—In January, a nationwide poll estimated that 68 percent of Americans under age 45 do not believe that Social Security will exist when they retire. In March, a follow-up poll confirmed those estimates. Throughout May and June, while preparing the 1983 Federal budget, Congress was paralyzed by the issue of Social Security benefits and financing.

Social Security must survive. Thirty-six million Americans receive benefits; 40 percent of them rely on Social Security for three-fourths of their household income. But Social Security could do far more than merely survive. It could provide a capital fund for America's economic rebirth, without which there will be no security for the elderly, few jobs for our children and unquenchable Federal deficits for the indefinite future.

The budgetary pressure will intensify. In 1945 there were 40 contributing workers for each Social Security recipient. In the year 2010, there will be only 2.2 wage earners for each beneficiary. This demographic time bomb could lead to a 50 percent increase in Social Security taxes, further reducing the earnings of working men and women while draining away funds for business investment.

Tinkering with cost-of-living adjustments and the retirement age will not provide the Social Security Trust Fund with a firm financial basis because payroll deductions are used to pay current monthly benefits, although people regard these deductions as savings for retirement. As a partial consequence, the United States has the lowest savings and investment rates of any industrial nation except Britain. If America is to complete economically, we must save more and we must invest strategically—on a prodigious scale.

Social Security taxes could be our largest untapped savings; they will equal $192 billion this year, $362 billion in 1989. If the Social Security Trust Fund were reconstituted as a prepaid capital fund, the amount available to invest could double the yearly total of all personal savings and could equal the value of the entire stock market in five years. By making substantially more capital and savings available, the pressure on interest rates would be greatly reduced.

A three-phase plan could maintain benefits, make Social Security self-supporting and generate more than $5 trillion (in 1982 dollars) in new investment over the next 50 years, 80 percent of which would be available in the next 30 years.

Under this plan, for 20 years, from 1982 through 2001, Social Security taxes would be increased by 3 percent of taxable wages. Surplus receipts would be invested through a capital investment fund. In the second phase, from 2002 through 2010, payroll deductions would be reduced from 18.7 percent to the 15.3 percent scheduled to be in effect at that time. For those nine years, deductions would pay for benefit checks while capital fund income would continue to be reinvested. In the third phase, after 2010, when people born in the postwar baby boom begin to retire, income from the capital fund would suffice to pay benefits while providing a small surplus to match the growing number of elderly through the year 2050.

Thirty years from now, in 2011, all Social Security taxes could end.

The capital fund would require yearly principal contributions of $43.3 billion (1982 dollars), which total only 38 percent of the 1981 individual tax cuts if those tax cuts were continued for 20 years. Indeed, the capital fund could easily be endowed if recent upper-income tax cuts were reduced by half. In the immediate future, from 1982 through 1986, last year's tax reduction provides $158 billion to business, most of which would have been invested anyway. Over the same period the capital fund could provide $264 billion (1982 dollars) for targeted, new business investment.

Solvency of the fund would depend critically on making investments that yield high returns over the long run. Economic data since World War II indicate that an 8 percent real return is feasible; Congress and the President, however, would have to avoid using the capital fund to bail out weak industries. Rather, supervised by a national investment board, the funds would have to be invested in high-growth sectors of the economy. Success would require the board to develop a long-range strategy for investment in human skills as well as in plant and equipment that anticipated technological opportunities while safeguarding the environment.

The Social Security Trust Fund's contribution to economic rebirth could be enormous. Its investment potential could provide security for the elderly by stimulating a new cycle of economic opportunity in the 1980's. True social security is each generation's trust in the opportunities and promise of the future. With that trust, each generation can secure its reward for a lifetime's progress and innovation in our nation's economy.●

HON. GEORGE A. GOODLING

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. ANDERSON. Mr. Speaker, I rise to pay special tribute and honor to the memory of Hon. George A. Goodling. I had the privilege of serving with George on the Committee of Merchant Marine and Fisheries.

During his career in Congress, George continued to build on his reputation as a conscientious public servant intent on serving his constituents. George was a public school administrator and a representative in the Pennsylvania legislature in the years before 1960 when he was elected to Congress.

During my early years in Congress, I looked to George for leadership on the important issues. George was very active in all aspects of the legislative process. At Merchant Marine and Fisheries Committee markups, George was not only eager to help junior Members, but he was always aware of the details, the intent, and the consequence of the legislation that we were considering.

Perhaps more importantly, George realized that the outcome of the legislative process was not as important as the continuation of the process itself, and that no matter who was on the opposite side of a given issue, honest and cordial relations between the Members were critical to insure that the process would continue to work for the next issue, the next day, and the next Congress.

Mr. Speaker, I am pleased to see that our esteemed and admired colleague, BILL GOODLING, is carrying on in his father's fine tradition as a public servant and politician in the finest sense of the words.

In conclusion, Mr. Speaker, I wish to join my colleagues in remembering our good friend and most distinguished colleague, George A. Goodling.●

HON. GEORGE A. GOODLING

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. WINN. Mr. Speaker, George Goodling served Pennsylvania's 19th District with pride and distinction for 10 years and will be remembered on Capitol Hill as a hard-working legislator devoted to his work. George is not with us in person anymore, but he is very much alive in spirit and will always serve as an inspiration.

George Goodling was a perfect example of a dedicated public servant. He served admirably in the Pennsylvania State Legislature before entering Congress and, once he was in Washington, established himself as an eloquent spokesman for the 19th District of Pennsylvania. George served on the House Agriculture Committee where he became second ranking minority member and also was a member of the Merchant Marine and Fisheries Committee. After his retirement, he remained active in politics and helped his party in Pennsylvania with some vigorous campaigning.

George Goodling should also be thanked for giving us his son, BILL, who has become an excellent Congressman in his own right. I know how much BILL loved and respected his father and I can see the similarities between the two men. Both will be remembered as public servants who put the people first.

George Goodling was a good friend of mine. It was a pleasure serving with him here in the House.●

HON. GEORGE GOODLING

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mrs. HOLT. Mr. Speaker, Representative George Goodling passed away on October 17, of this year. I feel very fortunate to have served in this House with George, until his retirement in 1975. He was a man of great integrity, dedicated to his district and to better government. When I first came here, he was one of the first Members to offer friendship, and he never waivered in that friendship.

I had the opportunity to speak in his district several times. During those visits to Pennsylvania, it was obvious how loved and respected he was, as both a gentleman and a legislator. George spent much of his time following retirement, in his orchards, where he grew some of the finest fruits I have ever eaten. He brought to Congress that special caring it takes to be a successful farmer, and I will continue to miss his expertise here in the House, and with his death, I will now miss his friendship.●

TRIBUTE TO GEORGE GOODLING

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. FUQUA. Mr. Speaker, I take this occasion to join my other colleagues who had the pleasure of serving in this House with the Honorable George Goodling of Pennsylvania in paying tribute to the memory of this fine legislator, who died on October 17.

Probably the greatest tribute which can be paid to a public official is to have established such a record of service that, upon retirement, his constituents elect another member of the same family.

So it was with George Goodling, whose dedicated service to the people of the 19th Congressional District of Pennsylvania was so great that upon

his retirement in 1975, the voters elected his son, BILL, to succeed him.

I take this opportunity to pay final tribute to the memory of George Goodling and to express condolences and sympathy to his family.●

HON. GEORGE GOODLING

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to join with my many colleagues who count among our life's blessings having known and served with our former colleague, George Goodling. When I first came to this body, I had the privilege of serving with him as a member of the House Committee on Agriculture.

I always found him to be knowledgeable, straightforward, and highly thought of among his colleagues. It did not take me long to find out why. A worthy political opponent, George Goodling contributed greatly to the dialog needed to shaping strong and effective agricultural programs for this Nation. He understood the importance of agriculture in our Nation's economy and worked diligently to insure that Government agricultural policy was sensitive to that prominence.

Since his retirement, I have had the opportunity to see him on occasion when he visited with his son, our colleague, BILL GOODLING, whose office is across the hall from mine. I was greatly saddened by the news of his death and want to express to his family my deepest regrets.

While there are no words that can reduce the grief of losing a loved one, George Goodling's family should know that those of us who knew him respected his judgment and cherished his friendship.●

JAMES SYMBOL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. CLAY. Mr. Speaker, I want to use this opportunity to note the retirement of James J. Symbol after nearly 20 years of service to the Postal Service and our Nation in a variety of high-level positions in Portland, Oreg, Los Angeles, Calif., and the southern region of the Postal Service.

Mr. Symbol has taken affirmative steps to insure that minorities and women have been afforded an equal opportunity to achieve supervisory and managerial positions within the Postal Service. I understand that the number of women and minorities in these positions has increased 10-fold in those areas in which Mr. Symbol was responsible for operations.

Recently, the northwest area conference of the NAACP commended James J. Symbol for his courageous and morally correct positions in the area of affirmative action. The NAACP expressed its sincere gratitude for James J. Symbol's strong commitment to affirmative action within the Postal Service.

I join the northwest conference of the NAACP and others in applauding the extent to which James J. Symbol has gone to insure that the affirmative action policies of the U.S. Postal Service have been translated into action. I wish Mr. Symbol and his family well in the years ahead and invite all Americans to join me as we give him a hearty, "Well done."●

SCIENCE FOR AGRICULTURE

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. WAMPLER. Mr. Speaker, today I have requested this opportunity to bring to the attention of my colleagues in the House a recent report entitled "Science for Agriculture" that included recommendations from a group of 15 leaders in Government, industry, universities, and a foundation. This report, now known as the Winrock report, has also been the subject of two commentaries in the press: The first appearing as an editorial in the New York Times of October 2, entitled "The Worm in the Bud" and the second as a lengthy article in Chemical and Engineering News of November 22, "Shakeup Ahead for Agricultural Research."

I was glad to note that Hon. GEORGE BROWN, my collegue from California and a major supporter of agricultural research in the Congress, participated in the 2-day session held at the Winrock Center at Morriltown, Ark., on June 14-15, 1982.

Most of the conclusions and recommendations contained in the Winrock report were generally consistent with the National Agricultural Research, Extension and Teaching Policy Act of 1977, title XIV to the 1977 farm bill and amendments to this in the Agriculture and Food Act of 1981. I would have preferred that the report would have included reference to title XIV to show agreements with existing law and congressional intent and to expose statutory provisions that were directed to the same overall aims proposed by the Winrock group.

First, the appraisal by the Winrock group of the importance of agriculture and its vital dependence on research for improved productivity and production agrees with the appraisal of the Congress. For the same reasons, agriculture itself and its needs were written in as the primary common denominator of purpose of title XIV.

Second in importance was the provision for an Assistant Secretary for Science and Education in the U.S. Department of Agriculture provided by the Congress in title XIV. For the first time Congress provided a leadership position in the front row of the Secretary's policy group that is dedicated to science and education issues important to agriculture. Secretary John Block, by choosing as the first incumbent, Dr. Orville Bentley, dean of agriculture at the University of Illinois, recognized the need for experience and knowledge of how research and education contribute to agricultural progress, how State and Federal investments in agricultural research can be assessed separately and interactively, and how agricultural research can be appraised in relation to other obligations of the Federal Government.

I recognize that knowledge of the past and present does not automatically translate into wisdom for the future. However, we are glad to hear that Dr. Bentley is already beginning to address future needs and plans through the long- and short-term planning and coordination authorities contained in title XIV. In the process, we are confident he will give due regard to the interdependencies involved, retain the virtues of existing institutions and systems of research and education and solicit and attract the inputs of their scientific and administrative leaders and the recommendations of others that will enrich the total system.

Third, the Congress reaffirmed the USDA-State research partnership in title XIV. A word of explanation is in order. I will use the State agricultural experiment stations as a case example recognizing that we have included other institutions in our reaffirmation of the USDA-State partnership. Some critics of agricultural research have addressed the State agricultural experiment stations as if they were freestanding research institutions. The principle Congress included in title XIV is the same as that stated earlier in the Hatch Act. "A unique partnership arrangement exists in food and agricultural research, extension, and teaching between the Federal Government and the governments of the several States * * *." The bond with the States for agricultural research was first forged in the Hatch Act of 1887 whereby States were encouraged through that legislation and subsequent Federal funding to establish experiment stations to serve the needs of the agriculture of their respective States. Congress in revising the Hatch

Act in 1955 reaffirmed this dominant purpose:

It shall be the object and duty of the State agricultural experiment stations through the expenditure of the appropriations hereinafter authorized to conduct original and other researches, investigations, and experiments bearing directly on and contributing to the establishment and maintenance of a permanent and effective agricultural industry of the United States, including researches basic to the problems of agriculture in its broadest aspects, and such investigations as have for their purpose the development and improvement of the rural home and rural life and the maximum contribution by agriculture to the welfare of the consumer, as may be deemed advisable, having due regard to the varying conditions and needs of the respective States.

State legislatures formally accepted this charge and, in almost all States, accepted the urging of Congress that the experiment station be placed in the land-grant college, now universities, provided for under the first Morrill Act of 1862. Thus, the purpose of the State agricultural experiment station was and is to serve the needs of agriculture through research. The Congress intended that the processes and organization of the research should be compatible with the policies and rules of the university and the State in which the station is located. As the investments of the State legislatures in their State stations have increased for the same agricultural purposes, the accountability to the U.S. Department of Agriculture for Hatch expenditures and to their State legislature for their inputs is first and foremost in terms of agricultural benefits from these public investments. As investors, the Federal and State Governments retain rights for questioning their current performances and can request future plans and intents. Therefore, it seems best to address appropriateness of suggestions for change in terms of the agricultural purposes of the State stations and the effects of such changes on the investors in their research. The same principles apply to the other research institutions named by the States to carry out the purposes of legislation fashioned by the Congress in the formal, continuing partnership mode.

Fourth, the Congress emphasized amounts and kinds of funding in title XIV.

We encourage increases in base funding as a useful and important public investment. All comprehensive analyses that have been brought to the attention of Congress in recent years show that agricultural research is underfunded. The prospective return rate on first increases in public base funding investments has been calculated to be as high in economic terms as in past decades. Returns as benefits in the range of 30 to 50 percent per year above the investment cost to include the approriate annual discount rate can be expected. Contributions to agricultural needs that are more difficult to assess in economic terms are also expected to provide social values well above the investment cost.

The Congress in title XIV also provided authorities for selective funding including special grants, competitive grants, and cooperative agreements. Our intent was to provide the Secretary with flexibility in funding authority to match program initiatives and intents. The report on "Science for Agriculture" proposes increases in competitive grants alone among the selective funding options.

The Congress on the other hand prefers to consider selective funding authorities as means for applying Federal funding incentives to research initiatives which are deemed by the USDA to be useful to the progress of agriculture and that funding levels be proportioned to the expected benefits. That concept would include but not be limited to the prospective investments in money or other resources from non-Federal sources.

The Congress has long questioned the assumptions in the report on selective funding on two counts. Special grants appear to be disdained as grants specified by the Congress. Most of the funds authorized under special grant authorities were originally proposed by the executive branch or by leaders of important agricultural sectors. Agricultural worth resulting in congressional initiative is as appropriate as in Executive initiative.

In conclusion, I reiterate that the report, "Science for Agriculture," deserves serious consideration as do other reports on agricultural research over the years prepared by noteworthy persons. Our greatest concern is the tendency of the more zealous supporters of the recommendations for change to contrast only the virtues of the new against the faults of the old even to the extent of condemning a system that is eminently successful in carrying out its primary purpose to help agriculture progress. The other side of the coin for new proposals and existing processes is often totally ignored.

We must not lose sight of the components of agricultural innovation across the continuum of research from the frontiers of knowledge to the farmers field. We must respect analyses that shows that there is a positive correlation between the number of branch stations in a State and its gains in agricultural productivity as well as the positive correlation between quality of basic research and long-term productivity gains. We also must recognize a great deal of research entrepreneurship in between that provides the essential continuum between the sophisticated laboratory and the working farm. Furthermore, we believe that support for quality of science at the basic science end should not include disdain for more practical research at the agricultural end.

Rather, we subscribe to the conclusion expressed by Dr. Emery Castle, president, Resources for the Future, who made a thorough study of the agricultural research system. He stated in testimony to the Subcommittee on Natural Resources, Agriculture Research and Environment, House Committee on Science and Technology on July 29, 1982.

In conclusion, I want to register my strong support for a strengthened, publicly support system of agricultural research and education in the United States. Our society has benefited greatly from past investment in the system. It is far from perfect, but in our attempts to reform it we risk destroying the essence of its uniqueness and productivity. We run risks from too much central coordination and planning, failure to understand the effects of different forms of financing, confusion over the proper role of public and private research, and danger that the credibility of the system will eroded.●

A TRIBUTE TO GEORGE GOODLING

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. ERLENBORN. Mr. Speaker, there is always sadness in paying tribute to a dear, departed friend. In the case of George Goodling, our former colleague from Pennsylvania, however, there is also a sense of pride for having had the pleasure and rare privilege of having known and worked with such a fine person.

George was first and foremost a good Christian who practiced what he preached. His Christianity was reflected in his legislative endeavors and his devoted representation and service to his constituents. It was reflected in his family life, as we know from our association with his son, BILL, who now serves basically the same constituency as his father did before him.

Thus, George lives on through his family, and especially through BILL. He will live on also through the George A. Goodling scholarship fund established at the Pennsylvania State University in his memory to help needy and worthy students from Pennsylvania's 19th District.

It is fitting and proper, I believe, that George Goodling be memorialized in these ways and that we honor him here today.●

HONORING GEORGE GOODLING

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. MURTHA. Mr. Speaker, it was my pleasure to serve in Congress with George Goodling. He was a man of honor, of dedication, of concern about the people he represented and the country he loved.

Goerge Goodling is remembered by the people he represented as someone who was always available, who always had time to talk to people and help with their problems. Even in his retirement he remained active, and continued to visit with his many friends and help throughout the community.

One of George's greatest loves was the Pennsylvania State University. He was very active with the university, particularly the York campus where he worked tirelessly to help the campus and create programs to help students complete their education.

Certainly, Congressman BILL GOODLING has followed in the tradition of his father in Congress. He has brought to Congress the same concern, compassion, and dedication that was a hallmark of George Goodling's career.

When you review the record of George Goodling in Congress, you see that it was in the highest traditions of Congress, and of service to his country. George Goodling was missed from Congress, and I know he is now missed by his family and friends. His life was one of service and dedication, of which his family, friends, and of us who knew and worked with him can be extremely proud.●

HON. GEORGE A. GOODLING

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. MAZZOLI. Mr. Speaker, I would like to honor my late and good friend and our former colleague George Goodling who served in this House of Representatives with honor for many years.

Besides being a fine paddleball player—I know because I teamed up with him often—George was a skillful legislator and a hard-working member of the Agriculture Committee.

It is appropriate that we remember and revere George Goodling. He left behind, to carry the Goodling banner, a fine and talented son, BILL, so we still to this day, have the Goodling spirit in evidence in the House.●

HON. GEORGE GOODLING

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. BEVILL. Mr. Speaker, the U.S. House of Representatives has been blessed with many able men and women throughout its nearly 200-year history. People from all walks of life have occupied this Chamber and have represented the views and concerns of our Nation's citizens.

However, one man who was especially suited to this important task was our friend and former colleague, George A. Goodling, of Pennsylvania. I was especially fond of George, during the time we served together in Congress.

George brought with him to Congress a solid background of service to the citizens of Pennsylvania, both as a public school administrator and as a representative of the Pennsylvania State Legislature. In both of those roles he was successful in identifying the needs of his community and making every effort to see that his fellow citizens received an opportunity to receive the many benefits which our country has to offer.

And all of us in this body are proud that George's son, BILL GOODLING, has followed in his father's footsteps, and now serves as a Member of Congress from the 19th District of Pennsylvania. It is easy to recognize the same fine qualities in BILL that his father brought with him to Congress.

George's death several months ago has meant a loss to all of us. But his service to his country provides a continuing legacy for his family, his former constituents and for the Nation.●

HON. GEORGE GOODLING

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. DE LA GARZA. Mr. Speaker, it just does not seem enough to say that George Goodling was a dedicated public servant. It was his life that he put into his work in Congress. Every day he had the same love of effort for his job.

Don George Goodling was my good friend in all his years in the House up to his retirement in 1975. Every year I sent greetings to him on his birthday, and I will truly miss this fine man. He and I threshed many a bail in the Committee on Agriculture and I will always remember his astute counsel and advice. It was my privilege also to serve with him on the Merchant Marine and Fisheries Committee—him from the landlocked hills of Pennsylvania and me from the shores of the Gulf of Mexico, but we pursued a common interest.

Mr. Goodling was a gentleman to the letter, and I will forever value the friendship that he and I maintained through the years. To his son, who has so competently followed him, and to his family I extend my genuine warm wishes and high regards.●

TRIBUTE TO FORMER CONGRESSMAN GEORGE A. GOODLING

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. BROOKS. Mr. Speaker, I want to take this opportunity to express my deepest sympathy to the family of our former colleague, Congressman George A. Goodling, of Pennsylvania's 19th Congressional District. His death last October 17, marked the passing of an outstanding leader and a dear friend of mine.

It was my distinct privilege to serve with Congressman Goodling from 1960 through 1964, and then again from 1968 through his retirement in 1975. The people of Pennsylvania's 19th District can be proud of the record of service he established and the fine representation he gave to his district and to his country. They could not have had a stronger advocate and he left an indelible mark in the House of Representatives.

The people of his district always knew they had a friend here in Washington with whom they could work on many projects of vital importance to the State of Pennsylvania.

He was a hardworking, capable member of an outstanding legislative delegation and he demonstrated time and again a spirit of determination to pursue goals important to his constituency. He was a forceful and effective member of both the Committee on Agriculture and the Merchant Marine and Fisheries Committee. His work in those areas will continue to be of great benefit to people across this Nation and they, too, will miss him.●

HISTORY PROVES MONETARY REFORM BRINGS ECONOMIC EXPANSION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. KEMP. Mr. Speaker, the economic instability of the past 15 years, with the waves of inflation, deflation, and high interest rates that have been

so deleterious to the American and world economy, is unusual in our history. But it is not unusual for periods of experimenting with our money. Similar attempts at regulating the supply of money, for example, both here and elsewhere, have also led to credit crunches, government budget strains, and economic shrinkage.

The salient feature of the international economy over the last decade has been the Western experiment with managed, floating paper currencies. This experiment has been eclectic—drawing ideas from various schools of though ranging from the Keynesian prescription of interest rate targets to the monetarist attempt to regulate the money supply. All have failed. Without a reliable standard for our money, our monetary authorities will continue to force the American worker and investor to confine their role in the economy to one which is primarily static and self-protective. And without a new international monetary arrangement based on stable exchange rates, the declension from currency derangements to overlending to capital controls to trade wars will continue—a formula for world economic disaster.

In the five historical cases Alan Reynolds outlines below, each time the monetary authorities reformed their currencies according to the classical formula, a stable currency has been accompanied by a prolonged increase in employment and economic growth. Mr. Reynolds, vice president and chief economist of Polyconomics, Inc., is an expert on monetary and fiscal policy, and his lucid historical explanation of monetary reform in the December 6, 1982 Polyconomics newsletter merits the attention of my colleagues.

MONETARY REFORM AND ECONOMIC BOOM: FIVE CASE STUDIES 1792-1926

There is virtually no limit to how far an economy can shrink if government tax, trade and monetary policies are sufficiently destructive. But there is an upside risk as well—the risk of being unprepared for unexpected global economic expansion if there is a major shift to a superior policy regime. The pace of the stock market advance since August 12 suggests the possiblity of just such a fundamental change in the policy environment, leading to sustained economic achievement.

The purpose of this historical essay is to investigate the upper limits of growth. What conditions led countries to finally stabilize their currencies in the past? How rapidly did economies expand after shifting from monetary chaos to stability? What did these episodes have in common with each other and with the present? What is the potential of the current bull market?

Five experiences with monetary reform will be examined, concluding with some comments on the relevance of this history to the present world.

1. THE HAMILTON DOLLAR OF 1792: UNPRECEDENTED PROSPERITY

America's only hyperinflation occurred during the Revolutionary War. By April 1779, George Washington complained that "a wagon load of money will scarcely purchase a wagon load of provisions." Despite oppressive price controls, one index of wholesale prices (1800–59=100) rose from 78 in 1775 to 10,554 in 1780, then fell just as abruptly. The phrase "not worth a Continental" survives as a reminder.

In 1781, Alexander Hamilton wrote that "the only cure to our public disorders is to fix the value of the currency we now have . . . to a proper standard, in a species that will have the requisite stability." At Hamilton's urging, the Mint Act of April 2, 1792, finally fixed the value of the dollar to gold and silver (though by undervaluing gold, silver soon became dominant until 1834). Gold was $19.39 an ounce until 1834-37, when it was changed in steps to $20.67.

"The years 1793-1808," writes the historian Douglass North, "were years of unparalleled prosperity." It was, adds Louis Hacker, "a period of unexampled business expansion, one of the greatest, in fact, the United States has had . . . The exports of the country mounted from $19 millions in 1791 to $93 millions in 1801 . . . During the 1780's, only 33 chartered companies had been set up by the states; during the 1790's, the number of such new companies was 295."

The fiscal consequences of this hard money prosperity were dramatic. The federal budget deficit amounted to 28% of the expenditures in 1792, 21% in 1794-5. Aside from small receipts from the sale of land, federal revenues were mainly from a 5% tariff and excises on items like liquor and stuff, which were abolished in 1801. Yet customs duties tripled from 1792 to 1801, internal revenue quintupled, and the surplus by 1802 was almost as large as total spending.

Another benefit of the 1792 monetary reform was lower interest rates on the national debt, which had risen as high as 6%. "When the credit of a country is in any degree questionable," wrote Hamilton, "it never fails to give an extravagant premium . . . upon whatever is to be bought on terms of future payment." A modern historian, Stuart Bruchey, confirms that "the resurgence of public credit, by lowering the interest rates on government debt, led in turn to a reduction in the market rate of interest and thus cheapened the capital costs of investment." This easing of interest rates did not occur by restricting the "supply of money." The money supply rose at an annual rate of over 30% from 1799 to 1859, according to Gurley and Shaw, while wholesale commodity prices declined by less than 1% a year.

The rough price estimates available for the early U.S. appear to show some inflation from 1793 to 1796, and again in 1801 and 1805. But these price swings (as well as swings in output and exports) were mainly in farm products, particularly the volatile supply and foreign demand for cotton. Prices of such traded goods have to be considered in the international context.

One of the worst hyperinflations in history occurred after the French Revolution of 1789, until Napoleon restored the gold standard. England was also going through extremes of inflation and deflation while off of the gold standard from 1797 to 1821. The United States was a relatively tiny participant in this world market.

Like one of today's Third World countries, the U.S. economy relied heavily on a single export commodity (cotton), borrowed heavily from foreigners to finance development, and occasionally defaulted on those foreign loans. It simply was not possible under any monetary system to completely insulate the U.S. from the wars and monetary vandalism going on in Europe.

A devastating blow occurred with President Jefferson's trade embargo from December 1807 through March 1809 (U.S. exports fell 80% in 1808), the War of 1812, and the high U.S. tariffs of 1816 and 1828. Clearly, these problems were not a fault of the monetary system.

In the colorful language of the time, there were also "panics" and "crashes" about once every twenty years, though always while the gold standard is suspended Galbraith complains that "in the years of panic and ensuing depression economic growth certainly slowed and perhaps, on occasion, came to a halt." During the worst years, in other words, growth was zero or small. Farm prices certainly fell in the 1839-43 "depression," for example, but real GNP rose by 16%.

Anna Schwartz's economic history for the U.S. Gold Commission also implies great instability in the 25 years from 1834 to 1859, but her data show only three years in which real output fell at a 1% rate and one (1854) in which output fell by 4%. In the other 21 years, real growth averaged 5.5% per year, despite such growing pains as wildcat banking. Most monetary disturbances in the nineteenth century were, as the Gold Commission agreed, "attributable to the U.S. banking structure rather than the gold standard system."

2. ENGLAND IN 1821: A SUPPLY-SIDE BOOM

After 75 years of financial and industrial revolution under the gold standard, Great Britain abandoned the standard during the Napoleonic Wars, beginning on February 27, 1797. "The re-establishment of a metallic currency in Paris and finally, after paper credit experiments, a run of the English country banks, led to a drain of gold from Britain and a serious fall in reserves which led Pitt first to suspend cash payments by the Bank of England, and second, to attempt substantially to increase taxation." Willard Thorp's classic Business Annals record the results of that mix of fiscal and monetary policy:

1798: "Pitt presents income tax."

1798-1801: "Depression."

1802: "Income tax repealed. . . . Prosperity."

1803: "Income tax reestablished."

1804: "Mild depression."

Commodity prices doubled by 1815, then fell sharply. Britain leaped into protectionism with the infamous Corn Law of 1815, setting quotas on wheat imports to protect the landed aristocracy. Wheat prices had tripled from 1792 to 1812, and the Corn Law pushed wheat prices back up again in 1816 and 1817 as other prices and wages were falling.

"By 1816," notes Roy Jastram, "England was in a deep depression. There was stagnation of industry and trade generally; the iron and coal industries were paralyzed. . . . Riots occurred spasmodically from May through December."

Another cause of the riots, aside from the Corn Law, was tax revolt. "The most unpopular tax of all was the income tax," writes John Perry "and here the government was forced to give way to public opinion, abolishing the income tax in 1816." The economy then revived in 1817-18, but collapsed in bloody riots in 1819. At that point, the government finally turned to monetary reform, partly for the pragmatic (Hamiltonian) reason that by 1815 "interest on the national debt accounted for more than half of the

total government expenditure." The interest rate on consols (government bonds) rose above 5% in 1816, despite falling prices. This was a frightening interest rate, since consols averaged 3.6% from 1729 to 1931.

"In 1810 the government had ignored the advice of a Select Committee of the Commons that a return to the gold standard was necessary, but once the war was over it was increasingly difficult to reject similar demands." Pressured by circumstances, as well as by the "Radicals" (including economist David Ricardo), Peel's Committee of Inquiry in 1819 again recommended a gradual return to the gold standard. On May 21, 1821, the Bank of England resumed convertibility of their notes into gold.

What happened next is critical, since many economists share the opinion of a leading monetarist, Allan Meltzer, that "the decision to go back on the gold standard in the 1820s at the price that had prevailed in [1737-1796] . . . was followed by a difficult, hard adjustment."

T. S. Ashton, London's finest historian of the Industrial Revolution, offers a quite different assessment:

"In the early 'twenties many circumstances combined to produce high prosperity. The currency was established on a foundation of gold . . . Huskinson and his colleagues were active in pulling down tariffs, lowering excise duties, and removing restrictions from industry and trade. . . . A substantial part of the National Debt was converted from 5 to 4 or 3½ percent: in 1820 the yield on Consols had been 4.4, by 1824 it was 3.3 . . . and in the early months of 1825 short-term loans were being placed at a little more than 2½ percent."

John Derry likewise notes that "in 1820 prices were already rising and a year later prosperity had already achieved."

Asa Briggs adds that "the years between 1821 and 1825 justified promise and prediction. . . . The culminating point was reached in the years 1824-25, which some economic historians have considered as the first truly modern cyclical boom in British economic history. Certainly there was a stock market boom as well as a peak of industrial activity, and . . . the volume of domestic building broke all previous records."

3. ENDING THE GREENBACK ERA: ANOTHER 13-YEAR BOOM

The U.S. suspended the gold standard in December 1861, at the outbreak of Civil War. The price of gold rose 158%—from $20.67 to $53.34 by July 1864—and wholesale prices rose 153% over that period.

From 1865 to 1874, the United States attempted to regulate the value of money by controlling its quantity. This inspired an 1866 tax on state bank notes, a planned withdrawal of greenbacks until 1868 (followed by increases), and endless debates on how to define and control money. Regulating the quantity of money was not a new idea even then. As William Graham Sumner wrote:

"Nearly every nation which has ever used paper money had fixed its amount, and set limits which it has solemnly promised again and again not to pass, but such promises are in vain. A man might as well jump off a precipice intending to stop half way down. . . . In its more general effects, the paper currency with a fixed limit produces a steady advance in the rate of interest, and also a reduction in prices. . . .

"If we had a currency of specie value, we should get just as much as we need, and then we should know how much that is, but then, too,we should no longer care."

The National Bureau identified three postwar recessions from 1865 to 1878, with the economy falling in 68% of those months. Those recessions, like several others, were probably exaggerated by confusing lower wholesale prices with lower production. Yet most of the economic growth in this period—curiously emphasized by Friedman and Schwartz—did not occur until after an 1875 law announced the resumption of a gold dollar on January 1, 1879. Manufacturing output, for example, rose to a total of only 12% in the six years from 1869 to 1876, but rose 29% in the following three years. By any criteria, the nation's second experiment with managed money must also be judged a failure. That is, after all, why the United States was eventually compelled to again link the word "dollar" to something tangible.

As in Hamilton's time, a major incentive for returning to gold was to lower the interest rates on the national debt. Interest on a debt of $2.2 million was swallowing 35% of the budget in 1875. By 1882, the debt was still $1.9 million, but the interest rate on it had dropped by a third, lowering the interest expense to 22% of a smaller budget.

Bond yields had remained historically high through 1873—above 6%—despite falling prices and payment of interest in gold. Interest rates on daily "call money" averaged 10% in 1869, and 14% in 1873. After the announced intent to redeem dollars in gold, bond yields dropped steadily, with Treasury bonds remaining between 3.2% and 4.2% from 1879 to 1914. Common stock prices doubled from 1877 to 1881.

The gold standard was restored, without difficulty, in January 1879. An incredible economic expansion began within two months. The next four years were, according to Friedman and Schwartz, "characterized by an unusually rapid rise in the stock of money and in net national product. . . . The stock of money rose over 50 percent . . . and net national product in constant prices nearly 25 percent."

Growth of real income averaged 8.4% a year from 1878 through 1882. Growth of the money supply topped 20% in two years and averaged 12.6%. (Those who regard the gold standard as an austerity program, designed to restrict the money supply, clearly miss the point.) Inflation was about 1-3% by some measures, but this appears to have been mainly a cyclical recovery in commodity prices. The consumer price index did not rise at all. By 1882, raw steel production was 137% higher than it had been in 1878.

The fiscal results were again dramatic, even aside from the reduced interest rates on the debt. Federal tax receipts rose by 47% from 1879 to 1882, with no increase in tax rates or tariffs, and the budget surplus rose from $7 million to $146 million—over half of the total budget.

The achievement of this gold standard era as a whole can best be visualized by a sample of specific facts, mostly gathered from the Historical Statistics.

Industrial production rose by 534% from 1878 to 1913.

Manufacturing employment rose 51% from 1879 to 1889; 142% by 1914.

Real wage rates rose 28% from 1879 to 1889; real wage rates in manufacturing rose by more than 30% from 1890 to 1914.

The U.S. share of world manufacturing output rose from 23% in 1870 to over 35% in 1906-10.

Annual plant and equipment spending doubled in real terms from 1879 to 1884, doubled again by 1890, and rose ten-fold from 1879 to 1910.

Consumer durables doubled from 1879 to 1892.

The annual number of patented inventions was virtually unchanged from 1867 to 1878, then rose from 12,903 in 1880 to 25,313 in 1890, and 39,892 in 1914.

Copyrights were also flat from 1873 to 1878, then rose from 15,798 to 42,794 by 1890.

Production of rail freight cars rose from 9,000 in 1878 to 275,000 in 1907.

Manufactured fuel and lighting materials rose 382% from 1879 to 1914.

Production of coal rose 210% from 1893 to 1913; crude steel rose 715%.

Cotton used in textiles rose 260% from 1879 to 1909.

Paper and paperboard output tripled from 1900 to 1915.

Furniture production rose 263% from 1879 to 1913.

Electric power rose 18.4% per year from 1882 to 1914.

From March 1882 to May 1885, real growth slowed to about 1% a year. Britain had doubled the discount rate to 6% in early 1882, cutting imports from America, and there were strikes in the U.S. telegraph and railroad industries in this period. There was another brief slowdown in late 1890, when tariffs were raised and new legislation required more purchases of silver with new currency. Aside from those minor interruptions, the U.S. economy expanded rapidly from March 1879 through January 1893—almost 14 years. After rising by 8.4% a year from 1878 to 1882, real growth slowed to a respectable 5.3% a year from 1882 through 1892.

The U.S. economy then contracted sharply until mid-1894, and dropped again in 1896. This depression is commonly attributed to the gold standard, as is the unusually low level of farm prices in 1895-96. To the extent that monetary forces were to blame, however, the gold standard again proved to be the solution rather than the problem.

Most of the apparent deflation in 1894-96 was actually a relative decline in farm prices, which then accounted for over half of the wholesale price index. From 1892 to 1894, cotton production rose 36%, and the price fell 45%. In 1895, the supply of oats rose 23%, barley 41%, potatoes 53%. Prices fell. From 1894 to 1896, the production of corn increased by a whopping 65%, and the price fell 53%. Mary Ellen Lease of the Farmers' Alliance enjoined Kansas farmers to "raise less corn and more hell." Yet prices of wheat rose in 1894-96, as did cattle prices, indicating that the farmers' plight was not a general monetary phenomenon.

In July 1896, the Democrats nominated William Jennings Bryan for President, mainly on the theory that inflation could solve the farm glut. Ironically, every such success of those who attacked the gold standard actually contributed to the problem they were trying to solve. Indeed, the Bryan campaign was the main *cause* of the 1896 relapse, as contemporaries understood quite well.

A sympathetic historian, James Barnes, observed that "the nomination of Bryan really prostrated the men in the counting houses." The stock market began to tumble in mid-August, and reached the lowest point in more than 17 years. Hoarding of gold was "only one symptom of a general malady that pervades all circles," wrote *The Commercial and financial Chronical*, namely that "the business of the country is still being carried on in some measure almost ev-

erywhere under the weight of the free silver populistic scare."

Shortly before the election "in New York alone more than $1,000,000 of the government's gold was withdrawn in exchange for legal tenders. . . . A single brokerage house is reported to have sold over the counter $3,000,000 in gold in a single day. Interest rates on call money, which had ranged upward to 15% throughout the month, rose to 127%. . . . Long lines of men and women stood at the doors of the sub-treasury as well; before the day was over they had withdrawn more than $1,300,000 in gold."

Attempts to blame the farm-price decline of 1894-96 on a shortage of gold are incorrect in fact, as well as in theory. Annual world gold production increased every year from 1887 to 1899, by 190%. Nations are not driven off the gold standard by a loss of gold; they lose gold when they threaten to abandon the gold standard.

"The defeat of Bryan," noted Friedman and Schwartz, "is a convenient and dramatic date to mark the turning point." In a very real sense, Bryan's defeat marked another return to the gold standard, formalized in the Gold Standard Act of 1900. "Stock market indexes show a rise of close to 70 percent from August 1896 to August 1899. . . . The stock of money . . . bounded upward at an extraordinary rate: by 15 percent from 1897 to 1898, 17 percent from 1898 to 1899, 6 percent from 1899 to 1900, 15 percent from 1900 to 1901 and 9 percent from 1901 to 1902. . . . From 1896 to 1902, net national product in constant prices rose by 45 percent or at a rate in excess of 6 percent per year." The federal budget, which had been deeply in deficit, quickly moved into surplus with economic expansion.

The Federal budget deficit from 1894-99 provoked destructive fiscal policies. Tariffs were raised in 1890 and 1894, slowing export growth from 16% to 3% in 1891, and reducing exports by over 9% in 1895. An income tax was briefly enacted during the 1894 slump, and Teddy Roosevelt proposed to Congress in the Panic of 1907 that income and estate taxes be adopted to equalize fortunes. If these fiscal shocks did not initiate the simultaneous downturns, they were at least ill-timed.

Compelled, as usual, to choose between Republican hard-money and protectionism and Democratic soft-money and free-trade, the electorate returned the Democrats to office in 1913. Tariffs were eased a bit, but the income tax and Federal Reserve System were also created during a two-year recession that began in January 1913. The unemployment rate doubled and the 1915 deficit hit 8.4% of the budget. Before the U.S. entered the war, wholesale prices rose much more rapidly than the M2 money supply—at an 18% annual rate. The rapid prewar inflation appears to reflect a sharp drop in the willingness to hold dollars (a rise in velocity) that coincided with the birth of the Fed.

4. ENGLAND AFTER 1925: DEFLATION OR THE DOLE?

In April, 1925, Winston Churchill (then Chancellor of the Exchequer) returned England to a limited gold standard at the traditional prewar rate, the same as defined by Sir Isaac Newton in 1717. A pound would then be worth $4.86 in gold dollars. Even today, many economists accept the verdict of Keynes that this was massively deflationary and accounted for the high unemployment from that point on. Actually, most of the deflation occurred from 1920 to 1923, when wholesale prices fell by 48%. The prices of iron and steel (war materials) fell 65% from 1920 to 1925, but less than 8% from 1926 to 1929. Coal actually rose 26% in 1926, with a coal-led general strike, but that was obviously unsustainable. Wholesale food prices were fairly stable, down only 1.4% from 1923 to 1928. Cotton and wool prices peaked in 1924, then rose again in 1927 and 1928.

British wage rates stopped declining after 1924, and real income rose throughout the rest of the decade at a rate of nearly 4 percent per year. Real net national income per capita had fallen by 1.3% in 1915-24, compared with the previous decade, but rose 14.5% in 1925-34. Still, this was not the sort of vigorous boom that has typically accompanied every other return to a commodity standard. Unemployment dropped from 17% in 1921 to 9.7% in 1927, but continued to hover around 10% through 1929. Chronic unemployment was explained at the time by Jacques Rueff and Edwin Cannan, but the explanation was forgotten until it was recently revived by Daniel Benjamin and Levis Kochin of the University of Washington.

Unemployment remained high in Britain, and the recovery therefore weak, because of what Keynes called "the grave abuses of the dole." In 1920, unemployment benefits for a family of four had been 15% of average wages. After that, nominal benefits were increased several times while prices fell, and eligibility requirements were eased. Unemployment benefits rose to 48% of average wages in 1925, 54% in 1931. Almost anyone over the age of 16 could receive the dole after a few days if they had ever paid payroll taxes for 30 weeks. There was no limit at all on how long those benefits could be drawn. Even those who quit were eligible if they waited six weeks. These benefits were soon heavily subsidized out of general revenues, and the British tax load was probably "the world's heaviest."

Professors Benjamin and Kochin estimate that the liberalization of the dole added only 2.5-4% to British unemployment in 1921-25, but raised unemployment 5-8% in the gold standard years of 1926-31. Without that huge subsidy to leisure, and related tax on productive effort, the 1925 restoration of the gold standard would have been as successful as every other example.

On September 19, 1931, Great Britian casually let the pound float (sink) against gold, raising the discount rate from 4½% to 6% only after the event. As Keynes's biographer, Sir Roy Harrod, observed in 1971, "The British suspension of 1931 was followed by a decade of great disorder in the international monetary system."

Something else happened at the same time, however, that briefly improved Britain's *relative* performance within a collapsing world. In September, the dole was reduced by 10%, eligibility requirements tightened and the duration of benefits limited to 26 weeks. If leaving gold was of any help, it was only because an accelerating inflation after 1935 probably reduced real unemployment benefits until 1938. As usual, the retreat from hard money was soon accompanied by protectionism, with general tariffs imposed in January 1932 for the first time in nearly a century.

It is commonly believed that the British economy recovered about six months sooner than the U.S. because, as two monetarist economists recently wrote, "the U.K., abandoning gold in 1931, was able to avoid the further monetary contraction that took place in America." In short, "abandoning" gold supposedly made it easier for Britain to "reflate."

What actually happened, however, is that the pound remained convertible into gold, albeit at a variable price, while the U.S. suspended convertibility from March 1933 until February 1934. From the U.S. election of November 1932 until a year later, the British pound appreciated by 57% against the pre-Roosevelt dollar (gold at $20.67), and the British economy began to recover at the end of 1932. During the U.S. suspension, the Sauerbeck index of basic commodity prices rose 6.7% in Britain, while similar prices rose 41% in the U.S. The broader wholesale price index rose 30% in the U.S. from April 1933 to September 1934, while British wholesale prices were up only about 3% in 1934. The U.S. discovered that inflation is quite possible with high unemployment; Britain discovered that an earlier recovery was consistent with a stronger currency.

Both the U.S. and Britain recovered, however, aided by deposit insurance in the U.S. and lower real unemployment benefits in England. Stopping the U.S.-led deflation was necessary, but the deflation was not caused by the gold standard.

Before the Federal Reserve was established, the only serious deflations always occurred during periods when a country was *not* on a commodity standard, such as the U.S. in 1781-91 or 1865-78. This was because the public, under a commodity standard, could easily increase its liquid assets, as needed, by converting gold or silver into cash.

The severe deflations beginning in 1920 and 1929-31, however, illustrated the Fed's power to deliberately counteract this balancing force. The rise in the discount rate to a record 7% in June 1920, note Friedman and Schwartz, "was a deliberate act of policy involving a reaction stronger than needed since a gold inflow had already begun."

In 1931, too, "The U.S. gold stock rose during the first two years of contraction. . . . The United States did not follow gold-standard rules. We not only sterilized it, we went much further. . . . Foreign commentators were particularly critical of the monetary policy of the United States." The Fed, in short, more than neutralized the curative powers of convertibility in 1920-21 and 1929-31. Even as the world attempted to acquire more dollars by offering gold, the effort was thwarted by tightening in the face of falling commodity prices. In other words, the Fed bought gold and sold bonds. The Fed's loans and securities were reduced by 24% from 1928 to 1930 to offset $455 million in gold imports (over $600 million by 1931).

5. FRANCE IN 1926: THE POINCARE MIRACLE

Among major countries, the one least affected by the Depression and trade war was also the last to leave the gold standard in 1936—namely, France.

From 1919 to 1926, France had operated under a quantity rule for money, with legal limits on printing currency and monetizing government debt. Yet inflation continually increased more rapidly than the money supply because the demand for money fell. After Britain returned to gold, the French franc lost half its value against gold-convertible currencies in the year ending July 1926, and wholesale prices rose 50%.

Poincare formed a new government on July 25, 1926, and instituted a series of tax and monetary reforms by August 7. New currency had to be backed by added gold or gold-convertible foreign exchange. The top income tax rates were cut in half, and taxes

on inheritances and securities were also reduced, though some specific excise taxes were later adjusted for the previous inflation. Tax revenues were not increased in real terms, but were 15% lower in 1926 than in 1922.

The fundamental problem was monetary, but it had fiscal consequences. Although the budget deficit had shrunk by 68% from 1923 to 1925, the monetary collapse made it necessary to finance the debt with short maturities at escalating interest rates. Long-term interest rates had averaged about 3.2% under the prewar gold standard, but exceeded 10% by mid-1926. Within three months of the Poincare reform, however, the government was able to sell 40-year bonds at 7% to retire short-term debt. From August 1926 to August 1927, the commercial bill rate fell from 5.8% to 2%.

Looking back on the reform in 1929, Columbia Professor James Rogers wrote that "It should always be borne in mind that an almost entirely negligible reduction in the total debt has so far been accomplished. Mostly what has happened is that the extremely large and ever threatening current debt burden has been partially transferred to the future." That is, the stronger currency made it possible to sell long bonds, reducing the interest expense on the national debt.

The gold cover on currency (a form of quantity rule) proved too restrictive, and the economy slipped into recession in October, 1926. In order to arrest the sudden decline in prices, the franc was pegged to the dollar in December, effectively putting France back on the gold standard. The stock market rose immediately by 164% through February 1929—twice as fast as in the United States—and stocks remained higher even in 1933 than they had been in early 1926.

Real output *per capita* rose by 5.9% in 1928 and 9.5% in 1929, remaining above the 1927 level as late as 1934. The M2 money supply rose 10.7% in 1927, 16.3% in 1928 and 6.7% a year in 1929-31. Wholesale prices dropped slightly in early 1927, and were essentially unchanged in 1928-29.

THE RELEVANCE OF HISTORY

Other examples of the restoration of commodity standards are generally less relevant to the current world situation, because they occurred during extreme inflations. A brief review of what happened to Germany before and after World War I, however, highlights some similarities with more temperate monetary crises.

Germany had adopted a gold standard from 1876 to 1914, and experienced only one true recession (1891) in the entire period. After World War I, of course, Germany experienced the most famous hyperinflation on record—averaging 322% a month from August 1922 to November 1923. Thomas Sargent points out that the runaway inflation in Germany, as well as in Austria, Hungary and Poland, "were each ended by restoring convertibility to the dollar or equivalently to gold." Inflation was immediately ended despite a "rapid rise in the 'high powered' money supply in the months and years after the rapid inflation had ended." In Germany, for example, wholesale prices rose only 3.8% from December 1923 to December 1924, though M1 rose 261% in that period. Per capita production rose 67% from 1923 to 1925, and the related gains in real tax revenues balanced the budget.

In the other episodes examined earlier, however, the events leading up to monetary reform are more comparable to the current situation. These are some of the features these past periods had in common:

They were all initiated during the deflationary aftermath of a relatively moderate inflation.

Government budgets were an acute concern, usually with a combination of deficits, growing interest expense, and tax resistance.

There had already been many years of experience in trying to regulate or limit the quantity of money.

Interest rates were always historically high, particularly in real terms.

The results of monetary reform were also similar:

Real output always expanded very rapidly for at least four years.

The money supply grew even more rapidly.

There was no sustained inflation or deflation.

Interest rates were always reduced, and long-term rates almost never exceeded 5-6%.

The most recent return to a gold-based monetary system was Bretton Woods. In the first U.S. recovery under this regime, beginning in 1950, real GNP in the United States grew at a 13.5% annual rate for four quarter. The Bretton Woods system was reinforced from November 1961 to March 1968 by the London gold pool, which kept the price of gold firmly anchored at $35. Before that, real growth had averaged only 2.3% in the U.S. from 1956 to 1960. In the fourth quarter of 1961, however, when the gold pool began, real GNP jumped at a 10.6% rate and averaged 5.7% through the first quarter of 1966. Again, this was accompanied by rapid growth of liquid assets, 4-5% bond yields and little inflation. Annual growth of M2 averaged 8.1% from 1962 to 1965—not significantly different from the 8.5% rate of 1972-75, or the 8.6% rate from 1977 to 1980. Something else obviously changed in the latter years to account for the huge increase in price violatility, and equally dramatic slowdown of world output and trade.

Between March 1968 and August 1971, the United States severed any predictable links between the key reserve currency and the real world. The value of a dollar became a matter of continual guesswork. The results were exactly the same as in each of the historical episodes discussed before:

Waves of inflation followed by liquidation, bankruptcies and falling commodity prices.

Long-term interest rates usually rising, even during the periods of falling prices.

Longer, more frequent economic crises around a trend of slowing or falling production.

A shrinking tax base and rising government interest expense, producing government budget strains and tax resistance.

These same symptoms invariably arose during previous attempts to regulate the quantity of money, and the first reaction was usually to raise taxes or tariffs. It was only after the fiscal approach backfired that governments reluctantly turned to monetary reform. Circumstances, not theories, compelled the change, but only after at least a dozen years of growing discomfort.

The third American experiment with managed money began 11-15 years ago, which is about as long as has usually been tolerated in the past. In at least one respect—namely, the successive peaks of record-breaking interest rates—the recent experience has been among the worst. Whenever this occurred before, government officials have always turned to monetary reform, if only to alleviate the government's financial dilemma. When that happened, the results have never been subtle or gradual, but a sudden leap to a much higher and more stable growth path.

The reason for linking the dollar to commodities is not simply to stop inflation. A 1932-style credit crunch can do that—for a while. The stronger political incentive for restoring sound money is that it invariably unleashes an economic boom.●

THE CROP SURPLUS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert one of my recent Washington Reports into the CONGRESSIONAL RECORD:

THE CROP SURPLUS

One of the most worrisome problems plaguing agriculture today is the growing surplus of crops—wheat, soybeans, and especially corn. Currently, the United States has about 152 million metric tons of stocks in excess of projected demand—almost two and one half times the ending stocks of just two years ago and enough to meet our domestic needs for nearly a year. It is our greatest surplus in more than 20 years, and it has resulted from three straight years of bumper crops at a time when export sales have lagged. Exports, which once siphoned off most of our excess, have dropped due to the worldwide recession, the strong dollar, aggressive expansion of markets by other countries, and fewer purchases by the Soviet Union. The massive surplus has led to the lowest grain prices in years, and it has caused a sharp increase in government payments to farmers. In percentage terms, these payments are rising faster than are outlays for defense or social security.

The surplus is being held in the farmer-owned reserve administered by the department of Agriculture (USDA), in the inventory of the USDA Commodity Credit Corporation (COC), and in free stocks. The stocks in the COC inventory, about 21 million metric tons, are government-owned. They accumulate as farmers who receive federal loans on their crops default on the loans when the market price is below the loan rates set by the USDA. Depressed market prices have caused the COC inventory to increase by 65 percent in the past two years. However, the bulk of the surplus, about 96 million metric tons, is being held in the farmer-owned reserve. The USDA provides incentives to farmers (such as subsidies for storage and higher loan rates) to store their crops when prices are low in order to drive prices up to s specific "trigger" set by the USDA. The farmer-owned reserve has been growing at an astounding rate, posting an increase of approximately 650 percent in only two years. Overall, the cost to the USDA this year for these two storage programs exceeded $2 billion, and it is expected to be significantly higher in 1983 since the surplus is much larger.

Other countries have much smaller surpluses than we do. We produce roughly one fifth of the grain in the world, yet we have almost three fifths of the world's surplus. Slight increases in trade and production by

other countries have caused a slight decline in their ending stocks, while our higher production and lagging exports have led to an increase of 240 percent in our ending stocks in the past two years. Major American reserves are necessary both to protect consumers from high prices as well as to minimize sharp price fluctuations for farmers, but too large a surplus depresses prices since prices for most crops are totally dependent on supply and demand. Experts claim that our current reserves are from 50 to 70 percent larger than is necessary or desirable.

A consensus has been growing among farm groups and government leaders that the traditional measures to cut surpluses, such as voluntary set-asides and export loan guarantees, have not been totally successful and need to be supplemented by new efforts. In this regard, a major change has taken place in the attitude of the Reagan Administration. Last year, Congress gave the USDA several specific powers to help the troubled farm sector, including authorization for export subsidies, a paid-acreage diversion, and an export credit revolving fund. The administration, however, chose not to use these powers, opposing "bailouts" for specific sectors of the economy and claiming that farm income would rise when the general economy recovered. The administration's position was that "agriculture is going to have to tough it out." Several factors, including the escalating COC expenditures and the failure to get significant concessions from our competitors in trade, have led the administration in recent weeks to reverse its earlier position. Among other things, it has announced a $1.5-billion, three-year "blended credit" program for foreign purchasers combining interest-free loans and federally guaranteed commercial loans; it is considering direct export subsidies; and it has proposed a "payment-in-kind" program to give some of the surplus back to farmers to "pay" them for reducing the amount they grow next year. Despite such efforts, the USDA has projected 1983 as the fourth straight year of record low farm income.

Overall, I believe that we must pursue several different approaches in our effort to reduce the surplus. First, we must look at alternative uses for the current stockpile, such as bartering more of it for strategic minerals and supplies or using some of it for the production of alcohol for government or military purposes. Second, we must trim our excess production, perhaps through a more attractive paid-acreage diversion or perhaps through a payment-in-kind program. However, we must be aware of the limitations of this general approach of cutting our production. The United States does not control enough of the market to raise prices automatically. Instead, sharp curtailment of our production might be seen by other nations as a chance to gain a greater share of the market.

It is clear to me that our primary emphasis should be on a third approach—aggressively expanding American exports. We must recognize that the American farm sector has been internationalized. Twenty years ago, we produced almost entirely for the domestic market and remained relatively isolated from external changes. Today, one of every three bushels of American grain is shipped abroad, and consequently the farm sector is highly sensitive to fluctuations in supply and demand in other countries, variations in exchange rates of currencies, and changes in foreign trade and agricultural policies. We must heed this reality and meet the present challenge head-on by developing a dynamic program to promote farm exports: expanding and improving our export credit programs, meeting our competitors' export subsidies with subsidies of our own, developing markets through an expanded program of food aid, revising aspects of our farm programs that price our goods out of the market, and guaranteeing that contracts to buy our farm products will not be voided for political reasons. Only then will we have achieved a more durable and lasting solution.●

A "LAMEDUCK" TRIUMPH: NUCLEAR WASTE POLICY ACT

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mrs. BOUQUARD. Mr. Speaker, the passage of the nuclear waste bill is the most dramatic evidence we have of constructive activity in this lameduck session. The final enactment of an articulated Federal Government policy on nuclear waste has been years in the offing and represents the work of numerous Members of the House and the Senate. At least seven House committees and three Senate committees were heavily involved in crafting final legislation which now awaits the President's signature.

This bill is a finely woven mixture of R&D features which complement a Federal repository program for permanent storage of high-level nuclear waste. Our Science and Technology Committee reported out our R&D version of the bill 1 year ago this week. I am pleased to note that the final legislation incorporates the major provisions of the bill (H.R. 5016) which I introduced nearly 1½ years ago. The bill authorizes construction of a test and evaluation facility for nuclear research and development so that the DOE can proceed with greater certainty in siting and constructing a long-term geologic repository. The generators of nuclear waste will pay for the site-specific R&D as well as the first commercial repository, that is, the program is to a great extent moved off-budget. Generic R&D will continue under Federal funding and our Energy Research and Production Subcommittee will be concerned about obtaining assurances that these activities complement the more site-specific test and evaluation facility work. I would encourage the Department of Energy to be aggressive in requesting a sufficient amount of funding in the fiscal year 1984 budget so that they can comply with the strong congressional intent of the Nuclear Waste Act.

Passage of this bill will be one of the major accomplishments of the 97th Congress, and I am extremely pleased that the full House has supported this effort to resolve, once and for all, the problem of uncertainties surrounding nuclear waste disposal.

Finally, I want to congratulate the three main committee chairmen on the House side, Messrs. FUQUA, UDALL and DINGELL; and the ranking minority members of the three committees, Messrs. WINN, LUJAN and BROYHILL, for their great efforts in seeing that this legislation was finally enacted into law.●

EXPLANATION OF SENATE AMENDMENT TO H.R. 3420

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. LENT. Mr. Speaker, at this time, I would like to describe the Senate amendment to H.R. 3420 with which the House has just concurred. Title I of the Senate amendment deals with three technical changes to the Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act.

Titles II through VII reflect many provisions contained within H.R. 6308, as passed by the House, and S. 1500, S. 1829, S. 2301, and S. 2430, as reported by the Senate Committee on Commerce, Science and Transportation. To the extent that the provisions contained within the Senate amendment are identical to, or substantially the same as, the provisions contained within these specific bills, reference should be made to the materials within the committee reports on such bills.

Title II of the amendment deals with the bankrupt Rock Island Railroad. It authorizes the Interstate Commerce Commission to set the purchase price for the acquisition of abandoned Rock Island lines in order to insure the continuation of essential service over those lines. It also establishes a labor protection program for Rock Island employees who are adversely affected by the railroad's bankruptcy. This program is based on the program established last year for Conrail employees and replaces a program previously approved by Congress which was struck down by the courts this year.

Title III of the amendment deals with the Northeast corridor improvement project. Basically, it clarifies the scope of the overall project and the availability for funds to operate service to Atlantic City, N.J. The amendment provides that the Secretary shall "expend or reserve for expenditure" funds out of the annual appropriations for the Northeast corridor improvement project in fiscal years 1983, 1984, and 1985 first for improvements to the rail line between the main line

of the Northeast corridor and Atlantic City, N.J. This language is included so that if circumstances over which the Secretary has no control make it impossible for him to actually expend funds out of the yearly appropriations first for the Atlantic City rail improvements and rehabilitation, then this language would permit other corridor project improvements to go forward as long as the Secretary first "reserves for expenditure" funds out of the yearly appropriations for the Northeast corridor project which are needed to accomplish the required improvements and rehabilitation of the Atlantic City rail line.

In addition, title III of the amendment makes funds available to consolidate railroad passenger service at Pennsylvania Station in New York City. These funds would be used for the rehabilitation of a rail line required to facilitate rail passenger service between Spuyten Duyvil on the Hudson line and the main line of the Northeast corridor. This proposal, referred to as the west side connection, would allow the Empire Service trains from upstate New York to connect directly with the Northeast corridor at Penn Station. The connection is expected to yield benefits of approximately $10 million a year.

Title IV of the amendment deals with railroad financial assistance. It extends the 505 preference share program for 3 years at a funding level of $55 million.

Title V of the amendment includes a number of miscellaneous provisions. One of these provisions reduces the current Conrail authorization in order to make $75 million available to the Northeast commuter authorities to insure the smooth transfer of commuter services now provided by Conrail. This provision also authorizes $15 million for the transfer of commuter rail operations in Chicago, and $35 million for the new Rock Island labor protection program.

Title VI of the amendment deals with the transfer of the Alaska Railroad. It provides for the orderly transfer of the Railroad from the Federal Government to the State of Alaska. In making this transfer, the Secretary of Transportation must be insured that the State will continue to provide rail service, assume certain rights and obligations, and protect the interests of the railroad's employees. It also provides for the expedited adjudication of Native claims to certain railroad lands.

Title VII of the amendment deals with railroad safety. It authorizes $29.3 million for fiscal 1983 and $31.4 million for fiscal 1984 to cover the rail safety activities of the Federal Railroad Administration. Further, it authorizes funding to assist the States in enforcing Federal safety laws, and funding for research and development.

Title VII also makes some substantive changes in the rail safety laws. The amendment to section 209(a) of the Federal Railroad Safety Act of 1970 is a clarifying amendment necessitated by the decision of a divided panel of the U.S. Court of Appeals for the Fifth Circuit in *Fort Worth and Denver Ry.* v. *U.S.*, No. 81-1405 (decided Dec. 6, 1982). That decision reversed the district court and set aside the revised freight car safety standards on the basis that the FRA was not empowered to issue strict liability standards under the Federal Railroad Safety Act of 1970. The amendment clarifies the original intent of the Congress and insures the effective operation of the freight car safety program. It embodies a strict liability standard in plain simple language, assuring that the 1970 legislation will be read in a way that is consistent with judicial decisions under the Safety Appliance Act, Locomotive Inspection Act, Signal Inspection Act, and the other railroad safety statutes. However, it is intended that the FRA will retain administrative discretion to condition responsibility for compliance with certain regulations on constructive or actual knowledge where fairness and proportionality so require.

It is expected that FRA will continue to use prudence in applying civil penalty sanctions under the freight car safety standards. FRA recognized in the preamble to those regulations that the purpose of civil penalties is to promote future compliance. As in the case of motor vehicle safety, the success of strict liability standards under the Federal Railroad Safety Act will be insured only if those subject to the standards have confidence that available sanctions will be applied fairly.●

A SUMMARY OF COMMITTEE ACTIVITIES DURING THE 97TH CONGRESS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. ZABLOCKI. Mr. Speaker, as chairman of the Committee on Foreign Affairs, I am pleased to present for the record a summary of committee activities during the 97th Congress.

Both the first and the second sessions of the Congress saw substantial contributions by the committee in legislation dealing with foreign affairs and in oversight on international issues.

All members of the committee joined in these productive efforts. They deserve our commendations for a job well done. I am further gratified that throughout the Congress the committee again maintained its tradition of bipartisanship on important foreign affairs issues.

From the convening of the 97th Congress on January 5, 1981, to adjournment on December 21, 1982, the committee authored 20 measures signed into law by the President. Another five had passed Congress by adjournment and were awaiting his signature.

In the House, 30 committee bills and joint resolutions passed during the Congress as did 53 concurrent and simple resolutions.

Among the committee's successful legislative efforts were bills for a 2-year security and economic assistance authorization, humanitarian assistance for Lebanon, export trading companies, a multinational force and observers in the Sinai, Export Administration Act amendments, Czech claims settlement, El Salvador presidential certification, and small business innovation development.

Among committee bills which passed the House but which the Senate failed to approve were radio broadcasting to Cuba and the resolution calling for a nuclear weapons freeze.

Numerous resolutions were approved by the committee, and later by both the House and Senate, in connection with human rights violations by the Soviet Union.

Some statistics indicating the extent of committee activities during the 97th Congress of interest are: 534 formal meetings, including 140 held by the full committee and 394 by the subcommittees; 1,071 witnesses heard during these meetings; 168 informal meetings, including 100 held by the full committee and 68 by subcommittees, to receive distinguished visitors and delegations; 148 distinguished visitors and 31 delegations received by the full committee or subcommittees at the informal meetings or other occasions during the Congress; and 33 committee reports filed with the House, 130 hearings printed, and 70 committee prints published for use of Members, other official personnel, and the public.

Mr. Speaker, I am proud of the record of the Foreign Affairs Committee in the 97th Congress and honored to be in its service. I look forward to further contributions by the committee in the new Congress.●

TRIBUTE TO LEO ZEFERETTI AND PETER PEYSER

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 20, 1982

● Ms. FERRARO. Mr. Speaker, the New York delegation in the 98th Congress will sorely miss two veteran Congressmen, LEO C. ZEFERETTI of Brook-

lyn, and PETER A. PEYSER of Westchester County.

LEO ZEFERETTI came to this House in 1975, quickly rising into the ranks of leadership. As a member of the powerful Rules Committee, he was always a strong voice for New York and a spokesman for working people.

LEO ZEFERETTI never forgot his background as a corrections officer and crime fighter. As chairman of the Select Committee on Narcotics, he worked tirelessly to keep destructive illegal drugs out of our country and out of the hands of our young people.

Consumers and students will especially miss PETER PEYSER. He has never flinched from taking on powerful interests or the administration. In 1979, he led the fight to kill sugar price supports which would have cost American consumers billions of dollars. He became the House's leading defender of aid and loans to students seeking a college education. And he consistently supported vital child nutrition and school lunch programs.

The House, and New York State, have been richer for the service of these two outstanding Members of Congress. I will miss them and the Nation will miss them. I wish LEO ZEFERETTI and PETER PEYSER well in their new endeavors.●

TRIBUTE TO RETIRING NEW YORK MEMBERS OF CONGRESS: PETER PEYSER, LEO ZEFERETTI, AND SHIRLEY CHISHOLM

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 20, 1982

● Mr. WEISS. Mr. Speaker, I rise to pay recognition to three accomplished Members of New York State's delegation whose hard work and individuality will be sorely missed in the 98th Congress by me and by many others. I speak of three of my closest allies from New York who will not be returning in January, PETER PEYSER, LEO ZEFERETTI, and SHIRLEY CHISHOLM. I am proud to count all three among my friends.

As my colleague on the Education and Labor Committee, no member worked more tirelessly for education than did PETER PEYSER. Many Members saw him only as a voice of relentless dissent who stood his ground on the House floor no matter how unpopular his position. However, those of us who fought to maintain student aid programs in committee viewed him as an important leader in that cause. It is safe to say that he was in large part responsible for action taken by the Congress to restore funds for education programs the administration sought to cut.

Unfortunately, PETER became the victim of unfavorable redistricting and lost his seat for the 98th. However, those of us who have followed PETER's political course know that we will hear from him again. As a Republican in 1976, PETER surrendered his House seat to run for the Senate. He lost that contest, but returned to the House with renewed fervor as a Democrat in 1978. He was reelected in 1980.

Aside from the obvious political guile he exhibited in completing such a comeback amidst a party switch, PEYSER exercised unrelenting determination to return to public service. It is that determination which made him a forceful spokesperson for our democratic principles both on the House floor and in the Education and Labor Committee during the 97th Congress.

LEO ZEFERETTI also was forced to run in a district in which a large portion of the voters were not residents of his former district. He lost that election, but not his reputation in this body as one who gave careful consideration to every issue, especially those impacting New York.

As chairman of the Select Committee on Narcotics Abuse and Control, LEO sought to find a solution to the overwhelming drug problem that plagues our Nation by destroying so many lives. His background in law enforcement and criminal justice made him an effective advocate for efforts to control drug trafficking and he has introduced numerous pieces of legislation to improve Federal law enforcement of drug abuse. In addition, he has spoken out eloquently for improved health care, programs for the elderly, and economic development programs.

As a member of the powerful Committee on Rules, LEO gained respect as one who fought to promote open debate on a vast array of important issues.

Aside from all of these public accomplishments in Congress, which speak for themselves, I have known LEO ZEFERETTI as one of the most decent and honest Members of this body. He fought hard for what he wanted, especially if his own constituency benefited from his action. When he lost, he never lost his dignity.

Not often in life does a person enjoy the companionship of one as vibrant, intelligent, and dedicated as SHIRLEY CHISHOLM. Regretfully, she has chosen to retire from Congress to pursue other goals. I wish her well in her new endeavors, but I know too that she will continue to speak out against the powers which suppress the rights of women and minorities as she has done so eloquently for 14 years in Congress.

Every liberal who has practiced politics in New York City over the past two decades has grown to respect and admire Mrs. CHISHOLM. Her elections to the New York State Assembly in 1964 and to Congress in 1968 served as models for well-calculated rebellion within the system. Her brand of dissent, backed by intellect rather than disorder, offered thousands of disenchanted Americans, many women, and minorities, the hope that change could be accomplished from the pulpit, not only in the streets.

Upon the publication of her celebrated autobiography, "Unbought and Unbossed," she was already a true political hero in a torn nation that needed heroes. The title of her book framed for her an image which she has reinforced time and again by exhibiting individuality and creativity on many important issues.

Perhaps the apex of her popularity came in 1972, when she ran for the Democratic nomination for President, the first black woman ever to run for our highest office. Her candidacy became an important symbolic effort, especially to the millions of blacks and women who believed that their views were not being represented adequately by the Federal Government.

More recently, Mrs. CHISHOLM has directed her exquisite talents toward forging legislation to help the most disadvantaged in our society. As such, she has risen to prominence on the House Rules Committee. She championed landmark legislation that included millions of domestic workers in the coverage of the minimum-wage law.

Like PETER PEYSER and LEON ZEFERETTI, SHIRLEY CHISHOLM will be missed not only by those they represent or even by New York City alone. Indeed, the entire Nation will suffer when these three diligent public servants retire from public service.●

H.R. 6978, THE BANKRUPTCY COURT ACT OF 1982

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. RODINO. Mr. Speaker, I am extremely disappointed that the House will not act on the Judiciary Committee's bill to grant bankruptcy judges article III status under the Constitution, as required by the Supreme Court's decision in the Northern Pipeline case on June 28.

Congress failure to meet the Supreme Court's December 24 deadline could mean economic hardship for tens of thousands of American workers and the loss of millions of dollars in tax revenues recovered in bankruptcy proceedings. The large corporations that are now operating under chapter 11 bankruptcy may be forced to close if the bankruptcy court grinds to a halt on Christmas Day, substantially increasing unemployment across the country.

Congress inaction also undermines respect for the law by blatantly ignoring a constitutional mandate handed down by the highest court in the land. I feel strongly that when the Supreme Court hands down a ruling on a constitutional issue, that ruling must be obeyed. The Judiciary Committee met this responsibility with bipartisan support by reporting a bill in August to remedy the court problem in a simple and direct manner. The bill did not expand the bankruptcy court's numbers or its authority. It merely sought to accomplish what the Supreme Court has requested—to grant the court appropriate status under article III of the Constitution.

The bill, by itself, is not controversial. It became mired in controversy only when others wished to make it a vehicle for more comprehensive revisions in the bankruptcy laws.

An article III bankruptcy court is the only clear constitutional solution to the problem created by the Northern Pipeline ruling and, from the standpoint of judicial economy, cost to litigants, maximizing recovery to creditors, and successful rehabilitation of distressed companies, it is also the only practical option. A bifurcated or trifurcated jurisdictional system is fundamentally inefficient to the courts, creditors, and all parties in a bankruptcy proceeding, and is subject to constitutional doubt.

This constitutional question regarding the bankruptcy court system did not arise with the Northern Pipeline decision. The Congress has now examined this issue three times—in the 94th, 95th, and 97th Congresses. In both the 94th and 95th Congresses, the House reviewed the constitutional issues surrounding the bankruptcy courts and concluded that an article III bankruptcy court was constitutionally required. The House passed an article III bankruptcy court bill in the 95th Congress. In a compromise with the Senate, a non-article III court was created, however. It was this reluctant compromise court which was held unconstitutional in Northern Pipeline.

One constitutional scholar who testified before the subcommittee observed that:

> The Congress must realize that if it wishes to resolve this matter fully and responsibly, it must stop concentrating its attention on interim, stopgap measures and turn its energies to the long-run question. This means principally that Congress must stop losing sleep over the economic and social status of 220 bankruptcy judges and start to worry about the constitutional rights of 220 million American citizens. That * * * is the lesson of *Marathon Pipe Line.*

Aware of the necessity for prompt action in order for the Congress to comply wtih the October 4, 1982, deadline originally imposed by the Supreme Court in Northern Pipeline, the House Judiciary Subcommittee on Monopolies and Commercial Law immediately began hearings on possible legislative solutions to the constitutional problem. As a result of these hearings, I, along with Congressmen EDWARDS, MCCLORY, and BUTLER, introduced H.R. 6978, a bill to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, on August 12. On August 17, the subcommittee favorably passed H.R. 6978, and the Judiciary Committee ordered the bill favorably reported on August 19. The committee report on H.R. 6978 was filed on September 15 (H. Rept. 97-807).

I believe it behooves the House to have considered this important constitutional matter. It will be a poor reflection on the integrity of this institution to ignore the Supreme Court's decree.●

FOREIGN AFFAIRS NEWSLETTER

HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs newsletter for December 1982, into the CONGRESSIONAL RECORD:

AMERICA, CHINA, AND THE SOVIET UNION

As American and Chinese officials met in Moscow for the funeral of Soviet leader Leonid Brezhnev, Americans were reminded of the complex, triangular relationship among the three powers. Since President Nixon's visit to China, Americans have thought of China as supportive of our policy of containing Soviet expansion. But when Soviet and Chinese officials hold high-level talks and express optimism about the prospects for improved Sino-Soviet relations, it is not a casual event.

Presidents Nixon, Ford, and Carter worked both to relax tensions with the Soviet Union and China and to secure benefit from Sino-Soviet tensions. SALT I in 1972 and the Helsinki accords on human rights in 1975 were manifestations of progress in our ties with the Soviet Union. More trade and access to new sources of energy were positive results of our ties with China. The main benefit of Sino-Soviet tensions for us was a new option toward the Soviet Union—that of using China as a countervailing power.

Today, our bilateral relations with the Soviet Union and China have changed. Soviet-American relations have deteriorated. We leveled sanctions in response to martial law in Poland and the Soviet invasion of Afghanistan. Arms control proposals were delayed and are now faltering. Soviet-American rhetoric has become shrill. This indicates to the Chinese that the Soviet-American accommodation of the 1970's has faltered. Sino-American relations have also deteriorated, but for reasons that are less well-known. Today, the Chinese suspect that we are uninterested in building on our relationship. President Reagan and many members of Congress are concerned about the abrogation of the Taiwanese-American treaty of mutual defense and Taiwan's loss of our recognition of its self-declared status as the official government of the Chinese people. Although the President continues to recognize China, he cut back cooperation. Also, he said that we would sell more arms to Taiwan. This prompted the Chinese to demand a halt to all such arms sales. After long negotiations, the United States and China recently signed a communique in which the United States promised not to sell arms to Taiwan in quantities exceeding levels of recent years, not to continue sales of arms indefinitely, and not to observe a "two-China" policy. For its part, China promised to continue its policies of peace toward Taiwan and full relations with the United States. Despite this communique, Sino-American relations have beome narrower. This indicates to the Soviets that our options with China are not what they once were.

There are other reasons for our loss of leverage in the complex, triangular relationship among the United States, China, and the Soviet Union. The Soviets see China as opposing Soviet expansion. Confronted with an economic mess at home, a costly arms race with the West, serious security problems in East Europe, and instability in Afghanistan and Iran, the Soviets want to lessen tensions with China, take advantage of the struggle for power in China after the death of Chinese leader Mao Zedong, and weaken the American position in East Asia. They are hoping to ease the military situation on the Sino-Soviet border. The Chinese have motives of their own in seeking with the new Soviet leadership a modest reduction in tensions. Beijing could be flirting with Moscow to stir America out of its coolness toward China, wanting to show the United States that it is independent and cannot be taken for granted. It sees the Soviet Union's internal problems as a chance to win concessions. China is puzzled by an American policy that is strong in anti-Soviet rhetoric but passive in dealing with the Soviets, ambiguous toward Taiwan but hesitant to push ahead in strategic discussions with China. Since they may believe that President Reagan will never deal with Moscow, the Chinese have apparently concluded that they have greater leverage with the Soviets. Chinese leader Deng Xiaoping may want to display flexibility toward Moscow to strengthen his hand with anti-western hardliners in the Chinese ruling circle.

The prospects for a significant Sino-Soviet reconciliation should not be exaggerated. China's foreign policy is still guided by a deep concern about the Soviet threat. The Soviets have shown no willingness to reduce the number of troops along their border with China, to leave Mongolia, or to get out of Afghanistan. They are not likely to accept a weakening of Vietnam's position in Southeast Asia. Because of ancient rivalries, hostility between the Soviet Union and China runs deep. Even their common communist ideology has not helped them enjoy good relations.

In approaching our relations with China and the Soviet Union, we should keep several things in mind. First, the basic question for us is whether China seeks a stance equidistant from Moscow and Washington (a policy that should not trouble us) or a genuine reconciliation with Moscow (a policy with vast strategic implications for us). Second, a modest improvement in Sino-Soviet relations is not necessarily bad: if the Chinese encourage Soviet withdrawal from Afghanistan, restore the integrity of Kampuchea, or abridge the Soviet commitment

to Vietnam, our interests would be well-served. Third, if we are not careful, our faltering relations with Beijing and Moscow could be major causes of Sino-Soviet reconciliation. Fourth, such a reconciliation would disturb Japan, our most important friend in Asia, by making easier Soviet efforts to influence events in the Far East. Fifth, we should not allow China to draw us into a bidding match with the Soviets.

American policy should seek to break the pattern of recent months. We should manage our bilateral relations with China and the Soviet Union on their own merits. As to China, the United States should resume political, economic, and, where advisable, military and technological cooperation. We should state emphatically that there is a mutual Sino-American interest in stopping Soviet expansion. We should encourage China's looking to us for help in modernizing its economy. As to the Soviet Union, the United States should muffle its rhetoric and move ahead with initiatives on arms control, Afghanistan, and Poland. We should test Mr. Andropov's expression of interest in improved relations.●

THE HONORABLE KEN HOLLAND

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. ROSTENKOWSKI. Mr. Speaker, as the 97th Congress draws to a close, many of our colleagues will not return to the 98th Congress.

I will especially miss my friend and fellow committee member, KEN HOLLAND.

He has been a source of strength for his State of South Carolina and its Fifth Congressional District.

KENNY is a legislator's legislator. He is not afraid to "tell it like it is." It is this attribute that has won him the respect and support of many of his colleagues.

His work on the Ethics Committee and his leadership of the Textile Caucus will be sorely missed in the 98th Congress.

On a personal level, I will miss KEN's strong support on issues before the Ways and Means Committee. His activities on behalf of the Democratic Tax Alternative last year were a source of inspiration and pride to me. I will not forget his actions.

I wish both KEN and his wife, Diane, health and happiness and hope that we will see KEN in public service again in the very near future.●

INDOCHINESE REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. SOLARZ. Mr. Speaker, I would like to share with my colleagues the following article which recently appeared in Time magazine describing the harsh conditions encountered by Indochinese refugees—particularly in the NW-82 refugee camp in Thailand.

The plight of Indochinese refugees, vividly shown in this story, underscores the importance of a humane response from the United States and the rest of the international community to ease the suffering of these men, women, and children.

The article follows:

WAITING IN HOPE AND DESPAIR—INDOCHINESE "RESIDUALS" FIND THEY HAVE NO PLACE TO GO

The exodus of refugees from Indochina is a story of broken lives, broken dreams and broken promises. Since the fall of Saigon seven years ago, almost 500,000 boat people have passed through Southeast Asia to find new homes, mostly in the U.S., Western Europe and Australia. But an additional 175,000 refugees still languish in camps in Thailand. Because so many of them lack the skills deemed essential for resettlement elsewhere, they have come to be known in official jargon as "residuals," or people with "no guarantee of movement onward." The worst of these refugee camps is NW 82, a tropical purgatory 16 miles north of Aranyaprathet, a town on the Thai-Cambodian border. United Nations officials are not allowed to have a permanent presence in the heavily guarded enclosure. TIME Bangkok Bureau Chief David DeVoss was the first foreign correspondent permitted by Thai authorities to look inside NW 82. His report:

NW 82 looks more like a concentration camp than a refugee sanctuary. A barren mud flat smaller than a football field, it was originally designed to hold 800 people. Today it is home to more than 1,900 listless Vietnamese "land people," who singly or in family groups bribed their way across Cambodia, which is still occupied by 160,000 Vietnamese troops. Jumbled together inside 27 tents, the refugees each have a coffin-size sliver of space, 6 ft. by 3ft., in which to rest and sleep. Living conditions for new arrivals are even more crowded; they are housed in a series of bamboo tiers reminiscent of a 19th century slave ship.

Several months ago, the entire population came down with scabies. More recently, respiratory infections have been a problem, especially for the camp's 400 children. But the most serious malady is malaria. Nearly everyone has it, and some have suffered six or seven attacks. Says Tran Long, 27, a former mathematics teacher from Saigon: "Inadequate food and sanitation are our biggest problems. There are not enough latrines. The rainy season turns the camp into a cesspool."

Though it is surrounded by hostile anti-Vietnamese Khmer guerrillas and is within range of Vietnamese artillery inside Cambodia, NW 82 is not guarded by the Thai army. That task falls to the local militia, a sparsely equipped organization composed of former peasants, who are ill-disposed toward their Vietnamese charges. Several refugee women claim to have been raped, and men say that beatings are common. What is certain is that refugees who "misbehave" wind up spending the night in a red bamboo "tiger cage" 3 yds. long, 2 yds. wide and 1 yd. high.

Who is responsible for living conditions at NW 82? Thailand's supreme command insists, somewhat disingenuous, that it is the Geneva-based International Committee of the Red Cross (I.C.R.C.). The Red Cross vehemently denies any responsibility, other than medical, for the camp. Nearly a dozen Western embassies in Bangkok have joined the I.C.R.C. in asking the Thai government to move NW 82 away from the dangerous, malaria-infested border. But all the legations began to backpedal when the Thais said they would comply if the countries represented by the embassies agree to resettle all 1,900 refugees within 45 days.

Thailand's great fear is that it may be stuck with thousands like the residents of NW 82. During the first ten months of this year, 38,968 refugees were resettled, compared with 91,154 during the same period in 1981. Appearing before the executive board of the U.N. High Commissioner for Refugees in Geneva last month, Prasong Soonsiri, secretary-general of Thailand's National Security Council, blasted Western nations that have not honored their commitments to resettle Indochinese refugees. Said Prasong: "The lesson we learn is that being too merciful could lead us to bear an endless burden, and it cannot be forecast how much longer the Thai people would want to live with the problem."

Prasong is particularly angry at the U.S., which cut its quota for Indochinese refugees from 168,000 in 1980 to 100,000 in 1981. In the end the U.S. took in 73,000. What has happened is that the U.S. Immigration and Naturalization Service (INS) has new qualifications for refugees. Says a Bangkok-based U.S. official: "Someone who was a refugee in 1976 might not qualify as a refugee in 1982. A person must be able to show he has a good reason to fear prosecution. Conjecture is not enough."

During a five-day visit to Southeast Asia last month, U.S. Attorney General William French Smith discussed the problem with Thai officials. Smith said that Washington was not going to increase this year's quota of 64,000 refugees from Indochina, though he did promise that the U.S. would do its best to accept as many refugees as possible, up to the maximum quota.

Thailand has contributed to the problem through its policy of "human deterrence." In an effort to make the country unattractive as a sanctuary, the Bangkok government has decreed that no refugee arriving after August 1981 can leave for resettlement until every refugee who arrived previously has been moved out. The policy has proved a perverse punishment for many Laotians and Vietnamese who would meet American immigration requirements because they worked for the U.S. during the war years or have relatives in the U.S.

Despite the harsh conditions, most Vietnamese say they prefer living in NW 82 to returning to Viet Nam. Indeed, more than 600 land people cluster around hospitals in three border camps, hoping to get into NW 82. Says Nguyen Quoc Khanh, 41, a former lieutenant in the South Vietnamese army, whom the Communists sent to a jungle work camp for three years: "If we can get into NW 82, perhaps we can eventually get on a resettlement list. If you lived in South Viet Nam, you would understand why people have to flee. If it takes three years, I will wait." ●

REPRESENTATIVES TOM HAGEDORN AND ARLEN ERDAHL

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. WEBER of Minnesota. Mr. Speaker, two good friends from my home State of Minnesota will be leaving this Chamber at the end of the session, Representative TOM HAGEDORN and Representative ARLEN ERDAHL.

I have gotten to know both of these fine men over the years, and I must frankly say that this House and the people of this Nation will be losing great Representatives when they depart.

TOM has been the unabashed spokesman for rural Americans throughout the last four sessions of Congress. He is a principled defender of the free markets system in agriculture and fought hard to end the historic cheap food policy this country has had. He worked hard to change the estate tax law so family farms could be kept in the family. He worked hard to defend red meat producers when evidence falsely suggested their products caused cancer.

I have known TOM for a long time, all the way back to his first campaign for Congress when I served as his press secretary. Then and now, I admire them for standing up for conservative principles and for supporting President Reagan. He has worked hard to advance the conservative agenda of limited government, free enterprise, and individual liberty.

I will miss TOM.

My good friend ARLEN ERDAHL has been a spokesman for a compassionate America. He has fought the fight for handicapped citizens, for education for our people, and to end the international disgrace of poverty and malnutrition.

ARLEN served on the House Committee on Education and Labor. There he developed a national reputation for rational, thoughtful approaches toward meeting the needs of America. We have stood together on many issues. I will miss him.

Unfortunately, I believe the Nation will lose two great Representatives when TOM and ARLEN leave this Chamber. I hope they will continue to work for the America they believe in; their efforts have always been significant.●

EDMUND LEE HENSHAW, JR.

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 20, 1982

● Mr. O'BRIEN. Mr. Speaker, I have a sneaking suspicion that if one were to ask a cross section of the Members and staff of the House exactly what the Clerk does, many would not know. But that is not bad. In fact, it is one of the highest compliments that could be paid the man all of us would rather not see retire this year, Ted Henshaw.

In theater there is an old expression that if an audience notices the lighting of a play, that lighting is not right. Similarly, if we of the House were to notice the many things the Clerk does, it would probably be because something about the way he was doing them was wrong.

Taking a look at the myriad responsibilities on the Clerk's shoulders is instructive on this point. Do you need to find out how you voted last year on a particular measure? Then you go to the tally clerk. Has someone on your staff done so well as to deserve a raise? It is the finance office that takes care of that. How about researching the history of a bill passed by the House 50 years ago? One would go to the House Library. Or make a tape for the radio stations back home? Or use the Legis system to keep up on legislation?

In all of these cases, and many more, it is the Clerk of the House on whom we ultimately rely. He is the one who makes sure the essential tasks get done, and done well, so that we can do the legislating for which we were sent here. The fact that we take so many of these crucial functions for granted shows how well they are executed.

During the last 6 years Ted Henshaw has had this responsibility. He had discharged it so well that some of us cannot imagine the House without him. We hate to see him go, but we understand his reasons for leaving. Ted, thank you for a job done so well that is was easy to rely on you.●

FIRST ANNUAL JUDITH E. McDADE SCHOLARSHIP AWARDED

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. KEMP. Mr. Speaker, Judy McDade was a neighbor of mine and one I was proud to call my friend. Before her tragic death in a mountain-climbing accident in Yosemite Park in 1981, Judy had already achieved a great deal. Academically, her performance was outstanding; she graduated with honors from both the Buffalo Seminary and Duke University. In pursuit of her studies in anthropology, and to further her goal of academic excellence, Judy spent a semester of her sophomore year in Kenya. Judy was a well-rounded young lady. Both she and her sisters, Grace and Diane, worked for me as interns and research assistants, and I was impressed by the wide variety of their interests, and by their dedication and their humanity.

This humanity is prevalent in all members of the McDade family, and it is typical of them that they created an important memorial to Judy's memory. The McDade family established a half-tuition, 4-year scholarship at Buffalo Seminary in Judy's name to be awarded to an incoming freshman who shows strong academic ability and financial need, with preference given to minorities. What more appropriate action could the family have taken which would have carried on the McDade tradition of dedication to academic achievement?

And what more appropriate recipient than Ut Bach Nguyen? Ut's family, refugees from the Communist regime in Vietnam, strive for academic excellence to better their own lives, and they function as an interdependent, supportive family unit. Although political circumstances kept the family apart for some 3 years, the family is now together in their own home in Buffalo, running a family business. The children are all excelling in school, in addition to working part-time evenings and weekends.

Ut transferred from a public high school to Buffalo Seminary because her teachers and counselors felt she would be better able to develop her abilities in an atmosphere where they would be more greatly challenged. Ut's progress at the seminary so impressed her teachers and the school's scholarship committee that they elected to award Ut the first Judith E. McDade scholarship. The committee felt that Ut exemplified the same qualities of character which had made Judy so special.

I would like to extend my congratulations to Ut and her family, and my best wishes to Ruth and Doug McDade, and their daughters, Grace and Diane. I plan to contribute to the scholarship fund, and I hope that some of you will be inspired to do the same.●

TRIBUTE TO REPRESENTATIVE JOHN BURTON

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. WEISS. Mr. Speaker, I want to join in saluting the distinguished gentleman from California (Mr. JOHN BURTON) as he prepares to retire from a long and impressive career of public service. Since his election to the California State Assembly in 1965, he has proven himself a leader on an array of issues, particularly those which affect the truly needy in our society.

For close to two decades JOHN BURTON has consistently spoken for

what he, and his constituents, believe, even when it might be unpopular to do so. His was a prominent voice against the House Un-American Activities Committee in the late 1950's and early 1960's. And to this day he remains no less committed to protection of fundamental civil rights and civil liberties for all Americans regardless of ideology or belief.

For many years he has been an advocate for arms control and nuclear disarmament, and I know that he plans to maintain his commitment to ending the senseless nuclear arms race when he leaves this body. I have had the honor of serving with him on the Subcommittee on Government Activities and Transportation, where he has been a responsive and effective chairman.

His Subcommittee on Retirement Income and Employment of the Select Committee on Aging has made significant contributions to the income security of our Nation's senior citizens.

I regret that the gentleman has chosen to retire from this body. His participation will be sorely missed. At the same time I know that his personal involvement in the issues he has worked so hard for will not end. Congress and the Nation will miss his presence.●

SUBSTANTIVE BANKRUPTCY LAW CHANGES RELATING TO PERSONAL BANKRUPTCY

HON. PETER W. RODINO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. RODINO. Mr. Speaker, we do not have the time or the facts at hand to allow us to responsibly enact sweeping reforms of the personal bankruptcy law that would, in effect, totally repeal the historical fresh start concept of bankruptcy. And I believe we should have some hesitation in hastily embracing this radical proposal in the midst of this difficult economic period.

The General Accounting Office will complete a detailed study of personal bankruptcy early next Congress. When the constitutional problem in the bankruptcy court system is solved, the Judiciary Committee will finish its hearings on personal bankruptcy issues. I will introduced legislation to make those adjustments in the substantive bankruptcy law that are found to be warranted.

I believe that certain adjustments in the confirmation standard for chapter 13 plans are warranted, as well as certain other clarifying amendments relating to exemptions. However, other extensive changes that have been proposed are extremely far-reaching and controversial—particularly the so-called anticipated future income test. This would radically alter the fresh start concept that has been the bankruptcy policy of this country for almost 100 years and, in fact, is a proposal that Congress has specifically rejected several times in the past.

Consumer and labor groups, civil rights organizations, bar associations, bankruptcy judges, academics, and others have raised serious concerns about the ambiguity, the uniformity of application, the judicial impact, and the workability of this proposal.

The subcommittee is compiling and assessing all the data in order to arrive at practical and workable solutions. There is considerable hazard in adopting such far-reaching changes too quickly and on the basis of far too little information in this difficult economic time for so many Americans.●

MILITARY BALANCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert one of my recent Washington reports into the CONGRESSIONAL RECORD:

THE MILITARY BALANCE: QUESTIONS AND ANSWERS

Q. Is the United States inferior to the Soviet Union in military strength?

A. President Reagan believes so. He has said that "in virtually every measure of military power the Soviet Union enjoys a decided advantage." I am perplexed by his statement. It runs counter to the position of all of Mr. Reagan's predecessors—that the most basic measure of military strength shows the two powers roughly in balance. I cannot find a single high-ranking military officer who would exchange our armed forces in total for the armed forces of the Soviet Union. Moreover, even if Mr. Reagan is correct, it seems to me unwise for a Commander-in-Chief to denigrate our armed forces and to declare them inferior. Such talk can only encourage Soviet aggression.

My summary of how the military forces look would go like this: In strategic forces, we are far ahead in manned bombers and the warheads they carry. We are also ahead in the number of warheads on submarine-launched missiles, but the Soviet Union is ahead in submarines and submarine-launched missiles themselves. They have more land-based missiles. In ballistic-missile defenses, the Soviets are better off, but capabilities on both sides are low. In tactical aircraft, we are behind quantitatively, but our best interceptors are qualitatively better than the best the Soviets have. We are substantially in front in carrier-based airpower and aerial reconnaissance. In naval surface conbatants, we are doing better in carriers, both quantitatively and qualitatively. We also have a greater ability to supply our ships at sea, but the Soviet Union is ahead in cruise missiles which can attack ships. They have more attack submarines, but we lead in capacity to wage anti-submarine warfare. We are better able to airlift our forces over long distances. As to airlifts over short distances, the comparison depends on where the conflict takes place. In men under arms, the Soviet Union is ahead.

The comparative figures are important, though they do not tell the whole story. Assessing the balance is never a matter simply of totting up the figures. However, the figures do show trends in relative strength. By all accounts, Moscow is continuing to outdistance us in the numbers of weapons produced, and it is closing the gap in the quality of weapons. One reason for this is that the Soviets have devoted a larger share of their military budget to force modernization.

Q. Do the Soviets invest two or three times more than we do on defense?

A. The Soviet Union spends between 12 percent and 14 percent of its gross national product on defense; we spend between 5 percent and 6 percent. However, our gross national product is nearly twice theirs. If we add the defense spending of the western allies, we see $300 billion more on our side between 1971 and 1980. Moreover, the dollar-by-dollar comparison is misleading because the forces of the two countries are not really comparable item by item. Comparing figures without looking at mission, geography, the cohesion of the western allies, and the quality of forces distorts the result.

Q. Do the Soviets have more tanks, artillery pieces, aircraft, and ships than we do?

A. Yes, but the significance of this fact should not be overblown. We should not overlook the western allies or ignore the quality of our weapons. When the forces of the allies on both sides are totaled up, the numbers on each side are much closer. For example, American ships, though fewer than Soviet ships, are larger, except for some Soviet cruisers. Just as important, the total number of ships in the Atlantic Alliance exceeds the total number of ships in the Warsaw Pact.

Q. Is it true that the Soviet Union has 200 new Backfire Bombers, and is building 30 more each year, while many of our B-52's are old?

A. Yes, but again the view of the experts is that our old B-52's are better than their Soviet counterparts. Our total force of 316 active B-52's (with more than 30 in reserve) and 60 newer FB-111's is rated superior. Also, we are building two new bombers, the B-1 and the Stealth. The Soviet Backfire's reduced effectiveness at long range is another relevant factor.

Q. Does the Soviet Union have 1,200 warheads mounted on intermediate-range missiles in Europe, while we have none?

A. Yes, but not considered in this question are the hundreds of warheads carried on American aircraft in Europe or designated for use in Europe, or 162 British and French missiles capable of striking the Soviet Union. The western allies are scheduled to deploy 572 new missiles in Europe in late 1983, but the Soviets are also ahead in nuclear-capable aircraft in the European theater. These are areas where the Soviets have a clear edge, but something is being done.

Q. Has the Soviet Union put to sea 60 missile-bearing submarines in the past 15 years, while we have only recently put to sea our first missile-bearing submarine in 15 years?

A. Yes, but we are still far ahead in the number of warheads on submarine-launched missiles, and submarines remain the part of our triad least vulnerable to attack. Our submarines are on patrol 55% of the time; the newer Soviet ships do not do better than 15%. Ours are more immune to detection, and there is no serious danger to them

in the current Soviet anti-submarine arsenal.

Q. Did we freeze the number of long-range, land-based missiles in our triad in 1965?

A. Yes, but we have replaced and upgraded the missiles several times, with the result that they are far more capable than ever before. We have developed the technology to put more warheads on each missile, and in any case qualitative improvements are more important than sheer numbers. Because hardened missile silos can now be effectively attached, the large proportion of land-based missiles in the Soviet strategic forces will make the Soviet Union especially vulnerable.

In general, the figures do not show that the Soviets have the advantage in military power. The picture is complex and mixed. It is perhaps best described as a "balance of imbalances".●

JOHN L. BURTON

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. MINETA. Mr. Speaker, I rise today to salute my spirited and distinguished colleague, Mr. JOHN BURTON. JOHN and I entered Congress together 8 years ago, and since that time, I have watched JOHN work as a truly outstanding public servant.

As the representative of California's Fifthh Congressional District and as a consistent political activist, JOHN always worked to improve our Government. JOHN demonstrated his compassion both as an ardent opponent of America's involvement in the Vietnam war and as a strong consumer advocate. I have seen JOHN take painstaking care in his work as chairman of the Government Operations Committee's Transportation Subcommittee, and that work paid off in the increased safety of all airline passengers.

Yet, JOHN BURTON brought even more than convictions and compassion to the U.S. Congress. He brought guts.

With candor, vigor, courage and an even-operating sense of humor, JOHN consistently challenged the truisms of our Federal bureaucracy, and in a system where people are too often comforted by the tonics of mutual approval, consensus and tradition, JOHN had nerve enough to criticize, dissent, and reform.

Congress will miss JOHN BURTON. I will miss him. And today, I am honored to join my colleagues in thanking this outstanding man.●

H.R. 5121

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. KOGOVSEK. Mr. Speaker, in passing the Federal Oil and Gas Royalty Management Act, the House of Representatives has taken an important step to reduce the over $2 billion lost annually by oil and gas producers to theft. This bill requires the Secretary of the Interior to initiate new inspection and accounting procedures to insure that theft losses are brought under control. These losses are estimated by the Department of the Interior to affect much of daily production in the United States.

Fortunately, American industry has already responded to the challenge offered by the goal of this legislation. Cypher Systems has developed a technological solution to the problem of monitoring inventories at remote sites in the oil and gas industry. This system, using microcomputer technology, allows the petroleum industry for the first time to measure accurately oil and other tank-stored fluids on even the most remote and widespread facilities operating from a central location—for example, company headquarters. A petroleum inventory manager using this system can instantly determine if an unauthorized removal of tank fluids is taking place. Access codes in the Cypher System allow operators to perform only those functions assigned to them.

By requiring inventory security systems on public oil leases, the Federal Oil and Gas Management Act of 1982 will set a standard for the petroleum industry which in time will insure that the U.S. Government, Indian tribes, and other oil and gas owners receive the full measure of royalties and other payments due them on their leases.●

EXEMPLARY TRAINING EFFORTS IN BERKSHIRE COUNTY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 1982

● Mr. CONTE. Mr. Speaker, three summer youth employment programs (SYEP) in Berkshire County, Mass., have been designated as exemplary programs by the Massachusetts Department of Manpower Development. The prime sponsor for these programs is the Berkshire employment and training program that is under the directorship of Werner Elsberg.

The Taconic High School vocational exploration program, located in Pittsfield, Mass., provided 175 hours of skills training and occupational information to disadvantaged youth ages 14 to 21 in Berkshire County. In conjunction with the local school district, the program operated in July and August of 1982, servicing some 60 participants.

Located in Lee, Mass., the Lee High School vocational exploration program serviced 40 participants in July and August of this year. The program exposed CETA eligible youth to four different vocational clusters. In addition to "hands-on" exposure, participants received career information concerning training requirements, job descriptions, salary ranges, and regional openings.

The third exemplary program, the Mount Greylock High School vocational exploration program, is located in Williamstown, Mass., and serviced 60 participants in July and August of 1982. The program provided needed income, skills training, and occupational information to disadvantaged youth ages 14 to 21 in Berkshire County.

According to the Massachusetts Department of Manpower Development, the programs designated "best exemplify the range of innovative and successful program designs offered within the Massachusetts employment and training system." The program also exhibits a strong public/private sector linkage.

Mr. Speaker, I applaud the efforts of these training programs. In this desperate time of high unemployment, specifically designed and well administered programs such as the ones I just mentioned are necessary for a substantial and long lasting economic recovery.●

LEO C. ZEFERETTI

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 20, 1982

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable LEO C. ZEFERETTI, who retiring at the close of the 97th Congress after 8 years of service to his constituents in the 15th District of New York.

Congressman ZEFERETTI began his career of service to our Nation as a Navy yeoman, second class, from 1944 to 1949, and was decorated with the American Theater, European Theater, and Victory Medals. He was also employed at New York City's Department of Corrections and was appointed to the New York State Crime Control Planning Board, and served as a representative on the National Conference on Correction and the Conference for a National Correction Academy. He was awarded the Order of St. Brigida, Cavalieri Commendatori, by the Italian Government.

He was elected to the 94th Congress in 1974, and compiled a splendid record of excellence and ability as a member of the House Education and Labor Committee, the House Merchant Marine and Fisheries Committee, the House Select Committee on Professional Sports, and the House Task Force on Pensions.

Few men have given more of themselves to good government, or have a more compassionate understanding of human problems than LEO ZEFERETTI. As a member of the House Rules Committee and the Select Committee on Narcotics Abuse and Control, he was in the forefront of efforts to implement meaningful solutions and effective action on behalf of the individual citizen.

Leo is a fine legislator and a distinguished leader, and he will be missed here in the House of Representatives. I extend to him my best wishes for continued success in all his endeavors.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 23, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 10

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on the effects of current economic problems on international affairs.
4221 Dirksen Building

2:00 p.m.
Foreign Relations
International Economic Policy Subcommittee
To continue hearings on the effects of current economic problems on international affairs.
4221 Dirksen Building

JANUARY 12

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review Federal programs which create certain job opportunities.
4232 Dirksen Building

JANUARY 19

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on the current international debt situation.
4221 Dirksen Building

JANUARY 25

9:30 a.m.
Finance
To hold hearings on the administration's assessment of the meeting of ministers to the General Agreement on Tariffs and Trade (GATT).
2221 Dirksen Building

Rules and Administration
To hold an organizational meeting, to consider its rules of procedure for the 98th Congress, membership assignments for the Joint Committee on Printing and Joint Committee on the Library, an original resolution requesting funds for operating expenses of the committee for 1983, to authorize tests of computer equipment in Senator's offices, and to consider other pending business.
301 Russell Building

JANUARY 26

9:30 a.m.
Rules and Administration
To hold hearings on Presidential and congressional campaign finance laws.
301 Russell Building

JANUARY 27

9:30 a.m.
Rules and Administration
To continue hearings on Presidential and congressional campaign finance laws.
301 Russell Building

FEBRUARY 1

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on proposed solutions to global economic problems.
4221 Dirksen Building

FEBRUARY 2

9:30 a.m.
Rules and Administration
To hold hearings on mass mailings and the use of postal patron mail.
301 Russell Building

FEBRUARY 3

9:30 a.m.
Small Business
To hold oversight hearings on the Small business investment company program of the Small Business Administration.
424 Russell Building

FEBRUARY 15

9:30 a.m.
Rules and Administration
To hold hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

FEBRUARY 16

9:30 a.m.
Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

FEBRUARY 17

9:30 a.m.
Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

FEBRUARY 22

9:30 a.m.
Rules and Administration
Business meeting, to consider committee resolutions requesting funds for operating expenses for 1983, and proposed legislation relating to Senate mass mailing.
301 Russell Building

FEBRUARY 27

10:00 a.m.
Foreign Relations
To hold hearings on the prospective nomination of Edward J. Derwinski, of Illinois, to be Counselor, Department of State.
4221 Dirksen Building

SENATE—*Wednesday, December 22, 1982*

(Legislative day of Monday, December 20, 1982)

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. The Senate will come to order.

Under the previous order, the Senate will stand in recess until 8 a.m., Thursday, December 23, 1982.

RECESS UNTIL 8 A.M., THURSDAY, DECEMBER 23, 1982

Thereupon, at 1 o'clock and 52 seconds p.m., the Senate recessed until Thursday, December 23, 1982, at 8 a.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

SENATE—*Thursday, December 23, 1982*

(Legislative day of Monday, December 20, 1982)

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Almighty God, Lord of Heaven and Earth, Who "giveth to all life and breath and all things * * *" in whom we "live and move and have our being * * *" we invoke Thy presence upon this final session. Nothing is too big for Thee, nothing is too small for Thee. Thou art the God of the universe and of the atom. The nations are as a "drop in the bucket to Thee," and "a sparrow does not fall to the ground but Thou dost know it."

Thy word makes plain that Thou dost "work in everything for good to them that love Thee and are called according to Thy purpose." We accept that profound reality for our Nation and ourselves. Bless the decisions made here that conform to Thy will and to the common good. Overrule in Thy grace the decisions made here which are contrary to Thy perfect plan and to the welfare of the people.

May Thy love and blessing abide upon the lives and loved ones of every Member of this large Senate family, and may the joy of Christmas infuse all our activities despite the hostility, the frustration, the disappointment, and the exhaustion of these past days. We pray in the name of the one whose birthday we celebrate.

The Lord bless thee and keep thee. The Lord make his face to shine upon thee and be gracious unto thee. The Lord lift up his countenance upon thee and give thee peace.

Amen.

RECOGNITION OF THE MAJORITY LEADER

Mr. BAKER. I thank the Chair.

SURFACE TRANSPORTATION ACT OF 1982

CLOTURE VOTE AT 9:30 A.M.

Mr. BAKER. Mr. President, I need not remind Senators, I am sure, that there will be a vote by unanimous consent today at 9:30 a.m. on cloture on the conference report to be followed at 11:30 a.m. by a vote on the conference report itself.

There are a few routine calendar items that may be cleared on both sides for action by unanimous consent but no other action will be done by the Senate this session.

Mr. HELMS. Mr. President, will the majority leader yield to me?

Mr. BAKER. I yield.

Mr. HELMS. Would the majority leader be interested in vitiating the time certain at 11:30 a.m. and going right to a vote if cloture is invoked?

Mr. BAKER. Yes, Mr. President, I believe so.

But could I say to my friend, as happy as I would be at that, I think I had better check my own list and see how that interacts with Senators' plans.

I thank the Senator for the suggestion and if he will permit me to take that suggestion and explore it I will have an answer within the next few moments.

Mr. HELMS. Very well.

Mr. PROXMIRE. Mr. President, if the majority leader will yield, on our side we wish to do the same thing very much and appreciate the suggestion of the Senator from North Carolina. It probably will be very helpful. We should check it out.

Mr. BAKER. Very well.

Mr. President, while I do that and being uncertain as to whether the acting minority leader wishes to speak now or reserve his time, let me put this request.

I ask unanimous consent that I may reserve my time for utilization during the remainder of this day.

I yield the floor so that the acting minority leader may seek recognition.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. GORTON). The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I shall take a minute and reserve the remainder of the time for the minority leader.

RUBBLE AND SHOVELS

Mr. PROXMIRE. Mr. President, Bertrand Russell addressed the House of Lords in 1945, four months after the bombing of Hiroshima. He said: "As I go about the streets and see St. Paul's, the British Museum, the Houses of Parliament * * * in my mind's eye, I see a nightmare vision of those buildings as heaps of rubble with corpses all round them. That is a thing we have got to face * * * throughout the civilized world."

Mr. President, I share the late Lord Russell's concern about the power of nuclear arms to destroy all that we hold dear. I hope the Capitol, the Supreme Court, and the Washington Monument will never be reduced to rubble, along with the rest of the country.

Anthony Lewis recently published an article in the New York Times, "Atoms and Politics," that is of great interest to those of us involved in the nuclear arms debate. According to Lewis, the defense policies of the Reagan administration are indefensible. Why? Key administration officials, such as Caspar Weinberger, Eugene Rostow, and Reagan himself, believe the best way to deal with the Soviets is to build and build and build more nuclear weapons to scare them into submission.

What is the rationale behind such a policy? First, many in the administration think that a superior nuclear force will strengthen our hand in solving regional conflicts with the Soviets, such as the situation in Afghanistan. Second, some argue that Soviet economic conditions are so strained that if we set a fast pace in the arms race, sooner or later they will have no choice but to negotiate arms limitations.

Lewis considers this approach foolhardy and dangerous, for two reasons. First, our gradual policy shift away from deterrence to deploying new first-strike weapons is alarming to our NATO allies. It appears to them as though we are courting nuclear disaster by flaunting an array of stunningly powerful weapons. Lord Zuckerman, a British defense expert, declared that the Reagan administration has sent "blood-curdling messages" to Europe with its defense policies.

Second, he argues, if we continue to invent and deploy new weapons, the temptations to use them may grow stronger. Indeed, we may be fooled into believing we can win a nuclear war with them. T. K. Jones, the Deputy Under Secretary of Defense, subscribes to this theory already. He once declared that the United States could "win" an all-out nuclear war, provided "there are enough shovels to go around."

This statement may sound funny, but the joke is on us if we laugh at it. For the fact is that the person who said it meant it, and furthermore, exerts influence over our defense policy. Lewis urges us to soothe our

allies and counteract this kind of mentality by recognizing the danger of destabilizing weapons, and doing all we can to keep new ones out of the arms race. In the future, he would like to see a renegotiated SALT II, and a comprehensive ban on testing of nuclear weapons. He argues both would be ultimately more constructive and amenable to peace than the anticipated arms buildup.

Mr. President, I ask unanimous consent that the Lewis article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 8, 1982]

ATOMS AND POLITICS

(By Anthony Lewis)

BOSTON, Nov. 7—The public campaign to stop the nuclear arms race, which has just had its greatest American success with voter approval of freeze resolutions, has to reckon with a central political fact: Many of President Reagan's key advisers on these questions want an arms race.

The men shaping nuclear weapons policy in this Administration are such intellectual hawks as Richard Perle, Assistant Secretary of Defense for International Security Policy, and Eugene V. Rostow, Director of the Arms Control and Disarmament Agency. They are carrying out in office their stated belief that the United States should challenge the Soviet Union by a massive nuclear buildup, for two broad reasons.

First, they argue, the U.S. will be able to apply pressure in regional confrontations with the U.S.S.R. if it has an edge in nuclear weapons. Such political leverage requires that we have not only superior deterrent weapons but a nuclear war-fighting capacity—and that we are ready, in Mr. Perle's words, "to move up the escalation ladder."

Second, they believe that an all-out arms race will put the Soviet Union under tremendous economic pressure, forcing it to accept limits on its weaponry. Mr. Reagan spoke from that premise when he said in the 1980 campaign that "the one card that's been missing" in arms control negotiations was "the possibility of an arms race." He has done everything he can in office to make that possibility a reality.

The ultimate aim of the nuclear hawks is deeper still. It is to confront the Soviets and force changes in their whole system: "To intimidate, disrupt and eventually transform the Soviet Union by the threat of nuclear war."

That characterization of the hawks' purpose comes from a gripping new book, "With Enough Shovels: Reagan, Bush and Nuclear War." It is by Robert Scheer, national correspondent of The Los Angeles Times, who over the last three years has interviewed Ronald Reagan, George Bush and many of the nuclear thinkers for his paper—and somehow got them to talk with chilling candor.

A particularly memorable Scheer interview was with T. K. Jones, Deputy Under Secretary of Defense, who said that with a good civil defense program, the United States could recover from all-out nuclear war in two to four years. The key thing, he said, was for people to dig holes and get under three feet of dirt: "If there are enough shovels to go around, everyone's going to make it." There is a lunatic hilarity to Mr. Jones, but of course he and the others are not really funny. What makes Mr. Scheer's book so powerful is that he takes the nuclear hawks seriously. And he treats them fairly, giving their views full expression and showing their human side.

The odd thing noted by Mr. Scheer is the huge gap between the ordinary family life of these men, their personal joy and pain, and the cold abstractions of their talk about nuclear war-fighting. It is as if they did not understand the danger of such talk—and of the weapons programs they are pushing to carry out their theories. To call a book "important" makes it sound worthily dull; this one is both essential and fascinating.

To understand the philosophy of the Reagan hawks is to appreciate why they arouse such anxiety among our European allies. The most moderate Europeans are terrified by the drift of American strategic thinking from deterrence to plans and weapons for actually fighting a nuclear war.

Lord Zuckerman, a noted British scientist and adviser to many governments, has said that the Reagan Administration's nuclear war-fighting theories send "bloodcurdling messages" to Europe. Writing in M.I.T.'s Technology Review, he says it may be impossible to hold NATO together if U.S. officials go on with their "talk of using nuclear weapons to render ineffective the whole of the Soviet political and military system."

All this indicates where the priorities lie for Americans concerned about the nuclear arms race. The immediate need is to stop the deployment of new weapons that would be destabilizing because they fit war-fighting doctrine: the MX, for example, whose characteristics would make it useful for a massive first strike, and the Pershing 2, which from bases in West Germany could hit Soviet targets in six minutes.

Is there any practical way to negotiate, with the Soviets, a freeze on the most terrifying aspects of the nuclear arms race? Yes—and the main elements of such talks are obvious now. They would include a renegotiated SALT II and a comprehensive ban on testing, the best way to stop the deployment of new weapons.

Can it happen? Is there any hope for such a limited, urgent negotiation? The answer is that there can be only if President Reagan is convinced that the nuclear hawks are leading him into a dangerous blind alley—convinced by other advisers, by Congress and by all of us.

VERY REAL NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in order to meet our full responsibility in the area of human rights, we must ratify the Treaty for Prevention and Punishment of the Crime of Genocide. Since 1967, I have stressed the vital importance of this treaty, and today, once again, I should like to state my belief in the very real need for ratification.

The right to exist is the most fundamental human right that any racial, religious, or ethnic group can possess. As a leader in the area of international human rights, the United States has worked hard to uphold civil and political liberties around the globe. However, our Nation—thanks to neglect by the Senate—has turned its back on one of the most critical proposals to advance worldwide human rights; the treaty to outlaw genocide.

Think of the depth of the Senate's neglect. In 1948, the United Nations unanimously approved the Genocide Convention, and our country not only signed it just 2 days later, but was the author and principal advocate of the treaty. Although President Truman sent the treaty to this body for its advice and consent soon after, it still remains in the Senate today. Ironically, the United States, which played a major role in drawing up the treaty, now stands silent on this essential human issue. And while we have neglected to take concrete action, over 80 other nations, including every major nation in the world except the United States, have ratified the treaty.

Mr. President, what keeps us from joining these other nations in their official stand against this heinous act? Certainly we cannot have forgotten the horrors of the Nazi Holocaust and our duty to prevent another episode of genocide in our century. In the last few years, genocidal actions have occurred in Asia and Africa, outrageous actions. Our human rights agenda must include an official condemnation of genocides. I urge the Senate to ratify this treaty which makes genocide an international crime!

Mr. President, I reserve the remainder of our time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTING PROCEDURE

Mr. BAKER. Mr. President, in response to the generous offer of the Senator from North Carolina to consider rearranging the schedule today so that if cloture is invoked a vote would occur immediately on the conference report without any further debate or other intervening action, I said then and I repeat now that I will not put that question at this time, but some Members are on notice that it appears that request will probably be put. I wanted to reiterate it now and suggest that the request probably will be made to the Senate sometime between 9 and 9:15. So that Members who may hear me in their offices should be aware of the fact that it looks like we are going to be able to clear it on this side and that the request will be put a little later in the morning in all likelihood, and Members are now on notice of that possibility.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that my remarks be made as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUING IRRESOLUTION

Mr. PRYOR. Mr. President, shame, disgust, and ridicule have been visited upon this body. Americans everywhere are bewildered and sickened by the way we have made a mockery of a once-revered institution. We have no reason for pride as we tuck our tails and slink out of this city.

The infamous lameduck session of Congress is thankfully breathing its final gasp, ending what one of my colleagues referred to as a "trial by ordeal."

Serious problems surfaced early in the regular session. On October 1, the new fiscal year began with only three appropriations bills completed. Four others were approved early in the lameduck session, leaving a total of six. Instead of dealing directly with each of these remaining and very important measures, we opted for a "continuing resolution," which shifts forward those funding levels approved in 1981 to cover programs through fiscal year 1983.

In other words, government by splinter and Band-Aid. As Senator HARRY BYRD of Virginia put it, "We call this legislation a continuing resolution. I think what it continues is total fiscal irresponsibility."

The continuing resolution, containing more than $425 billion, was sent to the Senate after being considered in committee for a total of 4 hours. We had 26 hours to pass the bill before the Government was scheduled to shut down. At one point, we were in session for 36 straight hours, considering such items as the MX missile, covert military operations in Central America, and Federal regulations of doctors and lawyers. The final bill was neither wise nor reasoned, and I voted against it. It would have given Rube Goldberg a case of the shingles.

Taken in isolation, our present fix is bad enough. Even worse is the growing perception that we are caught in the vise of a longstanding precedent. For the last 20 years Congress has opted to run the Government by a beastly contrivance called a continuing resolution. For two decades, we have seen 79 of these resolutions fund the Government in a stopgap, cut-and-paste funding mechanism. A record of this kind, to put it simply, is a blatant abdication of responsibility.

The problem the Senate currently faces lies neither in its leadership nor in any of its individual Members. Rather it goes to the center of its method of doing business.

Consider these facts, based on the first 6 months of 1982:

Item. Out of a total of 181 days, the Senate was in session for only 72. Votes on substantive legislation were taken on 32 days, with final passage taken on 15. That is a total of 15 days in 6 months.

The Senate was in session a total of 597 hours. Of that time, 198 were spent in recess and quorum calls. That means one-third of the Senate's time was consumed in quorum calls and recesses.

Also consider the following:

Item. We authorized defense funding before the budget limits had been established.

Item. The postal fraud bill, with over 340 sponsors in the House and Senate, died on the calendar after passing both bodies—because one Member objected to its final approval.

Item. We approved funding for housing programs without the required annual review of those programs.

Item. We debated school prayer and abortion in the context of an extension of the debt ceiling.

Item. Farmers, broken and destitute, came away from this session empty-handed.

In an age of high technology and instant change, the Senate continues to employ obsolete and clumsy procedures. Instead of lifting off like the Space Shuttle *Columbia*, it pokes along at the pace of a one-horse shay.

Among the Senate's most protected traditions is the filibuster, a rule whereby a handful of Senators can bring the entire Congress to a halt. Another absurdity is a looseness in the "germane" provision, which means that amendments dealing with defense, for instance, can be added to an agriculture bill, and vice versa. Still a third makes it possible to bring up a proposal time after time during the same session of Congress, even though it gets defeated on each vote.

Equally serious are problems of more recent vintage. The budget process has grown so complicated that in the current fiscal year the Senate was able to agree on only 3 of 13 appropriations measures. Institutional inertia and a lack of legislative discipline have caused the Senate to miss nearly all of the deadlines established in the Budget Act. There are now a total of 242 Senate and House subcommittees, many with conflicting and overlapping jurisdictions. Instead of charting broad national policy, the Congress has become bogged down with administrative details such as tax breaks for individual companies, pay raises, and what period to declare "National Cookie Week."

My colleague from Oklahoma, Senator DAVID BOREN, has called for the creation of a joint House-Senate committee to present proposals for a major overhaul of Congress. I think this would be a positive step, but perhaps a national commission formed outside Congress would have more credibility, since we have so little remaining.

The following areas need immediate attention:

First, stricter enforcement of the germaneness rule, which would allow us to consider only matters relevant to that particular bill; that is, defense amendments on defense bills. This would also encourage a coherent discussion of important issues.

Second, an absolute end to the "gentleman's agreement" by which one member can put a "hold" on a bill and keep it from being taken up by the Senate.

Third, a total reform of the filibuster rules, which today allow the majority view to become subverted entirely.

Fourth, a reaffirmation of the spirit and letter of the Budget Act, which set deadlines and spending ceilings, both of which are all too often ignored. Maybe we need the added discipline of forfeiting our own salaries when deadlines are not met.

Fifth, finally, a rule which provides that the legislative appropriations bill may not be considered until all other programs have been dealt with. If Members are threatened with a delayed or forfeited paycheck, we might find the time to take up the business of the country. We need deadlines and the added incentives to abide by them.

Maybe the sign of greatest hope is the renewed interest in reform brought about by this abominable session. I have seldom seen our own Members as sickened by the process that held us as its prisoners.

Someone said once that the desire for discipline is the true beginning of wisdom, and I believe that maxim continues to hold great truth today. That may be the only lasting truth to emerge from this lameduck session of Congress.

Mr. President, the system has crumbled and fallen on top of us. As we crawl out of the rubble, we must begin the painful process of rebuilding—if the Congress and country are to survive.

Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. Will the Senator withhold?

Mr. PRYOR. I withhold.

The PRESIDING OFFICER. The Senator from Ohio.

CHANGES NEEDED IN SENATE RULES

Mr. METZENBAUM. Mr. President, I rise to discuss the matter of filibuster. I repeat on this floor what I have said on many occasions previously. That is that I do not believe in filibusters. Anytime the Senate is prepared to move to the point that 51 Senators can vote on a measure and no further debate will be in order, I will be prepared to support it. But I am a realist enough to known that over the years that approach has not been possible. We have moved somewhat in that direction to the point where 60 Members can vote on cloture.

I actually believe that we ought to move to a point where, when 51 Members are for a measure, they can pass it and the need for cloture would not be necessary.

Having said that, let us deal with the reality of the situation. We now do have cloture, and then we have a procedure under which it is possible to have postcloture filibusters, most of those by amendment. But in some respects, other procedures, parliamentary avenues, are available to those who engage in filibuster.

I am frank to admit without any reservations or embarrassment that I have used the postcloture filibuster by amendment on a number of occasions and have indicated my willingness to use it if necessary to stand up and fight for what I believed or against that which I did not believe.

That does not mean that I believe the procedure is right. I believe that it is right for any Member of the Senate—and I do not address myself to the pending issues; but, rather generally speaking, I believe it is right for any Member of the Senate to use such parliamentary procedures as are available under the rules. I believe the remedy for that is to change the rules.

Filibusters have been used over the history of our Nation against civil rights legislation, against proconsumer legislation, for proconsumer legislation, against anticonsumer legislation, and have been used for and against the people, as the case may be, over a period of many years. That still does not make them right.

It does not make them right when you use them for that which you consider to be correct and it does not make them wrong when someone else uses them.

Having said all of that, I stand on this floor to say that I do believe it is time for us to change the rules of the Senate, to change the rules so that postcloture, the filibuster by amendment route, cannot be used. I, for one, would be prepared to go even further than that if the majority of the Members of this body were prepared to do so. As a realistic fact, I think it would take two-thirds of the Members in order to change the rules.

I think the more rapidly we move in that direction, the better it will be for the country, and certainly, the better it will be for the image of the Senate. I stand here to pledge my full support for the change in the rules and my willingness, as one who has used those rules, to change the rules so that they may be applicable to all in the same manner. I think it may be better for the country when we do that.

Mr. EXON. Mr. President.

The PRESIDING OFFICER. The Senator from Nebraska.

SURFACE TRANSPORTATION ACT OF 1982—CONFERENCE REPORT

THE GAS TAX INCREASE

Mr. EXON. Mr. President, within the next 30 or 40 minutes, the Senate will be voting on the increase in the gas tax bill. There are many reasons that this Senator voted for cloture during the long debate on this matter before the U.S. Senate. Primarily, I was concerned about the fact that if we did not dispose of this gas tax increase bill in one manner or another, we would be putting aside other important considerations that this lameduck session should make. The fact of the matter is that the extended debate which led to a filibuster for hours and days, and at one time, almost 40 hours of the Senate being in session continually, put aside the important matter of agriculture. If there is one thing we have not accomplished in this lameduck session, if there is any significant step—even a tiny one—even a mention in any of the laws with regard to the terrible economic plight of our family sized farms today—it seems to me that history will eventually show that that filibuster and the tactics that were used will, beyond any other consideration, be the great failing of this lameduck session—if, indeed, it should have been called in the first instance.

In that regard, Mr. President, I would suggest that we think back a little bit as to what was the first reason given by the President of the United States in insisting that we be called back into this lameduck session. I believe the record will clearly show that it was supposedly brought about so that we could deal in a postelection discussion to solve the problems that confront the Nation with regard to social security. We were promised at that time, Mr. President, that the President's Commission on Social Security Reform would have made its report sometime in the first part of December 1982; that we would have that report and those recommendations before us so that we might proceed in an orderly fashion.

The facts of the matter are that we have no report. The Commission is not even meeting, but we are.

After that was shunted aside, then we came up with a whole series of new programs and proposals, and all of the ill feelings and ill will which many have said they have never previously seen on the floor of the U.S. Senate were caused primarily by the insistence of the White House that we pass a nonemergency gas-tax increase bill.

What a sad reason for keeping us here and putting us through what the Senate has been through for the last 2 or 3 weeks. I am very fearful that because of the understandable short temper of many of the Members of the Senate, we are about to vote on the gas-tax increase without full recognition of what is in that bill or what it does. No one can legitimately say that the gas-tax increase is an emergency measure. No one can make a case that this should not be put over and, given the due consideration and deliberation of the Congress in the regular session that begins next month, in January—Mr. President, what I am saying is that, as is often the case with lameduck sessions and certainly short sessions of the Congress, the pressure points are there to stop even will-considered legislation, let alone the measure that we shall vote on in about a half hour.

I also feel, Mr. President, that there is a chance that we shall not only vote on cloture, which is the key vote on this matter this morning, but also the bill likely will be passed without even reasonable floor debate as to the pros and cons of this measure.

I have noticed that the publicity given this has always been that it is a nickle-a-gallon increase in the gas tax. Mr. President, it is over a 100-percent increase in that tax from 4 to 9 cents. I distributed a "Dear Colleague" letter as of yesterday to my colleagues and outlined some of the more apparent—I emphasize the word "apparent"—shortcomings of this bill. I first suggest that a disproportionate share of the costs of this program are going to fall on rural America. Certainly, we should first recognize that 20 percent of this 5-cent increase goes for mass transit. I know of no reasoning or rational by which that portion of the tax could fall under the term of "user fee."

Furthermore, Mr. President, with regard to the agricultural sector of our economy, the previous understanding on the floor of the U.S. Senate with regard to the exemption for gasohol production was absolutely emasculated in the hurried and harried conference that was held on the bill.

I should also call the attention of my colleagues to the fact that highway safety, especially with regard to trucks, has been pushed off the road, if you will, in our haste to pass this legislation.

What is the hurry? That question has never been answered.

I guess the only reason we are supposed to pass this bill is that it will be a victory for the President of the United States. The morning press indicates that Senators are being flown back in Air Force planes to vote. What a way to run a Government. What a way, in the opinion of this Senator, to insure due deliberation on a very important matter.

Mr. President, I am not saying that under no circumstances would I be for a bill something like the one that we have. I am simply saying that it has not been thought through. It has not been subject to the usual scrutiny of the legislative process. I guess because the President wants the bill somehow we are supposed to pass it.

Let us talk for a moment, if we can, about truck safety. One of the other things that the conference did, as Senators will notice as they begin to take a look at the conference report, was to further increase the excise tax on truck tires.

Now, I do not necessarily per se object to that. It is new truck tires that they increased the tax on. On the other hand, Mr. President, they eliminated in its entirety any excise tax on truck tire recapping.

Now, what does that do? I suggest that with the financial strain on many truckers today, it is simply going to encourage the truckers to go to recapping because they escape the tax. That means that we are going to have huge, monstrous trucks running up and down our highways on retread or recapped tires. I think that most safety experts recognize that such a provision in the bill invites less than due respect for truck safety.

With regard to truck safety, Mr. President, this bill also authorizes wider and longer trucks on our highway systems.

I have not studied this issue in great detail, and I suppose that no Member of this body or the House of Representatives has looked at it because we have nothing to base this on with regard to committee hearings and committee consideration.

I would guess that probably wider and longer trucks might not prove to be a significant safety hazard on our Interstate System from that point alone, but as far as this Senator is concerned, if there are any of my colleagues that have information to the contrary, I wish they would make it known before the cloture vote, which I emphasize once again is the key vote today on this measure. I wish that they would tell me what studies we have that would indicate possible safety hazards for wider trucks and longer trucks on the primary and secondary roads of this Nation which would also have to accommodate those bigger trucks that many of us are very much concerned about.

In closing, Mr. President, I simply say that I am fearful that this bill is being rushed through without due consideration. It is a further tax, and we are not sure how equitable it is. I am confident that it is not equitable for rural America. I do not know whether it is fair for the rest of America or not.

If we need any more vivid evidence of the lack of planning, the fact that we seem in the Congress to be working in a knee-jerk fashion with regard to the economy of this Nation, last year, in 1981, this Congress set a record of supposedly making the largest dollar tax reduction in our history. And with the inclusion of this new increase in taxes, that I am certain will be one of the more regressive taxes that we have ever passed, we are going to set a record in 1982 of raising taxes dollarwise by the greatest amount in our history; 1981 was a tax-decreasing year; 1982 was a tax-increase year.

It seems to me, Mr. President, that this does not give a signal that we really understand what we are doing, with the serious economic difficulties facing most sectors of our society today. I certainly urge my colleagues to oppose the cloture vote, which in effect would cause us to reconsider this bill when we come in in regular session next year.

Mr. President, I suggest that that is the prudent action that we should take and resist the political pressure that is building up.

It is clear to this Senator that a great many of us have been caught, unfortunately, in a political shoot out, a political power play, if you will, between the White House and certain Members of this body. And because of that we are taking our eye off of our primary responsibility, which is only to pass legislation after we have carefully examined all facets of that legislation and how it will affect the public.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I would like to make just a few comments about the gasoline tax. As I am sure the President and most of this body are aware, I have opposed this tax from the outset. I initially began a filibuster in trying to delay it. I have not been active in the filibuster for the last week primarily because of my belief that it was obvious the majority leader was intent on getting a vote. I thought that the filibuster would be somewhat futile and possibly counterproductive, so I did not participate in it.

It is still my desire and hope, although I am not optimistic about the result, that the tax bill will be defeated. I do not really think we have time to closely examine it. I do not believe we have had a report filed from the Finance Committee or a report on the tax bill when it came before the Senate, a very comprehensive, very large, very detailed bill. Now we see the conference report—I have a copy of it on my desk—of I do not know how many pages. I would estimate it is well over 100 pages. A lot of it still has handwriting on it coming from the conference, a lot of things deleted, marked out, with no conference report to tell you really what was in the bill. It is a very confusing and very difficult bunch of papers with which to try to understand what is in the bill.

I compliment the majority leader. I think he has handled this bill in a very short period of time in a manner that is very positive and shows only his determination but, also, his willlingness to lead. I think he has led in a very difficult time because obviously several Members of the Senate had some very strong reservations about this bill.

I also compliment the administration. Secretary Lewis has worked diligently and hard. Mr. R. A. Barnhart and others have been pushing for this bill for some time and are to be complimented because it appears to be coming about.

However, Mr. President, I do not think that this bill should pass, and I shall outline briefly a couple reasons why it should not.

A lot of people have called it a jobs bill: We need to stimulate the economy. I personally fail to see how a tax increase and a spending increase will stimulate the economy.

Our economy is actually on the verge of bankruptcy and taking another $5.5 billion from consumers is not really going to have a stimulus on the economy. It may stimulate the construction industry, and it may stimulate the highway industry, but it certainly will not stimulate the rest of the economy. We are going to have $5.5 billion out of the economy, out of the pocketbooks of consumers and transfer it to the highway industry. So if anything it will be a wash, but I believe it will be a net job loss for most of the economy.

It certainly, in my opinion, is not good for my State of Oklahoma. This bill, as I look at it, is more of an income transfer. It is going to be taking $5.5 billion away from a lot of States and giving that to some other States. Some States have a net gain; some States a net loss. My State happens to experience a net economic loss under the trust fund.

We lost and have lost since the inception of this fund. We have actually only received 75 percent of the dollars that we have contributed. Compared to other States, Oklahoma's national

income per capita has been less than most other States. I do not really think that we can afford this. In the past we have been contributing something to the tune of $20 million a year more than we have received back, equaling over a half of billion dollars in contributions to the rest of the States. That was in the past with a 4-cent tax.

If this tax is enacted, going to 9 cents, our State contribution going to the other States we actually would estimate will probably increase to the tune of $60 million to $70 million a year.

Our State's present tax contribution on the 4-cent Federal tax is equal to about $115 million a year. Last year our State received $95 million back, for a loss of about $20 million.

If this tax is enacted we estimate that our State tax burden will probably be about $230 million, of which we only receive about $170 million in return, for a net loss of about $60 million a year.

So instead of just contributing $20 million a year to the Interstate System, we will be contributing something to the tune of $60 million outflow from Oklahoma. So that means we are going to have a jobs loss or jobs transfer and certainly I think a negative effect on the economy of our State of Oklahoma.

In the area of mass transit, a lot of people have called this tax a user's fee. Mass transit cannot be called a user's fee. We have a minimal amount of mass transit in Oklahoma. We estimate for that additional penny, that 1 cent that is set aside, or the 20 percent of the new tax that is going to mass transit, we estimate that about $20 million will be collected on our State, but that we will probably only receive something to the tune of $3 million or $4 million in return. So Oklahoma will be donating probably about $17 million to our Nation's mass transit system.

I look at the Metro and I see that they are going to have enormous losses this year. I look at the New York mass transit system, and I look at Chicago, all of which are having very large deficits year after year, and I question how much should Oklahomans be forced to subsidize those transit systems.

I think this causes a lot of hesitancy in our State on the part of Oklahoma farmers who had a net income last year of $14 per year, one of the lowest in the Nation. As everyone knows, the agriculture business is in a severe recession. Why should those farmers be subsidizing mass transit systems in New York or Washington, D.C.? It is an income transfer system.

I cosponsored with Senator BUMPERS I think an outstanding amendment, which was narrowly defeated, which would have returned to the States of origin 85 percent of that additional penny that is set aside for mass transit. We were defeated, and that is too bad because it just proves that this is really an income transfer.

I heard a lot of Senators who were debating that amendment say, "If this amendment were passed my State would lose $200 million." They have already taken our money and they have said, "This is our money now." They have already taken claim to it, and I expect after today it will be theirs.

But I have serious reservations about, one, calling it a user fee and also giving this income transfer to some States that run heavily subsidized mass transit systems.

Mr. President, there was in the Senate bill a provision that would minimize and reduce the amount of subsidy for mass transit. Most of that was deleted in the conference report as far as I have been able to find out. I think that is a serious mistake. I hate to see it.

I warned the President when we were visiting. He said, "I do not like mass transit subsidies coming from this bill and we want to eventually reduce them."

But as we now see the conference report the subsidies that were in the bill for mass transit and operating subsidies can actually be increased, so I think that is certainly a step in the wrong direction.

Mr. President, another reason why we should be opposed to this bill is the fact that Federal work cost a whole lot more than work done under State rules and State regulations. We estimate in our State of Oklahoma that if you build a road under Federal regulations it costs as much as 30 percent more than it does under State rules and regulations. This is because of laws that are, I think, outdated and in some cases certainly not warranted, such as Davis-Bacon.

As the President knows, I had an amendment on this bill that would have deleted the expansion of Davis-Bacon and what we have done under this legislation is expanded David-Bacon jurisdiction not to just include construction but to include even the four R's of reconstruction and maintenance repair. What we have done is ridiculous.

Some people like to call this a jobs bill. That expansion of Davis-Bacon will prove it is not a jobs bill, and that provision alone will cost thousands of jobs. It will cost jobs on the lower end of the economic cycle and it will transfer them to high-paid, high-cost jobs.

This bill also has a "Buy American" provision that will cost jobs and this domestic content provision will increase the cost of the project.

So there are a lot of rules and regulations that we have in our current law and even in this bill which will be expanded, which will make Federal work a lot more expensive than State work.

This bill increases the tax on truckers, particularly the heavier truckers, dramatically from $200 some up to something like $1,600 next year. That is a tremendous increase, and I think you will find that there will be a lot of independent truckers and others who will find this such a hardship that they will be out of business.

To summarize, I think this bill flies in the face of New Federalism. It takes away from the States their right to have control over their own excise taxes, to be able to take control and have responsibility over their own roads.

I believe in the State of Oklahoma we could probably build and actually get more mileage out of a 3-cent State tax than we could out of a 5-cent Federal tax.

Mr. President, in light of this and in view of the fact that we have brought it up so hurriedly, I hope that we will not invoke cloture today and if we do invoke cloture today that we will vote "no" on final passage of the tax bill.

I thank the President.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. NICKLES. I am happy to yield.

The PRESIDING OFFICER (Mr. RUDMAN). The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I served with the Senator from Oklahoma on a committee in the Senate and I know he gives to all legislation not only in that committee but here in this body very careful consideration. I am sure he will not misunderstand my question. Had he been a Member of the Senate in 1956 would he have voted for the Federal interstate highway program?

Mr. NICKLES. The answer to the Senator's question is I was not here in 1956. I do not know whether I would have or not. The gist of my complaint was not on the "original intent" of the law but the expansion of it, going to 9 cents.

But to answer the Senator's questions specifically I am not sure if I would have or not.

Mr. RANDOLPH. The Interstate System, in my opinion, has been one of the truly magnificent efforts of this country to bring the Nation together. I think that is proven by the very carefully study that has been made. Not only have the people of Oklahoma been able to visit with their families in other sections of the country and vice versa, but the products of the mines, factories, and the fields have moved over this network bringing to the consumers the products of Oklahoma and the other States of the Nation.

It has been a program that has brought America together rather than

to divide America and keep us from being one Nation closely knit and understanding of purpose.

That highway network, I say to my friend, is in a condition where it is deteriorating to a great extent. I am sure if he goes across the roads of his State, as I know he does, uses the bridges as he does, he will find in the latter case of bridges that they are not able to handle the cars, trucks, and vans, and many are now being used for pedestrians only. This is not an isolated case. This is true throughout America.

Having said that, I believe always that the Senate should debate, after adequate discussion, then make a decision. I shall respect the conscience and, let us say, the judgment of my colleague as he votes against this measure. I know he will accord to me the same feeling because I have believed through the years since 1937 that this highway program was an important development in the history of America, and we want to keep this network useful for the growing population which is now 240 million men and women. When it came into being in 1956, we were some 60 million or 70 million less.

Mr. President, the highway program of this Nation is important to its economic well-being. The conference report which we consider today will help future need.

I thank my colleague.

Mr. NICKLES. I thank my good friend and able colleague from West Virginia for his contributions in this area and in other areas; certainly in the labor field.

Mr. President, had I been here in 1956, I expect I probably would have voted for the Interstate Highway System, had it contained a more equitable fund distribution formula. I think it has resulted in our reaping a lot of benefits. I do have serious reservations about the expansion now that it is 90 percent complete, expanding the tax not only a slight increase, but moving it from 4 cents to 9 cents, and I think that in itself is a mistake.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I shall be brief to allow my colleagues to share the remaining time.

Mr. President, I support the legislation before the Senate. There are in excess of 3,000 bridges in the State of Virginia that are structurally deficient today. I consulted with State highway authorities who have told me that these funds will allow Virginia to begin the needed repairs on those bridges.

Unsafe bridges and potholed roads are more than an inconvenience—they are a menace and a safety hazard. While this measure will not correct all of these repair problems, it will certainly go a long way toward insuring our peoples' very lives and properties are not endangered as they drive on our Nation's highways.

Mr. President, I am concerned about the inclusion of the Davis-Bacon Act in this measure, and I am also concerned that this conference report levies higher truck taxes than the level approved in the Senate version. However, the conference report does allow, in its phasing in of the truck taxes, time for Congress to further assess the economic impact of these taxes on both small trucking firms and on small businesses whose goods are transported on small fleet trucks. We should carefully look at this next year.

While this legislation is not perfect, some 4,000 jobs would be created in the State of Virginia between now and the 1st of April by passage of this measure. But, Mr. President, apart from the gas tax, it seems to me that there are other issues which are brought to mind by this rather prolonged and unusual debate.

First, the Senate will likely reexamine its rules; and, second, for some of us, and indeed this Senator, it has provided strong influence with respect to the issue of television in the Senate. Although not an outspoken opponent of televising the proceedings of the Senate, I have until now been very reluctant to support such a change. But this experience has convinced me that I shall support the majority leader in his effort to bring television in some fashion into the U.S. Senate. I think it is unlikely that certain aspects of this debate, particularly those of personal acrimony among Members, which are destructive and undermining of the great traditions of this institution, would have taken place, had our proceedings been televised. I want to preserve the rights of Senators to discuss and debate all measures. But there comes a time when the business of the Senate, which is the business of the Nation, must be allowed to move forward.

The PRESIDING OFFICER. The Senator from Massachusetts.

THE GAS TAX-HIGHWAY ACT

Mr. KENNEDY. I intend to vote against the passage of this legislation. For the reasons I have set out in my earlier comments on this measure, I believe that it is reactionary fiscal policy, regressive tax policy, redundant energy policy, and reprehensible transportation policy.

But I intend to vote for cloture, because I believe that the Senate is entitled to vote its will on this issue.

And with all respect to my colleagues, I want every Member of this body to understand that I am deeply concerned over the failure of the Senate as an institution to deal effectively with the multiplying crises that face and plague our Nation.

Twelve million Americans are out of work. Unemployment climbs higher with every passing month. Elderly Americans fear for the security of their retirement. Whole industries fear that some of their most respected firms may not see another Christmas or another annual report. Together, we are enduring the worst crisis in the American economy since the time of Herbert Hoover. In this holiday season, there are no jobs and precious little justice in the land.

The country burns, while the Congress fiddles. Three weeks ago, the Senate and the House of Representatives returned to Washington to deal with our pressing problems. And we have accomplished precisely nothing of any important value. All we did was to raise our pay, and turn away from all those who have lost their jobs.

And even on the overriding issue of nuclear survival, this proud Chamber was humbled to the level of debating the MX missile between the hours of 1 a.m. and 3 a.m. in the middle of night.

And so I want to record my protest here, in the strongest possible terms, that so many of us have been so put upon by so few for so little.

We are not debating war and peace, or a new world order, or whether all persons are created equal, or whether one region must yield to the greater good of the Nation as a whole.

No; we are not debating the state of the Union, but the state of our highways. We are talking about the width and weight of trucks, the potholes in our country roads, and the failing subways in our aging cities. And we are talking about 5 cents more in the taxes we pay for gasoline.

That is the poor stuff of which this ridiculous debate is made—and we deserve all the ridicule we are receiving, because all our wounds are self-inflicted.

We have suffered this outrage too lightly, and we have too easily permitted this historic Chamber to become the laughing stock of the Nation.

Perhaps we shall return refreshed from this adjournment, and simply note that the country has had a long laugh at our expense.

However, by the time the 98th Congress convenes in January, each of us will have had the opportunity to reflect on these recent Senate days. I feel that, if we are to recover from these moments and regain our stature as a great deliberative body, we must heed some lessons.

First, we must reform the arcane rules that invite a tiny willful minority of the Senate to defy their colleagues by tying this Chamber into a Gordian knot which even Alexander the Great could not have cut. I believe that the Senate rules must be revised, so that when they say cloture, they mean cloture. When the rules declare that debate shall end, then debate must end.

Second, those who grossly abuse the rights and privileges of Senate debate should not be able to do so with impunity. In this Chamber, we tolerate a great deal of obstruction that tries the patience of us all. The Senate works in our democracy because each of us is answerable to our constituents. But we are also answerable to each other.

If the Democratic Party controlled the Senate, and if one of my Democratic colleagues had harassed the Senate and embarrassed the Senate to the degree occasioned by the senior Senator from North Carolina, I believe that the Democratic Caucus would act to strip that Democratic Senator of the chairmanship of his committee.

I do not presume to advise my Republican colleagues about these matters, which are primarily their problem and their responsibility. But in the final analysis, we are neither Republicans nor Democrats but mere U.S. Senators, striving as best we can to do this Nation's important business. We have no such important business before us now.

So let me close by simply saying this—in January in the new Congress, if by some circumstance there should be a rollcall vote relating to the chairmanship of the Senate Agriculture Committee, I am confident that my colleagues on the other side of the aisle will find generous support on this side.

I hope that cloture will now be invoked, that the Senate will at last be permitted to vote on the 5-cent gasoline tax, and that this sorry spectacle in Senate history will finally be over.

CLOTURE MOTION

The VICE PRESIDENT. The hour of 9:30 a.m. having arrived, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report on H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard H. Baker, Jr., Mack Mattingly, Warren Rudman, Rudy Boschwitz, Bob Packwood, John Tower, Jake Garn, Pete V. Domenici, Nancy Kassebaum, Ted Stevens, Robert T. Stafford, Nicholas F. Brady, William S. Cohen, Robert Dole, Strom Thurmond, James A. McClure, Slade Gorton, Jennings Randolph.

SURFACE TRANSPORTATION ACT OF 1982—CONFERENCE REPORT

VOTE

The VICE PRESIDENT. The question is, Is the sense of the Senate that debate on the conference report to accompany H.R. 6211, the Surface Transportation Act of 1982, shall be brought to a close?

The yeas and nays are required and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MATSUNAGA (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Montana (Mr. BAUCUS). If he were present and voting, he would vote "nay." On this vote, I have voted "yea." Therefore, I withdraw my vote.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from Alaska (Mr. MURKOWSKI), are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON), would vote "yea."

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from Tennessee (Mr. SASSER), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. GLENN), and the Senator from Washington (Mr. JACKSON) would vote "yea."

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 81, nays 5, as follows:

[Rollcall Vote No. 468]

YEAS—81

Abdnor	Garn	Moynihan
Andrews	Goldwater	Nunn
Armstrong	Gorton	Packwood
Baker	Grassley	Pell
Bentsen	Hart	Percy
Boren	Hatch	Pressler
Boschwitz	Hatfield	Pryor
Bradley	Hawkins	Quayle
Brady	Hayakawa	Randolph
Burdick	Heflin	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Huddleston	Rudman
Byrd, Robert C.	Inouye	Sarbanes
Chafee	Jepsen	Schmitt
Chiles	Johnston	Simpson
Cochran	Kasten	Specter
Cohen	Kennedy	Stafford
Cranston	Laxalt	Stennis
D'Amato	Leahy	Stevens
Danforth	Levin	Symms
DeConcini	Long	Thurmond
Dixon	Lugar	Tower
Dodd	Mathias	Tsongas
Dole	Mattingly	Wallop
Domenici	McClure	Warner
Durenberger	Melcher	Weicker
Eagleton	Metzenbaum	
Ford	Mitchell	

NAYS—5

East	Helms	Proxmire
Exon	Nickles	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Matsunaga, for

NOT VOTING—13

Baucus	Glenn	Murkowski
Biden	Hollings	Sasser
Bumpers	Humphrey	Zorinsky
Cannon	Jackson	
Denton	Kassebaum	

The VICE PRESIDENT. Are there any other Senators in this Chamber desiring to vote?

Mr. STENNIS. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

On this vote, the yeas are 81, the nays are 5. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. BAKER. Mr. President.

The VICE PRESIDENT. The majority leader.

Mr. BAKER. Mr. President, there is a vote scheduled for 11:30 a.m. on the conference report, is there not?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. I discussed this with the minority leader earlier. I do not know how many Senators wish to speak. I do not wish to press this unduly, but is there some possibility we might change that to 11 a.m.?

Mr. ROBERT C. BYRD. Mr. President, there is a distinct possibility we might change it, but not at this moment. There are some Senators on this side who want to speak. I do not know how long they will want to speak, but I assure the majority leader we can move the vote earlier than 11:30. I suggest that we wait just a little while before we get the unanimous-consent order changed.

Mr. President, let me say that 35 Democrats voted "aye" on cloture. So time and time and time again, the invisible minority in this body has cooperated and supported the effort to bring this debate to a halt. I think the record should show that without those 35 votes, even though many of us are against the tax itself, cloture would not have been invoked.

Mr. BAKER. Mr. President, the minority is certainly not invisible to me. I deal with it daily and we negotiate away more problems than we ever have to face because of the good offices of the minority leader and other Members. I express my gratitude to him and all Members on both sides of the aisle for making it possible to bring this matter to a concluding vote. I am grateful for it and I indeed will be grateful for it time and time and time again. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may I respond to the distinguished majority leader?

The distinguished majority leader has indeed conferred with the minori-

ty leader time and time and time again. When I used the words "invisible minority," I did not mean to imply that it is a minority invisible to the majority leader. I meant it for the other end of the avenue, which, thus far over these 2 years, has pretty much considered the minority in the U.S. Senate as an invisible minority. We have been consulted but very little.

I just wanted the record to show that it has been the Democratic vote that delivered the bacon in this instance insofar as cloture is concerned, even though many of us are very opposed to the gas tax, while others of us support it.

Mr. HEFLIN. Will the Senator yield?

Mr. BAKER. Mr. President, I yield the floor if the Senator wishes to speak.

Mr. HEFLIN. I was going to ask the distinguished minority leader (Mr. ROBERT C. BYRD), you do not consider me invisible, do you? [Laughter.]

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. BAKER. Yes, Mr. President.

Mr. METZENBAUM. When we conclude our action with respect to the gas tax bill, will that mean the conclusion of the legislative business for this session of Congress?

Mr. BAKER. Yea, verily, I say without reservation.

Mr. President, there are, I guess, 10 or 15 minutes worth of things that are routine that have been cleared with the minority. I expect to do those. They obviously do not require the concurrence of the House. They are matters that can be dealt with in the Senate. I believe we have been very careful and scrupulous to try to get clearance on any one of those items. I do not think there is anything in there that the Senator from Ohio will be concerned about.

Mr. METZENBAUM. I thank the Senator.

Mr. PERCY. Mr. President, I should like to comment for 2 or 3 minutes on the matters before us. I ask unanimous consent that I be permitted to speak for 2 minutes on the resolutions at the desk to cause us to think about the processes through which we have been going on the appropriation and authorization processes. I ask unanimous consent for 3 minutes on that particular aspect.

I also ask unanimous consent that my remarks on the PIK program be included at the end of the discussion on this resolution.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Mr. PERCY. I thank the Chair.

Mr. President, I would first like to say that the bill before us deserves the commendation of the President of the United States, the Vice President, certainly the Secretary of Transportation, Drew Lewis, and certainly the distinguished chairmen of our committees (Mr. DOLE and Mr. STAFFORD) who have worked without cessation to bring about this bill. It is a good bill.

For many years I have advocated a higher tax on gasoline. The present Federal tax has not been changed for over 20 years. During that time, our economy has changed significantly. We no longer have an economy that can count on an endless supply of cheap energy. Those days are gone.

The gasoline tax will help us in our continuing efforts to conserve these precious fuel resources. They are not unlimited. Someday they will run out.

This conference report will also help us rebuild the important transportation system that has deteriorated so badly in some places. The bridges and highways must be kept in top shape if we are going to keep the economy running smoothly. That transportation system is the envy of the world and is the basis of our efficient economy and standard of living.

From an Illinois perspective, this highway bill offers a great deal. Some of our top priority roads and bridge projects will finally get the attention they need. This is good news for our State which is a crucial transportation link in the country's highway network.

Our long hours of consideration of this legislation forged this very important program. As I discussed earlier with Senators DODD, DOMENICI, and STAFFORD, we need to have a more businesslike approach to our capital investments. The idea of a capital investment budget—like all major corporations have—needs immediate attention so we can address these needs—like highways and water systems—in an orderly and sensible fashion.

NEEDED: REFORM OF THE LEGISLATIVE PROCESS

Mr. PERCY. Mr. President, may we have order, please?

The VICE PRESIDENT. Order in the Chamber. The Senate will be in order. The Senator will suspend until the Senate is in order.

Mr. PERCY. Mr. President, I would particularly like the attention of the distinguished chairman of the Budget Committee and the Appropriations Committee, if Senator HATFIELD is here, simply to comment on a resolution that I am today sending to the desk for consideration of the Senate.

I am introducing today a resolution designed to reform our legislative process so that Congress can avoid repeating the unbecoming scene of the last several weeks regarding the continuing resolution.

There are Members on the floor who have been on the Government Operations Committee, now the Governmental Affairs Committee, who have worked with me through the years to see that we have a more sensible budgetary system and that we bring some reason to the process of authorization and appropriation. Regretfully, the hopes that we had for that process have not been fully achieved.

Seventy-eight percent of all funding legislation for the Federal Government of the United States has rushed through Congress in a few days because Congress has failed to act in a responsible fashion.

Senators were asked to vote for or against one piece of ill-considered legislation which will affect the lives of every American citizen. More than $420 billion was appropriated in the continuing resolution which we had less than 2 hours to study. Hundreds of amendments were added or deleted by the Senators and Congressmen in conference. [Repeated waivers of the Budget Act were required.] Authorizations were altered without thoughtful and considered judgment. Personal interests were inserted.

The result of the process is a bad piece of legislation and a humiliation for all of us who participated in the process. Under the threat of bringing the Government to a halt and throwing the Nation into economic chaos, many of us reluctantly voted for the continuing resolution because the consequence of not passing it would be even worse.

In the past few years on numerous occasions Congress has failed in this fashion to perform its constitutional responsibility in a timely and constructive manner. To allow this to continue is a disgrace.

Mr. President, I wonder if we may have order.

The VICE PRESIDENT. The Senate will be in order.

The Senator may proceed.

Mr. PERCY. Mr. President, no other Nation on Earth allows what has happened in this Chamber to happen. They have processes for it. Most of the European democracies have laws to provide for continued funding should the legislature fail to act.

We must do likewise. We must not allow this continuing resolution folly to be repeated.

The bill I am introducing today is not a panacea for all the ills of Congress. It is, however, a measure which will guarantee the continued functioning of Government, avoid increasingly common end-of-year fiscal crises and promote a more thoughtful legislative process. I hope that this is only the first of many pieces of legislation designed to reform the functioning of Congress. The American people deserve better than what their Congress is providing. Too often we blame others for the failure of our Government to perform effectively. We have no one to blame but ourselves if we do not institute necessary reforms.

I hope, Mr. President, that all of us will resolve, as we now adjourn and go home, to think through in the quietude of our homes what could we do to bring respect back to the Congress, what can we do to bring order out of chaos such as we have seen on the floor of the Senate as we have overridden the authorization and appropriation process. We have literally betrayed the Budget Reform Act of 1974 which we reported out and solemnly promised we would follow to bring order out of chaos. We have not done that. We have not finished our job.

Therefore, I send to the desk a resolution for printing which I hope will just be one of many ideas that can be brought forward by my distinguished colleagues to see if we cannot find a better way to do things.

Several Senators addressed the Chair.

Mr. STENNIS. Will the Senator yield?

Mr. NUNN. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. NUNN. I want to commend the Senator from Illinois. I think he is putting his finger on a number of problems that are bothering an increasing number of Senators. I do not pretend to know the answers, but we are duplicating efforts. We are going through a cycle that no one can ever catch up with let alone stay ahead of. I think we are seriously going to have to consider going to a 2-year appropriation and authorization cycle. We are having total duplication between authorizing committees and the Appropriations Committee where none of us have time to do the job that we are supposed to do. We are seeing the authorization committees become completely irrelevant. We never have a floor under expenditures and yet now we are not with a ceiling either. So you have to ask, what is the purpose of an authorizing committee?

I know of no purpose if there is no floor or no ceiling. The Budget Committee is becoming irrelevant in this kind of economic environment because the budget ceilings have no meaning when they are totally out of date, and everyone knows that. The Appropriations Committees are duplicating, the authorizing committees are duplicating. We are in a mess in terms of the fiscal situation in this body and in the Congress. I think the public perceives it, and I believe it is up to all of us as Members of this body to begin to find answers. We cannot continue to go on like this.

I commend the Senator from Illinois for his analysis of the problem. I hope we will all think about it.

Mr. STENNIS. Will the Senator yield?

Mr. PERCY. I thank my distinguished colleague. We have indeed worked together on the Governmental Affairs Committee on this matter.

Mr. President, I ask unanimous consent that I may continue for 5 additional minutes.

The VICE PRESIDENT. Is there objection?

The Chair hears none, and it is so ordered.

Mr. STENNIS. Will the Senator yield to me?

Mr. PELL. Will the Senator yield?

Mr. PERCY. I will be happy to yield in just 1 second. I want to make it absolutely clear that I believe the leadership of the Senate and the leadership of our respective committees, the Finance Committee, Appropriations Committee, and the authorization committees, have worked to the best of their abilities with the tools they had. But what they did not have was a process that would allow them to accomplish what they wanted to do.

I am very pleased to have the comments of my distinguished colleague from Georgia (Mr. NUNN), who served with us on the Governmental Affairs Committee for the years that we worked on the reform of the budget process. I commend him for his work.

I yield first to my colleague from Rhode Island (Mr. PELL), then to my distinguished colleague, the Senator from Mississippi, then to the distinguished Senator from Texas, and then to the distinguished Senator from New York.

Mr. PELL. I thank the Senator.

Mr. President, I ask unanimous consent to be made a cosponsor of the resolution.

Mr. President, while I have not cleared this with the Members on my side of the aisle, as an individual Senator, I think it an excellent thought to try to avoid the end run and the ignoring of the authorizing committees which occurs in many cases, conspicuously in the case of our Foreign Relations Committee.

I also hope that along this same line the leadership will take a close look at the imbroglio of the last few days to limit far more stringently the right of filibuster and think of some joint bipartisan way of amending the rules as well as along the lines of the resolution of the Senator from Illinois (Mr. PERCY).

The VICE PRESIDENT. Without objection, the Senator will be added as a cosponsor.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. PERCY. Yes, I believe the next Senator that I was to yield to was the Senator from Mississippi.

Mr. STENNIS. Mr. President, I think the resolution of the Senator touches on the most acute, most demanding subject matter that we have before us as a parliamentary body. And this is no attack of any kind on the committees, the Budget Committee included. Something has to be done, Mr. President, to enable us to fulfill our role, and the committee system is the victim, as I see it. The entire committee system is being crowded out in this process and does not have a real chance to make its usual contribution to the legislation that comes through the Senate. In our so-called role of court of appeals or whatever, it, we have slight chance now to fulfill that role due to the volume of the budget. The major committees are being lost in the shuffle and it cannot be remedied without reform along the lines that the Senator mentioned which will certainly have my support.

If we had not had two exceptionally fine floor leaders, we would still be in a wrangle and without accomplishments with reference to this session.

Mr. PERCY. I thank my colleague.

Before yielding to the next Senator—and I will in just 30 seconds—I should like to read the resolution which I submitted just for the purpose of provoking discussion, and hopefully there will be other better approaches offered:

S.J. RES. 272

In the event that a regular appropriations bill has not been enacted by the beginning of the fiscal year, funds will be made available at the rate specified in enacted authorizing legislation, or if such legislation has not been enacted, at the lower of the rates specified in the previous year's appropriation or the President's request.

I ask unanimous consent that Senators DIXON, PELL, and RANDOLPH be added as cosponsors of this resolution at their request.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. PERCY. I am happy to yield to my distinguished colleague from Texas.

Mr. BENTSEN. Mr. President, I thank the Senator from Illinois and I congratulate him on his attention to this problem of trying to bring a more orderly process to our appropriations procedure.

Let me refer for just a minute to the events of the last few days and the filibuster that took place.

I am not to say that we should not have filibusters because I think they do, at times, when we have great major issues before the country, serve a very useful purpose.

Often, we get into the question of judgment when a filibuster has gone beyond just advertising to the American people what is taking place in Congress and further informing them. Rather, it goes to a point that the Senate becomes unmanageable and something should be done to try to correct that. We have a situation where we had considerable bitterness during some of this debate, and unquestionably some scars are going to be left from that. Hopefully, the

Christmas spirit is going to moderate some of that bitterness.

But I do think that it is important that we continue to remember into the next session what took place here and that we do something to try to modernize the procedures of the Senate. That means that we are going to have to look at the period of time for which we lay over a cloture motion. We are going to have to look at the germaneness procedures here where time and time again when we know the Chair has ruled, and we know the Chair has ruled correctly as to the procedures of the Senate, the Members of this body, and I have done this at times myself, look not to the procedural question but look to the substance of whatever that amendment might be as to how it is going to be rated by some rating organization later, on our votes for that year.

Somewhere, we have to find the means to see that the Chair is sustained on these procedural points. We should direct our attention to that in the forthcoming year. We should look to the germaneness question. We should look to the postcloture question. Once we have 60 Members of this Senate say they are ready to proceed in an orderly manner to dispose of an issue, we should be able to do it without any filibuster taking place.

I hope that we will dedicate our efforts to modernizing the procedures of the Senate not for a major overhaul—that does not have to be—but for a few changes that will affect the germaneness question, the postcloture filibuster and to see what we can do insofar as laying over the cloture motion. If we have a few of those things, we will make this body a more effective body.

I really do not believe in this filibuster that we have seen that anyone really won. I do not think the Republicans won in this procedure, and I do not think the Democrats won in this procedure.

I think what we have seen is the reputation of this body as an effective institution deteriorated in the minds of the public. Most of them do not know who really led this fight or that fight; they just look at the institution itself. I think it is terribly important in the Democratic processes of this country that this institution continue to have respect in order that a democracy can prevail.

The VICE PRESIDENT. The 5 minutes allocated to the Senator from Illinois have expired.

Mr. PERCY. Mr. President, so I may yield to my distinguished colleague from New York, I ask unanimous consent that the Senator from Illinois have 3 additional minutes, one of which I wish to reserve to myself to conclude.

The VICE PRESIDENT. Is there objection to the request of the Senator from Illinois?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I think the Senator from Illinois has held the floor about long enough. Other Senators should be allowed to gain the floor in their own right. Some of the remainder of us wish to talk about this subject as well.

I will not object in this instance, but to any further request along this line I will object.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, if the Senator will yield to me, I will need time on this. I wish to speak on the bill. I want time on the bill as it is the pending matter here.

Mr. MOYNIHAN. Mr. President, do I understand the distinguished chairman yielded to me 2 minutes?

The VICE PRESIDENT. That is correct.

Mr. PERCY. Mr. President, I am happy to yield to the Senator from New York as the final speaker.

Mr. MOYNIHAN. Mr. President, I speak in the confidence that no one is listening.

Mr. MATHIAS. Do not be too sure of that.

Mr. MOYNIHAN. That can be a problem but when one is trying to avoid it, it sometimes happens.

I wish to make two points: The first is that the procedure in the last 4 weeks we have initiated brought through three committees of this body alone and we are about to pass one of the major transportation bills of American history.

That is an extraordinary performance for any legislative body, particularly a bicameral one in which there is no parliamentary ruling majority.

The procedures of the body have worked splendidly with respect to the highway matter.

Where they do not work is with respect to the budget which we cannot pass, and that is not procedural. We cannot pass the budget because the deficits are so ideologically disorienting to the majority that they dare not pass it.

It is not a matter of procedure. It is a matter of substance. An economic program that was to eliminate deficits has produced the largest in history and understandably the machinery is reluctant to bring them forth into law.

Do not look to procedure where the question is substance. I repeat, with regard to this particular matter before us today our procedures have worked beautifully.

Mr. PERCY. Mr. President, I welcome cosponsors of this legislation but even more I welcome any other approaches anyone can come up with to improve the workings of the Senate.

I thank the Chair and yield the floor.

The VICE PRESIDENT. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I do not want the floor at this point, but there are Senators here who want to speak on the measure that is to be acted upon.

After that, I will have something to say about my reflections on the Senate legislative process. But I think I can wait and let Senators speak on the measure and pass it and let Senators go who have to leave town and the remainder of us can stay around as long as we want to talk about the rules change.

I am not saying that any Senator should not speak on that. I think that is all right. But as far as I know, Mr. FORD, the ranking minority member of the Rules Committee, has something to say on this. But I am not seeking the floor in my own right at the moment to speak on that subject. I just want to see us get on with this business and get on with the vote and let Senators leave who have to leave. I know some who have to catch planes.

Mr. DOMENICI. Mr. President, I think this matter is so important that we should stay here until we solve it.

Mr. President, I was just being facetious.

I commend the Senator for introducing the legislation. Obviously, we need to fix up some things.

Once again I commend him for bringing the subject up. But I really do not think that we can resolve it today in any respect. Just consider one aspect of it: If we were to fund at the authorized level, if we did not have an appropriations bill, I hesitate to say how high a level we would be authorizing the appropriated accounts to get to.

But in any event, I commend the Senator for his efforts. I am sure many people agree with him and hopefully we will get something done early next year to resolve the kind of bottlenecks that our processes and procedures have created.

I thank the Chair.

ADMINISTRATIVE IMPLEMENTATION OF "PIK" AND EXPORT ENHANCEMENT PROGRAMS

Mr. HAYAKAWA. Mr. President, I am glad to see that we are drawing near the end of this rigorous trial physical stamina and mental agility known as the lameduck session of the 97th Congress. I am certain that each of my colleagues joins me in this sentiment and is looking forward to a brief period of rest and renewal during the holiday season with their friends and loved ones.

I feel that I would be remiss, however, if I failed to express my disappointment in the failure of this Congress to address in a meaningful way the terribly serious problem of foreign export subsidies which are at this very moment causing American farm producers and processors to lose opportunities for export sales. Each lost sale

only adds to our balance-of-trade deficit with the resultant impact on our economy and on the daily lives of millions of Americans. Despite our failure to pass the payment-in-kind or "PIK" program which had been proposed by the administration and which was introduced by Mr. COCHRAN and Mr. HUDDLESTON, I would like to state for the record my own personal desire—which I know many of my colleagues share—that the Secretary of Agriculture work within his presently existing authority to implement an administrative "PIK" program insofar as possible. Present laws gives the Secretary much discretionary latitude in administering the various price support and loan programs for U.S. farm commodities. I would suggest that the Secretary could legally implement many of the elements which we earlier attempted to clarify by means of S. 3049 and S. 3074.

BLOCK MUST MOVE ON PIK

Mr. President, despite the lack of final congressional action on the payment-in-kind program, a program to revitalize the agricultural economy of this Nation, I would like to urge Secretary of Agriculture Block to move ahead at once and issue regulations for the operation of the program. I believe he has the authority under existing statutes to proceed with PIK and I urge him to do so. Farmers all across America are in great need of assistance, this program should provide the help they need. If it were not for the politically motivated actions of a few in this body, I am sure we would have passed the measure. We cannot let those in this body who are more interested in their own political position than the plight of the family farmer stand in the way of sound agricultural policy. The Secretary of Agriculture must move at once, and get the PIK program into operation.

Mrs. HAWKINS. Mr. President, although the Senate was unable to vote on the payment-in-kind (PIK) legislation in the 97th Congress, I want to express my full support for the PIK concept which is to be administered by the Secretary of Agriculture. In light of this, I hope the Secretary will use, to the full extent possible, his current authority to implement this concept. This program will help utilize our surplus commodities and prevent the American taxpayer from paying for future Government purchases and storage costs.

Again, Mr. President, I support this concept.

SURFACE TRANSPORTATION ACT OF 1982—CONFERENCE REPORT

Mr. DOLE. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

The Senator from Kansas has the floor and will proceed.

Mr. DOLE. Mr. President, I think we should address the matter before us before we vote, and I agree with the distinguished minority leader. Some of us may want to make other remarks following the vote, but there are a number of Members who came to me and said they have planes to catch. If we could speed it up, we would appreciate that. Certainly, we wish to accommodate them.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I do not mind having Senators speak on the need for changes in the rules. I do not want to see one Senator get the floor and hold it and yield out to other Senators. I think every Senator should have the right to the floor in his own right.

Mr. DOLE. I share that view.

Mr. President, as of 9:17 a.m. today, we have been on this bill 52 hours. We had 29 rollcall votes, 53 amendments, 4 cloture motions; 30 amendments sponsored by Republicans and 23 amendments sponsored by Democrats. We also have a breakdown of the time.

I believe it may come as a surprise to some, but when the time consumed is recorded it will probably show there was not much difference on which side took the most time during the consideration of this bill. So whether or not there has been a filibuster I guess depends on who suggested it and who interprets it.

There are a number of measures that were not even brought to the floor because of a threatened filibuster. For example the farm legislation, the PIK bill, the Senator from Montana refused to let us bring that to the floor. As to the bankruptcy bill, the Senator from Ohio did not want that legislation to come to the floor.

These refusals were not a real filibuster. The threat was there and there are a number of very important measures that never made it to the Senate floor because Members on both sides said, "If you bring it up, I am going to have an extended debate. In other words, we are not going to let it pass."

So, in this case, I believe we have a good piece of legislation and I believe it deserves the overwhelming support of Members on both sides of the aisle. I am not going to tell you why again, but I ask unanimous consent to have printed in the RECORD an analysis of the bill which has been prepared by staff along with a letter that I have sent to all of my colleagues, which was placed on their desks this morning, outlining what I think are some of the strengths of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington D.C., December 23, 1982.

DEAR COLLEAGUE: On Thursday, December 23, the Senate is scheduled to vote on the "Surface Transportation Act of 1982." I urge you to vote for the bill.

The spending provisions of the bill authorize funding to repair the nation's roads and bridges, complete the Interstate Highway System and improve public transit facility. There is a consensus of opinion that this money ought to be spent and that delaying this expenditure would only require even greater outlays in the future. The regulatory provisions of the bill liberalize limits on truck weights, widths and lengths that have proved onerous to the trucking industry and whose elimination will improve trucking productivity significantly.

There is no budgetary free lunch, and these benefits—to the economy in general and the trucking industry in particular—must be paid for. The revenue title of the bill does this through two principal sets of provisions. First, the bill increases the taxes on gasoline, diesel fuel and other motor fuels from 4 to 9 cents per gallon. This tax increase is the basic revenue source provided by the bill. While an increase of 125 percent in the fuels taxes may appear to be onerous, it should be noted that this will only amount to a 4-percent increase in gasoline prices and that the new 9-cent tax will be significantly lower relative to other consumer prices, than the 4-cent tax was when it was enacted in 1959.

Second, the bill restructures the other highway trust fund taxes in order to bring them into closer correspondence with the damage that various users do to the highways. This involves lowering the relative tax burden on passenger cars and light trucks and increasing it on heavy trucks. As a result of the bill, the fuels tax will be the only highway tax paid by the ordinary motorist: present taxes on passenger car tires, tread rubber, and lubricating oil are repealed.

Many Senators have been concerned, quite properly, with the proposed increase in the heavy vehicle use tax. Even Senators who agree that heavy trucks ought to pay for a greater share of highway costs are fearful that the present recession is not an appropriate time for such an increase. The conference agreement was drafted with these concerns in mind. The increase in the use tax first takes effect on July 1, 1984, by which time economic recovery from the recession is expected to be well along. For small truck fleets, no increase takes effect before July 1, 1985. Furthermore, a new exemption from the tax for vehicles driven on the highways 5,000 miles or less each year will eliminate the tax for 90 percent of farm trucks, who currently pay a tax up to several hundred dollars per year. Thus, I believe that the bill represents a fair compromise between cost allocation principles and concern over the economic condition of the trucking industry.

I enclose a brief summary of the revenue provisions of the tax title of the bill.

Sincerely yours,

BOB DOLE.

CONFEREES' DECISIONS ON H.R. 6211

Chairman Bob Dole, Senate Committee on Finance, and Chairman Dan Rostenkowski, House Committee on Ways and Means, announce that the conferees on H.R. 6211 on Tuesday, December 21, 1982, made the fol-

lowing decisions on the revenue title of H.R. 6211, the Surface Transportation Assistance Act of 1982:

I. HIGHWAY RELATED TAXES

Gasoline tax and other fuels taxes

The bill increases the gasoline tax from 4 cents to 9 cents per gallon, effective April 1, 1983. Similar increases are provided for the taxes on diesel fuel, special motor fuels, and motorboat fuels. The present law exemptions from these taxes are continued for buses, State and local governments, nonprofit educational institutions, and farming use. The exemption for off-highway business use, which is currently 2 cents, is extended to the full tax. A new exemption from the tax is provided for 85 percent or more alcohol fuels from sources other than petroleum or natural gas. Taxicabs are provided a 4-cent exemption through September 30, 1984, and the conditions under which the exemption is provided are expanded through 1983, to include jurisdictions where ride-sharing is prohibited by local law.

Gasohol is exempt from 5 cents of the 9-cent tax. The 40-cent-per-gallon income tax credit for alcohol fuels and the 40-cent tariff on imported alcohol fuels are both increased to 50 cents. The gasohol rules apply through 1992.

The time for payment of the gasoline tax is generally increased by 5 days for independent refiners and for persons other than those who produce more than 1,000 barrels of crude oil per day.

Ground fertilizer applicators are given the same treatment as aerial applicators.

Tires, tread rubber and innertubes

The tax on highway tires is converted to a graduated tax based on weight. Tires 40 pounds or less, which include ordinary passenger car tires, are exempt. The tax will be 15 cents per pound for tires between 40 and 70 pounds, 30 cents per pound for tires between 70 and 90 pounds, and 50 cents per pound for tires over 90 pounds. The taxes on nonhighway tires, laminated tires, tread rubber and innertubes are repealed. These changes are effective January 1, 1984.

Lubricating oil

The present law tax on lubricating oil is repealed, effective on the day after enactment.

Truck-related taxes

The 10-percent tax on trucks and trailers whose gross vehicle weight exceeds 10,000 pounds is increased to 12 percent, and the weight thresholds are increased to 33,000 pounds for trucks and 26,000 pounds for trailers. The tax is converted from a manufacture into a retail tax. Roadrailer trailers are exempt from the tax. The present law tax on truck parts is repealed. These provisions are effective on April 1, 1983, for tax increases and on December 2, 1982, for tax reductions.

Heavy vehicle use tax

The heavy vehicle use tax is converted to a graduated tax effective July 1, 1984. The maximum tax is increased to $1,600 on July 1, 1984, $1,700 on July 1, 1986, $1,800 on July 1, 1987, and $1,900 on July 1, 1988. There is a one-year delay of this phase-in for fleets with 5 or fewer trucks. If a truck is retired from service during the year because of accident or theft, the use tax will be refunded on a pro rata basis. There is also an exemption for trucks used on highways for 5,000 miles or less.

Motor carrier operating rights

The basis adjustment for motor carrier operating rights where stock is acquired by a corporate purchaser is extended to individual purchasers.

II. TRUST FUND PROVISIONS

The Highway Trust Fund is extended from September 30, 1984, through September 30, 1988. The trust fund is transferred to the Internal Revenue Code. If unfunded authorizations exceed 2 years of Trust Fud receipts, Trust Fund apportionments are to be reduced proportionately.

The caps on the amount transferred to the Boating Safety Fund are increased from $20 million to $45 million, both with respect to the annual cap and the cap on the amount that can be accumulated in the fund.

An amount equivalent to a 1-cent-per-gallon gasoline tax is transferred to a Mass Transit Account in the Highway Trust Fund, money from which can be used for transit capital expenditures, including new projects.

III. OTHER TAX PROVISIONS

Energy credit

The 10-percent business energy credit is extended to chloralkali electrolytic cells, effective for 1981 and 1982.

Income tax filing requirement

The income tax filing requirement is modified to prevent the filing of unnecessary tax returns by persons receiving payments made by a State government to its residents.

Cruise ship deductions

Deductions are allowed for conventions and similar meetings held on cruise ships under certain conditions, limited to $2,000 per individual.

Tax-exempt dividends of mutual funds

All tax-exempt bonds are made eligible investments for mutual funds by adding provisions for tax exemption to the Internal Revenue Code.

Normalization method for public utility property

The bill makes more specific the rules under which public utilities lose the investment credit and accelerated depreciation when these tax benefits are flowed through too rapidly to consumers. A special transitional rule is provided for certain companies which may have violated these rules.

IV. SPENDING PROVISIONS

Social Security Act provisions

The bill adds certain types of energy assistance provided to AFDC and SSI recipients to items of income not counted as income for purposes of determining benefits under these programs.

Unemployment compensation

The bill provides from 2 to 6 weeks of supplemental unemployment compensation.

Mr. DOLE. Mr. President, I hope that we might move fairly quickly to a vote. I know the Senator from Idaho, the Senator from Rhode Island, and the Senator from Vermont wish to speak. I am going to yield the floor. I yield first to the Senator from Idaho and then I will yield the floor.

Mr. SYMMS. I thank the distinguished chairman for yielding. I thank him for his persistent and determined efforts to help us bring this bill to where it is today.

Mr. President, I should like also to pay special thanks in addition to the chairman of the Public Works Committee Senator STAFFORD, my good colleagues Senator RANDOLPH, and Senator BENSTEN and our committee and personal staff, Jean Schrag, Dick Harris, Anne Canfield, Sam Routson, Nadine Hamilton, and Kathy Cudlipp for their work on this vital piece of legislation.

Last night I took advantage of the opportunity to watch a cable TV program on which Ray Barnhart, the Federal Highway Administrator, spoke to the Alexandria Chamber of Commerce. I was particularly impressed with what Mr. Barnhart had to say and I have requested a transcript of that speech. He gave a very articulate expression of why a free market conservative would be supporting this legislation. It was one of the best logical analyses of what we are trying to do with this legislation, and why it is important to the country.

I ask unanimous consent that the transcript be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

SPEECH OF HON. RAY A. BARNHART

INTRODUCTION

We are indeed extremely fortunate today to have a gentleman who is probably the country's leading expert on the federal highway system.

Mr. Ray Barnhart, who is with us today, is the Federal Highway Administrator. He is a native of Illinois, and he was educated at Mariette College and the University of Houston and has worked both in underground construction and insurance.

He is a longtime community leader and a political activist. Mr. Barnhart served on the Pasadena, Texas City Council, and he was a member of the Texas State Legislature.

In 1979 he was appointed by the Governor of Texas to be one of the three commissioners of the State Department of Highways and Public Transportation.

In January of 1981, President Reagan appointed him to be the Federal Highway Administrator.

Please welcome Mr. Ray Barnhart. [Applause.]

Mr. BARNHART. Thank you very much. I have just come from the Hill doing God's work, preaching to the heathen masses and hoping that we might get some converts for a cause in which I truly believe, one that is so essential to the economy, the standard of living, and the quality of life of each and every one of us. And that is some additional funding for the Interstate highway program and federal highway system in general.

I think this Administration has taken some significant steps to address the very real problems which confront this country today. You hear a lot of criticism about the direction that has been taken by this President and this Administration, and yet I would plead with you to look beyond the headlines of the Washington Post. [Laughter.]

They have not been too kind to this Administration in many areas.

But they do an excellent job on transportation. I will tell you this, Mr. Feaver has done a superb job of accurate reporting, and I am indebted to him. There is some very, very good quality there, and I should not make light of that distinguished newspaper, I guess.

We have heard all kinds of stories about how this Administration is trying to deprive the poor of adequate resources to carry on their basic necessities, of how we are robbing the poor to pay the rich, and I think those are demogogic overstatements and certainly do not comport with fact.

We have made some significant changes in trying to alter the direction of this country. I am reminded that very early on, when I joined this Administration shortly after the President was sworn in and assumed the burden of government, that I walked into one of the leading members in the Democrat-controlled House of Representatives.

As I came into the room, he rose and said, "That son-of-a-gun Reagan rules the world, thank God." [Laughter.]

He said, "You realize, we couldn't continue in the direction we are going. But don't get me wrong. I have got problems out there in my district, and I am going to have a piece of you before this is out."

And I said, "That's all right, sir. I understand the system. You can use me and abuse me just so long as when the bottom line approaches you vote right."

I like to come in contact with people like that. The problem is that thus far he has yet to vote right. [Laughter.]

We do have some serious problems. But let's look at the record of what has transpired over the years.

When President Reagan assumed the oath of office, he assumed a budget deficit, not of the $15 or $20 billion that had been anticipated, but of some 70 billions of dollars. This was part of an accumulated national debt of a trillion dollars, whose interest payments alone will consume more than $2 billion every week this year—$2 billion a week to simply pay interest on past misdirected governmental programs that provide no job opportunities for the unemployed, no housing for the elderly, no medical assistance for the ill, and certainly no educational opportunity for those who must develop job skills in order to become productive taxpaying members of this society.

We have had to change some of the traditional boondoggles in Federal Government, and I think we have gone a long way. But as we do change that course and deny some of the extra largess that has been accorded to various groups, obviously you have an outcry of alarm.

And, unfortunately, as you get closer and closer into politics, you realize that there is very little opportunity to genuinely discuss truth in the political system, but only in broad generalities and demagogic terms do we appeal to the general public.

I do not fault people for having a wrong position on a given issue, for government is terribly complex. People become intimidated because of the size of it and the magnitude of the problems and thus draw back and too often refuse to participate.

It is for that reason that I am so grateful when I come before a Chamber of Commerce group, because I recognize that you have individual problems, as do I as a member of that private sector before I got into government. We are consumed with our own activities in trying to run a business, to meet a payroll, and we can't know all of the fine print in the various pieces of legislation.

I will just commit to you that in the bill that we have proposed, this gasoline tax, this user fee, that we have balanced all considerations to finally achieve some equity in this program.

You have only my word for that, and you do not have the benefit of the hours and hours of in-depth study that have gone into evaluating these various issues, but I would invite you to contact me at my office, where I do have an open-door policy, and I mean that with all my heart and soul.

I think one of the most serious problems we face in this country is misinformation; lack of understanding on these issues. I would like to talk to you a little bit about the highway program and why it is important to each one of us and why it is imperative that the Congress pass this increase in the user fee, the gasoline tax.

Some of the interest groups cry when I say, "Hey, it is a gasoline tax." They say, "It is a user fee." It is a user fee, but it was a gas tax when I was a kid and it is a gas tax now in the average person's mind, and I think we ought to level. It is a gas tax, but it is a different kind of tax, for it is user fee, and those people who benefit from the system must pay for that system.

I totally applaud that concept.

Why is this gasoline user fee increase so essential? Highways are much like our freedoms. We have accepted them. We have used them. We have not really thought deeply about them. Nor have many members of the Congress, and why should we?

When we realize that the Federal Aid Highway Program constitutes maybe $8 billion, out of a total government package of some 770 billions of dollars, we might think it is really insignificant until we stop to realize how we are dependent upon that program.

Over 90 percent of everything we eat, wear, use or produce moves on the nation's highways. As they become less efficient, transportation costs increase to each individual. We will pay out more than we would in a gasoline tax if we ignore the rehabilitation of the system.

Why? 20 percent of the gross national product is consumed in transportation costs. The average working person spends 14 percent of his or her income on transportation costs. That is why.

I know we have had some of the social elitists and in this area, too, who have tried to say that highways degrade the environment; that they interfere and downgrade our quality of life. And I say that is absolutely wrong.

They say highways are for big business, and they are not. Highways are the lifeblood of our economy. Highways are our jobs. They are our homes. They are our communities. They are our standards of living and our quality of life. We are all dependent upon them.

And I think it is time now that we begin to address the issue. When I go back to Texas and I tell my friends back there, say, "We have got to increase this user fee 5 cents.", they react in horror. They say, "Good heavens, we sent you up there to Washington to eliminate that massive bureaucracy, to stop the intrusion into state activities. You have sold out to the Eastern libs when you come back to advocate an increase."

And I say, "I haven't sold out. I haven't changed my philosophical underpinnings at all."

Historically, Texas has received 74 cents back out of every transportation dollar it sent up to Washington, D.C.

People say that is wrong; that we ought to get dollar back for dollar in. But I say that is wrong. We must not—as the Chairman of my Public Works Committee says, we must not allow this nation to become balkanized with good roads in one state and bad roads in another. Highways are important in this integrated system of free movement of people, and commerce is essential to each one of us.

It does no good for Texas to have good highways that end at the border of Arkansas or Oklahoma. And the same principle applies to all of us. Yet we have ignored this situation because we have looked at concrete roads and we have said as politicians, "Oh, well, we don't want to increase the tax burden. So we will let it go for another year."

But our roads are breaking up. We now have literally some 200 billions of dollars of highway needs that will be projected over the next dozen years. We must no longer delay addressing those issues.

And so we have said we are going to bite the bullet. As a responsible citizen, as a responsible conservative, I think we have to look at the real world as it exists, and then we have to gut up to the issue and be willing to meet that challenge. We have tried to do that in this program.

I get amused at some of the newspapers who say there is no need for an increase in the gasoline tax. I am reminded that when the gasoline tax was brought to 4 cents 23 years ago, most newspapers sold for a nickel or a dime, and they are now two bits and a dollar on Sunday.

The fact is that our gasoline tax has not been increased in 23 years at the federal level. The purchasing power of that 4-cent fee, which was established back in 59, is now about eight-tenths of a cent, and yet construction costs have escalated over 300 percent.

Why? Because of faulty workmanship? Because of crooked contractors? No, not on your life. That is not the reason.

We have refined our design of highways. We have designed the safest highways in the world. The interstates are tremendous public works projects that have design safety built into them.

If you will look at our rights-of-way, they are wider than they used to be. We have grade separations. All of these things add dollars.

And we consider the esthetics and the environment of those roadways on our communities and again on our quality of life, but we must pay for them.

All we have to so is look at the Woodrow Wilson Bridge that was built for about $12 million, and we recognize that we are going to resurface that degraded road decking on that bridge at a cost of some 26 millions of dollars, and then we will have to come back and widen as a cost of another $33 million.

We are trying to do it on the basis of a 4-cent gasoline tax that is 23 years outdated. We can no longer do that. That is why we must increase that user fee.

How we are involved in a great battle up here on the Hill trying to come forth with a program to support this basic program. It has three significant parts to it. It has the increase in the gasoline tax. It has a cost allocation study, and it has a truck size and weight provision.

All three elements must be put together if we are truly going to address the problems of our highways and equity to the consuming public.

What has not generally been understood is that for too long the passenger cars have been supporting the real big truckers. The tax spread has been inequitable to the average consumer.

Our figures from this cost allocation study show that, using the passenger car as the norm, the small economy car underpays its equitable share of the cost of the program; the pickup trucks and the light trucks significantly overpay in some categories almost 200 percent of what their fair share is; and the big truckers significantly underpay.

This poses a real serious dilemma, for the trucking industry is essential to the commerce of this country. And if we increase the burden, the cost of support to that trucking industry, we will ultimately pay as consumers. But for equity's sake, I think we must come up with a true evalution of how much each individual or each class of vehicle should pay.

That is what we have tried to do. And what has happened? We have a big hubbub on the Hill because the truckers are significantly threatened economically. The truckers industry is not well. They have serious economic probems. So we can't simply increase the burden that they share without giving them some offsetting productivity gains.

That is where we have the truck size and weight issue comes in. And so we are biting the bullet. We are mandating that we should go to a 102-inch width, on trucks.

Why? We now have a federal maximum of 96 inches. With the modular sizes used now in shipping and building, a piece of plywood four-by-eight, cannot fit in the trucks with a 96-inch maximum width. It means that those truckers cannot carry a full load in a cost effective manner.

We permit 102-inch vehicles on the road in buses, but we deny it on trucks. It does not make sense. And we believe that we can require the 102-inch maximum width on trucks with no compromise of safety, for we are only governing the use of the interstate system itself, and it is designed to accommodate those sizes.

Beyond that we are mandating the use of doubles, 28-foot length double trailers on the highways, and going to a 48-foot length on the single unit trucks. These sizes are used all over the country except for about 17 states.

We are also mandating a maximum minimum, if you will catch that, of 80,000 pounds in load. There are three states remaining who do not permit 80,000-pound loads within their state. They require a maximum of 73,280 pounds instead of the 80,000.

And what does that mean? It means that we are penalizing the consumer to the tune of millions of dollars because three states, and only three, keep their weight limit lower than the rest of the country. And they cry and say that is a state's right. And I say that is not a state's right, for the interstate program pays 90 percent of the cost of their interstate system. And because of the nature of interstate commerce and its importance to this country as a whole, I do not believe we can allow three states to interfere with that free movement of traffic.

We must penetrate that umbrella of state's rights in order to get uniformity and equity in transportation. We have other problems in the trucking industry that we are not addressing in this particular bill but which I have committed to address in future legislation, because it is so significant.

Let's talk about the burden that we have imposed on the trucking industry. Let me put it this way: If you had one tractor/trailer combination that you wanted to legalize to move interstate commerce in all of the contiguous 48 states, one tractor/trailer, you would have to make 84 applications to the various states; you would have 93 stickers on your windshield; and you would file 205 monthly—or quarterly and semiannual reports—for one vehicle.

We have 17,000 carriers involved in this kind of commerce. We have checked with one carrier alone, and his administrative costs only to handle the complications of this permitting run over a million dollars a year. And who pays for it? The unknowning consumer.

I have written to every governor in this country, pleading with them to address the issue of the multiplicity of permit requirements in their individual states, for some states require up to four different departments to issue permits on one vehicle.

We have allowed this bureaucracy to expand, and we have got to terminate it if we are going to maintain a healthy trucking enterprise, which is important to all of us.

So it becomes very complicated. We have come up with a proposal now for a 5-cent increase in diesel and gasoline, which would bring us up to 9 cents a gallon. That would run the average consumer approximately $25 a year, less than the cost of new front-end alignments and shock absorbers. You will save money. I know that is the same old political story we have heard for years. We are going to help you out. [Laughter.]

But it is true nonetheless. There have been allegations, and I suppose you have read them about how Federal Highway simply wants to expand its bureaucracy, and if we increase this user fee it means for an explosion of government. But this is not true.

Let me tell you that you have the best buy in all of Federal Government in your federal highway program, not simply because I am there, because I inherited a magnificent professional organization, but it is because these are professional engineers who are moved and motivated by that engineering mentality. We work with the states to respond to state needs.

The administrative costs of the Federal Aid Highway Program, including our millions of dollars in direct research and technology transfer, amounts to less than 2 percent of our budget, and with this increase that administrative cost will drop to 1.3 percent.

Federal Highway Administration is now staffed at a level less than it was at the height of the interstate construction program. We now have a staffing level less than it was in 1955, and I am very proud of it, because we have got some good, good professionals.

Unfortunately, in politics, you paint with a broad brush, and you get all those bureaucrats up there who are living off the fat of the land, and it is most unfair. I think it is true in some departments, but I do not believe it is true in the Federal Highway Administration and is—as a professional critic of government for many years, I can tell you that you ought to have confidence in the quality of many of the people who serve in this government.

I am very proud to be a part of it. But what are some of the other things we have done in trying to address the problems of the growth of this Federal Government?

It is astonishing when you stop to realize that the lag time in construction programs from the concept of the average highway until you can issue a contract is seven years, three months. Multiply that, on the average road, by the average rate of inflation, and you see that we have been more than doubling the cost of every project before we turn a spade of dirt.

What a tragic waste of public funds. And so one of the priorities of the Reagan Administration has been to review the regulation red tape. I know it sounds like a code word, but it is a very meaningful thing.

Because of our regulation reform, we have succeeded in cutting months off of the lag time in approvals of these projects. We are not denying people the right to be heard on their concerns on locations or environmental matters, but what we are trying to do is to fold all of those public hearing processes into one process so we can guarantee the right to be heard and then to make timely decisions.

There are those in this government who want to concentrate all power in Washington, D.C., instead of returning judgment matters back to the states where states can respond to local concerns far more effectively and efficiently than we can thousands of miles away.

There is a strong movement to deny us our standards on geometric design on the reconstruction, resurfacing of roadways. The Center for Auto Safety is currently suing me.

Well, they say, you can't trust the states to be concerned with safety of life and limb. Well, when I was a member of the Texas Highway Commission, I didn't believe that all truth and knowledge and wisdom and compassion and professionalism resided in the bureaucracy in Washington, D.C. And even though I am now a member of that bureaucracy, I still maintain that same principle.

We have concerned and professional people in the states who know far better than we the needs of their particular constituencies, and we are doing all that we can to diffuse that concentration of power here and return the prerogatives of management back to the states within the latitude that the Congress will permit. We have made great strides in that regard.

You know, I have wanted to say that—I mentioned earlier about all the stories about the hardships that this Administration has been thrusting on people, and they are not true. Certainly, you will find some instances of injustices. There is no question about it, and I don't condone it. But I think the general thrust of this Administration has been absolutely in the right direction.

They say we have cut down on support for basic necessities for people, and that is wrong. The Tax Research Foundation, not a partisan group—has compiled data saying that we—you and I—the taxpayers—spent over $500 billion last year on human services. I think that is a commendable record. Now we are trying to use it more efficiently and effectively, but we must have some continuing support from the taxpaying public.

There are those who want only to consume and not to produce. This Administration believes in profit. We want you to make a lot of it because we need your taxes to support us.

And I know the economy is tough. The Democrats are talking about jobs programs, creating jobs programs out of the highway program, and it will have that beneficial effect. But that is not primarily designed as a jobs program, but to serve this basic infrastructure upon which our whole economy depends.

We can, by using the Federal Aid Highway Program as the vehicle, create more meaningful jobs than any boondoggle program of simply tossing dollars out in short-term make-work projects.

That is why I am pushing this program so hard. As a business community, I hope you, too, will lend your voices in support of this program.

Some folks have said, well, why don't you cut out all the controversy about truck size and weights, cut out the controversy on cost allocation. Let's just put a nickel gas tax in and get it through.

I will tell you why that is not possible, why it is not desirable, why it is not fair. Because if you do that the average driver of the passenger car will increase his support of the highway program and the heavy commercial carriers' contribution will actually decrease from what it is now.

It would be easy to take that course of action, for those who pay the tab are not organized politically, do not have the powerful voices up on the Hill. But, I think that is wrong. I am an idealist, I guess, but I believe our system can work and will work if those of us who believe in it will contribute to it and be active in support of those principles which we preach about and talk about and pray about generally one day a week.

I have said for years our government will only be as good and as kind and as generous and as noble as you and I demand that it be. We have permitted government to get out of hand, and I recognize the problems of the business community. For too often we have been reluctant to take a stand on an issue for fear of alienating those on whose business we depend.

I say the condition of this economy, the condition of this country has taken us to the point where we can no longer take that easy way.

We elect someone and send them to government in Washington. We say, "Hey, you stand up and you take that difficult vote, and we will be by your side." But too often we are not by their sides, but we are three paces behind and ask them to cast that difficult vote.

We have got to become active and attentive and supportive of the people who represent us, or the quality of our government laws will be diminished.

I have pleaded with business groups for so long, and all across this country, in which we live, and if you do not raise your voices in support of good and proper principles there are other raucous voices who will dominate and determine the course of this country.

I think the situation is extremely critical, and especially at a time when unemployment, which is such a national tragedy, has captured the public mind. Too often we permit the commercial humanitarians to enact legislation for immediate headlines but not for a resolution of the underlying problem.

You are the ones who can dissuade the Congress from careless votes, from simply responding to an uninformed public ourcry, and that is why I say the quality of governmental programs will be dependent upon you.

I want to leave you with one last thought. This story I tell has been very meaningful to me, and it is a very true story.

I was with the President on the morning of the day he was shot. He said to me that morning words that I will treasure and remember all of my life. He said, "You know, I have often said these words publicly, but now I want to say them to you privately. When you come to make your decisions, I want you to base them not on what is in my best interest for reelection, but on the basis of what is right for this country."

It was a magnificent statement, and it is sometimes difficult to keep that philosophy in mind when you are confronted with the immediate demands of groups and recognize that the average person does not have the powerful solidified representation to make his point heard. But we are going to try to be true to those principles.

With your help and with the active support of organizations such as this, we will keep that commitment.

Mr. President, this Congress has not taken such a major step in highway legislation since 1956 when it established our National Interstate and Defense System. This legislation begins a new era in highway policy and will be a springboard for future legislation.

As chairman of the Transportation Subcommittee I am fully aware that, as major as this legislation is, it cannot and does not address all aspects of national highway policy. It merely sets the stage for meeting what will be new transportation needs. We must be prepared to meet these needs with new, innovative thinking. I foresee major changes in our approach to highway problems.

This must be done. We have the greatest, most free society the world has ever known. This is in no small part due to the fact that we have one of the most extensive, safe, efficient highway networks ever built in any country.

I am troubled that we have been relying on this transportation system this past decade without maintaining our commitment to its maintenance and upkeep. There is no way to avoid this problem. We cannot allow this underlying network to waste away and yet expect our economy to develop and expand.

We must have good roads. Roads are expensive and we must realize that if we are to prosper we must pay for them. This means that resources which are or might be spent in other areas must be spent on our highways to maintain them in a useable condition.

I am committed to the user-fee concept which is the basis for our highway program. This method, where those who use and benefit from our highways and roads, directly or indirectly, pay for them, is the most efficient and equitable system devised for funding our interstates, roads, and bridges.

This is a controversial issue. There are some who feel that this change in our national highway policy is not necessary. There are some who would wait saying that the matter has not been fully developed and considered.

To those who advocate such positions, let me say that they are wrong. Our commitment to our roads is necessary. This matter has been developed and considered. We as a nation gain nothing and will lose much if we delay longer. Our country's short- and long-term welfare is at stake.

I earlier on mentioned the fact that this bill does not solve all possible problems present or future. In fact, I am concerned with some matters which the bill itself raises. I am not comfortable with the position taken by the House and Senate on a number of issues. I think the position taken by the Congress on such matters as the extension of Davis-Bacon provisions to areas not now covered by these provision, is both unwise and detrimental to the purpose of this bill.

The position taken by the Congress on "Buy America" is not in the best interest of national industrial well-being.

These are matters which I will be reviewing in hearings in the upcoming session.

I am particularly concerned that the conference committee did not adopt the tax proposal which I helped work out and which the Senate adopted. I am concerned that the proposal set forth in the conference report will heavily impact on an industry vital to our country and of special importance to those of us in the West. This industry is the trucking industry which will be called upon to substantially increase what they as individuals pay into the highway trust fund based upon their highway useage.

Before the heavy duty use taxes are implemented a year and a half from now I fully intend to return to this issue for the purpose of specifically evaluating the impact these taxes will have on small, independent trucking firms and on farming operations which use trucks seasonally.

The House and conference committee failed to give adequate consideration to such impact and to the unique situation which western trucks users and operators find themselves in. We need to give this matter further consideration and I fully intend to do so.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HAYAKAWA). The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I wish to ask a question of the distinguished Senator from Kansas concerning an income tax provision in the highway bill.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. There will be order in the Chamber so the Senator can be heard.

Mr. STAFFORD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. Who has the floor?

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. STAFFORD. The Senator from Vermont would like to be recognized following the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, let me assure the Senator from Vermont that this will be an extremely brief colloquy with the Senator from Kansas.

Mr. ROBERT C. BYRD. Mr. President, I hope the Chair will follow the rules of the Senate in recognition of Senators.

The PRESIDING OFFICER. I will try to do so.

Mr. HEINZ. As I was saying, I wish to ask a question of the distinguished Senator from Kansas concerning an income tax provision in the highway bill. That provision clarified that the tax-exempt character of interest on certain obligations which were granted tax-exempt status outside of the Internal Revenue Code would be set forth in the Internal Revenue Code and, consequently, that the tax-exempt character of such interest to a regulated investment company or mutual fund would flow through to its shareholders. Unfortunately, the provision as it passed the Senate did not include an effective date.

It was my understanding that the provision was intended to be retroactive to taxable years beginning after 1975, which was the effective date in the Tax Reform Act of 1976 which allowed the status of tax-exempt interest to flow though a regulated investment company. Does the Senator from Kansas have the same understanding of that as I do?

Mr. DOLE. Yes. I might say the distinguished Senator from Pennsylvania offered an amendment. I do have the same understanding, and I understood the amendment was to be retroactive. Indeed, the revenue estimates in the Conference mark up materials reflect a retroactive effective date. I would like to assure the Senator from Pennsylvania that I intend to seek a technical correction next year to resolve any doubt on the effective date of the provision. In addition, the conferees intended that the retroactive effective date would not cause any obligations to lose their tax exempt status solely by reasons of this provision. Finally, the conferees intended to emphasize that, for the future, the Internal Revenue Code should be the sole source of tax exemption of interest on any obligations.

I thank the Senator.

Mr. HEINZ. I want to thank the Senator from Kansas for his clarification, and I am very pleased that it meets what I understood to be our interests.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. SYMMS). The Senator from Vermont.

BUY AMERICA

Mr. CHAFEE. I would like to clarify with the leadership of the Committee on Environment and Public Works, and with other conferees on title I of H.R. 6211, the conference provision dealing with buy-America requirements.

The agreement among conferees was very clearly to continue with one exception, the provisions of current law as contained in title IV of the Surface Transportation Assistance Act of 1978, Public Law 95-599. Do my colleagues agree?

Mr. STAFFORD. The Senator is correct.

Mr. RANDOLPH. The Senator is correct.

Mr. DOMENICI. That was the agreement.

Mr. MOYNIHAN. The Senator is absolutely correct.

Mr. CHAFEE. The one change that was agreed to was to increase, for highway projects only, from 10 to 25 percent, the price differential needed before foreign materials, rather than American, could be used on a project. All the other provisions of existing law, including the administrative interpretations consistent with current law, were to remain undisturbed.

Exemptions from the buy-America requirement for projects costing less than $500,000 are to be continued.

The requirement that products used must be substantially all from articles, materials, and supplies made in the United States is retained in the conference agreement.

The administrative interpretations of these provisions are not overturned by the conference agreement.

Do my colleagues agree that I have correctly described the conference agreement?

Mr. STAFFORD. Yes, the Senator from Rhode Island is correct.

Mr. RANDOLPH. Yes, I agree. The only change was to increase from 10 percent to 25 percent the price differential applied to materials for highways.

Mr. DOMENICI. The Senator's description is correct.

Mr. MOYNIHAN. The Senator from Rhode Island's description is totally correct.

Mr. CHAFEE. I thank my colleagues.

Mr. MOYNIHAN. Mr. President, will the Senator yield? May I, on behalf of this side of the aisle and the distinguished chairman state that the Senator from Rhode Island has stated exactly what my understanding of our agreement was.

Mr. CHAFEE. That is what the agreement was with the House and the conference.

Mr. STENNIS. Mr. President, it is with a considerable degree of reluctance that I have decided to support this highway bill. I am always concerned about raising taxes, particularly in a recession. However, it has become more and more apparent to me that the current rate of highway taxes, set back in the mid-1950's, is completely inadequate to maintain and replace our highways and bridges in an acceptable manner. This problem must be met. It will not go away. It will be here for years until it is met.

A good highway system is an absolute necessity for the economic well-being and growth, not only, of course, for my State, but for the entire country. Our economy moves on our highways.

This bill will go a long way toward improving the interstate roads, our State roads, and our county roads and bridges, the latter being so vital in moving the products of our farms and factories.

I know our truckers are rightly concerned over the sizable increase in their user fees. I note this bill properly delays the imposition of these new user fees until July 1984, and to July 1985, for firms with five trucks or less. This will hopefully give the trucking industry time to adjust to the new situation or even for adjustment in the bill of the tax in the Congress, if that should appear warranted at that time.

In summary, Mr. President, this bill, while not perfect, is a reasonable approach to insuring our roads and bridges are improved and maintained to an acceptable standard. To postpone this problem is to make it worse. I am convinced we should act now. Many of our bridges and many of our highway miles are in dangerous condition in Mississippi. The distribution of the funds collected from this bill will pay my State $1.35 for each dollar collected from my State.

The VICE PRESIDENT. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, only that the Record may be complete, accurate, and understood by some, perhaps, who have questioned the procedures under which this measure reaches the floor, I must remind our colleagues that this highway gas tax bill was produced within the two committees of jurisdiction in the Senate, the Environment and Public Works and the Finance Committees.

I want to further state that this measure has been in the making for almost 2 years. Sometimes it is said that you should bring a bill to passage very quickly or in a period after careful discussion. It is not in the last few days, the last few weeks or the last few months, but the Committee on Environment and Public Works, through the process of extensive hearings, over a dozen of them and many markups brought this legislation to the Senate. The excellent leadership of Chairman

SYMMS, of our Transportation Subcommittee, Chairman STAFFORD of the full committee and the cooperation of the entire committee, not that all would even vote for the measure as it now stands, brought forth this legislation. Sixteen members of our committee worked diligently over a long period of time to bring to this body the measure that will be voted on shortly.

I am not angry at any point in the legislative process. I may be disturbed, I may be saddened, I may wonder why my dear colleague, whom I know so very well, cannot see the issue as I see it. All of that is understood. But during the 34 years that I have been privileged to work on this historic Hill, I have approached the legislative process and the decisionmaking process as something that I counted as not only a responsibility to execute but a privilege as well.

And so, regardless of how Members in a few minutes will vote on this measure, I want each and every Member to know that this is not a statement of plausibility or nicety. I will recognize the judgment and the conscience of my colleagues as they vote on this measure. I only ask them once again, if there are Members who are still perhaps undecided, that they realize that this bill is not the best bill, it certainly is not the worst bill, but it is a necessary bill to bring into being the rehabilitation of the network of roads and bridges which, in a sense, came into being by the action of this Senate and the House of Representatives in 1956. If we brought into being a unifying force for this country—as we did—it is wrong, as I see it, to allow that force to crumble, to decay, to break apart. And it is my feeling that that is the process we are now experiencing. And I am hopeful—very, very hopeful—that the measure will pass.

I do not want to be misunderstood. I should not quote the Bible, I know. But the prophet Isaiah said, "A way shall be there for the redemption of his people." I hope I will not think in terms of being any prophet at all, but just a practitioner of that which is practical. I hope we will realize that the way, the way of America, a mobility, a people, a product, that we will, on this vote, give to the country, through the States, the opportunity to work within the Federal structure in a cooperative manner serving people, people, people. This measure deserves, I believe, our support.

In the State of West Virginia, approximately, 3,000 bridges are structurally deficient or functionally obsolete. The cost to repair or replace those structures is $1.5 billion. Between now and the year 2000, our interstate rehabilitation needs will be $600,000,000. This legislation will assist in meeting these needs as well as providing funds for completion of the Interstate Highway System in the State.

Mr. President, I also want to thank our staff for their fine work on their legislation. My thanks to Jean Schrag, Richard Harris, John Yago, Bailey Gerard, Lee Fuller, Linda Findlay, and Kathy Cudlipp.

Mr. FORD addressed the Chair.

The VICE PRESIDENT. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I will take only about 2 or 3 minutes.

Mr. President, I do not like criticizing a colleague or his tactics. I have never done this before, I am very uncomfortable doing it.

But the events of the past few days where the Senate was brought to a standstill by the tactics of the Senators from North Carolina have pushed my patience and understanding to the limit. They and a couple of others have kept the Senate from enacting much-needed legislation. Their tactics have ridiculed the Senate rules. Their conduct, in my opinion, has crossed the boundary of expected senatorial courtesy.

To be sure, every Senator has the right to utilize the rules of the Senate to the best of his or her ability and to benefit for whatever purpose that he or she may desire. But those rules demand a certain amount of respect if they are to function and protect the institution of the Senate as a whole. The flagrant lack of respect for the rules and the consideration for its Members has done the Senate irreparable harm.

I happen to share the opposition of the Senators from North Carolina to this piece of legislation, even more so now that we have the conference committee's report. But I also recognize that there is a real and significant difference in expressing yourself and thwarting the rule of the majority, if a democracy is to function as the founders of this great Nation has intended.

One of the most cherished and distinctive features of the Senate throughout the years has been that it provides for reasonable delays in the consideration of legislation to protect the rights of everyone. The House of Representatives has no similar provision. And this is a distinction that should be protected and manintained at all costs.

However, in my opinion, what has happened these past few days—and I think it was evident this morning—poses real danger of destroying those rules. Reasonable positions, maintained in an unreasonable manner, are now a threat to reasonable consideration of legislation.

What will be the repercussions? The Senators from North Carolina have brought this body virtually to its knees, ostensibly to oppose an increase in the gasoline tax. "It will hurt the people of North Carolina," they say.

If that is what they are concerned about, why did they cast critical votes last summer that assured the passage of an increase in the cigarette tax? If they care about hurting the people in North Carolina, and in the tobacco community throughout this Nation, why did they not fight hard last summer? The tobacco community, indeed the entire farming community, needs to know what these two men have done to the tobacco coalition in this Congress.

Those of us from tobacco States have worked hard over the years to build a strong coalition of agricultural interests. We have stood together and together we have protected our farmers. But the Senators from North Carolina have destroyed decades of hard work in these last few weeks. They have made new enemies for tobacco. They have put our tobacco program in the greatest jeopardy it has ever encountered.

The actions of the Senators from North Carolina have generated considerable ill will among the Members of the Senate. I fear that I along with others will live to share the consequences. I have noted recently press reports where individual Senators, my friends, are contemplating various forms of retaliation. Some of the contemplated actions apparently will be directed at legislation and programs that affect the constituents of the Senators from North Carolina, especially small farmers and tobacco growers. I can appreciate my colleagues' anger and frustration. Unfortunately, however, a great many of my constituents have a lot in common with the people of North Carolina, and these programs are just as important to my people as they are to theirs.

Other Senators no doubt must say the same. Undoubtedly, any punitive measures aimed at these groups which are so important to the Senators from North Carolina will have an impact reaching far beyond the North Carolina borders.

The Senators have placed me in a very difficult position. I do not need the potential problems they are creating for my State and other States, where agriculture is an important industry. They are putting me in a spot which is not the least bit comfortable or, in my opinion, deserved, and I do not like it.

Mr. President, a lot of innocent people will suffer. Not me, but the poeple I love and I was sent here to serve. I wish that the Senators had thought of that beforehand. I hope that those who make those threats will reconsider for while self-satisfying, no doubt, they will end up doing more harm than they will good.

Mr. DECONCINI. Will the Senator yield?

Mr. FORD. I yield to the Senator from Arizona.

Several Senators addressed the Chair.

Mr. EAST. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. Will the Senator yield for a parliamentary inquiry?

Mr. FORD. I will be glad to do that.

The VICE PRESIDENT. The Senator from North Carolina.

Mr. EAST. As a point of parliamentary inquiry, since the speech of the Senator from Kentucky was obviously of a personal nature, directed at the Senators from North Carolina, would it not be appropriate as a parliamentary matter that we be allowed to respond to that charge? I think it is quite clear under any just, reasonable set of rules that we are entitled to respond to the comments which have just been made. I would hope that my colleagues would forebear and allow me or Senator HELMS to respond since clearly they were directed at the two Senators from North Carolina.

The VICE PRESIDENT. The Senator from Kentucky has the floor and he is not required to yield. He has yielded to the Senator from Arizona for a question.

Mr. DECONCINI. I did not ask him to yield for a question. I asked if the Senator from Kentucky would yield and I understand he has yielded.

The VICE PRESIDENT. That is the only right by which the Senator can yield, for a question.

Mr. DECONCINI. I thank the Senator from Kentucky for yielding.

I ask the Senator from Kentucky if his consternation and concern expressed here is of such a nature that it has been ongoing for some period of time and the recent example that we have just witnessed over the last couple of weeks has really brought it to a point where he believes that something ought to be done to change the rules under the which we operate.

Mr. FORD. The Senator is correct.

Mr. DECONCINI. May I go on with the Senator from Kentucky for a moment? Does the Senator agree that the last couple of weeks have been a sorry chapter in the history of this body and that for nearly 2 weeks the will of a clear majority of the Senate has been frustrated? I want to know if the Senator from Kentucky agrees that the one chance the farmers, in a depression situation, had to see something happen has been put aside because of this filibuster under the Senate rules. Does the Senator agree?

Mr. FORD. The farmers of this country need all the help that we can give them. It appears as a result of the filibuster that even though everyone admitted that the farm bill known as PIK was not the best or perfect, it was something that was needed this year in order for it to become effective in 1983, giving us an opportunity to come back and refine that. As a result, it is my impression that the farmers lost that opportunity.

Mr. DECONCINI. I thank the Senator. I would like to proceed with the Senator from Kentucky. It seems that the hopes of millions of unemployed Americans for an improved economy that might have had some breath of life over the last several weeks has been ignored. It has been ignored because, as the Senator from Kentucky so ably points out, some Members of this Senate put their personal desires ahead of the effort to do something about the ailing economy. Never have so many suffered so much from the obstruction of so few, in this Senator's mind. The world's "greatest deliberative body" that we like to call ourselves has been tyrannized and immobilized by a handful of men, whatever their motives, to prevent the will of the Senate and by using the rules of the Senate to prevent the economic recovery, in my judgment.

The rules were meant to guard the minority, not to give them license to dictate and cause harm to the Nation. Yet, that is what has transpired in the last days of this session.

I do not know what those who have treaded upon this for days on end believe they have accomplished. But if they think they serve the interests of this Nation and the people they represent back home I think they are sadly mistaken.

The Senator from Kentucky ably points out that just in the area of tobacco and farm programs indeed there is ill will. I urge the Senator from Kentucky and those others certainly not to bear any grudges or burn any bridges in the farm community for Arizona has the same interest, to see that we have a stable agricultural community in this country.

There are those of us here who will mark this day. I hope that the challenge will be met by the leadership on both sides of the aisle to do something about the rules. If we invoke cloture, it appears to me that cloture ought to prevail and then the issue ought to be decided. For us to labor through this holiday period, for us to have to stay here night after night, for us to have to be the laughing stock of the Nation in the way we conduct our business—I only say it is a sad for this body and not a proud one, regardless of the outcome of the pending legislation.

I want to thank the Senator from Kentucky for his leadership and ask the Senator if he intends to propose any rule change or participate in any rules change before the Rules Committee, seeing that he is the ranking member, and what his agenda might be in that area.

Mr. FORD. I thank my distinguished colleague from Arizona. We now have a group, the Pearson-Ribicoff Commission, putting together recommended changes, not only for rules but for the procedures and the committee structure. That recommendation should be coming shortly. When that appears before the Rules Committee we intend then to refine that, discuss it and debate it and send it to the Senate floor for the consideration by the distinguished Members of this body.

Mr. DECONCINI. I thank the Senator from Kentucky and I compliment him.

Mr. ROBERT C. BYRD. Will the Senator yield at that point for a question?

Mr. FORD. I will be delighted to yield.

Mr. DECONCINI. I want to thank the Senator for his leadership on the Rules Committee. On behalf of at least this side of the aisle, and I think the entire Senate, I thank him for addressing this important problem. I thank the Senator for yielding.

Mr. FORD. I yield to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. I will wait and obtain the floor later.

The VICE PRESIDENT. The Senator from Kansas.

Mr. DOLE. Mr. President, we are here to debate the highway bill and not to hear the chairman of the Democratic Senatorial Campaign Committee launch a campaign against the Senators from North Carolina. If we want to list the bills which have been blocked in this session, I will bring up the Pick bill, which was blocked by the Senator from Montana. We agreed to take his amendments if he would release it.

There is the bankruptcy bill, which was blocked by the Senator from Ohio. Was this a filibuster? Well, he said he would if we brought it up, so we could not bring it up.

Mr. DECONCINI. Will the Senator yield on that point?

Mr. DOLE. Let me finish. Then there was the CBI, the Caribbean Basin issue, which we tried to get to the floor. That was blocked by 12 Members on the other side of the aisle.

I do not intend to stand here and recite all the problems we have at this late stage. There is a lot of acrimony here and a lot of politics. Everyone is sort of piling on JESSE HELMS. That may be great fun but I do not think it will be particularly effective.

I just suggest that we are here to talk about a highway bill. We are here to discuss how we are going to put some people to work and whether or not this bill is going to pass. I thought we would go ahead and vote on the bill, then we could all have our fun

after the vote on the bill. I do not think, as the chairman of the Finance Committee and one of the managers of this bill, that we can stand here and let silence indicate that we agree with the remarks of the Democratic chairman of the Senate Campaign Committee. His remarks amount to a political campaign against one of our colleagues.

We are not very pleased at times with what happens on the other side. I have become frustrated with Senators on both sides. I have been through the works in 1976, where I was designated the hatchet man. That took a while to erase, but we all survive this business if we try.

It seems to me that we have a very good bill here. We should not mix this legislation in personalities. It is Christmastime, a holiday season; it is a time to be jolly.

A lot of jingle bells are ringing.

Mr. FORD. Will the distinguished Senator from Kansas yield?

Mr. DOLE. I yield without losing my right to the floor. Is it a question?

Mr. FORD. Yes. Would it disturb the Senator if he knew that many Senators are saying they are going to retaliate because of what has happened? I am just saying I hope they will not. You have never heard me get up on this floor and criticize anybody in 8 years. Just because I happen to be chairman of the Democratic Senatorial Campaign Committee, that did not keep your colleague from launching his campaign for the Senate next time. If the shoe fits—I am trying to protect my people. If you want me to do something different from that on the floor, that is fine. But as long as I am here, I am trying to protect my people.

Mr. DOLE. I am trying to protect your people, too. I am one of your allies. Do not drive me into a corner.

Mr. FORD. I am not driving you into a corner; 2 are driving ninty-eight into a corner.

Mr. DOLE. It is a big corner.

Mr. FORD. Is that a safe corner or a safe harbor.

Mr. DOLE. Mr. President, I would like to see if we could vote on this bill and get out of here. It seems to me we have reached a stage where you do not want to sit down because maybe somebody will get up with a stronger attack. Maybe I will have to stay here until 11:30.

Mr. MATHIAS. Mr. President, will the Senator from Kansas yield for a parliamentary inquiry?

Mr. DOLE. Yes.

Mr. MATHIAS. At an earlier point, the distinguished majority leader said we might advance the time for the vote. I am just wondering whether that has been done or is likely to be done, because it seems to me it is highly desirable to have it done.

Mr. EAST. Mr. President.

The VICE PRESIDENT. The Senator from Kansas has the floor.

Mr. DOLE. May I just——

Mr. MATHIAS. My inquiry is, have we advanced the time for a vote?

The VICE PRESIDENT. The Chair will respond. The time has not been advanced. The Senator from Kansas has the floor.

Mr. EAST. Mr. President, I would like again to make a parliamentary inquiry.

Mr. DOLE. I yield to the Senator for that purpose without losing my right to the floor.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Mr. EAST. Mr. President, I am making a parliamentary inquiry in that, in view of the nature of the comments by the distinguished Senator from Kentucky, I think any fair or equitable rule of supposedly the greatest deliberative body in the world would allow the two Senators from North Carolina, if they so chose, to respond in some reasonable timeframe to his remarks.

I ask the cooperation of my colleagues that that be accorded me in some way or other. Simply trying to run out the clock after the attack was made—the comments were made—I think there arose this obligation on the part of this Chamber to give us some reasonable timeframe in which to respond. I am asking for that. The Senator from Kansas now has the floor.

The VICE PRESIDENT. The Chair responds to the Senator's parliamentary inquiry: A Senator is not required to yield on a question of personal privilege raised by another Senator. The Senator from Kansas has the floor.

Mr. DOLE. Mr. President, I am willing to yield the floor. I share the view expressed by the distinguished junior Senator from North Carolina. I am not trying to prevent the Senator from regaining the floor, but I do not want everybody to get mad here and vote against the bill. I do not mind a little combat, but I would rather do it after we vote.

Mr. SARBANES. Will the chairman of the committee yield for a further parliamentary inquiry?

Mr. DOLE. No, Mr. President, I want to say further to the Senator from Kentucky that we are all part of the farm coalition. I hope I have been supportive of the tobacco program. It is a hotly contested program, but it is a good program. The Senator from Kansas intends to support it in the future. That is one vote; and we do not raise tobacco in our State.

It seems to me we do not gain a great deal, even though there is a lot of frustration, and has been for several days about this bill. I did not realize this bill was so controversial. The 5-cent gas tax, in the view of this Senator, is a good bill.

With regard to the revenue title, the House and Senate conferees on the revenue title have arrived at a reasonable compromise level of taxes on heavy trucks.

The various levels of heavy truck use tax that have been proposed are:

Administration—$2,700 per year immediately;

House—$2,000 per year beginning January 1, 1984;

Senate Finance—$1,600 per year phased in from January 1, 1984, to July 1, 1985;

Senate—$1,200 per year phased in from January 1, 1984, to January 1, 1986;

Conference—$1,600 per year for 2 years, beginning July 1, 1984, increasing to $1,900 per year by $100 increments from July 1, 1986, to July 1, 1989.

At the highest level, which is not reached until 1989, the tax is still $100 short to the House level—which is imposed in 1984—and $800 short of the administration level—which would have been imposed immediately.

There will be no heavy use tax increase until July 1984. For the following 5 years, the total amounts paid on the heaviest truck—note: this is cumulative—under the various proposals would be: Administration, $13,500; House, $10,000; Senate Finance, $6,600; Senate, $4,280; conference compromise, $7,770.

On that basis, the compromise is only 40 percent of the difference between the Senate position and the administration proposal.

It is close to splitting the difference between the House and Senate.

Additionally, the conference committee compromise eliminates all taxes on truck parts, lubricating oil, inner tubes, and tread rubber. The Senate had retained all of those taxes on heavy trucks.

Now some additional points on the Senate-House compromise user-fee structure, the effect on heavy trucks:

First-time-use tax increase starts is July 1, 1984—later than both the Senate or House provisions which started increases on January 1, 1984.

Vehicles destroyed or stolen can get refunds for the remainder of the year on the use tax.

Owners of five or less trucks are allowed 1 year further on the phase-in.

Vehicles with less than 5,000 annual miles are exempt from the tax.

Heavy trucks:

Relieved of all the taxes on tread rubber—5 cents per pound.

Relieved of all their taxes on inner tubes—10 cents per pound.

Relieved of all their taxes on lubricating oil—6 cents per pound.

Relieved of all the current taxes on truck and trailer parts—8 percent of sales price.

Phase-in:

The phase-in provisions, including the 1-year delay in beginning the tax will allow time for the economy to improve and the size and weight productivity benefits to take hold. The trucking industry is a leading indicator of the economy and always performs well in a resurging economy.

We have dealt fairly with the trucking companies. They have been loading up on that side. The administration bill would have cost some of the heavier trucks over the 5-year period $13,500. The House bill was about $10,000. The Finance Committee went down to $4,400. The Senate bill itself went down to $4,200, the conference report was $7,700. That may seem extremely high, but this rate has not been adjusted for 20 years. In addition to that, I say to my friend about the impact it might have that none of these takes effect until July 1, 1984. There is a great deal of time there. If, in fact, we determine there has been too severe an impact on any one industry, we can make that correction. If it is an independent owner-operator with five or fewer trucks, the phasein will not begin until January 1, 1985.

It seems to me we have set the stage for a sound program, and I hope we can focus on the bill. We did our best in the conference. I know Senator STAFFORD and those in his conference and Senator GARN and others did their best. Some would indicate that we did not do well enough. I really hope we can just focus for whatever time we have before the vote on the bill itself. We all have time constraints and this Senator is not going to occupy the floor any longer.

Mr. EXON. Will the Senator yield for a question?

Mr. DOLE. I am happy to yield.

Mr. EXON. In the interest of fairness, would it not be a good idea, with a half-hour remaining, to get agreement if we could that the time be equally divided between majority and minority, so that we may have some equality of time in the half-hour left?

Mr. DOLE. I do not quarrel with anything. I do not divide the time, or give back the time. I do not know how the time has been divided in the past hour-and-a-half.

Mr. BENTSEN. Mr. President, I would like to ask the Senator from Kansas if we can explore the possibility—I understand the desire of the Senator from North Carolina to respond. Certainly, he should be given time to do that. But with the problem of some people trying to catch airplanes to get back to their States, if we could possibly advance the time, with the understanding that those who care to speak further will be able to do so—is there objection to advancing the time?

Mr. DOLE. The Senator from Kansas is now prepared to yield the floor.

Mr. EAST addressed the Chair.

The VICE PRESIDENT. The Senator from Kansas still has the floor.

Mr. DOLE. Mr. President, I understand the time has been about equally divided and if it would expedite matters, if it is satisfactory to everyone, we could divide the time. Does anybody object to dividing the time 15 minutes on a side? The minority leader is here.

Mr. ROBERT C. BYRD. There is no objection on this side.

Mr. DOLE. Any objection?

The VICE PRESIDENT. Without objection, the time will be equally divided between both sides.

Mr. ROBERT C. BYRD. In the control of the minority and majority leaders or their designee.

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. In that case I designate Senator BENTSEN.

Mr. BAKER. And I designate Senator DOLE.

Mr. DOLE. I yield 5 minutes to the Senator from North Carolina.

The VICE PRESIDENT. The Senator has the floor.

Mr. EAST. I would appreciate 5 minutes, and if I could have order in the Chamber, Mr. President, I would appreciate it.

The VICE PRESIDENT. The Senate is not in order. Senators are asked to take their seats.

The Senator from North Carolina may proceed.

Mr. EAST. Mr. President, we have seen here this morning from the distinguished Senator from Kentucky some comments upon the tobacco program and that issue as it relates generally to this gas tax bill issue. I should like to note that the Senator from Kentucky, for whom I have the greatest affection, is, of course, chairman of the Democratic Senatorial Campaign Committee, and I would like to bring to the attention of my colleagues he is saying exactly the same thing that the Democratic Party of North Carolina was saying yesterday in Raleigh. So if you wonder whether there may be some communication between the two, the answer to that would be, yes, in the affirmative.

Now, you might say, "Well, Senator, fine. What is your position on it as the Senator from North Carolina?" I have always in North Carolina—and I do here in the U.S. Senate—make this issue of the well-being of tobacco as an industry a nonpartisan issue. I have never in my State and I have never here on the Senate floor attacked any person in a partisan way on this issue, and I never will, because those who represent tobacco States know that the well-being of the tobacco industry transcends any partisan differences. We know that Democrats and Republicans in office, in North Carolina or here in the Nation's capital, are always united in their desire to see that the best interests of tobacco are served, and that is where I stand on the matter and will continue always to honor my own rule on that point.

Here would be the problem, you see, following another line of reasoning with the comment of the distinguished Senator. If you allowed yourself to be held hostage by threats of intimidation that you did not take positions on totally extraneous issues in conformity with someone else's wishes or they would retaliate on the tobacco program or some other area, that would be an untenable position to take. And knowing the character and integrity of the Members of this body, I know they would not do that. You would be totally impotent as a Senator if the word were out that you can be manipulated every minute by simply threatening something that is important to you. Fortunately, this body does not work that way. They respect that very diverse issues come before us and they must be dealt with on their own merit. That is what I am doing on the gas tax bill, and it has absolutely nothing to do with the tobacco program in North Carolina or here.

Now, the distinguished Senator from Nebraska (Mr. EXON) has pointed out in a very well-reasoned speech this morning the very adverse effect this gas tax bill will have on farms in the United States. I have an obligation coming from a great farming State, including tobacco, to resist the gas tax. So I must do that, just to represent my constituents. But they have nothing to do with each other. I think it is very unfortunate that the distinguished Senator, for whom I yield to no one in my admiration and respect as an individual and as a very effective legislator for his State and for tobacco interests, should have allowed the issue of partisanship to arise.

The VICE PRESIDENT. The Senator's 5 minutes have expired.

Mr. EAST. So I do appreciate the opportunity to have responded to that charge.

The VICE PRESIDENT. Who yields time?

Mr. EAST. I ask unanimous consent for another 30 seconds.

The VICE PRESIDENT. The Senator yields 1 minute.

Mr. EAST. I have appreciated the indulgence of my colleagues to allow me to respond to that. These are two separate issues and to be effective as a Senator and to maintain my personal integrity, I have to have the right to evaluate each and every issue on its own merit, and I think every Member of this body would understand and respect that right. The implications of intimidation are totally inappropriate, and I regret they were made. I wish to

say, finally, I am a great admirer of the distinguished Senator from Kentucky because the tobacco program has no greater defender than he in this Chamber.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. SARBANES. Will the majority leader yield 1 minute?

Mr. BENTSEN. The Senator from Texas is delighted to delegate a minute to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I think in order to set the record straight it is important to quote a little parliamentary history. When the Senator from Kentucky was speaking earlier, the junior Senator from North Carolina (Mr. EAST) called on him to yield and asserted that he should do so. He later addressed a parliamentary inquiry to the Chair suggesting that it was necessary for him to do so but the Chair made it clear that it was not necessary under the rules. In light of that inquiry, I simply want to quote what occurred on the floor of this Senate not all that many hours ago. It reflects, in my judgment, the breakdown in civility and procedures in this body and shows an unwillingness by some to recognize that what is sauce for the goose is sauce for the gander.

The quote as set out in the morning paper is as follows:

Mr. (Paul) Tsongas: Will the Senator yield?

Mr. (John P.) East: No.

Mr. Tsongas: The senator used my name previously, and I would like to respond.

Mr. East: I understand that. A parliamentary inquiry. The fact that I used a name does not obligate me under the rules of the Senate to yield, will it?

Of course, the response which the Chair made earlier corresponded to the one it just made. I simply note that the very point that the junior Senator from North Carolina was asserting against the Senator from Kentucky only a few minutes ago——

The VICE PRESIDENT. The Senator's time has expired.

Mr. SARBANES (continuing). He himself invoked not long ago in the course of this debate.

Mr. LEVIN addressed the Chair.

Mr. BENTSEN. The Senator is recognized for 1 minute.

Mr. LEVIN. One minute would be fine. I have a question for the Senator from Kansas. As the Senator from Kansas knows, I along with Senator SPECTER offered an amendment which would extend unemployment compensation benefits from 2 to 6 weeks, depending on the State, for unemployed Americans to this gas tax bill. And along with the help of the Senator from Kansas and Senator DOMENICI and others we were able to finally affix this amendment extending unemployment benefits to the gas tax bill as it went through the Senate. Without this amendment two million Americans are going to exhaust their unemployed benefits by March. My question to the Senator from Kansas is this: Was this amendment retained intact by the conference? Is it on this bill?

Mr. DOLE. Yes, the modified Levin-Dole-Domenici-Specter amendment was maintained intact. And I commend the distinguished Senator from Michigan for his inititative. In my view, it should have been done, it was done, and would not have been done without his efforts and we appreciate it. I might say that had we been able to bring the CBI bill to the floor——

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

Mr. DOLE. I yield myself 1 minute—we were prepared to even add additional benefits but that may come later.

Mr. LEVIN. I thank the Senator.

Mr. MOYNIHAN. Mr. President, passage of this legislation brings us closer to a goal of regional equity in transportation policy.

Ever since an inspired civil engineer named Bertram Tallamy designed the New York State Thruway some 5 years before the inauguration of the Interstate Highway System, the State of New York has prided itself upon its advanced highway system.

Yet we have too often been shortchanged by the Federal Government when it comes to allocating money from the highway trust fund. Indeed until enactment of the Surface Transportation Assistance Act of 1978, New York was, year in and year out, paying more money into the highway trust fund than it was receiving. We took a step toward correcting this inequity in 1978, and now, with the passage of the Surface Transportation Assistance Act of 1982, we have at last righted the imbalance.

The bridge cap, an altogether arbitrary and unreasonable highway limit on the amount of money New York can receive under the highway bridge replacement and rehabilitation program, has been lifted from 8 to 10 percent—New York is entitled to 15.7 percent of bridge funds under the most recent Federal Highway Administration inventory. A new apportionment formula for primary roads, which more accurately reflects a State's funding needs, will increase New York's share from 5 to 5.7 percent. We have more than doubled the authorization for the Interstate 4R program, which provides for the reconstruction and repair of our older Interstate highways, a good number of which are in New York. Finally, for the first time, 1 cent per gallon of the increased gas tax will be dedicated to mass transit capital projects. Although allocation of the $1.1 billion thus raised will be discretionary, experience leads us to believe that New York will receive as much as $200 million of this sum.

This legislation is not perfect. Inequities still exist—the bridge cap, for instance, should be lifted entirely. But as one of the Senate conferees on this measure, I am proud to support it and I strongly urge my colleagues to do likewise.

Under this measure, New York State will receive $2.5 billion in highway funds over the next 4 years—fiscal year 1983 to fiscal year 1986—and should our recent proportion be maintained, some $800 million in mass transit funds. This makes for a total of $3.3 billion.

There has of course been a tax increase. However under the bill now passed, highway users in New York State will pay $2.1 billion in highway use taxes over the next 4 years, while the State and its various subdivisions will receive back some $3.3 billion. It is a rare day when New York obtains any advantage from the working of Federal funding formulas. It is a special day indeed when we obtain a margin of this magnitude. I would point out, however, that this scarcely makes up for a quarter century of being short changed.

THE HIGHWAY BILL—NEW YORK'S SHARE

[Fiscal years in millions of dollars]

Current law	1982	New law	1983	1984	1985	1986	Total
Interstate construction 5 percent	$150.7	Interstate construction 5 percent	$172.3	$172.3	$172.3	$172.3	$689.2
Interstate 4R, 2.4 percent	19.0	Interstate 4R, 3.7 percent [1]	69.5	85.5	99.7	112.2	366.9
Primary 5 percent	77.0	Primary 5.7 percent	90.1	121.5	121.5	140.4	503.5
Bridge replacement and rehabilitation, 8 percent	54.6	Bridge replacement rehabilitation, 10 percent	131.8	141.7	171.5	180.9	625.9
Urban 8.7 percent	67.5	Urban, 8.7 percent	67.5	67.5	67.5	67.5	270.0
Rural 3.1 percent	12.3	Rural 3.1 percent	19.6	19.6	19.6	19.6	78.4
	381.1		550.8	608.1	652.1	692.9	2,533.9

[1] The increase in New York's 4R apportionment from 2.4 to 3.7 percent is the result of an agreement between New York State and the Federal Highway Administration to remove tolls from the New York State Thruway in 1996. The agreement was made possible by a provision Senator Moynihan and Congressman Henry Nowak had included in the Surface Transportation Assistance Act of 1978 (Public Law 95-599.)

Mr. MATSUNAGA. Mr. President, I support the passage of the Surface Transportation Act, because immediate action is needed to create jobs and because of the need to repair our highways and bridges.

This legislation promises jobs for 320,000 workers; 170,000 of these workers will be in the construction trades, wherein the jobless rate is 22 percent. Some critics have argued that the measure is an antijobs bill, because the number of jobs it creates is negligible. My response is that 320,000 jobs is not negligible. True, the number of unemployed is great compared with the number of jobs promised by this legislation. But we must start at some point. Especially with the deletion of the jobs program from the continuing appropriations resolution, the highway jobs program is the only significant public works program that can be enacted this year.

The bill's critics also argue that the legislation will take away consumer money and consumer-related jobs. They argue that the purchasing power of consumers will be curbed as their money is taxed away by the proposed 5-cents-a-gallon excise tax increase on motor fuels. This Senator questions the validity of this assertion. Gasoline prices have fallen, but consumers are not spending this savings. Just as taxpayers are not spending their tax cut, they are not spending their price savings. Consumers are saving all the money they can get from their tax cut and from price cuts. Consumers are so apprehensive of the future, that they are reducing their spending and they are saving all that they possibly can. And when consumers are not spending, there is no reason for businesses to invest in new, expanded plants and equipment.

Something must be done to help consumers regain confidence in our economy. If individuals and businesses are not spending and are not making capital investments, the economy will come to a halt. We are already forced with a bankruptcy rate which is the worst, since the Great Depression of the 1930's. The Federal Government must install confidence in our economic future. It must maintain and even initiate economic activity when the future looks as dark as it does now, and inspire and motivate individuals and businesses to join in the upward movement.

None of the legislation's critics have questioned the need to repair our highway system. The infrastructure that keeps commerce going, is falling apart. Member after Member during the debate cited instances of bridge and road disrepair hampering commercial transportation as well as individual travel. However, the critics argue that the tax is regressive; it taxes the poor and the rich equally.

I believe the income-tax structure should be progressive. But there are areas where a uniform tax rate is appropriate. This is the case with the financing of the highway system. Rich and poor, businesses and individuals, use the Nations bridges and highways. All users ought to pay for their construction and maintenance, and they ought to pay in proportion to their use of the roads. H.R. 6211 attempts to do this.

The Surface Transportation Act is needed and its financing mechanism is appropriate. I support its passage and urge my colleagues to do likewise.

IMPROVING TRANSPORTATION SERVICES FOR HANDICAPPED PERSONS

Mr. CRANSTON. Mr. President, I want to reiterate my gratitude to the distinguished ranking minority member of the Banking Committee (Mr. RIEGLE) for offering on my behalf, during my necessary absence, my amendment—amendment No. 5011—to the gas-tax bill to improve transportation services for handicapped and elderly persons.

My remarks in support of the compromise on my amendment that is contained in the conference report were inserted, at the request of Senator RIEGLE, in the RECORD for December 21 at page S16028. Rather than restate them at this time, I would refer my colleagues to that portion of the RECORD.

However, I would like to add to my earlier remarks my thanks to the very able chairman of the Banking Committee (Mr. GARN) and committee staff assisting him, Phil Sampson and David Gogol, and to the distinguished chairman of the House Committee on Public Works and Transportation (Mr. HOWARD), and staff assisting him, Dick Sullivan and Clyde Woodle, for their excellent cooperation and very effective work on this provision.

I very much hope that the enactment of the conference report will result in the making of badly needed improvements in transportation services for our Nation's handicapped and elderly citizens. Thus, I am very grateful to both the House and Senate conferees for their fine work in resolving this issue.

Mr. THURMOND. Mr. President, after much very careful deliberation, I have decided to support the conference report on H.R. 6211, the Surface Transportation Act of 1982.

Mr. President, this measure is not perfect by any means. I believe, however, that we must take action now to begin rebuilding the surface transportation infrastructure of our Nation. Clearly, our Nation's roads and bridges are sorely in need of repair, and the prospects are for a worsening of this situation unless we promptly commit a larger share of our Nation's resources to the improvement of our surface transportation system. Through passage of this bill, we are demonstrating the willingness to make that commitment.

Moreover, Mr. President, at a time when so many Americans are out of work, this legislation offers the hope of new jobs—possibly as many as 320,000 new employment opportunities. This is not primarily a jobs bill, but it certainly should help to relieve the staggering high rate of unemployment and bankruptcy in the heavy construction industry.

Mr. President, while I have concluded that on balance this bill should pass, I remain deeply concerned about the potential impact of this legislation on several key industries. Specifically, I do not wish to see an undue burden placed on the trucking industry, which renders such great service and is so vital to our national economy. The sharp increase in the heavy vehicle highway use tax proposed by this bill could be too much to bear for many independent truckers and transport firms, unless we have a strong economic recovery. I am confident, however, that the economy is beginning to revive. With the phase in of the increased road-use tax provided in the conference report, and with the aid of a vibrant, growing economy, I am hopeful that the trucking industry will be able to absorb higher taxes.

Additionally, I am concerned about the new manufacturers' excise tax on tires contained in this legislation. Under the conference report, tire weight less than 40 pounds would carry no tax, tire weight between 40 and 70 pounds would carry a tax of 15 cents a pound, tire weight between 70 and 90 pounds would carry a tax of 30 cents a pound, and tire weight over 90 pounds would be taxed at the rate of 50 cents a pound.

Mr. President, this formula appears to impose a higher tax burden on steel-belted radial tires than on conventional bias-ply tires of the same size and load rating, despite the fact that the steel-belted radial tire is less damaging to the highway, more fuel efficient and a more technologically advanced product. If this new excise tax structure has the effect of creating a competitive disadvantage for manufacturers of radial tires, as these manufacturers fear, that would be most unfortunate. Clearly, it would not be in the national interest to discourage the purchase and use of a product—the steel-belted radial tire—which is inherently superior and more in keeping with our established goals of energy conservation, safety, and others.

Mr. President, I have discussed both the concerns of the trucking industry and those of the tire manufacturers with key administration officials in the Department of Transportation and the Treasury Department. I have

secured commitments from the administration, the Secretary of Transportation, and the Senate majority leader that they would cooperate in rectifying any undue burden imposed under this bill or any unreasonable tax contained in it. Certainly, for my part, I shall remain sensitive to the effects of this legislation on trucking firms operating on our highways and on radial tire manufacturers.

Mr. GRASSLEY. Mr. President, I rise to discuss the tax provisions of the Surface Transportation Act of 1982.

The conferees labored today to resolve the differences between the two bills, which were great in many instances. A primary area of controversy was the user fee imposed on the heaviest trucks. The administration proposed a $2,700 fee, the Senate adopted a $1,200 fee, and the Conference Committee settled upon a steeply escalating fee structure. In my opinion, this rapidly escalating fee schedule is too harsh. I would encourage Senator DOLE and other members of the Committee on Finance to reexamine the dramatic increases before it becomes effective on July 1, 1984, when the fee jumps from $240 to $1,600. As the elected representative of many individuals who are concerned with the efficiency of our national transportation system, I feel it is imperative we review this issue to be sure the industry can afford to pay the increased fees when they become effective.

Another disagreement I have with the work product of the conferees is their elimination of the 9-cent exemption for gasohol. The conference agreement contains a 5-cent exemption from the Federal excise tax for this important alternative fuel. Gasohol is currently 40 percent of the fuel consumed in my home State of Iowa. It is a clean, efficient fuel which is manufactured in the United States. For national security and conservation reasons, I strongly believe it is in the Nation's best interest to retain the full Federal excise tax exemption for this important fuel.

The conferees did make some headway in removing many of the smaller excise taxes which create paperwork problems for businessmen and the Federal Government. The conferees removed the tax on tread rubber and truck parts.

Additionally, the conferees retained an amendment which I authored which delayed the effective date of the user-fee provisions for 1 year for independent owner operators. Under Senator DOLE's able leadership, the class of independent owner operators eligible for the exemption was expanded from those truckers who own three tractors—power units—to those truckers who own five or fewer power units. This is an important modification for many of my constituents, which I approve.

No compromise is perfect. Working under tremendous time pressure, the Senate conferees endeavored to reach an agreement which would be acceptable to this body. There are many parts of this agreement, such as the increased user-fee structure and the elimination of the gasohol exemption, which I do not endorse. Nevertheless, the public works aspects of this legislation have some very tangible benefits for my State.

As I stated earlier, 68 percent of the pavement on Iowa's main road system is deficient. This represents nearly 18,000 miles of Iowa's road system which carries over 87 percent of our State's total traffic volume.

Well over 13,000 bridges in Iowa have been identified as deficient. These bridges fall into two categories—structurally deficient or functionally obsolete. Four hundred of these bridges need immediate repair.

Based upon present needs alone, it would take an average of $625.6 million annually to meet the growing backlog of road and bridge renewal needs. Notwithstanding this enromous need, it is estimated that Iowa will have only $342 million for road and bridge revitalization. Clearly, major action must be taken quickly to assure that our roads do not fall into disrepair.

Under the present level of Federal support, Iowa receives $94.7 million. With the passage of the conference report to H.R. 6211, Iowa will receive $143.5 million for fiscal year 1983. For fiscal year 1984, we will receive $152.5 million, plus another $63.4 million for interstate highway transfer projects. During the next year, $166 million, plus $63.4 million will be directed to Iowa's highway's and bridges. In fiscal year 1987, $177.5 million plus $63.4 million will be available.

Even with the increased gas and user taxes, our needs will not be completely met. But any additional road funds will help in order to keep our roads safe and well maintained.

Since there is no question that more money is needed, the real issues becomes how much should each user pay. An extensive Department of Transportation study, supported by the Congressional Budget Office, the American Association of State Highway and Transportation Officials, engineer and design professionals, and actual practitioners found great inequities in the sharing of highway costs associated with damage caused by various vehicles. This study found that by 1985, the current system of user fees will require automobiles to shoulder 100 percent of their cost responsibilities, 110 percent from pickup trucks and vans, 200 percent from single unit trucks, and 125 percent from single and double-trailer trucks of less than 70,000 pounds. Trucks over 70,000 pounds, however, will only pay 65 percent of their cost responsibility. Consequently, the DOT recommended changes in the excise tax system to shift the burden from other drivers to that of the heavy trucks in order to strike a more equitable balance.

The focus of our debate has seemed to center around the cost to heavy trucks, and this cost burden has been a great concern of mine. But in view of the fact that my State of Iowa has a wide range of trucks, I was interested in a breakdown of the distribution of trucks registered in Iowa. The Iowa Department of Transportation provided me with the following analysis. Six percent of trucks registered in Iowa are heavy trucks based in Iowa and would be required to pay the maximum fee under this new legislation. Another 8.5 percent are registered over 55,000 pounds; 33.5 percent are registered under 55,000 pounds, and 32 percent are registered over 26,000 pounds. The remaining 21 percent of trucks registered in Iowa fall under the international registration plan. These statistics indicate most trucks in Iowa will pay only a portion of the new fee increases.

Another very important point about this new legislation is that it contains significant benefits for truckers in terms of increased productivity. By 1985, truckers will enjoy nearly $5 billion annually in increased productivity from the changes in weight, length, and width limitations. By eliminating the barrier States of Missouri, Illinois, and Arkansas, truckers will gain $830 million yearly. By allowing doubles to travel in the East, $1.8 billion will be gained. $1.27 billion will be gained by allowing increased trailer lengths and $540 million in increased productivity will result from wider allowances.

These gains are very important. A great number of Iowa truckers now have to avoid the barrier States by driving hundreds of miles out of their way or they must haul loads far below their potential payload. These barrier States represent more than an inconvenience; they represent heavy profit losses. For the unfortunate truck operator caught overweight in these States, it means expensive fines. Just the other day, a trucker called my office to express his deep concerns about the increased costs of the proposed fees. Once the benefits were described, however, he felt very good about the bill. He had just been fined over $800 for an overweight load while traveling through Illinois. The elimination of these costly fines with the permission now to haul full loads provided this trucker with benefits far outweighing the cost of the additional fees. He stated that if more truckers were aware of these benefits, there would be much more support for the bill.

The lack of information about the benefits and actual costs of this new package, unfortunately, has caused a great deal of concern among the trucking industry. One must conclude that once the whole story is told, the merits of this legislation will become far clearer for all highway users.

For these reasons, I have decided to support this final package. As I stated, I would have preferred the Senate version, but this compromise package still holds considerable benefits for all highway users in our Nation.

Mr. MATTINGLY. Mr. President, I rise today in opposition to H.R. 6211, legislation to increase the Federal tax on gasoline by 5 cents a gallon, and to substantially increase user fees on a variety of products vital to the highway transportation industry.

In deciding to cast my vote against H.R. 6211, I sought answers to four questions—questions which I believe speak to the heart of the issue before the Congress here today.

One, is another tax increase on the American people necessary, and if so, when is the appropriate time to raise taxes?

Mr. President, I am not sure there is ever an appropriate time to raise taxes short of war or some other overwhelming national need. But I am sure that the appropriate time to raise taxes on the American people is not now. It is not right nor justifiable on economic grounds to raise taxes in the middle of a recession. When the overwhelming national need at the moment is economic recovery and growth, it makes no sense whatsoever to impede that growth with yet another tax increase. Especially a tax increase that falls the hardest in working people and small businesses, the very sector we should be encouraging.

There is another aspect to this issue of timing. For the first time in many years, gasoline prices at the pump have actually gone down. The result has been lower production costs for related businesses, lower costs of living for working people, and a lower rate of inflation. In the midst of this positive economic development, does it not make sense to reverse course and head in the wrong direction? I think not. So the answer to the first question is negative.

Two, will this legislation, this tax increase, create jobs? At best, Mr. President, the job-creating effect of this bill will be a wash. In other words, as many jobs will be lost in those industries directly affected by these tax increases as will be created by the Federal Government transferring the new revenue into other jobs. At worst, there will be a substantial job loss and a further blow to economic recovery. So the answer to the second question is negative.

Three, are added provisions of this tax increase bill, such as expanding Davis-Bacon provisions, justified by the overall intended effect of the legislation, which is to repair and rebuild the Nation's highways and bridges while at the same time putting people to work?

Again, Mr. President, the answer is negative. The expanded Davis-Bacon provisions alone will add unwarranted costs of from $300 to $400 million to the price of repairing the Nation's roads and bridges, while resulting in the loss of 40,000 jobs, according to the Congressional Budget Office. The expanded Davis-Bacon provisions alone are enough to warrant opposition to the bill.

Four, if a highway bill is that important, if the repair of our Nation's roads and bridges is so urgent that it cannot wait even 6 months, or until economy is headed out of recession and toward recovery, why then cannot $5 billion be found in some other area of the Federal budget to transfer into a highway program?

Mr. President, the answer to this last question is positive. The money can be found in this bloated Federal budget. The money can be transferred from some other less urgent program into a highway program. The Amerian people would support such a move.

So why a tax increase in the middle of a recession? This bill does not make good economic sense. It does not make good political sense. It does not make good commonsense. It is the wrong move, at the wrong time, for the wrong reasons. Therefore, Mr. President, I will vote against H.R. 6211.

Mr. JEPSEN. Mr. President, the measure before us gives me mixed feelings.

I fully realize the serious problems we face as a nation with our highway system.

There is a need to complete certain parts of the system—the Interstate—and there is a need to repair a large part of that system. And I recognize that this falls within the realm of the Federal Government to complete these necessary and vital tasks. However, I am concerned with the way we are going about raising the revenue to do the job.

The question we must ask ourselves is: Is what we are doing and the method we are using to do it the right way?

Truckers, motorists, State departments of transportation, Government officials, environmentalists, and average citizens—all have expressed serious concerns both for and against this measure. Some of the questions are easily answered. Others can only be guessed at.

From the material presented, I know how much tax will be paid by an 80,000-pound truck. But we have no idea how many truckers will go out of business because of what we are about to do here today.

Will this legislation create jobs? We do not know, and we all have our doubts.

It must be remembered that this legislation contains more than highway funds.

On the surface, if you look at the highway trust fund figures, Iowa does well. The amount of highway trust fund moneys coming into my State under the Conference formula—while not as good as those that would have been provided under the Senate formula—are apparently satisfactory for our current needs.

In the so-called outyears, we will once again be looking for a new authorization. It is hard to overlook this financial benefit for Iowa. Especially when one considers that there are 25,000 bridges in the State. Of those, 14,000 have some type of deficiency, and 400 are in immediate repair. They are now embargoed or soon will be. A total of 600 bridges will need some type of repair work in the next 5 years. And of the 4,500 bridges on the primary road system, 1,100 are more than 50 years old and are designed for 15-ton trucks, not 40-ton trucks.

It is hard to overlook the fact that Iowa has more than 3,000 miles of pavement which is over 50 years old. And one must keep in mind that design life expectancy is only 20 years. Also, there is 3,600 miles of substandard narrow road in a State road system which is 8,800 miles long. This road is narrower than 24 feet and in some places, as narrow as 13 feet.

One also should remember that there are two major bridges which must be replaced across the Mississippi River at Keokuk and Burlington. There is a new bridge under discussion in Davenport, and bridges must be replaced over the Missouri River on Highways 2 and 30.

This scenario can be repeated across the Nation, and underlines the need for this legislation.

Mrs. HAWKINS. Mr. President, I must vote against the "Surface Transportation Act of 1982" for several reasons. First, last year, the Florida State legislature overwhelmingly rejected a 5-cent increase in the gas tax. The people of Florida clearly reject the notion of an increase in the gas tax. Second, this gas tax is a regressive tax which hits the working people the hardest. Regardless of income, everyone must pay the same amount. Five cents a gallon might not sound like much, but this means $1 more every time you fill a 20-gallon tank. For the average driver, this means about $40 to $50 more a year.

Third, raising taxes during a recession is counterproductive. Increasing Federal revenues by $5.5 billion means that much less spending power in the hands of consumers. We should focus on strengthening our economy. If we

stimulate the economy, we will have the money to spend on capital improvements without a new tax. A 1-percent drop in unemployment improves the Government's revenues by $17.2 billion.

Fourth, increasing the Federal gas tax to repair roads and bridges is not a job for the Federal Government. President Reagan's New Federalism would dictate that if States want to repair their roads, they should raise their own gas taxes. Revenues raised at the State level would buy more since Federal contracts generally cost more than State contracts because Federal contractors must comply with Federal rules and regulations, Davis-Bacon for one.

The revenues from this tax increase would not be used to repair or improve city, county, or State roads. Instead, the revenues will be used to improve the Federal interstate highways. The average highway mileage on the noninterstate part of the highways greatly surpasses the mileage on the interstate roads. This Federal program will simply redistribute income—some States will be winners and others will be substantial losers. Instead of contributing $1 to a Federal program and getting back 85 cents, does it not make more sense to have a State program and get back exactly what you put in?

Finally, Mr. President, this bill has been rushed through Congress too rapidly. The conference committee concluded their work Wednesday, December 22, and produced a partially handwritten document nearly 2 inches thick. The next morning, the Senate was expected to vote on this legislation. This timeframe did not permit a thoughtful analysis on this bill. For these reasons, Mr. President, I cannot support the "Surface Transportation Act of 1982."

Mr. BRADLEY. Mr. President, two days ago the full Senate considered the Surface Transportation Act of 1982. As I said at the time, I wanted to deliver a message to the conferees that the Senate bill did not deliver enough Federal dollars to New Jersey.

I wanted to make clear that anything short of a fair deal for New Jersey would be unacceptable to this Senator. I am pleased to say that the message got through and with the help of Congressman JIM HOWARD of New Jersey the measure before us is a substantial improvement over the original Senate version. The bill before us boosts New Jersey's overall Federal aid for mass transit, highways, bridges, and roads by $106 million, a 34 percent increase over what we now receive under current law and $50 million more than the Senate bill I rejected 2 days ago.

First, the 4-R program which provides funds for the reconstruction, resurfacing, restoration, and rehabilitation of our interstate highways is kept as in current law, rejecting a Senate proposal to change the program. The Senate proposal would have changed current law by distributing funds to a greater extent on how many vehicles actually travel on the highways. Since vehicle traffic is, of course, responsible for most highway deterioration, it would have made no sense to change current law so as to provide less repair funds for States such as New Jersey with heavy vehicle traffic. The change by the House-Senate conferees means that New Jersey will get over $7.5 million each year for interstate repair which we would not have received under the Senate version.

The conferees also wisely rejected the proposal in the Senate bill which would have changed the bridge repair formula. The Senate bill would have ignored the different costs incurred by States in bridge repair and replacement, but the bridge program approved by the conferees is sensitive to the different costs and needs in different States and allocates the funds accordingly. This provision will mean an extra $10 million per year which New Jersey would not have received under the Senate version of the bill.

In the mass transit portion, the conference report clearly rejects the attempts of this administration to wipe out operating subsidies for New Jersey's hardpressed mass transit systems. While I am distressed that there is any reduction in mass transit, we have protected 80 percent of our mass transit operating aid for the next 3 years.

For the first time, mass transit operating subsidies have become a form of entitlement. No matter what pressures the White House brings to cut operating subsidies, States are assured that 80 percent of 1982 operating subsidies will come off the top of any transportation assistance. Thus mass transit will remain available to families of moderate means and States will be able to know what they will get from the Federal Government and to allocate their resources accordingly.

The conferees also fortunately rejected a Senate amendment which would have limited the authority of the Secretary of Transportation to provide mass transportation aid for capital investments. By rejecting this amendment, it is estimated that New Jersey will receive about $15 million more per year in mass transit investment aid than it would have otherwise received. In addition, for the first time the discretionary fund of the Secretary will be allocated by a formula that takes population into consideration and therefore means more for New Jersey.

It is true this legislation could have been better if we had adopted my amendment to exempt, from the tax, working families earning under $10,000; or if we had adopted the Democratic alternative which had a more generous jobs component and replaced the excise taxes with a revenue-raising plan to defer the July tax cut for incomes over $65,000.

Notwithstanding these reservations, I believe that on balance the bill before us is responsive to New Jersey's interests. It offers the prospect of substantial Federal funding to ease the burden of unemployment in my State and to improve the backbone of our economy, our transportation system.

The additional $106 million for New Jersey over current law—which is $50 million more for New Jersey than in the Senate-passed bill and which brings New Jersey's total Federal transportation assistance to $477 million—is expected to cost the State an additional $14 million that currently is not budgeted. But the work can be accomplished under this legislation is work that must be done for the health of our State's economy. Therefore I am hopeful that despite New Jersey's current budget crisis, the State government will see its way clear to take advantage of this important opportunity to repair our roads and bridges, to refurbish our mass transit system, and to put thousands of New Jerseyites back to work.

Mr. DIXON. Mr. President, I am pleased to see a final version of the Surface Transportation Act of 1982 finally before the Senate. There were times during the tortured legislative process this bill has been through that I thought it would never make it this far.

The bill has made it this far because it is good legislation, good for the country and good for Illinois. It is not without flaws. I do not support all of its provisions. However, it is vitally important legislation. We have, for too long, let our basic transportation systems deteriorate. This legislation is an essential step in the process of reconstructing our highways and mass transit systems. Without it, roads would continue to crumble and transit systems continue to run down.

The legislation will provide more than $27 billion in new money, financed by a 5-cent increase in Federal motor fuel taxes, for expansion of Federal highway and transit programs. Increased Federal revenues for highway and transit programs will mean greatly increased Federal support for transportation projects in Illinois.

Illinois will benefit from increases in overall funding and changes in apportionment formulas that work to provide more funds to areas with the greatest need. There are a number of provisions of particular importance to Illinois.

First, the bill caps the interstate transfer program construction cost adjustment mechanism based on costs of

construction as of June 30, 1980, rather than the September 30, 1983, date contained in the bill when it was first taken up by the Senate. The current severe recession has artificially reduced construction costs. I was pleased to offer the amendment changing the date to one that more accurately reflects true long-term construction costs. I am glad to see that my amendment is included in the final version of the bill before us today.

The bill also includes my amendment to clarify the interstate transfer program. It insures that project approval deadlines are not interpreted in a way that will unduly restrict States in making use of interstate transfer funds over the next 6 years or more.

Further, the bill makes two Illinois bridges—a bridge section of the Dan Ryan Expressway in Chicago, and the Clark Bridge over the Mississippi River at Alton, Ill.—priority candidates for funding under the discretionary bridge program. The Dan Ryan Bridge currently carries over 225,000 vehicles per day. It is in desperate need of upgrading, and the bill will provide the $60 to $70 million required. The Clark Bridge was built in 1928, is functionally obsolete, and the bill will provide the $80 million needed for its replacement.

The bill also makes the new bridge across the Illinois River at LaSalle-Peru eligible for discretionary bridge program funding. This amendment was offered in the Senate by my distinguished senior colleague from Illinois, Senator PERCY, and myself. The project is an essential part of the reconstruction of U.S. 51, one of Illinois' highest transportation priorities.

The bill, although it phases out the priority primary program, one of the chief funding sources for U.S. 51, demonstrates an awareness of the importance of the project by including a demonstration program that would provide additional funds for it. U.S. 51 is one of the key transportation arteries in Illinois, and greatly needs upgrading and expansion, so the funds the bill will provide is particularly useful.

The transit title of the bill also contains a provision of particular interest to Illinois, although, as I stated earlier, the general restructuring and expansion of the transit program will greatly benefit urban areas, both large and small, around the State.

The bill includes a provision I authored that will assist the regional transportation authority in the Chicago metropolitan area to purchase the commuter rail lines operated by the bankrupt Rock Island and Milwaukee Road Railroads. It directs the Secretary of Transportation to give priority to applications for discretionary capital funds needed to purchase such lines. This section will help insure that commuter rail service on the two bankrupt lines will continue without interruption, insuring that tens of thousands of area commuters will be able to continue to reach their jobs.

Mr. President, I have attempted to highlight some provisions in the transportation package of particular interest to my State. I want to thank the managers of the Senate and House versions of the bill for their consideration of Illinois' transportation needs. I also want to thank my senior colleague from Illinois, Senator PERCY, for his hard work and diligence. He and I have worked very closely together in seeing that issues of concern to Illinois in the transportation area are dealt with. Finally, I want to thank my colleagues, the Members of the Illinois delegation in the House of Representatives. Without their great efforts, the bill would not address Illinois' needs as well as it does.

Mr. HEINZ. Mr. President, the automobile has been important to our Nation's development, but like many other technological advances, this tool can be dangerous—fatally dangerous—when misused. Over 50,000 Americans die each year on this Nation's highways. Many of these deaths are due to driver error, yet we do not have adequate driver education programs. The National Highway Traffic Safety Administration has done much to improve the safety of vehicles, but little to improve the safety consciousness of those who drive them.

Mr. Fraydun Manocherian, who operates the New York Health and Racquet Club in New York City, is one citizen who has tried for many years to do something about this problem. Last Monday, for example, he placed a full page advertisement in the New York Times asking that 2 percent of the money that we intend to raise under this bill—one-tenth of 1 cent per gallon of gas—be set aside for such safety education as dramatizing the importance of good driver judgment, teaching safe driving techniques, making certain that all drivers are aware of traffic safety laws, making the public aware of the major causes of accidents, and demonstrating the horrible results of accidents that each week kill over 1,000 persons and maim or injure another 7,000.

I regret that the tightness of our current budget and the speed with which this legislation has had to be considered have made it impossible to enact Mr. Manocherian's proposal this year. I think that it is a good idea and one that should receive full consideration by the Environment and Public Works Committee in the new Congress. I commend Mr. Manocherian for his public spirit and encourage him to continue his efforts.

Mr. President, I ask unanimous consent that the text of Mr. Manocherian's proposal appear at this point in the RECORD:

There being no objection, the proposal was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 6, 1982]

TO ALL LEGISLATORS: THIS 9-YEAR-OLD IS JUST ONE OF 55,000 STATISTICS

(By Fraydun Manocherian)

If we knew that an epidemic in 1983 would cause the death of 55,000 Americans, would we do all we can to prevent it? An unexpected auto accident can make a very healthy person quite unhealthy in one second. Aside from killing 55,000 Americans per year, auto accidents disable more of us than any other cause. Auto accidents also cause more facial and body disfigurements than any other cause. This problem can be alleviated. The answer lies in your action now.

Substantial efforts have been made toward the development of safer cars and roads. But, to reap the full benefits of these programs, we must have a national effort to develop better drivers—the kind of drivers who prevent accidents.

Most automobile safety experts agree that 90 percent of accidents are ultimately caused by the driver.

It seems most likely an additional five cents tax will be imposed on gasoline. We respectfully suggest that one tenth of one cent per gallon of this tax so collected be used toward safety on our highways that are built, and are to be built. This one mill per gallon would raise over $100,000,000 annually. It would be an average cost of approximately one dollar per car per year.

A former Secretary of Transportation, John Volpe and his Auto Safety Administrator, Douglas Toms, estimated that a 15% reduction in accidents would save us 6 billion dollars annually. Even if this 100 million dollar national effort were to be 1% effective it would save us $400,000,000 and increase our chances of reaching our destination safely.

The proposed funds can be used by the National Traffic Safety Administration to achieve the following:

1. Dramatize the importance of good judgement on the part of the driver.

2. Teach safe driving techniques, laws and regulations.

3. Make the public aware of the major causes of accidents.

4. Demonstrate the horrible results of accidents that kill over 1,000 persons a week and maim or injure over 70,000.

5. Correlate all related research findings and convey such facts to drivers.

6. To take any and all other steps necessary to reduce this continuing carnage.

This is an opportunity for the government of the people, for the people to act to reduce the number one killer of our citizens up to the age of 44, and the number one disabler of all ages in America. Please consider having this suggestion incorporated as an Amendment to the five cent tax legislation. And—please don't disregard this idea—you may someday regret you did not do all you could.

Mr. METZENBAUM. Mr. President, I am going to vote against this legislation.

I have no higher legislative priority than helping to find jobs for the more than 11 million Americans, many of them Ohioans, who are out of work. I have spent countless hours in recent months working to ease the suffering

of the unemployed. So I yield to no one in my desire to create jobs.

But the fact is, this is not a jobs bill. It is a tax bill, masquerading as a jobs bill. It is not only a tax bill, it is a bad tax bill. The gasoline tax is unquestionably a regressive tax which falls most heavily on those least able to pay it. This administration and this Congress have already done enough to add to the tax burden of these people. Just a few months ago, we passed a bill doubling the cigarette tax and reducing the medical deduction. And 1 year ago we passed a tax bill whose benefits flowed mainly to the wealthy.

The tax might be defensible if it would, in fact, create hundreds of thousands of jobs. But that clearly will not be the result. Indeed, there is persuasive evidence that the tax will actually lead to a net reduction in employment. According to Martin Feldstein, Chairman of the Council of Economic Advisers, the tax may actually increase unemployment during the first year or two.

I believe Mr. Feldstein is correct.

I also believe that my State of Ohio will be among the biggest losers if this program is enacted.

In 1984, the first full year that the new tax would be collected, Ohioans would pay $510 million into the highway trust fund. Under the 85-percent guarantee contained in the bill, Ohio would receive $433 million in return, yielding a net loss under the highway portion of the bill of $76.5 million. I might point out that Ohio receives back 89 cents on each dollar donated to the fund. That is hardly ideal, but it is certainly better than provided under this legislation. I see no reason why my State should receive a smaller share of the trust fund revenues than it currently gets.

Ohioans would contribute $51 million to the transit trust fund and could expect to receive $80 million in return, a net gain of $29 million.

In sum, the State would lose $47.5 million if this program is enacted. How on Earth can I go back to the people of my State and explain to them that I not only voted to raise their taxes, but to make sure that they would not receive their fair share of those taxes?

What we have is a bill under which Ohioans would subsidize the creation of jobs in other States, chiefly in the Sun Belt, many of which have far lower unemployment rates than Ohio does. I invite the sponsors of the bill to explain that to unemployed steelworkers and other jobless Ohioans.

It would make far more sense for Ohio to simply impose its own 5-cents-a-gallon gas tax, knowing that all the revenue raised would benefit the citizens of our State.

In the final analysis, this legislation imposes a new, regressive tax, it will not return a fair share of that tax to Ohio and, indeed, will very likely lead to a net loss of jobs in the State while accelerating the flow of Federal aid—and jobs—to the less needy States in the Sun Belt.

To vote for this and then tell Ohioans that I voted for jobs would be a cruel sham. This legislation ought to be killed. Let us stop wasting our time with gimmicky programs that insult the jobless and let us get on with serious efforts to reduce unemployment.

Mr. DOMENICI. Mr. President, the conference agreement adopted an equitable approach toward the allocation of Federal aid primary funds that balances the needs of both rural and urban States.

The Senate bill allocated primary funds based on the historic formula of postal route-miles, State area and population. The House bill abandoned the traditional formula and proposed a formula based entirely on population that was biased toward urbanized States.

The conferees were able to agree on an approach to the primary formula distribution which is based on general revenue sharing. I proposed this approach to the conferees after seeing that we were confronted with a problem similiar to one that occurred when general revenue sharing legislation was considered years ago. In order to resolve the differences between two formulas based on totally different criteria, the conference agreement adopted the following approach:

The higher amount that each State would have received under either the House or Senate bill is first calculated. The total of these higher amounts will inevitably exceed the desired authorization level by a certain percentage.

The total of the higher amounts is then reduced by that percentage in order to insure that each State's allocation is adjusted by the same amount.

Finally, each State is guaranteed a minimum of one-half of 1 percent of all primary funds, and no State will receive an amount lower than it would have received under either the House or Senate bills.

I am satisfied that the primary funds distribution coupled with the mass transit funds guaranteed from 1 cent per gallon of the gasoline tax represent a balanced approach to this legislation. I can assure my colleagues that rural and urban interests are fairly and equitably represented.

WHAT IS WRONG WITH THE GAS TAX

Mr. PROXMIRE. Mr. President, what is wrong with the gas tax? Plenty. Before we engage in any spending program or raise any tax should not the Senate have the case made clearly and in detail?

Has it been made in this case? Emphatically no. Oh sure, people have complained about a street or a bridge in bad shape. And all of us who drive can cite instances where roads need repair and in some cases need that repair badly. But the Congress has had no thorough, systematic documentation of precisely why we we need to add to the $8 billion already in the Federal highway trust fund. No one has shown just where and how and why roads have deteriorated to a point where we must more than double the highway tax to meet the problem.

Do we need to spend more than the $8 billion now in the trust fund on our highways in a rush job right now? Maybe we do. But before we saddle that kind of mammoth additional burden on the American people why should we not know for sure that it is necessary.

Second, will this gas tax and this Federal spending program really help the roads and streets and bridges that need help the most? Answer: almost certainly not. This gas tax will not go primarily to improve city streets, or county highways or city or county bridges. That is the job that local gas taxes have to pay for. And what effect will a 5-cent increase in the Federal tax have on the ability of State and local governments to impose their gas taxes? You know the answer to that. It will make it more difficult in many cases much more difficult. So this tax not only has no basis in full, adequate hearings of the kind that any legislative body should absolutely require before it imposes such a burden. We run the real danger of making the condition of our streets and local highways worse—not better, worse—by imposing this tax because it will discourage local and State governments from imposing the tax they must pass to do the job on the local, county, and State highways where the job is needed far more urgently.

Third, to put the icing on the cake: When will this hurry up, rush tax take effect? This tax will not even go into effect until next April. Next April. So what is the hurry? The Congress comes back into session next month, in January. That would give us ample time to make this decision—with much more complete information—without the pressure of this hell-week of a "lameduck" session and the proximity of Christmas 2 short days away.

Mr. President, I do not think that most Senators realized that this big rush job would impose a tax that will not take effect until April, more than 2 months after we reconvene.

And fourth, this conference report makes the sad mistake of seriously worsening safety on our highways. It permits trucking firms to widen and lengthen truck size, making passing that much more dangerous on our highways. This may only marginally increase the danger on the Interstate highways, but there is a far more dangerous fall out here. This bill makes it far more likely that trucks built to

comply with the new national standard contained in this bill will also drive on State and county highways—not built for this increased size—and the result is certain to be an increase in accidents and undoubtedly more fatalities—no way we can avoid that and any thoughtful observer would have to concede that. Certainly this change made by the conferees deserves a chance for the Senate to examine it more carefully in February and March, particularly since this legislation does not take effect until April of next year.

Fifth, what is the prime reason why this has caught the fancy of Members of the Congress, in spite of the fact that it would increase gasoline taxes? Remember, it failed overwhelmingly before. Why does it have this kind of steam now? Answer: Easy, we now have the worst unemployment in 40 years, and this is supposed to be a jobs bill. Some deny that they think of this bill as such, but there is no way we could expect to increase—in fact double—the Federal tax without that broad national impression that this will increase the number of jobs. The fact is that virtually no one in the economics profession will tell you that this will create any new jobs, net. I repeat—net. Even the administration's own economists concede that for every new highway job this bill would provide, the $5 billion extracted from the public to pay for it will reduce public demand for other products and reduce jobs in other areas. This bill should not pass.

FEDERAL LANDS HIGHWAY PROGRAM

Mr. HUDDLESTON. Mr. Chairman, I want to commend the committee for recognizing the Federal responsibility by providing in the Surface Transportation Assistance Act of 1982 for a Federal lands highway program with authorizations for those roads on or serving Federal lands. The new Federal lands highway program, with its multiyear funding, will provide an essential long-range program to begin addressing the real needs of these neglected Federal facilities. I understand a portion of the park highway and parkway authorizations will be used for repair, restoration, and reconstruction of existing roads, and a portion will be used for new construction.

There are four major Federal parkways and park highways which Congress has previously approved and on which work has been started. These are the Foothills Parkway, the Cumberland Gap Highway relocation, the Blue Ridge Parkway, and the Natchez Trace Parkway. It is my understanding that it is the intent that, with the new authorizations provided in the parkway and park highway program, that priorities be established with respect to these four parkway and highway projects, such that they will be quickly undertaken and completed prior to the initiation of other new projects which may be eligible for funding under this important program.

Mr. STAFFORD. That is correct. It is the intent that the authorizations will provide for the early completion of these uncompleted facilities.

Mr. BAKER. I also commend the committee for its work on this program. While it is not necessarily sufficient to take care of all the needs, it does acknowledge the Federal responsibility and will help protect the initial investments to bring the current Federal highways to safe and maintainable standards and allow for the completion of these urgently needed facilities.

TEMPORARY MATCHING FUND WAIVER

Mr. HAYAKAWA. Mr. President, I would like to engage the floor manager in a colloquy regarding the section relating to the temporary matching fund waiver.

Mr. STAFFORD. This is the provision permitting the States to defer payment of their share of the costs of Federal highway projects until September 30, 1984. To qualify, the Governor must certify his State is unable to match the additional funds available through passage of the 5-cent gas tax increase.

Mr. HAYAKAWA. Is it the intent of Congress that States with balances in their highway accounts which are encumbered or committed to an existing program be judged to have insufficient match and therefore eligible for the temporary matching fund waiver?

Mr. STAFFORD. Yes, that is correct. States with highway account balances already encumbered or committed would be eligible for a temporary waiver of their matching funds under this provision.

Mr. HAYAKAWA. Thank you very much for this clarification.

RESURFACING STANDARDS

Mr. RANDOLPH. Mr. President, the compromise agreement between the House and the Senate provides that in the rehabilitation, repair or resurfacing of non-Interstate highways that the project should preserve and extend the life of the highway while enhancing highway safety. It is the view of the Senate conference that the phrase "enhancing highway safety" does not necessarily require as a part of project approval full design standards for this rehabilitation work.

While the goal is to enhance highway safety, we must do so in a manner that will maximize the number of miles which can be resurfaced and repaired, while improving highway safety. Full design standards, the committee believes, could be too onerous a burden to place on such 3-R work. The Senate conferees fully supports the enhancement of highway safety but believes that 3-R work can be done with safety enhancement without the necessity of full design standards.

Mr. STAFFORD. I concur with the views expressed by the ranking member of the Environment and Public Works Committee Senator RANDOLPH.

FOREST HIGHWAYS

Mr. RANDOLPH. Mr. President, the provision on limitation of obligations would require the Secretary of Transportation to distribute the obligation limitations among the States with the exception of administrative expenses and forest highways. Is it my understanding that the term "forest highways" as used in the section would mean all programs under the Federal lands highways program.

Mr. STAFFORD. That is correct.

VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM

Mr. RANDOLPH. With regard to enforcement and the effective date of this section relating to vehicle weight limitations on the Interstate System, it is my understanding that a State's interstate apportionment will be withheld from any State not found to be in compliance with this section within an administratively determined period. This period should be established to give States time to bring their laws into compliance.

Mr. STAFFORD. Yes; that is correct.

Mr. DANFORTH. Mr. President, I would like to ask the distinguished Senator to clarify one provision of the bill dealing with the trailer lengths on combination vehicles. Do I understand correctly, Senator, that the reason for regulating truck lengths on the basis of trailer rather than overall vehicle length is driver safety?

Mr. PACKWOOD. The Senator is correct. During our deliberations on truck length earlier this year, it became apparent to the committee that some State overall-length restrictions would either prevent the use of longer, more efficient trailers or force truckers to use shorter tractors providing less cab space.

Mr. DANFORTH. Thank you, Senator. I agree completely that safety is the most important consideration in looking at truck size. Nevertheless, I am concerned that the bill as presently written could be interpreted as completely repealing State laws regulating overall length. Would not this mean, Senator, that until the States enact new trailer-length laws, any size combination truck could operate on the highways?

Mr. PACKWOOD. No, Senator, that is not our intent. The wording of the bill is meant to prohibit the enforcement of overall-length limits only to the extent that such laws preclude the operation of 48-foot trailers in tractor/semitrailer combinations and 28-foot trailers in tractor/double trailer com-

binations. In other words, in States which just regulate overall truck length—and that is most States—their law would continue to apply to prohibit single trailers over 48 feet or combinations over 28 feet until they choose to enact new laws.

Mr. BENTSEN. Mr. President, I intend to support the conference report on the Surface Transportation Assistance Act of 1982. I say that, Mr. President, recognizing that it is not a perfect document. No report ever is. No bill ever is. But, on balance, I believe that this bill merits my support. It addresses problems that have long needed to be dealt with. I think it is important not to characterize this legislation improperly. While it will result in increased employment in certain industries, it is not primarily a jobs bill. Rather, it is legislation to begin the process of improving our Nation's highway and mass transit systems and, in a larger sense, the process of improving our national infrastructure. There has been a crying need to develop this legislation long before we began this lameduck session. The Committee on Environment and Public Works through its Subcommittee on Transportation has heard testimony over the past decade on the need to increase funding of highway programs. We have acted to increase program levels, but because of the combined effects of substantial inflation in highway construction costs and lower revenues to the highway trust fund due to fuel-efficient vehicles, we cannot meet the needs with current levels. As we all know, Federal highway funding is supplied by the user taxes of the highway trust fund. I would not stand before the Senate and seek this increase in highway spending without increasing the taxes to the highway trust fund. It would be fiscally irresponsible to do so.

Mr. President, the bill we have before us takes those necessary steps. Further, it resolves a serious problem with the highway program that has existed for over 25 years by providing a guaranteed minimum allocation to each State of 85 percent of its contribution to the highway trust fund.

I recognize that many Members are troubled by the tax structure—particularly with respect to the taxes on heavy trucks. I would say to those Senators that this issue troubles me and it should certainly be addressed further. The conferees wisely delayed the imposition of this tax during the current economic problems facing the trucking industry as it is being deregulated. In addition to the study provided for in the bill, it would be appropriate for hearings to be conducted on the validity of the recently completed cost allocation and the economic implications of this legislation before the tax is imposed at its higher level. However, I do not believe that this important bill should be held back based on these uncertainties.

Let me also say that I am pleased that the conference bill provides the flexibility for new rail starts in the mass transit title. It is imperative that justifiable projects be constructed. In my State, the Houston area is developing a rail project and it deserves the opportunity to be constructed.

Finally, Mr. President, I would like to commend several people who have diligently worked to bring this legislation to this point. While all of the conferees worked hard to hammer out a fair compromise Tuesday, I want to especially acknowledge those with whom I worked on title I. Senator STAFFORD, the chairman of the Committee on Environment and Public Works, and Senator SYMMS, chairman of the Transportation Subcommittee, were diligent and dedicated in their efforts to fairly but strongly hold the Senate position on key issues. Senator DOMENICI crafted a critical compromise on the allocation formula for the primary program that was essential for many Senators. He and I were in close agreement on the approach to that issue, and I was pleased to work with him on the issue. But, I cannot imagine the development of highway legislation without the leadership of the senior Senator from West Virginia, Senator RANDOLPH. Next year, when the 98th Congress is underway, we will celebrate the 50th anniversary of his first service in the Congress. Throughout those years he has fought for the development of sound highway legislation time and again. Before others could appreciate the concept, he was advocating a national highway system—a concept that grew to the Interstate System that is now so critical to this Nation's commerce. In this conference he was equally insistent on finding the compromise to get a bill. Let me close by expressing my appreciation to both Secretary of Transportation Drew Lewis and Federal Highway Administrator Ray Barnhart. They have spent many long hours shepherding this legislation for the administration and were most helpful to me and responsive to my concerns. They deserve to see their labors and ours produce a result that means a tangible benefit to this country.

Mr. MELCHER. Mr. President, the power to tax is the power to destroy. That can be applied to the part of this bill that increases a series of taxes affecting truckers. Increasing the Federal taxes for fuel, tires, new trucks and repair parts are all taxes that relate to the use of the truck, all of which I would expect to relate to the miles of highway business affecting the owner-operator truckers and the trucking companies. The increase in the Federal highway use tax is another matter. A trucker who operates 10,000 miles per year or 100,000 miles per year pays the same amount. The tax now is $240 and will, under this bill, increase to $1,900—eight times greater; it is too much.

For those truckers affected by the recession and just hanging on, this series of increases jeopardizes their continuation in business, and for those truckers this onerous part would be due even though their highway revenue miles are down 30 to 70 percent. No miles, no money, but this tax goes way up.

Montana depends on transportation for our economic existence. Cattle, grain, lumber, and other products are trucked—most of it by owner-operators or small trucking firms. The costs are generally charged to the producer. And these producers are just hanging on too.

Montana depends on trucks for the competition that they can provide Burlington Northern. The Burlington Northern has a virtual monopoly on rail freight in Montana. Trucking deregulation has worked a staggering blow to small trucking companies and they are going broke. This 800-percent increase in the Federal highway use tax will force more to discontinue or fold into bigger companies, thus eliminating more competition.

The increase in length, width, and weight are already available to truckers in Montana by State law or special use permits. The additional revenue the bill raises is of great importance to Montana and will greatly help for safer, more efficient highways. I have been supportive of the bill, but this last version after the conference committee with the House now is just too high. They have upped the ante as if it were a poker game. I would fold. I now vote "no." The power we exercise in Congress to set taxes is an awesome power that has to be used prudently.

We need the owner-operator truckers and the independent small lines and this series of tax increases threaten their continuation in business.

Mr. MITCHELL. Mr. President, will the acting minority leader yield 2 minutes.

Mr. BENTSEN. The acting manager of the bill on this side will be delighted to yield 2 minutes to the Senator from Maine.

Mr. MITCHELL. Mr. President, I think that the discussion this morning is a fitting end to the session of this Congress that should not have occurred and once started should not have gone on as long as it did.

Mr. MATHIAS. Vote.

Mr. MITCHELL. I think we should bring it to a swift and merciful end.

Although the circumstances are very much different I think there are words spoken in the past which are very appropriate here.

In 1653 Oliver Cromwell addressed the English Parliament in an effort to

bring to a close a session that there went on too long, and he used these words, and I think they apply very well here. Cromwell said to that Parliament:

You have sat too long here for any good you have been doing. Depart I say and let us have done with you.

Mr. MATHIAS. Hear, hear.

Mr. MITCHELL. "In the name of God, go." [Laughter.]

Mr. MATHIAS. Vote.

Mr. MITCHELL. Mr. President, I say in the name of God, let us vote and go.

The VICE PRESIDENT. The Senator from Kansas.

Mr. DOLE. Mr. President, I am prepared to yield back the remainder of my time. Before doing that, I would like to state that we have checked with the Journal Clerk and debate on the floor amendments to H.R. 6211 was equally consumed by Republican and Democratic amendments. So I would not want anyone to go home for Christmas saying the Republicans dominated this debate.

I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I say that the Senator from Texas is prepared to leave and participate in the giveaway program back at home with members of his family, as I am sure the remainder of the Senate will with their families, also.

Is there anyone who wishes time on this side of the aisle?

The Senator sees none, and we are prepared to yield back the remainder of our time assuming the other side is.

Mr. DOLE. I have yielded back my time.

Mr. BENTSEN. I yield back my time.

The VICE PRESIDENT. All time is yielded back.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the conference report.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. RIEGLE (when his name was called). Mr. President, on this vote I have a pair with the Senator from Ohio (Mr. GLENN). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

On this vote, the Senator from Alabama (Mr. DENTON) is paired with the Senator from Alaska (Mr. MURKOWSKI).

If present and voting, the Senator from Alabama would vote "nay" and the Senator from Alaska would vote "yea."

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. JACKSON), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

On this vote, the Senator from Washington (Mr. JACKSON) is paired with the Senator from Montana (Mr. BAUCUS).

If present and voting, the Senator from Washington would vote "yea" and the Senator from Montana would vote "nay."

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 33, as follows:

[Rollcall Vote No. 469 Leg.]

YEAS—54

Abdnor	Domenici	Pell
Andrews	Durenberger	Percy
Baker	Gorton	Pressler
Bentsen	Grassley	Quayle
Boschwitz	Hart	Randolph
Bradley	Hatfield	Roth
Brady	Hayakawa	Rudman
Burdick	Heinz	Schmitt
Byrd, Harry F., Jr.	Huddleston	Specter
Chafee	Jepsen	Stafford
Chiles	Laxalt	Stennis
Cranston	Leahy	Stevens
D'Amato	Levin	Symms
Danforth	Long	Thurmond
DeConcini	Lugar	Tsongas
Dixon	Mathias	Warner
Dodd	Matsunaga	Weicker
Dole	Moynihan	
	Packwood	

NAYS—33

Armstrong	Hatch	Metzenbaum
Boren	Hawkins	Mitchell
Byrd, Robert C.	Heflin	Nickles
Cochran	Helms	Nunn
Cohen	Inouye	Proxmire
Eagleton	Johnston	Pryor
East	Kasten	Sarbanes
Exon	Kennedy	Sasser
Ford	Mattingly	Simpson
Garn	McClure	Tower
Goldwater	Melcher	Wallop

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Riegle, against

NOT VOTING—12

Baucus	Denton	Jackson
Biden	Glenn	Kassebaum
Bumpers	Hollings	Murkowski
Cannon	Humphrey	Zorinsky

So the conference report on H.R. 6211 was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(The text of the conference report is printed in the proceedings of the House of Representatives of December 21, 1982, at page 33372.)

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. MATTINGLY). Order in the Chamber.

CORRECTING THE ENROLLMENT OF H.R. 5470—TAX TREATMENT OF INDIAN TRIBAL GOVERNMENTS

Mr. DOLE. Mr. President, I call up House Concurrent Resolution 439 correcting the enrollment of H.R. 5470.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear.

The PRESIDING OFFICER. Will there please be order in the Chamber. Those who want to talk, please get out of the Chamber. We still have business of the Senate to conduct.

Mr. ROBERT C. BYRD. Mr. President, the gallery should also be in order.

The PRESIDING OFFICER. Let us have order in the Chamber so the clerk can report the pending business.

The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 439) correcting the enrollment of H.R. 5470.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the current resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOLE. Mr. President, this matter has been cleared by the distinguished Senator from Louisiana and by everyone on this side. I know of no objection to its adoption.

The resolution would make a technical change to H.R. 5470, the periodic payments bill, which this body passed on Tuesday. H.R. 5470 included a provision which clarifies the tax treatment of Indian tribal governments. The legislation defines Indian tribal governments as the governing body of any tribe, band, community, village, or group of Indians that exercise substantial governmental functions as determined by the Secretary of the Treasury after consultation with the Secretary of Interior. The resolution

before us today would simply make it clear that this determination of Indian tribal status would have no implications beyond the tax treatment provided for in section 7871 enacted as part of H.R. 5470.

I know of no objection to the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 439) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, will the acting Republican leader get an order for morning business so that Senators may speak?

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that we now have a period for the transaction of routine morning business not to exceed 20 minutes in length in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAYMENT-IN-KIND PROGRAM

Mr. PERCY. Mr. President, the Senate was unable this month to turn to consideration of the President's proposal for a payment-in-kind program, known generally as PIK.

I understand from Secretary Block that the administration may move ahead and implement as much of this PIK program as it has the existing authority to do.

Certainly there is need for action in the Farm Belt and this program has great promise to it. I regret that the Senate was unable to pass the legislation to fully implement the PIK program.

Mr. President, I ask unanimous consent that a factsheet I have prepared on the PIK program be included at the end of my statement.

Mr. President, this PIK program is supported by all the major farm organizations. Certainly the corn growers and soybean producers in Illinois support it. PIK is a reasonable way to deal with the large production overhang we have.

There are a few areas where the Secretary of Agriculture will not be able to proceed because his authority is not clear. I encourage Secretary Block to implement a program within the bounds of his statutory authority. It is important to him, however, to come up to Congress the first of next year to seek legislation to clarify his authority to implement a truly effective program.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

PAYMENT-IN-KIND PROGRAM

PIK IN A NUTSHELL

The government would offer farmers an amount of commodity—expressed as a percentage of their base program yield per acre—for reducing acreage beyond what is called for in the 1983 programs for wheat, feed gains, rice and upland cotton.

The commodity offer could be less than 100 percent of the quantity taken out of production since production costs are avoided by the farmer, who could receive the same or greater net returns on fewer bushels.

PIK would be self-terminating, ending when excessive stocks have been eliminated, probably after the 1983 or '84 crop year.

OBJECTIVES

PIK would:

Reduce stocks while cutting production, lessening the overhang on the market in future years and enhancing prospects for a market-led recovery in farm prices.

Maintain supplies in the marketplace, showing that U.S. intends to be a reliable supplier abroad.

Reduce government outlays for farm programs (loan volume, storage and deficiency payments).

Implement sound conservation practices.

Lessen storage space problems.

STOCKS

Commodity stocks offered would most likely come from the farmer-owned reserve, existing Commodity Credit Corporation holdings, and regular loan stocks if necessary.

ELIGIBILITY

Participation in PIK would be conditional on participation in the regular reduced acreage program. Acreage withdrawn under PIK would be in addition to the regular program.

Acreage withdrawn would have to be devoted to conservation uses. Haying and grazing would be permitted on acreage already planted. Summer fallow rules require that the PIK acreage reduction would be comprised of acreage that would have been planted this year. Cross and offsetting compliance would not be required.

AMOUNT OF REDUCTION

Initial plans would be to offer reduced acreage participants a certain amount of commodity for withdrawing an additional 10 to 30 percent of their base (10-25 percent for upland cotton). The farmer will decide how much to withdraw within that range. The amount of commodity offered for withdrawing acreage has not been established to date.

The possibility would exist that if the 10-30 percent offer failed to reduce a sufficient amount of acreage, a supplemental mechanism would be activated to encourage withdrawal of the entire base acreage for a commodity on some farms. The following procedure would assure a smooth implementation of the supplemental mechanism:

At the time producers sign up for PIK, they can also bid on how much commodity they would need to receive per acre from the government to withdraw their entire base acreage. Then, if USDA decided to implement the supplemental mechanism of allowing entire base acreages to be withdrawn, the lowest bids from producers would be accepted first.

In summary, farmers would have the option of: (1) Participating only in the regular farm program; (2) Participating in the regular program, plus the 10-30 percent PIK; or (3) Withdrawing their entire base acreage if their bid is accepted; (4) Not participating at all.

PAYMENT PROCEDURE

Certificates for the commodity would be issued to participants and could be redeemed for ownership sometime after the first day of the marketing year for each commodity. The 1983 marketing year begins Oct. 1 for corn; June 1, wheat; and Aug. 1, rice and cotton.

After the participant takes ownership, he or she would be responsible for marketing decisions and accrued storage charges. He or she would have 4-6 months to take delivery of the commodity.

In cases where insufficient stocks are available locally for physical transfer of the commodity to the farmer, other options would be considered. Under one option, a farmer could assume ownership of the commodity at the location where it is stored. Or, CCC could agree to sell the commodity for the participants, who would receive the dollar value which prevails in the farmer's own area at the time of sale. Other options could also be considered.

MERITS OF THE PAYMENT-IN-KIND PROGRAM

Mr. DOLE. Mr. President, the current farm situation of burdensome surpluses for many commodities and weak demand dictates the need for bolder and more innovative farm programs. I believe the payment-in-kind (PIK) program is one such program that is sorely needed to reduce excessive stocks and lay the groundwork for price and income strength in the future.

Under the PIK program the Government would offer farmers an amount of commodity—expressed as a percentage of their base program yield per acre—for reducing their acreage.

The PIK program has many appealing and unique features:

Production can be reduced beyond that expected under the 1983 programs for wheat, feed grains, rice and upland cotton, and thus bring supply back in to closer balance with demand.

Stocks can be reduced at the same time that production is cut back, lessening the overhang on the market at harvest next year and enhancing the prospects for a market-led recovery in farm prices and incomes in future years.

The availability of market supplies will be maintained, signaling to exporters and importers that the United States fully intends to remain a reliable and consistent supplier when production adjustments are made. To meet our long-term export and food aid commitments, adequate reserves will be maintained.

Government outlays for domestic farm programs—for example, loan volume, storage payments, deficiency payments—should decline.

The PIK program unlike other emergency measures, is self-terminating when excessive stocks have been worked off.

Farmers would have the same or greater net returns while stocks are being reduced.

Sound conservation practices would be applied to a larger amount of acreage.

Storage space problems would be lessened.

Due to the size and scope of the PIK program, it is obvious that the payment limitation provisions of the 1981 Farm Act could be a limiting factor. It is imperative that these provisions be rescinded so that the effectiveness of the PIK program will not be jeopardized. If not, this could limit participation by many farmers who would otherwise be willing to put 10 to 30 percent or, perhaps, their entire base under the PIK program.

Consequently, Mr. President, I have today sent a letter to Secretary of Agriculture John Block urging him to proceed to announce the details of the administration's PIK program as early as possible in order for the required authorities to be in place for 1983 crops. I ask unanimous consent that the text of my letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 23, 1982.

Hon. JOHN R. BLOCK,
Secretary, Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: It is unfortunate that the opposition of one Member of the Senate has prevented Congress from providing you with the additional authority needed to operate the Administration's Payment-in-Kind (PIK) program for 1983 crops. An effective production control program, combined with an aggressive effort to maintain and expand agricultural exports, is essential to the objective of reducing grain stocks and raising farm income.

Considering the pressing need to further control production of wheat, feed grains, cotton and rice in 1983, I urge you to proceed to announce the details and compliance requirements of the PIK program in early January, anticipating Congressional action as soon as possible in the new year. I will work closely with the Department to ensure that the authorities are in place to administer an effective production control and export incentive program for farm commodities in 1983.

Sincerely yours,

BOB DOLE,
U.S. Senate.

Mr. HUDDLESTON. Mr. President, I regret that Congress has been unable to complete action on S. 3074, the Agricultural Act of 1982. This legislation, which Senator COCHRAN and I introduced on December 3, provides for a payment-in-kind land conservation program for farmers, as well as other programs to assist our depressed agricultural economy.

The Secretary of Agriculture has stated that he believes that it is urgent that we move ahead with a payment-in-kind program for the 1983 crops, and that such a program can largely be carried out under existing authorities available to the Department of Agriculture.

I urge the Secretary to develop a payment-in-kind program for 1983 consistent with the authorities he has under existing law. I stand ready to work with the Secretary, over the several months, in putting the program in place.

I also urge the Secretary, in developing the payment-in-kind program, to incorporate the provisions of S. 3074, as reported by the Agriculture Committee, designed to protect farmers from any adverse effect of payment-in kind operations.

In particular, the Secretary should take care to insure that farmers will be shielded from any drop in market prices that could result from the release of Government-owned grain into the market under the program.

The Secretary should take steps to protect the economies of individual counties or local communities from undue concentration of diversion acreage under the program. Further, the Secretary should provide adequate safeguards to protect the interest of tenants and sharecroppers under the program.

The specific protections provided by S. 3074 address these and other areas of concern, and their inclusion in the Secretary's program will do much to encourage farmers to participate in the program.

Section 203 of S. 3074 is intended to improve the distribution of surplus commodities to needy persons. The Senate's action with regard to S. 3074 should not be interpreted as a lack of support for section 203 and for the Department of Agriculture's private sector inventory program announced by the Secretary of Agriculture on May 5, section 203 was agreed to unanimously by the Agriculture Committee. Further, I believe that the Secretary should use every available means to increase the consumption of surplus commodities, and urge the administration to publish the regulations implementing the private sector inventory program as soon as possible.

CONCLUSION

While the payment-in-kind program will help farmers deal with the severe slide downward in farm prices and income, more must be done.

Therefore, I also urge the Secretary to take additional steps, under other program authorities he already has, to alleviate the problems confronting U.S. agriculture.

THE PAYMENT-IN-KIND FARM PROGRAM

Mr. COCHRAN. Mr. President, I am very disappointed, as I know many of may colleagues also are, that Congress has been unsuccessful in efforts to complete action on S. 3074, the Agricultural Act of 1982. This legislation, which Senator HUDDLESTON and I introduced and sought to bring to the floor in the waning days of this lame-duck session, provided for a payment-in-kind land conservation program for American farmers, as well as additional provisions in export market development, to assist the Nation's seriously depressed agricultural economy.

Secretary of Agriculture John Block has indicated he believes it is imperative that we move forward with some type of payment-in-kind program for 1983 crops, and he believes that such a program can be implemented to a great degree by authority already existing for the Secretary and U.S. Department of Agriculture. I agree and I want to voice my support now for such action by the Secretary.

He can be assured that I am ready and willing to work with the Secretary, consistent with the authority he has under existing law, to develop and put in place a payment-in-kind program during the next several months. I call his attention in doing so to the provisions of S. 3074, as reported by the Senate Agriculture Committee, which are designed to help protect our farmers from adverse impact in a payment-in-kind program.

The Secretary should take particular care to insure that American farmers be protected against a drop in market prices resulting from the release of Government-owned grain stocks into the market.

I also urge the Secretary, in constructing and implementing a payment-in-kind program, to take appropriate steps to protect economies of local communities or individual counties from any undue diversion of acreage. He should also take action to provide adequate safeguards to protect the interests of sharecroppers and tenants under a payment-in-kind program.

The provisions of S. 3074, as approved by the Agriculture Committee, specifically address these and other areas of concern, and their inclusion in a program advocated by the Secretary would do a great deal to encourage America's farmers to participate next year.

Although a payment-in-kind program would go a long way in dealing with the drastic decline in farm income and crop prices, we must not stop there. The Secretary shall take additional steps, utilizing authority he already has under existing programs, to help remedy the serious problems facing American agriculture.

I can assure him and my colleagues that when the new Congress convenes in January, we will renew our legislative efforts to enact additional legislation addressing the agricultural situation in our country.

MILLICENT FENWICK: A LADY OF QUALITY

Mr. MATHIAS. Mr. President, in Jane Austen's time, as in her novels, the term, "a lady of quality," was well understood. Today, the phrase is foreign to our ears, but the concept should not be. It would mean something different today than it did to Jane Austen. It should imply a quality of intellect, a quality of character, and a quality of integrity rather than a quality of birth. In these modern terms, MILLICENT FENWICK is our lady of quality.

MILLICENT FENWICK brings to public life a profound comprehension of the context of our culture. She knows classical Greece where democracy was born and so she understands the blessings and the dangers of democracy.

Her life has been full and deeply involved with people. Because she has felt the pain of living as well as the pleasure, she has developed a compassion that illuminates her face and her being.

Her principles are so strong that she chose a path that led to defeat rather than compromise to win election to the Senate. Her abhorrence of money generated by political action committees and her refusal to accept it put her at a fatal disadvantage, but I have not heard her either complain or express regret. She was right and so she had her own victory.

As a lady of quality, MILLICENT FENWICK performed a unique function in the Congress well beyond her distinguished representation of the people of the Fifth Congressional District of New Jersey. She set a standard of excellence for all of us to aspire to equal. Although she will not be with us in the next Congress, her benchmark is set in the stones of the Capitol and we would honor ourselves if we were able to approach the standards of intellect, character, and integrity set by MILLICENT FENWICK.

Mrs. Mathias and I both look forward to a continued friendship with MILLICENT FENWICK and an association with her in the fight for a free and just society.

SENATOR SAM HAYAKAWA

Mr. CRANSTON. Mr. President, as the sun sets on the 97th Congress, I want to take this final opportunity to bid farewell to my friend and colleague, SAM HAYAKAWA.

Senator HAYAKAWA and I have had the privilege of representing the Golden State together for these past 6 years. We have found ourselves in disagreement on occasion, but where we have agreed on California issues, I believe we have worked effectively as a team to promote the interests of our State. And since SAM is such a pleasure to work with, I can only regret that our joint ventures were not more frequent.

I think Senator HAYAKAWA deserves particular thanks for the quality of his judicial nominations these past 2 years. I say this despite the fact that I was quite disappointed when Senator HAYAKAWA chose not to continue the California Judicial Selection Commission he and I had created and utilized during the 4 years of the Carter administration. I had at the time substantial misgivings about his decision to go it alone relying on a private advisory group. And while his choices have done little to correct the white male domination of the Federal bench and the judicial process in California, they were persons of high regard and excellent judicial or administrative potential according to all the reports I have received.

SAM was the first general semanticist to be elected to the U.S. Senate. He came to us as a brilliant author and a compassionate and humane man with a long and distinguished career of public service. One who knows him less well might be inclined to call SAM's Senate term a final climax to his public life. But I fully expect SAM to startle us all with something brand new.

So whether he goes to the moon, invents a new science, or opens on Broadway, I say, "The fates are with you, SAM"—never slow down.

Anyone who can warn the Senate not to try to "prevent the future from happening" has nothing to fear from the future.

THE MAIL ORDER CONSUMER PROTECTION AMENDMENT OF 1982

Mr. PRYOR. Mr. President, I strongly support S. 1407, the Mail Order Consumer Protection Amendment of 1982, as amended by the House of Representatives, and I urge its immediate approval by the Senate. I also wish that it could have been considered and approved by this body before adjournment.

S. 1407, as amended by the House of Representatives, will strengthen the investigatory and enforcement powers of U.S. Postal Service to combat the very serious and growing problem of mail fraud in this country. The bill will reduce the delays which currently exist in Postal Service investigations of violations of the false representations statute (39 U.S.C. 3005) and will discourage repeat violations of the statute.

S. 1407 was passed by the Senate on May 19, 1982, after careful consideration and approval by the Senate Governmental Affairs Committee and the Subcommittee on Civil Service, Post Office, and General Services. A field hearing was held on the legislation on October 13, 1981, in Little Rock., Ark. The legislation has been cosponsored by 28 of my Senate colleagues, including Senator HEINZ, the chairman of the Senate Select Committee on Aging, and Senator CHILES, the ranking minority Member.

Upon Senate passage of S. 1407, the Mail Order Consumer Protection Amendments of 1982, the House of Representatives Committee on Post Office and Civil service held 4 days of hearings and subsequently introduced new legislation. H.R. 7044, a revised version of the legislation which gives the Postal Service new mail fraud enforcement powers while also providing extensive safeguards against misuse of power, was reported by the Post Office and Civil Service Committee and approved by the House, with amendments, by a vote of 320 ayes, 61 nays, and 1 voting present, on December 13, 1982. The original House bill, H.R. 3973, introduced by Congressman CLAUDE PEPPER, has 298 cosponsors.

I originally introduced S. 1407 in the Senate due to my serious concern about the growing mail fraud epidemic in this country. Mail order shopping is a very legitimate and necessary business activity which is estimated to be a $25 billion a year business. While the vast majority of mail order firms are responsible businesses, unfortunately, many unscrupulous firms also exist. The Chief Postal Inspector, who testified at the Senate hearing, cited false representation schemes receiving $20,000 a day. In fact, the Inspection Service receives an average of about 20,000 mail fraud complaints each year, many of which currently go unchecked. Our Nation's consumers now lose millions of dollars annually to unscrupulous individuals who are now able to circumvent an antiquated 100-year-old postal fraud statute and who would prey upon the sick, the poor, and the elderly. New protections are urgently needed to help end the numerous abuses which have been documented.

Common fraudulent ads include those for phony gold coins, bogus land deals, and worthless work-at-home schemes.

Investigations by the House Select Committee on Aging under its distinguished chairman, Congressman CLAUDE PEPPER, have uncovered numerous other examples of mail fraud and false representations which have been perpetrated upon thousands of honest, hardworking Americans.

As a member of the Senate Select Committee on Aging, I became interested in this problem because, unfortunately, over 60 percent of the victims of these frauds are elderly citizens, most of whom are living on fixed incomes and literally counting their pennies. Many of the victims have lost their entire life savings and are provided very little recourse for recovery.

The Postal Inspection Service has major responsibility for preventing such mail fraud and false representation schemes. Unfortunately, their powers of investigation and prosecution are limited and in need of immediate improvement.

In order to investigate these cases of fraud, the Postal Service must send a postal money order for the suspected item and have the product tested. If false representation is apparent, the service must solicit the judgment of an administrative law judge as to whether the representations constitute fraud. If considered fraudulent, the service must conduct further investigation until the case is strong enough to be taken to the U.S. attorney.

By the time the Postal Service recognizes a suspected quack offer, orders the product and submits it for testing, the companies have often closed down their operation or moved it to another State. Even if the company is still in existence, the Postal Service's only recourse under present law is to ask for a hearing and a court order to block incoming mail from being delivered to the address advertised.

This legislation would correct current law in the following ways: The bill, as amended, would allow the Postal Service to purchase directly from advertisers samples of mail order products sold under potentially false advertising and would enable the Postal Service to immediately begin their investigation into the suspicious product. The Postal Service now purchases such samples by mail and the advertiser can forestall proceedings to enforce the statute by delaying shipment of the product.

This bill, as amended, also provides that the Postal Service, after a full adversarial hearing before an administrative law judge, may issue orders to require persons to cease and desist from engaging in false representation schemes. Currently, the Postal Service may only issue stop-mail orders, which are easily circumvented by experienced con men, who simply move to a new address under a new business name.

Mr. President, very careful steps have been taken in this legislation to assure due process with respect to the issuance of such cease-and-desist orders. Such orders may be issued only after full adversarial hearings before an administrative law judge, pursuant to the Administrative Procedure Act. The hearings which are already conducted by the Postal Service are in accordance with current regulations found at 39 CFR 952.14. Hearings are now held at the headquarters of the Postal Service, Washington, D.C., or other designated locations. Specifically, 952.15 provides that a party may file a request that a hearing be held at a place other than Washington, D.C., upon showing of convenience and necessity of the parties and the relevancy of the evidence to be offered.

I am particularly concerned that no undue hardship or unreasonable burden be placed upon parties through the location of hearings. I am pleased that the Postal Service now provides for hearings outside of Washington whenever it is necessary and convenient to the parties involved in the proceeding. I think it is fair and reasonable to do so. A review of the past practices of the Postal Service reveal that last year, 65 percent of hearings were held outside of Washington, D.C. I would encourage the Postal Service to maintain this policy and would request that statistics about the locations of hearings be presented in the regular reports of the Postal Service to the Congress.

The bill, as amended, also would allow the U.S. district courts to assess civil penalties of up to $10,000 per day against persons who repeat advertising schemes after an administrative law judge has determined, following an on-the-record-hearing, that the scheme violates the statute.

The bill, as amended, also prohibits the Postal Service from enforcing the statute against advertisements for books and publications which accurately reflect the contents of the product.

Mr. President, I urge the approval of this measure. It will give needed enforcement tools to the Postal Service to protect consumers and to fight fraudulent activities through the use of the mail.

An analysis of what the bill does and does not do is as follows, Mr. President:

FACT SHEET ON MAIL FRAUD BILL, AS AMENDED BY THE HOUSE OF REPRESENTATIVES

Purpose: To reduce delays on Postal Service investigations of violations of the false representations statute (39 U.S.C. 3005) and to discourage repeat violations of the statute.

Background: Legislation developed after extensive investigation of mail fraud by the House and Senate Aging Committees. House bill introduced by Congressman Pepper has approximately 300 cosponsors. S. 1407 was passed by the Senate on May 19, 1982. The House Post Office and Civil Service Committee held 4 days of hearings and introduced a clean bill, H.R. 7044. H.R. 7044 was passed by the House on December 13, 1982 by a vote of 320 ayes, 61 nays and 1 present, with a further amendment, which substantially revised the original Senate-passed bill.

As amended by the House, S. 1407 does—

1. Allow the Postal Service to purchase, directly from advertisers, samples of mail order products sold under suspected false advertising. The Postal Service now purchases such samples by mail and the advertiser can forestall proceedings to enforce the statute by delaying shipment of the suspicious product.

2. Allow the Postal Service—after full adversarial hearings before an administrative law judge—to issue orders to require persons to cease and desist from engaging in false representation schemes. Presently the Postal Service may only issue stop-mail orders which are easily circumvented.

3. Allow the U.S. district courts to assess civil penalties of up to $10,000 per day against persons who *repeat* advertising schemes after an administrative (on-the-record) determination is made that the scheme violates the statute. The court shall make an independent determination of guilt and determine the amount of the fine. This is intended to act as a strong deterrent to repeat violators.

4. Authorize semiannual reports on investigative activities of the Postal Service to provide for careful oversight by the Congress.

5. Authorize the Postal Service to develop and carry out a program designed to provide consumer education to the public on schemes involving false representation through use of the mails.

As amended by the House, S. 1407 does not—

1. Allow the Postal Service to issue civil investigative demands (a weak form of a subpoena power) to obtain access to documents relevant to suspicious advertising. This provision was dropped by the House after objections were raised.

2. Expand the current power of the Postal Service to police for mail fraud or any other statutory violation, nor is it a massive rewrite of the mail fraud statute. It simply will act to improve investigatory and enforcement powers to combat mail fraud, while, at the same time, taking into account all responsible concerns expressed regarding potential abuse of civil liberties.

3. Cost any money or create any new bureaucracy in government.

4. Permit the opening and inspection of mail without the prior issuance of a search warrant.

5. Allow the Postal Service to ban books from the mails. It will prohibit the Postal Service from enforcing the false representation statutes against advertisements for book and publications which accurately reflect the contents of the products.

6. Authorize search and seizure or cease and desist orders without due process of law. The civil investigative demand authority has been deleted and a cease and desist order can be issued only after full adversarial hearings before an administrative law judge. Also in permitting the Postal Service to purchase suspicious products to begin investigations, the Postal agent must accurately identify himself and state the nature of the conduct under investigation.

SEAN O'KEEFE—FAIRBANKS TO ANCHORAGE

Mr. STEVENS. Mr. President, today I rise to bring to the attention of my colleagues in the Senate a feat accomplished by a fellow Alaskan.

You all know, we Alaskans like to do things in a big way. In this instance, Sean O'Keefe of Fairbanks, Alaska, sought to break the world bicycle record from Fairbanks to Anchorage; a distance of 362 miles in 2 days.

Sean was successful. The first day he rode 202 miles. The second day he rode 160 miles. His effort is quite commendable.

One would think that after riding such a distance on a bicycle that a few weeks in a warm Jacuzzi would be in

order. No way, the ride is not over for Sean. The Fairbanks to Anchorage trek was only a warmup. His next goal is to ride 3,000 miles from San Francisco to New York. And he is in a hurry to do it because he is running out of time.

You see my friends, Sean is only 9 years old and he wants to complete the business at hand before he reaches the ripe old age of 10.

I urge my colleagues in the Senate to wish this ambitious Alaskan the best of luck in his endeavor.

TRIBUTE TO SENATOR HARRISON (JACK) SCHMITT

Mr. GOLDWATER. Mr. President. I have nothing but the warmest praise for our colleague from New Mexico, HARRISON (JACK) SCHMITT, for his outstanding service to the Senate and his tremendous contributions to American life through the space program.

During his stay in the Senate, JACK SCHMITT has been an immense asset to the Senate and he will be missed. It is with a sense of regret at his departure that I add my praise to the farewell tributes already offered to JACK SCHMITT.

JACK came to the Senate after distinguishing himself as an astronaut in the pioneer days of the space program. He spent 10 years in the early stages of the space program from 1965 to 1975. He was backup lunar module pilot for Apollo 15 and journeyed into space in 1972, on Apollo 17 mission to the Moon. He later became chief of scientist-astronauts, and rounded out his NASA career by becoming the space agency's Assistant Administrator for Energy.

I was present at the Apollo 17 blastoff to the Moon. I can tell you that it not only was impressive to see, but the benefits from it will someday be comparable to Columbus' voyage which led to the discovery of America. No one then paid much attention to Columbus but, if it had not been for him, we would not be here today and the world's greatest experiment in freedom would be unheard of.

JACK has accumulated 2,100 hours flying time in jets, helicopters, and spacecraft. He is a unique and dedicated American. We served together as Members of the Senate Intelligence Committee and the Commerce Committee. He was chairman of our Intelligence Committee's Subcommittee on Legislation and the Rights of Americans where he did yeoman's service in analyzing the President's draft Executive orders on intelligence activities and classification.

When he came to the Senate, I gladly stepped aside as ranking member of the Science, Technology and Space Subcommittee of Commerce to allow JACK to take the leadership position as I felt he knew more about this business than I did.

JACK will be greatly missed in the Senate. It is with sadness that I salute him as he prepares to move on to a new challenge. I wish him well in whatever he decides to do. I am sure it will be to continue to serve the people of our country for their benefit.

My best wishes to JACK and thanks for being in the Senate. His impact here was great. I am glad to have served with him. I know we will continue to hear good things about him as time goes by.

FUTURES TRADING ACT OF 1982

Mr. HUDDLESTON. Mr. President, Congress has approved H.R. 5447, the Futures Trading Act of 1982.

H.R. 5447 is important legislation that will improve and strengthen the regulation of the commodity futures trading industry.

In addition to extending the authorization for appropriations for the Commodity Futures Trading Commission and making other necessary amendments to the basic Federal statute governing the regulation of futures trading, H.R. 5447 contains a provision providing—in the event of any trade suspension or embargo—for the assured delivery of agricultural exports to foreign countries for a period of 9 months. However, the provison would not apply during periods of declared war or a national emergency.

This "contract sanctity" provision is of particular importance to the Nation's farmers. Its enactment will send a signal to the world that the United States is a reliable supplier of agricultural products. I was pleased to be the chief cosponsor of the provision in the Senate.

I urge the President to approve the Futures Trading Act of 1982.

I ask unanimous consent that there be printed in the RECORD: First, the text of the letter members of the Committtee on Agriculture, Nutrition, and Forestry have sent the President urging him to approve H.R. 5447; second, the text of the letter CFTC Chairman Philip McBride Johnson has sent the President urging the signing of H.R. 5447; and third, the conferees' explanation of the contract sanctity provision contained in H.R. 5447.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., December 21, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We strongly urge you to approve the Futures Trading Act of 1982 (H.R. 5447).

This important legislation extends the authorization for appropriations for the Commodity Futures Trading Commission through September 1986. The bill also provides for (1) the imposition of fees for certain services provided by the Commission, (2) a division of regulatory jurisdiction between the Commission and the Securities and Exchange Commission, and (3) an increased role for the States in combating fraud. The bill is essential to the agricultural and futures trading sectors of our economy.

Some concern has been expressed about the contract sanctity provision of the bill relating to the export of United States agricultural commodities. This provision is particularly important to the farming and agribusiness community. The enactment of the provision will send a signal to the world that the United States is a reliable supplier of agricultural products.

While certain members of Congress favored a stronger contract sanctity provision, a majority of the members of the House and Senate carefully drafted the legislation to avoid impinging upon the prerogatives of the President in any significant way. We believe the provision in H.R. 5447 is consistent with the position you have taken on a number of occasions with regard to the export of agricultural commodities.

H.R. 5447 has strong bipartisan support, and it resolves a number of issues that have been outstanding for many years. It is responsible legislation, and deserves to be enacted into law. We earnestly hope you will sign the bill as soon as possible.

Sincerely,

WALTER D. HUDDLESTON, ROGER W. JEPSEN, MARK ANDREWS, DAVID H. PRYOR, PAULA HAWKINS, ALAN J. DIXON, PATRICK J. LEAHY, HOWELL HEFLIN, JESSE HELMS, RUDY BOSCHWITZ, RICHARD G. LUGAR, THAD COCHRAN, S. I. HAYAKAWA, BOB DOLE, ORRIN G. HATCH, DAVID BOREN, and EDWARD ZORINSKY.

COMMODITY FUTURES
TRADING COMMISSION
Washington, D.C., December 22, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Awaiting your decision at this time is H.R. 5447, a lengthy bill reauthorizing the Commodity Futures Trading Commission for an additional four years and containing major improvements in the Commodity Exchange Act which this agency administers. Among those improvements are: Implementation of the New Federalism by providing a greater role for the States in the law enforcement area; recognition of private initiative by expanding the role of industry self-regulation; refinement of regulatory programs by eliminating unnecessary licensing and other burdens; streamlining of CFTC operations through program timetables and deadlines; and reduction in burden on taxpayers through recovery from regulatees of the cost of services provided by the CFTC.

The CFTC is a relatively young agency, founded in 1975 to provide public protection for those who rely upon the nation's commodity markets to aid them in managing the price-related risks of their commercial activities. Since the CFTC's formation, the commodities business has grown at an annual rate of roughly 60%, making it among the most dynamic sectors in our economy. The CFTC, through rigid management and the extraordinary dedication of its staff, has kept pace with the industry's

phenomenal growth despite only modest increases in its budget and staff. A chart depicting industry growth and CFTC resources is enclosed.

In October of this year, I placed in the record of a public CFTC meeting a summary of the agency's recent accomplishments. I am pleased to enclose a copy of that memorandum for your information. This period has been marked by recordbreaking productivity and increasingly reliable law enforcement.

H.R. 5447 will assure that the CFTC continues to be, pound for pound, one of the Government's most efficient and effective agencies. I urge that you sign H.R. 5447 for this reason, and would be pleased to discuss the matter with you or your aides at any time.

Yours respectfully,

PHILIP MCBRIDE JOHNSON,
Chairman.

CHAIRMAN'S STATEMENT—PROGRAMS, PLANS AND PRIORITIES MEETING

Today, we reflect once again on the accomplishments of the Commission in recent months, and we set the course for the next fiscal quarter. The documents before us recite dispassionately the gains realized, and the goals sought by the Commission. But the story of the Commission in recent months goes well beyond the contents of our briefing books. It is a story of pride, dedication and extraordinary productivity, made all the more remarkable in light of the special burdens imposed by a lengthy reauthorization process that continues to occupy much of the Commission's time and attention. This is an appropriate time to chronicle some of the achievements of the Commission over the past year or so, and to publicly credit our marvelous staff for a job that was done far better than we had any right to expect.

NATIONAL FUTURES ASSOCIATION

Industry self-regulation entered a new era when, roughly a year ago, the Commission approved the charter of the NFA. Since then, the Commission has worked closely with the leadership of the NFA to add flesh and muscle to the concept that it represents.

OPTIONS PILOT PROGRAM

After many years of study, the Commission developed a controlled experiment in exchange-traded options. Today, four contract markets are authorized to offer option products. Other applications are awaiting action, and an extension of the program to options on physical commodities is under consideration.

CASH SETTLEMENT CONTRACTS

For the first time in history, the Commission has approved futures contracts that are settled entirely in cash. The Eurodollar and Stock Index contracts have pioneered this concept. Cash settlement, where feasible, reduces the problems associated with physical delivery, especially during periods when supplies of the underlying commodity are scarce.

NEW CONTRACTS

Since the summer of 1981, the Commission has completed the processing of 39 new futures contracts and options, more than in all of its previous years combined. This has occurred without compromising the high standards set by the Commission, and only after intensive review of each proposal. Futures on wider spectrum of both domestic and foreign interest-rate risks are now available, the first gasoline contracts have been approved, and the advent of stock index futures offers a new form of price protection for segments of the investment community.

CUSTOMER PROTECTION

Responding to the lessons of the 1979-80 Silver Market, the Commission has taken several steps designed to reduce the likelihood of any repetition of the conditions existing at that time. Speculative position limits have been mandated for all futures contracts. Capital requirements have been stiffened to discourage the use of commodities to finance trading in the same futures. And the Commission has improved its ability to obtain market data from both foreign and domestic traders.

In addition, customer funds have been better protected by requiring that they be held in the strong hands of a clearing member. Dormant and low-volume futures contracts will receive closer scrutiny to assure that their terms remain appropriate and that their trading is conducted in an open and competitive manner. Rules to assure fair treatment of customers in bankruptcy proceedings are being designed at this time. And special customer protections have been built into the Options Pilot Program.

REGULATORY RELIEF

The Commission has eliminated the need for periodic re-registration for thousands of licensees. We have discontinued redundant reports, reducing that burden by roughly 350,000 submissions a year. And, today, we are seeking comment on the possible eliminations of hundreds of thousands of other documents through a revision of Regulation 1.33(a).

JURISDICTIONAL ACCORD

The Commission has entered an agreement with the Securities and Exchange Commission which more clearly delineates the two agencies' jurisdiction. That accord has been endorsed by the Congress, and will hopefully become law in the near future.

INTER-GOVERNMENTAL RELATIONS

The Commission has developed close relations with other Federal departments and agencies, and is forging a strong bond with State law enforcement agencies as well. Representatives from the Federal Reserve Board, the SEC, Treasury and Agriculture are invited to attend certain of our meetings. Our advisory committee now includes more State officials. Through cooperation, the Commission has joined with the SEC in enforcement efforts, and with a number of States in joint litigation. Our coordination with the Justice Department has been instrumental in nearly 100 convictions totalling almost 400 years of prison sentences.

ENFORCEMENT

The Commission's enforcement results have set new records in nearly all important areas—

Registration Sanctions: Up 50% over any prior year.

Criminal Convictions: Up 70% over any prior year.

Cease-and-Desist Orders: Up 100% over any prior year.

Permanent Injunctions: Up 105% over any prior year.

Persons Assessed Money Penalties: Up 108% over any prior year.

Customer Funds Protected: Up 130% over any prior year.

Trading Prohibited: Up 140% over any prior year.

Money Penalties Assessed: Up 500% over any prior year.

In the area of off-exchange boiler room operations, the Commission continued a campaign that has resulted in the shut down of over 100 of these operators, roughly 250 injunctions, the protection of millions of dollars of customer funds, and a score of convictions for criminal offenses.

Since the summer of 1981, the Commission has collected over $2 million in civil penalties for violations of the Act, more than in all of its previous history.

* * * * *

These gains and many others are attributable to the commitment and dedication of the Commission's able staff. Despite budget constraints, despite the drain of reauthorization, and regardless of the personal hardships involved, our Executive Director, General Counsel, Division Directors, deputies and staff have registered results that would be the envy of organizations far larger and older than the Commission. I want to take this opportunity to praise all of the men and women who have made this possible.

EXPLANATION OF THE CONTRACT SANCTITY PROVISION BY THE COMMITTEE OF CONFERENCE ON H.R. 5447

AGRICULTURAL EXPORTS

The Senate amendment prohibits the President, except in periods of declared war or national emergency, from prohibiting or curtailing the export of any agricultural commodity, or the products thereof, covered by an export sales contract when (a) the export sales contract was made prior to the announcement of action prohibiting or curtailing these exports and (b) the contract requires delivery within 270 days after the trade suspension is imposed.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

SENATOR HAYAKAWA'S SERVICE IN THE SENATE

Mr. HAYAKAWA. Mr. President, serving in the U.S. Senate has brought much pleasure to me—as well as a fair amount of frustration. My membership on the Foreign Relations Committee has been a highlight of my service here. During the 4 years I have served on the committee I have been a member of the Subcommittee on Western Hemisphere, African Affairs, and East Asian and Pacific Affairs.

Although I have not been able to devote full attention to the Western Hemisphere Subcommittee, my interest there has focused on our relations with Mexico. Our two countries share difficult problems and it seems as though we Americans have a tendency to view our neighbors to the south with a paternalistic attitude.

Nevertheless, we have addressed successfully matters of mutual concern—for example, a treaty about stolen cars and aircraft. But other important matters remain unresolved. As many of my colleagues know I labored long and hard on the illegal immigration issue. I was afraid that the U.S. Congress would come up with a solution without

consulting the Mexicans about a mutually satisfactory solution. I recall that the bracero program failed to take into consideration the views of the Mexicans, which I believe was one of the reasons for its eventual demise.

Consequently I introduced legislation calling for a guest worker program. I traveled to Mexico City to meet with President Lopez-Portillo. He was gratified at my efforts and indicated that he agreed in principle with the concept. Unfortunately, I was unable to convince all of my colleagues on the merit of the guest worker program. I am grateful, however, that the House of Representatives did not pass the omnibus immigration bill until some of the difficulties surrounding the matter of illegal aliens are resolved. I only hope that these solutions will be pursued in concert with the Mexicans.

During the 96th Congress, I was the ranking minority member on the African Affairs Subcommittee. I first became acquainted with the African continent through my discovery of African art some 30 years ago. As I learned more and more about the culture which produced the art, I became more interested in the politics of the continent.

Furthermore, while I was president of San Francisco State College, we were involved in an exchange program with the Monrovia Consolidated School System in Liberia, in which we helped reform and organize their entire primary and secondary school system. The result was that many Liberians have degrees from San Francisco State and, in fact, almost half of the Education Ministry employees today have been associated with San Francisco State in some way.

During my visit to Africa last August I was able to spend 4 days in Liberia, and was greatly reassured by what I saw and learned. Head of State Samuel K. Doe and his administration have followed a course of moderation domestically and internationally. The Liberians have tried to create an environment which will encourage private sector participation. Obviously, education will be an important asset to Liberia if it is to develop along these lines. One of Liberia's greatest educational needs is teacher training, and I hope that we will soon see a reinstitution of an exchange program between San Francisco State and the Liberian Education Ministry.

Perhaps paradoxically a great source of both encouragement and of disappointment is the prospect for change in South Africa. I was encouraged by the recognition by many people in positions of responsibility in South Africa of the need for change. I find the proposals of the President's Council for constitutional reforms a significant step in the right direction—indeed in the South African context, a brave step.

Nevertheless, as long as blacks are denied citizenship and political participation and continue to be assigned against their will to "homelands" that the vast majority of them have never seen and never intend to move to, there will continue to be unrest. And that unrest will increase as the education and earning power of blacks increase. It is desirable for the future peace of South Africa that the homelands idea be merely a step toward a solution that offers hope—even a distant hope—for full participation by blacks in South African society.

To be sure, no one should underestimate the complexity of the problems South Africa faces. During my discussions with Anglican Bishop Desmond Tutu, an articulate black advocate of nonviolent change, he pointed out that blacks and whites must work together to extricate themselves from the current system. Yet I wondered if these changes can come quickly enough to avert serious social disorder. To the extent that blacks see South Africa's policies as punitive, the less likely it is that they will heed Bishop Tutu's call to stay with the peaceful course.

In view of this, I was especially disturbed by the recent attack on Lesotho by the South African Armed Forces. There are conflicting reports about the incident, but it is almost certain that among the 42 people who were killed there were innocent men, women, and children. This commando raid is the kind of punitive action that will not only further alienate those of us who wish to be supportive of South African efforts to achieve change but also is the kind of activity which will add to the unrest of the disenfranchised blacks.

There are other memories I shall have of Africa and her people—Botswana, a Texas-sized land of stark beauty, and of course, Zimbabwe. Botswana sets an outstanding example for other countries in its moderation, industriousness, and indifference to tribal divisions. Our friendly relations with that country should be carefully nurtured.

Zimbabwe is a different story. I know that many of my colleagues will recall my concern with Prime Minister Robert Mugabe's ability to govern in that country. After my visit last August I came away somewhat more assured of the possibility of stability and growth than I had been earlier. The government seems to be intent on responding to the needs of the people and has exhibited a refreshing pragmatism as it grapples with the task of rebuilding the nation after years of war and political and economic isolation. Zimbabwe is in a unique situation to set an example to the world in interracial, intercultural, and intertribal cooperation. I only hope that rationality will prevail and that the more radical elements will not be allowed to determine the political climate.

Finally, it was my very great pleasure to serve as chairman of the Subcommittee on East Asian and Pacific Affairs during the 97th Congress. During the past 2 years we have held 44 hearings—covering almost every aspect of that region of the world. U.S. interests in the vast Pacific basin are extensive and important. The Pacific not only provides ocean access to the western reaches of our continent for the tremendous trade which we have with our friends in Asia, but it also connects us with the Indian Ocean and the Persian Gulf where lies so much of the oil needed to sustain our economy and the economies of our friends and allies. The Pacific also constitutes the eastern border of the Soviet Union, as we all know, and thus provides ocean access to the Russians to threaten our interests in the area.

The Soviets occupy several Japanese islands, their military forces utilize bases in Vietnam, their extensive fleet prowls the waters of the Western Pacific and the Indian Ocean, and their assistance supports the occupation of Cambodia by the Vietnamese. The Pacific also borders, of course, China and Taiwan where our relationships have been troubled and difficult for more than a decade.

ASEAN, the countries of Indonesia, Malaysia, Singapore, Thailand, and the Philippines, is one of the most exciting areas of the world, an area in which the United States is deeply involved. Whether in the area of raw materials, markets, industrial development, agriculture, trade, or security, we are dependent on each other. We must recognize this interdependence and take advantage of the opportunities it offers. In this regard, it is often said that the ASEAN countries have made progress "in an Asian manner," not through rules and regulations but through consensus. There is much that we in this country can learn from this way of conducting business or for that matter, politics.

Our Nation engages in more trade across the Pacific than across the Atlantic. Therefore, it is ironic that I expect the most outstanding issue in the Far East will continue to be trade relations with Japan. It is true that Japan must open her markets to imports, especially agricultural imports, but it is equally true that our U.S. businessmen must learn to do business in Japan.

And we must find ways to encourage the Japanese to think beyond being a small island nation with limited resources. That is one reason why I introduced legislation giving the President authority to export Alaskan oil to Japan and, in exchange, to import a similar amount of oil from Mexico.

Obviously, there are many difficulties as well as benefits in this proposal. However, allowing Alaskan crude oil exports would be viewed as positive evidence of the U.S. commitment to remove trade barriers and to strengthen cooperation in international energy matters. Japan, with its high priority on security of supply, would be especially pleased with the change in policy. Mexico would also welcome the swap since lower transportation costs would lead to increased oil revenues at a time when its national debt, the largest in the Third World, continues to grow.

As some of my colleagues know, I had planned on holding a hearing to receive information on the administration's current thinking on the issue and to explore the foreign policy implications. Unfortunately, the administration was unwilling even to discuss the matter. Needless to say, I believe this was an unwise decision, particularly since the Export Administration Act comes under congressional review in the spring of 1983, and an issue of this magnitude needs thorough discussion.

Another frustrating issue, one in which I would like to think I could have made a difference, is the humanitarian issue of our American soldiers who are still unaccounted for as a result of the Indochina war. When I visited the ASEAN nations a little over a year ago, I was able to enter Laos, the first U.S. Senator to do so in some time. I was pleased with the tenor of discussions I had with the acting Foreign Minister and had hoped that we would begin to see some positive action from the Laos Government. So far the Laotians have not responded, but it is my feeling that if we in the United States treat this as a humanitarian issue, raising it above the level of political questions, we will eventually evoke some kind of cooperation from the Laotians. At least I hope so, Mr. President.

This brings me to the subject of human rights, and this applies not only to East Asia but I believe all over the world. So often we in this country have a tendency to assess the human rights situation in other countries on our standards. As a result, some of our allies and friends in East Asia are judged as not measuring up, for example, the Philippines, Indonesia, South Korea. Most certainly, I would like to see the fullest expression possible of basic human rights afforded to every individual, but we must look at each country and understand that in many instances they are very young democracies trying to find their own way, just as we did some 200 years ago. Some in fact are still dictatorships which we hope will find their way to becoming democracies.

In the meantime, we must encourage them with quiet expressions of concern. I believe this week we saw fruitful results of that policy. Kim Dae Jung was released from a South Korean prison. I am pleased that the Korean Government chose this course of action and feel confident that this is a sign of more positive human rights movement to come, not only in Korea but in the whole region.

Before concluding, I want to say a few words about the PRC and Taiwan. Insofar as Taiwan is concerned, there are, I believe, two issues of major concern to us. We must assure that Taiwan has the sufficient defense capability mandated by the Taiwan Relations Act. Nothing must be allowed to interfere with this requirement. Second, we must recognize that the honor of the United States is involved in our relationship with Taiwan. Our history will not let us escape this obligation and political expediency cannot be allowed to undermine our honor.

Having said this about Taiwan, let me turn for a moment to China. It is my conviction that the American people in great numbers value our relationship with China and wish to see that relationship expand in a mutually beneficial way. We as a great power—especially as a great power—cannot ignore 1 billion people, one quarter of the Earth's population, simply because they do not at the moment represent a major market for us or because their military forces are not now capable of a significant threat to our interests around the world. In the longer run, we would be judged as negligent of our responsibilities to the American people if we do not provide now for a satisfactory relationship with China and its talented people.

It will be a challenging task to develop this relationship with China, to preserve and protect the U.S. interests in the Pacific area, and this to promote peace, stability, and prosperity for the peoples of the Pacific basin, including most especially the American people.

Mr. President, it has been an honor to have been a part—even though it sometimes seemed as though it were an insignificant part—of this great endeavor. It is unfortunate that many Americans do not realize their role as a member of the world community. I know my colleagues on the Foreign Relations Committee and in this body will persist in their efforts to educate and inform our citizens as well as guide the administration in their making of foreign policy.

I am especially pleased that Senator MURKOWSKI will be serving on the Foreign Relations Committee and, I understand, as chairman of the East Asian and Pacific Affairs Subcommittee. I wish him well—I am confident he will do an excellent job and I know you will all assist him as you have assisted me. I look forward to writing, lecturing, keeping an eye on the Far East, and certainly a vacation. I am ready to move on to other things, California sunshine, but not without letting you know that I shall miss you all.

Thank you, Mr. President.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1983

Mr. STEVENS. Mr. President, the Senate has passed legislation involving the Interior appropriations bill. I ask unanimous consent that an additional colloquy offered by the Senator from Alaska and the Senator from Idaho be printed in the RECORD.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

COLLOQUY BETWEEN SENATOR STEVENS AND SENATOR M'CLURE ON INTERIOR APPROPRIATIONS

Mr. STEVENS. Mr. President, I would like to address a question to the manager of the Interior appropriation bill. It relates to the section, whereby titles conveyed by and easements and restrictions imposed by the Secretary of the Interior pursuant to section 506(c) of Public Law 96-487 are confirmed in all respects. Was it not the intention of the Senate in enacting that provision to legislatively dispose of a lawsuit pending in the U.S. District Court for the District of Columbia, styled *Sierra Club* v. *Watt, et al.*, docket No. 82-0700.

Mr. McCLURE. Yes; pursuant to section 506(c) of Public Law 96-487, the Alaska National Interest Lands Conservation Act, Congress directed the Secretary of the Interior to convey to Shee Atika, Inc., its land entitlements under the Alaska Native Claims Settlement Act of 1971, on North Admiralty Island, approximately 25 to 30 miles north of the village of Angoon. In doing this, Congress voided Shee Atika's land selections in the Hood Bay area, near the village of Angoon, and as a compromise, moved the selections away from the village. The Secretary of Agriculture, pursuant to section 506(c), designated appropriate easements, and so informed the Secretary of the Interior, who incorporated those easements into the conveyances to Shee Atika, as required by law.

The easements are required because the lands received by Shee Atika are private lands and under the Alaska Native Claims Settlement Act easements can be imposed on private lands conveyed to the Native corporations to permit access to public lands. The Secretary imposed 13 trail, or access easements, and 6 site easements of 1 acre each. Because these easements are a burden on private land for the benefit of the public, they are to be no more extensive than necessary, to permit access.

The Secretary also provided in the conveyances that the requirements of

section 22(k) of the Settlement Act also applied to the conveyances until December 18, 1983. Section 22(k) requires that lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands.

Objections to the easements and restrictions were raised administratively, before the conveyances were issued, and on December 4, 1981, in a comprehensive administrative decision, signed by the Acting Secretary of the Interior, the objections were analyzed and rejected as without legal merit, and on December 9, 1981, the lands they were conveyed to Shee Atika.

In March, the Sierra Club sued Secretary Watt and others in the U.S. District Court for the District of Columbia, Docket No. 82-0700, challenging the validity of the conveyances and the easements and restrictions imposed. The Sierra Club did not and could not join Shee Atika because they sued in Washington, D.C., although Shee Atika, since it had received the conveyances, was the real party in interest. The Sierra Club then went to Juneau, in June, and in the recording district filed a lis pendens, making reference to the lawsuit in the District of Columbia and informing anyone that looked at Shee Atika's title to the lands conveyed that there was a lawsuit pending which sought "to invalidate the interim conveyances of real property dated December 9, 1981, from defendant Watt to Shee Atika, Inc." Because of this lis pendens there is a cloud on Shee Atika's title and it is unable to secure financing by using its lands as security. I understand that Shee Atika does not receive any funds under the Settlement Act.

Mr. STEVENS. That is correct. Shee Atika, does not share in the financial provision of the Settlement Act and only way it will be able to receive any economic advantage from the provisions of the Settlement Act is through the commercial development of the timberlands conveyed to it. Since the Settlement Act was passed in 1971, this means that in 1982, 11 years later, Shee Atika has yet to receive any economic advantage from the settlement, even though the stated policy of Congress in the Settlement Act was to accomplish the settlement "rapidly, with certainty, in conformity with the real economic and social needs of the Natives, without litigation." It is my understanding that the provision in the appropriation bill relating to Shee Atika is designed to accomplish this.

Mr. McCLURE. Precisely; in its lawsuit, the Sierra Club claims, among other things, that Shee Atika cannot harvest any timber on the conveyed lands, but that it must manage those lands as national monument lands by virtue of section 22(k); that section 22(k) runs from the date of conveyance rather than to 1983, as provided in the conveyance to Shee Atika; that additional easements should have been imposed, not only for access but for other purposes; that the lands should have been conveyed pursuant to restrictions that would preclude any commercial activity, including timber harvesting; that these private lands should be subject to the provisions of the Federal Land Policy and Management Act relating to public lands; that these private lands should be conveyed subject to a restriction that they be managed as national monument lands and if not so managed that the lands revert to the United States; that the policies and regulations of the National Environmental Policy Act of 1969 apply to these private lands; that section 101(b) of the National Environmental Policy Act was violated by the Secretary in conveying the lands to Shee Atika, even though the Congress by section 506(c) of Public Law 96-487 directed the Secretary to convey the lands; that the Secretary violated the provisions of the National Environmental Policy Act by not studying and developing alternatives to conveying the lands to Shee Atika, even though directed to do so by Congress; that the Secretary acted improperly in exercising his authority to review and decide the issues raised in the administrative challenge to the proposed easements; that somehow his actions violated the due process clause of the U.S. Constitution which provides that no person shall be deprived of life, liberty or property without due process of law; that his comprehensive review and decision, after briefs had been submitted by all parties and considered in the process was arbitrary and capricious and that because of the foregoing the Sierra Club has suffered a deprivation of constitutional rights and unless Secretary Watt's actions are declared unlawful and set aside the Sierra Club will suffer substantial and irreparable harm because they would be denied the right to use and enjoy the Admiralty Island National Monument in a manner intended by Congress. There are other allegations of a similar nature.

Mr. STEVENS. And it was the intent of the provision relating to Shee Atika to moot this lawsuit in all respects, is that not correct?

Mr. McCLURE. Absolutely; I believe my brief recitation of the allegations contained in the complaint is sufficient to show that it is without merit, and is designed to preclude the Natives of Shee Atika from receiving and enjoying the economic advantages of the lands promised to them under the 1971 Settlement Act. It is intended by this provision to clear the way for Shee Atika to commence the commercial harvesting of its timber as soon as practical, so it can benefit at this late date from the provisions and promises of the Settlement Act. Congress did not convey national monument lands to them, Congress conveyed private property to them as part of the 1971 settlement.

Mr. STEVENS. In conference, additional language was added to the Shee Atika amendment which reads:

Provided, That nothing herein shall be deemed to amend the Alaska National Interest Lands Conservation Act or the Alaska Native Claims Settlement Act.

As a member of the conference, it is my understanding that that provision was added to make it clear that our action in legislating away the lawsuit was in keeping with the intentions and provisions of the Settlement Act and the Alaska National Interest Lands Conservation Act.

Mr. McCLURE. Again, that is correct. The purpose behind the provision is to render the pending lawsuit, and that all of the claims that are made therein, moot, because those claims and allegations run contrary to the purposes and provisions of the Alaska National Interest Lands Conservation Act and the Alaska Native Claims Settlement Act and the actions taken by the Secretaries of Agriculture and the Interior pursuant thereto. If their actions had not been in compliance with those acts, we would not have taken the action we did, for we would not approve conveyances to Shee Atika, and the restrictions and easements, imposed thereon, if those conveyances, easements, and restrictions were in violation of either the Alaska Native Claims Settlement Act or the Alaska National Interest Lands Conservation Act. However, since those conveyances and easements and restrictions are in full compliance in all respects with the provisions of those acts, it was intended to confirm those conveyances, easements, and restrictions in all respects, as being in compliance to the maximum extent possible with the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act. We accepted the language of the House conferees because it makes absolutely clear that what was conveyed was in full compliance with the acts and there was nothing more the Secretaries should do, or for that matter, could do under any law. Shee Atika now can move forward to develop its lands commercially, for economic stability and growth.

Mr. STEVENS. Thank you Senator McCLURE. For the record I would also like to note that the land holdings conveyed to Shee Atika are not in the middle of the Admiralty Island National Monument, but rather are at the very edge of the monument and

therefore are not the type of private land in holdings that so often occur in Alaska.

In addition, the lands are 25 to 35 miles from the village of Angoon and comprise approximately 23,000 acres, while the Admiralty Island National Monument comprises approximately 980,000 acres. Pursuant to title VIII of the Alaska National Interest Lands Conservation Act, the Natives of Angoon have a priority subsistence right in those 980,000 acres. Therefore, the subsistence rights of the Natives are protected.

I have fought for balanced land use in Alaska. I am aware of the arguments and competing demands and positions. I am unable, however, to comprehend the vendetta that the Sierra Club and others are waging against Shee Atika. Apparently, they believe they should have a million-acre national monument rather than one of 980,000 acres.

I am happy to note that by the Shee Atika amendment to the Interior appropriation bill, we have rejected the allegations and challenges to Shee Atika's right to commence immediately the commercial harvesting of timber.

PIPELINE SAFETY ACT OF 1982—THE ALASKA RAILROAD PACKAGE

Mr. STEVENS. Mr. President, the Alaska railroad package passed the Senate on December 21, 1982, as title II of H.R. 3420, the Pipeline Safety Act of 1982.

Due to the extreme time constraints that we were forced to operate under the legislative history to the railroad title was not included in the RECORD. I ask unanimous consent that the proper interpretative documents for this bill be printed in the RECORD and that in the permanent RECORD they be printed prior to passage of H.R. 3420.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALASKA RAILROAD TRANSFER LEGISLATION
SECTION-BY-SECTION ANALYSIS

SECTION 1—TITLE

This section provides that the legislation may be cited as "Alaska Railroad Transfer Act of 1982."

SECTION 2—FINDINGS

This section states the reasons that the Alaska Railroad should be transferred to the State of Alaska. While the railroad has served the interest of the Federal Government in the past, today it primarily serves residents and businesses of the State. Further, the transfer is consistent with the Federal Government's efforts today to transfer programs to the States whenever appropriate. Finally the transfer is necessary in order to insure that in the future the railroad will be operated and it's services expanded to meet the needs of the State and the railroad users.

SECTION 3—DEFINITIONS

This section defines the major terms used in the legislation. Among those described is "rail properties of the Alaska Railroad." This definition is important because it describes the rail properties to be transferred. As defined in the legislation, rail properties means all right, title, and interest to real and personal properties held by or for the Alaska Railroad as of the date of enactment with limited exceptions, as follows: (1) The unexercised reservation to the United States in all patents to lands as provided for the construction of future rights-of-way; (2) the right of the Secretary of Transportation to exercise the power of eminent domain; (3) any money in the Alaska Railroad Revolving Fund that the Secretary and the State agree is needed to pay certain Federal obligations arising from operation of the railroad, which are not assumed by the State; (4) certain properties that the Secretary determines, with the consent of the State, to be necessary to carry out Federal functions after the transfer; and (5) certain properties in Denali National Park and Preserve.

This section defines "exclusive-use easement" as a surface easement for transportation, communication, and transmission purposes and support functions together with the right to use the subsurface if necessary for such purposes. The definition further guarantees subjacent and lateral support and entitles the easement holder to fence, afix, track fixtures and structures to and exclude persons from the land subject to the easement.

This section also defines the terms "State" and "State-owned Railroad". The definitions are broadly worded to give the State maximum flexibility in designating an appropriate organization for state ownership, operation, and management of the railroad after the transfer.

SECTION 4—TRANSFER AUTHORIZATION

This section establishes the primary transfer components. Under subsection (a), the Secretary of Transportation is required to transfer the rail properties of the Alaska railroad to the State without direct monetary consideration as soon as possible after four specified certifications are made.

Subsection (b) requires the Secretary of Transportation after consultation with the Secretary of the Interior to simultaneously deliver to the State the following documents on the date of transfer; (1) a bill of sale conveying title to all personal rail properties of the Alaska Railroad; (2) an interim conveyance of the real properties of the Alaska Railroad which are not subject to unresolved claims of valid existing right; (3) an exclusive license to use rail properties not conveyed above pending resolution of claims of valid existing rights in accordance with the review, settlement, and final adjudication procedures established in section 6(b); (4) an exclusive-use easement for railroad purposes and other existing uses to right-of-way lands located with the Denali National Park and Preserve and title to the improvements within that right-of-way. All other rail properties located in the park are transferred to the Department of the Interior for administration as part of the park.

Lands subject to an interim conveyance (including lands to be conveyed following the review, settlement and adjudication process discussed above), must be surveyed by the Department of the Interior within five years after the date of enactment pursuant to section 606(b)(2) of the interim conveyance. Following completion of the survey, the Secretary is required to issue a patent to the State.

Subsection (2) provides that interim conveyances and patents issued to the State must transfer all U.S. reservations for the Alaska Railroad except unexercised reservations for future rights-of-way under the 1914 Alaska Railroad Act. In addition, there shall be reserved to the Secretaries of Interior, Defense and Agriculture as appropriate existing easements for administration identified in the closing report. The appropriate Secretary may also obtain future easements with State consent. Existing and future easements may not interfere with operations and support functions of the Alaska Railroad.

The Park Service will continue to use and occupy through the Secretary of the Interior a small tract at Talkeetna, Alaska currently used for certain park activities. So long as this use or occupation does not interfere with railroad operations.

With respect to the required certifications, subsection (d) directs the Secretary of Transportation to find that the State will operate the railroad as a carrier in intrastate and interstate commerce. In addition, the Secretary is to certify that the State will assume the rights, liabilities and obligations of the Railroad. However, the State will not be responsible for claims or causes accruing on or before the date of transfer, or judgments rendered before the transfer, except those tort actions which result in claims in less than $2,500.

The Secretary must also find the State has established specified employee protection arrangements to apply during the two year period after the date of transfer. For those employees who are not officers and who choose to transfer to the State-owned railroad, the State must ensure that they are retained in their same positions, and unless otherwise agreed to, at least at the same level of compensation in effect at the time of transfer. These provisions are not to apply to those employees who are reassigned, retired, or separated for cause or lack of work.

Under this subsection, the State is to continue existing collective bargaining agreements during this two year period unless otherwise agreed to. This subsection further provides that these agreements are to be renegotiated during this period unless otherwise agreed to, and that they are to expire at the end of the two year period.

Finally, with respect to these employees, the State is to ensure that certain Federal benefits are retained. These include accrued leave, insurance, seniority rights, and cost of living increases. Also those employees who are transferred to the State-owned railroad but terminated or laid off, during the transition period, shall be entitled to priority of reemployment in the railroad and prior Federal service is to be counted in determining seniority for such purposes.

For officers of the railroad including the General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and Chief Consul, the Secretary must also certify that the State has agreed to retain those officers for at least one year from the date of transfer (except where separated for cause, resignation, retirement, or lack of work), at or above their base salary in effect on the date of transfer in such positions as the State may determine. As an alternative, the State may remove these employees upon payment of lump sum severance pay equal to their base salary for one year diminished pro-rata

for employment by the state owned railroad within one year of the date of transfer prior to separation. Benefit guarantees discussed above for officers are in effect for one year only.

The fourth certification requirement insures that the State will allow the Secretary of Transportation access to records of the railroad and employees as needed to carry out the remaining Federal responsibilities connected with the transfer.

SECTION 5—TRANSITION PERIOD

This section sets forth the activities which are to occur, or are not to occur, during the period of enactment of the Legislation and the date of transfer. Subsection (a) provides for joint submission by the Secretary of Transportation and the Governor of Alaska, no later than six months after enactment, of a report that describes in detail the rail properties of the railroad, the liabilities and obligations to be assumed by the State, and the sum of money, if any, in the Alaska Railroad Revolving Fund to be used by the Federal Government in carrying out it's remaining responsibilities.

Under Subsection (b), the State shall have access to properties of, and records pertaining to the railroad in order to evaluate and prepare for the transfer. Also the Secretary is directed not to take certain actions such as transfer, sale, or lease of the railroad properties or the obligation of railroad monies, without the consent of the State.

Finally, subsection (c) directs the Secretary prior to transfer to ensure that the railroad's accounting practices and systems conform to reporting standards set by the ICC. This action will facilitate the transition of the railroad to it's status as a regulated carrier in intrastate and interstate commerce.

SECTION 6—LAND TO BE TRANSFERRED

This section sets forth the status of the rail properties to be transferred and provides for the orderly adjudication of claims of valid existing rights to those properties. Subsection (a) specifies that the property to be transferred is excluded from selection or conveyance provided under amendments to ANCSA relating to the Cook Inlet Region, Inc., the Chugach Natives, Inc. and certain future Eklutna Village Corporation selections provided for in ANILCA.

Subsection (b) reinforces the Department of the Interiors existing responsibility to adjudicate third party claims and to issue written opinions and appropriate documents of title. Specifically, the Secretary of the Interior is directed to complete the determination of "smallest practicable tract" under section 3(e) of ANCSA within two years of the enactment of this legislation. Prior to initiating these adjudications, a 10-month period is provided whereby all affected parties are directed to make a good faith effort to review and settle as many of these claims as possible. This subsection specifies that until settlement or final adjudication, interim management of the railroad lands subject to claims of valid existing rights shall be in accordance with standards agreed to in the Memorandum of Understanding between the FRA, the State Cook Inlet Region, Inc. and Village Corporations. In recognition of the importance of maintaining exclusive control over right-of-way lands to ensure sufficient protection for safe and economic operation of the railroad, the final part of this subsection provides a process whereby Village Corporations are allowed to relinquish any claims to railroad lands within the right-of-way for subsequent transfer to the State. This provision further provides that failure to make such a relinquishment shall result in the conveyance to the State of all right, title and interest of the United States in the right-of-way free and clear of such claims.

Under subsection (c), any decision by the Secretary of the Interior pursuant to this section is open to review only by an action brought in the Federal District Court of Alaska and is to be expedited. The State is allowed to participate in such an appeal as well as in any agency proceeding. To ensure that the goals of this legislation are not frustrated, this section further provides that no injunctive or other relief can delay the transfer of the railroad or impede its operations.

Lands among the rail properties are expressly excluded by subsection (d) from selection by Cook Inlet Region, Inc. (CIRI) and Chugach Natives, Inc. under 43 U.S.C. §1611 and sections 1425 and 1430 of P.L. 96-487 (ANILCA). Since the passage of P.L. 94-204 (ANCSA) in 1976, incorporating the Cook Inlet Land Exchange Agreement (exchange agreement), the Secretary of the Interior and the State of Alaska have been attempting to ensure the land entitlement of CIRI under that complex provision is fulfilled in a manner consistent with the interests of the States, environmental concerns, and concerns of other public and private entities.

In one of the integral parts of the exchange agreement, the "in-region pool" provision, the Secretary of the Interior, in conjunction with the General Services Administrator, was charged with promptly identifying and creating a selection pool of federal lands within the Cook Inlet Region. The transfer of the Alaska Railroad through this legislation would exclude rail properties from possible placement in the "in region" selection pool, unless the State or Secretary of Transportation consent to its inclusion.

ANILCA amended ANCSA to allow for "in-region pool" selections to occur out of state. Since the existing exchange agreement allows the Secretary of the Interior discretion to enlarge the "in region pool" using out of region entitlement, the objective of this section is to reaffirm this secretarial discretion and to make clear that out-of-state properties can be placed into the "in region pool". This subsection also allows CIRI to negotiate with local governments to obtain the properties being selected.

Utilization of CIRI's current statutory rights to obtain Federal surplus property wherever located will be essential for fulfillment of its entitlement. Therefore, a more detailed provision is needed to insure the properties will be made available. This section adjusts CIRI's current statutory right by specifically requiring that both the Secretary of the Interior and CIRI obtain early notice of potentially available properties. The amendments also clarify the Secretary of the Interior's authority to offer properties under his jurisdiction to CIRI as partial fulfillment of CIRI's entitlements.

In addition, to increase to properties within Alaska that can be placed into the "in region pool", section 6 extends CIRI's "in-region" priority statewide.

The amount of property within the "in-region pool" has been for various reasons less than the minimum amount required. On three separate occasions the original deadline on January 15, 1978 has had to be extended to recognize this fact. To ensure fulfillment, section 6 lifts the deadline until the pool is complete but in no event later than July 15, 1987.

Subsection (e) expressly provides that the State shall be liable to a party receiving a conveyance of land among the rail properties for damage resulting in use by the State in a manner not authorized under the license provided in section 4.

SECTION 7—EMPLOYEES OF THE ALASKA RAILROAD

Subsection (a) of this section provides that those employees who transfer to the State-owned railroad and who presently participate in the Federal Civil Service System, may continue to participate in this system for as long as they continue to work for the State-owned railroad. However as an alternative, the State-owned railroad may provide such employees either in or substantially equivalent to those benefits the State provides it's employees under the State Retirement System. This section provides an exemption to the state alternative program for those transferred employees who are entitled to retire under the federal retirement system within five years of the date of transfer. These employees may elect to remain participants in the Federal system even if the State chooses to provide other benefits.

Subsection (b) of this section provides that those Federal employees who choose not to transfer to the State-owned railroad at the time the railroad is transferred to the State shall be entitled to all normal rights and benefits under federal law for discontinued employees.

Subsection (c) provides for similar protections for transferred employees whose employment with the State-owned railroad is involuntarily terminated during the two-year period following the transfer.

SECTION 8—STATE OPERATION

Subsection (a) of this section provides that after the transfer, the State-owned railroad shall be subject to the same Federal laws, with some limited section, as are other railroads, including the Interstate Commerce Act, the Federal antitrust laws (unless the State acts otherwise to invoke an exemption), and the railroad safety laws. The limited exemptions are the Railroad Retirement Act, the Railway Labor Act, the Federal Employers' Liability Act, and the Railroad Unemployment Insurance Act. All FRA memoranda which sanction noncompliance with Federal railroad safety regulations in effect on the date of transfer shall continue in effect according to their terms as "waivers of compliance".

In addition, subsection (a) exempts the State-owned railroad from any state or local statute specifying a minimum number of crew members that must be employed in connection with the operation of it's trains.

Subsection 9 (a) specifies that the State-owned railroad shall retain and manage it's own revenues. The purpose of this provision is to avoid the need for annual appropriations by the State for the railroad.

Subsection (b) of this section requires the ICC to promulgate an expedited, modified procedure for providing the State-owned railroad a certificate of public need and necessity.

This subsection also exempts ICC actions under this subsection from the National Environmental Policy Act and the Energy Policy and Conservation Act in order to ensure an expeditious process.

Subsection (c) of this subsection provides that the State-owned railroad shall be eligible to participate in Federal assistance programs on the same basis as other railroads,

including that provided for by the Railroad Revitalization and Regulatory Reform Act.

Subsection (d) of this section provides that the railroad properties within the Denali National Park and Preserve and Chugach National Forest shall be subject to applicable Federal Laws and regulations established for the protection of forest and park values. In making this determination, the appropriate secretary is to consult with the Governor of Alaska. Moreover, any determination by the Secretaries must be designed to avoid unreasonable interference with railroad operations. This subsection also requires that any decision to fence the right-of-way within Denali shall be subject to the concurrence of the Secretary of the Interior.

SECTION 9—FUTURE RIGHTS-OF-WAY

This section contemplates future rights-of-way for expansion of the railroad. Subsection (a) provides that the State or State-owned railroad may request the Secretary of the Interior, or the Secretary of Agriculture as appropriate, in consultation with the Secretary of Transportation to approve expeditiously pursuant to existing law, a right-of-way over Federal lands and applications for terminal and station grounds and material sites.

Subsection (b) specifies that any rights-of-ways and grounds and sites granted under this section must conform to the extent possible to the standards established in the Alaska Railroad Act of 1914.

Subsection (c) provides that a right-of-way granted under this section is subject to reversion in accordance with section 10 below.

SECTION 10—REVERSION

This section provides for the reversion to the United States of the properties of the Alaska Railroad if within ten years of the transfer such properties are converted to a use that would prevent the State-owned railroad from continuing to operate. As an alternative to the actual reversion of the properties, the State at its option, may pay the United States an amount determined to be the value of the properties at the time they were converted to a use preventing the railroad from operating.

Subsection (b) specifically provides that if the State discontinues use of any land within the right-of-way for a continuous period of 18 years, or upon a formal notification of discontinuance from the State, the State's interest in these lands will revert to the United States.

Subsection (c) further states that upon such reversion, these lands will be conveyed by patent to abutting land owners, except as specified in subsection (d). This latter subsection provides that the portion of the right-of-way within the Denali National Park and Preserve and the Chugach National Forest will revert to the Department of the Interior and the Department of Agriculture, as appropriate, for administration as part of these units.

Subsection (e) provides that if the State sells or transfers the railroad within five years after the date of transfer, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvements and any liabilities incurred by the State shall be paid to the United States.

SECTION 11—OTHER DISPOSITION

To ensure that the railroad is transferred from Federal ownership, this section authorizes the Secretary of Transportation to otherwise dispose of the railroad if satisfaction by the State of the four conditions under section 4 cannot be certified within a year of the delivery of the report mandated under section 5. Consistent with the concern for continued rail service, this section directs the Secretary to give preference to a prospective owner who will continue to operate rail service.

SECTION 12—DENALI NATIONAL PARK AND PRESERVE

All rail properties within the Denali National Park and Preserve are transferred to the Department of Interior for administration as part of the park subject to the exclusive-use easement discussed above.

SECTION 13—APPLICABILITY OF OTHER LAWS

This section exempts actions taken under the legislation from the requirements of a number of Federal statutes, including the National Environmental Policy Act and those provisions of the Administrative Procedures Act not pertaining to judicial review. The reasons for these exemptions is to ensure that the transfer process is not delayed.

This section also clarifies that actions taken under this legislation do not constitute a disposal of surplus Federal property or a revocation of withdrawals made from or confirmed for the Alaska Railroad under a number of specifically named and generally referenced land laws, including the Federal Land Policy and Management Act. These clarifications are necessary in order to ensure that the rail properties do not become available for entry or selection by third parties as a result of actions taken under the legislation.

SECTION 14—CONFLICT WITH OTHER LAWS

This section provides that this legislation shall govern in the event in any conflict between this legislation and any other law.

SECTION 15—REPEAL AND AMENDMENT OF EXISTING LAWS

This section repeals the Alaska Railroad enabling act and to other related laws, and makes conforming changes to other Federal laws that mention the Alaska Railroad. These changes would become effective at the times of transfer or other disposition or at the time of any other disposition of the railroad pursuant to Section 11 of this legislation.

SECTION 16—SEPARABILITY

This section provides that if any section is held invalid, other sections shall not be affected.

Mr. STEVENS. Mr. President, the bill includes a complex provision that reorders and modifies Cook Inlet Region's rights in order to accommodate potential transfer of clearer title regarding the Alaska Railroad to the State of Alaska. Cook Inlet Region, Inc. under the legislation is agreeing to the modification and postponement of certain rights and the complete waiver, upon transfer of the Railroad property, of other potential rights which it has under 1976 and 1980 federal legislation. The valuable rights waived by CIRI include possible rights to developed property owned by the Alaska Railroad that are in key locations and are thought by the State of Alaska to be integral to its fiscally successful operation of the railroad. A number of these properties have inordinately high value even for developed properties in Alaska. As compensation for the surrender of rights to lands of the Alaska Railroad, the deferral of substantial existing rights under the 1980 legislation, and the further restrictions of the rights of Cook Inlet Region, Inc. as contained in an agreement described below, the Region will receive adjustments to the property rights attached to its "out-of-region" pool under the original Cook Inlet Settlement Agreement in 1976. The exchange values assigned to the portion of the "out-of-region" pool in the legislation are not intended to reflect the value of lands outside of the Cook Inlet Region, but are instead an agreed upon standard which recognizes a combination of values waived, deferred and modified with respect to Cook Inlet Region, Inc.

The legislation also directs the General Services Administration to execute a Memorandum of Understanding with Cook Inlet Region, Inc. and the Secretary of the Interior to assure that there is expeditious and cooperative fulfillment of CIRI's property entitlement. Under this agreement, Cook Inlet Region, Inc. agrees to defer the exercise of certain rights which are confirmed to it under this legislation and agrees to take, without its discretion, certain lands, as described in the agreement, when identified for it by the federal government in the interim. A ceiling of approximately one-half of its authority to bid and negotiate for federal properties outside the State may be used prior to October 1, 1983; furthermore, it shall not use such additional bid and negotiation authority as is provided in this legislation in exchange for its out-of-state entitlement until January 1, 1985. This period is designed to provide the federal government with the opportunity to locate certain properties within Alaska for selection by Cook Inlet Region, Inc. If the federal government locates such properties within the Cook Inlet Region, Cook Inlet Region, Inc. must make them to reduce and possibly eliminate its additional bidding and negotiating capability under this statute. Nothing in this agreement, however, reduces or affects the rights or veto power of the State of Alaska or other Native corporations.

The legislation also provides that where excess or surplus property is provided outside Alaska, such notice to state and local governments as is provided in the disposition of surplus property will be here provided. Finally, the legislation provides a maximum amount of acres or acre/equivalents which may be utilized to credit the Region's property account. It is anticipated that the amendment will be applied as part of and in a manner consistent with the original provisions of P.L. 94-204 and the Cook Inlet Settlement Agreement ratified therein.

Taken together, these deferments, waivers and agreements by the Region amount to a substantial reordering of the Region's prior rights. This package of amendments and the associated agreements have been developed in consultation with Cook Inlet Region, Inc. and it has consented to the waiver of these rights to property and the conversion of these rights to the mechanisms established under this legislation and associated agreement. These rights are in exchange for valuable property rights previously established and reduce a national obligation. As a consequence the fullfillment of the obligations of the Cook Inlet Settlement must be administratively recognized as the equivalent of a sale or other disposition which produces revenue for the federal government and reduces the national debt. If such recognition is not given to transactions consummated pursuant to these authorities. Cook Inlet Region, Inc. may be the subject of discriminatory treatment in negotiations and the existence of opportunities to fullfill its entitlement. This should not be the case for these fair market value property sales and that administrative steps should be

taken to assure that incentives for the fulfillment of these obligations exist including full accounting credit for such transaction in evaluating the efforts of federal agencies as coordinated by the President's Property Review Board.

Cook Inlet Region, Inc., by letter to Senator Stevens dated November 29, 1982, has indicated an intention to enhance the receipt of lands within its Region in order to expeditiously fullfill the redefined and adjusted "out-of-region" pool. This intention to take in-Region properties as the means of fulfilling its entitlement, would be formalized in an agreement which establishes an obligation of Cook Inlet Region, Inc. to take certain properties within its Region. I ask unanimous consent to print the attached detailed description of House amendments to assist administrators in interpretation of these provisions.

The material follows:

CIRI ALASKA RAILROAD AMENDMENTS

THe CIRI Alaska Railroad Amendments modify the rights and obligations of Cook Inlet Region, Inc., the State of Alaska and the Federal Government under the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area." House Report No. 94-729 accompanying the bill which ratified the "Terms and Conditions" described the background of that Agreement at follows:

"From the outset of the implementation of the Settlement Act, there have been extreme difficulties encountered in adequately fulfilling the land entitlements of the Cook Inlet Regional Corporation under section 12(c) of the Settlement Act. Under the Statehood Act, the State had already obtained patents to much of the low-lying lands in the region, except for lands within the Kenai National Moose Range. In addition, the Secretary, in an agreement with the State of Alaska in 1972, committed additional lands to the State even though there had not yet been withdrawn sufficient lands for Cook Inlet Region. The subsequent efforts of the Secretary to fulfill his statutory obligation to Cook Inlet has yielded, for the region, selections largely comprised of mountains and glaciers, hardly the settlement contemplated by the Congress. Since early 1972, the Region has been attempting to resolve these issues by litigation, negotiation, and now by legislation.

"In the last eight months, a series of intense discussions with the Secretary, the State, and various other interested groups (including local government, mining interests, and evironmental groups) has resulted in a negotiated settlement entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area." The document harmonizes conflicting interests, seeking to adjust an equitable settlement for Cook Inlet Region consistent with the needs of Alaska and the public at large. As such, it is more than a Cook Inlet Region, Inc. settlement. It seeks to resolve harmful jurisdictional conflicts and arbitrary ownership patterns within the Cook Inlet region. It opens for development lands that should be in private ownership and conserves for public use lands that should have that status."

Under the "Terms and Conditions" CIRI agreed to shift most of its statutory entitlement away from the populated Cook Inlet area into other regions in the State. Under IC(2) of the "Terms and Conditions" the Secretary was to attempt to place certain categories of land (e.g. abandoned or unperfected public land entries, surplus property, revoked Federal reserves, cancelled or revoked power sites, ASCSA 3(e) lands) located in the Cook Inlet region into an "in-regionpool" for CIRI's selection. The goal was to make 138,240 acres (6 townships) available to CIRI by January 15, 1978. Under IC(1) of the "Terms and Conditions" CIRI could select the remainder of its 29.66 townships entitlement outside of the Cook Inlet region. The deadlines in the Act have been extended by Congress. The latest extension of the in-region deadline expired on July 15, 1982. In 1980 the "Terms and Conditions" was amended by Congress to allow CIRI to purchase Federal surplus property throughout the United States with a money value given to its in-region entitlement.

The present amendments, like the original "Terms and Conditions", were agreed upon by Cook Inlet Region, Inc., the State of Alaska and the Federal Government after a series of lengthy discussions, and represent resolution of conflicting interests and a fair settlement for the parties. The amendments have been drafted to ensure that CIRI's entitlement is fulfilled and the Federal Government's obligation to Cook Inlet satisfied without further intervention by Congress. The following is a brief analysis of the various provisions of the amendments:

1. Section 12(b)(7). The amendments to subparagraph 7 give CIRI the opportunity to obtain Federal excess property. Excess property is property which is excess to the needs of the Federal agency which has been using the property. The term "excess property" is defined at 40 U.S.C. 472(d) and (e) and does not include property which is capable of being returned to the public domain. Before declaring excess property surplus to the needs of the Federal Government, GSA determines whether the property can be used by another Federal agency. If no other agency can make use of the property, GSA declares the property surplus to the needs of the Federal Government. Under existing law CIRI can obtain Federal surplus property by direct negotiation or by bidding for the property at a Federal surplus property sale. CIRI has had difficulty obtaining notice that Federal property was surplus. This amendment gives CIRI an opportunity to obtain Federal property at the excess stage before it beomes surplus property.

2. 12(b)(7)(ii)(A). This provision requires the Administrator of General Services to notify CIRI when he is reviewing Federal excess property for use by other Federal agencies. CIRI must notify the Administrator within fifteen days that it is interested in the property. The statute does not require the Administrator to convey the property to CIRI; the decision is discretionary. If the Administrator decides to convey the property to CIRI, the terms of the sale are negotiated between the parties. CIRI pays for the property from its entitlement bank account which is described in paragraph 4, below.

3. Section 12(b)(7)(ii)(B). This provision requires GSA to give notice to affected states and local governments that it is considering conveying excess property to CIRI and requires GSA to give the states and local governments such opportunity to obtain the property as is recognized in Title 40 of the United States Code. Title 40 has various provisions which give the Administrator of GSA and the Secretary of Health, Education and Welfare the discretion to convey certain kinds of Federal property to states and local governments. The Administrator's discretion to make such conveyances to states and local governments is protected by this provision.

4. Section 12(b)(7)(iii) and (iv). These provisions increase CIRI's "bank account" for purchasing excess and surplus property. CIRI is given a bank account for paying for surplus property consisting of a money value given to its remaining in-region entitlement of $500 an acre ($500 x approximately 130,000 acres). These amendments also add to CIRI's bank account by giving it a value of $250 an acre for thirteen townships of its twenty-three township out-of-region entitlement which it can utilize for purchasing excess and surplus property after the in-region "bank account" is exhausted. If CIRI obtains land in Alaska from either the in-region or out-of-region pool, its bank account is reduced. If it expends money in its bank account, its land entitlement is thereby reduced.

5. Section 12(b)(8)(i)(A). The Secretary's obligation to place certain categories of land (*e.g.* abandoned or unperfected public land entries, surplus property, revoked Federal reserves, cancelled or revoked power sites, ANCSA 3(e) lands) into the in-region pool under I(C)(2)(a) of the Cook Inlet "Terms and Conditions" terminates on the first day after July 15, 1984 that the sum of the acres or acre/equivalents identified for the in-region pool and the acres or acre/equivalents used by CIRI in purchasing excess or surplus property under Section 7 of the Act reaches 138,240 acres or acre/equivalents. (If a parcel of land is worth more than $500, each increment of $500 or portion of $500 is considered an acre/equivalent. For example, if one acre identified for the pool is worth $1,750, it will be considered 3½-acre/equivalents.)

6. Section 12(b)(8)(i)(B). The Secretary's authority to place land in certain categories from out-of-region into the in-region pool terminates on July 15, 1984 if the Secretary has fulfilled his obligation under I(C)(2)(a) as described in paragraph 5 or on July 15, 1987 even if the obligation is not fulfilled.

7. Section 12(b)(8)(i)(C). Under this provision the State of Alaska may prevent the Secretary from making land available to CIRI from the in-region pool if the State or a municipality requires the land for a public purpose. The State's "public purpose" veto takes affect on military land on January 1, 1985 and on all other lands when the Secretary's obligation under I(C)(2)(a) of the "Terms and Conditions" is fulfilled or on July 16, 1987, whichever occurs first. Until the State's public purpose veto takes effect, the State retains the authority it has under existing law to prevent the Secretary from making land available for selection by CIRI under I(C)(2)(a)(vi) and (c) of the "Terms and Conditions".

Under IC(2)(a)(vi) of the "Terms and Conditions", the Secretary may identify "other Federal lands" for CIRI's in-region pool only with the State and CIRI's concurrence. The State's concurrence will be required until the State's public purpose veto takes effect. "Other Federal lands" does not include lands which have been selected by or confirmed to the State under the Statehood Act.

Under IC(2)(C) the State can prevent the inclusion of 1,500 acres of abandoned or unperfected public land entries and cancelled or revoked power sites into CIRI's in-region pool. The State can also require the Secretary to consult with the Joint Federal-State Land Use Planning Commission to detemine whether private owneship of a given piece of property is incompatible with reasonable land management principles. The Joint Federal-State Land Use Planning Commission is

no longer in existence and this provision has become ineffective.

8. Section 12(b)(8)(i)(D). This provision states under which circumstances CIRI may obtain property of the Alaska Railroad. If the Alaska Railroad is transferred to the State, CIRI cannot obtain railroad land without the State's prior consent. If the transfer does not take place, the State can continue to withhold its consent if the State or one of its municipalities requires the land for a public purpose. The State's "public purpose" veto goes into affect immediately if the railroad is not transferred to the State. This provision is not independent authority for transfer of railroad land to CIRI.

9. Section 12(b)(8)(ii). CIRI and the Federal Government have disagreed on the interpretation of I(C)(2)(a)(v) of the terms and conditions which authorizes the Secretary to review Federal installations to determine if there is land which is not needed by the installation which could be made available to CIRI. BLM believes that the review should be limited to lands withdrawn by section 11 of ANCSA. CIRI believes that the review should take place throughot the CIRI region. In the amendments the review is authorized throughout the region unless CIRI and the Secretary enter into an agreement to limit the review. CIRI has agreed to enter into a side agreement with the Secretary limiting the review to the following properties:

(a) FAA:

(1) Homer VOR;

(2) Kenai VOR and airport (including PLO 2585 and ANS No. 11);

(3) Talkeetna VOR, NDB and airport;

(4) Fire Island VOR;

(5) Skwetna NDB.

(b) Coast Guard:

(1) Fire Island Race Pt.;

(2) Fire Island West Pt.;

(3) Kalgin Island;

(4) Two undeveloped lots on Government Hill, Anchorage.

(c) FERC:

(1) Power project 395 (Chackachama), provided, however, that the review is to be limited to T. 12 and 13 N., R. 15 W., Seward Meridian, and that a two hundred foot (200') right-of-way corridor for transmission lines and road access may be reserved to the State at a location to be specified by the State at a subsequent time not to exceed twenty years from receipt of conveyance by CIRI.

(d) Alaska Railroad properties, in the event such properties become available for selection pursuant to subsection 12(b)(8)(i)(D) of the CIRI Alaska Railroad Waiver Amendments.

10. Section 12(b)(8)(iii). Section I(C)(2)(b) of the "Terms and Conditions" authorizes the Secretary to place lands into the in-region pool from outside the region which are in the same categories as lands listed at I(C)(2)(a) (e.g. abandoned or unperfected public land entries, surplus property, revoked Federal reserves, cancelled or revoked power sites, ANCSA 3(e) lands) if the State concurs. Under this amendment the State will not withhold its concurrence unless the State or one of its municipalities needs the land for a public purpose.

11. Section 12(b)(8)(iv). This provision extends the deadline for CIRI's selection of its out-of-region entitlement for two years until April 15, 1985.

12. Section 12(b)(8)(v). This provision provides for a review by Congress in January 1985, to determine whether CIRI's entitlement is being fulfilled pursuant to the "Terms and Conditions" and the implementing legislation.

13. Section 12(b)(9). A new provision is added to the Act to protect third-party rights from encroachment by the "Terms and Conditions" as modified by these amendments. CIRI's waiver of an interest in lands within the Point Woronzof, Point Campbell, Goose Lake and Campbell Tracts in Anchorage is reaffirmed. Native selections under ANCSA are protected. The ANILCA 1425 Agreement among the State, the Municipality of Anchorage and Eklutna, Inc. is protected. Subsection 12(b)(9) prohibits the Secretary from identifying for CIRI's selection lands which have been selected by or confirmed to the State under the Statehood Act unless the State and CIRI reach an agreement concerning such a conveyance pursuant to Subsection 12(b)(11).

14. Section 12(b)(10). This provision amends paragraph I(C)(1) of the "Terms and Conditions" by expanding the out-of-region lands which CIRI can nominate for selection to include ANCSA 17(d)(2) lands as well as ANCSA 17(d)(1) lands and lands formally withdrawn by both provisions.

15. Section 12(b)(11)(i). This provision authorizes the State to enter into agreements to convey tentatively approved and patented State land to CIRI to fulfill CIRI's out-of-region entitlement. The State would then be entitled to make additional selections under the Statehood Act.

16. Section 12(b)(11)(i). This provision authorizes the Secretary to convey to CIRI land selected by the State prior to July 18, 1975 or pursuant to sections 2 and 5 of the State Federal agreement of September 1, 1972 if the State agrees to the conveyance to fulfill CIRI's out-of-region entitlement. The State would then be entitled to make new selections under the Statehood Act.

17. Section 12(b)(11)(i). This provision authorizes the State to convey to land directly to CIRI pursuant to an agreement with CIRI and the Secretary to implement sections 12(b)(11) (i) and (ii). The State would be entitled to make new selections under the Statehood Act if it conveys land to CIRI pursuant to this provision.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 8:05 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2330. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes;

H.R. 2520. An act for the relief of Emanuel F. Lenkersdorf;

H.R. 5238. An act to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare disease and conditions, and for other purposes;

H.R. 5858. An act for the relief of Mocatta & Goldsmid Ltd., Sharps, Pixley & Co., Ltd., and Primary Metal and Mineral Corp.;

H.R. 6120. An act to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984;

H.R. 6254. An act to amend title 3, United States Code, to clarify the function of the U.S. Secret Service Uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes;

H.R. 6804. An act to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes; and

H.R. 7356. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution, previously received from the House of Representatives, was read the first and second times, and referred to the Committee on Rules and Administration:

H.J. Res. 636. Joint resolution directing the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions, previously received from the House of Representatives, were read and referred as indicated:

H. Con. Res. 236. Concurrent resolution to declare March 1, 1983, as "National Day of the Seal"; to the Committee on the Judiciary.

H. Con. Res. 437. Concurrent resolution expressing the sense of the Congress concerning the completion of the Vietnam Veterans Memorial in West Potomac Park in the District of Columbia.

ENROLLED BILLS PRESENTED

The Secretary reported that on December 22, 1982, he had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 625. An act to revise the boundary of Voyageurs National Park in the State of Minnesota;

S. 717. An act for the relief of Carole Joy Maxfield-Raynor and Bruce Sherlock Maxfield-Raynor, wife and husband, and their children Charlton Bruce Maxfield-Raynor and Maxine Anne Maxfield-Raynor;

S. 835. An act for the relief of Jerry L. Crow and Ralph D. and Connie V. Hubbell.

S. 1364. An act for the relief of Jose Ramon Beltron Aivenda Ostler;

S. 1501. An act entitled the "Educational Mining Act of 1982";

S. 1838. An act for the relief of Cesar Noel Jump;

S. 1965. An act to designate certain lands in the Mark Twain National Forest in Missouri, which compromise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area" as a component of the National Wilderness Preservation System;

S. 1986. An act to provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of Fort Belknap Indian Community in certain dockets of the

U.S. Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, and for other purposes;

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes;

S. 2355. An act to amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities;

S. 2636. An act to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes;

S. 2955. An act to establish the Cheaha Wilderness in Talladega National Forest, Ala.;

S. 3103. An act to amend section 1304(e) of title 5, United States Code; and

S.J. Res. 270. Joint resolution to designate 1983 as the "Bicentennial of Air and Space Flight."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PERCY (for himself, Mr. PELL, Mr. DIXON, and Mr. RANDOLPH):

S.J. Res. 272. Joint resolution to provide interim appropriation of the revenue for the support of the government; to the Committee on Appropriations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER:

S. Res. 526. Resolution appointing a committee to notify the President concerning the proposed adjournment of the session; considered and agreed to.

By Mr. ROBERT C. BYRD:

S. Res. 527. Resolution authorizing the President of the Senate and the President of the Senate pro tempore to make certain appointments after the sine die adjournment of the present session; considered and agreed to.

By Mr. BAKER:

S. Res. 528. Resolution authorizing the President of the Senate and the President pro tempore of the Senate to sign duly enrolled bills; considered and agreed to;

S. Res. 529. Resolution tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. ROBERT C. BYRD:

S. Res. 530. Resolution tendering the thanks of the Senate to the President pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. THURMOND:

S. Res. 531. Resolution to commend the exemplary conduct of the distinguished majority leader; considered and agreed to;

S. Res. 532. Resolution to commend the extraordinary cooperative conduct of the distinguished minority leader; considered and agreed to.

ADDITIONAL STATEMENTS

SENATOR JOHN P. EAST

● Mr. DENTON. Mr. President, during the short time he has been in the Senate, Senator JOHN P. EAST of North Carolina has distinguished himself as one of its most courageous, articulate, scholarly, and effective Members.

Senator EAST has recently introduced the Judicial Reform Act of 1982. It is obviously the product of some of the most serious and painstaking background research which has ever been done in a bill of its kind. The proposal is a thorough, careful, probing analysis and prescription for facilitating a more healthy and constitutionally sound balance between the judiciary and the other coequal branches of our Government. I urge my colleagues to give it their most care consideration.

The Washington Times has discussed this legislation in three editorials in its issues of December 2, 8, and 15. Mr. President, I ask that these editorials be reprinted in the RECORD following my remarks.

The editorials follow:

[From the Washington Times, Dec. 2, 1982]

RESTORING THE CONSTITUTION

Sen. John East has fired the first resounding shot in what promises to be one of the most important congressional battles of the century. A few days before the election recess he introduced the Judicial Reform Act of 1982. This is no half-hearted attempt to redress this or that example of overreaching by the federal courts. The bill's 12 parts propose nothing less than to return the U.S. Constitution to its original "uninterpreted" state.

The several provisions would strip the federal judiciary of the legislative and executive authority it has usurped from Congress and the executive branch. It addresses every issue raised by the irrepressible judicial activism of the last several decades. The fight will be a glorious one.

The proper role of the federal judiciary has been one of the most intensely debated issues in this nation's history. Where, out of political cowardice, Congress has defaulted on its responsibility to resolve difficult and controversial disputes, federal judges have stepped into the vacuum. The result has been that too much of the most important "legislation" of the 20th century has been written, not be elected representatives, but by appointed judges.

Although some parts of the bill overshoot the mark, the Judicial Reform Act gives Congress the opportunity to reassert its unquestioned, if little-used, powers to shape and control the jurisdiction of the federal courts. Led by the Supreme Court, federal judges have redrawn political boundaries taken over school boards, directly interfered in prison administration, punished police by excluding completely reliable evidence, taken religion out of the schools, and even told doctors when they may—and may not—perform abortions. It is the premise of the East bill that Congress could—and should—accept its legislative responsibility to debate and decide these issues itself.

But it is not only Congress that will benefit from once again having the constitutional power the bill would retrieve. State governments will find themselves freed of the large and onerous burden of federal judicial second-guessing which has been grafted onto the Constitution by ever-broader interpretations of the 26 amendments. The powers reserved by the Founding Fathers to the states and to the people will be theirs once more.

Sen. East's legislation also includes provisions which would greatly improve congressional oversight of the federal judiciary, which would make the Supreme Court's membership geographically representative—as it was at the beginning, and which would in other ways reduce the tremendous power of the federal courts.

The Senate Judiciary Subcommittee on Separation of Powers, chaired by Sen. East, will schedule hearings after the 98th Congress convenes in January. We'll have more to say before then.

[From the Washington Times, Dec. 8, 1982]

ABOLISH THE EXCLUSIONARY RULE

Sen. John East's Judicial Reform Act of 1982 proposes to abolish the so-called "exlusionary rule" of evidence. It's about time. The rule bars evidence against a defendant in a criminal trial if the police or the prosecutor violated any constitutional rule or any other law while gathering the evidence. Judges do not—because the Supreme Court has said they may not—consider the value of the evidence when they apply the rule.

As interpreted by the Supreme Court, the Constitution absolutely prohibits a judge from looking at the evidence to determine whether it would have any value for the jury. If the means used to obtain the evidence breached any constitutional rule, then the evidence must be treated as if it had never existed. Obviously guilty defendants have gone free in cases such as these:

Stopping a speeder, the trooper notices something suspicious about the driver's behavior, and demands that the trunk be opened. Inside, he finds a gun with the driver's fingerprints on it. The gun turns out to have been used to murder a bank teller. The court suppressed the gun, keeping its very existence from the jury, because the Constitution, as the Supreme Court reads it, demanded that the officer have more than a "suspicion" to justify searching the trunk.

Because they suspect a businessman in dealing in drugs, detectives get a court order authorizing them to tap his phone. One morning they overhear a telephone conversation between one of the businessman's visitors and someone else; they are discussing their plan to murder an informant. The prosecution of the two plotters for conspiracy to murder collapses when the judge prohibits the use of the tape recording because the court order authorizing the tap didn't mention either of the defendants or indicate that the tap might find evidence of murder plots.

There is nothing in the Constitution that says that improperly obtained evidence must not be used. The exclusionary rule has been developed by the courts in response to the complete failure of the government to prosecute policemen who violate the law in the course of their duties. There are and always have been laws prohibiting the

police from using illegal methods of gathering evidence. Occasionally, overzealous police violated those laws in their desire to catch and convict criminals. Such police violations rarely were punished.

The exclusionary rule has been the judge's answer to the prosecutor's failure to discipline errant police. The courts are saying, "We're going to make it *pointless* for you to break the law; if you do something illegal to get the evidence, we won't let you use it. Period." Prosecutors don't indict wayward police because prosecutors have to work with the police day-in and day-out. And there are some prosecutors whose crusading enthusiasm sometimes leads them to condone or even encourage improper police tactics. Because no one else has taken on the task of making the police obey the law, the judges have imposed the exclusionary rule.

What is needed, obviously, is a way to preserve valuable evidence without giving the police any incentive to violate the law. Any solution must also accept the fact that some police will sometimes break the law and must be punished. The East bill provides such a solution. Under the bill, federal judges will have the power to punish, as a "comtempt of the Constitution," government conduct that breaks constitutional rules. But regardless of whether the rules are broken, the East bill will let the jury see and hear the evidence. And guilty defendants will be convicted.

[From the Washington Times, Dec. 15, 1982]

TOO MUCH HABEAS CORPUS

When a state court convicts a murderer and he loses all his appeals, all the way to the U.S. Supreme Court, they throw him in jail and lose the key, right? Wrong. If he has any brains, or knows a fellow con with some, he heads for the prison library and reads law books while he waits for a federal judge to rule that the procedure used to convict him was incorrect. Then he files a habeas corpus petition in the nearest federal court, and starts the whole legal process all over.

These things happen because the federal courts have expanded the writ of habeas corpus far beyond what the framers of the Constitution intended. Ever since a 1963 Supreme Court decision, state prisoners have had all but unlimited access to the federal courts to air pretty much any complaint they have about the way they were convicted.

Too much of the workload Chief Justice Burger complains about comes from the federal courts' leniency in taking habeas corpus petitions from state prisoners. Too many hours of state lawyers' time are consumed in explaining and justifying the essential fairness of what happened. And sometimes—not often but often enough—fairly convicted prisoners go free because a federal judge second-guesses the way the state judge handled the case, substituting his view of justice for what the other judge did.

Time was when habeas corpus couldn't be invoked unless the state violated its own procedures. That a federal court had different procedures didn't matter. But the feds got impatient with the way some uppity states didn't immediately snap to attention when the federal judges found a new way of doing things. The solution the federal judges found was simple—they started taking habeas petitions as a way of giving federal rights to state prisoners.

What the federal courts seem to have forgotten is that states have rights, too. The court procedures and rules of evidence that Alabama likes may not be Ohio's cup of tea. Wyoming citizens know and understand their ways of doing things even if they're different from what happens in Missouri. The growth of federal habeas jurisdiction threatens to swamp state criminal law in nationally uniform federal rules.

The Judicial Reform Act of 1982, introduced by Sen. John East, will get the federal courts out of the state trial business. The bill proposes to return federal habeas rules to what they were for the first 150 or so years of our history—a way for unfairly convicted people to show that their own state broke its own rules when it convicted them. That's justice.●

A DOCTOR OF FRONTIERS

● Mr. MOYNIHAN. Mr. President, I rise to call to the attention of the Senate a profile that appeared in Monday's New York Times of a wonderfully gifted pioneer of medicine—Dr. Chase N. Peterson.

Those who have followed the altogether heroic struggle of Dr. Barney D. Clark to become the first human to live with an artificial heart know that Dr. Peterson is the spokesman for Dr. Clark and his family and the vice president for health and sciences at the University of Utah.

He is also my former neighbor in Cambridge, Mass. The Petersons and the Moynihans shared many things, including an affiliation with Harvard and, appropriate for this season, a fondness for Christmas caroling through the neighborhood.

I would simply say of my dear friend that seldom has the force of events brought together a moment of history and a man better suited for that moment. Dr. Peterson is a doctor of frontiers—both of medicine and of his native Utah.

He will be best remembered, perhaps, for the events now transpiring in Salt Lake City. But he sould be known, too, for his dedication to his profession; dedication that has often found him carried thousands of miles through the high country to tend to patients, or forced to transmit directions for an operaton by shortwave radio to snowbound surgeons hundreds of miles away.

His frontier is different now for he is at the crest of a new wave in medical history. But his commitment is no different, and his achievement no less spectacular.

Mr. President, I ask that a profile of my cherished friend, from the New York Times of December 20, 1982, be placed at this point in the RECORD so that my colleagues may better know this singularly distinguished man.

The profile follows:

[From the New York Times, Dec. 20, 1982]

WINDOW ON THE HEART PATIENT: CHASE NEBEKER PETERSON

(By Lawrence K. Altman)

SALT LAKE CITY, December 19.—For almost three weeks, Dr. Chase N. Peterson has been the voice of calm in periods of high excitement and repeated crises in the extraordinary story of Dr. Barney B. Clark's struggle to be the first human to live with a permanent artificial heart.

Dr. Peterson's is the articulate voice of a man who dresses in tweeds, wears logger's boots and travels the University of Utah campus by moped.

It is also the voice of a man who has taken on many roles for which his training as a physician gave him no preparation.

His moves from practitioner to administrator have taken him in and out of medicine over the last two decades. Although the challenges have been unusual for a physician, they reflect his heritage as a Mormon, a member of a religion that stresses voluntarism, Dr. Peterson said in an interview.

Dr. Peterson, who will be 53 years old next week, spent 11 years away from medicine, from 1967 to 1978, first as dean of admissions and scholarships at Harvard College, then as vice president of the college for alumni affairs and development.

FRUSTRATED MEDICAL TEACHER

Now, as vice president for health sciences of the University of Utah and coordinator of the artificial heart program, Dr. Peterson is the spokesman for Dr. Clark, his family, and the surgical team.

At a news conference last week, Dr. Peterson described himself as a "frustrated medical teacher" who viewed the artificial heart story as an opportunity to educate the public about medicine.

He has earned high marks from reporters and colleagues for his ability to find cogent analogies and simple terms to describe complicated medical problems, as well as to say "I don't know" when stumped.

For example, in answering questions after Dr. Clark suffered seizures Dec. 7, Dr. Peterson had to deal with complexities of biochemistry and the possibility that the seizures had been brought on when too much of some vital substance had been washed from Dr. Clark's body by speeding up his heart and giving him diuretics. Dr. Peterson described this possibility as a "leaching process."

"That description might not be acceptable for a medical textbook, but it gets the point across," he said.

AN OCCASIONAL FUMBLE

Dr. Peterson does often ramble in answering questions, and occasionally he has fumbled.

When asked about the nutrition that Dr. Clark was receiving by feeding tube, Dr. Peterson described it as chicken soup. When skeptical reporters asked him if he really meant chicken soup, he said yes.

The next day, a chagrined Dr. Peterson apologized publicly to the hospital's nutritionists, saying that he was using the soup as an analogy.

Whenever a medical team finds itself in the spotlight because of some outstanding achievement, it becomes vulnerable to charges of grandstanding from the outside. Perhaps as a reflection of those pressures, Dr. Peterson stunned reporters last Monday by saying he would curtail the information given in future news conferences and by inviting them to go home.

He spoke at a time when the revovery of Dr. Clark, a dentist, was proceeding slowly and when Dr. Peterson was maintaining that Dr. Clark was just any postoperative patient.

The next day, however, Dr. Clark was rushed back to surgery because a valve broke in the artificial heart. Even more reporters arrived. Dr. Peterson invited them all to stay.

HARVARD AND YALE TRAINING

Chase Nebeker Peterson was born Dec. 27, 1929, in Logan, Utah. He went East for his education at the Middlesex School in Concord, Mass., and at Harvard where he was an undergraduate and earned his medical degree.

After further training in internal medicine and metabolism at Yale, Dr. Peterson returned to practice at the Salt Lake Clinic, to head medical education at the LDS Hospital, and to teach at the University of Utah here.

By this time, he had married Ane Grethe Ballif, a Utah native he met at Harvard. They have three children.

One day in 1967, while Dr. Peterson was examining a patient, he excused himself to take a call from Fred Glimp, a Harvard official. Would Dr. Peterson, who had recommended some high school students for entrance, become dean of admissions at Harvard College? Dr. Peterson declined at first, then accepted when the clinic granted him a leave.

What role might Dr. Peterson tackle next? He shrugged his shoulders and said perhaps a tour of duty as a Mormon missionary in Bolivia.

Perhaps politics. In 1981, only three years after he returned to Utah, Dr. Peterson's name was mentioned in Democratic circles as a potentially attractive nominee for the United States Senate.●

CLARIFICATION OF H.R. 7159—AMENDMENT TO THE CLEAN WATER ACT

● Mr. STAFFORD. Mr. President, it has come to my attention that there may be some uncertainty regarding the meaning of certain language contained in H.R. 7159, which was passed by both Houses of the Congress a few days ago.

H.R. 7159 allows certain relief from the requirements of the Clean Water Act for two pulpmills and papermills in California. One condition of this relief is the following:

(G) the applicant accepts as a condition of the permit a contractural obligation to use funds in the amount required (but not less than $250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

The question which now arises is, What exactly is the meaning of the term, "amount required?" It does not mean the amount which the Administrator determines, in her discretion, to be appropriate. In the view of this Senator, who authored the original version of the amendment, it means that amount which is necessary to support the research program established by the subparagraph.

This condition, as adopted by the House, is an evolved product of an amendment which this Senator originally offered during consideration of H.R. 7159 by the Committee on Environment and Public Works.

This original amendment read as follows:

(D) the applicant accepts as a condition to the permit a contractural obligation to use funds in an amount approximately equal to the costs of operation and maintenance of the treatment facility avoided through such modification, to be used for research and develpment of closed-cycle technology involving no discharge of pollutants at such facility;

Thus, the first version of the amendment would have required the full amount of the savings to be invested in the development of closed-cycle technology. Some objected to this version, however, on the grounds that the savings of the two plants might exceed the amount required to develop closed-cycle systems. The two plants should not be required to spend money merely for the sake of spending money, opponents said.

This Senator agreed that this was a legitimate criticism and modified his amendment. The second version read as follows:

(D) the applicant accepts as a condition to the permit a contractual obligation to use funds in the amount required (but not to exceed the amount approximately equal to the costs of operation and maintenance of the treatment facility avoided through such modification) for research and development of closed-cycle technology involving no discharge of pollutants at the same or similar facilities;

This is the first time the term "amount required" appears. It is clear from the context that the research and development program was to be fully supported, but an applicant would not be required to spend more than was actually necessary for its support.

During committee consideration, the amendment was revised, yet again, thus producing a third version. The term "amount required" was maintained, but a limit of $250,000 per applicant was imposed. In addition, the permissable uses of applicant's funds were expanded to include water pollution control technology, generally. While support of projects other than the development of closed cycle was discretionary, support of the first objective of the program—development of a pollution-free manufacturing process—was not. The research program was required to include one element, if no other. That one mandatory element was development of closed-cycle technology. And it had to be supported in "the amount required" to assure its development, except that a ceiling of $250,000 per applicant per year was imposed.

Thus, the version approved by the committee and reported to the Senate read as follows:

(G) the applicant accepts as a condition to the permit a contractural obligation to use funds in the amount required (but not to exceed $250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

In the Senate, however, this provision had to be amended yet again for passage of the bill to be obtained. One of the two amendments adopted by the full Senate deleted "to exceed" and substituted "less than," but still retained the term "amount required." In effect, the $250,000 ceiling imposed by the committee became a $250,000 floor. Thus, an applicant is now required to commit "the amount required"—that is the sum necessary to adequately support the research and development program—but in no event less than $250,000 per year.

It was in this form that the bill was adopted by the House and, if signed by the President, will become law. And, while this Senator objected to the bill, it will provide the basis for taking steps toward pollution-free technology for this industry. It also makes it clear that there is no cost-free relief from our environmental laws.●

LITTLE ROCK, ARK.

● Mr. PRYOR. Mr. President, those of us from Arkansas have known for a long time that Little Rock is among the best cities in this country and the world. It has all the assets, and none of the liabilities, that a true American town should have: Friendly people, access to transportation, a fine educational system, every possible recreational advantage.

What encourages me is that people throughout the country are beginning to see firsthand the distinct assets Little Rock has to offer. One of the recent expressions of this view is published in the January issue of Esquire magazine, written by Little Rock writer Gene Lyons.

I have known Gene Lyons for a number of years. His wife was on my staff when I was Governor of Arkansas. They are both splendid people in every way, and I think that what Gene Lyons has said about Little Rock should be read by every Member of the Senate.

I ask that this article be printed in the RECORD.

The article follows:

[From Esquire, January 1983]

LITTLE ROCK, ARK.: WHY I LIVE WHERE I LIVE

(By Gene Lyons)

Why Little Rock? Most people who ask don't really want to know. "Why on earth?" or "Why, of all places?" is the way I'm usually asked. To such inquiries I've learned to give the shortest and least provocative of answers: my wife was raised here. That usually does it.

But moving to Arkansas wasn't her idea. Let's put it this way: due to the circumstances of my birth and upbringing, as they say in eighteenth-century novels, I needed to invent a place to live. Mine is a simple tale of dislocation, very typical of my generation—the one born around World War II.

I was raised in New Jersey, a dense and very particular place to the sturdy Irish Catholic peasant clan I come from, but an unplace, at best a place between places, to me. First Elizabeth, a decaying industrial port city; then, when I was on the edge of adolescence, my family joined the great postwar migration to Beaver Cleaver country, buying a large, four-apartment investment of a home in the only tacky neighborhood of a suburb fifteen or so miles inland. As far as our relatives in Elizabeth were concerned, it might as well have been Utah. We quit seeing them except on ceremonial occasions, which became fewer in number each year. We also quit going to church every Sunday. My father had to work and my mother couldn't drive. There went the faith of generations. Religious and ethnic bias, along with class envy, prevented my parents from making any effort at all in the suburbs. So strong was their sense of who and what they were, it never seemed to have occurred to them that in such circumstances their *children's* sense of who and what *they* were would fade. An orphan of ethnicity and place, I needed to invent a place to live. Many Americans don't feel the need, but I did.

It didn't have to be Arkansas, but that's how it worked out. I found its backwardness appealing. Arkansas leads the nation in the production of chickens and rice; all the other numbers by which demographers and journalists purport to measure the quality of life are embarrassing. We sit at or near the bottom of the states in per capita income, literacy rate, quality of housing, teacher salaries, and number of physicians, libraries, and museums, and we lead the rest in the incidence of venereal disease and unwed teenage mothers. We rank forty-eighth in the payment of state and local taxes, yet the electorate clamors for cuts. You will hear liberals—we still have them—say, "Thank God for Mississippi," because our neighbor to the east totes up even lower in some categories than we do and has even worse image problems. But Mississippians reverse the compliment. I'm told, and call a plastic hose for stealing gasoline an Arkansas credit card. A few years ago when a local women's group made some noise about Memphis and Little Rock running one-two as the statistical rape capitals of the United States, a city director opined that we just have prettier girls than anywhere else. He has since been reelected. Arkansas is never mentioned on the network news unless something awful or embarrassing has happened.

Arkansas is the smallest state west of the Mississippi in land area but comprises several distinct geographical regions—from the Ozark and Ouachita mountains, thickly forested, sparsely populated, and running with white-water streams, to the cedar-filled bayous of the south and east, shallow, murky, and inhabited by water moccasins and alligators.

Although Arkansas was part of the Confederacy, only the plantation country near the Mississippi was fully settled at the time of the Civil War. The rest was—and, some would argue, still is—a frontier. Certainly nobody ever talks about the wonderful antebellum days, and the very idea of an Arkansas aristocracy is preposterous. Indeed, until I just wrote the phrase, I'd never heard it. What you will hear is that a man "has enough money to burn a wet mule" or that a woman is "so ugly she'd make a freight train take a dirt road." My wife is a city girl in a place where the words *city* and *country* are used to describe entities as different as the sun and the moon, but she has been known to refuse a second helping because she was "full as a tick."

Little Rock—the capital, business and financial center, rail and highway pivot, and only real city—sits on the Arkansas River almost exactly in the middle of the state, just where, as if it had been arranged by committee, the hills meet the flatlands. For a variety of cultural and historical reasons, we missed out on most of the great Sun Belt boom, and Little Rock remains as strongly flavored and provincial as it is possible for a contemporary American city to be, fancying itself the center of nothing more than the state of Arkansas. And that's a whole lot easier on the mind and spirit, I'm here to tell you, that being the imaginary hub of whatever metaphorical wheel you choose, whether it's the Free World. Art and Literature, or just Texas. In fact, living here is something like living in the capital of a remote and insignificant country. Arkansans are proud and touchy, resentful of condescending outsiders, yet bitterly self-critical. Just a little bit, in fact, like Irish Catholics. Yet provincialism confers a certain wisdom: most of us know that beyond a point achieved by almost everybody in North America, numbers have nothing at all to do with the sum of human happiness.

In Arkansas, anonymity is not one of your big problems. Not everybody knows everybody else, but it sometimes seems that way. We are not surprised to pick up the morning paper and read a story by someone we know about somebody else we know. (Little Rock has an excellent locally owned newspaper, *The Arkansas Gazette.*) For one who grew up near New York, the effect is like inhabiting an endless Victorian novel. You can feel like a bit of an insider without having to work at it. The city has roughly four hundred thousand citizens living in and around it, and the state about two million, so it isn't exactly village life, but a reasonably gregarious person who has been here a few years rarely meets someone with whom he hasn't a few acquaintances in common. The gossip is fantastic.

Little Rock is big enough to have all but the most esoteric professions and jobs represented but too small to permit tribalism. I commune at intervals with an obstetrician, several tennis pros, schoolteachers, a few varieties of lawyers, nurses, electricians, insurance salesmen, travel agents, a farm-equipment salesman, an architect or two, several housewives, shopkeepers, a couple of basketball coaches, waitresses, cops, a toxicologist, an economist, public-relations people, quite a few bureaucrats, at least one egg mogul, contractors, television and radio newspersons, restaurateurs, a judge, politicians . . . well, you get the picture. I could spend thousands of words detailing the familial and known or suspected sexual relationships among the above. Living in Arkansas, as a matter of fact, has spoiled my taste for the emptiness-and-sterility, grotesques-and-fools version of American culture served up by so many of our novelists. When you have a friend who works off tension by shooting baskets in his driveway while listening to cassette recordings of radio evangelists, you quit thinking categorically and lace up your sneakers.

Because gatherings of any size where one can be sure of meeting only persons of one's own tribe and world view are rare, civility tends to take precedence over free-spokenness among everyone but the most far-gone adepts of what is now called the Moral Majority, which has been regnant here under one name or another since territorial days without effecting a visible diminution of free-lance sin. Little Rock may not strike you as Sin City, but when the state legislature hits town from such rustic venues as Oil Trough, Fifty-Six, and Smackover, they tend to carry on like sailors landing in Singapore after six months at sea. When they are not passing resolutions in praise of Christianity, you understand.

Piety, moreover, goes only so far. Even heretics are admired if they have character and grit. My favorite example of this tendency was the general election of 1968, in which Arkansas elected liberal Republican Winthrop Rockefeller governor, reelected iconoclastic Democrat J. William Fulbright to the Senate at the height of the Vietnam War and gave George Wallace its Presidential vote. The only clear pattern that emerges is that each was seen as his own man. It also helped that latter two were from separate directions giving hell to Lyndon Baines Johnson, a prominent Texan of the era. We don't have much use for Texans here.

I love Little Rock too because the choices I've had to make are not so dramatic as they would be in New York, Washington, Los Angeles, or Boston. Comfort costs a lot less: in buying some I have not had to remove myself physically and, therefore, imaginatively from people who have less. My home is on a quiet street of fifty-year-old two-story houses between the state capitol and the University of Arkansas Medical Center. It is large and roomy, permitting me to work at home even when my two noisy boys are out of school. It costs $383 a month, taxes included. For a writer, that means freedom. My wife can drive to her job in less than five minutes. I can pedal my bike to the public tennis courts in ten minutes. There are two stadiums in the same park, one where the Razorback football team plays four or five times a year and the other for the Arkansas Travelers, a Class AA farm club of the St. Louis Cardinals. It's not the major leagues, but then neither are the ticket prices and parking problems.

My boys attend public schools—black majority, incidentally—to which they walk, as do all the other children in their classes. Little Rock schools, having had a longer history of intergration than anywhere else in the South, are totally integrated all over, but here in the middle of town, buses are not needed. The boys will attend the famous Little Rock Central High School. Whether they stay or leave, they will grow up knowing where home is and what it is. Right now they hang out at a local Boys' Club where two of Little Rock's and their and my athletic heroes played ahead of them: Brooks Robinson and Sidney Moncrief. Arkansas being Arkansas, they have something more than an imaginative relationship with both. My father-in-law coached Brooks and the families were close; when Moncrief played basketball for Arkansas (he's with the Milwaukee Bucks now), I wrote something about him that he liked, and he has been kind enough to remember my sons' names.

I love Little Rock because I can put a flatboat into the Arkansas River inside the city limits and enjoy freshwater fishing that is the equal of any in the United States, or

into any of a dozen beautiful, forest-ringed lakes within an hour's drive. I can load up four beagles and go rabbit hunting with old friends in soybean and rice fields in the Delta flatlands, little more than a half hour away, or leave town to the west and be so far gone into the hills that what few settlements one comes across seem frozen in time somewhere in the late Forties. I even like the climate—tornadoes, floods, and maddening heat waves notwithstanding. I'm not sure I could have survived here before air conditioning any more than I'd have been able to stand the social climate back in the bad old days before segregation was laid to rest, but I do like the sense of living in a place where the urban-rural balance is tilted toward the country. The weather means something, you see. I know they need rain out here a whole lot worse than I need to play tennis.

My work takes me away a lot and I get this funny feeling whenever I've been out of town for a while and find myself in an airplane approaching Little Rock. I look out at the Delta or the Ozarks, depending upon which direction the flight is coming from, and remember how strange it all seemed in 1966, when I first drove out here from the East to court my wife. Then, as the plane banks to approach the Little Rock airport, I am often reminded of those idealized American cities depicted patriotically in the Dick and Jane readers of my childhood. See, out there to the west are the hills and woods. A big, wide river comes cranking down the middle, and near the tall buildings downtown where Daddy works are the bridges where people cross the river. Look, there's the railroad yard and the airport! You can see factories, War Memorial Stadium, the hospitals, and Central High. The houses are smaller on the other side of downtown from where you stay, because that's where the poorer people live. East of town the land is flat and there are lots of farms and the river goes down the middle to the Mississippi. Everything is just about the right size and you can see it all at once and wonder about why things are the way they are. It's not the center of the world, or even a very important place, as places go, but it's the center of my world, and it feels like home.●

HOMER FERGUSON

● Mr. LEVIN. Mr. President, I bring to the attention of my colleagues the recent passing of former Ambassador and U.S. Senator, Homer Ferguson. Senator Ferguson served Michigan in the Senate with great distinction from 1943 to 1955. He is remembered as having been an outspoken and dedicated member of the Senate Foreign Relations and Appropriations Committees.

Prior to his 12 years in the Senate, Ferguson served as a circuit court judge for Michigan's Wayne County and was a faculty member of the Detroit College of Law.

Upon leaving the Senate in 1955, Homer Ferguson served as the U.S. Ambassador to the Philippines. A year later, he was named to the Court of Military Appeals. While practicing law, I had the honor of appearing before Judge Ferguson. I was greatly impressed by the fairness in which he presided over the Court of Military Appeals.

Homer Ferguson will be remembered as having served his State and his country honorably and well. I ask you to join me in extending our deepest sympathies to his widow, Myrtle Jones Ferguson, and the other members of his family.●

DEATH OF NAT FINNEY

● Mr. MOYNIHAN. Mr. President, only late yesterday did we learn that Nat S. Finney, a singularly distinguished journalist and the former chief of the Washington Bureau of the Buffalo News, died here in Washington.

He was a journalists' journalist—a man of impeccable objectivity with a knack for finding things out that frequently lay buried beneath the layers of official Washington. Thus it was he who reportedly broke the story that the Soviets were installing missiles in Cuba, the first report of what the world would come to know during 1962 as the Cuban missile crisis.

In 1948, Nat Finney earned journalism's highest distinction, for a series of articles on efforts by the Truman administration to impose censorship curbs on Federal civilian employees—a series that led to Mr. Finney's Pulitzer Prize for national affairs reporting.

He was known to all of the Washington press corps—especially those assigned to cover New York matters—and I would hope that the Senate would join them, and indeed all who cherish his skill, in mourning his loss.

Mr. President, I ask that an obituary from today's Buffalo News—the paper which Nat Finney served so well—and the New York Times, be printed at this point in the RECORD:

The material follows:

[From the Buffalo News, Dec. 21, 1982]

NAT FINNEY, 79, DIES; NEWS BUREAU CHIEF WAS PULITZER WINNER

WASHINGTON.—Nat S. Finney, 79, a Pulitzer Prize-winning journalist and former chief of the Buffalo News Washington Bureau, died Sunday (Dec. 19, 1982) in George Washington University Hospital here.

Mr. Finney joined The News staff in 1953 as Washington bureau chief and retired from the post in 1968.

Mr. Finney was reportedly the first newsman to reveal—on Aug. 26, 1962—that the Soviets were installing missiles in Cuba, information that led to the Cuban Missile crisis. The story was reprinted widely throughout the country.

A native of Stewartville, Minn., Mr. Finney received his bachelor's degree in political science from the Universtiy of Minnesota. He was a reporter for the Minneapolis Star in 1924-25 and again in 1928-29. From 1930 to 1933, he edited trade publications in Chicago, New York and New Orleans and then returned again to the Minneapolis Star as a reporter.

He served in the Washington Bureau of the jointly owned Minneapolis Star and Tribune and Des Moines Register and Tribune from 1941 to 1946, when he became manager of the bureau.

In 1948, he was awarded the Pulitzer Prize for outstanding national affairs reporting for his stories describing a Truman administation plan to impose censorship on ordinary activities of federal civilian agencies in peacetime.

That same year he received the Raymond Clapper Memorial Award for outstanding Washington reporting, and in 1949 Norway awarded him the St. Olaf Medal.

In 1950, Mr. Finney returned to the Star as editorial page editor, a position he held until selected for the Buffalo Evening News bureau chief's post in Washington.

In addition to his Washington reporting for the News, Mr. Finney covered assignments throughout the world for the newspaper, including a trip to France with President Eisenhower and a Vietnam journey with President Johnson.

While accompanying Vice President Nixon to the Soviet Union, Mr. Finney and two other reporters were held by secret police for two hours before he was released thanks to the interruption of Mr. Nixon.

Mr. Finney was inducted into the Hall of Fame of the journalistic society, Signa Delta Chi, in 1973.

In 1967, Mr. Finney realized the crowning achievement for a Washington correspondent—election to the presidency of the Gridiron Club, a prestigious 114-year-old organization limited to 50 Washington newsmen.

After his retirement, Mr. Finney continued to write for the News as a contributing editor.

His wife of 41 years, the former Flora Edwards, died in 1971. Mr. Finney later lived for a short period in Mexico, then returned to the capital area.

Lucian C. Warren, who succeeded Mr. Finney as News Washington Bureau chief, remembers Mr. Finney as "a very able journalist" and "a very fine man" whose winning of the Pulitzer and Clapper awards demonstrated his unique ability.

Mr. Finney is survived by a brother, Ross Lee Finney, Jr., of New York City.

A memorial service is scheduled for Jan. 10 in Washington.

[From the New York Times, Dec. 22, 1982]

NAT S. FINNEY, EX-REPORTER, WON PULITZER IN JOURNALISM

Nat S. Finney, a Pulitzer Prize winning reporter and former Washington, D.C. bureau chief for The Buffalo Evening News, died last Saturday in Washington after a brief illness. He was 79 years old.

In 1948, while working in Washington for The Minneapolis Tribune, Mr. Finney won his Pultizer for outstanding national affairs reporting for his description of the Truman Administration's efforts to impose secrecy on the affairs of Fedeal civilian agencies in peacetime.

A native of Stewartsville, Minn., Mr. Finney went to Washington in 1941 as a correspondent for The Tribune and Look magazine. In 1950, he returned to Minneapolis to become an editorial page writer for The Minneapolis Star.

He joined The Buffalo Evening News in 1953 as a correspondent in Washington, where he worked until his retirement in 1968.

A specialist on economic affairs and atomic energy, Mr. Finney was one of the first reporters admitted to Los Alamos Laboratory in 1945. He also covered the atomic tests at Bikini in the South Pacific in 1946.

Mr. Finney is survived by a brother, Ross Lee Finney, Jr. of Manhattan.●

EDUCATION AND HIGH-TECHNOLOGY

● Mr. GRASSLEY. Mr. President, the changing face of American industry, and the accelerated rate of technological change, are effecting significant reforms in the curriculum of the Nation's universities.

An active partnership is developing between universities and industries, partly for financial reasons, and partly to adapt to changing times.

In today's fast-paced technological environment, university equipment and facilities have become obsolete, while the feverish advancement has made it impossible for industry's managers to keep up with the changes in their fields. It has become necessary for education to occur closer to the source of production and service. The marriage, then, is a natural one.

Just last week I introduced legislation to spur community colleges and vocational training schools to train and retrain workers for increasing technical jobs. That legislation provides incentives and opportunities for modernizing state-of-the-art technological equipment for learning centers, for improving the expertise of their faculty, and for encouraging more direct contact between learning centers and industry.

Mr. President, an article entitled "Business and Universities: A New Partnership" appeared in last week's issue of Business Week magazine. It describes the cooperation taking place between universities and business, and the reasons why such a union is occurring. I ask that this article be reprinted in the RECORD.

The article follows:

BUSINESS AND UNIVERSITIES: A NEW PARTNERSHIP

After two decades of keeping each other at arm's length, business and universities are forging a powerful new alliance. What leaders both in the boardroom and on campus call "an active partnership" is aimed at stimulating U.S. innovation and productivity. "The marriage is fundamental to keeping U.S. companies competitve," says David McLaughlin, president of Dartmouth College and a former president of Toro Co.

So important is the new linkup that leaders such as Frank H. T. Rhodes, president of Cornell University, see a parallel with the 19th-century partnership between universities and government in agriculture that made the U.S. the granary of the world. "The results of those programs were spectacular. The same type of program in engineering and high technology could accomplish the same thing now," Rhodes predicts.

Business will pour more than $1 billion into the universities this year. It is funding more research on campus than ever before (page 61), lending its experts to teach courses, and helping colleges shape the education of students that it will eventually hire. Universities, in turn, are actively soliciting research funds and are reaching out with new educational services tailored specifically for business. "We have set out to educate in fields of importance to American industry—improving quality and productivity," declares George M. Low, a former National Aeronautics & Space Administration official who is now president of Rensselaer Polytechnic Institute.

CAUGHT IN A SQUEEZE

Both sides are motivated by urgent needs. Industry has seen its technological base erode in the face of intensifying foreign competition. And it is turning to universities both as a source of research talent and future employees. Says Arnold F. Kanarick, vice-president for human resources at Honeywell Inc.: "The rate of technological change behooves us to make these connections." The universities are caught in a financial squeeze that is being intensified by dwindling enrollments and cutbacks in federal support to education. Such shortfalls already have left many schools with badly outdated research laboratories and the inability to pay faculty salaries that are competitive with those in industry.

But the new partnership is also creating a deepening controversy. Some educators are concerned that the joint effort will turn the nation's universities into trade schools and that the growing emphasis on technology will come at the expense of the arts and humanities. Even the scientists are worried. They fear that the price of business involvement on campus will be a shift away from fundamental research to product-related development.

An increasing number of university administrators, however, are willing to take their chances with business, because the long-range financial outlook is so bleak. The college-age population will decline 15% by 1990. By then, older students will make up nearly half of the college population, forcing schools to offer different educational services to meet their needs. And small liberal arts colleges that get as much as 80% of their revenues from tuition and that do not have the experience or the resources to develop new markets will be hard pressed to survive. These small colleges already are losing students, and experts predict that as many as 300 of the nation's 1,250 private colleges may close their doors by the end of the decade. "Those colleges that don't have anything distinctive to offer will die," predicts Howard R. Swearer, president of Brown University.

This developing crisis on campus is forcing more and more schools to tighten their management practices. "Basically, we're getting more businesslike," explains Ross J. Pritchard, chancellor of the University of Denver. Hard-nosed management, in fact, has already bailed out some of the failing schools. When George Bugliarello took over in 1973 as president at Polytechnic Institute of New York, the school had fallen deeply in debt. "Polytechnic, like most universities then, did not have a very strong system of financial management," he recalls. "It was working on hope."

Bugliarello quickly instituted a fundraising effort, invested in short-term notes, solicited cooperative research with local industry, focused the school's curriculum on specific areas of academic strength, and, by 1977, had balanced the budget. "We started looking at every operation in terms of profits and losses," he says. His aggressive policies have been so successful that at the end of fiscal 1982, the school's operating budget contained a hefty surplus of $922,000—more than enough to wipe out the last remnant of debt.

The key to profitability for many schools is to position themselves as a major technological resource. In the six years since RPI's Low took over the respected but aging engineering school in Troy, N.Y., he has set up a number of creative programs aimed at serving existing industry and nurturing new high-technology companies in his area. Low's most recent coup was extracting $30 million from New York's legislature to construct a building to house a regional center for industrial innovation. With industry participation, it will carry out research and development in manufacturing productivity, computer graphics, and microelectronics. That center, like similar projects proposed in a number of other states, will concentrate on "whatever is at the forefront of innovation," says Low.

At the same time, schools are competing fiercely to set up industry-funded research centers on their campuses. Such efforts are already combining academic and industry talent in cutting-edge technologies, ranging from a microelectronics institute at Stanford University to a robotics center at Carnegie-Mellon University. A two-year-old collaborative project in robotics between Emhart Corp. and Worcester Polytechnic Institute has already paid dividends on its $1.5 million investment in equipment and management time. Students under the direction of faculty and Emhart managers have designed three robotics systems for the company.

Growing numbers of universities want to set up research parks near their campuses. They hope to duplicate the business-university cross-fertilization that spawned Northern California's Silicon Valley and Boston's high-tech concentration on Route 128. Princeton University's Forrestal Center is a good example of one of the more successful recent projects. Universities are visiting the center at the rate of one or two a month with the idea of launching their own centers. Says Robert Wolfe, project manager of the center: "Every school that has a piece of land thinks it's going to be a millionaire."

While universities try to lure business to the campus, faculty members are going off campus to form their own ties with business. They are serving as consultants and scientific advisers to large companies and as founders of their own ventures. "It provides an opportunity to react competitively with your peer counterparts and follow your technology into the marketplace," says Arden L. Bement Jr., vice-president for technical resources at TRW Inc. And, in some cases, the professors are bringing their businesses right on campus. At Kansas Wesleyan College, Thomas E. Duell, assistant professor of computer science, runs his own software company from the college department.

Such outside connections are not new, but abundant venture capital for high-technology startups has created a new breed of millionaire academic. Herbert W. Boyer, a University of California professor who is one of the pioneers in biotechnology, suddenly became worth $32 million when Genentech Inc., a South San Francisco gene-splicing company he helped found, went public with great ballyhoo in 1980.

Not all academics are rushing out to trade their mortar boards for pin-striped suits, however. But many increasingly are taking furloughs from teaching and research to gain business experience that they can bring back to the classroom. As part of a

faculty leave program at the Columbia University Business School, for example, James H. Scott, Jr., professor of finance, did six-month stints at both Goldman, Sachs & Co. and McKinsey & Co.

Another side of the new alliance is the more prominent role that business is playing in influencing what students are being taught. "Universities are giving industry a more active role in defining the qualifications and quality of students they are turning out," says TRW's Bement. At Eastern Michigan University, an industry advisory board helps to develop and evaluate all courses in the College of Technology. That group has already created four new undergraduate majors. "It's their program as much as it is ours," says Jeffrey T. Luftig, head of the school's department of industrial technology.

The universities are increasingly turning to industry to supply part-time professors and tapping executives to advise them on curriculums. One such executive is Richard B. Palmer, a former president of Texaco Canada Inc., who two years ago became the Duke University School of Business' first executive in residence. His task is to bring a more practical bent to Duke's MBA program. Although Palmer says that the school's faculty is still wary of him, business people "look to me for reassurance that what is being taught is pertinent to what is going on."

As a result of such efforts as Palmer's, Columbia, Carnegie-Mellon, and other schools have overhauled their MBA programs to include more courses in operations management that attack issues in manufacturing productivity. Other universities such as Northeastern have created specialized MBA programs to train executives in the new skills that they need to manage in a high-technology environment. And the University of California at Los Angeles has fashioned an information management MBA that teaches students how to manage a company when all of its corporate data are stored in a computer.

Business is also spending more money to help universities set up new programs. International Business Machines Corp. recently announced that it would donate $50 million to the five schools that come up with the best proposals for manufacturing engineering programs. At the University of Massachusetts' Amherst campus, a group of computer makers based in Massachusetts donated $2 million worth of computer equipment to create a computer science major for undergraduates. "We can't take our manpower for granted. If we do, we run the risk of finding ourselves with a work force that is inadequate or obsolete," explains Ray Stata, president of Analog Devices Inc.

Continuing education and the "retreading" of employees is turning into a growth industry. And the competition between the schools for students has grown intense. "We're marketing continuing education the way that you market toothpaste," says Roger W. Staehle, dean of the University of Minnesota's Institute of Technology.

Some schools, in fact, are bringing their classrooms directly to corporate headquarters. One "college without walls," Wor-Wic Tech Community College in Salisbury, Md., teaches its 1,500 students on the job and in nearby leased buildings.

AN UNEASY ALLIANCE

Many academics see continuing education as a future requirement in the training of managers and technical employees. They argue that the increasing pace of technological change has made it all but impossible for graduates to stay current in their profession throughout their careers. "Management today needs a lifetime of education, and universities should be on the cutting edge of providing that," says Thompson F. Keller, dean of the Duke University School of Business.

To meet that need, business schools such as UCLA's, Duke's, and Columbia's already are planning expanded programs. And a lifelong education scheme for engineers, which was proposed in October by faculty at the Massachusetts Institute of Technology, could become a model for other professions. It calls for industry, university, and professional societies to cooperate in a structured program of lifelong education that combines campus coursework, work experience, and on-the-job refresher courses.

For all the activity, the partnership between business and the universities is still an uneasy one. Growing faculty and university involvement with commercial ventures poses prickly issues of conflict within the academic community that "could fractionate research and research training to the extent that it could be detrimental to universities and students," says Donald Kennedy, president of Stanford.

Those potential problems continue to be the subject of a lively debate on the campus. Last summer, Kennedy and the presidents of several other major universities met in Pajaro Dunes, Calif., to develop guidelines for industrial-university interactions. But because the issues are so complex, no firm conclusions were reached. Now another meeting has been scheduled for mid-December at the University of Pennsylvania. "The key question has to do with industry control; very few schools have developed internal policy yet," says Peter W. Likins, president of Lehigh University.

"Some of the early research arrangements did not retain enough independence for universities," declared Rhodes of Cornell. MIT has been criticized for accepting $100 million to set up the Whitehead Institute of Biological Sciences, because its employees would also be granted professorships. A $23.5 million grant from Monsanto Co. to Washington University for microbiology research was hailed as a model for future agreements by the university but was criticized in academic circles because Monsanto retains exclusive patent rights and because a committee of eight scientists, four from the company, choose and monitor specific research projects. "That is far too close control for my taste," delcares one academic.

Some schools already are taking a hard line over the business dealings of their professors. Earlier this year, Harvard University dropped plans to buy stock in a company that was started by two of its professors. And the school asked Nobel prizewinner Walter Gilbert to choose between the professorship and Biogen, a biotechnology company that he founded in 1979. Gilbert gave up his professorship and is now chairman of the Swiss-based company.

The rush of universities into high tech is also raising concern in the humanities faculties. Liberal arts educators are alarmed at the deep cuts being made in their programs and at what they call the increasingly utilitarian emphasis of education. "There is great pressure to push funds in the direction of high technology," concedes Arnold R. Weber, president of the University of Colorado. "It's difficult to retain a commitment to the humanities at a time when the hot ticket is science and technology."

For now, at least, the potential gains seem worth the risks to both sides. "We're letting these partnerships go on in an act of faith that they will have significant value in the long haul," says Howard A. Schneiderman, vice-president for research at Monsanto. And if history repeats itself, the confidence on both sides in their ability to negotiate compromises without endangering the interests of either party will be justified. In the past, universities have weathered the threat of control and dominance from the church, then the state and federal government. Says James L. Miller, professor in the center for the study of higher education at the University of Michigan: "The new partnership illustrate the pragmatic ability of higher education and industry to adapt to changing times."●

FAILURE TO ENACT THE BANKRUPTCY IMPROVEMENTS ACT

● Mr. PRYOR. Mr. President, I felt compelled to speak today to express my concern about the Senate's failure to take final action on S. 2000, the Bankruptcy Improvements Act. I find it particularly regrettable in light of the support which has been expressed by Members of both Houses of Congress.

This much-needed legislation was drafted to address the problems which arose following the enactment of the 1978 Bankruptcy Reform Act. It is a comprehensive bill which is the product of extensive hearings and consultations with individuals involved with all aspects of bankruptcy. It seeks to restore balance to our Bankruptcy Code by allowing good faith creditors to recover lawful claims and also protect the interests of those in legitimate financial distress.

As pointed out by the Judiciary Committee, while many provisions of the revised Bankruptcy Code have had beneficial results, certain changes which were enacted have disrupted the delicate balance between debtors and creditors. The effects of these changes on those in the banking and business communities have been devastating.

Many representatives of the banking and business communities in my State of Arkansas have shared with me their first-hand experiences; and I am sure that my colleagues have had similar conversations. The problems which are being experienced are real and need to be rectified.

Earlier this year I urged expeditious action by the Judiciary Committee to provide this much needed relief. The committee in its wisdom approved this important legislation and forwarded it to the full Senate. However, we now find that it will not be possible for the Senate to take action on this important legislation before the close of this session of Congress. It is my hope that similar legislation will be given priority in the upcoming Congress. It de-

serves our consideration and merits our approval.●

REAGAN TAX CUTS SIMPLY DON'T EXIST

● Mr. EAST. Mr. President, there was an interesting article in the Washington Times of yesterday entitled "Reagan Tax Cuts Simply Don't Exist" and although I do not necessarily agree with every aspect of the article, I do think several of the observations made in it are worthy of the attention of the Senate and of the public.

With that in mind I ask that the article be printed in full in the RECORD.

The article follows:

JOHN LOFTON'S JOURNAL: REAGAN TAX CUTS SIMPLY DON'T EXIST

A front-page story in the Wall Street Journal says that President Reagan's economic program has become "a nightmare of unemployment and bankruptcy for many Americans—and a growing liability for the Republican Party." The Journal reports that Treasury Secretary Don Regan admits expecting too much too soon from the "tax cuts" effective so far. And one Journal headline asks: "Were the Tax Cuts Oversold?"

Tax cuts? How could something be oversold that doesn't really exist? Writing earlier this year in the Federal Reserve Bank of Philadelphia's publication "Business Review," economic analysts Stephen Meyer and Robert Rossana concluded:

"The phased-in 25 percent cut in personal income tax rates will have little effect on people's behavior, because few taxpayers will face lower tax rates in 1983 than they did in 1980, or in 1978. Bracket creep caused by continuing inflation, plus rising Social Security payroll taxes, mean that most families in most tax brackets will face the same or higher marginal tax rates on a given *real* income in 1983 than in 1980 or 1978. Thus it is unlikely that the personal income tax cuts adopted in 1981 will improve incentives to work or save."

Incidentally, the Meyer-Rossana analysis did not include the Reagan-Dole largest tax increase in history, which will increase taxes during the next five years by an estimated $227 billion.

Wall Street economist H. Erich Heinemann says that all the talk about taxes being cut is "an elaborate political shell game." Indeed it is and the taxpayers are the big losers. The Heritage Foundation's Walker Fellow in Economics, Thomas Humbert, says: "Despite the much-publicized 'Reagan revolution' in tax policy, the fully implemented tax cut will at best return the nation to the level of taxation in 1978. Even with the cuts, total revenues will increase $300 billion during the next five years. According to the Congressional Budget Office, tax levies will rise from $605 billion in 1981 to $923.3 billion in 1986."

An internal Treasury Department analysis reveals the following as regards average tax increases from 1981 to 1988, over 1980, for a family of four in constant 1982 dollars:

Taxes on a four-member family making $15,000 a year will increase by $85;

Taxes on a four-member family making $20,000 a year will increase by $63;

Taxes on a four-member family making $25,000 a year will increase by $34;

Taxes on a four-member family making $30,000 a year will increase by $37; and

Taxes on a four-member family making $40,000 a year will increase by $246.

Some tax cuts.

The Journal article also states as fact that President Reagan did win "substantial budget cuts" from Congress in 1981. But this assertion, too, is fiction. In a study just released by the Center for the Study of American Business, Dr. Murray Weidenbaum—who used to head the President's Council of Economic Advisers—notes:

"Using the CPI (consumer price index) as a deflator, the aggregate estimates for fiscal years 1982 to 1986 under the Reagan programs are shown on balance to be a bit higher than the Carter (budget) estimates by about $7 billion (or a little over $1 billion a year)."

So, to make a long story short: The so-called Reagan tax cuts don't really cut taxes, and the so-called Reagan budget cuts don't really cut the budget.

Almost a year ago, after virtually all the president's senior advisers (with the exception of Dr. Martin Anderson) had failed in their efforts to get him to raise taxes, Reagan aide Mike Deaver (who ironically was also a part of this unsuccessful campaign) observed:

"I learned something from this process. Never try to talk any man who holds deep convictions out of them for reasons of political expediency because it would destroy him."

Well, even though Deaver was unable to abide by his own wisdom, what he said is true. And the economic trouble the president is in is the result of politically expedient chickens of compromise coming home to roost with a vengeance.

It's nice to know that the near-destruction of the president was an education for Mike Deaver. But, I wonder: What did the president learn?●

ALASKA RAILROAD LEGISLATION

● Mr. METZENBAUM. Mr. President, last Tuesday, Congress approved legislation establishing the framework for the possible transfer of the federally owned Alaska Railroad to the State of Alaska. That measure was the product of exhaustive, painstaking, and complex negotiations between my staff, the staffs of the Senators from Alaska, Mr. STEVENS and Mr. MURKOWSKI, and representatives of the Governor of Alaska.

Because the final language was not agreed upon until literally minutes before the bill was passed, it was not possible to offer a detailed explanation of the compensation provision. I would like to take a few moments to outline the intent of this particular provision and to clarify the obligations of the United States Railway Association under the provision.

Quite simply, the USRA is required to determine the fair market value of the Alaska Railroad, taking into account the terms and conditions of the legislation. These terms and conditions relate to various environmental provisions, as well as provisions requiring the State to operate the Alaska Railroad as a railroad for 10 years. The USRA was directed to use "such procedures, methods, and standards as are generally accepted as normal and common practice."

I want to make it very clear that the language instructs USRA to determine fair market value. During negotiations, I explicitly rejected a proposed draft which would have ordered USRA to make a determination of the fair market value of the Alaska Railroad as an operating railroad. I further rejected proposals to specify the relevant standard to be used in the valuation process and specifically refused to agree to language which would have required USRA to consider what a prospective buyer would pay the United States for the Alaska Railroad. In fact, in place of such language I proposed, and we eventually accepted, the language authorizing USRA to apply the standard methods and procedures that are normal and common practice.

There is nothing in the compensation provision or anywhere else in the legislation which requires USRA to use the prospective buyer standard. Nor does USRA have the right to use its discretion in setting its own standards. I would not have agreed to the bill if such language were included. Any phrases, other than those explicitly written into the bill in determining fair market value, were rejected by me.

An early draft contained language telling USRA to make a complete accounting of all deferred maintenance, delayed capital reinvestment requirements, employment protection obligations, passenger service subsidies, OSHA compliance requirements, potential cash flows, and the real value of fixed assets. But I did not agree to this language and once again it was struck from the final version in favor of allowing USRA to determine the value if used in fair market value, and nothing else.

The provision, of course, does require the USRA to factor into the valuation an appraisal of the land and property to be transferred to the State. This appraisal shall be conducted in the usual manner, in accordance with generally accepted industry standards for appraising real estate, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes.

Finally, we agreed verbally to change one provision of the law so that the State of Alaska would be required to operate the Alaska Railroad as a railroad for at least 10 years. Not 5 years, as was contained in earlier drafts.

It is unclear whether this change is in the final version. I hope, pursuant to the understanding between Senator STEVENS and I with regard to making

technical corrections in the bill early next year, that we can clarify this issue in the next session.

Again, I am delighted that we have been able to work out a compromise on this matter. I thank Senator STEVENS and his staff and Senator MURKOWSKI for their willingness to work until the final moments to forge a compromise.

THE ECONOMIC HEALTH OF THE WESTERN ALLIANCE

● Mr. LUGAR. Mr. President, on December 9, 1982, Ambassador Arthur Burns made a presentation on "The Economic Health of the Western Alliance" at the Deutsche Atlantische Gesellschaft in Bonn. As usual, Ambassador Burns delivered extremely thoughtful comments that demonstrate his keen insight into the economic issues that have been troubling the Western Alliance. For the benefit of those who have not heard his thoughts, I ask that the full text of his presentation be inserted in the RECORD.

The presentation follows:

THE ECONOMIC HEALTH OF THE WESTERN ALLIANCE

(By Arthur F. Burns, American Ambassador to the Federal Republic of Germany)

I wish to thank the Deutsche Atlantische Gesellschaft for the opportunity to address your members and friends this evening. Since its establishment a quarter of a century ago, your society has faithfully supported the fundamental objectives of the North Atlantic Alliance. You have never wavered in your devotion to peace or in your efforts to espouse the principles of individual freedom and democracy that constitute the moral foundation of NATO. In so doing, you have earned the gratitude of enlightened citizens of both your country and mine.

My purpose this evening, beyond expressing appreciation of your contribution to preserving international peace and freedom, is to discuss some of the economic issues that have recently been troubling the Western Alliance.

Economic factors inevitably have a significant impact on political attitudes that prevail in our respective countries, and they in turn can be decisive for the military effectiveness of the Alliance. In view of the immense role of the United States in world affairs, I shall concentrate on the economic relations between the United States and its European Allies. That these relations have been strained of late is a matter of common knowledge. That is reason enough for trying to see the American-European relationship in a sound perspective. Beyond that, it is vital to our Alliance to consider how well its economic underpinnings are being maintained and protected.

Since the end of 1979, both the United States and Western Europe have been experiencing considerable economic sluggishness or actual recession. That Western economies are vastly stronger than the economies of the Soviet bloc is a matter of considerable importance, but this can hardly justify complacency on our part. What needs to concern us is the state of our own economic health—how best to preserve and improve it. My first task this evening, therefore, is to examine briefly the sources of recent difficulties in the West.

The oil price shocks of 1973 and 1978 have certainly contributed to our economic problems. So too have other developments in the international marketplace, particularly the increasing challenge of Japan to some of our key industries as well as the new competition for a variety of Western manufactures from the more advanced of the developing nations. These external influences, however, have been less important for Western economies than difficulties of our own making.

During the early decades of the post-war period, the fiscal and monetary policies of Western Democracies were highly successful in maintaining reasonaly full employment and in improving social conditions. These very successes tempted governments during the 1970's to respond to the never-ending public pressures for governmental benefits by risking large budget deficits and easy money in the hope of expanding social welfare programs still further as well as attending to new environmental concerns. But by attempting to extract more and more goods and services from our economics without adding correspondingly to our willingness to work and save, we in the West inevitably released the destructive forces of inflation.

Under these conditions, it should not be surprising that tensions over economic issues have at times seriously tested the harmony that has generally characterized the political relations between the United States and its European Allies. When our individual economies are booming, there is little pressure on governments from their business or agricultural communities to protest or counteract activities being pursued in other countries. Such pressures tend to mount, however, in times of economic adversity. Difficulties that would be passed over under prosperous conditions then take on some importance—occasionally even a large importance. Gentle voices of spokesmen of economic interests are then apt to become loud and strident, and even the customary composure of academicians and high government officals tends to suffer. Human nature being what it is, that has been the usual experience of mankind and we have not escaped it this time.

There is, first of all, the issue of American interest rates. There can be no dispute over the fact that these rates have been extraordinarily high in recent years. Nor can it be denied that they served to attract funds to the United States from other parts of the world, that this movement of funds tended to raise interest rates in some European countries, and that business investment suffered to some degree as a consequence. If European complaints had stopped at this point, no one could reasonably quarrel; but many Europeans, including prominent government officials, at times went further and either stated or implied that American interest rates were responsible for the economic troubles in their countries. That line of thinking overlooked the fact that high American interest rates could not be responsible simultaneously for the still higher interest rates in France and the drastically lower interest rates in Japan. Needless to say, factors indigenous to individual countries—among them, the propensity of the public to save and the state of governmental budgets—always exercise some influence on interest rates.

Much of European criticism of American interest rates also stemmed from a misunderstanding of American policy objectives. Seeking to end the havoc wrought by inflation, our authorities proceeded on a principle that has been tested across the centuries—namely, that stoppage of inflation requires curbing the growth of money supplies. It is, of course, true that the high interest rates were in large part a result of our restrictive monetary policy. That does not mean, however, that we sought high interest rates.

On the contrary, the immediate effects of the restrictive monetary policy on interest rates and economic activity were by no means welcome, but this policy did achieve its fundamental purpose of curbing inflation in the United States. Since 1979, when the consumer price level rose more than 13 per cent, the rate of inflation has moved steadily lower. By coming down to less than 5 per cent this year, the inflation rate in the United States is now one of the lowest in the world.

The success of monetary policy in subduing inflation eventually made it possible for American interest rates to move to lower levels—partly through the inner workings of the marketplace and partly through adjustments of policy. The slowing of inflation encouraged the authorities to reduce monetary restraints, and the deepening of recession impelled them to do so. Economic conditions in the United States were, of course, primarily responsible for the consequent decline of interest rates, but our monetary authorities were also mindful of the benefits that the lower rates could bring to Europe. Since last year, when the rate that commercial banks charge their prime borrowers reached 21½ percent, the prime rate has fallen to 11½ percent. Open-Market short-term rates have been cut in half. Long-term rates on corporate bonds and home mortgages declined less, but they too have fallen materially. The greater part of these interest rate adjustments has occurred since June, and European rates followed American rates downward—although not to the same degree. As these financial developments unfolded, Europeans joined Americans in wishing that interest rates would move even lower, but what had previously been a significant source of friction within the Alliance virtually ceased being troublesome.

Another recent irritant to some members of the Alliance was the stand taken by the American government on intervention in foreign exchange markets. The effectiveness of such maneuvers in stabilizing foreign currencies had long been a subject of serious debate among financial experts, including central bankers. Nevertheless, governments of leading countries kept intervening with some frequency during the 1970's, in the hope of smoothing out some of the short-run fluctuations in the exchange market. Being critical of these policies, the Reagan Administration announced soon after it came into power that, in its judgment, foreign currencies are best left to the free market and that it would therefore refrain from intervening except under highly exceptional circumstances. Not a few financiers and Government officials welcomed this decision, and even some who questioned it were more concerned with the political consequences of non-intervention than with its intrinsic economic merits. There were, nevertheless, some determined European critics of the new American policy, and they made their influence felt—most notably at the Summit meeting held this June at Versailles.

While Americans held to their basic position at that meeting, they did propose that a committee of international experts study the results of past experience with intervention. By agreeing to such a study, all participants tacitly admitted the possibility that some of their views on intervention might need to be revised. Since then, the United States has gone further in the direction favored by its critics by actually intervening several times—albeit on a modest scale—in the market. There is reason for hoping that the foreign exchange study now under way may further contribute to narrowing the differences between the United States and some of its Allies. And if good will should be aided by good fortune, so that both interest rates and inflation kept coming down in our respective countries, the fluctuations of exchange rates would of themselves narrow and thus reduce both the impulse to intervene and the inclination to fret over the issue.

A far more serious conflict between the United States and its Allies was stirred by the decision of several European countries to support the construction of a Siberian natural gas pipeline. This conflict reached a climax when the American government, feeling morally outraged over the Soviet Union's role in suppressing the newly won freedoms of the Polish people, proceeded to forbid shipments by American firms of materials and equipment needed to build the pipeline. This prohibition was later extended to European subsidiaries and licensees of American firms. These actions led to acrimonious charges and debates, and some political observers on both sides of the Atlantic felt that American reaction to the crisis in Poland may have given rise to a crisis of the Alliance.

That danger, fortunately, was surmounted. Not only was damage to the Alliance kept down, but the pipeline controversy actually helped to steer Western thinking about foreign policy onto a sounder track.

In the course of pondering the sanctions imposed against the Soviet Union, the American government undertook a review of Western economic relations with the Soviet Union in the hope of developing a policy that, unlike the pipeline sanctions, could prove of lasting benefit to the Alliance. It soon became clear that this would require more resolute dealing with elements of incoherence in Western foreign policy. The reasoning that led to this conclusion was straightforward. On the one hand, NATO countries were devoting, year after year, vast resources to our common defense against the Soviet threat. Simultaneously, however, partly through private banks and partly through government agencies, we in the West kept lending during the past decade vast sums of money to the Soviet Union and its satellites. At times, this was even being done at subsidized interest rates. In view of the high priority that the Soviet Union assigns to its military establishment, the financial resources that the West so liberally put at the disposal of the Soviets thus indirectly helped to strengthen their already formidable military establishment. To make matters worse, the Soviet Union continued to take advantage of the weaknesses in our controls on the export of militarily related products and technology.

These considerations were persistently pressed by the American government on its Allies during the past year. For a time, they were resisted by European governments, partly because of displeasure over the pipeline sanctions, partly also because of concern that the American initiative could lead to an East-West trade war. But as the American government made clear that its basic aim who simply to steer Western policy into a path that was more consistent with Allied security interests, controversy and recrimination gradually yielded to quiet voices of reason.

On November 13, President Reagan was able to announce that agreement had been reached on the need to consider Allied secruity issues when making trade arrangements with the Soviet Union. More specifically, the United States and its partners agreed, first, that new contracts for Soviet natural gas would not be undertaken during the course of an urgent study of alternative sources of energy; second, that existing controls on the transfer of strategic items to the Soviets will be strengthened; third, that procedures for monitoring financial relations with the Soviets will be promptly established; and fourth, that the Allies will work to harmonize their export credit policies. In the eyes of the American govenment, these measures will promote Allied interests more effectively than the pipeline sanctions. The President therefore concluded his statement by announcing their removal. Long and difficult negotiations on ways of carrying out the agreed measures are undoubtedly still ahead of us, but the pipeline crisis as such has fortunately come to an end.

In other areas of economic policy—particularly defense burden-sharing and trade issues—the United States continues to have major differences with its European partners. Difficulties of this type have troubled the Alliance almost from its beginning, and in one form or another they are likely to remain troublesome in the years ahead. Even here, however, we have generally managed to work out our problems, and we have had some limited successes during the past year that are noteworthy.

The distribution of defense burdens among Allies inevitably raises difficult questions of equity. Many Americans, especially members of Congress, have long felt that the United States is bearing an excessive part of the heavy costs of the Alliance. In view of the financial stringency that has developed in my country, such criticisms of Europe have recently intensified. Our NATO partners usually respond by reminding us that their spending on defense rose steadily during the 1970's while real American spending kept falling off. That is entirely true, but it does not tell the whole story. Official statistics indicate that defense spending reached 7.9 per cent of the gross domestic product in the United States during 1970. The highest corresponding figure for each or our major Allies fell short of 5 per cent in that year. While the defense outlays of the United States decreased during the 1970's, this gap has never been closed. Confronted with these facts, European governments are inclined to observe that monetary figures fail to capture all costs involved in the defense area, particularly the conscription of soldiers that exists in most of their countries. Such remonstrances, however, are not always accepted by Americans, as the lively discussions that have been resounding in our Congressional halls indicate.

Whatever the mertis of ongoing debates among members of the Alliance, the Reagan Administration recognizes that some of the military proposals now before Congress would seriously weaken the Alliance. Not only that, they would also encourage the Russians to remain unyielding in the vital arms control negotiations now under way in Geneva. Those dangers have not escaped the attention of European leaders. In fact, many Europeans have long shared the widespread American belief that Europe is not doing enough for its own or for the common defense. Financial stringency is nowadays no less a problem in Europe than in the United States. In spite of that, the German Government has recently taken steps that should help Americans to see the problem of defense burden-sharing in a better perspective. Several months ago the Federal Republic signed a treaty with the United States under which it agreed to commit 90,000 reservists in support of American combat forces in the event of war. More recently, Minister Manfred Woerner announced that the new German budget provides a significant additional contribution for constructing vital NATO military facilities in Europe. These measures had long been urged by Americans on the German government. The fact that they have been adoped at a difficult time should certainly help to quiet American concerns.

Differences between the United States and its Allies over international trade issues also have a long and checkered history. From the end of World War II through the 1970's the broad trend of Western policy has been towards increasing liberalization of international trade and investment. And there can be little doubt that this trend contributed enormously to the prosperity of the West and other parts of the world. While the United States led the world toward an open trading system and unrestricted foreign investment, this policy—except for agriculture—was generally supported in Europe, particularly in the Federal Republic of Germany. Unfortunately, but not surprisingly, the deep recession of recent times has by now stirred up strong protectionist sentiment in many European countries and also in the United States.

The Reagan Administration has stoutly resisted Congressional moves toward protectionism—thus far with considerable although incomplete success. During the recent ministerial meeting of the the parties to the General Agreement on Tariffs and Trade, the United States fought especially hard for an unequivocal commitment by the world's trade ministers to phase out existing measures restricting international trade and to refrain from taking new restrictive measures. The debates over this principle and on specific trade issues were protracted and at times bitter, but at the end American initiatives brought only modest results. Assuming professorial garb, Mr. Brock, the American trade representative, judged the result as deserving hardly more than a grade of "C"—an assessment that few informed observers have questioned.

From an American viewpoint, the most disappointing aspect of this meeting was the failure to convince the European Community to modify some aspects of its agricultural policy. For many years the Community has maintained farm prices above the world level. Surpluses therefore developed, and in order to move them into world markets the Community subsidized their export. As long as this policy was confined to protecting farm sales within the Community, the United States accepted it—although not without protest. But once the subsidization led to large exports to third-country markets, a more serious problem arose for American farmers and agricultural exporters of other countries. With farm incomes in

the United States currently at their lowest level since the 1930's, American protests against the Community's agricultural policy have become increasingly insistent. The Community however has refused to budge, maintaining among other things that the issue of its subsidies had already been settled in earlier negotiations. This and other arguments of the Community have not softened American attitudes; and unless this agricultural controversy is soon settled, there is a serious possiblity that the Congress will pass retaliatory legislation next year. This would be so damaging for both the United States an Europe that I continue to believe that some mutual accommodation will be worked out.

Such a result, indeed, was achieved in connection with another trade dispute that for a time resisted every attempt at resolution. For many years the world steel industry has suffered from excess capacity and, as so often happens under such conditions, various countries—including some in Europe—made export subsidies available to their steel producers. As a consequence, large quantities of steel produced with the benefit of government subsidies have penetrated the American market in recent years. American steel manufacturers, who do not receive subsidies, sought to limit this vexing competition. They took advantage of a law that enables an industry to veto certain governmental efforts to work out trade arrangements with other countries. Despite this formidable obstacle, the American government finally reached an agreement with the European Commission that imposes moderate quotas on exports of various steel products to the United States.

To me, as to other confirmed free traders, this agreement has brought little joy. However, the practical choice that both Americans and Europeans faced in this instance was not between protectionism and free trade, but rather between degrees and kinds of protectionism. If the negotiations on steel quotas had failed, existing American law would have required prompt imposition of punitive duties on steel imports. Worse still, it seemed likely that in that event the Congress would legislate still more drastic protectionist measures. The negotiated settlement clearly violated the salutary principle of free trade, but is also forestalled more serious consequences. To this extent, it is not only a tolerable arrangement, but one that has served to reduce political tensions between the United States and its Allies.

The conclusion that I feel can justly be drawn from my review of the recent steel and other economic disputes within the Alliance is reassuring. To be sure, there have been excesses of political rhetoric on both sides of the Atlantic and, occasionally, misguided actions as well. Nevertheless, the United States and its European Allies have succeeded in working out—or at least in muting—most of their troublesome differences over economic issues. Our ability to accomplish this mutual accommodation under difficult conditions demonstrates that the moral, political, and security interests that unite us are strong enough to overcome even divisive economic issues. That at any rate has proved to be the case thus far, and from that we can surely draw encouragement for the future.

We must temper, however, any feeling of optimism that international economic conditions will improve so much in the near future that they will be unlikely to cause or intensify political strains within the Alliance. It is by now widely recognized that the weakness of the international economy during the past three years is the aftermath of the inflationary pressures released during the 1970's. It is not so clearly understood, however, that our recent economic difficulties reflect more than the normal vicissitudes of the business cycle. They reflect also a certain loss of business dynamism—that is, a gradual weakening of the underlying forces of economic growth in the Western world.

Liberal fiscal and monetary policies had served us well over a long generation in fostering full employment and improving the social environment. They might have continued to work benefically if they had not been carried to excess. But, unfortunately, traditional rules of financial prudence were thrown to the winds. As a result our Western economies have become so highly sensitive to the dangers of inflation that liberal financial policies can no longer be counted on to perform their earlier constructive function.

Of late, government and business thinking in the Western world has focused on creating an environment that is more conducive to business innovation and private capital investment than it has been in recent years. Responsible leaders in our respective countries frequently emphasize not only the need to practice moderation in the monetary area, but also the need to bring about some reduction from the high levels that both government spending and taxes have reached relative to the size of our respective national incomes. Even France, which moved for a while in another direction, has recently adopted a rather restrictive monetary policy, besides announcing the intention to restrain further expansion of budgetary deficits. With earlier economic policies now in general disrepute in the West, and the newer policies not yet fully tested, deep concern about the economic outlook has spread during the past year or two in the United States as well as throughout Western Europe.

Such pessimism can be overdone. In the United States at least, the aggregate output of the economy has remained virtually unchanged during the past six months or so, and there are now numerous indications that the groundwork for recovery has been laid. As noted earlier, both inflation and interest rates have come down sharply. Stock and bond prices have risen dramatically, thereby adding hundreds of billions of dollars to the net worth of individuals and business entities. Of late, consumer spending for goods and services has increased modestly. Residential construction has been moving upward again this year; home sales have recently revived; and the financial condition of mortgage-lending institutions has improved. The upward climb of wages has slowed materially; industrial productivity has recently perked up; and corporate profits have begun to increase. These improvements have been offset thus far by sharp deterioration of merchandise exports and business investment in new plant and equipment. Nevertheless, it seems likely that a gradual recovery of aggregate production and employment will get under way in the United States within the next few months.

With the possible exception of Great Britain, the immediate outlook for Europe is less favorable, in large part because of the greater rigidity of its labor markets. But it is reasonable to expect that any improvement in the American economy will be felt before too many months pass also in Western Europe.

Unemployment, nevertheless, will remain high in the West for an uncomfortable period, since the pace of recovery is likely to be slow in the present instance. There are compelling reasons for this gradualness. First, there are as yet hardly any signs that contracts for business construction or orders for business equipment have begun to increase either in the United States or in Western Europe. Second, most of the larger banks throughout the West must now realize that their lending policies, both at home and abroad, were excessively liberal during the 1970's. They will consequently be more cautious lenders—perhaps excessively cautious lenders—in the years immediately ahead. Third, many of the less developed countries—not only Mexico, Brazil and Argentina, which lately have figured so heavily in the press—are at present unable to make timely payments of the interest or principal that is due on their overextended indebtedness. These financial difficulties constitute a grave, but I believe still manageable, danger to the international banking system. Under the best of circumstances, however, great austerity will need to be practiced in many of the less developed countries, and their reduced imports will inevitably restrict the pace of Western economic recovery over the next two or three years, if not longer.

If my assessment of the economic outlook is anywhere near the mark, political tensions on account of economic difficulties may well continue to trouble the Alliance. To make progress on economic issues in the years immediately ahead, it is particularly important that every country avoid "beggar-thy-neighbor" policies. We cannot afford to think in terms of winners and losers when it comes to solving our common problems. It is essential, therefore, that member countries of the Alliance mobilize the vast economic and political statesmanship that is at their disposal. Cooperation among economic ministries, finance ministries, central banks, private commercial banks, and international financial agencies, which has not always been close, must become very much closer. The heads of Western governments, who thus far have been reasonably successful in controlling the disease of protectionism, must work still more earnestly toward this vital objective. Meetings among members of the foreign policy and defense establishments of the Alliance must occur still more frequently, and become more thorough as well as more timely, so that misunderstandings among their governments are kept to a minimum.

These, ladies and gentlemen, are the paths to confidence in the security and prosperity of the industrial democracies that are joined in the brotherhood of the Atlantic Alliance.●

JOSEPH MEYERHOFF

● Mr. SARBANES. Mr. President, for many years the city of Baltimore's civic and cultural life has been greatly enhanced by the extraordinary efforts of one of its leading citizens, Joseph Meyerhoff.

A businessman and civic leader of unique foresight, Joseph Meyerhoff has been a philanthropist whose generosity parallels that of Baltimore's great contributors, Johns Hopkins, George Peabody, and Henry Walters. Their contributions have created the

cultural richness that marks the city's much-recognized urban renaissance.

This past year Joe Meyerhoff's philantropy opened a new and dramatic era in the rich cultural life of the city of Baltimore with the opening of the Joseph Meyerhoff Symphony Hall. This stunning centerpiece of Baltimore's cultural landscape is but one manifestation of the generosity of Jose Meyerhoff. A long-time patron and president of the Baltimore Symphony Orchestra, Joe Meyerhoff has had the vision to make this dream a reality.

Mr. President, on January 12 the Advertising Club of Baltimore will present Joseph Meyerhoff with its "Man of the Year" civic award in recognition of his outstanding contributions to the greater Baltimore community. I ask my colleagues to join me in expressing our deep appreciation to him for his example of community involvement, and I ask that the article from the Baltimore Sun magazine be inserted in the RECORD.

The article follows:

"YOU CAN'T TAKE IT WITH YOU"—JOE MEYERHOFF

(By John F. Kelly)

At first, he didn't want to do it.

"Another goddam interview?" he sputtered. "What the hell for? Nobody wants to read about me. They've read too much about me already."

But this is different, the caller told him. This is for the symphony.

There are, it is said, three or four things in life that Joseph Meyerhoff cannot say no to. One of them is the Baltimore Symphony Orchestra.

He hesitated—and then surrendered.

"But no hero stuff," he admonished "I don't want a lot of nonsense about what a great hero I am."

He laughed, a low, sardonic laugh. "Nobody'd believe it, anyway."

It is the sort of remark anyone who knows Joe Meyerhoff would expect him to make. It is not, they are quick to point out, false humility. He is not fishing for compliments.

"He's proud as hell of what he's accomplished," says a close friend and business associate, "but he doesn't particularly like the limelight. He prefers to let his deeds speak for themselves."

They speak eloquently.

There is scarcely an organization—professional, civil, religious, educational, cultural, economic or philanthropic, on the local, state, national or international level—that has not benefited from Joe Meyerhoff's largesses, and that has not honored him in some way for it.

He has received honorary degrees from seven colleges and universities, four of them in Israel.

He was cited for distinguished citizenship by Governors McKeldin and Tawes.

He received the Louis D. Brandels award from the Zionist Organization of America for exemplary service to the State of Israel.

He was given the first citizen's award for voluntary service to the city of Baltimore.

Shortly after the state Board of Public Works voted to name the new symphony hall after Mr. Meyerhoff, an editorial in The Sun referred to him as one of "the great philanthropists in Baltimore history," and compared him to George Peabody, John Hopkins, Henry Walters and Enoch Pratt.

Although the recognitions obviously pleased him ("That's pretty good company"), in almost the next breath he growls that he's not trying to win friends and influence people.

"I don't have to impress anybody."

He pauses and jabs a finger in the air.

"The things I do, I do because I believe in them. If I didn't (believe in them), if I didn't think they were important, I wouldn't do them. That's the way I operate."

He leans back in his chair and smiles. It's an almost pixieish smile.

"A reporter for another paper [*The Jewish Times*] interviewed me the other day and asked me how I felt about having the symphony hall and all those other buildings named after me. Did it embarrass me? I told her I didn't like it at first—but I got used to it."

There it is again—that same dry, self-deprecating wit. He seems to use it as a foil; as a way to divert attention from himself.

It is a thoroughly charming trait in a millionaire.

Joe Meyerhoff is a slim tanned, wisp of a man a shade over 5-feet-5. He was 83 in April, but he looks at least 10 years younger.

He is alert, attentive, even somewhat feisty. He likes to answer questions with questions.

"Why don't you retire?"

"Why?"

"Well . . . why not?"

"What would I do?"

He speaks quietly, rarely raising his voice, yet there is an unmistakable air of authority about him. He is obviously used to getting things done—his way.

Not long ago, he told the president of a large insurance company to stop using intermediaries to solicit funds.

"Pick up the phone and do it yourself," he instructed him. "And while you're at it, don't call so many meetings. The worst thing you can do is have more meetings than you need."

Mr. Meyerhoff doesn't walk, he scuttles, darting out of his office on the 21st floor of the First Maryland building on South Charles street, bound for a meeting or for another of those interminable last-minute inspection tours of the symphony hall that strike fear in the hearts of workmen putting the finishing touches on the building.

"I'm sure they hate to see him coming," a family member chuckles. "He goes through [the symphony hall] like a cyclone and when he sees something he doesn't like, he tells them to change it."

Mr. Meyerhoff is probably as well qualified to change things as anyone. He's been a builder for more than 60 years.

He's chairman of the board of Magna Properties, a real estate development firm that he and his son, Harvey M. (Bud) Meyerhoff, who's president and chief executive officer, formed in 1979, after liquidating Monumental Properties.

Analysts called the liquidation of Monumental "one of the largest real estate transactions in U.S. history."

Mr. Meyerhoff shrugs. "It was big. But I don't know if it was that big."

Shareholders reportedly received a total of almost $600 million from the sale. The Meyerhoffs have about a 30 percent interest in the company, which would have made their share of the proceeds somewhere in the neighborhood of $180 million.

Mr. Meyerhoff laughs. "It was big," he says, avoiding the implication, relishing the joke. "But I don't know if it was that big."

He's certain, however, that most of the estimates of his personal wealth are highly exaggerated.

Three years ago, *Jewish Living Magazine* listed Mr. Meyerhoff and his wife Rebecca, among the country's wealthiest Jewish families. The magazine estimated the Meyerhoffs to be worth "between 75 millon and $100 million."

"That's a bunch of stuff," Mr. Meyerhoff snorts. "The money we realized [from the liquidation of Monumental] was all split up among the children and the grandchildren—10 or 12 or 15 people in all."

The fact remains, however, that he's wealthy enough to donate $10 million (of the $23 million total) to the construction of the symphony hall that bears his name—and not feel the pinch.

"Oh, yeah," he says with a mischievous grin. "I've got a few bucks left. I haven't spent it all yet."

Mayor Schaefer is thankful for that.

"I shudder to think what the cultural life of Baltimore would be like without Joseph Meyerhoff," the mayor says "I can assure you that without him—and others who feel the same way—it would be very adversely and seriously affected."

The mayors of several Israeli cities would probably utter a reverent "Amen" to that.

In the past 20 years, Mr. Meyerhoff estimates he's given "about $5 million" to Israel for construction of "various capital projects," including six libraries, several pavilions and a technical college.

That figure does not include the money that he's donated anonymously to Israel through the United Jewish Appeal and other charitable organizations.

He's never gotten around to adding it up. No matter: He's given it gladly.

"In my family, it was taken for granted that being a Jew and being interested in what was Palestine and is now Israel were one and the same thing."

It was also taken for granted that everyone has an obligation to the community.

"My parents felt—and instilled in us—a belief that you should endeavor to leave things a little better than you found them. I've always tried to practice that."

"Joe Meyerhoff doesn't fit the usual pattern of famous people who allow their names to be used for a cause," says Pat Deering, a managing partner at Coopers & Lybrand, an accounting firm, who has known Mr. Meyerhoff for almost 30 years. "He insists upon getting involved in the cause—and he does."

Mr. Meyerhoff was born in Russia, the fifth of Oscar and Hannah Meyerhoff's six children. He was 7 years old when the family left Russia for the United States.

His father had been head of a local self-defense group formed to fight the pogroms. He was suspected of hiding weapons, arrested, and sent to jail.

"The police came and searched the house, looking for guns," Mr. Meyerhoff says. "I suspect they were there somewhere, but they couldn't find them so they eventually released my father, and as soon as he got out he and my mother packed up and left.

"That was in 1906. I was 7 years old, and I don't remember a thing about Russia. I'm surprised I don't, too, because I was a pretty bright kid. That's what they always told me, anyway."

The family came straight to Baltimore after landing in New York. Mr. Meyerhoff's

father had a sister living here, and she and her husband helped the family get settled.

They lived in East Baltimore for two years and then moved to Druid Hill avenue, above North avenue, in 1908. There, his father opened a meat market.

His parents had difficulty adjusting to the new world, but none of the children seemed to.

"I don't think it was more than a few months before we were speaking English, for example. My father wouldn't allow Russian to be spoken in the house so he and my mother spoke Yiddish and we spoke English and between the two we managed to communicate."

Mr. Meyerhoff attended public schools, including School No. 49 in the 1200 block Cathedral street. The building, ironically, stands almost directly across the street from the new Meyerhoff symphony hall.

(The contrast is striking: The traditional brick schoolhouse, trimmed in brownstone, and the graceful, sweeping lines of the Pietro Belluschi-designed symphony hall—variously described by wags as an Art Deco ocean liner or a hat worn by a member of the Royal Lichtenstein Band.)

Mr. Meyerhoff went to City College, playing third base on the baseball team and "reserve defense" on the basketball team, and graduated in 1916. That fall, he enrolled in the night school law program at the University of Maryland.

"I didn't have any great love for law," he says, "but I didn't know what else to do. I had to work [at the store] days so going to law school nights was the only thing that made sense."

He lost interest after his first year in law school, however, and dropped out. In July, 1918, he enlisted in the army and was assigned to the Student's Army Training Corps at the Johns Hopkins University.

"It was wonderful. We went to classes and trained and pretty soon the war was over and two days after they signed the armistice, we were discharged. The only thing I didn't like was the business with the gun. I couldn't keep the damned thing clean. That and sticking the bayonet in the dummies. I never liked that.

"I wasn't a bad soldier, though. I was small, but pretty muscular and I had quick reflexes. I still have. I went from baseball to tennis to golf and I still play a pretty fair game of golf.

"But it's the goddamdest game. You can hit the ball a mile, but it all depends on your short game and your putting."

(Bud Meyerhoff laughingly says his father "probably gets as much fun out of winning a couple of golf balls in a low-putt game as he does watching one of his stocks go up.")

Mr. Meyerhoff returned to law school after his discharge from the army and graduated in 1920. That summer, while waiting to take the bar exam, he went to work for his brother, Morris, who was building houses on Glen avenue, near Park Heights.

"He said to me, 'You're not doing anything, come on out and help us sell some lots.' The following year, I started building a few houses on my own."

He also married Rebecca Witten. They met while she was a student at Eastern High School and he was in his first year of law school.

"He seemed like such a man of the world—and I felt like such a little girl," Mrs. Meyerhoff recalls. "To me, he was already a big success."

The Meyerhoffs—he was 22, she was 18—went to the White Mountains in New Hampshire on their honeymoon. A day or two after they arrived, someone told him he looked "too young to be married," and he started growing a moustache. It's the same shoestring moustache he sports today. It gives him a faintly continental look.

Back in Baltimore, Mr. Meyerhoff continued to practice law, handling most of his brother's legal business until 1924, when Morris Meyerhoff ran into financial problems and declared bankruptcy.

Mr. Meyerhoff, who was responsible for paying several notes he endorsed for the company, refused to declare bankruptcy. He vowed to pay every cent and, furthermore, he would not join a country club until the notes were paid.

"It took me 10 years to do it, but I did it. I must have finished sometime in 1935 because I joined a country club in 1936."

"If Joe Meyerhoff gives his word, that's it," says Frank Baker, retired chairman of the Monumental Corporation, which merged with the Joseph Meyerhoff Corporation in 1969.

Mr. Baker, who is also one of the city trustees, says it's doubtful he would have talked to anyone else about a merger of the two companies.

"I always had the highest regard for his integrity."

"I want the people I do business to have confidence in me," Mr. Meyerhoff says. "I want them to know I'm a man of my word. I have a saying, 'I was honest before I had money,' and I think—I hope—the people I deal with know that and believe it."

Mr. Meyerhoff gave up law shortly (except for one brief period in the early 1930s) after his brother's bankruptcy, confining his efforts to the building trade.

"I never really wanted to be a lawyer, anyway," he says. "I wanted to build. It's exciting, challenging and creative. There's something going on all the time."

Plus there's a lot more money in it.

"That's probably true," says Mr. Meyerhoff's son, Bud. "But with Dad the chase is everything. It always has been. That's why he doesn't retire. He's having too much fun."

For the first few years, Joe Meyerhoff concentrated on building rowhouses. Later, he built houses to order. He started on Northern parkway and eventually built custom homes in Guilford, Stoneleigh, Homeland and Roland Park.

He's probably as proud of the houses as he is of anything he's built.

"I built damned good houses, solid houses, and I always took great pride in them. Hell, there are second and third generations living in some of them today."

He began building his first apartments during World War II.

Today, he estimates he built more than 15,000 individual and group homes in the Baltimore area and another 17,000 apartments in Maryland, Pennsylvania, Georgia and Florida.

In addition, he built 19 shopping centers, including Edmondson Village, Eastpoint, Westview and Hillendale.

(Mr. Meyerhoff built One Slade, a luxury, high-rise apartment house in northwest Baltimore, 10 years ago after friends persuaded him "there were no decent apartment houses around." He agreed. He sold his home and moved in himself as soon as it was finished.)

Other than houses, what he built, he usually kept—even though he "hated managing them."

"The first thing I always did after I finihsed [building an apartment house or a shopping center] was give them to someone else to run. But I didn't sell them. I didn't build them to sell. I built them for investment."

While many other builders went out of business during the Depression, Mr. Meyerhoff continued to build houses. He built them in Brooklyn, Northwood, Waverly, wherever he could get land and financing.

"What else was I going to do?" he says, "People had to have houses and I had to eat."

Bud Meyerhoff, who joined the business in 1948, shortly after graduating from the University of Wisconsin, remembers his father "worked like hell" during the Depression.

"But, you know," he adds, "the only way I knew there was a Depression was by counting our cars. We always had two cars. Then, all of a sudden, we only had one car. That lasted for about two years and then things must have gotten better because we returned to being a two-car family."

Despite his father's workload, Mr. Meyerhoff says, "dad always found time for the family." He remembers the two of them used to get down on the floor after dinner to shoot marbles.

"My wife would probably say I didn't give [the children] enough time." Joe Meyerhoff says. "But I gave them as much as I thought they needed. I tried to be a good father as well as a good provider."

"He was a marvelous father," Mrs. Meyerhoff says. "The children [Peggy Meyerhoff Pearlstone, who died in 1974. Eleanor Meyerhoff Katz, who lives in Florida, and Bud] adored him; they still do. He wasn't terribly strict, but he made it clear he expected certain thing of them, and if he said 'no,' it was 'no,' and they knew it."

Shortly after the war ended, Joe Meyerhoff decided it was time to begin giving something back. He started arranging his business affairs so he could devote more time to volunteer activities.

He became president of the state and national home builders' associations. He got involved in Jewish charities, first as campaign chairman and then as president of the Associated Jewish Charities and Welfare Fund of Baltimore.

He served on the building committees of the Jewish Community Center, the Baltimore Hebrew College and Provident Hospital.

He headed the Israel Bond Drive in 1953 and was named to the national campaign cabinet of the United Jewish Appeal in 1955. Six years later, he became national general chairman of the UJA.

He was president of the Palestine Economic Corporation, which later merged with the Israel Discount Bank, and financed several capital projects in Israel, including a $20 million pipeline from the Red Sea to the Mediterranean.

He was appointed to the Maryland Board of Public Welfare in 1953 by Governor McKeldin and later represented the board on the Maryland Planning Commission.

He became chairman of the Planning Commission when it was reorganized in 1959 and, at his urging, the state built Gunpowder State Park and acquired a large part of the land now being developed at the University of Maryland's downtown complex.

(A local developer calls acquisition of the downtown land "a stroke of genius. . . . Can you imagine what the land would cost if [the state] had to go out and buy it today?"]

Then, in 1952, a serious rift developed between Joe Meyerhoff and his yonger brother, Jack, who had joined the firm (then known as the Property Sales Company) in 1936.

Feuds among members of the two families reportedly affected relations between the brothers.

They quarreled, the business was dissolved and the assets were divided—in some cases, Mr. Meyerhoff confirms, simply by "taking turns picking them out of a hat."

The split was acrimonious. Jack Meyerhoff, who now lives in Florida, joined the Rouse company. Joe Meyerhoff formed the Joseph Meyerhoff Corporation. The brothers are "still bitter, still estranged," according to family sources.

In the 1960s, shortly after Mr. Meyerhoff became president of the Baltimore Symphony Orchestra, a second bombshell struck.

Civil rights groups attacked him for maintaining segregated housing. They picketed his house, and threatened to picket a performance of the BSO at the Lyric, but later called it off.

Mr. Meyerhoff says he resisted renting to blacks because he "had a responsibility to the people already living in [the apartments]."

Besides, he says, "I didn't want it to be a voluntary thing, with some doing it and some not, I wanted a law making [open-housing] compulsory for everyone."

Those who know Joe Meyerhoff say they "can't imagine a less likely candidate" for racist.

"It's absurd to think that this man was—or is—in any way prejudiced," says George L. Russell, Jr., an attorney and former associate judge of the Supreme Bench of Baltimore City, who worked with Mr. Meyerhoff on the Provident Hospital building committee in the mid-1960s.

"Without Mr. Meyerhoff, there wouldn't have been a new Provident Hospital. He was concerned about the plight and the health of black people and his commitment to the black community was unparalleled."

So, as it turned out, was his commitment to the Baltimore Symphony Orchestra.

He remembers the day an informal delegation from the symphony visited his office in 1964 and asked him to "help rescue" the floundering symphony orchestra.

Until then, he says, he and his wife had been subscribers and modest contributors.

But not much else.

"I enjoyed going to concerts, and I went whenever I could, but I certainly wasn't actively involved in it. I believed in it as a community activity, as a cultural resource. I think cities should have good orchestras. They help attract people."

Mr. Meyerhoff says he went home and told his wife he'd been asked to become head of the symphony.

"I laughed and said. 'Can you imagine that? I wouldn't have that headache for anything in the world.' She looked at me and said, 'Why not? Somebody's got to help.' "

"My husband's a very dedicated, determined person," Mrs. Meyerhoff says. "Once he starts something, he's going to see it through. When he told me they wanted him to be president [of the symphony] I said, 'Well, you've been looking for ways to help. Here's your chance.'

"Of course, I had no idea it would come to anything like it has. He put practically every brick in that building."

Just as he declines to take full credit for his business success ("No one builds a business alone, he has to have help"), Joe Meyerhoff refuses to say he was responsible for bailing out the Baltimore Symphony Orchestra.

"Ive had so much help it's unbelievable," he says.

That help, be adds pointedly comes from every sector of the community. Not just Jews.

"I get awfully tired of hearing how if it wasn't for the Jewish community there wouldn't be ajy symphojy—or any kther cuhtural activity in the city, for that matter* It's not true."

While most of the top 10 contributors tk the symphony are indeed Jews, he concedes, the same is not true of those who have contributed $100,000 or more, or of those on the symphony's board of directors.

Only about 30 percent of the $100,000-and-over contributors, and less than a quarter of the 63 board members are Jewish.

"But what goddam difference does it make, anyway?" Mr. Meyerhoff demands. "We're not in a popularity contest. We all want what's best for the city. If someone says, 'Here's a gift,' who the hell cares if the person giving it is a Jew or a Martian? He's giving it, isn't he?

"I take pride in being a Jew. But I also take pride in giving—and I don't give because I feel I should, I give because I believe in it. If I didn't, I couldn't go out and ask others to give their time and money to the project. They'd see right through me.

"Besides, once you've taken care of your children and your grandchildren, what are you going to do with your money? You're sure as hell not going to take it with you. So why not spend it? Why not do what you can to help make life a little richer for others? I think that's a pretty nice legacy."●

RESCUE AT SEA

● Mr. COHEN. Mr. President, for the five crew members aboard the *Robert Powell,* December 12 will be remembered as a day of horror—and heroism. Fifty miles off the Maine coast in a blinding snowstorm on a wave-tossed sea, the 124-foot fishing trawler began taking water through its engine room and started sinking into the Atlantic Ocean.

During the 3 hours between 11:30 a.m. and 2:30 p.m., Capt. James Dow learned that Coast Guard helicopters were grounded and that its nearest rescue vessel was 12 hours away. The boat that was later to reach the Robert Powell was another fishing vessel, the Kathleen and Julie II, captained by a 23-year-old fisherman whose persistence and bravery were to be demonstrated in a remarkable rescue. Thomas Bayley, of Scarborough, was a real-life hero that day.

The following account of that Sunday's dramatic events, written by Kendall Holmes of the Maine Sunday Telegram, tells of the various attempts to spot the sinking Robert Powell in the stormy Atlantic, and of the desperate, last-resort efforts by a young fisherman to hoist five nearly freezing men aboard his boat. I offer this inspirational story to my colleagues as evidence that the spirit which traditionally has marked the New England fishing community is as strong today as ever before.

I ask that the article be printed in the RECORD.

The article follows:

[From Maine Sunday Telegram, Dec. 19, 1982]

RESCUE AT SEA: A LITTLE LUCK, A LOT OF HEROISM SAVE THE ROBERT POWELL'S CREW

(By Kendall Holmes)

It was one of those cold, cloudy and forgettable days along the Maine coast last Sunday. Fifty miles out to sea, a true-to-life drama was unfolding—a series of events from which legends grow and from which heroes are made.

Early Sunday, the weathermen had been predicting a snowstorm would sweep up the coast, the year's first major snowfall. The intense storm veered out to sea instead, where it whipped the Atlantic into an icy caldron.

Heavy snow and sea smoke reduced visibility to near zero.

Gale winds were kicking up 25-foot swells.

The temperature was near zero.

And the Robert Powell was sinking.

It had been a leisurely morning for the Robert Powell's crew. Two days earlier, the crew had left Portland harbor for a 10-day fishing trip on the Georges Bank, about 120 miles northeast of Cape Cod.

Now, because of the snow and the winds, the crew was laying off for the day. They stopped fishing, pointed their 124-foot side trawler into the waves and were weathering the storm.

Lamond "Snooky" White, 36, the Powell's cook, had stood watch until about 8:30 that morning. Afterward, he went below to take a nap.

White awakened shortly before 11 a.m., fixed himself a cup of coffee and started to cook lunch. He fixed a dinner of pork chops, boiled potatoes, string beans, sauerkraut and salad. It was a dinner that would largely go uneaten. For about the same time White began cooking, the Robert Powell's engineer, Daniel Dow, noticed his ship had a problem.

A leak had developed somewhere in the vessel's engine room. Water was pouring into the engine room quicker than a pump could get rid of it.

Dow, 48, walked up to the wheelhouse to tell the captain—his brother—about the problem. "I was having a good read when he came in," said Capt. James Dow, 32. "I just had about 50 more pages to read in Centennial," James Michener's 909-page epoch about a Colorado town.

Daniel Dow returned to the engine room to look for the source of the leak. He couldn't find it. The vessel was taking on more water. At about 11:30, Daniel Dow relayed this information to his brother, who decided he should contact the Coast Guard and some other fishing vessel in the area.

At first, neither of the Dow brothers thought the problem was significant.

The Robert Powell—named for a captain who died at dea of a heart attack—was not the type of vessel that anyone expected to sink. The 16-year-old vessel had a steel hull and a good reputation. It was part of the fleet of the Rockland-based F. J. O'Hara Corp. Fishermen will tell you that O'Hara maintains his fleet better than almost anyone on the East Coast. Indeed, the Powell had been drydocked for about six weeks last summer for an overhaul. "They maintain high standards," Capt. Dow was to

say later. "In 55 years, they had never lost a boat."

But back in the engine room, the leak was intensifying. While Capt. Dow hadn't yet conceded that his ship might sink, he knew he had a problem, and he wanted help.

The messages he was receiving back from the Coast Guard weren't encouraging. Coast Guard helicopters, based at Cape Cod, couldn't take off because of the snow and wind. The nearest Coast Guard ship was 12 hours away.

Closer to the scene was a Japanese fishing trawler and two local fishing vessels. One was named the Tripolina, the other, the Kathleen and Julie II.

Around noon, the captains of all three vessels decided to head toward the Robert Powell. Despite the limited visibility, finding the Powell wouldn't be a problem. The boat was equipped with equipment accurate enough for Capt. Dow to plot his position to one-tenth of a microsecond of longitude and latitude—or within 50 feet.

About the same time, the Dows told their other three crew members of their boat's worsening problem. White had just finished cooking lunch. Only deckhand Clarence "Chuck" Doyle, 54, had an appetite after learning of the boat's problems.

White himself was getting nervous. Three months before he was born in 1950, his father and uncle both died in a fishing accident off the Maine coast. Now, White wondered if he might face the same fate. He left the galley and went to his room to get a pack of cigarettes. As he walked, "I could see a lot of water coming in. I didn't feel too hungry after that."

As the Powell continued to fill with water, Capt. Dow urged his men not to get shook up. But he told them to get ready, just in case something happened. Crew members donned warmer clothing, put on life preservers and checked the life raft. Capt. Dow continued to relay information about his boat's condition and location.

Only one of the three vessels trying to reach the Powell was succeeding. It was the Kathleen and Julie II, a 95-foot boat captained by 23-year-old Thomas Bayley of Scarborough.

Bayley began fishing three years ago. A year ago, he took his father, who owns the Kathleen and Julie II.

When the Robert Powell's first distress calls came in, Bayley was more than 30 miles away. The Tripolina was much closer—apparently only about 11 miles away. But the Kathleen and Julie II was upwind from the Robert Powell. It was able to head at the sinking ship at a speed of 8 to 9 knots an hour, while the Tripolina—trying to head back into the storm—could make no headway. "With the storm, we were heading in that direction anyhow," Bayley's cook, Roland Caron, said later. "We decided to go for it because we thought that maybe we could be of some help."

Back inside the Robert Powell, the water was getting deeper. It filled the engine room and still, it kept rushing in. About 2:30 p.m., the boat's electical system was overcome with the water. Capt. Daw's radio went dead.

In another 15 minutes, he was forced to order his crew to abandon ship. Then, as today, the source of the leak remained a mystery.

Dow's crew had been busy making all the preparations they could think of—all the while hoping that another boat would soon appear out of the fog and snow. As the crew prepared to abandon ship, deckhand Carl Rogers, 59, grabbed two cans of Schlitz beer and stuffed them into the pockets of his jacket. He did it, he said later, "kind of as a joke, a lark." The rest of the crew appreciated his humor, he said.

The Robert Powell "rolled down hard" when a wave hit it a few minutes later, Rogers said. "We all had to make a mad dash towards the raft. When they roll down and then they don't roll back up again, you know you're in trouble."

The crew tumbled into a 4-by-8 foot raft. It was covered on its sides and top by a fixed canopy, and on its two ends by curtains. Water immediately began sloshing in through the curtains, and the crew began bailing. "As we were bailing, one of the beers fell out of my pocket," Rogers said. "The engineer picked it up and said, 'This must be yours.' I was the only one aboard who drinks Schlitz."

As crew members continued to bail, they had one immediate problem: Their raft seemed to be sinking. Capt. Dow recalled later that when he and his crew first boarded the raft, it had bumped hard against the sinking Robert Powell several times. "What I found out later was that the release valve was set . . . so that if you do bounce off something you don't blow a compartment, you just lose air. We thought we were leaking and sinking. We may not have been."

Not that it mattered as nightfall approached, as the raft filled with water and as several crew members' faces began to turn purple from the cold.

One of the last things the Coast Guard told Capt. Dow before the Robert Powell's radio went dead was that a Canadian Air Force plane was in the area, trying to locate the ship.

A plane appeared soon after the crew tumbled into the raft. Members assumed it was the Canadian plane. In fact, it was a Brunswick Naval Air Station P-3 Orion, heading to Brunswick from a five-month stint in Iceland.

The plane's pilot, Dewey Nelson, had picked up a call from the Coast Guard and decided to join in the search. He located the sinking Robert Powell, located the life raft and then spent about 45 minutes circling the area.

Rogers remembers sighting the Orion once. Capt. Dow thinks he saw it three times. Low on fuel, the plane then returned to Brunswick. As it left, it dropped a radio beacon into the water—a tool to help Bayley locate the raft.

But Bayley was doing fine on his own.

Using readings supplied by Capt. Dow before the Robert Powell sank, Bayley and several other fisherman had been plotting the troubled boat's course. They found the boat was drifting southwest at 4 miles per-hour.

Bayley stayed on that course after he lost contact with the sinking ship. He assumed the raft would drift in the same direction as had the boat. he told his father later that he never varied from this course.

As the Kathleen and Julie II approached the area of the life raft, Bayley's crew members took turns standing watch on the bow of the boat, and on its rigging—trying to find the raft. They searched for nearly an hour and a half.

It was shortly before 5 p.m. when the drama began to reach its climax. Crew member Peter Eagen was standing watch on the bow of the Kathleen and Julie II. Eagen is from Rockland, as were four of the Robert Powell's five crew members, and he had fished in the past with some of the Powell's crew.

The crew in the life raft spotted the Kathleen and Julie II and they sent up a flare. Eagen spotted the flare. "Another 15 minutes, we'd have been gone," White said later. "The water was up above our waists in that raft."

The adventure was far from over, however, for Bayley still had to steer the Kathleen and Julie II through rough seas, getting it beside the raft without running it over. And then he had to figure a way to hoist the crew out of the raft. Seas were so rough that, "one minute we'd be looking down at his deck, the next we'd be looking up at the bottom of his boat," Capt. Dow said.

Bayley got his boat alongside the raft. His crew tossed a rope overboard. With Dow's crew hanging onto one end of the line, Bayley's men pulled the raft to the stern of the Kathleen and Julie II. They hooked the rope to the boat's net reel and tried hauling the raft on board.

But the raft was too soft, too full of water. The reel wouldn't work.

"No one had any idea of how to get us up," said White. "But finally, the captain, he comes out of the wheelhouse and hollers to us that 'We're not going to lose you now.' And then he hollers for somebody to grab his feet."

Bayley was ordering his crew to lower him down a ramp at the stern of his boat, head first. "Tom leaned over the stern ramp. We grabbed his feet and he bellied down the ramp. We all had a hold of him, and he just pulled the guys up, one by one." Bayley's cook, Caron, said later.

The rescue was completed.

And while the Robert Powell's crew was cold, wet and tired, all were uninjured. Later that night, Rogers drank the two cans of Schlitz he had pocketed as his ship went down. A day later, the Robert Powell's crew members were reunited with their families when the Kathleen and Julie II steamed back to Portland harbor.

Bayley was modest about his role in the rescue. He volunteered no information about how he had lowered himself over the side of his boat. In fact, by the time word of his feat began to circulate around the fishing community, Bayley and his crew had resumed their fishing trip. They are due to return Monday or Tuesday.

Caron, 30, stayed behind on personal business. "We were lucky and they were lucky," he said later in the week. "Just think of all those things that could have gone wrong and didn't. You have to believe in something."

The members of the Robert Powell's crew, meanwhile, began to pull their lives back together. All must now look for new work.

When reunited with his wife Monday night, White promised he would spend the holidays at home with her and his two children. He promised not to seek work again until after New Year's Day. The new job, as the old, will be with a fishing boat, said White. "It's the only life I know."

ATTACKS AGAINST MEMBERS OF THE LEGAL SERVICES CORPORATION

● Mr. ARMSTRONG. Mr. President, I have been perplexed to read the recent attacks against members of the Board of Directors of the Legal Ser-

vices Corporation for their acceptance of compensation for their time spent on Corporation business. I have looked into this matter and have learned this is not a new practice. Members of the Board have been paid a daily consultant fee since 1975.

What is new apparently, is that this Board is taking seriously its statutory responsibility to insure that the Legal Services Act is complied with by those who received over $225 million in grants and contacts from the Corporation this year. In vigorously enforcing the act and instituting reforms this Board stepped on the toes of those who profited from the status quo, and I cannot help wondering if this attack on the Board members, over the consulting fee issue, retaliation for the reforms this Board has instituted such as the prohibition on the practice of laundering Legal Services Corporation funds through its local programs to fund other organizations; prohibition of lobbying with taxpayer funds which strictly enforces the terms of the last continuing resolution; and the action taken by this Board to force local programs to either or properly expend over $41 million in unspent fund balances which this Board discovered had been improperly banked by local programs.

It appears to me the $150,000 paid in fees to 11 Reagan appointed Directors has not been wasted, it may even be the best spent money in the Legal Services budget. It was spent to insure that the $241 million given by the Congress to this program was lawfully used. To insure this, the Reagan Board had to work harder, spend more time, and therefore spend more money to change the status quo than the prior Boards which maintained the same status quo which Congress found totally unacceptable.

For example, one Board member, William J. Olson, was compensated $19,000 for over 650 hours devoted to Corporation business. He attended 21 of 28 of the Board's Committee and Board hearings and meetings in 1982—only 9 meetings of any kind were held in 1981—he served as Chairman of the Board from January through March, coauthored regulations with complicated procedures on denial of refunding for recipients and limitations of class actions, participated in the review of over 350 applicants for the position of President of the Corporation, worked with the Justice Department to defend successfully the Reagan Board against five separate judicial attacks by former Board members, participated in protracted confirmation hearings before the Senate Committee on Labor and Human Resources, and worked on all aspects of Corporation business, almost always at total odds with the holdover staff at the Corporation.

Rather than profiting on this work, he lost substantial income in the process. The $29 per hour paid to Board members was of course well below his hourly billing rates as a private attorney, but it was also below the cost of his office overhead expenses. Therefore, for every hour he worked for the Corporation in 1982 he had to subsidize the costs of maintaining his law office from other legal work.

Mr. Olson has devoted to Legal Services almost one-half of this year's billable time at these same rates, while spending substantial sums to hire other lawyers at much higher billing rates to do work for his other clients.

When we ask an individual to serve on the Board of a quasi-governmental corporation such as Legal Services, or the Corporation for Public Broadcasting, or the Overseas Private Investment Corporation, or the Board of Governors of the Postal Service, we ask them to devote the time necessary to perform their statutory responsibilities. During the Senate confirmation hearings these Board members were asked to commit the time necessary to do the job. This Board did what we expected, and performed better than any prior Board of the Corporation.

It may be easy to demagogue about the money paid to Directors to govern a quasi-public Corporation but it is not fair. But with the flagrant violations of the law by this Corporation that have been addressed by this body on many occasions, to not have spent substantial time to bring the program into line with the law would have been unforgivable.

Those who oppose reform at the Legal Services Corporation can be expected to attack the reformers. But I urge those who support reform at the Corporation to look twice before they criticize those who have fought daily for 1 year to successfully achieve those reforms which the Congress had been unable to otherwise obtain for a decade.

Those who have given of their time and talent at substantial personal financial loss, such as Mr. Olson, deserve our appreciation. They have mine.●

SOLDIER OF PEACE

● Mr. MOYNIHAN. Mr. President, I rise to call to the attention of the Senate the obituary of a major figure in 20th-century science, an outstanding public servant and a tireless crusader for disarmament and world peace. This obituary of George B. Kistiakowsky—"Kisty" as we who were privileged to know him—appeared in the Boston Globe of December 8.

Professor Kistiakowsky was an immigrant to this blessed land an he was possessed of that special patriotic fervor common to those who find refuge and safe harbor at our shores. Born in Kiev in the Ukraine, he was a young—then a sergeant—recruit in the Army that battled Lenin's Bolsheviks after the 1917 revolution. Attaining his doctorate in Berlin, he came to America and quickly made a place for himself in that international exile elite which forged new pathways in science and led the world into the nuclear age.

As head of the Manhattan project explosives division at Los Alamos, N. Mex., he designed the trigger for the first nuclear explosion and was witness to the event. After observing the test at Alamagordo on July 16, 1945, he was quoted as saying:

I am sure that at the end of the world—in the last milisecond of the Earth's existence—the last human will see what we saw.

Later, as science adviser to President Eisenhower and in private life, he campaigned for a test-ban treaty, for the SALT agreements and for genuine arms reduction. A key figure in the development of nuclear weapons, disarmament was his passion.

I ask that the obituary as it appeared in the Boston Globe be printed in the RECORD.

The obituary follows:

GEORGE B. KISTIAKOWSKY, PRESIDENTIAL SCIENCE AIDE

(By Edgar J. Driscoll, Jr.)

George B. Kistiakowsky, internationally known professor emeritus of chemistry at Harvard University, the second person to hold the office of assistant to the President for science and technology and a key figure in the early development of nuclear weapons, died yesterday. He was 82.

Following a 3½-year battle with cancer, he died quietly in his sleep at his home on Hudson St., Cambridge, where he lived with his wife, Elaine.

Prof. Kistiakowsky retired a Abbott and James Lawrence professor of chemistry in 1971, after 41 years on the Harvard faculty. Upon his retirement, the Kistiakowsky lectureship in Harvard's chemistry department was established in his honor.

For his work on the first atomic bomb in World War II, he was awarded in the President's Medal of Merit by President Harry S. Truman. He received the Medal of Freedom, the nation's highest civilian award, from President Dwight D. Eisenhower, and President Lyndon B. Johnson later awarded him the national Medal of Science.

In recent years he became one of the nation's most vigorous and respected crusaders against the nuclear arms race.

AN EXPERIMENTALIST

Widely honored for his scientific achievements, the lanky (6-feet-3), balding, bright-eyed scientist was an experimentalist rather than a theory-maker, a shirt-sleeve chemist who preferred to work in the laboratory himself to investigate a problem. Through the years colleagues praised his wide choice of key problems to probe, his skill in devising the means for carrying out laboratory tests, and his shrewd interpretation of experimental results.

As one of the world's foremost experts on explosives. Prof. Kistiakowsky prepared the triggering device that used chemical explosives to detonate the first atomic bomb. He

was chief of the Los Alamos Laboratory of the Manhattan Project at the time.

When the top-secret bomb was exploded in the New Mexico desert in 1945, he recalled: "I was up close, but didn't have sense enough to hop into a trench just before the bomb went off. I was knocked into it—with the other boys, though—when the bomb went off."

He, like other scientists attending that historic event, was overwhelmed by what they had wrought. "What the last human being on earth will see is what we have seen this morning," he told the New York Times science reporter.

Thirty-seven years later, he told The Boston Globe that today's nuclear stockpiles and scenarios are "unbelievable" and that most of his surviving colleagues are appalled by what has grown out of a rudimentary atomic device.

At a later date he had to show his President's Medal of Merit to officials of the town of Lincoln, who had questioned his qualifications for dynamiting tree stumps on property that he owned there.

As chairman of the Council for a Liveable World, Prof. Kistiakowsky, known as Kisty to his friends, pushed hard in recent years for world disarmament and traveled the globe calling for control. "After working so long on those weapons, I came to the conclusion the time had come to control them," he said in 1980, warning of a nuclear wipeout unless there is stern arms supervision.

He also believed firmly that "scientists can no longer live in an ivory tower supported by public funds. They must step down from the tower and become concerned with social issues of the day," such as pollution and spoilage in the environment, more civilian applications to basic research and more progress in the health sciences, he said.

CHAIRED EISENHOWER COMMITTEE

The Russian-born scientist was Special Assistant for Science in the Eisenhower Administration, and chaired Eisenhower's Science Advisory Committee. [The first person to hold that position was James R. Killian, former president of MIT.] Prof. Kistiakowsky served on that body from its inception in 1957 until 1963, when his appointment ran out. However, he continued to work with Defense Secretary Robert McNamara under the impression that his activities would help de-escalate the Vietnam war. When this did not happen, Prof. Kistakowsky severed his connection with the Pentagon in 1967.

When he was named Eisenhower's Special Assistant for Science and Technology, the highest scientific post in the nation, he faced a stormy set of controversies, such as the space program, just then getting started, and negotiations for the test-ban treaty. He resigned to return to Harvard 1½ years later.

He also was delegate to Geneva talks on the reduction of the danger of surprise nuclear attacks and was a member of the Ballistics Advisory Committee of the Air Force and Defense Department.

As a working scientist, Prof. Kistiakowsky concentrated on the kinetics of chemical reactions. Besides the atom bomb, he had taken a prominent part in developing jet propulsion and bazookas.

One of his earliest contributions in World War II was a special explosive, known by the code name of Aunt Jemima. This was developed at the explosives research laboratory in Bruceton, Pa., which he established and ran as chief of the explosives division of the National Defense Research Committee. At his suggestion, the explosive was made to resemble flour and was mixed with flour. Manufactured by the ton, it was then smuggled into Japanese-held areas of China for use in sabotage. It could be passed off as flour and even baked into bread without exploding.

"To test it," the down-to-earth scientist said, "we chewed some of it and then took it out and blew up a bridge with it."

HIGHEST CHEMISTRY HONOR

In addition to the President's Medal of Merit and the Medal of Freedom, Dr. Kistiakowsky held the King's Medal of the United Kingdom for Services to the Cause of Freedom, the exceptional Service Award of the U.S. Air Force, the Willard Gibbs Medal, the Ledlie Prize, the Nichols Medal, and the Joseph Priestly Award of the American Chemistry Society, the highest honor in U.S. chemistry.

He also held honorary degrees from Harvard, Princeton, Columbia, Brandeis and Oxford Universities; the Universities of Pennsylvania and Rochester, Williams College, Carnegie Tech and Case Institute of Technology.

His Harvard citation read: "Swift and explosive force, your imaginative talents have both widened our knowledge of chemical structures and enriched the life of this university."

He was a former vice president of the National Academy of Sciences, and held memberships in the Royal Society of London, the American Philosophical Society and the American Academy of Arts and Sciences. He also was an honorary fellow of the Chemical Society of London and a member of the American Chemical Society.

In 1973, he was named a visiting scholar at MIT's Center for International Studies.

A man whose face reflected both intelligence and humor, the distinguished physicist-chemist was chairman of the department of chemistry at Harvard from 1947 to 1950. For several years he was on the Admissions Committee for Harvard College and was a member of the faculty committee on athletics, regularly attending home football games and other sports events. An avid athlete, he believed in keeping fit. In earlier years, one of his passions was horseback riding. He continued skiing until the age of 75 when sailing and gardening became his principal outdoors activities.

Friends like to recall the time a fellow professor was building his own terrace and forgot to clean out his concrete mixer at the end of the day. Next morning its contents were hard as rock. Coming to the rescue, Prof. Kistiakowsky studiously calculated the exact charge to blast out the concrete without blowing up the mixer. It worked like a charm.

WAS BORN IN KIEV, RUSSIA

Prof. Kistiakowsky was born Nov. 18, 1900, in Kiev, Russia, the son of Bogdan Kistiakowsky, a professor at Kiev University, and Mary (Berenstam) Kistiakowsky. His grandfather and great-grandfather also were university professors in Russia. He attended private schools in Moscow and Kiev.

During the Russian revolution of 1918–1920 he fought the Bolsheviks as a tank soldier in the White Russian Army. After its defeat, he spent almost a year in concentration camps in Turkey and the Balkans, but finally reached Germany where he entered the University of Berlin. There he obtained his PhD after four years of study under the renowned chemist, Max Bodenstein.

Prof. Kistiakowsky, who always held his slender frame with ramrod stiffness, worked with Prof. Bodenstein after graduation, then came to this country in 1926 as an International Education Board Fellow at Princeton University. He became an assistant professor at Princeton and taught there two years, before joining the Harvard faculty in 1930. At Harvard he was assistant professor of chemistry 1930–33; associate professor 1933–37; and professor of chemistry 1937–59 and from 1961 until retirement. He became a naturalized citizen in 1933.

He had served as chairman of the science board and a director of Itek Corp. and as a director of the Cabot Corp.

Prof. Kistiakowsky leaves his wife, the former Elaine Mahoney; a daughter by his first wife, Vera Kistiakowsky who is professor of physics at MIT; and two grandchildren, Marc Laurenz and Karen Marie Fischer.

Funeral services will be private. Memorial services will be held at Harvard.

THERE SIMPLY IS NOT ENOUGH TIME

George Kistiakowsky made his last public remarks in an editorial in the December issue of the Bulletin of the Atomic Scientist, commemorating the 40th anniversary of the first nuclear explosion.

He closed the editorial with these words:

"The political leaders of powerful nations continue uttering pious words about their love of peace, but the arsenals keep growing, the stability of nuclear peace is being undermined and the proposals for arms controls negotiations on both sides are so unbalanced as to be obviously non-negotiable.

"As one who has tried to change these trends, working both through official channels and, for the last dozen years, from outside, I tell you as my parting words: Forget the channels. There simply is not enough time left before the world explodes. Concentrate instead on organizing with so many others who are of like mind, a mass movement for peace such as there has not been before. But the threat of annihilation is also unprecedented. Then lead the movement so that, instead of the few now in Washington, many will be elected to Congress who have a true and unbreakable commitment to search for peace."●

AFGHANISTAN: 3 YEARS UNDER THE SOVIET BOOT

● Mr. PRESSLER. Mr. President, as we prepare to leave Washington at the end of this 97th Congress to join our families in the warmth and comfort of this holiday season, we should not forget that in numerous places around the globe others far less fortunate than ourselves will not be free to enjoy this Christmas. There are many in the world who today are subject to oppression. We must remember that it was 3 years ago during the Christmas season that the Soviets invaded Afghanistan, a nation that did not and could not pose a threat to Soviet national interest and security. Three years later, the Soviet occupation continues.

There are over 100,000 Soviet troops in Afghanistan today. There right to remain there comes exclusively from military might. The overwhelming majority of Afghani citizens reject their presence in Afghanistan. The Soviet presence continues to be resisted.

Many Afghani freedom fighters have lost their lives in this effort and large numbers of civilians have been the subject of reprisals. Chemical weapons are reportedly being used both against freedom fighters and innocent men, women, and children. Millions of Afghanis are refugees, having been forced to flee to shelter in neighboring Pakistan.

Three years after the invasion, there are no signs that the Soviets are ready to end their occupation. Despite heavy losses in Soviet personnel, it appears that the Soviets will not leave Afghanistan until they have created a permanent puppet regime in Kabul or placed some areas of that unfortunate country under direct Soviet control.

Mr. President, I ask that a December 16, 1982, article from the British newspaper, the Guardian, be printed in the RECORD. This article, based upon an interview with a highranking Afghani intelligence officer who has defected, suggests some possible Soviet plans for the future of Afghanistan. It makes for somber reading. I ask Members to remember the plight of Afghanistan as we give thanks for our own good fortune this holiday season.

The article follows:

INTERVIEW WITH LT. GEN. GHULAN SIDDIQ MIRAKI

(By Alexander Thomson)

Frustrated by the Soviet Union's humiliating failure to defeat the Islamic resistance movement in Afghanistan, the late President Brezhnev once planned to annex the entire country to the Soviet Union. Later, he wanted to dismember it and put the northern part of the country between the Soviet border and the Hindu Kush mountains under complete Soviet control instead of relying any longer on the Afghan Army and police to help to end the three-year-old rebellion.

Lieutenant-Genral Ghulan Siddiq Miraki, who gave these revelations here yesterday, is the highest-ranking Afghan intelligence officer to defect to Pakistan since the civil war began.

His account, in a wide-range and exclusive interview, disclosed the extent of confusion among Soviet advisers over how to escape from the Afghan quagmire. He also said that senior KGB officers were angry with Brezhnev's blunder in sending troops into Afghanistan in December 1979 and that the new Soviet leader, Yuri Andropov, as well as the then prime minster, Aleksey Kosygin, had opposed it.

Lt. General Miraki was one of only four deputies to the head of KHAD, the KGB-trained Afghan secret police. Western diplomats have confirmed his former status and career details. No one can totally discount the possibility that he might still retain a link with the KGB and be part of a disinformation campaign. But it is pointed out that the Pakistani authorities have given him an extensive debriefing and political asylum.

Speaking in the frontier city of Peshawar where he is being kept at a well guarded but undisclosed address by the Hezb-e Eslami-e organization, Lt. Gen. Miraki said that the Afghan leader, Babrak Karmal, was summoned to Moscow last December where he was instructed by Brezhnev to hold a national conference of the ruling PDPA which in turn would call a congress to end the party's international (as published) faction-fighting, and publicly endorse him as party leader and president.

With the increased legitimacy, Karmal could then call for massive Soviet reinforcements to defend Afghanistan. Once these Soviet troops were installed, Karmal would opt to join the Union of Soviet Socialist Republics. Karmal did call a national conference of the PDPA in March, the first such meeting since the 1978 revolution, but it lasted barely 30 hours, failed to unite the two warring factions of the party, Khalq and Parcham, produced no consensus and harmed Karmal's credibility.

A congress was out of the question. According to Lt. General Miraki, Brezhnev told Karmal that if they failed in this major task, Afghanistan would be dismembered—with nine northern provinces, including Kabul, coming under complete Soviet control. The rest of the country would be left to its fate.

The Russians were particularly interested in the northern provinces of Afghanistan which included Badakshan, Balkh, Jowzjan and Meymaneh. The people on the northern side of the Hindu Kush range are mostly of Uzbek and Tajik origins. They migrated to Afghanistan when the Russians took over the states of Central Asia. They still have the same Uzbek and Tajik culture and language, a fact which Russians clearly considered to their advantage while planning to take over these provinces.

Lt-General Miraki said that in conversations with senior KGB officials with whom he worked, it was clear that they felt that Afghanistan could have been controlled without the use force. The KGB view was that Brezhnev made a fundamental mistake by pursuing the revolution without taking account of local customs.

Lt-General Miraki insisted that his account of Brezhnev's plan was not a Kabul rumor but solid fact. He said he had heard it from a high ranking member of the government and a highly-placed Soviet source from Tajikistan.

During his interview in Peshawar, Miraki said he had been a member of KHAD, of its previous incarnations, for 25 years. In the early sixties he had gone to West Germany for specialist training, and before moving to Kabul he had been the commander of KHAD in the southern region with headquarters in Qandahar. One of his main responsbilities in Kabul was the running of KHAD's training centre for political commissars.

A Western diplomatic source in Islamabad confirmed the substance and this account of his career. But what has surprised diplomats is the revelation by the general that despite being one of the most senior KHAD commanders in Afghanistan he was also a key member of the fundamentalist Hezb-e Eslami-e organization which has close links with the Muslim Brotherhood and wants to create a pure Muslim state, adhering strictly to the Koran.

The general said he was in constant contact through couriers with the head of Hezb-e Eslami-e Gulbuddin Hekmatyar in Peshawar. Earlier this year, when the general had wanted to defect because he felt his life was in danger, he had been ordered by Gulbuddin to stay. He had manage to deflect suspicion by framing another KHAD officer in circumstances he would not make clear.

He again felt his life in danger last month and was given permission by Hezb-e Eslami-e to defect together with his wife, his son and his daughter. They drove in the general's car to a guerrilla-controlled area close to Kabul where they made contact with Hezb-e Eslami-e agents. From there the were taken to the Pakistani border.

With him during the interview was Brigadier (Habibullah Hidayati), the head of KHAD's "Department Five" which is responsible for infiltrating guerrilla groups inside Afghanistan and mounting operations against the Afghan resistance in Pakistan. He has also recently defected and says he is a Muslim brother. Both men spoke extensively about the power of the mujahedeen and how it had penetrated KHAD and almost every other government department.

Miraki says he is not the only member of KHAD who is a "Muslim brother." He says the organization is riddled with mujahedeen. Indeed, there are young resistance activists at the KHAD "academy" he ran in Kabul. They knew each other but he knew them all.

Western diplomats in Islamabad who keep a close watch on Afghanistan confirm the extent to which KHAD has been infiltrated. Indeed, all government departments, the army, the airforce and the police have men who are actively working for the mujahideen. The KGB is aware of this but there appears little it can do.

Guerrillas are regularly tipped off about imminent Soviet operations, wanted men elude dragnets, key resistance figures who are arrested manage to escape. Lt-General Miraki gave one example of a government attempt to roundup 56 resistance supporters inside the garrison in Ghazni three months ago. All but three or four managed to elude capture.

Lieutenant-General Miraki said he knew of plans to infiltrate Pakistan's sensitive Baluchistan Province where there are fears that the insurgency of the seventies by Baluchi separatists could be revived.

According to Miraki, in an attempt to ease the pressure on the overcrowded gaols, between 50 and 60 people were brought before the firing squads each day. Some of them he knew but could not help. Names and addresses were not recorded. "Many families think their relatives are still in gaol. But for many of them they are not. They are dead. Killed by the regime."

General Miraki said that the Russians were also resorting to more desperate measures in the countryside. He said there was evidence of chemical weapons being used. He quoted one specific example. In August of last year he said he was sent an official message from the KHAD chief in Bamain and a letter from the governor of the province saying that chemical weapons had been used against the mujahideen. But the wind changed direction and the gas was blown back on the Russians, killing many.

During a four-hour conversation, the spy chief turned guerrilla spoke of resistance operations inside the Soviet Central Asian republics, which he said were under threat. He said there was evidence of a revival of Islam; and Hezb-e Eslami-e cards were being widely distributed. He said he heard from Russian advisers that last September there was a week of clashes between guerrillas and police inside the Soviet Union north of the Afghan border town of Andkhvoy.

Miraki says the Kabul regime and its Soviet allies are using extreme measures in an attempt to regain control of the city, which almost nightly is subjected to bombing attacks, assassinations and hit and run raids by guerrillas. The general said that

there were widescale arrests of guerrilla suspects many of whom were shot out of hand. Others were subjected to beatings and electric shocks at KHAD interrogation centers. The repertoire of torture was more extensive than this, according to Miraki, but he became flustered as he tried to recall and recount some of the more gruesome methods used.

He spoke of suspects being confronted by their children and wives during questioning. If answers failed to come, the wife would be "abused," the children killed. He tried several times to be more specific but failed. If it was grotesque piece of acting it was exceptionally convincing. "Let me put it this way. Tyrants once tied a man's wrists and ankles to four horses and tore him apart. That is the only method they do not use in Kabul. It is worse than Genghis Khan, worse than Hitler."

Lt-General Miraki, Brigadier (Hidayat) and another recent defector, Air Force Brigadier Mohammad Sarwar Sinwari, the chief of operations at Kabul's Khwaja Rawash airbase, have all claimed that the bulk of the Kabul regime's efforts are directed against one resistance organisation, the Hezb-e Eslami-e of Gulbuddin Hekmatyar. They may not be impartial because all three happen to be members of the organisation. But it is remarkable, nevertheless that Gulbuddin has been able to recruit such high-level commanders into his fundamentalist party.

It is the most uncompromising party, a hard line, tightly disciplined group primarily opposed to the Soviet Union but also implacably opposed to "Western imperialism." Although some Western diplomats dismiss the importance of Hezb-e Eslami-e in the Afghan guerrila war, others consider him a major force to be reckoned with.●

A WITNESS KNOWN AS THREE DOTS AND HOW HE WAS PUT AT RISK

● Mr. HATCH. Mr. President, citizens will not help us fight organized crime if the Government that asks their help cannot assure their safety.

Organized crime exists. In some places, it runs and ruins the lives of an entire community. In one such community since the early twenties, very few have broken the ring of silence to confess or complain about organized crime. Those few that did have been cast, by those that they seek to expose, from jobs, homes and community if they were not killed instead.

In the late seventies, the U.S. attorney in that judicial district made another run at organized crime. He encountered exactly the same problems getting evidence.

One man the Government begged to come forward and help them was a man known as Three Dots. He came forward. The Government had no evidence against him. He had no record of past felonies or violence. He thought it was the right thing to do, to help. However, the investigated learned of his role, threatened to kill him and the Government offered him a way out, protection. He accepted their help. He had little choice. He was admitted to the U.S. Marshals Service witness security program.

Rather than secure him safety, the U.S. Marshals Service compromised it: First, by whom they put him with; second, by whom they used to move his furniture when he finally found a home; and third, by inadequate funding to meet his expenses at a time (a) when his wife was due to give birth, (b) when he had no permanent lodging, (c) when he had no permanent job, and (d) when he had no false identity to present to get employment or otherwise conceal who he had been.

Out of desperation, he told the press of his plight but not of the investigation or the tortuous route that brought him to Oklahoma. In short, he did not breach his security. Despite the fact that he preserved his anonymity, his desperate cry for help was sufficient to throw him out of the program, terminate him, just weeks before his child was born this past August. Broke, the Department promised him money to meet his expenses provided that he take a psychological test that, it was stated, might justify excluding him from the protection and funding that he would not have needed if he had turned his back on his Government when it begged he cooperate.

Three Dots asked me to help. He came to my offices. Through my special counsel, I asked the Office of Enforcement Operations in the Department of Justice to assure me that they would admit Three Dots to the program if he took the test. They repeatedly refused to give any such assurance.

An independent psychologist thereafter tested the witness known as Three Dots; he concluded that Three Dots was normal.

Following the preliminary investigations reflected by my remarks, I requested of the Associate Attorney General Rudolph Giuliani that the Department promptly reinstate the witness in the witness security program. It was the first and only communication I had with Mr. Giuliani. I was informed he was responsible for matters involving both the Office of Enforcement Operations and the U.S. Marshal Service.

On December 9, 1982, Associate Attorney General Giuliani told me in writing that he was "ready, willing and able to take the necessary action to solve this problem immediately," to give the assurance requested and readmit the witness. With that, the witness took the test, was readmitted, and has since been relocated.

I commend the Associate Attorney General for his prompt attention to this matter for ending the long night of terror for Three Dots and his family.

But more need be done. Perhaps not for this witness but for past and prospective witnesses. I beseech the Department of Justice to reexamine carefully the entire witness security program as it is fraught with failings that must be eliminated for they blunt or destroy any witness' willingness to cooperate.●

TRIBUTE TO VERNA KEAYS KEYES

● Mr. WALLOP. Mr. President, I would like to bring to the attention of the Senate the recent passing of Verna Keays Keyes (Mrs. A. C.), a native of Wyoming and a lifelong resident, who designed our State flag.

In 1916, after graduating from the Chicago Art Institute, Verna Keyes entered and won a competition sponsored by the Daughters of the American Revolution organization to choose a design for Wyoming's State flag. Her design of a white buffalo bearing the seal of the Equality State set against a field of blue was adopted by the Wyoming State Legislature in 1917, virtually unchanged from her original drawing.

In my view, Mrs. Keyes' distinctive design embodies the spirit of Wyoming and her people, and I appreciate the opportunity to bring her enduring contribution before the Senate.●

TRADE RELATIONS WITH JAPAN

● Mr. PERCY. Mr. President, one of the thorniest foreign affairs issues to confront the United States this year has been our trade relations with Japan.

A year ago our trade ambassador, David MacDonald, was negotiating in Japan to open that market further to American products. Our trade deficit with Japan has been running recently at over $10 billion with even wider deficits projected in the future. American businesses seeking to sell their products in Japan have encountered numerous trade barriers and have been frustrated in their efforts.

Certainly the Japanese have made an effort to open up their market more for foreign-made goods. Yet the Japanese market is still substantially more closed to foreign goods than is our own market. And when American manufacturers see the comparatively easy time Japanese companies have in entering our market, it makes this inaccessibility all the more frustrating. Ambassador MacDonald has recently certified in a report to Congress that there has been very little progress.

A number of companies now feel that we have been too tolerant of some Japanese trading practices in the United States and they have taken action to make trade fairer. One of the best known of these is the Houdaille Industries petition asking the President to exercise his statutory author-

ity to protect the American machine tool building industry by suspending the U.S. investment tax credit for certain Japanese machines.

Mr. President, this is an important and precedent-setting case. It is one that the Senate endorsed this week when it passed a resolution urging the President to act on the Houdaille petition. I am pleased to have been a cosponsor of this measure. Although it does not have the force of law, we hope it will send a signal to the Japanese that the U.S. Senate is growing increasingly concerned about the question of market access. Numerous Illinois businesses—from auto parts to machine tools to candy bars—have told me about their difficulties in selling their products in Japan. Yet their Japanese counterparts have almost unlimited access here. It simply is not fair and it is time for Japan to make fundamental adjustments in its approach to international trade.

The Houdaille petition is a complicated one but I have recently read an excellent explanation of it by former Senator John Sherman Cooper.

Mr. President, I ask that Mr. Cooper's statement on the Houdaille Industries petition be included in the RECORD at the close of my remarks and I commend it to my colleagues and others who have an interest in making our trade with Japan more equitable.

The statement follows:

THE OBSERVATIONS OF FORMER SENATOR JOHN SHERMAN COOPER ON WHY THE PRESIDENT SHOULD GRANT THE HOUDAILLE PETITION

The petition filed by Houdaille Industries, Inc., on May 3, 1982, asks the President of the United States to exercise the authority provided him by Congress to protect the United States against the unfair cartel policies and practices of Japan by suspending the qualification of Japanese-made numerically controlled machining centers ("NC machining centers") and numerically controlled punching machines ("NC punching machines") for the United States investment tax credit.

The authority of the President to grant such relief by Executive Order is provided by Section 103 of the Revenue Act of 1971, 26 U.S.C. § 48(a)(7)(D).

The responses of the Government of Japan to the petition describe the petition as unfriendly and without reason for its exercise. The facts, so precisely developed by Petitioner, however, contradict Japan's response. Japan's government and the individual members of its industry trade associations, particularly those which manufacture the two high technology NC products at issue and sell these products in the United States, are in open violation of Section 103 of the Revenue Act of 1971. They are now, and have been for years, subject to the penalty of the withdrawal of the investment tax credit, which Section 103 provides for the protection of the United States.

Opponents have argued that trade of the two products is a minor part of total U.S.-Japanese bilateral trade and presumably is of no great importance. This argument evades their larger consequences. The two Japanese NC products are of the greatest importance to the whole of the United States, its commerce, its industry, its workers, and its national security.

Supported by Japan's development and maintenance of its machine-tool cartel, various Government-controlled subsidies and other unjustifiable discriminatory practices, described by Petitioner, Japanese producers have captured approximately 50 percent of the U.S. market in NC machining centers and nearly 40 percent of the U.S. market in NC punching machines.

This situation has another, larger, and more dangerous effect upon the U.S. economy. U.S. industries of all types must change and improve their equipment and techniques and educate their workers in this era of necessary development of high technology products, if they are to compete in commerce and, indeed, if they are to survive. The U.S. economy should not be forced to be dependent upon Japanese advanced technology, secured by unfair trade practices and subsidies. The U.S. Government now contributes to this dependence by its unwise provision of an investment tax credit subsidy for the purchase of such Japanese manufactured capital goods.

Of chilling inportance in considering Houdaille's petition is the relation of unfair imports to the whole of our national security, both its economic and defense consequences. This surely will be recognized by the Administration.

Our defense industry, if it is to keep current with the sophisticated weapons, both strategic and conventional, being developed in the world today, must have available high technology components, produced in the United States, which cannot be shut off on the decision of a foreign country.

Concern over this issue has been voiced by members of Congress, in studies and reports of the Armed Services and other Committees. These concerns, including a C.I.A. memorandum, are cited throughout the petition, and particularly at pages 142-150. They speak of the "weaknesses" in the United States Defense Industrial Base.

"Weaknesses" in our Defense Industrial Base is a sad commentary on our defense posture. This ought to be an surely is a matter of preeminent concern to our Government and people. In this critical and dangerous period of world crises, the defense of the United States must be assured. It is a primary responsibility of our Government and people.

In considering the petition of Houdaille, it is important to recall the economic circumstances prevailing in the United States in 1971, which led to the enactment of the 1971 Revenue Act. The country was in a recession and, as the debate in the Congress unequivocally shows, there was growing concern over the adverse impact of foreign exports, on the deterioration of U.S. industrial production, and growing unemployment.

President Nixon quickly recognized the serious economic situation and initiated his New Economic Policy. In August 1971 he announced a wage and price freeze, suspended the convertibility of dollars into gold, and by Executive Order imposed a 10 percent surcharge on all imported goods.

The Congress acted promptly. On October 5, 1971, Chairman Colmer of the House Committee on Rules, reported for House consideration the bill, H.R. 10947, which had been introduced by Congressman Mills, Chairman of the Committee, and the ranking member, Congressman Byrnes. Congressman Mills, in his opening statements, emphasized that one of the important purposes of the proposed legislation was to promote industrial efficiency and employment in the United States through its job development investment credit. He and others, including the Minority Leader, Congressman Joseph Martin, commented on continuing U.S. balance of trade deficits caused by discriminatory trade practices of foreign countries.

I was a member of the U.S. Senate in 1971 when the Revenue Act of 1971 was enacted. I voted for its final passage and against several amendments whose purpose was to insure that the investment tax credit would be available unconditionally to foreign products equally with American products. I was present throughout the debate, was keenly aware of the recession which caused the economic measures taken by President Nixon, and supported the provisions of H.R. 10947.

It is significant that in evaluating the economic conditions which prevailed in 1971, the Congress and the Administration had the foresight to look to the future. H.R. 10947 authorized the President to forestall discriminatory trade practices which had contributed to the recession of that time by swift and decisive action. It is the same authority Petitioner asks the President to use today.

It is instructive to remember that the President's protective authority of H.R. 10947 drew upon criteria found in section 252(b) of the Trade Expansion Act of 1962. The Trade Expansion Act of 1962, H.R. 11970, was initiated by President Kennedy, also in a time of recession, with the predominant purpose of increasing fair, competitive world trade and thereby increasing employment and economic activity in the United States.

I was a member of the U.S. Senate in 1962, during the consideration of H.R. 11970, heard the debate, and voted for final passage. During the debate members protested the increase of foreign exports and consequent narrowing trade balances as a factor in the recession. The Congress responded by granting authority to the President to act decisively to meet the challenge of cartels, foreign imports and products, and other unjustifiably discriminatory practices. President Kennedy signed the bill into law.

In enacting the Trade Expansion Act of 1962, the Administration and Congress were careful to include a delegation of authority to the President to protect United States commerce.

The Revenue Act of 1971, supported by President Nixon and the Congress, took similar precautions to protect the United States by providing to the President authority to act against foreign exports by suspending the gift of the U.S. investment tax credit, when a country "engages in discriminatory or other acts (including tolerance of international cartels), or policies unjustifiably restricting United States Commerce."

It was not a hasty decision, but one thoughtfully worked out in the House and Senate. The House Ways and Means Committee and the Senate Finance Committee wrote different versions for section 103. Amendments offered to delete or weaken the language of section 103 were debated and defeated. The final version, still in force today, was adopted in the House-Senate conference, then approved by both Houses, and was in the bill signed into law by President Nixon.

If the President invokes the authority provided to him, it may be asked what effect

would it have upon Japan, which protests to vigorously and defensively against its use.

It would not prevent Japan from continuing to export the two NC products to the United States. Indeed, after the United States industry is given a reasonable period of time in which to recover from the unfair Japanese trade practices, Japan could earn the privilege of having its NC machining centers and NC punching machines once again qualify for the United States investment tax credit subsidy if it will offer these products in fair competition with similar U.S. products, through elimination of its cartel and other discriminatory practices, which it has fostered for many years with full knowledge of the penalties of section 103 of the 1971 Act.

Since Japan has not observed fair trade practices, its two NC products should be denied an unusual and wholly unreasonable benefit—the investment tax credit established for the benefit of U.S. industry—which the Japanese machine-tool industry has enjoyed as a gift, while, under the guidance of its government, this industry has dealt unfairly with U.S. industry, workers, and U.S. security.

What effect would the President's action have on other countries?

It may be argued that at a time of world economic difficulty when international meetings scheduled to commence this November will consider certain trade, currency and monetary matters, it would be disruptive for the President to take the requested action which is his right. In my judgment, however, the present moment—before these important international meetings get underway—is precisely the right time for the President to take this action and thereby express the commitment of the United States to free, nondiscriminatory trade. It would be a firm statement of U.S. standards to which nations similarly committed could not object, and the conviction such an action would express should enhance the leverage of the United States in its essential task of correcting unfair trade practices.

If the United States allows Japan to continue its unfair trade practices, and fails to act against the unfair takeover of United States markets by these two NC Products from Japan, by using the penalty approved by Congress, it would be a signal to other countries as well as Japan that the United States is not strong in its commitment to free and fair trade, and that unfair practices against it will be tolerated.

What effect would decisive action by the President have in the United States?

I do not know that it would have immediate economic effect. But American industry and American workers—many of them tragically out of work because of the unfair export of their jobs to Japan—would have the assurance at this very difficult time that the Government of the United States is concerned with their interests, and will protect them fairly and wisely against discriminatory practices in world trade. The present deficit in our balance of trade, of approximately 24 billion dollars, deserves action.

It would give to U.S. industry the necessary confidence to use its resources to develop the high technology products upon which its future, that of American workers and the American economy depend.

The requested Presidential action is also of vital importance for the protection of our national security. The American defense industry must not fall behind Japan in high technology and lose the resources and time to develop now superior processes and components for U.S. weapons. The purpose of U.S. defense capability is to deter war. The security of our allies is inseparable from that of the United States. Some may be angry over U.S. sanctions related to the Soviet pipeline, but decisive favorable action by the President of the United States on the Houdaille Petition prior to the November meeting could cause our allies to consider how their own security is buttressed by such evidence of a firm United States commitment to act against the erosion of its security and economy by a foreign trade policy, unfair and discriminatory in its practices.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. James H. Dykstra, of the staff of Senator COHEN, to participate in a program sponsored by the Hebrew University of Jerusalem in Jerusalem from January 9-18, 1983.

The committee has determined that participation by Mr. Dykstra in the program in Jerusalem, at the expense of the Hebrew University of Jerusalem, to participate in seminars on American/Israeli relations, is in the interest of the Senate and the United States.●

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

THE SENATE RULES

Mr. ARMSTRONG. Mr. President, like most Senators, I am eager to complete the work of the day and to begin the long-awaited holiday recess. But I simply am reluctant to let this session adjourn without commenting briefly upon the exchange or remarks this morning preceding the final vote on the highway bill.

A few weeks ago, one of our colleagues, not one of those who participated in the debate this morning and not one who was particularly identified in any way with the highway bill, was holding forth on the floor in a most unpopular way. Bill after bill would be called up and he raised an objection to bill after bill, thereby preventing these proposals from even being considered.

It was evident at that time that there was a distinct undercurrent of hostility within the Chamber toward that Senator, not a member of my party. I went over to him and I said this:

I disagree with your position on most of the issues you have raised tonight, but I admire your style. I think you are doing the right thing.

It is in exactly that spirit that I want to stand up and associate myself at least in some degree with the two Senators from North Carolina who have been criticized most unfairly during the proceedings this morning and during some of the proceedings before today.

Mr. President, I am not going to comment on any of the specific observations that have been made. I think the Senator from Kansas was correct in his characterization of those observations, and I believe that in the test of time the personal issues which have been raised, which, in my view, came very close to violating the rules of the Senate, will be seen for what they are, and anything I may say about them will not be important either way, except that I want to express in a personal sense my admiration and friendship for both Senators from North Carolina.

But I do not want to let this session conclude without making an observation or two in regret of what has been said about how the rules of the Senate have been used. I think the emotional statements which have been made here this morning are way off the mark and that the Senator from New York (Mr. MOYNIHAN) was much closer to the mark when he said the rules have functioned well.

The rules have not failed us, the procedures of the Senate have not failed us, in the consideration of the highway bill. They have succeeded. The majority has not been thwarted, the majority has worked its will. One or two Senators have not prevented this body from reaching a conclusion and doing so in quite a timely manner, I might say.

It may seem to some, because of the season of the year, that this debate has been drawn out a long time. But, in fact, the debate has not been very lengthy, just a few days on a bill of great importance.

I want to make two observations about the purpose for which rules permit Senators, even one Senator, to require the Senate to consider matters at some length. That is not to indulge the personal pique or the personal desires of any Senator. It is for a much larger public purpose. That purpose is twofold: First of all, to require the passage of enough time that issues will be seriously considered.

I can recall, and I am sure other Senators can recall, when issues have come through here in a great hurry and, as a consequence, Senators simply did not know in any detail what they

were voting on. I can recall many instances where issues have come up for debate and extended debate has ensued of a filibuster, or parliamentary devices have been used, to delay the final disposition of that measure and during the course of that delay a change in consensus has occurred, as a result of news reports, messages from home, debate here on the floor. Minds have been changed.

That is exactly the reason why the rules of the Senate, unlike those of the other body, provide that even one or two Senators that feel very strongly about legislation may prevent its passage at least for a time, so that those who may have an interest in such legislation out in the country can respond, can react, can marshal their arguments, that editorials can be written, that constituents can contact their Senators. On many occasions in the life of this Senate, legislation which seemed destined to certain passage in a hurry was delayed and, as a result of new judgments formed during the delay, was in fact modified or defeated.

I think that is a wholesome and healthy process.

The mere fact, Mr. President, that the result was not finally changed as a result of the filibuster, if one may properly call it that, which I doubt, of the extended debate, of the issues raised by our colleagues from North Carolina does not invalidate the purpose of their effort.

I want to call attention of all Members and anyone else who cares to listen to the fact that this was not an objection by one or two Members but, in the final analysis, despite extraordinary pressure behind this bill, no less than 33 Senators thought it wise to vote against final passage. How many of those Senators would have voted in favor of it had it not been for the arguments and time consumed by Senators who objected to it I do not know.

I just want to point out that the rules have not been abused. They have been used in a courteous and proper way and to good effect.

Mr. LONG. Will the Senator yield at that point?

Mr. ARMSTRONG. I will be very happy to yield to the Senator.

Mr. LONG. Let me say this, as one who was managing the bill for the minority side and voted for the bill: The Senator is absolutely correct. Those Senators had every right to do what they did.

When Senators agree with a bill they are very happy to cooperate in expediting its passage. When they do not agree with it, they feel more tolerant to those who insist on taking more time to explain their views and to consider it.

We have to keep in mind that we are sworn here to uphold the Constitution and to defend this country against all enemies, foreign and domestic. If and when the day should come that any Member of this body feels that a measure would be the undoing of this Republic, it is not only his right but it is his duty to stand up here and make his case and to speak at considerable length if need be, as long as he has a chance to persuade people that he is right about the matter.

If it be one of those situations where the public can be marshaled and expressions from outside this Chamber can make the Senate see the light of day or see wisdom that it had not seen prior to that time, again it is the duty of that Senator to make that fight.

People do not want weakhearted Senators. They want people who have the courage to fight for their beliefs and they want people who have the courage to fight even though it might risk their political future. They expect that of good Senators. When Senators believe strongly in what they are doing, it is to be expected that they will make a fierce fight for their position.

To say that they can do other than that, because people want to go home for Christmas, for example, is not what we came here for. In the last analysis, there are not many people in this country who get to take 1 week or 2 weeks off for Christmas. Most Americans have work to do in those days.

The Senator is eminently right in what he is saying. Though it is painful for some of us who have to break a filibuster and tiresome for those who have to listen to those speeches, we have to accord others the same right that we reserve for ourselves when we are convinced that we are right.

Mr. ARMSTRONG. I thank the Senator for his observations. Coming from a Senator with vast experience in this body, I find his comments especially meaningful.

I want to make a couple of other points, Mr. President. I do so as a Senator who did not support the filibuster and who voted repeatedly for cloture, even though I opposed the bill.

In the same spirit that the Senator from Louisiana has pointed out, there is a second reason why Senators may legitimately, properly, and honorably, even though it may be unpopular, use the rules for extended debate, parliamentary tactics, and points of order. That is to test the willpower of the majority, because it is imperative in our system not only that the majority rule, but that if a minority in this body has a very keen, determined feeling, it may not be overridden by a casual majority but only by a determined majority.

The very thing we have tested by coming here today on an inconvenient date, causing Senators to delay their travel plans, puts to the test that underlying theory of our system because, even though there clearly was a majority for the passage of this bill, if, in fact, a number of Senators had not been interested enough in the passage of this bill to give up their travel plans and had not attended the session this morning, it would have been defeated. That, in fact, has happened on many occasions: There have been many bills which have been defeated by a determined minority who held the floor long enough that others lost interest. They went home. Somebody said that the winners in this place are the last ones who are still on their feet when everybody else is asleep or drunk. There is an element of truth in that, Mr. President. It is not a laughing matter, but it goes to the very heart of our system.

The majority must prevail, but the majority must not prevail over a determined minority unless it cares enough to extend itself to exercise the rights of the majority.

That is the second reason why I believe that, even though they did not prevail, the Senators who have caused this extended debate on this matter have done us a service.

I have another point to make. Before I do, I see the Senator from Idaho is here. Before I make that point, I am glad to yield to him to make an observation.

Mr. McCLURE. Will the Senator yield without losing his right to the floor?

Mr. ARMSTRONG. I am happy to yield.

Mr. McCLURE. Mr. President, I thank the Senator from Colorado not only for yielding but for making his statement. I have listened for the past couple of days to a number of people who are feeling personally abused in their own plans and who have taken it on themselves to castigate others who felt very strongly, regardless of whether I felt as strongly-or not.

I opposed the bill and I voted against the bill. I voted for cloture. I think the will of the majority did prevail.

I think the Senator from Louisiana accurately pointed out that if you have a strong feeling, you have an obligation to say so and act so. I think the Senator for Louisiana again reminded the Senate that we would probably be televising this debate if it were not for the Senator from Louisiana. Maybe the public is better served for not having seen what we have done in the last few days, even though I am in favor of television in the Senate.

I think the Senators who have exercised their rights under the rule—and incidentally, they did not press it to the ultimate. They did make accommodations with the majority when they saw how strongly the majority felt. The debate was lengthened longer than some would like, longer than most would like, but shorter than they could have insisted upon under

the rules. So there has been accommodation by those who did want the passage of this bill.

I do not think we should close this session without that kind of remark having been made about those who took actions that I did not support but which I think they had the right to take. I think the Senator from Colorado and the Senator from Louisiana have contributed to putting this matter into a proper perspective. I very much appreciate what the Senator from Colorado has done here today.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Idaho for his observations. He is one of the foremost authorities on the rules and customs of the Senate, so his comments are proportionately meaningful.

Mr. PRYOR. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I am very happy to yield to the Senator from Arkansas.

Mr. PRYOR. If the Senator will yield to me for one moment, I do appreciate the remarks of the distinguished Senator from Colorado, the distinguished Senator from Louisiana, the distinguished Senator from Idaho, and others.

If I could, Mr. President, I would like to talk about a rule that is not in the rule book, not in either of these two volumes. That is that gentleman's agreement, so to speak, whereby one Member of this body can stop cold turkey—or cold lameduck, I should say—any bill which has passed the Senate, passed the House, is on the calendar, and has been lying at the desk for days or weeks. I think this is an abominable agreement.

I only say to my friend from Colorado that, this year, after hearings in the Senate, hearings in the House, extensive debate and discussion, and voting which has already taken place on the postal fraud bill, which was sponsored by approximately 300 Members in the other body, by approximately 30 Members in this body, a piece of legislation that is aimed at curtailing the fraudulent advertising perpetrated on primarily the elderly citizens of America—after this bill has been passed once by the Senate and once by the other body, after we have worked out agreement after agreement, and after we have amended those objectionable areas out of this legislation, now this bill is sitting right here at our desk and it is going to die because one Senator in this body has said, "I object to it." I think that this is something we have to change.

Senate procedure does not even make reference to this sort of thing, I say to my friend from Colorado.

I only hope that when we come back in January, we shall take cognizance of the fact that this unprinted rule is possibly unfair. It serves basically as a filibuster at the desk.

I would like, Mr. President, to say that there were three objectors. I would like to thank the two objectors with whom, within the last 3 days, we have been able to work out suitable colloquy, suitable understandings, whereby they have accepted this legislation. I would like to say there is still one objector in this body who is holding this legislation up and, Mr. President, I think this is abominable.

I would also like to say that I intend to place elsewhere in the RECORD some background on the Mail Order Consumer Protection Act which explains more carefully the need for this legislation and to explain exactly what this bill does and does not do.

Mr. ARMSTRONG. Mr. President, I can well understand the frustration expressed by the Senator from Arkansas. On another occasion, I might perhaps wish to enter into a lengthy colloquy on the point he has raised, but let me say to my friend as he departs for the holidays, I have been a victim of the same circumstances he has described. I do not share his disapproval of the technique.

I recall vividly in the closing days of Congress 2 years ago a bill in which my State had a great interest, an important interest, a lasting interest, which bill was not controversial, but which nonetheless was held up at the desk for months as the result of an objection by just one Senator. As the session adjourned, that bill died, to the great disadvantage of my State. In fact, it worked to such disadvantage in my State that a number of people were thrown out of work as a consequence of it. But I can assure the Senator that, in the end, while one Senator or a small minority can prevent the passage of worthy legislation, it is only temporary. Again, a majority will rule in this Chamber.

I am happy to report that, in the specific instance the Senator has just cited, in the closing hours of this session, the legislation was passed. I have seen that happen over and over again.

The Senator from Idaho mentioned that the Senator from Louisiana objects to the televising of the Senate. It is as a result of his objection that we are not going to take that up this year. At least, that is my understanding. On another occasion, we shall take it up and we shall have an extended debate. The Senator from Louisiana may, in the course of that debate, convince a majority of the Members of this body that we should not televise the Senate.

In the meantime, he has prevailed for a second reason I mentioned earlier. That is that the minority in this case is more determined in its conviction than is the majority. That is, I believe there may be a majority at this time for televising. Both of those are legitimate, the delay to marshal time for objections to be made and arguments to bring about a consensus and the determination of the majority.

I say to my friend from Arkansas that I understand his frustration, but I would be concerned if he proposed a cure that would be worse than the ill.

I have only one more point to make, but I am glad to yield to the Senator from North Dakota if he wishes to make a comment.

Mr. ANDREWS. I would appreciate it if the Senator will yield to me.

Mr. President, my remarks will be brief.

In listening to the very important point that my good friend and colleague from Colorado has brought up, I cannot help but think that the great American public is not going to be too impressed by those of us in the Senate complaining about not being able to get home for Christmas. After all, we all worked our tails off trying to get elected to do the Nation's business, and as long as the Nation's business remains to be done, we ought to be here doing it.

Now, if we are getting closer and closer to the time when we would all prefer to be home with our families for Christmas, that is our fault.

And instead of moaning and groaning about it, we ought to see if we could do it a little differently.

Along this line, there are two changes in Senate rules and procedures that come to my mind that should be adopted to allow the orderly process of business and also to protect the interests of the minority.

Our good friend and colleague, the distinguished majority leader, has said he favors televising the Senate. I happen to favor that, too, because it is the people's right to know and to see what goes on on this floor in their name and on their behalf.

But televising the Senate as we now operate, Mr. President, will be less than, shall we say, a great attention grabber because they would focus on empty desks, interminable quorum calls, and a lack of continuity in conducting the Nation's business.

Along that line, my suggestion would be, Mr. President, that when we bring up a bill, the floor managers of that bill have it read title by title, and if there is an amendment to title I, those Senators interested in amending title I be there on the floor; that once you have read off title I, it is closed for amendment. That means you do not have to stand up and inconvenience all of the Senate for one Senator who might want to extend his lunch hour or something downstairs.

It also means that if five or six Senators are interested in title I and they are engaging in debate and they close off that debate, 2 hours later a colleague will not come back in and start another debate on the same matter that totally negates what was said

before when those who took the time to come in in the first place are not still on the floor. That would be one suggestion.

The other suggestion, Mr. President, would again be a simple one. Looking at cloture, and admitting to having served in the other body a lot longer, I think cloture, the unlimited debate, and the filibuster are a great tradition and a great need for this legislative body, but it is what happens after cloture that is so idiotic. You go on and on and have a whole other filibuster.

It would be my suggestion, briefly, for those who are going to consider this in the weeks to come, that when we invoke cloture, it be invoked by naming the two Senators who will be for or against a particular bill on which cloture is applied and then we have 8 hours or 10 hours of debate, with the time divided equally between those two Senators so that they can apportion it to the people who truly want to speak on the bill, so the Senate can have that type of orderly debate and so the country's needs will be carried out in a proper manner.

Mr. President, it seems to me that if we could adopt some kind of ruling like that, people would think a lot longer before they vote cloture in the first place, and, second, when we do invoke cloture, we would have an orderly postcloture debate instead of the harum-scarum, hit and miss stuff that we have had. So if we can go into the next Congress, Mr. President, learning from what we have gone through in the last 2 or 3 weeks, the people's needs will be well served and we will have a lot better Senate to televise to the Nation.

I hope we can look at those two changes and accept part or maybe all of them as a means of moving the Senate's business.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I will be happy to yield to the Senator.

Mr. THURMOND. Mr. President, I commend the able Senator from Colorado and the able Senator from Idaho for the words expressed and I associate myself with their remarks.

I feel very strongly that anyone who has convictions on a matter has a right to express them and even to go to cloture, as was done in this matter, and they should not be condemned for that.

I feel, however, that we must amend this postcloture rule because this is something that in years gone by was not practiced. It has reached the point now where getting cloture does not end debate at all. There ought to be a time when debate can be ended. I hope the Rules Committee will come up with a suggestion to that effect so that we can move on with the people's business. When any part of a country is affected or the State of any Senator is affected, however, I do feel that he has a right to debate questions and go to cloture.

I do think there is a distinction, however, between debating indefinitely on ordinary legislation and on some great constitutional issue. Where there is a great constitutional issue involved, then it seems to me that one is warranted in taking sufficient time or going to the lengths necessary to bring that to the attention of the country. In those instances, I feel that no one should be condemned if he follows that course.

I wish to thank the Senator.

Mr. LONG. Will the Senator yield on my time?

Mr. ARMSTRONG. I am very happy to.

Mr. LONG. If the rules are to be amended, we should provide a rule for germaneness by 60 percent majority. Presently, it takes a 60 percent majority to obtain cloture, and cloture requires germaneness.

Now, there will be times when we would be able to proceed expeditiously with a measure if we could limit the measure to germaneness somewhat along the lines of the suggestion made by the Senator from North Dakota. If we can hold Senators to germaneness on a measure, dispose of that measure and then go to the next one, we could make more orderly and expeditious progress than if we keep wandering all over creation debating and voting on everything under God's green Earth on a single bill. If we can compartmentalize what we are trying to do. We can settle first one matter and then settle something else. I hope that we will look at that.

It should not be any real problem to agree on a rule to shorten the cloture procedure and to shorten the time after cloture. That should be easy enough to work out among Senators, and every one of a hundred Senators ought to be privileged to make his suggestions as to how that might be done.

Let me make the point about the television issue since that was brought up.

If this debate had been on television, it would have gone a lot longer. At some point we are going to have to decide who makes the decision, is it the Senators or is it the people out in the hustings, because there is no doubt in my mind if a Senator from North Carolina had known that his lengthy speeches were being heard, and knew that a great number of people across the country might have rallied to his side and that would have supported an argument for still more debate, in order that the opponents hopefully could muster even more opposition to the measure, with the prospect of getting more people into it.

In other words, if we put the Senate on television, it sets the stage for one carrying on a debate over an even longer period of time in the hopes that he can muster public opinion across the country and that public opinion will crystalize to change votes in this Chamber.

One more point we must consider when we get into all this.

The Senator from Louisiana has not said he is against television under all circumstances. I have no objection to television on ceremonial occasions or television where in the judgment of this Senator it will promote the national interests, and there can be those cases.

What the Senator from Louisiana objects to is the type thing that would be counterproductive to the national interests. Just as when we amend our rules we should be sure that what we are doing is going to be a net gain for the country, if we act on television we should be sure that it is going to be a net gain for the country in the way it would be handled. It should be carefully considered.

I hope that when we get into the next year, we will take the same careful precautions to be sure that we are advancing the Nation's interests when we change the rules about television just as we do when we change the rules about the filibuster, cloture, germaneness, and the rest of it.

I thank the Senator.

Mr. ARMSTRONG. Mr. President, the observations of the Senator from Louisiana underscore why the forthcoming debate on televising the Senate will be among the most interesting thought provoking, significant, and meaningful that have occurred in this Senate, and I for one shall reflect upon what he has said, and I am looking forward to that.

Mr. President, let me sum up my remarks.

I have already said why I think it is unfortunate that Senators were criticized for the proper exercise of their rights under the rules. I do not want to reargue that case.

I do wish to just sum up by correcting a couple of factual errors that might otherwise be left unchallenged in the RECORD.

Two Senators did not tie up this body. Thirty-three Senators voted against this legislation.

Second, this is not the only bill that has been delayed. In fact, many have been killed, including the PIK bill, the CBI bill, and others which could be mentioned.

Finally, I wish to express the heartfelt concern that Senators must not give in to the temptation to become personal in their observations and to threaten other Senators. That is one of the sorriest aspects of this lame-duck session, and I think upon reflection I trust all Senators, certainly most, who have spoken in an intemperate way will think better of their

remarks and will see fit as the spirit moves them to apologize.

It is not within the customs and traditions of the Senate in my observation for Senators to become so concerned about the passage or defeat of a particular bill as to threaten other Senators on unrelated legislation.

I regret that that has occurred, and I expect with a brief time for reflection all Senators will share that sentiment. Certainly they should share that sentiment.

As we think about whether or not we want to change the rules or how we want to relate to one another as Senators, we could well reflect that at some time or another every Member of this body is likely to be in the same position that our two colleagues from North Carolina have found themselves in this morning. I have been. Others in the body today have been in that position of being in the minority, sometimes in a very small minority, sometimes defending an unpopular cause, sometimes winning out in the end and often not.

I think if Senators will look into their own hearts and their experience they will know what I am saying is true, that at some time or another we are all going to be in that position.

So with that, Mr. President, I wish all Senators a blessed and Merry Christmas and a Happy New Year.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I hope we can get home in time for Christmas.

The distinguished Senator from Mississippi has been patiently waiting to be recognized and so have I. I defer to him.

The PRESIDING OFFICER (Mr. MATHIAS). The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I will tell you I will not take much of the time of any Member.

Mr. President, I was not going to speak on this question of the revision of our rules relating to the filibuster or prolonged debate, or by whatever name it is called, but I do want to add this: That I am very much encouraged to see the new manifestation of interest in the realization across the board that is absolutely necessary to do something about this period that follows the voting of cloture and there is the major flaw.

In the old days, if I may recall, we would have battles here that lasted 2 or even 3 weeks, including several nights, but whenever the vote was taken, if cloture was invoked all of us who were opposed to cloture respectfully got our hats and coats and went home and let the Senate vote. The Senate has expressed its will. It had cut off debate. We proceeded, of course, and we voted. But we had proceeded under the rules, and all these other delays that we have now that are so perplexing to the membership and the leadership came in later, and that is where part of the cure must be found.

Another point, if I may emphasize this, I think with the continuing resolutions that we have for a year, the increase of the national debt resolution, the budget resolution that under our rules come here and all of them subject to amendments without limit, you might say, it takes primarily the whole year to either get into these proceedings or get out, with regard to these resolutions, where anything is relevant and germane, and if it is not, we just vote that it is anyway and go on and have the vote on the merits.

There must be something done about what is germane at these various periods. I think we have to cover that provision in the rules. I have talked to the Parliamentarian some about it. I am not versed enough in it to say what should be done, but I think we have to make an about-face there, and here is the complaint I have as I see it.

In the field of legislation, I think the most good the Senate does is in the committee system. It is there that we get the work of the members, we get their hardheaded commonsense, we get their judgments, we get their disclosures, one member to another and help each member form a judgment, and thereby there is a chance for that bill to come out of there with provisions that represent the judgment of the membership and, therefore, a rather good cross-section of what is better for the Nation.

Then in the old days that committee came here to the floor generally and defended that bill. They stood together. If there was any exception it took a good, strong explanation on the floor by the one who was explaining why he was not following the committee.

And many times if that bill got in jeopardy and was about to be substantially amended, and I have seen it happen right here within reach of where I am standing now, those committees would take that bill back on motion. The chairman would get up and make a motion that the bill be recommitted, and the ranking minority member would back him up in it.

Senator Millikin, the chairman of the Finance Committee, used to sit there, and Senator George used to sit here the way I am now to the left, the ranking minority member, and they would carry that vote. They would take that bill back and they would consider that amendment and pass on it and come out and give the reasons for the action, and the bill would usually move through.

That was the judgment system, as I see it, of the committees at the very best, and we have to go back to that. We just lost the benefits of it.

So that is my contribution, if it is contribution, toward the rewriting, the reprograming, and the new approaches to our problems now in view of this greatly increased massive amount of legislation that comes before us every year.

There has to be some way to take care of these resolutions without their dominating everything.

Here we are just getting through with this year, and we have to go right into a new one.

EXTENSION OF PERIOD OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended under the same terms and conditions until not later than 12:30 p.m. Mr. President, I ask that Senators may speak for not more than 5 minutes each, if I may do so. There is still wrap-up work to do, and I would like to do this and go through the formalities involved. I do not want to cut anybody off. If there is a need for additional time beyond that, we will provide it.

Mr. ARMSTRONG. Mr. President, was it the leader's intention that the 5-minute rule apply to the remaining 30 minutes?

Mr. BAKER. Yes.

(Mr. MATHIAS assumed the chair.)

TRIBUTE TO SENATOR HOWARD W. CANNON OF NEVADA

Mr. STENNIS. Mr. President, certainly one of the great strengths of this institution is the broad variety of talent, insight, and judgments represented in the membership. Senator CANNON brought all of these in full measure.

As a practicing lawyer, he brought to the Senate a practical sense of the law that is so essential to us who make the laws. I particularly value his service as a fellow member of the Armed Services Committee. His dedication to the defense of this country was exceeded by no one.

His distinguished service as chairman and ranking minority member of the Commerce, Science, and Transportation Committee provided the strong leadership so necessary to keep the country strong and vigorous in those areas.

I shall miss him as a friend and colleague. The Senate and the country are the better for his long and distinguished service and will miss his wise counsel. He has served his State and the Nation well.

TRIBUTE TO SENATOR SAMUEL I. HAYAKAWA

Mr. President, I would like to join with my colleagues in paying tribute to a fellow Senator and friend who is retiring from the Senate.

I have been privileged to serve with Senator HAYAKAWA, a most distin-

guished scholar and educator, who blessed this body with his counsel, wisdom, and great patience. His service to the Senate as a member of the Agriculture, Nutrition, and Forestry Committee has earned respect and acclaim of the agricultural community. As a member of the Foreign Relations Committee, he has brought a voice of reason and sensibility to the foreign relations policy of the United States.

As he so heroicly demonstrated when he was the president of San Francisco State University, Senator HAYAKAWA is a force to be reckoned with. The courage to stand by his convictions, which was recognized nationwide, has carried to the Senate.

He has been a man for his time—as a scholar he distinguished himself as an international authority on our language. At San Francisco State, he distinguished himself as a great educator, leader, and citizen. As a Senator he carried on as a clear voice for reason. Clearly a man of conviction and integrity. We have been honored by his membership. I wish him well in his future work. He is a great American.

TRIBUTE TO SENATOR HARRISON SCHMITT OF NEW MEXICO

Mr. President, one of the greatest adventures initiated in our time is the exploration of space. I had the privilege of participating in the initiation of the space program and have continued to follow the effort with great interest. We all recognize how much the great achievements of this program have contributed to the advancement of our Nation in science and technology. It is widely recognized that we as a nation have prospered in a positive, material way because of the discoveries and inventions which came out of the space program. But this program's greatest achievement is the contribution to the Nation's wealth in human capital. The thousands of men and women who participated in this program are a tremendous storehouse of knowledge and experience which will continue to serve our Nation for generations to come.

At the forefront of the men and women in the space program are those selected to serve as astronauts. They are men and women of exceptional courage and ability who are bonded by an experience which only a few have shared. One of these men is Senator HARRISON SCHMITT of New Mexico. A man with great intellectual ability; a man with great energy; a man recognized for his tenacity and spirit. He has distinguished himself as an astronaut and as a Member of the Senate. He is a leader for our future.

His special interest and experience in energy and science has made his contribution to the Nation as a member of the Senate especially timely. His counsel and advice was extremely valuable during a very difficult period in the Nation's history. He has served New Mexico and the Nation well. I am confident in his ability and know that he will continue to serve and distinguish himself as a leader and citizen of our Nation.

TRIBUTE TO THE LEADERSHIP

Mr. STENNIS. Mr. President, I thank the Chair and I thank the Senator from West Virginia.

Let me add one other thought. We have been through all of this now, this session, but if we had not had two exceptional Members here, extraordinary Members, resourceful in their leadership, in their knowledge of the bills and the situation, Senator BAKER of Tennessee and Senator BYRD of West Virginia, had it not been for them—and there is no reason why I should brag about them—I am able to judge them to a degree—if it had not been for that condition we would be far from completing our labors here.

I want to personally and officially thank each one of them for the very fine work they have done day and night, in and out, always on the ball, and fair, I think as impartial as they can be in their roles, and I commend them both very highly and I appreciate the fact we have them.

I believe each one of them has been elected for another year without any promises made, and we are all very happy about it.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the distinguished Senator from Mississippi for being the most courtly, the most courteous, and most dutiful Member of the Senate I have known in my 24 years in the Senate. I thank him for his remarks, I thank him for his service, and I thank him for the inspiration he provides to the rest of us.

Mr. BAKER. Mr. President, will the Senator permit me to reply to the Senator from Mississippi? I cannot think of a single Member in this Chamber whose remarks would be more gratefully received by me than those remarks just made by the Senator from Mississippi.

He is indeed an institution in this great institution of the Senate. I have always treasured his example. I respect his point of view and I most often follow his lead. I am doubly grateful for his remarks.

Mr. STENNIS. I thank both Senators.

ENFORCING THE SENATE RULES

Mr. MATSUNAGA. Mr. President, it is frequently said that the omnipotent moves in mysterious ways. I presume now that we can all agree to that oft-quoted explanation of the unexplainable. Judging from the remarks made here relative to the need for a change in the Senate rules, perhaps the so-called lameduck session ends on a favorable note.

While I agree that it has been poignantly demonstrated in this special session that there is a need to limit post-cloture filibuster, I wish to point out that it is oftentimes not a change in the rules which is required, but an enforcement of existing rules. I have noted the laxity in the enforcement of the floor rules on the part of the Chair. In the House—and I served there for 14 years prior to coming to the Senate—there is a much more stricter enforcement of the House rules, and as a consequence it is able to conduct its business in much shorter time, even with a membership of more than four times the Senate. I believe that much of our dilemma can be eliminated by putting someone in the Chair who has been properly briefed as to the applicable rules and procedures. If a Senator refuses to review the rules before he is assigned as acting President pro tempore, then he ought not be appointed to preside over the Senate.

It has been especially noticeable during this lameduck session that the Chair was not cognizant of blatant violations of the rules and frequently had to be reminded about the applicable rules by the minority leader. I think much of our woes can be eliminated by better performance on the part of the presiding officer.

I am happy to note that nearly every Member who took the floor agrees that we should have a change in the rules relative to postcloture filibustering. That, I think, is a must. I have other suggestions. I will not take the Senate's time to bring them up at this time, but I would suggest this: In the next Congress the Rules Committee should take this matter very seriously, hold hearings, take suggestions from Members as well as from experts in the field on the outside, and then come forth with concrete recommendations to the Senate.

I must say, Mr. President, that the Senate leadership has been put under question by the press during this lameduck session. But the leadership on both sides of the aisle behaved admirably under the rules, and I wish to congratulate and commend the leadership on both sides of the aisle for bringing this session to the ending that it has come to, and truly a favorable ending in that it projects a better 98th Congress. This Senator, for one, still takes great pride in his membership in this great institution—the most deliberative body on the face of this Earth.

Mr. ROBERT C. BYRD. Mr. President, I do not know of any Senator who exemplifies civility and friendliness more than does the Senator from Hawaii (Mr. MATSUNAGA). I think we can use more civility around here.

Mr. BAKER addressed the Chair.

Mr. ROBERT C. BYRD. I wanted to change the subject, if I may.

Mr. BAKER. I just wanted to thank the Senator.

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, if the Senator will permit me to express my thanks for the remarks of the Senator from Hawaii, his remarks about the leadership and his characterization of it as joint leadership, which it is; people who are not as familiar with the Senate as is the Senator from Hawaii mistake the fact that frequently while we are adversaries, more often than not we share the responsibility in moving the business of the Senate from a procedural standpoint, and I thank him for acknowledging that, and I thank him for his kind words.

Mr. THURMOND. Mr. President, will the Senator yield?

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, before I yield, I ask unanimous consent that the time for the transaction of routine morning business be extended to not later than 1 p.m.

Mr. ROBERT C. BYRD. Mr. President, will the Senator make it 12:45 p.m.?

Mr. BAKER. I will make it this minute if we can do it. Yes, I will revise the request to make it until 12:45.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor temporarily.

TRIBUTE TO THE LEADERSHIP

Mr. THURMOND. Mr. President, I rise to extend my congratulations to the leaders of the Senate, especially the majority leader and the minority leader, for their accomplishments of this session.

I think the staff we have here at the desk is the most competent we have had since I have been here. I think the staff on the Republican side and the staff on the Democratic side are more efficient than I have seen here in my 28 years.

Mr. President, I especially wish to commend the able majority leader for all he has done in providing outstanding leadership at this past Congress, 2 years. I do not know of any man on our side of the aisle who could have pulled the differing, divergent views of the Senators together and accomplished what he has done.

The very fact we got through the continuing resolution was because of his tenacity and his determination to get it done. The same thing applies to the Highway Improvement Act, and we could name many other things.

I will not take the time now to list the various pieces of legislation that this Congress has enacted, but I want to say that a great many valuable pieces of legislation have been enacted. There have been some things that have not gone through that I felt should have gone through: Some parts of the crime package, the regulatory bill, the immigration bill, the constitutional amendment to balance the budget, and other things.

But I wanted to especially pay a tribute to the majority leader. I also want to congratulate the minority leader for the cooperation he has given to the majority leader. I think we have the two ablest leaders right now—majority and minority leaders—that we have had in the 28 years I have been in the Senate. We appreciate what they have done to promote the work of the Senate and their accomplishments for the good of the people of this Nation. We all wish them a happy Christmas and a New Year filled with good health and happiness.

TRIBUTES AND COMMENDATIONS

Mr. STEVENS. Mr. President, the 97th Congress has been a productive one. We have taken steps to strengthen the economy, lower interest rates, and provide for the defense of our Nation. This would not have been possible without the able leadership on both sides of the aisle.

The majority leader, HOWARD BAKER has handled his responsibilities with authority, yet accommodation; direction yet deference. His unique leadership qualities have enabled Republicans and Democrats to enjoy a workable and productive relationship. It has been an honor and a privilege to work with him, not only during the last 2 years, but during the prior years when he handled the duties of minority leader with equal aplomb.

The majority in the Senate would have been hard pressed to accomplish as much had it not been for the cooperation, dedication, and statesmanship of the minority leader, ROBERT C. BYRD. His expertise in parliamentary procedure, respect for the institution, and understanding of the role of the majority as well as the minority have been invaluable to the Senate as well as the Nation. He is, in all respects, a leader.

Finally, Mr. President, as we close the 97th Congress, I take this opportunity to commend the staff of the U.S. Senate for their long hours of service and their dedication. All of the staff, personal and committee, guards, dining room staff, postal staff, cleaning staff, the official reporters of debates, clerks, pages, cloakroom attendants and many, many others have put in long hours and have done an excellent job. They deserve our thanks.

TRIBUTE TO THE PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, I am sure the distinguished majority leader would want to share with me my words of thanks to the distinguished President pro tempore. He is one of the most considerate Members of this body. I know from my own personal experience just how considerate and how thoughtful he is, and I want to thank him.

He is a man who is absolutely fearless. I heard the late Richard B. Russell once say that about STROM THURMOND—he is absolutely fearless. He has tremendous courage and is also very courteous. He always has been very courteous to me and very considerate and very understanding.

I am, indeed, proud of the statement he has made concerning the little part that I have played in the conduct of the business of the Senate.

Mr. BAKER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee, the distinguished majority leader.

Mr. BAKER. I thank the Chair.

Mr. President, I wish to join the minority leader in expressing my thanks as well for his generous remarks. I have often commented in private and I would now like to say publicly, using the Senate as a forum for the occasion, that STROM THURMOND, of South Carolina, makes a major contribution to the welfare of this country. I would like to say to my colleagues, Mr. President, that in my experience, and based on the reading of the history of this institution, that I have not known of a President pro tempore who has made a greater contribution and who has taken more seriously the responsibilities that go with that high office.

I fully expect, Mr. President, that before this session is concluded, more formal statements will be made on behalf of the Senate in respect to the service of the President pro tempore. But before that is done, I wish to express my personal appreciation to him for the remarks that he has just uttered.

PROPOSED SENATE RULES CHANGES

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators have had a chance to make their comments about the need for changes in the rules of the Senate. I think there are 100 Members here who want to see changes, but I do not think we are going to make those changes this afternoon.

I have spoken to the distinguished majority leader a few days ago about the matter. I think we came to a conclusion that we wanted to appoint,

either by resolution or simply by just going ahead and appointing a group of Senators to work with the Rules Committee and with the Ribicoff-Pearson effort to make some recommendations for changes in the rules.

I think it will be interesting, very interesting, to see 100 Members of the Senate come together on changes in the rules; 100 Members agree that there ought to be changes; and there should be. But I think they all should have an opportunity to make that input. If the majority leader is agreeable, we could get together during the next 2 or 3 days, or during the holidays, and name some Senators to work together with the Rules Committee and with former Senator RIBICOFF and former Senator Pearson in making some recommendations, and to solicit ideas from all Senators so that everyone will have an input. I think that that is the only orderly way in which we can proceed. And even then it is going to be extremely difficult to get 100 Senators to agree on everything. But perhaps some improvements can be made in the Senate rules that will enable us to bring them into the late, late part of the 20th century in some respects.

Mr. BAKER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I entirely agree with the minority leader. Indeed, I would wish to confer with him further during the holiday period, if we may do so, to designate Senators on both sides of the aisle to discuss this matter and present their views—I hope their views on a unanimous bipartisan basis—to us, that is the joint leadership, to consider how we proceed.

As has been pointed out, the Senate has already, by resolution, requested two of our distinguished former colleagues, Senator RIBICOFF and Senator PEARSON, to examine the situation. I expect we will have a report from them in due course, perhaps as early as February.

I will not wait for a resolution on this part. I am perfectly prepared to go forward with the designation of an appropriate number of Senators. I will represent to my friend the minority leader that I will consult with him before I leave town, which will be after Christmas now, and we will try to work that out.

Mr. ROBERT C. BYRD. I will be very happy to work with the majority leader. I do not think we should wait until the next session. I think when we talk about changes in the rules we ought to take a new look at the Budget Reform Act as well.

EXPRESSION OF THANKS, APPRECIATION, AND PRAISE

Mr. ROBERT C. BYRD. Mr. President, this last, arduous week of the 97th Congress has brought into particularly sharp focus the valuable contributions of Senate staff. Their work has a direct and important impact on the quality of legislation that is produced by Congress, and this holiday season of giving provides an appropriate opportunity to express my personal appreciation to those who help Senators discharge their duties.

Few staffs in Congress have a broader mandate of responsibility, work under more pressure and for longer hours than does the staff of the Democratic Policy Committee in the Senate. Abby Saffold, Charles Kinney, and Martin Paone are well known to all Senators for their thorough, effective, and courteous work on the Senate floor. Although they serve the Senators on my side of the aisle on scheduling and other floor matters, they are a vital part of the bipartisan mechanism of the Senate.

I particularly single out Abby, Charles, and Marty for their tireless efforts on behalf of my colleagues on this side of the aisle. I thank them for their diligent attention to detail, for their unfailing dedication, for their concern for the interests of Democratic Senators, and for their constant, congenial, and courteous presence. I commend them on their close working relationship with those on the majority side who perform similar duties—Howard Green, secretary for the majority; John Tuck, assistant secretary for the majority; and Elizabeth Baldwin, floor assistant.

I have found Elizabeth Baldwin to be exceptionally capable, courteous, and understanding. Regardless of the pressures of the Senate and the lateness of the hour, she is always extremely cordial and considerate. I take this occasion to express my personal appreciation for those fine qualities. Democratic Senators are grateful for this cooperative relationship between the majority and minority floor staffs.

In our role as the minority, the Democratic Policy Committee staff has stepped in to fill this void and consistently has provided extremely useful issue-related information and coordination to all Democratic Senators. Rob Liberatore, staff director of the Democratic Policy Committee, is intelligent and hard working. He has been instrumental in facilitating the work of the committee. I might add that we intend to continue this work after 1984 as well—should we be so fortunate as to regain the majority in the Senate.

The domestic issues staff has been ably led by Susan Manes, and the international affairs/defense staff has been effectively directed by Dick McCall, the committee's deputy staff director.

Most Senators are familiar with the accurate and thorough Democratic legislative bulletins, the weekly legislative updates and economic data reviews, the analyses of Senate voting histories, individualized voting records, and indexes of Senate votes. All of these invaluable materials are prepared under the direction of the Policy Committee and especially under the direction of Beth Shotwell, the committee's chief clerk. These publications are designed to provide Senators with information useful to them in analyzing public policy issues and the history and record of the Senate.

I also want to express my appreciation of the Policy Committee's communications office, headed by Greg Schneiders, for their ambitious and productive efforts with the press offices of Democratic Senators.

I thank Terry Sauvain, the secretary for the minority, for his hard work for Democratic Senators. He, too, has done an outstanding job, and I wish him well in his new position as minority deputy clerk of the Appropriations Committee. Following in his footsteps will be Patrick Griffin, who will be the new secretary for the minority in the 98th Congress. Pat previously has served on the Democratic Policy Committee floor staff and as my executive assistant for floor operations. I look forward to working with Pat in the next Congress.

I also commend Patrick Hynes, assistant secretary for the minority, the cloakroom staff—Thomas Gonzales, Bob Bean, Bill Norton, Joe Hart, and Tom Kelly—and all the fine pages for their understanding good cheer and helpfulness in the conscientious performance of their responsibilities.

Bill Hildenbrand, the Secretary of the Senate, and Howard Liebengood, the Sergeant at Arms, have served the Senate well—both as individuals and as the leaders of their hard-working staffs who perform numerous tasks. I particularly appreciate the devoted service of Jeanine Drysdale in her position as executive assistant to the Sergeant at Arms, as well as that of the doormen and all the Sergeant at Arms' and Secretary of the Senate's employees who work around the floor and the lobby.

The Senate's work is facilitated by many people, but few people are more associated with the day-to-day important work of the Senate than are those gentlemen who man the desk below the Presiding Officer. I speak of Bob Dove, Alan Frumin, and Joseph Strickland, the Parliamentarians; Bill Farmer, the legislative clerk; Scott Bates, assistant legislative clerk; Jim Thorndike, the journal clerk; and Vince Del Bazo, the bill clerk.

Fred Sparrow, the enrolling clerk, serves as a vital link in the legislative process, and I appreciate the efficient manner in which he discharges his duties.

I want to express a special thanks to our Chaplain, the Reverend Mr. Halverson, whose prayers and spiritual guidance enrich this body enormously. I look forward to his thoughtful prayer which starts each day of our session.

Mr. President, there are simply too many people who work long and hard to help this august body function for me to name each and every one of them. The Capitol Police, the employees of the press galleries, the employees of the Senate restaurants—all contribute to the operation of the Senate. I am very proud of all these loyal employees of the public. They should take great personal pride in the part they play in serving the public's interests.

To all those who labor in the Senate, be it in the spotlight or in the shadows, I thank every one of them and wish them a peaceful and blessed holiday season and a new year filled with hope and promise.

HOWARD BAKER'S WASHINGTON

Mr. ROBERT C. BYRD. Mr. President, as this tumultuous special session of the 97th Congress draws to its close and as we prepare at last to leave this city—some of us, at least—for our home States, I wish to call my colleagues' special attention to a fine work of our distinguished majority leader—a work which he has accomplished not in this Chamber but in his beloved darkroom.

This work is a book of photography entitled "Howard Baker's Washington," and as the noted columnist Haynes Johnson observes in this past Sunday's Washington Post, this book offers a warmhearted look at Washington, sensitively and interestingly recorded, a real delight for anyone who loves this capital city.

I wish that someone 100 years ago in this body would have done the same, because, after all, I think it takes someone within this body to really understand the body, understand its history, understand what goes on, and have the perspective for future historians, future college professors, judges, and lawyers who are interested in Washington and the Capital of the Nation and the Federal legislature a history of all of these things. I think it requires someone who has that inside perspective.

HOWARD BAKER has that perspective. He is an excellent photographer. While I am only a third-rate fiddler, he is a first rate photographer. And I want to say that those of us who know him well know that if the distinguished Senator from Tennessee (Mr. BAKER) had his "druthers," he would spend a great deal more time behind the camera than in front of a camera.

This book—and I appreciate his having given me a copy—is persuasive evidence of his photographic talent, his intimate knowledge of this city and its traditions, and his winning way with the written word and the photograph, which, in words I shall paraphrase, takes the place of a thousand words. As Mr. Johnson says, "On its own, the text is well worth the price, for BAKER writes with refreshing candor and a nice leavening of humor. Interspersed throughout are striking passages that take you quite by surprise."

Mr. President, I know my colleagues on both sides of the aisle join me in congratulating our good friend from Tennessee on this literary and artistic achievement, and I ask unanimous consent that the text of Mr. Johnson's column in the Washington Post of December 19 be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 19, 1982]

BOOKS AT CHRISTMAS: BY THESE PRESENTS SHALL THEY KNOW YE

(By Haynes Johnson)

In my family, on Christmas mornings past, you knew you could count on each person receiving two certain gifts: a book and a record.

Whatever the big present of that particular year would turn out to be—the red, two-wheeler Schwinn bicycle forever fixed in memory as it stood gleaming before the lighted tree; the chemistry set with its small vials, test tubes and little boxes of compounds positioned proudly before the other presents; the wondrous telegrapher set with accompanying long lines of wires and Morse code instructions that, after lines were strung and distant contact established, quickly became the bane of every member of the household and of neighbors, too—the best Christmas morning moment always came after the initial exploration of presents. A special holiday glow took hold as I slipped upstairs to my room, there to disappear while I burrowed myself in my new books. There were always more than one.

I don't mean to suggest that they were the immortals of literature, nor that I precociously, studiously or with grim immediacy set about the task of self-improvement. They were a joy and lasting Christmas treasure, those adventures, romances and histories, simply because of the pleasure they gave.

In that spirit, I have been mulling over books I plan to give friends and family this season. Again, as in seasons past, I am selecting them not so much for their deathless qualities, but for the pure pleasure they have given me this year and, I trust, will now give to others.

Three in particular come to mind. Two are by authors named Baker, and one by a Brooks. They have in common charm, warmth, sensitivity, intelligence and, in one case, a heartbreaking sort of eloquence that, I believe, will cause it to be long remembered.

The first of these to come my way this year was a slim volume of essays, "Lulu in Hollywood," about the early days of filmmaking, in the silent era of the 1920s, by actress Louise Brooks. I was attracted to it by a review citing the expert testimony of none other than William Shawn, editor of The New Yorker, who began his introduction to Brooks' book by writing:

"It should not come to us as a surprise that a film actress can write, but, so narrow are our expectations, it does. We are even more surprised when it turns out that the actress is one of the great beauties of all time." And who concludes: "How it happened that this supremely observable woman should herself have become a brilliant observer of others, I don't know. Nor can I understand how this born center of attention, who might have been doomed to passivity, was all the while paying astute attention to those around her. What I do understand is that she writes marvelously, in a style that is all her own: direct, graceful, terse, exact, piercing, radiant."

Well, after such a buildup, I had to find out for myself if Shawn's tribute was deserved or if the great editor, perhaps indulging an old crush, had uncharacteristically overstated the case for Louise Brooks. He was, of course, correct. Her little book is a gem, filled with lovely touches of self-deprecating humor and insight and, so unlike the ghost-written trash that pours forth as confessions by other aging film stars these days, written with admirable honesty. A fragment only of her style:

"Early in the autumn of 1925, when I was 18, two film companies, Metro-Goldwyn-Mayer and Paramount, each offered me a five-year contract. Not knowing what to do about either contract, which would separate me from my dream of becoming a great dancer, I went to my best friend, Walter Wanger, for advice. How sweet he was then: a brilliant, laughing young man of the world whose heart remained very tender. He had taken me under his protection after meeting me while I was a specialty dancer in the Ziegfeld Follies and after discovering that my blase insolence was a masquerade. It amused him to find that the decadent black-and-white Aubrey Beardsley makeup covered a sprinkling of Kansas freckles."

The second of the books is by a newspaperman of long-established professional standing. Russell Baker's "Growing Up" is more than another journalistic memoir, a form also tiresomely overworked these days. It is an extraordinarily moving account, written with great taste, dignity and elegance of expression, about the breakup of a family amid the Great Depression. There could not be a more appropriate book for this season of new hardships for so many nor one that carries such a timeless message.

I approached the last of the books with the most doubt of all. It was by a politician, one who has displayed presidential ambitions, no less: Senate Majority Leader Howard H. Baker, Jr. of Tennessee.

At first blush, its title seems to reinforce the idea that another political book, boosting another political career, has been loosed among us. They are surely among the dreariest, and dullest, sorts of works being published, but happily "Howard Baker's Washington" is not among that genre.

He offers us a photo album of Washington and its people, composed of pictures he has taken over the years as part of his continuing hobby and, as he says, "great saving grace." To Baker, photography "permits me to relieve my anxieties and to escape from the frustrations or the disappointments or even the exhilaration of the moment. Pho-

tography gives me the opportunity to establish fresh perspectives."

His book accomplishes just that and, surprisingly, more. It's a warmhearteed look at Washington, sensitively and interestingly recorded, a real delight for anyone who loves this capital city. It comes with an intriguing text that Baker decribes as "ruminations" about politics and politicians, presidents and traditions. On its own, the text is well worth the price, for Baker writes with refreshing candor and a nice leavening of humor. Interspersed throughout are striking passages that take you quite by surprise.

"I had an experience in observing the C&O Canal pageant [where on Sundays volunteers dress up in Civil War uniforms]," Baker writes, "that I found almost too eerie to acknowledge. Watching those 'Union soldiers' around the campfire chilled me because it sent a wave of 'recollection' through me that I once had visiting the battlefield at Vicksburg. I'm more than half convinced that I lived an earlier life and that I was a soldier killed in that war. Whether or not such is the case matters little.

"The significant fact is that we live in a place and a time in which our connections with history are alive and strong. It is a history that extends itself into the present and future, and its deeply felt presence in Washington continues to reenergize the city."

What's more, he adds to an appreciation of the real Washington, not the false portrait so often depicted by current political leaders. That alone brings joy to this Washington resident.

On that note, may the holidays provide the best gifts of all in pleasure and peace for you and yours.

Mr. BAKER. Mr. President, has the minority leader concluded his remarks?

Mr. ROBERT C. BYRD. I have.

TRIBUTE TO THE MINORITY LEADER

Mr. BAKER. Mr. President, let me express my deep appreciation to the minority leader for his remarks on my literary effort, if it deserves that name at all. I was taken by surprise, but I am grateful in the extreme.

In this very city, which we both respect so much and for which both of us have great feeling, I have heard people say that certainly the majority leader and perhaps even the minority leader are frustrated, that being a Senator or even the leader is their secondary ambition in life.

If I could take pictures as well as the minority leader can fiddle, I might agree with him. But I cannot. I have to confine myself to doing the best I can.

I am extremely grateful for the kind remarks of the Senator from West Virginia.

Let me say one thing in all seriousness. I enjoyed doing that book. It is an accumulation of photographs over a number of years. But that was really not the part I enjoyed the most. I enjoyed writing the text and relating my own feelings about the city, which I did not know I had until I started putting pen to paper. That came from a part of my subconsciousness.

When the Senator mentions a feeling for the history of this city, I have to point out that I do not know a soul who has a better and more complete understandng and feeling for the history of the Senate and of this city than does the minority leader.

The periodic speeches that he made on the history of the Senate will stand, I am convinced, as a milestone for recording the contributions of this body to our Nation's progress. Not only we but historians of the future will be deeply grateful to him for centuries to come for that insight.

I wish to express my gratitude to him for his remarks from that perspective, as a historian who understands the Senate and this Federal City.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

RECORD OPEN UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished majority leader whether or not he intends to leave the RECORD open for a day or so for Members who wish to insert material?

Mr. BAKER. Mr. President, I am advised by the Secretary of the Senate that keeping the RECORD open today would be no problem at all, but since tomorrow is a holiday it would require extraordinary effort on his part and perhaps great expense.

Mr. President, I ask unanimous consent that the RECORD remain open for the insertion of statements for the remainder of this day, not past the hour of 5 p.m.

INTERIM RECORD—DECEMBER 29

Mr. President, it has also been called to my attention that provision has already been made for an interim RECORD to be printed not later than December 29, 1982, at the direction of the Joint Committee on Printing. The material for that may be delivered to the Office of the Official Reporters of Debates on the House side and to room S-220 on the Senate side, Monday through Friday between the hours of 9 a.m. and 3 p.m.

Has the Chair granted my request that the RECORD remain open today?

The PRESIDING OFFICER. It has not been granted.

Mr. BAKER. I renew the request.

The PRESIDING OFFICER. Is there objection to the request of the majority leaders? If not, without objection, it is so ordered.

Mr. BAKER. Mr. President, could I inquire of the minority leader if he is prepared to take up the wrap-up file?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for routine morning business be extended.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCHARGE OF COMMITTEES FROM CONSIDERATION OF HOUSE JOINT RESOLUTION 630, H.R. 6519, H.R. 5027, AND H.R. 4568

Mr. BAKER. Mr. President, I have a request for four committees to be discharged from the consideration of certain measures that have already reached us from the House. Let me list the four and ask en bloc that the committees be discharged from their consideration.

I ask unanimous consent first that the Energy Committee be discharged from further consideration of H.R. 4568; that the Government Affairs Committee——

Mr. LONG. Mr. President, will the distinguished Senator state the title of the bills?

Mr. BAKER. H.R. 4568 is the conveyance of land to Albuquerque, N. Mex. Next is to discharge the Government Affairs Committee from consideration of H.R. 6519 dealing with IRS interns. Next is H.R. 5027, that the Governmental Affairs Committee be discharged from further consideration of H.R. 5027, to designate the building known as the Walter E. Hoffman U.S. Courthouse. The fourth and final discharge request is to discharge the Committee on the Judiciary from further consideration of House Joint Resolution 630 on the 150th anniversary of the founding of Greene County, Mo.

First, Mr. President, I ask that these committees be discharged as requested, and second, I ask that the Senate proceed to their consideration en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, there is no objection so far as I know to the discharge of these committees as requested and no objection to proceeding.

Mr. LONG. Mr. President, is there any material in those bills not relevant to the title of the bill?

Mr. BAKER. Mr. President, I am told by our clerk that there is no irrelevant material. They are all simple and straightforward and correctly described in the request.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered. The committees are discharged.

The clerk will report the first bill.

Mr. BAKER. Mr. President, I had hoped to consider all four measures en bloc. I make that request.

The PRESIDING OFFICER. Is there objection to the consideration of these measures en bloc? If not, without objection, it is so ordered.

FOUNDING OF GREENE COUNTY, MO.

The joint resolution (H.J. Res. 630) to commemorate the 150th anniversary of the founding of Greene County, Mo., was considered, ordered to a third reading, read the third time, and passed.

CONVEYANCE OF CERTAIN LANDS

The bill (H.R. 4568) to direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, N. Mex., and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

WALTER E. HOFFMAN U.S. COURTHOUSE

The bill (H.R. 5027) to designate the building known as the U.S. post office and courthouse in Norfolk, Va., as the "Walter E. Hoffman U.S. Courthouse."

Mr. WARNER. Mr. President, I would like to join my colleague, Representative G. WILLIAM WHITEHURST, in support of H.R. 5027.

This legislation will name the U.S. courthouse in Norfolk, Va., in honor of Judge Walter E. Hoffman.

Judge Hoffman, who retired from the bench in 1974, has the distinction of serving more years as a judge in the eastern district of Virginia than anyone in history—28 years.

As both a judge and as a member of the Southern Football Officials Association, during which he officiated at 112 major college football games, Judge Hoffman made all of his calls according to the rules—never on the basis of political expediency.

It gives me a great deal of pleasure, Mr. President, to see Judge Hoffman receive this honor which he so richly deserves.

Mr. President, I thank the leadership for expediting this matter.

The bill was considered, ordered to a third reading, read the third time, and passed.

ACCESS TO CERTAIN RECORDS BY INTERNAL REVENUE SERVICE INTERNS

The bill (H.R. 6519) to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties.

Mr. STEVENS. Mr. President, H.R. 6519 allows the Internal Revenue Service to use legal interns more completely than they presently are. The IRS has used second and third year law students under authority given in the Civil Service Reform Act of 1978. Present law, however limits their usefulness to the IRS because they are forbidden access to certain tax returns and return information. Currently that information is available only to IRS employees. When this bill was considered on the floor of the House of Representatives, some technical amendments were made at the request of the Department of the Treasury to tighten up the coverage of the bill. The version of the bill we are considering here today is fully supported by the administration as evidenced by the letter sent to the chairman of the Committee on Post Office and Civil Service, the Honorable WILLIAM D. FORD. I ask that the text of that letter be printed in the RECORD.

This legislation will permit legal interns participating in recognized programs in the IRS to have access to certain information necessary for the performance of their duties.

The letter follows:

DEPARTMENT OF THE TREASURY,
Washington, D.C., September 28, 1982.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On May 27, 1982, Representative Schroeder introduced H.R. 6519, a bill to permit student internships at the Internal Revenue Service. The Department of the Treasury strongly supports this legislation. We do recommend two slight technical changes, however.

The Civil Service Reform Act of 1978 included a provision (5 U.S.C. 3111) which permits the head of an agency to accept the uncompensated volunteer services of students enrolled in high schools, trade schools, colleges, or universities. Under this provision, the Internal Revenue Service has utilized the assistance of second and third year law students to perform legal research, assist in the preparation of cases for trial, and perform other similar functions. The Civil Service Reform Act provision specifies, however, that student volunteers shall be considered Federal employees only for purposes of compensation for injury and tort claims. Section 6103(h)(1) of the Internal Revenue Code provides that returns and return information are open to inspection by or disclosure to officers and employees of the Department of the Treasury for tax administration purposes. Thus, under present law, student volunteers would not be considered Treasury Department employees for purposes of the disclosure statute, and their usefulness is seriously impaired because in the course of performing volunteer services they cannot have access to tax information.

H.R. 6519 would amend 5 U.S.C. 3111 to treat students performing volunteer tax administration services for the Department of Treasury as Federal empioyees for purposes of section 6103(a)(1), (h)(1), (k)(6), and (l)(4), and section 7213(a)(1) of the Internal Revenue Code. Thus, returns and return information could be disclosed to and by student volunteers for tax administration purposes, and they could have access to tax information for necessary use in Treasury personnel matters. Similarly, these student volunteers would be subject to criminal sanctions under section 7213 of the Internal Revenue Code for willfully making an unauthorized disclosure of returns or return information.

We would suggest two minor, technical changes to the bill. First, we would add to the list of affected disclosure provisions in the bill a reference to 5 U.S.C. 552a. That section, added by the Privacy Act of 1974, restricts disclosure of certain information, but provides an exception for disclosure of information to employees of an agency who require the information in the performance of their duties. By treating student volunteers performing tax administration services for the Treasury Department as employees of the Department, disclosure of necessary information would be permitted under section 552a, consistent with the objectives of H.R. 6519.

Second, as a technical drafting matter, we would clarify that I.R.S. student volunteers will be treated as employees of the Treasury Department (in addition to being employes of the United States). Because the bill provides only that I.R.S. student volunteers are treated as employees of the United States, and not, specifically, as employees of the Treasury Department, a question could be raised whether such student volunteers are authorized to receive confidential information under the statutory provisions authorizing disclosure to employees of the Treasury Department.

Accordingly, we propose the following modifications to H.R. 6519:

(1) Strike out "and" on page 2, line 5 of the bill.

(2) Strike out line 9 on page 2 of the bill and substitute "persons; and".

(3) Add following line 9 on page 2 of the bill:

"(5) Section 552a of this title (relating to the disclosure of records).

"Such students who provide voluntary service for the Department of Treasury shall, in addition, be considered employees of such Department for purposes hereof."

We urge that the Committee give favorable consideration to this bill as a means of expanding the usefulness of the student volunteer program. There would be no budgetary impact. As specified by 5 U.S.C. 3111, no I.R.S. employees would be displaced.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report.

Sincerely,

DAVID G. GLICKMAN,
Deputy Assistant Secretary (Tax Policy).

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the votes by which the various measures were passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF TITLE XIII, UNITED STATES CODE

Mr. BAKER. Mr. President, there is one other item before we turn to the final formalities of this session of Congress, consideration of H.R. 7410. I ask the distinguished minority leader if he

is prepared to proceed to that measure.

Mr. ROBERT C. BYRD. Yes, Mr. President, I am.

Mr. BAKER. I ask the Chair to lay before the Senate H.R. 7410, a bill dealing with the quarterly financial reports of the Federal Trade Commission.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7410) to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes.

Mr. BAKER. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to the immediate consideration of H.R. 7410.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF THE QUARTERLY FINANCIAL REPORT FROM THE FTC TO THE CENSUS BUREAU

Mr. PERCY. Mr. President, H.R. 7410, which passed the House yesterday evening, provides for the transfer of the Quarterly Financial Report (QFR) from the Federal Trade Commission (FTC) to the Census Bureau.

Since 1947, the QFR has been performed by the FTC. It provides very current aggregate statistics on the financial earnings of U.S. corporations and is used to make quarterly and annual estimates of the gross national product. In short, it is an important statistical indicator for the Nation.

The administration has determined that the QFR would be better administered by the Bureau of the Census—the Nation's primary statistical agency—than by the FTC, which is an investigatory and rulemaking body.

Let me reassure my colleagues, who may be friends or foes of the FTC, that this bill deals solely with the transfer of authority for a single statistical activity. It does not impair or otherwise strip the FTC of any other existing authority or function. As drafted, the bill has the full support of the FTC, the Census Bureau, the U.S. Chamber of Commerce, the National Association of Manufacturers, and, of course, the administration.

Time is of the essence, since the next QFR is scheduled to be taken later this month. The Census Bureau needs this bill in order for the mandatory compliance provisions of title 13, United States Code to apply.

I urge my colleagues to support this bill so that the bill can be promptly transmitted to the President for his signature.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 7410) was read the third time, and passed.

Mr. BAKER. I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THANKS TO THE SENATE STAFF

Mr. BAKER. Mr. President, I sincerely thank the officials and the officers of the Senate—William Hildenbrand, Howard Greene, Howard Liebengood, and Terry Sauvain; they are the most dedicated of officials, and they are my friends.

I thank the floor staff on both sides of the aisle.

On the Republican side: Howard Greene, John Tuck, and Elizabeth Baldwin; on the Democratic policy side: Abby Saffold, Charles Kinney, and Marty Paone; the legislative scheduling staff—Lynne Grant and Cindy Oravecz; the GOP cloakroom staff—Marcia Gambrel, John Doney, Brad Smith, and George Cartagena; the Senate officials at the desk—Bob Dove, Bill Farmer, Scott Bates, Jim Thorndike, Bill Lackey, Vince Del Balso, Joe Strickland, and Allen Frumin.

I express our thanks to Russell Walker, editor in chief, and Jeanie Bowles, assistant editor, of the CONGRESSIONAL RECORD; and to the Official Reporters of debates: William Mohr, Ben Firshein, Charles Reynolds, Frances Garro, Frank Smonskey, Ronald Kavulick, and Jerald Linnell.

I also thank the Democratic, and Republican pages, doormen, police, the support staff-janitors, restaurant staff, the Chaplain, Dr. Halverson, and others for their diligent and dedicated service during the activities of the 97th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. BAKER. Mr. President, I send a resolution to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 526) appointing a committee to notify the President concerning the proposed adjournment of the session.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to as follows:

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The PRESIDING OFFICER. The Chair appoints the majority leader and minority leader as members of the committee.

AUTHORIZATION FOR CERTAIN APPOINTMENTS

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 527) authorizing the President of the Senate and the President of the Senate pro tempore to make certain appointments after the sine die adjournment of the present session

Mr. ROBERT C. BYRD. Mr. President, I would like for it to be read in full so we can know what those certain appointments are.

The assistant legislative clerk read as follows:

S. RES. 527

Resolved, That notwithstanding the final adjournment of the present session of the Congress, the President of the Senate and the President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. ROBERT C. BYRD. I thank the Chair and I thank the clerk.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

AUTHORIZATION OF THE PRESIDENT OF THE SENATE AND THE PRESIDENT OF THE SENATE PRO TEMPORE TO SIGN DULY ENROLLED BILLS

Mr. BAKER. Mr. President, I send to the desk a resolution and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 528):

Resolved, That notwithstanding the sine die adjournment of the two Houses, the President of the Senate and the President of the Senate pro tempore be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. BAKER. Mr. President, I send another resolution to the desk and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 529):

Resolved, That the thanks of the Senate are hereby tendered to the Honorable GEORGE H. W. BUSH, Vice President of the United States and the President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the second session of the Ninety-seventh Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 530):

Resolved, That the thanks of the Senate are hereby tendered to the Honorable STROM THURMOND, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the second session of the Ninety-seventh Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

NOTIFICATION OF THE PRESIDENT

Mr. BAKER. Mr. President, I invite my colleague, the distinguished minority leader, to join me to execute the resolution of the Senate as a committee of two Senators to wait upon the President of the United States and notify him that we have completed our business. In order to gain time to do that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDATION OF THE MAJORITY LEADER

Mr. THURMOND. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 531), to commend the exemplary conduct of the distinguished Majority Leader.

Resolved, That the exemplary conduct of the distinguished majority leader, the Honorable HOWARD BAKER, JR., from the State of Tennessee is deserving of the highest commendation of the Senate. The fair and just and able manner in which Senate business has been scheduled and managed are a source of pride to the Senate as a whole and the thanks of the Senate is here by tendered to the Honorable HOWARD BAKER, JR., majority leader, United States Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

COMMENDATION OF THE MINORITY LEADER

Mr. THURMOND. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 532), to commend the extraordinarily cooperative conduct of the distinguished minority leader.

Resolved, That the Senate extends its thanks to the distinguished minority leader, the Senator from West Virginia, the Honorable ROBERT CARLYLE BYRD. The extremely cooperative and able manner in which the minority leader has approached his duties as protector of the rights of the minority have been duly noted and the Senate commends the minority leader for his understanding, his devotion to the rules of the Senate, and for his outstanding leadership.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

Mr. BAKER. Mr. President, I wish to express my thanks to the distinguished President pro tempore and to the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF THE COMMITTEE TO NOTIFY THE PRESIDENT

Mr. BAKER. Mr. President, now I am happy to report on behalf of the committee appointed by the Senate to wait upon the President that we have concluded our assignment. The distinguished minority leader and I have had the privilege of speaking with the President on the telephone just now to inquire of him if he had further business that he wished to present to Congress. He indicated that he did not.

He asked that we convey to the Senate and all its Members his wishes for a Merry Christmas and a Happy New Year and that he looks forward to our service together next year.

THE GREAT ANCHOR OF GOVERNMENT—THE U.S. SENATE

THE 97TH CONGRESS

Mr. BAKER. Mr. President, no less a constitutional expert than James Madison called the U.S. Senate "the great anchor of Government." History may well record that the Senate served as an anchor for our ship of state during the second session of the 97th Congress. It cannot be denied that our Nation is beset by unpredictable winds and rough waters—the economic, social, and political crosscurrents of this given place in history. It is equally true that the Senate has striven to exert a steadying influence in these uncertain times.

Being an anchor, I hasten to say, is by nature a stressful and difficult job. Like the winds and the waves in a storm, political interests are straining to sweep us away in their chosen direction—oftentimes in many directions at once. Those who believe that the ship of state must move swiftly on its way are dismayed at the seeming lack of motion. At the same time those who yearn for calmer waters are dismayed by the commotion: An anchor may foreclose an ill-charted course but it does not prevent the ship from buffeting.

Madison's almost poetic metaphor for the Senate can perhaps be carried too far; but the central point ought to be clear. We live in troubled times; a final judgment on our stewardship would be premature. For those of us who wear the mantle of politicians, these are by no means favorable times. At one and the same moment, our Nation is faced with a host of problems for which easy or straightforward answers are not available. We confront, all at once, faltering productivity, high interest rates, a heavy burden of public and private debt, challenges in competing for world markets; the passing of the age of cheap energy; rising costs of Government; potential decay in the Nation's infrastructure; distressingly high levels of unemployment; the threat of inflation; and concern about the status of public and private morality and traditional American values.

The Senate has traditionally been considered the institution the Nation could look to for maintaining an historical perspective—surely a needed viewpoint in public policy after recent

years of social and economic upheaval. Yet, only nine current Senators were Members of this body before 1960. We constitute a Senate that reflects the changes in a nation that has undergone dramatic and sometimes traumatic changes.

Theodore H. White has observed:

Many of our problems flow out of American goodwill, trying to do everything for everybody. The 1960's and 1970's were a period of goodwill gone awry.

White has further noted that the past two decades of goodwill resulted in high promises to everybody, "promises to save the cities, promises to take care of the sick, the old, the universities. By 1980 we had promised ourselves almost to the point of national bankruptcy." We are a nation facing the reality that we are living beyond our means. It has been calculated that between the midsixties and early eighties the gap between the Nation's assets and liabilities grew almost tenfold—from $366 billion to $3 trillion. This is a dangerous erosion of the capital America needs to maintain economic growth.

This awesome growth in debt reflects a nation continuing to make demands on a government and economy that probably could not be met in the best of times. Daniel Yankelovich has reviewed survey data of the past three decades to document public response to economic conditions. He found that:

In the past 10 years, a significant shift in American attitudes has taken place—from an optimistic faith in an open-ended future to a fear of economic instability. We now find a nation hovering between an older postwar faith on expanding horizons and a newer sense of lowered expectations apprehension about the future, mistrust of institutions and a growing sense of limits.

Such hovering between choices was reflected in our most recent elections. Political pundits have devined no clear direction from the electorate, a sense of ambivalence, an unwillingness to make the hard choices ahead.

Yet, to say that we have hard choices ahead presupposes that we have the freedom to choose. However, another trauma that we have to face as a nation is that we do not have complete control of our own destiny. The demands of Americans on their Government and economy may well be overwhelmed by the demands of the Third World for a new economic order. Inflation and high unemployment are global problems. Choices to be made by the United States may well be made by other nations for us. Decisions of OPEC, the Japanese auto industry and the Soviet military massively complicate the problems of the United States and severely limit the solutions to be offered. Decisions designed to address problems from shining sea to shining sea may well have to extend to the Indian Ocean.

Perhaps reflecting the public's dismay at these accumulating problems, the 97th Congress was an instance of divided Government—a situation that will continue in the 98th Congress. Having the Congress controlled by different parties—in this case Republicans in the Senate, Democrats in the House of Representatives—is a rarity in our modern political history. Only twice before in this century have there been divided Congresses: The 62d Congress (1911-13) and the 72d Congress (1931-33). In the first case, President William Howard Taft confronted a Republican Senate and a Democratic House, and in the second President Herbert Hoover had to cope with the same configuration. Now President Reagan finds himself in a similar situation Perhaps it is only coincidental, but in all three cases it has been the Senate and the White House that have been in Republican hands.

Divided partisan control accentuates the tensions that the constitution builds into the relationships of the two chambers. As is well known, the framers deliberately established dissimilar modes of constituting the House and Senate to permanently nourish different propensities and inclinations. The constitutional disparities are reflected in inter-Chamber differences in size terms of office constituencies, and constitutional duties. Even though constitutional arrangements have changed dramatically over the years since 1789, one can rest assured that those different propensities and inclination are as wide discernible on Capitol Hill.

Nor is the Senate an easy body to charactize. "It is very difficult to form a just estimate of the Senate of the United States," Woodrow Wilson—perhaps the most astute student of the Congress—remarked in his 1907 Blumenthal lectures at Columbia University. "Nobody has been more discussed; nobody has more misundestood and traduced." Wilson went on to describe the variety and unpredictability of the Seattle in the following terms:

It is impossible to sum up the Senate in any single phrase or summary description. For the Senate is as various as the country it represents. It represents the country, not the people: The country in its many diverse sections, not the population of the country, which tends to become uniform where it is concentrated.

This diversity of opinion and debate is at once a source of strength and an object of puzzlement or disparagement on the part of critics. Even to those who serve in this body, it is cause for wonderment and frustration. The late Everett McKinley Dirksen, my father-in-law, often lamented the yoke of leadership in such an individualistic institution:

There are one hundred diverse personalities in the U.S. Senate. O Great God, what an amazing and dissonant one Hundred personalities they are. What an amazing thing it is to harmonize them. What a job it is.

The truth of those sentiments has fully come home to me in the past 2 years. The Senate's free and relatively unfettered debate has, for good or ill, been remarked upon throughout history, and is a pertinent issue even today.

Laying aside the question of efficiency or effectiveness of the Senate's floor procedures—a matter that is now being given systematic study and that will presumably engage our attention in the 98th Congress—there is doubt that this body is fulfilling its historic role of providing a forum for the most pressing issues of public concern. Woodrow Wilson was only one of many observers who admired the Senate for

Those habits of free and open debate which clear its mind, and to some extent the mind of the public, with regard to the Nation's business, doing much towards making legislation definite and consistent, and against those great additions to its efficiency which spring from its observation of "slow and steady forms" of procedure, from the immediate election which gives it independence, and from its having a national and August cause for existing.

Speaking as a leader concerned about the orderly processing of floor business, I must confess moments of frustration with my colleagues' habits of free and open debate. Nonetheless, it must be conceded that the Senate remains true to its traditional purpose as the place where full and careful consideration is given to the most momentous and complex problems.

Weighty as issues were in the middle of the last century when the Senate led the Nation in debating such issues as slavery, tariffs, and westward expansion, they were relatively few in number and occurred over a period of years or even decades. As President John F. Kennedy was fond of remarking, the Clays, Calhouns, and Websters of the 19th century had the luxury of devoting a whole generation or more to debating and refining the few great controversies at hand. In most cases, moreover, the battlelines were clearly drawn between the political parties and factions.

Our present predicament could not be more different. The issues we confront are almost too numerous to count. Moreover, they defy simple categorization. Viewpoints of Senators—or, for that matter, of the public—are not easily described or predictable. Our partisan loyalties or philosophies of Government fail to reach into the nooks of such issues. The issues are crosscutting and interrelated. And, as was noted before, they do not admit of simple solutions.

In the 97th Congress, the Senate has aired many of these issues in all their detail and complexity. In more than a few cases, this Chamber provided vir-

tually the only forum for full and free discussion of such issues. Given the political divisions in the country at large, it would be unreasonable to expect that quicker or tidy legislative solutions would emerge in each and every case, even in a majority of cases. However, the public discourse has been significantly advanced by what we have done here in this Chamber.

A final role played by this Senate is that of serving as an adviser, and at times a counterweight, to the executive branch. Woodrow Wilson went so far as to observe that in legislative-executive relationships, the Senate was "no longer a legislative Chamber, but—a consultative executive council." The constitutional underpinnings of the Senate's unique role are of course its unique duties to advise and consent to Presidential appointments and treaties. Our duties toward the executive are underscored by the fact that the President and the Senate majority are of the same political persuasion. Thus the majority leadership of this body has a special obligation to see to it that the President's initiatives are accorded full and fair hearing on Capitol Hill. By the same token, we have a special duty to advise the President and his counselors concerning parliamentary strategies and tactics.

The obligations which the President's partisans on Capitol Hill carry as his allies and colleagues are complicated by the fact that we are, after all, located at opposite ends of Pennsylvania Avenue. President Kennedy once remarked how different things looked from the White House vantage point than they had appeared to him in the Senate. We of the majority are loyal to the President and we share his goals; but we serve different constituencies and have different constitutional responsibilities. Neither the Constitution nor historical precedents offer simple formulas for working out these different roles.

This second session has made its mark with several important legislative accomplishments. The first budget resolution for fiscal year 1983 directed certain House and Senate committees to recommend changes in law to bring spending and revenue levels into conformity with targets established in the resolution.

To further fulfill the requirements of the first budget resolution, the Senate Finance Committee and House Ways and Means Committee reported and Congress passed the Tax Equity and Fiscal Responsibility Act of 1982, that raised revenues by $98.3 billion and lowered spending by $16.8 billion for the same 3-year period. It also authorized $4.8 billion for airport development projects.

Additionally, Public Law 97-253, the Omnibus Reconciliation Act of 1982, called for legislative changes to effect budget savings consistent with the first concurrent resolution on the budget for fiscal year 1983. For example, prevailing high interest rates, coupled with weak farm income for the third year in a row, led the Senate to authorize a 20-percent set-aside for wheat and rice acreage. The law also revised the dairy price support system.

The distinguished Senator from South Carolina, Mr. THURMOND, introduced Senate Joint Resolution 58, which prohibits the adoption of any budget in which outlays exceed total receipts, unless approved by a three-fifths vote of each House of Congress. The measure passed the Senate on August 8, 1982.

To focus on the critical and unacceptable situation of unemployment, an important new law was passed to create job training. S. 2036, introduced by the distinguished Senator from Indiana, Mr. QUAYLE, authorized "such sums as necessary" for training programs operating by States in combination with local area governments and private industry councils. This new employment training program will replace the Comprehensive Employment and Training Act.

The Housing and Urban Development-Independent Agencies appropriation bill, Public Law 97-272, made special legislative note of our elderly and handicapped by appropriating $453 million for section 202 housing for these individuals, as well as $4 million for congregate services, and $1.350 billion for operating subsidies for public housing.

The Voting Right Acts was extended for 15 years; despite significant progress, continued attempts to deny or abridge voting rights on account of race, color, or language-minority status justified continuation of Federal supervision of the electoral process of covered jurisdictions. A new section 203 required provision of bilingual registration.

Regulatory reform was a major issue this Congress, in response to general public concern, and S. 1080, introduced by the distinguished Senator from Nevada, Mr. LAXALT, would make substantial changes in the basic notice and comment procedures required for informal rulemaking and would establish statutory requirements for regulatory analysis. This followed the President's fervent wishes to reduce the size and scope of the Federal Government; the bill passed the Senate in March.

To maintain a strong and secure defense, the Congress passed the Department of Defense Authorization Act, which provided $253.6 billion in budget authority and $214 billion in outlays. The decisions were difficult in view of the economy and the budget deficits, but it was the strong sense of the Senate to provide substantial increases for defensive efforts.

Concern among the public and in Congress about the size of the nuclear arsenals of the United States and the U.S.S.R. as well as the future strategic arms control led to the introduction of Senate Joint Resolution 212, by the distinguished Senator from Illinois, Mr. PERCY, which commended President Reagan's START proposal and states that a new arms control agreement should "sharply reduce" the number of missiles and warheads. It was reported in July.

This Congress also confronted immigration law and policy, which the Senate felt was in dire need of reform. S. 2222, sponsored by the distinguished Senator from Wyoming, Mr. SIMPSON, and passed by the Senate, addressed the following issues: Control of illegal immigration, and reform of legal immigration, legalization, and as sense of the Congress that English and no other tongue is this country's official language. There are also stringent penalties for violating the prohibition against employing unauthorized aliens.

The Senate Committee on Evironment and Public Works has been working on revising the Clean Air Act, which expired at the end of 1981. They have proposed several salient amendments, including those dealing with hazardous pollutants, interstate pollution control, and acid precipitation prevention.

Because of high interest rate and the sluggishness of our economy, savings and loan institutions were particularly hard hit. Mr GARN, the distinguished Senator from Utah, and chairman of the Banking, Housing and Urban Affairs Committee, sponsored legislation entitled "The Garn-St Germain Depository Institutions Act of 1982." The law includes provisions to restructure and broaden the powers of depository institutions in an attempt to lessen the sensitivity of thrift institutions, and increases the flexibility of the Federal regulatory agencies to respond to troubled despository institutions (Public Law 97-320).

Operating in an environment of divided Government, the Senate can exert leadership in mediating, between the White House and the other body to fashion legislative solutions that would otherwise be impossible. That has certainly occurred in 1982. In several critical instances, salient legislative accomplishments would simply not have been possible without the Senate's legislative prowess. These achievements rank high in any assessment of the Senate's workload in the 97th Congress, as they unquestionably will when the history of this era is written.

It is both my hope and expectation that the Senate will continue to serve as an anchor in the 98th Congress. The complexities and obstacles will no

doubt be present, but they will be met by a will and conviction and determination that will insure responsible action, and responsible governing.

Now Mr. President, I ask uanimous consent that a poem by Emily Dickinson be printed at this point in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

Each Life, Converges to some Centre—
Expressed—or still—
Exists in every Human Nature
A Goal—
Embodied scarcely to itself—it may be—
Too Fair
For Credibility's presumption
To mar—
Adored with caution—as a Brittle Heaven—
To reach
Were hopeless, as the Rainbow's Raiment
To touch—
Yet perservered toward—sure—for the Distance—
How high—
Unto the Saint's slow diligence—
The Sky—
Ungained—it may be—by a Life's low Venture—
But then—
Eternity enable the endeavoring
Again.

ALTERNATIVES AND ACCOMPLISHMENTS OF SENATE DEMOCRATS—97TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, today marks the end of the 97th session of Congress and the Senate. It would be premature at this moment, so close to the closing of the session, to attempt an accurate assessment of it. The final judgment, rightly so, will be left to history.

However, while an over-all analysis is perhaps inappropriate at this time, it is not to soon to review the many, many contributions made by Senate Democrats to the total debate on the national agenda.

After all, this session has been a unique one for us. It marked the beginning of what I hope will be our very short-lived role as the "loyal opposition." In some ways our having to adjust to nonmajority status has been difficult—honesty compels me to say this. But, learning to do it well has been rewarding. For indeed, we have made major contributions, and done so sometimes in the face of a process which has not often included us, and a White House that seeks not our counsel.

If it had, it would have found a thorough and consistent set of alternatives, especially in the areas of social security, budgetary matters, jobs, and interest rates. These are also the areas it has focused on, but with which we still find ourselves in such deep, deep trouble.

A review of the record for the last 2 years clearly shows that for every major policy question facing the Senate, Democrats had alternatives. Sometimes they were targeted in nature, sometimes more sweeping. These votes create a record which speaks for itself.

THE 97TH CONGRESS, FIRST SESSION OF THE SENATE

In the first session, more than 100 key votes were cast in which two-thirds or more of the Democrats were opposed by two-thirds or more of the opposing party. These votes obviously reflect the philosophical middle of each party. They illustrate the nature of the Democratic alternatives.

Senate Democrats expressed from the beginning a willingness to work with the administration. Although we were deeply skeptical of the radically new directions of Reaganomics, we tried to join, broadly speaking, in giving the President what he wanted.

We did try to target the 1981 budget cuts more sensibly, to moderate and custom tailor them, and base them on realistic projections. We tried to make the cuts more fiscally prudent, sensitive to different economic circumstances, and more carefully targeted. We tried to make the tax cuts fairer. It is not fair for about 40 percent of the cuts to go to 5 percent of the people. But the President effectively controlled Congress last year, and after offering and losing many counterproposals, most Democrats voted for final passage of the President's budget and tax bills.

The Democratic test for each part of the Reagan/Stockman package was decided upon early in the session. It was to ask: Is this proposal fair to all? Will it work? And does it promote a unified, secure, and prosperous America? It was not our intention to be obstructionist, as our record on final passage shows. We would have been more involved partners if we had been asked to join in the process, but we were not.

Our strategy for the session, then, became one of trying to insure that the Reagan/Stockman policies did not unfairly burden one group or region while benefitting another; or make short-term savings only to insure greater long-term costs, higher deficits, and more unemployment; or further burden the most vulnerable among us.

Government services can be cut back selectively. Democrats in fact proposed five times to cut back on excessive bureaucratic spending for travel, public relations, procurement, entertainment, political appointees, and consultants. Each time they were defeated by a united majority. But this same majority defended, with enormous energy and commitment, across-the-board and disproportionate cutbacks in investments that make human beings more productive—like education, health care, adequate nutrition, job training, and social security.

Democrats have strongly supported new investments in plants and capital equipment. We voted for the accelerated depreciation clauses to give businesses a fighting chance against inflation when they invest in expensive machinery. We voted to lower the effective capital gains tax rate from 20 to 15 percent, but were defeated by strong opposition.

Unfortunately, the investment incentives to invest we supported cannot override an economy characterized by high Federal deficits, high interest rates, and high unemployment. Businesses cannot be expected to make new investments in the face of record productivity decreases. Businesses cannot be expected to make new investments in the face of high prime rates, coupled with a deep recession. The supply-side effects of the business tax cut will take hold only when interest rates fall, and the economy begins to recover. The Reagan/Stockman program has doomed the supply-side effort from its inception.

Not only has the administration's overall program been internally flawed, as the resulting 18 month recession has shown, it has also been too narrowly focused. Human skills require investment as well. But the administration has framed the debate as a choice between investment in machinery and investment in human skills. A productive society must have both.

True supply-side programs would include investment in human capital and public infrastructure as well as in factories. No country can prosper without educated, healthy, trained, well-fed citizens living in towns and cities that are not falling apart.

Part of the Democratic record of the first session can be characterized as an effort to add people into the supply-side equation. Democrats are proud of their leadership in economic programs that are in place, many of which help sustain our way of life. We view our future as one that will continue to require investments in humans as well as in machinery and equipment. Without this commitment to fairness, no other decisions will make a positive difference.

Much has been made of the so-called mandate received in the 1980 election. This license has obviously come to mean many things to many people. We doubt, however, that the American people's desire for a better government meant dismantling social security, taxing the middle class to support the rich, cutting back on energy research, closing job training programs, taking school lunches away from millions of children, reducing hospital benefits for veterans, or putting higher education out of reach for qualified students from middle income families.

We doubt that the American people's desire for government reform in-

cluded a desire to change funding levels and program benefits without hearings, without debating the merits, without a discussion of national priorities. We doubt that the "mandate" reflected a desire to substitute theater for substance in government, transforming the debate over the national agenda into a debate over the budget, discarding whatever idea could not be reduced to a number. There is no substitute for Congress doing the hard work of government, choosing and sorting-through, working in cooperation with, not at the direction of, the executive branch. In the first session, the majority pushed through the Senate a budget reconciliation bill which contained budgets normally considered in 20 or 30 separate bills. By lumping everything into one very hastily prepared, enormous bill, it became virtually impossible for Senators to gauge the impact or seriousness of the changes. The debate which was circumvented, however, will not go away. The issues will return with urgency.

Senate Democrats believe Americans wanted the sorting out of priorities, and a search for a more effective and efficient delivery of services. They did not want a wholesale dismantling of programs, nor a foisting on overburdened State and local government of new costs, at precisely the time administration policies have caused record high unemployment, record budget deficits, record high interest rates, and a deep recession.

Although this was a very partisan session of the Senate, where we Democrats were not included in the formation of many of the radical policy changes that were put in place, we were very successful in targeting in on and preserving a select group of high priority programs: social security and school lunch were among the most important saved. Democrats, in their drive for a more equitable program, also successfully sponsored the All Savers' Certificate program and the elimination of the marriage penalty in the tax code. The Salvadoran amendment tied additional economic and military assistance to continued reform efforts by the Salvadoran Government.

I think it would be useful at this point to review the Democratic alternatives offered in each major policy area in the first session, as well as the reasons for our differences with the proposals of the opposing party.

THE ECONOMY

When the Democrats lost the White House, the American economy was well on its way to a robust recovery. In fact, everything that Ronald Reagan promised to do was occurring under Jimmy Carter. In the first quarter of 1981, real GNP was rising at a very strong 8.6 percent, and unemployment was declining, as were inflation and interest rates.

By July, all that had changed. The schizophrenic economic program of tight monetary and loose fiscal policies put an abrupt end to recovery, hiked interest rates and threw millions of people out of work. There was nothing inherited or accidental about it. The warnings have been coming for some time from within the President's own party. George Bush called Reaganomics "voodoo economics" last year. HOWARD BAKER called it a "riverboat gamble"; David Stockman, a "Trojan horse"; and Richard Snelling, an "economic Bay of Pigs."

From the start, a fast recovery was promised. Their plan was supposed to be greeted by a surge of business, consumer and investor confidence. Just the opposite has happened. In the same month that their plan was passed, we sank into a recession, the stock market turned sour, and people began to lose their jobs.

It is obvious that the public and the business community do not share the administration's blind faith in an economic gimmick that was first sketched out on the back of a cocktail napkin. The cocktail napkin economy of the Reagan administration has turned recovery into recession.

Their program is having exactly the effects that most economists, and many Senate Democrats, predicted it would have—recession, massive budget deficits, and a grossly unfair transfer of benefits to the very wealthy, and burdens to the working men and women of this country.

Because we saw what lay ahead, we offered an alternative tax plan, and an alternative budget plan. In the end, however, we were forced to vote up or down on the President's program.

There is probably no more explicit example of the Democratic commitment to fairness than the record votes on the economy in the first session.

Twenty-nine times during the session, Democrats and Republicans split sharply on economic policy votes.

Democrats voted overwhelmingly for amendments to close tax loopholes, protect the small businessman, promote productive investment, balance the budget, and put a ceiling on the national debt, but were opposed in lock-step.

Democrats tried four times to bring balance to our Federal budget by trimming the excesses from last year's tax bill. We tried to promote small business and productive investment through targeted tax policies. We tried to make the tax cut more fair for those earning under $50,000 a year, for our Nation's elderly, and for married couples. In each case, these efforts were defeated by a united opposition.

Even an attempt by Democrats to restore nutritious school lunches to the 2 million children cut off by this administration was defeated.

Democratic amendments to close the tax straddle loophole and to give tax relief to small businesses as well as to giant corporations were initially defeated.

Democrats tried to restore funds for the Economic Development Administration, but were defeated on a party line vote, as they were in three measures urging lower interest rate policies on the administration.

In the beginning, Democrats had alternatives. That these alternatives were not accepted is obvious from reading the economic statistics in any business section of any newspaper, or more graphically, in driving down Main Street in almost any town or city.

SOCIAL SECURITY

During the Presidential campaign, Candidate Reagan promised the American people that his administration would protect the integrity of the social security system, and that "no one presently dependent on social security is going to have the rug pulled out from under them and not get their checks."

When President Reagan came before Congress to argue the merits of his Federal budget-cutting plan, he promised that social security retirement benefits would be preserved in full—exempt from budget cuts—as part of the Nation's "safety net" of social programs.

The President then asked Congress to take away the social security minimum benefit payment for 3 million American retirees as part of his first budget-cutting bill, as well as for cuts of $88 billion in social security benefits over the next 5 years. The Reagan social security plan meant immediate, severe, and permanent reductions in promised benefit protection.

The magnitude of social security benefit cuts requested by the President was unprecedented: a 40-percent slash in retirement income for people who must retire at age 62; a reduction of almost one-third in the disability insurance program's operations; and a 23-percent cut in total promised benefits. Under the plan, no future age 62 retiree would have received an annual benefit as high as the official poverty level.

When the Reagan administration began its assault on the social security system in order to subsidize large tax breaks for the wealthy and to reduce huge, record-setting deficits caused by mismanagement of the economy, Senate Democrats rallied in unity to make President Reagan keep his promises.

In May of 1981, Senate Democrats forced a vote rejecting the President's plan of immediate and deep cuts in early retirement benefits. The road to

preserving the minimum benefit payment for retired Americans was more rocky: five times Senate Democrats rose to preserve the payment and each attempt was defeated by a party line vote.

Democrats did not intend to make the minimum benefit a partisan issue, but partisan politics directed from the Office of Management and Budget resulted in party line votes time and time again. During the budget process, the administration forcefully and consistently argued for elimination of the benefit. OMB and its Senate allies contended that repealing the $122 monthly payment would not hurt retirees because the financially needy could always apply for welfare.

Only after it became obvious that Democrats would not give up on the question of preserving the minimum payment for retired Americans, and that the issue would never go away, did the White House and its allies in the Senate turn around.

Twelve times in the first session, Democrats and the opposing party divided sharply on a range of social security votes. Although most often unsuccessful in the face of this and White House opposition, Democrats did demonstrate a deep commitment to maintaining the social security system, believing that the success of the system is dependent upon the people's faith in government's commitment to the program.

Until the Reagan administration, the U.S. Government had been honorbound to retired Americans and to contributing workers and employers to protect the integrity of the system. Until the Reagan administration, the challenge of social security had been to provide an adequate retirement income for aging Americans.

In a partisan Senate, where straight party-line votes seem to be the order of the day, rejection of the Reagan administration social security plan and restoration of the social security minimum benefit represent cherished victories for Democrats.

HUMAN RESOURCES

For millions of vulnerable Americans, it is now more difficult to pay for college, find job training, go to a health center, get a hot lunch at school, receive unemployment compensation, apply for an economic development grant, or enroll a youngster in a Head Start program.

The administration's comprehensive assault on human needs programs has diminished the capacity of every community to deliver services and insure equal opportunity to its citizens. At times they succeeded in reducing programs by 25 percent.

Democrats proposed restoring funds for the Pell grant program, which targets aid to financially needy young people who have the talent but not the money to pay for college. The President remarked in a press conference that he had read the help wanted pages of the Washington Post, and noticed many available jobs and commented that we just have to train people for them. His budget proposals, which attack the Pell grant program, deny people that training.

Democrats proposed restoring a portion of funds cut from the title I compensatory education programs for disadvantaged children.

Democrats proposed restoring approximately half of the 25-percent cut contained in the reconciliation resolution for job training programs designed to improve the skills of the American workforce so that productivity and economic growth can be sustained.

Democrats proposed a modest increase above the administration's request for the CETA youth demonstration program, since some 2 million young Americans are jobless and will remain jobless if they face the future without skills or training.

Democrats proposed maintaining the current levels of funding for preventive health care and primary community health care programs. Every dollar cut from prevention means more money spent to treat preventable disease, more money lost because of sick leave in the workforce, and more human suffering which cannot be measured in dollars.

The Democrats proposed restoring current funding levels for childhood immunization programs, which were cut 25 percent by the Reagan budget. The dramatic decline in childhood disease in the United States is indisputably due in large part to this program.

Democrats supported the continuation of a separate program to provide services for rape victims.

Democrats proposed restoring some of the already drastically reduced funding for maternal and child health care programs.

Democrats proposed restoring funding for mine health and safety inspection programs.

Democrats proposed restoring $200 million of the administration's $2.2 billion reduction in school lunch funds.

Democrats proposed restoring enough funding to the unemployment insurance system to make unnecessary a new regulation which would force an unemployed worker to accept any job offer after 13 weeks of unemployment.

Democrats proposed amendments to the second concurrent budget resolution which would have protected the entitlement programs from budget cuts.

Democrats proposed a sense of the Senate resolution expressing deep concern over the administration's proposals to eliminate housing assistance for the Nation's elderly and low-income citizens, and to terminate the community development block grant and urban development action programs.

Democrats proposed exempting Head Start, Community Health Centers, and Older Americans Act programs from an arbitrary across-the-board appropriations cut.

Each of these amendments was defeated by a disciplined and united majority party.

GOVERNMENT WASTE

Democrats tried repeatedly to cut back on government waste, but were defeated by solid party votes time after time. The majority showed that their support for cuts in waste, fraud, and abuse falters when the budget axe passes too near their own interests.

They approved cuts in child nutrition, heating assistance for the elderly, and social security benefits. But they voted down Democratic amendments to cut their own administration's travel, consultant, and public relations spending.

Democrats united for five separate votes that would have cut excessive bureaucratic spending, but were defeated by a solid wall of opposition each time. We were out voted on attempts to slash Government supply purchases, and political appointments.

ENERGY AND ENVIRONMENT

In the first session, Democrats offered six amendments to preserve a balanced national energy policy. The Reagan administration supported deep cuts in spending for solar and fossil fuel research, conservation, and synthetic fuel development. These Democratic amendments represented an attempt to restore necessary funds and to equalize budget cuts between alternative and fossil research, conservation, and nuclear power programs. There were also efforts to restore funds for programs to ease the burden of high energy prices on low-income households.

A bipartisan energy policy has been developed over three administrations. It is designed to reduce U.S. dependence on imported oil by encouraging domestic production and the development of alternative sources of energy and conservation. The Reagan budget has permanently changed this policy, without consideration of the long-term effects these changes will have on economic security. They have singularly focused on nuclear energy to the detriment of any and all other potential alternatives.

There has also developed a bipartisan congressional consensus on environmental issues. This administration, however, by drastically reducing funding for the Environmental Protection Agency and the Council on Environmental Quality, has made it unlikely that the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Solid Waste Disposal Act, and the Conservation Recovery Act

will be enforced to their optimum. Democrats believe these cuts will make necessary and important environmental goals more difficult to reach in the future, and more expensive.

DEFENSE

There is a consensus on the need to strengthen significantly our national defense. Democrats, in spite of the rhetorical onslaught of the past Presidential campaign, historically have joined in any prudent effort to strengthen America.

During Senate consideration of the defense appropriations bill in December of 1981, however, it became apparent to Democrats that the defense plan in the bill was substantially weaker than the one advertised by the Reagan administration. Democrats designed and introduced their own program, in an effort to correct these imbalances.

Twelve times the majority marched together to defeat Democratic amendments to the defense appropriations bill designed to strengthen our conventional and strategic capabilities.

Democratic amendments calling for a stronger and larger Navy, additional funds for the B-52, a prohibition on shifting funds from Stealth to the B-1 bomber, and protection of the B-1 from cost overruns, garnered enough support for passage.

Democrats proposed restoring funds to provide an adequate aerial refueling capacity to allow sufficient support for the Rapid Deployment Force in the Persian Gulf. They were defeated.

Democrats proposed adding $148 million to allow the Army to reach a 60-day inventory of ammunition, instead of the present 40-day level. The Army's mobilization plan calls for a 180-day inventory of ammunition. The majority defeated this amendment, as well as a more modest proposal to add $100 million for this purpose.

Democrats proposed adding $60 million for the Army's force modernization program, slashed in the administration's September budget.

Democrats proposed restoring the funds necessary to maintain two full carrier battle groups required to defend the Persian Gulf.

Democrats proposed forcing the Department of Defense to increase competition in the procurement of defense equipment.

Democrats offered two amendments ($250 and $200 million) for development of Stealth technology in order to assure an operational Stealth bomber at the earliest feasible date.

Democrats, in an effort to cut waste in the defense budget, proposed eliminating provisions which anticipated, and funded in advance, cost overruns in the B-1 and MX programs.

Democrats proposed giving congressional endorsement to the administration's publicly announced policy that the United States would not undercut existing SALT agreements in the course of building up strategic programs, so long as the Soviets exercise the same restraint.

The majority defeated each and every one of these amendments.

FOREIGN AFFAIRS

A bipartisan foreign policy develops when there is a true working partnership between the executive and legislative branches. Democrats historically have recognized the wisdom in this constitutionally prescribed cooperation. In the first session, however, they were not able to persuade their Senate counterparts to view the debate over foreign policy on independent grounds.

On the very important issues of aid of El Salvador, nuclear proliferation, and the separation of the Peace Corps from ACTION, the Democrats were successful. On nine other occasions they were thwarted.

Democrats repeatedly raised their concern over administration proposals to assist Pakistan, El Salvador, and Chile. They challenged the rationale and wisdom of the proposal to sell AWACS to Saudi Arabia. The majority refused to agree to a Democratic sponsored mandate to ban trade across-the-board to the Soviet Union if it invaded Poland. They also opposed a cut-off of oil imports from Libya.

The United States provides Libya with 40 percent of its oil revenues, while Libya continues to foster international terrorism, send hit squads into the U.S., and act aggressively in Africa. Democrats tried to bring the economic weapon to bear, so that U.S. dollars would no longer be availabe to finance these operations. They were turned back.

Democrats have traditionally opposed the merger of the Peace Corps with ACTION. This concern grew when the Reagan Administration nominated an individual with a background in military intelligence to serve as the Director, feeling this breached the traditional separation of the Peace Corps from any connection with intelligence activities. The attempt at separating the agencies succeeded.

Democrats were defeated in their efforts to disapprove the sale of AWACS, sidewinder missiles, and F-15 conformal fuel tanks to Saudi Arabia. Democratic concern centered over transferring some of our most sophisticated military technology to a country with which we did not have a formal security relationship, endangering Israel's security and precipitating an arms race in one of the most volatile regions of the world.

And finally, although then-Secretary Haig was on record in support of an across-the-board trade ban on the Soviet Union if it, or its allies, invaded Poland, Democrats were defeated when they attempted to place the Senate on record in support of the same position. The majority marched in lockstep to a last minute change in administration policy, and voted down the measure, leading some to wonder what the administration's policy on Poland was.

THE 97TH CONGRESS, SECOND SESSION OF THE SENATE

The second session had somewhat fewer items on the agenda than the first. The record is equally clear, however, on the broad range of alternatives offered by Senate Democrats. All the votes mentioned below involve two-thirds of Democrats being opposed by at least two-thirds of the majority.

THE ECONOMY

Senate Democrats continued their considerable effort of the first session to modify the tax excesses of Reaganomics, which shifts the tax burden radically away from the wealthiest and toward the middle and lower classes. Democrats believe that for a tax system to work it has to be progressive, and for a budget to work revenues must be reasonably close to outlays. Neither is the case in Reaganomics.

Yet each of the several times Democrats sought to adjust the tax cut in favor of middle and lower income taxpayers, to help out the small business person, or to defer overzealous revenue reductions until the economy could afford them, they were defeated.

Democrats also voted in June 1982 against further increasing the public debt limit. Taken together with the subsequent debt extension in late September the public debt will increase an unbelievable 38 percent since Democrats lost control of the Senate. These enormous, unprecedented increases in the national debt are the result of economic policies—both fiscal and monetary—which have turned an economy which was recovering at the start of the Reagan administration into a financial quagmire.

The excesses of Reaganomics forced the administration to fashion the largest tax increase in history, representing a total supply side flip-flop. Taxes will be raised $99 billion over the next 3 years, further raising health costs, burdening small businesses, and increasing excise taxes. Democrats opposed this measure, but their effort to improve it with the Bradley "fairness amendment" was rejected on an almost straight party line vote.

THE BUDGET

Democrats again tried to open the budget process to more debate and adjust the budget priorities to reflect a greater balance. However, attempts to change the rules so there could be more than a minimal, pro forma debate on major legislative items were defeated. Democrats were opposed to restricting debate on a budget which

called for raising approximately $100 billion in new taxes, projected deficits of nearly $250 billion through 1985, cut medicare and medicaid, and capped COLAs.

A little more than a month after voting for a record increase in the public debt, the majority refused to modify in the slightest a constitutional amendment to balance the budget. Democratic attempts to at least require the President to submit a balanced budget, or to allow for overrides in the case of military or national emergencies, were rejected.

Finally, the majority this session amended the tax bill with an airport development bill, although Democrats argued that this was inappropriate legislation under reconciliation rules. The Democratic concerns were overridden by the opposing party.

HUMAN RESOURCES

Programs to provide for the education and nutritional well-being of children, job training, unemployment insurance, health care, and adequate housing for all have suffered the most under Reaganomics. This session was no exception.

Senate Democrats tried to protect the elderly from new out-of-pocket expenses under medicare and medicaid and to retain home health care benefits, and were rebuffed, as they were in trying to retain current levels of deductions for health care.

Compensatory education programs of all kinds, as well as cost effective nutrition programs for low income nursing mothers and infants absorbed large cuts, as they did last session, despite Democratic efforts. Student benefits for children of deceased veterans and disabled workers were also cut.

At a time when unemployment is at a 40-year high, and the number of discouraged workers is at an all-time high, Democrats sought to keep work incentive programs as part of AFDC, sought to maintain the summer youth jobs program, and sought to provide adequate extended unemployment benefits for those new millions who have lost their jobs. They were beaten by the majority, who did succeed in considerably increasing the unemployment tax on businesses.

SOCIAL SECURITY, VETERANS, RETIREES

The majority controlled Budget Committee voted, just hours after unanimously rejecting President Reagan's budget, to cut $40 billion from social security.

Senate Democrats twice sought to reject this action and ensure that COLAs would be paid fully and on time, and reconfirm congressional support for preserving and strengthening the social security system. They were rejected twice. But the opposition then caved in and offered their own nearly identical amendment which was passed unanimously without a record vote.

Democrats were equally successful in maintaining current retirement benefits for railroad retirees. Although their contributions support this fund and the 1974 retirement act assures them this money, the majority party sought to reduce or cap their COLA. Senate Democrats succeeded in fully funding this account.

The opposing party did, however, reject other efforts to maintain current COLAs for military and Federal retirees and veterans, while refusing to apply the same cap to their own annuities. They also succeeded, at a disastrous time for the home building industry and home buyers, in adding a user fee to VA mortgage loans.

ENERGY AND ENVIRONMENT

Taking the lead from the White House, the majority party in the Senate once again showed little regard for safeguarding against some of the most serious environmental problems facing us. Funds were cut again from the budget for the cleanup of toxic and hazardous waste dumps, and other EPA programs, in spite of growing public concern over the health hazards involved. EPA funds have not been cut 39 percent in the last 2 years.

Democrats also tried, unsuccessfully, to fund fully the strategic petroleum reserve, a system designed to provide energy insurance against a very volatile Middle East situation. This false economy could severely limit our capacity to respond to an international energy emergency.

Democrats were also rebuffed in an attempt to make bidding for oil and gas exploration more competitive. Noncompetitive leasing practices were successfully retained.

DEFENSE AND FOREIGN AID

Given the extent of disarray in our economy, severely restrictive interest rates, record unemployment, and huge deficits, Senate Democrats tried to moderate slightly the growth of defense expenditures. Expenditures cannot continue at their current rate if we hope to alleviate the deficits, bring down interest rates, and begin the economic growth that will put people back to work.

Yet, an attempt to reduce from 6.8 to 6.0 percent the 3-year average real growth in defense failed, as did other, less far reaching attempts at defense economies. The majority earlier refused to install an independent Inspector General to audit the Department of Defense, rejecting as Democratic amendment and offering their own weakened version. Ultimately, the tougher Democratic version was adopted in the conference report on the bill.

THE "LAMEDUCK" SESSION—JOBS, TAX FAIRNESS, AND INTEREST RATES

During the late summer and fall of 1982, the economic news has grown worse with each passing month. The unemployment rate has risen to a post-war high and continues to climb. Business failures have set post-depression records. Private charities have seen their resources depleted and, unable to meet the massive increases in requests for their assistance, have turned to Government for assistance.

When Congress returned for the lameduck session the last week of November, Senate Democrats were ready with a comprehensive legislative package to counter the continuing economic slide, to aid those who are unemployed to obtain work, and to increase the duration of unemployment benefits for those who remain unemployed.

The package offered by Senate Democrats was designed to be added to the highways and mass transit legislation submitted by the administration.

First, it substituted tax reform for the regressive gas tax increase proposed by the administration. Under the Democratic alternative, the third year of the Kemp-Roth tax cut would have been suspended partially for 3 years for those with taxable incomes between $50,000 and $65,000, and suspended completely for 3 years for those with higher incomes. This method of increasing revenue would have more than paid for the highways and mass transit proposal approved by Congress as well as the additional jobs creation, public works, and unemployment assistance programs proposed by Senate Democrats—and left several billion in unneeded revenues which could have been used to reduce the budgetary deficit.

The Democratic jobs package also contained $1 billion for sewer and urban water system construction and repair; $2 billion for a labor-intensive community public works program which would have provided funding to cities and States for hiring unemployed workers to make light repairs and rehabilitation of public buildings, roadways, bridges, and other capital facilities; $200 million to begin immediately to retrain and relocate displaced workers from declining industries such as steel and autos; $400 million for the rehabilitation and modernization of public housing facilities; $100 million each for reforestation and timber stand improvement work and for senior citizens community service employment; and $30 million for abandoned mine reclamation. All of these expenditures would have contributed significantly to the improvement of public capital facilities, while creating over 350,000 direct jobs and nearly as many indirect jobs—over and above the estimated 320,000 jobs anticipated from the program proposed by the administration. The Democratic package also contained $750 million in credit for the expansion of agricultural exports, since farm income is down to an historical low, while farm foreclosures are at an historical high.

Finally, the Democratic package contained $700 million in extended unemployment benefits for the long-term unemployed who cannot find work during the severe recession.

Although the majority party in the Senate offered no alternative of any kind, they defeated the Democratic proposal by a virtually pure party line vote of 53 to 44.

Subsequently, Senate Democrats offered a separate measure covering unemployment insurance. The Senate accepted that proposal with minor alterations, and it remains a part of the gas tax/highway and mass transit legislation passed by Congress last week. It is, in fact, the only step approved by Congress for aiding the 12 million plus unemployed persons who must face the holiday season without income this year.

A BALANCED MONETARY POLICY

In August of 1982 Senate Democrats took the only major policy initiative of the last 2 years with regard to monetary policy. With 40 cosponsors in the Senate, and over 70 in the House, they introduced the Balanced Monetary Policy Act of 1982.

The heart of this bill was a requirement that the Federal Reserve Board reestablish the traditional relationship between interest rates and inflation. Historically, short-term interest rates like the prime rate have run 1 to 4 percentage points above inflation. This is a level we can live with and that can give us jobs and economic growth.

The Democratic bill did not require Congress to tinker with the technical details of monetary policy on a day-to-day basis. Rather, the act mandated the broad, fundamental goals of balance, public disclosure, and stability. This bill made affordable interest rates once more a clearly-defined national goal. It restored balance to our monetary policy by requiring the Board to set targets for both money growth and real interest rates. In recent years, the Board has veered from one extreme to another—from ignoring inflation to ignoring high interest rates and the deep recession they cause. This bill was intended to stop this economic extremism and get us back to a balanced, commonsense middle-of-the-road policy.

And there can be absolutely no doubt that the current monetarist policies of the Federal Reserve Board have contributed to the enormous slowdown in our economy.

Today, 12 million Americans are out of work, and 3 million of them lost their jobs since Ronald Reagan became President. The unemployment rate stands at 10.8 percent, the highest level since the Great Depression. Over 500 small businesses are failing each week, and the rate is above that of 1929. Home and farm foreclosures are at levels unknown since the 1930's. The automobile and construction industries have been devastated.

In 1981, domestic auto production and sales declined to 20 year lows, and 1982 has proven even worse for U.S. automakers. In June of this year, sales of domestically produced passenger cars declined to an annual rate of only 4.6 million, a decline of more than 12 percent from last June's depressed sales rate.

The impact of high interest rates has been even more devastating on the housing industry. In 1981, new private housing starts and sales of new single family homes declined to all-time record lows and, as with the auto industry, conditions have declined even further in 1982.

In the face of widening economic disaster, in the face of immeasurable human suffering, in the face of pleas by corporate executives, conservative economists, and office holders of both parties for a change in the economic policy, the President and his underlings have on reply except to blame others for their mistakes and to assure us that prosperity is just around the corner.

The monetary policy bill was a realistic attempt to reach that corner.

At about the time this legislation was introduced by Senate Democrats, the Federal Reserve Board seemed to move to a less monetaristic posture. Interest rates and the stock market recorded their strong approval. Interest rates dropped swiftly, and the stock market soared to record levels. Then, just as the Christmas (1982) sales season was approaching, the Federal Reserve Board began to send mixed signals that left both the stock market and interest rate levels hovering nervously in anticipation, awaiting a clear signal.

Senate Democrats again took the initiative. On December 18, 1982, a Democratic-sponsored resolution on monetary policy passed 93 to 0. This resolution was clearly an outgrowth of the earlier bill. It sent a clear signal to the Fed, the only signal sent on monetary policy by the Senate in 2 years.

This amendment was meant to encourage those members of the Federal Reserve Board of Governors who know that a more balanced monetary approach must be taken in the face of a still declining economy. It was meant to discourage those diehard monetarists on the Board who may not believe that the fate of 12 million unemployed and 6.6 million underemployed Americans is enough to cause a change in monetary policy.

Most importantly, this amendment, which has become law, should prevent a return to simplistic monetarist prescriptions and offer a ray of hope to our international allies who have suffered greatly under the monetarist regime, and a ray of hope to our businesses who are waiting for a chance to invest in new production for America.

Hopefully, this resolution will signal the beginning of the end of the 18 month recession that has so devastated the economic and human landscape of America.

ROCK ISLAND ARSENAL

● Mr. PERCY. Mr. President, earlier this session I had the pleasure of returning to Illinois to visit the Rock Island Arsenal. I would like to pay tribute today to the dedicated men and women who contributed with such professionalism and skill to the accomplishment of the arsenal's vital defense mission.

Rock Island Arsenal is responsible for the manufacture of gun mounts, artillery, recoil mechanisms, gun carriages, small arms, aircraft weapons, and related spare parts. It is also tasked with the assembly of tool sets and basic issue items (BII) for United States and foreign countries. In addition, the arsenal provides administrative, logistical and facility support for the headquarters, U.S. Army Armament Materiel Readiness Command and other tenants.

The arsenal is currently producing gun mounts for a number of self-propelled vehicles, including the Army's newest tank, the M-1 Abrams. In late November, Col. Paul Greenberg, the Rock Island Arsenal commander, delivered the first three arsenal-produced M-1 gun mounts to the Army 2 weeks ahead of schedule. Prior to this ceremony, all gun mounts for the Abrams have been manufactured by private industry. Given the long production run that is planned for the M-1, though, the Army determined that Rock Island Arsenal could provide a much needed second production source. The arsenal is now working on a first installment order for another 280 gun mounts.

During my visit, I was especially gratified to discover that business at the arsenal is booming and employment there is up, not down. During the last fiscal year, the arsenal conducted almost $134 million worth of business and received $172 million in new work orders. As a result, the arsenal entered fiscal year 1983 with a healthy backlog of scheduled manufacturing projects. A large number of these projects involve orders for military equipment from foreign countries.

Moreover, as a consequence of congressional action this year on H.R. 6758, which was introduced in the House by WILLIAM GOODLING and in the Senate by Senator HEINZ, Rock Island Arsenal should be able to conduct an additional 5 to 15 million dollars' worth of business in producing gun mounts for export. Prior to the

enactment of this bill, the U.S. Government had been prohibited from selling military equipment produced in U.S. Government arsenals to contractors if the contractors intended to include these items in commercial exports to friends and allies. H.R. 6758, which I was pleased to cosponsor, lifts this prohibition and authorizes these sales.

To cope with the additional workload, Rock Island Arsenal announced in October that its civilian work force would be increased by 359 spaces, for a new total of 3,008. The increase means that employees already on board but in excess of the previous ceiling did not have to be let go, and additional personnel were hired. Over 500 applications were received for the needed machinist and engineering positions. Should an insufficient number of qualified applicants be found, the arsenal may call upon the recently enacted Illinois jobs training program to develop the necessary skills.

Mr. President, before closing I would like to point out to my colleagues that Rock Island Arsenal is slated to undergo a major revitalization and modernization project that will require funding over the next several fiscal years. This $235 million facility modernization project, known as Rearm, will be the first major renovation at Rock Island Arsenal since World War II. The average age of machines currently in use at the arsenal is 29 years. Under the Rearm program, the arsenal will receive $142 million worth of new equipment, including 84 state-of-the-art numerically controlled machine tools, and $92 million in construction projects.

Once the Rearm project is completed, Rock Island Arsenal will be better equipped to meet peacetime weapons manufacturing requirements and better prepared for a mobilization surge should world conditions so warrant. I am confident that the Senate will continue to support the vital defense responsibilities performed by the arsenal and fully fund the upcoming Milcon requests for this important facility.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4692. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals for December 1982; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Commerce, Science, and Transportation, the Committee on Labor and Human Resources, the Committee on Finance, and the Committee on Governmental Affairs.

EC-4693. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the Administrative Telephone Service function at the Navy Public Works Center, Pearl Harbor, Hawaii, to performance under contract; to the Committee on Armed Services.

EC-4694. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, the report on prime contract awards over $10,000 negotiated under section 2304(a)16 in the interest of national defense or industrial mobilization for the second half of fiscal year 1982; to the Committee on Armed Services.

EC-4695. A communication from the Assistant Secretary of Commerce for Communications and Information, transmitting, pursuant to law, agency comments opposing the enactment of cable television copyright legislation; to the Committee on Commerce, Science, and Transportation.

EC-4696. A communication from the Deputy Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, an application for refund of excess royalty payment by Tenneco Oil Exploration and Production, Marathon Oil Co., Mitchell Energy Corp., ARCO Oil and Gas Co., and General American Oil Co. of Texas; to the Committee on Energy and Natural Resources.

EC-4697. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the soil survey and land classification for the Salt River Pima-Maricopa Indian Reservation for irrigation; to the Committee on Energy and Natural Resources.

EC-4698. A communication from the Director, Policy Planning and Analysis, Department of Energy, transmitting, pursuant to law, the annual report entitled "Economic Impact of Energy Action;" to the Committee on Energy and Natural Resources.

EC-4699. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to December 8, 1982; to the Committee on Foreign Relations.

EC-4700. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 16, 1982; to the Committee on Governmental Affairs.

EC-4701. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 16, 1982; to the Committee on Governmental Affairs.

EC-4702. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 16, 1982; to the Committee on Governmental Affairs.

EC-4703. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 16, 1982; to the Committee on Governmental Affairs.

EC-4704. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 16, 1982; to the Committee on Governmental Affairs.

EC-4705. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 16, 1982; to the Committee on Governmental Affairs.

EC-4706. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 16, 1982; to the Committee on Governmental Affairs.

EC-4707. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 16, 1982; to the Committee on Governmental Affairs.

EC-4708. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4709. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Follow-up to the Water Bill Policies and Procedures;" to the Committee on Governmental Affairs.

EC-4710. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, the first annual report on agency activities under the Equal Access to Justice Act; to the Committee on the Judiciary.

EC-4711. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the 1982 Annual Report of the Federal Judicial Center; to the Committee on the Judiciary.

EC-4712. A communication from the Secretary of Education transmitting, pursuant to law, a report on the consolidation of 29 programs into block grants; to the Committee on Labor and Human Resources.

EC-4713. A communication from the Commissioner of Rehabilitation Services Administration, Department of Education, transmitting, pursuant to law, notice of expected submission of the Annual Report by June 1, 1983; to the Committee on Labor and Human Resources.

EC-4714. A communication from the Chairman of the Task Force on Environmental Cancer and Heart and Lung Disease transmitting, pursuant to law, the Task Force's fifth Annual Report; to the Committee on Labor and Human Resources.

EC-4715. A communication from the Superfund Study Group transmitting, pursuant to law, a report on injuries and damages for hazardous wastes—analysis and improvement of legal remedies; to the Committee on Environment and Public Works.

EC-4716. A communication from the Principal Deputy Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on the decision to convert the motor vehicle operation/maintenance function at the Naval Air Station, Key West, Fla., to performance under contract; to the Committee on Armed Services.

EC-4717. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on the conversion of the night shelf stocking func-

tion at the Navy Commissary Store, Portsmouth, Va., to performance under contract; to the Committee on Armed Services.

EC-4718. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on the conversion of the night shelf stocking function at the Navy Commissary Store, Little Creek, Va., to performance under contract; to the Committee on Armed Services.

EC-4719. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on the conversion of the supply support function at the Naval Shipyard, Philadelphia, Pa., to performance under contract; to the Committee on Armed Services.

EC-4720. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on the conversion of the night shelf stocking function at the Navy Commissary Store, Yorktown, Va., to performance under contract; to the Committee on Armed Services.

EC-4721. A communication from the Secretary of Energy transmitting, pursuant to law, the quarterly report on Biomass Energy and Alcohol Fuels; to the Committee on Energy and Natural Resources.

EC-4722. A communication from the Secretary of the U.S. Postal Rate Commission transmitting, pursuant to law, a report on a recommendation for establishing subclasses of first class mail for ZIP plus 4; to the Committee on Governmental Affairs.

EC-4723. A communication from the Chairman of the National Diabetes Advisory Board transmitting, pursuant to law, concerns of the Board relative to biomedical research programs; to the Committee on Labor and Human Resources.

EC-4724. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Block Grants for Housing: A Study of Local Experiences and Attitudes;" to the Committee on Banking, Housing, and Urban Affairs.

EC-4725. A communication from the Comptroller General of the United States transmitting, pursuant to law, a supplemental report to the report entitled "Block Grants for Housing: A Study of Local Experiences and Attitudes;" to the Committee on Banking, Housing, and Urban Affairs.

EC-4726. A communication from the Clerk of the United States Claims Court transmitting, pursuant to law, a copy of the Court's judgment order for the plaintiffs in Lawrence Zane, et al., etc. v. The United States, Nos. 212, 213; to the Select Committee on Indian Affairs.

EC-4727. A communication from the Commissioner of Patents and Trademarks transmitting, pursuant to law, a report on the automation of the Patent and Trademark Office; to the Committee on the Judiciary.

EC-4728. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the implementation of the Age Discrimination Act of 1975; to the Committee on Labor and Human Resources.

ADJOURMENT SINE DIE

Mr. BAKER. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the provisions of House Concurrent Resolution 438, that the Senate do adjourn sine die.

The motion was agreed to, and at 1:13 p.m., the Senate adjourned sine die.

MESSAGE FROM THE HOUSE RECEIVED DURING THE SINE DIE ADJOURNMENT

Under the authority of the provisions of the Senate Resolution 528 (Ninety-seventh Congress, Second session), a message was received from the House of Representatives announcing that the Speaker had signed the following enrolled bills and joint resolutions subsequent to the sine die adjournment of the Ninety-seventh Congress:

S. 503. An Act to authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and for other purposes;

S. 705. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes.

S. 1540. An act to revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes;

S. 2273. An act to amend the Earthquake Hazards, Reduction Act of 1977 to extend authorization of appropriations, and for other purposes;

S. 2863. An act to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail;

S. 3105. An act to modify the judicial districts of West Virginia, and for other purposes;

H.R. 9. An act to designate components of the National Wilderness Preservation System in the State of Florida;

H.R. 2475. An act to modify a withdrawal of certain lands in Mono County, Calif., to facilitate an exchange for certain other lands in Mono County, Calif., and for other purposes;

H.R. 2481. An act for the relief of Cynthia Gambon Rabena;

H.R. 3420. An act making technical corrections to the Natural Gas Pipeline Safety Act of 1983 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes;

H.R. 3731. An act to amend the Act of October 19, 1973 (89 Stat. 466) relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commissoin or the Court of Claims;

H.R. 3809. An act to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes;

H.R. 3963. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated;

H.R. 4001. An act to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes;

H.R. 4350. An act for the relief of Arthur J. Grauf;

H.R. 4491. An act to exempt the U.S. Capitol Historical Society from certain taxes;

H.R. 4496. An act to grant Federal recognition to the Texas Band of Kickapoo Indians to clarify the status of the members of the band: to provide trust to the band, and for other purposes;

H.R. 4566. An act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties and for other purposes;

H.R. 4568. An act to direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, N. Mex., and for other purposes;

H.R. 4746. An act for the relief of Kin Chi Eng Sims;

H.R. 5002. An act to improve fishery conservation and management;

H.R. 5027. An act to designate the building known as the U.S. Post Office and "Courthouse in Norfolk, Va., as the "Walter E. Hoffman United States Courthouse";

H.R. 5029. An act to designate the Federal building in Fresno, Calif., as the "B.F. Sisk Federal Building";

H.R. 5121. An act to insure that all oil and gas originated in the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes;

H.R. 5161. An act to designate certain lands in the Monongahela National Forest, W. Va., as wilderness; and to designate management of certain lands for uses other than wilderness;

H.R. 5447. An act to extend the Commodity Exchange Act, and for other purposes;

H.R. 5456. An act to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements;

H.R. 5470. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, and for other purposes;

H.R. 5633. An act for the relief of Dana Bradford Baretto;

H.R. 6679. An act to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poutry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such act, and for other purposes;

H.R. 5826. An act to provide for the reinstatement and validation of U.S. oil and gas lease numbered W-24153;

H.R. 5916. An act to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the tribes of such Indians;

H.R. 6024. An act to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes;

H.R. 6056. An act to make technical corrections in the Economic Recovery Tax Act of 1981 and certain other recent tax legislation;

H.R. 6211 An act to authorize appropriations for construction of certain highways in accordance with title 23, United States Code for highway safety for mass transpor-

tation in urban and rural areas, and for other purposes;

H.R. 6243. An act to provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes;

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University;

H.R. 6519. An act to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties;

H.R. 6538. An act to designate the Federal building in Lima, Ohio, as the "Tennyson Guyer Federal Building";

H.R. 6993. An act to revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation";

H.R. 7005. An act to to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds and for other purposes;

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Island source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes;

H.R. 7102. An act to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes;

H.R. 7143. An act to amend the Foreign Assistance Act of 1964 to extend for an additional year the Agricultural and Productive Credit and Self-Help Community Development Programs;

H.R. 7154. An act to amend the Federal Rules of Civil procedure with respect to certain service of process by mail, and for other purposes;

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH;

H.R. 7316. An act to establish the National Park System Visitor Facilities Fund, and for other purposes;

H.R. 7336. An act to make certain technical amendments to improve implementation of the Educational Consolidation and Improvements Act of 1981;

H.R. 7378. An act to codify without substative change recent laws related to money and finance and to improve the United States Code;

H.R. 7406. An act to designate a certain Federal building in Springfield, Ill., the "Paul Findley Building";

H.R. 7410. An act to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Commission to the Secretary of Commerce, and for other purposes;

H.R. 7420. An act to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, Calif., project as the Don H. Clausen Fish Hatchery;

H.R. 7423. An act to recognize the organization known as former Members of Congress;

S.J. Res. 101. Joint resolution designating "National High School Activities Week";

S.J. Res. 240. Joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week";

S.J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1983 as "National Closed-Captioned Television Month";

S.J. Res. 260. Joint resolution to designate the period commencing January 1, 1983, ending December 31, 1983, as the Tricentennial Anniversary Year of German Settlement in America";

S.J. Res. 264. Joint resolution to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week";

S.J. Res. 271. Joint resolution resolution to make technical corrections in certain banking and related statutes;

S.J. Res. 459, Joint resolution authorizing the President to proclaim May 13, 1983, as "American Indian Day";

S.J. Res. 619, Joint resolution designating January 17, 1983, as "Public Employees Appreciation Day";

S.J. Res. 630, Joint resolution to commemorate the 150th anniversary of the founding of Greene County, Mo.; and

S.J. Res. 635. Joint resolutions establishing the dates for submission of the Budget and Economic Report.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND) on January 3, 1983, during the sine die recess.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secratary reported that on January 3, 1983, he had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 503. An act to authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and for other purposes;

S. 705. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes;

S. 1540. An act to revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes;

S. 2273. An act to amend the Earthquake Hazards Reduction Act of 1977 to extend authorizations of appropriations, and for other purposes;

S. 2863. An act to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail;

S. 3105. An act to modify the judicial districts of West Virginia and for other purposes;

S.J. Res. 101. Joint resolution designating "National High School Activities Week";

S.J. Res. 240. Joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week";

S.J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1983, as "National Closed-Captioned Television Month";

S.J. Res. 260. Joint resolution to designate the period commencing January 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America";

S.J. Res. 264. Joint resolution to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week"; and

S.J. Res. 271. Joint resolution to make technical corrections in certain banking and related statutes.

PRESIDENTIAL APPROVALS

A message from the Preident of the United States reported that he had approved and signed the following bills and joint resolutions:

On December 20, 1982:

S. 764. An act to provide for protection of the John Sack cabin. Targhee National Forest in the State of Idaho.

S. 2177. An act to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505).

On December 22, 1982:

S. 1444. An act to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes;

S. 1681. An act to designate the southern Nevada water project the "Robert B. Griffith water project."

S. 1894. An act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes.

S. 2034. An act to designate the lock and dam known as the Jones Bluff lock and dam, located on the Alabama River, as the "Robert F. Henry lock and dam."

S. 2710. An act to establish the Charles C. Deam Wilderness in the Hoosier National Forest, Ind.

On December 23, 1982:

S. 2611. An act to amend the Peace Corps Act.

S. 3073. An act to provide for the distribution of the U.S. Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson."

On December 29, 1982:

S. 816. An act to amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws.

On December 30, 1982:

S. 823. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris is apparel, fabric, yarn, or fiber, and for other purposes.

On December 31, 1982:

S. 187. An act to authorize the Secretary of the Interior to convey certain lands near Miles City, Mont., and to remove certain reservations from prior conveyances.

S. 1340. An act to provide for the use and distribution of Callam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes.

S. 1735. An act to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims.

S. 3113. An act to make certain minor and technical amendments to the Job Training Partnership Act.

On January 3, 1983:

S. 625. An act to revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes.

S. 717. An act for the relief of Carole Joy Maxfield-Raynor and Bruce Sherlock Maxfield-Raynor, wife and husband, their children Charlton Bruce Maxfield-Raynor and Maxine Anne Maxfield-Raynor.

S. 835. An act for the relief of Jerry L. Crow and Ralph D. and Connie V. Hubbell.

S. 1364. An act for the relief of Jose Ramon Beltron Aivenda Ostler.

S. 1501. An act entitled the "Educational Mining Act of 1982."

S. 1838. An act for the relief of Cesar Noel Jump.

S. 1965. An act to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area" as a component of the National Wilderness Preservation System.

S. 1986. An act to provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assinboine Tribe of Fort Balknap Indian Community, in certain dockets of the U.S. Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, and for other purposes.

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes.

S. 2355. An act to amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities.

S. 2955. An act to establish the Cheaha Wilderness in Talladega National Forest, Ala.

S. 3103. An act to amend section 1304(e) of title 5, United States Code.

S.J. Res. 270. Joint resolution to designate 1933 as the "Bicentennial of Air and Space Flight."

On January 4, 1983:

S.J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1982 as "National Closed-Captioned Television Month."

On January 8, 1983:

S.J. Res. 101, Joint resolution designating "National High School Activities Week."

S.J. Res. 240. Joint resolution to authorize and request the President to designate the week of January 16, 1983 through January 22, 1983, as "National Jaycee Week."

S.J. Res. 264. Joint resolution to designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week."

On January 12, 1983:

S. 503. An Act to aurhorize the purchase, sale, and exchange of hands by Indian Tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of N. Dak., specially, and for other purposes.

S. 705. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes.

S. 1540. An act to revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes.

S. 2273. An act to amend the Earthquake Hazards Reduction Act of 1977, to extend authorizations of appropriations, and for other purposes.

S. 2863. An act to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summones.

S.J. Res. 271. Joint resolution to make technical corrections in certain banking and related statutes.

On January 14, 1983:

S. 3105. An act to modify the judicial districts of West Virginia, and for other purposes.

S.J. Res. 260. Joint resolution to designate the period commencing January 1, 1983, and ending December 31, 1983, as the "Tricentennial Year of German Settlement in America."